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PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Monday, May 23, 1988*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 20, 1988.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore on Monday, May 23, 1988.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray for patience, gracious God, to allow Your Spirit to work in our lives. We admit our rush to find solutions to our ills and those of our world. Yet, O God, we know too that Your Spirit leads and guides as we open our hearts to Your presence. May Your Spirit of truth, faithfulness, and comfort be with us and remain with us all our days. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2878. An act to designate certain National Forest System lands in the States of Virginia and West Virginia as wilderness areas.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 266. Joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

The message also announced that pursuant to section 143 of the Nuclear Waste Policy Act, as amended by section 5021 of Public Law 100-203, the Chair on behalf of the President pro tempore and with the concurrence of the Speaker of the House of Representatives, appoints Dr. Frank Parker of Massachusetts, from private life; vice Mr. Victor Gilinsky of Maryland, from private life, resigned; to the Monitored Retrievable Storage Review Commission.

The message also announced that pursuant to Public Law 90-206, the Chair on behalf of the Vice President, appoints Thomas F. Eagleton of Missouri, from private life, to the Commission on Executive, Legislative and Judicial Salaries.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON CRIMINAL JUSTICE OF COMMITTEE ON THE JUDICIARY TO SIT THIS WEEK DURING 5-MINUTE RULE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Criminal Justice of the Committee on the Judiciary be permitted to sit this week, Monday, May 23, 1988, through Friday, May 27, 1988, during the 5-minute rule in the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
May 19, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 5:45 p.m. on Thursday, May 19, 1988 the following message from the Secretary of the Senate: That the Senate passed S. 794, S. 1736, S. 1988, S. 2186, and S. 2200 and passed without amendment H.J. Res. 530 and H.R. 3987.

With great respect, I am,
Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, May 24, 1988.

AMERICAN HERITAGE TRUST FUND

(Mr. CLARKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLARKE. Mr. Speaker, one of the finest achievements of the U.S. Congress is the legislation establishing the land and water conservation fund which was passed in 1964. Its purpose was to fund conservation and outdoor recreation projects at the Federal, State, and local levels using a share of the revenues from Outer Continental Shelf gas and oil leases. Since that time the L&WC fund has played a part in more than 30,000 land acquisition and recreation projects. These projects are in every State, five territories, and the District of Columbia.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

A total of $6.8 billion has been expended, much of it matched by State, local, and private contributions. The parks and facilities developed with this fund are used by almost every person in America. The whole program has run so smoothly that it has often been unnoticed by the public.

Legislation has now been introduced to combine existing unspent land and water conservation fund money with future revenues from the offshore leases to create an American heritage trust fund. The trust fund would build up gradually until it reaches an amount sufficient to yield approximately $1 billion a year. The income from the fund will be devoted to conservation and outdoor recreation projects nationwide, many of them on a matching basis.

We can be very proud of what the land and water conservation fund has accomplished over the past 25 years. The American heritage trust fund will ensure its continuation in the future.

CONFERENCE REPORT ON S. 1539, RAIL SAFETY IMPROVEMENT ACT OF 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 1539) to amend the Federal Railroad Safety Act of 1970 and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

(For conference report and statement see proceedings of the House of May 19, 1988.)

The SPEAKER pro tempore. The gentleman from Ohio [Mr. Thomas A. Luken] will be recognized for 20 minutes and the gentleman from Illinois [Mr. Madigan] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. Thomas A. Luken].

□ 1210

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to adopt the conference report on S. 1539, the Rail Safety Improvement Act of 1988. This is one of the most important pieces of legislation to come before the House. In fact, it is the most significant rail safety legislation in almost 20 years. And I am happy to say that this legislation represents a bipartisan effort to improve the safety of rail transportation in the United States. In that regard I would very much like to thank the gentleman from Kansas [Mr. Whittaker], the ranking minority member of our subcommittee and a conferee, whose dedication and hard work have helped make this an excellent bill. I would also like to thank the other members of the Energy and Commerce Committee who served as conferees: Mr. Dingell, chairman of the Energy and Commerce Committee; Mr. Slattery, a member of our subcommittee; and Mr. Lent, ranking minority member of Energy and Commerce.

The conference report before the House today is an outgrowth of two comprehensive rail safety bills, which originated independently in both the House and the Senate. As chairman of the Subcommittee on Transportation, Tourism, and Hazardous Materials, I can testify that this landmark legislation, as reported by the conferees, has adopted truly the best features of both bills.

The legislation reauthorizes the activities of the Federal Railroad Administration, which has not been reauthorized since 1984. More significantly, however, it makes revolutionary changes in the regulation of rail safety.

Specifically, this legislation would for the first time require the licensing of train engineers. At the present time, while airline pilots and truckdrivers must be licensed, there is no system of Federal or State review of train engineer qualifications. For example, an individual with a history of drunk driving convictions or whose driver's license has been revoked, can still operate a locomotive, hauling hundreds of passengers or tons of hazardous materials.

This bill would close that loophole by requiring the Secretary of Transportation to review the qualification standards for engineers and to set certain minimum training standards. Moreover, before an engineer can be licensed, his or her driving record will have to be reviewed and any drunk driving or other serious violation will be grounds for not issuing a license. I would like to point out that this provision does not grandfather existing engineers, and will not be a one-shot screening process, but will be used whenever an engineer's certification is periodically renewed.

In addition, this legislation requires the installation of automatic train controls on all trains operating on the Northeast Corridor by no later than July 1, 1990. It also requires the Secretary to consider requiring automatic train controls on locomotives throughout the country.

The need for this provision is clear. The National Transportation Safety Board has been recommending for years that the Federal Railroad Administration require the installation of automatic train controls on all locomotives. The fatal Amtrak crash in Chase, MD, last year, for example, might have been averted had there been automatic train controls on the Conrail locomotive that ran through the stop signal. This legislation would also close two important loopholes which now exist in our rail safety laws. First, it would specifically prohibit the tampering with or disabling of safety devices. A train on which the safety equipment has been disabled could simply not be operated. Second, and hand in hand with this provision, FRA would for the first time be authorized to suspend or fine individuals who willfully violate Federal rail safety laws and regulations. Under current law, the only enforcement action FRA can take is against the railroad. The legislation would plug this loophole.

There is also a provision designed to encourage employees to report safety violations, by authorizing punitive damages for employees who are harassed for reporting such violations. Other important provisions include improvements in grade crossing safety, and an increase in the maximum penalties for safety violations from the current $2,500 to $20,000.

In conclusion, this bill, as reported by the conferees, makes fundamental and far-reaching improvements in our rail safety laws and will greatly improve the safety of rail transportation nationwide. I therefore urge adoption of the conference report.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are today placing before the House the conference report on a vital piece of bipartisan legislation, the Rail Safety Improvement Act of 1988. My colleagues on the Energy and Commerce Committee and their counterparts in the other body are to be commended for fashioning this bill in a cooperative and constructive spirit.

We know from the daily news reports that rail accidents have exacted a high toll in lives and property in recent years. Occasionally, an accident's burden falls on members of the public, as when a Conrail locomotive struck an Amtrak passenger train last year not far from the Nation's Capital. But the overwhelming majority of rail accident victims are the people who work on the railroad. In some cases, they are the victims of inadequate training procedures, or equipment. In other situations, their own fellow workers bring on the catastrophe by disabling essential safety equipment. The bill we are considering today is aimed at improving rail safety and preventing accidents of all sorts—those that come from technical and equipment shortcomings, and those that involve the so-called human factor. In all instances, railroad employees, the traveling public, and all those who live near or use the Nation's railroads will benefit from our improving the margin of safety on our rail system.

Let me review a few of the highlights of this comprehensive bill. First, we address the technical side of railroad safety in a number of ways. Automatic train control equipment will be required on the heavily traveled Northeast corridor, and must be evaluated for other routes as well. The Department of Transportation must address the need for regular inspection of grade-crossing signal equipment, the use of event recorders on locomotives, improvements in grade-crossing safety, and safety measures to insure safety and humane working conditions for those who maintain our railroads' rights-of-way. On the human side of the safety equation, the new act requires a Federal program of qualification standards for engineers, the evaluation of the need for dispatcher training standards, and—most importantly—brings our rail safety laws into line with other safety regulation by giving the Department of Transportation direct jurisdiction over railroad personnel—from the president of the company down to the most junior employee. No longer will Federal safety jurisdiction and disciplinary powers be limited to the abstraction of a railroad corporation.

Finally, Mr. Speaker, this measure looks to the future by requiring an evaluation of possible additional safety measures on the densely populated Northeast corridor and by clarifying the jurisdiction of Federal safety authorities over the new high-speed and advanced-technology rail lines that may well be constructed between some of our cities in the next few years. At the same time, it provides the spending authorization needed to continue the necessary safety and enforcement activities of the Federal Railroad Administration, within the Department of Transportation.

The proverb, Mr. Speaker, tells us that an ounce of prevention is worth a pound of cure. It is my hope that this railroad safety bill has a large measure of both—so that we may quickly cure the safety problems we've already encountered and prevent accidents that might otherwise threaten our citizens in the future.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the conference report on S. 1539, the Rail Safety Improvement Act of 1988. I want to congratulate my colleagues on the Energy and Commerce Committee who, as conferees, played a critical role in shaping the measure before us today.

First, let me commend the distinguished gentleman from Ohio and chairman of the subcommittee, Mr. LUKEN, who guided this bill through our committee and through conference. In particular, he deserves much of the credit for the strong provisions in the conference agreement relating to engineer licensing, as well as for new safety requirements applicable to signal systems and to maintenance of way operations.

Similarly, I want to compliment the ranking Republican members of the committee and subcommittee, Mr. LENT and Mr. WHITTAKER, without whose bipartisan support, cooperation, and contributions this legislation would not have been possible. They played an important role, too, in ensuring that this conference report provided stiff and severe penalties for safety violations, a matter on which we are in full accord.

Let me also recognize the gentleman from Kansas [Mr. SLATTERY], who as a conferee helped us think through carefully the event recorder provisions in the bill and focused our attention on the importance of protecting whistle blowers in the workplace.

Mr. SLATTERY also joined with Mr. WHITTAKER in pressing for grade crossing safety improvements, a subject of great concern to their State of Kansas and to many other sparsely populated agricultural areas. When we consider that grade crossing accidents are the leading cause of fatalities in the railroad industry, these efforts take on special meaning.

Other members of the committee and the House—notably, the gentleman from Illinois [Mr. MADIGAN], the gentleman from Pennsylvania [Mr. WALGREN] and the gentlewoman from New York [Ms. SLAUGHTER]—also contributed to important aspects of today's legislation.

This landmark measure represents the first major overhaul of the Nation's railroad safety laws in nearly 20 years. In addition to the provisions I have already touched on, the conference report takes a significant new stride in enhancing safety by granting the Secretary of Transportation the authority to discipline individuals—both workers and management—for safety violations.

In that vein, I want to thank the conferees for supporting a provision that was of particular interest to me. The conference report adopts a House provision prohibiting any person from disabling or tampering with safety devices, such as cab signals and cab whistles. Such outrageous behavior merits swift and strong punishment. The bill will also penalize anyone who knowingly operates or permits to be operated a train on which such devices have been tampered with or disabled.

Several accidents in the past 2 years have riveted public attention on the problem of rail safety. It is unfortunate that it took such tragedies to create an environment conducive to achieving this agreement today. As my colleagues may recall, the House and Senate each passed rail safety bills in the 98th and 99th Congresses. Even before conference, however, we knew that our differences were too great to be bridged.

A different spirit pervaded our discussions this time around, stemming from the recognition in both bodies that action was overdue.

If there is any good that can be said to have come out of the spate of recent accidents, beginning with the tragic Amtrak-Conrail crash at Chase, MD, in January 1987, it is that the circumstances of those accidents have translated into better legislation than we might otherwise have had.

Individual liability, higher penalties, engineer licensing and consideration of an applicant's driving history, the prohibition on tampering, and pretrip certification of cab safety tests—all these provisions in the conference agreement are new and can be traced directly to the lessons of Chase.

Some of my colleagues may be wondering whether this legislation includes any drug testing provisions. The answer is that it does not. The reason, very simply, is a procedural one. Neither the Senate nor the House bill contained such provisions. That is a matter pending in another conference at this time.

As we are all aware, random testing is a complex subject on which opposing parties hold very strong beliefs. But for those of you who are concerned, as I am, about the operation of trains under the influence of drugs or alcohol, I would call your attention to our engineer licensing provisions. These provisions should ensure that drunken or drugged drivers won't be driving trains.

We can't know whether random testing ever would have caught the Conrail engineer responsible for the Chase accident. But these provisions, if properly implemented by the Secretary, will prevent others like him from ever climbing into a cab.

That point leads me to my final observation. Today's legislation will work only if it is accompanied by vigorous enforcement from the Federal Railroad Administration. There is no substitute for adequate inspectors, certainty of punishment, swift adjudication, and stiff fines.

Unfortunately, safety enforcement seems to have degenerated into a paper-pushing exercise. Thousands of defects are recorded each year, but only a small fraction of those result in violation reports. I ask unanimous consent, Mr. Speaker, to insert at this point a table from the FRA showing these figures for 1987.

	1987
Track:	
Number of inspections	19,441
Miles inspected	424,642
Records inspected	232,905
Warnings or violations issued	124,895
Violation reports filed [1]	172
Signal:	
Number of inspections	5,712
Units inspected	64,478
Records inspected	69,283
Warnings or violations issued	11,130
Violation reports filed [1]	132
Motive power and equipment:	
Number of inspections	23,530
Locomotives inspected	50,118
Cars inspected	1,139,554
Warnings or violations issued	194,734
Violation reports filed [1]	5,394
Operating practices:	
Number of inspections	12,591
Complaints received	537
Warnings or violations issued	5,529
Violation reports filed [1]	1,112
Hazardous Materials:	
Number of inspections	8,308
Tank cars inspected	73,087
Warnings or violations issued	16,886
Violation reports filed [1]	399

[1] Each violation report may contain multiple individual instances of noncompliance with Federal safety standards.

Source: Federal Railroad Administration.

The process of compromising claims is similarly troubling. That process results in fines so small that it often seems cheaper for the carrier to operate unsafely than to worry about a penalty. It is unclear to me whether this has been caused by inadequate manpower or by the FRA's philosophy. The General Accounting Office right now is studying that question, among others, for the committee.

Hopefully, the increased penalties in the conference agreement will put an end to this problem. The fact remains, however, that the FRA's enforcement practices are in need of some scrutiny.

In this bill, we have given the FRA a power it desperately wanted and which I believe it should have—the power to police and penalize individuals' safety behavior. But that power must be used wisely, and it should not be permitted to overshadow or supplant the FRA's traditional enforcement activity against the carriers themselves.

On that note, let me again congratulate my colleagues on the conference committee for a splendid job. I urge the passage of the conference report.

Mr. WHITTAKER. Mr. Speaker, today we have reached the final stage in the long and arduous process of fashioning a comprehensive rail safety bill. This is also the first time in several years that both the House and the Senate have approved a reauthorization for the rail safety organization within the Department of Transportation, the Federal Railroad Administration. I want to commend my colleagues for a strong bipartisan effort in crafting this important legislation—particularly the chairman of the Transportation Subcommittee of the Energy and Commerce Committee and the chairman and the ranking minority member of the Energy and Commerce Committee.

The journey toward completion of this legislation began more than a year ago, in the wake of the tragic train collision at Chase, MD, that claimed 16 lives, many of them young students. I introduced a comprehensive rail safety bill to address many of the problems highlighted by that accident, H.R. 1713. Today, I am proud to say that many of the features in my bill are embodied in the final bill as approved by the conferees.

First, this legislation cures the single most serious defect in our current Federal rail safety laws—the complete lack of any safety jurisdiction over railroad personnel. In my experience, most people are shocked to learn that under current law, unlike an airline employee, a person in a critical position on a railroad is not subject to any Federal sanctions whatever if he commits a safety violation that endangers his fellow workers or the public. Under the measure approved by the conferees, FRA will have the direct safety jurisdiction it now lacks, and tampering with safety devices will be made a specific Federal safety offense.

This bill also updates the powers of the Federal Railroad Administration to impose penalties for safety violations. The current maximum penalty of $2,500 has not been changed since the Safety Act was first enacted in 1970. This bill will raise that limit to $10,000, as well as establishing a new extraordinary penalty of up to $20,000 for situations where gross negligence or repeated violations cause an imminent risk of serious injury or death. The new penalty should give FRA an effective weapon in combatting exceptional or egregious safety violations. Of course, the bill does not disturb the discretion of FRA, as established by existing case law, in deciding whether to prosecute in a particular situation.

While ensuring that FRA can deal appropriately with individual safety violators, the measure approved by the conferees also contains needed protections for railroad employees. If cited by the railroad as a cause of a "human factor" accident, they are assured of the right to file a statement of their own version of the events. If harassed by management for reporting safety violations, they are permitted to file a whistle-blowers' lawsuit, including a claim for possible punitive damages. And the confidentiality of the names of those reporting safety violations to FRA cannot be compromised without the individuals' written consent.

Grade-crossing safety is also a key element of any rail safety program. As I had urged when I introduced my safety bill, the measure approved in conference provides for demonstration projects to explore the effectiveness of simple, nonmechanized safety systems in reducing accidents at low-density and rural grade crossings where elaborate systems such as automatic crossing gates are not affordable. And for crossings where automated signal equipment is installed, this bill requires FRA to conduct a rulemaking proceeding on possible Federal inspection standards to make sure this type of equipment is kept in proper operating order.

One of the anomalies of current law is that those who operate locomotives on trains carrying passengers, cargo, or even hazardous materials do not have to meet any minimum federally supervised qualification standard. In fact, a person can have an automobile driver's license suspended or revoked, and still operate a locomotive without question. The bill as approved by the conferees includes—as my own rail safety bill did—a system of operator qualification that reflects a careful balancing of safety concerns and the need for screening of operators on the one hand, and on the other hand, the legitimate procedural protections for persons whose professional livelihood is involved. FRA will now be required to review and approve the training and qualification standards used by rail carriers, and the information in the national driver register will be made available as part of the record on which an individual's fitness will be evaluated.

Mr. Speaker, this bill also looks to the future and to the inevitable advances in transportation technology as part of the margin of safety for the railroad industry. First, it requires automatic train control equipment on trains using the Northeast corridor by 1990. Second, it directs FRA to conduct a rulemaking on the use of event recorders similar to the flight-data recorders used on airliners. Third, it mandates a study of possible use of various automatic train control technologies on routes outside the Northeast corridor where passengers and hazardous materials are transported. This should allow us to plan for future improved methods of collision-avoidance on the Nation's railways.

From virtually every perspective, Mr. Speaker, the Rail Safety Improvement Act of 1988 is one of those true bipartisan measures that advances a vital public goal through good-faith cooperation among legislators in the House and in the other body. I am proud to have been an active participant in the process that has now brought this bill to the point where it is ready to be enacted into law.

Ms. SLAUGHTER of New York. Mr. Speaker, I rise in strong support of the conference report on S. 1539, the Rail Safety Improvement Act of 1988. Passage of this legislation in the House today and its enactment into law will make train travel significantly more safe. I congratulate Energy and Commerce Committee Chairman DINGELL along with Subcommittee Chairman LUKEN on their exceptional leadership in developing and moving this measure through Congress. It was my distinct pleasure to have had the opportunity to work with them in incorporating several provisions of my bill, H.R. 3179, into the committee measure.

One of these provisions will mandate installation of automatic train control [ATC] on all trains operating in the heavily traveled Northeast corridor [NC] which runs from Boston to Washington, DC. The NC is a high-speed corridor serving more than 28,000 passengers daily on trains moving at speeds of up to 125 miles-per-hour. Approximately 40 freight trains per day also operate on the NC at speeds up to 50 miles per hour; a significant portion of the freight carried is hazardous material.

The Department of Transportation has concluded that public safety can be enhanced by ensuring that trains obey rail signals and has stated:

> The only system now capable of ensuring that a train is operated in conformity with

signal indications is the automatic train control system.

The automatic train control system features two hardware elements—a signal transmission system located in the rail, and a receiver unit built into each locomotive. The Northeast corridor already has the transmission system installed in the track. Establishing automatic train control in the Northeast corridor therefore, would only require that each railroad operating on the NC equip each locomotive with automatic train control receivers.

Automatic train control works when an electrical impulse in the rail is decoded by a receiver in the locomotive, establishing a signal in the cab. If the cab signal is changed to require a reduction in speed, the engineer must act within a certain time frame—usually 8 seconds—to slow the train down. If the engineer does not respond properly, the brakes will automatically be applied and the train brought safely to a stop. Mr. Speaker, it is widely acknowledged that automatic train control would have prevented the Chase, MD, accident last year. Just this past weekend another tragic accident occurred in Fairlawn, NJ. In a head-on collision between two Conrail locomotives, an individual was killed. While the causes of this latest accident are not yet known, we need to improve our signaling capabilities to make sure, to the extent possible, that a signaling error was not among them. This is the purpose of ATC.

I am also concerned about the potential for accidents involving the transportation of hazardous materials. While we take for granted the amenities of modern life brought to us by the petroleum, nuclear, and chemical industries, these materials can cause tremendous health and environmental damage. Rail shipments usually consist of bulk commodities such as liquid or gaseous chemicals and fuels, carried on tank cars. I am hopeful that comprehensive legislation on hazardous materials transportation will be forthcoming in this Congress. In the meantime, ATC will provide a measure of protection against accidents involving these dangerous substances.

Undoubtedly, ATC will increase the safety of rail travel on the Northeast corridor. Yet the potential for a tragedy similar to the Maryland crash exists in all rail corridors in the Nation which carry passengers, especially those that mix both passengers and freight. It is important that we do all we can to explore methods by which we might reduce the potential for accidents on rail corridors nationwide.

Toward this end, the conference report contains another provision from my original bill which requires DOT to conduct a study to determine the advisability and feasibility of requiring ATC on each rail corridor on which passengers are carried. The DOT would consult with Amtrak, freight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers in its conduct of the study. The study includes an assessment of the risks of not requiring ATC on each corridor, cost-benefit analyses of requiring ATC on the corridors, as well as an investigation of alternative means of accomplishing the safety objectives envisioned by automatic train control.

The legislation also provides an additional tool for rail safety enforcement. The maximum penalty for safety violations is increased from $2,500 to $10,000. In cases where a "grossly negligent violation or a pattern of repeated violations" has created or caused injury or death, a penalty of up to $20,000 per violation may be assessed. While my bill increased the maximum penalty to $25,000, I believe the conference report provides the Federal Railroad Administrator the additional discretion needed to levy a punitive assessment in extraordinary cases.

Mr. Speaker, this bill will make rail travel safer for citizens throughout the country. It will also increase rail operating efficiency. Through improved speed control and communications, overall operations will be enhanced. Finally, the measure will spur economic growth by increasing opportunities for the rail equipment supply industry. This should benefit cable, communications signaling, and brake equipment manufacturers, as well as semiconductor and electronic manufacturers and suppliers.

In this regard, there is a possibility that there may be an increase in jobs in New York State and in the Rochester area. In New York State, there are some 600 miles of passenger-carrying railroads, as well as a large and well-established rail equipment supply industry. One of the major U.S. rail signaling equipment manufacturers, General Railway Signal, is located in Rochester. In fact, I had the great pleasure of touring the GRS plant with the distinguished chairman, Mr. DINGELL, just last Friday. If this legislation results in increased employment in the Rochester area, as well as safer railroads Mr. Speaker, it has my strong support.

Mr. Speaker, for these reasons I urge my colleagues to join me in a resounding "yes" vote for adoption of the conference report.

Mr. WALGREN. Mr. Speaker, I am pleased to support the conference report on the Rail Safety Improvement Act that the House is considering today. The bill addresses many of the safety issues surrounding the train accident in Pittsburgh last spring and many other accidents. I would like to thank Chairman DINGELL of the Committee on Energy and Commerce, Chairman LUKEN of the Subcommittee on Transportation, Tourism and Hazardous Materials and the ranking minority member, Congressman WHITTAKER, for their solid commitment to enacting comprehensive, rail safety legislation this year and for incorporating a number of provisions of my own bill, H.R. 2980, in the conference report.

Last year's collision of two Conrail freight trains and a subsequent chemical explosion forced the evacuation of 16,000 people from a densely populated neighborhood in Pittsburgh. As bad as it was, skillful handling of the situation by public safety officials and a number of fortuitous circumstances, including weather and timing, prevented the accident from becoming far more serious. The combined fact that such close calls are occurring and that the transport of 75 million tons of hazardous materials by the railroads each year has become an unavoidable fact of modern life, suggest that the potential for rail accidents endangering the public safety is greater than at any time in the past. In light of these risks, the public should be encouraged that through congressional support for this legislation today, we are substantially improving everyone's margin of safety.

I am grateful that the following provisions of my own bill have been incorporated in the conference report. First, it would require the installation of event recorders or "black boxes" aboard all trains within 3 years. These devices are used to record a variety of data, including train speed, brake application, and throttle position. Event recorders reduce the risk of accidents caused by human error or mechanical failure through mechanical supervision of crew activities and equipment performance.

The conference agreement would also require Federal licensing of train operators and engineers. Actions of railroad employees who physically operate the movement of trains can affect the lives of millions of people. Just as commerical airline pilots and air traffic controllers are required by law to demonstrate a wide range of skills, knowledge, and training, we have an obligation, in my view, to ensure that those who are entrusted with the safe operation of trains, be equally qualified.

Additionally, we would require through this legislation the installation of automatic train control [ATC] devices on all trains operating in the Northeast corridor and a study of ATC devices in other areas. ATC will automatically slow or stop a train if an engineer fails to properly acknowledge and respond to an outside warning signal. Following last year's tragic accident in Chase, MD, in which 16 people died, the National Transportation Safety Board concluded that if the Conrail freight train had been equipped with ATC, the accident probably could have been prevented.

Another issue addressed in the agreement is the protection of employees against discrimination for reporting railroad safety violations. We do not want the fear of retaliation to deter employees from reporting problems.

The agreement would also permit employees charged with wrongdoing to provide their own written explanation in an accident report of the contributing factors in the accident. I believe that it is a flaw in the current accident reporting system that employees have no formal input into FRA's determinations of the causes of accidents.

Commitment to improving our rail safety laws should be one of our Nation's top priorities. We should not wait for another accident like those that occurred in Pittsburgh or Chase, MD, last year. This is an issue we can address today. I urge my colleagues to support the conference report on the Rail Safety Improvement Act.

Mr. SLATTERY. Mr. Speaker, as a House conferee on S. 1539, the Rail Safety Improvement Act of 1988, I rise to urge my colleagues to give this conference report their strong endorsement.

This legislation is the product of many months of dedicated work by Members of the House and Senate, and their respective staffs. Substantial credit for the results must go to Energy and Commerce Committee Chairman JOHN DINGELL and Transportation Subcommittee Chairman TOM LUKEN, who have never wavered in their determination to get this vitally important legislation through Congress and to the President's desk.

The conference report represents the final product of negotiation and compromise. It contains some items that some members of the railroad community, both labor and management, oppose. It also does not contain some things that management or labor wanted in the bill. We have worked hard to balance the equities presented to us by all interested parties and we have endeavored to write into law what will be in the best interests of rail workers, the railroads themselves, shippers and, most importantly, the public.

While some improvement has been noted in the area of rail safety during the 1980's, much more has been needed. For example, in 1987, there were nearly 2,700 rail accidents—176 of which were considered major by the Federal Railroad Administration. These accidents caused an estimated $158 million in damage, killed 56 persons and injured 568. In addition, thousands were forced from their homes due to spills of toxic materials.

This bill should help to encourage and promote greater safety in a number of areas. It is the most sweeping rail legislation of this type since the Federal Railroad Administration was created in 1966.

This bill extends the Department of Transportation's jurisdiction from railroads alone to individual employees and management personnel of the railroads. The maximum penalty for violation of safety regulations is quadrupled and a $20,000 penalty is created for grossly negligent violations or pattern of repeated violations that create an imminent hazard or cause death or injury. Protections are included to ensure that individuals may be fined only for willful violations.

The Secretary of Transportation is directed to establish a program for licensing or certification of engineers, with consideration required of an applicant's driving record, particularly if an applicant has committed drug or alcohol related driving offenses. The Secretary will also be required to issue regulations to prohibit tampering with safety devices, with penalties for such tampering and for permitting a train to be operated with disabled safety devices. Regulations are also ordered to be issued requiring pretrip certification that tests of cab safety equipment have been performed.

In addition, numerous other improvements in railroad safety are mandated by this legislation. Maintenance, inspection, and testing of signal systems at grade crossings, a matter of great concern to many Kansans, will be improved. The safety and physical condition of camp cars used by maintenance-of-way employees will be enhanced. Event recorders will be placed in many trains. Dispatcher training standards will be studied.

Finally, the rights of rail workers will be preserved by this conference report. Employees charged with wrongdoing in an accident will be allowed to provide their own written explanation of the cause of the accident. And employees who serve as whistleblowers regarding safety problems will be protected by potential damage awards of up to $20,000 for certain forms of discrimination.

Mr. Speaker, I was proud to sign this conference report. I urge my colleagues to support this strong step forward toward greater railroad safety.

Mr. LENT. Mr. Speaker, as one whose community relies heavily on rail passenger service, particularly on and near our heavily traveled Northeast corridor, I am particularly cognizant of the need for the highest degree of safety on our Nation's rail system. It was only last year that 16 lives were lost on the corridor, due to inadequacies in both the human and mechanical aspects of our present system. Today I believe we are taking a long step in the direction of correcting those problems.

I want to commend my colleagues on the Energy and Commerce Committee, including its chairman, the chairman of its Transportation Subcommittee, and the ranking member of that subcommittee for their conscientious efforts in fashioning this much-needed legislation. Having a bipartisan bill that has also gained conference approval is no small achievement, Mr. Speaker, especially when one considers that for the last several years, no reauthorization measure for Federal rail safety programs was approved by both Houses of the Congress.

The bill approved by the conferees is in the best legislative tradition of taking what has proven useful and effective in present law, and then refining and improving it to meet new needs and new challenges. For example, this bill brings Federal rail safety regulation into line with safety regulation of other types of transportation by making both the companies and its personnel subject to Federal safety jurisdiction. The conference measure also updates the statutory limits for penalties that the Federal Railroad Administration may impose for safety violations.

But at the same time, it leaves completely undisturbed the well-established principle of existing law—that FRA is to have the same broad prosecutorial discretion in bringing safety cases and assessing penalties that a Federal prosecutor typically possesses in enforcement matters. I believe this type of latitude is essential to effective and enlightened law enforcement, for it not only lets our Federal authorities use their resources more productively; it also gives them a range of choices that allows a penalty to be tailored to the facts of a situation.

Although individual railroad employees are brought within FRA jurisdiction by this bill, the conferees have carefully considered the employees' legitimate interests as well. Of course, the employees are the most direct beneficiaries of improved safety, because they are the most frequent casualties when a human or equipment failure occurs.

Although employees will now be subject to sanctions for Federal safety violations, the bill as approved by the conferees guarantees any employee charged with such violations an appropriate hearing, and establishes an employee's protest of a direct order from a railroad official or supervisor as a defense to any charge that the employee committed a willful safety violation. The conferees have also included measures to protect employees against harassment for reporting safety violations, to guarantee the confidentiality of the names of employees who inform FRA of safety violations, and to ensure an employee's right to file a statement of explanation if he is blamed for a human error accident.

On the Northeast corridor, the bill mandates the installation of automatic train control equipment by 1990, as well as an FRA evaluation of whether additional routes need collision-avoidance systems as well. In light of the continuing hazard of a mix of freight and passenger traffic on the corridor, the bill sets up a Northeast Corridor Safety Committee to report to Congress on possible additional safety measures. That committee is to include at a minimum representatives of the Department of Transportation, Amtrak, freight carriers, commuter agencies, passengers, and rail labor.

The measure approved by the conferees also closes another gap in existing safety laws by bringing railroad employees who maintain the railroads' rights-of-way within the protection of the House of Service Act. This will also ensure that movable living quarters—so-called camp cars—will be maintained in a safe, clean, and habitable condition. At the same time, recognizing that FRA may need to modify some of its existing regulations—particularly regarding noise levels—that do not now apply to maintenance-of-way operations, the bill allows for a 6-month delay in the effectiveness of that aspect of this provision. This additional flexibility should avoid creating a situation where the camp cars, even if clean and safe, might be rendered legally unusable, even in remote areas, because of strict noise regulations.

Of course, no matter how advanced the technology may become, a railroad's greatest resource is its people. The conference bill addresses the quality of a carrier's human resources by providing for new federally supervised system of qualification standards for those who operate locomotives. Consideration of engineers' driving records, including data from the national driver register, will be a mandatory part of this system. Similarly, FRA is to evaluate the need for dispatcher training standards.

Mr. Speaker, the rail system of this Nation came into being as one of our country's greatest financial and engineering achievements. Although their role has changed with the times, the railroads are still vital sinews of our industrial and competitive might. We owe it to our citizens to make sure that these vital transportation enterprises operate under the highest standards of safety, in equipment and in personnel. I am confident that the bill we are considering today will help us to achieve that goal.

Mr. BUECHNER. Mr. Speaker, I rise in strong support for S. 1539, the conference report on the Rail Safety Improvement Act of 1988. Rail safety is a vitally important component of the viability of our rail system. This bill will permit the Department of Transportation [DOT] to penalize individuals for willful violations of rail-safety law and specifically prohibit tampering with rail-safety devices.

This legislation will help put a stop to avoidable negligence that causes needless, but dangerous accidents. It will grant the Federal Railroad Administration [FRA] the authority to sanction and penalize individuals for willful violations of rail-safety laws. It increases the maximum civil penalty to $10,000 per violation per day and requires the DOT to establish a licensing program for locomotive operators and engineers.

My district, which takes in most of suburban St. Louis County, has some serious rail transportation problems. The community's concern over them is amplified because we have numerous shipments by rail of radioactive and hazardous waste. Transportation of these wastes raises a myriad of problems in itself, let alone having to worry whether the operators of the trains are in compliance with rail-safety laws. But many accidents are the direct result of a lack of compliance with safety regulations. In February, a train carrying Three Mile Island radioactive waste from Pennsylvania to Idaho was stopped just east of St. Louis. There it was discovered that several cars were improperly labeled. The train appeared to be carrying another hazardous cargo—calcium carbide—which when mixed with water becomes acetylene gas. It was later discovered that the train was not carrying the hazardous material. But a FRA investigation cited numerous violations of DOT's Hazardous Materials Regulations.

I have taken every step possible to provide for the maximum amount of public safety from the threat of a hazardous waste transportation accident. In addition to my support for this bill, I have introduced H.R. 4041, which requires the Department of Energy [DOE] to have the containers with which it transports nuclear waste to go through safety procedures. I have brought DOE and DOT officials to St. Louis to brief public officials and concerned citizens on emergency preparedness procedures. And I have written legislation to keep the transportation of radioactive waste away from high-population areas, where the threat of waste-related deaths would be multiplied.

Mr. Speaker, while few rail accidents have involved serious spills of radioactive and hazardous waste, rail accidents of any kind should cause us to question not only the competence of railway operators, but the safety of the rail systems by which waste is transported. The St. Louis Post Dispatch recently published a long list of rail accidents in eastern Illinois and the St. Louis area, which I have enclosed for the RECORD. This list clearly demonstrates the serious nature of the problem. Nineteen accidents in 18 months does not lead me to put my feet on my desk and give a sigh of satisfaction. I ask my colleagues to keep their full attention and full support on measures for public safety like H.R. 4041 and S. 1359.

[From the St. Louis Post-Dispatch, May 5, 1988]

MISSOURI AND ILLINOIS TRAIN ACCIDENTS

Some of the major train accidents in Missouri and Illinois lst year and this year. No serious injuries were reported in any of the accidents.

1. Jan. 18, 1987: Belleville. Nineteen cars of an Illinois Central Gulf Railroad freight train derailed just south of St. Elizabeth's Hospital. Four were empty propane tank cars.

2. March 1, 1987: Belleville. Five cars of an Illinois Central Gulf Railroad train derailed near St. Elizabeth's Hospital, the second derailment at the location in six weeks and the fourth in seven years.

3. March 3, 1987: Near Old Monroe, in northern St. Charles County. Twenty-seven cars derailed on a Burlington Northern freight train, spilling two carloads of ammonium nitrate, a fertilizer.

4. March 24, 1987: St. Louis, near Manchester and Macklind avenues. A car and a train carrying radioactive waste from the Three Mile Island nuclear plant collide. The cars carrying waste were unpunctured, but the accident brought renewed cries for better control of the shipments.

5. April 22, 1987: North St. Louis, just west of East Grand Avenue. Ten freight cars carrying new cars and vans derailed at a railroad yard.

6. May 1, 1987: Tolono, in east-central Illinois. Two freight trains collided; six cars and five engines derail.

7. May 2, 1987: Gilman, in Iroquis County, Ill. Two freight trains collide; an engine and five rail cars derail.

8. May 14, 1987: Belleville. A coal train derailed near St. Elizabeth's Hospital, the third such wreck in 1987 and the fifth in seven years.

9. May 26, 1987: Downtown St. Louis, near Busch Stadium. Four cars of a freight train derailed and a loaded tank car on a Missouri-Kansas-Texas Railway train crushed the parked car of a baseball fan. The tank car contained 30,000 gallons of sodium methylate but did not rupture.

10. June 13, 1987: Eve, in southwestern Missouri. Nearly 2,000 feet of track and 300 feet of a bridge were destroyed when 21 cars from a Kansas City Southern train derailed near this town. Tons of petroleum coke were spilled in the accident.

11. June 16, 1987: South of Belleville. A part of southern Belleville was blacked out when a coal train ran off the tracks and knocked down an electrical wire. The accident scene is several miles southeast of the stretch of track where three accidents took place earlier in 1987.

12. June 27, 1987: Riverton, Ill. Thirty-four cars of a Norfolk and Western Railway Co. freight train derailed in a wooded area east of Springfield.

13. Oct. 16, 1987: Morrison, Mo. About 200 people were evacuated when two Union Pacific trains carrying hazardous chemicals sideswiped each other, derailing about 30 boxcars.

14. Dec. 29, 1987: Roodhouse, Ill. About 15 gallons of sulfuric acid spilled in a train accident. Some residents were evacuated.

15. Jan. 26, 1988. Three miles east of Eureka. A Union Pacific freight train derailed when a wheel broke on one of the cars. One of the derailed cars contained residues of a toxic substance, but no leak occurred.

16. Feb. 21, 1988: Near Lamine, in central Missouri. About 14,000 gallons of phosphoric acid leaked from one of four cars of a Missouri Pacific train that derailed.

17. April 22, 1988: Pacific. Nine cars of a Union Pacific freight train derailed. The track is used to ship nuclear waste from Three Mile Island to a storage depot in Idaho. No injuries were reported.

18. May 3, 1988: Roodhouse. About 1,000 residents were evacuated as workers contained a spill of sulfuric acid from a derailed train car.

19. May 4, 1988: East St. Louis. A railroad tank car derailed, spilling several gallons of phosphoric acid.

Mrs. COLLINS. Mr. Speaker, I would like to commend the conferees who recently completed work on the Rail Safety Improvement Act (S. 1539; H. Rept. 100-637). The act will go a long way toward improving rail safety and making more rational Federal oversight of rail transport.

As chairwoman of the Government Activities and Transportation Subcommittee, I have firsthand experience in issues affecting rail safety. I have held hearings on drug and alcohol abuse in rail and air transport. I have held hearings on major rail accidents, including the Amtrak tragedy north of Baltimore.

On January 22, 1987, I introduced H.R. 718. Among its provisions, my bill called for the licensing of rail engineers and the use of driving records to spot drug and alcohol abusive rail employees in safety-sensitive jobs. I am gratified that my recommendations have so quickly been placed into statute.

Beyond this new statute, several concerns remain. Throughout my review of rail safety issues and programs a constant theme emerged: that of the Federal Railroad Administration's laissez faire attitude which has inhibited rail safety. In effect, the FRA allows the railroads to set their own standards.

According to the Congressional Research Service [CRS], the FRA has too few attorneys—about 8—to handle the roughly 600 to 700 new enforcement cases submitted to FRA headquarters each month. The backlog of uncollected fines has been known to reach $10 million.

Once violation reports are submitted by FRA field inspectors, the agency will typically settle these cases at between 50 and 60 percent of the original penalty assessment. The CRS refers to this as a "substantial reduction" in fines, compared with enforcement in other modes, such as air and highway. Further, CRS has documented that FRA "* * * frequently issues notices of defects, which are essentially warning letters, instead of taking enforcement actions against carriers that have allegedly violated Federal safety standards."

Testimony before my subcommittee corroborated a recent CRS report, which stated:

> * * * FRA points out that it can efficiently promote compliance with its regulations in many cases by engaging in a cooperative relationship with many carriers, e.g. through its safety assessment by issuing warning letters instead of taking penalty actions.

This is the FRA laissez faire attitude I described earlier. Congress can stiffen penalties, but enforcement agencies have to strengthen their resolve. I intend to continue my subcommittee's oversight of FRA policies and procedures. The congressional intent of the Rail Safety Improvement Act is clear and should not be subverted by weak implementation.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield back the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and agree to the conference report on the Senate bill, S. 1539.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONTINENTAL SCIENTIFIC DRILLING AND EXPLORATION ACT

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2737) to direct the cooperation of certain Federal entities in the implementaion of the Continental Scientific Drilling Program, as amended.

The Clerk read as follows:

H.R. 2737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Continental Scientific Drilling and Exploration Act".

SEC. 2. PURPOSES.

The purpose of this Act is to—

(1) implement section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 12, 1984 (Public Law 98-473; 98 Stat. 1875) which supports and encourages the development of a national Continental Scientific Drilling Program;

(2) enhance fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust, and how such processes affect natural phenomena such as earthquakes, volcanic eruptions, transfer of geothermal energy, distribution of mineral deposits, the occurrence of fossil fuels, and the nature and extent of aquifers;

(3) advance basic earth sciences research and technological development;

(4) obtain critical data regarding the earth's crust relating to isolation of hazardous wastes; and

(5) develop a long-range plan for implementation of the Continental Scientific Drilling Program.

SEC. 3. FINDINGS.

Congress finds that—

(1) because the earth provides energy, minerals, and water, and is used as a storage medium for municipal, chemical, and nuclear waste, an understanding of the processes and structures in the earth's crust is essential to the well being of the United States;

(2) there is a need for developing long-range plans for a United States Continental Scientific Drilling Program; and

(3) the Continental Scientific Drilling Program would enhance—

(A) understanding of the crustal evolution of the earth and the mountain building processes;

(B) understanding of the mechanisms of earthquakes and volcanic eruptions and the development of improved techniques for prediction;

(C) understanding of the development and utilization of geothermal and other energy sources and the formation of and occurrance of mineral deposits;

(D) understanding of the migration of fluids in the earth's crust for evaluation of waste contamination and the development of more effective techniques for the safe subsurface disposal of hazardous wastes;

(E) understanding and definition of the size, source, and more effective use of aquifers and other water resources; and

(F) evaluation and verification of surface geophysical techniques needed for exploring and monitoring the earth's crust.

SEC. 4. IMPLEMENTATION OF CONTINENTAL SCIENTIFIC DRILLING PROGRAM.

The Secretary of the Department of Energy, the Secretary of the Department of Interior through the United States Geological Survey, and the Director of the National Science Foundation shall implement the politics of section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 12, 1984 (Public Law 98-473; 98 Stat. 1875) by—

(1) taking such action as necessary to assure an effective, cooperative effort in furtherance of the Continental Scientific Drilling Program of the United States;

(2) taking all reasonable administrative and financial measures to assure that the Interagency Accord on Continental Scientific Drilling continues to function effectively in support of such programs;

(3) assuring the continuing effective operation of the Interagency Coordinating Group to further the objectives of such program;

(4) taking such action to assure that the Interagency Coordinating Group receives appropriate cooperation from any Federal agency that can contribute to the objectives of such program, without adversely affecting any program or activity of such agency;

(5) acting through the Interagency Coordinating Group, preparing and submitting to the Congress, within one hundred and eighty days after the enactment of this Act a report describing—

(A) long the short-term policy objectives and goals of the United States Continental Scientific Drilling Program;

(B) projected schedules of desirable scientific and engineering events that would advance United States objectives in the Continental Scientific Drilling Program;

(C) the levels of resources and funding for fiscal year 1989 that would be required by each participating Federal agency to carry out events pursuant to subparagraphs (A) and (B);

(D) the scientific, economic, technological, and social benefits expected to be realized through the implementation of such program at each level described in subparagraph (C);

(E) a recommended course for interaction with the international community in a cooperative effort to achieve the goals and purposes of this Act;

(F) the extent of participation or interest shown to date in the Continental Scientific Drilling Program by—

(i) any other governmental agency;

(ii) any academic institution;

(iii) any organization in the private sector; and

(iv) any governmental or other entity in the international community;

(G) a plan to develop beneficial cooperative relationships among the entities mentioned in subparagraph (F), to the extent that the Interagency Coordinating Group deems practicable; and

(H) any other information or recommendations that the Interagency Coordinating Group deems appropriate; and

(6) submitting to the Congress annually, beginning one year after the submission of a report under paragraph (5), describing the levels of resources and funding that would be required by each participating Federal agency for the next fiscal year to carry out events pursuant to paragraph (5) (A) and (B).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2737, the Continental Scientific Drilling and Exploration Act.

Continental scientific drilling is very important in that it allows us to delve into the mysteries of the Earth by looking at the structure of the continental crust.

Studies conducted pursuant to continental drilling will not only provide information that will be helpful in predicting earthquakes, but also in locating domestic deposits of strategic and critical minerals and metals and thereby free this Nation from its dangerous dependency on imports.

Continental scientific drilling will also serve to advance the state of deep well-drilling technology that is essential to a strong domestic energy industry.

H.R. 2737 seeks to coordinate the continental drilling programs of the Department of Energy, the U.S. Geological Survey, the National Science Foundation and involved universities so as to provide a national commitment to a continental drilling program and to avoid duplication of effort.

The bill also calls for a progress report 180 days after the enactment of the act to Congress by an interagency coordinating group comprised of DOE, and the USGS, and the NSF.

This report shall include such items as the policy objectives of the Continental Scientific Drilling Program, a schedule of events for implementation of the program, and plans for international cooperation.

Mr. Speaker, H.R. 2737 does not provide for any budget authority, has wide support in the scientific and academic communities, and similar legislation has been passed by the Senate. I urge the adoption of this legislation.

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Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2737, the Continental Scientific Drilling and Exploration Act.

H.R. 2737 would coordinate the drilling programs of the Department of Energy, the U.S. Geological Survey, the National Science Foundation, and involved universities, thus providing a national commitment to a continental drilling program and to avoid duplication of effort.

Continental scientific drilling is an important endeavor, in that it provides information related to the causes of earthquakes and volcanic eruptions, and the occurrence of energy and mineral resources. Continental drilling involves both shallow—1 to 3 miles—and ultradeep drill holes—9 to 12 miles—through the upper continental crust.

The program authorized by this bill will allow for an enhanced exploration of the continental crust leading to a better understanding of the origin of mineral and energy resources within the Earth.

Mr. Speaker, H.R. 2737 is budget neutral and enjoys wide support. I urge the adoption of this legislation.

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALGREN], the chairman of the Subcommittee on Science, Research and Technology.

Mr. WALGREN. Mr. Speaker, I thank the gentleman from West Virginia, [Mr. RAHALL] for yielding time to me.

Mr. Speaker, I rise in support of the Continental Scientific Drilling and Exploration Act, which directs the cooperation of the Departments of Energy and the Interior and the National Science Foundation in the implementation of the Continental Scientific Drilling Program.

The scientific benefits and potential spinoffs of the Continental Scientific Drilling Program are many. This program will result in a better understanding of the geological process of the Earth's crust. In practical terms, the discoveries in this area will lead to better ways for locating mineral deposits and more soundly based techniques for prediction of volcanic activity and earthquakes. Since approximately 70 million Americans live in regions of major to moderate seismic activity, the impact on public safety of accurate prediction methods for earthquakes would be great.

In addition, the research will provide better understanding of the migration of fluids in the Earth's crust. Such information is crucial for evaluation of waste contamination and the development of more effective techniques for the safe subsurface disposal of hazardous wastes.

Finally, the scientific goals of the drilling program will require drilling deep holes, which will expose the drilling equipment to high temperatures and to chemically corrosive fluids. The new drilling techniques which must be developed to overcome these problems will be directly relevant to the commercial exploitation of geothermal energy sources.

The importance of the Continental Scientific Drilling Program to science and the potential technological spinoffs of the program are not in dispute nor is the enthusiasm of the scientific community to carry out the program. The purpose of H.R. 2737 as introduced, and the identical Senate version, S. 52, is to require the Federal agencies which are the principal supporters and participants in continental drilling to formulate cooperative, fully coordinated strategic plan for achieving a set of specific goals. No additional funds are authorized in the bill.

H.R. 2737 further requires that the strategic plan called for be documented in a formal report to Congress. The report will include the policy objectives of the program; projected schedules; resources and funding required; expected scientific, economic, technological, and social benefits; international cooperative efforts; and other related recommendations.

H.R. 2737 was referred jointly to the Committees on Interior and Insular Affairs and on Science, Space, and Technology. A joint hearing was held on the bill before the Subcommittees on Mining and Natural Resources and on Science, Research and Technology on November 3, 1987. The two committees approved identical amendments which call for an estimate of funding requirements for the drilling program for fiscal year 1989, only, with annual updates thereafter. These amendments are offered to S. 52, which was passed by the Senate in June 1987.

S. 52, as amended, will help ensure the success and effectiveness of the interagency Continental Scientific Drilling Program. I want to thank Mr. RAHALL for his committee's efforts in bringing the bill to the floor and to thank Congresswoman SCHNEIDER, who introduced the bill in the House. I urge my colleagues to support passage of S. 52 as amended.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 2737, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 52) to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Continental Scientific Drilling and Exploration Act".

PURPOSES

SEC. 2. The purpose of this Act is to—

(1) implement section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 12, 1984 (Public Law 98-473; 98 Stat. 1875) which supports and encourages the development of a national Continental Scientific Drilling Program;

(2) enhance fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust, and how such processes affect natural phenomena such as earthquakes, volcanic eruptions, transfer of geothermal energy, distribution of mineral deposits, the occurrence of fossil fuels, and the nature and extent of aquifers;

(3) advance basic earth sciences research and technological development;

(4) obtain critical data regarding the earth's crust relating to isolation of hazardous wastes; and

(5) develop a long-range plan for implementation of the Continental Scientific Drilling Program.

FINDINGS

SEC. 3. Congress finds that—

(1) because the earth provides energy, minerals, and water, and is used as a storage medium for municipal, chemical, and nuclear waste, and understanding of the processes and structures in the earth's crust is essential to the well being of the United States;

(2) there is a need for developing long-range plans for a United States Continental Scientific Drilling Program; and

(3) the Continental Scientific Drilling Program would enhance—

(A) understanding of the crustal evolution of the earth and the mountain building processes;

(B) understanding of the mechanisms of earthquakes and volcanic eruptions and the development of improved techniques for prediction;

(C) understanding of the development and utilization of geothermal and other energy sources and the formation of and occurrence of mineral deposits;

(D) understanding of the migration of fluids in the earth's crust for evaluation of waste contamination and the development of more effective techniques for the safe subsurface disposal of hazardous wastes;

(E) understanding and definition of the size, source, and more effective use of acquifers and other water resources; and

(F) evaluation and verification of surface geophysical techniques needed for exploring and monitoring the earth's crust.

IMPLEMENTATION OF CONTINENTAL SCIENTIFIC DRILLING PROGRAM

SEC. 4. The Secretary of the Department of Energy, the Secretary of the Department of the Interior through the United States Geological Survey, and the Director of the National Science Foundation shall implement the policies of section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 12, 1984 (Public Law 98-473; 98 Stat. 1875) by—

(1) taking such action as necessary to assure an effective, cooperative effort in furtherance of the Continental Scientific Drilling Program of the United States;

(2) taking all reasonable administrative and financial measures to assure that the Interagency Accord on Continental Scientific Drilling continues to function effectively in support of such program;

(3) assuring the continuing effective operation of the Interagency Coordinating Group to further the objectives of such program;

(4) taking such action to assure that the Interagency Coordinating Group receives appropriate cooperation from any Federal agency that can contribute to the objectives of such program, without adversely affecting any program or activity of such agency; and

(5) acting through the Interagency Coordinating Group, preparing and submitting to the Congress, within one hundred and eighty days after the enactment of this Act a report describing—

(A) long and short-term policy objectives and goals of the United States Continental Scientific Drilling Program;

(B) projected schedules of desirable scientific engineering events that would advance United States objectives in the Continental Scientific Drilling Program;

(C) to the extent and for the duration that the Interagency Coordinating Group deems practicable, maximum, minimum, and intermediate levels of resources and funding that would be required by each participating Federal agency to carry out events pursuant to subparagraphs (A) and (B) at the various levels of effort;

(D) the scientific, economic, technological and social benefits expected to be realized through the implementation of such program at each level described in subparagraph (C);

(E) a recommended course for interaction with the international community in a cooperative effort to achieve the goals and purposes of this Act;

(F) the extent of participation or interest shown to date in the Continental Scientific Drilling Program by—

(i) any other governmental agency;

(ii) any academic institution;

(iii) any organization in the private sector; and

(iv) any governmental or other entity in the international community;

(G) a plan to develop beneficial cooperative relationships among the entities mentioned in subparagraph (F), to the extent that the Interagency Coordinating Group deems practicable; and

(H) any other information or recommendations that the Interagency Coordinating Group deems appropriate.

MOTION OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RAHALL moves to strike all after the enacting clause of the Senate bill, S. 52, and insert in lieu thereof the provisions of H.R. 2737, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill, H.R. 2737, was laid on the table.

MINING AND MINERAL RESOURCES RESEARCH INSTITUTE ACT

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3977) to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993, as amended.

The Clerk read as follows:

H.R. 3977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES.

Any reference in this Act to the "Mining and Mineral Resources Research Institute Act" is a reference to the Act of August 29, 1984, entitled "To establish a State Mining and Mineral Resources Research Institute program, and for other purposes." (30 U.S.C. 1221 through 1230).

SEC. 2. ALLOTMENT GRANTS AUTHORIZATION PERIOD; LIMITATION.

Section 1(a)(1) of the Mining and Mineral Resources Research Institute Act (30 U.S.C. 1221(a)(1)) is amended by striking "five" and inserting in lieu thereof "9".

SEC. 3 MATCHING FUNDS REQUIREMENT.

Section 1(a)(2)(A) of the Mining and Mineral Resources Research Institute Act (30 U.S.C. 1221(a)(1)(A)) is amended by striking "and" immediately after "1988," and by adding before the period at the end thereof the following: ", September 30, 1990, September 30, 1991, September 30, 1992, and September 30, 1993".

SEC. 4. RESEARCH SUBJECT

The second sentence of section 1(b) of the Mining and Mineral Resources Research Institute Act (30 U.S.C. 1221(b)) is amended by adding "fuel and non-fuel" immediately after "production of".

SEC. 5. RESEARCH GRANTS AUTHORIZATION PERIOD.

Section 2(a) of the Mining and Mineral Resources Research Institute Act (30 U.S.C. 1222(a)) is amended by adding "and there are authorized to be appropriated $14 million for each of the fiscal years ending September 30, 1990, through September 30, 1993," immediately after "additional years," and by inserting "participating in generic mineral technology centers" immediately after "available to institutes".

SEC. 6. ADMINISTRATION.

The first sentence of section 4(a) of the Mining and Mineral Resources Research Institute Act (30 U.S.C. 1224(a)) is amended by inserting ", acting through the Director of the Bureau of Mines," immediately after "The Secretary shall".

SEC. 7. ADMINISTRATIVE EXPENSES.

Section 4 of the Mining and Mineral Resources Research Institute Act (30 U.S.C. 1224) is amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated to the Secretary $350,000 for each of the fiscal years ending September 30, 1990, through September 30, 1993, to administer this act. No funds may be withheld for administrative expenses from those authorized to be appropriated by sections 1 and 2 of this Act.".

SEC. 8. ADVISORY COMMITTEE.

Section 9(a)(7) of the Mining and Mineral Resources Research Institute Act (30 U.S.C. 1229(a)(7)) is amended by striking "six" in the first and last sentence and inserting in lieu thereof "seven", and by striking "section 301 of the Surface Mining Control and Reclamation Act of 1977, two" and inserting in lieu thereof "this Act, three".

SEC. 9. PLAN UPDATE.

Section 9(e) of the Mining and Mineral Resources Research Institute Act (30 U.S.C. 1229(e)) is amnended by striking "annually thereafter" and inserting in lieu thereof "on or before January 15 of each year thereafter".

SEC. 10. REPORT; SHORT TITLE.

The Mining and Mineral Resources Research Institute Act (30 U.S.C. 1221 through 1230) is amended by inserting after section 10 the following new sections:

"SEC. 11. The Committee shall submit a report to the Congress by January 15, 1992, on the activities of the institutes funded under section 1 of this Act. Such report may be submitted in conjunction with the annual plan update required by section 9(e) of this Act and shall include, but not be limited to, each of the following:

"(1) A review of each institute's eligibility pursuant to the criteria set forth in section 10 of this Act.

"(2) Recommendations to consolidate the activities of existing individual institutes into additional generic mineral technology centers with due consideration given to qualified institutes not currently receiving funding under section 2 of this Act.

"(3) A proposal to establish a Generic Mineral Technology Center on strategic and Critical Minerals.

"(4) Recommendations on establishing a mechanism by which new generic mineral technology centers can be established and existing centers can be phased out upon the completion of their mission.

"SEC. 12. This Act may be cited as the 'Mining and Mineral Resources Research Institute Act'.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, a second is not required on this motion.

The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes and the gentleman from

Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3977 would reauthorize the Mining and Mineral Resources Research Institute Act at its present level of budget authority for an additional 4 years. The current authorization for this program expires at the end of fiscal year 1989.

Under this act, Mineral Institute programs located at 32 colleges and universities receive assistance on a 2-to-1 non-Federal to Federal matching grant basis.

In addition, six generic mineral technology centers comprised of university consortiums which pool their resouces into a specific area of research receive support under this act. West Virginia University, for example, is party to the Generic Mineral Technology Center on respirable dust.

Areas of research and training that an institute may conduct under the act involve a broad spectrum of minerals-related subjects. Research priorities are devised through input from the Bureau of Mines and an Advisory Committee on Mining and Mineral Research.

Mr. Speaker, in my view the United States is fast approaching the point of no return with respect to mining and minerals education. Without continued Federal support to institutions of higher learning embodied by the Mineral Institute Program, I fear the Nation will find itself in a crisis situation in the near future.

When we speak of international competitiveness, we often fail to emphasize the fundamental importance the education of our young plays in this arena. We have set many goals for ourselves in this country, from a manned lunar landing to giant strides in organ transplants and genetics, but without a body of trained professionals these feats could not have been accomplished.

The same applies to our current concerns in the areas of mineral resource competitiveness and dependency.

Our coal industry continues to struggle with improving its worldwide competitiveness. We persist in being overly dependent on foreign and often politically volatile sources for many strategic and critical minerals. And, there is a great deal of room for improvement in areas involving the health and safety of this Nation's mining work force.

Will we be able to develop new technologies to reduce our dependency on mineral imports from politically unstable countries? Will we continue to make advancements in more safe and efficient mining techniques? Or, will this Nation be reduced to relying on an army of mercenaries educated and trained in foreign lands to fight these battles for us?

I would submit that the answer lies in the strength of our national commitment to education.

In this regard, there should be no doubt that if we are to tackle these issues, efforts must be made today to educate students in the mining and minerals fields so that the necessary expertise will be available in the future.

This, Mr. Speaker, is the basis for the Mineral Institute Program.

Under H.R. 3977, budget authority in the amounts of $400,000 for each State allotment grant and $14 million for the research grant program is provided for each of 4 fiscal years. In addition, administrative expenses to carry out the act are authorized at $350,000.

The requirement that funds made available for allotment grants be matched by no less than 2 non-Federal dollars for each Federal dollar available to each institute is also reauthorized.

Finally, the legislation contains several reporting requirements. By January 15, 1992, the Mineral Institute Advisory Committee is to submit to Congress a report which must include, among other items, a review on each institute's eligibility and recommendations as to whether additional generic mineral technology centers should be formed and existing ones phased out upon the completion of their missions.

Mr. Speaker, I urge the adoption of this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3977, a bill to reauthorize the Mining and Mineral Resources Research Institutes.

As my colleague on the other side of the aisle stated, the mineral institute program was initiated to provide seed money to encourage the development of mineral-related Government/industry/university research and graduate education programs at selected State universities and colleges.

There are currently 32 colleges and universities that receive allotment grants in support of basic research and education in mineral sciences and engineering. Allotment grants, per the authorizing legislation, must be matched by 2 non-Federal dollars for each Federal dollar, making this a most cost-effective program.

The provisions in this bill will allow technology and training in the area of mining resources to move into the 21st century and the United States to remain a leader in the area of mineral use.

I urge support of H.R. 3977.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

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Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 3977, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SEWALL-BELMONT HOUSE AUTHORIZATION INCREASE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2203) to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site, as amended.

The clerk read as follows:

H.R. 2203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

Title II of Public Law 93-486 (88 Stat. 1463) is amended as follows:

(1) In section 202 strike "101 of this Act" and insert "201 of this title".

(2) In section 204 strike "Act" and insert "title".

(3) Amend section 204 of Public Law 93-486 (88 Stat. 1463) authorizing the Sewall-Belmont House National Historic Site by striking "$500,000" and inserting "$2,000,000".

(4) After section 204 insert:

"SEC. 205. (a) In order to provide a planning framework for the management, preservation, and interpretation of the Sewall-Belmont House National Historic Site, the Secretary of the Interior shall develop a Statement for Management, a Statement for Interpretation, a Scope of Collections Statements, and a Historic Structures Report. Within one year of enactment of this section the Secretary shall transmit these documents to the House of Representatives Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources.

"(b) The National Park Service and the owner of the Sewall-Belmont House shall enter into negotiations to prepare a revised cooperative agreement detailing the respective responsibilities of each party, including actions to be taken by each party in order to facilitate greater cooperation between them. The National Park Service shall transmit to the respective committees the revised cooperative agreement within 30 days after its execution.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 2203, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, H.R. 2203, introduced by our colleague, LINDY BOGGS, increases the amount authorized to be appropriated for the Sewall-Belmont House National Historic Site. Witnesses at our hearing emphasized the house's national and international significance as Alice Paul's home and as a location instrumental in the modern women's rights movement. The Sewall-Belmont House National Historic Site documents the continuation of the efforts for women's rights begun at the 1848 Seneca Falls Convention.

The Committee on Interior and Insular Affairs adopted an amendment in the nature of a substitute for H.R. 2203. The amendment directs the National Park Service to research and prepare key management documents and directs the Park Service to work more closely with the Sewall-Belmont House National Historic Site. It also increases the authorization for appropriations to $2 million in order to ensure that sufficient funds are available for the research and preparation of these documents and provide for an increase in funds to the site if these documents show such an increase is appropriate. I want to note that in my judgment the site has been appropriated funds in excess of its authorization in past years without proper review of the use of such funds.

Clearly this site has significance and integrity which need to be preserved so that future generations can learn about this aspect of our history. By directing the preparation of key management documents and by increasing its authorization, I believe we will move a long way toward preserving this site and interpreting its significance to the American public. Mr. Speaker, I endorse this legislation and urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, yield myself such time as I may consume.

As my colleague on the other side has explained, H.R. 2203 is a noncontroversial bill. It merely raises the authorization ceiling to allow the National Park Service to cooperate in the operation of the Sewall-Belmont House. The cost to the Park Service is about $53,000 per year for restoration and preservation of this national historic site which was the home of the National Women's Party founder, Alice Paul.

I urge my colleagues to support H.R. 2203. It passed the subcommittee and full committee without objection. The administration is in full support of this legislation as well.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2203, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 AMENDMENTS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2806) to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior, as amended.

The Clerk read as follows:

H.R. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) is hereby amended by the addition at the end thereof of a new subsection, as follows:

"(d)(1) The Secretary of the Interior, after consultation with the Governor of Alaska, may issue to the Secretary of Defense or to the Secretary of a military department within the Department of Defense or to the Commandant of the Coast Guard a nonrenewable general authorization to utilize public lands in Alaska (other than within a conservation system unit or the Steese National Conservation Area or the White Mountains National Recreation Area) for purposes of military maneuvering, military training, or equipment testing not involving artillery firing, aerial or other gunnery, or other use of live ammunition or ordance.

"(2) Use of public lands pursuant to a general authorization under this subsection shall be limited to areas where such use would not be inconsistent with the plans prepared pursuant to section 202. Each such use shall be subject to a requirement that the using department shall be responsible for any necessary cleanup and decontamination of the lands used, and to such other terms and conditions (including but not limited to restrictions on use of off-road or all-terrain vehicles) as the Secretary of the Interior may require to—

"(A) minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved; and

"(B) minimize the period and method of such use and the interference with or restrictions on other uses of the public lands involved.

"(3)(A) A general authorization issued pursuant to this subsection shall not be for a term of more than three years and shall be revoked in whole or in part, as the Secretary of the Interior finds necessary, prior to the end of such term upon a determination by the Secretary of the Interior that there has been a failure to comply with its terms and conditions or that activities pursuant to such an authorization have had or might have a significant adverse impact on the resources or values of the affected lands.

"(B) Each specific use of a particular area of public lands pursuant to a general authorization under this subsection shall be subject to specific authorization by the Secretary and to appropriate terms and conditions, including such as are described in paragraph (2) of this subsection.

"(4) Issuance of a general authorization pursuant to this subsection shall be subject to the provisions of section 202(f) of this Act, section 810 of the Alaska National Interest Lands Conservation Act, and all other applicable provisions of law. The Secretary of a military department (or the commandant of the Coast Guard) requesting such authorization shall reimburse the Secretary of the Interior for the costs of implementing this paragraph. An authorization pursuant to this subsection shall not authorize the construction of permanent structures or facilities on the public lands.

"(5) To the extent that public safety may require closure to public use of any portion of the public lands covered by an authorization issued pursuant to this subsection, the Secretary of the military Department concerned or the Commandant of the Coast Guard shall take appropriate steps to notify the public concerning such closure and to provide appropriate warnings of risks to public safety.

"(6) For purposes of this subsection, the term "conservation system unit" has the same meaning as specified in section 102 of the Alaska National Interest Lands Conservation Act.".

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2806.

This is a bill introduced by the gentlewoman from Maryland [Mrs. BYRON] at the request of the Department of Defense. As it comes before us it would amend the Federal Land Policy and Management Act of 1976 so as to authorize the Interior Department to permit the military departments and the Coast Guard to make temporary use of public lands in Alaska that are managed by the Bureau of Land Management.

The U.S. Army in particular is seeking this legislation because they believe that they need to be able to carry out training exercises and maneuvers on BLM-managed lands in Alaska, especially on mountains and glaciers and along the pipeline. Those lands currently are unavailable to the Army without this legislation because of the limitations that FLPMA places on the ability of the Interior Department to authorize such activities.

The bill as reported from the Interior Committee would meet the Army's needs while providing for protection and proper management of such lands involved.

Under the bill, the conservation system units in Alaska would be off limits to temporary military use, as would also be the Steese National Conservation Area and the White Mountains National Recreation Area.

The only military uses that could be authorized would be military maneuvering, military training, or equipment testing. Artillery fire, aerial or other gunnery, or any other use of live ammunition would not be allowed.

Under the bill, a military service or the Coast Guard would be able to request a general authorization to use eligible BLM lands in Alaska. This could be issued only after consultation with the State, appropriate public participation, and review of its possible impacts on subsistence uses. A general authorization could be for no more than 3 years, after which a new authorization would have to be requested if a military service wanted to continue using public lands.

Even after a general authorization had been granted, each particular use of a specific area of eligible BLM land would have to be authorized separately, and would be subject to appropriate conditions and restrictions. These would include a requirement that the military clean up the area used and that their use be done in a way that would minimize adverse impacts on the area and minimize interference with use of the area by others, such as sportsmen or prospectors. No permanent structures or installations could be constructed.

The bill was worked out in consultation with the Defense Department and the State of Alaska, and reflects the leadership and hard work of our colleague, the gentlewoman from Maryland [Mrs. BYRON].

I believe that the bill adequately provides for meeting the needs of the military, while retaining essential protection of the public interest in proper management of BLM lands in Alaska, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2806, a bill to permit temporary use of Bureau of Land Management lands by other agencies, and ask that the House suspend the rules and adopt the bill as reported.

This is a good, commonsense, good government bill, introduced by my friend and colleague Mrs. BYRON of Maryland. The credit for this legislation should go to her, as she has taken her own time to travel to Alaska and to other parts of the country to see about the needs of the U.S. military and how we might improve coordination of our roles of managing the Federal lands and increasing the national security.

The bill would remove and alter restrictions on the use of BLM lands by other Federal Government agencies. As introduced, the bill would have been nationwide in application, but due to various conflicts with other, seemingly more glamorous land use debates in other parts of the country, the committee saw fit to narrow its application to Alaska, where Americans are proud of their part in the defense of this country, and willing to enter relationships with the Federal Government to enhance the protections of our liberties. This bill would allow, for the first time since the passage of the Federal Land Management Policy Act in the 1970's, the coordinated maneuvers for the defense of the trans-Alakan pipeline from Prudhoe Bay 800 miles south to Valdez. This national asset, currently supplying the United States with almost 25 percent of our daily domestic production of oil, will become even more critical to the Nation's security as lower 48 oil production declines and with the development of the Coastal Plain of the Arctic National Wildlife Refuge.

Although Mrs. BYRON and I would rather this bill be nationwide in application, Alaskans are proud of their contribution to the Nation's defense, as evidenced by the increasing military presence in what Gen. Billy Mitchell described as the key to the defense of the world. With homeporting in Alaska, and with this legislation, we give the brave men and women who serve this Nation's defense the tools with which to carry out their mission.

I urge the Members to support this legislation.

Mrs. BYRON. Mr. Speaker, as introduced, H.R. 2806 would amend the Federal Land Policy and Management Act of 1976 to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management. As reported by the Interior Committee, the bill's provisions are limited to Alaskan lands and their use by military departments, and the Coast Guard.

The bill sets a period of 3 years as the maximum term for any temporary use permit and stipulates that each permit would be nonrenewable.

Introduced at the request of the Department of the Army, H.R. 2806 would address the Army's need to gain access to public lands required for specific training purposes. Particularly, the Army has identified a need to access lands important for the conducting of maneuvers to round out cold weather training and Alaskan defense.

For example, during the subcommittee hearing, we learned from the testimony of Maj. Gen. Johnnie Corns—6th Infantry Division—Light, Alaska—that the Army does not currently have access to any glacier terrain. Further, it does not have the ability to conduct training at any of the Alaska pipeline pump stations on BLM property. Training to defend these types of areas would be essential for Alaskan defense readiness.

I would like to commend Mr. VENTO for his attention to this bill and for his work in its refinement throughout the committee process. I have been advised by representatives of the Army that the Army supports H.R. 2806 as it was amended by the Interior Committee. Further, the House Armed Services Committee has no objections to this legislation. H.R. 2806 also meets criterion outlined by the Alaska Governor's office and environmental interests represented at the Parks and Public Lands Subcommittee hearing.

With these things in mind, Mr. Speaker, I would like to urge my colleagues to support H.R. 2806.

Mr. DELLUMS. Mr. Speaker, on behalf of the Armed Services Committee I rise in support of H.R. 2806, as amended by the Interior Committee. This legislation was prompted by the Army's desire to use public lands in Alaska, that have not been specifically withdrawn for military purposes, for temporary training exercises and maneuvers. These lands would include such places as high mountain areas, glaciers, pipeline pumping stations and other portions of the Alaska pipeline which are located on public property controlled by the Bureau of Land Management.

Under H.R. 2806, as amended, the Department of the Interior is granted administrative authority to permit the Department of Defense to enter these public lands for a short period of time for training—usually no more than 2 weeks. The management and control of the lands would stay with the Department of the Interior although any costs incurred in carrying out the provisions of this bill would be paid to the Bureau of Land Management by the service involved.

After reviewing this legislation and receiving assurances that the Department of the Army is in full support of the legislation as reported from the Interior Committee, the full Committee on Armed Services agreed, on May 11, 1988, to discharge itself from further consideration of H.R. 2806, as amended.

On behalf of the Armed Services Committee, I urge the adoption of this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2806, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Federal Land Policy and Management Act of 1976, to permit temporary use for military purposes of public lands in Alaska managed by the Bureau of Land Management, Department of the Interior, and for other purposes."

A motion to reconsider was laid on the table.

TRANSFER OF A CERTAIN PARCEL OF LAND IN CLARK COUNTY, NV

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4097) to direct the Secretary of the Interior to transfer a certain parcel of land in Clark County, NV, as amended.

The Clerk read as follows:

H.R. 4097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) in April 1980, the Bureau of Land Management accepted the application of the Clark County Housing Authority for the conveyance of a parcel of land pursuant to the Act popularly known as the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.) to be used for a mobile home park for low income senior citizens;

(2) beginning in January 1981, the application was subject to litigation which was disposed of by the Federal District Court for Nevada on March 9, 1987; and

(3) during the period referred to in paragraph (2), the Bureau of Land Management changed its regulations issued under the Recreation and Public Purposes Act such that the proposed mobile home park for low income senior citizens was no longer a use for which land could be conveyed under that Act.

SEC. 2. LAND TRANSFER.

(a) IN GENERAL.—Subject to valid existing rights, the Secretary shall transfer, without consideration, all right, title, and interest of the United States in and to the land described in subsection (b) to the Clark County, Nevada, Housing Authority, for use only as a mobile home park for low income senior citizens, reserving to the United States: all minerals in such land together with the right to prospect for, mine, and remove such minerals under applicable law and such regulaitons as the Secretary of the Interior may prescribe; and as required by the Act of August 30, 1980 (43 U.S.C. 945), a right of way thereon for ditches or canals constructed by the authority of the United States. If such land ceases to be used as mobile home park for low income senior citizens, all right, title, and interest in and to such land shall revert to the United States.

(b) LAND DESCRIPTION.—The lands referred to in subsection (a) are approximately 80 acres of land in Clark County, Nevada, more particularly described as T21S, R60E, MDM, Section 24, N½SW¼.

(c) RESERVATIONS, ETC.—In the implementation of this Act, the Secretary of the Interior shall take such actions as the Secretary deems appropriate to—

(1) reserve rights-of-way and easements for road, public utility and flood control purposes; and

(2) provide for protection of the public interest.

(d) DEFINITIONS.—For the purpose of this Act the terms "low income" and "senior citizens" shall have the same meaning as in other Federal laws relative to housing assistance that use either or both such terms.

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The SPEAKER pro tempore (Mr. MONTGOMERY). Is a second demanded?

Mr. CHENEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. CHENEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on H.R. 4097, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4097 was introduced by Representatives VUCANOVICH and BILBRAY. It would provide for transfer of about 80 acres of public lands in Clark County to the county's housing authority, to be used for locating mobile homes for low-income senior citizens. The transfer would be similar to transfers under the Recreation and Public Purposes Act, in that the minerals would be reserved and the land would revert to the United States in the event that it was used for any other purpose.

At our hearing on the bill, we learned that the housing authority originally sought to obtain the land under the Recreation and Public Purposes Act at a time when BLM's regulations permitted a transfer for such a purpose. However, the transfer was held up by litigation started by the operators of private facilities for mobile homes. That litigation was later resolved, but in the meantime the BLM had changed its regulations so that applications for transfers for this purpose were no longer being accepted.

At the hearing, BLM testified that they recognized that the Clark County Housing Authority had made a good-faith attempt to comply with the regulations in effect at the time of their original application, and testified that they would not oppose the bill if certain technical amendments were adopted, which the Interior Committee has done. I believe that as reported the bill is completely without controversy.

Mr. Speaker, I believe that this is a worthwhile measure, and I urge its passage.

Mr. CHENEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4097, a bill that would transfer about 80 acres of public lands in Clark County, NV, to the county's housing authority to be used as a mobile home park for low income senior citizens. This bill was introduced by my colleague from Nevada, Mrs. VUCANOVICH, along with Mr. BILBRAY from Nevada. Mrs. VUCANOVICH apologizes that she is unable to be here today because she is undergoing medical tests. However, she asked me to express her strong support for this bill and urge this body to adopt it.

In 1980, the Bureau of Land Management approved an application by Clark County under the Recreation and Public Purposes Act for the transfer of this land for use as a mobile home park for low income senior citizens. Litigation ensued and the conveyance of the land was delayed until 1987 when the Federal court ruled in favor of the Government. However, during the duration of the lawsuit, the BLM changed its policies regarding the use of recreation and public purposes lands. Now housing is no longer an appropriate use and the transfer of this land has now been denied. H.R. 4097 would allow the subject acreage to be transferred to the Clark County

Housing Authority to be used as it was originally intended.

The gentlelady from Nevada has worked very hard on this bill and wanted me to express her thanks to the gentleman from Minnesota for his help and assistance in moving this bill so quickly through the committee.

Finally, the administration has no objections to the passage of this bill and I recommend that all members support it.

Mr. Speaker, this is a good bill. It basically "rights a wrong" and will provide for much-needed housing for those in Clark County, NV, who are living on a fixed income. I urge this body to favorably adopt this measure.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding back the balance of my time I just want to point out that this bill, but for the change in the regulations by the BLM, would not be necessary and this transfer would have been executed without the types of problems or the necessity of legislation. But their change in regulations is what necessitated this. It is for a good purpose, for low and moderate income residences in terms of providing an opportunity to live in manufactured housing at rates that are affordable. I think it is a laudable purpose and I commend the gentlewoman from Nevada [Mrs. VUCANOVICH] and the gentleman from Nevada [Mr. BILBRAY] for bringing this matter to our attention.

Mr. CHENEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4097, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

UPLAND COTTON OPTIONAL ACREAGE DIVERSION PROGRAM ACT OF 1988

Mr. HUCKABY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4615) to establish for the 1988 through 1990 crops of upland cotton an optional acreage diversion program, as amended.

The Clerk read as follows:

H.R. 4615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Upland Cotton Optional Acreage Diversion Program Act of 1988".

SEC. 2. OPTIONAL ACREAGE DIVERSION PROGRAM.

Effective only for the 1988 through 1990 crops of upland cotton, section 103A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444-1(c)(1)(B)) is amended—

(1) in clause (i)(II), by striking out ", subject to the compliance of the producers with clause (ii)";

(2) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following new clauses:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted upland cotton acreage of the farm to conservation uses (or other uses as provided in subparagraph (G)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to upland cotton and eligible for payments under this subparagraph for such crop at a per-pound rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which upland cotton producers may agree to participate in the program for such crop.

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of upland cotton acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of upland cotton acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (G))".

SEC. 3. REGULATIONS.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations implementing the amendments made to section 103(A)(c)(1)(B) of the Agricultural Act of 1949 by section 2.

(b) NONREDUCTION OF BASES AND YIELDS.—Such regulations shall include provisions that ensure that the upland cotton crop acreage base and firm program payment yield for any farm will not be reduced if the producers on the farm set aside from production all, or a portion, of the producer's permitted acreage under the acreage diversion program under section 103(A)(c)(1)(B) as amended by section 2.

(c) EFFECT ON LANDLORD-TENANT RELATIONS.—Such regulations shall ensure, to the maximum extent practicable, that the programs authorized under this Act will not adversely affect the relationship between landlords and tenants, regarding any crop acreage base entered into such programs, in existence on the date of enactment of this Act.

SEC. 4. LIMITATION ON THE OPTIONAL ACREAGE DIVERSION PROGRAM FOR THE 1988 CROP OF UPLAND COTTON.

With respect to producers of the 1988 crop of upland cotton, the program authorized by this Act shall only be made available to producers of upland cotton that have executed a production ajdustment contract with the Commodity Credit Corporation on or before April 15, 1988.

SEC. 5. FEES OR CHARGES COLLECTED UNDER THE U.S. COTTON STANDARDS ACT.

Section 5(a) of the United States Cotton Standards Act (7 U.S.C. 55(a)) is amended by striking out the second sentence and inserting in lieu thereof the following: "Any fees or charges collected under this Act, late payment penalties, the proceeds from the sale of samples, and interest earned from the investment of such funds shall be credited to the current appropriation account that incurs costs of the services provided under this Act and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing services and standards under this Act and the United States Cotton Futures Act (7 U.S.C. 15b). Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts, or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.".

The SPEAKER pro tempore. Is a second demanded?

Mr. COMBEST. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. HUCKABY] will be recognized for 20 minutes and the gentleman from Texas [Mr. COMBEST] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the bill before the House is to provide a 0-92 program for cotton farmers. Currently the 0-92 program exists for feed grains and wheat.

Basically what this program does is entitle farmers to 92 percent of the deficiency payments if they elect not to plant their crops.

Mr. Speaker, today we find ourselves in the unfortunate situation where cotton inventories are projected to increase instead of decrease. This is a result of the record, bumper crop that we had last year and the fact that the Department underestimated this crop by almost 2 million bales. We have an acreage reduction in effect this year that is perhaps significantly smaller than it should be. So we find ourselves with inventories increasing, and yet at the same time, Mr. Speaker, we are today in the latter part of May faced with potentially one of the most severe droughts in parts of the Cotton Belt that we have ever faced. In west Texas and Oklahoma and parts of the delta we have been many weeks without rain. Many cotton farmers have yet to plant their crops, and they are waiting for rains before they plant their crops.

Without this program for these farmers to be entitled to any Government assistance they would have to go ahead and plant their crop even though in just a very short period of time it would be past the planting date, and it would be obvious that this would be complete folly to plant this crop because of the fact that the cotton would not come up.

In addition to this, the Department tells me that this program would actually save money instead of costing the Government money by the fact that it will contribute to an overall reduction of inventories.

So it is somewhat of a win-win situation, Mr. Speaker. The farmers who are affected by this drought who have not been able to plant will receive Government assistance. The overall inventories that we have today in the Nation in cotton will be reduced as a result of this 0-92 program.

I would urge that the House adopt H.R. 4615.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with my colleague, the gentleman from Louisiana [Mr. HUCKABY], the original sponsor of this legislation and the other gentleman from Texas [Mr. STENHOLM] as cosponsors of the bill as it was initially introduced. I also join in commending him for his statement and endorse everything he has said about the need for this legislation.

This is a bill which would help tremendously in agricultural areas that are currently looking at the potential for drought. It would prevent a farmer from having to go out and plant a crop using the seed, stirring the dry land in order simply to be eligible for production payments under the Target Price Program of the current Cotton Program.

The 0-92 option is available for feed grains. We feel it is only equitable, given current conditions, that it be available for cotton as well.

While the Cotton Program has worked exceedingly well in my State and my district as well as in other parts of the country, we do feel the 0-92 program would be a management tool which would be very helpful to cotton producers.

Again, as an original cosponsor, I strongly urge my colleagues to support this measure and pass it under suspension so that it can be expedited in time for the cotton producer to be able to use this as a tool. In my part of the State of Texas, the largest cotton-producing district in the Nation, we are now coming to a critical point in terms of time with optimum planting days fast departing, and it is important that we get this legislation enacted.

Mr. HUCKABY. Mr. Speaker, H.R. 4615, the Upland Cotton Optional Acreage Diversion Program Act of 1988, will reduce Government outlays, help keep cotton supply in balance with demand, and offer upland cotton producers a new program option. Following is a detailed analysis of the bill and its development up to this point:

BRIEF EXPLANATION

The Upland Cotton Optional Acreage Diversion Program Act will—

(1) enable producers of each of the 1988 through 1990 crops of upland cotton to place all of their upland cotton permitted acreage into the optional acreage diversion program authorized under the Food Security Act of 1985. Currently, the 1985 farm bill provides for a "50/92" program, that is, producers can place not more than 50 percent of their upland cotton permitted acreage into conserving uses and still receive 92 percent of their target price payments;

(2) provide that the payment rate to be established by the Secretary of Agriculture under the new "0/92" program may not be less than the projected deficiency payment rate for the crop as determined by the Secretary;

(3) require the Secretary to minimize any adverse effect of the program on agribusiness and other agriculturally related economic interests;

(4) provide for the Secretary to limit the total amount of upland cotton that may be taken out of production under the 0/92 program for a crop, except in counties where producers were eligible to receive emergency loans for a disaster occurring in that crop year;

(5) require that the regulations implementing the bill ensure that the upland cotton crop acreage base and farm program payment yield for any farm will not be reduced as a result of participating in the 0/92 program;

(6) require the regulations also to ensure, to the maximum extent practicable, that the program will not adversely affect the realtionship between landlords and tenants regarding any crop acreage base entered into the program, in existence on the date of enactment;

(7) provide that, with respect to the 1988 crop of upland cotton, only producers who signed a production adjustment agreement with the Commodity Credit Corporation on or before April 15, 1988, will be eligible to participate in the 0/92 program; and

(8) amend the U.S. Cotton Standards Act with regard to the investment of fees, charges, penalties, and sample sales proceeds.

PURPOSE AND NEED

H.R. 4615, as approved by the Committee on Agriculture, will amend the "50/92" optional acreage diversion program of the Food Security Act of 1985 for the 1988 through 1990 crops of upland cotton. Under the 50/92 program, a producer is allowed to receive 92 percent of his projected annual commodity program income support benefits on acres voluntarily put into conserving uses, if the producer plants for harvest at least 50 percent of the crop. H.R. 4615 will extend the 50/92 program to permit an upland cotton producer to place all or any part of the farm into conserving uses and receive 92 percent of the projected annual income support. A similar provision exists for the 1988 through 1990 crops of wheat and feed grains.

Because of the lack of rainfall in the cotton belt during the spring of 1988, the traditional planting period for upland cotton, the bill makes the 0/92 option available for producers who have signed production adjustment contracts to participate in the upland cotton program for the 1988 crop. This option will avoid the awkward situation of compelling producers to plant crops in those areas affected by the drought, in order to preserve their acreage bases and qualify for program benefits, despite the probability that these crops will not succeed. Instead, producers could enroll the acreage in 0/92 program provided by the bill, thereby reducing potential soil erosion and other management problems.

Extension of the 0/92 program to upland cotton producers in 1989 and 1990 will have at least two beneficial results. First, cotton producers will have an opportunity to voluntarily reduce the acreage planted to cotton. Reduced production will help in the event that surplus stocks continue to build as a result of the record 1987 crop. Second, if cotton stocks remain significantly above the equilibrium level of about 3.0-3.5 million bales, the voluntary acreage reduction under 0-92 would reduce government program costs.

H.R. 4615 includes several safeguards regarding the operation of the upland cotton program. First, the Secretary will be required to guarantee the payment rate to producers who elect the 0/92 option. The Secretary will be required to announce the payment rate, which must not be lower than the payment rate offered under other annual program options, during the time producers must make their decision whether to participate in the annual program. Once a producer selects the 0/92 option, the payment rate will be guaranteed to him.

Second, the bill will ensure that, if a producer decides to idle all or a portion of his crop acreage, that action will not adversely affect his planting history for the purpose of future program participation. Both the crop acreage base and program yield will be protected under regulations to be issued by the Secretary.

Third, the bill will require the Secretary to implement regulations to protect landlord-tenant relationships involving land idled under the 0/92 option.

Fourth, the Secretary will be directed to minimize effects the optional acreage diversion program might have on agribusinesses in local areas. In so doing, the Secretary is to take into consideration the amount of crop acreage idled in those areas as a result of farmer participation in other programs, such as annual commodity programs and the long-term conservation reserve program.

While the 0/92 program option will not appear as lucrative to most producers as other program options, it will provide producers greater flexibility. Those producers with very high variable costs of production and who face financial or production risks, such as adverse weather or other unfavorable growing conditions, may find it more attractive than full production. Also, producers attempting to restructure their financial condition by seeking to avoid further debt may elect the 0/92 option for a crop year as they reorganize. Producers who desire to rotate their land for conservation reasons may also elect to take advantage of this program. In addition, producers with off-farm economic opportunities may desire the 0/92 alternative.

Section 5 of the bill would enable the Department of Agriculture—specifically the Agricultural Marketing Service—to invest the fees collected from sale of cotton samples and copies of cotton standards, as well as fees collected for cotton classing services provided to mills and merchants. Any fees collected (which currently amount to $600,000 to $700,000 annually), including late payment penalties and any interest earned, could be invested by the Secretary of Agriculture in insured or fully collateralized, interest-bearing accounts, or at the discretion of the Secretary, by the Secretary of the Treasury in United States Government-debt instruments.

Identical or similar authority currently exists for several of the user-funded programs administered by the Agricultural Marketing Service. These include the voluntary inspection and grading activities carried out pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)), the Smith-Doxey classing provisions of the Cotton Statistics and Estimates Act (7 U.S.C. 473(a)), tobacco inspection carried out pursuant to the Tobacco Inspection Act (7 U.S.C. 511(d)), and more recently, fees collected for certificates of plant variety protection pursuant to the Plant Variety Protection Act (7 U.S.C. 2371). Income derived from the investment of the funds is used to defray the costs of administering the programs. During FY 1987, the Agricultural Marketing service earned $2.5 million as a result of its investment authority in these various programs.

COMMITTEE CONSIDERATION

The Committee met, pursuant to notice, on May 18, 1988, to consider H.R. 4615 and other pending business. Chairman de la Garza called up H.R. 4615 for consideration. Without objection the Committee agreed to discharge the Subcommittee on Cotton, Rice, and Sugar from further consideration of H.R. 4615. Mr. Huckaby, the Chairman of the Subcommittee, was recognized to explain the bill. Mr. Huckaby said that the bill would establish, for the 1988 through 1990 crops of upland cotton, a "0/92" optional acreage diversion program. Mr. Huckaby noted that the program would offer cotton farmers the same 0/92 option that is provided under current law for producers of wheat and feed grains.

Mr. Huckaby offered a perfecting amendment regarding the 1988 crop of upland cotton, to provide that the 0/92 option would only be available on farms that were enrolled in the 1988 upland cotton program as of April 15, 1988. The amendment was agreed to by voice vote.

Mr. Huckaby moved that the Committee include, as section 5 of the bill, an amendment previously agreed to during the subcommittee consideration of H.R. 4345, that would authorize the Secretary of Agriculture to invest the proceeds of certain fees under the cotton classification program. See the report on H.R. 4345 for a description of previous subcommittee action on this provision. The motion was agreed to without objection.

Mr. Olin offered an amendment to make the 0/92 program available only for producers on farms only for the 1988 crop of upland cotton. After a discussion of the amendment, by a division vote (6 yeas and 15 nays) the Committee did not agree to the Olin amendment.

Mr. Huckaby moved that H.R. 4615, as amended, be ordered reported to the House with the recommendation that it do pass. The Committee agreed, by voice vote and in the presence of a quorum, to the motion made by Mr. Huckaby.

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, or new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable to H.R. 4615. The following estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 was received by the Committee prior to the filing of this report:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 23, 1988.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4615, the Upland Cotton Optional Acreage Diversion Program Act of 1988.

If you wish further details on this cost estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 4615.

2. Bill title: Upland Cotton Optional Acreage Diversion Program Act of 1988.

3. Bill status: As ordered reported by the House Committee on Agriculture, May 18, 1988.

4. Bill purpose: The bill would allow cotton producers to participate in the Optional Acreage Diversion Program, known as 0/92, for crop years 1988, 1989, and 1990.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
DIRECT SPENDING CHANGES					
Commodity Credit Corporation:					
Estimated Budget Authority	−1	−4	−2		
Estimated Outlays	−1	−4	−2		

The costs of this bill fall within budget function 350.

Basis of estimate: H.R. 4615 would allow upland cotton producers participating in this year's or subsequent cotton programs to receive 92 percent of their estimated total deficiency payment even if they plant no cotton at all. Currently, upland cotton producers are eligible for 50/92; they must plant at least 50 percent of their acreage permitted to be planted to cotton to receive 92 percent of deficiency payments.

Allowing cotton producers to apply for inclusion in the 0/92 program for the 1988 crop year would not affect Commodity Credit Corporation (CCC) outlays for fiscal year 1988 as the farmers who qualify for 50/92 would now qualify for 0/92, with no increase in deficiency payments. In addition, extension of that program for the 1989 and 1990 crops would reduce CCC outlays by about $7 million over fiscal years 1989, 1990 and 1991.

The CBO baseline assumes an improved financial outlook for cotton in the future, resulting in limited program participation. Also, with the alternative of both the current 50/92 and the long-term conservation reserve programs, use of the 0/92 program is projected to be small for cotton in crop years 1989 and 1990 under normal conditions. CBO assumes that inclusion in the 0/92 program for cotton in the 1989 and 1990 crops might reduce planted acreage slightly—about 100,000 acres per year. This reduction in output from the current CBO baseline would generate savings in two ways. First, participants in the 0/92 program would be paid 8 percent less in deficiency payments in return for not producing a crop; second, a marginal reduction in output would likely cause a marginal price increase, which would reduce deficiency payments to all other cotton program participants. The crop year savings are estimated at $4 million for 1989 and $3 million for 1990. Fiscal year savings begin in 1989 with 40 percent deficiency payments for the 1989 crop year paid in advance.

Other sections have no significant outlay effect.

6. Estimated cost to state and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Eileen M. Manfredi, Hsin-Hui Hsu, and Andrew Morton.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Mr. COMBEST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUCKABY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana [Mr. HUCKABY] that the House suspend the rules and pass the bill, H.R. 4615, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AGRICULTURAL ACT OF 1949 AMENDMENTS RELATING TO CERTAIN REQUIREMENTS UNDER THE EXTRA LONG STAPLE COTTON PROGRAM

Mr. HUCKABY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4556) to amend the provisions of the Agricultural Act of 1949 relating to certain cross-compliance requirements under the Extra Long Staple Cotton Program, as amended.

The Clerk read as follows:

H.R. 4556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF RELEASE FROM CROSS-COMPLIANCE REQUIREMENTS.

Section 103(h)(16)(C) of the Agricultural Act of 1949 is amended by striking out "and 1988" and inserting in lieu thereof "through 1990".

SEC. 2. PROHIBITION ON INCREASES IN CROP ACREAGE BASES.

Section 103(h)(8)(A) of such Act is amended by—

(1) designating the existing subparagraph as subparagraph "(A)(i)"; and

(2) adding at the end thereof the following new clause:

"(ii) Notwithstanding any other provision of this Act, the Secretary shall ensure, under such terms and conditions as may be prescribed by the Secretary, that the total of the crop acreage bases established on a farm which is enrolled in a production adjustment program for any commodity shall not be increased as a result of the application of the provisions set forth in paragraph (16)(C), as extended for the 1989 and 1990 crop.".

The SPEAKER pro tempore. Is a second demanded?

Mr. COMBEST. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. HUCKABY] will be recognized for 20 minutes and the gentleman from Texas [Mr. COMBEST] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the so-called ELS or Extra Long Staple Cotton Program is a unique program, a little niche within the Cotton Program. Currently we grow 100,000 acres of ELS cotton in the United States. This ELS cotton is grown in the States of Texas, Arizona, and New Mexico.

ELS cotton is unique, Mr. Speaker, it is blended with silk and used in the production of finer cloths. We find ourselves in the very good situation today of the fact that the demand for ELS cotton far exceeds our ability to produce the cotton, and most of this cotton is exported and hence contributes to improving our balance-of-payments problem.

The legislation before the House today, Mr. Speaker, enables these farmers who grow ELS cotton to expand their production, and at the same time not to penalize them if they grow other commodities and participate in other programs such as wheat and feed grains.

Basically what the legislation does is remove the requirement to participate in cross compliance.

This is a good bill, Mr. Speaker. It is a plus, a real plus, for our ELS cotton farmers. It contributes to reducing our balance-of-payments deficit, and I would urge that the House approve this legislation.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with the chairman of the Subcommittee on Cotton, Rice and Sugar in encouraging passage of H.R. 4556.

For Members who are not familiar with the cotton industry, and having just dealt with cotton legislation relative to 0-92 provisions for upland cotton, let me explain that this provision of H.R. 4556 is for extra long staple cotton. As the chairman of the subcommittee pointed out, it is a special commodity. It is one which is in high demand, and it is one in which there is no surplus. It is one in which if we are going to continue to be able to assure our buyers, particularly foreign countries, of the continued steady supply of extra long staple cotton, this action is necessary.

This is nothing new. It is simply a continuation of what has been done in the past 2 years for extra long staple cotton with regard to cross compliance.

It is a very simple bill, but it is one in which the producers of extra long staple cotton will benefit significantly, and I would encourage passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUCKABY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing I just want to commend the gentleman from Texas [Mr. COMBEST], an outstanding member of the Subcommittee on Cotton, Rice and Sugar for not only his support of these two bills before the House, but for supporting anything that is for the good of the farmer.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding time to me. I want to commend the gentleman from Louisiana [Mr. HUCKABY] as the chairman of the subcommittee that handles this legislation, as well as our colleague, the gentleman from Texas [Mr. COMBEST], and all of the members of the subcommittee.

Mr. Speaker, this is a long needed amendment to the general law that will be helpful in assisting the cotton industry, and we are very thankful that all of the segments of the industry have come in place to assist us in this endeavor, as well as other commodities who are a part of the general Farm Act and the 1985 Food Security Act and that they were willing to go along and allow cotton to basically have the same availability of tools that they have. This will be very important because the 1985 Food Security Act has worked well.

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We have sold our cotton. We are back into the world markets. We are back into further use, expanding use domestically but as happens we have had good fortune and we are coming up with much more cotton than was anticipated. And this will have an opportunity to balance the domestic/foreign needs and our ability to produce within the law and provide some more stability and some discretion to the producer in that he can shift lands and, under the cross-compliance section of the general act, do so without the protection to the general act and to all of the other commodities without enhancing his position so that he accrues more acreage but rather he can keep it in balance and do what is necessary for good and useful management. I thank the gentleman for yielding me the time.

Mr. COMBEST. Mr. Speaker, will the gentleman yield to me temporarily?

Mr. HUCKABY. I yield to the gentleman from Texas.

Mr. COMBEST. I thank the gentleman for yielding.

Mr. Speaker, having yielded back my time, I just wanted to say to the chairman of the full committee and the chairman of the subcommittee, with them both on the floor that I would be remiss in not saying that agriculture has real friends in the two chairmen, the chairman of the subcommittee and the chairman of the full committee. When agriculture has a problem, there are not Members of Congress who are more responsive than the two gentlemen, the gentleman from Louisiana and the gentleman from Texas, in answering that demand and expeditiously reporting out legislation. The time constraints we have in agriculture are unusual and unique in that we are dealing with weather, and matters such as time for planting, time for harvesting and many others which other committees do not have to handle.

The two gentlemen here are true friends to agriculture and it is a pleasure to work with them, and I thank them for their efforts.

Mr. HUCKABY. Mr. Speaker, let me also point out to my colleagues that there was some concern raised that if we allow ALS farmers to expand their production and not participate in the cross-compliance that we might be creating problems in future years by expanding the base even though there is a demand today. An amendment was offered in committee to take care of this problem because any expansion in base that would occur as a result of planning additional acreage over and above one's existing base must come out of the bases of the programs of other crops where we have surpluses today. So in effect what we would be doing is if a farmer increased his ALS base he would have to have an equal amount, a decline in another crop such as regular cotton or corn or wheat or any of the other feed grains.

So on balance it is a very good effective piece of legislation.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Louisiana [Mr. HUCKABY] that the House suspend the rules and pass the bill, H.R. 4556, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

U.S. GRAIN STANDARDS ACT AMENDMENTS OF 1988

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4345) to amend the U.S. Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Grain Standards Act Amendments of 1988".

EXTENSION OF AUTHORITIES; NEW ADVISORY BOARD

SEC. 2. Effective for the period October 1, 1988, through September 30, 1993, inclusive, the United States Grain Standards Act is amended by—

(1) amending section 7(j) (7 U.S.C. 79(j) to read as follows:

"(j)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

"(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service relating to supervision of official agency personnel and supervision by Service personnel of its field office personnel , except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum.

"(3) Any sums collected or received by the Administrator under this Act and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Administrator and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on such sums and any late payment penalties collected by the Administrator shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.";

(2) amending section 7A(l) (7 U.S.C. 79a(l)) to read as follows:

"(l)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 7(j) of this Act.

"(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service relating to supervision of the agency personnel and supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 7(g)(3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.";

(3) adding a new section 7C as follows:

"LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS

"SEC. 7C. The total administrative and supervisory costs which may be incurred under this Act for inspection and weighing (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1989 through 1993 shall not exceed 40 per centum of the total costs for such activities carried out by the Service for such year.";

(4) amending section 19 (7 U.S.C. 87h) to read as follows:

"APPROPRIATIONS

"SEC. 19. There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this Act, and any other expenses necessary to carry out the provisions of this Act for each of the fiscal years during the period beginning October 1, 1988, and ending September 30, 1993, to the extent that financing is not obtained fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act."; and

(5) amending section 20 (7 U.S.C. 87i) to read as follows:

"ADVISORY COMMITTEE

"SEC. 20. (a)(1) Not later than 90 days after the enactment of the United States Grain Standards Act Amendments of 1988, the Secretary shall establish an advisory committee to provide advice to the Administrator with respect to implementing this Act consistent with the declarations of policy in section 2 of this Act. The advisory committee shall consist of 15 members, appointed by the Secretary, representing the interests of all segments of the grain producing, processing, storing, merchandising, consuming, and exporting industries, including grain inspection and weighing agencies and scientists with expertise in research related to the policies established in section 2 of this Act. Members of the advisory committee shall be appointed to three-year terms, except that of the initial 15 members of the advisory committee appointed under this paragraph, five shall be appointed for terms of one year and five shall be appointed for terms of two years. No member of the advisory committee may serve successive terms.

"(2) To ensure a smooth transition, the committee established under this section, as in effect prior to the enactment of the United States Grain Standards Act Amendments of 1988 shall continue in existence until all the members of the advisory committee, as provided for in paragraph (1), are appointed; and the Secretary may appoint members of the pre-existing committee to serve on the advisory committee without regard to their time of service on the pre-existing committee.

"(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2).

"(c) The Administrator shall provide the advisory committee with necessary clerical assistance and staff personnel.

"(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this Act, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.".

PILOT PROJECT ON CLEAN GRAIN PREMIUMS

SEC. 3. (a) Not later than May 1, 1989, the Secretary of Agriculture, based on the findings of the report required under section 305 of the Grain Quality Improvement Act of 1986 and on the advice and recommendations of the advisory committee established under section 20 of the United States Grain Standards Act, as amended by section 2 of this Act, shall establish a pilot project for the 1989 crops of wheat, soybeans, and feed grains to determine a feasible and appropriate method of requiring the Commodity Credit Corporation to determine a schedule of premiums and discounts on grain offered to it as collateral for loans or for purchase, to encourage and facilitate the marketing of high-quality, clean grain for domestic use an export.

(b) The pilot project shall be conducted in not less than three multi-county areas, of which one shall be an area that is predominantly a wheat-producing area, of which one shall be an area that is predominantly a corn-producing area, and of which one shall be an area that is predominantly a soybeans-producing area.

(c) The Secretary, prior to the implementation of the project, shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the method by which the project will be implemented.

(d) Not later than 180 days following the conclusion of the 1989 marketing years for wheat, soybeans, and feed grains, the Secretary shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate on the findings of the pilot project, including the Secretary's recommendations, based on these findings, for further encouraging the production, marketing, and export of high-quality, clean grain.

The SPEAKER pro tempore. Is a second demanded?

Mr. COMBEST. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. de la Garza] will be recognized for 20 minutes and the gentleman from Texas [Mr. Combest] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. de la Garza].

Mr. de la GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation extends what we commonly know as the Grain Inspection Service, the authority for another 5 years and basically it provides the administrative ability of the Grain Inspection Service to fulfill the requirement of examining or of grading all of the grains that leave the United States for export. It is the official inspection service for all of the United States' grains.

The authority under the current law for the Federal Grain Inspection Service to charge user fees to cover its administrative and supervisory costs related to official inspection and weighing under the U.S. Grain Standards Act, with this that authority continues. They have an advisory committee which is to give advice to the FGIS administrator with respect to implementing the grain standards, the Grain Standards Act consistent with the declaration of policy of the act.

We increase the membership from 12 to 15 persons. Then we extend the charter for the inspection service for 5 years and also provide a pilot project for 1989, only, crops of wheat, feed grains, and soybeans, to determine a feasible and appropriate method of establishing CCC, that is Commodity Credit Corporation, premiums and discounts based on the quality and cleanliness of the grain purchases as a loan obligation. This is very important because it can be one of the tools to promote and better sell grains that come into the CCC on the loan.

I think this study hopefully will prove that it can be beneficial.

The committee did not feel that it was necessary to take the step at this point without further study. That is the reason for the pilot project.

There were several other amendments that were discussed that will be handled administratively that were not attached to the legislation. But basically this is the thrust of the bill that we have here today, the couple of amendments or changes that I have just mentioned, and extending the act for another 5 years.

Mr. Speaker, I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as always, the chairman very ably explained what this legislation does. It is a simple extension of the authorization for Grain Standards Act through 1993. It is needed, it is necessary and is supported by the administration.

Mr. Speaker, I urge its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. Bereuter].

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H.R. 4345.

Mr. Speaker, I want to commend the leadership and the members of the House Committee on Agriculture from both sides of the aisle for their work on this legislation. It is important legislation and its passage will be very helpful to grain producers, to consumers and to our export sector.

When the House Committee on Agriculture's Subcommittee on Wheat, Soybeans, and Feed Grains took action on the Federal Grain Inspection Service Authorization Act, this act, H.R. 4345, it included provisions from a proposal that I introduced last year as a part of H.R. 3342, the Grain Quality Incentive Act of 1987. The provision would allow for a 1-year pilot project that will offer incentives for the delivery, storage, and exportation of clean quality grain.

In my legislation I had proposed a 3-year pilot program. I really think that is a reasonable period of time in which to conduct a test or a demonstration; therefore, I would hope that the other body may in fact give some consideration to a longer period of time—a 3- or 4-year pilot project period.

Nevertheless, this is an important first step that the committee is recommending.

H.R. 4345 would, as in the case of H.R. 3342, also establish a Grain Advisory Board appointed by the Secretary of Agriculture for the purpose of developing economic incentives that will improve the performance and sanitation quality of the grain. As reported by the committee, the pilot project would include no less than three demonstration, multicounty areas designated by the Secretary after consultation with the Grain Advisory Committee to represent our three major export commodities, wheat, corn, and soybeans.

This Member had hoped and still does hope that in fact we might have six such pilot areas which would include all of our commodities and important varieties of commodities such as winter wheat and spring wheat. Hopefully the other body will authorize the larger number.

But the provision in H.R. 4345 is an important step in the right direction and I really do commend the subcommittee and the committee for this proposed change as well.

Particular commendations I think must go to the chairman of the subcommittee, the gentleman from Kansas [Mr. Glickman], to my colleague and neighbor, the gentleman from Kansas [Mr. Slattery], who worked very cooperatively and ably with this Member in suggesting these and other amendments to the original H.R. 4345, and to another gentleman from Kansas [Mr. Roberts], who also advised and assisted this Member on numerous occasions with his extensive knowledge on matters related to grain quality.

H.R. 3342 as introduced by this Member would also have permitted the payment of premiums in the form of PIK certificates to farmers who forfeit exceptionally clean, high quality grain to the CCC; warehousemen who clean grain that they are storing for the CCC would also be eligible for the premiums. Exporters would be eligible for premiums if the grain they deliver to foreign purchasers is of high quality and exceptionally clean. Those provisions are in the legislation introduced last year by this Member, but, unfortunately, are not a part of this legislation. I hope they will have future consideration and actions on this important subject by the Committee on Agriculture.

However, in my concluding remarks on this legislation, H.R. 4345, it should be stated that this is a very good first step in assisting grain quality efforts. I will continue to work with the leadership of the House Committee on Agriculture, especially the distinguished chairman, the gentleman from Texas [Mr. DE LA GARZA] and other members who are interested in this subject as well as with farm groups, commodity groups in my State of Nebraska and the country to strengthen this legislation as it moves from the House floor to the other body and in its subsequent implementation.

Surely some financial resources, if only a small amount, should be devoted on a trial basis to assist and encourage those interested in producing, marketing, and exporting American high quality grain.

I thank the distinguished gentleman from Texas [Mr. COMBEST] for yielding.

Mr. COMBEST. Mr. Speaker, I urge passage of the legislation. I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 4345, legislation reauthorizing the Federal Grain Inspection Service. I commend the chairman and my colleague from Kansas, Mr. GLICKMAN, for the excellent work and for bringing this bill to the floor expeditiously.

Grain is America's No. 1 export. But our farmers face a highly competitive world grain market. Where price and availability were once the only factors considered in grain purchasing decisions, grain quality and cleanliness have become increasingly important as world grain supplies have outstripped demand. As world grain buyers become more sophisticated, they are recognizing the value of clean grain.

I believe that the Federal Grain Inspection Service is helping American farmers to meet the challenges of the world grain market in the 1980's and beyond. FGIS action to tighten tolerances on dockage and insect damage and to more accurately measure wheat protein are steps in the right direction.

But we must do more to ensure that U.S. grain quality and cleanliness are among the best in the world. American farmers should not lose the sale of even 1 bushel of grain because a cleaner, higher quality product was available elsewhere.

This legislation takes a first step toward developing economic incentives that would improve the cleanliness of U.S. grain. The pilot project on clean grain premiums directs the Secretary of Agriculture to develop a schedule of premiums and discounts for the Commodity Credit Corporation that would encourage the marketing and export of high quality, clean grain.

Our current system of grain grading and the economic incentives that are associated with it encourage the delivery of minimum quality grain. Farmers, warehousemen, and exporters must meet minimum standards to avoid discounts, but have little incentive to produce and market a superior product.

I believe that we must recommit ourselves to selling a superior product. Grain must start clean on the farm and stay clean all the way to the export customer. A good place to begin is with grain placed in the Commodity Credit Corporation Loan Program.

The pilot project will serve to work the logistical bugs out of the premium program concept and to test the level of incentives necessary to improve grain cleanliness. I hope that with the results of this project in hand, we can go forward with a nationwide premium program as prepared as the Clean Grain Act of 1988 as part of the 1990 farm bill.

U.S. farmers and grain handlers have invested in the most sophisticated grain production and handling system in the world. We must provide the incentives to make sure that this advantage is used to make U.S. grain the cleanest, highest quality grain available in the world.

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Mr. DE LA GARZA. Mr. Speaker, I take this time only to thank the Members, both those on the committee and not on the committee, who have worked diligently with us, such as the gentleman from Nebraska, the gentleman from Kansas, and many others who worked with us to make this a viable, effective, constructive piece of legislation.

Mr. MADIGAN. Mr. Speaker, I rise in support of H.R. 4345 to reauthorize the Grain Standards Act for 5 years. Continuation of Federal Grain Inspection Service is vital to the success of our efforts to export American grain around the world. Without the quality certification that Federal grain inspection provides, foreign customers would not be willing to purchase the billions of dollars in grain we export annually.

The bill will allow FGIS to continue collection of user fees to fund its activities from the grain export industry, relieving the taxpayer of these costs. The committee also directed that a pilot program be implemented to test the concept of providing quality premiums and discounts for grain as a way of improving the quality of American grain available to foreign buyers.

Primarily, however, this bill is a simple reauthorization of the Grain Standards Act through 1993. There are no new costly innovations or expansions of Federal power. Federal grain inspection is vital to our farm-based favorable balance of trade, and passage of this bill will insure the uninterrupted flow of this important export sector. I urge my colleagues to support its passage.

Mrs. SMITH of Nebraska. Mr. Speaker, today I rise in support of H.R. 4345, the U.S. Grain Standards Act Amendments of 1988. I fully support efforts to keep the American farmer competitive by ensuring the quality of American grain exports.

I am happy to say that today with this bill, we are closer to fully addressing the concerns of both grain producers and purchasers. This, however, is only a step in the right direction, to pave the way for bolder action in the 1990 farm bill.

This bill will intensify efforts already underway to study the feasibility and desirability of revising U.S. Grain Standards as a part of a broader, aggressive U.S. export strategy. H.R. 4345 provides for a broader representation of the grain industry in setting grain quality standards by expanding representation on the Federal Grain Inspection Service's Advisory Committee to include grain producers.

In addition, this bill initiates a pilot program to encourage producers to forfeit high quality grain to the Commodity Credit Corporation by providing a premium incentive for those who do.

Of course, I wish we were ready to move ahead with higher grain standards, but for the time being, we must recognize that progress will be limited in the current buyer's market when foreign purchasers are reluctant to pay top price for top quality.

For now, I am encouraged that private initiative has already moved ahead of the Federal Government in many respects. The State of Nebraska boasts active farm organizations working in concert with our export enhancement programs to deliver the highest quality products to foreign buyers that American farmers are capable of producing.

I would like to draw this body's attention to the efforts of the Nebraska Wheat Board who have invested a great deal of human resources to arrange special sales of top quality wheat to foreign purchasers.

I am focusing on wheat since it happens to be among the major crops in Nebraska and my district. Nebraska is the eighth leading State in wheat exports, and fifth in overall agricultural exports. Wheat exports account for nearly $200 million in income for Nebraska's 30,000 wheat producers. Indeed, Nebraska exports nearly 50 percent of all wheat harvested in the State.

On June 12, 10 containers of superclean Nebraska hard red winter wheat will be shipped from an elevator in my district destined for the Persian Gulf. The sale was announced only after months of intense negotiations by Nebraska wheat producers themselves with the ultimate buyers. Central to this historic wheat sale is the quality assurances of Nebraska producers.

However, these producers find it necessary to supervise every step of the marketing and delivery chain to assure our highest quality wheat reaches its destination unblended and undamaged. In effect, our wheat producers have had to circumvent normal channels, almost having to sneak around the FGIS to prevent the quality of these special wheat exports from deteriorating at export locations.

We know too well the stories of exporters adding gravel and moisture to grain at export facilities. Our current grading standards too often allow this type of tampering that, at the very least, annoys potential foreign customers.

Our producers shouldn't have to ride shotgun with every bushel of grain they produce to protect it from the very system that should be assuring and promoting our grain quality. In the future, we must assure that the Federal Grain Inspection Service is an active ally to the American farmer seeking to sell his products abroad in a competitive marketplace.

I fully support H.R. 4345 and encourage my colleagues to vote in favor of its passage and, looking forward to the 1990 farm bill, to be prepared for a comprehensive discussion of grain quality issues in the future.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 4345, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4345, the bill just passed, and also on H.R. 4615 and H.R. 4556, which were passed earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RETIREE BENEFITS BANKRUPTCY PROTECTION ACT OF 1988

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and concur in the House amendment to the Senate amendment to the bill (H.R. 2969) to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees.

The Clerk read as follows:

House amendment to the Senate amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retiree Benefits Bankruptcy Protection Act of 1988".

SEC. 2. RETIREE BENEFITS.

(a) BENEFITS.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 1114. Payment of insurance benefits to retired employees

"(a) For purposes of this section, the term 'retiree benefits' means payments to any entity or person for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents, for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purchase of insurance or otherwise) maintained or established in whole or in part by the debtor prior to filing a petition commencing a case under this title.

"(b)(1) For purposes of this section, the term 'authorized representative' means the authorized representative designated pursuant to subsection (c) for persons receiving any retiree benefits covered by a collective bargaining agreement or subsection (d) in the case of persons receiving retiree benefits not covered by such an agreement.

"(2) Committees of retired employees appointed by the court pursuant to this section shall have the same rights, powers, and duties as committees appointed under sections 1102 and 1103 of this title for the purpose of carrying out the purposes of sections 1114 and 1129(a)(13) and, as permitted by the court, shall have the power to enforce the rights of persons under this title as they relate to retiree benefits.

"(c)(1) A labor organization shall be, for purposes of this section, the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, unless (A) such labor organization elects not to serve as the authorized representative of such persons, or (B) the court, upon a motion by any party in interest, after notice and hearing, determines that different representation of such persons is appropriate.

"(2) In cases where the labor organization referred to in paragraph (1) elects not to serve as the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, or in cases where the court, pursuant to paragraph (1) finds different representation of such person appropriate, the court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, from among such persons, to serve as the authorized representative of such persons under this section.

"(d) The court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, to serve as the authorized representative, under this section, of those persons receiving any retiree benefits not covered by a collective bargaining agreement.

"(e)(1) Notwithstanding any other provision of this title, the debtor in possession, or the trustee if one has been appointed under the provisions of this chapter (hereinafter in this section 'trustee' shall include a debtor in possession), shall timely pay and shall not modify any retiree benefits, except that—

"(A) the court, on motion of the trustee or authorized representative, and after notice and a hearing, may order modification of such payments, pursuant to the provisions of subsections (g) and (h) of this section; or

"(B) the trustee and the authorized representative of the recipients of those benefits may agree to modification of such payments;

after which such benefits as modified shall continue to be paid by the trustee.

"(2) Any payment for retiree benefits required to be made before a plan confirmed under section 1129 of this title is effective has the status of an allowed administrative expense as provided in section 503 of this title.

"(f)(1) Subsequent to filing a petition and prior to filing an application seeking modification of the retiree benefits, the trustee shall—

"(A) make a proposal to the authorized representative of the retirees, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the retiree benefits that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

"(B) provide, subject to subsection (k)(3), the representative of the retirees with such relevant information as is necessary to evaluate the proposal.

"(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1), and ending on the date of the hearing provided for in subsection (k)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such retiree benefits.

"(g) The court shall enter an order providing for modification in the payment of retiree benefits if the court finds that—

"(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (f);

"(2) the authorized representative of the retirees has refused to accept such proposal without good cause; and

"(3) such modification is necessary to permit the reorganization of the debtor and assures that all creditors, the debtor, and all of the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities; except that in no case shall the court enter an order providing for such modification which provides for a modification to a level lower than that proposed by the trustee in the proposal found by the court to have complied with the requirements of this subsection and subsection (f): *Provided, however,* That at any time after an order is entered providing for modification in the payment of retiree benefits, or at any time after an agreement modifying such benefits is made between the trustee and the authorized representative of the recipients of such benefits, the authorized representative may apply to the court for an order increasing those benefits which order shall be granted if the increase in retiree benefits sought is consistent with the standard set forth in paragraph (3); and: *Provided further,* That neither the trustee nor the authorized representative is precluded from making more than one motion for a modification order governed by this subsection.

"(h)(1) Prior to a court issuing a final order under subsection (g) of this section, if essential to the continuation of the debtor's business, or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim modifications in retiree benefits.

"(2) Any hearing under this subsection shall be scheduled, in accordance with the needs of the trustee.

"(3) The implementation of such interim changes does not render the motion for modification moot.

"(i) No retiree benefits paid between the filing of the petition and the time a plan confirmed under section 1129 of this title becomes effective shall be deducted or offset from the amounts allowed as claims for any benefits which remain unpaid, or from the amounts to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future unpaid benefits or from any benefits not paid as a result of modifications allowed pursuant to this section.

"(j) No claim for retiree benefits shall be limited by section 502(b)(7) of this title.

"(k)(1) upon the filing of an application for modifying retiree benefits, the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and the authorized representative agree.

"(2) The court shall rule on such application for modification within 90 days after the date of the commencement of the hearing. In the interests of justice, the court may extend such time for ruling for such additional period as the trustee and the authorized representative may agree to. If the court does not rule on such application within 90 days after the date of the commencement of the hearing, or within such additional time as the trustee and the authorized representative may agree to, the trustee may implement the proposed modifications pending the ruling of the court on such application.

"(3) The court may enter such protective order, consistent with the need of the authorized representative of the retirees to evaluate the trustee's proposal and the application for modification, as may be necessary to prevent disclosure of information provided to such representative where such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged.

"(l) This section shall not apply to any retiree, or the spouse or dependents of such retiree, if such retiree's gross income for the 12 months preceding the filing of the bankruptcy petition equals or exceeds $250,000, unless such retiree can demonstrate to the satisfaction of the court that he is unable to obtain health, medical, life, and disability coverage for himself, his spouse, and his dependents who would otherwise be covered by the employer's insurance plan, comparable to the coverage provided by the employer on the day before the filing of a petition under this title.".

(b) PLAN.—Section 1129 of title 11, United States Code, is amended by adding at the end of subsection (a) thereof the following:

"(13) The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.".

(c) TECHNICAL AMENDMENT.—The table of sections for subchapter I of chapter 11, title 11, United States Code, is amended by adding at the end thereof the following new items:

"1114. Payment of insurance benefits to retired employees.".

SEC. 3. CONFORMING AMENDMENTS.

(a) PUBLIC LAW 99-591.—(1) Section 608(a) of the second title VI of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-74), is amended—

(A) by striking "Notwithstanding" and all that follows through "Code" and inserting "(1) Subject to paragraphs (2), (3), (4), and (5), and notwithstanding title 11 of the United States Code",

(B) by striking "until" and all that follows through "1987", and

(C) by adding at the end thereof the following:

"(2) The level of benefits required to be paid by this subsection may be modified prior to confirmation of a plan under section 1129 of such title if—

"(A) the trustee and an authorized representative of the former employees with respect to whom such benefits are payable agree to the modification of such benefit payments; or

"(B) the court finds that a modification proposed by the trustee meets the standards of section 1113(b)(1)(A) of such title and the balance of the equities clearly favors the modification.

If such benefits are covered by a collective bargaining agreement, the authorized representative shall be the labor organization that is signatory to such collective bargaining agreement unless there is a conflict of interest.

"(3) The trustee shall pay benefits in accordance with this subsection until—

"(A) the dismissal of the case involved; or

"(B) the effective date of a plan confirmed under section 1129 of such title which provides for the continued payment after confirmation of the plan of all such benefits at the level established under paragraph (2) of this subsection, at any time prior to the confirmation of the plan, for the duration of the period the debtor (as defined in such title) has obligated itself to provide such benefits.

"(4) No such benefits paid between the filing of a petition in a case covered by this section and the time a plan confirmed under section 1129 of such title with respect to such case becomes effective shall be deducted or offset from the amount allowed as claims for any benefits which remain unpaid, or from the amount to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future benfits or from any benefit not paid as a result of modifications allowed pursuant to this section.

"(5) No claim for benefits covered by this section shall be limited by section 502(b)(7) of such title.".

(2) Section 608(b) of the second title VI of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-74), is amended by inserting before the period the following: "and before the date of the enactment of the Retiree Benefits Bankruptcy Protection Act of 1988".

(3) Section 608 of the second title VI of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-74), is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(B) by adding at the end the following:

"(b)(1) Notwithstanding any provision of title 11 of the United States Code, the trustee shall pay an allowable claim of any person for a benefit paid—

"(A) before the filing of the petition under title 11 of the United States Code; and

"(B) directly or indirectly to a retired former employer under a plan, fund, or program described in subsection (a)(1);

if, as determined by the court, such person is entitled to recover from such employee, or any provider of health care to such employee, directly or indirectly, the amount of such benefit for which such person receives no payment from the debtor.

"(2) For purposes of paragraph (1), the term 'provider of health care' means a person who—

"(A) is the direct provider of health care (including a physician, dentist, nurse, podiatrist, optometrist, physician assistant, or ancillary personnel employed under the supervision of a physician); or

"(B) administers a facility or institution (including a hospital, alcohol and drug abuse treatment facility, outpatient facility, or health maintenance organization) in which health care is provided.".

(b) PUBLIC LAW 99-656.—Section 2 of the Act entitled "An Act to amend the interest provisions of the Declaration of Taking Act", approved November 14, 1986 (Public Law 99-656), is repealed.

SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS. The amendments made by section 2 shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New Jersey [Mr. RODINO], the distinguished chairman of the Committee on the Judiciary, was unavoidably detained, and he has asked me to present this bill to the House with the valuable assistance of the ranking minority member, the gentleman from New York [Mr. FISH].

Mr. Speaker, H.R. 2969 is legislation designed to protect the health, life, and disability benefits of retirees when companies file chapter 11 bankruptcy. This bill is the same as legislation earlier passed by the House in the 100th Congress, with the addition of a new section 3(b).

It is important that we pass this bill in order to give retirees peace of mind by removing the possibility of any sudden and unilateral termination of retiree health benefits. Retired workers are often completely dependent on these benefits. If such benefits are cut off—as happened when one major corporation filed bankruptcy—retirees may not be able to replace them because of high cost or lack of insurability. Although H.R. 2969, as brought up today, is not perfect legislation, it will protect retiree benefits as much as possible in a bankruptcy.

In its application to future cases, H.R. 2969, as amended, is identical to legislation passed by the Senate. Section 2 of this bill ensures that benefits will continue to be paid after bankruptcy. Benefits may be modified only if retirees agree or if the court issues an order after evaluating a proposed modification under strict standards.

In its application to pending cases, this bill differs somewhat in form from the Senate version but provides equivalent protection. Section 3 protects both union and nonunion retirees in pending cases by modifying and making permanent section 608 of Public Law 99-591, the temporary legislation that Congress enacted in 1986.

Section 3(a) modifies Public Law 99-591 so that the same provisions regarding the payment of benefits in future chapter 11 cases apply to pending cases. The debtor must continue to pay retiree benefits after the filing of bankruptcy. Such benefits may be modified if the retirees' representative agrees to a proposed modification. The trustee must first make a proposal to the retirees' representative and meet with the representative at reasonable times to confer in good faith in attempting to reach mutually satisfactory modifications.

If the trustee and the representative do not reach an agreement on the proposed modifications, then the court, after a hearing in which all parties may appear, may order the proposed modifications if it finds that they meet applicable standards. The standards that govern modification of union and nonunion benefits in pending cases are the same as those set forth in existing section 1113 of the Bankruptcy Code and those to be applied to retiree benefits in future cases under new section 1114. The court may order only those modifications "that are necessary to permit the reorganization of the debtor and assure that all creditors, the debtor and all of the affected parties are treated fairly and equitably." In addition, the "balance of the equities" must clearly favor the proposed modifications. In short, modification of retiree benefits is permitted only to the extent necessary to prevent the debtor's liquidation and permit a successful reorganization.

It is the intention of section 3(a) to permit modification more than once during a chapter 11 proceeding, if appropriate. If the debtor's financial condition deteriorates during the case, the standards may support a further reduction in benefits. Conversely, an improvement in the debtor's condition may support an increase in benefits after a reduction has already been made. The retirees' representative may apply to the court for such an upward modification, and the court will order the modification if the applicable standards are satisfied.

Section 3(a) also includes provisions for determining who the retirees' authorized representative will be. If retiree benefits are set forth in a collective bargaining agreement, the labor union that is the signatory to the agreement will usually represent the retirees. In the case of nonunion retirees—or in a case where the union does not represent union retirees—the court, pursuant to existing provisions of the Bankruptcy Code, will appoint a committee to represent retirees. The necessary and reasonable expenses of such a committee—but not of a labor union—will be reimbursed by the estate, in accordance with normal practice under the bankruptcy laws.

The fact that some specific language appears in section 2 of the bill but not in section 3(a) does not imply that section 3(a) conveys any lesser protections for retiree benefits than section 2.

For these cases pending on the date of enactment, section 3(b) of the bill protects retirees of self-insured employers in pending bankruptcies. Under a self-insured retiree benefit plan, the employer often hires a third party to administer the payment of benefits. Medical treatment is rendered to retirees by a health care provider—such as a hospital—which bills and collects from the third-party administrator after treatment is provided. The administrator then bills the employer for the cost of the care plus an administrative fee. If the employer fails to pay this amount to the administrator, the administrator in some circumstances may, depending upon the relevant contractual documents, be able to reverse the claim to the health care provider, which may in turn reverse the claim so that the retired worker ultimately gets billed for it. It is our intent that retired workers not get billed for these claims.

Section 3(b) of the bill prevents the undesirable situation where a retired worker would have to pay back an administrator or provider for health care, received prior to the employer's bankruptcy, for which the administrator or provider had not yet been paid as of the date the bankruptcy was filed. This provision is directed only at this type of claim, and does not affect or limit the scope of section 608(a) of Public Law 99-591 with respect to retiree benefits, whether from a self-insured employer or otherwise.

The bill takes no position on whether or not a legal right exists for any administrator or health care provider to reverse charges to the retired worker. Resolution to this issue should by made by the courts, and depends on the relevant contractual documents.

But under section 3(b), if the administrator can prove to the court that it has the contractual right to reverse a benefit paid on behalf of a particular retiree, then the trustee—often the employer itself in a chapter 11 bankruptcy—must immediately pay the full amount owed to the administrator or health care provider without waiting for confirmation of a plan of reorganization. The court must make such a determination for each such health care claim after evaluating a chain of contractual documents that governed payment of the benefit at the time the retiree received treatment, as well as other relevant evidence. It is anticipated that the court's determination can usually be made as a summary disposition. It is the intent of section 3(b) that there be no recovery under its provisions by either a third party administrator or any other person unless reversal of the claim would otherwise be permitted under contractural documents to which the administrator is a party.

Section 3(b) protects the retiree by directing the debtor to reimburse the administrator from funds in the estate where a legal right to reverse exists. If, however, the administrator does not have this contractural right to reverse payment, the claim will be treated in the bankruptcy plan along with the claims of similar—usually general unsecured—creditors. In neither case can the amount be collected from the retirees.

Section 3(b) does two important things: First, it protects the retirees from being sued for benefits promised them by their former employer; and second, it protects the general unsecured creditors from diminution of a debtor's estate, by granting special treatment to claims only in the United States where claims have been found to be legally reversible.

Because of section 3(b), there is no valid reason for a third party administrator to attempt to reverse any claim. For each claim, all the administrator has to do is prove to the court that it has the contractual right to reverse. Once the court determines this right, the trustee must immediately, without waiting for confirmation of a plan, pay the full amount owed on the claim to the third party administrator.

Section 3(b) will be of particular immediate benefit to protect retirees in the LTV bankruptcy. Blue Cross and Blue Shield Mutual of northern Ohio was a third party administrator for LTV's health benefits plan. It has not yet been reimbursed by LTV for all claims it paid for retiree benefits prior to the bankruptcy filing. Under section 3(b), all Blue Cross needs to do to recover for a particular claim is simply prove to the court that it has a contractual right to reverse the claim. If the court determines that Blue Cross has the legal right to reverse, LTV must immediately—or on such timetable as Blue Cross and LTV might agree—pay the full amount owed on the claim to Blue Cross. There is, therefore, no reason for Blue Cross to cause any anxiety to retirees by attempting to reverse claims.

Mr. Speaker, H.R. 2969 adds another measure to security to the health and well-being of retired Americans. It is imperative that we protect the retirees from the sudden and unilateral termination of their health, life, and disability benefits in the event that their former employers file for reorganization under the bankruptcy laws. Retirees who have devoted their working lives to the betterment of their employers' businesses deserve payment of their retiree health benefits to the fullest extent possible in a reorganization.

This bill is supported by the labor unions. Mr. Speaker, I would like to place in the Record letters of support for H.R. 2969 from the UAW, the AFL-CIO, and the United Steelworkers of America. The administration has also earlier endorsed legislation that is substantially similar to H.R. 2969.

I urge my colleagues to support this legislation.

International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW,
Washington, DC, May 18, 1988.

Dear Representative: We understand that Chairman Rodino intends to offer a revised version of the proposed "Retiree Benefits Bankruptcy Protection Act of 1987" (H.R. 2969), which will be considered on the House floor under suspension of the rules. The UAW strongly supports this revised bill, and urges you to vote in favor of it.

The problems associated with the treatment of retiree insurance benefits in bankruptcy proceedings were brought to the forefront of public attention in July 1986 when LTV Corporation unilaterally terminated the insurance benefits for approximately 80,000 retirees upon filing for bankruptcy. Since that time, other companies, such as Allis Chalmers and A. H. Robbins, have also filed for bankruptcy, thereby jeopardizing the insurance benefits of thousands of additional retirees.

The proposed "Retiree Benefits Bankruptcy Protection Act of 1987" (H.R. 2969) would address these problems by prohibiting companies from unilaterally terminating retiree insurance benefits upon filing for bankruptcy. Under the bill, companies will have to continue paying such benefits until the authorized representative of the retirees agrees to modifications, or a court determines that modifications are necessary to permit reorganization of the company and are fair and equitable to the retirees and all other interested parties.

Although this legislation was adopted unanimously in the House last October, since that time it has been stalled because of minor differences between the House and Senate-passed bills. The revised bill which will be offered by Chairman Rodino is identical to the bill which passed the House last October, with one exception. A provision has been added clarifying the status of so-called "pipeline" claims in pending cases. With this change, we understand that the legislation will be acceptable to the author of the Senate-passed bill.

The UAW commends Chairman Rodino for his efforts in working out a compromise between the House and Senate-passed bills. The UAW strongly supports the revised bill which will be offered by Chairman Rodino, and urges you to vote in favor of it when the legislation is considered under suspension of the rules.

Your consideration of our views on this important legislation will be appreciated. Thank you.

Sincerely,

Dick Warden,
Legislative Director.

American Federation of Labor and Congress of Industrial Organizations,
Washington, DC, May 19, 1988.

Dear Representative: It is our understanding that a slightly modified version of H.R. 2969, the "Retiree Benefits Bankruptcy Protection Act," will soon be brought to the floor under suspension of the rules. On behalf of the AFL-CIO, I want to urge your strong support for this legislation.

While this bill was passed unanimously in the House last October, with similar legislation also passing the Senate, minor differences between the House and Senate bills have thwarted the legislation's enactment into law. Chairman Rodino, who is to be commended for his efforts in working out a compromise between the House and Senate bills, will offer the revised bill. With one exception, the bill is identical to that which passed the House last October. The revised bill adds a provision clarifying the status of so-called "pipeline" claims in pending cases. It is our understanding that, with this slight revision, the bill will now be acceptable in the Senate as well.

The proposed "Retiree Benefits Bankruptcy Protection Act" would ensure that retiree insurance benefits are treated fairly and equitably when companies file for bankruptcy. As you know, this issue was brought to the forefront of public attention when LTV corporation filed for bankruptcy in July, 1986 and unilaterally terminated the health and life insurance benefits of approximately 80,000 retirees. This callous action caused severe hardship. Since that time, the bankruptcies of other companies, such as Allis Chalmers and A.H. Robins, have jeopardized the insurance benefits of thousands of other retirees.

Enactment of this proposed legislation would put a stop to such abuses. The bill would prevent companies from unilaterally terminating retiree insurance benefits upon filing for bankruptcy. Instead, these benefits could only be modified by agreement of the parties or if a court determines that modifications are necessary to permit reorganization of the company and are fair and equitable to all parties.

The AFL-CIO believes it is of the utmost importance that this legislation, which will be offered by Chairman Rodino, be expeditiously enacted into law. We therefore urge you to vote for this bill when it is considered under suspension of the rules.

Sincerely,

Robert M. McGlotten,
Director, Department of Legislation.

United Steelworkers of America,
Washington, DC, May 18, 1988.

Hon. Peter Rodino,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

Dear Congressman Rodino: The loss of retiree health care benefits under the circumstances experienced by steelworkers at the facilities of LTV Steel when it filed for Chapter 11 bankruptcy indicated that the bankruptcy code should be changed. Your revised bill (H.R. 2969) will prevent any future repeat of that dreadful event so that the benefits will not be unilaterally terminated and will be paid in full until modification after being subjected to a test of fairness and equitability in which the collective bargaining process shall be assured. Additionally, your bill addresses a unique situation regarding LTV retirees and their prepetition claims in a way which protects the retirees.

We urge swift passage of the bill so that the same human tragedy will not be visited upon any other group of retirees. The legislation is viewed by the Steelworkers as a major contribution to the safety-net measures, designed to help workers whose firms are confronted with restructuring pressures.

Sincerely,

JOHN J. SHEEHAN,
Legislative Director.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I plan to support this legislation, in spite of the concerns expressed on the floor when we first passed H.R. 2969, because of the importance of attempting to safeguard retiree health, disability, and death benefits in bankruptcy. These retiree benefits, in my judgment, should receive special Bankruptcy Code protection because a just society has an interest in trying to effectuate the legitimate expectations of former workers—and vulnerable retirees may suffer enormously from benefit terminations.

The issue if how to protect retirees without undermining the potential success of the reorganization process. The approach of this legislation is to mandate continued payment of benefits unless modified by court order or by agreement between the recipients' authorized representative and the trustee—or debtor in possession. The standards for a court-ordered modification of benefits are: First, necessity to permit reorganization; second, fair and equitable treatment; and third, a balance of the equities test. Retiree benefit payments are given administrative expense status—placing them in the highest priority among unsecured claims.

The legislation we are considering today is similar—in its treatment of future cases—to the version of H.R. 2969 that passed in this body last year. The amendment incorporates compromise language addressing the treatment in pending bankruptcy cases of health plan administrator claims for reimbursement of benefits paid during the prepetition period. H.R. 2969, as passed by this body last year, provides protections for retirees in pending cases but does not provide special treatment for the claims of health plan administrators—claims that are protected under the Senate-passed version of this legislation. The policy favoring extending protections to retirees in pending cases, however, may be undermined if a health plan administrator—with claims for benefits in the "pipeline" at the time of a bankruptcy filing—can recover from the health care provider, which in turn can recover from the retiree.

The compromise proposal effectively mandates reimbursement to the health care administrator for benefits paid in the prepetition period if the court determines there is a right to reverse claims. The health plan administrator's claim receives no special status, however, in the absence of a determination of a right to reimbursement. The objective is to protect the retirees—the vulnerable group with special equities.

The Senate version of this legislation contains a number of provisions on other bankruptcy-related subjects—provisions that merit serious consideration by this body. The Senate amendment authorizes an additional bankruptcy judge for each of two Federal judicial districts and makes substantive changes in bankruptcy law. Certain restitution claims are made nondischargeable—and the present student loan exception to discharge is made applicable to an additional category of bankruptcy cases.

The Senate language also effectuates the intent of Congress—as expressed by the conferees in the last Congress—to allow conversion to a new family farmer chapter of certain cases filed before a specific date. My hope is that our committee, which has held hearings on additional bankruptcy judgeships but has not looked into these other subjects, will give serious consideration to each of the proposals incorporated in the Senate amendment.

The legislation before us represents a fair resolution of an issue that has held up extending protections to retiree benefits. I urge my colleagues to support it.

Mr. FROST. Mr. Speaker, it's been 20 months, almost 2 years, since retirees from LTV Corp. were jolted by the announcement that the company had filed for reorganization under chapter 11 of the Bankruptcy Code and unilaterally canceled the health and life insurance of all its retirees. Approximately 6,000 LTV retirees live in and around the 24th Distirct of Texas, which I represent. I remember vividly the fear, anger, and helplessness that many felt when learning that the only option to obtain needed health care for themselves and their family had been eliminated.

However, much has happened in the last 20 months to allay the fears and address the concerns of LTV retirees. First, upon learning of the benefit termination, I was able to work with Congressman PICKLE to draft and have included in reconciliation legislation language to allow retirees who lose their benefits as a result of bankruptcy the option to pick up the monthly premium themselves and maintain their coverage. Later, I joined with Congressman STOKES in introducing legislation designed to forbid unilateral cancellation of benefits as a result of bankruptcy reorganization. This action, coupled with pressure from organized labor, helped persuade LTV Corp. to reverse its position and return the health coverage promised to its retirees.

In these past months, though, while LTV retirees have regained their coverage, work has continued to ensure that retirees of other companies are protected as well. The legislation Chairman RODINO brings before us today should resolve this problem once and for all.

The measure is straightforward. It will prohibit any company seeking to reorganize under chapter 11 of the Bankruptcy Code from unilaterally canceling the life and health insurance of its retirees. These benefits can be reduced only if the bankruptcy judge determines that a reduction is necessary in order for the company to survive. The protection is extended to both union and salaried retirees, and the retirees themselves will be allowed representation in the bankruptcy court.

The measure is well thought out and has been debated fully. Chairman RODINO has worked closely with other Members in formulating a commonsense proposal that seeks only to insure the benefits that retirees were promised and counted upon during their working years.

I urge all my colleagues to join me in supporting this measure and protecting not only LTV retirees but all retirees who depend on employer provided health insurance benefits for themselves and their families.

Mr. FEIGHAN. Mr. Speaker, I would like to voice my strong support for H.R. 2969, the Retiree Benefits Protection Act of 1987. Under current law, retirees of bankrupt corporations often find their legitimate expectations of long-term health and life insurance coverage shattered—by the very company for whom they worked all their lives. Those who build a company deserve better. They have earned the right to be treated fairly and compassionately. I commend Chairman RODINO for his vigorous support of this important legislation, which would clarify the Bankruptcy Code to end the current unfairness.

As I understand it, this revised bill is identical to the bill which passed the House last fall, with one exception: a provision has been added clarifying the status of the so-called pipeline claims in pending cases. With respect to pending bankruptcies, the legislation would protect LTVB retirees against the financial anguish of having to pay these claims. It would require LTV to pay the pending claims if Blue Cross of Ohio has the right to send these claims back to the hospitals involved in the event of nonpayment by LTV. Moreover, I understand that if these claims are returned to the hospitals—which I do not expect to occur—the hospitals would be paid directly by LTV, thus avoiding the imposition of these claims on the retirees involved.

Mr. Speaker, H.R. 2969 will go a long way toward helping retirees enforce their rights. I urge my colleagues to support this bill so that the human tragedy of losing retiree benefits will not be visited on other retirees.

Ms. OAKAR. Mr. Speaker, I rise today in support of H.R. 2969, the Retiree Benefit Protection Act of 1988 and commend Chairman RODINO for his leadership in crafting this vital piece of legislation. The necessity for this bill was abruptly brought to the public's attention through the LTV Corp.'s filing of chapter 11 bankruptcy and subsequent action in July 1986.

The vulnerability of retiree benefits was exposed when LTV unilaterally terminated the health and life insurance benefits of tens of thousands of retirees across the country. Public outrage followed causing LTV to restore the benefits, but the ensuing fear and mistrust made it obvious that a legislative response was necessary. Congress needed to ensure workers that a unilateral termination would never occur again.

H.R. 2969 amends the Bankruptcy Code to clarify any ambiguous language which might have been interpreted to allow a unilateral termination in the future. Chairman RODINO dedicated himself to enacting legislation which would neither compromise the Bankruptcy Code nor expose the retirees to risk. The bill also includes language which will protect retirees whose claims were already being processed at the time of bankruptcy from having to repay the health insurance plan.

This bill has been almost 2 years in the making and will permanently extend temporary legislation that prevented companies filing under chapter 11 from stopping health, life, and medical benefits payments to retirees. The stop-gap legislation expired on October 15, 1987. Chairman RODINO, Senator METZENBAUM, Congressman STOKES, myself, and many others have been working relentlessly to draft legislation that is both complete and equitable. The final product provides protection for the retirees, both union and nonunion, while giving the Bankruptcy Court flexibility to determine any possible modifications necessary for a successful reorganization.

It is essential for our workers to know that the benefits they have worked so long to accrue will remain intact for their retirement years. It is unthinkable that this basic right of employment could be unceremoniously yanked from under the feet of dedicated workers. The passage of H.R. 2969 will enable all the active workers and retirees around the country to breathe a collective sigh of relief. I urge my colleagues to give their unqualified support to this vital piece of legislation.

I would like to submit a statement from my constituent discussing their views on H.R. 2969:

BLUE CROSS & BLUE SHIELD OF OHIO,
Cleveland, OH, April 22, 1988.

For the past 18 months Blue Cross & Blue Shield Mutual of Ohio ("Blue Cross of Ohio") has been proud to work with you on legislation to protect retiree health benefits in bankruptcy, particularly as it relates to the LTV situation. As you are very well aware, at the time of the LTV filing in bankruptcy, the Blue Cross system had processed for payment and credited its hospitals with respect to approximately $35 million of claims relating to both retirees and active employees for which we had not yet been paid. At the time of the filing in bankruptcy, we assured you and the LTV retirees that we would not return these unpaid claims to our hospitals pending our efforts with you to see if legislation could be enacted which would avoid such a result. Pursuant to this commitment, we have continued to hold those claims since the filing in bankruptcy and have yet to be paid by LTV. Our decision to hold these unpaid claims was principally motivated by an interest in protecting the retirees from the mental and financial anguish which would have occurred if they were required to pay these claims directly.

We now understand that a final agreement has been reached between you and Chairman Rodino with respect to this important legislation. With respect to future bankruptcies, we understand that our type of situation will be completely addressed. With respect to pending bankruptcies, we understand that the legislation does not go as far as we would have liked, although it does require LTV to pay the pending claims if Blue Cross of Ohio has the right to send these claims back to the hospitals involved in the event of nonpayment by LTV. Because we believe that such a right exists, we believe that the legislation will guarantee that LTV pays these claims, thus protecting the retirees from any potential disruption or burden. Likewise, we understand that if these claims are returned to the hospitals, the hospitals would be paid directly by LTV, thus avoiding the imposition of these claims on the retirees involved. While we would have preferred a simpler approach to this problem, we appreciate your persistent attention to this matter and hope that the legislation will assure that the retirees are protected. We look forward to working with you in the future.

Sincerely,

JOHN BURRY, Jr.,
President and CEO.

□ 1330

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FISH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and concur in the House amendment to the Senate amendment to the bill, H.R. 2969.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the House amendment to the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the House amendment to the Senate amendment to H.R. 2969, just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

INTELLECTUAL PROPERTY AND BANKRUPTCY BILL

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, I am introducing a bill to amend title II of the United States Code with respect to the rejection of executory contracts licensing rights to intellectual property. This bill is designed to remove the threat that is posed to our Nation's technological development under current bankruptcy law.

Companies in all industries license intellectual property from each other. Such a licensing system is a central business practice permitting and facilitating a constant flow of technology from entrepreneurs to corporations, among corporations, and between universities and corporations.

For example, a personal computer may be designed around hundreds of parts, rights to which are obtained through licensing arrangements; a local bank may license many different software programs to run a daily computer operation; a drug company may have several process patents it has licensed to manufacture a single drug.

Licensing arrangements have proven to be a most efficient and effective way to develop and commercialize new technology-based products, as well as new technologies. As a principal means of technology transfer, it is crucial that intellectual property licensing remain a safe and predictable business practice.

But, recent court decisions have put this practice in jeopardy by holding that intellectual property distribution licenses can be executory contracts, rejectable by a trustee in bankruptcy. Such rejection extinguishes the licensee's rights to the licensor's intellectual property.

The insurmountable difficulty created by this is that intellectual property is available from only one source—the company that owns it. The licensee of intellectual property generally does not have alternative sources from which to obtain it. Thus, upon rejection of the license, businesses that have been built around rights to irreplaceable intellectual property no longer have access to it.

The continued validity of an intellectual property license in a bankruptcy situation has become a critical factor in deciding whether and how to proceed in a business transaction. Because of the court decisions, outright purchase has become the only certain option available to those who need to acquire technology. This, of course, is an option very disadvantageous, not only to both the purchaser and the seller, but to society as a whole.

Developers of technology understandably are reluctant to give up their inventions and lose control over future product development. At the same time, outright purchase often is too expensive for the vast amount of technology necessary for today's products. Further, purchase arrangements have a chilling effect on the free flow of technology in the marketplace. In terms of international competititiveness, the free flow of technology is critical if we are to compete effectively. The system of licensing arrangements is essential to achieve this.

Companies spend a great deal of money and resources to develop products based upon the intellectual property obtained through such licensing arrangements. They must be assured that they will be able to retain their essential rights under these licenses.

Today, I am introducing an amendment to the bankruptcy law which will restore that certainty to the marketplace, striking a balance between the bankrupt licensor's needs and those of the licensee.

Obviously, the licensee needs to retain rights to the intellectual property it licensed. Thus, under this bill, the bankrupt licensor will no longer be able to deny licensees those rights. At the same time, the bankrupt debtor's ability to reorganize may depend upon the continued payment of royalties called for under the licensing contract, free of offset or administration claims which could defeat the right to those payments, The bill accomplishes this as well.

I believe the balance struck in the bill is a fair one, and I urge our colleagues to join me in supporting it.

The text of the bill follows:

H.R. 4657

A bill to amend title 11 of the United States Code with respect to the rejection of executory contracts licensing rights to intellectual property

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended—

(1) in paragraph (51) by striking the period at the end and inserting a semicolon, and

(2) by adding at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(52) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant variety;

"(C) work of authorship; or

"(D) mask work subject to protection under chapter 9 of title 17;

to the extent protected by applicable nonbankruptcy law; and

"(53) 'mask work' has the meaning given it in section 901(a)(2) of title 17."

(b) EXECUTORY CONTRACTS LICENSING RIGHTS TO INTELLECTUAL PROPERTY.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(n)(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

"(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

"(B) to retain its rights (other than a right under applicable nonbankruptcy law to specific performance of such contract) under such contract, and any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

"(i) the duration of such contract; and

"(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

"(2) if the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

"(A) the trustee shall allow the licensee to exercise such rights;

"(B) the licensee shall make all payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

"(C) the licensee shall be deemed to waive—

"(i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and

"(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

"(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.

"(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract or any agreement supplementary to such contract—

"(i) perform such contract; or

"(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual properlty to the extent protected by applicable nonbankruptcy law) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from a third entity.".

SEC. 2. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

NORTH RIVER COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues the 27th anniversary of a hard working organization in Chicago, the North River Commission, which has served our community with true commitment and dedication for 27 years.

The great success of the commission is due largely to the efforts of those faithful people who worked steadily to accomplish its goals. Last week new officers were installed for the North River Commission and the new slate is headed by Zenos Hawkinson. Not only is Zenos a resident of the 11th Congressional District of Illinois, which I am privileged to represent, but the commission itself maintains its office in my 11th District.

I want to take this opportunity to congratulate Zenos as he assumes the challenge and responsibility of leading the North River Commission and to wish him and the other newly-elected officers of the North River Commission every success as they strive to formulate innovative solutions to the problems which confront our community.

An excerpt from Zenos Hawkinson's statement of purpose, as well as a list of the newly elected officers from our area, follow:

STATEMENT OF PURPOSE

* * * Our passion has always been inclusive: to attrack the widest possible popular participation to the work of the Commission, to discover as accurately as possible what the people and the institutions of our community think and what they want done, to hammer out of these sometimes divergent views a policy which best represents the interests of the entire community, and then to represent this policy effectively in every appropriate public forum.

The Commission has never involved itself or its people in partisan political campaigns, nor will it offer itself as a power base for those who have ambitions to hold public office. Our desire is to work amicably with official government at every level in the service of the public interest. But make no mistake: we are opposed to privilege in all its forms, on the good democratic grounds that the law must be available to all persons on fair and equal terms. President Woodrow Wilson complained in 1913 that every special interest had its advocate, but that no one spoke for the public as a whole. We intend to continue to speak for this community as a whole, as fairly and as effectively as we can. * * *

NORTH RIVER COMMISSION CONGRESS, MAY 11, 1988

President: Zenos Hawkinson, Co-chair of Albany Park Planning Committee.

First Vice Pres.: Dale Bolling, Past President of North Mayfair Improvement Association.

V.P. Comm. Org.: Mary Marubio, President of Hollywood North Park Improvement Association.

V.P. Econ. Devel.: Scott Berman, President of LADCOR.

V.P. Admin.: Bill Fredrickson, Chairman of Development Committee.

Secretary: Leeann Ripes, Past President of North Park Village Apartment Resident Org.

Vice Sec.: Wendy Jo Harmston, President of Old Irving Park Association.

Finance Sec.: Earl Weinstein, Board Member of North River Housing Development Corp.

Treasurer: Andy Jones, Board Member, Albany Manor Improvement Association.

Asst. Treas.: Terry Schuster, President of Peterson Park Improvement Association.

VICE PRESIDENTS

Frank Albanese, Director of Albany Park Community Center.

Allan Anderson, V.P. Covenant Benevolent Association.

Otto Barone, Member, LADCOR.

Michael Choi, Member, LADCOR.

Geoffrey Cooper Stanton, V.P. Albany Bank & Trust.

Robert Dwyer, Dist. Supt. Commonwealth Edison.

Robert Eversull, Pastor, Mayfair Presbyterian Church.

Bud Helmer, Manager, Senate Apartments.

John Henderson, Member, North River Housing Development.

Barbara Iverson, President, North Mayfair Improvement Assoc.

Jay Kim, V.P. LADCOR.

John Lamotte, Co-chair Albany Park Planning Committee.

Jack Litzenberger, Member, Albany Park Chamber of Commerce.

Juan Muniz, President, Albany Park Chamber of Commerce.

Sylvester Quartana, Past Pres., North Mayfair Improvement Assoc.

Sheila Rotman, Member, North Park Village Advisory Council.

James White, President of Sauganash Park Improvement Assoc.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. RAHALL) to revise and extend his remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COMBEST) and to include extraneous matter:)

Miss SCHNEIDER.

Mr. RITTER.

Mr. GUNDERSON.

Mr. SCHUETTE.

(The following Members at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. DINGELL.

Mr. LANTOS.

Mr. SLATTERY.

Mr. DE LUGO.

Mr. LIPINSKI.

Mr. FRANK.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2200. An act to amend Public Law 90-498 to provide for the designation of National Hispanic Heritage Month; to the Committee on Post Office and Civil Service.

S.J. Res. 266. Joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week"; to the Committee on Post Office and Civil Service.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On May 19:

H.R. 1430. An act to authorize decorations, medals, and other recognition for service in the United States merchant marine, and for other purposes; and

H.R. 1306. An act for the relief of Marsha D. Christopher.

On May 20:

H.R. 4083. An act to amend title 5, United States Code, to authorize the establishment of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, and for other purposes.

ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1'clock and 33 minutes p.m.), the House adjourned until tomorrow, Tuesday, May 24, 1988, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the second, third, and fourth quarters of calendar year 1987 and the first quarter of calendar year 1988 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1987

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Delegation to Mexico, Panama, Peru, Brazil, and Grenada, Apr. 10–20, 1987:											
Delegation expenses	4/15	4/17	Peru				176.82		590.56		767.38
Visit to Thailand, Apr. 12–18, 1987:											
Delegation expenses	4/12	4/18	Thailand				587.00		254.00		841.00
Visit to Panama, Costa Rica, Nicaragua and Honduras, May 14–17, 1988:											
Delegation expenses	5/16	5/16	Nicaragua						90.69		90.69
Visit to United Kingdom and Italy, May 23 to June 2, 1987:											
Hon. Les Aspin	5/23	5/25	United Kingdom				10.92		254.00		264.92
	5/25	6/2	Italy		296.00		503.98				
Visit to France, June 12–16, 1988:											
Delegation expenses	6/12	6/16	France				6,964.05		4,042.83		11,006.88
Committee total					296.00		8,242.77		5,232.08		12,970.87

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Apr. 30, 1988.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to Federal Republic of Germany, Aug. 28–30, 1988:											
Mr. William H. Hogan, Jr	8/28	8/30	Germany		188.00						188.00
Committee total					188.00						188.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Apr. 30, 1988.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Calvin R. Humphrey, staff	11/14	11/17	Africa/Europe		294.00				26.03		320.03
Hon. Bud Shuster	12/29	1/1	Europe		744.00						744.00
Committee total					1,038.00				26.03		1,064.03

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LOUIS STOKES, Chairman, Apr. 25, 1988.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Marge Roukema	1/4	1/6	Sao Paulo, Brazil		308.00						308.00
	1/6	1/8	Buenos Aires, Argentina		405.00				77.48		482.48
	1/8	1/9	Santiago, Chile		139.00		[3] 3,606.87		[4] 24.86		3,770.73
Hon. Bruce Vento	1/4	1/6	Sao Paulo, Brazil		308.00						308.00
	1/6	1/8	Buenos Aires, Argentina		405.00				77.48		482.48
	1/8	1/9	Santiago, Chile		139.00		[3] 3,606.87		[4] 24.86		3,770.73
Hon. Pat Swindall	1/4	1/6	San Paulo, Brazil		308.00						308.00
	1/6	1/8	Buenos Aires, Argentina		405.00				77.48		482.48
	1/8	1/9	Santiago, Chile		139.00		[3] 3,606.87		[4] 24.86		3,770.73
Hon. Thomas Manton	1/4	1/6	Sao Paulo, Brazil		308.00						308.00
	1/6	1/8	Buenos Aires, Argentina		405.00				77.48		482.48
	1/8	1/9	Santiago, Chile		139.00		[3] 3,606.87		[4] 24.86		3,770.73
Hon. Gerald Kleczka	1/4	1/6	Sao Paulo, Brazil		308.00						308.00
	1/6	1/8	Buenos Aires, Argentina		405.00				77.48		482.48
	1/8	1/9	Santiago, Chile		139.00		[3] 3,606.87		[4] 24.86		3,770.73
Hon. Tom McMillen	1/4	1/6	Sao Paulo, Brazil		308.00						308.00
	1/6	1/8	Buenos Aires, Argentina		405.00				77.48		482.48
	1/8	1/9	Santiago, Chile		139.00		[3] 3,606.87		[4] 24.86		3,770.73
Hon. Walter Fauntroy	1/5	1/7	Barbados				[5] 780.00		[4] 21.00		801.00
Hon. Pat Swindall	1/20	1/27	People's Republic China		1,113.07						1,113.07
	1/27	1/29	Republic of Korea		166.00		[3] 14,461.90				14,627.90
Hon. Kweisi Mfume	2/4	2/8	Barbados		779.00		[3] 14,484.22				15,263.22
Hon. George Wortley	2/14	2/16	Madrid, Spain		303.72						303.72
	2/16	2/18	Paris, France		476.55				23.30		499.85
	2/18	2/19	Milan, Italy		674.78		[5] 2,736.87				3,411.65
Hon. Walter Fauntroy	3/20	3/22	Caracus, Venezuela		250.00		[5] 1,162.00				1,412.00
Hon. Alfred McCandless	3/18	3/21	Caracus, Venezuela		375.00		[5] 813.00				1,188.00
Robert Browne	3/19	3/24	Caracus, Venezuela		625.00		[5] 806.00				1,431.00
Marc Constantine	3/19	3/24	Caracus, Venezuela		625.00		[5] 806.00				1,431.00
Committee Totals					10,500.12		57,691.21		658.34		68,849.67

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military.

[4] Ground transportation.

[5] Commercial transportation.

FERNAND J. ST GERMAIN, Chairman, Apr. 27, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Joseph Early	1/6	1/7	El Salvador		110.00						110.00
	1/7	1/9	Tahita		350.00						350.00
	1/10	1/13	New Zealand		504.00						504.00
	1/13	1/17	Australia		562.00						562.00
	1/17	1/19	New Guinea		322.00						322.00
	1/19	1/21	Taiwan		364.00						364.00
	1/21	1/24	South Korea		447.00						447.00
Military transportation							8,500.00				8,500.00
Hon. Mickey Edwards	1/30	1/31	Nicaragua		76.00						76.00
Military transportation							1.038.60				1,038.60
Hon. Alan Mollohan	1/3	1/7	New Zealand		537.00						537.00
	1/7	1/11	Antarctica								
Commercial transportation							3,484.00				3,484.00
Hon. Alan Mollohan	3/11	3/12	Panama		49.19						49.19
Military transportation							1,550.00				1,550.00
Hon. Robert Mrazek	1/14	1/15	Thailand		147.00						147.00
	1/15	1/18	Vietnam		375.00						375.00
	1/18	1/21	Thailand		441.00						441.00
Commercial tansportation							4,528.00				4,528.00
Hon. John Murtha	3/11	3/12	Panama		49.19						49.19
Military transportation							1,550.00				1,550.00
Hon. John Myers	1/6	1/7	El Salvador		110.00						110.00
	1/7	1/9	Tahiti		350.00						350.00
	1/10	1/13	New Zealand		504.00						504.00
	1/13	1/17	Australia		562.00						562.00
	1/17	1/19	New Guinea		322.00						322.00
	1/19	1/21	Taiwan		364.00						364.00
	1/21	1/24	South Korea		447.00						447.00
Military transportation							8,500.00				8,500.00
Hon. Carl Pursell	1/6	1/8	Hong Kong		318.00						318.00
	1/8	1/11	China		438.00						438.00
	1/11	1/12	Hong Kong		318.00						318.00
Commercial transportation							305.40				305.40
Hon. Harold Rogers	1/6	1/7	El Salvador		110.00						110.00
	1/7	1/9	Tahiti		350.00						350.00
	1/10	1/13	New Zealand		504.00						504.00
	1/13	1/17	Australia		562.00						562.00
	1/17	1/19	New Guinea		322.00						322.00
	1/19	1/21	Taiwan		364.00						364.00
	1/21	1/24	South Korea		447.00						447.00
Military transportation							8,500.00				8,500.00
Hon. Neal Smith	1/6	1/7	El Salvador		110.00						110.00
	1/7	1/9	Tahiti		350.00						350.00
	1/10	1/13	New Zealand		504.00						504.00
	1/13	1/17	Australia		562.00						562.00
	1/17	1/19	New Guinea		322.00						322.00
	1/19	1/21	Taiwan		364.00						364.00
	1/21	1/24	South Korea		447.00						447.00
Military transportation							8,500.00				8,500.00
Hon. Bob Traxler	1/6	1/7	El Salvador		110.00						110.00
	1/7	1/9	Tahiti		504.00						504.00
	1/10	1/13	New Zealand		504.00						504.00
	1/13	1/17	Australia		562.00						562.00
	1/17	1/19	New Guinea		322.00						322.00
	1/19	1/21	Taiwan		364.00						364.00
	1/21	1/24	S. Korea		447.00						447.00
Military transportation							8,500.00				8,500.00
Hon. Frank Wolf	1/7	1/8	Romania		96.00						96.00
	1/8	1/9	West Germany		175.00						175.00
Commercial transportation							2,715.00				2,715.00
Jim Fairchild	1/6	1/7	El Salvador		110.00						110.00
	1/7	1/9	Tahiti		350.00						350.00
	1/10	1/13	New Zealand		504.00						504.00
	1/13	1/17	Australia		562.00						562.00
	1/17	1/19	New Guinea		322.00						322.00
	1/19	1/21	Taiwan		364.00						364.00
	1/21	1/24	South Korea		447.00						447.00
Military transportation							8,500.00				8,500.00
Edward E. Lombard	1/12	1/13	England		242.00						242.00
	1/13	1/17	Austria		573.00						573.00
	1/17	1/19	Germany		350.00						350.00
	1/19	1/24	Italy		996.00				22.56		1,018.56
Commercial transportation							4,653.00				4,653.00
Paul Magliocchetti	3/11	3/12	Panama		49.19						49.19
Military transportation							1,550.00				1,550.00
Bruce Meredith	1/4	1/5	Hong Kong		164.85						164.85
	1/5	1/7	Philippines		240.92						240.92
	1/7	1/10	Thailand		263.24						263.24
	1/10	1/12	Singapore		337.79						337.79
	1/12	1/14	Hong Kong		319.70						319.70
	1/14	1/15	Okinawa		65.75						65.75
	1/15	1/18	Japan		292.25						292.25
Commercial transportation							5,074.00				5,074.00
Frederick Mohrman	1/3	1/7	New Zeland		548.000						548.00
	1/8	1/10	Antarctica								
	1/11	1/14	New Zealand		537.00		171.68				708.68
	1/14	1/20	Australia		1,014.00		48.14				1,062.14
	1/19		United States		497.25		163.31				660.56
Commercial transportation							4,694.66				4,694.66
Henry E. Moore	1/10	1/13	United States		558.00						558.00
	1/14	1/15	Japan		285.00						285.00
	1/16	1/18	South Korea		498.00						498.00
	1/19	1/20	Japan		490.00						490.00
	1/21	1/22	United States		304.00						304.00
Commercial air							4,351.16				4,351.16
Mark W. Murray	1/19	1/20	Honduras		142.000						142.00
	1/20	1/22	El Salvador		258.00				56.00		314.00
Commercial transportation							2,038.00				2,038.00
John G. Osthaus	1/6	1/7	El Salvador		110.00						110.00
	1/7	1/19	Tahiti		350.00						350.00
	1/10	1/13	New Zealand		504.000						504.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	1/13	1/17	Australia		562.00						562.00
	1/17	1/19	New Guinea		322.00						322.00
	1/19	1/21	Taiwan		364.00						364.00
	1/21	1/24	South Korea		447.00						447.00
Military transportation							8,500.00				8,500.00
Terry R. Peel	1/19	1/20	Honduras		142.00						142.00
	1/20	1/22	El Salvador		258.00				62.00		320.00
Commercial transportation							2,038.00				2,038.00
John Plashal	3/11	3/12	Panama		49.19						49.19
Military transportation							1,550.00				1,550.00
William E. Schuerch	1/15	1/15	Thailand		147.00						147.00
	1/15	1/18	Vietnam		375.00						375.00
	1/18	1/21	Thailand		441.00						441.00
	1/21	1/23	England		726.00						726.00
Commercial transportation							5,581.19				5,581.19
Committee total					32,950.51		106,584.14		140.56		139,675.21
Appropriations, surveys and investigations staff:											
Albert J. Boudreau	3/6	3/10	England		882.75		2,347.00		70.25		3,300.00
John A. Friel	1/14	1/24	Korea		944.75		2,428.27		31.91		3,404.93
	1/24	1/26	Philippines		234.00				19.00		253.00
Maurice A. Herron	3/6	3/10	England		870.25		2,347.00		114.80		3,332.05
Terrence E. Hobbs	1/14	1/24	Korea		944.75		2,428.75		41.30		3,414.32
	1/24	1/26	Philippines		234.00				16.50		250.50
Stephen M. Largent	1/14	1/24	Korea		944.75		2,428.27		44.41		3,417.43
	1/24	1/26	Philippines		234.00				28.00		262.00
Douglas D. Nosik	1/13	1/22	Korea		992.00		2,111.00		61.41		3,164.41
R.W. Vandergraft	3/6	3/10	England		918.50		2,347.00		1,035.76		4,301.26
Ben Alan Weaver	3/6	3/10	England		882.75		2,347.00		14.71		3,334.46
Carlton A. Weiss	1/4	1/24	Korea		944.75		2,428.27		6.41		3,379.43
	1/24	1/26	Philippines		234.00				10.00		244.00
Committee total					9,261.25		21,212.08		1,584.46		32,057.79

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE L. WHITTEN, Chairman, Apr. 30, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to the Soviet Union, Jan. 3–9, 1988:											
Hon. Curt Weldon	1/3	1/9	Soviet Union								
Military transportation							1,380.49				1,380.49
Visit to Brazil, Argentina, and Chile, Jan. 4–9, 1988:											
Hon. Dennis M. Hertel	1/4	1/6	Brazil		308.00						308.00
	1/6	1/8	Argentina		405.00						405.00
	1/8	1/9	Chile		139.00						139.00
Military transportation							991.92				991.92
Visit to Republic of Korea, Thailand, and Socialist Republic of Vietnam, Jan. 5–15, 1988:											
Hon. Frank McCloskey	1/5	1/7	Korea		332.00						332.00
	1/7	1/8	Thailand		147.00						147.00
	1/8	1/13	Vietnam			625.00					625.00
	1/13	1/15	Thailand		294.00						294.00
Commercial transportation							4,591.00				4,591.00
Hon. John Rowland	1/5	1/7	Korea		332.00						332.00
	1/7	1/8	Thailand		147.00						147.00
	1/8	1/13	Vietnam		625.00						625.00
	1/13	1/15	Thailand		294.00						294.00
Commercial transportation							4,591.00				4,591.00
Mr. William T. Fleshman	1/5	1/7	Korea		332.00						332.00
	1/7	1/8	Thailand		147.00						147.00
	1/8	1/13	Vietnam		625.00						625.00
	1/13	1/14	Thailand		147.00						147.00
Commercial transportation							4,591.00				4,591.00
Mr. Peter M. Steffes	1/5	1/7	Korea		332.00						332.00
	1/7	1/8	Thailand		417.00						147.00
	1/8	1/13	Vietnam		625.00						625.00
	1/13	1/14	Thailand		147.00						147.00
Commercial transportation							4,591.00				4,591.00
Delegation expenses	1/7	1/15	Thailand						980.30		980.30
	1/8	1/13	Vietnam						140.32		140.32
Visit to Antigua, Jan. 5–7, 1988:											
Hon. Les Aspin	1/5	1/7	Antigua		514.00						514.00
Commercial transportation							708.00				708.00
Military transportation							334.00				334.00
Visit to Bahrain, Germany, and Belgium, Jan. 19–23, 1988:											
Hon. David O'B. Martin	1/19	1/20	Bahrain		52.00						52.00
	1/21	1/21	Germany								
	1/21	1/23	Belgium		357.00						357.00
Commercial transportation							4,265.00				4,265.00
Military transportation							752.00				752.00
Mr. Peter M. Steffes	1/19	1/20	Bahrain		52.00						52.00
	1/21	1/21	Germany								
	1/21	1/23	Belgium		357.00						357.00
Commercial transportation							4,265.00				4,265.00
Military transportation							752.00				752.00
Delegation expenses	1/19	1/20	Bahrain						14.45		14.45

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to Nicaraagua, Jan. 30-31, 1988:											
Hon. Beverly B. Byron	1/30	1/31	Nicaragua		76.00						76.00
Military transportation							1,038.60				1,038.60
Hon. Richard Ray	1/30	1/31	Nicaragua		76.00						76.00
Military transportation							1,038.60				1,038.60
Hon. Curt Weldon	1/30	1/31	Nicaragua		76.00						76.00
Military transportation							1,038.60				1,038.60
Mr. Clark A. Murdock	1/30	1/31	Nicaragua		76.00						76.00
Military transportation							1,038.60				1,038.60
Visit to Federal Republic of Germany, Feb. 5-8, 1988:											
Hon. Samuel S. Stratton	2/5	2/8	Germany		603.00						603.00
Military transportation							2,720.80				2,720.80
Visit to Federal Republic of Germany, Switzerland, France, and Belgium, Feb. 5-13, 1988:											
Hon. Les Aspin	2/5	2/10	Germany		630.25						630.25
	2/10	2/11	Switzerland		266.00						266.00
	2/11	2/12	France		248.00						248.00
	2/12	2/13	Belgium		197.00						197.00
Military transportation							1,882.13				1,882.13
Commercial transportation							2,243.00				2,243.00
Mr. Lou Finch	2/5	2/10	Germany		1,233.25						1,233/25
	2/10	2/11	Switzerland		266.00						266.00
	2/11	2/12	France		248.00						248.00
	2/12	2/13	Belgium		197.00						197.00
Military transportation							805.77				805.77
Commercial transportation							2,810.00				2,810.00
Visit to Federal Republic of Germany, United Kingdom, and France, Feb. 5-14, 1988:											
Hon. Ike Skelton	2/5	2/7	Germany		603.00						603.00
	2/7	2/10	United Kingdom		759.00						759.00
	2/10	2/11	Germany		182.00						182.00
	2/11	2/14	France		744.00						744.00
Military transportation							2,285.51				2,285.51
Hon. Solomon P. Ortiz	2/7	2/10	United Kingdom		506.00						506.00
	2/10	2/11	Germany		182.00						182.00
	2/11	2/14	France		744.00						744.00
Military transportation							1,209.15				1,209.15
Commercial transportation							1,643.00				1,643.00
Hon. Owen B. Pickett	2/7	2/10	United Kingdom		759.00						759.00
	2/10	2/11	Germany		182.00						182.00
	2/11	2/14	France		744.00						744.00
Military transportation							1,894.18				1,894.18
Hon. Jon Kyl	2/7	2/10	United Kingdom		759.00						759.00
Military transportation							685.03				685.03
Commercial transportation							2,376.27				2,376.27
Hon. Jack Davis	2/10	2/11	Germany		182.00						182.00
	2/11	2/14	France		744.00						744.00
Military transportation							1,089.82				1,089.82
Commercial transportation							150.00				150.00
Mr. Archie D. Barrett	2/7	2/10	United Kingdom		759.00						759.00
	2/10	2/11	Germany		182.00						182.00
	2/11	2/14	France		744.00						744.00
Military transportation							1,894.18				1,894.18
Delegation expenses	2/10	2/11	Germany				1,527.42		900.76		2,428.18
Visit to Japan, Feb. 9-15, 1988:											
Hon. Patricia Schroeder	2/9	2/15	Japan		1,498.00						1,498.00
Commercial transportation							4,225.00				4,225.00
Hon. Norman Sisisky	2/9	2/15	Japan		1,498.00						1,498.00
Commercial transportation							4,225.00				4,225.00
Ms. Deborah R. Lee	2/9	2/15	Japan		1,498.00						1,498.00
Commercial transportation							4,225.00				4,225.00
Visit to Philippines, Mar. 8-12, 1988:											
Mr. William T. Fleshman	3/8	3/12	Philippines		586.00						586.00
Commercial transportation							3,939.00				3,939.00
Visit to Honduras, Mar. 19-20, 1988:											
Hon. G.V. Montgomery	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,158.00				1,158.00
Hon. Marilyn Lloyd	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,158.00				1,201.16
Hon. Norman Sisisky	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,574.00				1,574.00
Hon. Solomon P. Ortiz	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,574.00				1,574.00
Hon. George (Buddy) Darden	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,158.00				1,158.00
Hon. Duncan Hunter	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,158.00				1,158.00
Mr. Williston B. Cofer	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,574.00				1,574.00
Mr. Peter M. Steffes	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,574.00				1,574.00
Ms. Nora Slatkin	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,574.00				1,574.00
Mr. Clark A. Murdock	3/19	3/20	Honduras		43.16						43.16
Military transportation							1,574.00				1,574.00
Visit to Federal Republic of Germany, Mar. 25-28, 1988:											
Hon. Thomas M. Foglietta	3/25	3/28	Germany		531.00						531.00
Commercial transportation							3,539.00				3,539.00
Committee total					26,492.10		95,412.07		2,035.83		123,940.00

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Apr. 29, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hoffman, Elise	1/10	1/13	France		732.00						732.00
	1/13	1/18	England		1,210.00						1.210.00
Commercial air fare							949.00				949.00
Local transportation							124.96				124.96
Homonoff, Howard	1/10	1/13	France		732.00						732.00
	1/13	1/18	England		1,210.00						1,210.00
Commercial air fare							949.00				949.00
Kaswell, Stuart	1/11	1/13	France		388.00						388.00
	1/13	1/16	England		726.00						726.00
Commercial air fare							1,229.00				1,229.00
Smith, Russell	1/10	1/12	France		841.50						841.50
	1/13	1/17	England		1,210.00						1,210.00
Commercial air fare							954.00				954.00
Clough, John	1/9	1/16	Chile		973.00						973.00
Commercial air fare							257.00				257.00
Shriber, Donald	1/14	1/20	England		1,452.00						1,452.00
Commercial air fare							765.00				765.00
Nelson, Karen	1/14	1/20	England		1,452.00						1,452.00
Commercial air fare							765.00				765.00
Westmoreland, Tim	1/14	1/20	England		1,452.00						1,452.00
Commercial air fare							765.00				765.00
Riker, Ellen	1/14	1/19	England		1,210.00						1,210.00
Commercial air fare							421.00				421.00
Smith, Paul	2/11	2/15	Hong Kong		1,060.00						1,060.00
Commercial air fare							2,364.00				2,364.00
Leahy, Edward	1/10	1/13	France		732.00						732.00
	1/13	1/18	England		1,210.00						1,210.00
Commercial air fare							949.00				949.00
Bergman, Robert	2/10	2/11	England		253.00						253.00
	2/11	2/14	France		488.00		130.00				618.00
	2/14	2/17	Switzerland		789.00						789.00
Commercial air fare							2,347.00				2,347.00
Wilson, Dennis	2/10	2/11	England		253.00						253.00
	2/11	2/14	France		488.00		130.00				618.00
	2/14	2/17	Switzerland		615.00						615.00
Commercial air fare							2,347.00				2,347.00
Gould, Rebecca	2/11	2/14	Hong Kong		848.00						848.00
	2/15	2/20	Bangkok		882.00						882.00
	2/21	2/22	Kuala Lumpur		296.00						296.00
	2/23	2/24	Jakarta		316.00						316.00
	2/25	2/26	Singapore		288.00						288.00
Commercial air fare							3,002.00				3,002.00
Committee totals					22,106.50		18,447.96				40,554.46

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note.—Supplemental for 1st quarter to be filed at a later date.

JOHN D. DINGELL, Chairman, May 4, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Don Sundquist	1/2	1/9	U.S.S.R.				[3] 2,924,74				2,924.74
Hon. Bud Shuster	1/3	1/10	Egypt		737.91		688.00				1,425.91
Hon. John Paul Hammerschmidt	1/20	1/27	China		1,113.07						
	1/27	1/29	Korea		332.00		[3] 14,461.90				15,906.97
Salvatore J. D'Amico [4]	3/31		China				1,384.41				1,384.41
Committee total					2,182.93		19,459.05				21,642.03

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military transportation.

[4] Will report further on D'Amico China trip in 2d quarter report.

GLENN M. ANDERSON, Chairman, Apr. 29, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Claudine Schneider	12/24	1/4	Brazil		3,163.67						3,163.67
	1/5	1/10	Venezuela								
Commercial air							1,593.00				1,593.00
Hon. Tim Valentine	1/3	1/11	New Zealand		537.00						537.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MARCH 31, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Commercial air							3,675.20				3,675.20
Nancy J. Jeffery	1/5	1/10	Denmark	3,532,80	552.00					3,532.80	552.00
	1/10	1/14	Italy	1,006,928	824.00					1,006,928	824.00
	1/14	1/19	England	664.94	1,210.00					664.94	1,210.00
Commercial air							1,993.54				1,993.54
Hon. Claudine Schneider	2/4	2/8	Costa Rica		528.00						528.00
Commercial air							786.00				786.00
Lillian M. Trippett	2/21	2/27	Switzerland		1,210.00				890.00		2,100.00
Commercial air							907.00				907.00
Hon. Robert A. Roe	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/26	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Hon. Manuel Lujan, Jr	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/26	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Hon. George E. Brown, Jr	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Hon. Marilyn Lloyd	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Hon. Robert S. Walker	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/17	Brazil	50.296,40	616.00		775.00		339.74	50.296,40	1,730.74
Military air							4,212.60				4,212.60
Hon. F.J. Sensenbrenner, Jr	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Hon. Ron Packard	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Maryanne C. Bach	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Carryefaye Brown	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
David D. Clement	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
John V. Dugan, Jr	1/13	1/14	French Guiana	1368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00		108,728.63	394.23	394.23	212,153.63	616.78
Military air							4,212.60				4,212.60
Harold P. Hanson	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50,296,40	616.00				339.74	50.296.40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Robert C. Ketcham	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50,296.40	616.00				339.74	50,296.40	9545.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
George S. Kopp	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.546	2,188.82	397.28
	1/14	1/18	Brazil	50,296.40	616.00				339.74	50,296.40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Billie Gay Larson	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50,296.40	616.00				339.74	50,296.40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Terese B. McDonald	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50,296.40	616.00				339.74	50,296.40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MARCH 31, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Military air							4,212.60				4,212.60
Robert Maitlin	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50,296.40	616.00				339.74	50,296.40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
James R. Miller	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50,296.40	616.00				339.74	50,296.40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Grace L. Ostenso	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50.296,40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Robert E. Palmer	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50,296.40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
William S. Smith	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50,296.40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
R. Thomas Weimer	1/13	1/14	French Guiana	1,368.17	244.72			820.65	152.56	2,188.82	397.28
	1/14	1/18	Brazil	50.296,40	616.00				339.74	50,296.40	955.74
	1/18	1/20	Argentina	2,126.25	405.00					2,126.25	405.00
	1/20	1/23	Chile	99,003	382.25			60,743.27	234.53	159,746.27	616.78
	1/23	1/26	Ecuador	103,425	375.00			108,728.63	394.23	212,153.63	769.23
Military air							4,212.60				4,212.60
Committee total					51,367.76		102,406.94		24,924.56		178,699.26

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT A ROE, Chairman, Apr. 28, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON VETERANS' AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Robert C. Smith	1/5	1/7	Korea		332.00						332.00
	1/7	1/8	Thailand		147.00						147.00
	1/8	1/13	Vietnam		625.00						625.00
	1/13	1/15	Thailand		294.00						294.00
Commercial							4,591.00				4,591.00
Hon. Tom Ridge	1/14	1/15	Thailand		147.00						147.00
	1/15	1/17	Vietnam		375.00						375.00
	1/18	1/21	Thailand		441.00						441.00
Commercial							3,681.00				3,681.00
Hon. J.P. Hammerschmidt	3/19	3/20	Honduras		43.16						43.16
Military							1,574.00				1,574.00
Hon. Bob McEwen	3/19	3/20	Honduras		43.16						43.16
Military							1,574.00				1,574.00
Committee total					2,447.32		11,420.00				13,867.32

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

G.V. MONTGOMERY, Chairman, Apr. 30, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Rangel, Charles B	1/15	1/18	Seoul, Korea		498.00						498.00
	1/18	1/20	Bangkok, Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Rangoon, Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Jakarta, Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333.99				17,333.99
Gilman, Benjamin A	1/18	1/20	Bangkok, Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Rangoon, Burma				3.29		1,85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Jakarta, Indonesia				7.75		33.03		40.78
Commercial transportation (Frankfurt FRG to Thailand).	1/17	1/18					1,870.00				

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Military transportation	1/18	1/25					9,686.48				9,686.48
Guarini, Frank J	1/15	1/18	Seoul, Korea		498.00						498.00
	1/18	1/20	Bangkok, Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Rangoon, Burma				3.29		1.85		5.14
Subtotal					2,742.00		29,160.26		460.51		32,362.77
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Jakarta, Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333.99				17,333.99
Hughes, William J	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17.333.99				17.333.99
Ortiz, Solomon	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		17,333.99
Military transportation	1/14	1/25					17,333.99				17,333.99
Subtotal					2,880.00		52,373.88		506.44		55,760.32
Coughlin, Lawrence	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333.99				17,333.99
Shaw, E. Clay	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333.99				17,333.99
Parris, Stan	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
Subtotal					3,240.00		34,937.77		460.51		38,638.28
	1/20	1/21	Singapore		144.00						144.00
Military transportation	1/14	1/20					8,560.03				8,560.03
Commercial transportation	1/21						2,040.00				2,040.00
Jurith, Edward H.	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333.99				17,333.99
Brown, Elliott	1/14	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333.99				17,333.99
Subtotal					2,592.00		45,524.78		386.78		48,503.47
Kelley, Michael	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333,99				17,333,99
Hedlund, Rebecca	1/15	1/18	Korea		498.00						498.00
	1/18	1/20	Thailand		294.00		9.82		71.88		375.70
	1/20	1/20	Burma				3.29		1.85		5.14
	1/20	1/23	Singapore		432.00		107.48		86.63		626.11
	1/23	1/23	Indonesia				7.75		33.03		40.78
Military transportation	1/14	1/25					17,333,99				17,333,99
Subtotal					2,448.00		34,924,66		386.78		37,759.44
Committee total					13,902.00		196,921.26		2,201.02		213,024.26

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLES B. RANGEL, Chairman, Apr. 29, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1988

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Michael J. O'Neil, staff	1/4	1/7	Asia		2,006.00		112.35				2,118.35
Commercial air							2,547.00				2,547.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MARCH 31, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Military air							1,273.25				1,273.25
Robert J. Fitch, staff	1/4	1/7	Asia		2,006.00		112.35				2,118.35
Commercial air							2,547.00				2,547.00
Military air							1,273.25				1,273.25
Hon. Barbara B. Kennelly	1/11	1/14	Central America		246.00						246.00
Military air							2,508.56				2,508.56
Michael J. O'Neil, staff	1/26	1/28	Central America		92.00						92.00
Military air							1,438.12				1,438.12
Duane P. Andrews, staff	1/26	1/28	Central America		92.00						92.00
Military air							1,438.12				1,438.12
Stephen D. Nelson, staff	1/26	1/28	Central America		92.00						92.00
Military air							1,438.12				1,438.12
Hon. Dick Cheney	2/5	2/7	Europe		603.00						603.00
Military air							2,719.90				2,719.90
Committee total					5,137.00		17,408.02				22,545.02

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LOUIS STOKES, Chairman, Apr. 25, 1988.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3641. A letter from the Assistant Secretary of the Army (Financial Management), transmitting a report on the value of property, services and commodities provided by the Berlin Magistrate for the quarter January 1, 1988 through March 31, 1988, pursuant to Public Law 99-190, section 8014 (99 Stat. 1205); Public Law 99-591, section 9010 (100 Stat. 3341-102); to the Committee on Appropriations.

3642. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the operations of the Bank for fiscal year 1987, pursuant to 12 U.S.C. 635g(a); to the Committee on Banking, Finance and Urban Affairs.

3643. A letter from the Acting Administrator, General Services Administration, transmitting the agency's third report on actions taken to assist the homeless, pursuant to Public Law 100-77, section 501(e) (101 Stat. 510); to the Committee on Banking, Finance and Urban Affairs.

3644. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-181, "Community Residence Facilities Licensure Amendment Temporary Act of 1988," pursuant to D.C. Code section 1-233(c)(i); to the Committee on the District of Columbia.

3645. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-182, "District of Columbia General Hospital Records Amendment Temporary Act of 1988," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3646. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-180, "Income and Franchise Tax Amendment Temporary Act of 1988," pursuant to D.C. Code section 1-233(c)(i); to the Committee on the District of Columbia.

3647. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Annual Audit of the Boxing and Wrestling Commission for Fiscal Year 1987," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3648. A letter from the Secretary of Education, transmitting a copy of final regulations—the State Vocational Rehabilitation Services Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3649. A letter from the Secretary of Education, transmitting a copy of final regulations—Strengthening Research Library Resources Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3650. A letter from the Secretary of Education, transmitting a notice of final funding priorities—experimental and innovative training, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3651. A letter from the Secretary of Education, transmitting a copy of final funding procedures for the Adult Education for the Homeless Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3652. A letter from the Secretary of Health and Human Services, transmitting the 1987 Surgeon General's report entitled, "The Health Consequences of Smoking: Nicotine Addiction," pursuant to 15 U.S.C. 1337(a); to the Committee on Energy and Commerce.

3653. A letter from the Acting General Counsel, Department of Energy, transmitting notification of international energy hearings to be held on May 19, 1988, Paris, France; to the Committee on Energy and Commerce.

3654. A letter from the Secretary, Federal Trade Commission, transmitting the 1986 annual report on current practices and methods of cigarette advertising and promotion, pursuant to 15 U.S.C. 1337(b); to the Committee on Energy and Commerce.

3655. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission has extended the time period for acting on the appeal in No. 40073, *South-West Railroad Car Parts* v. *Missouri Pacific Railroad Company* to September 3, 1988, pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

3656. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend various health professions authorities, and for other purposes; to the Committee on Energy and Commerce.

3657. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a copy of the determination of the Acting Secretary of State that the furnishing of assistance to Tanzania is in the national interest of the United States, with a copy of the justification, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

3658. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of original reports of political contributions for Edward Peter Djerejian, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Syrian Arab Republic; and of John Thomas McCarthy, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Lebanon, and for their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3659. A letter from the Chairman, Federal Communications Commission, transmitting the agency's annual report of its activities under the Freedom of Information Act for calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3660. A letter from the Chairman, Federal Communications Commission, transmitting a copy of the annual report of the Commission's compliance with the Government in the Sunshine Act for calendar year 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3661. A letter from the Chief Administrative Officer, Postal Rate Commission, transmitting the Commission's report of its activities under the Freedom of Information Act for calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3662. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period January 1, 1988 to March 31, 1988, pursuant to 2 U.S.C. 104a (H. Doc. No. 100-198); to the Committee on House Administration and ordered to be printed.

3663. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting the Department's notification of proposed refunds of offshore lease revenues, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

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3669. A letter from the Chief Justice of the United States, transmitting a copy of the report of the proceedings of the Judicial Conference of the United States, held in Washington, DC, on March 15, 1988, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

3670. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the Coast Guard for fiscal year 1989, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Merchant Marine and Fisheries.

3671. A letter from the Chairman, President's Commission on Compensation of Career Federal Executives, transmitting a report on compensation of career Federal executives; to the Committee on Post Office and Civil Service.

3672. A letter from the Administrator, Federal Aviation Administration, transmitting a comprehensive report on the agency's prior year safety enforcement activities, pursuant to Public Law 100-202, section 317(a); to the Committee on Public Works and Transportation.

3673. A letter from the Secretary of Transportation, transmitting a report concerning significant health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, pursuant to 49 U.S.C. app. 2517(a); to the Committee on Public Works and Transportation.

3674. A letter from the Secretary of Energy, transmitting the sixth annual update to the comprehensive ocean thermal technology application and market development plan, pursuant to 42 U.S.C. 9002(d); to the Committee on Science, Space, and Technology.

3675. A letter from the Chairman, National Aeronautics and Space Administration, transmitting a proposed amendment to the fiscal year 1989 NASA authorization concerning nuclear fuel acquisition, pursuant to 31 U.S.C. 1110; to the Committee on Science, Space, and Technology.

3676. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to repeal the 4.25-percent limitation on the interest rate payable on U.S. Treasury bonds; to the Committee on Ways and Means.

3677. A letter from the Secretary of Agriculture, transmitting the third quarterly commodity and country allocation table showing current programming plans for food assistance under title II of Public Law 480 for fiscal year 1988, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

3678. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to require the District of Columbia government and the U.S. Postal Service to fund retirement cost-of-living adjustments for their respective annuitants, and for other purposes; jointly, to the Committees on the District of Columbia and Post Office and Civil Service.

3679. A letter from the Comptroller General, transmitting an adverse opinion on the financial statements of the Export-Import Bank for the years ended September 30, 1987 and 1986; reports on the Bank's system of internal accounting controls and on its compliance with applicable laws and regulations (GAO/AFMD-88-48; May 1988), pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

3680. A letter from the Comptroller General transmitting a qualified opinion on the Panama Canal Commission's financial statements for years ended September 30, 1987 and 1986; separate reports on the Commission's internal accounting controls and on its compliance with laws and regulations (GAO/AMFD-88-40; May 1988), pursuant to 22 U.S.C. 3601-3781 (1982); 31 U.S.C. 3512(f); jointly, to the Committees on Government Operations and Merchant Marine and Fisheries.

3681. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Natural Gas Pipeline Safety Act of 1968, as amended, and the Hazardous Liquid Pipeline Safety Act of 1979, as amended, to authorize appropriations for fiscal years 1989 and jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

3682. A letter from the Secretary of Health and Human Services, transmitting a report on the Maternal and Child Health Research Grants Review Committee which provided assistance during calendar year 1987, pursuant to 42 U.S.C. 1314(f); jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committees on Agriculture. H.R. 4028. A bill to authorize the Secretary of Agriculture to exchange certain national forest system lands in the Targhee National Forest (Rept. 100-629, Pt 2). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on May 19, 1988, the following report was filed on May 20, 1988]

Mr. WOLPE: Committee on Foreign Affairs. H.R. 1580. A bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purpose; with an amendment (Rept. 100-642, Pt. 1). Ordered to be printed.

[Submitted May 23, 1988]

Mr. DE LA GARZA: Committee on Agriculture. H.R. 4556. a bill to amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program; with amendments (Rept. 100-643). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 4345. A bill to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes; with an amendment (Rept. 100-644). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3767, to authorize the United States Government to meet its obligations under the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America; with an amendment; referred to the Committee on Public Works and Transportation for a period ending not later than June 24, 1988 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(p), rule X (Rept. 100-645, Pt.1). Ordered to be printed.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X:

[The following action occurred on May 20, 1988].

The Committee on Armed Services discharged from further consideration of H.R. 2806; and was referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII:

[Submitted May 20, 1988]

Mr. EDWARDS of California introduced a bill (H.R. 4657) to amend title 11 of the United States Code with respect to the rejection of executory contracts licensing rights to intellectual property; which was referred to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

382. By the SPEAKER: Memorial of the Senate of the Commonwealth of Pennsylvania, relative to military chaplains; to the Committee on Armed Services.

383. Also, memorial of the Legislature of the State of Hawaii, relative to child care and social maladjustment encountered by military personnel and family members; to the Committee on Armed Services.

384. Also, memorial of the Senate of the State of Hawaii, relative to real estate; to the Committee on Energy and Commerce.

385. Also, memorial of the Legislature of the State of Maine, relative to the marketing of war toys and toy firearms; to the Committee on Energy and Commerce.

386. Also, memorial of the Legislature of the State of California, relative to Jewish citizens of the Union of Soviet Socialist Republics; to the Committee on Foreign Affairs.

387. Also, memorial of the Senate of the State of New Hampshire, relative to aid to the Soviet Union and other Communist countries; to the Committee on Foreign Affairs.

388. Also, memorial of the Legislature of the State of Maine, relative to a balanced budget; to the Committee on the Judiciary.

389. Also, memorial of the Legislature of the State of Hawaii, relative to ocean resources; to the Committee on Merchant Marine and Fisheries.

390. Also, memorial of the Legislature of the State of Hawaii, relative to veterans health care; to the Committee on Veterans' Affairs.

391. Also, memorial of the Legislature of the State of Hawaii, relative to the free trade agreement between the United States and Canada; to the Committee on Ways and Means.

392. Also, memorial of the Legislature of the State of Hawaii, relative to a comprehensive national health insurance program; jointly, to the Committees on Energy and Commerce and Ways and Means.

393. Also, memorial of the House of Representatives of the State of Oklahoma, relative to the Arctic National Wildlife Refuge; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

394. Also, memorial of the Legislature of the State of Hawaii, relative to the Young Americans Act of 1987; jointly, to the Committees on Education and Labor, Energy and Commerce, and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 637: Mr. Studds.

H.R. 1016: Mr. Ridge and Mr. Slattery.

H.R. 1352: Mr. Swindall and Mr. Boehlert.

H.R. 1721: Mr. Grandy.

H.R. 1966: Mr. Solarz, Mr. Swindall, and Mr. Boehlert.

H.R. 2168: Mr. Kastenmeier, Mr. Thomas of Georgia, Mr. Hefner, Mr. Rodino, and Mr. Robinson.

H.R. 3133: Mrs. Saiki.

H.R. 3340: Mr. Evans and Mr. McCurdy.

H.R. 3865: Mrs. Martin of Illinois, Mr. Shays, Mr. Lowry of Washington, and Mr. Roe.

H.R. 4219: Mr. Bliley and Mr. Packard.

H.R. 4247: Mr. Feighan and Mr. Garcia.

H.R. 4325: Ms. Oakar, Mr. Moakley, Mr. Feighan, Mr. Neal, Mr. Garcia, and Mr. Clay.

H.R. 4420: Mr. de Lugo, Mr. Dwyer of New Jersey, Mr. McEwen, and Mr. DioGuardi.

H.R. 4438: Mr. Wilson, Mr. Coble, and Mr. Neal.

H.R. 4547: Mr. Slattery.

H.R. 4651: Mr. Hatcher, Mr. Jontz, and Mr. Dyson.

H.J. Res. 138: Mr. Dixon.

H.J. Res. 171: Mr. Gingrich, Mr. Callahan, and Mr. Brennan.

H.J. Res. 378: Mr. Leland.

H.J. Res. 464: Mr. Richardson, Mr. de la Garza, Mr. Wilson, Mr. Ballenger, Mr. Bilirakis, Mr. Panetta, Mrs. Vucanovich, Mr. Lehman of Florida, Mr. Morrison of Connecticut, Ms. Oakar, Mr. Boulter, and Mr. Alexander.

H.J. Res. 476: Mr. Packard, Mr. Clement, Mr. Hall of Texas, Mr. Gonzalez, Mr. Perkins, Mrs. Martin of Illinois, Mr. Molinari, Mr. Weldon, Mr. Buechner, Mr. Herger, Mr. Hefley, Mr. Gregg, Mr. Madigan, Mr. Brown of Colorado, Ms. Kaptur, Mr. Morrison of Connecticut, Mr. Jacobs, Mr. Evans, Ms. Snowe, Mr. Boehlert, Mr. Callahan, Mr. Watkins, Mr. Valentine, Mr. Coble, Mr. Bateman, Mr. Clinger, Mr. Gingrich, Mr. Taylor, Mr. Dornan of California, Mr. Crane, Mr. Hunter, Mr. Fields, Mr. Nielson of Utah, Mr. Brown of California, Mr. Sawyer, Mr. Konnyu, Mrs. Lloyd, Mr. Gallo, Mr. Kildee, Mr. Michel, Mrs. Saiki, Mr. Saxton, Mr. Smith of Texas, Mr. Petri, Mr. Dannemeyer, Mr. Rowland of Connecticut, Mr. Frank, Mr. Ridge, Mr. Donald E. Lukens, Mr. Edwards of Oklahoma, Mr. Upton, Mr. Bunning, Mr. Martinez, Mr. Nagle, Mr. Bennett, Mr. Skeen, Mr. Stallings, Mr. Thomas of California, Mr. Lent, Mr. Visclosky, Mr. MacKay, Mr. Manton, Mr. Gunderson, Mr. Montgomery, Mr. Carper, and Mr. Gray of Illinois.

H.J. Res. 485: Mr. Alexander, Mr. Bliley, Mr. Edwards of Oklahoma, Mr. Holloway, Mr. Matsui, Mr. Morrison of Connecticut, Mr. Moody, Mr. Mrazek, Mr. Savage, Mr. Shays, Mr. Skaggs, Mr. Thomas of Georgia, and Mr. Thomas of California.

H. Con. Res. 126: Mr. Edwards of Oklahoma, Mr. Donald E. Lukens, Mr. Fuster, Mr. Hayes of Louisiana, Mr. Bateman, and Mr. McCurdy.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

172. By the SPEAKER: Petition of Florida Conference of Black State Legislators, Inc., 26 House Office Building, Tallahassee, FL, relative to acid precipitation; to the Committee on Energy and Commerce.

173. Also, petition of House of Delegates, Second Olbiil Era Kelulau Republic of Palau, relative to the Ipseco powerplant; to the Committee on Interior and Insular Affairs.

174. Also, petition of Council of the County of Hawaii, Hilo, HI, relative to marine research centers; to the Committee on Merchant Marine and Fisheries.

175. Also, petition of the Legislature of Rockland County, Allison-Parris County Office Building, New York, NY, relative to volunteer firemen; to the Committee on Public Works and Transportation.

SENATE—*Monday, May 23, 1988*

(Legislative day of Wednesday, May 18, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable John Breaux, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us begin this week blessing God in the use of a psalm.

"I will bless the Lord at all times: His praise shall continually be in my mouth. My soul shall make her boast in the Lord: the humble shall hear thereof, and be glad. O magnify the Lord with me, and let us exalt His name together. I sought the Lord, and He heard me, and delivered me from all my fears. They looked unto Him, and were lightened: and their faces were not ashamed. This poor man cried, and the Lord heard him, and saved him out of all his troubles. The angel of the Lord encampeth round about them that fear Him, and delivereth them. O taste and see that the Lord is good: blessed is the man that trusteth in Him."—Psalm 34:1-8.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, May 23, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable John B. Breaux, a Senator from the State of Louisiana, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. Breaux thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

RESERVATION OF THE LEADERS' TIME

Mr. BYRD. Mr. President, I ask that I may reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask that I may reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin is recognized.

ADMINISTRATION STOCK MARKET TASK FORCE STRIKES OUT

Mr. PROXMIRE. Mr. President, what is the most serious economic consequence of our wildly fluctuating, volatile stock market? Answer: The volatility of the market discourages American corporations from even trying to raise equity capital. And what is the most urgent need of American corporations today? Equity capital. America is the supreme example of the triumph of capitalism. Our country has had the most successful economy the world has ever seen. That success is based on the availability of capital. That capital comes in two forms: Debt and equity.

A healthy, profitable corporation uses a mix of both. Ownership or equity capital provides a basic capital that has clear advantages. Unlike debt capital, it does not require a mandated level of interest payments. Equity capital has the ultimate, residual claim over the assets of a corporation after debt capital has been fully satisfied. Debt capital has the first claim.

If a corporation is unable to pay interest on time or in full, it is insolvent. The corporation is legally on its death bed. This means interest payments on corporate debt must take absolute precedence over all other corporation expenditures, including such essential investments in competitiveness as research and development upgrading the skills of employees through training and buying more efficient equipment.

It also means that in times of recession corporations heavily in debt and with thin equities are likely to fail. Today, corporate debt is far heavier by any measure than it has ever been in the Nation's history. The debt of all American business firms, incorporated and unincorporated, including farms, today exceeds $4 trillion. It has risen 24 percent faster in the past 6 years than the surging gross national product. Thirty years ago corporate debt was $2.85 for every dollar of earnings. Today's debt has exploded to $9 for every dollar of earnings. So our corporations urgently need to raise more equity capital.

Where do they raise equity capital? Answer: In the stock market. But corporations are very reluctant to go to a market that is as erratic and volatile as today's stock market. The statistics since the super volatility of Black Monday are compelling. In the 7 months between October 20, 1986, and May 9, 1987, corporations raised $10.7 billion. Compare that with the equity issues sold since Black Monday. In the 7 months between October 20, 1987, and May 1988, American corporations raised only $1.5 billion. Here is a sickening fall in equity raised since the October 19 stock market crash of more than 85 percent.

Here is why the enormous volatility of the stock market is more than a tragedy for the securities business which is suffering from the inactivity of the market. It is even worse than the alienation of independent investors who are staying out of the market in large numbers because it has become too speculative and risky. It has become a serious economic problem for this country.

Mr. President, here is why the Gould Commission representing the Treasury Department and the Reagan administration has made such a serious mistake in their recent announcement that neither the Congress nor the administration should move beyond a gentle, voluntary cooperation between the present regulatory agencies with only one minor change in security regulations. That is the institution of a circuit breaker mechanism that had been largely agreed upon already by the New York Stock Exchange and the Chicago futures exchanges.

Last February in referring to the margin requirements now in effect on the futures exchanges, the Securities and Exchange Commission declared:

> The Division (of Market Regulation) believes, however, that low derivative product margins may contribute to the increased velocity of institutional trading in two ways. First, the Division believes that present

margin requirements permit institutions to buy and sell larger future positions without being required to substantially increase the amount of their assets maintained in cash equivalents. Second, low margins contribute to speculative trading that under normal conditions, contributes to the illusion of almost unlimited liquidity in the futures market. During a market break, however, that liquidity disappears at a rate geometrically larger than liquidity in the lower leveraged stock market.

In view of this observation by the SEC how is it that the administration task force headed by Secretary Gould shows such a disregard of the volatility consequences on the equity market caused by the super low margins on the commodities futures markets? The Gould task force argues that this is because the prime purpose of margin requirements is to assure the safety of stock market transactions and safeguard against the inability to meet credit requirements. It is true that the futures margin is simply a performance bond. It does not include an extension of credit. Futures positions are marked to the market daily. All margin calls are usually required to be paid the same day. So there is not a serious credit safety problem.

There is, however, a very big volatility problem. The administration task force denies this. Obviously, the investors do see volatility as such a serious problem that they are staying out of the market in droves. The real catastrophe is that the administration refuses to recognize the devastating effect of this extraordinary stock market volatility on the prime market function: The raising of equity for American business.

CORPORATE RAIDERS

Mr. PROXMIRE. Mr. President, a corporation is one of the most important constituents of a State. They provide jobs, tax revenue, charity, and general dynamism. Naturally, State governments must be concerned about the health of their corporate citizens.

And naturally, many are alarmed by the destruction wrought by corporate raiders.

I ask unanimous consent that editorials from the Lansing State Journal, Cumberland News, Baltimore Evening Sun, Kansas City Star, the Cincinnati Post, the Cincinnati Enquirer, and the Richmond Business Journal be printed in the Record.

These are powerful arguments.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Cincinnati Enquirer, Aug. 26, 1987]

Congress To Begin Overdue Look at Hostile Corporate Raiders

If rank-and-file Americans are puzzled by the hostile takeover attempts that have become a veritable epidemic in U.S. business, a group of political, academic and business leaders has been stirred to action. The result has been the creation of the Coalition to Stop the Raid on America!, with an agenda for both state and federal legislative action. It is an agenda that deserves the attention its authors seek.

Typical of the takeovers that alarm the coalition was business adventurer T. Boone Pickens' effort to acquire the Phillips Petroleum Co., headquartered in Bartlesville, Okla. The effort ultimately failed, but to ward off what they feared would lead to the company's exploitation, Phillips' managers bought back almost half of its outstanding stock at premium prices. The buyback meant a sizable company debt, whose retirement required the elimination of 2,500 jobs, 10% of the Phillips work force.

Small wonder that Bartlesville's mayor, Arch Robbins, has joined the coalition, which is headed by Moon Landrieu, former mayor of New Orleans and secretary of housing and urban development in the Carter administration. Further results of the Pickens assault on Phillips, Mayor Robbins says, was a sharp reduction in Bartlesville's tax income, which dictated a reduction of municipal services, from which the entire community suffered.

Mr. Landrieu argues that legislation is needed to keep the American market free and competitive. "Raiders," he says, "who use abusive tactics to manipulate markets must be held accountable by reforms at the state and federal level."

Earlier this month, Cincinnati's Rep. Thomas A. Luken was chairman of a House hearing that delved into the economic and social consequences of manipulative raids on U.S. corporations. The full Congress next month will take a look at several legislative items that could make corporate adventurism more difficult.

A major part of the coalition's focus, however, will be on state legislatures. The U.S. Supreme Court earlier this year upheld an Indiana statute aimed at protecting Hoosier corporations from hostile takeover attempts. Given the traditional role of the states in governing the corporations they have chartered, Mr. Landrieu insists that even federal legislation should acknowledge the states' primary regulatory role.

At a time when the nation still needs all the private risk capital it can muster, many Americans continue to be distributed by the volume of money siphoned off by illegitimate raiders. Such raiders seek not to preserve failing companies or to fund new enterprise, but to enrich themselves at frequently devastating costs to solid corporations, their stockholders, their employees and their communities.

The concern is valid; action is necessary.

[From the Cincinnati Post, Oct. 28, 1987]

Fighting Corporate Raiders

An unusual alliance of politicians and businessmen is fighting to block legislation that would limit states' power to thwart hostile takeovers of companies. The likes of Ohio Gov. Richard Celeste and Procter & Gamble chairman John Smale may find help for their worthy cause from an even more unsuspected quarter: from the chaotic stock market.

Wall Street helped fuel the takeover mania. But the stock market has shown that artificial paper profits are unreliable. That ought to drive home the importance of real profits—those rooted in sound business practices and increased productivity. Those are just the kind of profits that are threatened by corporate raiders.

Companies forced to spend huge sums defending themselves against raiders have less to invest in their own long-term health. As Chrysler chairman Lee Iacocca told it to the National Governors Association in July, "My biggest supplier, Goodyear, escaped by the skin of their teeth by taking on $2.6 billion in needless debt, and an Englishman named Goldsmith walked off with a cool $94 million in greenmail profit. . . . All that money moving around and not a dime of it made the company or the country one bit more competitive."

The plight of Goodyear, based in Akron, prompted the Ohio General Assembly to pass S.B. 50 early this year, giving companies tools with which to protect themselves. It's a move nearly 40 states have taken by now. In April, Indiana's statute was held constitutional by the Supreme Court.

The new threat, however, comes from Congress. A bill before a subcommittee of the House Energy and Commerce Committee would take away states' right to pass anti-takeover legislation—even though the states, not the federal government, have chartered corporations for 200 years.

Cincinnati Democrat Thomas Luken is a member of that committee and strongly opposes its limitation on the states. Fortunately, his aides say the stock market's recent turbulence seems likely to slow the progress of the bill.

Certainly, Wall Street's roller-coaster ride should give pause to those who would protect the speculators. According to Moon Landrieu, former mayor of New Orleans and a leader in the fight against corporate raiding, "In 1986, for the first time in our history more money was spent in acquisitions and takeovers than in investment in plant and equipment. We spent $177 billion trading paper and only $144 billion investing in the future."

That is not the way to build a sound economy. States that want to erect barriers to greenmail should, of course, retain the right.

[From the Kansas City Star, Aug. 28, 1987]

KC Southern Is Too Good to Lose

Kansas City does not have a lot of successful, homegrown corporations. This fact heightens the level of anxiety that now swirls around the future of Kansas City Southern Industries and its employees.

The company is a takeover target for some New York real estate developers. At this point, it is difficult to see what advantages, if any, a buyout would have for Kansas City, KCSI or its workers. It's not hard to imagine a whole mess of disadvantages.

Kansas City Southern has established solid roots in the community as an employer, as a patron of cultural and recreational efforts and, in short, as a good citizen. The company has bought, sold and merged with other firms in years gone by. Perhaps the most notable currently is DST Systems Inc., a profitable data processor for the mutual fund industry. The company and its affiliates employ 2,000 people locally. It is a Downtown fixture.

Add in 500 workers of Kansas City Southern's railroad operation, and it's obvious a large number of area families could be affected. The climate is not a positive one for employees who, in the worst case, might have to uproot and move to another town—or even lose their jobs.

Proponents of takeovers in general dismiss these concerns as short-run in nature. What is best in the long pull is obtaining the maximum yield for stockholders, they argue, and getting top corporate officers to discard the old ways and strive for maximum profits. Sometimes.

But Kansas City Southern already has a reputation as an inventive company. It has expanded into fast-growing fields in recent years, such as mutual funds and fiber optics. The moves indicate it has a knack for knowing how to make a dollar.

Despite even these facts, a takeover might make sense if the potential New York buyers had laid out a well-designed plan to improve KCSI. Or had vowed to keep the operation as is, providing stronger financial backing for further ventures. The New York developers have done neither.

A lot is at stage here. Yet it appears little can be done to help Kansas City Southern through these trying times. The city can't afford to dole out taxpayers' money to keep the firm here. Individuals who buy a few shares of KCSI stock are making little more than a symbolic gesture, considering that investors buy their shares a hundred thousand or more at a time. Maybe the City Council could at least offer up a prayer.

Takeovers aimed solely at grabbing immediate yields at the expense of long-time growth haven't always helped the economic future of this country. If the company changes hands, and if jobs should be lost and lives disrupted, the Kansas City region would receive a terrible wound. It would be damaging far beyond failing to get something not here now.

[From the Lansing State Journal, Oct. 13, 1987]

A CHARADE: CORPORATE RAIDERS CAN'T CONTINUE UNCHECKED

Something needs to be done about controlling raiders. If it isn't, the entire U.S. economy is in jeopardy.

If you doubt the magnitude of the matter, consider:

Takeover-threatened American corporations spent $263 billion last year to buy their own stock as a defensive measure—more than twice the amount of the previous year and five times the expenditure in 1982. Such adventures have driven some of them well toward, or into, bankruptcy.

The $177 billion invested in other takeover games last year was more than the entire amount spent for improvements in plants and equipment.

It's estimated that 800,000 jobs have been lost as a direct result of takeover activity in recent years.

Those figures and more were part of a Jack Anderson column on Saturday's editorial page. They demonstrate dramatically the danger of this avaricious manipulation to American business, its stock markets and its total economy.

The simple fact is that most of the takeover attempts do not have takeover as their goal. The idea of the takeover barracudas is to acquire a significant amount of stock and then announce an intent to acquire the company. The price of the target company's stock is forced up and the manipulators sell at a substantial profit. The companies and their legitimate stockholders are left to salvage the pieces.

Legislative incursion into our free enterprise system presents perils of its own, but it's needed in this area before the takeover games get even farther out of hand.

[From the Cumberland News, Sept. 28, 1987]

AREA RESIDENTS JOIN COALITION TO 'STOP RAID'

Area residents Clayton C. Oster and the Rev. Kristina Joy Peterson are members of the national steering committee for the coalition to Stop the Raid on America.

The committee wants Congress to pass legislation to prevent hostile takeover attempts such as that faced by the Goodyear Tire & Rubber Company last fall.

Goodyear has blamed Sir James Goldsmith's attempted hostile takeover as the reason it closed its Kelly-Springfield Tire Company's bias ply tire plant at Cumberland.

Oster, the president of United Rubber Workers Local 26, questions that argument but believes hostile takeovers cause companies to take otherwise unnecessary action to stop the action and cost cutting often means closing plants.

Last April, Oster testified before the Senate Finance Committee about what happens when corporate raiders attempt a takeover.

Oster testified that Cumberland was expected to face a $175 million loss while Goldsmith made a $94 million profit for this unsuccessful takeover attempt.

The Rev. Petersen is executive director of the Interfaith Consortium.

She said something must be done to stop hostile takeovers because of "concern of what happens to the people."

The religious community has been an advocate for human rights, housing and civil rights as well as prompting a healthy economy, she said.

"The sanctity of the community is at stake. Takeovers destroy the fabric of a community and leave unemployment. We need to be proactive rather than reactive; it's not we against them attitude, we want to see everybody win," she said.

Peterson quoted a Business Roundtable newsletter which said at least $177 billion was spent last year to cause or fight hostile takeovers or mergers.

"My concern is that money is not going into production or technology . . . and that will become more of a handicap to competition and the foreign market."

The Stop the Raid coalition's national co-chairman is Moon Landrieu, former secretary of the U.S. Department of Housing and Urban Development and two-time mayor of New Orleans.

He wants Congress to pass legislation which does not strip the states of the right to file law suits and otherwise get involved in takeovers to protect citizens.

Some bills have already been introduced to give the U.S. Securities and Exchange Commission sole authority by effectively blocking state involvement.

"The SEC's record has been pretty dismal in this regard. Their attitude has often been, Let the games continue," Landrieu said.

Peterson said this is in part a state's rights issue.

Oster said he too is not happy with the prospects of the SEC and not states having jurisdiction.

"I don't have a lot of faith in the SEC," he said, explaining that when he and a union attorney looked for information at the SEC, some of the information was missing from files which cannot leave the commission's Washington office.

"I think the states should have some control too. I'm adamant about that.

"Thousands and thousands of people have lost jobs. As long as raids on companies continue, companies will restructure more deeply than they need to. In our case Goldsmith became an excuse. They couldn't blame the closing on the union because we went with them to help to get better vendor rates and to help them be more cost competitive," Oster said.

"We're trying to move on but not forget the past. But in a takeover situation, the worker is damned no matter what happens," he said.

Landrieu wants to "open up the process" of a takeover by eliminating the current 10-day time limit before raiders must tell the SEC about their acquisition of five percent of a company's stock.

Landrieu wants the so-called notification window slashed to 24 hours when 2.5 to 3 percent, instead of five percent, of the stock is acquired.

He also wants the tender offer extended from 20 days to 30 business days to give stockholders time to react to unwanted takeovers.

The coalition further wants Congress to toughen up penalties for collusive practices.

[From the Evening Sun, Sept. 21, 1987]

MONEY BIRDS OF PREY

Don't try to defend corporate raiders to the jobless in Cumberland, Md., or Bartlesville, Okla., or Greensboro, N.C. Those are just a few of the cities economically wrecked by the financial machinations of some remote and indifferent tycoon.

Cumberland is the example that Marylanders know best. Its major industry was the Kelly-Springfield Tire Co., which was a subsidiary of Goodyear Tire & Rubber. In 1986 a British investor, Sir James Goldsmith, announced his intention to take over Goodyear by buying up its stock. In order to defend itself, Goodyear had to buy back its own stock from Goldsmith at a premium price, at a cost of millions of dollars. To offset this loss, Goodyear closed down Kelly-Springfield. Goldsmith, meanwhile, made millions from doing, in effect, nothing—except to leave a trail of human and economic misery in Cumberland.

Corporate raiding has become a mania in the United States, and no wonder. The raiders often don't even have to use their own money. They persuade one of the fat investment houses to lend it to them, using the target company as collateral. If they succeed in the takeover bid, they can sell company assets to pay off their debts. But they can lose, like Goldsmith, and still profit by the "greenmail" tactic—refusing to withdraw their threat until company pays off by buying back its stock at inflated prices.

Corporate raiding has its defenders, including an organization called United Shareholders Association (USA) headed by the king of raiders, T. Boone Pickens Jr. Raiders argue that takeover pressure forces slipshod managements to shape up and become efficient and that this, in the long run, is to the benefit of the shareholders and the economy. Their case is suspect, since threatened corporations spend millions, not for new products or new jobs, but to line the pockets of the raiders.

Most Americans are convinced that many corporate raiders are greedy birds of prey without morality or compassion. An organization called The Coalition to Stop the Raid on America has a lengthy program of proposed legislation to stem the more repugnant aspects of raiding. For example, it would curb the ability of raiders to buy stock secretly. It would force them to return to the company any profits made through "Greenmail" tactics. And it would allow states to set their own rules to control raiding within their jurisdiction.

Most important, the coalition recognizes raiding as a clear and present danger to which Congress and the states must react with dispatch.

[From the Richmond Business Journal, Sept. 14-20, 1987]

RAIDING PARTY

Debate coming up later this month in the U.S. House of Representatives has united such unlikely bedfellows as James River Corporation of Virginia Inc. and Moon Landrieu, former mayor of New Orleans.

One of their adversaries appears to be Congressman Tom Bliley.

The issue: Should the federal government pre-empt the rights of states to regulate corporate affairs.

The spate of corporate takeovers has spurred to counter-revolution of sorts at the state level. More than half of the nation's state legislatures have acted already, revising their corporation laws to set up a series of roadblocks in the path of corporate raiders, those who buy into a company without intending to take control and run the operation.

Corporate takeovers are governed in part by the Williams Act, an almost 30-year-old federal law which sets 20 days as a minimum time to hold a tender offer open. Other laws govern when takeover artists must disclose to the public that they've taken a position in a company.

Several bills are before the House, and one before the U.S. Senate, that would substantially impare raiders to conduct "business-as-usual."

The hostile corporate takeover scenerio now is common. A radier buys stock in a company that is undervalued by the market. The investor buys in, bids up the price, and sells the stock—often back to the company which is trying to avoid being acquired.

The problem, of course, is the economic reality behind corporate raids.

Greenmail costs the target company money. The short-term effect can be employee layoffs. Often it involves saddling the firm with a burdensome debt.

State legislatures, not unaware of the damage a hostile offer can cause, have tinkered with a variety of methods to stop the takeover artists. Indiana's lawmakers passed legislation which, in part, dilutes the voting rights of raiders who accumulate more than 20 percent of a company's stock—at least until such time that all disinterested shareholders have a right to vote on the takeover proposal.

That law received U.S. Supreme Court imprimatur this summer. In *CTS Corp* v. *Dynamics Corporation of America et. al.*, the court found that Indiana's statute wasn't pre-empted by the Williams Act. In essence, the court was following the advice of Justice Louis Brandeis, who early this century described state legislatures as "laboratories" for experiments.

Companies always can choose to change their state of incorporation. Investors can choose the stocks they buy based on the degree of company anti-takeover measures.

But now the House has several bills before it, all of which would overrule the *CTS* holding. The legislation would create "federal corporate law." and for the first time abridge the states' right to regulate companies formed in their jurisdictions. Congressman Bliley is a cosponsor of one of the bills.

James River doesn't like it. Neither do we.

But, as lawyers like to say, our argument is procedural—not substantive. Whether tender offers ought to be voted on by all shareholders. whether the tender-offer period should be extended from 20 days to 50 days, are not fundamental questions.

The fundamental question is: Who should make the laws. In *CTS* the court reaffirmed states' role in corporate governance. Every state has a right to pass unwise, even stupid, laws.

We know of no compelling reason to unsurp a state legislature's right to regulate companies that chose to avail themselves of that state's laws.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Mississippi [Mr. COCHRAN].

JOHN C. STENNIS SPACE CENTER

Mr. COCHRAN. Mr. President, I am pleased that, on Friday, May 20, President Reagan signed an Executive order designating the National Space Technology Laboratories in Hancock County, MS, the John C. Stennis Space Center.

I introduced legislation in the Senate to rename the NSTL facility in honor of Senator STENNIS, who has been very instrumental in the development and support of our Nation's space programs.

In 1961, Hancock County was the site selected to be the testing ground for the first two stages of the Saturn V rocket for the Apollo Manned Lunar Landing Program. The program began with a static test firing on April 23, 1966, and continued into the early 1970's.

In June 1975, the first test of a space shuttle main engine was conducted at the facility. The main engine test program is expected to continue into the 1990's and beyond, supporting shuttle missions and the planned space station.

Today, the facility is one of eight NASA field installations dedicated to maintaining the United States as a leader in space exploration. In addition to rocket testing, it has become the home of 18 Federal and State agencies involved in research in the Earth sciences, oceanography, data system, and sensor development technologies.

Senator STENNIS has played a major role in the establishment and support of this NASA facility, as chairman of the Senate Armed Services Committee and as chairman of the Senate Appropriations Committee.

For his continuing contributions to the State of Mississippi and the Nation's space program, this tribute to Senator STENNIS is one that is most deserved.

I thank the Chair, and I yield the floor.

Mr. SHELBY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

DEFENSE AUTHORIZATION BILL

Mr. SHELBY. Mr. President, I want to briefly express my concerns about the delays in completing action on the defense authorization bill which we had on the floor several days back.

I am a supporter of the death penalty and voted against tabling the D'Amato amendment. However, I am concerned that this issue is now prolonging completion of the defense bill which has a number of time urgent provisions.

As I understand it, the Senator from Michigan, Senator LEVIN, and others, have offered the Senator from New York a unanimous-consent agreement that would provide for the D'Amato amendment to be a freestanding bill with a vote certain and only limited amendments therein. Under this arrangement, the Senate would be able to act on and pass a death penalty measure. I support this approach.

However, I further understand from the floor colloquy last week that the Senator from New York, Senator D'AMATO, has rejected this approach. According to his floor statement, he wants a commitment from the House leadership that the House will also pass a freestanding measure.

As a former Member of the House, I can state that it is unreasonable and unrealistic to think that the House could or should make such a commitment. That is why we have two separate and distinct bodies and that is why each body moves its own bill.

Again, I am a supporter of the death penalty and the D'Amato amendment, but what the Senator has done now is tie Senate action on the defense bill to what the House does or does not commit to.

I do not think this is appropriate, particularly considering the unanimous-consent offer of a freestanding measure with a vote certain.

I am particularly concerned about the effect of this continuing delay as it relates to the transfer provision in the Senate defense bill. This provision gives the Secretary of Defense the authority to transfer money from existing accounts to pay certain "must pay" bills. These must pay bills include CHAMPUS payments to military families and retirees for medical care and for civilian pay. The Department is facing furloughs and layoffs at many Defense bases if this transfer provision is not enacted. Since the House has a similar provision in their bill already passed, action on this important provision could be swift and certain. Therefore, as a supporter of the D'Amato amendment I would urge my colleague from New York to reconsider his rejection of a freestanding bill and his holding of the defense bill hostage to House action. Let us get on with passing the defense bill.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas, the Republican leader.

EXPEDITIOUS ACTION ON THE INF TREATY

Mr. DOLE. Mr. President, as I indicated earlier to the press people, I hope we can move more expeditiously on the INF Treaty. As I said last week, if there are amendments to be offered, that is fine. Let us offer them and have a vote and move on to the next amendment. I do know that Senator HUMPHREY will have an amendment about 12 noon, Senator WALLOP will have an amendment about 1:30, and I think Senator HELMS indicated he might be willing to offer an amendment this morning shortly after we take up the treaty. So I think we are moving in the right direction.

Everybody, of course, has a right to offer their amendments and we need to complete these amendments because I am still convinced that it would be an embarrassment to the President of the United States to sit down with Mr. Gorbachev later this week with the Senate not having taken action in consenting to ratify the treaty.

My point is that while we spent Tuesday, Wednesday, Thursday, and Friday—today is Monday—on these amendments, we need to move on to the resolution of ratification because we have some serious issues which, in some cases, may take several hours and maybe a day or two. So it is one thing to eat up 5 or 6 days in the preliminaries, but when we get down to the crunch, we are talking about 3 or 4 days and then I hope the Senate could complete its action.

I share the hope of the distinguished majority leader, Senator BYRD, who has indicated many, many times that he wants to see us complete action. Right now the ball is in our court, the Republican court. Republicans are the ones who are in effect saying, "Well, we are not certain we want to do this for our President." That is fine. If that is what the stated purpose is, let us just state it and then everybody will understand it. But I really hope that we can come together and move more quickly on the treaty and consent to ratification maybe by Thursday night.

WHAT TO DO ABOUT GENERAL NORIEGA

Mr. DOLE. Mr. President, the administration is struggling with what to do with General Noriega. I know they have received about all the free advice they need, but having traveled a bit this weekend to Vermont, Mississippi, and North Carolina, I would say Noriega is about as popular with the American people as the Ayatollah. It is going to be very difficult to explain to the average American, to the mother, the father, the grandparents, the judge, the prosecutor, social workers, how you can dismiss indictments on General Noriega and still indicate to the American people that we are pursuing a war on drugs.

I agree, there are some in this administration who say, "Well, you are never going to prosecute him anyway; it is merely symbolic."

Well, symbolism sometimes becomes quite important. I hope that there could be some other way to take care of General Noriega, get him out of Panama, without dismissing the Federal drug indictments that have been handed down. I urge the administration to find some other course of action because the American people, whether they are in the North or South, feel strongly about drugs, the elimination of drugs and drug trafficking, and therefore strongly about General Noriega. Ten years ago on this Senate floor Noriega's name was mentioned in relationship to drugs in the Panama Canal Treaty debate specifically by Senator HELMS, of North Carolina, and I think this Senator at least mentioned Noriega's name along with General Torrijos and his brother and drug trafficking.

So I hope that the administration will continue to try to work out some arrangement to return Panama to democracy, to eliminate the oppressive rule of General Noriega but to do it in some way without sending the wrong signal to Americans by the millions who are coping with drug problems and concerned about drug problems, concerned about drug problems and the impact on their children and their communities. I think dismissing the documents would be a grave mistake any way you look at it, from a law enforcement standpoint, from a political standpoint, whatever it may be.

BICENTENNIAL MINUTE

MAY 22, 1856: CHARLES SUMNER BEATEN IN SENATE CHAMBER

Mr. DOLE. Mr. President, it was 132 years ago yesterday, on May 22, 1856, that Massachusetts' Senator Charles Sumner was brutally beaten while seated at his desk in the Senate Chamber. This dramatic event in the Senate's history stands as a symbol of the terrible tensions that existed in the United States during the decade before the Civil War.

An outspoken opponent of slavery, Sumner had delivered a heated address on the "crime against Kansas," denouncing efforts of pro-slavery forces to inject slavery into the Kansas Territory. One of the victims of Sumner's tongue lashing was South Carolina's aging Senator Andrew Butler. Deeply offended by Sumner's remarks, Senator Butler's nephew, South Carolina Representative Preston Brooks, determined to avenge his family's honor.

Waiting until after the Senate had adjourned, Brooks approached the Senator at his desk, where he was franking copies of the offending speech. Calling the speech "a libel on South Carolina, and Mr. Butler, who is a relative of mine," Brooks lifted his cane and brought it down upon Sumner's head, neck, and shoulders, over and over, harder and harder, until the cane shattered into pieces. Seeking to escape his assailant, Sumner tried to rise from his desk, ripping up the heavy screws that bolted it to the floor. Blinded by blood, he staggered down the center aisle of the Senate Chamber.

This incident ended within a minute, but its repercussions were felt for years. The South made a hero out of Preston Brooks, while the North rallied behind Sumner as a martyr. Censure efforts against Brooks failed in the House, but the young Congressman died shortly thereafter. Sumner absented himself from the Senate for 3 years. His supporters said he was recuperating, his opponents said he was afraid to come back, but his empty chair remained a visible reminder of the Nation's sectional division.

SOVIET ARMENIA

Mr. WILSON. Mr. President, the situation in Soviet Armenia is of deep concern to many in this body. The continuing denial of basic human rights to the people of Armenia by the Soviet Government is an outrage. This fact has been made particularly apparent by the recent arrest and detention of Paruir Hairikian for allegedly "slandering" the state.

Only with strength and persistence can we assure that the legitimate rights of Paruir Hairikian and all the Armenian people are represented by the Soviet Government.

I ask unanimous consent that the attached letter to President Reagan appear in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

U.S. SENATE,
Washington, DC, April 20, 1988.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to request that you enthusiastically defend the aspirations of the Armenian people in your upcoming summit meeting with Soviet leader Mikhail Gorbachev.

During the week of January 11, 1988, the Soviet government received a petition signed by 90,000 of the 170,000 residents of Nagorno-Karabakh, an autonomous region of the Azerbaijan Republic, asking for the unification of their community with Soviet Armenia.

The Soviets reacted to this initiative by ignoring the petition, suppressing media reports, and deploying Red Army troops to the Nagorno-Karabakh capital of Stepanakert.

Moreover, the Gorbachev regime demonstrated its cavalier attitude towards the Nagorno-Karabakh petition by ignoring its central purpose and responding only with a promise to allow more coverage of Armenian community events on Azerbaijani television.

These actions, Mr. President, demonstrate once again that the doctrine of "glasnost" will not restrain Soviet authorities from using armed force if they perceive a challenge to the stability of their empire.

But the people of Nagorno-Karabakh have demanded neither a separation from the Soviet Union nor even greater autonomy in relation to the central government. They only seek re-unification with their ethnic cousins who live a mere ten miles away from the region.

In addition, although Armenians comprise more than 80 percent of the population of Nagorno-Karabakh, successive Azerbaijani rulers have implemented policies designed to drive the Armenian people out of the area. They have also done little to encourage the economic development of Nagorno-Karabakh and have not taken any significant steps to relieve the tension between the predominantly Christian Armenians and the Moslem Azerbaijanis.

I encourage you, therefore, to make every effort to convince General Secretary Gorbachev that all Soviet Armenians deserve a cohesive and peaceful community for themselves as well as their children. A united Armenia would pose no threat to Mr. Gorbachev or the Communist Party. It would simply bring generations and families of a proud yet persecuted culture back together in their one homeland.

Thank you for your consideration in this matter.

Sincerely,

Pete Wilson.

JAPANESE-UNITED STATES RELATIONS

Mr. STEVENS. Mr. President, over the last several weeks, I have taken the floor of the Senate to address the current status of Japanese-United States relations and to bring to the attention of my colleagues what I feel are some of the most important issues facing Japanese and United States policymakers today. During those remarks, I have pointed out to the Senate that the most daunting task facing Members of Congress will be to develop a thorough understanding of exactly how domestic and international policy is made in Japan.

When most Americans think of contemporary Japan, they think of a dynamic Western-style parliamentary democracy which has developed a strong export-oriented economy. While the latter part of that description is very accurate, the premise is less than true. Japan is, in reality, a multiparty state, but one in which only a single political party is capable of forming a government, the Liberal Democratic Party. As I have pointed out previously, the majority which the LDP enjoys in the Diet is of such size and has been maintained for such a long and uninterrupted period of time that, for all intents and purposes, the LDP has no effective opposition within the Diet.

As a result, Mr. President, the LDP need not discuss or debate policy formulation within the Diet. In fact, the Diet does not function as an elected congress, as one might ordinarily expect. The reality is that the Diet acts more as an after-the-fact ratifier of LDP policy decisions which were previously made outside the Diet, within the party structure of the LDP. This is not just my conclusion, Mr. President. The role of the LDP within the Diet was most recently explained by a member of the Diet, Mr. Koichi Kato, in a column entitled "Making Internationalists Out of Domestic Politicians" which appeared in the Wall Street Journal on May 16, 1988, and which I placed in the Congressional Record on that day. That article pointed out that in the last 30 years, only two substantive policy decisions have been made by a majority of the members of the lower house of the Diet.

In preparing research for this series of floor statements, I recently came upon testimony offered before the Joint Economic Committee in December 1986 by Prof. Nathaniel Thayer, director of the Reischauer Center at the School for Advanced International Studies of the Johns Hopkins University. To say the least, the testimony of Professor Thayer was both enlightening and riveting. From that testimony one learns that Japanese policy is not made by the Diet, nor is it made by the LDP. In fact, a committee of the LDP, the Policy Affairs Research Council has nearly exclusive responsibility for translating the policy formulations of government and party bureaucrats into law. So influential is the PARC, that the chairmanship is considered one of the four most important party positions within the LDP.

The PARC is subdivided into an executive committee, which sends its policy recommendations directly to the executive council of the party, and 17 sections, which correspond to the ministries and the standing committees of the upper and lower house of the Diet. In the early days of the PARC, going back to the decade of the 1950's, the council was a stronghold for ex-party officials within the LDP and served to allow those individuals to continue to supervise the ministries from which they had recently retired. In subsequent years, the PARC has moved away from its earlier predisposition of ratifying policy decisions made by the various ministries, such ratification coming without the benefit of analysis or study of those decisions. In fact, during the 1970's, the PARC became the very focus of specific and substantive policy deliberations for the Japanese Government. It remains so today. As a result, the influence of the PARC is such that domestic political commentators in Japan often describe the PARC and its sections as a "second government." So powerful is the PARC that while it may instruct members of the LDP on matters of policy, LDP members do not instruct the PARC. In fact, over the last 20 years, a general rule has developed that legislation cannot be introduced in the Diet by a member without his first securing the approval of the head of the relevant PARC section.

However, the role of the PARC must not be seen as operating within a vacuum. In looking at the PARC, one must remember that the individual members of the PARC are LDP members and, very often, current members of the Diet. A young LDP member who has been recently elected to the Diet will want to develop a particular policy expertise. One path toward the development of that expertise is to serve in one of the sections of the PARC. Such service must be approved by LDP headquarters and, once approved, a Diet member may serve on as many as three sections of the PARC, one of which must be concurrent with that member's Diet committee assignment. As a general rule, a Diet member will normally serve on one PARC section for about 6 years, developing, as his tenure grows, a substantial amount of policy expertise in a particular subject matter, and, equally important, a personal relationship with those influential government officials who share policy responsibility in that area.

As one might expect, some sections of the PARC are more sought after than are others. Those which enjoy the most popularity are the sections which can offer some tangible benefit to the member, often with respect to this next election to the Diet. Included in this list would be the sections on commerce and industry, communications, science and technology, education, defense, and law. Service in one of these sections will give the member a relatively high profile and will provide a specific benefit to that member's constituents back home. Selection of a particular PARC section appears to be not unlike selection of a committee assignment by a Member of Congress.

Mr. President, the complex world of the Japanese legislative process is both difficult to explain and to understand. The interrelationships between the Diet, the Liberal Democratic Party, and its PARC Committee define the very essence of policy formulation in modern Japan. In researching the role of the PARC, I came upon a graphic representation of the Japanese legislative process which was incorporated in a September 1986 working paper—No. 21—presented to the Berkeley Roundtable on the International Economy, University of California at Berkeley, by Mr. Chalmers Johnson. The chart shows how a legislative policy proposal works its way from origination in a particular ministry, through a particular PARC section, to the executive committee of the PARC, to the Executive Counsel of the Liberal Democratic Party, on to the LDP Diet Policy Committee and finally to the Diet itself. Although this process is very complex, it can be understood and examined in detail with the aid of an expert, such as Chalmers Johnson. In fact, I commend Mr. Johnson's paper—"MITI, MPT, and the Telecom Wars: How Japan Makes Policy for High Technology"—to my colleagues for an indepth discussion of policy formulation in Japan and the hazards faced by Americans who seek to understand and influence the development of Japanese policy making.

We can learn a great deal about Japanese politics and policy formulation, Mr. President, as we seek to understand this most difficult subject. My research, including the paper of Chalmers Johnson and the public testimony of Prof. Nathaniel Thayer, leads me to believe that there are at least two basic rules which all of us must follow if we are to be successful in influencing Japanese policymaking: First, we must learn more about the inner workings of the PARC and of the various ministries which are responsive to the PARC, including jurisdictional limitations and something of the history and background which influences that particular ministry, and second, we must establish a thorough understanding of the role of the LDP within the Diet. Without following these rules, our efforts to understand the many problems which confront us with respect to Japanese policymaking in the defense and trade areas will be fruitless.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

EXECUTIVE SESSION—TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE ELIMINATION OF THEIR INTERMEDIATE-RANGE AND SHORTER-RANGE MISSILES (THE INF TREATY)

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now go into executive session to resume consideration of Executive Calendar Order No. 9, which the clerk will now report.

The bill clerk read as follows:

Treaty Document 100-11, treaty between the United States of America and the Union of Soviet Socialist Republics on the elimination of their intermediate-range and shorter-range missiles.

The Senate resumed consideration of the treaty.

Pending: Helms amendment No. 2112, to make technical corrections in section II of the memorandum of understanding.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

AMENDMENT NO. 2112

Mr. HELMS. I thank the Chair.

Mr. President, I presume that the distinguished Senator from Indiana is on his way here. When we parted Friday, there was an understanding that consideration would be given to five technical amendments which I offered early Friday afternoon and then withdrew because of a curious set of circumstances. When I presented the copies of the five amendments to the managers on both sides, or to the staffs thereof, the first indication was that there would be no problem because each of the amendments related to gross technical errors in the treaty.

I simply took the position that I could not believe that the U.S. Senate would deliberately and premeditatedly approve and ratify a treaty which was acknowledged to be flawed even by the United States Department of State.

So I offered the amendments, and then the circumstance developed whereby aides rushed in with a sheet of paper and gave it to the managers, and their verdict was that they could not accept the amendments. So I withdrew them.

Then later in the afternoon, as the Chair may recall, I offered the first of the five technical amendments again, and that is the pending business.

So, on the hunch that Senator LUGAR may be willing to reach some sort of accommodation on it, since he is not here as yet, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be permitted to speak for 12 minutes as if in legislative session or in morning business.

Mr. BYRD. Why does the Senator not ask unanimous consent that he speak as if in legislative session and out of order.

Mr. LEAHY. Mr. President, I make that request and thank the majority leader.

The ACTING PRESIDENT pro tempore. Is there objection to the request? Hearing none, it is so ordered.

THE ADMINISTRATION'S PROBLEM IN PANAMA

Mr. LEAHY. Mr. President, there has been a great deal of discussion during the past few days on the matters presently before us on the INF Treaty. I would like very much, of course, for President Reagan to be able to have the treaty ratified before he goes to Moscow.

But, Mr. President, that is not what I wish to speak about today. I am concerned, that the administration is still trying to make a deal with General Noriega.

I must ask, Mr. President, and I hope all Senators would ask, if one of the reasons we are having so much trouble with General Noriega is because key figures in the administration have, for years, paid General Noriega huge sums of money, if press accounts are accurate; that they have dealt with him because he helped them out with Contra activity, Contra activity that might not have passed muster here. And, in fact, the Drug Enforcement Agency, I am led to believe, has turned a blind eye to what General Noriega has done because of his support for this administration. That is the question we should ask.

Mr. President, I almost have to wonder if, at the White House, they have not received a cabled message from General Noriega saying: "Well, gentleman, I would like to go but I wonder if I can talk to my book publisher on the way out."

They have a worried brow when they hear him say, book publisher.

What might that be about, General Noriega?

And he would say, Well I would like to talk about the members of the Reagan administration who have dealt with me in the past. Those members of the administration who knew what I was doing in drug dealing.

Those members of the administration who knew what I was doing to subvert any kind of democracy in

Panama, but were willing to ignore it for two reasons: One, because I helped them with the Contras when they could not get the Congress to allow it, and two, because I would turn over some drug dealers to them, which certainly helped with statistics and headlines in the war against drugs.

I would suggest, Mr. President, that it is not just because the policy has been badly handled in dealing with General Noriega and Panama but that there may be another reason why, perhaps, all the pressure that might have been brought to bear has not been brought, and that is because too many people in the administration who have dealt with him are afraid of what he might say.

Mr. President, while I am on the subject of the Contras, I welcomed the signing of a ceasefire agreement 2 months ago. In accord with that agreement, Congress approved $34 million in genuine humanitarian aid, half for the Contras, half for children injured in the war, plus $10 million to monitor compliance. That legislation is very specific. The aid is to be delivered only through neutral organizations and administered consistent with the Sapoa ceasefire agreement. That means that the aid will only be delivered to Contras in ceasefire zones inside Nicaragua.

Many of us voted for that aid because we felt that if administered according to law, it would give the Contras incentive to negotiate a settlement while making clear to their leadership that there will be no more military assistance from the United States. But I am increasingly concerned that the law is not being followed.

The Agency for International Development has already started delivering aid directly to the Contras in Honduras, even though the law says it must be by neutral organizations to Contras gathered in ceasefire zones inside Nicaragua.

Already more than 300 tons of food and clothing have been delivered in Honduras. That clothing, incidentally, is military uniforms; 80,000 pounds of food have been airdropped by a company that until 3 months ago has been giving military aid to the Contras. Certainly not a neutral delivery system.

Aid has given the Contra leadership cash. Three hundred and thirty thousand dolars' a month has already been given to Contra families in Miami, Tegucigalpa, and Costa Rica. How is that consistent with the law? I do not think anybody here voted to give money to Contra fat-cats in Miami. That is not what was intended, but that is what has happened.

An additional undisclosed amount, reported in the press as much as $450,000 a month in cordobas, is being given to individual Contras in Nicaragua. How can we verify how that money is being spent?

Over and over we have seen this administration try to byass the law, even laws they negotiated with the Congress, even laws the administration gave lip service to when they passed the Congress. If it concerns with Central America, we have to assume that the law will be twisted or ignored. Black is not black, it might be white; 2 and 2 may well not equal four. That is what is happening here.

I think that is why we have the problem we are having with General Noriega. I think that is why we have the problems we have with Honduras, and now with other parts of Central America. The administration has been willing to ignore whatever might be the law, whatever might be the policy decisions made within their own administration, of the Congress. I deplore recent actions by the Nicaragua Government, to subvert dissent within their own country. It is not my purpose here to defend them. But the fact is the U.S. Government ought to abide by its own laws. It has become painfully clear that still is not happening in Central America.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VIETNAMESE MOTOR PUMPS DEMONSTRATE APPROPRIATE DEVELOPMENT TECHNOLOGY

Mr. PRESSLER. Mr. President, last month I spoke to our distinguished colleagues about a successful U.S. development project that occurred during the 1960's in Vietnam. The project involved distribution of about 500,000 small motor pumps in South Vietnam. During my April visit to Vietnam, I was amazed to see some of these old pumps still in operation and to learn they have been taken to other areas of Vietnam. They are used for irrigation.

I cited this as an example of a fairly modest, relatively low-cost development program working much better and producing longer lasting results than the more massive costly projects.

Recently, I received some additional information on the motor pump distribution program in Vietnam.

According to a letter sent to me by Barbara Crossette, a journalist with the New York Times who provides excellent coverage of Vietnam and other areas of Southeast Asia and who accompanied me during my April visit to Vietnam, the French word for Kohler has entered the Vietnamese language as a generic term for motor pumps.

She further reports that many of the pumps that were distributed in South Vietnam in the 1960's later were taken to the central highlands in North Vietnam following the fall of Saigon.

Indeed, the discovery that the word Kohler had been absorbed into the Vietnamese language came when she and her assistant, Mrs. Hao, were looking through some Vietnamese contemporary literature, some plays and short stories that had been written about the government and the intellectual ferment that is occurring in South Vietnam.

In some of the short stories, the word Kohler has come to mean a 2 or 3 horsepower waterpump used for both irrigation, for pumping water out of the well, and also for driving a sampan, a small Vietnamese boat.

Mr. President, all of this is testimony to the powerfulness of the small and seemingly insignificant. Indeed, the United States did carryout many grandiose projects in Vietnam. There were projects to build huge buildings and to start industries. There was a CORDS Program to revitalize the economy through massive injections of money and other things into the Vietnamese economy.

Strangely enough, a small economic development project remains visible there. I saw some of the Kohler pumps still working. I think there is a lesson in this as we try to help other countries: Sometimes small is beautiful. Sometimes the small economic development projects, a loan of $500 to a fisherman to improve his boat or a motor pump project or something of that sort, has a much longer term economic impact on a country than some of these grandiose projects, such as building an airport, or a paper mill or something of that sort which is abandoned later on or maybe competes with some of our own industries.

Mr. President, the livelihood of many Vietnamese was affected and is still being affected by the very small Kohler and other motor pumps. They still affect many lives in Vietnam. This is especially important to note in the context of the current food shortage in Vietnam.

In the words of the scholar, Ernest F. Schumacher, small is beautiful in terms of economic growth and development. Schumacher's landmark work, "Small Is Beautiful, Economics As If People Mattered", inspired many to consider more innovative development strategies that would fit more realistically with the actual conditions prevalent in most of the developing nations.

Instead of taking a high-technology capital-intensive approach to development, he argued that developmental strategies or programs should employ a labor-intensive intermediate technology approach. The basis of Schumacher's thesis was that developing nations, such as India, possessed little capital but a wealth of labor. Expensive and sophisticated high-technology short-cuts to development would not work in such situations. It is better, he wrote, to put into the hands of rural villagers, farmers, or peasants technology of a simpler kind that would have an immediate or lasting impact on their livelihood and well-being.

Since the publication of Schumacher's book in 1973, the trend toward smaller scale development projects has escalated rapidly. There is less emphasis today in U.S. development programs on the large projects, such as airports and steel plants, that seem to have predominated in the 1950's and early 1960's. This is a credit not only to Schumacher but also the thousands of dedicated development economists, theorists, and program administrators, as well as domestic groups and associations, such as Bread for the World, Results, and others.

The World Bank still emphasizes the large-scale projects, such as irrigation works, but even it has shifted many of its resources to projects that are of immediate benefit to the poorest of the poor in developing countries.

Mr. President, recently I had a chance to listen to former President Jimmy Carter who now has a foundation and is working on economic development in Africa. As I understand his project from a speech he gave recently, his group initiates relatively modest economic development projects. It helps people get started helping themselves. The result is not grandiose, but may be considered by some economic planners as small.

It makes a permanent economic development contribution to a country in Africa. I do not think we are paying enough attention to Africa, but I was heartened to hear of a former President of the United States working and focusing on these projects. I believe such efforts fall within Schumacher's small is beautiful thesis.

Mr. President, in conclusion, targeting smaller scale lower technology assistance to the poorest members of developed nations seems to work best and have the most permanent effect.

Assistance for big projects is needed, but in this era of budgetary restraint it might be preferable to emphasize smaller, more appropriate technology that offers desirable assistance at a more modest cost.

I yield the floor.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from North Carolina numbered 2112 is the pending question before the Senate at this time.

Mr. HELMS. I thank the Chair.

Mr. President, on Friday, I mentioned a number of times the intent and purpose of the pending amendment. If we could review the bidding, early Friday afternoon I offered this amendment along with four other technical corrections amendments which I offered to the managers of the bill to be considered en bloc. I did so because it did not occur to me there would be any question about the Senate preferring to act on a treaty that in statement of fact and statistics and figures would be as nearly correct as possible. I simply do not feel, speaking as one Senator, that the Senator should deliberately and knowingly propose to ratify a treaty that the Senate is aware and has been officially advised is massively incorrect in terms of the implications of the errors made by the negotiators at the State Department.

Now we have the anomaly that the State Department acknowledges that the figures on various weaponry are incorrect, and the State Department has submitted "corrections" to these figures, and now the State Department even proposes to correct the corrections, which may tell us something about the dangers of rushing pell-mell into a treaty meeting certain deadlines established by the stars or whatever.

Now, this Senator feels that we should not abdicate as Senators our constitutional responsibility to have the treaty correct and not rely upon and add to any precedent that may exist whereby the State Department and the Soviet Union can exchange notes or whatever to establish a new set of figures not contained in the treaty itself. It is just as simple as that.

So the pending amendment is intended merely to correct an officially acknowledged mistake in the text of the memorandum of understanding. As I said earlier, it is similar in nature to four other amendments I attempted to have adopted en bloc this past Friday because I could see no valid reason why the managers would not accept the amendments. And after all, these amendments are based upon Department of State corrections of clear errors. Everybody acknowledges that.

Now, I have thought there would be no controversy about the five amendments, of which the pending amendment is one and only one. I withdrew the five amendments. And I resubmitted the first of the five which is now the pending amendment.

As I say, I believe the managers are concerned about the fact that the State Department now wishes even to correct its corrections. But I will let Senators PELL and LUGAR speak to that question.

I would say that there are about 40 other errors which must be correct, 40 errors that I happen to know about at this time. There are probably far more than that. Again, I would emphasize that we have lost any exactitude in the consideration of this treaty because of the haste with which it was negotiated and signed by the President of the United States.

I hope we will understand the difficulties and the frustrations of the managers of the bill. But the work of the Senate, you see, Mr. President, is being held up by the State Department and its continuing inability to get its act together and do things correctly and to tell the Senate where the mistakes are and exactly what corrections must be made in the text.

Senator LUGAR was good enough to share with me earlier some information that he will shortly present for the RECORD. And I will not go into that.

But the point is that we call the pending amendment and the other four which I submitted Friday technical amendments. But in fact they are substantive amendments, and far more important in terms of their total implications than just mere technical amendments. For example, the pending amendment involves a counting error of no less than eight Pershing II missiles. Well, you say, well what is a Pershing II missile or two? What difference does it make? It makes a heck of a lot of difference because no one can claim that 400 kilotons of nuclear explosive power is just a small matter. 400 kilotons of nuclear explosive power—that is what is reflected in this one error—is equivalent to about 16 Hiroshimas.

So that is not a minor error. And I think the Senate under its constitutional authority, responsibility, and duty has an obligation to make this treaty as nearly accurate as may be possible. Certainly, we should not go into the business of proposing to ratify a treaty by tacking on some addendum provided by the State Department in terms of notes, and that sort of thing, exchanged with the Soviet Union, unless they are an integral part of the treaty.

So I am hopeful that the managers will yet accept the amendment. I do not hold any great hopes in that regard. But as I said, different strokes for different folks. I just happen to feel that we have a constitutional responsibility that does not include allowing a peripheral activity by the U.S. State Department to define the terms of what the final treaty as ratified, when ratified, and if ratified is supposed to mean. We are supposed to know what it means. We have a duty to find out if we do not know. And certainly, when we find out that the treaty is seriously, if not fatally, flawed we have a duty as I say to correct it.

I will suggest that it be made original text for the purpose of further amendment if there are more corrections. But before we get into that sort of legislative parliamentary procedures imposing discipline, I prefer to hear from the managers of the bill.

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the Senator for his lucid explanation of the situation that we found ourselves in on Friday, and we come back to the situation again today.

Mr. President, let me attempt to interpret the situation as I see it. The Senator from North Carolina offered on Friday five amendments that purported to be corrections to the text of the treaty. He in fact, as he has pointed out, withdrew those amendments and has submitted the first of them as an amendment No. 2112. And that is the pending business before the Senate.

As the distinguished Senator from North Carolina points out, that amendment would strike out the numerals 170, 170, and 175 under the column headed "U.S.A." and insert respectively in lieu thereof the numerals 178, 178, and 182, these being counts that the United States was taking of inventory.

Mr. President, let me state for the RECORD, and I did not understand this situation until the Senator rose, that by eliminating the other five amendments and reverting back to this one, we are dealing with this one. The Senator has pointed out it might be used as original text for other amendments of corrections that need to be made to the treaty. But I would point out, at least to my understanding, to the Senator from North Carolina, that, in fact, in this particular instance of this amendment 2112, the numerals 170, 170, and 175, which appear in the treaty are correct. We have examined the five amendments that the Senator offered on Friday. And as I gather it, the first and the third amendments on Friday were in fact correct in the treaty. Amendments 2, 4, and 5 required changes.

I mention this not to confound the Senator but simply to indicate that specifically with the amendment in front of us now it would obviously be a mistake to adopt the amendment because the treaty as it stands is correct.

Let me also make a point for the RECORD that if we had adopted this amendment on Friday, we would have made an error. We would have in fact amended the treaty and inserted incorrect figures. This Senator argued on Friday that consideration of this issue was premature, because in fact both the United States and the Soviet Union were in the process of attempting to exchange letters that to the very best of the negotiators' abilities on both sides finally bring all of the technical corrections into some agreement. And for the sake of the RECORD, Mr. President, I shall attempt to recite my understanding of what has occurred over the weekend.

Over this past weekend, United States and the Soviet representatives completed the exchanges of notes that are required to make the needed technical and typographical corrections in the INF protocols and the MOU, the memorandum of understanding.

One set of notes was exchanged in Vienna with respect to the site diagrams in the MOU; another set was exchanged in Moscow with respect to the protocols and the MOU data.

The texts of these notes—including unofficial translations of the Russian texts—have been cabled to the State Department, and the original texts of the notes are being hand-carried to Washington. The State Department is awaiting their arrival.

If Senators wish to review the content of these notes now, the State Department has prepared unofficial texts based on the cabled versions. (Copies attached.) However, the State Department points out that until the original texts are received, and official translations of the Russian texts completed, the Department cannot guarantee that these unofficial texts are error-free. This should all be completed by tomorrow, or Wednesday at the latest. The complete official package will then be transmitted to the Senate, and will supersede corrections previously published.

In addition, the two sides have also exchanged updated photographs of the SS-20 front section, and the SS-4, SS-12, and SS-23 missiles with their front sections, as well as the U.S. PIA and PII. Since we already have photographs of the SS-20 without its front section, we now have a complete set of photographs for the SS-20.

Mr. President, with all these facts in mind, I have conferred with the distinguished Senator from North Carolina both on the floor publicly on Friday and privately again this morning suggesting that in my judgement the prudent course would be to incorporate these letters that are to be exchanged with the Soviet Union in some form in the resolution or ratification.

I made the argument on Friday that it would appear that other agreements entered into with the Soviet Union with regard to verification, with regard to the futuristic weapons issue, may very well be incorporated in the exchange of letters and confirmation of that in the resolution of ratification.

It seemed to me that the Senator from North Carolina has an absolutely valid point that we ought to clear up precisely the numbers on both sides and the details that he and others have suggested, and indeed the Senator from North Carolina is also correct that in addition to the attempts that he made on Friday with the INF amendments that were offered there are additional corrections that are covered by the letters now being exchanged that I have mentioned in this earlier statement.

For all of these reasons, it still appears to this Senator that we should not amend the basic text of the treaty.

The Senator from North Carolina argues, as I understand it, that we should. That I think is an honest disagreement as to how we ought to proceed.

I would urge the distinguished Senator from North Carolina to withdraw this amendment and others that come into this technical interpretation phase and to be prepared to work with this Senator, the distinguished chairman of the Foreign Relations Committee, and other Senators, at the time we come to the resolution of ratification because I think we will all be in agreement that corrections need to be made need to be shown clearly and adopted by the Senate.

But I would urge that we not do so at this point on the text of the treaty.

I would say with all respect to the distinguished Senator in the event that he wishes to press this amendment I will offer a tabling motion at an appropriate time so that the issue can be resolved and we can move on to the next one.

I would prefer not to take that activity because I have agreed in this statement and my statement Friday the point the Senator makes is of considerable validity and the disagreement I think comes now simply as to where the changes are to be made and at what point in this debate.

With those thoughts, Mr. President, I wait additional word from my colleague from North Carolina.

Mr. HELMS. Mr. President, let me thank the Senator from Indiana because he has confirmed everything I have said.

If he will examine the corrigendum which is included in the document which is given each Senator, if he will look at one, it reads, for instance, one in the Memorandum of Understanding, MOU, section 2, paragraph 2, page 10, concerning shorter range missiles and launchers for the United States, the number of nondeployed missiles should read 171, which tracks the amendment that I have at the desk exactly; also the aggregate number of deployed and nondeployed missiles should read 178, which also tracks; the aggregate number of secondary stages should read 182.

The Senator has confirmed what I said, that the State Department now wishes to correct its corrections, which is fine with me, just so we get the treaty correct.

Mr. President, let me confer for just a moment with the distinguished Senator.

Mr. President, thank you for the intermission.

I am a little puzzled and I say this in all friendliness to my good friend from Indiana, that he has insisted that any such correction be made in the resolution of ratification even to the point that he says that he will move to table.

Let me read a cable from the Embassy of the United States of America in Moscow, No. MFA/130/88.

It says:

> The Embassy of the United States of America presents its compliments of the Minister of Foreign Affairs of the Union of Soviet Socialist Republics and has the honor to refer to the treaty between the United States of America and the Union of Soviet Socialist Republics on the elimination of their intermediate-range and shorter-range missiles with the Memorandum of Understanding and Protocol (the treaty). Signed Washington, December 8, 1987.

Next paragraph:

> The Embassy proposes that the corrections set forth in the attachment to this note be made in the text of the treaty.

And that is what I am saying.

Then the paragraph goes further to say:

> The Embassy further proposes that this note and Ministry note in reply accepting the corrections shall constitute a correction of the text of the treaty.

That is all I am saying, that we ought to do the job here.

I will make a proposition to the Senator from Indiana and the able chairman of the Foreign Relations Committee, Mr. PELL, predicated on my belief that we ought to have the treaty as nearly accurate as possible and maybe the State Department will have a further correction to its correction to its correction, which suits me fine, just so they and we end up getting it right.

So I propose that since there is this uncertainty about how many more corrections to the corrections to the corrections that they have, that I withdraw this amendment temporarily so we can try to get a bead on this moving target and go on to something else. But, at least, we have unanimous acknowledgment, I take it, that the treaty as it now stands is in error and in serious error in terms of kilotonnage and other aspects.

So, with that in mind and in emphasis on my desire to cooperate with the managers of the bill, I withdraw this amendment, and shall move on to another one unless they have some other business they prefer to bring up.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

The amendment is withdrawn.

Mr. LUGAR. Mr. President, let me express my appreciation to the distinguished Senator from North Carolina for withdrawing the amendment on the basis that he has stated.

The Senator is correct, that obvious corrections are occurring. They are substantial and they are numerous. To pin down how many there will be and how many amendments will be required to correct them, it would be hard to ascertain.

As a matter of common sense and comity, I think the Senator is right in his action. I pledge to work with him so that by the time we complete what I hope will be the ratification of the INF Treaty, all of these things are settled down with some exactitude as they need to be in responsible legislation.

Mr. HELMS. That is the most encouraging statement I have heard yet. I thank the Senator.

Mr. PELL. Mr. President, I just wanted to add my words to those of the Senator from Indiana to express my appreciation to the Senator from North Carolina and to share his belief that this is a problem that is going to have to be resolved. It is not a question of if it will be resolved, because it will be. It is just a question of when and in what form. We seem to be reaching a consensus here and I am delighted.

Mr. HELMS. Could I ask the chairman one question?

Mr. PELL. I will do my best.

Mr. HELMS. All that remains is the question of whether corrections shall be made in the text of the treaty, which is what I have insisted upon, or otherwise. Now, can somebody who has more rapport with the State Department than I do find out what they really mean? Obviously, they are sending signals to you, Senator PELL, and to Senator LUGAR, saying we want this on the resolution of ratification, when the Embassy says it ought to be on the treaty.

Maybe they can circle the wagons down there in Foggy Bottom and decide what they want to do about this.

Mr. PELL. My understanding was the desired course was to put it on the resolution of ratification. But, as you point out, it mentions there the treaty. I will have to consult our lawyers. As you know, lawyers are hired to say whatever you ask them to say.

Mr. HELMS. I thank the Senator. We will work it out.

Mr. LUGAR. Will the Senator yield?

Mr. PELL. Yes.

Mr. LUGAR. To try to clarify this cable, the distinguished Senator from North Carolina has stated correctly that the Embassy proposes the corrections set forth in attachment to this note be made to the text of the treaty.

Then, the next sentence is:

> The Embassy further proposes that this note, and the Ministry's note in reply accepting the corrections, shall constitute a text of the Treaty.

So, in essence, the Embassy, perhaps not knowing our debate here and the alternatives presented, does, in fact, believe that the corrections to the treaty text should be made, but suggests that the way that you do that is through the exchanges of these notes.

Clearly, the Senator from North Carolina, I think, would make a further distinction that you have the text and you have the notes and they are not the same. But it would appear that this ingenius communication has coopted both possibilities in the same message. So we will try to get certification.

Mr. HELMS. I am constrained to quote the State motto of the great State of the Union—I will get some dispute about that—North Carolina, which is "Esse Quam Videri"—"To be rather than to seem."

Now, let us not seem to be amending the text of the treaty. Let us amend the text of the treaty. But we can discuss that and the amendment is withdrawn, in any case.

I thank the Chair and I thank the Senators.

Mr. PELL. If the Senator will yield for a question, I cannot resist the sense of pride that compels me to state the mottoes of my home State and home city. The motto of Newport, my home city, is: "Love conquers all"—"Amor Vincet Omnia." My State's motto is "hope." And that is what we are practicing here.

Mr. HELMS. I thank the Senator.

Mr. President, I suggest the absence of a quorum while I get my papers straight.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, momentarily I shall call up another amendment. I will not do so at the moment, but I have supplied a copy for each of the managers and I filed one at the desk.

It says:

> In Article XVII, Paragraph 1, before the period at the end of the paragraph, add the following: *"provided, however,* That the Parties understand and agree that the United States shall not exchange instruments of ratification until the President, without delegation, shall have certified to the United States Senate that, in his judgment, the number of SS-20 missiles reported by the Soviet Union as being possessed by it on November 1, 1987 pursuant to the initial data exchange under the Memorandum of Understanding, is a true accounting of the number of SS-20 missiles possessed by the Soviet Union on that date.".

Now, the mere reading of that amendment almost speaks for itself, but not quite. This amendment, in fact, Mr. President, poses a very simple, reasonable proposition. Do we—meaning the Senators of the United States—do we or do we not care whether the Soviet Union through blatant deception maintains a covert force of SS-20's in violation of the treaty? Do we care?

We ought to find out how each Senator feels on this when I call the amendment up and when I get the yeas and nays. Whether it is a tabling motion or up or down vote, we are going to find out how each Senator stands on condoning Soviet deception. It is not going to be enough to trot in here and just vote to table.

This one is for real. This is a gut issue. it could mean the difference between survival and destruction of Europe or a good part of it.

Specifically this amendment provides that the instruments of ratification shall not be exchanged until the President has certified to the Senate—and that is a fair proposition—that, in his judgment, the Soviet provides in the memorandum of understanding a true accounting of the number of SS-20's they possessed at the time.

On Saturday, I ran into a fine gentleman and his wife at a supermarket. Mrs. Helms was out of town and I had to do a little shopping.

He said, "Senator, you bewilder me about all of this talk about SS-20's and SS-25's and all of the rest of the numbers." He said, "What are you talking about?"

I said, "Well, sir, a lot of Senators are bewildered by the figures. They are not certain what they are talking about, if they talk about it. But, simply said, the SS-20 is an outmoded intermediate missile produced in abundance by the Soviet Union. It is not a long-range missile and it is so old that they have been modernizing with the SS-25 missile.

"Now then, the SS-25 is not covered"—I told the gentleman and his wife—"by this treaty. The SS-20 is. The Soviet Union would just as soon get rid of the American Pershing II's because in doing so all of the deterrent is removed from Europe against Soviet aggression, not only by their enormously overwhelming conventional forces but by those SS-25's which are not covered by this treaty."

These new SS-25's are all-purpose missiles that the Soviet Union has ready to go.

They could be short range or long range. They can still threaten and intimidate Europe or they could hit us. Take your pick.

So they got a good deal on this thing and we are pulling out of all of our Pershing II's, and all of our Pershing II's will be destroyed—that is to say except the warheads on both the SS-20's and the Pershing II's, the SS-20's on the Soviet side, the Pershing II's on our side."

So there goes the American deterrent.

He said, "Well how in the world"—this is the gentleman I met at the supermarket—he said, "How in the world did our people fall for that"? I said, "You tell me and we will both know."

Yet, this is the treaty, just one aspect of the treaty, that there has been just a bum's rush to have ratified.

The distinguished majority leader keeps talking about blue ribbons to wrap around it and hand to the President so he can put it in his pocket. I want to see what kind of pocket the President has to hold this treaty and whether it is a blue ribbon or a pink ribbon to wrap around it.

But the truth of the matter is this is a dangerous, dangerous gamble for the free world. No wonder Mr. Gorbachev is smiling. I would be laughing if I had experienced such a delightful accommodation to my wishes as the negotiators of this treaty gave Mr. Gorbachev's negotiators.

To be honest about it, we were snookered, and this amendment just points up one aspect of how badly we have been snookered. Because there is no way on Earth that there can be any feeling of security about verification of covert SS-20's. We are going to be able to look where the Soviets tell us we can look. And anybody who feels that the Soviet Union is going to tell us where they have hidden these covert missiles so we can look there, well, anybody who believes that will believe anything.

But at the heart of the debate on this treaty is that one simple question: How many of these SS-20's do the Soviets possess? Nobody knows. It is a matter of trusting the Soviets, and I confess that I do not. I have been into that time and time again as to why I do not trust them and why I do not believe that our country should trust them. But, in any case, in the memorandum of understanding, the Soviets claimed to possess 650 SS-20's. This is the number—650—that, presumably, the Soviets will destroy. At the same time, however, according to official and unclassified information, the majority of our intelligence community believes that the Soviets in fact have hundreds more SS-20's than the Kremlin admits to having. These hundreds of SS-20's, above and beyond the number given by the Kremlin in the memorandum of understanding, will not be destroyed. They will remain in that covert force that I talked about a minute ago.

The exact estimates of our intelligence community can be presented and discussed only at closed session. There was a stab at that not too long ago. Mostly there was utter confusion. However there are many official unclassified sources of information and much has appeared in open testimony, and even in the media for that matter, to draw some conclusions that ought to make even the folks in Foggy Bottom a little nervous. The fact is that, according to official unclassified information, the majority of our intelligence agencies, seven out of nine, with only the CIA and the State Department-INR excepted, are said reliably to believe that the Soviets have 300 to 600 or more SS-20's above and beyond that 650 that the Soviets declared that they had and which they will destroy. So they will destroy the 650, presumably, after taking off the warheads which they can rebolt to the SS-25's, and there we go again.

I do not know whether many Senators have familiarized themselves with the salient points in the debate over the number of SS-20's actually produced and in the possession of the Soviets. But if the reported consensus estimate of our intelligence agencies is correct, then the claim that INF Treaty compliance can be verified is knocked into a cocked hat.

Moreover, if these official unclassified reports are correct and Senators nevertheless choose to ignore the reports, will it not be tantamount to saying: We do not care if the Soviets are lying to us, and we do not care if they have a covert force of literally hundreds of SS-20's. That is what it will amount to.

I have a bar chart which I wish Senators would examine. From this chart, all of which is based on official unclassified information and open sources, it is clear that the reported National Intelligence Estimate—representing a consensus of the intelligence community—of 950 SS-20's exceeds the Soviet number of 300. This, in fact, is the minimum size of the Soviet Covert force, as reported by the Chairman of the Joint Chiefs of Staff, Admiral Crowe, in open testimony.

The explanation of each bar in the bar chart is as follows:

> First, the Soviets declared that they had a maximum of 650 SS-20 missiles as of No-

vember 1, 1987, when they signed the INF Treaty on December 8, 1987. This is the total number of SS-20's that the Soviets are obligated to eliminate under the Treaty. Under the terms of the Treaty, this number of 650 is supposed to represent the total number of SS-20's ever produced and still in the hands of the Soviets.

Second, many recent press reports have stated that, in the National Intelligence Estimate of July 1987, the State Department Intelligence and Research Office (INR) both made an estimate of total 550 SS-20's produced, a number that was 100 less than the Soviets declared 4 months later. That failure in itself discredits the CIA/State methodology of estimating.

Third, in the draft NIE of January 1988, the press reported that the CIA/State estimate had been raised to 700, or 50 more than the Soviets admitted. This estimate made it possible for the State Department to claim publicly that the Soviet-supplied number was "within the range of our uncertainties." It is noteworthy that a DOD study earlier had concluded that even 50 SS-20's was a militarily significant number.

Fourth, the State Department declared publicly on May 13, 1987, that there would be 840 SS-20's almost at the same time when they were reportedly claiming in the NIE that there were only 550—further straining the credulity of the methodology involved.

Fifth, in the July 1987 NIE, according to press reports, the majority of the intelligence community, that is the four military service intelligence departments, plus the National Security Agency, reportedly all estimated that the Soviets had at least 950 SS-20's. This was the NIE best estimate, agreed to by a majority of the intelligence community. This judgment was repeated in the January 1988 draft of the current NIE, but the final draft of the NIE may well have failed to give *any* consensus estimate because of the political implications. This was probably the basis for Admiral Crowe's statement that the Soviets had 300 more SS-20's than the 650 they declared, or 950.

Sixth, both the July 1987 NIE and the January 1988 draft reportedly both contained estimates by DIA of 1,200 SS-20's produced. This is actually the most reasonable estimate when Soviet targeting requirements in Europe are taken into consideration.

Seventh, according to open sources, responsible estimates as high as 2,250 SS-20's have been produced, based on further Soviet targeting requirements in Asia and analysis of evidence of SS-20 production and development under two Soviet 5-year plans, 1976-80 and 1981-85. This estimate may be the estimate most soundly based in terms of methodology.

Mr. President, as I have pointed out, this amendment poses a very simple proposition: Do we, or do we not, care if the Soviets are being truthful to us. Do we condone Soviet deception, or not?

If the Senate does care, then it will approve this amendment providing that the instruments of ratification of the INF Treaty not be exchanged until the President has certified to the Senate that, in his judgment, the Soviets were telling the truth—in the memorandum of understanding—about the number of SS-20's they possessed at the time.

AMENDMENT NO. 2113

(Purpose: To provide that the instruments of ratification shall not be exchanged, until the President has certified to the Senate that, in his judgment, the number of SS-20 missiles reported by the Soviet Union as being possessed by it on November 1, 1987 pursuant to the initial data exchange under the Memorandum of Understanding is a true accounting of the number of SS-20 missiles possessed by the Soviet Union on that date)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The DEPUTY PRESIDENT pro tempore (Mr. MITCHELL). The clerk will report the amendment.

The legislation clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2113.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In Article XVII, Paragraph 1, before the period at the end of the paragraph, add the following:

"*provided, however,* that the Parties understand and agree that the United States shall not exchange instruments of ratification until the President, without delegation, shall have certified to the United States Senate that, in his judgment, the number of SS-20 missiles reported by the Soviet Union as being possessed by it on November 1, 1987 pursuant to the initial data exchange under the Memorandum of Understanding, is a true accounting of the number of SS-20 missiles possessed by the Soviet Union on that date.".

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The DEPUTY PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair, and I yield the floor.

Mr. PELL addressed the Chair.

The DEPUTY PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. Mr. President, this issue is one that was raised in the committee hearings and examined pretty exhaustively. I remember the director of the Central Intelligence Agency, Judge Webster, speaking for the intelligence community, said Soviet data in the memorandum of understanding falls within the intelligence community estimates.

The administration acknowledges, and we all realize, that intelligence agency estimates differ with regard to the number of nondeployed SS-20's. There is no way of being sure of that number.

As Secretary Shultz said: "I would be surprised if there were not differences of opinion. They reflect independent analysis which helps keep us all alert."

I think he is very right. I am familiar with these different estimates that were made. While I recognize the numbers are classified, it is of interest that there is a considerable variation between them.

Secretary of Defense Carlucci explained that the SS-20 estimates "vary by agency * * * there are three agency views. Two are close to the Soviet declared number. One is not."

Indeed, it is possible that there are additional missiles in storage, but covertly stored missiles do not necessarily constitute a usable military force.

Effective verification of this treaty does not require the ability to detect all possible Soviet missiles kept in storage. Rather, effective verification, as the Joint Chiefs of Staff have explained it, requires the ability to detect militarily significant Soviet violations in a timely manner.

Indeed, the INF Treaty is specifically designed to take into account the possibility that the Soviet Union could maintain nondeployed SS-20 missiles in storage.

Secretary Carlucci explained the issue to the committee as follows:

> Our national technical means can verify Soviet compliance with the treaty's ban on INF flight testing, as well as the treaty's ban on INF infrastructure and activity. Testing, training, and infrastructure are essential to a militarily effective force. Thus, unless the Soviets were willing to risk detection, the military effectiveness of concealed SS-20's would degrade over time.

In other words, as the JCS and the Secretary of Defense have testified that the treaty is effectively verifiable. The United States will be able to detect militarily significant violations in a timely manner.

There certainly can occur minor instances of cheating. There could certainly occur some hidden SS-20's. Their utility will quickly degrade as they do not have the ability to test them and be sure they are functioning properly. Also, it would seem to me, we would do well to accept the averaging or the estimates that have been given and move ahead and not support this amendment.

Mr. LUGAR addressed the Chair.

The DEPUTY PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, I join the distinguished chairman of the Foreign Relations Committee in opposition to the amendment.

The amendment, directly stated, says that the parties understand and agree the United States should not exchange instruments of ratification until the President, without delegation—that means the President himself—shall have certified to the U.S. Senate that, in his judgment, the number of SS-20 missiles reported by the Soviet Union as being possessed on

November 1, 1987, and so forth, is a true accounting.

Mr. President, during the debate in the Foreign Relations Committee on this amendment when it was offered at that time, it was pointed out as a logical proposition that this is an impossible certification for this President or any President to make.

The distinguished Senator from North Carolina demands that we prove a negative. In this case, the negative cannot be proven even under the best of circumstances.

During that debate, as I recall, the suggestion was made that proving that the Soviets do not have and cannot create a covert missile force is much like proving the Loch Ness monster does not exist by draining the loch to its last drop, and someone will always claim the monster exists.

That is possible with regard to SS-20, but the distinguished Senator from Rhode Island has pointed out correctly that unlike the Loch Ness monster in this case, the Soviet SS-20's are not going to be of value without testing, without training a person to use them, without the infrastructure for their launching.

In essence, what we have to come back to, and I think Senators will during the course of this debate, is that an SS-20 missile, even in considerable quantity in caves or behind trees, or wherever these weapons might be hidden, are of no particular value.

The treaty goes after missile systems. This means launchers, it means the ability to roll out an SS-20 that has been tested, that you know has been properly serviced, that is going to work, and get it on a launcher and shoot it.

The launchers are observable. There has not been a great deal of question that we can count the launchers and pulverize them one by one. Unless you build more launchers and you have the infrastructure, people wheeling all the material up, quite a display in show of personnel, an SS-20, in whatever quantity, is not of value to you.

I make the additional point, Mr. President, that the SS-20 argument was always a political argument, in addition to being a miltiary argument; a political argument in the sense that the possession by the Soviets of SS-20 missiles was meant to intimidate our lives, was meant to break up NATO. I simply say, given the INF Treaty, the SS-20's lose their political value. They do not intimidate anybody. If they are hidden in caves, they lose their force. They have no possibility of being used at all.

The distinguished Senator from North Carolina has used the SS-20 argument from time to time with the thought somehow or another that the verification procedures of the treaty were inadequate, that the intelligence services of the United States were in disarray with a large number of differing estimates and a wide range.

Let me just say, Mr. President, that whether there is disagreement on the exact numbers or not, the question becomes largely irrelevant given the maintenance, training, servicing, and infrastructure situation.

During the Foreign Relations Committee hearings, I queried General Galvin, Supreme Commander of NATO, on this specific area:

> Are you testifying, as a military man with considerable military experience, that the military posture of the United States and NATO will not be harmed by this treaty?
>
> General GALVIN. That is right. I have 10 four-star generals that are subordinate to me, among others—10. Some of those are United States, and in my NATO hat, obviously, they are NATO.
>
> In terms of those immediate subordinates, I have discussed this matter with every one of them. I have said, "Do not tell me what I want to hear, tell me what you think. Do you think we can carry out the mission and your part of it that you have to do?" All of those generals have said "Yes."
>
> Senator LUGAR. Well, General, how could you come to this point of view if you thought there were 300 or 400 SS-20's clandestinely deployed in the woods and that the verification procedures were inadequate?
>
> General GALVIN. Senator Lugar, let me talk about 300 or 400 SS-20's hidden in the woods.
>
> I assume what you mean is that somehow after ratification, these would still be around, and the Soviets would not have indicated that.
>
> Senator LUGAR. Yes.
>
> General GALVIN. That, of course, would always be a worry to me, and I would never take at face value, unfortunately in my lifetime, I do not think I would ever take a Soviet figure, number at face value.
>
> But at the same time, I have looked at all of the intelligence that is available on this question.

I simply make the point, Mr. President, General Galvin, head of NATO, with 10 generals, 4-star, from every nation, looked at the intelligence, all of it. Their responsibility is the defense of NATO. They have testified, every single one of them, that they believe this treaty ought to be ratified, ought to be ratified promptly, and furthermore, failure to ratify it promptly would have grave consequences to NATO in a way, I might add, that these clandestinely hidden SS-20's, if they ever existed, would not. This is why the amendment in my judgment does not have merit, Mr. President. I am hopeful at the appropriate time Senators will vote to defeat the amendment.

(Mr. PELL assumed the chair.)

Mr. MITCHELL. Mr. President, Secretary of State George Schultz has called the treaty to eliminate intermediate and shorter range nuclear weapons in Europe "a good beginning."

I fully agree that the INF Treaty is an important first step in the process of reversing the arms race and reducing the risk of nuclear war.

I also believe that the arms control steps that follow will define the treaty's ultimate value to our national security.

I commend President Reagan, who originally proposed the "zero-option," and Secretary Shultz for persistence in pursuing this treaty.

Our NATO allies also deserve credit for this achievement. In the face of Soviet deployment of SS-20 missiles in Europe, the Western alliance responded by proceeding to deploy Pershing II and cruise missiles. This demonstration of unity and resolve enabled the arms control track of NATO policy to succeed.

I thank my distinguished colleagues from the Foreign Relations, Armed Services, and Intelligence Committees for their substantial efforts on behalf of the treaty. Through months of detailed hearings and countless hours of careful scrutiny, they have helped clarify the shared understanding of the agreement and thereby helped to ensure its ratification.

The INF Treaty, with its memorandum of understanding and protocols, is important for two reasons.

It stands on its own merits as a contribution to the security of the United States.

The treaty also creates a political and psychological framework for additional, more far-reaching, arms control agreements.

The INF Treaty is the first arms control treaty to actually reduce nuclear arsenals.

It is also the first agreement to eliminate an entire class of nuclear weapons, in fact two classes—both intermediate and shorter range nuclear systems. Under the treaty, all land-based missiles with ranges between 300 and 3,400 miles will be destroyed.

The Soviet Union will eliminate far more delivery systems and nuclear warheads than will the United States. The United States will destroy roughly 850 deployed and nondeployed missiles, while the Soviets will destroy some 1,750 such delivery systems including the SS-20. The United States will give up over 400 nuclear warheads, and the Soviets will forego over 1,600 warheads.

In addition the treaty will ban future production and testing of land-based intermediate and shorter range weapons.

The INF Treaty also establishes comprehensive and unprecedented verification measures. While no verification regime can ever be 100 percent gauranteed, the treaty's provisions will enable us to detect any militarily significant violations.

Various types of novel inspection methods will be employed for up to 13 years after the treaty is ratified. These include short-notice inspections and portal monitoring of missile assembly plants and arrangements to facilitate satellite observance of treaty compliance.

While appreciative of the treaty's value, we should not ignore its inherent limitations. By any numerical standard, the INF Treaty is a drop in the bucket. It will reduce the total number of nuclear weapons by roughly 4 percent.

Because it is an agreement to eliminate intermediate range forces, the treaty by definition leaves strategic arsenals untouched. Today tens of thousands of long-range weapons are aimed at the United States and the Soviet Union.

Furthermore, the Soviets can continue to threaten European territory by aiming strategic nuclear weapons at targets currently covered by their intermediate forces.

These facts underscore the need to achieve an agreement to significantly reduce levels of strategic nuclear weapons. Otherwise the strategic arms race will continue unchecked and overshadow the successes of the INF Treaty.

Finally, the prospect of removing INF missiles has forced NATO to reexamine the conventional balance.

While I do not share the most pessimistic assumptions about NATO's conventional strength, it is clear that the Warsaw Pact has superiority in significant weapons categories such as main battle tanks and artillery.

The fact that NATO will, after INF, retain thousands of nuclear warheads dedicated to deterring conflict in Europe does not obviate the need to improve the West's conventional posture. Stability is as important for the conventional balance as it is for the nuclear balance.

Arms control is one route toward correcting the imbalance, but conventional negotiations have proved highly complex and progress to date has not been encouraging.

It is therefore crucial that we continue working with our NATO allies to modernize our nonnuclear forces and improve our ability to sustain conventional conflict.

Political and budgetary pressures make this a challenging responsibility for the alliance, but it is surely the most effective way to ensure that a war in Europe will never be fought.

The fact that the INF Treaty will not reduce strategic arsenals and cannot rectify the conventional imbalance does not make it a less valuable agreement. The treaty stands on its own merits.

But it also demonstrates that arms control cannot be a one-shot effort, and that no single agreement can guarantee stability. It illustrates the need for a comprehensive and continuing approach to arms control.

This brings me, ironically perhaps, to the other main reason why the INF Treaty is important: It creates a political and psychological framework for more far-reaching arms control agreements.

First of all, the INF Treaty legitimates arms control as a valuable means of enhancing U.S. national security. Even a President who once appeared to oppose arms control in principle has seized the opportunity to limit nuclear competition through a mutually advantageous agreement.

The treaty has also expanded our understanding of what arms control can achieve, thereby establishing precedents that may prove valuable in future negotiations.

Most arms control agreements do just that—control the increase of nuclear weapons. The INF Treaty proves that actual arms reductions are possible.

In fact, because the Soviet Union will give up almost four times as many warheads as the United States, the treaty establishes a precedent for asymmetrical reductions.

Furthermore, the treaty's verification provisions go beyond what have in the past been considered realistic expectations of cooperation in monitoring arms agreements. Portal and short-notice inspections are far more intrusive than the satellite observation and other national technical means [NTM] used to verify previous treaties.

While NTM are likely to remain the most vital element of any verification regime, the INF Treaty indicates that it may be possible to use more intrusive measures to resolve future verification challenges.

Each of these elements—reductions, asymmetrical agreements, intrusive verification—may become vitally important as the United States and the Soviet Union proceed with efforts to reduce strategic weapons and conventional forces.

Thus the INF Treaty provides specific tools as well as political and psychological momentum needed to achieve additional arms control agreements.

Now that the Senate has begun consideration of the treaty, we confront the crucial details. Each of us may believe it possible to rewrite the agreement to improve it at the margin.

But I urge my colleagues to refrain from efforts to alter the text or otherwise consign the INF Treaty to renegotiation and a likely death. The exhaustive committee reviews and the overwhelming vote to recommend ratification affirms the treaty's soundness and its contribution to our Nation's security.

I believe that during this debate the Senate should focus on the treaty itself, not on the multitude of other issues that constitute United States-Soviet relations. We must not burden the treaty with weight it should not rightfully carry.

It is the Senate's responsibility to provide advice and weigh its consent regarding the INF Treaty alone.

I believe this treaty will be approved overwhelmingly, and I hope that we will move swiftly toward a vote on ratification.

It is not only the task of destroying INF missiles and implementing the verification measures that lie ahead.

We face the much larger task of building upon the treaty now before us to achieve a START agreement that will in turn enhance the value of the INF Treaty.

The challenge of reaching additional arms control agreements to help reverse the arms race and reduce the risk of nuclear war is one of the greatest tests that we face as a Nation. I am confident that, with the INF Treaty in hand, we can proceed to meet this challenge in the name of national security and peace.

Mr. President, I yield the floor.

Mr. **BOSCHWITZ** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Minnesota.

Mr. **BOSCHWITZ**. Mr. President, as we begin full Senate consideration of the treaty on intermediate nuclear forces I want to take this opportunity to join my colleague in commending the distinguished chairman of the Foreign Relations Committee, Senator CLAIBORNE PELL, for the way he conducted the committee's consideration of the treaty. It indeed was worthy of commendation.

The hearings were exhaustive, and all members had ample time to express their views. For a committee that frequently deals with very contentious and often partisan issues, I was heartened by the strongly bipartisan approach the chairman took. So I commend my chairman for his leadership.

Mr. President, today we are considering an unprecedented arms control treaty. Past agreeements have only set limits on the growth of our nuclear arsenals; they have also allowed nuclear arsenals to grow; this treaty for the first time in the history of nuclear arms eliminates a whole class—two classes—of nuclear weapons.

It also does so assymetrically as the Senator from Maine has just stated. The Soviets must eliminate many more than we do. The United States will destroy 859 nuclear delivery vehicles, the Soviets, more than twice that amount. Moreover, our missiles contain only a single warheard, while the Soviet mobile SS-20 missiles each possess three. So the assymetry is really very great and favors our side.

In addition, the treaty provide the most inclusive verification regime in arms control history, a verification regime that many thought would never be achievable. The treaty is in short a remarkable achievement. Its success is a tribute to the persistence and dedication shown by the administration in negotiations, and it has been the vindication of the principle of peace through strength.

There are some among us, here in the Senate and elsewhere, who would offer unilateral concessions to the Soviets in the vain hope of enticing reasonable responses. Unfortunately, history teaches us otherwise. The Soviet build up in offensive arms throughout the last three decades went forward quite independently of the United States. Détente did not change Soviet behavior. To quote former Secretary of Defense Harold Brown, "When we build, they build; when we stop building, they continue to build." And, despite glasnost, perestroika, and "new thinking," Soviet military spending has continued relentlessly.

In short, changing our behavior to elicit a response from the Soviets has not worked. Unilateral concessions remain just that: Unilateral, and the result of our action becomes the new base for negotiations. Much to the credit of the Reagan administration, it understood that in dealing with the Soviets, a strong, firm, determined strategy was necessary.

It was not easy. Many attacked this approach, and the administration demonstrated real courage to stick by its vision through some rather dark moments over the 6 years of negotiations. That is the lesson of the successful treaty negotiations we now have before us.

In response to the introduction of new, modernized missiles into Eastern Europe in the mid 1970's—a move designed to intimidate Western Europe and strain relations in NATO—the alliance made the brave decision to follow a dual-track policy: To negotiate with the Soviets to remove their missiles while preparing to deploy United States intermediate missiles if that effort failed.

President Reagan, in keeping with this strategy, proposed to the Soviets in November 1981, that both sides should have no intermediate ground-launched missiles in Western or Eastern Europe. The Soviets rejected the proposal out of hand: After all, their modernized intermediate missiles were already in place. Ours were still 2 years away from a deployment that was at best uncertain, given the political mood in Western Europe.

As if to prove the uncertainty of our ability to deliver, the President was roundly attacked, both here and abroad. His proposal was cited as unrealistic, something the Soviets would never agree to. A zero option was thought to be a dream and not a reality. The evidence was in, the verdict rendered: The administration—Ronald Reagan—was not serious about arms control, as proven by the fact that he wanted a zero option on intermediate missiles.

The Soviets unleashed a tremendous public relations effort aimed at discrediting the President's proposal. Others picked up the drum beat. "Peace groups" held large public demonstrations. A nuclear freeze was proposed, and its proponents backed a concept that would lock in place the Soviet superiority in intermediate nuclear weapons in Europe and allow us none. The political leadership in Western Europe, who had already committed themselves to receive U.S. intermediate weapons on their soil, found themselves under considerable domestic pressure, and the possibility for a serious strain in the alliance arose.

But NATO withstood the pressure to its credit. Whatever Soviet expectations may have been, the alliance held together and faced the Soviets down. Indeed, the alliance grew in strength form the challenge. Deployment went forward on schedule. A series of elections were held in England, Belgium, the Netherlands, Germany, and Italy about the deployment of these missiles. At great political cost, the leadership of NATO held fast.

As these events were unfolding, negotiations with the Soviets were at a standstill. In part, this was due to an unprecedented period of change in the Soviet Union itself, compounding the administration's problems. A country that had known only three leaders since 1925—Stalin, Khrushchev, and Brezhnev—had three new leaders in 4 years; as a matter of fact, had four leaders within a 5-year period if you count Brezhnev's final year in power when he indeed was old and not entirely with it, but within those very few years you had Brezhnev, Andropov, Chernenko, and Gorbachev.

But still the President persisted and most of those leaders of Russia really were not around long enough for a situation to be able to deal with the West during that very short tenure. The President persisted, and the Soviets came to realize that they would only get an agreement with the United States through realistic negotiations.

The treaty that we now consider stands as a milestone. The world will be rid of some 2,600 nuclear missiles. We have established the precedent of assymetrical reductions—an absolute necessity as we address the very serious imbalance of conventional weapons between NATO and the Warsaw Pact. And for the first time, the Soviets have agreed to an intrusive onsite inspection regime, a goal of the United States since the Eisenhower administration and an essential requirement of any further strategic or chemical weapons agreements with the U.S.S.R. As a matter of fact, the intusive nature of this regime of this onsite inspection regime really is much more than we had reasonably expected.

Some have raised strong concerns about Soviet intentions and correctly so. Since the Soviets agreed to the treaty, it was implied, it must be flawed. Questions have been raised about Soviet cheating, and indeed they have cheated. It was asserted that Moscow has underreported the true number of its missiles and will retain a covert force, and I know that is the subject on an amendment that is now before us. That of course, is a possibility, and I do not dismiss these concerns lightly. I remind my colleagues, however, of three facts: First, the SS-20's were designed principally as weapons of political intimidation, to divide Western Europe from the United States. For it to continue to serve such a function requires that its existence be known, which would, of course, be a violation of the treaty. So its utility as a weapon of intimidation has been lost.

Second, although I have absolutely no doubt that the Soviets cheat, I do not believe they do so without purpose. Obviously, some sort of cost-benefit analysis must be made. Consider the tremendous cost the Soviets would bear in world opinion for violating this treaty. And for what gain? Targets that SS-20's covered will be picked up by other Soviet systems.

Third, a system which cannot be regularly tested quickly soon loses its reliability. And our inspection and intelligence verification efforts are quite capable of detecting Soviet testing. That was repeatedly confirmed to me in a number of open sessions and in private meetings as well with intelligence officials. This type of detection is entirely possible and completely possible. In short, there simply is little incentive for the Soviets to cheat.

Mr. President, I believe this treaty is clearly in the national interest. Imagine the impact on our NATO allies if we would now fail to give our advice and consent. Having withstood the pressure to abandon our dual track policy, and having endorsed the treaty, European leaders would be tremendously undercut if we failed now. The strain in the NATO alliance would be severe. The probability of our being able to replace the missiles on European soil is slight.

And the Soviets would reap a propaganda bonanza. They would portray themselves as the superpower in favor of peace and disarmament, while the United States would be the superpower supporting nuclear confrontation. Those arguments would fall on receptive ears in Europe, making it virtually untenable for the existing cruise and Pershing missiles to remain on European soil. So we would wind up with the worst of all possible worlds: the

NATO alliance strained, our missiles out of Europe, the United States accused of reneging on its word, and the Soviets established as the propeace superpower, with their missiles in place.

So, I strongly believe this treaty should be ratified. In committee I resisted any amendment or reservation attached to the treaty, and I will continue to do so, particularly any would-be killer amendment. I also resist linking the treaty to other issues on our bilateral agenda. While we must clearly persist in pressing the Soviets on human rights, on emigration, and on regional conflicts, this treaty must stand on its own. Once we open the floodgates on amendments we will find ourselves deluged with every conceivable suggestion, some no doubt well intentioned—but still ill-advised. This treaty deserves a clean resolution of approval.

I would add, Mr. President, that I will resist attempts to place restrictive treaty interpretation language on the resolution. The administration has already asserted that its testimony is authoritative and binding. So I will resist those attempts as well. It has laid out before us the entire negotiating record—an unprecedented step. And it has committed itself to the interpretation presented to Congress and recognized that upon ratification that interpretation has the force of law. There is simply no need to mire the treaty down in an unnecessary constitutional dispute that has no relevance to the merits of this treaty.

Mr. President, in a few short days our President will leave for Moscow. This treaty has been before the Senate for 5 months now. Administration witnesses have appeared more than 70 times before committee of jurisdiction. They have answered over 1,300 questions. The time has come for us to move speedily toward ratification.

Finally, Mr. President, I must tell you that I find it striking that even though the Reagan administration is in its closing months—a time when most expect it to go quietly into the night—it has nevertheless presented the people of America with some remarkable achievements in foreign affairs. In the Persian Gulf, we have acted with prudence and constraint, but have with firm resolve demonstrated our commitment to freedom of navigation to all in the region. With our assistance, the Afghan freedom fighters have forced a Soviet withdrawal from a country along their border governed by a Communist Party—a truly unprecedented action, the first time that the Soviets have ever withdrawn from a foot of soil that they occupied since they came to power. And we are poised to ratify this treaty, negotiated along lines the administration first proposed in 1981. You know, some times the good guys actually win.

It would be my hope, Mr. President, that my colleagues do not delay passage of this treaty so that the President will be able to go with this treaty in hand to Moscow. Treaties require 67 votes. There really should not be a need—I do not believe the Constitution's framers found there to be a need for filibustering a treaty. By definition, you do not need to do so because you need 67 votes to ratify it.

So I would hope that after a reasonable period during which all their amendments can be considered, that all of my colleagues will allow this treaty to move forward as it must and so that the President can also go forward with the treaty in hand to Moscow.

I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Idaho.

Mr. SYMMS. Mr. President, the Senate continues to hear from some of my good friends and distinguished Senators, who I have the greatest respect for, assert that this treaty will not in any way jeopardize or weaken the United States deterrence force in Western Europe, and that this treaty will not significantly reduce our ability to deter Warsaw Pact aggressiveness. That is one thesis.

The other thesis, of course, is the Kirkpatrick-Kissinger thesis and that is that it is a lousy treaty, it should not have been negotiated, it has jeopardized the NATO Alliance and caused all these other problems. You have all heard those issues. Yet, the Kirkpatrick-Kissinger position is that this treaty should be ratified because to not ratify it, will be more damaging than if it is ratified, with respect to the NATO Alliance.

Another thing that is being told to our colleagues here in this Chamber, and the American people are being told, repeatedly, that this treaty only amounts to 3 percent of the world's nuclear weapons, and that fact makes the INF Treaty militarily insignificant.

The problem with that, Mr. President, is that even this often-repeated point by the proponents of the INF Treaty know this not to be true. The INF Treaty does not destroy a single nuclear warhead. In fact, the treaty specifically exempts all nuclear warheads and guidance systems from destruction.

How then, Mr. President, can the INF Treaty eliminate only 3 percent of the world's nuclear weapons if the treaty does not eliminate any nuclear warheads? And I repeat—the treaty does not eliminate any nuclear warheads. Either the treaty eliminates nuclear warheads or it does not. And, the fact of the matter is, Mr. President, it does not eliminate any nuclear warheads.

So, if one goes to the text of the protocol of elimination of the INF Treaty, one will find the following quote describing the so-called elimination of the front section of the missile:

> * * * front section, *minus* nuclear warhead device and guidance elements, shall be crushed, flattened or destroyed by explosion.

Mr. President, the word minus, according to the Random House College Dictionary means: First, less by the subtraction of; or second, lacking or without.

It is obvious, then, that everything but the nuclear warhead and its guidance elements will be crushed, flattened or destroyed by explosion.

But we still hear about how only 3 percent of the world's nuclear arsenal will be destroyed. The more accurate number, Mr. President, is in fact zero percent.

So, Mr. President, what is the United States getting for the destruction of zero percent of the world's nuclear warheads?

Well, the United States is removing its Pershing II missiles and ground-launched cruise missiles from Europe. On its face, Mr. President, that may seem like a good thing.

The problem is that the Armed Forces left in Europe, without these missiles, is less than adequately equipped to defend themselves against a Soviet invasion.

Comparing the conventional forces in Europe between NATO and the Communist troops, the RAND Corp. concluded that if there were to be any reductions of conventional forces in Europe the assymetrical reductions would have to be a 6-to-1 ratio, in favor of NATO simply because they are already so outnumbered in Europe.

It should be understood, Mr. President, that the Soviets can concentrate their conventional forces in Europe to achieve a combat force advantage of 6 to 1 without losing ground elsewhere.

It is also well known, Mr. President, that the Soviets have the ability to move two full divisions into Eastern Europe a day—two divisions a day. How many can we move in per day in the event something like this happened? I would ask my colleagues that question. We all know the answer to that. It is much easier to move them by train and by road than it is by ship or by airplane.

That, Mr. President, is precisely the reason why the Pershing II and cruise missiles are so important to the defense of Europe. The Soviet's massive conventional advantage is now offset by the Pershing II and cruise nuclear missiles.

But, now, in the name of peace we are disarming ourselves of NATO's most effective weapon in Western Europe.

Mr. President, lets take a minute to look at the nuclear defenses of Europe without the Pershing II and cruise missiles.

NATO has 88 Lance nuclear-tipped missiles, that were built and deployed in the early and mid-1960's. Most of the 88 Lance missiles are over 20 years old, outdated and obsolete. They have a maximum range of 45 miles. Some experts believe that the political decision to fire these missiles might not be able to be made in time for their effective use, because of the Lance missile's short range, and what might happen in the panic of a Soviet attack.

Those 20- to 25-year-old and now obsolete Lance missiles, are the total ground-based nuclear capability NATO will have, with a range of over 15 miles, once we remove the Pershing II and the ground-launched cruise missiles.

The Soviets, meanwhile, have over 1,400 short-range launchers and missiles that can carry nuclear, chemical, and biological weapons, and are not to be banned under the INF Treaty.

Mr. President, those 1,400 Soviet short-range launchers and missiles do not include the refire missiles that, according to the 1988 edition of Soviet military power, have increased in numbers "by between 50 and 100 percent over the past several years."

Even more ominous, Mr. President, is that these Soviet short-range missiles, according to the 1988 edition of Soviet military power have "been deployed by the Soviets in the forward areas" of Eastern Europe.

Just as a sidebar, it should be of interest to Americans watching this debate that NATO has neither chemical weapons to threaten their use if the Soviets use chemical weapons, nor any capacity to fight in a chemical environment. That is, NATO does not possess, beyond a mere symbolic level, the masks, protective clothing, and decontamination equipment needed to protect the 325,000 American soldiers in Europe today.

However, Mr. President, I should get back to the topic at hand, which is the extent and effectiveness of the nuclear weapons NATO has without the U.S. Pershing II and cruise missiles if the INF Treaty is ratified. The fact is that there are only two other types of nuclear weapons that the NATO has other than the Lance missiles. NATO has nuclear artillery shells, and nuclear gravity bombs that must be delivered by NATO aircraft.

The problem with NATO's nuclear artillery shells is that they are over 15 years old and do not have a range over 15 miles.

This weapon will not be able to stop a Soviet advance for several reasons: First, their short range means they will not be able to penetrate to the Soviet's second wave attack, and thus stop the massive numbers of the Soviet forces pouring into Western Europe, and second, the nuclear artillery round will have to be exploded over Western Germany because of the location of the artillery emplacements, thus making their use less likely because of German concerns of making West Germany into a nuclearfire zone.

NATO's artillery emplacements are vulnerable to, first, the over 1,400 Soviet short-range missiles—not including refires—that will remain in place if the INF Treaty is ratified. These short-range missiles can carry chemical, biological, nuclear, or conventional rounds; second, the Soviet's 6 to 1 advantage in intermediate range bombers; third, the Soviet's 2.3 to 1 advantage in artillery; fourth, the Soviet's 3 to 1 advantage in combat helicopters; and fifth, the Soviet's military doctrine and stated strategy of infiltration and sabotage and surprise attack.

The last portion of NATO's existing nuclear deterrent in Europe protecting America's 325,000 troops and the 300,000 American dependents of those troops consists of dual capable aircraft, that is, aircraft that is capable of carrying nuclear gravity bombs as well as conventional bombs.

The difficulty with this nuclear option is that there are only 10, Mr. President, 10 airfields in all of Western Europe that house dual capable aircraft.

Of course, these airfields have only rudimentary chemical defenses and the Soviets are working hard to develop microtoxins or other agents that will penetrate the chemical suits' filters.

Mr. President, the national media blankets Washington, DC, and this country with its news, but it neglected to print the fact that a team of Spetsnaz Soviet forces—the equivalent of U.S. Special Forces—not as good as our U.S. special forces, I must say, but the Soviets' answer to that—were caught posing as Polish art students in Scandinavia.

Mr. President, these Spetsnaz troops were practicing "eve-of-hostilities acts" on the homes and residences of high-ranking military officers and fighter pilots, specifically their assignation.

It should interest the American public that there are approximately 50,000 Soviet agents, of various description in West Germany. Coincidently, this is the same number of German Nazi agents rolled into that country before the start of World War II.

Further, NATO's airfields could not be defended against Soviet short-range missiles once they are launched. These short-range missiles would severely damage, immobilize, or damage beyond repair the airfield, planes, spare parts, personnel, fuel, and ammunition.

So, it is clear Mr. President, that NATO, faced with a possible 6 to 1 conventional weapons imbalance in the favor of the Soviets, that NATO needs a credible nuclear deterrent.

That is why we deployed the Pershing II missiles and that is why we deployed the cruise missiles. That is why they were deployed in the first place, because sound military judgment, the best that we could provide for this country, came to the conclusion that we needed the Pershing II's and we needed the cruise missiles in Western Europe to provide the adequate, lightning-strike capable range that was provided with the INF cruise missiles and intermediate range missiles.

Just to say it again, Mr. President, if the INF Treaty is ratified and becomes the law of the land, the grand total of NATO's nuclear deterrent will be 10 airfields that carry nuclear-capable aircraft in all Western Europe; 15-year-old short-range artillery rounds that do not have the range of more than 15 miles and 88 20-year-old missiles that have a range of no more than 45 miles.

Mr. President, each of these nuclear weapons systems are extremely vulnerable to several different Soviet weapons systems and war-fighting tactics.

People often tell me Mr. President, that the United States has their nuclear submarines, their Tridents that carry missiles that could be used to defend our forces in a war in Europe. But, Mr. President, I ask this question to my colleagues: Do you honestly believe that a President of the United States is going to be inclined to use Trident submarines or Minuteman 3 or MX missiles in the continental United States or B-1 bombers, in the defense of Europe without being dragged into it in a slow, difficult fashion?

In other words, Mr. President, would any President of the United States launch nuclear weapons from United States submarines to defend against a Soviet conventional attack, knowing that such an order might, or most likely would, or probably would, start a nuclear exchange between the Soviet Union and the United States of America? Any President of the United States would be painfully aware of the risks that he would be taking on such a decision.

Mr. President, what if the Soviets have broken out of the ABM Treaty and are deploying an operational nationwide missile defense? Any President or Senator for that matter, is aware that the Soviets are working at breaking out of the ABM Treaty. But just add Soviet ABM breakout to the military equation 3 or 4 or 5 years down the road.

We often forget, Mr. President, the Soviet Union are chess players. They think in terms of giving up a few pawns, giving up a few rooks, giving a few bishops, but ending up with the queen being protected; the queen being protected by enough forces left for a knockout blow against the other queen. Their mentality is chess players.

Oftentimes, I think, our mentality is more "Let's make a deal." We are goal-oriented people and we like to play checkers because we are in a hurry. So we have a little different viewpoint, I think, in our basis strategy than what the Soviets have.

Any President of the United States, and with that job goes the job of Commander of the United States Armed Forces, would be aware this might happen that the Soviets have broken out of the ABM Treaty and deployed a nationwide missile defense. Right now the Soviets have not deployed such a defense, but they are well on the way towards deploying an operational nationwide missile defense. The Soviets have an elaborate civil defense bunkers and underground facilities for the leadership and their wartime industry workers, that make up a significant portion of the population. Meanwhile, here at home in the United States, we have no significant shelters or no defense against nuclear missiles.

So then I ask the question, in those circumstances, Mr. President, why do we think that any President of the United States is going to use Trident submarines, or MX missiles, or B-1B bombers, from the continental United States as a deterrent to a Soviet conventional attack in Western Europe?

Most Europeans—and I happen to agree with this thinking—believe that the United States would not destroy itself by launching their strategic nuclear weapons in response to Soviet conventional attack on Europe. A United States President—faced with the choice of saving Europe or destroying America because of Soviet nuclear retaliation against America, against which we have no defense—would ably choose, probably, speculatively, to save the United States and Europe would have to shift for itself.

Mr. President, what happens to the 325,000 American troops, and their 300,000 American dependents in Europe, if war breaks out? Are they going to become hostages, or face some kind of a violent, cruel death?

Mr. President, that is why I know that Senator HELMS is contemplating offering an amendment calling for the withdrawal of the American forces in Europe if the INF Treaty is ratified by this body.

His logic is very simple and straightforward. If we are going to remove the best deterrent that keeps the Warsaw Pact countries from making the mistake of advancing into Europe, if we are going to remove that from our troops, then maybe we had better start thinking about bringing our troops home.

Mr. President, if this is going to be the logic that comes about from the end of this treaty, where the more conservative Members of the U.S. body politic start talking about removing U.S. troops from Europe, it is only a question of time until you see the entire dissolution of NATO.

So, Mr. President, I think that these are questions that we have to ask and answer ourselves with respect to this treaty. That is just another reason why I intend to vote against this treaty.

Mr. President, I ask unanimous consent that at this point in the RECORD the Wall Street Journal article of Tuesday, May 17, "After INF, Getting Our Planes Off the Ground" by John Train, be printed.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 17, 1988]

AFTER INF: GETTING OUR PLANES OFF THE GROUND

(By John Train)

In a game of chess, when you get ahead—by a bishop and a pawn, say—you often force a series of exchanges: queen for queen, castle for castle and so on. After those pieces are cleared off the board, you may still be ahead just by a bishop and a pawn, but in the endgame your relative advantage has become overwhelming, so you win—or your opponent resigns.

Similarly, the Soviets—who are chess players—having achieved a huge preponderance of conventional military power in Europe, are glad to see both sides' intermediate nuclear missiles taken off the board under the INF treaty, since that leaves their relative position in conventional war stronger than ever. Here the Soviets' strategy coincides with President Reagan's conviction that nuclear weapons are bad per se.

The Soviets have an advantage in central Europe of better than 2 to 1 over NATO in tanks and ground equipment generally. But it would work out to more than that in practice. First, any attack would come from them, probably with the advantage of surprise. Next, you have to discount some of our units that have equipment in Europe but are themselves based in the U.S., supposedly ready to fly over when needed. Many of them probably won't get there.

Then, the Soviets have come up with "reactive" supplementary tank armor—essentially, explosive pads that bite back at our armor-piercing projectiles. Reactive armor, tacked on their tanks in the past year or so, renders them largely invulnerable to our basic anti-tank weapons. Finally, the Soviets could hit wherever they choose—very possibly at the periphery of Europe, not necessarily, the center. There is, to say the least, grave doubt whether the Turks would fight in Norway or the Norwegians in Turkey, even if they could be moved there.

And, any attack would be accompanied by strategic deception—*maskirovka*—one of the Soviets' greatest skills, as we saw in their reoccupation of Hungary and Czechoslovakia, and Sadat's 1973 attack on Israel, which was prepared along Soviet lines. So NATO may not stir itself until very late.

Our military chiefs do not believe the Soviets are yet capable of a complete surprise attack without a movement of supplies—fuel, ammunition and spares—that we could detect. (Several days before our attack on Libya, our bases in England started getting calls from people living nearby about the increased level of activity.) However, in a few years they may be able to launch a "come-as-you-are party." so we must plan accordingly.

To offset all this, NATO has been counting on theater-wide air supremacy. Our fighter pilots are the world's best, and our planes as good as any. But what if the Soviets were to start with disabling and follow-on attacks on our air bases? If these were to succeed, then our own planes would have difficulty counterattacking the Soviet bases, and the Soviets would dominate the air as well as the land. Even if they didn't succeed, after the inception of the INF treaty our planes would have to assume functions that the missiles were supposed to perform, overloading the system. (All this assumes that the war stays on the conventional level. If it were to go nuclear, even at the sub-strategic level, then the bases would be knocked out.)

Before the INF treaty, we could have counterattacked the Soviet bases with our Pershing and ground-launched cruise missiles (GLCMs). The Soviets have a prodigious antiaircraft defense, and might cope with many of the GLCMs. For now, though, the Pershings can't be stopped. But under the INF treaty both are traded away.

One sometimes hears it asserted that our U.S.-based ICBMs could take over European tactical targeting. But in the air they would look to the Soviets like a general strategic attack, and could well trigger an all-out strategic response. Besides, those missiles are dedicated to strategic deterrent and couldn't be spared, although some sea-launched missiles can be.

So air base operability has become a crucial issue for our European defenses. The Air Force has assigned Assistant Secretary Tidal W. McCoy to the problem, and each base commander has an "operability officer." Is enough being done? That concern took me recently to Air Force bases in Germany, where I talked to base commanders, engineers, pilots, intelligence officers, squadron commanders and anyone else who could shed light on the problem.

First what does an airfield look like? Let's start with Bitburg Air Base, home of the 36th Tactical Fighter Wing, consisting of three squadrons (24 planes each) of F-15 fighters. They fly at over Mach 1.5, and can operate at a range of more than several hundred miles. Twelve thousand Americans work on and around the base, which covers somewhat over a thousand acres, a bit more than Central Park in New York. This is only about a third or a quarter as large as a similar base in the U.S. which gives us problem number one: that's much too dense.

When these bases were still quite inaccessible to Soviet attack, such compression was tolerable. Now, however, with the introduction of longer-range Soviet fighter-bombers, our bases in Germany are increasingly vulnerable. (More remote areas, including Britain, are somewhat safer, since the Soviets are still not so good at air refueling). If the Air Force had its way, the fields would be several times bigger, so that the planes could be widely dispersed, and there could be more alternate runways. The German environmentalists, however, aren't willing. So the prime target area—the planes themselves, their fuel and munitions, and the command areas—remain more tightly bunched than they should be.

No longer, however, do you see row after row of aircraft lined up wing tip to wing tip. Instead, each plane is housed in a cylindrial concrete hangar with a huge blast-resistant door. On landing, it taxies straight in for refueling, rearming and repairs. So only a direct hit on the concrete hangar or an extremely close miss can destroy the plane on the ground. The other "critical modes"—fuel lines and the like—are also being progressively hardened.

After an attack, you clear away unexploded bombs and mines and repair runway damage. Piles of gravel, and stacks of concrete and metal slabs are stored in convenient locations. The base commander figures out how to open a minimal runway in the shortest possible time. Repair teams rush to the spot in armed tractors and get going. To repair a crater takes a couple of hours. To help planes land on cratered runways, our air bases also have arresting cables available, like those on aircraft carriers, if need be.

The hardest—that is, most invulnerable—bases in the Western orbit are in Switzerland, Israel and Saudi Arabia; they have deep, extensive underground facilities and can ride out an attack and deliver a punishing counterblow. Ours weren't built with the present threat in mind. The low point was around 1978-1982, when the bases could have been knocked out quite easily. NATO is now spending $250 million annually—which should double in a couple of years—on hardening them. The U.S. contributes just over a quarter of this. Great progress has been made in the past two or three years; more will be made in the next ones. On the other hand, the Soviets may introduce new conventional munitions with high blast effects able to cave in the structures we are building.

GAS ATTACK

Until recently, the Soviets, who have always been way ahead in chemical warfare, could have closed down our airfields in Germany with a series of determined gas attacks; soon, thanks to our defensive measures, this will be much harder.

It's assumed that they will use such weapons, so in an alert everyone struggles into charcoal-lined "chem suits" and carries on in that hot and awkward attire. You keep one suit near your work station and another where you sleep. Eventually, four per man should be available. You have to live in the suit as long as the threat persists, including relieving yourself in the pants. Meanwhile, the Soviets are carrying on research to develop mycotoxins or other agents that will penetrate the chem suits' filters.

For off-duty shifts, the Air Force is starting to build concrete dugouts for about 80 persons, where one takes off the chem suit and rests on a cot. These should be available for all the uniformed personnel on our air bases in the late 1990s. The bunkers will be crowded and grim, but should survive anything except an almost direct hit.

To enter the dugout from outside when there is gas around, you pass through a series of air locks while removing and discarding your contaminated garments in stages. The suit is itself poisonous and has to be abandoned, so pretty soon you're out of suits, although eventually it may be possible to decontaminate them conveniently. If the Soviets could mount a succession of gas attacks until the suits were used up, things would get very difficult.

And the command centers? Everyone has seen movies of World War II military airfields in England or the Pacific: The headquarters are wooden sheds with uniformed men strolling in and out. Today such buildings are akin to Fort Knox: You pass through armored doors and airtight chambers until, fully inside, you find male and female airmen working side by side. Women aren't supposed to be sent into combat, but being blown up and gassed doesn't seem to count.

CAMOUFLAGE

It's surprising that in an age of satellites and hyperaccurate missiles, camouflage could remain an important tool. But to a fighter-bomber pilot streaking in over the landscape at tremendous speed, one terrain feature looks much like another. The pilot will be jittery about surface-to-air missile (SAM) attacks and being jumped by defending fighters. So he will certainly not linger over the target.

Thus, such basic camouflage measures as false runways made of painted plastic strips, dummy buildings and planes, sod planted on concrete buildings, reforestation and the like could lead him to drop his bombs in the wrong place. A remarkable example of this is the Kiev offensive in World War II: 19 out of 25 Luftwaffe attacks on Soviet airfields in fact hit decoy installations. So far, we are just beginning to camouflage our air bases, particularly planting trees in unused areas to break up the outline as seen from overhead.

SPETSNAZ

A thorny problem is how to prepare for attack by Spetsnaz troops, as the Soviets call the highly trained elite forces they send behind enemy lines, often in the uniforms and speaking the language of the target country. (The Germans used similar troops in World War II, such as the Otto Skorzeny glider unit that rescued Mussolini from Gran Sasso and the disguised detachments sent behind our lines in the Battle of the Bulge.) To add to the confusion, the Spetsnaz units include female soldiers. Their big moment could come just at the outbreak of hostilities, when they would kill pilots living off base, and destroy off-base supplies and communication links, as well as infiltrate the base itself—perhaps in hijacked vehicles—to attack key officers and installations.

The skill and ferocity of Spetsnaz attack was shown in the Soviet seizure of the Afghan government in December 1979. Spetsnaz units invaded the presidential palace and, using weapons with silencers, murdered President Hafizullah Amin, his guards and his entourage. Then they seized the Kabul airport for the landing of occupation troops.

The usual figure for the number of Soviet agents of any description in West Germany is on the order of 50,000. This sounds like a huge number, but isn't out of line with the numbers of agents—then called Fifth Columnists—that the Nazis maintained in Austria, Czechoslovakia, and other target countries before the outbreak of World War II. A number of these Soviet agents have paramilitary skills, and would be reconfigured as Spetsnaz troops or auxiliaries in a conflict. NATO airfields would be high on the list of their targets.

The Air Force is responsible for its own ground defense inside the base perimeter. Since airmen don't ordinarily carry personal weapons, this job is handled by the base security police. A lot of damage might occur before they could identify the Spetsnaz and put them out of action. Wrecking the main gate area would delay pilots return to duty.

Also, radars rise above ground, making them highly vulnerable. Their loss would render the planes dependent upon their onboard radars, permitting landing only under relatively favorable conditions. (For much of the year, Germany has dismal weather.) And of course, cutting communications would be a key objective.

Other Spetsnaz troops could lay down gas barrages from concealed mortar positions a few miles away. A few gas rounds would throw the whole base into a chemical defense mode and degrade its efficiency. Since the planes are inside their concrete bunkers, Spetsnaz attacks probably couldn't destroy many of them, but they could create havoc otherwise. At Bitburg, for instance, the main intelligence headquarters is a "soft" above-ground building. It has only one door and no windows, which makes it a bit more secure but much more conspicuous. (There's also a smaller semihardened emergency backup.)

The security people at our bases seemed casual about the Spetsnaz threat. None of them know about the teams of Spetsnaz troops pretending to be Polish art students recently caught in Scandinavia practicing eve-of-hostilities attacks on the homes of high military officers and fighter pilots. It was often assumed that the attackers would emerge from the immediate neighborhood of a base. The security folks felt quite confident of the attitude of the local population. "Russians would stand out like a sore thumb," they said. But most Soviet agents are East Germans who settled in West Germany years ago and acquired new identities. They don't march around in red suits with hammer-and-sickle armbands.

And everyone seemed taken aback when I pointed out that a few hours before hostilities, disguised Spetsnaz teams could drive up from a distance in trucks. More would probably be lifted in by helicopter or plane. A lot of civilian traffic moves in and out of an air base, and Spetsnaz attackers could undoubtedly penetrate it, some in hijacked vehicles. Inside, you have to go through a further checkpoint to get out onto the flying areas, but on my visits security was negligible.

Here is one scenario that I don't think the Air Force is prepared to cope with. Assume that a number of Spetsnaz teams penetrate an air base at night dressed in U.S. military chem suits and set off gas bombs. The base personnel have to climb into their own chem suits and masks. Recognizing friend from foe becomes all but impossible. The Spetsnaz troops commandeer military vehicles and ride around in the darkness shooting things up. Soon, our troops are firing at each other and there is utter confusion.

AIR ATTACKS

After the Spetsnaz units had done their worst, the air attacks would start.

The external SAM defense of the air bases falls to the Army. There are about 80 of the new Patriot higher-altitude missiles defending the Bitburg area, costing $1 million each, plus some 190 lower-altitude Hawk missiles. Since hundreds of sorties could be launched against the base, the defensive missiles might be expended in the first few days. The most effective defense is still our fighters. Their use is not yet coordinated with the SAMs, so many in the Air Force believe that the commander of each wing also should be in charge of his ground-to-air defense, like RAF commanders in Britain.

The farther-out ground defense of NATO air bases is the duty of each host government. In Germany, one could expect a competent job, but in parts of the southern region, such as Greece or Spain, there would be little reason for confidence. So one irony of any conflict in Europe is that since air superiority is vital to the land battle, our Army could lose the war in rear areas where it doesn't even fight.

Thus far, the Soviets do not seem to be matching NATO's hardening of its bases by hardening their own. In other words, they seem less worried about us than we are about them. This is scarcely surprising, since the Soviets, notwithstanding their propaganda theme of insecurity, have never believed there was risk of a NATO attack. Indeed, NATO barely has the will to defend itself. So after the attack on our air bases with which a general European war probably would begin, the attacking planes might well return to concealed secondary fields and highway strips for refueling and rearmings. The Soviets also would expect to move their planes forward onto NATO bases that they seize.

Is this all just a bad dream, unlikely when conflict seems to make little sense? If you think so, the Defense Department's annual book on "Soviet Military Power" will make for troubling reading. In the past decade the Soviets have built between three and 10 times more than the U.S. in such categories as tanks, SAMs, ICBMS and artillery.

Why? One cannot sum up the motivations of a huge, heterogeneous population in simple form, and it is a mistake to try. The point is, empires do arise and expand until they can expand no more. Revolutionary leaders typically embark on aggressive foreign policies: Napoleon, Hitler, the ayatollah. There's nothing new about Stalin and his successors. We, indeed, after our own revolution were hell for our continental neighbors: We drove out not only the British but also the French, the Spanish and the Mexicans, and we weren't much fun for the Indians. As for the Russians, they've always been tough on their neighbors. For centuries they've ground them down and expanded into their territory. It rarely "made sense."

The Soviet state organs, notably the Red Army and the KGB, vastly stronger than their counterparts here, consider themselves in business, like growth-oriented executives, to expand the power and extent of the state. Holding down Soviet gains constantly exercises these organs of state, which are thus continually fortified.

Another sense of "why" is this: What is the payoff? Here one should remember Churchill's maxim, "Arm to parley." The Soviet Union uses military force freely and brutually. It runs constant military tests and provocations, together with political warfare, against its neighbors. Because of this, it has more clout than its economic and political backwardness justify.

Frank Meehan, U.S. ambassador to East Germany, has served in many key posts in the Communist world. Mikhail Gorbachev, he finds, is an imperialist like his predecessors, but is prepared to trim his sails in the face of an adverse wind, as at present, when there are problems at home and the satellites are restless. Still, Mr. Gorbachev has not shelved his country's imperialist aims, merely deferred them. When the Soviets, looking at the world chessboard, find that the correlation of forces in some area is in their favor, they take advantage of it—witness their massive thrusts into Eastern Europe, Southeast Asia and Afghanistan. Between such thrusts they construct illusions, talk peace and apply blackmail.

We must, of course, give great attention to the air-base vulnerabilities I have described—to bombs (including the new explosives), gas, Spetsnaz and the rest. Our first answer to the Soviet threat to NATO air bases is hardening, defending and camouflaging them. It would be extraordinarily silly to neglect this area, and the Air Force rightly gives it high priority. Let's hope Congress does likewise.

Base vulnerability could be reduced by mixing different types of aircraft on each, as on a carrier. At present, the different types of aircraft that attack an enemy target—anti-radar planes, fighters and bombers, coordinated by AWACs—are collected from different bases; for instance, all the AWACs are based at Geilenkirchen, and could be knocked out en masse with one blow. Similarly, our F-4G Wild Weasels, which attack enemy SAMs, all sit at Spangdahlem. Preassembling attacking teams on a number of single bases, so that the loss of no one base could mess things up too badly, would help, although it would be a logistical nightmare.

The other answer remains the ability to counterattack. That requires a missile and aircraft force that is survivable, mobile, accurate and sufficient in number. Our own chemical capability must be kept strong. And our intelligence in the Eastern bloc must be able to find the bases to which the attackers may shift their forces.

We are, alas, a long way from this vigorous counterattack capability now. So the vulnerability of our air bases, although lessening, remains a serious weakness, which will be rendered much more serious by the INF Treaty.

Mr. SYMMS. Mr. President, I now want to speak very briefly on the amendment that is pending before the Senate. The question is very straightforward, if the President of the United States cannot certify that the Soviets have provided a truthful representation as to the number of SS-20's the Soviets possess, then I would like to ask the question rhetorically to my colleagues: How can we call it verifiable?

Verification means the ability to judge whether the Soviets are in compliance with the INF Treaty. It involves not just the monitoring of events in the Soviet Union, but also the judgment as to whether those events are in compliance with the treaty. That means we have to know the following. If we are going to say this is verifiable, we need to know the answer to these questions:

First, how many SS-20's the Soviets have produced up to the present time, including those produced but not deployed or deployed covertly?

Second, how many SS-20's the Soviets actually will destroy?

Third, whether the Soviets can produce new ones without being detected?

Fourth, whether the Soviets have the ability to hide SS-20's outside of the declared sites?

Fifth, whether SS-20's hidden outside the sites can be kept in an operating condition without being tested.

I know many Senators have said here on this floor and the administration has been saying: Oh, those missiles will be of no threat even if they do hide them, because they will lose their operational capability.

Even so, if they are not able to train as well on them, they will be able to train on SS-25's, which is very similar. I would venture to guess, Mr. President, that there is not one Member in this Senate who would like to stand up 10 years from today, and allow the Soviets to fire an S-20 missile that they have not trained on for 10 years, and you stand downrange from it, even with a conventional warhead on it, and let them try to bracket where they think you are. There are not too many Members of the Senate who would like to stand out there in the open and see whether the Soviets could hit you or not.

Certainly it is going to be very intimidating to people in Western Europe who live in cities, who live in crowded conditions, if, in fact, we discover at a later time that there is in fact a covert force of soviet SS-20 missiles that are operational.

Whether or not they have been training with them, the political implications of that announcement will be knee weakening. See how intimidating the SS-20's will be to Western Europeans if and when it is discovered—and I should probably say when it is discovered—that there is an operational covert force of Soviet SS-20's around.

Mr. President, the SS-20 is a mobile missile system, based on the design concept of mobile launchers and multiple reloads. The number of reloads produced for each launcher depends upon requirements of the Soviet's targeting theory. Traditionally the Soviets have targeted about 600 sites in Western Europe which alone would require 1,200 warheads to assure their destruction, two for each target.

Since each SS-20 has three independently targeted warheads, the theortical minimum of missiles required would be 400 SS-20's. However, the Soviets assume in battlefield conditions only half of the weapons will be operable, because the others will be inoperable or destroyed or otherwise unavailable.

So, to assume that half of the SS-20's could be fired would require 800 SS-20's deployed on launchers. In addition, each launcher needs at least one missile for test firing. With 400 to 450 test launchers, the conceptual total would be 1,250, which happens to coincide with some of the estimates that have been reported in the public testimony by the DIA.

The treaty provides for the destruction of 650 SS-20's. We can verify that

650 missiles without warheads will be destroyed, but we cannot determine whether or not the missiles that are destroyed are the functional ones. They could well be factory rejects never deployed, or deployed missiles with aging components or even uncompleted vehicles, dummies.

The treaty does not provide us with any qualitative inspection of these missiles to be destroyed.

Producing new SS-20's: The third problem is whether the Soviets can effectively produce new SS-20's under the terms of the treaty, thereby destroying old ones, while modernizing their fleet. This can be done by calling the new SS-20's SS-25's. The administration witnesses have testified that the first two stages of the SS-25 are so similar to the SS-20 that the SS-20 post-boost vehicle and warheads could be bolted on the first two stages of the SS-25.

They further testified that the treaty allows the Soviets to take the first two stages of the SS-25 through the portal at Votkinsk with out challenge, other than observation. They can bolt on the reentry vehicles and warheads in the field.

Hiding the covert force: Once the SS-20 is in the field, it can be hidden anywhere with no chance of detection and no right of inspection. It can be hidden under camouflage in appropriate terrain or inside SS-25 containers or on SS-25 bases.

Point five, reliability of covert force: Old SS-20's never die, at least not for many years. Reliability testing can be conducted illegally through the elimination launches or by testing the SS-25 legally. The SS-16 was deployed, Mr. President—and I repeat this—the SS-16 was deployed for 8 years without testing by the Soviets before we even discovered it.

These are the issues that are at hand. The Helms amendment, which is pending before the Senate is seeking to address these concerns. These issues pose great difficulties for effective arms control. If the best evidence is that the Soviets are cheating on the central obligation of eliminating all intermediate-range missiles and that we do not have the capacity to verify compliance, then the national security of this country may be in jeopardy, and this treaty is a sham.

Mr. President, one has to ask the question, and I know many of my colleagues sincerely stand up here and say, what motivation would the Soviets have to cheat? I think that is a good question because I think one thing those of us who come from a free society can generally agree with is incentives. So the question you have to ask is: What is the incentive for the Soviet Union to cheat and retain a covert force of SS-20's?

One of my colleagues just made the comment about what bad press they would get, how the world media would be down their neck if they were caught cheating. They received some bad press when they murdered Larry McDonald and shot down KAL-007 and the other 268 innocent people. It was a matter of a couple of weeks before people stopped talking about it. You have to remind people now about KAL-007.

The Soviets have never been afraid of bad press. They were not afraid of bad press when they strolled into Hungary or Afghanistan or Angola, or Nicaragua or Cuba or Ethiopia or Mozambique or wherever they have gone. It has not bothered them too much. They do not have a press problem in their country because they do not have a free press.

It is interesting to note, as an aside on that, I wonder what would happen if some of Gorbachev's closest aides were to write "kiss and tell" books like Ronald Reagan's closest aides have done. I guess they would be lucky if they got to work in a salt mine in Siberia. Most likely, it would be reported they have become very ill and passed from the scene.

However, Mr. President, let me get back to what incentive would the Soviets have to cheat. I say to my colleagues, how long do my colleagues think it will be before they announce they have broken out of the ABM Treaty? That is question No. 1. All evidence points toward the fact that the Soviet Union is working very hard toward developing an antiballistic missile system which is outside the scope of the ABM Treaty that is now in effect.

There are numerous violations of the current ABM Treaty that point toward Soviet deployment of an antiballistic missile system.

So let us just assume, being on the safe side, that they are able to break out of ABM, let us say, by 1994—6 years from now—and they announce they have broken out of the ABM Treaty, it is no longer valid and they have, in fact, deployed and have in place an antiballistic missile system that is reasonably effective. It does not have to be 100 percent effective, but if it is reasonably effective, let us say if it can shoot down half of the U.S. intercontinental ballistic missiles that were coming in and warheads, that would greatly reduce the viability of the U.S. strike force. Let us say they announce they have been able to detect, and they are working very hard on this, they can detect the location of our Trident-class submarines by then.

Mr. President, that is the Soviet chessmen mentality. That is their incentive. If they, in fact, are able to do that, then what they can do in 1994 is roll back out 500 plus, or however many SS-20's they have maintained, and reintimidate Western Europe.

People say, "Well, what will we do about it?" I say probably what will happen is there will be a great deal of concern in Western Europe, a great deal of hand-wringing, and the NATO alliance will be seriously jeopardized.

What we need to do is support the Helms amendment that is currently pending before this body and have the President certify that he is able to verify how many SS-20's were manufactured, how many are going to be destroyed, how many may be left over, and get to the bottom of these issues.

Mr. President, I urge the adoption of the Helms amendment, and I think it is important that the Senate not be so intimidated by the press of politics, to think that we cannot examine these amendments as they come along, and vote on them as we are supposed to in the U.S. Senate.

It may not even interfere with the agenda that is set by the administration with respect to the timing of when the final vote comes in this chamber.

Mr. President, I yield the floor.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I rise to speak briefly in opposition to the pending amendment. I am a member of the Intelligence Committee, and we have gone into these matters in great detail there as well as on the Foreign Relations Committee, where I also sit. Our top military leader, the chairman of the Joint Chiefs of Staff, Admiral Crowe, has testified he is not concerned about the impact of any covert SS-20 force, if any such thing might exist. There are good reasons to believe that it would not exist and would, in any case, not be as threat.

The INF Treaty puts a complete ban on both production and flight testing of missiles. The viability of a covertly maintained SS-20 force would deteriorate over time. Without flight testing, the force would not be considered reliable by Soviet planners. The Soviets would have to turn to storage scenarios that assume a pre-war crisis period in which they could bring the missiles to readiness and perhaps flight test them again before using them.

The Soviets have far cheaper, far more reliable alternatives using systems that are not covered by the treaty. Any Soviet military planner worth his salt would not need to violate the treaty to achieve military objectives.

I know that there are disputes over exactly how many SS-20's we believe the Soviet's have. Those disputes are based in part upon a range of differences from varying elements of our intelligence community. It is improper to discuss the basis for the various differences in SS-20 estimates in an open session. I have walked through this issue with Mr. Webster of the CIA in closed session and I am satisfied and I believe that others members of the Intelligence Committee are likewise satisfied that the estimates cover a range acceptable to the intelligence community.

General Galvin in responding to a question from Senator LUGAR at one point of our consideration of this matter said:

> I have looked at all of the intelligence that is available to me on this question, and I do not have anything that I could take to the Hague or take to the Soviet Union and say, you are cheating on this and withholding weapons that should belong under the Treaty.

That was in testimony before the Foreign Relations Committee on February 3 of this year.

Let me finally quote from the testimony of Secretary of State George Shultz on March 14 before the Foreign Relations Committee. The relevant portion of this testimony reads as follows:

> The Soviet numbers for deployed and nondeployed forces are near the estimates of our intelligence community, allowing for the range of our uncertainties.
>
> There are some differences in agency views on the number of nondeployed SS-20's. Estimates for nondeployed systems are of course inherently less certain. They vary by agency, reflecting the independent analysis I mentioned.
>
> The treaty is designed to deal with possibilities such as the Soviets' having more nondeployed SS-20's than we think they do. Our national technical means can verify Soviet compliance with the treaty's ban on INF flight testing, as I have already noted, as well as with the treaty's ban on INF infrastructure.
>
> Both testing and infrastructure are essential to a militarily effective force. Thus, even if the Soviets did have some concealed SS-20's, their effectiveness would steadily atrophy. And covert systems are of no use for political intimidation.

For all these reasons, and many more, the amendment is not needed, it is unnecessary, and if adopted it would hamper our efforts to get the INF Treaty in place. I am therefore pleased to join others opposing the amendment.

I yield the floor.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I will speak to the pending amendment in just a moment, but I have not yet taken the time to speak with respect to the treaty as a whole and I intend to do both at this particular moment.

Mr. President, the treaty before us is a treaty much like its makers. Its makers are mortals, men and women like ourselves, who as individuals have their strengths and weaknesses. We should therefore not be surprised that this treaty, too, has strengths and weaknesses. It is our duty to identify the strengths, seek out the flaws, and weigh all of these to determine whether the treaty is in our net security interest.

This treaty concerns the limitations of military forces. Yet since security is defined both in military and political terms, and since any dealings between the democratic West and the totalitarian East are inherently political, it is clearly a political document as well. As such, it must be judged both for its political and its military effects.

As the administration has pointed out, there are worthwhile military benefits in this treaty. For one thing, it sets the highly desirable precedent of requiring asymmetrical reductions in United States and Soviet forces, which will be critical for subsequent conventional forces negotiations. Since the Soviets have more weapons than we do, they have to eliminate more of them, roughly four times as many deployed warheads, including more than 1,200 highly accurate SS-20 warheads. The highly-mobile, difficult to target, SS-20's pose a critical threat to NATO air bases, command-and-control centers, ports, and other vital targets.

However, as we all know this treaty's overall military significance is marginal, at least in the absence of an agreement reducing strategic forces. The treaty affects only a small percentage of our total nuclear arsenals. The Soviets are free to retarget their strategic forces, for example SS-24's and 25's, to cover those same targets. This of course takes these warheads off other targets, but the Soviets already have more than enough warheads to cover their targeting needs, so the degradation of their strategic capability would be minimal. It is a great irony to me that SS-25's, which were developed and deployed in clear violation of the SALT II Treaty, are INF-legal and available to take over SS-20 targets.

And I want to repeat that for emphasis. It is a great irony to me that SS-25's, which were developed and deployed in clear violation of the SALT II Treaty, are INF-legal and available to take over SS-20 targets.

The treaty also breaks new ground on verification. It gives us unprecedented rights of on-site inspection of Soviet missile assembly, storage, maintenance, and deployment sites. The INF Treaty also provides unrecedented cooperative measures to enhance the ability of our national technical means to detect violations not detected by on site inspection.

However, it says something about the nature of arms control, and the difficulty of negotiating arms control agreements with a country with a record of violating every treaty it has signed, that even these unprecedented measures may be insufficient to ensure that we will be able to detect Soviet violations. For that reason, I am cosponsoring a reservation to the treaty to establish a compliance regime to ensure that the United States responds to any Soviet violations.

Mr. President, while the INF Treaty is of marginal military significance, it does represent a considerable political achievement. It is a victory for "muscular" arms control. Although I was disappointed by the unseemly and unwise rush to finish the agreement last fall, I commend the Reagan administration for its stalwart refusal to capitulate to the intense political pressures, in the United States and in Europe, to postpone or cancel the deployment of U.S. INF systems. I hope this experience will serve as a lesson to those, including some in the U.S. Congress, who told us the way to get an agreement was to cancel the deployment of U.S. INF missiles. The message is clear: Negotiate from strength, not from weakness, and do not make "preemptive concessions."

The treaty also represents a victory for the cohesion of the NATO alliance, and for those NATO leaders who supported INF deployment despite the enormous political pressures they faced. The Soviets tried every trick in their very large political arsenal. They stormed out of negotiations. They tried to "fix" the West German elections. But they were eventually forced to return to the bargaining table and accept the U.S. position.

Yet despite these accomplishments, I am still concerned about many aspects of the treaty. Some of these results from what may have been a flawed U.S. negotiating position to start with. Others are the result of poor negotiating, unwise concessions, or sloppy drafting.

One problem is that the numbers of the treaty, which appears to be favorable to us, do not tell the whole story. While the Soviets are giving up many more warheads than we are, we are giving up a unique capability, while they are not. The Pershing II was not deployed solely to offset the deployment of SS-20's, it was also deployed to provide NATO with the ability to strike Soviet military targets on Soviet soil, quickly, accurately, and with certainty. The Soviets are not deterred by the prospects of nuclear warheads landing in East Germany and Czechoslovakia. They are deterred by the thought of nuclear warheads landing on Soviet soil.

We have now traded that capability away. NATO dual-capable aircraft cannot penetrate Warsaw pact air defenses with as great certainty. Sub-launched missiles under NATO command are not an adequate replacement, in part because of the risk that Soviet leaders might mistake NATO-dedicated SLBM's for the beginning of a strategic strike, and react accordingly. This option was discussed and rejected back in 1979 when NATO debated the INF deployment decision.

I am also concerned at the ban on conventionally-launched cruise missiles, at a time where we are seeking ways to improve our conventional posture for a post-INF Europe. These are highly accurate, long range standoff weapons, so accurate that in some cases they can do the job of nuclear weapons. These are the very weapons that the Ikle Commission tells us we must rely on in the future to retain our deterrent capabilities.

I am aware of the arguments for including the conventional GLCM in the INF ban. However I am not convinced that verifying the differences between nuclear and conventional GLCM's are any more insoluble than the difficulties of distinguishing between unarmed GLCM's and armed GLCM's, or GLCM's with a range of under 500 kilometers and GLCM's with a range of over 500 kilometers. Yet we are told that we can come close enough to knowing, even though we cannot verify compliance.

Nor am I convinced that, as supporters of the conventional GLCM ban argue, it is better to give up these missiles than allow the Soviets to have them. Most critical NATO targets are within 500 kilometers of the inter-German border already, and can be targeted by weapons permitted under the treaty. NATO strategy, in particular the follow-on forces attack concept, requires the destruction of Soviet follow-on echelons and their facilities and transportation deep within Warsaw Pact territory.

Underlying all of these concerns is the continuing conventional imbalance in Europe. This has been discussed at great length throughout the committee and floor proceedings on this treaty, and I do not intend to go into great detail here. But the conventional imbalance is an unpleasant fact of life that is not going to go away by itself. And I know that, at a time of shrinking defense budgets here and in Europe, there is little stomach for the kind of defense spending increases needed to redress the imbalance.

Turning again to the political aspects of the treaty, I am concerned that, at the last minute, the administration forgot all of the positive lessons of the long years of INF negotiations: "Never be in a hurry," and "always look like you can walk away from a deal." It is unfortunate, and ironic, that having forced our negotiators to work through the night to come up with an agreement in time for a summit, the administration wants to put the Senate under a similar deadline.

Finally, as I alluded earlier, I am afraid that even the most extensive verification regime ever is not enough to deter and detect Soviet cheating. There are a number of problems with the treaty's verification regime, but I will only mention a few, starting with the most basic issue: How many missiles do the Soviets have?

According to the memorandum of understanding, they have a total of 650 SS-20's. But according to press reports of a July 1987 OIA national intelligence estimate, there may be 1,200. Even taking the more conservative intelligence community estimate of 950, which Admiral Crowe described during the ratification hearings, we are looking at a possible discrepancy of 300 missiles or 900 warheads. Although there is considerable disagreement over what constitutes a militarily significant violation, I do not think anyone here will deny the military significance of 900 highly accurate warheads.

Mr. President, I think it is significant that the Administration and the Senate Intelligence Committee cannot tell us that we can ever know for certain how many missiles the Soviets have. All they can tell us is that any covert force that the Soviets do manage to stash away will lose its usefulness soon due to the ban on flight-testing, which is verifiable. It seems that every time anyone raises a question about verifiability, it comes back to the flight test ban, which as my colleagues are aware is to be verified through traditional National Technical Means. So despite all of the advances in verification—and they are significant—our whole verification regime is backstopped by good old NTM. And these NTM cannot verify whether or not there are any covert SS-20's, all they can tell us is whether these are being flight-tested.

The Soviets also have the right, as do we, to eliminate up to 100 missiles by launching to destruction within the first six months of the treaty. We gave them this right because, apparently, the Soviets were concerned about the environmental effect of burning all the missiles.—The Soviets worried about the environment? If you believe that, I have some beachfront property in Votkinsk I would like to sell you. Although the Soviets are not allowed to conduct telemetry, and these launches would not be as valuable as traditional test launches, it seems clear that they will be able to gain some information that could assist in the maintenance of a covert force.

Furthermore, let me remind my colleagues that the Soviets kept SS-16 missiles in the field for 8 years without flighttesting. I think we have to assume that if these missiles were indeed deployed then the Soviets believed they would work.

Likewise, while we have the most extensive on-site inspection rights we have ever negotiated with the Soviet Union, we can only inspect a tiny fraction of a percent of that enormous country. I think we all know that operations at their 133 sites subject to inspection will be squeaky clean. Any violations will take place elsewhere. I know our negotiators had their reasons, relating to our own security interests, for not insisting on the right to inspect suspect sites anywhere in the Soviet Union. But I also know that our demand for this kind of inspection rights was dropped late in the negotiations under the intense political pressures to come up with an agreement by an agreed deadline.

There are also problems with the definition of range for both INF ballistic and cruise missiles. As the treaty is currently written, as long as the Soviets conduct the first test of new ballistic missiles at a range slightly above 5,500 kilometers, all subsequent tests can be at INF ranges without violating the treaty. With cruise missiles, the way the treaty is written allows the Soviets to test a cruise missile at, say, 480 kilometers even if it has the capability to fly INF ranges.

To sum up the verification issues, I would impress upon my colleagues that while this treaty includes unprecedented inspection rights and information, and a very exhaustive and impressive-looking MOU listing the latitude and longitude of missile facilities at Lutsk and Kansk and Votkinsk, we still cannot be sure that it is verifiable.

There are also potential political negatives attached to the treaty. As former Secretary of State Kissinger and many others have testified, when we withdraw our INF forces we will face increased pressure for the total denuclearization of Europe. We are already facing opposition to the critical modernization of NATO's short-range nuclear forces. This pressure is especially intense in West Germany, and it comes from many who have been supporters of NATO's nuclear deterrent.

Mr. President, I have enumerated some of the problems contained in the treaty. Let me briefly address another problem that is strictly of the Foreign Relations Committee's making: The Biden provision. This condition is merely the latest round in a series of attempts by the Congress to unconstitutionally limit the President's right to make, interpret, and implement treaties. It is billed as critical to the interpretation of the INF Treaty, but we all know its real purpose: To prejudice the administration's interpretation of the ABM Treaty and cripple SDI. Ironically, we have already seen how this provision might work in practice, in the dispute over futuristic weapons, where the Biden condition would have rendered the negotiating record irrelevant.

Mr. President, it strikes me as strange that people who have been involved in business in which they contract with other parties would reject the negotiating history of that contract and depend entirely upon the explanation given their board of directors by a person who is involved in the negotiations, without respect to whether or not the other party to that contract agreed with that interpretation. That seems to me to be so ridiculous that it ought to fall on its own right.

Mr. President, this treaty is not complete, it is not a finished piece. It is a piece of clay on which we in the Senate have the right and duty to work our will to meet the concerns that many of us have. We must work to address the loopholes and shortcomings of the verification regime. We must make difficult choices as we weigh the opportunities for Soviet violations against the incentives, or disincentives, to violate the treaty. At the very least, we must create a compliance mechanism that will convince the Soviets that the risks of violating this treaty will outweigh the gains. We must weigh our admitted inability to verify total compliance with the treaty against the benefits that we may gain from the treaty, and our ability to detect a militarily significant violation. In short, we must make choices, difficult choices. That is what we were elected to do.

We should remember that the treaty can also be shaped for the worse. Adoption of the Biden provision would make it difficult for me and I am sure many of my colleagues to support the treaty.

Last, we must consider the effect on our national security of a failure to ratify this treaty. And let me repeat for my colleagues, that the potential political consequences of such an action, which would seriously undermine European support for the United States and the NATO alliance, could be just as dangerous to our national security as any military problems resulting from ratification. We must ask whether we will do more to help the supporters of denuclearization and neutralism in Europe if we ratify the treaty, or if we fail to ratify it.

Finally, if the Senate finds that we cannot answer these questions, we should remember that we have the right to send the treaty back for renegotiation. Treaty-making is important business. It should not be driven by artificial pressures such as summit scheduling. If we believe that the problems of the treaty can only be adequately addressed through renegotiation, it would be an abdication of our responsibility not to do so.

Mr. President, let me address for a moment the amendment which is pending before the body at this point.

What are the numbers of SS-20's? I am struck by both the problem, and perhaps the disingenuity of those who have said it falls "within the range of estimates." That is a game designed to mislead the American public, not to inform the American public. Because "within the range of estimates" can indeed mean at one end of the range of estimates, which is precisely what we have here, and we are hampered in the discussion of the range of estimates because of the classification of some information.

So let me refer only to published reports. I do not want to enhance or detract from the accuracy of published reports, but let me use the published reports as an illustration of the danger of saying it is within the range of estimates and therefore acceptable.

The lowest estimate that we have of the number of SS-20's in published information is 550. The highest of the range of estimates is 1,200. So saying 650 is within the range of estimates is accurate but misleading and, in my judgment, intentionally misleading. To say that it is within the range of estimates, obviously it is above the lowest and below the highest, but it is much closer to the lowest range of the range of estimates than it is to the highest of the range of estimates.

I heard a statement made on the floor of the Senate earlier today: "Let's take the average." OK. Let us take the average. That would be 875, as against the 650 that the Soviets have agreed to. But let us assume, too, and if the proponents of the treaty and those who are explaining it wish to do so, let us say there is only a difference of 300 weapons. That is only 900 warheads, and 900 warheads are irrelevant. Or, let us take the average, which would be 875. That would mean they are only off by 225, and that is only 675 warheads. Certainly, 675 warheads are irrelevant.

I heard one of my colleagues make a reference to the Loch Ness monster. I do not believe the Loch Ness monster has yet threatened the survival of cities; and if there are 1,575 cities being threatened by the Loch Ness monster, I expect that we would pay more attention to the Loch Ness monster.

So it seems to me to be both specious and misleading to make that kind of irrelevant comparison to something that does not matter, when, as a matter of fact, what happens here is of great importance to us, indeed.

Suggestion two. Suppose there are 300 or 500 missiles more than we have in the official Soviet estiamte, and we should ignore that, because over a period of time they become useless. Let us examine for a moment how useless those weapons are.

If I recall correctly, we do not test all our missiles every year, either. Does that mean that the missiles we have are militarily unimportant, militarily meaningless? Or do we include within our estimate of our military capacity those missiles we have in our inventory that are deployed, but that are not being tested?

I suggest that if you look at the argument that they are militarily meaningless, then you would wipe out of our arsenal the U.S. Minuteman II. I think you would also have to recognize that ACDA verification chief Fred Eimer has testified, before committees of Congress, that the Soviets could have a good measure of confidence after 3 years and confidence after 10 years without testing. That would parallel what we have seen with respect to the SS-16, which disappeared for a number of years but still remained within their inventory, and we have to believe that they must think those missiles have some kind of military significance.

Finally, Mr. President, when we look at the range of estimates, let us recognize one fact: The only estimate—again, according to published reports—that is lower than the Soviet estimate is that made by the U.S. Department of State, and every military force and intelligence estimate made in this country is higher than that which is given by the Soviet Union.

Mr. President, the track record of our State Department in trying to manipulate information in order to sustain a dipolomatic initiative which they have undertaken is far too serious for us to ignore. If I have to ignore something in this process, it would be the State Department estimate, not that of the CIA or the military chiefs or military intelligence experts of our country.

Finally, I think it is very important that we understand the significance of hidden, covertly deployed Russian missiles. I think it is a disservice for people here to try to brush that away as irrelevant, unless indeed they wish to make the one argument that certainly is within the matter of their judgment, although I might disagree, that 900 warheads or 1,500 warheads targeted on targets in Europe are irrelevant to the military balance of power. If they wish to make that judgment, they are certainly entitled to make that judgment. It is not a judgment shared by the Senator from Idaho.

I urge that this amendment by the Senator from North Carolina be given the serious consideration to which it is entitled, and thus recognize and give our administration the opportunity to provide some close estimate of the total number of SS-20's the Soviet Union possesses and has deployed prior to the exchange of the instruments of ratification.

That does not destroy the treaty. It may indeed be the only way to protect the integrity of the treaty.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Alabama.

Mr. HEFLIN. Mr. President, in this Chamber, we constantly refer to the future. We work to build a better future for our children and grandchildren. This is the essence of the American dream and all Americans should work with this goal in mind.

I want my grandson, Wilson Heflin, now only 5 months old, and those in his generation, to have an even brighter future than I was blessed to have. However, so long as we are faced with the threat of nuclear war, that hope for a brighter future for our children and grandchildren is at tremendous risk.

In order to truly provide for the future of America, we must work to reduce the threat of nuclear war.

On December 8, 1987, President Ronald Reagan signed the INF Treaty with the goal of reducing the threat of nuclear war.

As we consider ratification there are several matters which merit our scrutiny. We must consider the imbalance of conventional and chemical weaponry between the Warsaw Pact nations and the NATO nations. We must examine the ability of the United States to verify Soviet compliance with the terms of the treaty through both the treaty's provisions and through our capacity of verification outside the treaty, and we must balance in our minds the potential for good with the potential dangers that could come from Senate ratification of the treaty.

Much concern has arisen in the minds of Americans on the conventional weaponry imbalance that exists between the Soviet Union and its allies and the NATO nations. The presence of intermediate-range missiles has been considered a deterrent against a conventional war assault in Europe by the Russians and their Warsaw Pact friends. Yet, even with the removal of the INF, American and its NATO friends will still have the capacity to hit targets that were within the range of the INF. These targets can be focused upon by numerous methods of launching. Both sides will still be able to hit targets through air-launched, sea-launched, as well as ground-launched missiles, just as they could with INF. The delivery of a nuclear threat by cruise missiles will continue. Within less than 30 minutes an intercontinental ballistic missile fired from a faraway distance could hit targets within the former range of the INF. A nuclear deterrent against a conventional or chemical weapons war remains and will continue after ratification of the treaty. Another deterrent which would remain is the British and the French intermediate nuclear missiles.

I had great reservations about SALT II on two grounds primarily. One was verification and the other was an unequal destruction of launchers. I believe the Soviet Union achieved a negotiated victory under the provisions of SALT II.

In evaluating the INF Treaty, one of the major issues in my mind is whether we would be able to verify compliance with the terms of the treaty. Or stated in another manner: Does the United States have the capacity to rapidly learn about a violation of the treaty? Or stated in another manner: If the Soviets cheat on the treaty, can we catch them? With our sophisticated intelligence capability and with the inspection rights outlined in the treaty, I believe we can catch the Russians if they cheat. Thus, we have come close to having a cheat proof treaty.

It is extremely important that we follow and monitor both the letter and spirit of the treaty's provisions. We must never tolerate even the hint of cheating.

When President Reagan was elected and again when he was reelected, the vast majority of Americans would not have predicted that this INF Treaty would have been possible. Most Americans felt that the Russians would never agree to the inspection and verification rights contained in this treaty. Second, hardly anyone would have believed that President Reagan would have ever trusted the Russians to such a degree that he would have entered into any treaty. However, the Reagan-Gorbachev summits have ushered in a new era of public opinion about nuclear arms and the Soviet Union. I do not think there is any question that in the recent past the Russians have demonstrated a turnaround just as has President Reagan.

This is a limited treaty which does leave us with an effective deterrent against both a nuclear and a conventional weaponry assault against the mainland of Europe. The treaty has its gambles. But weighing the INF Treaty in balance, the advantages of ratification far outweigh the potential disadvantages.

I had previously mentioned the changed attitude on the part of the President toward nuclear arms reduction with the Russians. While I agree with President Reagan on many of his attitudes and measures and disagree with him on others, I am convinced that President Reagan has an attitude toward the Russians which is similar to my own. Namely, we believe that you must constantly be on your guard as you deal with the Kremlin. I am convinced that President Reagan would not have signed this treaty if he thought that he was giving the Russians an advantage or that he was not doing the right thing. When the time comes to vote on the ratification of the treaty, I will cast a vote to reduce the potential of nuclear destruction of the world. I will support President Reagan in this effort to reduce the threat of nuclear war; I will vote for ratification.

I hope that we can move forward and ratify this treaty before President Reagan leaves for the upcoming summit. I believe the stamp of approval by the U.S. Senate on this INF Treaty will give him greater standing as he confronts other nuclear arms reduction negotiations and other Russian and American issues. However during this ratification process, the Senate must still exercise all caution and must consider the merits of each amendment to the treaty, its impact on our overall strength as a nation, its consequences for our allies in Western Europe, and its effects on NATO.

I will support at least one amendment, the Hollings amendment, which would address to some degree the Soviet advantage in conventional weapons. I do not believe U.S. treaty negotiations should have surrendered our option of deploying conventionally armed, ground-launched cruise missiles which would be an effective deterrent to the Soviet conventional arms advantage, and this amendment would remedy this indiscretion.

Finally, throughout the ratification process and in all of our other dealings with the Soviet Union we must never lose sight of the Kremlin's historic goal of worldwide domination. Although the INF Treaty appears to be mutually beneficial for both countries and with its verification provisions it appears to be a legitimate effort in arms control, we must never let down our guard and fool ourselves into believing that the Soviet Union has significantly changed its intentions. After all, the U.S.S.R. is a Communist country which does not share our moral and humanitarian concerns.

Thank you, Mr. President, I yield the floor.

Mr. PELL. Mr. President, the Senator from Wyoming [Mr. WALLOP] is on his way here. Until he comes, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, with reference to my amendment, which has been laid aside to accommodate one or two Senators who are off the Hill, let me just conclude with a couple of observations. We operate on good faith around this place and I do not question the good faith of any Senator who has spoken against my amendment.

However, I think the RECORD ought to be set straight with respect to the suggestion earlier today that the amendment is not reasonable in that it expects the Soviets to have given us the exact number of SS-20's in the memorandum of understanding because the United States made some honest errors in the counting of its missiles. Indeed, I believe my friend from Indiana [Mr. LUGAR] stated it was impossible for President Reagan to make this certification.

Well I have to point out that any reading of the amendment discloses that the impression that apparently Senator LUGAR and maybe others have is not accurate. The amendment does not ask—let me repeat for emphasis—it does not ask the President to certify that the Soviets provided us with the exact number of SS-20's. Nowhere in the amendment is that suggestion made. Rather, the amendment asks President Reagan to certify that the Soviets provided a true account.

There is a substantial difference between the two. Of course, an exact count could not be certified by any President. But a President should be willing and should be required to certify that in his judgment the Soviets provided a true account of the SS-20's produced and on hand by the Soviets.

So there is a difference between what was said and what is actually the fact with respect to what the amendment calls for. If the Soviets did make an honest accounting error, then the President could certify that the Soviets gave a true account and the treaty could go into force. What is at question is not the Soviets accounting ability, but rather whether or not the President believes them to be telling the truth. As to the other statements made, Mr. President, as soon as it became apparent in the hearings that the Soviets likely underestimated the number of SS-20's they have by the hundreds, apologists popped up.

The apologists claimed "do not give the Soviets a tough time for possibly lying about how many missiles they have, because these missiles quickly become useless without testing."

In the first place, we should not be in the practice of accepting and condoning Soviet lies. If the President cannot certify as to the truthfulness of the Soviet numbers, we should not allow this treaty to go into force.

In addition, the treaty actually permits flight tests by allowing the Soviets to eliminate 100 missiles by launching. The Soviets claimed that they needed this provision; because otherwise 3 years would not be sufficient time for them to destroy all of their missiles. But testimony received by the Foreign Relations Committee and presumably the Intelligence and Armed Services Committees, suggests that this is simply not true.

Rather, the true reason why the Soviets wanted eliminations by launch was to sneak in some flight tests. Former Deputy Assistant Secretary of Defense Frank Gaffney, testified before the Armed Services Committee:

> In agreeing to the Soviet Union's demand that the accord permit them to dispose of at least 100 INF missiles by flying them to destruction, we have seriously compromised this feature of the INF accord.
>
> Indeed, we have offered the Soviets through this device an opportunity to design a de facto flight test program, so as to maximize their knowledge and confidence in any covertly stockpiled missiles.

Furthermore, I have always been somewhat suspicious about this claim that covert SS-20's would become useless without flight testing, as I recall that the Soviets covertly deployed the SS-16 for 8 years without us detecting any flight tests.

So, Mr. President, it should come as no surprise that when I looked into this claim that this covert Soviet SS-20 force would quickly become useless without flight testing; and I quickly found it to be a bogus claim.

In fact, according to testimony received during hearings of the Foreign Relations Committee, the Soviets can easily go 3 years, and indeed as long as 10 years without testing their SS-20's before having to worry about the reliability of these missiles.

Indeed, former Secretary of Defense Cap Weinberger—I remember well his testimony—indicated his belief that the Soviets could go 3 years without flight testing their SS-20's and retain confidence in the reliability of these missiles.

In February, I asked Cap Weinberger if the Soviets would retain confidence in the reliability of their missiles after 3 years, and he responded:

> They have tested for a long time. The SS-20 is an old system. It is now 11 years old since it was deployed. There was a lot of testing before that and there has been continual testing and review of it during all of this period. So I think they would have somewhat substantial confidence that the SS-20's that they have, would be deployable and usable.

I think it is important to remember that after 3 years, all of our Pershing II's will have been removed from Europe and destroyed. The Soviets could pull out a few SS-20's and test them after 3 years, and there would be nothing the United States could do about it.

But as the hearings progressed over the months, I discovered that the Soviets could go much longer than 3 years without testing the SS-20; just like they went 8 years without our detecting tests of the covert SS-16 force.

Indeed, in the middle of March, the committee heard from Dr. Fred Eimer, the assistant director of the Bureau of Verification and Intelligence at ACDA, the Arms Control and Development Agency. Dr. Eimer has been with ACDA for 14½ years, and has served as assistant director for 7.

During our hearings, Dr. Eimer indicated that not only would the Soviets have "a good measure of confidence" in the reliability of covert SS-20's after 3 years, but they could actually maintain confidence in these missiles for up to 10 years.

So, Mr. President, the treaty's bar against flight-testing does not excuse the Soviets for having a covert force of SS-20's. The Soviets have gone years without testing other missile systems, and the testimony before our committee indicates that they could go years without testing the SS-20.

Mr. President, I thank you for the opportunity to make these closing remarks on the amendment. As I understand it, it has been set aside so that Senator WALLOP can offer an amendment.

The PRESIDING OFFICER. The Chair would state that it has not been set aside by agreement yet. The Chair is waiting for such a statement and has not heard it yet.

Mr. HELMS. Very well. I yield the floor, and I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I would say I intend to lay it to one side when the Senator from Wyoming [Mr. WALLOP] comes here with his amendment. At the moment I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment by Mr. HELMS be temporarily laid aside and that Mr. WALLOP proceed to call up his amendment on which there is a time agreement, after which all time has expired or been yielded back the vote then occur on or in relation to the amendment by Mr. WALLOP, following which Mr. PELL be recognized to make a tabling motion on the amendment by Mr. HELMS.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. BYRD. I thank all Senators.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 2106

(Purpose: To clarify that neither Party may produce any other stage which is either outwardly similar to, or interchangeable, with any other stage of an existing type of intermediate-range GLBM)

Mr. WALLOP. Mr. President, I ask that the amendment on article VI, paragraph 2, which is at the desk be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 2106.
>
> In Article VI, paragraph 2 of the Treaty, strike "which is outwardly similar to, but not interchangeable with" and insert in lieu thereof "which is either outwardly similar to, or interchangeable with".

Mr. WALLOP. Mr. President, the amendment that I have just called up is in the nature of a technical amendment to the treaty. It ought really to take very little time. If the Senate is serious about its business, it will take very little time. If the Senate is of a mind-set somehow or another, that it is operating in a state of suspension of judgment, then it will take the full hour and a half.

I know the managers of the treaty on both sides are anxious to get on to the resolution of ratification.

This amendment is purely and simply technical. It corrects an obvious drafting error in article VI, paragraph 2 of the treaty which deals with exceptions to the general ban on production of any INF-type missiles contained in article VI, paragraph 1.

The treaty paragraph here is supposed to have made it possible for the Soviet Union to manufacture the first stage of the SS-25, which is for all intents and purposes also the first stage of the SS-20, and no other stage. The most ordinary reading of English, putting these double negatives together, simply does not do that. It allows them to build this stage and another one.

We have to decide whether or not this treaty is bound to be put forward and signed, in the case of an obvious drafting error, or if we want it to say what the parties say they want it to say.

It was the clear intention of both parties to allow the building of one stage that is outwardly similar to but not interchangeable with the first stage.

Written as it is with both the "notwithstanding" beginning, the language in the paragraph, and the subsequent negative, article VI, paragraph 2 amounts to a double negative that can be construed to mean that either party could build more than one stage of a missile, similar to the SS-20.

Let me read from the analysis of the American Enterprise Institute's INF Study Task Force who were the first ones to discover this:

> Furthermore, it is unclear how—if at all—this article would affect the future intermediate range missile that might be developed using the first two stages of the SS-25. (Just as the first two stages of the SS-16 gave rise to the SS-20.) Could the development, testing and production of such a system be concealed using the SS-25 program as cover?

It is a question that this Senate ought to pay attention to if it is to do the job that it sits here required by the Constitution to do.

> In any event, it will be difficult for the United States to determine whether anomalous activities within the SS-25 program indicated a surreptitious intermediate range development program.
>
> This paragraph contains a noteworthy drafting error. Read literally, it permits the production of an SS-25 second stage that is "outwardly similar to, and interchangeable with" the second stage of an SS-20. The problem arises because the paragraph begins with a "notwithstanding" clause that overrides the general prohibition on intermediate range missile stage production of paragraph 1.

This point should be clarified with the Soviets. What the last clause of the paragraph meant to say and should be revised to reflect is the language of my amendment.

Mr. President this is not something that I have concocted alone. Others have seen it as well. The Senate Armed Services Committee has a recommendation, and I think it is wise that the Senate listen to what they said. We have been told by others on this floor supporting the treaty that all these people and all these committees have done their work. Why should we not do the work they recommended to us?

I read from page 18 of their report:

> Notwithstanding Ambassador Glitman's testimony as to the intent of the Parties and the effect of the Treaty, Members expressed the view that the provision was, at best, awkwardly written, and, at worst, contained a double negative that, in combination with the exemption stated in the prefatory clause, would allow production not only for a first SS-25 stage that was outwardly similar to, but not interchangeable with, the first stage of the SS-20, but also a second stage of the SS-25 that could be outwardly similar to and interchangeable with the second stage of the SS-20.

Mr. President, this is the recommendation of the Senate Armed Services Committee.

> *Recommendation:*
>
> The Committee carefully weighed the testimony of Ambassador Glitman, the description contained in the Article-by-Article Analysis, and pertinent documents from the negotiating history. The Committee concluded that there was a meeting of the minds between the United States and Soviet negotiators that each Party has the right to produce a type of GLBM not limited by the Treaty if that missile uses one, but only one, stage which is outwardly similar to, but not interchangeable with, any stage of an existing type of intermediate-range GLBM. Thus, if a Party chooses to produce a non-INF GLBM with one such stage, it may not produce any other stage that is outwardly similar to any other stage of an INF missile.
>
> This means that the Soviets may continue producing the SS-25 first stage provided that it is outwardly similar to, but not interchangeable with, the first stage of the SS-20. If these stages are interchangeable, that would be a violation. However, if they elect this option (as they have indicated they will), the second stage of the SS-25 cannot be outwardly similar to the second stage of the SS-20, even if it is not interchangeable.

Getting to the meat and the heart of the Senate Armed Services Committees recommendation:

> Although the Committee believes that the United States and the Soviet Union share a common understanding of the meaning and effect to this provision, it firmly believes—

I say that again; they do not say it twice, but let me emphasize the word——

> * * * it firmly believes that the drafting of this provision is technically flawed and should be clarified. Accordingly, the Committee urges the President to clarify with the Soviet Union the meaning of this provision. This could be accomplished, for example, by an exchange of letters.
>
> The Committtee further urges the President to reach this clarification prior to final Senate action on the Treaty.

I point out the Secretary of State was trying to do a whole lot of other clarification, but this single recommendation he did not. Going on:

> If such clarification is not reached, the Committee may have to recommend that an understanding be added to the Resolution of Ratification to clarify this provision.

Therein I disagree with the committee. An understanding added to the Resolution of Ratification is a very one-sided text. It is absolutely not binding on the Soviet Union and, if anything is binding on the two parties, it is the language of the treaty as both sides have agreed to it.

Mr. President, one of my concerns about this treaty, and I believe it is a concern that was shared by the Senate Armed Services Committee and motivated them to put out this report against which no person intending to vote for the treaty took issue, is that although both sides agree now that the intention of the treaty was to allow only one similar stage, the future can change things. We are mortal men despite the lofty view we hold of ourselves as Senators. Men die—Presidents die, Ambassadors die, Secretaries of State die, Secretaries of Defense die—the world changes, but the words remain as they are on the day in which the Senate grants its consent to ratification. And in this case, the INF Treaty is an agreement in perpetuity. In the interest of preventing any future compliance problem on the treaty, the Senate must act today. And it cannot act unilaterally with an understanding. That does not bind the Soviets. It does bind us, and we have no intention of doing it anyway. An understanding simply does not bind the Soviets.

Mr. President, I took time to examine the negotiating record on this, and it is positively clear from examining that negotiating record that the Soviets held the same view of the language in this thing and asked us to change it.

Now, for wholly political reasons we did not because, in fact, we did not want to have the very obvious language in there authorizing the SS-25, and for no other reasons. The problem is that in the late-night negotiating sessions when Ambassador Glitman was bedridden with asthma and other things were taken on, this thing came down wrong. And the Soviets agree that it is wrong. It cannot be impossible to get them to agree to put in the treaty what they asked us to in the negotiations. It cannot be viewed as a killer amendment. It can only be viewed as an absolutely responsible act on the part of the Senate unless it is operating wholly with a suspension of judgment.

The negotiating record is clear. The Soviets thought it was ambiguous. They asked us, "Why do you want to say it like that?" And if necessary, if some people question whether or not the negotiation record reflects that, I will call us into an executive session to read that negotiating record, because it is clear the Soviets had the same view as the American Enterprise Institute on this and the same view as the Senate Armed Services Committee on this. It was drafted for political reasons in this manner. They did not want to have hullabaloo raised of specifically authorizing the production of the first stage of the SS-20 as a part of the SS-25. There really was no other reason for it.

So, Mr. President, this amendment is not one of those artificial categories that the Foreign Relations Committee has constructed. I would say to the Senate and I would say to the world that those categories are totally irrelevant in international law. Those categories are constructs that we have reached, categories 1, 2, and 3. They are in no sense binding under international law. They may bind the Senate as many other things do, but they are not a rule of the Senate. They are not a part of international law. If the Senate wants the treaty to mean what it says it means, it will accept this amendment. The Soviets will accept it. They have already said that they did not like the way it was developed and stated. And if, in fact, they have some kind of objection to this, at some later moment we can tell that it is because they want to do precisely what the language would permit them to do at some future date. I doubt that that is what it is and in point of fact this Senate should adopt this amendment just to make certain that what we set out to do is what we actually, in fact, accomplish.

Mr. President, I reserve the remainder of my time.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I listened with interest to the arguments of the Senator from Wyoming, and I realize, too, that this portion of the treaty that we are discussing is a pretty clumsily drafted portion. Nevertheless, Ambassador Glitman assured our committee that in no case can the Soviet Union product a stage of the SS-25 that is interchangeable with a stage of the SS-20. The way Ambassadaor Kampelman expressed it to us is that a stage that is outwardly similar to and interchangeable with an SS-20 stage would be a violation of article VI, paragraph 1. And, Secretary Carlucci, the Secretary of Defense, told our committee, We do not believe there is a drafting error in this paragraph. Drafting clumsiness but not an error. An examination of the negotiating history of this provision confirms our administration's assertion that the Soviet Union shares exactly the same understanding of the provisions as do we.

A meeting of the minds was reached, As I say, I would agree that the provision is awkwardly worded but there does not appear to be any real risk that either party could justifiably construe the language of article VI to permit the introduction of the second stage of the SS-25 interchangeable with the second stage of the SS-20. To construe the language to permit an interchangeable stage would require the treaty to be read in a manner that contradicts not only other more central treaty provisions but also the treaty's basic object and purpose. And such an action would be a violation of the treaty. An amendment to change the wording of article VI would seem unnecessary and, more to the point, if it could be done easily there are some arguments for it but in order to do it would require reopening of the negotiations, which could be a lengthy process and could involve further United States concessions. So on balance I very much hope that this amendment does not pass, and I urge my colleagues to vote accordingly.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is in control of the time. The Senator from Virginia seeks recognition.

Mr. PELL. I yield such time as he may need to the Senator from Virginia [Mr. WARNER].

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I would like to first say to our distinguished colleague from Wyoming that he has indeed brought up a point which has been of concern to the several committees that have been dealing with this treaty, and of course the Senator quite accurately read the statement of the Armed Services Committee report. We did not, however, at the conclusion of that report suggest a category 3 type of amendment to resolve this issue.

Mr. WALLOP. Will the Senator respond to a question?

Mr. WARNER. Yes, of course.

Mr WALLOP. What is category 3? The Soviets do not have category 3. Only the Senate has category 3. There is no provision of international law, no provision in the treaty, no provision in the Constitution, no provision anywhere. It is wholly an artificial device of the Senate Foreign Relations Committee.

Mr. WARNER. A category 3 amendment as you probably know, Senator, is effectively an amendment to the treaty.

Mr. WALLOP. It is, but not a category 3. It is a technical amendment on its face. It is no 3, 2, 1 or anything else. It is a purely technical amendment.

Mr. WARNER. As I read through my report and refresh my recollection with my chairman, Senator NUNN, who was here momentarily consulting with me on this and I assume he would soon be speaking on this issue, we are of the belief that this matter can be clarified by this colloquy and perhaps other actions to avoid the necessity of going back to the Soviets, as the chairman of the Foreign Relations Committee mentioned, to require a renegotiation of the provision in question.

But before we get deeper into the issue, I would like to ask a technical question of my good friend and colleague with respect to his amendment. The amendment says, "In article VI, paragraph 2 of the treaty, strike 'which is outwardly similar to, but not interchangeable with'." Article VI, paragraph 2, has two references in the sentence which use the phrase "which is outwardly similar to, but not interchangeable with." My question is Which reference in the sentence would the Senator wish to substitute his wording for?

Mr. WALLOP. If the Senator will give me a moment, I will answer that if he wishes to carry on.

Mr. WARNER. Yes, of course. I think we will allow time for the Senator from Wyoming to look at his amendment.

Mr. WALLOP. It is after the second GLBM, having more than one stage.

Mr. WARNER. If the Senator will bear with me, let me get a copy of the treaty.

Mr. WALLOP. I thought the Senator was making a point.

Mr. WARNER. I am making a point. I want to get the text in front of me. I laid it aside momentarily.

We are now looking at article VI, paragraph 2. The Senator from Wyoming is advising the Senator from Virginia as to the operative effect of this amendment.

Mr. WALLOP. It is the second.

Mr. WARNER. I am sorry?

Mr. WALLOP. It is the second.

Mr. WARNER. It is the second reference and not the first. Is that correct?

Mr. WALLOP. That is correct.

Mr. WARNER. Does the Senator wish to modify his amendment to make that clear?

Mr. WALLOP. I would so modify it to make certain that it referred to the second reference.

Mr. WARNER. I bring this to the Senator as a courtesy.

Mr. WALLOP. I understand.

Mr. WARNER. Given that modification, which I understand is at the desk, is it?

The PRESIDING OFFICER. Is there objection to the Senator's request to modify the amendment? Hearing no objection, it is so ordered.

The amendment, as modified, is as follows:

> In Article VI, paragraph 2 of the Treaty, strike "which is outwardly similar to, but not interchangeable with" and insert in lieu thereof "which is either outwardly similar to, or interchangeable with," the second place it appears.

Mr. WARNER. Mr. President, I direct a further question to the proponent of the amendment. As yet, this Senator has not had an opportunity to study it carefully. But the administration who has been examining the amendment offered by the Senator from Wyoming, and now has just received word as to the modification as requested by the Senator from Wyoming, it is still unclear whether the amendment as modified by the Senator from Wyoming would in effect ban the production of the SS-25 missile.

Mr. WALLOP. I believe that a review of the modified amendment will demonstrate that it does not ban the SS-25.

Mr. WARNER. Well, let me check back with the administration, and I am going to spend a little time studying the amendment myself as now modified to make sure we are correct in this understanding. I wanted as a courtesy to raise it with the Senator from Wyoming.

Mr. President, I will address this issue again shortly.

I yield the floor at this time.

The PRESIDING OFFICER (Mr. CONRAD). Who seeks recognition?

Mr. PELL. I suggest the absence of a quorum.

Mr. WALLOP. Mr. President, how much time does the Senator have?

The PRESIDING OFFICER. Does the Senator withdraw his suggestion of the absence of a quorum?

Mr. PELL. If anybody wishes to speak.

Mr. WALLOP. The Senator from Wyoming does.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. PELL. I withdraw the suggestion.

Mr. WALLOP. Mr. President, I would ask the Senator from Rhode Island, if I could have his attention for a minute, if he would not agree that common English usage of double negatives in fact ends out being an assertive positive, that you can in fact authorize the construction of both phases of the SS-25 under this language.

Mr. PELL. I have a huge respect for the Senator from Wyoming and his knowledge and love of the English language. In fact, I believe at the institution at New Haven he started out in life as a would-be novelist and writer, and believes in the purety of the English language.

This is written in a very murky style, and so murky I think some of us find it confusing to say the least. The answer to his question is not a simple answer. I think it can be read either way.

Mr. WALLOP. If it can be read either way, it is good enough as the positive answer which I solicited. If it can be read either way, the Soviets can read it either way, and it can be read to authorize it.

Mr. PELL. But the fact remains that we know from the negotiating record.

Mr. WALLOP. No. We do not. In point of fact, we do not know that in the negotiating record because in fact the Soviets absolutely asked us to change it. I want to know why we wanted to state it in such arcane language. They actually asked us if we would not change it. They told us it was unclear and they were worried about it preventing them from building the SS-25.

Mr. PELL. As I said earlier, the examination of the negotiating history of this provision confirms the administration's assertion that the Soviet Union shares the same understanding that we do.

Mr. WALLOP. If it is necessary, I will ask for a classified session to bring the negotiating record down here and demonstrate that it does not do that. I have studied it carefully, I promise you, and they asked us. They complained about it, and they said it does not. Now, if they have, as the Senator says, the same view of the language of the treaty as do we, then the Senator cannot make the case that this would be a lengthy process to renegotiate.

If they have the same view of it as we do, which I am prepared to say they do, those who are alive today, but we are not bound by a live man. We are bound by language when it comes to treaties, ones they enter. It cannot be clarified as a colloquy because a colloquy only binds the United States. it does not bind the Soviet Union. Either we take seriously the obligation that the Constitution conferred upon us to make the treaties that we pass judgment on say what they say they mean, or we do not.

How can it take a lengthy process if they agree? Would the Senator care to respond?

Mr. LUGAR. Mr. President, would the Senator accept a response or colloquy with this Senator for a moment?

Mr. WALLOP. On the time of the manager.

Mr. LUGAR. Yes. I would be happy to accept that stipulation that it would be on the time of the manager.

I would just comment, and I have listened carefully to the points of the distinguished Senator, which are well taken as likewise the ranking member on Armed Services Committee. I recall our own conversations and testimony in the Foreign Relations Committee. The particular passage in article 9 on the so-called double negative problem has been discussed so long as anyone has been reading the treaty. It is admittedly awkward language.

We have gone back, and in fact questioned Ambassador Glitman as I recall during his time before us. I think it is fair to say Ambassador Glitman, either privately, publicly or maybe even both, has indicated that he believes it is awkward language.

But on the other hand, I also have retrieved the notes of that testimony in which Ambassador Glitman assures the Foreign Relations Committee that in no case can the Soviet Union produce a stage of the SS-25 that is interchangeable with the stage of the SS-20's. Ambassador Max Kampelman explained that regardless of paragraph 2 of article 6, which is the double negative we are discussing, and I quote:

> A stage which is awkwardly similar to and interchangeable with an SS-20 stage would be a violation of article 6, paragraph 1.

Secretary Carlucci then with reference to this—and we requested his notes—said "We do not believe there is a drafting error in this paragraph."

It seems to me that there is clearly awkward wording. But my own judgment of this, as one Senator looking at it, is that there appears to be no reason why either party could justifiably construe the language of article VI to permit the production of the second stage of the SS-25 that is interchangeable with the second stage of the SS-20.

As a commonsense situation, leaving the expertise to those who have testified, it appears to me that the Senator has correctly stated the parliamentary proposition: Either we amend the treaty text, which I would oppose doing, or we attempt to at least find some other means of clarifying the awkward language, if that is possible, and I am not certain that is.

I think we are finally going to be drawn to the Senator's amendment, which suggests amendment of article VI; and Senators will decide whether the awkwardness of the language is a sufficient deterrent to their comprehension of it or their support of the treaty or to support the Senator, or they will defeat the treaty, and we will go back to square one, if there is a misunderstanding with respect to the language, as to how this can be changed.

Mr. WALLOP. I do not doubt the Senator's goodwill or the goodwill of anybody involved in this, but we have a rather uncomfortable history with the Soviet Union with respect to ambiguous provisions of arms control treaties.

It is clear that one of the things Ambassador Glitman would not do would be to say that his product was flawed on the day he testified. I think it is also clear that Secretary Carlucci and Ambassador Kampelman would do anything they could to try to make the best of a bad situation.

The problem is, though, that nobody denies that it can be read both ways. Ambassador Kampelman's statement that it is prohibited by paragraph 1, is incorrect, because the "notwithstanding" that begins this whole paragraph eliminates all the criteria in there in order to make it possible for the exception in paragraph 2.

It was the intention of people, I grant, to authorize the first stage of the SS-25. It is the intention of this Senator to authorize it, though I find it ironic that the principal violation of the SALT II Treaty is enshrined in this paragraph and this article of the subsequent treaty.

In point of fact, the "notwithstanding" that begins that paragraph eliminates all the criteria that go before it, when it is read in the context of the paragraph that is there. Ambassador Glitman can assure me to his heart's content that he feels bound by this, but he cannot assure me that the Soviets feel bound by this.

The other problem I have is that to clear this up at a later time, what happens if the other side says no and builds it and points to the language? We can say they do not have any plans to, but we cannot know the plans of people who are not now in power, let alone the people who are in power. They do not have Aviation Week looking over their shoulder and all the kinds of things we do.

It is important for us to be clear. Everybody says this is awkwardly drafted. There is no reason not to make it clear, if, as everybody says, the Soviets are of the same view.

Mr. LUGAR. Mr. President, will the Senator yield?

Mr. WALLOP. I am on the time of the Senator from Indiana.

Mr. LUGAR. I respond that there is disagreement, I suspect, among the negotiators on our side, or at least persons in our defense establishment who have testified on this, as to whether the awkwardness really requires redrafting.

I think I have stated, in a commonsense way, that there is awkwardness as most people read it. But having tried to think of how best to change the awkwardness, to make it smoother, many are not convinced that it would not create an additional problem.

Mr. WALLOP. What is the additional problem?

Mr. LUGAR. The renegotiation with the Soviets—that is, moving back to the table because of the obvious change in the treaty; and there is a feeling that if this is to be done, it can be done in other ways which are preferable.

Mr. WALLOP. I would take a substitute amendment which would do what the negotiators neglected to do, which would simply authorize the first stage of the SS-25 using a similar first stage of the SS-20. I would take that.

The reason we have this mumble is very obvious: That they did not want to have it highlighted in the treaty. They wanted it obscured—like continuing resolutions that authorize airports in Texas.

If the Senator will change this to simply say notwithstanding the provisions of paragraph 1, the first stage of the SS-20, which is not interchangeable with but is the first stage of the SS-25, is authorized for production under this treaty, I do not see how the Soviets could object to that, and I do not see how we could. But this uses other language and simply takes out the possibility that you can reach that in the opposite direction.

Mr. LUGAR. This Senator would prefer not to change it, and that is the burden of my argument.

Beyond that, even though the Senator asserts having read the negotiating history, that there is potential confusion on this, this is really not the burden of the testimony we have received in the Foreign Relations Committee. We have received testimony that the Soviet Union shares the same understanding of the provision as does the United States and that a meeting of the minds has been reached.

I appreciate that we probably can have an argument on that. But I think it is fair to say that at least that was the burden of the testimony of the administration, and I find it reasonable, as I heard it.

I will yield my time now and go back to the Senator's time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I ask the distinguished Senator from Rhode Island to yield me 3 minutes.

Mr. PELL. I yield 3 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I rose a short time ago to bring to the attention of the Senator from Wyoming that I perceived an ambiguity in his original amendment. I think he now realizes that there was an ambiguity, and it was the ambiguity that gave rise to the argument that the amendment as originally drawn might have banned production of the SS-25, a step which I know the Senator from Wyoming did not wish to take. He has now corrected the amendment, and I understand that the amendment as now amended does not raise any question as to whether or not it would ban the SS-25.

This Senator rose in an effort to help the Senator from Wyoming.

I say to my good friend from Wyoming that he has correctly reflected the views of the Senate Armed Services Committee. The chairman will soon speak, and I concur in Chairman NUNN's views, as we conferred a moment ago, in the hallway.

I join the Senator from Indiana and the chairman, that I think the question has been raised, and the colloquy helps to provide an additional record for the Senate as to our understanding of the meaning of the treaty, and I do not believe we should at this time have a category-3 type amendment.

Who yields time?

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Georgia.

Mr. NUNN. Mr. President, first let me say that the Senate Armed Services Committee went into this in considerable detail because like the Senator from Wyoming we have been troubled by this language.

I think the Senator from Wyoming raises an important issue, and I think it is a valid point that he is making here.

I think that actually article VI of the treaty is not worded very carefully. I believe that there is at least a double negative and perhaps a triple negative in this drafting.

I went over this in great detail with Ambassador Glitman and he does not see it that way. The administration does not see it that way. He pointed out to us in the Armed Services Committee all sorts of exchanges in the negotiating history that made it apparent to us that there had been a meeting of the minds on this point and that the treaty's vague wording, notwithstanding this, there was a meeting of the minds between the United States and the Soviet Union as to what this provision meant.

But I do not think it is drafted very well and, frankly, I had considered offering what we call in the Senate a category 3 understanding, rather than an amendment to the treaty. I understand the amendment of the Senator from Wyoming is an amendment to the treaty.

I had not considered amending the treaty but, of course, that could be a proper course.

I considered offering the category 3 understanding that would in a formal and legal sense clarify any ambiguity relating to this paragraph. At this late stage of the debate, however, I decided not to go forward with such a condition. I decided to, instead, put a rather complete statement that gets into all the technical details in the RECORD as well as letters from the administration.

Whatever the disposition of the Wallop amendment, whether it is voted in or out, whether it is tabled or not tabled, I think it ought to be clear that we in the Senate are relying on the authoritative testimony of the Reagan administration that the Soviet Union agrees that article VI does not permit them to deploy a second stage of the SS-25 which for intents and purposes is the second stage of the SS-20. On our careful review of the negotiating history that indicates that the parties do share a common understanding to this effect. In other words, there should be no question that the administration and the Soviet Union, based on the administration's testimony, have no ambiguity in their clear understanding on this point.

I think the Soviet Union ought to be put on notice, whatever the disposition of the Wallop amendment, that if they were to try to exploit in any way in the future what I consider to be the poor drafting of this provision by deploying a missile with an SS-25 first stage and an SS-20 second stage this would constitute a violation of the INF Treaty as understood and approved by the U.S. Senate.

I do not think there is any question that this would be a violation if they did it.

I do regret that the provision is not clearer. I would have to say that I think the Senator from Wyoming has every right to present this amendment. I do not consider it in any way a delaying amendment or a frivolous amendment or an unimportant amendment. I am not going to vote for it for the reasons I have given.

If anyone is interested in reading the whole history of this in the Armed Services Committee and all the detail we went into, together with some of the references to the negotiating history together with letters that we have secured that have clarified this matter, I think that everyone would agree that it was a matter that needed some clarification.

So, I will not vote for the amendment of the Senator from Wyoming. Having said that, I also think that it should be said that he does raise a legitimate point. I believe that this point is going to be satisfactorily resolved by the clear record in our committee and the clear record that will be made here on the floor regarding this.

Mr. President, I thank the Senator from Rhode Island for yielding.

Mr. WALLOP. Mr. President, what is the situation with regard to time?

The PRESIDING OFFICER. The Senator from Wyoming controls 26 minutes and 18 seconds; the Senator from Rhode Island controls 21 minutes and 36 seconds.

Mr. PELL. Mr. President, I would be prepared to yield back the remainder of my time if the Senator from Wyoming felt the same way.

Mr. WALLOP. In point of fact, I do not yet. I am not trying to delay. I appreciate the statement of the Senator from Georgia that he did not view this as a dilatory amendment or an unserious one. It is really very serious.

I do not know how to penetrate this somnolence that the Senate had found itself in. Literally, everybody who is currently an expert in the field of arms control, not elected, outside the administration, both the left and the right, view this treaty as dangerous, people from the Kennedy school, Mr. Slocombe, General Scowcroft, Henry Kissinger, Jeane Kirkpatrick, Jim Woosley. The names go on and on.

The least that the Senate can do is to try to make the treaty say what its proponents wish it to say.

The Senate Armed Services Committee's recommendation came out notwithstanding the testimony of Ambassador Glitman. The record was made after he had testified. It was made after Secretary Carlucci had testified. It was made after Ambassador Kampelman. Now they wish somehow or another to reject their own recommendation.

The Senator from Georgia says that he is quite content because there is authoritative testimony from the Reagan administration, and I do not question the authoritative testimony of the Reagan administration.

They would go to any lengths to have this thing made right. They would go to any lengths to say that their Soviet counterparts agreed with them.

It is totally authoritative, so far as it binds our country. But authoritative testimony of the Reagan administration does not bind the Soviet Union. It cannot, however much we want to wish it so. However long we debate in here, it cannot bind the Soviet Union.

If they wished to take advantage of this debate, they can point out that we ourselves said that while we understood it was binding upon ourselves, that it was, in fact, badly drafted, that it was, in fact, clear that it could, in fact, be used to read the authorization to construct both stages of the SS-20 and the SS-25. Why does this worry them?

Ambassador Kampelman says we do not know of any such thing that they would want to. But there is an historical backdrop to this amendment and that is the first two stages of the SS-16, which became the SS-20, a banned missile. It became an authorized missile or a new missile. We watched the Soviets do it.

And the only thing we do not believe the Soviets when they tell us is the truth. Everything else we swallow. But in point of fact historically we see them do this.

What does it take Senators to wake up? What does it take to do our constitutional job? This is no killer amendment. If the authoritative testimony of Ambassador Kampelman, Ambassador Glitman, the Secretary of State, and the Secretary of Defense, about the view of the Soviet Union that all of this is supposed to be read the same way and we share a common understanding, it could not possibly take us 10 minutes to put it right. It is a straw man to say that this is going to require a lengthy negotiating process. This is not the purpose of the Senator from Wyoming.

If it does require a lengthy negotiating process, it is because the Soviet Union wants to interpret it the way it is permissible under the confusion that the present language presents, no other reason. It is because they want to. They intend to use it that way.

We have been assured that all these high-ranking people who have been closeted with the Soviets lo these many months at every level of government say they do not want it that way. How can it take any time to renegotiate? Is the Senate to do its job? The question gets down to be dramatically simple: We have had the distinguished chairman of the Senate Armed Services Committee validate the report of his committee. We have had the distinguished ranking member express his opposition but validate the report of the committee.

The argument is "do not complicate my life." However complicated it may be in 10 years down the road, however dangerous these little oversights might prove to have been 10 years down the road, that is somebody else's complication. That is not ours.

There is no better time than today and now to make certain that the treaty says what we ask it to say. We may never get a chance to address this on the resolution of ratification.

If cloture is filed, it may well be that we cannot even make any conditional understandings on the instrument of ratification.

I say to the distinguished chairman of the Foreign Relations Committee, if the Soviets believe the same as we believe, this one-word change to state precisely what they said they wanted to say in the negotiating record should not take but 5 minutes before the exchange of ratification resolution document. Why do we sleep? Why is this Senate so timid in the exercise of the right that the Founding Fathers gave us 200 years ago? We are celebrating the constitutional bicentennial. The Founding Fathers gave us a role. Clearly, they intended for us to exercise it. And when we can see and when bipartisan people have seen in the exercise of the responsibilities in their committees and have stated that this is a mistake, what holds us back?

For the life of me, I cannot understand the arguments—well, there are no arguments against it. They have not been raised, other than to say we both understand it to mean the same thing. There are no arguments against the provision of the amendment. We are just making a flat statement that, despite the arguments against it, despite the understanding of the Senate Armed Services Committee, despite the AEI report, despite everything else that has been brought to our attention, this Senate will not act. It will not do what the Constitution asks us to do. Those who signed that document must really be wondering what it is that this Senate is about. Those who may have written a book called "Profiles In Courage" may truly wonder if those days are gone forever.

But this does not require courage. This requires us to do what our heads and our hearts tell us is right to do.

This treaty, unlike those which have preceded it, has no terminus. It is in perpetuity. Is the Senate of the United States willing to say in perpetuity, after all this debate, after the reports of the committee, that we are going to let stand an error that we know to exist?

Mr. President, I weep for a Senate that would do that and I weep for a country that has the representation that would permit itself to walk that road, when it knows there is a different path and the argument cannot be made that it is wrong; the argument cannot be made that the amendment is misplaced.

I think I see tea leaves. I am perfectly willing to live by them. I happen to believe in the democratic process that brings us here. But, boy, I wish it would be coupled just once with one tiny element of responsibility to the roles the Founding Fathers asked us to shoulder.

Mr. President, I reserve the remainder of my time.

The **PRESIDING OFFICER**. Who yields time?

Mr. **PELL**. Mr. President, as has been pointed out, this is a complicated and murky issue. Life is not always a choice of two good choices. Sometimes it is two bad choices. In this case, to remedy this murky wording, we would have to have a reopening of negotiations with the Soviet Union and that could cause us more harm in the end than by clarifying this point here. That is why it is best to clarify it here in the negotiating record.

I am prepared to yield back the remainder of my time whenever the Senator is ready to yield back his time.

Mr. **WALLOP**. Mr. President, I have been told that one of my colleagues wishes to speak. If he shows up before my time runs out, I will yield that to him. Otherwise, Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **WARNER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **WARNER**. Mr. President, I ask the distinguished Senator from Rhode Island for 1½ minutes.

Mr. **PELL**. I yield 1½ minutes to the Senator from Virginia.

Mr. **WARNER**. Mr. President, as I followed this colloquy, representations were made that the Armed Services Committee report to which the Senator from Wyoming referred to came out after assurances were provided by the administration that the U.S. and U.S.S.R. share a common understanding. For the record, I have just now consulted with Ambassador Glitman and he reminded me that he came before the Armed Services Committee on the 14th of April, some 2 weeks following the issuance of this report. During this hearing Ambassador Glitman gave rather an expanded version of the whole history of this double negative issue. It is that testimony that this Senator relied on in deciding to not take actions commensurate with those mentioned in the Armed Services Committee report and therefore at this time I ask unanimous consent that I might have printed in the RECORD at this juncture certain excerpts from the testimony of Ambassador Glitman on this issue before the Armed Services Committee on April 14.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Ambassador GLITMAN. I appreciate the opportunity, Senator, to explain this issue in my own words.

I think we ought to look first at the structure of the article in question. Paragraph 1 of Article VI sets forth a basis prohibition. That is the one we have been talking about, in fact.

Paragraph 2 of Article VI qualifies that basic provision, but that qualification is subject to a proviso. Thus, if the Treaty contained only the first paragraph of Article VI, the first stage of the SS-25 would have to be banned under the INF Treaty because given its outward similarity to the first stage of an SS-20 we would have to count it as an SS-20 first stage.

However, Paragraph 2 of Article VI permits the Soviet Union to produce and possess the first stage of the SS-25, provided that no other stage of that missile is outwardly similar to but not interchangeable with the second stage of the SS-20. The word "notwithstanding" serves to underscore that Paragraph 2 qualifies Paragraph 1. Without it, the relationship between the basic prohibition of Paragraph 1 and the qualification proviso to that prohibition to Paragraph 2 would be less clear.

Secondly, looking at the grammar, by using parallel grammatic construction (for example, by repeating the phrase "outwardly similar to but not interchangeble with) in connection with both stages, Paragraph 2 makes clear that precisely what is permitted in the case of the first stage is prohibited in the case of the second stage. In addition, the fact that this phrase is repeated verbatim shows that it should be read as a whole and not broken down into component grammatical parts.

We and the Soviets agree that this provision would prohibit them from building a second stage of the SS-25 which is outwardly similar to but not interchangeable with the second stage of the SS-20. Furthermore, a stage which is outwardly similar to and interchangeable with an SS-20 stage would be in violation of Article VI, Paragraph 1.

Let us look at the logic. If the parties had wanted to permit more than one stage of a non-Treaty-limited missile to be outwardly similar to but not interchangeable with more than one stage of a Treaty-limited missile, they would have drafted this paragraph in a totally different way.

The fact that this paragraph is drafted as presented in the Treaty rather than providing an unequivocal right to produce more than one such stage without any proviso clause can only lead to the logical conclusion that the parties intended to prescribe one regime for one outwardly similar to but not interchangeable with stage and another regime for a second stage.

Moreover, since the first clause of Paragraph 2 clearly provides a qualification permitting one such stage, the proviso clause can only mean that the second such stage is not permitted. In addition, the Treaty establishes in Article XI, Paragraph 6, a special monitoring regime to deal with the problem of outwardly similar stages, and in Section 9 of the Protocol on Inspection sets forth the detailed manner in which the monitoring of any final assembly facility for a missile with the one permitted outwardly similar stage can take place.

These provisions make no sense except as a means of verifying that the conditions set forth in Article VI, Paragraph 2, and especially the proviso clause, are being met.

The fact that the parties agreed to Paragraph 6 in Article XI and the Inspection Protocol are prima facie evidence that they both understood that Paragraph 2 of Article VI permitted either party to produce one stage of a non-Treaty-limited GLBM which is outwardly similar to but not interchangeable with a stage of an existing type of intermediate-range GLBM but they could not build a second stage of a non-Treaty-limited GLBM which was outwardly similar to but not interchangeable with another stage of that Treaty-limited missile.

I would note that the Armed Services Committee report itself acknowledges that the United States and the Soviet Union share a common understanding of the meaning and effect of this provision. The report states: "The Committee concluded that there was a meeting of the minds between the United States and the Soviet negotiators that each party has the right to produce a type of GLBM not limited by the Treaty if that missile uses one, but only one stage which is outwardly similar to but not interchangeable with any stage of an existing type of intermediate-range GLBM."

Mr. WARNER. Mr. President, if the Senator will yield me another 10 seconds, I would like to state for the record that this testimony has just been declassified.

Mr. WALLOP. Mr. President, that is one of the privileges of power. They can declassify at will to strike or throw darts at people who have identified their fundamental weakness. Before I yield to the Senator from California, let me just once again express my thanks to the Senator from Virginia for the assistance in clarifying my amendment, which was as inartfully drawn as that which I sought to affect.

Mr. WARNER. Mr. President, I have no better friend than the Senator. I enjoy engaging in a lively colloquy with him, and I thank him for his remarks.

I knew precisely what he was trying to do and yet it was brought to my attention that perhaps the original draft did raise some basis for that assertion that it would be banning the SS-25 missile, and I knew that was not his intention.

Mr. WALLOP. It might have been a subliminal one, I would say to my friend. I would like nothing better than to ban as much of the Soviet missilery as I could reach, but it was not my purpose in this particular amendment.

Let me just suggest once again that despite Ambassador Glitman's statement, we have no statement from any Soviet, and I think it is incumbent upon this Senate to pay attention to that fact. No Soviet has said that he agrees, publicly, in testimony, with that statement of Ambassador Glitman.

I would also say that the Soviets were the ones in the negotiating record who tried so hard to get us to change this language on the very basis that the Senator from Wyoming seeks to, that it is unclear and ambiguous.

Mr. President, I would yield 4 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 4 minutes.

Mr. WILSON. Thank you, Mr. President.

Mr. President, I have followed this debate with great interest. I will tell you that I see no reason not to support the amendment by the Senator from Wyoming. I think he has made a valid point.

The Armed Services Committee came very close to agreeing with that point. What they have decided, instead, is that they think, and so they stated in their report, they have concluded that there was a meeting of the minds.

They reached that conclusion, Mr. President, by resorting to the negotiating record. They were not really satisfied with the authoritative statements of Ambassador Glitman and after resorting to the negotiating record they found that neither were the Soviets, as the Senator from Wyoming has pointed out.

Instead, the Soviets, after repeatedly seeking to change this language, were satisfied by the device noted in the negotiating record of a subsequent statement by Ambassador Glitman that satisfied their purpose. They gained the clarification through a statement that he was authorized to make that achieved their purpose, satisfied them that they could, in fact, according to a common understanding, go forward with construction of a missile that they did not wish to be precluded from developing.

That is, I think, the reason that this amendment would not be a killer amendment. The Soviets have already agreed. What we would be doing here is making a grammatical fix.

The significant thing, Mr. President, perhaps more significant than the amendment itself that is being offered by the Senator from Wyoming, is that it points up the necessity to clarify ambiguities in text of a treaty and specifically of this treaty by resort to the negotiating record; or, if you prefer to call it that, the negotiating history—the history of what actually went on which is the best evidence, I submit, to clarify and give true meaning to ambiguities in treaty text that is not clear on its face.

Later we will be confronted with the "futuristic" issue. In that instance, the negotiating record was also resorted to because, once again, we did not have clarity in the face of the text itself. But in that instance we found that neither did the negotiating record produce the kind of clarification which is clear in this instance with respect to article 6, paragraph 2.

For that reason, as a result of the excellent work by the Senate Armed Services Committee, and here I again commend the chairman, Mr. NUNN, that this was a requirement that there be an exchange of letters and we have now from the Soviet Union, in the letter of Foreign Secretary Shevardnadze, the understanding that is necessary from both parties—in this instance as really an addendum to a negotiating record. It is something outside the treaty itself, that we are relying upon to resolve the confusion that existed with respect to definitions in this whole issue of futuristic weapons.

Mr. President, I point this up because shortly we will be debating the Biden-Pell amendment to the resolution of ratification which will seek to preclude the Senate from, in future, having resorted to the negotiating record which has been of such enormous importance in resolving these very obvious ambiguities in the face of the text itself.

That, Mr. President, is why the Biden-Pell amendment is a serious mistake. We must never be precluded in the Senate in the performance of the constitutional duty of ratification from being able to look at what the parties actually meant as it is revealed by the record of their negotiation, the history of the negotiation.

So I thank the Senator from Wyoming. He has provided a great service and there is no reason, really, not to support his amendment.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. WALLOP. Mr. President, I again suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, the Senator from Wyoming understands he has approximately 4 minutes left.

The PRESIDING OFFICER. The Senator is correct; 4 minutes and 14 seconds.

Mr. WALLOP. Mr. President, let me try in a closing statement to put some path of responsibility in front of the Senate.

One, no argument has been raised against this amendment on its face. Its opponents say that the INF Treaty provision it amends is badly drafted and could be read in a way in which the Senator from Wyoming suggests that it must be read. If it can be, it makes no difference whether it can be also read the other way.

All, at best, we are trying to do is solve a compliance problem somewhere down the road in a treaty that has many.

Second, having raised no argument against it, the sustaining view as to why the Senate ought to vote against it is because we have had authoritative statements, we have had testimony, we have had witnesses, and we have had a variety of other things. We have had, I point out to the Senate, no statement from anybody authorized to make such a statement for the Soviet Union.

So whatever statements there are are clearly going to be binding on us. That may be all right because I sincerely doubt that we are going to build two stages of the Pershing II for any future reason. Even if we were to, this Congress would not permit us to. It is not our intent, but it authorizes the Soviet Union to. That is an interesting thing.

Third, the argument raised against it is it is going to complicate lives and needlessly prolong this treaty, but it is made by the same folks who say that both sides agree to the principles embodied in this provision of the treaty and what it sought to do. This will not take any time to negotiate, absolutely will not take any time to negotiate.

Last, I point out again to my colleagues that this treaty is in perpetuity. Our shot at making it clear is today. It becomes the law of the land. It supersedes our Constitution. It is, in fact, a very important step for the Senate to ignore. If it chooses to ignore it, it really has not forsworn any relevant role in the ratification process.

That is why the Founding Fathers thought to put it in front of us. It is why this Senator believes we ought to exercise this in one moment, when even the opponents of the amendment have nothing else to offer other than it might offend the Soviets or needlessly prolong a negotiation at the very moment in time when they say each side has a common and specific understanding of what it is meant to do.

I say to my colleagues, why not make it right while it is within reach? Why not do as the Constitution contemplated we would do? That is, to exercise our will and our intelligence on the process of this treaty.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island.

Mr. PELL. What is the time situation?

The PRESIDING OFFICER. The Senator from Wyoming has yielded back his remaining time. The Senator from Rhode Island controls 15 minutes and 26 seconds.

Mr. PELL. I intend to yield back my time in a moment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that the pending Wallop amendment be set aside and that a vote occur on it at a quarter to 6.

Mr. WALLOP. Mr. President, will the Senator be good enough, if it is to be set aside, that we might be permitted, say, 10 minutes equally divided at that moment to make a final argument on it?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, reserving the right to object, would the Wallop amendment be open to amendment?

The PRESIDING OFFICER. Amendments would be in order.

Mr. BYRD. The amendment would not——

The PRESIDING OFFICER. Unless precluded, amendments would be in order.

Mr. BYRD. An amendment to the Wallop amendment would not be required to be germane by any order that has been entered up to now?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. We better include in the unanimous-consent request that no amendment to the Wallop amendment be in order.

Mr. PELL. I thank the leader for the suggestion.

Mr. WALLOP. Mr. President, I am not trying to delay here, but as I understood it, I have been requested to set aside this amendment on the idea that something may be able to be worked out. Were that something to be an amendment, we would be in a funny spot.

I do not know; it is the Republican leader and the Secretary of State who are seeking this delay, not the Senator from Wyoming. So it may be that they want an amendment to it or something.

It is not my intention to place an amendment on it or anything. I would be happy to go to a vote right now. I at their request have agreed to set it aside.

Mr. PELL. I think perhaps the better way of phrasing my unanimous-consent request would be that I ask unanimous consent to temporarily lay aside the amendment of the Senator from Wyoming, and then we will call it up at the appropriate time.

Mr. WALLOP. Would that permit the Senator from Wyoming to make an argument on behalf of whatever resolution of it has come about, or at least to make another short closing statement?

Mr. PELL. If it is not more than 10 minutes.

Mr. LUGAR. Will the Senator yield?

Mr. PELL. I yield to the Senator from Indiana.

Mr. LUGAR. I would like to pose this question or thought of clarification. As I understand, the desire of the Republican leader and perhaps the Secretary of State is to consult with the distinguished Senator from Wyoming with the thought that perhaps the importance of his idea might be incorporated in some other way than an amendment to the treaty text. In the event that that is not successful, my understanding is that at quarter to 6 the Senator's amendment would recur but it would still be an amendment to the treaty and under those conditions some of us who have opposed it would still be opposed. The hope is that something other than an amendment to the text of the treaty might be formulated in that intervening period.

Mr. PELL. That is our hope, yes.

Mr. WALLOP. I am certain this treaty, immaculately conceived, need not be sullied by some common sense in here, but it is still my hope that we can come up with something that makes sense and is binding on both governments.

The PRESIDING OFFICER. The unanimous consent request of the Senator from Rhode Island is that the amendment be set aside temporarily. Is there any objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. PELL. What is the pending business?

The PRESIDING OFFICER. The Senator from Rhode Island is advised that the amendment of the Senator from North Carolina is the pending business.

Mr. PELL. According to the previous understanding, I move, in association with the Senator from Indiana, to table that amendment.

Mr. LUGAR. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], the Senator from South Dakota [Mr. DASCHLE], the Senator from Hawaii [Mr. INOUYE], and the Senator from New York [Mr. MOYNIHAN] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the senator from New York [Mr. MOYNIHAN], would vote "yea."

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 81, nays 13, as follows:

[Rollcall Vote No. 152 Ex.]

YEAS—81

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon

Ford
Fowler
Glenn
Gore
Graham
Gramm
Harkin
Hatfield
Heflin
Heinz
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Wilson
Wirth

NAYS—13

D'Amato
Garn
Grassley
Hatch
Hecht
Helms
Hollings
Humphrey
McClure
Shelby
Symms
Thurmond
Wallop

NOT VOTING—6

Biden
Chiles
Daschle
Inouye
McCain
Moynihan

So the motion to lay on the table amendment No. 2113 was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 2016

Mr. PELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question recurs on the amendment by the Senator from Wyoming [Mr. WALLOP].

Mr. PELL. I ask unanimous consent that that amendment be temporarily laid aside.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Rhode Island controls the remainder of the time on this amendment.

Mr. PELL. I am prepared to yield back my time.

The PRESIDING OFFICER. Is the Senator from Rhode Island yielding back his time?

Mr. PELL. I reserve 1 minute.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Rhode Island has 1 minute and 3 seconds.

Mr. PELL. I yield back my time, and I move to table the amendment of the Senator from Wyoming.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Wyoming. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 26, as follows:

[Rollcall Vote No. 153 Ex.]

YEAS—68

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Wirth

NAYS—26

Armstrong
Byrd
Cochran
D'Amato
DeConcini
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kasten
McClure
Murkowski
Nickles
Pressler
Quayle
Shelby
Simpson
Symms
Thurmond
Wallop
Wilson

NOT VOTING—6

Biden
Chiles
Inouye
McCain
Moynihan
Nunn

So the motion to table the amendment (No. 2106, as modified) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I wish I could confess surprise at the vote. But I want to tell the Senate what that vote was. The Senate was not against what the amendment did. The Senate was against doing the amendment. No argument was raised against the amendment, except doing it. The logic of it was supported by the distinguished Senator, the chairman of the Armed Services Committee. The logic of it was supported by Senator WARNER. The logic of it was supported by the English language. But the Senate is sleepwalking, and that is all right.

I said in my opening remarks that the Senate was operating under a state of suspended judgment and that the only thing being tried here was the patience of those who wished to get this process behind them, not the merits of the treaty. I think we just saw that amply demonstrated.

It was the right thing to do to make the treaty say what everybody agrees the parties to it said it ought to say. It is the wrong thing to do to say that this document is so purely conceived and so immaculately presented that it cannot, under any set of circumstances, be changed.

What must the Soviets be thinking of us, that this Senate would literally panic at the knees of the Great Bear? And that is just what happened. It was not that it was an illogical thing to do. It was that it was an awkward thing to do.

As we celebrate 200 years of our Constitution and the trust the Founding Fathers put in this body to exercise judgment, I hope that Senators are not walking out of this room today with their heads held high.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I thank the Chair and I thank my good friend from New Hampshire. I know he was going to go with an amendment. I indicated I had a statement I wanted to make and he said it was fine with him if I went first. The statement might be 20 or 30 minutes in length.

Mr. President, could I ask one of the pages to pass out some charts that I have here?

Mr. President, we have been hearing statements the last few days on this treaty on a great variety of subjects, including the treaty, but obviously not limited to it, not limited to some of the reservations and some of the amendments, whether or not Russia can be trusted, whether or not they are going to squirrel away and hide S-20 missiles.

I think, on occasion, that begs the issue of the opportunity that this treaty presents. I am not one to say that Russia is to be henceforth trusted and loved; that overnight they have changed when General Secretary Gorbachev became the General Secretary; that suddenly Russia has given up 1,000 years of history. And I use "Russia" in the traditional sense of a geographic entity, not the Soviet Union, which is, of course, the government since 1917, but traditionally Russia.

Have they, for some reason, changed in the last 2 or 3 years what were historic ambitions of theirs? Can they now be trusted in terms of imperialism? Can they now be trusted in terms of keeping their word on missiles when there are many other treaties—some with us—that they have broken in the past, or at least not observed fully, some they have just out and out broken? Consider the then-countries of Latvia, Lithuania and Estonia when, at the end of World War I, Russia promised them their freedom, left them, said we will never again bother you. We do not need to call to the attention of this body what happened to those states when Russia out and out violated the treaties and reoccupied them.

In fact, one of the best arguments I have ever heard in this body about whether or not the Russians can be trusted occurred not during this debate. In fact, it would have been 19 years ago this summer, in August of 1969, when we were debating the antiballistic missile expansion—not the treaty; that did not come until a number of years later—whether or not we should continue research and development on the antiballistic missile. The argument was that if we were to continue to build that missile, we would not be able to reach any accommodation with the Soviets. They have indicated if we were going to go ahead with it, they would have no interest in entering into a treaty on that matter.

The reason I mention this particular vote in 1969 is because I think it has some bearing on what our position is going to have to be in the future, vis-a-vis the present Soviet Government, if we ratify this treaty. And I plan to vote for the ratification.

But I well remember the debate in 1969 on this treaty. It was on August 6, 6 hours, closed session. We had lots of other debate, but this was a closed session—no press, no clerks, no report of what went on during the debate. There were 99 Senators here for the debate. One was ill that day. Six hours of limited time divided between the principal proponent and the principal opponent of the antiballistic missile system. The principal proponent being Senator Henry Jackson of Washington; the principal opponent being Senator Stuart Symington of Missouri. Both high-ranking members on the Armed Services Committee, both having access to exactly the same information, both coming down absolutely opposite in their conclusions—Senator Jackson saying, "build it"; Senator Symington saying "kill it."

Senator Symington spoke first. I remember his being close to the back door over there. He had a series of classified charts from the Pentagon, talking about the status of Russian military development at that time. He went through these charts one at a time in a brillant hour-long opening speech. You could just see the logic starting from generalities and moving down and moving down to specifics, until he came right down to the end and said, "that is why we should not continue on with the antiballistic missile."

I thought to myself: That is the end; that is the end of the antiballistic missile. No one could rebut that.

Then Senator Jackson got up and took his opening hour's statement. He started with the last chart that Senator Symington had used. He said, "Now let me take you one or two charts further than my good friend from Missouri." He started to turn the charts as to where the Russians were in terms of building their missiles, what would happen if they continued on the track that they were on and we did not go ahead with the antiballistic missile. His argument was an absolute pillar of logic, starting from generalizations to specifics to conclusion. When he finished, I thought: That is it. We are going to have an antiballistic missile system. No one could rebut that argument.

Then Senators Symington and Jackson asked questions back and forth like two great fencers. Each of them knew the answer to the question they were asking. Each of them trying to parry and thrust and pin the other if they could on the answer. And it was really a pleasure and a treat to watch two giants of this body, before 97 Senators, arguing.

They finished their questions and answers of each other and then it fell to the other Senators to ask them questions. After a few questions of one or the other I remember Senator Fulbright, who sat up closer to the front, turned and looked back to the Senator from Washington, Senator Jackson, and he said, "Would my good friend and colleague, my friend from Washington, yield for a question?"

Jackson, of course, nodded he would. Senator Fulbright said:

> I do not know if my good friend from Washington has had a chance to digest the words of the Russian Foreign Minister Mr. Gromyko in his speech in Warsaw last week in which he indicated that the Soviet Union wanted to reach a new era of detente, friendship, cordiality with the United States. Did my friend from Washington think before we rush pell mell into this unproven antiballistic missile system, we should give some little credence to the words of the Russian Foreign Minister?

Senator Jackson shot back, he pointed at Senator Fulbright, and he said: "Let me call to memory for my friend from Arkansas"—and then he paused and he looked around the room at the other Senators, and I can remember his gesture when he said, "and to the others who were not here that morning in October of 1962 when then-President Kennedy called Russian Foreign Minister Gromyko, who happened to be in Washington for a meeting with President Kennedy, into his office." He asked Foreign Minister Gromyko if the Russians had any missiles in Cuba? No. Had any Russian missiles been transported to Cuba on third party ships? No. Were there any Eastern bloc manufactured missiles that had been taken to Cuba on Russian ships or otherwise? No. Were there any troops, Russian troops in Cuba manning any missiles? No.

Then again I remember Senator Jackson's gesture as he reached his hand out, as he said; "then the President opened the drawer of his desk, took out the pictures from the U-2 and threw them in front of Foreign Minister Gromyko, showing the Russian ships, showing the missiles in place in Cuba, showing the Russian troops on the ground."

Andrei Gromyko left that room an acknowledged liar. Then Senator Jackson smiled and he said, "now, if my good friend from Arkansas wants to rest the security of this country on the credibility of Andrei Gromyko that is his business. I would not ask a single Member of this Senate to sleep easy tonight because they thought they could trust that man's word."

You have seldom seen a more dramatic moment, or I think a more telling moment, because there were still five to six unannounced, perhaps undecided votes as to whether we would build an antiballistic missile system. The vote subsequently came. The motion was to strike out of the bill the money for the building of the system. And that was defeated on a 50 to 50 tie vote; actually 50 for—51 nays with Vice President Agnew breaking the tie.

And on a subsequent vote shortly thereafter to stop all money for deployment, defeated 51 to 49. And I am convinced to this day that it was because of Senator Jackson's argument that if you want to place the security of this country on the credibility of Andrei Gromyko, go ahead.

The reason I tell that story is I have listened to the debate here. I have heard over and over repeated by a variety of proponents of different amendments, can we, should be trust the Soviets? And I would hope the answer to that would be: no, if you mean can be trust them without any further proof based upon past actions that they will necessarily observe their word. I think we would be foolish, and I emphasize again I am going to vote for this treaty, I think we would be foolish to vote for this treaty solely on the basis that they would keep their word.

But I think there are other and more compelling circumstances that justify a vote for this treaty. Because the world has changed since that summer in 1969 when we voted to continue production of the antiballistic missile. And I might add we voted to continue it, the House did, President Nixon signed it. He then negotiated an ABM Treaty with the Soviets and we never went ahead with all but a very limited system, and the Soviets went ahead with what is a very limited system. But everyone in retrospect now says we would not have gotten that treaty but for our voting to go ahead.

Well, now it is 1988. What circumstances have changed between then and now? One of the circumstances that has changed dramatically is the relative change in the growth of different countries throughout the world. Russia is stagnant, marginally growing if at all. The United States is outstripping Russia by far. It is not even close.

China's gross national product will exceed Russia's shortly after the turn of the century.

Japan will exceed them by 1990.

Combined, the United Kingdom, France, and West Germany now exceed Russia in gross national product.

I have left a chart on each of the Members' desks prepared by the Rand Corp. The Rand Corp. is a well-known think tank that does a great deal of economic, military, and other research. It is credible. I had initially asked the Library of Congress to do the chart. The Library of Congress, frankly, said they did not have the capacity, the computer capacity to do it, but they knew that the Rand Corp. was working on such a study. They put me in touch with the particular doctor, a Rand expert, Dr. Charles Wolf, who was doing the research.

The figures that you see are the Rand studies. These studies fully indicate what is happening to the Soviet gross national product, vis-a-vis all of the other countries I mentioned.

Perhaps the most interesting list, you will see at the bottom, is an aggregation of six countries: India, South Korea, Taiwan, Brazil, Turkey, and Mexico. These are not countries that we normally think of individually or collectively as giants. But those six countries, by 1990, will equal Russia's gross national product and after that exceed it.

So, Russia is in a bind and I think the fact that they are in a bind economically, that they are stagnant, is the difference between now and 1969; and this gives us an opportunity that we are not likely to see again and we ought to seize.

If you go back in history and you look at the sequence of the growth of liberty, democracy, freedom as we might know it, there is almost a determinist pattern. It is commerce—commerce and markets, free enterprise as we might call it now; and then arts; and then democracy.

Where you can see it first was in the renaissance. Commerce did come first. It started in the late 1100's, early 1200's. It started in those Italian city-states, namely Florence, Genoa, and Venice. These were then independent city-states, not necessarily democracies. But it was about that period of time that commerce began to flow between the Levant—the Middle East—and Italy, and then between Italy and Northern Europe.

Italy was more or less the transshipment point so that ships could come from Hanover, London, Stockholm, Oslo—come down to Italy, offload whatever they had to sell, pick up goods coming back from the Middle East, and take them back.

After about a century of that kind of economic growth and competition, I might emphasize, because Florence, just as cities today compete with the Federal Government to get grants so that they can try to get some business away from some other town to locate in their town, they had the same kind of competition between the Italian city-states in those days. Florence would consider it a great plus if Florence could steal business from Genoa, or Genoa steal business from Venice or they could all steal business from Rome.

As you had this flowering of commercial intellect, a century or so after it you began to have the Michelangelos, the da Vincis, the loosening of intellectual, artistic pursuit. Much of it initially financed and generated by the monied classes of those Italian city-states, each one vying with the other for the greatest painters, the greatest artists, the greatest architecture, and by and large giving most of those artists a much freer hand than they had ever had before.

A century or so after the artists had begun to question whether or not the established 500 years of art, up until 1300 or 1400, was the way art should be done, you began to have political writers and philosophers questioning whether the present form of government, obviously very daintily suggested, which, of course, was always monarchical, was necessarily the best form of government.

Then over the years, you would gladly see this type of commerce, art, democracy—at least in thinking, not quite in practice yet—move to the Northern European states. It did come later to France, Germany, England, the Scandinavian countries, and then it came to Italy. But come it did, and you can see that pattern over and over—1500, 1600, 1700, commerce first, art second, democracy third.

For the moment, let us skip several centuries because this is where I think the opportunity is on our side and not on the Soviet's side, and let us bring it up to our era. For most in this Senate, although not all, but for most, to the extent they remember a period of war or service in war, it was World War II. When people of an age of 50 years or older say the war, they normally mean World War II.

That is an interesting point of reference because from World War II onward, except in a few areas where the Soviet Government has been willing to place troops, they have not done very well in terms of expanding their empire.

Take a look first at our enemies in World War II: Germany, Japan, Italy, prostrate at the end of World War II; factories gone, countries destroyed. They are today, of course, flourishing commercial enterprises. All democracies.

Then you take a look across Europe, Spain, Portugal, Turkey, Greece, all democracies today, all doing reasonably well at commerce, some better than others. Portugal particularly doing quite well now. Again, they have moved from dictatorship to democracy.

The only place where dictatorships flourish now in Europe are in those areas where the Russians have kept their troops fully implanted in Europe, knowing full well if they were ever to take their troops out, Poland, Hungary, Romania, Czechoslovakia, East Germany—all of them—would probably overthrow their Communist Governments and align with the West.

Or you can take a look at Latin America, and here America itself, the United States ought to be very proud. Just 20 years ago you could number on one hand the democracies that existed in all of Latin America. Today we are hard pressed to number on one hand the dictatorships. We have seen Argentina, Brazil, Bolivia, two or three countries in Central America, most of Latin America move from dictatorship to democracy.

The Far East or the Philippines: fragile. Korea, I think, has already turned the corner and will permanently, I think, turn the corner and will not go back to dictatorship. I predict within 5 years, Taiwan will do the same, and they will move from their current autocracy to democracy. Then I think a decade after that, Singapore, Malaysia, and the other so-called tigers of Asia, these dynamic little commercial countries that have been booming for the last 10, 15, 20 years, all of them in that period that you can trace again from the Renaissance onward—commerce, art, democracy.

To further accelerate that trend, I think our foreign policy ought to simply be this, simply to say: live and let live. We are not going to try to overthrow governments we do not like, so long as they confine themselves within their own boundaries and do not invade their neighbors, either overtly by across-the-border invasions or covertly by supporting rebels and attempting to overthrow neighboring governments.

So long as we will follow that policy, time is not on the side of the Soviets. Time is on the side of the market system, for example, for commerce, and the flourishing of the arts and the expansion of democracy.

Just as Gutenberg 500 years ago made it very difficult for dictators, when he invented movable type, to suppress books because now they became too easy to print and duplicate, so does now the satellite dish make it almost impossible for any but the largest geographic dictatorships to keep their rural peasants or urban laborers in the dark as to what is going on in neighboring countries.

There may be in central Siberia or central China peasants who are still unaware of the progress being made elsewhere. But I will wager there is not in any town in Nicaragua or Eastern Europe or Cuba a lack of information as to what is happening in Costa Rica or Bolivia or Brazil or the fact that free governments, with market-oriented economies are making progress faster than Communist dictatorships.

Let us now bring it right home to Russia. I speak of Russia and not the Soviet Union. This is where I say we would be unwise to assume that Russia has changed without any further evidence. There is sufficient evidence of a change that they are going to try that I think we should encourage them to move in that direction for reasons that I will conclude a bit later.

First, when we say that the Soviet Union or Russia—again, I emphasize the Soviet Union is Russia since 1917; Russia is Russia and has been Russia for 1,000 years. Russia is and was imperialistic. Most of the things that the Communist Party, the Soviets have achieved were not new Communist desires. These were Russian desires long before the Communists ever came on the scene. If Russia did not change, they would be Russian desires long after the Communists disappeared from the scene.

I talked earlier about Latvia, Lithuania, and Estonia, which Russia occupied in 1721 and kept for several centuries. They finally gave them their freedom after World War I and took it back in World War II. Those were not new desires the Communists undertook. Those have been czarist desires for centuries.

When you look at the history of the Muscovite dynasty as it moved out from around Moscow absorbing foreign peoples—the Georgians, the Armenians, the natives of Siberia, the Ukrainians, these were not ethnic Russian areas in the normal sense of the word. This was czarist Russia expanding, expanding, expanding. Russia had always wanted their Slavic buffers, their Polands, their Hungaries, their Romanians. They always wanted, long before the Communists came on the scene, the buffer outside old imperial Russia to give them a little protection from the Germans, the French, and the others whom they did not trust.

Afghanistan: Nothing new. Russia tried twice in the 19th century to poke and to prod into it. Great Britain stopped them on both occasions, but the occupation a decade ago of Afghanistan by the Communists was not a new policy, and they are pulling out. They decided it was not worth it.

The Dardanelles and the Bosporus, those two chokepoints on the Black Sea, for 500 years Russia wanted them, but never got them; the warm waterport on the Indian Ocean, again a czarist desire to centuries. At the end of World War II, Russia occupied part of Iran. The port they wanted was part of Iran. Great Britain and the United States forced them out.

(Mr. LEAHY assumed the chair.)

Mr. PACKWOOD. Really, about the only thing that ever changed when Russia became Communist, when Russia became Soviet, is that their interests, their imperialistic interests leapfrogged into their contiguous boundaries. Up to that point, while they always bounded Russia, whether it was the Slavic countries or the windows on the Baltic in the west, or Afghanistan in the south, or the warm water port in the south, or Siberia on the east, they abutted Russia, and in 1917 when the Soviets took over, Russia thought to itself if Germany can have an overseas empire and if Great Britain can have an overseas empire and if France can have an overseas empire, we can have an overseas empire. And it was at that stage that their covetous eyes began to go beyond their boundaries.

But now I want to come back again to the situation where it is now. First, can we say that Russia has changed, that they no longer have those desires simply because they are pulling out of Afghanistan? I am not sure we can say that yet. But what we can say without any question is that Russia is failing economically. If over the next decade or generation Russia cannot do better economically than she has done in the past, then Russia will cease to be a major world power. She will be a significant regional power, but she will cease to be a major world power. She will no longer be a danger at our throat. She may be thorn in our side but not a serious menace as an international competitor if she cannot change.

What she is up against is the imperative that Prof. Paul Kennedy in his book the "Rise and Fall of Great Power" so clearly and I think correctly points out. He analyzes the history of powers in the world for the last 500 years, roughly from the time of Philip II of Spain onward, why certain countries grow, flourish and then diminish. What he concludes is this: Every country that became great wanted some empire, wanted more of its contiguous neighbors' land and peoples. They began to move outward. But unless their economies grew as well as their empires, pretty soon they could not afford the empire because the keeping of an empire is an expensive proposition.

Empires do not normally produce money for the imperialistic country; they cost the imperialistic country money. Just as Philip II and Spain could not translate their glory into another decade, another generation, another century, neither eventually could France, neither eventually could Great Britain. As Professor Kennedy would say, neither can Russia if they cannot do any better economically than they are doing now.

So what Russia finds is that it has on its hands Cuba, Nicaragua, Afghanistan, Angola, Eastern Europe, all of which are costing Russia deary in terms of money, rubles, military expense. We think our military is a burden. We are spending 6 to 6½ percent of our gross national product on the military. We had estimated up until 3 or 4 years ago that Russia was spending 13 to 14 percent of their gross national product on the military. But recent studies would indicate that we underestimated that percentage. Russia's economy has not been growing and so the percentage of the economy that is military is probably more likely 18 to 20 percent against our 6 percent. And this is against our 6 percent in an economy that is growing sensationally far outstripping the Soviet Union.

The worst thing that can happen to Russia is to encourage an arms race with the United States; we will run them off the board. They cannot keep up financially. So it is in our interest to encourage Russia not to keep up and if, in order to encourage them to do that, we have to enter into treaties by which we will both agree to reduce the threat of military devastation that we each have in our control, that is in our interest.

So Russia is going to try something called "perestroika." General Secretary Gorbachev is going to attempt to do something that no other Russian leader, czarist or Communist, has been able to succeed at. He is going to attempt to reduce the Russian military budget and to cut back on Russian military commitments, pull out of Afghanistan, and enter into an INF Treaty with us. There are some rumors that he would like to enter into a strategic arms treaty in addition and put that money back into the Russian economy. Only it is not going to be enough just to take the money out of the military and put it into an economy without economic reforms because that will just be pouring money down a rathole. And General Secretary Gorbachev certainly faces opposition in his own country.

Imagine you are a 55-year-old Russian general. You went to the military academy. You saw a little bit of service possibly at the end of World War II and you have worked your way up until you are the Russian tank commander. And now comes General Secretary Gorbachev who says:

> Now, General, don't you worry; we are going to take some of your tanks away. We are going to put the money that we save into the economy, but 20 years from now when the economy grows again you will get your tanks back plus interest.

And he says:

> That's wonderful; I have been in this army for 35 years. I finally made it to tank commander of the whole army and now you are going to tell me you are going to take my tanks away at age 55 and in 20 years I get them back. I don't think I like that deal.

The military has always had a position of paramount influence in Russia under the czars or under the Communists, but as I say, it is not enough. It is not enough to take the money away from the military if you cannot make your domestic economy grow.

And here comes the second rung of opposition to perestroika. You are a 55-year-old factory manager who has spent all of his life in the corporate bureaucracy, or its equivalent in Russia. You have never had to count any of your input as costs and you have not had to sell anything that you make. The government provides you with the inventory and the input and the Russian Government takes your product.

All you have to do is manufacture to a quota. Now General Secretary Gorbachev comes and says to the factory manager, "That sweetheart deal is over. Henceforth, inventory counts as cost. You cannot stack it up outside the gates of the factory. The input of labor counts as a cost. Transportation counts as a cost. That is all going to go into the cost of running this factory.

Henceforth, you are going to have to make something that people want to buy. It is no longer good enough that the government takes everything you make. Here is your quota. Make 1,000 bathing suits a day, make 365,000 bathing suits a year and give them to the government. Henceforth, if you make bathing suits, you better make the kind that people want, the kind that you can sell. If you can't sell bathing suits, you better make shirts. If that won't do, you better try socks. But if you can't make something that the people want, this factory may close. And you are going to be out of business.

Well, the 55-year-old factory manager is not very wild about the system either. So he calls the 55-year-old general and says, "This guy is nuts. He is trying to upset a cushy deal that we all had. He is trying to upset an establishment we have now had for 70 years under the Communists and thousands of years under the czars. Maybe he ought to go," just as Khrushchev went a little overboard 20 years ago when he tried reforms that do not hold a candle to what Gorbachev is trying.

So I think it is in our interests to encourage Gorbachev to try and succeed because, remember, the sequence: commerce, arts, democracy. Party Secretary Gorbachev is going to have a very difficult time putting into effect economic freedoms: the right of the factory manager to change from bathing suits to shirts or sock; the right of the factory manager to dismiss lazy employees, the right of the factory manager to reward better employees with more salary incentives than inferior employees. It is difficult to lose all of those market forces without at the same time beginning to lose choreographers of ballet, the writers of opera, novelists, dramatists, who will begin an intellectual ferment in Russia that you can already see happening.

And once you have loosed that ferment, then it is not far behind that the demand will come for democracy. That is in our interest because by and large in this century it is not democracies that invade their neighbors. There is an exception or two, but as a generalization who invades whom? It is usually dictatorships that invade democracies or perhaps neighboring dictatorships. It is easy to understand why. In a democracy, if you do not like the government, you vote the government out. That may not solve the problems. It just may change the leaders who also do not solve the problems. But, if you do not like the new leaders, you vote them out at the next election. At least it gives you some sense of psychological satisfaction that you can turn the government out.

Dictators do not like to be turned out. And when they face domestic turmoil they try to turn the attention of their people's overseas or next door, or invade something or somebody to get their people's minds off their problems.

So carefully we ought to nurture this effort in Russia to develop some kind of commerce. It will not be a market in the sense we understand marketing. We cannot expect in 5 years, 10 years, 15 years, 20 years, General Secretary Gorbachev to be able to overturn a thousand years of Russian history—I emphasize a thousand years of no market economy, a thousand years of repression, in terms of civil liberties and commerce, a thousand years of imperialism. But it is in our interest that he try. Because if perestroika fails, that could be for an interim period the most dangerous time. It is one thing if they never tried it, never try it, and the country just continues to stagnate, go downhill, downhill, downhill, economically until it gradually withers and disappears as a major world power. But as it is going downhill, you have done nothing to disturb the entrenched military bureaucracy or Communist Party officials. They have just diminished. Never to have tried is one thing. But it is another if they try it and fail.

If Gorbachev succeeds in temporarily overcoming the 55-year-old general, and the 55-year-old factory manager, and tries perestroika and it fails, and all those in Russia will say, "I told you so, I told you we couldn't trust this nut, I told you we should have thrown him out 10 years ago, now look where we are. We are further behind now because we listened to him. Now we have Poland in revolt, Hungary in revolt again, and we will have to send in our troops." And they will try it as a last-ditch striking out in an effort to save a failing system.

So it is in our interest to attempt to help Russia, not just encourage, but help them attempt this passage from dictatorship and no market to market, and then arts, and then democracy.

Here is where I end where I started. Can we assume that this will happen in Russia next year, in 5 years, in a decade, in a generation? You cannot assume. And here is some of the best advice I have ever had since I have been in government. It comes from Max Kampelman, our principal arms negotiator. I have been fortunate to have Max more or less take me under his wing. I would like to say as a protege, but that perhaps is an overstatement, but certainly as an adviser, and I have known him for a good many years, more since he has been our arms negotiator.

But I remember in 1981 when he was talking about the cruise missiles and the Pershings, the missiles that we were going to put in Europe. These are the midrange missiles that are now going to be taken out under the INF Treaty. We were negotiating their deployment with the Russians in Geneva. They said, "If you put in those Pershings and cruise missiles, it is the end of the arms talks. We are walking out. We are leaving." President Reagan directed Max Kampelman and said, "Well, so be it." It is 1981, the President saying through Max Kampelman, "We will make you a deal. We will give you a zero-zero option. We won't even put in the Pershings and cruises, if you will take out your SS-20's and equivalent missiles."

The Russians said, "No deal, we won't do that."

So we say, "OK, we are going to start to put them in."

As we start to put in our midrange missiles, Russia walks out of the Geneva talks. And I remember Max saying to me, he said, "You watch Bob." He said, "Within 18 months they will be back." Sure enough, 16 months later they came back when they saw we were serious. And then we began to negotiate the INF Treaty.

Today we have the INF Treaty before us, and I hope we will ratify it. We would not have gotten it had we not been willing to put in the Pershings and cruise missiles any more than we would have gotten the ABM Treaty had we not been willing to go ahead with the ABM system. But we have gotten 7 years later what the Russians could have had in 1981 had they just said yes to the zero-zero option.

But now I will conclude as follows: again, I will quote Max Kampelman. He says, "Bob, we will not know over the next 5 or 10 years whether these agreements that we have entered into will be observed in full by the Russians." We can monitor them. We can verify them. It does not mean they will not cheat and we must be alert. But this will help them to move toward a change in the internal economy of the Soviets and hope we move toward democracy." Then he said "The realities for the West will not be Russia." He said "The realities of the next 30 years is going to be in the West because Russian is going to try perestroika." There is not much we can do about that. Their leader may be thrown out. We would not get to try it. Maybe he will be thrown out, and we will get to try it. But from the outside there is not much we can do about his desire to want to try it. During those 30 years we will have to stand firm, and we will have to spend on our military on a level appropriate to assure that Russia has not changed because we will not know in our generation, General Secretary Gorbachev's, or Max Kampelman's, or probably mine whether they have changed.

It will be most difficult for us to stand firm and spend an adequate amount, and especially spend an adequate amount if we have this continual debate with our European allies about whether they are spending sufficiently on NATO, because Max called another interesting fact to my attention. He said, "You know, since 1945 there has been no major war between major powers in Europe." He said, "You know, that is the longest period of time since the end of the Hundred Years War over 500 years ago that one major European power has not been attacking another major European power." He did not always mean France and Germany or Germany and Russia because in that 500 years you have had other great European powers. Sweden and Denmark were great European powers at one time. But now we have had the longest period of peace in the history of Europe in 500 years.

Max would say was it because of NATO? Was it because of the money that we put in? That is an argument that is not provable because you cannot know what would have happened had we not put the money in. But we do know this: Had we not put the money into NATO, had we not stood for parity over those years, and had there been another war in Europe and had we gone to the rescue of Europe again as we did in World War I and II, it would have cost us infinitely more than all of the money 10 times over that we have spent on NATO. So all we can do is be patient. It is not an easy trait for this country.

We are a wonderful, engineering, excitable, can-do country. We can put a man on the Moon in 10 years. Whether we can stick to a foreign policy for 50 years is another matter.

I do know this: if we will follow the foreign policy that says, "Live and let live. We will not invade you. You just stay within your boundaries. Don't invade your neighbor. Don't subvert your neighbor. Don't try to overthrow your neighbor. Just confine yourself to your country and run your country as you want"—if we can stick with that policy for 50 years, then I think there is no question but that time is on our side and the side of democracy, rather than on the side of dictatorship.

I think the signing and the ratifying of the INF treaty is a step—not a mile race, a step—for giving Russia the chance to move toward commerce, then arts, then democracy. She may not succeed at it; and if she fails, it will be unfortunate for us. But I do know this: Fail or not, time is on our side.

There is no question but that the United States and our Western European allies and our burgeoning coterie of Far East Asian allies can outrun—if necessary, outgun—the Soviet Union. I would prefer that we do not have to do that, but we have the capacity, if we have to. I would prefer our contest with them be our form of government against theirs, our form of commerce against theirs, because it is no longer Russia versus the United States. It really is now the United States, Western Europe, Japan, Korea, Taiwan, Singapore, Malaysia, India, Pakistan, Turkey, Mexico—all surrounding the giant that is trembling, shaking.

So I would say it is in our interest to try this treaty. Will Russia observe it? We do not know. If Russia does not observe it, will we know that they have not? Yes, we will. If we stand firm, with or without this treaty, but preferably with it, and hopefully with other treaties in the future to further eliminate the arms race, do we both win? Yes.

So, I encourage the Senate to ratify this agreement. It is an opportunity we have not had in this century to move the world a bit closer to democracy. We will not know, in the length of our service in the Senate, whether we have been successful. But I think we can take some pride in having started the step that could have consequences beyond our farthest imagination for us, for the Russians, for the world.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **SYMMS.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. DODD). Without objection, it is so ordered.

Mr. **SYMMS.** Mr. President, I just want to rise and compliment my distinguished neighbor and friend from Oregon for what I thought was a very thoughtful and well presented speech here in the Senate.

I think it is interesting when one looks at the Rand Corp. data on what is happening with gross national products that you can come to the conclusion that my good friend from Oregon comes to or you can come to the other conclusion which is that we need to expedite the process of helping the Soviet Union by, as the saying goes, bombing them daily with Sears catalogs and J.C. Penney's catalogs so they can see what they are missing by not enjoying a market economy.

I think that the Senator from Oregon makes a very, very good point, though, that we should all heed, and that is patience, and do we have the patience to see through the long-term foreign policy situation to sustain the effort so that the Soviets will from within come to the conclusion that it is not in their best interest to try to stand up to the West.

I guess, that is where I come down to a slightly different conclusion than my friend from Oregon, although I think he made a very excellent presentation and I thought his comments about Mr. Gromyko being caught in a boldfaced lie to our American President, President Kennedy, is a most interesting and most telling story.

So, Mr. President, I do believe that if you look at the facts of the gross national products of the United States and the Soviet Union, our gross national product is estimated in 1990 to be well over twice as much as the Soviet Union; Japan is about the same; Communist China almost the same; West Germany, United Kingdom, and France more than the Soviet Union; India, South Korea, Taiwan, Brazil, Turkey and Mexico added together the same as the Soviet Union.

It is very obvious that if the West demonstrates the will to stand up to the Soviet Union that they certainly can do so.

I think that one can also relate this—oftentimes we should not allow ourselves to sell our own system short. Our system is far superior to that system of the Soviet Union, not only economically but morally. In terms of human rights and opportunities for people, there is no comparison in the two systems. It is just that they are not comparable in the standard of living and the opportunities for people to seek happiness. There is no comparison.

But there is one other fact that we have to look at and that we would hope that our counterparts in the Soviet Union, the people will look at. When I talk about the people I would say the Russian people. The people in Russia I have no quarrel with. My quarrel is with the dictatorship, with the Kremlin, with the bureaucrats that run the Soviet Union.

Coming from a farm State I think one can recognize very easily, a State that relies on exporting grain to the world market and other agriculture products, that if the Soviet Union would allow the Russian farmers to run the farms and stop having the Soviet bureaucrats try to run the farms they would certainly cut into our exports of agriculture because they have twice as much arable land and they have the capacity to produce much more than they do, but because of their internal bureaucratic bungling and state-controlled economic system they do not do nearly as well.

One other area that I think should be noted is that if you look at the performance of the Soviet Army in Afghanistan, it is not a record that one could be too proud of. The Soviet soldiers are being defeated on the field of battle in Afghanistan. That is why they are leaving. They are not leaving out of some charity in their heart. They are leaving because the soldiers are being outperformed on the field by the Mujahidin and equipment that the United States has been able to give them.

I do think that the Senator from Oregon in his very thoughful remarks makes a point that this Senate should remember whether this INF Treaty is ratified or not, whether there be any other treaties to follow on or not. But the Senate of the United States and the Congress as a whole and the administration, whoever they are, must if we are going to survive as free people stay the course and be patient and have a sustained foreign policy and a commitment to and, as the Senator from Oregon said, if we would make a commitment to the arms development in this country we could show the Soviets in a very short time that they could not afford to keep up with the United States.

If we were spending another $30 to $40 billion a year just in procurement of F-15's, Harriers, F-16's, F-18's, the M-1 Abrams tanks and other weapons for the infantry, antitank missiles and so forth, another $30 to $40 billion a year which this country could afford to do, it would make a tremendous difference in the balance of power in a very short length of time with respect to the Soviets, and I believe they would then recognize that they really cannot afford the arms race that they started with the United States of America.

I say agian it is not the Russian people that started the arms race. It is the dictatorship, the government infrastructure, the bureaucracy, if you will, of the Kremlin of the Soviet Union that started the arms race and have been keeping the arms race alive.

So I think that what we have to do is continue to press forward to keep this economy strong in this country and be an example for the rest of the world but at the same time never let our guard down and be taken advantage of by the dictatorship in the Soviet Union.

Mr. KASTEN. Mr. President, in a very short time, President Reagan will meet the leader of the Soviet Union to discuss the future of arms control and other issues. It would be imprudent to allow our President to arrive in Moscow without the full support of the U.S. Senate—and full support means ratifying this treaty before the summit.

The INF Treaty provides the significant reductions in nuclear arms. The treaty is a truly pathbreaking and historic document in that it actually reduces nuclear weapons. Unlike the supposed benefits of arms control, the arms reductions mandated by this treaty are real.

The treaty actually eliminates two whole classes of nuclear weapons. Its verification provisions—including, for the first time ever, the right of on-site inspection—would have been unthinkable just a few short years ago.

There have been some legitimate questions raised about the adequacy of the verification regime. I share some of these concerns, and I hope they can be worked out.

The value of any treaty is determined not so much by its text as by the commitment of the parties to its verification and its enforcement. Thus, in deciding to support this treaty, I have made the judgment that we can count on future U.S. administrations to insist in the strongest terms that the Soviets abide by it. Absent this condition, supporting the INF Treaty would be a serious mistake.

This treaty is the product of 7 years of hard work and dedication on the part of President Reagan and his administration. The treaty would not have been possible if President Reagan had not stood firm for SDI, for peace through strength, and for the rebuilding of America's defenses after a decade of shameful neglect.

The INF Treaty is the first fruits of our renewed national commitment to preserving and strengthening the forces of freedom. A weak nation could never have prevailed on the Soviet Union to reduce its nuclear stockpiles. The INF Treaty proves that President Kennedy was right: A strong nation never negotiates out of fear—and never fears to negotiate.

The statements I have heard in our floor debate so far have been of uniformly high quality and intellectual caliber. Our duty under the Constitution is to decide in a timely manner whether we shall give the President our advice and consent to this treaty. In our exhaustive consideration of its merits, we have improved parts of the treaty and made it a more effective instrument for the preservation of our national security.

We need to address expeditiously any further concerns we may have, make changes if necessary, and present our final action on this treaty to the President.

Mr. President, Ronald Reagan and his negotiators worked hard to get this treaty. We need to do our work on it as fast as we responsibly can. I think we should make it a priority of this Chamber to give the President the instruments of ratification in time for his summit with Mr. Gorbachev. Let him take to Moscow not just these instruments, but also the full confidence that we in the United States Senate support his approach to negotiations with the U.S.S.R.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, my colleague from Oregon a short time ago delivered a really impressive address to the Senate, well thought out, thoughtful, thought-provoking and extraordinarily well delivered.

I heard a number of our colleagues congratulate him on the quality of that speech and on his delivery when he left this Chamber. It was such a fine speech that I certainly would not attempt to add to it nor would I be comfortable in offering a critique, though I can think of a few points on which I think I would disagree with the Senator in his remarks.

But in any event, because of his intellectual honesty, the Senator from Oregon made a critique unnecessary.

As I understood him, he admitted that for the INF Treaty and presumably for a START Treaty to work we are going to have to spend more money on conventional weapons, and that is a central fact. It is a central fact. It is a pivotal question: Are we going to spend more money? Will we spend sufficient amounts of money on conventional forces to maintain an adequate level of security in Europe and ultimately for the United States?

The answer to that question is by no means assured. Indeed, it is a question that is a worrisome question in light of the fact that over the last 4 years the U.S. defense budget has declined year after year. For 4 years running now we have had a decline in defense spending.

I am not going to get into the arguments about how we are just backing off on a big military buildup. The fact is in terms of affordability, if you will, I think we are spending 6 percent of gross national product on defense. During President Kennedy's administration it was up around 10 percent. By that yardstick which is the yardstick of affordability and it does not necessarily reflect the adequacy but the yardstick of affordability, we are spending much less than we used to.

This INF Treaty is a gamble and the START Treaty which seems certain to be concluded in the fairly near term is a much bigger gamble. Together they are a very big gamble.

They need to be linked together, really, because they deal with the same subject matter—nuclear weapons. They are very much related and interrelated and interdependent if they are to succeed in their stated goals.

So, in just a few minutes, I am going to call up an amendment which I have at the desk. I am not now calling it up, but I will shortly call it up. It is an amendment which is very short, very straightforward. Let me first read the purpose:

Purpose: To prohibit the entry into force of the Treaty unless and until the Parties have also ratified a Treaty reducing their strategic nuclear arms.

In other words, the INF Treaty, under this amendment, would not become effective until the Soviet Union and the United States have likewise ratified a START Treaty.

The language of the amendment is as follows:

Add at the end of paragraph 1 of Article XVII of the Treaty the following new sentence:

"Notwithstanding any other provision of this Article or of any other Article or provision of this Treaty, its Protocols, or its Memorandum of Understanding, this Treaty shall not enter into force unless and until the Parties have also exchanged instruments of ratification of a treaty between them which reduces their strategic nuclear arms.".

One of the arguments used by the proponents of the treaty to calm fears about the verification is the argument that the Soviets have no need to cheat on INF. That is interesting, because that is a double-edged argument, if you will. On the one hand, it says we do not have to worry much about verification. If this is true, the Soviets have no incentive to cheat. But, on the other hand, it raises the question: Well, why have the Soviets no incentive to cheat, if that is so? And the answer to that interesting question is, likewise, very interesting. They have no need to cheat because the INF Treaty requires them to dispose of weapons which are dispensable to the Soviet Union; requires them to eliminate weapons which they really do not need.

On the other hand, it requires us to dispose of weapons which are indispensable, in particular, the Pershing II. So that is interesting. I want to develop that in just a little bit.

The Soviets have no incentive to cheat, the proponents of the treaty say. The reason for that is that these weapons, which they are required to give up, are weapons which to them are dispensable. On the other side of the equation, the weapons that we are required to give up, particularly the Pershing II, is literally—at least in my opinion and in the opinion of many experts—literally indispensable.

The reason that the Soviet weapons, the SS-20's and so on, which they will destroy, are dispensable to their side is that they can destroy all of these and still have enough nuclear weapons mounted on missiles, ballistic missiles, to retarget all of the hundreds of NATO assets which are now targeted by the missiles which they will destroy under the treaty.

In other words, they do not need these missiles absolutely. They are dispensable because they can take other missiles—SS-24's and SS-25's—as we expect them to do and target the warheads and retarget the warheads on those missiles against every one of the NATO assets in Europe which they now target with warheads on missiles which they will have to destroy.

So that is an interesting revelation, or ought to be. The Soviets are giving up weapons which they do not need, but we are giving up weapons which we do need. That is why it is all the more important that we not ratify the INF Treaty until we find out what the Soviets are going to have to do with those other weapons which they can use to retarget NATO; that is to say, until we know what the START agreement will impose by way of conditions on the Soviets and the United States.

In that context, when we know how many weapons and warheads and of what kind and what kind of launch vehicles each side will be permitted under START, then, if it is the right kind of a treaty, one which the Senate should ratify, then we could be assured the Soviets will not have such a sufficiency of warheads as they have today and that they have post-INF that they can both cover the strategic targets in the United States and all of the NATO resources which are targeted by INF missiles which will have been destroyed.

The Soviets have about 11,000 warheads. We are not exactly pristine on that count, either. We have lots of warheads, too. But the fact is the Soviets have enough warheads to target all of the necessary targets in the United States with redundancy, I would point out. Not just one warhead per target, but multiples of warheads per target and, on top of that, keep all of the NATO resources targeted which are today targeted with missiles that have to be destroyed under INF.

So it is a pretty good deal for the Soviets. They get rid of weapons they do not need, but we are required to give up weapons that we very urgently need. And why do we urgently need those two missiles, the Pershing II and the ground-launched cruise missiles? Well, to discover why we need them, we might examine why we deployed them or why we deployed nuclear weapons at all to Europe.

We did not do that frivolously or because we are fascinated with nuclear weapons or because we just wanted to spend some money. We built and deployed, at very great economic and political costs, nuclear weapons to Europe because we have not been spending enough and are not willing, and probably are not able, really, to spend enough on conventional weapons to deter a Soviet attack on Europe.

The Soviets have great geographical advantages. They are breathing right on the boundaries of Western Europe. For the United States—which, after all, would, in a war in Europe, be once again the arsenal of democracy—for us to resupply and reinforce requires the shipment of vast quantities of men and materiel by ship and by aircraft across great lengths of the Atlantic waters, which will be infested with Soviet submarines in much greater numbers than the few Nazi submarines that were on station at any given time during World War II but which, despite their small numbers, wreaked havoc with allied shipping.

So the Soviets have a geographic advantage in Europe. They are close, with short lines of communications. For us it is very, very long and increasingly tenuous. And even if we did not have to worry about the hazards of transiting the Atlantic and European air space, which will be swarming with hostile vessels, sea and air alike, we just do not have the shipping. We do not have the ships or the aircraft, airplanes to move anything like the quantity of men and materiel we have promised Europe in the event of a war.

We promised to bring our strength up from 3½ to 10 divisions in Europe within 10 days. There is no way we can do it. It is yet another one of these empty promises, another one of these unfulfilled goals driven by need but which are unfulfilled and would result in really a catastrophe in the event that Western Europe were attacked.

So the Soviets have geographical advantages. We are plagued with great insufficiency in shipping and in aircraft ton-mile capabilities, which we would need to offset that geographical advantage.

The Soviets also have very great advantages in the number of divisions. In combat strength, in men and soldiers, I think it is about 3 to 1. And they are offensively deployed. When military strategists look at the armies, they just do not say there is an opposing army. They look at the way in which it is deployed. They do not just look at size. They look at the way in which it is deployed. The Warsaw Pact forces are deployed in a manner to facilitate offense.

Is that true of NATO? No. Clearly, by no stretch of the imagination, can anybody suggest that the NATO forces are deployed in a manner to facilitate offense. We would just be creamed if we tried that, because we are so short on manpower; we are so overwhelmed by Soviet superiority and troop strength; so overwhelmed by Soviet superiority in tanks, 2 to 1, and armor.

Remember, those tanks are now being outfitted at an alarmingly rapid rate with reactive armor, which I am told renders practically useless most of NATO's antitank weaponry.

Outnumbered in men, in divisions, and outnumbered in tanks and outnumbered in tactical aircraft which, by the way, are every bit as modern as ours, and completely outclassed in chemical weapons delivery because we have zero chemical weapons that are usable, and the Soviets have hundreds of thousands of tons of the stuff and we know from their military exercises that the use of chemical weapons is an integral part of their military doctrine.

If the Senator from Idaho wishes me to yield for a question, I would be pleased to do so.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Idaho.

Mr. SYMMS. I thank the Senator very much for yielding. I think the point he is making about offense versus defense capabilities is one that needs to be taken under consideration.

The point I was going to make and ask of my colleague: When I was in Europe, in January, asking questions to some of our generals and other generals, I asked that question in many cases. What are your offensive plans in case of an attack to counterattack and cut off, to interdict supply lines and possibly seize Eastern Europe; what is the policy?

They said, well, we really do not talk about that at all for obvious reasons that the Senator pointed out. We are more in a defensive mode but also it is not the policy of the United States and Western Europe to be on the offense.

Often times, I think, and I propound to my colleague, that the potential for political will, if in fact NATO had it as a doctrine that if the Warsaw Pact ever attacks that we will start attacking north from Turkey and we are going to liberate all of Eastern Europe and that is our policy, our doctrine— I think that would cause them a great deal of consternation. It might stop them.

But we have had such a defensive, if you will, ideological position from Foggy Bottom that it has been so part of our society for so long that people cannot even think in those terms.

I am not talking about being offensive. The Senator from Oregon made it very clear. Generally speaking, dictatorships invade their neighbors or countries they can invade, whether dictatorships or whatever they are; they invade their neighbors: democracies, dictatorships, whoever happens to be in the way that has what they want. Countries that allow the election of people and have a free press tend not to invade other countries.

But the point that I am making to my colleague, do you not think that is part of the problem and part of the concept of the INF in itself? The INF provided us with a way to strike back at the heartland—I mean prior to the INF—the intermediate-range missiles allowed us to strike at the heartland of the Soviet Union who would be the perpetrator of the attack.

Without it we really do not have that capability, short of a global war.

Mr. HUMPHREY. Indeed.

Mr. SYMMS. I think the Senator is making an excellent point and I compliment him for it.

Mr. HUMPHREY. I thank the Senator for his contribution. He is quite correct that our deployment, both in strategy and in physical deployment, is defensive. And now, if we give up the Pershing II, we will give up the only weapon that can hold the Soviet territory hostage, if you will. It can threaten Soviet territory. The only one the Soviets will pay an awful lot of attention to is the one that will strike their own soil.

They are much less concerned about nuclear weapons that will strike the soil of their Warsaw Pact allies. Not unconcerned; I do not suggest that. But you somehow get their attention at a much higher level when you threaten to strike their own territory. We have only one weapon that can, with assurance, speed, accuracy, reliability, and lethality, and that is the Pershing II, and to a somewhat lesser extent because of their slower speed, the ground-launched cruise missiles. With the INF Treaty, we have the manned aircraft, which would have to penetrate a very dense Soviet antiaircraft environment, and very few of them would probably succeed.

Their value as a deterrent factor is much, much, much less than the deterrent value of the Pershing II and the ground-launched cruise missiles; and their utility in the event of war is obviously much less as well, because they are old, slow, not survivable, and not as accurate as missiles, obviously.

Well, Mr. President, I began by focusing on the question or the matter which the Senator from Oregon raised, the imperative of spending more on conventional defense if we are to eliminate these force multiplier weapons which we have deployed, these nuclear weapons. We have deployed those, as I pointed out, because we needed to. In the past we have not been able or willing to spend enough on conventional defense to deter the Soviets sufficiently in our minds. So we put in these force multiplier weapons, which are cheaper to deploy and maintain than are divisions of plain old soldiers with tanks. They are cheaper, believe it or not, as expensive as they are.

The security of Western Europe, and indeed ultimately our own security, will depend on the question of, assuming the INF Treaty will be ratified and ultimately START will be ratified, whether we are willing to spend that much money. I rather doubt it. Certainly there is nothing in recent American political history, nothing in our recent defense budgets or in the trends that suggest that we will be willing; that indeed we will spend more money. It is not only I who have misgivings on this point.

During the Armed Services Committee hearings a couple of months ago on the INF Treaty, some of the foremost military experts in our country were asked about that question: Will we spend more money on conventional forces to make up for the loss of these force multiplier weapons?

Here is what the experts had to say.

Admiral Crowe, who is the Chairman of the Joint Chiefs of Staff, the highest ranking military officer in our forces, noted that the United States will need to spend more money to correct weakness in conventional forces in NATO. But, he said, "I also believe we are not going to do that."

Admiral Crowe has been around for a while. I do not know how many years he has been in uniform but he is at the pinnacle of his career. He has been around for a while. He knows the military side of things and he knows the political side of things because in his various commands he has had a great deal of interface with practical politics.

He is a realist and I believe he is right when he says, "I also believe we are not going to do that." He believes we are not going to spend more money, not to mention sufficient money; not even more money on conventional defense. That is Admiral Crowe, the Chairman of the Joint Chiefs of Staff.

Former Secretary of Defense Harold Brown, who served President Jimmy Carter as Defense Secretary and a man whose credentials cannot be questioned and certainly a man who is supportive of arms control initiatives said, with respect to the probability of increases in NATO defense spending: "I would assess the probability as low." And he said, further, "If U.S. defense budgets continue to drop by a couple of percent per year"—as they have, I add parenthetically—"If U.S. defense budgets continue to drop by a couple of percent a year, the Europeans will have lots of excuses and significant justification for not increasing theirs at all." Those of us who are familiar with NATO and NATO politics know that to be a very sound statement as well. Europeans on the whole spend a much smaller percentage of their GNP on defense and are even more reluctant than is our own society to spend more on defense, conventional or nuclear.

So, those who make the argument that we ought to help out Mikhail Gorbachev by passing these treaties because maybe at long last this is the beginning of something new in the Soviet Union—maybe this is the end of Soviet imperialism and, praise to heavens, maybe this is the end of communism and I surely hope so. I will agree with them to this extent: Mr. Gorbachev is the best that we have had and the best we are likely to have, as far as we know, for a long time to come.

He has made some efforts to begin, in the tiniest way, but to begin liberalization of the Soviet economy and liberalization of the Soviet Government and government policies and of society as a whole.

Yes; we want Gorbachev to succeed. He has a tough road to travel, and he might not succeed, as the Senator pointed out. He might not, because anytime a reformer comes along he bucks up against the status quo. He bucks up against those with vested interests in every kind of society. Whatever it is capitalistic, Communist, or somewhere in between, there is always a vested interest. That is one of the realities of human behavior.

In Mr. Gorbachev's case, it is the nomenclator, those with powerful positions, titles, and perquisites who do not want to give those things up any more than we on this floor like to be defeated and deprived of our titles, powers, and purposes.

We have certain vested interests, too, but at least we are elected. Nobody elected Mr. Gorbachev. That is another argument. I will not get into that except to say we need to be very careful not to portray Mr. Gorbachev, the Communist Party, and the Soviet system as the moral equivalence of an elected Western leader, democratic parties, and liberal societies. Nothing can be further from the truth so far. We hope that will change in the Soviet Union.

Let us not be so fawning and so inclined toward mush-gush, as I may say the President has been in recent months, that we obscure the differences to be the real great significance between our systems, societies, and economies.

There are great differences, and those differences have great consequences with respect to the kind of personal liberties and security in those liberties that societies have or do not have. They have consequences.

When the President fawns over Mr. Gorbachev and calls him my friend and Prime Minister Thatcher goes out of her way to make life pleasant for Mr. Gorbachev, shall we say, this really confuses and confounds public opinion.

It is no wonder that public opinion in Europe regards Mr. Gorbachev more highly than public opinion in the United States when Western leaders fall all over themselves to portray the man as the moral equivalent of a democratically elected Western leader with due regard for law, due process, and the God-given rights of man.

There is no such thing in the Soviet Union yet. We hope that Mr. Gorbachev is driving a wedge into tiny cracks that will open up with great haste and reveal the dawn of a new day. We hope that is the case, but we have been snookered before. Not only that, we in positions of public policy know full well, as the Senator from Wyoming pointed out earlier so eloquently, that men and women pass from the scene. Mr. Gorbachev might be a wonderful fellow. He might truly hope to democratize and liberalize the Soviet Union. I do not think he really wants to go that far. I think he is basically a believer in the Communist system, but I think he sees the practical necessity of giving way to human nature, of accommodating human nature, and harnessing human nature of the Soviet Union, giving people incentives, giving them a little security in their rights.

I think that basically is his motivation. I think it is basically pragmatic and practical, but we will take it any way we can get it, will we not? Liberalization is liberalization. It is only a beginning and we will encourage it. Let us not fall all over ourselves, slobbering all over ourselves to portray Mr. Gorbachev and the Soviet system as something like a Western democratically elected leader and a regime with a constitution that means something and a government of laws, and not of men, and of due process, because that is not the case.

If we are going to adopt this treaty, and I view this as a one-sided treaty, one which would undermine national security and that of our allies, then we need to spend more on conventional defense. I do not think we are going to do it, so we should not adopt it.

In any event, we should not adopt it until we can see more clearly—until we can see clearly—indeed, we cannot see at all; it is very murky—what will be the nuclear arsenal of the Soviet Union and the United States following ratification of the START agreement because these weapons, intermediate force weapons, which are covered under the INF Treaty now before us and strategic weapons which will be covered under the START talks, are nuclear weapons. They have that in common. They are nuclear weapons. They are forced multiplier weapons. They are joined together like a train. We should not deal with one until we know what will be the extent and the scope and the deployment of the other.

The Senator from New Hampshire is not original in that observation. Indeed, the amendment which I have at the desk and which I will call up shortly is known around here as the Rostow amendment. The genesis was the testimony of former ACDA Administrator Eugene Rostow who testified before the Foreign Relations Committee. Mr. Rostow was Director of the Arms Control and Disarmament Agency during a Democratic administration. I believe he styles himself as a Democrat.

In any event, he is a proponent of arms control of the right kind. After all, if he were a knee-jerk opponent of arms control, he hardly would have been appointed by a Democratic President as Director of an Arms Control and Disarmament Agency, would he? The answer to that is obvious.

In his testimony before the Foreign Relations Committee, Mr. Rostow said as follows:

> In my judgment, the INF Treaty before you presents two major difficulties. The first, in my view, is that it calls for a dismantling of all Soviet and American missiles of intermediate range. As the reaction to that prospect both at home and abroad makes clear, low equal quotas for each side, which the United States proposed in 1983,

would be decidedly preferable to the double zero solution which raises the specter of American withdrawal, of America decoupling from the security of our allies both in the Atlantic and the Pacific. The administration has never explained why it abandoned its 1983 position and returned to the zero option when the Soviets returned to the negotiating table in 1985.

That is difficulty No. 1, according to Eugene Rostow. It is the double-zero option that requires both sides to destroy all vehicles of intermediate range which are designed to deliver nuclear warheads.

The problem with that, speaking for myself, not Mr. Rostow, is that the Soviets can dispose of all those class of nuclear-delivered vehicles, but we cannot. They have a sufficiency of other kinds of nuclear warheads and nuclear missiles that cannot only continue to cover targets in the United States, but can retarget all of those NATO targets presently targeted by intermediate force weapons which will be destroyed.

They do not need the missiles they are going to destroy, but we do. We need that Pershing, especially, for all of the reasons I outlined earlier.

The conventional force imbalance, the dangerous superiority in Soviet forces we cannot and, in my opinion, will never remedy with more spending on conventional forces because we do not have the manpower, we do not have the money, and we do not have the political will.

So Mr. Rostow is making the point that zero-zero option, which we have embodied in this INF Treaty, is a mistake; that there is a utility to intermediate range nuclear weapons; that they cannot offset conventional superiority, from our point of view, the conventional superiority in the Soviet side and that a small equal number on both sides would be more stabilizing than this zero-zero option which will return us to a situation where we have no nuclear weapons of assured survivability, of quick delivery, and accurate delivery to deter a Soviet conventional attack, if one is contemplated, and to disrupt, slow down one if such an attack were to take place.

Mr. President, before I go on to the second point raised by Mr. Rostow, I want to address another element of the dangerous situation relative to NATO and the Warsaw Pact forces. I pointed out on a number of occasions that Soviet forces very greatly outnumber ours in men and materiel and that the qualitative superiority is vastly diminishing. The Soviet weaponry is every bit as good as ours and in many cases better, especially in the case of reactive armor which they are rapidly deploying and of which we have none so far.

But there is another side to the coin. There are two sides to the coin, obviously. There is the Warsaw Pact superiority relative to the smaller and less well deployed forces of NATO, but the other side of the coin is the shocking and calamitous and scandalous state of unpreparedness of those NATO forces which are there. They are there in insufficient numbers and maldeployed and underequipped and outgunned for the most part, but they are also scandalously unprepared in terms of stockpiles of ammunition and fuel.

The official goal of NATO is to have on hand 30 days' worth of ammunition and fuel, but we and our NATO partners have never come close to that. Thirty days is not much. And that is not a figure that just was plucked from the air. That is a figure based on needs. That is a requirement figure. But we have never come close, NATO has never come close to having 30 days', not even 15 days' worth of ammunition and fuel. We do not even have half of what we think we need, and that is a fairly bare minimum, 30 days. We do not even have half that. We do not even have half of half. We do not have half of the half. We do not even have one-quarter, not 15 days, and not even 7½ days. And while the exact figure is, of course, classified, the term of art used in open session by the experts when they testify on this point is that we have "less than 7 days." Less than 7 days. It does not mean we have 7 days. It means we have somewhere between zero and 7. Maybe it is 1, maybe it is 3, maybe it is 5, maybe it is 6½. The exact figure is classified. Not 30, not 15, not 7½, less than 7. You compare that calamitous shocking state of unpreparedness with the Soviet superiority in geographic advantages, short lines of communication, manpower advantages 3 to 1, tank and armor advantages 2 to 1, chemical weapons where they have hundreds of thousands of tons of the stuff and regularly practice using it in offense and we have not got a drop, you compare that with the calamitous state of unpreparedness of NATO and you have got to be pretty darned worried. This Senator as a member of the Armed Services Committee is, and especially as a member of the Subcommittee on Preparedness, which subcommittee I had the privilege of chairing for a number of years before my party lost the majority. But notwithstanding the change in parties, the situation is not better; it is indeed worse. I am not blaming that on the other side either. I am not blaming that on the Democrats but the situation has grown worse. Both General Rogers and General Galvin have testified—and they represent the last 9 years of command of NATO, General Galvin this last year, General Rogers the preceding 8—that the situation has gotten worse, that NATO is even more outclassed by the Warsaw Pact forces than formerly.

So in that context is it really wise to give up the one system, only one which credibly deters the Soviets from attacking Western Europe? I think not. I think not, especially in light of the fact that we are really most unlikely to spend more money on conventional forces. It just is not going to happen, Surely there is not one Senator who thinks we are going to spend more money on conventional forces in Europe. Others will say, "Well, if you cannot spend more money on conventional forces, then we will modernize our battlefield weapons, our battlefield nuclear weapons." That is not going to happen either because our NATO allies do not really want to modernize such weapons. Indeed, they do not want them.

Now that INF is about to be concluded and now that Soviet territory is no longer going to be threatened, now that the threat lies against Western Europe and the nuclear war will be conducted solely upon the territory of Western Europe—that is an overstatement, obviously; some of it will be conducted on the territory of the Warsaw Pact forces, but we simply do not have credible weapons that will reach Soviet territory and in that situation Western Europeans, in particular West Germans who would bear the brunt of such warfare are saying, "Well, if the Soviets aren't going to feel any of the pain of such a battle, most of it is going to be borne by West Germany, then let's get rid of all of these weapons, theater weapons and battlefield weapons.

So the momentum is now in getting rid of these weapons, not in modernizing, because they need to be gotten rid of. Frankly, most of it is junk at this point—16, 18-year-old missiles that just do not have enough range or accuracy; nuclear artillery shells have not been modernized. In comparison with what we are giving up, it is junk. It is dangerous. It ought to be gotten rid of. There are a lot of weapons that we should get rid of, a lot of that stuff should go. Indeed, we did get rid of it under the Montebello decisions, but there is still a lot if it out there.

I am trying to make the point that we are talking some mighty big risks, Mr. President, in ratifying this INF Treaty. It would have made so much more sense, as so many witnesses pointed out, both in the Foreign Relations Committee and the Armed Services Committee, if we had put the horse before the cart. We have nuclear weapons in Western Europe because of the Soviet immense advantage in conventional forces which we simply cannot afford to match. We can with force multiplier weapons leverage, equalize, which are nuclear weapons.

Does it make sense really, is it logical to take out those nuclear weapons, which are meant to deal with the Soviet conventional superiority, in advance of dealing with the Soviet conventional superiority? It does not. It is treating the symptoms and not the disease. The disease will not go away if you just treat the symptoms. But that is what this is going to do.

It will leave that Soviet conventional superiority, as the Armed Services Committee report notes, untouched. It would have made far more sense to insist on progress first at the MBFR talks, the talks on mutual and balanced force reductions, which are trying to deal with that Soviet superiority, that massive superiority, which is the underlying fundamental problem causing the tensions in Europe. If we dealt with that first, then the INF Treaty would make sense because we would not need nuclear weapons, or at least we would not need them in the numbers that we have today.

But did we put the horse before the cart? Not when you have the State Department in charge of the stable. The cart goes in front of the horse, or maybe on top of the horse but never behind it. It is really senseless. But we did not do that. Here we are with the treaty before us. And let me just point out that 30 of 38 witnesses who appeared before the Armed Services Committee said, when asked to focus on the military ramifications of this agreement, that this treaty is disadvantageous in a military sense, is disadvantageous to the United States and our NATO allies. I have to say, like so many other proponents of the treaty, most of them went on to say to my disappointment, that we ought to ratify this treaty for political reasons, that Europe would be so disappointed, Western Europe public opinion would be so disappointed if we did not ratify this because they expect it to be ratified, that NATO will just come apart at the seams; that we ought to ratify this treaty for reasons of form, notwithstanding the substance which is disadvantageous to the United States and to NATO. Maybe this Senator has not been around this town long enough. I have been here 10 years which some people will think has been far too long. But maybe I have not been around here long enough to acquire the elegance of thought to know that one should always prefer form over substance. I could never qualify for the Foreign Service Corps. That is for sure because I really prefer substance over form.

But here we are urged to ratify form over substance even though substance will damage our national security and imperil 323,000 innocent parties who are American GI's in Europe; who are there to defend Western Europe, and who will be deprived of the very best tools that they and we have to deter an attack and to block or disrupt such an attack if one should come.

Mr. SYMMS. Will the Senator yield on that point for a question?

Mr. HUMPHREY. I would be happy to yield.

Mr. SYMMS. I thank my good friend. He is making a lot of sense here.

I want to say 10 years ago, the Senator remembers this well, the battlecry then was this Panama Canal Treaty may not be perfect, this United States giveaway of our canal in Panama, but we have to do it because the hopes and desires of all Central America, all Latin America, are going to be crushed if you do not vote for this treaty.

Mr. HUMPHREY. Yes. The Senator is right. That is human nature at work.

Mr. SYMMS. We will have problems. We will have Communists going into Nicaragua. We will be having Communists trying to take El Salvador, and we will have Communists trying to move into Panama itself, if we do not ratify the treaty.

Mr. HUMPHREY. The Senator is right.

Mr. SYMMS. The treaty was ratified. We have Communists in Nicaragua, we have Communists trying to overthrow the government in El Salvador, we have them moving into Panama, and we have a two-bit drug dealer running the country. It is very interesting but the same logic was being used then on the Panama Canal Treaty, that we had to do this. It is this theory that this is a rotten treaty, but boys, you had better vote for it because it will be worse if you do not ratify it.

Mr. HUMPHREY. The Senator is right.

Mr. SYMMS. I have to say to my colleague I probably too would not have been able to be in the Foreign Service because to me it is pathologically irrational.

Mr. HUMPHREY. Pathological is not a bad choice of words, I say to the Senator. I think there are some nuts loose in this town, and tragically they are in charge of the nuthouse.

The Senator raises an important point. We have heard all of this before, that when the proponents of a treaty tell us if we do not ratify, look out, get in your shelter because the sky is about to fall and the world is about to come to an end. We have all heard that before. It is worthy of reminding our colleagues that is so, not only in the instance which the Senator cited, but likewise, was it in 1979 or 1980 or when the SALT II Treaty was before the Senate? We heard this very same argument. You had better ratify this treaty because if you do not, NATO will come apart. It will be the end of the world, the sky will fall, and all will be darkness.

Mr. SYMMS. Would the Senator yield on that point again?

Mr. HUMPHREY. I would be happy to.

Mr. SYMMS. Would the Senator think General Haig would be a fairly good recommendation of someone who has had quite a lot of experience with the Europeans and NATO?

Mr. HUMPHREY. I should think so. He was the commander of NATO for two terms, I believe.

Mr. SYMMS. He is the predecessor of General Rogers. I talked to General Haig the other night personally. He said:

> Just remember one thing. If this treaty for some reason were voted down, that all of this talk about how there will be a great furor raised in Europe would turn to a great sigh of relief instantaneously, and it would disappear faster than anything that you have heard of or seen.

Mr. HUMPHREY. Yes. That is very interesting that the Senator would raise that point. I have heard General Haig say in private that he learned from personal visits, I think, with Mrs. Thatcher and a few of the other principal Western leaders that they really do not think all that much of this treaty, but they are sort of going along because there is so much momentum behind this that it would be very difficult politically for them to dig in their heels.

Mr. SYMMS. They are trying to get ahead of this pack, is what it amounts to.

Mr. HUMPHREY. Yes. I am afraid that is a point we cannot prove because their public statements are in support of this treaty. Nonetheless, we have to argue the case as logically as we can. I think we have a great many good arguments. I think the preponderance of good arguments are on our side.

I want to address a little more fully this phenomenon we always witness whenever there is a treaty before this body, this claim if we do not ratify it, that the result will be calamitous. The closest parallel I can think of is the one I cited a moment ago when the SALT II Treaty was before the Senate. It was obviously a very, very important arms control treaty, nuclear arms control treaty of great scope and significance.

There was a powerful drive for its ratification. The witnesses came before us and said this. Note how similar it is to what we are hearing today. The Secretary of State, Cyrus Vance, the Secretary of State during the Carter administration when SALT II was pending before the Senate, said as follows: He said before the Foreign Relations Committee:

> It would be a terribly severe blow to NATO and members of the alliance should this treaty fail of ratification. They have made this clear in statements through the heads of most governments of the NATO countries.

So there is Cyrus Vance, no less a witness than the Secretary of State at the time, a man respected on both sides of the aisle for his personal abilities, maybe not for his policies entirely, but for his personal abilities and his integrity saying that if you do not ratify this treaty it will be a terribly severe blow—not a disappointment, not a blow, not a severe blow, but a terribly severe blow. Heck, we might as well have just played a recording of Cyrus Vance down in the Armed Services Committee while we were considering the treaty a few weeks ago because the witnesses are telling us the same thing today. If you do not ratify this INF Treaty it is going to give Europe a stomach ache. Let me tell you something. Europe needs a stomach ache and Europe needs a good kick in the derrier. It will do them a lot of good. If they fail to rise to the occasion, then that is their own problem.

It was not only Secretary of State Vance who made those dire predictions and predicted that the world would come to an end, almost. Secretary of Defense Harold Brown, another man off great accomplishment, widely respected, a man of unquestioned integrity and intelligence, told the Foreign Relations Committee during the pendency of SALT II:

> The Europeans do believe that if SALT fails * * * it greatly increases the probability of an all-out arms race between the United States and the Soviet Union. They—speaking of NATO partners—would certainly examine various alternatives to the alliance, their own nuclear capability, a separate alliance of neutrality. I am sure all of those would be raised as possibilities.

So there is the Secretary of Defense saying to the Foreign Relations Committee, "Boys, you had better, whatever your reservations, ratify this thing because if you do not, NATO is going to come apart at the seams." He said they will go off and develop their own independent nuclear capability. That is certainly something we do not want. But that did not happen, did it? He said that Western European nations, the NATO partners, would embrace neutrality. Has that happened in the eighties? No. That has not happened either. Have they formed a separate alliance? No. They have not done that, either.

So Secretary Brown, a man of great gifts, was wrong, seriously wrong, on those three counts, and in his general contention that NATO would go to pot if we failed to ratify SALT II. We did not ratify SALT II. It was withdrawn by the President. It was in deep trouble. The Armed Services Committee, I believe at the time—yes, at the time the Armed Services Committee was chaired by the Democrats.

The Democrats had a majority on the Armed Services Committee. Democrat majority, Democrat chairman, Democrat President, Democrat Vice President, Democrat administration. They could not have had many more aces. Yet, SALT II was found by this Democrat-controlled Armed Services Committee not to be in the national security interests of the United States. It never came to the floor, because the Soviets pulled one of their fast ones and invaded Afghanistan, and President Carter learned overnight some things about the Soviet Union he had never before suspected.

So we have heard it all before: This business that we have to ratify, that form is more important than substance, that we have to be polite and observe protocol, and we want to have a nice summit in Moscow.

Let me address that point, since I am disposed to address a number of points, no other Senator being ready to offer an amendment, apparently. Let me address that one.

President Reagan is going to Moscow on Wednesday. That is fine. I believe that American and Soviet leaders—I do not mean to imply moral equivalents there, but the heads of government—ought to meet frequently, but in a less visible environment, with less PR, less ballyhoo, less hoopla. They ought to put their feet up on the table and have a beer, out of sight, and say: "What a bummer it is to be head of a whole nation!"

The President can say, "What a rotten job, when you have to deal with Congress!" And Gorbachev has a similar complaint. He has to deal with all the vested interests in his system.

So I think these things are good. But they should be much more low key and less visible.

I have learned, after 10 years in public life, that you do not solve problems through confrontation. Sometimes it is the only way you can stop things for the time being, but you do not solve problems through confrontation. If there is any hope of peaceful solution to problems—and sometimes there is not such a hope. There are times in history when there is no solution to a problem, but if there is hope for such a thing, it has to be done on almost a personal level.

The heads of the government have to get to know one another as persons, as individuals, have to be comfortable with one another, have to break down the inhibitions human beings have when they are strangers, especially when they are adversaries. It is good for the heads of government to meet.

It is not the same as to say that we ought to fall all over ourselves in being accommodating. It is not the same as to say that we have to put PR ahead of national security. It does not mean we should rush through this treaty, which has extraordinarily important national security implications, just so that President Reagan can carry this litle parchment, wrapped in blue ribbon, to Moscow, when he leaves on Wednesday.

As Senator WALLOP, in his eloquence, pointed out, this is a treaty that lasts in perpetuity. If you look at the terms, there is no cutoff date. It is a perpetual treaty. That document we ratify will last. It will outlast President Reagan; it will outlast most of the leaders now in power. Ultimately, that document is far more important than any PR operation or even any well though-out summit meeting—any one, single summit meeting.

So it is not going to be a catastrophe if the Senate, in careful deliberation, does not serve up this parchment to the President as he demands, so that he can look good at a photo opportunity in Moscow. We have higher responsibilities than to augment the office of the White House press secretary. We have to consider carefully this treaty and its terms and implications.

The implications, from the point of view of this Senator, are dangerous, because to remove these two missiles, to remove these two indispensible missiles, while the Soviets remove missiles which to them are dispensible, means that, once again, we confront, in a relatively naked condition, this massive Soviet superiority, which will be used first to intimidate and neutralize and Finlandize Europe, if possible, but perhaps be used in the classic fashion—that is, to launch an attack.

Absent these two missiles, we are back to that square one. There are some new developments, as well. Some proponents say we did not have these missiles 5 or 6 years ago; if we take them away, we are simply back to the status quo ante. That is not true, because something else has changed in the intervening years.

Back then, we could argue, or hope, that we had a sufficiency in strategic weapons. Today, the best we can say is that we have parity, gridlock, with the Soviets—checkmated, if you will—in that highest category of weapons: ICBM's, submarine-launched ballistic missiles, and the nuclear weapons delivered by manned aircraft. So the Soviets have neutralized us there. Under this INF Treaty, they are about to neutralize us at the intermediate level, and they will retain, as always, this massive superiority in conventional forces.

What will be the upshot? What is the implication of that? Resources have their effect. Resources have consequences.

The new Soviet man is not yet on the scene, in my opinion. The new Soviet system is not yet on the scene. The new Soviet society is not yet on the scene. Perhaps it will be; but, at best, that is 10, 20, or 30 years off. We hope Mr. Gorbachev is the beginning of that. Mr. Gorbachev, like President Reagan and the rest of us, will be gone one day and treaties will remain.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. I am glad to yield.

Mr. SYMMS. I think the point the Senator is making should be emphasized. But I go back to the trip when I was in Europe in January and was being briefed by a four-star general. He was telling me the reasons why they could live with the INF Treaty, but they has to have the commitment of Congress to support them on replenishment of other conventional weapons and more flexible response and aircraft, and so forth. I am sure the Senator heard the same type of briefing.

I said: "General, let's get down to the bottom line. Just what is it that this treaty does for you that makes you better off, as a general who has the responsibility over here?"

He was not the commander. Lest anyone think this was General Galvin, it was not.

He rubbed his chin and said: "Senator, we have a little more flexibility, more maneuver room, to get those SS-20's out."

I said: "How do you mean, maneuver room?"

He said: "We won't have the SS-20's where they can hit us here."

I said: "Do you think we are sitting in a potential target for an SS-20 now?"

He said: "Absolutely. You're sitting in the middle of a potential target." We were at Ramstein Air Force Base.

I said: "If you get rid of the SS-20's, that gives you more maneuver room?"

He said: "That's what I'm saying."

I said: "Do you think this will be targeted by an SS-24 or SS-25?"

He said: "Yes, I think it will."

I said: "What are we talking about—12 minutes more maneuver room? Is that all we have?"

He started to smile and said: "I guess you have me there."

Of course, his job was to try to tell me this treaty was a good thing, and I understand that.

But I think that is a very interesting point, and that is exactly the point the Senator is making. We are not increasing our capability because they have means to strike our troops and air bases in Europe either with chemicals or with nuclear weapons without SS-20's, but we are giving up the ability to decapitate the Soviet generals that would be running the army and places that they would congregate the supplies and troops.

So we really are giving up a great deterrent to the actual final act that if the Packwood scenario ever came about that out of an act of desperation that the 55-year-old general and the 55-year-old factory manager throw out Mr. Gorbachev because his reforms are not working and they get into control and then out of desperation, as our economies grow, the Western economies grow, they make a last stab effort a la Red Storm Rising and decide to attack.

The one thing that would help keep them from deciding to do that is knowing they might get their heads blown off by a Pershing II missile at the command and control center of the advancing Warsaw Pact Army.

We are giving that up, and that is the point the Senator is making that I think is important.

I think the Senator's other point is important, if I could have one more moment to say, that we really should not ratify the INF Treaty until after the START Treaty is at least brought before the Senate so we have the whole package.

I will not interfere with the Senator on that now, but at some point I would like to make a few comments for a minute or two on that point.

I think the Senator is right on target. We have the cart before the horse.

Mr. HUMPHREY. Yes, sir.

Mr. SYMMS. It is typical. It is not unusual. It is not a surprise. But once again we have the cart before the horse and we have a defensive strategy.

When the South Vietnamese were invaded by the North Vietnamese, South Vietnam being our ally, did we attack North Vietnam with our Marines and soldiers? We went to South Vietnam and fought over the homeland when we should have had our troops in North Vietnam.

In Korea, we fought a defensive war and ended for a tie.

It is typical of the mentality, the lack of perception of the ideology and the necessity for an offensive strategy, and an offensive strategy would break the back of the bankrupt system that the Soviet people have been ensnarled in and are held under because that system cannot work on the defense. It has to work on the offense to try to get the goods and services from someone else, bleed their economies to make up for the lack of production in the Soviet Union.

It is so obvious, yet it is so difficult to sell that issue.

I thank the Senator for yielding.

Mr. HUMPHREY. I was glad to do so, Mr. President.

The Senator has returned me to my central thesis, and I will ask that my amendment be called up in just a moment, namely, that we ought not to ratify this INF Treaty except on the condition it not go into effect until we have likewise ratified a START Treaty so we can see what the whole picture is before us before we stake our national security on it.

It is just simply unwise to stake our national security on one treaty and in the hope of another. It is like gazing through the fog across a battlefield and trying to discern the deployment of the adversary.

Let us wait until the fog lifts so we can see completely the scene before us and can then act prudently in our national defense.

Mr. President, I will offer that amendment in just a moment. I want to clean up a couple of points that I left dangling here:

The INF Treaty by itself is really a very dangerous gamble because, as I said, and this shall be the last time I shall say it in this body of remarks, it takes away the two weapons and the two weapons which best deal with the Soviet superiority in conventional forces and conventional resources and the Soviet advantage in geography, while leaving in the hands of the Soviets nuclear weapons, swift, lethal, accurate, survivable weapons which can strike all of the resources in NATO which will be left untargeted by the missiles which they have to give up.

So that is point No. 1. It really exacerbates. By itself this treaty will exacerbate the conventional force imbalance.

Point No. 2 is that the treaty, if you eliminate the arsenal of flexibility response, in a battle our commanders and the President, the Commander in Chief, will be forced to leapfrog from conventional warfare up to strategic warfare, skipping the intermediate level because we no longer have any intermediate range weapons left to speak of that are credible, leapfrogging immediately to ICBM's based in the United States. That is a scary scenario, is it not?

A conflict breaks out in Europe. After 8 or 10 days, the Supreme Allied Commander in Europe tells the President: "Look, we have to go to nuclear weapons. We are outgunned. We are overwhelmed. We are in danger of capture and/or annihilation." And that is precisely what the situation would be according to the testimony of our military experts in those commands, calling the President and saying it is annihilation and/or surrender. And we go now to nuclear weapons which of course is the NATO doctrine. We go to nuclear weapons. That is why we have them—force multipliers.

The problem is now we go virtually directly to an exchange of ICBM's between the United States and the Soviet Union.

That is the way we propose to defend Europe once INF is ratified. We are going to launch ICBM's from the United States. That is really nice. That is an elegant defense doctrine and one which is certain to promote a reciprocation by the Soviets. They will do the same thing. You launch ICBM's from the United States against the Soviet Union and indeed the sky is falling then. It will be a black day because we will get the same thing right back in the face.

It was for that reason that we designed and deployed these intermediate level nuclear weapons so that we could deter conventional war in Europe, and if we found that we were losing, which we would lose if a conventional attack were launched, we could at least disrupt it and buy some time during which we could hope to bring in with our adequate sea and airlift reenforcements and resupply.

Now we will not have that intermediate level any more. We will be forced to go virtually directly discounting these junky battlefield nuclear weapons, which are ancient and inaccurate and unreliable, and again the Senator from New Hampshire is not the only observer of this danger. Former Secretary of State Henry Kissinger, who is not counted as an enemy of arms control or of détente, testified before the Armed Services Committee saying on this point the INF Treaty and the pressures it generates against the remaining nuclear systems places the predominant burden of nuclear defense on weapons based in the United States or at sea. Secretary of State Kissinger says that the treaty and the pressures it generates against the remaining nuclear systems places the predominant—he did not say more of the burden, or some of the burden—he says places the predominant burden of nuclear defense on weapons based in the United States or at sea.

He is confirming what I have just said and what others have said. You take out this arsenal and this doctrine of flexible response, you leapfrog right up to an all-out nuclear exchange between the United States and the Soviet Union. Such a policy is mad. To rely on strategic weapons for the defense of Europe is insanity. It is asking for trouble. It is asking for all-out nuclear war. It is what we have sought to avoid by deploying these very kinds of weapons which we are now proposing to eliminate.

But there are situations under which the INF Treaty would make sense. If we had reduced the conventional force imbalance first, put the horse before the cart, then this treaty would make sense. Or if we linked this treaty, the INF Treaty to the START Treaty, as I proposed to do in the amendment which I will call up in a moment, then it will begin to make sense. It would certainly make a lot more sense than taking these elements one at a time not knowing for sure if we will ever get a START Treaty because, as a matter of fact, once we ratify this INF Treaty we remove a good deal of the incentives which the Soviets now have to negotiate a meaningful START Treaty and indeed we give them incentives not to agree to such a meaningful START Treaty because they will be sitting very, very pretty indeed if we ratify this treaty as it stands.

They will have conventional superiority, they will have eliminated the intermediate threat, and they will have, at the very least, parity in strategic weapons. So why should they negotiate away a significant number of their strategic warheads, except to save money? And that is a valid argument that the proponents raise.

But it is not an all or nothing proposition. They could strike a balance in between somewhere. They could dig in their heels somewhere and say we will get rid of this many, which they will do for reasons of economy, but keep more, propose to keep more in a weapons mix that would be disadvantageous to NATO. So we are giving them an incentive not to negotiate a good mutually beneficial START Treaty by ratifying this INF Treaty first.

AMENDMENT NO. 2114

(Purpose: To prohibit the entry into force of the Treaty unless and until the Parties have also ratified a Treaty reducing their strategic nuclear arms)

Mr. HUMPHREY. Mr. President, I now call up the amendment which I have at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY] proposes an amendment numbered 2114.

Add at the end of paragraph 1 of Article XVII of the Treaty the following new sentence:

"Notwithstanding any other provision of this Article or of any other Article or provision of this Treaty, its Protocols, or its Memorandum of Understanding, this Treaty shall not enter into force unless and until the Parties have also exchanged instruments of ratification of a treaty between them which reduces their strategic nuclear arms.".

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have been listening very carefully to my colleague from New Hampshire. I have listened with a great deal of interest to another day that has been wasted, in the view of this Senator, with regard to moving ahead to provide the President of the United States with the support that I think he needs and is entitled to on a bipartisan basis when he leaves the day after tomorrow for that important summit with the Soviet leader in Moscow.

We have had talk since 9:30 this morning. We have had two votes overwhelmingly against killer type amendments to this treaty.

Certainly the amendment that has just been sent to the desk by the Senator from New Hampshire is the killer amendment of all killer amendments. I would just like to read what this says once again.

Notwithstanding any other provision of this Article or of any other Article or provision of this Treaty, its Protocols, or its Memorandum of Understanding, this Treaty shall not enter into force unless and until the Parties have also exchanged instruments of ratification of a treaty between them which reduces their strategic nuclear arms.

Now, that, Mr. President, is by far the most killer amendment that has been offered, although there have been several.

I just hope that my friend would listen to the President of the United States and would listen to his colleagues on both sides of the aisle who have been pleading with our colleagues who do not see this treaty as they do. I have no quarrel with those who oppose this treaty. They are doing a public service, I think, in bringing forth the objections that they have to this treaty.

I am not faulting them at all for the position they have taken, which I believe that they firmly believe is in the best interest of the United States. But I do not agree with that and I certainly do not stand alone. I am backed by the President of the United States. I am backed by 90 percent of the U.S Senate, Democrats and Republicans alike.

I would simply say that I think it would be in the interest of all if we could move forward and get off of these killer-type amendments that continue to be offered in a redundant fashion. I think they serve no worthwhile purpose, save the delay of the implementation of this treaty.

I hope that we could move in an expeditious fashion.

While I am on this, Mr. President, I would simply point out that the Senate is being held hostage on this matter today and likewise the Senate defense authorization bill is being held hostage. We have forgottten about that, I guess. The defense authorization bill is prepared to be passed except for the controversy on the death penalty amendment.

There comes a time in the U.S. Senate when I think we have to act responsibly. I have heard some talk today about Democratic Presidents doing this when they had a Democratic House and a Democratic Senate and a Democratic this and a Democratic that. I think it is fair to say that, for the most part, when we go beyond the shores of the United States and get into international affairs, there is a blur, at least, of any partisan party lines.

I would simply submit the statement, which I think stands on its own, that the Democrats, by and large, from the beginning of the history of this country have not been bad people that have always done the wrong thing. Now some people, despite that statement, are going to think that that is a fact. I submit to the Senate that that is not the fact.

While the Democratic Party and the Republican Party are not perfect in everything that they have always stood for, I think, when it comes to international affairs, we could look back to World War II when we had a Democratic President of the United States and we had the great Arthur Vandenberg, the Republican chairman of the Foreign Relations Committee, and it was a bipartisan effort.

Certainly, I think, once again, that we should be moving ahead on the defense authorization bill. I am surprised that that has not been brought up and that matter solved, but it has not been. That has been held hostage. This treaty is being held hostage by this type of killer amendment that comes on and on and on, and will be defeated, I suggest, in one form or another, by about the same percentage that the other killer amendments have been defeated in the past.

I simply want to appeal once again, as I have, I believe, every day, Mr. President, that this treaty has been in debate before the U.S. Senate, that it is time for us to sit down and reason. It is time, I suggest, Mr. President, when we should move ahead. The President of the United States, although he is a Republican, is going there to represent me, a Democrat. He represents all Democrats and all Republicans and all independents and every other party that we have. I believe we are doing a disservice to our President, as the minority leader and the majority leader have both indicated with statements on the floor. I think we are making a serious mistake with the delays that we have encountered now day after day after day.

I believe those who oppose this treaty are opposing it for what they think is right, and that is their right. I simply say that I hope, and I appeal to my friends over there, that small group that are going to do everything that they can to see that this treaty is not ratified, to let reason prevail and move ahead in a more rapid fashion; have as many votes or as many amendments as they want, but let us not string this out in debate that, for all practical purposes, is meaningless.

Mr. PELL. Will the Senator yield for a question?

Mr. EXON. I am happy to yield.

Mr. PELL. As the Senator knows, it is not a question of if it is going to be ratified; it is a question of when it is going to be ratified. In that regard, I think the public has a general desire that we get this done in time for the President to take to Moscow. I am wondering what the Senator's thought is as to the perception that the American public has of this august body as they measure its work on the treaty?

Mr. EXON. In answer to the question of my friend and colleague, since televising of the Senate has enjoyed its competition with soap operas on the television screens, more and more people, I find, in my State of Nebraska, are watching the U.S. Senate. I ask them from time to time what they think of our proceedings. They say, "Why does it take so long to get things done?"

I think, indeed, it is very difficult to explain why it takes so long to get this particular proposition done that has the overwhelming support of the American people, all of our NATO allies, and 90 percent of the U.S. Senate.

Specifically, in regard to the killer amendment that has been offered by the Senator from New Hampshire, I would like to cite what Secretary Carlucci said for the RECORD in the record that accompanies this treaty from the Foreign Relations Committee.

> Limiting strategic nuclear weapons was never the intent of the INF Treaty. That Treaty stands firmly on its own merits. Along with eliminating an entire class of U.S. and Soviet nuclear missiles and establishing stability at a lower level of nuclear arms, it achieves all of the INF negotiating objectives set forth by the U.S. and its NATO allies.

Also, another very important member of this administration in this area particularly, Secretary of State Shultz, and I quote from his statement for the RECORD:

> The INF Treaty was never intended to limit strategic nuclear weapons. It deals comprehensively with a part of the Soviet threat that previous treaties did not deal with. Clearly, the effectiveness of the INF Treaty would be enhanced by a START agreement, but each agreement is valid in its own right. From the point of view of the NATO alliance, it makes no more sense to hold an INF Treaty hostage to a START agreement than it would have to have held a START agreement hostage to INF, if the sequence had been reversed.

Mr. President, I simply say that I hope we will move ahead rapidly on this and I would think that a tabling motion would be proper in the very near future.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Maine.

Mr. COHEN. Mr. President, a number of the amendments that have been offered in recent days have not been without merit. They are not and have not been trivial issues. Many of the issues raised by those Senators who are offering these amendments had certainly crossed the minds of a number of us who serve either on the Armed Services Committee or the Intelligence Committee or, indeed, even on the Foreign Relations Committee.

Those issues were raised. I think that they were sufficiently debated. Those issues that were debated and could not be resolved we called upon the administration to try and resolve and reconcile. They did so to the satisfaction of many of us; not all of us, but many of us.

So it seems to me that some of the issues that were raised last week and are being raised even this week are not without merit. They ought to be debated before this body. But they ought to be resolved as well.

I do not consider this particular issue to fall in that category. I feel a great measure of irony that some of the very people who were critical last week of signing any agreement with the Soviet Union, any agreement whatsoever, now want to mandate that we go forward and sign the START Treaty.

Frankly, there are those of us—I include myself as one of those—who want to proceed with great caution on a START agreement. I made this statement several days ago about not wanting my enthusiastic endorsement of the INF Treaty to be construed in any way as a green light for this administration to proceed to rush pellmell into an agreement with the Soviet Union on a START agreement; that there were issues that I felt needed to be resolved in certainly a more long-term and forward-looking manner and not simply rushed because of the time constraint to get us to Moscow with another agreement.

In particular, I was concerned about the verification procedures that might be necessary. I think that we have satisfied ourselves that there is little incentive for the Soviets to engage in cheating under the INF Treaty in producing SS-20's because in fact they can produce SS-25's. So there is little incentive for them to cheat on INF. There is great opportunity for us to determine if in fact they are cheating. And the risk is quite great for them to be detected and called foul for violating that particular rule or prohibition.

So I find it ironic that those individuals who were opposed to signing the INF Treaty now want us to sign a START agreement.

There are serious issues to be resolved dealing with our sealaunched cruise missiles. There are serious issues that remain. If we have a 50 percent reduction, we have a 50 percent retention and to the extent there is a 50 percent retention, that means the Soviet Union would be in a position to test and deploy new systems under a definite counting rule. We would have to tax our verification procedures that much more. So there are serious implications of a START agreement.

Yet the sponsors of this particular amendment would say this cannot become effective until you actually negotiated a START agreement. So I find it ironic that we would find ourselves in this position at this time.

There are other issues that I think certainly are of merit. I do not think that this issue ought to be treated with the same degree of attention we have given to the others and I would hope at an appropriate time we could move quickly on this. There are those who feel we are simply debating an issue, not delaying. This, I do not feel, falls in that category as being an argument or an issue that ought to be debated at length.

I hope those who sponsor the amendment can be called upon to present their arguments, to debate them vigorously, and then to move on to a vote as quickly as we can.

I just concluded a meeting with Secretary of State Shultz. He was very forthcoming in terms of why he feels it would be in our overall interests to present the President with a ratified treaty as he goes to Moscow. But in the event that that does not take place, it certainly will diminish the significance, or perhaps the luster of the summit proceedings. It will not prove catastrophic. It will not be totally debilitating. But it will impair, certainly, the ability of the President to proceed in good faith and try to structure other agreements, perhaps. Not necessarily a START agreement, but there are other agreements that certainly could be the building blocks for a better relationship with the Soviet Union.

I think it is important that we try to achieve that goal. In the event that it is impossible to do so then we can still present the President with a ratified treaty before he departs from Moscow.

That would not be my desire. I would hope we could do better than that, but in the event that is all we can do we should do it.

This particular amendment is designed to preclude any of that from taking place and I would hope that those who support this amendment will be on the floor to debate it vigorously and that we can resolve it and dispose of it as soon as possible.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, obviously it would be nice, it would be great if we could have the START Treaty and the INF Treaty under our belts. We should recognize, too, that the INF Treaty only covers about 5 percent of the deployed nuclear weapons. The START Treaty, which would affect about 30 to 40 percent of the total number of strategic weapons, and 50 percent of the Soviet ballistic missiles, is obviously a great deal more important.

But the fact remains that we need to get started. The INF Treaty is at least a big first step. Generally speaking, in this Chamber and elsewhere in life, if you can get a quarter of a loaf or an eighth of a loaf, it is better than no loaf.

For that reason, I think we should move ahead on this and still, hopefully, move ahead on START.

We are a long way, though, from completing a treaty reducing strategic arms. Since we are a long way from completing a START Treaty, this amendment, if passed, would delay ratification of INF for a long, long time; perhaps even past the present administration.

We ought to bear in mind that it is the Soviet Union, originally, that had sought to establish linkage between INF and START and such linkage was wisely opposed by our negotiators.

I can remember, as an observer in Geneva, when the Soviet delegation there was pressing for this linkage and we were opposing it. Establishing such a linkage on the floor of the Senate would, in my view, be an error. The NATO alliance would view such linkage as an attempt to renege on President Reagan's 1981 zero option proposal.

The INF Treaty should, I believe, stand or fall on its own merits.

I believe this is a killer amendment because it holds ratification of the INF Treaty hostage to the highly uncertain completion of a START Treaty.

I believe we will get a START Treaty eventually. We either will or we blow ourselves up. But that is some time off in the future and for the time being let us get on with the INF.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, speaking for myself, I have not a great deal more to say on this point. I want to respond to a few arguments raised by the opponents on behalf of the proponents.

The Senator from Nebraska suggested that Senators speaking in opposition have resorted to dilatory tactics. I do not think anyone can fairly regard the correction of acknowledged technical errors by both the proponents and the opponents themselves as dilatory.

We are making domestic law here if we ratify. The treaty becomes the law of the land.

When technical errors in a treaty, or in any document that will become domestic law, so to speak, and discovered and acknowledged, they ought to be corrected, particularly in the case of a treaty, which will last in perpetuity and will certainly outlast those who are giving it their own interpretation today.

So we have not been dilatory, nor do I think it was dilatory when the Senator from Wyoming offered an amendment, which amendment was praised by the chairman of the Senate Armed Services Committee who is a Democrat and who supports the treaty.

So I think it is really unfair. Indeed, if there has been any branch of protocol, it has been on the part of the proponents who have sought or tried to fly with this treaty through the Senate will unseemly speed and would seek to deny us a fair opportunity to ventilate our thoughts and make our arguments, all in the name of giving the President something to carry to Moscow.

The Republic will survive if President Reagan does not have this to carry to Moscow. The problems will remain. It will not make any difference in history, and it will not make any difference with respect to our national security if this document is exchanged this Wednesday, Thursday, Friday, or a week later by underlings in place of the President and the General Secretary.

The Senator from Maine, my friend and neighbor, calls this is a killer amendment. If the Senator from New Hampshire is a killer, then so is——

Mr. COHEN. Will the Senator yield? I did not call it a killer amendment. I said it did not merit very long debate. I did not call it a killer amendment.

Mr. HUMPHREY. I beg the Senator's pardon. I must have confused his remarks with the remarks of someone else.

Mr. PELL. I called it that.

Mr. HUMPHREY. I thank the Senator from Rhode Island. I simply make the point this amendment rose out of the testimony of Eugene Rostow, former Director of the Arms Control and Disarmament Agency.

Let me say on this score—I remember now—the point of the Senator from Maine was he saw some irony. Let me relieve the Senator of some of his sense of irony. Speaking for this Senator, I believe, yet I have yet to see, that it is possible to have arms control treaties which enhance national security and reduce the costs of national security, at least will not make them greater.

I have not seen one yet. That is because the State Department is always in such a rush to make a deal, to rush off to Moscow to raise glasses in toasts.

If this very treaty had come after success at the MVFR talks where the Soviets made substantial asymmetrical reductions in their forces, then it would make sense, and the Senator from New Hampshire would support it. That is not the case. The cart is before the horse.

We will return ourselves to some very difficult problems, dangerous problems, and some new ones besides if we ratify this treaty now in advance of MVFR reductions or, at the very least, in advance of knowing what the outlines are for sure of the START Treaty that seems to be coming down the road.

Mr. COHEN. Will the Senator yield?

Mr. HUMPHREY. So I want to relieve the Senator of some irony and hope he will be comfortable with the amendment.

Mr. COHEN. As I understand the amendment, what the amendment says is that we will withhold the ratification of this particular treaty until we have a START agreement. Is the Senator from New Hampshire in favor of a START agreement with 50 percent reduction as currently proposed? Is that what the Senator wants the President to carry to Mr. Gorbachev when he goes to Moscow? Is that the argument of the Senator because if it is, he may find considerable support for his position.

Is the Senator urging the administration to negotiate such an agreement when it goes to Moscow?

Mr. HUMPHREY. No, I am not. Neither am I prepared to endorse the terms of the START Treaty until I have heard weeks, if not months, of testimony which will come down the road. For Senators to jump to conclusions on such matters does not serve our security.

Mr. COHEN. Just for clarification purposes, the Senator from New Hampshire is not suggesting that the administration undertake or reach any kind of accord on a START agreement while he is in Moscow.

Mr. HUMPHREY. No, indeed. I think the summits are the wrong place to negotiate on matters of national security. That ought to be done at a lower level very carefully, step by step, prudently and then brought to the President to discuss with the General Secretary.

To do so, a la Reykjavik, is irresponsible and dangerous. I certainly would not want to give the impression that that is what the Senator is urging by virtue of this amendment.

Mr. COHEN. If the Senator will yield further, that is why I was struck by the irony because it appeared from the face of the amendment the Senator from New Hampshire was urging the President forthwith to negotiate a START agreement so he can, therefore, come back and seek ratification of the INF Treaty.

Mr. HUMPHREY. I am glad the Senator raised that point. That is not certainly what I wanted to occur. It is certainly the opposite.

I will conclude by using the words of Eugene Rostow. I gave him credit for the amendment. Indeed, I call it the Rostow amendment.

Here is what the Arms Control Director Rostow had to say before the Foreign Relations Committee. It, I hope, sums up all I have tried to say in my remarks on this amendment.

Mr. Rostow said:

> The effort to ratify the INF Treaty before we are assured of sound agreements on the other elements in the nuclear equation violates the most basic principle of nuclear force analysis, namely, that the politico-military effects of particular nuclear forces can be evaluated only in the context of the Soviet-American nuclear balance as a whole.
>
> In 1972, Ambassador Gerard Smith, our chief negotiator in the SALT I talks, formally declared that 'The supreme interests of the United States' preclude final agreement on one part of the nuclear equation until the others are dealt with as well.

As Dr. Rostow concluded: "That policy is as sound today as it was when it was announced."

He, of course, is absolutely right. Let us see the whole equation. Let us be able to see that landscape out there. Let us not be basing national security on a quick peer through some fog as we are seeking to do today. Let us know what we are dealing with.

Just a few more of Dr. Rostow's statements to conclude:

> From the point of view of negotiating tactics, ratifying INF now would be a serious mistake. Once we ratify an INF agreement, an agreement on START and on defensive systems would become urgent for us. We should then be under great pressure to make concessions in order to get a START agreement and to reach an agreed position on defensive systems.

The Senator from Maine a moment ago talked about the imprudence of placing ourselves under pressure. Here Mr. Rostow talks about another kind of pressure under which our negotiators would find themselves if we ratified INF separately, effectuated INF separately from START.

He went on to say:

> Under such circumstances, it would be virtually impossible for us to persuade the Soviet Union to return to the interpretation of the ABM Treaty on which the Soviet Union insisted when the treaty was drafted and signed and which the United States has now embraced.
>
> And it can hardly be supposed that the pressures of election-year politics in the United States would provide a favorable environment for arms control negotiations.

That is a shrewd observation, is it not? It would probably be unwise if we tried to deal with START, especially one that came out of this Moscow summit, spring out of this Moscow summit, a flower in the Moscow spring. To try to deal with it in the remaining political months between now, August, or September, would not be the best of circumstances under which to dispose of our national security.

Then he went on to say:

> It would be more practical and more convincing to delay the ratification of INF until the negotiations in Geneva on START and space questions run their course. The same end could be achieved through a reservation or amendment put forward by the Senate and accepted by the Soviet Union when the instruments of ratifications are exchanged.

There is the genesis of the Rostow amendment, if you will, which is now before us. He said:

> If a sound arms control package is achieved, the INF Treaty in its present form would be acceptable as part of it. But more than 20 strenuous and disappointing years of nuclear arms negotiation should persuade us that we have no right to risk the security of the Nation until we have a firm and tangible basis for confidence that the Soviet Government under Mr. Gorbachev has indeed abandoned its policy of indefinite expansion backed by overwhelming nuclear power.
>
> A nuclear arms agreement would be worse than useless if it turned out simply to legitimize conventional war, proxy war, terrorism and subversion without fear of escalation at the nuclear level.

Mr. President, the amendment before us simply links the effective date of the INF Treaty before us to the exchange of instruments of ratification of a START Treaty. It is a very simple, straightforward amendment. It is a good amendment. I hope the Senate will accept it.

Mr. PELL and Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I think this has been amply debated. I announced my intention. I would now move to table the amendment of the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, will the Senator withhold for just a moment.

Mr. PELL. I withhold for 1 minute.

Mr. HUMPHREY. I thank the Senator for his courtesy in doing it. I would plead with the Senate to allow other Senators who wish to speak to speak. I really do feel that we are being rushed along unreasonably. If it is the disposition of the leadership to constantly cut off Senators who wish to debate, then I see no alternative for us than to introduce other amendments which we really had not intended to introduce.

Mr. SYMMS. Mr. President, I just——

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. SYMMS. I wish to speak for less than 5 minutes, maybe 3 minutes.

Mr. PELL. I ask unanimous consent to yield 5 minutes to the Senator without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I thank the Senator very much.

Mr. President, I think it is important that the amendment of the Senator from New Hampshire have at least the consideration of our colleagues to recognize that the executive branch has always considered the INF Treaty and the START Treaty, which is still under negotiation, to be integrally linked. One treaty is dependent upon the other. Now, I heard the comments made earlier on the floor, but I do believe there is also substantial evidence spread across the RECORD from testimony that we have heard that people do think the START Treaty is important with relationship to the INF Treaty. Some of us, and this Senator particularly, have called the INF Treaty only the appetizer to the main course, which is the START Treaty. Maybe the amendment of the Senator from New Hampshire would make it be the dessert to the main course, but I think that you cannot separate out the two treaties. Yet the Senate is being asked to give ratification to the first half of the appetizer portion of this prior to having seen the main course.

It is an incomplete package, Mr. President. We are being asked to put the cart before the horse. That is what it amounts to. We only have half of the total package. It is true that it is 3 percent of the delivery systems. It is interesting how it constantly gets reported as 3 percent of the nuclear weapons when it is zero percent of the nuclear weapons and 3 percent of the ability to deliver those same weapons. But I believe it has been an ill-advised, it is a hastily-negotiated START Treaty, and it seems to me that it would be somewhat dangerous; when we are talking about our national security in the interest of START we are negotiating our vital strategic deterrent and yet we are being asked to give up this important, critical INF capability, the deterrence in Western Europe prior to knowing what might come down the road.

Now, I believe because of the grave stakes, Mr. President, involved in the INF/START package we ought to wait and see what is in the START Treaty before we vote on the INF Treaty. Not only is this sound logic and common sense, but I believe it is a safeguard to our supreme interests.

Mr. President, I thank the Senator from Rhode Island and the Senator from Maine for making that time available to me and I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. PELL. I have the floor and I would now move to table the——

Mr. HELMS. The Senator is well within his rights to move to table. I just wonder if he would under the circumstances yield me 2 or 3 minutes.

Mr. PELL. I yield 3 minutes to the Senator from North Carolina.

Mr. HELMS. I probably will not take that much time.

The PRESIDING OFFICER. The Senator from North Carolina is yielded 3 minutes while the Senator from Rhode Island retains the right to the floor.

Mr. HELMS. I thank the Chair.

Mr. President, this could very well be one of the most important amendments, if not the most important, on which the Senate will vote during this debate. I say that because this amendment would solve one of the principal, perhaps the principal, conceptual defects of the INF Treaty.

That defect is that the Senate is being asked to approve the INF proposal in a void—in a complete absence of adequate information about what the parties intend to do about both the conventional and the strategic imbalance favoring the Soviet Union—particularly the strategic nuclear imbalance, Mr. President, because that is what is presently on the front burner at the State Department.

Now, Mr. President, a number of Senators have attempted to minimize the significance of the INF Treaty. Not the Senator from North Carolina, but other Senators who have pointed out repeatedly that only 3 percent of the nuclear arsenals of the parties are covered by this INF proposal. So we are told repeatedly that this treaty really is not all that important.

But it is important, Mr. President, because the 3 percent includes virtually all—virtually all—of NATO's present nuclear deterrent.

Now what does that really do, Mr. President, when all of that fat is boiled away? What it means is that with no NATO nuclear deterrent, the nuclear deterrent, if there is any, is going to be our strategic nuclear deterrent based right here in the United States. That is right, Mr. President, our nuclear deterrent right here in the American homeland. Not Europe but America—Kansas, Montana, the submarine bases on the coast, Wyoming, Iowa, North Dakota, Texas—virtually every State in the Union is, for example, like Nebraska with Offutt Air Force Base with its strategic bombers—these are the places, Mr. President, where the INF Treaty is going put the nuclear deterrent for NATO—not in Europe but right here, right here in the United States.

So, Mr. President, what the whole thing boils down to is this: We are leaving the trip wire for nuclear war in Europe—our American sons and their wives and children—we are leaving them there as a trip wire for war—but we are moving the nuclear deterrent protecting them back to the United States.

Now, what that does, Mr. President is to make our troops and their dependents hostages unless—unless the American people here in the American homeland are themselves willing to be on the front line because without the nuclear weapons here our troops there are unprotected.

Before INF, the trip wire and the deterrent are both in Europe. After INF, the trip wire remains in Europe because our troops and their families remain, but the deterrent is here and every man, woman, and child in this country will be on the front line because we cannot defend Europe for more than seven days without resort to nuclear weapons—and without the INF deterrent that is going to mean—sooner or later, Mr. President—facing the choice of using strategic weapons coming from—yes, Mr. President, from Iowa, Nebraska, North Dakota, Texas, and so forth—or of abandoning our soldiers to another Dunkirk where we can watch the remnants of our Army being hauled off in fishing boats.

So, Mr. President, that is why this amendment is critical. It is essential that this amendment be adopted because without this amendment the Senate will be taking on blind faith that the strategic forces left to the United States after START will be sufficient to deter both general nuclear war and to provide some measure of deterrence for our personnel in Europe.

In short, INF leaves the trip wire in place and shifts the deterrent burden squarely onto the shoulders of all Americans—while START—START, Mr. President, will leave the trip wire, in Europe, but reduce even further the deterrent in America.

So what is wrong with the Senate knowing exactly what is in START, and having approved it, if it approves it, before starting to tear up our INF deterrent? What possibly can be wrong with that?

I know that the State Department will say this treaty stands on its own. But the State Department has already conceded it made more than 40 errors in fact in this treaty and one of them, perhaps unadmitted at this stage, is that weapons and weapons systems do not exist in a vacuum. They exist in the world as it is. They exist at geographic locations. Most importantly, they exist in conjunction with other weapons and force structure.

Does the Senate really believe that a strategic nuclear warhead on an SS-25 will know that it has been aimed at a NATO target and refuse to explode? We have got to get serious with each other and the American people.

START is—is directly related to INF. INF is dangerous in its own right—how much more dangerous will it be if we have a bad START Treaty? Isn't it prudent for the Senate to at least see—at least to have some concept of START—before allowing INF to enter into effect? What is wrong with that? What is wrong with heeding the warning on this exact point given by General Rogers.

I thank the Senator from Rhode Island for yielding to me.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. PELL. I yield 2 minutes to the Senator from Maine.

The PRESIDING OFFICER. Without objection, the Senator from Maine is yielded 2 minutes.

Mr. COHEN. Mr. President, let me respond to my friend from North Carolina. To say there will be no nuclear deterrent left in Europe is not accurate. There will be, indeed, a nuclear deterrent left in Europe. We still have, for example, sea-launched cruise missiles that will be near our European friends that the Soviets cannot ignore. There will still be air-launched cruise missiles that will be near our friends the Soviets are still quite concerned about. In fact, they are trying to constrain those under a START agreement.

Now, if I had my druthers, I would say it would have been better to have proceeded with the START agreement prior to the INF Treaty. That is not the case. That is not what is before us. The INF Treaty has been presented, has been signed, and now is before us for ratification.

Those who argue that we ought to defer this matter until we have a full-fledged START agreement presented to the Senate may do wonderfully well in the world of academe but the fact is we have to deal in the world of practicality. If anyone in this Chamber feels that by defeating or delaying or deferring the INF Treaty we are going to be able to keep and maintain our Pershing II's and our ground-launched cruise missiles in Europe, I think that they are sadly mistaken. I believe the political pressure will be so great for the European countries which expressed such great political courage in the first place in deploying those systems that there will be tremendous political pressure put upon the leaders who support the INF Treaty to therefore disband them and move them out of the European theater.

I think we would then end up in a situation where we have no ground-launched cruise missiles, no Pershings, and the Soviet SS-20's and other intermediate-range systems will be totally unconstrained. For that reason I think the amendment should be defeated.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. HELMS. Will the Senator allow me another minute?

Mr. PELL. Yes.

The PRESIDING OFFICER. Without objection, the Senator from North Carolina is recognized for 1 minute.

Mr. HELMS. Maybe the distinguished Senator from Maine misunderstood what I said. But in any case the 4,000 warheads remaining in Western Europe are insufficient to deter a Soviet attack. That means reliance on strategic forces and puts Americans here on the front line. There is no question about that. General Rogers testified before the Foreign Relations Committee, and I do not know what he did before the other committee. But he said:

> For example, there are those who say that with 4,000 warheads left, they are enough to deter. Remember that what we have to do is to conjure up a perception of disadvantage, a perception of pain in the Soviets' mind, because deterrence is in the eye of the beholder.
>
> What, in fact, we will have left in that 4,000 NATO stockpile will be a few maritime depth charges, with a range of zero; hundreds of artillery-fired atomic projectiles, with a range of 9 miles; obsolescent Lance weapons, with a range of 66 miles; the 72 German Pershing Ia's, which will be given up by the Germans; and, finally, the dual-capable aircraft with a range of 180 to 200 miles.
>
> Those weapon systems will not create the perception of pain in the Soviet mind because they cannot strike militarily significant Soviet targets, either on Soviet soil or on non-Soviet Warsaw pact soil.
>
> It is not a question of numbers of warheads. The real question is: After this treaty has been implemented, will NATO have the weapons platforms that can propel nuclear warheads onto militarily significant Soviet targets, and do the Soviets know that we can do it?
>
> After this treaty is implemented, the answer will be: "No."

Mr. PELL. Mr. President, I move to table the amendment of the Senator from New Hampshire and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island to lay on the table the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Washington [Mr. Adams], the Senator from New Jersey [Mr. Bradley], the Senator from Louisiana [Mr. Breaux],the Senator from Florida [Mr. Chiles], the Senator from California [Mr. Cranston], the Senator from Hawaii [Mr. Inouye], the Senator from Ohio [Mr. Metzenbaum], the Senator from New York [Mr. Moynihan], the Senator from Arkansas [Mr. Pryor], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. Heinz], the Senator from Arizona [Mr. McCain], and the Senator from South Dakota [Mr. Pressler], are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Heinz] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 81, nays 5, as follows:

[Rollcall Vote No. 154 Ex.]

YEAS—81

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Hollings
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McClure
McConnell
Melcher
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pell
Proxmire
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—5

Hatch
Hecht
Helms
Humphrey
Symms

NOT VOTING—14

Adams
Biden
Bradley
Breaux
Chiles
Cranston
Heinz
Inouye
McCain
Metzenbaum
Moynihan
Pressler
Pryor
Stennis

So the motion to lay on the table amendment No. 2114 was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Shelby). Without objection, it is so ordered.

Mr. LUGAR. Mr. President, the distinguished former chairman of the Senate Foreign Relations Committee, Charles Percy, has written an unusually good argument with regard to the Intermediate Nuclear Force Treaty which we are now debating.

I ask unanimous consent that this excellent statement which appears in the Washington Times of today, May 23, 1988, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Advice, Consent . . . and Dissent on INF Pact

WHY THE SENATE SHOULD SAY YES

(By Charles Percy)

Although the Senate last week decisively rejected the first round of proposed "killer" amendments to the Intermediate-Range Nuclear Forces Treaty, signed last December by President Ronald Reagan and Soviet General Secretary Mikhail Gorbachev, the key question remains whether Senate ratification will occur before Mr. Reagan meets again with Mr. Gorbachev next week.

Mr. Reagan has asserted that Senate failure to approve the INF Treaty by then would put "a strain" on the summit meeting. But no one, including the president, is suggesting that the Senate ratify the INF agreement simply because the summit would otherwise be complicated.

Rather, the president wants to capitalize in Moscow on the momentum for other arms control agreements that a ratified INF Treaty would provide.

Second, the president and the Senate leadership on both sides of the political aisle agree that there is no substantive issue about the treaty itself that should prevent ratification by then.

The basic questions about the treaty have been addressed in three months of Senate hearings and the more than 1,000 written questions the Senate has posed to administration and other witnesses.

Final hearings last week in the Senate Foreign Relations, Intelligence and Armed Services committees reviewed the technical agreement reached in Geneva two weeks ago between Secretary of State George Shultz and Soviet Foreign Minister Eduard Shevardnadze. The overwhelming consensus in this country and in the Free World is that the INF agreement represents a major advance for Western security and international stability.

Even though most of the tough issues surrounding the INF Treaty have been resolved and eventual ratification appears certain, two problems remain.

First, Senate opponents of the INF Treaty are expected to offer additional "killer" and "procedural" amendments to the treaty text. The "killer" amendments, if passed, would be attached to the INF Treaty itself and require renegotiation with the U.S.S.R., while the "procedural" amendments are designed to stall Senate consideration of the treaty. These amendments, as Republican Sen. Richard G. Lugar of Indiana commented on Friday, would "gut the effort of our president."

The second problem concerns a proposed stipulation in the resolution of ratification, the document that actually represents the Senate's advice and consent on the treaty. Under the provision, already approved by the Foreign Relations Committee, Senate Democrats want to preclude executive branch reinterpretation of the accord without congressional consent. Party leaders thus far have been unsuccessful in forging compromise language.

It would be tragic if these roadblocks are not quickly removed. The upshot of a delayed INF Treaty is clear: The best chance for further progress in controlling the U.S.-Soviet arms race will evaporate.

Put another way, if an arms control agreement negotiated by the most conservative president in recent history cannot pass Senate muster, the prospects for approval of any arms treaty in the near- to medium-term are virtually nil. Recent history bears out this proposition.

The fact is that the Senate has not ratified a U.S.-Soviet arms agreement since 1972. Following the approval of SALT I, three successive treaties have not gained Senate ratification.

Without delving into the relative merits of each of these treaties, it is also a fact that none has been the subject of an up-or-down vote before the full Senate. The most far-reaching of the three agreements, SALT II, was of course withdrawn from Senate consideration by Mr. Carter because of the Soviet invasion of Afghanistan.

The INF Treaty, however, has already traveled much further down the road to ratification. By overcoming the last obstacles to approval of the accord, the Senate has an opportunity to ensure significant progress on arms control, the paramount issue facing mankind. Not in recent history has its advice and consent role been more crucial or more visible to the American people. The Senate can do itself no greater credit than to work together to approve the INF accord in time for Mr. Reagan's Moscow summit.

Mr. DOLE. Mr. President, I think the votes continue to indicate that the vast majority in this Chamber would like to get on with the Resolution of Ratification. Not shutting off any amendments, but again today we only disposed of three.

Again, I do not want to shut off the Senator from North Carolina or anybody else, but it may be the only way we are going to be able to finally get down to where we can at least see the end is through filing a cloture motion and hopefully invoking cloture, and then we have at least the parameters and we know where they are.

I had thought about doing that today, again, with no criticism of anyone, just to do it, to demonstrate that we are trying to do everything we can to complete action on this treaty.

I just say for myself, and maybe others may or may not agree, I hope we can still get it done and get it over to the President so that there might be an exchange of Articles of Ratification.

I am not certain when that will come, but one indication is maybe a week from today. And we have Tuesday, Wednesday, Thursday, Friday, and the majority leader has indicated maybe Saturday. There is also an indication that maybe after this evening, because there are a number of conflicts, maybe tomorrow night and maybe other nights this week we might go a little longer.

But I have discussed the cloture motion with the distinguished majority leader. I will not file it this evening. We will discuss it at our caucus tomorrow, and I will visit again with the majority leader sometime tomorrow. I do not want to shut anybody off, but I do want to serve notice that it may come to that.

I do not quarrel with the Senator from North Carolina. We had a visit this afternoon. I asked him how many more amendments. He was not certain. That is his right.

I think the Senator from New Hampshire may have one additional amendment. He indicated the other day he might have two. The Senator from Idaho, Senator SYMMS, indicated he did not have any more. I am not certain about the Senator from Wyoming. I believe he does not have any more. He may have a category 2 or 3 amendment to the resolution of ratification.

So that is sort of narrowed down. But there is still no certainty when we may finally get to the resolution of ratification.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. DOLE. I yield.

Mr. BYRD. Mr. President, I intend to examine the amendments that are at the desk coming from this side and discuss the matter in conference tomorrow. I just want to be sure that cloture does not create a problem for Senators on this side who have legitimate amendments that may all be germane—I am not sure—but I am especially interested in the committee amendment and as soon as I can make that determination, I may be in a position to offer a cloture motion. That way the distinguished Republican leader and I can join?

Mr. DOLE. I thank the majority leader.

Mr. BYRD. Mr. President, I thank the Republican leader.

IMPLICATIONS OF THE BIDEN CONDITION

Mr. SPECTER. Mr. President, I am opposed to the so-called Biden condition, which I more appropriately refer to as the ABM reinterpretation condition, because it revises international law on treaty interpretation, confuses U.S. constitutional law on treaty ratification, and interjects in the deliberations on the INF Treaty an attempt to resolve the continuing dispute over the ABM Treaty.

As I stated on this floor on May 18, inclusion of the ABM reinterpretation condition is the resolution of ratification by the Senate Foreign Relations Committee has proven to be a detrimental factor in debate on the INF Treaty which continues to threaten the treaty's ratification.

The ABM reinterpretation condition poses three serious implications for treaty interpretation. The condition would: First, fundamentally change international law on treaty interpretation; second, change and confuse U.S. constitutional law regarding the Senate's role in the treaty ratification process; and third, necessarily implicate the complex facts of the ABM Treaty and its interpretation.

I. INTERNATIONAL LAW ON TREATY INTERPRETATION

Mr. President, the ABM reinterpretation condition fundamentally changes international treaty interpretation.

The ABM reinterpretation condition establishes, in effect, a two-treaty doctrine, where there is a treaty between the executive branch and the Soviet Union and simultaneously a second treaty between the executive branch and the U.S. Senate. This concept is discussed at length in chapter IX of the Senate Foreign Relations Committee report on the INF Treaty entitled

"Treaty Interpretation, condition adopted by the committee," which, in effect, gives primacy to the agreements reached between the executive branch and the Senate. The committee report's analysis of the ABM reinterpretation condition creates confusion and contradiction in the treaty ratification process, and represents a turf battle between the two branches.

Although it includes reference to the "common understanding" between the executive branch and the Senate "based on the text of the treaty" and "authoritative representations," the ABM reinterpretation condition elevates the provisions of the understanding reached between the executive branch and the Senate, making them paramount to the understanding between the executive branch and the foreign nation. Subsection (a) of the condition reads:

> The United States shall interpret this treaty in accordance with the understanding of the treaty shared by the executive and the Senate at the time of Senate consent to ratification.

Chapter IX of the Senate Foreign Relations Committee report includes a number of references establishing the committee's priorities in the treaty ratification process. For example, the committee report states:

> The Legal Adviser's statement implies that the meaning of a U.S.-Soviet treaty is to be gleaned not by examination of what the President and the Senate jointly understood, but by examination of what the President and the Soviets agreed upon—regardless of what the President may or may not have told the Senate.

Report at 92. This statement and other similar statements throughout chapter IX of the committee report establish the committee's view and the underlying doctrine of the ABM reinterpretation condition that the paramount consideration in treaty interpretation is what was agreed upon between the President and the U.S. Senate.

Mr. President, a treaty is valid and binding only if it establishes mutual obligations between the two contracting parties—in the case of the INF Treaty, the United States and the Soviet Union. Although the Senate's understanding plays a critical role in what the United States agrees to in the treaty process, it certainly is not the dominant factor to be considered in interpreting a treaty.

In this regard, the ABM reinterpretation condition turns the international law of treaty interpretation on its head, because the dominant consideration in interpreting an international treaty is what was agreed upon between the two nations—the intent of the parties. The committee report, however, reads:

> In sum, although internal Executive memoranda and other negotiating materials may have been available to Members of the Senate, some of whom have sought to assure themselves that this "record" is consistent with the Administration's formal presentation, the clear corollary of the constitutional principles cited in the Biden Condition is that *such documents need not have been examined* for consistency and *should not be deemed material to U.S. interpretation* of the INF Treaty insofar as they are inconsistent with the Executive Branch's formal presentation of the INF Treaty.

Report at 101 (emphasis added). The committee's conclusion that such documents are not material flatly contradicts firmly established principles of treaty interpretation. The committee report notes that only the Senate's understanding matters, and does not mention the subsequent practices of the parties—thereby inferentially deeming them irrelevant as well.

The committee's attempt to exclude the negotiating record and the subsequent practices of the parties by placing sole reliance on what the committee defines as the Senate's understanding clearly revises treaty interpretation under international law, which recognizes that a treaty reflects the intent of the parties. The parties to the INF Treaty are the United States and the Soviet Union; the Senate is not, nor should be considered, an independent party. The committee report, however, requires a treaty to be in accordance with what the committee determines the Senate's understanding to be regarding that treaty.

By elevating the Senate's understanding of the agreements between the executive branch and the Senate, the ABM reinterpretation condition subordinates the agreements reached between the President and the other contracting country—the Soviets in the case of the INF Treaty—to the indicia of the Senate's intention.

The condition's effect of elevating the Senate's understanding of agreements reached between the President and the Senate may instill reluctance in other nations to negotiate treaties with the United States. Nations like the Soviet Union may be far less willing to enter into treaties with the United States if we claim that such treaties will be interpreted in light of the intentions of the U.S. Senate. The United States certainly would object—vociferously—if another country asserted a similar condition.

The ABM reinterpretation condition also has the effect of proposing a dramatic and one-sided change in the interpretation of international law, by urging that international agreements should be interpreted without regard to the intent of the parties, whenever that intent conflicts with the intent of the U.S. Senate.

Mr. President, to the contrary, the Supreme Court of the United States and established constitutional doctrine clearly recognize the following vital factors in treaty interpretation: the negotiations, the terms of the treaty, the negotiating record, and the practical construction adopted by the parties, also referred to as the "subsequent practice" of the parties.

The U.S. Supreme Court recently restated this fundamental tenet of treaty interpretation. In *Societe Nationale Industrielle Aerospatiale* v. *U.S. District Court for the Southern District of Iowa,* slip op. 85-1695 (1987), the Supreme Court stated:

> In interpreting an international treaty, we are mindful that it is "in the nature of a contract between nations" . . . [and] The treaty's history, "the negotiations, and the practical construction adopted by the parties" may also be relevant.

Id. at 10.

The Senate Foreign Relations Committee report on the INF Treaty is inconsistent with this firmly established principle. It is possible that the understanding between the Senate and the President may be at variance with what the United States agreed to with the other contracting country. In such cases, the Senate's understanding is an important, but not the determinative factor—or even the factor to be considered first.

In cases of ambiguity regarding interpretation of a treaty, the law is clear that the negotiating record and the subsequent practices of the parties are the critical factors in resolving the ambiguity. The Senate should reject contrary statements included in the committee report.

II. U.S. CONSTITUTIONAL LAW

The ABM reinterpretation condition changes and confuses U.S. constitutional law regarding the Senate's role in the treaty ratification process.

Mr. President, the law is well established that the executive interprets the meaning of a treaty. The "Restatement of the Foreign Relations Law of the United States," section 326, sets forth U.S. law on the authority to interpret international agreements:

> (1) The President has authority to determine the interpretation of an international agreement to be asserted by the United States in its relations with other states.
>
> (2) Courts in the United States have final authority to interpret an international agreement for purposes of applying it as law in the United States, but will give great weight to an interpretation made by the executive branch.

"Restatement of the Law Third," American Institute (1987) at 202. The "Restatement's" Comment elaborates on Presidential authority to interpret treaties:

> The President has authority to interpret international agreements for the purpose of United States foreign relations since he is the country's "sole organ" in its international relations and is responsible for carrying out agreements with other nations. . . . The Senate, whose consent is necessary for the United States to conclude a treaty, has no special role in the implementation of the treaty after it is made, though, of course, it participates equally with the House of Representatives in enacting implementing legis-

> lation or appropriating funds. Interpretation by the Senate of a treaty after it has been concluded may have no special authority, but understandings expressed by the Senate in giving its advice and consent must be respected. *Id.*, comment a.

Professor Henkin, who is extensively relied upon by the Foreign Relations Committee, has posited a similar doctrine:

> The obligation and authority to implement or enforce a treaty involve also the obligation and authority to interpret what the treaty requires. For international purposes, no doubt, the President determines the United States position as to the meaning of a treaty. Domestically, too, since the President has usually the principal, often the sole, responsibility to execute a treaty, the treaty means what he says it means. Henkin, "Foreign Affairs and the Constitution" 167 (1972).

The Supreme Court also addressed subsequent Senate interpretation of a treaty in *Fourteen Diamond Rings* v. *United States*, 183 U.S. 176 (1901). The Court considered the Senate's adoption of a resolution, subsequent to ratification of a peace treaty between the United States and Spain, which attempted to clarify the application of customs duties to the Philippines, and determined "that it is absolutely without legal significance on the treaty interpretation question before us." Id. at 180. The Supreme Court held:

> The meaning of the treaty cannot be controlled by subsequent explanations of some of those who may have voted to ratify it. Id.

In a concurring opinion, Justice Brown stated that the Senate resolution "cannot be regarded as part of the treaty, since it received neither the approval of the President nor the consent of the other contracting power." Id. at 182. Justice Brown also discussed at length the treaty ratification process and the authority to interpret treaties:

> A treaty . . . [i]n its essence is a contract. It differs from an ordinary contract only in being an agreement between independent states instead of private parties. . . . Obviously, the treaty must contain the whole contract between the parties, and the power of the Senate is limited to a ratification of such terms as have already been agreed upon between the President, acting for the United States, and the commissioners of the other contracting power. The Senate has no right to ratify the treaty and introduce new terms into it, which shall be obligatory upon the other power, although it may refuse its ratification, or make such ratification conditional upon the adoption of amendments to the treaty.

Id. at 182–83. Justice Brown concluded that the resolution at issue "can be considered only as expressing the individual views of the Senators voting upon it." Id. at 184.

Mr. President, the principles of treaty interpretation which apply in cases of ambiguity are similar to those used in determining the legislative intent of a statute. This standard was outlined by the Supreme Court in *Japan Whaling Association* v. *American Cetacean Society*, slip op. No. 85-954 (1986):

> If a statute is silent or ambiguous with respect to the question at issue, our longstanding practice is to defer to the "executive department's construction of a statutory scheme it is entrusted to administer" [quoting *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. at 843] unless the legislative history of the enactment shows with sufficient clarity that the agency construction is contrary to the will of Congress.

Id. at 11. The Court continued:

> It may be that the legislative history of these amendments [at issue] there are scattered statements hinting at the per se rules advocated by respondents, but read as a whole, we are quite unconvinced that this history clearly indicates, contrary to what we and the Secretary have concluded is a permissible reading of the statute. . . .

Id. at 18. In this case, the Supreme Court clearly indicated that it is the executive branch which interprets the statute, just as it is the executive branch which interprets a treaty.

The U.S. Supreme Court articulated the same doctrine in *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984). The Court stated:

> When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress had directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress. If, however, the court determines Congress has not directly addressed the precise question at issue, the court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, *if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.*

Id. at 842–43 (emphasis added).

Mr. President, the committee report is inconsistent with U.S. constitutional law on the Senate's role in the treaty ratification process.

A. THE SOFAER DOCTRINE

The Committee report rejects the so-called Sofaer doctrine which articulates three criteria which must be met for the executive to be bound by the Senate's understanding of a treaty: the particular interpretation must have been; first, generally understood by the Senate; second, clearly intended by the Senate; and third, relied upon by the Senate.

Committee report at 90. These criteria, however, are based on principles set forth in section 314 of the "Restatement of the Foreign Relations Law of the United States and on well-established constitutional doctrine.

During the March 22, 1988, hearing on the INF Treaty before the Senate Foreign Relations Committee, Senator NUNN himself agreed with those three criteria when he quoted with approval the following sentence from a March 17 letter from the President's Counsel, Mr. Culvahouse, to Senator LUGAR:

> "As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification.

Senator NUNN stated; "That sentence there I agree with completely." Hearings at 144. Senator NUNN again quoted this sentence and the following sentence from the Culvahouse letter, id. at 153, and stated: "Now, I think those two sentences are something we can build on here." Id. at 154.

B. EXPLICIT/IMPLICIT CONDITIONS

Mr. President, the Senate traditionally performs its constitutional function by expressing any particular views of a treaty in the form of explicit conditions.

The committee report discusses at length how the Senate reaches its understanding, both explicit and implicit, of a treaty's meaning. The report noted that explicit understandings "are manifest in formal conditions to the Senate's consent. These conditions include amendments to the text of a treaty as well as amendments to the resolution of ratification, such as 'reservations,' 'understandings,' and the like." Report at 93.

"Implicit understandings" are much more complicated. The committee report noted that "implicit understandings represent Senate agreement with and acceptance of the executive's explanations of the treaty." Id. at 93. The committee report refers to testimony by Professor Henkin to help define this concept: "Where several executive statements are made and there is general acceptance of their tenor, that is the Senate understanding." Id. at 93. The report continued:

> Clearly, in determining whether the Senate consented to the ratification of a treaty pursuant to an implicit understanding, a rule of reason must apply. Obviously, where the indicia of Senate intent or understanding (including unchallenged executive communications of explanations) are few or inconsistent, no implicit Senate intent can reasonably be said to exist. On the other hand, where the indicia of intent (again, including unchallenged executive communications or explanations) are several and largely consistent, an implicit intent can reasonably be concluded to exist.

Id. at 93-94. These statements are illustrative of repetitious ambiguity in the committee report; they also reflect that implicit understandings realistically have no meaning where there is "a factual claim of pervasive ambiguity"—see id. at 106.

Mr. President, the committee report seeks to elevate implicit understandings * * * to be equal in significance to explicit understandings. Id.

Such a doctrine of implicit understandings is obviously tailored to buttress the narrow interpretation of the ABM Treaty. It acknowledges that there is no implicit understanding where the executive communications are few or inconsistent, id. at 94, and then refers to the ABM controversy as a factual claim of pervasive ambiguity. Id. at 106. As to the ABM Treaty, and treaty interpretation generally, such a doctrine of implicit understandings inevitably will raise complex—and probably insolvable—arguments about what is sufficient to imply an understanding. It is precisely for that reason that explicit understandings are formulated to remove such ambiguities and disagreements.

Had there been an explicit understanding of the scope of the ABM Treaty's application—narrow or broad—this issue would not be before us. This Senator and many others have illustrated the lack of an explicit understanding in the ABM Treaty record—the text of the treaty, committee proceedings and floor debate. The ABM Treaty debate would not be a part of the INF Treaty debate today had there been an explicit understanding on narrow versus broad application of the ABM Treaty.

III. THE ABM TREATY

Mr. President, debate on the ABM reinterpretation condition necessarily will implicate the complex facts of the ABM Treaty and its interpretation.

While its proponents maintain otherwise, the condition necessarily rekindles—and, realistically viewed, seeks to resolve—the substance of the ABM Treaty reinterpretation debate. This is so because the Constitution obviously binds the President with respect to interpretation of all treaties and the condition purports to state principles of constitutional law. Its intent, quite clearly, is to bind the President generally, including his interpretation of the ABM Treaty. This is obvious from reading chapter IX on the condition, which refers repeatedly to the ABM controversy.

Mr. President, Chapter IX of the Senate Foreign Relations Committee report on the INF Treaty clearly is an attempt to discredit the so-called Sofaer doctrine and influence the argument on the narrow versus broad interpretation of the ABM Treaty. Apart from these two purposes, the committee acknowledges that this condition is unnecessary. The report reads:

> The committee notes that, in one respect, its action in including this condition in the INF Treaty's resolution of ratification was *unnecessary* insofar as principles which inherently apply to the INF Treaty would apply even in the absence of any Senate action affirming them. Given the circumstances, however, the committee judged that to fail to affirm such principles could suggest some degree of acquiescence in the Sofaer doctrine, which the committee views as an executive attempt to assert an unconstitutional abrogation of the treaty power. In this sense the committee views the Biden condition, paradoxically, as both *unnecessary* and highly significant.

Report at 97, emphasis added. The committee report repeatedly raises the interpretation issue, only to discuss at length what the interpretation is not. The extended discussion in chapter IX of the so-called Sofaer doctrine clearly reflects the committee's attempt to interject the ABM Treaty debate into the INF Treaty ratification debate.

The ABM reinterpretation condition clearly implicates the ABM controversy when the ultimate question was asked of Senator CRANSTON on May 18:

> Mr. SPECTER. When the distinguished Senator from California says that there is no objection to the current interpretation of the INF Treaty, only as to issues of reinterpretation, the sole issue in the Senate today is the interpretation of the INF Treaty, why bring up the question of reinterpretation of treaties?

CONGRESSIONAL RECORD, May 18, 1988, at S6064. Had Senator CRANSTON replied that there is no reason to bring up the question of reinterpretation of treaties, the debate on this condition would be over. However, Senator CRANSTON's answer brought up ABM and the Sofaer doctrine and that is where the extensive debate necessarily leads if the condition is pursued.

Mr. President, the debate over interpretation of the ABM Treaty highlights the importance of treaty interpretation principles. The ratification record of the ABM Treaty contains only a few statements on the issue of narrow versus broad, and these statements are themselves inconsistent. This Senator suggests that if a full debate of the ABM Treaty is pursued in the context of the INF Treaty ratification process, the record will reveal the degree of ambiguity on the narrow versus broad issue, which thus requires deferrence to the executive branch's interpretation given established principles of international law and U.S. constitutional law.

The only issue before the Senate today, however, is the interpretation of the INF Treaty, as to which there is no real dispute.

IV. CONCLUSION

Mr. President, inclusion of the ABM reinterpretation condition in the INF Treaty's resolution of ratification threatens to embroil the Senate in a protracted debate over the constitutional treaty power and continues to threaten ultimate ratification of this historic agreement. The concern I expressed on this floor on May 18—that the condition would be a detrimental factor in the ratification of the INF Treaty—unfortunately and regrettably still may prove accurate.

Ratification of the INF Treaty prior to the President's departure for the Moscow summit is too important to the Nation to be ensnared in a turf battle between a few individuals in the Senate and a few in the executive branch. The Senate should reject the ABM reinterpretation condition in the INF Treaty's resolution of ratification, and should continue to follow established principles of international law and U.S. constitutional law regarding treaty interpretation.

I ask unanimous consent that a summary of the Biden condition be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

IMPLICATIONS OF THE BIDEN CONDITION

I. THE ABM REINTERPRETATION CONDITION FUNDAMENTALLY CHANGES INTERNATIONAL TREATY INTERPRETATION

A. By elevating the Senate's understanding of the agreements between the executive branch and the Senate, the ABM Reinterpretation Condition subordinates the agreements reached between the President and the Soviets. The condition thus subordinates the intention of the parties, as reflected by the agreements reached by the Executive Branch and the Soviet Union, to indicia of the Senate's intention.

1. Other nations may be reluctant to negotiate treaties with the United States because of the ABM Reinterpretation Condition. Nations like the Soviet Union may be far less willing to enter into treaties with the United States if we claim that such treaties will be interpreted in light of the intentions of the U.S. Senate. The United States certaintly would object—vociferously—if another country asserted a similar condition.

2. The Senate is proposing a dramatic and one-sided change in international law by urging that international agreements should be interpreted without regard to the intent of the parties, whenever that intent conflicts with the intent of the United States Senate.

The Senate Foreign Relations Committee Report on the INF Treaty states that a treaty's negotiating record "need not have been examined for consistency and should not be deemed material to U.S. interpretation to the INF Treaty insofar as they are inconsistent with the Executive branch's formal presentation of the INF Treaty" to the Senate (page 101). The Committee Report notes that only the Senate's understanding matters, and does not mention the subsequent practices of the parties—thereby inferentially deeming them irrelevant as well.

To the contrary, the negotiating record and the subsequent practices of the parties have been extremely important in understanding what the parties to the INF Agreement intended when they negotiated the treaty. This reflects long-established principles of international law, which recently were restated by the U.S. Supreme Court in *Societe Nationale v. U.S. District Court for the Southern District of Iowa* (1987). The Court noted:

"In interpreting an international treaty, we are mindful that it is in the nature of a contract between nations," and that "[h]istory, the negotiations, and the practical construction adopted by the parties may be relevant."

The ABM Reinterpretation Condition, as described in the committee report, abrogates this principle.

II. THE ABM REINTERPRETATION CONDITION CHANGES/CONFUSES U.S. CONSTITUTIONAL LAW REGARDING THE SENATE'S ROLE IN THE TREATY RATIFICATION PROCESS

A. The committee report rejects the so-called Sofaer Doctrine which refers to three criteria which must be met for the Executive to be bound by the Senate's understanding of a treaty: "the particular interpretation must have been (1) 'generally understood' by the Senate, (2) 'clearly intended' by the Senate, and (3) 'relied upon' by the Senate" (P. 90). These criteria are based on principles set forth in the *Restatement of Foreign Relations Law of the United States* and constitutional doctrine.

During the Senate Foreign Relations Committee's March 22 hearing, Senator Nunn agreed with those three criteria when he quoted with approval the following sentence from a March 17 letter from the President's Counsel Mr. Culvahouse, to Senator Lugar: "As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification." Said Senator Nunn: "that sentence there I agree with completely" (p. 144).

B. Traditionally, the Senate performs its constitutional function by expressing any particular views of a treaty in the form of explicit conditions. While there are several ways in which the Senate can make its intentions manifest, the explicit way is to include a formal condition in the resolution of ratification. The committee report seeks to elevate "implicit understandings . . . (to) be equal in significance to explicit understandings" (p. 93).

Such a doctrine of "implicit understandings" is obviously tailored to buttress the narrow interpretation of the ABM treaty. It acknowledges that there is no implicit understanding where the Executive communications are "few or inconsistent" (p. 94) and then refers to the ABM controversy as a 'factual claim of pervasive ambiguity" (p. 106). As to ABM and treaty interpretation generally, a doctrine of "implicit understandings" would raise complex factual arguments on what is sufficient to imply an understanding. It is precisely for that reason that explicit understandings were formulated to remove such ambiguities and disagreements.

III. DEBATE ON THIS ISSUE NECESSARILY WILL IMPLICATE THE COMPLEX FACTS OF THE ABM TREATY AND ITS INTERPRETATION

While its proponents maintain otherwise, the Condition necessarily rekindles—and, realistically viewed, seeks to resolve—the substance of the ABM Treaty reinterpretation debate. This is so because the Constitution obviously binds the President with respect to interpretation of *all* treaties and the Condition purports to state principles of constitutional law. Its intent, quite clearly, is to bind the President generally, including his interpretation of the ABM Treaty. This is obvious from reading Chapter IX on the Condition which refers repeatedly to the ABM controversy.

The only issue before the Senate now is the interpretation of INF on which there is no real dispute. The ultimate question was asked of Senator Cranston last Wednesday (S 6064):

"Mr. SPECTER. When the distinguished Senator from California says that there is no objection to the current interpretation of the INF Treaty, only as to issues of reinterpretation, the sole issue in the Senate today is the interpretation of the INF Treaty, why bring up the question of reinterpretation of treaties?"

Had Senator Cranston replied that there is no reason to bring up the question of reinterpretation of treaties, the debate on this Condition would be over. However, Senator Cranston's answer brought up ABM and the Sofaer Doctrine and that is where the extensive debate leads if the Condition is pursued.

Mr. COHEN. Mr. President, will the minority leader yield?

Mr. DOLE. I yield.

Mr. COHEN. Will he tell the Senator what the prospects are for a Saturday session?

I find it ironic that we are breaking at 7 o'clock on Monday evening and then with the suggestion made there may be a Saturday session when many of us have commitments to address commencement exercises and others. I would like to know now what the prospects are so I can start canceling my schedule. I find it ironic we are dancing out tonight at 7 when we could be here 5 or 6 hours debating these proposals, thereby allowing some of the Members to keep their commitments.

Mr. DOLE. I indicate to the Senator from Maine I do not know. That would be up to the majority leader. But if we were near completion—I think that is how it was stated last week, it looked like the end was in sight, either way—I mean one end being finished and one end no chance, there is no chance we would be in on Saturday. If there was a chance, I assume there is a possibility.

But I had hoped we could go on later this evening, but apparently that is not in the cards.

Mr. COHEN. I thank the Republican leader.

Mr. BYRD. Mr. President, I will answer the Senator's question.

I suppose it was directed toward me.

Mr. COHEN. It was directed for the minority leader. I would like to have anybody answer, especially the majority leader.

Mr. BYRD. There are a number of Senators engaged in raising money for the March of Dimes tonight, and this matter was scheduled prior to today.

I felt that we ought to proceed until about 7 o'clock today, have our conference tomorrow, and see where we go from there. We can stay in late tomorrow evening or other evenings this week, but I did not think that there was much to be gained by staying in late this evening. But perhaps the climate will change by tomorrow and I hope it will.

Mr. COHEN. I thank the majority leader.

Mr. BYRD. I thank the distinguished Senator.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business in legislative session, that Senators may speak therein not to exceed 5 minutes each, and that the period not extend beyond 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A HERO TO BE REMEMBERED

Mr. BYRD. Mr. President, some have called the Korean war "the forgotten war."

That may be so in some places, but not in West Virginia, where so many Korean war veterans live, and particularly not in Summersville on Memorial Day, May 30.

On that day, Post 131 of the American Legion and Post 6100 of the Veterans of Foreign Wars, in a special ceremony, will enshrine the name of Cpl. Jack L. Walker on the Nicholas County War Memorial Monument at the Nicholas County Courthouse.

Thirty-eight years ago, at the age of 17, Cpl. Jack Walker was killed during the battle of Chinju City in Korea. In that clash, more than half of the troops in the 24th Infantry Division of which Corporal Walker was a member, were reported killed. Three years later Corporal Walker was officially listed as missing in action, but his remains were not discovered until this past November during the relocation of a Chinju cemetery.

Corporal Walker was an unusually brave and determined soldier. He had enlisted in the Army in 1949 at the age of 15, and had served 9 months stateside before the military discovered that he was underage and gave him an honorable discharge.

Not to be deterred, Mr. Walker rejoined the Army a few months later, and was sent to Korea, where he was involved in early clashes with Communist forces.

Finally, however, Corporal Walker has returned to his home State, where he has been interred in Sunset Memorial Park in South Charleston, WV.

In the Memorial Day ceremony, surviving members of Corporal Walker's 24th Infantry Division will be present to escort the members of his family to the memorial service, and to place a wreath at the War Memorial in Corporal Walker's memory.

I commend all those responsible for organizing and participating in this thoughtful ceremony, and for demonstrating that they have not forgotten those who sacrificed and suffered through the Korean war. I likewise want to express my appreciation to all of the citizens of Summersville and Nicholas County for remembering one of their own sons, who gave his ultimate in the service of his country.

TRIBUTE TO CPL. JACK L. WALKER.

Mr. ROCKEFELLER. Mr. President, I rise in honor of a West Virginian who served his country as a U.S. serviceman. Cpl. Jack L. Walker courageously went to battle in Korea, but unfortunately lost his life there. Corporal Walker's body was only returned to the United States last year. This Memorial Day seems an appropriate time to pay tribute to a man who was a true patriot.

The veterans of our wars are a constant reminder that freedom was not given to this country. Americans, like Cpl. Jack Walker, fought for it, defended it, and have held on to it.

All West Virginians are justifiably proud of their tradition of service in America's military. We can never repay our debt to those men and women who have sacrificed so much.

I hope that all Americans take time this Memorial Day to pay tribute to these men and women who paid the supreme sacrifice in the defense of our country. The memory of Corporal Walker will live on as we honor our veterans on each and every Memorial Day.

NUCLEAR DÉTENTE: CAN CONGRESS MAKE IT HAPPEN?

Mr. HATCH. Mr. President, as I listened to the debates on the strategic issues before us, it occurs to me that the dominant approaches of the House and Senate to strategic nuclear deterrence reflect deeply rooted ideological differences. These differences directly affect the current debate over the rail-MX and the small road-mobile ICBM, the so-called Midgetman.

It is an oversimplification to say that House liberals, and their Senate counterparts, cling to the shredded vestiges of a mutual assured destruction, or MAD doctrine, which calls for punishing attacks on cultural targets, like cities. At the same time, Senate preferences for a strategic force that can destroy military targets cannot be called an anti-MAD crusade.

Cutting across ideologies in both bodies, I think, is the mutual commitment of all parties to sufficient deterrence, and to strategic arms control, whether by SALT or by START. The problem is that this joint commitment has triggered a new set of differences; these are closely related to recent progress in arms control negotiations.

The House-Senate debate over the DOD authorization bill reflects the dichotomy in these commitments. The authorization bill evoked a "build-up" psychology; but the START regime demands a "build-down" process. START is characterized by a reduction of offensive strategic weapons, as explained in National Security decision directive 13; this differs from the limitation approach practiced during most of the Carter years.

The 50-percent "deep cut" parameters were agreed to, in principle, at Geneva in 1985, at the 1986 Reykjavik "summit," and at the Gorbachev-Reagan Washington meeting last December.

Despite this policy paranoia, I believe that we can find a common ground for agreement. There are at least two ways to fulfill arms control impulses while allowing for the reasonable evolution of strategic sufficiency.

First, we must divest ourselves of the type of policy paralysis that ideology inflicts. Strategy policy responds to threat, and the threat is changing. Second, neither numbers of systems nor their costs—as Casper Weinberger repeatedly reminded us—define strategic effectiveness; that depends also on deployment and employment of our strategic forces.

Examining the first principle, threat, we find that the United States and U.S.S.R. perceive the respective military threats to their security in a relatively similar way. This is evident from the Soviet's adoption of an American-style triad. For example, the Soviets have overcome their dislike of bombers. This is because the stealth and cruise missile technologies can overcome even the best defenses. We have moved closer to their preference for a submarine force; here, too, our thinking was influenced by detection, ballistic and cruise technologies.

But, as the House-Senate debates showed: United States land missile fleets are not as flexible as those of the Soviets. Opponents to the United States rail-MX concept appear to be impressed by the Soviet's retention of their fourth-generation, "city-busting" SS-17, 18, and 19 missile fleet, obscuring the Soviet fifth-generation emphasis on their rail-mobile, 10 warhead SS-24, and all-terrain SS-25, single-warhead system—all better suited to military targets. This group of critics, among them any MAD legatees, fear the loss of a U.S. "counterculture punch."

The second principle requires a new look at our strategy. If our current strategy is to strike Soviet military targets so as to cripple their war-fighting ability, and if we must have sufficient retaliatory capability remaining after a first strike against us, then this strategy has brought us dangerously close to conceding the credibility of our deterrence strategy. Heavy emphasis on a countermilitary capability invites suspicions of a U.S. first-strike strategy; while a predominately retaliatory strategy devolves into mutual suicide.

How can we devleop a better balance, and find a common ground in the debate? First, reduce all offensive nuclear weapons; second, make very deep cuts in land-based missiles while simultaneously adapting the strategic defense initiative against a deliberate or accidental strike, by either side.

The United States is developing a revised triad force structure over the next decade that is fundamentally sound. It offers a credible deterrent, is adaptable to offensive nuclear weapon reductions, and, with SDI, is secure against a first strike. This structure places 60 percent of our warheads on submarines, 17 percent in bombers, and 1,500 warheads, or 23 percent, on 500 SICBM's and 100 MX.

In pursuing this structural goal, we will be able to eliminate 950 land-based warheads, as well as 600 submarine-based and 1,200 bomber-carried warheads. Yet the percentage of land-based warheads will remain the same, while the share of warheads on bombers is reduced in favor of a gain for the submarine force. Above all, the new triad offers a flexible and much better protected force that fully exploits known technologies.

If we have properly reasoned an appropriate balance between the threat we face and the strategic force needed to oppose it, then we must begin building the rail-MX and road-mobile SICBM force simultaneously.

The cost arguments against the rail-MX weaken on closer scrutiny: it would cost $16.3 billion to disperse 50 MX, each with 10 warheads, including railroad equipment, according to Air Force calculations. This is one-half the cost of dispersing 500 less accurate SICBM's, each with a single warhead. Put another way: we can distribute 500 warheads throughout the United States' vast rail network for half the cost of concentrating the same number of warheads in a contained area of the American Southwest—a certain invitation to a massive, saturation attack. The remaining 50 MX could be placed in hardened silos, all of which are also in the American West.

I would like to add, Mr. President, that I am still waiting to hear a good argument against the rail-MX. The cost argument is weak, as I have shown. The system is defensible because of its dispersability. And, it has still another advantage about which I have heard very little in these debates: holding it in the seven-garrison network, until a crisis breaks out, is an option, it is not a requisite. Our submarine and bomber forces have always been placed on alerts, and dispersed, according to the level of anticipated crisis. The rail-garrison can be predeployed according to the same principle.

Although the House and Senate arguments have been well articulated, they are built on the fear of uncertainty, the greatest of which is surprise attack. And SDI not only makes such attacks less inviting, but offers a purely defensive strategy in return. Finally, over the past quarter century, we have "built up" in a way that facilitates the "build-down" of the arms control process. To my way of thinking a good deal means making deep cuts in the land missile force without sacrificing our security.

We can accomplish the three basic objectives that all military force planners seek in the nuclear age:

Force control to prevent or minimize accidental launches. Here our structural strengths are found in advance deployed bombers, which can be recalled well-forward of our shores. And, SDI—which will be able to protect us against the nightmare of an accidental launch.

Survivability to assure that we deter enemy aggression, and especially a first strike, by retaining a sufficiently punitive retaliatory capability. Here, our submarine force makes the difference.

And, accuracy to make it clearer still that the failure to honor mutual deterrence invites a loss of an adversary's warfighting capability.

Mr. President, history is providing us with a unique opportunity to step back from nuclear brinkmanship. Congress should not drag its feet.

THE 200TH ANNIVERSARY OF THE RATIFICATION OF THE U.S. CONSTITUTION BY SOUTH CAROLINA

Mr. THURMOND. Mr. President, 200 years ago today South Carolina became the eighth State to ratify the U.S. Constitution. After much struggling and intense debate during the long and sultry days of the summer of 1787, the delegates to the Philadelphia Convention signed the Constitution on September 17, 1787. However, the drafting of the Constitution itself was but the first hurdle. The next test was whether the Constitution would be accepted by the people. As required by article VII, nine States had to ratify the Constitution in order for it to become the law of the land. Ratification by South Carolina put the hopes for the establishment of a new government within reach.

In celebrating this day, the four delegates from South Carolina to the Philadelphia Convention should be remembered. Charles Pinckney, Charles Cotesworth Pinckney, Pierce Butler, and John Rutledge contributed to the often lively debate as they sought to represent the interests of South Carolina and each signed the final document on September 17, 1787. It is truly a tribute to the efforts of these four men along with the other framers that the Constitution has endured for over 200 years.

Last year, the Nation celebrated the 200th anniversary of the signing of the Constitution. This year as the focus shifts to the ratification by the States, every man, woman, and child should take the time to read the Constitution and become familiar with its words. The Commission on the Bicentennial of the United States Constitution, on which I serve, has dedicated substantial resources toward educating the people of our great Nation on the rich history of the Constitution. It is my belief that better education about the Constitution gives our citizens a greater understanding and deeper appreciation of the importance of their participation in the system created by this sacred document. A realization of the importance of an individual's participation in our Government is especially important in this Presidential election year.

It is today, on the 200th anniversary of the ratification of the Constitution by South Carolina, that South Carolinians along with all other Americans are reminded that the Constitution is indeed the greatest document ever penned by the mind of man for the governing of a people.

MESSAGES FROM THE HOUSE

At 12:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3193. An act to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, homosexuality, or heterosexuality, and for other purposes; and

H.R. 4586. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4586. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3193. An act to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, homosexuality, or heterosexuality, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. 1945: A bill to amend the Second Supplemental Appropriation Act 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory (Rept. No. 100-353).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2162: A bill to provide for the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes (Rept. No. 100-354).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 2423. A bill for the relief of Evelyn M. Rachoza; to the Committee on the Judiciary.

By Mr. EXON (for himself, Mr. DURENBERGER and Mr. PRESSLER):

S. 2424. A bill to authorize appropriations under the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE (for himself, Mr. DURENBERGER, Mr. LEVIN, Mr. SANFORD, Mr. GLENN, Mr. BOSCHWITZ, Mr. SHELBY, Mr. HOLLINGS, Mr. ADAMS, Mr. METZENBAUM, Mr. LEAHY, Mr. THURMOND, and Mr. STAFFORD):

S. 2425. A bill to provide a one-year floor for the Federal matching percentages determined for programs under the Social Security Act; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD, (for himself, Mr. HEINZ, Mr. PRESSLER, Mr. DASCHLE, Mr. BURDICK, Mr. SIMON, Mr. MOYNIHAN, Mr. KENNEDY, Mr. KERRY, Mr. BRADLEY, Mr. WILSON, Mr. INOUYE, Mr. PELL, Mr. QUAYLE, Mr. ADAMS, Mr. SARBANES, Mr. GORE, Mr. GLENN, Mr. STAFFORD, Mr. MELCHER, Mr. WIRTH, Mr. EXON, Mr. CHAFEE, Mr. BOSCHWITZ, Mr. KARNES, Mr. SPECTER, Mr. LAUTENBERG, Mr. DIXON, Mr. MCCAIN, Mr. LEVIN, Mr. EVANS, Mrs. KASSEBAUM, and Mr. SIMPSON):

S. Con. Res. 120. A concurrent resolution urging the Government of Iran to respect the human rights of members of the Baha'i faith, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON (for himself, Mr. DURENBERGER, and Mr. PRESSLER):

S. 2424. A bill to authorize appropriations under the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes; referred to the Committee on Commerce, Science, and Transportation.

PIPELINE SAFETY REAUTHORIZATION ACT

Mr. EXON. Mr. President, as chairman of the Surface Transportation Subcommittee, I take pleasure in introducing legislation to reauthorize the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 for fiscal years 1988, 1989 and 1990. This bill also makes several changes in the pipeline safety programs which are designed to increase the overall level of safety under which these programs operate.

At a Commerce Committee hearing on pipeline safety, the issues addressed most frequently were the process and frequency of pipeline inspections and testing, the qualifications of pipeline operators and inspectors, and the need for one-call notification systems to alert excavators of the existence of and location of pipelines, in all States containing underground pipeline facilities. This bill addresses these concerns in a number of ways: by requiring the Department of Transportation to inspect pipelines under its jurisdiction once every 2 years, by providing DOT with the authority to certify the qualifications of those who operate pipeline facilities as well as those State employees who participate in the Federal-State inspection program, and by mandating that DOT establish requirements for the operation of one-call notification systems for adoption by the States. This bill also increases the civil penalty for pipeline safety violations from $1,000 which was set in 1968, to up to $10,000; and makes it a Federal crime to damage pipeline right-of-way markers.

Other requirements included in the bill call for DOT to study whether pipelines should install emergency flow restricting devices and whether to require the inspection of periodic intervals.

Generally, this bill seeks to improve the level of information related to the operation of pipeline facilities available, upon request to the Secretary and the appropriate State official. This information includes accurate maps, a description of products transported, and an emergency response plan.

I would like to commend the House Energy and Commerce and House Public Works and Transportation Committees for their previous efforts in reporting a comprehensive pipeline safety bill. I would also like to thank officials at the Research and Special Programs Administration at DOT, State officials and the pipeline industry for working with us to develop a bill that embodies significant improvements to the pipeline safety programs.

I look forward to continued Federal-State cooperation in the performance of the pipeline safety programs. I am particularly pleased to have Senators Durenberger and Pressler join me as a primary cosponsor of this legislation.

By Mr. RIEGLE (for himself, Mr. Durenberger, Mr. Levin, Mr. Sanford, Mr. Glenn, Mr. Boschwitz, Mr. Shelby, Mr. Hollings, Mr. Adams, Mr. Metzenbaum, Mr. Leahy, Mr. Thurmond, and Mr. Stafford):

S. 2425. A bill to provide a 1-year floor for the Federal matching percentages determined for programs under the Social Security Act; to the Committee on Finance.

FEDERAL MATCHING PERCENTAGES

● Mr. RIEGLE. Mr. President, today I am introducing a bill, together with 12 of my colleagues, S. 2425, designed to protect the health and human service programs in 17 States from experiencing a rapid reduction in Federal matching funds beginning in fiscal year 1989.

The 1989 Federal Medical Assistance Percentage [FMAP], which is used as the Federal financial participation rate for the Medicaid, Aid to Families with Dependent Children, Adoption Assistance and Foster Care programs, will be less than the 1988 FMAP for 17 States.

The FMAP is recalculated annually based on per capita income averages. The data used for the recalculation is old—for 1989, data is from 1984 to 1986—and reflects a healthier economic climate than many States, including Michigan, are currently experiencing. Since a State's per capita income is squared in the formula, this factor is overemphasized.

Thus, many States stand to lose Federal assistance at a time when they are beginning to experience another economic downturn. A reduction in Federal participation is difficult for many States struggling to sustain basic health and welfare programs.

Michigan, in particular, is facing a critically tight budget this year in its Medicaid Program. A major reduction in Federal funds at this time, which will occur unless S. 2425 is enacted, will make it exceedingly difficult for the State to meet the health needs of its poorest citizens.

S. 2425 would permit the 17 States which would lose assistance under the 1989 FMAP to continue to receive assistance under the 1988 FMAP. States which will receive an increase under the 1989 FMAP would not be affected by our bill. The cost of this legislation would be $114 million in 1989.

I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2425

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ONE-YEAR FLOOR FOR FEDERAL MATCHING PERCENTAGES.

Notwithstanding any other provision of law—

(1) the amount of the Federal percentage (as defined in section 1101(a)(8) of the Social Security Act) for 1989 with respect to a State shall be equal to—

(A) the amount determined with respect to the State for 1988; or

(B) if greater, the amount otherwise determined with respect to the State for 1989; and

(2) the amount of the Federal medical assistance percentage (as defined in section 1905(b) of such Act) for 1989 with respect to a State shall be equal to—

(A) the amount determined with respect to the State for 1988; or

(B) if greater, the amount otherwise determined with respect to the State for 1989.●

ADDITIONAL COSPONSORS

S. 1480

At the request of Mr. Domenici, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 1480, a bill to improve the integration of universities and private industry into the national laboratory system of the Department of Energy in order to speed the development of technology in areas of significant economic potential.

S. 1511

At the request of Mr. Moynihan, the name of the Senator from Alaska [Mr. Murkowski] was added as a cosponsor of S. 1511, a bill to amend title IV of the Social Security Act to replace the AFDC Program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefits improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal.

S. 1600

At the request of Mr. Ford, the names of the Senator from South Carolina [Mr. Hollings] and the Senator from Georgia [Mr. Fowler] were added as cosponsors of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1727

At the request of Mr. Harkin, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S.

1727, a bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 2098

At the request of Mr. HOLLINGS, the names of the Senator from Illinois [Mr. DIXON], the Senator from Wisconsin [Mr. PROXMIRE], and the Senator from Montana [Mr. MELCHER] were added as cosponsors of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2129

At the request of Mr. BAUCUS, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2188

At the request of Mr. PRYOR, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2188, a bill to amend section 307 of the Federal Employees' Retirement System Act of 1986.

S. 2195

At the request of Mr. HARKIN, the names of the Senator from Pennsylvania [Mr. HEINZ] and the Senator from Iowa [Mr. GRASSLEY] were added as a cosponsors of S. 2195, a bill to authorize the Rail Service Assistance Program under the Department of Transportation Act through fiscal year 1991.

SENATE JOINT RESOLUTION 294

At the request of Mr. TRIBLE, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alabama [Mr. HEFLIN], the Senator from Michigan [Mr. LEVIN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 294, a joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day".

SENATE JOINT RESOLUTION 298

At the request of Mr. D'AMATO, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Illinois [Mr. DIXON], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 298, a joint resolution designating September 1988 as "National Library Card Sign-Up Month".

SENATE JOINT RESOLUTION 306

At the request of Mr. CHAFEE, the names of the Senator from California [Mr. WILSON], the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KERRY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Kansas [Mr. DOLE], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from New Mexico [Mr. DOMENICI], the Senator from South Carolina [Mr. THURMOND], the Senator from North Carolina [Mr. SANFORD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Mississippi [Mr. STENNIS], the Senator from Colorado [Mr. WIRTH], the Senator from Georgia [Mr. FOWLER], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Michigan [Mr. LEVIN], the Senator from Maryland [Mr. SARBANES], the Senator from North Dakota [Mr. BURDICK], the Senator from Alabama [Mr. HEFLIN], the Senator from Texas [Mr. BENTSEN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 306, a joint resolution designating the day of August 7, 1989, as "National Lighthouse Day."

SENATE JOINT RESOLUTION 312

At the request of Mr. D'AMATO, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Alabama [Mr. SHELBY], the Senator from Colorado [Mr. WIRTH], the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Tennessee [Mr. GORE], the Senator from North Dakota [Mr. BURDICK], the Senator from Kansas [Mr. DOLE], the Senator from New York [Mr. MOYNIHAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from California [Mr. WILSON], the Senator from South Dakota [Mr. PRESSLER], the Senator from Ohio [Mr. GLENN], the Senator from North Carolina [Mr. HELMS], the Senator from Connecticut [Mr. WEICKER], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 312, a joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 319

At the request of Mr. LEAHY, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Maryland [Mr. SARBANES], the Senator from Mississippi [Mr. STENNIS], the Senator from South Carolina [Mr. THURMOND], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from California [Mr. WILSON], the Senator from Idaho [Mr. MCCLURE], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 319, a joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week."

SENATE JOINT RESOLUTION 320

At the request of Mr. HATCH, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Florida [Mr. CHILES], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Joint Resolution 320, a joint resolution to commemorate the 50th anniversary of the passage of the Food, Drug, and Cosmetic Act.

SENATE CONCURRENT RESOLUTION 117

At the request of Mr. CHILES, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Idaho [Mr. MCCLURE], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Concurrent Resolution 117, a concurrent resolution to express the sense of the Congress regarding relief for the U.S. citrus industry under section 301 of the Trade Act of 1974 and other appropriate relief.

SENATE CONCURRENT RESOLUTION 120—SUPPORTING THE RIGHTS OF THE BAHA'I RELIGIOUS MINORITY IN IRAN

Mr. DODD (for himself, Mr. HEINZ, Mr. PRESSLER, Mr. DASCHLE, Mr. BURDICK, Mr. SIMON, Mr. MOYNIHAN, Mr. KENNEDY, Mr. KERRY, Mr. BRADLEY, Mr. WILSON, Mr. INOUYE, Mr. PELL, Mr. QUAYLE, Mr. ADAMS, Mr. SARBANES, Mr. GORE, Mr. GLENN, Mr. STAFFORD, Mr. MELCHER, Mr. WIRTH, Mr. EXON, Mr. CHAFEE, Mr. BOSCHWITZ, Mr. KARNES, Mr. SPECTER, Mr. LAUTENBERG, Mr. DIXON, Mr. MCCAIN, Mr. LEVIN, Mr. EVANS, Mrs. KASSEBAUM, and Mr. SIMPSON) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 120

Whereas the Congress has, by concurrent resolutions adopted in 1982 and 1984, and in numerous other appeals, declared that it holds the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i faith, Iran's largest religious minority;

Whereas the Congress has condemned the Government of Iran's actions against Baha'is on account of their religious beliefs, and has urged the President to work with appropriate foreign governments and with the United Nations in efforts to appeal to the Government of Iran concerning the Baha'is;

Whereas nearly 200 Iranian Baha'is, including many elected leaders of the religious community, have been executed since 1979, on account of their religious beliefs, thousands more have been imprisoned, and many subjected to torture and demands for recantation of their religious faith; and

Whereas the Government of Iran has not only undertaken to deprive Baha'is of civil, economic, and social rights, but also has in many cases confiscated Baha'is community and personal property and denied access for Baha'is to education, employment, pensions, insurance, and other benefits available to other Iranians: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) continues to hold the Government of Iran responsible for upholding the rights of all its nationals, including Baha'is, in a manner consistent with that Government's obligations under international agreements

guaranteeing the civil and political rights of its citizens;

(2) welcomes reports of the recent release of Baha'is from prisons in Iran and takes note of the decline in the numbers of Baha'is and others executed in that country;

(3) expresses the hope that these developments may indicate a greater willingness on the part of the Government of Iran to act in a manner consistent with its obligations under the various international agreements to which it is a party;

(4) urges the Government of Iran to restore fully the rights guaranteed by the Universal Declaration of Human Rights, including freedom of thought, conscience and religion, education, and equal protection of the law; and

(5) calls upon the President—

(A) to continue to observe and report on developments affecting the Baha'is minority in Iran, and to monitor developments affecting Baha'is in countries in which their rights might be abridged on account of their religious beliefs;

(B) to cooperate with other governments in continuing to make appeals to the Government of Iran concerning the situation of the Baha'is;

(C) to initiate and support efforts in the United Nations and its agencies on behalf of measures to promote its agencies on behalf of measures to promote the protection of the religious rights of Baha'is; and

(D) to provide, and to urge others to provide, for refugee and humanitarian assistance for those Baha'is who flee their homelands for reasons of religious repression.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

● Mr. DODD. Mr. President, together with my colleague, Senator HEINZ, I submit today a Senate concurrent resolution to call continuing attention to the plight of the Baha'i religious minority in Iran. In this effort we are joined by 31 other Senators as cosponsors.

Most of my colleagues are painfully aware of the tragedy that befell this peace-loving community as a result of the takeover of Iran by the fanatically intolerant regime that continues to rule it. At the time that our country is about to complete the process of its accession to the Genocide Convention, it is instructive to recall that the possibility for actual genocide to occur has not been eliminated even to this supposedly enlightened age. It can be legitimately argued that measures taken by the Government of Iran against the Baha'i minority in recent years have, in fact, constituted the most recent example of this horrendous crime against humanity.

This is a particularly opportune day for the submission of this concurrent resolution. May 23, 1988, marks the 144th anniversary of the founding of the Baha'i faith. On this day, in 1844, in a small house in the city of Shiraz, Iran, the advent of the Baha'i faith was announced to its first disciple. It was the start of a decade of rapid spread but also intense persecution of the new religion. By 1850, that first disciple and 20,000 others met cruel and bloody deaths at the hands of the fanatical mobs incited by the Muslin clergy. The only crime of those early Baha'is, as of those in our time, was to profess belief in the divine authority of the peace-loving founder of the new faith.

Baha'is throughout the 160 countries and territories where they reside celebrate this day as one of the holiest of the year. Today they reflect on the past decade, when the successors of those clergymen continue to torment the small law-abiding Baha'i community, many of whose members are descendants of those who were killed 140 years ago. During the past 8 years more than 200 Baha'i leaders have been killed and the community has been outlawed. One of the first acts of the Government of the Islamic Republic of Iran was to demolish the small house in Shiraz, the site of the event that the Baha'is celebrate today.

Mr. President, it is time again to call the attention of the Government of Iran to the international norms of civilized behavior. The repression of the Baha'is has been eased somewhat recently, and our concurrent resolution takes note of that. Even one killing, however, in the name of religious intolerance is one killing too many. By supporting our concurrent resolution, our colleagues can take a small step in trying to restrain and eliminate religious intolerance from this world. I urge my colleagues to do just that.●

AMENDMENTS SUBMITTED

INF TREATY

HELMS EXECUTIVE AMENDMENT NO. 2113

Mr. HELMS proposed an amendment to Treaty Doc. 100-11, Treaty Between the United States of America and the Union of Soviet Socialist Republics on the elimination of their intermediate-range and shorter-range missiles; as follows:

In Article XVII, Paragraph 1, before the period at the end of the paragraph, add the following:

"provided, however, that the Parties understand and agree that the United States shall not exchange instruments of ratification until the President, without delegation, shall have certified to the United States Senate that, in his judgment, the number of SS-20 missiles reported by the Soviet Union as being possessed by it on November 1, 1987 pursuant to the initial data exchange under the Memorandum of Understanding, is a true accounting of the number of SS-20 missiles possessed by the Soviet Union on that date.".

HUMPHREY AMENDMENT NO. 2114

Mr. HUMPHREY proposed an amendment to Treaty Doc. 100-11, supra; as follows:

Add at the end of paragraph 1 of Article XVII of the Treaty the following new sentence:

"Notwithstanding any other provision of this Article or of any other Article or provision of this Treaty, its Protocols, or its Memorandum of Understanding, this Treaty shall not enter into force unless and until the Parties have also exchanged instruments of ratification of a treaty between them which reduces their strategic nuclear arms.".

NOTICES OF HEARING

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Service, Post Office, and Civil Service, of the Committee on Government Affairs, will hold a hearing on Thursday, May 26, 1988. The subcommittee will hear the Postmaster General.

The hearing is schedule for 2 p.m., in room SD-562, Senate Dirksen Office Building. For further information, please call Ed Gleiman, subcommittee staff director, on 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Mineral Resources Development and Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on May 23, 1988 to receive testimony concerning the Department of the Interior's royalty management program.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Monday, May 23, 1988. To hold an oversight hearing on the implementation of certain provisions of the Agricultural Credit Act of 1987, in the Jackson Farm Credit District.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

OCEAN DUMPING HURTING FISH

● Mr. LAUTENBERG. Mr. President, an area roughly 100 miles from the

New Jersey coast is the only remaining ocean dump site for sewage sludge in the United States. Nine municipalities continue to dump their sludge at this site. These municipalities argue that ocean dumping of sewage sludge does not have any adverse effect in the ocean environment.

Until this year, this same sludge was being dumped at a site 12 miles off the New Jersey coast. This sludge dumping was a significant cause of the severe environmental degradation of the New York Bight Apex.

So, it is not surprising that we are beginning to see adverse effects from the sludge dumping at the new offshore dump site. Fishermen are increasingly reporting declining catches and diseased fish in the dump site area. An article in the May 22 New York Times describes the problems fishermen are encountering at this dump site. This article clearly shows the threat posed by continued ocean dumping of sewage sludge and the need to take action this Congress to end the dumping. I ask that the article be included at this point in the Record.

The article follows:

Crab Shell Disease Found Widespread Near Ocean Dump

A disease that burns holes in the shells of lobsters and crabs has cropped up in undersea canyons north of New York City's newest and only ocean dump site for sewage sludge, prompting a Federal study of whether the dumping is harming marine life.

While state and Federal biologists say they do not yet have any evidence that the sludge is killing the shellfish, they say the illness, known as burn-spot disease, has been found among crustaceans at other sites where sewage is dumped offshore.

Lobstermen in Point Judith, R.I., say an unusually high percentage of lobsters and red crabs caught in undersea canyons about 70 nautical miles northwest of the dump site, which is 120 miles southeast of New York City, have the disease.

George Whidden, a lobster boat captain who has been a leader in efforts to stop the sewage dumping, said nearly 90 percent of the crabs and about 10 percent of the lobsters caught in Block Canyon since the dumping began are showing symptoms. A year ago, he said, the disease was unheard of that far out of sea.

He said his fellow lobster-boat operators reported that a number of lobsters caught in the canyons had dropped by 70 percent since the sewage dumping began in March 1987.

In burn-spot disease, chitinoclastic (shell-destroying) bacteria eat through the crustacean's shell, leaving holes that look as if they were burned with a blowtorch. Silt and mud enter through the holes and foul the gills, suffocating the shellfish, according to Bruce T. Estrella, a marine biologist for the Massachusetts Division of Marine Fisheries who has studied the malady.

Mr. Estrella said the bacteria, which breeds in the mud of lobstering grounds, often breaks out into an epidemic in the vicinity of sewage dumps or dredge spoils where large amounts of organic sludge collects, such as in Boston Harbor. In a healthy environment, fewer than 1 percent of lobsters will have the telltale holes.

Until now, Mr. Estrella said, burn-spot disease has seldom been reported in the relatively pristine waters at the edge of the Continental Shelf where the Point Judith lobster boats set their traps. The disease does not harm humans, but it makes lobsters and crabs inedible and kills large numbers of them. Red crabs, spidery-legged crabs that average about six inches across and live in waters 600 feet deep, are not usually eaten in restaurants, but are used in 'frozen crab cocktail and crabmeat stuffing.

LOBSTER PRICES SHOULDN'T RISE

Because there are still large lobster crops in Canadian waters, the price of lobster is not likely to rise soon, Ralph Boragine, executive director of the Rhode Island Seafood Council, said. But the drop in the catch could cripple the Rhode Island lobstering industry, which brought in hauls worth over $20 million in 1986 and may bring in as little as $6 million this season.

In addition, fishermen who ply the waters directly over the site insist the sewage is driving fish from the area.

One Rhode Island company, Seafreeze Limited, reports that catches of tile fish, butterfish and squid have plummeted 50 percent in the last six months, with some boats suffering drops of 70 percent.

The National Marine Fisheries Service, however, maintains there is no evidence the sludge is driving fish away and believes overfishing is a more likely explanation, said Christopher Mantzaris, a service ecologist.

E.P.A. PLANS SURVEY

Officials of the Federal Environmental Protection Agency are also skeptical of the lobstermen's claims, saying it is unlikely the shell disease is connected to the sewage because the canyons are 70 miles from the dump site and the dumping has not been going on long enough to have the drastic effects claimed by the lobstermen.

Nonetheless, the lobstermen's protests have prompted the E.P.A. to plan a shellfish survey next month in three of the canyons.

"The relationship of the disease to the dumping is not at all clear," said Henry Walker, a scientist with an E.P.A. laboratory in Rhode Island. "It's worth looking into to confirm whether it's happening or not near the 106-mile site."

In 1987, the E.P.A. ordered nine sewage authorities in New York and New Jersey, including New York City's, to stop dumping their sewage sludge at an 80-foot-deep site 12 miles off Sandy Hook, N.J., because the waters there were turned into a virtual dead sea. By January, they were dumping the 9 millions tons they produce each year in 6,000-foot-deep waters over the edge of the Continental Shelf, at a spot called the 106-Mile Site because it is that far off Cape May, N.J., the closest landfall at its latitude.

MOST CITIES BURN OR BURY

Federal legislation banned ocean sludge dumping in 1981, but New York and other communities sued for and won exceptions to the rule on the grounds that they had no affordable alternatives.

With the exceptions of Boston and Los Angeles, which pipe sewage into the ocean, the New York metropolitan region is the last in the country to continue ocean dumping.

Most cities treat the sewage to remove toxic metals and then either bury the rest in landfills or incinerate it.

In theory, the sludge dumped at the new, 130-mile-square site should quickly become so diluted that the contaminants cannot affect fish. Within 20 kilometers of the site, the ratio is 500,000 gallons of sea water to a single gallon of sludge, according to the National Oceanic and Atmospheric Administration.

BARGES SEEN DUMPING EARLY

But fishermen say they have often seen sludge barges, racing bad weather, dump their loads closer to shore. They also say that eddies spinning off the gulf Stream carry much of the sludge back onto the Continental Shelf and into the canyons where lobstermen harvest their catch.

Mr. Mantzaris, of the Fisheries Service, said of the fishermen's claims of declining catches: "There's no question about it, there's something happening out there. Ocean dumping may not be the sole cause of the problem, though."

Because of the large number of local industries flushing waste into the sewers, the sludge from New York and New Jersey is more polluted with pesticides, PCBs and heavy metals such as lead, cadmium and mercury than sewage from other cities, said Charles Ehler, chief of marine assessment for the National Oceanic and Atmospheric Adminsitration.

He pointed out that this sort of contamination is more likely to affect bottom-dwellers, such as tile fish, than nomadic species such as haddock and mackerel. It is catches of bottom-dwelling fish that have dropped the most. But he added that N.O.A.A. has not studied fish near the dump.

"POISONING THE HABITAT"

"We know chemicals have effects on individuals in fish populations, but what are the effects on the entire population? That's where we break down very quickly as scientists," he said.

Such hairsplitting is nonsense to people like Mr. Whidden, who has fished off the New England coast for 40 years and says he has never seen as many diseased lobsters and crabs as he has since the dumping started at the 106-mile site.

"We're poisoning the habitat," he said. "We're killing the habitat of everything on that coast."

Mr. Whidden is the leader of a rapidly growing group of fishermen on the Eastern Seaboard that call themselves the Coalition to Cease Ocean Dumping. Founded in April, the organization already has more than 800 members who have donated money to lobby against the dumping.

Responding to fishermen's complaints, the New England Fishery Management Council, a regional advisory board to the National Marine Fisheries Service, voted in April to urge the Federal Government to investigate the problem. New Jersey and Rhode Island legislators in Washington have sponsored bills that would end the dumping by 1991.●

THE NATIONAL STROKE ASSOCIATION

● Mr. ARMSTRONG. Mr. President, I would like to bring to the attention of my colleagues the excellent job that the National Stroke Association is doing to help victims of strokes. The National Stroke Association was founded in Denver, CO in 1984. It is a national organization which devotes all its resources to reduce the risk and occurrence of strokes.

In the United States, between 500,000 and 600,000 people will be stroke victims this year. One third of those afflicted die within 1 month; of the survivors, two-thirds will suffer some degree of permanent disability. Strokes affect not just the individual, but the entire family, because the family unit becomes the primary caregiver for the survivor. There are 2-3 million persons living with stroke after-effects in this country. Reports indicate that 90 percent of stroke survivors can benefit from rehabilitation therapy, while only a minority of them receive it.

The National Stroke Association provides a support network that assists stroke victims and helps their families cope with this national crippler. In addition to the educational assistance they provide, the National Stroke Association is national source for referrals, resources and networking around the country and abroad—a clearinghouse where stroke victims and their families can turn to for help, advice and support. It is the hope of the National Stroke Association that their efforts will increase public knowledge and foster public participation in the fight against strokes.

I am proud that the National Stroke Association calls Colorado home. They are to be commended for their dedication toward helping stroke victims.●

VINELAND VIETNAM VETERANS MEMORIAL

● Mr. LAUTENBERG. Mr. President, I would like to bring to my colleagues' attention an important event that is taking place in Vineland, NJ on Memorial Day.

On May 30, the community in Vineland, NJ will unveil the Vineland Vietnam Veterans Memorial. The monument is dedicated to the 15 courageous soldiers from Vineland who lost their lives in combat in Vietnam. It will be erected in Landis Memorial Park, a memorial park for Veterans who fought for our Nation. There, the names of the 15 Vineland Veterans will be appropriately remembered along with other brave New Jersey veterans.

I can think of no more appropriate time than Memorial Day to honor these courageous men from Vineland. Serving our Nation, they made the ultimate sacrifice. On Memorial Day and on every day these soldier's commitment and service must be remembered. That they put their lives on the line and fell in combat while serving in Vietnam must never be forgotten.

The names of the Vineland Vietnam Veterans who died in combat are Harry J. Sheppard, George W. Gaburo, Joseph F. Hayes, Louis J. Inferrera, James M. Frambes, Lance N. Jenkins, Carl C. Asselta, John E. Mount, Bobby Moorer, Richard W. Davis, John A. Kalivas, George C.J. Viehmann, Jr., Leo F. Green, Jr., Joseph O. Danna, and Garry Hermanson. The Vineland Vietnam Veterans Memorial will appropriately honor these men for their service. And it will ensure that their dedication to serving America will always be remembered.

Mr. President, the effort to erect this monument was initiated by a group of dedicated citizens from Vineland. With the assistance of my good friend Mayor Joseph R. Romano and Chairman Rick Hebert, these individuals organized the Vineland Vietnam Memorial Committee. The members of this committee are Mike Kuzma, Dottie Cullen, Edwin Gomez, and John E. Valenta. Many of them are Vietnam veterans, and they have been planning and raising money for 4 months so this memorial could be erected on Memorial Day. Since January, they have raised approximately $25,000 from the community in Vineland to honor these 15 Vineland men.

That their effort was so successful indicates the depth of feeling the community of Vineland has for the 15 soldiers from Vineland who lost their lives in the Vietnam war. It demonstrates the commitment of the Vineland community to honoring these 15 Vineland soldiers for the tremendous sacrifice they made for America.

But the Vineland Vietnam Memorial Committee did much more. In addition to building the memorial, they organized a scholarship fund for deserving students at local high schools. In memory of these men, a student from Sacred Heart High School and another from Vineland High School will each receive a $500 scholarship.

Mr. President, I congratulate the Vineland Vietnam Memorial and the Vineland community for their success with this tremendous initiative. On Memorial Day, I urge my colleagues to remember the 15 Vineland Vietnam veterans along with all of our Nation's veterans who lost their lives in combat.●

THELMA O'HARA

● Mr. McCONNELL. Mr. President, I rise today to insert into the RECORD a newspaper article that recently appeared in the Cincinnati Enquirer. The article features a good friend of mine, Ms. Thelma O'Hara, and details an event she attended that included a visit with our First Lady.

However, Mr. President, this article should not be misinterpreted as a news story about Thelma's tea with Nancy Reagan. The article is a feature about a remarkably dedicated woman who has tirelessly served her community and the Republican Party. As a charter member of the National Federation of Republican Women, she has worked very hard for years to keep my party strong in northern Kentucky.

Being invited to the White House may not fully compensate her for her years of service, but I can think of few people who deserve such an honor more than Thelma O'Hara.

I ask that the article be printed in the RECORD.

The article follows:

[From the Cincinnati Enquirer, May 12, 1988]

LOYALTY TO PARTY IS REWARDED; KENTON REPUBLICAN TO HAVE TEA WITH NANCY REAGAN

(By Dave Beasley)

FLORENCE, KY.—Thelma O'Hara's three decades of loyalty to the Republican Party is paying off.

On Tuesday, she will visit the White House to have tea with Nancy Reagan.

O'Hara, 79, will join about 150 other Regents of the National Federation of Republican Women (NFRW) at the affair in the state rooms of the executive mansion.

"I'm just happy to be going," O'Hara said Wednesday at her apartment in Colonial Heights Retirement Village in Florence.

O'Hara, a Kenton County native, became active in the state and county Republican parties 35 years ago.

In 1965, she ran for county clerk against Al Wood, who won and has held the office ever since. "I guess I did about as well as any Republican in Kenton County," she said.

She has been a vice chairman of the Kenton County Republican Executive Committee and treasurer of the Kentucky Federation of Republican Women.

Before the tea, government officials will brief the women on national and international affairs.

O'Hara said she has been a charter member of the NFRW since it was founded in 1979. Members donate $1,000 a year to the federation.

Although not a delegate, O'Hara plans to attend the Republican national convention as an observer. "They treat Regents royally," she said.●

LIFE AFTER AGENT ORANGE

● Mr. KERRY. Mr. President, last night many Americans watched a moving television film entitled "My Father, My Son." This film tells the true story of the tragedy caused in one American family by agent orange. It depicts the family of Adm. Elmo Zumwalt, Jr., who was chief of naval operations in Vietnam, and his son Elmo III, who was a swift boat commander in the brown water navy in Vietnam. It is a film that all Americans should see.

Admiral Zumwalt was the commanding officer who gave the order to use the defoliant agent orange in Vietnam in an effort to save the lives of American troops. His son Elmo, who was exposed to agent orange in Vietnam, is now suffering from two types of cancer. "My Father, My Son," based on a book by the Zumwalts, shows how the decision to use agent orange was made in Vietnam, and the agonizing consequences which were caused by that decision.

Elmo Zumwalt III, is one of thousands of American veterans who are now suffering from diseases linked to exposure to agent orange in Vietnam. His son Russell is one of many children of Vietnam veterans suffering from birth defects and disabilities, also linked to agent orange. It is sad to say that none of these veterans or their families are yet receiving any compensation from our Government for diseases caused by exposure to agent orange in the line of duty in Vietnam. The Veterans' Administration stubbornly continues to insist that there is no evidence that agent orange caused harm to Vietnam veterans. If the VA needs any more evidence, they should ask veterans like Elmo Zumwalt.

On May 12 of this year, Admiral Zumwalt testified before the Senate Veterans' Affairs Committee on the subject of agent orange. He referred to veterans who are suffering from diseases caused by agent orange as "walking time bombs." And he said, "As one who shares personal responsibility for the use of agent orange, I believe the time has come for this country to make some compensatory amends."

Senator Tom Daschle and I have introduced legislation, S. 1787, which would compensate Vietnam veterans like Elmo Zumwalt III, who are suffering from diseases caused by agent orange. Anyone who has seen "My Father, My Son" will understand that the Elmo Zumwalts of this country deserve our respect, our gratitude, and our support. They have borne an unfair burden with great courage. We should not abandon them in their time of need. The least that we can do is recognize our obligation to them, just as they recognized their obligation to serve their country.

I ask that an article from the Washington Post of May 22, entitled "The Zumwalts' Bond: Life After Agent Orange," be printed in the Record.

The article follows:

[From the Washington Post, May 22, 1988]

The Zumwalts' Bond: Life After Agent Orange

(By Patricia Brennan)

"I asked the right questions—but I got the wrong answer," the retired admiral explained.

And so, acting on the belief that the defoliant Agent Orange was nontoxic to humans, the chief of naval operations (CNO) in 1968 ordered that the herbicide, with deadly dioxin, be sprayed on the jungles of Vietnam where Americans in river patrol boats were being ambushed by Viet Cong guerrillas.

One of these men was his son and namesake, Elmo R. Zumwalt III, who had eschewed what could have been the safety of a desk job in favor of hazardous duty. Young Zumwalt swam through river water doused with Agent Orange to collect weapons from a convoy of Viet Cong boats, winning over a hostile crew that had called him "the little admiral" and "brass brat" behind his back.

Fourteen years later, as a 36-year-old lawyer with two children, he was diagnosed with an incurable form of lymphoma. A year afterward, he also learned he had Hodgkin's disease. Both father and son believe that the cancers, as well as Elmo's son's severe learning disability, are directly linked to the younger man's exposure to Agent Orange.

"We reduced casualties tremendously," said the admiral in 1986. "As soon as we started the defoliation, the numbers decreased dramatically. Literally thousands were saved from being killed or maimed as opposed to [those] that are in Elmo's circumstances. I believe there's an excellent probability that Elmo wouldn't be here if I hadn't used Agent Orange."

"We were both doing our duty as we saw fit," said the younger Zumwalt.

But since the 1974 retirement of the Navy's youngest-ever CNO, his on-going battle has been for the life of his elder son. The father threw himself into the fight, weeding through life insurance policies to find ones that would insure a cancer victim; searching for the best medical care, the latest advancements.

Together they told their story in "My Father, My Son," written with John Pekkanen and published two years ago.

Tonight, this highly personal tale of Vietnam comes to CBS in a two-hour story starring Karl Malden and Keith Carradine.

"We had, under the contract, airtight control over accuracy, " said Zumwalt, now 68. That was never a problem. They really were very diligent, to be as accurate as they could."

The casting is another matter. "Karl Malden had a little bit of trouble looking like a lieutenant commander in the early days. But 30 years and a few pounds later, he looked just like me."

Viewers who recall Zumwalt's distinctive flyaway eyebrows and brilliant smile may disagree. As CNO, he allowed his men to grow beards and sideburns, but insisted that they pare off the pounds, and ran to stay trim himself.

Malden, 75, bears little resemblance to Zumwalt, but he won an Oscar in 1951 for his role in "A Streetcar Named Desire" and in "Patton" played Gen. Omar Bradley.

Carridine, on the other hand, looks a little like the younger Elmo. "They're both slender and tall, rather sharp features," said the admiral. "I think he was a very good representation. The lady who plays his wife, Kathy [Margerate Klenck] very much resembles Kathy. They found the right accent for my wife."

Mouza Coutelais-du-Roche, born in Manchuria of a White Russian mother and French father, met the man who would lead his country's navy in 1945 at a dinner party in Shanghai. He had captured a Japanese gunboat and was helping clear the Yangtze River of Japanese mines. Three weeks later, they were married; Elmo III arrived nine months afterward.

CBS' story is largely that of the two men, devoted to each other and to their families. The parent saw the son through childhood polio and open-heart surgery; the son followed, briefly, the father's choice of career. Elmo's wife and children are part of the movie (proceeds from the book and movie go into a trust fund for them) but the admiral's wife, Mouza, younger son Jim, and daughters, Mouzetta and Ann are very briefly portrayed.

"Ann, the number-three child, is a registered nurse married to a doctor," said her father. "They have a 3-year-old daughter Jim—he was a Marine; he served in the Vietnam theater, and he's now a lieutenant colonel in the Marine Corps reserve and a practicing lawyer in Northern Virginia."

Zumwalt allows himself a small joke: "Son Jim told me right after Ann married the doctor that I now had two lawyers to keep me out of jail and a registered nurse and a doctor to keep me well, and I should marry Mouzetta off to an auto machanic."

Mouzetta, who painfully provided a thousand cubic centimeters of bone marrow for her brother, didn't marry an auto machanic. But her husband, Ron Weathers, was an engineer working for a company that supplied automotive components. They live in Raleigh, N.C., where he now works for Carolina Power and Light and she sells office supplies.

Last December, CBS finished filming the Zumwalt's story, concluding with what appeared to be the excruciating, risky but successful bone morrow transplant.

But Elmo Zumwalt's cancer returned almost immediately, for the fourth time.

"He initially came down with a form of lymphoma . . . that is considered always incurable with a median lifespan of eight years," said his father. "In January '85, a second form of Hodgkin's came upon him. He then went on nine months of an eight-chemical combination to try to cure the Hodgkin's and impede the lymphoma. In fact, the Hodgkin's was so virulent that it came back in 10 days after the treatment. The oncologists felt that he had very limited time left. The radiologist encouraged him just to think in terms of some radiation to ease the pain.

"But we chose [In February 1986] instead to take the gamble of the bone marrow transplant . . . Elmo got an additional year out of that before his cancer came back . . . It was the Hodgkin's that came back and interestingly enough, the so-called 'incurable' never showed up again.

"The bitch of it is that Hodgkin's can be cured 80 percent of the time, but in 20 percent of the cases it cannot. When his came back in January of '86, he went on a seven-month protocol . . . which put him into remission in August. By Christmas of last year his cancer had returned.

"He has just now finished the fourth form of chemotherapy, a very poisonous platinum-based combination that has again moved him toward apparent remission. There's no sign right now of any Hodgkin's. But there's probably only one chance in a thousand that he's cured, and so in about three or four months the battle will start again."

Until then, Elmo Zumwalt III, 42, remains in Fayetteville, N.C., where he had set out to practice law. "The doctors continue to be amazed at how well he's come back," said his father. "When he had to start chemo in January, the doctors weren't sure he could get through the first round, and he actually had four successive rounds of it, and does amazingly well."

Elmo's son, Russell, now 11, is a victim of a severe learning disability that his grandfather says is also a result of Agent Orange residue his father absorbed.

"We've retired so very many veterans who have quite similar problems and a much larger number [whose children] have other birth defects of one type or another," said Zumwalt. "The tests on animals . . . don't necessarily establish that it was genetic change but that there possibly was some damage to the sperm. You see that in other veterans' families. Some have had several children, but in the cases we've looked into there often has just been one child who had a problem."

[A report released May 11 by the Centers for Disease Control confirms that Vietnam veterans suffer lower sperm count than men who did not serve there and that their children are more likely to have more birth defects.]

"I guess of all the various forms of defects, Russell's is about the least worse because he's continuing to make progress. It's an almost infinitely difficult problem in focused concentation. Any kind of distraction, such as sitting in a room with different colors, or noise, immediately takes his focus away from what he's listening to. The doctors have described to me the problem you or I would have if we were sitting in a room with 100 discordant instruments and lights flashing on and off. If he gets too unfocused, you wrap him in a blanket and squeeze him and then unwrap him and he's all right for a while."

Elmo and Kathy Zumwalt's daughter, Maya, 13, is healthy. To Jenny Lewis, who portrays her, is given one of the film's most poignant moments, when she assures her father that if he dies, she will come to visit his grave every day. "She really said that," said her grandfather.

Kathy Zumwalt, once active in the antiwar movement, comes in for praise from her father-in-law. "Kathy has just been heroic. In the beginning she was by nature rather dependent. She's become so strong, so aggressive in looking out for him, in making sure he doesn't forget his medicines, providing high-calorie foods to keep his weight up and all that.

"She was never the kind that blamed the veterans, but she very strongly opposed the war, because she believed that war is immoral. I was opposed because I didn't think we could win that war in that country. I strongly supported the idea that we had to stop the spread of the Soviet-Chinese system, but that we should do it in Thailand, Malaysia, Indonesia, the Philippines. In my judgment we had a two-Vietnam solution that would have worked, the way the two-Korea solution worked in that war, the two-Germany solution worked in World War II, but we lost it in the United States . . ."

Today, Zumwalt sits on the boards of several companies, but arranges to be with his son during his chemotherapy treatments. It is the battle that the retired admiral very much fears losing.

"It's a tragedy that we live with every day," he said, softly, in an interview last week. "It kind of helps to talk about it."

CAPITAL GAINS AND VENTURE CAPITAL SHIFT

● Mr. BOSCHWITZ. Mr. President, I and many of my colleagues, both Democrats and Republicans, have for some time been seeking to alert members to the likely negative consequences of eliminating the capital gains exclusion when the Tax Reform Act of 1986 was enacted. Now we have evidence that the adverse effects of eliminating the capital gains exclusion are coming to pass.

In an editorial, "Venture Capital's New Look," which appeared in the Wall Street Journal on Friday, May 20, 1988, Michael Schrage demonstrates how "Washington's misguided tax policies have put U.S. investors at a disadvantage when it comes to investing in America's future." According to Mr. Schrage, elimination of the capital gains exclusion has undermined U.S. investment in new business financing at precisely the time when the foreign appetite for high-technology growth companies is growing. The upshot, according to Mr. Schrage, is that "it is becoming easier for a talented American high-technology entrepreneur to get seed money from a Japanese, Korean, German, or British firm than from Silicon Valley or New York.

Changes in the treatment of capital gains have prompted venture capitalists to reassess their investment strategies. According to Steven Gilbert, who heads Chemical Bank's venture capital fund, "I am being penalized for being a long-term investor. * * * We're hesitant to look at start-ups under the current tax system." This reassessment has created an enormous opportunity for foreign companies to fill the startup capital void.

Mr. President, heretofore, I have urged capital gains reform because it would stimulate economic growth and lead to the creation of new jobs for Americans. This editorial poses a separate dilemma inasmuch as foreign investors are acquiring an increasing share of America's technological know-how simply by providing much-needed capital to our entrepreneurs who cannot obtain it from U.S. sources.

The issue it seems to me is whether the U.S. Government wants more and more of its bright stars to receive their financial support from foreign investors who may be outside of our taxing authority, or whether we want to encourage taxpayers to make long-term investments which may or may not yield a return that exceeds the rate of inflation. I support the latter option and urge my colleagues to carefully consider the ramifications of continuing policies that drive American entrepreneurs into the hands of foreign investors.

Mr. President, recently I helped organize the Capital Gains Coalition as a first step in the effort to reduce the tax rate on capital gains. The points raised in the attached editorial underscore the urgency of our efforts.

Mr. President, I ask that the editorial I have referred to in my remarks be printed in the RECORD.

The article follows:

[From the Wall Street Journal, May 20, 1988]

VENTURE CAPITAL'S NEW LOOK

(By Michael Schrage)

What makes Kubota, an Osaka-based tractor company, smarter than Congress and the White House?

That's easy: a sense of risk, a genuine appreciation of American high technology and an understanding of capital formation—a few things Washington seems to have ignored even as the politicos chant election-year pieties about "making America competitive."

Kubota looks smart because it became the largest investor in two well-regarded high-tech start-ups in the U.S.—MIPS, a leading microprocessor design house, and Ardent Computer, a superminicomputer firm run by several of America's brightest computer architects. Kubota now has direct access to these world-class technologies.

While the cheaper dollar certainly made it easier for Kubota to buy American, Washington's misguided tax policies have put U.S. investors at a disadvantage when it comes to investing in America's future. This is particularly true in the case of emerging technology companies.

The 1987 elimination of the capital-gains differential by the Tax Reform Act of 1986 has undermined U.S. investment in new business financing at precisely the time when the foreign appetite for high-technology growth companies in the U.S. has been stimulated by both strategic desire and currency opportunity. It is becoming easier for a talented American high-tech entrepreneur to get seed money from a Japanese, Korean, German or British firm than from Silicon Valley or New York.

"A VERY BIG SHIFT"

The U.S. "removed the incentive for American venture capital to make start-up investments," asserts Hsu Ta-Lin, who handles venture-capital investments both in the U.S. and in Pacific Rim countries for Hambrecht & Quist in San Francisco. "The trend is not good."

"The type of deals being done is very much affected by the Tax Reform Act," asserts David Marquardt, a general partner at Technology Venture Investors, a Silicon Valley venture-capital firm. "There's been a very big shift to later-stage stuff."

While other industrialized countries have been lowering capital-gains taxes for individuals in the past few years, or have never had them, the U.S. has been the exception. The picture for corporate investors, however, is quite different. Most foreign firms don't enjoy a capital-gains differential at home, which helps explain the relative lack of seed capital there. In the U.S., capital gains by corporations and individuals are treated equally.

Once a uniquely American preserve, venture capital has been quickly joining the ranks of globalized industries. The success of such venture-backed companies as Apple Computer, Genentech, Tandem Computer, Sun Microsystems and Lotus Development Corp. has spawned a tremendous amount of interest and investment from overseas. European and Asian nations alike recently have been trying to create homegrown versions of Silicon Valley—and aggressively participate in America's new ventures.

Nothing ominus here—except that America's venture-capital industry has been restructuring itself in a way that is eroding its historic role as a source of seed money. This has created an enormous opportunity for foreign companies to both fill the gap and get in at the start of new technology cycles. Venture capital's new look is due in no small part to the absence of a capital-gains differential.

"You might as well go for the safer and more current return because you do have the time value of money," says Steven Gilbert, who heads Chemical Bank's $250 million-plus venture fund. "I am being penalized for being a long-term investor. . . . We're hesitant to look at start-ups under the current tax system."

Outside of portfolio diversification, there is no economic incentive for an investor to take a long-term position in an emerging technology company instead of buying shares over the counter or funding a leveraged buyout.

So venture capitalists have been putting a greater share of their money in later-round financings and LBOs. In 1985, according to Venture magazine, the top venture funds put roughly $481 million in LBOs; in 1987, that number totaled more than $1 billion. Late-stage financings totaled $540.6 million in 1985; in 1987, the volume was $988 million. While seed funding in that period rose from $432 million to $550 million, much of the new money went into non-technology start-ups, such as specialty retailing chains and consumer goods. High-tech funding was flat. Essentially, America's venture capitalists have been substituting financial risk for technical risk.

"There's no marginal incentive for start-ups," says TVI's Mr. Marquardt, who funded Sun Microsystems and Microsoft in their earliest stages. In addition, the initial successes of the venture industry in the first half of the decade have led to an excess of "megafunds"—venture pools with hundreds of millions of dollars to invest. The sheer size of these funds has, in many instances, transformed seed capital from a primary activity to a marginal one. William von Meister, a Washington-based entrepreneur, recalls one New York venture fund declining seed deals in 1987 with the argument: "No way—it takes just as much time and attention doing a $500,000 deal as it does a $5 million deal."

Mr. Gilbert of Chemical Bank says: "To a certain extent, the abandonment of the seed-capital market has made the entrepreneur more receptive to foreign capital. If I'm an entrepreneur who's been walking around with a business plan and there's a Japanese firm willing to fund it . . . well, why not?"

"Foreign investors are much more sophisticated now," says Hambrecht & Quist's Mr. Hsu, who notes that as recently as three years ago, most foreign investors shunned risky start-up opportunities in favor of apparently safer investments in more established technology firms. Today, these investors want to get in on the ground floor.

Another fundamental shift has been a trend toward disintermediation and direct investment by foreign companies in start-ups. In the past, foreign investors were more than happy to reap the generous returns that America's top venture-capital funds could yield.

"We are dealing with different kinds of investors now," says Sumiko Ito, who formerly handled U.S. venture-capital activities for Nomura Securities and now works with Japanese investors for Alex. Brown, the Baltimore investment bank. "Large companies have an appetite for new technologies—they perfer direct investment."

Ms. Ito sees Japanese investments driven mainly by strategic concerns, not just the strong yen or tax considerations. She anticipates a "doubling or tripling over the next year or so" of seed investments in the U.S. The companies want access to technology they can get only in America.

"The game has completely changed," declares Hambrecht & Quist's Mr. Hsu, "because these investors aren't solely concerned with return on investment."

What's more, international tax accountants note that foreign investments in the U.S. can be structured to bring the capital-gains tax bite closer to zero than 28%. "As long as you avoid real estate, foreign investors can usually avoid paying significant capital-gains taxes, depending upon the exemptions in the tax treaties," Says Andre Fogarasi, an international accountant with Arthur Andersen & Co.'s Washington office. Consequently, tax considerations have only a marginal impact on a foreign corporation's decision to invest.

By contrast, U.S. venture-capital funds, corporations and their investors are more bottom-line oriented. Success is measured by return on investment.

POLICY GOALS

The issue is as much one of philosophy as economics: Should tax policy reinforce the U.S. investment community's predilection for short-run returns? Or should it encourage longer-term investments that hold the promise of wealth creation?

If all income shouldn't be treated equally, then simply creating a capital-gains differential isn't enough. The tax should be crafted to encourage investors to be rewarded for taking the longer view. One approach would be to create a sliding-scale capital-gains tax over seven years that would have a two-year holding period at the 28% level and then would ratchet down to 10% by the end of the seventh year. Harvard Business School Profs. William Sohlman and Howard Stevenson, who have informally proposed a variation of this, believe a sliding scale would encourage more direct corporate investment in new ventures, as well as rekindle the interest of venture-capital firms.

Clearly, America's entrepreneurs are going to explore all their options when they launch their companies. It would be wise policy to encourage American investors to take the long view for investment opportunities.●

LET'S NOT RISK EUROPEANIZING OUR ECONOMY

● **Mr. HUMPHREY.** Mr. President, last summer, prior to the Senate debate on mandatory plant closing and layoff legislation, I inserted a series of articles in the RECORD detailing the experience the Europeans have had with their mandatory prior notice of closings and layoff laws, or "redundancy" laws.

The European experience of flat, or even negative, jobs growth following enactment of redundancy laws should be considered carefully before Congress acts on similar legislation.

According to the Bureau of Labor Statistics, since 1970, the U.S. economy has produced some 33,762,000 net new civilian jobs (through 1987), a 43-percent gain. (112,440,000 jobs in 1987; 78,678,000 jobs in 1970.) This remarkable achievement stands in sharp contrast to the 3-percent gain of the European Community [EC], which managed a net increase of only 3,464,000 jobs during the same period (123,670,000 jobs in 1987; 120,206,000 jobs in 1970). Two of the largest European economies, West Germany and Great Britain, have actually lost jobs since 1970, and a few others have barely managed to stay even.

Why has the United States economy emerged from the economic difficulties of the 1970's in better shape than the European economies? The effect of the European redundancy laws enacted pursuant to a 1975 directive of the European Community [EC], and in force since 1977 cannot be discounted. These laws collectively have produced rigid economic responses, with an artificial emphasis, unrelated to efficiency, on developing machines to replace labor in lieu of creating new production jobs. Hence, job abatement and stagnating economies.

Europe's poor economic performance over the last 18 years has driven unemployment to intolerable levels. While the United States unemployment rate has fallen to pre-oil embargo levels, European unemployment rates remain high by historical standards, with the U.K. and France still above or near the double-digit level.

European jobs growth has been stunted. Consequently the Organization for Economic Development and Cooperation [OECD] is reexamining fundamental labor policies and recommending a relaxation of prior notice laws and practices. Many European intellectual leaders are now looking to the demonstrably superior United States model to emulate for jobs creation.

Why we would want to risk the Europeanization of the American economy is beyond me. Yet, such a proposal is being contemplated in this country even as European governments are fast trying to rescind their redundancy laws.

Imagine how different America would be if our jobs growth had followed the European pattern these past 17 years: An annual jobs growth rate below two-tenths of 1 percent is not my idea of a land of opportunity and upward social mobility!

Mr. President, last week two perceptive viewers brought out the dangers of taking any steps leading to a Europeanized American economy, and risking the shut down of the American jobs machine. I ask that a Wall Street Journal editorial dated May 13, 1988, and a column by William Safire that appeared in the New York Times of May 12, 1988, be reprinted in the RECORD.

Congress owes the American worker more thoughtful lawmaking than merrily repeating European policy mistakes.

The articles follow:

[From the Wall Street Journal, May 13, 1988]

JOB POISON

Out on the stump, George Bush is denigrating his Democratic foes for "talking about pink slips and job closings." He says

Michael Dukakis "can talk about pink slips, I want to talk about competitiveness." As for the advance notice required by the plantclosing provision in the trade bill, "all that does is guarantee misery. I'm for plant openings."

Keep at it, Mr. Vice President. Most of his Republican colleagues are cowering wimpishly before organized labor's TV-ad onslaught. This bit of demagoguery features a line about golden parachutes for the bosses and nothing for the workers—as if there were somewhere a law mandating golden parachutes, or prohibiting labor from seeking whatever notification and severance procedures it wants through collective bargaining. If the AFL–CIO big shots want this provision, why don't they take it to the bargaining table instead of the TV spots?

Well, it's because labor's bargaining clout is dwindling as its membership declines in the face of roaring job creation. Labor has figured out that both it and its Democratic allies prosper when jobs are scarce, and lose market share when jobs are plentiful. And the kind of advance-notice provisions labor is now backing are guaranteed to make jobs scarcer.

Such provisions are already commonplace in Europe, as Walter Mossberg recently pointed out in a front page Outlook column. Indeed, when Europeans tell you their economies can't grow any faster because of "structural problems" and "rigidities" what they chiefly mean are laws and union agreements making it prohibitively expensive to close plants, order layoffs or even fire malingerers. The plant-closing provisions would be a first step toward a European-style labor structure.

Unhindered by such things as the plant-closing provision, the American economy has been creating jobs hand over fist. Since November 1982 says the Labor Department, the U.S. has created nearly 16 million jobs, more than Europe and Japan combined. Nor have these been lousy jobs—all maids and clerks. Since 1982 the number of minimum-wage jobs has fallen by 25%, while those paying more than $10 an hour have climbed by 67%. Real per capita disposable income has climbed 14.4% since 1982. Manufacturing employment, the great worry of the "economic nationalism" crowd, has been rising for two years; even parts of the Rust Belt are suffering from a labor shortage.

Europe, with the benefit of plant closing provisions and the rest of the apparatus that they presage, suffers from a new-jobs crisis and chronic unemployment. The reasons for this are anything but a mystery. These kinds of laws convert labor into a fixed cost, which business planners must go to great lengths to avoid. If you have to give a worker something close to lifetime employment, it becomes harder to start a new venture, harder to expand a growing one, and so on.

The most pernicious effect, though, is on the pattern of capital investment. Investments are not undertaken to improve efficiency or exploit new technology; the whole game becomes labor substitution. European industrialists spend their waking hours trying to find machines, which they can buy once, to replace workers, who have to be paid forever. So instead of creating jobs, investment destroys them.

Within his own horizons, by the way, Governor Dukakis seems to understand this well enough. His own Massachusetts administration made similar points in opposing a state mandatory plant-closing law in 1983. "There is no doubt a competitive disadvantage would occur," said Evelyn F. Murphy, Mr. Dukakis' secretary of development and manpower affairs, in testimony before the state Legislature. "The state's competitive edge would be quite damaged by this bill." Mr. Dukakis now backs a mandatory plant-closing law for the nation. Apparently no one has told him about international competition, let alone that the open U.S. labor markets are one of its great competitive advantages.

Now, we can understand Governor Dukakis, who has his party's nomination to win, and we can understand the labor chiefs, who don't want their jobs to dwindle out from under them. But we can't understand the Republicans, who can't seem to cope with some fair-sounding but boneheaded proposal and a little television demagoguery. If the GOP has learned nothing from its own administration's success at job creation, it deserves to dwindle away like the Whigs and mugwumps.

[From the New York Times, May 12, 1988]

LAY OFF THE LAYOFF

(By William Safire)

"We've got to be out of our minds," says a Republican pol. "Here we are with the blue-collar vote up for grabs, and we hand Dukakis his dream issue—notification of plant closings. We're for the bosses, he's for the workers. Whatsamatter, can't Reagan count?"

Certainly it seems a peculiar place to draw a line in the sand. The trade bill is about to be vetoed because it requires businesses of more than 100 employees to notify workers 60 days in advance of plans for layoffs or plant closings.

Opposition is ridiculed as the arrogance of heartless richies. As television newscasts and A.F.L.-C.I.O. radio spots present the issue, why shouldn't bosses with their "golden parachutes" of lavish severance pay be required to give average working stiffs some warning of layoffs? Why shouldn't communities be tipped off to help them prepare for downturns?

Here's why: Economic arguments between management and labor should be worked out between those two interests, and not decided by the Federal Government and the courts.

(That answer has no sex appeal. Try another.)

When a business is in trouble, and the interests of its many stockholders must be protected, it needs the flexibility it now has to cut costs quickly. The last thing a struggling enterprise needs is the dead hand of Uncle Sam delaying its hard decisions; if the company cannot cut back without inviting lawsuits galore, the whole company—with all its jobs—could more easily go bankrupt.

(That's a little better, but it still won't fly in an election year. Don't our trading partners in Europe have mandatory advance layoff notification?)

Now we have an opening for a comparison that might make people think twice. In the past decade, while Europe has been stagnating, the U.S. has added 18 million jobs. In France, most managers have no right to fire a worker without wading through miles of red tape. Some executives call themselves "forty-niners" because they stay under the limit of 50 workers to avoid government restrictions. Larger businesses choose to be understaffed rather than to invest in hiring to help the company grow.

If we had a no-firing-so-fast law here, businesses would be encouraged to play it safe: instead of creating real new jobs, they would use more overtime, or consultants, or part-timers. Why hire somebody permanently you may be stuck with?

Now comes the nose-under-the-tent argument. The bill's sponsors claim this won't apply to small business, or force companies to take losses until they go under. Not yet.

It's in the nature of this kind of legislation to expand. Today, 22,000 companies with more than 100 employees; tomorrow, hundreds of thousands more, affecting small professional firms as well. Today, 60 days' notice of layoffs of 50 or more; tomorrow, six months and six people.

At a time when the Soviet Union and China are experimenting with layoffs, having discovered that central control strangles an economy; at a time when the American system is driving down unemployment to decade-low rates—why are we threatening the source of our golden eggs? As Bert Lance says, "If it ain't broke, don't fix it."

Many big companies already have agreements to notify workers in advance of layoffs; that's partly what unions are for. And giant corporations don't want to alienate entire communities, whose citizens would rightly holler across the nation's television screens at an unnecessarily sudden closing; cruelty ain't good business.

This law would hit the medium-size company already in trouble, reducing its chances for survival. No chance for bravely smiling through; competitors would be notified that loyal customers can be snatched, and bank credit would dry up when most needed.

Who would gain from this intrusive law? Not organized labor in the long run—as Federal law takes over business decision-making, the need lessens for collective bargaining. Not workers in general: it would depress the job market. This would be a bonanza for lawyers, who will clasp to their bosoms the yuppies so cruelly laid off in Wall Street, thereby generating fees to settle suits of lawyers laid off by the law firms. It would be welcomed by bureaucratic managers who like to relax and let the Government and courts make decisions for them. Good-bye, competitiveness; hello, managing judge.

Practicality and principle cry out for sustaining a veto of this populist pap. Why can't Mr. Reagan make the case and turn the public-opinion tables? The fault, dear Brutus, is not in our stars . . .●

SDI MILESTONE PANEL REPORT

● Mr. JOHNSTON. Mr. President, on Friday the Department of Defense released the SDI Milestone Panel's report on SDI, dated May 1988. This panel of distinguished members, chaired by Mr. Robert R. Everett, recommends in this report that the SDI Program be replanned and that SDI's phase I program should be restructured to become a multistepped process, consisting possibly of six steps. Many have no doubt read news accounts of this so-called Everett Report and I know that in the Defense Appropriations Subcommittee Secretary Carlucci has referred to it, because I asked him about it there. Well, now we have the report itself and I encourage each of my colleagues to read it.

The restructuring of SDI to conform to fiscal and technical reality is inevitable, and I believe imminent. Consequently, the days of phase I are numbered. This panel's report will do much to force that restructuring. Three staff members who work for Senators PROXMIRE, BUMPERS, and I have written a lengthy classified staff report, the third in a series on SDI that explains why the current program cannot continue on its present course. That staff report is still being reviewed by SDIO for classified material, but we expect that report will be available in an unclassified version in several days. The classified version has already been sent to three committees on the House and Senate side. It makes a compelling case that SDI must be rethought from top to bottom.

There are several points that need to be highlighted to the Everett Report. First, the panel has little enthusiasm for the prospects for SDI's phase I as it is now scheduled. The panel says the current schedules are very uncertain, because of technical uncertainties and funding uncertainties. You will recall, Mr. President, that the administration decided that a comprehensive defense system should not be built all at once. Rather, it should be phased in, and phase I is just the first step in a series of deployments that would eventually lead to a comprehensive system, or so it is hoped.

As announced last fall, phase I will be a thin ABM system consisting of space-based interceptors, ground-based ERIS interceptors, sensors, and a battle management and communications system. This system will cost, SDIO estimates, $75 to $150 billion. The Milestone Panel report said that it was very risky to do even that first phase all at once. They said it should be accomplished in discrete steps and they suggested a sequence of six steps beginning with an ABM Treaty compliant, 100-interceptor deployment at Grand Forks, ND. Placing weapons in space would not come until the fifth step.

Second, the panel was quite measured in their description of what an initial stepped deployment of 100 interceptors might accomplish. It would not only be very thin, but it would not protect even the entire continental United States, much less Hawaii and Alaska. Referring to the first step, the panel said, "It would be a limited deployment and as such would have limited capabilities, but it would provide some preferential defense as well as some protection against accidental or third country attacks or blackmail attempts." Currently, there is no Joint Chiefs of Staff requirement for such a system. In my opinion, given our other pressing military requirements, protection from accidental, unauthorized, or third country attacks is unlikely to acquire such an endorsement from the military.

There is some discussion in the report of moving the base for these interceptor missiles from Grand Forks, ND, to Washington, DC, to prevent decapitation strikes against our National Command Authority. I see no small irony in the idea that President Reagan's Star Wars concept might wind up becoming a missile defense of Washington, DC.

Third, the Panel's views on the ABM Treaty are worthy of careful attention, because they mince no words. They say that the issuance of the so-called broad interpretation of the ABM Treaty has backfired. Instead of facilitating SDI testing, it has created a straitjacket on the testing program. The report says:

> There is not a force acting on the SDI program that is more damaging or more insidious than the present debate on the "narrow vs broad" interpretation of the ABM Treaty.

I would certainly agree that the broad interpretation backfired. The problem is that it was publicly announced before it was thought through or discussed with our allies, the Congress, or the experts. However, I seriously question the panel's recommendation for extricating the administration from the mess they created. The panel says that

> DOD should define a technically optimum testing and deployment program and should then adhere to that program except when Treaty constraints require it to [do] otherwise. The DOD should place the burden of proof on those who would restrain the program."

That to me is an invitation to congressional microexamination and micromanagement of the SDI Program, something we have, heretofore, avoided.

Fourth, and finally, the Everett Panel conveyed their concern about the financial and political uncertainties that surround the program. They quite correctly noted,

> These uncertainties lead to unrealistic schedules and to a wasteful process of replanning as funding changes.

In my view the sooner the administration conforms SDI to realistic goals and realistic budget requests, the sooner the repetitive replanning and waste will end.

Congress has already laid out the proper direction for SDI in their joint resolution (H.J. Res. 395) adopted in the continuing resolution last year. That direction is toward far-term research, not toward deployment for deployment's sake.

I don't agree with everything in the Everett Panel's report. In fact I disagree with the direction in which they would send SDI. Yet I commend this report to my colleagues because it correctly describes the state of turmoil SDI is in and the necessity for new directions.

I ask that the report of the Defense Science Board Task Force Subgroup on Strategic Air Defense [SDI Milestone Panel], May 1988; a memorandum for the Secretary of Defense Undersecretary of Defense (Acquisition) dated April 13, 1988, from Robert R. Everett; and a list of the members of the Strategic Defense Milestone Panel of the DSB be entered in the RECORD at this point.

The material follows:

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, April 13, 1988.

MEMORANDUM FOR SECRETARY OF DEFENSE, UNDER SECRETARY OF DEFENSE (ACQUISITION)

Subject: Report of the Defense Science Board Task Force Subgroup on Strategic Air Defense (SDI MILESTONE PANEL)—INFORMATION MEMORANDUM

Attached is the report of the SDI Milestone Panel. We have reviewed the SDI Program and recommend that the Program be replanned as a number of steps leading to a Phase One system capable of meeting the JCS requirement rather than as a single major action.

We will be pleased to meet with you to discuss the report, if you so desire. We believe we have completed the task you gave us but stand ready to continue our work if you so desire.

ROBERT R. EVERETT,
Chairman.

Attachment.

APRIL 13, 1988.

DEFENSE SCIENCE BOARD REPORT OF THE STRATEGIC DEFENSE MILESTONE PANEL

SUMMARY

1. In view of the technical, budgetary, political, and arms control uncertainties surrounding the ballistic missile defense program, the Panel recommends planning a number of steps in the technical development and deployment of a system to meet the JCS requirements rather than a single major action.

2. From a development point of view, priority should be given to the sensors, processing and communications necessary to provide an adequate assessment of what is actually going on, the nature and extent of the attack, and the detection and tracking of boosters and reentry vehicles. This framework is needed whatever weapons are actually used, and the research, development, and experimentation required to provide it involves most of the critical technologies. This surveillance system should evolve as the supporting technology becomes available, allowing the inclusion of whatever weapons are available and wanted. This restructuring would help assure priority attention to critical technical problems despite budget uncertainties.

3. Deployment should be in steps, each of which should provide some capability and have some value in itself. One possible set of steps is as follows:

First—A limited, treaty compliant, deployment of 100 fixed ground-based long range interceptors cued from existing warning sensors. Such a system falls within our present demonstrated technical capabilities. It would be a limited deployment and as such would have limited capabilities, but it would provide some preferential defense as well as some protection against accidental or third country attacks or blackmail attempts.

Second—A treaty complaint deployment of the next generation of space surveillance systems to improve our early warning detection and assessment of a ballistic missile attack and to lay the foundation for subsequent steps that can deal with larger and more sophisticated attacks.

Third—A deployment to protect the NCA against decapitation by ballistic missiles, including those from submarines. This would require the emplacement of shorter range interceptors.

Fourth—Further expansion, including additional bases and ground-based interceptors and improved sensors to cope with countermeasures.

Fifth—The addition of space-based interceptors for boost and post-boost attack to fully meet the JCS requirement. This step might begin before step 4 was completed.

Sixth—The addition of space-based or ground-based directed energy weapons.

For each step the deployment decision would entail a separate and discrete act.

4. The first two deployment steps as well as the continued development of improved weapons up to the point of prototye demonstration could all reasonably be judged to be allowable under the narrow definition of the ABM Treaty. The third step may be achievable within the Treaty depending on the characteristics of the systems deployed. Subsequent deployment steps would require renegotiation of or withdrawal from the Treaty. The continued evolution of the surveillance system as described above does not appear to be constrained by the Treaty.

5. This approach would allow for more confident decisions and more flexibility in the face of uncertainties and would probably not require any more time in the long run.

6. The JCS have not addressed the utility of deployments short of the full Phase I deployment. Their views on the utility of possible phased deployments and the desirability of proceeding with them should be explored.

7. The Panel understands that the SDIO is evaluating this concept and is developing alternative plans for a stepped deployment.

8. We believe very strongly that capable long term engineering support for the SDIO is essential to carry out this large complex program. The existing limitations on such support should be removed as a part of any agreement on the future of ballistic missile defenses.

INTRODUCTION

The Strategic Defense Milestone panel was reconvened at the request of the Secretary of Defense to review the current plans for the Strategic Defense Initiative. The Panel met three times during February and March 1988, was briefed by the SDIO and held discussions with the Secretary and his staff, with General Abrahamson, and with General Herres. A list of the members participating is attached.

In general, we believe that the concerns we expressed last year are being addressed in a forceful manner but many concerns are yet to be satisfactorily resolved. This is not surprising since many of the problems facing the SDI are of substantial difficulty and require a great deal of work to solve. Although the plans for attacking these problems appear reasonable in themselves, we are concerned about the larger problems that result from the financial and political uncertainties that surround the program. These uncertainties lead to unrealistic schedules and to a wasteful process of replanning as funding changes. Varying interpretations of the constraints imposed by the ABM Treaty lead to confusion in the testing process.

About a year ago, a decision was made to develop the SDI system in phases. The SDIO is currently engaged in a demonstration and validation program looking toward a Milestone II decision on a proposed concept for a first phase deployment. Preparatory to this decision, SDIO will have to develop a detailed plan and schedule for FSED and deployment of the Phase One concept. Because of the complexity and cost of the Phase One concept, the time required to deploy it and the political sensitivity of issues related to the ABM Treaty, we believe that SDIO should plan the Phase One deployment as a sequence of steps, each accomplishing a useful mission. Such a sequential program, which pays for itself with incremental benefits as it goes, will be more likely to achieve support than one which contributes little or nothing until the completion of Phase One.

Typically, large complex systems whether military or commercial, have not been created all at once. Rather they have all evolved over a period of time with each new step built on the foundations of technology, management, and public acceptance previously established. Air defense systems were evolved in this fashion, as were air traffic control systems, commercial telephone systems, and carrier task forces. Further, these systems continue to evolve.

DEVELOPMENT

The Strategic Defense System has been thought of by many as a collection of major components, BSTS, SSTS, SBI, ERIS, PROBE, etc. tied together by a Battle Management/C^3 system of some sort. The concerns we expressed last year in our SDM Panel report focused on the surveillance, background and signature measurement, discrimination, system engineering and BM/C^3. We believe it would be better to think about ballistic missile defenses as first of all a surveillance system together with its associate processing and communications, whose purpose is to determine the actual characteristics of an attack, to find the boosters against the background and to find the RVs amid the decoys, chaff, nuclear effects, and other countermeasures and to determine where they are and where they are going. Given such information, decisions can be made, and actions taken within existing limitations. Actions can range from alerting to dispersal, to active defense, to striking back. Without adequate information none of these actions can be confidently taken.

The need for information is not limited to RVs of course. The characteristics of attacks of all sorts, from aircraft, cruise missiles, and other weapon systems armed with either nuclear or non-nuclear warheads, must be correctly and promptly determined if the country is to be defended.

Once a surveillance system exists it can be used to provide information to whatever weapon systems are available, ground or space based, KKV or DEW. A limited surveillance system now exists, consisting of the warning satellites and radars. This system should evolve as better sensors, better information on objects and backgrounds, and better processing and communications are developed and deployed.

This way of looking at ballistic missile defenses should help to enforce an orderly set of priorities on the development program. It will continually emphasize the need for system design, for a measurement program, and for a close tie between ballistic missile defenses and the other deterrent forces.

Emphasis on a surveillance system will not, of course, remove or even weaken the need for weapons and their associated fire control. However, it will make possible an evolutionary approach to weapons development and procurement. The several types now under development could then be deployed when and if they make sense in themselves. Each element will not be hostage to the successful development and deployment of the others. A ballistic missile defense system will, in fact, exist at all times. The process is one of improving that system in ways and at rates which are both possible and acceptable.

DEPLOYMENT

There are a number of possible ways in which a ballistic missile defense system might be deployed in steps. It is neither necessary nor possible to lay out a fixed plan for all steps at this time because the actual steps to be taken depend on technical advances, international relations, and public acceptance. The first step or two must be defined, however, and subsequent steps outlined as possibilities. The purpose is to provide a set of options for future decision makers.

While the Panel is in no position to specify a plan in detail, we suggest the following possible directions for a stepped deployment plan.

First—A limited deployment of long range ground based interceptors. These interceptors would be IR-terminally-guided, their launch and initial direction being cued from the existing warning sensors. They would be something like ERIS but would probably be somewhat larger, both to provide greater performance margins and to permit deployment before the final high quantity production version of the interceptor is complete. The earlier version should have adequate performance margins to provide, from a single deployment site, a very thin area defense for much of CONUS. If such an interceptor deployment were sited at Grand Forks or in the national capital region it would be Treaty-compliant so long as the number of interceptors remained below 100.

We were favorably impressed by the Phase One Engineering Team (POET) group's proposal for such a deployment. Capability would be limited, especially against countermeasures, but a thin defense over much of the country would provide some preferential defense against small attacks, and some protection against accidental unauthorized launches and against third country attacks and threats of blackmail.

The choice of an initial site involves political judgments and is beyond the scope of our Panel. We note that the Grand Forks site currently exists and would provide coverage over most of CONUS while a deployment in the national capital region would provide a beginning for an NCA defense. We note also that a decision to switch our permitted deployment from Grand Forks to the national capital region would have to be announced by October 1988, the end of the current 5-year ABM Treaty review period.

Either choice would establish a base from which the BMD system could evolve, put BMD into the military operational structure and teach valuable lessons about the management and operations of such a system. Last, but not least, it would make a start toward achieving symmetry with Soviet

BMD deployment activities and, in this way, contribute to inhibiting breakout.

Second—begin to update and improve our surveillance, in particular by deploying an improved satellite Early Warning System (EWS). Better space surveillance is needed to provide better warning and better attack assessment through better counting and tracking, whatever happens in active defense. Whether this improved space surveillance involves the currently specified BSTS or something more like an improved satellite EWS is a matter for further thought. We should not think of an improved satellite EWS as the end of the line. Later and still better versions should be expected.

Improvements to other surveillance systems should be investigated as well. The process of measuring background and gathering information on friendly and unfriendly objects in space is a continuing one and should be pursued as an intrinsic part of the evolution of the surveillance system, as evolution which would proceed in parallel with the other steps.

Third—Install shorter range interceptors in the Washington area to protect the NCA against decapitation by ballistic missiles, including those from submarines. We prefer a dual-mode surface-to-air missile system with capabilities similar to those of the Soviet dual-mode SS-12, such as an improved version of Patriot, which would have capabilities against aircraft and cruise missiles, as well as short range ballistic missiles. The use of equipment already in production would greatly reduce costs. HEDI is also a possibility.

Fourth—Further expansion, including additional bases and interceptors, to cover other parts of the country and cope with larger attacks and improved sensors to cope with countermeasures.

Fifth—The addition of space-based interceptors for boost and post boost attack. The deployment of this step would presumably meet the JCS requirement.

Sixty—The addition of space- or ground-based directed energy weapons.

The development of these or equivalent steps would be carried to the point of decision but would not be deployed unless actually wanted at the time. Each step would build upon the previous steps, most of which would continue to coexist.

THE ABM TREATY

There is not a force acting on the SDI program that is more damaging or more insidious than the present debate on the "narrow vs broad" interpretation of the ABM Treaty.

The notion of the "broad" interpretation of the ABM treaty has been promulgated presumably to give the SDIO program greater flexibility to plan and carry out its testing program. In fact, it has had the opposite effect; the present testing program is in a straightjacket. This has come about in large part because in the course of debate on "narrow" vs "broad" interpretations of the treaty, the "narrow" interpretation of the treaty itself was so squeezed by both the opponents and proponents of SDI that it lost all reasonableness. Whatever else is done, a way must be found to terminate this debate.

The Treaty is ambiguous in many of its details; two area of ambiguity appear to be especially important for the kind of sequential program we believe is desirable. The first arises from the lack of a clear definition of "systems based on other physical principles" (OPP). The second ambiguity arises from the conflict between the Treaty's allowance of early warning radars on one hand and, on the other, its prohibitions on development of mobile, including space-borne, radars and its restrictions on deployment of stationary radars for acquisition, tracking and battle management. As an illustration of the deleterious effect of this ambiguity, we currently operate satellites for early warning, but find that BSTS, which would perform similar functions, is considered questionable. Because the Soviets exploit ambiguities to the limit (and beyond as in the case of Krasnoyarsk), a U.S. policy that restricts us to activities that are unambiguously permitted by the Treaty could seriously impair our security.

We believe, therefore, that DoD should define a technically optimum testing and deployment program and should then adhere to that program except when Treaty constraints unambiguously require it to otherwise. The DoD should place the burden of proof on those who would restrain the program.

In our opinion, there is a way of reading the treaty which separates the important from the less important. The Treaty limits the number of effective ABM interceptors each country can have by placing a limit of 100 on launchers, requiring that they be fixed, restricting them to limited areas, and prohibiting rapid reload and MIRVing. The Treaty says nothing about the size, range, velocity, or guidance of the interceptors. The Treaty limits the radars to the vicinity of the launchers but permits warning radars around the periphery of the country. It says nothing about and therefore places no limits on warning satellites.

We believe that the first two deployment steps, plus the follow-on development of weapons up to the point of prototype demonstration, could be judged to be allowable under the Treaty. The third step may be achievable within the Treaty depending on the characteristics of the systems deployed. Subsequent deployment steps would require renegotiation of or withdrawal from the Treaty. The continued evolution of the surveillance system as previously described does not appear to be constrained by the Treaty.

We also believe step one to be treaty compliant by comparison with the existing Soviet ABM deployment. The step one system is very similar in general terms, contains only elements already in the existing Soviet system, and has capabilities which are similar to and may be less than the Soviet system. The differences are largely technical details which are not even mentioned let alone limited by the Treaty.

We do not see that the Treaty limits tactical warning and attack assessment (both sides had IR satellites at the time the Treaty was written) so step two should not violate the treaty.

Step three may or may not violate the Treaty depending on what is actually done. Numbers of SA-10's are deployed around Moscow and the Soviets are beginning to deploy SA-12s. Arguing by analogy as before, dual-mode surface-to-air missiles with capabilities comparable to the SA-12 can be deployed around Washington without violating the Treaty.

SCHEDULE

A stepped process such as we have described would appear to lengthen the schedule by increasing the number of deployments and requiring money for earlier deployment. The current schedules are very uncertain, however, not only because of technical uncertainties but because of funding uncertainties. If the present program enjoyed stable funding and support, it might go faster without intermediate steps. We believe, however, that the difficulty of supporting such a large decision all at once and of bringing all system elements to a satisfactory stage at the same time make the all-at-once plan very risky. The stepped plan allows much more confident decisions and much more flexibility in the face of uncertainties. Furthermore it allows decoupling the schedules of many of the system elements. We think a stepped plan will eventually lead to shorter schedules and lower costs than the current Phase I plan.

REQUIREMENTS

The JCS requirement for Phase I was very important in placing a foundation under SDI program. A stepped program such as described above would not meet the current requirement until something like the fifth step. The JCS have not addressed the utility of deployments short of the full Phase I. Their views on this matter need to be explored and the military utility of various steps agreed upon.

SYSTEM ENGINEERING SUPPORT

The Panel was pleased to learn that the ad hoc system engineering team under discussion last year has been established and is in operation under the title of Phase One Engineering Team or POET. We believe this is an important advance but are still concerned about the need for long term support. We think that a stepped deployment increases this need if the steps are to be properly planned and integrated.

The SDIO's need for responsive, long term systems engineering and technical assistance is very evident to the Panel; we think this need must be satisfied if we are to achieve an effective ballistic missile defenses. The Systems Engineering and Integration contractor, although needed to meet other demands, is not a substitute. We recommend strongly that the Secretary of Defense make such support available to the Director, SDIO, from the resources of existing DoD FCRD's and ensure this support is fully responsive to the long-term needs of the SDIO. Should these actions be ineffective or inadequate in providing the type or quality of engineering and technical assistance required by the SDIO, an agreement should be reached with Congress to support the establishment of a new and separate FFRDC to satisfy SDIO requirements.

SDIO

The concept of a stepped deployment and of an evolutionary surveillance, processing, and communications system has been discussed with Lieutenant General Abrahamson and his staff. We understand that they are evaluating the idea and are developing alternative plans for a stepped development.

Robert R. Everett,
Task Force Chairman.

Attachment.

Strategic Defense Milestone (SDM) Panel of the DSB

Mr. Robert R. Everett, President Emeritus, The Mitre Corporation, (Panel Chairman).

Dr. Solomon J. Buchsbaum,[1] Executive Vice President-Customer Systems, AT&E Bell Laboratory.

General Russell E. Dougherty, USAF, Retired, Private Consultant.

Mr. Harry J. Gray, Chairman Emeritus of the Board, United Technologies Corporation.

Mr. Harold J. Haynes,[2] Chairman Emeritus, Chevron.

Mr. Fred S. Hoffman,[1] Director, R&D Associates-Pan Heuristics.

Mr. Ralph E. Lee,[2] Executive Vice President, Hewlett Packard.

Mr. Walter E. Morrow, Jr., Director, MIT Lincoln Lab.

Dr. William J. Perry, H&Q Technical Partners, Inc.

Gen. Samuel C. Phillips, USAF, Retired, Private Consultant.

Ambassador Seymour Weiss,[1] President, SY Associates.

[1] New members to original SDM panel.

[2] Nonparticipants in this review.●

ABE STOLAR—PART XI

● Mr. SIMON. Mr. President, in 1987, President Reagan broadcast a New Year's message to American citizens residing in the Soviet Union. During the broadcast, the President of the United States of America described the hardships endured by Abe Stolar, a former Chicagoan, and his family. In his concluding paragraph, President Reagan stated the following:

> As the new year begins, I would like Abe and all of my fellow Americans who are unable to leave the Soviet Union to know that you have not been forgotten. The American Government, and I personally, will continue to do everything possible to secure your right to leave the Soviet Union.

The date today is May 23, 1988. The President made his statement over a year ago, yet Abe Stolar still remains in the Soviet Union. I know that the current administration is working on Abe's behalf and I commend the President for his efforts. However, as Abe said in a letter he wrote to President Reagan, "It would be a Hollywood dream come true" if he and his family were allowed to leave the Soviet Union at the conclusion of the summit. Let's hope that in this New Year's message, Abe and his family will not be among those listening to it in the Soviet Union. I urge that the Stolars be granted permission to leave together as a family.●

COAST GUARD AUTHORIZATION

Mr. BYRD. Mr. President, on behalf of Mr. HOLLINGS, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2342.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2342) entitled "An Act to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes," with the following amendment:

In lieu of the matter inserted by the amendment of the Senate, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1987".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1988 as follows:

(1) For operation and maintenance, $1,978,000,000; and for increases in salary, pay, and other employee benefits authorized by law, such additional sums as may be necessary.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $325,500,000, to remain available until expended.

(3) For research, development, test, and evaluation, $20,119,000, to remain available until expended.

(4) For retired pay (including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans under chapter 73 of title 10, United States Code), and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $386,700,000.

(b) If funds for carrying out the purposes described in subsection (a) are appropriated to an officer or agency of the United States other than the Secretary of the department in which the Coast Guard is operating or the Coast Guard, that officer or the head of that agency, respectively, may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of those funds, and that Secretary shall allocate those funds to those purposes.

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) The Coast Guard is authorized a strength for active duty personnel as of September 30, 1988, of 39,121. The authorized strength does not include members of the Coast Guard Ready Reserve ordered to active duty under section 712 of title 14, United States Code.

(b) For fiscal year 1988, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,600 student-years.

(2) For flight training, 132 student-years.

(3) For professional training in military and civilian institutions, 400 student-years.

(4) For officer acquisition, 950 student-years.

SEC. 4. TRANSFER OF AMOUNTS FOR OPERATIONS AND MAINTENANCE.

(a) Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not more than 5 percent of the amounts appropriated for fiscal year 1988 for the purposes described in section 2(a)(2) to the Commandant of the Coast Guard for discretionary use in meeting unanticipated needs for Coast Guard operation and maintenance.

(b) A transfer of amounts under subsection (a) may not be made until 15 days after the Secretary provides to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives written notice—

(1) describing the proposed transfers;

(2) stating the reasons for the determination under subsection (a); and

(3) describing the purposes for which the amounts to be transferred will be used.

SEC. 5. LIMITATION ON CONTRACTING PERFORMED BY COAST GUARD.

(a)(1) It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2)(A) Not later than January 31 of each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are necessary for maintaining the logistics capability described in paragraph (1). If the Secretary does not submit such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by nongovernment personnel after that date until the list is submitted to such committees.

(B) The list submitted by the Secretary under this section shall not include—

(i) any activity that is being performed under contract by nongovernment personnel on the date of enactment of this Act; or

(ii) any activity for which the Congress received, prior to April 1, 1987, a written notification of intent to contract pursuant to section 14(b)(2) of Public Law 98-557 (98 Stat. 2864).

(b)(1) Except as provided in paragraph (2), performance by nongovernment personnel of an activity included in a list under subsection (a)(2)(A) may not be contracted for after the date on which the list is submitted by the Secretary in accordance with subsection (a)(2).

(2) The Secretary may waive paragraph (1) with respect to any activity if the Secretary determines that the performance of that activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) A waiver under paragraph (2) shall not take effect until after a period of 30 days in which either the Senate or House of Representatives is in session after the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a complete written statement concerning the waiver and the reasons therefor.

(c) At least 30 days before the beginning of each fiscal year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a list of activities that will be contracted for performance by nongovernment personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

(d)(1) Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal year 1988 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and

who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may waive this subsection in the interest of national security or economic efficiency.

(2) As used in this subsection, the term "local resident" means an individual residing in or within daily commuting distance of a State described in paragraph (1).

SEC. 6. BOAT SAFETY PROGRAM.

(a) Section 9503(c)(4) of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (A)(ii)(I), by striking "any fiscal year shall not exceed $60,000,000 for Fiscal year 1987 only and $45,000,000 for each fiscal year thereafter" and inserting in lieu thereof "fiscal year 1988 shall not exceed $60,000,000";

(2) in subparagraph (A)(ii)(II), by striking "Fiscal Year 1987 only and $45,000,000 for each fiscal year thereafter" and inserting "for fiscal year 1988"; and

(3) in subparagraph (E), by striking "1987" each place it appears and inserting in lieu thereof "1988".

(b) Section 13106 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter" and inserting in lieu thereof "fiscal year 1988 only"; and

(2) in subsection (c), by striking "Fiscal year 1987 and one-third for each Fiscal Year thereafter" and inserting in lieu thereof "fiscal year 1988 only".

(c) Section 13103 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than 1 percent nor more than 2 percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter.".

SEC. 7. MANNING REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS.

Section 8301(a)(2) of title 46, United States Code, is amended to read as follows:

"(2) A vessel of at least 1,000 gross tons and propelled by machinery shall have 3 licensed mates, except—

"(A) in the case of a vessel other than a mobile offshore drilling unit, if on a voyage of less than 400 miles from port of departure to port of final destination, the vessel shall have 2 licensed mates; and

"(B) in the case of a mobile offshore drilling unit, the vessel shall have licensed individuals as provided by regulations prescribed by the Secretary under section 8101 of this title.".

SEC. 8. TRANSFER OF COAST GUARD PROPERTY AT LAKE WORTH INLET, FLORIDA.

(a) The Secretary of the department in which the Coast Guard is operating may sell, in whole or in part, parcels of land, and any buildings and improvements thereon, located in and about Lake Worth Inlet in Palm Beach County, Florida, which have been held for the use of the Coast Guard. The exact acreage and legal description of the land to be sold shall be as described in such surveys as may be satisfactory to the Secretary.

(b) Each sale of property under this section shall be conducted in accordance with competitive bidding procedures described in section 2304 of title 10, United States Code. Property may not be sold under this section for less than its fair market value.

(c) In consideration for a sale of property under this section, the Secretary may accept cash or real property, or both, which the Secretary determines to be suitable for the use of the Coast Guard. Within 36 months after such a sale, the Secretary may use any proceeds of the sale for purchasing land along the shore of Lake Worth Inlet, and any buildings and improvements thereon, which the Secretary determines to be suitable for the use of the Coast Guard. After such period, any unused proceeds shall be deposited in the general fund of the Treasury.

(d) In any sale or purchase of property under this section, the Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 9. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by adding at the end the following new sentence: "The committee terminates on September 30, 1992.".

SEC. 10. AUTHORITY FOR CIVILIAN AGENTS TO CARRY FIREARMS.

(a) Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 95. Civilian agents authorized to carry firearms

"Under regulations prescribed by the Secretary with the approval of the Attorney General, civilian special agents of the Coast Guard may carry firearms or other appropriate weapons while assigned to official investigative or law enforcement duties.".

(b) The table of sections for such chapter is amended by adding at the end the following new item:

"95. Civilian agents authorized to carry firearms.".

SEC. 11. RELOCATION ASSISTANCE FOR COAST GUARD PERSONNEL.

Section 1013 of the Demonstration Cities Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended by adding at the end the following new subsection:

"(n)(1) The Secretary of Defense shall provide assistance under this section with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987.

"(2) Assistance under this subsection shall be provided under terms equivalent to those under which assistance is provided under this section for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

"(3) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under this section made by the Secretary of Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall enter into an agreement under which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement.".

SEC. 12. COAST GUARD ACADEMY CADET SERVICE OBLIGATION.

Section 182 of title 14, United States Code, is amended—

(1) by striking the next to the last sentence of subsection (a); and

(2) by striking subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Each cadet shall sign an agreement with respect to the cadet's length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

"(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

"(2) That upon graduation from the Coast Guard Academy the cadet—

"(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

"(B) will serve on active duty for at least five years immediately after such appointment.

"(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

"(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

"(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

"(c)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (b). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

"(2) A cadet who is transferred to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

"(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (b) if the cadet is separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy.

"(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—

"(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);

"(2) procedures for determining whether such a breach has occurred; and

"(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

"(e) In this section, 'commissioned service obligation', with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

"(f)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

"(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (b) only with the consent of the parent or guardian.".

SEC. 13. RETROACTIVE PAY FOLLOWING ADMINISTRATIVE ERROR.

(a) Chapter 13 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 513. Retroactive payment of pay and allowances delayed by administrative error or oversight

"Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight.".

(b) The table of sections for such chapter is amended by adding at the end the following new item:

"513. Retroactive payment of pay and allowances delayed by administrative error or oversight.".

SEC. 14. TECHNICAL AMENDMENTS TO INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. chapter 2001 et seq.) is amended—

(1) by striking "minesweeping" in Rule 3(g)(v) (33 U.S.C. 2003(g)(v)) and inserting in lieu thereof "mineclearance";

(2) by striking "minesweeping" in Rule 27(b) (33 U.S.C. 2027(b)) and inserting in lieu thereof "mineclearance"; and

(3) by striking paragraph (f) of Rule 27 (33 U.S.C. 2027(f)) and inserting in lieu thereof the following:

"(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.".

SEC. 15. DEFENSE OF CERTAIN SUITS ARISING OUT OF LEGAL MALPRACTICE.

(a) Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or within the Coast Guard" after "title 32)"; and

(2) in subsection (g), by striking "or the Secretary of a military department" and inserting in lieu thereof ", the Secretary of a military department, or the Secretary of the Department in which the Coast Guard is operating, as appropriate".

(b) The amendments made by subsection (a) shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent act or omission occurred.

SEC. 16. EXEMPTION FROM GENERAL BRIDGE ACT OF 1946.

(a) The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

(b) The waters referred to in subsection (a) are a drainage canal which—

(1) is an unnamed tributary of the creek known as Newton Creek, located at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

SEC. 17. CLARIFYING AMENDMENT TO TITLE 14.

Section 2 of title 14, United States Code, is amended by striking "on and under" the first place it appears and inserting in lieu thereof "on, under, and over".

SEC. 18. BRIDGE DEEMED UNREASONABLE OBSTRUCTION TO NAVIGATION.

Notwithstanding any other provision of law, the Mississippi River Railroad Bridge between East Hannibal, Illinois and Hannibal, Missouri, mile 309.9, Upper Mississippi River, is deemed to be an unreasonable obstruction to navigation.

SEC. 19. REPORT ON POSSIBLE PROCUREMENT FOR ANTISUBMARINE WARFARE MISSION.

Not later than February 15, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the plans to fulfill the responsibilities of the Coast Guard in the Maritime Defense Zone through possible procurement of AN/SQR-17 acoustic processors and other equipment for the antisubmarine warfare mission of Coast Guard medium-endurance cutters.

SEC. 20. CLARIFICATION OF MEMBERSHIP OF NATIONAL BOATING SAFETY ADVISORY COUNCIL.

(a) Paragraph (1) of section 13110(b) of title 46, United States Code, is amended by striking "members from" each place it appears and inserting in lieu thereof "representatives of".

(b) The Secretary of the department in which the Coast Guard is operating shall carry out the amendments made by subsection (a) as vacancies in the membership of the National Boating Safety Advisory Council occur.

SEC. 21. DRAWBRIDGE OPENINGS.

Section 5(a) of the Act entitled "An Act Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 18, 1894 (33 U.S.C. 499), is amended by adding at the end the following: "Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.".

SEC. 22. MOBILE LAW ENFORCEMENT BASE.

The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than 3 months after the date of the enactment of this Act, the Secretary shall submit a report on the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

SEC. 23. ICEBREAKER STUDY.

The President shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than March 1, 1988, the President shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report may be in the form of an update of the Polar Icebreaker Requirements Study of 1984 and shall include—

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(3) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national requirements.

SEC. 24. TWO-YEAR BUDGET CYCLE FOR COAST GUARD.

(a) It is the opinion of the Congress that the programs and activities of the Coast Guard could be more effectively and efficiently planned and managed if funds for the Coast Guard were provided on a 2-year cycle rather than annually.

(b) The President shall include in the budget for fiscal year 1990 submitted to the Congress pursuant to section 1105 of title 31, United States Code, a single proposed budget for the Coast Guard for fiscal years 1990 and 1991. Thereafter, the President shall submit a proposed 2-year budget for the Coast Guard every other year.

(c) Not later than April 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives a report containing the Secretary's views on the following:

(1) The advantages and disadvantages of operating the Coast Guard on a 2-year budget cycle.

(2) The Secretary's plans for converting to a 2-year budget cycle.

(3) A description of any impediments (statutory or otherwise) to converting the operations of the Coast Guard to a 2-year budget cycle beginning with fiscal year 1990.

SEC. 25. COAST GUARD BUDGET ESTIMATES.

(a) Section 663 of title 14, United States Code, is amended by adding at the end the following new sentence: "Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.".

(b) Not later than 30 days after the date on which the President submits to the Congress a budget for fiscal year 1989 under section 1105 of title 31, United States Code, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for fiscal year 1989.

SEC. 26. CONSTRUCTION OF CERTAIN VESSELS.

(a) Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a

Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The analysis of such chapter is amended by adding at the end the following new item:

"665. Restriction on construction of vessels in foreign shipyards.".

SEC. 27. MANNING REQUIREMENTS.

(a)(1) Section 8103(a) of title 46, United States Code, is amended by inserting "radio officer," after "chief engineer,".

(2) Section 8103(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, on a documented vessel—

"(A) each unlicensed seaman must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

"(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.

"(2) Paragraph (1) of this subsection does not apply to—

"(A) a yacht;

"(B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)); and

"(C) a fishing vessel fishing outside of the exclusive economic zone.

"(3) The Secretary may waive a citizenship requirement under this subsection, other than a requirement that applies to the master of a documented vessel, with respect to—

"(A) an offshore supply vessel or other similarly engaged vessel of less than 1,600 gross tons that operates from a foreign port;

"(B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(A)); and

"(C) any other vessel if the Secretary determines, after an investigation, that qualified seamen who are citizens of the United States are not available.".

(b) Subsections (c) and (d)(1) of section 8103 of title 46, United States Code, are each amended by striking "from the United States".

(c) Section 8103(e) of title 46, United States Code, is amended—

(1) by inserting "and the radio officer" after "the master"; and

(2) by striking "until the vessel's first return to a United States port at which" and inserting in lieu thereof "until the vessel's return to a port at which in the most expeditious manner".

(d) Section 8103 of title 46, United States Code, is amended by adding at the end the following:

"(i)(1) Except as provided in paragraph (3), each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters or the exclusive economic zone of the United States must be—

"(A) a citizen of the United States;

"(B) an alien lawfully admitted to the United States for permanent residence; or

"(C) any other alien allowed to be employed under the Immigration and Naturalization Act (8 U.S.C. 1101 et seq.).

"(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in subparagraph (C) of that paragraph.

"(3) This subsection does not apply to a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).".

(e) Section 8702(b) of title 46, United States Code, is amended by striking "depart from a port of the United States" and inserting in lieu thereof "operate".

(f)(1) Chapter 87 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 8704. Alien deemed to be employed in the United States

"An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel which—

"(1) is a vessel of the United States engaged in the fisheries in the navigable waters or the exclusive economic zone of the United States; and

"(2) is not engaged in fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).".

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

"8704. Alien deemed to be employed in the United States.".

(3) With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term "date of the enactment of this section" as used in section 274A(i) of the Immigration and Nationality Act means the date of the enactment of this section.

Mr. BYRD. Mr. President, I move that the Senate disagree to the amendment of the House and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. SHELBY] appointed Mr. HOLLINGS, Mr. KERRY, and Mr. DANFORTH conferees on the part of the Senate.

THE "HATE CRIMES" STATISTICS ACT

Mr. BYRD. Mr. President, I understand that the Senate has received from the House H.R. 3193, the Hate Crimes Statistics Act.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. Mr. President, on behalf of Mr. SIMON, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 3193) to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, homosexuality or heterosexuality, or ethnicity.

Mr. BYRD. Mr. President, I ask that the bill be read a second time.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The bill will be held at the desk.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTIONS OF SECRECY

Mr. BYRD. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from two treaties transmitted to the Senate on May 20, 1988, by the President of the United States:

The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (Treaty Document 100-19), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Treaty Document 100-20).

I also ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is to ordered.

The President's messages are as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on February 24, 1988. The report of the Department of State is also enclosed for the information of the Senate.

The Protocol will extend and supplement the legal framework of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971, to which the United States is already a party. It provides for enhanced international cooperation in the fight against terrorism at airports serving international civil aviation. The Protocol was negotiated under the auspices of the International Civil Aviation Organization.

The United States played a leading role in the negotiation of the Protocol. Early ratification by the United States will encourage similar action by other nations.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *May 20, 1988.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, subject to certain reservations, understandings, and declarations, I transmit herewith the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention was adopted by unanimous agreement of the United Nations General Assembly on December 10, 1984, and entered into force on June 26, 1987. The United States signed it on April 18, 1988. I also transmit, for the information of the Senate, the report of the Department of State on the Convention.

The United States participated actively and effectively in the negotiation of the Convention. It marks a significant step in the development during this century of international measures against torture and other inhuman treatment or punishment. Ratification of the Convention by the United States will clearly express United States opposition to torture, an abhorrent practice unfortunately still prevalent in the world today.

The core provisions of the Convention establish a regime for international cooperation in the criminal prosecution of torturers relying on so-called "universal jurisdiction." Each State Party is required either to prosecute torturers who are found in its territory or to extradite them to other countries for prosecution.

In view of the large number of States concerned, it was not possible to negotiate a treaty that was acceptable to the United States in all respects. Accordingly, certain reservations, understandings, and declarations have been drafted, which are discussed in the report of the Department of State. With the inclusion of these reservations, understandings, and declarations, I believe there are no constitutional or other legal obstacles to United States ratification. The recommended legislation necessary to implement the Convention will be submitted to the Congress separately.

Should the Senate give its advice and consent to ratification of the Convention, I intend at the time of deposit of United States ratification to make a declaration pursuant to Article 28 that the United States does not recognize the competence of the Committee against Torture under Article 20 to make confidential investigations of charges that torture is being systematically practiced in the United States. In addition, I intend not to make declarations, pursuant to Articles 21 and 22 of the Convention, recognizing the competence of the Committee against Torture to receive and consider communications from States and individuals alleging that the United States is violating the Convention. I believe that a final United States decision as to whether to accept such competence of the Committee should be withheld until we have had an opportunity to assess the Committee's work. It would be possible for the United States in the future to accept the competence of the Committee pursuant to Articles 20, 21, and 22, should experience with the Committee prove satisfactory and should the United States consider this step desirable.

By giving its advice and consent to ratification of this Convention, the Senate of the United States will demonstrate unequivocally our desire to bring an end to the abhorrent practice of torture.

RONALD REAGAN.

THE WHITE HOUSE, *May 20, 1988.*

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not the nominations on the Executive Calendar, beginning with Postal Rate Commission, on page 3, and going through page 4 and through page 5, have been cleared on the other side.

Mr. DOLE. Each and every one of those nominations have been cleared.

Mr. BYRD. Mr. President, I thank the Republican leader.

Mr. President, I ask unanimous consent that the aforegoing nominations be considered and confirmed en bloc; that the motion to reconsider en bloc be laid on the table; that the President be immediately notified of the confirmation of the nominations; that any Senators who wish to have speeches appear in the RECORD may do so; and that the several nominations appear severally on the face of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

POSTAL RATE COMMISSION

William H. LeBlanc III, of Louisiana, to be a Commissioner of the Postal Rate Commission for the term expiring November 22, 1994.

Henry R. Folsom, of Virginia, to be a Commissioner of the Postal Rate Commission for the term expiring October 14, 1994.

DEPARTMENT OF DEFENSE

Alan Marshall Elkins, of Maine, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1993.

Gordon A. Smith, of Maryland, to be Assistant Secretary of Defense.

Michael P.W. Stone, of California, to be Under Secretary of the Army.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY

Air Force nominations beginning John R. Garcia, and ending Gregory W. Williams, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 26, 1988.

Air Force nominations beginning William R. Banas, and ending Billiana Owens, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 16, 1988.

Army nominations beginning David T. Bauman, and ending Edward J. Zippay, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 11, 1988.

Army nominations beginning Jeffrey A. Abramson, and ending Nathan K. Watanabe, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 11, 1988.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF THE INF TREATY

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 10 o'clock tomorrow morning the Senate return to executive session and resume consideration of the INF Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, there be a period for morning business not to extend beyond 10 o'clock and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does the distinguished Republican leader have anything further he would wish to say?

Mr. DOLE. No further business on this side.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader.

RECESS TO TUESDAY, MAY 24, 1988, AT 9:30 A.M.

Mr. BYRD. Mr. President, there being no further business, I move that the Senate stand in recess until the hour of 9:30 tomorrow morning.

The motion was agreed to; and, at 7:13 p.m., the Senate recessed until Tuesday, May 24, 1988, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 23, 1988:

DEPARTMENT OF DEFENSE

ALAN MARSHALL ELKINS, OF MAINE, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 1993.

GORDON A. SMITH, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

MICHAEL P.W. STONE, OF CALIFORNIA, TO BE UNDER SECRETARY OF THE ARMY.

POSTAL RATE COMMISSION

WILLIAM H. LEBLANC III, OF LOUISIANA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING NOVEMBER 22, 1994.

HENRY R. FOLSOM, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING OCTOBER 14, 1994.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING JOHN R. GARCIA, AND ENDING GREGORY S. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 1988.

AIR FORCE NOMINATIONS BEGINNING WILLIAM R BANAS, AND ENDING BILLIANA OWENS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 16, 1988.

IN THE ARMY

ARMY NOMINATIONS BEGINNING DAVID T. BAUMAN, AND ENDING EDWARD J. ZIPPAY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 11, 1988.

ARMY NOMINATIONS BEGINNING JEFFREY A. ABRAMSON, AND ENDING NATHAN K. WATANABE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 11, 1988.

EXTENSIONS OF REMARKS

CELEBRATING 50 YEARS OF FAMILY RADIO AT WHAI, GREENFIELD

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. CONTE. Mr. Speaker, this past Sunday a radio station in Greenfield, MA, will be celebrating its 50th anniversary. Throughout 50 years this station, WHAI, has been enormously successfully and increasingly important to the community they serve. But what makes this celebration so special is the fact that throughout 50 years it has been one family—at least three generations, but only one family—who has brought this station from its exciting beginnings in 1938 to the community cornerstone that it has become in 1988.

No one driving past the white house that sits at the corner of High and Main Streets in Greenfield could ever guess the magnitude of activity occurring inside. Over 50 years, WHAI has become as important to the identity of Franklin County as the Poet's Seat Tower that rises above Beacon Field—perhaps even more so. Through its programming and community activity, WHAI has served Franklin County admirably.

WHAI has provided dreams and goals for every child who has ever listened to a Saturday morning broadcast of a local high school football game. Through its morning programming of music and news, WHAI has sent well-informed and high spirited Franklin County residents off to work each day. With its public service announcements, WHAI has coordinated everything from school cancellations to returning lost pets to their owners. Through its programming WHAI has done everything possible to be "First in Franklin County."

Yet the commitment to the community does not end with programming. It goes far beyond voices on the air. The station's founder John Haigis, Sr., was a dedicated public servant. A former Massachusetts State senator and State representative, John Haigis was inspired by the prospect of radio during his campaign for Governor In 1936. It was 2 years later that John Haigis founded WHAI based on the philosophy of community service. Since then WHAI has been unwavering in its support of the entire Franklin County community.

Mr. Speaker, John Haigis, Sr., was a highly respected man in western Massachusetts. Anyone who ever considered running for a political office at that time would always seek counsel and support from John Haigis. The endorsement of John Haigis, Sr., was a watershed event in the candidacy of any man seeking political office. His life is just as important to the history of Franklin County as the life of the station he founded.

The 50 year history of the station since its beginnings with John Haigis, Sr., was reported upon exhaustively by the newspaper also based in Greenfield. I'd like to take this opportunity to include the article in the RECORD immediately following my remarks.

Mr. Speaker, the Haigis family has never forgotten the opportunities provided by radio to bring a community together. I am delighted to pay this special tribute to a station that has meant so much to the people of Franklin County.

[From the Greenfield (MA) Recorder, May 13, 1988]

RADIO DAYS: WHAI CELEBRATES ITS 50TH YEAR OF KEEPING FRANKLIN COUNTY LISTENERS TUNED IN

(By Lyndsey Layton)

GREENFIELD.—If John Haigis Sr. could tune into WHAI today, he probably wouldn't like the music. He wouldn't hum along with Lionel Ritchie, and he might find Madonna disturbing.

But Haigis, who founded the station in 1938 and passed away in 1960, would probably be happy with WHAI's commitment to the community and the fact that Sunday marks its 50th anniversary.

"Our basic mission hasn't changed in 50 years," said Ann Haigis Banash, who, with her sister Maggie, runs the station their grandfather created. That "mission" is to serve Franklin County through strong local news coverage and public service programming, said Banash.

The Haigis radio dynasty makes WHAI one of the oldest family-run stations in the country, said John W. Haigis Jr., now 71, who inherited the station from his father and has since turned it over to a third Haigis generation.

While Haigis Sr. preferred classical and church music to WHAI's current mix of Top 40 and oldies music, he "would be very proud that we are still committed to Franklin County," said Banash, 38, who has served as general manager of the station since 1980. Maggie Haigis, 37, has been directing news coverage for more than 10 years.

In the radio world, WHAI is a rarity; a longstanding small station owned continuously by one family. In Franklin County, WHAI is an institution; the county's first radio station that has always been number one despite competition.

John W. Haigis Sr, was impressed with an exciting new technology called radio when he first came across it in 1936. A state legislator from Greenfield who was comfortable in the hub of politics and media that is Beacon Hill, Haigis promoted media in Franklin County. "If Boston had it, he thought we should have it, too," explained Banash.

It was Haigis who converted a weekly town newspaper into the Greenfield Daily Recorder, a predecessor of The Recorder. Radio was the next logical step.

Haigis got the idea during his failed 1936 campaign for governor. A former Republican state senator, representative and treasurer, Haigis couldn't survive a Democratic landslide, but he came away with a great idea.

During the race, he made several campaign broadcasts on a Springfield radio station and met James L. Spates, a radio engineer, who interested Haigis in the possibility of a Greenfield station.

At the time, there were only a few hundred radio stations in the nation and winning a Federal Communications Commission license was no small feat.

"You had to explain everything," said Haigis Jr. "You practically had to tell how your great grandmother's cat died . . . We had to have affidavits from clergy attesting to our character. It was unbelievable."

"Those were exciting times," said Horace "Bob" Nichols, 73, who worked for the station from 1938 to 1954. "Radio was certainly a wonderful experience."

Nichols, who drove the horses to lay the first wires for the radio transmission, called Haigis Sr. "a very capable businessman. People just loved him, he was a cornerstone of the town."

WHAI began broadcasting on the AM airwaves in May 15, 1938 from the Mansion House, where the Bank of New England now stands.

The station had a wild baptism by water that year when a now-infamous hurricane hit New England. For several hours WHAI, a lucky survivor of the storm, was the only station county residents could receive. Although it was licensed to run only during the day, the station stayed on the air 72 hours straight, helping isolated residents communicate with friends and relatives they couldn't locate except over the air waves.

Ten years later, the station won FCC approval to broadcast on FM. Split frequencies allowed WHAI to broadcast simultaneous events, like sports games.

In mid 1950s, WHAI moved to its current location, the Potter House on Main Street and became a CBS affiliate. Although it is a commercial radio station, WHAI has often behaved like public radio during its 50 years on the air.

"My father was all for public service," said Haigis Jr., who became manager of the station after his release from the Air Force in June 1947. "If anyone had something to say, they had the place to say it on our station."

Town meetings were broadcast live for decades and the station regularly hosted community events. There were Dairy Days in the 1950s when residents brought their cows to the station and picnicked on the grounds of the Potter House, dancing and promoting the dairy industry. Pumpkin carving contests at the station highlighted the fall and, during the warmer months, live concerts were held on the lawn outside the station.

Live broadcasts were the rule through the 1950s, with musical groups performing in the studios. News was collected from correspondents who had microphones set up in their homes and would broadcast live from their kitchens or living rooms, amidst barking dogs and crying babies.

Over the past decades, local news coverage has become a major strength of the station, said Banash. Audience peak for WHAI is between 6 and 10 a.m., referred to as "morning

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

drive time." In the middle of that slot, between 7 and 8:30 a.m., is an all-news block featuring local, state, national and world news.

While Greenfield competitor WRSI includes local news coverage, it doesn't attempt the scope that has become a source of pride for WHAI.

Listeners tune into WHAI on 98.3 FM and 1240 AM because they're looking for "hits, oldies, a lot of news, information, easily recognizable sounds," said Banash.

Latest market surveys conducted by Arbitron Inc. found that 44 percent of all county residents who listen to the radio turn to WHAI at some point during the day, said Banish.

The station's signals, which are transmitted from facilities on Woodward Road, are 1,000 watts strong on the AM station and 3,000 watts on FM. They allow WHAI to be picked up throughout the county, more or less.

"It really depends on which way the wind is blowing," said Banash, adding that the area's hilly terrain interrupts signals. On the other extreme, WHAI has been transmitted as far as the Midwest, Texas and the Virgin Islands, she said. "A lot of it has to do with atmospheric conditions;" she dded.

Banash would like to see the family's station return to public service programing, the kind that educates the communtiy, she said. "I'd like to get us back to the kind of hands-on stuff where you show people things," said Banash. "We've gotten away from that somehow."

A broadcast done a few years ago with help from the Beacon Clinic and Greenfield police illustrates this "hands on" approach.

To demontrate the dangers of drinking and driving, WHAI arranged to get a small group of volunteers drunk at Greenfield Community College. Organizers let participants drive through an obstacle course on campus at various stages of intoxication. "The idea was to show people how alcohol affects their driving," said Banash. WHAI broadcast the event. Police drove participants home.

Haigis Jr. let his daughters take over operation of the station about 13 years ago when his son, John Haigis III. opted for a law career in Philadelphia.

Ann and Maggie Haigis fell into radio after stints in other fields—it was not a move they anticipated.

"It was always assumed that my brother would be interested in running the station," said Maggie. "As we were growing up, it wasn't usual to see a woman in broadcasting . . . Connie Chung wasn't around."

The women simultaneously gravitated back to the station they knew so well as children. "Scared to death of the microphone," Ann got involved in management while Maggie was attracted to news coverage.

In the early 1970s, the station started to face competition from a number of small stations that sprouted up around the country. Besides competition from Springfield stations, WHAI faced challenges for local news coverage and local advertising dollars.

"Competition has been good for us," said Banash. "It's made us look at what we're doing." The result was a decision to adopt a format—to establish some program consistency instead of allowing the tone of the station to be shaped by individual disc jockeys. WHAI created an "adult contemporary" style aimed at 25- to 49-year-old listeners that features Top 40 and oldies.

Regularly approached by those interested in buying the station, Banash tells them it's not for sale. She declined to say how much WHAI, which has 18 employees, is worth.

Potential buyers also ask Banash about the station's record collection—an astonishing 20,000-record library with an extensive selection of classical recordings. At most stations, tapes and compact discs have replaced vinyl but "we kept everything," said Banash. "At some point I'll have to get rid of them and sell them to a collector who can properly preserve them. Otherwise they just sit here decaying."

To mark the golden anniversary, WHAI has been celebrating all year. The station will not mark Sunday in any special way, said Banash. "We decided to spread things out instead of one celebration," she said. In February, WHAI held a public dance party at the armory that kicked off Greenfield's Winter Carnival. Three or four listener contests are planned for the year and "there are some other things in the works," Banash said mysteriously.

The longterm future of the Haigis dynasty is uncertain, said Maggie Haigis. While her sons Scott, 3, and Erik, 11 months, "enjoy pushing buttons" when their mother is at work, its a bit too early to detect any real interest. Ann's son, Christopher, 18, has indicated some concern with WHAI but nothing definite.

Both women say they are content with what they're doing and don't see any foreseeable changes.

"I can definitely see myself working here until I retire," said Banash.

Will WHAI be on the air 50 years from now?

"I sure hope so," said Banash. "I can't see any reason why it wouldn't. Unless radio becomes obsolete. And that's about as likely as newspapers becoming obsolete."

"We don't please everyone and we can't try to please everyone," said Haigis Jr. "We just try to stay on an even keel."

HUMANITARIAN ASSISTANCE?

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. McEWEN. Mr. Speaker, the freedom fighters in Nicaragua are starving. Young men and women are eating tree roots simply to survive. Is this the kind of humanitarian assistance that was intended for the resistance?

There were those of us on this side of the aisle who warned you, Mr. Speaker, that any aid required to go through the Sandinistas would not find its way to the freedom fighters. We told you the Marxists in charge in Managua would never permit aid of any kind to the Contras—military, humanitarian or otherwise. But you wouldn't listen.

You insisted on crafting legislation which specifically requires the approval of the Sandinistas before assistance can be delivered. And now the freedom fighters are starving.

Perhaps starvation was intended afterall. Because now the House leadership opposes the only way left to get desperately needed food to the democratic resistance. The Agency for International Development proposes to give the starving freedom fighters just $1 a day in Nicaraguan cordobas.

The majority whip said the plan would "give money to the Contra leadership and let it simply disappear into the jungle." And the Democratic study group charged that the plan undermines the peace process.

Mr. Speaker, we already know the majority leadership of the House does not appear committed to freedom in Nicaragua. But now it appears they do not care much for peace either—only surrender.

TRIBUTE TO LENORE WAX

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. BERMAN. Mr. Speaker, we rise today to pay tribute to an extraordinary individual and dear friend, Lenore Wax. Lenore will be honored on Saturday, May 21, 1988, by the Los Angeles County Democratic Party as the 1988 Democrat of the Year from the 45th Assembly District.

For well over 20 years, Lenore has been an extremely valuable friend who has devoted her life promoting democratic causes and in helping and serving others. Her accomplishments, which include the full spectrum of educational committees as well as political and community affairs, have led others to seek her knowledge and insight.

Lenore has continually worked for the betterment of education in California. Her energy and commitment is a testimony to her achievements in this field where she is recognized as an outstanding leader.

Lenore served as a member of the California committee on teachers credentialing from 1981-85, the State board of education from 1976-81, as chairperson on the joint committee on vocational education and chairperson of their legislative committee. She also served on the Los Angeles Board of Education advisory committee for year round schools, legislative chair 10th Hollywood Council PTA, and PTA and Advisory Councils for the schools of Melrose, John Burroughs, and Fairfax.

A lifelong commitment to Democratic politics has made Lenore an invaluable leader in the party. Lenore has served as cochairperson, 26th Congressional District State committee; chairperson, 61st Assembly District Council; president, Victory Young Democrats; president of the Beverly Hills Democratic Club; chairperson, Congressman Henry A. Waxman Campaign Committee. She was also a delegate at the 1984 Democratic Convention. This list of accomplishments is astounding those who know the time it takes to make a difference.

In addition to her political and educational contributions, Lenore has also been very active in a wide range of community organizations, and has willingly and generously devoted her time and energy to important causes. President and chairperson are not new words to Lenore who has served on the board of the Fuller Avenue Senior Citizen Housing Board and vice-chair of the education committee for Pacific Southwest Region Anti-Defamation League.

Lenore has tirelessly devoted her energy and resources over the past 20 years to the Jewish community. She served as officer of Temple Israel of Hollywood, member of the boards of the Westside Jewish Community Center and Jewish Federation Council, vice president of the metropolitan regional board and board member on the executive committee and education committee of the Community Relations Committee. She was on the board of the Bureau of Jewish Education and Council on Jewish Life. The quality of life in our community has been enhanced through her efforts and a large number of people have benefited from her selfless service.

Her husband, Jack, and her two children, Eva and Billy, share the community's pride in Lenore.

It is our distinct honor and pleasure to ask our colleagues to join us in honoring Lenore Wax, our dear friend, an invaluable member of our community, and a truly remarkable human being.

IN HONOR OF AUDREY SKIRBALL-KENIS AND RABBI AND MRS. ALFRED WOLF

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to Mrs. Audrey Skirball-Kenis and Rabbi and Mrs. Alfred Wolf for their achievement in fostering interfaith and interethnic understanding through their education and community work. They will be particularly recognized for their roles in the founding of the Skirball Institute on American Values. This celebration will take place on May 26, 1988, at the Aviva Center benefit dinner.

The Aviva Center provides a comprehensive range of services to troubled and homeless adolescent girls from all parts of our diverse community. Aviva Center services include intensive residential treatment, emergency shelter, specialized foster care, and programs helping youth to begin building independent lives for themselves. Formerly Hamburger Home, the agency was founded in 1915 and is a member of the Jewish Federation Council.

Audrey Skirball-Kenis is generous with both her energy and resources in a myriad of activities throughout the world. She is a member of the board of governors of the Hebrew Union College-Jewish Institute of Religion nationally, as well as a member of the board of overseers of the Los Angeles campus. She is a member of the executive board of the American Jewish Committee, and of the McDonald Center at Scripps Memorial Hospital in La Jolla.

Audrey Skirball-Kenis and her late husband, Jack Skirball, established many institutions of education during their time together and in his memory. In addition to the Skirball Institute on American Values they developed the Skirball Museum at the Hebrew Union College in Los Angeles, the Skirball Museum and the Department of Archeological Studies of the Hebrew Union College in Jerusalem, the Skirball Gallery at the Hebrew Union College in Cincinnati, the Skirball Department of Judacia at the Israel Museum in Jersualem, and the Skirball Department of Hebrew and Judaic Studies at New York University.

The Wolf family is very special to me. I have considered Alfred, his wonderful wife Miriam, and his terrific children, David, Danny and Judy, of blessed memory, friends since I was a small child.

For Rabbi Alfred Wolf it has been a long and unexpected road that has led him from his birth in the small German town of Eberbach in 1915, to his present status as one of the most respected religious leaders in southern California. In 1949, he began what was to be a 36-year tenure with the Wilshire Boulevard Temple in Los Angeles, the oldest Jewish congregation in southern California and one of the largest in the Nation. For 34 of these years he served in association with Rabbi Edgar F. Magnin succeeding him as Senior Rabbi upon his death in 1984.

In line with Rabbi Wolf's priorities of youth education and intercultural affairs, he quickly moved to create the Wilshire Boulevard Temple Camps in Malibu. These camps—Camp Hess Kramer, which opened in 1952, and the adjacent Gindling Hilltop Camp, which opened in 1962—serve as Jewish summer camps and during the rest of the year are used as conference grounds by a wide range of community and religious groups. They have served as models for the Jewish camping movement that has burgeoned across and beyond the United States during the last three decades.

Throughout all his endeavors, Rabbi Wolf has enjoyed the love and support of his gracious wife, Miriam.

It is with great pleasure that I share the news of this special tribute with my colleagues in the U.S. House of Representatives. I ask that they join me in congratulating Mrs. Audrey Skirball-Kennis and Rabbi and Mrs. Alfred Wolf on their many fine achievements for the betterment of others.

ETHEL O'BRIEN RECEIVES ELDERLY ADVOCATE AWARD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. FRANK. Mr. Speaker, campaigning for office is not always fun, but it does have its rewarding moments. For me, one of those moments came in 1982 when I met Ethel O'Brien, one of the outstanding advocates in the State of Massachusetts.

Ethel O'Brien is an older women who has been for a long time a leader in the fight for fair treatment for older people. She understood a good deal earlier than a lot of others the circumstances that forced a lot of people who had worked hard all their lives into poverty or near poverty when they reached retirement age. Ethel O'Brien is one of those people who leads both by the intellectual force of her arguments and by the personal force of her own individual example. She is someone who has not allowed other people's stereotypes about the role of the elderly to hold her back. She is factual, passionate, and effective in her insistence that this wealthy country has the resources and the wit if we would only use them to create conditions in which older people can live their later years with dignity and without the fear that circumstances beyond their control will leave them impoverished. Whether the issue is adequate Social Security or SSI, a health care system that allows older people to maintain their economic independence while still providing for their health needs; sufficient housing; providing older people a chance to contribute to the rest of society or any of the other subjects that are important to the quality of all of our lives, Ethel O'Brien is a leader.

I was delighted to learn yesterday that Ethel O'Brien's leadership has been recognized by the Massachusetts State Office of Elder Affairs, which has presented her with its annual Elderly Advocacy Award.

I learned of this presentation from one of Ethel's strong admirers in Massachusetts, Mrs. Elsie Frank, the president of the Massachusetts Association of Older Americans who urged me to take appropriate note of this very deserved honor. I hasten to do so, Mr. Speaker, because it gives me the chance to express my gratitude to Ethel O'Brien for the work she does on behalf of all of us; to congratulate the Massachusetts Executive Office of Elder Affairs for its excellent choice; and to remind all of our colleagues that you are never too old to listen to your mother.

WHAT'S AHEAD FOR THE OIL AND GAS INDUSTRY?

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. McEWEN. Mr. Speaker, a year ago this week, Mr. L. Frank Pitts addressed the Fourth Annual Conference for Editors and Reporters on the future of the oil and gas industry in America.

I recently had the opportunity to reread Mr. Pitts' remarks in preparation for an appearance at the Second Annual Conference on Energy and National Security on May 24, 1988.

Mr. Pitts' analysis of the energy situation and our Nation's growing dependence on foreign oil ring as true today as they did a year ago.

Mr. Speaker, I commend these remarks to the attention of my colleagues.

WHAT'S AHEAD FOR THE OIL AND GAS INDUSTRY

(An industry view by L. Frank Pitts)

(Fourth Annual Conference for Editors and Reporters, May 27, 1987)

ABSTRACT

Economic conditions in the producing states make it apparent that the oil gas industry is in trouble. The importance of oil and gas to America is evident as, with only 6% of the world's population, we consume 30% of its energy output. Of that amount, 70% of U.S. usage is oil and natural gas. America was energy self-sufficient for over 100 years, but by 1973, depended on foreign oil for 35% of its supply, putting the Middle East in control of world pricing. American dependency has now grown to 40% of its supply, as a result of this control. Responsible studies indicate that this dependency will increase to 50% in the very near future.

Middle East oil reserves are 13 times greater than the U.S., but U.S. "undiscovered reserves" have consistently kept U.S. reserves in the black 10 or more years and are expected to continue to do so.

The high prices set by OPEC in 1973 and 1979 led to better oil economics and many free world oil discoveries, which then cut into OPEC markets. OPEC dumped cheap oil to drive the world price below the economic level for most U.S. and other free world producers, leading to a major depression in the oil industry, which is now spreading to other elements of the U.S. economy.

U.S. production of oil and gas must be re-established to assure national security and economic stability, but the U.S. government is lagging behind other governments in assisting oil industry recovery. Assistance might include tax credits for newly drilled wells; tax eliminations on newly discovered oil; opening more federal lands to exploration; repeal of the Windfall Profits Tax; imposition of a variable tariff on all oil below a pre-established price. The latter should forestall predatory dumping of cheap oil, and stablize the U.S. price to facilitate economic planning.

The events of the last few days, as a result of the missile attack on the frigate Stark, have brought into focus the actual cost of a barrel of imported oil from the Persian Gulf. According to congressional sources, the cost to maintain our naval and land forces in the Middle East is $40 to $50 billion per year, just to insure availability of their oil. That hidden expense raises the true cost of all imported oil to the U.S. to over $40 per barrel, and the oil from the Persian Gulf area, alone, to over $140 per barrel.

But whose availability are we talking about? Japan imports nearly 54% and Western Europe about 30% of their petroleum needs from the Middle East, while the U.S. figure is less than 6%. Yet, you don't see any Japanese or German vessels patrolling the Persian Gulf.

The author believes a "window of opportunity" is at hand for investment in oil and natural gas drilling projects. The U.S. economics of oil is such that investment money is available as soon as government policies are changed favorably. With proper incentives, goals of 90,000 to 100,000 new wells per year can be met. New natural gas can replace some crude oil imports and improved recovery techniques will increase the flow of American oil to consumers.

What is Ahead For the Oil and Gas Industry

An industry view by L. Frank Pitts

(Fourth Annual Conference for Editors and Reporters, Dallas, TX, May 27, 1987)

Anybody who has anything to do with the news is aware that the oil and gas industry is in trouble. In producing States such as Texas, Oklahoma, or Louisiana, that means trouble all the way to the grass roots.

But the national public and their elected representatives have generally ignored what's happening. I salute Texas A & M for having this seminar and commend each of you for attending, because we depend on you to communicate solid information to the public.

Energy is the lifeblood of an industrial nation. America, with only 6% of the world's population, consumes 30% of the world's energy, and 79% of that is oil and natural gas. This one statistic is an indicator of how the oil and natural gas industry is tied to our Nation's economy, jobs, and national security.

From the 1860's, through the 1960's the domestic oil industry took care of our Nation's growing appetite for fuel.

By 1973, we had let our dependence on foreign oil creep up to 35%, the world price of over $3 per barrel was enough to be profitable for foreign producers, but too low to encourage U.S. producers to drill enough wells to maintain our own supplies.

When the Yom Kippur 6-day war erupted in 1973, the Saudi Arabians didn't like our support of Isreal, so they cut off oil imports to us. That cut-off amounted to only 7% of our total supply, but it completely disrupted this entire Nation! We all sat in long lines to buy gasoline.

When the Arabs began to sell us oil again, they had raised the price by 300%, and the world price followed.

By 1979, our dependence had grown to 46% and the Middle East proved its power again when the Iranian revolution provoked another tripling of oil prices, up to $30, touching off a worldwide recession.

Let's jump to the present for a moment. This chart can show us why the Middle East dominates the world price of oil. They have twice the reserves of the entire free world. The United States has so far produced more oil than anyone else, but our proved reserves—what we know we have left—is a drop in the bucket compared to the Middle East.

Today the United States is using over 3 billion barrels of U.S. produced oil per year, But don't jump to the conclusion that the 33 billion barrels of reserves we have today is only an 11-year supply before we run out.

In 1950, our proved reserves were 25¼ billion barrels and we were using oil at the rate of 2 billion barrels per year. Politicians were saying that we had only a 13-year supply left. But since 1950, we've produced and used 99 billion barrels, four times the supposed reserves of 1950, and we still have more reserves today than we did then. The secret is finding new oil. Some 98% of America's prospective sediments are still untouched by drilling. All the oil and natural gas we've produced and used since 1859 have come from only 2% of the identified prospective U.S. sediments.

Unfortunately, our Government has locked away millions of acres of prospective lands onshore where drilling for oil and natural gas is absolutely prohibited.

Only 3% of the Continental Shelf has ever even been offered for lease by the Federal Government. We potentially have plenty of oil and natural gas for us, and for our great-grandchildren, but only if oilmen are encouraged to drill for it, prove up new reserves and produce it.

When it again became profitable for drillers to operate, they took up the slack in a hurry. Between 1977 and 1985, this country's imports dropped by nearly 4 million barrels a day. New discoveries in the North Sea and other areas around the world also eroded the OPEC market. When the OPEC economy began to suffer, they schemed to get the world dependent again—by breaking the high-cost oil producers in areas like the North Sea, Canada, and the United States.

Early last year, Saudi Arabia began to dump 2,000,000 barrels a day of cheap oil into the world market. The result was exactly what they wanted. It dropped the world price by 60% in 90 days, and the world's higher-cost producers were driven to the wall. Prices dropped to $9 per barrel.

Today, in the United States we're finding only three new oil and gas fields a week—compared to 30 new discoveries a week in 1981.

In 1986, we used 400,000 barrels a day more than in 1985, yet American oil production declined 800,000 barrels a day. It is anticipated that domestic production will decline by another 1,000,000 barrels a day in 1987.

Total imports have increased 1,000,000 barrels a day, and are still rising.

Hundreds of independent oil operators—the people who drill 87% of the wells—are now bankrupt.

Eighty percent of the oil service industry has been dismantled.

One hundred twenty (120) refineries have shut their doors.

A record number of banks have collapsed.

Basic industries like steel and automobiles have been affected.

Real estate is in trouble.

Like falling dominoes, the ripple-effects impact our entire economy.

OPEC's plan is working to perfection. In mid-1985, we imported just 26,000 barrels per day from Saudi Arabia. today, it's 825,000 barrels per day—the most we import from any other single country! They've broken the back of our exploration and producing capacity. They're gorging Americans on cheap oil, and when we're fat and dependent enough, there could be a new and powerful price shock.

But the real concern is national security, where our foreign policy can already be dictated by Middle East governments. The billions we spend for the best arms and equipment are all for nothing, if we don't have the fuel available to operate them. After all, the bombers don't fly, and the tanks don't roll, without petroleum.

The American oil industry must be revived, and I believe it will be, but more action is required beyond Government officials chanting, "We're letting the free market work."

A free market in the world oil business is not possible. Seventy-five percent of the world's oil is owned by governments. There is no free market for oil—it is a political tool in every part of the world.

For the good of any producing nation, its government should help maintain a healthy oil industry, and there are excellent examples all over the free world today of countries which have developed, or are formulating incentives and partnerships, to revive and encourage producers to drill wells in their country.

Several countries have cancelled oppressive tax disincentives. There are even outright cash grants designed to revive exploration, drilling and production in some countries, in marked contrast to the "get lost" attitude of our own government to American producers.

What can our Government do? To mention just a few of many:

One of the best incentives our Government could instigate would be tax credits for new drilling.

Our Government could eliminate Federal taxes on all new discoveries and their associated development wells—for a period of, say, 5 years. That would encourage new, high-risk drilling for new oil and natural gas.

Our Government must open more Government lands onshore and offshore to exploration.

Washington should repeal the misnamed windfall profits tax. This excise tax has already skimmed $77 billion off oil income since 1980. If it stays in place operators stand to lose up to 70 percent of any future revenue that should be going into new wildcats to increase our oil supply and insure our national security.

Our Government could take strong, positive action and stabilize the price of oil in this country. Even Japan, with no production of its own, has stabilize its industrial oil price at $27 by charging a variable tariff on all oil below that mark. The government earns the money, and industry has a stable standard to use in economic planning.

Everybody wonders about the future price of oil, which has now staggered back up to $19. I think OPEC can keep the price near $18 or $19, with occasional blips up to $20. There is no great probability, in the near future, that OPEC will allow it to go much higher in 1987 dollars. They need as high a price as possible—but low enough to keep any competitors at bay—and low enough that research and development on alternate fuels will not look economical. To put the present price in perspective, the national petroleum council reported earlier this year that, in 1985, the combined average cost to find and lift a new barrel of oil in the United States was $17.59.

An $18 oil price, therefore, presents a near impasse. The oil industry cannot replace our reserves by risking huge amounts of capital, just in the hope of finding enough oil to break even. But it doesn't have to be the end of the American oil industry either.

In my more than 40 years experience in this business I've only seen two clear windows of real opportunity. The first was in the early 70's, when our Government had prices squeezed down so nobody could drill and make a profit, yet reserves were dropping and imports were increasing to the danger level. It was obvious something had to give. Together, with a few associates, we began drilling wells. Within 2 years, the prices began to rise, and our investment paid off.

The second window is here today. The conditions are nearly the same as 15 years ago. I believe the Government is going to have to come to its senses again, especially in view of events of the past few days, following the missile attack on the frigate *Stark.*

The American public is under the impression that the foreign oil we're buying is costing only $18 or $19 per barrel. But according to congressional sources, it is currently costing us $40 to $50 billion per year to maintain our naval and land forces in the Middle East, just to insure availability of their oil. That hidden expense raises the true cost of all imported oil to the United States to over $40 per barrel, and the oil from the Persian Gulf area, alone, to over $140 per barrel. This cost is expected to rise even more because of recent developments and increased resonsibilities in the Persian Gulf.

But whose availability are we talking about? Japan imports nearly 54 percent and Western Europe about 30 percent of their petroleum needs from the Middle East, while the U.S. figure is less than 6%. Yet, you don't see any Japanese or German vessels patrolling the Persian Gulf.

I have faith in my industry, and I believe it's going to recover and be strong again.

Some of the suggestions I've mentioned for tax incentives would have the effect of raising the price of oil for producers. But that's not enough. Any time OPEC perceives American producers to be recovering, by whatever means, to the extent that American oil might take away some of the OPEC market, they can lower the price and drive us out of the market again.

Therefore, we must take positive action and stabilize the price of oil to control our own destiny and insulate ourselves from foreign price fixing. Even if we imposed a variable fee on oil priced only lower than $19, it would provide some stability. Bankers today are reluctant to loan money on $18 or $19 oil, because they know that Persian Gulf exporters can drive it down to $9 in only a few days time.

Much of the current oil "investing" is in the form of buying reserves, or corporate raiding to acquire reserves. For the country, that's like putting money from one pocket into the other side. It adds nothing to the economy and does nothing to add new supplies for our use. What the Nation needs is an energy policy that will put drillers to work finding new reserves. There is enough oil, and particularly natural gas, to be found in this country that 90,000 to 100,000 wells should be drilled every year for the next several years, which is more than double the rate we are currently drilling.

Given the proper incentives, most of the onshore American drilling will continue to be done by the independent operators who traditionally have done 85% to 90% of American drilling. Independents explore for, drill for, and produce oil and gas which is sold as soon as it comes out of the ground. They normally have no interest in downstream operations such as pipelines, refineries or in retailing.

The major companies will, if the government will open more lands over the next few years, concentrate on the huge offshore possibilities, on foreign projects and very expensive undertakings such as Alaska.

But in the case of any reputable company, I think the banks want to make loans for the development of American oil and gas. There is a growing pool of investment money, some institutional, some foreign, and some private American dollars, which is waiting for the proper price stability and tax climate.

When that day comes, you'll see new natural gas found and produced in quantities that can replace 5 million barrels a day of imported oil, and a lot of new oil discovered as well. Recovery techniques will be improved, and we can be in control of our own national security once more. All we need is for our Government to begin to match the concern and cooperation shown by other governments.

If those of you in the press can help hasten that day, you will have done America a great service.

TRIBUTE TO ROZ RESNICK

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding member of my community, Roz Resnick. Roz is an active member of the San Fernando Valley community and the Temple Ramat Zion in Northridge. She is this year's recipient of the Temple's Men's Club "Woman of the Year" Award, which is presented at the annual men's club Father's Day breakfast.

Roz Resnick truly cares about Temple Ramat Zion and its members. Since she became a member 18 years ago, Roz has been administrative vice president and was the first women ever to serve as the temple's religious vice president. Her work with the temple has benefited others greatly. She ran the temple's blood drive for 2 years. In addition to her work with the temple, Roz has worked as a volunteer for the Red Cross. In her professional life too, Roz has worked to help others. As a physical therapist for handicapped children, she used her skills and talent to help these children overcome their handicaps and lead fuller lives.

Roz's accomplishments have not gone unrecognized. She has received the Temple Ramat Zion's President's Award for Outstanding Service and the University of Judaism has also awarded her their merit award for exemplary leadership.

It is my distinct honor and pleasure to ask my colleagues to join me and the members of the Temple Ramat Zion in honoring Roz Resnick, a woman whose selfless and tireless efforts have helped many in her community.

SUPERCONDUCTING SUPER COLLIDER EQUALS SUPER BUDGET COLLISION

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Miss SCHNEIDER. Mr. Speaker, in this time of fiscal austerity Congress must confront the issue of allocating funds of a limited budget. It is a task that is always difficult and often unpleasant.

I would like to commend the decision of the Appropriations Committee to limit funding for the superconducing super collider to $100 million for research and development in the energy and water appropriations bill approved last week by the House. This level of funding would permit theoretical work to continue on the technology of the SSC. It is a generous sum that would, in fact, more than triple the present R&D effort on this project. Many Members, including myself, feel that even this level exceeds the amount that should be provided given other pressing civilian needs. However, the committee's action permits Congress to maintain its options while the future of this program is more carefully debated.

I am extremely concerned about the recent trend in the scientific community toward high-visability megaprojects that concentrate limited resources in one area at the expense of others. The SSC is prime example of this tendency. The administration estimates that the total costs for the SSC would be $4.5 billion, an amount sufficient to triple the budget for the National Science Foundation. To make a long-term obligation to the SSC, especially by committing to expensive project construction, would be especially unwise at this time.

Many questions remain regarding the best way to proceed with this project. For example, although the United States would currently pay all the costs, other countries would inevitably share in the benefits once the research was complete. It would therefore make better sense to secure substantial financial contribution from our allies before overcommitting our own resources. In addition, it would be fair to expect the host state to offer to share in the costs of construction since the project could result in significant but localized economic benefits. These questions clearly need to be answered before major amounts of the taxpayers money are irrecoverably devoted to the SSC.

Earlier this year, I was joined by 10 of my colleagues in writing to President Reagan to recommend that an international conference be convened to discuss internationalizing funding for the SSC. In a response from Under Secretary Joseph F. Salgado, we were assured that the position of the administration has been from the outset that "funding for the superconducting super collider will not come at the expense of other research." Contrary to this assurance, when DOE earlier this year recommended a $358 million increase in the SSC for fiscal year 1989, it proposed a decrease of $21 million in solar and renewables, $70 million in conservation, $105 million in the strategic petroleum reserve, and $160 million in fossil energy R&D.

Hopefully, the action by the House on the energy and water appropriations bill will send a signal to the administration regarding realistic budget priorities, saying that it is not possible to simultaneously maintain current worthwhile programs, reduce the deficit, and embark on a major construction program for the SSC.

Supporters of the SSC contend that the project will yield immense research benefits for our Nation. When I review the costs of the SSC compared to its benefits, I am reminded of the great victory of King Pyrrhus over the Roman Army in 287 B.C. After winning a battle that cost him virtually his entire army, King Pyrrhus remarked, "One more such victory and we shall be undone." Mr. Speaker, my deep concern today is that if we continue to fund projects that benefit us in the way the SSC would, then the victory could be too costly for Federal science policy.

EXECUTIVE OF THE YEAR: RON GIDWITZ

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. HYDE. Mr. Speaker, in the April 25–May 1 edition of Crain's Chicago Business, a weekly journal of commerce, the newspaper named Ronald J. Gidwitz as its "1987 Executive of the Year." As president and chief executive officer of Helene Curtis Industries, Inc., Mr. Gidwitz is a source of dynamic leadership for his company and his town.

A man "who personifies the 'I Will' spirit of Chicago," Mr. Gidwitz has guided Helene Curtis into a position as a leader in the cosmetics industry, while simultaneously working to make a better Chicago for all its citizens.

For these accomplishments I offer him my congratulations, and include in today's CONGRESSIONAL RECORD a copy of the Crain's story featuring Mr. Gidwitz and his award. I commend this story to my colleagues:

EXECUTIVE OF THE YEAR: RON GIDWITZ

Ronald J. Gidwitz has made a difference in Chicago.

Under his guidance, Helene Curtis Industries, Inc. has been a growth leader in the personal care products industry. At the same time, Mr. Gidwitz has demonstrated a unique commitment to Chicago, devoting his personal resources and those of his company to a better future for the city.

For those reasons, Ronald J. Gidwitz, 42, is the Crain's Chicago Business 1987 Executive of the Year—the executive who best personifies the "I Will" spirit of Chicago.

Since Mr. Gidwitz took the helm of Helene Curtis in 1979, revenues have quadrupled to nearly $500 million, and profits have hit new heights. But in a business climate where such rapid growth often is the result of acquisitions, Helene Curtis' growth stems from an aggressive series of new product launches.

The stakes were high: the company spent $50 million on advertising to introduce its Finesse hair care line alone.

Mr. Gidwitz exhibited similar risk-taking in his 1984 decision to rehab a Loop warehouse at 325 N. Wells for the company's headquarters. And last year, Helene Curtis begun construction of a $20-million manufacturing and warehouse facility on the Northwest Side that will rejuvenate blighted property not far from the company's factory, where most of its 2,400 employees work.

Personally, Mr. Gidwitz has become deeply involved in efforts to solve two of the city's most serious problems: unemployment and the failing school system.

A Republican who serves as 43rd Ward committeeman, he signed onto the Washington administration's efforts to reshape the Chicago Economic Development Commission. Mr. Gidwitz has been instrumental in transforming a rubber-stamp board into an innovative, vital organization with its own agenda for retaining companies in Chicago and luring new business.

An outspoken advocate for education reform, Mr. Gidwitz is a business community representative to the major's summit on education. He also serves on the executive committee of Cardinal Bernardin's Big Shoulders program, a $10-million effort to provide education for 44,000 inner-city students at parochial schools.

Mr. Gidwitz, who will be profiled in CCB on June 6, will be honored at a luncheon on June 10.

SOVIET GOVERNMENT SHOULD ASSURE HUMAN RIGHTS OF SOVIET CHRISTIANS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. LANTOS. Mr. Speaker, I wish to thank my distinguished colleague from New Jersey, CHRIS SMITH, for his dedication to the fight for religious freedom for Soviet Christians. House Concurrent Resolution 223, which he introduced, continues to focus the attention of Congress on the religious persecution in the Soviet Union.

The celebration of the millennium of Christianity in Soviet lands, the recent meeting of General Secretary Mikhail Gorbachev with Patriarch Pimen regarding the persecution of the church and religious believers, and the upcoming Reagan-Gorbachev summit all serve to highlight this crucial area of concern which is a factor in East-West relations.

An open dialog about fundamental rights—among them the freedom to worship according to one's own conscience and belief—allows the Soviet Union and the United States to move toward more stable relations. Over 200 Christians are imprisoned in jails or psychiatric hospitals. This unjust treatment of Soviet Christians must end. These people are a nonviolent group who wish only to practice their faith and teach their children religious beliefs.

As a Member of Congress and as cochairman of the Congressional Human Rights Caucus, I receive a constant flow of mail regarding cases of religious persecution in the Soviet Union. It is my sincere hope that changes in the Soviet treatment of Christians will result in the reduction of such serious problems.

At the upcoming summit, President Reagan and Secretary Gorbachev have the opportunity to discuss human rights and the documents which the Soviet Union has signed calling for the observance of human rights including the Universal Declaration of Human Rights, the Helsinki Final Act, the Madrid Document of the Conference on Security and Cooperation in Europe, and the United Nations Declaration on Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

Mr. Speaker, I urge my colleagues in the House to support House Concurrent Resolution 223, calling for Soviet compliance with these agreements. The time is now for the Congress to declare its opposition to the Soviet treatment of its Christian citizens and to speak out against the injustices that continue in the Soviet Union.

I hope the President will meet with success on this summit, but human rights must remain in the forefront of the deliberations.

TRIBUTE TO DR. CATHERINE S. GOLLIHER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to the "Democrat of the Year" for the 39th Assembly District, Dr. Catherine S. Golliher. Dr. Golliher has donated her time and energy to strengthen the Democratic Party in the 39th Assembly District, and because of her devotion, the party has grown in numbers and effectiveness.

As the chairperson of the Political Action Council for the United Teachers of Los Angeles, she organized three highly successful PACE Conferences. Her political savvy enhanced the direction and lobbying power of her organization. Working as the congressional and legislative contact for the California State Board of Education, she was a constant source of information. Always abreast of the issues, Dr. Golliher assisted in the research and distribution of information for her colleagues.

As former vice president and member of the board of directors of the United Teachers of Los Angeles, she continued to fight for their rights.

It is my distinct honor and pleasure to ask my colleagues to join me in recognizing Dr. Catherine S. Golliher, a truly outstanding Democrat in our community.

A CONGRESSIONAL SALUTE TO SAN PEDRO HIGH SCHOOL YOUTH COMMUNITY SERVICE STUDENTS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to the students participating in the San Pedro High School Youth Community Service [YCS]. A year end celebration is being planned for June 1 to honor the schools who have participated in this program. This occasion gives me the opportunity to express my appreciation for their work on behalf of the San Pedro area.

Youth Community Service began in 1984 as a program of the Constitutional Rights Foundation, and is implemented in cooperation with the Los Angeles Unified School District. The program assists youth in developing leadership skills and applying them in community service projects in their schools and communities. Students participate in 2-day leadership training retreats, ongoing school meetings from specially trained teacher sponsors, community service workshops, and ongoing contact with an array of community volunteers from a variety of backgrounds and professions, called "Community Resource Volunteers."

Academic credit may be available for student participants in specialized activities emphasizing reading, writing, speaking, and research skill development. Many of the programs offered and implemented by YCS, however, are strictly volunteer in nature. Students meet twice a week with a teacher sponsor to plan their projects, then recruit additional high school students to volunteer their time and efforts to participate in these projects. YCS implemented programs include visiting seniors in convalescent homes, tutoring elementary school children, organizing blood drives, and much more.

The YCS of San Pedro High School, specifically, has been involved in many programs to provide for the betterment and beautification of our community. Some of these activities include a citywide project of graffiti removal called "Wipe-Out Weekend," volunteering a Saturday to help San Pedro Public Library catalogue books by bar-coding, a gift-giving banquet for seniors, a fund-raising scavenger hunt for cystic fibrosis, and assisting with the arrangements for a picnic for Hathaway Home, a facility for emotionally disturbed children.

My wife Lee joins me in extending our congratulations, and our gratitude, to the approximately 35 students actively involved in the San Pedro High School Youth Community Service, and the numerous other students who have volunteered their time and effort, for the continuing contributions these students have made to the betterment of our community. On behalf of the city of San Pedro, we wish the program, and these special students, all the best in the years to come.

EAGLE SCOUT RICHARD MRIZEK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. LIPINSKI. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the achievements of a fine young man from my district, Richard Mrizek. Richard will be honored on Friday, May 27, for achieving the highest rank in Scouting, that of Eagle Scout.

The path to Eagle Scout is truly a long and difficult one. It requires an extraordinary amount of dedication and determination not usually seen in youths of this age. The tasks which must be completed to become an Eagle Scout cover virtually every realm of human experience. Some require intellectual and creative abilities while others call for physical agility and strength. Some tasks help integrate the young man into society through community action that benefits his neighborhood and world. Still other acts are performed alone to assist his growth and maturity as a person. The central challenge is, however, to set and strive for goals through initiative and diligence.

Young men like Richard are leaders. The achievement of Eagle Scout is likely to be only the beginning of a future full of accomplishments, for this young man has shown that he can perform exceptionally well without a compelling hand of authority over him. I say this not to downplay the importance of the encouragement he received from his family and Scout leaders but, rather, to assert the independence and self-motivation he has already shown.

Richard, your achievement of becoming an Eagle Scout is praised and applauded. It is with sincere pleasure that I commend you, Richard Mrizek, before my fellow Members of Congress.

THE PACOIMA MULTIPURPOSE SENIOR CENTER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. BERMAN. Mr. Speaker, I rise today to recognize the work of an outstanding establishment in my community, the Pacoima Multipurpose Senior Center. By recognizing and providing for the special needs of senior citizens, the center has played an important role in the lives of the San Fernando Valley's seniors.

The seniors center was established 10 years ago by the San Fernando Valley Interfaith Council to provide for the special needs of senior citizens. Since that time, the center has helped over 3,000 seniors through a variety of valuable services. At the center, seniors can receive legal, tax, and medical services that they could not otherwise afford. In addition, the seniors center aids low-income seniors by distributing hundreds of bags of food on a regular basis. By providing these social and educational activities, the center offers a place for seniors to interact with one another.

It is my honor and pleasure to ask my colleagues to join me in honoring the Pacoima Multipurpose Senior Center. Through its efforts and accomplishments, the center has provided security and dignity for our senior citizens.

FLOURTOWN/ERDENHEIM VETERANS MEMORIAL PROJECT

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. COUGHLIN. Mr. Speaker, the citizens of the neighboring communities of Flourtown and Erdenheim, Montgomery County, PA, have long recognized the need for an appropriate way to honor local residents who have served in the U.S. Armed Services during World War II, Korean war, and Vietnam war.

They have joined together to create a new memorial to be dedicated 1 week from today, Monday, May 30, 1988, Memorial Day, 1 year after plans for it were first announced.

The idea for a new memorial was first suggested by Nicholas DeMatteo of the Arthur V. Savage Post 100, American Legion, to John Taaffe, director of the Carson Valley School, a private residential facility for neglected and dependent children. A World War II "Honor Roll" was badly deteriorated and an embarrassment to local residents. It clearly needed to be replaced with a new monument, and the names of veterans of later wars added.

DeMatteo and Taaffe began the effort which has resulted in a handsome granite monument and landscaped park to honor local veterans. Taaffe received enthusiastic support from Carson Valley's Board of Directors, who voted to enlarge the site to accommodate the new memorial. DeMatteo began assembling a committee of local residents to organize and carry out a fundraising campaign and to oversee construction of the new memorial.

The committee members were John Taaffe, and Nicholas DeMatteo, cochairman; Gertrude Roatche, treasurer; James C. Weaver, secretary; Albert M. Comly, Daniel Helwig, James P. Geoghegan, James Cisco, Skip Hazell, Russell H. Souders, John P. Powers, and Martin McMahon.

Mrs. Betty B. Linker, Montgomery County Commissioner and a resident of Flourtown, agreed to serve as honorary chairperson for the project. On Memorial Day, 1987, Mrs. Linker presided at a brief ceremony held at the memorial site and announced plans to create a new memorial to be funded by private contributions from local residents. During the program, she accepted a check for $200 from the Flourtown Volunteer Fire Company, the first organization to support the effort.

Six months later on Veterans Day, November 11, 1987, Mrs. Linker lead a group of local dignitaries in ground-breaking ceremonies for the new memorial. More than 150 persons stood in the rain to be a part of the event and within 24 hours following the ceremony, local workmen, volunteering their time, were pouring concrete to form the base of the new monument.

Fundraising efforts begun in the summer continued through the fall and early winter. By January, contributions in excess of $20,000 had been received from more than 350 individuals and organizations. The work of the committee then shifted to construction of the new memorial and surrounding park and the preparations for the dedication ceremony. The names of more than 200 veterans had been solicited and inscription of names began in mid-February at a stone cutting facility in Georgia.

When completed, the two large granite tablets which comprise the major elements of the monument were shipped to Philadelphia for installation just days before the dedication. Hundreds of area residents are anticipated to attend the dedication on Memorial Day.

The new Flourtown-Erdenheim Veterans Memorial will stand as an enduring tribute to the men and women from these communities who served their nation in time of war at great personal sacrifice so that all Americans may enjoy the blessings of liberty. In addition, the memorial will represent the achievement of a small group of citizens who saw a need, came together to work toward a common goal and successfully achieved it. It is this strength of purpose and dedication to the common good that has made our Nation strong and will serve us well in future generations.

FFA-AGRICULTURE'S NEW SPIRIT

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF RPRESENTATIVES

Monday, May 23, 1988

Mr. SCHUETTE. Mr. Speaker, an interesting article was featured recently in the Michigan Farmer which tells the story of the new spirit for agricultural education that is taking root in Michigan and spreading across America. Gene Graham, the vo-ag instructor and FFA adviser of Laingsburg, is fast making the Vocational Agriculture Department of Laingsburg a leader in this new and exciting ground swell.

An important link in the return to prosperity of Michigan agriculture is the education and leadership development of our youth. I urge my colleagues to take a moment and share this exciting example with the leaders of their communities and support the brighter future for American agriculture growing in the Future Farmers of America—agriculture's new spirit.

[From the Michigan Farmer, May 7, 1988]

AGRICULTURE EDUCATION IN LAINGSBURG

(By Dick Lehnert)

Laingsburg is a small town. The local high school, with 340 students, is class C some years, class D others.

As a community, Laingsburg is not strongly dependent upon farming. There are 15 full-time farmers in the township-sized (43-square-mile) school district, but there are many more sundown farmers who are primarily employed in the Lansing area 15 miles away.

Still, the vocational agriculture program at Laingsburg Community High School enrolled 73 students this year, more than a fifth of all the students.

The reason is the teacher.

Two months ago, Michigan Farmer published an article entitled "Vo-ag in Vicksburg." It was the story of how a community, with farmer leadership, revised the coursework to make vocational agriculture education more appealing to students and more fitting to modern times in their community. After the new curriculum was in place, they hired a new teacher to lead on from there.

This story is different. It is the story of a young, dynamic teacher who took over a faltering vo-ag program that had 27 students enrolled. Four months later, he appointed an advisory committee, composed of farmers and non-farmers, to act as his sounding board. Now, three years later, agriculture is one of the most popular courses of study in the high school.

Committee members agree. If it were not for Gene Graham, the teacher, there would have been no sparkplug to organize them or the program at Laingsburg.

TEACHER IS CRITICAL

What Gene Graham has done in three years at Laingsburg Community High School is a fine example of a dynamic teacher in action. But it's also an indication of the pitfall that catches so many agriculture programs in high schools. Without a top quality teacher, programs falter and some die.

And the folks in Laingsburg don't claim to have solved the "continuity problem," the problem of what you do to keep your ag teacher fired up or to make your program survive if the teacher is less than superman.

Gene agrees that not all the problems have been solved. But he is proud of his program and thinks it is a model for others.

WHAT'S IN A NAME?

The Laingsburg program is close to being "traditional." If focuses on agricultural production and makes no apologies for that. Yet Gene refuses to call it "vocational agriculture," demanding instead that it be called "agriculture education."

"Agriculture Education in the Laingsburg Community Schools should be geared toward providing background experiences in production agriculture for those students interested in pursuing careers in production and the many careers in agribusiness," he wrote in a statement of program philosophy. "It should be geared toward the maintenance of the farming and agribusiness industries found in the school district, whether they be part-time or full-time."

In addition, he says, there is a broad need for all people to know about the process, the natural resource base, and the jobs that provide food and fiber.

From that perspective, Gene is doing in his program about what the country needs. About 22% of jobs in the U.S. are related in some way to the food and fiber industry. And almost exactly 22% of the Laingsburg High School students are in Gene's classes.

Gene believes, however, that the school should go way beyond his program with agriculture education. There should be awareness programs at the K-5 grade levels. There should be "pre-vocational studies and experiences" at the 6-8 grade levels. And beyond the vocational offerings at the 9-12 grade levels, there is need for continuing education for adults.

HOW IT WORKS

At Laingsburg, all students are required to take two years of some kind of vocational education or two years of fine arts. This entices ninth graders to enter the program.

There are two other lures. Students are actively recruited when they are in the eighth grade. And Agriculture I is set up so it gives a full science credit. It replaces general science. It does not compete with college prep programs.

Once into the program, the students are in for a variety of experiences, starting in Agriculture I and continuing through Agriculture II, III and IV, with Ag Mechanics providing a fifth course in the program.

Ag II focuses on animal husbandry. Ag III is crops and soils. Ag IV is farm management.

Each student is required to participate in one or more agricultural activities. They can be school group projects, production projects at home, or on-job experiences on farms or with agribusinesess.

Each student must keep a note-book recording skills developed, hours worked, or a ledger of receipts and expenses. The notebooks and the agricultural experiences are the student's Supervised Occupational Experience program, or SOE.

Gene visits each student at home or with his employer to make the link between the classroom and the hands-on experience. The SOE is 20% of the student's grade.

All students must be members of the Future Farmers of America chapter. There, they participate in chapter activities throughout the school year and the summer. There are leadership conferences and contests, skills contests, community service projects, safety programs, 101 activities in all.

Gene can't say enough about the importance of FFA. "FFA is an excellent educational tool to be used in motivation and recognition," he said. At Laingsburg, it counts for 20% of the student's grade.

Instruction doesn't stay in the classroom. Every student seems involved all the time in some hands-on project. And Gene is like a diversified farmer with 73 children, supervising all of them and all their projects all the time.

Some examples: The program has a 500-square-foot greenhouse attached to the school. Students raise four crops every year—poinsettias, tulips, Easter lilies, bedding plants. They learn public relations. Every school board member gets an Easter lily. They keep records on expenses—and income, too, since they sell the flowers to raise money.

They have a small barn. They grow a crop of 100 broilers, weighing, vaccinating, keeping records, studying the effects of light. The students prepare a chicken dinner at the end.

The barn goes to hogs in the spring. The kids learn everything from feeding to ear notching systems. The school has a gilt chain that provides gilts to students to farrow in return for a gilt back.

The school has 27 acres of farmland. It is leased and was planted last year to corn and oats using notill methods. "We don't own any equipment or land," Gene said. "And that's good. We have to work with the farm community if we are to get anything done. It's better for us that way."

Gene did a summary for the last school year showing the students generated $42,407.40 in their SOE projects that included beef, sheep, swine, goats, rabbits, poultry, horses, mules, corn, oats, horticultural projects, furs, and $16,000 in labor income from farm and ag business placement.

COMMITTED TO AGRICULTURE

When Gene Graham came into the program, it was in sad repair. After 27 years of existence, enrollment was down to 27. There had been four teachers in the previous four or five years.

"Even at the lowest point, we never seriously considered dropping the program," said Hal Beatty, the school superintendent. "It has a place alongside other academic programs in a well-rounded curriculum."

"It would have been simple to drop it," added principal Carl Clark, "but we see lots of benefits, the skills, the FFA involvement. It's not all cows and plows."

Beatty says that, no matter what course is involved, "the teacher is critical. Kids sign up for teachers more than for programs."

"All I asked was for a fair mix of kids," Gene said. Like many vo-ag programs, Laingsburg's had become a dumping ground for students with low academic abilities and "special needs." Now, 27 of his 71 students are on the honor roll. The special needs kids have not been pushed out. Gene has the help of Pat Brown, a paraprofessional who works with students with learning disabilities, emotional impairments, low grade point averages, low reading and math skills and those who are potential or returned dropouts. Gene has swept her up in the program, too.

Laingsburg, like all schools, is facing a time of increased emphasis upon academics. More English, math and science are required.

This poses a question about the role of vocational programs, for two reasons. First, not everybody will go on to college. Second, even those who do go on to college need to have skills. This school has tried to go both ways—more academics, more vocational programs providing modern skills.

"We're seeing a rebirth in home economics now, too," Clarke said. "But it's not the traditional stir and stitch program. We have classes in family management and parenthood. The students run a nursery for children of working mothers, for example."

"What is education about anyway?" Beatty asks, rhetorically. "It is developing a good self-concept and useful skills., If Gene teaches judging cows, is that not the same kind of process as learning to judge houses or cars?"

WHO IS GENE?

Gene Graham is age 25, unmarried, drives a pickup truck and is energy personified.

He lives in one of two homes on a 160-acre farm near Williamston owned by his parents. He keeps a small commercial sheep flock and feeds about 70 hogs, but most of the land is rented out and he doesn't farm much. Teaching, not farming, is his profession.

His biggest tool is a gift with words. He runs a constant commentary as he works with his students. Last December, that skill helped him win the state level Discussion Meet sponsored by Michigan Farm Bureau. He was one of the top finalists in the national meet.

The family farm was a factor in his decision to teach at Laingsburg. He wanted to work near where he wanted to live. Otherwise, he says, he might have gone to a community where production agriculture was practiced more intensively.

THE FIVE ADVISERS

But Gene isn't complaining about Laingsburg. The people in it are a lot like he is—farm-oriented with off-farm jobs and nonfarm interests as well. Gene's advisory committee reflects that.

There's Larry Lee, a young man who farms with his father, Robert. They were the state's conservation award winners last year (see "Notill tames this rolling farm," October 1987, *Michigan Farmer*). They raise crops, hogs, beef, and poultry.

Brad Schleicher grows about 45 acres of apples and strawberries and runs a restaurant called Poor Man's Ponderosa. He hires four or five students to prune trees and otherwise work in the orchards or the restaurant.

Bob Leonard runs Leonard's True Value Hardware and employs students. He's really sold on the skills vo-ag and FFA build.

Doug Smith is a farmer who milks 45 cows with his family. He employs students, too.

Don Brown is a part-time farmer who works at Motor Wheel and has two sons in the program.

"We have a long history of problems here," said Robert Lee, who recalls when kids left the Laingsburg school to attend Ovid when the program foundered once in the past. Support isn't consistent.

Brad Schleicher agrees. When Gene first came, "I wasn't going to get involved," he said. "When I saw that he stuck it out, I got interested in helping him. But my first question before that was, 'Are you going to leave, too?'" He and the others discuss whether they had three teachers in four years, or was it four teachers in five years? And they agree that if Gene left, they might be back in the same boat.

But then, maybe not. They think Gene is really good, and they think they'd want to find someone else like him if Gene left. Maybe they would.

"If I were as good as I want to be, every kid would take ag," Gene says. Statements like that please and scare the advisory committee. They have a teacher with high ambitions.

Word of Gene's program has spread. He spends some time on the road now helping other communities reorganize their agriculture education programs. And so do the folks from Vicksburg, who feel their program also is a model.

"There seems to be a lot of interest in revitalizing programs right now," Gene observes. Sure enough there is.

U.S. OLYMPIC COMMITTEE AND MEDIA MUST STRENGTHEN THE TEAM CONCEPT

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. RITTER. Mr. Speaker, early last week we considered legislation to assist the U.S. Olympic Committee and it seems reasonable to assume that if we get the assurances from the International Olympic Committee, requested by our objectors, we will pass the private bills awarding emergency citizenship to these worldclass athletes. If not, we won't. But if we do, at the time of enactment, the Congress and the President should emphasize to the U.S. Olympic Committee and the media that basically, it is our strong desire to emphasize the team concept in all U.S. Olympic sports.

We would not want to contribute to the decline of a united team spirit. One current adversary to the team concept, bickering within the private club system, is covered in an excellent article in the May 9, 1988, issue of the Allentown Morning Call by Katherine Reinhard. She highlights this problem in the field of gymnastics after conducting hundreds of interviews with coaches, officials, parents, and the young gymnasts themselves. The article follows:

U.S. Olympic Committee and Media Must Strengthen the Team Concept

(By Katharine Reinhard)

(The world of international gymnastics—in which the Allentown Parkettes is a top-ranked club—is a world of contradictions. Adult demands fall on adolescents and the joy or camaraderie and competition can be replaced by physical and emotional burnout. Reporter Katharine Reinhard conducted hundreds of interviews with coaches, officials, parents and the young gymnasts themselves for an indepth look at a misunderstood sport.)

Come September, when the U.S. women's gymnastics team is expected to place no better than fourth at the summer Olympics, the gymnastics community won't need George Steinbrenner to head a special investigation to find out why.

It's not that U.S. gymnasts lack the skills to earn at least a bronze medal. Rather, gymnastics experts say it's the fighting and bickering among the nation's top coaches and the United States Gymnastics Federation (USGF) that is standing in the way.

"We're fighting with each other more than being concerned with who we are competing with," says one coach.

Consider this.

After the World Gymnastics Championships in Holland in October, U.S. Olympic Coach Greg Marsden quit because he says the gymnastics community undercut his efforts to do the job right.

In the last year especially, Bela Karolyi, who gave the world Nadia Comaneci before defecting to the United States and coaching Mary Lou Retton, has been accused of trying to take control of the sport.

It was only in March, in what some consider an 11th-hour decision, that the USGF picked a new Olympic coach—Don Peters, the 1984 Olympic coach.

Coaches agree that the private club system in the United States is largely responsible for the problems.

In Eastern bloc countries, the world's top producers of gymnasts, the governments build training centers, hire the coaches and reward the families of gymnasts with fancy apartments and cars. A gold medal for them is a victory for the communistic way of life.

"They are . . . more nationalistically prepared," says Mike Jacki, executive director of the USGF.

In the United States, the federal government lends little support. Gymnasts, now numbering 180,000 train at about 2,300 private clubs. Each club must build its own facility, pay a coaching staff and assemble a board of directors. In addition, each club is solely responsible for raising enough money to keep itself financially afloat.

At national meets, gymnasts don't represent the United States, but the Parkettes, SCATS or Karolyi's. A first-place finish for a Parkette is a victory for her club.

It's only when they compete internationally as members of the U.S. national team that gymnasts drop their allegiances to their clubs. At times, club coaches have made this difficult to do.

"I have found the athletes to be cooperative and willing to represent the United States," says Marsden. "The problem that I have run into is when the adults get involved, when the personal coaches get too involved."

Private coaches like Donna and Bill Strauss of the Parkette National Gymnastic Training Center in Allentown admit they are reluctant to turn over their gymnasts to another coach even if it is for the Olympic team. And, they don't think the USGF understands the reason behind their reluctance.

Under International Gymnastics Federation rules, private coaches are not permitted on the gym floor during team competition, but must sit in the bleachers. For a coach to be reduced to little more than a spectator can be a trying experience, especially if he or she has spent years developing the gymnast's skills.

"Oh, it's terrible. I'd almost rather not be there," says Donna Strauss.

Their spectator status, however, hasn't stopped private coaches from at least trying to play an integral part in coaching their girls at international meets.

At the 1984 Olympics, Karolyi got around the rules by securing a floor pass that allowed him to move equipment. This gave him better access to Retton, who won a gold medal at the Los Angeles games.

Until the meet starts, the private coaches have been known to corner the head coach, telling him how to train the gymnast, the best time to do it and where she should be in the line-up.

"He has seven or eight mouths tugging at his ears," says Tom McCarthy of the Berks Gymnastics Academy in Wyomissing, who was an assistant Olympic coach in 1984 and has been tapped by Peters for the job in Seoul.

Marsden, head coach at the University of Utah, was hired by the USGF last year to serve as the women's Olympic coach in the hopes of ending the feuding that erupts. He was considered a neutral choice, but resigned when he found few coaches and USGF officials willing to cooperate with him, he says.

Until his appointment, club coaches such as Peters had been doing the job, a system that other coaches argued breeded favoritism.

In the past, the Olympic coach had the power to choose six gymnasts to compete on the team.

Coaches argued that a club coach could easily pick one of his gymnasts even if one of their girls was better.

This year, the rules have been changed. The six positions will be decided at the Olympic trials in Salt Lake City in August. There will be two alternates chosen, but only the first alternate will be considered a team member.

Even then, she will only be able to compete if one of the six team members is injured or ill.

Before the rule change, coaches also had complained that a private coach in the nation's top coaching position had an unfair advantage in the marketplace. Aspiring gymnasts would naturally gravitate to his club even if he only spent a couple of weeks with the Olympic team.

"People are concerned about their club, how things will affect their club and their athlete instead of how things will affect the U.S. national team" says Marsden.

Marsden says this attitude led to his decision to quit. He explains that he took the job under the condition that he would have the final say on his staff and how the gymnasts would be trained while under his supervision.

Right from the start, Marsden says private coaches and people in positions of power on the various USGF committees tried to make decisions for him.

A week before he was scheduled to leave for the World Championships, Marsden says, a movement was underfoot to replace his assistant coach, Donna Cozzo. People like Karolyi complained that Cozzo, who once owned her own club, was a poor choice because she was no longer actively coaching, and like Marsden, had no international experience.

Marsden stood by Cozzo, but says the fighting over her appointment and squabbling among private coaches undermined his efforts to properly train the team. When the U.S. team finished sixth overall in the meet, Marsden was held responsible for what was considered a poor showing.

"Everyone else makes decisions about the program, the selection of athletes, then sticks the coach up there to take the heat for when it doesn't work," says Marsden.

One group that makes a lot of decisions in gymnastics is the judges. Marsden says judges, who dominate many of the USGF committees, have more power in the USGF than the coaches do. At one point, there was a movement to replace Cozzo with a judge.

"I find it very amazing," says Marsden. "In other sports, the coaches and the people get together and decide the rules, then hire the judges. In our sport, judges write the rules, then tell us what to do."

Two weeks ago, Marsden revealed that he had conspired to fix scores at the World Championships. Marsden told the Los Angeles Times that he and Romanian Coach Adrian Goreac gave each other a list of scores they wanted their team members to earn. Each coach then passed the list to his nation's judges.

He said that passing proposed scores is a common practice and he only did it to protect the interests of his athletes. Marsden could not be reached for comment on the matter.

Marsden says he officially resigned in November. But at a Florida training seminar in February, a group of USGF coaches voted to ask him to return to the job. The only coach there who didn't cast a favorable vote for Marsden was Donna Strauss. Karolyi, whom the national media portrayed as being in a bitter battle with Marsden, didn't attend the session.

Donna Strauss says she wasn't against the idea of giving Marsden the job, but didn't agree with all of his proposals.

She says Marsden wanted to have a two-week training camp for the Olympic team, but only wanted to allow the private coaches to attend for the first week.

"I personally feel coaches should be with the gymnast up to the last minute," says Donna Strauss.

Marsden says he decided against returning as head coach when he was told he had to submit a training plan that met USGF approval.

With Marsden out of the running, the USGF had to scramble to find an Olympic coach.

In a last-minute decision, Peters was chosen as the head coach, Martha Karolyi was named an assistant coach and her husband Bela was appointed delegation leader.

McCarthy, also named an assistant coach, says Peters was probably chosen because he had already done the job and is considered by many to be the best coach in the United States. Four of the six gymnasts on the 1984 Olympic team were SCATS members.

McCarthy says Martha Karolyi was probably chosen as an assistant because she has experience in international meets and to appease her husband.

In the last year especially, Karolyi has made it clear he is dissatisfied with the rule that prevents private coaches from training their own national team members at meets. Karolyi did not attend the Pan American Games in August as well as the World Championships even though his gymnasts competed in the meets.

Some of his fellow coaches say Karolyi has gone too far. Some have accused him of deliberately under training Kristie Phillips, the No. 1 ranking gymnast, for the World Championships. Phillips has since joined the SCATS.

Karolyi says it's true he would like to control the direction of gymnastics in the United States. "I would hope many people would come in and take over," he says.

But he says he didn't under train Phillips. With three gymnasts at the championships, Karolyi says it doesn't make sense that we would train the others, but not Phillips.

Karolyi says Phillips didn't score as well as expected because she was in a different environment and didn't have her normal confidence level.

He thinks that jealousy is behind his fellow coaches' accusations. Indeed, Karolyi has become the darling of the national sports media. Outspoken and flamboyant, he's the coach reporters turn to for quotes. It's easy to see why.

At the McDonald's International Mixed Paris meet in March at Stabler Arena, Karolyi pranced about the gym, talking and laughing. After his gymnasts vaulted or tumbled, he was there to give them his famous bear hug.

Donna Strauss, in contrast, spent most of the event leaning against a wall next to a plant. Her husband was on the other side of the gym against another wall. "He [Karolyi] makes for good media. We've been upset at times because we felt the media made some of his successes," says Donna Strauss.

Just before the USGF finalized its decision on the Olympic coach, the Strausses said they wouldn't be pleased if Peters was given the job.

At the time, the Strausses thought the Olympic coach should only be a figurehead and that a committee of coaches should be in charge of the team. SCATS, the Parkettes and Karolyi's would all be represented on the committee.

Now that a decision has been made, the Strausses don't want to talk about it, saying everything is still "confusing."

As executive director of the USGF, Jacki says he is confused over how to to resolve the bickering. Jacki says this is what happens when there is a volunteer organization overseeing a private club system.

"When someone tells you to do something, your first response if you're a volunteer is to ask, 'Why?'" Jacki says. "Your first response if you're an employee is 'Yes.'"

Mr. RITTER. Mr. Speaker, another adversary to the team concept is media coverage. I am proud to point out the Parkettes of Allentown, PA, is a top-ranked club in the world of gymnastics. Their founders and coaches are the very highly respected Bill and Donna Strauss. When people in U.S. gymnastic circles talk about top coaches, they mention the Strausses with the same high regard as Bela Karolyi and Don Peters. Bill wrote to me recently outlining the media coverage problem and it is so important to the team concept issue, I also include the letter at this point.

PARKETTES,
Allentown, PA, May 13, 1988.

Rep. DON RITTER,
Rayburn Building, Washington, DC.

DEAR CONGRESSMAN RITTER: At a time when women's gymnastics is being accused of being too singular in their motives, we are forced to contend with a media which promotes this way of thinking. At the recent McDonald's USA vs. USSR Challenge Meet, the media, ABC Television, Inc., focused on the individual gymnasts rather than promoting the "team." We tell our kids to be proud and do their best because they are representing their country, and then they are faced with the fact that most of the country was unaware that they were even competing.

Hope Spivey and Lisa Panzironi have been training for years for a chance to represent their country at the 1988 Summer Olympic Games. Listed among Hope's accomplishments:

1. She has been a member of the Senior National Team for the past three years.

2. She is currently ranked fourth in the nation.

3. She has competed in many international competitions including the Goodwill Games in Moscow.

4. She was a member of the Gold Medal Pan American Team.

Among Lisa's accomplishments:

1. She is a member of the Senior National Team.

2. She is currently ranked ninth in the nation.

3. She was a member of the 1987 world Championship Team.

4. She won a Gold Medal for her Uneven Bars performance at the Kraft Invitational in England.

A great amount of training is required to achieve the skill level necessary to compete on an international level. These two girls attend school from 7:30 am-1 pm, and then train for five/six hours five days a week. This intensity of training has been maintained since the girls became Elite gymnasts three years ago. Both girls, began their gymnastic training at very early ages. They have made a commitment to the sport of women's gymnastics and should be given the recognition they deserve, and have earned.

On Saturday, April 23, ABC's Wide World of Sports covered the McDonald's USA vs. USSR Challenge Meet. A number of questions have been raised since this meet. This was a live event, but ABC failed to recognize the Parkettes. After the first two events, which ABC did not cover, Hope was the second place gymnast among the American Team, a position she did not relinquish.

If ABC had not been counting on Hope doing this well, they could have done one of two things. They could either have altered their coverage, or have shown tape of her performance. With today's technology, tape delays during live coverage is common practice. Examples of this are the many gold tournaments . . . which ABC covers.

The two Parkette gymnasts were not the only ones who were slighted in the coverage they received. The entire women's gymnastic team was treated unfairly. ABC's coverage definitely favored the Russian gymnasts. Almost every time an American was due to compete, ABC cut to a commercial or showed one of their personal spots. At times, gymnasts who were not competing that day received more publicity than those who were.

In the future, we hope that all gymnasts who are competing in an event will receive fair coverage. It is our hope that amateur athletics has not reached a point where it is necessary to obtain an agent in order to get the media publicity and coverage the athletes deserve based on their ability and accomplishments.

Thank you for your time, and consideration of this matter.

Sincerely,

WILLIAM STRAUSS,
Co-Director.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, May 24, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 25

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

9:30 a.m.
Judiciary
Constitution Subcommittee
Business meeting, to consider proposed Constitutional amendments, to provide for a balanced budget for the Federal Government, including S.J. Res. 3, S.J. Res. 4, S.J. Res. 8, S.J. Res. 11, S.J. Res. 25, S.J. Res. 50, S.J. Res. 112, and S.J. Res. 161.
SD-608

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on current and expected world wheat demand and the status of the United States marketing tools.
SR-332

Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking industry.
SD-538

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2384, to authorize funds for fiscal years 1989, 1990, and 1991 for programs of the Atlantic Striped Bass Conservation Act.
SD-406

Finance
To hold hearings on the nominations of W. Allen Moore, of Virginia, to be Under Secretary of Commerce for International Trade, Jill E. Kent, of the District of Columbia, to be Assistant Secretary of the Treasury for Management, and Jan W. Mares, of Connecticut, to be Assistant Secretary of Commerce.
SD-215

Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on S. 1996, to grant United States district courts personal jurisdiction over citizens and subjects of foreign states in certain product liability actions, and certain provisions of S. 2274, Administrative Dispute Resolution Act of 1988.
SD-226

Veterans' Affairs
To hold hearings on S. 1997, to reduce the monthly reduction of an individual's basic pay for the provision of basic educational assistance and provide for the payment to survivors of basic educational assistance paid for, but unused, by the participant, S. 2307, to make certain improvements in the educational assistance programs for veterans and eligible persons, S. 2383, to extend eligibility for educational benefits under the Vietnam-era GI bill to certain service academy and senior reserve officer training corps graduates, and S. 820, to provide veterans educational assistance benefits for flight training.
SR-418

10:30 a.m.
Governmental Affairs
To hold hearings on issues relative to alcoholism.
SD-342

2:00 p.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review the local rail service assistance program and related measures, including S. 2174 and S. 2195.
SR-253

3:00 p.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the government of the District of Columbia.
S-128 Capitol

MAY 26

9:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
Business meeting, to mark up proposed legislation providing for nutrition programs.
SR-332

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Department of Labor, Health and Human Services, and Education, and related agencies.
SD-138

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1967, to provide for the establishment of the Tallgrass Prairie National Preserve in the State of Oklahoma.
SD-366

Environment and Public Works
Superfund and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the Emergency Planning and Community Right to Know Act (Title III of P.L. 99-499).
SD-406

Governmental Affairs
To continue hearings on issues relative to alcoholism.
SD-342

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on the Pacific rim nations.
SD-192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for defense security assistance programs.
S-128, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the thrift industry.
SD-538

Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Maritime Administration, Department of Transportation, and the Federal Maritime Commission.
SR-232A

Finance
To resume hearings on children's health care issues.
SD-215

Judiciary
To resume hearings on proposed legislation authorizing funds for the Department of Justice, focusing on civil rights.
SD-226

2:00 p.m.
Appropriations
District of Columbia Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the government of the District of Columbia.
S-128 Capitol

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on transportation implications of the U.S.-Canada Free Trade Agreement, signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the United States and Canada.
SR-232A

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings to review the annual report of the U.S. Postal Service.
SD-562

Judiciary
To hold hearings on pending nominations.
SD-226

Select on Indian Affairs
Business meeting, to mark up S. 2153, to provide for the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and S. 1509, to provide health promotion and disease prevention services to Indians.
SR-485

2:30 p.m.
Select on Indian Affairs
To hold oversight hearings on the Federal Acknowledgment Petition (FAP) process for Federal recognition of Indian tribes.
SR-485

MAY 27

9:00 a.m.
Foreign Relations
To hold hearings on the nominations of Robert S. Barrett IV, of Virginia, to be Ambassador to the Republic of Djibouti, Jeffrey Davidow, of Virginia, to be Ambassador to the Republic of Zambia, and Mary A. Ryan, of Texas, to be Ambassador to the Kingdom of Swaziland.
SD-419

9: 30 a.m.
Finance
Health Subcommittee
To hold hearings on long-term health care.
SD-215

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 2034, to provide financial assistance for programs for prekindergarten students designed to prevent students from later dropping out of school.
SD-430

JUNE 6

2:00 p.m.
Governmental Affairs
To hold hearings on issues concerning acquired immunodeficiency syndrome (AIDS).
SD-342

JUNE 7

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Karen B. Phillips, of Virginia, to be a Member of the Interstate Commerce Commission.
SR-253

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Department of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Governmental Affairs
To hold hearings on budget reform.
SD-342

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for export financing programs.
S-126, Capitol

Rules and Administration
To hold hearings on S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States.
SR-301

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Governmental Affairs
To resume hearings on issues concerning acquired immunodeficiency syndrome (AIDS).
SD-342

2:00 p.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review youth employment issues and related provisions of Title II of the Job Training Partnership Act.
SD-430

JUNE 9

9:00 a.m.
Veterans' Affairs
To hold hearings on S. 2011, to increase the rate of VA compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans, S. 1805, to protect

certain pensions and other benefits of veterans and survivors of veterans who are entitled to damages in the case of "In re: 'Agent Orange' Product Liability Litigation", and to hold oversight hearings on activities of the Board of Veterans' Appeals, and related matters.

SR-418

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 2221, to expand national telecommunications system for the benefit of the hearing impaired.

SR-253

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 1737, to provide for the completion of the Colorado River Storage Project, and S. 2102, to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho.

SD-366

JUNE 10

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for migration refugee assistance, international narcotics control and anti-terrorism programs.

S-128, Capitol

JUNE 13

9:30 a.m.

Special on Aging

To hold hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.

SD-628

JUNE 14

9:30 a.m.

Energy and Natural Resources

Energy Regulation and Conservation Subcommittee

To hold hearings on S. 1717, to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transporatation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulations by state commissions.

SD-366

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

S-126, Capitol

JUNE 16

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

SD-192

9:30 a.m.

Governmental Affairs

To resume hearings on issues relative to alcoholism.

SD-342

Veterans' Affairs

To hold hearings on S. 2207, to authorize the Administrator of Veterans' Affairs to provide assistive simians and dogs to veterans who, by reason of quadriplegia, are entitled to disability compensation under laws administered by the Veterans' Administration, S. 2105, to extend for 4 years the authority of the VA to contract for drug and alcohol treatment and rehabilitiation services in halfway houses and other certain community-based facilities, and S. 2294, to extend the authority of the VA to continue major health-care programs, and to revise and clarify VA authority to furnish certain health-care benefits, and enhance VA authority to recruit and retain certain health-care personnel.

SR-418

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).

SR-332

JUNE 21

9:00 a.m.

Office of Technology Assessment

The Board, to meet to consider pending business.

Room to be announced.

JUNE 24

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings on Japanese patent policy.

SR-253

JUNE 27

2:00 p.m.

Governmental Affairs

To resume hearings on issues relative to alcoholism.

SD-342

JUNE 29

10:00 a.m.

Governmental Affairs

To resume hearings on issues relative to alcoholism.

SD-342

JULY 11

9:30 a.m.

Special on Aging

To resume hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.

SD-628

JULY 14

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).

SR-332

CANCELLATIONS

MAY 25

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on insurance antitrust matters.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

SENATE—*Tuesday, May 24, 1988*

(Legislative day of Wednesday, May 18, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Eternal God, perfect in wisdom and knowledge, make real to us the truth of the psalmist's words * * * "O Lord, Thou hast searched me, and known me. Thou knowest my downsitting and mine uprising, Thou understandest my thought afar off. Thou compassest my path and my lying down, and art acquainted with all my ways. For there is not a word in my tongue, but, lo, O Lord, Thou knowest it altogether. Thou hast beset me behind and before, and laid Thine hand upon me. Such knowledge is too wonderful for me * * *." Psalms. 139.

Thou knowest us, Lord, past, present and future. Every microscopic detail of our lives is known to Thee. We have no secrets from Thee—we cannot deceive Thee. In trying, we deceive only ourselves. Be patient with us when we try to hide from Thee—to close our minds and hearts to Thy love. Deliver us from the carnal pride that allows us to assume our false independence from Thee. Lead us as Your servants to yield to the reign of the Holy Spirit within us that we may achieve our maximum potential. Thy will be done in us as it is in heaven. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 24, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is recognized.

RESERVATION OF THE LEADERS' TIME

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the Democratic leader and the time of the Republican leader be reserved for their use later today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Chair will note that, under the previous order, the Senate is now in a period of morning business, not to extend beyond 10 o'clock, and Senators are recognized for 5 minutes each.

WOULD DEMOCRATS BE BETTER OFF TO LOSE THE PRESIDENTIAL RACE IN 1988?

Mr. PROXMIRE. Mr. President, is it not time for loyal Democrats to think long and hard about whether we really do want the Democratic Party to win the Presidency this year? What happens if we win? This Senator and many others have been hammering away at the consequences for our country of the past 8 years of living beyond—way beyond—our means. Many of us earnestly believe our country is headed for economic hell-in-a-handbasket.

Our businesses, our families, our farms are up to their eyeballs in debt. We are long overdue for a recession. That recession will be a killer. Here is why: With $9 of business debt for every dollar of earning, business failures and insolvencies will sweep through our country like a tidal wave. As businesses close their doors in bankruptcy, tens of millions of Americans will lose their jobs. Savings are as low as family debt is high. So with unemployment zooming, millions of families will collapse into bankruptcy.

Now who holds all this debt? Much of it is held by American banks and savings and loans. What will happen to us in a deep recession? Ask Texas. Texas today is America tomorrow. Already the bailouts of financial institutions in that one Southern State could cost the Federal taxpayer tens of billions of dollars. What will be the cost when the whole country is suffering a Texas-style toboggan ride?

If the Democratic Party wins the Presidency in 1988, it can probably kiss the Presidency good-bye for 40 years. Now some will say: "Wait a minute. If we Democrats win in 1988, we'll change these Republican policies. We'll cut military spending. We'll increase taxes. We'll stop this headlong national rush to bankruptcy by persuading the American people to stop borrowing and spending what they don't have and begin saving far more of their income."

Mr. President, maybe a new Democratic administration could do this. Maybe it could not but even if a Democratic President were to persuade the Congress and the American people to reverse the irresponsible, spendthrift policy of the past 8 years, a policy of living strictly within our means could not prevent a depression. In fact, first it could make it worse, maybe much worse.

Is this gloom and doom? You bet it is. But the truth is "gloomy and doomy." Consider what we have done in the past 8 years. We have borrowed heavily. We have spent far more than we have taken in in taxes. So we have stimulated Americans to consume much more than they produce. For this reason, the number of jobs, personal income, and profits have sharply increased. We are also buying far more from abroad than we sell abroad. We are borrowing so much more from abroad that we have gone from being the world's biggest creditor nation to our new status, the world's biggest debtor nation.

Obviously, what we need is to reduce borrowing. We should increase savings. That, of course, means we have to consume less. Will that be political fun for Democrats? No, it will be political torture. In the short run, this will give us sure economic misery. Unemployment will increase. Income will fall. Profits will fall. But can we not reverse our adverse balance of trade? Can we not sell more abroad? Can we not buy less from abroad?

The answer is unfortunate. The answer is that in the next several years, we cannot. Two of our biggest trading partners are Canada and Mexico. Both are massively dependent on the U.S. economy. If we cut our spending, if we reduce borrowing, if we raise taxes, our economy will decline. If our economy declines, Canada and

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mexico will certainly suffer. If America falls into depression, so will Canada and Mexico.

How about Western Europe? Western Europe is already suffering 11 percent unemployment. Any success America has in improving our balance of trade with Europe means even higher European unemployment.

Of course, a new Democratic President would have the option of carrying on the Reagan fiscal policy of big deficits and soaring national debts. There will be plenty of political pressure for him to do exactly that. Democratic congressional leaders will not be calling for him to call off the happy live-beyond-our-means party. After all, Congress will face an election in 1990.

Of course, the next President will probably be smart enough to know that this high living cannot go on forever, but we will be sorely tempted to see if it will not last for another 4, maybe even another 8 years. He may even rationalize his carrying on the Reagan fiscal policy by claiming that the real difference between Democrats and Republicans is not that only the Republicans like living it up in the present and letting the future take care of itself, Democrats also know the next election is never less than 2 years away.

So a new Democratic President might settle for different priorities. He might maintain the same big spending, low taxes fiscal policies, but he might give taxes a more progressive spin and reverse spending priorities with less military spending, more education, more environmental protection, more health care, more aggressive promotion of jobs for those on welfare.

The borrow-more, spend-more, saveless, and tax-less philosophy has an excellent chance to go on with either party in charge until the day of reckoning comes. Of course, no one knows when that grim day will come.

This Senator would give very strong odds that by sometime in 1989 or 1990, recession and probably depression will hit. The next President and his party at that time will be in a political dilemma from which there will be no escape.

Let us face it. You will not get 1 in 100 to admit it, but the best thing that could happen to the Democrats might be to lose the next Presidential election.

CORPORATE RAIDERS

Mr. PROXMIRE. Mr. President, corporate raiders have scorched the economic earth throughout America, and this devestation has hardly gone unnoticed by editorial writers.

Mr. President, I ask unanimous consent that editorials from the Washington Post, New Jersey's Bergen Record, the Cleveland Plain Dealer, the Detroit Free Press, the Seattle Times, the St. Louis Post-Dispatch, the Jackson Clarion-Ledger, and the Philadelphia Inquirer be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 23, 1987]

RULES OF CORPORATE COMBAT

Some corporate takeovers are good for profits and efficiency—but by no means all of them. Is it possible for laws to permit the right kind of takeover while prohibiting, or at least impeding, the wrong kind? By upholding a statute that Indiana passed last year, the Supreme Court has now invited the states to experiment.

The Indiana law was designed to make a hostile takeover much more difficult. Under it, a raider who buys a large block of a company's stock does not automatically get the voting power that the stock otherwise carries. Instead, the question of control is put to a meeting of what the law calls disinterested shareholders—those who belong neither to management nor to the raiding party. The Indiana legislators doubtless had in mind the kind of company in which some of the disinterested shareholders are employees, or others in the same community, with no interest in radical changes in the corporate character. Since the law also gives the defending company a leisurely 50 days to call the stockholders' meeting, it is a formidable barrier to the kind of takeover financing that depends on rapid action.

The raider typically offers a high price, well above market value, for the target company's stock—but for only a limited number of shares, and the offer is good for only a short time. That puts shareholders under great pressure to sell quickly even though, the court observed, they may fear that it will harm the company. Justice Powell, writing for the majority, commented that the Indiana law protects the independent shareholders from "the coercive aspects of some tender offers." Justice Scalia, concurring, tarty added that it was highly debatable whether this mechanism protects the independent stockholder or incumbent management. But it's constitutional.

Sometimes takeovers are well-deserved attempts to oust lazy and inefficient managers and put valuable resources to better use. But the pervasive fear of them is having corrosive effects on American business generally. It aggravates managers' obsessions with stock prices and immediate profits at the expense of long-range investment and development. Nobody knows exactly how to strike a balance between raiders and defenders. Congress is, uneasily, starting to write federal legislation. But the court's decision gives each state an opportunity to try to work out its own rules. Some will choose to give companies a lot of protection, as Indiana has done, and some will offer far less. It will complicate the mergers-and-acquisition business. But that wouldn't necessarily be a bad thing for the economy.

[From the Bergen (NJ) Evening Record, Mar. 11, 1988]

CHILLING MERGER FEVER

The U.S. Supreme Court has delivered a long overdue message to corporate board rooms across the nation. If the executives of publicly owned corporations insist on playing merger games, they must do it in the open—or risk legal suits and abrogation of their mergers. Even informal talks can get tycoons in trouble.

In broadening the requirements for corporate disclosure in takeovers, the court acted to protect investors—a relatively small group. But the ruling may have an inhibiting effect on the current frenzied pace of corporate takeovers. That would be good news for everyone.

In a split vote, the high court said stockholders no longer have to prove that they were financially damaged in a takeover because they relied on inaccurate information from the company's management. Market prices of stock are based in large part on the information that companies supply in disclosures required by the Securities and Exchange Commission. Investors rely on that information, which is sometimes incomplete or wrong—and lose money.

The case decided Monday involved two Cleveland firms that secretly held merger talks for 14 months, denying explicitly during that time that talks were going on. Investors who sold their stock in the takeover target said they lost money because the price of the target stock was depressed by false information given out by the companies.

The court adopted the "fraud-on-the-market" dictum proposed by lower courts. The dictum is that deception of this kind distorts the market in the takeover stock, deceives all who trade in the stock, and makes the merger makers automatically answerable for the deception.

The high court clearly placed the burden for incomplete or incorrect merger information on the executives involved, but it did not pinpoint exactly when in the takeover talks the plans must be made public. Wall Street grumbled about that omission. Nonetheless, the decision is a good one for the modest added protections it offers investors.

More important is the chilling effect the ruling is expected to have on merger fever, an ailment that has dominated corporate investment for much of this decade. Mergers will lose part of their glamour if the stakes are raised for those involved. But these same executives will be loath to discuss possible mergers—if the information has to be made public. In short, merger specialists will probably think twice before engineering takeovers.

The problem with takeovers is that some of them consume capital that should be invested in new plant and equipment. Instead of creating jobs, they create wealth for a few already wealthy people. Other takeovers are financed by the assets of the target company. Takeover specialists borrow money to acquire enough shares to control the takeover target. Too often, they will then sell off the forests, land, factories, or retail outlets of the target company to repay the loans with which they bought it.

The consequences can be loss of jobs, destruction of competition, and lasting damage to the economies of whole regions. Factories are closed to satisfy the high price of corporate speculation, with hardly a second thought for the people who worked in them. If the high court succeeds in reducing this high-stakes gambling, so much the better.

[From the Cleveland Plain Dealer, Mar. 10, 1988]

BASIC—PROTECTION FOR INVESTORS

Suppose you own stock in a company that is secretly negotiating a merger. Such a union will increase the value of your stock, and so naturally you would keep your holdings until the merger is announced. The company, however, issues a statement saying that no merger is being considered. The market price of your stock stabilizes and you sell. Then, the company announces a merger after all. Have you been wronged? You bet you have.

The company lied to you. You lost money as a result. But because no agreement in principle had been reached between the merging companies, information about the pending union was deemed "immaterial." At least that was so until Monday, when the U.S. Supreme Court ruled that the agreement-in-principle test was, essentially, too bright for such a gray area. In some cases, premature release of merger-related information might sour the deal. But in many cases, misrepresenting the potential for a merger is a form of fraud. In a nod to the economic frailties of many merger negotiations, the court ruled that the "materiality" of pre-merger negotiations must be judged by the probability of outcome and its significance to the future of the company. Alternatively, a company need not respond to merger rumors; it can issue a terse "no comment," or simply remain silent, both without fear of liability.

All of this stems from a Cleveland case involving Basic Inc., a chemical company. In the late 1970s, Basic consistently denied rumors of a pending merger even while the deal was being negotiated. As a result, a class-action suit was filed on behalf of stockholders, some of whom had sold at a lower, pre-merger price. In a significant change of current legal thinking, the high court remanded the case to a lower court with new standards by which to judge potential fraud. In another significant change, it also ruled that investors need not prove they relied on corporate misrepresentation when deciding to sell. The court concluded, and with good reason, that such a reliance could be presumed. With rightful caution, however, the court also allowed defending companies to rebut that "presumption of reliance."

This is, all of it, significant. A new wave of mergermania has washed across the American industrial landscape. The court's rulings, which benefit stockholders at the expense of corporate privacy, might well stifle some mergers. They will almost surely make mergers less profitable. But the court has a reasonable interest in the judicial aspects above the economic ones. That attitude was challenged by Justice Sandra Day O'Connor in a partial dissent from the majority. She agrees with the new standard of "materiality." She also agrees with the "reliance" standard, as long as it is accompanied by the opportunity for rebuttal. She worries that the court is out-of-place to expand relatively new legal ideas about corporate fraud. She would prefer that those standards, which rely heavily on microeconomic theory, be settled by Congress.

It's hard to swallow her contention that "Congress, with its superior resources and expertise, is far better equipped . . . for the task of determining how modern economic theory and global financial markets require that established notions of fraud be modified." The inability of Congress to handle other important aspects of modern economic theory suggests otherwise. Indeed, if such disputes were left unattended until Congress acted, they would be unattended for decades.

At some point, Congress must attempt to modernize the Security and Exchange Commission's present rules. The investment market is evolving so quickly that even relatively new rules become outdated. But until Congress acts, the court has done exactly the right thing: tried to protect those who are not fully able to protect themselves.

Gangbusters: Laws Should Get Tougher With Corporate Raiders

In wild West days, the James Gang would ride into town, six-guns blazing, and stick up the local bank. Nowadays, a corporate raider jets into town, briefcase stuffed with junk bonds, and launches a quick-buck takeover of the local company. The methods may differ, but the results are often the same: excessive personal enrichment of an unworthy few, unfair hardship for many. Congress and the Michigan Legislature can improve the industrial competitiveness of the nation and state by adopting legislation that would curb the abuses that frequently accompany hostile corporate takeovers.

A measure approved by the U.S. Senate banking committee last Wednesday and sent to the Senate floor would curtail the payment of "greenmail"—the premium price given a raider for the stock he has acquired in a target company to call off a takeover bid. The bill requires an investor who controls 15 percent of a company's stock to buy any additional shares through a tender offer rather than an open-market or private purchase, allowing stockholders to benefit directly from the rise in their shares' value. The measure, which has bipartisan support, also mandates earlier fuller and more accurate public disclosure of takeover attempts, and stiffens penalties for insider trading. Such provisions would treat shareholders in companies affected by takeovers more fairly, and allow them to make informed decisions.

In Lansing, the House adopted legislation last Wednesday that would restrict the voting rights of raiders taking aim at Michigan-incorporated firms with more than 100 shareholders. It generally would prohibit public companies in the state from paying greenmail to raiders unless the same stock price is available to all shareholders. The package deserves quick passage by the Senate. Nearly half the states already have approved similar antitakeover measures.

Takeover threats generally force corporate executives to emphasize short-term earnings at the expense of long-range planning and capital investment. As companies restructure themselves or merge with others in response to takeover bids, successful or not, they may amass huge amounts of debt through defensive devices, often laying off employes as a result. Raiders frequently finance their acquisitions with securities of less than investment grade, pledging the equity—even employe pension funds—of their targets. Executives on the wrong side of a takeover can prepare for their departures with lucrative "golden parachutes." Worst of all, many hostile takeovers contribute little to the nation's productivity or research capacity; raiders have seized control of several large companies only to manipulate their stock for a quick profit and then liquidate them.

Corporate America needs to become more efficient and aggressive—lean and mean, if you will—to meet the growing challenge of foreign rivals. Some takeovers, such as Chrysler's acquisition of American Motors, have benefited their industries and the economy. But hostile takeovers, and the insider trading that frequently accompanies them, tend to move the nation away from that goal. Action by lawmakers in Washington and Lansing to prevent such abuses would do more to enhance our competititve edge than any protectionist agenda.

[From the Seattle Times, July 29, 1987]

The Downside of Hostile Takeovers

While the motives behind corporate raider T. Boone Pickens' interest in acquiring Boeing stock still remain unclear, the mere possibility of an attempted takeover of the Seattle-based firm again raises troubling questions about hostile takeovers, which have reached record proportions in the U.S. the past two years.

No question that unfriendly takeovers can be appropriate in some instances to rid companies of demonstrably bad management. More often, though, the resulting economic gains do not benefit the corporations involved. Vast profits generated through takeover-induced bidding on targeted firms' stock mostly go to the raiders and investment bankers handling the deals.

Columbia University Law Prof. Louis Lowenstein, an expert critic, insists that claims by takeover advocates of increased efficiency and stockholder wealth "are just like the fable where the princess kisses toads and turns them into handsome princes . . . You have to ask whether the bidders are bringing anything to the party. We found takeovers to be an expression of ego expansions (in which) the bidders want empires."

Chrysler's Lee Iacocca said recently that too many corporate officers today "are spending more time fighting off the raiders trying to take over their companies than they are fighting off the Japanese and Germans taking over their markets. That's no way to run a business, and that's sure as hell no way for America to compete."

As a precautionary measure after learning of Pickens' interest, Boeing wisely adopted a "poison pill" strategy designed to block an adverse acquisition. The firm's acknowledged role as the world's largest commerical aircraft manufacturer and as a leading defense contractor argue against any characterization as a poorly managed corporation.

While Boeing's "undervalued" stock has been mentioned as a magnet to would-be raiders, stock performance is but one measure of corporate health. Especially in companies like Boeing, which invest huge sums in research and development.

But just the mention of Pickens' activity quickly upped the view of Boeing on the New York Stock Exchange, where the price of Boeing stock advanced markedly in very brisk trading.

[From the St. Louis Post-Dispatch, Apr. 26, 1987]

Regulating Corporate Raiders

The U.S. Supreme Court has for the first time upheld a state law restricting hostile takeovers of companies. The court ruled that a 1986 Indiana statute doesn't violate the Constitution, which bans state from passing laws obstructing interstate commerce. This makes it likely that several other states will quickly enact similar laws, making takeovers harder for corporate raiders.

The Indiana law prohibits any investor who buys more than 20 percent of a company's shares from voting them to gain control unless he first gets approval from a majority of "disinterested" shareholders, defined as everyone except officers, inside directors and the takeover investor. The target company has 50 days—today it is 10 in most cases—to schedule a stockholders' meeting to pass on the investor's request, with the cost of the meeting to be borne by the acquiring party.

Raiders argue that their activities maximize shareholder values and that takeovers benefit the companies acquired and the economy in general by improving efficiency. But they leave out important facts. The debt the investor takes on often requires him to sell parts of the company to pay creditors, thus destroying the very productive capacity he purchased.

Worse, corporate raiders divert capital from productive to speculative uses, with the primary benefit going only to the immediate buyer. It is time hostile takeovers were restricted. Indiana has done so, and the Supreme Court has endorsed its action. It is good news for an economy that needs to enhance its productive assets, not merely reshuffle them.

[From the Jackson Clarion-Ledger, May 4, 1987]

Takeovers—Measure Should Restore Stability

Proposed legislation in the U.S. House of Representatives to regulate corporate takeover attempts has come none too soon.

The measure, which was introduced by the House Energy and Commerce Committee last week, would require quicker and more complete disclosure of takeover attempts and eliminate the practice of a company repurchasing its stock from a raider at a premium price to avoid being taken over.

Currently, a corporate raider trying to take over a company must file a public disclosure of intent within 10 days after buying a 5 percent stake. That 10-day period allows raiders to obtain big blocks of stock at a cheap price because shareholders don't know a takeover—which sends stock prices soaring—is on the way.

That 10-day period also lets someone with inside information make quick bundles of cash by buying his own block of stock from unknowing shareholders and selling it to the raider at higher prices when the takeover attempt becomes public.

The bill would close the window by requiring the disclosure within 24 hours after a raider acquires the 5 percent stake. It also bans the raider from purchasing more stock for two days after filing.

This measure isn't intended to prevent mergers, but to restore balance and stability to this country's financial markets by curbing unfair tactics, mergers and acquisitions that some raiders and management use.

The Wall Street scandals that have been revealed during the past year have shaken investor confidence in the system. And the system must work for the economy to remain healthy.

[From the Seattle Times, May 24, 1987]

A Law to Curb the "Urge to Merge"

As corporate-takeover attempts proliferate, it's past time for Congress to dampen the merger mania, which too often disserves the interests of both the public and the marketplace.

One House bill has been introduced (by Democratic Reps. John Dingell and Edward Markey), and Democrat William Proxmire is preparing a Senate measure. While differing in detail, they share the objective of curbing hostile-takeover tactics that hurt shareholders, employees, and long-term economic strengths of affected firms.

But because even hostile takeovers can serve constructive purposes in some instances (bringing better management or new capital to a troubled company, for example), a new law ideally will strike a fair balance between the rights of bidders and targeted corporations.

What's needed most are restraints against needless mergers and acquisitions that cause workplace dislocations and economic uncertainties for local communities.

Will the Dingell-Markey bill help?

Some say it's "fairly watery." For instance, it rightly ignores organized labor's excessive demands for—among other things—a prohibition against raiders' breaching of contracts negotiated earlier by acquired companies, and against the use of surplus assets in employee pension funds to help meet acquisition costs. Nor does it include the management side's pet proposal to restrict the use of high-risk "junk" bonds in financing takeovers.

Still, the measure would forbid lucrative "golden parachute" severance payments to managers holding takeover-threatened jobs. And it would prohibit acquisition of more than 10 percent of a company's stock except at the same price and terms available to existing shareholders. It also would outlaw "greenmail" payments by managers to recover stock bought by takeover minded bidders.

As hearings begin this month on the Dingell-Markey proposals, there'll also be debate about leaving anti-takeover legislation mostly to state governments. That's because of U.S. Supreme Court ruling last month upholding Indiana's law giving shareholders of Indiana corporations the veto power over corporate-control changes .

The high court's decision has freshened interest in the issue generally. And, obviously, prospects for new legislation regulating merger activity also have been improved by Wall Street's insider-trading scandal, in which speculators such as Ivan Boesky were betting on the outcome of contested takeovers.

[From the Philadelphia Inquirer, May 2, 1987]

Fencing in Corporate Raiders

Hostile corporate takeovers are expected soon to occur far less frequently, owing to a recent U.S. Supreme Court ruling. This should help corporate managers focus their attention where it would serve the nation best—on making their companies more competitive in a global economy of rapid change—instead of looking over their shoulders in fear of raiders plotting to take over their firms.

The court upheld an Indiana law crafted to impede hostile takeovers. Normally raiders offer to pay a high price for enough stock to gain control of a target company, and limit their offer to a short time period. That pressures stockholders to sell or miss the opportunity to profit.

The Indiana law says that a raider opposed by a firm's management cannot use his newly acquired stocks to vote himself into control until a majority of stock held by shareholders unallied with current management or the raider is voted in favor of the raider. It also gives target managers as long as 50 days to call such a meeting of such "disinterested" shareholders. By 6-3 the court upheld Indiana's law as within the traditional purview of state authority to regulate corporations based within their states. The decision is likely to spur other states to enact similar laws.

Raiders such as T. Boone Pickens typically defend themselves by saying that the takeover threat they pose spurs lazy managers to make their firms more efficient, thereby benefitting the economy. Yet as Justice Lewis F. Powell Jr., who wrote the majority's decision, noted in a footnote: "There is no reason to assume that . . . takeovers necessarily will result in more effective management or otherwise be beneficial to shareholders."

Indeed, the supposition that takeovers necessarily induce greater economic efficiency is not proved. Many a firm has been taken over only to be dismantled by the acquiring raider, who sells the conquered firm's assets to pay off the loans used to finance the takeover—and provide the raiders' profit. The result is lost jobs, not economic efficiency.

Beyond such horror stories, the specter of hostile takeover has frightened too many managers into over-emphasizing short-term profits to boost stock prices to deter raids—at the expense of planning, research and investment that enables a firm to compete over the long term.

Mergers can promote efficiency and benefit shareholders—but neither Indiana's law nor the Supreme Court's ruling outlaws mergers. Indeed, perhaps 90 percent of mergers are negotiated between willing partners. This legal development promises to encourage merger by negotiation, rather than by hostile raiding Good.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

DRUNK DRIVING

Mr. REID. Mr. President, in 1964, I was the city attorney for a suburb of Las Vegas, NV, called Henderson. I am sure most of us remember the 1960's as a turbulent era in our Nation's history. In the 1960's, we were devastated by the Vietnam conflict which lasted 10 long years, and took the lives of 57,000 Americans.

During my tenure as city attorney in Henderson, I learned, though, that we were also involved in an even more destructive war. This war was being waged on our Nation's highways, and we were our own enemy. I am talking about the war being waged by drunk drivers.

Almost 25 years later, the war is still going on, and we are losing that war.

To help put the destructive force of drunk drivers in perspective, we need only look at the tragedy which took place in Kentucky.

Consider this: As devastating as the war in Vietnam was, drunk drivers killed nearly four times as many people during the same period of time. Moreover, while the war in Vietnam mercifully ended, the war being waged on our Nation's highways continues to this day.

The drunk driving body count for 1986 was 21,200. Last year was more of the same. The total societal cost of drunk driving has been estimated at almost $25 billion a year.

Obviously, this is a serious and compelling national problem. Accordingly, I am currently studying this issue and considering legislation to address the problem in a national way.

Senators LAUTENBERG and DANFORTH have offered legislation to create incentives to encourage the States to be more responsible in dealing with this problem. I compliment them for their efforts in this regard, and I intend to review their proposal carefully. In addition, I believe that an even more comprehensive and more imposing solution may be in order.

Therefore, I am considering legislation to, for example, mandate suspension or revocation of the license of individuals found to be driving under the influence, and to mandate a national standard for blood alcohol level and for blood alcohol testing.

The serious extent of the problem is clear, and we must do whatever we can to combat this war—and it is a war, Mr. President—on our highways.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE FISCAL YEAR 1989 DEFENSE AUTHORIZATION BILL

Mr. EXON. Mr. President, I want to take this opportunity to reiterate my concerns about the delay in passing the fiscal year 1989 defense authorization bill.

As everyone knows, we are prevented from taking final action on this bill because of a dispute over the death penalty amendment offered by the distinguished Senator from New York, Senator D'AMATO.

I am a supporter of the death penalty. I voted against tabling the D'Amato amendment last week. But I have come to the conclusion that this issue is now needlessly prolonging passage of the defense authorization bill in the Senate.

I say needlessly because as I understand it, the Senator from Michigan—Senator LEVIN—and others, have offered the Senator from New York a unanimous-consent agreement that would provide for the D'Amato amendment to be a freestanding bill with a vote certain and only limited amendments. Under this arrangement, the Senate would be able to act on and pass a death penalty measure. I support this approach.

However, I also understand from the floor colloquy last Thursday that the Senator from New York—Senator D'AMATO—has rejected this approach. According to his floor statement, he wants a commitment from the House leadership that the House will also pass a freestanding measure before he will agree to withdrawing his amendment to the defense authorization bill.

Mr. President, as much as I support the amendment, it is just unrealistic to think that the House of Representatives could or should make such a commitment in advance, which I am sure they will not do. We have two separate bodies in the U.S. Congress, and each body passes its own bills. That is the way it is outlined in the Constitution, and that is the way it has always operated over all of these many years. We would not let the House of Representatives dictate the legislative agenda of the Senate, and the Senate should not try to dictate the House of Representatives' agenda.

Again, I am a supporter of the death penalty and the D'Amato amendment, but what the Senator has done now is tie Senate action on the defense bill to what the House does or does not commit to on an amendment unrelated to the subject the Senator from New York is primarily concerned about. I do not think this is appropriate, particularly considering the unanimous-consent offer of a freestanding measure with a vote certain as offered by Senator LEVIN and others.

Mr. President, we face a long and difficult conference with the House, particularly in the area of strategic programs and arms control. The defense appropriations process for fiscal year 1989 has already started in the House and will begin in a few weeks here in the Senate. We need to get the fiscal year 1989 defense authorization bill to conference before the Memorial Day recess so that we can give the appropriations committees an authorization conference report to work with.

Otherwise, we are going to find ourselves, I predict, in a very few weeks, again faced with a continuing resolution that has been universally condemned by all as no way to run Government.

As a supporter of the D'Amato amendment, I urge my colleague from New York to reconsider his rejection of a freestanding bill that has been made and an offer made in good faith, and his holding of his amendment on the defense bill and his holding the defense bill hostage to any action that we cannot guarantee from the House of Representatives.

PARAMOUNT PICTURES CHILD CARE CENTER

Mr. WILSON. Mr. President, employer-supported child care programs have introduced a new dimension into the workplace which benefits both working parents and employers. The Congressional Caucus for Women's Issues has taken a leadership role in urging the private sector to establish innovative centers adapted to the particular needs of the workplace setting and the community. Recently, the caucus presented a number of awards to outstanding employer-supported child care centers, each chosen by a blue ribbon panel of child care experts.

I am very pleased that Gulf+Western's Paramount Pictures Corp., was named as a "Pioneer in Employer Supported Child Care" by the caucus. Paramount was one of the first major corporations in California to offer its employees child care, and it was with great pride that I nominated Paramount to receive this distinguished award.

David Mannix, senior vice president of operations, accepted the Pioneer Award on behalf of Paramount from caucus cochairs Representatives PATRICIA SCHROEDER and OLYMPIA SNOWE. I ask unanimous consent that Mr. Mannix' remarks which so aptly describe the Paramount experience in creating and operating a model child care center appear in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF DAVID MANNIX

I am very happy to be accepting this award on behalf of Paramount and its parent company, Gulf+Western Inc.

The idea for a studio child care center originated with Gary David Goldberg, the head of UBU Productions, which produces "Family Ties," "The Bronx Zoo," "Duet," and now "Day By Day" with Paramount. Child care has been an important issue for Gary, ever since he ran a day care center himself some years back. And Gary himself embodies the Paramount philosophy of creating a family environment for its employees, talent, and filmmakers.

Once Gary initiated the idea, Paramount's Chairman and Chief Executive Officer Frank Mancuso and the rest of senior management wholeheartedly supported it.

We found a space on the first floor of a building next to Lucy Park. Part of the beautifully landscaped area near where Lucille Ball had her offices became the new playground. That wing of the two-story building was gutted, redesigned, and earthquake proofed. To plan the curriculum, hire the staff, and oversee the day-to-day operation of the center, we selected the nonprofit organization with the best and widest experience in programs for young children in Southern California—Child and Family Services, whose director is Bea Gold.

The center takes 30 children from six weeks through pre-school, and it includes children of backlot workers, stars, filmmakers, secretaries, and executives. Since we opened in October of 1986, more than 90 families have been served. The response has been so overwhelming that we have a long waiting list, with families signing up as soon as they know they are expecting a child. The center enhances Paramount's ability to attract the best talent and employees in all areas.

With our on-site center, parents have the opportunity to visit their children throughout the day. Also, they like our hours, 7:30 a.m. to 7:00 p.m. In an industry where the work day varies, and there is a lot of overtime, it's impossible for many parents to use a day care center with the standard 6 p.m. closing time.

There has also been a tremendous response from employees who don't have children in the center. As was anticipated by senior management, the center has enhanced the company's family atmosphere. In a business as difficult and demanding as ours, the presence of the children on the studio lot is refreshing and humanizing.

Best of all, the kids love it. A visit to Mom's office or a quick walk to the commissary with Dad for ice cream or chocolate milk is a hot ticket among the under five set at Paramount.

Child care of all kinds is necessary, but on-site care has many advantages for the parents, the children, and the employer, if a company can find an appropriate space. As the first major corporation in Southern California to provide on-site care, we at Paramount are very proud that our example has caused other companies in our industry to begin developing their own child care programs.

THANKS, SHANNON, AND BEST WISHES

Mr. HATCH. Mr. President, I would like to take just a moment to express my sincere thanks and appreciation to my staff assistant, Shannon Larson.

On May 20, 1988, Shannon was married in the Washington, D.C., Mormon Temple to Brandon Scott.

Shannon began working for me in 1985 and has been an invaluable help to me in my work on the Judiciary Committee's Subcommittee on the Constitution and in her present assignment working primarily on defense issues.

On the occasion of her marriage, I thank Shannon for all her hard work and dedication and send both Shannon and Brandon my very best wishes for a happy and successful life together.

BICENTENNIAL MINUTE

MAY 28, 1912: SENATE COMMITTEE REPORTS ON "TITANIC" DISASTER

Mr. DOLE. Mr. President, 76 years ago this week, on May 28, 1912, a special Senate subcommittee issued a dramatic report of its investigation into the sinking of the *Titanic.* On April 15, 1912, 6 weeks earlier, the maiden voyage of the world's largest ship had ended in disaster, with the loss of 1,500 lives. Among the dead were many prominent Americans, including the brother of U.S. Senator Simon Guggenheim.

In the resulting wave of national anguish, Senator William Alden Smith of Michigan introduced a resolution authorizing a Senate investigation. His six-member subcommittee began its inquiry on April 18, as surviving passengers and crew sailed for New York City. When Chairman Smith learned that the *Titanic's* owners intended to return the surviving crewmen to England to prevent them from giving potentially damaging testimony, he used the Senate's subpoena power to compel the presence of key witnesses.

Subcommittee hearings opened in New York City's Waldorf-Astoria Hotel and then moved to the newly opened Caucus Room in what is now called the Russell Senate Office Building. On April 22, Senators, House Members, Diplomats, reporters, and hundreds of other spectators crowded into that room. When police blocked further entrance, many rushed to nearby rooms and climbed out onto balconies to watch the proceedings through the room's great french windows. Disconcerted by this raucous mob, the subcommittee held the remainder of its hearings in a much smaller room.

Although Senator Smith knew little about nautical matters, he proved to be a resourceful and tireless investigator. He contended that in such calamities, "energy is often more desirable than learning." In this inquiry, Chairman Smith significantly broadened the precedents undergirding the Senate's investigative powers. The work of his subcommittee ultimately produced significant reforms in international maritime safety.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. SHELBY). Morning business is closed.

EXECUTIVE SESSION—TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE ELIMINATION OF THEIR INTERMEDIATE-RANGE AND SHORTER-RANGE MISSILES (THE INF TREATY)

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now go into executive session to resume consideration of Executive Calendar No. 9, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 9, Treaty Document No. 100-11, Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles.

The Senate resumed consideration of the treaty.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending.

Mr. PELL. In view of that, hoping that our colleagues will hurry over here with whatever amendments they have, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. ROTH. Mr. President, I rise today to urge my colleagues in the Senate to proceed toward a speedy ratification of the INF Treaty. I say this because, in my opinion, this is a good treaty. It is a treaty which the U.S. Government has sought and it has been negotiated with considerable input from the Senate.

I stress, Mr. President, that this is a treaty which the United States has sought. Before he began the deployment of Pershing II's and ground launched cruise missiles in Western Europe, President Reagan proposed that all intermediate range weaponry be abolished from the European theater. That proposal, initially rejected by the Soviet Union, was subsequently accepted by Moscow and, in my opinion, must represent a considerable diplomatic victory for Ronald Reagan.

After several years of on-again, off-again negotiations the Soviet Union has, essentially agreed to the original United States position on intermediate range weaponry in Europe. A large arsenal of nuclear weapons is about to be destroyed. This, perhaps, constitutes the most important aspect of the INF Treaty. To date, the superpowers have discussed only the "capping" of new nuclear deployments or, in the case of the ABM Treaty, the abolition of futuristic weaponry. In other words, the rhetoric of the arms control world is finally beginning to approximate reality—swords truly are being beaten into ploughshares and spears into pruning hooks.

I would also draw the attention of the Senate to the fact that this treaty is unbalanced and asymmetrical—a fact which I consider to be of the highest importance. This treaty will oblige the Soviet Union to destroy many more nuclear weapons than will be destroyed by the United States. In other words, we have succeeded, for the first time, in dispensing with the myth of United States and Soviet military parity. To date, arms control negotiations have been predicated upon the implicit assumption that the two superpowers hold roughly comparable military/strategic positions and that they have come to the negotiating table to discuss mutual, balanced reductions in the interests of peace.

But in many areas, the arsenals of the two superpowers are barely comparable. How can we begin to compare U.S. forces in Europe, even with the help of our allies, with those of the

Red army and the Warsaw Pact? How could we compare the United States arsenal of Pershings and cruise missiles with the Soviet deployments of SS-20's? Even now, as we debate whether to proceed with the research and development of the Midgetman missile or the rail garrisoned MX, the Soviet Union is deploying a multiple warhead, rail mobile, ICBM. The Soviet Union's defense budget has, for many years, run at an unprecedentedly high level and this heavy spending has yielded results—both in large nuclear arsenals and huge conventional forces. In short, many future arms control agreements, particularly in the conventional field, will have to be asymmetrical if they are to be equitable and stabilizing. Moscow has built more weapons than the United States and, if it sincerely seeks peace, it will therefore have to destroy more weapons than the United States. I applaud the President and his negotiators for achieving what must be the first overtly asymmetrical arms control agreement in history. May there be many more.

If there are to be more arms control agreements along the lines of the INF Treaty, I believe that my colleagues in the Senate would be well-advised to examine the history of the INF issue. I recall that when President Reagan affirmed his decision to implement President Carter's decision to deploy intermediate range weapons in Europe, he encountered considerable criticism, both from within the so-called arms control community and from within the Congress, particularly the other body. Where would we be today if that criticism had taken hold, if we had legislated a so-called nuclear freeze and our initial deployments been frustrated. I hope that it would be obvious to everyone here that we almost certainly would not be here today discussing the INF Treaty and the abolition of intermediate range missiles from the European theater.

We have succeeded in achieving a good INF Treaty because the United States dealt from a position of determination and strength. When NATO's willingness to deploy a new generation of nuclear weaponry was in doubt, the Soviet Union walked out of negotiations. When deployments began and the alliance held firm, the Soviets returned to the negotiating table. When threats and bullying failed to shake NATO resolve, the possibility of reaching an equitable treaty suddenly become near and, finally, a reality.

If we are to achieve further arms control agreements along these lines, we must remember the need to remain firm in the face of threats and united in the face of rhetoric. If we genuinely wish to see more equitable arms control treaties, we must recognize that we do not assist the arms control process by undercutting our negotiators with crude attempts to conduct negotiations from the Senate floor. Our negotiators in Geneva succeeded in negotiating this treaty because they were allowed a relatively free hand and they were not bedeviled by the problem of a Congress making premature, unilateral concessions to the Soviet side. I truly believe that if we wish this or any future administration to achieve a good, acceptable START Treaty, the Congress will have to learn to behave toward our strategic weaponry in the same way as it did toward our intermediate range weaponry.

If any Member doubts this analysis, I would ask them to consider the example of antisatellite weaponry. For several years, the Congress has strictly limited and, more recently, utterly forbidden the testing of U.S. antisatellite weaponry. Meanwhile, the Soviet Union has tested and deployed an antisatellite system capable of attacking any low orbiting satellite. I do not think that any of us should be shocked to learn that, to date, Moscow has shown little interest in negotiating the abolition of Asat weaponry.

Mr. President, this observation leads me to another, vital consideration; namely, NATO's conventional posture in Europe. Some critics of the INF Treaty have asserted that the removal of so many U.S. nuclear missiles exposes the weakness of NATO's conventional forces compared with those of the Warsaw Pact. This is correct but does not, in my judgment, constitute an argument for rejecting the treaty. It should, by now, be clear to us all that NATO must "raise the nuclear threshold," that there is no political consensus within the alliance which would allow it to continue to rely so heavily on nuclear weapons for its defense. If NATO's conventional weakness is, indeed, exposed, then we should view this as a call to improve NATO's conventional defenses, not as a call to reject the treaty.

Naturally, a concerted program to improve NATO's conventional defenses should move hand in hand with a viable conventional arms control strategy. Such a strategy should aim for assymetrical reductions which would leave NATO and Warsaw Pact forces at roughly the same size while weakening the pact's capacity to drive hard and fast into Western Europe. However, I must stress to my colleagues that the history of the INF agreement will, quite likely, repeat itself. In other words, Moscow will evince little interest in meaningful—and I stress meaningful—conventional arms control negotiations if it doubts NATO's commitment to conventional improvements or the overall U.S. commitment to buttressing the defense of Western Europe through the deployment of U.S. forces in that theater.

Before closing Mr. President, I would like to compliment the negotiators of this treaty on securing recognition of the need for on-site inspection as indispensable for true verification. However, on-site inspection, in and of itself, does not solve all problems and I would not wish to see the on-site inspection procedures adopted in the INF Treaty being used as a model for a future START Treaty. In my opinion, much greater scope should have been given for challenge inspections. The events of the past few weeks have indicated that the rights of inspectors should have been spelled out more clearly. In addition, our negotiators should have taken steps to ensure that permanent inspectors should be installed at military plants of roughly comparable importance.

I fear that, in allowing Soviet inspectors access to the Bacchus Magna plant in Utah, we may run the risk of compromising several highly classified nonnuclear projects now being pursued at that site. The Soviet Union runs no similar risk. These security problems are serious but I am convinced that they can be dealt with. Certainly, I personally have received excellent cooperation, both from Secretary Carlucci and Ambassador Max Kampelman in my efforts to address these questions. I mention these problems solely in the hope that we will not witness their repetition in the negotiation of a START Treaty. I suspect that such a repetition could be avoided by the attachment of a plant security specialist to future arms control negotiating teams.

I do, sincerely, hope that this INF Treaty before us today will be ratified by the Senate prior to the pending superpower summit in Moscow and that the momentum gained by its ratification will lead to progress in the fields of strategic weaponry and the reduction of conventional forces under this, or the next, administration. The Senate can play a role in assisting this progress through the ratification of this INF Treaty.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I rise today in support of ratification of the INF Treaty. I believe that this treaty represents a small yet positive step in superpower relations and serves as a hopeful precedent for future arms control agreements.

I think it would be useful to go back a little and see what has happened with regard to nuclear arms control through the years.

If we go back to post-World War II days, we were the only real nuclear power in this world. We knew the Soviet Union was working toward that goal, but they did not yet have nuclear capability.

At that point, some of the wiser leaders in this country proposed that all nuclear matters be placed under international control for all nations, and we sought to get such an agreement from the Soviet Union. This was known as the Baruch plan or the Baruch-Lilienthal plan that was put forward in June 1946. The Soviets did not consider this seriously, and they turned it down. They were behind in nuclear technology and they wanted to go ahead and develop their own nuclear weapons.

Through the years, then, we tried to get the arms control process going again through various international forums, and we proposed time after time for some 40 years that fissile material either highly enriched uranium or plutonium—be brought under some kind of control, and that there be production controls on fissile material.

At each one of these presentations made by the United States, the Soviets would respond by saying, "Before we can go that route we must have comprehensive arms control agreements on both nuclear and conventional weapons."

Those were the superpower positions through the years, and it got us nowhere. The Soviets remained locked in to their position on comprehensive arms control and we locked in to our position that fissile material control was the important factor to consider. And so we have records of probably 50 or 60 proposals made through the years by the United States and 50 or 60 refusals by the Soviet Union.

Not being able to get agreement on control of fissile material and not being able to get comprehensive arms control, we pursued agreements in areas of common interest.

Following the Baruch-Lilienthal proposal that President Truman put forward, we, subsequently had the limited nuclear test ban that President Kennedy put forward. Following that, President Johnson put forward the Latin American Nuclear Free Zone Treaty and the Nuclear Nonproliferation Treaty, and as a follow-on, I was coauthor of the Nuclear Nonproliferation Act which dealt with the spread of the technologies necessary to make nuclear weapons, and how we could restrict that flow of technology and equipment necessary to make nuclear weapons.

There are not many places in the world that can make the precision equipment necessary for setting out to develop a nuclear fissile material industry.

And that is what the Nuclear Nonproliferation Act tried to address.

During the period of the Nonproliferation Treaty and the Nuclear Nonproliferation Act, we put forward the following proposal: We said that we and the Soviets are the two nuclear superpowers. We have the huge stockpiles of nuclear weapons and we want to negotiate those stockpiles down and to make the world more safe. We do not want either side to miscalculate and someday start a nuclear war. And we pledged to the nations of the world that we will negotiate with the Soviet Union and try and get those stockpiles brought down to a lower level. While we are doing that, on the other hand, we are asking nonnuclear weapons states not to develop nuclear weapons in the meantime. We are trying to stuff some of this nuclear genie back into the bottle. We are trying for the first time with the Soviet Union to reduce our weapons stockpiles so that the world will be more safe. But at the same time, foreswear the development of nuclear weapons and we will cooperate with you in the peaceful development of the uses of nuclear technology.

How successful has that been? We have had 137 nations sign the NPT and foresworn the nuclear option. I think that is a great success story, and I think we should be proud of that.

We have stood before the rest of the world proclaiming the importance of nonproliferation and why we do not want to see the nuclear weapons of the world used in small border wars. But to the people involved in those border disputes, nonproliferation is every bit as vital to their national interest as our own.

So we cannot depend on that kind of common sense to prevail if both sides of smaller nations develop, possess, and threaten each other with nuclear weapons.

So that is where we have stood. We have had a pact with the nations of the world for the last 20 years or so. We have pledged ourselves to negotiate with the Soviet Union and try and get the superpowers' weapons stockpiles under better control. At the same time we will cooperate with the Third World nations and nonnuclear weapons states if they will foreswear the nuclear weapons option, and we will cooperate with you and help you obtain the peaceful benefits of nuclear power.

We have 137 nations that have signed the treaty and agreed to do exactly that. So it has been a two-pronged approach. One is dependent on the other.

Well, here we are some 40 years later and, here we have President Reagan and Secretary Gorbachev agreeing to make a beginning with the INF Treaty.

Now, how did that occur? It was decided to take a gradual, rather than a comprehensive approach to arms control. And the INF Treaty is a first step. Instead of taking on major issues such as fissile material and conventional arms control as the basis for negotiations, we backed off and took a little bite out of that bigger apple.

INF is a new formula. It is not overall arms control, it is only a piece of it. But the treaty builds to the future and sets a basis for future arms control negotiations.

Now, I would like to make a few observations directly on the INF Treaty itself.

No. 1, I think the treaty's significance is far more political and psychological than military for all the reasons I have just stated.

This agreement will affect only about 4 percent of the superpowers' nuclear arsenals. It will not have a profound impact on the United States-Soviet military balance. It just does not involve that many weapons.

However, the treaty sets several important precedents. When entered into force, this treaty will require the first ever reduction in existing nuclear missile stockpiles—not warheads but missile stockpiles—since the beginning of the nuclear age.

Furthermore, the INF Treaty establishes the important principle of asymmetrical reductions.

This is the first time they agreed to nonequal, asymmetrical reductions. And that is quite a breakthrough. We come out with the numerical advantage in the INF Treaty.

The Soviets will have to destroy approximately twice as many weapons delivery vehicles as the United States. This is a particularly important precedent, given the enormous numerical advantage of Warsaw Pact conventional forces. They have some 21,000-22,000 tanks along that East European border while NATO has around 7,000 tanks. Obviously, in future conventional arms control negotiations, there must be asymmetrical reductions on the Soviet side.

For there to be true, lasting military stability in Europe, the Warsaw Pact must be prepared to drastically reduce its conventional forces.

During the legislative break before last, about 5 weeks ago, I went with a congressional delegation to Vienna. We sat and talked to our mutual balance force reduction negotiators, those people who are part of a conventional arms control process that has been ongoing for some 15 years without success.

But now, as a result of INF, the people over there told us that there is some hope. The Soviets have now assigned a higher ranking team to the negotiations. They are now coming forward with some new ideas. So perhaps there is hope that we are now going to see progress in this area of conventional forces.

Mr. President, I have always been particularly concerned also that our arms control agreements with the Soviets be adequately verifiable. We are not going to accept the Soviets word that they will abide by a treaty. We have only NTM, as it is called, our national technical means, by which we can observe from overhead or other clandestine methods what is going on in the Soviet Union. But we hardly can depend on that completely for all the information that is necessary to monitor an arms control agreement.

Now, the essential element of any arms control agreement is whether or not it contains sufficient provisions for each side to independently verify the compliance of the other. I would say to my colleagues this morning, Mr. President, that if I did not believe that this agreement was adequately verifiable, I would not hesitate to oppose its ratification.

At the time the SALT II Treaty was being considered in 1979, I was a member of the Senate Foreign Relations Committee, and I voted against recommending the treaty to the full Senate for ratification. My primary objection to SALT II was that I knew that our monitoring and verification capabilities at the time were not adequate to do the job. With the Iranian revolution, we had lost our monitoring facilities in Iran. We called these two sites Talkman I and Talkman II. We had lost those sites during the Iranian revolution. We had some other sources of verification that were malfunctioning.

At that time I stated that if "before the final vote on SALT II the administration can demonstrate that we have in place means to monitor permanently and adequately the treaty's provisions I will gladly become one of SALT II's enthusiastic supporters, but not until then."

But I monitored very closely what we were doing to try and recoup our monitoring capability. After closely monitoring the status of our verification capabilities over a 2-year period, I became convinced that the United States did, in fact, acquire such verification capabilities, and I announced my support for the SALT II Treaty ratification in October 1981.

Let me add, I have no such misgivings about the verifiability of the pending INF Treaty before the Senate.

Soviet acceptance of onsite inspection on such an unprecedented scale is the most important aspect of the INF Treaty and represents a very important shift in the Soviet approach to arms control. This concession gives hope for future strategic and conventional arms control agreements that truly will be militarily significant.

Mr. President, in January I visited the Los Alamos and Sandia National Laboratories in New Mexico to review the latest arms control verification technologies, and the work being done in this important area is most impressive. I am confident that, given the treaty's combination of onsite inspection, its ban on flight-testing, and our national technical means of verification, the treaty's provisions will enable the United States to detect any militarily significant Soviet violations.

Some have expressed concern that this agreement will somehow distance or decouple the United States from our NATO allies. I believe this concern is greatly exaggerated. The most tangible expression of our military commitment in Europe is not nuclear missiles, but the presence of over 325,000 American troops in Western Europe as a tripwire for American involvement in the event of any Warsaw Pact aggression. Furthermore, this treaty will not result in the denuclearization of Western Europe. At the tactical, or battlefield level, NATO forces in Europe will still retain sufficient nuclear weaponry to deter attack from the Warsaw Pact. Also, our ground-based intercontinental ballistic missiles, and our air and sea platforms can cover the targets that would otherwise have been targeted by our Pershing II's and GLCM's.

Mr. President, the Senate has quite properly served its function in the treaty-making process by carefully scrutinizing in detail the provisions of this treaty and examining its broader national security implications. It is just this thorough review which, I believe, has helped resolve disputes with the Soviets in the last week regarding verification and clarification of the treaty's limits on futuristic weapons.

However, for the Senate to preserve its institutional role in the treaty-making process, I believe it has an obligation to refute the State Department's so-called Sofaer doctrine which asserts that the Executive is not bound, in implementing a treaty, by what it has told the Senate in seeking consent to ratification. This extraordinary doctrine came about as a result of the administration's apparent desire to reinterpret and thereby undermine the ABM Treaty, which places important constraints on the testing, development, and deployment of strategic defenses.

It is ironic that this administration, which places such a premium on the concept of original intent in other contexts, would attempt to put forth a treaty reinterpretation which contradicts the negotiating record as understood by all of the American negotiators at the time except one, as well as contradicting both the explanation of the ABM Treaty made to the Senate by the Nixon administration, and the Senate's understanding of the treaty when it gave its overwhelming support to the ABM Treaty by a vote of 88-2.

I support the Biden condition which reaffirms the constitutional principle that this treaty shall be interpreted "in accordance with the understanding of the Treaty shared by the Executive and the Senate at the time of Senate consent to ratification" based on the text of the treaty and reflected in the authoritative representations provided by the executive branch to the Senate. I urge that this condition not be stricken from the treaty's resolution of ratification.

Mr. President, while the Senate is now focusing its attention on the INF Treaty and its implications for national security, I have several concerns about the direction we are heading in the arms control process as we continue negotiation on a START agreement with the Soviets.

In INF we are making a breakthrough. As I said before, I view this breakthrough as being far more psychological and political than numerical. There are a lot of people who looked at this as a new basis for START; that if we have been able to negotiate this INF Treaty, can we not now use exactly the same basis and go right ahead and negotiate a START Treaty.

And I would say no, we cannot use this as the same basis. The fact that we were able to negotiate such a treaty with the Soviet Union makes us hopeful that we will be able to negotiate further in START and have subsequent arms negotiations, but it cannot be on this same basis.

Let me go back just a little. What would have happened at Reykjavik if both sides had truly agreed to eliminate all nuclear weapons and we had set up that agreement to be executed, 50 percent elimination over a 5-year period, to complete elimination over a 10-year period, we signed it and we did it without any other agreements in other areas? What would have happened?

Well, I would say we might have made Deng Xiaoping the nuclear king of the world. Is that what we want? Would another nation have come to the fore that would have a big superiority of nuclear weapons, and become nuclear king of the world, in effect?

Well, I cannot say that would absolutely have happened. But I do know this. If we are serious about going to 50 percent, 25 percent, 10 percent, and even 5 percent levels of our current nuclear arsenals we must at some point along that line bring other nuclear powers into those negotiations. They must be brought in as parties to this process or we are going to create a situation where we, and the Soviet Union, negotiate ourselves down to a low level and make some of the other nuclear powers of the world the preeminent nuclear powers.

That is hardly the outcome we want in this negotiation. So, first, future negotiations must bring other nuclear powers into the negotiations, if we are to go to low levels of nuclear weaponry.

No. 2, we must have agreements on conventional balances. We have used our nuclear superiority, our accuracy, our numbers of weapons through the years as a balance to Soviet conventional superiority. We cannot take our nuclear weapons systems down to low levels and say this conventional imbalance does not exist any more. It does exist. And I would suggest that in future negotiations for START, we start out with conventional balance negotiations even before nuclear negotiations because it is absolutely necessary that we get agreements on conventional forces if we expect to have ratification of any treaty in START that is going to reduce our nuclear weapons down to 50 percent or below. I think that is a key element.

I also mentioned that the American posture through the years has been one of wanting to maintain control over fissile material production. It would seem to me that we have to get back to that in future negotiations.

I do not believe that most Americans are aware that this INF Treaty does not result in destruction of one single nuclear explosive device. People think we are destroying nuclear weapons. We are not. We are not destroying one nuclear explosive device.

Every nuclear bomb, will still be there when this treaty goes into effect. What we are destroying with this treaty is the delivery system, the pickup truck that carries the load, if you will. And somewhere in the future it seems to me in future arms control negotiations, in START or beyond that, we must address this problem directly. Let us say we had gone with the Reykjavik formula of eliminating all nuclear delivery vehicles. Would we really feel safe in some future time of crisis, knowing that the Soviets are sitting there with some 10,000 or 12,000 nuclear warheads on the shelf and we are sitting on our side with 10,000 or 12,000 nuclear warheads on the shelf? Would we really feel safe? I doubt that we would. I know that I would not.

So it seems to me somewhere the three things that must be addressed are bringing other nuclear powers into the equation; No. 2, dealing with the conventional weapons balance without which we will never have meaningful START reductions; and No. 3, somehow dealing with this fissile material issue in the future.

I am also very much aware that this fissile material arrangement in the INF Treaty probably results in a benefit to us because we have a need for some of that old fissile material. Our production system in this country for fissile material is not what it should be and so it may be to our advantage to have the treaty exactly the way it is. But if the world in the future is really going to be made safer, then it seems to me we have to deal with these three matters when we get into future arms control negotiations.

But let me say this: Despite the treaty, the frightening truth is that the danger of nuclear war is rising. I hasten to add, not because of what the Soviets or the United States is doing, but because of what smaller or less industrialized nations are doing to develop or acquire nuclear weapons, and because of what the United States is not doing to stop it.

Let there be no mistake, the spread of nuclear weapons to more and more nations around the world is a major threat to the national security of our Nation. That threat will grow as other nations also acquire the missile capability to accurately deliver these weapons. But it will also grow because missiles are not necessary to deliver nuclear weapons anymore.

Some of today's nuclear weapons are small enough to be transported by light planes that escape border patrols. They can be carried by small boats and dock at remote and deserted coves. Some of them are even small enough to be delivered by terrorists carrying them in suitcases.

If you have a high level of nuclear technical sophistication these days, you can design weapons that are that small—reliable weapons—but you do not really need that. What you have are diplomatic pouches.

Most people think of a diplomatic pouch as a leather briefcase or a mailman's bag. I will destroy that myth by saying a diplomatic pouch can be supplied by sea containers coming in on ships. Many tons of equipment can come in as "diplomatic pouches."

So the thought that somehow we can catch all material coming in is no more true for nuclear weapons than it is for drugs coming across our borders, and we know what the experience has been with that. It has taught us the impossibility of sealing our borders against the determined efforts of smugglers.

This goes back, once again, to trying to prevent Third World nations from getting nuclear weapons, and trying to get them to agree with the sanctions we put forward in the Nuclear Nonproliferation Act of 1978.

We have 137 nations who have agreed to that, but some nations have not.

I feel that for the past 8 years, the administration has not played completely straight with the American people on this issue. They have pretended that the lack of nuclear testing by the so-called nonweapons states means that proliferation is not occurring. They claim that a policy of easing or eliminating our laws that place restrictions on dangerous nuclear trade will bring nonproliferation benefits.

Let us look at this a minute. Let me give you some examples and see what has happened.

Pakistan has, for all practical purposes, become a nuclear weapon state. That nation has stolen nuclear technology from us; they violated our nuclear export control laws; and they made numerous assurances to the President that were not kept. The administration's response was to reward Pakistan with a multibillion dollar aid package that was unaccompanied by restraints on Pakistan's nuclear activities.

I know all the reasons why we did not want to do this. We wanted to send aid through Pakistan to counter the Soviets' presence in Afghanistan. We wanted to send arms to the Mujahidin. I supported sending arms to the Mujahidin, but I did not support giving the aid package to Pakistan without having some agreement with regard to nuclear weapons.

Pakistan is not the only country to have made major strides in nuclear weapons capability in the last 8 years. India, which exploded a primitive nuclear device in 1974, is producing bomb-grade plutonium; testing a long-range missile; is reportedly buying heavy water on the black market; and claims to be able to enrich uranium to any level. I certainly do not doubt that claim.

South Africa is believed to have stockpiled enough high enriched uranium from an indigenous plant to produce a significant number of nuclear weapons. The administration aided this program by turning a blind eye to the activities of a United States nuclear fuel broker in finding new uranium fuel for South Africa's power reactors from European sources, thereby allowing South Africa to preserve its stockpile of uranium for nuclear weapons.

Argentina has developed the ability to enrich uranium, possesses unsafeguarded nuclear facilities, and is working on a long-range nuclear capable ballistic missile.

Let me add that Argentina is providing nuclear technical assistance to Khomeini's Iran under a multimillion dollar contract.

Brazil has a nuclear program run by its military, is building unsafeguarded nuclear facilities, and has concluded a $2 billion deal with Qadhafi's Libya to build an intermediate range ballistic missile with a range of over 600 miles.

Finally, Mr. President, we must not neglect the fact that Israel also has a growing nuclear program, one of the consequences for the failure to make progress toward a comprehensive Middle East political settlement that would guarantee Israel's right to exist within stable and secure borders.

That is not a good record. It just details a few of the countries desiring to have nuclear weapons. I do not want to see us abandon our previously held U.S. controls over the production and use of plutonium by our allies. Let me give one other example.

Look at Japan, for instance. The recently concluded treaty with Japan says for the next 30 years, Japan will have United States permission to receive tons of plutonium from United States-origin materials. What an attractive target for terrorists.

Why do we do this? For 30 years, we are giving the rights for plutonium production from American-origin material to the Japanese. I am not that worried about the Japanese right now. But who knows what will happen in 30 years. What kind of a precedent does this set for other nations?

We voted on this and lost that fight on the Senate floor a short time ago. Some of the things being said about the treaty on the floor at that time were just not borne out by fact. What we have tried to do is prevent any nation in the world from moving to a plutonium-based economy.

It was said on the Senate floor that they would cancel their uranium enrichment purchases in this country. What they are really driving toward is a plutonium-based nuclear industry that will not need any high enriched uranium from this country.

So business will be going down for the United States as they proceed on their plans toward a plutonium economy, and that is what this treaty helped them to do.

While there has not been the fight against nuclear proliferation by this administration that I would like to have seen and efforts to make nuclear terrorism more difficult, I think the battle is not lost. We must not abandon that fight.

Mr. ADAMS. Will the Senator from Ohio yield for a moment? I just want to join the Senator from Ohio in his remarks about both the Japanese treaty and the nonproliferation work that he has been doing. It is an incredibly important thing for this Nation, and the Senator from Ohio has been a leader in this struggle.

I agree with him completely that the establishment of plutonium-based economies throughout the world which produce atomic weapons type fuel is a danger to the future of the world and particularly as it spreads, if it does—and I hope it does not—to Third World countries.

As the Senator from Ohio has pointed out, it is not that we worry about Japan at this moment, but as you spread the danger of this material being removed from them either by terrorist tactics or otherwise, it just increases the danger of a nuclear explosion or series of them occurring.

I just wanted to compliment the Senator from Ohio on the work that he has done and join with him and say that this struggle is not over.

Mr. GLENN. I thank very much the distinguished Senator from Washington for his comments. I am very much aware of the personal efforts he has put into this fight also. It has been a long, hard struggle, one that we will continue. I welcome the Senator's help as I have welcomed the opportunity to work with him on things that he has proposed on the floor of the Senate.

Mr. President, in this area of the spread of nuclear weapons to other nations around the world, I think there are a number of things we can do to restore the credibility of U.S. policy on this issue. I set these forward as principles, if you will. First, the President should reorganize the executive branch effort on nuclear nonproliferation to give it a more visible presence as an important element of U.S. national security policy. The Department of Defense, the Arms Control and Disarmament Agency, as well as the State Department and Department of Energy must play major roles.

Second, there should be no promotion of commercial uses of nuclear weapon-usable materials either at home or abroad.

Third, we need a comprehensive technical assessment of the adequacy of current international safeguards at sensitive nuclear fuel cycle facilities. Safe and sane international commerce in nuclear equipment and technology depends on the credibility of these safeguards. And they must me judged as adequate before the world begins large-scale commercial uses of plutonium or highly enriched uranium.

Fourth, we must upgrade international standards governing the physical security of nuclear materials, especially against the threat of nuclear threat, sabotage, or terrorism.

Fifth, we must stop creating loopholes in our nuclear laws that serve to coddle proliferators. If Pakistan, for example, expects to have a long-term stable relationship with the United States, we should demand that Pakistan comply with its past assurances concerning the peaceful nature of its nuclear program. We should not aid those who flagrantly violate such assurances.

Sixth, we should redouble our efforts to encourage South Africa to fulfill its promise to join the Nonproliferation Treaty.

Seventh, as part of a Middle East peace settlement, we should encourage the creation of a nuclear-free zone along the lines favored by both Israel and Egypt.

Eighth, we must explore along with other members of the global nuclear regime the development of coordinated international sanctions against nations that engage in nuclear terrorism or proliferation.

Ninth, we must place nuclear nonproliferation above commercial or economic self-interest whenever these goals are in conflict. This was the policy of Presidents Ford and Carter, and it was a good policy.

Tenth, we must redouble our efforts to get West Germany, France, Japan and other nuclear suppliers to require their nuclear customers to have safeguards over all their nuclear facilities.

And last but not least, we must take further steps with the Soviet Union to satisfy our obligations under the Nuclear Nonproliferation Treaty to end the nuclear arms race. That is what the INF Treaty is all about.

Mr. President, these things I have outlined toward Third World nations in trying to control nuclear weapons from those sources are not a panacea. They are merely a set of principles and goals that, if pursued, will make the United States and the rest of the world breath a little easier when contemplating the future. I am afraid we have been marking time when not actually moving backward in this area in the last few years. It is time to move ahead and retake our rightful position as the world's leader in preventing the spread of nuclear weapons.

Mr. President, I have addressed several issues this morning. I made observations on where I think the INF Treaty leads us in the future as far as how we should be negotiating a START Treaty and beyond, and what some of the basic requirements are going to be—requirements of getting other nations involved, requirements of getting more equitable conventional balances, and requirements of getting some sort of control over fissile material in the future. What this points out is the problem of nuclear weapons and how many faceted that problem is. Future negotiations, I submit, must start at the bottom, not at the top. I think if there is one thing we have learned from this INF experience, it is that our insistence on taking the big approach, through some 40 years did not work. Looking at it from the Kremlin's perspective their approach also did not work. We finally made progress when we dropped back a step and made some progress with INF.

So I want to support INF. I am an enthusiastic supporter of it. Now that we have ironed out the matters that we thought were being misinterpreted by the Soviets. I am an enthusiastic supporter of the treaty, not because of what it does militarily, because that is fairly minimal, but what it does in opening up opportunity in the future. It opens up opportunities we have not had through the whole nuclear age. We proposed through all those 40 years time after time that we have agreement on nuclear weapons with the Soviets, and they countered by saying that we need overall arms control before we can agree to the nuclear weapons proposals of the United States.

INF does not even deal with nuclear explosive devices. It deals with delivery systems of very limited ranges, so it is a small piece of the overall arms control picture. But let us use that piece as a stepping stone to the future.

Meanwhile, as I have pointed out in my remarks, we must also address proliferation of weapons and the danger of nuclear war rising because of the spread of nuclear weapons to more countries around the world.

We now are beginning to move in this one area with the Soviet Union, and I want to see the START talks continue on the basis that I have outlined this morning. At the same time we need to keep attention focused on preventing the spread of weapons to more and more nations around the world because it will do us little good to get an agreement overall with the Soviet Union sometime in the future if at the same time we find nuclear weapons being used off in border wars by smaller countries around this world.

Mr. President, I rise in support of the INF Treaty, not because of what it does militarily, but because of the tremendous opportunity it opens up for the future. Let us build on it.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, there is nobody here to offer an amendment, to my regret. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I think I should state what my intentions are and the way I see things possibly unfolding.

I hope that today we can get unanimous consent to go on the treaty to the resolution of ratification. That would save a day, if we could get unanimous consent to do that, because under the rules, in dealing with the treaty, the rules and precedents are far different from those in dealing with bills and resolutions. It is required under the rules in connection with deliberations on treaties for the Senate to go over a day after the action on a treaty has been completed, before taking up the resolution of ratification. If we could get unanimous consent to waive that rule and go from the treaty to the resolution of ratification today, that would save a day. We have only Wednesday, Thursday, and Friday left—and Saturday, if necessary. That is 4 days.

Mr. President, so that the RECORD can be all clear in one piece, I have never felt that the Senate should accommodate itself to somebody else's schedule—the President's or anybody else's—when it comes to fulfilling its constitutional role, which is a peculiar and unique role under the Constitution, with respect to treaties and confirmations.

There were problems with this treaty, and those problems were brought to light by the committees that had jurisdiction. As a result, the administration entered into renegotiations with the Soviets, and those problems that had emerged were resolved to the satisfaction of the three committees in the Senate that have jurisdiction—Armed Services, Intelligence, and Foreign Relations.

That being the case, I feel that the Senate is definitely going to approve this treaty. I intend to vote for the approval. I have no problems with trying to get this done this week.

As a matter of fact, now that these problems have been resolved and the Senate is taking its time in deliberating on the treaty, I support final action on this treaty in time for the President to exchange the instruments of ratification while he is at the summit. I think the President's hand would be strengthened there, and I think it would be in the interests of our own country to have the President with the instruments of ratification, ready to proceed, after the Senate has had its opportunity to duly deliberate on the treaty.

I know that there are Senators who have had amendments to the treaty and who probably still have. I have not attempted to push or pressure or hasten unduly the action on such amendments, but I believe that the time has come now. If I had any doubts about the treaty, I would feel differently about trying to get the approval of the treaty before the week is out. Having already stated the reassurances that have been given by the committees, I need not go over that again.

So I think the time has come now for the Senate to dispose of action on the treaty and get on to the resolution of ratification. There are some amendments on this side of the aisle, and the committee amendment with respect to the reinterpretation of treaties is a very important amendment, so far as I am concerned, because I am extremely concerned about the institutional role of this body and that that institutional role not be eroded for any reason—summits or whatever.

I feel that we should proceed. I would hope that other Senators who have amendments to the resolution of ratification will have an opportunity to call up their amendments.

The invoking of cloture on the treaty could possibly, under certain circumstances, freeze out all other amendments to the resolution of ratification, with the exception of the committee amendment.

I want to protect that committee amendment. I am not saying there might not be some improvement over it. I want to be sure that the institutional role of the Senate is not weakened or eroded in any fashion or form.

If the Senate can move now to the resolution of ratification, or some time today, thus waiving the rule that requires the Senate to go over a day, we can then proceed with our amendments. Senator HOLLINGS has an amendment that I know about, and there are other Senators.

I have no doubt that cloture will be invoked. It is, of course, possible to devise a scenario in which Senators who are determinedly opposed to action on the treaty this week could string us out. I am not implying that there are any Senators who would do that. If we want to engage ourselves in examining all the scenarios, that certainly would be possible. It would not be too difficult, as a matter of fact. It would make it harder on all of us.

There is another scenario in which 30 hours conceivably could be completed before Saturday. This would necessitate at least one all-night session, but I hope we will not have to go to such lengths.

Therefore, having said this for the purpose that the record might be clear and that the press and others might understand what the situation is, so that they can also be better guided in their scheduling, the cloture motion will be filed today on the treaty, unless in the meantime we can get consent to go from the treaty to the resolution of ratification, in which case I would offer the cloture motion to the resolution of ratification.

I hope that the best in all worlds would allow us to finally end up with some kind of unanimous-consent agreement that will allow Senators who have been offering amendments to offer whatever amendments they have that they may want to still entertain, allow Senators on this side of the aisle to offer amendments that they have in mind, and allow for a scheduled hour and date for final vote on the resolution of ratification.

For the benefit of those who are listening, the Senate does not vote on the treaty. The Senate votes on the resolution of ratification. So there will not be any vote on the treaty. The final vote will be on the resolution of ratification. Should the 30 hours come in, and that is an unlikely but certainly conceivable and possible scenario, once 30 hours have been consumed, if it went to that length, then the final vote would occur on the resolution of ratification, but the pending question at that moment would be the committee amendment. That is the situation.

I urge all Senators to be prepared for a long session. I do not see any necessity for a long session today because in introducing the cloture motion, that would not ripen until Thursday. So there will be no point in staying late, late, late this evening. There might be a point in staying late, late, late, late tomorrow evening, and it could be that the Senate will have to be in late, late, late, late on Thursday. Possibly all that can be avoided because I believe that there are reasonable men and women in this Senate and we all certainly want to be fair with each other and see that each Senator has his opportunity to debate and offer amendments. Perhaps we can arrive at some agreement after a while. I would hope so.

I have seen it happen so many times before rather than spend all night, and I am well aware that there are Senators who are willing to spend all night to uphold their principles and their viewpoints as they see them, and I respect that.

I would say to the Republican leader I do not see any need of staying all night tonight, but if we could get such a consent, since we both have our conferences today, we can get such consent to move on to the resolution of ratification. Perhaps we can dispose of some of the amendments to the resolution today and if we had to be in into the evening to a reasonable hour today, it would help us to achieve our ultimate goal before the week is out.

I would like to be out Saturday and not have to come in. I believe that the work can be done without our having to be in Saturday. But if we have to be in Saturday, then we will have to be in Saturday, and I would hope that Senators would be prepared for such in the event that that turns out to be our only recourse.

I yield to the distinguished Republican leader.

The **PRESIDING OFFICER**. The minority leader is recognized.

Mr. **DOLE**. Mr. President, I think the majority leader has stated the case clearly, and we will join in a cloture motion. In fact, it is in the process of being signed now by Members on both sides of the aisle. This must be a bipartisan effort. We have been on the treaty now for a week. We started last Tuesday. It is a week later.

We did meet with the President this morning. There is no doubt in my mind he would very much like to have the articles of ratification to exchange. We still have some time. He leaves tomorrow, but I understand that Senator Baker is going to be joining him on Saturday. He could take them over Saturday or somehow they could be delivered.

So, I would hope, as the majority leader has indicated, that there is some way to go from the treaty to the resolution of ratification. There are a number of issues, a number of amendments, reservations, whatever different categories, category 1, 2, and 3 amendments, on both sides of the aisle, and some are going to take some time. The reinterpretation amendment could consume most of the 30 hours. We hope that there is some way to resolve that so that we do not spend all the time on that particular amendment. Although I have not been intimately involved, it is my understanding there are not many word differences. The distinguished Senator from Indiana has been working with other Senators on the other side.

I am encouraged by what the majority leader has stated. I think he has indicated in the statement he just made that it is his intention, everything else being equal, not being bound by any arbitrary date, but everything else being equal, having been satisfied because of the exchange of notes that have taken care of several of the nine different areas, that that being done, maybe we can accommodate the President without any diminution of the role of the Senate. In fact, I think it underscores the role of the Senate. It is an important role. It is a constitutional role. As the distinguished majority leader indicated this morning at the White House, the Soviets should understand that we have a different system. They may have zipped theirs through yesterday afternoon, I guess, with just a winking of an eye. But that does not happen here. And no one is attempting to cut off anyone on either side.

I guess the only thing I would suggest is if anybody has amendments, let us get them up, let us have a vote, and even better yet, as the majority leader suggested, let us move on to the resolution of ratification. There is still plenty of time to debate that. Hopefully, we can work out some unanimous-consent agreement a little later on.

I certainly do not look forward to an all-night session. We are willing to do it, but I hope we do not come to that. I hope we can work out something that does not keep all of us in all night long.

But if that is necessary, obviously we are prepared to do it, Members on both sides are, but I would just hope, as the Republican leader, speaking for my Republican President, who is in the last year of his second term, that we might be able to accommodate him in this instance. There is not any doubt about this treaty or the consent to ratification being given by this body. The question is just how many votes are going to be for it. It is going to be 94, 95, 92. It is not even close.

So, it would seem, under those circumstances, we can make a good case after having ample time for debate for anyone who wants to debate, offer amendments, do whatever, to try to accommodate Ronald Reagan who I think in this instance has done an outstanding job. He deserves our support. The Soviets should know when Ronald Reagan arrives in Moscow or during his visit there he is supported in a bipartisan way by the Congress, the American people, and somehow we have to do that.

I am encouraged by what the majority leader says and I really believe when all is said and done we can all come together. Some may not be for the treaty, but I hope they will let us go ahead and proceed, those of us who are for the resolution of ratification, if we are given the opportunity to do that, hopefully by maybe even early Friday, like 3 o'clock Friday afternoon.

Mr. **BYRD**. Mr. President, let me just make one other statement with regard to a possible veto message coming into the Senate. A veto message, should it reach the Senate in executive session, has to be brought in and the veto message would have precedence over rule XXII. So even if cloture had been invoked on a treaty, if the Senate went into legislative session it would have to proceed with that veto message unless a way can be found to postpone the attempt to override.

I will do everything I can to keep a veto message from impeding our work on the treaty.

I hope that in that event I can have the cooperation of everyone on both sides.

I yield the floor.

Mr. **NUNN** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Georgia.

Mr. **NUNN**. Mr President, I would like to say, as one of the committee chairmen who have been involved in this treaty, that I agree with everything the majority leader and minority leader have said. I think we have had legitimate debate. I think we have had substantive debate. There are important amendments that need to be considered, both on the treaty and the resolution of ratification, but I see no reason that we cannot complete this treaty this week and handle all the legitimate questions. It may not be handled to everyone's satisfaction, it may not win the votes, but I believe that we do not have such a number of amendments that would require us to go into next week. I think we can finish this week, assuming there is no delay.

I also believe we ought to do what we can, other things being equal, to pass this treaty and to do it by the time the President starts his summit conference with General Secretary

Gorbachev. I would not say that if I thought there were outstanding problems, because I do not think that deadline should drive us if there are outstanding problems that can be resolved that have not been resolved. But I do believe we have done about as thorough a job on this treaty, in all the committees and on both sides of the aisle, as can be done on a treaty. That does not mean that we can anticipate every problem. Maybe something will come up later, but I think we have done a very thorough job.

NATIONAL DEFENSE AUTHORIZATION ACT

(In accordance with the unanimous-consent agreement subsequently entered, the following colloquy appears in the RECORD as if in legislative session:)

Mr. NUNN. Mr. President, while the minority leader is here and we have the Senator from New York, the Senator from Virginia, and the majority leader, I would like to talk about logjam No. 2, and that is the defense bill.

I hope I can get the attention of my friend from New York, because the Senator from Virginia and I have met informally with the leadership of the House Armed Services Committee, Congressman ASPIN and Congressman DICKINSON, and I hope to get started on the conference this week.

The reason that is important is we really do not have much time left in this session. If we do not get started on the defense bill conference this week, then next week is not going to be able to be utilized by the staff working on a number of—we have over 400 language differences on that bill. Even if all those can be worked out in 20 minutes or 30 minutes—and they cannot—we have a huge conference. We are talking about a national security bill that affects every part of our defense.

So while I think the INF Treaty is the top priority, I hope we can resolve the D'Amato amendment, which clearly a majority of this body are in favor of, but I hope we can resolve it on another bill.

The reason I say that to my friend from New York—let me just walk him through what is going to happen if we pass the D'Amato amendment on this bill. Assuming it did get by cloture, and assuming that the 30 hours are used, we are talking about wading through this week, we are talking about 1 week of recess, where we will not be able to handle any of the defense conference, we are talking about, if the Senator from New York is successful, at least a week on the capital punishment issue here on the floor of the Senate. Then we are talking about going to conference sometime about the middle or the end of June, even if it passes, even if cloture is invoked.

Now what happens then? What happens then, the House Judiciary Committee becomes special conferees. They are going to be conferees only on the capital punishment provision. And what do they do? They come in and politely meet one time and then they basically say, "We will get back with you."

Now, they have no stake in the defense bill at all. I am not criticizing the House Judiciary Committee, but they really do not have a stake as to when the defense bill passes. So it does not matter to them whether it passes at all or in September or October.

We have been through this before. We have had a death penalty on our bill before and we made absolutely no progress in conference. Nothing is going to be able to be passed out of the conference. The only way you are going to get a death penalty passed through the House and the Senate is for both bodies to vote on it. The House is going to have to vote on it.

If I could get the attention of the Senator from New York, let me give him something in the way of an alternative. First of all, there has already been an indication from those opposing the death penalty on this side for kingpin drug dealers—and I am not one of those who have been opposing it, and I have voted with the Senator and will continue to do so—they have already said they will give him a time to bring up the matter on a separate bill.

Now, what is wrong with that? I do not know of anything wrong with it, because it can be passed, cloture will have to be invoked, it will go to conference then you will be in conference between the two Judiciary Committees, which is where it will have to be resolved in the final analysis. The Armed Services Committee of the Senate and the House cannot and will never be able to resolve the death penalty in our conference. The House Judiciary Committee will not approve it and I do not think our Judiciary Committee would.

So what is the alternative? Another alternative, we know we are going to have a major drug bill. We know that the President has a group working on it, the House has a group working on it, and the Senate has a group working on it. We know we are going to have a drug bill. Now, when this drug bill comes up—and it is going to have, if anything, more priority and more political momentum than the defense bill—the House is going to have a chance to vote on the death penalty. They will be voting on the major drug bill that comes before the House.

Mr. D'AMATO. Will the Senator yield just in response to that?

Mr. NUNN. I am glad to yield.

Mr. D'AMATO. Mr. President, I can see exactly the same thing taking place again, because I saw it take place as it related to the drug bill 2 years ago. This body dropped it. I think we did the responsible thing, because we had a good bill that provided for education, that provided for more law enforcement services. The argument was put forth, and I think successfully so: Why would we want to impede this legislation that was so necessary and get it hung up over the death penalty bill? All of us, including this Senator and those who are in favor of the death penalty, yielded to what I think was a very rational and persuasive argument.

Let me suggest, though, that is going to be, and has been, the very same time-honored fashion by which the opponents, or the minority, have thwarted the will of the majority and the people of this country, as well as this body, by saying "We will filibuster," and we continually give in.

It just seems to me that that will absolutely be the fate of any attempt to use the drug bill as a vehicle by which to bring forth the death penalty. The same argument, same fate, and that is what I am concerned about.

However, I will respond to some of the other initiatives the Senator has suggested if he wishes, because I think he has only yielded for the purpose of my responding to him and I do not wish to go further.

Mr. NUNN. Mr. President, I will be glad to yield further to the Senator for further discussion. I just want to summarize by saying, whatever the obstacles are by putting the death penalty on the drug bill, they are at least 5 to 10 times larger by putting it on this Armed Services bill. Whatever the likelihood of getting it through the House and Senate on this bill, you have at least 5 to 10 times the likelihood of getting it through on the drug bill. So the Senator is not improving the likelihood one iota, as I see it, of getting a drug death penalty through by holding up the defense bill.

But what is going to happen on this defense bill is we are going to end up seeing the defense bill—if the death penalty is put on there—we might not have a defense bill in September or October because the conference simply is not going to be able to pass it out of there on the House side. Until the House of Representatives votes on it, the House Judiciary Committee will never, in my opinion, agree to put it on the defense bill in conference, and they will be the special conferees. That is who we will be dealing with. So the House of Representatives, one way or the other, has to vote on this before it ever is going to become law. We all know that.

So I would plead with the Senator from New York—I know he is making a point he feels very deeply about—I just would plead with him to let us go ahead and finish the defense bill and agree to a time certain to bring this bill up as a separate bill. Otherwise, the Senator is not going to get anywhere with what he is trying to do. In the meantime, the Armed Services Committees on both sides are going to get further and further and further behind.

This is the first chance we have had in several years, because of the budget situation, to really have an authorization and appropriation work the way they should. It really is distressing to those of us, who believe the system should work, every fourth or fifth year to see that we are going to get bogged down here and not be able to get a defense bill.

Mr. WARNER. Will the Senator yield?

Mr. NUNN. I am glad to yield to my friend from Virginia.

Mr. WARNER. Mr. President, the chairman and I and the chairman of the House Armed Services Committee and the ranking member of the House met this morning just to see what is the prospect of our legislation. The chairman has set it out most forthrightly.

We received corroboration of our view from the chairman of the House Armed Services Committee that no way, once the Judiciary Committees of the two Houses get into the conference on the armed services bill, can any bill emerge. So it is just dead.

What concerns me is that we have had 20 Senators, 20 Members of this body, members of the Armed Services Committee, working for 4 months on this particular piece of legislation, hours upon hours, hearings upon hearings, all of which are basically to be lost unless we are given the opportunity to move forward.

While I agree with the Senator from New York and I share his views and will vote with him, as I have consistently, on this important measure, we are about to see the work of one of the principal committees of the U.S. Senate completely eclipsed and lost on national defense unless we are able to go forward with this bill.

I ask my chairman, does he agree with those observations?

Mr. NUNN. The Senator said it very well. I agree with every word he said.

Mr. President, I just say to the majority leader in closing, I hope we can find some way with the Republican leader to work this out. I hope it can be worked out in the spirit of accommodation. I hope we can have a time certain to bring up the D'Amato amendment as a separate bill or as part of the drug bill.

If the drug bill was not coming down the track and if we did not know we were going to have a drug bill, I would understand the Senator's position more than I do now. With that bill coming down the track, with the Judiciary Committees involved on both sides, with everyone knowing we are going to pass a drug bill this year for better or worse, and I hope it is better, with everyone knowing the President is likely to sign it this year, then I do not understand any logic for holding up the defense bill.

The Department of Defense announced the other day that they are having to terminate all discretionary spending for 2 months. There are some major outlay problems. The Defense Department has major outlay problems in terms of meeting last year's budget resolution. We give them authority in this bill to meet a lot of that by shifting funds. Until we pass this bill, they do not have that authority.

So we are really talking about furloughs of civilian employees around the United States; that whatever the likelihood of that occurring now if we do not pass this defense bill soon is going to go up. We are talking about all sorts of discretionary contracts that are going to be frozen.

We can mitigate that some. We are not going to solve it in this bill. I do not want to pretend that. We can mitigate the damage, and we can make it easier for the Department of Defense to meet the outlay totals. If we do not, watch out; we are going to wake up in about August or September and find that the budget summit agreement that was entered into last year is being breached seriously by the Department of Defense because of the outlay problem, and instead of dealing with the outlay problem in a timely fashion, we got too close to the end of the fiscal year and we are not going to be able to handle it. We are going to all regret that.

I am not saying that will all be attributable to this delay, because there are problems no matter what, but this delay makes it much less likely that that problem is going to be able to be dealt with in a timely and satisfactory fashion.

We are talking about the defense of the Nation. We are talking about the men and women in our military services. We are talking about the pay raises for them. We are talking about civilian furloughs that we all want to avoid to the maximum extent possible. We are talking about whether we are going to be able to make the deadlines for the Gramm-Rudman implementation and the summit conference result last year. All of those things are at stake.

If the Senator from New York was going to be able to get his amendment passed as a part of this conference, I would say I understand his position. We know that is not going to happen. We are really talking about pure symbolism that we know is not going to bring a result, legislatively speaking, and the whole question of the defense bill is getting ignored in the process.

I hope the Senator from New York, and those who have been supporting him in this, will reconsider that position and understand we have a lot at stake here. We simply are not being logical about the way we are going about this process at the moment.

Again, I add, I commend the Senator from New York. He has worked hard in this area. We worked together in trying to get a major thrust forward on the defense bill, as far as the military and what they can effectively do with the drug enforcement interdiction problem, and all of that, too, is going to be delayed.

If we put the death penalty on this bill, we go to conference with the House Judiciary Committee and we do not resolve the death penalty, then all the other things we are doing on the military interdiction side are going to go down the drain, too. There is a lot at stake here.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER FOR RECESS FROM 12:45 P.M. UNTIL 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess today between the hours of 12:45 p.m. and 2 p.m. to accommodate the two party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the colloquy that has transpired in connection with the defense authorization bill appear in the Record as if in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, if there is to be any further colloquy on legislative matters, I think we should get unanimous consent. Three hours under the Pastore rule have not yet expired. We are on the treaty, and we ought not be speaking on legislative matters. I have not raised an objection because the DOD authorization problem is a very important one, and if the distinguished Senator from New York has any intention of addressing that subject further, I would like to get unanimous consent so he will not be shut out.

Mr. GARN. If the majority leader will yield, I would like to speak for 1 minute on the subject.

Mr. BYRD. I ask unanimous consent that any further discussion on this subject not go beyond 10 minutes.

Mr. D'AMATO. I ask the leader if he would be so gracious as to afford me more time. I would like to touch on a much-related subject dealing with drugs. I ask for 15 minutes because I have listened patiently to all of my colleagues who have raised very legitimate concerns as relates to this issue.

Mr. BYRD. Yes, the Senator has been patient.

I ask unanimous consent that any further discussion of legislative matters be limited to 20 minutes; 3 minutes to the Senator from Utah and the remainder to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And the Pastore rule be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized for 3 minutes.

Mr. GARN. Mr. President, I will be brief. I listened to this colloquy, and I will state I agree with everything the distinguished chairman of the Senate Armed Services Committee and the ranking Republican member of that committee have said as far as the necessity to pass this bill. What puzzles me, however, is that day after day, as this delay has gone on, it is the Senator from New York who comes to the floor and has all of the pressure put on him to remove his amendment and do it someplace else.

I have only been here 14 years watching this floor work, but I have never seen that happen before. The pressure has always been put on those who are filibustering, those who will not allow legislation to go forward. That is normally what happens. In light of 68 votes that did not table the D'Amato amendment, why is not that speech being given to the Senators from Massachusetts and Michigan? They are the ones who are delaying this bill against the will of 68 U.S. Senators, not the distinguished Senator from New York.

I suggest to the Senator that he not come over and defend himself anymore. He has not delayed this bill at all. He is expeditious in offering his amendment. The motion to table was made. Sixty-eight Senators said do not table, and yet he is the one who is being put under the gun. I do not understand that.

Once again, I agree with what the chairman and the distinguished Senator from Virginia are trying to accomplish. They are right, but let us have the speeches made and pressure put on those who are delaying this bill. It is not the Senator from New York.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from New York is now recognized for 17 minutes.

Mr. D'AMATO. Mr. President, let me thank my colleague from Utah, Senator GARN.

The fact of the matter is, I am beginning to become somewhat frustrated when I see, hear, and read that I am the reason that this important legislative process is stalled. The fact of the matter is that 68 Senators voted against the tabling. The fact of the matter is, I am ready to take a vote on this today, tomorrow, or as soon as we can act. I am willing to agree to any time agreement, as a matter of fact, as it relates to setting aside the issue of the death penalty which, by the way, is narrowly drawn.

It is for those people who order the killing of someone in drug-related activities or the actual killing. We are willing to set it aside for a time certain. I agree to that. That is a pretty big concession from what I have been willing to do so far and we can have a vote on a time certain on my amendment. Freestanding.

I understand the likelihood of that being taken up by the House is rather minimal, given the exigencies of this bill, all of those things stated by the Senator from Georgia, Senator NUNN, and the majority leader, who certainly has been courteous and attentive in attempting to work out a solution. I think maybe it is about time they talk to the minority. I say the minority are those Senators who are holding us up from considering the passage of the bill and this amendment.

I would also like to discuss this issue about how we are keeping the Defense Department from undertaking the drug mission. It is very interesting; the same people who editorialized and talked about that were the same people who ridiculed use of the military. Now they are out there in the forefront saying, "Oh, let's use the military." Where were they 2 years ago or last year? And they really do not want to use the military. That is a lot of nonsense.

Let me go one step further. If we are going to call them the way we see them, I wonder why the administration has to wait for this legislation to be passed. The President, as I recall, is Commander in Chief of the U.S. military. I think it is about time some of his advisers, instead of telling him to give Noriega a pat on the back, a sabbatical with pay because his criminal enterprise will continue to operate while he is on his little vacation, that they advise the President to order full implementation and use of the military, working with our drug enforcement agencies, for detecting the 50 planes a day that carry their drugs across our borders unimpeded.

I think that would be something that we could do and he could order in tomorrow. We do not have to wait for legislation. He has the ability to do it now. It is about time he called the Joint Chiefs of Staff and said, "Listen, fellas, let's get down to the business of using our military resources to detect those 50 planes a day that bring in their cargoes of death and destruction."

Let me bring up one other question, Mr. President. I really cannot believe that we are serious as it relates to this drug war. What we are saying is the little penny-ante dealer here in this country, we get him, we will fry him, but the big fish, we allow him to swim away. Noriega, the shark, we allow him to continue to eat, to feed. It is absolutely ludicrous. I have to tell you, we have to say what are we doing. If we say we are involved in a drug war, then let us use the resources of this country. If we say we are for use of the death penalty in appropriate circumstances, let us get a vote on it. The Senator from Nebraska is here. I challenge the Senator from Nebraska to meet with the little clique who will not let us have a vote. I will move this aside. I will take down my amendment. You get me a vote, time certain on my bill, no amendments, limit the time and I am willing to take it down and set it aside for that time certain, but not with 10 different amendments that they are going to put forth.

I still have to get cloture. They are still going to filibuster. That is absolute nonsense. I think it is about time we began to say to some of those who are working their will against the will of the majority, against the will of the people, "Come on, fellas, you can't have it two ways." So I say to my friend from Nebraska, who raised rightfully his concerns to see that this process moves forward, let us begin to reverse the pressure a little bit. I can stand up to it because the facts are on our side. I am willing to withdraw that amendment, for a time certain with no guarantees from the other Chamber. As you rightfully point out, we cannot bind them. I am not attempting to. I was attempting to get the leadership to intercede to see if they would get on the amendment a time certain, no amendments, up or down, and I think that is rather reasonable. I thank the Chair.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have been challenged once again by the Senator from New York and yet I am on his side. I think the Senator from New York in his zest and zeal is losing a perspective that I think we all have on this particular measure. I will do anything I can to move forward the defense authorization bill. I simply feel that the Senator from New York is being unfair to many of us who support his message.

Now, it is not that we are going to let the sharks get away. It is not that we are for dealing with Noriega or any other person who has been indicted for drug violations. Simply stated, it is a situation where we have moved very aggressively and have got the military now on board, and I am sure that something very close to what was passed in the Senate in that regard will indeed be a part and come out of the conference with the House of Representatives.

I think the Senator from New York is being unfair to many of us who support his position by indicating and throwing challenges at us when we are on his side. I certainly do not expect those people who do not agree with the death penalty for moral convictions that they have—and I respect other people's points of view. I respect other people's religion. I respect other people's hesitation about the death penalty. I do not happen to share that. But I think those who are opposed to the amendment on which we have joined the Senator have a right also to exercise their privileges, their prerogatives and the rules of the Senate. We are simply saying to the Senator from New York, can we not appeal to reason. I think it is very unfair for the Senator from New York to indicate, directly or indirectly or slyly, that if we cannot get this worked out over here, we will let some drug dealers or drug murderers go. The opposite is the truth.

I would simply say to the Senator from New York that we have placed into effect the might of the military to interdict drugs, to stop the drug peddlers. I think what he is saying is that if we do not also agree to burn them, then we are not sincere in our convictions.

Mr. D'AMATO. Will the Senator yield?

Mr. EXON. I will yield in just a moment.

Mr. D'AMATO. May I ask the Chair whose time it is?

The PRESIDING OFFICER. The Senator from New York has the time.

Mr. D'AMATO. I am going to take my own time. I listened to the Senator, I think, quite politely. I did not make any inferences like that. I think the Senator has gone well beyond the bounds of propriety. Let me suggest to the Senator that I have not delayed this body from its actions. Let me also suggest to the Senator, rather than come down here and berate me as he has, that he might take it upon himself to speak to his colleagues, because I am not the person who is holding this up. And, third, I did not challenge the Senator or anybody from the Armed Services Committee to undertake the action of proper use of the military. If the Senator heard me, I said it was the President as Commander in Chief who would use that right now.

As to this business about the death penalty and burning, et cetera, the fact is nobody says anything about burning. I said that as it relates to a national policy when we are talking about drugs, how can the administration be doing that on the one hand as it relates to the small time, petty dealer, and as it relates to Noriega, the big fish, we let him swim away. I do not think there is anything inconsistent with what I have said. The fact is I suggest maybe the Senator speak to some of the colleagues who are holding this up. I am ready to set this aside for a time certain, for an agreement on my amendment but without there being a whole list of amendments that we have got to consider up or down on the D'Amato amendment—freestanding. Let it win, let it fall, a time certain. Now, I do not think that is unreasonable. That is the proposition I put forth.

I hope that the chairman and the ranking member and others who seek goodwill and comity would attempt to bring that about. If it cannot be accepted, then I would like to know why.

I think the people who reject it have a duty to come to the floor and answer. I have attempted to work out a solution in good faith.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Nebraska.

Mr. EXON. Mr. President, I did not intend to berate the Senator from New York. I was simply trying to appeal to reason. I certainly will talk to those on this side with regard to a limited number of amendments that they could offer on the freestanding bill. From that standpoint, the Senator from New York is probably right in maintaining the position that he has.

I simply say once again that whether we can get that agreement or not, I say to my colleague from New York, I think the Senate cannot be held hostage either by those who want the death penalty on the drug bill or those who are against the penalty of the drug bill. In fact, I am not certain that the matter of the death penalty, as much as I am for it, is particularly germane to the defense authorization bill. I suspect probably it is not.

I simply say to my friend from New York that what I am trying to do is appeal to him as I have appealed to those on this side and some on his side, I might add, who do not agree with our position on the death penalty. I am trying to give all sides fair consideration. I take it that if we could work out something with a vote certain, with limited amendments, that the Senator would not press forward, as he indicated this morning, with any kind of a binding commitment from the House of Representatives; is that correct?

Mr. D'AMATO. Let me say this: I am open to continued discussion as it relates to the freestanding amendment without there being any commitment from the House of Representatives. I am willing also to talk about it as it relates to utilization on the drug bill. The leader and the minority leader can come together and there are attempts to come together, but again failing such an agreement, we will be back here in the same position, we will have the same setting—I was going to say "cast" of something, but that would be inappropriate. But we will have the same cast. Once again, they will say, "You are holding up this important consideration, education money, rehabilitation money, the kinds of programs we need. Don't you stand in the way." And we will take it down.

So if there is a way to work on using the death penalty or putting it on an appropriate vehicle and agreeing that it will not be used as the vehicle to hold other things hostage, some time agreement, I am certainly amenable to taking that into consideration. I think I can bring that back to conference and to about 20-plus other Senators who support me, who said do not take this down. We are tired of having this situation go on. I think on that basis I may get them to go along with this. I will certainly attempt to do that.

Now we have discussed another vehicle, the drug bill that might come forth, and maybe we can get those who have held this legislation hostage to allow there to be the kind of consideration that I think that the American people are entitled to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I would advise my friend from New York that I hope he will agree with me that regardless of who is taking the hostages. The defense authorization bill is indeed being held hostage by matters that do not directly relate to the national security interests of the United States in the traditional sense. I hope we can work something out. I hope our discussion today can lead the way to a better understanding so we do not have a whole series of more votes, including the possible tabling amendment by the Senator from New York, that may require some of us to choose because we feel very importantly about the national security interests of the United States just as we think the drug matter is very important. Sometimes we have to choose between the two. I think we are heading for an impasse that I will do everything that I can to break.

Mr. D'AMATO. I thank the Senator.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I believe the Senator was recognized first. I ask him to withhold.

Mr. EXON. I withhold. I did not realize that my colleague was seeking recognition.

EXECUTIVE SESSION—TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE ELIMINATION OF THEIR INTERMEDIATE-RANGE AND SHORTER-RANGE MISSILES (THE INF TREATY)

The Senate continued with consideration of the treaty.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have been widely advertised around the country for the last little while as filibustering the treaty. Until I sought recognition just now I had spoken exactly nine words on the floor this morning, and I have been here since just a few minutes after 10 o'clock. The nine words were, "Mr. President, I suggest the absence of a quorum."

The situation as it pertains to the treaty also pertains to the Senator from New York. The amendment of the Senator from New York has already been addressed by this Senate. Sixty-eight Senators rejected a motion to table. So obviously the Senator from New York is not holding up the Senate, nor are those few of us who have dared to question the perfection of the State Department and its negotiators with respect to the INF.

A week ago today at 2:35 p.m. the Senate began consideration of this treaty. There has been a lockstep motion in the Senate to reject all amendments, no matter how related they are, nor how important they are. All amendments have been rejected because the State Department came to the Foreign Relations Committee and said there must be no amendments to this treaty—none because the Soviets will not like it. Well, I happen to be one of those Senators who does not care much whether the Soviets like it or not. I think the treaty ought to be perfected by the U.S. Senate under the authority and responsibility bestowed upon the Senate by the Constitution of the United States.

Within an hour after the treaty became the pending business in the Senate last Tuesday at 2:35, there were Senators on the other side who were beginning to use the word "filibuster," talking about filibustering. Well, I scribbled down a few notes about what is the normal process for treaties, controversial treaties. The Neutrality Treaty took 22 legislative days, Mr. President; 20 in consideration of the treaty text itself and 2 days on the resolution of ratification. On the Panama Canal Treaties, and there were two of them, it took 38 legislative days, 36 devoted to the consideration of the treaty text, and 2 to the resolution of ratification.

I might add that the Panama Canal Treaty consideration spanned a period of 70 days, as I recall. This Senator is convinced that even with that consideration, a serious mistake was made for which we are paying now in Central America. Those treaties were the key that unlocked the door to the Soviets moving into Nicaragua, using its surrogate, Fidel Castro, in Cuba.

So the predictions that we heard on this floor day after day over that 70-day period, including 36 days for consideration of the treaty and 2 days for the resolution of ratification, the predictions that this would really solve our problems in Central America have not quite proved to be accurate. Similarly, nor will the assurances given by the Secretary of State, our negotiators, and others in the administration that everything is going to be hunky-dory with the Soviet Union, we are going to be able to verify, therefore we should trust. That is what this debate is all about.

The distinguished managers of the bill—and I respect them; I know the job they have assigned for themselves—have even rejected amendments correcting known errors, acknowledged by the U.S. State Department, because we do not want to amend the treaty. Let us do it on the resolution of ratification. We do not want to do anything that has to go back to Mr. Gorbachev.

We should say "Look here, old buddy. You fouled up. We fouled up. Both sides fouled up on this treaty."

I am pained to understand just why it is that this administration—and it is my administration—has become such a bunch of nervous Nellies about going to Gorbachev and working out these defects in this treaty. If he is the nice man that the media is portraying him as being; if he wants peace; if he wants arms reduction, I would think that he would whip out his pen and say: "Let's get this straight. You're right about that."

No, we will not even examine the question of the covert SS-20's, which the vast majority of our intelligence community says that the Soviets have. We might offend Mr. Gorbachev.

I say again, I do not care whether we offend him or not. Let us get it right the first time, before this Senate attaches its approval to the ratification of the treaty.

I am hearing a little too much of my own patience, suggestions that we ought to do this for the Gipper.

However, situations like this have come up before. I think Teddy Roosevelt understood it. I ran across a little statement by Teddy Roosevelt about this very subject.

Before I read this, I will say that I was the first sitting Senator in the year 1973 to make a commitment to Ronald Reagan, to support his candidacy if he should run for President. He did run for President in 1976, and I supported him; and I supported him in 1980; and I supported him in 1984.

So I think it is irrelevant for some Senators who were not supporting him during all of those years to say, "Oh, we've got to support the President."

I like Ronald Reagan. He is a fine man. I do not agree with him all the time; he does not agree with me all the time. I presume that he and I would agree that neither of us should be a "yes" man. Certainly, I will never be. I think he is wrong about this treaty. I think he has been mislead; I think he has been misguided.

My conscience will not allow me not to pursue the obvious defects in this treaty, because I think I owe it to, among others, three children in Raleigh, NC, and six grandchildren. If I pursue it and lose, it will not be the first time. I am simply saying that it is a matter of conscience.

I find it interesting—and I have seached diligently among the major media of this country—that not one of them has identified and explained the amendments which have been defeated in connection with this treaty. I wonder if it is because they fear that the American people will understand what is going on. There has not been an amendment offered yet that should not have been approved by a Senate that was genuinely interested in protecting the interests of this country.

The comment is always "killer amendments." Well, it is a killer amendment in the sense that the State Department does not want to go and say, "Mr. Gorbachev, this treaty has got to be changed a little bit." Or, "Mr. Gorbachev, you got to 'fess up to how many SS-20's you really have."

I mentioned Teddy Roosevelt. Let me read what he said about patriotism. I do not say that it is applicable to me. I would hope that it is. He said:

> Patriotism means to stand by the country. It does not mean to stand by the President or any other public official, save exactly to the degree in which, he, himself, stands by the country. It is patriotic to support him insofar as he efficiently serves the country. It is unpatriotic not to oppose him to the exact extent that, by inefficiency or otherwise, he fails in his duty to stand by the country. In either event, it is unpatriotic not to tell the truth, whether about the President or anyone else, save in the rare cases where this would make known to the enemy information of military value which would otherwise be unknown.

That is a pretty good doctrine, and I think all of us who support this President or any future President ought to be guided by that. To the best of my ability, I am going to abide by that.

So much for the killer amendments. So much for the filibustering. So much for the overwhelming defeat of a Symms or Humphrey or Wallop or Helms amendment. I will stand on the record of what I have said and done in opposition to this treaty.

I said the same things 10 years ago, when we had that unwise and dangerous Panama Canal giveaway treaty—the two of them—before the Senate. We were shouted down and voted down, which was all right. But we did not have all of the declarations of pious protests beginning an hour after the Panama Canal treaties came before the Senate as was the case with the INF treaty.

We are in our 6th day, if you want to count this day, because the treaty began to be under consideration less than 20 minutes ago on this day of May 1988, the 6th day.

I have an amendment which I am not going to call up because I do not want to risk its being tabled before we discuss it thoroughly. So I will read it myself and then I will offer it, and we will see about it.

Before I read the proposed amendment, let me go back to the first day of the ceremonious signing of this treaty last December right here in Washington, DC.

Do you remember, Mr. President the declaration was made by the President, the Vice President, the Secretary of State, and I do not know how many Senators on this floor, that x number of warheads would be destroyed. It was said over and over again. And the major media picked it up and they said warheads would be destroyed.

And then one or two of us began to say, "whoa, here. No warhead will be destroyed." And the debate continued.

I remember in one of the Presidential debates, Pete duPont declared that no warhead would be destroyed, and I remember saying hooray for Gov. duPont; at least he knows something about this treaty.

But there were people in that debate running for nomination for President who said they would be destroyed.

We all know that no warhead will be destroyed, none, not one. Oh, they give excuses as to why they will not, but that is the backup position, do you not see?

But the fact is that the American people were led to believe at the outset that all these warheads would be destroyed and what a great and wonderful thing that would be.

So, the amendment that I shall propose after a while reads:

> In Article V of the proposed Treaty insert before the period the following:
>
> "; *Provided, further*, That each Party shall in conjunction with elimination of its intermediate-range and shorter-range missiles also eliminate the nuclear warhead devices and their associated guidance elements on such systems and shall not have such warhead devices and associated guidance elements thereafter except that each Party may extract the fissionable material in such warhead devices prior to their elimination. The elimination of warhead devices and their associated guidance elements which is required by this Article shall be accomplished in accordance with procedures and schedules set forth in the Protocols to the Treaty".

That is the amendment.

Why am I offering it? For one reason it is straightforward. It amends the treaty to reflect what so many in this Senate, so many in the administration declared and what so many of the American people still believe to be the case. They declared it, so let us make them do it. Of course, it is a misconception, as I have said earlier, that the INF Treaty in face destroys nuclear warheads. Among the first misconceptions about this treaty which the Foreign Relations Committee addressed were those provisions dealing with this subject.

Unfortunately, a number of statements had been made by the administration officials, statements that were patently erroneous but which made the treaty appear to be a wonderful proposition, a better proposition than in fact it was.

And as I said earlier, the media compounded this misconception by repeatedly parroting the erroneous statements by the administration spokesman.

This amendment will bring the treaty into line with how it had been originally sold by the State Department. As I have noted, it was the administration which initially gave the impression to many Senators and many millions of Americans that this treaty reduces nuclear weapons. It does not.

I remember the distinguished Secretary of State back in November, the final days of the negotiation, before that great happy event here in Washington, Mr. Shultz said:

> * * * This treaty, which is now basically complete, will for the first time, by agreement, result in major reductions of nuclear arms.
>
> It is an important first step. The Soviet side will eliminate about 1,500 deployed INF warheads. The U.S. side will eliminate about 350. The numbers of warheads is asymmetrical because the deployments have been asymmetrical.

That was on November 24 of last year. If anybody wants to check it, it was reported in State Department press release No. 223.

Two months later, on the opening day of the committee's hearings Secretary Shultz repeated that assertion when he stated, "The treaty reduces nuclear weapons rather than setting guidelines for their future growth." The President and Vice President made similarly exaggerated statements as did a number of Senators in their statements on the Senate floor in December following the signing of the treaty.

The truth is that not one nuclear weapon—not a single nuclear warhead—will be destroyed under the terms of this treaty. Indeed, the treaty very specifically exempts nuclear warheads and the associated guidance systems from destruction—on both sides, ours and theirs. The protocol on elimination outlines the procedures for destruction of missiles and related equipment. Paragraph 3 of section II of that protocol states: "Prior to a missile's arrival at the elimination facility, its nuclear warhead device and guidance elements may be removed."

To put it in simple laymen's terms, it is the nuclear warhead that is the real nuclear weapon. Everybody knows that. It is the nuclear warhead that explodes and causes massive destruction and death. Yet nuclear warheads are not reduced at all by this treaty. Instead, this treaty calls for only a certain "delivery vehicles" and related equipment to be eliminated. In the art form in this treaty language "elimination" means "destroyed."

Where is any meaningful reduction in armament levels, as stipulated by the President's arms control objectives? It is absent, zilch. Indeed, not only is there no meaningful reduction, there is no reduction at all.

So, the obvious question arises: What are the Soviets going to do with their nuclear warheads, which are preserved by this treaty?

Is it possible that they will just simply take these nuclear warhead devices off the missiles to be destroyed and rebolt them on the new missiles that they have been developing and testing and now producing, the SS-25, that is not covered by this treaty?

I said over and over again on this floor that this treaty provides that we shall remove all of our Pershing II missiles from Europe and the Soviets are going to remove—650, SS-20's as I recall. But the Soviets are cunning. They have snookered us again, because omitted from this treaty is the SS-25, the new all-purpose missile. So what is going to happen, there will be no Pershing II's in Europe to deter that massive conventional Soviet military force—none. There will be no Pershing II's. And it is the Pershing II which has frightened the Soviets all along. They did not want that deterrent there in the first place and they have been struggling to get it out ever since. And they are finally going to do it with this treaty.

Meanwhile, as I say, the Soviets developed the SS-25 and they have got some other things in the works as well. But the SS-25 can either be a long-range missile hitting the United States of America, for example, or it can be an intermediate range missile aimed at Europe. So the Soviets have theirs and we will have none.

But on February 1, the distinguished Senator from Indiana, Mr. LUGAR, inquired of Defense Secretary Carlucci: "What do we anticipate the Soviet Union will do with their nuclear explosive devices?" meaning warheads.

As part of his response, Secretary Carlucci stated in response to Senator LUGAR:

> The Soviets would probably try to recycle their fissionable material for use on some of their other systems. This could not be done, in our judgment, without some redesign and some testing.

That first sentence is the understatement of the year. Of course, that is precisely what they are going to do. That was the response given by Frank Carlucci on February 1. However, in the edited transcript of Secretary Carlucci's comments, the second sentence—which was supposed to relieve Senator's concerns—was deleted. While some treaty proponents tried to minimize the possibility that Soviets might rebolt their warheads onto other nuclear missiles such as the SS-25—which I say again can also hit the United States as well as being used for intermediate and short-range purposes—additional testimony made it quite clear that this is precisely what the Soviets could do, can do, and jolly well may be expected to do.

A panel of former Secretaries of Defense was questioned about this same issue on February 2. The question was asked, "How do you answer critics who would argue that even though the Soviet nuclear warhead designs might not be superior to our own, they could be readily adapted to other weapon systems not covered by the treaty; that, having moved one off an SS-20, you could shift it over to an SS-25 and bolt it right on?"

Former Defense Secretary James R. Schlesinger responded:

> Well, I think the answer to that is they could. But in the case of the United States, whenever we have a new missile system, what we do is to optimize the warhead, to take advantage of the peculiarities of that missile system to provide maximum yield, given the weights.
>
> The Soviets presumably would want to optimize as well. If they do not want to optimize, if they are prepared to accept a non-optimal warhead, indeed, they can simply bolt these weapons on an alternative * * *

Mr. President, I have a bit more to say on this subject, but, as an accommodation to my friend from Ohio [Mr. Metzenbaum], and my equally good friend from Minnesota [Mr. Durenberger], I am going to yield the floor with the understanding that, when we resume after the policy conferences today, I may have the floor. I do not necessarily insist on having it at the moment we do reconvene.

But, in any case, my unanimous consent would be that no interruption be shown in the Record in my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. Mr. President, reserving the right to object, I understand you wish the floor after the conference, is that correct.

Mr. HELMS. Well, if the Senator has something else he wants to do, this would be fine. Namely, I would prefer not to have an interruption to show in the Record in the remarks I am making.

Mr. PELL. That can be accomplished. But without the leadership clearing the unanimous-consent request relating to the procedure after the conferences, I could not do so.

Mr. HELMS. Of course, that would be assumed, of course. That will be no problem.

The PRESIDING OFFICER. Is there objection to the Senator's request? Hearing none, it is so ordered.

DESIGNATING 16TH STREET NW., IN FRONT OF THE POLISH EMBASSY AS "SOLIDARITY CORNER"

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I be permitted to introduce a bill on behalf of myself and 14 other Senators, as if in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I send to the desk and ask for immediate consideration a bill on behalf of myself, Senator Durenberger, Senator Levin, Senator Weicker, Senator Dixon, Senator Murkowski, Senator Wilson, Senator Mikulski, Senator Roth, Senator Boschwitz, Senator Moynihan, Senator Simon, Senator D'Amato, Senator Riegle, Senator Chafee, and Senator Helms.

Mr. President, may I add the names of Senator Pell and Senator Kerry as cosponsors to the legislation?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Will the Senator add my name?

Mr. METZENBAUM. Mr. President, I ask unanimous consent to add the name of Senator Byrd.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 2426) to designate 16th Street, Northwest, in front of the Polish Embassy as "Solidarity Corner."

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the second time at length, and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. METZENBAUM. Mr. President, this spring we witnessed an example of the Polish Government's indifference to genuine human suffering. The Jaruzelski regime turned against its own workers with callous disregard for their basic needs.

News reports from Poland have grown increasingly ominous in recent weeks.

Government paramilitary forces violently evicted striking workers from a plant in Nova Huta.

The Lenin Shipyards in Gdansk were sealed off by troops in an attempt to starve workers into submission.

The police used lethal force and beatings as standard tactics against peaceful demonstrators.

These harsh measures were in response to Solidarity's two, simple demands: recognition of the Solidarity Labor Union as a legitimate representative of Poland's workers, and wage increases to offset Poland's severe price hikes.

The Polish Government attempted to offer an apology for its use of force.

Mr. President, apologies have a hollow ring when contradicted by day-to-day actions.

Strikers in the Gdansk shipyards were forced to give up their struggle because of the Government's quarantine tactics at the yard, and its intransigence at the negotiating table. After resisting the Government's intimidation for 9 days, 500 core Solidarity activists resolutely marched through the shipyard gates.

With their heads held high in defiance, those men signaled not an end, but a renewal. This core group was decidedly younger than the strikers of years past. It was a symbol of things to come—one that the Government would do well to heed.

Although the strike has ended, the Polish people still deserve the dignity and respect for which they have so courageously fought.

A simple step by the Government would back up those words of apology—recognition of Solidarity.

Mr. President, today I, and a number of my colleagues, are introducing a measure to require that the street in front of the Polish Embassy be renamed "Solidarity Corner."

This bill has been endorsed by the Polish-American Congress. I ask unanimous consent that a letter from the congress' president be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Polish American Congress, Inc.,
Chicago, IL, May 17, 1988.

Hon. Howard Metzenbaum,
U.S. Senator,
Washington, DC.

Dear Senator: We wish to congratulate you on your initiative to introduce legislation designating 16th Street Northwest, in front of the Polish Embassy as "Solidarity Corner".

This would be a constant reminder to all citizens that the people of Poland courageously continue, in a non violent manner, to strive for equal rights and recognition without intimidation or threat of incarceration.

"Solidarity Corner" would be proof that "Solidarnosc" exists and that constructive dialogue with the Polish Government may serve everyones objective better than continued ostracism.

This measure is a clear indication of support from all freedom loving people and reflects the great courage of the Polish people in these trying times.

Sincerely,

ALOYSIUS A. MAZEWSKI,
President.

Mr. METZENBAUM. Mr. President, the word "Solidarity" has taken on a special meaning in the free world. The white and red Solidarity banner has become a symbol of free speech and fairness not only for Poles, but for people everywhere. The banner hangs at entrances to Polish shipyards, factories, and foundries—and at the front doors of crowded, hungry homes.

The letters, in Polish, read "Solidaridnosh"—Solidarity, and to us in the United States they represent the remarkable courage and determination of the Polish people.

Mr. President, in August 1980, a softspoken electrician at the Lenin shipyards suddenly became the voice of a nation demanding fair treatment from its own government. From the Baltic coast at Gdansk, "Solidarity" spread to towns and cities throughout Poland.

The speed at which the Solidarity labor movement grew was matched only by the speed with which the Jaruzelski regime crushed it. In December 1982, little more than a year after the spirit of hope was kindled, it was abruptly extinguished by martial law.

Since then labor unions have been outlawed, while Solidarity leader Lech Walensa and other organizers have been intimidated and often jailed.

The Polish Government has introduced a variety of so-called economic reform measures, all with a single common denominator—the national checkbook is always balanced on the backs of those least able to afford it.

The Polish Government may give the appearance of listening, but clearly it does not hear the voices of its workers.

Mr. President, the United States has expressed its concern, its shock, and its hope for reconciliation. We must continue to speak out against repression in Poland, and continue to support its brave people.

By changing the name of 16th Street in front of the Polish Embassy to "Solidarity Corner," we give Poland a daily reminder about our Nation's stand on workers' rights. In a land that claims to be a Socialist workers' paradise, the workers themselves should be allowed some say in their own destinies.

Particularly in light of the brutal tactics that the Government has used, it is important for our country to take an active stand in support of Solidarity. By passing this mesasure, Congress can show its united support for the people of Poland.

I urge my colleagues to join me in establishing this permanent human rights reminder for the Government of Poland.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I have respect for my colleague and the importance of time in dealing with the treaty issues before us. I will be brief.

Mr. President, I am pleased to rise today as an original sponsor of this bill designating the southern intersection of 16th and Fuller Streets in front of the Polish Embassy in Northwest Washington, DC, as "Solidarity Corner."

Naming "Solidarity Corner" would send a very important signal from the United States to the Government and people of Poland: We will not turn our eyes from the reality of repression in that country.

We will not forget the grave struggle of Solidarity to bring greater freedom to all Poles.

This is a very important message. It is important because the aspirations of Solidarity are the aspirations we share: Economic and political freedom.

It is important because Solidarity is engaged in a struggle for the soul of Poland. And it is important because we cannot shut out eyes to the reality of life in Poland: The economic crisis, the political repression, and the social stalemate.

I need not remind my colleagues of the recent events in Poland. More than 2 weeks of turmoil—including the use of force to end a strike at the Nowa Huta Steel Mill—recently ended.

But the end of strikes does not mean the underlying social crisis in Poland is over.

Poland's agony will continue as long as legitimate desires for a greater voice in political and economic affairs are ignored by the Jaruzelski regime.

And there is no more real expression of the Polish desire for glasnost and perestroika than through Solidarity.

As the independent labor union that led the opposition to the Government in the dark days of 1980 and 1981, Solidarity symbolizes—and embodies—the principles of plualism and freedom that all Americans cherish.

Mr. President, we have no illusions that passage of this bill will lead to rapid settlement of Poland's crisis. But let there be no mistake about our commitment to human rights in Poland.

This act would place a tangible and lasting reminder of United States solidarity with Solidarity at the Polish Embassy. Last year, we redesignated the areas next to the Soviet Embassy as "Sakharov Plaza." In that action, we took a stand affirming that Andrei Sakharov's struggle was our struggle.

This bill affirms that Solidarity's struggle is also our struggle. As a Senator, and as a Polish-American, I am proud to make that affirmation.

I commend the Senator from Ohio for his authorship of this legislation and I look forward to its rapid enactment.

I yield the floor.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the portion of 16th Street, Northwest, in the District of Columbia between the embassy of Poland and Fuller Street shall be known as "Solidarity Corner" for all official purposes. The Department of State, out of existing funds, shall construct two signs which contain the words "Solidarity Corner". These signs shall be made available to the District of Columbia to be placed immediately above existing street signs on the southern corners of the intersection at 16th and Fuller Streets, Northwest. The signs should be similar to signs used by the District to designate the location of Metro stations.

(b) A sign shall be constructed by the State Department, also out of existing funds, and provided to the District of Columbia to be placed directly in front of 2640 16th Street, Northwest designating the actual location of "Solidarity Corner".

(c) The Department of State shall provide the signs required by subsections (a) and (b) to the District of Columbia no later than thirty days after the date of enactment of this Act.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I thank the Members of the body for their consideration, and I particularly thank the chairman of the Foreign Relations Committee, the ranking Republican member, the Senator from North Carolina who was good enough to yield the floor, and the leadership of the Senate to make it possible for us to proceed at this time.

EXECUTIVE SESSION—TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE ELIMINATION OF THEIR INTERMEDIATE-RANGE AND SHORTER RANGE MISSILES (THE INF TREATY)

The Senate continued with the consideration of the treaty.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, is the Senate now in executive session?

The PRESIDING OFFICER. The Senator is correct.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2 p.m.

There being no objection, the Senate, at 12:44 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANFORD).

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further proceedings under the call for the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The treaty is the order of business.

Mr. HOLLINGS. In all fairness, Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending.

Mr. HOLLINGS. Mr. President, let me address my remarks generally, because I will have, as my colleagues know, a reservation to the resolution of ratification. That reservation is carefully conceived, Mr. President, and it is one that I offer with some trepidation. It is quite a situation when, in all candor, you almost have to virtually apologize in order to present an amendment to this particular treaty or to the resolution of ratification. The reason my amendment will be attached to the resolution of ratification rather to the treaty itself is quite obvious, and that is, of course, because it would not require the renegotiation of the treaty should it be adopted by the Senate.

But what has happened is that we have backed ourselves into a situation whereby every and any amendment, Mr. President, on the floor of the Senate is considered to be a killer amendment. That is an unfortunate situation. I think the distinguished Senator from Indiana, for example, and the other Senators who have been presenting the debate have performed a very valuable task for all of us. I have not wanted to get associated with killer amendments. I have looked at all the proposed amendments judiciously. I voted for some; I voted to table others. But that is not to say that we have been experiencing a general filibuster. On the contrary, there has been an attempt to get the attention of the Senate, which has been next to impossible to do in this particular situation.

Mr. President, I am not at this time going to present my reservation on the resolution of ratification because we are not considering it at this particular time. Yesterday, however our most distinguished colleague from Oregon gave us his lecture on the Soviet Union and its historical development. I would like to make several observations on that lecture. I have great respect for Senator PACKWOOD. He made a very illuminating, enlightening, and interesting presentation with respect to Gorbachev's policies of glasnost and perestroika. I followed the Senator's lecture in detail, much of which I agree with, especially his comments with regard to commerce.

It was this Senator from South Carolina who was obliged to oppose the senior Senator from North Carolina on the confirmation of the Honorable William Verity as the Secretary of Commerce. At that time, the senior Senator from North Carolina had misgivings about Mr. Verity's association with the Trade Mission in Moscow. He thought that perhaps with Mr. Verity becoming the Secretary of Commerce we would find ourselves on a slippery slope, getting too close to the Soviets. Well, I agree with my colleague, Senator PACKWOOD, that if we cannot get along militarily or politically, then on what basis can these two superpowers survive? I think the best hope is in the arena of commerce, and that is of course exactly what we have been doing. We have been trying to foster commerce with the Soviets.

Incidentally, Secretary Verity has recently returned from his visit with the Soviet leaders in the Kremlin, along with some 500 American business leaders, aimed at encouraging commerce with the Soviets.

Senator PACKWOOD traced the evolution of commerce, arts, and democracy since the Renaissance. I do not necessarily agree with his analysis in all respects. But I acknowledge that he is a better historian than I and quite a keen observer of the world's development. He says we ought to nurture the effort in Russia to reform its economy, and I agree with him there.

But, Mr. President, moving on, Senator PACKWOOD gets to our friend Max Kampelman, who he said has more or less taken him under his wing as an adviser. We all have tremendous respect for our arms control director, the Honorable Max Kampelman. It was almost like turning on the light in a dark room when—18 months after the Soviets broke off talks and said there would be no deal with respect to Pershings and cruises if we were going to insist upon deployment of the cruise missile—Kampelman says, "Don't worry, the Soviets will be back." And you know what, this sage adviser, Max Kampelman, was correct. The Soviets came back to the table, precisely because we were willing to deploy the Pershing and cruise missiles in Europe. We learned from that episode that the Soviets would come back to the table, and that is why we have this INF Treaty.

Mr. President, that lesson brings me to my reservation relative to conventional cruise missiles, because the objection by the Foreign Relations Committee is that such an amendment would require renegotiations, or that it would incite the Soviets to refuse to renegotiate or to junk the treaty. Nonsense. The truth is, as the sage Kampelman has observed, the Soviets came back because the Pentagon has found that the cruise missile, I say to the Senator from Arkansas, is to the advantage of the Soviets. I do not happen to agree with that. The Soviets do not agree with it. They do not have any ground-launched cruise missiles.

When I was making a statement of that kind, sort of categorical, they then passed to the SSC-X-4's, the ones they changed from ship-launched cruise missiles, SLCM's, because we never could find any. They do not have any GLCM infrastructure. They have not trained for any. They have not deployed any but when we came to that point in the treaty—there are SSC-X-4's. They piled up some on the land and said, "Look, we have ground-launched cruise missiles." The Soviets have never had a need for cruise missiles. But be that as it may, a point which I will elaborate on further.

The distinguished colleague from Oregon says that, just as Kampelman predicted, the Soviets came back to the table and we now have an INF Treaty. Now is the time to move forward and give things a chance, says Senator PACKWOOD.

Well, the distinguished Senator from Oregon seems to forget his earlier comments relative to the debate on the ABM Treaty. He told us how in 1969 the Senate went into executive session, when both he and I were present, and in executive session we had a very dynamic debate between our former colleague, the senior Senator from Missouri, Senator Stuart Symington, and Senator Henry Jackson. By a 1-vote margin back in 1969 we voted to go ahead with development of an antiballistic missile system. And it was as a direct consequence of that decision that we had the Anti-Ballistic Missile Treaty in 1972. It should be remembered that at the time, our distinguished friend, Mr. Kampelman, was a senior adviser to Senator Mondale, who voted against ABM development on the grounds that if we voted for an ABM system we would never get an ABM Treaty.

So I am back to the cruise missile issue of today's debate. The Foreign Relations Committee says that if we delete the ban on conventional cruise missiles in this treaty, then the whole INF deal will come apart. That is absolutely false. No one really believes that. What we all are engaged in here, Mr. President, is show business. The full court press is on to get to the TV, the 7 o'clock news, make sure that the President has something in hand, and that the show comes off. But in this pell-mell rush to Moscow, we are blinding ourselves to the catastrophic restrictions we are placing on our conventional weaponry and thereby or our national security.

Incidentally, one player in this full court press is my distinguished colleague from California. I observed him over the weekend on the news, since this is all show business, talking about how we have to get behind the President. Senator CRANSTON says we have to get behind the President. That is a real first for him. I can tell you that right now.

This particular Senator has supported the President in many of his initiatives, and I only say that to emphasize the sincerity with which I approach my amendment to the treaty. It is just beyond belief to me that we would want to in perpetuity restrict conventional weapons.

We have tried for years on end in Vienna, in the mutual balanced force reduction talks to agree to conventional reductions. The Soviets have stonewalled us every step of the way, refusing even to identify the number of their divisions. They have yet to identify the number of tanks. They have yet to identify the artillery or anything else that might contribute to a sincere atmosphere for negotiation.

Yet despite this record of stonewalling, every Senator, liberal, conservative, Republican or Democrat, chimes in with the assertion that, yes, we vote for this treaty, but we also have to beef up our conventional forces.

Mr. BUMPERS. Will the Senator yield for one observation?

Mr. HOLLINGS. Yes.

Mr. BUMPERS. Did I understand the Senator to say a moment ago that the Soviets do not have cruise missiles?

Mr. HOLLINGS. Right, not anything to speak of. Give me the designation. I know what the Senator is speaking of. But we have never found the infrastructure. It is the SSC-X-4. They have had it in a submarine-launched cruise missile mode, as a SLCM, called the SS-N-21. It looks to us like the same thing as that SLCM. But they do not have any land infrastructure. They do not have any storage. They do not have any training or anything else like that. So in reality we are not paring off United States and Soviet cruise missiles.

Let me emphasize in my answer why the Soviets do not need cruise missiles. They already will have every target covered without them. With respect to short-range targets, they have short-range missiles of less than 500 kilometers that can target every European airfield that we have. I think of our friends and relatives. There are some 680,000 Americans over there. And there are some 300,000 dependents. The plan is that in a crisis, those dependents should go to the nearest airfield in order to evacuate. They will not evacuate. They will not get to an airfield. Those airfields will be targets of Soviet short-range missile.

By the same token, all longer-range targets in Europe will be covered immediately by the Soviets' SS-25's and SS-19's.

So in reality, it is a false parallelism to claim that the Soviets will get rid of their cruise missiles and we will get rid of our cruise missiles of a conventional nature. They do not have anything to give up. They have never designed them. Indeed, the Soviets have never held up on anything they ever needed, whether you are talking about space, artillery, seapower, submarines, aircraft carriers, you name it. I imagine there are Senators around here who would like to advise them that that is an improper direction in which to proceed.

Mr. BUMPERS. The Senator was alluding to ground-launched cruise missiles?

Mr. HOLLINGS. That is right. They are conventional ground-launched cruise missiles, which is my debate and my concern.

Mr. BUMPERS. My authority here was—and I think the Senator is probably correct—"Soviet Military Power, 1986," that magnificent glossy the Pentagon puts out every year that shows how the Russians are coming up the Potomac and are going to get us any minute. It says here that they have a ground launch cruise missile. The Senator described it correctly, the SSCX-24. The ground launch cruise missile variant will probably become operational this year, 1986. Its mission will be to support operations in the Eurasian theater since the Soviets are unlikely to deploy it outside the U.S.S.R. and its range is too short for intercontinental strikes. It is being developed as a mobile system and probably will follow operational procedures similar to the SS-20 intermediate range missiles.

So the Pentagon was wrong.

Mr. HOLLINGS. It is not a question of right or wrong. We are both right in the context. They just said it probably would; and what they are saying, translated—you have to be able to read this—is that they will take that SLCM and could make it a ground-launched cruise missile, and watch out.

We know the training necessary for a GLCM force. We know the infrastructure, how they train and how they store and how they exercise. No storage, no exercise, no troops, no support, no conventional ground-launched cruise missiles. They could develop it into the SSC-X-4; the Senator is right. That is why they list it there.

Mr. BUMPERS. I thank the Senator.

Mr. HOLLINGS. The crux of my concern is that we have before us, not just a nuclear treaty. What we also have before us is the most significant conventional arms treaty that has ever been signed by the United States, and yet we have gained nothing in return for our conventional concessions.

If I were your lawyer and you came to me on a contract basis, I would say: "Well, I see you have agreed to ban conventional GLCM's, but what did you get for it? What is the consideration? What is the binding nature of this part of the agreement?" The answer would be, "Nothing, absolutely nothing."

They do not give up anything at all, and that is to be emphasized.

Let me say one word about my distinguished friend from Oregon and his discourse yesterday relative to the Soviets. I am referring now to page S 6426. This is what the Senator from Oregon stated. I have no question in my mind that he believes it. I fear that too many in this body believe it. I could not disagree more vehemently. I quote Senator PACKWOOD: "The worst thing that can happen to Russia is to encourage an arms race with the United States. We will run them off the board."

Listen to that. We live in the real world. Let me give you that one more time: "The worst thing that can happen to Russia is to encourage an arms race with the United States. We will run them off the board."

Who is running whom off the board? The race is already on, and the Soviets are leading.

We just marked up a space authorization a couple of hours ago, in the Commerce-Space-Science-Transportation Committee, and I can tell you categorically that we do not have the money to do the things that all the Senators want to do. There is a summit agreement, and there is what we call a 302(B) allocation or limitation to the budget.

We are now caught up in a love-in with Gorbachev. I have Gorbachev on my news, on my radio, in my bedroom; he is in the living room; he is for breakfast; and we are all having a grand time together, and now he wants to go to Mars with us. But we cannot go with him right now. We do not have the money. We have not kept up with the Soviet space program. We cannot get the shuttle, much less the space station that they already have. The Soviets had 90 launches last year, compared to only 7 by us. They are way ahead of us in space.

Their navy is in Cam Ranh Bay and the Pacific and all the way around. We think we have better technology—I think we have—perhaps a stronger navy, but not for long; we certainly are not matching their tanks or their strategic weaponry, where they keep building like gangbusters, SS-24's, SS-25's, developing the SLCM. They are going into everything.

The Senator from Oregon seems to worry that we might start a race: "The worst thing that can happen to Russia is to encourage an arms race with the United States." That is exactly what has already happened. Then he concludes that if there were a race, we would run them off the board. We run ourselves off the board. We cannot get anything. We cannot go into space. We cannot test for an ABM, although every Senator who voted for that treaty agreed that you could.

I voted for the ABM Treaty, and I was not restricted. I know how the Senator from West Virginia and others feel. Senator Jackson, in his amendment, provided for research and development, and increased and continued research and development. So we did that. We have not kept up with the Soviets in space. We certainly have not kept up with them with respect to conventional weaponry. We cannot have an ASAT, an antisatellite. They have an antisatellite system.

We will run them off the board, the Senator says. Nonsense. We cannot test; we cannot move; we have to get rid of the MX. We have candidates running who want to get rid of the Trident. This Congress cannot move defensively. We have run ourselves off the board. That is what worries this U.S. Senator.

How in Heaven's name, were the INF Treaty ratified, would we correct the imbalance of conventional forces in Europe? How would we maintain our national security?

The distinguished Senator from Oregon, in his discourse on Russia yesterday, quoted his advisor, Max Kampelman: "You know, the 43 years since World War II are the longest period of time since the end of the 100-Year War, over 500 years ago, that one major European power has not been attacking another major European power."

He starts off: "You know, since 1945, there has been no major war between major powers in Europe."

Mr. President, that is exactly the case. We have not had war, and we are all pleased by that, and we attribute that situation to the strength not only of our economy but also of our NATO Alliance.

I happen to think that this partricular treaty, as it now stands, could cause a disintegration of that NATO Alliance; and to make sure that occurs, if we continue to include the ban on conventional ground-launched cruise missiles [GLCM's], then the West Germans will go their own way.

They say, "The United States of America has persuaded us, after all the political upheaval we have had with the Greens and the peace movement, to deploy cruise missiles along with the Pershings." We deployed, and we strengthened the alliance and our position in Europe as a result.

Now we have a different commissar in the Soviet Union. Brezhnev was the confrontational, the hard-charging Charlie. He came forward and said, "We will intimidate with our SS-20's, and we'll gain hegemony by brute force," and the alliance almost bowed to his bluster.

The Europeans almost yielded, but they did not.

Now we face a more clever, a more astute and a more attractive, if you please, Soviet commissar in Gorbachev when he says "Rather than hegemony through confrontational force and power, I will do it through the conventional power, very quietly by going along, Mr. President Reagan, with your zero-zero option."

The Soviets have overwhelming conventional power in Europe and we know that without the nuclear deterrent, Mr. President, we have had war after war after war in Europe.

So it is a very cogent observation by Max Kampelman as quoted by the distinguished Senator from Oregon. But let us realize what the quote means. It means, yes, that we have had that nuclear deterrent and now we need a conventional deterrent. To maintain the peace in Europe, so that no nation attacks another nation, we must have the same force and effect—rudely put, the same kill power—as a nuclear deterrent.

The superiority of our technology is such that we are developing a cruise missile with such accuracy that it can hit within a meter, 6, 7 feet of its target, and with that accuracy it would amount to a hard-target kill. It is very economical, and with respect to its accuracy it is very accurate, also with respect to environmental concerns on mainland Europe. We have over 360 GLCM's there now that have already been accepted on European soil.

These GLCM's are benign weapons. They do not go out on maneuvers and create damage.

These missiles do not go downtown on Saturday night and get drunk at the bar. There is minimal upkeep to these cruise missiles. They have no dependents.

We could place some 2,000 to 3,000 in Europe with a strict verification regime. They can station a Soviet observer, if you please, right at the cruise missile sites.

What we would want to communicate to the Soviets is that if they move against Berlin this afternoon, if they move into Turkey this afternoon, we would take out this airfield, we would take out that communications center, we would take out that marshaling yard, and it would be a credible deterrent.

Our mutually assured destruction deterrence now is totally incredible, out of the whole cloth. No one believes that President Reagan or any other President of the United States is going to end the world because the Soviets move into Berlin this afternoon. President Sanford, our distinguished Presiding Officer, certainly would not order that. President Hollings would not.

You would try every kind of avenue of discussion and bundling about, talking to senior leaders, and it would be like a Noriega deal, I tell you that. We would go back and forth and argue amongst ourselves and end up with nothing. But we would not fire anything nuclear and thereby end the world.

I am saying this for the benefit of those who say my amendment is a killer amendment. They say, "Oh, well, if President Reagan can agree why cannot you? Oh, well, if the Armed Services Committee approved this why should I worry about it? Oh, well, the President is over there and let us not embarrass the President. We have to get him a ratification to show that we are all together and we are one country here this afternoon and we are all behind the President."

But we are not behind the President on trade, and we hope to get the votes to override when he vetoes it. We were not behind the President on the environment and we did override him. We were not for the President on the highway bill veto and we did override him. And the President's policy in Central America has been blocked.

Yet here we have the conventional ground launch cruise missile that raises the nuclear threshold and gives us an alternative to ending the world. I insist that they not be included in this particular nuclear treaty, and people say I am frustrating the President of the United States.

I am telling you now when the Intelligence Committee and Armed Services

Committee came up with the various misgivings they had and how could you verify this and verify that, the Soviets said, oh, no, and they wrote letters and there were nine points, even trying to describe what a weapon was, and everything else.

So we sent Secretary Shultz back to Europe and, incidentally, the Soviets did the same thing to him that they did to Henry Kissinger back in SALT I. I was in the tent in SALT I, and we had already had a good agreement in August 1971 when President Nixon and Secretary Kissinger got there. The Soviets changed their mind at the last minute and they made Secretary Kissinger work all night long to get a treaty that at that time, Gerard Smith will not say so, but Ambassador Smith will testify that he was disappointed because those last-minute discussions resulted in an unequal treaty causing us to have to adopt a Jackson amendment in order to get SALT I ratified.

And the same thing happened in SALT II, and now we have it here in SALT III, only we call this INF Treaty.

And any time you get a treaty, you send your distinguished Secretary of State and they agree in the afternoon and then when you get together at 7 o'clock to finalize it, they keep him there until 4:30, 6 o'clock in the morning.

The Soviets, when we yielded on conventional cruise missiles, were so surprised that they made us repeat it four times. They could not believe their own ears that we would give up this particular weapon and set a precedent for the START Treaty, a precedent of barring all air-launch cruise missiles and all sea-launch cruise missiles.

Now, right to the point, Mr. President, they say that the reason we did this is that the Pentagon and the Department of Defense did not have any requirement for a conventional cruise. This is the worst embarrassment in the world. I have been quoting our distinguished friend, the chief arms negotiator, and I have in my file here a letter that we received from him that has been cleared, given to Senator **Boren** and our Intelligence Committee, and therein Max Kampelman answers with respect to certain questions that we had relative to the cruise missile.

We will elaborate what was said by the chairman of the Joint Chiefs, Admiral Crowe, and now Secretary Carlucci, because this was agreed to by then-National Security Adviser Carlucci and was a mistake and I am confident he knows now that it is a terrible mistake.

Every arms negotiator and expert, be he conservative like Richard Perle, or be he more on the liberal side for President Carter, Walter Slocombe, and all agree that this is a very, very bad mistake.

But I want you to read the answers here very briefly.

Max Kampelman, and this is also the reason given by the Foreign Relations Committee.

The question:

> Was the decision to include conventionally armed GLCM's in a treaty based on a unilateral U.S. determination or does it reflect an expressed Soviet desire to eliminate conventional intermediate-range GLCM's? If it reflects the Soviet desire, what did the United States achieve in return?

That is the question.

Answer by Mr. Kampelman, our chief arms control negotiator:

> The United States Government decision to ban conventionally armed GLCM's took into account a number of considerations. It is important to remember what the issue was not about. It was not about whether to permit planned U.S. deployment of conventionally armed GLCM's nor was it about whether to withdraw from Europe previously deployed systems. Rather the decision to be made was whether or not to protect the option for deploying conventionally armed GLCM's. At the same time of the decision, the United States and NATO did not and do not today have any specific plans or military requirements for conventionally armed GLCM's in the INF range.

They labored over verification. But when they realized that this did not enhance verification whatsoever, they fell back on the real bottom line—reasoning that the Pentagon does not have any use for them.

Now two points, one with respect to verification and the other with respect to the requirement. With respect to verification, let us not be all embroiled or misled or enamored with verification. I have heard more about verification, verification, verification—do not trust them. The President quotes the Russians, "Doveryai, no proveryai"—"agree, but verify."

These are all good for 20-second bites on TV, but they are mostly sheer nonsense. What happens is there are just certain things you cannot verify. When you say you are going to limit this treaty to those cruise missiles, let us say, in INF, intermediate nuclear forces, the Pershing and cruise missiles, to a range between 500 and 5,500 kilometers, then you are saying those below 500 are permitted and those in excess of 5,500 are permitted.

I can take a regular cruise missile with a conventional warhead at 500 kilometers, permitted, turn that over into a nuclear warhead within an hour, and I can tell you right now it will go way more than 1,000 kilometers. There is just no way to verify that, and we all know that. We are not expecting the impossible.

What we are acting on, as reasonable, sane, and prudent people is the question of how best we can control and how best we can verify. But you cannot verify range. So do not let us get worked up about that. Since you have allowed air-launched cruise missiles and sea-launched cruise missiles, SLCM's and ALCM's, then, from a fixed-ground testing site, you can say, rather than this being a ground launch, you can test those within the forbidden range, 500 to 5,500 kilometers, of an air-launched cruise missile and that is not verifiable. You cannot distinguish the permitted missile from the banned missile. So it cannot be verified.

Similarly, a sea-launched cruise missile cannot be verified. You can test them and say, "No, that is not a banned missile." That is what we just talked about with our distinguished colleague from Arkansas on the SSC-X-4, taking a SLCM and calling it a regular ground-launched cruise missile, because they had to make a case they were giving up something. They finally took some SLCM's, called them GLCM's, and said: "Here this is what we give up."

But, in any event, reconnaissance missiles of the forbidden range between 500 and 5,500 are permitted. So you get a reconnaissance one that is flying, zigzagging all over the front line, and moves in the range of 500 kilometers, and, instead of zigzagging it does not have to zigzag, it can go straight. And you say, "That that is a reconnaissance missile. We are looking around. That is not a regular cruise missile." That is not verifiable under this treaty. Ratify it in the next 2 seconds and you cannot verify that. You cannot verify drones. You cannot verify the drones. You go right on down the various lists of things that cannot be verified. One of them came up here in the treaty. We do not know how many SS-20's they have. And when they give us a number, there is no dispute, there is no recourse. We cannot verify even what we are agreeing upon.

Yes, we agree generically upon, let us say, Pershings and SS-20's, but we do not find out precisely what we have agreed upon until 30 days after ratification. Then they give you a number and we give them a number. And, knowing the history of activity on the Soviet side and what the President advises, "Don't trust them; don't trust them." Well, heavens above, we do not know what we agreed to. We cannot verify that.

So I think we make a bad mistake to become embroiled in verification as a reason for banning the conventional ground-launched cruise missile in this particular treaty.

But, more than anything else, they then fell back on, "Well, the Pentagon doesn't require it." And therein is the responsibility of each and every Senator. The Senator from Tennessee, the Senator from Connecticut, the Senator from Indiana, myself, and other

Senators on the floor cannot rely on the Pentagon.

Now, everybody knows me as an old military hawk. But I have worked with them and I have watched them. And, just reflecting historically after 40 years in public service, I was on the Hoover Commission back in the 1950's investigating the intelligence activities, the defense intelligence, Army, Navy, Air intelligence. That is when we had Admiral Radford; Admiral Erskine was in charge at that time; Secretary Anderson was the Secretary of Navy. We spent many a midnight hour and passed early into the morning over in the GAO building working around the clock for this U.S. Senate. It was during the McCarthy days. I watched it come all the way around and there are a lot of observations to be made, some rather in mirth and some very serious. Very seriously, Senator Barry Goldwater said that the average stay of a Secretary or of an Assistant Secretary was 1 year. The Secretaries never control anything over there. It is the infrastructure of the civil service that controls.

President Reagan came and said we were going to cut personnel. We cut the staffs in the Senate 10 percent, the committees 10 percent, and the Departments 10 percent. But we added 100,000 onto the civil service in the Pentagon. They just grind out on what they want to grind out.

This was said in mirth by General Quesada, Pete Quesada, an old Air Force general. He came back at the end of World War II and, riding by in a taxi, for the first time, he viewed this mammoth office building, the Pentagon, the largest office building in the world. Turning to the taxi driver, he said: "My heavens, how many people work in a building like that?" And, without hesitation, the taxi driver said, "About half." You have to know that crowd over there and how they operate.

I only lead in that fashion to tell you that this has been an observation that I have watched and studied, and studied and watched, and watched and studied. First, you will not find a requirement for a ground-launched cruise missile in the Marine Corps. You would not expect to. The Marines land, take, and hold until the regular troops arrive. They are not there to start firing cruise missiles, heavens above, and that kind of thing.

But it will amaze you to know that there has never been a request by the Army. They resisted it. I am going to show you where the military does not resist it, where their science board and everything has studied it.

But the U.S. Army does not want a ground-launched cruise missile. What the Army is thinking of is responding at 40 kilometers, 50 kilometers, 60, 70 miles, artillery range, taking and holding, moving forward 10 kilometers each day. On a ground-launched cruise missile, the troops, the cost, the upkeep is not for them. They do not require or request one—until now.

There are some exceptions. General Galvin is one exception and General Rogers another, those who have commanded and have come to appreciate the value of the defensive nature of the ground-launched cruise missile.

You go to the Navy and Admiral Crowe gets irate. He is fighting. I want to give you his testimony, I say to the Senator, before your committee, the Budget Committee. "Oh, we will never give up the sea-launched cruise missiles. No, we won't yield on that."

Well, they have yielded for years. When did they get so serious about it? They do not want to project sea power. They could have had a standoff aircraft carrier or carrier-like platforms for cruise missiles. They would have had no need to fly a pilot over Libya and Qadhafi a couple of years ago.

A couple of years ago, you could easily have done the Libya mission without the loss of a plane by using highly accurate cruise missiles. No, you cannot be in the Pentagon and start talking about the tactical virtuosity of cruise missiles. You will get kicked out. You will get court-martialed. You are not in step.

With the Navy, they need carriers; they need pilots; they need planes; they need equipment. That is the big Navy, the 600-ship Navy; big budget; up, up and away. They will spend you blind.

Let us come back now to the Air Force. You cannot find a conventional ALCM. There "ain't no such thing." I say that with my Southern grammar to make emphasis on the particular point, and I know I will be understood by the Senator from Tennessee even better. That is, once they get in the air and position planes, I can tell you here and now, if they find a cruise missile, it better be nuclear because it is going to be assumed to be nuclear.

So the Army, Air Force, Navy, Marines are unanimous: there are no requirements. But there should be, and it is up to us to get such a requirement because they will spend us blind without it.

The cruise missile is wonderful as a defensive weapon, but not as an offensive one.

I read in a column earlier last week that the former arms control negotiator, Paul Warnke, said that he does not see why Hollings would want to eliminate the ban on conventional cruises. The Russians would have cruise missiles all over Eastern Europe. They could overwhelm us.

Look, they are going to overwhelm us now if they go nuclear. If they are going with cruise, or if they are going with intermediate, short-range or otherwise, they can do that.

I do not mind, as I say, having my 3,000 conventional cruise missiles and giving the Soviets 6,000 because if they go that way, that is the end of the world, and we will use MX's and everything else.

We know that. What I am trying to do is respond without going nuclear. I am trying to raise that nuclear threshold, and I am trying to do it in a forceful fashion where I have the same kill capability even with conventional ground-launched missiles. You are not going to appropriate, and I am not going to appropriate, for all the troops we will need in Europe. When I left the Army, the B-17 cost $97,000. The B-1 they say costs $280 million. It is really nearer to $350 million. I can tell you that. They say the Stealth costs over $400 million.

If they tell you $400 million now, heavens above, what is it really going to be? In contrast, we can put 3,000 ground-launched cruise missiles of a conventional nature around Europe for the cost of 10 planes. There is no upkeep. There are no pilots running around. There is not all of this paraphernalia to go along with it.

Verifiable? I say we can tell the Russians where each conventional cruise is located. Invite them in. If the fellows will not defect, invite Soviet observers to babysit each of our missiles and sit there with a hotline. I want them to know that in Turkey we have 1,000 of them. I want them to know that in West Germany we have another 2,000. I want them to know that if the Soviets move into Berlin, we have the capacity to take out their command, control, and communications. We can lob one just to show we mean business. I would give some credibility to our NATO defenses and enhance the security of the United States of America.

That is the issue on the INF Treaty, which is totally ignored. We Senators get a pat on the back like we are some wandering puppy dogs lost off in the bush somewhere. Nice little dog; give him a bone. Let him talk a little bit, but do not take him seriously because, after all, we do not want to embarrass the President.

Well, the President ought to be embarrassed for concluding this treaty. I do not know whether he ever saw it. I do not know if it was ever really fully explained to him.

The best intelligence search I can make is that the treaty went to his Security Council. Once they signed off, that was it. The President signed off, too.

The President is consistently inattentive. Former Secretary of State Haig said the President did not know much about foreign policy. Dave Stockman went off to New York and said the President did not know much about budget policy.

We had Speakes say the President did not know what he was talking about; "I wrote it for him." Now we have Regan who said, "I spent 4 years as Secretary of Treasury, and we never had a one-on-one discussion on financial or economic policy. He never asked me."

Knowing those things, I doubt if our distinguished Commander in Chief had an opportunity to dwell on this treaty. I am not blaming him entirely, because the Pentagon and the Department of State have conspired to keep him in the dark.

The Department of State has been insisting for quite some time, Mr. President, that we ought to ban conventional cruise on account of verification.

The testimony before the Armed Services Committee by Mr. Perle was that the concern was chiefly voiced by Senate observers, Senators observing over in Geneva raising the prospect that they might lose some votes on ratification, therefore, we should not insist on the deletion of a ban relative to the conventional ground-launched cruise missiles, but rather we should yield on that point.

Mr. President, let me, if I can, refer to the various studies in the Pentagon because there is a difference there.

The Defense Science Board in December of last year made a study of our needs. This study was a follow-on to a study requested by Secretary Carlucci with respect to the overall needs of the Department of Defense and what would be the likely reaction of the Soviets.

The Defense Science Board's study is a matter that is classfied, but I have been able to clear the Defense Science Board study concerning nonnuclear strategic capability dated December 1987.

The Joint Chiefs ought to be ashamed of themselves, and I say that advisedly. Heavens above, to have Joint Chiefs that do not know how to defend, we are in deep trouble around here. Congress is studying, as we politicians have to do, their particular requests, requirements, and what the angles are behind them. When we have to do the Chiefs' job and truly defend the country, then we are in jeopardy.

The Defense Science Board study on nonnuclear strategic capability dated December 1987, stated in sum:

> The task force concluded that accurate, long-range nonnuclear weapons systems potentially can contribute significantly to accomplishing major U.S. strategic objectives worldwide.

The Defense Science Board is composed of 45 distinguished leaders of defense industry, retired military leaders, and academic experts. The Board's membership includes Robert Everett of MITRE Corp., Norman Augustine of Martin Marietta, Dr. William Press of Harvard University, Gen. John W. Vessey, and Adm. Isaac Kidd. This is just a sampling of the expertise found on the Defense Science Board. Certainly, the U.S. Senate always seeks to have the best of experts on all sides, to bring them in and let them study in an objective way, as best they can.

Yet, in this case, the Joint Chiefs ignored their own experts, if you look at the testimony, and I have studied the Chiefs' testimony before the Armed Services Committee; I studied their testimony before the Foreign Relations Committee. When they come here and say, "We need it," and there is no justification for it, when you see such anecdotal items in the references made in the Armed Services Committee testimony—the colonel testifying first that he did not have knowledge about requirements for a conventional GLCM. He was the expert up to testify. He would have to go back and check.

Then on checking back he could not find where the Chiefs had any requirement for it whatsoever, and then it came out through our distinguished colleague. The Senator from Indiana has already mentioned on the floor that General Galvin, the NATO commander, was called, made contact with and General Galvin said, "Yessiree, we sure do." We said, "How about the Pentagon, have they contacted you?" He said, "No, they haven't contacted me. I haven't had any inquiries come through with respect to conventional ground-launched cruise missiles." That is why I used the expression Keystone cops jumping around in a higgledy-piggledy way. All we hear is how many hours we have talked about this treaty in committee, we have had it so many hours, we have had it so many days, we have done this and we have done that.

No, we have not. We have not gone into detail. Until last week, Senators did not turn their attention to this treaty. They wait for the debate to come up and then when the debate occurs and we get amendments to the effect of Gorbachev might not be the ruler—at least he was not elected in Russia but he did get elected in the Senate the other day by rollcall vote—they say, "Well, I do not want to be associated with killer amendments." And when the debate starts—and now I understand before the debate can start both sides are entertaining a cloture motion—it forces us to come forward and begin to explain the exact nature of the testimony and the exact seriousness of purpose with which this particular item was considered.

The Defense Science Nuclear Board said, and I quote again:

> The treaty itself cannot make us replace any significant portion of our command with respect to going nuclear and with respect to reacting in NATO. Improved nonnuclear capabilities are different from nuclear capabilities in the extent and duration of effects. Thus, they cannot substitute for the large-scale nuclear attack options planned in our SIOP.

To repeat:

> Their basic effectiveness relies upon disruption of a function, for effectiveness is more sensitive to detailed intelligence information, identification of critical target needs and mapping accuracy than are nuclear weapons. However, they could have a unique role whenever the use of nuclear weapons was severely constrained or could not be used at all. NNSC capabilities would be even more valuable if the United States and the U.S.S.R. significantly cut their nuclear force postures.

Now, Mr. President, let me emphasize that last sentence because that is what the INF Treaty does. If the ban on conventional GLCM's is deleted, I would be prepared to vote for the treaty, and that the direction pointed to by the Defense Science Board. We are about to cut our nuclear force postures. When we do, these NNSC capabilities, these nonnuclear missiles, would be even more valuable if the United States and the U.S.S.R significantly cut their nuclear force posture.

That is very, very important because that is what we are doing and that is what the Defense Science Board stated.

With respect to the long-term planning, they had a commission on long-term strategy and they talked about discriminate deterrence. And that was researched for our distinguished friend, the new Secretary of Defense. And it says here:

> Our strategy must also be integrated. We should not decide in isolation questions about new technologies.

Incidentally, there is a new amendment coming out already about new technologies, to restrict them, but here is what the Commission is saying:

> Our strategy must also be integrated. We should not decide in isolation questions about new technologies, force structure, mobility and bases, conventional and nuclear arms, extreme threats and third-world threats. We need to fit together our plans and forces for a wide range of conflicts from the lowest intensity and highest probability to the most apocalyptic and least likely.

Later, it states again on page 2:

> To help defend our interests abroad, we cannot rely on threats expected to provoke our own annihilation if carried out.

Quoting along:

> In peacetime, a strategy based on such threats would undermine support for national defense. In a crisis, reliance on such threats could fail catastrophically for lack of public support. We must have military effective responses that can limit destruction if we are not to invite destruction of what we are defending.

Next it says:

> We must diversify and strengthen our ability to bring discriminating nonnuclear force to bear where needed in time to defeat aggression. To this end we and our allies need to exploit emerging technologies of precision, control and intelligence that can

provide our conventional forces with more selective and more effective capabilities for destroying military targets.

Next:

Both our conventional and nuclear posture should be based on a mix of offensive and defensive systems. To help deter nuclear attack and to make it safer to reduce offensive arms, we need a strategic defense. To deter or respond to conventional aggression, we need a capability for conventional counteroffensive operations deep into enemy territory.

Now, Mr. President, I will jump to page 8 because it is not my intent to hold the Senate. I see that others would like to speak. But from page 8, I quote again from the Special Commission on Integrated Long-Term Strategy.

The present situation associated with the new technologies will enable us to use conventional weapons for many of the missions once assigned to nuclear weapons.

Listen to that. That is exactly what we are talking about. Here comes the Joint Chiefs, the Pentagon, they cannot find a requirement. The Ambassador calls; he cannot find the requirement. Ambassador Kampelman calls; he cannot find a requirement from the Pentagon. Everyone else calls, everyone dealing with this, Colonel Wheeler, all the witnesses that come up, the generals that testify, no, they do not have any requirement. But here it is.

The present situation associated with the new technologies will enable us to use conventional weapons for many of the missions once assigned to nuclear weapons. The new technologies will work to strengthen the ability of our ground and air forces to defeat invasions.

I emphasize defense. I am talking about the defense nature that everyone know is the essence of a conventional ground-launched cruise missile. I quote further:

Particularly important is this connection in respect to the use of low observable technology in combination with extremely accurate weapons and improved means of locating targets. In the years beyond 2000, this combination will provide new ways to stop invading forces at a great distance from the front lines.

I wish everybody, Mr. President, would read that and memorize it. The conventional cruise missile is something we can afford. It will make possible an effective, credible, conventional defense. Look at the low observable Stealth technology referred to, placed on extremely accurate weapons, in other words, placed on conventional ground-launched cruise missile.

And the combination of cruise and Stealth would stop invading forces at great distances from the front line. That is the only thing that would stop them. We would be in the soup otherwise.

Let me read further in this particular report. But read on page 50 on managing technology. This is exactly what it said in January. Yet this is what the Secretary of Defense and the Joint Chiefs of Staff are now testifying in opposition to, their own testimony; their own findings. When I say their own findings, let me emphasize the makeup of this distinguished Commission, which was co-chaired by Dr. Fred C. Iklé and Albert Wohlstetter, and which included such respected experts as Gen. Andrew Goodpaster, Adm. James L. Holoway, Anne L. Armstrong, and Gen. John W. Vessey. We all remember General Vessey when he commanded in Korea. We remember him as the Vice Chief and we remember him as the Chairman. When they say the Army does not have any requirement, there is the best testimony to the contrary. Let us see what the Special Commission on Integrated Long-Range Strategy says on page 50.

Extended range, accurate, smart conventional weapons can make a major contribution to halting Soviet attacks anywhere on the perimeter of the U.S.S.R. These weapons can delay and inflict heavy losses on advancing forces by deliverying heavy firepower on critical targets. They can make breakthroughs difficult for invading troops and give time for defenses to be deployed. By the standards of a decade ago the accuracies are extraordinary. Current technology makes it possible to attack fixed targets at any range with accuracies within 1 to 3 meters. These accuracies and modern munitions give us a high probability of destroying a wide variety of point in area targets with one or few shots without using nuclear warheads. They make practical attacks on heavily-defended military targets deep in enemy territory. Airfields well inside the Soviet Union could be put out of commission with warheads designed to attack infrastructure. Fuel and maintenance facilities, and command and control facilities, bridges, surface-to-air missile sites, intelligence facilities, rail lines, electric generating plants, petroleum refineries, all are suddenly much more vulnerable to the early emerging age of smart munitions.

That is a smart man speaking on smart munitions. So this is not a case of just "Halt, the Senator from South Carolina is coming and he is crying in his corner because he cannot have a certain weapon." On the contrary, I stand on the best of balanced opinion, the best of balanced experience over the years, former Chiefs of Staff, CNO's, Secretaries of State, heads of the National Security Council, Republican, Democrat, what have you, have all joined together in a bipartisan fashion to say this is what is needed in this Senate in January of this year.

They were studying our defense needs and requirements. Apparently this report did not get to our arms control negotiators. Apparently Glitman did not get it. Apparently Kampelman did not get it. There you are. We are ignoring our best assessment, and the Joint Chiefs continue to ignore it. I think that is the outrage that particularly offends the Senator from South Carolina when they see at a glance that what they have done is made a bad mistake, and they ought to have the candor to come forth like they did with respect to the failure to define a weapon, the failure to get certain verification, things that were fastened down where they all could understand and speak of one mind. They traveled all the way back to Europe to close on those points.

The interesting thing in the Chiefs' testimony is their claim that if we had not barred conventional ground-launched cruise missiles, these missiles would have given a tremendous advantage to the Soviets. So I do not want to hear the distinguished Senator from Rhode Island as the chairman of the Foreign Relations or the distinguished Senator from Georgia of Armed Services come forward now and say if we agree to my bipartisan amendment the Soviets will object and renegotiation will be required.

I am grateful for the leadership of the distinguished Senator from Alaska, Senator MURKOWSKI; the Senators from Alabama, Senator HEFLIN and Senator SHELBY; the distinguished Senator from Idaho, Senator MCCLURE; the distinguished Senator from Indiana, Senator QUAYLE; the distinguished Senator from Utah, Senator HATCH, and others; the Senator from Wyoming, Senator WALLOP. This is a bipartisan concern on both sides of the aisle. Do not give us this claim about the advantage to the Soviets, in the one breath, and in the next breath say if you take it back to them they will not agree. Let us go in one direction. Do not give us this doubletalk. And remember, the 7 o'clock news is coming on. The President is in Helsinki. When he arrives in Moscow, he is going to be empty-handed. I respect the President. I respect all who want to support the President in Moscow and his mission there. It is a very important mission. But it should be just that, an important, purposeful mission whereby we do not get snookered. Yet we have been totally misled on this particular one.

Now, as we come to the floor, they want to hide behind certain things. They want to say, "Well, if Ronald Reagan, the conservative, can agree, then why can't we?" Our distinguished President has not always been up front on arms control. He has not always been up front on arms control. We all remember the Rambl'in wreck at Reykjavik, where the President came out of his corner saying, let us have total zero the world around and do away with all nuclear weapons. Then we came back to reality and remembered the importance of deterrence. As Max Kampelman was quoted by Senator PACKWOOD, it is nuclear that has given us the long peace. So as Joe Lewis said years ago, "You can run, but you cannot hide." You can run on that one for a while, but not since President Reagan suggested it.

This treaty should get advice and consent only after deliberate thought and after bipartisan testimony and support for the particular need of the ground-launch cruise missile, which does not threaten, does not give us any problem with respect to verification, and does not give us any problem with respect to the Soviets having them.

As I stated on the floor, our posture in Europe is one strictly of defense. We are not going to attack. If the Soviets attack and start using cruise missiles, let us say, if I have 3,000, give them 3,000 of them. They have a great superiority in nuclear weapons. If we go that route, then we have destroyed Europe. There is no doubt there would be no controls if we both go that way, and the use of thousands on each side, and we would be nuclear and ending the world at that particular point.

So nuclear GLCM's cannot really be used except, as Churchill said years back, to "bounce the rubble." But it can be used in a very potent and a very dynamic and in a very effective manner as a conventional deterrent. We do not now have a credible conventional deterrent. We all admit that.

Look at the war games we lose in Europe—Reforger and all the rest. We come back and we study war games. They will tell you in open hearings at the Defense Appropriation Subcommittee that every time we have war games over in the Pentagon we lose because we have fewer men, less artillery, fewer tanks, and so on. We can only deter. We cannot conquer. So be it. Nobody wants to conquer or take over Russia. Why would we want to take custody of Gorbachev's wrecked economy?

I am very, very concerned by our posture of hiding behind verification because the contention is if you verify, then you have a good treaty. No, sir. That is not the case. Most sincerely, my colleagues, you cannot verify a lot of the other things. Banning of the conventional GLCM does not in any sense enhance the verification of an ALCM in a fixed mode in Europe, or the testing of a SLCM in a fixed mode on the ground in Europe, or a reconnaissance missile, or a drone, or even the number of SS-20's and all manner of other things, including the range of a missile.

Verification of many things is not enhanced whatsoever by giving up conventional GLCM's. It is just a sellout of our priceless capability to raise the nuclear threshold and deter war in Europe. Senators cannot hide behind the fiction that with all this fuss now, we will take care of the problem in the next treaty.

Let me dwell on that particular point for a minute, because the whole idea is that in the next treaty, somehow, we will make it up with ALCM's and SLCM's; but the number of launch platforms is limited due to the available ships and bombers.

Let us assume that I am Chairman of the Joint Chiefs, or I am Commander in Chief, and I can get done what I want done. I will have to immediately call up and find out where I am going to put my ALCM's and my SLCM's to compensate for what my needs are in mainland Europe. We find that the number of ships and bombers available is limited there, as well as the number of platforms.

While it is true that the SLCM and ALCM may be equal in capability to a GLCM, there are several key reasons why their substitution for a GLCM is undesirable. We do not and will not have a significant number of bombers or ships assigned to the commander of European forces to equate favorably with a conventional ground-launch cruise missile authorization of 2,000 or more missiles.

We all on the floor and debate about the multiocean mission of the Navy. We have to remember the multiocean mission of the Navy and the primary strategic role of the bomber force.

I have described the concern—"regard" is a better word—that the Navy and Air Force have. The Air Force has such a high regard for a conventional cruise missile that they do not have one. The Navy has such a high regard for a conventional cruise missile that they do not want one. They want the ships, the planes, and the pilots, and they do not want to have their toys superseded by any kind of effective ground-launched cruise missile.

The aircraft and ships to launch ALCM's and SLCM's are more vulnerable than the mobile ground-launched cruise missile hiding in the forest. We say they can pinpoint them and we can move them and we would move that Russian observer. So we can move him and can make him mobile with the missile and the launcher with the missile and keep riding around. Maybe it will cost us a little more for the gas. But you do not move bombers unless you have gone to a real alert. The logistics for sea-launched cruise missiles cost more than the land-launched cruise missiles, and we would have to put them at risk, deploying them where ships have to be stationed, to have an effective cruise missile launch area, such as the Baltic or the Black Sea. We recently have had trouble with exercises in the Black Sea.

We would not be able to move ships or any force of that nature within the Baltic or the Black Sea. The argument is made: "Don't worry about conventional GLCM's, Senator. The SLCM will take its place." No way. You have not thought through the subject and argued with these folks as we have.

We do not have a long-range cruise missile and we probably will not have one after the START Treaty.

The distinguished Senator from Tennessee has been an expert in this field and an observer. Negotiators have already agreed, in the initial START talks, that all ALCM's will be considered nuclear. So that is already out of the window.

The negotiators have agreed already on that point. The launch of an ALCM or SLCM must be perceived by the Soviets as a nuclear strike, a problem which would not exist under an effective verification regime over conventional ground-launched cruise missiles.

Incidentally, the Soviets asked us earlier this year to get together with them on a verification regime for the cruise missile, and we declined. We will go into this in depth a little later. We were told that what we could do was to have a helicopter come with a radiation sensor over a ship, over the airfield, over the planes, and they could tell, in a verifiable manner, whether the missiles were nuclear or conventional. We refused. We were not going to take them up on that.

A man convinced against his will is of the same opinion still. But the fact is that we can differentiate between nuclear and conventional cruise missiles. Nuclear cruise missiles have a different signature, they have a different support, they have a different transport, they have a different infrastructure. They have different security personnel handling nuclear as compared to conventional.

This Senator cannot say that he is 100 percent proof-positive, but I am reasonably confident that, yes, there can be a verification regime worked out that would allow us to retain conventional cruise missiles. We have made other mutual accommodations. Shevardnadze, the Foreign Affairs Minister, recommended that we get together in Geneva on this issue, and we declined. We said, "No, that can't be done."

So, with respect to the fact that the air-launched cruise missiles and the sea-launched cruise missiles in the START Treaty will take care of this particular defect in the INF Treaty—not so at all. They cannot hide behind that.

I know that those who have not studied the record before the Foreign Relations Committee and those who have not studied the record before the Armed Services Committee would say—and I have had several Senators, in trying to discuss this point, say—"Well, what is all the fuss about? We don't give up the ALCM's; we don't give up the SLCM's; so we still have a cruise missile, be it air- or sea-launched."

They have not thought about a submarine, for example. If we have a sea-launched cruise missile of a conventional nature, it takes a lot of fuel just to get the missile up to the surface. That reduces the range of the missile so the sub has to be closer to the Soviet Union; and you do not just move those ships around, with all the antiship capability that the Soviets have on hand.

So, you really are begging the question when you just shrug your shoulder and say, "Well, the committees have agreed. Why can't you? The President has agreed. Why can't you?" or, "We don't have to agree to eliminate the cruise in the START Treaty, so don't worry about it."

We cannot, and we should not hide behind that, and we should face our basic responsibility. That was the basic responsibility we faced in the very first debate with respect to SALT I. We were concerned then about our superiority of technology.

We are going to get into a debate later on with respect to that issue. We were concerned at the time of SALT I about going forward with our superiority in research and development. The Jackson amendment was agreed to during SALT.

I want to divert a minute from the cruise missile discussion and refer to these discussions with respect to the treaty interpretation language. I want to join Senator LUGAR in his objection to the inclusion in the treaty of the Foreign Relations Committee amendment because it is absolutely bad procedure.

I wish we had some contract lawyers here who would advise their clients on a contract. A contract is a meeting of the minds. A ratification is just that—a ratification of the meeting of the minds. When we get into this dichotomy between the executive and the congressional branches and the constitutional interpretation, we are getting into an exercise in futility with respect to the force and effect of any treaty.

We are getting into an exercise in futility with respect to the force and effect of the treaty itself because a treaty is a contract, the law of the land.

So we can agree all day long that this Congress meets with that President, but one Congress does not bind another Congress and one President does not bind another President. We can set all the precedents, but they have three books at the desk now of precedents and we change precedents around here quicker than the weather changes, and more regularly. So do not worry about that particular precedent that we thought, for example, we had with respect to the War Powers Resolution.

It just did not serve as precedent, did not serve as control, was not adhered to even though there were three readings in the House, three readings in the Senate, a veto and the veto overridden in both Houses. We still ignore it.

I can tell you if I came in as President, I would not give too much serious thought to it because I would have to go back to a fundamental on what the other contractual party meant in his mind.

And going right to the law of contracts, the matter of the negotiation record or the intent of the Congress here with respect to ratification only takes place with respect to an ambiguity under the parole evidence rule. You first must prove an ambiguity and if there is one whether there was the meeting of the minds. The point is not what some general testified to, not what some Secretary of State testified to. I do not say that lightly. We listen to them but we hear some very strange testimony. I heard a general the other day say that he could distinguish between a conventional ground-launched cruise missile and a sea-launched conventional cruise missile.

If he can do it, he is a genius. He said they had different software. They have the exact same software once it hits the ground and goes up and down and around the Earth's topography.

But here is one of the highest ranking authorities that you can find with respect to weapons and he said he can tell the difference. He made a mistake. That does not bind him.

You have to look at the mistakes that have been made in this treaty and, remember in a reflective way, to fulfill your responsibility as a U.S. Senator to advise and consent.

Back to SALT I, so you can see how history repeats itself, I am going to include the entire Jackson amendment. We debated it at that time because of the tremendous concern we had about enhancing U.S. technology. We have the same concern about our technology lead in cruise missiles today.

I was in the tent during the negotiations in August 1971 in Helsinki, Finland. I met with Secretary Kissinger, then Ambassador Gerard Smith, Paul Nitze, Harold Brown, Gen. Royal Allison, and the rest of our negotiating team.

I was with the distinguished majority leader Senator Mansfield in the heat of the day and it was not about verification. But everbody is delirious here about verification. The style in 1971 was bargaining chips, and Senators were running around knocking over chairs and desks trying to put in an amendment for bargaining chips, and more bargaining chips. It assumed the ignorance of the Soviets. And they were counseled, and Senator Mansfield unanimously said:

> Don't assume that the Soviets do not know what we have. They are more expert than all of you in the United States Senate. They know all the nomenclature. They know all the weaponry. They have the best of intelligence. They know exactly the count, and they are not going to fall for any such nonsense. If you need it for your defense, then by all means include it for your defense. But, otherwise, if you do not need it, do not include it in the treaty and do not get boiled up about bargaining chips.

And then, the bottom line: Our negotiators said we have to have a real good treaty that is balanced, verifiable, equal, and stops the arms race. And we were all very, very much impressed.

Senator Mansfield and I both came back and made talks to that effect. However, they changed it at the last minute and Kissinger had to negotiate all night. This Senator had seen SALT I as it was and then as it was presented, so many of my colleagues and I raised the question of its inequality and the lack of a balanced nature. So they called Senator Jackson who at one point was opposing SALT I over to the White House, and then he agreed to support it on condition of the adoption of the Jackson amendment.

I ask unanimous consent that the entire Jackson amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JACKSON AMENDMENT TO SALT I, ADOPTED 56-35 ON SEPTEMBER 14, 1972

The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture.

Mr. HOLLINGS. And I would refer to this part.

"The Congress recognizes the principle of United States-Soviet Union equality reflected in the Antiballistic Missile Treaty that is on the ABM Treaty and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided the Soviet Union, and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture."

Mr. President, if you searched through the record and the debate on SALT I, you will see it was not a lengthy debate. In fact Senator Mansfield kept calling for Senators to please come to the floor. The Senator from New York momentarily had an understanding to the ABM Treaty portion of the debate but he postured with it and then withdrew it. Different other comments and statements were made. We are familiar with Mr. Buckley's comment about future technologies being restricted but, on the other hand, Senator Fong, Senator Fulbright, Senator Jackson and others had contrary statements and more than anything else Senator Jackson in his amendment to SALT I talked about the attainment of a more permanent comprehensive agreement, it being dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program.

Now there you are.

Senator Jackson was thinking about continued research and development. The Senator from South Carolina was thinking about continued research and development. And the U.S. Congress, appropriating some $50 million, the same Congress ratifying the ABM Treaty, provided for continued research and development

Now, we hear some years later that the President is reinterpreting the ABM Treaty. We hear all kinds of talk about a Sofaer doctrine. There is not any Sofaer doctrine because we go back to the actual instrument—the treaty. We will debate this, when it arises because I can tell you now that debate may be cut off and I feel very keenly about these things. That is why I want a little preliminary shot here this afternoon—to try to talk sense to my colleagues. And that is everyone connected with the ABM Treaty has vouched for the fact that futuristics were not controlled, that under agreed statement D research and development was permitted but that the deployment was not. That the definition of ABM systems in article II limited to those systems current and in being in 1972, and there is no question about that. You can see how article V refers back to the systems controlled in article II.

Regardless of this evidence, we still hear Garthoff quoted as saying the futures problem was decided on September 15, 1971, when the Soviets agreed to ban them as requested by the United States.

But that is not the case at all. Garthoff was mistaken. I will put a list in the Record now so Senators can refer to it. I do not know when we will ever get back to some of these, but Senators ought to see them in the Congressional Record at this time. They will see that some 22 times after the so-called fateful day of September 15 that the Soviets rejected limitations on ABM systems and future ABM research. So Garthoff is dead wrong.

There is one on September 17, 1971, the days after Garthoff said the door was closed that ended it all. He is absolutely mistaken on that score.

On September 17, there was a Smith-Semenov discussion; on September 20, 1971, Garthoff himself "stated that there would remain seven points of differences, including a provision to cover future 'unconventional' ABM systems." Garthoff wrote a letter to the Washington Post defending his mistake. I wrote a letter showing where he had contradicted himself in his own record. But, of course, the Washington Post was not interested in that. There has been a one-sided debate here on the ABM Treaty dispute.

That is why I take the opportunity to speak on the floor and to make it absolutely understood that I am not going to let this one pass in the night. It is bad for the U.S. Senate and the security of this country. It is bad for constitutional law and it is bad for relations between the executive and the legislative branches. We are being told time and again in editorials that a reinterpretation attempt by President Reagan called the Sofaer doctrine has been trapped off base. They are totally wrong on that score.

I could take this case to any court of law right up to the Supreme Court. I have been tempted to get some public interest group to do it, because this interpretation exercise is all politics. I disagree completely with the chairman of the Armed Services Committee, and others on this and, incidentally, very few of the colleagues have looked at the record—less than 20 percent of the Senators. Their view is "I go along with my chairman of the Armed Services Committee and give him his day on that and then I get what I want." To get along, you go along. That is understandable.

I have tremendous respect for the distinguished Senator from Georgia, the chairman of the Armed Services Committee, but he is totally off base on this one.

Listen to this statement. November 30, 1971, Shchukin—a Soviet negotiator:

> The Soviet side cannot recognize as well-founded the proposal of the U.S. involving an obligation not to deploy ABM systems using devices other than * * * missiles, launchers, radars. The subject of a Treaty (Agreement) could only be a specific and concrete limitation of ABM systems.

These were described in article II of the Treaty. In the interest of saving time, I ask unanimous consent that the 22 times the Soviets rejected the prohibition on future ABM systems subsequent to the September 15, 1971 date be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Soviet Rejections of Limitations on Futuristic ABM Systems Subsequent to Sept. 15, 1971

1. September 17, 1971. Smith: * * * had the feeling that the Soviet position on Article 2 reflected a desire that nothing be done to prejudice the Soviet position on the issue treated in paragraph 1 of Article 6.

Semenov: * * * bearing in mind that inclusion of uncertainties in an agreement would surely lead to all sorts of misunderstandings in the future. * * * with reference to the U.S. position on Article VI * * * he would not care to say any more. * * * this problem would be kept in his field of vision. * * * for the next Vienna phase.

2. September 20, 1971. Garthoff: stated there would remain seven points of difference including a provision to cover future "unconventional" ABM systems. * * *

3. November 30, 1971. Shchukin: * * * the Soviet side cannot recognize as well-founded the proposal of the U.S. involving an obligation not to deploy ABM systems using devices other than missiles, launchers, radars. The subject of a Treaty (Agreement) could only be a specific and concrete limitation of ABM systems. * * *

4. December 7, 1971. Garthoff: On Article V, both sides reiterated the strong positions which they hold on the question of the paragraph relating to future systems. * * * Kishilov and Grinevsky flatly asserted that they were certain there would be no change in the position on the Soviet side.

5. December 10, 1971. Brown: The Soviet side has objected to limits on possible future ABM systems on the basis that such systems are defined only in general terms.

6. December 14, 1971. Nitze: noted in connection with Shchukin's comments * * * on future systems he had emphasized the inappropriateness of this subject for treaty language. * * *

7. December 14, 1971. Semenov: Although Dr. Brown said that the question of future ABM systems, which do not include launchers, radars, and interceptors. * * * I would like to ask what this is all about in concrete terms. In what does the U.S. side see a danger in the absence of a provision on this account in the treaty? If these systems cannot be defined now, except that they are not something known today, and, at the same time, the draft treaty includes a number of clear limitations and constraints not to deploy territorial ABM systems, not to give the capability for rapid reload, etc., is it not sufficient to have such limitations? To be sure, including in the treaty a provision covering something that is not known cannot be justified by any considerations, and therefore this proposition cannot be the subject of a treaty.

8. December 17, 1971. Garthoff: On future ABM systems, I suggested to Kishilov the possibility of a new approach to meeting the issue. Perhaps it would be possible to have a clear and explicit understanding, for example, in an agreed minute, that neither side would deploy a future ABM system or components without prior consultation and

mutual agreement in the Standing Consultative Commission.

9. December 17, 1971. Garthoff: Grinevsky referred to the conversation I had had that morning with Kishilov concerning a possible alternative approach to handling future ABM systems. * * * handling these matters through the Standing Consultative Commission, rather than through explicit treaty provisions, offered a possible resolution to our differences.

10. December 20, 1971. *Semenov:* * * * suppose that the draft treaty had a provision on limiting systems other than those now known which use interceptors and launchers such a provision would create the grounds for endless arguments, uncertainties. He asked if the goal of the two Delegations isn't just the opposite, that is to reach agreement on limiting known ABM systems, certainly such limitations on known ABM systems constitute a factor for relaxing international tension and curbing the race in strategic arms and limiting them. How then could an ABM treaty include a provision about whose content the sides do not have the vaguest notion? Could the sides include in an ABM treaty the unknown without risk of making the treaty indefinite and amorphous? The sides cannot and must not engage in discussion of questions not known to anyone. The task faced by the two sides is to erect reliable barriers against deployment of known ABM components in excess of the levels defined by the ABM treaty. If it should appear necessary to supplement the ABM treaty by a provision prohibiting or limiting other ABM components in addition to those now known, this can be done in accordance with the procedures provided for in the provision on review.

11. December 20, 1971. *Grinevsky:* raised the question of dealing with future ABM systems through statements on the record. * * *

Garthoff: noted that the suggestion he had advanced in this respect was for an agreed minute; there must be a clear agreed mutual understanding that, prior to any deployment of future systems there would be consultation and agreement in the Standing Consultative Commission.

12. December 21, 1971. *Grinevsky:* asked if the American side had proposed language for the suggested separate agreed understanding on future ABM systems.

Garthoff: said he could provide an illustrative draft statement as a possible solution to the impasse over the American proposal for a third paragraph in Article V. The Soviet Delegation has said on several occasions that it is opposed to the proposal by the United States to include a provision in the ABM agreement prohibiting ABM systems in the future which would use devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of those components. In order to contribute to negotiating progress, while maintaining our basic position on this matter, the U.S. side is willing to drop Article V(3) if there is clear agreed understanding as part of the negotiating record. An Agreed Minute could read as follows:

The Parties agree that the deployment limitations undertaken in Article I and Article III are not to be circumvented by deployment of components other than ABM interceptor missiles, ABM launchers, or ABM radars for countering strategic ballistic missles in flight trajectory. They agree that if such components are developed and the question of deployment arises, neither side will initiate such deployment without prior consultation and agreement in the Standing Consultative Commission.

13. January 11, 1972. *Shchukin:* The Soviet side continues to believe that only quite specific ABM system components of which each side had a clear idea could be included in an ABM treaty . . . For this reason the Soviet delegation continues to consider this point "not suitable" for inclusion in the draft ABM treaty we were negotiating.

Nitze: said he had understood from Shchukin's remarks that he believed that if ABM components other than radars, interceptors and launchers were developed, they could appropriately be the subject of consultations under Article XIII. However, if such components were developed and could, in fact, be deployed in a manner to circumvent the specific limitations of Article III of the treaty, would it not be appropriate that they also be subject to agreement between our Governments?

14. January 11, 1972. *Grinevsky:* said that the treaty referred to ABM systems which were defined in Article II. It could not deal with unknown other systems.

Garthoff: challenged this interpretation on two grounds: first, the treaty dealt not only with ABM systems compromising components identified in Article II, but all ABM systems; second, the issue did not concern "other" systems but rather future ABM systems. However, what Garthoff was referring to—and what the U.S. was particularly concerned about—was precisely ABM systems and components of some new kind in the future. Garthoff repeated his reference to laser ABM interceptors as an example. . . .

15. January 14, 1972. *Trusov:* affirmed the Soviet position that it is premature to discuss limiting systems which are now nonexistent, and that if and when such systems appear then limitation would be subject to discussion under the provisions of Articles XIII and XIV of the Draft ABM Treaty.

16. January 14, 1972. *Shchukin:* said he had a very brief comment to make. At the January 11 meeting, Mr. Nitze had asked the question whether so-called "other ABM means" would be a subject not only for appropriate consultation but also for agreement. Both sides agree that they should assume obligations not to deploy ABM systems excepts as provided in Article III of the draft ABM Treaty. In order to insure implementation of this provision of the Treaty, the sides could, in the event of the emergence of ABM systems constructed on the basis of other physical principles, further discuss the question of their limitation in accordance with Articles XIII and XIV of the draft ABM Treaty.

17. January 14, 1972. *Grinevsky:* produced a Soviet draft, based closely upon (but not identical with) the statement made in the meeting that morning by Academician Shchukin. The statement read:

"With a view to ensuring the implementation of the provisions contained in Articles I and III of the Treaty on the limitation of ABM systems, the Parties agree that in the event of the emergence of ABM systems based on other principle questions of their limitation may be discussed further in accordance with Articles XIII and XIV of the ABM Treaty."

18. January 26, 1972. *Grinevsky:* in response to the latest proposed U.S. language on the Agreed Interpretive Statement on future ABM systems strongly urged that the American side not pursue this proposed addition, i.e., a clause reading to perform the functions of ABM interceptor missiles, ABM launchers, or ABM radars. He also commented that his side had now accepted the earlier American formulation completely, and in fact had accepted the American position on the subject entirely, save only that it would be a jointly agreed interpretation rather than a paragraph in the treaty.

DRAFT INTERPRETIVE STATEMENT OF FUTURE ABM SYSTEMS

In order to insure fulfillment of the obligation not to deploy ABM system components except as provided in Article III of the Treaty, it is agreed that in the event ABM system components other than ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such system components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

19. January 31, 1972. *Garthoff:* I suggested that perhaps we need a fresh approach, first survey the problem and see if we agreed on the substance of the matter—which I believed we did—and then find appropriate language to express this agreed position. Grinevsky saw that I was speaking from prepared notes and seemed interested. I thereupon gave him a copy . . . after reading the talking points, Grinevsky said that he believed there was complete agreement.

Garthoff talking points:

It is understood that both sides agree that:

1. ABM systems and their components, as defined in Article II, should not be deployed except as provided for in Article III.

2. The deployment of ABM system components other than ABM interceptor missiles, launchers, or radars to perform the functions of those components is banned.

3. Devices other than ABM interceptor missiles, ABM launchers, or ABM radars could be used as adjuncts to an ABM system provided that the devices could not perform the functions of and substitute for ABM interceptor missiles, ABM launchers, or ABM radars. For example, a telescope could be deployed as an adjunct to an ABM system, whereas a laser for performing the function of an interceptor missile by rendering ineffective a strategic ballistic missile in flight trajectory could not be deployed.

4. Article III should be drafted so as not to permit the deployment of devices other than ABM interceptor missiles, ABM launchers, or ABM radars to substitute for and perform their functions.

5. If such devices are created in the future, their deployment could be provided for by limitations subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV.

20. February 1, 1972. Allison: I observed that both sides have had a clear understanding for some time that within the context of our negotiations when we speak of an ABM system we are referring to a system made up of three components—ABM launchers, ABM interceptor missiles, and ABM radars. We also appear to agree that substituting a different component for one of these three in the future would result in a "future" or "other" ABM system. It seems that our Delegations should be able to agree on a set of words for the interpretive statement.

21. February 1, 1972. Nitze: It seemed to me to be most likely that if something new were to become possible in the future, that this would be of such a nature as to substitute for either launchers or interceptors or radars, but not for all three.

Shchukin: said that if a new system were developed which could substitute either for radars or for interceptor/launchers, this would be a new system and, as such, subject to Articles XIII and XIV.

22. February 1, 1972. Garthoff: Grinevsky called to say that he believed his Delegation could accept the proposal if the words "based on other physical principles and" were included before the phrase "including components."

AGREED STATEMENT D TO THE TREATY

In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

Mr. HOLLINGS. Mr. President, I appreciate the Presiding Officer not objecting.

On December 10, later Secretary Brown said:

> The Soviet side has objected to limits on possible future ABM systems.

They go down, again and again and again.

On December 17—Garthoff himself:

> On future ABM systems, I suggested to Kishilov the possibility of a new approach to meeting the issue.

This is Garthoff, who said it was settled on September 15 talking on December 17:

> Grinevsky referred to the conversation I had had that morning with Kishilov concerning a possible alternative approach to handling future ABM systems . . . .

Says who? Garthoff. Garthoff, that is who I am quoting there.

You can go right through December 20; December 21, again Garthoff is quoted there. January 11, 1972; January 14; right on down the line.

You can see even on January 31, 1972, Garthoff:

> I suggested that perhaps we need a fresh approach, first survey the problem and see if we agreed on the substance of the matter—which I believed we did—and then find appropriate language to express this agreed position. Grinevsky saw that I was speaking from prepared notes and seemed interested. I thereupon gave him a copy . . . after reading the talking points, Grinevsky said that he believed there was complete agreement.

And the talking point was from January 26, 1972, of a draft interpretive statement on future ABM systems.

This is how we finally said they agreed on future systems.

On February 1, General Allison:

> I observed that both sides have had a clear understanding for some time that within the context of our negotiations when we speak of an ABM system we are referring to a system made up of three components—ABM launchers, ABM interceptor missiles, and ABM radars. We also appear to agree that substituting a different component for one of these three in the future would result in a "future" or "other" ABM system.

That word "future" is in quotes and "other" is in quotes.

> It seems that . . . our Delegations should be able to agree on a set of words for the interpretive statement.

February 1, Nitze is quoted. And on February 1, Garthoff is quoted:

> Grinevsky called to say that he believed his Delegation could accept the proposal if the words "based on other physical principles and" were included before the phrase "including components."

And then they quote Agreed Statement D.

Now, that was not an elaboration, but a prolonged 6 month dialog, going round and round, trying to get the Soviets tied down. And there was a constant Soviet position, as appears in the treaty itself, because the agreed statements are part of that treaty, that clearly allows the research and testing of future systems. So Agreed Statement D is how futuristic systems are controlled, because they could not know what they were and definitely control all aspects of them. You can have research, you can have development.

And, Mr. President, when this particular issue arose, what happened? They went back in the most methodical way. Let me cite to you from memory.

They went back through the different records made. And if you go back, I will show you several quotes by Ambassador Gerard Smith that futuristic systems were not barred by ABM, and that we could research and test. There is no question about it. He said so in his book "Double Talk." When he comes up and he writes the story of the SALT I and the ABM Treaties, he quotes categorically that they are still allowed in that particular book.

So we have the chief arms negotiator bound by his record that futuristic could be researched and could be tested.

Going on to Ambassador Nitze—and no one questions his integrity and his ability. He studied it at length and came and testified under oath that there is no question that the research, and testing, of futuristic systems is provided for in the ABM Treaty, that it is not barred.

We then go to General Allison, and he testified for it. We go to Secretary Kissinger, who was part of it. And I can give you his statement to that effect. We can go to Harold Brown, who was later Secretary of Defense. In his report to the Arms Control and Disarmament Agency, as Secretary of Defense, dated September 1977, he said that testing and development is allowed.

You go to different witnesses, the chairman of the Joint Chiefs at that particular time, Admiral Moorer. Everyone involved said you could do it.

I have found no Senator on the floor who participated in the 1972 treaty ratification, of which I am one, who said he was misled. Yet we got into a terrible disagreement last year on how we had caught Judge Sofaer in a little trick for the Department of State where they were going to reinterpret.

I can even show you the quote from Izvestia, the Soviet newspaper, where Karpov is quoted in May of last year saying that we could research, test and develop future systems. Of course, the United States has foreclosed that particular debate until now by saying that we are not going to appropriate funds; we are not going to do it. That is the will of the Senate, but let us not cover that will of the Senate under a subterfuge of being loyal to a treaty or responsive to what was agreed to; we are bound and cannot provide otherwise.

That is totally wrong. It should be noted somewhere in the CONGRESSIONAL RECORD someplace in history when they write about this argument, about the meaning of words, that no games were being played.

There is a genuine feeling among those of us who voted in support of that treaty that we wanted to make sure. But with respect to technical matters and the meaning of contracts and treaties, that is what I am referring to.

You can make mistakes. This Senator has made them many times, and you have to go back to the treaty itself and its record and the negotiating record thereupon.

I will never forget at the time I learned about SALT and what it stood for. I was told SALT stood for "Stop America's Lead in Technology."

We do not have as many troops as the Soviets, and we cannot prevail against them one on one. The only way we maintain our security, the only way we maintain the freedom of the free world is through our superiority in technology. We never can give it up. That is why it is part and parcel of the Jackson amendment in SALT I and a forewarning, an agreement made with respect to the ABM Treaty.

The Congress provided for it.

Now we have a small group and staff who wants to get us into a huge argument about what the meaning of words are, and whatever the President says he is bound by.

We are all in a political forum, and I do not believe we want to bind ourselves. We are, by our words, bound, obviously, in politics, and there is no question about that.

What we have, in essence, today is a big debate. If the desire is to limit the time so we can have the INF Treaty ratified by the time President Reagan is in Moscow, I suggest that the Foreign Relations Committee amendment be set aside permanently.

Going to the Senate Armed Services Committee report on the INF Treaty, it puts Ambassador Nitze providing the following summary explanation of the President's decision:

> Given we have protected ourselves on the air and sea variants and we had no current requirements for conventionally-armed INF GLCM, we then had to weigh the potential benefits of protecting this option against the verification difficulties inherent in distinguishing between nuclear and conventional-armed GLCM's. The U.S. Government had been unable to develop, and the Soviet Union had not put forth, a regime to verify effectively the differences between the two types. Thus, rather than permit Soviet conventionally-armed GLCM's, all the while having to assume for military planning purposes that each Soviet GLCM was capable of delivering nuclear weapons, the President decided to ban all INF GLCM's.

So what they did is really put it off on two scores. One was verification, the other was no need. On the basis of no need in the Pentagon, they went along with it and then talked in a general sense about the advantage to the Soviets. There can be no advantage.

Let me begin to close here for a minute, and then I will debate anyone who wants to discuss it. I want to bring before the U.S. Senate the clear-cut intention of the treaty itself with respect to what we are agreeing to. You can see why I make the emphasis that there is no need for the Soviets to have a conventional ground launched cruise missile within the range of 500 to 5,500 kilometers.

Rather, there is a need, for it if NATO is going to correct the imbalance of conventional forces between the Alliance and the Warsaw Pact, as a matter of basic defense and in order to raise the nuclear threshold.

We have on this particular map of Europe Mr. President, which I will elaborate on further at the time my amendment is debated, the territory covered by both United States and Soviet short-range missiles allowed under the treaty.

We can see that our arsenal covers mainly a few hundred kilometers or so into East Germany. That is about all we can hit. We can hit some down in Romania if we are going to attack Romania or Yugoslavia. I do not think we are going to do that. What this shows is we have agreed we will not reach the Soviet mainland short of an all-out nuclear attack. We are no threat whatsoever.

We have surrendered all capability for hitting the Soviet Union with a conventional weapon. Oh, yes, we have nuclear. All of us in this room, I hope, are trying to forestall any idea of going nuclear.

So let us zero in on exactly what we are talking about. We cannot go conventional at all, whereas conventionally we see now what the Soviets can do. The red is the extent of their coverage and they can hit all essential airfields except in England. All of the troops that we have in West Germany, Greece, Turkey, and the low countries. All the forward troops that the Turks Greeks, French, and Italians have are within range, of allowable Soviet short-range missiles. We forsake a deep-strike capability putting key Soviet and pact military targets at risk—and the Soviets can still hit us at will.

At this particular point, let me turn to the SCUD an allowable, Soviet, short-range missile. If you remember, it is suppose to have a range less than 300 miles in 500 kilometers. The Soviets gave that to the Iraqis, and the Iraqis fired it. They were absolutely amazed it went 600 miles or about 1,000 kilometers all the way to Iran. It went double what they said it would.

That is the kind of game the Soviets are talking about when they talk short-range. This map shows the range coverage agreed upon, not what we know in the real world about their SCUD's.

I can say, the first thing any Soviet commander who is worth his salt will do is cover all the ports and all the airfields with a chemical attack. Who is going to land in the middle of that? We are not prepared to do it. We do not have the equipment. We do not have the training, we are not going to land there.

This is a vulnerability, and the Senator from South Carolina is dreadfully concerned about the seriousness of it.

So the Soviets can cover essentially everything of significant importance in NATO except England and southern Italy.

I was amused again when the administration tried to think of another excuse for abandoning conventional GLCM's by turning to chemicals. When they came to that, they said: "Well, if we give them a conventional ground launched cruise missile, they could start"—start? Where are they talking from? Where have they been? Wake up, America. The Soviets are using chemicals. They have used it in Southeast Asia. They have a tremendous supply of it. The Iraqis are using chemicals. We have a marginal supply for upgrading what we have in order to make our chemicals safe; the binary.

We sit around like we are in control of the world, that if we do not have it, they will not have it.

Well, that is fanciful and totally spurious in nature. They have chemicals. They are trained for them and they can put chemical warheads on numerous missiles and shells right now. Yet, the JCS testifies, "We don't have a present requirement. If you give it to the Soviets, it would enhance their chemicals. This would enhance their chemicals but it is an unneeded enhancement." Who said the enhancement is needed when they already have it?

We have 681,000 troops, United States DOD civilians, and dependents in Europe, over 550,000 of which are covered by treaty allowable Soviet short-range missiles. So what we have stopped in the treaty is a limited number of nuclear warheads and the ability to redress the imbalance in conventional forces—all the exposing ourselves to obliteration. But we say to the Germans to give up the Pershing I's because we are behind you 100 percent and we are going to beef up our conventional strength. And then in the same breath, we decimate in perpetuity, forever and ever—this is a binding treaty—the conventional ground-launched cruise missile. Our equalizer, if you please, for the imbalance of conventional forces between Warsaw and the NATO allies in Europe.

That is the real consideration before us. Every Senator here agrees that he does not want to go nuclear. Every Senator here agrees that he wants to beef up our conventional forces. And every Senator agrees that it must be affordable. Much of what you and I want we cannot afford; the expense of this modern-day technology is just absolutely outrageous. Take the Stealth bomber. The Air Force estimated the cost last week at about $400 million for one plane. They want 132 of them. If we just reduce that by 10 still have 132—we could provide nearly 3,000 highly accurate, devastating, conventional, ground-launched cruise missiles. These missiles are not like pilots that can get drunk on Saturday night. They do not cause any environmental damage, do not need any family, on the support and training base and all of those other things that cost money. They are easily placed; they are easily delivered; they are easily moved; they are easily defended, they are easily afforded; and they are easily verified if we can have the Soviets come and inspect at any time. We want them to know that they are not nuclear and if they do not even give us verification of their cruise missiles we can assume they get double the number, 6,000 and we can assume that they all have nuclear warheads. So what? If they go that route, we go to MX, Minuteman III's, Trident, and the world is ended anyway.

What I am talking about is real defense. So do not give me the bum's rush here about backing the President. I have backed him more than those who are complaining we should back him on this. I can tell you categorically we have a serious advise and consent responsibility. But what we are doing is for show business. Sure, we can do our duty. We can back off. It is not simply a question of affording or actually deploying conventional ground-launched cruise missiles, because if you don't you then begin the decoupling of West Germans from the NATO alliance.

Margaret Thatcher in England says, "I am going to keep my Tridents even though I have only a few." She corrected President Reagan. She did not say, "Let's get along with the President." She said, "I absolutely disagree with his statement at Reykjavik and under no circumstances am I giving up my nuclear deterrent. And to prove it, I am ordering more Tridents. She has had the character to correct that particular Reykjavik mistake made by our distinguished President. Why not us? We have corrected him on clean air. We have corrected him on environment. We have corrected him on highways. We have corrected him on trade, we have corrected him on South Africa. But when we come down to our national security, we all dance around the fire in a love-in with Gorbachev. We have to listen to lectures about how the Soviets are going broke. I never heard so much nonsense in my life.

If the Soviets want to save money, tell them to get out of Nicaragua. They spent $5 billion in the last 7 years there. We could only get $231 million to the contrary. And they wonder why we are losing down there. We have a Bay of Pigs in slow motion in Central America. No one is taking the responsibility. Everyone wants to have a grand show. Everyone wants to know what Mrs. Reagan is going to wear. Everyone wants to know are they going to see this and how they will act and will they have shower curtains and everything else of that preposterous nature.

It is one grand party. It is sort of a security Mardi Gras. But no one in the Senate is paying attention. If the Soviets are going broke, tell them to save money in Nicaragua. Tell them to save the $6 billion a year they spend in Cuba. I can balance their budget. Make me chairman of the Soviet budget committee. I will show them how to build up their economy with perestroika. Tell them to save the money they have put in Southeast Asia, in Cambodia and Laos. The Chinese have been telling them that. Tell them to save the money in Afghanistan. They have not withdrawn. They are putting on a good show. I hope it follows through. I have my doubts. Tell them to save the money in Yemen, billions there, in Somalia, in Ethiopia. Tell them to save money in Angola. We can go all around the world into different places where they are spending a fortune. "Dictatorships march while the democracies debate," said John F. Kennedy over 40 years ago in his treatise, "While America Sleeps."

(Ms. MIKULSKI assumed the Chair.)

Mr. HOLLINGS. We are not to disagree anymore while America performs. The news media, Madam President, has taken over, and we all are performers now, or else you do not survive in the body. So we cannot really debate, we cannot really listen, we cannot hear the points being made. All we know is that we can easily and politically hide behind this one. The committees of Congress have checked it out first. The President has agreed. So what is your beef? Let us get on TV and talk: Oh, yes, we are going to not agree to limiting the cruise in START. Well, I have covered it. Oh, yes, we are going to beef up our conventional, we have to have a sharing of the burden. That's what all Presidential candidates say. We tried that 10 years ago under Jimmy Carter with a 3-percent real growth agreement—but our allies would not take us up on the 3 percent. They would not spend it. We have spent more than that under President Reagan—up to 7 percent of our GNP, but we have tried to act like the Government just started because Reagan came to town. We have been trying to get more burden sharing. But we have not been able to persuade them to do it. And now, Reaganomics is stopping us from spending to the levels that are needed.

And here when we get a chance to logically and reasonably provide ourselves with our superiority of technology—with a defense that raises the nuclear umbrella—we bug out in a stampede about get it done by Friday night so we can all leave. The President's show is on in Moscow and we can all go our merry way. Do not let me say on Friday night, or in the middle of the night Saturday or whenever we go, that it is a disgrace. I am willing to listen. If I am mistaken, come on the floor and tell me where I misquoted. I have not. I have been careful. Tell me where I have misled. I have tried not to.

I have tried to bring into issue this particular item so we can get the attention because everybody now has been going off in a stampede of trying to get cloture, and stop any kind of debate with respect to the treaty itself.

I can guarantee you this from my experience. If we had a Democrat in the White House, this treaty would never be ratified. I know that. The Senate knows that. I think we ought to slow down and sober up. I know good and well if the Armed Services Committee would carry through as it did under SALT II when it rejected that treaty that we could correct this terrible flaw in INF. That's what hurts the alliance—killing our superior technology. But we are ready and prepared to do it; because we are told it would hurt the alliance more if the treaty is rejected than if the treaty is accepted.

But you have to look at the overall picture, and relations between the two superpowers. I will agree with that.

But with respect to this one particular item, they cannot plead that. The alliance would agree to it. They have already agreed. We have them deployed there now. It would save them troops. It would save those particular leaders. That is why the French got out of NATO because our troops were there causing them a domestic political problem. I think, if 40 years later I had some British troops still stationed in downtown Charleston, SC, I could run on the basis of getting rid of the British and get elected. And I think that is how we got here—by getting rid of the British.

So do not act like we do not understand it. The conventional GLCM was lost because of the tragic testimony of the Joint Chiefs, that they had no requirement for it when he Defense Service Board and every other internal expert group study shows just the opposite.

The fact is they do have a requirement. They just did not pay any attention to it. They did not counsel with our NATO commander. They certainly did not counsel with Gen. Bernie Rogers who had been there for about 8 years—all the time this treaty was being negotiated. They would have found a different situation because they know, Rogers and all the commanders like Al Haig and others being there know, the difficult of domestic politics in Western Europe. It is very, very difficult to hold the line with respect to all the particular pressures—whether political, economic, environmental, or peace pressures. We all understand those.

Let us not give up this one on the basis it can be repaired because it cannot. On the contrary, it sets the worst possible precedent and is already accepted as a precedent by the negotiators on START. Do not come to the floor and say it can be repaired in START.

So there we are. I am going to yield the floor, Mr. President, in just a second. I want to thank my colleagues for their indulgence and the chance to be heard at least momentarily this afternoon. But I wanted to get into this and the various points that are beginning to hide the President's agreement. "You have to not embarrass him." Let us stop that, and let us look at exactly what we are doing. This treaty can be ratified. But we must not in perpetuity ratify the elimination of our superiority in technology and begin the dismantlement of the NATO alliance which we most assuredly will be doing with this one.

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Madam President, the treaty on the elimination of intermediate-range and shorter range missiles, or the INF Treaty, is an important political victory for NATO. The actual contribution to alliance security is modest, and its long-term implications are unclear. Nevertheless, I support this treaty enthusiastically and I will vote to ratify it. But I also believe that the case for the INF Treaty is not self-evident, and that it is important for each of us not only to have thought through to our convictions but also to share our thoughts with each other and with the public. That is the purpose of my remarks today.

Mr. President, let me begin by summarizing a little of the history of the INF Treaty, since it contains some lessons that are important for us.

You will recall, Madam President, that even after détente between the Soviet Union and the United States began to fade in the early 1970's, it continued to flourish for some time in Europe. Our allies eagerly pursued every avenue toward better relations with the Soviet Union, backing up their efforts by encouraging very large flows of trade and credit. For optimists it seemed only a matter of time before the military competition between NATO and the Warsaw Pact would begin to ease, as a logical consequence of the dramatic improvement in political relations.

Time passed, however, with no indications that the Soviets were ready to moderate their pursuit of military power. Meanwhile, by the mid 1970's, a sequence of very blunt Soviet moves in the Middle East and in Africa began to suggest the need for a much more guarded assessment of Soviet intentions. It was against this background of growing uneasiness that word came from intelligence services, of the development of a very impressive new Soviet weapon: the SS-20 intermediate range ballistic missile.

The SS-20 would be able to cover all of NATO, including the United Kingdom, from launch points well within the Soviet Union. It would be a solid fuel missile, about to be launched without lengthy advance preparations, and it would be mobile. It would also carry three independently retargetable warheads. Finally, and this was the most difficult fact to digest, the SS-20 would supplement hundreds of nuclear warheads on older Soviet intermediate range missiles, already aimed at targets in NATO.

That raises the question of what were they doing, and why?

What could be the point of making the rubble bounce?

The first, and for some time the only clear Western explanation for the SS-20 came from Helmut Schmidt, the Chancellor of the Federal Republic of Germany. Schmidt noted that the Soviet Union had already achieved strategic parity with the United States, and that the United States and the Soviets were working to codify that balance in the SALT negotiations. He believed that although strategic parity was well and good, it could have an unfortunate side effect; namely, that parity would heighten the risks associated with any regional imbalance of power between the West and the Soviet Union. With the SS-20, Schmidt believed that the Soviet Union was on its way toward creating just such an imbalance in the European theater.

Schmidt never asserted that the SS-20 by itself was proof that the Soviets were intent upon going to war. Rather, he argued that this missile would lend itself very well to the Soviet Union's primary objectives in Europe, which—then, as now—involve reducing confidence in the United States and fragmenting NATO, so as to advance the growth of Soviet influence. As a former German Minister of Defense, Schmidt understood that the SS-20 could do this by creating a pronounced regional nuclear superiority for the Soviet Union, which would in turn sap confidence in the credibility of NATO's own nuclear deterrent.

It followed that the West could not afford to shrug off the deployment of hundreds of SS-20 launchers. Although Schmidt very much preferred to deal with the problem through arms control, he also understood that counterdeployment of some kind would be necessary for two reasons: First, because the alliance then lacked the means to respond from its own—that is, European—soil to nuclear attacks coming from the territory of the Soviet Union; and, second, because a strong response to the SS-20 would be needed in order to motivate the Soviets to take Western concerns seriously.

As a matter of chance, the German Government began to press the United States to take action at a time when weapons suitable for that purpose were near at hand. Our cruise missile program—though initially aimed at developing ALCM's—was perfectly adaptable to launches from the ground, from bases located in Europe. Another program, for developing a replacement for the short-range Pershing I missile, turned out to be readily convertible into the longer-range Pershing II, through the addition of a second stage. To its credit, however, the Carter administration did not jump at the opportunity to deploy these new systems. On the contrary, it moved in this direction only with reluctance, in order to head off a major crisis of confidence in NATO.

The decision to deploy the Pershing II and the GLCM's occurred in 1979, after 2 full years of deliberation in NATO; a decision which was accompanied at once by an appeal to the Soviets to negotiate.

This was the well-known "two-track" strategy: to deploy and to propose negotiations.

The Soviets, however, were clearly not convinced that this deployment would ever actually occur, but banked instead on the chance that it could be stopped by agitation in Western Europe.

It is best for us on this occasion to remember and to fully appreciate, that allied political leaders had to resist very great pressure for years on end, before and after the missiles began to be deployed.

I think it is absolutely clear, Madam President, that if these leaders—in the Federal Republic of Germany, in Italy, in Belgium, in Holland, and in Great Britain—had ever fallen away from their commitments, we would not have this treaty before us today. Allied determination is what it took to convince the Soviet Union that the SS-20 was a blunder. And while it is certainly to Gorbachev's credit that he recognized this and grasped the nettle, we would miss the entire point of what has happened, if we forgot that the nettle would never have been there in the first place, unless our allies had been willing to bear its stings first.

There are some very astute thinkers who believe that the INF Treaty goes too far, in that it requires us to remove and destroy every last Pershing II and GLCM, even though the Soviets must take cuts that favor us 4 to 1 in the process, measured in terms of currently deployed warheads. From a purely theoretical perspective, those who are concerned about the end result of the INF Treaty have some legitimate arguments to make. These missiles filled in a gap in the range of nuclear options available to NATO. To compensate for their loss, we shall have to fall back on short-range battlefield systems on the one hand and U.S. strategic systems on the other. Both of these alternatives have serious drawbacks.

There are other observers who note that the INF Treaty deals with an extremely narrow sliver of the nuclear problem, and they are also correct. In numerical terms, INF deals only with about 3 percent of the total nuclear force available to both sides. Moreover, while we are eliminating a relatively specialized class of weapons, we have not at all prevented the development of easy substitutes for those weapons.

True, both sides will totally abolish any ground-launched missile capable of delivering a warhead within a range extending from 500 to 5,000 kilometers. But the Soviets can still target all of Western Europe with nuclear weapons, either by reallocating long-range systems or by increasing the number of their shorter range weapons, or both. NATO retains similar options, in addition to the British and French nuclear forces, neither of which are covered by the treaty, and both of which are scheduled to grow considerably in size and effectiveness, through modernization.

In short, the direct, measurable effect of the INF Treaty on the nuclear balance can readily be vitiated by either or both sides, when and as they choose to exercise options that are not at all constrained by arms control. Hopefully, a START agreement will finally create meaningful limits at the upper end of the nuclear spectrum, and thereby at least partially complete a context for the INF Treaty. However, even if this happens in the near future it is likely to be a long time before effective limits can be devised and negotiated for the as yet untouched shorter and tactical range nuclear systems on both sides.

In this domain, moreover, the conceptual, political, and negotiating problems will be much more complex. The zero/zero INF outcome will offer no guide to what must be done. NATO cannot dispense with tactical nuclear weapons until and unless truly radical improvements can be made in the balance of conventional forces in Europe. Pending those kinds of changes, or rather, as necessary steps toward them, the alliance will have to work its way through tough decisions in which the future of its nuclear deterrent, its conventional force modernization programs, and its approach toward negotiating with the Warsaw Pact are all pieced together.

Nevertheless, despite any of these considerations, the INF Treaty unquestionably fulfills what the alliance set out to do in 1979. The reductions it secures from the Soviet Union are heavily in NATO's favor. Problems relating to the conventional balance of forces may stand out more clearly, but they are no worse than before. Ensuing rounds of negotiations will be much more difficult, but INF creates a reasonably good point of departure for them.

Moreover, the defeat of this treaty in the U.S. Senate would be a disaster of the first magnitude. It would waste the accumulated political investment of every major European leader for the last decade and the United States Presidents, one in each party. It would demonstrate that the United States is dangerously inconsistent and undependable. It would be the most priceless gift to those who wish to see us discredited.

Madam President, just about 10 years ago, the Carter administration had nearly finished negotiating the SALT II Treaty. That treaty offered us the chance to take a modest step toward halting the arms race in strategic weapons. It did not solve every problem, but it would have been a very good foundation for future efforts. I cannot help but remember how the Reagan administration dealt with that treaty: calling it fatally flawed, and promising to bring us back treaties that were truly militarily significant or none at all. Now that same administration stands before us with the INF Treaty, appealing for its speedy ratification over the vigorous objections of Senators who depict this treaty as a betrayal.

These same Members now find themselves abandoned by both the administration they hoped would be uniquely their own and by the great majority of their Republican colleagues. But they are not without hope, because there is still a chance that the administration will defeat itself and frustrate its own objectives, for the sake of the one and only issue that it still holds above compromise: the option of moving to develop and deploy SDI.

When the President first revealed his concept for a space-based defense system based upon laser rays and electron guns, some of us consulted physicists who said that SDI could never work as promised, at least not in any future they could foresee. Others of us consulted the ABM Treaty, which clearly said that SDI was already prohibited. Since then, we have seen that there is no shortage of technicians who will claim that anything is possible, so long as the money keeps coming. And we have also seen that there is no shortage of legalists willing to attempt to prove that treaties can mean whatever we want them to mean. Among the latter, of course, we have the State Department's legal staff under Judge Sofaer.

According to Judge Sofaer, the ABM Treaty never had meant what the Senate was told it meant at the time of ratification. On the contrary, Judge Sofaer asserted that the treaty's real meaning was in fact 180 degrees removed from the meaning the Senate understood it to have, so that instead of controlling new defensive technologies, it specifically exempted them from any serious constraint. We have had a long and bitter experience as a result, and most of us are determined that the confusion caused by the Sofaer "doctrine" must be cleared up.

The INF Treaty is going to mean what this body understands it to mean on the day we vote for its ratification, and that interpretation must be binding on this and all future administrations, until and unless the Senate consents to any proposed change. If, under the Constitution, Presidents may not bind the United States to treaties unless the Senate consents, then what is the value of that consent if the Senate's understanding of treaties is not binding on Presidents? The INF Treaty is important but not in comparison to the Constitution of the United States. And yet, self-evident as these propositions are, the administration continues to resist any effort to assert them and offers us instead trojan horse compromises designed to trick us into receiving the very thing we are trying to defeat.

This is not a treaty for true believers. Instead, this is a treaty for those of us who accept that arms control cannot exist at all if we demand perfection at each and every point. It is a treaty for those of us who do not see compromise as betrayal, but rather as the necessary price for getting done what is in the realm of the possible. And, finally, it is a treaty for those of us who are willing occasionally to join forces across party lines when that is needed for the common good.

There is a final lesson here. Bipartisanship has all too often been something to which the present administration resorted only in extremes. And, just as often, bipartisanship was the first value this administration was ready to sacrifice when it thought that the need was past. Now, the success of this treaty will depend upon the fact that many of us in this body believe that, where the national security is concerned, bipartisanship should be the norm, rather than the exception. Ratification of this treaty will be a victory for those who proceed in that spirit.

It is a good treaty. It should be ratified.

And in conclusion, I want to offer my congratulations and the thanks that many of us feel toward the negotiators who have worked so long and so hard in securing this treaty.

As one of the 10 Senate observers I have made numerous trips to Geneva, and I have witnessed personally the extremely hard work that has gone on by our negotiators and their team in Geneva.

I wish to congratulate the chairman of the Foreign Relations Committee for his hard work and others on that committee, the chairman of the Armed Services Committee and the ranking member, and the majority leader, and the Republican leader for their perseverance in making certain that this treaty is considered fully, thoroughly, and expeditiously by the U.S. Senate.

I do commend it to my colleagues. I intend to support ratification and work hard for ratification.

I yield the floor.

CLOTURE MOTION

Mr. BYRD. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Executive Calendar No. 9, Treaty Doc. No. 100-11, the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (The INF Treaty).
>
> Robert C. Byrd, Claiborne Pell, Alan Cranston, Daniel Inouye, Sam Nunn, John C. Stennis, Brock Adams, Harry Reid, J.J. Exon, John Glenn, George J. Mitchell, David L. Boren, Bob Dole, Richard G. Lugar, Alan K. Simpson, Bill Cohen, Jake Garn, Thad Cochran, Rudy Boschwitz, Strom Thurmond, Dave Durenberger, and John H. Chafee.

Mr. GORE. Madam President, I certainly strongly support the motion that has been made, and I intend to support it wholeheartedly.

Mr. LUGAR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Madam President, several hours ago, I was in the midst of a speech in connection with an amendment that I proposed to offer at that time. At the request of the distinguished Senator from Ohio, Mr. METZENBAUM, and the distinguished Senator from Minnesota, Mr. DURENBERGER, I yielded the floor to them because the recess of the Senate for the respective party conferences was imminent. I said at that time I would complete my speech, and I shall do so now.

Earlier, I pointed out how this "warhead preservation loophole" will enable the Soviet Union to transfer war heads from old SS-20's scheduled for elimination on to newer, more advanced missiles. Former Secretary of Defense James Schlesinger testified to this effect as did other experts.

For example, The Hon. William Schneider, Jr., testified on February 19, 1988:

> The SS-25 is not reached by the terms of the agreement but has important links to the SS-20 system eliminated by the Treaty. The SS-20 and the SS-25 share a first stage indistinguishable from each other. The two systems differ only in range and payload characteristics. The SS-25 can be configured as an effective intermediate-range system through the simple use of thrust termination techniques to give the system variable range. Indeed, the older SS-11 ICBM has had a variable range capability for many years.
>
> Moreover, the continued availability of the SS-20 upper stage guidance and control systems and the multiple warheads for that system allow the Soviets to mate these components to a variable-range SS-25, uncontrolled by the agreement. That is to say, this could permit the circumvention of the intent of the agreement.

Mr. President, Bill Schneider hit the nail on the head. This treaty not only preserves and protects nuclear armaments, it also provides for Soviet nuclear force modernization by allowing the Soviets to transfer warheads from the old missiles covered by this treaty onto newer, more deadly, missiles coming right out of the factory.

Mr. President, this is not what the American people have in mind when they think of arms control. They do not think of preserving Soviet warheads, and allowing the Kremlin to transfer these warheads onto deadlier, newer, and more advanced missiles.

Rather, they think of the destruction of nuclear warheads and a reduction of the nuclear threat. This treaty has been presented and sold to the American people as eliminating warheads. It should be amended to do just that.

AMENDMENT NO. 2115

(Purpose: To prevent circumvention of the proposed Treaty through the device of reloading nuclear warheads on other types of delivery vehicles with ranges less than, equal to, or greater than the ranges of the systems covered by the proposed Treaty)

Mr. HELMS. Madam President, I sent an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2115.

Mr. HELMS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> In Article I of the proposed Treaty insert before the period the following:
>
> "; provided, further, that each Party shall in conjunction with elimination of its intermediate-range and shorter-range missiles also eliminate the nuclear warhead devices and their associated guidance elements on such systems and shall not have such warhead devices and associated guidance elements thereafter except that each Party may extract the fissionable material in such warhead devices prior to their elimination. The elimination of warhead devices and their associated guidance elements which is required by this Article shall be accompanied in accordance with procedures and schedules set forth in the Protocols to this Treaty".

Mr. HELMS. Mr. President, it is not just an oversight that the nuclear warheads are preserved under this treaty; certainly not in the minds of the Soviets.

The warhead preservation provision of this treaty is one of the great inequities in the treaty. Specifically, the provision assists the Soviets in their strategic modernization program, while failing to do the same for the United States. Here is how this inequity works:

Some have tried to imply that nuclear materials could not be safely destroyed anyway, and that they would be returned to the stockpile. That is exactly what is going to happen with the U.S. warheads preserved by this treaty.

The United States has no other missile system which can use the Pershing II warheads. Thus, U.S. warheads would have to be dismantled and reprocessed if they are to be used on another missile system.

And I feel compelled to remind my colleagues that the United States does not have any other new missile system even in the planning stage. So, Mr. President, our warheads; or rather the components of these warheads will be headed into storage facilities.

But while the United States will be putting its INF warheads into storage, the Soviet Union will be putting its INF warheads onto newer and more advanced missiles.

The Soviet Union has always emphasized commonality of components in procurement, using interchangeable parts whenever possible. Thus the SS-20, the SS-16, and the SS-25 all have common or similar components.

Indeed, it should come as no surprise to Senators that, as former Secretary of Defense James Schlesinger reported to our committee, the Soviets can simply rebolt the SS-20 warheads preserved by this treaty onto newer missiles—such as the SS-25.

Mr. President, maybe the Soviets will transfer these SS-20 warheads onto the new SS-25's which are rolling out of the factory day after day. Or maybe the Soviets will transfer these warheads onto other new missiles.

But the ability of Soviets to transfer these warheads onto SS-25's should alarm the Senate, and the American people. For the SS-25 is capable of being aimed at the United States—not just at Europe.

Indeed, this is precisely why some Europeans favor the treaty. They believe it puts the United States on the nuclear frontline. Some Europeans may think that is a great idea, but I doubt many Americans do.

Maybe, Mr. President, some of these SS-20 warheads won't end up on missiles capable of hitting the United

States. Rather, maybe the Kremlin will decide to transfer these warheads onto new missiles aimed at thwarting the object and purpose of the INF Treaty.

When the distinguished chairman of the Armed Services Committee, Senator NUNN, appeared before the Foreign Relations Committee, he stated that:

> The Soviets could develop and deploy a new type ground-launched ballistic missile replacement for the SS-20, provided that missile were tested one time at a range in excess of 5,500 kilometers, even if it were tested on every subsequent occasion at INF ranges.

Senator NUNN was absolutely right. The artificial definition by range is a major loophole in the treaty. Maybe this is what the Soviets will use the SS-20 warheads for: A new type of missile such as the one described by the Senator; which would essentially be an INF missile.

Indeed, this new type of missile might well be a two-stage version of the SS-25—which, I might point out normally has three stages. Dr. Fred Eimer, Deputy Administrator for Verification at ACDA testified before the committee that the INF Treaty would permit the Soviets to take a two-stage SS-25 out of the portals of the Votkinsk assembly plant.

Dr. Eimer then testified that the Soviets, in the field, could rebolt an existing SS-20 warhead onto this two-stage SS-25 with only minor adjustments.

So, which will it be, Mr. President? Will the Soviets take their SS-20 warheads and bolt them onto brand new, intercontinental SS-25's, or will they bolt them onto a newer, essentially INF missile, or will they use these warheads for both types of missiles? Only the Kremlin knows.

But the fact is, Mr. President, that this warhead preservation provision enables the Soviets to redeploy their SS-20 warheads onto new missiles, while our Pershing II warheads will be dismantled, and the nuclear material sent to some storage facility to sit on the shelf.

Mr. President, the warhead preservation provision is a glaring loophole in this treaty.

The INF Treaty, therefore, is a treaty to protect nuclear arms, not to reduce them. Indeed, it should be called a "nuclear arms preservation" treaty as opposed to an arms reduction treaty.

The problem with this loophole, Mr. President, is that by maintaining the present level of nuclear arms on each side, it locks in a massive advantage for the Soviet Union.

The treaty preserves 3,136 nuclear warheads for the Soviets, and 931 warheads for the United States. The nuclear warhead preservation ratio is 3.4 to 1 in the Soviet favor.

But the Soviet advantage is even greater than the numbers would suggest. As I have noted previously, the Soviets are going to simply transfer these preserved warheads onto newer and better missiles. On the other hand, the United States is going to dismantle its warheads, and put the nuclear material into storage.

Indeed, Mr. President, the situation is even more astonishing when you look at the ratio of nuclear explosive power preserved by the INF Treaty.

All nuclear warheads are not the same. It just so happens that the Soviet warheads preserved by this treaty are much more powerful than the United States warheads to be preserved by the treaty. For the Soviet Union, the treaty preserves 1,230,000 kilotons of explosive power. For the United States, on the other hand, the treaty preserves only 129,000 kilotons of explosive power.

This works out, Mr. President, to a 12-to-1 advantage for the Soviet Union in nuclear explosive power preserved by this treaty.

But as I noted previously, the ratio actually understates the Soviet advantage, since this Soviet nuclear explosive power will be transferred onto newer missiles, while the United States nuclear explosive power will be sent into storage.

And this, Mr. President, is why this warhead preservation loophole is so important. While the American people have been led to believe that nuclear warheads will be destroyed under this treaty, the fact is that warheads will be preserved. And they will be preserved in such a fashion so as to assist Soviet strategic nuclear modernization.

Mr. President, this amendment is straight forward. It amends the treaty to reflect what many in the Senate and in the administration have said, that is, that the INF Treaty destroys warheads.

Senators quote opinion polls which suggest that the American public supports this treaty. But, then again, the American public believes that this INF Treaty destroys nuclear warheads.

The amendment before us would merely make current perceptions reality. This amendment destroys warheads. That is what the Senate will be voting on, whether or not the INF Treaty will destroy warheads.

Mr. President, it is a legitimate question to ask why it matters if the superpowers keep their warheads. It matters because the Soviet Union can simply rebolt their INF warheads onto other ballistic missiles, while the United States, because of the design of our missiles cannot rebolt the warheads onto other missiles.

In other words, they keep and reuse their existing warheads while we mothball ours. It is like the Kremlin saying: 3,136 warheads for me, zero warheads for you. It makes me think the tag line for this treaty should be: "Old Soviet warheads never die, they just get retargeted against the United States."

Mr. President, what my amendment seeks to do—besides making current public perceptions that the INF Treaty destroys warheads a reality—is close this rebolting loophole.

Mr. President, there is much about the treaty which is disturbing. But high on the list are: first, we know how the Soviets can keep all their SS-20 warheads; second, we know that their entire ballistic missile force has been designed with this flexibility and versatility such as rebolting in the field in mind; and third, we know that the Soviets have cheated on every single other arms control treaty that we have ever signed with them.

Mr. President, this amendment seeks to eliminate this disparity in the INF Treaty whereby the Soviets will use their strategic modernization program, while our warheads will remain impotent, dismantled, and in mothballs.

In view of the fact that a cloture motion has been filed, I withdraw the amendment, at least temporarily.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

It is the Chair's understanding now that the Senator does wish to withdraw the amendment; is that correct?

Mr. HELMS. That is correct.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The amendment was withdrawn.

Mr. HELMS. Madam President, I have a brief series of parliamentary inquiries that, with the indulgence of the Chair, I would like to propound, inasmuch as the cloture motion has been filed today.

These inquiries concern proceedings in executive session on a treaty against which a cloture motion has been filed.

First of all, Madam President, after the filing of a cloture motion on a treaty, it is in order, is it not, to file germane and nondilatory first-degree amendments to the treaty before 1 o'clock on the day following the filing of the cloture motion?

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. HELMS. I thank the Chair.

It is in order to file germane and nondilatory second-degree amendments to the first-degree amendments on the day of the vote on cloture and, if so, at what time prior to that vote would such second-degree amendments be required to be filed?

The PRESIDING OFFICER. One hour prior to the vote.

Mr. HELMS. I thank the Chair.

If cloture should be invoked on this treaty, or any treaty, for that matter, would it be in order, after the invocation of cloture, to call up timely filed first-degree and second-degree amendments to the treaty provided the amendments are both germane and nondilatory?

The PRESIDING OFFICER. Provided that the amendments are germane, nondilatory, and properly drafted.

Mr. HELMS. Well, obviously. I thank the Chair.

Would germane amendments thus called up which made substantive changes in the treaty text by striking language from the text, thereby substantively changing its meaning, be considered nondilatory?

The PRESIDING OFFICER. Would the Senator from North Carolina repeat that?

Mr. HELMS. Sure.

The PRESIDING OFFICER. And the Chair would really ask for absolute silence in the Chamber and that doors not to be opened so that we can hear the Senator from North Carolina and give him an accurate response.

Mr. HELMS. I thank the Chair.

My inquiry: Would germane amendments thus called up under the terms just stated by the Chair making substantive changes in the treaty text by striking language from the text, thereby substantively changing its meaning, would these be considered nondilatory?

The PRESIDING OFFICER. If the Senator from North Carolina would withhold. This is of such serious note that the Chair will consult with the Parliamentarian.

Mr. HELMS. I understand, Madam President.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that the question of being dilatorious really indeed is essentially a judgment call and needs to be done on an amendment-by-amendment basis, essentially, a case-by-case basis, as presented before the Senate. So whoever would offer such an amendment would have to offer it and the Chair would have to rule.

Mr. HELMS. I thank the Chair and I agree with that. I think it is well to get these points laid out before we start.

Would amendments called up after the invocation of cloture which changed numerals in the treaty text of other treaty-related documents before the Senate making substantive changes thereby be considered nondilatory; for example, in the case of the present treaty, an amendment correcting the numbers of Pershing II missiles listed in the memorandum of understanding?

The PRESIDING OFFICER. Once again, the question of dilatory would be on a case-by-case basis.

Mr. HELMS. Let me study about that a minute.

The PRESIDING OFFICER. The Senator from North Carolina, in his example, is still presenting a hypothetical case.

Mr. HELMS. As they say in the courtroom, may I approach the bench and discuss it with the Parliamentarian just a second?

The PRESIDING OFFICER. The Senator from North Carolina continues to have the floor.

Mr. HELMS. I thank the Chair.

Now, if, at the expiration of the 30-hour period provided in rule XXII, there should be pending a germane and nondilatory amendment to the text of the treaty—to the text of the treaty—would that amendment be disposed of or would the Senate proceed immediately at that point to the resolution consenting to ratification, notwithstanding the pendency of the amendment to the treaty?

The PRESIDING OFFICER. The amendment would have to be disposed of.

Mr. HELMS. I am glad to hear that.

Mr. BYRD. Madam President, will the distinguished Senator yield?

Mr. HELMS. Certainly.

Mr. BYRD. I have been interested and carefully listening. I did not get to hear the Chair.

Mr. HELMS. The Chair said the amendments would have to be disposed of.

Mr. BYRD. What amendment?

Mr. HELMS. The pending amendment.

Mr. BYRD. What was the question? Perhaps we can start there.

If the Senator will indulge me.

Mr. HELMS. I am glad to have the distinguished majority leader's expertise. I just want to know something about the road map before we proceed.

Insofar as I know, this is the first time in history cloture has ever been filed on a treaty. I have no argument with it having been filed, but I just want to have a road map.

Mr. BYRD. Yes, I understand. I was listening carefully to the point. Then I became engaged in conversation. I am interested in what happened after that.

Was there a subsequent question and a subsequent response?

Mr. HELMS. I think the Senator is alluding to the last inquiry.

Mr. BYRD. Yes.

Mr. HELMS. What I asked is if, at the expiration of the 30-hour period provided in rule XXII, there should be pending a germane and nondilatory amendment to the text of the treaty, would that amendment be disposed of, or would the Senate proceed immediately at that point to the resolution consenting to ratification, notwithstanding the pendency of the amendment of the treaty.

The Chair informed me that the amendment would be disposed of.

Mr. BYRD. I thank the Senator.

Mr. HELMS. I thank the majority leader.

When the Senate, Madam President, has the resolution of ratification before it, and all time under the 30-hour period has expired, as previously described in my inquiry, will the Senate be required to act on any committee amendment to the resolution, even if the resolution were to have been reported in the form of original text by the committee?

Mr. BYRD. Will the Senator change his question leaving out the reference to "original text" so that the response will be directed, as will the question, to the actual committee amendment that has been reported to the resolution of ratification? It has not yet been agreed to as original text.

Mr. HELMS. It has not been?

Mr. BYRD. No, the amendment is still pending. It is not at this point considered as original text. If the Senator would not mind revising his question so as to appy directly to this particular committee amendment, which is not yet the original text.

Mr. HELMS. Does the Senator understand, I said in my inquiry that even if the resolution were to have been reported in the form of original text, does that make a difference?

Mr. BYRD. I think it would be helpful to all of us, and I am interested in the Senator's questions and the responses. I think the Senator is rendering a service in having these laid upon the record at this juncture.

If he would not mind, I wish he would propound his question to the resolution reported by the committee, with the committee amendment pending, which has not yet by consent been made original text.

Mr. HELMS. The Senator has a problem with the hypothetical nature of it; is that it? I am willing to do that. Just consider that I dropped the "original text" portion of my inquiry.

The PRESIDING OFFICER. The Chair will so consider.

Does the Senator from North Carolina wish to rephrase his question?

Mr. HELMS. Sure. When the Senate has the resolution of ratification before it and all time under the 30-hour period has expired, as previously described in my inquiry, will the Senate be required to act on any committee amendment to the resolution?

The PRESIDING OFFICER. The committee amendment would be the pending question before the Senate.

Mr. LUGAR. Will the Senator yield for a question at that point?

Mr. HELMS. Sure.

Mr. LUGAR. Will the Chair clarify, if possible, in the event there were other amendments pending at that time, does the committee amendment supplant an amendment to that as being considered? Or what would be the status of any other amendment being heard at the time of the expiration of the 30 hours?

The PRESIDING OFFICER. To be sure that the Chair understands the question, the Senator from Indiana is asking what is the status of the committee amendment in relationship to any other amendments that might be pending, pending the 30-hour expiration cloture; is that correct?

Mr. LUGAR. The Chair is correct. In less technical language, in the event the committee amendment has not been heard, and another amendment is being debated when the 30 hours come to an end, what is the status of the committee amendment?

The PRESIDING OFFICER. Is the Senator speaking about an amendment to the resolution of ratification?

Mr. LUGAR. The Chair is correct.

The PRESIDING OFFICER. To the resolution of ratification?

Mr. LUGAR. That is correct.

The PRESIDING OFFICER. The committee amendment will take precedence over any amendment pending at that time. It would have to be disposed of before any other amendment could be offered.

Mr. BYRD. Will the distinguished Senator from North Carolina yield?

Mr. HELMS. Yes.

Mr. BYRD. I believe I understood the distinguished Senator to have reference to an amendment that might be pending at the time the 30 hours had expired.

Mr. LUGAR. Yes, that is correct.

Mr. BYRD. And he is talking about an amendment to the resolution of ratification.

Mr. LUGAR. True.

Mr. BYRD. Or dealing with the resolution and not with the treaty.

Mr. LUGAR. Yes.

Mr. BYRD. As I understand it, the committee amendment has to be disposed of, either by unanimous consent, or one way or another—tabling, postponed, or voted up or down. But I believe the Senator referred to "another" or other pending amendments. There could be no other pending amendments to the resolution. There could be a pending amendment to the committee amendment. No amendments to the resolution are in order until the committee amendment is disposed of.

The committee amendment, in this instance, is an amendment in the first degree. There could be an amendment pending to it.

Now, is that what the Senator is driving at? When the 30 hours have expired, and there is a pending second-degree amendment to the pending committee amendment, and he is asking what happens at that point?

Mr. LUGAR. Yes.

The PRESIDING OFFICER. If the Senator from Indiana will withhold, the Chair concurs with the parliamentary exposition by the majority leader.

Mr. LUGAR. With the indulgence of the Chair, may I ask the distinguished leader, in the event that we have not ever proceeded to the resolution of ratification, I gather the committee amendment to that resolution of ratification would still be the pending business. Would this mean the transition is made and that automatically we get to the resolution in order for the committee amendment to be pending to it?

Mr. BYRD. If there is a pending amendment to the treaty, when the 30 hours have expired, that amendment would be entitled to a vote before going to the resolution of ratification. But there would be many of us who would argue—and this would be a case of first impression if I have understood the Chair—the Senate must first dispose of that amendment to the treaty, but the Senate does not vote on treaties. The Senate votes on resolutions of ratification. So we would then have here a resolution of ratification. It has an amendment pending to it that was voted out by the Committee on Foreign Relations.

Mr. LUGAR. So the logic of that position is that, as the leader has said, we do not vote, the Senate does not vote on treaties and therefore if you come to the end of the 30 hours and you are on something on which you may not vote, logically you must move on to something on which you do vote; namely, the resolution of ratification, which then means the committee amendment is pending and must be disposed of.

Mr. BYRD. Yes. Now, as I say, that is probably going to be without any precedent, in which case someone might make a point of order that under rule XXII, the pending amendment to the treaty was the "pending" amendment about which rule XXII spoke. Consequently, you have disposed of it, and rule XXII does not provide for another pending amendment.

But those of us who would see otherwise, would have to make our argument, and the Chair would rule. Finally, the Senate, I suppose, would make its judgment. I would argue on that once cloture is invoked, then the business that is clotured is the business before the Senate to the exclusion of all other business until the clotured business is disposed of. What is the clotured business? The Senate does not vote on treaties. But it has to vote on something at that point, and the "something" is the resolution of ratification.

Mr. LUGAR. I understand.

Mr. BYRD. And the question is, what about that committee amendment? It is there and cannot be avoided. It has to be disposed of, one way or another, before the resolution of ratification can be voted on.

Mr. LUGAR. Let me engage the leader in one more question with the indulgence of the Senator.

Mr. HELMS. That is quite all right. I am enjoying it.

Mr. LUGAR. I am an advocate of the treaty, obviously, as is the distinguished majority leader. If a person, an opponent of the treaty, were to listen to our colloquy, could the opponent say a method of defeating the enterprise in which we are engaged is to run the 30 hours out prior to coming to the resolution of ratification and because that never matured or ripened, therefore the Senate could not vote and the enterprise by virtue of cloture fell?

Mr. BYRD. No. That argument would not hold, because rule XXII would require a disposition of that resolution, it being the "business" that was clotured. But to be absolutely sure, the Senator probably should address the Chair and get the opinion of the Chair.

Mr. LUGAR. I now address the Chair.

The PRESIDING OFFICER. The Chair would like to remind the Senator from Indiana that the Senator from North Carolina has the floor.

Mr. LUGAR. Indeed he does, and I appreciate his indulgence. Will the Senator allow me to——

Mr. HELMS. Certainly. Certainly.

Mr. LUGAR. Make this inquiry which I suspect is for the good of the order as we proceed in all of this.

Mr. HELMS. The Senator can proceed. I think we all need to understand what the roadmap is saying.

Mr. LUGAR. In the event that the 30 hours under cloture should expire, in the event cloture was invoked and the Senate had not at that point moved to the resolution of ratification and thus the Senate defectively did not have the proper resolution on which it would normally work its will, in the event we are agreed we do not vote on the treaty itself, would the entire debate terminate without a vote on the resolution of ratification and thus the enterprise fail?

The PRESIDING OFFICER. Debate would terminate but there would have to be a vote on the resolution of ratification.

Mr. LUGAR. I thank the Chair.

Mr. HELMS. So, I gather that any debate on the committee amendment would not be in order; is that correct?

The PRESIDING OFFICER. If the Senator will repeat his question. The Chair is in transition.

Mr. HELMS. I must say the successor to the distinguished lady is not nearly as attractive as she.

I was simply asking if debate would be in order, Mr. President, on the committee amendment at the point we were just discussing?

The PRESIDING OFFICER (Mr. SIMON). Once the 30 hours had expired, debate would not be in order on any subject.

Mr. HELMS. I thank the Chair. Would the committee amendment be subject to a second-degree amendment, presuming it was germane, nondilatory, timely filed, properly drafted, et cetera, et cetera? This does not involve debate, but could there be an amendment to it without debate an amendment voted on?

The PRESIDING OFFICER. An amendment could not be offered after the 30 hours had expired. However, an amendment could be pending at that time and that could be voted upon.

Mr. HELMS. Right. So, unless pending, no amendment would be in order after the disposition of the committee amendment even if it were germane, nondilatory, timely filed, properly drafted, et cetera?

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. HELMS. I thank the Chair.

At that point, and it is not all that hypothetical because we are going to reach that sooner or later, at that point would the question be, shall the Senate advise and consent to the ratification of the proposed treaty subject to the committee amendment, if adopted, and to any amendment to the text of the treaty previously adopted prior to proceeding on the resolution of ratification?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. All right. That is a pretty good roadmap thus far.

Now, a few days ago, I propounded several inquiries and in reviewing the record just to be clear in my own mind, I would like to resolve some matters that to me at least were left unresolved in that the Chair, as I recall it, asked for additional time for study. Accordingly, I would like to, I guess the word is repropound those inquiries and in addition make a few other inquiries of the Chair, the answers to which would be helpful to me and perhaps to other Senators.

First, last week the Chair will recall that I asked if the Senate did not have possession of the authenticated document referred to as "An Agreement Among the United States of America and the Kingdom of Belgium, the Federal Republic of Germany, the Republic of Italy, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland Regarding Inspections Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles." This the name of it.

Is the Chair prepared to advise at this time whether it has possession of that authenticated document?

The PRESIDING OFFICER. That document has been submitted to the Senate for its information.

Mr. HELMS. That is good.

You have an authenticated document but not the original; is that correct?

The PRESIDING OFFICER. The Chair's assumption is it is probably not——

Mr. HELMS. It does not make any difference. I just wanted to know.

The PRESIDING OFFICER. The Chair frankly is not in a position to really answer the question of the Senator from North Carolina.

Mr. HELMS. If the Chair will promise to lose no sleep over it tonight, I promise I will not. I thank the Chair.

Since the Senate has possession of the document, whether original or authenticated, cannot the Senate offer amendments thereto and either consent or withhold consent to its ratification since it is obviously a multilateral treaty which the Constitution requires the President submit to the Senate for approval?

The PRESIDING OFFICER. The document has not been submitted to the Senate for its advice and consent. I am advised by the Parliamentarian that amendments would not be in order.

Mr. HELMS. Frankly, I was a little surprised. I thought the Chair probably would rule that the Senate cannot act on the document unless it has possession of the original which I take it is down at the National Archives; is that correct?

The PRESIDING OFFICER. The Chair is not in a position to answer the question of the Senator from North Carolina.

Mr. HELMS. We would have to have the original before we could act on it. Is that correct?

The PRESIDING OFFICER. Before the Senate can act on the treaty, I am advised that the Senate must be in possession of the original document, and there would be requests for ratification by the Senate.

Mr. HELMS. So, any Senator could move that the Sergeant at Arms be instructed to retrieve the original papers, whether they are at the National Archives or anywhere else. Is that correct?

The PRESIDING OFFICER. A Senator can move to do anything. The Chair at that point would have to rule——

Mr. HELMS. Would I be out of order? It is not a frivolous question.

Mr. BYRD. Mr. President, Senators cannot "move to do anything." There are many motions that are not in order. Senators often "move the amendment." There is no such motion in the Senate. I am just giving an example. Senators often say, "Mr. President, I move the adoption of the resolution." That motion is not in order. It might be in the House, but it is not a proper motion here.

The Chair is not required to put that motion and it never does.

Mr. HELMS. Let me direct a question to the majority leader through the Chair. How would he propose to get the original papers, Mr. President?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I think the Senate acts on this and any other treaty in good faith. The treaty was submitted to the Senate by the appropriate authority under the administration which made this treaty. It bears certain stamps, I assume. And I think it would be an inappropriate question and really be considered to be dilatory—I say this most respectfully—if a Senator raised a question about this treaty as to whether or not it is the treaty it is purported to be.

Mr. HELMS. We may revisit that. We have 30 hours at least, maybe more.

After the filing of the cloture petition on a treaty—and as I indicated earlier, this to my knowledge is the first time the Senate has ever experienced that, and I do not disagree—it is in order to file germane and nondilatory first-degree amendments to the treaty before 1 o'clock on the day following the filing of the cloture petition. That is correct; is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I believe we covered the other point. I believe that about does it, Mr. President. I thank the Chair.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, my reference a moment ago—I believe I used the word "stamps" or "stamp." I had reference to the seals. I take it the seals were for the signators, Mr. Gorbachev, Mr. Reagan; whoever the signatories were. The seals of the governments are there.

I do not know that the Senate has ever gone behind what a given administration sends up, and represents to be a treaty that was entered into by the appropriate officials of governments, the President being the individual under our Constitution who has the "power by and with the advice and consent of the Senate, to make treaties."

I don't believe the Senate has ever gone behind that constitutional phrase to inquire as to whether a document purported to be a treaty is indeed the genuine treaty which was entered into by the President of the

United States and the head of another government. The fact that it has been submitted to the Senate by the President is sufficient on its face.

Mr. President, I hope that it would be possible to get unanimous consent that the Senate go to the resolution of ratification, and to consider all amendments to the treaty as having been disposed of, so that we could close out the treaty and begin calling up amendments to the resolution of ratification.

I understood the distinguished Senator from North Carolina to say that he had another amendment or additional amendments to the treaty, in which case perhaps we could enter into an agreement that would allow that amendment or those amendments to still be called up but would also allow the Senate to go on to the resolution of ratification. I merely pose that rhetorical hope, and I would be happy to yield to the distinguished Senator who is the leader on the other side of the aisle or to the able Senator from North Carolina.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I yield the floor.

Mr. DOLE. Mr. President, before I address that last suggestion—I think it would be a good one—I wanted to follow on with the one parliamentary inquiry, following one of the questions of the Senator from Indiana, Senator LUGAR. If you invoke cloture on the treaty, and you use the 30 postcloture hours on the text, do you vote on the resolution of ratification immediately? Does it still lay over for 1 day?

The PRESIDING OFFICER. Under the cloture rule, a 1-day layover would not be required.

Mr. DOLE. I thank the Chair.

Mr. President, addressing the suggestion of the majority leader, I hope we might work out some agreement. I would be happy if the three of us would visit in the majority leader's office at any time convenient with him and if it is all right with the Senator from North Carolina. In any event, I think that is a good suggestion. Otherwise, amendments obviously can still be offered, and I assume would be offered.

It would also be my hope that we would vote on cloture before Thursday, if that is possible, so that we could avoid an all-night session. Unless there is some overriding reason to have an all-night session that I have not thought of, we could discuss how to avoid that and still complete action, whatever that action may be, up or down or whatever, between now and late Friday or some time Saturday.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, during the earlier inquiries of the Chair, I think I said that I did not recall that any previous treaty or proposed treaty—I do not recall exactly how I put it—had ever had a cloture motion filed in connection with consideration of it. Every day I learn never to say "never."

Somebody raised a question of the Versailles Treaty proposed. I am looking at the World Almanac. It says:

> At the Versailles conference (Jan.-June 1919) and in subsequent negotiations and local wars (Russian-Polish War 1920), the map of Europe was redrawn with a nod to U.S Pres. Wilson's principle of self-determination. Austria and Hungary were separated and much of their land was given to Yugoslavia (formerly Serbia). Romania, Italy, and the newly independent Poland and Czechoslovakia. Germany lost territory in the West, North, and East, while Finland and the Baltic states were detached from Russia. Turkey lost nearly all its Arab lands to British-sponsored Arab states or to direct French and British rule.
>
> A huge reparations burden and partial demilitarization were imposed on Germany. Wilson obtained approval for a League of Nations, but the U.S. Senate refused to allow the U.S. to join.

In consideration of that treaty, cloture was filed and one of the insistences of President Wilson was that not one jot or tittle of that treaty should be changed, much the same as we have experienced with respect to the INF.

Cloture was imposed, but the Senate refused to ratify it in the case of the Versailles Treaty. So I want to make that correction as to my memory.

So there was a least one previous instance where a proposed treaty did experience a filing of a cloture motion.

Having made that correction, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I think we took the INF Treaty up on, I guess it was, Tuesday of last week. So today, I guess, makes the seventh day that we have been on this treaty.

I have watched and listened as carefully as I could. Though I am an unabashed supporter of the treaty, I was anxious to hear any new thoughts that might be expressed on the floor.

I want to say that this debate, it seems to me, is not about, obviously, whether the Senate is going to approve the treaty or not. We are going to approve it. We will, as the Constitution requires, advise and consent to the ratification of the treaty and we will adopt a resolution of ratification. It is only a question of how many votes.

In my opinion, incidentally, I said 3 or 4 months ago I thought the treaty would get 80 votes. I now agree with the distinguished minority leader. I think it will get 90 votes. It makes you wonder why we are spending all this time on it.

It really is not a question of whether we approve it before the summit to accommodate the President. So far as I know, this is a fairly bipartisan body on this treaty. I think every Democrat, with the possible exception of one, will support it. The votes against it will, unhappily, be from the President's party. The debate is not over whether the treaty is in our national security interests.

You must sometimes ask yourself: Why have we spent 7 days laboring over this treaty if it is against our national security interest? But to suggest that it is not in our interest is to suggest that the President, the head of every country that belongs to NATO, every past and present Secretary of Defense, the Joint Chiefs of Staff, big majorities of the Armed Services Committee, the Foreign Relations Committee, and the Intelligence Committee, and 75 percent of the American people—to suggest that this is not a good treaty is to suggest that all of those people have taken leave of their collective senses.

No, this debate is about whether those whose lives are totally dedicated to a continuing drumbeat of anti-Soviet rhetoric, who want no agreement under any circumstances that would bring this nuclear arms race under control, it is so they can lay the groundwork—not to defeat this treaty, because this treaty is going to be approved—but whether or not they can sow enough suspicion and doubt in the minds of the people of America to make certain that the next treaty, the START Treaty, where the real ball game is, is never approved and ratified, and, secondly, to make sure that SDI stays on track.

I am reluctant to use such harsh terms, but it seems to me like nuclear idolatry. The anti-Soviet ideologs will never go gently into a real arms reduction no matter what.

Anybody that is opposed to this treaty will never support an arms control treaty. And I must say, this body will never have submitted to it again, ever—in my lifetime or the next—a treaty that is so patently in our favor.

The other night the President—I say the other night—I guess it has been about a month or 2 ago now, the President, in a remarkably candid interview said: It seems to me that some people feel that this nuclear exchange between the United States and the Soviet Union must be fought, the war must be fought; that it is inevitable.

While I enthusiastically support this treaty, I can hardly be that enthusiastic about it because it does not do very much. It reduces about 4 percent of the total nuclear arsenal on both sides.

Is it not ironic that we have, since December 8—when Secretary Gorbachev visited this country and he and President Reagan stood before the national audience on television and signed this treaty—since that December 8 day in which everybody in the country was exhilarated on our side, the United States has added more nuclear warheads to its strategic arsenals than we will reduce in the next 3 years after this treaty is ratified. And by the anniversary date of that December 8—namely, this coming December 8—we will add another 430 nuclear warheads.

So you can see that by ratifying this treaty or by the Senate's approving this treaty, we are not doing very much in bringing the nuclear arms race under control.

I am enthusiastic about this treaty for most of the same reasons others hate it. I am enthusiastic about it because we are eliminating a whole class of weapons, which has never been done before. They are going to be literally destroyed. The Soviets, for example, wanted to hold out a few SS-20's to be aimed at Asia. We said no, and they yielded. Both sides gave up on ground-launched cruise missiles of all kinds, because you cannot determine whether one is nuclear-tipped or conventional.

I happen to disagree with the Senator from South Carolina. I think that was a step in the right direciton. And I think Secretary Carlucci, when he wrote a letter over here, I guess it was to Senator NUNN, said, "I promise you it is in our long-range best interest to eliminate all ground-launched cruise missiles in Europe, because if we do not, the Soviet Union will start building thousands."

I am for it, because it does what 3 years ago would have been absolutely unthinkable, even to President Reagan, in my opinion, and that is permit on-site verification.

I am for it because, as you know, we did not have to impose our views on the French and the British and they get to keep their strategic nuclear forces.

I am for it, among other reasons, because it allows for a 6-month withdrawal period, just as the ABM Treaty does. If the Soviets cheat as badly as some in this body would have you believe, all the next President has to do is say, "Enough is enough. We are withdrawing."

I am for it, because you can give notice that you want to inspect and you can inspect; there is a lot of inspection provided for, inspection procedures provided for.

I am for it, because I believe in the START Treaty, where the real ball game is and, if we are really serious about arms control, that is where we are going to find it. And I think the INF Treaty is a small step for mankind. It builds some confidence. If these on-site verification procedures work, it will make it a lot easier to get the START Treaty.

Well, I could go on. There are a host of reasons why I favor the treaty. But let me digress for just a moment and ask my colleagues in this body: How would you like to defend this treaty to the Members of the Central Committee of the Soviet Union?

I ask you, transport yourself to the Soviet Union and suddenly make yourself a member of the Central Committee and somebody asks you, maybe Ligachev. Ligachev says: "What in the world are we doing? We are giving up twice as many launchers and systems as the United States. We are giving up four times as many warheads. Mr. Secretary, have you taken leave of your senses?"

And some other hardliner speaks and says, "Well, there is one nice thing about it. Now we can run roughshod over Europe. Taking out all these intermediate nuclear missiles in Europe leaves them defenseless and you know we have always had the superiority in conventional weaponry. So now Europe is ours for the asking."

Question in the Central Committee: If that is so, why did we not overrun Europe in 1976 when we had 590 SS-4's and SS-5's and they had none and we still had the same kind of conventional superiority then that we have now? If that is our goal, why did we not do it then?

Answer: I will have to get back to you on that, you would say to the hardliner.

And what is this business about the French and the British keeping all their weapons? The hardliner would ask you. Well, they are keeping their weapons and in addition to that, after we pass this treaty, the United States, counting bombs on bombers in easy reach of the Soviet Union, will have at least 2,900 nuclear weapons still left available for use in Europe: artillery shells, mines, F-4's that are nuclear wired, two aircraft carriers in the Mediterranean with A-6's and A-7's, all nuclear tipped, F-111's, over 100 in England, all available to attack the Soviet Union. And if push comes to shove, the U.S. can send those 250 B-52's they have equipped with nuclear weapons, cruise missiles, plus all their strategic weapons.

The hardliner would say, surely you do not think that we have a good treaty here when we leave them with all that firepower? Answer: yes, but you know, the United States and Britain and France would never use nuclear weapons in a conventional war.

You see, the argument here always is that the reason we must match the Soviet Union in conventional weaponry is because we would never dare use these weapons that we are spending hundreds of billions of dollars to build and maintain. That is the proposition the Senate is going to be debating this fall on the defense appropriation bill and that is increasing our conventional weaponry so we can meet the Soviet toe-to-toe because we believe that if they invade Western Europe, if we start getting mauled, that we will not have the courage to use a nuclear device.

So the questioner on the Central Committee says: Well, that is all true but I think Europe must be defenseless after this treaty because I have heard so many U.S. Senators say they would be defenseless.

Day before yesterday, I heard Georgi Arbatov, the Soviet head of the United States-Canada Institute say to the right wing in America: You are going to fall on hard times because we are going to remove the Soviet Union as your enemy. I know Georgi Arbatov, we spent some time with him, and he is a very charming gentleman. But he is so naive to suggest that somehow or other the Soviet Union is going to pull out of Afghanistan; agree to a reduction of 50 percent of their weapons; get their feet off of their people and improve their human rights record; and even tear down the Berlin Wall and offer to unilaterally disarm every single nuclear weapon you have and let the Washington Post and the New York Times editorial boards watch you.

That will not slow down the anti-Soviet ideologues in this country one iota. The nuclear idolaters will never accept any treaty that does anything except permit us to fan the arms race. There is a lot of money in it. There is a lot of money in weapons.

If Senator BUMPERS from Arkansas were the only person saying this, it would be one thing. But Dwight Eisenhower, as I read this morning, who had five stars on his shoulders, said it.

I read this morning that somebody who had been a lieutenant or a major—or maybe a lieutenant colonel, they might really be suckered in or impressed when a two- or three-star general walks in. But General Eisenhower with five stars did not have to listen to anybody. He had been there. And he was the one who talked about the military-industrial complex.

I was almost amused the other day when somebody offered an amendment that said this treaty could not become operative until the President certified to the Senate that the Soviet Union was in compliance with the SALT II Treaty. That really is ironic because it is the United States that has trashed the SALT II Treaty. The most important feature of the SALT II Treaty is that neither side will have more than 1,320 MIRV'd systems and as I stand before you today the Soviet Union has about 1,270, 50 less than they are permitted, and the United States has about 1,337; 17 above what they are permitted. Just another little killer amendment.

Sunday morning's Post had a remarkable interview with Secretary Gorbachev. You know, you have to be naive to assume that Secretary Gorbachev is simply a nice guy with a quick answer. You do not get to be General Secretary of the Communist Party in the Soviet Union by being Mr. Nice Guy. And yet we have been waiting for 70 years for all the old Bolsheviks to die off and the Soviet Union to produce a new breed of leader and this morning in the op-ed pages of the Washington Post, now an assistant editor who used to be the Post's correspondent to Moscow, who has written books on the Soviet Union, said: Here is a new leader. He has got a plateful. He cannot totally let up on human rights right now; cannot promise that the Soviet Army would not go into Budapest again; cannot promise that the Poles can have all the freedom they want. But the first thing he did was to say we are getting out of Afghanistan.

That was no small act of courage.

Here is a man who says that if we spend 20 to 25 percent of our gross national product on defense and weapons, we will never fulfill our commitment to our people for a quality life. So Gorbachev said in this interview in the Washington Post: What sense does it make for us to sign a treaty on the one hand limiting the number of nuclear weapons on Earth and turn right around and escalate this arms race into space, the only nuclear-free area in the universe?

Is that statement not irrefutable? Can anybody argue with the logic and common sense of such a statement? The only possible reason for SDI is that we would do it first. Nobody here can seriously believe that this is a technology which only we will possess. We build a shield in the sky and nobody else would ever be able to emulate it. Nonsense.

We have a bomb. They have a bomb. We carry the bomb on airplanes. They carry the bomb on airplanes. We have a little intermediate-range missile and we deploy them in Turkey and they attempt to do the same thing shortly thereafter in Cuba.

Then we developed our big land-base missiles that would fly all the way to the Soviet Union with a nuclear warhead on it, and it took them about 3 or 4 years to do the same thing. Maybe less.

Then we started putting them on submarines. We said, "Boy, we have them now." Within 6 or 7 years they had them on their submarines.

And when the SALT I agreement was being negotiated, a very prominent Senator in this body sent word that if you give up MIRV'd missiles, he will personally see that that agreement never goes into effect. MIRV'ing missiles, putting more than one warhead on an ICBM. We have them now. They will never be able to do that.

And the Russians in the SALT I negotiations said: Let us not start that. Let us not put more than one warhead on a missile. That is just going to force us to do the same thing.

We were not having any of that. So that was taken off the table and do you know how long it took the Soviet Union to start MIRV'ing their missiles when we did? Five years.

Somehow or the other, according to Robert McFarlane's testimony before the House Armed Services Committee last Wednesday, he said SDI just happened by inertia. The Joint Chiefs came in and told the President that something along the lines of limited ballistic defense might be in order. Just because of inertia and a bunch of people with no direction, the next thing you know, we are appropriating $13 billion, over six times what it cost to build the Manhattan project.

I might say that once this President leaves office, in my opinion, we will sign some kind of a new agreement with the Soviet Union. We also have an Antiballistic Missile Treaty with them. Incidentally, if we do not agree with that treaty, it has a withdrawal provision. Why do we not just withdraw? Why do we want this broader interpretation? It is not politically acceptable, that is why.

If you believe that the French had the right idea when they built the Maginot Line, you will love SDI. Hitler went around it, he went over it, and he went everywhere in the world that nobody thought was possible. To suggest that we would deploy SDI and that the Soviet Union somehow or another is going to be intimidated by our superiority is palpable nonsense. History shows the history of the arms race.

We cannot dictate to the Soviet Union, whether or not Gorbachev survives, and we should not try. Bob Kaiser says in the Post he is a new kind of leader. Secretary Shultz says he is a new kind of leader. Secretary Shultz says when he sits down to talk to Gorbachev and Shevardnadze, there is all the difference in the world in talking to them and their predecessors.

So I say he has his detractors, and if they win and Gorbachev is deposed, that cannot, under any possible scenario, work to the benefit of the United States. It will only mean one thing: His future is tied to becoming a hardliner or being deposed, in which case he will be deposed by a hardliner, and the arms race will be off and running again.

Whether we like it or not, his future is tied to how well we respond to some of the offers he makes. If he gets nothing in return for his efforts to give up four times as many warheads as we are giving up, and all he hears is evil empire rhetoric in return, he is going to have to get awfully tough.

One of our staunchest NATO allies who will bear the brunt of an invasion by the Soviet Union in Europe is West Germany. They not only realize that Gorbachev is a different cut, but last week issued a letter of credit for $2.3 billion to the Soviet Union. When the Soviet Union later on is deciding who they are going to buy grain from, whatever, or electronics, there is not any question that Germany will be the first country they will contact.

I divinely hope that President Reagan can complete a START Treaty before he leaves office because I know and you know that if Michael Dukakis is elected President of the United States and he submits a START Treaty to this body, it will not receive the same level of bipartisan support that this treaty has, not because it would not be as good, not because it would not even be better, but I have been around here long enough to know the players. I have been around here and heard all this rhetoric for almost 14 years.

I will say this: This treaty is going to be approved, but if it were not, it would mean there is no point in ever submitting START Treaty here because there will never be a treaty as unequal as this one is, as unequal in favor of the United States. I hope President Reagan gets a START Treaty and submits it, and I hope we have some time to debate it, if not approve it, before he leaves office.

I was a country trial lawyer before I was a Governor or Senator. There was one thing I learned, and that was when to settle a lawsuit, when to say yes. I can tell you, the time now on this treaty has come to say yes.

Let me just close, Mr. President, by saying that it is, indeed, true, and it cannot be repeated often enough. Einstein said after the first atomic bomb went off, everything has changed except man's thinking.

For the first time in my life, I believe man's thinking is glacially changing. I did not believe that 5 years ago, but I believe it now. I believe that I detect a new attitude about arms control and trying to give our children a chance to grow to adulthood. We have enough problems.

If we do not do it to ourselves with a nuclear war exchange, you have the ozone layer being depleted, you have the greenhouse effect with the Earth's temperature warming up. Sometimes people say, "Well, after all, we had an Ice Age. The planet has heated up before."

That is a nice thought. It just so happens that the planet is heating up right now at a 100 times faster rate than it did following the Ice Age. Scientists feel absolutely certain that the carbon dioxide we are throwing into the atmosphere, the methane is going to cause a 4- to 5-degree climb in the average annual temperature of the climate. The scenarios of what happens then are just endless, but they are all devastating; too ominous to contemplate.

Here we have a chance with the INF Treaty to take one little small step in doing something sane and rational. I am pleased to get my name in the CONGRESSIONAL RECORD saying I enthusiastically support this because I believe strongly in my children's future. I can do no less, nor can the rest of this body.

Atticus Finch said in "To Kill a Mockingbird," when he was talking to the jury, "For God's sake, men, do your duty." It is a good time to do it and we have wasted too much time already.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, the action which the majority leader of the Senate has taken to enter a cloture motion today is a very significant decision on his part, and I believe it is justified. It represents a proper and a timely action to bring the Senate to what I think is getting close to being an overdue decision on the INF Treaty.

Mr. President, today's events are both historic and illustrative of two constitutional features which make this body unique. First, the Senate alone has the responsibility to give its advice and consent to treaties; the House of Representatives has no role.

The fact that this important power was entrusted to the Senate, where Members serve for 6-year terms—and in the original constitutional system, were not even directly elected—indicates the desire of the framers of the Constitution to have the Senate's business conducted in an atmosphere of relative isolation from political pressure.

A second unique feature of the Senate, is the right of unlimited debate and amendment which each Senator enjoys. The desire of the framers was to provide the Representatives of a single State, or even a single Senator, the opportunity to present a minority point of view, and in effect force the majority to deal with those strong objections.

The House of Representatives, with its larger membership, has a much more inflexible parliamentary structure which to a large degree is determined by the will of the majority party.

Over the decades, the Senate has developed rule XXII, which is designed to "bring debate to a close." Cloture, as it is called, however, is somewhat of a misnomer. Rule XXII does not close debate, but it does impose new limits on debate which deny Senators those basic rights of unlimited debate and amendment.

As rule XXII is currently designed, the Senate can only do so by the supermajority of three-fifths of those "duly chosen and sworn"—in other words, 60 votes. The purpose of rule XXII, as it has evolved over the course of this century, has been to provide a means for the majority of Senators to do its will, the objections of the minority notwithstanding.

I believe that it is entirely appropriate—and I have stood on both sides of this kind of issue—and in the best traditions of this body, for the Senate to invoke cloture on this treaty at this time. That is why I was one of 22 Senators to sign the cloture motion submitted earlier today. The Senate has been asked to give its advice and consent to an agreement which was submitted to us on January 25 of this year.

Extensive hearings have been held, exhaustive discussions conducted and several issues debated, apparently to the satisfaction of all but a handful of Senators. There can be little doubt of this fact, given the kind of debate and the nature of amendments we have had before us during the last several days.

I do not possess the ability to discern the hearts and minds of those Senators who are offering amendments, and making long speeches about incidental matters on this treaty, but it certainly looks to this Senator that their objective is obvious: to delay Senate action on this treaty until after the upcoming summit.

Mr. President, the Senate has a job to do. This Senator sees it as an urgent and momentous undertaking for this body. The Senate rules provide us with a tool for getting it done, rule XXII. I hope my colleagues will stop and consider what is at stake here today. This is not your run-of-the-mill rollcall, but one of those few votes we cast in an entire career, which have truly historic ramifications.

We must invoke cloture on this treaty. Once we have done so, we can and should use every available minute of the 30 hours available under the rules, to debate the treaty and to consider amendments. But then we should do what we were sent here to do: make a decision, one way or the other.

I think the President of the United States, who has provided such exemplary leadership on this issue, deserves that much. I believe our Constitution and our Oath of Office requires no less.

I am informed that the last time cloture was entered on a treaty was in 1919 during consideration of the Treaty of Versailles. The Treaty of Versailles, ending World War I, consisted of 440 articles, including major changes in the map of Europe, and the famous "war guilt" clause blaming Germany for the war.

Debate by this body, however, centered on the Versailles provision on the convenant of the League of Nations. President Woodrow Wilson signed the Treaty of Versailles as a strong supporter of the League of Nations.

But the U.S. Senate, fearing the kind of foreign entanglements George Washington warned about in his Farewell Address, refused to consent to ratification of the Versailles treaty mainly because of objections to U.S. participation in the League of Nations.

Cloture was entered in 1919 but treaty opponents still prevailed and Senate consent was denied. We need not enter into an extensive discussion of the history of the 1920's and 1930's today to recognize that a historic opportunity was lost in 1919. The shortcomings of the League of Nations became apparent in the 1930's—but they were not the shortcomings cited by Senate opponents of the Versailles Treaty.

Rejection of the Versailles Treaty was symbolic of the American refusal to be engaged on the world stage. And most would agree that American isolationism in the following years did not serve America—or the world—very well.

Mr. President, though we have not invoked cloture on a treaty in nearly 70 years, I will vote for cloture on this treaty. President Reagan leaves for an unprecedented fourth summit meeting tomorrow. United States-Soviet relations are at a historic crossroads—the potential for progress in a number of areas is great.

Before that summit begins this weekend, this body should consent to ratification of the INF Treaty. It may be true that the inability to exchange instruments of ratification would not be disastrous to the summit. But why fail to consent to ratification? All amendments to the INF Treaty text have been overwhelmingly rejected.

With one exception, treaty opponents have had difficulty in gaining 10 votes. Why should a small minority of this body deprive the vast majority of its will—ratification of the INF Treaty before the summit?

Mr. President, there are serious issues that deserve consideration during our debate on the resolution of ratification, including treaty interpretation and U.S. arms control compliance policy. If the Senate does not have a full chance to consider these issues in a postcloture situation, it is because we have spent too much time overwhelmingly rejecting killer amendments to the text of the treaty.

I wish that it were not necessary to take the momentous step of invoking cloture. Perhaps a solution can still be worked out. But if it cannot, I urge my colleagues to vote for cloture so we can implement the will of the vast majority of this body.

Mr. LUGAR. Mr. President, I join my distinguished colleague from Minnesota, first of all, as one of the signatories of the cloture motion; but, likewise, in the general spirit of his comments, that filing a cloture motion on a treaty is a regrettable step, although in this case I believe a very important and necessary step.

As the Chair knows from the discussion earlier today on parliamentary procedure, there are uncharted waters that come. Some of the questions are of first impression and are not definitive as to what will occur in the consideration of the treaty under cloture.

I have suggested, as have many throughout the day, that a better course for the Senate, if possible, would be to reach a unanimous-consent agreement in which all Senators would have an idea of the test of amendments prior to the time they were considered. All Senators would have an idea of the extent of time for debate, in order that important arguments might be made.

This treaty is very serious business with regard to our country and our relationship with the Soviet Union. It seems to me that it requires the very best efforts we have to look carefully at language and to understand, as carefully as we can, listening to each other, the implications of what we are doing.

The net effect of what has occurred and what the Senator from Minnesota has well described is that, under the cloture situation, Senators may be faced with the predicament that they are unable to amend, to the degree they would wish to do so, the treaty or the amendments to the resolution of ratification. Senators could find themselves locked into positions inadvertently, due to the fact that the second-degree amendments have not been filed in a timely way, as Senators know they must be, an hour before the vote is taken, if it is successful, or by 1 o'clock on the day after the filing of the cloture motion, which would be 1 o'clock tomorrow.

Frequently, in the flow of debate, corrective measures are taken, as Senators appreciate that mistakes are about to be made. The cloture situation precludes the degree of flexibility that that implies—at the very time that we are dealing with substantial matters of our Nation in which the flexibility probably ought to be there to the finest degree.

So, Mr. President, it seems to me that the Senator from Minnesota has put his finger upon a very important problem for the body.

What happens hypothetically if 90 of us or 92 of us or maybe even more than that believe that a treaty ought to be ratified and at the same time have within that majority of 92 every right, every determination to try to perfect our work so that the treaty that we finally vote on or more properly the resolution of ratification is the best we can do, but the 90 or 92 are blocked out from that consideration by a smaller number of Senators who are exercising their rights fully under the rules and even writing new rules in the process as we go into uncharted ground, and in the course of exercising their rights make deliberations of this body inflexible and leaves the wisdom we might have expressed less likely to be forthcoming?

I think it is a very serious issue not only for this treaty but for the general deliberations of the body and any treaties in the future that we might consider.

I am so hopeful even at this late date, and I know the distinguished majority leader and the Republican leader have been conferring with Senators to ask at least for some basic consideration for the good of the country, for the good of the product of our work, that we should not be forced into a cloture situation, that we should have an opportunity at least to rationally list amendments that still might come before us and to set aside time for proper debate of those amendments, and we do have adequate time to do that.

If we are forced into the 30-hour discipline of cloture we shall all have 30 hours of debate but in a constricted way.

Let me add this final thought: There has been considerable discussion here and many of the parliamentary points went to the issue of the so-called committee amendment, the one dealing with reinterpretation of the treaty. This is of great importance to the Senators because of constitutional implications, the idea of how the Senate relates to the President and the precedents that it might set with regard to treaties in the future.

It is apparent at least from the initial colloquy and inquiries of the Chair that the committee amendment in one form or another is going to be voted upon or disposed of, I think the Chair more properly said.

This I think poses a very special obligation for those dealing with that particular amendment.

If we are in a position in which that amendment is pending at the end of the trail, at the end of the 30 hours, and there is no possibility of correcting it at that point, I would hope that prior to our coming to that stage, those Senators who have an interest in this would have an opportunity to modify it, to correct it, to perfect it, so that it is the very best product because it would be a lasting one and conceivably could not be amended at that point.

I stress this aspect of it because I suspect that many Senators were under the impression that through parliamentary procedure, the committee amendment might not be voted upon. But I hear loud and clear the Chair saying the committee amendment will be voted upon and it is very important what that committee amendment is at that point. It may not be possible to discuss it widely, to amend it, to suggest other forms of it.

Whether Senators are satisfied or dissatisfied on either side of the aisle at that time, I am sure that is not the only amendment that may have predicaments down the trail. The purpose of my taking the floor at this time is simply to alert Senators that in the event they have amendments or second-degree amendments, they need to be thinking ahead about the cloture procedures, the timeliness of filing those, and the possiblity of ever seeing debate on any of them.

Theoretically if we were to move from this current position for 30 hours and never get to the resolution of ratification, the Chair has ruled, as I understand it, that the logic of the predicament would be that since the Senate cannot vote on the treaty itself, we must move to the resolution of ratification and the movement to that makes the pending amendment the committee amendment and, therefore, a vote must occur on it prior to a vote on the resolution of ratification.

That is an awesome sequence, and it means if we were to go through that scenario all other amendments would not be debated at all and there would be no votes on those amendments.

We may, I suppose, hypothetically come into another scenario in which sometime in the 30 hours we come to the resolution of ratification and then the other amendments come up, we do not know in what sequence and who will have the floor, and these are all good reasons for pondering the entire cloture process.

Having raised all that I still come out, as does the distinguished Senator from Minnesota, that I think our leader and the majority leader have no choice.

We have been now for a week in a posture in which it has been impossible to move beyond the treaty. Amendments have been offered. They have all been rejected, as the Senator from Minnesota said, by large votes, and I think for good reason.

Many of the amendments came to this Senator literally on their way up to the desk. The possibility of consideration of a serious treaty matter was denied most of us.

And I would just submit, Mr. President, with no disrespect to any Senator, it is time for us to take time out for a second and consider what is responsible conduct when we have a serious treaty ahead of us. I would suggest that that means defining debate, seeing the text of amendments, not asking staff to race around and try to find the proper materials so that a relevant record can be made.

In addition to the action we take, the record of what we say is important. It may offer some guidance, some precedent in itself.

So I come down, as I say, on the side of my friend from Minnesota. I thank him for raising the whole situation.

But I would also advocate that if the cloture vote comes, we must vote for cloture because responsibly we must work our will and have ratification of the treaty as soon as possible.

I thank the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Indiana.

Mr. QUAYLE. Mr. President, I think the die is cast. There is no doubt that the treaty will be approved for ratification and will be done this week and in time for the summit.

But I think the Senate should also recognize that we have gotten ourselves into a little bit of an awkward position. We are in an awkward position because we are now up against a deadline, even though we have said we are not going to rush to meet any artificial deadline. I think many have not attempted to do that and the treaties have been debated in committees at least for 4½ months. But here we are now having to rush.

Certainly, we must recognize that when we do have these deadlines, despite all the protestations to the contrary that we do, that there are all sorts of incentives to delay, to try to get beyond that deadline for whatever reason.

Now we find ourselves in an awkward position. I do not fault the majority leader nor our leader for filing cloture because they want to conclude the treaty before the summit.

But we are at a situation where there is no turning back, a situation in which the discussion of a number of very serious issues will probably not take place. I think that is unfortunate. I do not know what kind of debate we will have on the so-called interpretation amendment. I hope it is vigorous.

What kind of debate would we have had if we did not have the deadline, did not have the summit? Say the summit was going to take place in August and the treaty was being debated now.

I do not know that we would still be in the awkward situation we now find ourselves.

I think we would have had a much better debate. We could get into not only interpretation amendments, but the category III reservation on the futuristics that I understand will be offered and probably adopted. There should be a very thorough discussion on how we arrived at the treaty's definition of "weapon" and what that definition does and does not include.

I think there is still time to try to get some debate on that, but I am not sure how much debate we are going to get.

Article XIV, the so-called noncircumvention issue, one that was hashed out thoroughly in the Senate Foreign Relations Committee and very much in our committee, is something that ought to be discussed to make sure we have a clear understanding on the floor of the Senate of what this means and not just the Senators on those couple committees, but the entire Senate.

This is the first arms control agreement we have had on the floor of the Senate since 1972. It has been 16 years since we had an arms control agreement on the floor of the Senate.

I think when you get these treaties, we should try to do the very best we can under the time constraints that we find ourselves in. On many of the issues, there is still some time to discuss. I wanted to get into some of the lessons learned in INF and what we should not carry forward on START. I hope and think that we should reserve our option on the conventional Cruise missiles. I believe we have to do a lot more in verification under a START regime. I would like to spell that out and see where the Senate is, whether it would be through a declaration. I do not know whether I will have that opportunity or whether the time will permit me to get any kind of debate on it.

There may be declarations that could be confined to 10 minutes, 5 minutes, depending on whether they would be accepted or not accepted.

I find it, as I said, awkward, not that we have a whole lot of choices, because we do not. There are very few. I certainly understand that. We have to try to make the best of it.

But I also anticipated and hoped that we could have gotten a very thorough discussion. I know my senior colleague from Indiana is very involved in the idea of where NATO should or should not be going. I read his book, "Letters to the Next President." He talks about NATO and what we should be doing in the future. This would have been a grand opportunity to have that kind of discussion and debate, whether it be through declarations or just have a discussion on the floor. I would have been very interested to see him express his ideas on the floor and discuss them with me and others. I think that would have been useful.

I do not think we are going to have that time and opportunity now. I think that is unfortunate. I think the Senate will be the loser.

There are a host of issues that could have been discussed. I think that there will probably be some that will be discussed. I know Senator HOLLINGS has an amendment I feel very strongly about, because I think it is a mistake to ban the conventional cruise missiles and to allow the banning of all conventional futuristics. We are going to have a debate, but it will be an abbreviated debate. In fact, we are still on the treaty, in a technical sense. I do not know when we are going to get to the Resolution of Ratification.

I just lament that we have this self-imposed deadline. I think it is going to abbreviate the debate and the substance of these issues that should have been discussed.

We do not get many treaties before the floor of the Senate. As I said, it has been 16 years. I just hope that when we go back and we look at what we have done—and there is a lot of interesting things about the process—that we might learn one important lesson: that when you get backed up against a deadline—and we all know what the rules and we can always use them to our advantage, which is certainly within our rights—that we better understand that this is not a very good way to conduct what I think is an important debate on a substantive issue. I would much prefer to have done it differently, but we have to take things as we find them.

We find ourselves now with the summit coming up and we have to pass the treaty by the summit. I think that is the desire of a huge majority.

It has been stated by some that perhaps this interpretation amendment is more important than the treaty—that the interpretation amendment is more important than the treaty—and yet it is possible that we will have zero debate on the actual amendment itself—zero debate. It is possible. I hope not, but it is possible, because we could stay on this treaty. As the Senator from Indiana pointed out, if we go beyond the 30 hours, that committee amendment will come up and it will be voted on. I suppose a motion to table would be in order. If it is not tabled, it is voted upon and we either have it or do not have it. We could have no debate on what some have alleged is more important than the treaty itself. That is the awkward spot this Senate has gotten itself into.

As one who has spent considerable time on this issue and on this particular treaty, I accept this. But I hope, whenever the next treaty comes before the Senate, that we might be on notice that when we know these deadlines are out there and we push our debate right up against the deadline, that we are going to diminish the substance of the debate.

Now, perhaps that is indicative of the treaty. Some say, "Well, this treaty is a good treaty, but only a small step forward." I have heard that said; that it is only reducing 3 or 4 percent of the nuclear weapons in the world; it is just a marginal step forward.

Then, on the other hand, they say: "But, we are a strong supporter of this unprecedented treaty."

I am not exactly sure whether it is a small step forward or unprecedented. Many people are saying, "Let's just get on with it." We will get on with it. I believe, as we do get on with it as we are, though, that we are going to dispense with a lot of needed debate. But that has happened around here.

I have commented from time to time on the lack of quality of debate in this body, not just on this issue. But there is not good debate, a lot of times.

In fact, I heard just recently a couple of very distinguished Senators making opening statements. We are making opening statements on the treaty at the time cloture has been filed. As I said, I am not faulting the majority leader or the minority leader because, to be able to pass this this week before the summit, they had to do that, or something to that effect; either that or get a unanimous consent agreement. But here we have opening statements being made on the treaty and you have cloture being filed.

So I hope that it is recorded, Mr. President, that we are and have gotten ourselves into what I consider a very awkward position, an awkward position and I think Senators and the Senate itself has rushed to judgment in the approach it has taken to complete action on this treaty.

I think we are probably taking quite a bit away from what could have been some very qualitative discussion on a lot of issues that relate to this INF Treaty.

As my senior colleague from Indiana pointed out, the amendments thus far have been rejected quite overwhelmingly. Although, I must say, that one of the amendments, the Wallop amendment, I thought could have been accepted. I did not view that as any kind of a killer amendment. But it was rejected as well.

Hopefully, sooner rather than later, we can get to the resolution of ratification, call up the Hollings amendment, get on with the interpretation amendment, and get on with some other debate, because we are probably going to do this in 2, 2½ days of actual debate on issues that are very, very related to this treaty—2½ days to be able to get it concluded, I am sure, by Friday, hopefully at a reasonable hour in time for the Memorial Day break and also in time for the summit.

I just take this opportunity to point out where the Senate is and where it has come from. As I said, there are no good choices at this late date.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, in view of the fact, as we have all been relating to the Chair in the last few minutes, the debate is going to be limited, it is just as well to take advantage of these few moments in the absence of other Senators for a debate which we might have had and may still have.

Earlier in the day the distinguished Senator from North Carolina offered an amendment and then he withdrew the amendment. That, I suspect, gives him the privilege of qualifying the amendment on a postcloture situation as opposed to debating it today on the treaty. But it is an interesting amendment because it brings forward arguments that we heard in the Foreign Relations Committee at some length.

The distinguished Senator from North Carolina was pointing out, as have other Senators, that many members of the public are shocked that no warheads are going to be destroyed in the INF Treaty.

In fact, if one is not very careful in defining words in the arguments, each one of us are almost bound to lapse into the use of the word "warhead" because it is a simple way of trying to express what is going to be destroyed.

The Senator from North Carolina was technically correct in that the warheads in terms all of their components, including the fissionable material, will not be destroyed in the field for good reason and the Senator from North Carolina accepted the fact that fissionable material would be withdrawn by the Soviets and ourselves, in part because of safety reasons. It is not easily disposable in the field; and second for other reasons that I want to relate in just a moment because the Senator at that time suggested that the Soviets might use this material in other warheads and in other armaments and therefore we could see it coming back at us in another form, having not gotten rid of it at that stage.

The Senator's amendment technically did not deal with fissionable material but rather with the guidance systems that would be taken out from the warheads. Soviets would take away their guidance systems, we would take away ours. The gist of the Senator's amendment is that those guidance systems should be destroyed because, his argument was, you could fit one warhead on top of another launcher situation and have another missile coming at you that you had not anticipated if you had not destroyed all of it.

I want to relate from the report of the Senate Foreign Relations Committee some thoughts about at least the findings of the committee as we discussed this item on many occasions. I quote from page 58 of the report under "Warheads Versus Missiles."

> During the Committee's intitial hearings, much media attention focused on several Senators' expressed concerns that, while the Treaty provides for the dismantlement of missiles, it does not require destruction of the associated nuclear warheads. The failure of Administration witnesses to provide a prompt and effective explanation allowed this issue to gain notoriety.
>
> Having assessed the matter, most Members concluded that eliminating a particular delivery system is sufficient to eliminate the threat posed by weapons delivered by that system. But there are, in addition, three reasons why the Treaty, in eliminating certain delivery systems, does not stipulate destruction of the associated warheads:
>
> First, the United States did not wish the Treaty to provide for warhead elimination since any arrangements necessary for verification of warheard destruction would have allowed Soviet inspectors to learn details of advanced American technology which the Administration quite rightly did not want conveyed to the Soviets.
>
> Second, even if warhead destruction arrangement could be agreed upon, the elimination of specified numbers of warheads would prove nothing with regard to the warhead stockpile of a party, even of the types theoretically being eliminated, since warhead inventories are simply not verifiable in any event. It is this fact which has led to the arms control efforts to eliminate launchers and missiles rather than warheads.
>
> Third, any agreement involving the disposal of fissionable material while both sides are manufacturing these materials and intend to continue to do so would have been particularly counterproductive for the United States, which is in shorter supply of such material than the Soviet Union. Furthermore, this would exacerbate environmental problems surrounding the disposal of nuclear materials.
>
> Thus while it is true that the warheads will not be eliminated under the terms of

> the INF Treaty, it bears emphasis that the guiding purpose of the treaty, it bears emphasis that the guiding purpose of the treaty was not to eliminate nuclear weapons per se—that is a much longer term goal—but to eliminate certain kinds of politically significant nuclear missiles, i.e., accurate land-based missiles with ranges between 500 and 5,500 kilometers.
>
> All told, allegations that there was a problem because no warheads would be eliminated proved to be thoroughly unpersuasive, and most Committee Members were undecided only as to whether it constituted a "red herring" or a "crimson whale."

I mentioned this, Mr. President, because I suspect that those who are watching this debate around the country would need to know of the objectives of our country, and they include the recapture of this fissionable material. It is in short supply. The Soviets have more. And, therefore, to argue that somehow we were in self-destructive activity in allowing the Soviets to recover this for themselves I think is to argue against the unassailable facts that it is our short supply and not theirs.

And, second, we did not want the Soviets taking a look at the technology that is a part of our guidance systems. I would say correspondingly they were insistent that we not look at theirs either.

To destroy that technology in the field implies not only that people are looking at it from both countries, but they are intimately involved in its destruction and have a very good idea of the principles involved. I simply will not go beyond that in terms of the classification of the situation because it is important that this technology be guarded. That is the reason that we do not want it destroyed in the field. We want it withdrawn under our own auspices.

Finally, Mr. President, the basic commonsense situation comes down to the fact that bullets, if they were to lie here on the table today, correspond in a way to warheads in relationship to a gun that fires the bullet and a missile launcher with regard to the missile with the warhead on it that finally is fired at the enemy.

In short, we have had arguments already about SS-20 missiles that might be out in the woods, disattached from the launchers, from the crews, from the servicing and what have you. And Members have pointed out and the Senate has agreed that this was not a threatening situation.

I would point this out again, Mr. President. One reason why the question of the destruction of the warheads was a red herring is that these particular warheads, if they are not attached to missiles and they are not fired by a missile launcher, are not a threat to anyone. The treaty goes after the systems, the launchers, the ability to convey destruction. We have very good certainty, in my judgment, and verifiability of the launchers and all the infrastructure which surrounds them. Not easily hidden. In fact, we believe that we can detail exactly where each of these launchers are and systematically within 3 years see the destruction of all of them. That is what the INF Treaty is about. This is why I take this opportunity, Mr. President, simply to clarify an argument that might lie out there, even though the amendment was not presented on this occasion.

I thank the Chair.

Mr. WEICKER. Mr. President, I rise today in support of the treaty on the elimination of intermediate-range and shorter-range missiles signed by President Reagan and General Secretary Gorbachev in December 1987. I intend to vote for its ratification.

The INF treaty is not a perfect agreement by any stretch of the imagination. It eliminates only a fraction of the United States-Soviet nuclear arsenal by destroying approximately 860 United States and 1,750 Soviet missile systems but does not destroy their warheads. Nonetheless, I believe this treaty constitutes another logical and important step in the East-West nuclear arms control process—a long-term effort we hope will lead to the elimination of all nuclear weapons.

There is no question of rushing recklessly through this agreement. The Senate has not done that. The committees involved—Foreign Relations, Armed Services, and Intelligence—have scrutinized the terms of these agreements, particularly those issues relating to treaty interpretation. After all lingering questions have been aired and debated on the floor, I would hope that the Senate will act promptly, so the President can have a ratified INF Treaty in hand for his upcoming meetings in Moscow with General Secretary Mikhail Gorbachev.

In several ways, the INF treaty is unprecedented.

For the first time in superpower arms control agreements, an entire class of nuclear weapons will be eliminated, and these are not obsolete weapons that are ready for retirement. They are some of the most modern and sophisticated weapons in the superpower arsenals. All existing shorter range and intermediate-range missiles having ranges of 300 to 3,400 miles, along with their launchers and destroyed, and the production, flight testing or mere possession of these systems is outlawed by the treaty.

More importantly, the treaty provides for onsite inspection on an unprecedented scale. Each side will be allowed to send inspectors to some designated production sites, and all designated deployment, storage, repair, testing, and elimination facilities. Add to this the traditional satellite and other means for gathering intelligence information, and I think it is fair to say that we have the most thorough and rigorous verification provisions ever included in an arms control agreement. These provisions certainly go a long way toward giving us the means to monitor Soviet compliance with the terms of the treaty, but they cannot be 100-percent effective in detecting violations. They only increase the level of confidence.

In the past, onsite inspection has always been a major obstacle to more meaningful arms control agreements. The breakthrough on INF augurs well for the future.

Mr. President, while I strongly support ratification of the INF Treaty and believe NATO's security will eventually be enhanced if new arms control agreements are negotiated in the future, this treaty must be put in proper perspective.

After the INF missiles have been removed, more than 4,000 NATO nuclear warheads will remain in Western Europe alone. And I am sure the Soviets will maintain a large number in Eastern Europe as well. So I do not believe this treaty will reduce the risk of nuclear war in Europe, and I do not believe that it will reduce the extent of destruction should war occur. This treaty alone will not do that. It must be followed by other agreements.

If the INF Treaty is ratified, the Department of Defense estimates a potential savings in defense expenditures of about $450 million over the next 2 years. Others suggest that resulting savings could be more substantial over the longer term. While this may indeed be the case, let us not fool ourselves.

The United States began deploying large numbers of nuclear weapons in Europe in the 1950's for one very important reason: because of the vastly superior conventional military capabilities of the Warsaw Pact. As we draw down our nuclear forces in Europe, the United States and NATO must maintain modern conventional forces to deter aggression there or anywhere else, and this will cost money.

There will be a need to follow through on previously planned NATO force improvements. America and its allies must make the modernization of NATO forces and further arms control agreements a priority.

In summary, the INF Treaty will produce some important budgetary savings, but those may be offset to some extent by the need to maintain a modern and strong conventional deterrent.

Mr. President, there remains much other unfinished business on the arms control agenda and only some of it involves the superpowers. The proliferation of nuclear weapons to other nations around the world remains to be addressed.

Still, the INF Treaty is a historical agreement, one which gives humanity hope for the future. This treaty serves the national interests of both America and the Soviet Union for it is a stop along the long and tortuous road toward real arms control and heightened international security. As important, this agreement is also in the interests of our NATO allies in Western Europe and has received endorsement from these nation's leaders. The NATO doctrine of flexible response is not endangered by this agreement—provided the necessary improvements are made in NATO conventional forces. NATO will continue to serve as an effective deterrent against Soviet intrusion into Western Europe. Mr. President, I applaud President Reagan's support of arms control and his efforts to reduce the threat of nuclear war. I am hopeful that future adminsitrations will remain committed to arms control negotiations, and the INF Treaty will act as the foundation for future agreements on strategic and long-range missiles.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there will not be any rollcall votes for the remainder of the day.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:55 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1539) to amend the Federal Railroad Safety Act of 1970, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4587. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1989, and for other purposes.

At 4:11 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2969) to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2203. An act to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site;

H.R. 2806. An act to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior;

H.R. 3977. An act to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993;

H.R. 4097. An act to direct the Secretary of the Interior to transfer a certain parcel of land in Clark County, NV;

H.R. 4345. An act to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes;

H.R. 4556. An act to amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program; and

H.R. 4615. An act to establish for the 1988 through 1990 crops of upland cotton and optional acreage diversion program.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2806. An act to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior; to the Committee on Energy and Natural Resources.

H.R. 3977. An act to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993; to the Committee on Energy and Natural Resources.

H.R. 4097. An act to direct the Secretary of the Interior to transfer a certain parcel of land in Clark County, NV; to the Committee on Energy and Natural Resources.

H.R. 4345. An act to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 4587. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

H.R. 4615. An act to establish for the 1988 through 1990 crops of upland cotton an optional acreage diversion program; to the Committee on Agriculture, Nutrition and Forestry.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar.

H.R. 2203. An act to increase the amount authorized to be appropriated with respect to the Sewall Belmont House National Historic Site;

H.R. 4556. An act to amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 2203: A bill to extend the expiration date of Title II of the Energy Policy and Conservation Act (Rept. No. 100-355).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1682: A bill to increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site (Rept. No. 100-356).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2652: A bill to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes (Rept. No. 100-357).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1934: A bill pursuant to the report ordered by P.L. 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States and for other purposes (Rept. No. 100-358).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Rear Admiral Clyde T. Lusk, Jr., as Vice Commandant, United States Coast Guard with the grade of vice admiral while so serving;

Vice Admiral James C. Irwin, as Commander, Atlantic Area, U.S. Coast Guard, with the grade of vice admiral while so serving; and

Lemoine V. Dickinson, Jr., of Virginia, to be a member of the National Transportation Safety Board for the remainder of the term expiring December 31, 1988.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably a nomination list in the Coast Guard which appeared in full in the Congressional Record of May 9, 1988, and, to save the expense of reprinting the list on the Executive Calendar, I ask that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Michael E. Zacharia, of California, to be an Assistant Secretary of Commerce;

G. Philip Hughes, of Virginia, to be an Assistant Secretary of Commerce;

John K. Stewart, of California, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years; and

James P. Moore, Jr., of Pennsylvania, to be an Assistant Secretary of Commerce.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. Durenberger, Mr. Levin, Mr. Weicker, Mr. Dixon, Mr. Murkowski, Mr. Wilson, Ms. Mikulski, Mr. Roth, Mr. Boschwitz, Mr. Moynihan, Mr. Simon, Mr. D'Amato, Mr. Riegle, Mr. Chafee, Mr. Helms, Mr. Pell, Mr. Kerry, and Mr. Byrd):

S. 2426. A bill to designate 16th Street, Northwest, in front of the Polish Embassy as "Solidarity Corner"; considered and passed.

By Mr. PRESSLER:

S. 2427. A bill to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOSCHWITZ:

S. 2428. A bill to amend title VII of the Civil Rights Act of 1964 to prohibit discrimination based on race, color, religion, sex, handicap, national origin, or age in employment in the legislative or judicial branches of the Federal Government; and to establish the Employment Review Board composed of senior Federal judges, which shall have authority to adjudicate claims regarding such discrimination; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE (for himself, Mr. Boren, Mr. Burdick, Mr. Dodd, Mr. Dole, Mr. Garn, Mr. Gore, Mr. Lautenberg, Mr. Matsunaga, Mr. McClure, Mr. Moynihan, Mr. Pell, Mr. Reid, Mr. Rockefeller, Mr. Sanford, Mr. Stennis, Mr. Wallop, and Mr. Weicker):

S. Res. 433. A resolution to designate the period commencing on August 7, 1988, and ending August 14, 1988, as "Canoe World Sprints Week"; to the Committee on the Judiciary.

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 434. A resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in United States of America v. John M. Mistretta; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER:

S. 2427. A bill to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial; to the Committee on Banking, Housing, and Urban Affairs.

1991 MOUNT RUSHMORE COMMEMORATIVE COIN ACT

Mr. PRESSLER. Mr. President, in just a few years, we will reach another milestone in the history of our Nation as we celebrate the Golden Anniversary of the Mount Rushmore National Memorial. My State of South Dakota is proud of what is called the "Shrine of Democracy" that has inspired countless thousands of people throughout the world.

The faces of George Washington, Thomas Jefferson, Abraham Lincoln, and Theodore Roosevelt rise out of the Black Hills as a reminder to us all—not just of these great Presidents but of man's determination to complete a gigantic task.

The monument's sculptor, Gutzon Borglum, began work on Mount Rushmore in 1927. Borglum himself best stated the purpose of carving the memorial. "We are not here trying to carve an epic, portray a moonlight scene, or write a sonnet; neither are we dealing with mystery or tragedy, but rather the constructive and dramatic moments or crises in our amazing history. We are cool-headedly, clear-mindedly setting down a few crucial, epochal facts regarding the accomplishments of the Old World radicals who shook the shackles of oppression from their light feet and fled despotism to people a continent; who built an empire and rewrote the philosophy of freedom and compelled the world to accept a wiser, happier form of government. Therefore, we believe a nation's memorial should, like Washington, Jefferson, Lincoln, and Roosevelt, have a serenity, a nobility, a power that reflects the gods who inspired them and suggest the gods they have become. Hence, let us place there, carved high, as close to heaven as we can, the words of our leaders, their faces, to show posterity what manner of men they were. Then breathe a prayer that these records will endure until the wind and the rain alone shall wear them away."

And endure it has. More than 2 million people each year visit Mount Rushmore and can't help but leave with a deep appreciation for our country and the freedoms we enjoy.

As much as our country has benefited from Mount Rushmore, I am sad to say that the monument has never been formally dedicated as a memorial. Because Gutzon Borglum died in 1941, when our country was becoming involved in World War II, our Nation never has formally recognized the official status of these mammoth carvings as a national memorial.

This brief history lesson is intended to call attention to legislation I am introducing today calling for the minting of a commemorative coin by the U.S. Mint to recognize Mount Rushmore on its Golden Anniversary in 1991. As the 50th birthday party approaches, I feel a series of commemorative coins would be an appropriate way to recognize the important role of Mount Rushmore in our Nation's identity.

Mr. President, you will recall the massive fundraising effort leading up to the centennial celebration for the Statue of Liberty. We all are touched by the sentiment and message of that statue. To help raise the money for improvements to Lady Liberty, the U.S. Mint issued commemorative coins. A portion of the surcharge on the sale of each coin was directed to the Statue of Liberty Foundation for upgrading and improving the statue.

I suggest that we commit ourselves to the same kind of program for Mount Rushmore. The facilities are in great need of physical improvements and expansion to accommodate the onrush of tourists and other visitors who will desire to be a part of the Golden Anniversary. My legislation calls for 50 percent of the surcharge on each coin be directed to the Mount Rushmore Society, a nonprofit organization that has had an active part in the support and operation of the memorial for nearly 58 years. The remaining 50 percent would be designated to the Federal treasury specifically for the reduction of the national debt.

There have been no substantial improvements to the present Mount Rushmore facilities since 1964. Since that time, the annual visitation level has nearly doubled.

Regardless of the fundraising portions of the legislation, I believe the Mount Rushmore coin will enhance recognition of our "Shrine of Democracy" and the human spirit's unlimited capability.

I urge my colleagues to think carefully of what Mount Rushmore stands for and what it means to the collective personality of our Nation. I am sure that kind of introspection will lead to support of the Mount Rushmore Commemorative Coin Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my speech.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "1991 Mount Rushmore Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 500,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.0850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such five dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such five dollar coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Mount Rushmore: Shrine of Democracy", "Golden Anniversary 1941-1991", "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 2.5 million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Mount Rushmore: Shrine of Democracy", "Golden Anniversary 1941-1991", "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 2.5 million half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of such half dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Mount Rushmore: Shrine of Democracy", "Golden Anniversary 1941-1991", "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

(b) The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Mount Rushmore National Memorial Society of Black Hills (hereafter in this Act referred to as the "Society").

SEC. 5. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

SEC. 6. ISSUANCE OF THE COINS.

(a) TIME FOR ISSUANCE.—The coins authorized under this Act shall be issued beginning on January 1, 1991.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities and shall be struck at no more than one facility of the United States Mint.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

Of the total surcharges received by the Secretary from the sale of the coins issued under this Act—

(1) 50 percent shall be returned to the Federal Treasury for purposes of reducing the national debt; and

(2) 50 percent shall be promptly paid by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Society as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Nothwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to the Mount Rushmore National Memorial Society of Black Hills; and

(3) the Secretary shall charge the coinage profit fund will all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration.

ADDITIONAL COSPONSORS

S. 508

At the request of Mr. LEVIN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 508, a bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes.

S. 684

At the request of Mr. HEINZ, the names of the Senator from Missouri [Mr. DANFORTH], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 684, a bill to amend the Internal Revenue Code of 1986 to make permanent the targeted jobs credit.

S. 2042

At the request of Mr. DURENBERGER, the names of the Senator from Virginia [Mr. WARNER], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2136

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2136, a bill to deny discretionary project funds to States that voluntarily reduce the period of availability of interstate highway construction funds for any fiscal year.

S. 2192

At the request of Mr. INOUYE, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2192, a bill to amend titles XVIII and XIX of the Social Security Act to clarify that psychologists are included within the definition of licensed health professional.

S. 2221

At the request of Mr. MCCAIN, the names of the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Indiana [Mr. LUGAR], the Senator from Kentucky [Mr. FORD], the Senator from Alabama [Mr. HEFLIN], the Senator from California [Mr. WILSON], the Senator from Texas [Mr. BENTSEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Kansas [Mr. DOLE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2221, a bill to expand our national telecommunications system for the benefit of the hearing-impaired, and for other purposes.

S. 2240

At the request of Mr. JOHNSTON, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2240, a bill to amend the act to reauthorize the State Mining and Mineral Resources Research Institute program, and for other purposes.

S. 2377

At the request of Mr. EXON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 2377, a bill to amend the United States Grain Standards Act to improve the quality of United States grain, and for other purposes.

SENATE JOINT RESOLUTION 141

At the request of Mr. NICKLES, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day".

SENATE JOINT RESOLUTION 169

At the request of Mr. MOYNIHAN, the names of the Senator from Connecticut [Mr. DODD], the Senator from Missouri [Mr. DANFORTH], the Senator from Alabama [Mr. SHELBY], the Senator from Arkansas [Mr. PRYOR], the Senator from North Carolina [Mr. SANFORD], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Joint Resolution 169, a joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi.

SENATE JOINT RESOLUTION 180

At the request of Mr. PRESSLER, the names of the Senator from Maine [Mr. COHEN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 180, a joint resolution designating the honeybee as the national insect.

SENATE JOINT RESOLUTION 272

At the request of Mr. DURENBERGER, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Virginia [Mr. WARNER], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 272, a joint resolution to designate November, 1988, as "National Diabetes Month".

SENATE JOINT RESOLUTION 288

At the request of Mr. BOREN, the names of the Senator from Texas [Mr. GRAMM], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 288, a joint resolution to designate the week of June 5, 1988, through June 11, 1988, as "National Intelligence Community Week".

SENATE JOINT RESOLUTION 315

At the request of Mr. DECONCINI, the names of the Senator from Washington [Mr. ADAMS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Joint Resolution 315, a joint resolution designating 1989 as, "Year of the Young Reader".

SENATE JOINT RESOLUTION 318

At the request of Mr. ARMSTRONG, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Oklahoma [Mr. BOREN], the Senator from Texas [Mr. GRAMM], the Senator from California [Mr. WILSON], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Utah [Mr. HATCH], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Arizona [Mr. DECONCINI], the Senator from Idaho [Mr. SYMMS], the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. HEFLIN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Kansas [Mr. DOLE], the Senator from Maryland [Mr. SARBANES], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nevada [Mr. HECHT], the Senator from Nevada [Mr. REID], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 318, a joint resolution to designate the week of July 25-31, 1988, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War."

SENATE JOINT RESOLUTION 325

At the request of Mr. ROCKEFELLER, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Georgia [Mr. FOWLER], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Rhode Island [Mr. PELL], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 325, a joint resolution designating the third week in May 1989 as "National Tourism Week."

SENATE CONCURRENT RESOLUTION 117

At the request of Mr. CHILES, the names of the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Concurrent Resolution 117, a concurrent resolution to express the sense of the Congress regarding relief for the United States Citrus Industry under section 301 of the Trade Act of 1974 and other appropriate relief.

SENATE RESOLUTION 408

At the request of Mr. MITCHELL, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Colorado [Mr. WIRTH], the Senator from Ohio [Mr. METZENBAUM], the Senator from North Dakota [Mr. BURDICK], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Resolution 408, a resolution to condemn the use of chemical weapons by Iraq and urge the President to continue applying diplomatic pressure to prevent their further use, and urge the Administration to step up efforts to achieve an international ban on chemical weapons.

SENATE RESOLUTION 418

At the request of Mr. KARNES, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 418, a resolution to expedite consideration of the diesel fuel tax.

SENATE RESOLUTION 426

At the request of Mr. BAUCUS, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Resolution 426, a resolution expressing the sense of the Senate that the seven major industrial nations of the world must take immediate action to protect the Earth's stratospheric ozone layer.

SENATE RESOLUTION 433—DESIGNATING CANOE WORLD SPRINTS WEEK

Mr. INOUYE (for himself, Mr. BOREN, Mr. BURDICK, Mr. DODD, Mr. DOLE, Mr. GARN, Mr. GORE, Mr. LAUTENBERG, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MOYNIHAN, Mr. PELL, Mr. Reid, Mr. Rockefeller, Mr. Sanford, Mr. Stennis, Mr. Wallop, and Mr. Weicker) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 433

Whereas outrigger canoe racing became a recreational sport during the reign of King Kamehameha V in the mid-1800s;

Whereas since the days of Kamehameha V, outrigger canoe racing has become an international sport, and outrigger canoe building has become an international craft;

Whereas the World Sprints competition has been held every two years since 1984 to promote sportsmanship, teamwork, and the skillful art of crafting outrigger canoes, as well as peace and goodwill among nations;

Whereas the 1988 World Sprints will be held on Oahu, Hawaii, with 8,000 canoe paddlers, including 3,000 athletes from all over the world, expected to participate: Now, therefore, be it,

Resolved, by the Senate of the United States of America that the period commencing on August 7, 1988, and ending on August 14, 1988 is recognized as "Canoe World Sprints Week."

● Mr. INOUYE. Mr. President, I rise to submit a resolution commemorating August 7 through August 14, 1988 as "Canoe World Sprints Week."

The sport of outrigger canoe racing began in Hawaii in the mid-1800's during the reign of King Kamehameha V. Prior to that time, Hawaiian natives used canoes for travel, trading, and transporting food. Grand canoes were made by skillful Hawaiian craftsmen using koa grown in forests along the Kona Coast of the Island of Hawaii.

As a recreational sport, outrigger canoe racing fostered competition between the islands of Hawaii and Oahu with each participant boasting of his knowledge of the water currents, and his creative ability to navigate a canoe. The races promoted sportsmanship and teamwork among the participants.

The thrill of victory was a momentous occasion. The winning canoe paddlers were awarded cattle, pigs, chicken, tapa cloth made from the bark of the mulberry tree, and sometimes, women.

With changing times and technology, koa canoes slowly became obsolete. Fiberglass canoes became the leading model for its speed and sleekness. Further, traditional Hawaiian paddles gave way to lighter T-topped American-Indian bent shafts. In addition, the awards were replaced with medals, trophies, and certificates, a far cry from the earlier awards. New methods of canoe construction rapidly made this sport available throughout the rest of the world, leading to the development of international competition.

The World Sprints competition has been held every 2 years since 1984 to promote sportsmanship, teamwork, and the skillful art of crafting outrigger canoes. This intensely competitive, yet friendly sporting event, is a valuable means of fostering peace and goodwill among nations.

The first World Sprints event was held in Long Beach, CA, and the second was in Taaone, Tahiti. This year it will come to the Hawaiian Islands.

The 1988 World Sprints competition, sponsored by the Hawaiian Canoe Racing Association, will be held from August 7 through August 14 on the island of Oahu. 8,000 canoe paddlers, including 3,000 athletes from foreign countries are expected to participate.

It is my pleasure and honor to submit this resolution commemorating August 7 through 14, 1988 as "Canoe World Sprints Week." ●

SENATE RESOLUTION 434—DIRECTING THE SENATE LEGAL COUNSEL TO APPEAR AS AMICUS CURIAE IN THE NAME OF THE SENATE IN UNITED STATES OF AMERICA AGAINST JOHN M. MISTRETTA

Mr. BYRD (for himself and Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 434

Whereas, in *United States of America* v. *John M. Mistretta*, Nos. 87-1904 and 87-7028, pending in the Supreme Court on cross-petitions for a writ of certiorari before judgment to the United States Court of Appeals for the Eighth Circuit, the constitutionality of the Sentencing Reform Act of 1984 has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288l(a)(1982), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *United States of America* v. *John M. Mistretta* in support of the constitutionality of the Sentencing Reform Act of 1984.

AMENDMENTS SUBMITTED

INF TREATY

HELMS EXECUTIVE AMENDMENT NO. 2115

Mr. HELMS proposed an amendment to Treaty Document 100-11, Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles; as follows:

In Article I of the proposed treaty insert before the period the following: "; provided, further, that each Party shall in conjunction with elimination of its intermediate-range and shorter-range missiles also eliminate the nuclear warhead devices and their associated guidance elements on such systems and shall not have such warhead devices and associated guidance elements thereafter except that each Party may extract the fissionable material in such warhead devices prior to their elimination. The elimination of warhead devices and their associated guidance elements which is required by this Article shall be accomplished in accordance with procedures and schedules set forth in the Protocols to this Treaty".

HOLLINGS EXECUTIVE AMENDMENT NO. 2116

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to Treaty Document 100-11, supra; as follows:

At the end of Article II, paragraph 2, after "vehicle", add the following words: "equipped with nuclear warheads".

MURKOWSKI (AND OTHERS) EXECUTIVE AMENDMENT NO. 2117

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself, Mr. Hollings, Mr. Grassley, Mr. Symms, and Mr. Karnes) submitted a declaration intended to be proposed by them to the resolution of ratification to Treaty Document 100-11; as follows:

At the end of the resolution of ratification add the following:

"The President shall not exchange instruments of ratification unless, using existing powers, he communicates to the Soviet Union that the advice and consent to ratification given by the Senate in this resolution of ratification is subject to the declaration that any subsequent agreement between the United States and the Soviet Union regarding the reduction of Strategic Weapons should preserve the right of the United States and its North Atlantic Treaty Organization allies to develop and deploy conventionally-armed air and sea launched cruise missiles of all ranges, and develop and deploy conventionally-armed ground launched cruise missiles of ranges not prohibited by the INF Treaty."

DECONCINI (AND OTHERS) AMENDMENTS NOS. 2118-2122

(Ordered to lie on the table.)

Mr. DeCONCINI (for himself, Mr. Lautenberg, Mr. Grassley, Mr. D'Amato, Mr. Symms, Mr. Wallop, Mr. Wirth, Mr. Hatch, Mr. Armstrong, Mr. Dixon, Mr. Specter, Mr. Metzenbaum, Mr. Wilson, Mr. Gramm, Mr. Weicker, Ms. Mikulski, and Mr. Graham) submitted five amendments intended to be proposed to Treaty Document 100-11, supra; as follows:

Executive Amendment No. 2118

At the end of ________, add the following:

"The advice and consent to ratification given by the Senate under this resolution of ratification is subject to the following declaration and understandings, which the President using existing authority shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

"(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls upon the President to use every opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace;

"(2) the understanding that the President shall seek sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

"(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the 'Helsinki Final Act'),

"(B) the Madrid Concluding Document of the Commission on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the 'Madrid Concluding Document'),

"(C) the Universal Declaration of Human Rights (also known as the 'Universal Declaration'), and

"(D) other international human rights agreements to which the Soviet Union is a signatory or party,

including provisions relating to—

"(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,

"(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness, and

"(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers; and

"(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document".

EXECUTIVE AMENDMENT NO. 2119

In lieu of the matter proposed to be stricken, insert the following:

"The advice and consent to ratification given by the Senate under this resolution of ratification is subject to the following declaration and understandings, which the President using existing authority shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

"(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls upon the President to use every opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace;

"(2) the understanding that the President shall seek sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

"(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the 'Helsinki Final Act'),

"(B) the Madrid Concluding Document of the Commission on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the 'Madrid Concluding Document'),

"(C) the Universal Declaration of Human Rights (also known as the 'Universal Declaration'), and

"(D) other international human rights agreements to which the Soviet Union is a signatory or party,

including provisions relating to—

"(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,

"(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness,

"(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and

"(iv) the right of individuals to know and act upon their rights and duties in these agreements; and

"(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document".

EXECUTIVE AMENDMENT NO. 2120

In lieu of the matter proposed to be inserted, insert the following:

"The advice and consent to ratification given by the Senate under this resolution of ratification is subject to the following declaration and understandings, which the President using existing authority shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

"(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls upon the President to use every opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace;

"(2) the understanding that the President shall seek sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

"(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the 'Helsinki Final Act'),

"(B) the Madrid Concluding Document of the Commission on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the 'Madrid Concluding Document'),

"(C) the Universal Declaration of Human Rights (also known as the 'Universal Declaration'), and

"(D) other international human rights agreements to which the Soviet Union is a signatory or party,

including provisions relating to—

"(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,

"(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness,

"(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and

"(iv) the right of individuals to know and act upon their rights and duties in these agreements; and

"(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document".

EXECUTIVE AMENDMENT NO. 2121

At the end of the pending question, add the following:

"The advice and consent to ratification given by the Senate under this resolution of ratification is subject to the following declaration and understandings, which the President using existing authority shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

"(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls upon the President to use every opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace;

"(2) the understanding that the President shall seek sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

"(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the 'Helsinki Final Act'),

"(B) the Madrid Concluding Document of the Commission on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the 'Madrid Concluding Document'),

"(C) the Universal Declaration of Human Rights (also known as the 'Universal Declaration'), and

"(D) other international human rights agreements to which the Soviet Union is a signatory or party,

including provisions relating to—

"(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,

"(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness,

"(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and "(iv) the right of individuals to know and act upon their rights and duties in these agreements; and

"(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document".

EXECUTIVE AMENDMENT No. 2122

At the end of __________, add the following:

"The advice and consent to ratification given by the Senate under this resolution of ratification is subject to the following declaration and understandings, which the President using existing authority shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

"(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls upon the President to use every opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace;

"(2) the understanding that the President shall seek sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

"(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the 'Helsinki Final Act'),

"(B) the Madrid Concluding Document of the Commission on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the 'Madrid Concluding Document'),

"(C) the Universal Declaration of Human Rights (also known as the 'Universal Declaration'), and

"(D) other international human rights agreements to which the Soviet Union is a signatory or party,

including provisions relating to—

"(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,

"(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness,

"(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and

"(iv) the right of individuals to know and act upon their rights and duties in these agreements; and

"(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document".

NOTICE OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. **MELCHER.** Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled a hearing on the EEOC's Performance in Enforcing the Age Discrimination in Employment Act.

The hearing will take place on Friday, June 24, 1988, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building in Washington, D.C.

For further information, please contact Max Richtman, Staff Director, at (202) 224-5364.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. **BUMPERS.** Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on June 21, 1988, beginning at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on S. 2055, a bill to designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management, and for other purposes.

For further information regarding the hearing, please contact Beth Norcross of the subcommittee staff, at (202) 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 24, 1988, to hold an executive business meeting.

The **PRESIDING OFFICER.** Without objection, it is ordered.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 24, 1988, to hold a Department of Justice authorization hearing on the criminal division.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 24, 1988, to hold a hearing on issues pertaining to children's health care.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, May 24, 1988 to conduct a hearing on the conclusions and recommendations of the President's Working Group on financial markets.

The **PRESIDING OFFICER.** Without objection, it is ordered.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, May 24, 1988 to conduct a markup of: S. 1776, the American Coin Redesign Act; H.R. 3251, Bicentennial of the Congress Commemorative Coin Act; S. 1987, Indian Housing Act; extension of the McKinney Homeless Assistance Act; the portion of the United States/Canada Fair Trade Act under the jurisdiction of the committee; and nominations.

The **PRESIDING OFFICER.** Without objection, it is ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, May 24, 1988, to receive testimony on the United States-Canadian free trade agreement.

The **PRESIDING OFFICER.** Without objection, it is ordered.

SUBCOMMITTEE ON LABOR

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Tuesday, May 24, 1988 to conduct a hearing on "Waiver of rights under the Age Discrimination in Employment Act."

The **PRESIDING OFFICER.** Without objection, it is ordered.

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 24, 1988, to hold a hearing on the export potential of the U.S. travel and tourism industry.

The **PRESIDING OFFICER.** Without objection, it is ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on May 24, 1988, to receive testimony on the Department of Energy's fiscal year 1989 budget request for nuclear reactor and space nuclear power research and development.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Ms. Kathryn Gest, a member of the staff of Senator COHEN, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from May 28–June 5, 1988.

The committee has determined that participation by Ms. Gest in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Barry Strumpf, a member of the staff of Senator HOLLINGS, to participate in a program in Taiwan, sponsored by the Tamkang University, from May 26–June 3, 1988.

The committee has determined that participation by Mr. Strumpf in the program in Taiwan, at the expense of the Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Gerald E. Connolly, a member of the staff of the Foreign Relations Committee, to participate in a program in the Republic of China, sponsored by the Eisenhower Fellows Association, during the fall recess of 1988.

The committee has determined that participation by Mr. Connolly in the program in the Republic of China, at the expense of the Eisenhower Fellows Association, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. David Poisson, a member of the staff of Senator SANFORD, to participate in a program in Taiwan, sponsored by Tamkang University, from May 26–June 3, 1988.

The committee has determined that participation by Mr. Poisson in the program in Taiwan, at the expense of the Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dr. John Starrels, a member of the staff of the Joint Economic Committee, to participate in a workshop in the German Democratic Republic, sponsored by the Vienna Institute for Comparative Economic Studies in Berlin, from May 8–15, 1988.

The committee has determined that participation by Dr. Starrels in the program in the German Democratic Republic, at the expense of the German Democratic Republic Government and the State Department, is in the interest of the Senate and the United States.●

CAPITAL GAINS AND AMERICAN ECONOMIC TRANSITION

● Mr. BOSCHWITZ. Mr. President, for over a year now I have been coming to the floor of the U.S. Senate to speak about the need for reducing the tax on capital gains in order to stimulate capital formation and job creation. Now a respected body, the Office of Technology Assessment, has joined the debate in support of reduced capital gains tax rates in a report entitled, "Technology and the American Economic Transition: Choices for the Future."

The purpose of this new independent report, requested by eight committees of Congress, was to "take a broad look at the combined impact of new technologies on American society * * * and identify areas where existing policy might block attractive avenues of growth and where new policies could facilitate growth."

I am particularly pleased that the OTA supports reducing or even repealing the tax on capital gains for assets held at least 3 years. This relief will promote the capital formation that is essential for high-risk ventures that require years to reach maturity. OTA correctly observes that our current tax policy fails the inventor working in the garage because of its emphasis on short-term, risk-free investments. The Tax Code provides no incentive for investors to take risks. The long-term effect of such tax policy will be to curtail capital formation and drastically limit the number of new products and technologies that get out of the garage and into the hands of consumers.

As OTA concludes:

> A competitive and prosperous economy depends both on a system of incentives that encourages investors to make money from new ideas, and on a continuous supply of new ideas. * * * It is essential that the United States improve on the way it combines corporate and public resources in the pursuit of innovation. Like education, this is an area where government expenditure should be considered an investment and not consumption.

Mr. President, last year I introduced a bill, S. 444, to reinstate a two-tiered capital gains exclusion of 40 and 60 percent on assets held 1 and 3 years respectively. It would go a long way toward restoring incentives to make long-term, high-risk investments of the type this country needs if it is to continue to grow and retain its position as a world economic leader.

In addition, I have helped organize the Capital Gains Coalition whose members, Democrats and Republicans, believe that reducing the tax rate for capital gains will stimulate economic growth and lead to the creation of new and better jobs.

Mr. President, it is ironic that the OTA report was issued at a time when the President is deciding whether to veto the omnibus trade bill. Although the trade bill was touted as a means for expanding U.S. trade opportunities, it has little to do with trade and a lot to do with embarrassing our allies and tying the hands of the administration. Frankly, we would do more to expand market opportunities for American companies if we would reduce the tax on capital gains.●

A TRIBUTE TO PENNSYLVANIA'S GREEN THUMB

● Mr. HEINZ. Mr. President, in recognition of "Older Americans" Month, I would like to say a few words expressing my appreciation for the work being done by the Green Thumb Program in my home State of Pennsylvania.

We will share in the concerns and fears of growing older: loss of employment, increasing isolation, loss of friends and relatives, and, all too often, a loss of identify. Green Thumb is one organization that does something about these fears.

From Green Thumb's beginning in 1965, with 280 positions in 4 States, Green Thumb has expanded to over 18,000 workers in 45 States, Puerto Rico, and the District of Columbia. This growth has been marked with continued success in the development of community service projects of which we can all be proud—and no more so than by Pennsylvania's nearly 1,000 "Green Thumbers."

Sponsored by the National Farmers' Union, Green Thumb, Inc., operates under a grant agreement with the Employment and Training Administration of the Department of Labor with Federal funds appropriated under title V of the Older Americans' Act and with contributions from local and State agencies.

Green Thumb is much more than an employment program. It is also a training program—a program of action and involvement. While the program expanded in numbers, its goals and objectives grew with it. Today, this successful and innovative program is dedicated to changing the stereotypes attributed to older workers.

Green Thumb workers are engaged in a broad range of community services from senior nutrition programs to fire protection, energy conservation, public recreation, youth activities and soil conservation. By utilizing the talents of older Americans to perform these community programs, helping both the community at large as well as seniors, Pennsylvania's Green Thumb Program has provided a framework of work and service, important components for each participant to realize his or her self-worth.

Moreover, Green Thumb's efforts to place its workers in unsubsidized employment in the private sector—thereby enabling even more unemployed seniors to participate in its program—is especially commendable. Pennsylvania's Green Thumb organization deserves special praise for its innovative program to award employers who have hired the most older workers who were trained on Green Thumb projects.

I, personally, am proud of the contribution of Green Thumb in so many communities in Pennsylvania, and I am confident that Green Thumb will continue in this impressive tradition for many years to come.●

ERNESTO C. REYNA—NEVADA'S SMALL BUSINESS PERSON OF THE YEAR

● Mr. HECHT. Mr. President, this morning I would like to salute a very important man in my State, Mr. Ernesto C. Reyna. Mr. Reyna is the owner of the McDonalds Restaurant in Boulder City, NV; and has been honored as "Nevada's Small Business Person of the Year for 1987."

In my view, small businesses are the backbone of this Nation's economy. They have contributed to the wealth of this Nation by providing millions of jobs, creating vital products and supplying essential services. These entrepreneurs supply the innovative ideas that keep America at the forefront of an aggressive world market.

Mr. President, as a businessman for over 35 years I realize how difficult it can be to start and run a successful business. Mr. Reyna exemplifies the fierce competitiveness which is needed in today's business world. Perhaps we all could be a little more successful in business an in life if we all lived by Mr. Reyna's philosophy that "As a person you become what you want to be." Mr. Reyna started his climb to success with AT&T in 1976 as a business office supervisor. Within 2 years he was appointed phone store coordinator, and soon, thereafter was offered his own store to manage. Mr. Reyna managed the store for 5 years, but had in the back of his mind, the idea of owning his own McDonalds Restaurant. In 1986 Mr. Reyna was offered a franchise in Boulder City, NV, and the restaurant opened its doors on March 3, 1986. Since opening its doors in 1986 the McDonalds owned by Mr. Reyna has experienced a large increase in sales and anticipates even more growth in the future.

Mr. Reyna and his wife, Joy, are actively involved in the Boulder City community as members of the Chamber of Commerce and the Latin Chamber of Commerce. They also contribute to many charitable organizations in Boulder City because they see it as an opportunity to give something back to the community in return for the generosity it has shown to them. The McDonalds owned by Mr. Reyna is also an integral part of the Boulder City community as one of the city's largest employees.

It is with great pride that I recognize Mr. Reyna and his wife, Joy, for their accomplishments. They embody the hard work and determination that this country was founded on. Keep up the good work.●

ABE STOLAR—PART XII

● Mr. SIMON. Mr. President, recently, Abe Stolar sent a letter to President Reagan. I would like to share his letter with you:

President RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. REAGAN: Remember Abe Stolar, the American stranded with his family in Moscow? This letter is to wish you a very successful trip to the Soviet capital. May you succeed in your efforts for the benefit of peace and for the world at large. I am sure you know how to talk to the Soviets.

I am glad that my family is not Soviet. Yet the Soviets persist in keeping us here. They won't let us free for 13 years now, in spite of several rumors they spread that they are letting us out. Born and raised in Chicago, I did not come to Russia of my own free will.

Your 1987 New Year greetings to us were very supportive at a difficult time. The Soviets still insist, as they did then, that my wife, son and I leave and desert my son's wife and baby (with another baby on the way). Speaking as a father to a father, both of us with young sons, you realize how unwilling I am to go and to leave my son and his family behind, with no hope of ever seeing them again. I want to see my son and his family happy—outside the USSR.

Imagine what an honor it would be to meet my President in Moscow since I am prevented from going to Washington to see him. It would inspire me to see you for a hopeful moment during your 4 day stay after my 57 years of stagnation in the USSR.

It would be a Hollywood dream if my family could leave the Soviet Union together with you. In any case, I feel sure G-d looks upon you and guides you and I pray He will let you win your big fight.

With best wishes,

ABE STOLAR.

Abe has said it all. I urge that we make Abe's dream come true and allow the Stolar family to leave together.●

ERIC DETERS

● Mr. McCONNELL. Mr. President, yesterday I inserted an article into the RECORD detailing the accomplishments of a friend of mine who had worked hard for the Republican Party in Boone County, KY. I have since run across another article that I think should be brought to the attention of my colleagues in this body. The article, which recently appeared in the Kentucky Post, describes the unusual situation faced by another good friend, Mr. Eric Deters.

As the article notes, Eric is the new chairman of the Republican Party in Kenton County, which is adjacent to Boone County. What makes this unusual is that, as his grandfather put it, there has never been a Republican in his family. In fact, many of Eric's family members are well known Democrats in northern Kentucky. Therefore, it is surprising to see Eric rise to such a prominent position in the Republican Party at the young age of 24.

In addition to his political accomplishments, the article mentions many of his private sector achievements as well. Mr. President, I hope that every Member of this body will take the time to read about this outstanding young leader.

The article follows:

[From the Kentucky Post, May 11, 1988]

GOP GIVES FAMILY TREE A SHAKE

(By Tom Williams)

Eric Deters vividly recalls having lunch recently with four men in the Deters family—staunch Democrats all.

He told them he was chairman of the Kenton County Republican Party.

"There was some shock," he said. Then he laughed.

"But they're all conservative Democrats, so they're OK."

Eric, 24, faced a formidable slate of Democrats at the luncheon:

Charles Deters, his father, prominent attorney, bank director, horse breeder.

Jerry Deters, his uncle, owner of the Drawbridge Inn and Oldenberg Brewery, real estate developer.

C.B. "Bud" Deters, his grandfather, former managing editor of The Times-Star, head of his own real estate and insurance company, chairman and longtime member of the Kenton County Airport Board.

Charlie Deters, his great uncle, known in the family as Uncle Charlie, owner of Deters and Daughters Market and Liquors.

Eric Deters' announcement "received general approval. It sort of startled me, but there were no harsh words," said his father, Charles.

Charles also remembers a Sunday morning when Eric told his grandfather that he had registered as a Republican.

"There was a pause, then Dad said, 'Eric, we have never had one of those in the family.'

"But Jerry's wife (Marge) is a Republican and she is Eric's godmother. We blame it on that," Charles added.

Bud Charles Deters said the selection of his 24-year old grandson as Kenton County chairman could help Republicans register more voters.

"Electing a young man is a way to attract other young people," he said. "He's smart and he is a strong believer in the two-party system. I don't recall anyone as young as Eric in the job."

Eric, who lives in Ft. Mitchell, says Republicans also tell him he probably is the youngest to hold the top GOP office in Kenton County.

"I'm sure they relish the idea of giving the party a broader base. They like the idea of me being a young Republican and getting out the young Republican vote," he said.

Eric is an attorney with his father in the firm of Deters, Benzinger and Lavelle in Crestview Hills. He also is a partner with Douglas A. Clemons in Corporate Record Center Inc. in Crescent Springs, a company the two formed earlier this year to store and retrieve records for other companies.

Last month, Eric and cousin Josh announced plans to buy the Covington Haus restaurant in Covington and turn it into a sports bar called Tickets.

Besides registering voters, Eric wants to encourage Republicans to run for Kenton County Fiscal Court and state offices.

The 20-member executive committee is a mixture of veteran Republicans and newcomers, Deters said. The vice chairman is Eileen Harper, of Crestview Hills.

"The ultimate goal is better government," he said. "The state is in a mess. The county, too, is a victim of stagnation. If somebody out there wants to get involved, the Republican Party is the place to do it."

Eric said his job will be more of a challenge "because of my staunch Democratic family and all my Democratic friends."

One of those Democratic friends is James Dressman, who stepped down as judge-executive of Kenton County after 24 years in office. Deters' grandfather Bud can reminisce about working in a relatively rough-and-tumble campaign to oust incumbents and elect Dressman in 1960.

Eric Deters, the Republican, sees a parallel.

"Fiscal court is in need of new blood in the way Judge Dressman provided it 25 years ago."●

BOB BENDICK EARNS CONSERVATION AWARD

● Mr. PELL. Mr. President, I rise to share with my colleagues the news that Bob Bendick, the director of Rhode Island's Department of Environmental Management, has received a national conservation award.

Mr. Bendick is one of 20 individuals and 5 nonprofit organizations to be honored at the Chevron Conservation Awards Program banquet tonight in Washington, DC.

I have known and worked with Mr. Bendick for many years. He has the unique distinction of having served Rhode Island as director of the Department of Environmental Management under both Democratic and Republican administrations.

He played a key role in obtaining passage of Rhode Island's first bond issue to preserve our natural and historic heritage. His efforts have earned strong, bipartisan support.

I am confident that I speak for Rhode Islanders, who are concerned about conservation, when I say Mr. Bendick has earned this honor and richly deserves it.

I ask that an article, entitled "DEM Director Bendick Wins Conservation Award," from the Providence (RI) Journal of May 10, 1988 be printed in the RECORD.

The article follows:

DEM DIRECTOR BENDICK WINS CONSERVATION AWARD

PROVIDENCE.—Robert L. Bendick Jr., director of the state Department of Environmental Management since 1982, has received a Chevron Conservation Award in recognition of his role as Rhode Island's "environmental conscience."

The award, $1,000 and a bronze plague, was one of 26 that Chevron Corp. announced Friday it will give to 21 individuals and five organizations in 15 states.

"Yes, I am pleased, I have to admit," Bendick said. "A lot of hard work gets done around here, and sometimes you wonder if anybody notices."

He said he was particularly pleased at being recognized for promoting public and private partnerships to preserve open space for conservation and recreation. He also was cited as one of the state's most able administrators.

Bendick said he will visit Washington May 18 to accept the award.

The Chevron awards program began in 1954, making it the oldest privately-sponsored one of its kind in the country. It was started and is directed by Ed Zern, an outdoor writer and conservationist.●

THE 75TH ANNIVERSARY OF ARSENAL TECHNICAL HIGH SCHOOL IN INDIANAPOLIS, IN

● Mr. LUGAR. Mr. President, today marks the 75th anniversary of Arsenal Technical High School—Tech—in Indianapolis, IN. Tech was the brainchild of a dedicated educator, Milo H. Stuart, who worked to combat the high school overcrowding problem Indianapolis faced back in 1903 with the establishment of a strong vocational education program, including an expanded academic curriculum.

Tech is located on the site of a former U.S. arsenal. Its genesis was not without complications—in fact, the Indiana Supreme Court had to ultimately rule on the proper ownershp of the property upon which Tech resides today. It is fortunate for the Indianapolis area and for the many fine students who have attended Tech throughout the years that the court granted the arsenal property to the Indianapolis Board of School Commissioners.

Tech was featured in a Better Homes and Gardens article entitled "Is This the School of Tomorrow?" in September 1945. Tech has proven itself to be just that by growing and enduring throughout the past 75 years. An inscription in the main entry of the school sums up well the general feeling about Tech in the Hoosier State: "It has kept within its heart guns, munitions * * * dark secrets of war * * *, but, now, within its bosom are only fair and peaceable dreams."

As Tech celebrates its 75th year I want to join with those who wish the school—its administrators, its teachers and its students—my sincere congratulations and best wishes for another 75 years of academic excellence.

A TRIBUTE TO ANNA E. PARKER

Mr. President, one can scarcely pay tribute to Arsenal Technical High School—Tech—as I have done, without also paying tribute to a woman who has become an institution at Tech—Anna E. Parker. She is the product of the Indianapolis public schools system, Arsenal Technical High School and Indiana University in Bloomington, IN.

A true Hoosier, Anna Parker remained in the State after graduating from college and shared her wealth of knowledge and her enthusiasm for learning with the students of Tech for some 41 years before retiring. In fact, Anna Parker started at Tech when substitute teachers earned $4 per day. She has been a student or faculty member under every principal who has served at Tech.

Anna Parker believes that the teacher's role is to "provide each student with a sense of individual worth." She has done just that over the years. To quote Anna Parker: "There are two kinds of students, those that want to learn and those that don't * * * two kinds of parents, those who cooperate and those who don't * * * two kinds of teachers, those who are dedicated and those who wait on a paycheck * * * and two kinds of administrators, those who are dedicated and intent upon improving the education profession, and those who are waiting on a paycheck."

Anna Parker certainly falls into the dedicated category, as she has devoted her life to teaching the youth of Indiana. Tech was very fortunate to be the recipient of her warmth and wisdom over four decades. So, as I honor Tech, I cannot do so without honoring a powerful part of its history—Anna Parker.●

MEASURE PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous, as in legislative session, consent to place on the calendar H.R. 4556, a bill relating to certain cross-compliance requirements under the Extra Long-Staple Cotton Program, just received from the House.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

APPEARANCE BY SENATE LEGAL COUNSEL AS AMICUS CURIAE

Mr. **BYRD**. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in a pending proceeding in the Supreme Court of the United States, and ask for its immediate consideration.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A Senate resolution (S. Res. 434) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in *United States of America* v. *John M. Mistretta.*

The Senate proceeded to consider the resolution.

Mr. **BYRD**. Mr. President, the Congress enacted the Sentencing Reform Act of 1984 in an effort to eliminate unjustifiable disparities in criminal sentences. To formulate guidelines for sentencing, the Congress established the U.S. Sentencing Commission as an independent commission in the judicial branch of the United States. The members of the Commission are appointed by the President and may be removed by him only for neglect of duty or malfeasance in office or for other good cause shown. At least three of the members must be Federal judges selected from a list of six judges who are recommended to the President by the Judicial Conference of the United States.

Since the guidelines went into effect on November 1, 1987, defendants around the country have claimed that the Sentencing Reform Act violates the separation of powers. Last week the Solicitor General asked the Supreme Court to review that issue in a case in which the U.S. District Court for the Western District of Missouri upheld the constitutionality of the law. The defendant in that case has joined in the request. Both the Solicitor General and the defendant are requesting the court to take the case in advance of review in the court of appeals on the ground that the public importance of the case justifies deviating from normal appellate practice and requires immediate resolution in the Supreme Court. There is substantial concern that the criminal justice system is in serious disorder as the result of divergent decisions by dozens of district courts on the constitutionality of the new sentencing law.

On January 27, 1988, the Attorney General formally notified the President pro tempore of the Senate that, in defending the guidelines issued under the 1984 act, the Department of Justice would assert that Congress could delegate only to the executive branch, but not to the judicial branch, the task of formulating sentencing guidelines. For that reason the Attorney General advised the Senate that the Department might ask the courts to sever the provision of the law which places the Sentencing Commission in the judicial branch. Indeed, in the course of the many district court proceedings about the law, the Department of Justice has devoted substantial energies to supporting its characterization of the Commission as an entity of the executive branch.

In contrast, the Commission has appeared as amicus curiae to support the statute as enacted by the Congress. In defense of the act, the Commission will be urging the Supreme Court that the task of the Commission is to aid the judicial function of sentencing. The Congress has determined that this mission should be performed independently so that the public will understand that the sensitive function which the Commission performs is free from undue influence by either prosecutorial or defense interests.

This resolution directs the Senate Legal Counsel to appear in the Supreme Court as amicus curiae in the name of the Senate in order to join the Sentencing Commission in defending the constitutionality of the Sentencing Reform Act of 1984.

The **PRESIDING OFFICER**. The question is on agreeing to the resolution.

The resolution (S. Res. 434) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 434

Whereas, in *United States of America* v. *John M. Mistretta,* Nos. 87-1904 and 87-7028, pending in the Supreme Court on cross-petitions for a writ of certiorari before judgment to the United States Court of Appeals for the Eighth Circuit, the constitutionality of the Sentencing Reform Act of 1984 has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a) (1982), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *United States of America* v. *John M. Mistretta* in support of the constitutionality of the Sentencing Reform Act of 1984.

ORDERS FOR WEDNESDAY

RECESS UNTIL 9:30 A.M.

Mr. **BYRD**. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

MORNING BUSINESS

Mr. **BYRD**. Mr. President, I ask unanimous consent that following the two leaders on tomorrow there be a period for morning business not to extend beyond 10 o'clock and that Senators may speak during that period for not to exceed 5 minutes each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

RESUME CONSIDERATION OF THE INF TREATY

Mr. **BYRD**. Mr. President, I ask unanimous consent that at the hour of 10 o'clock tomorrow morning the Senate resume consideration of the INF Treaty.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. **BYRD**. Mr. President, does the distinguished Republican leader have anything further he wishes to say or any business he wishes to transact?

Mr. **DOLE**. No, only to thank the majority leader for his efforts in completing the treaty.

Mr. **BYRD**. Mr. President, I thank the Republican leader.

RECESS TO WEDNESDAY, MAY 25, 1988, AT 9:30 A.M.

Mr. **BYRD**. Mr. President, there being no further business, I move in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 tomorrow morning.

The motion was agreed to; and, at 7:36 p.m., the Senate recessed until Wednesday, May 25, 1988, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 24, 1988:

DEPARTMENT OF STATE

WILLIAM ANDREAS BROWN, OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JOHN ANDERSON, JR., [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. EDWARD J. PHILBIN, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. MICHAEL ADAMS, [redacted] FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DAVID T. ARENDTS, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. CHARLES J. BOWLING, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. NICHOLAS EREMITA, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DON E. FOLLIS, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DENNIS B. HAGUE, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. FREDERICK R. KEITH, JR., [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JAMES E. KINTZI, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. GARY C. NELSON, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DAVID L. QUINLAN, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JERALD D. SLACK, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOHN C. STAFFORD, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. GERALD W. SWARTZBAUGH, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOSEPH A. WASHINGTON, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOHN W. WOOD, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

IN THE ARMY

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A) AND 3351(A):

To be major general

BRIG. GEN. PHILLIP B. FINLEY, [redacted]

To be brigadier general

COL. RICHARD C. ALEXANDER, [redacted]
COL. STANLEY M. HENG, [redacted]
COL. WAYNE F. WAGNER, [redacted]

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

LINE OF THE AIR FORCE

To be colonel

RICHARD E. COE, [redacted]
RICHARD A. LAWHERN, [redacted]

To be lieutenant colonel

WILLOUGHBY G. BURNS III, [redacted]
TERRY L. MARTIN, [redacted]

To be major

ROBERT D. BRODY, [redacted]
DANIEL H. FRAZEE, [redacted]
STEPHEN G. PETERS, [redacted]
MAX J. ROADRUCK, JR., [redacted]
STANELY J. SOWA, [redacted]

JUDGE ADVOCATE

To be lieutenant colonel

PHILLIP A. WEAVER, [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTIONS 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER):

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. NORMAN F. AUGUST, [redacted] 3/21/88
MAJ. EUGENE J. BALDRATE, [redacted] 3/9/88
MAJ. RONALD K. COLE, [redacted] 3/10/88
MAJ. PERRY M. COLLINS, [redacted] 3/12/88
MAJ. JAMES H. HOUCK, JR., [redacted] 3/18/88
MAJ. CARMEN J. LEONELLI, [redacted] 3/10/88
MAJ. GREGORY P. MARR, [redacted] 3/18/88
MAJ. ELAINE L. MASON, [redacted] 2/29/88
MAJ. ROBERT J. MASON, JR., [redacted] 3/13/88
MAJ. JOHN E. OGLESBY, [redacted] 3/3/88
MAJ. CHARLES M. PALMER, [redacted], 3/16/88
MAJ. PATRICK D. RALSTON, [redacted] 3/5/88
MAJ. DONALD A. ROBERTS, [redacted] 2/26/88
MAJ. JOHN S. SCHRECKENGAUST, 199-34-890, 3/20/88
MAJ. GARY L. STARLING, [redacted] 3/5/88
MAJ. JOSEPH C. THOMAS, [redacted] 3/1/88
MAJ. TOMMY E. TURNER, [redacted] 3/9/88
MAJ. RONALD J. VOGT, [redacted] 2/6/88
MAJ. ANDREW J. WAGNER, [redacted] 2/24/88

LEGAL CORPS

MAJ. ROBERT V. CONOVER, [redacted] 3/5/88
MAJ. PHILLIP O. PETERSON, [redacted] 3/5/88
MAJ. WALTER P. REAMER, [redacted] 3/20/88

CHAPLAIN CORPS

MAJ. RICHARD S. MCGUIRE, [redacted] 2/20/88

MEDICAL CORPS

MAJ. ARNOLD C. EVANS, [redacted] 2/20/88
MAJ. PEDRO M. PERALTA, JR., [redacted] 3/5/88
MAJ. MICHAEL R. SCHOENHALS, [redacted] 3/5/88
MAJ. CALVIN A. SCHULER, [redacted] 3/5/88
MAJ. JOHN E. WALZ, [redacted] 3/7/88

DENTAL CORPS

MAJ. JEFFREY W. VECERE, [redacted] 3/5/88

BIOMEDICAL SCIENCES CORPS

MAJ. LOUIS J. VERDELLI, [redacted] 3/20/88

THE FOLLOWING PERSONS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED:

MEDICAL CORPS

To be lieutenant colonel

GILBERT WESTREICH, [redacted]
EARL L. YUNES, [redacted]
ENRIQUE LEON, [redacted]

THE FOLLOWING PERSON FOR RESERVE OF THE AIR FORCE APPOINTMENT IN GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE:

To be colonel

LLOYD D. GAUVIN, [redacted]

THE FOLLOWING OFFICERS FOR RESERVE ON THE AIR FORCE (NON-EAD) PROMOTION IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 8376 AND 8366, TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

JAMES W. HOWATT, [redacted]

LINE

To be lieutenant colonel

BYRON K. SUTTON, [redacted]
ROBERT M. COCKEY, [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

LINE OF THE AIR FORCE

WILLIAM F. GADBERRY, JR., [redacted]
JOSEPH WADE, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593 AND 3353:

MEDICAL CORPS

To be colonel

MERLIN G. ANDERSON, JR., [redacted]
THOMAS M. CASHMAN, [redacted]
FORREST D. GARRETSON, JR., [redacted]
HERBERT L. MCDONALD, [redacted]
KENNETH K. PAVLIK, [redacted]
HARVEY RUSKIN, [redacted]
DAVID C. SCHWARTZ, [redacted]
JAMES R. STEVENSON, [redacted]
WILLIAM E. YARGER, [redacted]

To be lieutenant colonel

TARVER B. BAILEY, [redacted]
JEFFERY K. BERT, [redacted]
FREDERICK A. BURRIS, [redacted]
JOHN P. EPLING, JR., 436–[redacted]
DAVID S. FINBLOOM, 550–[redacted]
ROBERT S. LEVINE, [redacted]
GANGADHAR L. MADDIWAR, [redacted]
DAVID S. PEOFF, [redacted]
ERNESTO SANTONI, [redacted]
JOHN D. WERSCHKUL, [redacted]

IN THE NAVY

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

RANDY P. AMATO
JOHN W. BEAR
BRADLEY S. G. CHRISTMAS
THOMAS E. COMMON
KATHY L. DAVIS
CHRISTOPHER J. DIXON
JAMES C. EAGAN
PETER J. GASPARINI
WINNIE L. HUSKEY
MARK A. KOURY
DAVID C. LEWIS
NICHOLAS T. NYLEC, III
WILLIAM F. O'BRIEN
DAVID W. OGBURN
EVERETT S. PRATT
BOBBY D. RAFFETY
JULIE A. SUAVE
MARK J. SAVIN
THOMAS J. SCHMIDT
STEVEN J. TAYLOR
KERRY R. H. TEEPLE
PATRICK L. VOLK
CHRISTINE M. WELBORN

THE FOLLOWING-NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

RAYMOND L. DICKENSON, III
TIMOTHY W. FREEHLING
MICHAEL E. HICKS, JR.
AUDREY D. MEANS
WILLIAM D. WOOD

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

LEIGH P. ACKART
MARK A. BECKER
KEITH D. BERRY
JOHN J. CARTY
LEONARD T. GAINES
JEFFREY B. GULDNER
LESLIE W. HEWETT
DEAN C. MATOUSEK
GREGORY B. PRENTISS
CHRISTOPHER A. REDMON
RYAN B. SCHOLL
STEVEN R. ROBERTS

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

BLUETT E. JONES
ERNESTO G. MANGALINDAN
SAMUEL S. NORVELL, JR.

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE SECTION 3385:

ARMY PROMOTION LIST

To be colonel

LESLIE W. BARHAM, [redacted]
JOHN E. BARNETTE, [redacted]
DOUGLAS C. BORBA, [redacted]
FRANKLIN M. CAMPBELL, JR., [redacted]
THEODORE D. HALVORSEN, [redacted]
DONALD J. HATTEN, [redacted]
JACK E. HIHNALA, [redacted]
HOWARD R. MISKE, [redacted]
JAMES W. O'TOOLE, [redacted]
ARTHUR N. PILSBURY, [redacted]
PHILLIP R. SCRUGGS, [redacted]
WILLIAM J. STEELE, [redacted]
FRANCIS D. VAVALA, [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

ARLEY J. BALL, JR., [redacted]
ROBERT D. BALLINGER, [redacted]
FLOYD F. BRANSON, JR., [redacted]
CLYDE L. CROSSAN, JR., [redacted]
ROBERT F. DARAGAN, [redacted]
MICHAEL G. DAVISON, [redacted]
MARVIN R. FLEMING, [redacted]
LEE T. GILLENWATER, [redacted]
JAY P. GORDON, [redacted]
DANIEL T. HALEY, JR., [redacted]
REINALDO HERRERO, [redacted]
DANIEL E. HINTON, SR., [redacted]
STEPHEN C. HOFFMAN, [redacted]
BRITTAIN D. HUMPHREY, [redacted]
WILSON F. HUMPHREYS, JR., [redacted]
ALBERT M. HUTMACHER, [redacted]
AZELL JOHNSON, JR., [redacted]
RICHARD D. JULASON, [redacted]
THOMAS P. KAY, [redacted]
JAMES N. LUNSFORD, [redacted]
ROBERT B. MIDDLETON, [redacted]
JESSE H. MINIX, [redacted]
PAUL E. NEATROUR, [redacted]
MICHAEL N. NII, [redacted]
LEVI H. PERRY, [redacted]
DAVID B. ROGERS, [redacted]
ROBERT S. SCHNURR, JR., [redacted]
TIMOTHY P. SCHULTZ, [redacted]
JAMES C. SIMS, [redacted]
JAMES J. TRACEY, [redacted]
GERALD R. WHITFIELD, [redacted]
MARK E. ZIRKELBACH, [redacted]

CHAPLAIN

To be lieutenant colonel

DANIEL W. GERRES, [redacted]
VICTOR C. LANGFORD, III, [redacted]

MEDICAL CORPS

To be lieutenant colonel

JIM S. LEGAN, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

CHARLEY J. BOURGEOIS, [redacted]
KIP A. LANAM, [redacted]
PURNELL S. RENNINGER, JR., [redacted]

VETERINARY CORPS

To be lieutenant colonel

GEORGE A. MILLIS, [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

MICHAEL J. AGUILAR, [redacted]
CHRISTOPHE M. AREY, [redacted]
WILLIAM G. ASHLEY, [redacted]
BRUCE W. BADER, [redacted]
PAUL B. BARRON, [redacted]
DAVID L. BECK, [redacted]
JOHN E. BENGIER, [redacted]
ROGER R. BIRKHOLZ, [redacted]
REX P. BLANKENHORN, [redacted]
GREGORY D. BORGERT, [redacted]
LOUIS L. BOROS, [redacted]
FRANK X. BRAUN, IV, [redacted]
AARON X. BUTLER, [redacted]
TIMOTHY J. BUTLER, [redacted]
JOSEPH A. BYRTUS, JR, [redacted]
DONALD J. CALL, [redacted]
WILLIAM V. CANTU, [redacted]
TROYDALE CARAWAY, [redacted]
STEVEN D. CARLSON, [redacted]
ROBERT W. CARRICK, [redacted]
JOHN W. CARTER, [redacted]
JAMES E. CARTWRIGHT, [redacted]
JOHN G. CASTELLAW, [redacted]
JOHN F. CHALKLEY, [redacted]
NORMAN A. CHANDLER, II, [redacted]
ERIC C. CHRISTENSON, [redacted]
MICHAEL F. CLOUGH, [redacted]
STEWART J. COBAIN, JR, [redacted]
RONNIE T. COLEY, [redacted]
DARRELL L. COMBS, [redacted]
LARRY A. COMSTOCK, [redacted]
BART J. CONNOLLY, IV, [redacted]
GEORGE M. CONROY, [redacted]
PHILLIP E. COTTON, [redacted]
DENNIS G. COURTNAGE, [redacted]
WAYNE T. CROWDER, [redacted]
JACK C. CRUTCHFIELD, [redacted]
RUSSEL J. CURRER, [redacted]
DOUGLAS R. DAVIS, [redacted]
MARSHALL B. DEFORREST, JR, [redacted]
TIMOTHY E. DONOVAN, [redacted]
BRIAN E. DYCK, [redacted]
WILLIAM R. EDWARDS, [redacted]
MICHAEL E. ENNIS, [redacted]
ROBERT D. ERICK, [redacted]
JAMES E. EVANS, JR, [redacted]
ELLIOTT D. FELLMAN, [redacted]
PAUL M. FENLON, [redacted]
JOHN K. FEUERRIEGEL, [redacted]
ROBERT C. FIGLOCK, [redacted]
JOHN L. FINKLEA, [redacted]
DONALD L. FLEMING, JR, [redacted]
LEONARD S. FOSTER, [redacted]
DAVID B. FRANKE, [redacted]
JOHN F. FRASER, JR, [redacted]
DAVID R. FRY, [redacted]
PATRICK F. GALLAGHER, [redacted]
JON A. GALLINETTI, [redacted]
JOHN R. GARVIN, [redacted]
JOHN M. GAUTREAUX, [redacted]
FREDERICK J. GEIER, [redacted]
RODNEY S. GETZ, [redacted]
JAMES R. GEVOCK, [redacted]
PAUL A. GIDO, [redacted]
JAMES A. GILLIS, III, [redacted]
PHILIP E. GOBLE, [redacted]
MARK T. GOODMAN, [redacted]
ROBERT R. GRIDER, [redacted]
MARGARET N. GUERRERO, [redacted]
EMORY J. HAGAN, III, [redacted]
MARVIN D. HALL, [redacted]
THEODORE N. HAMILTON, [redacted]
JOSEPH P. HEINE, [redacted]
PATRICK T. HENRY, [redacted]
JAMES D. HILDRETH, [redacted]
PAUL C. HOOVER, [redacted]
JAMES P. HOPKINS, [redacted]
HARVEY A. HOPSON, JR, [redacted]
RUSSELL J. HOWALD, [redacted]
TIMOTHY P. HUDSON, [redacted]
JAMES O. HUGGINS, [redacted]
ROGER D. HUGHES, [redacted]
PHILLIP W. HUGHEY, [redacted]
MICHAEL R. HUMBERD, [redacted]
BRUCE D. JAMESON, [redacted]
JOSEPH F. JENNINGS, JR, [redacted]
DONNIE B. JORDAN, [redacted]
MICHAEL M. KURTH, [redacted]
RICHARD R. LAZISKY, [redacted]
ROBERT W. LEAS, [redacted]
THOMAS C. LENKE, [redacted]
DONALD C. LEWIS, [redacted]
RICHARD J. LINHART, JR, [redacted]
RUSSELL L. LLEWELLYN, III, [redacted]
GILBERT B. LOOMIS, III, [redacted]
MARY K. LOWERY, [redacted]
RUDOLPH LOWERY, [redacted]
DEAN T. LUCAS, [redacted]
HARRY M. MACK, [redacted]
MICHELE MANNING, [redacted]
LEO T. MARIER, [redacted]
VICKI T. MARSH, [redacted]
JOSEPH MARTIN, JR, [redacted]
JAMES N. MATTIS, [redacted]
ANDREW F. MAZZARA, [redacted]
ROBERT W. MCLEAN, [redacted]
HAROLD A. MERCER, [redacted]
JOHN S. MERRITT, SR, [redacted]
RONALD S. MITCHELL, [redacted]
STEVEN W. MOCK, [redacted]
RALPH C. MORSE, JR, [redacted]
RICHARD E. MOTL, [redacted]
JOHN W. MUTH, III, [redacted]
ROBERT S. NASBY, [redacted]
GORDON C. NASH, [redacted]
STANLEY W. NORQUIST, [redacted]
JOHN A. ODONOVAN, [redacted]
RALPH E. PARKER, JR, [redacted]
JEFFREY M. PARKINSON, [redacted]
THOMAS S. PHILLIPS, [redacted]
GARY J. PRICE, [redacted]
MICHAEL G. PRZEPIORA, [redacted]
KENNETH W. QUIGLEY, [redacted]
DANIEL G. RALSTON, [redacted]
MICHAEL L. RAPP, [redacted]
EARL K. REED, [redacted]
JOHN W. REED, JR, [redacted]
RONALD W. RICHARDS, [redacted]
GUY B. ROBERTS, [redacted]
JOSEPH J. ROGISH, JR, [redacted]
JOHN R. ROSEWARNE, [redacted]
DAVID K. SAFFLE, [redacted]
TERYL W. SCALISE, [redacted]
GERALD C. SCHOPPE, [redacted]
WILLIAM B. SCOGGINS, [redacted]
BENJAMIN B. SELVITELLE, III, [redacted]
ROYCE G. SETZER, [redacted]
JANE L. SIEGEL, [redacted]
GLENN D. SIMON, [redacted]
RANDALL T. SMITH, [redacted]
JAMES W. SMOOTS, [redacted]
PETER K. SOLECKI, [redacted]
JOHN B. SOLLIS, [redacted]
LAWRENCE D. STAAK, [redacted]
CREIGHTON G. STAFF, [redacted]
CORTEZ D. STEPHENS, [redacted]
NELSON H. STEWART, [redacted]
RONALD P. STIRRAT, [redacted]
JOHN M. STUDENKA, [redacted]
MARY M. SULLIVAN, [redacted]
MICHAEL W. SULLIVAN, [redacted]
STEVEN D. SUMMERS, [redacted]
NICHOLAS P. SVETAHOR, [redacted]
JAMES L. TAYLOR, [redacted]
JOHN A. TEMPONE, [redacted]
CLAYTON R. THOMAS, [redacted]
JOHN F. THORNELL, III, [redacted]
WILLIAM C. TOUREK, [redacted]
DEWEY D. TUCKER, [redacted]
JIMMY T. TURNER, [redacted]
JOHN G. UPTON, [redacted]
JAMES L. VANCE, [redacted]
DENNIS M. VERZERA, [redacted]
KENNETH A. VINCENT, [redacted]
ROBERT J. WALLACE, [redacted]
JAMES P. WALSH, [redacted]
GLENN I. WARRICK, [redacted]
GARY E. WASHBURN, [redacted]
RODERICK E. WHITE, [redacted]
THOMAS E. WHITE, [redacted]
DOUGLAS G. WILSON, [redacted]
FRANCES C. WILSON, [redacted]
FRANCIS C. WINTER, [redacted]
WILLIAM A. WOODS, [redacted]
MICHAEL S. WOODSON, [redacted]

WITHDRAWAL

Executive message, transmitting a withdrawal of a nomination from further Senate consideration, received on May 24, 1988:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

JOHN R. WALL, OF OHIO, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR THE TERM EXPIRING APRIL 27, 1993, REAPPOINTMENT, WHICH WAS SENT TO THE SENATE ON MAY 5, 1987.

HOUSE OF REPRESENTATIVES—*Tuesday, May 24, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, from whom comes every good gift, bless each person who uses the abilities You have given in deeds of good will. Teach each of us to understand our responsibility to the rest of Your creation to share with the needy, to encourage the weak, to comfort the lonely, to strengthen the oppressed and to do justice to all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2167. An act to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts.

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2342) "An act to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. KERRY, and Mr. DANFORTH to be the conferees on the part of the Senate.

PERMISSION FOR SUBCOMMITTEE ON CRIMINAL JUSTICE OF COMMITTEE ON THE JUDICIARY TO SIT THIS WEEK DURING 5-MINUTE RULE.

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Criminal Justice of the Committee on the Judiciary be permitted to sit this week, May 23, 1988 to May 27, 1988, while the House is reading for amendment under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT AS MEMBER OF THE FEDERAL COUNCIL ON THE AGING

The SPEAKER. Pursuant to section 204 of Public Law 98-459 the Chair appoints as a member of the Federal Council on the Aging on the part of the House the following person from the private sector:

Mr. Oscar P. Bobbitt of Austin, TX.

WATER PROJECT BEAUTIFICATION ACT

(Mr. BENNETT asked and was given permission to address the House for 1 minute.)

Mr. BENNETT. Mr. Speaker, today I am introducing a bill which came about because I went to a fish fry recently on Black Hammock Island, and I was shown by the people there how the Corps of Engineers has destroyed some of the beauty of their island by putting a large embankment of earth up there. So this bill will be called the Water Project Beautification Act, and the first section of it will say that the Corps of Engineers will not entertain such projects unless the local government agrees to protect esthetic deprivement. The second section says that in order to assist in the financing of works in section 1, the Secretary acting through the Chief of Engineers may expand not to exceed one-half of 1 percent of Federal funds provided for water resource projects.

Mr. Speaker, this has been long overdue. We have done something similar with regard to the highways in our country, but we have not done this with regard to waterway projects.

Mr. Speaker, I would like to have anyone join me in this bill, if they would like to do it.

DO NOT FORGET OUR MIA'S IN VIETNAM

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, the Vietnam war was a grueling and painful test of wills both in the jungles of Southeast Asia and in the streets of America. Although the political mistakes, social confusion, and military frustration which marked the era resulted in the fall of South Vietnam, Laos, and Cambodia, many of us have since forgotten the war we left 13 years ago.

However, many Americans cannot forget. The children who never saw their fathers, wives who still wait for their husbands, and friends and relatives plagued by lingering doubts about American servicemen still unaccounted for and missing-in-action [MIA] cannot forget. And they do not want to.

They do not want to because it is widely believed that many of the 2,500 American MIA's may still be alive or held captive in Southeast Asia. It is the American way not to forget and only human to hope for the best. Unfortunately, for more than a decade, the Communist government of Vietnam has been uncooperative and arrogant in the face of our sincere and humanitarian petitions for information regarding MIA's. But how can we expect anything else from a nation which continues to severely oppress its own people, much less information about Americans they still condemn.

I think it is the supreme irony to see the Communist Vietnamese regime yearning to normalize relations with the United States. It seems that after all these years they are not necessarily pleased with their Soviet patrons. Among the very poorest nations in the world, Communist Vietnam has made it known they would consider agreements to account for MIA's and repatriate American remains in exchange for economic, development and medical assistance. We can set up an interests section in Hanoi if we send them food-for-peace assistance. We can have human remains which are stockpiled in warehouses if we end our economic isolation of Vietnam. We can confirm our worst fears if we normalize diplomatic relations. To me this sounds shamefully close to ransom and I am appalled by my colleagues who suggest we go along with the deal.

I see no reason to normalize relations with Communist Vietnam based on their word they will be more forthcoming with information on our MIA's. When have they kept their word in the past? Certainly it was not when the 1974 Paris peace accords were signed and the promise not to invade South Vietnam was sealed. Just ask the tens of thousands of Vietnamese "boat people" who continue to flee Vietnam, or the few Cambodians and Laotians who have reached the sanctuary of the United States.

Time and time again the United States closes the kind of heinous game the Communist want to play. Despite Admiral Vessey's best efforts in a complex and emotional atmosphere, he has secured no more than five remains

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in exchange for over $50,000 in medical assistance. Their gain is tangible and ours illusive. It is a game they will draw out for years, "discovering" yet more remains or information when new economic assistance hangs in the balance.

The remains and, where possible, release of American MIA's should not be tied to the economic gain of Communist Vietnam. This is not in our best political interests and far from the way we should remember those who served our country so well.

THE LEGACY OF THE PEN THAT SIGNED THE VETO

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it is true. The President warned, and now he has vetoed the trade bill. But worse, he has stabbed the American workers in the back. Meanwhile, our so-called friends overseas, our trading partners, keep laughing, laughing all the way to the bank.

Mr. Speaker, I am not surprised. This President refuses to admit that his supply-side economic policies have been a stone-cold bust.

But the truth is that the plant closing provision is not the culprit. This administration never wanted a trade bill. It seems that they are more concerned with providing jobs for Japanese people, Taiwanese and people living in the Pacific Rim and in Europe.

But, Mr. Speaker, our workers are not the only casualties today. The veto pen that stabbed them in the back, just went off and shot GEORGE BUSH in the foot. That will be the legacy of this veto pen.

NAJIBULLAH THANKS DEPARTING SOVIET SOLDIERS

(Mr. DREIER of California, asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, like everyone I am pleased that the Soviet Union has begun its widely heralded troop withdrawal from Afghanistan. Unfortunately, many believe that the beginning of a Soviet troop withdrawal is synonymous with an end to the 8½-year-old war. The withdrawal is only a first, long overdue step.

We must remain vigilant and not allow our euphoria over the beginning of a troop withdrawal to cloud the events taking place in Afghanistan. As we knew they would, the Soviets are turning their withdrawal into a public relations success at home and abroad. During a celebration marking their departure, Najibullah—the head of the puppet Afghan Government—thanked the departing Soviets for "rescuing the children, women and elders from the attacks of the mercenary murderers." The "mercenary murderers" to which he refers are the heroes of the Afghan war.

By now, Mr. Speaker, you and our colleagues have met my young Afghan friend, Hazrat Khan. In 1985, Soviet and Afghan Government troops bombed Hazrat's home, fatally wounding his mother and crippling Hazrat for life. Najibullah's praise for the departing Soviet murderers speaks volumes. I hope that our colleagues and the American people will listen.

RESOLUTION FOR THE RELEASE OF MUBARAK AWAD

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, last week I introduced House Concurrent Resolution 304 calling on Israel to release Mubarak Awad, the Palestinian-American peace activist, and to allow him to continue his work on behalf of a nonviolent solution to the problems in the Middle East.

Mubarak Awad's commitment to nonviolence, his willingness to work for peaceful change in the Middle East, strikes a positive chord with all people of conscience. Israel should be reaching out to people like Mubarak Awad rather than seeking to silence them.

As last week's New York Times editorial asks:

> What message would it convey if Israel goes through with this misguided expulsion?
>
> How can Israel ever banish Arab violence if it banishes the very Arabs who preach nonviolence?

I invite my colleagues to join me in cosponsoring this important legislation.

□ 1210

LET CONTINENTAL AIRLINES EMPLOYEES BE HEARD

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY Mr. Speaker, the unions for Eastern Airlines have petitioned the National Mediation Board to hold a hearing to make a decision on whether Texas Air is a single carrier. They have the right to do that, and I applaud their right to do so; but in the meantime, and the whole reason for petitioning the Board is to force Continental Airline employees into a union position and joining a union. It could happen without even voting for union membership.

But the worst thing, Mr. Speaker, is the National Mediation Board has allowed all three unions of Eastern to have a representative and speak at the hearing. They have allowed Continental Airlines and Texas Air to have representatives at the hearing. They have allowed Eastern Air Line employees management to have representatives at the hearing, but they do not allow the Continental employees to even speak before them.

It is unconscionable, Mr. Speaker, unconscionable in this country, the country of freedom, that an agency of this Government will not allow Americans the right to be heard.

I would call on this House and the Members of this House on both sides of the aisle to correct this wrong and force the National Mediation Board to do the right thing. Allow Continental employees the right and the freedom to speak.

TRIBUTE TO A RESCUE ATTEMPT IN WOODWARD, OK

(Mr. ENGLISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGLISH. Mr. Speaker, I rise today to pay tribute to a group of four men in Woodward, OK, who recently displayed a level of courage and selflessness that should be an inspiration to all Americans.

Earlier this spring, a car driven by Mr. and Mrs. Marion Owens in Woodward went out of control and slammed into a gas main, exploding into flames. Immediately, Nathan Lewis, Steve Johnson, Evan Weeks, and John Martinez, Jr., raced to the scene of the accident and risked their lives to pull the elderly couple out of their car.

Although the men succeeded in pulling both people from the vehicle, the Owenses later died from the extensive burns they suffered. My sympathies are with their family.

Mr. Speaker, it is not every day that people so willingly risk their lives as did Messrs. Lewis, Johnson, Weeks, and Martinez. Their bravery and caring for their neighbors was remarkable, and deserves the highest commendation of this House. Nathan Lewis, Steve Johnson, Evan Weeks, and John Martinez have demonstrated those traits that make us proud. I salute them.

CONGRATULATIONS TO U.S. ATTORNEY ROBERT MERKLE FOR SUCCESSFUL PROSECUTION OF CARLOS LEHDER

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise today to offer my congratulations to U.S. Attorney Robert Merkle and his prosecution team for their successful prosecution of Carlos Lehder, a leader of the notorious Medellin cocaine cartel.

While I applaud this historic landmark in our country's war on drugs, we must make even greater progress. For let there be no doubt that we are facing a threat to our national security and the security of Latin America's nascent democracies. We cannot afford to waste any more time arguing over whether we should be fighting the demand-side or the supply-side of the drug plague. Clearly what is needed is an intensified effort on both fronts, working to contain and reduce drug use in the United States and to break up and destroy trafficking rings in Latin America.

Although the President's proposal of a bipartisan Commission on Drug Policy is welcome, I am concerned that the Commission's report not be rushed for the sake of political expediency. The Commission must have sufficient time to consider all sides of the debate if it is to propose effective solutions that will have the support of the American people and our Latin allies. Furthermore, we must face the reality that even the wisest policies and best-conceived programs will not succeed without sufficient funding, effective diplomacy, and sale implementation.

ONE GUILTY, ALL GUILTY

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, the House has been performing a great service for people deprived by the writers' strike of some of their television activities. People have missed somewhat some of David Letterman.

We have got a partial substitute. David Letterman has come forward with a bit that was very popular, known as Stupid Pet Tricks. We cannot come up with stupid pet tricks, but we have given the American people instead stupid drug amendments.

One of the things that has become characteristic of this Chamber is to posture on drugs and also actually doing the old "Ed Sullivan Show," because people are doing contortions to get themselves into the most antidrug posture, never before seen in public.

We had one a few weeks ago which I think gave the President 45 days to make America totally drug free. Now we have a new one. Some of you will remember when you were kids, if one kid talked in class, how you would all be threatened to be kept there after school. Well, we now have an improvement on that. We have one that says as an equivalent that if one kid talks in class, everybody gets expelled, because we have amendments being offered that say on their face, although we are told they do not say what they say, and when you read them you can understand why the people who wrote them do not want people to read them and think that they mean what they say, but what they do say is, and we are somewhat covered by the law when it is passed, what they say is that if anybody in a workplace is caught with drugs, everybody else in the workplace loses his or her job.

That carries the notion of collective punishment further than it has ever been carried before in America.

I think some of my colleagues are underestimating the common sense of the public, and we do not need to go to those depths.

CONGRATULATIONS TO NEW HUNGARIAN GENERAL SECRETARY KAROLY GROSZ

(Mr. KONNYU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KONNYU. Mr. Speaker, I was born in Hungary, and as a result the changes in Hungary's leadership are of special importance to me.

First, I want to congratulate the new leader of Hungary, Karoly Grosz. I believe that his leadership is a turn away from the bloody repressions of the 1956 Hungarian Revolution and that it is good for the free world; however, I ask that the United States policy with respect to Hungary and to the rest of the Iron Curtain countries not rest until freedom as we have in the United States is achieved in the Iron Curtain countries.

THE PLANT CLOSING PROVISIONS

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Mr. Speaker, the President of the United States is vetoing the trade bill because of the plant closing notification that is within it. This is more of the President's trickle-down philosophy. The President obviously believes that the public and the workers have obligations to businesses, corporations, and industry. We have the obligation apparently to provide them with tax breaks, to train their workers. The public, the President believes, has the obligation to provide billions of dollars in subsidies to American business and industry.

Workers have had the obligation, particularly during the past 10 years, to give literally hundreds of millions of dollars of wages and fringe benefits back to corporations. However, the President apparently believes that corporations have no obligation to the public. They appear to have no obligation to the cities, the towns, and the workers. No obligation to even give them 60 days' notice when business is going to close its doors, injure the cities, towns, and States, and throw their employees out of work.

THE INF TREATY IS A BIG MISTAKE

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, the euphoria surrounding the ratification of the INF Treaty mystifies me. This treaty is bad for NATO and bad for the United States, for many reasons.

First, it cannot be verified. The SS-20's are mobile and can be moved at will. How do you verify hundreds of missiles that can be moved?

Second, we do not even know how many SS-20's the Soviets have. The CIA, the DIA, and the State Department have widely varying estimates—estimates, not exact numbers.

Third, the Soviets cheat. They have violated almost every single treaty they have signed with the United States of America.

Fourth. They are replacing their SS-20's with a new generation of missile, the SS-25. This intercontinental nuclear missile can hit not only the United States, but can be retargeted on the same targets as the SS-20 was.

Fifth. NATO forces, including Americans, are outnumbered by Communist Warsaw Pact forces by a 2-to-1 margin, and tanks and field equipment are outnumbered by at least a 3-to-1 margin. NATO will be pressured in the future, to deal with the Soviets on their terms.

Mr. Speaker, the INF Treaty is a mistake, a big mistake.

RECOGNIZING HISTORICAL SIGNIFICANCE OF MASHBURN FAMILY REUNION IN FLORIDA

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, I rise in order to recognize the historical significance of the Mashburn family reunion. Now in its 123d year, the Mashburn family reunion is the oldest continuous reunion of its kind in the United States.

The first Mashburn family reunion was held in May 1866 when Richard B. Mashburn, a member of the Confederate Army, returned home after the Civil War. He was captured near Dallas, GA, on May 28, 1864, and was later sent to military prison at Rock Island, IL. He was released on May 28, 1865, and returned home in May of the following year. The Civil War was one that pitted brother against brother in a time of great turmoil in our Nation. Richard Mashburn's brother, Stephen, served in the Union Army, but after the war the family as well as the Nation, slowly came together again.

The Mashburn family settled in northwest Florida nearly a half century before Florida became a State. This year, as each year, the reunion will take place about 8 miles west of Youngstown, FL, on the banks of beautiful Econifina Creek, and it promises to hold to the true fashion of Mashburn reunions of the past.

In today's world, we too often see the decreasing role of the family. Unfortunately, there are times when needs of the family are not a top priority but placed somewhere on a shelf. Demands for our time have had a negative impact upon what should be the most important unit in our society. Of course, I speak of the family.

The Mashburn family reunion no doubt serves as an excellent example of the retention of the family unit. Not time or distance has prevented them from gathering together on an annual basis to meet, talk of cherished memories, remember loved ones and have a good time. Certainly, this occasion is an example to us all of the good old fashion idea of families staying together.

Seven generations of Mashburns, relatives and friends have celebrated this annual event. In the past years, as many as 5,000 people have attended from all over the United States, coming all the way from Maine to California.

Mr. Speaker, the Mashburn family reunion is truly an historic event, and I congratulate the descendants of the 123d reunion.

A DRUG-FREE WORKPLACE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I guess we should not be surprised that the gentleman from Massachusetts is against drug-free work places, but I guess we can be disappointed. The gentleman spoke a few minutes ago about the action that this Congress has taken by overwhelming majorities to say that we are going to cut off Federal moneys to those work places that cannot certify that they are drug free.

I would think the American people would want that kind of tough action, and I think they have overwhelmingly said over and over again that they want that kind of tough action, but not the gentleman from Massachusetts and not others on the left who for years promoted the idea that drugs were OK in society, and now we reap the whirlwind.

It seems to me that what we need to do is have a drug-free workplace amendment that we then enforce, not ignore.

I am disappointed that later on today evidently the Democrats are going to bring a substitute to the floor on this issue that would literally, and this language amazes me, would literally allow substantial use of drugs in the workplace.

Remember, we are talking about illegal drugs. We are talking about illegal use and possession of controlled substances.

Mr. Speaker, I think it is high time that we get tough. My attempt is to be tough. This is a standard that we have applied to other things. After all, we cut off moneys to the States if they did not enforce the 55-mile-an-hour speed limit. Somehow, I have got to believe that the American people regard doing something about drugs as more important than the 55-mile-an-hour speed limit.

THE OMNIBUS TRADE BILL

(MR. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, no less than 70 percent of the cargo moving through the Port of Baltimore last year consisted of exports. This is an absolutely intolerable situation, not simply because of trade imbalances in the Port of Baltimore, but because this situation is endemic throughout the Nation.

My constituents realize this situation has gone on far too long. We are bankrupting our future and we all know it. My constituents want to get on with the challenge of turning this situation around—sooner rather than later. The trade bill you sent to the President represents the tools we need to get this job started. My constituents have closely followed the progress of this bill, from the education section to the plant closing provision. They understand what this bill represents and they support it.

What they do not understand is the President's opposition and how he could veto this legislation. What is worse, he is basing his objections on the plant closing provisions—a section of the trade bill that would seem to represent simple justice. Many of my constituents may not know the details of these provisions, but they do know simple human decency. Time and time again they have come to me questioning the President's position on this issue—how could this most decent provision scuttle all the work we have put into this bill?

Mr. Speaker, the failure to override the veto of the trade bill will hurt this Nation greatly and will not produce any better bill down the road. My constituents do not understand the basis of the President's objections in this situation, given all the factors involved, and frankly neither do I.

THE DEMOCRATIC PROCESS IN NOMINATING PRESIDENTIAL CANDIDATES

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, the House Republican leader has indicated that he believes the participation of black Americans at the Democratic Convention will be a detriment to the Democratic nominee in the November elections.

A May 20 Washington Post article reports that:

> House Minority Leader Robert H. Michel said he thinks that Jesse Jackson's expected high profile at the Democratic National Convention this summer will help Bush. "It will be surprising, I think, to some people when they look at the Democratic Convention out there and see one-third blacks in the composition of delegates," he said.

Once again, Mr. Speaker, the Republican leader has opened his mouth before thinking. He should know that there are white, brown, yellow, and black Americans who have been elected as delegates for Jesse Jackson as well as for Dukakis, GEPHARDT, SIMON, and so forth.

That unlike the Republican Party, it is a proud tradition in the Democratic Party to include Americans of diverse racial heritage in their nominating process.

That it is dangerous for any national party leader to apply racial motivations to the voting behavior of any one segment of the electorate.

In this instance, Mr. Speaker, it does not appear that this utterance by Mr. MICHEL is one that should play in Peoria.

DRUGS OR PRAYER IN THE CLASSROOM?

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I have an aunt, who is the sole survivor of the generation of my parents and my own family who is as brilliant today as she was when she was a young woman making a great career for herself in show business. She has been around for the most of this century, in fact the whole century, and she said to me the other day, "I wonder if these liberals will get drugs out of the classroom as they have gotten prayer out of the classroom?"

Mr. Speaker, when I hear Members take this well, and there are only about a hundred of them that represent this viewpoint, but say that we should not have extensive testing of drugs in the workplace, I think these Members were the same ones that came on my television show in the late 1960's and early 1970's and all but told me that drugs were health food. It has been liberal mentality, and liberal philosophy that said, "If it feels good, do it." They applied this to high school kids with what they call recreational sex to which was added recreational drugs. Now we are reaping the harvest of consequences which this liberal philosophy sired.

Mr. Speaker, I think we have an emergency, a national emergency in the West with this drug issue. It is the same as giving the power to a young National Guardsman to be judge, jury, and executioner when looting is going on.

We have not quite reached that madness where the majority of society is stoning themselves insensate with controlled substances but it is an emergency. For this reason, I, for one, will not be crying fool when some of our civil rights have to be bruised as we try to get this curse of drugs off the back of the United States of America and actually Europe and most of the free world. The controlled areas of the world, the Communist world, sit and point to this drug issue as evidence of an advanced form of moral decay that comes with capitalism. Let us prove them wrong.

UNITED STATES-SOVIET COOPERATION IN A MARS PROBE

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, the signs are now unmistakable. America is being invited to participate in perhaps the greatest human endeavor of all time. Scientists have mentioned the possibility for years, congressional delegations have reported interest for months, and now Mikhail Gorbachev has made it clear, the Soviet Union is going to Mars and seeks a partnership with the United States.

Today I have joined with Senator TOM HARKIN in asking the President to respond to Mr. Gorbachev's interest by placing the possibility of space cooperation on the summit agenda.

Last week the Committee on Science, Space, and Technology voted to create a national commission to formally approach the Soviets and outline a cooperative program.

Mr. Speaker, it is time to say yes and make this not a race for whose flag flies on the Martian surface first, but to discover how much we can learn together for the benefit of all mankind.

DO NOT LEGALIZE DRUGS

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, on the cover of Time magazine this past week the caption was, "Should drugs be made legal?"

Mr. Speaker, in this Congressman's opinion the answer is an unequivocal "No." The arguments against drug legalization are logical and rational based on figures and facts and historical social trends that increased percentage of illegal drug use is leading to increased percentage of drug-related illnesses, deaths, crimes and helpless eviction.

The arguments in favor of legalization of drugs appear to stem from frustration and speculation as to what might happen. They say the war against drugs is doomed to failure, so let us give in, let us surrender.

What kind of scenario do those proponents of legalization picture, addicts dying from heroin overdoses, snorting too much cocaine so their hearts seize and they die?

Narcotics are horribly addictive. In the mind of drug users the drug can become more important than life itself. The world of illegal drug usage is a world of dangerous fantasy. Neat ideal fantasies of legalization will not fit into the world of deadly pipe dreams.

Mr. Speaker, this is not an argument of theory. It is a debate on which the lives of all Americans of all ages may rest.

John Lawn, head of the Drug Enforcement Administration, summarizes it well when he explains, "Drugs are not bad because they are illegal, they are illegal because they are bad."

CONGRESS MUST OVERRIDE PRESIDENT'S VETO OF TRADE BILL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, people in Japan will be laughing today when President Reagan vetoes the trade bill. His veto means that the United States cannot get its act together on trade. It is a shame that he will veto the bill because it is a good bill. The bill sends a coherent message on trade to the rest of the world. It says that we will not be protectionist. The protectionist provisions of this bill were knocked out in conference due to the good work of the gentleman from Illinois [Mr. ROSTENKOWSKI] and Senator BENTSEN. It says that we will not keep goods out because we are afraid that we cannot compete.

Mr. Speaker, the bill also says that we will not stand by while others keep American goods out of their markets. It says that we will be Uncle Sam, not Uncle Sap because after all, free trade is a two-way street. The trade bill encourages free trade by requiring other countries to eliminate those barriers which keep our goods out by giving the President the extra weapons he or she needs to allow us to open up their markets.

For example, Japan has erected both unofficial and official barriers to trade in financial services and public construction. Complex rules, some formal and some informal, prevent highly qualified U.S. firms from doing business in Japan. This trade bill would prevent those things from happening.

Mr. Speaker, I urge my colleagues in this body and the other body to override the President's veto on trade.

GALINA VILESHINA—A SUMMIT MISSION

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, this past weekend in an interview with the Washington Post, Soviet General Secretary Gorbachev announced his intention to ask President Reagan to approve a joint United States-Soviet mission to Mars as the symbol of an ambitious new era of superpower cooperation on Earth and in space.

I would like to call my colleagues' attention to a more personal and humanitarian mission which has been hampering this ambitious era of cooperation here on Earth—that of Dr. Galina Vileshina and her 8-year-long mission to be reunited with her Soviet husband, Pyatras Pakenas.

The Washington Post also reports today in an article on Dr. Vileshina's mission that of the 36 members of the Divided Spouses Coalition that was formed in 1985, 35 have been resolved by Soviet authorities—only 1 remains.

Yesterday, Secretary of State George Shultz along with Senator BOB GRAHAM and myself met with Dr. Galina Vileshina, her daughter, Laura, and her 8-year-old grandson, Eric, to press for resolution of her case.

As a first step in discussing this new joint mission to Mars, I would encourage the Soviets to end this longstanding personal mission of Dr. Galina Vileshina by allowing her husband, Pyatras Pakenas, to leave the Soviet Union immediately.

FREE TRADE MUST BE RECIPROCAL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the 20th century has been known as the American century. As this century draws to a close and we near the 21st century, many of us wonder what role America will be playing in that century. Under this administration there have been two things that have happened that really we must deal with or we are not going to be much of a player in the next century.

The first matter is the domestic deficit. Under this administration we will have paid almost $1 trillion to do nothing except service the national debt that has been built up. That is amazing.

The other is the incredible trade deficit. Today we have a chance to stand up and say we are going to start taking on the trade deficit. The administration has not, but we will.

If my colleagues remember the old rhetoric about free trade, it was always reciprocal free trade. They forgot that word "reciprocal." It must have been too big a word. I tell my colleagues unless we have reciprocal free trade, it does not work. I certainly hope this body stands tall as it votes to override the President's veto and we begin to show that we as Americans will be players in the 21st century as we have been in the 20th century and that we will not allow this Nation's trading positions to be undercut unfairly.

THE VETO IS COMING! THE VETO IS COMING!

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, the veto is coming, the veto is coming. That is the word around here. And I guess it is. I am sorry to see it coming, Mr. Speaker. Apparently the President is going to veto this massive trade bill because of one provision dealing with plant closings. Tell that to the people of Anchor Hocking, tell that to the miners who have lost their jobs on 2 or 3 days' notice, tell that to the steelworkers. There are so many other people affected by this bill. If one is a laid-off worker, this bill has in it $980 million in a program mainly of the President and the administration that will expedite your getting back to work, and that will expedite your worker retraining.

□ 1240

If you are laid off due to imports, this bill expands the Trade Adjustment Assistance Program, even applying in some cases to the laid-off oil and gas workers. If you are a high school student and you want to make sure your degree means something, this bill has new mathematics and science initiatives that will make you more competitive.

This bill provides better coordination of trade policy, and there is no protectionism or there is no trade war in this bill.

The veto is coming; the veto is coming. Mr. Speaker, I hope right behind it this House brings the override of this veto.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after the debate has been concluded on all motions to suspend the rules and following disposition of the veto message on the trade bill.

AUTHORIZING EXCHANGE OF CERTAIN NATIONAL FOREST SYSTEM LANDS IN THE TARGHEE NATIONAL FOREST

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4028) to authorize the Secretary of Agriculture to exchange certain national forest system lands in the Targhee National Forest.

The Clerk read as follows:

H.R. 4028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

EXCHANGE AUTHORITY

Section 1. Notwithstanding the requirements contained in section 1 of the Act of March 20, 1922, and section 206(b) of the Act of October 21, 1976, providing that when the Secretary of Agriculture exchanges lands, the lands exchanged must be located in the same State, and must be included within the exterior boundaries of a National Forest—

(a) the Secretary is authorized to exchange certain lands within the entire Targhee National Forest, including portions of the Targhee National Forest located in Idaho and Wyoming. Such exchange shall include a parcel depicted on the map entitled "Targhee Exchange, Wyoming—Proposed", dated April 15, 1988, comprising approximately two hundred seventy acres, for lands in or adjacent to the Targhee National Forest in Idaho, including lands outside the exterior boundary of the Targhee National Forest;

(b) values of lands exchanged by the Secretary under this Act either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require so long as payment does not exceed 25 per centum of the total values of the lands or interests transferred out of Federal ownership. The Secretary shall try to reduce the amount of payment of money to as small an amount as possible;

(c) the map described in subsection (a), and the legal description contained therein, shall have the same force and effect as if included in this Act: *Provided, however,* That actual acreages and boundaries may be adjusted to equalize values and that correction of clerical and typographical errors in such legal descriptions may be made by the Secretary. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture; and

(d) any lands acquired by the Secretary under this Act shall become part of the Targhee National Forest. By such acquisition, the exterior boundary of the Targhee National Forest shall be extended along the outer boundary of such lands.

CONSTRUCTION

Sec. 2. Except for the requirements referenced in section 1, all other requirements of the Act of March 20, 1922, and the Act of October 21, 1976, and any other applicable law or regulation, shall not be construed as having been modified by this Act.

TIME LIMIT

Sec. 3. As soon as practicable, but not later than nine months after the date of enactment of this Act, the Secretary shall carry out the exchange authorized by section 1.

The SPEAKER pro tempore (Mr. Montgomery). Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. Cheney] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 4028.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4028, introduced by Mr. Stallings and Mr. Cheney, would authorize the Secretary of Agriculture to exchange approximately 270 acres in Wyoming needed by the Grand Targhee Resort for private lands inside or outside the national forest boundary in Idaho. It is anticipated that approximately 700 acres of lands along the south fork of the Snake River would become national forest. Legislation is necessary for such an exchange because the Federal Land Policy and Management Act prohibits national forest land exchanges across State lines.

We received testimony that the bill would help the local economy grow by enabling the Grand Targhee Resort to expand creating jobs and increasing tourism. The new land included in the NFS would protect critical wildlife habitat and valuable outdoor recreation lands along the south fork of the Snake River. This spectacular river canyon with large old growth cottonwoods provides habitat for over 50 species of mammals and 180 species of birds including nesting sites for bald eagles, great blue herons and Canada geese. Large cutthroat and brown trout are part of a renowned fishery. Some of these environmentally sensitive lands would otherwise be scheduled for development. This bill would protect the wildlife habitat and public access for recreation by allowing some of the private lands immediately adjacent to the national forest boundary to become national forest on a willing seller basis. Grand Targhee Resort would purchase the lands and then exchange them for the national forest lands in and around its operation. Mr. Speaker, I want to thank Chairman H. VOLKMER who as my counterpart on the House Agriculture Subcommittee has been cooperative in the consideration of this measure.

Mr. Speaker, I urge my colleagues to support this bill that protects the land and environment while at the same time benefiting the people of Idaho economically.

Mr. Speaker, I reserve the balance of my time.

Mr. CHENEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important legislative initiative worked out jointly between myself and the gentleman from Idaho [Mr. STALLINGS], who is the prime sponsor of this effort. It is a straightforward proposition. It will allow the Forest Service to trade 270 acres it currently leases to the Grand Targhee ski area in Wyoming for land of equal value in Idaho.

To accomplish this, the owner of the ski resort will purchase an environmentally critical wildlife habitat along the Snake River in Idaho and then exchange that property with that owned by the Forest Service at Grand Targhee. The newly acquired Idaho land will become part of the Targhee National Forest. The ski resort wants to expand and cannot do so, because the land on which it currently lies is leased. By acquiring the land outright, expansion plans can proceed. The Grand Targhee ski area, while located in Alta, WY, can only be reached by driving through Idaho. While the ski resort has geographic and economic links to Teton County, ID, it nonetheless is also an important component of the economy of Teton County, WY. The entire region in both Idaho and Wyoming will benefit from enactment of this measure.

This is a bipartisan bill, and it has moved quickly through the Committee on Interior and Insular Affairs and the Committee on Agriculture, and similar legislation has been introduced in the Senate, and it is hoped that it will be passed soon and signed into law. The chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL], and the chairman of the Subcommittee on Parks and Public Lands, the gentleman from Minnesota [Mr. VENTO] are to be commended for their assistance in getting this bill through the committee process as quickly as possible.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. STALLINGS], the major sponsor of this legislation.

Mr. STALLINGS. Mr. Speaker, I am pleased today to rise in support of H.R. 4028, the Targhee National Forest Land Exchange Act—legislation I introduced earlier this year.

I would like to express my sincere thanks to my distinguished colleagues on the House Agriculture and Interior Committees, with particular appreciation to Mr. DE LA GARZA, Mr. UDALL, Mr. VENTO and Mr. VOLKMER, for their help with this legislation. I also am very pleased to have my colleague from Wyoming, Mr. CHENEY, as a cosponsor of this important bill.

Last February, I unveiled a plan to help safeguard several critical areas along the South Fork of the Snake river in Idaho and to stimulate economic development in many communities of the Second Congressional District of Idaho.

The plan calls for a major land exchange between the Targhee National Forest and the Grand Targhee ski resort, located near Driggs, ID, just inside the Wyoming border. This proposal would give the Forest Service an opportunity to seek public ownership of several key parcels of private land along the South Fork of the Snake River adjacent to the forest. Under this plan, the owner of the ski resort would attempt to purchase several tracts of private property and then trade them to the Forest Service for about 270 acres of public land at the base of the ski resort.

The legislation we are considering today is necessary because current law prohibits the Forest Service from exchanging lands in different States. In this instance, the privately owned land is in Idaho and the Forest Service property is in Wyoming. The national forest is in both States.

This legislation does not mandate public or private purchases of any piece of property. It is the responsibility of the Forest Service to identify those private properties for possible exchange and it will be up to ski resort officials and private landowners to negotiate any purchase price. H.R. 4028 simply provides the Forest Service with the legal authority to complete such an exchange.

The South Fork of the Snake River has been identified as one of the most unique and valuable ecosystems in Idaho. Acquisition of this critical habitat will allow land management agencies to preserve the fish and wildlife, scenic qualities, and ensure public access to the river.

As my colleagues know, there are very few viable options available for our land management agencies to acquire valuable properties. In this year's Forest Service budget, for example, the agency requested no funding for new land purchases.

In addition to protecting the South Fork and its resource value, economic development is a major cornerstone of this land exchange proposal. The completion of this land exchange will result in a much-needed shot-in-the-arm to the Teton Basin and Upper Snake River valley, two important areas in my district. Development of the Grand Targhee resort and protection of the South Fork of the Snake River could attract thousands of visitors each year to eastern Idaho and help stimulate the economy of many Idaho communities.

This land exchange proposal, developed with the help of local, county, State and Federal officials, seeks to address a unique set of circumstances in the Targhee National Forest and would facilitate an exchange which is mutually beneficial to the residents of the affected areas of Idaho and Wyoming. This exchange will be done in accordance with normal Forest Service procedure and will not affect any other Forest Service land exchanges.

I thank my colleagues for their consideration of this legislation and urge their support of H.R. 4028.

Mr. CHENEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the bill H.R. 4028, sponsored by Mr. STALLINGS and Mr. CHENEY. This legislation authorizes the Secretary of Agriculture to exchange 270 acres of land in the Targhee National Forest in Wyoming for private lands in or adjacent to portions of the Targhee located in Idaho.

The purpose of this bill is to allow for expansion of the facilities at the Grand Teton ski area. Generally, speaking, successful ski areas across the country, but particularly in the West, are a combination of private lands and National Forest lands. The most successful ones have ski lifts and runs on public lands and base facilities on private lands. Having the base facilities on private lands facilitates real estate development and other commercial operations, thus providing additional employment.

In the trade, the Forest Service hopes to acquire some property along the South Fork of the Snake River—land the Service considers desirable to help preserve fish and wildlife habitats, scenic qualities, and public access to the river.

The Subcommittee on Forests, Family Farms, and Energy held a field hearing on this bill in Driggs, ID, on April 16 where 24 of the 26 witnesses testified in support of the measure. Another hearing was held here where the administration expressed its views and Mr. STALLINGS spoke for his bill.

On May 5, the full Committee on Agriculture passed the measure unamended and I hope my colleagues will do the same here today.

MR. DE LA GARZA. Mr. Speaker, I rise today in support of H.R. 4028, a bill that would authorize the Secretary of Agriculture to exchange certain National Forest System lands in the Targhee National Forest. The bill was introduced by the gentleman from Idaho [Mr. STALLINGS] and the gentleman from Wyoming [Mr. CHENEY]. It represents a bipartisan effort to facilitate a land exchange that will result in benefit to the citizens of both States. As such, H.R. 4028 deserves the support of my colleagues in the House.

H.R. 4028 is necessary in order to permit the U.S. Forest Service to exchange a 270-acre tract of land in Wyoming for certain private lands in or adjacent to the Targhee National Forest in Idaho. Current law prohibits the exchange of national forest lands between States and requires that the lands be included within the exterior boundaries of a national forest. However, this is a unique circumstance since the 1.6-million-acre forest lies in both the States of Idaho and Wyoming.

The bill would authorize the Secretary to exchange lands in Wyoming which are desired by a private developer to expand the Grand Targhee Resort, for certain tracts in Idaho. While the bill does not specify the lands to be acquired in Idaho, it is anticipated that they will include several critical areas along the South Fork of the Snake River which are desired to protect this unique natural resource. The owner of the Grand Targhee Resort is now negotiating with the current owner of these private tracts in Idaho, in order to facilitate the exchange. The bill would require that the exchanged lands be of equal or nearly equal value, with any difference in values to be covered by a cash payment not to exceed 25 percent of the total values of the lands involved.

Mr. Speaker, this bill and the land exchange it would authorize, would result in minimal cost to the Government while providing significant benefits to the residents of both Idaho and Montana. Expansion of the Grand Targhee Resort will provide substantial economic benefit to the residents of the area, and especially for those in Driggs, ID, which is located just 9 miles west of the resort. At the same time, acquisition of critical lands along the South Fork of the Snake River will preserve the fish and wildlife habitat and scenic qualities of the area, and ensure public access to the river.

Since the gentleman from Idaho [Mr. STALLINGS] first unveiled this proposed land exchange, the committee staff has worked closely with his Washington, DC, and district office staff to prepare the necessary legislation. The Subcommittee on Forests, Family Farms, and Energy held field hearings in Driggs, ID, on April 16, 1988, as well as a hearing in Washington, DC, on April 27. Support for H.R. 4028 was strong from all those affected. Mr. STALLINGS is to be commended for his efforts.

Mr. Speaker, H.R. 4028 was considered by the subcommittee on April 27, 1988, and by the full Agriculture Committee on May 5, 1988. The bill was favorably reported without amendment. I recommend its immediate passage.

Mr. CHENEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I would again like to thank the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

I think that this is a good proposal. I know of no objection to it. It meets the standards of the Forest Service for equal value exchange, and it will help the economy of the great State of Idaho. It is a proposal that has been properly structured and follows appropriate procedures and I hope the House will act favorably on this measure.

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Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4028.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMMERCIAL SPACE LAUNCH ACT AMENDMENTS OF 1988

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4399) to facilitate commercial access to space, and for other purposes.

The Clerk read as follows:

H.R. 4399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) This Act may be cited as the "Commercial Space Launch Act Amendments of 1988".

(b) The Congress finds that—

(1) a United States commercial space launch industry is an essential component of national efforts to assure access to space for Government and commercial users;

(2) the Federal Government should encourage, facilitate, and promote the use of the United States commercial space launch industry in order to continue United States aerospace preeminence;

(3) the United States commercial space launch industry must be competitive in the international marketplace;

(4) Federal Government policies should recognize the responsibility of the United States under international treaty for activities conducted by United States citizens in space; and

(5) the United States must maintain a competitive edge in international commercial space transportation by ensuring continued research in launch vehicle component technology and development.

SEC. 2. DEFINITION.

Section 4 of the Commercial Space Launch Act (49 U.S.C. App. 2603) is amended—

(1) at the end of paragraph (10), by striking "and";

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) 'third party' means any person or entity other than—

"(A) the United States, its agencies, its personnel involved in launch services, or its contractors or subcontractors involved in launch services;

"(B) the licensee;

"(C) the licensee's contractors, subcontractors, or customers involved in launch services; or

"(D) any such customer's contractors or subcontractors involved in launch services; and".

SEC. 3. DEFINITION OF DIRECT COSTS.

(a) Section 15(b)(1) of the Commercial Space Launch Act (49 U.S.C. App. 2614(b)) is amended by inserting at the end the following: "For purposes of this paragraph, the term 'direct costs' means the actual costs that can be unambiguously associated with a commercial launch effort, and would not be borne by the United States Government in the absence of a commercial launch effort.".

(b) Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended by adding at the end the following new sentence: "In taking such actions, the Secretary shall take into account the commercial availability on reasonable terms and conditions of substantially equivalent launch property or launch services from a domestic source.".

(c) Section 15 of the Commercial Space Launch Act (49 U.S.C. App. 2614) is amended by adding at the end the following new subsection:

"(d) For the purposes of this section, launch services shall include activities involved in the preparation or production of a launch vehicle and its payload for launch and the conduct of a launch.".

SEC. 4. INSURANCE REQUIREMENTS OF LICENSEE.

(a) Section 16 of the Commercial Space Launch Act (49 U.S.C. App. 2615) is amended by striking "SEC. 16." and all that follows through "other appropriate agencies." and inserting in lieu thereof the following:

"SEC. 16. (a)(1)(A) Each license issued or transferred under this Act shall require the licensee—

"(i) to obtain liability insurance; or

"(ii) to demonstrate financial responsibility in an amount sufficient to compensate the maximum probable loss, as determined by the Secretary, from claims by a third party for death, bodily injury, or loss of or damage to property resulting from activities carried out under the license. In no event shall a licensee be required to obtain liability insurance or demonstrate financial responsibility under this subparagraph in an amount which exceeds either $500,000,000 or the maximum liability insurance available on the world market at a reasonable cost, whichever is less.

"(B) Each license issued or transferred under this Act shall require the licensee—

"(i) to obtain insurance; or

"(ii) to demonstrate financial responsibility

in an amount sufficient to compensate the maximum probable loss, as determined by the Secretary, from claims against any party by the United States for loss of or damage to property of the United States resulting from activities carried out under the license. In no event shall a licensee be required to obtain insurance or demonstrate financial responsibility under this subparagraph in an amount which exceeds either $100,000,000 or the maximum insurance available on the world market at a reasonable cost, whichever is less.

"(C) Each license issued or transferred under this Act shall require the licensee to enter into reciprocal waivers of claims with its contractors, subcontractors, and customers, and the contractors and subcontractors of such customers, involved in launch services, under which each party agrees to be responsible for any damage it sustains or for any injury to its own employees resulting from activities carried out under the license.

"(D) The Secretary, on behalf of the United States, its agencies, personnel involved in launch services, and contractors and subcontractors involved in launch services, shall enter into reciprocal waivers of claims with the licensee, its contractors, subcontractors, and customers, and the contractors and subcontractors of such customers, involved in launch services, under which each party agrees to be responsible for any damage it sustains or for any injury to its own employees resulting from activities carried out under the license. Any such waiver shall apply only to the extent that claims exceed insurance or self-insurance pursuant to subparagraph (B), unless any such claim involves the willful misconduct or reckless disregard of the United States, in which case the United States shall waive its right to recover any damages under subparagraph (B).

"(2) Any insurance policy obtained or demonstration of financial responsibility made pursuant to a requirement described in paragraph (1) shall protect the United States, its agencies, personnel, contractors, and subcontractors, and all contractors, subcontractors, and customers of the licensee, and all contractors and subcontractors of such customers, involved in providing the launch services, to the extent of their potential liabilities, at no cost to the United States.

"(3) The Secretary shall determine the maximum probable loss associated with activities under a license within 90 days after a licensee has requested such a determination and has submitted all information the Secretary requires to make such a determination. The Secretary shall amend such determination as warranted by new information.

"(4) The Secretary shall, within 3 years after the date of the enactment of the Commercial Space Launch Act Amendments of 1988, and once every year thereafter, review the amounts specified in the last sentence of subparagraphs (A) and (B) of paragraph (1), and shall submit a report to the Congress which contains a proposed adjustment to such amounts to conform with altered liability expectations and worldwide availability of insurance. Such proposed adjustment shall take effect 30 days after the submission of such report.

"(b)(1) The Secretary shall provide for the payment of successful claims (including reasonable expenses of litigation or settlement) by a third party against the licensee, or its contractors, subcontractors, or customers, or the contractors or subcontractors of such customers, resulting from activities carried out pursuant to a license issued or transferred under this Act for death, bodily injury, or loss of or damage to property, but only to the extent that such claims are not compensated by insurance, including self-insurance pursuant to subsection (a)(1)(A)(ii). This paragraph shall not apply to claims resulting from the willful misconduct of such parties.

"(2) Payment of claims under paragraph (1) shall be subject to—

"(A) notice to the United States of any claim or suit against a party described in paragraph (1) for death, bodily injury, or loss of or damage to property; and

"(B) control of or assistance in the defense by the United States, at its election, of that claim or suit.

"(3) The Secretary may withhold payment under paragraph (1) if the Secretary certifies that the amount is not just and reasonable, except that the amount of any claim determined by the final judgment of a court of competent jurisdiction shall be deemed by the Secretary to be just and reasonable.

"(4) Claims under paragraph (1) shall be deemed to be claims against the United States, and the Secretary shall pay such claims under section 1304 of title 31, United States Code.".

(b) Section 15(c) of the Commercial Space Launch Act (49 U.S.C. App. 2614(c)) is amended to read as follows:

"(c) The Secretary may establish requirements for proof of financial responsibility and such other assurances as may be necessary to protect the United States and its agencies and personnel from liability, loss, or injury as a result of a launch or operation of a launch site involving Government facilities or personnel. The Secretary may not under this subsection relieve the United States of liability for damage or injury resulting from the reckless disregard or willful misconduct of the United States or its agents.".

SEC. 5. UNITED STATES LAUNCH INCENTIVES FOR CERTAIN SATELLITES.

(a) The requirements of section 16(a)(1)(B) of the Commercial Space Launch Act shall not apply to eligible satellites.

(b) The United States shall not require payment from the licensee or customer of the licensee for the provision of launch property, launch services, or launch sites required in connection with the commercial launch of an eligible satellite.

(c) A satellite shall be eligible for the purposes of this section if—

(1) it was under construction on August 15, 1986;

(2) an unperformed launch services agreement or contract with the National Aeronautics and Space Administration was held with respect to it on August 15, 1986; and

(3) it is licensed for launch under the Commercial Space Launch Act.

SEC. 6. PREEMPTION OF SATELLITES.

Section 15(b) of the Commercial Space Launch Act (49 U.S.C. App. 2614(b)) is amended by adding at the end the following new paragraph:

"(4)(A) The Secretary of Transportation, with the cooperation of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, shall take steps to ensure that the launches of satellites with respect to which a launch date commitment from the United States has been obtained for a launch licensed under this Act are not preempted from access to United States launch sites or property except in cases of imperative national need. Any determination of imperative national need shall be made by the Secretary of the Air Force or the Administrator of the National Aeronautics and Space Administration and shall not be delegated.

"(B) The Secretary of the Air Force or the Administrator of the National Aeronautics and Space Administration, as the case may be, shall report to the Congress within 7 days after any determination of imperative national need under subparagraph (A), including a full explanation of the circumstances justifying such determination and a schedule for ensuring the prompt launching of a preempted satellite.".

SEC. 7. STUDY OF PROCESS FOR SCHEDULING LAUNCHES.

The Secretary of Transportation, in cooperation with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, and in consultation with representatives of the space launch and satellite industry, shall study ways and means of scheduling Government and commercial payloads on commercial launch vehicles at government launch sites in a manner which—

(1) optimizes the use of the launch property of the United States; and

(2) assures that the launch property of the United States that is available for commercial use will be available on a commercially reasonable basis,

consistent with the objectives of the Commercial Space Launch Act. The Secretary shall submit the results of such study to the Congress within 120 days after the date of the enactment of this Act.

SEC. 8. COMMERCIAL SPACE LAUNCH SERVICE COMPETITION.

It is the sense of the Congress that the United States should explore ways and means of developing a dialogue with appropriate foreign government representatives to seek the development of guidelines for access to launch services by satellite builders and users in a manner that assures the conduct of reasonable and fair international competition in commercial space activities.

SEC. 9. LAUNCH VEHICLE RESEARCH AND DEVELOPMENT.

The Administrator of the National Aeronautics and Space Administration, in consultation with representatives of the space launch and satellite industry, as appropriate, shall support research into launch systems component technologies, for the purpose of developing higher performance and lower cost United States launch vehicle technologies and systems available for the launch of commercial and Government spacecraft into orbit. The Administrator shall submit a report outlining such activities to the Congress within 120 days after the date of the enactment of this Act.

SEC. 10. APPLICABILITY TO LICENSES.

This Act, and the amendments made by this Act, shall apply to all licenses issued under the Commercial Space Launch Act before or after the date of the enactment of this Act.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this important legislation approved with the strong bipartisan support of the Committee on Science, Space, and Technology.

May I say at this time I want to pay high regard and appreciation to the gentleman from New Mexico, Mr. MANUEL LUJAN, our ranking minority member on the committee, the gentleman from Florida [Mr. NELSON], the chairman of the Subcommittee on Space Science and Applications, and the gentleman from Pennsylvania [Mr. WALKER], the ranking minority member on that committee.

The legislation will ensure that a commercial launch industry takes its place as a significant component of the U.S. space transportation system. This is an important step in our space recovery efforts through a mixed fleet launch policy that can assure access to space for all users. In our recent multiyear authorization bill for our space program, we have explicitly recognized that expendable launch vehicles are essential to the core space effort.

One of the most compelling lessons of the devastating *Challenger* tragedy was the sudden awareness that, as a nation, we had depended—to our national detriment—solely on the space shuttle as the launch means for all government and commercial users. Since 1986, the administration has aggressively taken steps to purchase ELV services to launch Government satellites.

Commercial users have not had such a choice. In August 1986, the President announced—through National Security decision directive No. 254—ended NASA's launch role for commercial and foreign satellites. The impact of this decision was substantial. For over 20 years, NASA was the sole provider of launch services for government and commercial users. As a result of this directive, American satellites have had to choose between a fledging U.S. commercial launch industry or launching on foreign vehicles. At the time of the Presidential directive, 44 satellite companies held launch services agreements with NASA.

Let me amplify on the commercial launch choices available today and why this legislation is urgently needed. To date, there has not been a single U.S. commercial launch since the shuttle, although we hope that with this legislation, commercial launches will begin early in 1989. The U.S. launch industry steps into an aggressive and sophisticated foreign launch market. In 1985, Arianespace, a private European launch consortium, was competing head on with shuttle to the extent of 50 percent of the world shuttle market. Today, the Chinese and Soviet Union have joined the Europeans in actively marketing launch services to the West.

A year following the President's decision ending NASA's commercial launch role, the Committee on Science, Space, and Technology initiated an extensive series of hearings designed to identify impediments to the startup of an American launch industry. We have received extensive testimony from the providers and users of launch services in an effort to bring about a competitive launch industry.

H.R. 4399 is the result of this extensive review of the 1984 Commercial Space Launch Act, which set up the regulatory framework for licensing commercial launches and the post-*Challenger* policies affecting the U.S. launch and satellite industries.

I would like to point out to my colleagues that the space program is not some extravagant hobby—it is essential to our economy, our national security and our technological leadership. This bill is not some idle exercise in legislative drafting—it is essential to our space effort.

We are now in a very desperate situation. We have a backlog of commercial, defense, and scientific satellites that must be launched on expendable launch services. This bill provides the bare necessities for the U.S. private sector to stay in the expendable launch vehicle market. Our competition is strong. The Europeans, Japanese, Chinese, and even the Soviets are also vying for dominance in this market. They certainly recognize its importance and they are right.

The administration has likewise struggled with this issue, but in my view, the practical importance of their debate has been subjugated to a broader ideological agenda to reform our tort process. H.R. 4399 is not an exercise in tort reform, it is a bill to get on with the job of getting us back into space.

I hope my colleagues will join me in giving this bill our complete support. We must send the private sector and the world community a strong message. Our message should be that we know where we are going and we know what it takes to get us there.

I urge a speedy adoption of H.R. 4399.

The major features of this legislation are as follows:

The bill establishes an important risk allocation framework similar to government policies in conjunction with commercial use of the space shuttle.

For more than 20 years, NASA provided satellite launches on the space shuttle and expendable launch vehicles. An important feature of this arrangement was the risk allocation scheme for apportioning risks between NASA and its customers that recognized the inherent risks of launch activity. Generally, NASA required customers to assume a reasonable share of the risks along with the agency by requiring the customer to obtain the maximum available liability insurance at reasonable cost and to name the U.S. Government, at no cost to it, as insured for claims that might arise as a result of a launch accident. In return, NASA, under section 308 of the Space Act, assumed responsibility for claims exceeding insurance levels. NASA and the parties to the launch also entered into cross waivers under which parties relieved each other of liability for damage to property, each party agreeing to be responsible for their own property.

This successful practice of risk allocation between launch providers and customers has been adopted and is in use by foreign launch providers today. Today, Arianespace requires customers to obtain about $60 million of liability coverage, above which Arianespace assumes the risk. It is not available today to the U.S. launch industry.

H.R. 4399 recommends that a risk allocation approach similar to the NASA precedent be extended to the emerging U.S. commercial launch industry. In this regard, the committee has recommended a statutory standard for the determination of property and liability insurance requirements on the basis of the "maximum probable loss" that could result from activities conducted pursuant to a launch license. An important feature of this standard is that individual risk determinations can be made on the basis of the launch vehicle size and type; launch site and trajectory; and payload characteristics. This maximum probable loss determination would thus constitute a reasonable requirement to cover liability and government property concerns.

Specifically, the launch provider, on behalf of all parties to the launch, would obtain liability insurance to cover the maximum probable loss of activities conducted under the launch license, as determined by the DOT Secretary, but such insurance would not exceed the lesser of: First, $500 million; or second, the maximum liability insurance available in the world market at reasonable cost, as determined by the Secretary. In recommending the $500 million ceiling, the committee is mindful that: First, no launch accident in history has resulted in third party liability claims; second $500 million evolved as the standard insurance requirement for commercial customers of the shuttle; and third, the maximum liability insurance available in the market today is between $300-$500 million. Under the bill, the level will be reviewed periodically by the DOT Secretary to ensure it is consistent with changed liability expectations and worldwide insurance capacity.

The insurance policy obtained will name as insured all parties to the launch, including the United States, its agencies, personnel, contractors and subcontractors, at no cost to the Government. Under this protocol, the United States ensures that its obligations to the world community are met. These commitments include the Outer Space Treaty and the Convention on International Liability for Damage Caused by Space Objects, under which the United States, as a "launching state," shall be absolutely liable to pay compensation for damage caused by its space objects on the surface of the Earth or to aircraft in flight.

In keeping with these international treaty obligations, and following the NASA shuttle precedent under which NASA indemnified shuttle users against third party liability over and above available insurance, the legislation obligates the Secretary of Transportation to provide for the payment of successful claims under the judgment fund section 1304 of title 31, United States Code by a third party against the licensee; that is, launch provider, and parties to the launch, as defined in the bill. This authority would not apply to claims resulting from willful misconduct. The bill also contains specific procedural safeguards to protect the Government. The result is a reasonable quid pro quo consistent with the public interest.

To ensure appropriate insurance coverage for Government property, the bill requires a launch provider to obtain insurance to cover the maximum probable loss—taking into account launch vehicle size and type; launch site and trajectory; and payload characteristics—to Government property as a result of activities carried out under a launch license. Such insurance shall not exceed the lesser of: First, $100 million; or second, the maximum available insurance in the world market at reasonable cost. Consistent with the President's space policy of January 1988, the Government and parties to the launch would enter into cross waivers, each agreeing to be responsible for any further damage to property. In recommending this level, the committee was mindful of: First, no launch accident involving an expendable launch vehicle has resulted in more than $60 million in damages to Government property; second, $100 million reflects the upper limits of what is currently available in the world market; and third, the Government, as regulator of the industry and manager of the launch ranges, is significantly in control of the launch. This maximum level on insurance responsibility will also be reviewed periodically by the DOT Secretary.

The bill establishes important ground rules for use of Government ranges.

Unless commercial users can be assured of reliable and predictable access to Government launch ranges, the U.S. launch industry will not be considered as reliable and U.S. Government policies to promote this industry will not be taken seriously.

The bill recognizes the importance of Government reliability by prohibiting Government preemption of commercial launches, with one exception. In the event of a finding of imperative national need, which would be required to be determined at the level of the NASA Administrator or the Secretary of the Air Force, preemption for exigent circumstances of imperative national security need or civilian requirements could be accommodated. In this event, the NASA Administrator and the Secretary of the Air Force, as the case may be, would be required to report such circumstances to the Congress within 7 days and include a schedule for the prompt launching of a preempted satellite.

The bill establishes one-time launch incentives for satellites bumped from the space shuttle.

When the President announced in August 1986 that NASA would no longer launch commercial satellites, 44 companies held launch services or letter agreements with NASA under which the space shuttle was committed to meet customer launch requirements. Of these, 22 satellites were under construction at the time. In public testimony, representatives of the U.S. satellite industry shared that Government representatives continued to provide assurances that such contractual commitments would be honored to satisfy launch requirements, either by shuttle or special procurement of ELV's.

At the committee's hearings held over a year following the policy decision, no U.S. satellite company had yet succeeded in obtaining a fixed cost or firm launch date for a launch with a U.S. launch provider. Much of the cost and schedule uncertainty has resided in the U.S. Government, manager of the launch ranges.

H.R. 4399 recognizes the policy reversal and its implications for the satellite communications industry through the creation of launch incentives that would be available only if such customers choose to "launch American." The committee intends that the Government waive costs for certain limited activities provided in support of a U.S. commercial launch of an eligible satellite. The value of these services is nominal and will not make such customers whole again. The committee anticipates that between 7-12 satellites will take advantage of these incentives.

First, the bill would waive requirements for eligible satellites to obtain insurance to protect against damage to Government property. These customers of the shuttle would not have obtained insurance to launch on the space shuttle, and the committee has applied such a waiver for these customers on a U.S. expendable.

The bill would waive charges for U.S. launch property and services provided in support of a U.S. commercial launch. These entail associated support services such as operations, maintenance, and range support activities that were not historically charged directly to customers of the shuttle.

The issue here involves fundamental fairness. The committee has recognized a damaging policy decision and has developed incentives that will provide a partial and productive remedy in the form of a stimulus to the U.S. commercial launch industry.

The bill addresses the long-term competitiveness of the U.S. launch industry by directing NASA to support research into launch systems component technologies.

The success of the U.S. aviation industry is in large part due to the successful Government-industry relationship in aeronautics research. The committee believes that if the U.S. launch vehicle industry is to be competitive in the long term, such a relationship should be forged in launch vehicle component technology similar to the historical aeronautics model. The bill directs the Administrator of the National Aeronautics and Space Administration to support research into launch systems component technologies and to consult with industry in order to facilitate the transfer of technology to the commercial sector.

The bill expresses the sense of Congress that the United States should develop a dialog with foreign governments to seek guidelines for reasonable and fair international competition in commercial space activities.

The U.S. launch industry is entering a competitive launch competition in which foreign governments are actively supporting their industries. The growing trend toward "turnkey" services, or procurement of a satellite delivered in orbit, reflects a truly international marketplace. The result is that U.S. policy decisions affecting commercial space activities would be substantially validated through a process involving our friends.

The bill therefore expresses the sense of Congress that the United States should explore a dialog with appropriate foreign governments to address competition in launch and satellite services to seek the establishment of guidelines that assure reasonable and fair competition in commercial space activities.

This bill fills an important gap in our efforts to bring about a commercial launch industry. It is strongly supported by the U.S. launch and satellite industries, and has been developed in close consultation with them. I urge its rapid adoption.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4399. This legislation has the support of virtually every element of the space community. I think most Members would agree that the Nation benefits from a strong commercial sector. In fact the concept of "space commercialization" has become almost synonymous with apple pie; you can't really not like it. The only issue has been: "How do we get there from here?"

Historically the Space Program has been Government funded and Government managed, and the transition to the private sector has been a bumpy road, as the Landsat experience has demonstrated.

On the other hand, the communications satellite industry has been hailed as a commercial success and an example of what the private sector can do. It's also an example of the benefits of cooperation between the Government and the private sector.

When the *Challenger* accident grounded the shuttle fleet, it became obvious that the shuttle would never be the universal launch vehicle that it was advertised to be and we realized that we needed a more versatile space transportation system. It was an expensive lesson but we learned that we need more than one way to get into space.

As long as NASA was providing heavily subsidized shuttle launches to commercial users, there was no possibility of developing a commercial launch industry; but today, the situation is different. Today we have three major aerospace firms who are interested in competing for the foreign and domestic commercial launch market. This is a healthy competitive situation but major impediments to commercial success still exist.

The importance of a domestic launch capability should be clear to everyone. Dependence on foreign launch providers is not an acceptable option. We need to ensure that the U.S. commercial launch industry survives.

Historically, the Government has been the sole provider of launch services in this country and customers were not required to pay the full cost. The cost of the infrastructure necessary to support these launches was paid for by the Government; moreover, the Government shared the risk with the customer. Foreign competitors still offer similar arrangements. What this bill does is try to at least partially level the playing field for U.S. launch companies by providing equitable arrangements for commercial use of Government facilities and also what I believe is an equitable approach to risk sharing.

I am aware that there are critics of this bill who would prefer a cap on liability in lieu of indemnification. While I might agree that in some instances a cap on liability claims would be appropriate, I see nothing in the approach taken in the bill that is cause for alarm.

This legislation does not ask the Government to assume any greater risk than it was assuming before. When an activity is clearly in the national interest as this is, it's entirely appropriate for the Government to share the risk. Moreover, there is a precedent for this type of risk sharing in the nuclear energy industry.

This bill also has other provisions aimed at ensuring that our ELV industry survives in this highly competitive market. This legislation authorizes NASA to undertake an R&D program in launch systems technology. This effort will parallel work they've done for the aeronautics industry. NASA's Aeronautic Research and Technology Program has been instrumental in maintaining U.S. preeminence in aeronautics and a similar role in space transportation technology is essential to the long-term competitiveness of the U.S. launch industry.

Mr. Speaker, I believe this legislation is vital to the success of a domestic commercial launch industry, and a healthy domestic launch industry is a critical element of the U.S. Space Program. We can no longer afford to have the U.S. Government be the sole provider of launch services and we certainly can no longer rely on the shuttle to provide our only access to space.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON], the distinguished chairman of our Subcommittee on Space Science and Applications.

Before he proceeds, may I thank him very much for his leadership and the excellent job he and the gentleman from Pennsylvania [Mr. WALKER] have done in the work they have carried out in bringing this legislation before the committee.

Mr. NELSON of Florida. Mr. Speaker, it is indeed a privilege that I can only return the compliments to the chairman and the gentleman from New Mexico, the ranking minority member, for the excellent working relationship that the gentleman from Pennsylvania [Mr. WALKER] and I have been privileged to have as we try to sort through the Nation's Civilian Space Program and try to get our Space Program back on track.

Mr. Speaker, I rise in support of H.R. 4399, to facilitate commercial access to space, and for other purposes.

As the primary sponsor of the bill, I want to concur fully with the chairman of the full Committee on Science, Space, and Technology in his remarks. I also want to point out to all Members that the legislation enjoys strong bipartisan support, thanks to the strong and able leadership of the gentleman from New Mexico [Mr. LUJAN] and the gentleman from Pennsylvania [Mr. WALKER]. We are partners in forging this legislation that is absolutely critical if the United States is going to have a competitive commercial launch industry.

In 1984, the Congress approved legislation to establish a regulatory framework for commercial launch activities following a national policy decision to get the Government out of the ELV business. Nearly 4 years later, we have yet to experience a commercial launch in this country. The delay is due primarily to regulatory delays caused by a lack of seriousness in the administration toward this new industry. Implementation has been mired by agencies competing for the responsibilities given to the Department of Transportation, the agency charged with regulating this new industry.

After the *Challenger* accident, the President decided to ban commercial satellites from the space shuttle in order to create a market for the U.S. launch industry. U.S. satellite customers faced a fledgling U.S. launch industry or a choice among various eager and capable foreign launch providers. There was little reason to believe that the U.S. Government would be any more reliable in providing access to the commercial launch industry for commercial purposes than it has been in its relations with the satellite communciations industry.

A year after the President's August 1986 policy decision, our committee conducted hearings to review the state of the domestic launch industry. The committee learned that no satellite customer had been able to obtain a firm cost quote or launch date from a U.S. launch provider. The reason? The reason is because of delay and disorganization within the administration.

U.S. launch providers and satellite customers testified of a policy near collapse, due to either neglect, or individual agency recalcitrance to accommodate the launch needs of the commercial sector. Moving toward a commercially provided service after over 20 years of Government provided launch services would not be easy, and we surveyed our choices as a nation:

Should we reconsider use of the space shuttle for commercial satellite launchings? The Nation could not justify risking human lives for routine satellite launchings.

Should the Government launch commercial satellites on expendable launch vehicles? The Government was overwhelmed in an effort to obtain ELV's to meet scientific and defense requirements, and several commercial launch providers were making serious investments in an effort to enter the market.

Public testimony in the fall of 1987 revealed that the administration's policy implementation was not effective, and that further delays threatened the viability of the U.S. launch and satellite industries. In the face of foreign launch competition involving the active support of foreign governments, the United States faced considerable risks not only to the future of its launch industry, but to the U.S. satellite industry as well. H.R. 4399 fills the important gaps identified by U.S. launch providers and satellite users that will ensure the United States builds a domestic launch industry that is competitive worldwide.

Let me talk about this foreign competition:

Arianespace, the European launch consortium involving 36 European aerospace companies and 13 banks, successfully cut into 50 percent of the world satellite market in competition with shuttle by 1985. Several American companies rely on the Ariane for access to space. This year, Ariane 4, a new, more capable vehicle, will launch, giving the Europeans the capability of launching up to 4,200 kilograms to geostationary orbit. Ariane continues to develop more powerful launch vehicles in order to launch heavier payloads.

The Soviet Union is actively marketing launch services to the West on its Proton vehicle. U.S. satellite owners have been quoted prices on the Proton at a level U.S. launch providers cannot meet. Although current United States policy prohibits the export of United States technology to the Soviet Union, the Commerce Department recently granted an export license to place a commercial United States experiment on the Soviet space station Mir.

The People's Republic of China is also actively marketing launch services on its Long March vehicle, and at cutrate prices. As a matter of policy, China has stated it will underprice its launches in order to ensure the attractiveness of its services. United States trade policy toward the Chinese is certainly more favorable to the Chinese, and requests for export licenses will be reviewed on an individual basis. To date, no company has requested an export license, although several have received Government approval to negotiate terms and conditions with the Chinese. Several international competitions for satellite services underway today may force early determination of United States policy toward use of the Chinese Long March.

If the United States Government allows American satellites on the Proton or the Long March under the current terms and conditions being offered by the Soviet Union or the Chinese, the American launch industry will face an unbeatable competition. I am certain that Congress will oppose any such prospect.

Japan's launch capability is in development. Currently, their N-II and H-1 launch vehicles—which were developed from American technology—meet domestic needs, however, plans are proceeding to develop a new H-2 launch vehicle that will not use United States technology and therefore Japan's marketing plans will not be constrained. Japan's plans for marketing the H-2 to the West, which would be available in 1992, remain unclear at this time.

Clearly, the field of foreign launch competitors is formidable. Moreover, international competition in satellite service has evolved into the procurement of "turnkey" services; that is, a satellite customer obtains a satellite delivered in orbit. The Soviet Union has already offered the total launch package, including satellite and ground stations, in competitions. If the United States has no commercial launch industry, it may be only a matter of time before we would lose both the launch and the satellite industries to off-shore competition.

Mr. Speaker, I believe the United States has a choice to make in this international arena. Our choice is to keep the launch and the satellite business in this country. We need the commercial launch industry for both Government and commercial needs. It is a matter of our national security and economic security. The American satellite industry has been a technological wonder and the envy of the world. If we impair the ability of these industries to compete, we have only ourselves to blame. We need this legislation.

H.R. 4399 assures commercial access to space as follows:

First. Following the policy precedent for launches of the space shuttle, the bill provides for a risk allocation scheme among launch providers, users and Government that apportions risks fairly and ensures the ability of the United States to meet its obligations to the international community under treaty.

Second. It provides important ground rules for commercial use of Government launch ranges. Commercial users will be charged Government launch costs on a direct, or additive cost basis, reflecting the actual charges of services. Government agencies will also be able to be reimbursed for quality control activities provided at the request of a launch vehicle manufacturer. Finally, and most importantly, the bill will prohibit Government preemption of commercial launches, except in cases of imperative national need which could encompass exigent civilian or national requirements. This will ensure the reliable access to Government ranges by the commercial sector, a variable as important as cost in the selection of launch services. We are also directing DOT to conduct a study in conjunction with NASA, DOD, and industry to review means of optimizing use of Government ranges for Government and commercial users.

Third. The bill provides incentives for customers under contract with NASA—and whose satellites were under construction at the time of the President's policy decision banning commercial use of the shuttle—to be available if they choose to launch on American launch vehicles. These incentives are not direct subsidies. They were services provided in connection with shuttle launches, and we are simply extending their application in connection with commercial launches, under the legislation.

Fourth. The bill addressed the long-term competitiveness of the launch industry by ensuring continued research and development in launch vehicle component technologies. We want to make sure that the NASA aeronautics model which has done so much to ensure the success of the U.S. aviation industry, is applied at an early stage to the launch sector. These research and development activities should accrue to the benefit of the Government and commercial sectors.

Fifth. In recognition of the international nature of commercial space competitions, the bill expresses the sense of the Congress that the United States should enter into a formal dialog with appropriate foreign governments with a view toward developing Western policies in international launch and satellite servicing competitions.

Finally, I want to comment on the administration's views on this legislation. We have made every effort to include the agencies involved in commercial space transportation—DOT, NASA, and the Air Force—in the deliberations on this important legislation. We received testimony from each agency twice on the bill. In February, the administration announced its own proposal for dealing with insurance and liability problems in the commercial launch industry. Consistent with their tort reform proposals of the last 8 years, they recommended a limitation of $200,000 on noneconomic damage awards to individual third parties. Also consistent would be congressional reaction to such a proposal. Such a proposal was a clear nonstarter. The committee decided instead on the tried and true shuttle policy precedents for allocating risks associated with launch activities conducted by the private sector. I believe the committee's recommendations are much more closely aligned with our international treaty obligations and established Government policies.

Our recommendations in the Government property area are more closely aligned with the administration's recommendations to waive the Goverment's rights to recover for damages to Government property in excess of insurance obtained by commercial launch providers at the direction of the Department of Transportation. The committee has followed this recommendation, but has added even greater certainty by setting a $100 million insurance requirement guideline. Based on our review of Government exposure as a result of property damage from launch accidents, the $100 million coverage is more than adequate.

Mr. Speaker, this is a good bill. It has been thoroughly debated, and developed in consultation with the launch and satellite industries and representatives of the administration. A counterpart bill, S. 2395, is making its way through the Senate. We are hopeful that enactment will occur in the near future, and that the Nation's first commercial launches will take place early in 1989.

I urge adoption of H.R. 4399.

□ 1305

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Florida [Mr. NELSON] has consumed 10 minutes.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Let me thank the gentleman from New Jersey [Mr. ROE], the chairman of the full committee, the gentleman from New Mexico [Mr. LUJAN], the vice chairman of the committee, and the chairman of the subcommittee for all the work that has gone in on this bill. I think we have an excellent bill here. It is one that I thoroughly support.

This legislation, in my opinion, is absolutely critical in establishing a viable domestic space launch industry using American expendable launch vehicles.

Since the tragic loss of the space shuttle *Challenger* on January 28, 1986, the policies of the U.S. Government have clearly recognized a commercial launch industry as an essential component of our national space recovery effort, and a critical element of assured access to space by both the Government and commercial sectors.

Both public law, and sound public policy, dictate that the U.S. Government will continue to be an active partner with our domestic launch service providers. This partnership is based on the governmental role of regulator of the industry, owner and manager of the eastern and western launch ranges, provider of critical range services such as weather and range safety, and as the signatory of the international treaty which confers upon the United States absolute liability for damages resulting from accidents involving space vehicles launched from U.S. territory.

Today we stand at the brink of a new era in space commercialization. The U.S. commercial space launch industry is rapidly entering a highly competitive international marketplace to provide space launch services.

Our committee it seems to me has done an excellent job of balancing the critical need to ensure a domestic commercial launch industry, and finding ways to allocate the risks so that no single sector is unfairly penalized.

As the ranking Republican of the Subcommittee on Space Science and Applications I must say that I am surprised, even shocked that the administration is opposed to this bill in it's present form. But let me explain why we are in this position, and let me also assure Members that the opposition is not unanimous.

The Department of Justice does not support our approach to indemnification for damages resulting from accidents. I will admit, that the administration position is consistent—they want to address this problem through tort reform legislation that would thoroughly overhaul our Federal tort system.

The idea is great but it simply is not going to fly in this Congress right now. If I had any thought that there was a chance of passing in this House, in this Congress, such legislation, I would be willing to support an effort to attempt to get that comprehensive tort reform package.

But the truth is that tort reform is a dead issue in this Congress and unless we are willing to have our domestic commercial launch industry also be equally dead, we had better find another way to address the problem.

The Department of Commerce is upset because we are assisting a small group of satellite launchers and claim that this is an unwarranted Federal subsidy. The truth is that there were 44 firm commitments for commercial launches aboard the space shuttle when the *Challenger* was lost. The administration has adopted a policy that reneged on those contracts between U.S. companies and their Government for launches. We recognize that the U.S. Government has broken a contractual obligation with these firms, for the good of the Government, and that in equity, we should act as the Government to mitigate their losses.

The bill provides for a cross waiver of damages resulting from accidents which are not the result of the willful misconduct of the launch company, its contractors, or customers. This is exactly how we handled space shuttle launches, and I was under the distinct impression that this "reciprocal waiver" provision was an essential part of the administration's own space policy that came out only a few months ago.

Mr. Speaker, I generally stand with the administration. I think that Ronald Reagan has been a great President in terms of our space program. And most of his decisions on space have been first rate. But on this issue the administration is just plain wrong.

This bill is one of the best crafted pieces of legislation that I have ever been associated with.

It has won the support of people like rocket manufacturers, satellite manufacturers, insurance underwriters, and satellite users. In this case we have a vehicle that will launch a new American industry that will continue this Nation in the forefront of the spacefaring nations on Earth.

In the alternative, you can adopt the apparent administration position and you can hold this infant industry now emerging hostage for comprehensive tort reform legislation. The result should be obvious. Tort reform is an issue that has been dead-on-arrival on Capitol Hill. That is a shame, but that is a fact. That is not going to change the basic fact that we are not going to get tort reform. The result will be that our domestic commercial launch industry will die aborning.

Mr. Speaker, I think that we have a choice before us today which is a clear one. You can vote for this bill and be in the forefront of a new commercial launch industry, we can vote against this bill with the administration's objections and hold that industry hostage. I think we would make a mistake to do that. The right thing to do is to pass this legislation and move ahead with what this Nation's space program needs.

I thank the gentleman for yielding.

Mr. VALENTINE. Mr. Speaker, H.R. 4399 is an important piece of legislation that will be essential to the recovery of our space program following the *Challenger* accident. We have learned a painful lesson that our shuttle program must be accompanied by a strong and healthy expendable launch vehicle industry. The Government and the private sector are partners and we share a national responsibility to provide access to space for our scientific, defense, and commercial satellites.

This bill accomplishes a major objective, in recognition of this partnership, by establishing an equitable risk-sharing mechanism and in providing the certainty needed by the private sector to assess the extent of liability exposure. These are critical elements in any business of launching satellites.

Under the provision contained in this bill the launching party would indemnify itself and the Federal Government against all losses up to the maximum probable loss or $500 million, whichever is less. The Government would pay for any claims exceeding this. We envision that, on balance, the Government will benefit by avoiding claims for the numerous minor mishaps that will provide the industry with confidence that they are not exposed to unlimited liability. Although such major accidents that would exceed the maximum probable loss or $500 million are exceedingly unlikely, this confidence is absolutely essential if any private firm is to stay in business. Moreover, the United States is already fully responsible under the outer space treaty and liability convention for activities conducted by U.S. citizens in space. The risk-sharing relationship is responsible to the international community. Thus, this bill strikes a compromise that benefits both the Government and the private sector.

I urge my colleagues to join me in supporting this bill.

Mrs. MORELLA. Mr. Speaker, there are two issues here: How to make amends to companies manifested for shuttle flights following 51 L, the tragic *Challenger* accident on January 28, 1986, and how to set the course for future commercial space launching. The first is simply a question of equity—of the U.S. Government delivering on a promise. Testimony given to a Science, Space and Technology Subcommittee in February by the president of an off-loaded company which had a firm launch date from NASA in 1987 and, following the disaster, an assurance that the obligation would be honored, clearly demonstrates the need to recognize the difference between manifested companies and companies seeking contracts. Countless hours have been spent in negotiating a fair compensation, and all indications are that the language in the bill is an equitable solution.

Setting the course for future commercial launching is, of course, more involved. I must again point out that literally hundreds of hours have been spent by Members and staff—and special thanks must be given to an incredibly dedicated and knowledgeable staff for the Space Science and Applications Subcommittee. Since our first informal exchange of information in November of last year with the presidents of America's largest space risk underwriters and the largest space insurance brokers, through the remarkable endorsement by virtually every industry in the launching, satellite and insurance business, this bill has been "on a go." Because of its widespread support and the careful way it has been crated, it is an essential ingredient toward reinstating American leadership in space.

In general terms, H.R. 4399 gives industry the firm commitment to launch it needs to make necessary business decisions. It will help to keep the launching industry in the United States, despite some very real competition from the Europeans, Japanese, Chinese, and the Soviet Union. It needs to be passed today, not tomorrow or the next day, and it needs to have the overwhelming support of Congress, as it does from the American public.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 4399.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4399, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries.

FEDERAL FIRE PREVENTION AND CONTROL AUTHORIZATION ACT

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4419) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

The Clerk read as follows:

H.R. 4419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following new subsection:

"(g)(1) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, there are authorized to be appropriated to carry out the purposes of this Act—

"(A) $17,039,000 for the fiscal year ending September 30, 1989;

"(B) $17,737,000 for the fiscal year ending September 30, 1990; and

"(C) $18,464,000 for the fiscal year ending September 30, 1991.

"(2) Of the amounts referred to in paragraph (1), not more than $4,150,000 is authorized to be appropriated for each fiscal year for National Emergency Training Center site administration.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 4419, the fiscal years 1989, 1990, and 1991 authorization for two programs created by the Federal Fire Prevention and Control Act of 1974. These programs were created in response to the 1973 report "America Burning" that dramatically detailed this country's shocking fire problem.

Before continuing, I want to thank Mr. LUJAN, the ranking Republican member of the Committee on Science, Space, and Technology for his cooperation and help on this bill during the legislative process. Also, I would like to thank Mr. WALGREN, the chairman of the Subcommittee on Science, Research, and Technology, and Mr. BOEHLERT, the ranking Republican member of the subcommittee.

This bill authorizes funds for the U.S. Fire Administration [USFA], which conducts research on residential sprinkler systems and promotes fire safety education. Also, the Fire Administration monitors trends in fire losses nationwide and sponsors programs to improve prevention and control methods. The second program authorized by this bill is the National Fire Academy [NFA], which provides expert training to the Nation's fire service leaders.

Now, this bill does the following:

Supports all fire prevention and arson control activities within the U.S. Fire Administration in fiscal year 1989;

Provides full funding of the stipends needed to bring firefighters to the Fire Academy for top-notch training in fiscal year 1989;

Caps the funds from the USFA and NFA which can be used as administrative support for the National Emergency Training Center in fiscal year 1989-90; and

Provides an annual 4.1 percent inflationary increase in fiscal years 1989, 1990, and 1991 for all programs.

We simply can't cut these programs in good conscience, when 6,000 Americans die from fire each year and more than 9.6 billion dollars' worth of property is lost annually as a result of fire. Reauthorizing the fire activities for fiscal years 1989-91 as represented in

H.R. 4419, is a small price to pay to continue programs which have a proven success rate of reducing human and property losses due to fire.

Statistics show that fire is a tremendous national problem. We must support, enhance, and improve the valiant efforts of the Nation's firefighters and the fire safety activities of State and local governments. They should not be expected to battle fires alone. The Federal Government has a responsibility to transfer the benefits of fire control and prevention research to the individuals who risk their lives to save others.

Furthermore, it is neither feasible nor economically sound for each State to duplicate the expert training available at the Academy. The Federal cost of these instructional programs is leveraged time and time again, as the trained share their new expertise with their firefighter colleagues back home.

Therefore, I strongly urge all Members of the House to vote in favor of H.R. 4419 as reported by the Committee on Science, Space, and Technology.

□ 1320

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4419, a bill to authorize appropriations in fiscal years 1989, 1990 and 1991 for the Federal Fire Prevention and Control Act of 1974. This is the first of a series of authorization bills which the Committee on Science, Space, and Technology will bring to the floor for consideration by the full House. As such, we will be asking Members to consider multiyear authorizations for agencies under the committee's jurisdiction. As the ranking Republican member of the Science Committee, I am a strong advocate of multiyear authorizations. I believe it facilitates better planning on the part of the Congress and the executive agencies, provides programmatic stability and diminishes the crisis management syndrome the Congress often finds itself in.

In fact, there may be no more appropriate a bill than H.R. 4419 to break the crisis management syndrome. All too often fire preparedness is the furthest thing from our minds, as I am sure it was on May 5, 1988, when a fire broke out in the Speaker's office on the second floor of the Longworth Building.

How many of us ever give much thought to whether an extinguisher is near by, or how far we need to run to pull the alarm? In fact, the majority of people on Capitol Hill don't even know what the fire alarm warning system sounds like. Had the House not gone out of session earlier than expected on May 5, many of us may never have had another opportunity to learn the sound of the fire alarm. It is an aspect of human nature, which we need to guard against, which assumes that danger is out of our realms. The May 5 incident may have proved to the Congress that fire prevention and preparedness is not an "out of sight, out of mind" matter. Let's not wait for the next incident before we have a real crisis to respond to.

Fortunately, the Committee on Public Works and Transportation is thinking ahead. On May 5, 1988, they approved a General Services Administration [GSA] prospectus authorizing the installation of automatic fire sprinklers in certain Federal buildings. I am very pleased to have received word that the Dennis Chavez Federal Building and courthouse in Albuquerque, NM—where I maintain the office for the First Congressional District—is included in this prospectus. Also included is the Federal Building at 517 Gold Avenue in Albuquerque, NM.

This complements well what steps the Science Committee has taken to assure that when Federal employees travel outside of these sprinklered Federal buildings, that they stay in hotels that are likewise, fully sprinklered. As a result of hearings held by the Science Committee, Mr. WALGREN, Mr. BOEHLERT, and I introduced H.R. 3704, the Hotel and Motel Fire Safety Act of 1988. The committee recently reported out this legislation with amendments which would use the Federal dollar in a positive way. Employees on Government travel would be reimbursed for lodging only when they stayed in sprinklered hotels. Again, I would state that prevention and safety should begin here, within the Congress, where the laws are made. Along with making our workplace safer, let's make sure that where we send our employees is safe, too.

Along with the safety of buildings, the Federal Government has assured that the infrastructure for fire prevention will maintain a Federal focus. For that, we have the U.S. Fire Administration and the National Fire Academy [NFA]. H.R. 4419 provides funds to carry out existing activities in each of the next successive 3 years, accounting for inflation. I am aware of reservations expressed in the administration's position on this bill. In the Science Committee, I offered an amendment which would address some of these concerns but that proposal did not prevail. The conference between the House and Senate on the authorization bill will be another opportunity to examine the administration's concerns.

Mr. Speaker, as we have all come to learn, very vividly, fire prevention is a serious matter and one that when approached in a balanced manner, has an appropriate Federal role. I urge adoption of H.R. 4419 and encourage my colleagues to join the Science Committee by cosponsoring H.R. 3704.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALGREN], the distinguished chairman of the Subcommittee on Science, Research, and Technology and one of the authors in strong support of this legislation.

(Mr. WALGREN asked and was given permission to revise and extend his remarks, and include extraneous matter.)

Mr. WALGREN. Mr. Speaker, each year this Nation's firefighters respond to over 2.5 million destructive fires. By ones and twos, mainly in their homes, more than 6,000 people, including over 100 firefighters, die as a result of fires, annually. The U.S. Fire Administration [USFA] and the National Fire Academy [NFA] were created in 1974, because there clearly is a Federal interest and contribution that can be made to reduce fire losses.

In 1974, more than 12,000 citizens of the United States lost their lives to fire. Largely through the efforts of the U.S. Fire Administration and the Fire Academy the lives lost to fire have been reduced to approximately 6,000 by 1986. Programs at the USFA in the areas of smoke detector research, fire prevention, antiarson programs, support for firefighter health and safety research, increased knowledge of the fire problem through data collection and analysis, and successful public fire education campaigns, were substantially responsible for this reduction in fire deaths.

The NFA has improved training available to the Nation's fire service by providing management and leadership training above and beyond those generally available from State fire academies, and specialized training in areas such as, arson investigation and emergency handling of hazardous materials. The NFA also provided a stipend program, which pays the costs of firefighters to travel to the Academy, located in Emmitsburg, MD.

In spite of the importance of the kind of losses associated with fire, the USFA budget has been severely reduced over the past 6 years. The administration's proposal for fiscal year 1989 would: Further cut the USFA to $2,657,000; eliminate the entire Office of Fire Prevention and Arson Control; and reduce the staff by 4 to 16 FTE's. USFA's antiarson initiatives, local community-based volunteer fire prevention programs, quick-acting residential sprinkler system programs, public education campaigns, and building codes and standards initiatives would be eliminated.

Funding of the NFA has remained relatively stable at about $10 million, but the administration has proposed over the last 3 years to eliminate or reduce severely the $1.2 million student travel stipend program. The administration request for fiscal year 1989 would result in a 66-percent reduction in the stipend program.

H.R. 4419 as adopted by the Committee on Science, Space, and Technology on April 21, restores full funding for the USFA and NFA in fiscal year 1989. The programs would be funded at the fiscal year 1988 appropriation level plus a 4.1-percent increase for inflation—CBO estimate. An annual 4.1-percent inflationary increase is also provided for fiscal year 1990 and fiscal year 1991.

Also, the bill limits the fire funds which can be used as site administration for the National Emergency Training Center to no more than $4,150,000 per year in fiscal years 1989-1991. I am also submitting a budget chart which details the authorization levels.

FEDERAL FIRE PREVENTION AND CONTROL ACT

[In thousands of dollars]

	Fiscal year 1988—		Fiscal year 1989—		Fiscal year—	
	Authorization	Appropriation	Request	Committee recommendation	1990 committee recommendation	1991 committee recommendation
National Fire Academy [NFA]:						
1. Instructional programs and materials		1,059	1,063			
2. Training field deployment systems		2,116	2,123			
3. Resident programs		3,019	2,219			
4. NETC site administration [1]		4,372	4,623			
Subtotal, NFA	10,588	10,566	10,028	10,999	11,450	11,919
U.S. Fire Administration [USFA]:						
1. Fire prevention and Arson control		3,286				
2. Federal fire policy and coordination		636	641			
3. Firefighter health and safety		590	594			
4. Fire data and analysis		1,090	1,222			
5. NETC site administration [1]		200	200			
Subtotal, USFA	6,110	5,802	2,657	6,040	6,287	6,545
Total fire	16,698	16,368	12,685	17,039	17,737	18,464

[1] NETC—National Emergency Training Center.

[In thousands of dollars]

	Difference between—				
	1989 request (+/−) fiscal year 1988 appropriation	Chairman (+/−) fiscal year 1988 appropriation	Chairman (+/−) 1989 request	1989 and 1990	1990 and 1991
National Fire Academy	[1] −538	+433	+971	+451	+469
U.S. Fire Administration	−3,145	+238	+3,383	+247	+258
Total	−3,683	+671	+4,354	+698	+727

[1] The NFA figure includes a reduction of $822,000 for travel stipends, but the net reduction for NFA is lower because of salary increases.

The record established in the Congress is clear: State and local governments cannot be expected to take over the Federal role. If programs at the USFA and NFA are cut, this Nation will simply continue to endure the world's highest rates of fire death and property loss.

Therefore, I urge my colleagues to vote in favor of H.R. 4419.

□ 1330

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT], the ranking member of the subcommittee.

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, fire is an ever present danger. To prove that, we need look no further than our own office buildings. The fire in Speaker WRIGHT'S office should underscore for all of us the hazards of fire and the need for prevention, preparedness, and control.

Yet most Americans are complacent about fire. As a result, Americans have the highest rates of death and property loss from fire in the industrialized world.

We can overcome that dubious distinction. We should start by approving this bill, H.R. 4419, which will maintain the programs of the National Fire Academy and the U.S. Fire Administration. I'd like to provide even more money for these agencies—their budgets have eroded severely in recent years—but in the current budget climate, a maintenance of effort will have to suffice.

This bill also includes a long overdue provision to ensure that fire program money is not siphoned off to pay for administrative expenses. Our fire programs are too important and too underfunded to support unrelated programs.

There's another step we can take to prevent fire deaths. We can encourage the use of proven, affordable fire prevention technology—sprinklers and smoke detectors.

Chairman WALGREN, Mr. LUJAN, and I have introduced H.R. 3704, which would protect Federal employees and make hotels safer by prohibiting Federal employees from staying at hotels and motels that lack sprinklers and smoke detectors.

The bill was reported out of our committee by voice vote.

I urge my colleagues to vote for H.R. 4419 and to cosponsor H.R. 3704, so we no longer awaken to headlines telling of tragic, needless fire deaths.

POINT OF ORDER

Mr. JACOBS. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Indiana will state his point of order.

Mr. JACOBS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Under the rules, the Chair cannot entertain the gentleman's point of order during debate.

PARLIAMENTARY INQUIRY

Mr. JACOBS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. JACOBS. Mr. Speaker, when would such a point of order be in order?

The SPEAKER pro tempore. Only when the Chair is putting the question to a vote would that be in order.

Mr. JACOBS. I thank the Chair.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me say, Mr. Speaker, that I rise in strong support of H.R. 4419 and also to commend the individuals involved for bringing this piece of legislation before the House, particularly the chairman of the full committee, the gentleman from New Jersey [Mr. ROE], the ranking member of the full committee, the gentleman from New Mexico [Mr. LUJAN], the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. WALGREN], and the ranking member, the gentleman from New York [Mr. BOEHLERT]. These individuals have provided tremendous leadership over the last 7 to 10 years in making sure that prior programs were in fact adequately funded when the administration has attempted to cut substantial funds from programs that are absolutely necessary for the fire service in America.

Mr. Speaker, this bill before us today is a bare-bones bill and is what is absolutely necessary in terms of authorization to allow the Fire Administration and the Fire Academy to address the needs of the fire service and the fire problem in America today.

Mr. Speaker, I support this legislation for several reasons, not the least of which is our need in Washington to make sure that we continue to support with adequate resources national leadership in the area of fire prevention, arson control, fire research, and stipends for training so that the volunteers and paid firefighters across America can in fact travel to the Fire Academy to receive training on the state of the art techniques in fire suppression and fire prevention.

The administration has indicated that they are opposed to this bill for two reasons. First of all, they have attempted to completely eliminate the funds for stipends. Without the stipends the firefighters across America in fact could not take advantage of the programs of the National Fire Academy. I strongly object to that provision. I think it is totally unacceptable, and I commend the committee for restoring the funds for the stipend program.

The administration has also proposed to eliminate the fire prevention and arson control provision, a provision that I equally object to. This organization has done a tremendous job in heightening awareness in America of the need for better fire prevention and better arson control techniques, and I thank the committee once again for restoring funds for this program.

The administration has also voiced its opinion in objecting to a limitation, a cap, over the amount of funds that could be used for administration of the Fire Academy at Emmitsburg, MD. This provision was inserted for a distinct reason and that was because the Federal Emergency Management Association over the last several years has in fact used fire service funding for support of civil defense programs.

Mr. Speaker, as a member of the Military Construction Subcommittee of the Armed Services Committee, I can attest to the fact that funding for civil defense in this year's authorization bill was in excess of $160 million, certainly adequate funds to operate the Emergency Management Institute at Emmitsburg. We should not be subsidizing that facility with funds that are rightfully earmarked for fire training and emergency training for the fire services, as has been done by FEMA in the past.

In addition, in the bill of the MilCon Subcommittee markup in the full Defense authorization bill, we attached report language which forces FEMA not to use Federal funds allocated for fire training to subsidize civil defense programs, and I am extremely happy that this bill provides for a cap on the amount of funds that can be used for the operational support of the National Emergency Training Center. It is a very important part of this bill. It is necessary, and I would hope that the administration would reconsider its position on this key provision of this legislation.

Mr. Speaker, the fire service in America asks for very little. This is probably one of the least bills that we have before us in terms of dollar authorization on an annual basis. The fire service simply wants the recognition that it will get the resources and the leadership nationally to continue to provide state of the art training for the firefighters who protect our small towns and our large cities. I think as an absolute minimum, this bill will provide that base.

Mr. Speaker, at a recent subcommittee hearing on the Armed Services Committee we were looking at the issue of ship survivability as a result of the attack on the *Stark* and what we perceived to be a lack of attention to fire training readiness on the part of our Navy personnel in our combat ships. As a result of one hearing, under the leadership of the gentleman from Florida [Mr. BENNETT], the chairman, we were able to reallocate immediately $64 million to improve the fire protection for our sailors serving on board our combat vessels. Now, $64 million would be the funding for the fire service in America for almost 4 years.

I think that equally important to fire training and fire protection of our naval personnel is support for the fire service of this country, which numbers almost 2 million individuals.

Mr. Speaker, I strongly support this legislation. I think it is an important piece of legislation that the administration should rethink and revisit and I hope that my colleagues in the conference will not accede to any of the wishes of the administration in watering down this bill.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 4419.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4419, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SOUTH PACIFIC TUNA ACT OF 1988

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1989) to implement the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America.

The Clerk read as follows:

S. 1989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "South Pacific Tuna Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Administrator" means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States Government.

(2) The term "Authorized Officer" means any officer who is authorized by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an enforcement agreement with the Secretary under section 10(a) of this Act.

(3) The term "Authorized Party Officer" means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

(4) The term "applicable national law" means any provision of law of a Pacific

Island Party which is described in paragraph 1(a) of Annex I of the Treaty.

(5) The term "Closed Area" means any of the closed areas identified in Schedule 2 of Annex I of the Treaty.

(6) The term "fishing" means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish;

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or

(F) aircraft use, relating to the activities described in this paragraph except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

(7) The term "fishing vessel" or "vessel" means any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, and which is documented under the laws of the United States.

(8) The term "Licensing Area" means all waters in the Treaty Area except for—

(A) those waters subject to the jurisdiction of the United States in accordance with international law;

(B) those waters within Closed Areas; and

(C) those waters within Limited Areas closed to fishing.

(9) The term "licensing period" means the period of validity of licenses issued in accordance with the Treaty.

(10) The term "Limited Area" means any area so identified in Schedule 3 of Annex I of the Treaty.

(11) The term "operator" means any person who is in charge of, directs or controls a vessel, including the owner, charterer, and master.

(12) The term "Pacific Island Party" means a Pacific Island nation which is a party to the Treaty.

(13) The term "Party" means a nation which is a party to the Treaty.

(14) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(15) The term "Secretary" means the Secretary of Commerce, or the designee of the Secretary of Commerce.

(16) The term "State" means each of the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(17) The term "Treaty" means the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987, and its Annexes, Schedules, and implementing agreements.

(18) The term "Treaty Area" means the area so described in paragraph 1(k) of Article 1 of the Treaty.

SEC. 3. APPLICATION TO OTHER LAWS.

The seizure by a Pacific Island Party of a vessel of the United States shall not be determined to be a seizure described in section 205(a)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)(4)(C)) or section 2 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) if the seizure is found by the Secretary of State to be in accordance with the provisions of the Treaty.

SEC. 4. REGULATIONS.

The Secretary of Commerce, with the concurrence of the Secretary of State and after consultation with the Secretary of the department in which the Coast Guard is operating, shall issue regulations as may be necessary to carry out the purposes and objectives of the Treaty and this Act. These regulations shall be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located.

SEC. 5. PROHIBITED ACTS.

(a) Except as provided in section 6 of this Act, it is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of this Act or any regulation or order issued pursuant to this Act;

(2) to use a vessel for fishing in violation of an applicable national law;

(3) who has entered into a fishing arrangement under paragraph 3 of Article 3 of the Treaty, to violate the terms and conditions of such fishing arrangement if the Secretary of State has decided under section 18 of this Act that Article 4 and paragraph 6 of Article 5 of the Treaty shall apply to the arrangement;

(4) to use a vessel for fishing in any Limited Area in violation of any requirement in Schedule 3 of Annex I of the Treaty;

(5) to use a vessel for fishing in any Closed Area;

(6) to falsify any information required to be reported, notified, communicated, or recorded pursuant to a requirement of this Act, or to fail to submit any required information, or to fail to report to the Secretary immediately any change in circumstances which has the effect of rendering any such information false, incomplete, or misleading;

(7) to intentionally destroy evidence which could be used to determine if a violation of this Act or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search or inspection in connection with the enforcement of this Act or the Treaty;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with—

(A) any Authorized Officer or Authorized Party Officer in the conduct of a search or inspection in connection with the enforcement of this Act or the Treaty; or

(B) an observer in the conduct of observer duties under the Treaty;

(11) to resist a lawful arrest for any act prohibited by this section;

(12) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; or

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or retained.

(b) Except as provided in section 6 of this Act, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area—

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental bycatch;

(3) to use a vessel for fishing by any method other than the purse-seine method;

(4) to use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license;

(5) to operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels;

(6) to use a vessel to fish in a manner inconsistent with an order issued by the Secretary under section 11 of this Act; or

(7) except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use an aircraft in association with the fishing activities of a vessel unless it is identified in the license application for the vessel, or any amendment thereto.

SEC. 6. EXCEPTIONS.

(a) The prohibitions of section 5 of this Act and the licensing requirements of section 9 of this Act shall not apply to fishing for albacore tuna by vessels using the trolling method outside of the 200 nautical mile fisheries zones of the Pacific Island Parties.

(b) The prohibitions of section 5 (a)(4), (a)(5), and (b)(3) of this Act shall not apply to fishing under the terms and conditions of an arrangement which has been reached under paragraph 3 of Article 3 of the Treaty and which, pursuant to a decision by the Secretary of State under section 18 of this Act, is covered by Article 4 and paragraph 6 of Article 5 of the Treaty.

SEC. 7. CRIMINAL OFFENSES.

(a) A person is guilty of a criminal offense if he or she commits any act prohibited by section 5(a) (8), (10), (11), or (12) of this Act.

(b) Any offense described in subsection (a) of this section is punishable by a fine of not more than $50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer, or observer under the Treaty in the conduct of their duties, or places any such Authorized Officer, Authorized Party Officer, or observer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than 10 years, or both.

(c) The district courts of the United States shall have jurisdiction over any offense described in this section.

SEC. 8. CIVIL PENALTIES.

(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 5 of this Act, shall be liable to the United States Code for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent, any gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history or prior offenses, ability to pay, and such other matters as justice may require. Except for those acts prohibited by section 5(a) (4), (5), (7), (8), (10), (11), and (12), and section 5(b) (1), (2), (3), and (7) of this Act, the amount of the civil penalty shall not exceed $250,000 for each violation. Upon written notice, the Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty for violation of this Act.

(b) Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States, and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) Except as provided in subsection (g) of this section, if any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States.

(d) Except as provided in subsection (g) of this section, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 5 of this Act shall be liable in rem for any civil penalty assessed for the violation under section 8 of this Act and may be proceeded against in any district court of the United States having jurisdiction thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(e) The Secretary, after consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(g) If a vessel used in a violation of section 5(a) (1), (2), (3), (4), (5), (6), (7), (8), (9), or (13) or section 5(b) of this Act for which a civil penalty has been assessed—

(1) had a valid license under the Treasury at the time of the violation, and

(2) within 60 days after the penalty assessment has become final, leaves and remains outside of the Licensing Area, all Limited Areas closed to fishing, and all Closed Areas until the final penalty has been paid,

there shall be no referral to the Attorney General under subsection (c) of this section or in rem action under subsection (d) of this section in connection with such civil penalty.

SEC. 9. LICENSES.

(a) Licenses to fish in the Licensing Area, to be issued by the Administrator in accordance with the Treaty, may be requested from the Secretary by operators of vessels, under procedures established by the Secretary. The license application shall designate an agent for the service of legal process to be located in Port Moresby, Papua New Guinea. The applicant shall ensure that the designated agent for service of process, acting on behalf of the license holder, will receive and respond to any legal process issued in accordance with the Treaty and will, within 21 days after notification, travel if necessary for this purpose to any Pacific Island Party at no expense to that Party.

(b) Except as provided in subsections (e), (f), and (g) of this section, the Secretary shall forward a vessel license application to the Secretary of State for transmittal to the Administrator whenever such application is in accordance with application procedures established by the Secretary, includes a complete application form as required by Annex II of the Treaty, and is accompanied by the required license fee.

(c)(1) In the initial year of implementation, fees for the first 40 vessel licenses shall be at least $50,000 each, for any 10 vessel licenses in addition to the first 40 shall be $60,000 each, and for vessel licenses in addition to the first 50 shall be in accordance with Annex II of the Treaty.

(2) After such initial year, fees for vessel licenses shall be paid in accordance with fee schedules established under Annex II of the Treaty and published by the Secretary.

(d) Licenses shall be valid for the licensing period specified by the Administrator.

(e) The Secretary may establish a system of allocating licenses in the event more applications are received than there are licenses available.

(f) For the initial year of implementation, license fees totaling at least $1,750,000 must be received by the Secretary before any license applications will be forwarded to the Secretary of State for transmittal to the Administrator.

(g) The Secretary, in consultation with the Secretary of State, may determine that a license application should not be forwarded to the Administrator for one of the following reasons:

(1) where the application is not in accordance with the Treaty or the procedures established by the Secretary;

(2) where the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, unless reasonable financial assurances have been provided to the Secretary;

(3) where the owner or charterer has not established to the satisfaction of the Secretary that the fishing vessel is fully insured against all risks and liabilities normally provided in maritime liability insurance;

(4) where the owner or charterer has not paid any penalty which has become final, assessed by the Secretary in accordance with this Act.

SEC. 10. ENFORCEMENT.

(a) The provisions of this Act shall be enforced by the Secretary in cooperation with the Secretary of State. The Secretary, after consultation with the Secretary of State, may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency and of any State agency in the peformance of these duties.

(b)(1) The Secretary shall, at the request of a Pacific Island Party made to the Secretary of State, fully investigate any alleged infringement of the Treaty involving a vessel of the United States, and report as soon as practicable, and in any case within 2 months, to that Party through the Secretary of State on any action taken or proposed by the Secretary in regard to the alleged infringement.

(2) Upon commencement of an investigation under paragraph (1) of this subsection, the Secretary shall notify the operator of any vessel concerned regarding—

(A) the nature of the investigation;

(B) the right of the operator to submit comments, information, or evidence bearing on the investigation and to receive, upon the operator's timely written request to the Secretary, an opportunity to present such comments, information, or evidence orally to the Secretary or the Secretary's representative within 30 days after receipt of such notification.

(c)(1) Prior to instituting any legal proceedings under this Act for any action which involves an alleged infringement of the Treaty in waters within the jurisdiction of a Pacific Island Party, the Secretary, through the Secretary of State, shall notify the Pacific Island Party in accordance with paragraph 8 of Article 4 of the Treaty that the proceedings will be instituted. Such notice shall include a statement of the facts believed to show an infringement of the Treaty and the nature of the proposed proceedings, including any proposed charges and any proposed penalties. The Secretary shall not institute such proceedings if the Pacific Island Party objects within 30 days after the effective date of the notice under Article 10 of the Treaty.

(2) The Pacific Island Party exercising jurisdiction over the waters involved in such a legal proceeding shall be promptly notified by the Secretary, through the Secretary of State, concerning the outcome of the proceeding.

(d)(1) Any Authorized Officer may—

(A) with or without a warrant or other process—

(i) arrest any person, if he has reasonable cause to believe that the person has committed any act subject to prosecution under section 7 of this Act;

(ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act; or

(iii) seize samples of fish or items for evidence (other than the vessel or its fishing gear or equipment) related to any violation of any provision of this Act;

(iv) order a vessel into the most convenient port of the United States for investigation when an investigation has been requested by a Pacific Island Party in accordance with the Treaty and when such an order is necessary to gather information for such an investigation;

(B) execute any warrant or other process issued by any court of competent jurisdiction;

(C) exercise any other lawful authority; and

(D) investigate alleged violations of the Treaty to the same extent authorized to investigate alleged violations of this Act.

(2) To the extent possible, Authorized Officers shall exercise their powers under paragraph (1)(A) (ii), (iii), and (iv) of this subsection so as not to interfere unduly with the lawful operation of the vessel.

(3) Nothing in this Act shall be construed to limit the enforcement of this or other applicable Federal laws under section 89 of title 14, United States Code.

(e) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act.

SEC. 11. FINDINGS BY THE SECRETARY.

(a) Following any investigation conducted in accordance with section 10(b) of this Act, the Secretary, with the concurrence of the Secretary of State, and upon the request of the Pacific Island Party concerned, may order a fishing vessel which has not submitted to the jurisdiction of that Pacific Island Party to leave immediately the Licensing Area, all Limited Areas, and all Closed Areas upon making a finding—

(1) that the fishing vessel—

(A) while fishing in the Licensing Area did not have a license under the Treaty to fish in the Licensing Area, and that under paragraph 2 of Article 3 of the Treaty, such fishing is not authorized to be conducted in the Licensing Area without a license;

(B) was involved in any incident in which an Authorized Officer, Authorized Party Officer, or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcefully resisted, refused boarding, or subjected to physical intimidation or physical interference in the performance of duties as authorized by this Act or the Treaty;

(C) has not made full payment within 60 days of any amount due as a result of a final judgment or other final determination deriving from a violation in waters within the Treaty Area of a Pacific Island Party; or

(D) was not represented by an agent for service of process in accordance with the Treaty; or

(2) that there is probable cause to believe that the fishing vessel—

(A) was used in violation of section 5 (a)(4), (a)(5), (b)(2), or (b)(3) of this Act;

(B) used an aircraft in violation of section 5(b)(7); or

(C) was involved in an incident in which section 5(b)(7) was violated.

(b) Upon being advised by the Secretary of State that proper notification to Parties has been made under paragraph 7 of Article 5 of the Treaty that a Pacific Island Party is investigating an alleged infringement of the Treaty by a vessel in waters under the jurisdiction of such Pacific Island Party, the Secretary shall order the vessel to leave such waters until the Secretary of State notifies the Secretary that such order is no longer necessary.

(c) The Secretary shall rescind any order issued on the basis of a finding under subsection (a)(1) (C) or (D) of this section as soon as the Secretary determines that the facts underlying the finding do not apply.

(d) No order issued in accordance with this section is subject to judicial review.

(e) Upon a request by the Secretary, the Attorney General shall commence a civil action for appropriate relief, including permanent or temporary injunction, to enforce any order issued by the Secretary under this section.

SEC. 12. REPORTING.

(a) Holders of licenses shall comply with the reporting requirements of part 4 of Annex I to the Treaty.

(b) Information provided by license holders in Schedules 5 and 6 of Annex I of the Treaty shall be provided to the Secretary for transmittal to the Administrator and to an entity designated by the license holder. Such information thereafter shall not be released and shall be maintained as confidential by the Secretary, including information requested under the Freedom of Information Act, unless disclosure is required under court order or unless the information is essential for an enforcement action under section 5, 10(b), 10(c), or 11 of this Act, or any other proper law enforcement action.

SEC. 13. CLOSED AREA STOWAGE REQUIREMENTS.

At all times while a vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in such a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, shall be tied down; and launches shall be secured.

SEC. 14. OBSERVERS.

(a) The operator and each member of the crew of a vessel shall allow and assist any individual identified as an observer under the Treaty by the Pacific Island Parties—

(1) to board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island Parties to the Secretary;

(2) without interfering unduly with the lawful operation of the vessel, to have full access to and use of facilities and equipment on board the vessel which the observer may determine are necessary to carry out observer duties; have full access to the bridge, fish on board, and areas which may be used to hold, process, weigh, and store fish; remove samples; have full access to the vessel's records, including its log and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the Licensing Area;

(3) to disembark at the point and time notified by the Pacific Island Parties to the Secretary; and

(4) to carry out observer duties safely.

(b) The operator shall provide any such observer, while on board the vessel, at no expense to the Pacific Island Parties, with food, accommodation, and medical facilities of such reasonable standard as may be acceptable to the Pacific Island Party whose representative is serving as the observer.

(c) The operator of any vessel from which any fish taken in the Licensing Area is unloaded shall allow, or arrange for, and assist any individual so authorized by the Pacific Island Parties to have full access to any place where such fish is unloaded, to remove samples, and to gather any other information relating to fisheries in the Licensing Area.

SEC. 15. TECHNICAL ASSISTANCE.

The United States tuna industry shall provide $250,000 annually in technical assistance, including provision of assistance by technicians, in response to requests coordinated through the Administrator. The Secretary of State shall designate an entity to coordinate the provision of such technical assistance as provided by the United States tuna industry and to provide an annual report to the Secretary of State regarding the provision of such technical assistance.

SEC. 16. ARBITRATION.

In the event of a dispute requiring the establishment of an arbitral tribunal under Article 6 of the Treaty, the Secretary of State, in consultation with the Secretary, shall appoint the arbitrator to be appointed by the United States under paragraph 3 of that Article, and shall represent the United States in reaching agreement under such paragraph with each Pacific Island Party involved concerning the appointment of the presiding arbitrator of the tribunal.

SEC. 17. DISPOSITION OF FEES, PENALTIES, FORFEITURES, AND OTHER MONEYS.

To the extent required by Article 4 of the Treaty, an amount equivalent to the total value of any fine, penalty, or other amount collected as a result of any action, judicial or otherwise, taken pursuant to sections 7 and 8 of this Act shall be paid by the United States through the Secretary of State to the Administrator as soon as reasonably possible following the date that such amount is collected.

SEC. 18. ADDITIONAL AGREEMENTS.

Within 30 days after the Secretary of State's receipt of notice from a Pacific Island Party that it has concluded an arrangement pursuant to paragraph 3 of Article 3 of the Treaty, the Secretary of State shall consult with the Secretary concerning whether the procedures of Article 4 and paragraph 6 of Article 5 of the Treaty should be made applicable to such arrangement. At the conclusion of the consultations the Pacific Island Party and all other persons agreeing to the arrangement shall be notified by the Secretary of State of the resulting decision.

SEC. 19. SECRETARY OF STATE TO ACT FOR THE UNITED STATES.

The Secretary of State is authorized to receive on behalf of the United States reports, requests, and other communications from the Administrator and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, after consultations with the Secretary, may accept or reject, on behalf of the United States, changes or amendments to Annex I of the Treaty and its Schedules and Annex II to the Treaty and its Schedules.

SEC. 20. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated for fiscal years 1988, 1989, 1990, 1991, and 1992 such sums as may be necessary for carrying out the purposes and provisions of the Treaty and this Act including—

(1) for fiscal years 1988, 1989, 1990, 1991, and 1992, an amount not to exceed $350,000 annually to the Department of Commerce for administrative expenses; and

(2) for fiscal years 1988, 1989, 1990, 1991, and 1992, an amount not to exceed $50,000 annually to the Department of State for administrative expenses.

(b) Funds appropriated for the purposes of the Treaty may be used notwithstanding any of the provisions of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or of any appropriations Act that imposes restrictions on the maintenance or use of cash transfer assistance, which are inconsistent with the provisions of the Treaty.

SEC. 21. EFFECTIVE DATE.

(a) Except as provided in subsection (b) of this section, this Act shall be effective on the date on which the Treaty enters into force for the United States.

(d)(1) The authority to promulgate regulations pursuant to this Act shall be effective on the date of enactment of this Act.

(2) Any regulation promulgated pursuant to this Act shall not be effective before the date on which the Treaty enters into force for the United States.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. Jones] will be recognized for 20 minutes and the gentleman from Alaska [Mr. Young] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. Jones].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1989 provides necessary domestic legislation to implement the "treaty on fisheries between the governments of certain Pacific island states and the Government of the United States of America," commonly referred to as the "Tuna Treaty."

The U.S. tuna industry is one of the Nation's largest and most important fishing industries. Because tuna range widely throughout the waters of the world, the United States does not claim or recognize any nation's jurisdiction over tuna beyond 12 miles from any nation's shore. However, many other nations do claim jurisdiction over tuna within their 200-mile economic zones. The U.S. industry carries out a large part of its fishery within these economic zones of other nations, and the conflicting claims of jurisdiction have caused fisheries disputes between the United States and several Pacific Island nations. These disputes have eroded our traditionally cordial relations with these nations. Also, the Soviet Union has exploited the situation to secure unprecedented fisheries agreements with several of the island nations.

In order to resolve these disputes and to secure reliable access to South Pacific tuna resources, the United States initiated negotiations in 1984 with 16 Pacific nations. These negotiations resulted in a treaty that was signed on April 2, 1987, and subsequently approved by the Senate in November of last year.

The treaty, its annexes, and related agreements contain three major elements. First, the treaty provides U.S. tuna fishermen access to over 10 million square miles of fishing waters in the South Pacific Ocean. Second, the treaty specifies cooperative procedures to regulate fishing activities and enforce treaty provisions. Third, the treaty provides that the United States will provide an annual assistance package of $10 million to the Pacific Island nations for the 5-year period of the agreement.

S. 1989 is very similar to H.R. 3767 as approved by my committee and reported on May 23, and simply provides domestic legislation to implement the treaty agreements. This bill represents a major step forward for one of our Nation's most important fisheries, and provides the framework for a major improvement in our relations in an area of the world that is increasingly important to the national interests of the United States.

I urge the adoption of S. 1989.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. Broomfield].

Mr. BROOMFIELD. Mr. Speaker, I want to thank the gentleman from Alaska for yielding me this time.

Mr. Speaker, I support the passage of Senate bill S. 1989, which provides for the implementation of the treaty on fisheries between the governments of certain Pacific island states and the United States.

This bill will establish the procedures under the Tuna Treaty which addresses international fisheries disputes between the United States and certain Pacific Island States. These jurisdictional disputes affected the ability of U.S. tuna fishermen to fish in the exclusive economic zones of these South Pacific nations.

The Tuna Treaty is the result of more than 2 years of negotiations. Under Secretary of State, and our former colleague, Ed Derwinski, should be commended for his efforts on this issue. The United States is the last nation to complete the ratification process, and I believe the United States should implement the treaty as soon as possible. I, certainly do not wish to impede its progress.

However, I do wish to express an institutional concern. The Committee on Foreign Affairs did not consider this measure which has significant foreign policy implications. This legislation affects our relations with traditionally democratic, Pro-U.S., South Pacific nations, and counters an aggressive Soviet effort to expand their influence into the South Pacific region.

While I support this legislation, I think the Foreign Affairs Committee should have been given the opportunity to exercise its jurisdiction and provide the House with the committee's expertise on the foreign relations aspects of this measure.

Yet, because of the importance of this bill, I urge my colleagues to join the Senate in approving it.

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Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1989, the South Pacific Tuna Act of 1987 and urge its adoption by the House.

For many years our Nation has had a policy of managing highly migratory species of tuna through international agreements. Such a policy is necessary because no single nation can adequately control the harvest of tuna stocks. This policy has been strongly supported by the domestic tuna fleet and has led to the establishment of a number of different international agreements.

The bill before us today will implement the Treaty on Fisheries between the governments of certain Pacific island states and the Government of the United States. The treaty was the subject of 2 years of intensive negotiations and was ratified by the other body last year on a vote of 89 to 0. In addition to providing international conservation of the Tuna resource, it allows access by U.S. vessels to the coastal waters of certain Pacific island states and cements the ties between those States and the United States. This is especially important at a time when the Soviet Union is seeking to expand its influence in the South Pacific. Ratification and implementation of the tuna treaty will enact a new era of tunaboat diplomacy in the South Pacific.

Mr. Speaker, again, this is an important measure which is supported by the administration and by our domestic fishing industry and I urge its favorable passage by the House.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Speaker, I simply want to echo the statements of the gentleman from Alaska [Mr. Young] and the gentleman from North Carolina [Mr. Jones] that this bill is important, and as far as I know is without controversy.

Mr. Speaker, I urge adoption of this legislation by the House.

Mr. Speaker, I rise in support of S. 1989, the South Pacific Tuna Act of 1988.

For over 2 years the U.S. tuna industry and the Department of State have been working towards establishing a regional licensing regime in the Western Pacific Ocean. On October 20, 1986, negotiators from the United States and 16 Pacific island nations reached an agreement on a regional fisheries treaty. On April 2nd of 1987 year the signing ceremony took place in Port Moresby, Papua New Guinea and on June 19 the President transmitted the treaty to the Senate. After hearings on the treaty, the Senate voted 89 to 0 to consent to ratification on November 6, 1987. The treaty will enter into force after ratification by the United States and 10 island nations.

The agreement requires that Papua New Guinea, Kiribati, and the Federated States of Micronesia be among the states ratifying in order to bring the agreement into force. Over 14 nations have already signed the agreement and when the United States completes action on the treaty and the implementing legislation, the treaty will go into effect.

The treaty, combined with its annexes and related agreements, contains three major initiatives. First, the treaty secures for U.S. tuna vessels access to over 10 million acres of rich tuna fishing grounds within the exclusive economic zones and the high seas areas enclosed by those zones in the South Pacific region. To fish in these waters, U.S. tunaboat owners must purchase a regional license. For the first year, up to 40 licenses would be available at a base price of $50,000 each and the industry has guaranteed a minimum total payment of $1.75 million. After 10 licenses have been issued, 10 additional licenses would be sold at a price of $60,000 each. In subsequent years, the license fee would be indexed to the price of tuna but would not fall below the base price of $50,000. In addition, the tuna industry has agreed to provide $250,000 annually in fisheries related technical assistance to the island nations through the South Pacific Forum Fisheries Agency [FFA]. After administrative costs are deducted, revenues from the fees would be distributed to the island nations in proportion to the amount of tuna taken from their waters.

The treaty also defines the procedures for regulating fishing activities and enforcing its provisions. Vessels fishing for tuna in the treaty area would be required to be licensed, to carry observers and to abide by both the provisions of the treaty and applicable local law. Pacific island nations would retain the right to enforce regulations and prosecute violations while the United States would be expected to assist in the investigation of claims against U.S. flag tuna vessels. The United States would also ensure that violators submit to the jurisdiction of an involved Pacific nation or leave the treaty area until penalties satisfactory to that nation are assessed and collected.

Lastly, associated with the treaty is an agreement between the U.S. Government and the South Pacific Forum Fisheries Agency guaranteeing $50 million in economic assistance to the South Pacific nations over the 5-year term of the treaty. Out of the $10 million in aid per year, $9 million will be in the form of cash payments from the Department of State's Economic Support Fund [ESF] and $1 million in development projects proposed by the Pacific island nations and approved by the Agency for International Development.

The bill at the desk is the Senate companion to the House bill H.R. 3767. The Subcommittee on Fisheries and Wildlife Conservation and the Environment and the Merchant Marine and Fisheries Committee gave its approval to the House bill on December 15, 1988. The committee filed its report on H.R. 3767 last week. Because of the need to move quickly on this issue so that our tuna vessels may purchase licenses, the committee is recommending favorable action on S. 1989 so that the bill can be on the President's desk before the Memorial Day break.

S. 1989 contains those provisions necessary to implement the licensing and regulatory provisions of the treaty and it does not contain any language or reference to the other development assistance package. These matters are squarely within the jurisdiction of the Foreign Affairs Committee, on which I serve, and I expect that in due course that committee will provide appropriate scrutiny of the economic assistance agreement.

S. 1989 assigns the responsibility for carrying out the provisions of the Treaty to the Secretaries of Commerce and State. Other key provisions of the implementing legislation include:

Authorizing the appropriation of such sums as may be necessary to carry out the provisions of the treaty and the legislation, including annual amounts of up to $350,000 for the Department of Commerce and $50,000 for the Department of State;

Making violations of the treaty violations of U.S. domestic law, consistent with those penalties of the Fishery Conservation and Management Act;

Authorizing the Secretary of Commerce to issue regulations including those necessary to develop licensing procedures;

Defining those violations of the treaty for which civil and criminal penalties may be assessed;

Describing procedures for receiving complaints, conducting investigations and hearings and making findings concerning those criminal and civil violations of the treaty;

Describing the requirements tuna vessels owners must follow when operating in the treaty area, including carrying observers, filing catch reports, gear, stowage, and other operating procedures; and

Directing the U.S. tuna industry to provide $250,000 annually in technical assistance, as coordinated by the Secretary of State, to the Pacific island nations.

Mr. Speaker, S. 1989 is strongly supported by the President and our multimillion-dollar tuna industry. When implemented, the treaty will provide economic benefits to our friends in the South Pacific as well as establish a sensible, predictable system for our distant water tuna fleet to obtain fishing licenses in that area. I urge my colleagues to support this bill.

Mr. ANDERSON. Mr. Speaker, I rise in strong support of S. 1989, which would implement the South Pacific Tuna Treaty.

This historic treaty makes good economic, political, and foreign policy sense. The South Pacific Tuna Treaty, which was agreed to on October 20 of 1986 between the United States and 16 South Pacific Island nations, would allow the U.S. tuna fleet access to some 10 million square miles of fishing grounds in the South Pacific.

I am hopeful that this treaty will put an end to the occasional seizure of United States tuna vessels by South Pacific nations. This occasional seizure and harassment stems from the fact that the United States refuses to recognize the claims of the 16 South Pacific nations that they have jurisdiction over tuna anywhere within 200 miles off their coast. Because tuna is a highly migratory species, the United States refuses to recognize the jurisdictional claims of any nation over tuna beyond 12 miles off its shore. Unfortunately, this jurisdictional dispute through the years has been detrimental to our tuna fishermen and has been a major irritant in our relations with the nations of the South Pacific. The implementation of the South Pacific Tuna Treaty would resolve the jurisdictional problem, thereby allowing our tuna fishermen with secure access to important fishing grounds, while at the same time, improving this country's relationship with the many nations of the South Pacific.

Specifically, the South Pacific Treaty calls for the United States to provide $12 million a year for 5 years to the South Pacific forum fisheries agency, a regional organization composed of the South Pacific Island nations. The United States tuna industry will contribute $1.75 million in license fees plus $250,000 in technical assistance. The U.S. Government will provide $10 million in economic assistance. In return for this investment this country will be able to maintain a viable tuna fleet, strengthen its relationship with 16 important countries, and be in a good position to negotiate similar beneficial fishing arrangements in the future using the South Pacific treaty as a model.

As the author of the House version of this legislation, H.R. 3839, I ask my colleagues to support today's legislation which would implement the historic South Pacific Tuna Treaty.

Mr. LAGOMARSINO. Mr. Speaker, the South Pacific Tuna Act represents a major accomplishment of the United States in improving our relations with the countries of the Pacific. It was no small feat to successfully negotiate and conclude a treaty with 16 Pacific countries. Each of those countries had their own particular concerns and demands which their home governments expected to be addressed. Of utmost importance was the traditional concern for the sea.

A tuna treaty was perceived by Island States as a potentially disastrous or beneficial agreement as it affected their valuable resource, the sea. The ocean traditionally command respect and judicious attention by island people with a strict code of conservation of marine life, observed through the precise regulation of the harvesting of fish and sea life. Therefore, discussions involving sea life, or tuna, which also represents such a major revenue source to many of the Island nations, required the same traditional judicious attention. Understandably, progress in the negotiations were slow with 16 representatives guardedly preserving their positions.

The resolve of the United States to see the negotiations through to the end, regardless of the diversity of individual country concerns, the length and number of meetings, and the complexity of a highly emotional issue, was established by Secretary of State George Shultz. Having traveled extensively throughout the region and meeting with various heads of government, Secretary Shultz was reminded of the increasing importance of the Tuna issue to U.S.-Pacific Island relations. Therefore, Secretary Shultz designated a former colleague of ours, Under Secretary of State Edwin P. Derwinski, to lead the negotiations. After numerous meetings in locations throughout the Pacific, which appeared to possibly continue ad nauseam or to abruptly end in failure, a South Pacific Regional Fisheries Treaty, formally entitled a Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America, was signed on April 2, 1987, in Port Moresby, Papua New Guinea.

The treaty was unanimously approved by the Senate in November of last year. In December, the Congress provided funding for the agreement in the continuing resolution. This act provides the legislation necessary to implement the terms of the treaty.

Through this act, we will have removed an irritation in our relations with the countries of the Pacific. There has been a considerable amount of tension in the past due to fishing by United States vessels in areas near island Archipelagoes which have resulted in boat seizures by island countries and retaliatory embargoes under United States law. The treaty and this implementing legislation provides the framework for the licensing and fishing of United States tuna boats in the South Pacific. The United States tuna boat owners and tuna processors support this tuna agreement.

The enactment of this act will replace the problems of the past with positive and constructive results. There will be continuing job opportunities for workers at American tuna factories and on United States tuna boats. Our trade balance will be helped by the domestic production of canned tuna and tuna byproducts. The overall stability of our relations with the individual Pacific Island countries will be strengthened.

I commend my colleagues in the Senate and House that have assisted in moving this legislation. I want to thank the chairman of the House Merchant Marine and Fisheries Committee, WALTER JONES, and vice chairman, NORMAN LENT, for their support as well as the chairman and vice chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment for expeditiously acting on the legislation. I want to acknowledge the efforts of my colleague from the State of Hawaii, PAT SAIKI, for her efforts to actively support the legislation in the House Merchant Marine and Fisheries Committee. PAT SAIKI has demonstrated that not only is she aware of issues which affect our relations with the Pacific Island countries, but she is an involved and effective Member of Congress who worked to make this legislation possible.

I urge my colleagues to support the South Pacific Tuna Act, S. 1989, which will implement one of the most important agreements in United States-Pacific Island relations—the South Pacific Regional Fisheries Treaty.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of S. 1989, legislation that would implement the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, referred to as the South Pacific Tuna Act of 1987.

This treaty resulted from 2 years of extensive negotiations with certain Pacific Island States to resolve access problems encountered by U.S.-flag tuna boats fishing in that region. Conflicting judicial positions over highly migratory tuna and unlicensed fishing by U.S. vessels in the Exclusive Economic Zones of several Pacific Island States had led to a cycle of vessel seizures and retaliatory embargoes and a deterioration of our relations with these traditionally prowestern, democratic nations. By establishing the terms and conditions which will apply to U.S.-flag vessels fishing in some 10 million square miles of the South Pacific, the treaty will eliminate the prospect of vessel seizures and provide a revitalization of our traditional cordial relationship with the Pacific Island States.

The legislation before us today is fully supported by the U.S. tuna industry as well as by the administration.

I urge my colleagues to adopt this bill.

Mrs. SAIKI. Mr. Speaker, I rise today to support the immediate House passage of the South Pacific Tuna Act.

This legislation would authorize implementation of the South Pacific Tuna Agreement between the United States and 15 Pacific island nations. Under this agreement the United States would gain tuna fishing rights in approximately 10 million square miles of the western Pacific. These additional waters are located within the 200 mile Exclusive Economic Zones of the agreeing Pacific nations.

Our current policy permits U.S. tuna fishing vessels to ignore the declared EEZ's of Pacific nations. The United States has not recognized territorial limits to include the highly mobile tuna. The South Pacific nations maintain that tuna found within their EEZ are not free for the taking. In many of these countries we have been perceived as pirates and bullies, pursuing and taking tuna within the economic zones of tiny Pacific nations irregardless of the laws and claims of these countries. Our fishing vessels are being seized and fined by these traditionally friendly governments; and anti-American feelings have grown.

The Soviets have taken advantage of our diminishing esteem to improve their political and trade relations with several of these nations. They have proposed fishing and trade agreements to Fiji, Tonga, and Papua New Guinea, and completed fishing rights agreements with Kiribati and Vanuatu.

It has taken 2 years to negotiate the South Pacific Tuna Agreement. The negotiations alone have done much to restore positive relations with the Pacific nations.

This agreement has the full support of all involved parties. The State Department believes this treaty to be the single most important step toward strengthening United States ties with these Pacific island countries.

The implementation of this agreement makes sense. We will reap enormous benefit, for very little cost. Therefore, Mr. Speaker, I urge my colleagues to support this measure.

Mr. YOUNG of Alaska. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the Senate bill, S. 1989.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

ORGANOTIN ANTIFOULING PAINT CONTROL ACT OF 1987

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendment to the Senate amendment to the bill, (H.R. 2210), to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints.

The Clerk read as follows:

Senate Amendment to House Amendment to Senate Amendment:

In lieu of the matter to be inserted by the amendment of the House to the amendment of the Senate, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organotin Antifouling Paint Control Act of 1988".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Antifouling paints containing organotin biocides are used to prevent the build-up of barnacles and other encrusting organisms on vessels.

(2) Laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels.

(3) Vessels that are less than 25 meters in length and are coated with organotin antifouling paint account for a large amount of the organotin released into the aquatic environment.

(4) The Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other aquatic life.

(b) PURPOSE.—The purpose of this Act is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "antifouling paint" means a coating, paint, or treatment that is applied to a vessel to control fresh water or marine fouling organisms.

(3) The term "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes the

Chesapeake Bay and estuary-type areas of the Great Lakes.

(4) The term "organotin" means any compound of tin used as a biocide in an antifouling paint.

(5) The term "person" means any individual, and partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including the military.

(6) The term "qualified antifouling paint containing organotin" means an antifouling paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 12(c); or

(B) until such final decision takes effect, is certified by the Administrator under section 6 as having a release rate of not more than 4.0 micrograms per square centimeter per day.

(7) The term "release rate" means the rate at which organotin is released from an antifouling paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(B) any similar test method specified by the Administrator.

(8) The term "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing.

(9) The term "Secretary" means the Secretary of the Navy.

(10) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, or any territory or possession of the United States.

(11) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 4. PROHIBITION ON THE APPLICATION OF ORGANOTIN ANTIFOULING PAINTS ON CERTAIN VESSELS.

(a) Prohibition.—Subject to section 12(d), and except as provided in subsection (b), no person in any State may apply to a vessel that is less than 25 meters in length an antifouling paint containing organotin.

(b) Exceptions.—Subsection (a) shall not prohibit the application of a qualified antifouling paint containing organotin on—

(1) the aluminum hull of a vessel that is less than 25 meters in length; or

(2) the outboard motor or lower drive unit of a vessel that is less than 25 meters in length.

SEC. 5. PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS AND ORGANOTIN ADDITIVES USED TO MAKE SUCH PAINTS.

(a) Interim Prohibition of Certain Organotin Antifouling Paints.—Subject to section 12(d), no person in any State may—

(1) sell or deliver to, or purchase or receive from, another person an antifouling paint containing organotin; or

(2) apply to a vessel an antifouling paint containing organotin;

unless the antifouling paint is certified by the Administrator as being a qualified antifouling paint containing organotin.

(b) Prohibition of Certain Organotin Additives.—Subject to section 12(d), no person in any State may sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifouling paint.

SEC. 6. CERTIFICATION.

(a) Initial Certification.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifouling paint containing organotin that the Administrator determines has a release rate of not more than 4.0 micrograms per square centimeter per day on the basis of the information submitted to the Environmental Protection Agency before the date of the enactment of this Act in response to its July 29, 1986, data call-in notice on tributyltin or any other data call-in notice.

(b) Subsequent Certification.—After the initial period of certification required by subsection (a), and not later than 90 days after the receipt of information with regard to an antifouling paint containing organotin submitted—

(1) in response to a data call-in referred to in subsection (a); or

(2) under any provision of law;

the Administrator shall certify such paint if, on the basis of such information, the Administrator determines that such paint has a release rate of not more than 4.0 micrograms per square centimeter per day.

SEC. 7. MONITORING AND RESEARCH OF ECOLOGICAL EFFECTS.

(a) Estuarine Monitoring.—The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this Act. The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of such monitoring program for the preceding year.

(b) Navy Home Port Monitoring.—The Secretary shall provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any Navy vessel coated with an antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such waters.

(c) Navy Research of Ecological Effects.—The Secretary shall continue existing Navy programs evaluating the laboratory toxicity and environmental risks associated with the use of antifouling paints containing organotin.

(d) Report.—The Secretary shall submit a report annually to the Administrator and to the Governor of each State in which a home port for the Navy is monitored under subsection (b) detailing the results of such monitoring in the State. Such reports shall be included in the annual report required to be submitted under subsection (a).

(e) Assistance to States.—To the extent practicable, the Administrator shall assist States in monitoring waters in such States for the presence of organotin and in analyzing samples taken during such monitoring.

(f) Five-Year Report.—At the end of the 5-year period beginning on the date of the enactment of this Act, the Administrator shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate providing an assessment of—

(1) the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment;

(2) compliance with water quality criteria established pursuant to section 9 of this Act and any applicable water quality standards; and

(3) recommendations for additional measures to protect human health and the environment.

SEC. 8. ALTERNATIVE ANTIFOULANT RESEARCH.

(a) Research.—The Secretary and the Administrator shall conduct research into chemical and nonchemical alternatives to antifouling paints containing organotin.

(b) Report.—At the end of the 4-year period beginning on the date of the enactment of this Act, the Administrator, in consultation with the Secretary, shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of the research conducted pursuant to subsection (a).

SEC. 9. WATER QUALITY CRITERIA DOCUMENT.

Not later than March 30, 1989, the Administrator shall issue a final water quality criteria document concerning organotin compounds pursuant to section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)).

SEC. 10. PENALTIES.

(a) Civil Penalties.—(1) Any person violating section 4 or 5 shall be assessed a civil penalty of not more than $5,000 for each offense.

(2) After notice and an opportunity for a hearing, a person found by the Administrator to have violated section 4 or 5 is liable to the United States Government for the civil penalty assessed under subsection (a). The amount of the civil penalty shall be assessed by the Administrator by written notice. In determining the amount of the penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) The Administrator may compromise, modify, or remit, with or without consideration, a civil penalty assessed under this section until the assessment is referred to the Attorney General.

(4) If a person fails to pay an assessment of a civil penalty after it has become final, the Administrator may refer the matter to the Attorney General for collection in the appropriate United States district court.

(b) Criminal Penalties.—Any person knowingly violating section 4 or 5 shall be fined not more than $25,000, or imprisoned for not more than one year, or both.

SEC. 11. OTHER AUTHORITIES; STATE LAWS.

(a) Other Authorities of the Administrator.—Nothing in this Act shall limit or prevent the Administrator from establishing a lower permissible release rate for organotin under authorities other than this Act.

(b) State Laws.—Nothing in this Act shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this Act.

SEC. 12. EFFECTIVE DATES; USE OF EXISTING STOCKS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) TERMINATION OF INTERIM PROHIBITION.—Section 5(a) shall remain in effect until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(1) is issued by the Administrator; and

(2) takes effect.

(c) FINAL DECISION DEFINED.—For purposes of subsection (b), a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

(d) USE OF EXISTING STOCKS.—Notwithstanding the prohibitions contained in sections 4 and 5, the Administrator, not later than 90 days after the date of the enactment of this Act, shall provide reasonable times—

(1) not to exceed 180 days after the date of the enactment of this Act, for the continued sale, delivery, purchase, and receipt of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act; and

(2) not to exceed one year after the date of the enactment of this Act, for the application of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today it is with great pleasure that I rise to urge Members to support H.R. 2210, the Organotin Antifouling Paint Control Act of 1988. Passage of this bill today will clear the way for the President to sign it and will represent the culmination of nearly 2 years of work by the Merchant Marine and Fisheries Committee.

TBT paints—the most common type of organotin paints—have been widely used to keep the hulls of both commercial and recreational vessels free of fouling organisms for nearly 20 years. However, it has recently come to light that TBT also harms a wide variety of organisms other than the barnacles and algae which foul ship hulls. These problems were illustrated in testimony presented at two hearings held by subcommittees of the Merchant Marine and Fisheries Committee which indicated that TBT, originating from boat hulls, had damaged shellfish stocks in Europe and the United States. The testimony also indicated that levels of TBT in many United States estuaries are high enough to cause toxic effects in other aquatic organisms. I introduced H.R. 2210 on April 29, 1987, because I was concerned that these documented problems were a warning of more severe environmental problems to come if the unrestricted use of TBT paints was allowed to continue.

The bill before us today represents a rational effort to place controls on a very toxic chemical before it causes more severe environmental damage and yet allow those who earn their living on the water—the merchant marine—the option of using these paints. H.R. 2210 utilizes a two prong regulatory approach to accomplish this. First, it restricts the sale, delivery, purchase, and receipt of TBT paints which release TBT into the surrounding waters at unacceptably high rates. This provision is interim since it will remain in effect only until release rate regulations developed by the Environmental Protection Agency [EPA] take effect. Second, the use of these paints is prohibited on vessels under 25 meters, or 82 feet, in length. This provision is necessary because these vessels generally operate on, and are moored in, the shallow estuarine waters inhabited by the organisms most susceptible to TBT.

H.R. 2210 has passed the House on two separate occasions: the first time on November 9, 1987, by voice vote under suspension of the rules, and the second time on December 18, 1987, by unanimous consent. There are two major differences between the version of the bill before us today and the version which passed the House on December 18 which I would like to briefly outline. The first major difference is the inclusion of language which requires the EPA to publish a water quality criteria document for organotin compounds under the authority of section 304(a) of the Clean Water Act not later than March 30, 1989. This water quality criteria document will provide a basis for the development of State water quality standards. Using this criteria a State can judge the relative health of its waters and take remedial action. I would like to point out that section 304(a) of the Clean Water Act is under the jurisdiction of the Public Works Committee and I would like to thank Chairman ANDERSON for allowing us to move this bill with the water quality provision in it.

The other major difference between this version and the December 18 version is the deletion of language which created a new national widlife refuge at Grays Harbor, WA. This provision was the subject of a recent hearing by the Senate Environment and Public Works Committee and separate legislation, similar to the House language, is being developed in the Senate.

I would like to make note of a potential problem which has been brought to my attention. The release rate specified in H.R. 2210 will remove from the market the brand of paint currently used by the Coast Guard and the Navy on their aluminum-hulled vessels. There are, however, several other brands of paint that are suitable for use on aluminum-hulled vessels which will remain on the market under this legislation. The concern of the Coast Guard and the Navy is that these paints may not meet their performance requirements. I would like to assure both agencies that if in the future it is clearly established that antifouling paints allowed under H.R. 2210 do not perform adequately, the Merchant Marine and Fisheries Committee will address these problems through whatever means are appropriate.

In conclusion, Mr. Speaker, H.R. 2210 is a badly needed piece of environmental legislation which has broad bipartisan support and I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the bill before us today, H.R. 2210, and urge its adoption by the House.

This bill is the result of careful work by the Committee on Merchant Marine and Fisheries and our counterparts in the other body. It is designed to ensure that certain paints which are currently used to prevent organic growth on vessel hulls will not be made avalable for public distribution. The committee does not intend to disrupt free enterprise, as we will allow existing stocks of such paints to be disposed of within a reasonable time period. However, scientific evidence has disclosed that organic paints with a high release rate of TBT can adversely affect fish stocks in our waters. Therefore, the bill will only allow the future use of paints with a low release rate.

Mr. Speaker, this bill parallels on a national level what many States have done on their own, including my State of Alaska. I think this is a bill which is good for our environment, one which is supported by the administration, and one which should be passed by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman from Alaska for yielding time to me.

Mr. Speaker, since Tributyltin-based marine paints [TBT] were first introduced in the 1960's their use has grown dramatically, and the potential effects of this have become a source of serious concern among these who wish to protect the marine environment.

When added to marine paint, tributyltin [TBT] is a very effective antifouling agent, keeping marine organisms from building up on the hull of a vessel. The cleaner hulls keep down fuel costs by decreasing friction and reduce the frequency of repainting. Unfortunately, tributyltin compounds pose great risks for organisims in the marine environment other than those which foul boats.

As the use of TBT has increased, questions about its effects on the marine environment has also increased. The First District of Virginia, which I am proud to represent, includes Newport News Shipbuilding and some of the most productive shellfish beds in the world. Therefore, my concern about TBT is two-fold. I am concerned both about the possible health effects of TBT on the shipyard workers, if in the future, they are forced to use the pesticide, and the effects which TBT has on marine organisms, particularly those in the Chesapeake Bay.

Prompted by the introduction of my bill, the Tributyltin-Based Antifouling Paint Control Act of 1987, the House Merchant Marine and Fisheries Committee has taken swift and decisive action to restrict the use of this pesticide.

The Environmental Protection Agency, under intense pressure from myself and other Members of Congress, has undertaken a special review of the use of tributyltin pesticides. Unfortunately, such reviews are extremely time consuming and after a hearing before the Merchant Marine Committee last year it became clear that interim action needed to be taken while the Environmental Protection Agency completed its special review of the use of organotins. This bill represents that important interim action.

After it became clear that Congress would act on this issue, the Agency announced a preliminary determination of what action should be taken, however, it may be some time before preliminary determination becomes final. The EPA proposed release rate is 4, and the bill before us today uses that rate.

H.R. 2210 would:

Prohibit the sale of marine paints that release TBT into the environment at a rapid rate;

Prohibit the use of organotin paints on vessels that are less than 25 meters in length;

Prohibit for 7 years of monitoring by the EPA to guarantee that the problems the bill addresses are being solved; and

Encourage the use of new and improved antifoulants.

I am proud to have helped shape this legislation, and it is my hope that the House will approve this bill today. I would also like to commend Chairman JONES and STUDDS for their action on this issue.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, let me say that this is one of those rare instances when something of potentially major environmental consequence is without controversy in this Congress. We should seize the moment and pass the bill immediately.

Mr. Speaker, H.R. 2210 is a bill to control the use of highly toxic organotin chemicals in boat paints. H.R. 2210 was unanimously reported out of the Merchant Marine Committee and passed by voice vote by the House on November 9, 1988.

This legislation grew out of hearings held by the Merchant Marine Committee in both the 99th and 100th Congresses which led our Committee to believe that action should be taken to protect our coastal waters from tributyltin, more commonly referred to as TBT, and similar chemicals.

Antifouling paints are used to keep barnacles, algae and other organisms from attaching themselves to boat bottoms. TBT began to be used for this purpose in the early 1970's. Unfortunately, it may do its job too well. TBT has been shown to kill fish and shellfish at almost infinitesimal doses. Recent studies have shown that in many coastal areas of the United States, TBT is present at concentrations which have been shown in the laboratory to be toxic to a variety of marine life.

The primary action taken by this bill is banning the use of any organotin paints on vessels less than 82 feet in length. Smaller boats tend to spend most of their time in shallow bays and estuaries, and much of that time at their moorings. If they are painted with TBT paints, the TBT is leaching into those waters. And those shallow, protected waters are the areas most susceptible to harm from it.

Banning the use of these paints on small vessels duplicates the approach taken by a number of states, including Virginia, Maryland, Maine, and Massachusetts.

Practical, readily available substitutes for organotin paints are available, namely the traditional copper-based boat paints. Where copper-based paints do not constitute an immediately acceptable and practical alternative—on aluminum hulls and on larger vessels—the bill provides an exception. Those vessels would be allowed to use only those which meet a strict standard govening how much organotin they release into the water. Paints not meeting that standard would be banned. The bill sets an interim standard of 4 micrograms per square centimeter per day, and provides for a final standard to be promulgated by the Environmental Protection Agency.

The Senate amendment adds a requirement that the Environmental Potection Agency promulgate criteria under the Clean Water Act for TBT. This is required by current law, but is intended to add some priority to completing the task for this particular chemical.

This amendment has been cleared with the leadership of both the Merchant Marine and Fisheries Committee and the Public Works Committee. I urge my colleagues to pass this bill.

Mr. ANDERSON. Mr. Speaker, I am pleased to speak in support of the Organotin Antifouling Paint Control Act of 1988. I commend the leadership of the Merchant Marine and Fisheries Committee for their fine work in developing this legislation.

The bill will help reduce the harmful environmental effects of antifoulant marine paints containing organotins, or tin-based chemicals, of which TBT is the most widely used. These paints are used on ships' hulls to prevent barnacles, algae, and other organisms from attaching themselves to the hulls of vessels. Recent studies indicate that releases of these organotin chemicals into the water from the paint can have a lethal effect on many types of fish and shellfish. The bill restricts the sale of paints which release these chemicals into the water at unacceptable rates, and prohibits the use of these paints on vessels less than 25 meters long.

Section 9 of the bill requires the Administrator of EPA to issue a final water quality criteria document for organotin compounds no later than March 30, 1989. This document would be issued pursuant to section 304(a) of the Federal Water Pollution Control Act, which is within the jurisdiction of the Public Works Committee. Water quality criteria documents contain information on the effects of pollutants in water and are used in establishing water quality standards.

I support my colleagues' efforts as we in the Congress continue to clean up and protect our waters. This bill will further assist those efforts and I urge my colleagues to support it.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 2210, a bill to control the use of TBT-based paints in our coastal waters. As an original cosponsor of the bill, I strongly believe that there is an immediate need to regulate the input of toxic chemicals into our marine environment. The Environmental Protection Agency [EPA] is now engaged in a special review of TBT-based paints. Given that such a process might well prove to be a long and tedious one, I believe that H.R. 2210 will provide the necessary interim measure to control the input of TBT and other toxics into the marine environment until the EPA final regulations are promulgated.

Mr. Speaker, the problems of TBT-based paints are not limited solely to salt water marinas and harbors. The Great Lakes have experienced a growing problem with TBT, primarily generated form recreational boats. Given this, my home State of Michigan has announced a summary suspension of registration on TBT-based paints which took effect early last year.

Mr. Speaker, the bill before us basically prohibits the application of TBT-based paints to vessels less than 25 meters in length. This bill specifically targets recreational vessels which have been shown to be a leading contributor to the TBT leaching problems.

I would like to thank the chairman of the Merchant Marine and Fisheries Committee, Chairman JONES, for the fine work he has done with this legislation.

Mr. Speaker, I strongly urge my colleagues to join with me in supporting this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and concur in the Senate amendment to the House amendment to the Senate amendment to the bill, H.R. 2210.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendment to the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to the House amendment to the Senate amendment to the bill, H.R. 2210.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair has made an agreement with the minority that at 2 o'clock the House will begin consideration of the President's veto message. The House will resume consideration of further motions to suspend the rules following the vote on the veto message.

TRADE AND INTERNATIONAL ECONOMIC POLICY REFORM ACT OF 1987—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-200)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

It is with sincere regret that today I must disapprove and return H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. We worked long and hard to produce legislation that would enhance our country's ability to meet foreign competition head-on—to strengthen our trade laws and remove restrictions on America's great economic engine. And we came very close to developing such a bill. Unfortunately, as the process came to a close, provisions were included that simply make this bill, on balance, bad for America—particularly working men and women. The criteria I used in reaching this decision were whether this legislation will create jobs and help sustain our economic growth. I am convinced this bill will cost jobs and damage our economic growth.

During this Administration the American economy has created 16 million new jobs. Our unemployment rate is the lowest in 14 years with more Americans working than ever before in our history. And we are experiencing the longest peacetime expansion this country has ever seen.

While this has been going on at home, many of our trading partners have had a different economc situation. Perhaps the most compelling and important comparison is that over the past decade, the United States has created more than twice as many jobs as Europe and Japan combined.

The United States economy, which foreign leaders have dubbed the "American Miracle," is not a freak accident or a statistical curiosity. It is the result of 7 years of consistent policies: lower tax rates, reduced regulation, control returned to State and local governments. The Washington tendency to have government be all things to all people has been reversed, and we have gotten government off the backs of the American people. In contrast, many foreign countries remain hamstrung by archaic policies and are now trying to remove these impediments, to reform tax systems, to make labor markets more flexible, and to encourage entrepreneurs.

That is not to say that we cannot do more here at home—we can. That is why I forwarded proposals to improve our competitive strength and why we worked hard with the Congress to try to achieve a positive, forward-looking bill. Unfortunately, that is not the bill the Congress passed and sent to my desk.

The issue receiving the most attention in this bill is the mandatory requirement for businesses to give advance notice of closings or layoffs. I support voluntarily giving workers and communities as much advance warning as possible when a layoff or closing becomes necessary. It allows the workers, the employer, the community, time to adjust to the dislocation. It is the humane thing to do.

But I object to the idea that the Federal Government would arbitrarily mandate, for all conditions and under all circumstances, exactly when and in what form that notification should take place. There are many circumstances under which such mandatory notification would actually force a faltering business to close—by driving away creditors, suppliers, customers, and—in the process destroying jobs. While the legislation attempts to mitigate this outcome, its "faltering business" exemption is too ambiguous to be workable and invites untold litigation.

These concerns are real, not simply philosophical or theoretical. The experience of the Caterpillar Company in the early 1980's, for example, is indicative of the need to be flexible to meet foreign competition and indeed to survive. They had to utilize layoffs and temporary plant closings to respond to competitive developments. And, as one executive of that company stated, they did not have the luxury then, nor do they now, of knowing with certainty what business conditions would be like 60 days in the future. Without the ability to be agile and responsive, they might have closed their doors permanently.

Caterpillar's experience is repeated many times over throughout our economy. One independent analysis shows that if this law had been in place between 1982 and 1986, the United States would have produced almost one-half million fewer jobs. And that is what this debate is about—creating jobs and keeping them—not losing jobs by the straitjacket of regulations.

Over a year ago, I submitted legislation that would provide assistance to workers, employers, and communities in the event of a layoff or closing. The program would serve virtually every dislocated worker who needs it with training, education, and assistance in securing a new job and provide an incentive for giving advance notice of layoffs and closings. Ironically, the one piece of that package that the Congress rejected was a direct incentive for business to give advance notices of closing and layoffs. We need labor laws that fit the flexible, fast-paced economy of the 1990's, not restrictive leftovers from the 1930's agenda. And I encourage the Congress in any subsequent trade bill to include a program that provides incentives for such notice.

There are other provisions in the legislation that provide disincentives to our sustained economic growth or serve some narrow special interests:

—New restrictions on the export, transportation, and even utilization of Alaskan oil further complicate the overbearing regulatory scheme that already impedes the development of Alaskan oil fields. It is the wrong policy. We need to provide incentives, not restrictions, for the production of oil in the United States so that we can reduce our dependence on foreign suppliers. Further, as the Congress has now recognized, it amounts to an unconstitutional discrimination against a single State.

—A mistaken effort to revive discredited industrial policy planning through a so-called Council on Competitiveness that will open even more venues for special pleaders.

—A requirement to negotiate a new centralized international institution to arrange the forgiveness of billions of dollars of debt around the world—all supposedly without increasing U.S. taxes or adding to *our* debt.

—Expanded ethanol imports that could harm U.S. grain producers.

—An amendment to the Trading With the Enemy Act that prevents the President from moving swiftly to block blatant enemy propaganda material from entering the United States, *even during wartime.*

While the Congress did a remarkable job in watering down or eliminating the most protectionist provisions, there remain sections of the bill that push us in the direction of protectionism. Closing our borders is not the solution to opening foreign markets. We need to demand to be treated fairly and take a strong stand against barriers abroad. In short, we need to open markets, not close them.

While there are objectionable portions of the bill, there are also desirable provisions. There is negotiating authority so that the next President will have congressional support to continue to seek agreements that open markets abroad. That, coupled with new trade law tools to strengthen the hand of America in international trade negotiations, will mean that this country can enter the next decade with new agreements that reduce barriers and encourage trade. There are strengthened protections for intellectual property, such as copyrights, and a reduction in various handicaps to U.S. exporters. Finally, the bill would remove a major impediment to U.S. oil production by repealing the windfall profits tax.

That is why I want a trade bill, and why I like much of this bill. But I regret that the addition of a few counterproductive and costly measures outweigh the positive features of this particular legislation. I will continue to work vigorously to secure sound legislation this year.

Let me reiterate what I have said on a number of occasions. I am committed to enactment of a responsible trade bill this year. I have heard some say that there is not time to send me a second bill after my veto is sustained; my response is that there are many months left in 1988—time enough to set aside partisanship and finish the job. I want to sign a trade bill this year. I urge prompt action on a second bill immediately after Congress sustains my veto.

RONALD REAGAN.

THE WHITE HOUSE, *May 24, 1988.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and the bill will be printed as a House document.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message now being considered.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 minutes to the gentleman from Texas [Mr. ARCHER] and I ask unanimous consent that the gentleman from Texas [Mr. ARCHER] be permitted to yield time to other Members.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CALL OF THE HOUSE

Mr. ROSTENKOWSKI. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 149]

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Huckaby
Hughes
Hunter
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□ 1427

The SPEAKER. On this rollcall, 396 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

TRADE AND INTERNATIONAL ECONOMIC POLICY REFORM ACT OF 1987—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-200)

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. GIBBONS], the chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, in 25 years of listening to Presidents' veto messages, I have found some that I can support and some that I cannot support. In 25 years I have never heard as weak a veto message as the one just read from the podium up here.

I could not believe it. I re-read it myself.

The only thing that the President merely objects to is the plant closing legislation and I think we are all capable of making up our own minds on that.

On the trade matters that he vetoes, let me say that the provision that he says on ethanol is a pure falsehood; if anything, the Congress has tightened the restriction on ethanol, not loosened the restriction on ethanol. Yet through his administration has urged us to loosen the laws on ethanol, he now vetoes the bill saying it is too loose on ethanol.

On the other trade matters, they all just require negotiation or appointment of a small conference on one thing or another.

There is no substance to his veto. He spends a great part of his veto message praising the good things in the bill and I want to praise the good things in the bill also and tell you that it is necessary that we override this veto because unless we override this veto there is a real good chance, because of the rules of the other body, that it is impossible that we get such a bill.

Mr. Speaker, in 25 years never have I heard a less effective veto message.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on a day when we could be watching the enactment of omnibus trade legislation 3 years in the making we are instead here engaging in this partisan political exercise.

It's unfortunate that there are those in this body who apparently feel this debate is preferable to achieving a trade bill.

In reality they've jeopardized this trade legislation which the leadership characterizes as crucial to U.S. international competitiveness over essentially one non-trade issue—the plant closing provision. While there are other provisions which the President objected to in his message—clearly plant closing was the one bitter pill that just couldn't be swallowed.

And make no mistake. The President was completely up front about his unwillingness to accept a plant closing provision. The majority leadership sealed the fate of H.R. 3 in its current form and forced this confrontation today when it insisted that the language be attached to the conference agreement.

It's a sad day for America when a piece of legislation of this magnitude which was developed with such strong bipartisan support falls victim to election year politics.

Yes, there are a number of other provisions in addition to plant closing which make it less than ideal. The House itself recently tried to rectify the mistake it had made in putting the Alaskan oil provisions into H.R. 3. No, even without plant closing, the bill isn't perfect. We've all read the President's veto message. We know the other problems he had with the bill.

But, as he also said, there's a lot of good in it—provisions which represent positive steps for the future of this country:

Trade negotiating authority covering issues of particular interest to the United States such as intellectual property rights, agriculture, the effectiveness of the GATT, and the reduction of foreign trade barriers to exports.

Implementation of the Harmonized System of Tariff Nomenclature.

Repeal of the windfall profit tax which stands poised to stifle the recovery of our ailing energy industry.

I urge my colleagues not to be deluded by the false claims they will hear today that our only opportunity for trade legislation this year is to override the President's veto. That's the partisan political answer.

We can do better. We can respond as statesmen. We can in fact go back to our committees, quickly, and send the President a trade bill which will pass both Houses of Congress with overwhelming majorities—one which he will readily sign.

I urge my colleagues to vote "no" on the motion.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I have in my hand the advice of the Japanese Government. It is the headline from the April 29, 1988 edition of the Chicago Tribune, and it says, "Japan urges veto of the trade bill." That should tell us a great deal because Japan possesses the largest single trade surplus this Nation has anywhere against it by one of our trading partners. This trade surplus is bottomed on a litany of unfair trade practices by the Japanese. Obviously, the Japanese want this bill vetoed. It will address the trade surplus that the Japanese have against us, it will address the problems with Toshiba and its repeated violations of export controls and it will address a number of other problems in order to strengthen the United States as a major trading force in the world.

H.R. 3, the Omnibus Trade and Competitiveness Act of 1988, gives every part of our economy the ability to better compete and it sees to it that existing U.S. laws which need modernization and change, especially our laws on unfair trade practices, are corrected.

Mr. Speaker, we should listen to the good of the American people. Sustaining the President's veto of this bill may be good for the Japanese, but it is not good for business in the United States and it is not good for the United States.

The best thing this Congress can do if we want to look after the well-being of the American people is to override this veto and have a trade policy that looks after the United States first and not our friends in Japan.

Quite honestly, I do not understand why sustaining this veto helps the American people. According to the President, he vetoed this bill because of one provision designed to protect American workers. But it is a modest provision. Our trading partners in Japan, West Germany, Taiwan, and elsewhere all have tougher plant closing laws—and that hasn't stopped them from accumulating huge trade surpluses with the United States.

What is even more troubling is that this veto comes at the expense of the hundreds of substantive trade provisions painstakingly worked out by the House and Senate which would improve and strengthen our current trade laws.

A vote to sustain this veto is a vote for the continuation of unfair and illegal trade practices. As my good friend Mr. COELHO so aptly stated, "a veto of the trade bill is good business—but not for America." This trade bill would begin to put an end to outrageous practices engaged in by our trade partners—trade partners that have continually denied U.S. companies access to their markets.

I read yesterday in the New York Times about the struggles of yet another U.S. company that has been working diligently to overcome these barriers. Federal Express has tried to enter the Japanese market with a new and valuable service which is currently unavailable in Japan. After several years of negotiations, and just as the company thought the struggle was over, Federal Express learned of yet another regulation which would prevent their progress in Japan.

The trade bill would give the United States the ability to work effectively to eliminate these types of practices. It would send a strong message to our trade partners that this kind of behavior is unacceptable. If we fail to override the veto, it will be our loss, not theirs.

I would like to point out a few of the numerous provisions from which we would not be able to benefit.

We would eliminate the amendments to the Foreign Corrupt Practices Act which would clarify current law and prevent further abuses.

We would lose the benefit of a pesticide monitoring and enforcement provision which would address the serious problem of contaminated food imports.

We would lose the benefits of a National Trade Data Bank that would provide businesses and government officials with sorely needed information on trade in goods and services.

We would lose the Toshiba provision to deal effectively with violations of export controls, and by doing so, we would send a signal to our partners that it's alright for them to take profits more seriously than national security.

I could continue indefinitely to list the numerous provisions which would strengthen our trade negotiating position, improve education, promote research in high technology, revitalize segments of our manufacturing industries, and improve trade in agriculture.

I urge my colleagues to weigh the price of not enacting these provisions. Once you do, I'm confident you will vote to override this veto and give the United States, and not our trade partners who engage in unfair trade practices, something to celebrate.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to the distinguished Republican leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I rise in support of the President's veto of the bill. I look at the President's veto as a defense of the American workers, especially working men and women in my district.

American workers just proved they can compete in a global economy. Exports soared in March, the trade deficit declined dramatically. Congress did not do that through legislation.

American workers did it through their hard work. And they can continue to do it if we in the Congress do not trip them up with well-meaning but badly conceived provisions of a trade bill that have nothing to do with enhancing our competitiveness.

As you know, I come from a district that is heavily dependent upon exports.

So when I hear that workers in my district are going to be hurt by some provisions of this bill I have to listen.

So many of you know Caterpillar is the largest employer in my district, one of our country's largest exporters, contributing significantly to the positive side of our trade imbalance.

The president and chief operating officer of Caterpillar, Mr. Peter Donis, wrote me recently urging a vote to sustain the President's veto. He said this, very appropriately:

> Caterpillar and other manufacturers recognize the need and responsibility to provide advance notice of shutdowns and layoffs. In Caterpillar's case, we provide notice of more than a year when plants were closed. However, in the case of layoffs, advance notice is usually not possible.

Then referring to the disastrous economic downturn in 1982 he said.

> Part of our necessary response included indefinite layoffs and 1- and 2-week shutdowns of all or part of plant operations. These actions often had to be assessed on a weekly basis. We didn't have the luxury then—nor do we now—of knowing with certainty what business conditions would be like 60 days or more in the future.

As Mr. Donis points out so well, the issue really is not giving 60 days' notice for a plant closing as it is Government interfering with the in-house decisionmaking process of a company relative to layoffs and temporary adjustments.

□ 1440

There are other provisions in this legislation that hurt American workers and their ability to compete. The bill allows ethanol produced in Europe with subsidized wine to be shipped duty-free to the United States through the Caribbean. This provision will hurt the domestic ethanol industry, and it hurts agriculture to some degree.

I would like to be able to say a sustained veto will offer us another opportunity to delete this ridiculous loophole, but that may be expecting too much.

When the veto is sustained in the other body, our best hope of getting a trade bill adopted this year will be to simply scrap the so-called plant closing language and come back with everything else intact. We can pass another bill forthwith, and we should. It is time to move on. We have been laboring over this trade bill for 3 years. It will be outdated before it becomes law.

The future is already here. American workers need our help to compete in it.

The Pacific rim is growing and changing daily. China is turning into a market-oriented economic structure. Last year they were our 13th largest trading partner. In 20 years, conceivably China could have the third largest gross national product in the world. Japan is solidifying her relationship with neighbors and trading partners. I guess we all recognize her as a powerful economic competitor.

I believe that the American worker's future lies not in his or her ability to stand tall against the burgeoning economic giants of Asia but to stand tall among them. The same holds true for Europe and our own continent.

This bill represents a final chapter to the past. It is time we get on with preparing for the future, and I do not mean November 1988; I mean 1998 and beyond.

Mr. Speaker, I am going to vote to sustain the President's veto because I know we can do better, as the gentleman from Texas said just a few minutes ago, and I urge my colleagues to do likewise.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. FASCELL], chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding time to me and for the leadership which he and his staff have evidenced in moving this omnibus trade bill through the Congress.

I would also like to commend Mr. BONKER, chairman of our Subcommittee on International Economic Policy and Trade, who has taken the lead on this legislation for the Committee on Foreign Affairs, along with our colleagues DAN MICA and HOWARD BERMAN. They have devoted considerable thought and effort to developing an effective, constructive trade policy.

Title II of H.R. 3, for which the Committee on Foreign Affairs had primary responsibility, contains various provisions to improve the effectiveness of U.S. export control and export promotion policies and programs.

The provisions on export controls include: a reduction in licensing requirements and in export controls; a strengthening of enforcement activities; and, clarification of decisionmaking procedures and in foreign availability determinations. The bill also resolves the uncertainty and puts to rest the debate over sanctions for the diversion of advanced milling machines to the Soviet Union by imposing sanctions against importing and United States Government procurement on Toshiba Machine Co. and Kongsberg Trading Co. and on Toshiba Corp. and Kongsberg Vaapenfabrikk.

Provisions on export promotion include: strengthening the U.S. and foreign commercial service; a new market development cooperator program; a national export data system; enhancement of the trade and development programs of the Overseas Private Investment Corporation and of the trade and development program; and, procedures to develop information and policy on countertrade.

Further, the Committee on Foreign Affairs, with the cooperation of the Committee on Energy and Commerce, has provided in title V an important rationalization of the Foreign Corrupt Practices Act.

Mr. Speaker, I urge the Members of the House to support this important legislation—to provide the country with an effective and strong trade policy and instruments to implement that policy—by voting to override the President's veto of this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HAWKINS], chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Speaker, the President has, in my opinion, unreasonably made a major mistake of his administration in rejecting an idea that his own administration first suggested. The worker readjustment program and the need for advance notice were tied together initially in the report of Secretary Brock's Task Force on Economic Adjustment and Worker Dislocation.

It will not do, as some have suggested, simply to drop the plant closing provisions and leave the rest of the bill as it is. The Committee on Education and Labor and the Congress must have the opportunity to make changes in the worker readjustment provisions to adjust to the absence of the notice requirements. This cannot be done overnight.

I say these things, Mr. Speaker, to indicate to my colleagues that a new trade bill may not spring forth merely by deleting what the President may not like. The President has created a controversy, and it seems to me it is up to the Congress to settle it.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I believe the President made absolutely the right decision in vetoing H.R. 3, and I hope today this House will have the courage to support him.

Parenthetically, I note, Mr. Speaker, that this bill has come back more quickly than it left. It took 17 days to wind its weary way all the way down to the White House. It has come back in 1 day. Perhaps Mr. Speaker, you should study the executive message service.

Some have attempted to paint the battle over this bill in terms of unfeeling, mean-spirited owners of small and large American businesses against weak, defenseless workers who are to be thrown out into the streets unless big government lays its firm and fatherly hand across this land. The Government is called upon to impose the requirement that all workers, in almost all businesses, in almost every economic circumstance receive 60 days notice that they may be laid off. Father government is deemed to know best.

This debate paints a view of America that is as depressing as it is inaccurate. It is not only a shortsighted approach, but it ignores the new jobs created in our economy and the opportunities now available. The nongermane plant closing notification provision has no place in a trade bill. The Democrat leadership of this House decided to cause this confrontation. It was unnecessary. We could have had a trade bill enacted by now, assuming the Speaker could get it down to the White House.

To some, this trade bill exceeded our expectations by being expanded to almost every standing committee of the House and Senate and covering topics as diverse as restrictions on how Alaskan oil is traded to how Third World debt is administered. I believe the bill in its current form has exceeded our ability to establish effective trade policy and to address trade problems within a meaningful period of time. Instead, the trade bill has become a clearinghouse for proposals that could not make it on their own merit. The plant closing provision is but one of the many provisions in this bill that are not really appropriate to trade legislation, but nevertheless have jumped on the wagon. Finally, the wagon was forced to slow to a halt under the sheer weight of nongermaness and controversy.

This bill was endangered before the plant closing issue emerged, according to some as the "make or break" issue of this election year campaign. It was already suffering under the weight of restrictive banking and currency provisions, unconstitutional restrictions on the commerce of States, and export controls that threaten our Cocom obligations. Also, with its innumerable studies, generous expansion of the trade adjustment assistance programs, and further farm subsidies, this bill takes a bite out of our Federal budget to the tune of $6.1 billion.

These expensive and often peripheral provisions have seriously threatened the essential trade-oriented issues that were the genesis of this bill, issues such as implementation of the harmonized system of tariffs and the extension of negotiating authority to support the Uruguay round of multilateral trade negotiations. These two provisions alone will do more to enhance the competitiveness of U.S. industry and promote employment than any legislation Congress has considered this session. Yet, pressures from special interests and partisan maneuverings continue to undermine such sound legislative objectives.

Now let us turn to plant closings—the issue organized labor has dictated be the focus of our trade debate. This issue, as you know, has been argued for many years but has not succeeded on its own merit in gaining the necessary support for enactment. Thus, it was forced into this bill as a rider even though it has only a limited connection to trade policy. Its guiding principle is that the Federal Government should undertake to tell business and workers the conditions under which workers may be layed off or plants closed.

In fact, employees generally are told, and generally know beforehand, when things are bad enough to warrant a closing or a layoff.

Is this the way to make U.S. business its most competitive and to maintain stable employment whenever possible? I think the answer is clearly "No." Especially for smaller businesses that may be struggling to keep its doors open or to secure financing to help it through troubled times, this provision could easily determine the success or failure of these best efforts. For troubled firms that are trying to maintain the highest level of productivity and to secure a little more cash so it can ensure its survival may be doomed to failure if this plant closing notification provision is enacted.

This means earlier and more extensive layoffs than might otherwise be necessary. This means loans that won't come through and a work force in disarray. How can this be beneficial to workers and American business?

And if the business owners does not give notice, no matter how sudden the need for layoff, that owner will have substantial risk of lawsuit. Smaller companies have no resources to defend themselves.

American business, especially small business, is the lifeblood of our economy. Its competitive spirit and flexibility to overcome economic trials is at the center of its success. Business is not the enemy of workers, it is the employer of workers. Small businesses and their organizations have been unequivocal in their opposition to plant closing notification.

When plants unfortunately must close, another more successful venture steps in to take its place, employing countless additional Americans. The heavy hand of Government won't improve the situation?

Organized labor is pushing so strongly for this provision even though plant closing notification has been included in many of its negotiated contracts, must have an objective in mind. After the intrusion of plant closing notice into labor-management relations, what will the next step expected of the Government be? Requirements on business investments, profit-sharing guidelines, Federal standards for work rules? Are we trying to follow the depressing example of Europe where no new jobs have been created in the last 10 years? I hope not.

What we ought to seek is a plant opening bill. We ought to be looking for opportunities, not wallowing in despair.

This trade bill itself has many flaws and certainly cannot be described as our finest legislative achievement. Under normal circumstances, I would not support it. However, without the plant closing provision and the unconstitutional Alaska oil provision and, hopefully, without some of the isolationist banking provisions, the trade bill can be enacted this year because we need to put an end to trade legislation uncertainties.

I urge my colleagues to support the President's veto so that we may get on with the process of finalizing meaningful trade legislation during this Congress.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. PEASE].

□ 1450

Mr. PEASE. Mr. Speaker, the President made a huge mistake today in vetoing the bill. His action was expected, but it is still a mistake.

The Nation badly needs a trade policy, and President Reagan has seriously jeopardized the chances that we can establish a trade policy this year.

Mr. Speaker, let us not deceive ourselves. One month's improvement in export figures, one month's improvement in our balance of trade does not take care of our problem. The projected balance of trade deficit for this year is still $144 billion.

Not all, not even most, of our problems with trade will be taken care of by this trade bill, but this trade bill can handle a significant part by dealing with unfair trade practices, by encouraging export promotion and by beefing up math, science and foreign language education.

Mr. Speaker, President Reagan made a mistake. Let us not make a mistake. Let us override this veto today.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I cannot believe that we are having this discussion here today. I voted against the conference report because this trade bill does not represent enough fundamental change in trade, and now the President has even vetoed this bill. He first said that he would veto the bill if the Gephardt amendment or any part of it was in it, and the Congress, to my chagrin, stripped out the entire Gephardt amendment. Then he said that if the Bryant amendment was in the bill that he would veto the bill, so that was stripped out. And now he says that it is the plant closing provision that causes him to veto the bill.

Mr. Speaker, that is a lame excuse. He is against any trade legislation of any type whatsoever. The only time this administration has done anything on trade is, when this original bill was presented, he finally filed some unfair trade practices against other countries. When we passed the bill, he finally took action in the machine tool case, and then, when the conference report was done, he took some other lame actions.

The truth, Mr. Speaker, is this administration does not care about trade and does not care what is happening to the American people. Let us override the veto and at least do something on this issue this year.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. FORD].

Mr. MURPHY. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Pennsylvania.

Mr. MURPHY. Mr. Speaker, I strongly support the motion to override the President's veto of a fair and balanced trade measure.

Mr. Speaker, it is unfortunate that the President really does not want a trade bill this year, or any year.

Do not be confused by the smokescreen of the second and third pages of his veto message. This veto is for one reason and one reason only—the plant closing provisions.

The President speaks glowingly of the "American miracle" as he has labeled the American economy. But let me remind him of another couple of miracles that he presided over and has conveniently forgotten. Let's talk about the "Japanese miracle" that saw our steel production capacity shrink into virtual nonexistence while Japan captured our markets and our capacity.

What about the "Hong Kong miracle" or the "Taiwan miracle" or the "South Korea miracle" that has decimated the domestic shoe, electronics, and clothing industries? Or how about the "Mexican miracle" that has witnessed jobs and industries slip across the border like water through our fingers?

There have been a lot of miracles lately and not all of them have been good.

This administration has presided over the worst recession in over 50 years which sent unemployment into double digits. A trade bill might not have stemmed that economic downturn, but from where I come from, Mr. Speaker, that plant closing provision certainly would have helped my people in southwestern Pennsylvania. I am also very certain that few of those 14 million jobs that the President claims to have created have come to my part of the country. Come visit Beaver County, Mr. President and I'll personally introduce you to thousands of reasons for a plant closing provision in this trade bill.

Isn't it ironic that of all the top economic powers in the world, we are the only one not to have plant closing provisions on the books? Plant closing provisions are not found in the writings of Marx or Lenin, and they are not going to lead to the downfall of the free enterprise system. Plant closing notification is a commonsense response by a business to those whose lives are often inextricably tied to that business—the management and workers, the bankers, the local community.

Like so many other areas of your administration's policies, Mr. President, your stated goal of voluntary advance warning to workers clearly has not worked in the past and will not work in the future. For every one Caterpillar Tractor story that was, we can recite dozens of others where workers were given literally hours, not days, notice of imminent plant closings. And the Caterpillar story is not even a good one for your side, Mr. President, because it can also prove our point. Communities, workers, bankers, and suppliers don't want to see a business fail. They have a vested interest in its continued success and prosperity.

Public notification of a closing does not necessarily guarantee that the business will close, but it can also mean that those most concerned with a business' continued operations can rally together to save that business before it slips permanently away. You cannot help a business if you don't know that it is in trouble.

The President claims that his administration has "gotten Government off the backs of the American people," but this is clearly not what this bill is all about. Yes, Mr. President, you want Government off our backs, but why are you so reluctant to put the power of Government on the backs of others—countries, industries, and markets—that are threatening the long-term economic health of this country, driving us closer and closer to an all-service economy and seriously jeopardizing our ability to arm ourselves for war and to resupply ourselves during a war?

Mr. President, I must send you a veto message. I reject your logic, your reason and your rationale for vetoing this trade bill. Your ability to point to momentary glimpses of sun in an otherwise cloudy trade picture fools no one but yourself. America needs this trade bill. It is the best that we could do, not with you, but in spite of you. It is about time you stop worrying about the Reagan legacy and start worrying about our Nation's legacy. They clearly are not one and the same.

Mr. FORD of Michigan. Mr. Speaker, the President's veto of this bill is an outrage; 85 percent of the American people want the plant closing notice law passed. But the President, acting on behalf of one of the narrowest special interests in the country, intends to deny them this simple, basic right.

Mr. Speaker, there isn't an American worker anywhere in this country who wouldn't want and doesn't deserve to be told 60 days before his or her job is eliminated. People need time to look for new jobs; they need time to put their family finances in order; they need time to find a training program that will qualify them for a good job.

The President's veto hurts the working people of our Nation. It hurts our economy. It hurts every community that has to respond to the shutdown of an important employer and help the dislocated workers adjust.

This veto helps only one narrow special interest—the worst element of the business community, the kind that operates surreptitiously, without regard to the welfare of its workers or its community.

This veto is an outrage, and I urge my colleagues to override it.

The President says he supports voluntary notice. I say the Emperor has no clothes. Voluntary notice is the system we have now, where most workers get less than 1 week's notice that their plant is going to close and that their jobs are being eliminated. Voluntary notice means employees have no recourse when they come to work and find the gates padlocked. Voluntary notice means there is no pressure on employers to do what is right and responsible.

Would the President support voluntary toxic dumping laws? Voluntary workplace safety and health laws? Voluntary draft registration?

The President also says he sent Congress a bill offering businesses incentives to provide advance notice of plant closings. Don't believe him. He never did any such thing. What he did was send us a bill that passed the buck. It authorized the States to provide incentives, if they wanted to. Only if the State acted first would the Federal Government do anything. And actually, the President never committed the Federal Government to 1 penny in the way of incentives. You won't find this incentive in the President's budget.

What's more, the idea of paying businesses to do what they should do, what they should do as a matter of morality and corporate responsibility, is wrong.

No, the Emperor has no clothes. Mr. Reagan wants it both ways. He wants to kowtow to the worst elements of the business community, but he doesn't want to pay the price. He doesn't want the American people to know whose interests he is protecting and whose needs he is ignoring.

The plant closing provision is important to millions of workers and their families. The Secretary of Labor's Task Force on Economic Dislocation found that almost 14 million people had their jobs eliminated between 1981 and 1986, an average of more than 2 million jobs a year.

The Brock Task Force also found—and remember, this was a group of experts appointed by President Reagan's own Secretary of Labor—that if people have notice that they are going to lose their job, they are able to find a new job in a much shorter period of time.

Another important finding of the task force is that plant closings are a problem for every part of the country. When I first introduced plant closing legislation in 1974, it was perceived as an attempt to keep jobs from relocating to the South from Michigan and other Northern States. Plant closings were seen as a "Frost Belt" problem. Whether or not it was ever true, that perception is certainly false today. The area with the highest rate of plant closings and job loss is the South.

According to the most recent figures provided by the Bureau of Labor Statistics, the West South Central States, the East South Central States and the Mountain States now have the highest rate of dislocation. The five States with the highest rates of plant closings were West Virginia, Alaska, Washington, Mississippi, and Louisiana.

This is a national problem. It needs a national solution.

Mr. Speaker, I include for the RECORD a document entitled "Advance Notice of Plant Closings: Benefits Outweigh the Costs," which makes an irrefutable case that the trade bill's notice provision would save workers more than $1 billion a year, save more than $400 million in unemployment insurance costs, and make the Federal training program for dislocated workers operate more efficiently—all at trivial cost to U.S. employers.

ADVANCE NOTICE OF PLANT CLOSINGS: BENEFITS OUTWEIGH THE COSTS

(By Larry Mishel)

Available evidence now overwhelmingly shows that providing workers with advance notice of layoff generates substantial benefits to displaced workers, their families, local communities, and the economy in general. These benefits vastly outweigh any reasonable estimate of costs. By shortening the duration of unemployment after layoff, advance notice stems the loss of worker incomes and saves the economy unemployment benefits and social costs we would otherwise have to pay.

In a recent survey for the W.E. Upjohn Institute, Professors Ronald Ehrenberg and George Jakubson of Cornell University examined all the relevant literature on advance notice and concluded:

"The literature surveyed here overwhelmingly suggests that advance notice can facilitate labor market adjustments by allowing displaced workers to find employment prior to their date of displacement. Advance notice appears to reduce the probability that displaced workers suffer any spell of unemployment and thus also moderates temporary increases in area unemployment rates.[1]"

Moreover, according to Ehrenberg and Jakubson, most studies have *understated* the benefits:

"In a number of surveyed studies "advance notice" included notice of a very short duration and thus their results likely understate the effects of mandated notice of longer duration. The data used in all the underlying studies also did not permit analyses of whether advance notice of pending displacements can lead to actions (e.g., reorganization, wage concessions, employee ownership) that help avert displacement."[2]

A more recent study by Swaim and Podgursky, funded by the National Science Foundation and the American Statistical Association, substantially improves on earlier research by explicitly focusing on job search *prior* to displacement rather than limiting their analysis, as do other studies, to job search after displacement.[3] Swaim and Podgursky found that advance notice significantly shortens joblessness for most labor force groups. Their main findings are shown in Table 1.[4]

TABLE 1.—REDUCED JOBLESSNESS AND INCREASED PAY DUE TO VARIOUS LEVELS OF ADVANCE NOTICE

	Weeks of advance notice							
	Male				Female			
	0	4	8	12	0	4	8	12
Blue collar:								
Reduction in joblessness (weeks)	0	1.9	3.7	5.5	0	1.2	2.3	3.4
Gross benefits[1]	$0	$682	$1,335	$1,967	$0	$254	$504	$749
White collar and service:								
Reduction in joblessness (weeks)	0	2.2	4.3	6.1	0	2.5	4.8	7.0
Gross benefits[1]	$0	$966	$1,857	$2,674	$0	$699	$1,363	$1,994

[1] The value of working more weeks at the average reemployment earnings.

The reduction in joblessness and the greater earnings that result (from working more weeks) is shown for male and female blue and white-collar workers. For instance, the average male blue collar worker receiving eight weeks notice can be expected to find work 3.7 weeks sooner than if she or he had not received notice. The extra work would yield the worker $1,335 more in earnings. For all displaced workers, a legislated requirement of eight weeks advance notice would shorten joblessness by 3.8 weeks (based on a weighted average of each labor force group) and provide the average displaced worker with $1,320 in extra earnings.[5]

These estimates also imply substantial unemployment insurance savings and greater earnings for displaced workers. The latest BLS survey of displaced workers shows that 3,514,000 workers lost their jobs in 1985.[6] A conservative estimate would be that only one-third of all displaced workers (or 1,170,000) will benefit from the current legislation because it only applies to large facility closures and large layoffs. The average gross benefit of eight weeks notice ($1,320), therefore, suggests that displaced workers in 1985 would have earned $1.5 billion more because of the shorter time to find work. However, not every displaced worker receives or is eligible for unemployment insurance. In the last year for which we have data (1986), the proportion of workers unemployed because of a job loss (as opposed to quitting or leaving the workforce) that received unemployment benefits was 66 percent.[7] Thus, there were potential unemployment insurance savings for 772,000 workers (66 percent of 1,170,000). The savings for 3.8 fewer weeks of joblessness at the average weekly benefit of $140 would be $410 million.[8] These savings are double the current costs of displaced worker programs and over 40 percent of what the Administration requested ($980 million) of the new dislocated worker program contained in the trade bill.

ADVANCE NOTICE AND ADJUSTMENT

The goal of any adjustment policy must be to facilitate the rapid reemployment of dislocated workers in appropriate jobs. Successful adjustment means that there is limited or no unemployment experienced between jobs and that new jobs fully utilize dislocated workers' skills and allow them to maintain, as best as possible, their prior standard of living. A successful adjustment process also involves limiting a worker's income loss during the transition.

Adjustment programs also must be tailored to fit individual needs. Many workers need job search skill training. Others require remedial education, classroom vocational education, or on-the-job training programs. A job development effort to place workers in available jobs is present in almost all adjustment programs.

The necessary ingredient in all of these efforts is time for planning, for implementation, and for recruiting. And, above all, time for the individual worker to develop his or her individual strategy for reemployment. Thus, the need for *advance notice*. As a recent Office of Technology Assessment (OTA) report noted:

"The best time to start a project for displaced workers is before a plant closes or mass layoffs begin; advance notice makes early action possible—although it does not guarantee it. Some of the advantages of early warning are: (1) it is easier to enroll workers in adjustment programs before they are laid off; (2) it is easier to enlist managers and workers as active participants in displaced workers projects before the closing or layoff; (3) with time to plan ahead, services to workers can be ready at the time of layoff, or before; and (4) with enough lead time, it is sometimes possible to avoid layoffs altogether." [9]

The report of the Secretary of Labor's Task Force on Economic Adjustment and Dislocation stresses that "advance notification is an essential component of a successful adjustment program." [10]

Recent reports by business organizations such as the Conference Board and the Committee for Economic Development also point out the importance of advance notice:

"*Companies should provide as much notice as possible of decisions affecting jobs, particularly in cases of plant closings, work transfers, or automation.* Advance notice allows employees the time to adjust, and management the time to plan and implement business moves in a way that minimizes hardship. Companies should also take steps to notify the local community and state agencies of pending plant closings in order to allow time for a coordinated response. (Emphasis in original).[11]

"Both survey and interview participants note that advance notice is beneficial to employees and is an essential element in a plant closure program. . . . Notice is also critical because a functioning plant is, perhaps, the program's single most important resources." [12]

Advance notice of an impending layoff is beneficial for other reasons as well. Notice provides time to explore alternatives to layoffs or to attract new owners or negotiate a worker buyout. Providing advance notice is also demanded by simple human decency so that a worker and his or her family can attempt to plan for such a traumatic and life-altering event. And, as the OTA reports:

> Many company managers see advance notice as a benefit to the company itself, by improving relations with the remaining workers, enhancing the company's reputation in the community, and conforming with company values of fair and ethical treatment of its employees.[13]

BUSINESS PRACTICES REGARDING ADVANCE NOTICE

Actual business practices fall far short of what is needed to give workers time to adjust. The most in-depth study of notice practices is offered by the General Accounting Office (GAO). The GAO surveyed large establishments (those with 100 employees or more) which experienced a mass layoff or plant closure in 1983 and 1984.[14]

The GAO survey found that the median length of notice provided to workers was 7 days. The median notice to white collar workers was greater—14 days. Union blue collar workers also received greater than average notice—14 days. The median notice for nonunion blue collar workers was just 2 days.

Tables 2 and 3 provide additional results from the GAO survey. Nearly one-third of the establishments experiencing permanent layoffs provided no notice to their workforce and nearly two-thirds provided two weeks or less notice (Table 2, last column). Further breakdowns by occupation and type of layoff (job loss or closure) indicate that the vast majority of establishments provided less than a month's notice to their blue or white-collar workers even when a full facility closure was contemplated.

TABLE 2.—PROVISION OF ADVANCE NOTICE BY OCCUPATION AND TYPE OF JOB LOSS

[In percent]

	Blue collar		White collar		All occupations all layoffs
	Permanent layoff	Facility closure	Permanent layoff	Facility closure	
No notice	32	29	29	32	32
1 to 14 days	39	24	36	34	34
15 to 30 days	14	14	18	15	15
31 to 90 days	12	22	12	14	14
91+ days	3	11	5	5	5

Source: General Accounting Office.

Table 3 shows that larger facilities did not provide more notice than medium-size facilities.

TABLE 3.—PROVISION OF ADVANCE NOTICE BY SIZE OF FACILITY

[In percent]

	Medium 100 to 249 employees	Large 250+ employees
No notice	35	24
1 to 14 days	29	43
15 to 30 days	15	15
31 to 90 days	16	11
91+ days	5	7

Source: General Accounting Office.

The GAO concludes that:

> While major business and labor organizations agree that to be effective reemployment assistance should be in place prior to dislocation, *few employers provided advance notice sufficient to establish such programs.* [emphasis added] [15]

A recent survey by the Bureau of Labor Statistics of mass layoffs in seven states suggest that businesses provide even less notice than indicated by the GAO report.[16]

Table 4.—Percent of Mass Layoff Events Surveyed *

	Percent
No notice	64
1 to 14 days	16
15 to 30 days	6
31 to 90 days	10
91+ days	4
Total	100

Source: Sharon P. Brown, "How Often Do Workers Receive Advance Notice of Layoffs," Monthly Labor Review (June 1987), Table 6, general notice.

Measured against OTA's conclusion that it "takes about 2 to 4 months work in advance to prepare a comprehensive adjustment program," it is clear that current business practices fall short of what is needed.[17] The recent Department of Labor Task Force agrees, saying:

> It is also true that a recent General Accounting Office survey indicates that in too many plant closings and permanent mass layoffs, insufficient advance notice of job loss is given to make possible an optimal private and public role in the reemployment process.[18]

THE COSTS

Those who oppose a legislated notice requirement have contended that mandatory notice is a burdensome government regulation that is harmful to business. In particular, opponents frequently claim that productivity will fall after notice is given, thus harming the company and speeding a shutdown. All the recent serious studies, however, contradict this assertion. Indeed, many note that productivity has frequently risen following a notification of a closing.

For instance, the Conference Board study reports that company managers responsible for closure believed that "advance notice, combined with generous severance plans, reduces pressure and anxiety, generates good will, and contributes to improved productivity." [19]

The recent CED report states, "[s]ome companies are reluctant to provide notice, fearful of employee disruptions and the fall-off in productivity. Experience, however, suggests the contrary." [20]

Likewise, the Department of Labor Task Force reports that "many of the fears regarding advance notification have not been realized in practice. In this regard the Task Force found no evidence that the productivity of the workforce is adversely affected during the notification period." [21]

Recent research by Ehrenberg and Jakubson examined whether high productivity workers are more likely to quit than other workers following notification. It concluded "we find no evidence that advance notice will lead a firm's most productive workers to quit, thereby disrupting a firm's operations in its final weeks." [22]

The recent OTA report examines the allegation about trouble with workers and reduced productivity and states "[t]here seems to be general agreement that this is a myth." [23] OTA reports that every business representative at one of their workshops agreed that worker morale and productivity did not suffer with advance notice of layoffs or closings.

The OTA report examines other claims that advance notice is burdensome. Regarding the potential loss of customers and increased credit pressure, OTA reports that "it is difficult to find actual occurrences of customer or creditor desertion following notice" and that "while loss of credit is a potential problem for firms, advance notice can benefit creditors and customers."[24] Moreover, OTA cites evidence that dire financial emergency seems to be an infrequent factor in plant closings and large layoffs.[25] OTA concludes that "it is more difficult to find evidence of the costs than evidence of the benefits of advance notice."[26]

Thus, all of the impartial reviews of the advance notice issue have concluded that the costs of notification requirements are minimal. This is confirmed by the exaggeration engaged in by opponents of advance notice in order to support their claims that there are significant costs. For instance, the recent Nathan Associates study[27]—paid for and frequently cited by opponents of advance notice—suggest that firms will have to add personnel (costing $1 billion!) to keep track of closings, as if all firms do not already closely keep track of their plants, both those that they are closing and those that they are keeping open. Even more of an exaggeration is the effort to include penalty costs for firms which fail to comply with the law. As GAO's analysis of the Nathan Associates study indicates, it is unclear why firms will suffer these penalties after spending $1 billion on personnel to monitor facility closures.[28] It is also questionable whether penalties for breaking the law should be considered a social cost of notice legislation. Ironically, Nathan's own estimate of the business losses due to high productivity workers quitting following notification is trivially small, just $6 million, when compared to the $1.5 billion in wages gained by workers from finding work sooner. In any event, the GAO's review of the Nathan study concludes, "the methodology and analysis used by Nathan Associates to construct cost and employment estimates are inadequate to support the study's conclusion."[29]

In sum, any fair-minded evaluation of the evidence suggests that the benefits of advance notice requirements are substantial and that they vastly outweigh any costs.

FOOTNOTES

[1] Ronald G. Ehrenberg and George H. Jakubson, "Advance Notice Provisions in Plant Closings Legislation: Do They Matter?," paper presented at the American Economic Association Meetings, December 1987, p. 11.

[2] Ibid, p. 11.

[3] Paul Swaim and Michael Podgursky, "Advance Notice and Job Search: The Value of an Early Start," presented at the Eastern Economic Association Meetings, March 1988.

[4] Ibid, Table 3. Based on changes in weeks of joblessness of the average worker in the 1984 and 1986 BLS Displaced Worker Surveys.

[5] These computations are based on simulations of the experience of the average worker in each labor force group. These estimates understate earnings due to notice to the extent that advance notice facilitates adjustment programs which raise reemployment earnings or permits shorter joblessness and security of job search prior to displacement that leads to higher reemployment earning.

[6] See Larry Mishel, "Dislocation: Who, What, Where, and When," paper presented at the Eastern Economics Association Meetings, March 1987, Table 7. Data refer to all adult workers displaced in 1985 computed from the 1986 Displaced Worker Survey except those displaced for "other reasons" or the end of a seasonal job.

[7] Computed from Tables B-41 and B-42 in the Council of Economic Advisers, "Economic Report of the President," February 1988. This figure takes into account ineligibility and exhaustion.

[8] Ibid, Table B-42 for unemployment compensation level.

[9] Office of Technology Assessment, "Plant Closing: Advance Notice and Rapid Response—Special Report", U.S. Government Printing Office, September 1986, p. 13.

[10] Report of the Secretary of Labor's Task Force on Economic Adjustment and Worker Dislocation, "Economic Adjustment and Worker Dislocation in a Competitive Society", December 1986, p. 22.

[11] "Work and Change: Labor Market Adjustment Policies in a Competitive World", A Statement by the Research and Policy Committee of the Committee for Economic Development, December 1986.

[12] Berenbein, Ronald E. "Company Programs to Ease the Impact of Shutdowns", Conference Board Report 878, 1986, p. 7.

[13] Office Technology Assessment, "Plant Closing", p. 13.

[14] General Accounting Office, "Plant Closings: Limited Advance Notice and Assistance Provided Dislocated Workers", July 1987.

[15] August 13, 1987 letter accompanying General Accounting Office, ibid.

[16] Based on establishments reporting layoffs in the last half of 1985 in Alabama, Arizona, Arkansas, Massachusetts, Texas, Washington, and Wisconsin. See Sharon P. Brown, "How Often Do Workers Receive Advance Notice of Layoffs?" Monthly Labor Review (June 1987), Vol. 110 No. 6, pp. 13–17.

[17] Office of Technology Assessment, "Plant Closing", p. 23.

[18] Secretary of Labor's Task Force, "Economic Adjustment and Worker Dislocation in a Competitive Society", p. 23.

[19] Berenbein, "Company Programs to Ease the Impact of Shutdowns", pp. 7–8.

[20] Committee for Economic Development, "Work and Change", p. 23.

[21] Secretary of Labor's Task Force, "Economic Adjustment and Worker Dislocation in a Competitive Society", p. 23.

[22] Ehrenberg and Jakubson, "Advance Notice Provisions in Plant Closing Legislation: Do They Matter", p. 11.

[23] Office of Technology Assessment, op. cit. p. 22.

[24] Ibid, p. 2.

[25] Ibid, p. 22.

[26] Ibid, p. 3.

[27] Robert R. Nathan Associates, "The Private and Public Sector Costs of Proposed Mandatory Advance Notification Legislation", January 1988.

[28] General Accounting Office, "Plant Closings: Evaluation of Cost Estimate of Proposed Advance Notice Requirement", March 1988, p. 5.

[29] Ibid, p. 1.

When the benefits of the advance notice law are so clear, it makes you wonder why, in fact, the President is so adamantly opposed to it. Whose interests is the President serving by vetoing the trade bill?

One answer comes from a front page story that appeared in the Chicago Tribune on April 29. Mr. Speaker, I include for the Record a copy of that story, entitled, "Japan Urges Veto of Trade Bill."

[From the Chicago Tribune, Apr. 29, 1988]

Japan Urges Veto of Trade Bill—Confident That Reagan Will Kill It

(By Ronald E. Yates)

Tokyo—Japanese officials called U.S. Senate passage of a landmark trade bill "regrettable" and a victory for protectionism and on Thursday urged President Reagan to follow through on his promise to veto the measure.

"If this bill is not stopped, it will severely damage both the economies of Japan and the United States and hinder development of the entire world economy," said Koizo Obuchr, chief Cabinet secretary for Japanese Prime Minister Noboru Takeshita.

The official Japanese reaction to the Senate's 63-36 approval of the bill was less bellicose than when the House passed its version last week by a vote of 312-107. At that time, Japanese officials, including Hajime Tamura, head of Japan's powerful Ministry of International Trade and Industry, called the bill "racist" and "anti-Japanese."

The more subdued wording of the Japanese statements, Thursday reflected growing confidence here that the omnibus trade bill, which has been in the works for three years, will never become law.

"The Ministry of International Trade and Industry has used every available opportunity to discourage the U.S. from approving the bill," said a statement issued minutes after the Senate vote was announced. "Although we appreciate the efforts of the Reagan administration and the improvements made to the bill to date, it is highly regrettable that the bill has passed the Senate."

Other Japanese officials were quick to point to the fact that the Senate vote was not enough to override a presidential veto.

"The omnibus trade bill is doomed, and that calls for a celebration," a ministry official said. "I plan to drink lots of sake tonight."

The U.S. is running a $59 billion trade deficit with Japan, which accounts for almost one-third of the $171.2 billion U.S. global trade deficit. U.S. officials charge that Japan has not done enough to reduce the deficit or to open its markets to American goods.

Even as the Senate was voting on the bill, Takashi Sato, Japan's agriculture minister, was in Washington attempting to reach agreement on the liberalization of Japan's rigidly controlled beef and citrus markets.

Under a four-year bilateral agreement that ended April 1, Japan imports 214,000 tons of foreign beef each year out of a total domestic consumption of 700,000 tons. The Japanese have offered to increase U.S. beef quotas by 25,000 to 30,000 tons and orange quotas by 11,000 tons, up from 126,000 tons.

The U.S. has argued against all quotas and has demanded that Japan open its market completely—a demand that has sparked more anti-American feeling in Japan than at any time since the Vietnam War. Japanese farmers have held anti-American demonstrations in which they have burned the American flag, cars and other U.S. products, insisting they will be ruined if cheaper American and Australian beef is allowed to flow into the country.

Earlier this week, Takeshita, preparing for a trip to Europe Friday, said Japan was prepared to offer concessions in the beef and citrus impasse.

"Japan has benefited from the free-trade system and now must show its determination to remove obstacles with deed," Takeshita said.

While the Japanese government was issuing its toned-down response to the Senate vote, Japan's giant Toshiba Corp., which is singled out in the trade bill for its violation of rules established by the Coordinating Committee for Export Controls (COCOM), was issuing its own statement. COCOM regulates exports of strategic materials to communist bloc nations, and a Toshiba subsidiary was found guilty last year by a Japanese court of selling sensitive submarine propeller milling machinery to the Soviet Union.

"The omnibus trade bill itself is unfair," said Sakae Shimizu, vice president of Toshiba. "As for violation of COCOM rules, the punishment for this should be done by each country under its own laws. Toshiba Kikai (the offending subsidiary) was already punished in Japan. It is unjust for the U.S. to attempt to punish the companies of other nations."

Shimizu said Toshiba has lost an estimated $50 million in sales in the last year because of sanctions placed against it by Washington.

"But the damage could be far greater because of the harm done to Toshiba's corporate image." Shimiru said.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Speaker, I rise in support of the vote to override the President's veto of the trade bill.

Our trade problems are the most immediate threat to our Nation's security and well-being. Our trade deficit must be brought down, sharply and quickly.

The bill passed by the Congress is a comprehensive trade bill which makes extensive changes in U.S. trade law. It is a response to the deteriorating trade position of the United States, a pattern of unfair trade practices by some of our trading partners, and the need to establish a climate where U.S. industries can become more competitive.

By vetoing this legislation, the President is saying in effect that he does not care about the trade problem; that the trade problem will have to solve itself without Government help.

Our Government has always believed that as long as the trade remedy process allowed for the consideration of relevant and important factors, the conclusions reached would be fair and appropriate from a market standpoint.

What we are now finally coming to realize is that for many of our trading partners trade rules and processes are used only to take advantage. Rather than negotiate for the purpose of reaching agreement, many countries have mastered the art of extending negotiations for the sole purpose of giving their firms time they need to win market share in unfair ways.

Strong leadership is needed to implement policies that will enable American firms to once again become leaders, not followers, in the world marketplace. We must respond forcefully to unfair trade practices of foreign countries that contribute to our trade deficit, but we must do more than that. We must understand the world trade situation, how it affects our economic base, and act to assist industry to become competitive again.

We need to step back and realize that our Government's hands-off approach to business does not necessarily mean the free market will be allowed to work. Instead, Government has a role to play in preserving the integrity of markets when unfair trade and import practices threaten to destroy U.S. industries.

What is needed to bring about this change of attitude and approach is really leadership—not legislation. But, in the absence of leadership, the Congress has passed trade legislation that will remove the one trade action that too many of our Presidents have chosen to use in response to unfair trade—and that is doing nothing. Under the trade bill, the President will be required to take some action in response to unfair trade when negotiations fail to produce an acceptable result.

We must make a choice. We must choose whether to take direct action to bring down our trade deficit or to continue relying on endless negotiations to solve our trade problems.

In conclusion, Mr. Speaker, I urge my colleagues to make direct action, provided for in this trade bill, the cornerstone of our country's new trade policy. I ask my colleagues to vote to override the President's veto of the trade bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri, [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding me this time, and I yield to the gentleman from Minnesota [Mr. OBERSTAR.]

Mr. OBERSTAR. Mr. Speaker, I rise in support of the override to the veto.

Mr. Speaker, the President's principal objection to this bill is that it provides that workers, in plants of 100 employees or more, be notified 60 days in advance of a major layoff or permanent shutdown. The President's objection is without merit.

Fairness dictates that industry owes at least 60 days to workers who have given 10, 20, 30 loyal years to their jobs. The President says this moderate requirement would put undue constraint on employers. This is unfounded. This legislation does not dictate whether or when to close a facility, it only requires that once the decision to close is made, workers—and the communities which sustain these facilities—are given sufficient notice to allow them to prepare for economic readjustment.

In 1980, the iron ore process industry—the taconite industry—in Minnesota employed 15,000 workers. It had been the backbone of our State's economy since the turn of the century. Mining communities thrived, and generations of iron rangers—myself included—worked the mines.

Just 4 years later, that same industry employed only 4,000; the work force had been cut by more than 70 percent. Workers were forced to find jobs elsewhere. Extended families were separated for the first time.

The mines closed because demand for domestic steel was driven down by imported steel traded unfairly on the American market. Many of my constituents were forced to give up their homes because the sudden loss of work left them with financial obligations they could not meet. Had they had advance warning of the pending layoffs, they could have been prepared—not bought a new car, invested in home improvements, or taken a family vacation. Had they known, they could have accumulated savings and made other finanical decisions that would have made a significant difference in their lives after the shutdown.

The people of my district understood why their jobs were lost. However, they did not understand why they did not have the opportunity to adjust their lives the way the corporation was able to adjust its business plans.

The legislation before us deals with both unfairness in the marketplace and unfairness in the workplace. By giving the President tools to deal with unfair foreign competition, we can head off the need to lose domestic production facilities, and thereby save American jobs. When those tools are not enough to keep a plant open, however, we must provide secondary protection for workers, their families, and their communities. This is a bare minimum appeal for fairness in the workplace, just as this bill is an appeal for equity in international trade.

The House today must act decisively to override the President's veto. We must give a clear and unmistakable message of encouragement to the other body to do the same. In order to be effective, the trade bill must both curtail unfair foreign trade and help the workers, who are the backbone of industry and our society. This trade without the plant closing notification language is an ineffective and unacceptable alternative.

Mr. CLAY. Mr. Speaker, I urge my colleagues to override this veto. One of the strongest parts of the bill is the section dealing with plant closings and mass layoffs which originated in the subcommittee which I have the privilege to chair. We had numerous hearings over the past 10 years and dozens of witnesses testified about hardships caused by sudden plant closings. Advance notice would go a long way toward alleviating such unnecessary suffering to individuals and communities. That's sufficient justification for requiring advance notice.

But there is another compelling reason. Notice of plant closings or mass layoffs, in addition to being humane, makes good economic sense. Training is one of the keys to adapting flexible policies in order to adjust to changing economic conditions. The ability of workers to quickly and efficiently acquire new skills is essential to maintaining our competitiveness. Virtually all studies show that a displaced worker who receives notice is far more likely to receive appropriate retraining in a timely manner. These are the unchallenged conclusions of studies by the National Academy of Science, the Office of Technology Assessment, and even the President's Task Force on Worker Dislocation.

The findings of each of these nonpartisan studies were consistent. Notice makes training programs work far more successful and training is essential in maintaining our competitiveness. In short, advance notice, combined with training, promotes growth and productivity.

Those who argue that notice places an undue burden on business and what's bad for business is bad for competitiveness have no evidence to support this negative conclusion. All the evidence suggests the opposite. Advance notice of plant closings and layoffs is essential to a successful training program which in turn is critical to the economic health of our economy.

Mr. Speaker, I urge a vote for overriding the veto.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Speaker, the reason the President of the United States has vetoed this important bill is because he is opposed, opposed to American workers having 60 days to put their lives in order.

Now consider the deal the administration has worked out with Manuel Noriega. We are going to give Noriega 6 months to get his life in order, but we cannot spare 60 days for American workers.

Shame on you, Mr. President.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. KEMP].

Mr. KEMP. Mr. Speaker, I strongly favor upholding the veto on the trade bill.

The gentleman from New York, Mr. DOWNEY, my friend, suggested that the President does not support 60 days notice. Any business that shuts down ought to give its employees more than 60 days notice, but this decision should be part of the collective bargaining process. It ought to be done throughout the public and private sector. But that is not what should determine a vote to sustain or override the veto on this bill.

It ought to be on the merits of the trade bill in and of itself that my colleagues make their decisions. Frankly what I am concerned about is that the 60-day closing provision will be deleted and we will come back and pass a bill under the name of expanding trade markets for the United States, but which is protectionist and not going to expand but inhibit our markets. I think that the trade bill itself should have been vetoed on the merits of the trade provisions. Not just plant closing provisions. This is a clear-cut issue of free trade versus managed trade.

One of my favorite headlines recently, Mr. Speaker, was in the Washington Post last week, and it said joblessness dropped to 5.4 percent, the trade deficit dropped, then it said the speed of decline renewed fears of inflation. Mr. Speaker, we live in a town where good news seems to be bad, for as the story went on to say, the stock market declined for the third consecutive day in response to the good news of the lowest level of unemployment in 14 years.

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Now, I am not suggesting things are perfect. They are far from perfect for the unemployed, but when good news drives markets down because people fear that the Central Bank of the United States is going to tighten up interest rates it shows you the type of economic thinking in this town and the case of hypochondria affecting the critics of President Reagan.

Now, make no mistake about it. This trade bill transfers authority from the President to the USTR. I believe that any transfer of authority away from the President will have serious repercussions because it affects all future Presidents, regardless of their party.

One of the most serious changes in this bill is to have findings by the ITC take effect unless the President directs otherwise. This means that significant changes in our trade policy could take effect without the President even having to initial them. I believe that the President should retain the obligation to sign all trade action emanating from the U.S. Government.

I would want a trade bill, if the President of the United States had to initial every decision on trade, because only the President has the obligation to look out for the world economy, the international trade economy and the public interest of the American people.

Mr. Speaker, I think this is a bad bill on its merits. I think the plant closing provisions should be set aside and we definitely should sustain the President's veto of this trade bill and then tell the President, "Mr. President,"—whether it is Dukakis or BUSH—"we want a trade bill that has your initials on every single action on international trade taken by the USTR."

Without that type of bill, I will not support trade legislation which takes authority out of the hands of the President and gives it to a trade czar threatens a world trade war retaliation and lost jobs for Americans.

Mr. Speaker, I intend to vote to sustain the President's veto of this trade bill.

As I said, this is a bad trade bill. Its total impact on our trade policy will be disastrous to American workers and consumers. Instead of expanding trade to create more prosperity and more jobs, this trade bill drags us in the direction of trade wars, fewer jobs, and a lower standard of living.

My colleagues are only kidding themselves if they think this bill is not protectionist. Investors in both U.S. and foreign markets recognize the bill for what it is, and the specter of rising protectionism has fueled the uncertainty in the markets and the downward pressure on the dollar. By embedding a pattern of protectionism into our trade policy, this bill will make it easier for a future administration to start a trade war, or harder to resist one.

It is indicative of the tone of this whole bill that the focus has been on the plant closing provision. But, the real question is not how to arrange plant closings and layoffs. America needs to pursue a plant opening policy to create even more jobs and a more competitive economy.

We need to encourage the creation of more jobs, more employers, especially in our depressed inner cities and rural areas. We need incentives to create more venture capital to finance these entrepreneurs and small businesses. We need a protrade trade policy, beginning with creation of a North American free trade area that would provide both a carrot and a stick to get our trading partners to open their markets.

This trade bill should be rejected for what it is: antitrade, antigrowth, and antijobs. I urge my colleagues to vote against the override attempt and for a well-justified veto.

I'm just disappointed the President's veto message was so weak on the negative impact of this trade bill on the United States and world economy.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I rise to support the override of the President's veto.

We are making a decision today about the future strength and prosperity of this country.

The bill before us, however, imperfect, we know will strengthen the ability of the United States to respond to the unfair trade practices of foreign governments.

We know that the bill before us will strengthen the chances that American farms and American factories will be able to sell American products in foreign markets in the future.

We know the bill before us strengthens the opportunity and the help for American workers who have been put out of work by foreign competition.

Mr. Speaker, let us today make the important decision for a stronger and a more prosperous America. Let us say yes to a better future.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the trade deficit is a serious threat to this Nation's economic well-being. In just 8 years of the Reagan administration America's once mighty industrial base has been badly shattered, with 6 million manufacturing jobs lost and millions of others today going offshore.

Today America must borrow billions and billions of dollars from abroad to finance its budget and trade deficits at home.

For whatever reason, the trade deficit has become a proxy for much of what is wrong in the Nation's economy.

Mr. Speaker, the Congress cannot simply walk away or ignore this vital problem. This is a truly comprehensive trade bill. It is not protectionist. Certainly it is competitiveness. It helps to strengthen America's trade laws so that we can deal more effectively with unfair trade practices and it places the emphasis on export promotion so that we can take steps to match what other governments are doing to help their export industries and it invests anew in America, in job retraining, in education, in research and development, things that are vital if America is to restore its competitive position.

President Reagan's veto of this legislation is an affront to Congress, which has devoted 3 years to developing this trade legislation. It is an affront to America's work force, the people who are the true victims of the trade deficit, and it is an affront to the American public which expects more of its elected leadership.

Mr. Speaker, Congress should override the President's veto. The plant closing notification requirement is fair and decent. It is what other industrialized nations do for its work force. Many U.S. corporations have a similar requirement; but most importantly, Mr. Speaker, the country needs a trade policy. We need to put this issue behind us. Otherwise, it will be out front in this year's Presidential elections. I am not sure that would serve the best interests of the Nation or of our world trading system.

Mr. Speaker, I urge my colleagues to vote in favor of an override.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding.

This is no longer an issue over trade. This is no longer an issue of the trade bill. This is an issue now for the hearts and souls of Americans.

Not even this President can take away the rights of American workers and American jobs and American exports that are contained in this bill.

Mr. Speaker, I urge the Members of this House to override the veto.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, for 7 years, the Reagan administration's policy has been to just say no to American workers. Mr. President, why can't you just say "notification?"

Working Americans deserve a fair shake, but the President doesn't agree.

Instead, the Reagan administration's trade policy has been zero tolerance for American workers and unlimited indulgence for foreign corporations.

President Reagan's idea of foreign trade is a plea-bargain for the Panamanian dictator.

An arms control treaty for the Russians.

And a slap in the face for American workers.

President Reagan acts like Pee Wee Herman toward foreign corporations, and Rambo toward American workers.

With this veto message, he is telling American workers "I'm your worst nightmare."

It seems the more you violate American law, the more President Reagan likes you.

If you close your markets to American goods, you get free access to our markets.

It you take hostages, you get weapons.

If you run drugs, you get endless negotiations.

If you lie to Congress and shred documents, you're a hero.

But if you're a law-abiding American worker, you get nothing—not even advance notification when you lose your job.

Under President Reagan, we have gone from a surplus to a deficit in telecommunications trade. We're losing the battles over information services and high definition television. Let's override this veto and give American workers their due.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I was not here to vote on this bill on final passage, not because I was not interested, I just was not elected yet. Later this year, though, I hope to be here to vote for a better trade bill. There is plenty of time.

I hope that trade bill will be much like the one before us today, one that provides for increased trade adjustment assistance to unemployed workers, increased authority for the President to negotiate in the current round of trade talks under the General Agreement on Tariffs and Trade; repeal of the windfall profits tax and more protection for intellectual property of the U.S. citizens.

The assets of this bill are outweighed by its liabilities on some of the trade provisions, but principally because of the mandatory notification of plant closings.

Although our Nation is enjoying the lowest unemployment rate in 14 years, in my district the unemployment rate is over 10 percent. My district needs jobs, not congressional micromanagement which will serve as a disincentive for the creation of jobs.

If you want to give workers who lose their jobs through layoffs or plant closings an opportunity to get their affairs in order, to be retrained, to find another job, there is a way to do it without handcuffing management in this country.

We are smart enough to find that way. Let us do it.

I will vote for it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, next year the President who signed this bill will be gone, but the trade deficit will still be with us. If anyone thinks that waiting will help the problem, they are dead wrong.

The fair trade, the free trade bill is before us. A year from now it will be protectionism. Do we have to wait for the bottom to fall out to act?

This is the time, the time is now. Three years of very thoughtful work have gone into this legislation. Next year it could be in a crisis. It could be an economic crisis of worldwide proportions. When we act, we could act without the thought, without the work, and it will be protectionism.

Now the free trade train is leaving. This is the time to be on that train. Next year I guarantee it will be protectionism.

Mr. Speaker, let us override this veto.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise today to urge my colleagues to override the President's veto of the trade bill.

Although I am a strong supporter of the plant closing provision, I regret that this debate has degenerated into a referendum on a single issue. Now I happen to believe giving the working men and women of America 60 days notice when they are about to lose their jobs is only fair, but we need to remember that there are other critical provisions of this bill which have been overlooked.

The trade bill gives the President the authority to enter into both multilateral and bilateral trade agreements. If the veto is sustained, this President, or the next, cannot participate in the Uruguay round of GATT or complete negotiations on the United States-Canada Free Trade Agreement.

This bill implements a new harmonized system of tariffs so that for the first time all nations will utilize a common system. If the veto is sustained, the United States will soon be the only nation not utilizing the system.

The bill transfers decisionmaking authority for unfair trading practices from the President to the U.S. Trade Representative and requires mandatory action against certain unfair practices.

The reduction of export controls and the streamlining of export licensing procedures are of particular importance to my home State of Connecticut. Intellectual property rights are also strengthened.

The trade bill imposes a time limit on the investigation and decisionmaking processes in section 232 cases. This provision does not say, provide relief. It does not say deny relief. It simply says, American industry deserves a timely decision.

Without a trade bill, we lose these vital provisions and do nothing to make America more competitive.

I urge my colleagues not to throw away plant closings or these other critical provisions. This bill goes a long way toward giving us a coherent and effective trade policy. Vote to override the President's veto.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 seconds to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, the late Oklahoma humorist, Will Rogers forecast that America would be the first Nation to go to the poor house in a Cadillac. What he did not know was that Ronald Reagan would be driving the car, and instead of a Cadillac, it would be a Toyota.

Under the Reagan administration, for the lack of a trade policy our Nation's trade deficit is about $170 billion. For the past 7 years America has lived off of a national credit card that transformed a producer-creditor nation into a consumer-debtor nation. It is past time to adopt a trade policy. A vote to override the President's veto is a step in the direction to establish a trade policy and to return America to being a producer nation again.

Mr. ARCHER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise today to support passage of the trade bill over the veto of the President.

We are taking a strong step here today—a step designed to restore a large measure of reciprocity with our trading partners and competitors alike.

It is a myth that the United States and its competitors operate in a world of open markets and "free trade". In reality, all countries try to bolster their exports using both fair and unfair tactics. This legislation makes clear to our competitors that the United States no longer will overlook that reality, but will demand fairness and reciprocity with her trading partners.

The bill is not burdened by special-interest baggage, as critics have charged. The bill is truly a compilation of bipartisan agreements that this country must have in order to compete in world trade.

To list a few of those provisions:

A trade adjustment assistance program providing funds to those industries that are damaged by imports and that can prove they could recover and become competitive again if given short-term assistance;

A new definition of "unfair trade practices" that includes export targeting and establishes reciprocity as a standard;

Better protection of intellectual property rights;

Increased authority for the President to suspend mergers or takeovers of U.S. firms by foreign nationals in cases where national security would be compromised.

I would have preferred that this omnibus trade legislation move ahead without the added encumbrance of the plant closing language. I also have stated my opposition to this specific section. I know this provision could be clarified and narrowed in scope. But clearly, the plant closing notification provision is not so onerous that it outweighs the merits of the entire bill. And since I have no objections to notification of closings or mass layoffs per se, I strongly believe that the fate of this omnibus trade bill should not turn on this provision alone.

I will remind my colleagues that this House defeated a much more onerous plant closing bill 2 years ago. As the ranking Republican of the Labor-Management Subcommittee I led the opposition to that bill. Actually, the provisions before us are quite modest when compared to previous plant closings bills. The bill would require employers of 100 or more to provide 60-days notice prior to a plant closing or mass layoff involving at least 50 workers. Previous legislation called for 90-days notice and applied to employers of 50 or more, and included other sweeping mandates including prior consultation.

Despite these improvements, the business community has raised some reasonable concerns about this bill. Perhaps the most strenuous objections have been based upon the application of the bill to layoffs and not just total shutdowns. The Senate attempted to address this by requiring that at least 33 percent of the workers be affected. I believe this could have been addressed by increasing that percentage. In the subconference, I proposed that it go to 50 percent and I think, through negotiations, it could even go higher.

I repeat, while I am not in agreement with the plant closing section of this bill, I have no fundamental opposition to mandatory notice per se. However, this language is clearly not the best we can do. In addition to being far too sweeping, this provision lacks precision and is chock full of ambiguity. Such hastily drawn language only invites endless litigation that benefits no one.

All of this not withstanding, I want a trade bill.

The real issue here is trade, and our overriding concern with this legislation should be the incentives we provide for America's trade competitiveness. This trade bill is a good bill that gives our exporters the tools they need to compete in world trade.

I urge my colleagues to join me in voting for America's future.

Mr. ARCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, what are we talking about here today? We are talking about 16 million jobs, the creation of 16 million jobs.

A few months ago I was in Europe. We were talking about trade and we went to various countries and we sat down with parlimentarians, we sat down with their trade ministers, we sat down with just businessmen, American businessmen, European businessmen, people who own plants, workers who worked in those plants, and yet, they used terms like, "What is this American miracle?"

This American miracle, they call it, has created 16 million jobs.

I heard a new term. It was Euro-sclerosis. Euro-sclerosis, that is the slow building up in the arteries of Europe layer after layer of regulations that inhibit the production of jobs and the creation of jobs and the production of equipment and new business formation. Euro-sclerosis, that is what we are talking about here today.

We are not talking about plant notifications here. That is not it. It is not going to affect you and it is not going to affect me and it is not going to affect most of the workers in the country today. But what we are putting on the next generation is the beginning of the American sclerosis. We are going to make it impossible to create new jobs.

Why? Because if we start a new plant, what is it going to do if it has to shift to another part of the country?

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Suppose in the example of our company operating a mine, and they run out of goods. What do they have to do? How much does it cost? In some industries in Europe it costs over $100,000 to $200,000 per worker to close down a plant. Is that good? No. Has this period we have gone through in the steel industry and this changing dynamic in America been beneficial to the Commonwealth of Pennsylvania? It has been tough. It has been tough.

We have probably, as an older industrial State, suffered as much as any State in the Union but we are coming out of it and we are going to be stronger for it because we did not have Euro-sclerosis. We did not have this layer after layer of buildup in the arteries of American industry such as this is. So what we are doing now is having a vote on symbolism. I have heard a lot of talk about the trade deficit and how terrible it has been. We can solve that, I say to my colleagues, just try a little harder to balance the budget. We will solve the trade deficit. I know it is headed in the right direction now.

There are many provisions in this bill that are good. There are a lot of good things in this bill. I would hope if we are able to sustain this veto the bill will be sent back to the committee, they will take out the plant closing provision, and bring the bill back and we will pass it, and the President will sign it. He will sign it because he has been part of the negotiations all the way through. So think of what we are doing to the next generation, not what we are doing to ourselves as politicians, and vote to sustain this veto.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. SCHULZE. Mr. Speaker, I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I wish to congratulate the gentleman from Pennsylvania [Mr. SCHULZE] on his statement, because he has reminded us that the United States economy in the last 6 years has created more jobs in those 6 years than the continent of Europe has been able to create probably in six decades. They have plant closing law and Euro-sclerosis is just the right name for it, and it will do it to the United States if we override this veto. I applaud the remarks of the gentleman from Pennsylvania, and I applaud the gentleman from Minnesota who was talking about plant openings. What do we do to get more plants opened up?

We should cut capital gains, we should have free trade zones in Canada, the United States and Mexico, along with enterprise zones and other things to get more plants and more jobs open.

Mr. SCHULZE. Mr. Speaker, reclaiming my time, the gentleman from New York [Mr. KEMP] is exactly right. That is the direction we are headed as of today. As we go along if this veto is sustained we will pass a good trade bill, and that is exactly the direction we are going which will provide more jobs and more opportunity for the working men and women of the United States of America.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. May I say, Mr. President, that the Japanese people are laughing now that you have vetoed the trade bill. They are laughing because America does not have a coherent trade policy. The bill you vetoed offered such a policy, Mr. President, a policy that shies away from the evil of protectionism on the one hand, of saying that we cannot compete, that we must build walls to keep out foreign goods because America cannot make goods any better, also shies away from the paralysis of your administration, an administration that has been unable to open up foreign markets. Free trade, and I am a free trader, is a two-way street. This administration has done nothing to see that goods can flow out of this country as well as flow into this country.

In the area of financial services, there is a provision in this trade bill put forward by the Committee on Banking, Housing, and Urban Affairs that welcomes other countries, but only in exhange for letting us into those countries' markets. And it has already started to open those market. This bill finds the centers in trade policy, a place that is away from protectionism, away from paralysis.

Mr. Speaker, I urge the veto be overridden.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Speaker, the Steel Caucus has waited 20 years for this legislation. It is not perfect but it is meaningful legislation. I urge all the members of the Steel Caucus to support this override.

Mr. Speaker, I rise in strong support of the motion to override the President's veto of H.R. 3, the Omnibus Trade and Competitiveness Act.

My colleagues on both sides of the aisle have worked for over a year on this landmark piece of trade legislation, and I am disappointed that the President has not signed it into law.

Last week, Mr. Reagan justified his veto by pointing to the slightly lower monthly trade deficit in March. I agree with him that the March figures are an improvement, but there are many ways we can look at this figure.

First, if the first quarter deficit rate held constant for the rest of the year, we would still suffer from a $144 billion trade deficit in 1988.

Second, the deficit rate from April, 1987 to March, 1988 is an alarming $168 billion.

Using 1 month's trade figure to prove that our exporting economy is on the road to recovery is naive. It is like looking out the window and trying to predict next month's weather—it just doesn't work.

Our economy is simply too complex and unpredictable to make these kinds of simplistic projections, and those who believe the trade deficit problem is solved are engaging in the worst kind of deceptive voodoo economics.

Instead of ignoring the trade deficit, Congress has chosen to face it head on, and our solution is H.R. 3, the omnibus trade bill.

The part of the bill which has been opposed most vigorously by the President is the plant closing section.

These provisions require companies with 100 or more employees to let their workers know 60 days in advance of a plant closing or massive layoff.

The original plant closing provision has been modified to the point where it should be acceptable to both management and labor. The current provisions gives management an exemption from plant closing notification if they are seeking new capital or otherwise trying to keep the plant open. It also exempts them if, for some unforeseeable reason, the company is forced to lay off workers quickly and unexpectedly.

This compromise on plant closings offers something to both management and labor. Workers are required to receive notification, and management's efforts to save an endangered plant will not be required to provide a plant closing announcement.

Two months isn't very long to find a job, but it helps. It gives employees a chance to plan for their futures while they still have the security of an income, and I believe that's the least we can do for our workers.

The trade bill also provides almost $1 billion for worker retraining and remedial education benefits. These funds are absolutely essential for the hundreds of thousands of American workers who've lost their jobs because of the recent flood of foreign imports.

In my congressional district alone, 40,000 steelworkers have lost their jobs during the last 11 years as steel imports have chipped away at our domestic market. Right now, imports capture about 22 percent of our steel market, and there's very little hope that American steel companies will be able to put unemployed steelworkers back to work.

For former steelworkers and all other Americans who have lost their jobs due to imports, the trade bill is a desperately needed lifesaver. It offers a chance for these workers to learn new job skills and to get back on the job.

Every American knows that last year's $171 billion trade deficit is completely unacceptable. It is our job to mobilize the resources of our schools, our industries, and our government to make U.S. products more competitive in the world market.

H.R. 3 does all of these things, and I urge all of my colleagues to support the motion to override the President's veto of this vital bill.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I rise in support of the motion.

Mr. Speaker, I take this time to notify my colleagues that I will vote to override the President's veto of the omnibus trade bill. I continue to support this legislation because I believe that it gives our trading partners the proper incentives to open up their markets to American-made goods. Expanded export opportunities are essential if we are truly committed to reducing our trade deficit.

Of equal importance, in my opinion, is the fact that H.R. 3 does not build walls of economic protectionism around our borders. Protectionism will not help this Nation compete in the global marketplace. This is a balanced, prudent approach to addressing the problems that have beset our trade relations.

Many members of this body have expressed concerns about the requirement that employers give their employees advance notice of a plant closing or mass layoff. Considering the narrow application of the notification requirement, I do not believe that it should impede our efforts to enact a trade bill.

To my colleagues who have not determined how they will vote on this question, I urge them to consider the long-term ramifications if we banish 3 years of work to a dusty, forgotten file folder because of this one provision.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, two things appear certain today in this debate on the fair trade bill. One, the House will override the President's veto, and second, later the U.S. Senate, the other body, will sustain the President's veto. We then have two choices: do we let the bill die and continue the partisan bickering, or do we try to work for a fair trade bill to help American workers, American farmers, and jobs in this country?

Obviously, the decision must be to lower the rhetoric and work to have a trade bill. The stumbling block has been notification. In my opinion nobody, and I repeat nobody, should get up in the morning and go to work and find a lock on the plant gate. Businesses have an ethical responsibility to notify workers and work with communities and families and people when there is a layoff or a closure. The key on notification is how is notification to be defined as related to the role of the Government? Instead of the inflexible and rigid mandatory notice now is the trade bill, I would encourage this body to look at a bill that I have introduced along with the gentleman from Wyoming [Mr. CHENEY] and Senator QUAYLE from the State of Indiana which says that: First, it will be Government policy that we advise and notify workers of a closure, and second, on certain Government contracts that indeed closure would be an item to be negotiated.

If the White House, if this body, if the other body, if we all really want a trade bill that opens markets for U.S. products and encourages us to have job expansion here in America, we should put into place the Quayle-Schuette-Cheney bill so we can have fair trade and more jobs in the future for America.

Mr. CONTE. Mr. Speaker, the President has made the wrong decision by vetoing the trade bill. We have spent 3 years building a consensus on trade, and unless this House and the other body can muster enough votes to override, all our work may have been for nought.

And why? Because we made a commitment to the American worker. We told him that he deserves to know if he is about to lose his job on account of a plant closing or mass layoff. He deserves to know more than 2 days or a week before it happens. He deserves sufficient time to be able to plan ahead, to prepare for possible unemployment, and to look for a new job.

We gave the American worker 60 days to prepare for the trauma of unemployment, 60 days is not a lot of time, but it gives workers the opportunity to adjust and to find new employment. It is a minimal and extremely flexible provision, and is absolutely vital to a successful and effective worker adjustment program.

I am extremely disappointed that all the evidence in favor of advance notice were not enough to move the President. I am even more disappointed that his opposition to advance notice has jeopardized the entire trade bill. His veto could destroy the consensus on trade. It could sink all we have put into the bill, not just advance notice. Stronger actions on unfair trade practices, greater assistance for industries affected by imports, a better trade adjustment assistance program, and even the authority the President needs to conduct effective GATT negotiations—they also are victims of the veto.

We need the trade bill, and we need advance notice. American industry and American workers will lose if we fail to override the veto today. I urge my colleagues to override the veto and save the trade bill.

Mr. JEFFORDS. Mr. Speaker, I strongly urge my colleagues to vote to override the veto of H.R. 3, the Trade and International Economic Policy Reform Act. While none of us finds this bill 100 percent to our satisfaction, it is on balance as good a trade bill as could be expected from this Congress and it will go a long way toward solving our current trade maladies.

Let me just address those provisions that are closest to me—that is, those which were produced in the House by the Education and Labor Committee. I believe that the resolutions achieved regarding these provisions produced legislation that strengthens our ability to train and educate individuals for participation in this competitive world.

To address our trade problems we have to look beyond the immediate impact of foreign competition. We have to look for ways to address the root causes of our Nation's decline in the international marketplace; a decline in productivity; a slowdown in research and development activities; and the failure of our educational system to produce a work force that meets the needs of an ever-changing global marketplace. We need to look toward the future—to determine what our work force will be like and what sorts of skills will be needed for our country to hold a preeminent place in the world economy.

We need programs that address our students' deficiencies; that equip our workers with basic literacy skills; that assure a computer literate society; and that revitalize our inadequate and outdated scientific research equipment and laboratories. Further, we have to address the retraining and upgrading needs of our current workforce. We have to match the training needs of business with the availability of education and training programs. Vocational education and occupational skill programs must be designed to contribute to our economic growth. Ways to combat the needs of the ever increasing dropout population must be implemented. And we should examine whether cooperative efforts by labor and management could improve productivity.

Although there are those who may view an education and training component of a trade bill as insignificant, I believe that without such programs, no trade bill can produce long-lasting results. Without a better educated, more highly skilled and more productive work force, American will not be able to hold a leadership role in international commerce.

There are a few provisions in this bill that I believe deserve special note. First, an issue that I have sponsored in the trade bill that we considered not only in this Congress, but in the previous one as well. That is, the issue of revitalizing this Nation's research capacity. In order to begin to reverse our declining research capabilities, this bill contains a scientific facilities and instrumentation program that will provide resources for our undergraduate and graduate institutions of higher education.

Over the last several years, the necessity for the refurbishing of the college and university infrastructure has become a critical need at American postsecondary institutions. It concerns me that we provide billions of dollars in student financial assistance so that our citizens may gain access to postsecondary education and, when that access is gained, they are educated in facilities and use instrumentation which clearly are not state-of-the-art. It is as much a denial of educational opportunity to use student financial aid to open college doors and train students in inferior facilities, as it is to not open the college doors at all.

Some analysts suggest the total nationwide price tag for replacement and renewal of university facilities, including research laboratories and instrumentation, is between $30 and $40 billion; 20 of 23 universities that participated in a GAO study reported that the inadequacy of present research facilities was a "leading constraint" to the type of research they were currently conducting. We must do better in supporting excellence in our postsecondary education system. From the mid-1960's until the early 1970's Federal funding of university research facilities and instrumentation accounted for 25 to 30 percent of the total expended for those purposes. For the period following World War II, the Federal Government directly supported 65 percent of the cost of instrumentation and 20 percent of the cost of R&D plant.

While I believe the bill could have gone a lot farther in this area, even the modest steps taken by this bill are crucial. Second, the bill expands and strengthens the dislocated worker training provisions included in the Job Training Partnership Act. Concerns that have been expressed regarding the current law are addressed in this bill. Of particular import was the concern that large amounts of unexpended funds remained in the system despite the growing training needs of this population.

The Worker Adjustment Association Program [WRAP] in this bill is very similar to the one proposed by the President. It establishes a shared training system for dislocated workers that follows closely the structure of the basic training service system under JTPA. Greater involvement of substate areas and the private sector is required in addition to the role of the States. A fund recapture and reallotment capability are provided so that States and areas with greater resource needs are eligible to receive additional funds. Most importantly though, is the recognition that if training resources are made available to dislocated workers early on, the greater the chance of continuing their attachment to the labor force.

A key component of the bill is the establishment of a "rapid response capability" within the worker readjustment assistance program.

Under this provision, any substantial layoff or plant closing would prompt immediate contact from a State dislocated worker unit, which would be identifiable to employers and workers throughout the State.

Among other things, the rapid response team would promote the establishment of labor-management committees at the plant site to coordinate readjustment activities for the affected workers at that plant. This concept is taken from a bill, H.R. 728, I introduced last year that was modeled after the Canadian Industrial Adjustment Service [IAS], which Chairman HAWKINS and I found to be so impressive during our visit to Canada last year.

In the report of the Brock Task Force which was requested by myself, Mrs. ROUKEMA and Mr. GUNDERSON, the IAS is cited as an effective approach and is singled out among all foreign endeavors studied as the one offering "the highest degree of replicability" in the United States. Like the IAS, the bill offers a simple, low-cost approach which is purely voluntary on the part of employers and workers. In Canada, this program has resulted in estimated savings of $25.5 million, offset by only $9.9 million in Government costs.

Finally, in order to facilitate the State's rapid response capability, the bill includes separate provisions requiring employers of 100 or more to provide at least 60-days notice prior to a plant closing or mass layoff resulting in an employment loss for at least 50 employees, excluding part-time employees.

This is a long overdue labor protection and most certainly does belong in the trade bill before us. Those who suggest that it doesn't are losing sight of our country's need for a work force with adequate and relevant skills. Nowhere is that need more dramatic than in those situations where workers are displaced by a decision to shutdown or layoff the employees at a worksite. Without efficient mechanisms to address those displacements, we are risking the loss of those workers as productive members of our economy. We need to reach out to them and see that they are placed as quickly as possible into new positions that either match their qualifications or for which they can be retrained.

In order to do that, we must have a reasonable period of advance notice prior to their employment loss. This assertion is borne out by every major study of the problem of dislocated workers. The most compelling of these is the report of the Secretary of Labor's Task Force on Economic Adjustment and Worker Dislocation. As I stated before, we asked Secretary William Brock to form this task force during the House's consideration of this issue in the previous Congress. The entire purpose of the task force was to bring labor and management together to study the plant closing problem and see if a consensus could be reached.

While there was disagreement as to whether it should be mandatory, there was no disagreement over the key role played by advance notice in readjustment efforts: "The task force is in agreement with other studies that advance notice is an essential component of a successful adjustment program."

The only item of controversy is whether notice should be mandated. Since the House narrowly defeated a mandated notice bill 3 years ago, we have learned a great deal about how effective our current voluntary system is. We have learned that the voluntary notice now provided by employers is only about 7 days in advance. Thirty percent provide no notice at all and fewer than 20 percent provide more than 30 days.

Are we to be satisfied with this voluntary system when we are told by readjustment experts that anywhere from 2 to 4 months is needed to devise an effective program? Meanwhile, with this bill we are committing ourselves to a new Worker Readjustment Program [WRAP] that could cost up to $1 billion in the first year. While I believe the WRAP program is needed with or without the advance notice requirement, I believe that we should insist upon mechanisms to ensure the most effective use of those funds.

I do not approach this task lightly. I recognize that there are very legitimate concerns regarding the potential effects of a notice requirement. That is why I worked very carefully with the Senate sponsors of the provisions and my colleagues on the other side in tightening up these provisions to ensure the necessary flexibility for employers. The result is the most modest provision yet devised. I can assure you that we have literally bent over backwards to meet the employers' needs. Indeed, even our minority substitute to the plant closing bill in the Education and Labor Committee did not contain some of these items.

The legislation contemplates that there will be situations where advance notice is impractical, counterproductive, or unnecessary.

A situation where a notice requirement would be impractical would be where a closing or layoff is caused by business circumstances that were not reasonably foreseeable at the time of notice would have been required. The statement of the managers lists a number of examples of such situations, but we have made no attempt to provide an exhaustive list, which could potentially foreclose other possibilities that we didn't foresee.

A situation where a notice requirement would be counterproductive would involve an employer with a good faith belief that notice will jeopardize efforts to gain capital or business that would help avoid a closing. The bill therefore contains a faltering business exemption to apply to such situations.

Lastly, the bill contains a number of exemptions to apply to situations where notice is unnecessary because the employees retain employment, have a reasonable opportunity to do so, or are hired for a limited term to begin with. These exemptions include certain sales, transfers, or projects or undertakings where employees were hired specifically for those projects. The bill also retains the Senate provision exempting strikes or lockouts, while clarifying that it would not apply to a lockout intended to evade the bill's requirements.

Meanwhile, the bill provides an incentive for employers to avoid litigation. An employer which discharges its liability to its employees within 3 weeks of the closing or layoff is thereby relieved of any liability to the local government.

These provisions represent the best package the employer is ever likely to get in this area. The argument has been made that the House defeated a similar proposal 2 years ago, but I assure you that this bill is substantially better from the employer's perspective. The bill in the 99th Congress required 90 days notice, compared to 60 in this bill. The bill in the 99th Congress would have applied to "indefinite layoffs"—this bill only applies to layoffs exceeding 6 months. The bill in the 99th Congress did not contain most of the exemptions I have just described. Clearly, this is a better bill for business.

The arguments are strong in support of these provisions being in a trade bill. I have already discussed our need to ensure an effective transition of workers from one job or occupation to another in order to have a competitive human resource capability. But there is an even more direct relationship to trade. If we continue to rely on voluntary efforts, we will continue to see workers left stranded without any idea where the next job will come from. At some point, the political result of such insensitivity is intractable pressure for protectionism and, yes, even rigid plant closings laws such as those we see in some other countries which require a lot more than 60 days notice.

Instead, I suggest we approach this problem with a proper balance between compassion and practicality, as is represented in this bill. In helping the worker, we will help our economy and our competitive posture in the world marketplace. Isn't that what a trade bill is supposed to be all about?

For all of these reasons, and others, I urge my colleagues to vote to override the veto.

Mr. DE LA GARZA. Mr. Speaker, I urge the House to override the President's veto on H.R. 3, the omnibus trade bill.

Mr. Speaker, although the President in his message to the Congress did not mention the provisions of the agriculture title as a basis for his decision, there are a number of provisions in this bill which will help American agriculture.

In the early 1980's agriculture went through severe economic depression. While the picture is beginning to improve and the programs in the 1985 farm bill are working, much more needs to be done to return agriculture to economic health.

The provisions of this bill developed by the Agriculture Committee should strengthen our agricultural economy through expanded exports.

The agriculture title is designed to increase the effectiveness of USDA in agricultural trade policy formulation and implementation. As a first step in this process, we have provided authorization for a personnel increase for the Foreign Agricultural Service of not less than 900 full-time employees. We have also provided authorization for an increase in appropriations of $20 million through fiscal year 1990 for the Foreign Agricultural Service to be used for market development purposes, expansion of the agricultural attache service and international trade policy activities.

The title also established one office within the Department of Agriculture where farmers, exporters and others can obtain data on agricultural trade or assistance if they believe they have been injured by unfair trade practices.

A number of studies are mandated to provide data on imports of agricultural commodities and their effects on our domestic economy.

In summary, this legislation will provide additional tools to the Department of Agriculture to formulate an effective and aggressive trade policy.

Again, I urge my colleagues to vote in favor of the resolution.

Mr. RAY. Mr. Speaker, the President vetoed the trade bill today. I will vote to override the President's veto, in spite of the plant closing provision, because we need a trade bill. However, I did not arrive at this decision easily, because I did oppose a more far-reaching version of plant closing legislation in 1985 when it was considered as a free-standing measure.

As my colleagues know, the President greatly objects to the plant closing provision in the trade bill. I share his concern over this provision, because I believe that the Government must have a sound reason for interfering in the decisionmaking process of business. However, I was forced to reexamine the plant closing issue because a plant in the third district of Georgia, that I represent, laid off 800 people, without notice, last year during the Christmas holidays. This kind of thing should not happen, if at all possible. I have decided to support an override of the President's veto of the trade bill, because the plant closing provision has been cleaned up and is not as onerous as it was earlier.

Mr. Speaker, I believe this trade bill is a sound measure that will give our negotiators the opportunity to negotiate a slowdown in the slide of the dollar on foreign markets in exchange for the lowering of trade barriers and the opening of some of the trade doors that are now closed to this Nation's exporters. The bill will implement of new Federal price-support loan for wheat, feed grains and soybeans in 1990 if significant progress has not been made in international negotiations to eliminate or reduce agricultural subsidies. It will also authorize funds for a new training program for workers who lose their jobs due to economic factors, including plant closings and mass layoffs.

In all, I believe this is a good bill, and the good in it far outweights the bad. Therefore, I will vote to override the President's veto.

Mr. MILLER of Washington. Mr. Speaker, I had hoped the President could be persuaded of the overall merits of the trade bill. Unfortunately that was not the case, so now it is up to Congress to enact this bill which will influence U.S. trade policy into the 21st century.

I will vote to override the President's veto. This is not a perfect bill. But we have stripped the bill of the most onerous protectionist sections, and retained those provisions that will help American exporters compete in the world marketplace.

As a member of the conference committee that wrote the final version of this bill, I worked hard to include amendments that streamline the cumbersome export control regulations that now cost American exporters an estimated $9 billion a year in lost sales. And while I would have liked to see a more carefully crafted plant closing provisions, it's time that workers and communities had some advance notice of shut downs or large layoffs.

Again, this is not a perfect bill. But we cannot allow the perfect to become the enemy of the good—and this is a good bill.

Mr. BRENNAN. Mr. Speaker, I rise today to urge my colleagues in the House of Representatives to join me in voting to overturn the President's veto of the omnibus trade bill.

Last month, 312 of us in this body joined together in approving the conference report of the trade bill.

The bill simply attempts to create a trade policy in our country that is based on fair and open competition with our trading partners.

The trade bill is designed to open foreign markets to American products.

After 7 years of neglect by this administration, where America's trade deficit has gone from $35 billion to $171 billion, we in Congress have seized the initiative to make America a strong exporting nation once again.

Who has lost out in this process of importing?

America's workers, that's who.

Skilled jobs held by workers in our country have left our shores for countries where workers are paid less, and countries like Japan where some American products such as citrus and beef cannot even enter.

Despite this, the President vetoed the trade bill, all because he felt that the bill would give American workers too much of an advantage over management.

I would like to express my strong support for the plant closing provision of the trade bill which would require that workers be notified if their plant is about to be shut down.

The national law would apply only to companies in excess of 100 employees which know they are going to close.

What kind of a company—what kind of a person—would keep that information a secret from their own workers?

Many of us have seen the devastation that a plant closing can bring.

What kind of a company would refuse to give their workers 60 days notice and a chance to rearrange their lives, try to find a new job, and meet their rent or mortgage payments?

Executives give themselves "golden parachutes."

We Congressmen give ourselves 60 days notice between the November elections and the time we have to leave office.

American working men and women deserve no less.

I fail to understand how a simple provision designed to protect the dignity of the American worker will give these hard-working people an unfair advantage over their bosses who receive lucrative golden parachutes before they are forced to leave their jobs.

The plant closing notification provision is a responsible measure, which reflects the belief that working people are worthy of fair treatment.

I urge my colleagues to continue to support the provision and override President Reagan's veto of the omnibus trade bill.

Mr. VENTO. Mr. Speaker, I deeply regret that President Reagan has chosen to veto H.R. 3, the omnibus trade bill. The President says that this bill is unacceptable because, among many other things, it would require most employers to give 60 days advance notice before long-term layoffs or plant closings. Indeed, while many employers already voluntarily provide advance notice of layoffs or plant closings, sometimes in excess of 60 days, the President apparently believes that it is more important for businesses to decide unilaterally what is fair than to mandate a minimum standard of fairness to workers, their families, and to those State and local governments which must absorb the costs of unemployed and dislocated workers.

The plant closing notice provision in H.R. 3 is, a very modest provision which includes workable exceptions for distressed businesses and for small companies with fewer than 500 employees. The reasoning for vetoing this bill are very weak. The overwhelming majority of Americans correctly see this issue as a matter of basic fairness. In my Fourth Congressional District in Minnesota, thousands of workers have lost their jobs due to plant closings and layoffs; many of these with little or no advance notice. The President's veto of this legislation is a slap in the face to working American men and women.

The reason cited by the President for vetoing this legislation is indeed shortsighted and ill-advised. Important provisions regarding protection of patents, trademarks, copyrights, and other intellectual property are also a part of this measure. Without these protections, we will continue to see some of our best new technologies pirated by other nations.

This Nation cannot afford to sit idly by while our trading partners continue to take advantage of us by dumping products into our markets while erecting various tariff and nontariff barriers which keep American-made goods out of their own markets. For 7 years now, this administration has demonstrated repeatedly that it is deaf, dumb, and blind to the pleas of American workers and businesses for fairness and a level playing field. We can't compete fairly if our trading partners engage in unfair trading practices with impunity. We can't compete fairly when the most basic human rights of workers in other nations are violated daily without condemnation. Finally, we can't compete fairly when this administration is more concerned with not offending foreign interests rather than standing up for our own workers and businesses.

Mr. Speaker it occurs to me that this administration, President Reagan has been indifferent at first to the trade deficit problem and almost consistently constantly against legislation addressed to the remedial actions by the U.S. Congress. In fact this administration and President have been dragged kicking and screaming into the trade debate and the need for action. The fact is that this President and administration have merely been seeking an excuse to defeat, and veto the major issue of trade law that our Nation so desperately needs.

I strongly urge my colleagues to override the President's veto and to implement a new policy which will lead to both fair and free trade.

Mr. GREEN. Mr. Speaker, I am deeply concerned with the trade legislation which has recently passed both the House and the Senate. Though no one argues with the bill's supposed goal, the opening of foreign markets to American-made goods, I believe that this legislation would do the opposite. Far from opening foreign markets, the bill would guarantee retaliation. The approval of protectionist legislation usually either starts or prolongs a trade war—a situation which does not benefit the consumers of either country involved. Let us not forget the disastrous ramifications of the Smoot-Hawley legislation of 1930, which increased import tariffs dramatically. It is well documented that the Smoot-Hawley Act greatly exacerbated the ills of the Great Depression.

The first victims of H.R. 3 would be the American consumer, who would pay more for fewer goods. Next, a new block of jobless Americans would develop from the many industries dependent on exports. The United States cannot legislate away domestic economic inefficiency. Clearly, this bill is not in the best interest of the United States.

In light of this current debate regarding H.R. 3, I should like to share with my colleagues a letter I have recently sent to the President:

> DEAR MR. PRESIDENT: Thank you for your letter of May 5 regarding H.R. 3.
>
> However, I should make it clear that I do not seek an alternative trade bill. I think the current law provides ample authority to you to deal with international trade issues.
>
> In particular, I would not support H.R. 3 absent the plant closing section. Please make it clear that your opposition to H.R. 3 is not limited to the plant closing section.
>
> With unemployment dropping and the cost of living inching up, the last thing we need is an inflationary halt in imports.
>
> Sincerely,
>
> BILL GREEN,
> *Member of Congress.*

In closing, I strongly urge my distinguished colleagues to sustain the President's veto of H.R. 3, and in doing so, strengthen rather than weaken the American economy.

Ms. SNOWE. Mr. Speaker, I rise in support of the motion to enact H.R. 3.

This bill can give us a new beginning in our approach to international trade. While it won't be a cure-all to dissolve completely the merchandize trade deficit, it will enhance the ability of American industry to compete fairly.

The United States can no longer assume it sets the whole economic course for the world. The system and flow of goods and capital is too fast and complex. Today's trade arena in which we compete is no longer single-dimensional. We need to respond to these changes and adopt a world outlook before our trade problems worsen.

In less than a decade, we've gone from being a trade-surplus nation to a trade-debtor one. Foreign investment has grown exponentially—by 350 percent since I joined this Congress in 1979. Foreign-owned U.S. capital has now reached an astounding level of $1.5 trillion dollars.

Three-quarters of all world trade is conducted by countries employing different economic systems. The multination GATT trade dispute organization now covers less than one-tenth of all world commerce.

Now that the rules of the game have changed, I believe this Nation urgently needs to develop a more coherent, practical approach to trade policy.

In my State of Maine alone, trade-beleaguered industries, including footwear, potato, textile and apparel, lumber, and I could go on, have been forced to shut down. Many other industries are telling me, and most others in this body as well, that they are tired of waiting for Washington to respond to this trade crisis.

Mr. Speaker, we must vote today to enact H.R. 3, and bring our first step in turning things around, the improvement of our basic trade laws, to a close.

I urge my colleagues to join me in support of this motion and legislation.

Mr. OWENS of New York. Mr. Speaker, I rise in strong support of the motion to override the President's veto of the omnibus trade bill.

Although the President won innumerable concessions from Congress on a host of issues, he decided he still had to veto this badly needed trade legislation because it contains a modest provision which requires big corporations to give 60 days notice to workers before mass layoffs or plant closings. Now no one here or in the White House actually believes that the plant closing provision, punched through with loopholes as it is, will even begin to halt the economic violence being committed against workers and communities across the Nation. We all know that if a company really wants to get around the 60-day notice requirement, there is ample room in this legislation for them to wiggle out of it. But for the President, that's not the point. Instead, the issue is one of principle. Any intrusion, no matter how slight or symbolic, on the right of the propertied and monied classes of this country to step all over whoever they please is automatically an anathema and must be opposed at any cost.

Though we have seen it on many different occasions before, Ronald Reagan's blind, reflexive hostility to labor and the interests of working people never ceases to astonish me. We have had a number of Presidents in recent history who have disagreed and disagreed strenuously with labor on many issues, but you have to reach far back into history to find another President who, like this one, disputes the very right of working Americans to participate in a meaningful way in the economic decisions that affect their lives. If they conflict in any way with the interests of business, the concerns, the aspirations of workers for a decent way of life, are greeted not merely with indifference by our President, but ridicule and contempt.

The President's at-all-cost devotion to the invisible hand—even if it wraps itself around someone's throat—really is a 19th-century philosophy, ideas long ago discarded by most Americans as unreasonable and undesirable. Indeed, the essence of the President's approach to labor issues was probably best captured not by any contemporary pundit but by Rev. Henry Ward Beecher in an infamous sermon he delivered in New York City in 1877. When railroad workers throughout much of the nation mounted spontaneous job actions that year to protest their intolerable working conditions and a series of deep cuts in their wages, Reverend Beecher, an infamous toady to the rich, attacked them from the pulpit as "un-American" and mocked their complaints about wages:

> It is true that $1 a day is not enough to support a man and five children, if a man would insist on smoking and drinking beer. Is not a dollar a day enough to buy bread? Water costs nothing. Men cannot live by bread, it is true; but the man who cannot live on bread and water is not fit to live. When a man is educated away from the power of self-denial, he is falsely educated. A family may live on good bread and water in the morning, water and bread at midday, and good water and bread at night. Such may be called the bread of affliction, but it is fit that men should eat the bread of affliction. The great laws of political economy must not be defied. . . . God has intended the great to be great and the little to be little.

Today, Ronald Reagan has served up a hefty helping of Reverend Beecher's old-fashioned bread of affliction to the working men and women of this country—on a plate made, no doubt, in Taiwan. But we don't have to take it. Send this rotten dish back to the White House—override the veto and give American workers the strong and fair trade bill they are counting on us to provide.

Mr. DENNY SMITH. Mr. Speaker, I must rise in opposition to H.R. 3, the Trade and International Economic Policy Reform Act of 1987, and in support of President Reagan's veto of this measure. H.R. 3 is no longer a question of economic policy, unfair trade practices or jobs—it is now strictly a political issue.

Like my colleagues here in Congress, I am concerned with our ongoing trade deficits. Everyone is familiar with the argument voiced by Republicans and Democrats alike that we have changed from being the largest creditor nation in the world to being the largest debtor nation. That fact has frightening implications today and for some years into the future. H.R. 3 will not correct this situation.

In the President's veto message, he objected to the provision dealing with a mandatory 60 day notification period for plant closures or layoffs.

I am in complete agreement with the President on the plant closure issue. This labor-backed provision should not have been included in a trade bill. As a businessman myself, I do not disagree with the principle of the issue. Every man and woman who owns and operates a business feels an obligation to the employees and the communities in which they are located. No one starts a business with the thought of failure. The decision to lay off employees, or to move or cease operations is not an easy one. But it is almost always done because that business is experiencing economic difficulty.

A 60-day notification period would lead to more problems than solutions. Businesses would lose lines of credit, suppliers, customers, and key personnel. Opportunities to take steps that could guarantee the long-term survival of a company would be limited. In the end, the only winners will be the lawyers because the plant closing provisions of H.R. 3 will lead to lawsuit after lawsuit. It is ironic that a provision that will hurt U.S. competitiveness in the long run was included in a bill to enhance our competitiveness.

This is not to say that H.R. 3 is a bad bill. It does contain several provisions which will expedite processes for declaring and acting upon proven unfair trade practices, practices which have been allowed to continue for far too long. It contains provisions that will assist workers hurt by unfair trade practices, and it will lead to improved worker training programs. The most protectionist of the provisions, the Gephardt amendment, was removed in conference. In general, H.R. 3 has drawn attention to some key issues which will ultimately help the United States in the future.

But H.R. 3 will not reduce our trade deficit because it fails to address the main cause of that defict—our budget deficits.

It is no coincidence that the rise in the trade deficit has risen at about the same rate as our budget deficits. The budget deficit drives interest rates in this country. The budget deficit affects inflation and unemployment rates. The budget deficit affects the value of the U.S. dollar in relation to other currencies. The budget deficit is what necessitates the massive inflow of foreign dollars for financing.

Most economists agree that unfair practices make up no more than twenty percent of our trade deficit. I agree that the administration should have taken some actions, short of protectionism, that would have stopped many of these problems before they escalated. I have advocated reciprocal trade policies as one step that is legal under GATT but sends the appropriate message.

As we all know, the March trade deficit figures, as reported by the Department of Commerce, was at its lowest monthly level in 3 years. There are indications that the trade situation is improving, and it is doing so in spite of the fact that H.R. 3 has not been enacted into law.

H.R. 3 is no longer a question of sound economic policy. It's politics. The plant closure provision is being used as a tool for rhetoric rather than a real concern of those urging the override. More than 80 percent of all American businesses already provide adequate notification before closings and layoffs. At the same time, we are at one of our lowest post-war unemployment rates. In reality, this is not an important issue to either the proponents or opponents of this legislation.

But no trade bill, no matter how well it is constructed, will solve this problem until this Congress is willing to put our economic house in order. Budget deficits are the cause of trade deficits. It's time for us to address that fact.

Mr. BEREUTER. Mr. Speaker, I rise today in support of the override of the President's veto of the omnibus trade bill. I am disheartened, however, that the Democrat leadership of Congress and this administration has turned our trade problems into a legislative game of political chicken.

There is little doubt that this body will vote to override the President's veto. In all probability, the other body will not. In sustaining the veto, we are back to square one in passing omnibus trade legislation. The onus, however, will again be on Congress to report trade legislation, not the administration.

As Members of Congress, we can point the finger of blame at the Carter and Reagan administration for not tending better to our trade problems. For years, the executive branch has subjugated trade issues to other foreign policy and national security considerations. However, under the Constitution it is Congress who is responsible for the regulation of foreign commerce and not the executive branch.

I would suggest to Congress that our work begins again this afternoon to report a trade bill which the President should sign. That appears unlikely for political reasons, but if this Congress is concerned about trade it will report such a bill. If this Congress, is only concerned about having a political issue for this election year then there is no reason in trying to delude the workers and farmers of this country that we in Congress are truly concerned about trade.

This trade bill is, in my opinion, a bill that is emphatically probusiness, prolabor, proexport and especially proagriculture. We need to pass it. If we cannot override this veto, then we should move swiftly to pass the legislation with a modified version of plant closing provisions.

I draw the attention of my colleagues to a recent editorial which appeared in the Journal of Commerce which I have today placed in the CONGRESSIONAL RECORD in the Extension of Remarks section.

Mr. DURBIN. Mr. Speaker, I support the major goals of the trade bill, and I support an override of the President's veto. This legislation strengthens our trade laws, addresses the unfair trade practices of many of our trade competitors, and authorizes funding for a variety of programs to train and educate our present and future workers who must remain competitive in the face of increased foreign competition. It is good legislation that will generally benefit American workers and businesses and strengthen the economy.

However, there is one provision in this measure to which I must continue to take strong exception. That provision allows ethanol to be imported into the United States from the Caribbean Basin duty-free, regardless whether the ethanol is produced from Caribbean feedstocks. This loophole will undercut domestic ethanol production, reduce the demand for American-grown corn and other ethanol feedstocks, and undermine our efforts to encourage expansion of the domestic ethanol industry. And it will do so without providing any significant benefit to the people of the Carribean who are purportedly helped by this provision.

The Caribbean Basin Initiative allows Caribbean countries to compete with American producers in the belief that the economic price paid by American workers and farmers as a result of this policy is balanced by the political and economic gains which this policy could create. Unfortunately, the ethanol provision in the trade bill allows a group of clever investors to circumvent the goals of the Caribbean Basin Initiative by constructing inexpensive ethanol distillation facilities that allow them to take advantage of the duty-free status of Caribbean imports.

These investors could create large numbers of Caribbean jobs by growing ethanol feedstocks in the Caribbean and building full-fermentation plants to produce fuel-grade ethanol. Instead, this bill allows them to ship thousands of gallons of subsidized European wine alcohol to the Caribbean for final processing in distillation facilities that offer jobs to only a handful of local residents employed in relatively minor tasks. The bill permits them to import the resulting fuel ethanol into the United States duty-free. The net result is ethanol with a Caribbean Basin label and little more. Workers in that region benefit only marginally, while American producers and farmers suffer.

Mr. Speaker, American corn farmers and ethanol producers support the development of full-production, grassroots ethanol facilities in the Caribbean. What they and I do not support is a sham that allows Caribbean ethanol producers to exploit the Caribbean Basin and the good intentions of the United States in enacting the Caribbean Basin Initiative.

It is unfortunate that an otherwise good trade bill must be burdened with a provision encouraging this Caribbean shell game. Although the ethanol provision cannot be eliminated today, I will keep working to ensure that Caribbean ethanol producers do not misuse the Caribbean Basin Initiative to undercut the production of American farmers and ethanol producers.

Mr. FEIGHAN. Mr. Speaker, it's been said that there are two things that one should not witness in the making: sausage and legislation. In the case of omnibus trade legislation that goes double.

The irony of that saying is that it simply didn't have to be done this way. For the past 2 years, doomsayers said that Congress would pass protectionist trade legislation and send the economy into a tailspin. Well, Congress did not listen to the doomsayers, nor did they pass protectionist legislation. We did what we always do—we accommodated.

On each and every significant issue, the Congress made efforts to redress the objections raised by the administration and other opponents. The Gephardt amendment was jettisoned. The Bryant amendment was removed. The only remaining obstacle, according to the President, is the plant closing provision.

For all the members of the 11 committees that worked on this trade bill, it represents important measures large and small. As a member of the Subcommittee on International Economic Policy and Trade, I had the opportunity to work on streamlining our export control system. We took steps to end the delays and bureaucratic redtape that prevents our exporters from finding and moving into new markets. We beefed up the Foreign Commercial Service, which will help American businesses find new leads and assist them in moving American products into foreign markets.

It is inconceivable to me that this historic opportunity to pass badly needed trade legislation is held hostage by a simple, straightforward, and above all, fair provision. All this work jeopardized because this administration refuses to provide workers the benefit of layoff notification.

The President makes it appear that we are asking the world. We are only asking employers for 60-day notice of termination—no guarantees, not handouts—only the opportunity to have some time to figure out what to do when the paycheck stops.

The failure to accept this simple provision ratchets up the debate and puts us in the position of having no other choice but to override the President's veto. In doing so, we follow our overwhelming bipartisan vote in favor of the conference report, approved on April 21. I urge my colleagues to support the resolution.

Mr. GEPHARDT. Mr. Speaker, today I plan to vote to override the President's veto.

I didn't come to this decision easily. As many Members know, I voted against the conference report on H.R. 3 because I didn't think it represented the kind of fundamental change in our trade policy that was necessary. I thought we could do better.

But, this administration, working with our trading partners, has fought change in our trade policy every step of the way. They've tried to avert congressional action every time by piecemeal action.

Within a month of the introduction of the bill that became the Gephardt amendment, this administration finally filed unfair trade practice cases against Japan, Taiwan, Korea, and Hong Kong. Secretary Baker also reversed course to aggressively seek to reduce the value of the dollar.

In 1986, responding to House action on the omnibus trade bill this administration finally issued a decision in the machine tool case—almost 2½ years after it was filed.

In 1987, responding to the threat of congressional sanctions against Toshiba, the Japanese Government adopted changes in their domestic law to try and make sure that similar future situations did not develop.

We need a President who will negotiate for our interests, not the interests of foreign governments or their lobbyists, who were paid $60 million by the Japanese last year alone. I'd like President Reagan to tell the 3.7 million workers who will lose their manufacturing jobs this year or the family farmers who will lose their land that the trade deficit is a sign of strength.

Last month's drop in the trade deficit doesn't mean that we should drop the issue. We need a comprehensive trade policy to address our huge trade deficit. The American people deserve and demand it.

Mr. DREIER of California. Mr. Speaker, I rise today to support President Reagan's veto of the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. The President vetoed this omnibus trade bill primarily because of a provision mandating advance notice of plant closings and layoffs. The anticompetitive nature of this provision runs counter to the overriding purpose of the trade bill, to enhance America's trade and competitive position in the world economy.

If the leadership truly wants to enact sweeping trade reform in the 100th Congress, they first must drop the controversial mandatory plant-closing notification from any reform measure. In lieu of this mandatory notice, legislation could be adopted which would establish as national policy that companies should give "reasonable advanced notice" of major job losses. While the plant closing provision was clearly the major stumbling block to passage of H.R. 3, this provision was not the only objectionable feature of the bill.

Although the most protectionist, and therefore, economically damaging provisions were stricken from the trade bill, it is by no means harmless and the President was acting in the national interest when he vetoed it. The bill would enhance, at the expense of the President, the power of the U.S. Congress, trade unions, and special interest groups to retaliate at will against our foreign trading partners.

It is unfortunate that my colleagues are more interested in the political appeal of protectionist trade legislation than making responsible decisions about the true nature of our trade deficit. The fact is the U.S. trade deficit is a mirror image of our budget deficit, and I do not believe you will see a significant improvement in the U.S. trade deficit until the budget deficit is substantially reduced.

Mr. Speaker, I would like to commend the authors of this trade bill for one important accomplishment. Their efforts put our trading partners on notice that we are serious about finding the means to ending any unfair trading practices. But H.R. 3 clearly goes beyond that objective, and I urge my colleagues to sustain the President's veto of this legislation.

Mrs. LLOYD. Mr. Speaker, I rise to urge my colleagues to join with me in voting to override the Presidential veto of the omnibus trade bill. I am an original cosponsor and strong proponent of H.R. 3, and I believe its enactment is essential in the struggle to restore equity in America's trade balance.

The core of the trade bill is meant to stiffen the U.S. response to unfair trade practices by other nations, enhance Federal aid to U.S. industries and workers injured by imports, clarify the law against business-related bribes by American firms, and take some of the snags out of the complex system for keeping militarily sensitive technology out of the hands of Soviet-block countries.

The need for this legislation is clear. Last year, the United States suffered the worst trade deficit in our history. The trade deficit for 1987 exceeded $171 billion, over five times the level that existed in 1981. Enormous back-to-back deficits have weakened America. In just 3 years, the United States fell in status from the top creditor nation in the world to the worst debtor nation. Our economy has lost thousands of high-quality jobs—such as in the textile industry—which is critical to the economy of my own congressional district and the entire State of Tennessee.

H.R. 3 may be one of the most comprehensive pieces of legisation ever written. It addresses many critical aspects or our economy by:

Upgrading the role of the U.S. Trade Representative in dealing with other countries;

Establishing better procedures for responding to foreign trade barriers while preserving the need for Presidential discretion;

Strengthening the protection of U.S. intellectual property rights;

Fortifying the operations of the Foreign Commercial and Foreign Agricultural Services so that our overseas attachés can be more effective in promoting U.S. exports;

Removing licensing requirements for several classes of exports that are now hindered by our own redtape;

Requiring the Secretary of the Treasury to study the feasibility of an International authority to help developing countries restructure their debt;

Streamlining the law on foreign corrupt practices in order to eliminate any unnecessary burden on U.S. businesses; and

Establishing several new programs to promote the development and commercial application of advanced technologies.

President Reagan has cited the inclusion of plant closing notification language as one of his principal reasons for vetoing this bill. This language mandates that companies with more than 100 workers would generally have to give 60 days' notice before long-term layoffs or shutdowns. It allows for an exemption when employers have to close a plant or lay off employees because of unforeseen economic circumstances, if giving notice would interfere with keeping the plant open, or if the company did not know about the action 60 days in advance.

Support the inclusion of the plant closing notification language because I believe that when workers do receive advance notice, the benefits to workers and the community are great. It gives workers a chance to think through their options and seek retraining, job counseling, or supportive services. Furthermore, managers have reported that advance notice of layoffs had won them community good will.

The overwhelming votes the House and Senate have already taken in support of the trade bill are a clear indication that we in Congress are serious about reducing our enormous trade deficit and equipping American workers and businesses with the resources they need to compete in the world economy.

I urge my colleagues to join with me in voting to override the Presidential veto of H.R. 3 so that we can enact legislation to promote the competitiveness of the American economy and allow U.S. workers to keep their jobs, their standard of living, and their self-respect.

Mr. MFUME. Mr. Speaker, as Members of the U.S. House of Representatives and as public servants, we can ill afford to have 3 years of hard work, deliberation, and cooperation go to waste because the Reagan administration and other conservative pro-business organizations oppose the controversial plant closing amendment. If the administration would have given our Trade Representative the appropriate jurisdiction over our Nation's trade policies, this bill's passage would not be as pivotal. Instead, the President has allowed the amalgamation of several Cabinet agencies' interests to interfere with the formulation of effective and progressive policy initiatives to counteract our Nation's trade imbalance.

If this measure does not pass through the Congress during the 100th session and is left unresolved for the next administration, I would not wish to be in the shoes of the opponents of the trade bill when it comes time to tell the workers and laborers in their respective districts why they and the President were against a measure that would have assisted these individuals to prepare themselves and their families for future layoffs and job losses since their employers would have been required by law to provide 60-day advanced notice of any planned closings or shutdowns.

Equally, Mr. Speaker, by rallying its battle cry around the plant closing amendment, the administration has misinformed the public toward the full extent and intentions of the trade bill. The trade bill not only protects American workers, it also provides funding for a new Worker Readjustment Program. The bill would also augment and expand the Trade Adjustment Assistance [TAA] Program and reemphasizes the programs commitment to training by making training an entitlement.

Additionally, Mr. Speaker, by denying America a trade bill this year, the administration is ironically denying our international business community the opportunity to finally have equal access to foreign markets that have previously been closed or limited because of some governments' intentional barriers. The trade bill has a number of provisions to strengthen the laws that protect our corporations against unfair foreign trade practices, and encourages the administration to take effective action against these practices. For example, the President would be required to retaliate against violations of any trade agreements and other unjustifiable trade practices, and further allows the President to waive this clause under specified circumstances.

The trade bill also requires the administration to identify unfair trade practices and nations as tragets for action, to initiate investigations for priority situations, and to negotiate agreements for the elimination of these practices over a 3-year period.

Ironically, Mr. Speaker, the party of big business has created its own pitfall by opposing this measure. How can the administration say that they are concerned about America's international economic resurgence if we refuse to defend our workers and businesses? How can this administration substantiate its call for continued Republican leadership in the executive branch if most of their initiatives are politically motivated, rather than being realistically formulated?

Mr. Speaker, in closing I wish to request my colleagues to give their unequivocal support to the effect to override the President's veto, and to do all that they can to assure a victory for American workers, businesses, and the American economy.

Ms. KAPTUR. Mr. Speaker, today I urge my colleagues to vote to override the President's veto of the trade bill. In doing so, the House of Representatives holds true to its fine tradition as the lightning rod of action for the people of our Nation. It was the House that first acted on the trade bill many months ago. It is now the House that must keep alive the hope for change on the trade front.

We are compelled to turn back President Reagan's stinging rejection of our Nation's workers and our Nation's efforts to regain its industrial strength. We have heard the Reagan administration extolling the virtues of free trade and a free market, even in the face of closed markets and unfair trade practices. After 3 years of hard work and compromise, Congress sent landmark trade legislation to the President only to have him hide behind the plant closing provision—a provision that is a responsible response to the consequence of a free market where plants close and jobs are lost. A measure that hits home with today's reality of global competition.

We must not allow this administration to use the plant closing provision as a smoke screen to avoid mention of the many other provisions in this trade bill that are also desperately needed by workers and businessmen alike to assert our Nation's position of strength in the international marketplace—provisions the President has cavalierly tossed aside in his repudiation of this legislation.

For it is only with this bill that our Nation will have a strong position with which to pry open closed markets such as Japan's which keeps its home market essentially closed to many of our goods when it receives royal treatment here in America. This trade bill strengthens America's hand in demanding an end to unfair trade practices. The legislation enhances export opportunties for U.S. firms eager to compete in the global market and ensures the continuation of programs to promote agricultural exports. The President needs the negotiating authority contained in this legislation that he has vetoed to create a better framework for world trade during the next round of GATT talks. The improved and expanded trade adjustment assistance programs will help our Nation's work force with skills advancement and retraining so they can meet the challenges of foreign competition.

In overriding this veto, we are asserting that it is high time America stood toe to toe with its trading partners and regained the markets of vital industries that have been frittered away by this adminsitration. With this veto override, we stand up for America's jobs and America's businesses. We vote to return America to a producer nation and to meet the challenges of a global economy.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in all of today's emotional debate over one single amendment, the plant closing provision, we have forgotten that this override vote is about a bigger issue. It's about the validity of a 3-year effort to produce a coherent national trade policy. If it weren't for our differences on this one issue, H.R. 3 would have been enacted several weeks ago. That's why the American people will blame all of us in Government if we let a major effort of such importance die because of one disagreement. How can we turn our backs on the enormous effort we've all undertaken to enact this essential legislation? Twenty-three committees of the Congress were involved in producing this bill. Thousands of hours of our time. Two hundred conferees working for 6 months. Are we going to go back to our constituents—American workers and American industry—and tell them we failed to enact this bill? That the sum total of all our efforts is partisan finger pointing?

Well, since it appears that everyone from the President on down is willing to play Russian roulette on one issue, let me talk bluntly to my Republican colleagues about that issue.

You know, I compromised a lot with the President and your leadership on this bill. I wanted a bipartisan consensus, so that all of us—Republican and Democrat, Congress and the President—could speak with one voice at the water's edge. I think it is absolutely essential that our trading partners hear one consistent message from this country. That spirit of compromise produced a strong, sensible framework for U.S. trade policy. Not protectionism, but open markets and better world trade rules.

Some of my Democratic colleagues didn't like those compromises. They wanted tougher responses to the enormous trade deficits that were allowed to accumulate during years of inattention by the administration. But a few of us said, "No, let's write good law instead of a political document. Let's compromise in the best interest of the Nation, rather than seek partisan advantage." So we met the administration half way on any section of this bill.

Now, it's you who should be willing to compromise. A lot of things in this bill will help America's factories and businesses with their trade grievances. What's wrong with assuring some advance notice to the loyal workers who man those factories? Do you really want to be known as the party that doesn't care about working men and women? Why hand this issue to us, the Democrats, on a silver platter? This advance notice proposal is modest. It's the current practice of many enlightened businesses today. It's been modified to meet objection after objection so that no reasonable employer in America can honestly call it unfair.

You tell us it's anticompetitive. But every major country besides our own has an advance notice law. Our two most intense competitors, Japan and Germany, treat their workers better than we do.

Out of common decency, why not support this proposal? Members of Congress get a 60-day notice. When a Congressman loses his job at the polls, he gets from November to January to clear out his desk. That's 60 days with full pay. The President gets even longer, he gets 75 days. Are you telling me that the average American deserves any less?

Now is the time to show that our Government isn't callous and uncaring to those who carry the lunch pails, punch the clock, and work hard to make this country great. And now is the time to show the world that we have a united trade policy—that we are able to put partisan differences aside when the Nation's economic interest is at stake. I want bipartisan support. We have all worked too hard to let this bill die. If it dies, it won't be good for Democrats or Republicans. It won't be good for workers or business. It won't be good for the President or Congress. The only people smiling will be the Japanese.

Believe me, I know how tough it is to compromise on this bill. But it's the right thing to do and we all know it. For the good of the country, let's pass this bill and get on with the job.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. CRANE], the respected ranking member of the Subcommittee on Trade.

The SPEAKER. The gentleman from Illinois [Mr. CRANE] is recognized for 7 minutes.

Mr. CRANE. Mr. Speaker, I rise in opposition to the motion to override the President's veto of H.R. 3.

The entirety of the bill we are considering today is, to put it simply, too high a price to pay for the fast track trade negotiating authority which is buried within it. The ransom payment—a monstrous 500 pages of counterproductive protectionist provisions—is too harmful in its totality for the administration to accept. I urge my colleagues to think twice and concur.

Because there are special interest provisions in here for almost every Member of Congress it will be difficult for the President to garner enough votes in this body to sustain his veto. Nonetheless, I would like to remind my colleauges that the urgent calls for protectionism as a cure for our trade deficit have had little appeal with the voters. Working men and women know protectionism is a code word for increased prices and an excuse for American management to hire from competition.

Presidential candidates who went around touting many of the provisions in this bill already have been sent by voters back to their previous occupations.

Only the truly strident interest groups, such as big labor, are devastated to learn that we might allow this bill to die. I suggest we take the high road and ignore their hounding.

To my mind H.R. 3 is a classic example of a dangerous overreaction to a problem that has already begun to correct itself as a result of market forces and the determination of American business. It is now clear that we are in the midst of an explosion in exports to the rest of the world which should shed a different light on consideration of this bill.

Current predictions from the Department of Commerce indicate that imports for 1988 will be down about 5 percent from 1987 levels and exports will increase by an unprecedented 18 percent. These are annualized figures and may underestimate what we actually can expect. Looking at the most recent monthly numbers, exports to the newly industrialized countries like Taiwan and Korea are up 44 percent and exports to Western Europe have increased 26 percent.

I must say that, given the export boom which we are beginning to see take shape, ideas contained in this bill such as mandatory self-initiation and retaliation under section 301 are patently foolish. Creating a self-propelled mechanism to mount trade assaults on our best customers is dangerous and at odds with common sense.

In my view, the President's objections to this bill, as outlined in the veto message, are far too limited. His restraint is a reflection of the extraordinary effort he and many Members on this side of the aisle have made to go the final mile to achieve a trade bill. That the Democratic leadership jettisoned its opportunity for a bill it claims to be so crucial, by including provisions which from day #1 the President made clear he could never accept, reveals the unattractive political motivations behind today's debate.

That aside, as one who has spent many hours trying to interpret the fine print of this vast 500-page array of legislative language, there are formidable reasons other than plant closings for letting this bill die. Its overall thrust is to gut the checks-and-balances and due process aspects of U.S. trade policymaking procedures. This is not in the long term interest of the United States and the world economy. In fact, under amendments to sections 201 and 301, the Congress has gone to great pains to insure that the President cannot make trade decisions based on a clear assessment of the overall national interest of the U.S. special interests, I must say, carried the day here.

Actually, this bill may be unequaled in its number of special interest provisions. Whether you are a corn grower who wants the Government to pay your legal fees or a walnut farmer seeking remuneration for retaliation taken by the Europeans, there is something in this bill for you. Special procedures for particular industries abound, such as those for "short life cycle" products, and we create an expanded entitlement program for new categories of workers under Trade Adjustment Assistance.

This bill tries to undermine the international cooperation vital to our expanding economy. We've rewritten international definitions of subsidies and unfair trade practices unilaterally with the idea that we can foist them on the rest of the world. Unfortunately the international trading system will not operate under rules written by a protectionist U.S. Congress. Our trading partners do not have to help us work our way out of the huge trade deficit created by our irresponsibility on the fiscal side.

It is obvious from current trade statistics that sensitivities on the part of our trading partners will be heightened in the coming months as U.S. sales in their markets continue to increase. As quickly as some companies and sectors will feel relief from foreign competition under this bill, American companies which have been working in the international marketplace, will feel the pain of being shut out of foreign markets.

I urge my colleagues to vote "no" on the motion to override the President's veto of H.R. 3.

□ 1530

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I am happy to yield to the gentleman.

Mr. DAUB. Mr. Speaker, I appreciate the opportunity for a brief comment. The gentleman's leadership on the Subcommittee on Trade on behalf of the minority is genuinely appreciated, and he has fought the good fight from the beginning in the committee.

I had hoped to highlight the point for our colleagues that we all know 80 percent of our trade deficit is made in America, not in some other country. It is made by this Congress failing to manage the fiscal Federal deficit, and 20 percent of that trade imbalance is caused by cheating, dumping, and illegal subsidies.

There is much in the bill, as a member of the committee myself, as a member of the subconference, particularly on agriculture and the conference committee, I think many commendable efforts have been made to direct some of the things we need to do to try to perfect, to try to deal with 20 percent of the problem, but the section 301 protectionism that the gentleman talked about is important for all of our colleagues to understand. It is a trade bill, all right, it trades jobs in agriculture, and the protectionist retaliation that is sure for jobs in steel, auto, and the smokestack industries of the Northeast.

If you read the bill, you will find out that this bill is very antiagriculture, very anti the one major bright spot in our exports which is production agriculture and finished and processed agricultural products.

So the dwelling on, I say by judging this debate, of some of our colleagues on the plant closing issue smacks in my opinion of a strategy to have the issue and the politics of the bill as well laid at the doorstep of the President. If Members really care about jobs in this country, if they really care about trade, let us get a bill not an issue vote to sustain the veto and test the majority party's leadership in this Congress.

Mr. CRANE. Mr. Speaker, I thank the gentleman for his most revealing remarks in connection with the follies of not supporting the President's veto on this legislation.

I would urge my colleagues to vote to sustain the veto and to guarantee a growing and dynamic export market for American manufacturing.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Speaker, I do hope that we will override this veto and pass this bill. It has been a long time in the process. Both of us, Republicans and Democrats alike, have labored to try to create a new trade policy. This ought not be a bone of partisan contention.

To try to create dynamic policy that will make the United States first again in commercial among the nations ought to be just as much a Republican goal as it is a Democratic goal and vice versa. This bill started out as a bipartisan effort. We began early last year with a symposium jointly sponsored by the minority leader of the House, the minority leader of the Senate and the majority leaders of the House and Senate along with the Speaker. All of us together tried to call in some folks from academia, from business, from labor who are desperately interested in reviving the United States. It ought not to be partisan.

We often hear humorous comments about Republicans and Democrats and what makes the difference between us. Recently a fellow said to me, "JIM, the difference is if I were out there drowning, 100 feet from shore, the Republican might throw me a 50-foot line believing that it would improve my character to have to swim halfway to the shoreline to be rescued." He said, "A Democrat would throw me a 150-foot line but he might forget to hold onto his end of it."

We laugh at such stories, and there are some differences, but basically, fundamentally, deep down, does it not bother all of us that we now are the world's biggest debtor nation, when just 5 short years ago we were the world's largest creditor nation?

Does it not really bother all of us as Americans that the insidious growth of ownership in our processes of production has fallen ever more annually, into foreign hands? Today 25 percent of the national debt is owned not by Americans but by foreigners. Does that not bother us?

It is not a matter of Democratic and Republican and fundamentally independent and American concern that our standard of living has declined as this suffocating trade deficit has crept farther and farther and cast a broader and broader shadow across our land?

It is not a concern to Democrats and Republicans alike when other countries refuse to treat our goods on their markets with the same consideration that we extend to their goods on our markets?

Is it not in our common interest then to try to create a new policy that will help us expand our exports, sell more American goods abroad, improve our plants and our factories, make them more modern? Should we not all be working together on this bill?

We did for 3 years. Many concessions were made to the White House and representatives of the administration. It is not an irony truly that it comes down to the point of a plant-closing provision on which the President pegs his veto message?

I have read the message. He spends approximately three times as much space complaining about the plant-closing provision as he does listing all other things that he finds objectionable in the bill combined.

To whom do we listen? Is it true that the plant-closing provision will make us less competitive? The Block Commission appointed by this administration said that it would not. Is it true that it would drive us behind in competition with other nations? Those nations that are eating our lunch in international competition, Korea, Japan, West Germany, Canada, all have legal plant-closing requirements. Surely that cannot be the basic, fundamental reason to oppose this bill.

Eighty-six percent of the American people approve the plant-closing provision. With or without it, we are going to have the opposition of a lot of the same people who oppose the bill on that ground. Any creative trade bill will be opposed by Japan, for example. The Japanese have spent some $100 million in an unprecedented lobbying effort to try to influence the United States Congress on a piece of American legislation. More than 200 lobbyists and lobbying firms have been employed by the Japanese Government and Japanese business interests to influence us against this legislation.

□ 1540

Can we not remove this question now, once and for all, from the partisan arena? Neither of us should thirst to have a campaign issue. I happen to think that it is a far better campaign issue for the Democrats than for the Republicans. The people are on our side on the trade bill. But I'd much prefer a solution to a campaign issue.

Surely the American people do not like the idea that we fall behind now not only in the old heavy industry goods, like steel and machine tools and things of that kind, but for the first time we are falling behind in the new high-technology goods like computers and business machines and information systems.

Surely the American people are ready for a trade bill.

This is the bill we have. I do not know whether it would be possible to pass another bill this year if this one were rejected, though I would try. I would be interested in passing a bill, the strongest possible bill that we could enact into law. But I do not control the rules in the Senate and neither do any of us here.

If Members want a trade bill, if they want to begin to turn this thing around, if they want to make America No. 1 again, this is their chance. This is your bill. If you want to remove it from the political arena, pass the bill, override the veto, and there will not be any quarrels and arguments about it in November.

So let us seize this moment. Let us vote an overwhelming vote to override this veto, and let us send the message to the other body as plain ordinary American people are sending a message to the Senators on the other side. Let us not give up on the prospect that they too may override the veto, and let us send our message today.

Mr. ROSTENKOWSKI. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 308, nays 113, not voting 11, as follows:

[Roll No. 150]

YEAS—308

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski

Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease

Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)

Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (FL)

NAYS—113

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bilirakis
Bliley
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Coats
Coble
Craig
Crane
Dannemeyer
Daub
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Green

Gregg
Hammerschmidt
Hansen
Hastert
Hefley
Hiler
Hopkins
Hunter
Hyde
Ireland
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Martin (IL)
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Moorhead
Morrison (WA)

Mrazek
Myers
Oxley
Packard
Parris
Pashayan
Petri
Porter
Rhodes
Rogers
Rowland (CT)
Schuette
Schulze
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Stump
Sundquist
Swindall
Tauke
Taylor
Vander Jagt
Vucanovich
Walker
Weber
Wolf
Wortley
Wylie
Young (AK)

NOT VOTING—11

Badham
Biaggi
Boulter
Byron

Duncan
Hubbard
Marlenee
Spence

Thomas (CA)
Watkins
Weiss

□ 1559

The Clerk announced the following pairs:

On this vote:

Mr. Weiss and Mr. Watkins for, with Mr. Marlenee against.

Mr. Hubbard and Mr. Thomas of California for, with Mr. Boulter against.

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. SHAW. Mr. Speaker, on the vote to override the President's veto of H.R. 3, I was recorded as voting "yes." It was my intention, and my memory, that I had voted "no."

Mr. Speaker, I ask unanimous consent that my intention be laid on the permanent RECORD immediately following the vote.

The SPEAKER pro tempore (Mr. HALL of Ohio). Is there objection to the request of the gentleman from Florida?

There was no objection.

VACATING SPECIAL ORDER AND GRANTING REQUEST FOR SPECIAL ORDER

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that my 60-minute special order for today be vacated and that I instead be granted a 5-minute special order.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will proceed with motions to suspend the rules.

AMENDMENTS TO THE MERCHANT MARINE ACT OF 1920

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1988) to amend the Merchant Marine Act of 1920, and for other purposes.

The Clerk read as follows:

S. 1988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), is amended—

(1) by striking "Treasury" the first time it appears and inserting "Treasury, or the actual cost of the transportation, whichever is greater,"; and

(2) by striking "merchandise." at the end thereof and inserting in lieu thereof the following: "merchandise: *Provided further,* That for purposes of this section, the term 'merchandise' includes valueless material: *Provided further,* That this section applies to the transportation of valueless material or any dredged material regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone: *Provided further,* That the transportation of any platform jacket in or on a launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), shall not be deemed transportation subject to this section if the lanuch barge has a launch capacity of 12,000 long tons or more, was built as of the date of enactment of this proviso, and is documented under the laws of the United States, and the platform jacket cannot be transported on and launched from a launch barge of lesser launch capacity that is identified by the Secretary of Transportation and is available for such transportation.".

(b)(1) For purposes of interpreting the proviso pertaining to transportation of any platform jacket by launch barge, as added by subsection (a) of this section to section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation shall develop, maintain, and periodically update an inventory of launch barges with less than a launch capacity of 12,000 long tons that are qualified to engage in the coastwise trade. Each launch barge listed on such inventory shall be identified by its name, launch capacity, length, beam, depth, and other distinguishing characteristics. For each such launch barge, the name and address of the person to whom inquiries may be made shall also be included on the inventory. A launch barge not listed on such inventory shall be deemed not to be "a launch barge of lesser launch capacity identified by the Secretary of Transportation" within the meaning of such proviso to section 27 of the Merchant Marine Act, 1920.

(2) Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall publish in the Federal Register an initial inventory of launch barges developed and maintained in accordance with paragraph (1) of this subsection.

(3) Not later than 60 days after the date of enactment of this Act, and periodically thereafter, the Secretary shall publish in the Federal Register a current inventory of launch barges developed, maintained, and updated in accordance with paragraph (1) of this subsection.

SEC. 2. Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: ", or to tow any vessel transporting valueless material or any dredged material, regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone.".

Sec. 3. Notwithstanding the provisions of section 1 of this Act, a vessel may transport municipal sewage sludge if that vessel, regardless of where it was built, is documented under the laws of the United States and, on the date of enactment of this Act, that vessel—

(1) is in use by a municipality for the transportation of sewage sludge; or

(2) is under contract with a municipality for the transportation of sewage sludge.

Sec. 4. For purposes of the first paragraph of section 805(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1223(a)), a vessel described in section 3(2) of this Act is not a vessel engaged in domestic intercoastal or coastwise service, but the prohibitions in the second paragraph apply to that vessel.

Sec. 5. Notwithstanding the provisions of section 1 of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation under section 12106 of title 46, United States Code, to a vessel that—

(1) is engaged in transporting only valueless material in the coastwise trade or transporting dredged material, whether or not of value, (A) from a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to a point or place in the United States or to another point or place on the high seas within such Exclusive Economic Zone or (B) from a point or place within the United States to a point or place on the high seas within such Exclusive Economic Zone;

(2) had a certificate of documentation issued under section 12105 of that title on October 1, 1987;

(3) had been sold foreign or placed under a foreign registry before that certificate was issued; and

(4) was built in the United States;

except that such certificate of documentation shall be endorsed to restrict the use of such vessel to the transportation of valueless material in the coastwise trade, and to the transportation of dredged material, whether or not of value, (i) from a point or place on the high seas within such Exclusive Economic Zone to a point or place in the United States or to another point or place on the high seas within such Exclusive Economic Zone, or (ii) from a point or place within the United States to a point or place on the high seas within such Exclusive Economic Zone.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. Jones] will be recognized for 20 minutes and the gentleman from Alaska [Mr. Young] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. Jones].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1988, a bill to amend the coastwise laws to require that the transportation of valueless material be treated the same as transportation of "valued" merchandise in the offshore domestic commerce.

S. 1988 was passed by the other body on May 18 with a title amendment. It deals with the same subject matter without any significant changes, as in the bill H.R. 82, which we passed under suspension of the rules on July 27, 1987. This legislation would require the use of coastwise qualified vessels to carry sewage sludge, dredge material, and other valueless material from points in the United States to points and places within the exclusive economic zone, or between points and places within the EEZ.

To prevent economic dislocation, current operations with vessels not qualified are "grandfathered." Likewise, there is a provision in S. 1988, as in H.R. 82, which recognizes the nonavailability of certain unique launch barges used in offshore oil exploration activity and permits the use of a limited number 12 of currently available foreign-built barges, under certain prescribed circumstances.

The changes made in this legislation by the Senate do not, according to the Congressional Budget Office, result in any impact on the Federal budget. S. 1988 is good legislation that should be supported by my colleagues in the House just as we did H.R. 82, legislation first introduced by Hon. Mario Biaggi in the 99th Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1988 and urge its immediate adoption by the House.

This bill amends the Merchant Marine Act of 1920 to clarify that the Jones Act should apply to the transportation of merchandise between points in the United States within the U.S. 200-mile zone. This would result in substantial new opportunities for U.S. shipyards to construct sludge barges and dredge vessels and would also provide additional jobs for U.S. workers. Without this legislation, those jobs could be lost to foreign competition. Further, the bill would provide an opportunity for U.S. companies to construct launch barges which are used to transport OCS drilling equipment to sites on the Outer Continental Shelf. Since no U.S. companies are involved in construction of launch barges at this time, this will be advantageous to our shipyards and to U.S. maritime workers.

Mr. Speaker, similar legislation has been the subject of extensive hearings in the House Merchant Marine and Fisheries Committee and has been approved by the committee. I urge the House to adopt this legislation so that it can be presented to the President.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. Tauzin].

Mr. TAUZIN. Mr. Speaker, I rise in support of S. 1988, which, in an earlier version in the form of H.R. 82, was considered at length by the Merchant Marine and Fisheries Committee. The essence of the bill's two major issues turn on unfortunate Customs Service rulings concerning, respectively, sludge barges and launch barges. I will dwell for a moment on each of these two rulings and then deal with the statutory resolution of these issues.

In May 1986, in response to a request from a Singapore shipyard, the Customs Service issued a ruling that the transportation of sewage sludge to a point on the high seas for disposal was not subject to the Jones Act, that the vessel transporting such sewage sludge be built in the United States. That ruling was sustained in court on the narrow basis that sewage had no value, therefore it could not be considered "merchandise" and, in turn, not subject to the Jones Act. This was a case of too narrow an interpretation by the Customs Service of the intent of the Jones Act.

S. 1988 corrects this misinterpretation by providing that vessels used to transport valueless material and dredged material, regardless of whether it has commercial value must be constructed and documented in the United States to engage in the coastwise trade.

Certain foreign-built U.S.-documented sewage sludge barges that are either presently in use by or are already under contract with a municipality as of the date of enactment of this legislation will be permitted to be used in the transportation of municipal sewage sludge. However, these barges may be used only for the transportation of municipal sewage sludge and may not be used or converted for use in any other trade.

Vessels employed to tow any barges transporting valueless material and dredged material, regardless of whether it has commercial value, must be constructed and documented in the United States.

The second misinterpretation of the Jones Act by the Customs Service took place in November 1984 when the Service, on its own initiative and without any statutory change, reversed its earlier ruling and prohibited dual mode movement of offshore production platform jackets, thus requiring that U.S.-built barges be used to carry platform jackets from U.S. fabrication yards to offshore launch sites where installations or other devices are attached to the seafloor. In this case, the Customs Service was being too expansive in its interpretation of the Jones Act.

The problem this ruling has presented for the U.S. offshore industry is that existing U.S.-built launch barges are only capable of transporting and launching platform jackets up to a size of 6,300 long tons. Deepwater platforms range in size from about 6,000 to 60,000 long tons. Several existing foreign-built launch barges which were previously authorized for dual-mode transportation are capable of carrying the larger deepwater platform jackets, but are prohibited from doing so under the Customs Service ruling, unless the site on the OCS is "pristine"; that is, no installation or other device has already been emplaced.

Unless the Customs Service ruling is legislatively reversed, American leaseholders on the OCS will be forced to order their deepwater platform jackets from foreign fabricators, which are permitted to transport such jackets from the foreign port of fabrication and launch them on the U.S. OCS with foreign-built launch barges, since such transport is not between two points in the United States. This would result in a major loss of the market for offshore jackets to foreign fabricators, along with thousands of American jobs, particularly in the Gulf of Mexico where each of the many thousands of existing offshore platforms has been fabricated in the United States.

S. 1988 contains a provision that would solve the launch barge problem, nearly identical to an amendment of mine adopted by the full Merchant Marine and Fisheries Committee. Section 1 of the bill would further amend the Merchant Marine Act, 1920, to exempt the transportation of any oil- and gas-related platform jacket by a launch barge between points in the United States provided that:

First, the launch barge has a minimum platform jacket launch capacity of 12,000 long tons;

Second, the launch barge is documented under the laws of the United States (U.S. flag);

Third, the launch barge was built as of the date of enactment of this legislation;

Fourth, the platform jacket cannot be launched from any available vessel in the U.S. fleet of coastwise-certified launch barges with less than a launch capacity of 12,000 long tons; and

Fifth, at one of the two points in the United States there is an installation or other device attached to the seabed. Absent the existence of such installation or other device at the site of the OCS, coastwise-certified transport to a site on the OCS of any platform jacket is not required.

Section 1(b)(1) instructs the Secretary of Transportation to develop, maintain, and update an inventory of coastwise-qualified launch barges with a launch capacity of less than 12,000 long tons.

Section 1(b)(2) requires that, within 15 days of the date of enactment, the Secretary of Transportation publish in the Federal Register an initial inventory of coastwise-certified launch barges with a launch capacity of less than 12,000 long tons.

Section 1(b)(3) requires the Secretary of Transportation within 60 days of the date of enactment and periodically thereafter, to publish a current inventory of such lesser capacity coastwise-certified launch barges. Section 1(b)(1) requires that such list be periodically updated. Unless the list of launch barges of lesser launch capacity identified by the Secretary is timely published, such launch barges cannot be considered available. Thus, the burden is on the Secretary of Transportation, not the users of launch barges, to ensure that the list of such lesser capacity launch barges is kept up to date. It is the responsibility of the owners and operators of such coastwise-certified launch barges of lesser capacity to notify the Secretary of Transportation of their desire to be included in the list. Potential users have the burden of consulting the list and making inquires to determine whether a launch barge is "available." The committee intends that a launch barge of lesser capacity not be deemed to be "available" unless it has been included on the list and it is available to perform the transport within the time requirements of the inquiring user. This legislation does not contemplate the Secretary of Transportation involving himself or herself in every transaction under this act involving the use of launch barges.

The purpose of section 1(b)(1)-(3) is to promptly provide an official list of coastwise-certified launch barges, their platform jacket launch capacity, and other distinguishing characteristics, along with the owner or operator's name and address, so that all persons transporting platform jackets of a size small enough to be capable of being transported on "a launch barge of lesser capacity identified by the Secretary of Transportation" will know where the service of such launch barges can be obtained so that they can determine if one is available. On the other hand, if the weight of the platform jacket to be transported is greater than the launch capacity of any of the launch barges so identified by the Secretary of Transportation, then foreign-built launch barges may be used for their transportation so long as the launch barges meet the requirements of this act; that is, meet the five criteria set forth in the legislation.

Mr. Speaker, in sum, the legislation represents a pragmatic approach to solving two regulatory matters gone askew in a manner that provides direct economic benefit to a number of U.S. maritime interests, including American shipyard, and fabricators of offshore structures, American barge operators, American dredge operators, American tugboat operators and American maritime labor. The behind-the-scene history of this much needed piece of legislation has entailed thoughtful and patient working together of a number of disparate interests in which constructive compromises were reached that accrue to the benefit of everyone. I commend our chairman, the gentleman from North Carolina, for this leadership effort in shepherding this legislation from introduction to enactment. Because of his intervention, we were able to craft solutions that were equitable to all persons concerned. I also appreciate the splendid and stately cooperation from the minority leadership in the committee and on the floor.

Last, Mr. Speaker, I can assure my colleagues that, while this legislation and its components will provide direct benefits to Louisiana, it also will provide benefits to the rest of the maritime industry, incidentally, without costing American taxpayers 1 cent. It has been a pleasure for me to have played an active role in the shaping of this legislation and I urge my colleagues to vote for its passage.

Mr. BIAGGI. Mr. Speaker, I rise in support of S. 1988, a bill similar to H.R. 82—which I introduced in the 99th Congress and reintroduced on the first day of the 100th Congress. On July 27, 1987, the House suspended the rules and passed H.R. 82. Rather than acting on H.R. 82, the Senate passed S. 1988 on May 18, 1988.

These measures clarify the meaning of section 27 of the Merchant Marine Act of 1920, popularly known as the Jones Act. This section of the Jones Act prohibits the use of foreign-built ships to transport passengers or goods between domestic points.

The legislation we consider today clarifies that the Jones Act restrictions apply to valueless material, primarily sludge that is transported to a point on the high seas within the exclusive economic zone of the United States. As a result, vessels transporting valueless material will have to fly the Stars and Stripes and be built, manned, and operated by U.S. citizens.

I introduced H.R. 82 in response to a Customs Service ruling that the transportation of sewage sludge to a deepwater dumpsite was not subject to the Jones Act requirements. In early 1986, New York City sought bids for the construction of four seagoing barges to transport municipal sewage sludge to a deepwater disposal site designated by the Environmental Protection Agency. The city awarded the contract to the lowest bidder—a subsidiary of a foreign shipyard. Customs ruled that vessels used to transport sewage sludge were exempt from the domestic construction requirement of the Jones Act. When domestic shipyards and towboat operators challenged the Customs Service ruling, a Federal court dismissed the case.

The pending legislation clarifies that the requirements for U.S. documentation, domestic construction, U.S.-citizen ownership, and citizen manning apply to a vessel used to transport valueless material from the United States to a point or place on the high seas within the exclusive economic zone.

The bill provides that the four sludge barges being built overseas for New York City and another barge currently under contract to Nassau County, NY, will be exempt from the domestic construction requirement for as long as the vessels continue to operate in the same limited trade. Since the two operators relied on a Customs Service ruling in contracting for the construction of barges—or in acquiring a foreign-built barge, fairness demands that they not be adversely affected by this legislative reversal of that ruling.

In addition, the bill:

Amends the towing vessel statute to clarify that vessels used to tow barges carrying valueless material within the exclusive economic zone of the United States meet all cabotage requirements;

Provides that the penalty for transporting goods in violation of the Jones Act is the cost of the transportation of those goods; and

Exempts the operator of the barge under contract with a municipality on the date of enactment from a requirement that the recipient of operating-differential subsidy receive approval of the Secretary of Transportation to continue receiving subsidy while operating the barge. However, the prohibition against the diversion of moneys from a subsidized operation to a coastwise operation continues to apply.

A principal difference between the Senate bill and H.R. 82 is that S. 1988 includes provisions creating a narrow exception to section 27 of the 1920 act for certain large launch barges used to transport oil production platforms.

From 1953 when Congress passed the Outer Continental Shelf Lands Act until November 1984, U.S. shipbuilders could use foreign-built launch barges to transport rigs between points in the United States or on the Outer Continental Shelf. In November 1984, Customs ruled that the use of foreign-built launch vessels to transport rigs within the U.S. Outer Continental Shelf was in violation of U.S. laws. The Senate amendment preserves the principles enshrined in the Jones Act while permitting a limited exception for certain large launch barges.

S. 1988 would exempt a foreign-built launch barge from the Jones Act if:

It is 12,000 long tons or more (larger than those economically produced in the United States);

It is built prior to enactment of S. 1988;

It is documented under U.S. laws; and

The platform jacket cannot be launched from an available smaller barge.

The bill requires the Secretary of Transportation to develop and maintain an inventory of qualified launch barges with a capacity of less than 12,000 long tons. This list will help leaseholders determine whether a launch barge is available.

This is important legislation that will protect U.S. jobs and preserve a strong and healthy U.S.-flag merchant marine. It will insure that vessels used to transport sludge are built in U.S. shipyards, thus helping to preserve our shipyard mobilization base, which is essential to national defense.

I strongly urge my colleagues to join me in supporting S. 1988.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the Senate bill, S. 1988.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1988, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

□ 1610

EXTENDING THE LIFE OF THE COMMISSION ON THE UKRAINE FAMINE

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2304) to amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Ukraine Famine, as amended.

The Clerk read as follows:

S. 2304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986 (Public Law 99-180; 99 Stat. 1157), is amended under the heading "COMMISSION ON THE UKRAINE FAMINE"—

(1) in section 3(2), by striking out 'two years after the organizational meeting of the Commission held under section 6(a)" and inserting in lieu thereof "June 22, 1990"; and

(2) in section 4(b), by adding at the end the following: "A vacancy in the Commission shall be filled in the manner in which the original appointment was made.".

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2304, as amended. This measure will extend the life of the Commission on the Ukraine Famine for 2 years, at no additional expense to the U.S. taxpayer. The legislation, which was introduced by Senators BRADLEY, DECONCINI and KASTEN, passed the other body on April 21, 1988, the day before the Commission's 2 year mandate expired. It was considered by the Committee on Foreign Affairs last week and ordered favorably reported, as amended.

The Commission on the Ukraine Famine was created in December 1986, and was tasked with conducting a study of the devastating famine that took the lives of an estimated 7 million people in the Ukraine from 1932 to 1933. The purpose of the study was to expand the world's knowledge of the famine and provide the American public with a better understanding of the Soviet system by revealing the Soviet role in the Ukraine famine. Fifteen commissioners were appointed from the Congress, the executive branch and the Ukrainian American community. Among the congressional representatives are our distinguished colleagues on the Foreign Affairs Committee, Mr. BROOMFIELD, Mr. GILMAN, the chairman of the International Operations Subcommittee, Mr. MICA, who serves as the Commission's chairman, and Mr. HERTEL.

The Commission was to submit its final report to the Congress no later than 2 years after the date of its first organizational meeting which was April 22, 1986, and close up shop within 60 days. I understand that report was sent to the Congress and that 1,500 copies will be published and distributed. At its last organizational meeting, the commissioners unanimously agreed to seek an extension of its mandate in order to finish its important work. Among the tasks that remain to be completed are the distribution and publicizing of the commission's report, the translation from Ukrainian and transcription of oral histories taken from over 200 survivors of the famine, a valuable adjunct to the Commission's report, and the development of a curriculum guide on the famine for use in American schools.

The Ukrainian American community has donated thousands of dollars that this work can be completed at no additional cost to the Government. It is felt, however, that the authority of the U.S. Government is necessary to ensure the credibility and integrity of the Commission's work. S. 2304 extends the life of the Commission for 2 years. An amendment was adopted in the Foreign Affairs Committee that provides that vacancies on the Commission be filled in the same manner as the original appointments were made, thus enabling the Commission to continue to function after January 1989 when its Chairman, Mr. Mica, will no longer be a member of the House of Representatives, and there will be a new administration.

Mr. Speaker, I urge the adoption of the legislation, as amended.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the past 2 years, I have been privileged to serve with our colleagues, Congressman Gilman, Hertel, and Mica, as one of the congressional members of the Commission on the Ukraine Famine. On April 22, the commission met part of its congressional mandate in submitting its report on the great famine of 1932 to 1933 in the Ukraine.

After taking extensive testimony and in-depth interviews of eyewitnesses to the famine, the conclusions reached by the Commission were inescapable. The famine which occurred in the Ukraine during 1932-33, and which took the lives of millions who lived there, was the result of a deliberate policy of genocide by the Government of the Soviet Union.

During the past 2 years, the staff and the commissioners worked extremely hard. Congratulations and our country's sincere thanks go to the Commission's staff director, Dr. James Mace and his dedicated staff, and to the six public members of the Commission including Mr. Bohdan Fedorak of Warren, MI, and Ms. Anastasia Volker of Royal Oak, MI. Their untiring effort and the insight these public members provided in working with the Ukrainian-American community were invaluable.

But "more work must be done to meet the congressional mandate. Equally important is the need to disseminate the results of the Commission's research." The realities of the genocide and the role of the Soviet Union policy should be known to everyone.

For too long, many of those who were aware of the 1932 to 1933 famine in the Ukraine, thought of it as a narrow ethnic matter of interest only to the Ukrainian-American community. However, in working with the famine commission, it is clear that the tragedy that took place in the Ukraine goes far beyond the concerns of any single ethnic group and has meaning for all of us.

From the lessons of the famine, we once again see the degree of suffering that man will inflict upon his fellow man when the world—including the United States—is willing to look the other way.

During a time when the Soviet Union is carrying out an extensive public relations program to accompany its glasnost policy, we are reminded by the lessons of the famine of the moral depravity of the Soviet system of government—a system of government that would initiate a policy of genocide, and a system that remains essentially unchanged.

Moreover through the lessons of the Ukrainian genocide, we are all reminded of the importance of vigilance, and of holding governments accountable for their human rights practices.

I therefore urge my colleagues to approve S. 2304, to provide the Commission on the Ukraine Famine the time needed to complete its important work.

Mr. GILMAN. Mr. Speaker, I rise in strong support of this legislation, S. 2304.

As a member of the Commission on the Ukraine Famine, I can say that this Commission is a worthy body. It works under the close supervision of the Commissioners, especially the congressional Commissioners, led by our colleague from Florida, Mr. Mica.

The Commission on the Ukraine Famine has issued its report; it was filed on time and the report is a clear indictment of the behavior of the Soviet authorities in the period leading up to and during the Ukraine famine. But the work of the Commission is not yet finished. The Commission needs to complete the process of transcribing oral histories of the famine, publicizing its report, and working with educators so that the lessons of our study will long be remembered.

Mr. Speaker, as has already been stated, the Commission's extension will not involve the expenditure of any taxpayer dollars. The extension is being funded by interested individuals. But the work will remain under the Commission's control.

Accordingly, I urge my colleagues to support this worthy measure.

Mr. YATRON. Mr. Speaker, I strongly support S. 2304, which would extend the life of the Commission to study the famine in the Ukraine for 2 years. I want to commend Mr. Fascell, Mr. Broomfield, Mr. Hamilton, Mr. Mica, Mr. Gilman, and Mr. Solomon for all their hard work on this important issue.

The Commission on the Ukraine Famine was created in December 1986, and mandated to conduct a study of one of the worst man-made tragedies of this century. Approximately 7 million people perished as a result of the famine in the Ukraine from 1932 to 1933. The famine itself was a direct outcome of Stalin's agricultural and collectivists policies and of the ruthless Soviet system.

The purpose of the Commission was to document and detail the catastrophic effects of the famine to expand the world's knowledge of this calamity and to provide the American people with a better understanding of the nature of the Soviet system and of communism.

The Commission has several congressional representatives and was to submit its final report to Congress within 2 years. I understand that the report has been sent to Congress and 1,500 copies will be published and distributed. Nevertheless some critical work needs to be completed, such as the translation from Ukrainian of oral histories of over 200 survivors and the development of a curriculum guide for use in American schools. The authority of the U.S. Government is necessary to ensure the credibility and integrity of the Commission's work.

The Commission's extension will not cost the taxpayers any money. The Ukrainian-American community has raised and donated thousands of dollars to complete the work of the Commission.

S. 2304 easily passed the Senate in April and was approved by the Foreign Affairs Committee, as amended, last week.

Mr. Speaker, I strongly urge my colleagues to approve S. 2304 today.

Mr. HOYER. Mr. Speaker, I rise in support of S. 2304, extending to June 22, 1990, the life of the Commission on the Ukraine Famine. This Commission, which issued a comprehensive report on the famine on April 21, has done an excellent job in helping to bring to the world's attention the 1932-33 manmade famine which took the lives of 7 million Ukrainian men, women, and children.

I would like to commend Chairman Dan Mica for his effective leadership of the Ukraine Famine Commission during the last 2 years and the staff, under the able leadership of Dr. Jim Mace, for their dedication and commitment in painstakingly seeking the truth about this tragedy. I would also like to commend the Ukrainian-American community for their moral and financial support of this Commission.

Despite the significant work to date, there is more that needs to be done in order to bring the full dimensions of this chilling tragedy to light. The work of this Commission is especially timely given greater discussion in the Soviet Union of the so-called blank spots in Soviet history, including a tentative but increasing discussion of the famine. Indeed, it is my hope that the work of this Commission will contribute to the discussion taking place in the Soviet Union today to come to terms with the past.

The extension would be used on continuing some of the important work that still needs to be done, including the continuation of efforts to collect and prepare for publication oral histories of famine survivors, many of whom are already of advanced age, and furthering commission efforts to disseminate information about the famine.

So, Mr. Speaker, in order to prevent similar tragedies from ever occurring again, we must continue to bring to light past instances of man's inhumanity to man. I urge my colleagues' unanimous consent of this resolution.

Mr. FLORIO. Mr. Speaker, I rise in support of S. 2304, legislation which will extend the Congressional Commission on the Ukraine

Famine for 2 years. As the House sponsor of the original legislation which created this Commission, I am pleased that we have the opportunity to review the Commission's efforts and extend the life of the Commission so that they can complete this effort and further focus attention on the tragedy of the 1932–33 famine in the Ukraine.

I would like to thank Chairman FASCELL for his timely consideration of this bill and urge my colleagues to join me in approving S. 2304. Several years ago, I was approached by the Ukraine community who brought to my attention the tragedy of 1932–33 and their justified concern that this was a tragedy that was forgotten in the history books. I feel strongly that it is important to remember the holocausts and tragedies in the past so that we can be ever more vigilant in preventing future tragedies of this nature.

The Ukraine famine was largely instigated by the Soviet authorities in order to subjugate the Ukraine and quiet any nationalist aspirations. The results of the famine were deaths in devastating numbers and massive starvation and hardship inflicted upon the Ukrainian people. This tragedy is remembered by survivors today and I have always shared the Ukrainian community's concern that this oral history be compiled by a government body and a report issued on the famine.

The Commission has been working diligently over the past few years, holding hearings, compiling statements and information and working on a curriculum guide which will enable our children to learn about this great tragedy in their classrooms. However, the Commission's work is not yet completed and additional time is necessary to compile and publish the report this summer, translate and analyze eyewitness accounts, publish correspondence relating the famine, complete the curriculum guide and conduct curriculum workshops on the findings of the Commission. S. 2304 will enable this important effort to come to fruition.

I want to point out to my colleagues that this extension does not provide the Commission with additional public funding. There has been such an outpour of support for this effort that the Ukrainian-American community feels confident that private contributions will be adequate for the Commission to complete its mandate. The authorizing legislation envisioned a combination of funding from public and private sources.

Again, I urge my colleagues to approve this needed legislation. I thank the members of the Commission and the Foreign Affairs Committee for their diligence in this effort.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the Senate bill, S. 2304, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROTESTING VARIOUS SOVIET HUMAN RIGHTS VIOLATIONS

Mr. YATRON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 455) protesting Soviet human rights violations, especially restrictive emigration regulations, and calling on the President to stress, at the Moscow summit meeting, the inherent link between respect for human rights and the achievement of lasting peace.

The Clerk read as follows:

H. RES. 455

Whereas the Soviet Union is obligated, under the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe, to respect human rights and fundamental freedoms, including the internationally recognized right to leave one's country;

Whereas the Soviet Union has released Jewish prisoners of conscience and has allowed an increased number of Jews to emigrate;

Whereas despite its international obligations, the Soviet Union continues to deny to many of its citizens the right of freedom of movement without arbitrary and capricious barriers;

Whereas the Soviet Union also continues to deny respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, language, heritage, history, and religion;

Whereas the Soviet Union has adopted emigration regulations which do not guarantee the internationally recognized right to leave one's country and, in fact, deny that right to emigrate for any but a narrowly defined group; and

Whereas respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union: Now, therefore, be it

Resolved, That the House of Representatives—

(1) strongly protests the continued violations by the Soviet Union of its international human rights obligations, especially its issuance of restrictive emigration regulations;

(2) declares the continued human rights abuses by the Soviet Union, especially its refusal to permit all those who wish to leave to do so, seriously affect the atmosphere for productive negotiations between the United States and the Soviet Union on other aspects of our bilateral relations;

(3) calls upon the Soviet Union to release all prisoners of conscience;

(4) calls upon the President to use the upcoming summit meeting in Moscow as an opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace; and

(5) expects full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I urge adoption of House Resolution 455, legislation protesting Soviet human rights violations. This resolution calls upon the President to stress, at the upcoming summit meeting, the inherent link between respect for human rights and the achievement of lasting peace.

House Resolution 455 was originally House Resolution 437, as amended. House Resolution 437 was amended on two occasions, once at the subcommittee markup and again at the full Committee on Foreign Affairs markup. These amendments did not change the intent of the legislation, but instead, were welcomed additions. The first amendment included language calling upon the Soviet Union to release all prisoners of conscience. The second amendment added the word religion to a whereas clause on the denial of individual rights.

Before proceeding with an explanation of this measure, I want to commend the gentleman from Florida [Mr. FASCELL], our distinguished chairman of the Foreign Affairs Committee, and the gentleman from Michigan [Mr. BROOMFIELD], our ranking minority member of the committee for their leadership and support on this issue. I would also like to thank the chairman and ranking member of the Subcommittee on Europe and the Middle East, Mr. HAMILTON and Mr. GILMAN, for reporting out this resolution in an expeditious manner.

I want to note in particular the contribution of Mr. SOLOMON, the ranking minority member on our subcommittee and an original sponsor of this legislation, for his determination and commitment to human rights. Another member of the subcommittee, the gentleman from New Jersey [Mr. SMITH], has also contributed significantly to the subcommittee's work on this matter.

While all of us recognize the positive changes which have been made in the Soviet Union under Mr. Gorbachev, we also know much more has to be done. In order to assess what the current human rights situation is, what the U.S. positions are, what posture should be taken by our Government, and what concessions must be made by the Soviets, the Subcommittee on Human Rights held a series of three hearings, beginning on May 4, and ending on May 18.

The first hearing focused on the status of civil and political rights in the U.S.S.R. The second hearing reviewed the issue of emigration, particularly the plight of Jews, ethnic Germans, and Armenians. At the third hearing, the administration gave its views on the human rights situation in the Soviet Union. Based upon the combined testimony, we attempted to construct a resolution which reflects the concerns of the witnesses and clarifies U.S. policy with respect to human rights.

As we prepare for the upcoming summit, it is essential that we stress our desire for peace and cooperation. It is equally important to emphasize emphatically our commitment to human rights. This bipartisan initiative, which is supported by the administration, focuses on the many shortcomings of Soviet domestic policy which remains repressive in nature. It speaks to the continued persecution of Soviet Jews, and addresses the problems in emigrating for Jews, Armenians, and Germans. It points out Soviet obligations under international law, and it stresses the need for respect for human rights and fundamental freedoms.

Passage of House Resolution 455 is vital to the welfare of all those in the Soviet Union who still have not benefited from Mr. Gorbachev's openness concept. It is my hope that its passage will send a clear signal to the Soviet Union that human rights is, and will remain, a priority issue for the American people.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of House Resolution 455, I wish to commend our colleagues, Congressman SOLOMON and Congressman YATRON, for their leadership in this important area of human rights.

House Resolution 437 should be approved for two reasons. First, it recognizes the importance of the internatiionally acknowledged right to leave one's country, and it condemns the Soviet Union for its continued violation of this right of emigration.

The ability to emigrate, as pointed out in the Human Rights Subcommittee hearings, is extremely important because it serves as the final alternative to living under oppressive conditions in an individual's homeland.

The Soviet Union has agreed to observe this right of emigration in numerous international accords. However, it has, in fact, adopted emigration regulations which create arbitrary and capricious barriers, and denies that emigration right for any but a narrowly defined group.

House Resolution 437 rightly protests the continued violations by the Soviet Government of this important right, and calls upon the Soviet Union to release all prisoners of conscience.

Second, this resolution reinforces the inherent link between respect for human rights and the development of friendly and cooperative relations between the United States and the Soviet Union. It clearly states the important influence that the human rights issue has on all aspects of our bilateral relations with the Soviet Union.

Mr. Speaker, I urge our colleagues to support House Resolution 437, and the important messages it contains.

□ 1620

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], one of the senior cosponsors of the bill.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding this time to me, and, Mr. Speaker, let me just rise in strong support of this resolution, which I was pleased to sponsor with Chairman YATRON. And let me also thank Chairman FASCELL and Republican ranking member, Mr. BROOMFIELD for their efforts to expedite this resolution to the floor in a timely manner before the upcoming summit conference in Moscow.

As we think about the summit conference, Mr. Speaker, we are reminded that events in the Soviet Union are of profound importance to every American. And, indeed, the future prospects for peace and freedom in the world depend, to an important extent, on what happens in the Soviet Union.

History teaches that a government which is not at peace with its own people will not be at peace with other countries. That is the issue at stake today, and that is why House Resolution 455 makes absolutely clear that there is an "inherent link between respect for human rights and the achievement of lasting peace." The best indication of how serious and credible the Kremlin truly is in all of its professions of desire for world peace will be found by looking at how these same men treat their own citizens.

This resolution, Mr. Speaker, declares that respect for human rights and fundamental freedoms in the Soviet Union is an essential factor needed to improve relations between our two countries. And it goes on to emphasize that continued human rights abuses in the Soviet Union seriously affect the prospects for these improved relations.

As long as the Kremlin is afraid of the very people it claims to have liberated, we should not—and we cannot—believe its talk about peace. As long as the Kremlin refuses to abide by the solemn human rights covenants it has signed, we should not—and we cannot—believe it will abide by the other treaties and protocols it signs.

And so this resolution draws the essential linkage between Soviet behavior and the prospects for improved relations between our two countries.

In conclusion, Mr. Speaker, I would note that House Resolution 455 was prepared in connection with a series of hearings conducted by the Subcommittee on Human Rights and international organizations. These hearings, which provided a comprehensive look at human rights conditions in the Soviet Union, were some of the most interesting and important that I have attended in my congressional experience.

The many witnesses who came before the subcommittee stressed repeatedly the importance of the right to emigrate, and this resolution picks up that emphasis. The right to emigrate becomes the most fundamental human right of all when a political system closes all other opportunities that people need to seek a redress of their grievances. If they cannot leave an intolerable and repressive society, then they are caught in the worst situation imaginable.

Congress has always placed a high priority on the rights of people to emigrate—"think for a moment about the Jackson-Vanik amendment"—and this resolution carries on, in that same spirit.

So I urge a unanimous vote on behalf of this resolution, and I am grateful for the overwhelming bipartisan support it has received thus far—for the support of many Members who have signed up as cosponsors.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Michigan, for yielding this time to me.

Mr. Speaker, I rise in strong support of the measure now before us. House Resolution 455, sponsored by the distinguished chairman of our Human Rights Subcommittee, the gentleman from Pennsylvania [Mr. YATRON] expresses the sense of the House of Representatives regarding Soviet human rights violations, among them restrictions to emigration for Soviet Jewry, and other minorities behind the Iron Curtain and requests President Reagan to stress to Soviet leader Gorbachev the importance of upholding human rights during the forthcoming summit meeting next week.

Since the ascension of Mikhail Gorbachev to power several years ago, we have been witnesses to change in the Soviet Union. Under the sweeping rubrics of glasnost and Perestroika, General Secretary Gorbachev is attempting to slowly point the Soviet Union in another direction. One area in which we in the West are keenly interested in is the entire spectrum of religious and cultural rights in the Soviet Union. It has been over a decade since the historic signing of the Helsinki Final Act, which governs human rights requirements among signatory nations such as the U.S.S.R. Since that time thousands have been imprisoned in the Soviet gulag, and others have died there trying to uphold the tenets of this noble document.

Among those who continue to struggle for their freedom are Soviet Jews. While we are thankful that today there are no Soviet Jewish prisoners of conscience, our concern over the continued denial of permission for emigration for thousands upon thousands of Soviet Jewry is ongoing. In 1987, more than 8,000 were granted permission, which is a definite increase over previous years. Moreover, this year, through April, over 3,500 Soviet Jews have been given permission to leave. Yet, this situation does not correspond with what Congressman MILLER and I found during our visit to Moscow this past January. In a few short days, we met with dozens upon dozens of refuseniks, some of whom had made the long trip from Leningrad just to meet with us. And in each case, they had been refused for many years—some as long as 15 years. Most were still accused of possessing state secrets, which I find difficult to accept.

During a meeting at the Soviet Embassy last week, we emphasized these and other obstacles to compliance with the Helsinki Final Act. President Reagan has pledged to make human rights a high priority at this Moscow summit meeting, and I am certain that he will fulfill this promise. Religious rights are being denied to countless minorities in the U.S.S.R., among them pentecostalists, Baptists, Seventh Day Adventists, Hare Krishna devotees, and many others.

The cultural rights of Ukrainians, Estonians, Latvians, and Lithuanians cannot be ignored. The Russification of these nations continues mercilessly, and activists continue to be arrested and imprisoned. Despite a limited amnesty granted some months back, there remain thousands languishing in the Soviet gulag whose only crime was in attempting to exercise those rights guaranteed by the Helsinki Final Act.

Mr. Speaker, House Resolution 455 comes at an extraordinary important time. We are on the verge of yet another historic summit meeting, with indications that another may take place in the fall. As a cosponsor of this legislation, I urge its passage by my colleagues, certain in the knowledge that the paramount matter of human rights in the Soviet Union is inherently linked to the achievement of a lasting peace between our two nations.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I commend the prime sponsors, Mr. YATRON and Mr. SOLOMON, for their foresight in introducing the resolution before us. Consideration of House Resolution 455 this week is most appropriate as President Reagan, Secretary Shultz, and the other summit "players" prepare for their departure. I believe unanimous congressional support of this resolution will display a unified commitment by the United States to the human rights principles outlined in the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Helsinki accords.

Mr. Speaker, one of the basic human rights is the right to leave one's country—to emigrate. Soviet emigration policy, however, has been inconsistent, unpredictable, and arbitrary. Visas are denied because of the applicant's supposed "possession of state secrets," even more than a decade after the applicant has lost his job in retaliation for merely desiring to emigrate.

Mr. Speaker, this Soviet policy has the effect of putting a family's life on hold for years—even as long as 17 years, as is the case with Yuli Kosharovsky, a friend of mine who was first denied an exit visa in 1971. I have made a formal request to President Reagan that he specifically raise the case of Yuli during his negotiations with Secretary Gorbachev.

In January 1987, the Soviets issued new guidelines and regulations for their emigration/visa approval policy. The much-touted regulations were disconcerting, though, and have resulted in a more restrictive, tightened emigration policy.

I commend the sponsors for including in the measure a call for the release of political prisoners in the Soviet Union. In a recent hearing held in the Subcommittee on Human Rights and International Organizations, chaired by Mr. YATRON, Helsinki Watch stated they have documented 386 political prisoners who remain imprisoned despite the many releases made in 1987. The Soviets allowed releases last year but only with the condition that the prisoners sign statements which admitted guilt or committed the human rights activists to disengage from future activities. Mr. Speaker, is this an appropriate maneuver for the Soviets to make during this era of glasnost?

Mr. Speaker, more than one-half of these political prisoners are religious believers—people of all faiths. Just last week the House approved—394 to 0—a measure, House Concurrent Resolution 223, which I sponsored calling for Secretary Gorbachev to declare an amnesty for the Christians whose so-called crime has been their religious activity. Mr. Speaker, the legislation also stressed the need for systemic changes in the Soviet law which have buoyed the KGB authorities' harassment, persecution and discrimination against religious believers, and interference with various religious activities. The resolution before us reinforces the message of House Concurrent Resolution 223.

Mr. Speaker, as consponsor of House Resolution 455, I rise in strong support of this effort to show bipartisan, unwavering backing of the administration's commitment to stress the inherent, moral, and strengthening link between respect for human rights and the goal of lasting worldwide peace.

□ 1630

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. YATRON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL], the chairman of the Foreign Affairs Committee, who has been our leader on human rights for many years.

Mr. FASCELL. Mr. Speaker, I rise in support of House Resolution 455 regarding Soviet human rights violations and the Moscow summit. A similar measure, House Resolution 437, was ordered favorably reported by the Committee on Foreign Affairs last week with amendments. The resolution before the House today reflects those amendments adopted in committee. The legislation received broad bipartisan support in committee and I am sure that our colleagues in the full House will be equally supportive.

Mr. Speaker, I would like to commend the authors of this legislation, the distinguished chairman and ranking minority member of the Subcommittee on Human Rights and International Organizations, Mr. YATRON and Mr. SOLOMON, for their leadership in bringing this important measure to the attention of the House. I would also like to commend the chairman and ranking minority member of the Subcommittee on Europe and the Middle East, Mr. HAMILTON and Mr. GILMAN, for their subcommittee's expeditious consideration of the measure which allowed us to bring it to the floor prior to the President's departure for the Moscow summit.

Mr. Speaker, while recognizing the improvements that have been made in the Soviet human rights record, House Resolution 455 protests those Soviet human rights violations that are continuing, including the denial of the right to emigrate to all Soviet Jews and others who seek to leave the U.S.S.R. It calls upon President Reagan to use the upcoming summit meeting in Moscow to stress the inherent link between respect for human rights and the achievement of lasting peace, linkage that was agreed to by the Soviet Union when they signed the Helsinki Final Act in 1975.

The intention of this resolution, and our consideration of it today, is to demonstrate to the Soviet Union the Congress' and the American people's continuing commitment to the cause of human rights and to demonstrate our firm, unified, bipartisan support for the President's efforts to seek Soviet compliance with their international obligations in the field of human rights.

Mr. Speaker, I urge the immediate adoption of House Resolution 445.

Mr. HOYER. Mr. Speaker, as Chairman of the Helsinki Commission, I wholeheartedly support House Resolution 455 which urges President Reagan to advocate at his upcoming Moscow summit meeting with General Secretary Gorbachev the inherent link between respect for human rights and the attainment of a durable peace.

Mr. Speaker, for the last 10 years or so recognition of this connection has been growing in the Congress and in the country. The 1975 Helsinki Final Act, which fully recognized the profound connection between respect for human rights at home and promotion of genuine peace abroad, has had a major impact on American thinking in this regard. As a testament to that, President Reagan is scheduled to reaffirm America's commitment to the Helsinki accords in a speech this Friday in Helsinki.

Despite undoubted improvement in the Soviet human rights record, much remains to be done in various areas. We cannot allow the partial reforms and improvements which have occurred so far blind us to the major lapses in the Soviet record.

Although emigration rates are now the highest since 1979—1,077 Soviet Jews left the U.S.S.R. in April—emigration is still not a freedom accorded to all Soviet citizens who so desire to leave. While the Soviet Government now lets many more of its citizens travel aboard—and his improved procedures for such travel—emigration procedures are almost as cumbersome as ever. Two particularly galling emigration requirements are that, first, family members must get approval from relatives certifying that their departure will cause no economic hardship for them; and, second, the arbitrary secrecy "rules" which are being applied to preclude some from emigrating.

Although the Soviet Government released 329 political prisoners in 1987. Another 350 known prisoners of conscience are still imprisoned or incarcerated in psychiatric hospitals. Even though the Soviet state has taken a few minor steps to clean up its political abuse of psychiatry, the Soviet psychiatric establishment so far resists real reform.

The present status of legal rights is very mixed. While Soviet lawyers have made nice noises about reform of the criminal code; however, as of now the bad laws enacted in the early 1980's are still on the books. There are draft laws on public demonstrations and on unofficial organizations, yet these provisions are hedged with provisos which make the realization of these rights very difficult.

Although General Secretary Gorbachev has recently promised to improve the legal status of many millions of Soviet believers, what will actually change remains to be seen. While the public visibility of the Russian Orthodox Church has increased, the Ukrainian Catholic Church—with several million adherents—remains beyond the pale.

Continuing Armenian demonstrations—involving hundreds of thousands—shows the sensitivity of national questions in the U.S.S.R. It is hard to see how this problem can ever be solved. Certainly taking the Nagorno-Karabakh territory from Azerbaidzhan and giving it to Armenia is hardly a panacea since there are some 40 other territorial disputes in the Soviet Union.

This brief overview of the current Soviet human rights scene shows its complexity and the need for continued American concern. The vital connection between peace and human rights is clear.

Mr. YATRON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the resolution (H. Res. 455).

The question was taken.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANTITERRORISM AND ARMS EXPORT AMENDMENTS ACT OF 1988

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3651) to prohibit exports of military equipment to countries supporting international terrorism, and for other purposes as amended.

The Clerk read as follows:

H.R. 3651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antiterrorism and Arms Export Amendments Act of 1988".

SEC. 2. PROHIBITION ON ARMS TRANSACTIONS WITH COUNTRIES SUPPORTING TERRORISM.

(a) PROHIBITION.—Section 40 of the Arms Export Control Act (22 U.S.C. 2780) is amended to read as follows:

"SEC. 40. TRANSACTIONS WITH COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.

"(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES GOVERNMENT.—The following transactions by the United States Government are prohibited:

"(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

"(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

"(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

"(2) Providing credits, guarantees, or other financial assistance under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)), with respect to the acquisition of any munitions item by a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of State makes the determination described in subsection (d). The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

"(3) Consenting under section 3(a) of this Act, under section 505(a) of the Foreign Assistance Act of 1961, under the regulations issued to carry out section 38 of this Act, or under any other law (except as provided in subsection (h)), to any transfer of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall withdraw any such consent which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been transferred to such country.

"(4) Providing any license or other approval under section 38 of this Act for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

"(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d). This paragraph applies with respect to activities undertaken—

"(A) by any department, agency, or other instrumentality of the Government,

"(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

"(C) by any other person at the request or on behalf of the Government.

The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

"(b) Prohibited Transactions by United States Persons.—

"(1) In general.—A United States person may not take any of the following actions:

"(A) Exporting any munitions item to any country described in subsection (d).

"(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d).

"(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country described in subsection (d) if the United States person has reason to know that the munitions item will be made available to any country described in subsection (d).

"(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d), or any person acting on behalf of that government, if the United States person has reason to know that that action will facilitate the acquisition of that item by such a government or person.

"(2) Liability for actions of foreign subsidiaries, etc.—A United States person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue) takes an action described in paragraph (1) outside the United States.

"(3) Applicability to actions outside the United States.—Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3) (A) or (B). To the extent provided in regulations issued under subsection (l)(3)(D), paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United States by a person designated as a United States person in those regulations.

"(c) Transfers to Governments and Persons Covered.—This section applies with respect to—

"(1) the acquisition of munitions items by the government of a country described in subsection (d); and

"(2) the acquisition of Munitions items by any individual, group, or other person within a country described in subsection (d), except to the extent that subparagraph (D) of subsection (b)(1) provides otherwise.

"(d) Countries Covered by Prohibition.—The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism, taking into account such factors as whether that government grants sanctuary from prosecution or apprehension to an individual or group which has committed an act of international terrorism.

"(e) Publication of Determinations.—Each determination of the Secretary of State under subsection (d) shall be published in the Federal Register.

"(f) Rescission.—A determination made by the Secretary of State under subsection (d) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in leadership and character of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 30 legislative days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

As used in paragraph (2), the term 'legislative day' means a day on which both Houses of Congress are in session.

"(g) Waiver.—The President may waive the prohibition contained in this section with respect to a specific transaction if—

"(1) the President determines that the transaction is vital to the national security interests of the United States; and

"(2) not less than 15 days prior to the proposed transaction, the President—

"(A) consults with the Committee on Foreign Affairs of the House of Representatives of the Senate; and

"(B) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing—

"(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

"(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

"(iii) the reasons why the proposed transaction is vital to the national security interests of the United States and the justification for such proposed transaction;

"(iv) the date on which the proposed transaction is expected to occur; and

"(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in subparagraph (B) of paragraph (2) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

"(h) Exemption for Transactions Subject to National Security Act Reporting Requirements.—The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

"(i) Relation to Other Laws.—

"(1) In general.—The provisions of this section shall apply notwithstanding any other provision of law, except as provided in paragraph (2).

"(2) Section 614(a) waiver authority.—The authority of section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)) may be used to permit a transaction under the Foreign Assistance Act of 1961 or the Arms Export Control Act which is otherwise prohibited by this section provided—

"(A) there are exceptional circumstances where time is of the essence which require that the provisions of this section be waived without complying with the requirement of subsection (g) of this section that there be a 15-day period of advance consultation and reporting;

"(B) the President begins the consultation with the Congress (required by section 614(a)) as soon as the President determines to exercise the authority of section 614(a), but not less than 24 hours before that authority is exercised;

"(C) the President submits the report described in subsection (g)(2)(B) of this section not less than 24 hours before that authority is exercised; and

"(D) all of the requirements of section 614(a) are otherwise fully met.

"(j) Criminal Penalty.—Any person who willfully violates this section shall be fined for each violation not more than $1,000,000, imprisoned not more than 10 years, or both.

"(k) Civil Penalties; Enforcement.—In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979 (subject to the same terms and conditions as are applicable to such powers under that Act), except that, notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000.

"(l) Definitions.—As used in this section—

"(1) the term 'munitions item' means any item enumerated on the United States Munitions list (without regard to whether the item is imported into or exported from the United States);

"(2) the term 'United States', when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and

"(3) the term 'United States person' means—

"(A) any citizen or permanent resident alien of the United States;

"(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

"(C) any other person with respect to that person's actions while in the United States; and

"(D) to the extent provided in regulations issued by the Secretary of State, any person that is not described in subparagraph (A), (B), or (C) but—

"(i) is a foreign subsidary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that

United States person (as determined in accordance with those regulations), or

"(ii) is otherwise subject to the jurisdiction of the United States,

with respect to that person's actions while outside the United States.".

(b) Conforming Amendment.—Section 3(f) of the Arms Export Control Act (22 U.S.C. 2753(f)) is repealed.

SEC. 3. CONSIDERATIONS IN ISSUANCE OF ARMS EXPORT LICENSES AND IN ARMS SALES.

(a) Export Licenses.—Section 38(a)(2) of the Arms Export Control Act (22 U.S.C. 2778) is amended by inserting "support international terrorism," after "arms race,".

(b) Arms Sales.—Section 36(b)(1)(D) of that Act (22 U.S.C. 2776(b)(1)(D)) is amended—

(1) by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively; and

(2) by inserting the following new clause (ii) after clause (i):

"(ii) support international terrorism;".

SEC. 4. EXPORTS TO COUNTRIES SUPPORTING TERRORISM.

Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App 2405(j)) is amended to read as follows:

"(j) Countries Supporting International Terrorism.—(1) A validated license shall be required for the export of goods or technology to a country if the Secretary of State has made the following determinations:

"(A) The government of such country has repeatedly provided support for acts of international terrorism, taking into account such factors as whether that government grants sanctuary from prosecution or apprehension to an individual or group which has committed an act of international terrorism.

"(B) The export of such goods or technology could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

"(2) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any validated license required by paragraph (1).

"(3) Each determination of the Secretary of State under paragraph (1)(A), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1988, shall be published in the Federal Register.

"(4) A determination made by the Secretary of State under paragraph (1)(A) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

"(A) before the proposed rescission would take effect, a report certifying that—

"(i) there has been a fundamental change in leadership and character of the government of the country concerned;

"(ii) that government is not supporting acts of international terrorism; and

"(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(B) at least 30 legislative days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

As used in subparagraph (B), the term 'legislative day' means a day on which both Houses of Congress are in session.".

SEC. 5. PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) is amended to read as follows:

SEC. 620A. PROHIBITION ON ASSISTANCE TO GOVERNMENTS SUPPORTING INTERNATIONAL TERRORISM.

"(a) Prohibition.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism, taking into account such factors as whether that government grants sanctuary from prosecution or apprehension to an individual or group which has committed an act of international terrorism.

"(b) Publication of Determinations.—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1988, shall be published in the Federal Register.

"(c) Recission.—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in leadership and character of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 30 legislative days before the proposed rescission would take effect, a report justifying the rescision and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

As used in paragraph (2), the term 'legislative day' means a day on which both Houses of Congress are in session.

"(d) Waiver.—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

"(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under part II of this Act (including chapter 4, chapter 6, and chapter 8), or the Export-Import Bank Act; and

"(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing—

"(A) the name of the recipient country;

"(B) a description of the national security interests or humanitarian reasons which require the waiver;

"(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

"(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under the Foreign Assistance Act of 1961 which is also prohibited by section 40 of the Arms Export Control Act.".

SEC. 6. DESIGNATION OF ITEMS ON THE MUNITIONS LIST.

Section 38 of the Arms Export Control Act (22 U.S.C. 2278) is amended by adding at the end the following:

"(h) The designation by the President (or by an official to whom the President's functions under subsection (a) have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall be final and conclusive for purposes of this section and section 40 and shall not be subject to judicial review.".

SEC. 7. QUARTERLY REPORTS ON THIRD COUNTRY TRANSFERS AND ON DOD TRANSFERS TO OTHER AGENCIES.

(a) Quarterly Reports.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (9) the following:

"(10) a listing of the consents to third-party transfers of defense articles or defense services which were granted, during the quarter for which such report is submitted, for purposes of section 3(a)(2) of this Act, the regulations issued under section 38 of this Act, or section 505(a)(1)(B) of the Foreign Assistance Act of 1961, if the value (in terms of original acquisition cost) of the defense articles or defense services to be transferred is $1,000,000 or more; and

"(11) a listing of all munitions items (as defined in section 40(l)(1)) which were sold, leased, or otherwise transferred by the Department of Defense to any other department, agency, or other entity of the United States Government during the quarter for which such report is submitted (including the name of the recipient Government entity and a discussion of what that entity will do with those munitions items) if—

"(A) the value of the munitions items was $250,000 or more; or

"(B) the value of all munitions items transferred to that Government department, agency, or other entity during that quarter was $250,000 or more;

excluding munitions items transferred (i) for disposition or use solely within the United States, or (ii) for use in connection with intelligence activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).".

(b) CLASSIFICATION OF REPORTS.—That section is amended in the parenthetical clause in the text preceding paragraph (1) by inserting ", and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum" after "(b)(1) of this section".

SEC. 8. SPECIAL AUTHORITIES.

The second sentence of section 614(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(c)) is amended to read as follows: "The President shall fully inform the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection prior to the use of such funds.".

SEC. 9. HOSTAGE ACT.

Section 2001 of the Revised Statutes of the United States (22 U.S.C. 1732) is amended by inserting "and not otherwise prohibited by law" after "acts of war".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3651, as amended, which prohibits the exports of military equipment to countries supporting international terrorism and for other purposes.

Mr. Speaker, over the last few years this body has considered and approved many different provisions which strengthened our policy to combat international terrorism. The Foreign Airport Security Act of 1985 and the Omnibus Diplomatic Security and Antiterrorism Act of 1986 are but a few examples, and were bipartisan endeavors that have proved indispensable for the implementation of an effective antiterrorism policy.

One of the prohibitions the Congress passed in 1986 and the President signed into law is a ban on the export of items on the U.S. munitions list to any country which the Secretary of State determines repeatedly provides support for international terrorism. That prohibition, authored by Mr. BERMAN and Mr. HYDE, is now section 40 of the Arms Export Control Act. There are currently six countries on the Secretary of State's terrorist list. They are Iran, Syria, Libya, Cuba, South Yemen, and North Korea.

There was some debate during the investigations into the Iran arms transactions over the meaning and intent of section 40 and of other laws which bear upon arms exports to such terrorist countries. The Committee on Foreign Affairs examined these laws and found it necessary to revise and restate some of the antiterrorism provisions currently in law. The Committee consolidated some provisions and reporting requirements and strengthened other prohibitions which are intended to clarify and strengthen the effectiveness of the U.S. Government antiterrorism policy, and make such a policy consistent with the arms export control policies of our Government.

Mr. Speaker, my distinguished colleagues on the committee, Mr. BERMAN and Mr. HYDE, have accomplished that task with a strong bipartisan bill, H.R. 3651. I understand that the administration has not objected to this important legislation. I would like to commend my colleagues for their efforts and tireless work to achieve a measure which enjoys such strong bipartisan support. This legislation has 65 cosponsors from both sides of the aisle. Three subcommittees of the Committee on Foreign Affairs held a hearing on this bill on March 17. We heard from representatives of the executive branch—State, Commerce, Defense, the CIA—and the private sector.

The primary purpose of the bill is to strengthen and clarify this country's prohibition on the export of military arms and equipment and the provision of other types of U.S. assistance to countries which have been placed on the Secretary of State's "terrorist list." It also required more detailed reporting by the executive branch about exports of arms.

H.R. 3651 is a constructive restatement of existing law. It closes potential loopholes and revises certain provisions of law to ensure that uniform standards governing arms exports to terrorist countries are present in the United States Code. H.R. 3651 also provides stiff criminal and civil penalties for those who violate the prohibitions on arms exports to terrorist states similar to those already contained in the export administration act.

Mr. Speaker, at the committee markup concern was raised about whether the President would be inhibited from using the waiver authority under section 614(a) of the Foreign Assistance Act of 1961 in connection with terrorist countries. Subsequent to the markup, Mr. BERMAN and Mr. HYDE agreed to a conditional right to use the section 614(a) waiver authority under exceptional circumstances where time is of the essence and the Committee on Foreign Affairs is fully consulted and reported to prior to the use of the authority. That agreed language is incorporated in the text that we are considering today. This is the only change in the text of the bill as reported by the committee. A more detailed description of the provision is contained in the section-by-section analysis in the report accompanying H.R. 3651.

Underpinning H.R. 3651 has been a remarkable amount of consultation and collaboration between majority and minority staffers, between Members on both sides of the aisle, between the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence, and between Congress and the executive branch and the private sector. I highly commend Mr. BERMAN and Mr. HYDE for their tireless work on this outstanding piece of legislation.

Mr. Speaker, I strongly support the legislation before the House and urge my colleagues to approve it with an overwhelming vote. Only terrorist governments and international terrorists will mourn the passage of H.R. 3651.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to express my support for H.R. 3651. This bill could improve the laws used to control the export of arms and other sensitive technology to countries which support international terrorism.

I commend the primary sponsors, Mr. HYDE and Mr. BERMAN, for their work on this measure. This bill is the result of numerous discussions within Congress and with the executive branch.

H.R. 3651 is a constructive response to the Iran-Contra affair. Rather than making unrealistic demands on the administration, it attempts to construct a careful framework of restrictions, notification and consultation for transactions involving terrorist states.

The bill would impose new reporting requirements. But these have been carefully crafted to ensure that they will be useful and not unduly burdensome.

Among other things, H.R. 3651 addresses the subject of:

Prohibited actions by U.S. officials and other persons;

Reporting of all arms transfers to terrorist countries under either the arms export control act or as intelligence activities;

Special reporting of interagency arms transfers or transfers by third countries; and

Presidential waiver authority.

The Office of Management and Budget [OMB] has issued a statement of administration policy which indicates that the administration does not oppose H.R. 3651. The administration statement also points to the committee report language which states that the bill is not intended to impair the President's constitutional authority over foreign relations.

Mr. Speaker, I wish again to commend the sponsors of this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 3651, the Antiterrorism and Arms Export Amendments Act of 1988. This legislation, which I have cosponsored, will reaffirm, strentgthen, and clarify U.S. policy on exports of military weapons to terrorist states.

This legislation indicates that we have learned lessons from the ill-fated Iran arms sale, a deal to which I was opposed. These new amendments reinforces the prohibition on the export of arms to States which support international terrorism, like Iran. These amendments also clarify the obligation of the executive branch to inform Congress of both overt and covert exports of military weapons to foreign governments.

Closing the current law's loopholes, strengthening and clarifying its language and adopting uniform standards is an important way to increase the effectiveness our antiterrorism campaign. We should not be providing any sort of military capabilities to terrorist nations and this legislation reinforces this stand. As we did in the foreign affairs committee, I urge my colleagues in the House to support and pass this positive legislation.

Mr. BROOMFIELD. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], the sponsor of this bill, to control the time on our side.

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to transfer the management of this measure on our side to my distinguished colleague, the gentleman from California [Mr. BERMAN].

The Speaker pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset I would like to commend the distinguished chairman of the Committee on Foreign Affairs, Mr. FASCELL, the distinguished gentleman from Indiana [Mr. HAMILTON] and the distinguished gentleman from Illinois [Mr. HYDE] for their leadership on this bill. Their support has been instrumental in highlighting the importance of this legislation.

Chairman FASCELL's support for antiterrorism legislation over the years has served as a helpful example in the drafting of this bill. His conviction that these laws need improvement was a helpful force in accomplishing what we have. I also want to pay particular tribute to the gentleman from Illinois. Mr. HYDE's sincerity of purpose and his constructive contributions to H.R. 3651 are the soundest rebuttals to the cynics who profess that bipartisan legislation is no longer doable on Capitol Hill.

Mr. Speaker, an unfortunate state of affairs has brought this legislation before the House today. We live in a world where sovereign nations promulgate terrorism and support groups who likewise use terror against noncombatants. Against such an enemy, there is all too little even the most powerful country can do to strike at such a nation's ability to conduct terrorism.

The U.S. Government has traditionally seized on one specific mechanism, and that is to deny terrorist countries weapons with which to perpetrate terrorist acts and to deny dual-use goods which facilitate such acts of terror. This is altogether appropriate.

Recent events have led me to conclude that the laws were not clear enough or the penalties not harsh enough or the consequences of bypassing their intent not frightening enough, with the result that weapons were provided to a terrorist state.

While it is theoretically possible that an occasion will occur where provision of arms to a terrorist state will be the appropriate policy, it would seem that that eventuality should be circumscribed to maximize the careful consideration by the appropriate parties of the potential consequences. It is to define these procedures that I have set about to rewrite the arms export and antiterrorism laws in an unequivocal and coherent fashion.

Mr. Speaker, two years ago Mr. HYDE and I authored an amendment to the Arms Export Control Act. It read very simply:

> [I]tems on the United States Munitions List may not be exported to any country which the Secretary of State has determined * * * has repeatedly provided support for acts of international terrorism.

The President may waive this prohibition. But he must determine that the export is important to the national interests of the United States. And he must notify Congress. Mr. HYDE and I introduced this amendment as a logical extension of the administration's antiterrorism policy, particularly as it was reflected in Operation Staunch against Iran.

The Berman-Hyde amendment became the law of this land, with broad bipartisan support, on August 26, 1986. Two months later 500 TOW missiles were shipped into Iran without notification to Congress. Ensuing months produced conflicting interpretations of our amendment and of other prohibitions and reporting requirements in the United States Code.

The debate that took place during the investigations into the Iran arms transactions regarding the meaning and intent of arms export and antiterrorism laws required a reexamination of these laws, which include not only section 40 of the Arms Export Control Act but other provisions in three statutes which attempt to regulate exports of arms and certain goods and technology to terrorist countries.

Over the years Federal law has absorbed overlapping standards that can lead to confusion and misinterpretation. There is no single standard in the law for:

First, determining whether a country supports international terrorism;

Second, identifying which U.S. official should make that determination;

Third, identifying which arms are subject to restrictions;

Fourth, identifying the criteria that empower the President to waive statutory restrictions; and

Fifth, adequately informing Congress of arms exports, including covert exports.

The inconsistent provisions do not make good law either for the U.S. Government, witness the Iran arms transactions, or for private American citizens who look to the law for guidance.

The Antiterrorism and Arms Export Amendments Act of 1988 reaffirms, strengthens, and clarifies this Nation's prohibition on exports of military weapons and equipment to countries which have been designated by the Secretary of State as supporters of international terrorism. It imposes new criminal and civil penalties on violators of the prohibition. H.R. 3651 also requires more detailed and periodic reporting by the executive of arms exports.

H.R. 3651 is largely a restatement of existing law. Its intent is to close potential loopholes and revise certain existing provisions to ensure that uniform standards are present in the United States Code. The bill makes no attempt to reform the personnel or structure of the National Security Council or the State, Commerce or Defense Departments. Nor does it seek to change the manner in which arms exports are approved by the U.S. Government or to impose blanket sanctions on terrorist states. The bill does not impair the President's discretionary authority. In fact, in some cases the bill broadens the President's discretion. But the bill does hold the President to a reasonable standard of accountability to Congress in the exercise of that authority.

Since H.R. 3651 was introduced on November 18, 1987, with the primary cosponsorship of Chairman FASCELL, Mr. HAMILTON and Mr. HYDE, more than 60 Members of Congress from both parties have joined in sponsoring this important bipartisan legislation. A tremendous amount of work has gone into examining the bill since it was introduced. There has been close consultation between majority and minority staffers. Numerous meetings have been held with the staff of the

House Permanent Select Committee on Intelligence, with officials from the State, Defense and Commerce Departments and from the Central Intelligence Agency, and with representatives from the private sector.

Mr. HYDE and I worked closely during this period to incorporate a large number of the recommendations that were made during the review process. I wish to stress that many of the changes reflected in the bill as amended have been incorporated at the request of the administration following our careful consideration. We have gone to considerable lengths to accommodate the administration's legitimate concerns and, in some cases, provided the executive with additional authority.

H.R. 3651 amends the Arms Export Control Act, the Foreign Assistance Act of 1961, the Export Administration Act of 1979 and the Hostage Act of 1968. Its major provisions amend the following sections of these statutes:

Section 40 of the Arms Export Control Act, which prohibits exports of arms to terrorist states, is signficantly reinforced. Prohibited transactions are listed in detail, both with respect to U.S. Government activities and private transactions. The President could waive the prohibitions for specific transactions, but only with prior, detailed reporting to Congress, on a classified basis if necessary. Also, the President may rescind the Secretary of State's determination that the Government of a State supports international terrorism, but only in accordance with certain conditions. The President's rescission can become effective immediately if there has been a fundamental change in the leadership and character of a terrorist government and appropriate assurances have been delivered, or 30 legislative working days after the President has given Congress a report confirming that the terrorist government has not provided any support for internationlal terrorism during the preceding 6-month period and that appropriate assurances have been delivered by that government. The standard for identifying a government which supports international terrorism is clarified. The requirements for a Presidential rescission and for identifying a terrorist government are repeated in the amendments to the antiterrorism provisions of the Export Administration Act (section 6(j) and the Foreign Assistance Act of 1961 (section 620A).

A clear line is drawn in amended section 40 to prohibit overt transfers to terrorist states, unless the President exercises his waiver authority, while regulating intelligence transfers which are subject to the reporting requirements of the National Security Act of 1947. The amended section 40 also imposes criminal penalties on public officials and private parties who violate the prohibition.

Section 3(f) of the Arms Export Control Act is repealed. This is the original antiterroism provision of the Arms Export Control Act, and it is superseded by the revised section 40 prohibition.

Section 38(a)(2) of the Arms Export Control Act is amended to further obligate the Director of the Arms Control and Disarmament Agency, in connection with the issuance of export licenses, to take into account whether the export of a munitions list item will support international terrorism.

Section 36(b)(1)(D) of the Arms Export Control Act is amended to further obligate the director of the Arms Control and Disarmament Agency, in connection with a sale of munitions items by the Government, to evalaute how, if at all, the proposed sale would support international terrorism.

Section 6(j) of the Export Administration Act, which regulates the export of goods and technology of significant military or of "terrorist" value to terrorist states, is amended first, to remove the current $1,000,000 annual threshold amount under which the executive currently does not have to report to Congress exports of such goods and technology to terrorist states, and second, to require validated licenses for all such exports to terrorist states and 30-day prior notification to Congress of the proposed issuance of a validated license. Section 6(j) also is amended to conform the rescission authority under that section with the rescission authority available under new section 620A of the Foreign Assistance Act of 1961.

Section 6(j)(1)(B) of the Export Administration Act of 1979 is amended to require that the Secretary of State's second determination be one regarding which the export of the goods and technology could make a significant contribution to the military potential of a terrorist country or could enhance the ability of such country to support acts of international terrorism. I want to emphasize that the reference on page 13 of House Report No. 100-623 to this determination applying to "a wide range of goods and technology" must be read in conjunction with the standard of reasonableness which is explained in the same sentence. That standard typically should be applied to target certain types of goods and technology which the Commerce Department reasonably determines could make a significant contribution to the military potential of a terrorist country or could enhance the ability of such country to support acts of international terrorism. I do not interpret it as meaning that a wide, indiscriminate net should be thrown out to capture every conceivable good or technology.

Section 620A of the Foreign Assistance Act of 1961, the "antiterrorism" section of that act, is amended to conform it with other changes in the law, particularly the revision of section 40 of the Arms Export Control Act. There is a clarification that the President cannot use humanitarian reasons to justify a waiver of the antiterrorism prohibition for the purpose of providing any security assistance under part II of the Foreign Assistance Act of 1961 or by the Export-Import Bank.

Section 36 of the Arms Export Control Act, which requires certain reports to Congress about commercial and governmental military exports, is amended to add:

First, quarterly reports listing all Presidential consents to transfers of munitions list items, exceeding $1 million in value, from a recipient country to a third country under the authority of sections 3(a) or 38 of the Arms Export Control Act or section 505 of the Foreign Assistance Act of 1961;

Second, quarterly reports—classified if necessary—of interagency transfers of munitions list items which will not ultimately be disposed of within the United States but excluding from the report those munitions list items which are used solely in connection with intelligence activities and are subject to other reporting requirements under the National Security Act.

Section 614(c) of the Foreign Assistance Act of 1961 is amended to designate the recipients of the Presidential notification under that section as the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives rather than the Speaker, and to require prior notice of the use of the authority under that section.

The Hostage Act of 1868 is amended to clarify that the President's authority to take action to release hostages cannot be carried out in a manner which would otherwise be prohibited by law.

Mr. Speaker, the Antiterrorism and Arms Export Amendments Act of 1988 is a constructive, bipartisan effort to clarify and restate the laws which prohibit arms exports to terrorist states and to strengthen other reporting requirements about arms exports. I strongly urge my colleagues to support this bill.

The distinguished chairman of the Committee on Foreign Affairs noted in his remarks that subsequent to the committee markup of H.R. 3651, Mr. HYDE and I agreed upon amending language which would entitle the President to use certain authority under section 614(a) of the Foreign Assistance Act of 1961 in connection with a terrorist country. That agreed language is incorporated in the bill on the floor and is described on page 10 of the committee report, House Report No. 100-623.

Mr. Speaker, as part of my presentation, I am including a list of about 18 people requesting an opportunity to be cosponsors, in addition to the 50 or more cosponsors already on this bill, as follows:

Mr. Blaz, Mr. DeFazio, Mrs. Collins, Ms. Pelosi, Mr. Weiss, Mr. Lagomarsino, Mr. Grant, Mr. Feighan, Mr. Richardson, Mr. Konnyu, Mr. Jontz, Mr. Boehlert, Ms. Kaptur, Mrs. Boxer, Mr. Fazio, Mr. Moody, Mr. Lipinski, Mr. Cardin, Mr. Andrews, Mr. Barnard, Mr. Visclosky, Mr. Garcia, Mr. Horton, Mr. Chapman, Mr. Williams, and Mrs. Johnson.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to join my colleague, the gentleman from California, in support of H.R. 3651. He has provided effective leadership in this difficult and important area, and I must say has risen above partisanship to craft this legislation. It was a great pleasure to work with the gentleman from California [Mr. Berman] and his excellent and expert staff.

Mr. Speaker, this legislation deals with a very serious problem, and at the same time offers a measured response to some of the policy problems identified during the Iran-Contra hearings in which I was privileged to participate.

As serious terrorist acts proliferate and the global community struggles to respond effectively, it is now more important than ever that the United States have a consistent, clearly stated terrorist policy. This legislation is designed to help fill this need.

H.R. 3651 represents a significant contribution to the statutory underpinnings of our Nation's antiterrorist policy. Current law regarding U.S. antiterrorist policy is spread throughout four main statutes: The Arms Export Control Act; the Export Administration Act; the Foreign Assistance Act; and the Hostage Act.

In many cases, these statutes apply standards, definitions, waivers, or determinations which are inconsistent with one another. In response to this problem, the gentleman from California and I have attempted to fashion a bill which would bring together in one single statute all of the principal, statutory elements of our Nation's antiterrorism policy. Section 40 of the Arms Export Control Act now represents the uniform standard needed to effectively administer this policy.

At the heart of H.R. 3651 is its prohibition on virtually all arms transactions with a country which supports terrorism. H.R. 3651 amends section 40 of the Arms Export Control Act by strengthening its existing prohibitions on arms transfers to nations supporting terrorism, tightening up its current waiver authorities, drawing a clear line between overt and covert arms transactions, and imposing criminal and civil penalities for violators of these provisions.

H.R. 3651 also requires a validated license for the export of goods and technology which could make a significant contribution to the military potential of a terrorist country or could enhance the ability of that same country to support acts of international terrorism. This will help prevent items capable of being used in support of a terrorist act from falling into a terrorist country's hands.

H.R. 3651 also specifically prohibits any U.S. foreign assistance to countries supporting international terrorism.

During the course of consideration of H.R. 3651, committee staff has met extensively with representatives of all affected executive branch agencies and the private sector. Many changes were subsequently made in H.R. 3651 in response to concerns voiced during these meetings. While the administration may not be 100 percent happy with this bill, they should nonetheless be 95 percent happy with it.

H.R. 3651 will allow more effective administration of our antiterrorism policy, knowing that the legislative guideposts are clear and that a strong antiterrorist policy will enjoy the support of both the Congress and the American people.

Once again I would like to thank my colleague from California for his constructive and bipartisan approach to fashioning this bill. We have a good product which, while not totally satisfying either of us, is nonetheless a bipartisan effort we can be proud of.

Finally, I would like to thank the staff on both sides of the aisle for their work on this issue. Special thanks go to minority staffers, Bill Ingless and Dan Finn of the House Foreign Affairs Committee, and Steve Nelson of the House Intelligence Committee.

□1645

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. HYDE. Mr. Speaker, I am happy to yield to the gentleman from Florida [Mr. Fascell], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I thank the gentleman from Illinois for yielding, and I just want to express my appreciation to him because I know that in this kind of esoteric, arcane area of legislation one has to really rise far and above and beyond the call of duty in order to do what he and the gentleman from California [Mr. Berman] have done in a bipartisan sense to wend their way through all this statutory maze and try to do something to improve the law, standardize it, and I think it is an outstanding job and I want the record to reflect that as chairman of the Committee on Foreign Affairs I extend my deep appreciation to the gentleman from Illinois [Mr. Hyde] who is an outstanding lawyer, and I also know that he had a lot of other things on his mind besides this legislation.

Mr. HYDE. Mr. Speaker, reclaiming my time, I do thank the gentleman from Florida [Mr. Fascell] very much for his kind remarks.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Speaker, I thank the gentleman from California for yielding time to me.

At this point, I would ask the gentleman from Ohio [Mr. Stokes], the distinguished chairman of the Intelligence Committee, to engage in a colloquy concerning that provision of the bill which relates to intelligence activities.

I want to confirm that the new section 40(h) of the Arms Export Control Act proposed in this bill draws a clear line between overt and covert transactions which involve the transfer of munitions items to a country on the Secretary of State's terrorist list. In order to implement an overt transaction, the President would have to exercise his waiver authority under new section 40(g) of the Arms Export Control Act. This may include a transactions for which the President chooses to submit a classified report. In order to implement a covert transaction, the President would be required to use intelligence authorities and comply with the reporting requirements to Congress set forth in title V of the National Security Act. Either way, Congress must be informed of transfers of munitions list items to a country on the Secretary of State's terrorist list.

My concern, with respect to intelligence-related transfers of munitions list items to any foreign country—not just a country on the Secretary of State's terrorist list—is as follows:

Is it possible that intelligence-related transfers of items on the munitions list can be made for any purpose other than for covert actions in foreign countries; namely, those significant anticipated intelligence activities described as "covert actions" in H.R. 3822 and which require, even under current law, a Presidential finding reportable to the Intelligence Committees before the covert action is implemented? I presume such other purpose would be a transfer of munitions list items solely for intelligence collection purposes. Would such transfer be reported to the Intelligence Committees prior to the transfer if it was part of a significant anticipated intelligence activity? Would it possibly be reported some time after the transfer has taken place in those cases where the intelligence activity does not rise to the level of a significant anticipated intelligence activity?

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Speaker, my response would be as follows. All covert actions, as that term is described in H.R. 3822, require a finding. All findings must be reported to the Intelligence Committees prior to activities initiated under such findings. While there is dispute about the circumstances under which prior notice may be deferred by the President, there is agreement that these circumstances will be rare. In any event, decisions of this kind are governed by the provisions of the National Security Act, whether or not it is amended by the Congress.

However, with respect to other intelligence activities, a different regime applies. Intelligence activities which reach the level of significance to be termed "significant anticipated intelligence activities" must be reported, like covert actions, prior to their initiation. Therefore, transfers of items on the munitions list in connection with such activities will be disclosed to the committees before they happen.

Other intelligence activities must, under the law, be reported to the Intelligence Committees "fully and currently," but not necessarily prior to their initiation. The committees therefore will not necessarily know beforehand of transfers of munitions list items in connection with such other intelligence activities. However, the committees do pay particular attention to the provision of lethal equipment to groups or governments and regularly review them. This is not to say that every transfer of a weapon to an individual is examined.

There is a range of intelligence collection activities which falls into this latter category. For instance, the provision of some personal weapon or piece of surveillance equipment to an intelligence agent usually would not require prior notification to the Intelligence Committee.

Further, it is the case that some individuals with whom our intelligence services must deal for the collection of intelligence will be unsavory. They may have terrorist connections. In many cases, these relationships need not be reported in advance to the Intelligence Committees.

These examples, however, should be distinguished from an intelligence transfer of munitions list items, for whatever purpose, to a government designated as a terrorist government or to any individual or group acting on behalf of a terrorist government. Such transfers would require prior notification to the Intelligence Committees as significant anticipated intelligence activities. Further, transfers to other individuals or groups could also be significant anticipated activities because of their policy implications, risk, cost or other consideration.

Mr. FASCELL. I thank the gentleman. Let me pose an additional question. Is the Intelligence Committee satisfied that it has in place or will, with the passage of H.R. 3822, have in place sufficient procedures and reporting requirements to ensure that it is informed of all transfers of items on the munitions list which require the attention of the committee?

Mr. STOKES. If the gentleman will yield further, there are some changes in H.R. 3822 which will increase reporting of transfers of items on the munitions list to the Intelligence Committees and formalize the reporting of the use of nonappropriated funds. In addition, the Intelligence Committee does have other procedures or reporting requirements which it has imposed from time to time to ensure that transfers by the U.S. Government, or even transfers within the U.S. Government, of items on the munitions list, will be reported to the committee. At present, it is my opinion that these procedrues and requirements, taken together, are adequate. For example, transfers of items on the munitions list such as those which took place during the Iran/Contra affair, would be required to be reported under current procedures and requirements.

Mr. FASCELL. Mr. Speaker, I thank the gentleman from Ohio very much.

Mr. BERMAN. Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this time I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman from Illinois for yielding.

At the committee markup, my distinguished colleague from Illinois proposed and I agreed to continue examining the prohibition on using the section 614(A) waiver authority of the Foreign Assistance Act of 1961. We have studied this very carefully since the markup and concluded that the section 614(A) waiver authority should be available to the President under specific conditions set forth in amending language which is incorporated in the text of the bill being voted on today.

I would ask the distinguished gentleman from Illinois to describe the circumstance under which the section 614(A) waiver authority can be exercised pursuant to new section 40(i) of the Arms Export Control Act.

Mr. HYDE. Mr. Speaker, I would respond as follows. New section 40(i) permits the Presidents to use the section 614(A) waiver authority only in exceptional circumstances where time is of the essence.

Specifically, the President should use the section 614(A) waiver authority only when he needs to act under that authority in less than 15 days.

New section 40(i) further provides that the President begin consultation with the Congress as soon as he determines to exercise the section 614(A) authority, but not less than 24 hours before that authority is exercised.

Reflecting our need to be kept informed about munitions transfers to terrorist countries, new section 40(i) also requires a detailed report prior to the exercise of the waiver authority.

I would stress, too, that the President should have a very strong justification for exercising the section 614(A) waiver authority in any case involving transfers to a terrorist country.

□ 1700

Mr. BERMAN. I thank the gentleman. I, too, wish to emphasize that the amendment addresses an extraordinary situation, where the President wishes to provide munitions items to a terrorist country on very short notice; that is, in less than 15 days. The list of such countries is small; the situations which would require such extraordinary action are almost too hypothetical to envisage; and the risk we run in exporting these items to terrorist states—that they might fall into the hands of supporters of terrorists, or terrorists themselves—that the President should use the section 614(A) waiver authority only as a last resort following consultation with the Congress and submission of a report.

I want to emphasize that the consultation requirement does not mean that the President should wait until 24 hours before he exercises the section 614(A) authority to consult with Congress. It means that the consultations begin within the 15-day period at the time the President determines he is going to exercise the authority and begins formulating plans to actually do so.

Mr. HYDE. Will the gentleman yield at that point for a short colloquy on whether purely diplomatic activities are covered by the provisions of this bill?

Mr. BERMAN. Surely.

Mr. HYDE. As the gentleman knows, section 40(A) of the bill applies to activities of the U.S. Government. Paragraph (5) of that subsection prohibits "otherwise facilitating the acquisition" of arms by terrorist countries.

I wish to point out that the committee report clarifies the applicability of this section to diplomatic activities undertaken at the request or direction of the President. As the report states:

> This provision is not intended to circumscribe the President's constitutional powers to articulate U.S. foreign policy, or to communicate with any foreign country concerning arms transfers that the foreign country

intends to make. It is not intended as a limitation on the President's authority to discuss such matters with foreign countries, but rather to deal with specific and concrete actions to assist in a foreign government's plans.

Now, section 40(B) of the bill deals with other actions by U.S. persons. Paragraph (b)(1)(D) of that section contains a parallel provision of facilitating the acquisition of arms by terrorist governments.

Is it the gentleman's understanding that the same principle of interpretation contained in the committee report applies to subsection 40(B)(1)(D) as to subsection 40(A)(5)?

Mr. BERMAN. Yes. The actions of U.S. Government officials and other persons "at the request or on behalf of the government" were intended to be primarily covered by subsection 40(A).

To the extent that U.S. officials or other persons expressly acting at the request or direction of the President would fall within the purview of subsection 40(B), they would indeed be subject to the same principles cited in the committee report.

On the other hand, arms dealers or other persons who voluntarily become part of a chain of events leading to the acquisition of arms by a terrorist country would be covered by the paragraph 40(B)(1)(D) prohibition. The privilege for actions of U.S. officials and other persons acting at the request or direction of the President does not apply if the individual goes beyond the sphere of diplomatic activities and becomes part of the chain of events leading to acquisition of arms by a terrorist state.

Mr. HYDE. Mr. Speaker, I thank the gentleman. That certainly encompasses my understanding as well.

I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, only two more points. One is to express a very heartfelt sense of appreciation to staff. They have done the real hard research and drafting that has made this kind of, I think, significant and encompassing piece of legislation possible. David Scheffer of the Committee on Foreign Affairs committee staff and Lise Hartman from my own staff, my foreign affairs consultant, have spent, I think, hundreds of hours in putting this legislation together and in negotiating the different provisions that raised concerns in different areas of the Government and in the private sector as well.

The committee staff, Ivo Spalatin, Toni Verstandig have provided great backup from the committee to help us in guiding our way, and I also have to concur with the gentleman from Illinois [Mr. HYDE], the minority staff has demonstrated its wisdom and objectivity in a fashion that some of the more partisan Members of the House like yours truly would never have thought possible before he undertook this process, and I am very grateful to all of them.

I do want to add, given the earlier conversations with respect to diplomatic activities, that I want to emphasize that it is our intent, and I think the gentleman from Illinois as well as my own, and I think it is a feeling shared by a vast majority of the Members of Congress, that we wish to discourage a President from conducting diplomacy in a fashion that would encourage another government to facilitate the acquisition of munitions items by a terrorist country. The clear intent of this legislation is to discourage arms transfers to terrorist countries, and it is our belief that intent should be reflected in the President's diplomatic activities.

With that comment, I once again pay my respects to the gentleman from Illinois, my colleague, and the chairman from the committee and others who have helped.

Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I also want to thank the gentleman from California [Mr. BERMAN] for his kind words and herculean work, both staff and himself and our staff, too.

Let me just say that this is a useful statute, a good statute. I do not think we can by statute circumscribe the President's constitutional powers in foreign policy, and I do not think we have. I believe this is something that I think will be helpful in the very treacherous field of antiterrorism ahead, both to the Executive and to the Congress.

Mr. Speaker, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 3651, the Antiterrorism and Arms Export Amendments Act of 1988. This legislation, which I have cosponsored, will reaffirm, strengthen, and clarify U.S. policy on exports of military weapons to terrorist states.

This legislation indicates that we have learned lessons from the ill-fated Iran arms sale, a deal to which I was opposed. These new amendments reinforce the prohibition on the export of arms to states which support international terrorism, like Iran. These amendments also clarify the obligation of the executive branch to inform Congress of both overt and covert exports of military weapons to foreign governments.

Closing the current law's loopholes, strengthening and clarifying its language and adopting uniform standards is an important way to increase the effectiveness of our antiterrorism campaign. We should not be providing any sort of military capabilities to terrorist nations and this legislation reinforces this stand. As we did in the Foreign Affairs Committee, I urge my colleagues in the House to support and pass this positive legislation.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 3651, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3651, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has now been concluded on all motions to suspend the rules.

Pursuant to clause 5 of rule I, the Chair will now put the question on the motion to suspend the rules on which further proceedings were postponed.

PROTESTING VARIOUS SOVIET HUMAN RIGHTS VIOLATIONS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution (H. Res. 455).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and agree to the resolution (H. Res. 455) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were yeas 411, nays 0, not voting 20, as follows:

[Roll No. 151]

YEAS—411

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)

de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—20

Atkins
Badham
Biaggi
Boulter
Byron
Crockett
Duncan
Hubbard
Konnyu
Luken, Thomas
Marlenee
Mazzoli
Mica
Moody
Neal
Spence
Thomas (CA)
Udall
Watkins
Weiss

□ 1727

Mr. MOAKLEY and Mr. GONZALEZ changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4387, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-647) on the resolution (H. Res. 456) providing for the consideration of the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 4637, FOREIGN OPERATIONS APPROPRIATIONS, 1989

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-648) on the resolution (H. Res. 457) waiving certain points of order against consideration of the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3341

Mrs. SAIKI. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of H.R. 3341.

The Speaker pro tempore. (Mr. GRAY of Illinois). Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

RECOGNIZING AND SUPPORTING EFFORTS OF NATIONAL PURPLE HEART MUSEUM COMMITTEE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee of Post Office and Civil Service be discharged from further consideration of the concurrent resolution (H. Con. Res. 126), recognizing and supporting the efforts of the National Purple Heart Museum Committee, and encouraging the people of the United States to participate, in the development of a national museum to honor those individuals awarded the Purple Heart, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. JOHNSON of Connecticut. Mr. Speaker, reserving the right to object, I rise in support of the resolution. Mr. Speaker, I appreciate the efforts of the chairman of the subcommittee and the ranking members, their dedication to helping me with this resolution and bringing it to fruition on the floor of the House before Memorial Day because it does commemorate the efforts of a group of my constituents who have worked hard, tirelessly, with great dedication for a number of years now to establish a memorial museum to Purple Heart recipients throughout the Nation in Enfield, CT, where the first Purple Heart recipient was commissioned.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Speaker, I would certainly like to compliment the gentlewomen for pushing this legislation. One of the highest awards that can be received for bravery is the Purple Heart.

I certainly want to thank the gentleman from California for bringing this legislation out. I think it is well-deserved.

Mrs. JOHNSON of Connecticut. Further reserving the right to object, I want to thank the honorable chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. Montgomery]. He has been an outstanding ally in this project as in every other project concerning veterans, large and small project on this House floor.

I thank him for his help and support.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. Gonzalez].

Mr. GONZALEZ. I thank the distinguished gentlewoman for yielding.

Mr. Speaker, I rise because my district, the 20th District of Texas in San Antonio, has a most active Purple Heart Association and we also count on perhaps the greatest number of Purple Hearts. San Antonio is truly a volunteer serviceman's town. We have probably in Texas in proportion the greatest number of Congressional Medal of Honor winners. In my district, in proportion, I am happy to say we have the greatest number of Purple Heart winners and awardees.

I thank the distinguished gentlewoman for joining in this and propelling the resolution, as well as I commend the chairman of the subcommittee.

Mrs. JOHNSON of Connecticut. Mr. Speaker, further reserving the right to object, I thank the gentleman from Texas for his comments and I yield to the gentleman from California.

Mr. DORNAN of California. I thank the gentlewoman for yielding.

Mr. Speaker, my father had three World War I wound chevrons. The name Purple Heart had disappeared into history until it was resurrected in 1933, I believe, that great title that had been inaugurated by George Washington himself was brought back into common usage.

All World War I veterans who had had poison gas, in my father's case twice, or shrapnel, in my father's case once, were awarded separate Purple Hearts for each of those instances. Many Members may not know that if someone is wounded multiple times as the first Medal of Honor winner in Vietnam was wounded five times, Roger Donelan in one engagement back in 1964, that that would only account for one battle, one occurrence, and one Purple Heart.

What we are discussing here are people who have suffered, literally lost blood and suffered great anguish in the case of poison gas, not only for our own country but liberty as we have extended it around the world in far off corners of the globe.

This is a superb idea and I hope we get a unanimous vote on it.

Mrs. JOHNSON of Connecticut. Mr. Speaker, further reserving the right to object, I want to commend the gentleman from California for his comments because George Washington, himself, did conceive this badge of merit idea. But it was not until Douglas MacArthur restored it as the Purple Heart in celebration of the bicentennial of Washington's birthday that it became so broadly used to recognize unusual heroes in service to our country.

Mr. Speaker, I thank the chairman of the committee and appreciate the cooperation he has extended to us throughout this process. I can assure you that there will be many veterans in Enfield, CT, who will celebrate this Memorial Day with special gratitude for his leadership and thankfulness to the House.

Mr. Speaker, in our Nation's two centuries of existence, we have often been called upon to defend the United States and the principles upon which it was founded. Of all the brave Americans who have served in defense of our country during that time, none have given more than the nearly 2.5 million brave men and women killed or wounded in battle.

As a nation, we honor those individuals through the award known as the Purple Heart. The history of that award is an important part of the history of the Nation itself, dating to the Revolutionary War. In 1783, a sergeant in the 2d Connecticut Regiment of Light Dragoons named Elijah Churchill became the first soldier to receive the award which later became known as the Purple Heart. George Washington himself conceived the idea of a "Badge of Merit," as the award was known, to recognize these brave soldiers. Along with Sergeant Churchill, a handfull of other men received the award during the Revolutionary War, but it was not until 1932 that Douglas MacArthur announced it would be restored as the "Purple Heart," to commemorate the bicentennial of Washington's birth.

In Enfield, CT, the home of the Light Dragoons and Sergeant Churchill, a group of enthusiastic men and women have worked hard to create a permanent museum to commemorate the award and those Americans who have qualified for it. Over 4 years ago, the Purple Heart Museum Committee was formed for the purpose of making this dream come true. Mr. Speaker, as you know, there is no shortage of proposals for memorials to honor veterans, only a shortage of time and energy to follow through on worthy projects. The Purple Heart Museum Committee has been distinguished by its tireless efforts, and its success, in bringing the museum forward. Committee chairman Tony Porto, William Kiner, Eleanor D'Amato, Theodore Plamondon, and John Kane, along with many others are to be commended for their outstanding efforts.

The Purple Heart Museum Committee has been successful in raising funds from a variety of sources, and is in the process of acquiring the land on which the museum will be constructed. Nearly every State government has agreed to provide pertinent memorabilia, ensuring that the Purple Heart Museum will be a truly national monument to Americans killed or wounded in battle. Throughout this effort, the committee has never needed to ask the Federal Government for funding.

Mr. Speaker, by passing House Concurrent Resolution 126 today, the House of Representatives will provide the museum committee with the official recognition it has earned and, by extension, bring the National Purple Heart Museum one step closer to realization. It has been my pleasure and honor to assist the committee by introducing this resolution, and I urge the House to act favorably upon it today.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows: Heart Museum Committee, and encouraging the people of the United States to participate, in the development of a national museum to honor those individuals awarded the Purple Heart.

H. Con. Res. 126

Whereas George Washington established the Purple Heart, originally called the Badge of Merit, to honor members of the armed forces who are wounded in combat;

Whereas the first Purple Heart is believed to have been awarded on August 7, 1782, to Sergeant Elijah Churchill of the 2d Connecticut Regiment of Light Dragoons;

Whereas Sergeant Churchill resided near Enfield, Connecticut, and enlisted in the 2d Connecticut Regiment of Light Dragoons at Enfield, Connecticut; and

Whereas the National Purple Heart Museum Committee is developing the National Purple Heart Museum in Enfield, Connecticut, to honor those individuals awarded the Purple Heart and to inform and educate the people of the United States about the history and importance of this distinguished combat award: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress recognizes and supports the efforts of the National Purple Heart Museum Committee to develop the National Purple Heart Museum in Enfield, Connecticut, and encourages the people of the United States to participate in the development of such museum.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL HARNESS HORSE WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 378) to designate August 1–8, 1988, as "National Harness Horse Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. KASICH. Mr. Speaker, reserving the right to object, first of all please allow me to thank the subcommittee chairman, the gentleman from California [Mr. Dymally], and the gentlewoman from Maryland [Mrs. Morella] for their efforts in moving this measure to the floor so quickly. Their work obviously is greatly appreciated.

I thank them.

Mr. Speaker, House Joint Resolution 378 commemorates the harness horse and the harness horse industry. The harness horse goes back to the earliest days of our country, where it provided both a means of transportation and recreation.

Its contributions continue today. The harness horse industry generates $2 billion annually, and provides tens of thousands of jobs to trainers, drivers, veterinarians and the like. I have first hand knowledge of the economic benefits, as my district plays host each year to one of the industry's premier events, the Little Brown Jug, on leg of harness racing's triple crown. The industry also generates $100 million each year in tax revenues that is used to finance schools, roads, and agricultural concerns, among other things.

I'm pleased that 225 members of the House have joined me in seeking passage of this bill, and again wish to thank Chairman DYMALLY and Mrs. MORELLA for their efforts.

Mrs. MORELLA. Mr. Speaker, I rise in support of House Joint Resolution 378, a resolution designating August 1-8 as "National Harness Horse Week."

I commend my colleague, the gentleman from Ohio, for his introduction of this bill, bringing to the attention of the public the significance and history of the standardbred horse in the United States. Additionally, I would like to commend the gentleman for his diligence in having 226 Members of the House as cosponsors of this bill, including the entire Maryland delegation.

As a cosponsor of House Joint Resolution 378, I am pleased to say a few words about harness racing in my State of Maryland.

There are three harness racing tracks in Maryland but harness racing on the tracks is fairly new in the Free State. In speaking with Mr. Kenneth S. Schertle of the Maryland Racing Commission, I asked about the history of harness racing in our State. Without hesitation he said that it probably started when the first Maryland settlers drove their wagons to church and made a wager as to who would arrive first. Rosecroft, in Fort Washington, MD opened in the early 1940's and the original William Miller family is still involved with racing at that track.

For those who are harness racing fans, House Joint Resolution 378 has come to the floor at a very timely moment in Mayland's 1988 racing agenda. Rosecroft closed for the season on Sunday, Freestate Tracks will open tonight and Delmarva Downs will open on Friday.

Racing is one of the largest industries in Maryland—it jockeys between the second and third largest in the State—but there is no break down between thoroughbred and standardbred racing.

It is estimated that there are between 2,500 and 5,500 patrons at the track per evening. There are well over 15,000 licenses for participants in racing in the State. This includes grooms, caterers, trainers, ticket sellers, and so fourth.

Another observation about harness horses in Maryland, whereas thoroughbred horses are large expensive business, there are just a few standardbred breeding farms in Maryland. Most of these indigenous horses are raised in a "mom-and-pop" type operation on the Eastern Shore—a family type operation by many of the small farmers.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. KASICH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The clerk read the joint resolution, as follows:

H.J. RES. 378

Whereas the harness horse, or Standardbred, is a horse breed indigenous to the United States;

Whereas the utilization of harness horses as trotters and pacers dates back to the colonial days;

Whereas harness horses were an important early source of transportation in the United States and harness racing was one of the Nation's first sports;

Whereas trotting clubs, organized in the early 1820's in the northeastern United States, were among the Nation's earliest sports organizations;

Whereas the first American sports heroes were trotting horses and horsemen;

Whereas, in 1871, the growth in harness racing resulted in the creation of the Grand Circuit, which moved harness horses from track to track across the United States and which is among the Nation's oldest professional sports associations;

Whereas the harness horse has inspired works of art such as Currier and Ives lithographs, songs such as "Camptown Races", and numerous pieces of literature;

Whereas the harness horse industry generates approximately $2,000,000,000 annually and provides tens-of-thousands of jobs, including jobs for trainers, drivers, grooms, veterinarians, office personnel, and others who are directly involved in harness racing;

Whereas the harness horse industry also provides many benefits for people who are not directly involved in harness racing, including jobs in the travel, leisure, and maintenance industries;

Whereas, in 1986, approximately 20,000,000 people attended harness races at parimutuel tracks and countless other people enjoyed harness races at State and local fair operations across the Nation;

Whereas individual States gain approximately $100,000,000 annually in tax revenues from harness racing which is used to finance schools, roads, agricultural concerns, state and local fair operations, and numerous other government services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period August 1-8, 1988, is designated as "National Harness Horse Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the period with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL RECYCLING MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 469) to designate June 1988 as "National Recycling Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I certainly do not object, I am happy to yield to my friend, the gentleman from California [Mr. DYMALLY] for whatever comments he might like to make on this legislation.

Mr. DYMALLY. I thank the gentleman for yielding.

Mr. Speaker, I note with some interest that the gentleman from California [Mr. HAWKINS], has introduced this joint resolution to focus attention on solid waste disposal and the crisis which exists in the United States. Half of the major cities in the United States at some point will have to make a determination about recycling their waste. So I think this resolution is very timely and I congratulate the chairman of the Committee on Education and Labor for bringing this to the attention of the Members.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 469

Whereas a solid waste disposal crisis exists in the United States;

Whereas half of the major cities in the United States will have no space available for disposal of garbage within 5 years;

Whereas trash incineration and non-incineration industries should adopt recycling methods;

Whereas source separation, mechanical separation, and community-based recycling programs divert a significant portion of waste from landfills;

Whereas recycling preserves limited landfill capacity for disposal of nontoxic waste;

Whereas recycling saves energy and avoids the pollution created in extracting resources from their natural environment;

Whereas the revenues from goods received by public sector recycling programs help to offset the costs of the programs;

Whereas shared savings, which accrue by avoiding the higher cost of landfills or incineration, make recycling an economically efficient disposal policy even where markets for recycled materials are weak or undeveloped;

Whereas a well-developed system of recycling scrap metals, paper, and glass already exists and significantly reduces the quantity of solid waste composed of metal, paper, and glass;

Whereas substantial increases in the amount of materials recycled will require development of markets that absorb the increase in the amount of materials recycled, known as incremental markets;

Whereas many consumer products are designed without sufficient regard for safe and efficient recycling after disposal;

Whereas the Federal Government and State and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;

Whereas the Federal Government and State and local governments should encourage the growth of incremental markets for materials recovered from recyclable goods;

Whereas the Federal Government and State and local governments should promote the design of products that can be recycled safely and efficiently after use;

Whereas the Federal Government and State and local governments should establish requirements for in-home separation of waste to enable efficient recycling; and

Whereas the people of the United States should be encouraged to participate in educational and legislative endeavors that promote waste separation methods, community-based recycling programs, and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 1988 is designated as "National Recycling Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three matters just considered, House Concurrent Resolution 126, House Joint Resolution 378, and House Joint Resolution 469.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATIONS FROM THE HONORABLE LEE H. HAMILTON, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. GRAY of Illinois) laid before the House the following communications from the Honorable LEE H. HAMILTON, a Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 1988.

Hon. JIM WRIGHT,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have previously notified you of the receipt of a subpoena by a member of my staff, Mr. Brian Geoghegan, issued by the Superior Court of the District of Columbia. After consultation with the General Counsel to the Clerk, pursuant to Rule L(50) of the Rules of the House of Representatives, I have determined that compliance with the subpoena would be consistent with the privileges and precedents of the House.

Sincerely,

LEE H. HAMILTON,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 1988.

Hon. JIM WRIGHT,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that members of my staff, Mr. Brian Geoghegan and Mr. Christopher Kojm, have been served with a subpoena issued by the Superior Court of the District of Columbia. After consultation with the General Counsel to the Clerk, I will notify you of my determinations as required by the House Rule.

Sincerely,

LEE H. HAMILTON,
Member of Congress.

CAPE COUNTY BANK CENTENNIAL

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EMERSON. Mr. Speaker, last Saturday I had the privilege of attending the formal celebration of the centennial of the Cape County Bank of Jackson, MO.

This institution is a financial business leader in Missouri and has been "a rock" in our community throughout its life.

Mr. Speaker, all of us are proud of the communities we represent. The celebration of 100 years of service by any institution is a real milestone, and cause for celebration. In the case of the Cape County Bank, the conservative, progressive leadership it has shown for so long is an inspiration to our entire community. It represents a thread in our history that ultimately comes together with other threads to help form the fabric of our Nation. From the steady growth and progress of ancient institutions such as this comes inspiration for others in this and future generations, and it is appropriate that our communities and we take note of such significant milestones.

I am pleased at this point to share a history of Cape County Bank.

HISTORY OF CAPE COUNTY BANK

The oldest bank in Cape Girardeau County was organized on May 15, 1888. On May 17, 1888, the local Cash-Book newspaper reported: "Jackson now has a bank—the Cape Girardeau County Savings Bank, with a capital of $15,000. The stockholders are: J.H. Schaefer, J.B. Shaner, F. Tiedemann, W.H. Miller, H.W. Howard, S.D. Williams and J.E. Franklin, with Mr. J.E. Franklin as business manager. This is an institution that Jackson has been needing for very many years. The bank may be considered a fixture, for the stockholders are all gentlemen of the highest integrity and have gone into the business meaning business. The manager, Mr. J.E. Franklin, comes among us recommended by some of the leading and best men in the state, and with an experience in the banking business that insures the institution success from the start."

Thus, from the start, Cape County Bank enjoyed success under its first president, J.E. Franklin. In 1889 Charles Welling became the first cashier. By September, 1890, the bank's capital had grown to $25,000 and continued to grow to $50,000 in capital stock by 1894. In that year, W.H. Miller became the second president; Joseph Koehler, cashier, followed by D.B. Seibert, cashier.

The bank, its name changed in 1907 to Cape County Savings Bank, has been in the same building on the corner of South High and Main Streets, although it did not always occupy the same space. Originally, there was a saloon in what is now the south part of the bank, and at one time a banana store was on the west. A barber shop was upstairs and tellers had an alarm system which would ring a bell in the shop. Tellers of the early era also kept a pistol in their cash drawers. However, the bank was never robbed.

Tragedy occurred in February of 1912 when Ed Howard, cashier of Cape County Savings Bank, was killed in an unusual elevator accident in St. Louis. Alvin Boss succeeded him as cashier and Alvin G. Penzel was named assistant cashier.

In April, 1928, the Peoples National Bank was acquired by the Cape County Savings Bank, at which time Mr. John R. Mabrey, cashier of Peoples National, came to Cape County Savings Bank as assistant cashier. Also, the Bank of Pocahontas was acquired in the early 1930's by Cape County Savings Bank.

Though the "depression years" were difficult and many banks failed, Cape County Savings Bank was not affected as they had made comparatively few large real estate loans and they had few "frozen assets".

Expansion had become a trademark of Cape County Savings Bank.

In 1920, the Oliver Building immediately to the west, which had been used as a restaurant, was purchased, adding to what is now the tellers' working space and the immediate working area behind. In 1942, the Jones building was acquired by long-term lease, providing new bookkeeping facilities. A large vault was built and the first night depository in Jackson was constructed. A complete remodeling of the building was made in 1952, at which time, the old brick exterior was replaced with the present limestone and a cupola over the front entrance was removed. The entire interior was also remodeled at that time. In 1960 the front portion of the Jones building, occupied by the Hoffmeister Barber Shop, was remodeled to provide storage, directors' rooms, and private offices for officers. Uleke's Jewelry and Jackson Realty office were purchased in 1964 for later expansion.

In 1970 the drive-in window was installed and in 1971 the drive-through facility at 402 West Main Street. The East facility located at Highway 61 East was completed in early 1983.

The Cape County Bank of Cape Girardeau was chartered in July, 1983, and opened its temporary quarters on Mt. Auburn Road. Mr. William L. Bowers became this bank's first president. Formation of County Bancorporation, Inc., the bank's holding company, was completed November 14, 1983. Within a year, the Cape bank celebrated the "grand opening" of its new bank at 101 South Mt. Auburn Road on July 14, 1984.

While hammers and saws were still "hot", remodeling began at the Main Bank in Jackson. In December 1985, Cape County Bank proudly welcomed its customers and friends to view the most up-to-date and beautiful bank in the county.

The Delta Counties Bank was chartered in 1986. Located in Sikeston, Missouri, the bank became part of County Bancorporation, Inc., in 1987. Completion of their new building was in December, 1987. Mr. J. Stan Thompson is serving as Delta Counties Bank's first president.

The 1st National Bank in Perryville, Missouri, became part of County Bancorporation, Inc., in December 1987. Mr. David Crader is serving as president.

Cape County Bank, as the bank came to be known as of November 1, 1977, owes its continued success and present strength to the vigilance, conservatism, judgment and fine leadership of its presidents, capable officers, and directors throughout its 100 years of continuous service. The presidents are listed as follows:

J.E. Franklin, 1888-1894.
W.H. Miller, 1894-1914.
W.C. Cracraft, 1914-1923.
C.W. Henderson, 1923-1926.
A.A. Boss, 1926-1940.
Henry Puls, 1940-1950.
Louis H. Schrader, 1950-1975.
Edwin R. Puls, 1975-1984.
Van H. Puls, 1985-1987.
Kent H. Puchbauer, 1987-present.

Some other officers, cashiers, and directors who contributed much to Cape County Bank's success include:

Henry Boss, 1922-1926; 1956-1974.
John Ellis, 1944-1974.
Joe Smith, 1928-1974.
Melba Brugger, 1947-1986.
Roy Deneke, 1961-1987.
Richard G. Davis, 1971-present.

From its inception and comparatively meager capital of $15,000 to present assets of $100,000,000 service to its customers and the community has been Cape County Bank's "primary product". The dedication of officers and staff to continue this same service will assure the continued success that was predicted 100 years ago.

NATIONAL PARK SYSTEM IMPROVEMENT

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VENTO. Mr. Speaker, recently the Secretary of the Interior, Mr. Donald Hodel, has granted historic recognition and status to the Whittaker Chambers pumpkin patch. This is very disappointing because it is in contradiction of the decision by the National Park Service Advisory Board, which has to pass judgment on this type of designation this board, unanimously voted against recognition of the proposed designation of such site. This is the first time in memory that a Secretary of the Interior has acted in spite of the strong opposition of this professional advisory committee. The natural and cultural resources of this country that are protected under Federal law and administered by the National Park Service are very important. In taking this action, which the Secretary had the power to do. He has discarded the advice of the professionals concerning this site and has imposed a political decision on preservation in the National Park System.

Mr. Speaker, the way to avoid this is to try and free up insofar as we can the National Park Service and the other resource management agencies from the type of political intervention apparent in this instance. Legislation I have introduced, H.R. 3964, will help do that, Mr. Speaker.

I hope Members will look at this politicalization of the cultural preservation efforts in our country and recognize the necessity of changing this particular policy and help maintain the integrity of the National Park System. The following news report and opt-editorial articles comment on this unusual and inappropriate action by Secretary of the Interior Hodel.

Mr. Speaker, I include for the RECORD the newspaper articles to which I have referred and an outline of the proposal that I've sponsored to address the NPS independence:

[From the Wall Street Journal, May 15, 1988]

WHITE HOUSE HARVESTS SPY-SAGA FARM FOR ROLLS OF U.S. HISTORIC LANDMARKS

(By Barbara Rosewicz)

WASHINGTON.—The Reagan administration is seeing to it that America remembers the 1940s Alger Hiss spy saga and the threat of Soviet communism—by helping preserve the site of Whittaker Chamber's pumpkin patch.

Interior Secretary Donald Hodel, overriding a National Park Service advisory panel, designated Chamber's 390-acre farm a national historic landmark. From a hollowed-out pumpkin at the farm in Westminister, Md., the communist-turned-conservative plucked out in 1948 hidden micro-film used in convicting Mr. Hiss of perjury in one of the most famous cases of the Red Scare.

Though the designation keeps the land in private hands, it puts the farm on an elite list of 1,828 sites around the nation deemed to have extraordinary national historical significance.

The farm will get a bronze plaque. But more important for conservatives, the designation will help preserve the memory of Mr. Chambers, who died in 1961, as a hero of their movement. His 1952 autobiography, "Witness," is hailed as a compelling anti-communist treatise that influenced, among others, young Ronald Reagan.

Some are worried that Mr. Chamber's conservative credentials swayed Mr. Hodel—more than the site's historic importance—to pull rank and name the farm a national landmark.

Mr. Hodel made the designation despite the unanimous conclusion of the National Park Service Advisory Board that the site didn't merit an exception to its rule of waiting at least 50 years after a historic incident to designate a landmark. It was the first time an interior secretary has overruled the board of outside advisers. "I'm surprised and disappointed," said the board's chairman, Daniel Jordan, director of the Thomas Jefferson Memorial Foundation in Monticello, Va.

Mr. Hodel, who appropriately enough announced his decision to a gathering at the conservative Heritage Foundation think tank, said he expected to draw controversy. But he said that was no reason "to walk away from an opportunity to do what is right."

Mr. Chambers, a former Time magazine editor, was a courier for the Russians in the late 1930s. A decade later, after renouncing communism, he helped make then-congressman Richard Nixon famous at Capitol Hill hearings at which Mr. Chambers accused Mr. Hiss of joining in a communist spy ring while working at the State Department.

Mr. Hiss denied the charges, but was convicted of perjury in January 1950 and spent 44 months in prison. Among the evidence against him were Mr. Chamber's microfilm of State Department documents, and other documents Mr. Chambers had squirreled away, including memos in Mr. Hiss's handwriting and top-secret documents copied on Mr. Hiss's typewriter.

Mr. Hodel flatly rejected a suggestion the Park Service should have considered other sites, including Mr. Hiss's former Washington home, for memorializing the controversial case. "The secretary will not designate that site as a national historic landmark," Mr. Hodel stated.

[From the Washington Post, May 22, 1988]

WHITTAKER CHAMBERS' PUMPKIN PATCH: PRESERVATION HAS BEEN POLITICIZED

Dec. 2, 1948. Pipe Creek Farm near Westminster, Md. In the presence of two investigators from the House Un-American Activities Committee, Whittaker Chambers, a self-proclaimed former communist and Soviet espionage courier, marched into his garden patch and lifted the top from a hollowed-out pumpkin. As part of an act of contrived melodrama, he reached inside and pulled out microfilm copies of State Department documents that he had placed there earlier that day.

With his "Pumpkin Papers" in hand, Chambers startled the nation by declaring that Alger Hiss, the polished and patrician president of the Carnegie Endowment for International Peace—considered by many a pillar of the New Deal liberal establishment—had been a Soviet agent. Chambers charged that in the 1930s, Hiss, while a high-ranking State Department official, had passed these and other secret documents to Chambers for delivery to the Russian intelligence service.

Following two dramatic and highly publicized trials, a jury convicted Hiss of perjury in 1950 and sentenced him to five years' imprisonment. Chambers retreated from the public eye to his Pipe Creek Farm and there wrote an 800-page "Book of the Month Club" selection. "Witness" quickly became a best seller.

Nearly 40 years have elapsed since the close of this celebrated case, which heralded the McCarthy era. While passions have cooled somewhat, partisans and historians alike periodically revise the Hiss/Chambers controversy. And last week the secretary of the interior, Donald Hodel, did his part to rekindle the fire when he declared Whittaker Chambers "a historical figure of transcendent importance in the nation's history." In front of a sympathetic Heritage Foundation audience, the secretary designated Chambers' Pipe Creek Farm a national historic landmark, thereby placing it among the nation's premier historic properties.

This action politicized a national historic preservation program designed to impartially recognize people and events of national significance. Of the more than 170 national landmarks designated during this secretary's term, this is the only one he initiated personally. It is the first and only national landmark designation ever made over the unanimous objections of the secretary's own National Park System Advisory Board. The secretary also chose to ignore a technical, but sensible, landmark program guideline that recommends against designating a national landmark before 50 years have elapsed since the historical event. Of the 1,828 national landmarks, only a handful have been designated as "exceptions" to the 50-year rule, and none over the objections of the advisory board.

This designation was a rush to judgment by an influential group of arch-conservatives who wish to see Chambers appropriately "honored." To wait another 10 years before declaring the Chambers farm a landmark would be too long for these partisans operating in the twilight of the Reagan administration—the political atmosphere and possibly the judgement of history might not warrant "honoring" Chambers.

The fact is that neither Chambers nor his farm possesses "transcendent national significance," as Hodel proclaimed. Granted, Chambers was a pivotal figure in the Hiss/Chambers trial. But it is the Hiss/Chambers *case*, not Whittaker Chambers the man, nor his farm, that possesses national historical significance. It is Hiss' conviction and the consequences of that conviction that possess national significance. That is the event worth recognizing.

Since the landmark program is designed to "commemorate and illustrate the history and prehistory of the United States," why didn't the secretary seriously consider designating the Cold War/McCarthy era sites—Hiss' Volta Place residence in Georgetown, where the documents were allegedly passed, or the federal courthouse in New York's Foley Square, where the trial was held, or even the site in Wheeling, W.Va., where Joseph McCarthy delivered his famous speech? While the National Park Service did make a cursory assessment of a couple of such sites, no study (commonly prepared before designating landmarks) was prepared of them. Instead, the secretary designated an obliterated pumpkin patch infiltrated with red tomatoes.

It seems clear to me that the administration could care less about the Hiss/Chambers case. The secretary's goal was simply to "honor" Chambers, even though he was honored posthumously (in 1984) with the Medal of Freedom. But the national landmarks program is not designed to "honor" ideological heroes of either the right or the left. Hodel's decision is an unprecedented politicization of an important element of the nation's preservation program—an unwise mix of ideology and history and an unwarranted bending of programatic procedures designed to render impartial historical designations.—Bruce Craig.

MARITIME DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, after celebrating "National Maritime Day" on Sunday May 22, 1988, we are now celebrating National Maritime Week.

I use the term celebrating loosely because, Mr. Speaker, minimal attention has been paid on a local or national level to mark this very special time to commemorate the U.S. merchant marine and the U.S. shipbuilding industry both of whom played an important part in winning World War I, World War II, as well as supporting the military missions in Korea and Vietnam.

During the darkest days of the country, our shipbuilding industry responded with an industrial effort of producing more than 6,000 vessels during a short 4-year period. Some 600 of these were produced in the great port of Baltimore. No other nation would have been able to accomplish such a record. And I'm not certain we would be able to do so again because of the drying up of so many of our basic and vital industries.

I believe the apparent apathy for celebrating is symptomatic of the ills plaguing our maritime industries today, as detailed by the President's Commission on Merchant Marine and Defense which decries the lack of manufacturing of vital components here.

Part of the problem is the lack of widespread public support and the maritime industries and the workers in their employ should use National Maritime Day and National Maritime Week to spotlight the importance these industries are to the commercial and military security of the United States and how their mere existence is being seriously threatened.

May 22 was selected as National Maritime Day on a permanent basis in 1933 in recognition of May 22, 1819, when the S.S. *Savannah*, the first steam-powered American-flag vessel began her first transatlantic voyage, arriving in Liverpool, England on June 20, 1819.

On her return voyage, her sails were unfurled and she returned by sail exclusively because of the high cost of coal. Her engine was turned on as she approached the Savannah River.

Mr. Speaker, I salute our merchant marine and shipbuilding industries and I hope that next year and for time immemorial, we never overlook the contributions our merchant marine and shipbuilding industry have made or the tremendous role they play in making the United States the great country that it is.

TRIBUTE TO EUPHON L. METZGER

The SPEAKER pro tempore [Mr. PICKLE]. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, official accounts generally portray the House of Representatives as a legislative body composed of 435 elected Members of Congress. Behind the elected body, however, is a cadre of staff serving this country with vigor and dedication. A key member of that cadre for the Committee on Government Operations has been Euphon L. Metzger, clerk for the Government Information, Justice, and Agriculture Subcommittee. This past weekend, a tragic automobile accident resulted in her untimely death.

Euphon's coworkers on the committee respected her as a thorough, hardworking staff member who served as the linchpin for coordinating the support on hearing and report preparation. Her subcommittee chairmen, Represenative GLENN ENGLISH and former Representative Richard Preyer, respected her loyalty and dedication. Her friends respected her good nature, her caring attitude, and her kindness.

Euphon's dedication to the work of the committee did not diminish her interests in other areas. She was an avid gardener who could beautifully arrange flower displays. She enjoyed playing bridge and attending concerts at the Kennedy Center. She was a devoted and loving mother to her daughter, Alyson, a student at the University of North Carolina, Chapel Hill, and her son, Joseph, who lives in Fairfax, VA.

Euphon Metzger was born and reared in North Carolina. She received a bachelor of arts degree from High Point College in 1959, where she majored in social studies. She attended graduate school at Duke University, American University, and the University of North Carolina. After graduating from college, she taught elementary and junior high school. In the mid-1960's, she briefly served on the staff of the Honorable Horace R. Kornegay, a former representative from her native North Carolina. Prior to joining the committee staff, she was associated with North Carolina Memorial Hospital in Chapel Hill, NC. In September 1977, she began her service on the subcommittee now known as the Government Information, Justice, and Agriculture Subcommittee.

Funeral services will be held later this week in her native North Carolina. Next week, at a time to be announced, a memorial service for her many friends and associates in Washington will be held in the committee hearing room, 2154 Rayburn House Office Building.

Euphon will be greatly missed by her friends and coworkers on the committee. To her children, Alyson and Joseph, and her family in North Carolina, especially her mother, Mrs. Grace Sumner, we extend our sincere sympathy. It has been a privilege to know her and to be associated with her these past 11 years.

TRAGEDY IN WINNETKA, IL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. PORTER. Mr. Speaker, last Friday morning a woman named Laurie Dann walked into a second grade classroom in the Hubbard Woods Elementary School in Winnetka, IL, not far from where I lived for 5 years. Brandishing a gun and carrying two others, she began shooting. Eight-year-old Nicholas Corwin was murdered and five other children seriously wounded.

Earlier, Ms. Dann had attempted to place incendiary devices at a child care center and another elementary school, set a house on fire, and later she shot a seventh victim—a Winnetka man—before taking her own life.

It is obvious that only an extremely disturbed person could have committed these horrible acts directed at innocent, defenseless children. That Ms. Dann was apparently mentally ill and desperately in need of psychiatric help has come out in the wake of these chilling events. At the time of their occurrence, she was about to be indicted for making threatening phone calls to a number of people, including her ex-husband, who believed she had also attempted to kill him with an ice pick while he was sleeping.

Laurie Dann was able, under Illinois law, to purchase locally the three handguns she used last Friday. In fact, she has a permit to carry one of them, a .357 Magnum.

The administrators and teachers of Hubbard Woods elementary school, headed by Principal Richard Streedain, special teams of psychologists and psychiatrists who joined in to help, and the entire Winnetka community, did a magnificent job in immediately counseling the school children, their parents and immediate family in attempting to contain the damage that Laurie Dann had inflicted upon impressionable young children, innocently caught in the maelstrom of blood and death.

We recoil from the horror of these events and at once share the grief of Nicholas Corwin's family, friends and classmates and the pain of the others wounded by the bullets from Laurie Dann's guns.

Without doubt, it is difficult to generalize from these events and to draw rational conclusions regarding what society and government can do to prevent further horror of this type from occurring.

Plainly, more must be done to get help at an early time for people whose erratic and antisocial behavior should ring bells that danger to others as well as the individual herself may lie ahead. Perhaps experts on treatment of mentally ill or disturbed persons can help us formulate better policies to get people in need of help to it as quickly as possible.

Second, we must question laws that apparently are not sufficient to put handguns beyond the reach of a Laurie Dann. I have consistently advocated a Federal law delaying delivery of a purchased handgun for 15 days until the FBI can check that the purchaser is not a convicted felon or mentally ill. Constitutional standards might prevent such a law from withholding ultimate delivery of a gun to a person like Ms. Dann, who had never actually received mental health treatment and had not yet been indicted, let alone convicted, of any crime. In fact, Ms. Dann purchased the guns in the face of a similar Illinois law.

But the threat of an FBI investigation might deter other would-be assassins. John Hinkley would perhaps have been deterred from purchasing a handgun over the counter in Dallas, a gun he then took to Washington where he shot President Reagan and gravely wounded Jim Brady. Would he have waited 15 days in Dallas while the FBI checked up on him? Perhaps not.

Third, each of us should give serious consideration to the fare of extreme violence that enters our homes every day disguised as TV entertainment. Clearly, I am not talking about censorship, or anything like it, but about Americans choosing their entertainment and allowing their children to choose theirs without thinking of the ultimate psychological effect it might have.

We can never know whether this was a factor in the Winnetka horror, but we must examine our values and ask ourselves if this is the kind of entertainment we want to support and encourage. If we don't support it, it won't exist.

Our hearts go out to the children of the Hubbard Woods School, to their brave and extraordinarily competent and sensitive administrators and teachers, to the parents, family and friends of those involved, and particularly, to those of Nicholas Corwin.

But it is not enough that we grieve and share their sorrow and pain. We must reflect and act so that this type of horror never can happen again.

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CONGRESSIONAL ADVISORY COMMISSION ON AMATEUR BOXING AND THE FEDERAL PROFESSIONAL BOXING PROHIBITION ACT OF 1988

The **SPEAKER** pro tempore [Mr. PICKLE]. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ], is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, today I am reintroducing a bill that I originally introduced in 1984 to ban professional boxing and to establish a Congressional Advisory Commission on Amateur Boxing. Had Congress considered this legislation any sooner, chances are that many of the new tragedies associated with boxing would have also been eliminated. But as a result, incident after tragic incident has continued bringing pain and sorrow to families of men who are injured or killed in this violent sport. It is high time that Congress do something about it. I offer an opportunity for positive action today by reintroducing this bill.

As a former amateur boxer, I myself know about the many dangers associated with so-called sport. The boxing industry is unsafe, unhealthy and in great need of reform—and in the case of professional boxing—outright abolition. For many years, I have watched as young men, mostly black or Hispanic, mostly poor, uneducated, and without trade or employment, were recruited, trained and encouraged to fight their way out of poverty into the world of boxing. Boxing is their salvation, they are told—it is their road out of the ghetto. Boxing supposedly gives them opportunities they otherwise would never have. Boxing supposedly gives them a reason to stay out of trouble, to have a purpose in life, a future, respect and the romantic notion of ascending to "Rocky" status. I have watched all this—and listened—and I am impelled now to act.

My bill bans only professional boxing in order to remove the illusory incentives of a professional boxing career. For amateur boxing, my bill would establish a Congressional Advisory Commission. This Commission would study amateur boxing and its present regulations, determine the sufficiency of the current safeguards, and make recommendations for future action to be taken to protect the health and potential of America's young boxers. I recognize that amateur boxing provides some limited opportunities for young men, but prolonged participation in boxing clearly has proven harmful effects on the health of fighters. With some safeguards, amateur boxing can be a positive experience—but only if boxing is carried on with strict safety regulations and for only a short period of time.

Professional boxing, however, is another matter. What kind of opportunities are provided for these young men through professional boxing? The opportunities I see all involve violence, personal injury and massive exploitation. The very goal of a boxer in the ring is to render his opponent unconscious—to fight until only one fighter remains standing. Boxing is a simplistic display of one man's physical prowess prevailing over his opponent's.

But even the victor must share an element of physical defeat, for by the very act of knocking his opponent senseless, he too endures physical abuse. One fighter may prevail over the other, but neither prevails over the limitations of the human body.

Repeated blows to the fighter's head are the most direct means to victory for a boxer—professional boxers are paid to hit and be hit. But just as a boxer is paid, he also pays dearly in return for the sometimes silent but ever present injuries his brain suffers. The American Medical Association has studied the prolonged effects of boxing on a fighter's brain, and has reached the same conclusion as I have during these past years—that professional boxing should be banned. Every professional boxer suffers some degree of brain damage—every one. Some of the damage is minimal; some is readily evident; some does not manifest itself for years, all the while keeping its dreadful consequences hidden from the knowledge of the boxer. We all know the familiar stereotype of the has been Palooka, the shambling wrecks of fighters who took one, or a thousand, too many punches.

If boxing provides such wonderful opportunities, as I am told, then why aren't young men from all walks of life recruited for the sport? Why are educational opportunities, mainstream employment, and long-term beneficial opportunities saved for only some of America's youth while boxing and other violent sports seek participants from America's poorer corners? I find it appalling to think that as the expense of a real future—a future of health, of learning, of meaningful work—young men devote their early years to training to become fighters at the expense of their education and time to learn a trade or profession.

Young men are exploited by the boxing profession—the promise of fame and riches is flashed in their eyes so they are blinded to the realities of a fighter's life—a life where few are famous, few are wealthy, but risk their health. We all know that for every Leonard or Ali there are 1,000 Kims, 10,000 punched-out wrecks. For a youngster from a poor neighborhood who has few material possessions, his health may be all he has. Boxing will likely take his health and almost certainly give him nothing in return. How much better it would be to allow him to keep his health and develop his mind and his abilities. How much better it would be to develop his mind than to render it useless through fighting.

Once professional boxing is made illegal, amateur fighters will have no incentive to pursue boxing in lieu of their education and training. There will be no illusions of making a living from boxing. Since there will be no monetary rewards from boxing, a boxer's career will be relatively short, and the damage to his health, particularly with the use of safety equipment and stringent safety regulations, will be minimal.

I think we owe all of America's youth equal opportunities for a solid education and useful, financially satisfying employment. Each young man has the right to his health, and we owe each young man an education and future—a road out of poverty that does not dead end in boxing, but a mainstream of education and training that leads to a healthy and secure future. We must stop guiding some youth toward the opportunities and security of Madison Avenue while guiding others toward the eventual, empty destitution of Madison Square Garden.

WHAT A FUTILE PROPOSITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, "* * * the time is not right for coin design change * * *," says Ms. Geri Kowalski of Forest Park, IL, in a letter to the editor of coinage publication "Numismatic News" [May 10, 1988]. Ms. Kowalski is just one of many people around the country who have become aware of the movement underway to redesign the Nation's coins. As people learn about this ludicrous proposal, they are voicing their views loudly and clearly.

In another "Numismatic News" letter [May 10, 1988], Edmund W.E. Stein of Boston, MA, expresses a concurring opinion: "* * * Diane Wolf is promoting Diane Wolf. Changing the designs of our coinage should be done carefully and with due consideration of the longevity of our Nation. Changing all our designs should not be just another year's fashions."

The publication also heard from H. Albrecht of Bridgeport, CT (April 26, 1988): "I have read everything you people have printed in favor of changing coin designs. What a futile proposition. * * *"

Others around the country are showing concerns that we in Government are not expending our efforts and the taxpayers' money in useful, meaningful ways in considering this proposal. "Hands Off!" is the headline of an editorial which appeared in the Indianapolis Star [April 25, 1988]. The writer feels that we should leave our coins alone and expresses doubts about our priorities in Congress. After the embarrassing budget situation last year we ought to make sure that our actions here in Congress serve to bolster the public's faith in this institution, not to cast further doubt on our ability to make sound policies for governing this country.

It is important in this time of deficit spending and program cutbacks that we instill in the American public more confidence in the legislative branch of the Government. Wasting time and money on such superfluous legislation is not an undertaking which is worthy of the Congress' attention at this time. With this in mind, I ask my colleagues to carefully consider the following editorial from the Indianapolis Star. These comments are representative of the views of many Americans. They foreshadow the deluge of letters from hostile constituents which we will all receive should we pass coin design change legislation.

[From the Indianapolis Star, Apr. 25, 1988]

HANDS OFF!

You'd think the government had learned its lesson with the Susan B. Anthony dollar. Apparently not. There's a move afoot to tamper with the designs of the five major U.S. coins, the penny through the half dollar.

Who needs it?

Well, nobody actually. But a good number of people sure want it. People such as artists, mining interests, coin dealers and collectors, for example. Also pushing for change is the federal Commission on Fine Arts, which has talked members of Congress into introducing bills in both the House and Senate ordering the mint to redesign and modernize the coins.

Even without congressional approval, the secretary of the Treasury may change the design of any coin that has been in circulation for more than 25 years. That covers all major coins except the Kennedy half dollar.

But why in the name of good sense should the secretary begin a horrendously costly and bothersome change just for the sake of change? There are an estimated 127 billion U.S coins in circulation. Presumably the same breathtaking number of new ones would be rushed into production.

Whatever is said publicly about the need for new images and new inspiration, there is but one motive behind the change: it will mean big bucks to a select group of interested parties.

No disinterested citizen should buy the line that the government will make money on the deal. What Uncle Sam realizes in collector sales won't hold a candle to the cost of retrieving and disposing of the old coins, distributing the new ones and informing and persuading the public to accept them.

Surely the federal government can find something better to do with its time and the people's money. As for the Commission on Fine Arts, if members must meddle in metals, let them limit their thirst for novelty to numismatic coins and national medals.

CHALLENGING THE PRODUCTIVITY OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wyoming [Mr. CHENEY] is recognized for 60 minutes.

GENERAL LEAVE

Mr. CHENEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. CHENEY. Mr. Speaker, most Members of Congress are intelligent, honest people. They work hard for their constituents. Nevertheless, despite all of the individual talent, Congress is not performing the way it should. The individual Members are good politicians, but the institution as a whole is not good at governing.

Mr. Speaker, those two points are related. Individual Members find it easier to get reelected if they can evade responsibility for what the entire institution does. And what is the net result? The American people reelect almost every incumbent who seeks reelection and then feel unhappy and dissatisfied with the way the entire institution functions.

As the minority party in Congress we Republicans have a direct stake in challenging this state of affairs. We need to make sure that people understand that the performance of the whole institution comes from the behavior of individual Members. The people ought to understand how the majority regularly lets the Members evade responsibility for making decisions that the public does not support.

For that reason my Republican colleagues and I have decided to take this special order today to lay out the way this institution works and does not work. We need to pierce through the technicalities to help people see what is going on.

Mr. Speaker, we will begin with the committee system, at the start of the legislative process, and progress through to end with the power of incumbency.

We start with committees because the committees are supposed to be Congress' experts. The committees are where the main legislative work of Congress is supposed to be done.

To take us through that subject, Mr. Speaker, I am pleased to yield 7 minutes to the distinguished minority leader from Illinois, Mr. MICHEL.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Wyoming [Mr. CHENEY] for yielding this time to me, and I commend him for taking this special order that we might collectively make some very cogent points with respect to the operation of the House of Representatives.

As we begin this review of the performance of the House in recent years, we see some very disturbing trends. We see a less thoughtful process, sloppier laws, declining productivity and an emphasis on the frivolous as against the substantive. The average citizen's life is made more complicated, more difficult, by poorly drafted and often contradictory laws. The problems run deep. I would like to start with the committee system.

Traditionally, the committee system has been the heart and soul of the House. It is in the committees where legislation begins its journey, where hearings are held, where we search, and background information is developed and where legislation is refined to theoretically make it more workable.

Many of us have been here for some time, have placed great stock in the committee recommendations feeling that the committee members have developed the knowledge and information base necessary to make responsible recommendations.

It is precisely because of the important role that committees have played and must of necessity play in the House that it is so disturbing to see their decline in productivity.

In the nearly 32 years that I have been in Congress we have seen a fivefold increase in committee staff, but a 70 percent decline in legislation moved out of committees. The bigger we get, the less we do.

Now one might say that it is not all that bad for the committees to report out fewer bills since it might limit the mischief Government gets into. I think many of us on occasion have applauded that. However, the logical question is:

Do we need such large numbers of committee staffs and so many more subcommittees to act on such limited number of bills?

Mr. Speaker, there are not many private companies which could survive a continuing high overhead with such a loss in production, and there is more.

As you will note from the chart that has been displayed, the amount of committee hearings has declined rather dramatically over the past 10 years, in essence a 41-percent drop from between 1977 and 1986. What this means is that the committees are doing considerably less in developing background and obtaining public input on the various pieces of legislation. All the while committee overhead costs continue to rise.

What the committees are doing more of are media extravaganzas called field hearings where generally the only purpose is to enhance the reelectability of committee members.

The next chart, the second chart, shows that an increasing number of bills are being taken up and adopted in the House without even having been acted upon by a committee. In the 95th Congress, the ratio between bills reported from committee and bills passed by the House is roughly equal, which is the way it should be. By the 99th Congress, however, over 300 bills were passed by the House that were never acted on by committees. In other words, on those bills the House was forced to make judgment without benefit of committee research, committee hearings, committee refinement or committee recommendations.

In some cases of course this superseding of the committee results when the leadership of this House rams legislation through mostly for political purposes. The so-called Pepper health care bill comes immediately to mind which we will probably have on the floor of this House, I was advised by the distinguished chairman this afternoon, June 7 or 8. We will be dealing with it on the House floor without it having gone through the normal committee process.

On the other hand, and ever too frequently, the committees are often bypassed because they do not act. They particularly fail to act on authorization bills necessary to continue expiring programs, and, when they have acted, they have all too frequently crammed reauthorizations into huge mega bills or continuing resolutions.

Authorization bills are the backbone of the legislative process. The authorizations come first in the cycle. They provide the legal framework for most major Federal programs and activities, and, once a program has been authorized, it is then funded by an appropriation bill.

That is our traditional two-step process in this body, and, when authorizations or reauthorizations are not acted upon as individual measures, we are denied the opportunity to reform and improve the programs involved, and, when we fail to do so, we shortchange the American people out there who sent us here in the first place to do a good job.

Mr. Speaker, the continuing resolution last year contained over $44 billion in unauthorized programs comprising 45 major laws that had not been reenacted. We have been in session almost 4 months now this year, and we have not moved on the vast bulk of those programs.

And on top of that we have $228 billion of expiring programs this year for which new authorization legislation has got to be provided. Otherwise we are operating outside the law.

The Energy and Water Appropriation bill we passed in the House last week had $4.4 billion in unauthorized items. And that would not be an isolated example.

Mr. Speaker, it is one thing for the committees to fail to act on legislation developing new programs. It is quite another for them to fail to move essential legislation.

The fact is that the committees are not doing their jobs, and when the committees are not doing their jobs, the Congress has failed in its obligation.

Now, going a step further in chart No. 3, this chart here shows that even when the committees and the Congress do act, they are more and more acting on nonsubstantive rather than substantive legislation. The chart shows that of the legislation approved by Congress that an ever-growing percentage is commemorative or noncontroversial, such as a National Sewing Month, or Snow White Week, or National Fishing Week.

My colleagues, just look at it. What a dramatic shift in the worthwhile, meaningful pieces of legislation versus those that we would characterize as simply commemorative. In fact, almost half the legislation enacted into law these days falls into this category compared to less than 10 percent only 10 years ago.

Mr. Speaker, this kind of legislating could be done by folks sitting at home punching computerized preference buttons, and what does that say about our dealing with substantive issues before the Nation? The more difficult the problem, the more we seem to be moving into the realm of irrelevancy and flight of fancy.

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At the same time, as we spend more time on frivolity, we are doing a bad job on the items that really count, and as you will hear from my colleagues later in this hour, we are putting more and more of our major laws into huge omnibus packages that no one can read or understand.

And who pays the cost for this Chamber's increasing lack of seriousness? Not you or I, Members of Congress; the people who pay for all of this are our fellow citizens of the United States. That is why we think it is important to the American people to understand what is going on here. If they want better laws, if they want a better life, the American people must have a better House.

Mr. CHENEY. Mr. Speaker, I thank the gentleman from Illinois, and I yield to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for yielding.

Just to add to what has been said by the distinguished minority leader, the lack activity that he has described leads to several incredible situations. For example, the last time that Congress passed legislation reauthorizing the Consumer Product Safety Commission or the energy related activites of the Department of Energy was in August of 1981. The last time Congress reauthorized the U.S. Travel and Tourism Administration was in October of 1981.

In my own Committee on Commerce, there are 12 laws for which $6½ billion was appropriated this year for which no reauthorizations have been passed.

One of the factors that I think leads to this gridlock is the sheer number of subcommittees and their staffs. These petty fiefdoms had almost 2,000 staffers on September 30 of last year. I think the diffusion of responsibility caused by these numbers is a significant hurdle to enacting reauthorizations.

I understand that reauthorizations are painful and sometimes contentious, but one of the reasons that these reauthorizing subcommittees exist is because they are supposed to have the time and the expertise to consider legislative changes in programs. Appropriation committees, by contrast, can only fund existing programs.

I think it is unfortunate that the House Democrat leadership prefers a system of "automatic pilots" to one of timely reauthorizations, and I do not understand why that leadership does not ask for an accounting of the stewardship of some of the pilots of these subcommittees.

Mr. CHENEY. Mr. Speaker, I yield to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I appreciate the gentleman yielding.

I think when people can begin to see what this does to their individual lives, what they are going to see is a real difficulty in the system.

One of the most controversial things which has come from reconciliation legislation, which was delivered to this House just hours before a vote was required on it, was a provision which seemed somewhat, I guess, harmless at the time that no one knew about and that was to levy a tax on diesel fuel use. Some nearly 200 Members of this body joined with me and with others in introducing legislation to repeal that, so people can see how it affects their daily lives.

One other quick little instance was the $8 million which was allocated to build schools for North African Jews in France. Since that time, of course, the provision was so controversial that both the House and the Senate repealed it and rescinded it, but I think it is important to point out that it does impact individuals, impacts them severely.

Mr. CHENEY. Mr. Speaker, after the committees have finished their work, the whole House is supposed to debate and vote on bills on the floor. That is the stage of the process at which we are supposed to take responsibility for what we are doing, but the majority has been very creative in figuring out ways to duck responsibility while controlling the results.

To explain how they manage this, I yield to the Republican whip, the gentleman from Mississippi, the Honorable TRENT LOTT.

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, as a member of the Rules Committee, I am increasingly distressed by the ways in which our rules and procedures have been so stretched, abused, and bent out of shape in recent years. I keep coming back to something Thomas Jefferson wrote in his "Manual of Parliamentary Practice," and I quote:

> It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or the captiousness of the Members. It is very material that order, decency, and regularity be preserved in a dignified public body.

Mr. Speaker, that most fundamental principle of parliamentary law and practice has been turned on its head in this House. On any given day, Members have very little idea of what rules we will be going by. Rules seem to change more frequently than Washington's weather. There is no longer any uniformity of proceeding. As a result, we have been left to the caprice of the majority leadership, just as Jefferson prophesied.

The biggest sore thumb sticking out around here is the increasing reliance on so-called restrictive rules which limit the right of Members to offer amendments. When I first came to Congress in 1973, only tax bills were brought to the floor under restrictive rules. In the 95th Congress, only 12 percent of the rules were restrictive. But this increased to 20 percent by the 97th Congress, 36 percent by the 99th Congress, and 44 percent so far in this 100th Congress.

TABLE 1.—OPEN AND RESTRICTIVE RULES, 95TH–100TH CONGRESS

Congress	Open rules [1] number (percent of total)	Restrictive rules [2] number (percent of total)	Total rules [3]
95th	213 (88)	28 (12)	241
96th	161 (81)	37 (19)	198
97th	90 (80)	22 (20)	112
98th	105 (72)	40 (28)	145
99th	65 (64)	36 (36)	101
100th	53 (56)	41 (44)	94

[1] Open rules are those which permit any Member to offer any amendment to a measure which is otherwise in compliance with House Rules.

[2] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules.

[3] Total rules counted are all those providing for the initial consideration of legislation (as opposed to special rules on conference reports, etc.).

Note.—Prepared by Minority Counsel, Subcommittee on the Legislative Process, Committee on Rules.

Source: Survey of Activities, Committee on Rules, 95th–99th Congresses; "Notices of Action Taken," Committee on Rules, 100th Congress (as of May 23, 1988).

Now, some might argue that the American people could care less about restrictive rules. But, if you explain to them that the Democratic leadership has relegated their Congressman to that status of second-class citizen, they might better understand. Under restrictive rules Members are disenfranchised: They can't offer certain amendments; nor can they vote on certain amendments. It's the same as if you told John Q. Voter that he couldn't run or vote for certain offices. Oh, we're told gag rules are needed for time management and efficiency. But that's really a euphemism for political expediency. They certainly are not democratic.

Another aspect of this increasing reliance on restrictive rules is the denial of instructions on motions to recommit—the longstanding right of the minority to offer a final amendment before the final vote on a bill. In the 95th through the 98th Congress, this was only denied once. And yet, in the 99th Congress the minority was deprived of this right 12 times; and so far in this Congress, 13 times. While some may shrug this off, they would be shocked if we walked up to the podium and stripped the Speaker of his gavel. And yet, just as the power to preside is a prerogative of the Speaker, the right to offer recommital-instructions is a sacred prerogative of the minority.

TABLE 2.—RULES PROHIBITING INSTRUCTIONS IN MOTIONS TO RECOMMIT: 95TH–100TH CONGRESSES

Congress	Total rules granted [1]	Rules denying recommital instructions [2]	As percent of total rules
95th	241	0	0
96th	198	1	0.5
97th	112	0	0
98th	145	0	0
99th	101	12	12
100th	94	13	14

[1] Only rules providing for the initial consideration of legislation are included and not rules providing for consideration of conference reports of Senate amendments to a House-passed bill.

[2] Rules denying instructions are confined here to those which prohibit motions to recommit with instructions to report back "forthwith" with a further amendment to the measure.

Note.—Prepared by Minority Counsel, Subcommittee on the Legislative Process, Committee on Rules.

Source: Legislative Calendars, Committee on Rules, 95th–99th Congresses; "Notices of Action Taken," Committee on Rules, 100th Congress, as of May 23, 1988.

Another device being abused to avoid direct votes on major matters is the so-called self-executing rule in which the vote on the rule automatically amends the bill. While there were only eight such rules in the 95th through 98th Congresses, in the last Congress there were 20 self-executing rules—that's 12 percent of all rules; and in this Congress there have already been 18 such rules, comprising 17 percent of the total.

TABLE 3.—SELF-EXECUTING RULES, 95TH–100TH CONGRESSES

Congress	Total rules granted [1]	Number of self-executing rules [2]	As percent of total rules
95th	256	1	0.4
96th	259	0	0
97th	152	2	1.3
98th	190	5	2.6
99th	164	20	12
100th	107	18	17

[1] This includes all rules granted by the committee.

[2] Self-executing rules are defined here as those order of business resolutions which provide for the automatic adoption of an amendment (or other matter) upon the adoption of the rule, thus eliminating the need for a separate vote on the substance of the matter, for example: "Upon the adoption of this resolution the amendment printed in section 2 of the report to accompany this resolution shall be considered to have been adopted in the House and in the Committee of the Whole." Rules containing more than one self-executing provision are still only counted once for purposes of this table.

Note.—Prepared by Minority Counsel, Subcommittee on the Legislative Process, Rules Committee.

Sources: Survey of Activities, Committee on Rules, 95th–99th Congresses; Legislative Calendars, Committee on Rules, 95th–99th Congress; "Notices of Action Taken," Committee on Rules, 100th Congress (as of May 23, 1988).

A fourth major abuse is the way in which we routinely waive the Budget Act. If one ignores the old May 15 authorizing deadline in order to provide a constant comparison, and includes blanket waivers, which waive all House Rules and the Budget Act, one finds that these waives comprised 20 and 40 percent of the total rules granted in the 95th and 96th Congresses, respectively. In the 98th and 99th Congresses this increased to 44 and 65 percent. And in this 100th Congress, budget and blanket waivers are still running at 50 percent of the rules we grant. This is an alarming commentary on how we flagrantly ignore our own budget process ceilings and deadlines.

TABLE 4.—BUDGET ACT WAIVERS REPORTED IN HOUSE, 96TH–100TH CONGRESSES

Budget Act section waived	96th Congress	97th Congress	98th Congress	99th Congress	100th Congress
302(a) [1]					1
302(c) [2]				2	5
302(f) [3]				19	9
303(a) [4]	9	12	48	25	5
305(a) [5]		1	1	1	1
311 [6]	5	15	12	21	4
401(a) [7]	23	21	6	5	1
401(b) [8]	13	7	10	6	3
402(a) [9]	77	42	54	27	
Budget waivers	127	98	133	106	29
Blanket waivers [10]	0	4	4	28	25
Total waivers	127	102	137	134	54
Total rules reported	259	152	190	164	107
Waivers as percent of rules	49	67	72.1	81.7	50.5
Waivers minus section 402(a) [11]	50	60	83	107	54
Non-section 402(a) waivers as percent of rules	19.3	39.5	43.7	65.2	50.5

[1] Sec. 302(a) requires that the joint explanatory statement on a budget resolution conference report include an allocation by committee of outlays, and new budget-, entitlement-, and credit authority.

[2] Sec. 302(c) prohibits the consideration of any legislation reported from a committee which has not filed its section 302(b) suballocations.

[3] Sec. 302(f) prohibits the consideration of legislation which exceeds a commitee's sec. 302(b) suballocation for discretionary new budget authority, new entitlement authority, or new credit authority.

[4] Sec. 303(a) prohibits the consideration of legislation providing new budget authority, new entitlement authority, new credit authority, or a change in revenues or public debt before the budget resolution for that year is adopted. [Note.—This provision was modified with the enactment of Gramm-Rudman-Hollings I, to exempt from the point of order any appropriation bill considered in the House after May 15th, even though a final budget resolution is not in place (P.L. 99–177, effective Dec. 15, 1985).]

[5] Sec. 305(a) prohibits consideration of a budget resolution prior to the sixth day after it is reported.

[6] Sec. 311 prohibits consideration of any legislation which would exceed the outlay ceiling or revenue floor contained in the most recent budget resolution.

[7] Sec. 401(a) prohibits consideration of legislation providing new contract or borrowing authority not provided for in appropriations acts.

[8] Sec. 401(b) prohibits the consideration of legislation providing new entitlement authority which becomes effective during the fiscal year which ends in the calendar year in which the bill is reported.

[9] Sec. 402(a) prohibits the consideration of any bill authorizing new budget authority for a fiscal year if not reported on or before May 15th preceding the beginning of such fiscal year. [Note.—This provision was repealed with the enactment of Gramm-Rudman-Hollings I on Dec. 15, 1985).

[10] Blanket waivers counted here are those provisions in a rule which waive all points of order against a bill or committee amendment in the nature of a substitute made in order as original text for amendment purposes. Not only do blanket waivers set aside all standing House rules, but all provisions of the Budget Act as well.

[11] To provide a constant for comparison purposes, sec. 402(a) waivers have been subtracted from total waivers here because the section was repealed on Dec. 15, 1985 (see ff. 9 above).

Sources: Legislative Calendar, Committee on Rules, 96th–99th Congresses; Survey of Activities, Committee on Rules, 96th–99th Congresses; "Notices of Action Taken", Committee on Rules, 100th Congress, as of May 23, 1988.

In defending these various "Creative Rule Alteration Procedures," Mr. Speaker, you recently said you would not hesitate to use any parliamentary device available to advance your party's causes. I would suggest, with Jefferson, however, that the more you stray from a uniformity and regularity of proceedings, the more you will detract from the dignity and integrity of this body. For the sake of democratic and institutional values and survival, I would strongly urge you to restore the regular order.

Mr. CHENEY. Mr. Speaker, I yield to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the distinguished Republican whip, Mr. LOTT, for explaining how our rules and procedures are increasingly being abused for political purposes, and how the House suffers from the politicization of the processes by which we operate. Mr. LOTT's leadership and expertise on this and many, many other issues will be sorely missed in the House but will be a real asset in the other body.

I would like to cite a recent example of parliamentary heavyhandedness that dramatically highlights all four of the rules abuses Mr. LOTT described. This example was even topped off by a fifth abuse that we'll call the "double day" ploy. I'm referring, of course, to last year's reconciliation bill and what will be remembered in the history of this House as "black Thursday-Thursday."

My colleagues will recall that last year, on Thursday, October 29, the Rules Committee brought us yet another modified closed rule, this one governing consideration of the "Guaranteed Deficit Reduction Reconciliation Act." Despite the title and purpose of reconciliation to reduce spending, the rule provided for the automatic inclusion of a massive, $6 billion welfare reform bill—self-executing, with no separate vote or debate.

As if the restrictive and self-executing provisions of the rule weren't enough, the rule went on to waive all points of order against the bill, including all the provisions of the Budget Act—and this was supposed to be a budget bill. To add insult to injury, the rule also denied the minority its traditional right to offer instructions on a motion to recommit.

Mr. Speaker, the rule was so outrageously unfair that it was defeated, 203 to 217. But, that's when the fifth abuse came into play, the so-called double-day ploy. The Rules Committee immediately reported a new rule, stripping out the welfare provisions, and the Speaker ordered the House adjourned and then reconvened for a new legislative day.

This parliamentary maneuvering was necessary to violate the intent of the "same day" rule. The purpose of the "same day" rule is to prevent the leadership from bringing a rule before the House on the same calendar day as reported, except by a two-thirds vote, and not just the same legislative day. While we have had 2 legislative days when the House has been in session past midnight, we've never before seen this kind of tactical trickery used to bring a rule before the House on the same calendar day it was reported. While we can't go back and change what happened on "black Thursday-Thursday," hopefully, we can get some kind of commitment from the Speaker that this rule won't be abused again.

While the new rule passed anyway, the House only passed the bill by one vote, and only after the Speaker held the vote open an extra 10 minutes until one Member was persuaded to change his vote. Not only did the Speaker manage to turn 1 day into 2, but to stretch 15 minutes into 25 minutes, and convert defeat into victory. But, as one Democratic Member told the press afterward, "it was a hollow victory. Comity is a critical part of this institution. This institution cannot function without mutual respect and fairness." To that I say, amen, Mr. Speaker, amen.

Mr. CHENEY. Mr. Speaker, I yield to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Speaker, I thank the gentleman for yielding and providing me with the opportunity to speak about the legislative breakdown in the House.

As a member of the Budget Committee, I am all too familiar with the majority's practice of waiving the rules or effectively ignoring the rules by simply failing to comply when it comes to the Budget Act. During my short tenure, I have seen the House wiggle out of our budget laws far too often. Let me give you some examples.

In the 1st session of the 100th Congress, there were 5 technical waivers and at least 20 "emergency" waivers. In the 99th Congress, there were between 70 and 134 technical and emergency waivers of the Budget Act combined, depending on which waivers you count. This is an egregious abuse of our budget laws. Let me just cite some of the bills we've considered and passed by way of a waiver:

The Urgent Homeless Relief Act (H.R. 558), the State Department Authorization Act (H.R. 1777), the Agricultural Credit Act of 1987 (H.R. 3030), the Surface Transportation and Uniform Relocation Assistance Act of 1987 (H.R. 2), the Land and Water Conservation Fund Act Amendments of 1987 (H.R. 1320), supplemental appropriations for 1987 (H.R. 1827), the Defense Authorization Act for fiscal year 1988 and 1989 (H.R. 1748), the Trade and International Economic Policy Reform Act of 1987 (H.R. 3), just to name a few. While some of these bills may be worthy in and of themselves, each should comply with the Budget Act before being considered by the House.

We've met the enemy and it is us. Our spending has gone out of control and part of the problem is congressional unwillingness to abide by the budget laws. I know that I've consponsored the gentleman's [Mr. LOTT] comprehensive budget reform legislation and plan to introduce my own in the near future. We must take action to stop breaching the Budget Act.

But these budget waivers serve as just one example. In the past we have failed to meet budget deadlines, used omnibus continuing resolutions in place of the appropriations process, used different economic and programmatic assumptions, used "backdoor spending," funded new programs in supplemental appropriations, failed to act on Presidential recission requests, used scorekeeping gimmicks, scored appropriation bills on budget authority, but not outlays, shifted funds from defense to domestic programs, used reconciliation as a vehicle for extraneous provisions, and it goes on, and on, and on.

Why is it that the average person must balance his checkbook and obey the laws of this Nation and Congress refuses to do so? Why is it that Congress enacts laws and fails to adhere to them? We are the lawmakers and yet, year in and year out, Congress finds a way to squirm, slink, slip, slither, shuffle, or otherwise shirk from its responsibilities.

When will we say enough is enough? When will the Rules Committee grant us a hearing on budget reform? When will the majority deal with those of us who are serious on changing our budget laws in a fair and impartial manner? It's time for some straight shooting. Let us participate together in bipartisan, or better yet, nonpartisan reforms in the way we do business in the House.

□ 1815

Mr. CHENEY. Mr. Speaker, I thank the gentleman from Missouri [Mr. BUECHNER] for his statement.

Mr. Speaker, we have a paradox in today's Congress. Committees are less productive, rules do not let us explore alternatives, and yet there has been a tremendous growth in congressional staff. The chairman of the Republican Policy Committee, the gentleman from California [Mr. LEWIS], is the ranking Republican on the Subcommittee on Legislative which handles the legislative branch budget.

Mr. Speaker, I yield at this time to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I think by now, after listening to our distinguished colleagues here, all of us are getting a clearer picture of how poorly Congress, and especially the House of Representatives, is operating. Government has never been known for its efficiency, but I assure you, if Congress was taken over by a private corporation, its first act would be to trim employees. And the first place new management would review would be the committees, because that's where the major business of the House is really transacted. The boardrooms, so to speak.

The First Congress, by most accounts the most productive Congress ever, managed to obtain that distinction without any committee staff at all. The House of Representatives didn't even have permanent committee staff until 1856; 35 years later, in 1891, there were only 62 committee staff in the House. Almost a century later, there are 2,161 committee staffers.

These charts show the tremendous increase in House committee staff in recent years.

With this extra assistance, one would assume Congress is more efficient than ever. One would assume, further, that greater staff assistance would result in greater ability by the House, for example, to consider legislation, one would be wrong. The number of bills referred to House standing and select committees in the 12-year period from 1975 through 1986, has plummeted from over 20,000 bills to only 9,000 bills.

Similarly, in the same 12-year period, the number of bills reported out of those committees fell from over 1,300 to just over 900. Also, the number of hearings held by House committees fell dramatically over the same time frame. So, quite simply, the dramatic increase in committee staff has resulted in a dramatic decrease in committee output, thus supporting Aristotle's statement that, "a greater number of servants often does less work than a smaller." A more cynical modern analyst observed that the great increase in the number of staff helps politicians display power, but not exercise it.

Mr. CHENEY. Mr. Speaker, at this time I will yield to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman from Wyoming [Mr. CHENEY] for yielding and I thank the leadership for taking this time to offer this educational exercise on the imbalance and arrogance of power in this body.

The gentleman from California [Mr. LEWIS] has correctly pointed out that House committees are inefficient. This chart shows that they are also unfair. This figure represents the balance between Republican and Democrat Members in the current 100th Congress. This also should correspond to the imbalance or balance on the committees, roughly 59 percent Democrat, 41 percent Republican.

This figure in itself is inaccurate. If we look at the Committee on Rules through which all legislation must pass before it comes to this floor, that ratio is 69 to 31 percent.

On the Committee on Ways and Means which deals with all tax legislation and the trade bill which this body passed today over the President's veto, it is 64 percent Democrat to 36 percent Republican.

Mr. Speaker, this is the interesting figure, which shows committee staff corresponding to 78 percent for the Democrats and 22 percent for the Republicans. Clearly if inefficiency is the problem on committee staff, it does not seem as though the Republicans are responsible.

One might ask why is this particularly important? Is this just partisan bickering?

Mr. Speaker, I say it is not if one realizes that the taxpayer is paying for this imbalance, and paying for it in the legislative appropriation which although we have a budget summit agreement was increased 1.6 percent in the most recent appropriation and the taxpayer is paying for this imbalance. I doubt if most of the people who are watching this special order are aware of that. I doubt if they like it if they are aware of it.

Mr. Speaker, I merely point out that as we talk about the imbalance of power it is clear form this chart and from the charts that have been presented that committees are clearly overstaffed but it is also equally clear, Mr. Speaker, that the country is underserved. It is interesting to note that if a poll were taken of the people in this country we would find a contradiction in the way they deal with this body. They like their individual Congressmman, but they do not like Congress. This may be one of the reasons why.

Mr. CHENEY. Mr. Speaker, I thank the gentleman from Iowa [Mr. GRANDY] for his excellent point.

At this time I yield to the gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. Mr. Speaker, I thank the gentleman from Wyoming [Mr. CHENEY] for yielding me this time.

Mr. Speaker, I appreciate this opportunity to discuss another unfair facet of committee life in the House, which practice is proxy voting. Proxy voting occurs when a Member of Congress permits another committee member to cast his vote for him in his absence. It seems innocent enough on its face but it is yet another mechanism used by the House Democrats to run roughshod over Republicans.

Proxy voting enables House Democrats to schedule a multiple of committee and subcommittee hearings simultaneously and still retain control of committee business despite the scheduling conflicts among them. A House Democrat can be in more than one place at a time, amazingly enough, for practical purposes as long as his chairman holds his proxy.

Picture if you will five Republicans present in a committee or subcommittee hearing being outvoted in a committee meeting by one Democrat chairman holding five proxies. Thus all can see why the proxy system is abused and how it is abused. But the use of proxies hurts both parties. It encourages absenteeism and irresponsibility. It increases the likelihood of inaccurate representations of an individual Member's vote, thereby diminishing the integrity of the legislative process and thus of the House itself.

In 1974 the House actually voted to ban proxy voting in committees, but it was reinstituted for one reason, which was so that Democrats can abuse proxy voting to control the committee system.

Mr. CHENEY. Mr. Speaker, I yield once again to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I thank my colleagues, the gentleman from California and the gentleman from Iowa [Mr. GRANDY] for assisting in bringing to the attention of the public the incredible explosion we have had in committee staffs and the way they operate. Not only are House committees inefficient and unfair, but they are expensive.

Earlier I discussed the tremendous increase in the number of House committee staff. Somebody has to pay, of course, for all these people. They do not work for free and of course that somebody is the American taxpayer. They have been footing the bill for the entire cost of funding the House committees and that cost has been rising rapidly each year. Funding for the entire legislative branch is found in the legislative appropriations bill which passed the House this last Thursday. Each year this bill creates controversy because of the large sums of money that are expended. Each year Members beat their breasts about how we ought to cut back the costs of that bill and the legislative branch. The fact is the way the committees operate in the House, the subcommittee that deals with this bill simply rubberstamps what the chairmen take to the authorizing committee. As a fact of life we do not vote up or down on appropriations for committee staff in the Subcommittee on Legislative.

Mr. Speaker, it is long overdue that we do something about that. I do not blame the committee structure for these problems, and I do not blame the institution. I blame the people who control it, for they take the lion's share of responsibility for making so much of what we do so inefficiently and so unfairly and with such expense.

Mr. CHENEY. Mr. Speaker, proxy voting is a daily form of congressional irresponsibility. Even more spectacular have been the omnibus continuing resolutions and other megabills that are so large no one can understand them.

Mr. Speaker, the gentleman from Oklahoma [Mr. EDWARDS], chairman of the Republican Research Committee, will explain how average citizens end up being stuck with provisions that would never be supported by this House if they had to stand on their own.

Mr. Speaker, I yield to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman from Wyoming [Mr. CHENEY] for yielding me this time. I want to talk about the problem we are having in the House with massive continuing resolutions that we use sometimes to fund the entire Federal Government in a single bill.

The name "continuing resolution" suggests that we are simply continuing to follow spending decisions that we have already made. However, that is not true. Continuing resolutions set new spending levels, create new laws, make important changes in policy, and do so while restricting debate, limiting opportunities for amendments, avoiding accountability, subverting the Presidential veto, and ignoring the democratic process.

Continuing resolutions are designed to be confusing. Last year's CR affected people in more ways than any other bill passed last year. It contained more than half a trillion dollars in spending, more than any other bill considered in Congress, and yet it was rammed through the House with virtually no consideration.

Here in Congress, as my colleagues know, we are subverting the Constitution not in theory but in practice, not hypothetically but in reality. I believe the American people would be absolutely appalled if they were aware of how the Congress acts to prevent thorough debate of spending decisions and to evade being held accountable for the money that we spend and the decisions that we make.

Mr. CHENEY. Mr. Speaker, I yield to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman from Wyoming [Mr. CHENEY] for yielding me this time.

In each of the last 2 years the Democrat controlled Congress has failed to enact any individual appropriation bills, not one. Instead, they have relied on last-minute mammoth omnibus continuing resolutions to do their work for them. These bloated monsters are one of the tools Congress has used to create annual $150 to $200 billion deficits and a national debt in excess of $2.5 trillion. Fortunately, there may be light at the end of the tunnel of incoherent wasteful budgeting. In his State of the Union Message last January, President Reagan said in no uncertain terms that he wanted all 13 appropriations bills placed on his desk individually on time and within budget. If Congress sends him another CR, he has vowed to veto it.

This is good news not only for us but for our children and grandchildren who for years into the future are the ones who will be paying the bill for Congress' inability to control spending now. The average young American entering the work force today will pay an extra $125,000 in taxes throughout his or her working lifetime just to service the interest on the national debt compiled to date.

With the President standing firm against an omnibus CR, and with an honest effort on the part of the majority, and let us watch them, we can still finish appropriations for fiscal year 1989 on time this year and soon perhaps begin the process of repairing the damage that has already been done to our children's and grandchildren's futures.

The next President must take the same strong stand as this one to make certain that these megabills and the attitudes that spawn them in the Congress are buried for good.

□ 1830

Mr. CHENEY. Mr. Speaker, I yield to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker, each of my colleagues is highlighting one or two procedural problems in the current House. I just want to take a minute to bring to my colleagues' attention the problem of megabills and megaconferences, huge, complicated bills which are put together in smoke-filled rooms with hardly any public notice. These bills are then brought to the House floor where we are forced to vote up or down on bills which often number in the thousands of pages.

Let us look at the issue that we dealt with today—trade. The last three trade bills that this House has dealt with were one in 1962 when Congress passed the Trade Expansion Act. The conference committee on that bill contained 14 members, 7 from Senate Finance and 7 from the House Ways and Means Committee. The same thing in 1974, 14 total members, and today, this year, when Congress passed H.R. 3, the Trade Policy Reform Act, that had over 200 members on the conference committee. Nine Senate committees and 14 House committees were represented.

Let us look at this Congress. The Defense Department bill had 97 House conferees from 7 committees. The Homeless Act passed earlier last year had 40 House conferees from 6 committees, and H.R. 3545, reconciliation, 166 House conferees, 16 committees.

Let us look at megabills. The length of bills that Congress has passed has grown while the actual number of bills has actually shrunk. In 1985, Congress passed only two-thirds as many bills as in 1955, but each bill was six times as long. Let me just show you this. In 1955 there were 1,028 bills enacted, and the average length was 1.8 pages. In 1975, 588 bills were enacted, and the average length was 7 pages. Then in 1985, 10 years later, 664 bills were enacted, and the average length was over 10 pages long.

Mr. Speaker, megabills and megaconferences are symptoms of two problems. These two problems are the increased number of multiple and joint referrals, and the reforms of the 1970's which decentralized the House and created numerous subcommittees with often overlapping and confusing lines of jurisdiction.

We need to reform our committees and reform our process.

Mr. CHENEY. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think it is necessary to note the other problem with the megabills is that very often they contain grossly irresponsible spending that is buried down inside the bill which no one finds out about until later on, and what happens is we have a lot of self-serving projects which have no real legitimate purpose except to help some individual Member along the way.

There were about 107 of these pork barrel projects that were buried down in the continuing resolution that we passed late last year. Those included things like $5 million for a project for building a small pleasure craft harbor. That might be something that is nice to do, yes, but is it necessary to do, absolutely not. There were $60,000 in the bill to develop a better grade of gourmet salad green at the new Belgian endive research center, $60,000 that might be nice to spend if you had unlimited money. Is it necessary to spend? Absolutely not. Yet we bury these items down in these bills time after time, and people say, "Why?" The reason why we do it is because that is what gets people to vote for the bill. If you want someone to vote for a bad bill, what you do is give him a little bit of bad stuff in it, and then he votes for your bad bill to get his bad stuff. The problem is that under that particular scenario, pork begets pork. Guess who pays the bill. Of course, the American people pay the bill, and it is a bill for grossly irresponsible spending.

Mr. CHENEY. Mr. Speaker, I thank the gentleman for his outstanding contribution. I yield to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I thank the gentleman from Wyoming for yielding.

Mr. Speaker, it certainly does not come as any surprise to anyone here and the American public that the Congress has been doing a poor job of passing all the 13 appropriation bills which fund the U.S. Government, and that has forced an increasing reliance on inefficient catchall continuing resolutions which obviously have become a notorious tactic for evading our responsibilities in decisionmaking.

For example, in 5 of the last 6 years, continuing resolutions have covered no fewer than seven bills. In the last 2 years, the continuing resolutions have covered all 13 appropriations bills. In fact, it is getting worse here in the Congress. We are on the same track this year.

The budget resolution is already a month late. Here it is May 23, and June 30 is fast approaching, and the House has only passed 3 of the 13 appropriation bills. In fact, the U.S. Senate has yet to pass any.

Last year the abomination of a continuing resolution, as was mentioned by my other colleague, was perhaps the most egregious example of inserting special-interest provisions that otherwise would not have survived on their own here in the Congress with independent scrutiny and accountability. But this should not surprise anyone given how we debated this bill. Late one night, 4 days before Christmas, I might add 2 months after the beginning of the Federal fiscal year of October 1, with 1 hour to discuss a $600 billion bill, 2,000 pages long, a bill we actually never received to evaluate or scrutinize, that works out to be about $10 billion per minute, 1.8 seconds per page, and further, the continuing resolutions use another tactic, and that is, of course, to include legislation totally unrelated to the funding of the U.S. Government so that they can circumvent a potential Presidential veto. It leaves the President in the position of either shutting down the U.S. Government or signing a legislative farce.

What then can be done? Obviously we have to prohibit the use of continuing resolutions. The Republican Conference is already on record in opposition to the use of catchall spending measures. The Democrats must now also take that step, because they control both the House and the Senate. They control the committees, and they control the schedules here in the Congress, and they are the ones who are in the position of putting the budget process back on track, and, I might add, more importantly accordingly to the existing laws of this country.

I again thank the gentleman for giving me this time.

Mr. CHENEY. Mr. Speaker, Congress does not stop at ignoring its own rules. In addition, the Congress habitually likes to pass laws that apply to everyone else in the country but not to the Congress. One Member who has been particularly interested in this problem is the vice chairman of the Republican Conference, the gentlewoman from Illinois [Mrs. MARTIN], and I yield to her at this time.

Mr. Speaker, I thank the gentleman from Wyoming and the conference chairman for yielding.

Mr. Speaker, Congress is much better at making rules than it is at following them. As a body, we have consistently exempted ourselves from some of the most important legislation we have passed. James Madison pointed to the dangers inherent in this practice when he suggested that the failure of Congress to abide by the laws it passed threatened the strongest bond connecting the Governors and the people in our society.

Congressional self-exemption from the numerous laws we have passed to protect employees in the private and public sectors from employment discrimination and unnecessary physical hazard is perhaps the most glaring of our omissions.

It seems hard to believe, to take one example, that the equal employment provisions of the Civil Rights Act of 1964—provisions which most of us would agree were already long overdue 25 years ago—are still not applicable in the very body which enacted them.

It seems hard to believe that in the year 1988 an employee of the U.S. Congress, believing himself or herself to have been the victim of racial or sexual discrimination, has no recourse other than to leave their job or complain to the press. The time for change is long overdue. It is time that Members of Congress recognize the rule of law as a normal and natural part of their business lives.

Mr. CHENEY. I thank the gentlewoman, and I would yield at this point to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, 25 years ago, the Congress of the United States passed the Equal Pay Act. This legislation put the principal of "equal pay for equal work" into law. The Congress, as usual, chose to exempt itself from this law.

Since that time, many millions more women have entered the job market and have gotten the necessary education and experience to move up the corporate ladder on their own. Many of these competent women have brought their skills and abilities to Capitol Hill. But what did they find when they got here? They found a legislative body that held up a facade of high ideals, yet one that failed to meet the very high demands they placed on the backs of private employers.

I am taking this opportunity, Mr. Speaker, to say that it is time now, in 1988, for Congress to practice what it preaches. History shows us what we have practiced. Time and time again we have passed numerous laws regarding equal pay, civil rights, overtime compensation laws, age discrimination law, and so forth, each time exempting ourselves from the very rules and regulations we so righteously placed on others.

Now, let me briefly describe to the American people what some in this body have practiced. Some Members have tried to argue that there is no need to require Congress to abide by the Equal Pay Act and other similar laws. They would try to point out that personally they certainly do not discriminate against women in pay and hiring. And yet, Mr. Speaker, the facts seem to disagree. I cite House pay practices described in a 1985 survey, as shown on this chart, which shows that 79 percent of those House employees who are in the lowest income bracket, making less than $20,000 per year, are women. For those employees in the highest income bracket, making more than $40,000, only 29 percent are women. Another more recent survey by the Washington Times showed that the vast majority of highly paid congressional staffers are white men. The Times found that of the 200 top level congressional staffers earning more than $70,000, about 90 percent are white men. Only 21 women are in the highest salary bracket.

In closing, Mr. Speaker, I believe that we in Congress should be held up to a higher level of responsibility, consistent with the high level of trust that has been placed upon us by the voters. They have every right to expect and even demand that we as a body should live up to the highest ideal which we expect of those very citizens which we are elected to serve.

☐ 1840

Mr. CHENEY. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, "no alarms," "no smoke detectors," "no sprinklers," "no fire hoses"—are these signs familiar? They ought to be. While you may not notice these signs in the halls of the House and Senate Office Buildings their message is categorical. We in Congress ignore the safety and health standards which we mandate for the private sector. The safety of the men and women we work with is subject to these signs every day. It is time we recognize our responsibility to these signs every day. It is time we recognize our responsibility to ourselves, our staff members, and visitors of our Capitol.

In 1970, the Occupational Safety and Health Administration [OSHA] established the safety and health standards for America's workplaces. Under the jurisdiction of the U.S. Department of Labor, OSHA sets safety and health regulations, conducts onsite inspections, and issues citations in the event on noncompliance with OSHA standards.

OSHA regulations require nearly every employer in this nation to provide "a safe and healthy workplace for their employees." By forcing employers to comply with certain fundamental safety standards, and increasing employees' awareness of occupational hazards, OSHA has significantly reduced the incidence of injury, illness, and death in the workplace.

Protecting our Nation's working men and women from harm caused by unsafe working conditions seems like a good idea; however, Congress, in its infinite wisdom, has exempted itself from even the most basic OSHA safety standards. While there are modifications in progress to make the House office buildings safer, there is no minimum standard for fire safety equipment or compliance with building safety codes. How can we in good conscience permit our colleagues, staff members, and visitors to function in such a hazardous environment? As chairman of the congressional fire services caucus, certified fire protection specialist, former volunteer fire chief, and resident of the Longworth House Office Building, I am concerned about the safety conditions in Capitol Hill buildings and ashamed that we are in noncompliance with the most basic safety standards which we have seen fit to impose on the rest of the Nation.

Mr. Speaker, compliance with OSHA standards is not only a good idea, it is the only way to ensure a safe working environment for ourselves, our staffs, and our visitors. Is being stuck in a building without basic fire safety precautions going to become an occupational hazard for Hill staffers? Let's eliminate these signs from the Halls of Congress. Let's comply with OSHA for all of our sakes.

Mr. CHENEY. Mr. Speaker, I yield to the gentleman from Michigan [Mr. PURSELL.]

Mr. PURSELL. Mr. Speaker, Members of Congress continue to talk about budget reform. To some, changing the procedures by which Congress conducts its fiscal business is the answer to enforcing spending and revenue limits, reducing the deficit, and balancing the budget.

But until Congress develops the political will to abide by existing budget rules and restrictions, a balanced Federal budget will never become a reality. Budgetary reform will be merely another hollow gesture that avoids the hard choices that we as Members of Congress must make.

The waiver of budget rules exemplifies our lack of political will to accept the responsibility of balancing the budget. Rules governing floor debate are filled with language waiving points of orders against budget-busting legislation.

Our rules against deficit spending are only as strong as our willingness to enforce them.

Yet today we are waiving the budget act or all House rules in one out of every two rules we grant—approximately 50 percent of the time.

In the 100th Congress alone, we have had 54 Budget Act waivers in 107 rules reported.

In the 99th Congress, our record was 134 of the 164 rules—82 percent—included budget waivers.

The cost of our refusal to remain accountable can be calculated in numerous ways: Our Federal deficit now totals $175 billion. We must borrow almost two-thirds of all private savings. Interest payments on the $2 trillion debt account for 14 percent of the Federal budget or $151 billion. Much of that debt is held by foreign investors. Our Federal deficit threatens jobs, pushes up interest rates, and slows economic growth.

If the Congress is to put its fiscal house in order, it must stop the irresponsible waiver of budget rules. Committees must be forced to abide by their 302 allocations. Prohibitions on legislation exceeding outlay ceilings or revenue floors must be upheld. Limitations on new entitlements or new credit authority must be honored.

Mr. Speaker, we cannot blame President Reagan for these violations, let's follow the law.

Mr. CHENEY. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. McCrery], the distinguished newest member on the Republican conference for a few comments.

Mr. McCRERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just wanted to rise to say I support very much the legislation offered by the gentlewoman from Illinois [Mrs. Martin] to bring the Congress of the United States under the Civil Rights Act of 1964. It is appalling to me that the Congress sets itself apart in one of the most important things in this country, and that is the affording of civil rights to everyone in our Nation. Certainly the Congress, the House of Representatives, ought to put itself in the same position that it places other citizens in this country, all businesses, all employers, and that is to observe the Civil Rights Act 1964.

So I urgently plead with my colleagues to give their full support to the legislation offered by the gentlewoman from Illinois [Mrs. Martin] to do that.

Mr. CHENEY. I thank the gentleman for his comments. I would state that we are delighted to have him as the newest member of the Republican conference.

Mr. Speaker, all of the practices we have been talking about today have consequences that affect people's lives. Consider foreign policy. Continuing resolutions and megabills, restrictive rules are all used by Congress to expand its control over the smallest details of foreign policy. The result has been a weakened presidency and an uncertain foreign policy.

Mr. Speaker, on this subject I am pleased to yield to the distinguished gentleman from California [Mr. Lagomarsino] the Secretary of the House Republican Conference.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I believe one of the most impressive accomplishments of our Founding Fathers was the crafting of our Constitution in such a way as to provide a flexible, responsive framework to the changing conditions occurring over the years within our country. In some ways, however, I fear the process has been corrupted, especially where the legislative branch has intruded further and further into the formulation of U.S. foreign policy.

The separation of powers provided for by the Constitution established the executive branch as the primary actor in foreign policy, with the legislative branch playing a supporting role.

The legislative branch, however, has been stealing the scenes, with greater frequency and to greater effect. Former Senator John Tower reported that in the last decade alone there were more than 150 constraints placed on the executive's foreign policy powers by the Congress, the most notable being the War Powers Act. The legislative veto first incorporated in that legislation was struck down as unconstitutional by the Supreme Court in 1983 and had the effect of invalidating more than 200 other statutory provisions where Congress had established a legislative veto. Despite that ruling, the Congress continues to exercise a legislative veto in different forms as it applies its judgment on such issues as arms sales and nuclear exports.

Those reviewing congressionally mandated procedures for foreign aid have determined that the Congress receives too many notifications of routine arms sales to be effective in regulating those sales. Those notifications, mandated by Congress, are among the 651 requirements for reports which AID and other agencies must submit to the Congress. I am holding in my hand a list of those 651 reporting requirements, and that is only through May of last year. You can imagine the number of additional reporting requirements the Congress has added in the past 12 months.

Behind me is a chart showing major foreign affairs legislation which have 10 or more reporting requirements. These 18 public laws have a total of 400 reporting requirements. Consider, also, the cost in man-hours of preparing all these reports. How many of these do you think are really being read and acted upon? Many of these reports result from individual Members trying to formulate U.S. foreign policy in his own image.

With all the reporting requirements, earmarks and conditions on foreign aid, we have ended up with a foreign policy instrument that is contradictory and counterproductive. For example, Members of Congress want to see improvements in protection of human rights by police units and military forces.

Mr. DeWINE. Mr. Speaker, will the gentleman yield?

Mr. CHENEY. I am happy to yield to the gentleman from Ohio.

Mr. DeWINE. Mr. Speaker, I thank the gentleman for yielding and certainly commend my colleagues for calling attention to the really excessive intrusion of the legislative branch into the management of our foreign affairs.

If my colleagues will look at recent history, we sort of get the impression that instead of one Secretary of State we have 535.

Individual Members of Congress have taken the initiative, separately or collectively, to convey to heads of state their own interpretation of U.S. foreign policy. The result: Government leaders around the world do not know whether they should listen to the President or to a Member of Congress who has appointed himself as a roving ambassador without portfolio.

Among many examples I think the worst, the most infamous has to be the "Deer Commandante" letter of March 1984 to Sandinista leader Daniel Ortega. It stands out as a classic case of congressional intrusion into the executive branch diplomacy. The letter praises Commandante Ortega for "taking steps to open up the political process in your country" and goes on with the 10 Members of Congress who signed the letter pledging their "willingness to discuss these or other matters of concern with you or officials of your government at any time."

Over the past 4 years there have been any number of reports of individual Members advising the Sandinista leadership on actions the Nicaraguan Government should take to counter executive branch foreign policy.

In addition, Nicaragua is the only nation in the world that has been given congressional immunity from the use of U.S. military force. The idea that the Congress must dictate in advance the limits on U.S. foreign policy options has become a popular legislative tool.

Mr. CHENEY. Mr. Speaker, I thank the gentleman for his comments.

Mr. SMITH of Texas. Mr. Speaker, Americans expect honesty, integrity, and accountability from Members and employees of Congress. Democratic government must have the confidence of the public to function properly.

It has been 10 years since Congress passed the Ethics in Government Act. But a widespread public perception is underlying a grassroots demand for legislative action. The public believes that former Government employees in both the executive and legislative branches are wrongfully capitalizing on their Government experience for exorbitant fees. There is also a perception that Congress has not been willing to apply the laws it writes to itself and its former Members.

To quote from the Federalist papers:

> (The House of Representatives) can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect

the rulers and the people together.—Federalist paper No. 57 (1788)

The legislative branch has undergone enormous growth and restructuring over the last 20 years. The complexity of current legislative procedures and the sheer size of today's bills contribute to a dispersal of decisionmaking authority in the legislative branch.

It is no longer in question whether Congress should apply postemployment restrictions to itself. We must establish safeguards to protect the integrity of the legislative branch.

Any extension of the Ethics in Government Act to Congress should satisfy four conditions: First, that it provides continuing opportunities for the exchange of talent between the Government and private sectors; second, that it is consistent with historical precedents; third, that a nexus exists between the Federal employee's job responsibilities and actual opportunities for abuse; and fourth, that it treats Members of Congress fairly.

Trust in our representative form of government is vested in the special relationship between the people and their elected representatives. Members are accountable to their constituents.

Laws on the books for nearly a century restrict relations between former executive branch employees and their agencies by placing prohibitions on the ability to use specific knowledge of a matter for personal gain in contravention of the public interest.

Our efforts should continue to focus on matters in which officials were most active while in Government. This would apply lobbying prohibitions to the legislative branch on an equal basis—no more, no less. In other words, symmetry: a balanced application of the law.

This would respect historical precedents by targeting potential areas of abuse. It would apply equal ethical standards to the executive and legislative branch while recognizing the unique nature of Congress as a representative body. Finally, it would mean that former Members could anticipate careers outside of Congress that utilize their talents, interests, and abilities.

We must approach this issue, on which the public demands attention, with a thoughtful, responsive, and appropriate legislative effort.

Mr. GALLO. Mr. Speaker, I am joining with my colleagues today to sound the alarm one more time—our legislative system is breaking down. In spite of our warnings that the congressional ship of state is not unsinkable, the leaders of this House continue to cruise deeper into the waters of chaos and disorder, choosing to sidestep the rules of procedure in favor of the unruliness of expediency.

Like the famed orchestra on the deck of the *Titanic,* we who protest this unruliness are forced to continue playing the same tune, over and over again, while the ship goes down.

The danger signals of this legislative breakdown can be seen in the on-again, off-again announcements of floor action, the passage of more and more huge omnibus bills containing everything including a new kitchen sink for some person in Texas or Florida or Washington or elsewhere, or in the willingness to bend the rules when it is convenient to do so.

But, the clearest sign of the shipwreck that lies ahead is the visible tip of the iceberg in our path—the breakdown of the budget process.

In years past, Congress has passed a budget resolution—usually 2 or 3 months late—and then has ignored this budget blueprint in favor of the budgetary free-for-all known as the continuing resolution.

This year, Congress is trying something brand new—rather than passing a budget resolution and then ignoring it, the choice has been made to simply not complete the resolution in the first place.

Budget balancing requires a commitment to policies that send the right signal to Government managers, business leaders, and taxpayers alike. First among these policies must be the assurance that budget targets are being set and that spending is being held to those limits.

The myth that there is a rational Federal budget process has been kept alive by those few powerful congressional leaders who benefit most from the current chaotic situation.

As required by law, the budget process begins in February, when the President sends his budget proposal to Congress. By mid-April, Congress is supposed to pass a budget resolution that sets spending targets in each Government department, based on projected revenues.

Then, congressional committees responsible for oversight in these areas must develop line-by-line appropriations bills that hold spending at the levels set in the budget resolution. Formula-driven programs and other "off budget" items go through a parallel process known as budget reconciliation.

This is the myth. In reality, Congress has not passed a budget as required by law for a decade or more. Each year, bits and pieces of appropriations bills are run through the sausage grinder and the result—known as a continuing resolution—is developed by a small group in Congress and presented to the rest of us on a take-it-or-leave-it basis.

Because there is no accountability in the way a budget is developed, hard-fought spending reductions can be restored by a few people who simply add the spending to the continuing resolution or a supplemental spending bill.

Because defeat of these bills often results in a total shutdown of the Federal Government, we are once again told to take it or leave it.

I have cosponsored legislation to require four major reforms that would restore accountability to the budget process that have strong bipartisan support among the Members of Congress:

Limit all continuing resolutions to 90 days to force Congress to pass a real budget.

Require all congressional committees to develop appropriations bills that are within budget limits.

Allow Members of Congress to vote on a constitutional amendment to require a balanced budget. The House Democratic leadership has never allowed this bill out of committee, because they know it has the bipartisan support needed to pass.

Give the President the power of the line item veto and end the current take-it-or-leave-it policy that allows a few Members of Congress to hold the President and the Nation hostage to their spending policies.

As we near the end of the 100th Congress, none of these budget reform bills have been debated and none have stood for a vote.

So, the congressional ship of state sails on with no budgetary compass, no look out for trouble ahead, and no effort to keep to the course that will bring us successfully to port.

I believe that it is not too late to change course, but the hour is late and the band on deck continues to play.

Mr. GRADISON. Mr. Speaker, at the outset, I would like to commend the minority leader for taking this special order. The issues which we are addressing are crucial to the future effectiveness of this institution. Public confidence in the House of Representatives has flagged for some time. There appears to be a sense among those whom we represent that the legislative process has gotten out of control. I think our constituents are right.

Many of my colleagues, on both sides of the aisle, have also expressed growing frustration with recent trends in the House, culminating last fall with the passage of yet another continuing resolution. For the past 2 years, Congress has resorted to passing one bill at the 11th hour to keep the entire Government running rather than taking on the tough job of passing 13 individual appropriations bills.

Admittedly, it is less likely that we will pass a massive CR for the third year in a row. The budget summit agreement, the President's commitment in the State of the Union Address to veto a CR, and the need to get out to campaign in a Presidential election year mitigate against a CR this time. The point is that Congress has not really cleaned up its act. By and large, pressures outside the institution compel us to act rationally in 1988. After that, without real reform, who can say that Congress will not revert back to its bad behavior?

Our frustration with the budget process, however, is only one example of a greater problem. The legislative process itself is broken. To fix it, we must examine a whole host of potential reforms that would make us more accountable to our constituents. It is a question of examining, among other things, procedures for debate on the House floor, of holding open or closed hearings, of requiring recorded votes in committee, or of more accurately reflecting the political make-up of the House in determining committee ratios.

In the House, the rules of debate are intended to limit unproductive filibustering while ensuring the consideration of germane amendments to the legislation at hand. Yet, we have seen disturbing examples of the powerful Rules Committee, controlled by the Speaker of the House, writing rules that severely limit debate or preclude constructive amendments. Too often, these rules stifle the fundamental rights of the minority. If debate is leveraged in favor of the majority on critical issues, how can the public have confidence that the House is serious about fulfilling its constitutional role as the people's house?

Fixing such procedural housekeeping problems may suggest that micromanagement of the House is the answer. It does not. Instead, we need to look at the big picture by rethink-ing, and then redoing, the way we do business. Specifically, we need to consider the fundamental, underlying elements that makes our two-party system of government work—namely, reasonable and thoughtful compromise and respect for minority opinion.

I have been in public service for over 25 years and a Member of the House since 1974. I am not so naive to think that petty or partisan politics will ever be banished from the House of Representatives. There is a limit, however, to the sufferance of the public when the majority leaders of this body are more interested in protecting their turf or scoring political points than they are in finding a real solution to some of the Nation's pressing problems.

During the bicentennial of the Constitution, the House has an opportunity to repair some of the damage to the reputation of the institution. If we act together, we can keep our trust with the American people.

The SPEAKER pro tempore (Mr. PICKLE). The time of the gentleman from Wyoming [Mr. CHENEY] has expired.

Mr. CHENEY. Mr. Speaker, I include with my statement a compilation of legislative activity in the House of Representatives as of May 24, 1988.

COMPILATION OF LEGISLATIVE ACTIVITY IN THE HOUSE OF REPRESENTATIVES, MAY 24, 1988

SECOND SESSION—100TH CONGRESS (AS OF FRIDAY, MAY 22)

Of the 149 measures acted on: 62% were unreported. 38% were reported.

Of the total House and Senate measures acted on by the House of Representatives: 33% of the bills were unreported. 95% of the joint resolutions were unreported. 92% of the concurrent resolutions were unreported.

Examples of unreported:

Senate Bill—S. 557 Grove City Bill, unreported, no hearings, no report, no committee views or recommendations.

Joint Resolutions—H. J. Res. 523—Providing Assistance and support for Peace in Central America—3/30, unreported, no hearings, no report, no committee views or recommendations.

Concurrent Resolutions—H. Con. Res. 293—Trade Bill Enrollment Change, unreported, no hearings, no report, no committee views or recommendations.

House Bills—H.R. 4524—Defense Funds Transfer Pepper Bill attached as amendment on Older Americans Act, unreported, no hearings, no report, no committee views or recommendations.

COMMITTEE HEARINGS

"Hearings" encompasses all separate days of committee meetings or hearings at which official House reporters are present to take verbatim transcripts of proceedings.

The 1986 figure on the number of Committee hearings was the lowest since complete hearings data has been compiled (1976).

Thorough reporting on compilation of all committee sessions was abandoned after the Bolling Select Committee on Committees concluded its work.

The Congressional Research Service notes that "evidence is fragmentary" on committee workloads and their demands upon the resources of the House. CRS concludes that:

"Reporting systems that would capture some of these kinds of workload would enable the House to monitor more accurately the scope of the activities and perhaps consider more efficient ways of supporting them. This is especially relevant in an era in which non-legislative work—especially review and oversight—is being emphasized." (CRS—87-492S, June 8, 1987)

STATISTICAL RECAPITULATION AND COMPARISON; 1ST SESS., 100TH CONG.; 1ST SESS., 99TH CONG.; 1ST SESS., 98TH CONG.; 1ST SESS., 97TH CONG.; 1ST SESS., 96TH CONG.

	Houe of Representatives				
	1st sess., 100th Cong.	1st sess., 99th Cong.	1st sess., 98th Cong.	1st sess., 97th Cong.	1st sess., 96th Cong.
Convened	Jan. 6, 1987	Jan. 3, 1985	Jan. 3, 1983	Jan. 5, 1981	Jan. 15, 1979
Adjourned	Dec. 22, 1987	Dec. 20, 1985	Nov. 18, 1983	Dec. 16, 1981	Jan. 3, 1980
Calendar days in session	169	152	146	163	173
Legislative days in session	169	150	144	161	173
Bills introduced	3,840	4,011	4,580	5,307	6,232
Joint resolutions introduced	437	496	440	381	472
Simple resolutions introduced	345	352	385	310	519
Concurrent resolutions introduced	235	267	237	243	236
Total bills and resolutions	4,857	5,126	5,642	6,241	7,459
Public laws:					
Approved	240	239	214	145	187
Over veto	2	1	1	0	0
Without approval	0	0	0	0	0
Total, public laws	242	240	215	145	187
Private laws	7	0	6	12	43
Grand total, public and private laws	249	240	221	157	230
Committee reports:					
Union calendar	245	231	286	199	312
House calendar	122	114	138	90	218
Private calendar	39	10	39	33	65
Conference reports	17	32	33	32	65
Special reports	56	42	54	50	52
Not assigned to a calendar	20	32	38	15	19
Total	499	461	588	419	731
Reported bills acted upon:					
Union calendar	211	190	221	160	263
House calendar	116	102	119	85	206
Private calendar	33	9	21	31	60
Conference reports	17	28	32	32	63
Special reports	0	0	0	0	0
Total acted upon	377	329	393	308	592
Special reports, conference reports, and reported bills pending	122	132	195	111	139
Total reported	499	461	588	419	731
Resolutions agreed to:					
Simple	138	136	165	118	240
House concurrent	53	37	31	30	34
Senate concurrent	8	29	16	15	11
Total agreed to	199	202	212	133	285

RECAPITULATION AND ANALYSIS OF BILLS AND RESOLUTIONS, FIRST SESSION

The total laws of the 1st session, One hundredth Congress, numbered 249, which were divided as follows: House bills, 103; House joint resolutions, 47; Senate bills, 37; Senate joint resolutions, 62; public laws, 242; private laws, 7.

The House passed 272 House bills, 66 House Joint resolutions, 53 House concurrent resolutions, 138 simple resolutions, and 44 Senate bills, 63 Senate joint resolutions, and 8 Senate concurrent resolutions.

The Senate passed 135 House bills, 48 House joint resolutions, 31 House concurrent resolutions, and 110 Senate bills, 91 Senate joint resolutions, 25 Senate concurrent resolutions, and 176 simple resolutions.

Vetoed, 3. Total House bills vetoed, 2; Total Senate bills vetoed, 1; House bills vetoed 2; Senate bills vetoed 1; House joint resolutions vetoed, 0; Senate joint resolutions vetoed, 0; House bills pocket vetoed, 0; Senate bills pocket vetoed, 0; House joint resolutions pocket vetoed, 0; Senate joint resolutions pocket vetoed, 0.

2 House bills and 0 Senate bills were vetoed and passed House and Senate over Presidential veto, and became law.

There were introduced in the Senate, 1,998 bills, 239 joint resolutions, 95 concurrent resolutions, and 353 simple resolutions.

There were introduced in the House, 3,840 bills, 437 joint resolutions, 235 concurrent resolutions, and 345 simple resolutions.

The Senate committees issued 274 reports.

The House committees issued 499 reports.

One Senate bill was pending on the House calendars.

There were 15 bills entered upon the Consent Calendar, of which 15 were acted upon, leaving 0 upon the calendar.

There were 511 rollcalls, divided as follows: 23 quorum calls, 234 yeas and nays, and 254 recorded votes.

3 motions to discharge committees from consideration of bills pursuant to Clause 4, rule XXVII were filed 0 of which received a sufficient number of signatures for entry on the calendar of such motions.

The President transmitted to the House 99 messages, 2 of which were referred to the Committee of the Whole House on the State of the Union and 94 of which were referred to committees and 3 of which were not referred to committees.

Executive departments transmitted 2,616 communications.

Petitions filed numbered 109.

Memorials filed numbered 260.

Date	Bill No.	Title	Committee action	Reported	Not reported
Mar. 1	S. 90	Big Cypress National Preserve Addition in Florida	House bill reported in 1987	X	
S. 1447	Designating Morgan and Lawrence Counties in Alabama as a Single Metropolitan Statistical Area.		X		
Mar. 2	S. 557	Civil Rights Restoration Act	None—Rule adopted		X
S.J. Res. 262	Woman's History Month	Committee discharged		X	
S.J. Res. 251	Department of Commerce Day	do		X	
Mar. 3	H.J. Res. 484	Providing Assistance To Support the Peace Process in Central America.	None—Rule adopted		X
H.R. 4063	Requiring the Secretary of Labor to Permit North and South Carolina to Continue to Employ 17-year-old Schoolbus Drivers.	Committee Discharged		X	
Mar. 8	H.R. 1430	Merchant Marine Decorations and Medals Act		X	
H.R. 2032	To Authorize the Conveyance of a Liberty Ship		X		
Mar. 9	H.R. 3967	To Amend the DOD authorization Act, 1985, Extending Medical Benefits for Certain Former Spouses.	Committee discharged		X
H. Con. Res. 259	Regarding Free Press in Paraguay	do		X	
Mar. 10	H.R. 2631	U.S. Mint Authorization—Agreeing With Senate Amendments	Taken from the Speaker's table		
H. Res. 399	Affirming the House's Recognition of Delvalle—etc.	None		X	
S.J. Res. 125	Designating May 9–15, as "National Stuttering Awareness Week".	Committee discharged		X	
S.J. Res. 218	Greek Independence Day	do		X	
S.J. Res. 252	National NHS NeiborWork Week	do		X	
Jan. 27	S.J. Res. 201	National Challenger Center Day	do		X
Feb. 2	H.R. 3875	Civil Service Due Process Amendments	None—Suspension of the rule		X
	H.R. 3884	Overseas Educational Facilities Construction Rescission	do		X
	H.J. Res. 292	National Vita Week	Committee discharged 89 Cosponsors		X
	H.J. Res. 196	Senior Center Week	Committee discharged		X
Feb. 3	H.J. Res. 444	Contra Aid (Pursuant to H.J. Res. 395)	do		X
	H.J. Res. 402	National Child Passenger Safety Awareness Week	do		X
Feb. 16	H.R. 3923	Commercial Fishing Vessel Anti-Reflagging-Technical Correction	Executive comment requested from DOT—Suspension of the rules		X
	H.R. 1612	Agreed to Senate Amendments—Earthquake Hazards Reduction Act.	Committee Action in 1987	X (1987)	
Feb. 17	S. 2022	Veterans' Home Loan Emergency Amendments	NONE—UC, taken from the Speaker's table		X
	H.R. 1054	Military Medical Malpractice	Committee action in 1987	X (1987)	
Feb. 23	H.R. 3689	Designating the H.R. Gross Post Office Building	Ordered to be reported		X
	H.R. 3980	Agricultural Credit Technical Corrections	None—Suspension of the rules		X
Feb. 24	H. Con. Res. 246	Condemning the Bombing of Korean Air Lines Flight	Ordered to be reported		X
	H. Con Res. 250	Expressing Confidence in the El Salvador Elections	None—UC		X
Mar. 15	S.J. Res. 216	Approving the Location of the Black Revolutionary War Memorial	Reported Mar. 14 (suspension)	X	
	S.J. Res. 225	Approving the Location of the Korean War Memorial	Reported Mar. 14 (suspension)	X	
	S. 854	Nevada-Florida Land Exchange	House bill (H.R. 1845) reported Mar. 14	X	
	H.R. 3981	Technical Amendments to Federal Employees Experiemental Leave-Sharing Program.	None—Suspension		X
	S. 2151	Agriculture Act Amendments	do		X
	S.J. 126	Freedom of Information Day (Mar. 16)	Committee discharged		X
Mar. 17	H.R. 2707	Major Disaster Relief and Emergency Assistance Amendments of 1987.	Reported Mar. 15	X	
	H.J. Res. 377	National Black American Inventors Day	Committee discharged		X
	H.J. Res. 470	Education Day U.S.A.	do		X
	S. J. Res. 229	Run to Daylight Day	do		X
	S.J. Res. 244	National Know Your Cholesterol Month	do		X
	S.J. Res. 253	National Former Prisoner of War Recognition Day	do		X
	S.J. Res. 265	National Agriculture Day	do		X
Mar. 21	S. 1397	Recognizing the Non-Commissioned Officers Association	Reported Mar. 18	X	
	H.R. 1259	Recognizing the National Association of State Directors of Veterans Affairs, Inc.	do	X	
	H.J. Res. 480	MD/VA/DC Amendments to the Metro Compact	do	X	
Mar. 22	H.R. 285	To Deny Crewmember Status to Certain Strikers and Lockouts	Reported by Education and Labor, Judiciary Committee discharged	X	
	H.R. 3757	Federal Employees' Leave Transfer Act	Reported Mar. 17	X	
	H.R. 3459	Orphan Drug Amendments of 1987	Reported in 1987	X	
	H.R. 2819	Relief of Tracey McFarlane	Judiciary discharged		X
	S.J. Res. 185	National Drinking Water Week	Committee discharged		X
	S.J. Res. 255	National Organ and Tissue Donor Awareness	do		X
Mar. 23	H. Con. Res. 268	Budget fiscal years 1989, 1990, 1991	Reported original measure Mar. 22	X	
	S. Con. Res. 106	Requesting the President To Return an Enrolled Bill (S. 854)	Called up by UC		X
Mar. 28	H.R. 1975	Federal Cave Resources Protection	Reported Mar. 28	X	
	H.R. 3971	International Child Abduction Remedies	Reported mar. 23	X	
	H.R. 4263	James J. Howard Interstate Highway	Committee discharged		X
Mar. 29	S. 2117	Age Discrimination Claims Assistance	Suspension		X
	S. Con. Res. 110	Correcting enrollment of S. 854	Called up by UC		X

Date	Bill No.	Title	Committee action	Reported	Not reported
	S. 1508	Withdrawing and Reserving Federal Lands in Lincoln County, NV, for Air Force.	Armed Services and Interior Committees discharged		X
	S. 858	Abandoned Shipwreck Act	Reported Mar. 28	X	
	H.J. Res. 519	Continuing the Withdrawal of Certain Lands in Nevada	Armed Services and Interior Committees discharged		X
Mar. 30	H.R. 3396	Rehiring of Former Air Traffic Controllers	Reported in 1987	X	
	H.R. 4256	Commissary Privileges for Panama Canal Commission employees	Armed Services and Merchant Marine and Fisheries Committees		X
	H.J. Res. 523	Providing Assistance and Support for Peace in Central America	Called up by rule		X
	H.R. 3933	National Historical Publications and Records Commission Amendments.	Reported Mar. 25	X	
	H.J. Res. 445	Mining Awareness Week	Committee discharged		X
	H.J. Res. 513	National Student-Athlete Day	do		X
	S.J. Res. 206	Dennis Chavez Day	do		X
	S.J. Res. 223	National Productivity Improvement Week	do		X
	S.J. Res. 245	John Muir Day	do		X
	S.J. Res. 260	National Child Care Awareness Week	do		X
Mar. 31	H.R. 3932	Presidential Transitions Effectiveness	Reported Mar. 25	X	
Apr. 12	H.R. 4155	Dan Daniel Recreation Center	Suspension		X
	H.R. 11	Independent Safety Board Authorizations	Reported Mar. 28	X	
	Conference Report H.R. 1900	Child Abuse	Reported Mar. 30		
	H.J. Res. 272	Eating Disorders Week	Committee discharged		X
	S.J. Res. 234	Crime Victims Week	do		X
	H.J. Res. 373	Trauma Awareness Week	do		X
	H.J. Res. 347	Year of New Sweden	do		X
	H.J. Res. 527	Jewish Heritage Week	do		X
	H. Res. 425	Congratulating NCAA Basketball Champion	do		X
Apr. 13	S. 858	Abandoned Shipwreck Act	do	X	
Apr. 19	S. Con. Res. 98	Authorizing Printing of an Aging Committee Report	do		X
	H. Con. Res. 270	Authorizing Printing of House Report on Katyn Forest Massacre	do		X
	H.R. 2641	National Trails System	Reported Apr. 18	X	
	H.R. 3869	Tuskegee Institute Historic Site	do	X	
	H.R. 2266	Pipeline Safety Reauthorization		X	
	H.R. 4389	Coast Guard Closures—Relocation Assistance	Suspension		X
	H.R. 4401	Dial-A-Porn Prevention	do		X
	S.J. Res. 235	Soviet Government's Persecution of Religious Believers—Ukraine	Unanimous consent—Take from Speaker's table		X
	xl	Conference Report—H.R. 5—School Improvement—Report filed Apr. 13.			
Apr. 20	H.R. 4222	INS Legalization Application Extension	Reported Apr. 14	X	
	H.J. Res. 421	National Digestive Disease Awareness Month	Committee discharged		X
	S.J. Res. 190	National Fishing Week	do		X
	S.J. Res. 247	National Arbor Day	do		X
	S.J. Res. 246	National Child Abuse Prevention Month	do		X
	S.J. Res. 227	Gratitude for Law Enforcement	do		X
	H.J. Res. 148	World Population Awareness Week	do		X
	H.J. Res. 508	Older Americans Month	do		X
Apr. 21		Conference Report—H.R. 3—Trade Bill—Report filed Apr. 20			
	H.J. Res. 541	State of Israel—Anniversary	Committee discharged		X
Apr. 25	H.R. 4243	Genocide Convention Implementation	Reported Apr. 13	X	
	H.R. 3971	Child Abduction Remedies	Reported Mar. 23—Agreed to Senate amendment	X	
Apr. 26	H.R. 4264	Defense Authorization	Reported Apr. 5	X	
Apr. 27	H.R. 4264	Continued Defense Authorization			
	S. 999	Veterans Employment and Training	House version (H.R. 1504) reported June 25, 1987	X	
	H.R. 2616	Conference report—VA Health Care	Conference report filed Apr. 21	X	
	H.J. Res. 552	Veterans Supplemental Appropriations	Committee discharged		X
Apr. 28	S.J. Res. 242	Public Service Recognition Week	do		X
	S.J. Res. 250	Osteoporosis Prevention Week	do		X
	S.J. Res. 222	Older Americans Abuse Prevention Week	do		X
	S.J. Res. 59	Foster Care Month	do		X
	H.J. Res. 545	Just Say No Week	do		X
	S. 2273	Crow Tribe Assistance	Taken from the Speaker's table		X
		Continued Defense Authorization			
Apr. 29	S. Con. Res. 114	Special Olympics Torch Run	Committee discharged		X
		Continued Defense Authorization			
May 2	H.R. 3819	Colorado Coastal Plains project Study	Reported Apr. 26 (consent calendar)	X	
	H.R. 3679	Lac Vieux Desert Band	Reported Apr. 26 (consent calendar)	X	
	H.R. 2558	Columbia Basin Project Roads	Reported Apr. 26 (consent calendar)	X	
	S. 1378	Day of Prayer	Committee discharge		X
	H.J. Res. 530	Take Pride in America Month	do		X
	H.R. 1811	Atomic Veterans Compensation	Reported July 23, 1987 agreed to Senate amendments under suspension of the rules.		
May 3		Continued Defense Authorization			
May 4	H. Res. 438, H. Con. Res. 293	Trade Bill Enrollment Correction			
May 5		Continued Defense Authorization			
	S.J. Res. 212	Tuberous Sclerosis Awareness week	Committee discharged		X
	S.J. Res. 240	Safe Kids Week	do		X
	H.J. Res. 137	ASPARAGUS Month	do		X
May 9	H.R. 4318	GAO Personnel Amendments	Reported May 4 (pt. I)	X	
	H.R. 4083	FBI/DEA Senior Executive Service	Reported May 5	X	
	H.R. 3896	Census Bureau Director	Reported Apr. 29	X	
	H.R. 3987	Gene Taylor Building	do	X	
	H.R. 4433	John Dent Building	Suspension		X
	H.R. 4448	John O. Holly Building	do		X
May 10	H.R. 4267	WEB Water project	Reported Apr. 26 (pt. I)	X	
	H.R. 1570	NRC Emergency Response Program	Reported in 1987	X	
	H.R. 3927	Indian Housing	Reported May 5	X	
	H.R. 4306	School Lunch Eligibility	do	X	
	H.R. 4262	Berne Convention	Reported May 6	X	
	H.R. 3911	Fraud Penalties	Reported May 9	X	
	H.R. 4445	Terrorist Firearms Detection	Reported May 10	X	
	H.R. 2756	Forest Fire Protection	do	X	
	H.R. 2835	Land Exchange—Henderson, TN	do	X	
	H.R. 3424	Overseas Teachers	Reported May 5 and 9	X	
	H.R. 3146	Lottery Advertising	Reported Mar. 31 (pt. I)	X	
May 11		Finished Defense Authorization			
	H.R. 4524	Defense Funds Transfer	Committee discharged		X
	H.J. Res. 525	Hospice Month	do		X
	S.J. Res. 254	Rural Health Awareness Week	do		X
	H.J. Res. 448	Lithuanian Independence Day	do		X
May 12	H.R. 4471	Miscellaneous International Affairs	Reported May 3	X	
May 17	H.R. 4567	Energy and Water appropriations	Reported May 11	X	
	H. Con. Res. 274	Turkish-Greek Summit—Commending	Suspension		X
	H.R. 4162	International Organizations Immunities—Eastern Caribbean	do		X
	H. Con. Res. 223	Soviet Christians	do		X
May 18	H.R. 4586	Military Construction Appropriations	Reported May 12	X	
	H.R. 3193	Hate Crime Statistics Act	Reported Apr. 20	X	
May 19	H.R. 4587	Legislative Branch Appropriations	Reported May 12	X	
May 23	S. 1539	Conference Report—Rail Safety Improvement	Committee discharged conference report filed May 19		
	H.R. 2737	Continental Scientific Drilling and Exploration	Reported May 2	X	

Date	Bill No.	Title	Committee action	Reported	Not reported
	H.R. 3977	Mining and Mineral Resources Research Institute Act Authorization.	Reported Apr. 26	X	
	H.R. 2203	Sewall-Belmont House Authorization Increase	Reported May 10	X	
	H.R. 2806	Federal Land Policy and Management Act	Reported Apr. 26 (pt. I)	X	
	H.R. 4028	Exchanging Certain National Forest Lands in Targhee National Forest.	Reported May 19 (pt. I)	X	
	H.R. 4097	Transferring Land in Clark County, NV	Reported May 19	X	
	H.R. 4615	Optional Acreage Diversion Program for Upland Cotton—1988-90 Crops.			X
	H.R. 4345	U.S. Grain Standards Act Amendments			X
	H.R. 4556	Extra Long Staple Cotton Program—Cross Compliance Requirements.			X
	H.R. 2969	Concur with Senate Amendment With an Amendment—Retiree Benefit Protection Act.	Suspension in 1987		X

CHALLENGING THE PRODUCTIVITY OF CONGRESS

The SPEAKER pro termpore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. MARTIN] is recognized for 60 minutes.

GENERAL LEAVE

Mrs. MARTIN of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield to the outstanding gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I thank the beautiful, generous, and talented gentlewoman from Illinois for yielding.

Mr. Speaker, some years ago, many years ago, I read a book by our first Ambassador to the Soviet Union. His name was William C. Bullitt. President Roosevelt sent him over there, and when he returned he wrote a book of his experiences. It was called, "The Great Globe Itself." I have never forgotten a line in that book. It said: "To beat our swords into plowshares while the spiritual descendants of Genghis Kahn stalk the Earth is to die and leave no descendants." And I learned from that, as well as from reading history, that diplomacy without force behind it is hollow and empty and nothing. And unfortunately, the majority party, it seems to me, in this House continues not to learn the lesson that we have got to be the strongest country on Earth if freedom is to stay alive, because if freedom disappears from America there is no other place to go to hide to get freedom.

Yet when we have a defense bill here we cut, we cut, we cut. We treat it almost frivolously, without recognizing that that is what stands between us and the barbarians.

I know in an era of perestroika, in an era of glasnost, that one is not supposed to think other than détentish thoughts about the Soviet Union. But I can tell my colleagues some of their minions have not gotten the word yet.

The Olympics, which are about to begin in Seoul, Korea, are going to be a time of great danger for people attending those Olympics, for people participating in the games because of things that are happening, missiles that are being moved up toward the border that can reach aircraft with surface-to-air missiles.

□ 1855

I can say that the Cubans are beefing up the personnel, the troops that they have in Angola; far from reducing their influence there they are increasing it. And so the pressure that goes on in the world from the Soviet Union, despite the smiles from this very charming new leader that we have, ought not to deceive us into thinking that suddenly the lion and the lamb can lie down together.

Arms control: We negotiate much tougher with ourselves than we have to with the Soviets. It was only a week ago we had the Armed Services authorization bill and we imposed unilateral testing limitations on ourselves, a narrow interpretation of the ABM Treaty which has already been shattered and shredded by the Soviet Union with their phased array radar at Krasnoyarsk, imposing limitations on the never-ratified, by-its-terms expired, massively violated SALT II Treaty because the Soviets have encrypts of telemetry, and on and on and on.

The President has three negotiations: With his Congress, with the media, and then with the Soviet Union.

Would it not be nice if just once we just had to deal with the Soviet Union.

Let me say this: Freedom in our hemisphere is at risk in Central America. We have given them weeks and weeks and months and months to come to some agreement. To believe that the Sandinista Communists will suddenly turn from hardline Marxist-Leninists into democrats is to believe that unicorns dance on the lawn of the Capitol.

So I just hope and pray that a sense of urgency suddenly, like a tongue of flame from the Holy Spirit, would fall on the majority party; they would understand the challenges of freedom today, of what is at stake in this hemisphere, what is at stake in this world, and assert the leadership that somehow the voters have given them, at least numeric leadership.

But freedom is precious. I am proud to be a Republican because I think that lesson is understood; that is a given on my side of the aisle, but I am sorry to say—on this side of the aisle that I am standing on—it needs a little more reiteration.

I thank the gentlewoman.

Mrs. MARTIN of Illinois. I thank the gentleman.

Mr. Speaker, one of the more frightening aspects of the growth of staff and the flight from responsibility has been the incredible increase in the power of incumbency. Incumbency is at the heart of everything we have been discussing here tonight.

To specifically address this subject I yield to the distinguished chairman of the National Republican Congressional Committee, the gentleman from Michigan [GUY VANDER JAGT].

Mr. VANDER JAGT. I thank the gentlewoman from Illinois for yielding to me.

Mr. Speaker, my colleagues in this very excellent and educational special order have painted an accurate and a vivid picture of a U.S. House of Representatives in disarray; an arrogant majority running roughshod over long-established rules to choke off debate and amendments; massive 1,000-page continuing resolutions and megabills rammed through before Members even had a chance to see them, let alone read and understand them and know what is in them, and an appropriations process that is designed to protect the dollars of the American taxpayer becoming almost meaningless.

The wheels are off the buggy and the House has broken down.

Now when a baseball team breaks down the owners put it under a new manager; when a business breaks down the shareholders put it under new management.

Unfortunately, it has become almost impossible to put the House of Representatives under new management, because incumbents have developed a device that is designed to preserve and protect the power of the incumbents in virtual perpetuity.

Two hundred years ago, when that first Congress was elected, as you will see from the chart there, only 45 percent of the Members of that First Congress were reelected to serve in the Second Congress. So the Second Congress was filled with new faces and new people, fresh ideas straight from the ranks of the people.

But as the years went by and the power of incumbency became greater and greater, more and more incumbents were reelected, until the last election when 98.5 percent of all incumbents running for reelection were in fact returned to office.

One of the reasons that virtually 99 out of every 100 incumbents who run are reelected is the awesome powers and resources that the taxpayer makes available to them.

Each of us have staffs up to 18 members, we have offices throughout our districts, and we have virtually unlimited free mail to our constituency.

Have staffs grown? Well, they have grown.

In that First Congress that I talked about, they had three staff people, not three staff people per Member, but three staff people for the Congress of the United States of America. Today we are approaching 35,000. And the contributions of political action committees go in a ratio of about 10 to 1 favoring incumbents over challengers.

It is easy to see that they seem, many of them, to be interested in preserving and having access to the status quo rather than really trying to change things.

Only the people can become agitated enough about this House in disarray to rise up and exercise their power to throw the rascals out. Unfortunately, in our system the only real way to put the House under new management is to elect more Republicans than Democrats. That is the only way management can change for the first time in a quarter of a century. But that is the only opportunity that the people will have to change this from the House of Lords, which it has become, to the People's House, which it was intended to be.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentlewoman for yielding to me so that I might ask a question of the gentleman from Michigan [Mr. VANDER JAGT]. I thank the gentleman from Michigan for his splendid presentation.

The gentleman mentioned that one of the great advantages for incumbents, provided at the expense of the taxpayers and probably without the agreement of the taxpayers, is an unlimited use of franking privileges; that is, the ability to mail free. We have postal patron letters going to every person, every mailbox in the district, announcements of one's willingness to come to a town meeting in which there may be three or four citizens, unwanted first-class letters mailed out willy-nilly whether the constituents ask for them or not. Can the gentleman tell me if the Founding Fathers created postal patron mailings for Members of Congress or did somehow our framers and forefathers run their Congress without filling the mailboxes of all their constituents in order that they might get reelected?

Mrs. MARTIN of Illinois. I yield to the gentleman from Michigan for a response.

Mr. VANDER JAGT. I thank the gentlewoman for yielding. It was a very excellent question asked by the gentleman from Minnesota.

No, Mr. Speaker, the Founding Fathers certainly did not anticipate what is going on today where, as the gentleman indicated, each Member can mail out over 1 million pieces of mail each election cycle to postal patrons, not to speak of the tens of thousands of names and addresses on the taxpayer-paid-for computers that can be mailed out in rifle shots.

No, our Founding Fathers thought that maybe Members would get reelected by going back and having an exchange and a debate and dialog and a real competitive election and maybe that is why more than half of them would not make it back to the Congress after that First Congress which served.

Mrs. MARTIN of Illinois. I thank the gentleman and yield to an outstanding member, the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. I thank the gentlewoman, the distinguished leader, for yielding.

I would like to ask the gentleman from Michigan, the distinguished gentleman from Michigan: Given the fact that our staffs in our offices are not that great, although they could be cut like everything else, but the fact that everywhere we look we see House annexes and we see committee staffs and we see budget staffs and on and on and on and on and on, would the gentleman from Michigan tell me did the early Members of Congress have all of the support system that covered virtually the entire Capitol Hill?

Mrs. MARTIN of Illinois. I yield to the gentleman from Michigan for a response.

Mr. VANDER JAGT. I thank the gentlewoman for yielding further for a response.

Mrs. MARTIN of Illinois. I await the gentleman from Michigan's answer with fear and trepidation.

Mr. VANDER JAGT. As the gentleman from Tennessee has asked a very pertinent question, as I indicated, that First Congress by the time it was over had a staff personnel of three people.

Now I emphasize that was not three staff people per Member, that was three staff people for the whole Congress of the United States.

If you want to bring it up a little more recently, Senator ALAN SIMPSON's father served in that august body and during his service there he, as a U.S. Senator, had one employee, a secretary.

So today we have grown to where 35,000 staff personnel are engaged in serving the Congress of the United States.

So that is quite a growth from 3 to 35,000.

Mrs. MARTIN of Illinois. I yield further to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. I thank the gentlewoman for yielding to me for one more question.

In the early days of Congress, certainly one wonders did they have automatic elevator operators to operate these automatic elevators? Did we have people inside of them to punch the buttons?

Mrs. MARTIN of Illinois. I yield to the gentleman from Michigan.

Mr. VANDER JAGT. The not only did not have elevators, I am sure if they had had elevators they would not have hired personnel to run elevators that operated automatically.

Mr. SUNDQUIST. I thank the gentleman and I thank the gentlewoman for yielding.

Mrs. MARTIN of Illinois. I think the fear and trepidation that I would have would be for the people whose moneys are being used.

Mr. Speaker, I have to ask the gentleman from Michigan something. Has anyone ever suggested, with the plethora of staff, with the accouterments, that we have made better law than our forefathers? And I yield to the gentleman from Michigan.

Mr. VANDER JAGT. I do not think anyone has suggested that the quality of the legislation has grown with the size of the staff. In fact, I think quite the contrary, as has been pointed out, that if you have staff that is now approaching 35,000 for the Congress of the United States, each person has to do something to justify the salary and maybe that explains the plethora of Federal rules and regulations and taxes that are heaped out on the American people.

I think it is very possible that there is wisdom in the gentlewoman's question, that if we had smaller staffs we might have better legislation.

Mrs. MARTIN of Illinois. I thank the gentleman from Michigan and I yield to the gentleman from Georgia

[Mr. GINGRICH] who has done outstanding work in this and many other areas.

Mr. GINGRICH. I thank my good friend from Illinois for yielding.

I want to ask my friend from Michigan a question that I would be fascinated to get his reflections on. I am sort of, I guess, catching him a little bit off guard here but it occurred to me that the gentleman has spent more of his life than anyone else in the House working as the head of the Campaign Committee, trying to have a chance to change who controls the House and he has seen, in a sense, the more effective he has gotten and the more effective that the National Republican Congressional Campaign Committee has gotten, the more advantages the Democrats have given themselves to block him. I wonder if he could comment on how much harder it is to beat an incumbent today than it was when he first took over in 1975 and began this process.

Mrs. MARTIN of Illinois. I would be glad to yield to the gentleman from Michigan who has worked these many years for that.

Mr. VANDER JAGT. I am delighted that the gentleman from Georgia propounded the question that he did because the great explosion in resources made available to Members to get themselves reelected followed the 1974 election. The distinguished gentleman from Ohio, Wayne Hays, was then the chairman of the House Committee on House Administration and out the back door of the House Administration Committee, with closed rules where Members had most of the time no opportunity to vote was a great acceleration of perks that were made available to incumbents.

I would like to point out that on those rare occasions when it was not a closed rule and we had an opportunity to save some taxpayers' dollars, virtually a unanimous Republican Party voted against the Members of Congress feathering their own nests with perks that aided their own reelection; and virtually a unanimous Democratic Party voted for the feathering of that nest.

Mrs. MARTIN of Illinois. I thank the gentleman from Michigan and I yield to the gentleman from Ohio, whose personal courage and personal comeback makes him an appropriate leader of his freshman class again.

Mr. DONALD E. LUKENS. I too thank the gentleman for yielding.

Mr. Speaker, if I might pose a question to my good friend with whom I was elected over 20 years ago to this body, the gentleman from Michigan, it occurred to me in our initial election our staff was 12, 10 were elected and 12 the second term. When I left in 1970 it jumped to 14. At the same time, I remember, and I think my memory serves me correctly, that I probably went over $1,200 over my budget here.

□ 1910

I was really scratching to find out where I was going to get that $1,200 to reimburse the people of the United States. My problem was resolved because several Members on the other side had gone thousands of dollars over, one about $14,000, so the budget was, in the lameduck session of that year, expanded by $20,000. So we actually had a surplus.

How much further can this Congress go on this path of continuing to do these self-serving things at the expense of the taxpayers before the body collapses from its own weight of self-serving?

Mrs. MARTIN of Illinois. Mr. Speaker, I am happy to yield to the gentleman from Michigan for an answer to a question of great depth.

Mr. VANDER JAGT. Mr. Speaker, I am delighted to have a question from my friend, the gentleman from Ohio [Mr. DONALD E. LUKENS], who did come to the Congress with me yea those many, many years ago.

The gentleman's question raises a little reminiscing on my part. When I arrived here, we were allowed one return trip home to our districts. That has grown to be absolutely unlimited.

The gentleman's question was, how long can the Congress continue to vote these self-serving perks of Members of Congress and provide these resources for our own reelection before the system collapses? Well, I would hope that before the system collapses the American people would wake up to this sorry spectacle of Members of Congress voting constantly to feather their own nests and to insulate us from real competitive challenges in our districts, making us a "House of Lords" that goes on in perpetuity rather than the people's House, which it was intended to be.

So I hope the American people will finally get sick enough at the spectacle they have heard about in this excellent special order and will exercise the right that our Founding Fathers intended the people would have, and that is the right to throw the rascals out and put in some new management for the first time in a third of a century.

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the gentleman from Michigan [Mr. VANDER JAGT].

Mr. Speaker, one of the differences between the two parties is that although both have fine individuals, there is a difference in the caliber of leadership and the integrity of those who have been relegated by the parties to positions of leadership.

Therefore, it is truly with pleasure that I yield to a Member whose tenure in leadership will continue, and perhaps serve as the best example of the kinds of changes we could expect if the Republicans were in the majority, the chairman of the Republican Conference, the gentleman from Wyoming, Mr. RICHARD CHENEY.

Mr. CHENEY. Mr. Speaker, I thank the gentlewoman from Illinois for yielding, and I appreciate her cooperation in support of this special order tonight.

Mr. Speaker, it should be obvious by now that the House has some problems. The American people should understand that these problems are not accidents; they are all connected to each other. Incumbents are reelected because of the way they can hide their policy decisions. Irresponsibility in turn breeds bad policy, self-indulgent staffing, and an indifference to the Constitution.

The American people deserve something better from the representative branch and the Democratic Party. The majority party has controlled this House for some 34 years. We in the minority have to make a systematic effort to teach the public how this place works. We are prepared to raise this issue again and again until the broken branch of Government is mended.

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the gentleman from Wyoming, and with hope for the future and with hope for change, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WEISS (at the request of Mr. FOLEY) for today and the balance of the week on account of illness.

Mr. THOMAS of California (at the request of Mr. MICHEL) for today on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COMBEST) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. SHAYS, for 5 minutes, on May 25, 1988.

Mr. PORTER, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. BROOKS, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LIPINSKI, for 60 minutes, on May 25.

Mr. GONZALEZ, for 60 minutes, on May 26.

Mr. GONZALEZ, for 60 minutes, on June 1.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BEREUTER, immediately preceding the vote on the veto override in the House today.

(The following Members (at the request of Mr. COMBEST) and to include extraneous matter:)

Mr. HEFLEY.
Mr. BEREUTER in three instances.
Mr. CRANE in three instances.
Mr. LEACH of Iowa.
Ms. SNOWE.
Mr. DAVIS of Michigan.
Mr. BROOMFIELD.
Mr. KEMP in two instances.
Mr. LAGOMARSINO.
Mr. YOUNG of Florida.
Mr. SUNDQUIST in two instances.
Mr. DENNY SMITH.
Mr. ROWLAND of Connecticut.
Mr. CONTE.
Mr. SHUMWAY.
Mr. HASTERT.
Mr. DONALD "BUZ" LUKENS.
Mrs. BENTLEY in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. DARDEN.
Mr. OAKAR.
Mr. YATES.
Mr. ROSTENKOWSKI.
Mr. GRAY of Pennsylvania.
Mr. RANGEL.
Mr. MRAZEK.
Mr. STARK.
Mr. SKAGGS.
Mr. YATRON.
Mr. ROE.
Mr. RODINO.
Mr. GEPHARDT.
Mr. BONIOR.
Mr. DE LUGO.
Mr. DINGELL.
Mr. SOLARZ.
Mr. HAMILTON.
Mr. ACKERMAN.
Mr. KILDEE.
Mrs. LLOYD.
Mr. DURBIN.
Mr. SMITH of Florida.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1736. An act to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, Florida, as the "Bob Sikes Visitor Center"; jointly, to the Committee on Interior and Insular Affairs and the Public Works and Transportation.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2878. An act to designate certain national forest system lands in the States of Virginia and West Virginia as wilderness areas;

H.R. 3987. An act to designate the United States Post Office Building located at 500 West Chestnut Expressway in Springfield, MO, as the "Gene Taylor Post Office Building"; and

H.J. Res. 530. Joint resolution designating May 1988 as "Take Pride in America Month".

ADJOURNMENT

Mrs. MARTIN of Illinois. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 14 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, May 25, 1988, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3683. A communication from the President of the United States, transmitting amendments to the requests for appropriations for fiscal year 1988 for the Legislative Branch and for fiscal years 1988 and 1989 for the Judiciary, pursuant to 31 U.S.C. 1107 (H. Doc. No. 100-199); to the Committee on Appropriations and ordered to be printed.

3684. A communication from the President of the United States, transmitting amendments to the request for appropriations for fiscal year 1989 for the Department of Education and the National Commission on Migrant Education, pursuant to 31 U.S.C. 1107 (H. Doc. No. 100-201); to the Committee on Appropriations and ordered to be printed.

3685: A letter from the Secretary of Education, transmitting a copy of final regulations—rehabilitations services administration programs, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3686: A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for John J. Maresca, of Connecticut, for the rank of Ambassador as Chief of the United States Delegation to the Conference on Confidence and Security Building Measures, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3687: A letter from the Commissioner of Social Security, Department of Health and Human Services, transmitting notification of a new computer matching program, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3688. A letter from the Deputy Assistant Secretary of Defense (Resource Management and Support), transmitting the fiscal year 1987 report on the acturial status of the military retirement system, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3689. A letter from the Chairman, Federal Communications Commission, transmitting a copy of the annual report of the Commission's compliance with the Government in the Sunshine Act for calandar year 1986, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3690. A letter from the Director, United States Information Agency, transmitting the semiannual report of the Inspector General covering the period October 1, 1987, through March 31, 1998, pursuant to Public Law 95-452, as amended; to the Committee on Government Operations.

3691. A letter from the Director, National Legislative Commission, The American Legion, transmitting a copy of the Legion's financial statements as of December 31, 1987, pursuant to 36 U.S.C. 1101(4), 1103; to the Committee on the Judiciary.

3692. A letter from the Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 1987, pursuant to 36 U.S.C. 1101(19), 1103; to the Committee on the Judiciary.

3693. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report of the nondisclosure of safeguards information for the quarter ending March 31, 1988, pursuant to 42 U.S.C. 2167(e); jointly, to the Committee on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 2238. A bill to amend the Federal Aviation Act of 1958 relating to general aviation accidents; with an amendment (Rept. 100-646, Pt.1). Ordered to be printed.

Mr. BEILENSON: Committee on Rules. House Resolution 456. A resolution providing for the consideration of H.R. 4387, a bill to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 100-647). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 457. A resolution waiving certain points of order against consideration of H.R. 4637, a bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes (Rept. 100-648). Referred to the House Calendar.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 4418. A bill to authorize appropriations for the National Science Foundation for fiscal years 1989 and 1990, and for other purposes; with an amendment (Rept. 100-649). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 4561. A bill to authorize appropriations for the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes; with an amendment (Rept. 100-650). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HUTTO (for himself and Mr. Jones of North Carolina):

H.R. 4658. A bill to provide for more effective Coast Guard enforcement of laws relating to drug abuse; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. FAUNTROY:

H.R. 4659. A bill to direct the Secretary of the Interior to enter into a cooperative agreement under which the International Peace Museum shall be operated and maintained at the Justin Smith Morrill Building in Washington, District of Columbia; to the Committee on Interior and Insular Affairs.

By Mr. GONZALEZ:

H.R. 4660. A bill to establish the Congressional Advisory Commission on Amateur Boxing and to amend title 18, United States Code, to prohibit the participation in and promotion of professional boxing; jointly, to the Committees on Energy and Commerce, Education and Labor, and the Judiciary.

By Mr. BENNETT:

H.R. 4661. A bill to provide that the Secretary of the Army may only execute a water resource project in a State if the State enters into a legally binding agreement with the Secretary concerning the reconstruction of lands adversely affected by such projects; to the Committee on Public Works and Transportation.

By Mr. DAVIS of Michigan (for himself and Mr. Jones of North Carolina) (both by request):

H.R. 4662. A bill to revitalize the maritime industry in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. de la GARZA:

H.R. 4663. A bill to authorize certain employees of the Department of Agriculture charged with the enforcement of laws relating to the control or prevention of the introduction or dissemination of plant diseases or plant pests into the United States to carry firearms for self-protection; jointly, to the Committees on Agriculture and the Judiciary.

By Mr. FEIGHAN (for himself, Mr. Roth, Mr. Bonker, Mr. Gejdenson, Mr. Mica, Mr. Levine of California, Mr. Gilman, Mr. Ackerman, Mr. Torricelli, Mrs. Bentley, Mr. Blaz, Mrs. Boxer, Mr. Brooks, Mrs. Collins, Mr. Courter, Mr. Dwyer of New Jersey, Mr. Dyson, Mr. Garcia, Ms. Kaptur, Mrs. Kennelly, Mr. Moakley, Mr. Morrison of Connecticut, Mr. Neal, Mr. Rangel, Mr. Shays, Mr. Stratton, and Mr. Wyden):

H.R. 4664. A bill to amend the Foreign Assistance Act of 1961 to increase opportunities for United States insurance companies to provide insurance in connection with U.S. Government-assisted supplies or activities; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. HOCHBRUECKNER:

H.R. 4665. A bill to allow the obsolete submarine ex-*Growler* (ex-SSG-577) to be transferred to the Intrepid Sea-Air-Space Museum in New York before the expiration of the otherwise applicable 60-day congressional review period; to the Committee on Armed Services.

By Mr. MacKAY:

H.R. 4666. A bill to redesignate the National Fisheries Research Center in Gainesville, FL, as the Jack T. McCown, Sr., National Fisheries Research Center; to the Committee on Merchant Marine and Fisheries.

By Mr. Montgomery (for himself and Mr. Solomon) (both by request):

H.R. 4667. A bill to amend title 38, United States Code, to authorize the appointment of Veterans' Administration-trained graduates in certain health-care professions or occupations by the Veterans' Administration without regard to civil service hiring procedures; to the Committee on Veterans' Affairs.

H.R. 4668. A bill to amend title 38, United States Code, to repeal provisions relating to setting the interest rate on guaranteed or insured housing loans to veterans and inspecting manufactured homes purchased by veterans, to modify the procedures for the sale of loans by the Administrator of Veterans' Affairs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4669. A bill to amend title 38, United States Code, and other provisions of law, to extend the authority of the Veterans' Administration [VA] to continue major health-care programs, and to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain health-care personnel; to the Committee on Veterans' Affairs.

H.R. 4670. A bill to amend title 38, United States Code, to authorize multiyear contracts in certain cases; to the Committee on Veterans' Affairs.

H.R. 4671. A bill to amend title 38, sections 5002(d) and 5004(a)(4), United States Code, to raise the Veterans Administration's minor construction cost limitation from $2 million to $3 million and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4672. A bill to amend title 38, United States Code to index rates of veterans' disability compensation and surviving spouses' and children's dependency and indemnity compensation to automatically increase to keep pace with the cost of living and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4673. A bill to amend title 38, section 203(b), United States Code, to delete the requirement that settlements of claims in excess of $1,000,000 on a construction contract be provided for specifically in an appropriation law, and to provide instead that the Administrator notify the House and Senate Committee on Appropriations of construction contract claims settlement of more than $1,000,000; to the Committee on Veterans' Affairs.

H.R. 4674. A bill to amend title 38, United States Code, to modify eligibility requirements for the plot allowance; authorize a headstone allownace for prepurchased grave markers; extend the State cemetery grants program; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. OWENS of New York:

H.R. 4675. A bill to amend the Domestic Volunteer Service Act of 1973 to extend through the fiscal year 1989 the authority contained in such act related to drug abuse prevention activities; to the Committee on Education and Labor.

H.R. 4676. A bill to amend the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 to extend through the fiscal year 1989 the authorities contained in such act; to the Committee on Education and Labor.

By Mr. PICKLE:

H.R. 4677. A bill to treat tobacco grown in the United States and processed in a Caribbean Basin country as eligible for duty-free treatment; to the Committee on Ways and Means.

By Mr. RANGEL (for himself, Mr. Stark, Mr. Gephardt, Mr. Downey of New York, Mr. Guarini Mr. Matsui, Mrs. Kennelly, Mr. Donnelly, Mr. Coyne, and Mr. Levin of Michigan):

H.R. 4678. A bill to amend the Internal Revenue Code of 1986 to extend the low income housing credit through 1990; to the Committee on Ways and Means.

By Mr. SKAGGS:

H.R. 4679. A bill to amend the Appendix to the Tariff Schedules of the United States to suspend the duties on certain infant nursery monitors and intercoms; to the Committee on Ways and Means.

By Mr. HEFLEY (for himself and Ms. Oaker):

H.J. Res. 576. Joint resolution designating February 19 through 25, 1989, as "National Visiting Nurse Associations Week"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 719: Mr. Shaw.

H.R. 722: Mr. Shaw.

H.R. 1433: Mr. Stark.

H.R. 1580: Mr. Synar, Mr. AuCoin, Mr. Ortiz, Mr. Ford of Michigan, Mr. Richardson, Mr. Robinson, Mr. MacKay, and Mr. Gephardt.

H.R. 1597: Mr. Rahall.

H.R. 1815: Mr. Torricelli.

H.R. 1990: Mr. Stangeland and Mr. Boulter.

H.R. 2701: Mr. Tauzin, Mr. Schaefer, Mr. Baker, Mr. Holloway, and Mr. McCrery.

H.R. 2717: Mr. Skaggs.

H.R. 2870: Mr. Evans.

H.R. 3250: Mr. Clinger.

H.R. 3314: Mr. Brown of Colorado, Mr. Schaefer, Mr. Williams, Mr. Torres, Mr. Gregg, Mrs. Schroeder, Mr. Stump, Mr. Brown of California, Mr. Lent, Mr. Packard, Mrs. Vucanovich, Mr. Martin of New York, Mr. Kolbe, Mr. Erdreich, Mr. McGrath, Mr. Olin, Mr. Shumway, Mr. Smith of New Hampshire, Mr. Miller of Ohio, Mr. Rhodes, Mr. Kyl, Mr. Udall, Mr. Boehlert, Mr. Ford of Michigan, Mr. Pashayan, and Mr. Young of Alaska.

H.R. 3374: Mr. Gilman, Mr. Williams, Mr. Feighan, and Mr. Marlenee.

H.R. 3454: Mr. Nelson of Florida.

H.R. 3455: Mr. McHugh, Mr. McMillen of Maryland, Mr. Yatron, Mr. Gejdenson, and Mr. Fascell.

H.R. 3552: Mr. Gregg.

H.R. 3628: Mr. Porter, Mr. Gilman, Mr. Murtha, Mr. Tauzin, Mr. Frost, Mr. Ritter, and Mr. Fuster.

H.R. 3779: Mrs. Roukema.

H.R. 3794: Mr. Gilman and Mr. Broomfield.

H.R. 3889: Mr. Perkins, Mr. Boucher, Mr. Goodling, Mr. Leach of Iowa, Mr. Spence, Mr. Lipinski, Mr. English, Mr. Hayes of Illinois, Mr. Jontz, and Mr. Hall of Ohio.

H.R. 3907: Mr. DioGuardi, Mr. Lott, Mr. Nielson of Utah, and Mr. Traxler.

H.R. 3969: Mr. Wortley, Mr. DeFazio, and Mr. Jones of Tennessee.

H.R. 3991: Mr. Lehman of Florida.

H.R. 4013: Mr. Foglietta and Mr. Bruce.

H.R. 4027: Mr. Clarke.

H.R. 4115: Mr. Lipinski, Mr. Chapman, Mr. McCurdy, Mr. Hughes, Mr. Eckart, Mr. Boulter, Mr. Bilbray, Mr. Morrison of Washington, and Mr. Parris.

H.R. 4150: Mr. Regula, Mr. Hiler, Mr. Dreier of California, Mr. Roth, Mr. Coats, Mr. McCandless, Mr. Young of Florida, Mr. Bliley, Mr. Callahan, Mr. Wolf, and Mr. Skelton.

H.R. 4158: Mr. Regula and Mr. Traficant.

H.R. 4221: Mr. Jeffords, Mr. Stratton, Mr. Goodling, Mr. Solarz, and Mr. McDade.

H.R. 4226: Mr. Carper, Mr. Kastenmeier, Mr. McCloskey, Mr. Lipinski, Mr. McHugh, Mr. Oberstar, Mr. Gejdenson, Mr. Rodino, and Mr. Akaka.

H.R. 4277: Mr. Espy, Mr. Mineta, Mr. Oberstar, Mr. Horton, Mr. Vento, Mr. Hoyer, Mr. Morrison of Washington, and Mr. Levin of Michigan.

H.R. 4292: Mr. Vento.

H.R. 4305: Mr. Penny.

H.R. 4338: Mrs. Roukema, Mr. Smith of New Jersey, Mr. Gallo, and Mr. Courter.

H.R. 4400: Mr. Vander Jagt, Mr. Stenholm, Mr. Rahall, and Mr. Penny.

H.R. 4407: Mr. Blaz.

H.R. 4414: Mr. Gibbons.

H.R. 4432: Mr. Horton.

H.R. 4526: Mr. Ravenel, Ms. Pelosi, Mr. Traficant, Mr. Leach of Iowa, Mr. Synar, Mr. Torricelli, Mr. Tauke, Mr. Kleczka, Mr. Ireland, Mr. Smith of Texas, Mr. Manton, Mr. Moody, and Mr. Jenkins.

H.R. 4617: Mr. Fascell, Mr. Berman, Mr. Swindall,, Mr. Burton of Indiana, Mr. Ackerman, Mr. McCurdy, Mr. Madigan, Mr. Courter, Mr. Levine of California, and Mr. Bustamante.

H.R. 4652: Mr. Myers of Indiana and Mr. McEwen.

H.J. Res. 50: Mr. Skaggs.

H.J. Res. 145: Mr. Frost, Mr. Flippo, Mr. Kasich, Mrs. Johnson of Connecticut, Mr. McEwen, and Mr. Eckart.

H.J. Res. 171: Mr. Mack.

H.J. Res. 378: Mr. Kostmayer, Mr. McHugh, and Mr. Mfume.

H.J. Res. 417: Mr. Lightfoot, Mr. Foglietta, Mr. Hutto, Mr. Jacobs, Mr. Price of North Carolina, Mr. de Lugo, Mr. McEwen, Ms. Oakar, Mr. Towns, and Mr. Traxler.

H.J. Res. 438: Mr. Young of Florida.

H.J. Res. 452: Mr. Young of Florida.

H.J. Res. 467: Mr. Lancaster, Mr. McEwen, and Mr. DeWine.

H.J. Res. 475: Mr. Brown of Colorado, Mr. Gaydos, Mr. Gephardt, Mr. Guarini, Mr. Hall of Ohio, Mr. MacKay, Mr. Rahall, Mr. Sunia, Mr. Tauke, Mr. Wheat, and Mr. Wyden.

H.J. Res. 528: Mr. Chapman.

H.J. Res. 534: Mr. Dornan of California.

H.J. Res. 540: Mr. Towns and Mr. Foglietta.

H.J. Res. 554: Mr. Mfume, Mr. Akaka, Mr. Packard, and Mr. Craig.

H.J. Res. 567: Mr. Bentley, Mr. Lantos, and Mr. Traxler.

H.J. Res. 572: Mr. Brown of Colorado, Mr. Fauntroy, Mr. Roe, Mr. Aspin, Mr. DeFazio, Mr. Cardin, Mr. Grant, Mr. Gunderson, Ms. Kaptur, Mr. Mavroules, Mr. Thomas of Georgia, Mr. Lagomarsino, Mrs. Morella, Mr. Hoyer, Mr. Watkins, Mr. Fazio, Mr. Spence, Mr. McMillen of Maryland, Mr. Hayes of Illinois, Mr. Lightfoot, Mr. Levin of Michigan, Mrs. Boxer, Ms. Pelosi, Mr. Vento, Mr. Frost, Mr. Chapman, Mr. Weiss, Mr. Smith of Florida, Mr. Bruce, Mr. Ford of Tennessee, Mr. Owens of New York, Mr. Lewis of Georgia, Mr. Hefner, Mr. Owens of Utah, Mr. Wheat, Mrs. Collins, Mr. AuCoin, Mr. Florio, Mr. Buechner, Mr. Emerson, Mr. Lancaster, Mr. Flake, Mr. Gonzalez, Mr. Manton, Mr. Crockett, Mr. LaFalce, Mr. Dyson, Mr. Hawkins, Mr. Brennan, Mr. Alexander, Mr. Kennedy, Mr. Gordon, Mr. Dellums, Mrs. Patterson, Mr. Pickett, Mr. Frank, Mr. Lowry of Washington, Mr. Hastert, Mr. Nagle, Mr. Brooks, Mr. Coelho, Mr. Schumer, Mr. Bustamante, Mr. Eckart, Mr. Sawyer, Mr. Durbin, Mr. Rangel, Mr. Holloway, Mr. Ritter, Mrs. Bryon, Mr. Towns, Mr. Bunning, Mr. English, Mr. Stump, Mr. Hansen, Mr. Stenholm, Mrs. Lloyd, Mr. Olin, Mr. Smith of New Jersey, Mrs. Bentley, Mr. Denny Smith, Mr. Carper, Mr. Gray of Illinois, Mr. Crane, Mr. Dannemeyer, Mr. Packard, Mr. de Lugo, Mr. Neal, Mr. Garcia, Mr. Daub, Mr. Wolpe, and Mr. Jontz.

H. Con. Res. 43: Mrs. Meyers of Kansas.

H. Con. Res. 126: Mr. Owens of Utah, Mr. Penny, Mr. Hiler, Mr. Mrazek, Mr. Skeen, Mr. Levin of Michigan, Mr. DioGuardi, Mr. Dyson, and Mr. Packard.

H. Con. Res. 258: Mr. Rangel, Mr. McCollum, Mr. Biaggi, Mr. McCloskey, Mr. Fazio, Mr. Lehman of Florida, Mrs. Bentley, and Mr. Wise.

H. Con. Res. 263: Mr. Packard.

H. Con. Res. 281: Mrs. Bentley and Mr. Blaz.

H. Con. Res. 298: Mr. Stallings, Mr. Denny Smith, Mr. Tallon, Mr. Dyson, and Mrs. Bentley.

H. Res. 400: Mr. Ballenger, Mr. Borski, Mr. Ford of Michigan, Mr. Gilman, Mr. Horton, Mr. Neal, Mr. Rose, Mr. Robert F. Smith, Mr. Tallon, and Mr. Lewis of Florida.

H. Res. 437: Mr. Bonker, Mr. Hochbrueckner, Mr. DioGuardi, Mr. Dwyer of New Jersey, Mr. McHugh, Mr. Ritter, Mr. Hyde, Mr. Courter, Mr. Stratton, Mr. Coleman of Texas, Mr. Herger, Mr. Hall of Ohio, Mr. Yates, Mr. Vander Jagt, Mr. Feighan, Mr. Wolpe, Mr. Levin of Michigan, Mr. Erdreich, Mr. Dellums, Mr. Flake, Mr. Manton, Mr. Hoyer, Mr. Green, Mr. Houghton, Mr. McDade, Mr. Carper, Mr. Fawell, Mr. Evans, Mr. Coughlin, Mr. Torricelli, Mrs. Morella, Mr. Livingston, Mr. Molinari, Mr. Lewis of Florida, Mr. Matsui, Mr. Saxton, Mrs. Collins, Mr. Lantos, Mr. Madigan, Mr. Sundquist, Mr. Sikorski, Mr. Inhofe, Mr. Andrews, Mr. Lagomarsino, Mr. Dreier of California, and Mr. Moody.

H. Res. 455: Mr. Matsui, Mr. Saxton, Mrs. Collins, Mr. Lantos, Mr. Madigan, Mr. Sundquist, Mr. Sikorski, Mr. Inhofe, Mr. Andrews, Mr. Lagomarsino, Mr. Dreier of California, and Mr. Moody.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3341: Mrs. Saiki.

EXTENSIONS OF REMARKS

SURVEY OF TREMPEALEAU COUNTY ON THREE TOPICS OF NATIONAL INTEREST TAKEN BY MEMBERS OF THE EIGHTH-GRADE CLASS OF THE BLAIR JUNIOR HIGH SCHOOL

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1988

Mr. GUNDERSON. Mr. Speaker, all of us here in Congress are fully aware of the importance of keeping in touch with our constituents. With frequent trips to our districts, meeting with visitors from back home, and the daily mail, a great deal of our time and effort is invested in learning how to better represent those we serve. Without that knowledge, it would be impossible to do our jobs.

That is why I am pleased to submit to my colleagues the results of surveys taken by three eighth-grade students from the Blair Junior High School in Blair, WI. Through procedures similar to those used by professional pollsters, Matt Larson, Karla Ausdreau, and Amy Appel have compiled data on the views of their Trempealeau County neighbors regarding United States protection of Kuwaiti oil tankers, whether or not Olympic athletes should be paid, and if the United States should spend more money on the NASA program.

I want to commend these students for their hard work and imagination in preparing and executing these surveys. I know their efforts have already helped me represent the Third District more effectively, and I'm confident that they will also help my colleagues assess the views of rural America more accurately.

The results:

LARSON. Since early August 1987 the U.S. Navy has 20,000 men and 25 ships in the Persian Gulf. Do you agree or disagree that the U.S. Navy should protect Kuwaiti oil tankers?

	Percent
Strongly agree	18
Agree	50
Undecided	16
Disagree	16
Strongly disagree	0

AUSDREAU. Other countries allow their Olympic athletes to treat their training as a job by providing them with housing and living expenses. Do you agree or disagree that the U.S. should also provide housing and living expenses?

	Percent
Strongly agree	12
Agree	22
Undecided	36
Disagree	18
Strongly disagree	12

APPEL. Recently NASA's administrator, James Fletcher has proposed to the White House a plan for a space station launched by the U.S. Already an unmanned mini-space station has been designed. Federal dollars have been committed to this project. Do you agree or disagree that the U.S. should be spending more money on the NASA program?

	Percent
Strongly agree	10
Agree	26
Undecided	30
Disagree	28
Strongly disagree	6

Mr. Speaker, I want to finish by commending these bright young students and all of those constituents whose efforts help us to represent those we serve.

TRIBUTE TO CAROLE McGETTRICK

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. ROSTENKOWSKI. Mr. Speaker, it is with a great deal of sadness that I bring to the attention of my colleagues the retirement of one of the finest staff persons ever to serve on Capitol Hill. On May 31, 1988, Carole McGettrick will be leaving the Hill after more than 25 years of distinguished service.

Carole first came to Washington from her native Missouri to join the staff of Congressman Frank Karsten. In January of 1969, she joined the staff of the Committee on Ways and Means, where she has served in a variety of positions. In 1974, when subcommittees were first established in the committee, she came to the Subcommittee on Health, which I chaired. In 1979, I asked her to come with me when I assumed the chair of the Subcommittee on Select Revenue Measures. And in 1981, she joined the full committee staff.

Carole is the institutional memory of the committee. Over the years, her knowledge of committee procedure and House rules has assured the smooth transmittal of legislation from our subcommittees, to the full committee, to the Rules Committee and on to the House floor. At one time or another, every staff person on the committee has come to her desk with the plaintive cry, "How do I do this?" And Carole has always known what to do.

Carole's love for the committee is also reflected in the work she has done overseeing the restoration of the committee's meeting rooms. The Committee on Ways and Means is the longest standing committee in the House. Carole's efforts have been instrumental in preserving the history of the committee.

I want to pay tribute to Carole's family as well. Her husband, Tom, and her three children, Molly, Tommy, and Kate, showed a wealth of patience over the years on those many late nights when Carole stayed to work on a conference committee or make sure we filed a bill on time.

Mr. Speaker, the Committee on Ways and Means and the entire Congress owe a debt of gratitude to Carole for her fine work. We will miss her and we wish her all the best.

VISITING NURSE ASSOCIATIONS WEEK

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. HEFLEY. Mr. Speaker, I am pleased to join my colleague MARY ROSE OAKAR today in introducing a resolution designating February 19—February 25, 1989, as "National Visiting Nurse Associations Week."

At a time when Congress and the public are becoming increasingly aware of the benefits of home health care, it seems appropriate to honor those who were instrumental in establishing this system—the visiting nurse associations.

Many of my colleagues may recall that similar legislation was passed in the last session of Congress, and I encourage you to do so again this year. When the previous proclamation was signed by the President, it marked the first time that visiting nurse associations had received the public recognition they deserved after more than a century of service to millions of Americans.

By proclaiming National Visiting Nurse Associations Week, we pay tribute to the pioneers in public health who instituted home care 102 years ago. And we demonstrate our thanks to the thousands of women and men who have followed in their footsteps, bringing care to infants, teenagers, the middle aged, the elderly, the disabled, and the infirm. These home health care professionals tirelessly have carried out the VNA mission of providing home health care services to everyone who needs it, regardless of ability to pay.

From their origins in Buffalo, NY, where a home health care nurses program was founded by a society matron with funds collected from her Sunday School class, visiting nurse associations have expanded to 504 organizations serving urban and rural communities in 47 States. Today, VNA skilled nurses, therapists, and other health professionals provide medical care, physical, speech, and occupational therapy, rehabilitation services, prenatal and postpartum care, nutritional counseling, and other health-related services, as needed, to nearly 1 million home-bound patients.

In addition, volunteers from each community assist the VNA's by delivering Meals-on-Wheels to patients, reading to them, running errands, and generally serving as patients' companions. The volunteers help cheer and comfort patients and try to make chronic and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

acute illnesses more bearable. Volunteers also provide respite for frequently overburdened family members.

Their communities also assist VNA's financially, either through direct contributions or through local foundations and charities. Medical professionals oversee the quality of VNA programs and to ensure that patients who need care receive it. It is this strong community support, both fiscal and physical—in the form of volunteers—coupled with the commitment to quality care for anyone in need, that distinguish the visiting nurse associations from other health care organizations.

Frequently we hear the expression that patients are being sent home "quicker and sicker" as our hospitals cope with the need to hold down medical care costs. Because this is a trend that is bound to continue, and because our population is aging, the need for home care will continue to grow. As we in Congress struggle with ways to meet this need, I hope that we will once again thank those selfless health care professionals and community supporters of the visiting nurse associations who have been working on this problem for so many years.

INTRODUCTION OF NATIONAL VISITING NURSE ASSOCIATIONS WEEK

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Ms. OAKAR. Mr. Speaker, it is with great pleasure that I join my colleague, Mr. HEFLEY, in introducing the resolution naming February 19–February 25, 1989, as "National Visiting Nurse Associations Week."

Judy Garland's comment as Dorothy in the "Wizard of Oz"—"There's no place like home"—has special meaning for those patients who have been nursed back to health, received physical or occupational therapy, or been allowed to die with quiet dignity in the security and comfort of their own homes. Yet, many patients would not be able to choose the preferred option of home care if it were not for the community based, nonprofit visting nurse associations. The VNA's are the primary home care providers who are committed to assisting people with low and fixed incomes—those who all too often are most in need of home care and can least afford it.

I am sure that many of my colleagues have examples within their own districts, perhaps even within their own families, of people who turned to the visiting nurse associations for home health care assistance.

Visiting nurse associations have made a considerable contribution to the health of this country over the past 100 years. They have shown patients and their families, whether in inner city slums or migrant camps, how to reduce the spread of germs through sanitary living conditions. They have taught new mothers good nutrition and prepared wholesome meals for the elderly homebound. For many years, they guaranteed the survival of infants from impoverished families, first by furnishing them with a steady supply of milk, and then by immunizing the developing children. VNA's coordinated social and health care for needy families and individuals. Visiting nurses provided, and continue to provide, home health care services to immigrants and to virtually every ethnic group and culture in the United States.

From the beginning, visiting nurses have been activists, who have recognized that serious health problems required bold solution. These so-called foot soldiers in the struggle for improved public health continue to operate in the forefront of home medical care. Visiting nurse associations were among the first organizations to provide physical therapy, diagnostic tests, and durable medical equipment to the disabled in their homes. They were one of the first groups to recognize the home care needs of AIDS victims.

Visiting nurse associations were on the leading edge of home intravenous therapy and respiratory care. Today they continue to lead the way in maternal child care, including early maternity discharge and home phototherapy. In some cities, VNA's also have developed special shelters where the homeless, drug addicts, and other unfortunate people can receive the kind of home care that otherwise would not be available to them.

Perhaps because visiting nurse associations have been composed primarily of women, or perhaps because they worked in homes, out of the limelight, the VNA's have not received the public recognition and thanks that they deserve. By naming February 19–February 25 as National Visiting Nurse Associations Week, we can pay tribute to the efforts of the visiting nurses and their contributions to our public health. This proclamation recognizes not only the medical professionals of the VNA's, but also the volunteers in each community who enable the visiting nurse associations to carry out their vital mission.

A TRIBUTE TO THE POLISH AMERICAN FOLK DANCE CO.

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. SOLARZ. Mr. Speaker, I wish to pay tribute to the Polish American Folk Dance Co. that is celebrating its 50th anniversary. This fine organization was established in 1938 by Frances Wesolowska to preserve Polish folk dance forms and songs among Americans of Polish descent.

The Polish American Folk Dance Co., has participated in five World Festivals of Polish Folk Dance in Rzeszou, Poland, where it received several awards. In 1979, the company received its highest honor—the Oskar Kolberg Award—for its work in researching and presenting Polish folk culture to American audiences.

In 1981, Mr. Stanley Pelc, the company's director, received the Order of the Merit of Culture for propagating Polish culture in the United States.

The company is also well-versed in Polish handicrafts, and its members have demonstrated their abilities by doing the actual sewing, crocheting, lacemaking, beadwork and embroidery for all the parts of their costumes. These costumes have been on display at the American Museum of Natural History.

I am glad to honor the Polish American Folk Dance Co., which is dedicated to monitoring their Polish culture and traditions and have played an extensive role in the preservation of Poland's cultural treasures. The company's efforts are a part of what continues to make America great through its diversity of culture.

OMNIBUS TRADE BILL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. BEREUTER. Mr. Speaker, I want to commend to my colleagues a recent editorial on the omnibus trade bill carried in the Journal of Commerce. The article, "How Laws Are Made", correctly points out that the process of making laws is not simple. In the case of the trade bill it was an extremely complex and cumbersome procedure lasting some 3 years, involving 17 subconferences and almost 200 Congressmen. What emerged from that process is a moderate, respectable bill which indicates to the world that we are serious about reducing our trade deficit and that we will implement the principle of reciprocity in market access. The law contains numerous provisions to help us accomplish these goals.

The bill is not perfect but it does give us significant impetus to move forward. It provides the basis upon which to act in addressing our trade deficit. It sends a signal to our trading partners that we are serious. It is indeed unfortunate that after such a long process in which broad consensus was reached, a relatively unimportant provision has so totally diverted us from our goal. Without this bill, we have no charter for action and appear to lack resolve. It should become law.

[From the Journal of Commerce, May 20, 1988]

HOW LAWS ARE MADE

REMEMBER READING THOSE DRY TOMES in school about how laws are made? The process looks so simple. A bill starts in committee, is marked up, sent to the floor, amended and, following the arrows, goes to the other house for similar consideration. Differences are reconciled in a conference committee, which sends the final bill to the president.

This may be mundane stuff, but after the six-month-long House-Senate conference on the trade bill, it has come to sound like fiction. The final chapter may be written as early as today, when President Reagan vetos the bill.

The cumbersome way in which Congress deviated from the textbook process, creating a conference committee involving 200 members of Congress representing 23 standing committees, did as much as anything to determine the conclusion. Because so many committees were involved, the usual rules and procedures flew out the window. As a result, a generally good bill will fail on one provision of marginal importance, a loosely written section that will require some companies to give some workers 60 days' notification that they will lose their jobs.

The unhappy history of the Omnibus Trade Bill dates back to 1985, when the administration refused to respond to the public clamor for action on trade by offering legislation. Members of Congress took the initiative, and "trade" legislation quickly became "competitiveness" legislation as provisions concerning tariffs and unfair imports were packaged with job-training schemes, education programs, changes in farm subsidies and calls for closer cooperation to stabilize exchange rates. The administration responded with its own competitiveness program, which covered an equally wide array of matters. A bill limited solely to trade was never under serious consideration.

As with all major bills, this one gathered additional moss as it rolled along. The structure of the conference committee had much to do with the outcome. The plant-closings provision, for example, was handled in Subconference Eight (there were 17 subconferences altogether) by members of the labor committees of both houses, not by the committees with principal responsibility for trade.

That was not the last deviation from legislating by the book. After the conference concluded March 31, House Speaker Jim Wright, D-Texas, and Senate Majority Leader Robert Byrd, D-W.Va., mulled for several weeks the prospect of dropping the plant-closings provision. Under normal circumstances, a measure to which both houses agree is supposed to be part of any final legislation.

A compromise was within the grasp of congressional leaders and the administration, but both sides dropped the ball. The administration fumbled when Treasury Secretary James A. Baker III and U.S. Trade Representative Clayton Yeutter insisted that the plant-closings provision had to go before there could be serious negotiations between the administration and Congress.

This tough stance hardened congressional resistance to the point that when Mr. Baker and Mr. Yeutter finally gave a "reasonable assurance" that the president would sign a bill if limits on plants closings and layoffs were dropped, it was too late. A group of Midwestern congressmen, headed by Rep. John Dingell, D-Mich., warned flatly that they would oppose such a bill. Once the labor movement made it very clear that it would rather have an election issue than a trade bill, Rep. Wright and Sen. Byrd decided the plant-closings provision would remain.

But this was still not the end of the story. After supposedly "final" passage by both houses, the weighty bill lay around the Capitol for two weeks while Congress debated "technical corrections." As all trade bill fans know, the minor technical matters up for further consideration included substantive changes in the law concerning the export of petroleum products from Alaska. That, too, is a departure from standard procedure.

And the political science texts notwithstanding, somehow it required 16 days from the time the House and Senate voted their approval until the bill ended up on President Reagan's desk.

Yet after watching and participating in this unedifying spectacle, administration officials still fancy the notion that a better, simpler trade bill will emerge this year if Mr. Reagan wields his veto.

Such an outcome is hard to imagine. No one on Capitol Hill is prepared to consider another major trade bill this year.

Almost despite itself, Congress has produced a bill whose pluses far outweigh its minuses. The president should thank his lucky stars that although the process didn't follow the book, the product came out almost as well as if it had.

CONGRESSMAN WOLPE'S "SOUTH AFRICA: A CASE FOR SANCTIONS"

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. RANGEL. Mr. Speaker, I would like to share with you an article from the distinguished gentleman, Mr. WOLPE, on the case for economic sanctions in South Africa. Mr. WOLPE's case should illustrate to us all the desperate need for consistency between, on the one hand, our country's rhetorical condemnations of the apartheid regime at home, and on the other hand, U.S. acceptance of apartheid in its policies abroad.

We must, as a nation that has experienced the pain and suffering associated with instituting civil and human rights in this country, take an active stance against the racial oppression and violations of human rights that are taking place in South Africa, and throughout the southern African region. We cannot preach racial harmony at home, and practice something very different abroad.

In the upcoming weeks, we, the Congress, will have a chance to vote on a very important piece of legislation, H.R. 1580. This bill can point us in the right direction toward making the crucial link between our rhetoric and our foreign policy.

With this in mind, I would like to include the following by our distinguished colleague from Michigan, Mr. WOLPE:

SOUTH AFRICA: THE CASE FOR SANCTIONS

(By Howard Wolpe, Chairman, Subcommittee on Africa, May 12, 1988)

There is a terrible tragedy in the making in South Africa. A blood-bath looms—and all of us are threatened by its consequences. The human costs of a prolonged and violent struggle in South Africa are incalculable both in terms of treasure and of lives—black and white—that it will consume. And the struggle for liberation in South Africa will increasingly affect the United States and the Western World. We cannot run and we cannot hide from the struggle or its consequences. All of our rationalizations for inaction will ring increasingly hollow and will only fuel racial division and conflict in America and throughout the world. For it is the doctrine of white supremacy—of racism—that provides the only reason and justification for the apartheid regime. People of color understand that very clearly—whether they live in America, in Africa, or elsewhere. And they also see through—just as clearly—all of the subterfuges that are devised to rationalize the accommodation that the United States, the Western World, and—in its cartel-like relationship with the South African diamond industry—even the Soviet Union has made with the apartheid regime.

The simple truth of the matter is that apartheid exists because it is enormously profitable to South Africa's ruling white minority. All of the elements of the apartheid system contribute to one objective: the preservation of white minority privilege. In an important sense, South African society economy operates as one vast slave plantation. Blacks have little control over their own destinies. They cannot freely determine neither where they live nor the conditions under which they work. They have no importance to the white minority except as a pool of cheap labor required to keep South African mines and economy going and the white minority prospering.

That is why anti-sanctions advertisements such as the one sponsored by the South African Business Council that appeared recently in the Washington Post—in which a picture of a zebra was presented with a caption that read, "Shoot it in the White and the Black dies with it"—can only be characterized as obscene. What that ad reveals is that some of the principal beneficiaries of apartheid, the white South African business interests for whom apartheid has been so enormously profitable, are hiding behind the victims of apartheid in their effort to resist stronger economic sanctions and to preserve their profits.

Those who call for new sanctions against South Africa are not unaware that such measures as a trade embargo and disinvestment will affect South Africa's black majority. Clearly increased economic pressure against apartheid will mean economic costs for the black population. But, as Bishop Tutu, Rev. Boesak, and key South African trade union leaders have repeatedly stated, the short-term costs of economic sanctions will be far less than the long-term costs—in terms not only of economic hardship but of loss of lives—of a protracted violent liberation struggle. And the only way that this kind of struggle can be averted is by a decision of the white minority to abandon apartheid and to negotiate with the black majority the transition to a new and democratic political order.

Whatever the costs of sanctions to the black majority, the costs for the privileged white minority will be far greater—and it is precisely for this reason that the South African government and business community are so determined to defeat this effort to impose new sanctions. The harsh reality is that no regime—in the history of the world—has ever voluntarily relinquished power, and there is no reason to believe that the white minority of South Africa is somehow unique in this respect. The current regime will give up its monopoly of power—will abandon apartheid and sit down to negotiate a new democratic political system with the country's black majority—only when it concludes it has more to lose than to gain by trying to hold on to the apartheid system. Anything we in the United States or the international community do that signals to the white minority that it can continue to operate as a totalitarian, repressive state without fundamental economic costs and deepening international isolation will only prolong the struggle. That, in turn, will mean increased polarization inside South Africa, much greater violence and bloodshed, and far greater risks for the United States and the Western world. We have vital interests in southern Africa, and widening regional conflict and instability will imperil those interests. That is why we need now, rather than later, to do everything we can to help create the conditions for regional peace and stability.

One argument that is often advanced by the opponents of sanctions is that there is no certainty that the end of apartheid will mean the beginning of democracy in South

Africa, that it could just as easily herald the emergence of a radical and equally repressive black regime. To this it must be said that there are no guarantees as to the future. A new dictatorship could in fact succeed the current dictatorship. But surely that possibility does not justify our accomodation to the tyranny of the moment. Moreover, it is clear that the more prolonged the struggle to topple the apartheid regime the more violent and polarized the conflict will become, and the less likely it will be that we will see the emergence, in a post-apartheid South Africa, of a multi-racial and democratic political system. We simply cannot have it both ways: we cannot bemoan the spread of Communist or other radical influences within the liberation movements of southern Africa and then be unwilling to identify the United States, unambiguously, with these liberation struggles.

It is not that sanctions will in and of themselves bring down apartheid—they will not, and we ought to have no illusions on that score—but they will increase significantly the costs the white minority regime must bear for its repression and its inhumanity. And those external costs will reinforce the internal pressures that have been building within South Africa for many years. As a group of British Commonwealth leaders observed not long ago, the failure to enforce much tougher sanctions will only bolster the apartheid regime in its determination to hold on to its monopoly of power indefinitely.

There are elements of America's corporate community that have come together this year to aggressively resist the imposition of new sanctions. Clearly, American business opposition to sanctions has a variety of motivations. For some it is a matter simply of dollars and cents. After all, American investment in South Africa, while exceedingly small in dollar amount and as a percentage of overall American foreign investment, has at times been enormously profitable. Indeed, form 1970-1980, foreign companies averaged a 15% per year return on their investment in South Africa.

It is not easy to ask America's business leaders to forego this kind of profitability and to make the economic sacrifices that would be enforced under a trade embargo and disinvestment. And we would not be making this imposition were it not clear that American national interests required it. We all wish there were a way to raise the costs to the South African regime that did not also involve costs for the American business community, just as we wish it were possible to avoid collateral costs for South Africa's black majority. But there is simply no cost-free means of adding to the pressure on the South Africa regime—anymore than there was a cost-free means of bringing pressure to bear on the Soviet Union, or Poland, or Libya, or—most recently—Panama. It should be noted, however, that the costs to American business of disinvestment and a South African trade embargo will be relatively quite small. This is, very simply, because direct American investment in South Africa has already declined from a high of $2.6 billion in 1984 to little more than $1 billion. Since 1983, 160 American companies have withdrawn from South Africa and more corporate withdrawals are anticipated. Likewise, the volume of American-South African trade has declined almost 50% since 1984: U.S. exports to South Africa in 1987 totaled $1.25 billion while imports from South Africa amounted to $1.35 billion.

But there are other corporate leaders whose opposition to sanctions is motivated not by profit consideration but by their genuine conviction that their presence in South Africa represents a constructive force for change. These corporate leaders feel a deep sense of loyalty to their South African employees, and fear that disinvestment will cause great hardship—particularly to their black workers. They argue that the increased repression in South Africa is evidence of the failure of economic sanctions, that the United States and the international community should "back off," and that the American business community should stay involved in South Africa and seek to work for change from within.

The arguments made by this latter group of sanctions opponents cannot be casually dismissed. There is no question that several (though by no means all) American firms have had exemplary records of corporate behavior in South Africa. They have provided South Africa with a new and positive model of labor-management relations. They have desegregated their workplaces. They have instituted aggressive management training programs for blacks. They have made significant social investments in such areas as education and housing. They have, in short, improved the lives of their South African black employees.

The plain truth, however, is that very few blacks have actually been beneficiaries of these benefits. Indeed, in 1986, no more than 48,000 non-whites (Blacks, Coloreds and Asians together)—less than one-half of 1% of the South African non-white labor force—were employed by all American firms combined. The overwhelming majority of black South Africans face a very different and much harsher reality—a reality that has 3.3 million unemployed black workers and a 30%-plus unemployment rate; that denies citizenship to 7 million residents of so-called "independent" homelands; that involves daily confrontations with a brutal and dehumanizing totalitarian police state; that tolerates forced removals of so-called "black spots" from white residential areas and; that involves the routine separation of families; that has produced violent deaths in the thousands; and that accepts rates of infant mortality that exceed those in many much poorer African states.

Moreover, even the benefits that flow to the few workers in American firms will be for naught if the South African regime cannot be brought very quickly to abandon apartheid and to seek a negotiated political settlement. Not only will the jobs of the black employees be placed in jeopardy by the widening conflict and violence, but so will their lives.

Unhappily, American business investment in South Africa, at the same time that it conveys significant benefits to black employees, provides far greater rewards to the privileged white minority. The continuation of this investment—and of normal trading relations—helps to keep the white minority-dominated economy afloat (17% of South African investment is of foreign origin, and 53% of South Africa's gross national product is trade-dependent), and thereby reinforces the Afrikaaner regime's fantasy that their monopoly of power can be sustained indefinitely without serious cost. Again, that is why so many of South Africa's black leaders have concluded that continued Western investment in, and trade with, South Africa is only making a bad situation far worse and far more dangerous.

Many American corporations have withdrawn in recent years, some because the profitability of their companies in South Africa declined precipitously, others because of their concern about the domestic consequences of their continued involvement in South Africa, and still others because they concluded that their presence in South Africa was doing more to sustain than to end apartheid. This voluntary disinvestment, together with the limited economic sanctions that have been imposed, has had a real impact on the South African economy and political system. Lest this be in doubt, listen to these words of Gerhart deKock, Governor of the South Africa Reserve Bank, who on September 11, 1987 stated,

"The basic underlying problems that threaten to isolate us from the rest of the world have not yet been solved. The outflow of capital, the emigration of skilled people, the large discount on the financial rand, and the decline in fixed and inventory investment, are all sending us messages that we should heed.

"They are telling us that, whatever improvements we bring about in our short and long-term economic strategies, we must first and foremost convince both the outside world and ourselves that we are continuing on the road of peaceful and constitutional reform."

Indeed, South African leaders have repeatedly acknowledged the potential impact of any withdrawal of Western economic support. Thus, on April 21, 1986, President Botha criticized a Conservative Party parliamentarian, saying:

"He and his party will not buy our farmers products if we cannot export. Nor will they buy our minerals or our manufactured goods if a general boycott against us succeeds. And they will be powerless if this country's imports of a variety of goods is halted."

And there have been other ramifications as well. Who, for example, doubts that the recently opened dialogue between leading Afrikaaners and the ANC would have occurred were it not for the rapidly intensifying combination of internal and external pressures on the regime?

Finally, there has been the impact of American sanctions on black perceptions of the United States not only in South Africa, but throughout the African continent. Our own Ambassador to South Africa has made clear the value in this regard of the congressionally mandated sanctions effort. Before enactment of this law, most blacks had come to perceive the United States as an active accomplice of the South African regime. But with the passage of the Comprehensive Anti-Apartheid Act, over the President's veto, American credibility within South Africa's black community was substantially enhanced.

In short, even the limited sanctions currently in place have had a major positive impact. The intensified repression witnessed in recent months is the product not of a regime consolidating but of a regime unravelling. Increasingly unable to cope with rising dissent and protest, it is increasingly desperate, flailing about trying to find the means of restoring the regime's authority and control. One moment, it becomes even more violent and coercive. The next, it offers up a so-called "reform" proposal, hoping to coopt some of its black population and to seduce an international community that desperately wants to believe that the regime is committed to a process of fundamental change that will eventually see the voluntary end of white minority rule.

America's historic resistance to the application of sanctions against South Africa has been very costly. It is this resistance that has led so many to conclude that the United States is willing to accommodate itself to apartheid. This resistance to sanctions may therefore have unintentionally added substantially to the pain and hardship inflicted by apartheid on South Africa's black majority. At the same time, it has produced a widespread perception that America has a racial double standard in its foreign policy—a perception that has undermined America's moral authority and political influence throughout that part of the world which is not white—which just happens to be most of the world. People of color—whether in Africa, Asia, or in Latin America—ask themselves (as should we) whether America would have resisted the application of sanctions for so long if the racial composition in South Africa had been reversed, and it had been a black minority imposing the horrendously dehumanizing apartheid system over a white majority. They note our enthusiasm for sanctions elsewhere in the world—such as those imposed against the Soviet Union, Cuba, Nicaragua, Libya, and most recently, Panama—and they find America's approach to South Africa terribly inconsistent. And they note how even our language is altered to describe the South African situation: for example, we see the frequent characterization of the ANC as comprised of "terrorists" instead of "freedom fighters." And they are bemused by the sudden emergence of Americans as the apostles of non-violence, when the United States has been hardly reluctant to support a military response in Afghanistan, in Nicaragua or in Libya. But perhaps the most telling commentary, in the eyes of these observers, is the frequent use by American opponents of sanctions of the argument that "sanctions will hurt the very people we seek to help"—as if the earlier applications of sanctions didn't hurt the Nicaraguans or the Panamanians or the Libyans. Indeed, what is startling is how unaware we Americans often are of our inconsistency, or of the unconscious biases that impair our objectivity and result in flawed policy, policy that does violence to both American values and American national interests.

Nowhere is the loss of objectivity more apparent than in our failure to recognize the extent to which the conflict and instability generated by apartheid threatens American interests not only in South Africa itself but throughout the region of southern Africa. For the desparately insecure Afrikaaner regime, refusing to come to terms with the need for fundamental internal reform, seeks to protect itself by waging unremitting war against what it perceives to be an external threat. This has led South Africa to become a rogue terrorist state, operating with callous disregard for international law or international opinion: South Africa continues to defy the United Nations (and the United States) in maintaining its illegal occupation of Namibia; it has invaded Angola with a force of several thousand; it has launched brutal raids into Botswana, Lesotho, Swaziland and Mozambique; it has attempted to destabilize Zimbabwe and to overthrow the government of the Seychelles; and it has armed and supported brutal dissident groups in Mozambique and Angola. South Africa has, in short, become the principal source of regional conflict and instability, thereby imperiling vital Western economic and political interests and raising the dangers of continuing superpower rivalry and confrontation within southern Africa.

The last argument frequently advanced by sanctions opponents is that, if sanctions are imposed unilaterally by the United States, the Europeans and Japanese will move into the breach created by the departure of American firms from South Africa and by the closing down of American-South African trade. Clearly, multilateral sanctions are preferable to unilaterally imposed sanctions and should be our ultimate policy objective. But to create that possibility, we need first to demonstrate the will to act on our own. Unless we are willing to do so, we are scarcely able to lead the rest of the Western world in a concerted multilateral sanctions effort. In fact, in the last three years, American leadership has played a major part in the decisions of several countries to impose limited sanctions against South Africa.

Finally, it must be emphasized that American action, even if taken alone, can have major impact on South Africa. That is because the apartheid regime continues to look to the United States and Great Britain as the ultimate guarantors of apartheid, as the two countries most likely to resist effective action against the apartheid minority regime. That may not have been our intention these past several years. But that has been the clear consequence of the continuing contradiction between our rhetorical condemnations of apartheid and our acceptance of a "business as usual" posture toward South Africa. It is time to bring our rhetoric and our policy into synch. It is time that America truly commit itself to the struggle against apartheid. It is not only American values that are at stake. It is also a question of American national interests in all of Africa.

IRAN: YOU HAVE BEEN GIVEN NOTICE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. CRANE. Mr. Speaker, I feel pity toward Iran as I look back upon the last few weeks of renewed action in the Persian Gulf. Iran, obviously, has no concept of the military ability of not only our great country but the members of the NATO alliance. We have put up with years of the Ayatollah's harassment of gulf shipping. We have stood by idly while Iranian-backed terrorists inflict pain and suffering upon innocent citizens not only of this land but of the world. We watched for 444 days as these criminals held Americans hostage in their country. We have suffered extreme emotional pain and now the time has come for us to let these "clowns" pay the price for harassing "the sleeping giant."

We have struck back. We have put the Ayatollah on notice that he cannot continue to strike out at American people. The citizens of this country do not favor a war with Iran, but by the grace of God they will make them pay for any hardship that the Ayatollah tries to place on us. I commend the soldiers, sailors, and airmen who represent this country in the Persian Gulf. Only they know the danger and fear that accompanies service to their country and they have bravely stood up to a class bully. They have brought forth honor and distinction to the world and have reemphasized the fact that we can only be pushed so far.

Japan made the mistake of attacking Pearl Harbor in 1941 and they paid dearly. Libya exported terrorism and they too have paid dearly. Iran has been given their warning. The time has come for the United States to explain the facts of life to the Ayatollah. It is without a doubt that he has been given sufficient warning.

At times throughout American history, we have held back—not committed ourselves fully to the tasks at hand. We opted for a negotiated peace in both Korea and Vietnam. Well those days are over. We are a country of infinite patience. With Iran we have retaliated in equal proportions. A ship for a ship. However, those days are ending. Before the last Persian Gulf firefight, Members of Congress were consulted beforehand and briefed on the President's plan to retaliate. The administration received broad bipartisan support and approval. Thus far, the Members of Congress have been inconsistent in their support of the President's actions to keep the peace in the gulf. Now is the time in which they can make a firm commitment to put an end to Iranian terrorism and seek peace for the world.

In closing, let us remember that war does not, and cannot, prove which side is right, but only which side is stronger. As a word to the Ayatollah, if he continues to push the United States, he unfortunately will find the answer to which side is stronger. I have included two outstanding articles which I feel are must reading for my colleagues. The articles follow:

[From the Washington Times, May 4, 1988]

BEYOND TIT-FOR-TAT IN THE GULF?

(By Patrick Buchanan)

Following the U.S. naval engagement in the Persian Gulf, I volunteered, on a television show, that while the administration had sought only the destruction of two oil platforms in retaliation for the mining of the Samuel B. Roberts, it was the U.S. Navy which had exacted full retribution.

Following that comment, I was contacted, and corrected, by what might be called an "unimpeachable" source in the White House, who volunteered, graciously, that my mistake was due to not having "all the facts." Here, then, is the corrected version:

While several Democrats consulted by the president did indeed urge that retaliation be confined to hitting oil platforms, President Reagan was the one who insisted that an Iranian warship be destroyed.

When the target vessel, however, turned up in port after orders had gone out, the U.S. Navy waited outside—intending to give warning to the crew before sinking the ship. The Iranians, however, came out fighting. Thus, not only was that frigate destroyed, but another Iranian frigate as well, two oil platforms and assorted gunboats. An impressive performance, proof that in building and modernizing a 600-ship Navy, providing it with new weapons, and giving our sailors pay commensurate with their duties, the American people got more than their money's worth.

While destruction of half of Iran's major surface ships may cool the hotheads of Tehran who authorized the mining of the sea lanes, it may not be enough. Iranian naval commanders are even now describing the engagement in the Gulf as an "epic" sea battle, virtually unprecedented "in the history of naval warfare."

A new terrorist strike on Americans, another mining of an American warship, cannot be ruled out. But if it comes, it is really past time to be playing tit-for-tat with Tehran, to be winning brownie points for our policy of "restraint." If hit again, the United States ought to follow the counsel of retired Adm. Wesley McDonald: "Go out and sink the Iranian navy."

This is not bellicosity; it is common sense. What Adm. McDonald objects to, and what the administration should reflect upon, is that our policy of restraint, of warship-for-warship retaliation, may be playing into the hands of the most virulent anti-American elements in Tehran.

For the Ayatollah Khomeini's fanatics to have crippled a U.S. warship, while losing two frigates to the greatest Navy in the world, was not a defeat, but a victory over the Great Satan; and they are celebrating it as such.

Second, administration fears that Iran could be driven, by American action, into the hands of the Soviets, seem farfetched. The Iranians may be crazy; they are not stupid. A regime as xenophobic and nationalistic as the Islamic Republic of Iran is not about to crawl between the sheets with an atheistic superpower which has historic designs on Iranian territory. Self-interest, not the United States, keep Tehran out of the embrace of the bear.

Just as the moderates in Berlin, who feared Hitler's messianic ambitions and wanted peace with the West, were hoping for a powerful allied rebuff to Hitler's move into the Rhineland, the moderates in Iran may relish a devastating U.S. military response that discredits and humiliates the extremists who provoked it.

Everyone now concurs that one of the great blunders of Vietnam was President Lyndon B. Johnson's policy of "gradualism," i.e., the careful, calibrated escalation which enabled the enemy to adjust to each new application of U.S. military power.

Tit-for-tat is not the way the United States traditionally wins military engagements; it is not the American way of war.

In Iran, the United States confronts an enemy much more disposed than we to spend blood for holy causes. If we permit Iran to dictate our response, frigate for frigate, our restraint itself may be inviting the wider war we seek to avoid.

And if Defense Secretary Frank Carlucci did intervene to prevent the sinking of the crippled Iranian frigate, that was a pristine example of Carteresque micronmanagement, a clear signal to Tehran that the Americans are reluctant to use their power when provoked; hence, an invitation to new provocations.

In sending warships to the Gulf to convoy re-flagged Kuwaiti tankers, President Reagan took a gamble, a gamble that has, in part, paid off. American prestige, damaged by the sale of weapons to Iran, has been enhanced, in the Gulf region and throughout the Arab world.

Having made his point, Mr. Reagan ought now to inform Iran's ambassador to the United Nations that one more attack on a U.S. naval vessel, one more terrorist atrocity, and the gloves come off—that the U.S. Navy will use its stand-off weapons to sink the entire Iranian navy, to take out its Silkworm missiles,, to destroy the factories that produce the mines, and to put Kharg Island out of business indefinitely.

An ancillary benefit of that wise public policy would be that the American people, who justly despise Tehran fanatics, would heartily applaud; Vice President George Bush would immediately endorse; and Massachusetts Gov. Michael Dukakis would be left where he was after the last engagement, pleading "insufficient information" to form an opinion.

[From the Washington Times, Apr. 21, 1988]

WHEN THE WATCHDOG IS UNLEASHED . . .

(By Raymond Price)

This week's military action in the Persian Gulf was a sharp reminder that we share the world with people who are not nice, and that in such a world it's distinctly better to have military force available than not to have it.

It's also a timely reminder that military force is useless unless a president can deploy it when and as needed. Our warships were useful because they were present in the Persian Gulf; they were effective because they fired their weapons. If the captain of each ship had had to wait for a vote of Congress, the Ayatollah Khomeini would still be laughing.

The purpose of a Navy is to project power, and this means to make U.S. power felt. No matter how fiercely a guard dog may bark, if an intruder sees that the dog is securely chained to the wall, the dog provides a deterrence.

One consistent theme of Congress' pattern of mischievous meddling in foreign policy over the past 15 years has been a determined effort to chain the U.S. military to the wall, and to do so in the most public way possible. Thus Congress time and again makes a laughing stock of U.S. military power, and invites every petty tyrant in the world to thumb his nose at Uncle Sam while committing mayhem against his neighbors.

The power of a fanatic to terrorize his neighbors is directly proportional to those neighbors' reluctance to take action against him.

There's a large bloc in Congress whose instinctive, reflexive reaction to an act of aggression or of international terrorism is to hide in a corner and chant "United Nations . . . international law . . . negotiations . . . peace," and then if U.S. military action is taken despite those chants, to insist tremulously that it must be no more than "proportionate"—a slap for a slap.

That's not the way peace is kept in a world of predators. You don't contain the Ayatollah Khomeinis and the Col. Muammar Qaddafis by reasoning with them. You contain them by inflicting more pain on them than they inflict on you, and by making it clear that the pain next time will be greater, not less.

You do it by acting like a greater power—by demanding not love, but respect, and by demonstrating not only the possession of superior force but the will, if sufficiently provoked, to use it to devastating effect.

Iran's Ayatollah Khomeini is evil. He's vicious. He's medieval. He's a fanatic. But after Iran's nose was bloodied by the U.S. Navy last October, in retaliation for Iranian attacks on U.S. and U.S.-escorted ships, those attacks stopped for a long while.

Libya's Col. Qaddafi is also evil, vicious and fanatic, but after the U.S. bombing raids on Tripoli in April 1986 there was a long halt in Libyan acts of international terrorism.

The United States should stop being apologetic about throwing its weight around. In international affairs, throwing-around is what weight is for. The distinction to keep in mind is how we do it, and to what purpose.

The United States stands for certain basic values in international relations: for freedom over tyranny, for mutual respect among people and among nations, and against the use of force by one country to impose its rule on another.

We've got to make clear the distinction between the use of force for aggression and its use to enforce those basic rules that make it possible for nations to live at peace with one another.

When the Soviets sent their troops into Afghanistan, they did so in an effort to rob the country of its independence and bring it under the Soviet heel.

When the United States sent troops to Vietnam, its purpose was the same as it had been a generation earlier in Korea: to halt an invasion from the north that sought, at the point of a gun, to impose a Soviet-backed tyranny.

In Korea, we succeeded because American will didn't crumble.

In Vietnam, we ultimately failed because American will did crumble, and the 17 million people of South Vietnam, not to mention those of Cambodia, have paid a terrible price for that failure.

The purpose of a military response of the sort that the United States launched this week is not only to deter the immediate aggressor, in this case Iran, but, equally important, to warn other potential aggressors that adventuring carries real risks.

We can't be all things to all people and we can't do all things to all people. But we can do some things to some people, and the world will be a better place for everyone if they fear that we might.

TRIBUTE TO THE REVEREND DR. J. JEROME COOPER

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. GRAY of Pennsylvania. Mr. Speaker, I would like today to bring to the attention of my colleagues in the Congress a distinguished Philadelphian, community activist and advocate, an inspirational leader, the Reverend Dr. J. Jerome Cooper. On May 20, 1988, the Berean United Presbyterian Church of Philadelphia honored their senior pastor, the Reverend Dr. Cooper, with a silver jubilee celebration for his 25 years of service to the church and to the Philadelphia community at large.

On May 19, 1988, the Reverend Dr. Cooper was honored at Temple University's commencement exercises for a quarter of a century's contributions in leadership and service to the university community, as well. Temple University conferred upon him the honorary degree, doctor of public service honoris causa [DPS].

The Reverend Dr. Cooper has administered to the spiritual, physical and economic needs of the Philadelphian community for many, many years. His church and community service spans a lifetime, be it in area of community health, education, housing and development or recreation programs, prison reform or family support and therapy groups. Wherever there has been human need, the Reverend

Dr. Cooper has been there to lend his assistance and support, to provide leadership and expertise.

The list of his unselfish contributions and accomplishments, the numerous boards upon which he has served, his awards, his commendations make for a vita the length of a short story. He is a man who has never minimized the value and importance of the needs of an individual or those of a group of individuals.

The Reverend Dr. Cooper's parishioners describe him as a man who " * * * lives not to be served but to serve." When a program or support group has not been in place or at hand to meet the needs of an individual or the community, he has founded or cofounded the necessary program or vehicle for assistance. The list of his foundings and cofoundings alone is a long one, including: The Utility Emergency Service Fund [UEST], the People's Community Developers Corp. [PCDC]; the North Central "Seasoned" Citizens' Program; phases I and II of the People's Village; the Female Prison Relate Program in the House of Correction; the Ecumenical Ministers' Fellowship Support System; the Family Therapy Program for the House of Correction, the City Prison; the Berean Single Parent Support Group, Inc.; the North Central Philadelphia Association [NCPA] comprised of community organizations, educational institutions, nonprofit organizations, and businesses.

Mr. Speaker, I, as well as every Philadelphian, am indebted to the Reverend Dr. J. Jerome Cooper. We salute him as a minister, an educator, a humanitarian, a community service advocate, a civic leader and a champion of equal opportunity and impartial justice for all people.

MAINE MARINER RECEIVES VETERANS STATUS

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Ms. SNOWE. Mr. Speaker, I would like to take this opportunity to congratulate Capt. Walter Roy Millington on the receipt of his certificate of release of discharge from active duty. Captain Millington received his discharge 43 years after the close of World War II.

In a special ceremony, the 89-year-old captain became one of the first merchant marines to receive a discharge under the Secretary of the Air Force's determination that those merchant marines who served between December 7, 1941, and August 15, 1945, would be considered active duty for the purpose of eligibility for veterans benefits. An estimated 6,700 merchant seamen died in World War II.

I would like to share an article with my colleagues on the May 16 ceremony:

[From the Courier-Gazette, May 19, 1988]

Mariner Honored Under New Rules

(By Michael O'D. Moore)

Belfast.—Almost 17 years after dropping anchor for the last time, Merchant Mariner Walter Roy Millington has been recognized as a veteran of foreign wars.

The award is one of the first to be made following a decision earlier this year that granted merchant mariners who served during WW II, veteran status. That decision followed a 10-year battle by Camden maritime historian Charles Dana Gibson against bureaucrats and other officials resisting the recognition.

The announcement was made Monday afternoon at the Tall Pines Nursing Home community room where Merchant Mariners, Coast Guard representatives and friends gathered to honor the 89-year-old captain.

Millington had not expected the award and was surprised at the announcement. "Oh, my lord," he said repeatedly.

"Here's the man who made it all possible," Millington said, pointing to Gibson.

In announcing Millington's award, Coast Guard Chief Warrant Officer Gerald Trackim said the only blemish on the veteran mariner's record was the time the old salt took a merchant vessel between an outcropping of ledge known as "The Graves" near Camden Harbor. "We don't do that," Trackim said.

Later, Millington said piloting the ship off Camden during the war was an indiscretion of youth. "I guess I was showing off."

When the big ship appeared off the harbor, Millington's father later told him that everyone yelled, "There's a ship coming into the harbor." Millington, seated in a wheelchair, smiled with pleasure as he recounted the tale.

Again and again Millington praised Gibson for his efforts to gain recognition for Merchant Mariners who faced the same dangers as other WW II veterans. The captain said he read about the awarding of veteran status to mariners in a newspaper.

Asked how he feels about receiving veteran status after all these years, Millington said simply, "It's a miracle."

Talking to another merchant mariner after the ceremony, Millington recalled one trip his crew made without a navy escort. Had a U-boat torpedo not misfired when it struck the ship on that trip, he might not have survived.

CONFUSION OVER PANAMA POLICY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. APPLEGATE. Mr. Speaker, it is with much dismay that I have been following the recent scenario in the Reagan administration's handling of General Noriega of Panama. The President of the United States has taken it upon himself to deal with known drug dealers in an effort to restore "democracy" to Panama. I believe this to be not only an embarrassment to the United States as a major power in Panama, but it also sends a terrible message about our commitment to the fight against illegal drugs.

In February 1988, when General Noriega was indicted by two Federal grand juries on drug smuggling charges, the Reagan administration went public with their intent to enforce these charges. However, in the last several weeks, President Reagan has retracted his previous statements, now allowing Noriega to leave unabashed from his position of power. The confusion over this latest Reagan policy has given the Panamanian people a reason to distrust and question the intentions of the United States.

Mr. Speaker, if the United States wishes to maintain its role as a major power in the world, policies must be established that assert our commitment and leadership.

A BILL TO REVITALIZE THE MARITIME INDUSTRY IN THE UNITED STATES

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. DAVIS of Michigan. Mr. Speaker, at the request of the Shipbuilders Council of America, I rise today to introduce a bill that will revitalize our Nation's merchant marine. The U.S. merchant marine fleet has been declining dramatically over recent years. If action is not taken now to reverse this decline, the security of our Nation will be jeopardized.

Last year, the Commission on Merchant Marine and Defense completed its first report of "Findings of Fact and Conclusions" on the importance and condition of the U.S. merchant marine and the maritime industries. The principal finding of the Commission is that there is a "clear and growing danger to the national security in the deteriorating condition of America's maritime industries. The United States cannot consider its own interest or freedoms secure, much less retain a position of leadership in the free world, without reversing the decline of the maritime industries of this nation, which would depend so heavily in a protracted war upon adequate use of oceans for its military defense and for its economic survival."

The size of our merchant fleet has, according to this study, declined from a fleet of 905 active and idle oceangoing ships in 1970 to a mere 445 today. Of this number, approximately 20 percent are laid up. Our Nation's shipyards have not fared any better. In just the last 6 years, 41 major shipyards which were identified by the U.S. Navy as essential to the national emergency shipyard mobilization base have closed their gates and 32,500 direct shipyard jobs have been lost. Today, there is not one single commercial oceangoing vessel under construction in a U.S. shipyard—not one.

The reason for the total collapse of the U.S. commercial shipbuilding market is due to a number of factors. We must all realize that the international shipbuilding market is by no means a free and open market based on cost competition alone. It is a world of government support, subsidy, and loan assistance. U.S. shipyards, that receive no subsidies or assistance, find themselves competing against foreign governments rather than foreign shipyards. Our country also enjoys one of the highest standards of living in the world. Since shipbuilding has usually chased the lowest labor rates, many Third World, lesser developed nations are able to undercut U.S. labor rates. These nations which provide enormous support to their shipbuilding industry recognize the importance of preserving their shipbuilding base and go to great lengths to do just that.

We, on the other hand, with much more at stake, have ignored an industry that is crucial for our existence in peacetime as well as in time of national emergency.

During this Congress, several bills have been introduced to address the plight of the U.S.-flag liner operators. I am proud to be the sponsor of one of these bills, H.R. 3297. If we are to strengthen our merchant marine and enhance our national security, however, all segments of the maritime industry must be addressed simultaneously. The time has come for operators, builders and unions to forge a comprehensive approach to save America's maritime industry and our merchant marine. The bill that I am introducing today represents a major step in that direction. This legislation addresses the concerns and needed reforms of our liner operators while implementing a commercial shipbuilding program in the United States. The three major categories of this bill pertain to operating-differential subsidy [ODS], procure and charter, and Government preference cargo.

This authority to build foreign will be linked to a Procure and Charter Program, as recommended by the Commission on Merchant Marine and Defense. Under this program, the Government will procure the ships and charter them to the private sector. The charter fee from these vessels will go into a fund that will be used to offset the cost to the Government for the vessels' construction. These U.S.-built, U.S.-flag vessels will be primarily responsible for meeting critical strategic sea life requirements in time of emergency. No restrictions are placed on where these ships trade.

As these commercial yet militarily useful ships built under the Procure and Charter Program or those built by private financing join the fleet, they will be given priority preference to transport military and government-impelled cargo. Vessels built in a foreign shipyard will be precluded from carrying this cargo at the end of fiscal year 1992. Current law requires, for national security purposes, that all government cargo be carried on U.S.-flag vessels. Because the shipbuilding mobilization base is essential to our national security, this bill will expand current law to require that all vessels in this trade not only be registered under the U.S. flag but also be built in the United States. Vessels carrying government cargo will not be granted ODS.

This bill requires compromise on all fronts. U.S. shipbuilders must compromise with U.S. operators on build-foreign authority. Domestic operators would in turn be required to forego the carriage of government cargo in exchange for build-foreign authority. As more vessels are built, more seafaring jobs and shipyard jobs will be created. This is a sound approach to revitalizing our merchant marine while ensuring that militarily useful ships are available in the fleet in time of national emergency.

Mr. Speaker, while no one has all the answers to this most pressing problem, I look forward to examining this proposal as soon as possible.

RESOLUTION TO COMMEND PRIME MINISTERS OF GREECE AND TURKEY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. SOLARZ. Mr. Speaker, my colleague, Gus Yatron of Pennsylvania, and I coauthored House Concurrent Resolution 274, to commend Prime Minister Ozal of Turkey and Prime Minister Papandreou of Greece for initiating an extraordinary personal dialog in an effort to forge a closer relationship between their two countries.

In crafting this resolution, we both felt it was appropriate for the Congress to register its support for the constructive and encouraging steps these men undertook by holding two summit meetings this year and by agreeing to schedule a third such exchange in June at which time Prime Minister Ozal will visit Greece.

As we know, it happens all too often that differences between nations and peoples are resolved by conflict and bloodshed rather than dialog and discussion. When leaders embark on a productive and commendable course of action such as that being paved by these two men, it is surely desirable to endorse vigorously the process they undertake to resolve their differences.

Given the fact that we never seem to hesitate to level criticism against countries which we think have acted improperly or undesirably, it is especially appropriate that we not be silent at times of real progress lest that silence be mistaken for indifference.

By supporting publicly the current dialog, we can perhaps, in a modest way, act as an additional impetus for these leaders to resolve their differences. Hopefully, this dialog will result in the establishment of an atmosphere which is not only conducive to achieving progress on their bilateral differences but will also facilitate an equitable settlement of the Cyprus problem.

For the United States, this high level dialog offers the hope that the resolution of the differences between two important allies will serve to stabilize our relationship with each nation, thus bolstering the alliance as a whole. Since both Greece and Turkey play a critical role in defending the southern flank of NATO, an improvement in their bilateral relationship will necessarily help to facilitiate the strengthening of the defense capabilities of NATO both in the Aegean and throughout the southern flank.

To be sure, it is premature to assess the long-term implications of this most welcome initiative by Prime Minister Ozal and Prime Minister Papandreou. Nevertheless, the developments which have taken place this year have been heartening to all those who care not only about improving relations between Greece and Turkey but to those who care about resolving regional tensions in such a productive fashion.

TRIBUTE TO MALCOLM X

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. RANGEL. Mr. Speaker, I rise today, 5 days after the May 19 birthday of Malcolm X, to pay tribute to his life, and to the inspirational spirit that Malcolm provided in the foundations of black power among the urban poor.

Malcolm X, like Martin Luther King, was passionately dedicated to his people, and was assassinated in the prime of his life. As one of the foremost proponents of black power and black nationalistic philosophies, Malcolm made sense to many Americans who had been left behind, due to race and social prejudices; especially the young.

He was a spellbinding speechmaker and influenced many inner-city peoples through his oratory and ideas rather than through specific programs. His analysis of white racism and hypocrisy struck responsive chords in the hearts of poor black urban dwellers, ex-convicts, and street people who had directly experienced the contempt of white society.

As a member of my district, Harlem, Malcolm and the urban-based nation of Islam stressed and inspired the type of puritanic virtues that had enabled white Americans to succeed—stable marriage, fidelity, abstinence from alcohol, controlled diet, good working habits, and industry. This group was able to rehabilitate ex-criminals and drug addicts as no medical or psychological approach had.

But most of all, Malcolm X will be remembered and admired for his uncompromising self-assertiveness, and his unwillingness to retreat in the face of hostility.

UNITED STATES-CANADA FREE TRADE AGREEMENT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. CRANE. Mr. Speaker, the Greek philosopher Plato once wrote, "you cannot conceive the many without the one." In this spirit, President Ronald Reagan and Prime Minister Brian Mulroney signed the landmark United States-Canada Free Trade Agreement [FTA]. Through their leadership, the foundation for a new era in international trade has been established. This is just the first step, but this agreement will be the precursor for a new move toward the consummation of bilateral agreements as an alternative to the ineffective GATT treaties.

The establishment of free trade with our northern neighbor has long been a high priority in U.S. foreign policy. In 1854 we signed a Reciprocity Treaty with Canada eliminating many of the existing trade barriers. Unfortunately, the United States revoked the agreement shortly following the Civil War due to British support for the Southern cause. However, once Canada received independence from Great Britain, the United States again strove to sign a trade agreement with the Great White North. Yet, as time would tell, all further negotiations would end in failure. In 1874 the Senate refused to ratify a similiar agreement amending the 1854 treaty. Moreover, negotiations completely fell through in both 1911 and 1946. Although a treaty eliminating almost all duties on cars and auto parts was implemented in 1965, we have failed to construct an agreement eliminating trade barriers across a broad spectrum of industries. In essence, this agreement is a testament to perseverance. After 122 years of frustration and intense periods of protectionism, the United States and Canada have accomplished the seemingly impossible—a free trade agreement.

Much has been written about the many virtues of the FTA. Yet, not enough emphasis has been placed on the international implications of this agreement. Few people realize the profound effect the FTA will have on all our trading relationships in the world today. The day the U.S. Congress ratifies this treaty, a whole new era in international trade will begin. Already, Treasury Secretary James A. Baker has indicated that Japan, South Korea, and Taiwan have expressed a strong interest in entering into similiar agreements with our country. Moreover, we now have the opportunity to establish a precedence for future trade agreements to be possibly initiated at the upcoming Uruguay round of the GATT talks. Now is time for America to take the lead in the expansion of free trade around the globe.

Do not take any heed to the myopic criticisms of the FTA's opponents. Protectionist trade policies will lead this country into an economic vuagmire. To those who bicker at the agreement's minuscule imperfections, I must respond that no one treaty is perfect. We must not let this agreement fail due to congressional ineptitude. We just may have to wait for another 122 years.

In sum, I urge my colleagues to support the ratification of the United States-Canada Free Trade Agreement. We have nothing to lose, but a world to win.

THE PALESTINIANS SHOULD DECLARE THEIR OWN STATE

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. RAHALL. Mr. Speaker, due to the recent uprising in the Israeli-occupied West Bank and Gaza Strip, there has been an increased focus on the plight of the displaced Palestinians and their quest for self-determination. We have heard many different theories and ideas on how they could achieve this goal. I have recently introduced House Concurrent Resolution 273, expressing the sense of the Congress that Palestinians should have their own State. Statehood for the Palestinians is one step on the path to self-determination.

Dr. Jerome Segal, a Middle East specialist at the University of Maryland, has expressed another approach which I believe we all ought to take a look at. Following the lead of Israel's path to statehood, the Palestinians should unilaterally declare their own state, according to Dr. Segal, and then seek recognition, as the Israelis have done.

In the Washington Post of May 22, 1988, Dr. Segal outlined his proposal, and I believe that my colleagues and the American people ought to read Dr. Segal's piece and consider his idea. I would like to insert his article into the CONGRESSIONAL RECORD at this point:

[From the Washington Post, May 22, 1988]

A RADICAL PLAN FOR MIDEAST PEACE

(By Jerome M. Segal)

The uprising in the occupied territories is the most important event in the last 20 years of Palestinian history. The most fundamental meaning of the uprising lies in the transformation it is bringing to virtually the entire Palestinian population of the territories. For the first time, they have fully entered history as agents of their own destiny.

Yet for all that, it is not obvious that the uprising has moved the Palestinian people any closer to attaining an independent state. It appears that Prime Minister Shamir has successfully blocked American efforts to initiate an international conference, and public opinion polls suggest that, if anything, the Israeli public has moved a bit to the right.

Inside Israel there are those who say that if no settlement is reached soon, there will be another war with the Arab countries, yet there are no Israeli leaders acting decisively for the self-interest of their own country. Inside the United States, the American Jewish community is unable to find a strong moral voice, and within the Palestinian world there seems to be a shortage of ideas as to how to move from the present situation to statehood.

It is time to rethink some of the basic premises. Up to now, Palestinians have placed tremendous import on an international conference, negotiations and PLO representation at such negotiations. Not much is heard about what happens if such negotiations begin and then deadlock. Perhaps it is believed that the price of failure would be so great that once started, it would necessitate a comprehensive solution. Yet this is wishful thinking. It is perfectly likely that negotiations will simply be unable to generate a solution acceptable to both Israelis and Palestinians, and it is also likely that the super-powers will lack the will to impose a solution.

If we probe a bit deeper, we see that the present strategy for attaining an independent Palestinian state embodies a model which needs to be challenged. That model is that statehood emerges from negotiations and agreements. In short, it assumes that no Palestinian state can come into existence unless there is prior Israeli approval.

Yet consider how Israel itself came into existence. Following the United Nations Partition Resolution of 1947, the Israelis simply declared the existence of the State of Israel. Indeed, they made that declaration contrary to the urging of the U.S. Department of State. They did not get Arab or Palestinian advance approval. They did not negotiate with the Palestinians. They proceeded unilaterally and gradually secured international recognition, admission to the United Nations and effective control of territory.

There are important analogies and disanalogies here for the Palestinians. Today's military and political realities totally preclude achieving statehood through force of arms. But on the other hand, today's political, moral, economic and psychological realities offer new alternatives within the same basic concept: The Palestinians do not need advance Israeli approval to bring a state into existence, and there is no reason why they should cede such power to Israel. Indeed, to do so is inconsistent with the underlying spirit of the uprising.

An alternative strategy is possible. One which will overnight transform the political agenda, and place the two-state solution in center stage as the only peace option. Here is how the Palestinians might proceed:

The PLO issues a declaration of independence and statehood, announcing the existence of the State of Palestine, in the West Bank and Gaza. Simultaneously the declaration of independence and statehood is announced throughout the occupied territories.

The PLO proclaims, as its final act, its transformation into the provisional government of the State of Palestine. The Palestine National Council (PNC) is transformed into the legislative body of the provisional government. All government positions are declared provisional pending the possibility of free election by the Palestinian people.

The new government issues Law 1 which proclaims: the State of Palestine declares itself at peace with the State of Israel; the State of Palestine will not maintain an army.

The new government offers Israel the exchange of ambassadors and mutual recognition.

Law 2 is issued, forbidding all acts of terrorism and announcing penalties for any violations.

A worldwide diplomatic offensive is declared seeking recognition of the new state and its admission to the United Nations.

The provisional government calls for direct negotiations to set boundaries with Israel and to establish a permanent Israel-Palestine peace treaty.

Israel withdrawal becomes the central demand, internationally and within the territories. All the energy presently expended on peripheral matters is now concentrated on this single demand. Whereas previously Israel was occupying a territory, it is now occupying a foreign country which has declared that it is at peace. To promote withdrawal and to eliminate any excuses for a continued military presence, the provisional government announces a ban on all lethally violent attacks on Israeli soldiers. No violence is allowed against settlers except in clear self-defense. At the same time, the Palestinian people are called to enter into only symbolic activity directed against Israeli soldiers in the territories. Stone-throwing is permitted, but only insofar as it is undertaken symbolically, (i.e., with no lethal intent). Use of gasoline bombs is forbidden. If diplomatic efforts fail to secure either negotiations or withdrawal, an intensified campaign of international economic pressure is undertaken.

The real focus of energies will be on building the inner sinews of national life and statehood by the following measures: secret local elections; economic self-reliance; reopened schools or classes held in secret; social services expended on a village level; a national anthem emphasizing peace.

With the assistance of the Arab states the provisional government issues a new Palestinian currency. To ensure its use and value even during the period of occupation, its conversion into dollars is guaranteed. Within the territories a small gold coin is introduced. The inherent value of the coin will ensure that it is taken seriously even by Israelis. Every time a transaction is paid using this coin, Palestinian statehood will be affirmed.

The new government, to symbolize the end to statelessness, promptly issues passports. These are made available to any Palestinian in the world who desires one. An announcement is made that the State of Palestine will allow dual citizenship. Palestinians who are citizens of other states are encouraged to apply for and travel on Palestinian passports.

The provisional government and the new constitution proclaim that Palestine shall be a democracy with an independent judiciary and a bill of rights to protect individual liberties. The United Nations is asked to supervise the first possible national elections.

The great merit of this approach is that it avoids the two-state solution, which continues to be viewed as a "non-starter" in Israel and the United States. The solution will simply start itself. In doing so, it will follow the spirit of the uprising; the Palestinian people on the ground will decide their own destiny.

Let me add a final personal note: If it seems odd that a Jew should offer his thoughts on how Palestinians can be successful in their struggle for statehood, I should state my conviction that the struggle for an independent Palestinian state is also the struggle for a humane and safe Israel, and that there can be no Judaism without a commitment to justice.

PRESIDENT CALLS FOR A NEW BIPARTISAN WAR ON DRUGS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. BROOMFIELD. Mr. Speaker, I want to call the attention of my colleagues to the President's recent address at the U.S. Coast Guard Academy commencement. I join the President in commending the Coast Guard for its major contributions in the battle to stop illegal substances from entering this country. I also support the President's call for a new war on drugs and the immediate creation of a "Bipartisan Special Executive-Legislative Task Force on Drugs." There must be no partisanship in our battle to save American children from drug addiction.

The Reagan administration has done more than any other administration in the history of America to put the war on drugs on the front burner. While more remains to be done, President Reagan and the First Lady have launched a personal crusade to do something about illegal drugs and to educate the American people about the destructive effects of illegal substances on people and on our society in general.

Thanks to the efforts of our chief executive, much money and resources have been dedicated to the attack on drugs. For fiscal year 1989, the President is proposing that about $4 billion be committed to the drug problem.

Our Government may have underestimated the power and influence of drug trafficking groups as the Colombia-based Medellin cocaine cartel. This groups are formidable adversaries. The recent trial and conviction of Carlos Lehder in Miami, a member of the cartel, brought to light the brutality of that band of drug lords.

In addition to Lehder, the administration has targeted other corrupt foreign officals. The Department of justice has indicted the former Bolivian Minister of the Interior, Bahamian immigration officials, and a Surinam general. Also indicated was a former Cuban Ambassador to Colombia, a Haitian colonel, and General Noriega of Panama.

It is clear to me that America must reduce it demand for drugs. The demand problem is here in America and the solution rests with every American family. We must do more to educate our children about the drug menace.

We must also realize that the war on drugs will not be won overnight. America is accustomed to quick solutions. This is one problem that will not disappear easily. Greater effort, especially in the area of drug education, are essential along with tougher laws.

The President is right in calling America's drug problem a national emergency, and in noting that "excessive drug politics might undermine effective drug policy."

This is the time for all Americans to work together as a family to tackle the challenge of illegal drugs. I firmly support the administrations' new war on drugs and President Reagan's proposal that a bipartisan drug task force be established.

Now is the time to step up to the challenge and put the drug traffickers and drug pushers out of business. I commend the President's address to my colleague in the Congress.

The address follows:

REMARKS OF THE PRESIDENT AT U.S. COAST GUARD ACADEMY COMMENCEMENT, NEW LONDON, CT, MAY 18, 1988

It is an honor to be able to participate in the commencement exercises of the United States Coast Guard Academy. I am especially delighted to be here with the class of 1988; you see, in certain ways I envy you. For one thing, all of you know what you'll be doing next year.

The fact is many young people have trouble choosing their life's work. I was an exception. After college, I knew exactly where my future lay: I became a radio sports announcer. It was just lucky guess.

But I know what I would say to any young people who told me they were torn between different careers: If they said they wanted to help people in distress, guard our borders, conserve fisheries, battle drug smugglers, enforce maritime law, test their courage against stormy seas, defend America in times of war, and wear proudly each day the uniform of this great country—then I would tell them just one thing: I would tell them, "Join the Coast Guard."

I know a lot has happened since you started here as Swabs, were presented with a copy of "Running Light," and first rode the wind on America's mighty square-rigger, The Eagle. Soon, it will be time for you to receive your commissions and bid farewell to the Academy. It's been said that graduation day is a time of sentimental goodbyes—coupled with extreme relief. One student, departing his alma mater, wrote inside the cover of his yearbook: "All things must pass . . . though I almost didn't." Now, I don't imagine that any of you wrote anything like that inside your copy of "Tide Rips."

You know, as President, I have a military aide from each of the five services. My Coast Guard aides have been excellent, one of them taught me that "the Coast Guard is that hard nucleus about which the Navy forms in time of war."

Well, graduation day belongs to the graduates, but I want to take just a moment to speak to some special people here today, your mothers and fathers. You know, I have often said that there is nothing that makes me prouder than America's young men and women in uniform. I want to ask the parents: Are you as proud of these soon-to-be officers as I am? During World War II, one General said that America's secret weapon was "just the best darn kids in the world." Now that may not have been the exact word that he used, but when I look at your sons and daughters today, I know exactly what he meant.

Since your service was founded by the first Congress nearly 200 years ago, it has served with courage and honor in every war our Nation has fought. The first Coast Guard casualty of World War II came the day after Pearl Harbor, when a transport evacuating American families out of Singapore came under attack.

On D-Day, when our soldiers hit the beaches at Normandy, there were Coast Guardsmen piloting the landing craft. Some 1,500 soldiers whose craft were sunk by enemy fire were rescued by the Coast Guard on that fateful day.

Back when Washington bureaucrats were not as sophisticated or numerous as they are today, we named things more nearly for what they were. One of my favorite examples is that one of the predecessors of today's Coast Guard was known simply as the Life Saving Service. And though the Coast Guard does many jobs, I suspect seafarers in distress will always think of you that way.

In March of last year, some 200 miles off our New Jersey coast, in stormy Atlantic waters, a Soviet freighter sent out a desperate S.O.S. The ship was listing 26 degrees to port in seas that were running 20 feet. Gale force winds were gusting up to 55 knots, and the skies were dark with rain and sleet. The Soviet ship was sinking. Then, the Coast Guard helicopters came to the rescue. Their fuel was low and there was little time. Despite screaming winds and pitching seas, each helicopter in turn managed to hover above the ship's heaving deck. The helicopter crews, with infinite care, lowered a wire basket, and lifted up to safety, one-by-one, each of the 37 people on board. It was one of the most dramatic rescues in Coast Guard history, and a heroic demonstration of what we mean when we say the Coast Guard is "an armed service and more."

Today, one of the Coast Guard's most important missions is to fight the importation of illegal drugs. In the last 10 years you have arrested more than 8,500 drug smugglers. For that, America salutes you. It is time to make illegal drugs "public enemy number one." It is time to say America's tolerance for illegal drugs is zero.

The Congress made a serious mistake when our Fiscal Year 1988 budget request for the Coast Guard was reduced by $72 million and forced a curtailment in the drug interdiction effort. I hope the Congress will restore the funds necessary for you to accomplish your vital mission.

While that is one thing, it is not the only thing that all of us as a Nation must do. But before I talk about what remains to be done, let's take stock of what already has occurred.

Yes, it's true, that across the breadth of the Federal Government, we have assembled a strong anti-drug team and enacted tough anti-drug policies.

In 1982, we set up the South Florida Task Force, which was headed by Vice President Bush. Hundreds of additional drug agents were sent to Florida, along with extra judges and prosecutors. More Coast Guard cutters were deployed, and the other military sevices provided surveillance assistance for the first time. We made record drug seizures—and major crime in South Florida decreased nearly 20-percent.

Because of that success, the next year we formed the National Narcotics Border Interdiction System, also led by the Vice President, to coordinate Federal, State, and local law enforcement efforts against drug smuggling nationwide. Since the formation of the border interdiction system, in 1983, annual cocaine seizures are up more than 20 times what they had been.

In 1987, I established the National Drug Policy Board in order to coordinate all of the Administration's efforts in this crusade. This Board, chaired by Attorney General Meese, has developed a series of comprehensive strategies to reduce both the supply and demand for illicit drugs.

And let me stress, the Coast Guard and the other Armed Services have played a major role in this unprecedented campaign. Last year, the Pentagon provided over 2,500 ship days of maritime support and more than 16,000 hours of air surveillance.

The Coast Guard and the Department of Defense gained important new resources for their drug-fighting efforts from the Anti-Drug Abuse Act of 1986. And last year, the Coast Guard and agencies with which it works seized nearly 26,000 pounds of cocaine—26,000 pounds of a drug that has a street value of $1,000 an ounce. Don't try to figure that in your head—it's $416 million. And by keeping deadly drugs from reaching our communities, I think the Coast Guard earned yet another good reason to be known as "the life saving service."

Another key part of the war on drugs has been the appointment of no-nonsense Federal judges. Not only have drug convictions doubled since 1979, but prison sentences are 40 percent longer. And last year, new tougher sentencing guidelines were issued.

The Comprehensive Crime Control Act, passed in 1984 helps put drug dealers out of business. Last year alone, over $500 million in drug-related assets were seized.

Drug eradication programs are now underway in 23 countries, up from just 2 in 1981.

More funds than ever before are being spent on drug education and public awareness, and more funds still have been requested.

Since 1981, we have tripled the anti-drug law enforcement budget, and I am asking for another 13-percent increase. That would give the Federal Government a total of $3.9 billion next Fiscal Year to fight this menace.

All told, it is an extraordinary demonstration of our commitment and a remarkable record of achievement. And that having been said, you know what else: Extraordinary as it is, remarkable as it is, as much a testimony as it is to those in law enforcement and the Coast Guard—more has to be done.

There is an additional step we must take, and without it, I don't know if we can succeed.

I want to use this opportunity today to call for a special initiative. One of America's greatest strengths in our unique capacity for coming together during times of national emergency. We set aside those differences that divide us and unite as one people, one Government, one Nation. We have done this before, we must do it now.

Illegal drug use is the foremost concern in our country. And, frankly, as I finish my final year in office and look ahead, I worry that excessive drug politics might undermine effective drug policy. If America's anti-drug effort gets tripped-up in partisanship, if we permit politics to determine policy, it will mean a disaster for our future and that of our children.

That is why today I am calling on both houses of the Congress, both sides of the aisle, to join with my representatives in a special Executive-Legislative task force to advance America's unified response to the problem of illegal drug use. Because if we cannot remove the politics from drugs, how can we hope to remove the drugs from our communities, workplaces, and schools?

Our task force should agree on solutions for every area of the drug problem: From blocking supplies to curtailing demand, from treatment to education to prosecution, from interdiction and confiscation to eradication—nothing should be overlooked or ruled out. Our policy is one of "zero tolerance" for illegal drugs, and we are looking for solutions, not just a restatement of the problem. And no later than 45 days from now there should be a report to me and to the bipartisan leadership of Congress, laying out our proposals.

Let me take a minute to spell out some specific items that need to be considered.

First, to deter violent crime and narcotics trafficking, we have to deal with the drug syndicates on our terms. That means when a death results from narcotics trafficking, or when a law enforcement officer is killed in the battle, the law must provide for swift, certain, and just punishment—including capital punishment. We've got to send a loud, clear message to drug kingpins and cop-killers. And that also means appointing more tough Federal judges who take drug crimes seriously.

The drug interdiction mission of the Coast Guard should be formally specified to include law enforcement in the air over the high seas, as well as on and under the sea.

Our military assets can be used for greater command and control functions in surveillance and drug interdiction. And we should consider allowing our Governors greater use of the National Guard in this effort. But one thing must be clear: When it comes to the military, let's give them a clear mission for specific situations.

To assist in this effort I have also today directed Secretary of Defense Carlucci to tap the best minds both inside and outside of Government to come up with creative solutions on how we can better use military resources and technologies to detect and interdict drugs coming into this country.

We need stepped-up international eradication programs to reduce the supply of drugs, and additional education and prevention programs to reduce demand, including the use of civil sanctions such as fines and loss of eligibility for Federal programs. Our encouragement, our goal, should be for those who have never tried drugs to remain drug-free.

I'm especially proud of the anti-drug work that Nancy has done, which has changed the way we talk and think about drugs.

You see, at the root of the drug crisis is a crisis of values and a spiritual hunger. I believe that as a society we are still paying for the permissiveness of the 1960's and 1970's when restrictions on personal behavior came under attack by a cultural establishment whose slogan was "just say yes."

There were numerous calls for repealing our prohibitions on drugs; those who favored tougher drug laws, or even just keeping the ones we had, were labeled conservative, moralistic, reactionary, and old-fashioned—and that was back before those words were meant as compliments. The none too subtle message to young people was that they had to use drugs if they wanted to be "cool." What greater shame can there be than that many of our young people began to use drugs, not to rebel, but to fit in?

So, in the crusade for a drug-free America, the next step is to enforce a policy of "zero tolerance" of illegal drug use. So when we say "no" to drugs, it will be clear that we mean absolutely none—no exceptions.

This concern with values goes beyond just the issue of drugs, of course. We worked hard in the early 80's on our national recovery so that we might be able to recognize, indeed, deal with social problems that had been too long ignored and sometimes obscured in the past. Today America is facing head-on social problems like drugs and crime. And this, as I say, stems from the renewal of our fundamental beliefs and values as a Nation.

And this renewal goes beyond just our own borders. In 10 days, I arrive in Moscow for my first visit to the Soviet Union and for my fourth meeting with General Secretary Gorbachev. Our goals there are something that I have been discussing for the last several months in detail. But let me summarize.

There are four main agenda items in the U.S.-Soviet relationship: Human rights, regional conflicts, arms reduction, and bilateral exchanges. With regard to human rights, though we note some improvements, we will continue to press for full respect for the freedom of expression, travel, religion, and other rights contained in the Helsinki Accords, and for institutional reforms that would guarantee such rights and the rule of law.

We will discuss a number of regional conflicts in which the United States supports the forces of freedom against brutal communist dictatorships. In particular, we will note the progress of the Soviet withdrawal from Afghanistan. We will reaffirm America's support for the brave Mujahidin freedom fighters, and the goal of an independent, non-aligned, and undivided Afghanistan, free to determine its own future.

In the area of arms control, General Secretary Gorbachev and I will continue our dialogue on the reduction of nuclear weapons, focusing in particular on strategic offensive systems.

And with respect to bilateral exchanges, I especially want to encourage more student exchanges between our two countries. I hope that more Soviet young people can view firsthand America's democratic system and way of life.

I should also mention that part of our meetings will focus on the U.S.-Soviet Maritime Search and Rescue Agreement that has just been concluded. Our maritime issues we are currently discussing include the issue of fisheries and plans for dealing with emergency pollution spills. So, yes, the Coast Guard's concerns are on the Moscow agenda.

It has been a great honor to be here with you. You can be sure that when I am in Moscow I will think of all of you here today. You represent the best of America and carry in your hearts the values that are the source of our liberty and our spiritual strength. This is reflected in the path of service that you have chosen. We are a Nation of free men and women, who use our God-given liberty to serve our country because we love her and all that she represents. It is our earnest prayer to serve America in peace, it is our solemn commitment to defend her in time of war. I believe that America is standing before the brightest future the world has ever known. And that future is yours. And properly so, because you have chosen to wear the uniform of your country and risk all that you have and all that you are in her defense. I wish not only to congratulate you on your graduation, but as your Commander-in-Chief, I salute you.

SCHOOLS OF EXCELLENCE

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. DARDEN. Mr. Speaker, the U.S. Department of Education recently recognized 287 schools across the country as national schools of excellence. Of the seven Georgia schools so honored, two are public schools in the Seventh Congressional District, Sope Creek Elementary and Murdock Elementary. National judges who visited both schools found that their programs and activities fostered both individual achievement and community improvement. The faculty, staff, and students at both Sope Creek and Murdock performed according to the highest ideals of educational excellence, and each has every reason to be proud of this honor. I would like to commend especially the principals of these schools, Mrs. Ethel Kopkin at Sope Creek and Mr. W.E. Robertson at Murdock, for their inspired leadership.

Each school was evaluated on the basis of 10 criteria: philosophy, organization, leadership, curriculum, instruction, achievement, character development, climate, community relations, and plans for improvement. The Cobb County schools have made great progress in these areas in recent years; our local schools have been effective in preparing our children for their social, political and economic responsibilities. We must ensure that our young people are able to meet the challenges of the future. During a time when many have questioned the quality of public education and its value to society, I think it appropriate to join the U.S. Department of Education in recognizing and rewarding these successful programs.

Mr. Speaker, I submit the following article from the Marietta Daily Journal of May 18, 1988, and ask unanimous consent that it be included in the RECORD.

SCHOOLS OF EXCELLENCE

(By Peggie R. Elgin)

Two Cobb County elementary schools were among seven Georgia elementary and middle schools—and 287 schools nationwide—named National Schools of Excellence on Tuesday by the U.S. Department of Education.

Sope Creek Elementary, located on Paper Mill Road, and Murdock Elementary, on Murdock Road south of Post Oak Tritt Rd., were the fifth and sixth Cobb County schools singled out for national recognition since the program began in 1984.

Official word of the award came Tuesday, but students at both east Cobb schools already seemed to know their schools were among the best in the country.

"Students are happy here," said Ben Savage, 10-year-old son of Lynne and Bernie Savage and a student at Sope Creek. "The teachers make it so you work in a happy place."

Karin Krug, 11-year-old daughter of Robert and Susan Krug and a student at Murdock had praise for her teachers and said she loved coming to school every day.

"We do a lot of fun activities," she said. "Teachers are always fair. And if you have a problem, they will help you."

Students said they enjoyed the computer lab, physical education classes, special classes for the academically talented, field trips and special reading centers at their schools. They also appreciated some of the more practical qualities.

"Our school is clean and nice," said Michelle Gustavson, 7, daughter of Peggy and Donald Gustavson, and a student at Sope Creek.

"The lunch ladies are nice," said classmate Meri Griffin, 9, daughter of Nancy and Gene Griffin.

Murdock fifth grader Brian Bernknopf, 11, son of Linda and Stan Bernknopf summed it up when he said he'd pick Murdock over any school.

"In fact, if they could make this a middle school next year, I'd go here," he said.

Schools are nominated for national recognition from a list of state schools of excellence. Finalists are selected by a national committee which reviews a 44-page application which covers a variety of criteria, including curriculum, goals, general school atmosphere, activities and awards. The final step is a school visit by a national review team.

Sope Creek principal Ethel Kopkin says people make the difference in an excellent school.

On any given day, dozens of parents will be found in the classrooms as volunteers.

"You'll see dads in three-piece suits in the classrooms reading or helping with experiments," said Ms. Kopkin. "Our parent volunteers are tremendous."

Murdock principal Pete Robertson said the vision, or mission, or what the school is all about is the key to a school's success.

"In schools that are excellent, there is always concensus among teachers, parents and students about what the school is all about," he said. "And here at Murdock the child is the focus and the center of every activity."

FAIR WINDS AND FOLLOWING SEAS FOR COMMANDER KEVIN J. COSGRIFF

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. McEWEN. Mr. Speaker, Cdr. Kevin J. Cosgriff will be leaving his position as deputy director of the Navy House Liaison Office this week. Commander Cosgriff has been selected to command the guided missile frigate *Robert G. Bradley*. He has done an extraordinary job for the Members of the House of Representatives, and if his performance as deputy director in the House is any indication of how he will do on the *Robert G. Bradley*, the commander will be a shining example for all junior officers in the U.S. Navy.

The attached letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 24, 1988.

Cdr. KEVIN J. COSGRIFF,
Deputy Director for House Liaison, Office of Legislative Affairs, Department of the Navy, Washington, DC.

DEAR COMMANDER COSGRIFF: This is just a note to express my personal appreciation for the many courtesies which you have extended to my office during your tenure as Deputy Director of the Navy House Liaison Office.

Your dedication and commitment to the Navy and the Congress of the United States were consistently demonstrated by your willingness to always get the job done. The Navy has recognized your leadership abilities and has selected you to command the Guided Missile Frigate ROBERT G. BRADLEY.

It gives me great pleasure to join with your family and friends in extending my heartfelt congratulations and to wish you "fair winds and following seas" on the ROBERT G. BRADLEY.

With warmest personal regards,
Sincerely,

BOB MCEWEN,
Member of Congress.

OPPOSITION TO H.R. 5

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. CRANE. Mr. Speaker, on April 20, 1988, the House voted on the conference report to H.R. 5, the School Improvement Act. I would like to share with my colleagues why I was the only dissenting vote on this conference report as well as the original bill when it reached the floor on May 21, 1987.

I am opposed to the $8.3 billion price tag placed on this bill to reauthorize most Federal, elementary, secondary, and adult education programs; many of which were scheduled to expire over the next 3 years. Because of the current Federal deficit, the U.S. taxpayers should not be forced to pay additional funding to revise or extend programs scheduled to expire, or to create new Federal programs.

In the past, Federal Government programs have failed to enhance education and in fact have detracted from it. Therefore, control and financing should return to the State and local level. In this manner, our institutions of learning will be supervised more closely by the people who benefit from them and who consequently have the greatest interest in obtaining and maintaining high standards.

I am further concerned with the amount of Federal dollars that Illinois receives for education. For instance, in Illinois, for every Federal education dollar paid to the Government, it is estimated that only 50 percent of that sum goes back to the State. Because of this, it is clear that Illinois has made the commitment toward better education and other States should follow this plan. States who have a more effective education system, should not be penalized for their efforts. Consequently, many States would be better off if only State legislators handled and controlled education dollars as well as many of the relevant issues geared toward a more productive society.

I am also concerned with the dial-a-porn ban that was approved as a rider to this education bill. I voted for Congressman HALL's provision to ban dial-a-porn telephone services, which allow a caller to dial a toll number to listen to pornographic messages. The "compromise" in the conference report fails to effect many of the needed changes. First, the language of the compromise allows interstate dial-a-porn to continue at full force. There are new loopholes in the language, allowing the dial-a-porn industry to prosper at our expense. Criminal liability is another problem. There is no such language in the compromise that would allow "porn kings" to be prosecuted for disseminating obscene and indecent dial-a-porn to children under 18.

Because, I do not believe that passage of H.R. 5 will benefit our education system or do enough to combat the problem of dial-a-porn, I did not favor final passage of this bill.

LOVE IS ONE THING THAT IS STRONGER THAN DEATH

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mrs. BENTLEY. Mr. Speaker, the loss of a child is the nightmare of every parent, yet I ask you to imagine how much this nightmare is compounded when two young lives are tragically lost. Indeed most of us can only imagine the pain and grief that a parent must feel in such a position; we can never truly know what it feels like unless it actually happens to us or our family.

One family in my district learned this awful feeling several months ago when two brothers were tragically killed in an automobile accident. Daniel and Mark Maynor were killed last December when the car in which they were riding swerved off of a winding country road. Both were bright young men with promising futures, and their loss leaves a very empty space in the lives of all who knew and loved them. I feel a great obligation to their family, their friends, and their memories to tell their stories here.

Mark Maynor was 25 years old and had just graduated from Towson State University, where he had been involved in many student activities. He had obtained a job as a computer analyst for the United States Fidelity and Guaranty Co., a highly reputable firm where he had excellent prospects for advancement. His 18-year-old brother Daniel had just graduated from Fallston High School, where he played football and participated with the school's marching, concert, and jazz bands. He had just begun studies at the Moody Bible Institute in Chicago; prior to that he travelled to Europe with Teen Missions International and appeared in biblical dramatizations in London.

These were good boys, Mr. Speaker. Their potential and prospects for success in the future were almost beyond limit. No one knows these facts better than their parents, James and Dorcas Maynor, who along with the rest of the family will forever miss Mark and Daniel. However, they can still be thankful for the time they did share together. The memories of the love and joy that these two young men brought into the lives of all they knew while they were here shall serve as their enduring monument.

No words can possibly ease the pain and the sense of loss felt by Mr. and Mrs. Maynor as well as any other parent who must deal with a similar tragedy. However, they make it easier to remember those who are gone. As long as they live in the memories of those who love them, Mark and Daniel can never truly die.

Indeed, Mr. Speaker, love is the one thing that is stronger than death.

TRIBUTE TO JIM BRUCE

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. DAVIS of Michigan. Mr. Speaker, as a Member of Congress, I sometimes receive letters of complaint about Federal agencies and Federal employees. It is not often that I receive comments as glowing as those I recently received about my constituent, Jim Bruce. Mr. Bruce is truly an outstanding member of the U.S. Forest Service. He frequently volunteers his time and talents to the people of Michigan's Alger County. I would like to submit to the CONGRESSIONAL RECORD the following letter from members of the community he serves:

AUTRAIN VISITORS ASSOCIATION,
AuTrain, MI, 49806 May 2, 1988.

Congressman BOB DAVIS,
2417 Rayburn,
Washington, DC.

DEAR CONGRESSMAN DAVIS: I am sure you must receive considerable mail from your constituents complaining about Federal employees, programs, etc., so I thought you might find it refreshing to receive a letter telling you about an exceptional Federal employee.

As you are aware, I have been involved all of my adult life in the improvement and development of the AuTrain area, and have had many occasions to work with Mr. Jim Bruce from the U.S. Forest Service, Munising Ranger District Office. Jim has shown a willingness to work with any and all community and county groups and does so with conviction and dedication. His help and professional abilities have allowed us to accomplish tasks that would have been otherwise impossible, and his tireless efforts should not go unnoticed.

Jim has made himself available to anyone who asks, at any hour. I have seen him working with area Scouts at 9:00 p.m. helping them to get ready for a Camporee, or showing them how to establish a wildlife flooding, or the proper way to build a wood duck house. He attends countless area meetings each week to help with future planning or to help solve some current problem.

Yes, Jim is doing the job for which he is paid, but without doubt, he is doing far more than what is merely required. His unique and innovative approach to managing his people and the Hiawatha National Forest sets him apart from the norm and helps insure the integrity of the Hiawatha and the people who live there for generations to come. His commitment to this job is overshadowed only by his enthusiasm for it.

I want to thank you and the USDA for providing the Hiawatha National Forest, Alger County, and the community of AuTrain with such a valuable representative of the people. Jim Bruce represents the epitome of what the United States government can and should mean to the areas it represents.

Again, thank you for providing us with such a quality person.

Sincerely

MIKE MCCOLLUM.

HOME MORTGAGE REVENUE BONDS SUPPORTED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. SUNDQUIST. Mr. Speaker, Congress will soon vote on whether to extend the tax-exempt status of home mortgage revenue bonds. I intend to support the extension so that the State of Tennessee can continue to use this financial instrument beyond the first of next year.

Since 1973, the use of tax-exempt revenue bonds has enabled the Tennessee Housing Development Agency to offer home mortgage money at below market interest rates to qualifying families. Over 30,000 Tennessee families have been able to buy their first home through THDA.

Homeownership has always been a part of the American dream. Yet, as the cost of housing rises, many young families find themselves priced out of the market. Even with solid incomes, these young couples and families find it more difficult to buy a home than their parents did.

The THDA Program is targeted to those families. The limits on income and on the price of the house vary, but typically, those with family incomes between $20,000 and $30,000 annually can qualify for a low-interest, low-money-down mortgage.

We all benefit when homeownership increases. Those who buy homes have made an investment in the community and are likely to care deeply about what becomes of their town, their country, and their State. They have a stake in the future. They tend to be the active, informed citizens on whom democracy depends.

Making it possible for middle-income young families to afford that first home is important. THDA has made good use of the tax-exempt mortgage revenue bonds, and I am proud to lend my support to the extension of this program.

HAPPY 100TH BIRTHDAY, IRVING BERLIN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. KEMP. Mr. Speaker, on May 11, Irving Berlin celebrated his 100th birthday. Celebrations began at midnight with a group of people standing outside Mr. Berlin's apartment in New York City singing "Happy Birthday"—one of the few songs Irving Berlin did not write.

No one exemplifies the spirit of America better than Irving Berlin. We are a nation of immigrants. It is our fierce love of freedom which makes our country great, passed down from generation to generation. Irving Berlin came to the United States in 1898 as Israel Baline. His father, a Jewish cantor, left what was then Russia to escape the pogroms and brought his young family to live in the Lower East Side of New York City. When Israel was 7 years old, his father died and Israel went to work to help support his family by selling newspapers. Singing songs helped sell papers and earned him extra pennies. This led to singing in salons and his first effort as lyricist. The music sheet misspelled his name and so Irving Berlin was born. His first big success as a songwriter was with "Alexander's Ragtime Band." The rest, as they say, is history.

Irving Berlin went on to shape the music which brought our country through two wars and many years of prosperity. "God Bless America," his greatest classic, is considered by many to be our national anthem.

Irving Berlin turned 100 on May 12, 1988. There were many retrospectives which celebrated Irving Berlin's birthday. One of the more interesting ones was the ABC News Nightline program of May 11. Jeff Greenfield was talking to Michael Feinstein, Berlin's archivist for many years and a performer in his own right. Greenfield asked Feinstein how Berlin's inability to read music may have affected his ability to compose. Michael Feinstein said, "not at all, because being able to read music is a technical skill, and the ability to create a song is something that is divine, it's God-given."

And we all thank God for giving this gift to Irving Berlin, and inspiring him to write the music of America.

TRIBUTE TO THE ACTORS' EQUITY ASSOCIATION

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. YATES. Mr. Speaker, it is fitting today that we pay tribute to Actors' Equity Association, the union of professional actors and stage managers, which is celebrating its 75th anniversary in 1988.

Equity, the oldest of the major actors' unions in the United States, was formed by 112 actors on May 26, 1913, in New York City. Today, it represents over 39,000 members living in all 50 States and working in theaters of every size and shape—from a glittering playhouse on Broadway; to a dinner theater in Kansas City, MO; to a summer barn in Peterborough, NH; to a repertory theater in Anchorage, AK; to a theater for young audiences in Sarasota, FL, to an outdoor drama festival in Galveston, TX.

For 75 years, Equity has encouraged the highest artistic and professional standards and helped to establish America's preeminence as a cultural leader of the world.

Throughout its history, Equity, by the very nature of its role as a labor union, has involved itself in matters of wages and working conditions and creating and maintaining a decent life on and off stage for its members. But, Equity also has led the way on many social issues.

In 1947, when the National Theatre here in Washington, DC, barred blacks from admission, Equity members refused to perform and the National was forced to close. It remained dark for 5 years, until there was a new management and a new policy, admitting all.

More recently, Equity has pioneered and developed the concept of nontraditional casting—defined as the casting of ethnic minority and female actors in roles where race, color, and/or gender are not absolutely essential to the character or the play's development. The union continues to press for acceptance of this policy in order to create a theater that more accurately reflects the ethnic diversity of today's society.

From 1959 to 1965, Equity worked tirelessly for Federal recognition of the arts and humanities and was instrumental in the creation and today's continued funding of the National Endowment for the Arts.

In the late seventies, Equity endorsed the establishment of low-cost housing for performing artists at Manhattan Plaza, a vacant, financially troubled, federally subsidized complex on the then undesirable west side of Manhattan. The union worked with city agencies, community boards, other unions and concerned individuals and was successful in achieving its goals. This 1,600 apartment complex has become an integral part of the plan for the redevelopment of New York's West 42d Street. Equity now has turned its efforts to creating similar low-income housing for performing artists in California.

As the demolition of theaters threatened increasing numbers of precious and irreplaceable buildings, Equity created Save the Theaters, an organization dedicated to promoting the preservation of historic theaters across the country, and to increasing public awareness of the importance of theater to the Nation's culture and economy. A major victory recently was achieved when landmark protection was approved for all remaining Broadway theaters.

This unique union also is in the forefront of fundraising activities to help those afflicted with AIDS, the scourge of our Nation.

As an organization that constantly reaches out to help its members and the community, Equity continues to monitor national and world events so as to keep pace with a changing society, and to provide new avenues of employment for its members, whose work does so much to enrich America's cultural life.

DUTY SUSPENSION ON NURSERY MONITORS AND INTERCOMS

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. SKAGGS. Mr. Speaker, today I am introducing legislation to suspend import tariffs through the end of 1992 on infant nursery monitors and intercoms. These products allow parents to monitor and communicate with a child from another location in the home.

Right now, there are no U.S. companies in the business of manufacturing nursery monitors, and all U.S. companies that sell the monitors import them from abroad. For this reason there is little sense in having an import duty on them because there is no U.S. industry to protect.

But because of the existing tariff, retail prices for this product are higher than necessary. Suspension of the tariff will be a boon to consumers who could obtain the product at lower cost, and will boost competiton among retail companies in the United States.

TRIBUTE TO MR. O.D. MCKEE

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mrs. LLOYD. Mr. Speaker, I'd like to give recognition to a valued friend and trusted adviser, Mr. O.D. McKee, chairman of the board at McKee Baking Co., headquartered in the heart of my own congressional district in Collegedale, TN.

The McKee Baking Co., maker of Little Debbie Snack Cakes, is the Nation's largest independent snack cake producer, with sales in 41 States. With 2,100 employees based in Collegedale, Mr. McKee is one of the largest employers in Hamilton County and the success of his company has been nothing short of phenomenal. For the past 20 years, McKee Baking Co., has continued to grow at a rate that has averaged an astonishing 10 to 15 percent annually.

Since the beginning, the company, has been a family enterprise. In the early days, Mrs. O.D. (Ruth) McKee managed the plant and handled the purchasing, personnel, and bookkeeping functions while her husband was on the road overseeing sales. Mrs. McKee is currently a senior vice president of the company.

The McKees have raised a family of four fine children—two sons, Ellsworth and Jack, and two daughters, Wyn and Beth. Both sons have worked their way up through the ranks. Today, Ellsworth is the president and chief executive officer of McKee Baking Co., and Jack is the executive vice president and chief operating officer. Several grandchildren are now involved in the operation, including Ellsworth's daughter Debra, who is the vice president of human resources and has been appointed general manager of the Virginia plant.

Aside from his excellent business record, Mr. McKee cares about people in our community. His employees are involved in the Adopt-A-School Program, as well as junior achievement and other activities that support the education and leadership potential of area youth. Little Debbie Snack Cakes are shared with the less fortunate in the community through the Chattanooga Food Bank and other local charitable organizations.

A commitment to progressive management has kept the company at the forefront of the snack industry. Mr. McKee applies the highest ethical and moral standards and strives for excellence in all phases of his operation.

From the earliest years, Mr. McKee has been committed to giving customers good value for their money. With a winning combination of great taste and good value, his products are rapidly becoming America's first choice in snacks.

His company cares about the well-being of its employees. Mr. McKee seeks to provide an environment for personal development and advancement that attracts, stimulates, and rewards outstanding employees whose ability and integrity are recognized as essential to the company's progress.

Mr. McKee is also widely known for his civic endeavors and has been the recipient of numerous, professional and civic awards including the prestigious 1987 Chattanooga Area Manager of the Year Award. This well-deserved award recognizes Mr. McKee as an executive manager who has made a significant contribution to the success of the Chattanooga area.

His other awards include: 1985, National Heritage Award presented by the Downtown Sertoma Club; 1982, Community Improvement Award presented by Scenic Cities Beautiful Commission; 1979, Arthur G. Vieth Award presented by the chamber of commerce; 1978, Alumnus of the Year Award from Southern College.

He has a large number of civic and professional services to his credit. A few of these include: Chamber of Commerce—board of directors, Allied Arts Council, American Lung Association, Rotary Club, Adopt-a-School Advisory Board, Southern College Board, Christian Businessmen's Committee, American Baker's Association—board of governors.

I am honored and privileged to represent O.D. McKee in the U.S. Congress. His years of experience in business and community affairs has led his company, which is based on high ethical standards and Christian principles, into becoming one of the finest businesses in the Nation. I commend him for his excellence and with him all the best for many years of future success.

16TH ANNIVERSARY OF THE GENERAL JOSEPH HALLER AMERICAN LEGION POST NO. 95

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mrs. BENTLEY. Mr. Speaker, below are some remarks I recently made on the occasion of the 60th anniversary of the General Joseph Haller American Legion Post No. 95. I place them here in honor of this great group of vets:

It is a very great honor for me to be here today! I hope you all realize how important the General Joseph Haller Memorial Post No. 95 means to me. Yet I am especially privileged and honored to participate in this 60th anniversary celebration. You are all a great bunch of people—people who take pride in the fact that you are Americans as well as—for many of you—in your Polish heritage. Most importantly however, you are veterans—men who risked life and limb to keep our Nation free. Yes indeed, you are all my kind of people, and I wouldn't have missed this event for the world.

Your American Legion Post has built such an impressive record over the past several decades in serving both the needs of veterans and the Polish community. It was indeed a special happening when, in 1918, vets of the Spanish-American war, the Mexican incident, and World War I came together and laid the foundations for Post No. 95, which received its charter 10 years later. You of course know these facts; however, I urge you to reflect upon them so that you may feel the pride you so deserve to feel.

Think about it. The members of Post No. 95 have done so much good for our vets. Your observance of Memorial Day has been flawless and carried out with the degree of respect which it so deserves. The private burial ground which you have established at St. Stanislaus Cemetery is a poignant gesture to the memories of past members. The 29 different community activities in which the post has been involved are also very important. In addition, the efforts of James Szymanski and others in helping foreign immigrants—most of them Polish—become U.S. citizens after having fought for our country in battle is also worthy of great praise.

However, do you want to know what Post number 95's greatest contribution is? It has kept alive ideas such as "patriotism" and "courage", and the importance of serving one's country when duty calls. Your members continued to wave the flag high when some chose to denounce military service and to taunt our own troops. In terms of ideas you decided to stick with winners. "Patriotism" and "courage" are the ideas of winners. You are all winners too.

Yet let us also remember the friendship of our dear old friend Congressman Eddie Garmatz. It was hard without him at last year's Memorial Day Service, and it will be just as hard at this year's observance. I know, however, that Eddie would have loved to be here today. He loved Post 95, and always did everything he could for it—even when he was sick and dying. So let's remember our friend Eddie; indeed this occasion is not as great as it would be if he were still here.

So I wish you, Commander Henry Beaudet, and all other members of Post No. 95 the happiest of birthdays. I've been there for you in the past, and I will always be there for you in the future. I've said it before and I'll say it again: I love America's veterans, each and every one. We Members of Congress like to tell our colleagues about all the different special organizations and individuals in our districts. Please be reassured that I will be doing this when I place the name of the General Joseph Haller American Legion Post No. 95 in the CONGRESSIONAL RECORD.

Best wishes to you all on this special occasion. Most of all, congratulations for a job well done!

ACHIEVEMENT BY HUTCHISON SCHOOL STUDENTS NOTED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. SUNDQUIST. Mr. Speaker, early this month a group of students from the Hutchison School in Memphis, TN. will be representing their school and State in a series of prestigious academic competitions, and I would like to take just a moment to call their achievement to the attention of this House.

For the third year, teams from the Hutchison School will be representing Tennessee in the world finals of Odyssey of the Mind, an international competition in creative problem solving. This year, Hutchison School is represented in three categories.

In the category "Classics—It's Showtime," the school is represented by Megan Arthur, Betsy Carey, Nicole Case, Jenny George, Marti McFarland, Julia Spear, and Caroline Whittle. This team is coached by Caroline Whittle, assisted by Van Spear.

In the category "Straddle Structure," the competitors are Claire Covington, Jessica Dan, Brooks Irvine, Marion Jones, Jessica St. John, and Alexandra Slater. The group is coached by Linda St. John, assisted by Jacquelyn Hass.

In the category "Comics," the Hutchison School team is comprised of Chrissie Centko, Katherine Doughtie, Charlotte Dowell, Katie Hollingsworth, Amanda Joachimi, Annie Tauer, and Stacey Wilson. This team is coached by Olivia Dowell, assisted by Diane Hollingsworth.

The Odyssey of the Mind World Finals will be held at the University of Maryland June 2–4.

Hutchison School will also be represented at the 14th International Future Problem Solving Conference, to be held June 12–15 at the University of Michigan. This competition, which challenges young people to address problems that are global in scope, finds Hutchison represented by Heath Acuff, Lauren Carroll, Amanda Mercer, Burson Taylor, and Ashley Thompson. The team is coached by Sandra Henson.

Mr. Speaker, these young ladies represent well the Hutchison School's well-deserved reputation for academic excellence. I hope my colleagues will join me in saluting their achievement.

TELEPHONE MEETING BETWEEN CONGRESS AND REFUSENIKS COINCIDES WITH PUBLICATION OF BOOK BY FORMER REFUSENIK NATAN SHCHARANSKY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. KEMP. Mr. Speaker, today, Members of the House and Senate, with the support of B'nai B'rith and the National Conference on Soviet Jewry, organized a telephone meeting with refuseniks in the Soviet Union. Special phone lines were set up to receive prearranged calls from refuseniks in five different cities.

I was proud to consponsor this event with my good friends and colleagues from New Jersey and Arizona, Senator FRANK LAUTENBERG, and Senator DENNIS DECONCINI. The purpose was to demonstrate the commitment of Congress to the cause of Soviet Jewry, to show those Jews in the Soviet Union, who have been denied permission to leave, that their right to emigrate remains a high priority for the United States.

I've had the honor of meeting with refuseniks in the Soviet Union, and the pleasure of shaking their hands when they arrived in freedom. But these few are only a small number of the hundreds of thousands of Jews who remain in the Soviet Union, separated from their families, harassed, denied religious freedom. While we celebrate the release of the few, we will continue to work for the many who remain.

On the eve of the summit between President Reagan and Secretary Gorbachev, it is important that we demonstrate the strong commitment that we, and the people whom we represent, have for the cause of freedom for Jews in the Soviet Union. The importance of the fact that so many Members of the House and Senate participated in this phone meeting today was not lost on the refuseniks. I know that by this time tomorrow, every refusenik in the Soviet Union, and all the KGB agents who watch them, will know that these conversations took place, and will help to maintain the extraordinary courage necessary for each refusenik to greet another day in refusal.

The telephone link-up sent a strong signal to the Kremlin in support of our administration's policy that resolving the problem of Soviet Jewry is, and will remain, an integral part of the Soviet-American agenda. There must be progress on human rights if the Soviets expect to have realistic dicussions on other issues.

The phone meeting coincided with the publication of an article by Glenn Frankel in the Washington Post about Natan Shcharansky, a refusenik leader while imprisoned in the Soviet Union, and a leader of the world Jewry movement now that he is in Israel. The article highlights Natan's struggles to come to terms with life in the West, as described by Peter Osnos, editor of Natan's newly published—and long-awaited—book:

What really distinguishes our society from a totalitarian society like the Soviet Union is the whole issue of personal choice. In the Soviet Union, everything is laid out for you, while we have to choose what we want to do and what kind of people we want to be. It's the luxury of choice, but also the tyranny of choice. That's the price you pay for being free—and Natan, who is such an amazingly perceptive and lucid person, knows it very well.

The relevant point is that all the refuseniks in the Soviet Union who are willing to pay the price should have the right to make those choices. I would like to share with my colleagues some of the passages from the Washington Post article which best describe the personal choices Natan has had to make, the choices all refuseniks should have.

NATAN SHCHARANSKY AND THE SNARES OF FREEDOM—THE UNFORESEEN STRUGGLES OF A FREED SOVIET DISSIDENT

(By Glenn Frankel)

JERUSALEM.—Freedom has its own set of chains and extracts its own special price. So it is with Natan Shcharansky, who has found that in some ways he was a freer, simpler man in the purifying silence of a Soviet isolation cell that he is in the loud, turbulent, entangling world of the West.

"In the punishment cell I was inwardly a free man," writes the former Soviet prisoner of conscience in his new autobiography. ". . . Every day brought only one choice: good or evil, white or black, saying yes or no to the KGB . . . And now, lost in thousands of mundane choices, I suddenly realize that there's no time to reflect on the bigger questions. How to enjoy the vivid colors of freedom without losing the existential depth I felt in prison?"

It has been more than two years since that frozen February morning when Shcharansky, as part of an East-West prisoner exchange, literally leaped across the Berlin border after nine years behind bars. The two years since then have been a dizzying swirl of dreams come true—he has been reunited with his wife and his family, fathered his first child and established a life in Israel, the Jewish homeland that he dreamed of living in during two decades of stubborn struggle against the massive power of the Soviet empire.

. . . he loves the sounds and smells and colors of his freedom. "It is as passionate as life, as interesting as life, and it's life itself, full of love, full of hatred, full of problems which have to be faced," Shcharansky says.

But it is also distracting. He fears he is losing the clear focus and the commitment that burned inside of him when he sat shivering on a hard wooden bench in the frozen darkness of the gulag beyond human reach, although never beyond hope. And he fears losing his spiritual connection to those fellow prisoners he left behind.

"This inner connection is becoming more and more weak," Shcharansky says with deep regret. He recalls a desperate letter he received a few days ago from the wife of Paruir Airikyan, an Armenian nationalist and one-time fellow prisoner, pleading for his help after the Soviet authorities rearrested her husband recently. "In the camp my response to such a thing would have been immediate. But I've been so busy here with important things, important meetings and so on, that up to now, I haven't done anything."

In some ways, he concludes with a hint of remorse, freedom "makes my life much more shallow."

Shcharansky's book begins on that late afternoon in March 1977 when KGB agents as part of their attempt to crush the Soviet Jewish dissident movement seized Shcharansky outside an apartment on Gorky Street in downtown Moscow. It recounts his nine-year odyssey through the Soviet legal system, the 16 months of interrogation and isolation, the secret trial on trumped-up charges of treason and spying for the CIA, the conviction, the shuttling from Lefortovo Prison to Vladimir, Chistopol and Perm Camp 35 and back again. It also recounts the more than 400 days he spent in isolation cells and the more than 200 days on hunger strikes.

Each step of the way Shcharansky fought his KGB captors with a mental, spiritual and physical ferocity that at times seemed almost suicidal. He baited, mocked and often outsmarted them, performing a perilous existential ballet. He says he knew from the start that had he ever given in, decided to cooperate on even the smallest matter, he would have been lost forever. He worked from one principle: "Nothing they do can humiliate me. I alone can humiliate myself."

Even upon his release, he refused to cooperate, demanding that officials return his Psalm book—they relented—and walking a zigzag line in the snow when his keepers demanded he walk straight to the airplane that flew him to East Berlin and freedom.

Shcharansky says the book, which has already been translated into nine languages, is designed primarily to help westerners understand the essential nature of the empire they face as they size up the motives and intentions of Soviet leader Mikhail Gorbachev. To Shcharansky, Gorbachev poses both a great opportunity and a great danger: If the West mistakes him for a champion of human rights and embraces him too warmly, it will get nothing. But if it sees Gorbachev for what he is, a loyal Communist but a hard-eyed realist who understands just how serious and deep his country's problems are, it can extract many concessions while helping the Soviet Union move slowly in a positive direction.

The withdrawal from Afghanistan, the new limited-range nuclear missile treaty, future arms control agreements—all depend on the West's maintaining a firm stance, Shcharansky insists. He hopes his book, by chronicling in grim detail just how brutal the Soviet system can be, will serve as a warning. He also believes it will be a source of useful information and hope to Russian readers, who he trusts will have access to smuggled copies.

In the Soviet Union, Natan Shcharansky was a unifying figure who bridged the gap between Jewish dissidents and other human rights activists. His Jewish identity and his Zionism were his anchor, but his message and struggle were universal ones.

In Israel, it is not so simple. While his credentials as a spokesman for Soviet Jewry are unassailable, he does not cross over into the mainstream of human rights issues with the same ease. Part of it is by choice: Shcharansky says he has concentrated on Soviet Jewry in order not to have his enormous influence sapped by too many causes.

But there is another important reason. For Shcharansky to become a human rights leader beyond his own important but narrow cause, critics contend, he must first deal with the human rights question in Israel's own closet—the Palestinians. As the uprising moves into its sixth month, nearly 190 have been killed, hundreds more wounded by gunfire or beaten, and 5,000 are in prison, 1,800 of them in administrative detention, where they can be held indefinitely without charge or trial. Since January, 20 have been deported from the land of their birth without first being convicted of any crime, and dozens more have had their houses demolished or other property destroyed.

It is an issue he generally has sought to sidestep, but one that inevitably has trapped him. When Palestinians discuss their grievances, they inevitably invoke his name and his story, drawing painful parallels between the treatment he received in Russia and the way Palestinian activists are treated on the occupied West Bank. They also dwell on the contrast between the warm welcome Israel extended to him and his family and the reluctance of Israeli authorities to allow the reunification of many hundreds of Palestinian families in the occupied territories.

Shcharansky himself senses the trap. "It is very difficult for me to speak out about this problem," he says. "The moment I open my mouth, everyone expects me to draw parallels between the Soviet Union and Israel, and this is something which I have to immediately reject."

He is a true Israeli patriot. Israel, with its fractious political parties and self-destructive conflicts, has it faults, he concedes. But it is a democratic society, not a totalitarian one like the Soviet Union. If Palestinian rights are denied here, he contends, it is because Palestinians are not prepared to recognize the right of Jews to live in peace in their homeland. Israel is at war, fighting for its right to exist, and so the standards he believes in deeply do not always apply.

In the fall of 1986 he found himself ensnared when two Palestinians came to plead with him to support the cause of Akram Haniye, an Arab newspaper editor slated for deportation. Shcharansky only learned later, much to his embarassment, that one of the two, Feisal Husseini, was a leading supporter of the outlawed Palestine Liberation Organization, a man who himself has now been in administrative detention for eight months. Shcharansky said he was duped into meeting with Husseini and issued a public statement denouncing the PLO as a "pestilence" and a "band of cutthroats."

Later, Shcharansky says, he met with senior Israeli security officials who showed him parts of Haniye's secret file that allegedly proved the editor has been receiving instructions and funds from the PLO abroad. Haniye and his lawyers were not allowed to see the file because the authorities said disclosure of its contents might jeopardize their intelligence sources. He dropped his legal appeal in protest and was deported.

Shcharansky is aware of the irony—that the man who himself was victimized by Soviet secret files now defends the use of one by his adopted homeland. It is regrettable, he agrees, but justifiable.

"Some Israelis on the left are so naive," he says. "We have to be ready to speak to the Palestinians and to offer real initiatives for peace, but the Arabs themselves are not ready. It would be so easy for me to do what people want—to meet with Palestinians and say we Soviet Jews have the same problems they do. Maybe someone would give me a Nobel Prize. But it's such a lie and that is what stops me. It's a serious problem here but in its roots it is not a human rights problem."

LETTING GO

There were no notebooks in prison, no chance to write down and preserve all that happened to him. And so Shcharansky kept much of it in his head, using the long twilight of isolation to memorize names, faces and the brutal regimen. Now that the book is finished, he says he has started to let go of some of the memories and clear space in his brain for other thoughts and new projects.

The other day when his heart was pounding and his head throbbed the way it used to in prison, he fell into an uneasy sleep and found himself back in his interrogation cell with KGB Lt. Alexander Solonchenko, one of his more amiable tormentors. In the dream, the two men could see into Shcharansky's future and talked about the pros and cons of his new life.

"I was saying, 'You see, Solonchenko, I was right in keeping to my line and not surrendering to you,'" Shcharansky recalls. "And he said back to me, 'Well, I don't know yet, we'll have to see, but this may not be the last word.'"

Friends tell Shcharansky he should try to forget the nightmare of prison, eradicate it from his memory like a bad dream. This he insists he can never do. "To lose it would be a terrible pity," he says. "The idea is to remember about it, and to use it—but with a smile."

ACCOUNTABILITY—A DUTY OF CONGRESS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. BEREUTER. Mr. Speaker, an excellent recent editorial appeared in the Norfolk, NE, Daily News which I wish to bring to the attention of my colleagues.

"A Duty of Congress," addresses the loss of accountability when Congress relinquishes its power and the action that Congress should take to re-establish this accountability. Recently, Judge Harold H. Greene of the U.S. District Court in Washington, D.C., held that the sentencing guidelines established by the seven-member U.S. Sentencing Commission were unconstitutional. The legal question in this case was whether or not Congress delegated a function to a commission which it should have exercised itself. The editorial writer's point of view was that Congress should immediately use its authority by accepting the commission's recommendations and putting them into statue. This action would not only remove the legal cloud hanging over the guidelines, but it would also restore a level of accountablity that is required of Congress by the U.S. Constitution. I agree with the editorial writer's view that it is the duty of Congress to remedy this situation and not to avoid extra work or hard decision making by shifting responsibility.

I include the editorial in the CONGRESSIONAL RECORD:

[From the Norfolk (NE) Daily News, May 23, 1988]

A DUTY OF CONGRESS

The U.S. Supreme Court has not yet issued the final word, but the device of achieving uniformity of sentences in federal crimes by using the guidelines of a special commission is in doubt. That method to remove disparities in sentencing was established in a 1984 law, with a seven-member U.S. Sentencing Commission appointed by the president. As it was charged to do, the commission established formulas for judges to use in handing down sentences.

That has limited the freedom judges have had to set prison terms or other punishment, which was the objective of the law establishing the commission. Making sure that punishment fits the crimes more uniformly across the nation requires such guidelines.

The legal question, however, is whether or not Congress delegated a function to a commission which it should have exercised itself. In declaring the sentencing guidelines unconstitutional, Judge Harold H. Greene of the U.S. District Court in Washington, D.C., said that the new system "departs from the basic principle that those who make or administer this nation's laws shall be accountable for their actions."

Accountability is lost in this view when Congress relinquished its power.

Congress could quickly remove this legal cloud over the guidelines by accepting the commission's recommendations and putting them into the statutes. It has that authority, of course, and with such action no constitutional question could be raised.

It is the duty of Congress to fix such guidelines and not to avoid extra work or hard decision-making by shifting responsibility. Just because it is more difficult to reach compromises between 535 people and a president than it is with a seven-member commission is no excuse for avoiding the duty.

It is interesting to note this reaction, however, from a judiciary which has among its number activists willing to stretch their authority to creating law where Congress has failed to act or is insufficiently precise.

THE PROBLEM OF UNDETECTABLE WEAPONS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. MRAZEK. Mr. Speaker, during the debate on the legislation addressing the problem of undetectable weapons, I received this letter from law-enforcement groups, who have been extremely involved in this issue. I would like to submit this letter into the CONGRESSIONAL RECORD.

MAY 9, 1988.

Hon. ROBERT J. MRAZEK,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MRAZEK, the law enforcement community is appreciative of your leadership in addressing the problem of undetectable weapons. We are pleased that the House is poised to enact legislation addressing this serious public safety problem.

As you know, after years of concentrated effort the law enforcement community has recently reached agreement with the Reagan Administration on a legislative proposal which is the most comprehensive, balanced, and technically sound legislation addressing the danger of undetectable weapons. Our legislative proposal has been drafted, and endorsed by some of the leading law enforcement officials in the country including the best security and firearms experts at Justice, BATF and DOT. We are also pleased that the National Rifle Association upon learning of the law enforcement agreement with the Reagan Administration withdrew their opposition to legislation addressing undetectable weapons. We are optimistic that our legislation will receive swift and favorable treatment by the Senate. We are pleased that these actions have cleared the way for swift passage in the House of legislation addressing undetectable weapons.

The law enforcement community, however, is committed to enacting the best possible legislation banning terrorists weapons. We have carefully reviewed HR 4445 and it's predecessor HR 2845. We do not oppose this legislation. We appreciate the efforts of Chairman Hughes, and Congressman McCollum in recognizing the danger of terrorists weapons, and moving quickly to address those problems. There are some areas in this bill which we hope will be addressed in a future House/Senate conference.

Some of these problems are the following:

HR 4445 defines unlawful weapons based on their weight. Security experts strongly prefer linking the definition of undetectable weapons directly to their actual detectability as appears in law enforcement proposal.

HR 4445 fails to mandate utilization of the so called super magnetometers in our nation's airports. Current magnetometers can only detect weapons weighing more than 8.5 ounces. The failure of HR 4445 to mandate use of the super magnetometer or raise the weight requirement leaves a window of vulnerability (There are literally several hundred thousand firearms which would be undetectable under this bill), which must be closed.

HR 4445 doesn't provide needed improvement in research and development in detection technology.

Loopholes in the effective dates and sunset provisions need to be closed.

The law enforcement community looks forward to working with the Congress to enact the most comprehensive, politically balanced, and technically workable legislation possible.

We ask all friends of law enforcement to assist in that effort.

Very truly yours,

Dewey R. Stokes, President, Grand Lodge, Fraternal Order of Police; Kenneth T. Lyons, National President, International Brotherhood of Police Officers; Cornelius J. Behan, President, Police Executive Research Forum; Edward Spurlock, President, Police Management Association, Jerald R. Vaughn, President, International Association of Chiefs of Police; Robert T. Scully, President, National Association of Police Organizations; Hubert Williams, President, Police Foundation.

TRIBUTE TO REV. DANIEL A. DANIK ON THE 40TH ANNIVERSARY OF HIS ORDINATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. ROE. Mr. Speaker, on Sunday, June 12, residents of my Eighth Congressional District and the State of New Jersey will join the parish community of the Sacred Heart Church and Rev. Daniel A. Danik in celebration of the 40th anniversary of his consecration into the sacrament of holy orders.

Mr. Speaker, the historical freedom of our Nation's people to worship freely and without fear has permitted, and even inspired, certain individuals to become great spiritual and community leaders throughout the years. These people are esteemed and long remembered for their devotion, good will, and lasting achievements. This is the reason that I, and so many others in Bloomfield, feel fortunate to have the opportunity to express our appreciation to Rev. Daniel A. Danik whose admirable dedication and deep allegiance to promulgating spiritual guidance, fellowship, and unity in service to God have truly enriched our community, State, and Nation.

Reverend Danik has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the pride of his family, many friends, and parishioners in his distinguished accomplishments, so generously applied to the betterment of our people. There is much that can be said of the love, affection, and veneration with which Reverend Danik is held by all who have had the privilege of knowing him.

Mr. Speaker, we are so proud to have Reverend Danik with us in Bloomfield, NJ. He is the pastor of the Sacred Heart Church where he has served for 13 devoted and faithful years. Prior to coming to Sacred Heart Church in 1975, he served at Our Lady of Sorrow of South Orange, St. Thomas the Apostle of Bloomfield, St. Patrick's of Jersey City, and St. Bridget's of North Bergen. He has also been a member of the board of trustees of Kinder Towers for the township of Bloomfield and the Senior Citizens Housing Board.

Reverend Danik received his B.A. degree in classical languages from Seton Hall University and attended the Seminary Immaculate Conception, Archdiocese of Newark. He was ordained on May 28, 1948, at Saint Patrick's Pro-Cathedral in Newark, NJ. Since his ordination, he has not only been extremely active in the church, but highly involved in the community, having served as Chaplain for both the Sierra Club of West Essex and the Bloomfield Knights of Columbus. His many honors include being named Archdiocesan Moderator of the year by the Essex District Catholic Youth Organization and Grand Marshall of the Bloomfield Memorial Day Parade. Reverend Danik is often invited to give the daily invocation at the opening of the New Jersey State Senate.

Mr. Speaker, I appreciate the opportunity to present this brief profile of a distinguished man of God who has dedicated his life to guiding others. Many people have been instilled with a sense of hope through his faithful and compelling leadership, and this outstanding quality is clearly reflected in the security and confidence his parishioners have in him. All who have known his generousity have been inspired by his devout service.

Mr. Speaker, as Reverend Danik celebrates the 40th anniversary of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations for the excellence of his service to the church, our Nation, and all people. We do indeed salute an esteemed pastor, exemplary clergyman, and great American—Rev. Daniel A. Danik, pastor of Sacred Heart Church, Bloomfield, NJ.

THE FOREIGN AID INSURANCE ACT OF 1988

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. FEIGHAN. Mr. Speaker, this afternoon I am introducing the Foreign Aid Insurance Act of 1988.

This legislation will give American insurance companies a fair and competitive opportunity to do business abroad. Both private and Government studies have shown that many foreign governments receiving U.S. foreign aid consistently discriminate against U.S companies when insuring that aid. One of the central pillars of U.S. support for foreign aid is the ability to open foreign markets for U.S. firms. Unfortunately, this has not been true for U.S. insurance companies.

The legislation does not contemplate a buy America clause for U.S. insurance. It merely asks those executive agencies who provide foreign assistance, in the form of grants, guarantees or foreign construction to, include in their written agreements regarding foreign assistance transactions a clause requiring that U.S. insurers have a fair and competitive opportunity to provided insurance.

The agencies will also be asked to certify to the USTR that American insurance companies have been given a fair and competitive opportunity to insure foreign-aid related activities. If a country is found to discriminate, then future insurance must be carried by a U.S. insurance company, much like our European allies require of their foreign aid recipients.

The bill also calls for the USTR to negotiate with those countries that now discriminate against U.S. insurers in foreign assistance transactions. And finally, the bill calls for a report as part of the national trade estimate on the removal of these foreign barriers to U.S. insurance companies.

This bill has bipartisan support and I am glad to join with 25 of my colleagues in introducing this important legislation. This bill supports our overall effort to address problems in the trade area. First, it will help reduce the trade deficit. Second, the bill parallels our efforts to work for liberalized trade in services. And finally, it supports our commitment to expanding trade through the opening of new markets for U.S. goods and services. I hope to continue to work in bipartisan fashion to pass this important bill.

G.I. "IRV" WILDE RETIRES FROM UWCD

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. LAGOMARSINO. Mr. Speaker, I rise today to bring to the attention of my colleagues the retirement of Irv Wilde from the United Water Conservation District. His retirement will be effective in July.

Irv graduated from Stanford University in 1932 and joined the UWCD in 1951, the year after it formed. As one of the first staffers, he worked on the San Felicia Dam and on lower river system facilities.

In 1963 he went to work with Santa Paula Water Works where he was manager and chief engineer. While at Santa Paula Water Works he also served on the Board of UWCD. In 1981 he reached the normal retirement age of 65 when he retired for the first time. He worked with UWCD trying to find a new manager since the previous manager had resigned. One of the guys (on the three-man committee) said "I read in the paper that you retired from the other companies. You know a lot about UWCD. Why don't you come back?"

His response was, "you're out of your mind, I just retired." However he agreed to take over the position for a couple of years until someone else could be hired "and that sort of went on and on.* * *"

One of the aspects of his career he says he has enjoyed most is working on the Freeman Diversion Improvement Project which will stem the further advancement of seawater under the coastal plain.

Although he hates to leave when Freeman Diversion is about one year away from completion, he said he knows the project and UWCD will be in good hands as Fred J. Gientke takes over at the helm on June 1.

Assuming Wilde does not make another postretirement debut, future leisure time will be spent with wife Delphine traveling and seeing their six children are grandchildren, which will keep them fairly busy. "I might even see if I can still swing a golf club but I'd have to be careful," he said.

Irv will remain in the city of Santa Paula because he says that there is no other place like it.

Please join me in wishing a happy retirement to Irv and his lovely Delphine.

WINNERS OF AN "OSCAR" FOR EDUCATION

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. ROWLAND of Connecticut. Mr. Speaker, the Motion Picture Academy has its Oscar Award, the field of Journalism has its Pulitzer Prize, and the U.S. Department of Education has its Elementary School Recognition Program. Of the thousands of schools in the country, only 287 were chosen this year as among "the best elementary schools in the Nation." Eight Connecticut schools were included for the honor, and I am pleased and honored that three of those schools are located within the Fifth Congressional District. Those schools are Weston Middle School in Weston, Tilford W. Miller School in Wilton, and the Ben Franklin School in Meriden.

The schools were honored because of the high quality of instruction and staff, a curriculum tailored to meet the needs level of the students, and a high degree of parental and community involvement with the schools. The Department of Education is planning an awards ceremony here in Washington in the fall, but I don't think these schools can be honored enough for their individual contributions to excellence in education. I would like to offer my personal congratulations to the administrators, teachers and staffs of these schools, including Richard F. Miller, principal of Weston Middle School, Al A. Karpinski, principal of Tilford W. Miller School, and Maureen Kane, principal of Ben Franklin School. Your unselfish efforts to provide the very best education for our children are greatly appreciated. Congratulations on being the 1987–1988 winners of an "Oscar" for education.

TRIBUTE TO THE CITY OF AUBURN, CA

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. SHUMWAY. Mr. Speaker, at this time I ask that my colleagues join with me in honoring and paying tribute to the city of Auburn, CA as it celebrates its centennial.

I am indeed proud to have the honor of representing historic Auburn here in the Congress. Located in the heart of the "Mother Lode," Auburn became central to the gold rush when gold was discovered in Auburn Ravine by Claude Chana. That historic event made a name for Auburn long before its incorporation 100 years ago.

While numerous functions are being held throughout the centennial year, perhaps the most significant events will occur this coming Memorial Day weekend. I am pleased to have been asked to participate in the dedication of the "East Auburn Bell Tower," as well as the burial of a time capsule which will contain, among other commendations, this tribute shared with my colleagues.

The dedication of the Bell Tower is the culmination of years of hard work, determined planning, community commitment, and effective fundraising. The East Auburn Company No. 1 Bell Tower has an interesting history.

Company No. 1 was located in the area known as East Auburn. On December 15, 1887, area residents held a meeting at which they organized and adopted the name of Central Hose Company of Auburn. The name was changed to Auburn Hose Company No. 1 the following February; members were referred to as "The Rattlers."

The diligent restoration effort undertaken by present-day Auburn residents replicates the original hard work required to establish that company. By the end of December 1888, the soliciting committee had collected $400, and appointed a committee to purchase a hose cart. More than $500 was on hand by early February; by the middle of the month, firemen were erecting their new engine house. Many of the firemen loaned their own money for the project.

At the beginning of this century, another citizen-organized effort was necessary to maintain the structure. The fire company evidently had its bell in a wooden tower, which was to be condemned. In 1902, partial financing approved by the city trustees was augmented by subscription to build a steel tower. The bell itself was the gift of Col. Walter Scott Davis; it has been silent now for many years.

Thanks to the cooperative, community-minded efforts of Auburn's officials, private citizens, and businesses, all of whom have given of their time, money and material, the East Auburn tower bell will ring again this weekend—but not to sound a fire alarm. Instead, that historic and well-loved bell will peel in celebration of Auburn's centennial.

I know that my colleagues will be pleased to join with me in paying tribute to Auburn, CA, on this very special day, and in knowing that our joint message of congratulations will be sealed in the centennial time capsule.

HONORABLE BRIAN DONNELLY EXPRESSING SUPPORT FOR THE PRIVATE TRANSATLANTIC TELECOMMUNICATIONS SYSTEM

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. DONNELLY. Mr. Speaker, history and heritage have long been common bonds between the United States and Ireland. Today, our two nations are faced with another opportunity to create a tangible link between us.

That link is the Private TransAtlantic Telecommunications System, or PTAT, which will connect the continents of North America and Europe by two fiber optic cables. PTAT will represent a new, viable channel for international communications and offer American and European customers competitive alternatives for their communications needs.

The partners to the PTAT venture are Telecom Eirann, Ireland's telecommunications provider; NYNEX Corp., one of the Untied States' largest and strongest telecommunications firms; and Cable and Wireless, a major international telecommunications corporation based in the United Kingdom.

It is essential that U.S. interests in PTAT be represented by a partner with extensive telecommunications expertise and sound financial resources. NYNEX, whose participation is contingent upon judicial approval, possesses those characteristics and would be well suited to join this venture.

The consumer advantages that PTAT will generate are just part of the overall benefits it will bring to international communications. As global markets emerge, telecommunications will play an increasingly important role in the world's economy.

For Ireland, developments in international telecommunications will result in the creation of thousands of new positions in the fields of financial services, data entry, software development, marketing, and other areas which are integral to the high-technology industry.

The creation of these new jobs is crucial to Ireland, which, at 18.6 percent, has the highest unemployment rate in Western Europe. At the same time, however, the Irish workforce is among the most skilled, educated and well trained in the world. The tragedy of high unemployment in that country can be partially ameliorated by this project.

Not only will PTAT bolster commerical and employment growth in the two well-established financial centers of New York and London, it will also help foster Ireland's evolution as a major communications hub. The Irish Government has demonstrated a deep commitment to developing its telecommunications infrastructure, which will allow the country to become a communications leader in its own right.

For many years, Ireland has desired the ability to communicate directly with the United States. However, until the advent of the PTAT system, it has been reliant on the United Kingdom for telecommunications access via transit routes. PTAT will serve as Ireland's first direct fiber optic communications channel to United States markets.

It is clear that the PTAT system will be a significant factor in the burgeoning expansion of worldwide communications. By participating in PTAT, the United States will enhance its competitive opportunities abroad, as well as support the efforts of Ireland and help ease the unemployment crisis in that nation. This transatlantic link will result in the strengthening of our economies, our leadership positions in international trade, and indeed, our friendship.

TRIBUTE TO DEAN IRVING L. SLADE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. ACKERMAN. Mr. Speaker, I rise today to ask my colleagues to join me in offering congratulations to Dean Irving L. Slade of Queensborough Community College, who is retiring after 35 years of dedicated service to the City University of New York.

In 1941, Irving Slade interrupted his college studies to answer his country's call, and joined the U.S. Army. He received an honorable discharge after participating in such notable campaigns as the Normandy invasion, and the Battle of the Bulge. After the war, he enrolled in Columbia University's Teachers College under the GI bill, and earned a masters degree and doctorate in education.

Irving Slade began his career with the CUNY as the university entered a challenging period. As the New York City population changed, the City University adapted to meet the needs of a growing minority population seeking college degrees. He played a crucial role in making City University a realistic option for thousands of minority youngsters in New York City.

As director of admissions for the City University of New York in the late 1960's, Irving Slade helped to establish the open admissions program which allowed thousands of minority students to attend college. Their years at CUNY enabled many of these students to make significant contributions to the quality of life in New York City, and other communities.

As dean of students at Queens Borough Community College for the last 17 years, Irving Slade initiated programs and standards that serve as models for other colleges. He established the admissions services center which aids students in need of academic and personal counseling. He also created cross-cultural counseling to help recently naturalized Americans adjust to college, and developed standards for eligibility for student government leaders to ensure that elected student leaders are truly representative of the student body.

Over the years Dean Slate has been honored and recognized for his achievements and service during his outstanding career. He served as president of the renowned New York Association of Humanistic Education and Development.

Seven years ago he established a program at Queensborough Community College and has improved relations Between China and the United States. Hundreds of students from the People's Republic of China have come to Queensborough's port of entry program to learn the English language, and adjust to life in the United States before attending college in our country.

Dean Slade worked closely with the Chinese Embassy here in Washington, DC, and the consulate in New York City to make this unique program between America and China a success.

For nearly four decades Irving Slade has dedicated himself to making colleges and universities respond to the needs of students. His tireless efforts have improved the lives of thousands of people.

Queensborough Community College, the City University of New York, the people of New York City, and all friends of higher education will miss this outstanding public servant.

I ask my colleagues to join me in wishing Irving Slade many more years of success, and the best of luck in all future educational projects he pursues.

APSA's CONGRESSIONAL FELLOWSHIP PROGRAM CELEBRATES 35TH ANNIVERSARY

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. PRICE of North Carolina. Mr. Speaker, I rise to commend the American Political Science Association upon the 35th anniversary of its Congressional Fellowship Program.

Over the past 35 years, APSA has provided the chance for over 1,300 Fellows in the fields of journalism, political science, foreign affairs, health, anthropology and public policy to learn about and contribute to the legislative process. These Fellows are carefully selected individuals, who come from various regions in the United States and from other countries, to work in the personal offices of Members of Congress and on Congressional committees for a period of 9 months.

The APSA Fellowship Program is widely known both for the quality of its participants and for the range of experiences it offers the Fellows throughout the year. The Fellows participate in a thorough orientation program; enjoy the chance to visit Canada for a week of seminars and meetings on Canadian Government and politics; and attend numerous social events, meetings and discusisons focusing on a wide variety of issues. It is not, however, just the Fellows and the Congress that benefit from this extraordinary effort. As the participants return to their many home institutions, organizations and agencies, the knowledge and insights gained are shared with associates and audiences throughout the United States and other countries.

As a former political science professor and student of Congress, I have long been aware of the value of this outstanding program—and particularly of the opportunity it has given many young scholars and journalists to experience the workings of Congress firsthand and thus to add a vital dimension to their writing and teaching. This year, however, presented me the special opportunity to have an outstanding Fellow work in my own House office and hence to know the program on a personal level. I am now even more convinced of the important contributions the APSA Congressional Program makes to Congress, to the participants and to the country as a whole.

MARSHA SIEGEL: FEDERAL WORKER OF THE MONTH

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. SOLARZ. Mr. Speaker, I wish to pay tribute to Ms. Marsha Siegel as Federal worker of the month in New York for June 1988. She has been in the employ of the district Social Security office as a service representative for over 15 years.

Ms. Siegel consistently demonstrated exceptional ability through her accuracy and completeness in her work. Her extensive and detailed technical knowledge enables her not only to handle the full range of duties, but also to perform the most difficult special assignments with exceptional competence. Ms. Siegel works with constituents, processing their claims, answering their questions, and responding to their inquiries.

Ms. Siegel produces work in an outstanding manner regardless of pressures. She handles an incredible workload with unequaled speed in a most professional way. Such work is done with clarity, organization, and completeness.

Above and beyond her work, Ms. Siegel is most responsive to her fellow workers and is a fine example to other employees. Her enthusiasm in performing her job, and her devotion to the highest standards of public service makes her one of the most outstanding people in the Federal employ today. I am glad to honor her.

TRIBUTE TO FATHER LEONARD BURCKI

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. BONIOR. Mr. Speaker, I am pleased to rise today to join the congregation of Saint Angela Rectory in recognizing Father Leonard Burcki on the 50th anniversary of his ordination to the Catholic priesthood on June 11, 1988.

Father Burcki was born in 1911. He attended Sacred Heart Seminary in Detroit and Mount St. Mary's Seminary of the West in Norwood, OH. He was ordained by the late Edward Cardinal Mooney at the Cathedral of the Most Blessed Sacrament in Detroit on June 11, 1938.

Since his ordination, he has served many parishes in southeast Michigan. He was associate pastor of the Church of the Nativity of Our Lord in Detroit and was chaplain to the girls at Dominican High School in Detroit for many years. He was the founding pastor of the Church of St. Valerie of Ravenna in my hometown of Mt. Clemens. He also served as pastor of parishes in Richmond and Wyandotte. In 1963, he was named pastor of St. Angela Parish in Roseville. After serving St. Angela for nearly 20 years, Father Burcki retired in September 1981. He is currently a resident of Fraser, MI.

I understand that Father Burcki will join his many friends and the congregation of St. Angela Parish on June 12, 1988, at 12 noon to celebrate his 50 years in service to the church with a mass of thanksgiving. The mass will be followed by an informal reception honoring Father Burcki. Mr. Speaker, I join with Father Burcki's many friends and admirers in congratulating Father Burcki on this very special occasion, the golden anniversary of his ordination.

TO THE MEMORY OF RICHARD HARDENBERGH

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. FLORIO. Mr. Speaker, this past Saturday, Richard C. Hardenbergh passed away after waging a battle with cancer. However, through his life, Dick demonstrated his winning ways by working for the improved welfare of his friends and neighbors.

The communities he served were wide ranging. From his hometown to his service in World War II to his occupational pursuits, Dick refused to be daunted by challenges.

Indeed, he sought out challenges so that he could better serve his community.

That dedication to service and to accomplishment was evident in his decision to run for office in 1964 as the commissioner of Haddon Township, NJ. Seeing solutions to problems in his community, he decided that involvement in the affairs of his community could lead to successful results.

His neighbors and friends certainly saw that commitment to service in Dick. Pleased with their commissioner, they elected him and reelected him to his office for 13 years.

Thirteen years of elective service and decades more of public service made Dick an important part of all the communities that he served. He will be missed for the services that he performed and for the commitments that he made to his community.

I would like to express my sympathies to Dick's wife, Virginia, to his children, to his grandchildren, and to his friends. As the following article describes, in his life, Richard Hardenbergh touched the lives of many others through the spirit of service:

[From the Camden Courier-Post]

RICHARD C. HARDENBERGH, EX-HADDON TOWNSHIP OFFICIAL, DIES

(By Dennis M. Culnan)

Richard C. Hardenbergh, a failed pretzel tycoon, came to South Jersey in 1951 to sell insurance and, until his death of cancer Saturday at West Jersey Hospital Voorhees, became a man for all causes: political, social, religious and community.

"Dick was a gentleman who anyone would want to mimic," said Gerald DeFelicis who served with Mr. Hardenbergh as a Haddon Township commissioner. "He was first a warm, kind, gentleman. A devoted family man, dedicated to his community. He ran Little League teams; he was into the Boy Scouts, the Girl Scouts, mental health, church activities—whatever Dick would do to help, he was out there."

For 24 years until his defeat last year, Mr. Hardenbergh, 66, served as a Haddon Township commissioner.

Born in Chatham, N.Y., Mr. Hardenbergh was attending Franklin and Marshall College, in Lancaster, Pa., when World War II erupted, interrupting both his education and the ongoing romance with a local girl who would become his wife.

"Dick was very patriotic," his wife Virginia recalled. "He enlisted in the Navy. If you think his parents were upset, you can imagine how upset I was."

By war's end, Mr. Hardenbergh, a naval lieutenant, retrned to Lancaster where he and a friend opened Sturgis Pretzel Co., in Lititz, Pa.

"But after two years Dick had to give it up," his wife recalled. "We didn't have enough money to keep it going. He didn't give up very easily. He never did. We had a little garden behind the House and we got tired of eating carrots and beets and string beans."

He became an agent for aetna Insurance Co. which assigned him a territory in South Jersey in 1951. Three years later he became an independent agent.

With three young children, Mr. Hardenbergh became deeply involved in Little league and scouting.

When his sewer backed up he called the mayor, William G. Rohrer, and the two soon became close personal and political friends.

"We're both Pennsylvania Dutch boys," Rohrer explained from his hospital bed. "We both always kept our words. Dick's death hurts . . . it hurts me, his family and everyone in South Jersey."

In 1964 Mr. Hardenbergh became a commissioner, a post he was elected to five times until 1987 when he and Rohrer were defeated.

It wasn't Mr. Hardenbergh's first defeat. He ran for state assembly in 1970 and lost. He tried for state Senate in 1973 and lost again.

Mr. Hardenbergh served as Camden County Republican Chairman for two years and was chairman for three campaigns. He was chairman of the Camden County Republican party Executive Committee and, when he sought the party's endorsement for Congress in 1971 he was turned down.

"In the political environment Dick wasn't tough enough," explained DeFelicis "He was such a nice maybe too nice for politics."

While disappointed with not becoming a congressman, Mrs. Hardenbergh said he was never bitter and was extremely pleased when the township last year named the old Crystal Lake: "The Richard C. Hardenbergh Recreational Facility."

Besides his wife, he is survived by a son, Richard J., of Voorhees; two daughters, Jody H. Tucci of Cherry Hill and Ann H. Sharp of Medford and seven grandchildren.

A viewing will be 7 p.m. tomorrow at the Haddonfield United Methodist Church, 29 Warwick Road, Haddonfield. Funeral services will be at 10 a.m. Wednesday at the church and burial will be in the church cemetery

Contributions may be made to the Richard C. Hardenbergh Recreational Facility P.O. Box 1008. Haddonfield, N.J. 08033.

KILDEE HONORS JOSEPH F. POLLACK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Dr. Joseph F. Pollack, Flint's Superintendent of Community Education of 7½ years, who will be embarking on a new challenge as superintendent of the Evanston-Skokie, IL, School District in June.

Dr. Pollack's professional career spans three decades, during which time he has contributed immeasurably to the improvement of public education, not only in the city of Flint, but throughout the State of Michigan. Beginning as an English and journalism teacher in the Detroit Public Schools in the fall of 1957, his academic, instructional, and administrative talents have benefited children, youth, and adults in the Michigan cities of Ypsilanti, Ann Arbor, and Jackson—as well as those in Flint and Detroit.

Additionally, Dr. Pollack has an outstanding record of both community and professional service, having chosen to take a leadership role in a number of organizations and pursuits that have contributed to the educational, social, economic, and cultural betterment of our community, State, and Nation.

Mr. Speaker, during his tenure in the Flint Community School system, Dr. Pollack involved himself in a tremendous array of activities that have contributed to making our school system one of the best in the Nation. Dr. Pollack oversaw the successful negotiation and acquisition of a Federal magnet school grant from the U.S. Department of Education worth in excess of $4 million. Utilizing scarce Federal and State dollars, Dr. Pollack has relentlessly pursued solutions to the problem of drugs in our schools, dropout prevention, adult literacy, job training for thousands of laid off automobile plant workers, and the special needs of non-English speaking students.

I have and will forever hold the highest degree of respect for Joe and I hope my colleagues will join me in paying tribute to Dr. Pollack for his contributions to the Flint Community School system, and wish him well as he moves on to another professional challenge.

A TRIBUTE TO LT. COL. JOHN HAY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. DINGELL. Mr. Speaker, today I rise to offer my respects at the retirement from the U.S. Army of a great serviceman and good friend, Lt. Col. John Hay. At the end of May 1988, Lieutenant Colonel Hay will have had 2 years of dedicated service with the House of Representatives Army Liaison Office and 30 years of distinguished service in the U.S. Army. I lament his departure and will always value his kindness and friendship.

Lieutenant Colonel Hay began his Army career in August 1957, when he enlisted in the Army National Guard. He then was ordered to active duty with the Texas National Guard during the Berlin crisis, which was followed by training and service as a senior medical specialist with the Special Forces at Fort Bragg, NC. After Officer Candidate School at Fort Benning in 1967, he was commissioned as second lieutenant in the Infantry and later served as a platoon leader with the 101st Airborne Division, Executive Officer with Company B, 75th Ranger Battalion, as well as an array of staff positions in the Infantry and Army Intelligence until 1977. Lieutenant Colonel Hay graduated from Army Command and General Staff College in 1978. Soon thereafter, he served as commanding officer of a 450-person Military Police Company at the U.S. Disciplinary Barracks at Fort Leavenworth, KS.

Lieutenant Colonel Hay then moved to Washington, DC, to serve in the Office of the Chief of Staff of the Army, the Director of the Army Staff, and the Office of Chief Legislative Liaison. From 1983 to 1986, Lieutenant Colonel Hay was District Commander of the USA Criminal Investigation Command at Fort Bliss, TX. Lieutenant Colonel Hay returned to Washington to bestow us with his exceptional abilities as a Liaison Officer in the U.S. House of Representatives.

I will always remember John Hay as a warm, receptive and upstanding individual. I, along with many of my colleagues, who know John well, will surely miss his unyielding service and dedication in the House Army Liaison Office.

INDIAN DEDICATION

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. HASTERT. Mr. Speaker, this past Sunday I had the privilege to share the great pride of the city of St. Charles, IL, as it dedicated a 15-foot bronze statue of a Potawatomi Indian brave along the banks of the Fox River. Sculptured by an area resident, Guy Bellaver, the project was the dream of several visionary leaders of the community including Max L. Hunt, Joe K. Anderson, Terry F. Grove, and Mayor Fred Norris. Along with thousands of schoolchildren and numerous local clubs and organizations, they raised the funds to make the project possible.

The statue, which replaces an earlier figure dedicated back in 1915, is a tribute to the Indians who fished the streams along the Fox River, hunted its shores, and planted the fields which line its banks. It is a symbol of the proud heritage and rich tradition which the community of St. Charles owes to the past and a symbol of their commitment to maintain the same spirit of pride for future generations.

Four St. Charles schoolchildren, Paul Turnbull, Janelle Catlin, Aaron North, and Jamie Hughes, were winners in an essay contest about the statue. As part of the dedication ceremony, Paul Turnbull's essay, entitled "Through the Statue's Eyes," was read. The essay is written as though it were the words of the great Indian himself speaking as he looks across the beautiful Fox River Valley which many of us call home. I am going to include the essay in the RECORD at the conclusion of my remarks because it speaks eloquently about the changes which we have witnessed since the white men came, and it reminds us of our obligation to respect this land which we as Americans were so fortunate to inherit.

The essay follows:

THROUGH THE STATUE'S EYES

(By Paul Turnbull)

I can still remember: As I looked out over the rushing blue water of the "Pestogonki", I could see vast forests, fertile land, and many huts of my people lined up along the river bank. Their branch frames, which were covered by cattail mats, made a good shelter from the rain. I saw the many dogs playing, and our people doing their every day jobs and having fun; the women cooking meals, cleaning the huts, and tending crops. Children are playing games, gathering wild berries and nuts, and feeding the dogs. The men were checking bows and spears, and getting ready for a two week long bison-hunting trip. I could see the many birds, like the wild geese, gathering to fly south—so many I couldn't see the sun. My peoples' crops of corn, beans, squash, and tobacco were blowing in the wind. I remember spearing the many large fish from my canoe. And, of course, I could see our plentiful game drinking from the river.

It doesn't seem right, though, now am I looking at the same land? Somehow it doesn't seem the same. Where did the clear water go and the vast forests? They are now replaced by strange buildings, like the one across the river where many people are eating. I can see a strange thing over the water, a bridge where white men are riding mechanical animals across the river. The river path is now covered with black rock and people everywhere are traveling on two-wheeled things.

Where is my village? I still see boys playing, but they are playing in different ways—hitting balls with sticks, riding on wheeled boards, and swimming in a large water-filled hole in the ground. Where are our maple sugar sap trees for our sugar? And where are the frames of the winter wigwams to the west? Most of all, where are my people? They were all dressed in buffalo skins. These people are now dressed in strange clothes. But the strangest thing is that I can see all of this, but I cannot move. Am I frozen in time, or is my spirit living on in this bronze body? My people believe that when someone dies, Chipiapoos, the Dead Man, takes them to the Land of Souls. They believe that Kitchimanito, the great spirit who made the world and controls all events, has blessed this valley. My people loved and respected this land and hope that these people will take care of our beloved home.

CUBAN INDEPENDENCE DAY

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I would like to pay tribute to Cuban Independence Day, a day symbolizing the ideals of democracy which this nation once had and is now struggling to regain.

By the turn of the century, Cuba had become an American protectorate as a result of the Spanish-American War. During this time of American rule, General Leonard Wood governed Cuba and facilitated the development of an important public works program and programs aimed at ridding the country of yellow fever. On May 20, 1902, Cuba was granted its independence from the United States and the first president, Tomas Estrada Palma, was elected.

Sadly, the Cubans' new-found democracy lasted only a short time. The government was ruled by several dictators, and in the late 1950's, Fidel Castro brought communism to Cuba. His new regime, economically dependent on the Soviet Union, destroyed the government which the Cubans had fought so hard for. Through Castro's tryannical rule, Cubans became oppressed and poverty stricken.

Armando Valladares, who came to the United States in 1987 after spending more than 20 years in a Cuban political prison, has documented the atrocities of Castro's Communist regime in his book, "Against All Hope." Shortly after becoming an American citizen, President Reagan appointed Mr. Valladares to lead the U.S. delegation to the U.N. Human Rights Commission conference in Geneva. Armando Valladares has given much to the United States and is an excellent example of the undying Cuban spirit which is used to overcome unbeatable odds.

On this day, we must realize that Cuban independence is not a reality, but rather a memory and a goal which has been hindered by Communist rule. I would like to commend

Cubans everywhere for refusing to give up the fight for freedom and democracy.

FIDEL CASTRO: MILITARY ADVENTURISM AND THE POLITICS OF POVERTY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. SMITH of Florida. Mr. Speaker, the upcoming Moscow summit presents an excellent opportunity for the superpowers to address, with hopes of resolving, some of the problems created by our bilateral competition for influence around the world.

An effort needs to be made to encourage discussion on one of these problems, the war in Angola. Last Friday, I joined Representative BOB TORRICELLI and Representative BILL EMERSON in initiating a Dear Colleague letter asking Members to sign a letter to President Reagan. The letter requests that the President raise the issue of the Angolan civil war with General Secretary Gorbachev. We call on the United States and the Soviet Union to "apply pressure on the Angolan Marxist regime to accept the offer of their domestic opponents and agree to a cease-fire, hold peace talks, form a government of national reconciliation, and allow free and fair elections."

The Angolan conflict, in some ways, typifies other conflicts being waged in the Third World, particularly in terms of foreign involvement. Usually, you will find both the government and the opposing forces receiving varying degrees of direct and indirect military assistance from foreign nations. And in the cast of players, you often find Cuba playing the role as an interloper.

Cuba's role in Angola and other Third World conflicts has been particularly shady and untenable. Cuba is a small island starving for economic development, yet Castro continues to lead the Cuban economy down the path toward inevitable disaster. The State Department's Cuba—Quarterly Situation Report—Fourth Quarter 1987 points out that a poor sugar harvest in the fourth quarter of 1987, compounded by Cuba's inability to consolidate its debt with Western creditors, has resulted in a severe reduction in trade with vital capitalist nations. Hence, further austerity measures may be forthcoming and one is tempted to ask how the Cuban Government shall go about rectifying the potentially disastrous effects on Cuba's growth rates of a shortage of foreign currency and a possible decline in the delivery of Soviet assistance.

While Cuba's economic situation deteriorates, Fidel Castro continues to divert precious resources from home in order to finance his interventionist foreign policy. According to the May 3 edition of the Miami Herald, Cuba maintains troops or advisers in 19 countries throughout Africa and the Middle East.

These countries are: Angola, 40,000 troops and advisers; Ethiopia, 5,000-7,000 troops and advisers; South Yemen, 1,200 troops and advisers; Libya, 2,000 advisers; Nicaragua, 3,000 advisers; Mozambique, 1,000 advisers; Syria, 6,000 advisers; Equatorial Guinea, 400 advisers; Tanzania, 300 advisers; Guinea-Bissau, 250 advisers; North Korea, 100 advisers; Soa Tome, 100 advisers; Algeria, 60 advisers; Uganda, 50 advisers; Laos, 50 advisers; Afghanistan, 50 advisers; Sierra Leone, 20 advisers; Benin, 20 advisers; and Cape Verde, 15 advisers.

It is apparent that the priorities of the Castro regime have not been established with the best interest of the Cuban people in mind. What is Castro's justification for sacrificing the lives of thousands of young Cubans in places such as Angola and South Yemen? How does he justify the expenditures of funds to support these military adventures while his people cry out for basic services to improve their quality of life.

Mr. Speaker, Fidel Castro is to be condemned in the strongest possible terms. I call on the Government of Cuba to withdraw their forces overseas, revitalize the stagnating Cuban economy, release all political prisoners, commit resources to refurbish the country's failing educational and health systems, and most importantly, take steps to establish democracy in Cuba by giving the Cuban people the basic human rights they have been so long denied.

HONORING THE ARMED SERVICE ACADEMY APPOINTEES FROM NEW YORK'S 10TH CONGRESSIONAL DISTRICT

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to recognize four outstanding young students from my district. They were among the select few who were chosen as appointees to our armed service academies.

Each of my colleagues is very familiar with the rigorous procedure used to determine academy appointments. Candidates must display the academic skills, as well as possess the character and commitment to succeed.

It is encouraging to see the determination in those who seek appointments, that they would give so much of themselves to serve their country. Those selected to the academy become part of an enduring tradition and legacy.

This year, the 10th Congressional District in New York is fortunate to have representation at the elite service academies. Each of these appointees is a leader in their high schools and an example for their peers.

Oleg Borukhin was born in Leningrad in the Soviet Union. He came to the United States with his parents and settled in Brooklyn. Oleg is graduating from Brooklyn Technical High School in June where he was active in the Civil Air Patrol. Oleg will take this training with him when he heads to Colorado to attend the Air Force Academy.

Joining Oleg at the Air Force Academy will be Donna Marie Ward. Donna will graduate from Stella Maris High School where she was a member of the Computer and French Clubs. She is regarded as a determined leader with the vision to accomplish those tasks she sets for herself.

James McCall has received an appointment to the Naval Academy in Annapolis. James was an active member of the yearbook and newspaper staffs and a leader on the cross country team at Stuyvesant High School, from which he will graduate this June. James is a sincere and industrious young man who will be a tremendous addition to the Naval Academy.

Receiving an appointment to West Point is David Kukoda. David will graduate from Xavarian High School in June. He was a member of the school's varsity soccer team, and has been an outstanding math and science student, earning the Rensselear Medal from the Rensselear Polytechnic Institute. I'm sure he will be a success at West Point.

Mr. Speaker, I hope all of my colleagues will join me in wishing these four all the best in the future. We are very proud to have them representing and serving us at the service academies, and hope that all of their expectations are met and exceeded.

NEUROFIBROMATOSIS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. CONTE. Mr. Speaker, once again, I rise to call attention to the disease neurofibromatosis. For the last several years, I have made regular statements to alert my colleagues to the importance of research in neurofibromatosis. This year, I am here again to report that we have come a long way in terms of scientific understanding of the disease—but there is still a long way to go.

Neurofibromatosis is a genetic disorder. It is painful and disfiguring and often manifests itself through tumors on the nerves in the ears or eyes. It can involve complications such as language disorders, learning disabilities, spinal deformities, and increased risks of malignancies. The central nervous system is primarily affected by this disease, but many other systems of the human body are also involved.

For many years, neurofibromatosis was thought to be a single disease. But now we know that it is at least two different diseases caused by two different genetic defects. Researchers have actually pinpointed the locations of these two different defective genes that give rise to the two different types of neurofibromatosis—we now know exactly which chromosome in a person's genetic makeup holds the defective gene.

There is no cure for neurofibromatosis. Right now, the only known treatments are aimed at coping with symptoms as they arise. But, as the discoveries of the disease's genetic origin show, research is providing hope. I will include at the end of my statement an article which shows this clearly—a young woman, whose brain tumor was once considered inoperable and deadly, was found to have an operable condition after she underwent an exam by a magnetic resonance imaging [or MRI] machine. Thanks to the successful treatment made possible by this new technology, this young woman is now free of the seizures which used to come two or three times a day! This is what biomedical research is all about.

At the Federal level, research into neurofibromatosis is continuing at the National Institute on Neurological and Communicative Disorders and Strokes, one of the National Institutes of Health. I am proud to have supported increases in funding for neurofibromatosis research. NINCDS funding for research specifically into neurofibromatosis was just several hundred thousand dollars in 1985—it is now approaching $5 million a year, or 10 times that amount. While the amount is still relatively small, the growth has been rapid in the last few years, and it has been accompanied by real achievements. Just last July, at my urging, the NINCDS held a consensus conference on this disease. They convened a group of medical experts to develop state-of-the-art recommendations on how to diagnose the different types of neurofibromatoses, how best to care for patients and their families, and which key research areas to target for the future. This information has now been widely distributed so that every physician in the country has access to the latest scientific and therapeutic information about this disease.

The critical next step is to learn exactly what it is that the defective genes do or do not do. That is where NINCDS is focusing its efforts right now. Dr. Goldstein, the Director of the Institute, said several weeks ago that there is reason for believing that the genetic defect causes the production of a protein which is harmful—in other words, causes too much of a particular enzyme to be produced. If that's true, then the next step will be to learn how we can neutralize that material in utero so that, when the child is born, he or she has no symptoms. Increasing the funding for research, and reaching this point in our knowledge is my personal goal.

At the State level, Gov. Michael Dukakis of Massachusetts has declared the month of May to be Neurofibromatosis Awareness Month, and I commend his continuing push for greater public awareness.

I also must commend the Neurofibromatosis Association, Inc., of western Massachusetts for its work. Under the leadership of Executive Director Claudette L. Kiely—someone whom I consider a valued friend and adviser—this group provides invaluable services, not only to NF patients and their families, but to the scientific, medical, and political communities through their activities supporting greater awareness of the disease, increased funding for research, and improved dissemination of research findings. I am very proud of my long association with this group.

Mr. Speaker, with this kind of devoted support, I am confident that I will one day be announcing to everyone that we have found the answers to this disease. Until that day, I will continue to come here and speak out about neurofibromatosis.

MRI DETECTS TUMOR, YOUNG WOMAN FINDS HOPE FOR NEW LIFE

By the time she was 14, Michele Angers was no stranger to hardship. Michele was born with neurofibromatosis, the condition commonly known as "the elephant man's disease." Brown spots on her skin at birth were the evidence she had been touched with the same disorder that would eventually kill her father.

Her school years were tough. Her clumsiness, tripping and falling led classmates to make fun of her. Then at 14, Michele's life was rocked by unpredictable and unexplained seizures.

Initially, Michele's severe seizures were controlled by medication. But she continued to have smaller seizures and blanking episodes which appeared almost daily. "Most doctors thought that she was just epileptic," said Mrs. Jeanne Angers, Michele's mother. "They didn't think neurofibromatosis could cause seizures because most people with the disease didn't have them."

In 1974, when Michele was 16, she and her parents went to the Johns Hopkins Hospital and Medical School in Baltimore, Md., to try to find the cause of the seizures. At Johns Hopkins, Michele was seen by specialists in epilepsy and underwent a series of CT scans.

The scans located a "growth on Michele's brain. Not clearly defined by the CT scans, the growth was diagnosed as progressive and inoperable. "They then proceeded to tell us that she had two to three years to either turn into a vegetable or die," said Mrs. Angers. "We thought there was no hope. So I decided to keep her home and give her the best life I could."

Michele, however, did not want to be kept down. After graduating from high school in 1977, she insisted on going to college to complete her education in early childhood development. It was very difficult, however, to concentrate on her studies because her father was sick at the time and she eventually had to quit. Her father died in 1983 from a combination of illnesses most likely caused by neurofibromatosis.

She returned to school at Cambridge College, Northampton, Mass, two years later and was able to complete her certification in early childhood development despite her daily seizures, and also do an internship at two local day care centers. "It was a beautiful reality," said Mrs. Angers.

However, Michele and her mother would not give up hope for relief. In June 1987, they went to see neurologist Syed Hazratji, M.D., who scheduled Michele for magnetic resonance imaging (MRI) at Mercy Hospital. That MRI evaluation provided the window to a healthier and happier life for Michele Angers.

MRI clearly confirmed the presence of a tumor in the right frontal lobe of Michele's brain. With this information in hand, Dr. Hazratji referred Michele to Demosthenes Dasco, M.D., a neurosurgeon on Mercy's medical staff. "The MRI scan showed the tumor more clearly than the CT scans," explained Dasco. "A tumor that may be faint or questionable on the CT scan will often be defined much better through MRI."

Using a powerful yet safe magnetic field, radio wave pulses and computer analysis, MRI produces high contrast, high resolution images of the body's internal organs and tissues. The state of the art in diagnostic imaging, MRI can be used in place of, or as a complement to, X-rays and CT scans to produce clearer pictures with no release of radiation. Mercy began offering MRI services in April of 1987 through a shared mobile MRI service with other area hospitals.

Dasco discussed Michele's case with Hazratji, who had been treating her for two years, and Paul Markarian, M.D., a Mercy radiologist who specializes in the interpretation of MRI scans.

"In view of the MRI results and the persistent seizures, it was decided to admit the patient for removal of the brain tumor," Dasco said. He made the appointment for surgery the afternoon the MRI results were confirmed. The five-hour operation on Nov. 4 "went very smoothly, with no complications," he said.

Dasco believes that if Michele's tumor had not been removed, it most likely would have grown larger and more difficult to remove, and she would have continued to have seizures. "Even a simple scar on the brain, which is left after surgery, can cause seizures," said Dasco. "Michele has had only one small, questionable seizure since her operation, whereas before, she was having two or three a day.

"The MRI scan was the confirming factor that led to the operation," confirmed Dasco. "Overall, I think MRI is a very important addition to the other diagnostic modalities at Mercy because of its potential to give more detail than the CT scan."

For Michele, not having to worry about seizures is a whole new experience, and a freedom she is still learning to fully accept. "Going through life having seizures and not being able to do anything about it is rough," said Michele. "It feels awfully strange not having to worry about them anymore.

"It was such a relief to hear that after all these years the tumor was finally going to come out of me. This is a whole new experience. I have a stronger outlook now, and I would still like to pursue a career in early childhood development. I feel very positive about the future."

"Thanks to God, we have been touched by a beautiful miracle," concluded Mrs. Angers. "We are so happy."

Mercy was the first hospital in the greater Springfield area to offer MRI services, and was a participant in the first mobile MRI circuit in New England.

In cooperation with Medical Diagnostics, Inc. (Burlington, Mass.), a diagnostic service company specializing in mobile MRI technology and support services, Mercy offers this state-of-the-art, cost-effective technology to the people of western Massachusetts.

Giselle ten Hompel

TESTIMONY ON INTANGIBLE INVESTMENT IN PEOPLE FOR TANGIBLE ECONOMIC GAINS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. BEREUTER. Mr. Speaker, on May 19, 1988, Mr. Harry L. Freeman, executive vice president of the American Express Co., testified before the International Economic Policy and Trade Subcommittee of the House Foreign Affairs Committee. His comments, in speaking for himself and not his company; First, the strengths of the U.S. economy; second, a prescription for reducing the U.S. trade deficit; and third, the importance and necessary underpinnings for the U.S. service sector are, this Member concluded, so astute and succinctly stated that they should be reemphasized here for review by Members of Congress and the American public.

Mr. Freeman in looking to the 1990's stated that he believes "the United States has a reasonably strong hand from which to attack some very difficult challenges to U.S. competitiveness." In summary, he gives these reasons why he concludes that the United States has "the strong hand":

> Real GNP growth of 3 percent is relatively good upon a $4 trillion economic base.
>
> Inflation, while moving upward slightly over the past two years, has come down from the earlier double-digit heights to an acceptable 4 percent.
>
> Unemployment has fallen to 5.4 percent, the lowest in 14 years, on a macro basis. Spotty labor shortages are beginning to develop.
>
> All of this has been accomplished in peacetime. * * *
>
> Job creation has been outstanding—the best in the world—both in quantity and flexibility of response to diverse worker and workplace needs. Some worry about the quality of those jobs, but a look at the statistics shows that this worry is unfounded for the most part.
>
> Per capita income has either maintained its pace with inflation, or come close to doing that. Some economists think it has done better.

Morever, Freeman concludes:

> The U.S. economy has out-performed, in most ways, most other developed countries. Over the past five years:
>
> Real U.S. Gross Domestic Product grew 20.7 percent, well ahead of the European countries and only slightly below the 21.4 percent achieved by Japan and 22.7 percent by Canada.
>
> Prices in the U.S. increased [only] 17.7 percent—more than in Germany and Japan—but still better [less] than all the other OECD countries.
>
> Employment, one of the strongest achievements in the U.S., grew 12.8%, ahead of Canada and Australia by a little, and ahead of most European countries by a lot.
>
> Real direct investment growth in the U.S. rose 36.6%, second only to Japan's 41.4%.

In his remarks about the status and potential of the United States he concludes that—

> [d]espite all this good news, there is a feeling that the USA is no longer "competitive"—the usual slogan is that we must regain our competitiveness to become No. 1 again. * * * Perceptions often depend on the job and geographic location of the observer—whether in the Rust Belt or Silicon Valley, in Texas real estate or Massachusetts high tech. The fact is, the U.S. economy has done very well in macroeconomic terms, notwithstanding real problems in the "oil patch," agriculture, some areas of manufacturing, and big ticket construction.

Freeman continues his concluding remarks on the economy with a recognition that—

> [t]here is, in addition, a lessening in confidence in our political leadership and our moral leadership. * * * My conclusion nevertheless is that the United States is in pretty good shape, relatively speaking. But we do have some real problems which, if solved or improved over time, will allow us to progress more rapidly. We can't rest on our laurels, particularly when people think we don't have many. In that sense, we have both real problems and perception problems. Positive macroeconomic statistics of course are not reassuring to millions of people under the poverty line. But the really good news, I believe, is that the U.S. economy is strong enough and resilient enough to deal with its major challenges. And we should do so. Few economies have the power and resources to deal with their challenges. We do. We need the political will to do so.

In his testimony Harry L. Freeman also offered the following valuable prescription for reducing the U.S. trade deficit.

> [1] Exchange rates that fluctuate less, perhaps within a set of boundaries set by the G-7. A little less volatility in this area could produce big dividends.
>
> [2] Better statistics as a fundamental starting point from which to make policy. Balance of payments conventions, for example, do not count as exports the sales of U.S. companies through their overseas subsidiaries, which is the only way that most services can be exported. (Only net income from those subsidiaries is counted in GNP.) This ignores the majority of service exports, such as banking, law, management consulting, or entertainment, which are not shipped over national borders, but, for the most part, must be delivered at the customer site.
>
> [3] A continuing aggressive market opening stance. A national trade strategy is necessary, enhancing our support for a powerful GATT, but only if it is broad in scope (i.e., agriculture, investment and services) and really works. If not, then a series of bilateral trade agreements would be in order. Passage of the U.S.-Canada Free Trade Agreement (FTA) is essential for economic and national security reasons. EEC harmonization in 1992 must be maintained as a market opening step rather than a 'Europe for the Europeans' development.
>
> [4] Finally, we need to move quickly to develop a comprehensive approach to the LDC debt crisis. Part of our trade deficit problem lies in depressed imports from the heavily indebted LDCs * * *.

Related to his prescription for the trade deficit he added this important advice regarding foreign investment:

> But we must realize that the trade deficit will take many years to bring down, and thus our current account necessarily will bring in foreign investment in either financial instruments or direct investment, or both. We must shape that foreign investment in direct investment in factories, offices, and other job creating industries, rather than more volatile Treasury Bills. We should not fear or deter foreign investment. We should try to channel it into the most productive kind of investment and encourage good citizenship among foreign investors to help improve the quality of life in the communities in which they invest.

A third area of Harry L. Freeman's testimony which is certainly worthy of especial emphasis in light of this experience and executive responsibilities are his comments related to America's economic sector devoted to services. He begins with the following definitional statement and assessment of the significance of services in its American economy.

> Services have three functions in the economy. They:
>
> (1) Are consumed for their own value, or
>
> (2) Purchased by manufacturers for the value they add to the manufactured product, or
>
> (3) Provide added value as part of the manufacturing process. Putting some numbers on this, services roughly account for:
>
> 67 percent of GNP,
>
> 75 percent of employment,
>
> 90 percent of all new U.S. jobs,
>
> 30 percent of world trade, as currently counted, PLUS
>
> 75 percent of the workers within goods-producing companies.

These comments of his about the service sector need to be highlighted:

> While the conventional wisdom has sometimes held that the service sector consists of a few high-rolling executives and thousands of people flipping hamburgers, in fact that isn't so. * * * The service economy has good job opportunities at a variety of skill levels. * * *
>
> What we do have is a diverse service and information-driven economy with jobs available for a wide range of people. However, there is one important factor in this sector that distinguishes it from much of the industrial sector—the critical importance of a workforce with basic skills in communication. * * *
>
> Therefore, in rebuilding America, we need especially to invest in the academic proficiency of our future workforce to increase the productivity of this largest segment of the economy. We also need to provide community resources that aid working parents in caring for their children and elderly parents. In doing so, we improve the competitiveness of both services and manufacturing. * * *
>
> The greatest economic need of all is education. It's not tangible. It doesn't mean building new schools. It has to do with the quality and compensation of teachers, the quality of the school curriculum, standards of competition, and support for education in the home.

Focus now, Members of the House on the final sentence of Harry L. Freeman's testimony:

> If I were to pick one thought to leave on the table, it is that our future role in the world economy depends more on the quality of education than any other factor, period.

DRUGS: TARGET THE DEMAND SIDE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. STARK. Mr. Speaker, the President's comment last week that "Drug use is the foremost concern in our country" cannot be disputed. Recent polls have shown that 16 percent of the people surveyed named drugs as the Nation's most important problem, a much higher percentage than any other problem.

What's surprising, however, were the reactions to the President's comments from leading political consultant Eddie Mahe. His analysis is quite noteworthy, for it stated what he believed many voters are saying to Republicans: "What you've done hasn't worked, or we wouldn't have the problem. So clearly we need change."

I couldn't agree more with this analysis. Now is time to debate current problems with the drug problem, and I think it's time we talk about how we can improve our efforts to find better solutions, on both the supply and the demand sides of the drug situation.

One of the best newspaper editorials, written by the respected economist Lester C. Thurow, recently appeared in the Oakland Tribune. The article cites the difficulties of decreasing the demand for the drugs, and makes us realize the staggering costs of such efforts. It's a thoughtful, articulate discussion and I am enclosing it in today's RECORD.

DRUGS: TARGET THE DEMAND SIDE

(By Lester C. Thurow)

The United States, war on drugs has recently led to the attempted ouster of Panama's military leader, the virtual kidnapping of a Honduran, new efforts to burn crops in Bolivia and a proposed congressional resolution accusing Mexican officials of accepting bribes. Only a short time ago, similar actions were directed at Pakistan, Colombia, Peru, Turkey and Thailand.

Our efforts to interdict drug supplies abroad have failed. Instead, we should reduce the demand for drugs at home. The current approach has also led us to demand actions of others that we would not for a moment tolerate if asked of us. Consider what we would do if a foreign government kidnapped one of our citizens or if its parliament passed a resolution accusing us of complicity with drug dealers.

Moreover, we reject mobilization of our police and armed forces to interdict drugs at American borders, because it would create too much of a temptation for American officials. Yet opportunities for corruption that are unacceptable here are apparently considered acceptable "over there."

Those running our war on drugs understand neither economics nor history nor foreign cultures.

Their economic ignorance is collossal. Drug sellers face what in the jargon of the economics profession is known as an inelastic demand curve. Put simply, this means that if supplies are cut back by 10 percent, prices rise by more than 10 percent, leaving the seller with higher profits than he had before the cutback.

If our goal is to deprive criminals of large profits from selling drugs, economic theory and history teach us that legalization is the only answer. When liquor sales were legalized after Prohibition, criminals left the bootleg liquor industry because the huge profits available while the government was attempting to stop liquor sales vanished.

We may not wish to legalize drug use. By making it illegal, we make a statement that society has concluded that drug use is not in the self-interest of the individual and the nation. But if we do not legalize products for which there is a huge demand, profits will remain enormous and suppliers will always come forward. Individual sellers can be arrested, but others will take their place.

Viewed from the perspective of a foreign country such as Pakistan, where I once worked as a development economist, the United States' antidrug policies are simply arrogant. In many places, local peasant families have grown marijuana, coca or opium for hundreds of years. Suddenly they are ordered not to grow what they have always grown.

Americans would never accede to such a request. Suppose some foreign government asked us to suppress tobacco farmers (perhaps burn their fields) to improve public health?

Not surprisingly, foreign peasants, knowing nothing of our drug problem, expand their production. Sales of drug crops are the best and perhaps the only way to escape generations of poverty. Drug merchants even become local heroes, as seen in Honduras when Washington obtained the extradition of Juan Ramon Matta, a purported drug trafficker.

Americans cannot persuade fellow citizens to quit using drugs, yet we order foreign governments to stop their peasants from growing them. Not surprisingly, they cannot. Their peasants fight back. Military force must be used. Foreign governments either end up losing control of their own countrysides or must begin shooting at their own citizens.

When foreign governments crack down on drug suppliers at America's request, drug suppliers have to start bribing local officials to get their supplies out of the country. Without the enormous profits that have been generated in the United States, such bribes could not be paid.

Who is to be blamed—the Mexicans who take those bribes or the Americans whose purchases make those bribes possible? What is needed is a demand-side solution in the United States, not a supply-side solution in the rest of the world.

Industries disappear only when the demand for their products disappear. The effort to stop drugs has to focus on the user, not the supplier. It involves education programs to prevent addiction, the arrest and incarceration of all users and changes in the social environment of the poor who buy heroin and the rich who buy cocaine. However difficult, all possible solutions lie on the demand side.

A demand-side solution would be expensive. Jailing buyers, educating addicts and changing the conditions that lead to pathological behavior—none of these are cheap. But effective interdiction of drugs at our borders would require an enormous army of guards. Foreign interdiction is often advocated as a cheap alternative to expensive, politically divisive policies at home, but that view is a mirage.

The war on drugs is not going to be won on the streets of Karachi, Medellin, Colombia, or Mexico City. It can be won only on the streets of New York and Los Angeles. If we do not want to pay the costs of winning the war on drugs in America, there is no "there" where it can be won.

(Lester C. Thurow is dean of the Sloan School of Management at the Massachusetts Institute of Technology. This article appeared in the New York Times.)

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HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. RODINO. Mr. Speaker, earlier this month, I was privileged to attend the Leadership Conference on Civil Rights' annual awards dinner, organized by my good friends Ben Hooks and Ralph Neas, where Senator EDWARD M. KENNEDY and writer Ellen Goodman were the recipients of this year's Hubert H. Humphrey Award.

This very special and meaningful award honors the memory of one of the leaders in the struggle for equality in our Nation—the late Hubert H. Humphrey. From that night at the Democratic Convention in 1948 when Hubert, then the young mayor of Minneapolis, electrified the Nation with his call for a civil rights plank in the Democratic platform—until his death 10 years ago, Hubert Humphrey stood at the vanguard of the ongoing fight for civil rights.

So it is only fitting that this award bearing his name honors those who have shown a selfless devotion to the cause of equality. And this year's honorees truly represent the spirit of Hubert Humphrey and the noble cause he fought for.

Ellen Goodman, as a syndicated columnist with a national readership, has used her impressive talents to remind America of its commitment to equality and to the building of a just and compassionate society. Her eloquent words—particularly on behalf of women—have been and continue to be an inspiration for us all to work harder to realize the true promise of America.

TED KENNEDY has been my friend and colleague since he first came to Congress in 1962. There has not been an issue in the area of civil rights that TED has not been involved in. The major civil rights acts of the 1960's and 1970's, the extension of the Voting Rights Act in 1982, reversing the Grove City ruling, strengthening our fair housing laws, protecting the rights of all Americans. In every one of these issues—TED KENNEDY was there to rally and energize America on behalf of the civil rights cause.

Mr. Speaker, I want to congratulate this year's recipients of the Hubert H. Huphrey Award and to commend the leadership Conference on Civil Rights for continuing to remind us all that the preservation of civil rights remains a collective effort and one that is far from over. With your permission, I would like to conclude my remarks with Senator KENNEDY's eloquent words of acceptance on receiving the Hubert H. Humphrey Award.

REMARKS OF SENATOR EDWARD M. KENNEDY ON RECEIVING THE HUBERT H. HUMPHREY AWARD FROM THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

I want to thank Joe Rauh for that warm introduction I'm grateful to Joe for those kind words. We all know the debt we owe him. For the better part of half a century, he has been America's conscience on civil rights. He started out as a Supreme Court law clerk for both Justice Cardozo and Justice Frankfurter—and went on from there. We honor him as a brilliant lawyer, New Deal architect, defender against McCarthyism, and lifelong champion of civil rights. There is no better ally in the foxhole when the going is toughest, and no more courageous and tenacious fighter for America's highest ideals than the man we proudly call Mr. Liberal—Joe Rauh.

I also want to pay tribute to another great miracle worker of the civil rights movement—Chairman Peter Rodino. Often, when the Senate was sounding an uncertain trumpet, it was Peter Rodino who took up the challenge, guided the House into action, and made victory irresistible. And let me tell you, nothing stiffens the backbone of the Senate more on civil rights than to have a Rodino bill on the Senate calendar. On Watergate, on civil rights, and on countless other issues he has been a brilliant leader for our age, and we shall miss him in the battles that lie ahead.

I also commend the other honorees this evening. Ellen Goodman has demonstrated a special understanding of contemporary America and a deep sensitivity to the plight of the less fortunate in our midst, and the honor she receives tonight is richly deserved.

I also want to commend Del Lewis for his outstanding work on behalf of civil rights. Del has ably demonstrated that private employment and public service are not inconsistent. And his enlightened leadership of the Washington business community is an example for us all.

I am honored to be part of this distinguished company, and doubly honored to receive an award named for our friend and one of the greatest Senators of the century. Hubert Humphrey had that rare combination of an idealist's passionate commitment to social justice and a politician's enthusiasm for the political process. He led the fight in the Senate for the landmark Civil Rights Act of 1964, and no one deserves more credit for its passage. We all know what a better and fairer country this would be today, if our dear great friend had won that watershed election of 1968, and America had had eight years of leadership by President Hubert Humphrey.

It also gives me special pride to accept this award from the Leadership Conference on Civil Rights. From the struggle to end school segregation in the 1950's, through the enactment of the fundamental civil rights statutes of the sixties and seventies, to the great battles of the eighties to preserve our victories against the far right, the Leadership Conference has been the guiding force in America's continuing national effort to achieve the constitutional promise of equal justice under law for all citizens. Civil rights is the unfinished business of America, and no one knows it better or does it better than the Leadership Conference on Civil Rights.

You have been blessed with able leaders—from your distinguished founders, A. Philip Randolph, Roy Wilkins and Arnold Aronson, to your legendary former chairman Clarence Mitchell, to your strong current leader Ben Hooks and your able Executive Director, Ralph Neas.

The famous American moto "E Pluribus Unum" has no better example than the extraordinary unifying force for civil rights that you have created out of your diverse coalition of member organizations. No matter how hard our opponents have fought or how much they have spent against us, no one—not Jesse Helms, not Brad Reynolds, not Ed Meese, not Robert Bork, not even Ronald Reagan—have been able to defeat us or turn us back.

Thanks to you, there is a veto proof majority in Congress for civil rights, and a veto majority for civil rights in the hearts of the American people. I am here tonight not only to congratulate you for your achievements of the past, but to tell you that we are ready to make even greater progress in the years ahead—beginning on Inauguration Day, January 20, 1989.

For the past eight years, we have endured an Administration that has attempted to reverse four decades of progress on civil rights under both Democratic and Republican Presidents and bipartisan majorities in Congress. The sad saga of their assaults on equal justice is all to familiar.

They sought tax-breaks for all-white segregation academies—but the Supreme Court said no.

They tried to gut the Voting Rights Act—but overwhelming majorities in the House and Senate strengthened and extended the law instead.

They attempted to roll back the executive order requiring affirmative action—but Congress stood its ground.

They tried to put Robert Bork on the Supreme Court—but the largest Senate majority in history voted against his confirmation.

They cast the first veto in 121 years on a civil rights bill—but Congress overrode the veto, enacted the Grove City bill, and refused to take America back to the days of President Andrew Johnson.

The Administration failed in all of these reactionary efforts—and they failed in no small part because of the success of the Leadership Conference.

We could not have won these victories for justice without you. But above all, we needed your assistance in the Battle over Bork. America is unique for many reasons, and one of the most important is our commitment to the ideal of equal justice under the Constitution. But the Constitution is neither self-evident nor self-enforcing and the last work on its meaning is left to nine fallible human beings, the Justices of the Supreme Court. And so the debate over Judge Bork became nothing less than a profound and far-reaching debate on the meaning of the Constitution itself.

The outcome was an overwhelming rejection of the dead hand of original intent, and an equally overwhelming reaffirmation of the truth that the Constitution is a living charter of liberty, designed to do justice in a changing, growing nation. Our rights as Americans were not frozen in place in 1787, and no Administration can freeze them into place in 1988.

In recent months, supporters of Judge Bork have renewed their attacks on the confirmation process. Some critics have even suggested that future nominees to the High Court should not testify before Senate Committees.

What the critics are questioning is the right of the American people to participate in the confirmation process by letting their Senators know how they feel about a Supreme Court nominee's view of the Constitution. There is nothing wrong with a public check on the confirmation process—especially when a President is blatantly and admittedly attempting to tamper with the Supreme Court by appointing Justices of a particular ideological stripe. In fact, citizen participation is an essential part of the appointment process in our democracy because it helps the public to accept the legitimacy and finality of the Court's decisions on the fundamental meaning of the Constitution. The people of America taught that lesson to President Franklin Roosevelt in the 1930's, and it was not wrong for the people to teach the same lesson to President Reagan in the 1980's.

Although the present Administration is in its final months, our civil rights battles with it are far from over. The next important item on our agenda in Congress is fair housing. Twenty years after passage of the Fair Housing Act of 1968, discrimination in housing continues to plague America in epidemic proportions. In 1985, the Department of Housing and Urban Development estimated that two million incidents of racial discrimination in housing take place every year. Over seventy percent of Black families seeking to rent a home in America encounter discrimination in their search.

We need to revise existing law to guarantee swift and effective enforcement. And we need to expand the law to forbid discrimination against the handicapped and families with children. With strong support from the Leadership Conference, fair housing legislation has at last begun to move forward in the House of Representatives, and I intend to do all I can in the Senate to see that it is on President Reagan's desk before Congress adjourns this year.

Another important item of unfinished business on civil rights involves the issue of capital punishment. A year ago, the Supreme Court issued an unfortunate ruling rejecting the use of statistical evidence to prove that the death penalty is applied in an unfair and racially discriminatory way. That ruling shocked many of us, and I will soon be introducing legislation to overturn the Court's decision.

I oppose the death penalty, because I regard it as cruel and unusual punishment, and someday I hope to see a Supreme Court that will declare it unconstitutional. But in the meantime, if capital punishment is to continue to be used at all, then race must never be a factor in the determination by judges and juries of who shall live and who shall die.

In other respects as well, our long national history of discrimination still casts a shadow over the land. The battle for equal rights is also a battle for social and economic justice. But a generation after passage of the Civil Rights Act of 1964, Black income is still only fifty-seven percent of white income. Black Americans are nearly three times more likely to live in poverty than whites. And the infant mortality rate for nonwhites is nearly twice that for whites.

When Martin Luther King was taken from us twenty years ago last month, he had begun a new phase of his crusade—by reminding America that eradicating the evils of racism requires more than simply removing the legal barriers to equality. It also demands bold steps to end the poverty and isolation that are the bitter harvest of discrimination. Especially in recent years, America has too often seemed to turn away from equal justice, by extolling private selfishness as a public virtue, and by preaching contempt for the role of government in improving people's lives.

But America is now awakening to the reality that neither laissez-faire economics, nor Hollywood public relations, nor even astrological consultations can solve the problems that confront us. Government can, and must, play a positive role in addressing the problems of hunger, housing, poverty, disease and illiteracy that press millions of our citizens down, and deny them the true opportunity of America. Meeting those needs within the constraints of a two hundred billion dollar federal deficit may well be our foremost civil rights challenge in the remaining years of this century.

Finally, this evening I want to mention one other issue of civil rights that has recently been before the Senate—the need to act effectively against the disease called AIDS. The fundamental issue is whether Congress and the country will win the battle against the virus by treating it as the public health emergency it is, or whether we will lose the battle, and bring untold suffering and disaster on ourselves, by yielding to the bigoted and self-defeating impulse to make it an ideological crusade. Many of you have been in the forefront of our effort to deal sensibly, effectively and humanely with the epidemic. The only way to win the war on AIDS is to wage it against the virus, not the victims of the virus.

In closing, let me say again that I am grateful for this award, and mindful of its meaning. I am also mindful of the fact that without your tireless efforts, none of the great civil rights achievements of the past three decades could have been accomplished. In that sense, this award also belongs to the Leadership Conference and to all of you—and it belongs to you not only this year, but every year. And may it belong to you again and again and again, in all the years to come.

U.S. AFGHANISTAN POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues correspondence with the Department of State on the development of U.S policy toward Afghanistan. These exchanges include seven letters spanning the period February to May 1988.

The replies by the Department of State amplify many aspects of policy but do not directly address several key elements of U.S. policy toward Afghanistan before and after the successful conclusion of the Geneva negotiations on April 14, 1988.

Specifically, the Department failed to respond fully to inquiries regarding: First, the conditions under which the United States is prepared to stop providing aid to the Afghan resistance; second, the consistency of present U.S. commitments on aiding the Afghan resistance with the U.S. commitments under the Geneva accords not to intervene in the internal affairs of Afghanistan; and third, the discrepancy between two administration statements issued in February and March 1988 on the preconditions for U.S. participation in the Afghan accords as a guarantor power.

The correspondence follows:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 19, 1988.

Hon. GEORGE P. SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: There has been considerable discussion in the press recently about what is United States policy today on the conditions under which we would terminate U.S. assistance to the guerrilla organizations fighting the Soviet-backed government in Afghanistan.

I would like to know what is U.S. policy on this issue, whether the United States has made any commitment to withdraw its financial support of the guerrillas when Soviet withdrawals of troops from Afghanistan commence, to whom any commitment might have been made, on what basis it was made and what you believe are the Soviet, Pakistani and UN understandings of the U.S. position on this matter.

I appreciate your consideration of this matter and look forward to an early reply.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 14, 1988.

Hon. LEE HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives.

DEAR MR. CHAIRMAN: I am responding to your letter of February 19 to Secretary Shultz, inquiring about our policy on Afghanistan and aid to the Afghan resistance.

Our objectives on Afghanistan, which we share with Pakistan, are a rapid and complete withdrawal of Soviet forces, the return of the refugees with safety and honor, the restoration of an independent and nonaligned Afghanistan, and self-determination for the Afghan people.

The key to a solution, of course, is Soviet withdrawal. General Secretary Gorbachev has stated that the Soviet Union wants to commence withdrawals as soon as possible. We have welcomed his statements and have insisted that the Soviet withdrawal be prompt, complete and irreversible, with a significant portion of the troops leaving early in the process.

In December 1985, the United States agreed in principle to play the role of a guarantor of a settlement arrived at through indirect talks at Geneva between Pakistan and Afghanistan under the mediation of the United Nations, provided that we were fully satisfied that the complete settlement would achieve our objectives. This decision, which was fully coordinated within the Executive Branch, was conveyed by Ambassador Walters to UN Secretary General Perez de Cuellar. It is important to note that the U.S. is not a party to the Geneva negotiations. The Government of Pakistan and the Afghan authorities are the parties in these proximity talks. The negotiations have lasted for over five years.

As guarantors, the U.S. and the Soviet Union would agree not to intervene or interfere in Afghanistan; we would not guarantee the activity of other nations. We would undertake to respect the commitments made by the Pakistanis and Afghans to one another. Under the Geneva framework, "outside interference" would end at the same time that Soviet troop withdrawals began. We have insisted that an end to outside interference must include Soviet assistance to the Kabul regime. Secretary Shultz pressed this point during his recent discussions in Moscow. We will maintain our assistance to the Afghan resistance until we are satisfied that our goal of an irreversible withdrawal of Soviet forces from Afghanistan is assured.

The restoration of Afghanistan's independence is a top foreign policy priority of this Administration, and has been since 1981. This objective now appears within reach. It is consequently important to pay close attention to the details emerging in Geneva.

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative Affairs.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 18, 1988.

Hon. GEORGE P. SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: Thank you for your letter of March 14th in reply to my letter of February 19th regarding United States policy on the issue of an Afghan settlement.

I write again to clarify the issue I raised in my February 19th letter to you—the conditions under which the United States will agree to terminate U.S. assistance to the guerrilla organizations fighting the Soviet-backed regime in Afghanistan.

In your response to my February 19th letter you stated "we will maintain our assistance to the Afghan resistance until we are satisfied that our goal of an irreversible withdrawal of Soviet forces from Afghanistan is assured." However, a letter sent by President Reagan to Senate majority leader Byrd apparently stated cessation of U.S. assistance "must be matched by cessation of similar aid" to the pro-Soviet regime in Kabul.

These two statements are in conflict. My question is: Is the end of all Soviet aid to Afghanistan a precondition for cessation of U.S. aid to the Mujahideen or is the initiation of an "irreversible withdrawal" the only precondition? If your answer is the first, isn't that a change in U.S. position and what is the reason for this change?

Finally, I would appreciate it if you could clarify what, specifically, is the nature of the U.S. role as a "guarantor" of an Afghan settlement. What responsibility does the U.S. incur in this role? As a guarantor, but a non-party to the Geneva negotiations, can the U.S. independently interpret elements of the agreement? Specifically what is the U.S. role in interpreting the language in the agreement that states that "outside interference" will be ceased at the same time that Soviet troop withdrawals begin?

I appreciate your consideration of this important matter. I look forward to hearing from you.

With best regards,

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE,
Washington, DC, April 19, 1988.

Hon. LEE HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Foreign Affairs Committee, House of Representatives

DEAR MR. CHAIRMAN: Thank you for your letter of March 18 to the Secretary concerning our policy on Afghanistan. As diplomatic events have moved swiftly, I take this opportunity to describe the Afghanistan settlement which was signed in Geneva, April 14.

As you know, Pakistan and the Kabul regime have concluded a UN-mediated agreement on Afghanistan for which we have agreed, at Pakistan's request, to act as a guarantor. The accords provide for noninterference and nonintervention into the internal affairs of Afghanistan and Pakistan; commitments by the U.S. and the Soviet Union to act as guarantors of the accords; return of the refugees; and synthesis of these elements with a Soviet withdrawal timetable.

Our core objective of a prompt and complete withdrawal of Soviet troops is satisfied by the agreement. Under it, the Soviet Union has undertaken to withdraw half of its troops from Afghanistan within the first ninety days of implementation, i.e, by August 15, and to remove the remainder within nine months after implementation, i.e., by February 15, 1989. When Foreign Minister Shevardnadze was here, he informed us that the Soviet government expects to complete its withdrawal by the end of 1988. We will press Moscow to keep its word.

On April 9, we received a response from Foreign Minister Shevardnadze to Secretary Shultz' letter of March 30 which we feel fully satisfies our requirement for symmetry in the provision of military assistance to the Afghan resistance. In recent exchanges, we have made our position clear to the Soviets on this question. We have insisted that the obligations of the guarantors must be symmetrical. Our preference was for the U.S. and USSR to issue a statement in which both sides retained the right to supply their friends in Afghanistan, but that we would have a moratorium on further supplies for a specified period of time. The Soviets would not accept this proposal. We, therefore, are asserting our right to supply the Afghan resistance as needed. Our sense is that the need will be affected by whatever restraint we see on the part of the Soviets. We are confident that we will be able to supply the resistance.

As guarantors, we and the Soviets agree to refrain from any form of interference and intervention in the internal affairs of Afghanistan and Pakistan and to respect the bilateral commitments undertaken by Pakistan and Afghanistan.

We will be consulting with Congress on our obligations under this settlement and also on the massive relief effort that will be necessary when the millions of Afghan refugees return to their homes. Your strong interest in is greatly appreciated. Please do not hesitate to contact me if you have further questions.

Sincerely,

J. EDWARD FOX,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 2, 1988.

Hon. GEORGE P. SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: Thank you for your letter of April 19 in response to my inquiries about U.S. policy in Afghanistan. I appreciate that diplomatic events regarding Afghanistan have moved quickly, however, I would like to raise once again the question of the evolution of U.S. policy on Soviet aid to the Afghan government.

I would like you to clarify the discrepancy between your response to my February 19th letter and the text of a letter sent by President Reagan to Senate majority leader Byrd. In your letter you stated "we will maintain our assistance to the Afghan resistance until we are satisfied that our goal of an irreversible withdrawal of Soviet forces from Afghanistan is assured." The President's letter, however, apparently stated that cessation of U.S. assistance "must be matched by cessation of similar aid" to the pro-Soviet regime in Kabul. I would like to know the explanation for this difference. Does it reflect a change in U.S. policy on this issue at the time and, if so, what was the reason for this change?

Your April 19th letter also raises additional questions regarding the nature of U.S. commitments on aid to the Afghan resistance.

In your April letter you write:

"We . . . are asserting our right to supply the Afghan resistance as needed. Our sense is that the need will be affected by whatever restraint we see on the part of the Soviets. We are confident that we will be able to supply the resistance."

I would like to know what is the U.S. policy on assistance to the Mujahideen as a guarantor of the recently signed Geneva Accords and the conditions under which U.S. aid would be terminated.

Will the United States stop providing aid to the resistance if the Soviets do not provide additional assistance to the Afghan government?

What are the circumstances under which the U.S. will cease providing aid to the Afghan resistance?

Has the U.S. made any specific commitment, either verbal or written, with respect to the cessation of aid to the resistance?

If so, what is the nature of this commitment and to whom was it made?

How is present U.S. policy consistent with commitments to "undertake to invariably refrain from any form of interference and intervention in the internal affairs of the Republic of Afghanistan . . ." in the Declaration on International Guarantees signed by the United States and the Soviet Union?

I appreciate your further consideration of this important matter and look forward to hearing from you.

With best regards,

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE
Washington, DC, May 20, 1988.

Hon. LEE HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Foreign Affairs Committee, House of Representatives

DEAR MR. CHAIRMAN: Your letter of May 2 to Secretary Shultz regarding our policy on continuing aid to the Afghan resistance has been referred to me for reply.

Our policy objectives toward Afghanistan have not changed. We have sought a negotiated settlement that will bring about the rapid and complete withdrawal of all Soviet forces, permit the Afghan people to exercise their right of self-determination, restore Afghanistan's independence and non-aligned status, and allow for the unimpeded return of the refugees to their homes. The settlement reached at Geneva on April 14 constitutes a critical first step toward realizing these goals.

In connection with the signature of the settlement, we circulated to the other parties and made public a statement which spelled out certain understandings concerning the settlement. A copy of this statement is enclosed for your reference, as we believe it directly answers the questions you have raised in your letter. The statement includes the following understanding: "The obligations undertaken by the guarantors are symmetrical. In this regard, the United States has advised the Soviet Union that the U.S. retains the right, consistent with its obligations as guarantor, to provide military assistance to parties in Afghanistan. Should the Soviet Union exercise restraint in providing military assistance to parties in Afghanistan, the U.S. similarly will exercise restraint."

The U.S. statement reflected the understandings on "positive symmetry" which were carefully recorded in discussions and written exchanges with the Soviets. The Soviets signed the Geneva settlement with full knowledge of those understandings. Pakistan similarly made it clear, as is reflected in its signing statement, that it was signing the Geneva settlement on the basis of its understandings reflected in the U.S.-Soviet exchanges.

We do not believe that there is a discrepancy between the President's letter to Senator Byrd of March 11 and the Department's response to your letter of February 19. They are aspects of the same policy. We have at various times stated that we will continue to provide military aid to the resistance until we are satisfied it is no longer needed. The final formulation of this policy, as reflected in the enclosed U.S. statement, is consistent with this basic approach.

Sincerely,

J. EDWARD FOX,
Assistant Secretary,
Legislative Affairs.

U.S. STATEMENT

The United States has agreed to act as a guarantor of the political settlement of the situation relating to Afghanistan, in ending the bloodshed in that unfortunate country, and in enabling millions of Afghan refugees to return to their homes.

In agreeing to act as guarantor, the United States states the following:

(1) The troop withdrawal obligations set out in paragraphs 5 and 6 of the Instrument on Interrelationships are central to the entire settlement. Compliance with those obligations is essential to achievement of the settlement's purposes, namely, the ending of foreign intervention in Afghanistan and the restoration of the rights of the Afghan people through the exercise of self determination as called for by the United Nations Charter and the United Nations General Assembly resolutions on Afghanistan.

(2) The obligations undertaken by the guarantors are symmetrical. In this regard, the United States has advised the Soviet Union that the U.S. retains the right, consistent with its obligations as guarantor, to provide military assistance to parties in Afghanistan. Should the Soviet Union exercise restraint in providing military assistance to parties in Afghanistan, the U.S. similarly will exercise restraint.

(3) By acting as a guarantor of the settlement, the United States does not intend to imply in any respect recognition of the present regime in Kabul as the lawful government of Afghanistan.

SITUATION IN POLAND

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. YATRON. Mr. Speaker, the situation in Poland remains precarious. While the latest strikes have subsided, the political and economic situation which sparked the actions by the Polish workers remains unchanged.

Clearly, the Polish people want a greater voice in their government. They are more than ready to undertake the necessary economic reforms, but only if preceded by political reforms. The current Polish Government lacks the credibility to take important actions, and it is imperative that a significant effort be made to broaden its base.

An excellent article on the recent developments in Poland and the implications for the future was authored by Jiri Pehe, East European specialist for Freedom House. It is a most thoughtful piece and I want to provide my colleagues with an opportunity to read it. I am submitting the article, "Poland in 1988: Besieged Government, Besieged Opposition," in the hopes it will enhance our understanding the situation in Poland.

POLAND IN 1988: BESIEGED GOVERNMENT, BESIEGED OPPOSITION

(By Jiri Pehe)

"The government has wasted seven precious years," a Polish opposition figure recently remarked in a speech defending the latest round of strikes. His words summarize the feeling that is prevalent in Poland. That is a bad omen for the government of General Jaruzelski which has desperately sought legitimacy ever since the imposition of the Maritial law in 1981. Though in 1981 the government successfully managed to suppress the biggest threat which any Communist government has ever faced—the Solidarity Union with its ten million members—its "success" was the last one. Though more liberal and accommodating than other East European regimes, the regime of General Jaruzelski has not succeeded in winning the Poles over.

Solidarity, through suppressed, did not cease to exist. The union managed to transform itself from an "above-ground" to an underground organization. Moreover, it left behind a "blueprint" for successful independent activities—a blueprint followed and utilized by many other activists. Since 1981 the opposition has become if not stronger then certainly more diversified and less "manageable" by the government than in 1981. However, though various opposition groups now represent the majority of the Polish populace, the fact that these groups have been forced underground and suffer from a lack of mutual communication and unity has enabled the government to fend off all major challenges to its power. On the other hand, the decentralization of the opposition's activities—the non-existence of one center—has proved to be an important weapon of the opposition, because the decentralization makes it impossible for the government to eliminate the opposition in its entirety.

Poland finds itself in a stalemate. A government without legitimacy is unable to enforce any of its programs; an opposition without power is unable to force the government to make significant political concessions. As a result, the Polish economy has not been able to stop its decline, and the standard of living has been falling. However, despite the atmosphere of helplessness, the last seven years in Poland provide hope; Poland has become the first Communist nation whose people have been able to renew civil society and independent political activities to an extent that may prove fatal for the Communist regime.

POLAND: A SPECIAL CASE

As in all Communist countries, in Poland the talk of impending reforms has polarized the nation into four discernible groups;

1. Those who do not care about anything that the Communist government intends to do or says it will do, because the government is perceived as totally untrustworthy and incapable of self-reform;

2. those who welcome reforms because they believe in their success—the possibility to reform the Communist system;

3. those who do not believe in a possibility to reform the Communist system, but welcome reforms because the reforms create social space which makes it possible to push for more than just another version of an "improved Communism;"

4. those who resist reforms because they have a vested interest in the system in its present form.

Poland is a special case among Communist nations because, due to the developments seven years ago and since, the first group of people is the most numerous one and growing. Most Poles simply are not interested in what the government has to offer. The Communists have had their chance and they wasted it. Though parts of the Polish opposition welcome reforms at home and in the Soviet Union, the prevailing attitude is that the Poles "have to do it on their own" without the help of the corrupt government.

What the Polish opposition hopes to achieve is a fully independent civil society, that, in the words of Adam Michnik, "acts as if we were free," Solidarity left behind a precious legacy: the scope of independent activities unequaled in any other Communist nation; the notion that people have to rely on their own efforts and can expect almost nothing from a government whose main interest is power; and a "blueprint" for building an independent organization within a Communist system.

The Polish opposition is salient in another respect: it has a truly diversified structure. There are many groups in Poland with different political goals and agendas, though the two prevalent ideologies are still socialism (but not communism) and national independence (but not fierce nationalism).

The opposition to the regime keeps alive an independent political culture that exists as a parallel of the official one with one exception: it does not have power. The independent political activities are mirrored by independent economic activities, a black market of massive propositions, whose volume almost matches that of state economic activities. Almost anything that cannot be obtained from the official economy can be obtained from the unofficial one.

Independent, underground publishing has grown so much during the last seven years, that the output of underground publishing enterprises now easily matches that of the state. The underground has its own magazines, newspapers and books. The official press and publishing policy have had to be liberalized because of the competition coming from the independent publishers. Independent publishers often operate on the basis of profit and have their own subscribers, promotion techniques and methods of delivery. A brief review of Polish underground publications offers an impressive array of topics and genres, ranging from political commentaries and philosophical essays to novels by domestic and foreign authors.

The underground has its theaters, films and universities. They offer alternatives to the official culture, and are followed by large numbers of people, even though the official culural arena in Poland is far more lively than in other Communist countries.

The existence of a parallel society that has its own independent culture has forced the regime to make a number of concessions. The economic reform, for example, is an attempt to tap a part of the huge economic energy that is being spent in the unofficial economy and of ingenious economic methods and inventions applied in the unofficial market. The official press has been forced to compete for readers with unofficial journals, and even react to some of the publications that are coming out of the underground. The competition of official universities against unofficial ones has changed the face of the curriculum in the official schools, where Marxist-Leninist classes are more and more present only in rudimentary forms. The existence of an independent political culture that ignores the official one has forced the regime to start talking about a political reform of its own. However, the regime is still talking only about "pluralism of opinions," not the pluralism of power.

While seven years ago Solidarity may have been interested in "pluralism of opinions" and an advisory role, today independent groups simply ask to have some bearing on what is going on in Poland. At the beginning of the ongoing strikes, Lech Walesa said: "The problem lies in the fact that the Polish government rules without a consent of people." The statement clearly shows the growing realization among people that the situation in Poland is not likely to improve without people being given a right to determine or co-determine their fate.

The situation of the government is further complicated by the fact that almost 90 percent of Poles are Catholics. Legitimate and traditional church activities—religious celebrations, processions, prayers for the oppressed—in which many Poles participate are frequently seen as implicit criticisms of government policies. The Catholic church is in many areas more influential than the government. Increasingly, the government is being forced to consult on some of its steps with the Church.

THE GOVERNMENT

The main source of the government's "legitimacy" is the fact that it is backed by the Soviet Union. It has completely lost its monopoly of ideological power: the Marxist-Leninist doctrine in Poland is dead for all practical purposes. The government is being forced to decentralize the economic system and shift part of its control of economic power to factories, and ultimately workers—something that Solidarity demanded in 1980-1981. Poland already has a large private sector, especially in agriculture. Economic planners are also increasingly subject to pressures from the West, as Poland's already huge hard-currency debt forces new creditors to condition new loans by demands for change in management methods in Poland. The government is clinging to the political power. However, even this monopoly is being undermined by the growing importance of the parallel society.

THE OPPOSITION

The government has made a number of concessions during the past few years. In September 1986 the government released all political prisoners. Since then the number of political prisoners has remained low. The bulk of new political prisoners consists of conscientious objectors—young people who refuse to serve in the army because of their religious or other beliefs. The government's new tactic—fining offenders—has not been successful in stopping independent activities.

One of the most spectacular successes of the Polish opposition in the recent years are the actions of the Freedom and Peace Movement, a peace group led by Jacek Czaputowicz, which has forced the government to recognize the right of conscientious objectors to an alternative civilian service. Freedom and Peace movement belongs to a coalition of issue oriented groups, among them environmentalists and disarmament groups, that now add new hues to the already colorful dissident spectrum.

The government has been forced to legalize several underground magazines. Res Publica became the first magazine in the Communist bloc to be granted full independence. There are, however, in Poland several semi-independent magazines with ties to Catholic church, such as Tygodnik Powszechny and Wiez. The government has been increasingly reluctant to censor them.

Another success of the opposition was last October's boycott of the referendum, which the government hoped to use as a springboard for its economic reforms that included sharp price increases. The opposition, especially the Solidarity Union, objected to the referendum because the opposition groups had not been consulted by the government on the program and because the reform was insufficent, shifting the burden of economic change on workers.

THE FUTURE

It is clear that no positive solution to Polish problems can be found without the willingness of the government to share some of its power with those in the opposition who now represent the majority of the nation. The Poles also insist that the leadership in Moscow must deal not only with the Polish government that represents a few but with the representatives of independent movements that speak for a majority of Poles. The new series of strikes in Poland clearly represent a challenge not only to Jaruzelski but also to Gorbachev. Glasnost is looked upon with sympathy by many in Poland, but the majority of Poles do not think that glasnost offers them any direct benefits. Glasnost influences their leaders and perhaps makes them more tolerant. However, as many an opposition leader insists, the Poles are already far beyond anything that Gorbachev may hope to achieve in the Soviet Union. Gasnost is aimed at creating "democratization" within official structures. The Poles strive for democracy outside the official structures.

It seems that the power and the future of the Polish government depends to a large extent on Soviet backing. The present round of strikes is a test of the Soviet willingness to back its allies in the age of glasnost. Anything short of a clear willingness to launch a military invasion on behalf of a client regime is likely to encourage the opposition to step up its efforts to limit the power of the Polish government and claim some of the power for itself. It remains to be seen whether the Poles can succeed. As at many times in their history, their prospective freedom depends on the intentions of their powerful neighbor to the East.

INTERNATIONAL COMMISSION OF JURISTS REPORTS CHALLENGE TO THE RULE OF LAW IN PALAU

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1988

Mr. DE LUGO. Mr. Speaker, the United States is fully responsible for the Pacific islands of Palau under an agreement with the U.N. Security Council. Our responsibilities include providing and maintaining law, and protecting fundamental freedoms.

These responsibilities would be replaced by self-governing authority under a compact of free association. After five referenda in Palau failed to approve the compact, proponents last summer tried to do away with a constitutional requirement that it be approved by a 75 percent favorable vote. A sixth vote was then held by Palau's president to have approved the compact, a position later taken by President Reagan.

When this maneuver was challenged in Palau's supreme court, challengers were subjected to serious violence. Their suit was withdrawn amid indications to the courageous associate supreme court justice, Robert A. Hefner, that the withdrawal may have been brought about by "intimidation through the use of violence".

An investigation convinced members of the Committee on Interior and Insular Affairs that President Reagan's request for authority to put the compact into effect should not be approved until the challengers could exercise their rights, Palau has clearly approved the compact, and other problems are addressed.

The situation also prompted concern within the International Commission of Jurists [ICJ], and its American affiliate. So, this respected U.N. consultative organization sent a mission to investigate the rule of law in Palau.

The able team consisted of the ICJ's executive committee chairman and American affiliate president, William J. Butler; a senior—and former chief—judge of the U.S. Sixth Circuit Court of Appeals, George C. Edwards; and the president of the court of appeal of the New South Wales, Australia, supreme court, Michael D. Kirby.

Their detailed report has made an important contribution to understanding of what happened last summer, efforts to approve the compact, and problems faced in Palau. It was issued just days before Justice Hefner ruled on a refiled challenge that the compact has not been approved by Palau.

Mr. Butler presented the mission's findings to the U.N. Trusteeship Council last week. I ask that their conclusions and recommendations be included in full in the RECORD so that Members will be fully aware of the challenge to the rule of law in Palau.

PALAU: A CHALLENGE TO THE RULE OF LAW IN MICRONESIA

SOME CONCLUSIONS

1. Faced with conditions tantamount to economic bankruptcy, the resultant loss of jobs in the public sector which employees 60% of its workforce, Palauan Executive, Political and Judicial Institutions, for the period beginning in July 1987 to September 1987, were under such severe strain as to cause us to conclude that there existed a virtual breakdown of the Rule of Law during that period.

2. Even six months later, when the Mission visited Palau, we felt that there was ample evidence that the right of Palauan citizens to seek redress of their constitutional rights in the courts of Palau was at the very least, inhibited and in some instances prohibited by a climate of fear and intimidation originating from certain segments of Palauan society.

3. In the last eight years the Palauan people have had four referenda relating to their constitution which in 1979 they ratified by a 92% vote and six referenda on the Compact of Free Association with the U.S. All of the referenda of the Compact and two of the amendment referenda on the Constitution were apparently a result of sustained pressure on Palau by the Administering Power designed to persuade it to alter its constitution either to allow the United States to "store" nuclear weapons or, at a later stage, to "operate" ships and aircraft with nuclear devices within the territorial jurisdiction of Palau.

4. The August 1987 referendum purporting to authorize, by an amendment to the constitution, a 50% vote on the Compact of Free Association raises serious, substantial and arguable questions of constitutionality which can only finally be passed upon by the Supreme Court of Palau.

5. Attempts by Palauan citizens to raise these questions have been thwarted in the first instance by a behind the scenes arrangement between top government officials and the litigants and in the second instance by threats of violence and intimidation against the plaintiffs. These acts, many of which were plainly criminal in nature included fire bombing, shooting at the homes of some of the plaintiffs, direct threats of violence to many of the plaintiffs, and the murder of the father of one of the main plaintiffs.

6. There has been an illegal and improper interference with and pressure upon the independence of the judiciary in that:

A. Members of the Legislature engaged in express threats to the Chief Justice;

B. Members of the Furlough Committee have filed a petition for the removal of the Chief Justice from a case;

C. A series of oral threats were made directly and indirectly to the members of the Judiciary of Palau and their families; and

D. An organized attempt to threaten the Judiciary by surrounding the Supreme Court building with campers who wore "red bands" and who camouflaged a government truck to appear to be a coffin with words inscribed on it "red september".

7. Specifically we conclude that the withdrawal of this case entitled *Ngirmang, et al.* v. *Salii, et al.*, was involuntary. Such withdrawal was brought about by "intimidation through the use of violence". Accordingly we conclude that because substantial constitutional issues cannot be challenged and determined in Palauan courts, because of threats to litigants, lawyers and the judiciary, there has been a breakdown of the Rule of Law in Palau.

8. It is our duty to report our conclusion that there is evidence of government complicity in many of the matters raised in this report that concludes:

Constant and repeated public statements by government officials on the government controlled radio attacking or denigrating the Judiciary or referring to the "tyranny of the courts".

Police participation or acquiescence in these events, by failing to maintain law and order, and by the failure of police and the Attorney General to pursue claims.

Constant pressure on legitimate opposition, such as the threatening loss of jobs and assignment of opponents to uncomfortable shifts.

Threats by police officials concerning the withdrawal of legal actions.

Threats of the denial of scholarship to members of the families of those opposing the compact.

Sadly there are also serious allegations of corruption against prominent Palauans, which we consider it proper to mention but not elaborate. There were also many allegations of incompetence and waste, the use of government property for private purposes and alleged bribes regarding the building of a power plant.

9. We conclude that the Eleventh Legislative Session of the National Congress of Palau of July 1987 was held in a climate of near hysteria; that Legislators were coerced into voting in favor of the bill authorizing the Amendment to the Constitution and approval of the Compact referenda of August 1987 and that such legislation did not freely reflect the considered political will of the Palauan National Congress, as the Constitution of Palau envisaged that it would be expressed.

10. We conclude that the Palauan Bar Association failed in its duty to maintain the Rule of Law when it knew, or should have known, that judges, lawyers and litigants were being threatened in their professional capacity. It should be pointed out that the brother of the President, Carlos Salii, is the President of the Palauan Bar Association.

INDEPENDENCE OF THE JUDICIARY AND THE LEGAL PROFESSION

11. The constitution of the Republic of Palau establishes an independent judiciary. There is much evidence that the Supreme Court of Palau has exercised its independence and in numerous suits reversed the acts of legislative and executive branches of government when the constitution or law of Palau was held to so require.

12. The justices of the Supreme Court are sufficiently alert to the challenges to their independence to the operation of the Rule of Law in Palau whilst at the same time sensitive to the lack of understanding, in some quarters including in the government, of the vital importance, for the long term welfare of Palau, of adherence to constitutional processes and compliance with legal forms.

13. Proof positive of the independence of the justices of the Supreme Court can be found not only in the history of governmental litigation generally. It can be found in many decisions associated with the constitutional evolution of Palau. Most notable of these have been the judgments in *Gibbons* vs. *Remeliik* and *Gibbons* vs. *Salii* and the very observations of Judge Hefner in *Ngirmang* vs. *Salli* which contributed to the reason for this Mission.

14. The current circumstances in Palau make it more important than ever that the judicial branch of government be supported by the citizens and by all those having it in their power to lend support. The reasons include not only the fine principle of the Rule of Law as the best guarantee of freedom and the defense of human rights. They extend beyond the vital importance of constitutionality at this critical stage of transition in the evolution of Palau to full independence in the community of nations. They concern the very practical problems of everyday importance to Palau and its people: the growth of higher levels of violence, the evidence of social disruption, new problems involving narcotic drugs and the breakdown of the effectiveness of traditional authority. These problems, and the need for a strong judicial branch of government to deal with them, is appreciated by many in responsible positions in Palau. It is certainly appreciated by the judiciary. But it is not appreciated by all.

15. Unprecedented and unacceptable pressure—and the public appearance of pressure—was placed upon the Supreme Court of Palau during the third quarter of 1987. It took the form of petitions to the Chief Justice threatening his removal if he did not decide a constitutional case before him in a designated way; letters to him by members of the legislature expressed in intimidating language designed to influence his performance of his judicial duties; and the gathering of large and violent crowds in the vicinity of his courthouse. Peaceful demonstration of a point of view is a mark of a free society. Mob rule around the courts, with threats to the judiciary, and to litigants is the very negation of freedom under law. It is vital that the government and citizens of Palau—and all others watching these events—should realize this. What is at stake is not just the wish of the people, democratically elected. It is nothing less than the right of litigants to test the compliance of that democratic expression against the requirements of the people's constitution and the entitlement of the judiciary to determine that question. If legal processes break down once, a dangerous precedent is set—and the rule of violence, intimidation and oppression replaces the Rule of Law.

16. In the sequence of events disclosed in this report there is a possible appearance that Chief Justice Nakamura yielded to that pressure. He made an order which was unpopular. Yet within a very short time of doing so he vacated that order and revoked it soon after disqualifying himself. He did so, as is publically known, after the receipt of intimidating letters and a petition threatening his removal. In these circumstances, the appearance of the independence of the judiciary was damaged. The blame for this fact must be placed principally at the door of those persons responsible who publically or otherwise threatened the Chief Justice. We do not say the the Chief Justice was actually intimidated. But damage can be done by the appearances of intimidation and the appearance of yielding to pressure. The question is what reasonable observers of these events would infer from them and the conclusions they might draw concerning the independence of the Supreme Court of Palau.

17. The Mission was greatly impressed by the insight of the Justices of the Supreme Court of Palau into the important principles at stake here, vital for the well being of the people of Palau. The assignment of the litigation to Judge Hefner and his memorandum referring to possible intimidation is proof, if it be needed, of the independence and courage of the Justices. It would be a misfortune if it were considered necessary or even desirable in such sensitive situations, always to resort to off island judges of non Palauan origin. For the survival of the Rule of Law in Palau in the long term, it is essential that such independence be demonstrated, repeatedly, by indigenous judges in Palau. The rule of Law is most important when it is most severely tested.

18. Statements were made to the Mission, which it also accepts and finds believable, that the litigants before the Supreme Court in the cases designed to test the constitutionality of the amendment for the purpose of adopting the compact, were intimidated and discontinued those proceedings out of fear. The Ibedul who was believed by many to be supporting the litigation in the *Merep* case was afraid of the breakdown of law and order and had himself been the subject of thinly veiled threats. The Palauan women who then brought a case in virtually identical terms were then submitted to unprecedented coercion in order to dissuade them from exercising their constitutional rights before the Supreme Court of Palau. The coercion is fully set out above. But in summary it included:

Fire bombing of houses.

The interruption to the power supply.

The gathering of violent demonstrations in the vicinity of the courthouse and legislature.

The actions of the demonstrators in assuming the wearing of red headbands and in painting a van used by them with threatening slogans.

Murder of the father of one of the plaintiffs, serious escalation of violence and the outcome of a period of mob rule.

The executive branch of government including the police were either unable or unwilling to provide security to the litigants to defend their right to litigate a serious constitutional question in the Supreme Court.

Individual threats were addressed to the Palauan women who brought a case in the Supreme Court as well as to their families as recounted to the Mission and set out in this report.

19. It is not necessary for the Mission to judge—nor would it be appropriate—whether the Palauan women have a valid claim under the constitution of Palau to challenge the purported constitutional amendment preliminary to the execution of the Compact. Nor is the Mission concerned with the validity of those amendments, the application of customary law to the conduct of the women, the application of the principles of *res judicata* or the availability of defenses of accord and settlement. These are entirely matters of the Palauan courts. Nothing in this report should be read as expressing a view or any of these questions. It is sufficient for the purposes of the Mission to say that a serious constitutional quesion, which was arguable, was raised by the suit of the Palauan women. They should have been allowed to bring it and have it peacefully resolved in a court room. Instead they were coerced into seeking an adjournment or a discontinuance of it. That coercion undermines the Rule of Law in Palau and the appearance of the independence of the Palauan courts to resolve serious questions according to law.

20. In addition to the pressure applied to the judiciary, legislators and litigants, improper pressure was also applied to some members of the legal profession known to be concerned in the prosecution of the constitutional litigators. One of them, Roman Bidor, was the son of the man murdered and it was in his office that the murder occurred. Cars were damaged by the smashing of the front windows. The response of the Bar Association to these shocking events was, it must be said, inadequate. Instead of rallying in a single voice to denounce these assaults on the Rule of Law and the intimidation of the Judiciary and colleagues it was decided instead to seek advice from the American Bar Association on what should have been obvious to any lawyer. Unless lawyers rally around and together defend the Rule of Law, the judiciary and constitutional institutions, they abandon their historical role. This includes, ultimately, putting individual interests aside and even the interests of particular clients aside when the very institutions by which those interests are safeguarded are under siege. In the unhappy event of a repetition challenge it is hoped that the Bar Association will show more resolve.

21. Individual lawyers have done things which appear to the Mission incompatible with respect for the judiciary and the Rule of Law. For example, it would seem quite

wrong for the lawyer for the Furlough Committee to have participated in the writing of the August 19th Petition threatening the Chief Justice. Whatever the motives—which the Mission has no prerogative to judge—it would seem inconsistent with a lawyer's cardinal duty to be involved in such an act or thereafter to participate in steps intermeddling in private litigation, involving the women plaintiffs, designed to effect the discontinuance or adjournment of their proceedings which were lawfully before the court, and to secure their termination out of fear.

HOUSE OF REPRESENTATIVES—*Wednesday, May 25, 1988*

The House met at 11 a.m.

Rabbi Stuart Weinblatt, president, Washington Board of Rabbis, Potomac, MD, offered the following prayer:

The prayer I humbly offer to You, dear G-d, on behalf of the leaders of this great Nation, and in this hallowed assembly is one of thanks.

We thank You for the many blessings You have bestowed upon this land, and its people; for the noble goals of our Founding Fathers, and for living in a country with elected Representatives devoted to bringing those ideals and the promise of that vision into reality. For abundant resources and wealth, for unprecedented intellectual greatness and achievements, we are ever appreciative.

In that spirit, we pray, for the ability to share the precious gifts of life and liberty, of freedom and equality.

Help us to conserve and preserve our resources for the benefit of future generations. Help us to use our prosperity for the betterment of all. Help us to use the gifts of wisdom and the G-d-given talents of our people with prudence.

Bless us with the strength and desire to strive to create Your kingdom here on Earth. In that context, we pray that the elected Representatives of our people in whom we have placed our sacred trust shall be guided by wisdom and compassion, by truth and justice.

As the Psalmist recognized, "Truly Your majestic presence fills the whole Earth." For as Jacob exclaimed, "How full of awe is this place. Surely the Lord is in this place; and I knew it not."

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. KOSTMAYER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. KOSTMAYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 128, not voting 34, as follows:

[Roll No. 152]

YEAS—269

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McEwen
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (UT)
Packard
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weldon
Whitten
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—128

Armey
Badham
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clay
Clinger
Coats
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Edwards (OK)
Emerson
Fawell
Fields
Gallegly
Gallo
Gekas
Goodling
Gradison
Gregg
Hammerschmidt
Hastert
Hefley
Henry
Herger
Hiler
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Murphy
Nielson
Oxley
Parris
Pashayan
Porter
Pursell
Regula
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—34

Aspin
Biaggi
Bonker
Boulter
Dingell
Duncan
Feighan
Flake
Ford (MI)
Frenzel
Garcia
Gilman
Gingrich
Hansen
Hawkins
Houghton
Hubbard
Jones (NC)
Kemp
Lipinski
Lujan
MacKay
Marlenee
Mavroules
McGrath
Mica
Moody
Nichols
Olin
Owens (NY)
Spence
Watkins
Weiss
Williams

□ 1129

Mr. STOKES changed his vote from "nay" to "yea."

So the Journal was approved.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The result of the vote was announced as above recorded.

RABBI STUART WEINBLATT

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, it is a pleasure to introduce to you, Rabbi Stuart Weinblatt, of Temple Solel in Bowie, MD.

A native of Baltimore, he graduated with high honors from the University of Maryland with a degree in history. I came to know Stu Weinblatt during his student days when he served for 3 years as director of State affairs for the University of Maryland student government. In that capacity, he was liaison to the State legislature, where I served as a member of the senate.

Stu Weinblatt is no stranger to political activism or to Capitol Hill. In his high school days, he was named a William Randolph Hearst U.S. Senate scholar, entitling him to study for a week here in Washington. As a college student, he sponsored a registration drive which added 9,000 new voters to the rolls. He also served as an intern both to Baltimore Congressman Sam Friedel on the House Administration Committee and to Congressman Clarence Long.

Following his graduation from the University of Maryland, Stu Weinblatt attended Hebrew Union College in Cincinnati and studied for 1 year in Israel.

Before coming to Bowie's Temple Solel, he served 2 years at Miami's Temple Betham.

Since coming to Temple Solel in 1981, Rabbi Weinblatt has taken an increasingly active role in a wide variety of community affairs. Most notably, he now serves as the president of the Washington Board of Rabbis.

Rabbi Weinblatt has participated in a number of demonstrations in the vicinity of the Soviet Embassy here in Washington on behalf of Soviet Jews.

Earlier this year, he traveled to the Soviet Union where he met with Yuli Kosharovsky, who has been a refusenik for 17 years, longer than virtually anyone else still in the Soviet Union.

Following his return from the Soviet Union, Rabbi Weinblatt has continued his work on behalf of Soviet Jews. These efforts include a protest he organized in March at the Soviet Embassy in behalf of Yuli Kosharovsky.

While meeting with a large group of refuseniks in Moscow, Rabbi Weinblatt also met with several of our colleagues, including Tom Lantos. Following the rabbi's moving comments at the end of that meeting, Congressman and Mrs. Lantos suggested that Rabbi Weinblatt should one day give the invocation here in the House. His presence today is a result of that meeting and their invitation.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 2426. An act to designate 16th Street, Northwest, in front of the Polish Embassy as "Solidarity Corner."

THE POLITICS OF ATHLETICS

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, today I read with disgust Joseph Sobran's article on the South African runner Zola Budd. The U.S. Olympic Committee has allowed itself to become a tool of hatred singling out one individual on which to unload its vengeance. Sobran said in the last paragraph of his article:

> Zola Budd has been targeted as a sort of class enemy, guilty by ancestral association. The forces that have converged on her epitomize in miniature the form of oppression typical in this century: indiscriminiate revenge disguised as social justice.

One month ago I wrote to the Olympic Committee about their involvement in politics.

In my letter I stated:

> Mr. Miller, I am simply taking this opportunity to register my opposition to the current state of the relationship between the world athletic community and the Republic of South Africa. I sincerely believe that change cannot be wrought from the outside; rather, it has to come from within. Banning Zola Budd or other competitors from exercising their God-given right to go and do as they wish is incredibly heavy-handed and smacks of fascism.

The ugliness of sanction without regard is summed up by the victim who said, "I have been made to feel like a criminal. I have been continually hounded, and I can't take it anymore."

RIGHT TO KNOW

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLORIO. Mr. Speaker, if knowledge is power, than three little words are indeed mighty. The words are: Right to Know.

July 1, 1988, will be an important day for millions of Americans. That is the day they will begin to learn what is contained in the air they breathe, the water they drink, the ground on which their homes are built and their children play.

It is the day when the key right to know provision of Superfund takes effect.

When people who live near chemical plants can find out what is in the air, and what it means for their own health and safety, then for the first time plans and policies can be made on the basis of fact. We celebrate out Nation's independence on July Fourth, but July 1 will be an independence day as well. Independence from fear, and from environmental ignorance.

But, for the true power of this concept to be felt, two things must happen.

First, corporate America must be dedicated to making it work by fully complying. July 1 must be more than just another deadline for industry or the Federal Government to simply shrug off.

And second, the attention that will accompany July 1 must be used to focus on a whole range of air pollution issues that simply aren't getting the attention that their danger merits. Acid rain, incinerator emissions, and other unseen pollutants are serious problems.

The right to know must be only a first step. The right to be healthy comes next.

BAYTOWN'S FRED HARTMAN TURNS 80

(Mr. FIELDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS. Mr. Speaker, I want to take a moment today to salute a constituent on the occasion of his 80th birthday, Fred Hartman of Baytown, TX, was 80 years young last week. Happily, he celebrated his birthday in good health, of sound mind, and with an energy level greater than this 36 year old. Mr. Speaker, my colleagues may recall that in 1985 I took to the House floor to inform the House of the Baytown Chamber of Commerce's decision to name Mr. Hartman "Baytown's Man of the Last Half Century." At that time I recounted Fred Hartman's distinguished journalism career and his unequaled record of community service. I might also add that he has served Baylor University well, his alma mater, and is one of Baylor's most outstanding and distinguished alumni. In both his professional life and in his service to his community, Fred Hartman has improved the lives of thousands of men and women who live and work in East Harris County.

Today my message is simple and sincere and it is short, and that message is if you will indulge me, Mr. Speaker, happy belated birthday, Fred, and many happy returns.

OUTLAWING SATURDAY NIGHT SPECIALS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I rise to commend Governor Schaefer of Maryland and the Maryland State legislators for banning Saturday night special handguns. They are on the right track.

Mr. Speaker, our crime statistics in America are frightening. There is more murder in Chicago than all of England. There is more murder in Los Angeles than all of Canada. Mr. Speaker, 10,000 people were killed by handguns last year, and even our police are outgunned. The simple fact is that you do not need a machinegun to hunt rabbits. Our policies are all screwed up. No one in Congress wants to take guns off the people, but we need a more rational policy.

Mr. Speaker, I rise to commend James and Sarah Brady for raising the consciousness level of America to this great problem.

Mr. Speaker, I would also like to add that the only shame of it all is that Maryland has to do it. It should have been done by the Congress of the United States of America.

□ 1140

DISSOLUTION OF FADA

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WORTLEY. Mr. Speaker, I rise in opposition to a bill that was introduced last week. This bill's purpose is to dissolve the Federal Asset Disposition Association [FADA], which was chartered by the Federal Home Loan Bank Board in 1985.

I am somewhat perplexed by the actions of some of my colleagues on the Banking Committee for pursuing this course of action. It is true that until recently—until a new chief executive officer, Gerald Carmen, took control—FADA was not operating at a profitable and efficient level. Recently, however, FADA has shown a profit. I believe that FADA has just begun to turn the corner to fulfill its purpose, which is to sell off distressed assets from failed thrifts with the help of experts in the private sector.

When discussing the livelihood of any organization it is important to consider the immediate status of that firm. It is important to note that FADA has disposed of over $700 million of distressed assets, and has provided the Federal Savings and Loan Insurance Corporation with $538,000 in the first quarter of 1988. Furthermore, FADA sold assets in excess of $525,000 in April alone. This is quite an improvement and one which should be allowed to continue until we can better evaluate the improving record of FADA.

We also need to look at the fine leadership since the end of February of this year. Not only has Mr. Carmen been able to collect $538,000 for FSLIC, but he has taken drastic steps to ensure efficiency. For example, he has disposed of excess office space and has dropped FADA's payroll by $2 million. In addition, Mr. Carmen earns far less than the previous CEO of FADA.

It is quite obvious that the new leadership at FADA has taken fundamental steps to transfer FADA from an inefficient organization to one which will help recover some of the massive losses of the thrift industry.

Mr. Speaker, I urge my colleagues to carefully examine the recent improvements at FADA, to keep a watchful eye on FADA in upcoming weeks, and then after several months revisit the status of FADA. I sincerely believe that FADA will continue to show profits and that results will speak for themselves. However, if it becomes increasingly clear that FADA is not improving, then, and only then, do we need to take appropriate action regarding FADA.

AN APPEAL TO CONTRAS AND SANDINISTAS

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, I rise before you and my colleagues today to urge the parties involved in the peace process in Central America to put aside their feelings of distrust and continue negotiating a peaceful end to the war in Nicaragua.

The cease-fire has saved lives. Before the cease-fire, nearly 500 Nicaraguans a month died in Sandinista-Contra conflicts. After the Sapoa agreement, about 50 a month have died.

Not only is the peace process vital to the humanitarian needs of Nicaragua, but it is crucial to the economic interests of all Central America. We are all aware that economic instability and political strife continue to permeate the daily existence of Central America.

I ask my colleagues to join with me in appealing to the Sandinistas and Contras to put aside the bitterness born of 8 long years of strife and agree to extend the cease-fire for 30 days.

I urge the negotiators to continue their efforts to strive for a settlement to their many differences.

Finally, I request that the administration do all in its power to promote peace and democracy in Central America.

PRESIDENT'S TRIP TO MOSCOW POSITIVE CONTINUATION OF FOREIGN POLICY

(Mr. GREGG asked and was given permission to address the House for 1 minute.)

Mr. GREGG. Mr. Speaker, I wish to join with many of my colleagues in wishing President Reagan well as he goes to Moscow to initiate the summit agreement with Secretary Gorbachev.

This is a continuation, and a positive continuation, of those policies which this President has brought to our country and to our foreign policy area which have led to 8 years of peace and prosperity. As part of those policies, the INF Treaty is in my opinion a major and a historic step forward, and it is also my hope that the Senate will soon ratify that treaty and that out of this meeting in Moscow we will see developed a consensus from which we can move on to arms control in the area of START negotiations.

WHAT IS THE DIFFERENCE BETWEEN THE REPUBLICAN PARTY AND DEMOCRATIC PARTY?

(Mr. BOSCO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOSCO. Mr. Speaker, we have all been asked from time to time: What is the difference between the Republican and Democratic parties? Yesterday President Reagan provided the answer that I am going to give. He said that somehow there is something inherently wrong with giving average working Americans a 60 days' notice before they are going to lose their jobs. Somehow I guess these people do not need the time to decide how their home mortgage is going to be paid or whether the kids are going to have to be pulled out of school or some of the other average decisions that working Americans have to make.

The President did not express the same sense of outrage when some of his friends got a little help upon losing their jobs. The chairman of Bendix Corp. received a $4 million golden parachute when he lost his job. The chairman of Revlon left with $35 million when Pantry Pride took over in 1985 and he lost his job. The chief of RCA received $2.3 million as a going-away present when he lost his job. The CEO of St. Regis received $12.6 million when St. Regis was acquired by Champion International and he lost his job, and Champion paid his taxes on that $12.6 million as well.

Yes, Mr. Speaker, President Reagan has helped us to prove that there is a difference after all between the parties, and the President may have unwittingly helped give the termination notice of this decade to one of his better friends at 1600 Pennsylvania Avenue.

CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I would just like to take a moment this morning to share some information about a program that I have taken part in since I have been in Congress.

Through the Congressional Senior Citizen Intern Program, I am able to sponsor a senior citizen from my home district to come out to Washington, DC, for 1 week as an intern on my staff. During their stay in Washington, that senior citizen intern has a very busy schedule of press meetings, briefings on topics of special interest to the elderly, and a series of tours and receptions around the Capitol Hill area.

The two senior citizen interns that I sponsored were chosen from a group of very highly qualified applicants from my district, and they both have been community leaders back home. They share a desire to learn more about the legislative process and bring that knowledge back to the Fourth Congressional District of Illinois.

Since its start in 1973, the Congressional Senior Citizen Intern Program has brought more than 1,500 senior citizens to Washington, DC, to participate. Everyone benefits from this program—the community at home, myself and my staff, and certainly the interns all gain from the exchange of information. That is the type of program that we all ought to be involved in and that we should not pass up.

NATIONAL TOURISM WEEK

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute.)

Mr. NELSON of Florida. Mr. Speaker, I am honored to be joined by over 70 of my colleagues today in the introduction of a resolution for "National Tourism Week" for 1989. This special week has become one of our Nation's most popular commemorative weeks. Thousands of Americans in every State and territory participate each year in exciting events in honor of tourism.

I am especially pleased to be introducing this legislation during a time when we have a very special group of people from nine Southeastern States in town. Today in Washington, members of the tourism industry from: Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia are hosting their annual hoedown on the Mall. This hoedown was established in 1984 as a way to thank Members of Congress from those nine States for helping make this special week a reality. Their hoedown has quickly grown into the premier tourism event of the year.

This organization personifies the tourism industry. These people work together diligently to promote our cities, our States, and our major attractions throughout the Southeast. They generously bring their entertainment, their crafts, as well as two attributes southerners are so famous for—their great southern cooking and old fashioned hospitality. It's a pleasure to have this special group in town and to be part of their festivities. I encourage all Members from these nine States to join us tonight under the big tent on the Mall.

DON REGAN: A NO-CLASS ACT

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, former White House Chief of Staff, Don Regan, has written a book to "set the record straight" about his service in, and particularly about, his departure from the executive mansion. His real purpose, of course, is revenge on Nancy Reagan, ostensibly for using her influence with her husband to have him leave.

Mr. Regan is a notorious sexist and one can imagine his reaction when he discovered that the President's wife was encouraging his boss to fire him. In the book Regan declares that the spouse of a President should have no role in Presidential decisions, even regarding those who purport to serve the President. Undoubtedly that parallels well his general philosophy on the role of women in America, which relegates them to work in the kitchen and about the house and, perhaps, some small talk.

If it weren't for the fact that almost all of the Reagan administration's problems began when Don Regan took over as Chief of Staff, bringing as he did to that task virtually no background in or understanding of political governance, one could dismiss his book as mere boorishness.

But let's remember that at the time of the President's call, all of Washington was aware that Don Regan had to go—it was only a question of when. That Regan did not call the President to offer his resignation but required the President to call him, says exactly what his book says about its author: the man simply has no class.

□ 1150

TEXAS CHILI DAY IN U.S. HOUSE OF REPRESENTATIVES

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, we convene today after a week or so of thunderstorms and muggy, humid weather in Washington, DC. Folks are having a hard time getting out of bed and coming to work in the morning, and they feel tired and worn out at the end of the day.

Mr. Speaker, folks around here need a break. And on this rainy morning in Washington, I've got just what the doctor ordered—a steaming cup of Texas red—real, honest-to-goodness 2-alarm Texas venison chili.

I want to advise my colleagues in this House and their staffs that today is our annual "Texas Chili Day," and we will be serving the bona fide, authentic dish in room H-128 from 12 noon until the chili runs out.

Mr. Speaker, I want to encourage all my colleagues to take advantage of the opportunity to warm their stomachs and lift their hearts, and join us for a cup of Texas venison chili this afternoon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4002

Mr. DELAY. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 4002.

The SPEAKER pro tempore (Mr. Bosco). Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL TOURISM WEEK

(Mr. BEVILL asked and was given permission to address the House for 1 minute.)

Mr. BEVILL. Mr. Speaker, I rise today to give my full support to National Tourism Week for 1989. I recognize the importance of the travel and tourism industry which generates billions of dollars each year in Federal, State, and local tax revenues.

This is a very important industry to my State of Alabama. In fact, the Alabama Bureau of Tourism and Travel ranks tourism as Alabama's No. 1 industry.

We welcomed more than 10 million visitors from out of state to Alabama last year. These tourists generated more than $4 billion in Alabama during 1987 and that meant jobs for more than 78,000 people.

Our State is working hard to attract more tourists and we have a great deal to offer. From the mountains and lakes of north Alabama to Mobile and the beaches at Gulf Shores, Alabama offers a wide variety of attractions.

Of course I'm partial, but I think my district is one of the most beautiful in the State. We have a number of lakes, parks, and historic sites throughout Alabama's Fourth District.

I hope that my colleagues and all our friends from across America will take the opportunity to visit Alabama. I am very proud of what my district and my State have to offer. We really have it all.

HOW GORBACHEV CAN MAKE THE SUMMIT MEANINGFUL

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, most Americans are not aware that President Reagan's visit to the Soviet Union coming up in the next hours is his fourth summit with the General Secretary of the Soviet Union. That is an all-time record for all American Presidents, including Franklin Delano Roosevelt, who first started to have these summit meetings.

I am for the summit, frankly. But I have not changed my mind, nor do I believe President Reagan has, that the Soviet Union's Government is an evil government running an evil empire.

I have been to the Soviet Union five times. I find it one of the most fascinating places on Earth to visit. It is like going to the dark side of the moon. There are Western, European similarities, and yet such grievous differences.

I think the summit process can be used to the advantage of freedom. But it was Stalin himself who said that "one man's life is important; a million deaths is nothing."

If the President will ask about one human being, just one, it will go a long way toward showing the world that Mr. Gorbachev truly is a different kind of Soviet leader and a reformer.

There is a special man who is only one of two non-Americans ever to have been designated an honorary citizen of this country. The first was Winston Churchill decades ago. The second one was in President Reagan's first year, initiated by the gentleman from California, Mr. Tom Lantos, on the Democratic side of the aisle, and supported by me and others on this side. That man is Raoul Wallenberg.

Khrushchev admitted that Raoul Wallenberg, a Swedish hero who saved literally 100,000 Hungarian Jews—the number 100,000 is entered into St. Peter's book on Raoul Wallenberg. It was admitted by Khrushchev that Raoul Wallenberg was a prisoner at least up through 1948. Auran Shiffran of Israel claimed he saw him in his 34th year of captivity. I met with a school friend of his, Ambassador Per Anger, just a few days ago over in the Rayburn Building. Ambassador Anger looked very healthy.

If Raoul Wallenberg is alive, release him. If he is not, Mr. Gorbachev, tell us where his remains are, return them, and you will impress deeply this Republican conservative.

TRIBUTE TO MARINE CAPTAINS STEVEN C. LESLIE AND KENNETH W. HILL

(Mrs. BYRON asked and was given permission to address the House for 1 minute.)

Mrs. BYRON. Mr. Speaker, this morning in Arlington Cemetery we are laying to rest two young Marine captains who lost their lives in the Persian Gulf, Capt. Steven C. Leslie of New Bern, NC, and Capt. Kenneth W. Hill, of Thomasville, NC.

I returned last evening from hearings in the Persian Gulf and the Arabian Sea with these two young Marine captains' bodies. It was a very emotional arrival at Dover Air Force Base where we had a very brief ceremony welcoming them back to their native land.

These two young men, when called on by their Nation, climbed into their Cobra helicopter, part of the 167th Squadron stationed currently aboard the U.S.S. *Trenton* in the Persian Gulf. They were killed on April 18, 1988.

Our hearts go out to the families of these two young men, as well as the gratitude of their country and their Nation, for their sacrifice is one that we can never explain. This Nation should be very proud of those individuals and their comrades who are currently serving on the *Trenton*, the 400 marines that are embarked plus the Navy complement. The young men that I visited on the U.S.S. *Coronado*, the U.S.S. *Wainwright*, and I spent the night on the U.S.S. *Trenton* and the U.S.S. *Forrestal*, the aircraft carrier that has just arrived on station in the Arabian Sea, are some of the finest troops that we have sent from our shores. Let me hope and pray that they all return not the same way as Captain Leslie and Captain Hill have.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 285

Mrs. MARTIN of Illinois. Mr. Speaker, I ask unanious consent that my name be removed as a cosponsor of House Concurrent Resolution 285.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

MINORITY LEADER'S REMARKS CONCERNING DEMOCRATIC CONVENTION

(Mr. SAVAGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAVAGE. Mr. Speaker, exactly what did the minority leader of this House say as was quoted in the Washington Post on May 19, 1988? I received from the minority leader this explanation of his position, and I see nothing in the context that modifies the clear meaning. It says, regarding Jesse Jackson, and I quote:

> Jackson is running second and the Democrats have got to deal with that problem at their convention. It will be surprising I think to some people when they look at that Democratic Convention out there and see one-third blacks in that composition of delegates.

What is wrong with that? First of all, it is wrong. There will be not one-third blacks in the Democratic Convention delegates, there will be fewer blacks than the proportion of their votes in November for the Democratic Party.

But more important than that, how would my colleagues feel if someone said some people will be surprised to see all of those Jews at the Democratic Convention? How would women feel if someone said people will be surprised to see all of those women out there helping to make policy at the Democratic Convention, or Hispanics?

It is no problem when a black runs second or a woman runs second. It is a source of pride since women and blacks were denied the vote for so long in this country.

The minority leader, I tell my colleagues, owes an apology, not just to Gus Savage, not just to my Democratic Party, but to those all over the world who believe in democracy. Indeed, he owes an apology to America, and to make that apology right here on this floor.

VETO OF THE TRADE BILL

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the veto of the President on the trade bill means that probably there will be no trade bill this year.

What does this mean for American trade policy? It means that we cannot retaliate against unfair trade practices. It means we cannot have a viable export policy. It means we cannot do something about competitiveness. It also means to those of us from the Southwest that we cannot have an energy policy in this country because what this trade bill contained was the repeal of the windfall profit tax, critical to several Southwestern States involved in oil and gas production and critical to this Nation's energy security.

If we are going to have exploration in this country, if we are going to have a revitalization of this key industry important to our national security, that provision, the repeal of the windfall profit tax, would have been provided for in the vetoed trade bill. But no, the trade bill was vetoed over an act of discourtesy and inhumanity to the American worker.

A notification of 60 days was asked for a displaced worker when a plant closes, an act of human decency that now cannot take place. A positive American national and international policy cannot happen because of the President's veto of this good trade bill. What a shame.

The American people will remember this oversight that is going to hurt our country.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 4637, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 457 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 457

Resolved, That during the consideration of the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, all points of order against the following provisions of the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 5, lines 3 through 9; beginning on page 6, line 6 through page 31, line 5; beginning on page 31, line 12 through 42, line 7; beginning on page 42, lines 15 through 22; beginning on page 43, lines 18 through 25; beginning on page 44, line 6 through page 45, line 5; beginning on page 46, line 1 through page 47, line 4; beginning on page 48, line 20 through page 52, line 3; beginning on page 52, line 7 through page 66, line 2; beginning on page 66, line 8 through page 70, line 22; beginning on page 71, line 6 through page 98, line 24; and all points of order against the following provisions in the bill for failure to comply with the provisions of clause 6 of rule XXI are hereby waived: beginning on page 18, line 19 through page 19, line 6; beginning on page 27, line 23 through page 28, line 16; and beginning on page 46, line 16 through page 47, line 4. The bill shall be considered for amendment by title instead of by paragraph and each title shall be considered as having been read. No amendment to the bill shall be in order except for the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered only in the order specified and if offered by the Member designated in the report, and shall not be subject to amendment except as specified in the report. Said amendments and any amendments thereto shall be debatable for not to exceed twenty minutes each, equally divided and controlled by the proponent and a member opposed thereto.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. Latta], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 457 is a rule waiving points of order against consideration of and limiting amendments to H.R. 4637, the foreign operations, export financing, and related programs appropriation bill for fiscal year 1989. The rule waives clauses 2 and 6 of rule XXI against provisions of the bill specified by page and line numbers in the rule. Clause 2 of rule XXI prohibits consideration of unauthorized appropriations or legislative provisions in a general appropriation bill. The waivers are necessary because legislation authorizing certain programs funded in this bill have not yet been enacted into law and because some provisions in the bill are legislative in nature. Clause 6 of rule XXI prohibits consideration of reappropriations of unexpended balances in a general appropriation bill. The waivers of this clause are necessary to allow the transfer of unexpended balances from one account to another and the extension of the authority to obligate those funds into the new fiscal year.

Under the rules of the House, a general appropriation bill such as H.R. 4567 is privileged and does not require a rule to permit consideration. The waivers are provided to allow the House to work its will on all of the important provisions contained in the bill. The debate time on the bill will be governed by House rules and any unanimous-consent request made by the manager of the bill.

The rule provides that the bill will be read for amendment by title, with each title considered as having been read. The rule also provides that no amendment shall be in order to the bill except amendments printed in the Rules Committee report accompanying this rule (H. Rept. 100-648), if offered by the Member designated in that report. The amendments must be considered in the order specified in the report and are not subject to amendment except as specified in the report. Each amendment shall be debatable for 20 minutes, with the time equally divided and controlled by the proponent and an opponent of the amendment.

Mr. Speaker, I want to point out that the rule makes in order 15 amendments to the bill and substitute amendments for 3 of those amendments. All amendments that the rules committee was requested to include in the rule have been included. I should also point out, however, that the rule does not protect any of the amendments against possible points of order. The rule merely provides that it is in order to offer the amendments specified in the report. Those amendments are still subject to a point of order if they violate any rule of the House.

Mr. Speaker, H.R. 4637 appropriates $14.3 billion for foreign operations, export financing, and related programs. This foreign aid bill is highly unusual in that it was reported out of the Appropriations Committee with bipartisan support and is strongly supported by the administration. I want to commend Subcommittee Chairman Obey and ranking minority member Mickey Edwards for the manner in which they have worked on this bill.

I urge you to support this rule so that we can move ahead with consideration of the appropriation bills.

□ 1205

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bad rule. It sets a precedent that we will come to regret.

For years, Mr. Speaker, we have not restricted amendments on the annual general appropriation bills. Today we are restricting amendments for the first time.

We have checked with the Parliamentarian's Office, and they were not aware of any exact precedent for this rule. It is true that we have sometimes restricted amendments on continuing appropriation resolutions or on supplemental appropriations, but before today Members have had the opportunity to offer amendments on the annual general appropriations bills. Now we are taking one more step to cut off the rights of the individual Member.

Mr. Speaker, we may be told that this rule isn't really so bad, because in fact the Rules Committee made in order every amendment which a Member requested to have made in order. Technically, this is true, but it is interesting to note that out of the 30 amendments Members requested to have made in order on Monday night, only 18 were still being requested by Tuesday afternoon. A remarkable number of Members changed their minds in a very short time; 11 of these 18 amendments made in order, will not be protected if a point of order is made against them.

But even if the Rules Committee had reported a rulemaking in order every one of the amendments requested originally, a precedent is still being established and next time the Rules Committee may not be so generous.

Relying on the tender mercies of the Rules Committee is a risky business.

And even if the Rules Committee would in the future act with similar generosity, Members would still be losing the opportunity to come up with amendments on the floor while the bill is being debated, because under this precedent all amendments have to be submitted to the Rules Committee by a deadline in advance of its meeting.

Mr. Speaker, the bottom line of all this is that this rule is one more step in taking away the individual Member's right to have his ideas considered. The annual general appropriations bills have long provided the one sure opportunity for amendments on a very broad range of subjects to be considered. Once we set this precedent for restricting the ability of a Member to offer his ideas, democracy is the loser.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT] for purposes of debate only.

Mr. TRAFICANT. I thank the gentleman for those fine remarks.

Mr. Speaker, I stand in support of the rule, but I am here today not just to talk about the foreign aid bill. I would like to talk a little bit about America as we move into the bill because we have been asking around this country for all Americans to bite the bullet. And we have, but we are not biting the bullet in foreign aid. We are really not. We are adding $1.4 billion more to the foreign aid accounts of the appropriation of the House of Representatives for 1989.

Let us take a look at America. We have whole families, in some cases, sleeping on steel grates. And I know we listen to the President say, "Well, those people don't really want to pull themselves up by their bootstraps." There is not really too much choice for some of those families. Whole families with kids along as well.

There are still children that are hungry in America. We have senior citizens who are waking up in the morning not really secure that their pensions will be honored or that they may have hospitalization or life insurance because their companies filed chapter 11's on them. We have many blacks, Hispanics, and minorities that the only way they can get out of ghettos in this country is to sell dope or go to jail. Then we complain about our crime rate.

We have students who drop out of school at record rates and those that do not some of them graduate and actually cannot read.

There are reports before committees of senior citizens who eat dogfood in some of the big cities.

There was a woman in the city of Youngstown in the late seventies who froze to death, 81 years old, a black woman.

I think what also compounds this debate, if we are going to look at America once in a while, is that there are many young people who will probably never be able to own a home. That is what our statistics show us.

So let us talk about spending now, let us talk about priorities and $1.4 billion more for foreign aid.

Last year we had $13 billion in the foreign aid account. When it went over to the Senate, the CR, it came back with another $401 million in foreign aid.

Some Senator put in $8 million for a school in France. Someone else put in $6 million.

I think we understand what is happening. We have cut housing, we have cut drug money, we have cut education, we have cut the Coast Guard. We not only cut the urban development action grants and Community Development Block Grant Program, but the President wants to throw them out. He wants to get rid of the Appalachian Regional Commission, he wants to get rid of the Economic Development Administration. My God, the Economic Development Administration is $230 million. We actually cut out completely the General Revenue-Sharing Program. It was called pork barrel. It was about $3 billion. It went to American cities, American counties and in my district, hit by the loss of 55,000 steel jobs, they used that money to hire policemen and firemen.

But what are we doing here with this foreign aid appropriation? We are adding money, we really are. I can get the drift, I can get it very well.

I have two amendments today; one cuts 10 percent across the board, treats everybody alike. The only exemption is international narcotics control money.

The second one is 5 percent. I do not know when they will be offered. More than likely you will see a substitute because I doubt if this House will get an opportunity to vote up or down on the record on their stand on priorities of where America's dollars should go.

The rhetoric here does not say what the priorities are for America. America's priorities are in its line-item budget and the line-item budget that is coming before the House today says there will be $1.4 billion more needed for people overseas for a number of good reasons, but we should continue to bite the bullet and tighten the belts in our own country.

I am saying this type of talk is completely, in my opinion, out of control.

I know that I am standing pretty much alone here today. I do not think it has too much of a shot, these two amendments. I have been asked to pull them. I am not knocking our chairmen, I think they do a fine job and this is not a simplistic issue and I am not trying to make it that. But I will tell you this, if we are going to cut we should treat everybody alike.

And like Willie Davis, the great Green Bay Hall of Famer, when asked about the great coach Lombardi, he said, "What do you think about the coach?" And he says, "We love him." And the interviewer asks, "Why?" He said, "Because he treats us all alike, like dogs, but all alike."

I think that our policies and our dollar policies should be the same; what is good for the goose is good for the gander.

If it is good for America it is good for the people overseas.

So I hope you consider this. I hope the Members have a chance to look at this. I do not know if you will really get a chance to vote up or down, but I appreciate the time and yield back.

The SPEAKER pro tempore (Mr. Bosco). The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

Mr. LATTA. Mr. Speaker, I yield 1 minute additional to the gentleman from Ohio.

Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Ohio [Mr. LATTA].

Mr. LATTA. I thank the gentleman for yielding.

Mr. Speaker, did I understand the gentleman to say he was asked to withdraw his amendment?

Mr. TRAFICANT. There are people who mentioned to me that maybe I should not offer my amendment.

Mr. LATTA. So the gentleman yielded to their request?

Mr. TRAFICANT. No. I will be offering both of my amendments today. At some particular point I expect a substitute in on it that would cut about $276 million totally. My first amendment would cut about $1.4 billion which would leave a little bit less than last year. My second amendment would cut $713 million but would still leave more than $600 million more than was in foreign aid last year.

And I am going to offer my amendments, to the distinguished minority leader. I do not know what the status will be with respect to a substitute.

Mr. LATTA. I was curious because we had 30 amendments and then suddenly we had only 18 overnight. They dropped from 30 to 18, as I indicated in my statement earlier.

I am just kind of curious who might have asked the gentleman to withdraw his amendment.

Mr. TRAFICANT. I think there are a number of people that have called and asked me to pull my amendments. I have made a decision I would offer the amendment and call for a vote on them.

Mr. LATTA. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

I particularly want to thank the gentleman for the statement he made a few minutes ago because I think it outlines a problem with this rule that probably the House is not going to focus on, but it should. It ought not just be focused on by minority Members, it ought to be focused on by the majority as well.

There is sometimes in this House a degree of arrogance which is nearly unparalleled.

Just last night the Republican leadership brought to the floor numerous Republicans to talk about how the Jeffersonian traditions of this House are being obliterated. There was a long discussion about how principles of legislative behavior had been steadily violated over the last couple of years.

Today, what do we bring to the floor? A rule that goes one step further than we have ever gone before. One of the basic Jeffersonian traditions in this House is that each individual representative should have the ability to have impact on the spending measures of the Federal Government.

This rule, for the first time, moves us outside that tradition. This rule says that the Rules Committee is now going to decide who has the ability to have impact on spending bills.

That is a very, very bad precedent. I find it particularly appalling then to hear the gentleman from Ohio mention a minute ago that in addition to the rule that does that evidently Members of his leadership have come to him asking him to withdraw his amendments. In other words, we compound a bad rule with a standard that twists Members' arms not to offer amendments that would cut funding.

I think we would make a mistake to adopt this rule and I guess I am just kind of interested in why this rule is necessary. I am wondering if the gentleman from South Carolina [Mr. DERRICK] who is paying rapt attention to what the gentleman is saying, to explain to the House exactly why for the first time in history we have to have a rule that limits the Jeffersonian tradition of Members being able to offer any amendment they wanted on spending bills? Can the gentleman tell me? For the first time in history, why are we going to do that?

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. I thank the gentleman for yielding.

Mr. Speaker, the primary reason is that we had a bipartisan agreement on it, both sides of the aisle. We made every amendment that was offered in order. I do not see what the problem is.

Mr. WALKER. Let me say to the gentleman the problem is that we know from past experience that once you get a precedent like this we tend to see it come in ways which will not have bipartisan agreement. Can the gentleman tell me that we will never have a rule on the floor like this with these kinds of limitations in them that is not the result of a bipartisan agreement?

Mr. DERRICK. Mr. Speaker, let me tell the gentleman this bill has not been to the floor in 6 or 7 years. You know, I think most of us ought to be pleased that we are going to have an opportunity to vote on it whether we support it or not, and to vote on all of the amendments. You know, I cannot give you some guarantee about what the precedent is going to be for the rest of the time we are in Congress. But as far as I am concerned, I think this is a very good rule and another example of an excellent rule coming out of the Committee on Rules.

□ 1220

Mr. WALKER. Mr. Speaker, I have to disagree with the gentleman in that the Committee on Rules has been an absolute abomination in this Congress. We have more restrictive rules in this Congress than ever before in the history of the House. You-all have decided that the Members of this House should be subjugated to the will of the Democratic leadership and primarily to the will of the Committee on Rules, in fact.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from South Carolina.

Mr. DERRICK. Let me say that the problem of the gentleman from Penyslvania [Mr. WALKER] is not the Committee on Rules. His problem is that under the leadership of our Speaker that we are getting a lot done and getting legislation moved through this House.

That is what the gentleman from Pennsylvania [Mr. WALKER] does not like.

Mr. WALKER. No. If the gentleman from South Carolina [Mr. DERRICK] would look at the record of this Congress, he will find out that most of what this Congress has done is pass commemorative legislation, that the vast majority of the legislation that we have passed in this Congress have been commemorative bills. That is not exactly doing the work of the people, and in fact what happens in most of these restrictive rules is that it is not a case of whether or not something gets done. It is whether or not the minority is kept from being able to do things. Much of what is done is an attempt to freeze out the minority from having its day in court, from being able to offer the amendments that it wishes to bring to the national attention, and so, therefore, we have restrictive rules aimed at attempting to keep the minority from offering its programs on the House floor.

Mr. Speaker, this rule is another in that tradition.

Mr. LATTA. Mr. Speaker, let me first compliment the gentleman on a very excellent statement, but let me also point out that the chairman of the committee, the gentleman from Mississippi, Mr. JAMIE WHITTEN, never requested this rule.

I have a copy of the letter, and I ask to insert it at this point in the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 20, 1988.

Hon. CLAUDE PEPPER,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Appropriations has reported the Foreign Operations, Export Financing, and Related Programs Appropriations Bill for fiscal year 1989, H.R. 4637. The bill is below the budget request, and consistent with the House passed Budget Resolution for FY 1989.

It has become necessary, in order to meet deadlines, that we include appropriations for a number of programs for which legislation has not been enacted and for which a waiver of Clause 2 and Clause 6, Rule XXI is requested.

With respect to the lack of authorization for appropriations, representatives of the Foreign Affairs Committee and the Banking Committee have been contacted and we know of no objections. The bill contains a general provision "Sec. 555" (p. 74, lines 16-19), which prohibits the expenditure of any funds appropriated in this bill until authorizing legislation for such funds has been enacted. This provision was included to preserve the prerogatives of the various legislative Committees because the authorizing legislation for the numerous programs funded in the bill are in various stages of the legislative process.

With respect to Clause 6 of Rule XXI the Committee requests the rule waive points of order for the following items: "Private Sector Revolving Fund" (p. 19, lines 1-14), "Inter-American Foundation" (p. 28, lines 6-25) and "Deobligation/Reobligation Authority, Sec. 515" (p. 47, lines 6-20).

Your continued cooperation is greatly appreciated.

Sincerely,

JAMIE WHITTEN,
Chairman.

Mr. LATTA. But let me also say, Mr. Speaker, that it is not only the minority that is penalized under this rule. The entire House membership is penalized because, if somebody comes to the floor wanting to offer an amendment, he cannot do it, and it might be a very important amendment. A succession of these type rules is going to be seen in the future. Amendments are going to have to be in by a certain time, and that is wrong. I think the opportunity to offer amendments ought to be left open to the membership.

Mr. WALKER. The gentleman from Ohio [Mr. LATTA] is absolutely correct.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY] for the purposes of debate only.

Mr. OBEY. Mr. Speaker, I would have to say, if I were to take the remarks of the previous speaker seriously. Let me simply say it is very difficult to take those remarks very seriously because the facts are that not a single Member who asked to have an amendment made in order was precluded from having an amendment made in order. We have not had a foreign aid bill on the floor since 1981, a freestanding appropriation bill. They have always in the past been subsumed in continuing resolutions, and so Members have not had an opportunity to vote on them at all. The only thing that this rule provides is courtesy to the individual Member.

Mr. Speaker, I do not like to say it, but very frankly anybody who served here for more than a day and a half and does not have a particular axe to grind, recognizes that this place can get pretty whacko if any individual Member decides that he is going to out of the blue, with no notice to anyone, with no thought, simply going to offer an amendment. People have to go on record on that amendment without having any idea what the contents are, without having any idea what the implications are. The only thing this rule does is to say to each and every Member of the House that, if they are interested enough to offer an amendment to this bill, they should have enough courtesy toward their colleagues so that it is offered ahead of time, so that individual Members who have to vote on it can have the time to analyze it, can have the time to read it, and have the time to understand it. So that they do not walk through one of these doors and ask, "What is this thing?", and we say, "We do not know; it was just offered; we do not have the foggiest idea what it really does because nobody has any notice of it."

Mr. Speaker, if anybody thinks that it is abusive of the legislative process to try to give individual Members notice on the subjects on which they are going to have to vote, they have a pretty strange idea of what constitutes order and courtesy.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I look upon this rule in much the same way as the gentleman from Pennsylvania and the gentleman from Ohio who is managing this rule on the Republican side. It is for us a radical departure from the past practice in which Members were able to offer amendments and the House was able to work its will on the bills that are of greatest importance to our constituents. That is the bills that spend the taxpayers' money, much of which is spent without approval of the majority of the taxpayers.

The rule is a radical departure. The gentleman from Pennsylvania correctly pointed out that we have done that which at least none of us here present have ever seen done before. We have been given a rule which has the usual waivers of points or orders which is, I think, a terrible aberration of the process and an admission that the House is not being managed correctly and that the process does not work.

In addition, we have had only a few amendments made in order for the most privileged of us who have friends on the Committee on Rules or friends in the Democratic leadership or who may have been alert enough to know that this was the kind of a rule that was going to be laid upon us.

As the gentleman from Ohio correctly pointed out, it does not just degrade the minority. This rule degrades the whole House. It says that we are not men and women enough to stand up and look at unusual amendments or amendments which may occur to the Members as we go through the bill.

The gentleman from Wisconsin would protect us from all of that, and we are going to be terribly grateful for that protection. We would not have to express ourselves on important points that Members think ought to be raised on the floor.

Mr. Speaker, I think the most distressing part about this rule is that the manager of the rule from the Committee on Rules, the manager of the bill from the Committee on Appropriations, distinguished Members for whom I have great respect, admiration and even affection, are not even embarrassed by this rule, and that to me is the greatest shame of the whole day. We continue to go forward in our dissent, our accelerating dissent, into tyranny and czarism in this House in which the common Members and mostly Members of the minority are increasingly irrelevant, and this, of course degrades even the most powerful Members and the Members of the leadership who in this case happen to be the doers rather than the doees.

Mr. Speaker, I hope the rule is indignantly rejected.

Mr. LATTA. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Bosco). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 246, nays 154, not voting 31, as follows:

[Roll No. 153]

YEAS—246

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hubbard
Hughes
Hutto
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Mack
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rangel
Ray
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schulze
Sharp
Shays
Sikorski
Sisisky
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Yates
Yatron

NAYS—154

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Morrison (WA)
Murphy
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Ritter
Roberts
Rogers
Roth
Saiki
Saxton
Schaefer
Schneider
Schuette
Sensenbrenner
Shaw
Shumway
Shuster
Skaggs
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—31

Akaka
Aspin
Biaggi
Boulter
Duncan
Flake
Florio
Garcia
Gilman
Hall (OH)
Hansen
Holloway
Houghton
Huckaby
Jones (NC)
Kemp
Lujan
MacKay
McGrath
Mica
Moody
Moorhead
Myers
Nowak
Ridge
Roukema
Schumer
Spence
Stangeland
Watkins
Weiss

□ 1249

The Clerk announced the following pair:

On this vote:

Mr. Moody for, with Mr. Boulter against.

Messrs. EMERSON, BADHAM, and PURSELL changed their votes from "yea" to "nay."

Ms. KAPTUR changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR MEMBER TO OFFER GILMAN AMENDMENT TO H.R. 4637, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that I be allowed to offer, instead of the gentleman from New York [Mr. GILMAN] who cannot be here today and who was designated in the rule, the Gilman amendment relating to earmarking of drug money from the International Narcotics Bureau to H.R. 4637.

Mr. SPEAKER pro tempore (Mr. Bosco). Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM THURSDAY, MAY 26, 1988, TO WEDNESDAY, JUNE 1, 1988, AND ADJOURNMENT OR RECESS OF THE SENATE FROM FRIDAY, MAY 27, 1988, OR SATURDAY, MAY 28, 1988, TO MONDAY, JUNE 6, 1988

Mr. FOLEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 306) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 306

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 26, 1988, it stand adjourned until 1 o'clock post meridiem on Wednesday, June 1, 1988, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first, and that when the Senate recesses or adjourns on Friday, May 27, 1988, or on Saturday, May 28, 1988, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand adjourned until 11 o'clock ante meridiem on Monday, June 6, 1988, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House and the minority leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. Without objection, the concurrent resolution is agreed to.

Mr. CHENEY. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. By unanimous consent, the gentleman from Wyoming reserves the right to object to the concurrent resolution.

Mr. CHENEY. Mr. Speaker, I reserve the right to object simply for the purpose of giving the distinguished majority leader an opportunity to explain what we are doing here.

Mr. FOLEY. Mr. Speaker, I thank the distinguished acting Republican leader for yielding.

Mr. Speaker, this is the standard adjournment resolution covering the Memorial Day recess which has been scheduled now for some time. It calls for the House to adjourn at the close of business tomorrow and to resume its sitting at 1 p.m. on Wednesday, June 1, 1988, subject to a second section which allows the Speaker of the House and the majority leader of the Senate after consultation with the Republican leaders of the House and the Senate to call Members back if there is a special emergency reason for that recall.

Mr. CHENEY. Mr. Speaker, further reserving the right to object, is it reasonable at this point to ask of the majority leader what he would anticipate by way of the schedule for next week in terms of what will be on the program?

Mr. FOLEY. If the gentleman will yield further, we are planning to announce the schedule tomorrow and we are not quite prepared at this time to advise Members in a definitive way about next week's schedule, but I would remind Members that when we, in consultation with the minority, announced the schedule for the remainder of this month and next month we indicated that Friday, June 3, 1988, would be one of the two Friday sessions where votes would be taken. We would anticipate returning next Wednesday at 1 p.m. as this resolution calls for, having votes on Wednesday, Thursday, and Friday, and adjourning by 3 p.m. on Friday. But the precise legislative schedule is still under consideration and will be announced tomorrow.

Mr. CHENEY. Mr. Speaker, I thank the distinguished majority leader, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the concurrent resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

REQUEST FOR PERMISSION TO ALLOW DESIGNEE TO OFFER GILMAN AMENDMENT TO H.R. 4637, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that the rule be modified to permit a designee of the gentleman from New York [Mr. GILMAN] to offer the amendment printed in the RECORD under his name on May 23, 1988, to H.R. 4637, the Foreign Assistance Appropriations Act for fiscal year 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. OBEY. Mr. Speaker, I object to that request. Mr. Speaker, my understanding is that the gentleman from Florida [Mr. SMITH] has already requested that authority with respect to one of the amendments of the gentleman from New York [Mr. GILMAN]. I have no objection to that request. I would object to the request of the gentleman from Minnesota [Mr. FRENZEL].

The SPEAKER pro tempore. Objection is heard.

GENERAL LEAVE

Mr. OBEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4637) making appropriations for foreign operations, export financing and related programs for the fiscal year ending September 30, 1989, and for other purposes; and that I might include tabular and extraneous material and charts.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989

Mr. OBEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for fiscal year ending September 30, 1989, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Oklahoma [Mr. EDWARDS] and myself.

The SPEAKER pro tempore (Mr. Bosco). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. OBEY].

The motion was agreed to.

□ 1256

ON THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4637, with Mr. TORRES in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes and the gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I yield myself 16 minutes.

□ 1300

Mr. Chairman, I am probably as surprised by this fact as the administration and as would be the gentleman from Oklahoma [Mr. EDWARDS], but I think it is useful to note that for the first time in 7 years we have a foreign aid appropriation bill which is supported unanimously by the subcommittee. This bill is supported by the administration. It is supported by the leadership of both parties. It is supported unanimously by the subcommittee, and I think it is useful to put that agreement in context so that people on both sides of the aisle of whatever philosophical persuasion can understand how we have gotten here.

Over the last 7 years the administration has pursued a budget policy which has increased military spending by approximately 50 percent in real-dollar terms and has reduced domestic discretionary spending by 20 percent in real-dollar terms. In my mind Congress has sadly acquiesced in that change. Because the thrust of those changes was accompanied by simultaneous reduction of revenue, we have seen deficits triple over that same period of time.

I personally fought that policy. I offered amendments in 1981 and 1982 to both the budget spending proposals of the administration and the revenue proposals of the administration. I got beat. The Congress saw fit to follow the President's lead, in the main, over that 7-year period.

We have continued to have very strong differences about what happens in foreign aid. Over the last 3 years since I became chairman of the Subcommittee on Foreign Operations, Export Financing, and Related Programs of the Committee on Appropriation, I think it is fair to say that the committee has fought to slow the administration's requested growth for military aid paid for with borrowed dollars. As a consequence we have produced foreign assistance bills which 3 years in a row drew an objection from the fiscal arm of the White House, the Office of Management and Budget. For 3 years in a row the OMB sent letters to the Congress indicating that they would recommend that the President veto our bill, because we did not spend enough money. I think it is fair to say I am the only chairman in the history of the Congress to receive one of those letters from OMB much less three. The Secretary of State and a number of other administration officials routinely over the past 3 years attacked the product produced by the committee suggesting that a great country had to meet its obligations in terms of foreign aid spending around the world.

My response to that was that a great country also had to pay its bills.

Last year alone this subcommittee made the largest percentage cut of any committee in the administration's budget request. We wound up reducing the administration's foreign aid request by $2.3 billion, a 16-percent reduction. When it left the House it was $2.6 billion. We were able to move that $2.3 billion which we saved on the foreign aid side of the ledger into agriculture programs, education programs, health programs and job programs here at home.

After 3 years of fighting, the sands have shifted and we finally have uncovered ground on which we can all stand, and as I have indicated, this bill is supported unanimously by the Republican and Democratic leadership, by the State Department, by OMB, by the President, and by our subcommittee.

There are two questions which ought to be asked to put this bill in perspective. The first question is: Why was this subcommittee so stingy over the past 3 years? I would think that the subcommittee would need make no apologies for being that stingy, because there was no way that the administration could expect us to add large dollars for foreign assistance while in the act of crunching investment programs for people here at home.

The other question which people would ask on the other side of the ledger is: Why should there be any foreign aid bill at all? I think the answer to that is determined simply by whether you think the United States ought to be a leader or a follower in international affairs.

Some people think that if you just abolish the Foreign Aid Program we could balance the budget. The fact is that we provide a little over 1 percent of our entire Federal budget for foreign aid. We provide far less than 1 percent of our total national income for foreign aid. The fact is if we eliminated the entire Foreign Aid Program, our Federal deficit would still be $145 billion, reduced only about $14 billion. The cost to the average citizen for our entire foreign aid operation is equivalent to the cost of about one martini or one hamburger a week. The fact is that the military budget is 21 times more expensive to American taxpayers than is the foreign aid budget.

You do not buy many missiles with the foreign aid bill, but you do buy three things. First of all, we meet our moral responsibilities to help many poor souls who happen to share this globe with us. One of the most distressing things to me as I go into high schools around the country is that I see Americans take almost for granted the fact that we were born as Americans. The fact is that we need to humbly recognize that we did not earn our way into being born in this country. God was simply good enough to infuse our soul in a body which happened to be born in the good old U.S. of A. If it had been different, we could just as easily have been born in Bangladesh. This bill helps in a small way to meet our obligation to share a tiny bit of our resources with the poorest and most wretched of souls on the face of the globe.

As just one example, 4 million kids die worldwide every year from diseases from which they could easily be immunized, diseases that we take for granted in this country. This bill helps in a small way to change that.

This bill also helps to strengthen the ability of Third World economies to grow. Our economy badly needs expanded exports to Third World countries if we are to produce the jobs that our citizens need. This bill helps create markets for those products by helping to develop those economies.

This bill also helps to directly finance exports to the entire world through the funds that it provides for the Export-Import Bank and the Trade Assistance Program, for instance.

The bill also accomplishes a third end in that it helps allies strengthen their ability to defend themselves. It is aimed at creating political and economic stability which can create markets for American products. It is aimed at creating military allies in a troubled world, and it is aimed at strengthening fledgling democracies.

Sometimes these programs work; sometimes they fail. The only thing you can do is to keep trying and to keep changing programs that do not work and try to develop them into programs that do. That is what the authorizing committee has tried to do for years, and that is what we have tried to do.

We have seen military spending double, but, frankly, many of the challenges which this country faces cannot be met with tanks; they cannot be met with intercontinental missiles. This bill is crucial in trying to develop and expand this country's capacity to deal with those kinds of threats, the kind that cannot be met with those weapons.

This bill is in full compliance with the summit agreement which was reached between the President and the Congress. Compared to last year for the IFI's, it is up $156 million. For development assistance bilaterally, it is up $49 million; for ESF, it is up $60 million; for military aid, it is up $23 million; $20 million of which is directly targeted to drug problems.

In comparison to the President's budget, this bill is $128 million over the President for bilateral development programs. It is $38 million over the President's request for IFI's. It is $14 million over for international organizations and programs, and it is $20 million below the President in ESF funding. Overall it is $8 million below the President's request. That still leaves us $1.6 billion below the level the President requested for fiscal 1988. It means that we took $23 billion last year and moved out the foreign aid to domestic programs, and it means that this year we are moving $1.6 billion from that amount out of foreign aid requests for last year and continuing to make them available for domestic programs.

To put in perspective some other numbers, in 1987 the administration requested $15.2 billion, a 70-percent increase over 1981. We have cut that to $13.6 billion, or 52 percent growth over 1981, which means we have cut the growth in foreign assistance which the administration asked us to approve by 26 percent.

In military procurement items, we were spending $5.7 billion in 1985. This bill provides $4.7 billion, a full $1 billion less than we were providing in 1985, a 20-percent cut.

□ 1310

If we had approved past administration requests for foreign assistance increases, today grant military assistance would be up by 850 percent. We have scaled back the administration's requested increases by 150 percent.

The total discretionary military funding under the bill, if we had followed the administration's request the past 3 years, would have been increased by 111 percent over 1981. We have reduced that rate of increase by 60 percent through the reductions we have made in the President's budget requests through the years.

In ESF we have provided a reduction of 40 percent in the increase which the administration had asked the Congress to approve over the years. And for development assistance on the economic side, bilateral development assistance and multilateral development assistance we have provided worldwide an increase of 6 percent over the administration's overall request. The administration asked for a 20-percent increase. We gave the administration a 26-percent increase. Se we have moved those priorities around significantly through the years.

In the bill this year the biggest change from the administration is that the administration wanted to convert all military loans to grants, adding $940 million to grant military assistance. We denied all but $230 million of that, targeted it exclusively for Pakistan, and then we offset that $230 million in grants with a $210 million reduction in loans, leaving them with a net increase of about $22 million.

For Central America we have essentially continued the compromise which was hammered our last year.

For the Middle East, we have provided a new initiative for West Bank development to assist the Palestinian community and the West Bank in economic development. We have provided an additional $23 million in that program for this year.

The second major difference that we have with the administration is in the area of base rights. The administration asked for substantial increases in base rights contributions to our NATO allies, and we simply refused to provide much by way of those increases because the fact is that today the United States spends on average about 6½ percent of its GNP to defend the Western World. Our European allies on average spent 3½ percent. With that 3½ percent gap they have enormous resources which they can invest in new plants, new equipment, job training, worker training, in order to improve their own competitive posture, and in doing so they can knock our socks off on trade. So for that reason we have decided that there is no justification for a significant increase in base rights contributions around the world.

Basically those are the differences between the administration's proposal and the committee action. I am very pleased that we because of the work of a tremendous number of people, have been able to come up with a bill which is supported on a bipartisan basis. The President has sent a very strong letter in support of this bill without change.

I would like to thank also at this point all the members of the subcommittee, most especially the gentleman from Oklahoma [Mr. EDWARDS], who serves as the ranking Republican on the committee, and the gentleman from New York [Mr. MCHUGH], who serves sometimes as almost a second chairman on the subcommittee.

I would also like to thank the subcommittee staff and the associate staff of the members who make up the subcommittee, and certainly those administration representatives who have worked to help put together a coalition which could support for the first time in 7 years a freestanding foreign aid bill.

I would also like to thank the gentleman form Florida [Mr. FASCELL], the chairman of the authorizing committee, for their assistance most especially.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding. I simply want to say I rise in strong support of this legislation and to commend the gentleman and the subcommittee for bringing the bill to the floor. They have done an outstanding job particularly, it seems to me, not only with the readjustments within the bill, but for their strong support of the normal legislative process. As the chairman of an authorizing committee, I cannot stress too much how important it is that the position taken by the gentleman's subcommittee is helping restore the normal processes in the House.

Mr. Chairman, I rise in support of H.R. 4637, the foreign operations appropriation bill for fiscal year 1989.

I would like to commend the leadership of the House, and the chairman of the subcommittee, Mr. OBEY, for moving expeditiously to bring this bill to the floor and for moving to restore the normal legislative process of authorizations and appropriations.

As Members are aware, the House has twice passed H.R. 3100, the bill authorizing foreign assistance programs for fiscal year 1989. Unfortunately, the other body has not yet taken action on this measure. However, the bill currently under consideration, H.R. 4637, includes a provision—section 555—which prohibits obligation of any of the funds in the bill which have not been authorized. So this bill supports the normal requirements of the rules of the House that funds must be authorized before they are appropriated.

I also support the rule under which this bill is being considered. Amendments which would violate rule XXI, which prohibits legislation on appropriations bills, are not protected under this rule. This further supports the normal legislative process, whereby legislation is contained in the authorization bill while appropriations bills concern funding levels. Points of order will therefore be raised against any amendment which is legislative in intent.

Mr. OBEY. I thank the gentleman for his comments.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in my 12 years in the Congress I have very rarely voted for a foreign aid bill, but this bill is in our clear national interest.

To begin with, I want to commend the gentleman from Wisconsin [Mr. OBEY], the chairman of our subcommittee, for his leadership role in putting together a bipartisan bill that in fact both of us and both parties and the administration are able to support. As this chairman has said, this bill is supported by every member of the subcommittee, both Democrat and Republican. The Republican leadership supports it and the Democratic leadership supports it and the President supports it.

This bill meets the most important security needs of our best friends and allies, and it does so in complete agreement with the budget summit. Passage of this legislation will send a clear signal about America's leadership and its commitments throughout the world.

The bill will help us provide military support to others who, while defending themselves, often provide our first line of defense, and because a strong military alliance is an essential component of effective diplomacy, this bill will help secure U.S. interests. It helps assure us that countries essential to the military advantage of the Soviet Union will not fall into pro-Soviet hands, and at the same time it demonstrates that the United States, by responding to dramatic and urgent need in time of flood, famine, and earthquake and other disasters that strike other countries around the world, that the United States cares about other people and that too is a help to the United States in terms of diplomacy.

This bill halts the decline in security assistance which has threatened our ability to help our friends and allies over the past several years. It provides $5.8 billion in military assistance. That is a $431 million increase over last year's level.

In addition, this bill increases the grant component of aid to our nearest allies which helps those dollars go farther.

The committee declined by bipartisan agreement to provide funding for the World's Bank's general capacity increase specifically due to lack of authorization and a decision to take care of past arrearages before launching any new commitments.

In addition, we supported the administration's request to hold off any appropriation for the Inter-American Development Bank until we reach an agreeable conclusion on United States voting rights and IDB management practices and our concerns about the continued disbursal of past loans to Nicaragua.

Mr. Chairman, there are many other items in this bill which support our national interests, but the point that I want to make in conclusion is that this is a responsible foreign aid bill. It does not make any major policy changes. It does not commit us to any new programs that we either cannot afford or cannot justify on national security grounds.

It allows us to pursue both economic and military interests in base rights countries, military access countries and with our close friends and allies throughout the world. It will help promote regional stability not only by keeping our friends from falling into pro-Soviet hands, but by moving our allies toward democracy, to reduce the potential foothold of Communist insurgencies.

In short, this bill contributes substantially to the achievement of America's foreign policy objectives.

If my colleagues listened to the remarks of the gentleman from Wisconsin [Mr. OBEY], our chairman, they heard him emphasizing one side of what this bill does, and they can hear me emphasizing the other side of what this bill does to address the concerns that many Republican Members have. The truth is it is a bill in which the Democrats on the committee and the Republicans on the committee can honestly say it addresses the real concerns that we have all had, and for that reason is the best foreign aid bill that we have produced in all of the time that I have been in the Congress. We have done so not only by cooperation between ourselves, but in cooperation with the executive branch, and I would repeat that we have one of those rare things, a letter from OMB in support of what we have done, a letter from the Secretary of State and a letter from the President asking this Congress to support this bill as it was reported out of committee.

So I urge all Members on both sides of the aisle to support this bill. As some of the members of the Appropriations Committee have said, maybe we have seen the arrival of the millennium. We have a bill here that I think all Members of the House ought to be able to support, and I urge my colleagues to do so.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Chairman, I rise in support of the bill and urge its adoption by the House.

This legislation results from months of hearings by the Foreign Operations Subcommittee and represents what the Appropriations Committee believes is necessary to meet the global responsibilities of the United States during the coming year.

In making these recommendations, we are sensitive to the many pressing problems in our own country and to the importance of exercising budgetary restraint. At the same time, the international position and interests of the United States require an active foreign policy, which must be supported with resources to be effective. The funds appropriated in this bill represent only 1.4 percent of the total budget, the minimum necessary to safeguard U.S. interests abroad.

Mr. Chairman, I would like to take this opportunity to commend the chairman of the subcommittee, the gentleman from Wisconsin [Mr. OBEY], for his leadership in bringing this bill to the floor. This is the first regular foreign aid appropriations measure to reach the floor since 1981, and the chairman has worked diligently to put together a proposal with broad bipartisan support.

That was not easy given the diverse views represented in the committee. Foreign aid is never popular and we have had some very intense debates about aid legislation in the past. However, working closely with the gentleman from Oklahoma [Mr. EDWARDS], Mr. OBEY succeeded in fashioning a bipartisan compromise and I think that both he and the ranking minority member deserve the thanks of the House. I also want to thank the representatives of the administration who worked with the committee in putting this bill together. We are pleased to have the administration's support today.

FUNDING LEVELS: OVERVIEW

Mr. Chairman, the bill recommends $14.3 billion in new budget authority, including $980 million in mandatory spending. If one excludes those items that are mandatory, the bill provides for a modest increase in discretionary foreign assistance funding.

That increase was agreed to in the budget summit agreement negotiated last December between Congress and the administration, and I would hope that the House will honor that commitment. This increase also should be seen in the context of the substantial reductions that have been made in foreign aid in recent years.

In fiscal year 1985, the United States spent approximately $20.9 billion on the various programs and activities funded in this bill. Thus, even if our recommendation of $14.3 billion is approved, foreign aid will have been cut by more than 30 percent since fiscal year 1985. Indeed, using comparable accounting methods, we are spending less on foreign assistance today than we did in fiscal year 1981, the last year of the Carter administration.

To be sure, the priorities of the program have changed in recent years. At the administration's urging, we are spending substantially more on security assistance today than in 1981, a trend that many of us on this side of the aisle have questioned. Fortunately, however, this bill continues the effort begun when Mr. OBEY became chairman to move back toward a more balanced foreign aid program, one that better recognizes the importance of development and humanitarian programs.

For example, this bill increases discretionary spending over last year by almost $300 million. Of that amount, $213.5 million is directed to development and humanitarian aid programs, $60.2 million to the ESF account, and only $23.9 million to the military aid accounts. Therefore, those of us who have been concerned about the relative growth of military aid in the early Reagan years can support the priorities reflected in this legislation.

FOREIGN AID AND AMERICAN INTERESTS

Many of our constituents question why we spend money on foreign aid at all. Foreign aid lacks broad popular support and it is an easy target for those who do not make the connection between the funds contained in this bill and the important interests they serve.

While most Americans oppose foreign aid in general, many can be persuaded to support the activities funded in this bill when those activities are explained. For example, one of the items in the bill is our International Narcotics Control Program, which is designed to help stem the flow of dangerous drugs into the United States. While we might debate how effectively those funds are used, most Americans strongly support this fundamental foreign policy objective.

As this example suggests, our Foreign Aid Program encompasses many different kinds of activities. We provide funds to some countries in exchange for the use of overseas military bases that are important to our own national defense. We support international agencies like UNICEF that are seeking to eliminate the causes of death and disease among the world's children, or to alleviate the plight of victims of famine and disasters.

We also provide funds to poor countries to promote their economic development, which helps to create new markets for American goods and services. Continued economic growth, especially market-oriented growth, contributes to political stability in the developing nations, and to our own economic strength as well.

In short, foreign aid is an essential tool of American foreign policy. Properly framed and competently administered, it does serve vital American interests.

MULTILATERAL DEVELOPMENT BANKS

A good example of how U.S. interests are advanced by this bill is the funding it contains for the multilateral development banks. The United States is a member of four development banks: The World Bank and the regional development banks for Africa, Asia, and Latin America. Each of these institutions has a "hard" and "soft" loan window.

The hard windows typically lend at commercial rates to middle-income developing countries and to poorer countries with good credit ratings. The soft loan windows lend at concessional rates to the very poorest countries. In addition, a number of specialized agencies of the banks promote investment in developing nations.

Collectively, these institutions seek to build and maintain an international economic framework that is open, predictable, growth-oriented and equitable. The development banks are among the most cost effective but least well understood instruments through which the United States attempts to pursue its foreign policy objectives abroad.

U.S. humanitarian interests are served by development bank lending for activities designed to alleviate poverty, promote basic human needs, and foster equitable economic growth in the world's poorest nations. Consider, for example, the International Development Association [IDA], the soft-loan window of the World Bank. Today IDA is the largest source of concessional finance available to the poorest countries. More than 96 percent of its lending is provided to countries with per capita incomes of $400 or less. About half of its loans assist nations in sub-Saharan Africa, which collectively constitute the largest group of poor countries in the world today.

Most Americans understand that in this interdependent world we cannot long enjoy security and economic growth in the face of human suffering and economic stagnation abroad. In contributing to IDA, therefore, we are not simply engaging our humanitarian values. We are advancing our own interests.

While poverty alleviation in the poorest countries is a major objective of the soft-loan windows of the banks, the hard-loan windows play an equally critical role in assisting middle-income developing nations. These nations are an important market for U.S. exports. To the extent that they grow and develop, prospects for continued economic growth in the United States are enhanced.

Recently, the Treasury Department reported that prior to 1981 the developing countries were the fastest growing market for U.S. exports. Between 1981 and 1983, however, U.S. exports fell dramatically. This contributed to a loss of American jobs and to the resulting recession in our own Nation. In examining the issue, the Treasury Department concluded that almost two-thirds of the decline in U.S. exports could be attributed to the developing nations.

The United States also has important political and security interests in many of the developing nations. The development banks play a critical role in promoting those interests. For example, of total World Bank lending in fiscal year 1987, the last year for which data are available, 75 percent was provided to countries that received some form of bilateral U.S. security assistance that year.

Of the remaining 25 percent, about half was provided to countries such as Argentina and Brazil that do not receive United States security assistance but which are nonetheless extremely important to the United States. Most of the balance went to countries with which the United States has good relations, such as China and Hungary. The United States has an interest in encouraging more Western-oriented economies in these countries, and in fostering less dependence upon the Soviet Union.

Collectively, the development banks provide far more economic assistance to important U.S. friends and allies than we do directly. In 1986 and 1987, for example, the development banks provided more than $4 in economic aid to countries that provide base or other military facilities to the United States for every $1 that we provide directly.

The banks provided more than $6 in economic aid to frontline states such as Tunisia and Thailand in 1986 and 1987 for every $1 the United States provided directly. While the banks provided less assistance to Central America than the United States during the same 2 years, the United States provided no economic assistance to Argentina, Brazil, or Mexico. By contrast, the development banks provided more than $8.7 billion to these countries during that same 2-year period.

Taking all of these countries together, the development banks provided more than $5.50 in economic aid for every $1 the United States provided directly in 1986 and 1987. This is not to suggest that the United States is not doing enough, but only to note that the cost of our duplicating bilaterally what the development banks provide multilaterally would be excessive.

Given current budget constraints, the role of the development banks takes on added importance precisely because other nations do share the financial burden and because the banks are able to use their resources to raise additional funds in private money markets. Between 1982 and 1986, every $1 the United States provided in paid-in capital to the World Bank generated $110 in bank lending.

American firms also benefit directly from U.S. participation in the development banks. In fiscal year 1987, for example, the Treasury Department reports that American firms received $1.6 billion in disbursements for foreign procurement from the World Bank alone.

In short, U.S. participation in the development banks advances a broad range of U.S. interests in a cost-effective manner by promoting economic growth and political stability abroad. While I am disappointed that this bill does not include funding for the general capital increase of the World Bank or for U.S. commitments to the Inter-American Development Bank, it does a much better job of adequately funding the development banks than in the recent year.

CONCLUSION

Mr. Chairman, while I have taken this opportunity to explain in some detail how the development banks advance U.S. interests, I am convinced that most of the programs and activities funded in this bill do the same.

This bill includes military aid for NATO allies, such as Greece and Turkey, to help modernize their forces in the wake of the INF Treaty, and for important friends like Israel and Egypt. It includes economic and military assistance to help the government of President Corazon Aquino in the Philippines, which is under assault by Communist guerrillas. We all recognize our interest in helping her government resist that assault and address the economic problems her country faces, as well as the interest we have in maintaining continued access to the important facilities at Subic Bay and Clark.

The bill also includes $550 million in direct U.S. assistance to promote long-term development in the nations of sub-Saharan Africa, the poorest group of nations in the world today. The American people responded with great generosity to the famine afflicting much of that continent just a few short years ago. These new funds will help to prevent a repetition of that tragedy or, if drought returns, to limit the damage. The Agency for International Development is just now developing a comprehensive program to address these long-term needs, and we should resist the temptation to micromanage the program.

Many other important initiatives are funded in this bill as well, Mr. Chairman. While I certainly do not agree with every single recommendation it contains, this is a good bill on balance and one that deserves our support. I urge its enactment.

□ 1325

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Lewis].

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I would like to express my appreciation to the chairman of our subcommittee and my colleague, the ranking member, the gentleman from Oklahoma [Mr. Edwards], as well for a rather sensational and almost unprecedented effort that they put together on this bill. To say the least, one of the most difficult challenges we have in the Congress is to face squarely the reality that one of the reasons to have a national government is to recognize that America must live and exist and be a leader in the world.

In the field of foreign affairs, it is most difficult for Members in a body who stand for reelection every 2 years, in the face of that responsibility, to work with a constituency that often would prefer that we could build a wall around our country. Indeed, the history of our country has reflected that reality. Our people have been basically isolationist in their philosophy and attitude. That is often reflected in our town-hall meeting where people wonder why we are throwing so much money down the rat hole which is foreign assistance.

The average citizen presumes that we are spending a very high percentage of our national budget on a thing called foreign aid, in reality we spend only about 1½ percent of our annual budget of some $1 trillion. It is a relatively small percentage of our national commitment and yet it is fundamental to our responsibility to lead for freedom and for peace in the world.

In the past, argument and debate has swirled around the contest within the House in which many a Member feels we should give our greatest priority to helping the poorest of the poor help themselves with their own economies and their future role in the world.

Others who feel that the foreign assistance package should play a dominant role whereby we assist our friends in defending themselves and play a role in preserving freedom in the world.

That debate ebbs and flows. Ofttimes it divides us enough that it is almost impossible to pass a bill on the floor without attaching it to some other package.

For the first time in my experience in the short 10 years that I have been in the House we have a package this year in which there is virtually unanimous agreement among those people who participated in the debate within the committee. A very important leadership job has been played out by the chairman of the subcommittee and the ranking member. It is to their credit that we find ourselves in this position on the floor today.

I would like to mention just a couple of things about this measure that I wish my colleagues would focus upon.

First and foremost, this bill does reflect a reasonable balance between our responsibility to aid countries to improve their economies as well as to improve their future economic opportunity.

Beyond that, this bill reflects relative priorities in terms of America's strategic interests in the world. That balance is critical. And when you recognize that both must be a part of a package and that both must go forward successfully, those are the foundations by which we establish, at least within the House, long-term, potentially, bipartisan role in the field of foreign policy.

The second item that I would mention is that this bill focuses too little in a positive way about one of our most important challenges for the rest of this century. Much of our discussion in committee and often in debate spends too much time focusing upon crises. This year, the crises in the region that I care most about pay attention to the problems of Panama and the problems of Nicaragua. The fact is, ladies and gentlemen, that in the decade ahead of us if we do not develop a long-term bipartisan foreign policy in Latin America that makes sense in terms of American interests, that also makes sense in terms of the interests of the developing countries there, indeed America may very well find before it the crises of our lifetime.

Central America is a reflection only of the beginning of the fundamental problem. Virtually millions of our neighbors to the south who are on the edges of starvation cry for opportunity and change with very little leadership, long-term, coming from the United States. It is long overdue that we recognize that it is not good enough to look to our Latin American neighbors only when we have got a problem; it is not good enough to ask that they spend their time in the closet otherwise. America must provide its force, its good will, and its leadership in helping those countries make it into the 21st century with grace and with a chance to lead themselves. It is indeed our responsibility in this next decade to make certain that our friends in the Americas do participate in that success which we have enjoyed for so long.

The third item that I would mention is that this bill focuses relatively little and spends very little money in that area that involves multilateral organizations. As some of my colleagues know, in the past I have been a rather intense critic of the policies of some of those multilaterals, the World Bank, IDB, some of the other regional development banks.

Frankly, I think it is too bad that we find ourselves in a circumstance where we are not either able on the one hand in terms of the finances but indeed willing on the other because of the policy to put in the kind of dollars that would benefit those establishments.

It is my view that many an American purpose can be served well by way of the multilaterals. Indeed, we can multiply the impact of our own dollars if those dollars are used well in developing countries. My problem is that in the past we have often delivered money to the multilateral organizations only to have it thrown at problems in developing parts of the world.

America must insist and indeed lead in terms of seeing that those organizations in the future play a role that will cause those dollars to improve economies, to lead the policies in developing countries that make sense for those people but also sense in terms of America's interests.

I would hope that the next time we bring a bill that has the kind of success as a result of the work of these two gentleman that we see today, that among the success we will count multilateral organizations not only funded by the United States in terms of our relative share, but which reflect policies that involve hope and common sense in terms of the economic growth and the opportunity and the need of the developing world.

I thank my colleague for the time.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I rise in support of the bill and I support, especially, a provision inserted by the gentleman from Oklahoma [Mr. EDWARDS], based on legislation he and I introduced to provide the democratic opposition in Nicaragua with $1 million through the National Endowment for Democracy. This is an important time in Nicaragua, it is a fragile time in which peace will either survive or perish. I think this funding, to be directed to the democratic opposition in Nicaragua, can help peace to flourish in Nicaragua. I am delighted it has been inserted in the foreign assistance bill.

More generally, Mr. Chairman, I would like to to say that if this bill is adopted today without any cuts, we will have reduced America's commitment abroad in terms of our foreign aid by nearly $5 billion since 1985. In that year, 1985, our foreign aid budget was $18.8 billion; in 1986, $16.9 billion; in 1987, $12.9 billion; in 1988, $13.7 billion; this year in this bill, $14.3 billion is appropriated, a $4.5 billion reduction in foreign aid in the last 5 years.

Without any additional cuts, this foreign aid bill already provides 24 percent less funding than the 1985 foreign assistance bill.

Given all of this, I think that the committee should reject, when they are offered later in the day, two amendments to be offered by our colleague from Ohio, Mr. TRAFICANT, one of which will cut the bill by 10 percent and another by 5 percent.

In my judgment, the bill provides too little developmental assistance and should not be reduced any further.

Mr. Chairman, Pope John XXIII once said, "In a world of want, there can be no peace." We are not going to have peace in the world unless we can help countries in the Third World, poor countries, with the means to help themselves, with the means to sustain their developing economies. Unless these countries can build strong economies they are not going to be able to build lasting political systems.

When we accept amendments which reduce the total amount of money in the bill we are lowering America's profile in the world and enhancing the Soviet profile in the world.

I think we ought to reject that notion. I think the United States has an obligation, I think the United States has a responsibility to stand tall, to be heard around the world when it is necessary to make our position clear.

If we do not do it, then the Soviets will. No one else will uphold this responsibility, it is our responsibility and we must meet it.

I hope that the House will do so today, the House in particular, in passing a strong foreign aid bill which will represent the very best our country has to offer.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. KEMP].

Mr. KEMP. Mr. Chairman, I want to rise in support of the appropriation for foreign assistance and congratulate the gentleman from Wisconsin [Mr. OBEY] and my friend, the gentleman for Oklahoma [Mr. EDWARDS].

Actually, both are friends, both have done a magnificent job of working on a piece of legislation along with other subcommittee members and staff that can be, I think, supported by both sides of the aisle, can be supported by both liberals and conservatives.

It is a remarkable job that they have done.

Mr. Chairman, I hate to ruin the reputation of the gentleman from Wisconsin to get all this praise from a conservative Republican, but he and the gentleman from Oklahoma [Mr. EDWARDS] deserve the support of the Members of the committee of the Whole and, as I said, they have fashioned a compromise within the budget agreement. It is prudent, it is responsible, it meets, in my view, needs of the base rights countries; it certainly meets the needs of the Camp David accord countries. It is, I think, generous to our allies and friends and neighbors in Latin America and recognizes the reality of living in a global economy in that it protects economic development.

I must say at this point, Mr. Chairman, I want to be on the record as suggesting that foreign aid in and of itself is not a recipe for economic development. The greatest recipe for economic development, the greatest foreign aid, is open markets, sound economic policies.

□ 1340

The gentleman from Illinois [Mr. HYDE] is going to have an amendment that I am going to support strongly a little later which suggests that there shall be a Presidential submission to the Congress of a report analyzing the impact of foreign aid bills over the last preceding three fiscal years as to the effectiveness of foreign aid. I want to suggest that I am going to support the amendment offered by the gentleman from Illinois [Mr. HYDE], but that should not take away from this bill and think it is consistent to support both the Hyde amendment and the committee bill.

I do not think it should be cut. The inclination of many conservatives is to support an across-the-board cut in foreign aid. So I am going to oppose the Traficant amendment because I think it is going to hurt, not help, some very important parts of the world, not the least of which is Central America, the Middle East, base rights countries, and countries that are operating very fragilely in the global economy with regard to their need for security, military and economic assistance.

So just suffice it to say at this point that the Traficant amendment would cut 10 percent across-the-board or 5 percent, as the case would be in the Camp David accord countries or in Central America. That would be a mistake, and as I suggested earlier, I think the committee has done a good job in meeting the needs of America's security interests and the needs of nations with which we would like to have our country more closely associated.

That does not preclude the possibility of other amendments, but I did want to identify myself as being in strong opposition to the Traficant, across-the-board cuts and in support of what the gentleman from Oklahoma [Mr. EDWARDS] and the gentleman from Wisconsin [Mr. OBEY] have done.

Mr. Chairman, let me make one other comment about economic development, on which I stand as a proponent of foreign aid. Yesterday we considered a trade bill that I think, if it passes the Senate without the veto being overridden in the Senate, is ultimately going to have a counterproductive impact upon some of the good things that this bill promotes. For one thing, the trade bill encourages retaliation, in my view encourages protectionism, and is at odds with the passage of this bill. Honest men and women who disagree can do so without being disagreeable, but I do want to make the point that if we look at the history of the Marshall plan in post World War II Europe, its greatest benefit was not from foreign aid in terms of dollars. I might be incorrect in this, but I think the greatest recipient of foreign aid since World War II was Great Britain.

The CHAIRMAN. The time of the gentleman from New York [Mr. KEMP] has expired.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 30 additional minutes to the gentleman from New York [Mr. KEMP].

Mr. KEMP. Mr. Chairman, the greatest recipient of foreign aid since World War II was Great Britain, so West Germany got less foreign aid money than Great Britain. But West Germany accomplished an economic miracle, and Britain after the war turned to socialism.

The greatest recipe for economic development is open trade, a world trading system, private property, democratic governments, low tax rates on labor and capital, and entrepreneurial capitalism. I would suggest that would be a recipe for economic development in Africa, Asia, and particularly Latin America.

Mr. Chairman, this is a good bill. I favor a Marshall Plan aid approach for Central America, but it should be predicated on alliance for progress, alliance for prosperity a common market, common currency, low taxes, and entrepreneurial capitalism.

The CHAIRMAN. The time of the gentleman from New York [Mr. KEMP] has expired.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute, and I would ask the gentleman from New York [Mr. KEMP] to stay in the well for just 1 moment.

Mr. Chairman, I would simply like to say again what I said at the time of the subcommittee markup. As everybody knows, the gentleman in the well will be leaving the House at the end of this term, and he has served on this subcommittee for many years. He served for several terms as ranking member of the subcommittee, in fact, before the gentleman from Oklahoma [Mr. EDWARDS] took over 2 years ago.

I simply wanted to say that as the gentleman knows, he and I have disagreed often and loudly.

Mr. KEMP. But, Mr. Chairman, if the gentleman will yield, always with humor and good grace.

Mr. OBEY. Almost always.

Mr. Chairman, I would simply say that there are two Members of this House who have cared enough about the future of the country to seek the office of the Presidency, the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from New York [Mr. KEMP], who is in the well. One does not have to agree with all of their prescriptions for the country to simply note that it says something very good about a human being if they do care enough about the country to seek the highest office in the land. And I know, as far as the gentleman in the well is concerned, it is his passionate belief in his own convictions that caused him to do that, and I want to say that I think he did the House honor by the fact that he did run and by the manner in which he did run, as did the gentleman from Missouri [Mr. GEPHARDT]. So I wanted to take this occasion to again publicly express my thoughts on that subject an congratulate the gentleman once again.

Mr. KEMP. Mr. Chairman, I thank the gentleman from Wisconsin very much.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank the gentleman from Oklahoma for yielding time to me.

So far, Mr. Chairman, all the speakers have been in favor of this legislation, and I thought it is important to hear the other side, so I have asked to address the House.

Let me suggest that there are many reasons why we should oppose this foreign aid legislation. First of all, we could rightly argue that we have huge deficits. This bill is over $14 billion, which will add another $14 billion to our deficit. One could contend that at this time, when we are cutting back on our own domestic programs that benefit our own people, this bill represents an increase of over $700 million in foreign aid. I do not see how we can vote for the bill and still say we are concerned about the deficit.

Under this bill $14 billion will have to be borrowed and paid for by the American taxpayer. All the future interest will have to be paid for by our taxpayers, people that you and I represent. Basically, I am opposed to this bill because I do not think it is fair to the people you and I represent, and, after all, it is their money we are spending.

Allow me to illustrate. We have talked about our friends here on the floor this afternoon. With this bill, $289 million will go to the Philippines. I question the wisdom of that. The reason I say that is this: Their Secretary of State, Raul Manglapus, has said that we here in Washington have to pay more, much more. Manglapus has said that we need "To pay much more." He stated: "It's up to the United States. If they can afford it, they can stay. If they cannot, they should go."

He is lucky I am not in charge, because I would be waving good-bye.

One-third of the money in this bill goes to two countries—$3 billion to Israel and $2.1 billion to Egypt. That is as much money as ever. Yet are we closer to a peace agreement in the region? Are we getting cooperation with the Shultz peace initiatives? If we are, it is the best kept secret in Washington.

In this bill $1.4 billion goes to the World Bank and other international lending institutions. That is a 13-percent increase. And how is this money loaned? Well, loans are given sometimes at zero-percent interest, the term is 50 years, and the first 10 years is a grace period. Think about that. That is 50 years, no interest, with a 10-year grace period. Can the people you and I represent get a loan like that? Can the people in Wisconsin obtain a loan under those terms or can anyone in any of the other 49 States? Hardly.

And where do these loans go? For example, Ethiopia last year received $91 million on a loan such as this and $50 million is in the pipeline now. In the last 5 years Ethiopia has received almost half a billion dollars, $456 million. That is money that is going right down the drain. American taxpayer money at no interest for 50 years. This is not fair to the hard working men and women of America. In this bill we are providing a 440-percent increase in funds for the Asian Development Bank to assist countries that are now our most dedicated competitors in world trade and finance. This money will go the Asian Development Bank.

No, I am not in agreement with this bill. As I see it, we are Members of Congress.

☐ 1350

We are entrusted by the American people as their sentries. We stand on the ramparts. We are the watchmen and the watchwomen of our Republic, and, if we do not look out for our people, who will?

No, this bill in my opinion is not in the best interests of our country. I do not think it is in the best interests of our people. I think basically what this bill does is make Uncle Sap out of Uncle Sam, and I do not think we should do that. Let us take care of our own people and our own problem first for a change.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would simply respond to the gentleman who just spoke by observing the following:

A vote against this bill is not going to save the taxpayer one dime because everybody, unless they want to fool the public, knows that foreign aid will eventually be provided by the President and the Congress. They know that we would have severe security problems if it were not provided. The only thing that happens, if my colleagues voted against this bill, is that it will be slipped into the continuing resolution when the continuing resolution is brought to the Congress at the end of the year.

Mr. Chairman, I would also point out that this bill is 30 percent below the appropriation for foreign aid in 1985. It is $1.6 billion below the amount that the President himself asked us 2 years ago to spend on foreign aid.

In terms of Ethiopia, we do not have the money in this bill that the gentleman mentioned. That is Public Law 480 funds that is found in the Agriculture Subcommittee bill, and, as far as the ADB is concerned, to which the gentleman referred, every single dollar referred in this bill for the ADB is a dollar which was committed to by President Reagan when the Reagan administration negotiated those replenishments, and we have, as the gentleman well knows, no choice but to eventually provide that money.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I thank the gentleman from Oklahoma for yielding this time to me.

Mr. Chairman, I want to commend the work of our subcommittee chairman, the gentleman from Wisconsin [Mr. OBEY], and our ranking minority leader, the gentleman from Oklahoma [Mr. EDWARDS] for producing a strongly bipartisan bill. We have not seen such a cooperative effort since the 97th Congress. Our bill is prodevelopment, prodemocracy and pro-U.S. allies. It has the strong support of both sides of the aisle, and we have received letters from Jim Miller at the OMB, George Shultz at State and the President endorsing this bill.

We stood by our Camp David commitments and provided for Israel's well-being. Under this bill Israel will continue to have the means to improve its economy and provide for its external defense while it deals with unrest at home. Under this bill Israel can move to its upcoming elections with the support of the United States firmly behind it.

Mr. Chairman, I was pleased that the committee reaffirmed our commitment to voluntary family planning by providing last year's level for centrally funded programs recommending 10 percent of the child survival funds be used for family planning and making a strong recommendation that AID expand family planning programs in Africa. Frankly, I would have liked to have seen stronger action supporting family planning in Africa, a continent that has the world's fastest growing population, but funds are in short supply, and the committee has done an excellent job of meeting its responsibility to work within budgetary constraints. The bill is extremely tight, and there should be no across-the-board cuts here. AID's progress on voluntary family planning will greatly influence the committee's direction on these programs next year.

Mr. Chairman, we provided additional funding for the AIDS prevention and control program. This program is our international response to one of the worst potential plagues facing the world, and particularly Africa, today. The World Health Organization estimates 3 billion people may be infected with the virus. Many of those victims are among the most educated and well-trained people upon whom the future of many African countries depends. Our $35 million contribution, half to support bilateral activities through AID and half to support the World Health Organization's global program on AIDS, run by our own Dr. Jonathan Mann on loan from CDC, is the largest amount spent on this problem by any country.

I was also pleased, Mr. Chairman, that the committee continued its support for a solution to the division of Cyprus. We maintained our aid of $15 million and our commitment to bicommunal projects adding new emphasis to their importance. We also continued our very important restrictions on weapons transfers to Cyprus and took a stand against the continued presence of settlers in the northern occupied area. Our work on improving the environmental performance of the multilateral development banks has also continued highlighting the roles of AID's early warning system in identifying project loans that damage the environment. We also restated our call for the banks to begin environmental structural adjustments lending and to facilitate the arrangements of debt for nature swaps.

This bill supports our allies under siege from Communist insurgencies such as those in the Central American democracies and the Philippines. It also supports allies in key locations such as our southern flank NATO allies, Turkey and Greece, and Pakistan, a country that has provided a safe haven for the millions of Afghan refugees who are now winning their fight for independence.

In short, Mr. Chairman, this bill provides for development through the MDB's and AID, supports democracy through the economic support funds and military aid funds and trade promotion through the Exim bank. It is a good bill, Mr. Chairman, and I strongly support it and urge its adoption.

Mr. OBEY. Mr. Chairman, I have no requests for time. If the gentleman has any additional speakers, I would request that he have them take the time now, and then I will make closing remarks in about 1 minute.

Mr. BOULTER. Mr. Chairman, I support the members of the Committee on Appropriations and the bipartisan efforts contributing to the foreign operations appropriations bill for fiscal year 1989, to provide assistance for our allies who oppose Communist aggression in their countries. In addition, I strongly support economic and military aid earmarked for our loyal ally, Israel.

However, I must oppose any aid to World Bank affiliates, specifically the International Development Association [IDA]. The IDA consistently provides loans to terrorist and Communist countries despite the opposition of the U.S. Executive Director. The U.S. Executive Director opposes loans to those countries that violate human rights, expropriate U.S. property, and otherwise cause harm to American interests. I would like to submit for the record a partial list of loans which the United States has opposed in recent years.

Aid to the International Development Association has drawn bipartisan opposition when introduced as separate legislation since 1979, yet has been passed when buried in omnibus bills, such as this, the foreign operations appropriations bill. I am concerned about the 50-year, zero-interest development credits being given to countries such as Ethiopia, China, and India, which often take openly anti-American positions and actions. I do not think that the American taxpayer appreciates it when their tax dollars are sent abroad, at interest rates and under terms to which no citizen or business of the United States has access, for the sole purpose of aiding foreign countries and foreign industries in their efforts to compete directly with our own U.S. interests.

Therefore, I cannot support the bill in its present form.

NOTES—The U.S. voted "no" for every one of the following, yet in each case the loan was approved:

PARTIAL LISTING OF U.S. NEGATIVE VOTES IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION OF THE WORLD BANK GROUP: 1983–87

[In million of dollars]

Date, borrower, and project	Amount	Reason for negative vote
May 1983, Ethiopia—Urban development.	$20.0	Expropriation.
June 1983 Ethiopia—Petroleum export promotion and geothermal study.	7.0	Do.
July 1983, Ethiopia—Roads	70.0	Do.
December 1983, Ethiopia—Second coffee processing and marketing.	35.0	Do.
June 1984, India—National coop. development.	220.0	Inadequate sector reform conditionality.
April 1985, Ethiopia—Drought recovery program.	30.0	Expropriation.

PARTIAL LISTING OF U.S. ABSTENTIONS IN THE IDA OF THE WORLD BANK

June 1985, Yemen, PDR—Highways IV	$14.4	Human rights.
March 1986, China—Third industrial credit project.	25.0	Unsustainable textile export trend given bilateral quota agreements.
May 1986, Burma—Gain storage and processing.	30.0	Inadequate sector reform and private sector role.
April 1987, China—Fourth industrial credit project.	50.0	Same as March 1986.
April 1987, Ethiopia—Livestock project	39.0	Human rights.
June 1987, Yemen, PDR—Highways V	16.8	Do.

Mr. LIGHTFOOT. Mr. Chairman, I rise in support of H.R. 4637 for several reasons I wish to share with my colleagues.

First, let me note that up to this point I have voted against every omnibus foreign aid authorization and appropriation bill since being elected to Congress. I opposed these measures primarily because of budgetary concerns and also because of my objection over how some of the funds were being used. However, I believe my concerns in these areas are adequately addressed by the bill before us today, H.R. 4637.

The funding level contained in this bill meets the strict budgetary guidelines set as a result of the budget summit between the President and members of the congressional leadership last fall. In fact, the funding level contained in this bill is 8 percent below the fiscal year 1981 level. It is because this bill has met the most stringent test of fiscal responsibility that it is the first bipartisan foreign aid appropriations bill since 1981.

Another concern I have had with previous foreign aid bills has been their continued support for the United Nations and other international organizations despite their use of the funding for purposes that run counter to our efforts to foster democracy and stop the spread of Communist domination throughout the world. In that regard, I am pleased that this bill reduces funding for the United Nations by $30 million and it denies all funding for the World Bank's general capital increase and for the Inter-American Development Bank. These measures will place the burden of proof on these organizations to show they share our dedication to freedom and democracy before they come to us for funding.

I am also supporting this bill because it contains funding that is critical to Secretary of State Shultz' new initiative aimed at a peaceful, negotiated settlement to the conflict in the Middle East. The present escalation of turmoil in the West Bank and Gaza threatens to undermine what stability there is left in the Middle East. This turmoil also underscores the urgency of the need to reach an agreement that will ensure Israel's security while recognizing and dealing with the plight of the Palestinian people. The Shultz plan is currently being considered seriously on all sides, and its success will depend largely on the United States' role as its principal guarantor.

Mr. Chairman, I am also encouraged to note that this bill provides an adequate level of funding for famine victims in drought-stricken regions of Africa. Although it's the best we can do at this point, it is only a drop in the bucket of what is needed to address the needs of the 13 to 14 million residents of sub-Saharan Africa who are at serious risk of starvation. The bill also earmarks funds under the Agency for International Development to be used to assist children who are orphans as a result of this devastating drought. I believe we have a moral obligation to assist these orphans, which currently are estimated to number 20,000 in Ethiopia and 10,000 in Mozambique alone.

In conclusion, Mr. Chairman, I support H.R. 4637 because I believe it shifts our priorities toward programs that are in our clear national interest. By passing this bill, we are simply upholding our obligation and commitment to Western values and freedom throughout the world, and for the first time in years we are doing it in a fiscally responsible manner.

Mr. CONTE. Mr. Chairman, I rise in strong support of the bill.

Mr. Chairman, this is really something. We are participating in history here this afternoon. This is a foreign aid—repeat, foreign aid—appropriations bill, and every member of the Foreign Operations Subcommittee supports it. The chairman and ranking member are even speaking to each other.

The Secretary of State supports the bill. The Director of the Office of Management and Budget supports the bill. The President of the United States supports the bill. We have so many letters of support flying around the floor, it looks like a blizzard. The only way I can explain this phenomenon is that it must be finally snowing in Hell.

Mr. Chairman, I served on this subcommittee for 20 years, and for the last 10 years I have been an ex-officio member. I have always supported foreign aid. Sometimes it has been a little lonely, especially over here on this side of the aisle. But I have supported foreign aid requests sent up here by every President since Eisenhower. I am savoring this moment of constructive truce. And I plan on remembering it, because it may never come our way again.

But before I go into ecstasy, I want to mention a couple of down-to-Earth reasons why I will vote for this bill.

One of those reasons is that the bill continues and expands the World Child Health campaign. It includes $54 million for UNICEF and $100 million for the Child Survival Fund.

Because of such efforts, over the last 5 years 2 million kids didn't die; another 2 million kids are not disabled. This record is slowly but surely leading to lower birth rates on an entirely voluntary basis, as parents gain confidence that their children will survive.

I have to admit that these improvements in child health in some of the poorest countries in the world make me very proud of my years of leading the fight for humanitarian assistance. But I will mention another reason to vote for this bill.

Voting for this bill is one of the most constructive ways that you can improve our trade balance. If the United States is ever going to be a net exporter again, the additional exports will have to be sold to the developing world. Talk all you will, we are not likely to improve significantly our trade balances with our major developed competitors. We can get a better balance, but that is not where the potential for growth in exports lies.

You want to sell your feed grains, your construction equipment, your farm equipment, road-building equipment, school books and technology. Developing countries want to buy your products, but they don't have the money. If they don't develop, they will never have the money.

It doesn't get any more complicated than that. Economic development in the Third World will lead to more U.S. exports. Stagnation in the Third World, as we have seen, leads to stagnation in U.S. exports.

Title IV of this bill is entitled "Export Assistance." That section provides $690 million in direct loans and $10.2 billion in guaranteed loans for the Export-Import Bank. Those funds go directly for U.S. exports.

That section also provides $25 million for the Trade and Development Program which is using U.S. expertise for projects which lead to U.S. export and business opportunities. And the section provides for a $200 million Trade Credit Insurance Program.

You can vote for this bill.

Mr. CRANE. Mr. Chairman, I had intended to offer the following amendments, however, given my responsibilities as the ranking minority member of the Subcommittee on Trade of the Committee on Ways and Means, I am unable to offer these amendments today. House and Senate conferees are currently considering the Canada Free Trade Agreement and I must concentrate my time on this most important issue today. I look forward to attaching these two fine amendments to another appropriate bill in the future.

The formal initiation of the United Nations in 1945 instilled in many Americans hope that this organization would help usher in an era of peace and freedom worldwide. Unfortunately, this has not been the case. In fact, the United Nations has been guilty of maintaining a hypocritical double standard at the expense of both the Western democracies and the U.N. Charter. Small nations of the Third World and the Communist bloc have made U.N. membership an excellent economic and political investment by gaining considerable advantage at minimal expense.

Many critics of the United Nations point out that peace and freedom in this world can hardly be maintained by the United Nations when the very nations that most threaten it are members of the Security Council. Even more alarming is the fact that the United States feels that consequences of acts of aggressions by these members. The crisis in Iran and the Soviet invasion of Afghanistan exemplify actions that the United Nations "deplores," but on which the body fails to take appropriate, decisive action. That sort of "nonaction" is particularly disgruntling to the United States which alone pays 25 percent of the total U.N. budget. In contrast, the Soviet Union only contributes a mere 10 percent to the annual budget.

If the United States continues to pay an unduly large share of U.N. expenses each year while other nations fail to honor their obligations, we can expect to see a deepening of the hyprocrisy that has so blatantly marked U.N. sessions. Why should U.S. taxpayers finance the operations of an organization which is threatening the values and interests of Western nations as well as world peace? They deserve assurance that when their tax dollars are spent to aid a foreign nation that that aid goes to a country which acts as our friend.

In view of the current situation, a number of suggestions have been made to re-evaluate our Nation's relationship with the United Nations. Addressing the level of United States financial support is one alternative. In the interest of limiting United States financial support of repeated acts of aggression by pro-Communist, pro-Soviet countries, as you may know, I introduced H.R. 117, that redefines our Nation's financial commitment to the United Nations. Given past performance, it is logical that the United States adopt a new contribution formula that would be fair to the United States and other member nations and fiscally responsible insofar as the future of the United Nations is concerned. Further, it should be reflective of the U.N. representative nature.

Instead of a formula based on GNP, H.R. 117 would base our annual U.N. contribution on a percentage equal to that of our population amongst that of all U.N. member nations. The new formula might be described as "one man, one buck." The People's Republic of China and the U.S.S.R., along with other densely populated countries, should bear a greater portion of the financial burden of the United Nations and should contribute amounts proportional to their greater respective populations. The United States contributes more than twice the amount committed by the U.S.S.R., while the American population is less than that of the Soviet state.

Proportional population assessment would reduce U.S. monetary support of the United Nations and thus force Communist and Third World countries to shoulder a fairer share of the U.N. budget. The result of this proposal would be financial obligations consistent with the amount of power within the United Nations that each country commands. Thus, the United States would no longer contribute disproportionate amounts to the United Nations, only to have the funds used to promote Communist aggression throughout the world. Moreover, GNP cannot properly be determined in a slave state.

I wanted to offer H.R. 117, as an amendment to the foreign operations, export financing, and related programs appropriations bill, 1989, to alleviate the monetary burden placed on the United States to finance the United Nations. These contributions will fund such programs as the U.N. Developmental Program [UNDP], U.N. Childrens Fund [UNICEF], and the U.N. High Commissioner For Refugees. America does shoulder an inordinate burden of the financing of these programs when one considers the following figures: In 1986 the United States paid 22 percent of the UNICEF budget while Japan paid 6 percent and the Soviet Union paid only 0.5 percent. For the same year, the United States paid 31 percent of the bill for the U.N. High Commissioner for Refugees while the Soviet Union paid nothing. While I recognize that passage of my amendment would have reduced American support for these programs, I am nevertheless confident that other countries would have started paying their fair share to guarantee the solvency of these programs.

Mr. Chairman, current law prohibits us from giving foreign aid to most of the repressive and Marxist-Leninist countries of the world. Examples of such countries include the following: North Korea, the Mongolian People's Republic, Ethiopia, and the countries of Eastern Europe. The members of the Committee on Appropriations showed great wisdom when they expanded the number of countries which would not be eligible for foreign aid assistance for the next year. Section 512 of the foreign operations, export financing, and related programs appropriations bill, 1989, contains a prohibition against direct funding for the following countries: Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yeman, Iran, and Syria. I would like to commend my colleagues for adding these countries to the list of countries which may not receive aid under this bill. All of the countries are repressive regimes which seek no friendship with the United States.

However, I am saddened by the fact that the foreign aid appropriations bill does not also contain language to prohibit Guyana and Benin from receiving foreign aid moneys for the next fiscal year. Hence, I had intended to offer an amendment which would have added these two countries to the list of countries which would have been prohibited from receiving any assistance from moneys appropriated by this bill. I would like to add, for the record, that I would have included many more countries to the list, but I chose not to do so because my good friend, BOB DORNAN, will offer an amendment that will prohibit all countries which have signed peace and friendship agreements with the Soviet Union to receive moneys from this appropriations bill. Both of the countries mentioned in my amendment are run by repressive, Marxist governments which have a consistent record of opposing the United States. In fact, Congress has already expressed its opposition to providing American aid to these same countries when it amended the Export-Import Bank Act in 1986 by adding them to the list of Marxist-Leninist regimes which would not be eligible for Export-Import Bank assistance.

The Government of Benin limits freedom of speech, the ability of its citizens to own property, and open policital discussion. Benin's foreign policy remains closely linked with Libya and the Soviet Union. So far as relations with Libya are concerned, the highpoint came after the United States bombing of that country. The Government-controlled publication, "Handoria", described the attack as "ignoble and barbaric aggression" and a result of "warlike manueuvers of American imperialism". Benin has consistently spoken out in support of the Soviet Union. Accordingly to Soviet Military Power, there are several hundred Soviet military and technical personnel currently in Benin.

A resolution adopted at the 22d Congress stated that the Communist Party of Guyana, which rules the country, had completed a 16-year process of transforming itself from a nationalist mass party into a disciplined Marxist-Leninist organization. Guyana has consistently adopted international positions that parallel those of the Soviet Union. It has stated that the Reagan administration poses a growing threat to world peace and that it stands firm in its solidarity with the Cuban and Nicaraguan revolutions, and with the Communist guerillas of the MFLN-FDR of El Salvador.

Despite the aggression that Benin and Guyana exhibit toward our basic values of freedom, this appropriations bill provides these countries with a limited degree of assistance. It provides some military assistance to both Guyana and Benin and some money for Peace Corps activies in Benin. I hope that my colleagues will agree with me that it is improper for us to provide aid to these two countries.

Mr. OBERSTAR. Mr. Chairman. I rise in strong support of the foreign operations appropriations bill for fiscal year 1989 and I commend my good friend from Wisconsin, Mr. OBEY, on developing a firm bipartisan consensus, transforming that consensus into legislation, and guiding this measure through the committee process ably and effectively. This is a fragile political consensus, however, and I urge my colleagues on both sides of the aisle to support it, lest we lose what ground we have gained in negotiations during the last several months.

The agreements of the budget summit in December 1987 have made possible this bipartisan bill, and I support it. I am also pleased to see that the priorities reflected in the economic and military aid mix reflect deep concern of the gentleman from Wisconsin, which I share, for the world's poor and at least a partial shift away from the military aid priorities of the administration.

I am particularly gratified by the levels of support provided for the high priority hunger assistance programs in the bill, which I believe are among the most important development programs supported by the United States. For example, the committee has included $54 million for UNICEF, an increase of $22.4 million over the administration's request. The committee again wisely chose to repeat its requirement that the administration disburse these critical aid funds to UNICEF within 30 days of enactment of the bill, and this year threatened to withhold $50 million in military aid if the President again fails to comply. While such persuasion should not be necessary, it is an effective and responsible means of enforcing congressional policy decisions.

The child survival fund this year has been funded at $100 million, an increase of $20 million over last year's level. A portion of these funds—$29 million—is earmarked exclusively for Africa. The vitamin A earmark has remained at $8 million, and microenterprise funding for small loans to the poorest of the poor in countries in which the U.S. Agency for International Development operates has been increased from $50 million to $75 million. All of these programs, and the many other U.S. aid programs designed to alleviate human suffering around the world, deserve the vigorous support of each member of this body.

While I support these development assistance programs, I am increasingly troubled by the extent to which the continually rising levels of foreign military assistance threaten to displace scarce U.S. resources that might otherwise be applied to basic human needs of poor populations around the globe. Fully one-third of the world's population is mired in near hopeless poverty; 15 percent of Americans live in poverty, 15 million of them children, pushed over the poverty line since 1981—29 million in all. Yet, we continue to give more military aid than economic and humanitarian assistance to other nations.

In 1981, as this administration took office, we spent approximately $5.2 billion in security assistance; today we will vote on a bill containing over $9 billion in security assistance to our allies, principally in the Third World. In 1981, the United States spent an estimated $110 million on military assistance. This year the Reagan administration requested almost $767 million for the same program—a startling 696-percent increase in just 8 years. U.S. international military education and training programs have increased over 80 percent during this period, sales of military equipment and technology by 46 percent, further clear signals of our willingness to project and employ military power and influence abroad, often without regard for the social and political effects of such intervention. Simultaneously, we have dropped our contributions to multilateral international organizations during the same 8-year period by 25 percent, another ominous signal of our disdain for a foreign policy which works in concert with other countries through international organizations, which values consultation over confrontation, multilateral initiatives over bilateral political and economic coercion.

We have become the arms merchant to the Third World, and under this administration have largely abandoned our commitment to human rights and the rule of law in our own hemisphere. Blatant disregard of World Court decisions, illegal funding of irregular Contra forces in a country with which we are not at war and have maintained diplomatic relations, negotiating away our last shred of international credibility in the drug war by offering to drop indictments against Panamanian strongman Manuel Noriega, support for right wing military regimes in the name of political stability—symptoms of a oddly antidemocratic attitude among many U.S. foreign policymakers within this administration an attitude which has at times undermined democratic values and institutions even as it claims to uphold and strengthen them.

The economic assistance provided for in this measure, though much less than I would have wished, is a strong signal to our allies and friends around the world that we are still willing to offer support for developing nations to pull themselves out of abysmal poverty and develop the economic, social, and political infrastructures necessary to build substainable democratic societies. Nascent democracies must be able to look upon the United States not in envy, but for inspiration. In the Pacific rim, in Latin America, in Africa, and elsewhere, we must continue to offer generously the resources—both human and material—which will assist in the great enterprise of the post-colonial period, the development of independent democratic nations able to shape their own destinies.

In Haiti a country which first declared its independence in 1804, these democratic processes have never been a part of the national policy. Haiti has historically been ruled by brutal military and economic elites oblivious to the needs of the poor. While we have officially suspended all aid to the Manigat government, administration officials have in recent months reportedly tried to persuade other donors—the French, the Canadians, the Swiss, and several international financial institutions such as the World Bank and the IMF—to increase their aid to supplant United States aid suspended by my amendment to last year's continuing resolution.

The Haitian people have consistently demonstrated they prefer the turmoil of democracy over the brutal tranquility of dictatorship. While the Haitian Government has begun to feel the budget pinch from this suspension of United States assistance and the accompanying drying up of international credit, administration officials have allegedly attempted to circumvent the aid suspension by persuading some of these other donors to increase their grant and loan assistance to the Manigat government. By mitigating the economic effects of the suspension of United States assistance, I am concerned that administration officials may squander the last significant leverage over the main political and economic decisionmakers in Haiti. While the Haitian budget shortfall this year reportedly could be as high as $50 to $60 million in an overall budget of approximately $250, due in part to a massive $70 million loss in balance of payments support, the Manigat government still has not initiated significant political reforms which would warrant a reconsideration of this aid suspension. This foreign aid bill wisely continues the suspension of aid under current law, and again urges the administration to develop a regime of trade and financial sanctions that would be imposed on the Manigat government unless it begins to initiate genuine political reforms and moves to stem the persistent pattern of human rights abuses by Haitian military and paramilitary forces during the last several months. The measure continues to allow United States aid to flow to nongovernmental and private voluntary organizations serving the basic needs of the Haitian poor.

This is the first foreign aid bill brought to the floor since 1982, and I believe it is a bill with which we can live. The general program freeze levels contained in the bill balance the obligations and commitments of a superpower with the realities of our $154 billion budget deficit. The decision to fund arrearages in our international obligations to international financial institutions on the theory that we should pay old bills before incurring new ones cannot be rebutted, even though it has cut into program funding in other areas. I urge my colleagues to study carefully the programs and projects contained in this bill, and to vote for its passage later this afternoon to send a signal to our friends and allies around the world that we remain a committed and loyal friend in the international arena, and that Congress will continue to support adequate funding for these critically important foreign aid programs.

Mr. FEIGHAN. Mr. Chairman, I rise in strong support of H.R. 4637. I want to commend the chairman of the Appropriations Committee, Mr. OBEY, and the chairman of the authorizing committee, Mr. FASCELL, for their leadership and commitment to bringing this bill to the floor.

Foreign aid is not a popular subject—in fact for many of us, it's a political lightning rod. But, I think that this bill demonstrates that a modest commitment in foreign aid—less than 2 cents of every Federal dollar—serves to advance our interests across the globe. Foreign aid means security. It means emergency relief to those who are poor. And it means opening up markets for American business.

Perhaps it's an astrological coincidence that we consider this bill during the same week we consider the trade bill. For these two issues are linked. Our ability to foster growth and development through U.S. foreign aid programs means more demand for U.S. goods, more opportunities for U.S. exporters. These opportunities belie the popular misconception that foreign aid is a simple handout.

I am particularly pleased to support this bill because it addresses some particularly pressing needs. I am pleased that the bill retains the Foreign Affairs Committee's commitment to channeling aid to microenterprise. Microenterprise is the future of development, giving economic self-sufficiency to those who otherwise would go hungry.

I am pleased to support the commitments we are making throughout the world to bolster our allies. In Western Europe, we will spend over $4 billion in those countries where we maintain important base rights. In the Middle East, the bill explicitly underlines the Camp David accords and the Israeli-Egyptian Peace Treaty as the centerpiece of American policy and acknowledges the value of strengthening these two partners in the region.

Finally, I am pleased to support the full request for international narcotics control. The committee rightly recognizes the immense drug problem that we face and the need to channel funds to stem the tide of illegal narcotics that flows into this country. As a co-chairman of the Foreign Affairs Committee

Task Force on International Narcotics Control, I hope this measure will complement the action taken by the committee in our authorizing bill and in our prospective work in omnibus drug legislation.

I urge my colleagues to vote for this bill—a modest, sensible, and comprehensive foreign aid bill that helps the United States achieve a number of our shared policy goals.

Mr. DORGAN of North Dakota. Mr. Chairman, in recent years it's a rare event indeed when the House gets to vote on a foreign aid appropriations bill. Since I began serving in Congress this is only the second regular foreign aid appropriations bill which we have considered.

I am, therefore, a little troubled that so few perfecting amendments have been encouraged or offered. Although this bill accounts for only 1.5 percent of all Federal spending, it encompasses a very controversial $15 billion.

The controversy stems from many quarters. One is how we can justify even a modest increase in foreign aid spending when many worthy domestic programs have been either eliminated or sharply cut. Another is how we can justify any foreign aid increase in a time of $150 billion Federal deficits. Then there is the further questions of balance in foreign aid: How does one justify a 700-percent increase in the Military Assistance Program [MAP] while food aid has actually declined by 17 percent in the last 8 years. The appended chart shows this imbalance.

The bill before the House did not completely ignore these painful issues. The committee reported recommendation makes some small improvements. But it is not enough. It gives a much higher priority for UNICEF and child survival—the kind of foreign aid which helps people—than did the administration's request. It earmarks needed resources for key allies like Israel and the Philippines. My overall concern about the bill in no way diminishes my support for those essential humanitarian and allied support programs.

Nevertheless, this foreign aid bill does not put us on the right track for world leadership. The best way to advance the growth of developing countries is to expand our own economy so as to awaken export opportunities for the Third World, and the jobs that accompany export growth. But we can't put in order our own economy until we tackle our budget deficits. Regretably, this bill increases spending over fiscal year 1988 by at least $600 million and thereby becomes part of the budget problem, not its solution.

The other sure way to lead in the world in join the developing world as a partner in rooting out the scourges of disease, illiteracy, and hunger. Yet our foreign aid has moved in exactly the wrong direction to do this. Since 1980, the ratio of security aid to economic aid has doubled from 1 to 1 to 2 to 1. While the MAP account has grown sevenfold, food aid has dropped 17 percent—even though our grain bins burst with farm surpluses and a second continental famine grips the hungry of Africa. The priorities in this bill are simply out-of-whack and that is why I have decided to cast a "no" vote.

FOREIGN ASSISTANCE APPROPRIATIONS: FISCAL YEAR 1981–89

[In millions of current dollars]

	1981	1982	1983	1984	1985	1986	1987	1988	House Appropriation Committee 1989	1989 +/− 1988	1989 +/− 1988 (percent)	1989 +/− 1981	1989 +/− 1981 (percent)
Mulitilat Aid	$1,214	$1,477	$1,806	$1,639	$1,907	$1,409	$1,444	$1,450	$1,577	$127	8.8	$363	29.9
Bilat Develop	1,276	1,389	1,397	1,525	1,780	1,542	1,531	1,698	1,637	−61	−3.6	361	28.3
Food Aid [1]	1,229	1,000	1,028	1,377	1,964	1,243	1,083	1,060	1,023	−37	−3.5	−206	−16.8
Other Econ Aid	1,069	1,075	1,098	1,071	1,301	1,026	1,277	1,256	1,355	99	7.9	286	26.8
Econ Supp Fund	2,105	2,926	2,926	3,254	6,084	3,541	3,851	3,188	3,249	61	1.9	1,144	54.3
Military aid	3,210	4,243	5,567	6,526	5,954	5,800	5,091	5,361	[2] 5,792	431	8.0	2,582	80.4
Of which:													
MAP	(110)	(179)	(383)	(712)	(805)	(748)	(905)	(701)	(877)	(176)	(25.1)	(767)	(697.3)
(FMS)	(3,046)	(3,884)	(5,107)	(5,716)	(4,940)	(4,967)	(4,053)	(4,049)	(3,893)	(−156)	(−3.9)	(847)	(27.8)
Total	10,103	12,110	13,822	15,392	18,990	14,561	14,277	14,013	14,633	620	4.4	4,530	44.8

[1] Not included in House reported Foreign Assistance Appropriations bill. Reflects pending Executive branch request for fiscal year 1989.

[2] Includes Guaranty Reserve Fund replenishment.

Prepared by Larry Nowels, CRS/FAND, May 24, 1988.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I was just going to make another remark of my own, so I yield myself 1 minute.

Mr. Chairman, I only wanted to repeat in strong support of this bill that we have put together a very careful bipartisan agreement, and it hinges upon the fact that we are going to be able to meet not only great concerns that we have in terms of economic commitments around the world, but in terms of our being able to meet our military commitments to our allies. There will be amendments offered, in particular by the gentleman from Ohio [Mr. TRAFICANT], to make indiscriminate, across-the-board cuts which would have a very serious effect on the piece of legislation we have put together so carefully that has been able to win the support of the Democratic side of the aisle, the Republican side and the administration.

So, Mr. Chairman, I would urge my colleagues not only to support this bill, but to oppose the Traficant cuts. They would be very harmful to what we have been able to achieve to this point.

Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute.

In closing I would simply like to read from two letters that we received from the President and from the Director of OMB.

The letter from the President says as follows:

THE WHITE HOUSE,
Washington, May 23, 1988.

Hon. DAVID R. OBEY,
House of Representatives,
Washington, DC.

DEAR DAVE: As the House begins consideration of the Foreign Operations Appropriations bill for fiscal year 1989 (H.R. 4637), I want to express my strong support for passage of the bill reported from the Committee on Appropriations. The bill provides funds for U.S. foreign assistance and export financing programs that are crucial to the successful conduct of our foreign policy. The recommendations of the House Appropriations Committee represent a truly bipartisan, effective approach to the funding of U.S. foreign policy requirements.

The bill is vitally important in meeting U.S. commitments to our allies and friends abroad. The bill also strengthens U.S. security assistance programs, which have suffered disproportionately from budget reductions in recent years. Of particular importance, the bill is responsive to the needs of the four democracies in Central America and the need to promote democracy in Nicaragua.

While we reserve the opportunity to seek improvements in the bill once it reaches the Senate, I want to emphasize that H.R. 4637 is a strong and balanced bill produced in a spirit of bipartisan cooperation that will contribute substantially to the achievement of U.S. foreign policy objectives.

I urge you and your colleagues in the House to support H.R. 4637 as reported by the Committee on Appropriations when the House considers the bill.

Sincerely,

RONALD REAGAN.

From the letter from the Executive Office of the President, Office of Management and Budget, I would like to simply quote one paragraph:

> The Subcommittee recommendations strike a balance between our economic and security assistance concerns worldwide and represent a highly commendable effort to produce a truly bipartisan foreign policy bill. At a time when U.S. leadership is more critical than ever, the draft bill provides the Administration with most of the basic tools with which to respond to the challenges of

aggression as well as the opportunities for peace, economic development, and export promotion.

Therefore, while the Administration may seek changes in the Senate, we seek your help, Mr. Chairman, in ensuring that this bipartisan effort be continued in Full Committee and on the floor of the House by adoption of the Subcommittee bill without amendment.

Mr. Chairman, I think the two letters speak for themselves.

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the foreign operations appropriations bill for fiscal year 1989.

I have traditionally opposed foreign aid because I believe our own domestic programs must take precedent over our financial contributions to the economies of other nations. Programs such as education, housing, health care, veterans benefits, Social Security, and general science, space and technology are critical to the future of our own country and our resources must be directed toward those entities—not toward foreign aid.

As a member of the Science, Space, and Technology Committee I am particularly committed to the future of the National Aeronautics and Space Administration [NASA] and the general science programs of the Department of Energy. I believe that their continued success is incumbent upon adequate Federal funding. This funding is critical if our Nation is to meet global competition, provide for national security, and improve the quality of life for all our citizens. There is no question that such critical, domestic programs must continue to take precedence over foreign assistance.

I am a strong supporter of the State of Israel and am committed to ensuring the security of the state which America helped bring into existence. I would support legislation to provide financial assistance for Israel should it be considered separately from the total foreign operations appropriations. I regret that I could not do so in the context of this legislation.

Mr. Chairman, if there are no other requests for time on that side of the aisle, I yield back the remainder of my time.

□ 1400

The CHAIRMAN. Pursuant to the rule, the bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

No amendments are in order, except the amendments printed in House Report 100-648, which shall be considered only in the order specified and only if offered by the designated Member. Said amendments are not subject to amendment except as specified and are debatable for not to exceed 20 minutes, equally divided and controlled by the proponent and a Member opposed thereto.

After each title is designated, the Chair will announce the number of the amendment made in order by the rule and the name of its sponsor in order to give notice to the Committee of the Whole as to the order of recognition.

The Clerk will designate title I.

The text of title is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTIONS FOR ARREARAGES

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $43,333,334, for the United States contribution to the replenishments, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $20,300,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $190,964,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

ANNUAL CONTRIBUTIONS TO INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $951,666,666, for the United States contribution to the replenishment, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $41,868,609, to remain available until expended: *Provided,* That no such contribution may be made while the United States Director of the Asian Development Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,000,000, for the United States contribution to the fifth replenishment of the African Development Fund, to remain available until expended: *Provided,* That none of these funds shall be made available until authorized.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $8,999,371, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $135,062,946.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $214,958,666: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: $110,000,000 for the United Nations Development Program; $54,400,000 for the United Nations Children's Fund: *Provided further,* That the funds made available for UNICEF (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than 30 days after the date of enactment of this Act: *Provided further*, That if the previous proviso is not complied with, then $50,000,000 of the funds made available by this Act for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, shall be immediately transferred to the general fund of the United States Treasury; $980,000 for the World Food Program; $1,500,000 for the United Nations Capital Development Fund; $220,000 for the United Nations Voluntary Fund for the Decade for Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $1,960,000 for the World Meteorological Organization Voluntary Cooperation Program; $22,000,000 for the International Atomic Energy Agency; $9,000,000 for the United Nations Environment Program; $784,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $450,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $90,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $250,000 for the UNIDO Investment Promotion Service; $7,349,666 for the Organization of American States; and $2,500,000 for the International Fund for Agricultural Development: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

The CHAIRMAN. Are there any points of order against title I?

If not, does the gentleman from Florida [Mr. McCOLLUM] desire to offer his amendment?

Does the gentleman from Illinois [Mr. CRANE] desire to offer his amendment, or are there any points of order?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1989, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $488,715,000: *Provided*, That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further*, That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further*, That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this heading shall be made available, and remain available until expended, for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations.

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $197,940,000: *Provided*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $119,000,000: *Provided*, That of this amount $2,500,000 shall be made available for the River Blindness Program of the World Health Organization.

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $35,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided*, That of the funds made available under this heading $17,500,000 shall be made available to the World Health Organization to finance the Global Program on AIDS, including activities implemented by the Pan American Health Organization.

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $71,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $117,000,000: *Provided*, That $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute.

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $120,709,000: *Provided*, That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further*, That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project.

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,662,270.

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $75,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: *Provided*, That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: *Provided further*, That such local currencies which are used for this purpose shall be in lieu of funds earmarked under this heading and shall reduce the amount earmarked for assistance for micro-enterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $500,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise made available for such purposes: *Provided*, That any of the funds which are appropriated under this heading may be used for assistance for Sub-Saharan Africa to carry out any economic development assistance activities under the Foreign Assistance Act of 1961: *Provided further*, That assistance made available under this heading shall be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant: *Provided further*, That these objectives may, in part, be achieved through the integration of women in the development process, appropriate consultation with private voluntary organizations, African and other organizations with a local perspective on the development process, and inclusion of the perspectives and participation of those affected by the provision of assistance: *Provided further*, That assistance made available under this heading shall be provided in accordance with the policies contained in section 102 of the Foreign Assistance Act of 1961: *Provided further*, That assistance made available under this heading should be provided, when consistent with the objectives of such assistance, through African, United States and other private and voluntary organizations which have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa: *Provided further*, That assistance made available under this heading should be used to help overcome shorter-term constraints to long-term development; to promote reform of sectoral economic policies to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities; to bring about appropriate sectoral restructuring of the Sub-Saharan African economies; to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development: *Provided further*, That assisted policy reforms should take into account the need to protect vulnerable groups: *Provided further*, That assistance made available under this heading shall be used to increase agricultural production in ways which protect and restore the natural resource base, especially food production; to maintain and improve basic transportation and communication networks; to maintain and restore the renewable natural resource base in ways which increase agricultural production; to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care; to provide increased access to voluntary family planning services; to improve basic literacy and mathematics especially to those outside the formal educational system and to improve primary education; and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas: *Provided further*, That the Administrator of the Agency for International Development should target the equivalent of 10 percent of the funds appropriated under this heading for each of the following: (1) maintaining and restoring the renewable natural resource base in ways which increase agricultural production, including components of agriculture activities which are consistent with this objective, (2) health activities, and (3) voluntary family planning: *Provided further*, That local currencies generated by the sale of imports or foreign exchange by the government of a country in Sub-Saharan Africa from funds appropriated under this heading shall be deposited in a special account established by that government: *Provided further*, That these local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and for necessary administrative requirements of the United States Government: *Provided further*, That in order to carry out the purposes of this heading, section 604(a) of the Foreign Assistance Act of 1961, and similar provisions of law, shall not apply with respect to the implementation of assistance activities consistent with the purposes of this heading: *Provided further*, That the funds made available under this heading shall be provided only on a grant basis.

SOUTHERN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $50,000,000, which shall be made available, without regard to section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961, only to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming that regional institution: *Provided*, That this amount shall be made available for one or more of the following sectors: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives): *Provided further*, That amounts made available under this heading shall be in addition to any amounts otherwise made available for such purposes and shall be in addition to amounts made available for Africa under the heading "Sub-Saharan Africa, Development Assistance": *Provided further*, That none of the funds appropriated under this heading may be made available for activities in Angola: *Provided further*, That none of the funds appropriated under this heading may be made available for activities in Mozambique unless the President certifies that it is in the national interest of the United States to do so.

CHILD SURVIVAL ACTIVITIES FOR SUB-SAHARAN AFRICA

Of the aggregate of the funds appropriated by this Act to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, not less than $29,000,000 shall be made available for child survival activities for Sub-Saharan Africa: *Provided*, That this amount shall be in addition to any amounts otherwise made available for such purposes by this Act.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $1,500,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided*, That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961 shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries: *Provided*, That the Agency for International Development shall seek to ensure that country strategies and, where appropriate, projects and programs, are designed so that the percentage of women who receive assistance is, at a minimum, in approximate proportion to their traditional participation in the targeted activities and, wherever possible and appropriate, so that this percentage is likely to increase.

PHILIPPINES, DEVELOPMENT ASSISTANCE

Of the aggregate of the funds appropriated by this Act to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, not less than $40,000,000 shall be made available only for the Philippines for project and sector assistance primarily in support of the Government of the Philippines' efforts to promote economic recovery and attain sustained growth through increased rural productivity in both farm and off-farm enterprises, and other activities consistent with the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961: *Provided*, That of the funds made available for the Philippines under section 103 of the Foreign Assistance Act of 1961, as amended, not less than $1,000,000 shall be made available to fund technical assistance to strengthen nonprofit private organizations and cooperatives in conjunction with projects using local currencies generated by sale of Public Law 480 and section 416 commodities.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

PRIVATE SECTOR REVOLVING FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, not to exceed $9,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1989, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $12,000,000.

During fiscal year 1989, total commitments to guarantee loans may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed $25,000,000.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $30,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $25,000,000, to remain available until expended: *Provided*, That up to $500,000 may be made available for assistance for children who have become orphans as a result of drought and famine in Sub-Saharan Africa.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $40,532,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $414,000,000: *Provided*, That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further*, That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1989 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, colleges and universities having a student body in which more than 40 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $23,970,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1989, total commitments to guarantee loans shall not exceed $125,000,000 of contingent liability for loan principal: *Provided*, That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further*, That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961 borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1989.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,248,500,000: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1988, whichever is later: *Provided further*, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not more than $115,000,000 may be provided as a cash transfer with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further*, That of the funds appropriated under this heading not less than $220,000,000 shall be available for Pakistan: *Provided further*, That not less than $124,000,000 of the funds appropriated under this heading shall be available for the Philippines: *Provided further*, That not less than $20,000,000 of the funds appropriated under this heading shall be available for Morocco: *Provided further*, That not less than $10,000,000 of the funds appropriated under this heading shall be available for Tunisia: *Provided further*, That not less than $40,000,000 of the funds appropriated under this heading shall be available for Portugal: *Provided further*, That not less than $15,000,000 of the funds appropriated under this heading shall be available for Cyprus: *Provided further*, That of the funds appropriated under this heading up to $35,000,000 but not less than $10,000,000 shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided further*, That of the funds appropriated under this heading $185,000,000 only shall be available for El Salvador, $80,000,000 only shall be available for Guatemala, $90,000,000 only shall be available for Costa Rica, and not less than $85,000,000 shall be available for Honduras: *Provided further*, That of the funds made available under this heading for Honduras, $2,500,000 may not be expended until the Secretary of State notifies the Committees on Appropriations that the Government of Honduras has agreed to reimburse the United States Government for recent damage done to the United States Embassy facility in Tegucigalpa, Honduras: *Provided further*, That not less than $34,000,000 of the funds appropriated under this heading shall be made available for Jordan, of which not less than $11,000,000 is for programs in Jordan and not less than $23,000,000 is in support of Jordan's development program for the West Bank and Gaza: *Provided further*, That not less than an additional $7,500,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further*, That of the funds appropriated under this heading, not less than $90,000,000 shall be available for Sub-Saharan Africa: *Provided further*, That notwithstanding section 660 of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this heading may be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further*, That a report of the investigation shall be provided to the Congress: *Provided further*, That $20,000,000 of the funds appropriated under this heading shall be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: *Provided further*, That if funds made available under this heading are provided to a foreign country as cash transfer assistance, that country shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further*, That such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further*, That all local currencies that may be generated with such funds provided as a cash transfer shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further*, That at least 15 days prior to obligating any such cash transfer assistance to a foreign country under this heading, the President shall submit a notification to the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by the cash transfer assistance): *Provided further*, That not more than $5,000,000 of the funds made available under this heading may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further*, That notwithstanding any other provision of law, none of the funds appropriated under this heading may be used for tied aid credits without the prior approval of the Administrator of the Agency for International Development: *Provided further*, That, except as provided by this Act, none of the funds appropriated under this heading by this Act or the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, shall be made available for tied credits in accordance with any provision of law enacted after May 19, 1988: *Provided further*, That $2,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, only for the independent Polish trade union "Solidarity" of which $1,000,000 is to support its Social Fund project, and $1,000,000 is to support Solidarity through the AFL-CIO's Free Trade Union Institute to promote democratic activities in Poland: *Provided further*, That not to exceed $1,000,000 of the funds appropriated under this heading shall be made available notwithstanding any other provision of law to the National Endowment for Democracy for the promotion of democracy in Nicaragua: *Provided further*, That these funds are to be administered consistent with the Agreement between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua ("Sapoa Agreement") and the Guatemala Peace Accords of August 7, 1987: *Provided further*, That such assistance (1) shall be provided to internal groups that have renounced violence and support a negotiated settlement to the conflict in Nicaragua, including independent elements of the press, independent labor unions, independent business groups, and independent human rights groups, and (2) may not be provided to any group that is affiliated with or supportive of any armed opposition group: *Provided further*, That the manner in which these funds are used shall not be inconsistent with the Sapoa Agreement, as its terms are applied and monitored for acceptability by the Verification Commission established by that Agreement: *Provided further*, That funds made available under this heading shall remain available until September 30, 1990.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $7,140,000: *Provided*, That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision.

INTER-AMERICAN FOUNDATION

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $16,600,000: *Provided*, That $11,000,000 of the funds appropriated to carry out part I of the Foreign Assistance Act of 1961 shall be transferred to and consolidated with funds appropriated under this heading: *Provided further*, That the amount transferred shall be reduced by (1) the amount transferred from the Inter-American Development Bank to the Foundation's Social Progress Trust Fund, and (2) the use by the Foundation of local currencies made available through the Agency for International Development which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1989 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000.

During the fiscal year 1989, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal.

Except as provided in this Act, no provision of any other Act not enacted into law by May 19, 1988, shall be construed to require the exercise of authority to provide direct loans or to make commitments to guarantee loans contrary to the limitations contained under this heading.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $152,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $101,000,000.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $361,950,000: *Provided*, That not less than $27,500,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That not less than $23,500,000 of the funds appropriated under this heading shall be available for Refugee Entrant Assistance: *Provided further*, That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further*, That of the funds appropriated under this heading not less than $15,000,000 shall be available for costs of the expedited resettlement of Vietnamese Amerasians and their family members eligible for refugee benefits: *Provided further*, That not more than $8,000,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $30,000,000, to remain available until expended.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $9,840,000.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma [Mr. INHOFE] for the purpose of offering an amendment.

AMENDMENT OFFERED BY MR. INHOFE

Mr. INHOFE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. INHOFE: Page 21, line 15, strike "$3,248,500,000" and insert in lieu thereof "$3,249,100,000"; and page 27, line 7, strike out the period and insert in lieu thereof the following: ": *Provided further*, That $600,000 of the funds appropriated under this heading shall be available only to assist in the restoration of the parliament building in Dominica, which was destroyed in 1979.".

Mr. OBEY. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] reserves a point of order against the amendment.

The gentleman from Oklahoma [Mr. INHOFE] is recognized for 10 minutes.

Mr. INHOFE. Mr. Chairman, first I want to thank the gentleman from Wisconsin for reserving the point of order. I recognize that what I am bringing in is a little bit late under the rule; however, I did have an opportunity to present it to the Rules Committee. It was very favorably received. It is my intention that we will see this project in the ultimate bill when it is returned to us.

Mr. Chairman, I rise today on behalf of the island nation of Dominica in the Caribbean. November 3, 1988, will represent the 10th anniversary of Dominica's independence from Great Britain. Prime Minister Eugenia Charles of Dominica has written a letter to Secretary of State George Shultz asking for help from the United States to rebuild the parliament building that was destroyed during Hurricane David in 1979. The Agency for International Development estimates that the project will cost $1.2 million.

Dominica under the capable leadership of Prime Minister Charles is firmly committed to promoting democracy throughout the Caribbean. We all recall her courageous support of the Grenada rescue mission in 1983. Because of her help she played a major role in nurturing Grenada's return to democracy.

Assistant Secretary of State Elliott Abrams has asked Ambassador Holland Coors to take on the responsibility of raising 50 percent of the money from private sources. The remaining 50 percent would be raised by approval of this amendment. This would be a public private partnership from the people of the United States of America to the people of Dominica.

My interest stems from my personal involvement with Dominica. Back in 1979, after Hurricane David ravaged the island while serving as mayor of Tulsa, I lead a mercy mission of 10 airplanes loaded with food, medicine and emergency supplies to Dominica. They were the first relief supplies to reach the island after the storm.

It just so happens that Dominica was also experiencing political turmoil back in 1979. After gaining independence, Dominica had an interim left-leaning government. The election of Eugenia Charles in 1980, marked a major turning point for democracy in Dominica. Prime Minister Charles is firmly committed to maintaining a truly pluralistic democracy in Dominica and throughout the Caribbean.

The Law Court/House of Assembly was built in 1810. It is the oldest stone structure in the capital city of Roseau. Because of Hurricane David the structure was virtually destroyed. Only the front facade and part of the north and south walls remain. Restoration of this important symbol of democracy is very important to Prime Minister Charles. She asks our help in rebuilding the parliament building to stand as a symbol of eternal friendship between the United States and Dominica.

For the sake of our friends in Dominica and throughout the island nations of the Caribbean I urge my colleagues to join with me in approving this amendment to provide $600,000 which is the public portion of the public private partnership to help Dominica's elected parliament return to their rightful home.

POINT OF ORDER

Mr. OBEY. Mr. Chairman, I make a point of order against the amendment.

As the Chair knows, there were a number of speeches this morning insisting that regular order be followed, and that requires that points of order be lodged against amendments that are not in order on an appropriation bill, even if they do not have any substantive problem.

Mr. Chairman, I make a point of order against the amendment because it provides an increase appropriation for an unauthorized program and therefore violates clause 2 of rule XXI.

Clause 2 of rule XXI states in pertinent part:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law.* * *

Mr. Chairman, the fiscal 1989 authorization for this program has not been signed into law. Although the rule protects the amounts appropriated by the bill as reported, it does not waive points of order against amendments making unauthorized appropriations. By proposing to increase the ESF appropriation, the amendment violates clause 2 of rule XXI.

Mr. Chairman, I also make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill and therefore violates clause 2 of rule XXI.

The rule again states in pertinent part:

> No amendment to a general appropriation bill shall be in order if changing existing law.* * *

The amendment gives affirmative direction in that it requires that a specified amount of ESF funds be reserved for a specific purpose.

I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Oklahoma wish to be heard on the point of order?

Mr. INHOFE. No, Mr. Chairman, I do not.

The CHAIRMAN. Does the gentleman from Oklahoma concede the point of order?

Mr. INHOFE. That is correct, Mr. Chairman.

The CHAIRMAN. The gentleman from Oklahoma concedes the point of order. The point of order is sustained for the reasons stated by the gentleman from Wisconsin.

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $876,750,000: *Provided,* That of the funds appropriated under this heading not less than $125,000,000 shall be made available only for the Philippines: *Provided further,* That if any of the funds appropriated under this heading are made available for Turkey, then not less than $30,000,000 of such funds shall be available for Greece: *Provided further,* That of the funds appropriated under this heading not more than $40,000,000 shall be used for general costs of administering the Military Assistance program: *Provided further,* That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to nonlethal items such as transportation and communications equipment and uniforms: *Provided further,* That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the proviso under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, prohibiting the use of military assistance funds after September 30, 1989, for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961, is repealed: *Provided further,* That no military assistance funds appropriated by this Act that have not been committed for the payment of any sale under the Arms Export Control Act during the period ending at the end of the second fiscal year after the fiscal year for which such funds were appropriated shall be committed for such purpose thereafter unless the Committees on Appropriations of each House of Congress are given a fifteen-day prior notification of the amount of funds involved, the reasons why no commitment was made thereof, and the proposed sales to be financed with such funds: *Provided further,* That military assistance funds appropriated by this or any Act that have been expended into the account designated in section 503(a)(3) of the Foreign Assistance Act of 1961 to finance particular sales shall be available, subject to all applicable reprogramming provisions, to finance other sales in the event of sales cancellations, reductions, excess funds at case closeout, or other reasons relating to the implementation of sales programs: *Provided further,* That the Committees on Appropriations shall be furnished on March 1 of each year a complete report of the status of military assistance funds appropriated by this or any future Act committed for the payment of any sales under the Arms Export Control Act as regards the individual sale, item description, and estimated sales price: *Provided further,* That funds appropriated under this heading shall remain available for obligation until September 30, 1989.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $51,254,750.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,893,000,000, of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, $240,000,000 shall be available only for Pakistan: *Provided,* That to the extent that the Government of Israel requests that funds be used for such purposes, credits made available for Israel under this heading shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapon systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That Israel, Egypt, and Pakistan shall be released from their contractual liability to repay the United States Government with respect to all credits provided under this heading: *Provided further,* That during fiscal year 1989, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $3,893,000,000: *Provided further,* That any funds made available under this heading, except as otherwise specified, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act: *Provided further,* That the concessional rate of interest on foreign military credit sales loans shall be not less than 5 percent per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds previously obligated for the Philippines but uncommitted on the date of enactment of this Act shall be used only to finance sales made under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the total funds provided to carry out the provisions of sections 503 and 541 of the Foreign Assistance Act of 1961, and the provisions of section 23 of the Arms Export Control Act allocated to Greece and Turkey shall be provided according to a 7 to 10 ratio.

FOREIGN MILITARY SALES DEBT REFORM

Funds made available by the Foreign Operations, Export Financing and Related Programs, Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1989.

GUARANTY RESERVE FUND

(a) If during fiscal year 1989 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military

Sales Debt Reform", the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(b) If during fiscal year 1989, the Secretary of Defense is required under paragraph (a) to issue notes or other obligations to the Secretary of the Treasury in excess of $643,196,000, then, notwithstanding any other provision of law, such necessary excess amounts instead shall be made available directly from uncommitted balances previously made available to carry out the provisions of section 503 of the Foreign Assistance Act of fiscal year 1961 and for expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, unless the President submits a supplemental budget request for the additional borrowing authority necessary for the Guaranty Reserve Fund.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $236,865,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1989, to remain available for obligation until September 30, 1991: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided,* That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1989: *Provided further,* That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts.

The CHAIRMAN. Are there any points of order against title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1989 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $690,000,000: *Provided,* That at the discretion of the Chairman of the Export-Import Bank, up to $110,000,000 of that amount may be available, subject to the regular notification procedures of the Committees on Appropriations of the Senate and House of Representatives, as tied-aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further,* That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied-aid credits which are made available from time to time, but not to exceed $110,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That during the fiscal year 1989, total commitments to guarantee loans shall not exceed $10,200,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan and guaranty authority provided under this heading shall remain available until September 30, 1990.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $19,890,000 (to be computed on an accrual basis) shall be available during fiscal year 1989 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $25,000,000: *Provided,* That except as provided in this or any other Act appropriating funds for foreign operations, export financing, and related programs, no provision of law enacted after May 19, 1988, may transfer funds to, or otherwise make available funds for, the Trade and Development Program.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1989, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $200,000,000 of contingent liability for loan principal.

The CHAIRMAN. Are there any points of order against title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR MULTILATERAL PROGRAMS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the total funds made available by this Act under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the prior written approval of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1989, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SURPLUS COMMODITIES

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "Southern Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Military Assistance", "Foreign Military Credit Sales", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961 or of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.

CONSULTING SERVICES

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526. Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

UNITED NATIONS VOTING RECORD

SEC. 527. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

(c) The report required by subsection (a) of this section shall be in the identical format as the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 and Public Law 98-164 on June 6, 1986.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 528. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 529. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUNDS FOR ISRAEL

SEC. 530. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 531. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

NOTIFICATION REQUIREMENT ON FUNDING FOR LEBANON

SEC. 532. None of the funds appropriated or otherwise made available pursuant to this Act for the "Economic Support Fund" or for "Foreign Military Credit Sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 533. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least 15 days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

GUATEMALA—RESETTLEMENT PROGRAM

SEC. 534. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

ENVIRONMENTAL CONCERNS

SEC. 535. (a) It is the policy of the United States that sustainable economic growth must be predicated on sustainable use of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDB's) to—

(1) promote the adoption of internal guidelines requiring the use of least-cost

planning techniques in evaluating proposed energy loans, and consider refusal to support power generation, utilization or energy sector loans unless cost-effective conservation measures have been fully evaluated and considered;

(2) encourage each MDB to offer technical assistance to borrower nations in preparing national energy plans. Special emphasis shall be given to least-cost analysis in making decisions on energy use and development, and such analyses shall take into account all demand-side as well as supply-side options;

(3) promote expansion of MDB expertise in the areas of energy conservation and renewable energy sources;

(4) promote the adoption of lending strategies which place increased emphasis on energy conservation and efficiency as opposed to merely increasing generating capacity;

(5) promote adoption of policies which minimize emissions of greenhouse gases;

(6) promote the adoption of lending strategies that place increased emphasis on energy efficient transportation programs. Such strategies shall consider alternatives to conventional mechanized transport such as nonmotorized vehicles, public transport and increased energy and cost efficiency of transportation systems; and

(7) promote the use of existing and the development of new mechanisms to promote conservation of biological diversity. Existing resources to be consulted shall include but not be limited to Conservation Data Centers.

(b) The Administrator of the Agency for International Development shall—

(1) in the submission of future "early warning system" reports, as required by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, make use of resources that promote the conservation of biological diversity, such as Conservation Data Centers;

(2) submit a report to the Committees on Appropriations, by January 15, 1989, on the Agency's activities and practices which encourage or discourage the use of renewable energy technologies overseas, and on ways to correct or refocus those efforts. This report shall include but is not limited to Agency activities which could be directed to develop a stronger interface with the private sector through the establishment of a United States Renewable Energy Industry Advisory Council;

(3) issue guidance to all Agency missions stating that renewable energy resources and conservation are to be the centerpiece of its energy efforts, and meeting energy needs through these means shall be discussed in every Country Development Strategy Statement; and

(4) take steps to implement recommendations set forth by a report of the Committee on Health and Environment on opportunities for the Agency to assist developing countries in the proper use of agricultural and industrial chemicals.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 536. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 537. Not less than $45,000,000 of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 538. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 539. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

REFUGEE RESETTLEMENT

SEC. 540. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Credit Sales", "Military Assistance", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

IMMUNIZATIONS FOR CHILDREN

SEC. 541. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 542. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SUDAN, SOMALIA, AND JAMAICA NOTIFICATION REQUIREMENTS

SEC. 543. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Jamaica or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 544. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund; Military Assistance; and Foreign Military Credit Sales, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 545. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to $6,000,000 may be used to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided*, That personnel which are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

INTER-AMERICAN DEVELOPMENT BANK—COORDINATION OF PROJECTS

SEC. 546. The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States are effectively coordinated with the activities of the Inter-American Development Bank.

CHILE—LOANS FROM MULTILATERAL DEVELOPMENT INSTITUTIONS

SEC. 547. (a) It is the sense of Congress that pursuant to section 701 of the International Financial Institutions Act of 1977, the United States Government should oppose all loans to Chile from international financial institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) None of the funds made available by this Act for the "Economic Support Fund" or for title III shall be obligated or expended for Chile.

COMMODITY COMPETITION

SEC. 548. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

PROHIBITION OF FUNDING RELATED TO COMPETITION WITH UNITED STATES EXPORTS

SEC. 549. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, 19 U.S.C. 1202, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 550. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

ASSISTANCE FOR LIBERIA

SEC. 551. (a) Funds appropriated by this Act under the heading "Military Assistance" or "Economic Support Fund" may be made available for assistance for Liberia only if the Secretary of State certifies to the Congress that the Government of Liberia—

(1) has taken significant steps to: reduce extra-budgetary expenditures; reduce borrowing from any source (whether local or foreign) in anticipation of future tax receipts, profit sharing, maritime revenues, or other revenues; reduce the use of off-shore funds for the financing of domestic expenditures; and reduce the extent to which public expenditures exceed allocations;

(2) has ceased diverting and misusing United States assistance, and has paid all amounts owed to the local currency accounts (established pursuant to the Agricultural Trade Development and Assistance Act of 1954) for the shortfalls in its payments for the fiscal years 1983 and 1984; and

(3) is making significant progress toward—

(A) permitting all political parties to freely organize, assemble, and disseminate their views as provided for by the Liberian constitution;

(B) respecting constitutional guarantees of freedom of the press and freedom of speech;

(C) maintaining the independence of the legislative branch in accordance with the Liberian constitution;

(D) establishing and maintaining an independent judiciary;

(E) providing full access to all political prisoners by internationally respected human rights organizations for the purpose of investigating human rights abuses; and

(F) improving the human rights situation.

(b) None of the funds appropriated in this Act shall be obligated or expended for Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

(c) The requirements of this section are in addition to any other statutory requirements applicable to assistance for Liberia.

RECIPROCAL LEASING

SEC. 552. Section 61(a) of the Arms Export Control Act is amended by striking out "1988" and inserting in lieu thereof "1989".

LIMITATION ON DEFENSE EQUIPMENT DRAWDOWN

SEC. 553. Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided*, That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 554. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 555. Funds appropriated by this Act may not be obligated unless an Act authorizing the appropriation of such funds has been enacted.

NOTIFICATION CONCERNING EL SALVADOR

SEC. 556. (a) The Congress expects that—

(1) the Government of El Salvador and the armed opposition forces and their political representatives will be willing to pursue a dialogue for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C-111-03-984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in implementing the land reform program.

(b) REPORTS.—On April 1, 1989, and September 30, 1989, the President shall report to the Speaker of the House of Representatives, the Committees on Appropriations and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (a) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall specify the status of all cases presented to the Salvadoran courts involving human rights violations against civilians by members of the Salvadoran security forces, including military officers and other military personnel and civil patrolmen.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 557. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided*, That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements.

MIDDLE EAST REGIONAL COOPERATION

SEC. 558. Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $5,000,000 from funds appropriated under the heading "Economic Support Fund": *Provided*, That of this amount up to $500,000 shall be made available for scholarships for support of Israeli students studying in institutions of higher education in Arab countries and up to $500,000 shall be made available for scholarships for support of Arab students studying in institutions of higher education in Israel: *Provided further*, That such scholarships shall be called "Arab-Israeli Peace Scholarships".

ASSISTANCE FOR THE PEOPLE OF LEBANON

SEC. 559. The Congress recognizes that the people of Lebanon have suffered greatly during much of the past two decades from the effects of natural disasters and civil strife. The Congress further recognizes that assistance provided through nongovernmental organizations has had a significant impact in mitigating the adverse consequences of these unfortunate events on the Lebanese people. Therefore, up to $5,000,000 of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be made available to provide assistance for the people of Lebanon. Such assistance shall be made available only through the United Nations Children's Fund, indigenous nongovernmental organizations, or international organizations, and shall be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 560. It is the Sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the Sense of the Congress, that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 561. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, or (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987.

EARMARKS

SEC. 562. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations.

HAITI

SEC. 563. (a) SUSPENSION OF ASSISTANCE.—During fiscal year 1989, none of the funds made available by this Act or by any other Act or joint resolution may be obligated or expended to provide United States assistance (including any such assistance appropriated and previously obligated) for Haiti (other than the assistance described in subsection (b) of this section) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) EXCEPTIONS.—The term "United States assistance" does not include—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies;

(2) assistance which involves the donations of food or medicine;

(3) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961);

(4) assistance for refugees;

(5) assistance under the Inter-American Foundation Act;

(6) assistance necessary for the continued financing of education for Haitians in the United States;

(7) assistance provided in order to enable the continuation of migrant and narcotics interdiction operations; or

(8) activities under the National Endowment for Democracy Act.

(c) OTHER SANCTIONS.—It is the sense of the Congress that, in order to further encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should—

(1) suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act; and

(2) seek international cooperation to encourage such adherence by the Government of Haiti through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

ASSISTANCE FOR PANAMA

SEC. 564. (a) Unless the President certifies to Congress that—

(1) substantial progress in assuring civilian control of the armed forces has been demonstrated and that the Panama Defense

Forces and its leaders have been removed from non-military activities and institutions;

(2) an impartial investigation into allegations of illegal actions by members of the Panama Defense Force is being conducted;

(3) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections; and

(4) freedom of the press and other constitutional guarantees, including due process of law, are restored to the Panamanian people;

then no United States assistance (including any such assistance appropriated and previously obligated) shall be obligated or expended for programs, projects or activities which assist or lend support for the Noriega regime or ministries of government under the control of the Noreiga regime in this fiscal year and any fiscal year thereafter, and none of the funds appropriated or otherwise made available in this Act, or any other Act, shall be used to finance any participation of the United States in joint military exercises conducted in Panama during the fiscal year 1989.

(b) It is the sense of the Congress that if the conditions described in paragraphs (1) through (4) of subsection (a) have been certified as having been met, then not only will United States assistance be restored, but increased levels of such assistance should be considered for Panama.

(c) For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guarantees under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(5) financing under the Export-Import Bank Act of 1945; and

(6) assistance provided by the Central Intelligence Agency or assistance provided by any other entity or component of the United States Government if such assistance is carried out in connection with, or for purposes of conducting, intelligence or intelligence-related activities except that this shall not include activities undertaken solely to collect necessary intelligence;

except that the term "United States assistance" does not include (A) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961), (D) assistance for refugees, (E) assistance under the Inter-American Foundation Act, (F) assistance necessary for the continued financing of education for Panamanians in the United States, or (G) assistance made available for termination costs arising from the requirements of this section.

(d) The Secretary of Treasury shall instruct the United States Executive Directors to the International Financial Institutions (the International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in subsection (a) of this section have been met.

ELIMINATION OF THE SUGAR QUOTA ALLOCATION OF PANAMA

SEC. 565. (a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided*, That such products may be imported after the beginning of the last week of any quota year if the President certifies that for the entire duration of the quota year, freedom of the press and other constitutional guarantees, including due process of law, have been restored to the Panamanian people.

(b) REALLOCATION OF QUOTA AMOUNTS.—For any quota year for which the President does not certify for the entire duration of the quota year, freedom of the press and all other constitutional guarantees, including due process of law, have been restored to the Panamanian people, no later than the last week of such quota year, the United States Trade Representative shall reallocate among other foreign countries the quantity of sugar, sirup, and molasses products of Panama that could have been imported into the United States before the date of enactment of this Act under any limitation imposed by other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States during any period.

(c) CERTIFICATION.—The provisions of subsections (a) and (b), and the amendments made by subsection (c) of section 571 of the Foreign Operations, Export Financing, and Related Programs, Appropriations Act, 1988, shall cease to apply if the President certifies to Congress pursuant to section 564(a) of this Act.

STINGERS IN THE PERSIAN GULF REGION

SEC. 566. (a) PROHIBITION.—Except as provided in subsection (b), no Stinger antiaircraft missiles may be provided, directly or indirectly, by sale, lease, grant or otherwise, during fiscal year 1989 to any country in the Persian Gulf region.

(b) EXCEPTION.—Notwithstanding the prohibition in subsection (a), such missiles may be provided to Bahrain if the President certifies to Congress that—

(1) such missiles are needed by the recipient country to counter an immediate air threat and/or to contribute to the protection of United States personnel, facilities or operations;

(2) no other appropriate system is available from the United States;

(3) the recipient agrees to safeguards as required in the Letter of Offer and Acceptance by the United States Government to protect against diversion; and

(4) the recipient country has agreed to a United States buyback of all the remaining missiles and components which have not been destroyed or fired in order to return them to the possession and control of the United States when another United States air defense system which meets the military requirements can be made available or not more than 18 months from the date of enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.

(c) NOTIFICATION.—Before issuing any letter of offer to sell or provide Stinger missiles (without regard to the amount of the sale or transfer) the President shall notify the Speaker of the House of Representatives and the Majority Leader of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 567. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 568. Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1989—

(1) shall not be obligated or expended for assistance to a country listed in section 6(j) of the Export Administration Act of 1979 on the date of enactment of this Act or placed on that list thereafter,

(2) if obligated before such date assistance for such country, shall not disbursed, and

(3) if expended before such date for assistance to be delivered to such country from the United States or by United States nationals, then no such delivery shall be made, unless such assistance is for humanitarian purposes.

MAINTENANCE OF MILITARY BALANCE OF EASTERN MEDITERRANEAN

SEC. 569. (a) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the eastern Mediterranean.

(b) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, for each fiscal year, the ratio of—

(1) the value of excess defense articles made available for Turkey under this section, to

(2) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

(A) the amount of military assistance and financing provided for Turkey, to

(B) the amount of military assistance and financing provided for Greece.

(c) EXCEPTION TO REQUIREMENT.—Subsection (b) shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles.

DETENTION OF CHILDREN

SEC. 570. It is the sense of the Congress that the practice of detaining children without charge or trial is unjust, inhumane, and is an affront to civilized principles. The Congress further believes that it should be the policy of the United States to make the ending of the practice of detaining children without charge or trial a matter of the highest priority. Therefore, the Congress believes the Secretary of State should convey to all international organizations that ending the practice of detaining children without charge or trial should be a policy of the highest priority for those organizations.

MILITARY ASSISTANCE TO MOZAMBIQUE

SEC. 571. Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available pursuant to this Act may be used to provide military assistance to Mozambique.

RELATIVELY LEAST DEVELOPED COUNTRIES

SEC. 572. During fiscal years 1990 and 1991, the President may use the authority of paragraphs (A) and (B) of section 124(c)(1) of the Foreign Assistance Act of 1961 with respect to such aggregate amounts of principal and interest payable during each of these fiscal years as the President may determine, except that that authority may be used with respect to a relatively least developed country only if—

(1) an International Monetary Fund standby agreement is in effect with respect to that country; or

(2) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country.

RESOLUTION OF JAPANESE BEETLE PROBLEM

SEC. 573. None of the funds appropriated by this Act may be used to fund any programs to assist in solving the Japanese beetle problem in the Azores. It is the sense of the Congress that this problem was created by the Department of Defense which should fund any program to resolve it.

HONDURAS—RAMIREZ CASE

SEC. 574. It is the sense of the Congress that, pursuant to the procedures contained in section (j) under the heading "Assistance for Central America" enacted in Public Law 100-71, the Honduran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the owner of the property in question is strongly encouraged to accept the proposed settlement. Therefore, notwithstanding the provisions of such section, $10,000,000 of the Economic Support Funds made available by Public Law 100-71 for Honduras but withheld from expenditure shall be available for expenditure upon enactment of this Act: *Provided*, That if a settlement is reached on the property in question, then the additional $10,000,000 withheld from expenditure pursuant to such section shall then be available for expenditure.

CONGRESSIONAL PRESENTATION FOR SECURITY ASSISTANCE PROGRAMS

SEC. 575. Unless the fully printed final version of the fiscal year 1990 Congressional Presentation for Security Assistance Programs is received by the Congress by March 1, 1989, $10,000,000 of the funds appropriated by this Act for the Military Assistance Program shall be returned immediately to the General Fund of the United States Treasury.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 576. Of the funds made available by this Act, not less than $20,000,000 shall be made available for scholarships for disadvantaged South Africans: *Provided*, That these funds shall be made available in equal amounts from funds earmarked for Sub-Saharan Africa within the Economic Support Fund, and from funds made available for Sub-Saharan Africa, Development Assistance.

THIRD PARTY TRANSFER

SEC. 577. Section 3(d)(2)(A) of the Arms Export Control Act is amended by striking out "law" and inserting in lieu thereof "joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act".

NARCOTICS CONTROL PROGRAM

SEC. 578. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund" $61,000,000 shall be made available only as follows: $25,000,000 shall be available for Bolivia, $9,000,000 shall be available for Ecuador, $25,000,000 shall be available for Jamaica, and $2,000,000 shall be available for Peru.

(2) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 (relating to the military assistance program) $16,500,000 shall be made available only as follows: $5,000,000 shall be available for Bolivia, $3,000,000 shall be available for Ecuador, $3,500,000 shall be available for Jamaica, and $5,000,000 shall be available for Colombia.

(3) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $3,500,000 shall be made available in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961, only for the procurement of weapons or ammunition for foreign law enforcement agencies, and paramilitary units organized for the specific purposes of narcotics enforcement, for use in narcotics control, eradication, and interdiction efforts, notwithstanding section 482(b) of such Act: *Provided*, That funds made available under this paragraph shall be made available only for Bolivia, Peru, Colombia, Ecuador, and for the regional air wing pursuant to sections 482 and 484 of the Foreign Assistance Act of 1961, and shall be in addition to amounts earmarked for the countries contained in paragraph (2) of this subsection.

(4) Funds made available under this subsection shall be available for obligation consistent with the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control) except as provided in paragraph (3) of this subsection.

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1988, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

(d) If any funds appropriated by this Act for "Economic Support Fund," "Military Assistance", "International Military Education and Training", or "Foreign Military Credit Sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking, those funds shall be reprogrammed for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking: *Provided*, That any such reprogramming shall be subject to the notification procedures of the Committees on Appropriations.

(e)(1) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs), of the Agency for International Development, and up to $15,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

(2) Section 481(i)(4)(E) of the Foreign Assistance Act of 1961 is amended by—

(A) inserting "(vii) assistance for narcotics education and awareness activities under section 126 of this Act;" after "this Act," and

(B) redesignating clause (vii) as clause (viii).

(f) In order to maximize the participation of other countries in the effort to promote international narcotics control, the Secretary of State is directed to urge the United Nations Fund for Drug Abuse Control to develop a more comprehensive program for enlisting greater multilateral support for coca control programs and related development activities in South America.

(g)(1) Section 481(h)(2)(A)(ii) is amended to read as follows:

"(ii) A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign country whereby the foreign country agrees to undertake specific activities including, where applicable, efforts to reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution; drug interdiction and enforcement; drug consumption and treatment; identification and elimination of illicit drug laboratories; identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs; cooperation with United States drug enforcement officials; and, where applicable, participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

(2) Section 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in Public Law 100-202) is amended to read as follows:

"(c) Beginning with certifications with respect to fiscal year 1989 and each subsequent year, a country which in the previous year was designated a major drug producing or drug transit country may not be deemed as cooperating fully unless it has in place a bilateral narcotics agreement with the United States, or a multilateral agreement which achieves the objectives of this section.".

(3) Section 481(h)(2)(A)(i)(I) is amended by inserting "or multilateral agreement which achieves the objectives of this subsection," after "(ii))".

(h) Section 481(h)(1) of the Foreign Assistance Act of 1961 is amended by inserting before "Subject" the following: "Not later than October 1 of each year, the Secretary of State shall submit a report to the Congress of those countries identified by the Secretary as being major drug producing or major drug transit countries (including the definition used to determine such drug transit countries) for purposes of the withholding requirements contained in subparagraph (A) of this paragraph and the certification requirements contained in paragraph (2) of this subsection.".

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

SEC. 579. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 580. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

CAMBODIAN NON-COMMUNIST RESISTANCE FORCES

SEC. 581. If the President makes available funds appropriated by this Act for the Cambodian non-Communist resistance forces, such funds shall be derived from funds appropriated under the headings "Military Assistance" and "Economic Support Fund", and shall be made available notwithstanding any other provision of law: *Provided*, That funds made available for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

HUMAN RIGHTS IN CUBA

SEC. 582. The Congress finds that—

(1) the United Nations Human Rights Commission was established by the Economic and Social Council in 1946 to investigate and make recommendations concerning the violation of human rights and fundamental freedoms;

(2) the United Nations, the United Nations Human Rights Commission, and the Chairman of the Commission are to be commended for Decision 1988/106 as interpreted by the Chairman which establishes a working group on Cuba to conduct an onsite investigation and prepare a report for consideration under agenda item 12(h) at the forty-fifth session of the Commission in 1989; and

(3) the President, the Secretary of State, the Permanent Representative of the United States to the United Nations, and the Representative of the United States to the United Nations Human Rights Commission are to be commended for their efforts to place Cuba on the agenda of the Commission and are strongly encouraged to continue to support and assist the Commission in its implementation of Decision 1988/106.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989".

The CHAIRMAN. Are there any points of order against title V?

Does the gentleman from Illinois [Mr. CRANE] desire to offer his amendment?

If not, does the gentleman from New York [Mr. GILMAN] desire to offer his amendment?

Mr. SMITH of Florida. Mr. Speaker, under a unanimous consent request and approval, I have an amendment at the desk designated the Gilman amendment.

The CHAIRMAN. The Chair will advise the gentleman from Florida that that is the second Gilman amendment.

Mr. SMITH of Florida. Mr. Chairman, the first Gilman amendment is not offerable on the grounds that a unanimous consent request for a designee was denied by the House upon objection of a Member?

The CHAIRMAN. The Chair was merely giving the gentleman from New York [Mr. GILMAN] a chance, if he wished to offer the amendment, that he might do so.

For what purpose does the gentleman from Florida [Mr. SMITH] rise?

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment designated Gilman amendment No. 2.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Florida: In section 578, on page 91, line 6, strike "as follows:" and everything that follows to the period on page 9, line 9, and insert in lieu the following: "for Bolivia, Ecuador, Jamaica, and Peru; but not more than $25 million shall be available to any one country"

In section 578, on page 91, line 13, strike "as follows:" and everything that follows to the period on page 91, line 716, and insert in lieu thereof "for Bolivia, Ecuador, Jamaica, and Colombia, but not more than $5 million shall be available for any one country".

Mr. SMITH of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. SMITH] is recognized for 10 minutes.

Mr. SMITH of Florida. Mr. Chairman, I appreciate the capability to be designated for the purpose of offering this amendment which was originally submitted by the gentleman from New York [Mr. GILMAN], who unfortunately cannot be with us today.

I want to compliment the chairman of the subcommittee, the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Oklahoma [Mr. EDWARDS] who have done an excellent job in bringing to the floor a bill that I hope will pass and a bill which reflects to a large degree the kinds of important programs which the United States must carry on around the world.

This particular amendment deals with a subject with which I am very much familiar. As the chairman of the International Narcotics Task Force of the Foreign Affairs Committee, a chore which is shared by the gentleman from New York [Mr. GILMAN] with me as the ranking Republican, we have worked very diligently in the countries of South America to provide some capability for those countries to be given as much as they can in terms of help from the United States in the fight against drugs.

One of the controlling factors which is most important is whether or not there are programs available at the time we have our funds available for use by these countries, programs that can absorb the funds which we are then going to be giving these countries. In that regard, we try to give the agencies of the administration that deal with these problems as much flexibility as possible so that too much or too little money is not given to any area because a program may or may not be available to utilize those funds.

In this case what we are doing, Mr. Chairman, is removing the earmark on the additional funds provided under the bill for narcotics growing or transit countries under the ESF, the Economic Support Fund, and the MAP, or Military Assistance Program.

The amendment limits the countries which may receive the added funds to the same list of countries contained in the committee bill, so there is no change.

It also retains the per country ceiling of $25 million for the ESF funds and $5 million for the MAP funds.

This amendment is being submitted because in the view of many we ought to be giving as much flexibility to the administration and we ought to be doing it so that recognition can be made whether or not programs are available to be able to utilize these funds.

I realize that this is a slight change from the original administration request, but frankly, situations have changed in the regions and in those countries. Now we need to be able to make distinctions between those countries for the purpose of utilizing this money well.

Again, I want to salute the gentleman from Wisconsin and the gentleman from Oklahoma.

These are important funds, funds that need to be utilized to help these countries rid themselves of this terrible dangerous problem, because Mr. Chairman, if they rid themselves of the drug problem in Peru, in Bolivia, in Colombia, in Ecuador, in Jamaica, and other countries, we will be able to see a reduction in the problems which we are facing here in the United States and this money will provide, with the administration's discretion, the capability to be able to get a continuing forward progress on these funds.

So I do want to thank the gentleman for allowing me to do this.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would simply say that I have no objection to the amendment. I think it strengthens what the committee was trying to do.

As the gentleman indicates, all it really does is to provide the administration with somewhat greater flexibility.

At least on behalf of this side of the aisle, Mr. Chairman, I am certainly happy to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. Does the gentleman from Florida [Mr. MCCOLLUM] desire to offer his amendment?

Does the gentleman from New Jersey [Mr. TORRICELLI] desire to offer his amendment?

Does the gentleman from Ohio [Mr. TRAFICANT] desire to offer his amendment?

The gentleman from Ohio [Mr. TRAFICANT] has another amendment. Does the gentleman from Ohio desire to offer that amendment?

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER] for the purpose of offering an amendment.

□ 1415

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, pursuant to the rule, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 98 after line 24, insert the following new section:

SEC. 583. No funds appropriated under this Act shall be expended in any workplace that is not free of illegal possession or use of controlled substances which is made known to the federal entity or official to which funds are appropriated under this Act.

The CHAIRMAN. Pursuant to the rule, the Chair recognizes the gentleman from Pennsylvania [Mr. WALKER] for 10 minutes.

Mr. WALKER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this amendment is the same amendment that I have been offering to other appropriation bills. I think in this particular case it has some implications beyond the bills that we have had before. This particular amendment says that they have to have a drug-free workplace in order to receive Federal moneys. It does in fact refer to illegal use and illegal possession of drugs. In the case of a foreign operations bill, it seems to me then that we have to determine what we mean by that word "illegal."

In the consultations I have had with attorneys, they feel as to what that does is brings us under the obligations of international law, so therefore we will have in fact a standard that not only applies the restrictions of legality with regard to domestic law to those people that would be covered under the domestic content, but also we would have a standard that would say to foreign nations that we expect you to also comply with all relevant international laws that your country is a signatory to.

Mr. Chairman, once again it is a standard which is not difficult to apply if one looks at the language of the amendment. This is an amendment that has become I understand controversial over the last few weeks. We have had people come out and describe it as nonsense and all kinds of things, but the bottom line is that what they are saying about the amendment just has no basis in fact.

I remind my colleagues again that we have an amendment here which is not on full face the only language that we have with regard to this matter. We have a whole body of underlying Federal law which also governs the situation and so as we try to have drug-free workplaces we are also dealing with the whole due process procedures that are a part of Federal law.

It seems to me very important that we understand that as we apply this standard that we are not applying a standard which is unworkable. In fact I think it is an extremely workable standard if we understand that we have to give people due process, that we have to provide an operational kind of mode. I think that this is an amendment that should be adopted on this particular bill as it has been adopted in previous appropriation bills, and I would hope that whatever controversy we have had before we will not have in this particular instances.

Mr. Chairman, I urge my colleagues to adopt the drug-free workplace amendment.

Mr. HUNTER. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. WALKER. Mr. Chairman, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman from Pennsylvania for offering his amendment. As I understand, this is a similar amendment to amendments which the gentleman from Pennsylvania has offered to a series of other bills, is that correct?

Mr. WALKER. That is exactly right. This is the same language we have previously adopted in the House, and I have offered again on this particular bill in the knowledge that it will have impact on our program.

Mr. HUNTER. If the gentleman will yield further, can the gentleman give an example? It looks like a very straightforward amendment, in that no funds appropriated under this act shall be expended in any workplace that is not free of illegal possession or use of controlled substances which is made known to the Federal entity or official to which funds are appropriated under this act.

Mr. WALKER. The agencies that would be in the process of distributing the funds would have to maintain a drug-free environment in order to continue to get those funds and send them out. It seems to me that that is a standard that executive orders have already indicated should be maintained and that this particular language would simply build upon those executive orders that are already in place.

Mr. HUNTER. If the gentleman would yield further, offices would be drug free, they would have programs with managers to implement those programs?

Mr. WALKER. The intent is to make certain that contractors, subcontractors, and grantees and those Federal Government agencies are kept drug free.

Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. OBEY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. WALKER

Mr. OBEY. Mr. Chairman, pursuant to the rule, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY as a substitute for the amendment offered by Mr. WALKER:

SEC. . No funds appropriated under this Act shall be expended in any workplace, including a workplace within any government or military force, that is not free of any illegal use or possession of controlled substances, which is made known to the federal entity or official to which funds are appropriated under this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Wisconsin [Mr. OBEY] is recognized for 10 minutes.

Mr. OBEY. Mr. Chairman, let me simply say that I think every serious person in this country and certainly every Member of this body recognizes that drug use is a tragedy and certainly anyone who uses drugs has to be incredibly misguided. But my favorite philosopher, as people who know me know, is a fellow named Archy the Cockroach. And Archy wrote an old book back in the 1920's which is my bible when it comes to human nature and human foibles.

One of the things that Archy said is, "did you ever notice that when a politician does get an idea, he usually gets it all wrong?"

Let me simply say that I fully respect the gentleman from Pennsylvania's [Mr. WALKER] concern about the drug problem and his desire to try to create a social atmosphere in this country which pressures people through social mores and other devices into refusing to use drugs. Certainly everybody applauds that intention.

Mr. Chairman, my problem is that I take this job seriously. In fact some people, I suppose, think I take it too seriously. But my concern with this amendment as offered by the gentleman from Pennsylvania [Mr. WALKER] is that I really believe that it diverts attention from the real action which is needed if we are going to engage in a real, as opposed to a sham, war against drugs. We need massive drug education in the early grades; we need more resources committed to prosecutors' offices, to the courts, to the Coast Guard; and we need more help to governments who are fighting to reduce the control of the Medellin cartel and other drug cartels around the world. We need more tough action in this country. But this Walker amendment sort of reminds me of the "folk song" army back in the 1960's, the people who would sing a song about the war rather than trying to debate seriously about it.

There was a song written about them, and Tom Lehrer used to sing it and he talked about the folk song army and the theme of the song was "Ready, Aim, Sing."

I would suggest that the motto for the Walker amendment would be, "Ready, aim, pose for political holy pictures" because I think that while its intention is certainly good, it is so carelessly thought out and so wacky in its implementation that it weakens long-term support for serious efforts to get at drug abuse.

No one can take it seriously if a contractor is required, as the result of one employee using drugs, that contractor loses his Federal contracts, or if a company for instance which has worked for 3 years to get a union to accept a collective bargaining agreement under which drug testing is required and drug rehabilitation is required if anyone is found guilty of using drugs in a plant, is then told, "Sorry but that is not enough, you have to lose your Federal contract if one worker decides to get out of line."

Mr. Chairman, I have had a good many Members come up to me and simply say that they know that the Walker amendment is unworkable, that it is outlandish, but they say, "Please leave it alone. Just fix it up in conference."

I have to say, Mr. Chairman, there is nothing so pitiful as a group of panicked politicians in full flight. It just seems to me that within a few weeks Members of this House will sober up, but meanwhile I want to make sure that, if the Walker amendment is adopted, that it is not applied selectively. And it seems to me that if we are really serious in applying this business to American industry and to American government and to the American military then we ought to apply it to foreign governments, to foreign military entities who receive taxpayers' money under this bill. That is all this amendment does. It clarifies the Walker amendment to make sure that it is applied also to any government that receives Federal money under this foreign aid bill and to any military which would be using American taxpayers' funds as a result of that appropriation.

What it says is that if we are going to screw up an American businessman's operation because of the underlying conduct of one worker then what it says to Honduras is, "Sorry, but if your Ambassador to Panama is going to try to bring cocaine into this country you get no money from us."

It says that if we really want to play King Canute and pretend we can tell this country that the drug tide shall not rise simply by having a missive like on the floor of the House of Representatives, then what it says is "If you are going to send that kind of a message to this country, send it to the entire world."

Mr. Chairman, I urge adoption of my amendment as a substitute to the Walker amendment.

Mr. WALKER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am pleased, I think, to welcome the gentleman from Wisconsin [Mr. OBEY] aboard to this concept. He talks about politicians being in full flight and then offers a broadening language, so I guess I am in favor of that. The gentleman from Wisconsin [Mr. OBEY] does I think misrepresent the facts and I do not believe he knowingly is doing that. I respect him too much for that.

Mr. Chairman, I think the gentleman from Wisconsin [Mr. OBEY] does not want to work at trivializing the issue because the fact is we have in many instances in this country used the power of Federal funding to get desired conduct in the country. We do it all the time. We do it in appropriation bills all the time.

No funds may be spent for a particular purpose, is what we say in legislation, and we apply it broadly to the whole country. That is exactly what we are doing here and I think that if we want action on drugs, we can get action on drugs. To suggest that one employee is going to lose a full contract is utterly absurd. They trivialize it by raising some absurd example so that they think they will make people shy away from the amendment. That is an utterly absurd case. If they will read the amendment, my amendment says "cannot be expended in any workplace which is not free of illegal possession of drugs or use of drugs." Once the workplace is cleaned up of that abhorrent behavior from the person that has done wrong, there is then a drug-free workplace again, and the money can continue to flow under my amendment.

The things said by the gentleman from Wisconsin [Mr. OBEY] he has said before and they are ridiculous, and they are inane on the face of what the language says.

Mr. Chairman, I urge that Members adopt my amendment. It is a way of assuring that within the due process procedures of this country we sent a very strong signal saying that we are not going to tolerate Federal moneys being used in places where drugs are also used. That is all this amendment is saying. That is the kind of statement that Congress has made over and over and over again. We have made it with regard to abortion, we have made it with regard to many, many social issues that this Congress abhors, and we are now making it with regard to drugs.

Mr. HUNTER. Mr. Chairman, will the gentleman from Pennsylvania [Mr. WALKER] yield?

□ 1430

Mr. WALKER. Mr. Chairman, I yield to the gentleman from California [Mr. Hunter].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

I want to pursue with the gentleman the change that was made by the gentleman who offered the substitute amendment. It appears to me if you have a contractor, for example, who is laying a foundation for a Federal building, and he has got his cement workers out there, and it becomes apparent that one of them is using narcotics on the job, that contractor does not lose his contract for all time, but that the work would be suspended until he got rid of that individual and moved those narcotics off the scene and basically created a drug-free workplace.

Mr. WALKER. Clean up the workplace. The gentleman is absolutely correct.

Mr. HUNTER. That could take a matter of minutes or perhaps hours if I understand the gentleman? Is that correct?

Mr. WALKER. The gentleman has to understand under this standard that particular usage would have to be made known to the Federal Government before any action could be taken anyhow. It would have to be made known to the officials administering the act. You have to have a made-known kind of standard before any action can be taken, period.

Mr. HUNTER. Let me pursue with the gentleman one other point. We use similar legislation to prevent discrimination, racial discrimination, for example.

Mr. SMITH of Florida. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. Smith] is recognized for 10 minutes.

Mr. SMITH of Florida. Mr. Chairman, I will not avail myself of all of that time.

The gentleman from Wisconsin has raised a valid substitute to the extent that it carries to really the absurd what is a move in that direction by the original underlying amendment.

While I, like the gentleman from Pennsylvania, promote everything that this Congress can do to bring the drug problem under control, and I have stood on the floor of this House year after year after year talking about the problem of drugs, you cannot reduce that problem by mere rhetoric and a wave of a magic wand.

I am afraid that the amendment of the gentleman from Pennsylvania is really an attempt at a wave of a magic wand. A workplace where Federal funds are used may contain thousands upon thousands of workers. We know that in this country today there is a very good chance that even a small percentage of those thousands may be illegal users of drugs. This amendment would have the most chilling effect not upon the use of the drugs by those employees but upon the capability of these business people to control their workplace in terms of knowing whether or not Federal funds will be flowing. There are no parameters in the bill to determine what is reasonable and what is not in terms of a drug-free workplace. It is something we all aspire to, but there is no standard in the bill. There is no suggestion that so many people using it would be valid but so many would not be, so many who are not on drugs against those that you have in a rehabilitation program, if you have a rehabilitation program and you find a new one, then do you lose your Federal funds? If you have standards set out in employee guidebooks or a set of rules and conduct and somebody breaks those as will happen in the workplace with thousands, as happens right here in this workplace, do you lose your Federal funding? According to the amendment, probably you do, because if you knew that someone was using drugs under the terms of the amendment, it has got to be someone that ends up to be the drug user, and it is absolutely vague. It is absolutely without substance, although it points in the right direction. Nobody takes exception to what he wants to do in the long term.

The problem is you cannot solve this huge, terrible situation with this kind of magic wand and approach. "We decree there shall be no drugs in the workplace," and, therefore, they are not there. It does not work. It is going to take the American people a long time and a lot of hard work to defeat the problem of drugs, and simplistic approaches will not work, although they sound real good, Mr. Chairman, but unfortunately the people who have this drug problem are not listening to us.

Mr. Chairman, I yield to the gentleman from California [Mr. Berman].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding.

I do not think either moral indignation or political maneuvering should be a substitute for precise legislating. I was wondering if the gentleman from Pennsylvania could explain to me in the context of the foreign assistance appropriation and in the realization that we have an Agency for International Development that contracts with private and voluntary organizations to promote and finance a variety of development assistance programs in countries throughout the world just how he envisions this amendment which has no specifics, no implementation procedures, no clue whatsoever as to how this would apply in the context of the Agency for International Development. What is AID's obligation? What is the Federal Government's obligation to determine whether on the site of a poultry farm in South America that is a private voluntary organization financed at least in part by AID, what are the obligations? How is this process possibly going to work?

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. First of all, the obligation of the Agency does not even come into play unless drug use or drug possession in that particular site is made known to them. If you read the amendment, the officials of AID would have to find out from independent sources that in fact there was drug use going on at that site. If they found out that there was drug use going on at that site, they would have to at that point confirm it and then they would have to cut off moneys unless they were given information that what had been drug use has in fact been eliminated and the workplace is again drug free, because all the obligation here is is that it be flowing to a drug-free workplace, so you have a made-known standard, and then you also have the ability of the Agency to determine whether or not the workplace is drug free. That is what it says.

Mr. SMITH of Florida. Mr. Chairman, reclaiming my time, what we are dealing with here, as the gentleman from California [Mr. Berman] has indicated, is a totally unconstitutional, unenforceable, unworkable piece of legislation which, in my estimation, really is a very unfortunate way to tackle the problem, because it really does trivialize the problem of drugs.

I stood on the floor of this House last week and said that I thought the Surgeon General of this country had made a grave error in making a comparison between heroin and cocaine and nicotine, because while both are addictive, there are gulfs of difference between them, and I believe that this kind of thing also trivializes the real problem.

The gentleman from California [Mr. Berman] has indicated that there really is not a standard, and the gentleman from Pennsylvania [Mr. Walker] has only confirmed that.

I would urge my colleagues to adopt the substitute at least which is so far to that point on the outskirts that I am sure no one will ultimately want to include that in the conference.

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume.

I rise to again speak in support of my amendment to the Walker amendment under the remaining time I have available.

I simply want to read my amendment. My amendment simply adds the words "including a workplace within any government or military force," so that makes clear that what we are applying to American businessmen and American contractors we are also applying to international programs, other countries who are recipients of aid and their militaries.

I happen to think, as I have indicated, that the amendment that is before us is unenforceable. I think it is wacky, but I recognize that the House has adopted it on two previous occasions, and so if they are going to do it, I want to make certain it applies to everybody.

In considering whether or not the basic Walker amendment should be adopted, I would simply bring to Members' attention a letter from the National Association of Manufacturers which reads in part:

> We urge you to reject the impracticable approach embodied in the Walker amendment. The Walker amendment, while well-intentioned, is seriously misdirected. It could well have the unintended effect of depriving thousands of law-abiding citizens of their livelihood when their employer cannot meet the payroll due to Federal withholding of payment under a grant or contract as would be authorized by the Walker amendment.

It goes on to say:

> The NAM would support an approach whereby assurances are given by the contractor or grantee at the start of the contractual relationship that a policy to ensure a drug-free environment is in place and will be administered in good faith. This would include education and awareness programs and employee-assistance programs. We urge you to oppose the Walker amendment and its attendant negative impact upon American workers and to adopt instead a realistic and workable approach to this critical problem of drug abuse.

My suggestion to the House is: Adopt the Obey amendment, if Members are going to vote for the Walker amendment at all. As far as I am concerned it is all goofy, but at least if they are going to pass it, adopt it so that it applies to everyone equally, foreign country and American alike.

□ 1440

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I would like to say a few words. We cannot legislate on an appropriation bill, and I think the gentleman from Pennsylvania [Mr. WALKER] is getting a little bit of a bad rap here. I think he is trying to do something with some integrity, and we should not make light of the efforts.

I realize we cannot legislate on an appropriation bill, but the gentleman has not had too many other opportunities, and the mechanics should be there to ensure that the gentleman from Pennsylvania [Mr. WALKER] has that chance and other Members have that chance on an authorization level so that we can bring it to the appropriation level to where it could be constructed with a little bit more sense.

This is the only thing under the circumstances that this gentleman could do, so I do not want to give the impression that everybody on this side of the aisle is opposed at least to those efforts.

Mr. OBEY. Mr. Chairman, I would like to take my time back.

Mr. Chairman, I would simply suggest I would never, in the slightest, attempt to make light of anything done by the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] has 3 minutes remaining.

Mr. WALKER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

I can see the same arguments coming forth here that came forth in the civil rights legislation. The argument was made that we cannot use the workplace to enforce antidiscrimination laws, and in fact we did. If one refused on the basis of racial discrimination to hire certain people, one could not be a contractor of the Federal Government.

We have had a lot of ideas that have come forth on the drug wars and ways we can employ the assets of the Federal Government in the drug wars. This in fact is a very appropriate leverage that we are applying with the Walker amendment. It is the workplace. It is the taxpayer dollars that are flowing out in many different areas, and so if we have a secretary in an AID office and she is smoking pot on the job, it is going to be evident very quickly to her supervisor or her boss, just as in a racial discrimination situation, that it is not to their benefit, it does not accrue to their benefit to tolerate that type of behavior.

So we are going to get supervisors involved, we are going to get bosses involved, we are going to get managers involved, and that is the way that we are going to move this thing with the sense that it is not OK to just use narcotics in the workplace out of the United States and out of the Federal programs.

Mr. WALKER. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California is exactly right. We are going to get bosses and supervisors involved. We are also going to get coworkers involved and we are going to be having a lot of people say no to drug use by their coworkers because they know what is at stake.

So I think the amendment is far from trivial. It is very serious, and it is something we should adopt.

Mr. WALKER. Mr. Chairman, I yield myself the balance of my time.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for yielding.

I just want to say I rise in very strong support of the Walker amendment. If it is with the Obey language, that is fine too. But I think that the gentleman from Pennsylvania is right on target and I support him very strongly.

Mr. WALKER. Mr. Chairman, I have listened to the arguments from the other side, and in all honesty they strike me as being a little ludicrous.

I think it is particularly interesting that the gentleman from Wisconsin has now become a great defender of the National Association of Manufacturers. Maybe it tells us how the parties are evolving here in the House.

All of a sudden the Republicans are the populist party standing with the American people to do something about the usage of drugs, and the Democrats have become the defenders of the National Association of Manufacturers. It tells us something about what it happening around here.

But I think it is extremely important also to focus on this amendment. This amendment would in fact tell employers the same thing we have told many people many times out of this Government, that if they are going to use Federal funds there are certain conditions connected with those funds. This particular condition says that we are going to make policy that assures that the workplace is drug free, and I think that that is a very important standard.

I realize it has very broad implications. But it also is something which I think the American people are looking for, and that is that we apply the pressures that are available to us to bring down the drug problem.

The gentleman from Wisconsin has referred to all kinds of things like enforcement and getting tough. We do not get tough until we go after users. The $140 billion a year industry in this country will not be brought down unless we go after users. One place to go after users is in the workplace.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY] as a substitute for the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] as amended.

The amendment as amended was agreed to.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY: At the appropriate place in the bill insert the following new section:

SEC. . None of the funds appropriated under this Act shall be expended in any workplace, including a workplace within any government or military force, that is not free of any illegal possession or use of controlled substances, or bribery, tax evasion, graft, or price fixing, which is made known to the federal entity or official to which funds are appropriated under this Act.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] is recognized for 10 minutes.

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, now that the House has decided to wave a magic wand and declare a drug-free world, I think that we ought to go a little further. The House has declared that no contractor who receives Federal money can continue to receive that contract if a single worker is convicted of a drug offense. At least that is the way I interpret the amendment to read.

This amendment says, and it is very simple, it says that if we are going to declare that no funds in the foreign assistance bill shall be used in any workplace which is not drug free, it says we shall also say that no foreign assistance funds may go to any party that is convicted of bribery, tax evasion, graft or price fixing. If we are against the "baddies" of this world, we might as well be against them all. I was thinking of putting sin into the amendment as well, frankly, but I could not figure out how to define it to meet the agreement of the House.

The amendment simply says that if under the amended Walker amendment we are going to cut off contracts for American businessmen if one of their workers or some of their workers get out of line on drugs, then it says we ought to do the same thing if people at those same operations get out of line in terms of bribery, in terms of price fixing, in terms of tax evasion and graft.

Let me simply point out that since 1982 the following contractors have been convicted of some of the offenses named in the amendment: Sperry, General Electric, Gould, Motorola, Litton, Harris, Olin Corp., National Semiconductor, Avco Division of Textron, TRW, Rockwell, GTE, and Martin Marietta and several more.

It simply seems to me that if we are concerned about the corroding effect of drugs on this society and the corroding effect of drugs upon the use of taxpayers' money that we also ought to be worried about the corroding effects of tax evaders and bribers and price fixers and grafters on any Federal money which is expended either in the United States or abroad. And it seems to me therefore that since we have gone down the Walker road we ought to go all the way and be pure as the driven snow on all of the baddies known to mankind, and it is in that spirit that I offer the amendment.

I reserve the balance of my time.

The CHAIRMAN. Does any Member wish to speak in opposition?

Mr. EDWARDS of Oklahoma. Mr. Chairman, I do not wish to rise in opposition, but to strike the last word.

The CHAIRMAN. The Chair would state to the gentleman from Oklahoma that is not in order under the current rule.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE:

TITLE VI—LIMITATION

SEC. 601. (a) EFFECTIVENESS OF UNITED STATES ECONOMIC ASSISTANCE.—No fund appropriated by this Act may be expended after December 31, 1988 until the President submits to the Congress a report which analyzes, on a country-by-country basis, the impact and effectiveness of the United States economic assistance provided during the preceding 3 fiscal years. Such report shall include the following for each recipient country:

(1) An analysis of the impact of United States economic assistance during the preceding 3 fiscal years on economic development in that country, with a discussion of the United States interests that were served by the assistance. This analysis shall be done on a sector-by-sector basis to the extent possible and shall identify any economic policy reforms which were promoted by the assistance. This analysis shall—

(A) include a description, quantified to the extent practicable, of the specific objectives the United States sought to achieve in providing economic assistance for that country, and

(B) specify the extent to which those objectives were not achieved, with an explanation of why they were not achieved.

(2) A description of the amount and nature of economic assistance provided by other donors during the preceding 3 fiscal years, set forth by development sector to the extent possible.

(3) A discussion of the commitment of the host government to addressing the country's needs in each development sector, including a description of the resources devoted by that government to each development sector during the preceding 3 fiscal years.

(4) A description of the trends, both favorable and unfavorable, in each development sector.

(5) Statistical and other information necessary to evaluate the impact and effectiveness of United States economic assistance on development in the country.

(6) A comparison of the analysis provided in the report with relevant analyses by international financial institutions, other international organizations, other donor countries, or nongovernmental organizations.

(b) LISTING OF MORE AND LESS SUCCESSFUL ASSISTANCE PROGRAMS.—The report required by this section shall identify—

(1) those countries in which United States economic assistance has been more successful, and

(2) those countries in which United States economic assistance has been less successful, and

For each country listed pursuant to paragraph (2), the report shall explain why the assistance was not more successful and shall specify what the United States has done as a result.

(c) REPORT TO BE A SEPARATE DOCUMENT.—The report required by this section shall be submitted to the Congress as a separate document.

(d) DEFINITION.—As used in this section, the term "United States economic assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) or chapter 4 of part II of that Act (relating to the economic support fund).

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. OBEY. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] reserves a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] is recognized for 10 minutes.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment calls for accountability in foreign aid. The toughest program to sell back home in the district, and I dare say that is true with all Members, is foreign aid. People fail to understand what we get out of sending millions of dollars, billions of dollars, forgive me, around the globe when we have so many needs and wants and problems in our own country.

I believe in foreign aid. I believe it is an extension of our foreign policy, that we need friends in the world, we need to help underdeveloped countries become developed. We need allies. We need access to raw materials. We need customers for our exports. We cannot sit in a plexiglas bubble, isolated from the world and expect to survive as leaders of the free world.

But by the same token, I have observed in my 13½ years in Congress that foreign aid is kind of a given. We just shovel it out almost indiscriminately around the globe and we really never get an accounting as to where it is doing some good, where it is not doing some good, where it is helping and indeed where it is harming the alleged recipients.

Most people think foreign aid involves immense waste, and where it does not involve immense waste it involves facilitating corruption. Are these millions of dollars or these billions of dollars ending up in somebody's pocket or are they really going for the poor, are they really helping develop the industries, the agriculture, the resources of these underdeveloped countries?

It seems to me that our foreign aid programs have no rigorous standard of accountability. It is indeed a leap in the dark.

I would think we would like to know whether this multibillion-dollar program serves U.S. interests, whether indeed it serves the interests of the recipients of this foreign aid.

So this amendment simply requires from the administration a report every 3 years that will provide us with country-by-country information as to what aid is being given, what other aid that country is getting from other donor countries, how effective is that aid, what are the trend lines in determining whether the country is developing or whether it is going down, it is regressing. All of this is a report card on a country specific basis on our foreign aid.

That would permit us then instead of just blindly shoveling the money out to make more discriminating decisions on who should get the aid, how much aid they should get, what countries the aid is being wasted in, being ineffectively absorbed, assimilated, and it seems to me this is just common sense accountability in our big, multibillion-dollar Foreign Aid Program.

This amendment was adopted in the authorization bill which will never see the light of day. It is over in the Senate in somebody's drawer because the foreign aid authorization bill doubtless will never see the light of day, although I am eternally optimistic. But I think the American people are entitled to some accounting on how their billions of foreign aid dollars are spent, and that is all this asks for.

□ 1455

Now I am happy to yield to my friend, the gentleman from California [Mr. Lagomarsino] such time as he may consume.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I think we should support this amendment. All it does really is to say that our foreign aid dollars should be used effectively and efficiently and they should be used for the good of this Nation.

So I commend the gentleman and hope that my colleagues will join in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by my colleague on the Foreign Affairs Committee, Mr. Hyde, that would institute a "foreign aid effectiveness test." I believe we owe it to American taxpayers to ensure that their hard-earned dollars are being used efficiently and effectively for the good of the Nation.

This amendment would require the President to submit an analysis, on a country-by-country basis, of the impact of U.S. economic assistance provided during the previous 3 fiscal years. It is important to know, for the record, what are the most and least successful assistance programs and know the reasons for the success and failure of these programs.

We have a responsibility to the taxpayers to ensure that their foreign aid dollars achieve the results that are intended. Furthermore, this report will allow us to focus increasingly scarce foreign aid dollars on programs that provide the most benefit and serve our Nation's interests best. We must ensure that U.S. foreign aid is not being wasted or used to line the pockets of corrupt foreign officials. Simply put, U.S. taxpayers deserve an accounting of the aid programs they pay for. Mr. Hyde's amendment, and incidentally, the similar freestanding legislation entitled the "Foreign Aid Impact Assessment Act" of which I am a cosponsor and was previously introduced by Mr. Hyde, does just that. I urge my colleagues to join me in supporting this important amendment.

Mr. HYDE. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Kemp].

Mr. KEMP. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of what I hope to be a successful Hyde amendment to this appropriations bill. As I said in the well just a few moments ago, this is, as the gentleman from Illinois pointed out, an issue of great concern to the American people as to the efficacy of foreign aid. Let us face it, like all other programs, some programs are good and some are bad. I would say to my friend from Illinois we do this with regard to how people vote in the United Nations. We tell the U.N. ambassador we want to know which countries in the United Nations to whom we give foreign aid are supporting, roughly, the foreign policy goals of this country. That has been a welcome change. The gentleman from Oklahoma [Mr. Edwards] has been a strong supporter of that as well as Jeane Kirkpatrick when she was ambassador, and myself, Senator Kasten and certainly the gentleman from Illinois.

This amendment is very important. I hope it is allowed to go through. I hope it is supported.

I just want to say one other thing: Do not ask the State Department to do the study. Does anybody think we will get from the State Department the right type of a study? The State Department and USAID in effect have given billions of dollars in Latin America; some have been successful. But as in the case of El Salvador, we have almost collectivized the economy of El Salvador and caused Jose Napoleon Duarte, the ruling Democratic Christian Party or the Christian Democratic Party very serious problems, some of which are of their own making, but some of which are the making of the USAID. But in some cases it has been successful.

So we do need the Hyde amendment. I am a strong supporter of it. I congratulate the gentleman for his wisdom not only on this but on other foreign policy issues as well.

Mr. HYDE. I thank my friend, the gentleman from New York [Mr. Kemp].

Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Illinois [Mr. Hyde] has 4 minutes remaining.

Mr. HYDE. I thank the Chair. I just want to say that we need desperately to explain to our constituents, to explain to ourselves, to rationalize, to convince our own consciences that these billions of dollars, hard-earned tax dollars are being well spent on behalf of our interests and on behalf of the interests of hunger and freedom and economic development around the world. I have learned in my sitting on the Committee on Foreign Affairs some countries get money because we have always given it to them and they would be mad if we did not. I want those countries identified and stop it. Other countries do not get enough. Base countries, where we have bases, that are desperately poor, they need more. But under our formula they do not get any more.

So I want a good look at this from people who are professionals so that we know whether we are getting a bang for the buck.

In the limited time I have left I want to appeal to my friend, the gentleman from Wisconsin [Mr. Obey], about his point of order that he would withhold his point of order and I will tell you why. In this rule 11 times the gentleman has waived the very section that he is going to assert against this as legislating on an appropriation; 11 times you have legislated in there, that suited you and that is fine. And the last amendment indeed, which I would say was more frivolous than not, but I know the point the gentleman was making, was certainly legislating on an appropriation.

So under the doctrine of equitable estoppel, what you use you cannot deny me using.

And there is another doctrine called the doctrine of necessity. The only way we can legislate is on this bill because nothing happens to the authorization bill.

So if you think that accountability in this program that we both believe in and support is worthwhile and useful I would appeal to the gentleman's better nature, which I know is in there lurking around, that it come to the floor and that he withdraw his point of order and this accountability measure, which the American people want as much as they want a drug free work place, could become the law.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from California [Mr. BERMAN] if he is going to support my amendment.

Mr. BERMAN. I thank the gentleman for yielding. This gentleman is going to support the idea of it.

Implicit in the gentleman's argument is the notion that it is just as wrong to automatically be for foreign aid simply to be for foreign aid and without regard to what is happening as a consequence of our foreign assistance.

Mr. HYDE. No, I would say I am for foreign aid as a concept but for this country in this amount under these circumstances with that government, I would like to know more; that is all.

Mr. BERMAN. Well, this leads to the point, if the gentleman would continue yielding: It is as wrong to be automatically for something just because we have done it in the past as it is to react automatically against it because it might make good politics in one's own constituency.

The Committee on Foreign Affairs under the leadership of Chairman HAMILTON and ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], are going through just this kind of rigorous examination of each feature of the foreign aid program on a long-term and serious and bipartisan basis, to come to the same kind of approach that the gentleman is suggesting here.

Mr. HYDE. If I may reclaim my time, I know what the gentleman is saying, but they will never have the opportunity that AID has, that the State Department has, that the rest of the Government has, the resources and the people in place and the people in the country. I have great confidence in DANTE FASCELL and HOWARD BERMAN and the rest, but you will never get the job done.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. OBEY] insist on his point of order?

Mr. OBEY. Mr. Chairman, I would insist on my point of order and if I could say to the Chair or to the gentleman from Illinois through the Chair, that the reason I lodged the point of order—there are two reasons for lodging the point of order. No. 1 is that in substantive terms I find it interesting that the amendment seeks to have a study of the economic aid programs in the bill but not the military programs; No. 2, I would suggest that the administration has the authority to do any study that they want to do at any time. Third, I would simply suggest that in spite of that, I do not have any real problem substantively with what the gentleman is suggesting except that I would point out that the provision which the gentleman is offering is already in H.R. 3100, the foreign assistance authorization bill that passed the House in December. We are trying to see to it that that bill is not buried. And if we dump every item into this bill, every good item in this bill is coming out of that bill, there would be no reason to ever pass that bill and we are trying to keep the leverage on it.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. OBEY. If I can under these circumstances.

The CHAIRMAN. The Chair will hear the gentleman on his point of order.

Mr. OBEY. I would simply say, therefore, Mr. Chairman, that the committee would certainly be happy to consider including this kind of a study when we come back from conference if we find out that the authorization bill was still not passed, but I would hope it would be a balanced study, including all programs, not just the economic programs.

Because of that, I make a point of order, Mr. Chairman, against the Hyde amendment because it proposes to change existing law and constitutes legislation in an appropriation bill and therefore violates clause 2 of rule XXI. The rule states in part:

> No amendment to a general appropriation bill shall be in order if changing existing law, the amendment establishes a contingency not specifically required by law because it requires the withholding of funds until a report is submitted.

And I ask for a ruling from the Chair unless the gentleman wants to be heard further.

Mr. HYDE. Mr. Chairman, may I be heard?

The CHAIRMAN. Does the gentleman from Illinois [Mr. HYDE] wish to be heard on the point of order?

Mr. HYDE. Yes, Mr. Chairman.

I would just point out to the Chair that this bill that is before this body is replete with legislation on an appropriation. Eleven times in this bill that very section is waived.

Now it seems to me that you establish a practice, you ought to be estopped from barring somebody else to legislate on an appropriation.

In addition, as I say, 3100, the chances of it surviving are very slim. And if this is a good idea, let us pass it here and let us make sure it gets into law.

And as for the suggestion on the military study, I am all for that too. The big one, of course, it seems to me that troubles people is the foreign aid that is given away. But I am all for increasing it to military, too. That should not be a problem. I do not think he should be entitled to urge that and I ask the Parliamentarian to so rule.

Mr. OBEY. If I could be heard further, Mr. Chairman, I would simply again insist on my point of order on the grounds I just raised and point out that if ever there were any giveaways in this bill it is the military side of the bill. The administration, in fact, sought to make all foreign military loans grant assistance which would be even more reason to include military programs as well as economic in any study suggested by the gentleman.

Mr. HYDE. Mr. Chairman, once more in response to what my friend just said: Certainly if including in this bill an amendment that says no funds shall be appropriated to a work place, that it somehow is tainted with bribery, tax evasion, graft or price fixing is adequate and can become part of this law, it seems to me getting a report card on foreign aid for the American people is valid and ought to be a part of this law, too.

The CHAIRMAN. The Chair is advised that the waiver in the rule against provisions in the bill does not carry over to amendments. For the reasons stated in the point of order by the gentleman from Wisconsin, the amendment constitutes legislation and is in violation of clause 2 of rule XXI calling for a report not required by law.

Therefore, the Chair would sustain the point of order.

For what reason does the gentleman from New York [Mr. GILMAN] rise?

Mr. GILMAN. Mr. Chairman, I ask unanimous consent to proceed for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, I had contemplated offering an amendment to H.R. 4637 today on the issue of cash transfer to Egypt under the ESF program. After discussing this amendment with my colleague, the gentleman from Wisconsin [Mr. OBEY] in his capacity as chairman of the Foreign Operations Subcommittee, I withdrew my amendment from consideration before the Rules Committee. However, I had requested that the gentleman engage in a brief colloquy at this time because of my conviction that a carefully managed cash transfer program can play a vital role in assisting Egypt to reform its economy, develop more efficiently and maintain stability.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, let me say that I appreciate my colleague's willingness to work on this issue.

As I have explained to my colleague, I regret that the budget constraints operating on the foreign aid program this year do not allow us to provide for more flexibility in Egypt's ESF program. I would be happy to work with the gentleman from New York as well as the administration to review the Egyptian program in order to see if a different more beneficial program structure might be achieved in the future.

If in fact we see a tough comprehensive economic reform program which, as the gentleman knows, is the criterion in the House authorization bill, then it might be possible to review changes in the bill.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

The gentleman may proceed for an additional minute.

Mr. GILMAN. I would be pleased to yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I was finished.

Mr. GILMAN. Mr. Chairman, the Egyptian Government has made progress in the implementation of a program of comprehensive economic reforms signed with the IMF in early 1987 and is currently involved in negotiations for a second standby agreement. However, all of these measures involve painful austerity for the Egyptian people, the great majority of whom are impoverished. At the same time, the Government is faced with the difficult challenge of trying to bring down Egypt's birth rate while not offending the traditional sensibilities of its conservative population. All of these problems combine to make the task of economic reform an extremely delicate one for the Egyptian Government. At a time when Egypt is undertaking a radical overhaul of its economy with the encouragement of the United States, we need flexibility in our aid program to meet the changing needs of Egypt's economy. I believe that the increased cash transfer, over the $115 million earmarked in the bill, would help meet those needs by providing crucial balance of payments support during Egypt's transition away from skewed pricing systems and subsidies to a more free market approach.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN of California: At the end of the bill, add the following:

TITLE VI—LIMITATION

SEC. 601. None of the funds appropriated by this Act may be used for assistance to any country which has in effect a Treaty of Friendship and Cooperation with the Soviet Union, except to the extent that the President determines that such assistance is in the national interest of the United States.

Mr. BERMAN. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from California [Mr. DORNAN] is recognized for 10 minutes.

□ 1510

Mr. DORNAN of California. Mr. Chairman, I understand completely why the majority side has reserved a point of order on my amendment, and all I do at this point is underscore everything that the prior speaker, the eloquent and distinguished gentleman from Illinois [Mr. HYDE] said about the subcommittee chairman's exercising the right to waive this provision of not legislating on an appropriation bill because of the authorization process being bogged down.

Mr. Chairman, my amendment is designed to clarify U.S. priorities in supplying hard to-come-by tax dollars to foreign nations. It does not make sense to provide foreign aid to a country which maintains scientific, technical, and security obligations with the Soviet Union. American taxpayers would not support such aid, nor does the House of Representatives. An identical amendment passed unanimously on H.R. 3100, the foreign aid authorization bill to limit foreign aid to countries which maintain currently operative Treaties of Friendship and Cooperation with the Soviet Union.

The list of countries with such a treaty relationship with the Soviet Union include: Afghanistan, Angola, Ethiopia, Iraq, North Korea, Syria, Vietnam, the Congo, India, and Mozambique. My amendment would subject three countries to an executive review: the Congo, India, and Mozambique.

It is critical to note that my amendment contains a "Presidential waiver." If the President determines that these countries merit United States aid in spite of treaty and security obligations to the Soviet Union, then the President can waive this provision. This is not an attempt to micromanager Presidential authority. Instead, my amendment adds a new dimension of leverage to the executive branch dealings with nations which have close working relationships with the Soviet Union.

SOVIET UNION'S TREATIES OF FRIENDSHIP AND COOPERATION

The United States shall not provide economic or military aid to any country which maintains a current, and formal Treaty of Friendship and Cooperation with the Soviet Union unless the President determines that such aid is in the national interest of the country.

For the purposes of this provision, Treaties of Friendship and Cooperation are intended to give formal expression to existing relationships. Soviet Treaties of Friendship and Cooperation invariably include security commitments including: First, a pledge to consult each other in order to coordinate positions in the event of a threat to or a breach of peace; second, a prohibition against joining alliances or groupings directed against the other party; and third, a commitment to cooperation in the military sphere, to be realized through appropriate bilateral agreements.

A secondary component of Soviet Treaties of Friendship and Cooperation provides for friendly exchanges in such areas as economics, science, culture, education, the arts, news media, health services, and sports. There is generally an effort made to include provisions for increasing contacts between parties and political organizations.

Mr. Chairman, India is no friend of the United States—The $500 million in United States aid to India has bought the following track record:

First, 80 percent of Indian military equipment is either Soviet made or produced in India with Soviet permission.

Second, a large Soviet presence for military training and equipment upkeep—Soviets also work closely with Indian industrial complex. Soviet-Indian bilateral trade increased by 2.5 times in the past 5 years. In May this year India announced the visit of the most powerful team of Soviet scientists that the U.S.S.R. has ever sent to any country.

There is talk of a Soviet-built nuclear powerplant. Mr. Gandhi stated also in May that India and the Soviet Union were embarking on a "totally new phase of collaboration."

Third, in August this year rampaging supporters of India's ruling Congress hurled homemade bombs at the USIA Calcutta office in an anti-United States demonstration. Commonplace.

Fourth, Rajiv Gandhi, Prime Minister of India states that the "Soviets are keen to pull out of Afghanistan" but are unable to do so because "Pakistan appears to have a vested interest in keeping the Afghan problem alive."

Fifth, India has stated several times that the Soviets 115,000-man occupation force in Afghanistan is not a regional security threat. Perhaps because they have such a close working relationship with the Soviets. India's External Affairs Minister describes his Government as sharing the Kremlin's "common aspirations for peace and nation building."

Sixth, in March 1987, Cuba won a reprieve from a resolution of condemnation pending before the U.N. Human Rights Commission in Geneva. The escape came when India introduced a procedural motion to prevent action on the resolution, after explicit promises not to do so.

Seventh, India provides $10.4 million aid package to Communist Nicaragua. For his efforts Mr. Gandhi received the Order of Augusto Cesar Sandino, Nicaragua's highest civilian award, generally reserved for their best Communist allies like Fidel Castro.

Eighth, Angola, which is blessed by the presence of Soviet and Cuban military advisers which combined surpass 45,000 has benefited from Indian efforts to increase commercial, technical, and economic cooperation between the two nations.

Ninth, India is anti-Semitic. India has no diplomatic mission in Israel but allows the PLO terrorists to maintain at least one official mission in India.

Mr. Gandhi recently congratulated the chairman of the PLO, Yasser Arafat on his reappointment to this coveted chairmanship position.

India denied visas to Israeli table tennis players during the recent world championships.

Tenth, India has a close working relationship with North Korea. In April this year, Indian Defense Minister K.C. Pant joined North Korean President Kim Ill Sung for the latter's 75th birthday celebration in Pyongyang, saying that Indian and North Korean Governments have much to gain by "working for disarmament, development, and just world order" together. The Indian Government apparently has no qualms about giving legitimacy to international pariahs like North Korea who maintain a combat ready troop level of some 800,000 soldiers and spend 24 percent of their GNP on the military.

Eleventh, similar justification was given to Indian overtures to the Government of Libya, where External Affairs Minister Tiwari offered cooperation in the areas of industry and trade. He also stated that India shared a commitment with Libya in "creating a more equitable world order."

Twelfth, does India help the forces of freedom in international fora? In the U.N., India voted less than 8.9 percent of the time with the United States in 1985. That is a worse voting record than our adversaries in Moscow.

Thirteenth, India and the Soviet Union coproduce T-72 tanks.

Fourteenth, India and the Soviet Union coproduce Mig-21 fighters.

Fifteenth, India and the Soviet Union coproduce Mig-27 fighters.

Sixteenth, India was one of the first countries to take delivery of the Soviet's Mig-29.

Seventeenth, India was the first country to receive the new Soviet MI-26 HALO Helicopter.

Eighteenth, India in early 1987 granted the Soviets overflight rights to enable them to more rapidly reach their forward bases at Cam Ran Bay, Vietnam.

Nineteenth, the Indian naval base in the Nicobar Islands in the Indian Ocean, built with Soviet help, is now being used by Soviet Navy submarines to prowl Indonesia's territorial waters.

MOZAMBIQUE

Summary: This amendment would restore current law on Mozambique prohibiting military assistance and restricting economic assistance to the private sector.

Mozambique has received over $1 billion in Soviet military assistance but controls less than one-quarter of its territory; has hundreds of Soviet, East German, Cuban, North Korean, and other East bloc advisers, and thousands of Zimbabwean and Tanzanian troops; was rated as having one of the worst human rights records in the world by the Economist Human Rights Guide and Amnesty International; and has a mural in a main square of the capital city depicting a soldier with a Jewish star on his hat strangling an African.

Mozambique votes against the United States over 92 percent of the time in the United Nations; has a 20-year Friendship and Cooperation Treaty with the Soviet Union—one of only four such treaties in Africa; won't allow the International Red Cross to inspect its prisons; and ignores pleas from the Catholic Bishops to bring a negotiated end to the civil war.

President Chissano has clearly stated that his acceptance of Western aid in no way implies that he is reducing his ties to the Soviet Union or is liberalizing his political system.

Chissano says:

> We have been holding talks with the IMF and World Bank. One might feel that we are having doubts about the socialist option. We chose socialism and we did not do it arbitrarily because of some dream. . . . We have combined [our] experiences with the scientific teaching of Marxism-Leninism.—speech before Frelimo Party Secretariat, 3 Feb 87, reported by FBIS.

According to the latest SIPRI [Stockholm International Peace Research Institute] Yearbook, Mozambique's sole source of weaponry is the Soviet Union. Since 1981, according to SIPRI, Mozambique's major arms purchases include: 50 BTR-60P armored personnel carriers, 60 T-55 tanks, and 2 SO-1 class personnel carriers.

Mr. Chairman, I would like to have a colloquy with the distinguished chairman of this subcommittee, who has done such an expert job on this legislation. I would ask the gentleman from Wisconsin [Mr. OBEY] if he would respond to a question on the Cambodian language in the bill.

Mr OBEY. Surely, Mr. Chairman, if the gentleman will yield.

Mr. DORNAN of California. Mr. Chairman, I thank the gentleman for this opportunity to clarify the language in section 581 of this bill which deals with the non-Communist Cambodian resistance. I felt the need to have this colloquy with the distinguished chairman of the Foreign Operations Subcommittee, because the language in this bill does not constitute a clear earmark of aid to the Cambodian resistance.

Currently, the language of the bill only attempts to be consistent with the authorization language and states "If the President makes available funds appropriated by this act for the Cambodian non-Communist resistance forces. * * *" The operative word here is "If," leaving it up to the administration to determine the worth of funding this program. I think it remains to be seen whether or not the administration is really committed to the Cambodian resistance. I would like to see this administration spend the full authority of $5 million on this worthy program for several reasons.

First, Lack of commitment to the non-communist Cambodian resistance will be misinterpreted by the Vietnamese as a weakening in congressional bipartisan support to pressure the Communists in Hanoi to withdraw their 140,000 combat troops from Cambodia by their self-imposed deadline of 1990.

Second. ASEAN nations, who have always questioned the degree of United States commitment to the Cambodian Resistance would quickly withdraw their vital support to the resistance if they perceive a lack of commitment by the United States. As regional settlements to low-intensity warfare seem to be the order of the day in Afghanistan, Nicaragua, and soon in Angola, I beleive that now is the best time to send a message of solid U.S. support for a Vietnamese withdrawal from Cambodia.

Third. Finally, Mr. Chairman, it is critical the Western aid to the Cambodian resistance be increased from present levels to counterbalance aid to the Communist Khmer Rouge coming from China. Without Western aid, the barbaric Khmer Rouge will be well positioned to assume a strong position in a coalition government in Cambodia in 1990.

Therefore, I would like, Mr. Chairman, for the administration to understand that the congressional intent of this section of the bill means full funding for the program to aid the Cambodian resistance. It is my understanding that the chairman of the subcommittee is willing to withhold the approval of the reprogramming request to the Agency for International Development, pending an administration commitment to fully fund the Cambodian resistance.

I thank the chairman for the time and especially for his commitment to the liberation of Cambodia from the Vietnamese occupation forces and puppet government which is not even recognized by the United Nations.

Mr. OBEY. Mr. Chairman, if the gentleman will yield, let me simply say that under the bill the administration will have the authority to provide whatever amount they want for this purpose. The committee did not specifically earmark it for one very good reason, and that is that the committee does not want to be on record in support of funding which has any problems associated with it relating to corruption. I do not feel free to discuss the actual problem in this kind of a session because the matter we are concerned about is classified, but if the gentleman would care to take a look at the classified document, I think he will see why we did not provide for an earmarking for this activity this year.

Mr. DORNAN of California. I will, Mr. Chairman, and I thank the gentleman very much.

As we do in many cases, we sometimes affix blame on Members of this House when it is a role of leadership in the executive branch at the State Department to figure out what to do about these areas of Communist expansion.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the distinguished gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, let me just say that I support the amendment the gentleman from California [Mr. DORNAN] has offered. I hope it is not ruled out of order, but I am not very optimistic.

The language in the bill concerns me a great deal. It indicates that there have been 100,000 civilians that have been murdered by Renamo. I do not agree with the State Department's assessment. I do not agree with that report. I think part of this is disinformation.

The massacre that took place in a town called Homoine in southern Mozambique was attributed to Renamo. The fact of the matter is, from eyewitness accounts, that the people that were murdered in that massacre were murdered by soldiers in new uniforms. Renamo does not have any new uniforms. They are a rump kind of military organization. They do not have the luxury of new uniforms. Many people who were there believe that those were either Zimbabwean troops or Communist Frelimo troops. Yet this atrocity was attributed to Renamo forces.

Dr. Dhlakama, the head of Renamo, I believe is a patriot who wants freedom for his country, who has been fighting the Marxist-Communist government of Mozambique, and he has been doing it with overwhelming odds facing him.

I think it is very unfortunate that the State Department and Melissa Wells, our new Ambassador to Mozambique, continues to send this kind of trash back and attributes it to being factual information. The fact of the matter is that I do not believe it is factual. Renamo has not killed 100,000 civilians over there; the Communists have. They have murdered 7,000 of their own countrymen in relocation and reeducation camps, and this document should reflect that.

Mr. Chairman, I take issue with that, and I support the gentleman's amendment.

Mr. DORNAN of California. Mr. Chairman, I thank the gentleman from Indiana [Mr. BURTON].

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. BERMAN] insist on his point of order?

Mr. BERMAN. I do, Mr. Chairman. I insist upon my point of order against the Dornan amendment because it proposes to change existing law and constitutes legislation in an appropriation bill and, therefore, violates clause 2 of rule XXI. The rule states in pertinent part, "No amendment to a general appropriation bill shall be in order if changing existing law."

The amendment prohibits assistance to a country having a friendship treaty with the Soviet Union subject to a Presidential waiver. This imposes additional duties in that it requires the executive branch to determine which countries have a friendship treaty with the Soviet Union. In addition, it establishes a contingency.

I ask for a ruling from the Chair.

□ 1520

The CHAIRMAN (Mr. TORRES). Does the gentleman from California [Mr. DORNAN] wish to be heard on the point of order?

Mr. DORNAN of California. Mr. Chairman, I just believe that in fairness, because we have waived it for other positions, but that is the power of the Chair, that I was hoping that with the gentleman from Illinois [Mr. HYDE] and myself we would understand that it kind of solidifies us all behind a very difficult issue to sell to the taxpayers anyway, that, when we are so heavily in debt, we can find money to spread around to help other people in the world who are in great need, and I think that next year, if we try to work a language such as mine on the so-called treaties of friendship and analysis like that of the gentleman from Illinois [Mr. HYDE] into the bill, I think we will have less problems getting these foreign appropriations bills passed, but I understand the gentleman's objection.

The CHAIRMAN. The Chair will state that the exceptions stated in the amendment would impose new duties on the President and under the precedents constitutes legislation in violation of clause 2, rule XXI. Therefore, the Chair sustains the point of order.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, I was unable to be on the House floor when my amendments were called. They are germane. They were scheduled at the end of the bill, and I was not here on the floor at the time they were called, but I was here shortly thereafter, and I asked for parliamentary inquiry that these amendments be considered to be in order and be allowed to be brought at this time.

The CHAIRMAN. The Chair would state at this time that the rule prescribes an order, and, as the Committee of the Whole at this time cannot change that procedure, that is the ruling of the Chair.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent to proceed for 2 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. EDWARDS of Oklahoma. Mr. Chairman, reserving the right to object, I want it understood that I would object to any attempt to offer the amendments by unanimous consent, and I would withdraw my reservation only if the gentleman is recognized solely for the purposes of debate.

The CHAIRMAN. The Chair has already announced that the Committee of the Whole cannot change the procedure.

The gentleman from Ohio [Mr. TRAFICANT] is recognized for 2 minutes.

Mr. TRAFICANT. Mr. Chairman, I would just like to say that this is the first appropriation bill I have seen since I have been in Congress that I did not have the opportunity to have one vote to cut, not one vote to cut it, the dollar amount. This is the only one. I am going to take the blame. The General Electric plant closed in my district, and I was meeting with officials in my office, and I did not realize that not one amendment of mine was called for a vote because I forgot this is foreign aid. And I was here, I think, 3 minutes late, and I had the only amendment that would cut this down to its appropriation levels last year.

So, Mr. Chairman, all I can say is that, if I am here, I will try again next year. But I think the House should recognize that we are dealing with a sacred piece of the American budget, foreign aid. We can screw Americans, but, man, do not touch foreign dollars.

(By unanimous consent, Mr. OBEY was allowed to proceed for 1 minute.)

Mr. OBEY. Mr. Chairman, I would simply point out that, despite the last remarks that we have heard, this bill, which the House is about to vote on, retains 87 percent of the cut which the House made last year in the President's foreign aid budget. That means that this bill is 30 percent lower than it was in fiscal 1985. It means that we have been able to move from foreign aid programs, to domestic programs such as agriculture, education, health, rural development and jobs, about $4 billion over the past 2 years.

Mr. Chairman, to me that is doing good business for the taxpayer. To me that is seeing to it that we put the needs at home ahead of needs everywhere else, and I do not think anyone has to apologize for support of this bill.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, in response to the comments from the gentleman from Ohio [Mr. TRAFICANT] let me only point out that in fact amendments to cut this bill were in order just as they are on appropriation bills all the time. The gentleman just was not here in order to offer it, and that is not the fault of the committee. That was not the fault of the House. It is not a sacred cow. The amendments were in order. The gentleman just was not here, and I would say to the gentleman from Wisconsin [Mr. OBEY] that it should be pointed out again that this bill is in complete agreement with the budget summit agreement.

Mr. OBEY. Mr. Chairman, I move that the Committee do now arise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. HALL of Ohio, having assumed the chair, Mr. TORRES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4637) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MYERS OF INDIANA

Mr. MYERS of Indiana. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MYERS of Indiana. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MYERS of Indiana moves to recommit the bill, H.R. 4637, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 328, nays 90, not voting 13, as follows:

[Roll No. 154]

YEAS—328

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Bateman
Bates
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coble
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Darden
Davis (IL)
Davis (MI)
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dornan (CA)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Horton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Patterson
Pelosi
Pickett
Pickle
Porter
Price
Pursell
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
St Germain
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—90

Applegate
Archer
Badham
Barnard
Barton
Bennett
Brooks
Brown (CO)
Coats
Coleman (MO)
Conyers
Craig

Crane
Crockett
Dannemeyer
Daub
DeFazio
DeLay
Dickinson
Dorgan (ND)
Dreier
Early
Emerson
English
Fawell
Fields
Frenzel
Gaydos
Gekas
Gregg
Hammerschmidt
Hayes (IL)
Hefner
Herger
Hopkins
Hubbard
Jacobs
Jenkins
Jones (NC)
Jones (TN)
Kolter
Latta
Lloyd
Marlenee
McCandless
Miller (OH)
Mollohan
Montgomery
Moorhead
Murphy
Myers
Neal
Nichols
Nielson
Olin
Pashayan
Pease
Penny
Perkins
Petri
Quillen
Rahall
Ray
Roberts
Rogers
Roth
Russo
Savage
Schaefer
Schulze
Sensenbrenner
Shumway
Shuster
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Staggers
Stallings
Stump
Swindall
Tauke
Taylor
Traficant
Valentine
Walker
Watkins
Whittaker
Young (FL)

NOT VOTING—13

Biaggi
Boulter
Duncan
Hansen
Houghton
Lujan
MacKay
McGrath
Mica
Moody
Pepper
Spence
Weiss

□ 1551

The Clerk announced the following pairs:

On this vote:

Mr. McGrath for, with Mr. Boulter against.

Mr. Houghton for, with Mr. Hansen against.

Messrs. BROWN of Colorado, KOLTER, and HAYES of Illinois changed their votes from "yea" to "nay."

Messrs. HUNTER, DONALD E. LUKENS, BONIOR, and STARK changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I was unavoidably detained earlier today because I was accompanying Vice President BUSH at the U.S. Military Academy for the West Point commencement exercises, and as a result I was not able to cast my votes on rollcall No. 152, approving the Journal, and rollcall No. 153, agreeing to House Resolution 457, the rule for H.R. 4637, fiscal year 1989 foreign operations appropriations. Had I been present, I would have voted "yea" on rollcall 152 and "nay" on rollcall 153.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I take this time to inform the Members of the plan for the remainder of this day and for tomorrow.

It is our intention to call up the rule on the lottery bill and to consider that bill this afternoon. We believe that it will not be a long consideration and that the House should be through with its legislative business before 6 o'clock.

Tomorrow the House will meet at 10 a.m. and we will consider the rule and the authorization for the Intelligence Authorization Act, and at the conclusion of that program tomorrow the House will begin its Memorial Day recess, with the single exception to that being if the budget resolution on the conference report is ready. I am not sure that that will be the case but if it is we will take up the budget resolution following the intelligence authorization. If it is not ready we will proceed directly into the Memorial Day recess, reconvening as the Members know at 1 p.m., on Wednesday, June 1, 1988.

Mrs. MARTIN of Illinois. Mr. Speaker, will the distinguished majority leader yield to me?

Mr. FOLEY. Mr. Speaker, I am happy to yield to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, can the Members expect votes on that Wednesday after we come back at 1 o'clock, just so that we might reassure the Members?

Mr. FOLEY. Yes, the gentlewoman is correct. We informed the Republican leader and I think he has informed each of the Republican Members as we have informed the Members on this side of those days for the remainder of this month and for next month on which votes are expected.

Votes are expected on Wednesday, June 1, Thursday, June 2, and Friday, June 3. Friday, June 3, and Friday, June 10, the following Friday, are the only two Fridays in this 1½-month period on which there will be votes, and no votes are expected on any Monday. Because those two Fridays are part of weeks in which both Monday and Tuesday are not voting days, we have decided to have 3 days in those weeks where there are then votes on Fridays. That is again, June 1, June 2, and June 3, and then June 8, June 9, and June 10. Friday, June 3, and Friday, June 10, are the Fridays on which there will be votes.

Mrs. MARTIN of Illinois. We thank the majority leader, and wish him a good Memorial Day weekend.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4561, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-652) on the resolution (H. Res. 458) providing for the consideration of the bill (H.R. 4561) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4418, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT FOR FISCAL YEARS 1989 AND 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-653) on the resolution (H. Res. 459) providing for the consideration of the bill (H.R. 4418) to authorize appropriations for the National Science Foundation for fiscal years 1989 and 1990, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4505, CIVILIAN ENERGY RESEARCH AND DEVELOPMENT PROGRAMS AUTHORIZATION ACT FOR FISCAL YEAR 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-654) on the resolution (H. Res. 460) providing for the consideration of the bill (H.R. 4505) to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal year 1989, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OR ORDER AGAINST CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 268, BUDGET FOR THE U.S. GOVERNMENT, FISCAL YEARS 1989, 1990, AND 1991, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-655) on the resolution (H. Res. 461) waiving certain points of order against the conference report on the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991 and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

□ 1600

LOTTERY ADVERTISING CLARIFICATION ACT OF 1988

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 448 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 448

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3146) to clarify certain restrictions on distribution of advertisements and other information concerning lotteries and similar activities, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. RAHALL). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 448 is an open rule providing for the consideration of the bill H.R. 3146, the Lottery Advertising Clarification Act of 1988.

The rule provides for 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

The rule also provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as original text for the purpose of amendment under the 5-minute rule. The substitute will be considered by sections and each section shall be considered as having been read.

Finally, Mr. Speaker, House Resolution 448 provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3146 the lottery advertising bill, would allow for the advertising and distribution of information concerning all legal lotteries, gift enterprises, and other activities, such as casino gambling, and church-sponsored bingo halls. Currently, the law permits only the broadcasting of lottery advertisements and information regarding lotteries that are conducted by States acting under the authority of State law. The law forbids the interstate advertising of charitable raffles, church bingo games, and casino gambling, even if these activities are legal in the State that they are being conducted.

The bill also allows information and advertising concerning lotteries, gift enterprises, and other activities to be mailed anywhere in the United States as long as the activity that is being advertised is legal in the State in which it is being conducted.

Also, Mr. Speaker, the bill includes an 18-month delayed effective date. This provision would allow States that prohibit gaming activities time to enact legislation that would prohibit advertisements within the States boundaries. The bill only removes the Federal restrictions and is in no way intended to limit the States of their individual rights.

Mr. Speaker, when this bill was originally considered on the Suspension Calendar it did not receive the necessary two-thirds votes for passage. The gentleman from Virginia [Mr. WOLF] had a legitimate concern regarding his inability to offer amendments to the bill. Under this open rule any germane amendments to the bill will now be in order. I urge my colleagues to adopt the resolution and to support final passage of the bill.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill was on the House floor under suspension but failed to receive the necessary two-thirds majority. It was then sent to the Committee on Rules and granted an open rule as requested by Mr. WOLF of Virginia, who opposed the bill under suspension. Under this open rule, Mr. WOLF will be allowed to offer his amendment and really, Mr. Speaker, I see nothing wrong in permitting the media to receive advertising on games of chance as is prohibited now. State lotteries have the privilege of advertising, and it seems to that it should be in order to allow the media to accept advertising on games of chance.

Mr. Speaker, I know of no opposition to this open rule, and I urge the adoption of the rule.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 448 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3146.

□ 1605

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3146) to clarify certain restrictions on distribution of advertisements and other information concerning lotteries and similar activities, with Mr. PICKLE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 30 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I yield myself such time as I may consume.

Members will remember that when this bill was debated, it received the votes of a large majority, somewhere over 60 percent, but not two-thirds.

In conversations, it seems to us that the controversy did not affect much of the bill. There was one particular part affecting casino gambling that was somewhat controversial. The gentleman from Virginia [Mr. WOLF] will be offering an amendment later to deal with that. Whatever controversy exists, I believe, exists only over that amendment.

I do not believe that there is any need for any prolonged general debate, and I, therefore, yield back the balance of my time.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe that the gentleman from Massachusetts is quite correct. This bill, some Members felt, was flawed when it first came to the floor because of the fact that we had a closed rule, being under suspension, and we were unable to get at some of the objections, and I think some of the good objections that were made by some of the Members, specifically referring to the amendment that the gentleman from Virginia [Mr. WOLF] wanted to offer which was precluded under the rule under which we were proceeding.

I have only one request for time.

Mr. Chairman, I yield such time as she may consume to the gentlewomen from Nevada [Mrs. VUCANOVICH]

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 3146, the Lottery Advertising Clarification Act of 1988, as written. I think it is unfortunate that we have to revisit this issue since we have already considered the measure under suspension of the rules and were a mere 12 votes short of the two-thirds necessary for passage.

As you know, in 1895, the Federal Government prohibited the importation of lottery tickets or prize lists into the United States, as well as the transportation and mailing of such materials. The Government did this because lotteries were primarily privately run and unregulated. After several States adopted lotteries in the 1960s and 1970s, the law was amended to allow advertisement of State-conducted lotteries in States where the lottery was conducted or in adjacent States conducting lotteries. However, to date interstate advertisement remains prohibited.

The bill has strong State rights protections. The bill would have no preemptive effect on State laws. The bill will simply allow for the advertising of legal lotteries by removing the Federal prohibition to such activity. It does not involve the current Federal restriction on conducting lotteries through the mail.

Such activities are strictly regulated today, therefore, there is no compelling reason to continue to prohibit the advertisement of these activities. I urge that the House pass this bill as written.

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, I rise today to support passage of H.R. 3146. This is a free enterprise, free speech measure which cuts out the kind of bureaucratic regulation members like me came to Congress to help eliminate.

Let me give you one example of why this measure is needed.

Put yourself in the position of a small market radio station interviewer. On live radio, he asks the local fire chief about their fire station's open house.

During the interview, the fire chief mentions they're having a raffle with proceeds to pay for new fire equipment.

Oops. The radio station has just violated the law because the fire chief promoted his lottery over the air.

Time and again, small fraternal and charitable organizations hold raffles and drawings to raise money to benefit their communities.

From churches to Elks' Clubs, from bingo to quilt raffles, local folks try to come up with private donations to help needy individuals.

If you're in the news media, you can't help them in their efforts. In fact, you can't even report on their efforts.

We all know what goes on in Reno, Las Vegas, and Atlantic City. It's unfortunate that people can't find out what's going on in their church or fire station.

Let's eliminate red tape. Let's lend a hand to our favorite charities. And let's pass H.R. 3146.

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. Mr. Chairman, I rise in strong support of the Lottery Advertising Clarification Act. We need to clarify the current law which makes the mailing of certain information concerning legal game wagering a Federal offense. With the exception of State-run-and-owned lotteries, legal gaming establishments are restricted or otherwise impaired in distributing their information.

I find it difficult to understand why we allow the advertisement of State-sponsored lotteries, while not permitting the advertisement of private sector charity events such as a church bingo or a veterans' raffle. This is obviously unfair to the private gaming establishments. It is time to clarify this discrepancy.

I also would like to reiterate to my colleagues the important States rights clause. This measure specifically grants States an 18-month period to consider a State law to prohibit gambling advertising within its borders from the broadcast media. I commend my colleagues on the Subcommittee on Administrative Law and Governmental Relations for including this important States rights clause.

Mr. Chairman, I urge my colleagues to consider the legal differences of gambling advertisement between State supported events and private events. I urge my colleagues to support this clarification.

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, as a cosponsor of H.R. 3146, a bill to lift the ban on advertising of games of chance and lotteries, I strongly urge my colleagues to support the measure. This bill would bring current law up to date and make it more consistent. Under current law, limited interstate advertising of State-run lotteries is legal, but advertising of legal charitable raffles and church bingo games is not. This inconsistency needs to be addressed. Also, current law permits broadcasters to announce that a church bingo game has been canceled due to bad weather, but announcing the game in the first place is not allowed. What sense does that make? That law was originally drafted when lotteries were illegal in most States and it followed that advertisement of an illegal activity should be prohibited as well. But current law approves of the activity on the one hand and prohibits its promotion on the other.

Finally, this bill simply lifts the Federal ban on advertising. States may address this issue as they see fit, according to their treatment of lotteries.

I urge you to vote yes for a bill that establishes consistency and is sensitive to States rights.

Mr. SHAW. Mr. Chairman, I have no further requests for time under general debate, and I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. FRANK. Mr. Chairman, I have a parliamentary inquiry.

Is the bill open for amendment at this point?

The CHAIRMAN. The bill maybe open to amendment if all time is yielded back.

Mr. FRANK. Mr. Chairman, I have yielded back my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the reported bill shall be considered by sections as an original bill for the purposes of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lottery Advertising Clarification Act of 1988".

The CHAIRMAN. Are there any amendments to section 1?

PARLIAMENTARY INQUIRY

Mr. FRANK. Mr. Chairman, I have a parliamentary inquiry.

Would it be in order to ask unanimous consent that amendments be offered at any point to the bill?

The CHAIRMAN. The gentleman may ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

Mr. FRANK. Mr. Chairman, I would so request.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. AMENDMENTS RELATING TO IMPORTATION, TRANSPORTATION, MAILING, AND BROADCAST OF ADVERTISEMENTS FOR LEGAL LOTTERIES AND SIMILAR ENTERPRISES OFFERING PRIZES DEPENDENT ON CHANCE.

(a) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Subsection (a) of section 1307 of title 18, United States Code, is amended by striking out "conducted by" and all that follows through the end of the subsection and inserting in lieu thereof ", gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance, if the lottery, gift enterprise, or similar scheme is not prohibited by the State in which it is conducted.".

(b) AMENDMENT TO TITLE 39, UNITED STATES CODE.—Section 3005(d)(1) of title 39, United States Code, is amended by striking out "a newspaper" and all that follows through "such a lottery," and inserting in lieu thereof "(A) an advertisement, list of prizes, or information concerning a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, if the lottery, gift enterprise, or scheme is authorized or not otherwise prohibited by the State in which it is conducted, or (B) a newspaper of general circulation containing an advertisement, list of prizes, or information referred to in clause (A),".

SEC. 3. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—Chapter 61 of title 18, United States Code, is amended as follows:

(1) The section heading of section 1307 is amended to read as follows:

"§ 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries".

(2) The item relating to section 1307 in the table of sections at the beginning of chapter 61 is amended to read as follows:

"Sec. 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries.".

(3) Subsection (d) of section 1307 is amended by inserting after "purposes of" the following: "subsection (b) of".

(4) The first sentence of section 1304 is amended by inserting after "radio" the following: "or television".

(b) AMENDMENT TO TITLE 39, UNITED STATES CODE.—Subsection (d)(2) of section 3005 of title 39, United States Code, is amended by striking out "such a lottery" and inserting in lieu thereof "a lottery conducted by a State acting under authority of State law.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect 18 months after the date of enactment of this Act.

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: Page 4, lines 17 and 18, strike out "not prohibited by the State in which it is conducted" and insert in lieu thereof the following: "authorized or not otherwise prohibited by the State in which it is conducted. In a case in which such a prohibition by a State would not apply to Indian country located in that State, the provisions of section 1304 of this title shall apply with respect to such Indian country.".

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, I believe this is totally noncontroversial. It was reviewed by members of the Committee on Interior and Insular Affairs, which has an interest in it.

We have in this country, because of the status of the American Indians, the native Americans, who have in some cases been legally granted the right to conduct gambling activities in particular States which go beyond what that particular State would allow. The scheme of this bill is to grant to the States, if they choose to act, some control over the kinds of advertising allowed within State borders. This amendment simply clarifies what we think was always the intent of the bill. It makes it explicit that an Indian nation that has the right to do gambling activities over and above State law does not by that fact automatically get the right to advertise in defiance of State law.

□ 1610

State law with regard to advertising would govern even where State law with regard to actual activity would not.

Mr. SHAW. I would like to commend the gentleman from Massachusetts for his amendment as a clarifying amendment. It is a good amendment and we support it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: Page 6, insert the following after line 5 and redesignate the succeeding section accordingly:

SEC. 4. SEVERABILITY.

If any provision of this Act or the amendments made by this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, this is fairly routine. We deal here with questions that touch on the first amendment. We therefore thought it wise, and again this is I think agreed upon by all the parties, to explicitly put in the kind of severability clause that sometimes is made explicit because we deal here with the first amendment rights. And we believe that everything we are doing in this bill is wholly constitutional, but because courts are not entirely predictable therefore we thought it wise to have a severability clause.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I would ask the gentleman is this a colloquy or did the gentleman have an actual amendment?

Mr. FRANK. There is an amendment pending.

Mr. SHAW. I do not believe we have it on this side. I think I am familiar with the subject matter. I think we have discussed it. But I was under the impression that this was going to be a colloquy.

Mr. FRANK. I apologize to my colleague. The colloquy had to do with another matter. This is just boilerplate severability.

Mr. SHAW. This is technical, yes, and we certainly agree with this amendment and certainly support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WOLF

Mr. WOLF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLF: Page 4, line 18, insert the following after the first period: "This subsection shall not apply with respect to any casino gambling game conducted or operated by a gambling establishment. For purposes of the preceding sentence—

"(1) the term 'casino gambling game' means roulette, blackjack, craps, slot machines, and any similar game of chance or device which is played for money or other thing of value; and

"(2) the term 'gambling establishment' means an establishment which is engaged in for profit and is operated primarily for the purpose of gaming or gambling, including accepting, recording, or registering bets for money or other thing of value.".

Page 4, strike out line 19 and all that follows through page 5, line 5, and insert in lieu thereof the following:

(b) AMENDMENT TO TITLE 39, UNITED STATES CODE.—Section 3005(d) of title 39, United States Code, is amended—

(1) in clause (1) by striking out "a newspaper" and all that follows through "such a lottery," and inserting in lieu thereof "(A) an advertisement, list of prizes, or information concerning a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, if the lottery, gift enterprise, or scheme is authorized or not otherwise prohibited by the State in which it is conducted, except that this subparagraph shall not apply with respect to any casino gambling game conducted or operated by a gambling establishment, or (B) a newspaper of general circulation containing an advertisement, list of prizes, or information referred to in subparagraph (A),"; and

(2) by adding at the end thereof the following: "For purposes of paragraph (1)(A), the term 'casino gambling game' means roulette, blackjack, craps, slot machines, and any similar game of chance or device which is played for money or other thing of value, and the term 'gambling establishment' means an establishment which is engaged in for profit and is operated primarily for the purpose of gaming or gambling, including accepting, recording, or registering bets for money or other things of value.".

Mr. WOLF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. WOLF. Mr. Chairman, the amendment I am offering with the gentleman from Florida addresses a fairness issue in H.R. 3146. Our amendment gives a State the right to protect its citizens from Las Vegas and Atlantic City casino gambling advertising.

In the hearings and debate held on H.R. 3146, there was strong support on every side for protection of States rights. As my colleagues well know, there is great diversity and divergent views among the 50 States regarding the legalization and advertising of the various forms of gambling. For example, the most popular forms of gambling are State lotteries and bingo contests. But some States also permit parimutuel betting on horses, while other States permit betting on dogs. Sports betting, low-limit blackjack, and poker are legal in some States; betting on jai alai is lawful in other States. Nevada and New Jersey allow casino gambling, and I understand Hawaii, Mississippi, Indiana, and Utah ban all types of gambling activities and advertising. The point is, Mr. Chairman, each State has very different views on what kind of gambling should be legal and advertised. H.R. 3146 should, at the very least, allow each State to make this determination. Unfortunately, the opposite is true.

H.R. 3146 says that a gambling activity need only be legal in the State where it's being conducted. The bill does not require that the gambling activity be legal in the State where it's being advertised. I believe this focus is wrong. The onus should be on the gamblers to convince a State that advertising should be allowed, rather than on concerned citizens to prove that it should not. As drafted, H.R. 3146 stacks the deck in favor of the gamblers. If the casinos want to advertise in a State, I say let them convince that State to advertise gambling. For even if a State somehow manages to devise gambling advertising restrictions on its television, radio, and newspapers in the 18-month grace period provided in the bill, it still could not prohibit mailed gambling advertisements by casinos.

For the first time in this century, Mr. Chairman, casinos such as Trump's, the Golden Nugget, and Caesar's will be able to hire slick Madison Avenue advertising firms to develop gambling ad campaigns for the purpose of attracting business from around the country. Parents and children in the privacy of their own home will learn how easy it is to win millions of dollars by playing roulette, blackjack, craps, and the slot machines. Also, for the first time in this century, Governors and legislatures will not be able to take action—either before or after the 18-month deferred enactment date provided in this bill—to prevent this type of gambling advertising by casinos in their States.

Mr. Chairman, this is wrong. In addition to violating States rights, which are supposedly protected in this bill, I object to the casino bill language for the following reasons:

A 1976 survey by the Commission on the Review of the National Policy Toward Gambling estimates that there are 1.1 million compulsive gamblers in the United States. Other authorities place the figure between 6 and 8 million. Each compulsive gambler affects 10 to 12 others—family, friends, employees, fellow workers—with his or her problem. White-collar crime such as embezzlement, forgery, and Federal fraud committed to support compulsive gambling costs American businesses more than $40 billion yearly.

Second, I disagree with those who believe casino gambling advertising will have no effect on the size and scope of legal gambling activity in this country. Direct and forceful gambling advertisement by casinos through television, radio, the print media, and mail could profoundly impact the views of citizens toward legalizing casinos and other forms of gambling in their State. As gambling becomes more attractive through advertising, pressure will increase on those holdout States to legalize casinos and other gambling activities. I am not suggesting that passage of this bill will serve as some kind of national catalyst for nongaming States to approve every form of gambling. I am saying that legislators will be forced to tolerate and respond to pressures from outside their State on a matter which they had no voice in approving or regulating to begin with.

Third, States should have unlimited time to study the implications of interstate casino gambling advertisement. States should have time to work closely with interested individuals and groups to prepare voluntary standards for advertising of casino gambling activities, if such standards are deemed necessary and desirable. Each State has the right to regulate truthful, tasteful, and properly targeted advertising for every audience.

Mr. Chairman, Atlantic City and Las Vegas casinos are, at the very least, controversial to most Americans. Many find them objectionable and offensive. One thing I hope we all can agree on is that they don't belong in this bill. If you believe as I do that the issue in this legislation is not the rights of powerful, profit-motivated casino owners, but the right of church groups and charities to advertise in local newspapers, I hope you will support this amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I would like to commend the gentleman from Virginia for his efforts. This bill would have gone through under suspension without this important amendment had it not been for the efforts of the gentleman from Virginia. I am glad to join him in support of the amendment.

Mr. FRANK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciate the care the gentleman from Virginia has taken, and he has I think narrowed our differences considerably. I should say that while I am not for this amendment, if it should pass we would still have a bill that would be worth a great deal.

I myself hold to a very expansive view perhaps in the minds of some as to the first amendment. I think most adults should be able to say most things to most people most of the time, and I would include in this things that if adults would like to pay to have them said to each other, it should be allowed as well. I realize that this is a more difficult issue for some Members.

I would like to engage my ranking minority member in a bit of a colloquy because in the event that this should pass some question was raised. I assume that it would not be the intent, and I would ask the gentleman from Virginia as well as the gentleman from Florida, it would not be the intent of this amendment to in any way impinge on the right of the media to report in the news sense any such activities, that it would deal with advertising?

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Virignia.

Mr. WOLF. Mr. Chairman, the gentleman is correct.

Mr. FRANK. I would ask the gentleman from Florida [Mr. SHAW] if he agrees with that?

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, certainly that is constitutionally correct and we could not affect that in any way nor would we want to.

Mr. FRANK. I thank the gentleman.

I want to say that I personally think this is a bad amendment, or not a bad amendment, but not a good amendment. But I think it will still leave the bill worth something, and I understand where a lot of Members are.

Mr. BILBRAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is an unfair and hypocritical amendment. It strikes at two States, Nevada and New Jersey. It allows all sorts of organizations throughout the country to advertise whatever type of gaming they so have and continue to have that advertising anywhere they want to.

It is not fair. The majority of this body when we had this up under suspension voted in favor of the bill, they supported this bill, and we fell just barely short of a two-thirds majority.

Again, it is a hypocritical amendment, it strikes at two States, at legitimate industries that pay taxes to the Federal Government, pay taxes to the States. We pay a lot of money to the Federal Government in taxes and these are legitimate industries recognized by our States.

I do not think it is fair. It is hypocritical and I urge my colleagues to vote against this amendment which should not be a part of this bill.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to the Shaw-Wolf amendment to H.R. 3136, the Lottery Advertising Clarification Act of 1988. I see no reason to weaken this legislation by amending it to exclude private gambling establishments from interstate advertising of their gambling activities.

This amendment affects only two States, Nevada and New Jersey. Gambling in these two States is legal and a legitimate industry providing major benefits to the economies of both States. The gaming industries pay taxes to the States and to the Federal Government and are strictly regulated. I believe this amendment unfairly discriminates against these industries and the States in which they are located.

Mr. Chairman, this provision is important to the State of Nevada and the people of Nevada. I urge my colleagues to oppose this unfair amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. WOLF].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. PICKLE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3146) to clarify certain restrictions on distribution of advertisements and other information concerning lotteries and similar activities, pursuant to House Resolution 448, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3146, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MINT FOOT DRAGGING RESULTS IN LOST DIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, Santayana once wrote that "those who cannot remember the past are condemned to repeat it." The U.S. Mint has recently provided an illustration of the wisdom of that observation. The mint lost 44 coin dies, used to strike coins, in a shipping incident in 1986 as a result of its failure to use secure means of shipping the dies. The mint did not change its shipping methods, and in January of this year, another 24 dies disappeared in transit.

In April 1986, 44 coin dies used to manufacture Statue of Liberty commemorative $1 coins disappeared in transit while being shipped to the Royal Canadian Mint in Ottawa, Canada, for polishing. These dies were shipped via ordinary freight carriers. Only one of these dies was recovered. That die had been purchased from an unidentified party by a Canadian coin dealer, who returned it to the mint in August 1987. That incident should have warned the mint of the dangers of shipping dies via ordinary carrier.

When I became aware of the incident, I wrote to U.S. Mint Director Donna Pope concerning it and asked about the mint's shipping procedures. She replied that armored carriers were being used to transport dies to Canada. What she neglected to say, however, was that ordinary freight carriers continued to be used for shipping dies within the United States. These shipments account for the vast majority of die shipments made by the mint.

In January of this year, the inevitable occurred. The mint shipped 24 dies used to make 1 ounce American Eagle gold bullion coins from the San Francisco Mint to the West Point, NY, Mint. The dies were shipped by Federal Express. Incredibly, the mint failed to require that the dies be under even signature control. They were shipped as ordinary freight, as if they were a crate of oranges. Someone apparently figured that a package going from one mint to another mint would be valuable. The dies never reached the West Point Mint and are still missing. The U.S. Secret Service is investigating the loss. None of the dies have been recovered.

Despite this loss, the mint continued to use ordinary carriers to ship these valuable dies around the Nation. Not until last month, 3 months after the gold dies had disappeared, did the mint decide to ship all dies by armored carrier. Had the mint learned its lesson from the lost Statue of Liberty dies, there would not now be a desperate scrambling to try to locate the American Eagle dies.

The mint's foot dragging on switching to a secure method of shipping dies is inexplicable. Having lost the Statue of Liberty dies in transit to the Royal Canadian Mint, it took a half-hearted measure and began to use armored carriers to transport dies going to Canada. Did the mint think there was more risk of loss in Canada than in the United States? Was the mint trying to pinch pennies by using a cheaper, but less secure carrier? Quite frankly, I do not have the answers.

The Consumer Affairs and Coinage Subcommittee will hold hearings later this year on the mint's budget authorization, and I can assure the Members of this House that we will get answers. The U.S. Mint is responsible for the security of our Nation's gold reserves and our Nation's coins. I intend to find out why security for the dies used to make coins was so deliberately lax. Losing dies once because of slack shipping procedures is inexcusable; losing dies a second time is unpardonable.

CARGO PREFERENCE KILLS GRAIN DEAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, in the past a number of debates on the issue of cargo preference requirements have occurred on this floor. The most recent one occurred last fall when the House considered the Foreign Assistance Act. During that debate, this House voted overwhelmingly to limit the expansion of cargo preference by exempting the export agricultural commodities from additional cargo preference requirements when those commodities are purchased with U.S. cash transfers to foreign countries.

It was the opinion of most of my farm colleagues in the House that the cargo preference issue had been again laid to rest. However, like a bad penny which continues to turn up, so does cargo preference.

Today, I want to bring to the attention of my colleagues an example of why cargo preference is detrimental to the development of new foreign markets for U.S. agricultural exports.

Last month, it came to my attention that the AID mission in Pakistan was attempting to put together a financing package which for the first time would have enabled private sector buyers in Pakistan to purchase approximately 200,000 metric tons of corn from the United States. This quantity is equivalent to almost 7,400,000 bushels of corn worth over $22 million.

If this sale had been made, it would have been the first major commercial sale of corn to Pakistan, and it could have opened a significant new market for United States producers.

The key to the sale was the financing package that would have enabled private sector buyers to consummate the purchase. Under AID's proposal, funds would have been available through private sector window of the Commodity Import Program [CIP]. Through the CIP, private sector Pakistani buyers would have been able to borrow money from a CIP account to purchase United States grain. In turn, the Pakistani buyers would have marketed the corn commercially in that country.

All was proceeding well, however, until it was discovered that U.S. cargo preference requirements applied to the shipment of the corn. Like food assistance programs, such as the Public Law 480 program, cargo preference laws require that between 50 to 75 percent of the cargo be shipped on U.S. flagships. Under current cargo preference requirements, the higher cost of U.S. flagships must be picked up by the private buyers. This would have increased the cost of the United States corn to the point that it could not have been sold profitably in the Pakistan market.

The end result in this case was that nobody benefited from cargo preference. No United States corn was sold to Pakistan. U.S. farmers lost an opportunity to gain a new foreign market. And, no grain moved on U.S. ships.

On the surface it may seem reasonable, even patriotic, to require a portion of food exports which are financed with U.S. dollars to be hauled on U.S. ships. However, when we lose foreign sales, when cargo preference interferes with our ability to enter new markets, and when the maritime industry itself gains nothing, then cargo preference requirements should either be waived or eliminated entirely.

Under certain circumstances, cargo preference requirements can be waived, such as the nonavailability of ships at reasonable rates. However, there is currently no waiver available under our cargo preference laws that would allow MARAD, or the Department of Transportation, to shift the cargo preference requirement from a private sector foreign purchase of grain to a government subsidized sale to the same country.

This Congress should seriously consider legislation that would create a spcific waiver or transfer of cargo preference requirements when that waiver or transfer would facilitate initial sales of U.S. commodities to new foreign markets.

I can assure you that this Member of Congress, and others who represent agricultural constituencies, will be vigilant in opposing any further expansion of cargo preference requirements, and in modifying particularly unreasonable provisions of existing law relating to cargo preference.

□ 1625

ON THE PLANT-OPENING AND JOBS CREATION ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. KEMP] is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, for months now, debate in Washington has had an air of unreality.

To read the newspapers, you'd think the biggest issue we face is whether notice of plant closing should be mandatory, or very strongly encouraged.

But it does say something about what's on the minds of the liberal Democrats. In fact, one of the clearest choices Americans will be asked to make this fall is between a Democratic Party that is hoping and planning for economic collapse, and a Republican Party that is working and planning to continue economic growth.

Despite unemployment falling to the lowest level in 15 years, the liberal Democrats think the issue facing our country is how to manage economic decline.

That may be the biggest issue in Massachusetts right now, which has lost 96,000 manufacturing jobs in less than 4 years to other States with better economic policies.

But for the rest of the country which has gained jobs, the issue is not "plant closing." The real issue is "plant opening." How do we keep creating new jobs, investing to open new plants, and making sure that workers find the jobs we help create?

Today Senator BOB KASTEN and I are introducing comprehensive legislation designed to answer those questions. Our bill is called the Plant-Opening and Jobs Creation Act of 1988.

The first part of our plant-opening bill contains tax incentives for new jobs, new investment, and new training. It would:

Repeal the 1990 payroll tax increase on employers and employees, which will otherwise raise the cost of hiring and working, and is unnecessary because of the mushrooming Social Security trust fund surplus;

Eliminate the temporary Federal unemployment insurance [FUTA] tax increase that took effect this year, which is also counterproductive and unnecessary;

Cut the capital gains tax rate to a maximum of 15 percent to encourage new investment; and

Provide tax-free treatment of educational assistance to workers to encourage new education and training.

We are also working on a reform of unemployment insurance that would make it much easier for unemployed workers to get jobs and training, which we hope to introduce shortly.

The second part of our bill would focus tax incentives in the hardest hit urban and rural areas. It would provide tax incentives for hiring, working, or investing in enterprise zones. Congress has talked about designating the zones, but has never authorized the incentives.

Finally, the third part of our plant-opening bill provides an alternative to protectionism, with an approach aimed at opening, not closing markets. The bill:

Gives the President fast-track authority to negotiate a GATT agreement to open foreign markets for American goods;

Provides expanded authority to negotiate a North American free trade area—the United States, Canada, Mexico, and the Caribbean Basin—as well as reciprocal free-trade agreements with other countries;

Provides for reporting on, and taking action against, unfair trading practices by other countries; and

Would require a "consumer impact statement" for all Federal trade legislation, which would state the additional cost that would be imposed on American families.

Revenue provisions include: capital gains tax cut, repeal of temporary 1988-90 FUTA tax increase, repeal of 1990 payroll tax hike, restoring the educational assistance exclusion, and enterprise zone incentives. Except for the payroll tax, all these changes being in 1988.

Total revenue cost. Other than the capital gains tax cut and Social Security tax-hike repeal, the total cost is $1 to $2 billion a year. The Social Security tax provision would start in 1990 and cost about $9 billion a year by 1991. But this is off budget and would only slightly reduce the $70 billion trust fund surplus in that year. Based on the latest academic research, cutting the capital gains tax to its optimum rate would raise enough revenue to pay for the static losses.

Capital gains. The bill cuts the top tax rate to 15-percent. Estimates of the revenue-maximizing tax rate range from 9 percent—Martin Feldstein, to 28 percent—Joseph Minarik; 15 percent is roughly halfway in between.

Lawrence Lindsey of Harvard has estimated that cutting the rate to 18 percent would raise between $27 billion and $105 billion over 5 years. On his assumptions, our 15 percent rate would easily raise enough revenue to offset initial revenue losses from other provisions.

FUTA. Repealing the temporary 0.2 percent increase in the FUTA tax would cost about $1 billion a year, but only for 3 years, 1988-90. This would not hurt the unemployment insurance funds, since the purpose was to increase the reserves, not to cover a shortfall.

Payroll tax. The estimated cost is $5.5 billion in fiscal year 1990; $9.2 billion in fiscal year 1991. However, it must be measured against a $7.0 billion annual surplus in 1991 in the Social Security trust funds.

Educational assistance exclusion. The cost is about $400 million a year.

Enterprise zones. The static revenue loss is estimated to be less than $1 billion a year.

In short, there are two ways to go. The liberal Democratic leadership of the Congress says the issue is plant closing. We believe the real issue is plant opening. Anyone who cares about our economic future should support our approach, which will produce more jobs and more growth for years to come.

DESCRIPTION OF PLANT-OPENING BILL

The "Plant-Opening and Jobs Creation Act of 1988" contains several key provisions designed to encourage new jobs and new enterprises.

TITLE I—TAX INCENTIVES FOR JOBS, INVESTMENT AND TRAINING

Sec. 101. Cuts the capital gains tax rate from a maximum of 33 percent to a maximum of 15 percent.

Sec. 102. Reinstates tax-free treatment for educational assistance provided by employers to employees.

Sec. 103. Repeals 1990 payroll tax increases on employers (0.14 percent), employees (0.14 percent) and the self-employed (0.28 percent).

Sec. 104. Eliminates the temporary 0.2 percent increase in federal unemployment (FUTA) tax in 1988-1990.

TITLE II—ENTERPRISE ZONES

Sec. 201-213. Establishes enterprise zones in poor urban and rural areas.

Sec. 221. 10 percent credit for hiring disadvantaged workers.

Sec. 222. 5 percent credit for zone workers.

Sec. 223. 10 percent investment tax credit.

Sec. 224. Repeal of capital gains tax on investments.

Sec. 225. Deduction for purchase of enterprise stock.

Sec. 226. Exception for private activity bonds.

Sec. 227. Ordinary loss deduction.

Sec. 228. Increase in research credit.

Sec. 229-233. Provisions for tax simplification, streamlining of regulatory requirements, federal co-ordination, etc.

Sec. 241. Foreign-trade zone status.

TITLE III—TRADE LIBERALIZATION

Sec. 301-306. Expands the President's authority to negotiate multilateral (GATT, North American Free Trade Area) and bilateral free-trade agreements and reciprocal expanded-trade agreements.

Sec. 311-312. Requires reporting on, and outlines strategy for elimination of, unfair trading practices.

Sec. 321. Requires consumer impact estimates of federal trade legislation.

Sec. 322. Mandates trade liberalization for multilateral development banks funded by U.S. taxpayers.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 60 minutes.

Mr. MACKAY. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted for approving the Journal, for the rule to H.R. 4637, and for H.R. 4637 on final passage.

I appreciate having this opportunity to state my position on these measures.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. VUCANOVICH) to revise and extend their remarks and included extraneous material:)

Mr. KEMP, for 10 minutes, today.

Mr. DORNAN of California, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

(The following Members (at the request of Mr. ERDREICH) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

(The following Members (at the request of Mr. SWIFT) to revise and extend their remarks and include extraneous material:)

Mr. MACKAY, for 60 minutes, today.

Mr. SKELTON, for 10 minutes, on May 26.

Mr. SLATTERY, for 60 minutes, on June 8.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MRAZEK and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $3,751.

(The following Members (at the request of Mrs. VUCANOVICH) and to include extraneous matter:)

Mr. CLINGER.

Mr. RITTER in two instances.

Mr. BADHAM in two instances.

Mr. PORTER.

Mr. BARTLETT in two instances.

Mr. KONNYU.

Mr. KEMP.

Mr. LEACH of Iowa.

Mr. PACKARD.

Mr. FIELDS.

Mr. SHUETTE.

Mr. LENT in two instances.

Mr. FISH.

Mr. LIGHTFOOT.

Mr. BEREUTER in three instances.

Mr. WOLF.

Mr. DONALD E. LUKENS.

Mr. LEWIS of Florida in two instances.

Mr. GALLO.

(The following Members (at the request of Mr. ERDREICH) and to include extraneous matter:)

Mr. CLARKE.

Mr. LIPINSKI.

Mr. THOMAS A. LUKEN.

Mr. BOLAND.

Mr. YATRON in two instances.

Mr. CARDIN in two instances.

Mr. DYSON.

Mr. MANTON.

Mr. MAVROULES.

Ms. PELOSI.

Mr. WISE.

Mr. RANGEL.

Mr. KILDEE.

Mr. SKELTON.

Mr. TORRICELLI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2167. An act to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts; to the Committee on Energy and Commerce.

S. 2426. An act to designate 16th Street, Northwest, in front of the Polish Embassy as "Solidarity Corner"; to the Committees on Foreign Affairs and District of Columbia.

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Thursday, May 26, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3694. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-183, "Guardianship and Protective Proceedings Effective Date Amendment Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3695. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-184, "Closing of a Public Alley in Square 253, S.O. 86-202, Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3696. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 7-185, "District of Columbia Minors Theatrical Employment Permit Amendment Act of 1988", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3697. A communication from the President of the United States, transmitting a bimonthly report on progress toward a negotiated solution of the Cyprus problem, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

3698. A letter from the Assistant Secretary of State for Legislative Affairs; transmitting copies of the original report of political contributions by William Andreas Brown, of New Hampshire, Ambassador Extraordinary and Plenipotentiary-designate to Israel, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3699. A letter from the Chairman, Board of Directors, Future Farmers of America, transmitting a report on the financial audit of the organization for the period ending August 31, 1987, pursuant to 36 U.S.C. 1101(23), 1103; to the Committee on the Judiciary.

3700. A letter from the Secretary of Transportation, transmitting two reports concerning the "Potential for Application of Ignition Interlock Devices to Prohibit Operation of Motor Vehicles by Intoxicated Individuals" and the "Potential for Application of Corneal Retinal Potential Measurements to Detect Alcohol and Drug Use", pursuant to Public Law 100-17, title II, 203(c) (101 Stat. 219); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LaFALCE: Committee on Small Business. H.R. 3718. A bill to authorize the refinancing of certain small business debentures, and for other purposes; with an amendment (Rept. 100-651). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. H. Res. 458. Resolution providing for the consideration of H.R. 4561, a bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction for facilities, and research and program management, and for other purposes. (Rept. 100-652). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. H. Res. 459. Resolution providing for the consideration of H.R. 4418, a bill to authorize appropriations for the National Science Foundation for fiscal years 1989 and 1990, and for other purposes (Rept. 100-653). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. H. Res. 460. Resolution providing for the consideration of H.R. 4505, a bill to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal year 1989 (Rept. 100-654). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. H. Res. 461. Resolution waiving certain points of order against the conference report on the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991 and against the consideration of such conference report. (Rept. 100-655). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 4150. A bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service Fund, and for other purposes, with amendments (Rept. 100-656, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARTLETT (for himself, Mr. Matsui, Mr. Gradison, Mr. Levin of Michigan, Mr. Lagomarsino, and Mr. Wortley):

H.R. 4680. A bill to amend the Social Security Act to take into account monthly earnings in determining the amount of disability benefits payable under title II, to provide for continued entitlement to disability and Medicare benefits for individuals under disabled and working status, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DORNAN of California:

H.R. 4681. A bill relating to the reporting of trade statistics; to the Committee on Post Office and Civil Service.

By Mr. FIELDS:

H.R. 4682. A bill to provide that certain service of members of the U.S. merchant marine during World War II constituted active military service for purposes of any law administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GUARINI:

H.R. 4683. A bill to suspend for 3 years the duty on ADC-6; to the Committee on Ways and Means.

H.R. 4684. A bill to suspend for 3 years the duty on Diflunisal; to the Committee on Ways and Means.

By Mr. LEWIS of Florida:

H.R. 4685. A bill to repeal the authority of the Secretary of Transportation to encourage and foster air commerce in the United States; to the Committee on Public Works and Transportation.

By Mr. LEWIS of Florida (for himself, Mr. Glickman, and Mr. McCurdy):

H.R. 4686. A bill to amend the Federal Aviation Act of 1958 relating to aviation research; to the Committee on Science, Space and Technology.

By Mr. SHAYS (for himself, Mr. Rowland of Connecticut, Mrs. Johnson of Connecticut, Mr. Gejdenson, Mrs. Kennelly, and Mr. Smith of Florida):

H.R. 4687. A bill to establish a trust fund using civil penalties collected under the Occupational Health and Safety Act of 1970 to compensate victims of the collapse of the L'Ambiance Plaza in Bridgeport, CT; jointly, to the Committee on Education and Labor and the Judiciary.

By Mr. SOLOMON (for himself and Mr. Molinari):

H.R. 4688. A bill to amend the Temporary Emergency Food Assistance Act of 1983 to authorize appropriations for fiscal years 1989 and 1990; to the Committee on Agriculture.

By Mr. UDALL (for himself and Mrs. Vucanovich):

H.R. 4689. A bill to amend the Nuclear Waste Policy Act of 1982 with respect to the Office of the Nuclear Waste Negotiator; jointly, to the Committee on Energy and Commerce and Interior and Insular Affairs.

By Mr. KEMP:

H.R. 4690. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives, to authorize the negotiation of a North American free-trade area, and for other purposes; jointly, to the Committees on Ways and Means, Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. WOLF:

H.R. 4691. A bill to acquire additional lands for Manassas National Battlefield Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FAUNTROY:

H.J. Res. 577. Joint resolution designating July 3 through 9, 1988, as "National Drug and Alcohol Abuse Treatment Week"; to the Committee on Post Office and Civil Service.

By Mr. HUGHES (for himself, Mr. Fascell, Mr. Saxton, and Mr. Tauzin):

H.J. Res. 578. Joint resolution designating August 7, 1989, as "National Lighthouse Day"; to the Committee on Post Office and Civil Service.

By Mr. FOLEY:

H. Con. Res. 306. Concurrent resolution providing for a conditional adjournment of the House until June 1 and a conditional adjournment or recess of the Senate until June 6; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

395. The SPEAKER presented a memorial of the Legislature of the State of Hawaii, relative to effective shared management over the U.S. exclusive economic zone; which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. Slattery, Mr. Konnyu, Mrs. Bentley, Mr. McMillen of Maryland, Mr. Dwyer of New Jersey, and Mr. Kolbe.

H.R. 39: Mr. Valentine and Mr. Walgren.

H.R. 535: Mr. Craig, Mr. Wortley, and Mr. Walker.

H.R. 593: Mrs. Kennelly, Mr. Myers of Indiana, Mr. Cardin, Mr. Bateman, Mr. Ackerman, Mr. Bosco, and Mr. Smith of Texas.

H.R. 632: Mr. Weiss.

H.R. 639: Mr. Kastenmeier.

H.R. 1794: Mr. Lent, Mr. Boehlert, Mr. Levin of Michigan, Mr. Lipinski, Ms. Kaptur, Mr. Swindall, and Mr. Solarz.

H.R. 1957: Mr. Murphy, Mr. Emerson, Mr. Gonzalez, and Mr. Lewis of Florida.

H.R. 1990: Mr. Donald E. Lukens.

H.R. 2052: Mr. McCloskey.

H.R. 2125: Mr. Yatron.

H.R. 2532: Mr. Frost, Mr. Lehman of California, and Mr. Evans.

H.R. 2743: Mr. Hawkins.

H.R. 2800: Mr. Bilirakis.

H.R. 2852: Mr. Dymally.

H.R. 2999: Mr. EVANS, Mr. FOGLIETTA, Mr. St. GERMAIN, Mr. McCollum, Mr. FAZIO, Mr. CLAY, Mr. DWYER of New Jersey, and Mr. PETRI.

H.R. 3204: Ms. OAKAR.

H.R. 3392: Mr. LELAND.

H.R. 3486: Mr. MORRISON of Connecticut, Mr. HOCHBRUECKNER, and Mr. ANNUNIZO.

H.R. 3588: Mr. EVANS, Ms. OAKAR, and Miss SCHNEIDER.

H.R. 3699: Mr. HORTON.

H.R. 3703: Mr. ROWLAND of Connecticut.

H.R. 3742: Mr. SAXTON, Mr. MADIGAN, Mr. ROWLAND of Connecticut, and Mr. BATEMAN.

H.R. 3840: Mr. ROBINSON.

H.R. 3892: Mr. TRAFICANT.

H.R. 3944: Mr. GREGG and Mr. DELAY.

H.R. 4012: Ms. PELOSI and Mr. MARTINEZ.

H.R. 4060: Mr. FAUNTROY, Mr. ENGLISH, Mr. EVANS, Mrs. MORELLA, Mr. NAGLE, and Mr. BATES.

H.R. 4062: Mr. DREIER of California.

H.R. 4127: Mr. YATES, Mr. BUSTAMANTE, Mr. LANTOS, Mr. NICHOLS, Mr. BONKER, Mr. LEATH of Texas, Mr. VOLKMER, Mr. PETRI, Mr. BRYANT, Mr. CLARKE, Mr. FORD of Michigan, Mr. LELAND, Mr. MARTIN of New York, Mr. WILLIAMS, Ms. OAKAR, Mr. JONES of Tennessee, Mr. EVANS, Mr. CLEMENT, Mr. MADIGAN, Miss SCHNEIDER, Mr. MINETA, Mr. DOWDY of Mississippi, Mr. CARPER, and Mr. SYNAR.

H.R. 4190: Mr. TALLON, Mr. EVANS, Mr. MILLER of Washington, Ms. KAPTUR, and Mr. HORTON.

H.R. 4198: Mr. MONTGOMERY.

H.R. 4302: Mr. BADHAM, Mr. KONNYU, Mr. BUECHNER, Mr. DREIER of California, Mr. DORNAN of California, and Mr. BIAGGI.

H.R. 4335: Mr. FAZIO, Mr. MOODY, and Ms. KAPTUR.

H.R. 4352: Mr. UDALL, Mr. FORD of Michigan, Mr. DURBIN, Mr. STUDDS, Mr. ROE, Mr. ATKINS, and Mr. AUCOIN.

H.R. 4364: Mr. SHAW.

H.R. 4409: Mr. BARNARD.

H.R. 4446: Mr. BOULTER.

H.R. 4450: Mr. MARKEY, Mr. KILDEE, and Mr. WISE.

H.R. 4451: Mr. AUCOIN, Mr. DOWNEY of New York, Mr. MOODY, Mr. MCHUGH, Mr. OLIN, Mr. MRAZEK, Mr. STARK, Mr. DEFAZIO, Mr. MOAKLEY, Mr. BATES, Mr. DELLUMS, Mr. PEASE, and Mr. KASTENMEIER.

H.R. 4455: Mr. SCHAEFER.

H.R. 4489: Mr. HEFLEY.

H.R. 4519: Mr. MACK.

H.R. 4526: Mr. COYNE, Mr. WISE, Mr. ATKINS, Mr. DELAY, Mrs. SCHROEDER, Mr. PICKLE, Mr. PEASE, Mr. CLAY, Mr. GIBBONS, Mr. GRANT, and Mr. GRAY of Illinois.

H.R. 4543: Mr. MCCURDY and Mr. SHUMWAY.

H.R. 4635: Mr. DYSON, Mr. STANGELAND, Mr. ROE, and Mr. CHAPMAN.

H.J. Res. 13: Mr. DONALD E. LUKENS.

H.J. Res. 145: Mr. LAFALCE, Mr. HUCKABY, Mr. ANTHONY, Mr. HEFNER, Mr. MILLER of California, and Mr. SKAGGS.

H.J. Res. 317: Mr. DYSON, Mr. SYNAR, Mr. HORTON, Ms. KAPTUR, Mr. FORD of Tennessee, Mr. HENRY, Mr. SPRATT, Mr. FOGLIETTA, Mr. BONKER, Mr. CARDIN, Mr. KLECZKA, Mr. SCHUMER, Mr. MATSUI, Mr. SIKORSKI, Mr. LEVIN of Michigan, Mr. WAXMAN, Mr. ROE, Mr. WEISS, and Mr. LANTOS.

H.J. Res. 390: Mr. ENGLISH and Mr. CAMPBELL.

H.J. Res. 438: Mr. BROWN of California, Mr. MOODY, and Mr. WEBER.

H.J. Res. 475: Mr. CARR, Mr. DELLUMS, Mr. EDWARDS of California, Mr. FASCELL, Mr. FLIPPO, Mr. GIBBONS, Mr. GLICKMAN, Mr. GONZALEZ, Mr. INKOFEMR. GORDON, Mr. HARRIS, Mr. HEFNER, Mr. JENKINS, Mr. MILLER of California, Mr. NELSON of Florida, Mr. OBEY, Mr. ROYBAL, Mr. ST GERMAIN, and Mr. STAGGERS.

H.J. Res. 485: Mr. ANDERSON, Mr. ATKINS, Mr. BAKER, Mr. BILBRAY, Mr. CALLAHAN, Mr. CLAY, Mr. COURTER, Mr. DAVIS of Michigan, Mr. DOWDY of Mississippi, Mr. ENGLISH, Mr. GALLO, Mr. GONZALEZ, Mr. INHOFE, Mr. GORDON, Mr. HANSEN, Mr. HUTTO, Mr. IRELAND, Mrs. JOHNSON of Connecticut, Mr. LAGOMARSINO, Mr. LEWIS of Florida, Mr. LIVINGSTON, Mr. MCCLOSKEY, Mr. MCGRATH, Mr. MFUME, Mr. MILLER of California, Mr. MOAKLEY, Mr. PASHAYAN, Mr. PERKINS, Mr. RINALDO, Mr. RODINO, Mr. SABO, Mr. STUDDS, Mr. SUNDQUIST, Mr. SWIFT, Mr. TAUKE, Mr. VENTO, and Mr. YOUNG of Florida.

H.J. Res 510: Mr. KILDEE, Mr. ATKINS, Mrs. BENTLEY, Mr. RINALDO, Mr. MOAKLEY, Mr. JEFFORDS, Mr. GARCIA, Mrs. COLLINS, Mr. BONIOR of Michigan, Mr. TORRICELLI, Mr. STOKES, Mr. DORNAN of California, Mr. WEISS, Mr. KENNEDY, Mr. MAVROULES, Mr. CLAY, Mr. CONTE, Mr. TOWNS, and Mr. RUSSO.

H.J. Res. 543: Mrs. BENTLEY, Mr. BUSTAMANTE, and Mr. GEPHARDT.

H.J. Res. 553: Mr. MFUME, and Mr. SAVAGE.

H.J. Res. 567: Mr. GUNDERSON, and Mr. HORTON.

H. Con. Res. 266: Mr. DE LUGO.

H. Con. Res. 295: Mr. CHAPMAN, Mr. DORNAN of California, Mrs. PATTERSON, Mr. ERDREICH, and Mr. LIVINGSTON.

H. Con. Res. 302: Mr. FASCELL, Mr. BALLENGER, Mr. LEWIS of Florida, Mr. BUSTAMANTE, Mr. ENGLISH, Mr. NEAL, and Mr. BUECHNER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 285: Mrs. MARTIN of Illinois.

SENATE—*Wednesday, May 25, 1988*

(Legislative day of Wednesday, May 18, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from North Carolina.

The PRESIDING OFFICER. The opening prayer will be offered by Rev. John E. Stait, assistant to the Senate Chaplain.

PRAYER

The assistant to the Chaplain, the Reverend John E. Stait, offered the following prayer:

Let us pray:

For the Lord giveth wisdom: out of His mouth cometh knowledge and understanding. He layeth up sound wisdom for the righteous; He is a buckler to them that walk uprightly. He keepeth the paths of judgment and preserveth the way of His saints. Then shalt thou understand righteousness, and judgment, equity; yea every good path.—Prov. 2:6-9.

God and Father of us all. Thank You for being willing to give wisdom and understanding. But it is not always clear what is the right decision, what is the right path. Things get cluttered and confused. We need Your help, we want Your help in the difficult decisions regarding ourselves, our families, our communities, our Nation, and our world. Be with those in the Senate in a special way today. Lay up sound wisdom. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 25, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE INF TREATY

Mr. BYRD. Mr. President, I hope that we will be able to make progress today on the treaty. I hope that we will be able to develop a time agreement which will allow Senators to call up amendments. If we are able to develop such a time agreement, perhaps we could vitiate the vote on cloture.

I would like very much to finish the work on the treaty Friday or, if not Friday, Saturday. I am fairly confident that we will be able to finish the treaty Friday or Saturday.

JOBS AND THE FUTURE

Mr. BYRD. Mr. President, I was disappointed but not surprised that the President finally vetoed the omnibus trade and competitiveness bill.

I was disappointed, Mr. President, because this is good legislation. It reflects a strong, bipartisan consensus that was formed over the years of work that have gone into the bill. It says to the world that America will compete, not retreat. The bill tackles today's problems and invests in tomorrow's promise.

It emphasizes exports. It stresses the importance of competitive exchange rates; gives the President new tools to open foreign markets; and streamlines our export control system.

It prepares for the future with investments in education, training, and innovation. It promises the American workers better education, better training, and 60 days' notice that a plant will close. Not only does it promise that worker that notice, but it promises the community in which the worker is located.

In his veto message, the President dwells at length on his opposition to mandatory notice of a plant closing or mass layoff. He is worried. He favors a voluntary program to give their workers notice. He urges the employers to do the decent thing but could not do it himself and sign the bill.

In an effort to cloud the plant closing issue, the President added a few items to his veto list. He does not want to study new ways to deal with the Third World debt or establish an Advisory Council on Competitiveness. What these amount to are little more than the emperor's new fig leaf.

The House spoke yesterday. By a margin of 308 to 113, the House voted for trade legislation and against the President's veto. The House has sent a strong message to the President and the House has sent a strong message to us.

The President's veto has caught us in the midst of working on the INF Treaty. It would be a matter of considerable irony if the veto message now were to get in the way of the treaty. That could very easily happen. I hope to prevent it. But that would be the President's own doing. He could thwart the chances for a treaty this week if that veto message were to get in the way of the treaty. Even if the Senate were to invoke cloture on that treaty, the veto message would have precedence because we would be guided by the Constitution in moving to the veto and in acting on that veto message. And the Constitution would certainly have precedence over rule XXII of the U.S. Senate, important though that rule is.

But I will do everything I can to save the President that embarrassment—an embarrassment which, in the final analysis, he would have caused himself and would have been caused by those advisers in his administration who advised him to veto this message. So I think the fault should be divided and spread around over those advisers who urged the President to veto this bill.

The President's veto has caught us in the midst of working on the treaty, as I said. Senator DOLE and I and the overwhelming majority of our colleagues are doing everything we can, now that the problems that emerged from the committee hearings have been resolved, to have the Senate act to approve the treaty in time for the President's upcoming meeting in Moscow. To keep on that track, I have to do whatever I can to put off consideration of the veto until after Memorial Day.

That extra time will not be lost, Mr. President. It will give Senators who dream of a second bill time to think about how much there is to do this year and how little time is left. It will give the people another chance to add their voice to that of the House of Representatives. We have a good bill in our hands, Mr. President.

We may not have—we may not have another good bill this year, or certainly one as good as the one that has been vetoed.

Mr. President, I ask if I have any time remaining I may reserve it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the Republican leader's time may be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE INF TREATY

Mr. SPECTER. Would the majority leader be willing to yield for a question on the INF Treaty?

Mr. BYRD. Yes.

Mr. SPECTER. I already asked Senator PROXMIRE if he would mind my asking one question of the distinguished majority leader and it relates to the so-called Biden condition.

There has been some comment that there may be a new condition proposed by perhaps the distinguished majority leader or someone on his side of the aisle, and also some comment that has been circulated that Professor Henkin, the chief reporter on the Restatement of the Law in this area, has written to some on your side of the aisle retreating to some extent from some of his previous positions on that issue.

I would ask the majority leader if he would be willing to comment on those issues?

Mr. BYRD. Well, as to the reference to Professor Henkin, I am not prepared at the moment to do that. I do not have such correspondence before me.

As to the question involving the Biden amendment, I do have an amendment to the amendment which I hope I will be able to offer. But that is about all I can say at the moment in response to the Senator's question.

Mr. SPECTER. Does the distinguished majority leader have any idea at this moment when he will be making that available for examination? I ask that question because the legal issues are extraordinarily complex and the maximum amount of opportunity to review that amendment will be greatly appreciated, at least by this Senator, and I think by others.

Mr. BYRD. Well, I want to continue going over it myself with my staff and with Senators on both sides, which I will do.

Mr. SPECTER. To the extent the distinguished majority leader could make it available to this Senator, this Senator will express his appreciation in advance for that.

Mr. BYRD. I will be happy to make it available to the Senator when I make it available to other Senators.

Mr. SPECTER. I thank the majority leader.

Did the majority leader indicate that he was not prepared to discuss the Professor Henkin issue? I did not quite understand that.

Mr. BYRD. Not at this moment. I do not have the communications before me. They were not addressed to me. I have read such communications and I am sure that there will be ample time to discuss them.

Mr. SPECTER. I thank the distinguished majority leader.

Mr. BYRD. I thank the distinguished Senator from Pennsylvania and I thank the distinguished Senator from Wisconsin.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

THE SHAME OF THE FEDERAL DEFICITS IN THE 1980'S

Mr. PROXMIRE. Mr. President, there is no more important obligation for our Federal Government than to reduce the annual deficit that is building an ever more gigantic national debt. Here's why: The $2 trillion of that debt that is publicly held already imposes an annual $150 billion burden of interest on the Government. In fact, that interest burden today represents virtually the entire deficit. Except for the annual interest burden the 1987 Federal budget would have been in balance. That interest cost is certain to rise as the deficit continues. It will probably rise even faster than the deficit. This is because interest rates will increase with the continued soaring indebtedness for American business and American households. Enormous Federal Government debt has shoved future taxpayers into a $2½ trillion trap. If the economy declines, the increased risk involved in the already huge household and business debt will skyrocket interest rates. On the other hand, if the economy grows the rise in inflation will accelerate interest rates. The present level of long-term mortgage rates with 30-year mortgages above the 10-percent level and rising seems a fairly reliable harbinger of the interest cost of money to come.

So put these two factors together. Continual debt on its way to $3 or $4 trillion, interest rates on their way to 10 percent and more, and we can see the interest cost for the Federal Government rising to $300 billion each and every year and higher—probably much higher. This Senator believes that it is now virtually certain that 10 years from now the biggest cost of Government will not be military spending. It will not be Social Security. What will it be? It will be interest on the Federal debt.

What makes this so serious is that interest is the one absolutely irreducible cost of Government. Unlike military spending or spending on social programs, there is no practical way the Congress can reduce the interest it owes on the national debt. Government interest payments must be paid in full and on time. They cannot be stretched out.

Of course, because the Federal Government is sovereign, it could simply refuse to pay interest. But such action would swiftly and surely become counterproductive. Here is why: Federal Government debt maturities are short. This requires the Government to come back to the credit market for billions of dollars in new borrowing every month. Any deferral or unilateral reductions or refusal to pay debt interest would immediately serve notice that the Government's word, for the first time in our history is no longer as good as its bond. What would that do to future Government interest rates? It would shoot them much higher. During the very next month after Federal Government failed to pay its interest in full, the rate of interest on Government bills would skyrocket.

The supreme irony is that interest on the debt will not only soon be the biggest and most mandatory of Federal expenditures, it is also the most useless. These hundreds of billions of dollars of interest payment do not educate a single child. They do not buy a nickel's worth of national defense. They provide no environmental protection or anything else of value.

So what can we do about it? First, we get serious about living within our means. That requires two mandatory responses by the Federal Government. First, the Federal Government must hold down all spending as much as we responsibly can. That includes military spending as well as spending on social programs. Second, we must raise taxes to whatever level is necessary to pay for these programs. Let us face it, these are the two most unpopular actions Government can take. Living within our means requires us to take both these actions. After the last 7 years of an exampled irresponsibility, this is the least we can do. Think of the injustice we impose on our children and grandchildren by failing to act. Our children will be forced to bear a massive interest burden of hundreds of billions of dollars every year throughout their lives. They will not only have to pay for all the social programs justice requires in this compassionate country. They will not only have to bear the continuing massive cost of defending freedom in this dangerous nuclear world. Their Government will have to spend far more than it spends for either social justice or national defense, to pay interest on an indebtedness that the Government built up in the last 7 years, because in our cowardice and selfishness we insisted on living beyond our means.

INSIDER TRADING

Mr. PROXMIRE. Mr. President, takeover mania has spawned a tidal wave of white-collar crime. In the last 4 years, the SEC and Federal prosecutors have convicted some 50 individuals for insider trading, matching the total convicted in the previous 50 years. And we are warned that this is the tip of the iceberg.

One of the striking characteristics in these cases is the lax sentences, given the crime. Boesky is serving 3 years in jail for his notorious misdeeds. Ira Sokolow has already gotten out of the slammer. David Brown got only 30 days and is doing real estate. Morton Shapiro served 2 months and is "very prosperous."

Soon, the Senate will be debating S. 1323, the Tender Offer Disclosure and Fairness Act. One of its important provisions boosts the penalties for securities law violations. I think this rollcall of crooks speaks loudly in support of that provision.

So we do not forget that each of these convictions represents millions of dollars in stolen money, I submit for the Record the disposition of these latest 50 cases. I ask unanimous consent that this list, as published in the Wall Street Journal be printed in full in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

What Happened to 50 People Involved in Insider-Trading Cases

THE BOESKY-LEVINE RING

Ivan Boesky—Wall Street's biggest arbitrager. Helped orchestrate largest-ever insider-trading ring. Exposure rocked financial world and led to settlements and arrests of several other prominent Wall Streeters. Ordered to repay illegal profits of $50 million and fined $50 million in SEC settlement. Pleaded guilty to a single felony-conspiracy count. Awaiting sentencing. Full-time student in Talmudic studies at New York's Jewish Theological Seminary.

Martin Siegel—Investment banker at Drexel Burnham Lambert and Kidder Peabody who channeled inside information on takeovers to Boesky. Pleaded guilty to two federal charges of income-tax evasion and securities-law violations. Barred from securities industry. Agreed to pay $9 million civil fine. Awaiting sentencing. Living in seclusion at seaside mansion south of Jacksonville, Fla., which he bought for more than $3 million earlier this year.

Boyd Jefferies—Chairman, Jefferies Group Inc., who admitted aiding Boesky in trading schemes. Pleaded guilty to two counts of breaking securities laws. Awaiting sentencing. Now runs golf-training school for underprivileged children in Aspen, Colo. "He was a high-energy guy, and this is killing him," says a friend.

Dennis Levine—Investment banker whose 1986 arrest ignited insider trading scandal. Reaped more than $12 million in illegal profits by trading on information stolen by himself and others. Pleaded guility to four federal charges. Sentenced to two-year prison term. Agreed to repay $11.6 million in illegal profits in SEC settlement. Now serving sentence in Lewisburg, Pa., federal prison. Spends many days doing yard work and is said to be ostracized by other inmates for cooperating with federal prosecutors.

Ira Sokolow—Investment banker at Shearson Lehman Bros. who leaked inside information to Levine, who paid him $122,500. Pleaded guilty to tax evasion and securities fraud. Sentenced to 366 days in prison. Agreed to repay $120,000 and fined $90,000. Released from prison June 6, Said to be having little luck in a nationwide job research. "Words can't adequately express my sorrow" he told sentencing judge.

David Brown—Investment banker at Goldman, Sachs & Co. who leaked inside information to Sokolow, who paid him about $30,000. Pleaded guilty to securities and mail fraud. Agreed to pay $145,790 in SEC settlement. Sentenced to 30 days in prison plus 300 hours of community service. A consultant in the real estate-division of Roman Catholic Archdiocese of New York.

Ilan Reich—Attorney for Wachtell, Lipton, Rosen & Katz who leaked inside information to Levine. Pleaded guilty to securities and mail fraud. Sentenced to 366 days in prison and disbarred. Now serving time in Danbury, Conn., federal prison. Spends many days in bed. "Ilan is not adjusting well," says a friend, who adds that Reich doubts whether he should have plea bargained. Scheduled for release in December.

Robert Wilkis—Investment banker at Lazard Freres and E.F. Hutton who leaked insider information to Levine. Pleaded guilty to four felonies. Sentenced to 366 days in prison. Now in Danbury, Conn., federal prison. In good spirits, he spends days reading, weight lifting and running. Scheduled for release in December.

Randall Cecola—Lazard analyst who allegedly leaked information to Wilkis. Pleaded guilty to two criminal charges of failing to properly report income tax; sentenced to five years probation. Disgorged $21,800 in trading profits after SEC settlement. Quit Harvard Business School. Working in Boston area.

Bernhard Meier—Former official of Swiss Bank Leu's Bahamas unit who handled Levine's trades. Barred from U.S. securities industry. Living in Zurich suburb. Mr. Meier currently faces no criminal or civil charges.

Max Hofer and Carlos Zubillaga—Former Merrill Lynch brokers in Caracas. Anonymous letter sent to Merrill in 1985 described suspicious trading in takeover stocks by the two and ultimately led SEC to Dennis Levine. Both men were fired, though neither faced criminal or civil charges. Zubillaga is said to be living in Caracas, but Hofer "was hounded out of the securities industry" in Venezuela and fled the country to points unknown, his attorney says.

THE YUPPIE FIVE

Michael David—Associate at law firm of Paul, Weiss, Rifkind, Wharton & Garrison and alleged mastermind of insider ring consisting of five young professional men that traded on information David stole from Paul Weiss. Pleaded guilty to four criminal counts and agreed to pay civil fine of up to $150,000, with amount of fine keyed to his future earnings. Awaiting sentencing. Driving a limousine in Manhattan.

Morton Shapiro—Stockbroker at Moseley Securities Corp. Served two-month sentence at a Massachusetts halfway house. Now living and working in Boston area. "He's very prosperous," says a friend.

Daniel Silverman—A Shapiro client. Received three-year suspended sentence and fined $25,000. Worked for father's East Providence, R.I., accounting firm. Now owns Providence Subaru dealership. He says: "When I'm 30, I'll be down in Palm Beach writing my memoirs. You'll hear more about me."

Andrew Solomon—Analyst at Marcus Schloss & Co. Fined $10,000, assigned 250 hours of community service and one-year suspended sentence. Now working in father's mattress business in New Jersey. Hopes to re-enter securities business, says a person who knows him.

Robert Salsbury—Drexel Burnham Lambert arbitrager. Sentenced to 3 years probation, 600 hours of community service. Whereabouts unknown.

THE WINANS CASE

R. Foster Winans—Wall Street Journal reporter and co-author of "Heard on the Street" column who leaked advanced information of articles to Kidder Peabody brokers. Supreme Court this week upheld his convictions for securities, mail and wire fraud. Sentenced to 18 months imprisonment and 400 hours of community service, fined $5,000. Drove delivery truck for a time. State of New York attempting to seize proceeds from book he wrote on experiences.

David Carpenter—Wall Street Journal news clerk and Winan's roommate who traded on advance knowledge of Winan's columns. Fraud conviction upheld by Supreme Court earlier this week. Received three years probation and 200 hours of community service. Moved to unidentified Midwestern city.

Peter Brant—Kidder Peabody broker, recipient of leaks from Winans. Pleaded guilty to securities fraud in 1984 and testified against Winans. Awaiting sentencing. Friends say Brant is living in condominium at Palm Beach (Fla.) Polo Club and working at local satellite-communications concern. Recently spotted in Wall Street area pub.

David W.C. Clark—New York lawyer who traded on information supplied by Brant, his broker. Insider-trading charges against him dropped. Trial on embezzlement charges began Oct. 5. Resigned from New York firm. Now said to be living in Fort Lauderdale, Fla.

Kenneth Felis—A Brant associate at Kidder Peabody who also traded on inside information. Disgorged illegal profits in SEC settlement. Conviction also upheld by Supreme Court. Sentenced to six months imprisonment, to be served on weekends. Runs family-owned printing business, Label Systems Inc., in Bridgeport, Conn.

THE THAYER CASE

Paul Thayer—Former LTV Corp. chairman and deputy defense secretary who tipped friends on takeover bids for Bendix and Campbell-Taggert. Served 14 months of four-year prison term, longest ever received in insider-trading case. Released last December from Dallas halfway house, where he worked as trainee at property-management concern. Re-entered business world by gaining board seats at two tiny, publicly held concerns: Computerbase International Inc., Irvine, Calif., and Environmental Processing Inc., Dallas. Acquired 15% of Computerbase stock for about $1 million.

Billy Bob Harris—Dallas stockbroker who traded on information leaked by Thayer. Convicted for obstructing justice. Served 14 months of four-year prison term and five months in Dallas halfway house. A fixture on Dallas social circuit, Harris has been seen at fashionable parties and has taken a job at a real estate concern, where a secretary answers the phone, "Billy Bob's office." Also did stint as helicopter traffic reporter for Dallas radio station KVIL. Says KVIL executive: "Ninety-five percent of the response (from viewers) was, 'It's so good to have Billy Bob back.' "

THE ST. JOE MINERALS CASE

Giuseppe B. Tome—Italian investment banker and consultant to Seagram Co. chairman Edgar Bronfman who, with associate, Paolo Mario Leati (see below) was found liable in 1986 SEC civil trial of trading illegally in stock of St. Joe Minerals Corp. Tome and Leati were ordered to repay $5.8 million profits and interest. Under indictment in Manhattan federal court on fraud charges. A fugitive in Switzerland, where he heads Finvest, a Geneva investment concern.

Paolo Mario Leati—Italian banker and associate of Tome. No criminal prosecution. In securities business in Milan.

James V. Pondiccio Jr.—Assistant head trader at Lazard Freres & Co.; traded on advance knowledge of Seagram takeover of St. Joe Minerals. Pleaded guilty to securities fraud and repaid about $40,000 in illegal profits; received three years probation. A former associate says he is in real-estate business in Westchester County, N.Y.

THE RCA CASE

Marcel Katz—Junior analyst at Lazard Freres accused by SEC of tipping father on RCA-GE merger. Barred from securities industry in SEC settlement. Accepted at New York University for 1986 fall semester but didn't show up for classes after SEC settlement. Whereabouts unknown.

Harvey Katz—Houston businessman. Repaid trading profits of more than $1 million, and fined $2.1 million, in SEC settlement.

Fred Alzen—Milwaukee stockbroker. Repaid trading profits of $60,000 and was fined $20,000, in settlement with SEC, which accused him of trading on tips from Harvey Katz. Whereabouts unknown. "He seems to have fallen off the face of the earth," says a former associate.

THE SANTA FE CASE

Darius N. Keaton—Former director of Santa Fe International who with associates made $4.9 million trading in Santa Fe stock in advance of 1981 takeover by Kuwaiti national oil company. Along with eight foreign investors, repaid $7.8 million in trading profits in SEC settlement; largest insider case in the pre-Levine era. Pleaded guilty to two felony counts; served two-month prison sentence. Retired, living near Monterey, Calif. Working off 1,000 hours of court-ordered community service helping parolees find jobs. In jail became advocate of narcotics legalization and prison reform.

Costandi N. Nasser—Jordanian oil consultant accused by U.S. of passing Mr. Keaton's tip to other investors, including the interior minister of Qatar. Settled with SEC. Indicted on fraud and conspiracy charges in a Manhattan federal court. Considered a fugitive. Believed to be living in Europe.

THE SULLIVAN & CROMWELL CASE

Alan Ihne—Office manager at law firm of Sullivan & Cromwell who leaked advance details of takeovers to friends and others. Ring, which included four New York City policemen, made $1.6 million trading stocks and options of 13 companies. Served less than a year of 18-month sentence at Allenwood, Pa., federal prison. Now salesman and part-owner of New York limousine service. "He's doing better than even," says his attorney.

James Stivaletti—Stockbroker who traded on tips from Ihne. Pleaded guilty to perjury, conspiracy. Recently released after serving three years in Lewisburg, Pa., federal prison. Living in New York.

Four Policemen—All allegedly traded on tips traced to Mr. Stivaletti. Vito Rossini, who paid a $10,000 fine in an SEC settlement, remains on the police force. SEC civil cases against other three are pending. Meanwhile, Richard B. Martin remains on the police force; John Musella is retired and works for a New York area security service; Edward O'Neill is retired and runs a New York waste-disposal concern.

OTHER CASES

Adrian Antoniu and E. Jacques Courtois Jr.—Antoniu, a Lehman Bros. investment banker, was a key figure in major 1970s insider-trading ring. He traded on information supplied by Courtois, a Morgan Stanley investment banker and was sentenced to 39 months probation and fined $5,000 in 1982. Antoniu now heads a Minneapolis sporting-goods franchise company. Courtois served 4½ months of a six-month sentence after 1984 conviction. Married daughter of a senior Colombian government official while living in South America as a fugitive prior to conviction. Last known address is Montreal, where father is prominent attorney.

Vincent Chiarella—A financial printer who traded on information gleaned from proxies and other financial documents. Criminal conviction in 1978 was first for insider trading in recent times. Conviction overturned by Supreme Court in 1980. Spent seven years bouncing from job to job before regaining his old position in an arbitration case. "I disgorged $29,000 to the SEC. Ivan Boesky could buy cigarettes with that," he says.

Howard L. Davidowitz—National director of Ernst & Whinney retail-counsulting service who, while consulting with Gray Drug Stores, Cleveland, traded on advance knowledge of company takeover of Drug Fair Inc. Disgorged profits of $46,000 in SEC settlement. Pleaded guilty in 1983 to two counts of fraud; sentenced to 39 weekends in prison and fined $10,000. Runs his own New York retailing-consulting firm. "It was one transaction in a lifetime. You have to deal with your problems, and move on," he says.

Raymond L. Dirks—Insurance analyst involved in two mayor financial scandals in past 15 years—collapses of Equity Funding Corp. of America and John Muir & Co. Supreme Court in 1983 overturned SEC censure for insider trading in Equity Funding. Suspended six months for role in collapse of Muir in 1989. Now heads 18-person insurance group at Wall Street firm of Baird, Patrick & Co. "Some of the biggest money managers in the country return my calls now because they know my name," he says.

Carlo Florentino—Wachtell Lipton partner convicted of trading on inside information stolen from firm between 1977 and 1981. Repaid trading profits of $435,707; received probation on criminal charges. Former associates say Mr. Florentino drove a cab and worked at antique store.

Israel Grossman—Former associate at law firm of Kramer, Levin, Nessen, Kamin & Frankel. Convicted of leaking details of Colt Industries recapitalization plan to family members, who made $1.5 million on $33,938 investment in Colt options. Sentenced to two years in prison, fined $25,000. Now in prison at Allenwood, Pa. Told by sentencing judge: "You made a killing, and it ended up killing you."

Manohar Lal Madan and Krishan Taneja—Madan, a word processor at Wachtell Lipton, leaked information on takeover deals to friends between 1976 and 1982. Suffered stroke and released, semiparalyzed, after serving one month of six-month term in federal prison at Lexington, Ky. Living in New York. Suing the federal government over his incapacitation. Taneja, a civil engineer and senior aide to Manhattan's borough president, paid Madan $15,000 for tips. His trades generated illegal profits of about $1 million, which were largely lost in subsequent trades. Fined $10,000, sentenced to three years in prison; all but six months suspended. Served less than six months in Allenwood, Pa., prison. Recently lost arbitration case seeking return to former job. Now a cab driver living in Queens.

Morgan F. Moore—New Canaan, Conn., psychiatrist who traded on news of Posi-Seal International Inc. merger while treating wife of company executive. Repaid trading profits of almost $27,000 and was fined same amount. No criminal charges. Now semi-retired, living in Brookfield, Conn. Asked about his feelings toward the SEC, he replies, "I don't want to stir up the feds. I trust them about as far as I can throw them."

Thomas C. Reed—Former Reagan special assistant accused of insider trading after making $431,000 on Amax Co. options bought two days before takeover bid. Disgorged profits into charitable trust in SEC settlement. New York jury acquitted him of criminal charges in 1985. Now chairman of Quaker Hill Development, a San Rafael, Calif., real-estate company he founded in 1965. It builds residential and commercial projects north of San Francisco. Says Mr. Reed of the Amax matter: "It has had zero effect on my business. The bottom line is I'm very busy living happily ever after."

Kenneth Rubinstein—Lawyer for Wall Street firm of Fried, Frank, Harris, Shriver & Jacobson who reaped illegal profits of more than $175,000 in 1980 and 1981 trading on advance knowledge of deals involving Humana Inc. and others. Disgorged profits in SEC settlement. Received 30 months' probation. Readmitted to bar after suspension. Now running Westchester County, N.Y., construction firm specializing in renovating old homes. "He's really turned it around," says a friend.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

THE INF TREATY

Mr. SPECTER. Mr. President, a few minutes ago I raised two issues with the distinguished majority leader concerning the so-called Biden condition, which is part of the Foreign Relations Committee report, which I suggest has extraordinary implications for U.S.

constitutional law and for international law on treaty interpretation because the Biden condition, which is before this body at this time, makes major changes in those branches of our law.

This Senator had heard comments which I had called to the attention of the distinguished majority leader that there might be some effort to modify that condition and that the proponent might be the distinguished majority leader himself. I asked if that revised amendment might be made available at an early date. And there had been some indication that Professor Henkin, who was a source of authority for the Biden condition, had retreated to some extent in a letter which allegedly has been circulated in some quarters among Senators, although this Senator has not had a chance to see it.

This Senator has called Professor Henkin and will pursue an effort to find out from Professor Henkin what his views are.

But I comment this morning, in morning business, in advance of the time we take up the INF Treaty today, to emphasize this Senator's concern on the importance of this issue and the importance of having it available for analysis if there are to be any modifications to the Biden condition because of the complexity of the issue and because of the extreme importance of this issue for international law on treaty interpretation and for U.S. constitutional law.

Mr. President, I have spoken on this subject earlier in these proceedings and last Wednesday Senator CRANSTON, Senator SARBANES, Senator ADAMS, and I had a brief discussion on this issue and I have had printed in the CONGRESSIONAL RECORD certain legal arguments on this matter which I will again refer to briefly, orally, and then add them to a written record.

At this juncture and within the confines of the limited time available in morning business, I would like to call my colleagues' attention to just two key factors in the Foreign Relations Committee report on this issue.

There are many very important factors demonstrating decisive departure from existing international law and U.S. constitutional law. But I cite just two in the very limited time available during my 5 minutes of morning business.

First, at page 101 of the Foreign Relations Committee report there is the reference to the negotiation record and a statement:

> The clear corollary of the constitutional principles cited in the Biden Condition is that such documents need not have been examined for consistency and should not be deemed material to U.S. interpretation of the INF Treaty insofar as they are inconsistent with the Executive branch's formal presentation of the INF Treaty.

Mr. President, that is a most remarkable statement of what purports to be a legitimate principle because it runs headlong into decades, centuries of clear-cut international law interpretation that in seeking to define the meaning of a treaty you examine the negotiating record to determine the intent of the parties.

That is so, Mr. President, because a treaty is an international contract reflecting, basically, the intention of the United States of America and the intention of the Soviet Union, in the case of INF or, for example, ABM.

While the intention of the United States is somewhat more complicated than other international contracting parties because it requires the consent of the Senate, it is certainly the agreement of the parties negotiated by the executive branch and the Soviet Union, which is dominant. To say that the negotiating record is immaterial if it conflicts with the understanding of the Senate, turns the interpretation of international law on treaties upside down.

I could elaborate at length, but I shall not at this point, Mr. President.

The second consideration which I seek to advance in the few minutes available now relates to the extended discussion by the Senate Foreign Relations Committee report on treaty ratification on explicit versus implicit understandings. It is clear what explicit understandings are. That is when the Senate attaches a condition or a reservation to a treaty. That is explicit. We know what it is. Or if the intent of the Senate is established in debate with the floor managers, a Senator rises and asks the floor managers about a point and you have an establishment of the intent of the Senate to a significant extent, but when you seek to glean implicit understandings, it opens a never ending quagmire as to what is sufficient to have an implicit understanding.

The committee report specifies that if there are only a few references or inconsistent references, then you may not have an implicit understanding. If the Biden condition goes forward with this dichotomy or this injection of a very new concept of implicit understanding, I say that we are convoluting treaty ratification law under U.S. constitutional principles. We are injecting an element, so that no negotiating party, like the Soviet Union, will ever know what a treaty means if at some later date there is a contention that there was some implicit understanding gleaned from some extended reference to the ratification record and that effort is made.

The Biden condition is really inextricably intertwined with the ABM Treaty, and that is what it is all about. A reading of chapter IX of the Foreign Relations Committee report demonstrates that.

My purpose in rising this morning is to, again, call my colleagues' attention to these important international legal principles and also to urge that if anyone has an intention to add an amendment which changes the Biden condition, that it be done at the earliest possible moment so we have a chance to study it.

There is a very extended chapter—23 pages and lots of legal citations. This is Wednesday morning. If we are to have a treaty by Friday or Saturday, and if this issue is to be considered, we are going to have to have some time. We are going to have to have some analysis. It is complicated on the law, and it is complicated on the facts.

I urge that these issues be presented to the Senate at the earliest moment. Any materials of Professor Henkin ought to be made available early as well so we can see what changes of position, if any, this distinguished professor has made. He is the chief reporter on the restatement of law and treaties, and if he has moved his position, we are entitled to be notified of that. These committee reports are filed and made available so we can have an opportunity to study these issues. On a matter of this importance, we ought not to rush to judgment or have the matters not made available when, in fact, they can be made available. If there are occurrences where they come up at the last minute, we can understand that and we do the best we can. If they are available under any circumstances, they ought to be made available to all Senators who have to vote on these important issues.

Mr. President, although I put these matters in the RECORD before and the CONGRESSIONAL RECORD is expensive, I think this matter is sufficiently important to do so again.

The summary is as follows:

SUMMARY OF LEGAL ARGUMENTS ON THE IMPLICATIONS OF THE BIDEN CONDITION

I. THE ABM REINTERPRETATION CONDITION FUNDAMENTALLY CHANGES INTERNATIONAL TREATY INTERPRETATION

A. By elevating the Senate's understanding of the agreements between the executive branch and the Senate, the ABM Reinterpretation Condition subordinates the agreements reached between the President and the Soviets. The condition thus subordinates the intention of the parties, as reflected by the agreements reached by the Executive Branch and the Soviet Union, to indicia of the Senate's intention.

1. Other nations may be reluctant to negotiate treaties with the United States because of the ABM Reinterpretation Condition. Nations like the Soviet Union may be far less willing to enter into treaties with the United States if we claim that such treaties will be interpreted in light of the intentions of the U.S. Senate. The United States certainly would object—vociferously—if another country asserted a similar condition.

2. The Senate is proposing a dramatic and one-sided change in international law by urging that international agreements should be interpreted without regard to the intent of the parties, whenever that intent

conflicts with the intent of the United States Senate.

The Senate Foreign Relations Committee Report on the INF Treaty states that a treaty's negotiating record "need not have been examined for consistency and should not be deemed material to U.S. interpretation to the INF Treaty insofar as they are inconsistent with the Executive branch's formal presentation of the INF Treaty" to the Senate (page 101). The Committee Report notes that only the Senate's understanding matters, and does not mention the subsequent practices of the parties—thereby inferentially deeming them irrelevant as well.

To the contrary, the negotiating record and the subsequent practices of the parties have been extremely important in understanding what the parties to the INF Agreement intended when they negotiated the treaty. This reflects long-established principles of international law, which recently were restated by the U.S. Supreme Court in *Societe Nationale v. U.S. District Court for the Southern District of Iowa* (1987). The Court noted:

"In interpreting an international treaty, we are mindful that it is in the nature of a contract between nations," and that "[h]istory, the negotiations, and the practical construction adopted by the parties may be relevant."

The ABM Reinterpretation Condition, as described in the committee report, abrogates this principle.

II. THE ABM REINTERPRETATION CONDITION CHANGES/CONFUSES U.S. CONSTITUTIONAL LAW REGARDING THE SENATE'S ROLE IN THE TREATY RATIFICATION PROCESS

A. The committee report rejects the so-called Sofaer Doctrine which refers to three criteria which must be met for the Executive to be bound by the Senate's understanding of a treaty: "the particular interpretation must have been (1) 'generally understood' by the Senate, (2) 'clearly intended' by the Senate, and (3) 'relied upon' by the Senate" (P. 90). These criteria are based on principles set forth in the *Restatement of Foreign Relations Law of the United States* and constitutional doctrine.

During the Senate Foreign Relations Committee's March 22 hearing, Senator Nunn agreed with those three criteria when he quoted with approval the following sentence from a March 17 letter from the President's Counsel Mr. Culvahouse, to Senator Lugar: "As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification." Said Senator Nunn: "that sentence there I agree with completely" (p. 144).

B. Traditionally, the Senate performs its constitutional function by expressing any particular views of a treaty in the form of explicit conditions. While there are several ways in which the Senate can make its intentions manifest, the explicit way is to include a formal condition in the resolution of ratification. The committee report seeks to elevate "implicit understandings . . . (to) be equal in significance to explicit understandings" (p. 93).

Such a doctrine of "implicit understandings" is obviously tailored to buttress the narrow interpretation of the ABM treaty. It acknowledges that there is no implicit understanding where the Executive communications are "few or inconsistent" (p. 94) and then refers to the ABM controversy as a "factual claim of pervasive ambiguity" (p. 106). As to ABM and treaty interpretation generally, a doctrine of "implicit understandings" would raise complex factual arguments on what is sufficient to imply an understanding. It is precisely for that reason that explicit understandings were formulated to remove such ambiguities and disagreements.

III. DEBATE ON THIS ISSUE NECESSARILY WILL IMPLICATE THE COMPLEX FACTS OF THE ABM TREATY AND ITS INTERPRETATION

While its proponents maintain otherwise, the Condition necessarily rekindles—and, realistically viewed, seeks to resolve—the substance of the ABM Treaty reinterpretation debate. This is so because the Constitution obviously binds the President with respect to interpretation of *all* treaties and the Condition purports to state principles of constitutional law. Its intent, quite clearly, is to bind the President generally, including his interpretation of the ABM Treaty. This is obvious from reading Chapter IX on the Condition which refers repeatedly to the ABM controversy.

The only issue before the Senate now is the interpretation of INF on which there is no real dispute. When the ultimate question was asked of Senator Cranston on May 18 at **Record page 11442.**

"Mr. SPECTER. When the distinguished Senator from California says that there is no objection to the current interpretation of the INF Treaty, only as to issues of reinterpretation, the sole issue in the Senate today is the interpretation of the INF Treaty, why bring up the question of reinterpretation of treaties?"

Had Senator Cranston replied that there is no reason to bring up the question of reinterpretation of treaties, the debate on this Condition would be over. However, Senator Cranston's answer brought up ABM and the Sofaer Doctrine and that is where the extensive debate leads if the Condition is pursued.

IMPLICATIONS OF THE BIDEN CONDITION

Mr. President, I am opposed to the so-called Biden condition, which I more appropriately refer to as the ABM reinterpretation condition, because it revises international law on treaty interpretation, confuses U.S. constitutional law on treaty ratification, and interjects in the deliberations on the INF Treaty an attempt to resolve the continuing dispute over the ABM Treaty.

As I stated on this floor on May 18, inclusion of the ABM reinterpretation condition as the resolution of ratification by the Senate Foreign Relations Committee has proven to be a detrimental factor in debate on the INF Treaty which continues to threaten the treaty's ratification.

The ABM reinterpretation condition poses three serious implications for treaty interpretation. The condition would: First, fundamentally change international law on treaty interpretation; second, change and confuse U.S. constitutional law regarding the Senate's role in the treaty ratification process; and third, necessarily implicate the complex facts of the ABM Treaty and its interpretation.

I. INTERNATIONAL LAW ON TREATY INTERPRETATION

Mr. President, the ABM reinterpretation condition fundamentally changes international treaty interpretation.

The ABM reinterpretation condition establishes, in effect, a two-treaty doctrine, where there is a treaty between the executive branch and the Soviet Union and simultaneously a second treaty between the executive branch and the U.S. Senate. This concept is discussed at length in chapter IX of the Senate Foreign Relations Committee report on the INF Treaty entitled "Treaty Interpretation, condition adopted by the committee," which, in effect, gives primacy to the agreements reached between the executive branch and the Senate. The committee report's analysis of the ABM reinterpretation condition creates confusion and contradiction in the treaty ratification process, and represents a turf battle between the two branches.

Although it includes reference to the "common understanding" between the executive branch and the Senate "based on the text of the treaty" and "authoritative representations," the ABM reinterpretation condition elevates the provisions of the understanding reached between the executive branch and the Senate, making them paramount to the understanding between the executive branch and the foreign nation. Subsection (a) of the condition reads:

> The United States shall interpret this treaty in accordance with the understanding of the treaty shared by the executive and the Senate at the time of Senate consent to ratification.

Chapter IX of the Senate Foreign Relations Committee report includes a number of references establishing the committee's priorities in the treaty ratification process. For example, the committee report states:

> The Legal Adviser's statement implies that the meaning of a U.S.-Soviet treaty is to be gleaned not by examination of what the President and the Senate jointly understood, but by examination of what the President and the Soviets agreed upon—regardless of what the President may or may not have told the Senate. Report at 92.

This statement and other similar statements throughout chapter IX of the committee report establish the committee's view and the underlying doctrine of the ABM reinterpretation condition that the paramount consideration in treaty interpretation is what was agreed upon between the President and the U.S. Senate.

Mr. President, a treaty is valid and binding only if it establishes mutual obligations between the two contracting parties—in the case of the INF Treaty, the United States and the Soviet Union. Although the Senate's understanding plays a critical role in what the United States agrees to in the treaty process, it certainly is not the dominant factor to be considered in interpreting a treaty.

In this regard, the ABM reinterpretation condition turns the international law of treaty interpretation on its head, because the dominant consideration in interpreting an international treaty is what was agreed upon between the two nations—the intent of the parties. The committee report, however, reads:

> In sum, although internal Executive memoranda and other negotiating materials may have been available to Members of the Senate, some of whom have sought to assure themselves that this "record" is consistent with the Administration's formal presentation, the clear corollary of the constitutional principles cited in the Biden Condition is that *such documents need not have been examined* for consistency and *should not be deemed material to U.S. interpretation* of the INF Treaty insofar as they are inconsistent with the Executive Branch's formal presentation of the INF Treaty. Report at 101 (emphasis added).

The committee's conclusion that such documents are not material flatly contradicts firmly established principles of treaty interpretation. The committee report notes that only the Senate's understanding matters, and does not mention the subsequent practices of the parties—thereby inferentially deeming them irrelevant as well.

The committee's attempt to exclude the negotiating record and the subsequent practices of the parties by placing sole reliance on what the committee defines as the Senate's understanding clearly revises treaty interpretation under international law, which recognizes that a treaty reflects the intent of the parties. The parties to the INF Treaty are the United States and the Soviet Union; the Senate is not, nor should be considered, an independent party. The committee report, however, requires a treaty to be in accordance with what the committee determines the Senate's understanding to be regarding that treaty.

By elevating the Senate's understanding of the agreements between the executive branch and the Senate, the ABM reinterpretation condition subordinates the agreements reached between the President and the other contracting country—the Soviets in the case of the INF Treaty—to the indicia of the Senate's intention.

The condition's effect of elevating the Senate's understanding of agreements reached between the President and the Senate may instill reluctance in other nations to negotiate treaties with the United States. Nations like the Soviet Union may be far less willing to enter into treaties with the United States if we claim that such treaties will be interpreted in light of the intentions of the U.S. Senate. The United States certainly would object—vociferously—if another country asserted a similar condition.

The ABM reinterpretation condition also has the effect of proposing a dramatic and one-sided change in the interpretation of international law, by urging that international agreements should be interpreted without regard to the intent of the parties, whenever that intent conflicts with the intent of the U.S. Senate.

Mr. President, to the contrary, the Supreme Court of the United States and established constitutional doctrine clearly recognize the following vital factors in treaty interpretation: the negotiations, the terms of the treaty, the negotiating record, and the practical construction adopted by the parties, also referred to as the "subsequent practice" of the parties.

The U.S. Supreme Court recently restated this fundamental tenet of treaty interpretation. In *Societe Nationale Industrielle Aerospatiale* v. *U.S. District Court for the Southern District of Iowa,* slip op. 85-1695 (1987), the Supreme Court stated:

> In interpreting an international treaty, we are mindful that it is "in the nature of a contract between nations" . . . [and] The treaty's history, "the negotiations, and the practical construction adopted by the parties" may also be relevant. Id. at 10.

The Senate Foreign Relations Committee report on the INF Treaty is inconsistent with this firmly established principle. It is possible that the understanding between the Senate and the President may be at variance with what the United States agreed to with the other contracting country. In such cases, the Senate's understanding is an important, but not the determinative factor—or even the factor to be considered first.

In cases of ambiguity regarding interpretation of a treaty, the law is clear that the negotiating record and the subsequent practices of the parties are the critical factors in resolving the ambiguity. The Senate should reject contrary statements included in the committee report.

II. U.S. CONSTITUTIONAL LAW

The ABM reinterpretation condition changes and confuses U.S. constitutional law regarding the Senate's role in the treaty ratification process.

Mr. President, the law is well established that the executive interprets the meaning of a treaty. The "Restatement of the Foreign Relations Law of the United States," section 326, sets forth U.S. law on the authority to interpret international agreements:

> (1) The President has authority to determine the interpretation of an international agreement to be asserted by the United States in its relations with other states.
>
> (2) Courts in the United States have final authority to interpret an international agreement for purposes of applying it as law in the United States, but will give great weight to an interpretation made by the executive branch."Restatement of the Law Third," American Institute (1987) at 202.

The "Restatement's" Comment elaborates on Presidential authority to interpret treaties:

> The President has authority to interpret international agreements for the purpose of United States foreign relations since he is the country's "sole organ" in its international relations and is responsible for carrying out agreements with other nations. . . . The Senate, whose consent is necessary for the United States to conclude a treaty, has no special role in the implementation of the treaty after it is made, though, of course, it participates equally with the House of Representatives in enacting implementing legislation or appropriating funds. Interpretation by the Senate of a treaty after it has been concluded may have no special authority, but understandings expressed by the Senate in giving its advice and consent must be respected. *Id.,* comment a.

Professor Henkin, who is extensively relied upon by the Foreign Relations Committee, has posited a similar doctrine:

> The obligation and authority to implement or enforce a treaty involve also the obligation and authority to interpret what the treaty requires. For international purposes, no doubt, the President determines the United States position as to the meaning of a treaty. Domestically, too, since the President has usually the principal, often the sole, responsibility to execute a treaty, the treaty means what he says it means. Henkin, "Foreign Affairs and the Constitution" 167 (1972).

The Supreme Court also addressed subsequent Senate interpretation of a treaty in *Fourteen Diamond Rings* v. *United States,* 183 U.S. 176 (1901). The Court considered the Senate's adoption of a resolution, subsequent to ratification of a peace treaty between the United States and Spain, which attempted to clarify the application of customs duties to the Philippines, and determined "that it is absolutely without legal significance on the treaty interpretation question before us." Id. at 180. The Supreme Court held:

> The meaning of the treaty cannot be controlled by subsequent explanations of some of those who may have voted to ratify it. Id.

In a concurring opinion, Justice Brown stated that the Senate resolution "cannot be regarded as part of the treaty, since it received neither the approval of the President nor the consent of the other contracting power." Id. at 182. Justice Brown also discussed at length the treaty ratification process and the authority to interpret treaties:

> A treaty . . . [i]n its essence is a contract. It differs from an ordinary contract only in being an agreement between independent states instead of private parties. . . . Obviously, the treaty must contain the whole contract between the parties, and the power of the Senate is limited to a ratification of such terms as have already been agreed upon between the President, acting for the United States, and the commissioners of the other contracting power. The Senate has no right to ratify the treaty and introduce new terms into it, which shall be obligatory upon the other power, although it may refuse its

> ratification, or make such ratification conditional upon the adoption of amendments to the treaty. Id. at 182-83.

Justice Brown concluded that the resolution at issue "can be considered only as expressing the individual views of the Senators voting upon it." Id. at 184.

Mr. President, the principles of treaty interpretation which apply in cases of ambiguity are similar to those used in determining the legislative intent of a statute. This standard was outlined by the Supreme Court in *Japan Whaling Association* v. *American Cetacean Society,* slip op. No. 85-954 (1986):

> If a statute is silent or ambiguous with respect to the question at issue, our longstanding practice is to defer to the "executive department's construction of a statutory scheme it is entrusted to administer" [quoting *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. at 843] unless the legislative history of the enactment shows with sufficient clarity that the agency construction is contrary to the will of Congress. Id. at 11.

The Court continued:

> It may be that the legislative history of these amendments [at issue] there are scattered statements hinting at the per se rules advocated by respondents, but read as a whole, we are quite unconvinced that this history clearly indicates, contrary to what we and the Secretary have concluded is a permissible reading of the statute. . . . Id. at 18.

In this case, the Supreme Court clearly indicated that it is the executive branch which interprets the statute, just as it is the executive branch which interprets a treaty.

The U.S. Supreme Court articulated the same doctrine in *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837 (1984). The Court stated:

> When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress had directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress. If, however, the court determines Congress has not directly addressed the precise question at issue, the court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, *if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.* Id. at 842-43 (emphasis added).

Mr. President, the committee report is inconsistent with U.S. constitutional law on the Senate's role in the treaty ratification process.

A. THE SOFAER DOCTRINE

The Committee report rejects the so-called Sofaer doctrine which articulates three criteria which must be met for the executive to be bound by the Senate's understanding of a treaty:

> The particular interpretation must have been: first, "generally understood" by the Senate; second, "clearly intended" by the Senate; and third, "relied upon" by the Senate. Committee report at 90.

These criteria, however, are based on principles set forth in section 314 of the "Restatement of the Foreign Relations Law of the United States and on well-established constitutional doctrine.

During the March 22, 1988, hearing on the INF Treaty before the Senate Foreign Relations Committee, Senator NUNN himself agreed with those three criteria when he quoted with approval the following sentence from a March 17 letter from the President's Counsel, Mr. Culvahouse, to Senator LUGAR:

> "As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification.

Senator NUNN stated: "That sentence there I agree with completely." Hearings at 144. Senator NUNN again quoted this sentence and the following sentence from the Culvahouse letter, id. at 153, and stated: "Now, I think those two sentences are something we can build on here." Id. at 154.

B. EXPLICIT/IMPLICIT CONDITIONS

Mr. President, the Senate traditionally performs its constitutional function by expressing any particular views of a treaty in the form of explicit conditions.

The committee report discusses at length how the Senate reaches its understanding, both explicit and implicit, of a treaty's meaning. The report noted that explicit understandings "are manifest in formal conditions to the Senate's consent. These conditions include amendments to the text of a treaty as well as amendments to the resolution of ratification, such as 'reservations,' 'understandings,' and the like." Report at 93.

"Implicit understandings" are much more complicated. The committee report noted that "implicit understandings represent Senate agreement with and acceptance of the executive's explanations of the treaty." Id. at 93. The committee report refers to testimony by Professor Henkin to help define this concept: "Where several executive statements are made and there is general acceptance of their tenor, that is the Senate understanding." Id. at 93. The report continued:

> Clearly, in determining whether the Senate consented to the ratification of a treaty pursuant to an implicit understanding, a rule of reason must apply. Obviously, where the indicia of Senate intent or understanding (including unchallenged executive communications of explanations) are few or inconsistent, no implicit Senate intent can reasonably be said to exist. On the other hand, where the indicia of intent (again, including unchallenged executive communications or explanations) are several and largely consistent, an implicit intent can reasonably be concluded to exist. Id. at 93-94.

These statements are illustrative of repetitious ambiguity in the committee report; they also reflect that implicit understandings realistically have no meaning where there is "a factual claim of pervasive ambiguity"—see id. at 106.

Mr. President, the committee report seeks to elevate implicit understandings * * * to be equal in significance to explicit understandings. Id. Such a doctrine of implicit understandings is obviously tailored to buttress the narrow interpretation of the ABM Treaty. It acknowledges that there is no implicit understanding where the executive communications are few or inconsistent, id. at 94, and then refers to the ABM controversy as a factual claim of pervasive ambiguity. Id. at 106. As to the ABM Treaty, and treaty interpretation generally, such a doctrine of implicit understandings inevitably will raise complex—and probably insolvable—arguments about what is sufficient to imply an understanding. It is precisely for that reason that explicit understandings are formulated to remove such ambiguities and disagreements.

Had there been an explicit understanding of the scope of the ABM Treaty's application—narrow or broad—this issue would not now be before us. This Senator and many others have illustrated the lack of an explicit understanding in the ABM Treaty record—the text of the treaty, committee proceedings and floor debate. The ABM Treaty debate would not be a part of the INF Treaty debate today had there been an explicit understanding on narrow versus broad application of the ABM Treaty.

III. THE ABM TREATY

Mr. President, debate on the ABM reinterpretation condition necessarily will implicate the complex facts of the ABM Treaty and its interpretation.

While its proponents maintain otherwise, the condition necessarily rekindles—and, realistically viewed, seeks to resolve—the substance of the ABM Treaty reinterpretation debate. This is so because the Constitution obviously binds the President with respect to interpretation of all treaties and the condition purports to state principles of constitutional law. Its intent, quite clearly, is to bind the President generally, including his interpretation of the ABM Treaty. This is obvious from reading chapter IX on the condition, which refers repeatedly to the ABM controversy.

Mr. President, Chapter IX of the Senate Foreign Relations Committee report on the INF Treaty clearly is an attempt to discredit the so-called

Sofaer doctrine and influence the argument on the narrow versus broad interpretation of the ABM Treaty. Apart from these two purposes, the committee acknowledges that this condition is unnecessary. The report reads:

> The committee notes that, in one respect, its action in including this condition in the INF Treaty's resolution of ratification was *unnecessary* insofar as principles which inherently apply to the INF Treaty would apply even in the absence of any Senate action affirming them. Given the circumstances, however, the committee judged that to fail to affirm such principles could suggest some degree of acquiescence in the Sofaer doctrine, which the committee views as an executive attempt to assert an unconstitutional arrogation of the treaty power. In this sense the committee views the Biden condition, paradoxically, as both *unnecessary* and highly significant. Report at 97, emphasis added.

The committee report repeatedly raises the interpretation issue, only to discuss at length what the interpretation is not. The extended discussion in chapter IX of the so-called Sofaer doctrine clearly reflects the committee's attempt to interject the ABM Treaty debate into the INF Treaty ratification debate.

The ABM reinterpretation condition clearly implicates the ABM controversy when the ultimate question was asked of Senator Cranston on May 18:

> Mr. Specter. When the distinguished Senator from California says that there is no objection to the current interpretation of the INF Treaty, only as to issues of reinterpretation, the sole issue in the Senate today is the interpretation of the INF Treaty, why bring up the question of reinterpretation of treaties? Congressional Record, May 18, 1988, at S6064.

Had Senator Cranston replied that there is no reason to bring up the question of reinterpretation of treaties, the debate on this condition would be over. However, Senator Cranston's answer brought up ABM and the Sofaer doctrine and that is where the extensive debate necessarily leads if the condition is pursued.

Mr. President, the debate over interpretation of the ABM Treaty highlights the importance of treaty interpretation principles. The ratification record of the ABM Treaty contains only a few statements on the issue of narrow versus broad, and these statements are themselves inconsistent. This Senator suggests that if a full debate of the ABM Treaty is pursued in the context of the INF Treaty ratification process, the record will reveal the degree of ambiguity on the narrow versus broad issue, which thus requires deference to the executive branch's interpretation given established principles of international law and U.S. constitutional law.

The only issue before the Senate today, however, is the interpretation of the INF Treaty, as to which there is no real dispute.

IV. CONCLUSION

Mr. President, inclusion of the ABM reinterpretation condition in the INF Treaty's resolution of ratification threatens to embroil the Senate in a protracted debate over the constitutional treaty power and continues to threaten ultimate ratification of this historic agreement. The concern I expressed on this floor on May 18—that the condition would be a detrimental factor in the ratification of the INF Treaty—unfortunately and regrettably still may prove accurate.

Ratification of the INF Treaty prior to the President's departure for the Moscow summit is too important to the Nation to be ensnared in a turf battle between a few individuals in the Senate and a few in the executive branch. The Senate should reject the ABM reinterpretation condition in the INF Treaty's resolution of ratification, and should continue to follow established principles of international law and U.S. constitutional law regarding treaty interpretation.

I yield the floor.

Mr. PELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DAVID S. SULLIVAN—FREEDOM FIGHTER

Mr. HELMS. Mr. President, I was astonished last week by an article in Time magazine which tended to impugn the integrity and character of a decent and dedicated public servant, David S. Sullivan, a senior professional staff member of the Senate Committee on Foreign Relations.

Citing unidentified sources, the article falsely implied that Mr. Sullivan mishandled classified information in connection with press reports concerning the growing menace posed to the security of the United States by Soviet military supremacy. This article was obviously intended to try to chill debate on the defects, errors, and fatal flaws of the proposed INF Treaty.

Many, if not most, Senators know Dave Sullivan, and recognize that he is a loyal and hardworking professional foreign policy expert, upon whom not only the Senator from North Carolina but many other Senators as well, have long depended and relied.

Mr. President, David Sullivan is an especially well qualified analyst of Soviet military and foreign policy intentions, behavior, and deception. His professional and expert credentials are of the highest order, and are based upon direct academic, military, intelligence, and Senate experience in the crucibles of action and danger.

The oldest son of a well decorated U.S. Air Force major general, David's childhood experience was steeped in the accepted military traditions of honesty and patriotism.

After being graduated from the high school of the U.S. Air Force Academy, where his father was commandant, David attended Harvard University as an undergraduate. David received a degree in modern European history, graduating cum laude from Harvard in 1965.

Thereafter, unlike so many similarly situated students, David elected to defer graduate school, in order to enter the U.S. Marine Corps. David was platoon honor man of his Marine Officer Candidates' School class, graduating No. 2 out of 180 candidates commissioned second lieutenant. He was then trained as an infantry officer, as a tank officer, and he commanded a Marine tank platoon, and served as the executive officer of a Marine tank company. He was also the embarkation officer of a Marine tank battalion.

The Marine Corps then sent Lt. David Sullivan to Vietnamese language training in preparation for a combat tour of duty in Vietnam.

After his promotion to captain as the commanding officer of a Marine infantry company in staging battalion, David served in counterinsurgency, pacification and combat intelligence operations in northern I Corps, along the demilitarized zone, during one of the most difficult periods of operations in the Vietnam war. He was the combat intelligence officer in Vietnam for the legendary 1st Battalion, 9th Marines, known and feared as the "Walking Dead." He was decorated with the Navy Achievement Medal with Combat "V" for valor, and with the Combat Action Ribbon.

On his return to the United States, David left active duty, and while continuing as a captain in the U.S. Marine Corps Reserve, he attended Columbia University, where he received a master's degree in international affairs. It is perhaps worth noting that upon entering Columbia University, Mr. Sullivan received two meritorious New York State and Columbia University fellowships. While a graduate student, David also was the editor-in-chief of the Columbia University Journal of International Affairs.

Immediately upon receiving his advanced degree in August 1971, Mr. Sullivan was recruited into the Central Intelligence Agency as an analyst of Soviet strategic military and foreign policy affairs, and as a member of the

Agency's highly elite paramilitary reserve cadre.

While David was a distinguished CIA analyst, he authored over 100 highly classified articles and studies on Soviet strategic force deployments, test range operations, command and control, defense industries, military and political command structure, foreign policy, and arms control strategy.

His CIA writings included the highly classified and widely discussed CIA book-length studies "The Soviet Strategic Planning Process and SALT"—unclassified title—and "Improving Strategic Intelligence Methodology"—unclassified title.

David Sullivan's CIA analyses were officially noted by CIA for making accurate predictions of Soviet activities which were later confirmed by events, and also for their depth of research, their creative use of all-source evidence, and for their challenge to conventional wisdom about the ostensible benefits to the United States of détente. The Central Intelligence Agency officially described David Sullivan's writings on Soviet SALT deception as "a major contribution to the Intelligence process."

Distressed over suppressed evidence of Soviet deception in the SALT negotiating process, in 1978 Mr. Sullivan responded to a legitimate request from the late Senator Henry "Scoop" Jackson of Washington, for information to which the Senate was fully entitled to receive in connection with the impending SALT II debate.

As we all know, the proposed SALT II Treaty was declared by the Senate Committee on Armed Services to be "not in the national security interests of the United States." For his patriotism, David Sullivan was subjected to unwarranted criticism and potentially punitive administrative actions which made his further effective work at the CIA virtually impossible.

The Director of the Defense Department SALT Task Force under the Carter administration, the Hon. Walter Slocombe, has publicly conceded that: "Mr. Sullivan was one of the most successful and articulate critics of the Carter administration's and every administration's SALT policy."

David therefore voluntarily resigned from the CIA in August 1978, and immediately joined the staff of the U.S. Senate, where he has served ably and very effectively for almost 10 years. He was promoted to lieutenant colonel in the U.S. Marine Corps Reserve in 1985, and he continues to serve meritoriously in an active special unit of the organized U.S. Marine Corps Reserve.

During the almost 10 years that David has served the Senate, it has been my pleasure and privilege to work closely with him. I have been uniformly impressed with his grasp of Soviet foreign policy and military issues, and with the intelligence and wisdom of David's recommendations.

Moreover, it is noteworthy that David has traveled to free Angola, and several times to Central America, to visit combat areas recently liberated by anti-Communist freedom fighters.

David has been a strong proponent of the Monroe Doctrine, the fundamental principle of American foreign policy. David has also published over 30 articles, book chapters, and books, under his own name, on United States-Soviet relations, arms control, foreign policy, military issues, international affairs, and Central America policy. All of these publications were of course cleared in advance by the CIA, where they touched upon intelligence matters.

Even more importantly, I have valued, and frankly admired, David's courage and tenacity when faced with unfounded, unsubstantiated, and politically inspired personal attacks in the press and elsewhere from the bureaucracy. It is a rare man indeed who will withstand repeated ad hominem assaults of the sort that David Sullivan has faced continuously, and yet he has cheerfully continued to undertake the fight for those values all Americans ought to cherish and defend.

I remember the days during and soon after World War II when Time magazine was a reputable journal, and its reporters were reputable journalists. Those days are sadly gone.

Mr. President, I ask unanimous consent for purposes only of confirming my last point, that the article about Mr. Sullivan, which appeared in the May 23, 1988, issue of Time, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Time magazine, May 23, 1988]

Washington's Master Leakers: How Two Crusaders Use Secret Information To Manipulate Policy

Jesse Helms was making a familiar charge: the Soviets, he told the Senate Foreign Relations Committee last March, are lying about the number of intermediate-range nuclear missiles aimed at Western Europe. To back up his claim, Helms distributed a chart showing missile estimates from the State Department, the CIA and the Defense Intelligence Agency. The figures all conflicted, but they had one thing in common: they were highly classified. "They were codeword, code-level items," declared Democratic Senator Brock Adams of Washington, meaning that the documents were restricted even beyond top secret. Yet as committee staffers fanned out to retrieve the missile chart from reporters, Helms insisted that the information was either unclassified or had appeared in news reports. A few days later, a memo written by Senate Aide David Sullivan attributed the most sensitive figures to a series of articles in the New York City *Tribune*, the Washington *Times* and other newspapers.

But Time has been told that the source for at least some of these stories was Sullivan himself. The Senate Republican aide, in other words, had leaked information for articles that he then cited when publishing the classified figures in an attack on the INF treaty.

A month earlier, Michael Pillsbury, an aide to Republican Senator Gordon Humphrey, used similar back-channel methods to influence the Afghanistan peace talks. On a visit to Pakistan, Pillsbury met privately with Maulvi Khalis, the leader of the *mujahedin* rebels, and reportedly told him that the U.S. and the Soviet Union had signed a "secret protocol" at the rebels' expenses. "What Pillsbury did was scandalous," says Under Secretary of State Michael Armacost, who heard the story from Pakistani officials. "If there isn't a law against it, there ought to be."

There are laws against leaking classified information, but they are difficult to enforce. While politically motivated leaks are an old Washington tradition, few people have used the technique as audaciously and with such impunity as Sullivan and Pillsbury. For a decade these two conservatives have moved in and out of the different branches of Government, relying on a network of contacts in the bureaucracies and the press to undermine proposals they disagree with. Both are motivated by deep mistrust of the Soviet Union. Sullivan has been an inveterate opponent of arms-control agreements, while Pillsbury has largely directed his efforts toward support of anti-Soviet guerrilla groups.

Both men have a long history of antagonizing officials with their methods. In 1978, when Sullivan was in the CIA's Office of Strategic Research, he became convinced that the agency was suppressing a study he had written based in part on National Security Agency reports he was not authorized to see. So he gave the document to Richard Perle, then an aide to Senator Henry Jackson, later an Assistant Secretary of Defense in the Reagan Administration. "The study contained some very sensitive intelligence," recalls former CIA Director Stansfield Turner, who forced Sullivan to resign from the agency. Hardly slowed by the episode, Sullivan moved to Capitol Hill as an aide to Democratic Senator Lloyd Bentsen of Texas.

Pillsbury was ousted from the staff of the Senate Budget Committee in 1978 for criticizing U.S. Ambassador to Japan Mike Mansfield during a meeting with Japanese officials in Tokyo. While holding a high-level job in the Pentagon from 1984 to 1986, he frequently appealed to friends on Capitol Hill when he felt that the Reagan Administration was not sufficiently supportive of anti-Communist movements in Angola, Nicaragua and Afghanistan.

Sullivan and his current patron, Helms, oppose the INF agreement because, they say, the Soviets may be hiding a secret arsenal of SS-20 missiles. The Reagan Administration contends that even if this is true, the missiles could never be tested and would quickly become unreliable. Articles comparing Soviet SS-20 figures with much higher, classified Defense Intelligence Agency estimates began showing up in conservative newspapers last winter. Citing these reports, several conservative Senators requested a special closed-door session to resolve the issue before bringing the treaty to the Senate floor for debate.

Sullivan denies being the source of any of the leaks. "The allegation is categorically, simply, flatly not true," he told Time. Nevertheless, officials on Capitol Hill point to further indiscretions. One states that Sullivan has repeatedly used secret material on arms control in letters written for Helms and other Senators. "He's got a reckless disregard for the proper handling of classified information," says the official. Sullivan says there is no truth to these allegations.

Michael Pillsbury responds to his critics with a spirited defense of congressional oversight. "They continually malign 'renegades' who come up and work for the Senate," he says of Armacost and others in the Administration. "What they are really saying is they don't want a Senate."

But Pillsbury displayed the same penchant for pursuing a private agenda when he was in the Executive Branch. As Deputy Under Secretary for Defense, he was credited by some with initiating the effort to obtain Stinger antiaircraft missiles for the *mujahedin*. In April 1986, however, Pillsbury lost his job after he was suspected of leaking word to the Washington *Post* that the Administration had finally approved Stingers for rebels in Afghanistan and Angola. Although Pillsbury denies being the source of the leak, an Administration official familiar with the case says Pillsbury failed three lie-detector tests given by the Defense Investigative Service. "The only thing Pillsbury came out clean about was his name," the official said. Pillsbury says a later FBI polygraph cleared him. But authoritative Administration sources flatly contradict his claim.

Officials say Pillsbury was the suspected source for an April 1986 Washington *Post* story revealing that a U.S. embassy official arrested and tortured by the Ethiopian government two years earlier had been a CIA agent. The story may have endangered the lives of the CIA officer's Ethiopian contacts.

Pillsbury's final offense was to cross swords with the President. While lobbying for military aid to the Nicaraguan *contras*, Reagan struck a gentleman's agreement with Democratic Senator Dennis DeConcini of Arizona that Stingers would not be dispatched to Central America. Opposed to the deal, Pillsbury contacted his conservative Senate backers and, say Administration officials, lobbied against it. When the White House learned of Pillsbury's meddling, he was declared persona non grata; the Pentagon began an investigation of his suspected leaks and he was soon fired.

But like Sullivan, Pillsbury quickly recovered from his breach of faith. Within two months, he was back on the Hill working as an adviser to a group of conservative Senators. No sooner had he settled into his new job, he says, than "phones here all lit up. It was my old friends [inside the Government] saying, 'Let's go to lunch. We have so much to tell you'."—By Laurence Zuckerman. Reported by Jay Peterzell/Washington.

THE DEATH PENALTY AMENDMENT

Mr. HECHT. Mr. President, I rise today to voice my strong support for the amendment of my colleague, Senator D'AMATO, to the Department of Defense authorization bill relating to the imposition of the death penalty for drug traffickers.

I believe America is paying too high a price for drug abuse and too often it is our children, Mr. President, yours and mine, who are the innocent victims of the drug trade. Quite frankly, when our children are involved, and their lives are ruined. I know we must act.

Two years ago, the President's Commission on Organized Crime released some alarming statistics: There are approximately one-half million heroin addicts in this country; 5 million regular cocaine users; and over 20 million regular marijuana users. We all know that the drug use problem is bad, but the fact is, it is getting worse. Now, these drug users are not isolated in just a few large cities like New York or Miami or Los Angeles. No, Mr. President, in reality, the drug problem is also very much alive and growing in cities, small and large, across this country and across my home State of Nevada. In fact, the effects of drug use and abuse can be seen in every community in America.

Almost every day, I receive disturbing letters from Nevada parents who have painfully discovered that their children are using drugs. Mr. President, I wish all of the Members of this body could sit and read through the horrendous situations which are confronting unsuspecting parents each and every day—simply because their children have become victims of the drug war. But, I am certain every Senator has his or her own stories which are equally tragic. Because the drug dealers and suppliers can make millions and millions of dollars by getting our young people hooked on drugs, they will stop at nothing to expand and increase their markets. This means that no place is off limits, and our schools are particularly vulnerable. One Nevada parent has even told me that these drug dealers will give our children a free sample of cocaine or crack so they will become dependent on these very addictive substances. Then, the drug dealers are in complete control of our children's actions.

The only way to win the war on drugs is to fight back with more strength, conviction and determination than the drug lords and their dealers. This means attacking the problem on every level. This is not an easy war. It is not a war without cost, but it is a war that we will win. One which together we must win.

I am certain that my colleagues remember that in 1986 we passed the Omnibus Drug Enforcement, Education and Control Act. This law provided over $500 million to fund the Coast Guard, Customs Service, the Drug Enforcement Administration and other agencies involved in narcotics interdiction and law enforcement. In addition, this law provided funding for prison construction, international narcotics control efforts, and a good portion of the money was allocated for drug education.

Although this law set us in the right direction, the war on drugs is long from over. The drug problem still survives and thrives in our schools and in our communities. Recently, I joined Senator D'AMATO in his legislation which will significantly expand efforts to attack the drug plague. Two of the bills, S. 2205 and S. 2206, will strengthen our ability to fight back, and the provisions include:

Funding State and local narcotics control agencies to attack the drug problem where it is closest to our children—in our schools and on our neighborhood streets;

Supplying money for International programs to encourage "drug source countries," particularly in Latin America, to destroy their drug crops, and to put the drug lords out of touch with the millions of dollars they make supplying our children with drugs;

Providing grants to construct and renovate drug and alcohol treatment centers so that we can help the millions of current drug users kick their drug habit;

Increasing the President's drug education effort, and improve the programs so that they are effective and innovative; and

Authorizing, for the first time, direct assistance to State and local governments for construction of new jails and prisons which will help eliminate jail overcrowding.

Mr. President, although I am hopeful that these bills will be debated in the near future, the issue currently before us is equally important in our comprehensive effort to address this problem. The D'Amato amendment, No. 2070, is vitally important, and I believe it will send a strong signal to those involved in the drug trade. The amendment imposes the death penalty on any person who intentionally, or with reckless indifference to human life, kills—or participates substantially in the killing of—any individual during the course of a drug-related activity. It is my firm belief that we must take these strong steps so that drug dealers and drug suppliers know that we are very serious when we say: "Get out of our schools and communities or face the toughest of penalties—the death penalty."

Mr. President, the time for "tough talk" has expired; we must now show "tough action," and we must work together in our fight to save our children. The D'Amato amendment represents an important step in our fight to destroy the illicit drug trade in this country. Therefore, I ask my colleagues to support the distinguished Senator from New York's effort and to add their support to this amendment.

Thank you.

EMERGENCY RESPONSE TO WINNETKA TRAGEDY COMMENDABLE

Mr. DIXON. Mr. President, I feel compelled to call attention today to some marvelous people from my State that performed as champions during the terrible tragedy that occurred last Friday in Winnetka, IL.

Six little children were shot in the schoolroom, one fatally, along with a young college student, by an obviously deranged person.

I must first salute Winnetka Police Chief Herbert Timm, who immediately took charge of the wounded children's hospitalization, the other schoolchildren's care and attention, and the police work concerned with containing the murderer. Chief Herb Timm coordinated his department's activities with the FBI and law enforcement groups from surrounding villages and the Cook County sheriff and Illinois State Police.

It's impossible to credit all who were involved but special mention should be given to Police Lt. Joe Sumner, Sgt. Patricia McConnell, Fire Chief Ronald Colpaert, paramedics Michael Roeder and Lee Stanslaw, teacher Amy Moses, school principal Richard Streedain, school superintendent Don Monroe, pastor Father Thomas Raftery, and chief surgeon David Winchester.

Illinois and the Nation owe these people, and many, many others, a debt of gratitude for their fine example under extreme stress and for probably saving the lives of many other innocent people.

CHARLESTON'S REV. NICHOLAS C. TRIVELAS AND THE GREEK-AMERICAN ACHIEVEMENT

Mr. HOLLINGS. Mr. President, this Saturday the Greek-American community of Charleston, SC, will celebrate Rev. Nicholas C. Trivelas's 40th anniversary as priest of Charleston's Greek Orthodox parish. This is a remarkable milestone for a remarkable man, and I join my fellow Charlestonians in saluting his four decades of service. Father Nick is a Greek by ancestry and a Yankee by birth, but he is a Charlestonian by choice and by the grace of God. Our city is all the richer for his countless contributions over the years.

The Greek Orthodox Church of the Holy Trinity in Charleston is Father Nick's first and only parish. When he arrived from Massachusetts in 1948, the fledgling Greek community of Charleston numbered barely 178 families. Today, the community has grown to 450 families; some 115 of the newly arriving families have moved to Charleston along with industries from the Northeast. Father Nick has been the beloved shepherd of this expanding flock, tending not just to its spiritual needs, but tirelessly championing the preservation of Greek culture and heritage within Charleston's Greek-American community.

In all these endeavors, he has been singularly successful—in many cases beating the odds and overcoming the naysayers. It was Father Nick who, down through the years, has insisted on keeping open the parish's Greek school. Kids attend it in the afternoon following their regular public school classes, learning about Greek traditions, customs, dances, folklore—and, most important of all, learning the Greek language. Father Nick is also the driving force behing Holy Trinity's three choirs, including an adult male chorus that performs at Charleston's annual Spoleto Arts Festival.

In these many activities, Father Nick has been true to the traditional role of priests in Greek society. Whether under Ottoman rule in centuries past or in our own age of secular modernism, the special mission of the Greek Orthodox priest has been to defend Christian faith and values, and to nurture the flame of Greek identity and culture. Father Nick has played this role with dedication, dignity, and endless energy.

Mr. President, I have known Father Nick for many years—both as a fellow member of the American Hellenic Educational Progressive Association, and as one of those standout people who contribute to the special spirit and sense of community in Charleston. I know that his wife, Despina, and four children—Carrie, Michael, Chris, Faye—are all very proud of him.

Mr. President, I would note, briefly, that Father Nick's success can best be appreciated in the broader context of Greek-American achievement in the United States. As we have seen in recent weeks, the national opinion polls say that the next President of the United States will be the son of Panos and Euterpe Dukakis. Now, all of a sudden, people are waking up to the fact that, among America's many ethnic groups, it is the Greeks who are the real superachievers. According to the U.S. Census figures, Greek-Americans have the second highest per capita income—second only to Jewish Americans—and they are the best educated bar none.

South Carolina, it seems, has been especially hospitable to the sons and daughters and grandchildren of Hellas. Our Lieutenant Governor, Nick Theodore, is a Greek-American. And my home city of Charleston is chock full of successful Greek-American doctors, bakers, restauranteurs, lawyers, educators—you name it.

Certainly, their success is America's success. And it is fitting that we take the time, on occasion, to honor people like Rev. Nicholas Trivelas whose success has enriched all of our lives. This weekend, I look forward to joining with the people of Charleston in saluting Father Nick's first 40 years at Holy Trinity. I am confident that his next 40 years in the pulpit will be every bit as noteworthy.

Mr. President, I ask unanimous consent that an article on Father Nick in the May 22, 1988, Charleston News and Courier be reprinted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Charleston (SC) News and Courier, May 22, 1988]

"FATHER NICK" MARKS 40TH ANNIVERSARY

(By David W. MacDougall)

A few years after graduating from seminary and being ordained in the Greek Orthodox Church, the Rev. Nicholas C. Trivelas traveled to the Lowcountry for his first assignment as a parish priest.

"My first impression of Charleston was the bridge over the Cooper River," Trivelas says. "It was the biggest scare of my life. I was ready to turn around and go back."

Fortunately for the Greek Orthodox Church of the Holy Trinity, and for the Charleston community at large, the young priest didn't turn around.

Despite his fears, he crossed the John P. Grace Memorial Bridge and found his way to the church on Race Street.

And on May 23, 1948, he began his duties as parish priest.

Looking back on the past 40 years, Trivelas has nothing but praise for the members of his church.

"I don't believe I initiated any of the things that have been done in this parish," he says. "I was just following the parishioners and trying to serve them as best as I could."

Trivelas, who is known as "Father Nick" to his parishioners, says he owes his pastoral style to the inspiration of Bishop Athenagoras Kavvadas, who was dean of the Greek Orthodox Seminary in Connecticut.

"I admire him very much," he says. "When he handed us our diplomas, he said, 'Now you've got a diploma, but all it proves is that you've learned something about theology. When you get to the parish, that businessman or that dishwasher will teach you how to be a priest."

Trivelas says he's learned a great deal from the people of his parish. "We were taught to respect that dishwasher or that shoe salesman because they brought the church here. Maybe they didn't know much about theology but they loved God, and that's what really matters."

There were 178 families in the parish when Trivelas first came here, he says. "Now we've got about 450 families. The greatest increase we've had has taken place in the last seven years."

When large companies relocate their operations in the Lowcountry, they bring Greek Orthodox Church members with them, Trivelas says.

"We were all trained to know that it was our job to seek out the church and find it whenever we move into a new area," he says. "We know it's a sin to sit at home and wait for an invitation to come to church."

So even though his parish stretches all the way to Orangeburg, Trivelas doesn't have to pound the pavement to bring out the faithful.

"I realize new people are going to call the church when they come to town so I stay here and try to do the best job I can of serving them well here."

Trivelas and his wife, Despina, live in the rectory behind the church. They have four grown children and three grandchildren.

There have been many milestones during his tenure in the parish. In 1951, the congregation built the only Byzantine-style church structure in Charleston. In 1959, Trivelas organized a local chapter of the Junior Greek Orthodox Youth of America.

And in 1970, he was elevated to the rank of Protopresbyter, the highest ecclesiastical order possible for a married clergyman.

"That means, if there were other priests in my area, I'd be the head priest. But I'm the only one here, so I am the head but I am also the least."

Though he is 67, Trivelas says he is not thinking of retiring. He stays in shape by golfing at least once a week, he says.

While golfing at the municipal golf course in 1970, he was assaulted and robbed. "That's why I take Zeus with me whenever I golf," he says, laughing.

Zeus is a large Labrador retriever who is constantly at Trivelas' side. When Trivelas is working in his office at the Hellenic Center, Zeus is usually curled up at the door.

And when Trivelas goes on one of his twice weekly golf outings, Zeus follows him around the links.

"He's very well trained for the golf course," Trivelas says with a twinkle in his eye. "I haven't lost a golf ball since I got him. One thing disappoints me about him. If my ball goes in the woods and lands next to a bunch of other balls, he only picks up the one with my scent on it and leaves the rest there."

BICENTENNIAL MINUTE

MAY 3, 1854: SENATE PASSES KANSAS-NEBRASKA ACT

Mr. DOLE. Mr. President, 134 years ago this month, on May 3, 1854, the Senate passed a bill designed to settle a difficult sectional issue. The resulting law instead divided the Nation even more deeply, pushed the United States closer to civil war, and inspired the creation of the Republican Party.

Just 4 years after the compromise of 1850 had attempted to solve the question of whether slavery would be permitted into the new western territories, Illinois Senator Stephen Douglas reopened the issue when he introduced the Kansas-Nebraska Act. As chairman of the Committee on Territories, and as a booster of Chicago as a central commercial and transportation depot, Douglas promoted the construction of a transcontinental railroad system.

But before the railroad could be built the territories would have to be organized; and before the territories could be organized both the North and South would have to be satisfied that their interests were protected..

But how could slave-holding and anti-slavery interests be reconciled? Senator Douglas thought that he found the answer in popular sovereignty, letting the residents of the territories decide the issue for themselves rather than letting Washington dictate a solution.

To enact popular sovereignty for Kansas and Nebraska, however, Douglas' bill provided for the repeal of the Missouri compromise, which had prohibited the spread of slavery above the 36th parallel. Seeing this as a violation of an almost sacred pledge, anti-slavery Members of Congress objected vigorously to the bill.

Nevertheless, under Douglas' skillful legislative leadership, the bill passed the Senate by a vote of 37 to 14. Little did Stephen Douglas suspect that his legislative triumph had spelled his political doom.

For the Kansas-Nebraska Act made sectional reconciliation impossible, and undermined Douglas's Presidential ambitions.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION—TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE ELIMINATION OF THEIR INTERMEDIATE-RANGE AND SHORTER-RANGE MISSILES—THE INF TREATY

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now go into executive session to resume consideration of Executive Calendar No. 9, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 9, Treaty Document No. 100-11, Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles.

The Senate resumed consideration of the treaty.

Mr. BRADLEY. Mr. President, people around the globe have been living in fear of nuclear war for too long. Four decades of nuclear peace have not dispelled that fear. "Why do we need so many nuclear weapons?" the people ask. The answers of experts do not convince them. Few believe that huge nuclear arsenals make us more secure. Discontent deepens. Some foolishly advocate unilateral disarmament. Many more fear that we are unable to break the dangerous cycle of competitive nuclear escalation.

The treaty that the Senate now considers INF Treaty, breaks that cycle. It shows that we can strengthen our security by negotiating mutual, verifiable arms reduction agreements with our main adversary, the U.S.S.R. And it provides a basis to hope in the future for even bigger cuts in other nuclear systems—cuts which will maintain United States and allied security and reduce the risk of war.

THE ROLE OF INF IN ARMS CONTROL

In 1979, the leaders of the Western Alliance decided to seek to remove Soviet SS-20 missiles from Europe through both negotiations and deployment of United States medium-range missiles at the same time. Negotiations began in 1981 and deployments in 1983. Then the Soviets boycotted the negotiations to protest NATO's deployments. But we persisted and the Soviets returned to Geneva in March 1985. About 2 years later, our negotiators reached an agreement, which President Reagan and General Secretary Gorbachev signed in Washington on December 8, 1987. The INF Treaty is a triumph of Western strategy conceived and executed in concert with our allies during a Presidency of each political party and over a 9-year period.

The treaty eliminates all Soviet and United States ground-launched INF missile systems worldwide. Both sides will destroy all their deployed and stored ground-launched missile systems with ranges between 500 and 5,500 kilometers, and both sides will dismantle their warheads. The treaty requires the Soviets to destroy 650 triple-warhead SS-20 missile systems, 176 older systems, 84 new cruise missiles, and 926 shorter-range missiles.

The United States is required to eliminate 247 single-warhead Pershing II, 442 cruise missiles, and 170 shorter range Pershing I-A's. Significantly, the treaty also bans the future production or testing of any missile systems in this class.

The treaty provides for innovative verification measures to help ensure detection if one party cheats. Each side is allowed to observe for itself treaty controlled items at production sites, storage centers, deployment sites, and elimination facilities declared by the other. The shorter range systems are to be eliminated within 18 months of ratification and the long-range systems within 3 years. For 10 years after they are eliminated, both sides will be allowed to make challenge inspections of declared facilities where they may have reasons to suspect illegal missiles.

Effective verification—knowing whether or not the Soviets are cheating—is essential to enforcing strict compliance. And good intelligence—monitoring all aspects of Soviet strategic behavior—is the key to effective verification. Between the extremes of blindly trusting the Soviets and trying to follow their every move, what level of monitoring is needed to verify and enforce the INF Treaty? Are U.S. monitoring capabilities good enough to make the INF Treaty effectively verifiable? To answer these questions, it is helpful to distinguish among the functions and officials involved in dealing with suspected violations.

Monitoring is the responsibility of the intelligence community, which reports to the National Security Council and the Congress on what the Soviets do. To obtain the information United States uses onsite inspectors, and our national technical means, and our other sources of information on Soviet missiles and related activities.

Verification is the responsibility of the National Security Council, which decides whether the Soviet behavior monitored by the intelligence community is permitted by the treaty, based on the text of the treaty, relevant records, diplomatic exchanges, and applicable law.

Enforcement is the responsibility of the President, acting in concert with the Congress, in proposing and pursuing a course of action if a violation is found. Options for enforcement include seeking Soviet compliance by diplomatic means, denouncing the violation publicly, withdrawing from the treaty, or finally, in response, starting a new military program of our own.

Each option depends on America having the will to act in the face of confirmed violation. To be effective, monitors, verifiers, and enforcers will need good information on Soviet intentions as well as capabilities in order to make critical decisions. To do nothing is advisable only if confronting the Soviets with the violation would jeopardize the sensitive intelligence sources and methods on which we rely for detecting more serious threats.

Moreover, to deter Soviets from cheating in the first place, the United States must reinforce Soviet expectations that they would be discovered and countered if they did cheat.

In the case of the INF Treaty, detecting any possible violations involves three sets of monitoring requirements:

Assessing the accuracy of the numbers and locations of INF systems declared by the Soviets in the treaty's memorandum of understanding. In other words are the number of missiles they say they have actually what we find?

Observing the drawdown and elimination of INF systems in accordance with the procedures set forth in the protocol on elimination. In other words, observing the destruction and elimination of missile systems that were confirmed in the initial treaty memorandum of understanding.

Detecting any production, testing, or deployment of INF systems.

ASSESSING SOVIET DECLARATIONS

The intelligence community has not resolved significant differences of view over the possibility that the Soviets may not have disclosed their entire inventory of nondeployed SS-20 missiles. These differences represent valid analytical judgments based on the limited and inconclusive information that has been available to the intelligence community. But the military significance of the difference is small.

OBSERVING DRAWDOWN AND ELIMINATION

With respect to declared INF systems, we can expect Soviet cooperation in permitting United States inspectors to observe their elimination, because they will have a strong interest in showing us that they are fulfilling their treaty commitments. If they fail to cooperate, we will know it well before we have eliminated our own INF systems and then we could retain those systems until they cooperated. So, by fully implementing the inspection protocols of the INF Treaty, the United States will not need to rely on national technical means to verify the complete elimination of the Soviets' declared INF systems.

DETECTING ILLEGAL SYSTEMS AND ACTIVITIES

At the same time, U.S. intelligence must also seek to ensure that there are no illegal INF systems that have been covertly stored, diverted, tested, or produced. In contrast with Soviet interests in showing our inspectors their declared inventories of INF systems and their elimination, we must expect the Soviets to try to conceal any illegal systems or activities.

That is why the United States must be able to monitor Soviet missile-related activities, no matter how well concealed. In particular, verifying the INF Treaty's ban on all Soviet ground-based missiles for weapons delivery with ranges of 500 to 5,500 kilometers will require us to monitor Soviet missile testing, production, and deployments with the best national technical means available.

Yet, even with the best technical means in the world, the United States cannot expect to discover every prohibited activity that the Soviets have plausible incentives to conduct clandestinely. Concealing a few, illegal missiles is just too easy in a closed society like the Soviet Union. But these missiles and their support systems cannot be exercised realistically or tested fully because they remain strictly concealed all the time to minimize any chance of detection.

Moreover, the INF Treaty's ban on testing ballistic missiles, can be monitored with high confidence. This makes it exceedingly difficult, costly, and risky for the Soviets to develop or maintain a militarily useful, covert force of ballistic missiles, especially longer-range missiles, which violates the INF Treaty. At worst, a Soviet short-range ballistic missile might be tested to a range of slightly over 500 kilometers without being verified as a treaty violation, but the Soviets would have little to gain and much to lose from conducting such a test. We would find out. They would be clearly in violation of the treaty and the world would know.

U.S. national technical means of verification are not as highly effective against ground-launched cruise missiles [GLCM's] within banned INF ranges. In particular, an illegal force of GLCM's could probably not be detected nearly as promptly, not with the same high degree of confidence. This is due to their much smaller size and to the fact that they are in almost all respects identical with and virtually indistinguishable from sea-launched versions of the same missile, which are not banned by the INF Treaty.

Still, any militarily significant training or deployment of a covert force of ground-launched cruise missiles would be detected by the United States. This is because it would necessarily involve a sizable number of troops and technicians, as well as special security arrangements associated with highly sensitive activities, such as illegal training or deployment of a nuclear-capable missile force. Moreover, in contrast with the SS-20, the Soviets have never deployed the infrastructure for such a force of GLCM's. So, the Soviets could not have much confidence that they could maintain or deploy a ready ground-launched cruise missile force banned by the INF treaty without being caught.

FUTURE ARMS REDUCTION MONITORING REQUIREMENTS

So, Mr. President, I believe the INF Treaty is in our interests as well as those of our friends and allies. I also believe that we can monitor Soviet behavior and verify whether or not it is in compliance with treaty obligations.

With effective United States verification of arms reduction treaties, it is in areas not limited by treaty where Soviet strategic competition is likely to be most active. That is why U.S. national security policy should be as concerned with the continuing dangers of legally permissable activities as it is with those newly prohibited by treaty. Whether or not the Soviets comply strictly with every provision of the INF Treaty, Western security interests could still be threatened, for example, if the Soviets produce greater number of unbanned long- or short-range missiles, test and develop new directed energy—that is beam-type—weapons, or deploy more modern and offensive conventional forces.

Even after a START agreement which cuts the number of ballistic missiles, United States security could be undermined by possible Soviet breakthroughs in areas that would be unconstrained by arms control. With fewer ballistic missiles, the United States should put a larger premium on timely, accurate intelligence on particular developments which threaten the survivability and performance of the United States' remaining strategic forces. For example, we would clearly be threatened if there were new capabilities to detect United States missile-launching submarines on patrol. We would be clearly threatened if the Soviets developed the ability to intercept penetrating United States bombers or cruise missiles or to incapacitate essential United States satellites.

Making our ability to verify and our willingness to enforce compliance with future arms reduction treaties into a reliable and effective deterrent to Soviet cheating will not be easy. Onsite inspection rights such as those embodied in the INF Treaty, and broader ones being negotiated in START, can promote compliance by restricting the ways in which the Soviets could cheat without being detected. With well-trained and fully supported inspectors, the onsite observations will make the Soviets respect their treaty obligations.

Maintaining confidence in arms control treaties and deterring Soviet violations will also require more resources devoted to analyzing Soviet society and monitoring Soviet behavior. Their costs will detract from any savings due to arms reductions. But, the more our security depends on fewer arms the more imporatnt it is to reassure ourselves and persuade the Soviets that significant violations will be caught and effectively countered. I, for one, would pay a premium for greater security through mutual arms reductions.

LESSONS AND IMPLICATIONS

The INF Treaty is a major milestone on the road toward greater security with fewer nuclear arms. It shows that we can reach agreements with our adversaries to cut excess forces when we negotiate patiently from strong positions based on bipartisanship at home and partnership with our allies abroad. By persisting in pursuing a global ban on all ground-launched INF missile systems, including shorter-range systems, the INF Treaty will eliminate forces that threaten friends and allies in Asia. Its provisions for asymmetrical reductions and onsite observations are potentially valuable precedents for negotiating even more significant and verifiable cuts in strategic and conventional force levels. Moreover, it will be effectively verifiable, so long as improvements in U.S. monitoring capabilities keep pace with the new requirements raised by a START treaty or a future conventional arms reduction agreement.

Mr. President, the treaty merits our ratification.

I yield the floor.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I think my leader's time has been reserved.

The PRESIDING OFFICER. It has been.

THE PRESIDENT DEPARTS FOR THE SUMMIT

Mr. DOLE. Mr. President, this morning President Reagan departs Washington, en route to his fourth summit meeting with Soviet General Secretary Gorbachev, scheduled to begin May 29 in Moscow.

As do all summits, this one offers the promise of progress on important bilateral and international issues; and the peril of inflated expectations.

As with all summits, the best attitude for approaching this one is to keep our eyes as wide open as our minds; and to keep our feet firmly on the ground.

We can achieve much in Moscow; we cannot achieve everything. And we can only be disappointed if our goals exceed our reach.

We can achieve important results on arms control. If we in the Senate do our part, we can put into effect a ground-breaking nuclear arms reduction agreement, the intermediate range nuclear forces treaty; the first ever to reduce existing nuclear stockpiles, and eliminate whole classes of nuclear weapons.

We can move closer to an understanding on verification regimes which could yield the realistic prospect of Senate action on at least one of the two nuclear testing treaties before us, I might indicate treaties that are very important to all of us and particularly of importance to our majority leader.

We may be able to achieve progress on chemical weapons.

And we certainly should push Gorbachev hard—very hard—on the need for real progress to address the conventional arms imbalance in Europe. That ought to be our highest arms control priority.

In short, we can make this a landmark arms control summit.

But let us keep this promise in perspective; and let us make sure that prudence shapes both our expectations and our intentions.

While there may be some progress in Moscow on START, this summit will not produce a START agreement—and it should not. In fact, in my view, the summit is unlikely even to produce the kind of start "framework" understanding that would serve the national interest of the United States. In START, even more than in INF, it is critically important that we move carefully—not quickly. And our differences with the Soviets over start, and uncertainty over our own goals and plans for a post-start world, are still too great to permit an acceptable start agreement.

And, of course, arms controls is neither the only—nor even necessarily the most important—item on the summit agenda.

Even while welcoming the beginning of a Soviet military withdrawal from Afghanistan, we must continue to stick by the goals we have espoused since the Soviet invasion: at total end to the Soviet occupation: A restoration of true independence; a government reflecting the will of the Afghan people; the return of all refugees in safety; and an end to any threats or intimidation against Pakistan.

Even while welcoming more serious and wide-ranging discussions of the difficult issues of southern Africa, we must continue to insist that the interests of the Angolan freedom fighters—who have accomplished so much with so little American aid—are protected and advanced through any negotiations process which results. And we must continue to insist that any settlement include the total withdrawal of Cuban troops from Angola.

And we cannot fail to put high on the agenda our continued insistence that the Soviets terminate their intervention in the Americas, and most particularly their massive military aid program for the Sandinista Communists in Nicaragua. There is supposed to be a good faith peace effort going forward in that country. It's pretty clear that we are acting in good faith; and that the Contras are, too. And even the Sandinistas are clearly feeling restrained by their obligations under the peace accords.

But one party has shown no restraint at all: The Soviet Union. Soviet "new thinking" doesn't seem to have found its way at all into this old problem. If the Soviets are looking for a few billion dollars to refurbish their tottering economy, there's no better place to start than to stop shipping tens of millions of dollars of military aid weekly to a regime supposedly engaged in, and committed to, a ceasefire.

And, of course, Mr. President, there is at least one other major issue that will be—and must be—on the agenda of any United States-Soviet meeting: The issue of human rights.

Despite glasnost, the Soviet Government continues to ignore both the spirit and the letter of the Helsinki accords. The evidence can be seen across the Soviet Union in the repression of Ukrainians, Estonians, Luthuanians, Armenians, and other ethnic groups, which has led to protests—some of them so violent that there have been dozens of deaths.

It can be seen in the repression of religion. Repression that is expressed sometimes in subtle terms, and other times is as blatant as loss of employment, or even trumped-up charges that result in prison sentences.

And it can be seen in the repression of those who wish to leave the Soviet Union to be reunited with families, or begin their lives anew in freedom, in the West.

Under General Secretary Gorbachev, the Soviets have waged a brilliant, canny, public relations campaign. Almost every one of the celebrated dissidents who had petitioned the Government to emigrate has been allowed to leave—the Natan Shcharanskys, the Ida Nudels are gone, many of them resettled in their spiritual homeland—Israel. Now, it is the lesser lights, but just as important lights, who remain, struggling against a system that defies rhyme or reason when it comes to granting exit visas.

The emigration numbers have increased. But not enough. There is no reason to deny the freedom to leave to someone like Benjamin Charny suffering from cancer who wants to seek treatment and live out his days with his family in America; or to Boris Orlov and Esfir Slutzky, both in their eighties, with no relatives left in the Soviet Union to care for them but have a daughter in Jerusalem just waiting; or to Vladimir Dashevsky, who the authorities say cannot depart because the mother of his 50-year old wife will not give her permission to leave.

The list goes on and on. These men and women are not household names in the Soviet Union, or here. But their plight is no less meaningful.

We must let Gorbachev know that we have not forgotten them; that we have not, will not abandon their cause until every Soviet citizen who wants to leave, can leave. I have no doubt, President Reagan will.

Mr. President, President Reagan will carry to Moscow an agenda with all these topics—and probably more. But he will also carry with him something equally important—the unified support of the Congress and the American people, as well as their prayers and hope.

Through three summits, and more than 7 years of leadership, President Reagan has carried our national banner with skill, determination, and honor.

I just wish the President, as I am certain all my colleagues do, every success in this very important meeting with the Soviet Union.

It is important to me because they are meeting, and I would say let us do not get our expectations too high but the fact that the leaders of the superpowers are meeting in the opinion of this Senator is very, very important.

JAMES HENSLEY McCAIN, AGE 3 DAYS

Mr. DOLE. Mr. President, I want to take a moment to note the arrival in this world last Saturday of a brand, spanking new Republican named James Hensley McCain—who has indicated he would rather be called "Jim."

Weighing in at 5 pounds, 3 ounces, Jim got off to a bit of a rocky start. But already showing the scrappiness that characterizes his father—our distinguished colleague from Arizona—Jim has bounced back in great shape. And a very proud and happy Cindy McCain is doing fine, too—and already making plans to take Jim home, to get better acquainted with his sister Meghan, age 3½ years; and his brother, Jack, age 2.

I know that I speak for every Senator, and for JOHN and Cindy McCain's many, many friends on both sides of Capitol Hill, in sending our congratulations and best wishes to the proud and happy couple, and to their beautiful new son, Jim.

PRESIDENT SIGNS S. 1811 RADIATION EXPOSURE

Mr. DOLE. Mr. President, last Friday, President, Reagan signed S. 1811, a bill to provide presumptions for VA compensation to veterans who were exposed to ionizing radiation in the course of their military duties. This is indeed an important piece of legislation for these veterans who now suffer radiation-related diseases.

I would be remiss, though, in not pointing out why I, as well as 27 of my Republican colleagues, voted against Senate passage of this bill. This vote certainly should not be interpreted as any lack of concern or compassion, but rather a vote requested on by the administration, who seeks, as we do, to legislate responsibly on this issue.

Under S. 1811, 13 diseases would be covered by presumptions, many of which have been proven to be more related to an individual's lifestyle than radiation. In case after case, the VA has been steadfast in their opposition to a presumption of causation that does not take into account the scientific evidence regarding the level of radiation exposure that would be required to eventually produce associated cancers. This position does not preclude, though, the timely presumptions from diseases that are more directly associated with radiation exposure.

S. 453 AND S. 612

I was pleased to have been an early cosponsor of Senator MURKOWSKI's S. 453 which provided presumptions for compensation for four such cancers. That legislation was a sincere effort by our ranking Republican member and I know that he has worked very diligently on behalf of this special group of veterans.

I would also point to another piece of legislation of priority concern to these radiation-exposed veterans that I feel deserves Senate consideration; S. 612, a bill introduced by Senator SIMON, which restores litigation rights to these individuals by repealing the earlier Warner amendment.

ADMINISTRATION SIGNALS

Mr. President, these bills demonstrate a continuing and sincere concern for those special Americans who selflessly served their country when called. In the case of S. 1811, it was removed from the omnibus veterans bill at the specific request of the administration due to its controversial provisions and became an independent piece of legislation.

For future reference, I would caution the administration that sending clear, accurate signals of their positions regarding pending legislation is critically important. While many thoughtful Republicans want to be responsive to our President, it is difficult when there is a lack of understanding of the administration's real position.

Mr. President, I reserve the remainder of my time.

THE ROLE OF ENERGY IN UNITED STATES-JAPAN RELATIONS

Mr. STEVENS. Mr. President, in the series of statements I have made concerning Japan during the last month I have touched upon a number of issues relating to that country's energy policies. Today, I want to examine those questions in greater depth and discuss the appropriate role of energy in relations between the United States and Japan.

Geography dictates that Japan must rely on imports of basic materials in almost every industrial sector. It has managed to make the best of these circumstances, however, by shaping a machine-like economy, drawing in the raw resources of the world and converting them into a stream of finished products.

The machine image, while simplistic, is an instructive one for us. There is one thing so basic to any machine's operation that—while it does not appear in the final product—work would grind to a stop without it: energy. The analogy fits for Japan, which must import 99 percent of its oil and 83 percent of its total energy supply. Japanese industry may be able to produce many things, but it has not found a substitute for imported energy.

As a result of this dependence on energy imports, Japan has been and remains vulnerable to disruptions of world energy supplies. The oil shock in 1973 had a dramatic impact on that country, even though its oil supply was not interrupted. It has to walk a tight rope to appease the Arab nations, and so keep oil flowing, without cutting diplomatic ties to Israel or harming relations with the United States.

This experience served to sharpen Japan's focus on security of its energy supply and generated activity on several fronts. First, it has worked to improve its relation with the countries of the Middle East. Foreign aid to the region increased sharply, reaching 27 percent of all Japanese overseas aid by the late 1970's.

Direct investment in economic development projects in the Persian Gulf region has provided returns in both capital and more stable oil supplies. This strategy has also had some notable failures, however, particularly with some massive construction projects. A key example would be the Bandar Khomeini petrochemical complex in Iran. Begun in 1973, the project remains unfinished today—at an estimated loss of 600 billion yen, or more than $4 billion. A target of Iraqi bombing, this facility has also been the site of injuries to Japanese workers.

Efforts to improve oil trading strategies have proved much more successful. Japan has shifted much of its purchasing from the larger OPEC producers to the smaller nations of the gulf. For example, in the last 12 years it has reduced from 50 percent to 20 percent the share of total crude oil purchases made from Saudi Arabia and Iran, turning instead to suppliers such as Oman, Qatar, Abu Dhabi and Dubai. By purchasing most, or at least a significant portion, of the output of a smaller supplier Japan has been able to exercise some leverage over price during the last several years.

Also in place is a stockpile of oil sufficient to provide approximately 140 days supply. Intended for the same purpose as our strategic petroleum reserve, this stockpile is believed to be sufficient for Japan to weather any short-term disruption of oil supply.

At the same time, a strong commitment to energy research and conservation has been made with an eye toward future energy needs. The Ministry of International Trade and Industry [MITI] put 117 billion yen—$816 million—into energy savings and alternative energy source research last year. Projects ranged from solar cells to geothermal plants to generating electricity from tides and sea water.

Private industry has also invested heavily in energy research, spending approximately $4 billion last year. This has brought benefits which include export markets. Toshiba, for example, has become the largest supplier of geothermal equipment in the world, with customers including Pacific Gas & Electric Co. While the research initiatives have generated business in specialized world markets, however, they have contributed little to the stated objective of cutting the country's reliance on foreign sources of fuel.

This brings us to a major crossing point between U.S. policies in the Persian Gulf and Japan's energy security. When our Navy escorts convoys through the gulf, we are protecting 55 percent of Japan's oil supply, and 82 percent of its supply of liquified petroleum gases. This arrangement is the basis for sentiments in our country that Japan should share in the cost of keeping open the shipping lanes of the gulf.

Rather than digging into the current threats to gulf shipping resulting from the Iran-Iraq war, however, I am more interested today in the long-term implications of Japan's dependence on this region. As long as the gulf remains unstable, and this dependence continues, Japan's energy security is at risk. Because of our status as one of its major trading partners, this means we are at risk.

Here is an area where our nations can work together. Our country, and particularly my State, has energy resources available which can and should be used to reduce Japanese dependence on unstable sources of energy. To a certain extent this is taking place.

LNG has been shipped to Japan from Alaska's Cook Inlet since 1969, and today amounts to approximately 1 million tons a year. In fact, when started this was the very first shipment of LNG to Asia; Alaskan exports to Japan proved the feasibility of LNG transportation by sea. Today, Japan imports more than 27 million tons of LNG, using it to produce more than 21 percent of the nation's electrical power.

A year ago Idemitsu Kosan, the largest independent integrated energy company in Japan, announced a joint venture formed with Rocky Mountain Energy to develop coal reserves in a project north of Anchorage. Coal from this project, which is expected to produce 270,000 to 450,000 tons per year, is targeted for power generation in Japan. This represents the first direct investment by a Japanese firm in Alaska coal reserves.

Also in the works is a project to move liquified petroleum gases—butane and propane—through the existing trans-Alaska pipeline. This would begin in the early part of the next decade, when the line's throughput of oil has declined, leaving excess capacity in the pipeline. The primary market is expected to be Japan, which has a demand for these fuels, rather than the lower 48 States, where shipping costs would prevent the fuel from being competitively priced. The total volume of LPG shipped will be small, but will take advantage of a resource currently available that is going untapped.

All three of these are important projects, but even combined they do not compare to the potential contribution Alaska could be making to Japan's energy security. At this point, I want to review the mix of energy sources relied upon by Japan and the uses to which the different fuels are put. From this foundation, we can look at where Japan is headed as it tries to change this mix. This is the area we should focus on, as it provides the United States with opportunites which I will detail in a moment.

Briefly, Japan's energy consumption is concentrated in the following areas. Ninety-four percent of the transportation sector is fueled by oil, with electricity meeting most of the remaining demand. Industrial consumption is spread between oil and electricity, each providing approximately 35 percent of demand, and coal, which meets 24 percent of demand, with a variety of other sources, including propane, making up the remainder. The bulk of household demand is met by electricity, with significant but smaller shares taken by oil and propane.

Electrical power is becoming increasingly important for industrial activity, and dominates residential energy use. Japan's electrical power is derived from a variety of sources. Thermal sources—meaning oil, liquified natural gas, coal, liquified petroleum gases, and geothermal—account for 55 percent of generation. Twenty-eight percent is provided by nuclear power and 13 percent is derived from hydroelectric projects. A small amount, almost 4 percent, comes from a variety of other sources.

Looking at energy supply by source, the mix is clearly dominated by oil. As of 1985, 56.7 percent of Japan's energy came from this source. Coal provided 19.1 percent; natural gas 9.4 percent; nuclear 8 percent; hydroelectric 4.9 percent; and alternative sources only 0.4 percent.

Two trends in energy supply are worth discussing in detail. Japan is working toward a change in the mix of fuels used so that oil will supply less than 50 percent of the total. This is due to concerns about the long term stability of world oil markets. Since alternatives to traditional fuels have not yet produced significant successes, this means an increasing reliance on natural gas, nuclear and other traditional fuels.

At the same time, significant growth in demand for electric power is expected between now and 2005. In 1986, Japan consumed 601.5 billion kilowatt-hours. Projected demand for 1995 is 760 billion. By 2000, it is expected to increase to 868 billion, and by 2005 to reach 955 billion.

Japan has produced conflicting estimates of how the increase in electrical demand will be met. Supply targets produced by MITI in October 1987, indicate most of the demand will be met by increasing nuclear capacity from today's 26,000 megawatts to 54,000 megawatts by 2000, to the near exclusion of other energy sources. This represents an increase in nuclear power's share from 27.8 to 40 percent of the total supply of electricity.

This may not be a realistic approach. First off, Japan's extreme environmentalists are, if anything, more active and effective than those in our country. They have opposed, and can be expected to continue opposing, major growth in nuclear power. This, combined with the practical problems of building nuclear powerplants and managing waste disposal, makes a projection of doubling nuclear power capacity in 20 years extremely optimistic.

On the surface, the turn to nuclear power projected by MITI could appear to be inspired by the desire to reduce Japanese reliance on foreign energy sources. Since fissionable material would also be imported, the best this could do is diversify the sources of energy, and so spread the risk. The problems just mentioned, however, point to defects in this plan. In fact, put in context MITI's work is more a response to a May 1987 study commissioned jointly by Japan and the United States, than a reliable projection of future power generation needs.

The May study, called for by the heads of both governments, concluded that Japan could meet a significant part of its increased electricity demand by purchasing liquefied natural gas from Alaska. The MITI October figures contradict the previous work, projecting a decrease in demand for LNG. The conflict between the two studies is the result of their assumptions about rice. The only credible explanation for the change between May and October is that MITI's figures reflect a negotiating position.

A pipeline has been proposed to bring LNG from Alaska's North slope to tidewater, from which it would have access to the markets of the Pacific rim. This line could make 4 million tons of LNG available to Japan by 1995, meeting the demand estimates in the May study, and have available incremental increases in following years.

Increased sales of LNG from Alaska to Japan would bring a host of benefits. It would reduce our trade deficit and increase the stability of Japan's energy supply. This would help Japan toward its goal of reducing dependence on oil, while tapping a supply of gas which is going unused and would not otherwise be needed by the United States due to the cost of bringing it to domestic markets.

As a nation which must rely on foreign sources of energy, it is in Japan's best interest to continue to diversify its fuel mix and to draw upon the most stable suppliers available. This presents our Nation with an opportunity to develop markets for gas resources in Alaska.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NINETY GOOD YEARS WITH MORE TO COME—NORMAN VINCENT PEALE'S 90TH BIRTHDAY

Mr. DOLE. Mr. President, as in legislative session, on behalf of myself; the distinguished majority leader, Senator BYRD; Senator D'AMATO and Senator MOYNIHAN, I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 435) to commemorate the 90th birthday of Norman Vincent Peale.

S. RES. 435

Whereas, on May 31, Norman Vincent Peale will celebrate his 90th birthday; and

Whereas, he is widely recognized as one of the most influential and admired Protestant clergymen in the United States as the pastor of the oldest continuous pastorate in this country, the Marble Collegiate Reformed Church; and

Whereas, during his sixty-six years in the ministry, Norman Vincent Peale has been an inspiration and a comfort to thousands of Americans by offering his upbeat, positive message; and was a pioneer in combining religious with psychiatric counseling, establishing the American Foundation of Religion and Psychiatry; and

Whereas, his constructive themes have reached men and women all across the globe, through Dr. Peale's written and spoken word, including his book, "The Power of Positive Thinking," which has been translated into 33 languages and is one of the best-selling inspirational books of all time; and

Whereas, with his wife and partner of 55 years, Loretta, Dr. Peale established the Foundation for Christian Learning, which provides written and taped religious material to hundreds of thousands of people every year; and

Whereas, he has served as the President of the National Temperance Association, the Reformed Church in America; and the President's Council of New York; and

Whereas, Dr. Peale has also made significant contributions as a member of the midcentury White House Conference on Children and Youth and the President's Commission on the Observance of the Twenty-fifth Anniversary of the United Nations; now, therefore be it

Resolved, that the Senate of the United States extend its heartfelt congratulations to Reverend Norman Vincent Peale on reaching his 90th year with vigor and in good health; and be it further

Resolved, that the Senate's best wishes for many, many more years of happiness and productivity, be conveyed to Reverend Peale, his wife Loretta, and their three children, Margaret Ann, Elizabeth Ruth and John Stafford.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the resolution.

NORMAN VINCENT PEALE'S 90TH BIRTHDAY

Mr. DOLE. Mr. President, as this resolution States, May 31 will mark the 90th birthday of one of the most widely known and respected clergymen in this country, Norman Vincent Peale.

Dr. Peale has had a long and illustrious career, that believe it or not, started off in journalism. He quickly decided that was not his calling. But it did not take long after he completed his ordination to discover, that the ministry certainly was. He has led the congregation at the marble collegiate reformed church—the oldest continuous protestant pastorate in America.

Reverend Peale was one of the first clergymen to recognize that psychiatry can play a very helpful role in religion. And with the aid of Dr. Smily Blanton, Reverend Peale established the American foundation for religion and psychiatry.

Dr. Peale is perhaps best known through his books, newspaper column, and radio and television shows. The most popular of these books, "The Power of Positive Thinking" is based on his experience with psychiatric counseling, which convinced him that the key to happiness is the cultivation of a positive attitude. The book was on the New York times best seller list for 3 years, and has been translated into dozens of languages.

In addition to his clerical duties, Dr. Peale has been involved in many civic activities—both nationally and in New York.

Mr. President, Reverend Peale has spent a lifetime giving to his fellow man. So, on this his 90th birthday, I would like to say best wishes, good health, and thank you.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 435) was agreed to.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest that Senators who have speeches that they wish to make on the treaty might utilize the time that is running today to make those speeches. It may be that as we get into Thursday, Friday, and Saturday they will not have as much opportunity to make those speeches as they have as of now, let us say. That is just a constructive suggestion.

FIREARMS DETECTION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that as in legislative session the Senate proceed to the immediate consideration of Calendar Order No. 668, S. 2180, a bill to ban the manufacture of plastic guns with the following proviso; that Mr. METZENBAUM be permitted to propose an amendment, and that upon its adoption, Mr. DOLE and Mr. WILSON, or their designee, be authorized to propose an amendment to the desk dealing with toy firearms that are not readily identifiable.

The Metzenbaum amendment is one that strikes pretrial detention language. That following the adoption of the Dole-Wilson amendment—the Dole-Wilson amendment to have been submitted following the Metzenbaum amendment—the Senate proceed, without further amendment, to the committee substitute; that upon the adoption of the committee substitute that the Judiciary Committee, at that point, be considered to have been discharged from further consideration of H.R. 4445; that all after the enacting clause be stricken and that substituted in lieu thereof there be the committee substitute, as amended; that without further amendment or action, the Senate then proceed to a third reading of H.R. 4445, as amended, and immediate passage of the bill, and that motion to reconsider be laid on the table.

The PRESIDING OFFICER (Mr. GORE). Is there objection?

Mr. BYRD. I beg the Chair's pardon. I had finished, but I think I should also include the proviso that the time on this entire transaction be limited to not more than 15 minutes to be equally divided between Mr. METZENBAUM and Mr. MCCLURE.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2180) to amend chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale, or possession of firearms not detectable by metal detection and x-ray systems.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Undetectable Firearms Act of 1988".

SEC. 2. UNDETECTABLE FIREARMS.

(a) Section 922 of title 18, United States Code, is amended by adding at the end thereof a new subsection (p) as follows:

"(p)(1) It shall be unlawful for any person to manufacture, assemble, import, sell, ship, or deliver, or knowingly possess, transfer, or receive any firearm that—

"(A) is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines, by walk-through metal detectors calibrated and operated to detect the minimum security standard exemplar; or

"(B) is not detectable by use of cabinet x-ray systems, as defined in regulations prescribed by the Federal Aviation Administration (14 CFR 108.17) designated for inspection of carry-on baggage. Nothing in this section shall be construed as requiring that the Federal Aviation Administration utilize the Minimum Security Standard Exemplar as a Federal Aviation Administration detection standard.

"(2) For purposes of the section—

"(A) the term 'firearm' does not include a firearm described in subsection 921(a)(3)(B) of this title; and

"(B) the term 'Minimum Security Standard Exemplar' means a firearm substitute used for testing that resembles a revolver, is made of material type 17-4 PH stainless steel and weighs 3.7 ounces: Provided, That nothing in this bill should be construed to require that a firearm be made of any particular material or be of any particular weight so long as the detectability standard is met.

(b) Section 925 of title 18, United States Code, is amended by adding at the end thereof a new subsection (f) as follows:

"(f) The Secretary shall not authorize, under subsection (d) of this section, the importation or bringing in of any firearm that is unlawful under subsection 922(p) of title 18, United States Code.".

(c) The first sentence of section 925(d) of title 18, United States Code, is amended by striking out "The Secretary" and inserting in lieu thereof "Except as provided in subsection (f) of this section, the Secretary".

(d) The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems with respect to detection of firearms prohibited by subsection 922(p) of title 18, United States Code.

(e) When improved detection technology becomes available, the Secretary of the Treasury shall promulgate regulations to amend the definition of the term "Minimum Security Standard Exemplar" contained in the amendments made by this Act if the effect of the existing regulations would be to render the provisions of subsections 922(p) and 925(f) of title 18, United States Code, or any previous regulations issued under this subsection pertaining to those subsections, inapplicable to one or more types of firearms, but in no case shall the Secretary of Treasury amend the definition of the Minimum Standard Security Exemplar so as to increase to weight of the Exemplar set forth in this Act.

(f) This subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm, under such rules and regulations as the Secretary shall prescribe, by a licensed manufacturer or anyone acting pursuant to a contractual arrangement with a licensed manufacturer, for the purpose of examining and testing such a firearm in connection with the making of a determination of whether the provisions of paragraph (1) of subsection 922(p) apply to such firearm. The Secretary shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(g) The Secretary shall permit the conditional importation or bringing in of a firearm by a licensed importer or licensed manufacturer, for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm will be allowed under this subsection if the importation or bringing in of such firearm is not prohibited under subsection 925(d) of title 18, United States Code.

(h) The Attorney General, the Secretary of the Treasury, and the Secretary of Transportation, shall conduct such studies as required to identify available state-of-the-art equipment capable of detecting the Minimum Security Standard Exemplar while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public. Such studies shall be completed within six months of the date of enactment of this Act and each study shall include a schedule providing for the introduction of such equipment at the earliest practicable time at security checkpoints maintained or regulated by the agency conducting the study. Such equipment shall be introduced in accordance with each schedule. In addition, such studies may include recommendations, where appropriate, concerning use of secondary security equipment and procedures to enhance detection capability at security checkpoints.

(i) Section 922 of title 18, United States Code, is further amended by adding at the end of subsection (p) as added by this Act, a new subsection (q) as follows:

"(q) Whoever, during and in relation to the commission of a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm the manufacture or importation of which is prohibited by the provisions of subsection 922(p) as added by this Act, shall, in addition to the punishment provided for the commission of such crime of violence or drug trafficking crime, be sentenced to a term of imprisonment for not less than five years. For purposes of this subsection, the term 'drug trafficking crime' has the meaning set forth in subsection 924(c) of this title.

(j) This Act and the amendments made by this Act shall become effective thirty days after the date of enactment of this Act but it shall be a bar to prosecution under this Act that the firearm was manufactured on or before March 1, 1988.

SEC. 3. CLARIFICATION OF DEFINITION OF DRUG TRAFFICKING CRIMES IN WHICH USE OR CARRYING OF FIREARMS AND ARMOR PIERCING AMMUNITION IS PROHIBITED.

Paragraph (2) of subsection 924(c) of title 18 of United States Code and paragraph (2) of subsection 929(a) of title 18 of the United States Code are both amended to read as follows:

"(2) For purposes of this subsection, the term 'drug trafficking crime' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1901 et seq.).".

SEC. 4. MANDATORY PENALTY FOR USING OR CARRYING A FIREARM IN COMMITTING ASSAULTS ON FEDERAL OFFICERS.

Section 111 of title 18 of the United States Code is amended by adding "other than a firearm," after the words "deadly or dangerous weapon," in the second paragraph and by adding a new paragraph at the end thereof as follows:

"Whoever, during and in relation to the commission of any such acts, uses a firearm shall be imprisoned for ten years (which term shall not run concurrently with any other term of imprisonment) and may be fined in accordance with the provisions of this title, or both.".

SEC. 5. POSSESSION OF A FIREARM OR DANGEROUS WEAPON IN A FEDERAL COURTHOUSE.

(a) Chapter 44 of title 18 of the United States Code is amended by adding at the end thereof a new section 930 as follows:

"§ 930. Possession of firearms and dangerous weapons in a Federal courthouse

"(a) Except as provided in subsection (d), whoever knowingly possesses or causes to be present any firearm or dangerous weapons in a Federal courthouse, or attempts to do so, shall be sentenced to imprisonment for not more than one year, or fined in accordance with the provisions of this title, or both.

"(b) Except as provided in subsection (d), whoever knowingly possesses or causes to be present any firearm or dangerous weapon in a Federal court facility, or attempts to do so, shall be sentenced to imprisonment for not more than two years, or fined in accordance with the provisions of this title, or both.

"(c) Whoever knowingly possesses or causes to be present any firearm or dangerous weapon in a Federal courthouse, or attempts to do so, with intent that the firearm or dangerous weapon be used in the commission of a crime, shall be sentenced to imprisonment for not more than five years, or fined in accordance with the provision of this title, or both.

"(d) Subsections (a), and (b), shall not apply to any act performed in the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law, and shall not apply to the possession of a firearm or dangerous weapon by a judge of the United States, a United States magistrate, Tax Court judge, or a bankruptcy judge.

"(e) Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt; nor shall anything in this section interfere with or limit in any way the power of a court of the United States to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building, or upon any grounds appurtenant thereto, housing any such court or any of its proceedings.

"(f) As used in this section—

(1) the term 'Federal courthouse' means a building which houses a court of the United States or is the site of a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Tax Court or a Federal grand jury;

"(2) the term 'Federal courtroom' means that part of a Federal courthouse in which is conducted a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Tax Court or a Federal grand jury;

"(3) the term 'Federal court facility' means that part of those parts of a Federal courthouse which include Federal courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of clerks of court, offices of the United States attorney and the United States marshal, probation and parole offices, any other area or part of a Federal courthouse used exclusively to provide operational or administrative support for the official activities of a court of the United States, and corridors or passageways directly adjacent to any of the foregoing parts or areas of a Federal courthouse; and

"(4) the term 'dangerous weapon' means any device designed to expel or hurl a projectile capable of causing injury to persons or property, switch-blade knife, and any knife having a blade over three inches in length.

(b) Notice to the effect of subsections 930 (a) and (b) of title 18, United States Code, shall be posted conspicuously at each public entrance to each Federal courthouse, and the failure to so post or maintain such notice shall be an affirmative defense to any violation of those subsections.

(c) The analysis at the beginning of chapter 44 of title 18 of the United States Code is amended by adding at the end thereof the following:

"930. Possession of firearms and dangerous weapons in Federal courthouses.".

SEC. 6. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Paragraph (1) of subsection 3142(f) of title 18 of the United States Code is amended by—

(1) striking out "or" before subparagraph (D);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting a new subparagraph (D) as follows:

"(D) an offense under 18 U.S.C. 844(a) that is a violation of 18 U.S.C. 842 (d), (h), or (i), or an offense under 18 U.S.C. 924(a) that is a violation of 18 U.S.C. 922 (d), (g), (h), (i), (j), or (o); or".

SEC. 7. EXPANSION OF POSSESSION OF EXPLOSIVES OFFENSE TO CERTAIN AIRPORTS AND STRENGTHENING OF PENALTY.

(a) Subsection 844(g) of title 18 of the United States Code is amended—

(1) by inserting "in an airport that is subject to the regulatory authority of the Federal Aviation Administration or" after "possesses an explosive";

(2) by inserting "or airport" after "such building"; and

(3) by striking out "not more than one year, or fined not more than $1,000, or both" and inserting in lieu thereof "not more than five years, or fined under this title, or both: Provided, That the provisions of this subsection shall not be applicable to (1) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or (2) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Research and Special Projects Administration for the handling of hazardous materials pursuant to the Hazardous Materials Transportation Act (49 App. U.S.C. 1801, et seq.).".

(b) STRENGTHENING OFFENSE OF USING OR CARRYING AN EXPLOSIVE IN THE COMMISSION OF A FEDERAL FELONY.—Subsection 844(h) of title 18 of the United States Code is amended—

(1) by striking out "unlawfully" in paragraph (2);

(2) by striking out "shall be sentenced" and all that follows through the remainder of the subsection and inserting in lieu thereof the following: "including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 8. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NONRESIDENTS.

Paragraph (5) of subsection 922(a) of title 18 of the United States Code is amended by striking out "resides" and all that follows through "(or other than that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting in lieu thereof: "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;".

SEC. 9. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) Subsection 922(j) of title 18 of the United States Code is amended by striking out the words "or which constitutes," and inserting in lieu thereof "which constitutes, or which has been shipped or transported in,".

(b) COMMERCE NEXUS FOR TRAFFICKING IN FIREARMS WITHOUT SERIAL NUMBERS.—Subsection 922(k) of title 18 of the United States Code is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Subparagraph (1)(B) of subsection 923(d) of title 18 of the United States Code is

amended by striking out "(h)" and inserting in lieu thereof "(n)".

(b)(1) Paragraph (1) of subsection 925(a) of title 18 of the United States Code is amended by inserting "possession," before "or importation".

(2) Subsection 925(c) of title 18 of the United States Code is amended by striking out the word "conviction" and inserting in lieu thereof the word "disability".

(c) Paragraph (3) of subsection 922(g) of title 18 of the United States Code is amended by inserting "who" before the words "is an unlawful user".

(d) Subsection 923(a) of title 18 of the United States Code is amended by striking out the period after the word "licensing" in the second sentence.

(e) Subsection 924(a) of title 18 of the United States Code is amended by striking out ", and shall become eligible for parole as the Parole Commission shall determine" both places those words appear. This amendment shall be effective with respect to any offense committed after November 1, 1987.

(f) Paragraph (1) of subsection 924(c) of title 18 of the United States Code is amended by striking out the second comma following the words "drug trafficking crime" the first time those words appear, by striking out the comma following the words "drug trafficking crime" the second time those words appear, and by striking out the second comma following the words "drug trafficking crime" the third time those words appear.

(g) Paragraph (1) of subsection 929(a) of title 18 of the United States Code is amended by striking out the comma following the words "drug trafficking crime" the second time those words appear, and by inserting a comma following the "device" the first time that word appears.

(h) Paragraph (5) of subsection 842(d) of title 18 of the United States Code is amended to read as follows:

"(5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

(i) Paragraph (3) of subsection 842(i) of title 18 of the United States Code is amended to read as follows:

"(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or".

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I add the name of Senator STEVENS as a cosponsor of the legislation. I might say parenthetically, that makes almost 25 Members who are cosponsors of this bill that we have before us today.

This bill reflects the fact that the legislative process can work; that where there are differences, there can be compromises effected.

Sixteen months ago, Senator THURMOND and I began work on legislation to protect the American public from the threat posed by firearms that cannot be detected by security equipment used to protect our airplanes, our courthouses and our public buildings. How many of us would be anxious to board an airplane if we knew that the metal detectors we walked through were incapable of detecting powerful firearms? What would happen to our system of open government if citizens had to submit themselves to hand searches before they could enter a Senate office building or the Capitol or the White House?

This scenario is possible because advances in plastics technology could very well produce that kind of plastic gun in the future, and in the very near future according to the Office of Technology Assessment.

Fortunately, we have an opportunity to prevent this terrorist nightmare before it becomes a reality. Today, legislation to stop the introduction of undetectable weapons is before the Senate. This legislation has been endorsed by the Fraternal Order of Police, the Federal Law Enforcement Officers Association, the International Brotherhood of Police Officers, the International Association of Chiefs of Police, the Major Cities Chief Administrators, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Troopers Coalition, the Police Executive Research Forum, the Police Foundation, the Police Management Association, National Sheriffs' Association, the Justice Department, the Transportation Department, the Treasury Department, the Bureau of Alcohol, Tobacco and Firearms, the Council of Airport Operators, Handgun Control, Inc., and the National Coalition to Ban Handguns.

My initial legislation, S. 465, would have required that all firearms be as detectable as a revolver made of 8½ ounces of stainless steel. That detection standard—referred to as the "minimum standard security exemplar"—was selected because metal detectors in use at Federal security checkpoints could not distinguish firearms lighter than the standard from keys, belt buckles, coins and other items commonly carried by airline passengers. While future production of three very small stainless steel firearms would have been prohibited by S. 465, production of all other rifles, shotguns, and handguns would have been unaffected.

In January of this year, metal detectors that have the capability to distinguish these smaller stainless steel weapons from commonly carried metal items became available. This advance in technology made it possible to lower the detection standard to limit the impact of the legislation on the production of these small firearms without jeopardizing airport security. Accordingly, a new bill, S. 2180, was introduced that lowered the detection standard to require that any firearm must be as detectable as a revolver made of 4 ounces of stainless steel. At the same time, the bill required that metal detectors capable of distinguishing this new minimum standard security exemplar from metal items normally carried by individuals be installed at all security checkpoints maintained or regulated by the Federal Government.

It is important to note that the fundamental principles contained in S. 465 and subsequently in S. 2180 have been retained. We have consistently urged that a minimum detectability standard be required for the future production or importation of all firearms. Second, we have maintained that this detectability standard be one that would facilitate, rather than impede, airport security. S. 2180, as reported meets both those objectives.

First, it requires that all firearms be as detectable as a stainless steel revolver weighing 3.7 ounces. While S. 2180, as introduced, would have set the standard at 4 ounces, we are confident, after consultation with security experts that this lower standard will be effective. Second, the bill retains provisions requiring that improved airport security equipment be installed at all federally regulated airports, all Federal courthouses, and all other Federal security checkpoints.

In addition, the bill contains a number of criminal law amendments requested by the Justice Department and law enforcement. These would:

Prohibit possession of a firearm in a Federal courtroom.

Increase penalties for illegal possession of explosives in airports.

Increase penalty for use or possession of explosive in commission of a Federal felony.

Clarify provision barring interstate gun sales to cover sales to nonresident aliens.

Clarify interstate commerce nexus for trafficking in stolen firearms.

Clarify interstate commerce nexus for trafficking in firearms without serial numbers.

I ask unanimous consent that an explanation of these changes prepared by the Justice Department and a statement prepared by the U.S. Marshals Service be reprinted in the RECORD. I also ask unanimous consent that the cost estimate prepared by CBO be entered in the RECORD.

The Department of Justice also requested that pretrial preventive detention law be amended to allow for detention of individuals charged with certain firearms violations. Because this amendment, unlike the others listed above, generated controversy, I offered an amendment to delete this provision to avoid jeopardizing the legislation.

One group of individuals, I believe, deserves a special medal of honor for their efforts in advancing this legislation to this point, and that group is the law enforcement officials of this country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Statement of the Marshals Service Prohibition of Firearms and Other Dangerous Weapons in Federal Courthouses

Each year, the U.S. Marshals Service's court security officers discover more and more dangerous weapons during routine security screening at Federal courthouses. Last year, alone, they prevented more than 75,000 weapons from being carried into Federal courtrooms. This disturbing trend intensifies the growing threat to the security and orderly functioning of our judicial process, especially in view of the ever-increasing frequency of sensitive trials involving major narcotics traffickers, terrorists, and other extremely dangerous criminals.

Yet, there is currently no Federal criminal statute specifically prohibiting the possession of a dangerous weapon in a Federal courthouse. The only Federal law relating to the subject is a General Services Administration regulation, 41 C.F.R. section 101-20.313, which prohibits the possession of weapons on Federal property, generally. However, the maximum penalty for violating that regulation is only 30 days incarceration and a $50 fine, which is simply inadequate either as a deterrent to or punishment for drug traffickers, international terrorists, and the other types of violent criminals who pose the greatest threat to our judicial system in today's environment.

In the absence of meaningful Federal law, persons who attempt to carry weapons into Federal courtrooms must be arrested and charged, if at all, under state law in order for an appropriate criminal sanction to apply. This resort to state law makes for a lack of uniformity among the 94 Federal judicial districts which the Marshals serve, both in terms of the procedures Marshals Service personnel must follow upon detecting a weapon and the certainty and severity of punishment to which an offender is subject.

The attached provision would rectify the situation. Under it, carrying or attempting to carry a firearm or other dangerous weapon into a Federal courthouse would be punishable by up to one year in jail and a $100,000 fine. Possession of, or attempting to possess, such a weapon in the courtroom itself or in offices or areas which provide administrative or operational support for the court would be a felony punishable by imprisonment for up to two years and a fine of up to $250,000. Finally, possession of a firearm or other dangerous weapon in a courthouse with intent to use the weapon to commit a crime would be punishable by up to five years' imprisonment and a felony-level fine.

Statement of the Justice Department on Certain Provisions Contained in S. 2180

Section three of the bill amends the definition of the term "drug trafficking crime" in 18 U.S.C. 924(c)(2) and 18 U.S.C. 929(a)(2). Subsections 924(c) and 929(a) create offenses of using a firearm and armor piercing ammunition, respectively, in certain federal crimes including drug trafficking crimes. Unfortunately, the present definitions of "drug trafficking crime" are drafted to include only felony violations "involving the distribution, manufacture, or importation" of controlled substances as defined in the Controlled Substances Act. A district court recently held that the quoted language did not reach a person charged with carrying a firearm in connection with the offense of possessing drugs with intent to distribute. The amendment in section three clarifies the definition to include, as we believe was Congress' original intent, all felony violations of the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Maritime Drug Law Enforcement Act.

Section four of the bill amends the Assault on a Federal Officer Statute (18 U.S.C. 111) to add a mandatory minimum prison term of ten years for using a firearm "during and in relation" to the commission of any of the assult type offenses described in the first paragraph of that section. Under current law, the term of imprisonment for a violation of section 111 committed by the use of a deadly or dangerous weapon is up to ten years. The amendment sets a mandatory period of imprisonment of ten years if the indictment or information alleged and the government proved that the defendant used a firearm during and in relation to the offense. The term of imprisonment would not be allowed to be made concurrent with any other term of imprisonment. Unlike mandatory minimum sentencing provisions in the Gun Control Act such as that in 18 U.S.C. 924(c)(1), there are no express prohibitions against a suspended sentence or against parole. Such prohibitions are not necessary because suspended sentences and parole have been eliminated by the Sentencing Reform Act of 1984, scheduled to take effect on November 1, 1987.

The "during and in relation to" phrase is taken from 18 U.S.C. 924(c)(1) as amended by P.L. 98-473, the Comprehensive Crime Control Act of 1984. Its meaning was described in the Senate Report on that Act, and the same meaning is intended here. See S. Rep. No. 98-225, 98th Cong., 2d Sess., p. 314, fn. 10. It should be emphasized, however, that the amendment of 18 U.S.C. 111 to provide for a mandatory prison term does not apply to a situation where the defendant merely carries a firearm. Nevertheless, the use of a firearm "during and in relation to" a covered crime would include, for example, a situation where the defendant displayed, but did not discharge, a firearm during an assault and a situation in which the defendant used a firearm to "pistol whip" a victim. Because of the high likelihood of violence and death or serious injury any time a firearm is used in an assault type offense, the mandatory penalty provision is intended to apply in cases where the firearm is unloaded or inoperable, and in cases involving "toy" or replica firearms intended to look like genuine weapons. Unlike subsection 924(c), however, the new provision in 18 U.S.C. 111 does not set out a separate offense but merely allows for a mandatory, enhanced penalty as punishment for a violation of section 111 on the pleading and proof of the additional element that the offense involved the use of a firearm.

Section five of the bill is designed to deal with the problem of knowing possession of a gun or other dangerous weapon in a federal courthouse. 18 U.S.C. 844(g) proscribes the unauthorized possession of explosives in any federal building including courthouses, but there is presently no federal statutory prohibition against possessing a firearm or other dangerous weapon, such as a bomb or long-bladed knife, in a federal courthouse or even in the courtroom itself although such acts have a high potential for danger to federal judges, law enforcement officers, and the general public. The problem is not trivial. Last year alone, members of the United States Marshals Service prevented more than 35,000 weapons from being carried into federal courtrooms and each year the number increases. The only federal provision applicable to the carrying of firearms in federal courthouses is found in GSA regulations. See 41 C.F.R. 101-20.313. Violation of this provision, however, is punishable by only a $500 fine and up to six months in jail. Occasionally, persons who attempt to carry firearms and other weapons into courthouses can be prosecuted under State concealed weapons provisions but such laws vary considerably. Moreover, in those courthouses over which there is federal jurisdiction and State law is assimilated as federal law under 18 U.S.C. 13, the above-cited GSA regulation may prevent the assimilation of State law and thus preclude appropriate punishment. See *United States* v. *Adams,* 502 F. Supp. 21 (S.D. Fla. 1980). Accordingly, section five adds a new section 930 to title 18 setting out three offenses involving firearms and inherently dangerous weapons in federal courthouses. Since the new section of part of Chapter 44, the definition of "firearm" in that chapter applies to the new section and would include destructive devices such as bombs and grenades as well as guns of all types. "Dangerous weapon" is separately defined in the new section and would include knives having blades over three inches in length.

Subsection 930(a) makes it an offense to knowingly possess or cause to be present any firearm or dangerous weapon in a Federal courthouse. Attempts to violate this provision would also be covered. An attempt would include a situation where the weapon is discovered by security personnel as the person is passing through a security checkpoint before actually entering the building. The term Federal courthouse is defined to include a building which houses a court of the United States or is the site of a proceeding before a judge or court of the United States, a Federal magistrate, bankruptcy judge, or grand jury. Because of the continual movement of defendants, witnesses, prisoners and court personnel throughout the public corridors and offices of courthouses, subsection (a) applies to the entire building which houses a court of the United States or is the site of one of the aforementioned proceedings. However, subsection (b) of this section of the bill requires that notice of the effect of the new subsection 930(a) be posted conspicuously at each public entrance to the courthouse and that it is an affirmative defense to a violation of the subsection that notice of its effect was not so posted at each entrance. A violation of subsection 930(a) is a misdemeanor punishable by imprisonment for up to one year and a fine of up to $100,000.

Subsection 930(b) makes it a felony punishable by up to two years' imprisonment and a felony level fine to possess or cause to be present a firearm or dangerous weapon in a federal courtroom, judges' chambers, and other court facility areas. Attempts to violate the new provision would also be covered. As with subsection 930(a), it is an affirmative defense to a violation of subsection 930(b) that notice of the effect of the subsection was not posted conspicuously at each public entrance to the courthouse.

The term "federal court facility" is defined as that part of a federal courthouse in which a proceeding is conducted before a judge or court of the United States, a Federal Magistrate, a bankruptcy judge or grand jury; and the judges' chambers or offices of the clerk, United States Attorney, probation, parole or United States Marshal are located. This is to cover situations where an individual is discovered to possess a firearm or dangerous weapon while in an area frequented by judges, defendants, witnesses, or court officials.

Subsection 930(c) makes it an offense to knowingly possess or cause to be present a firearm or dangerous weapon in a federal courthouse with intent that the weapon be used in the commission of a crime. The addition of the element that the gun must be possessed or caused to be present with the intent that it be used in a crime is the principal difference between this offense and the one set out in subsection 930(a). The offense would be committed, for example, by a person who secreted himself in a courtroom in the middle of the night with a firearm or dangerous weapon intending to "shoot up" the room or lie in wait for the appearance of court personnel for the purpose of harming them. It would also apply to an individual who secrets a weapon in an area of the courthouse where it can later be retrieved by a prisoner planning an escape attempt. The element that the weapon was possessed with the intent that it be used in a crime could, like the intent element in other offenses proscribing possession of an article with a specific intent, be proven circumstantial evidence. Violations of subsection 930(c) are punishable by imprisonment by up to five years and a felony level fine.

Subsection 930(d) provides that subsections (a) and (b) do not apply to an act performed in accordance with official duties by federal, state, or local law enforcement officers. For example, it would not apply to an FBI agent who wore his or her firearm while testifying before a grand jury, or to a local police detective who wore his or her weapon while in a federal building that housed both a courthouse and the United States Attorney's Office to meet with an Assistant United States Attorney to discuss a joint state and federal criminal investigation.

Section seven of the bill strengthens the penalties for violations of certain explosives offenses that involve a high degree of danger and expands the coverage of two such offenses.

Subsection 7(a) increases the penalty for possessing an explosive in a federal building (18 U.S.C. 844(g)) from a one year misdemeanor to a five year felony, and expands the offense to include airports that are subject to the regulatory authority of the Federal Aviation Administration even though not owned by or leased to the United States.

The new offense is based on the potential seriousness of the conduct in terms of loss of life and limb and the adverse effect on interstate and foreign commerce, as well as the need for the investigative resources of federal law enforcement agencies in view of the potential linkage to terrorist activities. Raising the maximum prison term is similarly justified by the seriousness of the proscribed conduct of unauthorized possession of an explosive in a government building. A similar proposal was included in the Criminal Code Reform Act passed by the Senate in the 95th Congress (S. 1437) and in all subsequent Senate Code revision bills.

However, since the definition of the term "explosive" as used in subsection 844(g) includes ammunition, and since the revision is not intended to interfere with the rights of hunters and other legitimate users of firearms, a special provision is included to allow the possession of ammunition at airports under reasonable conditions. Specifically, it would not be an offense to possess ammunition at an airport under Federal Aviation Authority if the ammunition is either in checked baggage or in a closed container such as a brief case or purse. This would not prevent hunters or other sportsmen from transporting ammunition from place to place through airports, and making it somewhat less than instantly accessible is reasonable inasmuch as hunting and target shooting are not activities typically pursued at airports. For purposes of this exemption, "ammunition is defined by reference to regulations issued pursuant to chapter 40 of title 18 (of which section 844 is a part). Ammunition is there defined as: "Small arms ammunition or cartridge cases, primers, bullets, or smokeless propellants designed for use in small arms, including percussion caps, and 3/32 inch and other external burning, pyrotechnic hobby fuses. The term does not include black powder."

Subsection 7(b) would strengthen the offense in 18 U.S.C. 844(h) of using or carrying an explosive during the commission of a federal felony, so as to bring it in line with similar amendments adopted in the Comprehensive Crime Control Act of 1984 and the Firearms Owners' Protection Act of 1986 with respect to the parallel offense of using or carrying a firearm during the commission of federal offenses. Presently, as a result of the above-mentioned amendments to 18 U.S.C. 924(c), a person who uses a firearm to commit a bank robbery would be subject to harsher penalties than a person who committed the same offense using an explosive. Clearly there is no justification for this disparity.

Section eight of the bill makes a minor adjustment to the Gun Control Act with respect to nonresidents of a State and aliens. Presently 18 U.S.C. 922(a)(5) makes it unlawful for a nonlicensee—i.e. a person not a licensed dealer, importer, manufacturer, or collector—to dispose of firearms to any person "who resides in any State other than that in which the transferor resides." Read literally, this language may make it impossible to prosecute an individual who delivers a firearm to an alien or other person, such as a transient, who does not reside in "any State." Section eight would modify this provision so that it would prohibit the disposition of a firearm to any person who does not reside in the State in which the transferor resides. If amended in this fashion the provision would be consistent with other provisions in the Gun Control Act such as 922(b)(3) which generally makes it unlawful for licensees to sell or deliver firearms to persons who do not reside in the State wherein the licensed business is located.

Section nine of the bill makes minor amendments in subsections (j) and (k) of 18 U.S.C. 922 which prohibit certain transactions in, respectively, stolen firearms and firearms lacking serial numbers to facilitate prosecutions under these subsections. In order to prove a violation of these provisions under current law, it must be proven that the firearms were actually moving in interstate commerce.

Subsection 9(a) amends 18 U.S.C. 922(j) so that it would include trafficking in stolen firearms actually moving in interstate commerce, as under current law, or which have been previously shipped or transported in interstate commerce.

Subsection 9(b) amends 18 U.S.C. 922(k), which currently proscribes the transportation, shipment, or receipt in commerce of a firearm that does not have a serial number so that it would also include the possession or receipt of such a firearm that had been shipped or transported, at any time, in interstate or foreign commerce. Thus, a violation of the revised subsection 922(k) would be proven by showing that the defendant possessed or received a firearm lacking a serial number even if, at the time it moved in interstate commerce, it contained such a number.

Section ten of the bill makes a series of technical and conforming amendments to the Gun Control Act as set out in chapter 44 and to chapter 40 dealing with explosives.

Subsection 10(a) amends 18 U.S.C. 923(d)(1)(B). From the time the provision was first enacted until 1986, it in essence disqualified from receiving federal firearms licenses persons under certain disabilities including, by reference to subsection 922(g) and (h), persons under indictment for felonies. The 1986 amendments restructured those provisions of the Act relating to persons under firearms disabilities. The disabilities imposed on persons under indictment were removed from 922(g) and (h) and placed in a new section 922(n). As a result of an apparent oversight, the Congress failed to amend section 923(d)(1)(B) to make reference to 922(n). Subsection 10(a) amends 923(D)(1)(B) to correct this omission.

Subsection 10(b)(1) amends 18 U.S.C. 925(a)(1), the provision which states that the provisions of the Gun Control Act do not apply to any transportation, shipment, receipt, or importation of a firearm for use of a federal, State or local governmental agency. The amendment makes it clear that the Act also does not apply to the possession of a firearm by an employee of such an agency in connection with his or her official duties. Occasionally government employees are under federal firearms disabilities due to a prior conviction or for other reasons. The amendment clarifies that such persons are not precluded from receiving and possessing firearms as required in the course of their employment. However, the amendment would not exempt such a person from the prohibitions imposed on firearms-disabled persons if the firearms are received or possessed in their personal capacities.

Subsection 10(b)(2) amends 18 U.S.C. 925(c) by striking out the word "conviction" and inserting the word "disability". This is a technical change which carries out the intent of Congress in a portion of the Firearms Owners' Protection Act. Prior to the passage of that Act, only convicted felons could apply to the Secretary of the Treasury for relief from firearms disabilities. The 1986 Act expanded the relief provisions to bring within their scope all categories of disabled persons, not just convicted felons. Yet Congress inadvertently retained in the relief provision a reference only to a disabled person's "conviction". Subsection 10(b)(2) corrects this error.

Subsection 10(c) amends 18 U.S.C. 922(g)(3) to include the word "who" before the words "is an unlawful user". The word "who" was omitted due to a clerical error.

Subsection 10(d) corrects a clerical error in the second sentence of subsection 923(a) which has resulted in the placement of a period in the middle of that sentence.

Subsection 10(e) amends 18 U.S.C. 924(a) to eliminate two are references to parole. Parole was abolished by the Comprehensive Crime Control Act of 1984, effective November 1, 1987. Subsection 10(e) accordingly provides that the amendment to subsection 924(a) will only be effective for offenses committed after that date.

Subsection 10(f) amends 18 U.S.C. 924(c)(1) to delete several unnecessary commas that were included due to clerical error.

Subsection 10(g) amends 18 U.S.C. 929(a)(1) to delete unnecessary commas that were included through similar clerical error.

Subsections 10 (h) and (i) make purely technical amendments to two provisions of the explosives laws, 18 U.S.C. 842(d)(5), and 18 U.S.C. 842(i)(3). Subsection 842(d)(5) makes it illegal to distribute explosives to illegal drug users, and 842(i)(3) makes it illegal for illegal drug users to ship, transport, or receive explosives. Subsections 10 (h) and (i) substitute modern references to drugs as defined in the Controlled Substances Act for outmoded references to certain categories of drugs in repealed statutes. Identical changes were made to the parallel statutes, 18 U.S.C. 922 (d) and (g), by the Firearms Owners' Protection Act of 1986.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 18, 1988.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2180, the Undetectable Firearms Act of 1988, as ordered reported by the Senate Committee on the Judiciary, May 12, 1988.

Based on information provided by the Departments of Justice and the Treasury, CBO estimates that enacting S. 2180 would result in additional costs to the federal government of $300,000 annually. The increased costs would be for increased staffing and research activities at the Bureau of Alcohol, Tobacco, and Firearms, and studies of state-of-the-art metal detection equipment.

The bill would establish a minimum standard for detection of handguns, and any gun not detectable at the minimum standard would be prohibited. Under the bill, the Departments of Justice, Transportation, and the Treasury would be required to study metal detectors capable of detecting the minimum standard, and to establish a schedule for installing new detectors at airports, prisons, and courthouses. The CBO does not expect that acquiring new metal detectors would result in any significant additional costs, because the new detectors would probably be purchased over time as existing equipment is replaced.

Enacting this bill would not significantly affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

Mr. METZENBAUM. Every single law enforcement group has had their shoulder to the wheel and has been on the front line urging the adoption of this legislation to ban plastic or other undetectable guns. Their contribution to this legislation cannot be overstated. They have lent their expertise, their energy, and their considerable political skill to me, to Senator THURMOND, and the administration. I congratulate them on their success in bringing the Justice Department, the Transportation Department, and the Treasury Department on board. And, I would like to individually recognize and thank the following individuals for the contribution each made to this effort: Dewey Stokes, Donald V. Cahill, Harry Cunningham, Tim Mulaney, Robbie Robbins, Fred Keeney, Cheryl Epps, Jerry Vaughn, Robert Scully, Jules Bernstein, Linda Lipsett, Ed Murphy, Sterling Epps, Tom Doyle, Alan Bernstein, Robert Van Etten, Marty Tapscott, Elsie Scott, Mike Muth, Johnny Hughes, Martha Plotkin, Darrel Stephens, Neil Behan, Mark Spurrier, Karin Schmerler, Hubert Williams, Arnita Porter, Shelia Bodner, Ed Spurlock, William Kolender, Susan Keegan, and Cary Bittick.

In addition, I do not want to sell short the efforts of the distinguished Senator from South Carolina, Senator THURMOND, the ranking member of the Judiciary Committee, who from the inception made it clear that he felt that legislation to ban plastic guns was a must. He has been forthright. He has been helpful. He has been understanding and, with his assistance, we are at the point that we are ready to pass this legislation.

I am also thankful to my colleague from Idaho, Senator McCLURE, who is on the floor to speak for himself. He has been helpful also in bringing about this compromise, and I am pleased that we are just about ready to pass the legislation.

I reserve the remainder of my time, and I yield the floor.

AMENDMENT NO. 2126

Mr. METZENBAUM. Mr. President, I send an amendment to the desk in order to strike that particular part of the bill and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 2126.

On page 16, strike lines 21 through line 25, and on page 17, strike lines 1 through 8.

Mr. METZENBAUM. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2126) was agreed to.

Mr. THURMOND. Mr. President, I rise today in strong support of this legislation which would prohibit the importation and manufacture of undetectable firearms. I firmly believe this bill is an acceptable solution to the problem of undetectable firearms. It should pass this body and be enacted into law as swiftly as possible.

Mr. President, our goal throughout the process of considering this legislation has been to address serious questions about the safety of airports and other Federal checkpoints around the country. I felt strongly that these concerns must be resolved if we are to succeed in protecting the general public and those officials who serve in our Government, including the President.

There is no doubt that in the hands of terrorists and other criminals, undetectable weapons are a clear threat to Americans on board aircraft. American citizens deserve no less than the freedom to travel on our Nation's airlines without concern that terrorists or other criminals may be sitting across the aisle with an undetectable weapon.

Mr. President, this bill represents a sincere and most worthy effort on behalf of the public: that of using foresight and our knowledge of new technology to address an imminent danger instead of moving to correct the danger after it has caused serious harm.

Mr. President, I take this opportunity to commend the able Senator from Ohio, Mr. METZENBAUM, for the great service he has rendered in connection with this piece of legislation.

I also wish to express my appreciation to Senator McCLURE for the efforts he has made in bringing this bill to fruition. Senator McCLURE has been in close touch with the National Rifle Association. I wish to commend that organization, too, for supporting this bill, and I feel that in the end all of the efforts made by the various people connected with it are going to be very beneficial to the people of this Nation.

This legislation now before us addresses the threat created by undetectable weapons through three major provisions. First, this bill calls for a minimum exemplar standard tied to the detectability of 3.7 ounces of stainless steel, a standard which ensures detection based on our current technology. Second, this proposal also provides stiff penalties for the manufacture, importation, possession, or use of an undetectable weapon. Another key provision requires that new and more sensitive metal detectors be installed at airports and Federal facilities and that the executive branch conduct research to improve the effectiveness of our Federal security systems.

This plastic gun legislation achieves the goals of earlier versions but clarifies and improves them. By lowering the detectability standard, this bill allows continued production of small handguns now in use. The bill also makes very clear that the Secretary of the Treasury has no discretion to bar guns which meet the established standard and that the bill does not apply to firearms owned at the time of enactment.

I was pleased that a very similar measure was recently approved overwhelmingly by the House of Representatives. I am also pleased that this bill has the strong support of a number of groups, including:

The International Association of Chiefs of Police.

The Fraternal Order of Police.

The International Brotherhood of Police Officers.

The National Association of Police Organizations.

National Organization of Black Law Enforcement Executives.

National Sheriffs' Association.

National Troopers Coalition.

Police Management Association.

The Police Executive Research Forum.

The Police Foundation.

The Airline Pilots Association.

American Association of Airport Executives.

The Association of Flight Attendants, and

The Airport Operations Council International.

Mr. President, the legislation we are considering today is the product of long months of negotiation, and it is a strong and sound approach to the hazards of undetectable firearms. By approving this legislation now, we can act responsibly to give Americans the security they expect and deserve from their government as they go about their daily lives.

This legislation is a responsible and balanced approach to the problem of undetectable firearms. I urge my colleagues to join us in support of this important proposal.

Mr. McCLURE. Mr. President, much has been made of the possibility that firearms technology may eventually outstrip security detection systems. Although we have not yet reached that point, it seems prudent to provide guidelines that will not hamper development of new weapons technology, yet will ensure that these newly developed firearms can be screened in airports and public buildings.

This prohibition does not apply to any firearm possessed in the United States before the enactment of this law. Thus, while we forestall the threat of undetectable firearms, we do not infringe on the second amendment rights of law abiding citizens.

This legislation answers the question of both airline security and second amendment rights. It does not hamper the development of important new technology, and it provides a standard for firearms manufacturers.

The hard work of a variety of dedicated groups—firearms rights groups; the National Rifle Association, Gun Owners of America, the Citizen's Committee for the Right to Keep and Bear Arms, and the Firearms Coalition; law enforcement organizations; the Justice Department—has resulted in a bill that we all can support. This legislation would:

Prohibit the manufacture, sale, importation, possession, transfer, receipt, shipment, and delivery of future, undetectable firearms. No currently manufactured, imported, and/or possessed firearms would be prohibited should this legislation become law.

Establish objective standards for a criminal proceeding to determine which future firearms are prohibited. The proposed legislation provides no discretionary authority to the Secretary of the Treasury, nor to any other executive branch official.

Require the Secretary of the Treasury to promulgate regulations amending the definition of the term "Minimum Security Standard Exemplar" so as to decrease the metal content standard and exempt future firearms as improved detection technology becomes available. The Secretary is prohibited, however, from amending the definition so as to increase the standard from 3.7 ounces of stainless steel.

I would like to make it very clear that I do not believe that crime can be controlled by restricting an inanimate object. If we are to make a real difference in the safety of our citizens, we must admit that the ultimate solution to crime is swift and certain punishment for the criminal. In this regard, the Undetectable Firearms Act is only one part of the answer to airline safety.

Mr. President, it is only one part, but it demonstrates that groups with widely divergent views on firearms rights can work together to achieve a common goal. This bill is a tribute to the spirit of compromise. It is, in addition, proof that we can protect both public safety and firearms rights.

AMENDMENT NO. 2127

(Purpose: To provide civil penalties for the manufacturing, entering into commerce or transporting of imitation firearms which do not have markings to make them readily identifiable)

Mr. McCLURE. Mr. President, on behalf of Senator Dole and Senator Wilson I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho Mr. [McClure], for Mr. Dole (for himself and Mr. Wilson), proposes an amendment numbered 2127.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

Sec. . (a) It shall be unlawful for any person to manufacture, enter into commerce, ship, transport, or receive any toy, look-alike, or imitation firearm unless such firearm contains, or has affixed to it, a marking approved by the Secretary of Commerce, as provided in subsection (b).

(b)(1) Except as provided in paragraph (2), each toy, look-alike, or imitation firearm shall have as an integral part, permanently affixed, a blaze orange plug inserted in the barrel of such toy, look-alike, or imitation firearm. Such plug shall be recessed no more than 6 millimeters from the muzzle end of the barrel of such firearm.

(2) The Secretary of Commerce may provide for an alternate marking or device for any toy, look-alike, or imitation firearm not capable of being marked as provided in paragraph (1).

(c) For purposes of this section, the term "look-alike firearm" means any imitation of any firearm which was manufactured, designed, and produced since 1988, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. Such term does not include any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1988, or traditional B-B or pellet-firing air guns that expel a metallic projectile through the force of air pressure.

(d)(1) Any person who violates any provision of this section shall be subject to a civil penalty of not more than $1,000 for the first such violation.

(2)(A) Any person who violates the provisions of this section a second or subsequent time shall be guilty of a misdemeanor and upon conviction shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

(B) Any individual director, officer, or agent of a corporation who authorizes, orders, or performs any act which constitutes in whole or in part, a violation of the provisions of this section, shall be subject to penalties under this section without regard to any penalties to which such corporation may be subject under subsection (a).

(e)(1) The provisions of subsection (d) shall not apply to any manufacturer, importer, seller, or dealer of toy, look-alike, or imitation firearms in the case of a toy, look-alike, or imitation firearm which complied with the provisions of this section while in the possession or control of such person, but which was subsequently altered so that it no longer complies with such provisions.

(2)(A) The provisions of subsection (d) shall not apply to a law enforcement officer, as defined in subparagraph (B), who is acting in good faith and within the scope of his employment.

(B) For purposes of this paragraph, "law enforcement officer" has the meaning given such term in section 1203(5) of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(f) This section shall become effective on the date one year after the date of its enactment and shall apply to toy, look-alike, and imitation firearms manufactured or entered into commerce after such date of enactment.

(g) The provisions of this section shall supersede any State or local laws or ordinances which provide for markings, identification, or other restrictions inconsistent with provisions of this section.

Mr. DOLE. Mr. President, the amendment I am offering with the distinguished Senator from California, Mr. Wilson, would require that all toy or other imitation firearms entering into commerce have a blaze orange plug permanently fixed in the barrels of these items. The intent is quite simple—to make toy guns more easily distinguishable from actual firearms by law enforcement personnel.

In recent years, toy guns have been manufactured to look identical to operating firearms, and, in several instances, have been used in the commission on crimes, such as bank robbery, hostage takings, and street crime. In one well publicized case, a police officer in California accidentially shot a youth playing with a toy laser gun, after mistaking the toy for a firearm.

Mr. President, I ask unanimous consent that an article which appeared in the Washington Post on this issue be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Nov. 23, 1987]

Toy Guns Proving to Be Too Realistic—Role in Crimes, Accidents Triggers Efforts to Control Sale, Production

(By Matt Lait)

Los Angeles.—The nation's largest toy retailer has announced that it is no longer acquiring realistic toy guns, which have been brandished in a number of recent crimes and blamed in several accidental deaths.

Toys "R" Us Inc., which controls more than 15 percent of the domestic toy market and has 19 stores in Maryland and Virginia, has told manufacturers that it will not carry their products unless "they changed the designs of the guns to make them look less realistic," said Angela Bourdon, a spokeswoman for Toys "R" Us in Rochelle, NJ.

Current inventories of the replica guns are being sold, but those sales will stop next year.

The action follows a flurry of activism against toy guns in California after a police officer accidentally shot a youth carrying a toy "laser" gun and a man pointing a replica gun forced a television reporter to read an incoherent statement on the air. They have been used by bank robbers, burglars and hostage-takers.

Three California cities have banned replica guns at least tentatively. And brandishing such toys will be illegal in California next year. A toy gun ban proposed for the District of Columbia by City Council Member Nadine Winter (D-Ward 6) died in committee last year.

The toy and replica gun industry is a $200 million business with 70 percent of the guns made to look like military weapons.

Toy gun manufacturers already have started submitting designs to Toys "R" Us to see if the changes are acceptable. "When Toys "R" Us talks, everybody listens," said Jodi Levin, speaking for the Toy Manufacturers of America, a trade association.

The Imperial Toy Corp. here now produces guns in bright fluorescent colors. Levin said Daisy Manufacturing Co. has put orange tips on its guns to make it clear they are toys.

But colored guns do not ease the minds of some police officers, who argue that if an officer waits to identify the color of the gun pointed at him, it may be too late to react.

"I can see some dirt bag painting his barrel and stock fluorescent orange . . . or a kid with one of those guns and getting shot anyway. There's no way we can make that determination, especially at night," Sgt. Bill Hetherington of Palos Verdes, Calif., police department said.

The Alliance for Survival, a group that advocates elimination of toy guns, has declared the replica gun problem an "emergency." Aside from potential physical harm, the group believes children's "emotional safety" is in jeopardy because the guns "desensitize people to the real horrors and violence of war," said Jerry Rubin, Los Angeles director for the Alliance for Survival.

KNBC-TV consumer reporter David Horowitz had been trying to ban toy guns even before a man walked onto the station's set in Burbank during the evening news and held a toy gun to his head. "If you point one of these at someone and they don't know the difference, then you're pointing a real gun at them," he said.

Burbank was the first city in the nation to ban the sale of toy guns. The Los Angeles and Santa Monica city councils have tentatively approved similar ordinances. It will be a misdemeaner to exhibit a toy gun threateningly in the state starting in January.

"There have been a number of individuals who have lost their lives because they have brandished toy weapons," said Los Angeles City Councilman Nate Holden, who introduced the bill to prohibit their sale and manufacture. "So if it's against the law to brandish [a toy gun], then it ought to be [against the law] to make it or sell it."

State Sen. Pro Tem David Roberti (D-Burbank) and Horowitz have drafted a bill to ban the sale, manufacture and distribution of toy gun replicas. The bill also makes it a felony in California to use one in the commission of a crime or to brandish one.

On the national level, Rep. Mel Levine (D-Calif.) has proposed a bill that would require identifying markings on all toy guns.

Levine said that if confusion still occurred, he would not be opposed to banning the guns. But he said such legislation would be harder to pass because of interest groups.

Mr. DOLE. This amendment is similar to legislation introduced in the House of Representatives by Congressman Mel Levine, although there are important differences. For example, under this amendment, the authority is vested with the Secretary of Commerce, as opposed to the Consumer Product Safety Commission. In addition, this amendment exempts nonfiring, collector replicas of antique firearms, as well as clearly exempting firearms from the regulatory requirements established by the amendment.

Mr. President, I thank the Hobby Institute for its help in drafting this compromise position, as well as congratulate the toy gun manufacturers and retail toy merchants, many of whom have alrrady taken voluntary steps to guard against the misuse and the mistaken identify of toy guns. I believe this amendment will help create a standard approach to ensuring toy guns are easily distinguishable from firearms, and look forward to working with the industry on future steps which could be taken to help law enforcement officials readily distinguish toy guns from firearms.

Mr. McCLURE. Mr. President, this amendment deals with the manufacture of toy guns that are so realistic that they have become a hazard in themselves because the people who see them displayed are not aware of whether they are initations, toys, or real firearms. I think the amendment has been cleared on both sides of the aisle. I know of no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2127) was agreed to.

Mr. McCLURE. Mr. President, let me take only this much time to indicate that indeed this bill is the product of a great deal of negotiation. The distinguished Attorney General, Mr. Meese, and others in the Department of Justice worked very hard in consultation with the law enforcement organizations the Senator from Ohio has mentioned, and indeed the Department of Justice and those law enforcement organizations signed a letter jointly prior to my introduction of this legislation on the floor of the Senate earlier as a substitute for and a revision of the earlier legislation that had been discussed.

Mr. President, one of the major players in all this negotiation was the National Rifle Associations, and there have been other associated gun owners group that have participated in the discussion of what kind of legislation we should have. I think it is important for us to understand that this is not gun control legislation. It sets the standards for lawful firearms in a fashion which does not confiscate nor prohibit any existing firearm in the United States. That was one of the absolute requisites as far as I was concerned of any such legislation.

Second, this legislation unlike earlier legislation, eliminates any discretion on the part of an administrative official with respect to actions that might be taken that might ban or cause the confiscation of any existing firearms.

Finally, Mr. President, as the Senator from Ohio has indicated, this legislation concentrates on something that I have thought was important from the beginning, and that it is to focus upon the detection facilities and technology that allow us to provide some degree of security to people in sensitive areas and in aircraft flying on commercial airlines.

So, Mr. President, I am pleased to say that the pending legislation, which I had introduced earlier, which was then adopted in the Judiciary Committee and is now before the body, has the support of the several groups that have been identified. I know of no concerted or even minor opposition to the passage of the legislation and join in urging that the Senate adopt this legislation.

Mr. METZENBAUM. Mr. President, I appreciate the support and comments of the Senator from Idaho and his cooperation in connection with our bringing the matter to this point. I do want to make it clear that I know of no proposal that anyone has, including the Senator from Ohio, to confiscate anyone's firearms, nor did we ever have such a proposal. I want to be certain that we do not leave his statement with some implication that at some point some legislation along that line was proposed. I do not, would not, and have no intention of ever doing so.

Mr. President, I think we are ready to act in connection with the legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The clerk will report H.R. 4445.

The legislative clerk read as follows:

A bill (H.R. 4445) to amend title 18, United States Code, to prohibit certain firearms especially useful to terrorists.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 2180 is inserted in lieu thereof.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MOYNIHAN. Mr. President, I rise today to join Senator METZENBAUM in offering a bill to ban the sale, manufacture or importation of nonmetal guns, better known as "plastic guns," which are not detectable by standard security metal detectors. This bill, S. 2180, is based on S. 465, which Senator METZENBAUM introduced on February 4, 1987 and of which I am a cosponsor.

At this time, we do not have the technological capacity to adequately detect nonmetal guns—we cannot wait until this equipment is developed—possibly 5 to 10 years from now. We must prevent the widespread manufacture and sale of these guns, immediately, before they result in the loss of even one life.

According to the Air Transport Association, the Nation's airlines transported more than 415 million passengers last year. These passengers passed through 1,200 screening points at 400 airports using over 2,500 weapons detectors. Clearly the airlines are doing an adequate job of screening detectable weapons—it is the nondetectable weapons which present a future threat.

And these plastic guns will not erode or fade away. We are in no great need of additional handguns in the United States. At present, we have 60 million metal handguns in the United States and if properly cared for, these guns will last a near infinite lifetime.

But guns don't kill people, bullets do. A handgun is of no use without bullets. While we have a two century supply of handguns, we have a mere 4 year supply of ammunition. Defang the cobra. Impossible? No. Just last year the President signed into law a bill I introduced in the 99th Congress to ban the use of cop-killer bullets.

On the first day of the 100th Congress, I continued the attack on ammunition by introducing S. 25, a bill to address the problem of crimes committed by small metal handguns by banning .25 and .32 caliber ammunition.

Why ban this ammunition? I give you a case in point: On November 19, 1986, Larry Davis, wanted for five drug related murders in New York City shot his way through a police cordon. Six officers were wounded. Davis had with him an arsenal of crime: Shotgun, .45 automatic pistol, and .32-caliber revolver.

How often are .25 and .32 caliber guns used? In 1981, Cox Newspapers did a survey of 14,268 crime guns seized by police in 18 metropolitan areas during the first 9 months of 1979. Cox found that of the 15 most popular crime guns, four were of .25 or .32 caliber.

Of handguns fired at New York City police officers, 1975-85, one quarter were. 25 or .32 caliber. These are the choice weapons of criminals. They are not the choice weapons of hunters or marksmen.

Would this end the problem, the awful problem of handgun killings? No. It would reduce it. It would take one weapon out of the hands of a Larry Davis. And it might just save lives.

Would banning plastic guns from our airplanes end all terrorism? No, but it might reduce it. If we can prevent one loss of one life by banning plastic guns which are not detectable by security at airports, we should do so.

Mr. HATCH. Mr. President, I rise today in support of the compromise reached on the legislation regarding undetectable firearms.

When this issue first came to the floor, back in December 1987, several of my colleagues and I spoke in opposition to the legislation that was then pending. We had serious concerns with some of the provisions of that bill which we believed would violate the rights of American citizens to keep and bear arms, as guaranteed by the second amendment to the Constitution. Specifically, we were troubled by the metallic content requirement of 8½ ounces of steel, which would have banned thousands of existing handguns.

Second, we were also troubled by a provision of the bill which would have given the Secretary of the Treasury the discretion to ban any firearm which he determines not to be detectable by x-ray systems currently used in airports. Simply stated, the Secretary of the Treasury, not encumbered with any statutory definition or limitation on what is meant by detectable, would have been free to ban any firearm, including hunting rifles. This wide degree of discretion was simply unacceptable, and the legislation was defeated.

Throughout the debate on this legislation, the stated purpose has been to ban firearms which are not detectable by current technology. It should be pointed out that according to testimony before the Constitution Subcommittee, it was repeatedly stated that all firearms currently being produced are in fact detectable. The technology to produce an undetectable firearm is not yet available. Quite simply, other than the toy guns which anyone might purchase at any neighborhood store, plastic firearms do not exist. There are no working firearms on the market which are completely constructed out of plastic or other undetectable materials.

This is not to say that the technology to produce such a gun will never exist. Some manufacturers claim that they are close. Given that fact, and the concern that we all share for maintaining security in our airports and various other facilities, various other pieces of legislation were introduced to address the possibility of the future manufacture of such weapons. We have debated the possible effects of these bills and discussed possible compromises over the last few months, and recently, through these efforts, an acceptable compromise has been reached.

While it is still likely that some opposition to this compromise bill will exist, this is a bill that I think everyone can support. The Justice Department, the National Rifle Association, and the Law Enforcement Steering Committee have all endorsed and stated their support for this bill. The Constitution Subcommittee and the full Judiciary Committee have unanimously passed this bill.

This bill addresses the threat of future undetectable weapons, but it does not ban any currently existing guns. It does not give the Secretary of the Treasury any unbridled discretion and further provides that when technological advances in detection capabilities are made, the requirement for minimum metallic content can be reduced, but not raised. As was stated during our hearings on this issue, advances are being made in detection technology, and quite possibly, the question of detectability may be moot by the time plastic guns are produced.

I compliment my colleagues, Senators MCCLURE, METZENBAUM, THURMOND, and DECONCINI for the work that they put into the drafting of this current version of the legislation, and I would hope that all of our colleagues would give serious consideration to voting in favor of this bill.

Mr. GRASSLEY. Mr. President, at about 5 o'clock on most Friday afternoons, I usually can be found running out the door of my Senate office in Washington, DC—where I work—and tearing off to National Airport to catch a late flight to Iowa—where I live.

On Sunday afternoon, the commuting scenario takes place again, only in reverse.

As someone who depends heavily on frequent air travel to and from home and work, I can relate to and appreciate the concerns many Americans have today about terrorism and the safety of flying.

Seeking to put to rest some of these fears and make the skies safer, I am pleased to support this gun control legislation which would require that all firearms be fully detectable by properly operated airport detection machines.

The Undetectable Firearms Act, provides for a fair and effective means of detecting firearms, while not infringing on the constitutional rights of law-abiding Americans to acquire and own firearms.

Contrary to popular perception, all firearms that exist or are on the market today are entirely detectable by properly operated security systems.

Simply put, the measure does not ban existing firearms, all of which are detectable using current equipment and procedures correctly.

It's a fact of life that plastic firearms simply are a technology of the future and this legislation plans for that advancement, targeting firearms that may be developed by employing the use of polymers and/or ceramics.

This prudent measure would require that all future firearms be fully detectable by properly used detection equipment.

Recognizing the vital importance of personal freedoms, our Founding Fathers carefully and thoughtfully crafted the second amendment to the U.S. Constitution, which guarantees the peoples' right to keep and bear arms.

Maintaining this inalienable right is vital, but so is ensuring that the public's safety is guaranteed.

The Undetectable Firearms Act should be another step toward harmonizing these vital concerns.

Mrs. KASSEBAUM. Mr. President, I am pleased the Senate is about to approve S. 2180, legislation to prohibit the manufacture and importation of nondetectable firearms.

The bill has the strong support of numerous police and law enforcement organizations, as well as various airline employee associations. It will remove the incentive of weapons manufacturers both here and abroad to channel their resources into developing plastic weapons specifically designed to evade security systems and instead encourage them to improve the traditional firearms used for sporting, hunting, and self-defense. The bill does not affect the legitimate interests of gun owners and strikes a reasonable balance between protecting the rights guaranteed by the second amendment and common sense.

Metal detectors and x-ray machines form the backbone of our airport and government security. The ready availability of nondetectable firearms would enable terrorists and emotionally disturbed individuals to penetrate our most sophisticated security systems. This would threaten the security not only of our airports but many of our Federal buildings as well, including the Supreme Court, the Capitol, and the White House.

In discussing this bill, I think it is important to recognize the efforts of Sarah Brady. Her steadfast and tireless support encouraged Senators to keep the importance of this legislation in focus. It is a tribute to all involved that Senators were able to put aside the traditional rhetoric and work in a cooperative spirit to address the problem. The willingness to come forward now before nondetectable weapons became widespread gives us a rare opportunity to prevent a possible tragedy rather than merely react after its occurrence. The threat is real and immediate and I am pleased it is now going to be addressed.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4445), as amended, was passed.

Mr. METZENBAUM. I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion to lay on the table was agreed to.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE ELIMINATION OF THEIR INTERMEDIATE-RANGE AND SHORTER-RANGE MISSILES (THE INF TREATY)

The Senate continued with the consideration of the treaty.

Mr. BYRD. Mr. President, I will not be on the floor at all times; that will not be physically possible, but I am going to ask the Chair to object to any speeches or any action whatsoever that puts the Senate into legislative session unless I am on the floor because otherwise once this Senate is in legislative session, the veto message will be read and spread upon the Journal, at which time the veto message would be before the Senate. There would have to be some way of postponing it, else it would get in the way of the treaty. And a motion to postpone is debatable.

So one can see the problems that could arise with this veto message which would have been created by the President himself, may I say, in providing an instrument for any and all who really are dedicated to defeating the treaty, or at least keeping it from being approved while the President is at the summit. He has provided the instrument right there on the desk. I am going to try to avoid that embarrassment to him which he would help to cause himself. So in every way that I can I will continue this Senate in executive session.

So I urge the Chair and all staff to be sure that those who will occupy the Chair subsequent to the occupancy by the distinguished Senator from Tennessee [Mr. GORE], are alerted not to entertain any requests to engage in any kind of legislative business, morning business, morning business speeches, or whatever, as I am doing on the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE OF REPRESENTATIVES—H.R. 3

The PRESIDING OFFICER. If the Senator will suspend, the Senate will now receive a message from the House of Representatives.

A message from the House of Representatives by Mr. Hays one of its reading clerks, announced that upon reconsideration, the objections of the President to the contrary notwithstanding, the House passed the bill H.R. 3, an act to enhance the competitiveness of American industry, and for other purposes.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, all over the world, especially in Europe, this spring time brings more hope than has been felt since the cold war began: The two great powers, after decades of impasse, have made a move. They have decided to begin the reduction of the vast nuclear threat that has hung over Europe, and the world, for generations.

It is this hope that makes the difference. The INF Treaty, in and of itself, makes barely a dent in the world's nuclear arsenals. This agreement removes only a small fraction of the total number of warheads and delivery vehicles the United States and the Soviet Union have pointed at each other. The fact is, from a military point of view, the impact of this treaty is limited. The safety of the NATO countries is not threatened by this treaty. The defense posture of the United States is not altered. The fact is, this treaty restores the situation that existed before the Soviets deployed their SS-20's in 1977.

What is significant is the political import of these missiles. The removal of the Soviet SS-20's represents a political triumph for the NATO alliance and an enhancement of its solidarity. Beyond that, the INF Treaty promises a decided shift in the Soviet Union's attitude toward the superpowers' arms race. Of course we must be cautious, even wary, but here is the opportunity for the world to see accomplished, in the not-too-distant future, additional arms control treaties dealing with crucial issues like conventional force reductions, chemical weapons, and strategic arms control. These more difficult issues will find precedent in the INF Treaty. This is the small sample model. If it works, we can go on to bigger things. But always cautiously.

MILITARY CONSEQUENCES

The fundamental determination the Senate must make before it ratifies the INF Treaty is the impact this agreement will have on the security of the United States and the NATO alliance. Some have argued that INF removes our nuclear capability in Europe, leaving our troops and those of our allies less protected. If that were true, we should kill the treaty, but that is a superficial conclusion.

When all the INF weapons are removed, over 4,000 nuclear warheads will remain at NATO's disposal. Those warheads can be delivered by a wide variety of weapons systems, from the F-111's stationed in Britain to the sea-launched cruise missiles stationed on ships just off the coast of Europe. The Supreme Allied Commander in Europe [SACEUR] has more than 400 Poseidon submarine-launched warheads at his command. In addition, our allies, the French and the British, will retain their own, independent nuclear arsenal. Every present target of an INF weapon can still be targeted by other Western weapons.

Our mobile nuclear force, combined with a qualitatively superior conventional force and backed by the strategic nuclear arsenal of the United States, provide NATO and our European allies with a more than adequate deterrent against the military menace posed by the Warsaw Pact. The defense of the United States is not weakened. Rather, our strategic position is strengthened, and the danger to NATO is reduced.

As Secretary Shultz testified:

> This Treaty removes, forever, a Soviet nuclear threat that has confronted our NATO allies * * * and our friends and allies in Asia and the Pacific for over thirty years. This Treaty strengthens NATO. By doing so, it strengthens the security of the U.S.

Many of the most thoughtful military scholars in our Nation and our European allies have reiterated that thesis. The NATO defense ministers pronounced the INF Treaty "* * * a milestone in our efforts to achieve a more secure peace at lower levels of arms." It is indeed superficial to suggest that the treaty weakens our defense.

One of the most important military advantages of the INF Treaty is the removal of a class of missiles which, because of their accuracy, forward placement, and proximity to the command and control headquarters of the Soviets, were highly destabilizing. Removal of the INF missiles gives the two sides a slightly larger margin of error, and perhaps the time to prevent a conflict in Europe from becoming a nuclear exchange which destroys the world.

To see new danger in this treaty is to lose sight of the reason we deployed the Pershing II's in the first place: To provide us with a bargaining chip to get the Soviets to remove their SS-20's. Those who oppose this treaty forget what we were trying to do.

POLITICAL CONSEQUENCES

However valuable the military contribution of INF to the defense of NATO may be, it is not nearly as significant as the political consequences of the INF Treaty. To paraphrase the German military philosopher, Karl von Clausewitz, war is merely an extension of politics, and, from the very beginning, the Soviet SS-20's and NATO's Pershing II's have represented military policies implemented for political gain. To realize the political significance of these military systems, we must recall that NATO was conceived among the rubble of a Europe twice destroyed by world war and born out of the U.S. realization that American security begins with the security of our European allies.

NATO is a military alliance in every sense. But the strength and the foundation of the alliance rests not with its tanks, its planes, and its missiles. It rests in its shared beliefs and common values; in its democratic traditions and principles of justice; in its economic strength rising out of free enterprise. Those values are common to every member of NATO, and they extend to the alliance itself.

NATO is not, therefore, an alliance based on coercion like the Warsaw Pact. NATO is an alliance founded on cooperation. The United States is the leader, not the enforcer, of the Atlantic Alliance: a leader among equals. When France withdrew from NATO in 1968, American tanks did not roll into Paris. Indeed, public differences among the NATO members are far from uncommon and easily tolerated.

In 1977 the Soviet Union challenged the political cohesion of the alliance by deploying the SS-20 missile. While these missiles represented a very real military threat, without ever leaving the ground they delivered a political warhead designed to destroy the political bridges which connected the United States to its European allies.

In December 1979, when President Carter was Commander in Chief and after the Soviets deployed several hundred SS-20's, the United States, in concert with the European allies, responded to the Soviet challenge. Surmounting internal dissent, NATO, under the strong leadership of the Reagan administration, initiated the dual track approach—deploy Pershing II's and ground launched cruise missiles while negotiating for the eventual removal of all medium ranged missiles from the European theater. This was the crucial strategy. We ought to be claiming success in achieving greater security, instead of screaming that we are capitulating to the Soviets.

Politically, the deployment of our INF forces was a declaration, a declaration to the Soviets that the United States would never decouple itself from its European allies; that U.S. security begins at Check Point Charlie, not the Carolina coast; and that the resolve of NATO is as strong, if not stronger, than it was when the alliance was founded 40 years ago.

Now that dedicated and difficult approach has borne fruit. The Soviets came to the bargaining table not only because of the actual presence of Pershing II's and ground-launched cruise missiles, but also because of the political resolve those missiles represented. Once at the table, the Soviets agreed to the total elimination of INF forces even though it disproportionately favors the West. The Soviets remove four warheads to every one we remove. The treaty represents a great victory for the United States and all of NATO.

Some claim that we are giving away an important bargaining chip by eliminating these missiles. That is just not the case. We have fashioned a great deal. It is time to cash in the chips and receive our justly deserved payoff—a payoff which will strengthen the military security and political resolve of the NATO Alliance and, with luck and perserverance, start us down the road of meaningful reductions in the nuclear weapons which threaten our very existence.

And lest we be too proud of ourselves, we need to acknowledge that a Soviet change in direction is at least partly responsible for this agreement. Gorbachev came to office after these missiles were deployed on both sides. The Soviets have abandoned the prosaic obstinacy which characterized the Brezhnev era in favor of Gorbachev's innovative willingness to negotiate. We should recognize that change, study it, and encourage its evolution. The INF Treaty will encourage both the domestic and foreign policy changes Gorbachev is attempting; changes that are not only in the best interests of the Soviet people but also in the best interests of the United States and world peace.

Failure to ratify the treaty would not only negate the victory NATO and the United States have achieved, but it would undermine the solidarity of the alliance which made it possible. This treaty will restore allied confidence in NATO, strengthen the political ties which bind the alliance, and reaffirm the U.S. position as its leader.

FUTURE AGREEMENTS

In the towns and cities and across North Carolina, as in the rest of the country, our people are determined to maintain a strong military force in a dangerous world; but they also know that there are too many nuclear weapons for ultimate safety. They know we must not disarm unilaterally. They know reduction of these awesome weapons must be mutual, that we and they must each have enough to deter attack. They also know that we must stop the relentless arms race that makes no one safe, makes no military defense adequate.

In the long run, the lasting contribution of the INF Treaty may not be the number of missiles reduced, or the benefit it provides to NATO, but, rather, the precedent this agreement sets for future arms control talks. With this agreement in hand, we can proceed to more critical arms control issues like START, chemical, and conventional arms reductions. We can turn our attention toward reducing the cycle of arms buildup that has become an enduring aspect of the postwar world.

The INF Treaty establishes new reduction and verification precedents. For the first time, the Soviets have agreed to eliminate far more weapons than we do—an important precedent for the conventional arms talks. The onsite inspection program established by the INF Treaty allows us the opportunity to develop and test verification mechanisms which may be applicable to larger weapons systems.

ROLE OF THE SENATE

Fifty Senators on three committees have carefully examined this treaty before it came to the floor. The Foreign Relations, Armed Services, and Intelligence Committees, have carried out their duties with diligence. The number of questions raised about the intricacies of the treaty are a testimony to this dedicated approach. They have aptly demonstrated the reason for the Senate's participation in the treaty-making process.

Without their efforts, the United States may have entered into an agreement unaware of a number of ambiguities. Without their efforts, Secretary Shultz and Foreign Minister Sheverdnaze would not have traveled to Geneva and resolved these problems so promptly. If these issues—the inclusion of exotic weapons in the treaty ban, and the implementation of the inspection and elimination procedures—had been left unresolved, serious differences might have arisen. Instead, the United States can enter this treaty confident that it has been subjected to a rigorous, bipartisan examination by the Senate. This country is more secure because of that constitutionally mandated role.

CONCLUSION

Mr. President, I have talked a good bit about the benefits of the INF Treaty, and it is obvious that the treaty will be approved by an overwhelming majority. Even so, I believe the Senate should also consider the dangers of failing to ratify the INF Treaty. If we fail to ratify this treaty, the Soviets will achieve what they set out to do in 1977 when they deployed the SS-20's. If we do not ratify this treaty, the Soviets will maintain their 4-to-1 advantage in intermediate and short-range weapons. If we do not ratify this treaty, the NATO alliance will once again face the tensions which affected it in the late 1970's. Of more fatal consequences, the Soviets could very well succeed in dividing NATO, and once again provoke the European allies to question the leadership and commitment of the United States.

I do not question the motives of the Senators who oppose this treaty. I understand their fears. But Americans at their best have never operated out of fear. A vote against this treaty is indeed a vote against the strategic integrity of NATO. A vote against this Treaty is a denial of the wise and successful strategy used by NATO to get rid of the Soviet missiles. A vote against this treaty is indeed a vote against the defense of this Nation.

When you come to the last word, a vote against this treaty is a vote against hope, for if we turn this treaty down, what possibly could be our next step toward a steadier and less dangerous world?

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

(Mr. SHELBY assumed the chair.)

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MIKULSKI. Thank you, Mr. President.

Mr. President, I would like to use this opportunity to speak with my colleagues about my observations on the treaty pending before the United States Senate.

Mr. President, as a new Member of the U.S. Senate, I am considering for the first time in my career a major treaty—and a treaty between the two superpowers. It is a duty and responsibility that I take very, very seriously.

In preparing for this debate I received briefings from the Center for Strategic and International Studies, Max Kampelman, the Arms Control Association, plus numerous briefings by members of the administration. I have reviewed the recommendations of the Armed Services, Intelligence, and Foreign Relations Committee. I visited the Martin-Marietta Middle River Plant, which is a site for Soviet inspection. I have also found the comments of my colleagues in the Senate to be extremely helpful.

Before making a decision on a treaty of this importance, I need firm answers to three basic questions:

First, is the treaty in the overall best interests of the United States?

Second, is it in the best interests of world peace and stability?

Third, can we be sure that we'll know if the Soviets are cheating, or are we opening up a whole new category of problems?

I am inclined to give my support to the INF agreement. Although this treaty eliminates only 3 or 4 percent of the world's nuclear arms, it sets useful precedents in the areas of unequal reductions of arms, in intrusive verification systems, and in the elimination of an entire class of weapons. In the European theater the agreement should lower the nuclear threat between NATO and the Warsaw Pact. It has had the welcome benefit of increasing the political and military cooperation among the NATO allies. Finally, the treaty leads us to the next logical arms control steps—reductions in ICBM's, nuclear testing limitations, and conventional arms control.

However, I would like to outline my three major areas of concern on this treaty and on treaties with the Soviet Union in general.

VERIFICATION

The most important thing to remember is that we must not place too much reliance in onsite inspections. National technical means, the technological method for monitoring and surveillance, are our most reliable, sophisticated and guaranteed methods. We know what we get is reliable.

It remains the primary method of monitoring Soviet activities, and we must maintain and enhance the capability of our national technical means as we broach new arms control challenges.

This means a future commitment of policy and resources, including adequate funding and the development of new techniques.

I encourage all of my colleagues to consult and cooperate with members of the Intelligence Committee to make sure that this vital program is not neglected.

However, I believe that this treaty is verifiable. The treaty calls for:

A detailed exchange of data;

Preliminary inspections to ensure—along with national technical means—that the data are accurate;

Notification of movement of missiles;

Onsite inspection to verify destruction;

Follow-on, short-notice inspections until all missiles are eliminated;

Short-notice challenge inspections at the sites of possible illegal activity; and

A continuous United States presence outside the plant gates at Votkinsk, where Soviet SS-20's and SS-25's are assembled.

The Soviets cannot hide the support, training, and testing facilities that would be necessary to make use of that missile.

But a note of caution is necessary: While onsite inspections are useful, they are limited in their usefulness and in their application to future arms agreements.

With the implementation of the INF Treaty we will have an opportunity to see if these new methods substantially increase our verification capability or if they have been oversold.

On the positive side, onsite inspections are a powerful symbol of a new level of cooperation between signatories, they can confirm data gathered by other means, they confirm the destruction of weapons and can provide new data on production facilities.

But these new methods of verification can be limited to a significant degree by a lack of cooperation by the host country. They also are of limited use in establishing inventories of weapons which have been produced in quantity and in confirming data which are difficult to obtain by national technical means. Before we can demand a challenge inspection, we must know where to look, and the Soviet Union has a great deal of experience in keeping secrets from us. Noncompliance disputes are seldom straightforward and are difficult to resolve with or without onsite inspections.

Moreover, verifying an agreement like the proposed START Treaty, where weapons are reduced rather than eliminated, presents difficulties of a different nature and greater degree.

POST-INF NATO

Perhaps the greatest benefit of the INF debate has been the spotlight on our NATO forces—not just a "bean-count" but an indepth analysis and discussion of the quality of our forces, their readiness and the balance with the Warsaw Pact forces.

I have been guided in my analysis by the excellent reports issued earlier this year by Senator LEVIN and by the former NATO Ambassador David Abshire. The balance of strength in Europe is critical—in fact, it is the centerpiece of our overall defense policy—and any specious comparison of forces that is limited to the number of tanks and the number of divisions would be a dangerous disservice to our force and policy planning.

This debate should also turn our attention to the prospects for conventional arms control.

In my view, conventional arms control in Europe ought to be the next area for aggressive exploration.

During my recent visit to Czechoslovakia and Poland, officials from both governments presented their own plans for nuclear and conventional reductions. Frankly, I saw nothing of benefit to the United States or NATO in either plan.

Yet, there are openings. Although the record of the mutual balanced force reduction talks in Vienna has not been encouraging, my discussions with the head of the MBFR delegation and the Deputy U.S. Representative to the Vienna followup meeting of the Conference for Security and Cooperation in Europe indicate some progress on establishing a new negotiating framework and a less rigid attitude within the Conference for Security and Cooperation in Europe.

Perhaps this new attitude is a result of the INF Treaty, or perhaps it has more to do with budget constraints and a lack of cooperation within the pact. Whatever the reason, our Government must be prepared to take advantage of any movement in this area.

This means that NATO should consult its generals on their reaction to possible proposals. It means that the United States Government should have a policy and strategy in place in advance of Warsaw Pact proposals. We cannot afford another Reykjavik, and there is no reason why the thousands of policy planners at DOD, State, the National Security Council and the Arms Control and Disarmament Agency should not be prepared on this issue.

HUMAN RIGHTS

Mr. President, an overriding concern for me as we consider any policy toward the U.S.S.R. is the Soviet record on human rights.

That record is not a good one.

The Soviets can quibble with us on the number of their intermediate-range launchers. They may even be able to hide a few launchers from us for a while.

But we can verify the number of refuseniks. We know their names. We know their stories. We know where they are.

We also know the Soviet technique of granting a flurry of exit visas to a few families just before a summit meeting. That PR gimmick doesn't fool anyone, and it does not satisfy our concerns.

I encourage Secretary Shultz to try to develop a systematic emigration policy with the Soviet Union to supplement the case-by-case approach we have traditionally taken.

The Soviets must understand that their failure to honor their commitments on basic, simple matters of human decency and the right to emigrate will continue to cloud the entire relationship between our two countries.

On the other hand, an honest, across-the-board change in their human rights policy could open the way to new cooperation on trade, investment, and arms control. The choice is theirs.

So, Mr. President, as we move now to the final hours of discussion on this INF Treaty, I think it is an important breakthrough. I intend to support it.

Sure, there are always some reservations, but I do not believe the reservations we have are areas of vulnerability and I would urge my colleagues to really support the INF Treaty.

I yield the floor.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I rise in support of the Senate ratification of the Intermediate-Range Nuclear Forces [INF] Treaty.

The details of the INF Treaty have been ably described by several of my colleagues, including representatives of the Foreign Relations, Armed Services, and Intelligence Committees. The Senate will not benefit from an attempt by me to restate those details, so I will leave them, including the critical issue of verification, to the experts on the appropriate committees who have studied this treaty so carefully. I will speak as one Senator from South Dakota who supports this treaty signed by President Reagan and Secretary Gorbachev as a tentative, but hopeful step toward meaningful arms control.

There has been some debate about the numbers of warheads involved in this treaty. Some say the 4-to-1 ratio of Soviet warheads dismantled to U.S. warheads dismantled is a "good deal" for the United States, and others contest that claim. I happen to think this is a "good deal" for us, but the numbers debate is really not the issue. In fact, while INF missiles are being eliminated, unless we move toward an interim restraint policy, we will be replacing, and, in an overall sense, upgrading, our nuclear capabilities with the deployment of even more lethal strategic weapons.

Under the INF Treaty, only about 4 percent of the missiles in the joint United States-Soviet arsenal will be dismantled. Both countries will retain massive nuclear warchests, including extensive short-range and tactical weapons in Europe. Contrary to the frantic claims of some treaty opponents, we will not be left defenseless in Europe, and Europe will not be "denuclearized." In fact, 4,350 nuclear weapons from the combined United States-NATO forces will remain in Europe after INF.

Mr. President, I ask unanimous consent that a table detailing "United States and NATO Nuclear Weapons in Europe Without INF" be printed in the RECORD so that everyone may see that our nuclear forces in Europe will remain substantial after INF. This chart does not include submarine-launched ballistic missiles, aircraft carriers, sea-launched cruise missiles, French and British nuclear forces, and other nuclear systems available for use in Europe.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

UNITED STATES AND NATO NUCLEAR WEAPONS IN EUROPE WITHOUT INF

	United States	NATO	Total
Bombs	1,400	300	1,700
Depth charges	150	50	200
Pershing-1A	0	100	100
Lance	320	380	700
203 mm artillery	500	400	900
155 mm artillery	600	150	750
Total	2,970	1,380	4,350

Sources: Arms Control Today, May 1987, and Council for a Livable World.

Mr. DASCHLE. So, we can see that anyone who is expecting the INF Treaty to single-handedly eliminate the threat of nuclear war—or even substantial reductions in nuclear weapons—will be sorely disappointed. The agreement is relatively insignificant in that regard.

Nevertheless, the INF agreement is significant for four very important reasons.

First, it will mark real reductions in the United States and Soviet nuclear arsenals. This action is unprecedented. We have become far too cynical in our attitude toward arms control. We often think our only hope is to curb growth in nuclear programs. These actual reductions in warheads should serve as a reminder that it is possible to end the arms race.

Second, for the first time, we have the opportunity to eliminate an entire class of nuclear weapons. It is a small step, but it is a comprehensive one in that we will have eliminated one complete subset of the nuclear threat.

Third is the issue of verification. In the INF Treaty we have an intrusive, onsite, incountry verification of weapons production and testing; both scheduled and challenge inspections of possible treaty violations; and explicit rules governing the dismantling of weapons systems. For the first time in history, American scientists will be stationed on Soviet soil to monitor Soviet compliance with a treaty. While no verification measures are perfect, the INF Treaty's verification requirements are strict and will set an important precedent for future arms control agreements.

Finally, the INF agreement is the first and only arms agreement negotiated by this administration. Every President since John F. Kennedy has secured an arms control agreement with the Soviet Union. The INF Treaty is the result of 7 years of delicate negotiations, and there are more far-reaching agreements on the horizon. It is important to keep up the arms control momentum, and the INF Treaty can fill that role.

Momentum from the INF Treaty could lead us toward two vitally important arms control goals: First, serious bilateral reductions in strategic weapons; and second, a bilateral moratorium on nuclear testing.

The importance of reductions in strategic weapons has been pointed out, very appropriately, many times. We are deploying strategic systems at a furious rate, and, unless we do something to reduce those systems, the benefit of INF reductions will be erased within a few months.

A moratorium on nuclear testing is also crucial if we are to have any hope of halting the arms race. Continuation of the arms race is dependent on the development and testing of new weapons. Only if we alter the technological climate by curbing the testing of new systems will we be able to break the vicious cycle of United States and Soviet nuclear dependence.

As we approach a vote on this treaty, we should consider two questions. First, "What will happen if we ratify it?" and second, "What will happen if we fail to ratify it?"

As a supporter of the INF Treaty, I will readily admit its limitations. It will not free the world from the threat of nuclear war, and it will not resolve all outstanding issues between the United States and the Soviet Union. It will eliminate 3,136 Soviet and 859 United States warheads—an entire class of weapons—achieve real reductions in our nuclear arsenals, and, if considered as part of an integrated, long-term arms control policy, give us a framework within which to seek our ultimate goal of meaningful bilateral reductions in nuclear arms. That is what we can expect with the treaty.

Without the treaty, we will have no means of controlling Soviet behavior and no means of impacting the Soviet nuclear buildup in Eastern Europe. As the saying goes, "Without laws, everything is legal." Perhaps most importantly, without the treaty, we will lose the current momentum to move forward with bilateral reductions in strategic nuclear weapons.

While the immediate benefits are modest, the long-term benefits are potentially incalculable. The risks are minimal, and the treaty has built-in safeguards to deal with those risks. The United States has been seeking this kind of INF agreement for 7 years; it is no surprise. If we are going to negotiate at all, we must be willing, at the very least, to take "yes" for an answer. As for those who say they support arms control but must say "no" to this very limited treaty, they should ask themselves what kind of arms control agreement they could support.

In conclusion, Mr. President, Senate consideration of the INF Treaty has been serious and careful. Important concerns have been addressed. The United States and the Soviet Union have worked out the problems identified by the Senate. Now, it is my hope that we can ratify the INF Treaty in time for the upcoming summit between President Reagan and Secretary Gorbachev and move forward with a meaningful arms control agenda.

Mr. President, there is life after INF. The INF agreement is a step; it is not an end in itself. We need to view this treaty as a foot in the door that will open up the possibilities for future agreements dealing with conventional weapons, strategic reductions, human rights, and other issues of mutual concern to the United States and the Soviet Union.

I urge my colleagues to join me in support of this important agreement.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Illinois [Mr.

DIXON] may be permitted to speak only, as in legislative session, for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I thank the majority leader for his usual gracious accommodation to this Senator, and I thank the manager, the distinguished Senator from Rhode Island, for permitting me to impose upon the time otherwise to be usefully employed discussing the INF Treaty.

THE DEFENSE AUTHORIZATION BILL

Mr. President, I want to briefly express my concerns today about the delays in completing action on the fiscal year 1989 defense authorization bill. I am pleased to see in the chair a distinguished member of the Armed Services Committee, Mr. SHELBY, who understands the concerns we have about the passage of that very important legislation.

I am a supporter of the death penalty, Mr. President, as is the occupant of the chair, and I voted against tabling the D'Amato amendment. However, I am concerned that this issue is now prolonging completion of the defense bill which has a number of time urgent provisions.

As I understand it, the Senator from Michigan, Senator LEVIN, and others, have offered the Senator from New York, a unanimous-consent agreement that would provide for the D'Amato amendment to be a free-standing bill with a vote certain and only limited amendments. Under this arrangement, the Senate would be able to act on and pass a death penalty measure. I support this approach.

However, I also understand from the floor colloquy last Thursday that the Senator from New York, Senator D'AMATO, has rejected this approach. According to his floor statement, he wants a commitment from the House leadership that the House will also pass a free-standing measure before he will agree to withdrawing his amendment to the defense authorization bill.

Mr. President, as much as I support the amendment, I believe that it is unreasonable and unrealistic to think that the House could or should make such a commitment. That is why we have two separate and distinct bodies, and that is why each body passes its own bills.

Again, I am a supporter of the death penalty and the D'Amato amendment, but what the Senator has done now is to tie Senate action on the defense bill to what the House does or does not commit to on an amendment unrelated to the subject of this very important bill. I do not think this is appropriate, particularly considering the unanimous-consent offer of a free-standing measure with a vote certain.

I am particularly concerned about the effect of this continuing delay on the transfer provision in the Senate defense bill. This provision gives the Secretary of Defense the authority to transfer money during fiscal year 1988 from existing accounts to pay certain "must pay" bills. These must pay bills include Champus payments to military families and retirees for medical care and for civilian pay.

According to the testimony of Defense Department officials before the Subcommittee on Readiness, Sustainability and support, which I chair, the Department is facing the real possibility of furloughs and layoffs of civilian personnel at many defense bases if this transfer provision is not enacted. None of us want to see this happen. Since the House has a similar provision in their bill which has already passed, action on this important provision could be swift and certain.

I am also concerned that delaying enactment of this authorization bill will result in problems in the military construction programs. Individual military construction programs require both an authorization and appropriation before funds can be spent. The House has already passed the fiscal year 1989 military construction appropriations bill, and the Senate will be considering this bill shortly. We need to get the fiscal year 1989 defense authorization bill to conference so that we can give the appropriations committees an authorization conference report to work with. If we do not, there may be some military construction projects for which funds are appropriated but not authorized. If this happens, the Defense Department will not be able to spend the money for projects until they are authorized. Again, I do not believe anyone wants this situation to happen.

Mr. President, as a supporter of the D'Amato amendment I would urge my colleague from New York to reconsider his rejection of a free-standing bill and his holding of the defense bill hostage to House action. Let us get on with passing the defense bill.

THE STOCK MARKET

Mr. President, it is interesting that the occupant of the chair [Mr. SHELBY] is also on the Banking Committee. I want to reference a moment the discussions that are taking place in the Banking Committee where we have held, I believe, nine hearings on the question of the October 19 stock-market experience and the 508-point drop in the Dow.

Some in that committee, including some of my warmest friends, are now saying that we have to have some kind of legislation to address the problems that happened on October 19.

I am delighted to see my good friend in the chair, who is likeminded to this Senator, shaking his head no, because I think the worst message we can send to the marketplace and to the public is legislation now.

The hearings that we held yesterday with the working group, made up of Secretary Gould; the chairman of the Fed, Mr. Greenspan; the chairman of the SEC, Mr. Ruder; and the distinguished chairwoman of the CFTC, Wendy Gramm, absolutely convinced me beyond any doubt at all that the regulators and the markets have done what is necessary to correct the things that took place and led up to October 19. The market had cooperated fully, both the New York Stock Exchange and the Futures Market in Chicago, with the regulators.

I think it is clear now that where the Brady report called for doing something about the margins—the futures industry in Chicago has increased their margins to 15 percent, the professional traders on the New York Stock Exchange requiring margins somewhere around 20 to 25 percent; Senator Brady himself had said that they should not be exactly the same, but prudently harmonious with one another—I think it is clear that that has been done now, Mr. President.

Senator Brady, in his report, suggested we should have a circuit breaker in times of trouble. It is clear that the market people in New York and Chicago have been talking with the Federal regulators. There is going to be a circuit breaker where there is a 250-point drop in the Dow or greater.

The Brady report talked about intercommunications in the marketplace. It is clear that is taking place now. All of the necessary work is in place to do that; cooperation, again, with the regulators.

Then the discussion of having some kind of a superregulator, which all of us, certainly the majority of us thought was a bad idea—and particularly having the Fed do it. Mr. Greenspan, the chairman, came before our committee and said, I do not want to be that supervisor. I do not want people to think the Fed is guaranteeing the marketplace.

Now we have this working group of Secretary Gould and Chairman Greenspan and Chairman Ruder and Chairperson GRAMM in place to regulate this.

Mr. President, everything has been done that needs to be done. I sometimes despair, frankly—despair—at the feeling of some of my colleagues in the Congress, both in the House and the Senate, that you always have to do something with legislation if an event occurs. I think that the marketplace has made its corrections and the regulators have made their corrections.

Mr. President, I ask unanimous consent that this very excellent article from the Wall Street Journal of Tuesday, May 24, just yesterday, entitled "Congressional Theatrics Versus Real Market Reform" be printed in the

RECORD in full at the conclusion of my remarks.

May I have that consent, Mr. President?

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DIXON. This article by George Mellon of the Wall Street Journal is an excellent article. I would like it to be printed in the RECORD.

I thank the President for that consent. I want to read the last two paragraphs.

The Chicago exchanges argue that if they are required to go higher, the higher cost of hedging in their markets will drive away business. Of course, their critics claim that that's just what they have in mind, arguing that cheap hedging helped bring on the crash.

But so far, Chicago has fared well in the market studies. The experts have decided that the new technology should be employed to make the markets function better. Clearly it is capable of doing that. As to investor confidence, Congress and the White House can make a contribution. They can do it with economic policies that justify investor confidence.

So I close, Mr. President, by saying that if this Congress does the appropriate and proper things with reference to our budget concerns we will send the right message to the marketplace and that will be a good message for the American consumer.

Mr. President, I thank you very much for your consideration and the reproduction of this article in the CONGRESSIONAL RECORD.

I thank my very distinguished friend, the senior Senator from Rhode Island and congratulate him on the outstanding work he has done on this budget, the great contribution he has made, I think, to a lasting peace in the world. And the admiration and support of his colleagues and friends is with him.

EXHIBIT 1

[From the Wall Street Journal, May 24, 1988]

CONGRESSIONAL THEATRICS VS. REAL MARKET REFORM

(By George Mellon)

Seven months have passed since the stock-market crash and for a time it seemed that politicization of that event might be avoided. But now that the world looks more secure, Congress is becoming bolder. Rep. Edward Markey, a Massachusetts liberal, is abusing the White House Working Group on Financial Markets for not having produced a report that would "restore investor confidence." Senate Banking, for its part, paraded a series of witnesses, including Don Regan, willing to suggest that the markets are "rigged."

Congress is entitled to investigate national problems, of course, but if aiding "investor confidence" is the goal, it might better keep quiet. While market expertise is concerned, Rep. Markey hardly belongs in the same ballpark with the Working Group. Federal Reserve Chairman Alan Greenspan has produced high-quality economic analysis for decades. Wendy Gramm, chairman of the Commodity Futures Trading Commission (DFTC), is no slouch either.

Their report is sober and professional, as befits a serious study. In that respect it was not unlike the Brady, SEC, CFTC, GAO and Katzenbach reports that preceded it. The focus was properly on what markets could do to avoid becoming overloaded and suffering another breakdown of the type that occurred last October.

As it happens a good many fixes already are being made. The New York Stock Exchange is expanding its capacity and is proposing broader reporting requirements that will give more information on the sources of trading, thereby ensuring better control over anything that might be described as market "rigging." The Chicago markets have raised their margins significantly on stock index futures contracts in response to arguments that index arbitrage contributed to the October market "meltdown."

But the four top regulatory agencies represented in the Working Group—the Fed, the CFTC, the SEC and the Treasury—emphatically were not interested in turning back the clock. Said their report: "The existence of large debt and equity portfolios held by institutions and the increased level of principal activities by investment funds have led to increased demand for hedging strategies and market liquidity. It is unrealistic (and perhaps counterproductive) to try to undo the changes in financial markets or market strategies brought about by improvements in telecommunications and computer technology." In simple terms: don't ban computers; use them better.

As with the Brady bunch, the Working Group focused on how to improve the machinery of the markets, an arcane and not-very-exciting subject. Better coordination of credit reporting among the various exchanges was one recommendation. Transactions need to be settled faster to maintain cash flow and liquidity. As it happens, the futures exchanges have a more advanced system than the spot markets, and Chicago has offered to help set up an integrated system for all markets.

Both Brady and the Working Group recommended "circuit breakers," shutting down markets temporarily if they become overloaded. Recognizing the dangers in that, the Working Group wants only a one-hour break if the Dow drops 250 points or more from the previous day's close and a two-hour break if it drops 400 points. Rep. Markey apparently wants the markets kicking out at the slightest blip, like the fuses in a house with 100-year-old wiring.

Aside from the mechanical problems, there were forces at work in the October meltdown that, in some loose sense, might support a charge of "rigging." One of the most serious charges accuses securities houses of "front-running," using index futures to hedge their own accounts with the prior knowledge that they were about to sell a large block for a client. The Big Board is taking steps to bar such practices and institutional investors are moving even faster to block securities firms from free rides. Five major securities firms recently announced that they were suspending program trading for their own accounts, reportedly as a result of pressure from big institutional clients.

The run-up in stock prices in the first nine months of last year also may have been made excessive by a false sense of security among portfolio managers who thought they were protected by program trading strategies that securities houses had billed as "portfolio insurance." That problem, if it existed, was most likely corrected by the crash itself. In the event, there was a lot less protection than the portfolio managers thought. Yet, the Employee Benefit Research Institute reports private pension plans were not especially heavy sellers of equities in the fourth quarter last year.

None of this means that hedging of stock positions with stock index futures is a problem per se, as some critics of the Chicago futures exchanges contend. Both futures hedging and arbitrage are old, accepted techniques. One of their staunchest defenders is Karsten "Cash" Mahlmann, chairman of the Chicago Board of Trade, whose market had the distinction of continuing to trade without interruption throughout the October crisis, thereby providing a vehicle for a turnaround. The CBOT is not nearly as big in index futures as the Chicago Mercantile Exchange, but it has a long history of futures trading in other contracts.

Futures hedging reduces bid-and-asked spreads, making markets more efficient, Mr. Mahlmann argues. "Ten years ago you did not have the U.S. Treasury bond futures market. Today you do. Ten years ago if you wanted as an individual to buy a $100,000 long-term bond instrument, the bid-and-asked spread was $300. Today, you've got almost four times the size of the national debt and the bid-and-asked spread is down to $31.25. Why? At the minute of Fed auction time every primary government dealer that is obligated to submit a bid is a simultaneous price insurer in our exchange by selling short futures contracts on the Treasury bond."

The future exchanges are fighting efforts to "equalize" margin requirements in the various markets. They argue, with some persuasiveness, that margin requirements in the spot securities and index futures markets have two totally different purposes. The one is a down payment on a security, required by regulators to prevent the excessive borrowing or leverage that occurred before the 1929 Crash. The other is a surety bond on a contract. If the contract value falls the owner is required to put up more money. Settlement is daily. Both the CBOT and Merc now have raised their margins to 15%, well above where they were before the crash. That compares with an effective margin for direct participants in the spot markets of just over 20%.

The Chicago exchanges argue that if they are required to go higher, the higher cost of hedging in their markets will drive away business. Of course, their critics claim that that's just what they have in mind, arguing that cheap hedging helped bring on the crash.

But so far, Chicago has fared well in the market studies. The experts have decided that the new technology should be employed to make the markets function better. Clearly it is capable of doing that. As to investor confidence, Congress and the White House can make a contribution. They can do it with economic policies that justify investor confidence.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank my friend and colleague from Illinois for his kind words and I appreciate them very much.

I suggest that absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection it is so ordered. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, today I would like to discuss what I think is one of the most important issues in the debate about the INF Treaty: a compliance policy. Or should I say a noncompliance policy because this treaty, so far as I can determine, is lacking one. In examining this treaty, Mr. President, issues such as verifiability, onsite inspections, futuristic weapons, and treaty interpretation are all important.

But without some mechanism to ensure that the cost of cheating will far exceed any benefit to be gained by such action, the treaty has little probability for success.

All of the verification procedures, regardless of how technically sophisticated or involved, are useless if there is not a will to take positive action when faced with the reality of evasion or outright violation on the part of the Soviets.

As I have pointed out in previous statements, Mr. President, there is a propensity for totalitarian governments to push arms control agreements to the limits allowed in the treaty. When presented with the opportunity, they will press ambiguities and attempt evasions or violations if they feel there is an advantage to be gained.

This tendency is exacerbated when there is no compliance policy to the treaty or the lack of will to invoke one.

Such was the case with Japan, Germany, and Italy in adhering to the naval arms control pact during the post-World War I period.

Soviet behavior has tended to follow this pattern also, Mr. President. As I and others have pointed out, Soviet compliance with arms control pacts has been one of selected compliance, evasions and violations.

I think we are all familiar with the litany of Soviet treaty violations:

The SALT I ABM treaty and Interim Agreement, the SALT II Treaty, the Geneva Protocol on Chemical Weapons, the Biological and Toxin Weapons Convention and the Helsinki Final Act.

What has been the U.S. Government's response to these violations? Basically nothing.

Several administrations accepted Soviet violations of agreements without public complaint, trying to reconcile them in the Standing Consultative Commission.

This is a body that meets regularly to resolve SALT I and II issues.

This body has been largely ineffectual.

Secretary Weinberger described the Standing Consultative Commission in a letter to the President as—

> A diplomatic carpet under which Soviet violations have been continuously swept, an Orwellian memory-hole into which our concerns have been dumped like yesterday's trash.

Secretary Weinberger then proceeded to call on the President to abandon this body.

It seems obvious that this commission does little except waste time and accomplish nothing. Secretary Weinberger also compared those who ignore Soviet violations to the appeasers in the 1930s who allowed Hitler to rearm Germany.

Finally, President Reagan had had enough of repeated violations and withdrew the United States from its voluntary compliance with SALT II. This has been the only real retaliatory action taken by the United States in dealing with Soviet noncompliance. None of the treaties had any type of compliance policy that detailed what the consequences of Soviet violations would be. We can clearly see the results this has produced.

Yet, with these lessons to draw upon, how have we tried to remedy the problem?

An examination of this treaty provides no glimmer of a positive compliance policy.

We have set up another commission—the Special Verification Commission—to deal with compliance questions. This will probably be as ineffectual as the Standing Consultative Commission.

A State Department response to the question of Soviet cheating, mentions raising our concerns through diplomatic channels. Hardly a procedure that carries a great deal of force. State further elaborates that if we are not satisfied with the response, we could take a number of steps on our own to protect United States and allied security, but the treaty does not detail, nor does the State Department's response detail, any specific action. There is no other conclusion you can draw except that this is not a compliance policy with any teeth.

In fact, it raises the unpleasant scenario that the likelihood of Soviet cheating is relatively high primarily because the Soviets see little risk of being caught, the penalties of being caught are negligible and the utility of cheating could be relatively beneficial in military terms.

This is not a pleasant prospect, and I am not terribly comfortable with it. The administration must provide some indication of its response to potential Soviet violations, and if the administration refuses to do this, then the Senate should do it for them.

We need to put the Soviets on notice that we will not tolerate violations to the treaty.

Two weeks ago, the issue of Soviet compliance with provisions of the verification regime was raised. The Soviets were reneging on procedures they had agreed upon in the original negotiations over the INF Treaty before the treaty had even been ratified.

To his credit, our majority leaders refused to debate the merits of the treaty, and this body agreed with him not to, until the discrepancies had been resolved to the satisfaction of the Intelligence, Armed Services and Foreign Relations Committees. The administration and the Soviets quickly met to work out the issues. The speed with which the two parties got together was commendable.

I wonder, Mr. President, how quickly and with what ease the differences would have been worked out if the treaty had already been approved by this body.

This episode demonstrates the close scrutiny that needs to be given to the treaty and the importance of this body taking its time in its deliberations.

I have cosponsored an amendment with Senators WALLOP, KARNES, GARN, MCCAIN, NICKLES, MCCLURE and WILSON that will impose a compliance policy on the treaty. It does not go as far as I would have liked, but it does force the President to report to Congress on Soviet compliance and, in the absence of compliance, detail specific actions that are to be taken.

The Senate will have the opportunity to approve or disapprove by resolution the President's actions.

This amendment, as everyone knows, will not affect the treaty other than to put the Soviets on notice that noncompliance will not be tolerated.

I support this treaty, Mr. President, although I have reservations about the verification process and, more important, the issue of compliance.

Any treaty requires some risks, but all of the risks should not be on one side.

There are ambiguities and misunderstandings that have hopefully been clarified to our satisfaction so we can act on this treaty.

The Senate must discuss them and be sure that they have indeed been resolved.

I know there is every desire to have this treaty finished so that the President, while in Moscow, can exchange papers. I suppose that for public opinion purposes we ought to accomplish that goal. I suppose that putting our President in a little stronger position for bargaining at the next summit is a good reason for doing that.

Also we need to remember that action this body takes on a treaty is a final action, not one that can be undone at some future time as we can with laws that pass, and mistakes may be made in those laws. Those can be changed. I think we need to take our time, take pains to tighten up the treaty without overloading it with amendments that are going to force renegotiation.

The lessons of the past are clear, Mr. President. In dealing with totalitarian regimes we can and should expect them to evade or violate an arms control treaty. That has happened so many times throughout this century. Indeed, we have already seen the Soviets try this before the treaty has been ratified.

We have seen the impact that dealing from strength can have, when this body refused to consider the treaty until the problems had been resolved.

We should not accept this treaty without a viable compliance policy and the will to enforce it. This message will have a twofold benefit.

It will show our resolve to make the Soviets comply with the INF Treaty, and put them on notice that in negotiating a workable START Treaty we will demand a positive compliance policy.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this is an excellent time for Senators who wish to make remarks on the treaty to do so.

There will come a time when amendments, hopefully, will be before the Senate and will be debated. Then there will come a time when Senators may wish to speak on the treaty, and they might not even have the time or, having the time, they just prolong the vote and keep everybody here, when, hopefully, we can proceed with the final vote on the resolution of ratification.

I have not seen any great surge of Senators toward the floor. I have seen some come over, at the suggestion that was made earlier this morning, perhaps.

However, I do not see any reason why the Senate should continue to say in for a long quorum call and keep our two managers tied down. They are both on the floor, at their posts of duty, and the Chair is at his post of duty, and the officers of the Senate are at their posts of duty.

I am going to suggest putting the Senate into recess, awaiting the call of the Chair. But upon any Senator wishing to have the Senate come back into session, I would like to have the Chair not entertain a request that any Senator, in any way, put the Senate into legislative session, the reason being that if the Senate is in legislative session, the President's message will be read and spread upon the Journal, and the Senate will be on the veto.

There are ways, of course, to put any final action off on the veto message; but if a Senator gets the floor and wishes to speak for 10 hours about the President's veto, there is no way to take him off his feet. A motion to postpone action on the veto message would be debatable.

So it is not in the interests of those who want to have the treaty approved before the week is out to have Senators on the floor discussing the veto message, as much as some of us would like to. I am sure there are a good many of us who will have something to say about that at some point, but, hopefully, there is time if we do not get it up before the Senate at this point or during this week.

What I am trying to do is to help to get the treaty to the President before he leaves the summit. He has provided an instrument by which he could be self-embarrassed when he vetoed the trade bill at this particular juncture. It could have been vetoed earlier within the 10 days. Perhaps the Senate could have gone a long way toward disposing of it. But, coming at this particular moment, it was just the right moment to put it in the way of the treaty.

I should say, for the benefit of the press and all who may be listening, that even if cloture is invoked on the treaty, the veto of the trade bill has priority over even cloture, because the mandate upon the Senate at this point in connection with a veto override derives from the Constitution. Cloture derives from rule XXII of the Standing Rules of the Senate. The Constitution certainly is of a higher status than rule XXII of the Senate, notwithstanding the fact that that is an important rule.

Also, on tomorrow, the war powers matter, which has been set in motion by the distinguished Senator from Washington [Mr. ADAMS], will be before the Senate, if the Senate is in legislative session. The veto message would have priority over it as well. But both items would have priority over the treaty.

So, if one were of a mind to really make it hard for the Senate to approve this treaty this week, and if one really wanted to embarrass the President, it would be a simple matter of engineering the Senate into a position wherein the veto message was before the Senate.

So, I ask unanimous consent that the Chair not be permitted to entertain a request to take any action or make any speech in legislative session, without my concurrence.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess, awaiting the call of the Chair.

There being no objection, at 1:56 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 3:48 p.m. when called to order by the Presiding Officer [Mr. FOWLER].

UNANIMOUS-CONSENT AGREEMENT

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that with respect to the treaty, only one remaining amendment by Mr. HELMS be eligible; that there be a 40-minute time agreement on that amendment to be equally divided and controlled in accordance with the usual form; that upon the expiration of that time, or it having been yielded back, the vote occur on or in relation to the amendment, upon the disposition of which the subsequent-day provision in paragraph (c) of section 1, rule XXX be waived and that the Senate go immediately, without further action or debate, to the resolution of ratification, at which time I be recognized to offer an amendment which would be immediately temporarily laid aside for the submission of an amendment by Mr. HOLLINGS on which there will be a 4-hour agreement to be equally divided and controlled in the usual form with no amendments in order thereto, upon the expiration of which time, or upon the time having been yielded back, a vote then occur on or in relation to the amendment.

The PRESIDING OFFICER. Is there an objection to the unanimous-consent request of the leader?

Mr. DOLE addressed the Chair.

Mr. HELMS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The minority leader, Mr. DOLE.

Mr. DOLE. Mr. President, reserving the right to object, I do not want to object, but I have been notified by one Seantor who is on the way to the floor that he wants to be here before the agreement is entered and if we could maybe just withhold unless the Senator from North Carolina wanted to make an inquiry on his reservation.

Mr. HELMS. Mr. President, I wonder if the distinguished majority leader would state for the record what happens to other amendments to the resolution of ratification on his unanimous-consent request?

Mr. BYRD. Under this request, other amendments to the resolution of ratification would not be affected in any way whatsoever.

Mr. HELMS. I want Senators to understand that until there is a unanimous-consent request to the contrary the resolution will be further amend-able but the Senator will have to lay aside the committee amendment.

Mr. BYRD. I am sorry, I was distracted.

Mr. HELMS. No problem.

Mr. BYRD. Will the Senator repeat that?

Mr. HELMS. There is a committee amendment to the resolution of ratification, and I understand the distinguished majority leader may have a second-degree amendment to that. What is his intent with respect to further amendments? Will he lay that aside? Because that is going to be a contentious issue.

Mr. BYRD. I hope that we can arrive at an agreement before the day is over that will provide for certain other amendments to be called up or to be enumerated in the agreement with a time limitation on such agreement and hopefully have within that agreement a final vote, thereafter to be a final vote on the resolution of ratification. The pending request does not prejudice any of the other amendments.

Mr. HELMS. My problem is that we have a gridlock to reach unanimous consent because no amendment can be offered either way under the unanimous-consent request as stated after the amendment which I shall shortly call up.

Mr. BYRD. After the amendment by Mr. HOLLINGS.

Mr. HELMS. That is right. Is there a 4-hour time limit on that?

Mr. BYRD. There is a 4-hour time limit.

Mr. HOLLINGS. Will that be all right with the Senator?

Mr. HELMS. Sure. Whatever the Senator wishes. Very well.

Mr. HOLLINGS. If the distinguished leader will yield with respect to the request, it is very obvious we have a bipartisan amendment. We are checking now with the other Senators on this side of the aisle. I take it perhaps Senator HELMS, the distinguished Senator from North Carolina, will want to be heard. He is listening to the agreement. We are not trying to stretch it out. We are not trying to cut anybody short. Could it be that we have an up or down vote at the termination of the time agreement?

Mr. BYRD. As far as I am concerned.

Mr. HOLLINGS. Rather than a motion to table.

Mr. BYRD. As far as I am concerned. I would like for the two managers to respond.

Mr. WARNER. It makes no difference.

Mr. LUGAR. That is fine.

Mr. PELL. In this instance it would be OK.

Mr. BYRD. Very well. I understand that Senator WILSON has some questions or reservations.

Mr. WILSON. Mr. President, I thank my friend, the majority leader. I do have some questions. I apologize. I just came to the floor so I did not hear the Senator complete his request. Is the request for unanimous consent being propounded by the majority leader one that seeks to get to the resolution, with the understanding that we will then have an amendment offered by him as a second-degree amendment to the committee amendment?

Mr. BYRD. The Senator is correct. The request would provide for one remaining amendment to the treaty. That amendment will be offered by Mr. HELMS with a 40-minute time limit thereon, and following the disposition of that amendment the "subsequent-day provision" of rule XXX would be waived and the Senate would immediately go to the resolution of ratification. That would close out all further amendments to the treaty. Then I would offer an amendment to the committee amendment. My amendment would be in the second degree, but it would be temporarily laid aside for an amendment by Mr. HOLLINGS.

Mr. HOLLINGS. That would be a freestanding amendment.

Mr. BYRD. We could lay aside the committee amendment and my amendment thereto so that Mr. HOLLINGS' amendment would not go to the committee amendment. That would suit me better. And there would be a 4-hour time limitation on the amendment by Mr. HOLLINGS, no amendments would be in order thereto, and upon the expiration of the 4 hours or yielding back thereof the vote would occur. And upon the disposition of that amendment, we would be right back where we are now. Insofar as other amendments are concerned, they would not be prejudiced in any way.

Mr. WILSON. Let me ask the majority leader—and I thank him for that information—how much time then will remain on the resolution? At the conclusion of the debate on the Hollings amendment, how much time will remain?

Mr. BYRD. Time is not yet running on the resolution of ratification and absent a time agreement, time will not begin running on that resolution of ratification until such time as cloture is invoked. Afterward there would be 30 hours.

Mr. WILSON. I ask the question because I think there are a number of colleagues who are very much concerned with the committee amendment who have not, of course, had the opportunity yet to examine the second-degree amendment that will be offered by the majority leader. I think I understate it substantially to say there is great concern about the committee amendment and it is likely to consume a very great amount of time unless the second-degree amendment offered by the majority leader removes the very intense concerns that so many of us have. So I am concerned as to whether or not there is any effort to limit debate upon the committee amendment, so-called Biden-Pell amendment.

Mr. BYRD. There is no effort at this time to limit debate on the committee amendment or the amendment thereto.

Mr. WILSON. So that there will not then in practical effect be any danger that we would get to a point where in our desire to move along on the treaty as a whole we would find ourselves with inadequate time to debate that all-important committee amendment?

Mr. BYRD. I do not know what the Senator means by "inadequate." That is not for me to define or inquire about at this point.

Mr. WILSON. Let me just say by "inadequate," I contemplate with the interest I detect among my colleagues that that debate could—not on the second-degree being offered by the majority leader but on the committee amendment itself—even consume a day, perhaps more.

Mr. BYRD. Very well. The only problem then that would confront the Senator would be in the event cloture is invoked, in which case the Senator might be very much better off to have had a time agreement instead of cloture. But we are not to that point yet. We are not to the point either of invoking cloture, or are we to the point yet of seeking a time agreement beyond that which I have proposed which affects only an amendment by Mr. HELMS and an amendment by Mr. HOLLINGS.

Mr. WILSON. I thank the majority leader, Mr. President.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. HELMS. Reserving the right to object——

Mr. DOLE. Reserving the right to object, and I understand another Senator is on his way to the floor, I wanted to ask one additional question. I think the answer is obvious. But in the event someone objected to setting aside the amendment of the majority leader, then we would be on the amendment? If someone objected to setting aside the second-degree amendment to be offered by Senator BYRD following disposition of the Hollings amendment, then we are on that amendment?

Mr. BYRD. That is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. And that could in effect prejudice the other 10 or 12 amendments we know of?

Mr. BYRD. It could. It could.

Mr. DOLE. As I understand in our discussions the majority leader is trying to cooperate to get this thing moving.

And though he is not going to wait forever to pursue that, we want to try to move some of these amendments along.

Mr. BYRD. Absolutely. A good many hours have run today. They have not been wasted, as the Republican leader will agree. We have all been trying to work out an agreement, but in the interest of taking advantage of the remaining time we felt that this partial agreement would allow the Senate to go forward and dispose of these amendments.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The majority leader.

Will the majority leader withhold? I notice a number of Senators and staff in discussions. If we could have order in the Chamber so that we could be sure to recognize the majority leader, and so everyone can understand what the majority is requesting.

Mr. BYRD. Would the Chair like me to put the request again?

The PRESIDING OFFICER. The Chair would like the majority leader to restate the request.

Mr. BYRD. I thank the Chair.

Madam President, I ask unanimous consent that no further amendments to the treaty be in order with one exception: That being an amendment by Mr. HELMS, on which there be an agreement of time limited to 40 minutes to be equally divided and controlled in accordance with the usual form; that no amendments to the amendment be in order; that upon the expiration or the yielding back of that time a vote occur on the Helms amendment; and that without any further action or debate upon the disposition of that amendment, and the motion to reconsider being without debate because the time would have run out, the Senate immediately and without further action or debate go to the resolution of ratification with a waiver of the "subsequent day" provision of the paragraph (c) of section 1 of rule XXX; that at that moment I be recognized to offer an amendment, the committee amendment; after which offering the amendment, both the committee amendment and my amendment thereto, be immediately set aside temporarily for the purpose only of allowing Mr. HOLLINGS to offer an amendment on which there would be a 4-hour time limitation to be equally divided and controlled, and upon the expiration of which time or yielding back thereof there be a disposition of the Hollings amendment; and that it is understood that the vote would be on the Hollings amendment; and upon the disposition of that amendment we are right back where we are at the moment.

The PRESIDING OFFICER. Is there objection to the request?

Mr. HELMS. Reserving the right to object one more time, Madam President.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object—and I do not intend to object—implicit, if not explicit, in the majority leader's unanimous-consent request is that there will be an up-down vote on the Hollings amendment and on the Helms amendment?

Mr. BYRD. If I said on or in relation to, I should change, modify that so as to make the agreement read that the vote occur on the amendment by Mr. HELMS.

Mr. DOLE. Reserving the right to object, I shall not object; as I understand, it would not be part of the agreement but it is the intention of the majority leader after the disposition of the Hollings amendment to attempt to dispose of other amendments tonight and tomorrow morning, and perhaps be in a position by sometime, 12:30 or after tomorrow, to go back to the second-degree amendment that has been offered by the distinguished majority leader.

Mr. BYRD. Yes. Upon the disposition of the Hollings amendment, the Senate would be on the resolution of ratification; the pending question at that time would be on the amendment, on the Byrd amendment, to the committee amendment, and that is where we will be.

It would be my intention by that time hopefully to have a full agreement that would enumerate the remaining amendments to the resolution of ratification, and would set forth a time for a final vote. But barring that, barring such an agreement, I would be willing to set aside temporarily the committee amendment and the amendment thereto for other amendments. I would not set it aside for another amendment dealing with interpretation, or reinterpretation.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Reserving the right, the majority leader stated there was no amendment to our amendment.

Mr. BYRD. There is no amendment to the amendment of Mr. HOLLINGS.

The PRESIDING OFFICER. Is there objection to the majority leader's unanimous-consent request? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Republican leader and all other Senators who participated in the agreement.

I yield the floor.

AMENDMENT NO. 2295

(Purpose: To require that the treaty be deemed void and terminated in the event of any major violation amounting to a material breach)

Mr. HELMS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2295:

At the end of Article XV of the proposed Treaty add the following new paragraph:

"3. Notwithstanding any other provision of this Article, the Parties understand and agree that the provision of materially misleading and false data in any exchange of data between the Parties under the Memorandum of Understanding to this treaty or any other material breach of this treaty or its Protocols by a Party shall immediately give the other Party the right to terminate, void, or withdraw from this treaty. In such event, this Treaty shall terminate 15 days after the Party exercising its right under this paragraph shall have given notice to the other Party. The Parties understand and agree that, in the case of the United States, such notice may be given by the President of the United States upon his finding of any material breach by the Union of Soviet Socialist Republics; provided, further, that the President of the United States shall provide every quarter year to the United States Senate a report of compliance by the Union of Soviet Socialist Republics with this Treaty and, at any time after the receipt of such first report, notice under this paragraph shall also be deemed given if a majority of the Senate by resolution finds that there has been any material breach of this Treaty by the Union of Soviet Socialist Republics and a copy of such resolution is made available to the Embassy of the Union of Soviet Socialist Republics in Washington, D.C. The Parties further understand and agree that the term "material breach" as used in this paragraph shall include but not be limited to the following: a) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister required to be eliminated by this Treaty after the date at which such item should have been eliminated pursuant to this Treaty and its Protocols; b) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister in excess of the numbers of such items by type provided by either Party to the other pursuant to the Memorandum of Understanding to this Treaty which, together with any data exchanged thereunder, is hereby incorporated herein in full by reference; c) the failure of either Party to eliminate any missile, missile launcher, or missile canister at the time and in the manner specified by this Treaty and its Protocols, and d) the production of any missile, missile launcher, or missile canister for any new ground-based missile system having a range capability equal to or in excess of 500 kilometers but not in excess of 5,500 kilometers.".

Mr. HELMS. Madam President, I thank the clerk for reading the entire amendment. I had him do that because the amendment speaks for itself.

Madam President, the administration and other proponents of the treaty have assured us time and time again that the Soviets will have no reason to cheat on this INF Treaty. The same argument was made when previous treaties involving the Soviet Union were before the Senate, and yet we all know the sorry record of the Soviet Union in that regard. They have been cheating and cheating and cheating and cheating.

This assurance has been made, however, by some of the highest officials of this land before the Foreign Relations Commitee, before the Armed Services Committee, and before the Intelligence Committee of the Senate; and it was made despite the uninterrupted pattern of Soviet cheating on every other arms control treaty which the Soviets have ever signed with the United States.

I do not propose to speak for any other Senator, but this Senator does not believe for 1 minute that the Soviets have changed. Oh, they have a smiling front man, who will get out of his limousine on Connecticut Avenue when he is over here. But the Soviets have not changed, and we need to have some safeguard from this day on, so that we will not repeat the errors of the past. The Soviets have cheated. They are cheating now, and they are going to continue to cheat.

Despite these assurances from the proponents of the treaty, let us see what would happen—it will have to be hypothetical, because the treaty has not been ratified yet; it is not in force—but let us say, prospectively, what would happen in the most likely event that the Soviets did, in fact, cheat on this INF Treaty. We have to think about that, because we need to learn from the past.

What recourse, if any, does this INF Treaty provide to protect U.S. interests in such an event? The answer to that is obvious: none, zilch.

To my astonishment—and I believe other Senators feel the same way—there is not one syllable in this treaty about the rights of the United States to withdraw from this treaty in the event of Soviet violations of the provisions of the treaty—not one syllable.

Oh, yes, the treaty does have general language granting each party the right to withdraw, but on 6 months' notice. But what if the violation is serious and immediate? No protection whatsoever. There is no provision in this treaty for a response earlier than 6 months.

This is one of the litany of defects in the INF Treaty to cause this Senator, as a matter of conscience, to feel obliged to resist it with all means available to him.

I might add that this morning the media inquired of me, in what they call a photo session, at a meeting of the leadership of the Senate, and I responded to them that when the cloture motion was filed, that was the end of it. I might add that this is the first time a cloture motion has been filed since the Versailles Treaty in 1919—which, by the way, was never ratified.

I might say that I have had no illusions from the very beginning about the prospects of defeating this treaty. The American people are beginning to understand that it is a dangerous treaty, but not to the extent that they have yet registered their apprehensions, their concerns, and their objections. Our mail has increased tenfold, and it is coming from all over the country. But at the beginning, there was only a trickle of mail, because most people did not even know what INF stood for. Maybe Pat Buchanan had it right when he said INF stands for "It's not finished yet."

What I have been interested in doing is to make sure that this treaty does not lead to the United States being finished or NATO being finished because of a totally unequal effect of the provisions of this treaty.

That is the reason I have stood on this floor for the last now 7 days, knowing that Senators would march in like little tin soldiers and vote down every amendment because George Shultz and some of the rest of them said, "Oh, this is a perfect treaty; it must not be amended in any regard to any extent; no amendment will be acceptable."

And they are still saying that.

Yet right here standing here earlier this week I made the point that I had been able to find upward of 50 errors in the treaty, errors which the State Department itself acknowledged to be in the treaty. But you just try to get an amendment through to correct those errors. It cannot be done.

I tried. And the policy was: "No amendment. No matter how serious the defect of the treaty, no amendment. Let us win one for the Gipper. Let us give him a bundle of papers to take to Moscow and shake hands with Mr. Gorbachev," a great public relations response to Mr. Gorbachev's coming over here in December. And that is how it is.

I admire Howard Baker, the Chief of Staff at the White House, the former distinguished majority leader of this Senate, for having acknowledged that it really would not hurt anything if the Senate took its time on this treaty and did not give it the bum's rush, as it has been given.

This treaty came up for consideration in the Senate a week ago yesterday.

We have spent an average of about 4 hours and 14 minutes, and I calculate it, in consideration of the treaty each of those days.

By comparison, the Panama Canal Treaty took 70 days and even so the Panama Canal Treaty was defective as the turmoil in Central America now demonstrates. But we had the same assurances back then: "Oh, this is a great treaty. It is going to buy friends for us in Central America. Peace and prosperity in abundance and serenity are going to prevail."

Not many people are saying that now about the giveaway of the Panama Canal. But that is 10 years ago.

But the same sort of situation, the same sort of peril exists with respect to this treaty.

Now this amendment attempts to give the United States some leverage in the event of Soviet violations of this treaty just as the Soviets have violated every treaty they have ever signed with us.

I remember during the hearing process that former U.N. Ambassador Jeane Kirkpatrick testified before the Armed Services Committee, and I think it is interesting and relevant for the record to quote a little bit of what she said.

"Obviously, we should be concerned about compliance with the terms of the treaty," Jeane Kirkpatrick said. "We should remember that from Yalta forward through the Kennedy-Khrushchev agreement, SALTS I and II, and the ABM Treaty compliance has been the principal problem." You betcha, Mrs. Kirkpatrick. You are exactly on target.

Then she added, "I believe, frankly, that in agreements, with the Soviet Union our treaties should provide for not only monitoring compliance but also for automatic termination of agreements in case of establishment noncompliance. I would like to see the Senate consider this problem."

I say to Madam Kirkpatrick, that is exactly what this amendment is doing pending in the Senate at this moment.

Then Mrs. Kirkpatrick said: "I understand that in contracts in civil afairs there are very frequently clauses which provide for the obligation of the contract in case of noncompliance and nonperformance."

And I might say parenthetically, she is exactly right.

Then she continued "And I find it extremely disturbing that in international affairs we adopt the model of the contract without any provision for noncompliance.

"I think it is very serious and I think it really undermines the seriousness of all our agreements."

That is a quote from Jeane Kirkpatrick, a lady whom I respect and whom I claim as a treasured friend.

Dr. William Van Cleave testified before the Foreign Relations Committee on February 19. Bill Van Cleave is one of the most knowledgeable men in this town. His advice is sound. His dedication to this country is unquestioned. And he said:

> One thing we have learned by now is that verification and compliance do not necessarily equate to one another, and verification to me seem to be the first step, but the second step, which is equally necessary, is an adequate compliance policy. And I do not see one.

He said, in this treaty.

No, there is not one syllable in this treaty in that regard, but, of course, that does not bother the State Department. But I think the Senate should not ignore this issue without first specifying in advance what will be the United States' response to violations by the Soviet Union.

I suspect that this amendment, like previous others, will get only a smattering votes. That is up to each Senator. I do not fault them particularly. But I wonder why they do not have the concern that Jeane Kirkpatrick, Bill Van Cleave, and so many others had who have testified and whom I have consulted.

There is a general feeling among those who have watched the Soviets cheat and cheat and cheat over the years with the United States standing by, maybe wringing its hands diplomatically, but doing nothing more than that.

The pending amendment outlines some of the specific violations that would warrant U.S. withdrawal from the terms of the treaty. And that is why I had the clerk read it in its entirety.

I think that I will pause here and I will have more to say about it after I hear the debate against the amendment, but in the meantime, Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. May I inquire, Madam President, how much time I have remaining?

The PRESIDING OFFICER. Four-and-a-half minutes.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island, the chairman of the Foreign Relations Committee.

Mr. PELL. Madam President, I yield 5 minutes to the Senator from Maine.

Mr. COHEN. I thank the Senator for yielding.

Madam President, this particular amendment looks like it might be called a vitamin amendment. It is designed to give strength to the United States to call the Soviets for their violations and point out when they are cheating and, therefore, reject the treaty in an absolute fashion.

I would suggest to my colleagues that, contrary to being a vitamin pill, it is more like a poison pill amendment, because while it has some superficial sugar-coating to it that makes it superficially attractive, when you swallow this particular amendment it has some rather terminating consequences.

First, let me point out, the text of the amendment reads—

> Notwithstanding any other provision of (Article XV), the Parties understand and agree that the provision of any materially misleading and false data in any exchange of data * * * shall immediately give the other Party the right to terminate, void, or withdraw from this Treaty.

Well, the fact of the matter is the United States gave the Soviet Union false data, not intentionally, but inadvertently. We gave them false data about particular missile systems of ours, the number and so forth.

Now, should the treaty be terminated by the Soviets by virtue of the fact that we made a mistake, or is there a better way to work out such inadvertent errors?

According to this amendment, one false statement by the Soviets, and the treaty should be terminated by the Senate.

Second, the enforcement of a treaty is a shared responsibility between the executive and the U.S. Senate. This amendment is not a sharing arrangement. This would be a pure power grab on the part of the U.S. Senate, because if we decide, irrespective of what the President decides or determines, if we decide by a majority vote that there has been a material breach, we automatically terminate. That is one of the great expansions of senatorial power.

I do not know what has happened. I know I have been on the floor before and been criticized when, in the field of covert action, I suggested the President has an obligation to notify Congress within 48 hours of the assigning of a finding for a covert activity. Yet there was strong opposition on the grounds that we were treading into the exclusive domain of the President of the United States by just asking him to give us notice.

Here some of the same opponents of that particular provision are calling upon the Senate to arrogate itself to be the sole determining body of whether there has been a material breach or not. I find that to be a rather extraordinary call for the expansion of U.S. Senate power. I call that a naked power grab, if you will.

The third point I would like to make is that the United States Senate, under this amendment, is now going to be corresponding directly to the Soviet Union, the Soviet Embassy. I remember the amount of concern that was raised about the Speaker of the House communicating and indeed appearing to negotiate with the heads of another government, the Sandinistas. I think people were justifiably concerned that the Speaker not be stepping over the line that is properly drawn between simply communicating on behalf of himself, personally, and undertaking those functions properly belonging to the Chief Executive.

Yet, now we, as a Senate, would be communicating directly to the Soviet Embassy. We have put a gag, apparently, on the President of the United States. Be it President Bush or President Dukakis or someone else, we now propose to gag them and communicate directly with the Soviet Union.

So I would like to know, where is all of the outrage, where is the outrage about the congressional usurpation of Presidential power when here, in this amendment, the Senate proposes to arrogate to ourselves the ability to determine whether there has been a material breach or not?

The final point I would make: we might run into some implementation problems under this treaty. There may be environmentalists who will object to the way in which we propose to dispose of our Pershing systems. There may be environmental concerns. Does that mean, if we are delayed 1 day under this particular treaty, the Soviets can tear the agreement up, saying that we have abandoned its terms, we have breached its provisions?

Now, there is a process to resolve disputes. But, under this amendment, we do not need a special verification commission. We just ignore it. The U.S. Senate from now on will make the determination as to whether there has been a breach or not. We do not need any separate commission. We do not need an SVC. We do not need any sort of independent apparatus in which to make an objective analysis as to what has taken place. Just send it up to the U.S. Senate. We get a majority, we say there is a material breach, and under this amendment the agreement would automatically terminate.

I find this to be an extraordinary effort to extend our power. I hope that my colleagues would reject this amendment for its terminating consequences.

I thank the chairman for yielding.

Mr. PELL. Madam President, I yield myself 4 minutes.

Madam President, the Senator from Maine has pointed out that a majority of the Senate could get us out of the treaty. It is interesting: It takes two-thirds of the Senate to get into a treaty, but only a half of us could pull us out of a treaty.

Also, in my view, this could be a turning around of the Logan Act. Obviously one law, the most recent law, that replaces the more ancient law, but it would render invalid part of the purposes of the Logan Act.

The amendment also would seek to establish predetermined, fixed responses to potential violations and then seek to define in advance when the United States should withdraw from a treaty.

In my mind, this would tie the hands of the executive in an unconscionable way and try to foresee situations which are unforeseeable at this time, because it is really impossible to formulate an appropriate response to a violation in advance and without knowing the nature of the violation.

As Admiral Crowe told the committee:

> Should a Soviet violation be detected, the appropriate response would depend on a timely assessment of the effect the specific violation would have on the military balance. * * * An appropriate response to Treaty violations should be determined on a case-by-case basis and predicated on a comprehensive assessment of a host of complex security considerations.

Secretary of Defense Carlucci made the same point. He told the committee that:

> The nature of the violation or the nature of the response is highly scenario-dependent. The question of whether you want to seek to withdraw from the Treaty or seek to redeploy Pershings or seek some other measures to enhance our deterrent capability, are all things that have to be decided at that time. I think it is impossible to determine that in advance.

I think these views are correct and that we should bear in mind the impossibility of predicting a response to an offense that has not yet occurred.

This amendment would require, in addition, renegotiation with the Soviet Union and these negotiations could be extensive and involve further concessions by the United States.

I urge my colleagues to oppose this amendment.

I yield such time as the Senator from Indiana may desire.

Mr. LUGAR. Will the Senator yield me 5 minutes?

Mr. PELL. I yield the Senator 5 minutes.

Mr. LUGAR. Madam President, as my colleagues have pointed out, article 15, paragraph 2 of the treaty gives the United States the right to withdraw from the treaty if "it decides that extraordinary events related to the treaty have jeopardized its supreme interest."

Additionally, international law clearly permits the United States to terminate the treaty or suspend its operations, in whole or in part, immediately in the event of a material breach of the provisions of the treaty.

The argument on this side is simply that we ought to act proportionately and we ought to act appropriately to any Soviet violation. Certainly it is not in our interest to have a mechanical reaction, as the distinguished Senator from Maine has pointed out, really a terminal reaction to the most minor breach; maybe an inadvertent miscounting. I thought the Senator from Maine's point was well taken that already, in trying to exchange numbers, the United States has made some mistakes. These have been admitted up front in the process of exchanging letters with the Soviet Union so that things are squared away.

I think it is important, Madam President, just for the record, to indicate that violations to treaties which we have entered into with the Soviet Union that have been reported and have been under investigation on many occasions are not clear cut. And, even when clear cut, are not necessarily in our interests to abrogate the entire agreement, which may have values for us.

Madam President, let me simply state, I suppose, the obvious, but I am hopeful that Members will appreciate that this is an amendment to the text of the treaty itself. In the event that this amendment by the distinguished Senator from North Carolina were adopted, it would require going back to the Soviet Union to renegotiate the treaty.

We have used the term "killer amendment" from time to time, I think appropriately, to say that there are some amendments which, if adopted, either deliberately or inadvertently, bring an end to the whole process.

In my judgment, Senators do not want to bring an end to the treaty at this juncture. We still have important work to do in considering the resolution of ratification. We hope to get to the resolution following the disposition of this amendment.

Madam President, I say as clearly as I can, it is important that this amendment be defeated. In my judgment, it has no merit. The object of our being able to retaliate is that we have full flexibility, that we use our options, not ones mechanically derived in the course of a 40-minute debate at a time when Senators may be focused on many other things.

So I bring our focus to this amendment. In my judgment, it does not have merit. I am hopeful the Senators will vote against the amendment and literally clear the decks so that we may get on with the resolution of ratification and the work of the Senate which will finally, I hope, lead to a favorable vote on that resolution.

I thank the Chair.

Madam President, I suggest the absence of a quorum, the time to be charged equally.

Mr. SYMMS. Madam President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Rhode Island has the floor. He had yielded the floor to the Senator from Indiana for such time as he may consume.

The Senator from Rhode Island continues to have the floor.

Mr. SYMMS. Madam President, I ask unanimous consent that I have 1 minute of the time of the opponents of the amendment.

Mr. PELL. Madam President, I yield the floor.

The PRESIDING OFFICER. Without objection—

Mr. SYMMS. The Senator from North Carolina is here. May I have 1 minute?

Mr. HELMS. The Senator may have as much time as I have remaining.

Mr. SYMMS. I thank the Senator very much.

Madam President, this Senate has certainly witnessed, for those who agree or disagree with the position that the distinguished Senator from North Carolina has taken, that he truly is a profile in courage in this Senate and is a person who is upholding his responsibilities in the Senate to the best of his ability and to his commitment to our great institution. I salute him for that and for the efforts he made.

Madam President, I rise in support of the amendment of the Senator, I note that some of my distinguished colleagues who are very learned on the subject of treaties and so forth make some observations about the amendment and I suppose that they can make those criticisms of the amendment. I think there were criticisms made of amendments that this Senator offered. But I do believe that the die has been cast of how this issue is going to be resolved.

I also would say again that I believe that the day will come when Senators will wish that there had been more time taken on this treaty and I think probably the day will come when President Reagan himself will wonder whether or not we rushed to the hasty conclusion to finalize action on this treaty.

But, Madam President, there were issues that I wished to raise and have decided not to, in view of the fact that the Senate has pretty much, as the Senator from Wyoming said, decided to set aside judgment and pass this treaty and not take a slow, deliberative process to fix the treaty in areas where people know that there are mistakes that should be fixed. But one of the issues that I wanted to bring up with respect to compliance was the fact that another issue which is not a treaty but a grain agreement that we have with the Soviets is a good example of the way Soviet dictators and the Soviet Politburo disregarded agreements that they sign.

I ask unanimous consent that after my remarks on the poor, dismal record of the Soviets living up to their current grain agreements with the United States, there be printed in the RECORD the amendment to this treaty that this Senator had intended to offer but decided not to offer.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **SYMMS**. I think the Senate is badly served and the Nation is badly served by the State Department when they negotiate a treaty and they do not bring the attention of the Nation to the fact that they do not live up to agreements that they have with us.

That was the sole purpose of the amendments this Senator offered last week, to bring into focus the fact that they do not comply.

Madam President, one of the major questions discussed during our committee's hearings was whether or not the Soviets will cheat. Of course they will cheat on this treaty. Due to time agreements and the pending situation I will not offer the amendment dealing with the grain agreement.

Former Secretary of Defense, Caspar Weinberger, summarized it best in testimony before the Senate Foreign Relations Committee on February 2:

> They have cheated in the past. I think we can expect they will cheat in the future whenever they decide it is in their national interest to do so.

The Soviet record of cheating goes beyond threatening our long-term security interests; it often hurts our domestic interests in the short term.

No better example exists of Soviet cheating hitting Americans in the pocketbook than Soviet failure to live up to commitments made in grain agreements with the United States.

In 1983, the United States and the Soviet Union signed the second long-term grain purchase agreement. The Kremlin's blatant and agregious violations of this agreement should be of concern to all Senators; especially those from agricultural States.

These Soviet violations hit our farmers directly in the pocket. And the violations will not be corrected unless the Soviets are forced to comply.

That, Madam President, is what this amendment seeks to do. It prevents the second phase of eliminations under the INF Treaty from going ahead until the Soviets come into compliance with all of its purchase obligations in grain agreements with the United States.

As my colleagues are aware, under article IV, eliminations of missiles are to be carried out in two stages. The second stage is to commence 29 months after entry into force of the treaty. This amendment, then, would give the Soviets 29 months to come into compliance with past grain agreement obligations.

In the 1983 grain agreement, the Soviet Union agreed to purchase from the United States—in each of the next 5 years—a minimum of 4 million metric tons of corn, 4 million metric tons of wheat, and an additional 1 million metric tons of either corn or wheat, or 500,000 metric tons of soybean and soybean products.

Let us look at the Soviet record on this agreement, Madam President. In fiscal 1985, the Soviets failed to meet their purchase obligation for wheat by 1.1 million metric tons. This failure cost the American farmer an estimated $100 million.

Of course, the State Department did not raise a peep about this failure of compliance. Since the Soviets met no resistance, it must have been easy for them to gain some confidence that future violations would be tolerated by the United States.

And subsequent violations have been tolerated by the State Department. In 1986, the Soviets again failed to meet their purchase obligations for wheat; this time shortchanging the American wheat farmer of sales of 3.85 million metric tons, or approximately $500 million.

And in 1987, the Soviets reneged on their purchase obligation for wheat, corn, or soybeans by almost 700,000 metric tons.

The current long-term grain agreement with the Soviet Union will expire on September 30 of this year, and the administration is in the process of preparing for negotiations toward a new agreement.

Naturally, we would all like to see an agreement in which the highest possible purchases of wheat, corn and soybeans are achieved. However, we must ask ourselves, "why should we think the Soviets will observe a new agreement when they have violated the current one in 3 out of 5 years?"

Well, we can not believe that the Soviets will observe commitments to purchase grain until we give them some incentive to comply with such agreements.

EXHIBIT 1

In Article IV, paragraph 2, after "implemented in two phases", add the following: ", provided that the second phase shall not commence until such time as the Union of Soviet Socialist Republics has come into compliance with all its purchase obligations in grain agreements with the United States,".

Mr. **SYMMS**. Then to go on, Madam President, whether the amendment of the Senator from North Carolina is agreed to or not by his colleagues—and I will be one to vote for it—I think we might consider the fact that if in fact we have sent a message to the Soviet Union, which we have done by the failure to correct the compliance issue, we have told them that they do not have to comply with current treaties. That is really what the message is. They do not have to comply with current treaties.

But once we have dismantled the cruise missiles and Pershing II's and emboldened the left-wing political parties in Western Europe, then I would say, Madam President, even if they are out of compliance and even if the worst case scenario unfolds, if they break out of ABM, they unleash or show their covert force of some 300 SS-20's that they have not dismantled, even if that happens, it will be too late, Madam President.

Even the text of the Helms amendment would be too late. Once the act has happened that we have removed what it is the Soviets want us to remove from Western Europe, it is a fait accompli.

The **PRESIDING OFFICER**. The Chair must notify the Senator that Senator HELMS' time has expired.

Mr. **SYMMS**. I yield the floor.

Mr. **PELL**. Madam President, what is the time situation?

The **PRESIDING OFFICER**. The Senator from Rhode Island has 7 minutes and 39 seconds. The Senator from North Carolina's time has expired.

Mr. **HELMS**. I ask unanimous consent that I be allowed to proceed for a minute and a half.

Mr. **PELL**. No objection.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HELMS**. I thank the Chair and I thank the distinguished Senator from Rhode Island.

Madam President, it is true that the treaty provides for the establishment of a Special Verification Commission. However, this Commission will, in my judgment, end up being just as toothless, as meaningless as the existing Commission, the Special Consultative Commission, which exists for existing Soviet violations of other arms control treaties.

However, the treaty fails to provide for any specific sanction for noncompliance, and fails to provide any mechanism for the United States to redeploy INF missiles in Europe should a covert force of SS-20's be detected.

Bill Van Cleave made that clear. Jeane Kirkpatrick made that clear. Both of them were eloquent in their declarations.

Let the record on this treaty be clear. Should the Soviets violate the INF Treaty in a significant way, there is just about nothing the United States can do.

I am convinced, as I am that I am standing here, that there are hundreds of covert SS-20 missiles in the possession of the Soviet Union.

The United States could take its complaint to the Special Verification Commission. However, this Commission is much like the Standing Consultative Commission provided for in SALT I, which has proven entirely incapable of correcting Soviet violations to SALT I.

In accordance with article XIII of the ABM Treaty, and article VI of the SALT I interim agreement, the "Standing Consultative Commission" was established to deal with compliance problems.

However, the Commission has proven incapable of preventing or correcting the numerous Soviet violations of these treaties. I ask unanimous consent that a summary of these violations, as identified by the President, be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SUMMARY

I. Presidentially Confirmed Soviet Violations of SALT I Interim Agreement:

1. Soviet deployment of the heavy SS-19 ICBM and the medium SS-17 ICBM to replace the light SS-11 ICBM in violation of Article II, which prohibited heavy ICBMs from replacing light ICBMs.

2. Soviet deployment of modern SLBM submarines exceeding the limit of 740 SLBM launchers, without dismantling other older ICBM or SLBM launchers.

3. Soviet camouflage, concealment, and deception deliberately impeding U.S. verification efforts.

4. Deployment of SS-N-21 and SS-NX-24 long-range cruise missiles on converted Y Class SLBM submarines.

5. Use of former SS-7 ICBM facilities in support of the deployment and operation of the SS-25 mobile ICBM.

II. Presidentially Confirmed Soviet Violations of SALT I ABM Treaty:

1. Construction of new large phases-array radar at Krasnoyarsk, the siting, orientation, and capabilities of which "directly violate" three provisions of the Treaty.

2. Moving of a "Flat Twin" ABM radar and a "Pawn Shop" van from a test range and initiating deployment at a location outside of an ABM deployment area or ABM test range.

3. Over 100 ABM-mode tests of Soviet SAM-5, SAM-10, and SAM-12 surface-to-air missiles and radars, which are considered "highly probable" violations of the Treaty.

4. Strong evidence that the Soviets may be developing and deploying a territorial, and especially a nationwide, ABM defense, violating the Treaty ban on developing even a base for a nationwide ABM defense.

5. Development of Mobile ABM-3 system in violation of the Treaty's prohibition on mobile ABM's.

6. Continuing development of mobile "Flat Twin" ABM radars from 1975 to the present in violation of Treaty's prohibition on developing and testing mobile ABM's.

7. Soviet ABM rapid reload capability for ABM launchers which is a possible violation of the Treaty.

8. Camouflage, concealment and deception activity deliberately impeding U.S. verification efforts.

9. Falsification of the deactivation of ABM test-range launchers in violation of ABM Treaty dismantling procedures.

10. Rapid relocation of a "Flat Twin" ABM radar, without prior notification as required by the Treaty.

Mr. HELMS. The Standing Consultative Commission's inability to deter, address, or correct Soviet violations of SALT I was summed up by Secretary of Defense Caspar Weinberger:

> The SCC has failed to resolve any significant compliance issues in the approximately 1,500 days that it has been in session over the past 13 years. A less productive forum for the resolution of disputes would be difficult to find. The SCC has become a diplomatic carpet under which Soviet violations have been continuously swept, an Orwellian memory hole into which our concerns have been dumped like yesterday's trash.

Might the Special Verification Commission provided for in the INF Treaty be fated for the same ineffectiveness as the Standing Consultative Commission? In my judgment, that is the likely fate of the new Commission. During hearings before the committee, members probed to discover any differences between these Commissions.

On the opening day of our hearings, Chairman PELL asked Secretary Shultz to explain the differences. In response, the Secretary indicated:

> We think it will be good to give this process some new life, and in the concept of this new commission, it is something that can be called by either party whenever it wishes to call it, that is, whenever there is something bothering you, you can have a meeting and the other side must come and so on, as distinct from the idea of a standing group that is just sort of there and develops its own routines.
>
> And we think perhaps that will mean that when a meeting is held, it appears to be something of special significance because a problem has been identified that calls the meeting into being, and therefore it will be a more vigorous effort, and we will not have somebody who is just appointed for that and that is that person's job.

That is hardly a comforting reassurance. In response to questioning from Senator KASSEBAUM on January 28, Ambassador Nitze appeared to concur that the main difference between the Commissions appears to lie in the regularity with which the different Commissions would meet:

> The difference between the SCC, as it now exists, and what we have in mind with respect to the Special Verification Commission, is that the SCC is a body which meets from time to time * * * what was thought about here [with the SVC] was that you went together fast, and that, therefore, any time either side requests a meeting * * * you create it ad hoc when there is a request, and you would change the people who would go to it, depending upon the nature of the question which was to come before it.

But the heart of the matter is this: "What exactly will this Special Verification Commission do in response to a Soviet treaty violation?" According to Secretary of State Shultz, in testimony before the Foreign Relations Committee:

> If we detect a suspicious activity, we will initiate an immediate meeting of the SVC. The Soviets cannot refuse. At the SVC, we will have the right to describe our concerns and require a response. The Soviets may be able to demonstrate that the activity in question was not a violation. The SVC will be the place to determine that.
>
> If our concerns are not resolved, we will call for corrective action. If the Soviets were to persist in violating the treaty, we would have to react. There must be a penalty for cheating.

But, there is no penalty for cheating provided for in the article of the treaty establishing the Special Verification Commission, nor in fact, anywhere else in the treaty. All that is clear from the treaty is that the Commission will meet if the United States requests a meeting. Once at such a meeting, the Soviets can fold their arms, listen to our complaint, and nod their heads.

And if the Soviets choose to just nod their heads as they have done when confronted with their numerous violations to previous arms control treaties, the United States will be able to do virtually nothing—under the provisions of the treaty. The Soviets will be subjected to a United States tongue-lashing, but little else.

As the treaty now stands, the Soviet Union has no disincentive to cheating on the INF Treaty, and the United States no specified remedy if the Soviets do cheat. The Special Verification Commission is not structured, and will not be able, to enforce the treaty.

And if Soviet cheating occurs after 3 years—when all United States INF missiles are destroyed and removed from Europe, it is entirely unlikely that the United States will be able to reproduce and redeploy INF missiles in Europe in response.

It has been suggested that the Soviets would not dare cheat on this treaty for fear of world opinion. However, the Soviet Union has cheated and continues to cheat on arms control treaties in total disregard of world opinion.

Rather, it is the responsibility of the Senate to assure that the Soviets have a true disincentive to violating the treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Madam President, I would like to put in a plug here for the Standing Consultative Commission. I first met General Ellis when he was the commanding officer at SAC, Nebraska, some years ago. I have always been impressed with his practical, tough line. I believe, as one Senator, that he and SAC have really done an excellent job.

I yield.

Mr. COHEN. Would the Senator yield for one moment? Just to come back to the point of how rigid this particular amendment really is, this amendment says we are either in or we are out of the treaty with no opportunity for proportionate response.

It is drawn in rather bold, black-and-white terms. It seems to me that when we are dealing with treaties, some measure of flexibility has to be left to us and to the President of the United States.

I recall, for example, during SALT I, the Soviets at one point in time were over the limits in one of its provisions.

They notified us and indicated they were having difficulty complying with a particular provision. They gave us notice, and then corrected it.

Yet, under this provision, the Senate, by a majority vote would be obliged to terminate under such a circumstance. What we need is some degree of flexibility, such as proportionate responses, left for the President of the United States and for us.

Once again I would point out that those who have been most critical of Congress intruding upon the vast power of the President in the field of foreign policy are suggesting that we deprive the President of that flexibility; that we undertake on our own to determine whether there has been compliance, and we decide on our own, without the President or over his objection, if necessary, and as a result automatically terminate the Treaty.

I think the amendment should be rejected. Flexibility belongs properly with the President and working in conjunction with us, but not the Senate arrogating to itself the powers of terminating treaties by acting alone.

Madam President, I ask unanimous consent that excerpts from Senate document 99-16, "The Constitution, Analysis and Interpretation," discussing these matters, be inserted in the RECORD, as well as the summary CRS issue brief, "The INF Treaty: Environmental Issues."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CONSTITUTION OF THE UNITED STATES OF AMERICA ANALYSIS AND INTERPRETATION: ANNOTATIONS OF CASES DECIDED BY THE SUPREME COURT OF THE UNITED STATES, TO JULY 2, 1982

Congressional Repeal of Treaties.—It is in respect to his contention that when it is asked to carry a treaty into effect Congress has the constitutional right, and indeed the duty, to determine the matter according to its own ideas of what is expedient, that Madison has been most completely vindicated by developments. This is seen in the answer which the Court has returned to the question, what happens when a treaty provision and an act of Congress conflict. The answer is, that neither has any intrinsic superiority over the other and that therefore the one of later date will prevail *leges posteriores priores contrarias abrogant.* In short, the treaty commitments of the United States do not diminish Congress' constitutional powers. To be sure, legislative repeal of a treaty as law of the land may amount to a violation of it as an international contract in the judgment of the other party to it. In such case, as the Court has said: "Its infraction becomes the subject of international negotiations and reclamations, so far as the injured party chooses to seek redress, which may in the end be enforced by actual war. It is obvious that with all this the judicial courts have nothing to do and can give no redress." [14]

Treaties Versus Prior Acts of Congress.—The cases are numerous in which the Court has enforced statutory provisions which were recognized by it as superseding prior treaty engagements. Chief Justice Marshall early asserted that the converse would be true as well,[15] that a treaty which is self-executing is the law of the land and prevails over an earlier inconsistent statute, a proposition repeated many time in dicta.[16] But there is dispute whether in fact a treaty has ever been held to have repealed or sueprseded an inconsistent statute. Willoughby, for example, says: "In fact, however, there have been few (the writer is not certain that there has been any) instances in which a treaty inconsistent with a prior act of Congress has been given full force and effect as law in this country without the assent of Congress. There may indeed have been cases in which, by treaty, certain action has been taken without reference to existing Federal laws, as, for example, where by treaty certain populations have been collectively naturalized, but such treaty action has not operated to repeal or annul the existing law upon the subject." [17]

The one instance which may be an exception[18] is *Cook* v. *United States.*[19] There, a divided Court held that a 1924 treaty with Great Britain, allowing the inspection of English vessels for contraband liquor and seizure if any was found only if such vessels were within the distance from the coast which could be traversed in one hour by the vessel suspecting of endeavoring to violate the prohibiton laws, had superseded the authority conferred by a section of the Tariff Act of 1922 [20] for Coast Guard officers to inspect and seize any vessel within four leagues—12 miles—of the coast under like circumstances. The difficulty with the case is that the Tariff Act provision had been reenacted in 1930,[21] so that a simple application of the rule of the later governing should have caused a different result. It may be suspected that the low estate to which Prohibition had fallen and a desire to avoid a diplomatic controversy should the seizure at issue have been upheld were more than slightly influential in the Court's decision.

CONSTITUTIONAL LIMITATIONS ON THE TREATY POWER

A question growing out of the discussion above is whether the treaty power is bounded by constitutional limitations. By the supremacy clause, both statutes and treaties "are declared . . . to be the supreme law of the land, and no superior efficacy is given to either over the other." [1] As statutes may be held void because they contravene the Constitution, it should follow that treaties may be held void, the Constitution being superior to both. And indeed the Court has numerous times so stated.[2] It does not appear that the Court has ever held a treaty unconstitutional,[3] although there are examples in which decision was seemingly based on a reading compelled by constitutional considerations.[4] In fact, there would be little argument with regard to the general point were it not for certain dicta in Justice Holmes' opinion in *Missouri* v. *Holland.*[5] "Acts of Congress," he said, "are the supreme law of the land only when made in pursuance of the Constitution, while treaties are declared to be so when under the authority of the United States. It is open to question whether the authority of the United States means more than the formal acts prescribed to make the convention." Although he immedilately followed this passage with a cautionary "[w]e do not mean to imply that there are no qualifications to the treaty-making power . . .",[6] the Justice's language and the holding by which it appeared that the reserved rights of the States could be invaded through the treaty power led in the 1950's to an abortive effort to amend the Constitution to restrict the treaty power.[7]

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[14] *Head Money Cases*, 112 U.S. 580, 598-599 (1884). The repealability of treaties by act of Congress was first asserted in an opinion of the Attorney General in 1854. *6 Ops. Atty. Gen.* 291. The year following the doctrine was adopted judicially in a lengthy and cogently argued opinion of Justice Curtis, speaking for a United States circuit court in *Taylor* v. *Morton*, 23 Fed. Cas. 784 (No. 13,799) (C.C.D. Mass 1855). *See also The Cherokee Tobacco*, 11 Wall. (78 U.S.) 616 (1871); *United States* v. *Forty-Three Gallons of Whiskey*, 108 U.S. 491, 496 (1883); *Botiller* v. *Dominguez*, 130 U.S. 238 (1889); *The Chinese Exclusion Case*, 130 U.S. 581, 600 (1889); *Whitney* v. *Robertson*, 124 U.S. 190, 194 (1888); *Fong Yue Ting* v. *United States*, 149 U.S. 698, 721 (1893). "Congress by legislation, and so far as the people and authorities of the United States are concerned, could abrogate a treaty made between this country and another country which had been negotiated by the President and approved by the Senate." *La Abra Silver Mining Co.* v. *United States*, 175 U.S. 423, 460 (1899). *Cf. Reichert* v. *Felps*, 6 Wall. (73 U.S.) 160, 165-166 (1868), wherein it is stated *obiter* that "Congress is bound to regard the public treaties, and it had no power . . . to nullify [Indian] titles confirmed many years before. . . ."

[15] *Foster* v. *Neilson*, 2 Pet. (27 U.S.) 253, 314-315 (1829). In a later case, it was determined in a different situation that by its terms the treaty in issue, which had been assumed to be executory in the earlier case, was self-executing. *United States* v. *Percheman*, 7 Pet. (32 U.S.) 51 (1833).

[16] E.g., *United States* v. *Lee Yen Tai*, 185 U.S. 213, 220-221 (1902); *The Cherokee Tobacco*, 11 Wall. (78 U.S.) 616, 621 (1871); *Johnson* v. *Browne*, 205 U.S. 309, 320-321 (1907); *Whitney* v. *Roberston*, 124 U.S. 190, 194 (1888).

[17] 1 W. Willoughby, *The Constitutional Law of the United States* (New York: 2d ed. 1929), 555.

[18] Other cases which are cited in some sources appear distinguishable. *United States* v. *Schooner Peggy*, 1 Cr. (5 U.S.) 103 (1801), applied a treaty entered into subsequent to enactment of a statute abrogating all treaties then in effect between the United States and France, so that it is inaccurate to refer to the treaty as superseding a prior statute. In *United States* v. *Forty-Three Gallons of Whiskey*, 93 U.S. 188 (1876), the treaty with an Indian tribe in which the tribe ceded certain territory later included in a State, provided that a federal law restricting the sale of liquor on the reservation would continue in effect in the territory ceded; the Court found the stipulation an appropriate subject for settlement by treaty and the provision binding. And *see Charlton* v. *Kelly*, 229 U.S. 447 (1913).

[19] 288 U.S. 102 (1933).

[20] 42 Stat. 858, 979, § 581.

[21] 46 Stat. 590, 747, § 581.

[1] *Whitney* v. *Robertson*, 124 U.S. 190, 194 (1888).

[2] "The treaty is . . . a law made by the proper authority, and the courts of justice have no right to annul or disregard any of its provisions, unless they violate the Constitution of the United States." *Doe* v. *Braden*, 16 How. (57 U.S.) 635, 656 (1853). "It need hardly be said that a treaty cannot change the Constitution or be held valid if it be in violation of that instrument." *The Cherokee Tobacco*, 11 Wall. (78 U.S.), 616, 620 (1871). *See also Geofroy* v. *Riggs*, 133 U.S. 258, 267 (1890); *United States* v. *Wong Kim Ark*, 169 U.S. 649, 700 (1898); *Asakura* v. *City of Seattle*, 265 U.S. 332, 341 (1924).

[3] 1 W. Willoughby, *The Constitutional Law of the United States* (New York: 2d ed. 1929), 561. In *Power Authority of New York* v. *FPC*, 247 F. 2d 538 (C.A. 2, 1957), a reservation attached by the Senate to a 1950 treaty with Canada was held invalid. The court observed that the reservation was properly not a part of the treaty but that if it were it would still be void as an attempt to circumvent constitutional procedures for enacting amendments to existing federal laws. The Supreme Court vacated the judgment on mootness grounds. 355 U.S. 64 (1957). In *United States* v. *Guy W. Capps, Inc.*, 204 F.2d 655 (C.A. 4, 1953), an executive agreement with Canada was held void as conflicting with existing legislation. The Supreme Court affirmed on nonconstitutional grounds. 348 U.S. 296 (1955).

[4] *Cf., City of New Orleans* v. *United States*, 10 Pet. (35 U.S.) 662 (1836); *Rocca* v. *Thompson*, 223 U.S. 317 (1912).

[5] 252 U.S. 416 (1920).

[6] Id., 433. Subsequently, he also observed: "The treaty in question does not contravene any prohibitory words to be found in the Constitution." Ibid.

Controversy over the Holmes language apparently led Justice Black in *Reid* v. *Covert*[8] to deny that the difference in language of the supremacy clause with regard to statutes and with regard to treaties was relevant to the status of treaties as inferior to the Constitution. "There is nothing in this language which intimates that treaties do not have to comply with the provisions of the Constitution. Nor is there any thing in the debates which accompanied the drafting and ratification of the Constitution which even suggests such a result. These debates as well as the history that surrounds the adoption of the treaty provisions in Article VI make it clear that the reason treaties were not limited to those made in 'pursuance' of the Constitution was so that agreements made by the United States under the Articles of Confederation, including the important treaties which concluded the Revolutionary War, would remain in effect. It would be manifestly contrary to the objectives of those who created the Constitution, as well as those who were responsible for the Bill of Rights—let alone alien to our entire constitutional history and tradition—to construe Article VI as permitting the United States to exercise power under an international agreement without observing constitutional prohibitions. In effect, such construction would permit amendment of that document in a manner not sanctioned by Article V." [9]

Establishment of the general principle, however, is but the beginning; there is no readily agreed-upon standard for determining what the limitations are. The most persistently urged proposition in limitation has been that the treaty power must not invade the reserved powers of the States. In view of the sweeping language of the supremacy clause, it is hardly surprising that this argument has not prevailed [10] nevertheless, the issue, in the context of Congress' power under the necessary and proper clause to effectuate a treaty dealing with a subject arguably within the domain of the States, was presented as recently as 1920, when the Court upheld a treaty and implementing statute providing for the protection of migratory birds.[11] "The treaty in question does not contravene any prohibitory words to be found in the Constitution. The only question is whether it is forbidden by some invisible radiation from the general terms of the Tenth Amendment." [12] The gist of the holding followed. "Here a national interest of very nearly the first magnitude is involved. It can be protected only by national action in concert with that of another power. The subject-matter is only transitorily within the State and has no permanent habitat therein. But for the treaty and the statute there soon might be no birds for any powers to deal with. We see nothing in the Constitution that compels the Government to sit by while a food supply is cut off and the protectors of our forests and our crops are destroyed." [13]

The doctrine which seems deducible from this case and others is "that in all that properly relates to matters of international rights and obligations, whether these rights and obligations rest upon the general principles of international law or have been conventionally created by specific treaties, the United States possesses all the powers of a constitutionally centralized sovereign State; and, therefore, that when the necessity from the international standpoint arises the treaty power may be exercised, even though thereby the rights ordinarily reserved to the States are invaded." [14] It is not, in other words, the treaty power which enlarges either the federal power or the congressional power but the international character of the interest concerned which might be acted upon.

Dicta in some of the cases lend support to the argument that the treaty power is limited by the delegation of powers among the branches of the National Government [15] and especially by the delegated powers of Congress, although it is not clear what the limitation means. If it is meant that no international agreement could be constitutionally entered into by the United States within the sphere of such powers, the practice from the beginning has been to the contrary;[16] if it is meant that treaty provisions dealing with matters delegated to Congress must, in order to become the law of the land, receive the assent of Congress through implementing legislation, it states not a limitation on the power of making treaties as international conventions but rather a necessary procedure before certain conventions are cognizable by the courts in the enforcement of rights under them.[17]

It has also been suggested that the prohibitions against governmental action contained in the Constitution—the Bill of Rights particularly—limit the exercise of the treaty power. No doubt this is true, though again there are no cases which so hold.[18]

One other limitation of sorts may be contained in the language of certain court decisions which seem to say that only matters of "international concern" may be the subject of treaty negotiations.[19] While this may appear to be a limitation, it does not take account of the elasticity of the concept of "international concern" by which the subject matter of treaties has constantly expanded over the years.[20] At best, any attempted resolution of the issue of limitations must be an uneasy one.[21]

In brief, the fact that all the foreign relations power is vested in the National Government and that no formal restriction is imposed on the treaty-making power in the international context [22] leaves little room for the notion of a limited treaty-making power with regard to the reserved rights of the States or in regard to the choice of matters concerning which the Federal Government may treat with other nations; protected individual rights appear to be sheltered by specific constitutional guarantees from the domestic effects of treaties and the separation of powers at the federal level may require legislative action to give municipal effect to international agreements.

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[7] The attempt, the so-called "Bricker Amendment", was aimed at the expansion into reserved state powers through treaties as well as at executive agreements. The key provision read: "A treaty shall become effective as internal law in the United States only through legislation which would be valid in the absence of treaty." S.J. Res. 43, 82d Congress, 1st sess. (1953), § 2. *See also* S.J. Res. 1, 84th Congress, 1st sess. (1955), § 2. Extensive hearings developed the issues thoroughly but not always clearly. Hearings on S.J. Res. 130. Before a Subcommittee of the Senate Judiciary Committee, 82d Congress, 2d sess. (1952). Hearings on S.J. Res. 1 & 43 Before a Subcommittee of the Senate Judiciary Committee, 83d Congress, 1st sess. (1953); Hearings on S.J. Res. 1 Before a Subcommittee of the Senate Judiciary Committee, 84th Congress, 1st sess. (1955).

[8] 354 U.S. 1 (1957) (plurality opinion).

[9] Id., 16-17.

[10] *Ware* v. *Hylton*, Dall. (3 U.S.) 199 (1796); *Fairfax's Devisee* v *Hunter's Lessee*, 7 Cr. (11 U.S.) 603 (1813); *Chirac* v *Chirac*, 2 Wheat, (15 U.S.) 259 (1817); *Hauenstein* v *Lynham*, 100 U.S. 483 (1880). Jefferson, in his list of exceptions to the treaty power, thought the Constitution "must have meant to except out of these the rights reserved to the States, for surely the President and Senate cannot do by treaty what the whole Government is interdicted from doing in any way." *Jefferson's Manual of Parliamentary Practice*, § 52, reprinted in *Senate Manual*, S. Doc. 91-1, 91st Congress, 1st sess. (1969), 487. But this view has always been the minority one. Q. Wright, *The Control of American Foreign Relations* (New York: 1922), 92 n. 97. The nearest the Court even came to supporting this argument appears to be *Frederickson* v. *Louisiana*, 23 How. (64 U.S.) 445, 448 (1860).

[11] *Missouri* v. *Holland*, 252 U.S. 416 (1920).

[12] Id., 433.

[13] Id., 435.

[14] 1 W. Willoughby, *The Constitutional Law of the United States* (New York: 2d ed. 1929), 569. And *see* Henkin, "The Treaty Makers and the Law Makers: The Law of the Land and Foreign Relations," 107 U. Pa. L. Rev. 903 (1959).

[15] E.g., *Geofroy* v. *Riggs*, 133 U.S.258, 266-267 (1890); *Holden* v. *Joy*, 17 Wall. (84 U.S.) 211, 243 (1872). Jefferson listed as an exception from the treaty power "those subjects of legislation in which [the Constitution] gave a participation to the House of Representatives" although he admitted "that it would leave very little matter for the treaty power to work on." *Jefferson's Manual of Parliamentary Practice*, § 52, reprinted in *Senate Manual*, S. Doc. No. 91-1, 91st Congress, 1st sess. (1969), 487.

[16] Q. Wright, *The Control of American Foreign Relations* (New York: 1922), 101-103.

[17] Supra, pp. 501-504.

[18] Cf. *Reid* v. *Covert*, 354 U.S. 1 (1957).

[19] "[I]t must be assumed that the framers of the Constitution intended that [the treaty power] should extend to all those objects which in the intercourse of nations had usually been regarded as the proper subjects of negotiation and treaty. . . ." *Holden* v. *Joy* 17 Wall. (84 U.S.) 211, 243 (1872). With the exceptions noted, "it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country." *Geofroy* v. *Riggs*, 133 U.S. 258, 267 (1890). "The treaty-making power of the United States. . . does extend to all proper subjects of negotiation between our government and other nations." *Asakura* v. *City of Seattle*, 265 U.S. 332, 341 (1924).

[20] *Cf.* Henkin, "The Treaty Makers and the Law Makers: The Law of the Land and Foreign Relations," 107 U. Pa. L. Rev. 903, 910-913 (1959.

[21] Other reservations which have been expressed may be briefly noted. It has been contended that the territory of a State could not be ceded without such State's consent. *Geofroy* v. *Riggs*, 133 U.S. 258, 267 (1890), citing *Fort Leavenworth R.R.* v. *Lowe*, 114 U.S. 525, 541 (1885). *Cf.* the Webster-Ashburton Treaty, Article V, 8 Stat. 572, 575. *But see* S. Crandall, *Treaties, Their Making and Enforcement* (Washington: 2d ed. 1916) 220-229; 1 W. Willoughby, *The Constitutional Law of the United States* (New York: 2d ed. 1929), 572-576.

A further contention is that while foreign territory can be annexed to the United States by the treaty power, it could not be incorporated with the United States except with the consent of Congress. *Downes* v. *Bidwell*, 182 U.S. 244, 310-344 (1901) (four Justices dissenting). This argument appears to be a variation of the one in regard to the correct procedure to give domestic effect to treaties.

Another argument grew out the XII Hague Convention of 1907 proposing an International Prize Court with appellate jurisdiction from national courts in prize cases. President Taft objected that no treaty could transfer to a tribunal not known to the Constitution any part of the judicial power of the United States and a compromise was arranged. Q. Wright, *The Control of American Foreign Relations* (New York: 1922), 117-118; H. Rept. No. 1569, 68th Congress, 2d sess. (1925).

[22] *Cf. United States* v. *Curtiss-Wright Corp.* 299 U.S. 304, 318 (1936); *Holmes* v. *Jenison*, 14 Pet, (39 U.S.) 540, 575-576 (1840).

INTERPRETATION AND TERMINATION OF TREATIES AS INTERNATIONAL COMPACTS

The repeal by Congress of the "self-executing" clauses of a treaty as "law of the land" does not of itself terminate the treaty as an international contract, although it may very well provoke the other party to the treaty to do so. Hence the questions arise where the Constitution lodges this power and where it lodges the power to interpret the contractual provisions of treaties. The first case of outright abrogation of a treaty by the United States occurred in 1798, when Congress by the Act of July 7 of that year, pronounced the United States freed and exonerated from the stipulations of the Treaties of 1778 with France.[1] This act was followed two days later by one authorizing limited hostilities against the same country; in the case of *Bas* v. *Tingy*[2] the Supreme Court treated the act of abrogation as simply one of a bundle of acts declaring "public war" upon the French Republic.

Termination of Treaties by Notice.—Typically, a treaty provides for its termination by notice of one of the parties, usually after a prescribed time from the date of notice. Of course, treaties may also be terminated by agreement of the parties, or by breach by one of the parties, or by some other means. But it is in the instance of termination by notice that the issue has frequently been raised: where in the Government of the United States does the Constitution lodge the power to unmake treaties?[3] Reasonable arguments may be made locating the power in the President alone, in the President-and-Senate, or in the Congress. Presidents generally have asserted the foreign relations power reposed in them under Article II and the inherent powers argument made in *Curtiss-Wright.* Because the Constitution requires the consent of the Senate for making a treaty, one can logically argue that its consent is as well required for terminating it. Finally, because treaties are, like statutes, the supreme law of the land, it may well be argued that, again like statutes, they may be undone only through law-making by the entire Congress; additionally, since Congress may be required to implement treaties and may displace them through legislation, this argument is reenforced.[4]

Definitive resolution of this argument appears remotely possible. Historical practice provides support for all three arguments and the judicial branch seems unlikely to essay any answer.

While abrogation of the French treaty, mentioned above, is apparently the only example of termination by Congress through a public law, many instances may be cited of terminations of notice of the President, either pursuant to some congressional action or at his own discretion. The initial precedent in the instance of termination by notice pursuant to congressional action appears to have occurred in 1846,[5] when by joint resolution Congress authorized the President at his discretion of notify the British government of the abrogation of the Convention of August 6, 1827, relative to the joint occupation of the Oregon Territory. As the President himself had requested the resolution, the episode is often cited to support the theory that international conventions to which the United States is a party, even those terminable on notice, are terminable only through action of Congress.[6] Subsequently, Congress has often passed resolutions denouncing treaties or treaty provisions, which by their own terms were terminable on notice, and Presidents have usually, though not invariably, carried out such resolutions.[7] By the La Follette-Furuseth Seaman's Act,[8] President Wilson was directed, "within ninety days after the passage of the act, to give notice to foreign governments that so much of any treaties as might be in conflict with the provisions of the act would terminate on the expiration of the periods of notice provided for in such treaties," and the required notice was given.[9] When, however, by section 34 of the Jones Merchant Marine Act of 1920, the same President was authorized and directed within ninety days to give notice to the parties to certain treaties, with which the Act was not in conflict but which might restrict Congress in the future from enacting discriminatory tonnage duties, President Wilson refused to comply, asserting that he "did not deem the direction contained in section 34 . . . an exercise of any constitutional power possessed by Congress."[10] The same attitude toward section 34 was continued by Presidents Harding and Collidge.[11]

Very few precedents exist in which the President terminated a treaty after obtaining the approval of the Senate alone. The first occurred in 1854–1855, when President Pierce requested and received Senate approval to terminate a treaty with Denmark.[12] When the validity of this action was questioned in the Senate, the Committee on Foreign Relations reported that the procedure was correct, that prior full-Congress actions were incorrect, and that the right to terminate resides in the treaty-making authorities, the President and the Senate.[13]

Examples of treaty terminations in which the President acted alone are much disputed with respect both to facts and to the underlying legal circumstances.[14] Apparently, President Lincoln was the first to give notice of termination in the absence of prior congressional authorization or direction, and Congress shortly thereafter by joint resolution ratified his action.[15] The first such action by the President, with no such subsequent congressional action, appears to be that of President McKinley in 1899, in terminating an 1850 treaty with Switzerland, but the action may be explainable as the treaty being inconsistent with a subsequently enacted law.[16] Other such renunciations by the President acting on his own have been similarly explained and similarly the explanations have been controverted. While the Department of State, in setting forth legal justification for President Carter's notice of termination of the treaty with Taiwan, cited many examples of the President acting alone, many of these are ambiguous and may be explained away by, i.e., conflicts with later statutes changed circumstances, or the like.[17]

No such ambiguity accompanied President Carter's action on the Taiwan treaty and a somewhat lengthy Senate debate was provoked. In the end, the Senate on a preliminary vote approved a "sense of the Senate" resolution claiming for itself a consenting role in the termination of treaties, but no final vote was ever taken and the Senate thus did not place itself in conflict with the President.[18] However, several Members of Congress went to court to contest the termination, apparently the first time a judicial resolution of the question had been sought. A divided Court of Appeals, on the merits, held that presidential action was sufficient by itself to terminate treaties, but the Supreme Court, no majority agreeing on a common ground, vacated that decision and instructed the trial court to dismiss the suit.[19] While no opinion of the Court bars future litigation, it appears that the political question doctrine or some other rule of judicial restraint will leave such disputes to the contending forces of the political branches.[20]

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[1] 1 Stat. 578 (1798).

[2] 4 Dall. (4 U.S.) 37 (1800). *See also Gray* v. *United States*, 21 Ct. Cl. 340 (1886), with respect to claims arising out of this situation.

[3] The matter was most extensively canvassed in the debate with respect to President Carter's termination of the Mutual Defense Treaty of 1954 with the Republic of China (Taiwan). See, e.g., the various views argued in *Treaty Termination*, Hearings before the Senate Committee on Foreign Relations, 96th Congress, 1st sess. (1979).

[4] *See*, e.g., L. Henkin, *Foreign Affairs and the Constitution* (New York: 1972), 167-171.

[5] Compare the different views of the 1846 action in *Treaty Termination*, Hearings before the Senate Committee on Foreign Relations, 96th Congress, 1st sess. (1979), 160-162 (memorandum of Hon. Herbert Hansell, Legal Advisor, Department of State), and in *Taiwan*, Hearings before the Senate Committee on Foreign Relations, 96th Congress, 1st sess. (1979), 300 (memorandum of Senator Goldwater).

[6] S. Crandall, *Treaties, Their Making and Enforcement* (Washington: 2d ed. 1916), 458–459.

[7] Id., 459-462; Q. Wright, *The Control of American Foreign Relations* (New York: 1922), 258.

[8] 38 Stat. 1164 (1915).

[9] S. Crandall, *Treaties, Their Making and Enforcement* (Washington: 2d ed. 1916), 460. *See Van der Weyde* v. *Ocean Transp. Co.*, 297 U.S. 114 (1936).

[10] 41 Stat. 1007. See Reeves, "The Jones Act and the Denunciations of Treaties," 15 Am. J. Int'l. L. 33 (1921). In 1879, Congress passed a resolution requiring the President to abrogate a treaty with China, but President Hayes vetoed it, partly on the ground that Congress as an entity had not role to play in ending treaties, only the President with the advice and consent of the Senate. 9 J. Richardson (comp.), *Messages and Papers of the Presidents* (Washington: 1897), 4466, 4470-4471. For the views of President Taft on the matter in context, see W. Taft, *The Presidency, Its Duties, Its Powers, Its Opportunities and Its Limitations* (New York: 1916), 112-113.

[11] Since this time, very few instances appear in which Congress has requested or directed termination by notice, but they have resulted in compliance. E.g., 65 Stat. 72 (1951) (directing termination of most-favored-nation provisions with certain Communist countries in commercial treaties); 70 Stat. 773 (1956) (requesting renunication of treaty rights of extraterritoriality in Morroco).

[12] 5 J. Richardson (comp.), *Messages and Papers of the Presidents* (Washington: 1897), 279, 334.

[13] S. Rept. No. 97, 34th Congress, 1st sess. (1856), 6–7. The other instance was President Wilson's request, which the Senate endorsed, for termination of the International Sanitary Convention of 1903. See 61 Cong. Rec. 1793–1794 (1921).

[14] *Compare*, e.g., *Treaty Termination*, Hearings before the Senate Committee on Foreign Relations, 96th Congress, 1st sess. (1979), 156-191 (memorandum of Hon. Herbert Hansell, Legal Advisor, Department of State), with *Taiwan*, Hearings before the Senate Committee on Foreign Relations, 96th Congress, 1st sess. (1979), 300-307 (memorandum of Senator Goldwater).

[15] 13 Stat. 568 (1865).

[16] The treaty, *see* 11 C. Bevans, *Treaties and Other International Agreements of the United States of America* (Washington: 1970), 894, was probably at odds with the Tariff Act of 1897. 30 Stat. 151.

[17] *Compare* the views expressed in the Hansell and Goldwater memoranda, *op. cit.*, n. 14. For expressions of views preceding the immediate controversy, *e.g.*, Riesenfeld, "The Power of Congress and the President in International Relations," 25 Calif. L. Rev. 643, 658-665 (1937); Nelson, "The Termination of Treaties and Executive Agreements by the United States," 42 Minn. L. Rev. 879 (1958).

[18] Originally, S. Res. 15 had disapproved presidential action alone, but it was amended and reported by the Foreign Relations Committee to recognize at least 14 bases of presidential termination. S. Rept. No. 119, 96th Congress, 1st sess. (1979). In turn, this resolution was amended to state the described sense of the Senate view but the matter was never brought to final action. See 125 Cong. Rec. 13672, 13696, 13711, 15209, 15859 (1979).

Determination Whether a Treaty Has Lapsed.—At the same time, there is clear judicial recognition that the President may without consulting Congress validly determine the question whether specific treaty provisions have lapsed. The following passage from Justice Lurton's opinion in *Charlton* v. *Kelly*[21] is pertinent: "If the attitude of Italy was, as contended, a violation of the obligation of the treaty, which, in international law, would have justified the United States in denouncing the treaty as no longer obligatory, it did not automatically have that effect. If the United States elected not to declare its abrogation, or come to a rupture, the treaty would remain in force. It was only voidable, not void; and if the United States should prefer, it might waive any breach which in its judgment had occurred and conform to its own obligation as if there had been no such breach. . . . That the political branch of the Government recognizes the treaty obligation as still existing is evidenced by its action in this case. . . . The executive department having thus elected to waive any right to free itself from the obligation to deliver up its own citizens, it is the plain duty of this court to recognize the obligation to surrender the appellant as one imposed by the treaty as the supreme law of the land as affording authority for the warrant of extradition."[22] So also it is primarily for the political departments to determine whether certain provisions of a treaty have survived a war in which the other contracting state ceased to exist as a member of the international community.[23]

Status of a Treaty a Political Question.—At any rate, it is clear that many questions which arise concerning a treaty are of a political nature and will not be decided by the courts. In the words of Justice Curtis in *Taylor* v. *Morton:*[24] It is not "a judicial question, whether a treaty with a foreign sovereign has been violated by him; whether the consideration of a particular stipulation in a treaty, has been voluntarily withdrawn by one party, so that it is no longer obligatory on the other; whether the views and acts of a foreign sovereign, manifested through his representative have given just occasion to the political departments of our government to withhold the execution of a promise contained in a treaty, or to act in direct contravention of such promise. . . . These powers have not been confided by the people to the judiciary, which has no suitable means to exercise them; but to the executive and the legislative departments of our government. They belong to diplomacy and legislation, and not to the administration of existing laws and it necessarily follows that if they are denied to Congress and the Executive, in the exercise of their legislative power, they can be found nowhere, in our system of government." Chief Justice Marshall's language in *Foster* v. *Neilson*[25] is to the same effect.

INF TREATY: ENVIRONMENTAL ISSUES

SUMMARY

Central to the Intermediate Nuclear Forces (INF) treaty signed by President Reagan and Soviet leader Mikhail Gorbachev on Dec. 8, 1987, is the requirement to eliminate more than 2,600 U.S. and Soviet intermediate-range and short-range missiles. The accord directs that within 3 years of ratification, all missiles designed to fly between 300 and 3,400 miles must be disarmed and then launched or "burned, crushed, flattened, or exploded."

The treaty targets 689 missiles in the U.S. Long Range Intermediate Nuclear Forces inventory, and 170 Pershing 1A missiles in the Short Range Intermediate Nuclear Forces inventory (the latter of which must be destroyed within 18 months of ratification). (See CRS Issue Brief 88003), Arms Control: Ratification of the INF Treaty, for a thorough discussion.)

In addition to sensitive military implications of the treaty being considered during ratification hearings, the Senate will also address the issue of how to eliminate the missiles in a manner that would minimize impacts on public health and the environment. The Army prepared a draft legislative environmental assessment of its missile destruction strategy and submitted it to the Senate for review and comment on Feb. 24, 1988.

While the environmental implications of implementing the INF treaty pale in contrast to the global importance of the arms agreement, the issue of air pollution resulting from missile destruction (the chief environmental concern) is a point of contention for States with candidate missile elimination sites. Already, air pollution concerns have been raised by State environmental protection and health agencies, local residents, environmental groups, as well as anti-arms control groups.

The amount of rocket propellant to be eliminated over the 3-year period is approximately 4.3 million pounds (roughly the equivalent of four space shuttle launches). Due to the treaty and technical limitations, the Army plans to destroy most missiles at depots in Utah, Texas, and/or Colorado through "explosive cutting and burning" and static firing. Combustion of this volume of fuel would result in the release of tons of toxic tainted particles and gases into the atmosphere annually, including hydrochloric acid, hydrocarbons, titanium oxide, beryllium, and asbestos and nitrogen oxides.

The potential destruction of the missiles comes at a time when States are facing pressure from the Environmental Protection Agency for failure to comply with the Clean Air Act. The potential environmental impacts associated with the open-pit burning and static firing of an average of 15,000 pounds of rocket fuel daily are a source of conflict between the Army and possible host States. Although the draft environmental assessment reports a finding of no significant impact, the Army is facing adverse publicity from other programs, and States are hesitant to grant the necessary environmental permits. Lacking resolution of State and local concerns, environmental issues could jeopardize the Army's timely implementation of the INF treaty.

Mr. PELL. Madam President, what is the time situation?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. PELL. I suggest the absense of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the role.

Mr. PELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Madam President, I yield back the remainder of my time.

Mr. WARNER. Madam President, the time on this side is yielded back.

The PRESIDING OFFICER. All time has expired. The question now occurs on the amendment by the Senator from North Carolina. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

The PRESIDING OFFICER (Mr. SHELBY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 9, nays 89, as follows:

[Rollcall Vote No. 155 Ex.]

YEAS—9

Gramm
Hecht
Helms
Hollings
Humphrey
McClure
Pressler
Shelby
Symms

NAYS—89

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—2

Biden
Chiles

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[19] *Goldwater* v. *Carter*, 617 F.2d 697 (C.A.D.C.) (*en banc*), *vacated and remanded*, 444 U.S. 996 (1979). Four Justices found the case nonjusticiable because of the political question doctrine, id., 1002, but one other Justice in the majority and one in dissent rejected this analysis. Id., 998 (Justice Powell), 1006 (Justice Brennan). The remaining three Justices were silent on the doctrine.

[20] *Cf. Baker* v. *Carr*, 369 U.S. 186, 211-213, 217 (1962).

[21] 229 U.S. 447 (1913).

[22] Id., 473-476.

[23] *Clark* v. *Allen*, 331 U.S. 503 (1947).

[24] 23 Fed. Cas. 784 (No. 13,799) (C.C.D. Mass. 1855).

[25] 2 Pet. (27 U.S.) 253, 309 (1829). *Baker* v. *Carr*, 369 U.S. 186 (1962), qualifies this certainty considerably, and *Goldwater* v. *Carter*, 444 U.S. 996 (1979), prolongs the uncertainty.

So the amendment (No. 2295) was rejected.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

If the majority leader will suspend, the Senate is not in order. If Senators will take their seats, the Senate is not in order. The Senate will come to order. If Senators will take their seats, the Senate will come to order.

The majority leader is entitled to be heard. The Senate is still not in order. The majority leader.

RESOLUTION OF RATIFICATION

Mr. BYRD. Mr. President, I call up my amendment to the committee amendment.

The PRESIDING OFFICER. If the majority leader will withhold, under the previous order the clerk will report the resolution of ratification.

Mr. BYRD. Yes.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, together with the Memorandum of Understanding and the two Protocols thereto, collectively referred to as the INF Treaty, all signed at Washington on December 8, 1987 (Treaty Doc. 100-11).

The PRESIDING OFFICER. The clerk will now report the committee amendment to the resolution.

The legislative clerk read as follows:

That this Treaty shall be subject to the following principles, which derive, as a necessary implication, from the provisions of the Constitution (Article II, section 2, clause 2) for the making of treaties:

(a) the United States shall interpret this Treaty in accordance with the understanding of the Treaty shared by the Executive and the Senate at the time of Senate consent to ratification;

(b) such common understanding is:

(i) based on the text of the Treaty; and

(ii) reflected in the authoritative representations provided by the Executive branch to the Senate and its Committees in seeking Senate consent to ratification, insofar as such representations are directed to the meaning and legal effect of the text of the Treaty;

(c) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute.

This understanding shall not be incorporated in the instruments of ratification of the Treaty or otherwise officially conveyed to the other contracting Party.

The PRESIDING OFFICER. Under the previous order, the majority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I will only take 1 minute.

Under the order, the amendment which I will call up will be to the committee amendment.

Therefore, the amendment which will be the pending question before the Senate will be an amendment in the second degree. Under the order, the Senate will immediately put aside the committee amendment with the amendment thereto and Mr. HOLLINGS will call up his amendment on which there is a 4-hour time limitation to be equally divided. No amendment will be in order to the Hollings amendment, and under the order, he will be entitled to an up-or-down vote.

Upon the disposition of the Hollings amendment, then the pending question before the Senate will be on the Byrd amendment to the committee amendment. In the meantime, it is hoped that we can continue our discussions which have been fruitful thus far and hopefully arrive at an agreement that would be all embracing, containing a time and date for a final vote on the resolution of ratification, and with time agreements on amendments thereto, such amendments being enumerated in the agreement.

In the event that no agreement is reached by the time the Hollings amendment is disposed of, as I have already indicated, the Senate will be on the pending Byrd amendment in the second degree.

The time under cloture under rule XXII is running. And tomorrow 1 hour after the Senate convenes and a quorum is established, the Senate will vote on the motion to invoke cloture on the treaty and the resolution of ratification thereto at which time, if cloture is invoked, there will be 30 hours of debate.

If no agreement is reached in the meantime, the pending question at that time will be on the Byrd amendment to the committee amendment.

Without an agreement, conceivably all the time could run, the 30 hours could run, in the worst case scenario, on the second-degree amendment with no amendments eligible thereto.

At the conclusion of the 30th hour, then the vote would occur on the second-degree amendment to the committee amendment. That vote would occur without debate, without any further amendment, and then the vote would occur on the resolution of ratification.

In the interest of other Senators who have amendments, the distinguished Republican leader, the managers, other Senators, and I will continue our discussions hoping that we can reach an agreement whereby there will be adequate time for debate on the other amendments, together with adequate time for debate on the committee amendment, and the amendment thereto, and, as I say, a time for final vote on the resolution of ratification.

It would seem to me that in any event, cloture or otherwise, the final action will be reached on the treaty, on the resolution of ratification thereto, by Friday or Saturday.

It would also be my hope that the Senate would fine a way to vote on final passage of the DOD authorization bill before we go out for the break. I do not need to state what has been much better stated by Mr. NUNN and Mr. WARNER in support of the effort to complete action on that DOD authorization bill this week.

I hope that Senators will be patient, understanding that we have 4 hours on the Hollings amendment, which, if it is all taken, would mean that there would be a rollcall vote on the Hollings amendment at around 9:30 p.m. this evening.

It is not my present intention to stay all night, because the cloture motion is running. There is no point in doing that tonight. It could very well be that we would be in somewhat later than 9:30 tonight if other amendments can be acted upon.

The Senate will come in early tomorrow and will be late tomorrow night. I would not rule out an all-night session tomorrow night, but I do not rule it in, either.

If we can get a time agreement, it would make it much easier on all of us, and it would assure Senators who have amendments that they are going to have an opportunity to offer those amendments and debate them and get action one way or another on them. If we do not get that agreement, as I say, with cloture running, and I believe it will be invoked, there may be some Senators who will be left at the station with amendments that they are not able to call up, much less have debated and acted upon.

Mr. DOLE. Mr. President, let me underscore what the majority leader has stated, so that Members on both sides will know we are working.

I am very optimistic about getting an agreement. We have had several hours of discussion and have thought it better to wait until we get an agreement and get something started rolling out here. So we have the very important amendment laid down by the Senator from South Carolina [Mr. HOLLINGS] which may take 4 hours or might take only 3.

The majority leader indicated that following that, if other amendments were available or if we had a full agreement, we would continue into the evening at least for some time, and then tomorrow would be a pretty long day.

I must say that, unless I have missed something in the amendments I have looked at, the total amendments, it seems to me that we could really cover a lot of ground tomorrow if we could get by this one amendment, the committee amendment. If we could get by that one, we would not have difficulty getting a time agreement. That is one that would take a lot of time. In my view, the others could be disposed of in maximum time of an hour. There are not really that many amendments.

There may be some good news tomorrow night at this time.

Mr. BYRD. Mr. President, I think somebody asked if the rollcall vote would be a 15-minute rollcall vote on the amendment by Mr. HOLLINGS. It will be.

If the time should be yielded back unexpectedly, I would suggest that we have a quorum call, so as to give Senators an opportunity to get to the Capitol, if they are not too far away, in time to be present for the 15-minute rollcall vote.

If there are no further questions——

ORDER OF BUSINESS

Mr. DANFORTH. Mr. President, will the Senator yield for a question?

Mr. BYRD. Yes, I am glad to.

Mr. DANFORTH. As the majority leader knows, the President yesterday vetoed the trade bill, and the House voted yesterday afternoon to override the President's veto. I have inquired of a number of interested Senators on this side to find out whether they would be amenable to a time agreement to vote on the President's veto, and I think it would be possible to put together a very short time agreement—say, a 1-hour time agreement. Every Senator I have spoken with on this side has indicated agreement with a 1-hour time agreement.

So my question is: Would it be possible to bring up the trade bill before the recess, so that we could act one way or another on the veto override? As the majority leader knows, I am going to vote to override the President's veto. But in the event we are not successful, I would at least like as much time before the end of this Congress as possible to do whatever else we can do in this respect.

Mr. BYRD. Mr. President, in answer to the distinguished Senator's question, may I say, first of all, that the treaty has to be disposed of. I am doing everything I possibly can to avoid going to the veto message. I am very much opposed to that veto. I hope to see the veto overridden. I have not conceded that it will not be overridden. I am still hoping it will be.

Mr. Reagan's veto of that measure could provide for a self-destruct, embarrassing situation with respect to the treaty, if I were to try to get that veto message up at this time. It could be done easily, and then final action on the treaty. Even though cloture were invoked, it would be beyond the break.

I do not intend to see the President embarrassed by the very instrument which he has sent to us at a critical time. Had that veto occurred earlier in the 10-day period, it could conceivably have been disposed of before now. But it came right here today, at the wrong time, as we discuss this treaty.

Having said that, I am going to avoid, in every way I possibly can, our going on that veto.

I will also avoid going to the war powers measure, which has been triggered by the joint resolution introduced by Mr. ADAMS, on tomorrow, either of which would have precedence over the treaty.

Certainly, the veto message would have precedence over rule XXII—that veto message and the Senate's mandate deriving from the Constitution, which is of a higher status than rule XXII of the Senate.

Getting more particularly to the Senator's question, we cannot take up the veto message before the Senate goes out for the break. We will not finish this treaty, the resolution of ratification thereto, prior to Friday, and it could be Saturday. It will be Friday or Saturday, one or the other, because, as I say, we are not going to the veto and we are not going to let the war powers measure interfere. Either of them could very well put the treaty over until after the break. We are not going to put the treaty over until after the break. But we are going to put over the veto. We do not have time for all these. I would like to see the DOD authorization bill passed before we go home.

Now as to a time agreement on the veto message, I could not agree to a time agreement. There are a good many Members in the Senate and many Members on this side of the aisle I am sure who will have something to say about that veto message. And I think it would be well if the people of the country have an opportunity to consider what that veto message entails. I hope that Senators when they are back home during the break will have an opportunity to talk to their people. I hope their people will be able to convince them that it would be wise to vote to override the veto.

So when we get back, we will have a veto message before us then. Whether or not we can enter into a time agreement at that time, I do not know.

But I certainly thank the distinguished Senator from Missouri, who has been a strong advocate and supporter of a trade bill and who is going to vote to override the President's veto. I appreciate very much his desire to have that override vote and see how we come out.

I do not think that, circumstances being where they are as I have described them, we can hope to dispose of that veto message before we go out or take it up or at this time enter into a time agreement.

Mr. DANFORTH. Mr. President, I very much appreciate the comments of the majority leader. As the leader knows I have been trying to get this bill passed literally for years. Early in 1987 Senator BENTSEN and I introduced the forerunner of this bill. It really is very important trade legislation.

The majority leader has been most helpful on the floor and behind the scenes in trying to move this legislation through for a very long period of time.

The majority leader has pointed out several times on the floor the difficulty of coming back on a second track with a second bill.

My own view is that try as I may I do not know what else I can say to convince people on this side to vote to override and I cannot count more than just 63 votes.

That is my reason for my hope that we can lay out this particular hand and get on with whatever prospects would be for follow-on legislation.

Does the majority leader anticipate that the veto will come before us fairly soon after the recess?

Mr. BYRD. Yes.

Mr. President, I ask unanimous consent that this colloquy may go forward for not to exceed an additional 2 minutes and that it may be as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Yes, it would be my intention to go on the veto message immediately upon the return of the Senate following the break, because once we go into legislative session, that will then become the matter before the Senate unless it is postponed. I have no intention at this point of postponing it. But that will be the pending business before the Senate when the Senate returns following the break.

Mr. DANFORTH. Mr. President, I thank the distinguished leader.

Mr. BYRD. I thank the distinguished Senator.

I yield to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, if I may propound a question to the distinguished leadership, we will now proceed to the Hollings amendment which has a time agreement of 4 hours.

Mr. BYRD. That is correct.

Mr. WARNER. Should the managers yield back time, again for clarification, what would be the time for the vote?

Mr. BYRD. I do not know. It depends on how much time is yielded back.

At this point, I would suggest if I am not on the floor, someone put in a quorum call so as to give the Cloakroom time to notify the Senators that a vote indeed is about to occur.

We will try to give additional minutes there in a quorum, rather than additional minutes on a rollcall vote. I do not want to get back in the habit of having 25-minute rollcall votes.

Mr. WARNER. Mr. President, will the leadership inform the Members, in the event the time is yielded back, the time of the vote?

Mr. DOLE. It will.

Mr. BYRD. Yes.

Mr. President, I yield to the distinguished Republican leader and I ask that this discussion may continue as in legislative session for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Two minutes.

NORIEGA DEAL OFF

Mr. DOLE. Mr. President, Secretary Shultz has just announced that we have terminated negotiations with Panamanian strongman Noriega, aimed at achieving Noriega's departure.

While all of us would have welcomed an outcome that led to Noriega's departure without compromising important American interests, I cannot help but welcome this announcement.

It seemed to me—and to many others in the Senate, judging by our recent vote on the Dole amendment—that not only were we going the "Extra Mile" to win Noriega's departure; we may have been going too many extra miles. Perhaps the signal the Senate was trying to send around this town, and around the world, was heeded.

I have said it again and again: Noriega must go, if we are to achieve our goals in Panama—to insure that our vital interests, including the canal, are secure; to speed the restoration of democracy; and to send the right message on Drugs—an issue which ought to be right at the top of our national priorities.

But sending Noriega off into retirement with a legal golden parachute—by dropping those indictments—would have been the wrong step, at the wrong time; and would have sent the wrong message.

Secretary Shultz has indicated we will continue to keep the heat on for Noriega's removal. We should do that. The Secretary said we will be working closely with our Latin American neighbors. We should do that, too.

For now, we should also congratulate the President and the Secretary—for hanging tough; for taking the right stand; and for making sure that we continue to strive for a good solution—and not just a quick, cosmetic solution—in Panama.

AMENDMENT NO. 2296

Mr. BYRD. Mr. President, I now call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2296 to the committee condition to the Resolution of Ratification.

Strike all after the word "provided", and insert in lieu thereof the following: that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty; and

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

The PRESIDING OFFICER. Under the previous order both pending amendments are laid aside temporarily.

The Senator from South Carolina is recognized now to offer an amendment.

AMENDMENT NO. 2104

(Purpose: To restrict the definition of ground-launched cruise missiles to only nuclear ground-launched cruise missiles)

Mr. HOLLINGS. Mr. President, on behalf of myself, Senators MURKOWSKI, SHELBY, MCCLURE, HEFLIN, HATCH, WALLOP, QUAYLE, and SYMMS, I send an amendment to the desk and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] for himself, Mr. MURKOWSKI, Mr. SHELBY, Mr. MCCLURE, Mr. HEFLIN, Mr. HATCH, Mr. WALLOP, Mr. QUAYLE, and Mr. SYMMS, proposes an amendment numbered 2104.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution of ratification add the following new paragraph:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

Mr. HOLLINGS. Mr. President, in essence, what this amendment does is add the one word "nuclear" to the treaty so as to delete the treaty's ban on conventional cruise missiles. It's as simple as that.

And that is the crux of the issue before us. A colleague asked a while ago how did we get ourselves into this? How did the Armed Services approve this flaw? How did the President agree to a preemptive concession of this kind?

I go back to a question put to Max Kampelman in the Intelligence Committee: "What was your understanding during negotiations of the United States' requirements for conventional ground-launched cruise missiles?"

Kampelman's answer: "At the time of the decision, the United States and NATO did not and do not today have any specific plans or military requirements for conventionally armed GLCM's in the INF range."

The whole idea, if you read the Armed Services Committee report, is that we do not have a requirement for the conventional cruise missile, and therein lies a duty and responsibility—and I think profound responsibility on the part of the Senate in advising and consenting with respect to this treaty—that we find categorically that there is indeed such a requirement.

That is what this amendment deals with and that is all it deals with.

We have two problems confronting us, and they are not, Mr. President, with respect to the number of missiles on the other side that we have talked about. We do not know and will not know for some 30 days the number of Soviet intermediate range missiles.

There is a concern regarding verification. We have gone over this territory very thoroughly. And now we have a formal condition, a condition to try to get the executive and the Senate into one mind; the President and the U.S. Senate into one mind as to the meaning of words. Those are our concerns this afternoon.

The challenge before the Senate is to ensure that, in the ratification of the INF Treaty, we do not enfeeble our conventional capability. Everyone agree—Republican, Democrat, conservative, and liberal—all understand that, upon the ratification of this treaty, we are going to have to beef up our conventional forces. So certainly we do not want, in the ratification to enfeeble our conventional forces. Or, otherwise, as has been the worry of many of us as members of NATO and Members of the U.S. Senate, to decouple the alliance from the United States. That, of course has been a design of the Soviets now for many, many years, going all the way back to the end of World War II when we formed the NATO alliance.

My distinguished senior colleague, who is now on the floor, has written a letter. He says, "I have taken a trip to Europe and I have talked with military commanders there and they do not favor this amendment for a conventional ground-launched cruise missile."

I do not question the accuracy of that statement and I am not a bit surprised. If you visit, the Army, as the distinguished senior Senator did, Stuttgart, Heidelberg, Frankfurt, you cannot find a conventional cruise missile in the Army budget. The distinguished senior Senator has been the ranking member on Armed Services, so he knows better than any that you do not go to the Army at Stuttgart and Heidelberg and Frankfurt to find expert opinion. You might as well go to the Salvation Army and you would get just as good expert opinion as going to Stuttgart.

Likewise with the Air Force. Our friend, Gen. Dick Kirk is of a tactical background and served in Europe as the distinguished commander. We have the greatest respect for him. I visited with him, also. General Kirk believes in F-15's and F-16's. I can guarantee you now he does not want to hear any of his pilots singing the praises of conventional ground-launched cruise missiles. That is an assignment that they have taken on. They are strictly interested in planes and manned bombers and fighter wings and so on. There is no such thing as a conventional air-launched cruise missile in the Air Force.

In contrast, we have authoritative information from the Defense Science Board study and from the Commission on Integrated Long-Term Strategy, the best authoritative sources, that we very definitely need this conventional cruise missile.

There is no way in the world that we will beef up our conventional forces, save through superiority of technology. We have been here over the years now—this Senator for 22 years—advising the Eurpoeans what to do. I have visited and have been a member of NATO consultative groups throughout my career in the Senate. We have had the agreement that each NATO country provide for an annual 3-percent real growth in defense spending but it has rarely been adhered to.

Economically, they have gone as far as they can go. And we, economically, have perhaps gone even further than our budget can afford—though I do not agree on that score. But the majority of the American people seem to agree, and candidates are running on platforms of either cutting or at least holding the line on the defense budget and there are similar trends in West Europe. We have met with the NATO representatives, members of their parliaments and different political parties. They cannot really afford, politically, a decision for more weaponry, particularly in the light of this INF agreement.

What has it done? Let us look at the treaty, as if ratified. I refer to the map of Europe immediately behind me. It portrays how, with the INF treaty, we have divested ourselves of any chance of hitting any target in the Soviet mainland with conventional weaponry. That is out. You can forget about it.

Someone will cite our ALCM's and SLCM's, the air-launched and sea-launched cruise missiles. Another Senator just a minute ago said, "I have got an expert at Harvard who says you can't tell the difference between an air-launched conventional and an air-launched nuclear." And I will agree.

Another one said, "You can't tell the difference, once it is in the air, between a sea-launched conventional and a sea-launched nuclear." And I agree.

That brings us to the logical conclusion that, if one is in the air, you bet your boots that the opposition must assume it to be nuclear and, thus, a nuclear attack and, thereby, the end of the world.

I am talking about conventional weaponry and the imbalance of conventional forces between NATO and the Warsaw Pact in Europe. When we look at a ratified INF Treaty, we immediately realize that we have before us not just a significant nuclear treaty but, my dear colleagues, the most significant conventional arms control treaty ever to be entered into the history of man.

For what does it say? It says, conventionally, we cannot reach the mainland of the opposition but, conventionally, they can practically reach all targets in Europe.

Starting at the top of the map in Norway, we can see that the Soviet conventional short-range missile will immediately reach and destroy the Norwegian Army.

In a similar fashion, coming down to Denmark and the opening of the Baltic, all these targets are immediately covered with the Soviet short-range missiles.

Then we go to the principal British force on the Western front, in Germany. You find the British force, the French ground forces, and the Italian forces are all immediately subjected to conventional short-range Soviet missile attacks.

And then, going all the way down to Greece and Turkey, we see that the Greek army is totally covered, as you can well see, by the Soviets.

Denmark, the Greek ground force, Hellenikon Air Base in Athens, all of the airfields in Germany, you name it, they are all vulnerable. I mentioned yesterday that we have some 310,000 dependents of our military and DOD civilian personnel in Europe. They are on orders, if subject to an imminent attack, to go immediately to the nearest airfield.

They can forget about it. They are not going to come home. They are supposed to go immediately to that airfield to come home, but all of them are targeted by Soviet short-range missiles, many with chemical warheads. If there is going to be that kind of attack, we know from the preparations made by the Soviet side that they will cover not only every one of those airfields, but every supply port and every reenforcement port in the low country region where we now plan to channel our resupplies.

So there is total coverage by conventional short-range Soviet missiles. They have all their targets covered. It is a very dramatic thing to look at, study, and realize and then understand why the Defense Science Board came up with their conclusions.

When Frank Carlucci took office earlier this year, his Commission on Integrated Long-Range Strategy, which I quoted and included in the Record yesterday, said: Heavens above, in the light of an INF Treaty, we have a dramatically increased need for a conventional cruise capability in Europe.

Now, what happens, Mr. President, if you do just exactly that? If you enfeeble your conventional capability in Europe by the inclusion of the conventional cruise missile in this particular treaty? Then what you have in essence done is really decoupled the United States from Europe.

I say this with great gravity because it is only common sense. We have an alliance and right now when we strike, it is a NATO alliance decision to use these cruise missiles based in Europe. All the allies get together and—if the Soviets move toward Berlin, if they move into Turkey—the alliance gets together and there is an alliance decision. The command is all integrated into this. There is an alliance decision to respond.

What you do by the inclusion of conventional cruise missiles, the GLCM's, in this particular treaty, is immediately terminate any alliance decision and make it a unilateral U.S. nuclear decision and make it a sole-use nuclear decision. And then we are back into the noncredibility that we have worked our way into with respect to NATO.

Yes, the defense posture of this land is that we will respond with a nuclear attack. But nobody believes it. If it is just a momentary Soviet move, for example, against Berlin, Turkey, or wherever, President Brock Adams, in the White House, is not going to end the world over that. President Fritz Hollings, were he in the White House, would not end the world and go nuclear. There is no credibility to our current posture. Period.

Now, with this treaty if you remove the conventional option you have removed not just the conventional decision but you have removed the alliance decision and you have the United States solely in a nuclear decision of its own and, with that, begins the unraveling of NATO. But all the leaders say: wait a minute. We do not believe that the United States is really going to end the world to protect Berlin, or France, or Great Britain. And there is a powerful argument there.

There is no question we would protect the United States of America. I imagine we would likely protect Central America, though I must note that we cannot even get humanitarian aid to freedom fighters down there in Central America close to our own borders. So, even there, the commitment of the United States is in question.

When we say our posture is to go nuclear, then what you are telling the leadership and our allies' sovereign capitals in Europe is you had better start fending for yourself. The Europeans cannot tell what that crowd in Washington will do.

The Europeans will say, "The Americans will debate it. We know that. Whether they will ever be committed; whether they will ever make the decision is highly doubtful. We had better begin to find for ourselves." And therein you see a whole chain of events, beginning with the reconciliation of East and West Germany. And this is part and parcel of the main substance. It is not arms control. This is the main substance of the INF Treaty.

The Soviets have so far failed to decouple our alliance. They almost did it under Brezhnev. Brezhnev was for confrontation. Brezhnev said, "I will intimidate with my SS-20's. I will bowl them over." And he put out all these SS-20's, building them like gangbusters and we almost buckled under.

Thank heavens for President Ronald Reagan on that score. We almost buckled under.

It was Reagan's leadership that got us down this road to an INF Treaty. President Reagan stood his ground and he played tough politics. And Secretary Weinberger politicked and worked around. They went in and they persuaded not only us as a government here in the United States, reluctant as we were, they persuaded us to support President Reagan on this score and we persuaded the allies and we deployed the cruise missiles and we deployed the Pershing II's.

I return to the Pentagon's lack of finding a requirement for conventional cruise missiles. The Pentagon would spend us blind in planes and troops and ships and men. They want cruisers, planes, sailors. They do not want to talk about cruise missiles. They want bombers, manned penetration bombers, fighters. The Army and the Marines are equally parochial and shortsighted.

So we should not be amazed about the lack of a requirement for conventional cruise missiles. It is against their mindset to even talk about it. I would say if my distinguished senior colleague had gone to Ramstein and found some fellow who says, you know, I am worried about eliminating the ground-launch cruise missile, and the impact on the conventional imbalance—they would court-marshal that soldier. Get rid of that fellow.

We are deployed with all of this equipment, guns and everything else of that kind. How dare him question our order of battle.

It is up to the Senate to provide for the security, the defense of this land and the free world. It is up to us to advise and consent. And we should not, willy-nilly, let this critical flaw slip by.

I have tried to present my case in a very deliberate fashion. What I did, Mr. President, was first raise it in a formal way in the Intelligence Committee. I almost had a majority of Senators in the Intelligence Committee agreeing with me. But there was that pressure, the same old line: "Wait a minute, if Ronald Reagan can agree, we had better be able to agree."

That same old line, "Wait a minute, the NATO allies have been talked into its acceptance and if we reject, it will be of a greater damage to NATO than if we accept it. So we had better accept."

I am not disputing that and I am not disregarding those pressures. However, I stand firm on the importance of this amendment. And bear in mind that we gave up the conventional cruise with nothing in return, and we are giving it up in perpetuity. And we are setting the worst of precedents for the START Agreement.

Because that same crowd that says there is no requirement for conventional cruise missiles will again chime in: Oh, we have got this and we will never yield on ALCM. And they look very pious about it and very stern and severe. But it will be hooey. It will be a bad act. They never have requested a conventional air-launched cruise missile, and any other air-launched cruise missile will be assumed on launch to be a nuclear cruise missile.

Similarly, under START we will have a sea-launched cruise missile. When it breaks the surface, how can you tell the difference? You cannot, between nuclear and conventional. So there is a harsh stand that has already been compromised before they agree to this START Agreement.

Today they have already agreed that ALCM's, all ALCM's under START, will be considered nuclear.

Again, I seek inclusion in the treaty of only one little word, "nuclear." The Soviets have conventional short-range missiles that can maintain their security. We want conventional GLCM's to maintain our defense. I emphasize, Mr. President, "defense." Let me emphasize "defense." Let me say again, "defense." That is why I do not mind the Soviets having twice the number we have.

If we deploy 3,000 in West Germany and down in Turkey, I do not mind if they have 6,000. As Winston Churchill said years ago, all they can do is "bounce the rubble."

If you are really using cruise missiles to attack us in Europe, and you use that many, we are going to respond with MX's, and that is the end of the world.

I am not worried about offensive superiority. I am trying to emphasize defense. And I say, let the Soviets assign a verification specialist to each and every one of our conventional GLCM's. Let the Soviet observer watch. Let him move around. Let him keep in contact. I want them to know exactly where our missiles are and even where the targets are. I want credibility to the defense, and there is no better way than to give the Soviets total knowledge of our GLCM's locations and targets.

If I give them that, then when they move against Berlin, when they move against Turkey, they know I am going to hit this airfield, I am going to take out this command control, I am going to take out this communications center. I am going to do it in a studied fashion. It is going to be real. Thereby we are going to gain, finally, a balancing, an equalizing of the dispartity of conventional needs in NATO in Europe.

We are going back to the Mansfield amendment. You have people now ready to start withdrawing troops, start withdrawing dependents and everything else on the premise of saving money. That is another argument for conventional GLCM defense, but this is a responsibility that we cannot avoid.

It has been said that the war is too important to be left to the generals. That is right. If we are going to sit around and wait for a formal requirement, forget it. You cannot expect the Army to cut itself. You cannot expect the Navy to cut.

You cannot expect the Air Force to do away with the pilots, planes, airfields, training, and everything else and just sit there with a bunch of four-stars and no pilots, no troops. You cannot expect them to go that way. You have to require it in the Senate because we see and we feel keenly the struggle. Right now, we have to justify a bomber that costs $450 million.

We renovated downtown Detroit, the Renaissance Center, for $362 million.

Here one plane costs $450 million. That is what they agreed to last week. Wait until we get it. It will be $550 million or $600 million. For the cost of just 10 of those bombers, I can put around 3,000 conventional cruise missiles in Europe. I am providing real defense. I am defending Europe for the cost of 10 Stealth bombers.

This crowd is going to vote for the Stealth bomber, I can tell you that. Heavens, but they are going to vote against 3,000 GLCM's that will keep our security in Europe.

Helmut Kohl did a wonderful job when he stood the line with Ronald Reagan for deployment of the Pershing II's. Now he is trying to get rid of the Pershing I's and everything else. He has to politically. Why? Because of the provision in this INF Treaty where we begin the unraveling and decoupling.

What we are saying in the United States of America is we cannot get the troops. We are cutting back. Secretary Carlucci now is cutting back on the number of troops in his request. The Secretary of Defense is cutting back on the number of ships. He is laying up many ships. He is tying up so many air squadrons. He is closing down this; he is closing down that.

The Europeans see that we cannot afford all these things. Certainly they cannot, and they realize they better make the adjustments and accommodations necessary under the treaty.

Let us not guarantee the decoupling and the success of Gorbachev. Gorbachev is not only an attractive personality, he is far smarter and, in a sense, "dangerous." I do not think he is a dangerous individual. Everyone around him likes him. He does speak intelligently. He responds with humor and intellect. Therein, as the adversary, he is far more "dangerous" than Brezhnev. Gorbachev says, if we get rid of all the INF nuclear warheads in Europe, if we go along with zero option, then look at all the conventional weapons I have there. I will intimidate; I will take over; I will unravel; I will decouple the United States from the NATO alliance with my conventional superiority.

Do not give it to them. That is what's called advice and consent. Let us include that one word "nuclear" and give us a chance to survive in this country instead of playing games that "a deal is a deal" and "do not embarrass the President," and "the Defense Department never required it."

Mr. President, I want to yield at this particular time to our distinguished colleague from Alabama, Senator **Heflin**.

(Mr. ROCKEFELLER assumed the chair.)

Mr. HEFLIN. Mr. President, I rise in strong support of the amendment of the distinguished Senator from South Carolina, Senator **Hollings**, which would correct a serious mistake made by our negotiators in the process of negotiating the INF Treaty with the Soviets. This amendment would restore the option of deploying conventionally armed ground-launched cruise missiles of the INF range and would therefore help to eliminate the overwhelming superiority that the Soviets and the Warsaw Pact nations hold over the NATO alliance in the area of conventional forces.

The Soviets do not have, and apparently do not need, ground-launched cruise missiles. So we simply gave these away because of understandable problems with verification. However, verification problems have not stopped negotiations in the past. If that were the case, we would not have this treaty before us today. Mr. President, I am afraid that in their efforts to secure an arms control treaty before this President leaves office, the administration may have acted too hastily on this matter. In that regard, conventionally, NATO could find itself in a situation of a decreased level of security and therefore at a greater risk of war.

In my judgment, this amendment would remedy the indiscretion made by our negotiators and would not be a so-called killer amendment to the INF Treaty. We have gotten ourselves into a mindset that all amendments, whether they be to the treaty or the resolution of ratification, are killer amendments. This is simply not the case. Many amendments that have been proposed and offered during the course of debate on the INF Treaty have been legitimate efforts to improve the treaty and the national security of the United States and our NATO allies.

Mr. President, that is exactly what this amendment will do. This amendment by the distinguished Senator from South Carolina is an effort to retain an option of deploying conventionally armed ground-launch cruise missiles and therefore improve the security of the United States and our NATO allies.

The amendment's opponents allege that it could jeopardize the acceptance of the entire treaty by the Soviet Union and thereby kill the treaty.

There is no question but that the amendment offered by the Senator from South Carolina has great merit. It allows for an effective, relatively inexpensive, conventional or chemical deterrent to the Soviet conventional and chemical arms advantage. It is in our best interest and in the best interest of our NATO allies to adopt the amendment. In fact, as my colleagues are aware, it is not even an amendment to the treaty but, rather, would merely add a reservation to the resolution of ratification.

In our capacity as U.S. Senators, elected by the American people as their representatives, it is our duty to respond to their concerns and accomplish their desires—not to cater to the desires and respond to the concerns of the Kremlin. I believe that the people of my home State of Alabama and the people of America support this amendment. And I urge my colleagues to quit worrying so much about what the Soviet Union thinks about this amendment, quit worrying about what their reaction will be in this matter, and instead provide for the needs and concerns of the American people.

I have recently been reviewing the situation in Panama and, in my investigation, have reviewed the ratification of the Panama Canal Treaties. In this review, I was amazed at the number of amendments to the Panama Canal Treaties that were defeated simply because they were labeled as killer amendments and could have threatened Panamanian acceptance of the treaties. Of course, realistically speaking, many of the amendments which were offered to the Panama Canal Treaties probably were intended to make the treaties a little less palatable for the people of Panama. However, there were others which, had they been adopted by the Senate, would have left us today facing a much better situation and with a greater flexibility in our dealings in Panama.

At any rate, I urge my colleagues to consider the amendment at hand, not in light of the way it will be received by the Soviet Union or anyone else, but consider it on its own merits. Do not dismiss it lightly as a threat to the treaties, but consider it as a formidable addition to our conventional strength in Western Europe.

Mr. President, cruise missiles give us the ability to respond quickly and accurately in the event of a conventional threat. The biggest problem that cruise missiles have had with the Defense Department is not their effectiveness or state-of-the-art technology, it is that cruise missiles have no glamour. They are unmanned weapons that simply fly to their targets and strike with a conventional or nuclear warhead. I am afraid that the Defense Department has the belief that a weapon is not worth using unless a soldier or sailor or marine risks his life. In today's world of high technology and advance automation, this is no longer necessary in every case. However, with this treaty, we are banning the very technology that accomplishes the goal of providing an effective and affordable weapon system that would reduce life-threatening risks to our servicemen.

Almost every Senator who has spoken on the INF Treaty has referred to and expressed concerns relative to the overwhelming conventional imbalance that the Warsaw Pact enjoys over the NATO alliance. The existing NATO/Warsaw Pact conventional weapons imbalance will only be highlighted by the ratification and implementation of the INF Treaty, and must be reminded to ensure the continued security of Western Europe and the United States.

Our NATO commanders must have the ability to utilize a flexible response in the event of a Soviet conventional attack. Unless we substantially increase our efforts to modernize our conventional forces and substantially add to the actual numbers of those conventional forces, we will completely destroy the doctrine of flexible response. Mr. President, I find it very hard to believe that we would, with one fell swoop of the pen, in perpetuity, restrict a conventional weapon, the conventional ground-launch cruise missile, that has such great potential in correcting this imbalance.

For decades, the Warsaw Pact has been building its conventional force levels, in terms of numbers, to the point that it could be insurmountable. If it were not for the technical advantage we and our NATO allies hold over the Soviets, the Warsaw Pact conventional superiority could well be insurmountable today. Now, through various means, not the least of which is espionage, the Warsaw Pact is rapidly gaining in technical breakthroughs in conventional weaponry. The ground-launched cruise missile is a direct example of the technological advantage that NATO holds over the Soviets. Again I find it hard to believe that we would give this up with this treaty.

Mr. President, I would encourage all of my colleagues to take a quick look at the Defense Department's recent issue of "Soviet Military Power." With this publication, we can see the great number of weapon systems in which the Warsaw Pact has a distinct advantage over NATO in conventional forces. In my judgment, this matter of the conventional imbalance between NATO and the Warsaw Pact must be addressed if we are to realize any type of significant arms control, and reduce the threat of war to our Nation and our allies. I would have preferred that the President link, in some way, the conventional arms imbalance to the INF Treaty. Yet, it is my hope that the next administration will deal with this matter in a meaningful way. In my judgment, banning the conventional ground-launched cruise missile, when the Soviets do not even use them, is not dealing with the existing NATO/Warsaw Pact conventional weapons imbalance in a meaningful way.

As I stated before the Senate on Monday, I will vote to approve the ratification of the INF Treaty. However, in my judgment, this is a matter which should be corrected before the advise and consent of the Senate is given to that treaty. In that regard, I urge my colleagues to support this amendment by the Senator from South Carolina and correct this serious indiscretion made by our negotiators in giving up the conventionally armed ground-launched cruise missile.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield to our cosponsor, the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. ADAMS. Mr. President, parliamentary inquiry: How much time is remaining the Senator from South Carolina, the Senator from Rhode Island or the Senator from Washington?

The PRESIDING OFFICER. Seventy-five minutes for the Senator from South Carolina and 120 minutes for the other side.

Mr. ADAMS. I thank the President. The Senator from South Carolina has yielded to the Senator from Alaska. Is that correct?

Mr. HOLLINGS. That is correct.

Mr. ADAMS. I thank the Senator.

Mr. HOLLINGS. I will be glad to yield.

Mr. ADAMS. I will reserve and speak in a moment.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my colleague, and the principal sponsor of the amendment, my good friend from South Carolina, and I thank the floor managers, my good friends from Washington and Arizona.

I rise in behalf of a number of our Members who have expressed a concern over a portion of this treaty. First of all, Mr. President, let me say that I think the treaty is a good treaty, but it has a flaw. That flaw is that it bans conventional ground-launched cruise missiles. Of course, it bans nuclear as well. But when we look at the advanced cruise, the GLCM's, we find that over an extended period of time we have in comparison with other deterrence a very inexpensive and extraordinarily accurate capability that indeed deters by its very nature nuclear attacks.

One can construe, and it is in the eyes of the beholder to a degree, that without conventional GLCM's the basic danger of a nuclear holocaust is great. I do not happen to believe, Mr. President, this is a killer amendment. I happen to believe that verification can and should be worked out. I think we can use the same formula that we have used in some of the chemical weapons conversations and meetings.

So really, Mr. President, it is in the eye of the beholder. And the INF is a treaty designed to eliminate nuclear weapons, lower the threat of nuclear war as I have indicated, and of course it stands to reason if you are going to reduce the likelihood of a nuclear war, you are going to have to reduce the nuclear weapons. This treaty does that. It lowers the risk of nuclear war. But in the eye of the beholder, in the point of view of this Senator and obviously a number of my colleagues, and I think the perception of my good friend from South Carolina in pointing out very early in some of our discussions in the Intelligence Committee and others of what this treaty does not do in the sensitivity of what it intends to do, it can very well be construed that it increases the nuclear threat. It weakens nonnuclear deterrence by eliminating the ability to develop the most accurate and effective nonnuclear missile.

Let us briefly review why conventional GLCM's were eliminated. The U.S. position throughout INF negotiations was that we wanted to eliminate nuclear GLCM's, not conventional GLCM's. Our side wanted a ban on nuclear GLCM's and not have conventional GLCM's to be verifiable. In the rush it seems like we got carried away, and for reasons that are not too well defined we seem to have abandoned our efforts to get the Soviets to agree to a more obtrusive verification regime which would have been able to verify the ban on nuclear GLCM's. For some reason or another good verification ideas addressing the GLCM's were not included in the treaty. It was dropped from the discussions. At the same time our negotiators in Geneva have proposed a regime to verify a chemical weapons ban which in my opinion is much more intrusive.

If we had asked the same type of verification on the INF Treaty that we are asking for on the chemical treaty, we would have been able to preserve the conventional GLCM option.

What this amendment does is to say to the administration, let us go back and suggest to the Soviets that verification on INF that you are asking for on chemical weapons be applicable on ground launched cruise missiles. I do not believe that it cannot be done. If the administration believed that, they would not be taking the position they are currently taking on verification of the chemical treaty. The question is why was the U.S. position not put forward in an aggressive manner? Why was not it put forward in the same manner as the chemical weapons portion?

The amendment offered by my friend from South Carolina, myself, and others, does not tell either the administration or the Soviets how to verify a ban on nuclear GLCM's only. But I believe that the scheme proposed for verifying a chemical ban would work for this purpose as well.

It is simply an onsite inspection, and those onsite inspections should occur wherever necessary, whatever time necessary, on reasonable notice.

I have spent a good deal of time as a member of both the Foreign Relations Committee and the Intelligence Committee, two of the three committees, along with the Armed Services Committee, to which the INF Treaty was referred. Addressing the issue of verification, it is interesting to reflect on the merits, because one quickly is consumed with the reality of how much verification is reasonable, how much is responsible, how much verification, and at what price.

If you get 60-percent verification, that is going to require the capabilities of a specific and very well-detailed procedure: Personnel, equipment, access. If you want 80 percent, you will have to go that much more; but to get that additional 20 percent above the 60 percent, you might double your costs. If you want to go beyond 80 or 90, what is reasonable?

In reality, if someone is going to cheat, they are going to be very careful about cheating. They are aware of the exposure associated with cheating.

So, really, as you enter into treaties, you enter into treaties on the basis of good faith. When we reflect on the issue of verification, I think we have to be reasonable and recognize that the application of verification on ground-launched cruise missiles is as practical as verification on anything else. We are almost going on an honor system, to a large degree.

I have already pointed out that there is a similarity between the problems of verifying a chemical ban and verifying a ban on nuclear cruise missiles. But the real issue is that, seemingly, everybody agrees that finding the missiles themselves is not the issue. Intelligence capabilities on both sides are capable of finding deployable missiles. The problem is determining whether in the one case, nuclear, and in the other case, chemical warheads are available for the missiles.

So the verification problem is not with the existence of missiles. It is finding the loading, storage, and production facilities for the warheads, because the missiles themselves are not the concern—it is the warheads they carry. Because of their inherent danger, both chemical and nuclear warheads require special handling, secure storage areas. These areas have special security precautions, fences, special access arrangements. They are usually separate from other facilities, such as barracks areas, and so forth. Weapons of this sort also require special handling when they move. All these precautions are readily observable through the use of our various intelligence capabilities.

Mr. President, the administration seems to suggest that it can verify the presence of chemical weapons with no notice, anywhere, on 48-hour inspections. But one major reason the Joint Chiefs of Staff have given for eliminating conventional Soviet armed GLCM's is that the Soviets can put chemical weapons on their GLCM's and the United States would be unable to match their capability. I do not think that argument holds water. The Soviets already have ample means to deliver chemical weapons, and we should make no mistake about it. We should focus on eliminating chemical warheads but not deprive ourselves of an important weapons system because we are afraid that the Soviets will develop another kind of weapon. I think we have to recognize the reality that there are only so many targets out there, and we can eliminate the Pershings and SS-20's, but the targets will be covered.

The Soviets do not need GLCM's for chemical weapons. They have plenty of delivery systems already. But the advantage of the GLCM is its accuracy. Chemical weapons cover broad areas that do not require, necessarily, the accuracy that we have in the capability of the ground-launched cruise missiles.

Why preserve our option to develop and deploy conventional GLCM's when the Pentagon does not want them? The Joint Chiefs of Staff have argued that since the Soviets have more land available to them in Europe, they could deploy more GLCM's than NATO could. We know that the cruise missile is small and maneuverable. There is sample room to deploy them in Western Europe. They could use some of the bases from which the Pershing II's are being withdrawan.

In any European war, the Soviets will be on the defensive. They will have to concentrate their fire on narrow avenues of defense; whereas, the task of the NATO powers will be to retaliate in some depth. The GLCM—mobile, hard to locate, easy to redeploy—is an ideal weapon for the mobile NATO strategy, and it is not a nuclear weapon. Fire one, and you do not start a catastrophe such as you do with a nuclear weapon. The Pentagon tells us that the deployment of GLCM's would give the Soviets an advantage because there are more "soft" targets in Western Europe than in the eastern Soviet Union. That is irrelevant. The GLCM is needed because it can destroy key targets which would otherwise require nuclear weapons: For example, command and control installations—headquarters—in rear areas; key transportation nodes—bridges, rail yards, highway intersections, and so forth.

The Soviets do not have the same constraints on using nuclear weapons that we have initiated. They have enough weapons to hit our soft targets, and they do not need GLCM's to attack, but we need them, and we need them stronger to defend NATO.

So the question comes up: Why do conventional GLCM's have no friends at the Pentagon? To understand this, you have to understand something about the way in which decisions are made in our national defense establishment.

In the Pentagon, every issue seems to require five sides. Each military service has its own ideas. The Joint Chiefs of Staff try to blend them, but sometimes things fall through the cracks, and this one has fallen through the cracks. The conventional GLCM has fallen through a crack, and it should not have, because it is in the best interests of NATO and of the United States.

The Air Force wants air-launched cruise missiles because it takes bombers to deliver them. Bombers need pilots. Obviously, that is an expanded responsibility for the Air Force.

The Navy likes sea-launched cruise missiles because it takes a platform of sophisticated vessels to carry them. It requires many sailors and expertise to staff the ship.

The Army already has its hand full. The Army aviation officers are not interested in an aircraft with no pilot. A cruise missile is essentially an aircraft with no pilot, but it is an extraordinarily accurate and capable system.

Army artillery officers want guns and howitzers, not pilotless aircraft. You cannot win a medal for firing a BLCM; it is not glamorous enough. But you can win a war and you can make a difference in a conflict and you can use it in a way that will not start a nuclear war, if indeed the extreme should come to that.

Mr. President, to reiterate, the treaty as written does nothing to lower the threat of nuclear war because all targets, as I indicated, covered by these INF missiles are going to be covered by other missiles anyway. It makes us feel better to take and dispose of class of missiles, the Pershings and SS-20's.

Why rely on nuclear weapons when we can have a conventional weapon to basically do the same job? And we are eliminating that conventional weapon. We are putting it beyond our grasp in the obligations we have in NATO.

If the objective is to prevent nuclear war, then retention of conventional cruise missiles is essential and I think that we can verify and ban nuclear GLCM's without also banning conventional GLCM's. I really believe we can.

We need only to apply the formula for on-site inspection, as I have said before, that the administration has proposed for chemical weapons, on-site inspections anywhere and on short notice.

I will never believe this is a killer amendment, Mr. President. The argument fails to account for the Soviet desire to have this treaty. Make no mistake about it. Gorbachev needs arms control.

I was over in the Soviet Union over the Easter recess and it is apparent on the streets. The average person is very much aware of the significance of what the INF Treaty means to his standard of living because he is looking forward to lesser amounts going into the Soviet defense budget and more consumer goods for the average Soviet.

I observed the chaos of that economy during that trip and I tell you I was certainly glad I had a roundtrip ticket, Mr. President.

Mr. WARNER. Mr. President, will the Senator entertain a question?

Mr. MURKOWSKI. I would, without losing my right to the floor, and I would simply advise my colleague I am almost finished with my statement.

Mr. WARNER. If the Senator would like to finish, there was a point in his argument I want to interject a comment.

Mr. MURKOWSKI. Please go ahead.

Mr. WARNER. He expressed the need for these weapons in the U.S. arsenal. Yet if one is to look at the corporate history, in the 1987 Defense Science Board's summer study on nonnuclear capability at no point in that study was any recommendation made for a conventionally armed ground-based cruise missile of INF range. That is the systems proposed to be covered by this treaty.

The study was available prior to the decision within the administration on this treaty question, and yet there has been no desire, or requirement, as far as I can determine, by the Department of Defense for many years to begin construction of this category of weapons. So why now should we try to reverse a decision which is incorporated in this treaty and begin to build these weapons especially since the JCS has stated that there is military requirement.

Mr. MURKOWSKI. I think my friend from Virginia is very knowledgable in the areas of defense having served his country in extraordinary positions of responsibility. However, I think that the argument with regard to ground-launched cruise missiles stands for itself from the standpoint of all our concerns about where we are going to be after disposal of the two classes of missiles under the INF, the SS-20's and the Pershings. In reality, we are going to be looking at the capability of the United States with regard to the Soviets in a conventional mode as well. If we take the capability of our ground-launched cruise and simply eliminate it from the standpoint of its capability as a conventional weapon, why its seems to this Senator from Alaska that we are eliminating a tremendous capability that does not necessarily have to be eliminated from the treaty.

I would ask my colleague to consider the merits of why our negotiators found it necessary to eliminate the consideration of the cruise missile when in reality it can be put in a conformity of a conventional weapon. And the excuse that was given is you cannot verify it because it may have a nuclear warhead.

I suggest to the Senator from Virginia that the exposure of verification is real on all classes of weapons, all missiles, and it is almost a test of a badge of honor whether we are going into this treaty indeed with the commitment that we are not going to cheat. And why eliminate something that we do not have to eliminate that is really in the best interest of our Nation as well as our obligation to NATO?

Mr. WARNER. Mr. President, I reply to my distinguished colleague in looking back over the history in fact if the United States has no such conventional missiles at this time there was no plan to build any of these missiles and their was no future military requirement that we can foresee for such missiles. So it is quite logical during the course of negotiations that our negotiators decided that they would incorporate in this treaty the ban on conventional systems, specifically because of the monitoring problems we would have.

Mr. MURKOWSKI. It is my understanding, I would reply, that we currently have GLCM's stationed in Europe.

Mr. WARNER. But my point is that we have no conventional systems. There were no plans for any in the INF range. It is the INF range.

Mr. MURKOWSKI. The point is they are there now. They are a system that is operational. The basis for that system to be modified and expanded is very real.

I think we have to look again. I know my good friend from Virginia is as sensitive as I am to where the United States is going to be when this treaty is ratified and when we are faced with a reality of examining our own conventional capability with that of the Soviets.

Mr. WARNER. I reply to my good friend that we carefully provided in this treaty to leave open the options of whatever technology we might wish to incorporate in the sea-launched cruise and the air-launched cruise missile systems, and it was the judgment of the Joint Chiefs of Staff that that would be more than sufficient to meet the military requirements of the United States.

Mr. QUAYLE. Mr. President, will the Senator yield on this point?

Mr. MURKOWSKI. I am happy to yield without losing my right to the floor to my friend from Indiana.

Mr. QUAYLE. I would ask maybe unanimous consent that this time come out of the opponents of the amendment because we have consumed a lot of it and I do not know if we are going to have enough time.

I ask unanimous consent that this exchange be taken out of the——

Mr. ADAMS. We do not need a unanimous-consent request. If the Senator from Virginia would like to have some time yielded, I would be happy to yield.

Mr. WARNER. Yes.

Mr. ADAMS. I will yield 10 minutes to the Senator from Virginia at this point, but I did not want to interfere with the Senator from Alaska who has the floor and was responding to a question. He did not wish to be interrupted. So as soon as he has completed, I will yield to the Senator from Virginia.

Mr. QUAYLE. I ask my friend from Alaska, this might be a good time to pursue this point because I think it is a good issue and something that ought to be clarified for the record. So maybe we can go ahead and have this exchange and clarify this when the time, Mr. President, will be charged to the opponents of the amendment rather than the proponents.

Mr. ADAMS. Does the Senator from Alaska wish to complete his statement prior to our yielding time? We want to preserve his rights to the floor which he has been granted by the Senator from South Carolina. I do not wish to interfere with him.

I propound the question to the Senator from Alaska. Does he wish to complete his statement before we proceed?

Mr. MURKOWSKI. What I would like to do, I respond to my friend from Washington, I think it is important that we address this point at this time. I recognize that time is running on our side and I gathered from the remarks of my friend from Washington and my friend from Indiana that they are not anxious to yield their time.

Mr. ADAMS. I am very prepared, as soon as the Senator from Alaska has completed his use of time, to yield to the Senator from Virginia so he may proceed with whatever he wishes to do.

The Senator had indicated he did not want to interrupt the statement. I ask the question of the Senator from Alaska if he wishes at this time for us to yield time to the Senator from Virginia.

Mr. QUAYLE. Mr. President, I think what the Senator from Alaska who has the time and yielded to me and I would like to do is maybe clarify this particular point. I would imagine it might take about a 10-minute or so exchange between myself and the Senator from Virginia and others. I think it is an important point.

Mr. MURKOWSKI. Mr. President, I still have the floor and in deference to my friend from Washington, I would like to comment very briefly and finish my statement and yield the floor and then participate in the debate which I think would expedite this because the Senator from Virginia has raised a question about GLCM's in Europe. And he is aware as I am that there are GLCM's deployed in Europe now and the number, which to my understanding is not classified, is approximately 309.

Mr. WARNER. The Senator should state the ranges on those particular missiles.

Mr. MURKOWSKI. It is my understanding those are within the INF interpretive ranges. That may be something we can get into a further discussion on. But I have checked that out. While I believe the ranges are classified, it is my understanding that it is within the overall INF interpretation from the standpoint of the committee and perhaps we can address that if indeed that is a classified range, which the Senator from Alaska believes it is, that we can converse in an appropriate manner on that specifically.

In conclusion, Mr. President, I have just been advised those are listed in the Armed Services Committee report with regard to the range for the reference of my colleague from Virginia.

The agreement at Geneva last week to the modifications in this treaty, I believe, Mr. President, suggests that the Soviets are willing very much to do business and to do business on an amendment of this sort, which is not a killer amendment. It is an amendment to address the conventional capability and concerns that are in the best interest of the national security of our Nation and our obligation to NATO.

I think it probably was best expressed in the Washington Post, which observed—I recognize we all do not agree with the Washington Post all the time, but I will quote from it:

> The speed and completeness with which the Senate demands were met reflected the strong desire of the Reagan administration and the Soviets to obtain Senate approval of the INF Treaty in time for the Moscow summit meeting which begins May 29.

And, while I would agree with that, the fact is that this is a nuclear weapons treaty, which is truly the intent of the treaty. Conventional GLCM's are not nuclear weapons. Why eliminate them from a treaty which is truly a nuclear treaty?

Retaining the conventional GLCM option reduces the possibility, in this Senator's opinion, that nuclear weapons will be used.

The verification problem, I think, is a simple one. Of course, those who want to make it complex can make it complex. The administration has already developed a way to do it in their proposal at the chemical weapons talks.

The Soviets need this treaty. We need this treaty. I support this treaty. I happen to think that they will agree to the necessary change in the treaty language. We will never know unless we try. We can have an INF Treaty and we can have GLCM's, too. That, Mr. President, is in the national interest of this country.

I yield the floor at this time.

Mr. WARNER addressed the Chair.

Mr. ADAMS. Mr. President, I yield 10 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I ask my distinguished colleague from Alaska: What is in the record, to what documentation can he point when he makes the statement that he has reason to believe that the Soviets will agree to this?

Mr. MURKOWSKI. I would refer my good friend from Virginia to page 131 of the Armed Services Committee report, the summary of the INF Treaty, appendix B.

Mr. WARNER. I have it before me.

Mr. MURKOWSKI. Further, with regard to the unclassified number regarding range, while that is classified in its exact figure, it is generally unclassified as to the general area, which is somewhere in the area of 1,500 miles.

Mr. WARNER. We will sort out that dispute.

My question to the Senator is: Where could he point to anything in the record which substantiates his conclusion here on the floor that the Soviets would agree if it were taken back? There is no such reference in the Armed Services Committee Report. This Senator believes firmly that this amendment is a killer amendment.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. MURKOWSKI. As I have tried to explain, I do not think this is a killer amendment, because this is a nuclear treaty and this is a conventional weapon. It is just that simple. I think we can make it more complex if we want to, but I see no reason.

As a consequence of that, it is the premise of the Senator from Alaska that we have negotiated something away that we did not have to. Why we have seen fit to do that, we are getting all kinds of explanations. But we are giving away an extraordinarily accurate conventional weapon that has the capability——

Mr. WARNER. Mr. President, we are going back over the same argument.

The question is: Where in the record can the Senator point to any documentation to substantiate his conclusion that the Soviets would agree if this were to go back to them?

Mr. MURKOWSKI. Mr. President, it is rather obvious that nobody has asked the Soviets.

Mr. WARNER. Mr. President, I say to my good friend——

Mr. MURKOWSKI. The question is, why did we not ask the Soviets?

Mr. WARNER. The negotiating record clearly indicates that they would not accept this position. I wanted to offer my colleague the opportunity to point to anything else in the record he may have knowledge of that would in any way support his conclusion that the Soviets would accept this.

Mr. QUAYLE. Will the Senator yield on that point?

Mr. WARNER. Mr. President, I am not going to yield on that point, but I would be glad to enter into a colloquy.

Mr. MURKOWSKI. I believe the question was directed to the Senator from Alaska.

Mr. WARNER. That is correct.

Mr. MURKOWSKI. I believe the record will note we simply gave it away. I think we have an obligation in this body to address why we just gave it away.

Mr. WARNER. Mr. President, it was a simple question. Can the Senator point to anything in the record which substantiates the Senator's representation that the Soviets would agree if this would go back? Can he point to any page, any documentation in this report on negotiation record?

Mr. MURKOWSKI. I cannot point to any page. I simply would state that no one else can point to any page where it would not. So we have a situation where you have a standoff until you know.

But the fact is, we are giving up the capability of very real conventional expertise that has been built up. And the question is: Why are we doing it when we are talking about giving up a conventional capability? That is the concern of the Senator from Alaska.

Mr. HOLLINGS. Will the distinguished Senator from Virginia yield?

Mr. WARNER. Mr. President, I yield the floor.

Mr. HOLLINGS. I would like to answer the Senator's question.

Would the Senator from Washington yield me time? We are running out of time and I think he has only used 10 minutes of the 2 hours.

Mr. ADAMS. I am happy to yield 10 minutes to the Senator from South Carolina.

Mr. HOLLINGS. I will not need that amount of time. I thank my distinguished colleague from Washington.

I will do it three ways.

The Senator from Virginia and myself both, I believe, heard the testimony of Walter Slocombe and Richard Perle before the Armed Service Committee, both experts and experienced negotiators. Walter Slocombe is carrier Navy and we cannot hold on to it. We have gone for the Stealth and we have all supported the various missiles and everything else. But we cannot hold onto it. Everybody is cutting, laying up and what have you. Yet here, with the conventional GLCM, is something we can afford for the cost of 10 Stealth bombers.

We are trying to get 132 Stealth bombers. They will cost $450 million each. For the price of less than 10 Stealth bombers, I can put 3,000 conventional GLCM's in Europe and I have got credibility; I have got a defense; and I have got the alliance together because it would be a NATO Alliance decision. The former Secretary of the Navy knows that.

But if I do not have a conventional GLCM force, all I have got to resort to then is nuclear. It is solely a U.S.-made decision. The assumption is that the United States is going to go nuclear to defend Berlin or to defend Turkey and end the world. And with that incredulity with respect to the defense posture that we have, then we begin the unraveling of NATO, and that is not arms control. That is why we were so insistent on this amendment.

EXHIBIT 1

A FURTHER REVIEW OF THE INF TREATY: SEVEN CRITICAL ISSUES

INTRODUCTION

This analysis of critical issues presented by the Intermediate Nuclear Forces Treaty supplements an earlier AEI paper, Article-by-Article Review of the INF Treaty, published in February 1988. Like the earlier analysis, this one was prepared by a working group of arms control specialists convened at the American Enterprise Institute for Public Policy Research under the chairmanship of Frank J. Gaffney, Jr. The members of the working group are listed on the following page.

The purpose of this further analysis is to review the central issues that have emerged over the past three months in the course of the Senate's deliberations on the INF Treaty. While the initial AEI paper focused almost exclusively on the provisions of the Treaty itself, this paper also considers statements of Administration officials and others in Senate hearings and, in particular, four official documents—an assessment of the AEI Article-by-Article Review submitted to the Senate on behalf of the Administration by Secretary of Defense Frank Carlucci, the (unclassified) unanimous report on the Treaty of the Senate Select Committee on Intelligence, the majority report of the Senate Armed Services Committee, and the majority report of the Senate Foreign Relations Committee.

As before, the working group concentrated on (a) the effectiveness of the INF Treaty's provisions and protocols in achieving the Treaty's own goal of eliminating all intermediate-and shorter-range nuclear missiles, and (b) the implications of these provisions for broader strategic arms reduction agreements now being discussed between the United States and the Soviet Union. Larger questions concerning the military and strategic value of eliminating the nuclear missiles covered by the INF accord are not considered here. We hope, however, that this assessment will help clarify some of the critical issues presented by the Treaty and the Senate deliberations.—Christopher C. DeMuth, President, American Enterprise Institute for Public Policy Research.

MEMBERS OF THE AMERICAN ENTERPRISE INSTITUTE WORKING GROUP ON THE INF TREATY

Chairman: Frank J. Gaffney, Jr., Senior Fellow, the Hudson Institute; Adjunct Fellow, the American Enterprise Institute; Former Assistant Secretary of Defense, Designate.

Members: Richard Perle; Resident Fellow, American Enterprise Institute; Former Assistant Secretary of Defense.

Seymour Weiss; President, SY Associates; Former Director, Bureau of Politico Military Affairs, Department of State.

Sven Kraemer; former Director of Arms Control, National Security Council.

Michael Mobbs; Partner, Feith and Zell, P.C.; Former Assistant Director, Arms Control and Disarmament Agency.

Douglas J. Feith; Partner, Feith and Zell, P.C.; Former Deputy Assistant Secretary of Defense.

CONVENTIONALLY-ARMED GROUND-LAUNCHED MISSILES

INTRODUCTION

The INF Treaty bans all conventionally-armed, ground-based cruise missiles of intermediate- and shorter-ranges. The rationale for the treaty's banning such non-nuclear systems was that it would enhance our ability to verify the ban on nuclear-armed missiles of the same type and range. As we cannot reliably distinguish through national intelligence means between nuclear-armed and conventionally-armed GLCMs, banning both types was considered helpful in allowing us to verify the ban on the former type. The central issues are: What are the actual verification benefits we can derive from banning conventionally-armed GLCMs? And do those benefits outweigh: (1) the military costs to the United States of eschewing such systems and (2) the risks that this "collateral" ban on a conventional system—in what is supposed to be a nuclear weapons treaty—will be used as a precedent in the Strategic Arms Reductions Talks (START) to impose unacceptable constraints upon non-nuclear air- and sea-launched cruise missiles?

RELEVANT TREATY PROVISIONS

Article II, Paragraphs 1 and 2

For the purposes of this Treaty:

1. The term "ballistic missile" means a missile that has a ballistic trajectory over most of its flight path. The term "ground-launched ballistic missile (GLBM)" means a ground-launched ballistic missile that is a weapon-delivery vehicle.

2. The term "cruise missile" means an unmanned, self-propelled vehicle that sustains flight through the use of aerodynamic lift over most of its flight path. The term "ground-launched cruise missile (GLCM)" means a ground-launched cruise missile that is a weapon-delivery vehicle.

Article VII, Paragraphs 1 and 2

For the purposes of this Treaty:

1. If a ballistic missile or a cruise missile has been flight-tested or deployed for weapon delivery, all missiles of that type shall be considered to be weapon-delivery vehicles.

2. If a GLBM or GLCM is an intermediate-range missile, all GLBMs or GLCMs of that type shall be considered to be intermediate-range missiles. If a GLBM or GLCM is a shorter-range missile, all GLBMs or GLCMs of that type shall be considered to be shorter-range missiles.

Article VII, Paragraph 4

The range capability of a GLBM not listed in Article III of this Treaty shall be considered to be the maximum range to which it has been tested. The range capability of a GLCM not listed in Article III of this Treaty shall be considered to be the maximum distance which can be covered by the missile in its standard design mode flying until fule exhaustion, determined by projecting its flight path onto the earth's sphere from the point of launch to the point of impact. GLBMs or GLCMs that have a range capability equal to or in excess of 500 kilometers but not in excess of 1000 kilometers shall be considered to be shorter-range missiles. GLBMs or GLCMs that have a range capability in excess of 1000 kilometers but not in excess of 5500 kilometers shall be considered to be intermediate-range missiles.

Article VII, Paragraph 11

A ballistic missile which is not a missile to be used in a ground-based mode shall not be considered to be a GLBM if it is test-launched at a test site from a fixed land-based launcher which is used solely for test purposes and which is distinguishable from GLBM launchers. A cruise missile which is not a missile to be used in a ground-based mode shall not be considered to be a GLCM if it is test-launched at a test site from a fixed land-based launcher which is used solely for test purposes and which is distinguishable from GLCM launchers.

IDENTIFICATION OF THE PROBLEM

The AEI Article-by-Article Review of the INF Treaty noted the anomaly that an accord universally known as the INF (shorthand for Intermediate-range Nuclear Forces) Treaty actually has profound implications for conventional forces. Indeed, the INF Treaty bans in perpetuity conventionally-armed, ground-launched intermediate- and shorter-range missiles, as well.

The first AEI Review posed two questions: Is it prudent—in the context of a treaty which will make the United States and NATO still more dependent upon conventional defenses—to foreclose a potentially important option for deploying advanced non-nuclear missiles? And, can the United States verify Soviet compliance with a ban on such missiles, regardless of how they are armed?

SUBSEQUENT DEVELOPMENT OF THE ISSUE

Testimony before the Senate Armed Services Committee offered an interesting insight into the evolution of the INF Treaty's ban on nuclear-armed GLCM's into one prohibiting conventionally-armed variants as well. Former Assistant Secretary of Defense for International Security Policy-Designate Frank J. Gaffney, Jr. testified that novel grounds were cited in the Summer of 1987 to encourage President Reagan to reconsider his longstanding opposition to this Soviet-proposed formula: The Soviets had informally expressed to the American INF negotiator, Amb. Maynard Glitman some interest in acceding to the U.S. position permitting conventional GLCM's. It was argued that, unless the United States moved smartly to accept the Soviet position, our own would likely become the agreed Treaty language.

Without making explicit reference to this background, Defense Secretary Frank Carlucci, in formally responding at the request of Senator Claiborne Pell and on behalf of the Administration to issues raised in the first AEI Review suggested why, in the end, the U.S. Government decided such an outcome would have been undesirable:

(1) The issue was one of "whether or not to protect the option for deploying conventionally-armed ground-launched cruise missiles (GLCM's). At the time of the decision the U.S. and NATO did not—and do not today—have any specific plans or military requirements for conventionally-armed GLCM's."

(2) The option to acquire comparable capabilities through air- and sea-launched cruise missiles is "fully protected" as the INF Treaty does not cover such systems and "our position is firm that there shall be no limits on [such] conventionally-armed cruise missiles." Moreover, GLCM's with ranges below 500 km are not prohibited.

(3) The Soviets would likely be able to exacerbate the existing conventional (and chemical) imbalance by deploying more of such systems than could NATO, particularly in the aftermath of a Treaty banning INF-range nuclear missiles.

(4) Acute verification difficulties are "inherent in distinguishing between nuclear- and conventionally-armed GLCM's. The United States Government has been unable to develop—and the Soviet Union has not put forth—a regime to verify effectively the differences between the two types." Banning all such systems would make covert Soviet deployment more "difficult and costly" and eliminate a "ready means" for the Soviets to breakout of the Treaty.

(5) Citing the need of weapon systems for realistic testing (the character of which is specifically determined by the intended use of the system) and a dedicated infrastructure, Secretary Carlucci took issue with the AEI Review's contention that drones and other permitted non-weapons delivery vehicles could be used to circumvent this ban and undermine its verification benefit.

For its part, the Senate Select Committee on Intelligence (SSCI) observed in the unclassified version of its report that "so long as SLCMs are not banned, their testing will allow a Soviet military planner to fulfill all of the technical requirements for testing a covert GLCM." The Committee also expressed "concern that the Soviets could covertly extend the range capability of a cruise missile, or covertly develop a new ground-launched cruise missile with a prohibited long-range capability, [even] if the cruise missile were tested only to shorter ranges."

The SSCI judged, however, that with respect to the former, the lack of a permitted "ground forces infrastructure for [INF-range] weapons would be extremely difficult for the Soviets to overcome covertly, and this greatly lessens the value and probability of such a cheating effort." With respect to the latter concern, the Committee "believes that the risk of a Soviet attempt to cheat with such an extended range capability is offset by Soviet operational requirements" and that "Soviet military planners would have serious problems with the reliability of systems not tested to their maximum range."

The majority of the Senate Armed Services Committee (SASC), while recognizing the "validity of concerns expressed . . . over the prohibition of a potentially promising option for implementing NATO's follow-on forces (FOFA) and deep strike doctrines," gave greater weight to the fact that the Soviets could readily exploit such an option to increase "its conventional and chemical threat" and the verification problem "that would be created were the Soviets to deploy conventional GLCMs of INF range." The SASC's majority report concludes "that the verification question was a principle [sic] factor in the Administration's willingness to ban conventional GLCM's."

The majority of the Armed Services Committee also concluded that the Soviets would firmly resist any renegotiation of this provision; for these several reasons, it did not recommend deleting the ban on conventional GLCMs. Instead, it settled for a cautionary note: ". . . Banning the deployment of [conventionally-armed GLCMs] makes it essential that START not foreclose U.S. options for conventional ALCMs and SLCMs, including systems of these types for INF ranges."

Finally, the Senate Foreign Relations Committee (SFRC) considered three related issues:

(1) The possibility that the Soviets might exploit the Treaty's Article VII, paragraph 11—which permits fixed, ground-launched testing of SLCMs—to circumvent the ban on flight-testing GLCMs. The Committee's majority, "while concerned about the technical possibility that the Soviet Union could exploit this provision to develop a covert force of ground-based cruise missiles," was "satisfied that the Administration is aware of the problem and will be monitoring it closely."

(2) The possibility that the Soviets might exploit the Treaty's exclusion under Article II, paragraph 2 of GLCMs that are now "weapon-delivery vehicles" to produce, test and deploy drones which could be quickly converted to carry nuclear warheads. Emphasizing testimony to the effect that reconnaissance drones require a "different type of infrastructure than would go with a nuclear, or for that matter, a conventional delivery basis," the majority of the SFRC dismissed this possibility as a "minor problem." It judged that, in addition to the discernible operational differences, any Soviet incentive to cheat through this exception would be "greatly inhibit[ed]" by the fact that "the Soviet Union would have a very low confidence in a nuclear GLCM only tested as a drone." Consequently, "the prospect of Soviet efforts to develop a covert GLCM force from drones [was assessed to be] highly unlikely and impractical" and "the Committee believes that claims about a GLCM drone 'loophole' are pure sophistry."

(3) The "lack-of-a-military-requirement" and the "inherent-difficulties-of-verification" arguments noted above were found by a majority of the Foreign Relations Committee to be persuasive; accordingly an amendment offered by Senator Jesse Helms to permit conventionally-armed cruise missiles was defeated by a vote of 15-3. The Committee majority opined that "developed a covert GLCM force from systems tested below 500 kilometers would be complex and unreliable. For example, the Soviets could hardly be confident that even if a cruise missile were accurate at a range of 490 km, it would also be accurate at 980 km. This 'loophole' is thus more theoretical than real." The SFRC majority concluded that "any amendment purporting to allow conventional GLCM's could undermine U.S. national security."

On the margins of the ministerial meeting conducted between Secretary of State Shultz and Foreign Minister Shevardnadze (11-13 May 1988), representatives of the United States and Soviet Union agreed to language clarifying certain aspects of the INF Treaty's applicability to non-nuclear-armed, intermediate-range missiles. While the thrust of this agreement is most relevant to the matter of futuristics (see the treatment of this issue in the following chapter), the agreed text affirms that "the Treaty does not cover non-weapon-delivery vehicles" without clarifying how the sides will discriminate between those missiles that are weapon-delivery and those that are not.

ANALYSIS

Foreclosing an Area of U.S. Competitive Advantage

There is no disrupting the fact that, by prohibiting conventionally-armed—as well as nuclear—GLCMs, the United States is foreclosing for all time potentially significant conventional defense options. As the majority of the Armed Services Committee put it: "Advanced technology is the Alliance's trump card, and highly-accurate, unmanned, long-range, stand-off weapons represent a particularly attractive means for redressing the conventional imbalance in Europe."

The willingness, nonetheless, to foreclose such options appears to turn critically upon the view of the Joint Chiefs of Staff that there is not now, nor will there ever be, a military requirement for the ground-based versions of these options. Such a view could have been expressed prior to World War I with equal confidence—and equal shortsightedness—about the absence of a requirement for airplanes to be used for other than observation purposes.

In fact, the present lack of a JCS requirement for ground-launched conventionally-armed missiles seems to be principally a function of the absence of an identified service-sponsor for a weapon system with these characteristics. The Army generally regards "deep strike" as an Air Force mission; the Air Force wants to perform such strikes with manned aircraft; the navy is not interested in ground-based platforms; and the Marines do not regard missiles of this type as applicable to most of their roles. To the extent the Air Force and Navy see any need for intermediate-range conventional missiles, parochial considerations appear to give rise to requirements only for air- and sea-launched variants. (See the following discussion of the Administration's willingness to ban conventional GLCM's." implications of the INF Treaty's ban on conventional GLCM's for such options in the START context.)

Moreover, while it is certainly true that—if such groundbased, conventionally-armed missiles were permitted, the Soviets might eventually obtain more of them—it is much less clear that even greater numbers of these weapons would contribute as much to Soviet capabilities as smaller numbers would to NATO's defenses. This is, after all, the same logic that produced a numerically inferior, but militarily significant, deployment of Pershing II's GLCM's to Europe in the first place. Such logic will certainly be even more compelling in the aftermath of an INF Treaty which increases NATO's need for improved conventional defenses.

Indeed, it is difficult to believe that, given time and the latitude to do so, the U.S. military will not come to appreciate the importance of having the in-theater ability to attack high priority targets: (1) deep in the enemy's rear echelons, (2) early in any conflict (3) without relying upon a limited number of extraordinarily vulnerable NATO airfields or tying up valuable maritime assets, and (4) without having to resort to nuclear weapons, it may be that only highly accurate, conventionally-armed intermediate-range missiles that are widely dispersed in the theater will offer such a capability. Such weapons will also offer commanders the flexibility to provide lateral supporting fire to allied forces at ranges over 500 km; this capability could prove to be enormously important during any future conflict in Europe if hostile forces cease to be situated exclusively to the East of NATO's troops.

An Unavoidable Precedent for START

Much is made of the fact that the ban on both nuclear- and conventionally-armed GLCMs is acceptable because the United States will not agree to constraints on its ability to deploy conventional ALCMs and SLCMs in START. Unfortunately, such a position is probably as untenable as it is illogical. There is no technical basis for rejecting in connection with air- and sea-launched cruise missiles the verification argument used in INF, namely that limits must apply to both because no means can be found of distinguishing between nuclear and non-nuclear variants.

Indeed, the United States has offered ways of constraining conventionally-armed ALCMs in START through missile range and aircraft platform limitations. The United States has, moreover, agreed that it will find a means of limiting nuclear-armed SLCMs. Given the manner in which essentially identical, conventionally-armed GLCM's are treated in the INF accord—and clear Soviet interest in capturing non-nuclear U.S. SLCM's—it may simply be a matter of time before similar constraints are negotiated on conventional sea-launched cruise missiles.

"It Ain't Necessarily So"

It is said that the United States can have confidence the USSR will not obtain capabilities denied the U.S. by virtue of two main devices: the Soviets' inability covertly 1) to test prohibited GLCMs and 2) to deploy them without a detectable infrastructure.

(1) With regard to the test ban, the several documents produced since the first AEI Review was published, in fact, seem to suggest multiple ways in which the Soviet Union could conduct an effective flight test program for systems with prohibited capabilities. For example, as the SFRC and SSCI have noted, a GLCM can be tested from a fixed site—so long as it is designated a SLCM. Recent disclosures that the Soviet Union has undertaken to test apparent sea-launched cruise missiles from mobile ground launchers and the Administration's response—to the effect that it cannot determine the range, character or purpose of the cruise missiles in question—bears witness to the ease with which such circumvention options can be pursued by the USSR and the monumental monitoring problems involved for the United States.

Moreover, as testimony before the SSCI and the SASC has made clear, it is not a difficult task to make ground-launched cruise missiles tested to less than 500 km or over 5500 km fly to prohibited distances between the two. To some extent, such can even be the case with ballistic missiles, although these missiles tend to have specific performance characteristics more directly tied to their ranges. A particularly graphic example of the latter can be found in the fact that Iraq is using a Soviet-supplied missile, the SCUD-B—which is not prohibited by the INF Treaty, as it is said to have a range of less than 500 kilometers—to attack targets in Iran at distances well beyond that. Not only does this development show that such improved performance is possible; it also raises the question as to whether Soviet SCUD-B's should be banned under the INF accord.

Interestingly, in regard to the assertion that flight testing to full-range is necessary in order to have confidence in a given system, the United States does not test all of its missiles to full-range. They are, nonetheless, designed and deployed to hit targets at specified distances beyond those to which these missiles are tested. Obviously, it is possible to have confidence in the ability of such weapons to fly farther than demonstrated—even in the absence of maximum range testing.

Furthermore, the assertion of the majority of the SFRC notwithstanding, developing a covert GLCM capability from such missiles is neither complex nor unreliable; what is involved are essentially low-risk engineering extrapolations from demonstrated flight-test performance and other modeling, including wind-tunnel testing. When the uncertainties noted in the SSCI report about U.S. ability to monitor effectively Soviet GLCM testing are factored in, statements extolling the efficacy of the INF Treaty's missile flight-test ban appear all the more unfounded.

In this connection, claims to the effect that there are inherent and monitorable differences between the ways in which reconnaissance drones and weapon-delivery vehicles are tested and deployed should be viewed with considerable skepticism. At least one U.S. contractor has developed a ground-launched missile of INF-ranges for overseas sales which could be fitted at will with a reconnaissance package or conventional ordnance. As this example illustrates, there need be no perceptible difference between the flight profile, test program or external configuration of attack and surveillance variants of a GLCM; if a party wishes to obtain an illegal weapons-delivery capability by modifying covertly a drone or RPV, it is quite possible to do so with little or no risk of detection. Far from being, in the words of the Senate Foreign Relations Committee "pure sophistry," such an approach is a plausible cheating scenario for the Soviet Union.

What is more, as noted above, there is no agreed definition for what constitutes a weapon-delivery test profile that would cause a drone to be deemed a weapon-delivery vehicle. The Soviets could thus perform tests we judged to be suitable for a weapon-delivery missile and we would have no grounds for effectively challenging their behavior; to the contrary, the USSR can be expected to cite the now-express understanding that non-weapon-delivery vehicles are not banned and the lack of an agreed definition permitting distinctions between non-weapon and weapon systems to pursue whatever technical approaches it deems appropriate. Unfortunately, past experience suggests that the United States will, in an effort to comply scrupulously with both the letter and the spirit of its arms control commitments, constrain—if not outright kill—its own programs for drones and RPV's that could, arguably, be reconfigured.

(2) With respect to the purported need for a dedicated infrastructure, here again, myriad ways of Soviet circumvention are apparent. Large deployments of short- and long-range cruise missiles would provide excellent operational cover, training and infrastructural support to INF-range GLCMs. As the Treaty does not define what has to be different about a new missile to distinguish it from a prohibited existing type it is unclear on what basis Secretary Carlucci made the following assertion in response to a criticism in the first AEI Review: "If the Soviets were to test or deploy a missile which they claimed was slightly modified but was indistinguishable from an existing INF Missile, we would consider it a violation of the Treaty, even if it were only tested below 500 kms." For that matter, the absence of an agreed definition as to what would constitute an allowed infrastructure for drones or remotely-piloted vehicles makes problematic any contention that the USSR could not use what it contends is such an infrastructure to support systems for weapons-delivery.

It is worth remembering that the Soviet Union surprised U.S. intelligence by declaring as part of the INF Treaty that 84 SSC-X-4 missiles and 6 launchers were in their inventory. It does not require great imagination to recognize that the Soviets' demonstrated ability to store such missiles without detection suggests they might be able similarly to maintain a formidable covert GLCM capability unbeknownst to the United States. Moreover, as is the case with flight testing, the absence of an agreed definition of what constitutes an infrastructure for drones with illegal weapons-delivery capability could allow the Soviets to deploy widely and with impunity a system we considered to be banned.

What is the Real Soviet View of this Prohibition?

Finally, the exact nature of the Soviet response to a U.S. effort to revise the INF Treaty so as to eliminate its prohibition of other than nuclear-armed missiles cannot be determined with certainty before the fact. That said, the Administration's contentions that an amendment toward this end would kill the Treaty and murmurs from the Soviets along similar lines notwithstanding, there are two considerations which suggest the USSR would ultimately accept such a change. First, as noted above, a driving factor in the decision in the Summer of 1987, to reconsider the U.S. position protecting conventionally-armed missiles was the assertion by Ambassador Glitman that the Soviets seemed inclined to accept our proposal. Second, it is difficult to see how those who argued that the Soviets would benefit—were the Treaty to allow conventionally-armed GLCM's—can also claim that an effort to restore this right would "kill" the Treaty.

CONCLUSIONS

The foregoing analysis suggests that, while allowing both sides to retain infrastructures for conventionally-armed INF-range GLCMs will not improve the verifiability of this Treaty, neither will the prohibition of these systems ensure that the USSR is denied such capabilities. In fact, whatever arguable verification benefit might accrue from such a prohibition is more than offset by other verification shortcomings of the agreement. Only by deleting this prohibition can the very great potential of these missiles for non-nuclear defense of U.S. and allied interest worldwide be protected and the danger reduced that conventionally-armed air- and sea-launched cruise missiles will fall prey to undesirable constraints in START.

FUTURISTIC GROUND-LAUNCHED MISSILES

INTRODUCTION

As noted above, in its consideration of the advisability of banning conventionally-armed ground-launched missiles, the Senate Armed Services Committee discovered that the breadth of the INF Treaty's ban was unclear. Specifically, the Committee wanted to know: Does the Treaty ban all INF-range ground-launched missiles—whether armed with conventional munitions or not—as long as they have the capacity to damage or destroy targets? This line of inquiry led to one of the most portentous controversies involving this Treaty to date.

RELEVANT TREATY PROVISIONS

Article II, Paragraphs 1 and 2

For the purposes of this Treaty:

1. The term "ballistic missile" means a missile that has a ballistic trajectory over most of its flight path. The term "ground-launched ballistic missile (GLBM)" means a ground-launched ballistic missile that is a weapon-delivery vehicle.

2. The term "cruise missile" means an unmanned, self-propelled vehicle that sustains flight through the use of aerodynamic lift over most of its flight path. The term "ground-launched cruise missile (GLCM)" means a ground-launched cruise missile that is a weapon-delivery vehicle.

Article VII, Paragraphs 1 and 2

For the purposes of this Treaty:

1. If a ballistic missile or a cruise missile has been flight-tested or deployed for weapon delivery, all missiles of that type shall be considered to be weapon-delivery vehicles.

2. If a GLBM or GLCM is an intermediate-range missile, all GLBMs or GLCMs of that type shall be considered to be intermediate-range missiles. If a GLBM or GLCM is a shorter-range missile, all GLBMs or GLCMs of that type shall be considered to be shorter-range missiles.

IDENTIFICATION OF THE PROBLEM

Senator Dan Quayle (R-IND) led the SASC's investigation of the application of the INF Treaty to so-called "futuristic" ground-launched missiles. While a point of departure for this line of inquiry was the AEI Article-by-Article Review of the INF Treaty's observation that it was unclear whether or not future missile technologies such as hypervelocity boost-glide vehicles would be covered (a point the Administration chose simply to say would be decided subsequently on a case-by-case basis), the Committee quickly discovered that a more fundamental question arose as a result of uncertainty about the meaning of the term "weapon-delivery vehicle."

The SASC majority, in its report on the Treaty, noted that the Administration's own Article-by-Article Analysis defines this term as "those types of ground-launched cruise missiles that have been . . . flight-tested or deployed with any type of warhead device or simulation thereof." The Committee commented that:

"This suggests that GLBMs or GLCMs which destroyed their targets through other, perhaps more futuristic or exotic, means would not be covered. If this reading is correct, then, the Treaty would appear to allow GLBMs or GLCMs that destroyed targets through such means as lasers, particle-beam generators, microwave pulse generators or perhaps even direct impact (kinetic kill). During the hearings, however, there were indications that the Administration may be interpreting this language more broadly . . . to include future weapons types such as those listed above (i.e., anything that can destroy a target)."

At the time the SASC report went to press, the Committee had not received satisfactory clarification of the Administration's views and urged that such be forthcoming—together with an authoritative statement as to whether the U.S. definition of "weapon-delivery" had been "clearly agreed to by the Soviet Union"—before final Senate action on the treaty.

SUBSEQUENT DEVELOPMENT OF THE ISSUE

When this issue first arose, Administration witnesses suggested that this matter had been agreed between the parties in the course of the negotiations. On April 13, 1988, however, former Secretary of Defense Caspar Weinberger and former ACDA Director Kenneth Adelman wrote Sen. Quayle to the effect that no such agreement had been reached. Subsequently, the Administration acknowledged, as Amb. Glitman put it, that "During the negotiations, the United States and the Soviet Union did not specifically discuss INF missile systems using techniques, such as lasers, to destroy targets, nor did the parties specifically address the meaning of the term 'weapon-delivery.'"

The Senate Foreign Relations Committee majority reported, however, that Amb. Glitman "was unconcerned that the issue had not been directly discussed in the negotiations" insofar as the Administration regarded the meaning of this term to be "commonly understood." he defined that understanding as follows:

The United States believes that the common sense meaning of the term "weapon-delivery vehicle" in the context of this treaty is any INF missile which carries a weapon, that is, any mechanism or device which, when directed against a target, is designed to damage or destroy it (emphasis added).

Initially, the Administration took the position that ". . . . it is not necessary to confirm this understanding with the Soviet Union as a condition to the Senate's giving its advice and consent to ratification of the INF Treaty."

The majority of the SFRC accepted the thrust of the Administration's position. It cited three reasons for doing so:

(1) The negotiating record supports the view that the Soviets sought "to ensure that the Treaty covered all missiles in the INF range-band." As the Committee put it, "Indeed, given the fact that this type of advanced technology is an area of relative U.S. advantage. it would be surprising if the Soviet Union would not seek to capture such weapons if at all possible (emphasis added)."

(2) Based upon the "ordinary meaning of the term 'weapon,' missiles using weapons other than conventional or nuclear warheads would be covered" insofar as "the INF Treaty does not provide for any exceptions to the term weapon-delivery vehicle."

(3) The negotiating record reportedly reveals that "neither party sought exceptions" which is said to "provide . . . strong evidence that the intent of both parties was indeed to cover all intermediate-range and shorter-range missiles—those using conventional and nuclear weapons to damage or destroy targets and those using futuristic weapons to damage or destroy targets."

Based upon these considerations, the majority of the Foreign Relations Committee saw "no firm basis to dispute the Administration's testimony that futuristic weapons would be banned by the Treaty." Interestingly, however, emphasizing the fact that the Soviets have long attempted "to capture advanced technologies—an area of relative U.S. advantage—[through] arms control agreements," the Committee urged the administration to "consider seeking, through diplomatic channel [sic], explicit clarification from the Soviet Union that future weapons are covered by the INF Treaty."

On April 14, 1988, the Administration did so in the course of a meeting between Secretary of State Shultz and Foreign Minister Shevardnadze. On the following day, the Soviet Union responded to Secretary Shultz's request for clarification by transmitting a letter from the Soviet Foreign Minister which contained the following language:

In our conversation in Geneva on April 14 you raised the question of the INF Treaty interpretation in connection with the fact that a question has arisen during the U.S. Senate debate on this Treaty as to whether the ban covers the intermediate- and shorter-range missiles that could be equipped with warheads developed with some future technologies. As you noted, in responding to senators the Administration is saying that the Treaty ban covers intermediate- and shorter-range missiles, however equipped.

I would like to confirm to you once again that the Soviet side's understanding of this question is the same as that of the U.S. side. The Soviet side unequivocally assumes that the Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles bans these two classes of missiles, however equipped, nuclear or any non-nuclear.

Subsequently, on April 20, Secretary Shultz wrote Senate Minority Leader Bob Dole forwarding another translation of the Shevardnzdze letter. This translation substituted the English word "armed" for the word "equipped" as the correct counterpart to the Russian word "osnashcheny, osnashcheniye," ostensibily pursuant to the practice used in the Geneva negotiations. Questions have been raised, however, about the validity of this translation; in fact, some Russian linguists have contended that the proper translation—and the one used in previous Geneva talks—is "equipped."

On the 22nd of April, Senate Armed Services Committee Chairman Sam Nunn described in a lengthy statement on the Senate floor his concerns about developments associated with this issue. Specifically, he said the Shevardnadze letter "raised a question as to whether the Soviet Union believes that the types of unarmed missiles [used for surveillance purposes] are covered by the Treaty." Sen. Nunn judged that it is possible to "read the phrase 'however equipped' . . . as including surveillance drones or remotely-piloted vehicles (RPVs) and other types of non-weapons-equipped missiles."

A second Nunn concern was that "the letter refers only to missiles which are equipped with 'warheads.' Chairman Nunn found this "troubling since, as previously mentioned, this issue arose in the first place because the [Administration's] article-by-article analysis appeared to indicate that only those INF missiles equipped with 'warheads' were covered. Finally, Sen. Nunn noted the failure of the Shevardnadze letter to "provide an explicit assurance that the Soviet Union agrees with the administration's position" on the meaning of the term "weapon-delivery vehicle."

In light of these concerns, Chairman Nunn said he believed "that a Category III understanding may be required making ap-

FUTURISTIC GROUND-LAUNCHED MISSILES

INTRODUCTION

As noted above, in its consideration of the advisability of banning conventionally-armed ground-launched missiles, the Senate Armed Services Committee discovered that the breadth of the INF Treaty's ban was unclear. Specifically, the Committee wanted to know: Does the Treaty ban all INF-range ground-launched missiles—whether armed with conventional munitions or not—as long as they have the capacity to damage or destroy targets? This line of inquiry led to one of the most portentous controversies involving this Treaty to date.

RELEVANT TREATY PROVISIONS

Article II, Paragraphs 1 and 2

For the purposes of this Treaty:

1. The term "ballistic missile" means a missile that has a ballistic trajectory over most of its flight path. The term "ground-launched ballistic missile (GLBM)" means a ground-launched ballistic missile that is a weapon-delivery vehicle.

2. The term "cruise missile" means an unmanned, self-propelled vehicle that sustains flight through the use of aerodynamic lift over most of its flight path. The term "ground-launched cruise missile (GLCM)" means a ground-launched cruise missile that is a weapon-delivery vehicle.

Article VII, Paragraphs 1 and 2

For the purposes of this Treaty:

1. If a ballistic missile or a cruise missile has been flight-tested or deployed for weapon delivery, all missiles of that type shall be considered to be weapon-delivery vehicles.

2. If a GLBM or GLCM is an intermediate-range missile, all GLBMs or GLCMs of that type shall be considered to be intermediate-range missiles. If a GLBM or GLCM is a shorter-range missile, all GLBMs or GLCMs of that type shall be considered to be shorter-range missiles.

IDENTIFICATION OF THE PROBLEM

Senator Dan Quayle (R-IND) led the SASC's investigation of the application of the INF Treaty to so-called "futuristic" ground-launched missiles. While a point of departure for this line of inquiry was the AEI Article-by-Article Review of the INF Treaty's observation that it was unclear whether or not future missile technologies such as hypervelocity boost-glide vehicles would be covered (a point the Administration chose simply to say would be decided subsequently on a case-by-case basis), the Committee quickly discovered that a more fundamental question arose as a result of uncertainty about the meaning of the term "weapon-delivery vehicle."

The SASC majority, in its report on the Treaty, noted that the Administration's own Article-by-Article Analysis defines this term as "those types of ground-launched cruise missiles that have been . . . flight-tested or deployed with any type of warhead device or simulation thereof." The Committee commented that:

"This suggests that GLBMs or GLCMs which destroyed their targets through other, perhaps more futuristic or exotic, means would not be covered. If this reading is correct, then, the Treaty would appear to allow GLBMs or GLCMs that destroyed targets through such means as lasers, particle-beam generators, microwave pulse generators or perhaps even direct impact (kinetic kill). During the hearings, however, there were indications that the Administration may be interpreting this language more broadly . . . to include future weapons types such as those listed above (i.e., anything that can destroy a target)."

At the time the SASC report went to press, the Committee had not received satisfactory clarification of the Administration's views and urged that such be forthcoming—together with an authoritative statement as to whether the U.S. definition of "weapon-delivery" had been "clearly agreed to by the Soviet Union"—before final Senate action on the treaty.

SUBSEQUENT DEVELOPMENT OF THE ISSUE

When this issue first arose, Administration witnesses suggested that this matter had been agreed between the parties in the course of the negotiations. On April 13, 1988, however, former Secretary of Defense Caspar Weinberger and former ACDA Director Kenneth Adelman wrote Sen. Quayle to the effect that no such agreement had been reached. Subsequently, the Administration acknowledged, as Amb. Glitman put it, that "During the negotiations, the United States and the Soviet Union did not specifically discuss INF missile systems using techniques, such as lasers, to destroy targets, nor did the parties specifically address the meaning of the term 'weapon-delivery.'"

The Senate Foreign Relations Committee majority reported, however, that Amb. Glitman "was unconcerned that the issue had not been directly discussed in the negotiations" insofar as the Administration regarded the meaning of this term to be "commonly understood." he defined that understanding as follows:

The United States believes that the common sense meaning of the term "weapon-delivery vehicle" in the context of this treaty is any INF missile which carries a weapon, that is, any mechanism or device which, when directed against a target, is designed to damage or destroy it (emphasis added).

Initially, the Administration took the position that ". . . it is not necessary to confirm this understanding with the Soviet Union as a condition to the Senate's giving its advice and consent to ratification of the INF Treaty."

The majority of the SFRC accepted the thrust of the Administration's position. It cited three reasons for doing so:

(1) The negotiating record supports the view that the Soviets sought "to ensure that the Treaty covered all missiles in the INF range-band." As the Committee put it, "Indeed, given the fact that this type of advanced technology is an area of relative U.S. advantage. it would be surprising if the Soviet Union would not seek to capture such weapons if at all possible (emphasis added)."

(2) Based upon the "ordinary meaning of the term 'weapon,' missiles using weapons other than conventional or nuclear warheads would be covered" insofar as "the INF Treaty does not provide for any exceptions to the term weapon-delivery vehicle."

(3) The negotiating record reportedly reveals that "neither party sought exceptions" which is said to "provide . . . strong evidence that the intent of both parties was indeed to cover all intermediate-range and shorter-range missiles—those using conventional and nuclear weapons to damage or destroy targets and those using futuristic weapons to damage or destroy targets."

Based upon these considerations, the majority of the Foreign Relations Committee saw "no firm basis to dispute the Administration's testimony that futuristic weapons would be banned by the Treaty." Interestingly, however, emphasizing the fact that the Soviets have long attempted "to capture advanced technologies—an area of relative U.S. advantage—[through] arms control agreements," the Committee urged the administration to "consider seeking, through diplomatic channel [sic], explicit clarification from the Soviet Union that future weapons are covered by the INF Treaty."

On April 14, 1988, the Administration did so in the course of a meeting between Secretary of State Shultz and Foreign Minister Shevardnadze. On the following day, the Soviet Union responded to Secretary Shultz's request for clarification by transmitting a letter from the Soviet Foreign Minister which contained the following language:

In our conversation in Geneva on April 14 you raised the question of the INF Treaty interpretation in connection with the fact that a question has arisen during the U.S. Senate debate on this Treaty as to whether the ban covers the intermediate- and shorter-range missiles that could be equipped with warheads developed with some future technologies. As you noted, in responding to senators the Administration is saying that the Treaty ban covers intermediate- and shorter-range missiles, however equipped.

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On the 22nd of April, Senate Armed Services Committee Chairman Sam Nunn described in a lengthy statement on the Senate floor his concerns about developments associated with this issue. Specifically, he said the Shevardnadze letter "raised a question as to whether the Soviet Union believes that the types of unarmed missiles [used for surveillance purposes] are covered by the Treaty." Sen. Nunn judged that it is possible to "read the phrase 'however equipped' . . . as including surveillance drones or remotely-piloted vehicles (RPVs) and other types of non-weapons-equipped missiles."

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In light of these concerns, Chairman Nunn said he believed "that a Category III understanding may be required making approval of the Treaty contingent on the President's obtaining an explicit confirmation from the Soviets that they agree with the Administration's definition of "weapons-delivery vehicle." This requirement flowed, at least in part from his view that "we can[not] trust that the Soviets might not at some future point present a different definition of 'weapons-delivery vehicle' in an attempt either to block certain types of U.S. drones or RPVs which we would not consider to be 'weapons-delivery vehicles' or to allow the Soviets to deploy INF missiles which we would consider to be banned."

In response to such concerns, U.S. and Soviet representatives met on the margins of the Shultz-Shevardnadze ministerial in Geneva and, on May 12, 1988, the United States and the Soviet Union agreed to language stipulating that:

> . . . The term "weapon-delivery vehicle" in the Treaty means any ground-launched ballistic or cruise missile in the 500 kilometer or 5500 kilometer range that has been flight-tested or deployed to carry or be used as a weapon—that is, any warhead, mechanism or device, which, when directed against any target, is designed to damage or destroy it. Therefore, the Treaty requires elimination and bans production and flight-testing of all such missiles tested or deployed to carry or be used as weapons based on either current or future technologies, with the exception of missiles mentioned in paragraph 3 of Article VII of the Treaty. [Art VII.3: If a ground-launched ballistic missile is of a type developed and tested solely to intercept and counter objects not located on the surface of the earth, it shall not be considered to be a missile to which the limitations of this Treaty apply].
>
> . . . The parties share a common understanding that the Treaty does not cover non-weapon-delivery vehicles.

ANALYSIS

Any analysis of this topic must begin with consideration of a threshold question: Is it in the interest of U.S. and alliance security to ban "any ground-launched ballistic or cruise missile in the 500 kilometer to 5500 kilometer range that has been flight-tested or deployed to carry or be used as a weapon—that is, any warhead, mechanism or device [based on current or future technologies], which when directed against any target, is designed to damage or destroy it"?

As the Foreign Relations Committee majority report notes, advanced technology is a field in which we have an advantage—an advantage the Soviets are anxious to curb through arms control. Of particular concern to the Soviet Union has been the array of emerging technologies which will offer the United States the capability to use sophisticated, unmanned missiles to perform a variety of non-nuclear missions deep behind enemy lines and without relying upon either limited numbers of vulnerable airfields or naval platforms with other, high priority missions. It is no accident, therefore, that the USSR has been interested in curbing conventionally-armed GLCMs in INF and air-and sea-launched counterpart systems in START. It is hardly surprising either that the Soviets are now willing to broaden that prohibition further to capture unconventional or futuristic U.S. weapons, as well.

The Soviet Union appreciates that such weapons have the potential to enhance enormously NATO's ability credibly to defend its territory without resort to nuclear weapons. The following are but a few of the applications of advanced non-nuclear technology actively being considered by U.S. and/or alliance military planners:

Interrupting the marshalling, or progress, of Warsaw Pact follow-on forces deep behind the front-line;

Destroying air-defense and other radar networks;

Designating targets for other weapon systems;

Attacking antennas utilized by enemy command, control, communications and intelligence systems;

Jamming or otherwise interrupting or disabling an adversary's avionics suites, computers, fire control units or optical devices.

Indeed, the Pentagon's congressionally-mandated "Balanced Technology Initiative" is giving high priority to research and development of technologies utilizing lasers and microwave impulses.

These are all capabilities which threaten to reduce—and possibly to neutralize—the Warsaw Pact's conventional force superiority. A prohibition on such weapons would be in the Soviet Union's interest as it would perpetuate the present conventional force imbalance. Conversely, it would not be in the interest of the United States and its allies—even if there were not serious problems with its verification.

What is more, such a prohibition cannot be verified with confidence. Nearly every word in the newly agreed definition is troublesome from a verification. Consider the following illustrative issues:

Can we be sure we know what the operative "mechanism or device" is; could it be nothing more than the kinetic energy of an unarmed missile? It is simply not possible in every case to determine from the external appearance of the missile, from the test profile or from the deployment infrastructure what mechanism or device might be associated with it.

Will we be able to determine from observing a given missile what target it is to be "directed against"? Particularly given the exclusion offered by Article VII.3, a cruise missile system which might, for example, be flight-tested and deployed apparently to jam or damage aircraft avionics may actually be optimized for interfering with ground-based electronic equipment.

Does this definition apply only to ground-based "targets" as might be inferred from the reference made to the exemption of surface-to-air ABM and ASAT systems from the Treaty's limits? If so, why does the agreement simply refer to "targets?" Will not ambiguity about this point likely exacerbate the problem noted immediately above?

How can we be sure of the "design" or intended use of a given missile? This agreed definition would appear to be a radical departure from established U.S. Government policy, i.e., that capability—not intentions—must be the measure of merit in judging a system's consistency with arms control limitations. Does the new understanding effectively compel the United States to apply one standard for judging a system's performance for threat assessment purposes and an altogether different one for verification purposes?

Is the implementation of this understanding predicated upon the idea that we would share design information on the characteristics of military systems with the Soviets? Would we have confidence in any such data that they might share with us?

What is the definition of "damage?" If, for example, a missile-borne jammer is not "designed" to damage an adversary's radar or other systems—but inadvertently does so (for example, due to imperfect knowledge of the other sides' equipment and its capabilities)—would such a system be banned?

Alternatively, if a futuristic mechanism is intended to jam proximity fuzes of enemy ordinance and the result is the explosion of such ordinance would that constitute "damage" for the purposes of the Treaty?

What if the effect of the mechanism is to interrupt the functioning of a given target for a period of time—minutes, hours or days; if, at the end of the period of interruption, the target system performs just as before, would it be considered "damaged"?

How would such a regime be monitored? Would the Parties be obliged to exchange technical data about possible targets so as to establish what it would take to damage them?

This is hardly an exhaustive list of the questions and uncertainties aroused by the newly-adopted agreement broadening the INF Treaty's prohibitions. It does, however, illustrate the point that the real import of this new definition is neither self-evident nor fully thought-through. To the extent that answers do exist with respect to these and similar questions, this definition will be a compliance morass and a verification nightmare. More likely, there are no answers—at least not agreed ones, creating the prospect of U.S. adherence to unilaterally, defined criteria; even if we were to make the mistake of negotiating exacting implementing guidelines with the Soviet Union, we would be unable to ensure they were complying, given the intractable verification problems associated with such a regime.

Nearly as troubling is the manner in which this regime became U.S. Government policy. As noted above, the unhappy truth of the matter is that, in adopting its decision to prohibit conventionally-armed as well as nuclear-armed GLCMs, the Administration did not even consider—let alone have a formal position on—the implication of this prohibition for future variants of ground-based missile systems not carrying conventional high-explosive warheads.

It is, consequently, neither surprising or particularly significant that the United States did not seek in the course of the negotiations to establish an express understanding with the Soviet Union about how, if at all, such systems would be affected. Similarly, one cannot read any substantive significance—as the SFRC majority has attempted to do—into the fact the U.S. did not seek to develop exceptions to the language of the Treaty.

In fact, it was only after the Treaty was signed, when members of the Senate asked about the extent to which futuristic systems were banned that the Administration started formally to address the issue. As mentioned earlier, the Administration was caught so unprepared for this line of inquiry that at first its representatives actually maintained that the Soviets had expressly agreed during the Treaty's negotiation to ban futuristic systems along with conventionally- and nuclear-armed missiles.

This episode has tremendously important ramifications for the proposed Biden Condition. While the implications of this condition are discussed at length in the section on treaty interpretation, the controversy over the INF agreement's impact on futuristic systems reveals in a graphic way the folly of such a stipulation. In part, the Biden Condition states:

> The United States shall interpret this Treaty in accordance with the understand-

ing of the Treaty shared by the Executive and the Senate at the time of Senate consent to ratification . . . such common understanding [being] based on the text of the Treaty and reflected in the authoritative representations provided by the Executive branch to the Senate and its committees in seeking Senate consent to ratification. . . .

Had the Biden Condition been operative at the time, the controversy over futuristics may not have arisen until long after the INF Treaty was ratified. The Administration having spoken "authoritatively" on the subject, what was at the time an altogether unilateral characterization of the INF Treaty's terms would have become—for the United States—a binding interpretation. Whereas, in the event, a review of the negotiating record revealed that no such agreement in fact had been obtained, what the negotiating record showed about actual Soviet obligations would have been inadmissible evidence if the Biden Condition were in effect.

Even in the absence of the Biden amendment, the story of the United States' hasty and entirely ex post facto broadening of the intended scope of the INF Treaty is not one of the shining moments in U.S. diplomatic history. The substantive problems identified above bear witness to the ill-considered and precipitous manner in which the Administration sought to dispense with the issue of futuristic systems. Unless checked, there will be a powerful incentive for dealing in a similar fashion with future INF problems should they arise. There is, moreover, every likelihood that this procedural precedent will be cited as the proper way to deal with the inevitable problems to be expected in the more complex and militarily significant START Treaty.

CONCLUSIONS

There are ample grounds for the Senate to conclude that this limitation is unacceptable.

From a military standpoint, the arguments made on behalf of interpreting the INF Treaty permanently to prohibit futuristic technologies do not stand up to scrutiny. It seems apparent that the long-term implications of such a prohibition on U.S. and allied security have not been properly thought-through. An objective analysis of all relevant technologies and all credible prospective applications of such technologies to be done would surely affirm the obvious: the INF Treaty's newly fashioned, sweeping prohibition on future technologies is not in the interest of the United States.

From a verification standpoint, this definition is, at best, a formula for endless controversy and charges of Soviet non-compliance. At worst, it will permit the Soviet Union to acquire and maintain capabilities denied the United States.

Finally, the controversy over futuristic systems—and the manner in which the Reagan Administration has handled it—reflect a dangerous lack of meticulousness in its management of the arms control negotiating process. This augurs ill for the much more significant START Treaty.

As with the closely related issue of the Treaty's constraints on conventional weapons technologies, the only sure way of preventing untoward limits on possibly vital futuristic systems is to delete the underlying ban on non-nuclear weapons delivery vehicles. Such a change in the INF Treaty would not signal U.S. indifference to the importance of seeking verifiable provisions in arms control agreements. Rather, it would reflect a recognition that it does not make sense to subordinate potentially crucial military options to an ultimately vain effort to enhance verification. In few areas is this proposition more compelling than in that of advanced cruise missile technologies.

Yet, if the interpretation of the INF Treaty as banning futuristic weapons holds, the United States will find itself in a situation like that of a homeowner who decides to mortgage his future salary to install dead-bolt locks, a cross-bar and an alarm system on his front door when two or three others are left permanently ajar. Such approach is neither good security policy for the individual nor for the Nation.

ARTICLE XIV—NEW OBLIGATIONS OR SURPLUSAGE?

INTRODUCTION

In previous arms control agreements, the Soviet Union has sought and—to varying degrees—obtained, commitments from the United States in effect constraining collaboration between the United States and its allies on the grounds that such collaboration would circumvent the constraints imposed by such agreements. During much of the negotiation of the INF Treaty, the Soviets argued that a provision comparable to that found in the SALT II agreement should be incorporated into the new accord. The United States strenuously resisted this proposal; in the end, the Parties agreed to the language of Article XIV. The issue now is: Given the USSR's interest in impeding U.S.-allied defense cooperation, what, if any, are the implications of this article for such cooperation?

RELEVANT TREATY PROVISIONS

Article XIV

The Parties shall comply with this Treaty and shall not assume any international obligations or undertakings which would conflict with its provisions.

IDENTIFICATION OF THE ISSUE

The AEI Article-by-Article Review pointed out that this article either imposed additional obligations—such as a prohibition on various cooperative defense efforts with U.S. allies—or it was surplusage from a legal point of view. The first AEI Review observed that:

> . . . Under international law, if there is a question regarding the interpretation of a Treaty provision, then a reading which entails the creation of an additional obligation of the Parties is presumed correct as opposed to one that regards it as redundant (or "surplusage"). Consequently, if the Administration regards this provision as surplusage, then it must be clearly established now that the parties deem it as such in order to defeat the legal presumption that would otherwise apply. If this is not accomplished, then the provision could be cited as barring various Western defense efforts that, while not prohibited by the Treaty's terms, are said to be somehow "in conflict with" them.

This is hardly a groundless concern. Administration testimony, aimed at emphasizing the United States' negotiating success, dramatized the extent to which the Soviets were, as Ambassador Glitman put it to the Senate Armed Services Committee on February 23, 1988, intent on:

> . . . insert[ing] into the treaty language which they hoped could serve as either a brake on United States-NATO cooperation or at least as a basis for public accusations that we were not in compliance with the treaty.

The majority report of the Senate Foreign Relations Committee recounts that:

> The Soviets had sought language which would have provided that each Party undertake not to circumvent the provisions of the Treaty in any manner, and they specified that this would include a prohibition on the transfer of intermediate-range missiles, launchers, components of such missiles, and technical documentation. . . . When the Soviets dropped their request for noncircumvention language, they continued to seek language to the effect that the Parties would not take any action through any state or states or otherwise which would conflict with the Treaty. The U.S. argued that the language was too general and designed to provide a basis for the Soviets to seek to interfere with NATO cooperation, including modernization of forces. . . . [The Soviets then] pressed for language stating that the Parties would not undertake obligations contrary to [the Treaty's] provisions. . . . The U.S. argued that "actions and activities" was too vague, and suggested "undertakings" in the sense of a formal agreement.

In short, there can be no mistaking Soviet intentions in this area. What is less clear is the question of whether, in settling for less stringent language than they originally sought, the Soviets, nontheless, obtained a basis for challenging future U.S.-allied collaboration over and above the express prohibitions contained elsewhere in the INF Treaty. The initial Administration characterization of this provision conveyed in its Article-by-Article Analysis of the Treaty seemed to hedge somewhat on this point:

> Article XIV records the Parties' undertaking to comply with the Treaty and not to assume any international obligations or undertakings what would conflict with the provisions of the Treaty. This provision thus reflects the duty of each Party under customary international law to comply with the Treaty (i.e., *pacta sunt servanda*). This provision does not impose any additional obligation on the Parties, nor does it broaden the interpretation of other obligations in the Treaty. This provision refers only to the assumption of obligations in the future, and existing agreements are therefore unaffected. Article XIV will not affect existing patterns of defense collaboration or cooperation with our Allies. Nor will this provision preclude cooperation with our Allies in modernization. (Emphasis added.)

In other words, in precisely the area of greatest concern—namely that of future cooperation with our allies—it seemed the United States might run into problems with its commitments under Article XIV.

SUBSEQUENT DEVELOPMENT OF THE ISSUE

In light of a widespread view that a clear understanding of the correct interpretation of Article XIV's import was crucial to future U.S. latitude in collaborative efforts with our allies, both the Senate Armed Services and Foreign Relations Committees took pains to clarify the Administration's position on this issue. Amb. Glitman told the SFRC:

> The language of Article XIV and the negotiating record support the conclusion that this article, as finally agreed, does not in any way constitute a noncircumvention provision nor impose any additional obligations on the Parties, nor interfere with any existing program of cooperation with our Allies, nor interfere with any provision by the United States to its Allies of any items not limited by the Treaty.

The Armed Services Committee majority stated that:

> Amb. Glitman's testimony demonstrated that the Soviets sought to insert language into the Treaty which they hoped would restrict U.S.-NATO cooperation, but the U.S. successfully resisted this effort, and the U.S. view was agreed to by the Parties.

Both committees went to great lengths to establish their views of the crucial importance of such representations. In fact, the SASC majority actually predicated its position that it was not "necessary to adopt a condition in the Resolution of Ratification on the meaning and effect of Article XIV" because of the explicit assurances received from the Administration "which were consistent with the negotiating materials provided to the Senate." the Armed Services Committee, nonetheless, stated its "unequivocal" understanding of this provision:

> . . . Article XIV does not in any way constitute a noncircumvention provision, nor does it impose any obligations on the Parties that are not expressed elsewhere in the Treaty. Questions as to the types of assistance prohibited under the Treaty must be addressed under the specific prohibitions in the Treaty, not by reference to Article XIV. The Treaty prohibits the Parties from producing or transferring a missile, missile stage, or launcher for a treaty-limited cruise missile or ballistic missile. It does not prohibit the production or transfer of lesser components or other items, such as guidance elements, technology, or blueprints. However, it would prohibit providing another country with every component piece by piece, thereby effectively amounting to the transfer of a whole missile, missile stage, or launcher.

The Foreign Relations Committee echoed this sentiment by stating that:

> The Committee wishes to make it absolutely clear that, in its view, the transfer or production of these lesser components . . . are fully consistent with both the letter and the spirit of the INF Treaty. If the Soviet Union were in the future to make contrary claims, the Committee would regard them as unpersuasive and without any justification deriving from the Treaty.

The SFRC completed its consideration of Article XIV by asserting that "confirmation that the Soviets did not succeed in restricting cooperation and modernization was provided on February 9 by Foreign Minister Eduard Shevardnadze in an address" before the Supreme Soviet. He is quoted as having said:

> . . . There is indeed a lot being said just now about compensation, about creating modernization, and so on, and this undoubtedly does give serious cause for concern, and it also gives our allies cause for concern. I said in my speech that it is now very important to maintain dynamism, not to permit significant pauses in problems of disarmament. If serious intervals were allowed, quite unexpected developments of events would be possible. Therefore, the Treaty itself does not give such a guarantee, but it creates good conditions to achieve progress and achieve the reductions of weapons in other fields, too.

ANALYSIS

While it is now reasonably clear that the Administration and the Armed Services and Foreign Relations Committees intend to treat Article XIV as surplusage, there are two important problems with the approach adopted for doing so.

Have the Soviets Agreed?

Notwithstanding the foregoing, somewhat torturous and ultimately ambiguous statement by Foreign Minister Shevardnadze, no clear-cut evidence exists to support the view that the Soviet Union shares the U.S. interpretation of Article XIV. Indeed, the USSR has nowhere indicated that it regards this provision as redundant, meaningless or surplusage. To the contrary, it is the direct result of a consistent, unflagging Soviet campaign to obtain language that would, as Amb. Glitman said, "put a brake on United States-NATO cooperation." While it is true that the Soviets sought more explicit restrictions than ultimately emerged from the negotiations, it could be dangerous to conclude that—absent formal agreement to the contrary—the USSR will not construe the record to be one of ultimate U.S. accommodation to their overall objective, even if the words are not as tightly drawn as the Soviet Union would have liked.

Internal Inconsistencies Weaken the Administration's Case

The Administration's effort to minimize the potential for mischief associated with this provision is weakened by internal inconsistencies in its arguments. For example, its assertion that Article XIV merely restates the already existing obligation to comply with the Treaty seems confuted by the fact that such an obligation expressly appears elsewhere in the accord. Specifically, Article I commits the Parties to "carry out the . . . obligations set forth in this Treaty." Except for making clear that the Memorandum of Understanding and the Protocols are integral parts of the Treaty, Article I contains no substantive provision that is not also expressed in the requirements of Articles IV and V (namely, to eliminate intermediate- and shorter-range systems).

Therefore, the evident purpose of the highlighted language of Article I is to restate the parties' obligation under customary international law to comply with the Treaty. In that case, Article XIV would be nothing more than a redundancy of Article I, which in turn is a redundancy of existing international law. It is difficult to believe that such is the Soviet view of Article XIV.

Similarly, the Administration's argument that Article XIV "does not in any way constitute a noncircumvention provision" of the sort contained in Article XII of the SALT II Treaty could prove troublesome. First, it doubtless will be argued by some that Article XIV's ban on assuming "any international obligations or undertakings which would conflict with" the INF Treaty's provisions is not necessarily less restrictive than SALT II's requirement "not to circumvent the provisions of this Treaty, through any state or states, or in any other manner." Indeed, the United States must expect the assertion to be made that some forms of defense cooperation with allies might fall considerably short of "circumvention," yet still "conflict with" some provisions of the INF Treaty.

Concerns over the possible unhelpful association of the SALT II "non-circumvention" formula with U.S. commitments under the INF Treaty are heightened by the Administration's own Article-by-Article Analysis which uses essentially identical language to describe the INF accord's Article XVI as that employed in the State Department's official 1979 analysis of SALT II to explain the earlier agreement's Article XII. In fact, the former seems to have been composed simply by combining the texts from the latter's treatment of SALT II's Articles XII and XIII, with the addition of the Latin phrase, pacta sunt servanda.

CONCLUSIONS

While the Administration has fairly consistently maintained that Article XIV is surplusage and Senate committees have endorsed that position, it is, nonetheless, to be expected that critics of NATO modernization will assert that Article XIV creates a legal basis for blocking necessary collaborative programs. If the United States is to minimize the political significance of such criticism throughout the NATO alliance, it will need explicit Soviet assent to the effect that Article XIV does not impose any additional obligation on the Parties, nor does it broaden the interpretation of other obligations in the Treaty. If Mr. Shevardnadze's recent statement means what is ascribed to it, there should be no difficulty obtaining such an agreement.

THE SOVIETS' RIGHT TO RETAIN "ELIMINATED" LAUNCHERS

INTRODUCTION

In the closing days of the negotiation of the INF Treaty, the United States accepted a number of Soviet demands in an effort to facilitate completion of the accord. One of the most remarkable of these came about when the U.S. agreed to grant the Soviets an asymmetric right to retain all of its mobile missile launchers by performing specified modifications, whereas the United States was obliged to cut all of its launchers in half.

RELEVANT TREATY PROVISIONS

Article IV, Paragraph 1

> Each Party shall eliminate all its intermediate-range missiles and launchers of such missiles, and all support structures and support equipment of the categories listed in the Memorandum of Understanding associated with such missiles and launchers, so that no later than three years after entry into force of this Treaty and thereafter no such missiles, launchers, support structures or support equipment shall be possessed by either Party.

Article X, Paragraph 1

> Each Party shall eliminate its intermediate-range and shorter-range missiles and launchers of such missiles and support structures and support equipment associated with such missiles and launchers in accordance with the procedures set forth in the Protocol on Elimination.

Section II of the Protocol on Elimination, Paragraph 10

> The specific procedures for the elimination for the items of missile systems listed in paragraph 1 of this Section shall be as follows, unless the Parties agree upon different procedures to achieve the same result as the procedures identified in this paragraph:
>
> For the Pershing II:
>
> Launcher:
>
> (a) erector-launcher mechanism shall be removed from launcher chassis;
>
> (b) all components of erector-launcher mechanism shall be cut at locations that are not assembly joints into two pieces of approximately equal size;
>
> (c) missile launch support equipment, including external instrumentation compartments, shall be removed from launcher chassis; and
>
> (d) launcher chassis shall be cut at a location that is not an assembly joint into two pieces of approximately equal size.

For the SS-20:

Launcher:

(a) erector-launcher mechanism shall be removed from launcher chassis;

(b) all components of erector-launcher mechanism shall be cut at locations that are not assembly joints into two pieces of approximately equal size;

(c) missile launch support equipment, including external instrumentation compartments, shall be removed from launcher chassis;

(d) mountings of erector-launcher mechanism and launcher leveling supports shall be cut off launcher chassis;

(e) launcher leveling supports shall be cut at locations that are not assembly joints into two pieces of approximately equal size; and

(f) a portion of the launcher chassis, at least 0.78 meters in length, shall be cut off aft of the rear axle.

IDENTIFICATION OF THE PROBLEM

The AEI Article-by-Article Review of the INF Treaty observed that, in contrast to the general obligation to "eliminate" (among other items) all INF missile launchers the Parties possess, the detailed provisions of the Treaty and its Elimination Protocol will only require alteration of the USSR's transporter-erector-launchers (TELs) for its mobile INF missiles. The first AEI Review noted that:

Whereas the "elimination" procedures for all Treaty-limited U.S. systems will ensure that such systems are reduced to scrap, the procedures for several Treaty-limited Soviet launchers have been designed to allow the "eliminated" launchers to be used for other purposes. Given that these "eliminated" Soviet launchers will be permitted to operate throughout the Soviet Union, the question is whether, even if we observe them through overhead reconnaissance, we have the capability of ascertaining whether the alterations have been reversed so as to allow the item to perform a prohibited function.

The first AEI Review concluded that:

Each exclusion from the elimination schedule, gerrymandered definition, and exception to the non-production rule may seem minor in itself, but taken together such provisions mean that the Soviets, even without violating the Treaty, can remain rather close to a militarily significant INF capability. And the violations that would be required to maintain an INF capability are less extensive (and thus easier to conceal) than the Treaty's comprehensive language leads one to believe.

SUBSEQUENT DEVELOPMENT OF THE ISSUE

In his unclassified analysis of the first AEI Review, Defense Secretary Frank Carlucci did not directly rebut its critique. Instead, he averred that "the [Treaty-stipulated elimination] procedures are designed to render the launchers unusable" and that it would probably take longer to reconstitute them than to build them from scratch. He also notes that, as contrasted with the launchers themselves, "the erector mechanisms for the declared launchers will be destroyed" under on-site monitoring.

Interestingly, Secretary Carlucci does acknowledge the following point:

. . . It is important to remember that only the declared final assembly facility for the launcher is subject to onsite inspection. Facilities capable of producing the launcher chassis and other components and assembling them have no uniquely identifiable features. Thus, detection of production of new launchers will be difficult. Of course, over a period of time, our confidence in detecting clandestine production will increase if the Soviets attempt to field a militarily significant force that would require a large number of launchers.

The Secretary of Defense did not address the central issue regarding this unequal treatment of Soviet mobile missile launchers—Will the United States, upon observing SS-20 launchers throughout the Soviet Union, be able to determine with confidence whether they are: modified (i.e., "eliminated") TELS, "eliminated" launchers which have had their Treaty-mandated alterations reversed, new production, mission-capable SS-20 transporter-erector-launchers or non-declared launchers, illegally retained in an unaltered state?

The majority report of the Senate Armed Services Committee addresses the concerns expressed in the first AEI Review somewhat more squarely. Indeed, it acknowledges that an amendment to the Treaty requiring the Soviets to eliminate their mobile launchers in the same manner that the United States must (namely, by cutting them in half), would "make it virtually impossible for the Soviets to convert 'eliminated' SS-20 launchers back into operational SS-20 launchers and it would preclude the possibility of SS-20 launchers roaming in the field in the guise of pipelaying vehicles."

The SASC majority, while recognizing that "the SS-20 launcher elimination procedure specified in the Treaty complicates the monitoring tasks confronting the United States," declined to recommend such an amendment, however. They did so on the grounds that such a revised elimination procedure would not "prevent [the Soviets] from covertly stockpiling intact SS-20 launchers which had either been falsely declared to have been eliminated during the period between the signing of the Treaty and its entry into force or never declared in the first place." These Senators also sought comfort in the argument that:

. . . With or without such an amendment, the effectiveness of the Treaty's verification regime will still depend in the final analysis upon a Soviet calculation that prohibited systems would not be militarily viable due to the ban on flight testing, and/or that the political risks of detected cheating outweigh the military benefits of covertly conducting prohibited activities.

Neither the Select Committee on Intelligence in its unclassified report nor the Foreign Relations Committee in its majority report addressed this subject.

ANALYSIS

The foregoing arguments against correcting the inequity posed by the launcher "elimination" procedures of the INF Treaty are unpersuasive. The fact is that this arrangement is a defect in the accord, one that could substantially facilitate Soviet planning for break-out even as it makes more difficult the U.S. job of monitoring and verifying Soviet compliance.

Particularly unpersuasive is the argument found in the SASC majority report that the United States can be indifferent to the cumulative, adverse effect on the Treaty's verifiability of provisions like that governing the elimination of launchers in view of the flight-test ban and the political risks to the Soviets of detected cheating. With respect to the former, as the first AEI Review noted, the Soviet Union evidently elected for years to maintain in its inventory a significant force of SS-16 ICBM's (the three-stage version of the two-stage INF-range SS-20) in violation of the SALT II Treaty—despite the fact that nary a flight-test took place after that Treaty was signed.

With respect to the latter, it is difficult to identify what political costs the Soviet Union has borne for its past cheating on arms control agreements. Unfortunately, this is not simply a question of the dismal verifiability of past agreements; even where such cheating has been easily detectable, as in the case of the Krasnoyarsk radar, there has been essentially no risk to the USSR attending calculated, purposeful and militarily portentous non-compliance. Given the United States' failure to respond meaningfully to previous Soviet violations, it would be naive in the extreme to expect that the Soviets will be deterred from cheating on the INF Treaty by perceived risks of our detecting them at it—especially where we have accepted Treaty provisions which will make such detection vastly more problematic.

In fact, the real—but unstated—basis for the SASC's reluctance to endorse an amendment which would, admittedly, reduce appreciably some of the verification difficulties associated with this accord, is the fact that doing so would necessitate renegotiation of the Treaty. Some fear that such a step would "kill" this agreement. In our view, it is inconceivable that such a stipulation, one both entirely consistent with the general obligation of the INF Treaty and designed to eliminate predictable difficulties in the future over Soviet compliance, would result in the Treaty's rejection by the USSR.

CONCLUSIONS

Soviet agreement to eliminate its launchers in the same way as the United States is required to do appears to be the only way to avoid the consequences of the present INF Treaty language described above. Happily, such a step would not only restore equity to this provision; it would also be justifiable on the grounds of conforming the details of the INF Treaty with its general obligations and of maximizing the verifiability of this agreement.

Do Uncertainties About Soviet Missile Data Matter?

INTRODUCTION

On the face of it, it would seem hard to disagree with the proposition that, unless the United States knows how many INF missiles are in the Soviet inventory, the U.S. will have little confidence in an agreement banning all such missiles. If, for example, the USSR were to have more SS-20's in its arsenal than it admitted to in the Memorandum of Understanding (MoU) which accompanies the INF Treaty, the Soviets could conceivably retain an illegal force of such missiles—even if the United States were sure that every last declared SS-20 had been destroyed.

Yet, as has become apparent in recent weeks, the United States Government is not certain that it knows how many Soviet INF missiles there are. This chapter attempts, within the limitations of an unclassified discussion of intelligence-related matters, to describe the magnitude of that uncertainty and its significance for verification of the INF accord.

RELEVANT TREATY PROVISIONS

Numerous provisions of the Treaty and its accompanying documents bear upon this issue in one way or another. The most directly applicable material, however, can be found in the Memorandum of Understanding Regarding the Establishment of a Data Base for the INF Treaty.

IDENTIFICATION OF THE ISSUE

Mobile missiles are inherently difficult to monitor. This is particularly true of those Soviet mobile INF missiles that are not "deployed," that is, those located at facilities other than operational bases which can be identified with relative ease. As made clear in the INF Treaty's Memorandum of Understanding, the USSR does possess such missiles; their exact number, status and whereabouts, however, are unknown outside the Soviet Union. These "non-deployed" assets might be used as refires, operational spares, test missiles or as wartime reserves; they need not be stored in a manner which can be identified by U.S. intelligence.

Indeed, there has long been considerable uncertainty within the United States Government about estimates of the total Soviet stockpile of mobile INF missiles, especially the number of SS-20's. For years, this uncertainty has been reflected in terms of a range of estimated force levels. As the AEI Article-by-Article Review pointed out:

. . . It should be noted that the State Department stated [publicly] in the Spring of 1987 that:

In addition to the approximately 400 SS-20 missiles now deployed, there may be as many as 200-400 (or more) such missiles in the USSR's inventory.

The first AEI Review concluded:

Thus it would seem that our intelligence estimates on these matters fall within a wide range of uncertainty. It is also the case that our estimates have, for some time, been a matter of public record. Consequently, we should not take particular comfort from the contention that the Soviet-provided data fall within that range.

SUBSEQUENT DEVELOPMENT OF THE ISSUE

Two related questions have emerged to date in the Senate's consideration of the data issue in the INF Treaty: (1) Is the Soviet-supplied information about the quantity of its deployed and non-deployed SS-20's accurate? And (2) Even if the United States cannot be certain that it is accurate, do the Treaty's provisions ensure that—should the Soviets have failed to account for all of their holdings of such missiles and, therefore, attempt to retain an illegal, covertly-deployed SS-20 force—the U.S. can have confidence that these systems will be without military or political value?

Is the Soviet Data Accurate?

In the course of the Senate's hearings on the INF Treaty, it became clear that the U.S. intelligence community's uncertainty about the number of SS-20's in the Soviet inventory had not been eliminated by the data concerning these missiles supplied by the USSR. As the Senate Select Committee on Intelligence noted in its unclassified report:

With respect to assessing the accuracy of the numbers and locations of forces and systems declared by the Soviets in the Treaty's Memorandum of Understanding, the Intelligence Community has not resolved significant differences of view over the possibility that the Soviets may not have disclosed their entire inventory of non-deployed SS-20 missiles. These differences represent valid analytical judgments based on the limited and inconclusive information that has been available to the Intelligence Community.

In a March 21, 1988 memorandum (whose claim to be unclassified was sharply contested by several Senators), Sen. Jesse Helms, Ranking Minority Member on the Senate Foreign Relations Committee, contrasted the following estimates with the declared Soviet SS-20 force level of 650 deployed and non-deployed missiles:

Estimated Force Level and Source:
550—CIA/State (July 1987).
700—CIA/ State (January 1987).
840—State public number (May 1987).
950—Majority intelligence community assessment (NIE July, 1987).
1200—Defense Intelligence Agency number (July 1987/Jan. 1988).
2250— Private assessments of intelligence experts.

We cannot comment upon the accuracy or sources of this memorandum. That said, the magnitude of the discrepancy between U.S. intelligence agencies' estimates described in Senator Helms' memo—like that revealed in the earlier Shultz letter noted above—suggest a serious verification problem, i.e., nearly a 100% uncertainty factor if the DIA numbers are accurately portrayed.

In his analysis of the first AEI Review, Defense Secretary Carlucci stated:

We have made it clear that there are some differences within the U.S. Intelligence Community over estimated numbers of Soviet systems. It is not surprising that there are differences of opinion. They reflect independent analyses which add to the strength of our monitoring process. The Soviet numbers for deployed and non-deployed forces are, for the most part, near the estimates of our Intelligence Community, allowing for the range of our uncertainties. However, there are some differences in agency views of the number of non-deployed SS-20's Estimates for non-deployed systems are, of course inherently less certain. They vary by agency, reflecting the independent analyses noted above. There are 3 agency views. Two are close to the Soviet declared number. One is not.

The Foreign Relations Committee majority reported that "Accordingly, most Members concluded that while the Soviet figures could well be accurate, it is also possible that there are additional missiles in storage."

Does the INF Treaty Make Such Uncertainty Irrelevant?

The ease with which Soviet mobile INF missiles can be moved, concealed or otherwise deceptively operated was an important consideration behind President Reagan's decision to seek a global ban on such systems—the so-called "zero-option." The idea was to create a set of exceedingly stringent limitations on all facets of SS-20-associated activities (e.g., complete prohibitions on production, testing, deployment, training, maintenance) such that any indication of any activity having anything to do with SS-20's would constitute a violation of the INF Treaty. Under such circumstances—even if the United States could not be certain how many SS-20's had been produced prior to the accord—U.S. confidence in its ability to detect illegal activity would be reasonably high. Moreover, such restrictions would, it was hoped, make maintaining an undetectable covert force so difficult that the Soviets would be deterred from trying to do so.

Indeed, the Administration, the Senate Select Committee on Intelligence and the Senate Foreign Relations Committee all averred that, with the realization in the INF Treaty of the "zero-option" and the accompanying limitations, the present U.S. uncertainty over actual SS-20 force levels was, if anything, of fleeting consequence.

Secretary Carlucci put it this way in submitted testimony to the SFRC:

The capability of detecting covertly stored Treaty-limited weapon systems will depend on the scenario, including size of force, state of readiness, mode of operations, training requirements and a number of other factors. But the Treaty is designed to deal with possibilities such as the Soviets having more non-deployed SS-20's than we assess. Our National Technical Means can verify Soviet compliance with the Treaty's ban on INF flight testing, as well as with the Treaty's ban on INF infrastructure and activity. Testing, training and infrastructure are essential to a militarily effective force. Thus, unless the Soviets were willing to risk detection, the military effectiveness of concealed SS-20's would degrade over time.

The SSCI concluded in its unclassified report:

Whether or not [the differences between U.S. intelligence agencies] can be resolved in the future, on the basis of new information or analysis, their potential military significance would be short-lived. This is because the operational reliability and military utility of any covertly maintained missiles would begin to deteriorate immediately; would seriously degrade during the first three years, when all declared missiles are being eliminated; and would vanish entirely within a decade, unless the Soviets can resume flight testing them. This would be both illegal and readily detectable.

The SERC majority embellished this view with the following assertions:

. . . The Committee knows of no responsible official who believes that [additional Soviet] missiles in covert storage could possibly constitute a usable force.

While it may be possible to evade one of the verification measures in the treaty, the combination of all measures, including particularly the ban of flight training and flight testing, will ensure that any covert force would rapidly lose its military utility.

. . . It is clear that the Soviets have little incentive to deceive with regard to SS-20's. If they value this Treaty and the prospect of further arms control agreements, they understand that any cheating is a high-risk activity. Moreover, since a covert, untested, and unexercised force could have no deterrent or political intimidation value and, given other forces still available, quite limited military value, the obvious and wise choice would be compliance with the requirement of the Treaty for complete elimination of INF systems.

ANALYSIS

Is the Soviet Data Accurate?

It is clearly the case that the United States Government is neither able to accept as valid—nor entirely reject as false—the formal representations of the Soviet Union as to the number of Soviet systems that will be limited by this Treaty. This must be regarded as a rather inauspicious point of departure for such an arms control venture.

The disagreements within the U.S. intelligence community appear to be serious. According to press accounts, the Director of the Defense Intelligence Agency, LTG Leonard Peroots, has repeatedly been asked to explain why his agency's estimate of Soviet non-deployed SS-20's is so much higher than that of CIA and the State Department's Bureau of Intelligence and Research. Reportedly, on such audience included the Secretatry of Defense and Chairman of the Joint Chiefs of Staff. Gen. Peroots is said to believe that there is no basis in the information available to date that would warrant a change in DIA's estimative methodology and that, consequently, that there are no grounds for lowering that organization's assessment of the size of the SS-20 force.

Moreover, according to Sen. Helms, it appears that DIA is not—as Secretary Carlucci's statement quoted above suggests—alone in calculating a substantially higher quantity of SS-20's than the Soviets have declared; other intelligence agencies who participate in the construction of the National Intelligence Estimate—the National Security Agency, the Army, Navy and Air Force Intelligence Directorates, among others—are said to believe the Soviet figure is too low.

While it is not possible to reach a judgment about the relative accuracy of one intelligence component's assessment over another's, it is possible—and important—to sound cautionary notes about several aspects of this issue:

First, a practice of entering into agreements where we have reason to disbelieve formal Soviet declarations about the forces to be limited can be a highly risky business. The INF Treaty will doubtless be cited as a precedent in urging U.S. acceptance of equally—or even more—suspect Soviet declarations with respect to strategic arms, chemical weapons and conventional forces. Given that agreements limiting such systems are certain to be still more difficult to verify than the INF Treaty, profound uncertainties about the USSR's actual capabilities will make the effectiveness and advisability of such accords all the more problematic.

Second, this controversy illustrates how the very act of negotiating arms control agreements and advocating them to the public and the Congress can assist the Soviet Union in determining means of circumventing such accords. By providing insights into how the U.S. intelligence community arrives at its calculations of Soviet force capabilities, this process can inform any planning for cheating the Soviets might do.

Third, the fact that Soviet numbers fall within our estimates should not be encouraging—since the Soviets already were aware of the range of our estimates. Thus, their supplying a number that is within that range may only illustrate that we are susceptible to having our own assessment of their forces fed back to us.

Finally, there is the related point of the extent to which U.S. intelligence can be suborned by the perceived political imperative of supporting the arms control process. There is often subtle—but real—pressure exerted on the United States intelligence community to ensure that its estimates of Soviet capabilities track with expected performance under arms limitations. Such pressures pose a serious risk to the objectivity and accuracy of vital U.S. intelligence analysis.

Does the INF Treaty Make Such Uncertainty Irrelevant?

As was noted in the AEI Article-by-Article Review, in a number of important respects, the details of the INF Treaty are such that the pristine verification scheme envisioned by the "zero-outcome" will not be realized. To the extent that these bear critically on the assertions made by the Administration and the Senate Intelligence and Foreign Relations Committees about the irrelevance of U.S. uncertainty about Soviet forces, they warrant careful examination:

(1) *The SS-25 Problem:* Whereas the "zero-outcome" anticipated a regime in which there would be no production, no training, no deployment, no maintenance and no testing of treaty-limited items, the INF Treaty will be implemented in a very different context. By virtue of the fact that the Soviet Union derived a three-stage intercontinential-range ballistic missile, designated the SS-25 by the U.S., from the two-stage SS-20, the widespread deployment of the former will afford the USSR an infrastructure very similar to that associated with the latter. It is entirely possible that the requisite training needed to ensure basic readiness proficiency for SS-20 crews—including that associated with maintenance and deployment—could be obtained via the device of cycling troops from a covert storage facility legal SS-25 installations.

Moreover, the INF Treaty permits continued production of at least parts of the SS-20. This fact flows from U.S. acceptance of the Soviets' claim made late in the negotiations that the first-stage of the SS-25 is "outwardly similar to but not interchangeable with" that of the SS-20. (The second-stages of the two missiles are supposed to be both different and noninterchangeable.) In the end, the United States decided to agree that the Soviet Union can continue to manufacture a stage which, as a practical matter, cannot be distinguished from one whose production is banned. In any event, the Treaty affords the United States no rights to inspect Soviet ballistic missile production facilities, rendering moot whatever differences do exist and complicating further U.S. monitoring tasks.

(2) *The "Elimination" Flim-flam:* As is discussed at length elsewhere in this study, the Soviets have the right under its detailed terms to retain their entire mobile missile launcher inventory, provided that certain modifications are affected—notwithstanding the Treaty's requirement that all limited INF systems be "eliminated." The continued, legal presence of SS-20 launchers which may be extremely difficult to distinguish from unmodified, illegal launchers not only makes verification more difficult; it also further diminishes the effectiveness of the Treaty's prohibition on maintaining an infrastructure for limited missile systems.

(3) *The Flight-Test Ban:* Great weight is placed by the Administration and Congressional proponents of the INF Treaty on its prohibition of flight-testing as the ultimate and highly verifiable guarantor of this agreement's limitations. As the SSCI put it:

> . . . There is little apparent advantage to Soviet military commanders, and there are certainly significant risks, in developing any covert forces that cannot be exercised realistically or tested fully. . . .
>
> Moreover, the INF Treaty's ban on the testing of any ballistic missiles for weapons delivery with ranges between 500 and 5500 kilometers can be monitored with high confidence. This makes it exceedingly difficult, costly and risky for the Soviets to develop or maintain a militarily useful, covert force of ballistic missiles, especially longer-range missiles, which violates the INF treaty.

While it is certainly the case that the Soviet missile force should experience some degradation in reliability if it is not tested regularly, several considerations may affect how decisive that degradation proves to be for Soviet planners contemplating the retention of covert INF missile stockpiles:

The INF Treaty actually does permit the Soviets to construct what amounts to a short, concentrated flight-test program, should they wish to do so. At their insistence, the Treaty allows up to 100 missiles to be launched-to-destruction within the first six-months after entry-into-force. While it is true that certain standard practices for monitoring such missile flights—like test-related telemetry—are not permitted, it is inconceivable that the USSR will be unable to gleam considerable performance and reliability data from 100 such flights, should they choose to do so.

The Senate Armed Services Committee, in declining to act upon a recommendation that this allowed-launch provision be struck from the Treaty, cited the following Administration testimony:

> It is our judgment, given that launch to destroy (LTD) is limited to 100 missiles in the first six-months and the fact that the Soviets have had over 10 years to train and can continue to do so right up to elimination, that these six months of LTD would not contribute significantly to the reliability of a covert force.

In other words, the Administration and the SASC believe that the Soviet Union could not obtain increased confidence in the reliability of any SS-20's it chose covertly to retain by conducting 100 launches of such missiles. It is hard to believe the United States would be unable to obtain useful information from such a launch series and harder still to believe that the Soviets who insisted upon this arrangement will not be able to do so.

The Administration has stated that the Soviet Union probably retained some number of the three-stage SS-16 ICBM's (from which the two-stage SS-20 was derived) in its operational force for many years after this missile was banned by the SALT II Treaty. Not once after that Treaty was signed did the Soviets flight-test this missile, suggesting that the USSR may be willing to accept a different standard of reliability for covert missile forces than the United States does for its deployed systems—or, for that matter, than does the Soviet Union for other military assets.

If the Soviet Union were to choose, at some point after all U.S. INF missiles had been destroyed, to resume testing of SS-20's it had covertly retained, it could quickly restore whatever diminished confidence it might have in the reliability of its remaining stockpile. Indeed, the Soviets may be able to utilize SS-25 flight-testing to validate the performance of some SS-20 components so as to reduce the requirement for such a "breakout" even further.

CONCLUSIONS

The United States will be faced with substantial uncertainty about future Soviet compliance with the INF Treaty partly as a function of the difficulty in assessing how many SS-20's actually exist and partly because of the cumulative effect of several Treaty provisions which will make the task of monitoring the USSR's behavior considerably more difficult.

Regrettably, past behavior alone suggests that the Soviet Union will retain SS-20's if it believes it expedient to do so, notwithstanding risks which some assert that behavior would entail. In fact, there have been few real risks associated with previous Soviet violations. The U.S. approach to arms control has failed to provide significant disincentives to the Soviet Union's cheating; as noted elsewhere in this paper, the INF Treaty itself bears witness to the fact that—even when there is indisputable proof of Soviet cheating on arms control agreements (witness the Krasnoyarsk radar's breach of the ABM Treaty)—the United States will enter into still further accords with the Soviet Union.

Moreover, it would be naive to accept the contention that such missiles, even if untested for a period of years, would—if wheeled out in the midst of some future crisis—have no "political intimidation value" in Europe and elsewhere. To the contrary, such a development could be decisive in influencing Western public and governmental opinion at a time when the Soviets will be particularly interested in doing so. This fact is not likely to be lost on the USSR and could, in and of itself, provide the Soviets with powerful incentives to cheat—to say nothing of the war-fighting value of these mobile, survivable systems.

The risks of future Soviet exploitation of U.S. uncertainties about the USSR's INF missile force structure could be substantially alleviated were the INF Treaty to be restored to the zero-option as originally conceived. Measures that would be helpful toward this end include: prohibiting the SS-25 ICBM in START so as to eliminate its infrastructure as a vehicle for Soviet cheating; reestablishing that both sides' INF missile launchers are eliminated in the same fashion—by being cut in half; precluding potentially useful flight-testing by excising the Treaty's provision for launching to destruction.

Furthermore, the United States should be extremely chary of getting into new agreements where the magnitude of its uncertainty about actual Soviet capabilities will be, in all likelihood, even greater than it is with respect to the USSR's INF data.

THE ASYMMETRIC "COUNTING RULE" AND IT'S EFFECTS ON U.S. INSPECTION RIGHTS

INTRODUCTION

In the latter stages of the INF Treaty negotiation, the United States accepted the Soviet Union's contention that there were differences in the way the main Soviet ballistic missile covered by the Treaty (the SS-20) and the main U.S. ballistic system (the Pershing II) were assembled, stored and moved, and that those differences must be reflected in asymmetric treatment of those missiles in the agreement. Subsequent to the signature of the Treaty and in the course of negotiations aimed at establishing the precise modalities for inspections, disagreements surfaced in the respective views of the United States and the USSR about the precise application of this asymmetric treatment to the Parties' inspection rights—especially the evident Soviet interest in making the inspection regime even more disadvantageous to the United States. These differences were among those that prompted the U.S. Senate to suspend its consideration of the Treaty until Secretary Shultz could address them with his Soviet counterpart during their meeting in Geneva in May, 1988.

The Parties have, as a result of the negotiations conducted on the margins of that meeting, effectively reaffirmed the INF Treaty's asymmetric method of counting the two sides' most important weapon systems. The Treaty, as a result, provides for inequitable arrangements which may affect the verifiability of this agreement. The present chapter suggests, however, that the principle of asymmetric verification arrangements might, if employed somewhat differently in the future, create the basis for an acceptable START agreement.

RELEVANT TREATY PROVISIONS

Article VII, Paragraph 10

> Except in the case of elimination in accordance with the procedures set forth in the Protocol on Elimination, the following shall apply:
>
> (a) for GLBMs which are stored or moved in separate stages, the longest stage of an intermediate-range or shorter-range GLBM shall be counted as a complete missile;
>
> (b) for GLBMs which are not stored or moved in separate stages, a canister of the type used in the launch of an intermediate-range GLBM, unless a Party proves to the satisfaction of the other Party that it does not contain such a missile, or an assembled intermediate-range or shorter-range GLBM, shall be counted as a complete missile. . . .

Section IX of the Protocol on Inspection

> 1. The inspected Party shall maintain an agreed perimeter around the periphery of the inspection site and shall designate a portal with not more than one rail line and one road which shall be within 50 meters of each other. All vehicles which can contain an *intermediate-range GLBM or longest stage of such a GLBM,* of the inspected Party shall exit only through this portal. (Emphasis added.)
>
> 2. For the purposes of this Section, the provisions of paragraph 10 of Article VII of the Treaty shall be applied to *intermediate-range GLBMs of the inspected Party and the longest stage of such GLBMs.* (Emphasis added.)

IDENTIFICATION OF THE ISSUE

The AEI Article-by-Article Review noted that:

> . . . The counting rules for U.S. missiles differ from those for Soviet missiles. They impose a more rigorous standard on the U.S. side (the largest stage of the Pershing II missiles alone counts as a full-up missile) than on the Soviet side (only a fully assembled Soviet missile—or its canister—counts as a missile).

This asymmetric treatment, codified in Article VII, paragraph 10, turns on the premise that the Pershing II missile is stored and transported in separate stages (and assembled in the field), while the Soviet SS-20 is assembled at a "final assembly facility" (at Votkinsk) and is thereafter stored and transported as an entire missile in the launch canister.

In its Article-by-Article Analysis, the Administration maintained that "The purpose of [this counting rule] is to facilitate verification of compliance with the Treaty by identifying those features of the missile systems most easily observable by national technical means of verification." Yet, the first AEI Review observed that:

> The difference between the counting rules for U.S. missiles and those for Soviet missiles affects the relative values of U.S. and Soviet inspection rights under the Treaty. Because of these counting rules, the U.S. side's rights to conduct continuous monitoring of a Soviet production facility apply only to a Soviet final assembly plant [at Votkinsk]. The corresponding rights of the Soviets, however, apply to a U.S. plant that actually manufactures missile stages [at Magna, Utah]. This means that the Soviet facilities that now manufacture SS-20 second stages (or first stages for that matter) are not subject to monitoring by the United States under the Treaty.

SUBSEQUENT DEVELOPMENT OF THE ISSUE

Secretary Carlucci's analysis of the first AEI Review is the only one of the subsequently developed documents we reviewed which addressed this point. The Defense Department paper, moreover, did so only to amplify upon the procedural differences in the U.S. and Soviet production and logistical approaches which ostensibly warranted this asymmetric treatment. It concluded by asserting that:

> Additional provisions and cooperative measures (including non-destructive imaging and random opening of canisters exiting Votkinsk) will help determine that INF-limited items are not leaving the facility under the guise of other, allowed missiles. . . . The inspection procedures at Votkinsk will help us deter Soviet cheating.

Dismissed as an issue by the Administration and unaddressed by the formal reports of the relevant Senate committees, the matter seemed to be one that would not receive serious consideration in the course of the Senate's ratification debate.

Near the end of April, however, in the course of on-going "technical" discussions intended to resolve the verification details not finished by the time the Treaty was signed, it became clear that a potentially significant disagreement existed between the Parties over the exact character of certain inspection rights under the agreement. The Soviets insisted that the United States did not enjoy the right to examine objects smaller than an assembled SS-20 or its canister at facilities associated with that missile but that they were entitled to examine any object in their inspections the size of or larger than a Pershing II first-stage. In other words, the USSR maintained that the Treaty's asymmetric counting rule conditioned the applicability of the two Parties' respective inspection rights at facilities other than Votkinsk and Magna. They also reopened the question of the size of objects existing Votkinsk subject to U.S. monitoring.

The United States rejected these efforts in the technical talks and insisted through diplomatic channels that the Soviets permit U.S. inspectors to examine objects smaller than assembled SS-20's or their canisters. With the support of the Senate—which took the extraordinary step of announcing that its consideration of the INF Treaty would be deferred pending the completion of further negotiations on this and other outstanding verification points—the Administration demanded that the Soviet Union back down.

On the margins of the May, 1988 ministerial between Secretary Shultz and Foreign Minister Shevardnadze, a new agreement was fashioned by Amb. Glitman and Col. Gen. Chervov which the Administration believes resolves these (and several other) matters in a "completely satisfactory" way. Relevant highlights from this agreement are:

> . . . During baseline, close-out and short-notice inspections, the Parties will be inspecting the entire inspection site, including the interior of structures, containers or vehicles, or including covered objects, capable of containing: for the United States—the second stage of the Pershing II, and the BGM-109G cruise missile; for the USSR—the first stage of the SS-12 missile, the stage of the SS-23 missile, and the SSC-X-4 cruise missile and the SS-4 launch stand.
>
> The Soviet side assured the United States side that, during the period of continuous monitoring of facilities under the Treaty, no shipment shall exit a continuous monitoring facility on the territory of the USSR whose dimensions are equal to or greater than the

dimensions of the SS-20 missile without it's (sic) front-end section, but less than the dimensions of an SS-2- (sic) [presumably "SS-20" is meant here] launch canister. . . . For the purposes of this assurance, the length of the SS-20 missile without its front section will be considered to be 14.00 meters. In the context of this assurance, the United States will not be inspecting any shipment whose dimensions are less than those of an SS-20 launch canister as listed in the Memorandum of Understanding.

With respect to the first point, the Parties evidently clarified their respective rights for the purposes of baseline, close-out and short-notice inspections. The rule seems to be the Soviet objects and spaces that can contain the largest dimensions (diameter or length) of an SS-12 first stage (4.38 meters/14.36 feet in length, for example), the SS-23 missile, the SSC-X-4 cruise missile or the SS-4 launch stand. For the United States, the equivalent determinant is the size of the Pershing II second stage which is 2.47 meters long.

Regarding the matter of inspection rights at the continuously monitored facilities, for reasons that are not entirely clear, the Soviets insisted that there be a "dead zone" with respect to objects brought out of the Votkinsk facility. The United States accepted the Soviet assurance that no object would exit that facility that was in size larger than the assembled first two stages of the SS-20 (minus its front-end), i.e., 14.0 meters long, but smaller than the SS-20 launch canister, 19.2 meters long. As curious as it may seem, in exchange for this assurance, the United States agreed not to monitor what is not being brought out of the Votkinsk complex.

ANALYSIS

Clearly, with respect to the continuous portal monitoring scheme, the United States enjoys significantly inferior inspection rights than those granted to the USSR. As things now stand, any vehicle leaving the Magna facility that can carry objects 3.7 meters (12.1 feet) or more in length must exit through the designated portal, and is subject to inspection. By contrast, only objects equal to or longer than the much bigger SS-20 canister (19.32 meters/63.4 feet) can be inspected by the U.S. officials stationed at Votkinsk. The convoluted nature of the Glitman-Chervov agreement leaves unclear what rights—if any—the United States would have to examine a container between 14.0 and 19.2 meters in length should one attempt, contrary to Soviet assurances, to exit Votkinsk.

This asymmetric verification regime and the recent activity involved in clarifying its implementation prompt several observations:

(1) The application of Article VII, paragraph 10's asymmetric counting rule has given rise to unequal inspection rights at the Votkinsk and Magna facilities. Yet, it is not entirely clear why the Soviet SS-20 qualifies for preferential treatment; since the Soviets maintain they do not produce SS-20 stages at Votkinsk but only assemble them after producing them elsewhere, it would seem apparent that at least some storage and movement of this system occurs in stages. Consequently, this would seem to cause the SS-20 to be treated in accordance with subparagraph (a) of Article VII.10, that missile—like its closest American counterpart, the Pershing II. Such an arrangement would permit U.S. inspectors at the continuously monitored site in the Soviet Union to examine objects the size of the SS-20's first stage (8.5 meters/27.9 feet) instead of only those longer than its 63 foot-long canister.

(2) What is more, treating the SS-20 as a missile accountable by stages could also correct another, possibly more egregious asymmetry. Because the INF Treaty essentially limits this system only as a fully-assembled missile, the facility at which continuous portal monitoring takes place in the Soviet Union (i.e., Votkinsk) is a final assembly site, not one where SS-20's are produced. By contrast, because the Pershing II does not undergo final assembly at a facility—such assembling of this missile's stages occurs in the field—the Treaty establishes the counterpart permanent Soviet presence at a U.S. production site. Even more striking is the fact that the latter site, at Magna, Utah, has not been involved in Pershing II production for some time; instead it is associated with the production of other U.S. ballistic missiles not covered by the Treaty.

The asymmetry involved here may have substantial intelligence implications. When combined with the fact that the Soviet Union is permitted at Magna to observe the exiting of substantially smaller items than will U.S. representatives at Votkinsk, the inequity involved in this arrangement and the adverse implications for verification are all the more stark.

(3) It is demonstrably the case that the United States can go back to the Soviets to address problems with the Treaty text without the act of doing so necessarily resulting in the "killing" of the Treaty. That said, the manner in which these recent negotiations were conducted—like the manner in which the underlying provisions themselves were prepared in the Fall of 1987—is an undesirable model for drawing up arms control agreements. Indeed, had there not been an artificial deadline for the completion of the INF negotiation, the sort of problematic language that gives rise to the present controversy probably would not have bound its way into the agreement. At a minimum, the technical discussions now underway which revealed this problem—and which were, due to the summit-imposed deadline, of necessity remanded to the post-Treaty signature period—should have been held before the accord was "finished."

(4) Prudence argues not only for having this "technical" verification detail hammered out with the Soviet Union but also that the negotiations on the rest of the implementing arrangements be completed before the Senate gives its consent to the INF Treaty. Otherwise, there is little protection against the risk that other, significant differences—at least some of which may be of considerable importance to the future effectiveness of agreed Treaty provisions—will emerge only after the United States has lost whatever leverage it presently enjoys with the Soviets.

CONCLUSION

One final observation seems in order. As it appears that the Treaty will continue to reflect this unequal monitoring regime with respect to Votkinsk and Magna, a potentially important precedent is being set for future agreements. Careful consideration should be given to a requirement that, henceforth, the United States will insist that arms control accords it signs provide for equal verification results. Indeed, it may be that the only acceptable basis for verifiably reducing strategic arms is an asymmetrical one—but of a different kind than in the INF Treaty. The verification regimes of future arms control agreements may need to reflect the fundamental differences in monitoring an open, democratic society's compliance with its commitments on the one hand and, on the other, verifying the behavior of a closed, totalitarian state.

THE TREATY INTERPRETATION ISSUE

INTRODUCTION

In October, 1985, the question of how and by whom treaties are interpreted after they are ratified and moved from the back pages of legal textbooks to the forefront of a heated national debate. At specific issue was the interpretation of the 1972 Anti-Ballistic Missile (ABM) Treaty's limitation on the development and testing of "futuristic" defensive technologies. After a review of the ABM Treaty text and negotiating record, the Reagan Administration concluded that the Soviets had not, in fact, agreed to limit such development and testing even though many in the United States had believed otherwise in 1972 and thereafter.

In short order, the question of interpreting what the United States and Soviet Union had agreed in 1972 was overshadowed by an impassioned debate over constitutional precedent and procedure. The Administration argued that the executive branch could unilaterally determine that an interpretation previously presented in connection with the Senate's consideration of a treaty, had not, in fact, been agreed to by the Soviet Union and should not be binding upon the United States. According to many Senators, the Administration's position was a fundamental challenge to the Senate's constitutional responsibility to advise and consent to treaties.

As a practical matter, President Reagan acceded to the Senatorial view when, in 1987, he signed legislation precluding—absent Congressional approval—any implementation in the Strategic Defense Initiative (SDI) of his interpretation of the ABM Treaty with respect to "futuristic" technologies. In developing this legislation, Senate leaders contended that the prospects for expeditious consideration of the then-emerging INF Treaty could be adversely affected by this controversy. Thus, it was perhaps inevitable that the constitutional and political issues involved in the dispute over the correct interpretation of the ABM Treaty would be revisited in the context of the INF accord.

This chapter describes how the controversy over treaty interpretation has developed in the Senate's deliberations to date on the INF Treaty. It also analyzes the implications of a condition recommended by the Foreign Relations Committee to the resolution of ratification governing Presidential authority to interpret the INF Treaty.

RELEVANT TREATY PROVISIONS

In principle, the entire INF Treaty and its associated Protocols and Memorandum of Understanding are at issue.

While not itself a Treaty provision, the condition adopted by the Senate Foreign Relations Committee (on a 12-7 vote) is as follows:

That this Treaty shall be subject to the following principles, which derive, as a necessary implication, from the provisions of the Constitution (Article II, section 2, clause 2) for the making of treaties:

(a) the United States shall interpret this Treaty in accordance with the understanding of the Treaty shared by the Executive and the Senate at the time of Senate consent to ratification;

(b) such common understanding is:

(i) based on the text of the Treaty; and

(ii) reflected in the authoritative representations provided by the Executive branch to the Senate and its committees in seeking Senate consent to ratification, insofar as such representations are directed to the meaning and legal effect of the text of the Treaty;

(c) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to a subsequent treaty or protocol, or the enactment of a statute.

This understanding shall not be incorporated into the instruments of ratification on this Treaty or otherwise officially conveyed to the other contracting Party.

IDENTIFICATION OF THE ISSUE

As noted above, the roots of the present controversy—and, therefore, the identification of this issue—actually are to be found outside the INF Treaty. The Senate debate on the INF agreement was, nonetheless, perceived by the majority of the Senate Foreign Relations Committee in its consideration of the agreement, to express "Senate unwillingness to acquiesce in Administration assertions which, if not refuted, could imply acceptance of a radical aggrandizement of presidential power." Consequently, the matter of treaty interpretation became a key focus of the SFRC's deliberations.

According to the SFRC, the embodiment of this "radical aggrandizement" was to be found in the legal theory advanced by Judge Abraham Sofaer in support of the Administration's adoption of a "broad interpretation" of the ABM Treaty. This theory, labelled "the Sofaer doctrine" by the Foreign Relations Committee, was described by the Committee's majority as asserting that:

> . . .the Executive is not bound, in implementing a treaty, by what it has told the Senate in seeking consent to ratification. The Executive is only bound, according to the doctrine, by a particular interpretation of a treaty's meaning if that interpretation meets three criteria: the particular interpretation must have been (1) "generally understood" by the Senate, (2) "clearly intended" by the Senate and (3) "relied upon" by the Senate.

In other words, it is not enough for the Senate to have been told by the Executive branch how the United States would interpret a treaty pending before the Senate. In order for the Senate to hold the Executive to a particular interpretation, the Senate must record in some clear, concrete way that it intends that interpretation when giving its consent to a treaty.

According to a "Chronology of Executive/Senate Action on Treaty Interpretation" included in the SFRC report on the INF Treaty, the first effort to respond to the so-called Sofaer Doctrine in the INF context was made by Senator Sam Nunn. In September, 1987, in the words of the Committee, Senator Nunn "demand[ed] that the Administration provide the Senate with the INF Treaty 'negotiating record' as a result of the Sofaer Doctrine." His argument was essentially as follows: As long as the Administration subscribes to the Sofaer Doctrine, the Senate will be unable to rely exclusively upon its testimony in considering the forthcoming agreement. Instead, Senators would be obliged to perform their own exhaustive review of the record of diplomatic exchanges between the two sides in the course of its preparations.

While the Administration was, in principle, prepared to supply the Senate with a number of documents comprising much of the "negotiating record," it was anxious to avoid the lengthy Senate deliberation on the Treaty that Senator Nunn's position implied. Consequently, it embarked upon numerous exchanges with Senators Nunn, Robert Byrd (D-WV), Claiborne Pell (D-RI) and others in an effort to find a means of expediting the Senate's action on the INF accord. Specifically, the Senators sought a letter from the Secretary of State containing three specific assurances:

> The testimony of all Executive Branch witnesses and any submissions for the hearing record by the Executive Branch on the INF Treaty will be authoritative and the Senate can rely on them unless indicated otherwise prior to final Senate vote on the Treaty.
>
> The meaning of the Treaty as presented to the Senate will be regarded by the Administration as authoritative without the necessity of the Senate incorporating that testimony and material in its Resolution of Ratification through understandings, reservations, amendments or other conditions.
>
> A meaning for the Treaty different from that presented by the Administration to the Senate will not be adopted without the approval of the Senate.

Senator Nunn maintained that, without such express assurances, the Senate would have to obtain from the Administration nineteen different categories of documents from the 1980-87 period when the INF Treaty was being negotiated, as well as those portions of the START and Defense and Space Talks (from 1985-1987) during which INF was discussed. These categories included, in addition to the U.S. and Soviet plenary statements and notes on conversations and negotiations during plenary sessions, the following:

> Presidentially-approved National Security Decision Documents relating to the negotiations;
>
> Minutes of U.S. interagency group meetings related to INF;
>
> Internal agency memos prepared in advance of such meetings or otherwise addressing a specific issue in the negotiations;
>
> Draft versions of all documents falling into these nineteen categories.

SUBSEQUENT DEVELOPMENT OF THE ISSUE

The Administration regarded such a demand as an unacceptable breach of Executive privilege. Following protracted negotiations between Secretary Shultz and his representatives on the one hand and interested Senators and staff on the other, on February 5, 1988, the Secretary of State sent a letter to Sen. Byrd. Interested Senators considered this letter to be inadequate; as the majority of the SFRC subsequently recounted in its report on the INF Treaty, it "merely affirms the transfer of the 'negotiating record' but does not address the question of whether Executive Branch testimony will be both 'authoritative' and 'blinding.'" The majority report went on to describe how, on the same day, Sens. Nunn and Byrd responded by:

> . . . threatening to hold up the ratification proceedings on the INF Treaty unless the Administration assures the Senate that the testimony of Administration officials is "authoritative" and "binding." Nunn and Byrd say that, without such assurance, the Senate will have to fully examine the "negotiating record" and attach reservations and understandings to the Resolution of Ratification on each provision of the Treaty to ensure that a future President cannot change the meaning of the Treaty as presented by the Executive.

The key stumbling block proved to be the concept of "binding" insofar as the present Administration was reluctant to accept obligations which would extend beyond its time in office, i.e. be binding upon future Presidents. In a letter to the Senators dated February 9, 1988, Secretary Shultz accepted the proposition that "the testimony of all Executive branch witnesses and any submissions for the hearing record by the Executive branch on the Treaty can be regarded by the Senate as authoritative." He also agreed that "the meaning of the Treaty as presented to the Senate can be regarded by the Senate as authoritative without the necessity of the Senate's incorporating that testimony and material in its Resolution of Ratification through understandings, reservations amendments, or other conditions."

The Secretary of State would not, however, go further than to assure the Senators that "the Reagan Administration will in no way depart from the INF Treaty as we are presenting it to the Senate (emphasis added)." The Foreign Relations Committee noted that "While the letter states that Administration testimony is 'authoritative,' it does not state that such 'authoritative' testimony is 'binding' upon the Executive." In subsequent testimony before the SFRC, Sec. Shultz made the Administration's position explicit. He said, "Of course, we cannot bind future Administrations."

On March 17, 1988, White House Counsel Arthur B. Culvahouse provided a definitive statement of the Administration's position on the then-current draft of a resolution prepared by Senator Joseph Biden (D-DE) at the time under active consideration by the SFRC. Mr. Culvahouse expressed the view that:

> [The Biden Resolution] would change the legal rules of treaty interpretation. It would impose an unconstitutional mechanism for the alteration of a treaty interpretation.
>
> Moreover, it would greatly increase the risk of inflexible distinctions between the meaning of a treaty for purposes of international law and its meaning for purposes of domestic law—distinctions that could operate to the disadvantage of the United States. . . . Therefore we believe the Resolution is not in the best interests of the United States.

Particularly noteworthy is Mr. Culvahouse's critique of the Resolution's practical implications:

> In instances where the treaty text is not dispositive or is unclear, under international law one looks primarily to the negotiating record and the subsequent practice of the treaty parties. As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification. This is true even if the treaty negotiating record and subsequent practice indicate an interpretation contrary to that shared understanding. Exchanges in Senate proceedings in connection with the ratification of a treaty cannot under international law alter the meaning of a treaty where they are not officially communicated to the other treaty party prior to the exchange of instruments of ratification.
>
> The result might be two INF Treaties, one binding domestically against the President and a second one binding internationally between the United States and the Soviet Union. In our view the Resolution would substantially increase this risk of a dichoto-

my between the interpretation of a treaty under international law and the interpretation to which the President constitutionally is bound under domestic law.

In order to ensure there was no suggestion that his letter of March 17th conflicted with statements made by Sec. Shultz in his letter of February 9th, Mr. Culvahouse wrote once more on March 22, 1988 to make clear that "no inconsistency was intended or in fact exists between" the two. The Foreign Relations Committee wrote in its report on the INF Treaty:

> This assertion of consistency seems correct because the Shultz letter, while stating that all Administration testimony is "authoritative," did not state that all "authoritative" testimony is "binding." Indeed, the key premise of the first Culvahouse letter is that "authoritative" testimony is not binding unless the Senate has fulfilled the criteria of the Sofaer Doctrine.

In its favorable consideration of the Biden Condition (as the amended resolution has come to be called), the majority of the SFRC described its purpose as being:

> . . . to reaffirm the long-standing practice and long-standing principle that the "shared understanding" of the Executive and the Senate, as reflected in the Executive's formal representations, is indeed fully binding—as opposed to binding only with regard to those provisions and interpretations which the Senate has gone to extraordinary lengths to brand as crucial to its consent, by formal condition or some other means.
>
> . . . [and] to lead the Senate to affirm a set of principles which reflect long-standing constitutional practice. By so doing, the Senate can: Avoid the need for other conditions pertaining to specific interpretations of the INF Treaty; repudiate a pernicious doctrine that was asserted solely for a specific purpose [i.e., the Sofaer Doctrine]; establish a position with regard to future treaties such that the Senate can avoid repeating the inclusion of a formal condition. The Senate's [anticipated] 1988 action will have been sufficient to reaffirm fundamental constitutional principles of treaty-making.

ANALYSIS

As the preceding discussion suggests, the factors which have led to the incorporation of the Biden Condition into the resolution of ratification are complex. They include: a constitutional struggle between the executive and legislative branches over the conduct of foreign policy (i.e., the responsibility to interpret and, therefore, in a sense to implement treaties); a partisan effort to score political points on arms control and against the Strategic Defense Initiative; and a desire to keep the Senate's role in advising on and consenting to treaties a manageable task.

Each of these factors raises issues that merit thorough consideration in the Senate's debate on the INF Treaty. Of these, the constitutional issues in our view are the most troublesome, because they call into question the fundamental constitutional mechanisms by which the United States makes and interprets treaties. The constitutional implications of the Biden Condition far transcend the INF Treaty, or arms control agreements generally.

The Constitutional Issues

We therefore concentrate our analysis on the constitutional issues. Without in any sense attempting an exhaustive constitutional discussion in this report, we outline below some considerations on the following key points:

1. The Biden Condition unconstitutionally infringes the President's authority to make treaties, by restricting his ability to assure that the United States and the Soviet Union share the same understanding of the INF Treaty.

2. The Biden Condition unconstitutionally infringes the President's prerogative to interpret and implement treaties.

1. *The Biden Condition—An Unconstitutional Infringement on the President's Treaty-Making Authority.*

The United States Constitution (Article II, section 2, clause 2) provides that the President "shall have Power, by and with the Advice and Consent of the Senate, to make treaties. . . ." This provision has long been understood to mean that the President alone makes treaties, subject only to the Senate's advice and consent. The Senate does not make treaties. As stated in the *Restatement of the Law (3d), Foreign Relations Law of the United States*:

> Under Article II, Section 2 of the Constitution . . ., it is the President who "makes" a treaty by ratifying or acceding to it . . ., but he may do so only after the Senate consents. Even if a treaty has received the advice and consent of the Senate, the President has discretion whether to make the treaty.[1]

A corollary of this principle is that the President or his representative has sole authority to conduct the negotiation of treaties without interference by the Senate:

> The Constitution gives the President power to make treaties "by and with the Advice and Consent of the Senate," but Senate advice, as distinguished from consent, is not necessary. Presidents since the early years of the nation's history generally have refrained from formally consulting the Senate prior to negotiating a treaty.[2]

As part of this exclusive authority to negotiate and make treaties, the President has a duty to assure, to the extent possible, that the United States and the other treaty party share the same understanding of the treaty—that the parties have reached a genuine "meeting of the minds" on the meaning and effect of the treaty. This duty exists not only during the negotiations leading up to the treaty text as presented to the Senate, but also with respect to any meaning the Senate intends the treaty to have as a condition to its consent to ratification. As stated in the Restatement (3d):

> When the Senate gives its advice and consent to a treaty on the basis of a particular understanding of its meaning, the President, if he makes the treaty, must do so on the basis of the Senate's understanding.[3]

In order to assure that any understanding on which the Senate conditions its consent is given effect, the President normally must take steps to obtain and record the agreement of the other treaty party to that understanding:

> Since the President can make a treaty only with the advice and consent of the Senate, he must give effect to conditions imposed by the Senate on its consent. The President generally includes a verbatim recitation of any proposed reservation, statement of understanding, or other declaration relevant to the application or interpretation of the treaty contained in the Senate resolution of consent, both in the instrument notifying the other state or the depositary of United States ratification or accession and in the proclamation of the treaty . . . The President may also communicate a Senate qualification separately.[4]

Including the Senate condition, understanding, etc. in the U.S. ratification instruments is a particularly significant step in the case of a bilateral treaty, because it puts the other treaty party on notice that the treaty has been revised and that such other treaty party, if it proceeds to accept the treaty, accepts it as so revised. In this manner the President may establish with substantial clarity that the Senate's condition is agreed by the other treaty party and thus "given effect" because it is part of the mutually binding rights, obligations and understandings created by the treaty relationship. According to The Restatement (3d):

> If a reservation is attached [to a bilateral agreement] at ratification, it constitutes in effect a rejection of the original tentative agreement and a counter-offer of a new agreement. The other party must accept the agreement as revised by the reservation. . . .[5]

Absent such an acceptance, of course, there will have been no meeting of minds between the treaty parties, and negotiations will either be broken off without a treaty being brought into force or negotiations will continue until the parties have agreed on its terms, including any understandings or the like on which the United States Senate may still condition its consent to ratification.

The precise term ("reservation," "understanding," "condition" or the like) used by the Senate in its resolution of advice and consent is not dispositive; if the Senate intends to affect the legal obligations of the United States under the treaty, its action will have the same effect as a reservation:

> When signing or adhering to an international agreement, a state may make a unilateral declaration that does not purport to be a reservation. Whatever it is called, it constitutes a reservation in fact if it purports to exclude, limit, or modify the state's legal obligation. Sometimes, however, a declaration purports to be an "understanding," an interpretation of the agreement in a particular respect. Such an interpretive declaration is not a reservation if it reflects the accepted view of the agreement. But another contracting party may challenge the expressed understanding, treating it as a reservation which it is not prepared to accept.[6]

To ensure that Senate conditions of this sort are binding on both treaty parties, in bilateral treaties, the United States has made it a practice to include in the Protocol of Exchange of the instruments of ratification a statement by each party expressly stipulating its acceptance of the reservations, declarations, understandings, etc. of the other.[7]

This sound practice reflects the customary appreciation of Presidents that, when the Senate conditions its consent to a treaty upon a particular understanding of its meaning, the President cannot make the treaty unless he is satisfied that as a matter of international law the treaty means what the Senate intends.[8]

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[1] *Restatement of the Law (3d), Restatement of the Foreign Relations Law of the United States,* Sec. 303, Comment d (1987) (hereinafter "Restatement (3d)" or "Rest. 3d").

[2] Rest. 3d, Sec. 303, Reporters' Note 3.

[3] Rest. 3d, Sec. 314(2).

[4] Rest. 3d, Sec. 314, Comment b.

[5] Rest. 3d, Sec. 313, Comment f.

[6] Rest. 3d, Sec. 313, Comment g.

[7] Rest. 3d, Sec. 314, Reporters' Note 1.

[8] *The Restatement of the Law (2d), Foreign Relations Law of the United States,* which the Restate-

In other words, this practice serves to assure that the treaty to which the Senate has consented is the same treaty that the other contracting party has accepted and hence—in the oft-repeated phrase of the present Democratic Senate leadership—the treaty made by the President is that treaty on which there has been "a meeting of the minds between the Senate and the President." Put another way, the President can only make that treaty to which the Senate has consented.

It is equally true, however, that the treaty made by the other contracting party must be the same treaty to which the United States Senate has consented, or else there is no treaty mutually binding on and having the same effect for both contracting parties. Thus, the practice of the executive branch in notifying the other signatory or signatories of any statement of understanding required by the Senate reduces the risk of a situation arising in which such a statement of understanding would become domestic law where it might not become effective as international law.[9]

The Biden Condition would expressly prohibit the President from incorporating the understanding it expresses into the instruments of ratification of the INF Treaty or otherwise officially conveying that understanding to the Soviet Union. The Condition amounts to an instruction to the President not to follow the established practice that Presidents have adopted to assure that Senate conditions are part of the meeting of minds between the contracting parties and thus have equal legal effect for both. In this respect the Biden Condition would infringe the President's constitutional role as the sole organ of the United States in the negotiation of treaties.

The SFRC majority report contends that the Biden Condition should not be conveyed to the Soviet Union as part of the ratification instruments because it "is not directed to U.S. obligations under international law. . . ." Rather, the Committee majority asserted, "the condition is binding under domestic law. . . ."

The claim that the Condition is not directed to U.S. obligations under international law, however, is directly refuted by the terms of the Biden Condition itself. Indeed, the Condition expressly states that the understanding embodied in it derives from "the text of the Treaty" and from authoritative Executive representations "directed to the meaning and legal effect of the text of the Treaty."

The text of the treaty is the primary source of U.S. obligations under international law. And the voluminous record of authoritative Executive representations "directed to the meaning and legal effect of the text of the Treaty" scarcely, if at all, concern the meaning and effect of the Treaty under domestic law. To the contrary, the Senate's overwhelming interest, and the Administration's principal effort, throughout the hearings has been to understand and explain the rights and obligations that the United States and Soviet Union would have vis-a-vis each other under the INF Treaty. The understanding expressed in the Condition on its face goes to the meaning and legal effect of the Treaty in all its aspects and hence in its very essence is a matter of bilateral U.S.-Soviet concern.

The Biden Condition is also objectionable in that it would substantially increase the risk of inconsistent interpretations of the INF Treaty by the United States and the Soviet Union. The Committee dismisses this concern as "highly theoretical." But even the history of the last several weeks proves that the concern is far from theoretical. For example, the Administration during the latter stages of committee hearings assured the Senate that the INF Treaty banned "futuristic" weapons and not merely conventional munitions within the range categories governed by the Treaty. The Administration represented that this ban derived from a "common understanding" between the United States and the Soviet Union. Presumably, this "authoritative representation" as to the "meaning and legal effect" of the Treaty would have been sufficient in itself under the Biden Condition without any need to raise the matter with the Soviet Union. Instead, however, the Senate leadership wanted further assurances and, in due course, the Administration did raise the issue with the Soviet Union.

The initial Soviet response in no sense confirmed that the Soviet Union agreed with the Administration's representations to the Senate, and further discussions—which yielded a formal written undertaking between the two contracting parties—were required before a meeting of the minds emerged. Had the President been prohibited from raising the issue with the Soviet Union as the Biden Condition would do, it now seems evident that a common understanding between the two countries on the "futuristics" issue either would not have emerged or at best would have been a matter of uncertainty.[10]

B. *The Biden Condition—An Unconstitutional Infringement on the President's Prerogative to Interpret and Implement Treaties.*

The report of the SFRC majority concedes that "it is indisputable that the President alone bears the constitutional obligation to interpret and implement Treaties. . . ." It asserts that the Biden Condition is "perfectly consistent" with this constitutional principle. If there is any such consistency, it is far from perfect. To the contrary, the Condition would expressly prohibit the President from exercising his role as the sole interpreter of treaties and instead would arrogate to the Congress a role as co-interpreter insofar as the INF Treaty is concerned:

> (c) The United States shall not agree to or adopt an interpretation different from that common understanding [i.e., the one based on the text of the Treaty and on authoritative Executive representatives directed to the meaning and legal effect of the Treaty text] except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the amendment of a statute.

Consider the situation that would arise were the Biden Condition in effect and the President found himself faced with the following circumstances: a question of interpretation under the Treaty arises that is not resolvable by reference to the text alone and that had not been addressed in any of the "authoritative" representatives by the Executive branch to the Senate respecting the meaning and legal effect of the Treaty text. Since such an interpretative question would be outside the "common understanding" embodied in the Biden Condition, any resolution of that question would by definition be "different from" that "common understanding." Accordingly, the President would be barred by the Condition from resolving the question himself as envisaged by the Constitution. Instead, he would be required to pursue the cumbersome and uncertain procedures of negotiating a new treaty or protocol with the other contracting party and submitting it for Senate approval, or submitting proposed legislation for passage by both houses of Congress.

The mechanism imposed by the Biden Condition would contradict settled constitutional principles in the realm of treaty interpretation and implementation. The President is the "sole organ of the nation in its external relations," *United States* v. *Curtiss-Wright Export Corp,* 299 U.S. 304, 319 (1936), and as such he is in foreign affairs "clearly a separate source of law since he makes treaties . . ., which are the law of the land."[11] The President's authority as the sole interpreter of treaties in the realm of foreign relations derives from these principles.[12] And even in the realm of domestic law, courts of the United States give great weight to a President's interpretation of a treaty." As stated in The Restatement (3d):

> (1) The President has authority to determine the interpretation of an international agreement to be asserted by the United States in its relations with other states.
>
> (2) Courts in the United States have final authority to interpret an international agreement for purposes of applying it as law in the United States, but will give great weight to an interpretation made by the Executive Branch.[13]

Under the Constitution, the Senate has essentially no role in the subsequent interpretation of treaties that the President has made. As the United States Supreme Court said in *Fourteen Diamond Rings* v. *United States,* 183 U.S. 176, 180, "The meaning of the treaty cannot be controlled by subsequent explanations of some of those who may have voted to ratify it." This principle

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ment (3d) does not purport to alter in this respect, is even more explicit on this point. It states:

> When the resolution by which the Senate gives its advice and consent to the ratification of a treaty states that its approval is given on the basis of an understanding that is set forth or incorporated in the resolution, the President, if he ratifies the treaty, must include the Senate's statement of understanding in the instrument of ratification or otherwise make it clear that the assent of the United States is subject to the understanding, unless, as a matter of international law, the treaty cannot be interpreted otherwise than as stated in the understanding.

Restatement of the Law (2d), Foreign Relations Law of the United States, Sec. 133(2)(1965) (hereinafter "Rest. 2d"). Emphasis added.) Nothing in international law mandates the understanding stated in the Biden Condition. Thus, it is precisely the sort of understanding that, if the Biden Condition is adopted by the Senate, should be incorporated into the ratification instruments in order to assure that both treaty parties share the "common understanding" of the Treaty announced in the Condition and, therefore, are agreeing to the same set of rights and obligations.

[9] Rest. 2d, Sec. 135, Comment a.

[10] The various last-minute disputes between the United States and the Soviet Union over the proper interpretation of the Treaty's verification provisions teaches the same lesson: On questions concerning "the meaning and legal effect of the text of the Treaty," the President must be free to take appropriate steps to assure that the understanding shared by the President and the Senate is also shared by the other contracting party. It is illogical and contrary to United States interests to assert that such matters are of domestic legal import only.

[11] Rest. 3d, Sec. 1, Reporters' Note 2.

[12] Rest. 3d, Sec. 326, comment a.

[13] Rest. 3d, Sec. 326.

is recognized in the Restatement (3d), which observes that:

> The Senate . . . has no special role in the implementation of the treaty after it is made . . . Interpretation by the Senate of a treaty after it has been concluded may have no special authority, but understandings expressed by the Senate in giving its advice and consent must be respected.[14]

The Biden Condition would fundamentally alter these settled principles of treaty interpretation and implementation, and it would arrogate to the Congress a cumbersome, intrusive role in the President's prerogatives not contemplated by the United States Constitution.

CONCLUSIONS

The cleanest and most straight-forward approach to addressing the constitutional and policy problems associated with the Biden Condition is not to adopt it. Alternatively, but far less preferable, would be the adoption of the Condition amended to reflect the requirement that the President make this Condition part of the ratification instruments and obtain express Soviet acceptance of it. In the latter event, the present Condition's clause (c) must be deleted.

SUMMARY

As with the preceding AEI Article-by-Article Review of the INF Treaty, the present analysis is intended to contribute to the informed consideration of this agreement by the Senate and the public. Selection of these seven issues, of course, is not meant—and should not be construed—to suggest that other aspects of the INF Treaty do not also warrant close scrutiny. In the view of the working group, however, the topics addressed in this paper are among the most significant for the Treaty's claim of being equitable, effectively verifiable and in the interest of the United States. They are also of particular significance to the extent they will shape the terms of the strategic arms reduction agreement now under negotiation.

Mr. WARNER. Mr. President, there is certainly no Member of this Chamber who has stood more steadfast for the Nation's defense than our distinguished colleague from South Carolina. When he said he fought for the 15-carrier Navy, he was right; and when he says he fought for the Stealth bomber, he was right. But this time, I say to my good friend, he is wrong.

I have just been handed a note; Ambassador Glitman wishes to correct the message. He says as follows. He is watching the debate elsewhere off the Chamber. He just wished to inform the Senate for the record that he never—and I repeat—he "never stated that the Soviets would accept the conventional GLCM's."

Mr. ADAMS. Mr. President, I yield myself 10 minutes at this point.

Mr. President, I am pleased that the statement was made. I want to speak on this point, I state to the Senator from Alaska, and then I am sure the Senator from South Carolina will yield him additional time to conclude his point.

But the statement made by the Senator from Virginia is absolutely correct. I want to be certain that that was in the record. Ambassador Glitman did not state that.

With regard to the point made by my good friend from South Carolina—the Secretary of Defense, Secretary Carlucci—we asked him that specific question.

On page 457 of the committee report, he comments specifically on the problem that is involved in the military balance that the distinguished Senator has been discussing regarding conventional GLCM's as follows:

> The U.S. Government decision to ban conventionally armed GLCM's took into account a number of considerations.

This is the Secretary of Defense, Secretary Carlucci speaking.

> It is important to remember what the issue was not about. It was not about whether to permit planned U.S. deployments of conventionally-armed GLCMs nor was it about whether to withdraw from Europe previously deployed systems. Rather, the decision to be made was whether or not to protect the option for deploying conventionally-armed GLCMs. At the time of the decision, the U.S. and NATO did not—and do not today—have any specific plans or military requirements for conventionally-armed GLCMs.

And, following the quote made by my distinguished friend, the Senator from Virginia, by Ambassador Nitze, at page 472 on the committee report, it goes on after that quotation to state:

> The Joint Chiefs of Staff informed the committee that a major consideration in their decision to support the ban was the military advantages accruing to the Soviets, were they to be afforded the right to deploy conventionally armed GLCM's of the INF range; not only for conventional, but also chemical missions. In addition, the Joint Chiefs of Staff emphasized the military potential of alternatives available to the United States to achieve the same target coverage and damage, including ALCM's and GLCM's.

I understand what the distinguished Senator from South Carolina is stating about conventionally armed ground-launched cruise missiles. The point is, as stated by the Senator from Virginia, as put on the floor by the note from Ambassador Glitman, and it is also clear throughout the testimony—I am going to quote in a minute from Secretary of State Shultz also—that this matter was discussed at length by the negotiators of whether or not to take the risk to the security of the United States forces combined with the NATO forces of having conventionally armed ground-launched cruise missiles in Europe.

A decision was made, supported by the military of all of these nations, including our own, in undisputed testimony that it was not worth the risk to do this; that the Soviets could deploy more; they could have the range availability. The decision was not something lightly arrived at, and it was not something it either ignored or was not considered.

I want to refer now to the testimony of Secretary of State Shultz at page 8 in the record of the Foreign Relations Committee. This statement is important because it goes to the point of whether or not there was some mistake made or some ignorance of this point or that it was not considered.

The Secretary of State stated as follows, and he is asking himself a rhetorical question:

> In particular, have we somehow made a mistake by banning a conventional ground-launched Cruise missile? The United States and NATO did not and do not have any specific plans or military requirement to deploy conventionally armed ground-launched Cruise missiles with a range covered by this treaty.

Mr. HOLLINGS. Will the Senator tell me what page that is?

Mr. ADAMS. It is at page 8 of the hearings in part 5.

Quoting once again:

> There was no point in inviting the Soviets to add to their conventional and chemical threat by deploying their recently tested intermediate Cruise missile.
>
> Moreover, the United States has been unable to develop and the Soviet Union has not put forth a regime to effectively verify the differences between nuclear and conventionally armed ground-launched Cruise missiles.

That goes to the point that was made by Ambassador Glitman in the note.

What he stated was I am worried that we might open ground-launched conventional cruise missiles because it opens that kind of a box. In other words, we would have to go back to the Soviets on this.

One of the points I have been trying to make to the Senator from South Carolina, the Senator from Alaska and was made by the Senator from Virginia very well, is that one of the things you would worry about is that the Soviets might say, all right, let us reopen this treaty, proceed forward and then we will proceed with, potentially, chemical ground-launched cruise missiles, with a whole range of ground-launched cruise missiles which we do not have a strategy in NATO or the United States for deploying at this point.

So wisely the negotiators on the record and in the testimony before both committees discussed this and determined, and I have not yet even discussed it trying to verify this, that there was an advantage to the United States from a military security point of view to not have ground-launched cruise missiles before us.

Mr. McCLURE. Will the Senator yield?

Mr. QUAYLE. Will the Senator yield?

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[14] Rest. 3d, Sec. 326, Comment a. See also, Ibid., Reporters' Note 1 (" . . . later interpretations by the Senate have no special authority").

Mr. ADAMS. The point that has been emphasized was the military effect of the ground-launched cruise missile that has been well stated by the Senator from Virginia. There was also emphasized at great length in the committee the problem of verification. I am not stating to the Senator from South Carolina, to the Senator from Alaska, to the Senator from Indiana or anyone else that a regime could not be developed to determine ground-launched missiles.

Mr. McCLURE. Will the Senator yield for a question?

Mr. ADAMS. One of the points that was really considered was this provides an additional burden—because this is a launcher treaty—of taking these types of conventional ground-launched cruise missiles and providing an opportunity for the Soviet Union, if we have a large number of these, whether they be 5,000 or some other, with the opportunity to break out if they wish to break out more rapidly than we would.

The verification system is a very difficult one. I wanted to take this time so that those who have been speaking and those who have been discussing the individual merits of this understand that it was considered by President Reagan directly himself as a matter, by the Joint Chiefs of Staff; that the negotiators brought this back; that the argument has been had; that we are having it now in the Senate floor of the individual risks that are there, but the Secretary of Defense, Ambassador Nitze, Ambassador Glitman, the Secretary of State, the military commanders in NATO, as well as our own, have said we do not want to have a regime of Soviet and United States ground-launched cruise missiles because they have the potential of a nuclear capacity, both immediate and potentially covert, so, therefore we have done this.

I will be happy to yield to the Senator from Idaho.

Mr. McCLURE. As I understand one of the points the Senator has made, and he has made several, but one of the points deals with the question of verification.

Mr. ADAMS. One of the points, and that is one that we will probably discuss a little later in greater detail, but the issue that the Senator from Alaska has really yielded on was the balance of missiles and who had an advantage.

Mr. McCLURE. I would like to ask the Senator a question with respect to the verification because, as I understand the thrust of that argument, we must ban all ground-launched cruise missiles in the INF range because we cannot verify the difference between a nuclear warhead and a conventional warhead.

Mr. ADAMS. That is one of the arguments. There is a second argument that goes to that.

Mr. McCLURE. On verification?

Mr. ADAMS. On verification, which is the availability and the potential of these launchers being immediately converted.

Mr. McCLURE. I understand that.

Mr. ADAMS. There are two points.

Mr. McCLURE. Is there anything in this treaty that bans a cruise missile of a range of under 500 kilometers?

Mr. ADAMS. There is not.

Mr. McCLURE. Is there anything in this treaty that bans a cruise missile of a range greater than 5,500 kilometers?

Mr. ADAMS. There is not.

Mr. McCLURE. Can the Senator tell me that there is the capacity to verify that a ground-launched cruise missile produced with launching capacity, with launching facilities or launching of 5,500 kilometers and tested at 5,600 kilometers could not be targeted at something like 4,000 kilometers?

Mr. ADAMS. There is always the potential that a longer cruise missile can be, but that involves a whole regime and setting up this kind of a regime which is not at the present time being utilized by either side.

Mr. McCLURE. Will the Senator yield further?

Mr. ADAMS. I will yield.

Mr. McCLURE. If the Soviet Union develops a ground-launched cruise missile with launching facilities and tests at a range of 480 kilometers, it would not be a violation of the treaty, would it?

Mr. ADAMS. That is correct.

Mr. McCLURE. And if as a matter of fact it flew 550 kilometers, it would be?

Mr. ADAMS. That is correct.

Mr. McCLURE. And there is absolutely no way to distinguish the difference between the two, is there?

Mr. ADAMS. There are ways of distinguishing the establishment of a regime in the INF range, but the Senator knows, as this Senator knows, that you can establish any range figure as an arbitrary figure, and this one was 500 to 5,500 to cover a particular set of missile ranges.

Mr. McCLURE. The reason to ban the ground-launched cruise missile is because we could not verify the difference between warheads and yet there is absolutely no way to verify the range question and yet those are not banned.

Mr. ADAMS. Let me reply to the Senator, and this is at page 61 of the report of the committee:

> As noted above, the Committee views the prospect of Soviet efforts to develop a covert GLCM force from drones as highly unlikely and impractical. Developing a covert GLCM force from systems tested below 500 kilometers would be complex and unreliable. For example, the Soviets could hardly be confident that even if a cruise missile were accurate at a range of 490 km, it would also be accurate at 980 km. This "loophole" is thus more theoretical than real.
>
> In contrast, during the debate Senators pointed out that permitting conventional GLCM's would create a very real verification problem. The Soviets could develop or deploy a "conventional" GLCM force that could be tested and trained for all distances between 500-5,500 km. It could become a nuclear force within minutes simply by replacing the warhead.

So there was a very good reason—the Senator may disagree with it—an extraordinarily good reason for banning this force.

Mr. McCLURE. Extraordinarily good reason. The Senator has destroyed his own argument. He has simply illustrated the fact that they can do very easily by circumvention what the treaty says it is prohibiting. Now, that completely destroys the reason to maintain the prohibition.

Mr. ADAMS. Not at all. The creation of a force between 500 kilometers and 5,500 kilometers and the testing of that force is very different than testing below the force or testing above the force, and this is well known to the Senator.

Mr. McCLURE. No, it is not well known to this Senator. As a matter of fact, the opposite is well known to this Senator. I hope it would be well known to the Senator from Washington. As a matter of fact, I believe that the missile that has been used by Iran to attack Iraq is one that is officially listed as one of short range and officially is incapable of flying the distance that it flew. Now, tell the dead Iraqis that that was a banned missile and one incapable of doing it.

What we are really doing is trying to mesmerize ourselves into believing that we have a prohibition and we put the prohibition in because we say we cannot verify the violation of the warhead when as a matter of fact it is range that is totally unverifiable.

Mr. ADAMS. Its range in terms of an operational system is a verifiable system. The missile that the Senator from Idaho is referring to went the other way and it also, we believe, involved boosters. In other words, it was a converted missile, jury-rigged by them. We are not talking about a jury-rigged missile. We are talking about two superpowers with complex systems facing one another in an operational basis, and that is very different.

Mr. McCLURE. The Senator has already said that we would have no way of verifying that a cruise missile of a range in excess of 5,500 kilometers could be targeted at 4,000 kilometers or 3,000 kilometers or 1,000 kilometers.

Mr. ADAMS. Not as a system. The Senator asked if a missile could be fired at a greater length and then fired at a lesser length. But we are not talking about that. We are talking about——

Mr. McCLURE. I am talking about that.

Mr. ADAMS. We are talking about a number of missiles being deployed all at once by two superpowers facing one another.

Mr. McCLURE. The Soviet Union under this treaty could deploy any number of missiles, cruise missiles, ground-launched cruise missiles not covered by this treaty; is that not correct?

Mr. ADAMS. The Senator knows that they can have a cruise missile of greater length. The Senator also knows——

Mr. McCLURE. And as a matter of fact——

Mr. ADAMS. Just a moment. Let me finish my answer.

Mr. McCLURE. Of course.

Mr. ADAMS. Then I would be happy to yield to the Senator further—that we also have targeted against one another 25,000 nuclear warheads of varying ranges and of varying designs, that this treaty is to remove from this area a particular range missile, the launchers for all of that. The same thing applies. And what we have been trying to do in this treaty is, by the verification means established on site together with the testing verification, together with our other technical means, to remove a class of missiles, but no one has ever stated that the two superpowers do not have a series of missiles, ground launch and others, at ranges in excess of 5,500 which may or may not be targeted on these areas. That is something that we hope another day we will address, at least this Senator does.

Mr. McCLURE. If the Senator will yield further.

Mr. ADAMS. I will be happy to yield to the Senator.

Mr. McCLURE. The Senator either does not understand the point I was making or seeks to avoid the point that I was making because what I was trying to get at is that if I understand one of the strong arguments for the ban that is carried in the treaty is the verification argument. We have to ban conventional cruise missiles because we cannot tell whether or not they are nuclear cruise missiles, when at the same time and the truth of the matter is that whether it is conventional or nuclear we cannot verify the range of a missile that may be in existence and deployed, and so in order to get by a verification question we ban a missile which by its very nature cannot be verified.

So we have done something in the name of verification which is totally meaningless because they can, indeed, have systems capable of hitting any part of the range banned by this treaty and we will be totally incapable of verifying such a violation.

Mr. ADAMS. We have the problem of over 5,500 kilometers, which goes, as the Senator well knows, to a whole series of Soviet design types of missiles. This treaty is directed toward the SS-20, SS-4, and some other design missiles which were a particular European designed threat. The ground launched cruise missiles of the same intermediate range which they have just tested would fit in that same category, and we do know the difference between an intermediate-range cruise missile and a longer range cruise missile. We have tried to keep that regime as a nuclear force out of Europe also. That is the purpose of the treaty. That is what has been negotiated. It is a first step.

Mr. QUAYLE. Will the Senator yield?

Mr. ADAMS. I yield the floor at this time so the Senator from South Carolina can use his time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, will the Senator from South Carolina yield?

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, will the Senator yield to the Senator from Idaho 10 minutes?

Mr. HOLLINGS. Definitely.

Mr. McCLURE. I thank the Senator for yielding the time. But I want to conclude the last exchange on my own time. I appreciate the indulgence of the Senator from Washington. But I want to repeat the statement that I made.

To ban a ground-launched cruise missile for reasons of difficulty of verification is one of the most foolish exercises we could be involved in when it is so palpably evident that the range question alone makes the elimination totally specious.

I suspect we will eliminate ground-launched cruise missiles under this provision but if anybody believes the Soviet Union will, they have to be violative of other laws of this country with respect to the use of dope. You cannot possibly believe that it is going to be of any value in restricting them in doing something, which is so easily achievable by them, in violation of the terms of this agreement but far beyond our capacity to verify.

Mr. President, I rise as a cosponsor of the Hollings amendment and to urge its adoption.

Mr. President, in his testimony before the Armed Services Committee, former Assistant Secretary of Defense Richard Perle singled out the ban on conventional cruise missiles as the most serious defect in the INF Treaty. While there is a certain amount of competition for that honor, Secretary Perle may be right.

The cruise missile ban is a problem on several levels, both for what it would do to our conventional deterrent posture in Europe, and for what it says about the way we let our perceived arms control needs dictate our overall national security requirements.

In its report "Discriminate Deterrence," the Ikle Commission on Integrated Long-Term Strategy describes several defense programs as especially urgent. One of these is the development of accurate, long-range smart munitions.

I quote from the commission's summary report:

> We must diversify and strengthen our ability to bring discriminating, non-nuclear force to bear where needed in time to defeat aggression. To this end, we and our allies need to exploit emerging technologies of precision, control, and intelligence that can provide our conventional forces with more selective and more effective capabilities for destroying military targets.

That, Mr. President, sounds like the exact job description for the conventional ground-launched cruise missile.

Let me quote further:

> Extended range, accurate smart conventional weapons can make a major contribution to halting Soviet attacks anywhere on the periphery of the U.S.S.R. . . . These weapons can delay and inflict heavy losses on advancing forces. . . . Current technology
>
> Let me repeat, that is "current technology—
>
> makes it possible to attack fixed targets at any range within accuracies of one to three meters. These accuracies and modern munitions give us a high probability of destroying a wide variety of point or area targets with one or a few shots without using nuclear warheads.

Mr. President, I am shocked that, at a time where we are seeking ways to improve our conventional posture for a post-INF Europe, when we are seeking to raise the nuclear threshold, we are trading away the right to deploy accurate long-range standoff weapons such as the Ikle Commission describes.

Yes, I have heard all the arguments for including the conventional GLCM in the INF ban. I am aware of the uncertainties involved in verifying the difference between nuclear and conventionally armed GLCM's. Yet the administration is willing to accept what is, to me, the equally uncertain proposition that we can distinguish between unarmed GLCM's and armed GLCM's, or GLCM's with a range of under 500 kilometers and GLCM's with a range of over 500 kilometers. If we can live with these uncertainties, why can we not tolerate the uncertainty involved in permitting conventional GLCM's of INF ranges?

I would remind my colleagues that the people who are afraid conventional GLCM's are unverifiable, are the same people who are willing to tolerate uncertainties of almost 100 percent when it comes to verifying the numbers of SS-20's.

Nor am I convinced that, as supporters of the conventional GLCM ban argue, it is better to give up these missiles than allow the Soviets to have them. Most vital NATO targets are within 500 kilometers of the inter-German border already, so the Soviets can target them with weapons permitted under the treaty. But NATO needs weapons such as the conventional GLCM to carry out its concept of Follow-On Forces Attack, which requires the destruction of Soviet follow-on echelons and their facilities and transportation deep within Warsaw Pact territory.

The ban on conventional GLCM's also sets a terrible precedent for START, where the Soviets would love to ban our conventional air- and sea-launched cruise missiles. I know that our negotiators are convinced that they can protect in START what they gave up in INF. But it will be pretty difficult to sit there and insist that we can verify the difference between nuclear and conventional SLCM's and ALCM's when we have already admitted we cannot with ground-launched missiles. That is the kind of logical inconsistency that Soviet negotiators are trained to sit around and defend for years on end. But I am afraid our American men and women are just too honest to hang tough on such an inconsistent and indefensible proposition.

So I get a little sickened, Mr. President, when I hear the arguments made here that all we have given up is the GLCM; we still have the ALCM's and the SLCM's. They are next, my friends. They are next.

Mr. President, the ban on GLCM's also tells us something about the way in which we integrate our arms control policies with our overall national security policy. That is to say, very badly. We are letting the real or perceived demands of arms control dictate our national security requirements, rather than the other way round.

Let us review the reasons why we have a ban on cruise missiles: We have it because Senate observers at the Geneva arms talks were worried that it would be hard to sell a treaty to the Senate because of questions over the verifiability of allowing conventional GLCM's. This suggestion fit in nicely with the longstanding State Department desire to trade off these weapons, and voila! No conventional cruise missiles.

What we are talking about here is an unusual diplomatic maneuver known as the preemptive concession, because the Soviets were coming around to accepting the United States position that conventional GLCM's be protected. Faced with the possibility of the Soviets accepting one of the United States Government's positions, the State Department responded with unusual alacrity and surrendered before the Soviets had a chance to.

Does this make any sense? A U.S. weapons system of enormous potential—nonnuclear, slow flying, nonprovocative, a real apple pie system—is sacrificed, because keeping it might make it harder to get a treaty ratified. That is, U.S. weapons systems are judged not on their merits, but on whether they make it easier or harder to get arms control agreements.

Mr. President, what is our national security? Is it the ability to deter and defeat an aggressor? Or is it arms control? I'm not saying that properly negotiated arms control agreements cannot enhance our security. But we have the tail wagging the dog here. We have our national security needs being tailored to fit arms control policy, instead of the other way around. This amendment would get our priorities straight, and I urge its adoption.

And I hope that indeed the Senate will do just exactly that.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield to the distinguished Senator from Indiana. Let me thank the Senator from Idaho, the distinguished Senator from Alaska, and particularly our colleague from Indiana, because he has been really more involved in bringing to the floor a package that we all are now discussing in his capacity on the Armed Services Committee. I am glad to yield to the distinguished Senator from Indiana.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I thank my dear friend from South Carolina and thank him for bringing this to the floor, because I think it is perhaps the most important issue, or at least perhaps the second most important issue outside the interpretation amendment, that we will be debating.

I am sorry that the Senator from Washington has departed from the floor because I wanted to get into an exchange and to clarify a lot of points that were brought up. First of all, a note was handed to the Senator from Virginia, evidently from Ambassador Glitman, to make sure that the Senate knew that he did not say, or publicly state, that the Soviets would accept the position of deploying conventional cruise missiles, if, in fact, we pushed that.

That is true. Ambassador Glitman never publicly said that if we had pushed that and kept pushing it, the Soviets would accept it. But Richard Perle and Frank Gaffney both said that the Soviets would accept and even entertained the idea that conventional cruise missiles would be allowed. Neither did Ambassador Glitman testify to the contrary.

So I want the record to show that we have had testimony saying that the Soviets would accept, had we pushed it. That is why this, in my judgment, is not a so-called killer amendment—that they would have accepted the deployment of conventional cruise missiles.

Second, I think the Senator from Washington was alleging that we cannot do this because it seems to be in the military advantage of the Soviet Union—that they are a greater ground force and they have more capability. We have heard all these arguments before—that they have them in the pipeline, and therefore we do not want to do this, because it might lead them to do that, and it would be to the advantage of the Soviets if we allowed the deployment of the Soviet cruise missile.

If that is the case, then obviously this is not a killer amendment. If it is truly to the advantage of the Soviets, they will be welcoming this amendment.

So I do not know how you can say on one hand that we had better not get into this, and all the testimony is that the Soviet Union would gain an advantage, and therefore somehow this is a killer amendment. That is not logical. It does not make sense.

Then we have the issue of verification, which my dear friend from Idaho was correct in pointing out—that we have taken verification and turned it on its head. He pointed out a lot of areas where you cannot verify what the range is of a cruise missile or a ballistic missile.

You can test the cruise missile at 490 kilometers, and you can have confidence that that missile is going to go 1,000 kilometers; 1,000 kilometers is in the INF range.

The Senator from Idaho brought up a good example in the real world. When the Soviets transferred a 300-kilometer SCUD missile to Iraq, all of a sudden the SCUD missile had a new characteristic and was able to travel 600 kilometers and hit Iran.

Six hundred kilometers is in the INF range. There is no way you can have confidence that missiles that are deployed, within the terms of the INF Treaty, to travel 490 kilometers will not go 750 and probably 1,100.

Furthermore, what is really ludicrous about the so-called verification that led to this decision is that now we have the definition of what a weapon is. A weapon is something that is designed to damage or destroy its target. We are going to be able to verify whether or not a missile or a weapon is designed to damage a target. If you have a laser target designator, that is supposedly allowed. But if you have a laser that was designed to inflict damage—and damage is something that needs to be repaired—that would be banned. You could say: "We did not design it to damage that target. We designed it not to damage that target. We just wanted to temporarily put it out of order, and we did not intend it to have a repair, and therefore it is within the terms of the INF Treaty."

Mr. President, that is absolutely almost laughable—how you are going to verify design, to get inside the Soviet mind and find out the intent of this weapon? We can define intent of a weapon, but we cannot verify the difference between a conventional warhead and a nuclear warhead.

Nuclear warheads are handled differently from conventional warheads. We do it; the Soviets do it. You can have a far greater degree of confidence on verifying whether it is a conventional warhead or a nuclear warhead than you can have as to whether something is designed to damage or destroy a target. So we have taken this verification issue and absolutely turned it inside out.

I believe—and this is where the debate should go—that it is in our national security interests to exploit our technological advantage. We have technological advantage on cruise missiles. We have technological advantage in missile guidance technology. We have technological advantage because of our engineering capability on the microchips and the hardware and the software that would be needed on conventional cruise missiles.

The Senator from Idaho pointed out that our objective in trying to have peace in the world is to raise the nuclear threshold. Conventional weapons and conventional cruise missiles will help raise that threshold and maintain the peace.

People have said: "We haven't had a requirement; there is no formal requirement."

Do you know what is interesting? Ask the Joint Chiefs of Staff or ask anybody in the administration before they made this decision—and I asked the question—"Did you call up or contact General Gavin, our supreme commander of NATO, and ask him if there is a requirement and where they are so far as preparing a requirement is concerned?

The answer came back from the Joint Chiefs of Staff, from the negotiators: "No. Why would we want to check with SAC Europe? He's only the No. 1 man in NATO. We don't need to check with him, and we didn't check with him."

I checked with him. He told me, no, he did not have a formal requirement, but he was 90 percent there, to having a requirement for a ground-based conventional cruise missile within the INF range.

The Federal Republic of Germany has a requirement for a conventional ground-based antiradar cruise missile of INF range.

The Senator from Idaho also brought up another point: We are going to ban conventional cruise missiles here and ban it in START. But, no, they get up and say, "We're not going to do that, Senator."

Ask them if they have a formal requirement for a long-range conventional ALCM. Do you know what the answer is? "No." They are getting to a statement of need, but they do not have a requirement for the ALCM on a conventional basis.

Ask them if they have a formal requirement for a conventional SLCM. They have a temporary requirement but not a formal requirement.

So, as to this idea of requirements, the game can be played by many sides.

I can tell you that there were two specific candidates for a ground-launched cruise missile in the INF range—Tacit Rainbow and Seek Spinner—that we were working on and cannot be deployed on the ground, under this treaty.

People say, "You didn't have anything." We did have something, and we gave it up.

Mr. President, the most important argument for this amendment is in fact that it is to our benefit. If you want to take the competitive strategies task force report, "Discriminate Deterrence", and the policy of the Department of Defense and the policy of the United States of America, it is to improve our conventional capabilities, and here we are on the floor of the U.S. Senate on an INF Treaty that is referred to as the Intermediate Nuclear Forces Treaty, banning supposedly nuclear weapons, but what this is, this is an arms control for conventional weapons treaty and yet we do not even know what our strategy is for a conventional arms control. We are banning more conventional weapons under this treaty than we are nuclear weapons.

We are simply willing to give away something that is optimal for U.S. security purposes in trying to raise that nuclear threshold.

"Discriminate Deterrence" and others point out that cruise missiles can be used for the strategy, a follow-on force attack with deep interdiction. There has been identified over 200 fixed targets beyond 600 kilometers of the inter-German border that in fact could be used for conventional cruise missiles.

I was reading in Aviation Week & Space Technology an article about the Air Force where the Air Force is now lamenting the fact that they may be required to carry all these cruise missiles. Let me just read this:

> While the Tactical Air Command is supportive of the program, it has been less than enthusiatic about employing the Tacit Rainbow on tactical aircraft as the missile will take up limited external weapons storage space. TAC has instead favored a ground-launched Tacit Rainbow or the propeller-driven Seek Spinner drone, another antiradiation weapon system recently revived by the Air Force that is also ground-launched.

Somebody better tell those folks over there that Tacit Rainbow and Seek Spinner in a ground-launched mode is out. If we are going to use that kind of conventional capability it is going to be on the air or sea.

Our requirement in the future on conventional cruise missiles will number between 10,000 and 20,000 according to a Rand study and DIA. Can you imagine putting all those on airplanes? Can you imagine putting those all on ships?

We need the flexibility to launch them from the ground.

The Senator from South Carolina has brought to the Senate's attention a very, very important issue, and I hope we get a good vote on this issue. There are going to be people stand up and say it is a killer amendment. I do not think it is a killer amendment. If I thought it was a killer amendment, I would not vote for it. I have not voted for any killer amendment. As a matter of fact, on almost every amendment, except for the Wallop amendment which dealt with the double negative in article VI, just a grammatical mistake, I voted in opposition. But I am going to support this amendment. I am going to support this amendment because we need to point out that conventional systems and conventional cruise missiles are to our advantage. They will help increase that threshold. They will improve the conventional force imbalance that we have right now. And why it is that we would want in the name of verification, which you cannot verify certain things in this treaty anyway, to give away something that is very, very important to us? And the reason we gave it away is because, as the Senator from Idaho has pointed out and the Senator from South Carolina has also pointed out, they did not want to come up here to testify if they had any problems with verification on which missiles had a conventional or a nuclear warhead.

Yet they are willing to come up and say we are going to be able to verify the intent and the design of a weapons system that may be designed to damage or destroy a target?

So, Mr. President, I hope that the Senate will give the Senator from South Carolina a good vote on this amendment. It is an important issue. I think it is important to our national security, and I believe it is important that we point out that some of us think that the conventional systems are very, very appropriate in trying to provide for deterrence, peace, and security of this country.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. QUAYLE. I am glad to yield.

Mr. McCLURE. Mr. President, I take this opportunity to congratulate the Senator from Indiana for all the work that he has done in this precise field. This is really his issue, and I very much appreciate what I have been able to do in highlighting this issue not only tonight but at other times and also to thank my friend, the sponsor of the amendment, Senator HOLLINGS for having given us the opportunity at this particular time to debate this issue and hopefully to allow the Senate to vote its will on this and hopefully win this issue on the floor of the Senate tonight.

Mr. HOLLINGS. Mr. President, before yielding to our distinguished colleague from Alabama let me also join in my thanks to the distinguished Senator from Indiana. There is no question I worked with him early on. I started trying my best. It is unfortunate that you have to apologize to even submit an amendment as a U.S. Senator.

I heard early this morning when I was awakened that the President of the United States was losing his patience with the U.S. Senate. Ye gads, he is losing patience. We gave him 7½ years to get to this point.

And I have not had a chance, except for yesterday and today, to state my case. I went first to the Intelligence Committee and then I went and studied and conferred with the distinguished Senator from Indiana, and he has emphasized as he should have—there is no doubt about it—the advantages to the Soviets were to not have the ban on conventional. He has pointed out opponents of my amendment go in two different directions at the same time, saying it is a killer agreement so they will not agree; but if they want to talk about benefits and advantages to the Soviets obviously they would agree.

I appreciate that I am testifying that the Senator from Washington, Senator ADAMS, made our argument for us. We agree that Ambassador Nitze, and we agree that Ambassador Kampelman said that there was not then and is not now any requirement, and that is the reason for our dilemma.

I am glad to yield to the distinguished cosponsor, the Senator from Alabama, Senator SHELBY.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I appreciate the distinguished Senator, my friend from South Carolina, offering this amendment, but I also want to take a minute and commend my colleague on the Armed Services Committee, the Senator from Indiana, for all of the work that he has done regarding this both in the Armed Services Committee and on the floor of the Senate. He has shown a lot of leadership here, and I appreciate the contribution that he has made to this debate.

Mr. President, as a lot of my colleagues know, I do not hold the treaty in high regard. I believe that this pact is at best, militarily insignificant; at worst, the first step toward the denuclearization of Europe. However, I view this amendment as a means of improving the INF Treaty. Let me explain.

The aim of United States and Soviet negotiators in Geneva, as I understand it, was to diminish nuclear tensions. Reducing the number of nuclear weapons in the world moves us closer to that goal. Similar arguments are made for a START Treaty.

In addition, we have been told time and time again by administration witnesses that this treaty before us should stand on its own—that linkage between this treaty and conventional arms reductions would not be appropriate. It has also been the unanimous opinion of witnesses before the Armed Services Committee that I serve on along with the Senator from Indiana, that we need to modernize our conventional weaponry.

So, why include conventional armed ground-launched cruise missiles in this treaty?

I have been on the floor, and I have heard the arguments and I have read the testimony.

The conventionally armed ground-launched cruise missile would be a formidable deterrent to conventional attack. It shows real promise as an option for implementing NATO's follow-on forces doctrine. And, it need not be limited to Europe. The conventionally armed GLCM would give the United States another option in more limited conflicts around the world.

We also have the issue of affordability to consider. Everyone agrees that the balance of power in Europe falls on the side of the Warsaw Pact. Just about everyone knows that we are now spending less, not more on defense. Just about everyone knows that our European allies are not really willing to better share the burden of their own defense. Just about everyone knows that we are not likely to achieve assymetrical reductions in conventional forces in the near future, a move that could reduce tension and save money. But, we threw away this opportunity when we negotiated away the Pershing II's and GLCM's.

Everyone also knows that what we do have is superior technology in this country. In its discussion of the conventional GLCM the Armed Services Committee reported; and I quote from the report:

> Advanced technology is the alliance's trump card, and highly accurate, unmanned, long-range, stand-off weapons represent a particularly attractive means for redressing the conventional imbalance in Europe.

We need to use this technology, not give it away. This weapon well represents this advantage. And as I said earlier, it is affordable.

So, once again, why did our negotiators agree to ban this weapon? I believe the State Department was more interested in alleged verification problems than threats to NATO security.

Let us take a look at verification. Secretary Carlucci and other administration witnesses have stated that it would be too difficult to distinguish between nuclear and conventionally armed GLCM's. Thus, banning both systems would make Soviet covert deployment more difficult and costly.

If problems pertaining to verification were so important, then why did our negotiators not ban drones also? Especially since it is possible that the Soviet Union could covertly modify a drone or remotely piloted vehicle into a conventionally armed GLCM. It could then be tested as if it were a drone, and, there would be no way of challenging the Soviets.

There are other loopholes to GLCM verification. The Soviets could test a GLCM at a fixed site by simply stating that it was a sea-launched cruise missile. They could test a GLCM once at a range over 5,500 kilometers. It would then be counted as a strategic missile, but could easily be used as an INF missile. In addition, the Soviets have already tested a SLCM from a mobile launcher. While this does not appear to be a treaty violation, it does demonstrate a method by which the Soviets could circumvent the treaty.

Therefore, the argument that verification would be too difficult simply does not hold water. It is going to be difficult in any event. So, why include a weapon that has such great potential for our defense?

Now, one might argue that since we are developing air- and sea-launched variants we do not need a ground launched version of this weapon. But, we all know that the air-launched cruise missiles and the sea-launched cruise missiles are at risk in our current START negotiations. Therefore, I know of no better way of sending a message to the Soviets and to the administration our position regarding cruise missiles than by approving this amendment offered by the distinguished Senator from South Carolina.

Permit me to turn to another aspect of this amendment. By only referencing ground-launched cruise missiles which are equipped with nuclear warheads, we solve the problems relating to futuristic weapons—technologies that show great promise.

One must remember that the subject of INF missiles systems using techniques such as lasers, to destroy targets, or the meaning of the term weapon-delivery was never brought up during negotiations. It was only after investigation by the Armed Services Committee that Secretary of State Shultz and Soviet Foreign Minister Shevardnadze concocted an understanding of this issue. The passage of this amendment would allow the United States to continue to pursue these technologies.

Finally, I take offense at the very idea that this or any amendment is a so-called killer amendment. It is the constitutional duty of this body to give its advice and consent to ratification. This is our role under the Constitution. We are not here to rubberstamp Presidential commitments.

Mr. President, my good friend from South Carolina believes, as I believe, that this amendment makes this a better treaty. We believe that it would be a tragedy for the Senate to outlaw conventional GLCM's.

If a majority of the U.S. Senate agrees with our view, then we send this treaty back to the Soviets and await their response. The Soviets did not give anything away to achieve this ban on GLCM's. They should not expect anything in return.

Mr. President, in our hurry to give away our nuclear deterrent in Europe we have given away an important nonnuclear deterrent. And with it we have set a precedent for further conventional reductions in START negotiations. Our air- and sea-launched versions are now a risk.

We have before us this evening an opportuntiy to rectify this error in negotiation. I urge my colleagues to support the amendment of the Senator from South Carolina.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 11 mintues and 23 seconds remaining.

Mr. HOLLINGS. Mr. President, I reserve the remainder of my time.

Mr. NUNN. Mr. President, will the Senator from Rhode Island yield me about 5 minutes?

Mr. PELL. I yield 5 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 5 minutes.

Mr. NUNN. Mr. President, let me first say that the Senator from South Carolina is making I think a very informative presentation here in the U.S. Senate about the conventional problem that we face in Europe—"we" being NATO. I believe that this debate should focus, as much as possible, on that conventional problem, because that problem is not being solved by this INF Treaty. If the world was logical, and if arms control was logical, we would be starting with the conventional side and the conventional imbalance, rather than the nuclear side.

I have talked over and over again about this over the years. We never seem to be able to get conventional arms control to be on the front burner of any agenda, and neither do we seem to be able to make the kind of improvements in NATO that are necessary if we are going to bring about a conventional balance, either with or without arms control. So I think the Senator is making a good presentation.

I will not be voting for the Hollings amendment. It is my understanding that it is a category 3 understanding that would make the ratification of the treaty contingent on Soviet acceptance of the reservation that is set forth in the Hollings amendment.

I do submit to my colleagues that, if passed, this understanding would have the effect of basically overturning the September 1987 decision of the President, which was supported by the Joint Chiefs of Staff, to agree to ban conventional as well as nuclear GLCM's of INF range.

This amendment would also come to a different conclusion than we did in the Armed Services Committee. But, I must say, after a great deal of debate and a lot of discussion, our conclusion was, in the final analysis, that the committee does not believe that an amendment to permit conventional GLCM's of INF range is advisable.

Those were our words in the Armed Services Committee report. I think it might help our colleagues in the Senate who are going to be voting on this in a few minutes this evening to hear the Armed Services Committee report. It is not a long report, and I am going to read it into the RECORD. This comes from the Senate Armed Services Committee.

> *Recommendation*
>
> The Committee recognizes the validity of the concerns expressed during its hearings over the prohibition of a potentially promising option for implementing NATO's follow-on forces (FOFA) and deep strike doctrines. Advanced technology is the Alliance's trump card, and highly-accurate, unmanned, long-range, stand-off weapons represent a particularly attractive means for redressing the conventional imbalance in Europe.
>
> At the same time, the Committee regards the proposal to permit conventional GLCMs as a two-edged sword, since it would provide the Soviet Union with a readily exploitable option for increasing its conventional and chemical threat to vital NATO facilities in Western Europe. In addition, the Committee recognizes the magnitude of the verification problem that would be created were the Soviets to deploy conventional GLCMs of INF range. The Committee concludes that the verification question was a principle factor in the Administration's willingness to ban conventional GLCMs.
>
> The negotiating records provided to the Senate indicated that the Soviet Union's opposition to allowing conventionally-armed GLCMs was consistent and forceful. Neither the negotiating records provided to the Senate nor the Administration's testimony on this point provides grounds for concluding that amending the Treaty in this manner would not prompt a protracted and, at best, difficult renegotiation of the agreement.
>
> In the final analysis, the Committee does not believe that an amendment to permit conventional GLCMs of INF range is advisable. However, banning the deployment of such systems makes it essential that START not foreclose U.S. options for conventional ALCMs and SLCMs, including systems of these types for INF ranges. The Committee urges the Administration not to permit the GLCM decision to set a precedent that could adversely affect U.S. national security interests with regard to conventional ALCMs and SLCMs.

As I said, Mr. President, the Senator from South Carolina makes some good points in this debate. I would have preferred myself if the INF Treaty negotiators had stayed away from the area of conventional forces. This INF Treaty is assumed by most people to be a strictly nuclear arms control treaty. That is the way the people view it. In fact, the title of the treaty, INF, would lead anyone to believe that it dealt basically with nuclear weapons.

But what many people have overlooked is being presented here in this debate, and that is the INF Treaty is also the first conventional arms control treaty with the Soviet Union in that it bans a category of conventional weapons which could have had or possibly could have had, depending on a lot of factors we do not know now because we have not gone far enough to know, could have had a very large potential for improving NATO's conventional defenses.

Mr. President, I must add here what I have said so many times. I know the Senator from South Carolina recognizes this very well so I will not be educating him on this point.

The reason we have such a heavy dependence in NATO on the early use of nuclear weapons is because we have conventional disadvantages. We have had those disadvantages for a long time. We still have them. They are not caused by the INF Treaty. But they are not being cured by this treaty.

There are strong arguments on each side of this question. The crisis of the position taken by President Reagan and the U.S. Government in signing this treaty and presenting it to the Senate for consent to ratification certainly make a number of valid points.

Had I been asked last summer whether the INF Treaty should limit conventionally armed GLCM's, I would have said no. In fact, going way back into 1978, when President Carter was President, one of the things that I attempted to do in many different conversations with the administration officials was not have our SALT negotiations ban conventional cruise missiles.

I have always felt that we had a real potential there.

Unfortunately now it is a little late for second guessing if we are going to truly consent to ratification of this treaty. The position taken in the treaty on this issue is supported by the President. It is supported by the Joint Chiefs of Staff. It is supported by the Secretary of Defense.

I think we can surmise that if this amendment is to pass, the treaty would face certain renegotiation and an uncertain future.

The Joint Chiefs came over before our committee and they testified on this point in general. I believe it was General Herres that came back, the Vice Chairman, and testified in detail for a number of hours on this provision. The Joint Chiefs presented their arguments. I think it is clear from the record that they went along with and in fact supported the President's position on this in terms of backing the banning of conventional ground-launched cruise missiles.

The Joint Chiefs make an argument that the Soviet Union would gain more by conventional ground-launched cruise missiles than the United States would. The Senator's map on the wall up here shows, I think as he just explained to me pretty thoroughly, that the Soviet Union already covers an enormous amount of European NATO territory with their shorter range systems. The ground-launched cruise missile technology is a technology that I believe we are out in front on in terms of accuracy. But we always, of course, have to take into consideration the difficulties if we were going to deploy conventional ground-launched cruise missiles; and if they were excluded, the difficulties of deploying those on European territory.

We also have to consider now that we have a fait accompli, in terms of this signed agreement which the Europeans, NATO allies have focused on, what would happen if we went back and opened it up now and said: OK, conventional ground-launched cruise missiles are permitted. Even if, after a negotiation with the Soviets they agreed to that, I guess we would have a real question, since you have a difficult time deciding, verifying the difference between ground-launched nuclear missiles and ground-launched conventional missiles, whether or not we really would be able to exploit some of our technological advantages in this area by actually deploying those on NATO's soil. That is an open question.

I certainly think it is a very tough question as to what the European reaction would be in NATO if we did amend this treaty with the Hollings amendment and if we did present it to the Soviets and if they did say no, we do not agree; what would happen then? With the Joint Chiefs saying we do not need this, with the Joint Chiefs basically saying we should ban them, would we really then embark on a program to develop these ground-launched cruise missiles? And if we did at this stage of the game, would the NATO allies permit—I ask 2 more minutes.

Mr. PELL. I yield 2 minutes.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. NUNN. Would the NATO allies permit those ground-launched cruise missiles which would have a great deal of commonality in terms of appearance with nuclear ground-launched cruise missiles; would they permit them to be deployed?

So we do have serious questions here. I congratulate the Senator from South Carolina for presenting what I think is the closest question, in terms of amendments that we are debating out here on substance, that we are going to have before the Senate. I think this is a close question. It is a tough question. And there are two sides of it that have to be considered by Senators.

I am not out here saying that the Senator from South Carolina does not have a case. I think he has got a good case. The other side of the question is, though, what is the case against the amendment, and I come down on the side of those who say that the case against the amendment at this stage, based on where we are now, is stronger than the case for it.

Mr. QUAYLE. Will the Senator yield?

Mr. NUNN. I will be glad to yield to my friend from Indiana for a question.

Mr. QUAYLE. As the chairman of the Armed Services Committee pointed out, reading the Armed Services Committee report, one of the principal reasons that the Presidential decision to ban the conventional cruise missile was because of the issue of verification. I wonder if the Senator might give us his judgment on the difficulty of verification; whether it is more difficult, from what he knows, to verify whether a cruise missile may be conventionally armed or nuclear armed; or more difficult to verify whether a weapon is designed to damage or destroy its target?

Mr. NUNN. I would say to the Senator that I think both of those are difficult areas. I believe the distinction between conventional armed cruise missiles on the ground and nuclear armed cruise missiles on the ground is a very difficult distinction to make. I think our negotiators in the START negotiations as well as the Soviet negotiators are having a real struggle trying to distinguish and see how they could distinguish, if we did agree to banning nuclear sea-launched cruise missiles, how we would distinguish between those and conventionally launched cruise missiles.

In the air-launched missiles it is my understanding that there are more noticeable differences so in that area we may be able to distinguish. But the sea-launched cruise missile is a problem. The ground-launched cruise missile problem, if we had made that distinction as the Hollings amendment would have us make it, is a problem. And the difference between damage and destroy is a very tough question.

I think anywhere that we draw the line on that futures question is a tough question. Even if you put the words "damage and destroy" in; it is tough to put both of them in but if you leave the word——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. I ask the Senator for 5 more minutes.

Mr. PELL. I yield 5 more minutes to the Senator from Georgia.

Mr. NUNN. If you take the word "damage" out and leave only the word "destroy" in, you still have a very difficult question because then you would be left with the words "designed to," and that is a subjective judgment about what something is designed for. What did the designer have in mind? Did they have in mind damaging something or destroying it?

I think the clear line, that we have to make clear in this debate which I guess will be forthcoming on this point later, is that the drones and other surveillance type systems are not covered under either definition and that distinction is very important.

Mr. QUAYLE. Would the Senator yield further? My point on this verification issue is that it is difficult to verify whether a cruise missile is armed conventionally or with a nuclear warhead.

But when we handle a nuclear warhead, we handle it differently. The storage is different. There are different degrees when you deal with nuclear weapons than when you deal with conventional weapons.

And though we would not have a great degree of confidence in verification, we might be able to get some idea. But then if you switch over and try to get in, as you pointed out, to accuracy, the whole design is subjective, whether it is damage or destroy. The reason we are in this sort of definitional nightmare is because of this verification drive. We got hung up on verification and now we are trying to verify design or intent, which I think is virtually impossible, to some extent.

So my contention is what we have now in this treaty on banning conventional weapons—as the chairman has pointed out, this is a much more conventional arms control agreement than a nuclear arms control agreement—we have a situation where I think it is far more difficult to find that design, damage or destroy, than it is whether it is a nuclear or conventional warhead on a cruise missile.

Mr. NUNN. I tend to agree with the Senator on that. I believe if we backed up a year and started over on this proposition, and if we got the Joint Chiefs and the Department of Defense geared up behind a conventional ground-launched cruise missile program so that they would have a program going, I believe we would have a real effort to verify that distinction. With programs in that effort, we might even be further along with a sea-launched cruise missile effort.

The truth of it is, as we know, the Joint Chiefs did not have a program going. Why they did not, I do not fully understand. It is an area I felt we had the advantage in for a long time. I do not understand it.

Now that we are in it and it has been signed, I think the Senate really has to decide whether we are better off trying to unwind history or whether we are better taking the situation as we find it.

Mr. QUAYLE. Will the Senator yield on that point?

Mr. NUNN. Yes.

Mr. QUAYLE. That is a very good point. We do not even have a formal requirement for the conventional ALCM or even a formal requirement for the conventional SLCM. We have a temporary operational requirement for the SLCM, and we have now a statement of need.

So this idea of requirement, and the chairman knows very well games can be played with this so-called, Well, we don't have a requirement; well, how do we go about getting it?

I think the Senator's statement that we have to be careful in START, particularly in trying to protect our conventional ALCM's and SLCM's, and we are going to have to work with the JCS to try to get those requirements in so we are not in this box somewhere down the road and someone turns to an aide and asks, "Do we have a requirement for this," and the answer is "No."

Mr. NUNN. I say to the Senator, particulary those on the Intelligence Committee and those on the other committee involved in the verification question, we are going to have to back off one of these days before we get another treaty up here and ask some tough questions about verification. There are treaties that are verifiable that are destabilizing. You can think of treaties that pin down verification to the point that you know with great certainty where things are located, but they might very well be destabilizing.

An example of that is in the whole area of mobility. Should we have mobile missiles? If you have mobile missiles on either side or both sides, verification of those missiles becomes more difficult, harder to verify. But the way you get around that is to put them all in one silo and then have onsite inspection. Then we will have a perfectly verifiable treaty. We have all the missiles in one silo; we know where they are; we can count them. If we cannot count them from national technical means, we can go on site and inspect them.

I cannot think of a more dangerous situation and destabilizing situation because they can be eliminated in a first strike and both sides would move toward a hair-trigger.

We are going to have tough questions not just on this distinction of ground-launched cruise missiles, but also on mobility: Do we have 99 percent verification at the expense of stability? Or would we rather have a little more certainty on verification not being able to count quite as precisely, having a little bit less certainty than we know every single missile and have a much more stabilizing situation where either side has the incentive to strike first? These are tough questions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NUNN. I ask for 2 more minutes.

Mr. PELL. I yield 2 minutes to the Senator.

Mr. NUNN. I do believe we have had too much emphasis in the Senate on the verification as an end in itself, rather than verification as a means to build confidence for a more stable and a less dangerous world.

I am not saying verification is not important; it is. I am not saying we should not strive for it; we should. You can easily cross the line in striving for verification where you do something that makes your own military posture less stable and makes the world less safe.

The Senator from South Carolina is presenting one area where, in all likelihood, pursuit of verification by the executive branch, probably because they thought the Senate of the United States, in fairness to them, would never approve it if they could not come up here, hold up their hand and say, "Yes, we can tell you it is verifiable." We probably drove them in that direction, in fairness to the, and yet they ban a system which might have—might have, and I emphasize the word "might" because no one is sure—might have down the road proven to be a more compatible system in terms of bringing about conventional stability in Europe.

This is a good example of what the Senate itself has to begin searching for, particularly the Intelligence Committee, because verification is important, but it is not the end game. The end game is a more stabilizing situation, less incentive for either side to strike first, less problem in a confrontation with one side believing unless it hits now, it is going to lose an advantage and less chances of, in the case of Europe, Soviet political use of conventional advantage. That is not to be diminished either.

Mr. President, I thank the Senator from Rhode Island for his generosity with the time. I have taken more time than I intended. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Following the distinguished chairman of the Armed Services Committee, I find he and I are in agreement except on the implications. I do not think it is a strong case/weak case situation. On the contrary. He has been consistent on this, and I have speeches of his where he talks about how we have to beef up our conventional forces. He did make the statement to the effect that conventional disadvantages are not caused by the INF Treaty. They are. We could have conventional ground-launched cruise missiles. We will not have them under this INF Treaty, and that is the whole point of this particular amendment.

Coming right on down, we all know about the Joint Chiefs, the Secretary, and the President, and what they have done. We have it before us. We have testimony that my amendment would not necessarily require new negotiations, and that is why I made it a reservation to the resolution. They do not have to renegotiate. They just have to accept it, and the Senator will have an amendment here also on the resolution with respect to representations they have made—the May 12 document.

It does not require renegotiating. I will be voting and supporting those understandings. We sent the Secretary of State back to the table once already. I think it is just as important for the Secretary of State to go back, as he did last week, and work all night on this particular change. Why? Because I come right to the final point made by the distinguished chairman of the Armed Services Committee. He said the treaty is a fait accompli and that even if we succeed with my reservation, the JCS says we do not want conventional GLCM's. Well, we know why the JCS takes that position. The Senator and I know the art of requirements. We know, for example, that Frank Carlucci will be the first fellow in the world to say I want an Asat; but I do not have a requirement for an Asat. Do you know why? Because I cannot test it. So if I put money in there, it is going to get knocked out and, therefore, I do not have a requirement, but I would be glad to offset.

"Well, Mr. Secretary"—"Oh, no, I will not tell you what I offset because if I give you that, then you will just take the offset, and I still will not get the Asat."

Senator NUNN is an experienced chairman and an outstanding chairman of our Armed Services Committee. He knows better than anyone about "requirements." He knows why those on Armed Services do not find requirements. The Senator finally emphasized the point that I tried to and could not overemphasize, the U.S. negotiators were more worried about Senators and verifications than they were about NATO. Would our NATO allies permit conventional GLCM's? Heavens above, conventional is all they will permit, as we are finding out now as each day passes. Their parliaments say, "We want to be a member of NATO but Heaven's sake, don't let any ships come in here with nuclear weapons aboard."

We know they will permit conventional, but they will not permit nuclear. They are all going the way of New Zealand. There are not any nuclear weapons in Norway and she is wavering. So what we are doing, this evening, if we turn this amendment down, we are saying we do not want a conventional defense. And we are saying this in perpetuity. Now, we cannot beg the question and dance around the fire because I have read the parts of the Armed Services Committee report into the RECORD all day yesterday and today about there being no requirements. All the negotiators come up and say "without any requirements," and then we conjecture and say maybe the allies would not even permit it. They already have permitted 309 cruise missiles to be deployed. They have them in Europe tonight. We have another 133 in reserve right there now. They could be replaced by conventional ones. And I would be perfectly willing to say to Denmark and all of those places that are antinuclear, fine business. Let us put them there. Their governments would guarantee their verification because they would not be permitted to be nuclear under the act of the particular country's parliament. That would be a wonderful verification in addition to having the buddy system, with a Soviet observer stationed there with each missile. So, by all means, let the parliaments say you cannot have nuclear. We do not have trouble with the verification. And I do not mind if the Soviets go ahead with their alleged advantages as cited by the chairman of Armed Services. The Joint Chiefs of Staff informed the committee that a major consideration in their decision to support the ban was the military advantages to the Soviets. There are no advantages as I see it. They have chemical now. That came out in the debate before. The DOD has told us that in spades in virtually every issue of its publication on "Soviet Military Power." I refer to page 71 of the 1985 edition: "offensively nearly all Soviet surface-to-surface missiles can be used to deliver chemical weapons." So we know that right this minute, they can deliver thousands of them, so there are no advantages to chemical if the Soviets gain a cruise missile capability. Likewise, their short-range missiles have covered all of the European ports of resupply, all the airports, and everything else, essentially the entire NATO forces—the British Army, the French Army, the Norwegian Army, the Greek Army, the Turkish Army. They are covered now.

I am not worried about offensive advantage to the Soviets. I am worried about a credible defense for NATO, a defense that will prevent decoupling. If we get some credibility with conventional cruise missiles, then it will not be a unilateral U.S. nuclear decision. That is all we can do under this treaty if we do not eliminate the ban. All we can do is go nuclear. That will be a U.S. decision and nobody in NATO believes us. They do not think we are going to end the world to defend Berlin, and so I am trying to reestablish credibility in NATO and its defense and not decouple us. That is the whole strategy, not only of Brezhnev but now Gorbachev. If he can have the reconciliation of East and West Germany and get rid of all nuclear, he is willing to go along with President Reagan's nuclear-free world because he knows he can get hegemony conventionally.

Mr. President, conventional GLCM's are the one defense we can afford and should afford. Accordingly, we should overrule the Joint Chiefs of Staff and the Secretary of Defense for this bad mistake and provide for conventional GLCM's in this treaty. As it now stands, the INF Treaty bans a conventional GLCM defense in perpetuity.

Mr. President, I reserve the remainder of my time. How many minutes do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 4 minutes and 4 seconds.

Mr. HOLLINGS. Let me reserve that.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield myself such time as I need. I must say I concur with the Senator from Georgia in his view that this is a very serious amendment and it will probably receive more votes than any of the other amendments that are being offered. But as with all things one has to make a decision one way or the other, and in this case I think those of us who are on the Foreign Relations Committee who heard the testimony and have been examining the problem have, generally speaking, come down on the view that we would be better off without this amendment. To my mind it would be an impossibility to have this amendment pass and then have it on the treaty without renegotiating with the Soviets. One cannot imagine them doing that.

Permitting conventional GLCM's would create a very real verification problem. The Soviets could develop or deploy a conventinal GLCM force that could be tested and trained for all distances between 500-5,500 kilometers. It could become a nuclear force within minutes simply by replacing the conventional warhead with a nuclear warhead.

Such a covert force would be militarily significant and would undermine the basic purpose of the INF Treaty, which is to prevent either side from building an INF force.

Indeed, Secretary of Defense Carlucci warned the committee that the Soviet ability to maintain an operational nuclear GLCM capability under the guise of a permitted conventionally armed GLCM program would be high and would provide the Soviets a ready means of breaking out from the treaty.

Some Senators believe the United States should protect the option of deploying conventional GLCM's, because such weapons can improve the conventional balance. However, this view is apparently not shared by Secretary of Defense Carlucci, who told the committee that neither the United States nor NATO have any specific plans or military requirements for conventionally armed GLCM's.

In contrast to the assertion that conventional GLCM's will improve the conventional balance, Secretary Carlucci told the committee that allowing Soviet deployment of conventional GLCM's could have exacerbated the existing conventional imbalance and added to Soviet ability to deliver chemical weapons, especially given the possibility that the Soviets would deploy these systems in far greater numbers than NATO.

In other words, the Secretary of Defense has warned us that the Soviet Union is in a better position to exploit conventional GLCM's, if such missiles were to be permitted by the INF Treaty. Given that the Joint Chiefs of Staff have not identified a military requirement for these missiles, why should we give the Soviet Union such an opportunity.

Allowing conventional GLCM's could create a real verification nightmare for the United States without giving us any real gain. And deployment of such missiles could be to the net advantage of the Soviets, according to the Defense Department.

I think we ought to bear in mind, too, that the Defense Department occasionally proposes the deployment of weapons that are not absolutely necessary, but I do not believe they would not want a weapon if it really gave us all the advantages that have been suggested here.

As we all know, in order to discover whether a weapon really had a nuclear warhead, the cruise missiles or a conventional warhead, we would probably have to unscrew the warhead ourselves or slide a Geiger counter up and down the body of it so it really would be an impossible matter of verification.

If we need to use cruise missiles, we can use them from the sea, we can use them from the air, so no way is it denying to us the possibility of using nulcear cruise missiles.

The committee worked on this issue and debated it extensively and the amendment to permit conventional GLCM's was defeated by a vote of 15 to 3. I cannot see any clear advantage for amending the INF Treaty to permit conventional GLCM's. The disadvantages, though, are pretty clear. Why should we amend the treaty which could require lengthy negotiations with the Soviet Union involving our concessions in other areas to protect a missile that the Pentagon simply does not want. So for these reasons I would urge my colleagues to vote against the amendment.

The **PRESIDING OFFICER**. Who yields time?

Mr. **PELL**. I yield 2 minutes to the Senator from Maine.

Mr. **COHEN**. I thank the Senator for yielding. I must say, Mr. President, it is with some reluctance that I rise to oppose the amendment offered by my good friend. He was a very strong supporter of President Kennedy's, and we are about to observe the 20th anniversary of the untimely death, brutal murder of Bobby Kennedy in a week or so. This quote was not original with him, but it is ascribed to him, namely that "Some people see things the way they are and ask 'why?' and others see the way things ought to be or might be and ask 'why not?' "

I think the Senator from South Carolina is asking the question "Why not?" He does not like the way he sees things right now. And wants to know why we cannot change it. I think the answer why we cannot change it is because it is too late. I think it is too late in the sense that if I had my druthers, perhaps if the Senator from Georgia had his druthers, we might, ignoring other factors, be supporting the Senator's amendment. However, I think it is clear that the negotiating record reflects that the Soviet Union raised strong opposition to the retention of conventionally armed ground-launched cruise missiles. Their position was forceful, and it only means that opening up this treaty for renegotiation at this point on this issue would be very difficult, to say the least.

Second, to permit the conventionally armed ground-launched cruise missiles would be a two-edged sword. The Joint Chiefs of Staff, I think correctly, pointed out that it would increase the Soviet Union's capability for posing a conventional and a chemical threat to Western Europe.

My third point would be—and the Senator from South Carolina would probably agree—that while we might confine our ground-launched cruise missiles to conventional warheads, it would be very difficult indeed to verify whether the Soviet Union would abide by such a restraint. So, we would allow the infrastructure for a ground-launched cruise missile system that could carry conventional or chemical warheads, but many in this Chamber would argue it also might carry nuclear warheads.

So it is a two-edged sword, to say the least. I think that because of the arrangement that has been struck we are better off at this particular point in time. Right now, the Soviets do not have a ground-launch cruise missile infrastructure, but they would develop one if we would allow this amendment to pass.

So for the reasons that I have suggested I think it would be a mistake at this point to adopt this amendment, unless those who are in support of it indeed wish to see the treaty defeated. I think this would in fact defeat the treaty because I do not believe the Soviets would be willing to open it up for renegotiation. And at this point in time I think it would be a mistake to adopt it.

I yield back my time.

Mr. **HOLLINGS**. Mr. President, I yield myself 30 seconds.

I just pointed out in the 1985 study that, defensively, all Soviet surface-to-surface missiles can be used to deliver chemical munitions. They have that infrastructure now. I just want to point that out.

So here we are going to give nothing to the Soviets. We know they have the advantages already, and they have the superiority. What we are trying to do is keep from debilitating ourselves even further and in perpetuity crippling our conventional capacity.

I retain the balance of my time.

The **PRESIDING OFFICER**. Who yields time?

Mr. **HOLLINGS**. Mr. President, how much time do I have left?

The **PRESIDING OFFICER**. The Senator from South Carolina has 3 minutes and 35 seconds; the Senator from Rhode Island controls 54 minutes and 38 seconds.

Mr. **DURENBERGER**. Mr. President, I rise today in opposition to the Hollings amendment to the resolution of ratification for the INF Treaty.

The Hollings amendment seeks to apply the prohibitions in the INF Treaty only to nuclear armed ground-launched cruise missiles. Unbanning conventional GLCM's may appear to make military sense, but it would have the effect of gutting the INF Treaty. I have listened to my colleague from South Carolina's impassioned arguments for retaining the conventional GLCM option. I understand, and share, his concern for equalizing the conventional force imbalance in Europe. I agree that conventional GLCM's could be an effective force multiplier in bolstering NATO defenses.

But I do not agree that this amendment should be adopted. The arguments raised in favor of the conventional GLCM today are not new. Our INF negotiators knew full well that conventionally armed GLCM's have potential for enhancing our conventional defense in Europe. Why, then, did the United States agree to ban nuclear and conventional GLCM's? Very simply because the retention of conventional GLCM's would pose insurmountable verification obstacles and allow the Soviet Union a tempting breakout option. Furthermore, the military leadership of the United States—and NATO—have unequivocally stated that there does not exist a military need for conventionally armed ground-launched cruise missiles with ranges between 500 and 5,500 kilometers.

It has been alleged that we could work out verification procedures that distinguish between nuclear and conventional GLCM's. Perhaps we could. But I need not remind my colleagues that one of the most difficult outstanding issues in the START negotiations is the problem of distinguishing between nuclear and conventional sea-launched cruise missiles. In 1983 and 1984, before we began our deployment of SLCM's, I tried to raise the difficult verification issues SLCM's would entail. I authored an amendment which passed in 1984 expressing concern about SLCM deployments, in large part because of the complications such deployments would have on future arms control negotiations. SLCM's were deployed and we are now paying the arms control price for that decision.

The difficulty of verifying a ban only on nuclear GLCM's is what led Defense Secretary Carlucci to state in his testimony on the INF Treaty:

> The Soviet ability to maintain an operational nuclear GLCM capability under the guise of a permitted conventionally-armed GLCM program would be high and would provide the Soviets a ready means of breaking out from the treaty.

With so many concerns over verification expressed by my colleagues in the past few days, I question the sensibility of providing the Soviet Union with a golden opportunity to cheat. In fact, I question whether this body would have accepted a treaty which prohibited only nuclear GLCM's.

On the question of military necessity, what better source than the testimony of Admiral Crowe, Chairman of the Joint Chiefs of Staff. According to Admiral Crowe, the Joint Chiefs of Staff fully believe that conventional ALCM's and GLCM's can completely cover our military requirements. Our colleague Senator THURMOND traveled to Europe earlier this month and found senior U.S. military commanders unanimously opposed to an amendment allowing the production of conventional GLCM's.

Mr. President, the scorecard is clear. This amendment would gut the treaty, would allow a Soviet advantage, is unverifiable, and is opposed by our military leadership. A similar amendment was defeated by the Senate Foreign Relations Committee by a vote of 15 to 3. I urge my colleagues to reject the Hollings amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, in order to alert our colleagues, after a long debate, that there will be a rollcall vote at a given time—I have discussed this request with Mr. HOLLINGS, Mr. PELL, and Mr. WARNER—I ask unanimous consent that the vote on the Hollings amendment occur 15 minutes from now.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. I thank the Chair and I thank Senator HOLLINGS and the managers.

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. HOLLINGS. Mr. President, in my remaining 3 minutes:

No. 1, the notion that we can compensate for the ban on conventional GLCM's by strengthening our air launched and sea launched capacity, is severely flawed. No. 1, we do not have the platforms. No. 2, even if we move the platforms up into the Baltic, if we move them into the Black Sea, if we could or would, they would be highly vulnerable and would cost us. They are not allocated now to theater defense. More than anything else, the air launched and the sea launched, once fired, obviously will have to be assumed to be nuclear. Thus you have full-scale nuclear war and the end of the world.

What we are trying to do in this amendment is to raise the nuclear threshold. If you want to lower the nuclear threshold, if you want to enfeeble our already weakened conventional forces in Europe, vote against my amendment. But if you want to preserve an affordable defense and a credible one; if you want to preserve for the Alliance an Alliance decision, then vote for my amendment.

The INF Treaty puts us into the dilemma of decoupling. It is not arms control. The intent of the INF Treaty is to decouple the Alliance, sever the United States from its NATO allies, put them into the position of, "Heavens above, we know the United States is not going to go nuclear to defend Turkey or Berlin or any little momentary incursion. Knowing that, we had better fend for ourselves."

Now we see, as I pointed out, Denmark saying, "We are not nuclear"; not allowing nuclear weapons. Ditto for Norway and on down the list. That is the mood in Europe. Politically and economically, we cannot afford it.

We are not worried about verification and any kind of advantages to the Soviet Union. We are worried about fundamental, credible defense and not being locked in, in perpetuity, to a conventional imbalance and inferiority. That is the thrust of this amendment.

We, as Senators, have a responsibility to advise and consent. I sincerely urge my colleagues to advise and consent on this amendment, by simply deleting the ban on conventional cruise missiles by the inclusion of one work, "nuclear." This will not require renegotiation. I am sure that it can be done easily, in the light of the so-called advantage the chairman of the Armed Services Committee says it gives to the Soviets, if we go this route.

I yield the floor, Mr. President.

THE PRESIDING OFFICER. The Senator from South Carolina still retains 38 seconds.

Mr. HOLLINGS. I yield back the 38 seconds.

I thank the distinguished chairman of the Foreign Relations Committee, Senator PELL, for his customary courtesy, and the majority leader and the fine Armed Services Committee we have. I am sure they will vote to defend the United States.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

THE PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were recorded.

THE PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], and the Senator from North Carolina [Mr. SANFORD] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

THE PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 28, nays 69, as follows:

[Rollcall Vote No. 156 Ex.]

YEAS—28

Breaux
Byrd
DeConcini
Dixon
Ford
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Kasten
McCain
McClure
Murkowski
Nickles
Pressler
Quayle
Rudman
Sasser
Shelby
Symms
Wallop
Wilson

NAYS—69

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Inouye
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sarbanes
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wirth

NOT VOTING—3

Biden
Chiles
Sanford

So the amendment (No. 2104) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, the pending question now before the Senate is on the Byrd amendment to the committee amendment dealing with reinterpretation.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. On tomorrow, 1 hour after the Senate convenes, under rule XXII, the clerk will call the roll to establish a quorum, after which the vote will occur on the motion to invoke cloture.

I hope we can postpone that cloture vote a little while tomorrow. We are still trying to work out an agreement. And I hope, before the evening is over, we can work out an agreement or at least determine the one or two amendments that we might be able to work on tomorrow.

In that event, we would try to put the cloture vote off until noon or some such. But that requires unanimous consent.

It would probably be well if we could proceed with another amendment this evening, and I hope we will have one and be able to have a short time limit on it.

May I inquire as to whether or not Senators NUNN and BOREN and HELMS have their amendment prepared?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. The majority leader is addressing the concept of combining the Nunn-Warner-Boren-Cohen and perhaps another one by the Senator from North Carolina. As yet we have not reached that format, is my understanding. I see the distinguished chairman acknowledging that that is correct.

Mr. BYRD. I yield to the Senator from Georgia.

Mr. NUNN. If I could say to the leader on that, I think the Senator from Virginia is correct. We were talking to the Senator from North Carolina about a combination of those approaches, amendments involving both the futures question, the verification question, onsite verification, as well as a series of other matters that the Senator from North Carolina has been working on. We talked about it in that vein.

I think we would be better served, all of us would be better served if we wait until we had thoroughly discussed that.

Mr. WARNER. Mr. President, I think it is an integral part of the unanimous-consent request and I know the Senator from North Carolina looks upon that as something he is quite interested in.

Mr. BYRD. Very well. Perhaps we could have that amendment ready by the morning.

Does the Senator from Georgia feel that is a good possibility?

Mr. NUNN. I think we can basically have that understanding. We can lay that down. We have the Warner-Nunn drafted separately and have it drafted with the Boren-Cohen, and we could combine it with the Helms approach and work on all of those and lay them down and do them in the morning. I was saying to the Senator from North Carolina, who just came in, that we would be better off working on those together rather than bringing it up tonight and see if we cannot handle all three of them tomorrow morning. We may combine them all. The approaches may all be able to be combined.

Mr. HELMS. I thoroughly agree.

Mr. PELL. That, frankly, was my understanding this morning that that was reached.

Mr. BYRD. Mr. President, I yield to the Senate Republican leader.

Mr. DOLE. Will the Senator yield? I believe the Senator from Alaska, Senator MURKOWSKI, will be prepared in a moment to lay down an amendment which will incorporate his category 1 amendment along with the amendment of the Senator from Indiana, Senator QUAYLE, combining two of the amendments that are on our list. It is my understanding he would be prepared to lay that down. It may be that no rollcall will be required on that. It will take about 40 minutes of debate. Maybe, if a rollcall was required, we could have that rollcall first thing in the morning and get everybody alert.

Mr. NUNN. Could the minority leader tell us which Quayle amendment? I have talked with the Senator from Indiana.

Mr. QUAYLE. This is a statement, at least my amendment, a declaration amendment dealing with the conventional missile and also we need more on verification and START. It is not the amendment I discussed earlier with the Senator from Georgia.

I have three parts in my amendment, which has been filed at the desk. Senator MURKOWSKI had an amendment that went to the second part. What we thought we would do is combine both of them and offer it up. I do not think it is going to be that controversial.

Mr. NUNN. These are not what we call category 3 amendments?

Mr. QUAYLE. No.

Mr. NUNN. Category 1's.

Mr. BYRD. Mr. President, we would then complete action on the Murkowski-Quayle amendment this evening.

Mr. President, I ask unanimous consent that the committee amendment with the amendment thereto be temporarily laid aside for the purpose only of allowing Mr. MURKOWKSI and Mr. QUAYLE to offer their amendments.

Will those amendments be in the first and second degrees or will they be simply a first-degree amendment en bloc?

Mr. QUAYLE. Hopefully it would just be a first-degree en bloc. There is a request to combine the two.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Mr. President, reserving the right to object.

Mr. Leader, I hesitate to object but I am concerned about an amendment that the Senator from New Jersey and a number of other Members here feel very strongly about. We would like to do everything we can to get it up and get a vote on it.

If cloture is imposed tomorrow without some arrangement reached, I would only ask that my amendment follow the amendment of the Senator from Alaska with 2 hours equally divided. Then I would not register any objection.

Mr. BYRD. Mr. President, I hope the Senator will not object because an objection simply means nobody gets amendments up. The pending amendment is my amendment to the committee amendment. What we are trying to do here is to facilitate the calling up of amendments prior to the invoking of cloture. I am going to try to delay the vote on the motion to invoke cloture until tomorrow at 12:30, 1 o'clock or some such.

In the meantime, I hope we could do the Murkowski amendment tonight and then lock in the Nunn-Boren-Helms amendment in the morning, and then lock in the Senator's amendment to follow that immediately.

Mr. DECONCINI. Will the leader yield? What I interpret the leader saying is he hopes to be able to lock that in prior to the cloture vote?

Mr. BYRD. Yes.

Mr. DECONCINI. Is there any reason the leader could not ask now to put the cloture vote off until a little bit later than the scheduled time? I would feel a little better about having my amendment locked in.

Mr. BYRD. Very well. Let me inquire of the distinguished Senators NUNN and BOREN and HELMS as to whether or not we might propose a time agreement limitation on their amendment?

Mr. NUNN. It is a little difficult for me to say. I do not think it is going to take very long. I believe we could probably handle the Nunn-Warner amendment, the Boren-Cohen amendment, and the Helms amendment in some combination in about an hour and a half, maybe 2 hours, equally divided. We might be able to divide that by half by the time we get started. Probably 2 hours would be reasonable. That would be three key amendments.

Mr. BYRD. Mr. President, I thank the distinguished Senator and our colleagues who are joining with him in the amendment. I ask unanimous consent that the pending——

Mr. LEAHY. Can we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Senators will cease audible conversation.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending committee amendment with the amendment thereto be set aside temporarily for the rest of this day; that an amendment by Mr. MURKOWSKI and Mr. QUAYLE may be offered with no amendments thereto; that there be a time limitation on that amendment for not to exceed 1 hour to be equally divided and controlled in accordance with the usual form; that on tomorrow, the amendment by Messrs. BOREN and HELMS——

Mr. DOLE. And WARNER and COHEN, too.

Mr. BYRD. That when the Senate comes in, after the prayer the Senate immediately then resume consideration of the treaty; that at that time, the committee amendment, with the second-degree amendment thereto, be set aside temporarily and Mr. NUNN, et al, may call up their amendment; that the committee amendment, with the second-degree amendment, be set aside temporarily for the purpose only of allowing amendments by Messrs. NUNN, BOREN, HELMS, COHEN, and WARNER, which may be one or more amendments, not exceeding three; that the total time on those three amendments be limited to 2 hours to be equally divided in accordance with the usual form not to exceed 2 hours.

Mr. DOLE. That is plenty of time.

Mr. BYRD. And upon the disposition then of those amendments with no other amendments in order to those amendments so that we know what we are dealing with, that those amendments which are identified may be combined as first- and second-degree amendments to the Resolution of Ratification or may be offered as first-degree amendments only, but in any way that the offerors wish to present them, with the total time being not to exceed 2 hours to be equally divided in accordance with the usual form with no other amendments in order as second-degree amendments to those amendments; that upon the disposition of those amendments, the committee amendment with the second-degree amendment be again temporarily set aside for the purpose only of allowing Mr. DECONCINI and other Senators, Mr. LAUTENBERG, Mr. GRASSLEY——

Mr. DECONCINI. And others.

Mr. BYRD. To offer an amendment which has been identified as——

Mr. DECONCINI. Human rights amendment.

Mr. BYRD. As a human rights amendment, with no amendments thereto, that there be a time limitation of not to exceed 2 hours to be equally divided and controlled in accordance with the usual form; that the vote on cloture then occur with the mandatory quorum waived.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. DOLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I do not want to object, but I am concerned about one matter we have been working on several hours trying to compromise. I am fearful if these amendments are locked in, that takes care of everyone on that side of the aisle, and it leaves us with little, if any, leverage on the reinterpretation amendment.

The only amendments remaining, as I understand, are the amendments on this side of the aisle to the Resolution of Ratification, and we still would not have settled the committee amendment. There is concern about at least making some compromise on that amendment. I am afraid if I do not object, then I may not be serving those on this side of the aisle who have a different view of the committee amendment and the second-degree amendment.

Mr. NUNN. Will the Senator yield just for a brief observation? The Senator makes a point. I had reviewed these amendments, though I must say, as being from this side of the aisle. The amendment, for instance, on futures is one that Senator WARNER and I have worked on in committee. It is really an Armed Services Committee amendment as a whole, although every Member has to speak for himself or herself.

The amendment that we are talking about of Senator BOREN and Senator COHEN is basically one they have worked on together in the Intelligence Committee. The amendment of the Senator from North Carolina is basically coming from that side of the aisle.

People on both sides of the aisle have a real stake in all three of these amendments. I do not believe that categorizing them as amendments from this side of the aisle was quite accurate, although I understand the Senator's concern about the committee amendment and the Byrd amendment thereto.

I can assure him we are going to continue to work on that in good faith, in any event, whether or not we get this unanimous-consent agreement.

Mr. DOLE. If the majority leader will yield further, we are prepared to go back and work on that right now. I do not want to impede the work of the Senate. I am one who wants to complete work by 3 o'clock on Friday and take care of everybody's amendments, whatever category they may be, to the resolution of ratification. I think we can do that, and, with some luck, maybe even by late tomorrow night.

I do not want to impede action on the resolution. It is my understanding somebody offered some compromise. It is in the works.

Mr. BYRD. Mr. President, it is my hope that we can reach an agreement before the evening is out on this committee amendment and the Byrd amendment, but in the meantime, and I intend to have another meeting shortly—we can meet immediately—I would hope that we could proceed with the Murkowski amendment at least this evening.

I am willing to withdraw my request and just renew that portion of it which dealt with the Murkowski amendment which will allow the Senate to be working this evening for another hour on that amendment, and I do renew that request.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I do not want to cause the majority leader and the Republican leader any more problems than they have. I wonder if the Republican leader would agree—obviously the majority leader had—that following the Murkowski amendment then the DeConcini-Lautenberg amendment will be up next, after setting aside the Byrd pending amendment? The vote could occur tomorrow if the leadership desires.

Mr. DOLE. I do not think the majority leader had them in that order.

Mr. BYRD. I did not have them in that order.

Mr. DECONCINI. I am just making the suggestion that the majority leader might add to his unanimous-consent request the Lautenberg-DeConcini-Grassley-D'Amato amendment to follow the amendment of the Senator from Alaska.

Mr. BYRD. Will the Senator be willing to reduce the time from 2 hours to 1 hour, equally divided?

Mr. DECONCINI. Make it 1½ hours and we will do it, yes.

Mr. BYRD. Make it an hour?

Mr. DECONCINI. Hour and a half.

Mr. DOLE. Does the Senator want to leave Friday?

Mr. DECONCINI. Mr. Leader, I am not sure it will take all that time. The problem is I did talk to the Senator from Iowa about 2 hours and I am taking the liberty of cutting it back to 1½ hours, but I will do that and give him some of my time.

Mr. MCCLURE. Mr. President, will the distinguished leader yield? What is the nature of the DeConcini-Lautenberg amendment? Is that MFN?

Mr. DECONCINI. It is an amendment dealing with human rights, our position on the Helsinki Accord.

Mr. MCCLURE. The Helsinki Accord rather than MFN?

Mr. DECONCINI. The Senator is right.

Mr. DOLE. Will the Senator yield?

Mr. President, Senator Grassley, who is a cosponsor, indicated earlier—I am just trying to get the time down—an hour equally divided would be satisfactory to him. He is not going to take long.

Mr. DECONCINI. I think if that would put the deal together, I would be more than happy to agree.

Mr. BYRD. Mr. President, I repeat my request anent the Murkowski amendment and upon the disposition of that amendment, Mr. President, I ask unanimous consent that the committee amendment with the second-degree amendment be temporarily laid aside for the purpose only of the amendment by Mr. DECONCINI, et al, that there be a 1-hour time limitation on that amendment to be equally divided and controlled in accordance with the usual form; that no amendment to the amendment be in order.

The PRESIDING OFFICER. Is there an objection?

Mr. DECONCINI. The vote will occur tomorrow morning or tonight?

Mr. BYRD. Mr. President, I would suggest that we remain and do both amendments this evening. I understand that the first amendment by Mr. MURKOWSKI might not take a full hour.

Mr. DOLE. And might not take a rollcall.

Mr. BYRD. And might not require a rollcall. If that occurs, I hope those who have the next amendment will likewise try to emulate that example.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Reserving the right to object, as a matter of clarification, I ask the leader, the Senator from Alaska has yet to have assurance on the acceptance. I would not require a rollcall if the amendment is accepted. I have not had an opportunity to have Senator PELL respond to the technical correction made in the amendment at this time, so I do not want to mislead my colleagues with regard to a rollcall vote.

Mr. BYRD. Yes. The Senator has not misled his colleagues. I did not mean to imply that there definitely would not be a rollcall vote. I understand that the amendment might be accepted and a voice vote might suffice. And I express the hope that that will be the case.

Mr. DECONCINI. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DECONCINI. I beg his pardon. I know he is trying to put something together and I do not want to mess it up any more than I already have.

Mr. FORD. The Senator has already.

Mr. DECONCINI. I thank the Senator from Kentucky. He is always there rooting for me.

If the majority leader determined to put the vote off until tomorrow, that will be quite satisfactory so people who do not want to stay here can go home. If not, I abide by the leader's judgment.

Mr. BYRD. Well, I think we better dispose of it tonight. We have a lot of work ahead of us yet. The more we get done now, hopefully the Senate will get out for the weekend.

The PRESIDING OFFICER. The Chair hears no objection to the majority leader's request.

The Senator from Alaska.

AMENDMENT NO. 2297

Purpose: To state the sense of the Senate regarding negotiations on a START agreement)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska, Mr. MURKOWSKI (for himself, Mr. QUAYLE, Mr. DOLE, Mr. HOLLINGS, Mr. GRASSLEY, Mr. SYMMS, Mr. KARNES, and Mr. WILSON), proposes an amendment numbered 2297.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution of ratification, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following:

( ) DECLARATION.—The Senate declares that—

(1) because the incentive for Soviet noncompliance, and the difficulty of monitoring will be greater for any strategic arms reduction talks (START) agreement than for the INF Treaty, the United States should rely primarily on its own national technical means of verification rather than any cooperative verification scheme, such as the on-site inspection procedures agreed to in the INF Treaty;

(2) because the United States enjoys a comparative advantage in the development on nonnuclear technologies that can increase the nuclear threshold and reduce the likelihood of war and because START and the INF Treaty will increase the military need to rely more heavily on such nonnuclear capabilities, in any subsequent agreement between the United States and the Soviet Union regarding the reduction of Strategic Weapons, it should be the position of the United States that no restrictions should be established on current or future nonnuclear air or sea-launched cruise missiles developed or deployed by the United States or the other members of the North Atlantic Treaty Organization, or on nonnuclear or ground launched cruise missiles of ranges not prohibited by the INF Treaty.

(3) because the reductions contemplated under any START agreement would change the character and optimal mix of strategic nuclear forces that the United States will need to maintain stability, it is imperative that the United States Congress and the President agree on the character of, and funding for, these forces before any START agreement, framework or otherwise, is signed or agreed to.

Mr. MURKOWSKI. Mr. President, I do not believe the Senate is in order.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate is not in order.

The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I ask unanimous consent that Senators DOLE, HOLLINGS, GRASSLEY, SYMMS, KARNES, NICKLES, and WILSON be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, the amendment is a combination of efforts by Senator QUAYLE and myself to address an issue that concerns a number of us and was the last item of debate concerning the disposition of the ground-launched cruise missiles. It is the contention of the Senator from Alaska that we basically gave away GLCM's on INF. That particular issue has been discussed at great length and the results have been known.

However, it is very important that we understand that in any subsequent agreement between our National and the Soviet Union regarding the reduction of strategic weapons, it should be the position of the United States that no restrictions should be established on current or future nonnuclear air- or sea-launched cruise missiles developed or deployed by the United States or the other members of the North Atlantic Treaty Organization or on nonnuclear or ground-launched cruise missiles of ranges not prohibited by the INF Treaty.

The purpose of the amendment, Mr. President, is to make it very clear, the necessity of preserving other nonnuclear cruise missiles as we initiate the START talks. Therefore, I think it is appropriate—and Senator QUAYLE and the sponsors agreed—that we must instruct the negotiators to preserve the air-launched cruise missiles and the sea-launched cruise missiles in any START Treaty.

Similar language has already been agreed to on the defense authorization bill. So this is something that has already been brought to the attention of those in the appropriate committees. I think it is in order that the Senate express itself prior to any beginning of the START process, and I think that this is an appropriate way to address it by making clear the intention of the Senate.

The Senator from Indiana I know has done a great deal of work, and his staff as well. This effort marks a joint effort of our collective staffs and our collective offices.

I think we are all in agreement that the cruise missile is vital for the conventional defense of NATO. It is important, again I would stress, that the message be made very clear as to our intentions before we begin what we hope will be a successful START process.

So I yield to the Senator from Indiana who I believe wants to speak regarding the specific input which he has had, that has been so important in the development of this amendment, and the examination that he has made in his committees on the necessity of preserving the nonnuclear cruise missiles as we initiate the START discussion.

I ask at this time in view of the late time, and the fact that many of our colleagues who have priorities have removed themselves from the floor, that my friend from Indiana address what amounts to our joint effort.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, thank you.

Mr. President, I join with my friend from Alaska in offering this amendment. This amendment is necessary because of what happened in the INF negotiations on giving up the conventional cruise missile. We have just had a very good debate on the Hollings amendment. Unfortunately the Hollings amendment was not agreed to. But during that debate we heard a number of Senators stand up and say well, we do agree with you. We agree that perhaps it was a mistake but it is too late to do anything about it. Well, if may have been too late to do anything about it, and the vote certainly reflects that the Senate did not want to do anything about the conventional ground-launched cruise missile.

But what we are doing here is sending a very strong message to the administration and to our negotiators in START, do not put restrictions and do not forsake our conventional air-launched cruise missile and our conventional sea-launched cruise missile.

We as the U.S. Senate believe very strongly in conventional capabilities. We know we have a conventional imbalance. That conventional cruise missiles from a technological point of view are to our advantage. We have the advantage in the laboratory. Unfortunately we do not get the advantage where they are fielded.

We have gone through a very long debate on the Hollings amendment. Nobody really stood up and told the Senator from South Carolina that he was wrong. They just said we cannot do this because the Soviets would not accept it. We do not know whether the Soviets are going to accept it. We never did know whether the Soviets were going to accept it because it was voted down.

Nor what we are doing is being preemptive. You might call this a preemptive message that the Senate believes in conventional cruise missiles.

Also, this amendment says we are going to have to have a very good verification scheme, and a verification on START which is going to be far more important now on the START Agreement than it was on the INF Agreement. We heard a discussion that verification is very problematic in INF. From a military point of view, the argument has been made this is not that much a militarily significant treaty. I contend that there is some, quite a bit of, military significance. It is much more of a political treaty, and the political fallout will be perhaps more of a factor than the military. But under START if we are going to reduce down to these lower levels, which I think there is a consensus and support to reduce down, then in fact we must make sure absolutely of our verification.

Finally, Mr. President, this amendment says we really have to have an understanding of what the strategic nuclear forces should be as we approach the START agreement.

So I think this is a shot across the bow saying continue the negotiations, continue the talks, but please take into consideration some of the things that we feel are important. Verification is important. Conventional cruise missiles are important. And also trying to figure out and have an understanding of what our strategic forces and the balance are going to be are also very important. I do not believe this is a controversial amendment. I hope it will be accepted.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to ask the distinguished junior Senator from Indiana about this amendment of which he is a cosponsor. I have a copy of the amendment. It has the standard declarations. But in any amendment the part that counts is where you get into the purpose of it.

As I read this amendment it states that it should be the position of the United States that no restrictions should be established in the current or future nonnuclear air- or sea-launch cruise missiles. Am I correct in saying that is what the Senate believes should be established but that is as far as we go? In other words, I believe the Senator himself has characterized it as a shot across the bow. But still it leaves it up to the negotiators to do what they wish to do.

Am I correct in saying that this is not mandatory on the negotiators in any fashion? After all, they are sent there to negotiate. It is the hope you might say that they not restrict air- or sea-launch cruise missiles. Is that the thrust of the amendment?

Mr. QUAYLE. Yes. What I would point out to my friend from Rhode Island is it should be the position, I say it is the position currently of our negotiators not to have any restrictions on the conventional air-launch or sea-launch cruise missile. What we are doing is giving the Senate support for that position and saying that conventional cruise missiles are in fact a very important option that we would like to preserve in the future.

Mr. CHAFEE. I think he is right. I think the Senator is right. At the same time, in advance on these proceedings I do not want to send negotiators off to negotiate with 100 kibitzers looking over their shoulder and telling them how to do it. What we are doing now in my judgment is saying: "This is what we believe should be done but, if you do something completely different, that is your business, and bring the agreement back to us. It is our belief that we should not restrict air-launch or sea-launch cruise missiles. But that is your business, if you want to negotiate that. You come back. We are not handcuffing you."

Am I correct?

Mr. QUAYLE. I say to the Senator from Rhode Island that this is not binding on our negotiators, and I think the Senator knows the position of the Senator from Indiana. Where the Senate would bind our negotiators or bind the President, whether on the interpretation of a treaty or anything else, I would not be in favor of that.

We speak out in political terms and give some direction on guidance without binding our negotiators.

I might say that this exact language was adopted in the Senate Armed Services Committee bill on a voice vote, without a dissent. So this has already been adopted. We are incorporating it here, to say again that the Senate supports conventional cruise missiles, air-launched and sea-launched.

Mr. CHAFEE. I think the Senator has a good point, and I support it, as long as it is absolutely clear that we are not binding those negotiators in any way; and whoever is negotiating, our negotiators on the START Treaty can do as they want. They can come to the best agreement possible for the United States of America, and it may be that in the course of those negotiations, they will have to give up air-launched and sea-launched cruise missiles. Maybe, in their judgment, that will be true. But what we are saying here is that we think it is the judgment of this body that they should hang on to those conventional missiles.

Mr. QUAYLE. What my colleague from Alaska and I are trying to do is put the Senate on record in supporting and preserving our options on conventional air-launched and sea-launched cruise missiles. Obviously, whatever they come back with, the Senate at that time will take a look at it.

What I do not want to happen is what happened in this INF debate—that the main reason I am convinced they gave up our conventional ground-launched cruise missiles is that they feared a battle royal in the Senate if they did not do it.

I want them to understand that the Senate supports the air-launched cruise missiles and the sea-launched cruise missiles.

Furthermore, we heard testimony from the Joint Chiefs of Staff, all the military people, and our other witnesses that you do not have to worry about giving up the conventional cruise missiles because we have the conventional air-launched cruise missiles and the conventional sea-launched cruise missiles, which we can use. So we are giving added support and added weight to it.

This is not binding on our negotiators. If they do restrict the conventional air-launched and sea-launched cruise missiles, we will have to take a look at it. I hope they do not, and I do not think they should.

Mr. CHAFEE. That is fair enough. I hope this amendment will be accepted.

Mr. EXON. Mr. President, I would like to get a further clarification, following the legitimate questions asked by the two Senators who have addressed this.

The PRESIDING OFFICER. If the Senator from Nebraska will suspend, the Chair asks who yields time to the Senator from Nebraska.

Mr. CHAFEE. Who controls time on this side?

Mr. EXON. Will the leader on this side yield the Senator from Nebraska 2 minutes?

Mr. PELL. I yield 3 minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, I would simply like to point out to the Senator from Rhode Island, who asked questions about this—and I should like verification of this from the Senator from Indiana—that this is a sense of the Senate resolution, as I understand it, although the resolution, a copy of which I received from the desk, is scratched over and run through and changed. It looks like there has been a major operation on this amendment from its original form. Is that accurate?

Mr. QUAYLE. No.

The Senator from Nebraska has been on the floor daily, talking about moving the treaty along, and we are trying to accommodate the desire of the Senator from Nebraska by taking two amendments and combining them into one.

The Senator from Alaska has an amendment similar to mine, and we combined them and did it in a short period of time, to try to accommodate the majority leader. That is why the Senator has a sort of cut-and-paste operation. It is my amendment and the amendment of the Senator from Alaska combined.

Mr. EXON. I appreciate that explanation.

I am still looking at the crossed through lines. Is is not fair to say that at least one of these amendments was originally to be offered as an amendment that would have had a far different effect? This is a sense-of-the-Senate resolution, is it not?

Mr. QUAYLE. Yes.

Mr. EXON. So, as a sense-of-the-Senate resolution, it obviously is not binding on anyone. It is merely expressing the sense of the Senate on this particular matter. I just wanted to clarify that.

Is it not true that one or both of these amendments was intended to be offered not in the terms of a sense-of-the-Senate resolution?

Mr. QUAYLE. No. My amendment was a sense of the Senate, and the original drafting of the Murkowski amendment was a——

Mr. EXON. Was not a sense of the Senate?

Mr. QUAYLE. Was a declaration.

Mr. EXON. Is that correct?

Mr. QUAYLE. That is correct.

Mr. EXON. I certainly have no objection to this, on these grounds, since it is a sense of the Senate and is not binding. It is an expression of the Senate as of now.

Mr. QUAYLE. I might also tell the chairman of my strategic subcommittee—and he will recall this, because he worked on a similar amendment in the Senate Armed Services Committee bill—that this goes a little beyond that. He was helpful in getting it adopted on the Defense authorization bill, and we should adopt it here.

Mr. EXON. I recall that.

I yield back the remainder of my time.

Mr. MURKOWSKI. Mr. President, I should like to communicate in a short colloquy with the Senator from Indiana.

It has been brought up that language in the combined sense of the Senate pending would imply in some way a prohibition against initiating START. That is not the intention of the Senator from Alaska, and I am sure it is not the intention of the Senator from Indiana.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. MURKOWSKI. I yield.

Mr. QUAYLE. I have absolutely no idea how anybody could conclude that; and if they would, we would inform them to the contrary.

Mr. MURKOWSKI. I appreciate that, because it has been brought to my attention, and I fail to recognize any reference to that in the amendment. Let the RECORD so indicate, that the Senator from Indiana and I have no intention of this being anything more than has been stated. It is simply the sense of the Senate and is not binding. But I think it sends an appropriate and timely message.

Mr. President, I ask the Chair what the remaining time is on our side.

The PRESIDING OFFICER. The Senator from Alaska has 14 minutes remaining.

Mr. MURKOWSKI. And on the other side?

The PRESIDING OFFICER. The Senator from Rhode Island has 27 minutes remaining.

Mr. MURKOWSKI. I thank the Chair.

Mr. PELL. Mr. President, I realize that this amendment has a good deal of popular support, but I think it restricts the President in a way that is unwise at this time. It goes beyond cruise missiles and would prevent our President from signing a framework unless the President and Congress agree on the character and structure of our strategic forces.

We have not agreed on such a thing; therefore, the President, if he is negotiating on these matters, could do his work in Moscow or here.

Also, we have the fact that the air- and sea-launched cruise missiles are part of the weapons systems that are in the quiver of the President, which he may have to negotiate about at some point in the future.

It is conceivable that he might have to accept some limitations on that.

I do not think that we should in this summary form restrict his ability to do his job.

All told, I believe that this does not coincide with our national interest and that we would be better off without it.

For that reason I find I cannot support this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I think that we have worked out a consensus on the language, and I thank my two colleagues from Indiana.

Let me offer my understanding of the language that is pending in the sense-of-the-Senate resolution.

On page 2, paragraph 3, it reads as follows:

> Because the reductions contemplated under any START agreement would change the character and optimal mix of strategic nuclear forces that the United States will need to maintain stability,—

And the balance of that, the next several words are omitted, and goes on to read:

the United States Congress and the President should

And "should" is added—

agree on the character of, * * *.

And so forth.

So the words that are stricken are limited to "it is imperative that" and the word "should" is inserted after "President."

On the last page, Mr. President, the revised amendment has been changed in the last sentence. The words that are stricken are "or the other members of the North Atlantic Treaty Organization." That has been stricken in its entirety and the balance remains the same.

There was some question in the original sense of the Senate with regard to whether or not the word "nonnuclear" was intended, because it had a cross underneath it. It was the intention of the Senator from Alaska to include that. So that paragraph should read:

It should be the position of the United States that no restrictions should be established on current or future nonnuclear air- or sea-launched cruise missiles developed or deployed by the United States or on nonnuclear or ground-launched missiles of ranges not prohibited by the INF Treaty.

I would ask my colleagues if that is satisfactory in the sense of the agreement which was just reached.

Mr. LUGAR. Mr. President, will the distinguished Senator from Rhode Island yield me 2 minutes to raise a question?

Mr. PELL. Certainly; I yield to the Senator from Indiana.

Mr. LUGAR. I thank the Senator.

I would like to ask the Senator, in taking a look at the first page of his amendment, at the top, as it now reads, it reads: "Purpose: To state the sense of the Senate regarding negotiations on a START agreement." But later, in line 3 of the text, it reads: "The Senate's advice and consent to ratification of the treaty is further subject to the following:"

It occurred to this Senator that probably the second objective is what the Senator has in mind, as opposed to a sense-of-the-Senate resolution. But I simply ask for clarification so there would be no ambiguity of the meaning of the page.

Mr. QUAYLE. Will the Senator repeat that question?

Mr. LUGAR. Yes. I have asked for a clarification of the first page of the Senator's amendment. At the top it states: "Purpose: To state the sense of the Senate regarding negotiations on a START agreement." Later, in line 3, it states: "The Senate's advice and consent to ratification of the treaty is further subject to the following:"

I simply wanted to know which of the two objectives was involved. It would appear, in other words, that "advice and consent * * * subject to" is a different purpose than a sense-of-the-Senate resolution, although it may be that the two are coincidental.

Mr. MURKOWSKI. If I could comment, it is a category 1 declaration and the purpose of the sense of the Senate could be omitted.

Mr. LUGAR. I thank the Senator.

Mr. MURKOWSKI. Would the Senator agree?

Mr. QUAYLE. I was momentarily distracted.

Mr. MURKOWSKI. The point that the Senator from Indiana is making is the conflict between the initial purpose to state the sense of the Senate and then, on line 3, that "The Senate's advice and consent to ratification of the treaty is subject to the following:" It is my understanding that that is a category 1 declaration and we would eliminate and strike: "Purpose: To state the sense of the Senate regarding negotiations on a START agreement" if my colleague from Indiana would agree that that would be satisfactory.

Mr. QUAYLE. That would be fine.

Mr. LUGAR. So, to clarify, then, the "Purpose: To state the sense of the Senate regarding negotiations on the START agreement" would be stricken?

Mr. MURKOWSKI. The Senator is correct.

Mr. LUGAR. Let me address a question to the Chair, if I may. Does the Senator need to modify his amendment in order to accomplish that purpose?

The PRESIDING OFFICER. The Chair would advise the Senator from Indiana and the Senator from Alaska that the Senator from Alaska must ask unanimous consent to modify his amendment because the amendment is under a time agreement.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is so modified.

Would the Senator now send the modification to the desk?

The amendment, as modified, reads as follows:

At the end of the resolution of ratification, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following:

( ) DECLARATION.—The Senate declares that—

(1) because the incentive for Soviet noncompliance, and the difficulty of monitoring will be greater for any strategic arms reduction talks (START) agreement than for the INF Treaty, the United States should rely primarily on its own national technical means of verification rather than any cooperative verification scheme, such as the onsite inspection procedures agreed to in the INF Treaty;

(2) because the United States enjoys a comparative advantage in the development of nonnuclear technologies that can increase the nuclear threshold and reduce the likelihood of war and because START and the INF Treaty will increase the military need to rely more heavily on such nonnuclear capabilities, in any subsequent agreement between the United States and the Soviet Union regarding the reduction of strategic weapons it should be the position of the United States that no restrictions should be established on current or future nonnuclear air- or sea-launched cruise missiles developed or deployed by the United States or on nonnuclear or ground-launched cruise missiles of ranges not prohibited by the INF Treaty.

(3) because the reductions contemplated under any START agreement would change the character and optimal mix of strategic nulcear forces that the United States will need to maintain stability, the United States Congress and the President should agree on the character of, and funding for, these forces before any START agreement, framework or otherwise, is signed or agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I am ready to yield back the remainder of my time if the Senator from Alaska is ready.

Mr. MURKOWSKI. Mr. President, in view of the late hour, I would ask for a voice vote, Mr. President.

Mr. PELL. I yield back the remainder of my time.

Mr. MURKOWSKI. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment, as modified.

The amendment (No. 2297), as modified, was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Does the Senator from Arizona seek recognition?

Mr. DECONCINI. Yes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 2122

(Purpose: To state a declaration and understandings regarding the future compliance by the Soviet Union with its commitments to respect human rights and fundamental freedoms)

Mr. DECONCINI. Mr. President, I call up amendment No. 2122 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself, Mr. LAUTENBERG, Mr. GRASSLEY, Mr. D'AMATO, Mr. WIRTH, Mr. WALLOP, Mr. SYMMS, Mr. HATCH, Mr. ARMSTRONG, Mr. DIXON, Mr. SPECTER, Mr. METZ-

ENBAUM, Mr. WILSON, Mr. GRAMM, Mr. WEICKER, Mr. GRAHAM, Ms. MIKULSKI, Mr. EXON, Mr. THURMOND, Mr. CONRAD, and Mr. GORE, proposes an amendment numbered 2122.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of————————, add the following:

"The advice and consent to ratification given by the Senate under this resolution of ratification is subject to the following declaration and understandings, which the President using existing authority shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

"(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls upon the President to use every opportunity to stress the inherent link between respect for human rights and achievement of lasting peace;

"(2) the understanding that the President shall seek sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

"(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the 'Helsinki Final Act'),

"(B) the Madric Concluding Document of the Commission on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the 'Madrid Concluding Document'),

"(C) the Universal Declaration of Human Rights (also known as the 'Universal Declaration'), and

"(D) other international human rights agreements to which the Soviet Union is a signatory or party, including provisions relating to—

"(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,

"(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness,

"(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and

"(iv) the right of individuals to know and act upon their rights and duties in these agreements; and

"(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document".

Mr. DECONCINI. Mr. President, I would like to alert the Senator from New Jersey. I believe he is on his way here. He is here.

Also, the Senator from Iowa [Mr. GRASSLEY] wanted to speak on this amendment, as did the Senator from Florida [Mr. GRAHAM], and perhaps others.

Mr. President, together with Senators LAUTENBERG, GRASSLEY, D'AMATO, WIRTH, WALLOP, SYMMS, HATCH, ARMSTRONG, DIXON, SPECTER, METZENBAUM, WILSON, GRAMM, WEICKER, GRAHAM, and MIKULSKI, I am offering an amendment to the resolution of ratification of the INF Treaty in the form of a declaration and understandings.

Mr. President, I ask unanimous consent that the Senator from Nebraska, Mr. EXON, and the Senator from South Carolina, Mr. THURMOND, be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, the purpose of this declaration is to reaffirm to the Soviet Union the paramount importance which we as Americans place on the Helsinki process in the achievement of lasting peace and security among nations.

The INF Treaty offers the hope of a new beginning in our efforts to develop a more positive arms control relationship with the Soviet Union. I commend the administration and our negotiators for taking this important step. But we must be aware that this moment is a fragile one. Let us not squander it on empty rhetoric. We have an opportunity today to grasp this fresh start toward peace and root it in the secure foundation of the Helsinki or—as it is also known—the CSCE process. CSCE stands for Conference on Security and Cooperation in Europe, a title which has a special bearing on our discussion today. The CSCE process began 12 years ago when the United States together with, Canada, the Soviet Union, and 32 European countries, the same countries which have the most to gain or lose by the decisions we make on the INF Treaty and future arms control policies, drafted the Helsinki Final Act. The Helsinki process, I would add, has been reaffirmed by every President since Gerald Ford first signed the Helsinki accords in 1975.

Today, however, those accords are in danger of being swept aside by the U.S. Senate in the interest of expediency and procedure. This declaration is not a so-called killer amendment. It requires no renegotiation by the Soviets. Its language is the language of the Helsinki accords. I submit, Mr. President, that this declaration reinforces the INF Treaty and is not, as some contend, irrelevant to the treaty and arms control.

We are simply reaffirming a policy already established by both the Soviet leadership and the United States in 1975, and which both countries have strengthened in subsequent CSCE review meetings in Madrid and currently in Vienna. This policy speaks to the importance of balance between human rights and security in the search for lasting peace. In the context of Helsinki, progress in security without a parallel record in the area of human rights is a peace without foundation—a peace without confidence.

The Helsinki accords reveal a brilliant perception of those elements in human relations which lead to actions of human destruction—namely fear and disregard for individual freedoms. The CSCE process seeks to build confidence and understanding among countries through measures which encourage participating nations to respect the fundamental freedoms of their citizens. This confidence-building process concerns the depth to which a nation honors its commitments whether these center on arms control agreements or on the quality of the relationship which exists between a government and those it governs.

The past 12 years have witnessed a greater emphasis by the United States on human rights as an integral component of our foreign policy. The subject of human rights now occupies summit agendas with regularity. It is reported that the President will give a speech on the Helsinki process in Helsinki the day before he goes to Moscow for his third summit meeting with Secretary Gorbachev. It is also expected that he will raise human rights concerns with the Secretary when he goes to Moscow. But concern for human rights must be more than just discussions of the issue—more than just meetings and photo sessions with refuseniks. If we are ever to achieve a lasting peace, our professed commitment to human rights must be guided by the Helsinki concept of balance.

To quote Secretary Shultz in his speech at the opening in 1986 of the current CSCE Vienna Review meeting:

> * * * Arms control cannot exist as a process in isolation from other sources of tension in East-West relations. If arms control measures are to make a meaningful contribution to stability, they can only reinforce, never supplant, efforts to resolve more fundamental sources of suspicion and political confrontation.
>
> The commitments of the (Helsinki) Final Act strike a necessary balance between the related problems of military security, political confidence, economic cooperation, fundamental human rights and freedoms, and contacts among people. It is important that we keep that balance.

In the Helsinki Final Act, the participating nations agreed to:

> Take effective measures which by their scope and by their nature constitute steps towards the ultimate achievement of general and complete disarmament

They also agreed to have:

> Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief.

At the current CSCE Review meeting in Vienna, we hear the principle of balance between human rights and military security referred to time and time again—the fear being that we will allow the military security side to dominate human rights issues and therefore jeopardize the very premise on which the Helsinki accords are predicated—balanced progress in both areas. A retreat from our position now, at such an opportune time in our relations with the Soviets, would be an unforgiveable betrayal of our hard-fought efforts since the Helsinki accords were signed in 1975.

It is reported that the President will give a speech on the Helsinki process in Helsinki the day before he goes to Moscow for the third summit. It is also expected that he will raise human rights concerns with the Secretary when he goes to Moscow.

So, Mr. President, I would hope that this amendment, which has been carefully drafted by the Senator from New Jersey and myself and others for some period of time. I hope we can come to a conclusion that we are only requiring under this declaration and understandings that the President of the United States is going to do what he says he is going to do; and that is to raise the human rights agenda, to reemphasize the Helsinki Agreement, the other concluding document from Madrid and other agreements relating to human rights that the United States and the Soviet Union have agreed to.

Mr. President, anything other than these understandings and this declaration would really be a retreat from a position that the vast majority of this body has taken time and time again and that is to reaffirm our human right commitments, to reassert the Helsinki accords, and to make it very clear that the Soviet Union is going to be confronted with this time and time again.

The Soviets themselves acknowledge the importance of the principle of balance. Yuri Reshetov, chief of the Soviet Foreign Ministry's Division of Humanitarian Affairs said in a recent Newsweek interview:

> The new thinking . . . recognizes the fact that general compliance with the human rights provisions is part of the basis for international security. The Soviet Union now favors the concept that peace is based in part on humanitarian cooperation.

Mr. President, that is a big step for the Soviet Union and I compliment them for coming around to the conclusion that they no longer are going to dodge this issue or pretend it is not there.

History is all too often a tragic commentary on missed opportunities. We must not miss this moment in United States-Soviet relations to lay the groundwork for a secure and lasting peace. In spite of strong bipartisan support for the INF Treaty, the belief persists that somehow this support will erode if any amendments, even those which do not fall into the "killer" category are attached. The floodgates would open, some believe, and the possibility of killer amendments unravelling prospects for ratification would become too great.

The declaration we have introduced does not require any renegotiation of the treaty. It will add, we believe, an important dimension to our debate but few of us doubt that the treaty will not be ratified. If we are afraid of this debate then it is time to ask ourselves whether in our desire to advance arms control, we are not falling victim to an expedient mind set which risks the danger of brushing aside fundamental principles for the sake of procedure.

President Reagan upon signing the INF Treaty, counseled Mr. Gorbachev to remember:

> That genuine international confidence and security are inconceivable without open societies with freedom of information, * * * conscience, the right to publish and the right to travel.

As the President reiterated:

> Yes we will address human rights * * *. We must if we are to achieve a true, secure and lasting peace.

The integration of these principles into the Helsinki Final Act had a specific purpose—to achieve a peace based on substance and performance, not on words without actions. Effective arms control agreements are essential to our very survival. But to pursue them without stressing the relationship between human rights and security is to reach for a peace without freedom—a peace we can no longer afford.

In 1985 Congressman Lantos, a truly committed advocate of human rights, testified before the Helsinki Commission. In his testimony he articulated the frustration I am feeling today as I hear comments about the need for a "clean treaty" and the relevance of human rights in a discussion about arms control. Mr. Lantos stated:

> I believe that the whole human rights movement is in tremendous danger of slipping into symbolism and moving away from substance. We would like to perpetuate the myth of our commitment, but we would like to do so without really interfering with the adult game which is going on in the other room.

That adult game, Mr. President, is a deadly serious one. The consequences of breaking its rules are irreversible. I urge my colleagues, therefore, to stand by their many years of espousing the cause of human rights at a time when their words must stand the test of true commitment. Let us take this step toward arms control with the Soviets but this time let us take it under the guidance of the Helsinki principles as both our countries agreed to do 12 years ago.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise to support this human rights amendment to the resolution of ratification of the INF Treaty.

This amendment is supported by the National Conference on Soviet Jewry, the Religious Action Center, the Union of Councils for Soviet Jews, the Americans for Human Rights in Ukraine, the Lithuanian-American Community of the U.S.A., the Joint Baltic American National Committee, the Lithuanian Catholic Religious Aid, the Estonian American National Council Inc., and the World Congress of Free Ukrainians.

Mr. President, this bipartisan amendment presents a historic opportunity to emphasize to the Soviets the importance the American people attach to human rights. It declares that respect for human rights is an essential part of good relations with the Soviets and critical to the achievement of lasting peace. It asks the President to insist on sustained and demonstrable Soviet progress in living up to the human rights promises it made on signing the Helsinki accords and other treaties.

Why bring the issue of human rights into a debate over a treaty to destroy nuclear arms?

Because security comes not only from verifiable limits on warheads and launchers. It also comes from the trust that can develop between countries on the basis of how well they live up to existing treaty obligations, and how well they treat their citizens.

If the Kremlin were to honor the human rights promises it made in Helsinki years ago, think how it would enhance our confidence in their intentions to honor future agreements, on human rights or arms control. If they released all remaining political prisoners, allowed free emigration, permitted the Baltic States free national expression, and permitted the exercise of religion by Christians, Jews and others, think how much more secure Americans would feel about Soviet intentions in the world.

We cannot make arms control agreements with the Soviets contingent on their human rights record, nor would we want to. But we can insist that the definition of security be the one agreed to in the Helsinki accords—a definition that includes human rights. After all, one's security can be threatened by the arbitrary arrest and detention that occurs in the Soviet Union for the exercise of basic human rights as well as by nuclear weapons.

Let me emphasize that this amendment is not a "killer" amendment—one that would require renegotiation of the treaty, and thus risk killing the chance for the treaty's ratification. It requires only that its language be transmitted to the Soviets as part of the resolution approving the treaty.

This bipartisan amendment would send a message to Soviet leaders: That as we approve the first United States-Soviet Arms Control Treaty since 1972, human rights remains high on the agenda of the American people, inseparable from our desire for increased security. It would send a message of hope to all those who struggle for fundamental human rights in the Soviet Union. And it would let the Soviets know that, despite the promise of glasnost, we continue to take a critical look at the actual Soviet record on human rights.

While the world has witnessed historic changes under Gorbachev's glasnost policy, servere repression still exists in all spheres of Soviet life. Glasnost has its limits. For every step forward, there have been two back.

Sergei Grigoryants, editor of "Glasnost," the best known of the unofficial journals has sprung up in the wake of Gorbachev's new policies, knows there is no real freedom of the press in the Soviet Union. Every word of his journal is painstakingly typed by a small corps of dedicated volunteers, and distributed by hand. Increasing numbers of Soviet citizens are obtaining this and other unofficial publications which openly criticize government policies and actions.

Yet those who test the limits of glasnost must pay a price. Mr. Grigoryants was jailed last week. His computer, his printer, and his manuscripts were seized. Contributions have been detained, and copies of glasnost are confiscated before they can reach the public. The Soviet Union, with all its military strength, continues to fear the power of the written word, especially if it is the truth.

The Soviets also continue to deny freedom of religion to their citizens despite their Helsinki obligations. The activities of religious leaders and believers remain severely restricted. Religious institutions cannot exist without state permission. Religious leaders are prohibited from giving religious instruction to children, or conducting prayer and study groups for adults. Hundreds of believers—Jews, Christians, and others, languish in Soviet prisons and labor camps for committing religious "crimes," like holding public religious processions or distributing unauthorized bibles.

This amendment will send a signal of hope to those who fight for the right to practice their religious beliefs—people like exiled Lithuanian Bishop Steponavicius and imprisoned Lithuanians Fathers Svarinskas and Tamkevicius * * * to the members of the newly formed group of Latvian clergyman, "Rebirth and Renewal," the independent pastors of Estonia whom the Soviet authorities try to intimidate. It will encourage those in the Ukraine pressing for the recognition of the Ukrainian Catholic Church and for balanced celebrations of the Millenium of Christianity this year.

It will strengthen the resolve of Soviet Jews like the Zelichonoks, the Kosharovskys, and thousands of others who continue to teach Hebrew, practice their religion, and seek to emigrate despite persecution, harassment, and arrest.

It will tell the Baptists, the Pentecostals, and others, who desire nothing more than the right to practice their religion, that we have not forgotten their plight, and that we stand with them in their struggle.

While some are openly testing the limits of glasnost, others remain imprisoned for political activities carried on in less tolerant times. Passage of this amendment would remind the Soviets that the United States deplores the arbitrary arrest and detention of Soviet citizens for political purposes. It would let them know we continue to be appalled by the use of psychiatric hospitals for internment.

Mr. President, this amendment also reaffirms America's belief that every Soviet citizen has the right to study and express his cultural and national heritage, to organize ceremonies celebrating national identity, and to have the opportunity to learn and teach languages other than Russian.

When public demonstrations against the Soviet occupation were permitted in Soviet-occupied Lithuania, Latvia, and Estonia last summer, it appeared as though the Soviets were willing to tolerate some national expression. But Soviet treatment of the demonstrations' organizers said more about the continued lack of tolerance for ethnic diversity than a thousand official proclamations about glasnost.

After the demonstrations, the organizers were arrested, dismissed from jobs, drafted into the army, or expelled from the country. The citizens of the occupied Baltic countries continue to suffer under Soviet domination and a forced campaign of "russification." Baltic and Ukrainian human rights activists continue to languish in the gulag.

The Soviets also continue to persecute those citizens who wish to leave the country. This amendment restates America's conviction that every Soviet citizen should have the right to emigrate. To families like the Zelichonoks, the Kosharovskys, and countless more who have been denied permission for more than 10 years, the amendment says that the United States will continue to press for your freedom. To the thousands of refuseniks in the Soviet Union, as well as those who may want to emigrate but have not yet applied, the amendment says that America supports your right to leave without restrictions.

America does not consider the emigration of 8,155 Jews in 1 year satisfactory. We will not accept arbitrary excuses such as "state secrets" or lack of relatives abroad as justification for breaking promises made in the Helsinki accords and other international human rights agreements. We will not be silent until the doors of the Soviet Union are open and all who desire to emigrate have received permission.

The INF Treaty presents a historic opportunity to reaffirm this country's commitment to human rights, and its belief that security is intimately connected to the observance of those rights. We must not miss this moment in United States-Soviet relations to insist on a broader definition of security, and in doing so, perhaps increase our chances to achieve it. After all, real security depends as much on freedom of speech, press, and religion as it does on freedom from Pershing and cruise missiles.

I yield the floor.

Mr. PELL. Mr. President, I yield the Senator from Illinois 2 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, my colleagues and I shall be very brief. I join in support of this. I am pleased the President has said he is going to move in this area of human rights. I am pleased he is going to meet with some of the refuseniks. And let me add one particular case that I hope we can get a solution for: Abe Stoler, an American citizen over there, taken over there when he was 19 years old, in 1931. His father thought communism was going to be paradise. He was taken over; his father was then killed by Stalin. His mother and sister were taken off to Siberia. He sounds like an American citizen. Many of my colleagues have talked to him. He and his family want to leave the Soviet Union.

He said, in an NBC interview not long ago: "I do not want to die in Moscow."

One of the interesting things is that he voted by absentee ballot, believe it or not, in the last Presidential election; voted for the reelection of Ronald Reagan.

Here is an American citizen who has a family over there. They want to leave the Soviet Union. Why not let them go?

Senator LAUTENBERG talked about mistrust being so important. Mistrust grows not only out of weapons systems. It grows out of these individual cases that we can understand. This is an injustice being imposed on this family, and I hope we can get this worked out in the next few days.

I thank you, Mr. President, and chairman of the committee.

The **PRESIDING OFFICER.** The Senator from Iowa is recognized.

Mr. **GRASSLEY.** Mr. President, I rise in support of the amendment, an amendment to declare the Senate's commitment to human rights.

Nobody here doubts our commitment. But considering the lack of respect for human rights around the world, we need to take a stand periodically, particularly at this very important time when this very important agreement is being discussed on the floor of this body.

Let me say at the outset what this amendment does not do. First, it does not require renegotiation of the INF Treaty. Second, it does not interfere with, or in any way jeopardize, the Senate's approval of this historic treaty. And third, it does not link this or future arms agreements to human rights issues.

The amendment does, however, reaffirm the American respect for an adherence to the Helsinki Final Act and other international agreements. And it expresses the importance of respect for human rights in the relationship between the United States and the Soviet Union.

This amendment recognizes that there are various components to a trusting, mutually beneficial relationship between our nations. And it acknowledges that a true and secure peace is linked to the respect for human rights.

Mr. President, we stand at a critical point in our relations with the Soviet Union. We are experiencing a warming in those relations, something which is beneficial for the people of our two nations, and the world over.

As President Reagan embarks on another historic summit, he and Secretary of State Shultz are to be commended for establishing and maintaining the dialog with the Soviets. It is this dialog that represents the hope for developing a mature and productive relationship.

The President and Secretary of State also deserve our praise for keeping human rights on the agenda in discussions with the Soviets. This amendment gives them the Senate's support for this accomplishment.

Upon adoption of this amendment, President Reagan would be required to communicate its contents to Secretary Gorbachev. While the Soviet leader would not be forced to take any specific action based upon the amendment, it should serve as an encouragement for him to do so. He would have a greater appreciation of the American priority for human rights.

This amendment comes at a key time. While we're seeing some progress on human rights from the Soviets, there are other disturbing signs. The good news includes continued flow of emigration—Soviet Jews, ethnic Germans, and Armenians. The public celebration of the millenium of Christianity next month is another good signal.

Those developments give me some encouragement that the Soviet Union is opening up, but there have been other incidents, proving there is still much progress to make.

First, the editor of Glasnost magazine was recently arrested. When he was released, he found the records for the magazine destroyed and his office ransacked.

Second, religious freedom is not yet recognized—churches are still destroyed and Jews and Christians are still persecuted for their beliefs.

Third, individuals are still imprisoned for their political views. According to Ambassador Warren Zimmerman, the head of our Helsinki delegation, there are a number of political prisoners, at least 13 of whom are Helsinki monitors.

That is why, Mr. President, this amendment is so very important and should be part of the discussion of this historic disarmament agreement between our two nations.

The message must be that our relationship encompasses human rights. While we are making progress in cutting back nuclear arms, we must seek parallel progress on the human rights front. Secretary Gorbachev and the Soviet people must know that this message comes not only from our President, but from the American people, for whom the Senate will be speaking when we adopt this amendment.

I urge my colleagues to give this amendment unqualified support and the INF Treaty ratification.

Mr. President, I ask unanimous consent that Senator DOLE be added as a cosponsor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. **PELL.** Mr. President, who controls the time?

The **PRESIDING OFFICER.** The Senator from Arizona.

Mr. **DECONCINI.** I yield the Senator whatever time he so desires.

The **PRESIDING OFFICER.** If there is no objection, the Senator from Iowa is also designated to control the time.

Mr. **PELL** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Rhode Island.

Mr. **PELL.** Mr. President, as a founding member and former cochairman of the Helsinki Commission, I have a very real concern in the work of that commission and human rights as being a central goal in our relationship with the Soviet Union.

I think the passage of this amendment would send a strong message to the Soviet Union about the need for continued progress in the human rights area as speedily as we can.

We should bear in mind, too, that there really has been progress in the last few months with glasnost and perestroika.

I take little exception with my friend from Iowa. While many churches have been destroyed in the past, they are not being destroyed now. I agree with him that there is still persecution from the standpoint of religious practices. I believe there is a long way to go in the Soviet Union in these regards.

I commend the authors, Messrs. DECONCINI, LAUTENBERG, and GRASSLEY, for their efforts in proposing this amendment to make it clear to the Soviets that arms control is not the be-all and end-all in our relationship with the Soviet Union.

We must recognize, as Rabbi David Saperstein testified before our committee: "There is a positive relationship between improvement in arms control and human rights."

I believe this is a good amendment, and I recommend it to my colleagues.

Mr. **McCLURE.** Mr. President, will the Senator from Iowa yield to the Senator from Idaho?

Mr. **GRASSLEY.** I yield 5, 6 minutes.

The **PRESIDING OFFICER.** The Senator from Idaho is recognized.

Mr. **McCLURE.** Mr. President, I thank the Senator for yielding this time. In some respects, it is a little strange perhaps to have the Senator from Iowa yield time in opposition, because I do not know of anybody on the floor who is opposing this amendment, which says something for it as well. I am sure the Senator from Iowa wants it to be very clear that he is not in opposition to this amendment.

Mr. President, I ask unanimous consent that I may be listed as a cosponsor of the amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **McCLURE.** I thank the Senators who are the original cosponsors for permitting me the privilege of being a cosponsor of this amendment.

I guess I take exception with only one thing that has been said here tonight, and that is only a very mild exception.

It has been properly noted that there is no linkage between this issue and that of arms control. I am not trying to say that there should be a linkage between our insistence upon human rights observances, and our willingness to negotiate arms control treaties. But I do want the Soviet Union to know that we regard this seriously enough that we might, upon occasion, take that step, so that they are not insulated from any kind of linkage between this issue and other issues.

I think they would benefit from knowing that, indeed, we do link human rights observances to other actions. We did this the other day when I offered an amendment, which was adopted to the Department of Defense authorization bill providing that the Soviet Union shall not be granted most-favored-nation status until they have come into compliance with the agreement that they signed which has become known as the Helsinki accords, or the Helsinki Final Act.

Mr. President, I think I said at that time, but I will repeat it at this time that, indeed, things have changed in the Soviet Union over the last decade or decade and a half. There are some glimmers of hope. But amid those glimmers of hope, as the Senator from Iowa and others have indicated, there are still some very disturbing signs.

Yes, I attended Palm Sunday services with the Metropolitan of Leningrad, and had lunch with him immediately following those services. And that was a moving experience, to be able to see in that cathedral a group of Soviet citizens of all ages, not just old ladies, as we are sometimes told, but young people and families together worshiping God as they saw fit.

I also, a week later, was able to go to the midnight mass in Zagorsk and observe the same thing in that great cathedral, in that center of Christendom inside the Soviet Union, with people being turned away because there was no room inside the cathedral for them to stand, people observing their own religious beliefs.

I visited with the Metropolitan of Kiev and learned from him and from others that, indeed, Bibles were being printed in Russia, or at least they are assured that they will be printed in Russia this year for the first time in over a half century; that for the first time ever the New Testament is to be printed in Russia in the Ukrainian language, only 100,000 copies but a significant achievement.

Those matters are of importance to this Senator and to many Americans. At the same time, as the Senator from Iowa noted, the Helsinki monitors, those who were granted special status as a result of the agreement signed by the Soviet Union to observe and monitor the progress and observance of the Helsinki accords, are being persecuted inside Russia today. Some are still in prison, still others have vanished and not heard from. So there is more to be done.

I remember with a great deal of pleasure the experience I had with the distinguished Senator from Rhode Island in Prague a few years ago, when we went down and laid a wreath at the site of a dissident's death on the streets of Prague. And I remember, too, the great experience that I had in going with him to the home of a dissident who dared to speak out, and dared to have Americans come to visit with him, as he was continuing his witness of the human spirit desiring freedom inside that oppressed country. We as Americans need to continue to honor and to keep before the eyes of the world, the sacrifices of those people who are brave enough to make those sacrifices.

Mr. PELL. If the Senator will yield for a moment.

Mr. McCLURE. I will be happy to yield.

Mr. PELL. I remember how we were on the main drag in Prague and we laid a wreath and left and then somebody looked around for us about 20 seconds later and the wreath had been removed. There was dead silence as we laid it, nobody looked directly at us, but everybody looked at us sideways I remember.

Mr. McCLURE. Everybody looked at us sideways, and I guarantee you everybody in Prague knew that we had been there. I admired and respected the Senator's leadership at both those events in Prague at that time.

We need to do more of that, not in a confrontational way, but in a way that honors the people who are willing to make sacrifices and have done so in the pursuance of human freedom.

Mr. PELL. So as not to be confrontational and not to impair the workings of our Embassy, I remember we took taxicabs to get to the site rather than taking an Embassy vehicle.

Mr. McCLURE. The Senator is correct. It was one of the high points on that particular trip to be able to participate with the distinguished Senator at that observance.

But at the same time, Mr. President, I note that the high point of Jewish immigration, only one mark but an important mark of the observance of human freedoms by the Soviet Union, occurred 9 years ago when over 50,000 Soviet Jews were permitted to emigrate. For 1988, as of last month, that figure stood about 8,500, contrasted to over 50,000 9 years ago.

Mr. President, when I was in the Soviet Union less than 2 months ago, and meeting with the members of the Supreme Soviet, after having met with dissidents and refuseniks, I said to them what I think every American must say to them: I will be grateful if indeed that trickle of emigration is permitted to increase even to the levels of 1979. If you do, indeed, let a few thousand more exercise their right of emigration as guaranteed under the Helsinki accords, we will all note that and be thankful. But I would be more impressed if you tore down the Berlin Wall.

Tearing down the Berlin Wall would be a symbol to all people all over the world that, indeed, they are ready to allow people of all faiths, of all religions, of all backgrounds to come and go, not only as we believe is right, but as the Soviet Union agreed to do when they signed the Helsinki Final Act.

I thank the sponsors for having offered this amendment to again give us the opportunity to register our strong conviction that more must be done, and that we expect that more will be done.

Mr. President, I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I ask unanimous consent that the RECORD be corrected to show that the Senator from Maryland, Ms. MIKULSKI, instead of Mr. MURKOWSKI is an original cosponsor along with the Senator from Montana, Mr. MELCHER, and the Senator from Illinois, Mr. SIMON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I pay tribute to the distinguished Senator from Rhode Island, the chairman of the Foreign Relations Committee. He has been laboring in the human rights area much longer than this Senator. Before I came here I was aware of the Senator's involvement with the Helsinki accords and I thank him and his staff for working with this Senator. I also thank the Senator from Iowa, who is Chairman of the International Parliamentary Group for Human Rights in the Soviet Union, for his leadership and involvement, and the senior Senator from Idaho for his statement because I think the Senator from Idaho raises an issue we cannot ignore and that is linkage. I would like to speak to that issue. It is a subject which I believe needs some clarification in the context of the Helsinki accords. In fact, an understanding of this matter goes to the heart of what my cosponsors and I are trying to impress upon our colleagues this evening. I notice that the committee report on the treaty goes into some length about linkage. There was a lot of testimony there.

Mr. President, I would like to speak to the issue of linkage. It is a subject which, I believe, needs clarification in the context of the Helsinki accords. In fact, an understanding of this matter goes to the heart of what my cosponsors and I are trying to impress upon our colleagues during this debate.

The question of linkage is raised in the excellent April 14 report on the INF Treaty which was issued by the Committee on Foreign Relations. On page 64 for example, the distinguished Rabbi Saperstein is quoted as follows:

> * * * The two issues—nuclear arms control and human rights—are each of such towering importance that to link them formally would be a grave error * * * When one addresses such crucial concerns of basic moral principle and fundamental interests, improvement in one area should not be made contingent upon the other.

I could not agree more. This is why I am so deeply committed to the Helsinki approach to arms control and human rights. It is why I urge my colleagues to give careful thought to the fact that Rabbi Saperstein supports our amendment. In his letter of support he commends us for introducing this amendment because it does not undermine the INF Treaty. It does not, for instance, require satisfaction in the human rights arena before arms control agreements can take place.

It does, however, adhere to a key Helsinki concept of a relationship between arms control and human rights which stresses the importance of concurrent efforts in both areas. It is predicated on a confidence-building process between nations. This process is based on the belief that the essential ingredient for lasting peace is the sustained demonstration by nations that they will honor their commitments whether these be technical blueprints for arms reduction or a guarantee to their citizens to respect and protect their fundamental freedoms.

The process of developing this dual track record must be a parallel effort because the road to peace depends as much upon the individual security of citizens as it does upon complex disarmament and verification formulas.

We must not walk away from this opportunity to apply the Helsinki philosophy to our first arms control agreement since the accords were signed. The wisdom of Helsinki is not linkage. It is an attempt to build a common denominator of confidence between nations of different political systems—a greater measure of security that they will honor individual human rights and fundamental freedoms including every citizen's right to a secure and lasting peace.

The amendment deserves strong support of the Senate as well as the human rights community.

Mr. President, I ask unanimous consent that the Saperstein letter dated May 3, 1988 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

RELIGIOUS ACTION CENTER,
OF REFORM JUDAISM,
Washington, DC, May 3, 1988.
Hon. DENNIS DECONCINI,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR DECONCINI: We are writing to you to let you know how pleased we are about the Human Rights Amendment to the INF Treaty that you and your colleagues have introduced in the Senate. We want to express the strong support of the Union of American Hebrew Congregations (representing 1.3 million Reform Jews throughout the United States) and The Central Conference of American Rabbis (representing over 1400 Reform Jewish Rabbis).

We believe that the Human Rights Amendment effectively addresses the concerns we share about Soviet Jewry particularly and human rights abuses generally in the Soviet Union—without jeopardizing the INF treaty. The amendment deserves the strong support of the Senate as well as the human rights community.

We commend you on your determined fight for human rights and believe this amendment will send a strong message about the deep commitment of the American people to the cause of human rights, thereby encouraging the Soviets to make good on their obligations under international human rights agreements.

Sincerely,

DAVID SAPERSTEIN.

Mr. DECONCINI. Mr. President, I also thank the Senator from New Jersey. He and I were working independently for awhile putting together a human rights amendment that would not be a killer amendment with the hopes the committee could accept it. I thank the Senator from New Jersey for the tremendous effort he put forth. I thank Jane Fisher of the Helsinki Commission and other members of my staff. As cochairman of this Commission I also would like to thank Congressman HOYER, who has worked diligently on this. He is the chairman of the Helsinki Commission in the Congress.

Mr. LAUTENBERG. Mr. President, before we conclude I compliment my colleague from Arizona for his leadership on this measure. It is obvious as we look across the Senate Chamber that there are Senators from different parts of the country, often of different views on matters like this, who have come together to say that we, all of us, support the fact that human rights is a very important matter in any treaty, in any negotiation that we have with the Soviets or members of Eastern bloc countries.

It is a distinct honor for me, Mr. President, to be able to have authored with the Senator from Arizona, having had the support of so many of our colleagues, this amendment as part of the resolution of ratification that I believe will set the tone for all negotiations in the future.

Mr. DECONCINI. Mr. President, how much time does the Senator from Arizona have?

The PRESIDING OFFICER. Fourteen minutes and fourteen seconds.

Mr. DECONCINI. I yield whatever time the Senator from Florida so desires.

The PRESIDING OFFICER. The Senator from Florida.

HUMAN RIGHTS AMENDMENT TO THE INF TREATY

Mr. GRAHAM. Mr. President, in our auspicious and global effort to safeguard the continuation of human life on this planet through this INF Treaty—and through the treaties to follow it—we cannot lose sight of what we are protecting. Life is a larger existence than mere physical survival.

To live fully is to live in freedom, in the place we want to be, with the people we want to be with, in the sustenance of our individually held faiths, in the sunlight of choice and dignity. Life in the endless grey of totalitarian repression is next to no life at all.

It makes no sense to negotiate a treaty to protect life with a world power which ignores the basic human rights of its citizens. A nation which breaks faith with its own people can never fully be trusted to honor its promises to the rest of the world. That is why we must place human rights high on the agenda of any substantive discussions we have with the Soviet Union—any treaty, any agreement.

The realpolitik of human rights in our dealings with the Soviets today is that the United States goes into the Moscow summit in the position of strength. Gorbachev needs a foreign relations victory to shore up sagging enthusiasm for his unsettling and somewhat internally unpopular attempts to modernize Russia through glasnost and perestroika.

We have the Soviet ear and we should speak loudly and clearly into it about the values we consider inviolable. We can demand openness in Soviet society to extend to free choice, open emigration, respect for individual differences. And because we are the nation founded on principles of individual freedom, we must demand an acceptance of those principles from Secretary Gorbachev.

We should negotiate no treaty with the Soviet Union without a successful negotiation for human rights in Soviet society. The Soviets must be held to their commitment to the Helsinki accord and to the Madrid concluding document and other international human rights agreements the Soviets are signatories to.

Verification of the implementation of human rights provisions cannot be limited by numbers—so many missiles destroyed or dismantled, so many dissidents allowed to leave. The freedoms so appallingly lacking in the U.S.S.R. are systemic. Recognition of human rights there requires that the system be changed.

The Soviet people are still punished, can even be sent to Siberia for openly practicing their religions. Freedom of expression, even leavened by glasnost, is a sometime thing. The quality of the information given to the Russian people is narrow and slanted and inadequate to help them cope with world events as participants. Families are still cruelly separated. Would-be emigres are literally imprisoned behind their own borders.

The history of our human rights dealings with the Soviets has been episodic. Human rights is on the table or off the table with the prevailing sentiment. The history of Russia's response to calls for human rights has been to ignore those calls unless a few thousand well-publicized departures will buy them some important world concession.

The Soviet economy is approaching stagnation. The patience of the people has palled to a kind of hopeless resignation. There is unrest inspired by the changes Gorbachev is imposing. There is lingering dissent over the costly years in Afghanistan. We go to the negotiating table in Moscow with the strongest hand. We must play that hand for tangible and lasting improvement in the daily lives of the Soviet people.

We should ask the Soviets for important concessions on human rights policy. We should demand verification of those changes, just as we demand verification of numbers of nuclear weapons. And we should make clear that any future negotiations on disarmament will carry a dialog of equal weight about the progress of human rights in the Soviet Union.

Today we talk to the Russians. But whether it is the Soviet Union or Chile or South Africa or Syria, our talks should never be limited to the rarified realms of numbers and philosophy.

The business of every nation is to serve the needs of its people. The business of international negotiation is to protect the rights of all people to live with dignity in peace and freedom.

Mr. President, in a book which I would recommend to my colleagues, "Hawks, Doves, and Owls: An agenda for Avoiding Nuclear War," the first sentence reads as follows: "Philosophers have observed that the most common form of human stupidity is forgetting what one is trying to do."

I agree with the truth of that statement. That statement is especially applicable as we debate and soon will ratify another step toward man's efforts to control nuclear armament because we must remember what it is we are trying to do. We are not here to rid ourselves of nuclear weapons as an end in itself. We did not acquire nuclear weapons as an end in itself. We have not waged war as a nation as an end in itself. We have done so because we were defending or advancing some values which we have felt to be of such importance to our Nation and to our world and to the relationship between human beings in a state that it would justify a resort to violence.

Mr. President, one of the goals that we are trying to accomplish in this treaty is the goal of a sufficient level of respect and understanding of the peoples of one nation to another, that we can justify placing our confidence in their commitments, and in that placing of confidence, be willing to reduce some of the weapons that we have in the past thought were necessary in order to defend our national security.

How can we place confidence in a people who do not respect the basic rights of their own people? How can we say to the people of America, and the people of the world who look to us for leadership that we are prepared to place at risk your security for a nation which does not respect the basic security, the basic liberties of its own people.

So I support this amendment, because I think it helps us advance the basic objectives of this and any future treaty.

I also support this amendment, because I think it speaks to what we are trying to accomplish as a nation. When the United States first declared its independence from Great Britain we did not say there were certain inalienable values or rights for only a band of people clustered along the eastern seaboard, the 13 Colonies that previously had sworn an allegiance to George III. We said that there were certain values that were basically inalienable to all the people, all the peoples of the world. That has been a basic premise of our national life, Mr. President, a premise which has distinguished the United States throughout its history from previous nation states.

So in stating again our commitment to human rights we are stating again our commitment to what is the basic foundation of our Nation.

Finally, Mr. President, we are a nation which has in our national oath of allegiance as well as our coins, as well as ingrained in our soul that we are a nation under God, that we are a people who have a special relationship of subservience to the Divinity.

That subservience requires us to be faithful to those things which we believe our Divine Maker would want us to do. Clearly one of those things would be to advance the cause of a respect for God's creatures wherever they might be.

So that in adopting this statement of our commitment to human rights and of the inexorable relationship between that commitment to human rights and the advancement of the cause of nuclear disarmament, we are not as some might suggest straying into an inappropriate, into a collateral, into an area that is segregated from disarmament. Rather, we are speaking to the ultimate objectives that we are seeking to accomplish in our emphasis on lessening the level of nuclear terror around the world.

So, Mr. President, I am pleased to join my colleagues in advancing this amendment. I for one hope that it will send a strong message to the Soviet Union in terms of the priority which we place upon it, and to those who would represent this Nation in the future in our relationship with the Soviet Union, that we expect this to be a priority of our negotiations. We expect the respect from the advancement of human rights to be an integral part of our future disarmament negotiations with the Soviet Union.

Thank you, Mr. President.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield to the Senator from California 6 minutes.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Thank you, Mr. President.

Mr. President, I rise to join the cosponsors of this legislation. Not only does it address in comprehensive terms those preexisting agreements and those documents that define the obligations of the signatories to the Helsinki accord, to the Madrid Concluding Document, to the Universal Declaration of Human Rights, to the other cited documents and agreements. It specifically focuses upon the right of individuals to exercise freedom of movement within the Soviet Union and the right to leave the Soviet Union. It specifically calls out the right of individuals to know and act upon their rights, including their religious rights.

Mr. President, why is it necessary for the United States to add a condition of this kind to an agreement about arms control? In earlier hearings the thought had been rejected. The concept of linking a concern and a declaration by the United States with respect to human rights to an arms control agreement was thought by some to be unseemly, an error in judgment. Well, Mr. President, to the contrary there are not many opportunities given to the United States to enjoy and exercise the kind of leverage that we have at the moment when we are considering ratification of an arms control agreement. And there should be no opportunity of this kind wasted. We should not be derelict in the duty to note, as the English poet John Donne did centuries ago, that no man is an island, that our freedom is not something that is guaranteed to us as long as the freedom of others is either in jeopardy or denied to them.

(Mr. GRAHAM assumed the chair.)

Mr. WILSON. We are two superpowers concluding this agreement. But we are very different. And in this Nation the religious freedoms that we take for granted, the freedom of movement, the freedom of immigration is not something that can be taken for granted within the Soviet Union. There are their prisoners of conscience, refuseniks, those who pose no threat to the security of the Soviet Union who are nonetheless denied human rights of the most basic kind under the pretext that somewhere they are a threat to the security of the Soviet Union.

Indeed, during his visit here during the Washington summit, General Secretary Gorbachev submitted to an interview with NBC's Tom Brokaw. I think most of us who saw that were impressed with the dexterity and the skill of the General Secretary. He handled himself well with one glaring exception. He was guilty in that interview on national television that no one in the Union of Socialist Republics was denied the right to leave unless they constituted a threat to the security of the Soviet Union.

Mr. President, many of us have seen a book that lists, as a directory, the names of some 400,000 Jews who have expressed a desire to leave the Soviet Union. It is not purely a problem restricted to Soviet Jews—Christians, those in the Ukraine. Throughout the Soviet Union, there are many of us have been denied basic human rights, who have looked for the basic belief that comes as a matter of course to those in the free world if they wish to make the kind of movement that would allow them to find a more compatible setting.

So, Mr. President, it is very much a matter of explicit linkage, and properly so, that we on the floor of the Senate are expressing a concern for the human rights of those within the Soviet Union who do not enjoy what we consider to be the basic right of human beings everywhere.

We are right to make this claim upon the conscience of those with whom we are concluding this agreement. We are right to keep the pressure on, because it is only in that way that, realistically, many who have been denied those rights can entertain a hope that they will achieve them.

It is wrong if we are satisfied with a trickle of a few celebrated dissidents on the eve of each summit. That cannot be enough. It certainly should not be enough to satisfy our conscience.

This is the first time we have had an opportunity of this sort of a very long time, and we dare not miss it. The General Secretary and those within the Soviet Union must be under no delusion that human rights are of secondary importance to the United States.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILSON. I thank the Chair, and I thank the sponsors.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I am ready to yield back the time on this side. But before I do that, I ask unanimous consent that the names of Senator SYMMS and Senator MURKOWSKI be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I assume that the other side is ready to yield back its time.

I yield back the remainder of my time.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the name of the Senator from Michigan [Mr. LEVIN] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I yield back the remainder of my time.

Mr. DOLE. Mr. President, I want to take just a moment to voice my strong support for the Grassley, Lautenberg, DeConcini amendment, which once again, stresses that the United States is committed to human rights, in the Soviet Union as elsewhere.

The Soviet Union signed the Helsinki accords and the Universal Declaration of Human Rights—but it most certainly has not lived up to that agreement. Complying with that agreement would be a measure of responsibility to basic freedoms—basic freedoms that thousands of Soviet citizens today do not enjoy. And without question, extending the most fundamental freedoms—the freedom of speech, religion, assembly, and movement—would enhance United States-Soviet relations. And it would illustrate in a very profound, real way—should the Soviet Union live up to the letter and the spirit of the treaties it signs.

Mr. President, this amendment is a declaration that the Senate of the United States holds human rights as a priority—it would be a test of our commitment to basic principles that are at the root of understanding and trust between two countries. And I hope the Senate will agree to this amendment unanimously.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of this amendment to the resolution of ratification. Our decision on this amendment is as important as our decision on this treaty. This amendment talks about human rights—but it is also about world peace.

It is about world peace because the conflict between the Soviet Union and the United States is based not upon the weapons we have built and deployed—but instead upon fundamentally opposed values. The risk of war between our societies is measurably reduced when the Soviet Union begins to really respect the human rights and fundamental freedoms of its own citizens.

Now, "values" is a neutral word. It can mean anything. In fact, some people say that it is wrong to prefer some values to others, and to judge other societies on the basis of the values they hold. I strongly disagree.

What are the values we are talking about? I quote now from the amendment itself:

> The freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,
>
> The recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness.
>
> The right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and
>
> The right of individuals to know and act upon their rights and duties in [the Helsinki Final Act, the Madrid Concluding Document, the Universal Declaration of Human Rights, and other international human rights agreements to which the Soviet Union is a signatory or party].

These rights fall short of the rights we believe every human being has—the rights to life, liberty, and property. We believe that all other rights and freedoms flow from these inalienable rights.

We have developed an elaborate, time-tested structure of constitutional and legal safeguards for these rights and freedoms. This structure is based upon the principle that the power of the state exists to protect and serve the individual citizens—not the other way around.

While the rights recognized in these international agreements are not perfect, Soviet respect for them—both in law and in practice—would represent a step away from its history as a lawless, totalitarian dictatorship ruled by the iron whim of its masters. It would represent a step toward a modern constitutional state of limited powers affording real protections to its citizens. Such movement is at least as important to the future of world peace as is any possible arms reduction agreement, including the INF Treaty itself.

We face a simple problem—so long as the Soviet Union remains a closed society, obsessed with secrecy, guarding itself against foreign armies and foreign ideas, no arms reduction treaties, however strict and detailed, will remove the danger of war. So long as the Soviet Union is ruled by a leadership that is accountable to no one but itself, it can engage in lies and deception—in aggression and subversion—putting its massive resources to use serving secret ends.

We must not forget history. After World War I, Germany was substantially demilitarized. Yet, after Hitler assumed power, secret preparations were made to build a prohibited airforce, navy, and tank force. Hitler also dramatically expanded the Nazi army beyond the limits set in the treaty that ended World War I. Hitler's Germany prepared for war hidden behind curtains of totalitarian secrecy.

What if the Soviet Union agrees to join with us in massive, cooperative disarmament? Does that end the threat of world war? Clearly, it does not. So long as the Soviet Union remains a closed, one-party state, dedicated to an ideology that preaches world dominion and the ultimate triumph of communism, the threat of war remains real.

Arms reduction agreements have their place. I support this treaty and I intend to vote for its ratification. I believe that carefully crafted, verifiable, and enforceable arms reduction agreements can help reduce tensions and contribute to world peace.

However, we must not deceive ourselves that arms reduction agreements are the road to world peace. The road to peace lies in ending those conditions that threaten war. The buildup of nuclear weapons is, in this context, not the most important war-threatening condition. Rather, the opposed values and goals of our two Nations are the key conditions.

The conditions that threaten war are important parts of the Soviet Government and official Soviet ideology. These conditions are, to a significant extent, contradicted by Soviet human rights promises.

When the Soviet Union begins to live up to those human rights promises, these conditions will be reduced and the chances of lasting peace will improve. The purpose of this amendment is to press the Soviet Union to keep its promises.

By voting for this amendment, we will tell the whole world that we recognize that arms reduction cannot, by itself, bring peace to the world. We must reduce tensions by achieving real respect for the fundamental values shared by all civilized nations. The Soviets are a prime human rights offender, having engaged in sustained and massive violations since the inception of the Soviet state.

By agreeing to this amendment, we will tell the Soviet leadership that we view human rights as a very important, indeed, fundamental aspect of our relationship. We will tell them that we cannot be swept off our feet by some Soviet "peace offensive." We want real, lasting peace, not just a period of temporary relaxation followed by more aggressive Soviet expansion.

The President is traveling to the Soviet Union this week, for a historic summit meeting in Moscow. I understand that he will push for Soviet human rights compliance in his meetings. Positive Senate action on this amendment will strengthen his hand.

The Vienna Review Meeting of the Conference on Security and Cooperation in Europe is nearing its conclusion. The negotiators are entering its final phases, shaping its concluding document. If we agree to this amendment, we will support the Western position, helping assure that further progress will be made toward a comprehensive international human rights agreement.

If, however, we do not agree to this amendment, we will tell the world that Soviet peace offensives work—that weapons, the tools of conflict, are more important than value, the roots of conflict.

We will tell the Soviets that they can disregard the President's statements on human rights, because the Congress of the United States doesn't really share those values.

We will tell our allies that our historic leadership on human rights issues is a sham, because when the time comes for action, we can find reasons to turn aside and remain silent.

This issue is critical. It affects the future of United States-Soviet relations for the balance of this century. If this amendment passes, the Senate will tell the next President that the present four-part approach to our relations is sound and strong and rests upon a bipartisan foundation.

These four parts—bilateral issues, regional issues, arms reduction, and human rights, must be pursued in parallel, and real progress must be made in each area in order for our relations to see lasting improvement.

If we don't agree to this amendment, it will be clear to all that some parts of our four-part policy are really important—and some can be disregarded. This is clearly not a signal we should send.

Mr. President, I call upon my colleagues to join with me in support of this agreement.

This amendment is not a killer amendment. It does not require reopening negotiations. It should, I strongly believe, receive our unanimous support.

Mr. NUNN. Mr. President, the understanding proposed by the proponents of this measure would communicate to the Soviet Union the sense of the Senate that in ratifying the INF Treaty, the United States has in no measure slackened in its insistence that the Soviet Union fulfill its obligations in the area of human rights.

I believe that progress by our adversaries in the area of human rights contributes fundamentally to peace because a free people will always choose peace over war. In the search for peace, then, respect for basic human rights and the pursuit of arms control represent objectives of U.S. policy that are inextricably linked.

I commend the sponsors of this amendment and support it enthusiastically.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 2122) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATO DEFENSE AND THE INF TREATY

Mr. NUNN. Mr. President, I rise today to outline my general views on the INF Treaty and its implications for NATO. Later in the debate I will have more to say about specific issues which arose during the Armed Services and Intelligence Committees' hearings, including the future INF weapons and onsite inspection problems which were successfully resolved last week in Geneva. My remarks today are fully consistent with the views and recommendations contained in the April 1 Armed Services Committee report, "NATO Defense and the INF Treaty," which was adopted by a vote of 18-2. However, my remarks reflect my individual views and do not purport to represent those of any other committee member.

CONTEXT OF THE COMMITTEE'S INQUIRY

Let me begin by explaining the context of the Armed Services Committee's inquiry. Last year, the committee undertook a major series of hearings on national security strategy—a subject which the committee felt receives far too little attention both from the Congress and the U.S. defense community. This year, the submission of the INF Treaty provided the committee the opportunity to follow up on last year's strategy hearings with a specific focus on NATO.

The majority leader and the chairmen of the Committees on Foreign Relations, Armed Services, and Intelligence agreed that the three committees would work together on the Senate's review of the treaty, recognizing that the Foreign Relations Committee has primary jurisdiction. The majority leader's coordinating group also decided that each of the three committees would provide reports to the Senate within their committees' specific areas of expertise.

In my opinion, the level of cooperation on this treaty has established a model for all future ratification proceedings. The hearings have been both intensive and comprehensive. The problems with the treaty which were discovered in the course of the Senate review were important matters which required corrective action and which, had not the committees done their work in a thorough and responsible manner, could have caused divisive compliance disputes with the Soviet Union down the road. The result would have been a net minus for arms control, and not a plus.

Mr. President, I believe the system has worked just as the Founding Fathers envisioned it when they established in the Constitution a shared responsibility between the Senate and the Executive for treatymaking. Recognizing the critical importance and binding nature of treaties, the Founding Fathers took pains to ensure that any treaty which the Executive might negotiate in haste be subjected to the deliberate and carefully paced review of the Senate. I believe the majority leader has done a superb job in upholding the prerogatives and responsibilities of the Senate in this crucial area, and I think the treaty is the better for his diligence.

Over the last 4 months, the Armed Services Committee has conducted or joined in almost 40 hearings and committee meetings on the treaty and its implications for NATO. In the first phase of our review, the Armed Services Committee examined such topics as NATO strategy, the conventional balance, Alliance resource policy, conventional arms control proposals, and tactical nuclear weapons modernization. Our witnesses included the Secretary of Defense, the Chairman of the Joint Chiefs of Staff and the Service Chiefs, the Supreme Allied commander, Europe [SACEUR], General Galvin, and such distinguished outside experts as James Schlesinger, Henry Kissinger, Harold Brown, Zbigniew Brzezinski, and Jeane Kirkpatrick. Mr. President, I ask unanimous consent that a list of the Armed Services Committee hearings be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. NUNN. In mid-February, the committee turned its attention from broader issues of strategy and resources and began to focus on the treaty itself. We devoted substantial effort to establishing an authoritative baseline as to its meaning. As I will discuss in more detail later in the debate, the discovery of the so-called future INF weapons issue was one of the principal outgrowths of this effort by our committee.

The unclassified proceedings of the Armed Services Committee's hearings and meetings will be published by the committee in five volumes, four of which have already been released.

NATO STRATEGY

In assessing the treaty, it is first important to examine the broader context within which the agreement must be considered. That context is principally shaped by two interrelated factors: the military strategy which the NATO alliance has established for maintaining deterrence and providing defense and the capabilities of NATO to implement that strategy.

More than two decades have passed since NATO adopted its strategy of flexible response, including forward defense. Flexible response has explicitly envisioned the possible use of tactical and/or strategic nuclear weapons in the event a Soviet-Warsaw Pact conventional attack in Europe could not be contained by nonnuclear means. Forward defense means defense as near to the inter-German border as possible, with the aim of losing as little West German territory as possible.

Although NATO deterrence has worked, the sad reality is that the alliance has failed to implement the flexible response strategy effectively, primarily because the first leg of flexible response—conventional defense—remains inadequate. As a result, the nuclear threshold remains dangerously low. NATO today relies on the threat of early use of nuclear weapons to deter both nuclear and nonnuclear attacks.

The second leg of the NATO triad, theater nuclear weapons, has traditionally suffered from limited public and official support. Although alliance solidarity permitted the INF deployments, the consensus on modernizing theater nuclear forces again appears to be eroding. Indeed, at the March NATO summit, our leaders apparently found it inadvisable to even use the word "modernization." In summary, flexible response sought to move NATO away from an overdependence on strategic nuclear retaliation, but, paradoxically, only at the strategic nuclear level has the alliance maintained an adequate force.

Although flexible response remains conceptually sound, the critical gap between the goals of the strategy and the force capabilities available to achieve them poses substantial dangers for the alliance.

It is time for NATO countries and NATO leaders to ask themselves some very basic questions. For example, how is it that NATO—whose member states collectively outspend Warsaw Pact countries on defense and have nearly three times the gross national product—has been unable to provide sufficient capabilities to implement its military strategy?

In part, the answer can be found in NATO's unwillingness to organize and allocate its resources for conventional defense in the most effective and efficient way. NATO dissipates a large portion of its defense expenditures into national systems that are often duplicative, nonstandardized, and in some cases not even interoperable with other allied systems.

In part, NATO's failure to acquire a stalwart conventional defense capability reflects the almost ostrich-like tendency to ignore the military and political dangers of an excessive reliance on the early resort to nuclear weapons. In addition, NATO member states have divergent views on equitable sharing of the burdens and risks of common defense. Fears of the devastation of a prolonged conventional conflict or a nuclear war limited to Europe have fostered policies that have effectively precluded the development of the capabilities required by flexible response and forward defense.

NATO-WARSAW PACT MILITARY BALANCE

NATO's deficiencies are most apparent and most dangerous at the level of conventional forces. To be sure, NATO has improved its conventional defenses over the last several years. However, the rate of NATO improvement has simply not kept pace with the growth in the Warsaw Pact's warfighting capabilities. As General Galvin told the committee: "In general, since 1973, the size of the Soviet military machine facing NATO has grown almost 50 percent, while NATO forces grew little more than 10 percent." Admiral Crowe warned of "an increasingly negative conventional balance, and adverse trends in many of the major weapon categories." The Chairman of the Joint Chiefs of Staff expressed particular concern over the low level of sustainability items and munitions for NATO conventional defense, declaring: "This trend has, in turn, lowered the nuclear threshold and raised the risk of general escalation."

Perhaps most ominously, the Warsaw Pact has improved its ability to conduct a short-warning, massed armored attack. NATO is especially vulnerable to such an attack, particularly against the Northern Army Group. NATO suffers from inferior firepower; low levels of sustainability, especially in munitions; inadequate reinforcement rates; and peacetime maldeployment of its forces. NATO's posture is further weakened by the Warsaw Pact's chemical warfighting superiority.

There are considerable risks that NATO forces could be defeated quickly by conventional means. However, any attack contemplated by the Warsaw Pact would certainly not be without risks. The outcome of a conventional war depends on many unknowns: The relative performance of competing weapons systems, quality of personnel, training, leadership, morale, to name a few. Although NATO has doubts about its own capabilities, the Soviet Union may also have legitimate concerns about its ability to achieve a quick conventional victory, before the reliability of East European nations is fully tested and before it might become involved in a two-front war—that is, the simultaneous engagement to its large forces located on the Chinese border.

Despite these uncertainties on the Soviet side, NATO cannot afford to assume that the Soviets will always be deterred from aggression. NATO must focus on capabilities, not intentions, and major improvements in the conventional balance are required.

NATO IN THE POST-INF ENVIRONMENT

Mr. President, if the INF Treaty is approved by the Senate, it will not be the end of the road for NATO. In some respects, it will be only a beginning. Whether history judges the INF

Treaty to have made a positive or a negative contribution to the defense of Europe will depend ultimately on which road the Alliance chooses to travel at this critical juncture. One NATO road leads backward down a slippery slope to European denuclearization, American disengagement, and Soviet domination. The other NATO road leads forward to the solid ground of solidarity, stability, and security.

The "slippery slope road" is marked with several warning signals:

A growing nuclear allergy in the West coupled with continued NATO reliance on early use of nuclear weapons in response to a nonnuclear attack. In just the last few weeks, the events in Denmark have provided an unfortunate reminder of the extent to which the nuclear allergy is spreading within the alliance.

Changed public attitudes toward the United States and the Soviet Union.

U.S. and European fiscal and budget realities.

NATO's reluctance to think boldly in the area of conventional arms control.

A continuing failure of political will in getting the most out of our collective defense resources.

We are perhaps fortunate that the warning signs on the "slippery slope road" are so unmistakable. If we view these warnings as trends that need to be reversed rather than as milestones on a one-way road to our ultimate demise, NATO can persevere. I believe that the roadmap to firm, level ground requires a "three track" approach.

The first track requires revolutionary conventional force improvements, including the vigorous implementation of such programs as the balanced technology initiative [BTI], NATO cooperative R&D, and side-by-side testing which could lead to joint weapons procurement. NATO must also assign the highest priority to eliminating its critical conventional warfighting deficiencies—what I have termed "automatic escalators."

The second track involves bold and innovative conventional arms control proposals, including a radical new approach to confidence-building measures. With new thinking on both sides, we could significantly increase the transparency of possible Soviet war preparations and reduce significantly its options for a surprise attack. What I have in mind are innovative schemes for on-site access to militarily significant nodes in the Warsaw Pact's mobilization infrastructure, such as airfields, railroad yards, and even headquarters. Pilot projects on verification could also be explored in parallel with negotiations on actual reductions and, if they are agreed upon, be split off and implemented in advance of any agreement on reduction, which may take years.

The third track entails vigorous public education, including clear explanations of our military needs and our arms control rationale.

In short, I would suggest that the INF Treaty is much like a hole taken out of the middle of a donut. While we've succeeded in removing a number of nuclear weapons in the middle of NATO's deterrent spectrum, we've left on one side a serious imbalance in battlefield nuclear and conventional forces, and on the other, a strategic balance that is in rough parity. If INF is to prove beneficial to the security of the alliance over the long run, NATO's challenges are clear:

We must press forward with the kind of three-track approach I have outlined for establishing a stable, nonthreatening balance of conventional forces in Europe.

We must pay careful attention to the battlefield nuclear weapons area. I believe that the modernization off our remaining battlefield and theater nuclear forces is a necessity. However, we must resist the temptation to use the INF Treaty as the pretext for reviving proposals for nuclear systems which could not pass muster before. We must not forget that every conventional platform and delivery system which is now given a nuclear role effectively removes one more weapon from NATO's conventional order of battle. As we conduct needed modernization in these forces, we must not give the impression that a "nuclear fix" is the answer to all of NATO's deterrent woes. Let me emphasize this point—our goal is to raise the nuclear threshold in Europe, not to lower it.

We must continue our efforts to achieve a stabilizing and effectively verifiable START agreement.

Lastly, we must try to ensure that future NATO leaders accomplish what the March summit failed to produce: a roll-up-your-sleeves, get-down-to-business, work program designed to confront the hard realities of NATO's current military deficiencies. NATO was certainly within its rights to celebrate the signing of the INF Treaty. But in the cold dawn of the day after, NATO's challenges remain formidable.

ASSESSMENT OF THE TREATY

Turning now to the treaty itself, in the broad sense I believe the INF Treaty can make a modest but useful contribution to NATO security. There are a number of positive features of the treaty, particularly: Disproportionate Soviet reductions—a precedent which could prove useful in the negotiation of a significant conventional arms reductions agreement; on-site inspection on an unprecedented scale; and cooperative measures for enhancing verification through national technical means.

At the political level, the treaty is a triumph for Allied cohesion and coordination. It is also a tribute to the governments in the basing countries which displayed resolve in implementing INF deployments in the face of widespread domestic opposition and skillful Soviet propaganda.

In addition, the treaty reflects the fruits of continuity in the United States between two successive administrations—one Democratic under President Carter, the other Republican under President Reagan—which, with bipartisan support in Congress, stood steadfastly behind NATO's "dual track" approach. I would add that our Nation has been represented in these negotiations by a very able team under Ambassador Kampelman and Ambassador Glitman.

Nonetheless, unless this treaty is coupled with a subsequent START agreement, its military significance is, at best, marginal. Every target currently targeted by Soviet shorter-range and intermediate-range systems can be assigned to other Soviet nuclear systems. This includes strategic systems, such as ICBM's or the *Yankee*-class submarines which have now been redeployed from our coasts to European waters, or intermediate-range systems not covered under the treaty, such as air-launched or sea-launched cruise missiles. Alternately, the Soviets could develop and deploy a "new type" ground-launched ballistic missile replacement for the SS-20 provided that missile were tested one time at a range in excess of 5,500 kilometers, even if it were tested on every subsequent occasion at INF ranges.

In addition, the treaty's verification regime cannot provide guarantees that no banned missiles are covertly maintained. Rather, the treaty depends on a Soviet calculation that either: First, such systems would not be militarily viable due to the ban on flight testing, training, infrastructure, et cetera, or second, that the political risks of cheating outweigh the military gain.

Whether these assumptions are valid is the central issue before the Senate with regard to the verifiability of the treaty. These assumptions, as well as key monitoring and verification issues, are addressed in the report by the Intelligence Committee, which was ably led in its review of the treaty by Senators **Boren** and **Cohen**.

On balance, I believe that the positive features of the treaty outweigh its weaknesses. Moreover, I am convinced that were the Senate to reject this treaty, the political repercussions in Europe and elsewhere would be very significant.

For these reasons, I would hope that the Senate will approve the treaty, though not without understandings attached to the resolution of ratification on a few key issues. These include a category I understanding reaffirming the Senate's constitutional role in the treatymaking process and a category III understanding ensuring that the agreements reached between the two parties in Geneva on May 12 resolving the future INF weapons and onsite inspection problems have the same legal force and effect as the treaty itself. I will have more to say about each of these issues later in the debate.

Mr. President, I yield the floor.

EXHIBIT 1

SENATE ARMED SERVICES COMMITTEE HEARINGS ON NATO DEFENSE AND THE INF TREATY

1. Strategy and capabilities for NATO defense, including the implications of the INF treaty.

Date: January 25, 1988 (morning and afternoon).

Witnesses: The Honorable Frank C. Carlucci, Secretary of Defense; Admiral William J. Crowe, Jr., USN, Chairman, Joint Chiefs of Staff.

2. Strategy and capabilities for NATO defense, including the implications of the INF treaty.

Date: January 26, 1988 (morning).

Witness: Dr. James R. Schlesinger, Former Secretary of Defense, Secretary of Energy, and Director of Central Intelligence.

3. NATO-Warsaw Pact military balance, NATO military strategy, and NATO force improvements.

Date: January 27, 1988 (morning).

Witnesses: Ambassador David M. Abshire, Former U.S. Permanent Representative to NATO; Mr. Phillip A. Karber, Vice President and General Manager for National Security Programs, The BDM Corporation.

4. NATO-Warsaw Pact military balance, NATO military strategy, and NATO force improvements.

Date: January 27, 1988 (afternoon).

Witnesses: Senator Carl Levin, Chairman, Subcommittee on Conventional Forces and Alliance Defense; Senator Dan Quayle, Ranking Minority Member, Subcommittee on Conventional Forces and Alliance Defense.

5. Strategy and capabilities for NATO defense, including the implications of the INF treaty.

Date: January 29, 1988 (morning).

Witness: Dr. Harold Brown, Former Secretary of Defense.

6. Strategy and capabilities for NATO defense, including the implications of the INF treaty.

Date: January 29, 1988 (afternoon).

Witness: Ambassador Jeane J. Kirkpatrick, Former U.S. Representative to the United Nations.

7. NATO-Warsaw Pact military balance, NATO military strategy, and NATO force improvements.

Date: February 1, 1988 (afternoon).

Witness: General Bernard W. Rogers, USA (Retired), Former Commander in Chief, U.S. European Command.

8. NATO-Warsaw Pact military balance, NATO military strategy, and NATO force improvements.

Date: February 2, 1988 (morning).

Witness: General John R. Galvin, USA, Commander in Chief, U.S. European Command.

9. European perspectives on NATO's security posture, including the implications of the INF treaty.

Date: February 2, 1988 (afternoon).

Witness: Ambassador Richard R. Burt, U.S. Ambassador to the Federal Republic of Germany.

10. NATO force deficiencies and improvements.

Date: February 3, 1988 (morning).

Witnesses: General Carl E. Vuono, USA, Chief of Staff, U.S. Army; Admiral Carlisle A.H. Trost, USN, Chief of Naval Operations; General Alfred M. Gray, Jr., USMC, Commandant of the Marine Corps; General Larrly D. Welch, USAF, Chief of Staff, U.S. Air Force.

11. Intelligence Community's assessment of Treaty monitoring and verification capabilities (Executive Session of the Select Intelligence Committee to which Armed Services Committee Members were invited).

Date: February 3, 1988 (afternoon).

12. NATO-Warsaw Pact military balance, NATO military strategy, and NATO force improvements.

Date: February 4, 1988 (morning).

Witness: Mr. Richard N. Perle, Former Assistant Secretary of Defense for International Security Policy.

13. NATO-Warsaw Pact military balance (Executive Session).

Date: February 4, 1988 (afternoon).

Witnesses: Mr. Andrew W. Marshall, Director, Office of Net Assessment Office of the Secretary of Defense; Lieutenant Colonel Jeff S. McKitrick, USA, Military Assistant, Office of Net Assessment Office of the Secretary of Defense.

14. Allied perspectives on NATO's security posture, including the implications of the INF treaty.

Date: February 16, 1988 (morning).

Witnesses: The Honorable Rozanne L. Ridgway, Assistant Secretary of State for European and Canadian Affairs; Ambassador Ronald F. Lehman, II, Chief Negotiator on Strategic Nuclear Arms; Ambassador Edward L. Rowny, Special Advisor to the President and Secretary of State for Arms Control Matters.

15. Strategy and capabilities for NATO defense, with emphasis on European perspectives.

Date: February 16, 1988 (afternoon).

Witness: Dr. Zbigniew Brzezinski, Former Assistant to the President for National Security Affairs.

16. Meeting with Dr. Willem van Eekelen, Minister of Defense of the Kingdom of the Netherlands and Chairman of the Eurogroup Defense Ministers (Executive Session).

Date: February 17, 1988 (morning).

17. Conventional arms control and confidence-building measures in Europe.

Date: February 17, 1988 (afternoon).

Witnesses: Ambassador Robert D. Blackwill, Former Chief Negotiator and Head of the U.S. Delegation, Mutual and Balanced Force, Reduction Negotiations; Professor Karl Kaiser, Director, Research Institute, German Council on Foreign Relations; Mr. Phillip A. Karber, Vice President and General Manager for National Security Programs, The BDM Corporation.

18. Conventional arms control and confidence-building measures in Europe.

Date: February 18, 1988 (morning).

Witnesses: Dr. James A. Thomson, Vice President, The RAND Corporation; Mr. Charles H. Thomas, Principal Deputy Assistant Secretary of State for European and Canadian Affairs and U.S. Representative to NATO's High Level Task Force on Conventional Arms Control.

19. Soviet incentives and intentions to comply with the INF treaty (Executive Session of the Select Intelligence Committee to which Armed Services Committee Members were invited).

Date: February 18, 1988 (afternoon).

20. Implications of the INF treaty for negotiating the Strategic Arms Reductions Talks (START) Treaty (Joint Executive Session of the Armed Services Committee and Select Intelligence Committee).

Date: February 19, 1988 (morning).

21. INF treaty.

Date: February 22, 1988 (afternoon).

Witness: Ambassador Maynard W. Glitman, Chief Negotiator on Intermediate-range Nuclear Forces.

22. INF treaty.

Date: February 23, 1988 (morning).

Witness: Ambassador Maynard W. Glitman, Chief Negotiator on Intermediate-range Nuclear Forces.

23. Implications of the INF treaty.

Date: February 24, 1988 (morning).

Witnesses: Mr. Frank J. Gaffney, Jr., Former Deputy Assistant Secretary of Defense for Nuclear Forces and Arms Control Policy; Dr. William R. Van Cleave, University Professor and Director of the Center of Defense and Strategic Studies, Southwest Missouri State University; Ambassador Evan G. Galbraith, Former U.S. Ambassador to France.

24. Strategy and capabilities for NATO defense, including the implications of the INF treaty.

Date: February 24, 1988 (afternoon).

Witness: Dr. Henry A. Kissinger, Former Secretary of State and Assistant to the President for National Security Affairs.

25. Resource policies for NATO force improvements.

Date: February 25, 1988 (morning).

Witnesses: Ambassador Alton G. Keel, Jr., U.S. Permanent Representative to NATO; Mr. Dennis Kloske, Special Advisor to the Deputy Secretary of Defense on NATO Armaments.

26. Compliance with, and enforcement of, the INF treaty.

Date: February 25, 1988 (afternoon).

Witnesses: Ambassador Paul H. Nitze, Ambassador at Large and Special Advisor to the President and Secretary of State on Arms Control Matters; Ambassador Maynard W. Glitman, Chief Negotiator on Intermediate-range Nuclear Forces.

27. Assessment of the INF treaty's possible impact on the Special Access Programs of the Department of Defense (Executive Session).

Date: March 2, 1988 (morning).

Witnesses: Representatives from the Office of the Secretary of Defense and the Services.

28. INF Treaty, including issues related to the negotiating record (Executive Session).

Date: March 18, 1988 (morning and afternoon).

Witnesses: Ambassador Maynard W. Glitman, Chief Negotiator on Intermediate-range Nuclear Forces; Representatives from the Office of the Secretary of Defense and the Joint Staff.

29. INF Treaty, including issues related to ground-launched cruise missiles as well as DoD Special Access Programs and "future" weapons systems (Executive Session).

Date: March 24, 1988 (morning).

Witnesses: The Honorable Ronald F. Lehman, II, Assistant Secretary of Defense for International Security Policy; General Robert T. Herres, USAF, Vice Chairman, Joint Chiefs of Staff, Ambassador John Woodworth, Deputy Chief Negotiator on Intermediate-range Nuclear Forces.

30. INF Treaty, including issues related to "future" weapons systems (Executive Session).

Date: April 14, 1988 (afternoon).

Witnesses: Ambassador Maynard W. Glitman, Chief Negotiator on Intermediate-range Nuclear Forces; Representatives from the Office of the Secretary of Defense and the Services.

APPRECIATION TO PROFESSOR LOUIS HENKIN

Mr. DODD. Mr. President, as the Senate debate on the INF Treaty proceeds toward consideration of the condition on treaty interpretation approved by the Foreign Relations Committee, I wish to take the opportunity to express appreciation to Prof. Louis Henkin of Columbia University, who is the chief reporter of the new Restatement of Foreign Relations Law. The Restatement is the preeminent compendium of U.S. law in the realm of foreign affairs.

Last year, when the Foreign Relations Committee conducted hearings jointly with the Judiciary Committee on the subject of treaty interpretation, Professor Henkin provided valuable testimony and advice. And this year, when the committee began to consider ways in which it might deal with that issue in relation to the INF Treaty, Professor Henkin again was a generous source of counsel. I am aware that at least four Senators sought his advice, either directly or through staff.

I wish to emphasize that Professor Henkin's role was not one of initiator or advocate. Rather, he was simply generous in making himself available when approached by the committee for advice as to how, most accurately, to express certain constitutional principles in the language of the condition on treaty interpretation. Professor Henkin's judgment, expressed in a letter to the committee dated just yesterday, is that the principles expressed in the committee condition are "substantively sound."

As to the need for such a condition, Professor Henkin expressed a view with which the committee agreed: that constitutionally such a condition is unnecessary. Clearly the Constitution cannot be changed by any such condition. Nor can such a device be used to establish a legal interpretation of the Constitution; that is the role of the judiciary.

What the committee's measure does is impose a rule on the implementation of the INF Treaty as a condition of the Senate's consent, while stating—in a parenthetical phrase—the Senate's judgment that this rule derives from the Constitution. What the condition binds the President to is not the constitutional derivation of the rule but the rule itself.

A separate question was whether a condition on treaty interpretation was politically necessary or desirable to demonstrate the Senate's unwillingness to acquiesce in the administration's repeated and disturbing assertions concerning the right of the Executive to reinterpret treaties notwithstanding the representations made by the Executive in seeking consent to ratification. As a procedural matter, Professor Henkin's view was that the Senate should express its constitutional opinion in a separate resolution, which indeed would be a purer approach. But on the political question, Professor Henkin chose to remain scrupulously neutral. This was a question, after all, to be answered not by a constitutional scholar but by the Foreign Relations Committee and the Senate as a whole.

The committee's judgment was that a forceful statement by the Senate was indeed necessary to display the Senate's unwillingness to acquiesce in the administration's assertions. Given that judgment, Professor Henkin's view—again expressed in a letter to the committee dated May 24—is that the form of the committee condition is "not unsound." According to Professor Henkin's letter, "The condition is applicable to the interpretation of this Treaty and as such is binding on this and any later President; the statement of Constitutional principle is included only parenthetically"—in other words, as an expression of the Senate's judgment concerning the derivation of the rule being imposed. This is exactly the way a majority on the Foreign Relations Committee viewed the condition in approving it.

Mr. President, I wish to express appreciation for Professor Henkin's expert counsel as the committee worked to express the constitutional principles which we judged it necessary to affirm.

Mr. BOREN. Mr. President, I am pleased to rise in support of ratification of the INF Treaty. This treaty will improve the national security of the United States, not the least by establishing a precedent for agreements in which the Soviets destroy more arms than does the United States.

As we move toward ratification of this treaty, however, we should all remember that this is not just a United States-Soviet achievement. Rather, it is an achievement for the NATO alliance. For it was the NATO alliance that agreed to deploy Pershing II missiles and cruise missiles in response to the Soviet deployment of the SS-20. It was our NATO allies who stood up to both domestic and international pressures and stuck with that decision, seeing it through to actual deployment. And now that the Soviet Union has finally agreed to do away with their SS-20 and SS-4 and SS-12 and SS-23 missiles, it is our NATO allies who must stand with us and reassure the people of Europe that the withdrawal of these United States weapons will lead neither to a decoupling of the United States from European defense nor to a denuclearization of Western Europe.

As we look to the future, there is a clear need for NATO to modernize its defenses, both nuclear and conventional. There will be a similar need for the United States to work closely with our allies to develop and pursue this modernization and to demonstrate our continuing commitment to the defense of Europe in a world with arms control. And we in the Senate, too, will have a role in pursuing cooperation with our allies to modernize NATO arms and strategy. This treaty is in the interests of both the United States and our NATO allies. But that assumes, and will continue to assume, that we work with our allies in a spirit of common endeavor to defend our many, crucial common interests.

I would like to speak now, Mr. President, as chairman of the Select Committee on Intelligence on behalf of the INF Treaty. The Intelligence Committee was charged with the responsibility of providing to the United States Senate a report on the ability of the United States to monitor and verify compliance by the Soviet Union with the INF Treaty. In meeting this responsibility, the committee explored indepth not only the immediate intelligence issues raised by the treaty, but also its longer term implications, including its relationship to future requirements that may be levied against our intelligence capabilities. Accordingly, the committee also specifically considered the requirements that attend any prospective START Agreement and the potential impact that START may have on the INF Treaty.

The result of the work of the Intelligence Committee was a report, adopted unanimously by the committee 15 to 0, the unclassified version of which was transmitted to the Committee on Foreign Relations on March 21. I ask unanimous consent to enter that report into the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE INF TREATY: MONITORING AND VERIFICATION CAPABILITIES

(Adopted by unanimous vote March 21, 1988.)

For Members of the Senate Select Committee on Intelligence (SSCI), and consistent with the Committee's responsibility to the Senate as a whole, the appropriate starting point for analysis of the Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles (the INF Treaty) is to assess its verifiability. Several preliminary points should be made regarding this assessment.

First, the Committee notes that the answer to the question of verifiability is not a simple one. It is a matter of degree and sufficiency. Since no verification and monitoring regime can be absolutely perfect, a central focus for the Committee has been to determine whether any possible infractions would be of sufficient military significance to constitute a threat to our national security interests. This calculus is one which the Senate should bear in mind in its consideration of the Treaty.

Second, the Committee would note that U.S. intelligence requirements should not be dictated solely by arms control Treaty monitoring needs. The Committee believes that monitoring Soviet activities is necessary not only to verify arms control agreements, but also to provide timely warning of possible threats that are not prohibited by the Treaty. Accordingly, the Committee paid close attention to whether our current and proposed capabilities—human, technical and otherwise—are sufficient to meet current demands, as well as emerging future requirements. When certain systems are limited or eliminated by agreement, other military developments which are perfectly legal under treaties take on a new significance and could affect the strategic balance between the U.S. and potential adversaries. We must have the capability of monitoring such developments not addressed under the INF Treaty.

One of the most challenging tasks the Intelligence Community could face in the near future is the monitoring of a prospective START agreement. An agreed cut in Soviet and U.S. strategic nuclear forces would change the requirements for U.S. intelligence for several reasons:

Under current proposals, envisioning a system of limits and sublimits on strategic arms, as opposed to the bans employed by the INF Treaty, significant violations would be more difficult to detect;

Soviet violations of START could have a greater impact on U.S. national security than any plausible violation of the INF Treaty;

Unanticipated improvements in Soviet strategic offensive and defensive capabilities could make the lower levels of U.S. strategic forces set by START more vulnerable;

Even in the absence of START, the balance of strategic forces could be undermined or upset by possible Soviet technological breakthroughs, offensive forces improvements, or possible breakouts from ABM Treaty limits.

The Committee believes that without continuous attention to improving our intelligence capabilities, the Intelligence Community may not be able to monitor a START Treaty well enough to ensure U.S. security. Indeed, the burdens of monitoring Soviet military activities that are not constrained, as well as those that are constrained by the INF and any prospective START Treaty, could put strain on the future capabilities of the Intelligence Community, especially in an environment of limited funding for intelligence activities.

The Committee feels that this political gap between intelligence capabilities and intelligence requirements must be appreciated by Members of the Senate. Thus, this report and its classified annex raise the issue in connection with consideration of the INF Treaty.

Third, the Committee would observe that in negotiating an arms control agreement, verification is only one of many objectives that must be served. Indeed, there are inevitable tensions between the need for effective verification and the desire for strategic stability. The current U.S. position in Geneva is to seek a ban on mobile missiles, largely because of the verification problems they may pose. On the other hand, mobility enhances strategic stability by reducing the opportunity for preemptive strikes. In any arms control proposal we advance, we must always keep open the possibility of allowing ourselves the flexibility to adopt systems needed for our own national security even if it makes verification less certain. In other words, verification cannot be viewed in a vacuum. It is but one factor that must be balanced with other competing interests for our own security.

In the INF agreement, the United States has sacrificed the right to deploy a conventional long-range ground-launched cruise missile (GLCM) against the Warsaw Pact, principally because monitoring the distinction between nuclear and conventional cruise missiles is difficult. Some Members of the Committee believe that other national security interests may have been subordinated to verification considerations on the GLCM issue. This has raised serious concerns among Members of the Committee that similar considerations of verifiability in START could lead to unduly restrictive limitations on future U.S. options for conventionally armed air-launched and sea-launched cruise missiles.

Another example of the tension betwen monitoring requirements and overall strategic needs is the fact that there are no on-site inspection rights provided for undeclared or suspect sites. These problems are most pronounced with respect to the possibility of covertly stored missiles at undeclared facilities in the Soviet Union. In this case, legitimate U.S. security interests argued against allowing the Soviets greater presence and access in the United States than granted by the Treaty. Our own counterintelligence concerns about potential Soviet exploitation of on-site inspection rights may again outweigh the need for more intrusive and direct verification in future negotiations.

Finally, the Committee would emphasize that the conclusions with respect to monitoring and verification do not necessarity control the final decision each Senator must make with respect to whether the INF Treaty should be ratified. Rather, the verifiability of the Treaty is only a part of the analysis that each Senator must make, and the weight given to verifiability in making his or her final decision regarding ratification properly resides with each individual Member.

VERIFICATION REQUIREMENTS AND MONITORING CAPABILITIES

Effective verification—knowing whether or not the Soviets are cheating—is essential to enforcing strict compliance. And good intelligence—monitoring all aspects of Soviet strategic behavior—is the key to effective verification. Between the extremes of blindly trusting the Soviets and trying to follow their every move, what level of monitoring is needed to verify and enforce the INF treaty? Are U.S. monitoring capabilities good enough to make the INF treaty effectively verifiable? To answer these questions, it is helpful to distinguish among the functions and officials involved in dealing with suspected violations.

Monitoring.—Monitoring is the responsibility of the Intelligence Community, which reports on what the Soviets do, using all the information available from U.S. on-site inspectors, our National Technical Means, and other sources of information on Soviet missiles and related activities.

Verification.—Verification is the responsibility of the Executive branch, which decides whether the Soviet behavior reported by the Intelligence Community is permitted by the treaty, based on the text of the treaty, relevant records, diplomatic exchanges, and applicable law.

Enforcement.—Enforcement is the responsibility of the President, acting in concert with the Congress, in proposing and pursuing a course of action if a violation is found. Options for enforcement include seeking Soviet compliance by diplomatic means, denouncing the violation publicly, threatening to withdraw from the treaty, or ultimately countering the violation with new military programs of our own.

Each option depends on the United States having the will to act in the face of a confirmed violation. To be effective, monitors, verifiers, and enforcers will need good information on Soviet intentions, as well as capabilities, in order to make critical decisions. To do nothing is advisable only if confronting the Soviets with the violation would jeopardize the sensitive intelligence sources and methods on which we rely for detecting more serious threats.

Moreover, to deter the Soviets from cheating in the first place, the U.S. must reinforce Soviet expectations that Treaty violations would be discovered and countered if they did so.

In the case of the INF Treaty, detecting any possible violations involves three sets of monitoring requirements: assessing the accuracy of the numbers and locations of INF systems declared by the Soviets in the Treaty's Memorandum of Understanding; observing the drawdown and elimination of INF systems in accordance with the procedures set forth in the Protocol on Elimination; and detecting any production, testing, or deployment of INF systems.

ASSESSING SOVIET DECLARATIONS

With respect to assessing the accuracy of the numbers and locations of forces and systems declared by the Soviets in the Treaty's Memorandum of Understanding, the Intelligence Community has not resolved significant differences of view over the possibility that the Soviets may not have disclosed their entire inventory of non-deployed SS-20 missiles. These differences represent valid analytical judgments based on the limited and inconclusive information that has been available to the Intelligence Community.

Whether or not these differences can be resolved in the future, on the basis of new information or analysis, their potential military significance would be short-lived. This is because the operational reliability and military utility of any covertly maintained missiles would begin to deteriorate immediately; would seriously degrade during the first three years, when all declared missiles are being eliminated; and would vanish entirely within a decade, unless the Soviets can resume flight testing them. This would be both illegal and readily detectable.

OBSERVING DRAWDOWN AND ELIMINATION

With respect to declared INF systems, we can expect Soviet cooperation in permitting U.S. inspectors to observe their elimination, because they will have a strong interest in showing us that they are fulfilling their treaty commitments. If the Soviets fail to cooperate, we will know it well before we have eliminated our own INF systems and could retain them until they cooperated. So, by fully implementing the Inspection Protocols of the INF Treaty, the U.S. will not need to rely on National Technical Means to verify the complete elimination of the Soviets' declared INF systems.

DETECTING ILLEGAL SYSTEMS AND ACTIVITIES

At the same time, U.S. intelligence must also seek to ensure that there are no illegal INF systems that should have been declared or that have been covertly stored, diverted, tested, or produced in violation of the INF treaty. In contrast with Soviet interests in showing our inspectors their declared inventories of INF systems and their elimination, we must expect the Soviets will try to conceal any illegal systems or activities.

That is why the U.S. must be able to monitor Soviet missile-related activities, no matter how well concealed. In particular, verifying the INF treaty's ban on all Soviet ground-based missiles for weapons-delivery with ranges of 500-5,500 kilometers will require that we monitor Soviet missile testing, production, and deployments with the best National Technical Means available.

Yet, as noted previously, even with the best technical means in the world, the United States cannot expect to discover every prohibited activity that the Soviets have plausible incentives to conduct clandestinely. Concealing a few, small illegal activities or assets is just too easy in a closed society like the Soviet Union. However, there is little apparent advantage to Soviet military commanders, and there are certainly significant risks, in developing any covert forces that cannot be exercised realistically or tested fully because they must remain strictly concealed all the time to minimize any chance of destruction.

Moreover, the INF treaty's ban on the testing of any ballistic missiles for weapons delivery with ranges between 500 and 5,500 kilometers can be monitored with high confidence. This makes it exceedingly difficult, costly, and risky for the Soviets to develop or maintain a militarily useful, covert force of ballistic missiles, especially longer-range missiles, which violates the INF treaty. At worst, a Soviet short-range ballistic missile might be tested to a range of slightly over 500 kilometers without U.S. monitoring capabilities being able to verify that it is a treaty violation, but the Soviets would have little to gain and much to lose from conducting such a test.

U.S. National Technical Means of verification are not as highly effective against ground-launched cruise missiles (GLCMs) within these ranges, testing within which are likewise banned by the INF treaty. In particular, an illegal force of GLCMs could probably not be detected nearly as promptly nor with the same high degree of confidence. This is due to their much smaller size and to the fact that they are in almost all respects identical with and virtually indistinguishable from sea-launched versions of the same missile, which are not banned by the INF treaty.

Still, any militarily significant training or deployment of a covert force of ground-launched cruise missiles would be subject to detection by the United States. This is because it would necessarily involve a sizable number of troops and technicians, as well as special security arrangements associated with highly sensitive activities, especially the illegal training or deployment of a nuclear-capable missile force. Moreover, in contrast with the SS-20, the Soviets have never developed the infrastructure for such a force of GLCMs. So, the Soviets could not have much confidence that they could maintain or deploy a ready ground-launched cruise missile force banned by the INF treaty without being caught.

FINDINGS AND CONCLUSIONS

The key unclassified findings and conclusions of the Committee are as follows:

The Committee believes that by a combination of National Technical Means and on-site inspection, the intelligence community will be able to monitor the drawdown and elimination of declared Soviet missiles launchers and associated equipment with great certainty.

The Committee notes that the on-site inspections established by the Treaty are applicable only to facilities declared by the Soviets in the Memorandum of Understanding. Therefore, the burden of detecting banned activities at undeclared sites, where they are most likely to occur, will fall on National Technical Means of verification.

The specific requirements imposed by the Treaty, including the bans on production, flight testing and storage, will limit the ability of the Soviets to maintain non-deployed missiles in a high state of readiness. These provisions increase both the probability of detecting cheating and the cost of cheating for the Soviets. At the same time, however, Soviet compliance with some of the Treaty's provisions will be difficult to monitor.

This problem is exemplified by the unresolved controversy between DIA and other intelligence agencies over the number of SS-20s in the Soviet inventory. In any event, the Treaty's ban on flight testing, will over time limit the military utility of any SS-20s that the Soviet Union might covertly maintain.

At the same time, the Committee notes that the flight test ban is uneven in its application against weapons systems eliminated by the Treaty. It is effective in limiting the military reliability of a covert SS-20 force, but far less relevant to ground-launched cruise missiles and shorter-range ballistic missiles.

Ground-launched cruise missiles pose a particularly difficult monitoring problem as they are interchangeable with long-range Soviet sea launched cruise missiles (SLCMs). So long as SLCMs are not banned, their testing will allow a Soviet military planner to fulfill all of the technical requirements for testing a covert GLCM. The lack of a ground forces infrastructure for such weapons, however, would be extremely difficult for the Soviets to overcome covertly, and this greatly lessens the value and probability of such a cheating effort.

We are concerned that the Soviets could covertly extend the range capability of a cruise missile, or overtly develop a new ground-launched cruise missile with a prohibited long-range capability, if the cruise missile were tested only to shorter ranges.

Yet the Committee believes that the risk of a Soviet attempt to cheat with such an extended range capability is offset by Soviet operational requirements. Soviet military planners would have serious problems with the reliability of systems not tested to their maximum range.

In the case of short range ballistic missiles (SRBMs) the Committee does not foresee the need for the Soviets to cheat since they can easily and legally develop a new or modernized SRBM with a demonstrated range less than 500 kilometers.

Moreover, the Soviets could not test any short-range ballistic missile much beyond the 500 kilometer limit without the United States detecting the violation.

The Committee believes that in the absence of a START agreement, the Soviets have little or no incentive to cheat. With 10,000 warheads in their strategic arsenal today, the Soviets can cover INF and global target and still have several thousand warheads in reserve.

In an INF/START environment, however, the monitoring, cheating and risk calculus changes substantially. The Soviet incentive to cheat could increase because of a greater difficulty in meeting targeting requirements. The military significance of any cheating will increase because of lower U.S. force levels.

But the Soviets would have greater difficulty maintaining a covert force of intermediate-range ballistic missiles in a START regime with new limits on road-mobile strategic ballistic missiles and new provisions for short-notice inspections of undeclared facilities.

The monitoring of numerical limits, rather than a ban, and of qualitative restrictions will make the satisfaction of collection requirements and, therefore, the detection of cheating far more difficult.

The U.S. intelligence community must be prepared to meet two priorities under a START environment—where the United States and the Soviet Union have agreed to reduce their strategic offensive forces while also complying with the INF, ABM and other arms control treaties. The first involves monitoring those weapons systems and activities limited or banned by arms control treaties. The second involves military activities which are not limited by treaties, but which take on an added importance as a result of their constraints.

By cutting strategic offensive forces on both sides by roughly 50 percent, a START agreement would raise the importance of intelligence on Soviet developments in other areas that would threaten the survivability and effectiveness of scaled back U.S. strategic forces.

Indeed, it is potential combinations of simultaneous developments in Soviet strategic offensive and defensive forces, particularly its capabilities against U.S. satellites, ballastic missile launchers and cruise missiles that raise the most urgent concerns about threatening shifts in the strategic balance between the Soviet Union and the United States. Moreover, it is an area not limited by a treaty where such Soviet efforts are likely to be most active.

The Committee accordingly recommends that the Congress authorize and appropriate funds required to initiate a long-term program to modernize and improve upon current plans for intelligence collection. It specifically recommends investing more in programs that would be most helpful in verifying a START Treaty, in preventing technological surprise and in supporting U.S. policy and operations in crises.

Many of the details regarding the precise nature of our inspection rights are still being negotiated with the Soviets. A constructive process has been put in motion to secure U.S. objectives in these negotiations, although this has not yet been achieved.

The extensive on-site inspection and portal monitoring that may be required by a START agreement, including suspect site inspections, could have a far more significant impact on U.S. counterintelligence and security interests than those agreed to in the INF Treaty.

Mr. BOREN. Mr. President, the Senate should be aware that the committee's efforts in preparing this report were long and comprehensive. Indeed, we have followed both negotiations and arms control monitoring on a continuing basis over the years. In fact, in our annual budget authorization process, we have focused on U.S. technical intelligence capabilities, both for now and the future. And, for several years, the committee has worked with the executive branch to obtain needed funding for improvements in our technical collection capabilities, while encouraging the intelligence community to use those funds as efficiently as possible. The President recently issued a statement of support for this bipartisan effort and pledged to work for continuity in this program.

I ask unanimous consent to insert into the RECORD at this point the public statement made by the President following a meeting with myself and Vice Chairman COHEN.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT

I strongly support bipartisan efforts by the Senate Committees on Intelligence and Armed Services to work with the Administration to modernize and upgrade our intelligence capabilities. It is important as we work toward future arms reduction agreements that our country have all of the means necessary to assure compliance with these agreements. With or without future arms control agreements, it is important for our national security interests that we keep pace with changes in technologies in other nations. For that reason, I welcome bipartisan support to start this year on a multiyear program to improve these systems. I will also include funding for the second year of this program in the final budget which I submit to the Congress, and I will urge the next administration to assure continuity of this vital effort. After 1989, the funding for the program should be additive to the 2-percent real growth objective for national security spending.

Mr. BOREN. Over the last 8 months, after the INF talks gained momentum, the committee mounted an intensive review of U.S. monitoring capabilities, which culminated in our final report.

From last September until today, the committee held over 20 closed hearings and more than 25 on-the-record staff briefings on INF monitoring, in addition to many informal staff briefings. Our witnesses included ranking officials and substantive experts from the CIA, DIA, NSA, intelligence arms of the military services, the intelligence community staff, the State Department, the Arms Control and Disarmament Agency, the Defense Department, the Joint Chiefs of Staff, former Defense officials who are leading authorities on arms control, and—on counterintelligence implications of on-site inspection—the FBI.

In addition to these proceedings, and the thousands of pages of documents that the committee studied, both we and our staff traveled to many of the most important installations where monitoring systems are produced or operated, as well as to the site at Magna, UT, where Soviet portal monitors will be able to observe items entering and leaving a U.S. missile production facility. In short, we have endeavored to ensure that every issue was fully addressed during the course of our work.

Mr. President, the world is served by effective, verifiable arms control agreements. After carefully reviewing the exhaustive effort by the members and staff of the Intelligence Committee, I have concluded that the INF Treaty is such an agreement. Therefore, I believe that this treaty merits ratification by the U.S. Senate and I urge my colleagues to join in working toward that end.

All of us have a moral responsibility to work to reduce tensions between the superpowers and to make the world more secure for future generations. It is my firm hope that this treaty will make a constructive contribution to that goal.

Mr. BYRD. Mr. President, discussions have been going on in an effort to reach an agreement that will allow us to vitiate the cloture motion. We are not there yet. But we have made a good deal of progress. Those discussions will continue in the morning.

In the meantime, if the Senate will accede to my request, which I will make shortly, we will begin at 10 o'clock and we will take up the three amendments which were described earlier by Mr. NUNN and other Senators: the futuristic definition amendment, the onsite inspection amendment, and the corrigendum amendment. There will be a time limitation on those amendments.

The cloture vote will be delayed accordingly; and upon the disposition of those amendments, we should either then have the agreement or move ahead with the cloture vote.

I think substantial progress has been made. With the disposition of these three amendments that will be taken up in the morning, there are several amendments remaining, in addition to the reinterpretation amendment. So we will know, when we reach the point of disposition of the three amendments, which I shall ask consent to take up shortly—if I get consent—we will know upon the disposition of those amendments as to whether or not to go to cloture or whether we have reached an agreement which would see the Senate complete action on the treaty on Friday or Saturday.

Mr. DOLE. Or Thursday.

Mr. BYRD. Who knows? Something good could happen, and we could complete action on Thursday. But let us let that be a hope at this moment, rather than a promise.

EDUCATION SAVINGS ACT

Mr. HEFLIN. Mr. President, one of the saddest pictures to see is a young person who wants to receive a college education, but cannot because of his family's financial situation. We all know that the loss of an intelligent, hardworking mind is a loss to society. That young person could become a President of the United States, a scientist, a major league baseball player, or one of our fellow Senators. But, if Congress does not enact the Education Savings Act, an intelligent young person may not have a chance to fulfill a dream—the dream of a college education.

Mr. President, according to the Digest of Educational Statistics, since 1980, costs for private colleges have climbed by 98 percent, and those for public institutions have increased by 80 percent. However, at the same time the family income increased by only 33 percent. The total Federal support for higher education, after adjustment for inflation, has increased by only 3 percent.

The future outlook of tuition and fees costs is even more disturbing. Congressional Research Service [CRS] has made an estimation for college tuition 20 years from today. The base figures for this study was provided by the 1987-88 edition of the College Cost Book. CRS used a 6-percent increase in the rate of inflation for tuition fees for 4-year public and private colleges, which is the historical inflation rate for tuition fees. The tuition fees for a 4-year public college 20 years from today may be as high as $4,300 annually and for a 4-year private college in 20 years may be as high as $22,700 annually. Mr. President, over 4 years tuition cost, without room and board, for a 4-year public school may be $17,000 and for a 4-year private school may be $90,000. As you can see, these figures are astronomical. How do we expect families to send their children to college in 20 years?

Federal assistance to students cannot keep up with the rate of inflation. The only answer then is for the U.S. Government to provide incentives for parents to save and invest for their children's futures. I have cosponsored S. 1817 which will encourage parents to purchase U.S. savings bonds to invest in their children's future college expenses. The bill proposes the following plan:

If a family buys a U.S. savings bond and uses it to pay for its child's higher education, then the interest earned on that bill will be tax free. The bond will be turned over to a eligible higher education institution as payment for tuition. At the present time, the tax on interest earned is deferred until the bond is redeemed. The bill would eliminate the tax completely, and give families an incentive to save for college expenses by investing in America.

Some people might ask why we chose saving bonds. The reasons are as follows: U.S. Saving bonds are completely safe, do not require complex rules, familiar to all Americans, and are convenient. U.S. saving bonds are backed by the full faith of the U.S. Government, and can never be defaulted.

Mr. President, this legislation is desperately needed and I call for the Senate to quickly consider and pass this important legislation.

LOCAL RAIL SERVICE ASSISTANCE [LRSA] PROGRAM

Mr. PRESSLER. Mr. President, I attended a very important hearing this afternoon on the reauthorization of the Local Rail Service Assistance [LRSA] Program. Though the administration opposes this program that provides matching funds to States for rail planning, rail acquisition and rehabilitation, I strongly favor the continuation of LRSA.

As a cosponosr of Senator HARKIN's LRSA reauthorization bill (S. 2195), I am pleased to see progress being made on this important issue. My distinguished colleague from North Dakota has also submitted reauthorization legislation (S. 2174) and I am a cosponsor of that bill as well.

I was pleased to have welcomed Chris Randall, the director of the South Dakota Division of Railroads to the Surface Transportation Subcommittee hearing. With Chris' leadership, the South Dakota Division of Railroads has effectively been a part of the LRSA team and I commend him for his fine testimony and good work.

South Dakota has enjoyed considerable success from the LRSA Program. The program has been effective since its beginning in 1973 and continues to be a valuable resource though some may call for the phaseout of the LRSA Program as they have for years.

I would like to paraphrase an old proverb by saying: "One good example is worth a thousand words." I point to a South Dakota-based regional railroad, the Dakota, Minnesota & Eastern [DM&E] as a shining demonstration of what the LRSA Program can mean to a struggling rail line.

The DM&E runs over 965 miles between Rapid City, SD, and Winona, MN. Last year, the first full year of operation for the railroad, DM&E handled over 43,000 carloads and expect a 5-percent increase this year.

The DM&E had its beginning when the C&NW was seriously attempting to abandon many portions of the current DM&E main line. The line could not support a class I railroad. The DM&E was able to purchase the track for $26 million, yet had to plan on spending a considerable amount for line rehabilitation expenses to cure years of deferred maintenance.

The LRSA Program was specifically beneficial to the DM&E as they sought to repair a 29-mile branch line. The railroad worked with South Dakota's Department of Transportation and Chris Randall to secure $600,000. The improvements made to that line allows for better service to shippers and an additional source of traffic and revenue for the DM&E.

A strong coalition of Senators from States who usually are forced to do without adequate transportation resources has developed in support of the LRSA reauthorization.

This program continues to be extremely important to the very existence of rail service in large portions of many States—South Dakota included. LRSA is a relatively low-cost, high-impact program that deserves our continued support. I urge my colleagues to examine this issue carefully in order to appreciate the success of this vital program.

UPDATING THE AIDS EPIDEMIC

Mr. CRANSTON. Mr. President, today I am beginning what I plan to be a regular practice of submitting for the RECORD the most recent statistics concerning AIDS.

I do so because I believe that it is critical to keep in the forefront of our debates regarding policy and funding for AIDS the real human tragedy that this disease has inflicted on individuals throughout the country. When we first sought more funding for AIDS research 5 years ago, there were less than 5,000 cases of AIDS reported. Today, more than 60,000 Americans have been diagnosed with AIDS. Anywhere from 2 to 10 times that number have AIDS-related complex, which includes any number of symptoms and diseases resulting from infection with the human immunodeficiency virus [HIV]. As many as 1.5 million Americans harbor the virus and will likely develop some form of the disease.

Mr. President, these statistics can be numbing. But behind every statistic, behind every death, is a human being—a young man in the prime of his life, a child who never knew life without AIDS, a mother struggling to survive to care for her children.

Too often, the debates dealing with AIDS have focused on politics and posturing and not on people. Our AIDS policies should have only one goal—saving lives.

My presenting these data is intended as a reminder that American lives are at stake and that politicizing AIDS issues costs lives.

Mr. President, according to the May 16, 1988, AIDS Weekly Surveillance Report compiled by the Centers for Disease Control; 62,200 Americans have been diagnosed with AIDS, 35,051 Americans have died from AIDS—56 percent, and 27,149 Americans are now living with AIDS.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following bills and joint resolutions:

On May 10, 1988:

S.J. Res. 59. Joint resolution to designate the month of May 1988 as "National Foster Care Month"; and

S.J. Res. 250. Joint resolution designating the week of May 8, 1988, through May 14, 1988, as "National Osteoporosis Prevention Week of 1988."

On May 12, 1988:

S.J. Res. 212. Joint resolution to designate the period commencing May 8, 1988, and ending on May 14, 1988, as "National Tuberous Sclerosis Awareness Week."

On May 13, 1988:

S. 2273. An act to provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe; and

S.J. Res. 240. Joint resolution to designate the period commencing on May 16, 1988 and ending on May 22, 1988, as "National Safe Kids Week."

On May 19, 1988:

S.J. Res. 254. Joint resolution to designate the period commencing on May 15, 1988, and ending on May 21, 1988, as "National Rural Health Awareness Week."

On May 20, 1988:

S. 393. An act for the relief of Emilie Santos; and

S. 999. An act to amend title 39, United States Code, and the Veterans' Job Training Act to improve veterans' employment, counseling, and job-training services and programs; and for other purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 11 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2878. An act to designate certain national forest system lands in the States of Virginia and West Virginia as wilderness areas;

H.R. 3987. An act to designate the United States Post Office Building located at 500

West Chestnut Expressway in Springfield, Missouri, as the "Gene Taylor Post Office Building"; and

H.J. Res. 530. Joint resolution designating May 1988, as "Take Pride in America Month."

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore [Mr. SANFORD].

At 11:17 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 3) entitled "An act to enhance the competitiveness of American industry, and for other purposes," returned by the President of the United States, with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

At 2:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 52. An act to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program; and

S. 2304. An act to amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Ukraine Famine.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 4028. An act to authorize the Secretary of Agriculture to exchange certain national forest system lands in the Targhee National Forest;

H.R. 4399. An act to facilitate the commercial access to space, and for other purposes;

H.R. 4419. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974;

H.J. Res. 378. Joint resolution to designate August 1-8, 1988, as "National Harness Horse Week"; and

H.J. Res. 469. Joint resolution to designate June 1988 as "National Recycling Month."

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 126. A concurrent resolution recognizing and supporting the efforts of the National Purple Heart Museum Committee, and encouraging the people of the United States to participate, in the development of a national museum to honor those individuals awarded the Purple Heart; and

H. Con. Res. 306. A concurrent resolution providing for a conditional adjournment of the House until June 1 and a conditional adjournment or recess of the Senate until June 6.

At 3:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (S. 2210) to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints.

The message also announced that the House has passed the following bills, without amendment:

S. 1988. An act to amend the Merchant Marine Act of 1920, and for other purposes; and

S. 1989. An act to implement the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America.

The message further announced that pursuant to section 204 of Public Law 98-459, the Speaker appoints Mr. Oscar P. Bobbitt, of Austin, TX, from the private sector, as a member of the Federal Council on the Aging on the part of the House.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4028. An act to authorize the Secretary of Agriculture to exchange certain national forest system lands in the Targhee National Forest; to the Committee on Energy and Natural Resources.

H.R. 4399. An act to facilitate the commercial access to space, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4419. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974; to the Committee on Commerce, Science, and Transportation.

H.J. Res. 378. Joint resolution to designate August 18, 1988, as "National Harness Horse Week"; to the Committee on the Judiciary.

H.J. Res. 469. Joint resolution to designate June 1988 as "National Recycling Month"; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 126. Concurrent resolution recognizing and supporting the efforts of the National Purple Heart Museum Committee, and encouraging the people of the United States to participate, in the development of a national museum to honor those individuals awarded the Purple Heart; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The Committee on Foreign Relations was discharged from the further consideration of the following joint resolution, which was placed on the calendar:

S.J. Res. 305. Joint resolution providing specific authorization under the War Powers Resolution for the continued use of United States Armed Forces in the Persian Gulf, consistent with the foreign policy objectives and national security interests of the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3299. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, certified copies of certain documents related to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with amendments:

S. 1966. A bill to amend the Public Health Service Act to improve information and research on biotechnology and the human genome, and for other purposes (Rept. No. 100-359).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1265. A bill to amend the Public Health Service Act and the Fair Labor Standards Act of 1938 to provide minimum health benefits for all workers in the United States (Rept. No. 100-360).

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment:

S. 2201. A bill to make certain record rental provisions in title 17, United States Code, the Copyright Act, permanent (Rept. No. 100-361).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHILES (for himself and Mr. GRAHAM):

S. 2429. A bill to redesignate the National Fisheries Research Center in Gainesville, Florida, as the "Jack T. McCown, Sr., National Fisheries Research Center."; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN:

S. 2430. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives, to authorize the negotiation of a North American free-trade area, and for other purposes; to the Committee on Finance.

By Mr. FORD:

S. 2431. A bill to require the Secretary of Transportation to initiate a rulemaking proceeding to enable any airport to change its location identifier assigned to such airport by the Federal Aviation Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. STAFFORD (by request):

S. 2432. A bill to achieve greater accountability in Federal student assistance programs, to minimize the potential for waste and abuse, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER:

S. 2433. A bill relating to the use of certain revolving loan funds under title VI of the Federal Water Pollution Control Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CHILES (for himself and Mr. GRAHAM):

S. 2434. A bill to designate Building #31, National Institutes of Health reservation, 9000 Rockville Pike, Bethesda, Maryland, as the "The Claude Denson Pepper Building."; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S.J. Res. 326. A joint resolution designating June 12 through 18, 1988, as "Lyme Disease Awareness Week."; to the Committee on the Judiciary.

By Mr. GLENN (for himself, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. DECONCINI, Mr. DOLE, Mr. GRAHAM, Mr. GRAMM, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Mr. LUGAR, Mr. MATSUNAGA, Mr. MCCAIN, Mr. MCCLURE, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. SHELBY, and Mr. STENNIS):

S.J. Res. 327. A joint resolution commemorating January 28, 1989, as a "National Day of Excellence" in honor of the crew of the space shuttle Challenger; to the Committee on the Judiciary.

By Mr. WEICKER:

S.J. Res. 328. A joint resolution to designate the day of September 14, 1988, as "National Medical Research Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. BYRD, Mr. D'AMATO, and Mr. MOYNIHAN):

S. Res. 435. A resolution to commemorate the 90th birthday of Norman Vincent Peale; considered and agreed to.

By Mr. HARKIN (for himself, Mr. WEICKER, Mr. METZENBAUM, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, Mr. STAFFORD, Mr. ADAMS, Mr. COCHRAN, Mr. DODD, Mr. PELL, Mr. MATSUNAGA, Ms. MIKULSKI, Mr. CHILES, Mr. THURMOND, Mr. DOLE, Mr. D'AMATO, Mr. CRANSTON, Mr. MOYNIHAN, Mr. SHELBY, Mr. MCCAIN, Mr. DURENBERGER, Mr. FORD, Mr. MCCLURE, Mr. BOREN, Mr. DASCHLE, Mr. TRIBLE, Mr. BOND, Mr. PACKWOOD, Mr. PRESSLER, Mr. DECONCINI, Mr. HOLLINGS, Mr. CONRAD, Mr. MITCHELL, Mr. NUNN, Mr. RIEGLE, Mr. WARNER, Mr. WILSON, Mr. KASTEN, Mr. LAUTENBERG, Mr. BUMPERS, Mr. BENTSEN, Mr. ROTH, Mr. JOHNSTON, Mr. GRAHAM, Mr. BOSCHWITZ, Mr. DANFORTH, Mr. KERRY, Mr. STENNIS, Mr. INOUYE, Mr. MURKOWSKI, and Mr. HEFLIN):

S. Con. Res. 121. A concurrent resolution to commemorate the 50th anniversary of the Javits-Wagner-O'Day Act; to the Committee on the Judiciary.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES (for himself and Mr. GRAHAM):

S. 2429. A bill to redesignate the National Fisheries Research Center in Gainesville, FL, as the "Jack T. McCown, Sr., National Fisheries Research Center"; referred to the Committee on Commerce Science, and Transportation.

JACK T. MCCOWN, SR., NATIONAL FISHERIES RESEARCH CENTER

● Mr. CHILES. Mr. President, I rise today in memory of a very dear friend of the State of Florida and a personal friend of mine, Dr. Jack T. McCown, Sr. Having enjoyed years of his expert advice and assistance, I was saddened by his unexpected death and wish to extend my sympathies to his family and friends.

Reared on a citrus farm in Umatilla, FL, Jack became a contributor to the community early in his youth through participation in the local 4-H Club. He pursued his career interests in agriculture and education at the University of Florida and North Carolina State University, earning his doctorate in 1969. During this time he also worked in a number of county extension offices, sharing his knowledge of the agricultural sciences with other farmers.

From 1970-77 Jack served as a professor and associate dean at the University of Florida Institute of Food and Agriculture Sciences [IFAS]. Most recently, Jack served as director of Federal Affairs at IFAS. In this position, he secured Federal support for numerous research efforts in the areas of tropical and subtropical agriculture, water quality, and biotechnology.

Jack was also among the first to lobby for a U.S. Fish and Wildlife National Fisheries lab in the Southeast. He was a driving force in making the lab in Gainesville a reality. The lab has been extremely successful and has now been upgraded to a research center.

Jack was a frequent and welcome visitor in my office. He often brought farmers and students to Washington to see firsthand how the policies which affected their lives were made. For the Florida delegation, too often distant from the fields, schools, and the laboratories back home, Jack was always available to supply a wealth of information on the latest research developments and technologies.

Mr. President, in honor of these and many other contributions, I am introducing legislation today to name the research center in Gainesville, FL the "Jack T. McCown, Sr., National Fisheries Research Center." I think that the Senate will agree that this is a very appropriate way to recognize Jack and his work.●

By Mr. KASTEN:

S. 2430. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives, to authorize the negotiation of a North American free-trade area, and for other purposes; referred to the Committee on Finance.

AMENDMENT OF 1986 CODE

Mr. KASTEN. Mr. President, I rise today to introduce a bill that strikes a major blow in the battle to preserve the economic victory of the 1980's—and to keep it alive into the 1990's. The Plant Opening Act of 1988 promotes growth, jobs, and a future of hope for the American people.

Instead of spelling out what the Government will do for a worker when he loses his job—this bill will help make sure Americans keep their jobs and improve their jobs, and make it possible for everybody who wants a job to get one.

America has rediscovered the secret of economic growth. It's called opportunity. When we let entrepreneurs and small businessmen do what they do best, we're unleashing a ballistic force of wealth creation and job growth. Our incredible expansion in this decade—what the Europeans call the American miracle—is a matter of record. Lower tax rates and deregulation caused it.

The Plant Opening Act of 1988 builds on this approach to extend America's prosperity into the next decade.

This bill would cut the tax rate on capital gains to 15 percent, providing a dramatic new incentive for investment in risk capital and small business ventures. In addition to helping our entrepreneurs start new businesses and create new jobs, this cut in both corporate and individual capital gains taxes would help reduce the deficit. Harvard economist Lawrence Lindsey estimates that this tax cut would lead to higher capital-gains realizations and higher growth—and generate 31 billion dollars' worth of added Federal revenues over the next 3 years.

The Plant Closing Act would help our workers compete by promoting education and training. The bill proposes to make permanent the exclusion from gross income of the amounts paid for employee educational assistance—thus increasing job opportunities for lower level employees, and helping them seek job advancement through education.

America is now faced with the need to compete in a truly dynamic global economy. Our workers need to keep on upgrading their job skills in order to keep up with the rest of the world. This incentive for retraining would help them keep America's competitive engine on track.

The bill also eliminates the unnecessary increase in Social Security payroll taxes planned for 1990. That increase—from 7.51 to 7.62 percent—would needlessly raise labor costs and prevent countless small businesses from hiring workers. There is no compelling need for this tax increase, because Social Security is running a larger-than-expected surplus.

Eliminating the payroll tax increase is essential once we recognize that the key to a healthy Social Security system is a healthy, job-creating economy.

Another unfair antigrowth tax increase on workers rolled back by this bill is the 0.2-percent hike in the Federal unemployment tax [FUTA] paid by employers. When this tax was enacted in 1976, employers were promised that it would be one-shot "temporary tax" to help retire the debt of the extended unemployment compensation account [EUCA].

It hasn't worked out that way. The debt has been paid off, but businesses are still stuck paying this extra tax for 3 more years—as a result of the 1987 reconciliation tax increase bill.

This 0.2-percent tax on a $7,000 Federal taxable wage base results in an added cost of $14 per employee per year. This added business cost inhibits job creation. We don't need the tax; it inhibits job creation; so let's scrap it.

One of the most important measures in the Plant Opening Act of 1988 provides for the establishment of enterprise zones to create job opportunities—with a special focus on disadvantaged workers and long-term unemployed individuals. Enterprise-zone tax incentives are one of the most important measures we can take to start a boom of plant openings in distressed areas of our country

Among the necessary incentives are the elimination of capital gains taxes for qualifying property; an employee tax credit; a tax credit for employers equal to 10 percent of new employees' wages; a 10-percent investment tax credit for construction of new buildings, and reconstruction of old ones; an increase in the tax credit for research conducted in the enterprise zone; a tax deduction for purchases of enterprise stock; and a continuation of tax-exempt bond financing for enterprise-zone projects.

These incentives are a big step forward in bringing America's jobs where they are needed most—America's blighted inner cities and areas where plants have closed.

This bill also helps open up export markets for America's businesses and workers. It expands the President's authority to negotiate free trade agreements with Mexico and the countries of the Caribbean Basin, and seeks to eliminate unfair trade practices and trade barriers.

Because Americans deserve to know the true costs of trade barriers, the bill requires the Congressional Budget Office to issue consumer impact statements on trade legislation. The bill also insists that multilateral development banks support the trade liberalization policies upon which the prosperity of the whole world depends.

Mr. President, I'm introducing the Plant Opening Act of 1988 because I think America is in serious danger. Liberal and outdated antigrowth policies are threatening to throw our now-prosperous economy into hard reverse.

Let others harp on plant closing. America's future depends on plant opening—on progress, jobs, and opportunity for all Americans. That's what this bill is all about.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "————".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provisions, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—GENERAL TAX INCENTIVES

SEC. 101. REDUCTION IN CAPITAL GAINS TAX RATE.

(a) IN GENERAL.—Section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX.

"If for any taxable year a taxpayer has a net capital gain, then, in lieu of the tax imposed by sections 1, 11, 511, 821(a) or (c), and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the net capital gain."

(c) REDUCTION IN MINIMUM TAX RATE ON CAPITAL GAINS.—Paragraph (1) of section 55(b) is amended by adding at the end thereof the following new sentence:

"To the extent the excess referred to in subparagraph (A) does not exceed the net capital gain for the taxable year (determined with the adjustments of this part), subparagraph (A) shall be applied by substituting '15 percent' for the percentages set forth in subparagraph (A)."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (j) of section 1 is hereby repealed.

(2) The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1201 and inserting the following:

"Sec. 1201. Alternative tax."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 102. REINSTATEMENT OF EDUCATIONAL ASSISTANCE EXCLUSION.

(a) GENERAL RULE.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 103. ELIMINATION OF 1990 INCREASE IN SOCIAL SECURITY TAXES.

(a) EMPLOYMENT TAXES.—

(1) Subsection (a) of section 3101 (relating to rate of tax on employees) is amended by striking the last 2 items in the table and inserting the following:

"1988 or thereafter............. 6.06 percent."

(2) Subsection (c) of section 3111 (relating to rate of tax on employers) is amended by striking the last 2 items in the table and inserting the following:

"1988 or thereafter............. 6.06 percent."

(b) SELF-EMPLOYMENT TAX.—Subsection (a) of section 1401 is amended by striking the last 2 items in the table and inserting the following:

"December 31, 1987............. 12.12 percent."

SEC. 104. ELIMINATION OF TEMPORARY INCREASE IN FEDERAL UNEMPLOYMENT TAX.

Section 3301 (relating to rate of tax) is amended—

(1) by striking "calendar years 1988, 1989, and 1990" in paragraph (1) and inserting "calendar year 1988", and

(2) by striking "1991" in paragraph (2) and inserting "1989".

TITLE II—ENTERPRISE ZONES

SEC. 201. SHORT TITLE.

This Act may be cited as the "Enterprise Zone Development Act of 1988".

SEC. 202. PURPOSES.

It is the purpose of this title to provide for the establishment of enterprise zones in order to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

Subtitle A—Designation of Enterprise Zones

SEC. 211. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7881. Designation.

"SEC. 7881. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'enterprise zone' means any area—

“(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a ‘nominated area’), and

“(B) which the Secretary of Housing and Urban Development, after consultation with—

“(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

“(ii) in the case of an area of an Indian reservation, the Secretary of the Interior, designate as an enterprise zone.

“(2) NUMBER OF DESIGNATIONS.—

“(A) IN GENERAL.—The Secretary of Housing and Urban Development may designate not more than 100 nominated areas as enterprise zones.

“(B) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), at least one-fourth must be areas—

“(i) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available),

“(ii) which are outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

“(iii) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

“(3) AREAS DESIGNATED BASED SOLELY ON DEGREE OF POVERTY, ETC.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Housing and Urban Development shall designate those nominated areas with the highest average ranking with respect to the criteria described in subparagraphs (C), (D), (E, and (F) of subsection (c)(3). For purpose of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area which exceeds such criterion by the greatest amount given the highest ranking.

“(B) EXCEPTION WHERE INADEQUATE COURSE OF ACTION ETC.—An area shall not be designated under subparagraph (A) if the Secretary of Housing and Urban Development determines that the course of action with respect to such area is inadequate.

“(C) SEPARATE APPLICATION TO RURAL AND OTHER AREAS.—Subparagraph (A) shall be applied separately with respect to areas described in paragraph (2)(B) and to other areas.

“(4) LIMITATION ON DESIGNATIONS.—

“(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone, the Secretary of Housing and Urban Development shall prescribe by regulation no later than 4 months following the enactment of this section, after consultation with the officials described in paragraph (1)((B)—

“(i) the procedures for nominating an area under paragraph (1)(A),

“(ii) the parameters relating to the size and population characteristics of an enterprise zone, and

“(iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (d).

“(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 24-month period beginning on the later of—

“(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

“(ii) July 1, 1989.

“(C) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation under paragraph (1) unless—

“(i) the local governments and the State in which the nominated area is located have the authority—

“(I) to nominate such area for designation as an enterprise zone,

“(II) to make the State and local commitments under subsection (d), and

“(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

“(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe,

“(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

“(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

“(5) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

“(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

“(i) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

“(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

“(B) the termination date designated by the State and local governments as provided for in their nomination pursuant to subsection (a)(4)(C)(ii), or

“(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

“(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development may after—

“(A) consultation with the officials described in subsection (a)(1)(B), and

“(B) a hearing on the record involving officials of the State or local government involved, revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments pursuant to subsection (d).

“(c) AREA AND ELIGIBILITY REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

“(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

“(A) the area is within the jurisdiction of the local government,

“(B) the boundary of the area is continuous, and

“(C) the area—

(i) has a population, as determined by the most recent census data available, of at least—

“(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i)) is located within a metropolitan statistical area (within the meaning of section 103A(1)(4)(B)) with a population of 50,000 or greater, or

“(II) 1,000 in any other case, or

“(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

“(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

“(A) the area is one of pervasive poverty, unemployment, and general distress,

“(B) the area is located wholly within the jurisdiction of a local government which is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section,

“(C) the unemployment rate, as determined by the appropriate available data, was at least 1½ times the national unemployment rate for that period,

“(D) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was at least 20 percent for the period to which such data relate,

“(E) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), and

“(F) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

“(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

“(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designated to reduce the various burdens borne by employers or employees in such area. A course of action shall not be treated as meeting the requirements of this paragraph unless the course of action include provisions described in at least 4 of the subparagraphs of paragraph (2).

“(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal programs, and may include, but is not limited to—

“(A) a reduction of tax rates or fees applying within the enterprise zone,

“(B) an increase in the level of efficiency of local services within the enterprise zone; for example, crime prevention (particularly through experimentation with providing such services by nongovernmental entities), "(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area,

"(E) the allowance of a deduction from State or local income taxes for fees paid or accrued for services performed by a nongovernmental entity but which were formerly performed by a governmental entity,

"(F) the giving of special preference to contractors owned and operated by members of any minority, and

"(G) the gift (or sale at below fair market value) of surplus land in the enterprise zone to neighborhood organizations agreeing to operate a business on the land.

"(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the Secretary of Housing and Urban Development shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(e) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter D. Designation of Enterprise Zones."

SEC. 212. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the fourth calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each fourth calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such enterprise zones' designation in accomplishing the purposes of this Act.

SEC. 213. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7881(d) of the Internal Revenue Code of 1954 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7881 of the Internal Revenue Code of 1954 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitled any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) ENTERPRISE ZONES TREATED AS LABOR SURPLUS AREAS.—Any area which is designated as an enterprise zone under section 7881 of such Code shall be treated for all purposes under Federal law as a labor surplus area.

Subtitle B—Federal Income Tax Incentives

PART I—CREDITS FOR EMPLOYERS AND EMPLOYEES

SEC. 221. CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED ENTERPRISE ZONE EMPLOYMENT AND EMPLOYMENT OF DISADVANTAGED WORKERS.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year.

"(b) LIMITATIONS BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for a taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over

"(B) the tentative minimum tax for the taxable year.

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an enterprise zone employment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an enterprise zone employment credit carryover to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1989, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(c) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all enterprise zones, over * * *.

"(B) the base period wage of the employer with respect to all such zones.

"(2) LIMITATIONS AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—

"(A) DOLLAR AMOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed 2.5 times the dollar limitation in effect under section 3306(b)(1) for the calendar year with or within which such taxable year ends.

"(B) APPLICATION WITH ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—Qualified wages shall not be taken into account under paragraph (1) if such wages are taken into account in determining the economically disadvantaged credit amount under subsection (d).

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any enterprise zone, the amount of wages paid to employees during the 12-month period preceding the date on which the enterprise zone was designated as such under section 7881, or the date on which the enterprise zone is designated under State law, enacted after January 1, 1981, if earlier, which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (f)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2) in computing qualified wages shall be the amount in effect for taxable year for which the amount of the credit under subsection (a) is being computed.

"(d) ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'economically disadvantaged credit amount' means the sum of the applicable percentage of qualified wages paid to each qualified economically disadvantaged individual.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any qualified economically disadvantaged individual, the percentage determined in accordance with the following table:

If the qualified wages are paid for services performed during:	The applicable percentage is:
The first 3 years after starting date ..	50
The 4th year after the starting date..	40

If the qualified wages are paid for services performed during:	The applicable percentage is:
The 5th year after the starting date..	30
The 6th year after the starting date..	20
The 7th through 20th year after the starting date	10
The 21st year after the starting date or later	0

"(3) Starting date; break in service.—For purposes of this subsection—

"(A) Starting date.—The term 'starting date' means the day which the qualified economically disadvantaged individual begins work for the employer within an enterprise zone.

"(B) Break in service.—The periods described in the table under paragraph (2) (other than the first such period) shall be extended by any period of time during which the individual is unemployed, and by any period of time during which the individual is employed by a taxpayer in an enterprise zone designated under State law enacted after January 1, 1981, if such designation occurs prior to the designation of the enterprise zone under section 7881.

"(e) Qualified Wages Defined.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) Reduction for certain federally funded payments.—For purposes of this section the wages paid or incurred by an employer for any period shall not include the amount of any Federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) Special rules for agricultural and railway labor.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(f) Qualified Employee Defined.—

"(1) In general.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in an enterprise zone, and

"(B) who performs at least 50 percent of his services for the employer during the taxable year in an enterprise zone.

"(2) Exception for individuals with respect to whom credit is determined under section 51(a).—The term 'qualified employee' shall not include an individual with respect to whom any credit for the employer is determined under section 51(a) for the taxable year (relating to targeted jobs credit).

"(g) Qualified Economically Disadvantaged Individual.—

"(1) For purposes of this section, the term 'qualified economically disadvantaged individual' means an individual—

"(A) who is a qualified employee,

"(B) who is hired by the employer during the period a designation under section 7881 is in effect for the area in which the services which qualify such individual as a qualified employee are performed, and

"(C) who is certified as—

"(i) an economically disadvantaged individual,

"(ii) an eligible work incentive employee (within the meaning of section 51(d)(9)), or

"(iii) a general assistance recipient (within the meaning of section 51(d)(6)).

"(2) Economically disadvantaged individual.—For purposes of paragraph (1)—

"(A) In general.—The term 'economically disadvantaged individual' means any individual who is certified by the designated local agency as being a member of a family that had a combined family income (including the cash value of food stamps) during the 6 months preceding the month in which such determination occurs that on an annual basis, was equal to or less than the sum of—

"(i) the highest amount which would ordinarily be paid to a family of the same size without any income or resources in the form of payments for aid to families with dependent children under the State plan approved under part A of title IV of the Social Security Act for the State in which such individual resides, plus,

"(ii) the highest cash value of the food stamps to which a family of the same size without any income or resources would be paid aid to families with dependent children under such State plan in the amount determined under clause (i). Any such determination shall be valid for the 45-day period beginning on the date such determination is made.

"(B) Special rule for families with only 1 individual.—For purposes of clause (i) of subparagraph (A), in the case of a family consisting of only one individual, the 'highest amount which would ordinarily be paid' to such family under the State's plan approved under part A of title IV of the Social Security Act shall be an amount determined by the designated local agency on the basis of a reasonable relationship to the amounts payable under such plan to families consisting of two or more persons.

"(3) Certification.—Certification of an individual as an individual described in paragraph (1)(C) shall be made in the same manner as certification under section 51.

"(h) Special Rules.—For purposes of this section—

"(1) Application to certain entities, etc.—Under regulations prescribed by the Secretary, rules similar to the rules of section 52 (other than subsection (b) thereof) and section 41(f)(3) shall apply.

"(2) Periods of less than a year.—If designation of an area as an enterprise zone under section 7871 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year—

"(A) the limitation specified in subsection (c)(2)(A), and the base period wages determined under subsection (c)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (e)(2) and the 90 percent and 50 percent tests set forth in subsection (f)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as an enterprise zone is in effect.

"(i) Phaseout of credit.—

"(1) In general.—Except as provided in paragraph (2), in determining the amount of the credit for a taxable year under subsection (a) with respect to qualified wages paid or incurred for services performed in an enterprise zone—

"(A) the following percentages shall be substituted for '10 percent' in subsection (a)(1):

"(i) 7.5 percent in the earlier of—

"(I) the taxable year which includes the date which is 21 years after the date on which such enterprise zone was designated under section 7881, or

"(II) the taxable year which includes the date which is 4 years before the date (if any) on which such enterprise zone ceases to be a zone under section 7881(b)(1)(B),

"(ii) 5 percent in the next succeeding taxable year,

"(iii) 2.5 percent in the second next succeeding taxable year, and

"(iv) zero thereafter, and

"(B) the amount determined under subsection (a)(2) shall be reduced by—

"(i) 25 percent in the case of the taxable year described in paragraph (1)(A),

"(ii) 50 percent in the next succeeding taxable year,

"(iii) 75 percent in the second next succeeding taxable year, and

"(iv) 100 percent thereafter.

"(2) Revocation of designation.—If the designation of an area as an enterprise zone is revoked under section 7881(b)(2), such area shall continue to be treated as an enterprise zone for the period of 3 taxable years beginning after the date of such revocation except that only the allowable percentage of the amount of the credit which would (but for this paragraph) be allowable under this section for such a year shall be allowed. For purposes of the preceding sentence, the term 'allowable percentage' means the amount determined in accordance with the following table:

"If the taxable year beginning after the revocation is:	The allowable percentage is:
The first such year	75
The second such year	50
The third such year	25.

"(j) Early Termination of Employment by Employer in Case of Qualified Economically Disadvantaged Individuals, Etc.—

"(1) General rule.—Under the regulations prescribed by the Secretary, if the employment of any qualified economically disadvantaged individual with respect to whom qualified wages are taken into account under subsection (a) is terminated by the taxpayer at any time during 270-day period beginning on the date such individual begins work for the employer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credit allowed under subsection (a) for such taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to such employee.

"(2) Subsection not to apply in certain cases.—

"(A) In general.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the employer.

"(ii) a termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the employer fails to offer reemployment to such individual,

"(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

"(iv) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the employer.

"(B) Change in form of business, etc.—For purposes of paragraph (1), the employment relationship between the employer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the employer retains a substantial interest in such trade or business.

"(3) Special rule.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

"(k) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the abuse of such purposes by denying the credit allowable under this section to employers which relocate their businesses in an enterprise zone while displacing former employees or which otherwise conduct their businesses so as to take advantage of the credit allowable by this section without furthering such purposes."

(b) No Deduction Allowed.—Section 280C (relating to disallowance of deductions for certain expenses for which credits are allowable) is amended by adding at the end thereof the following new subsection:

"(c) Rule for Section 30 Credits.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable under section 30 (relating to the employment credit for enterprise zone businesses). This subsection shall be applied under a rule similar to the rule under the last sentence of subsection (a)."

(c) Technical Amendments Related to Carryover and Carryback of Credits.—

(1) Carryover of credit.—

(A) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(26) Credit under section 30.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 30, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 30 in respect to the distributor or transferor corporation."

(B) Paragraph (2) of section 383(a) is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) unused enterprise zone employment credit under section 30,".

(2) Carryback of credit.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by inserting "and any enteprise zone employment credit under section 30(b)" before the period at the end thereof.

(B) Subsection (a) of section 6411 (relating to tentative carryback and refund adjustments) is amended—

(i) by inserting "enterprise zone employment credit carryback," after "section 172(b)," in the first sentence, and

(ii) by striking so much of the second sentence as follows "the return for the taxable year" and inserting the following: "of the net operating loss, net capital loss, unused enterprise zone employment credit, or unused business credit from which the carryback results and within a period of 12 months after such taxable year (or, with respect to any portion of an enterprise zone employment credit carryback, or business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year or, with respect to any portion of a business credit carryback attributable to a research credit carryback or an enterprise zone employment credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year) in the manner and form required by regulations prescribed by the Secretary".

(C) Subsections (a)(1) and (b) of section 6411 are each amended by inserting "unused enterprise zone employment credit," after "net capital loss,".

(d) Clerical Amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30A. Credit for enterprise zone employment."

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 222. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to credits allowable), as amended by section 221, is amended by adding after section 30A the following new section:

"SEC. 30A. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) In General.—In the case of a qualified employee, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 5 percent of the qualified wages for the taxable year.

"(b) Definitions.—For purposes of this section—

"(1) Qualified employee.—the term 'qualified employee' means an individual—

"(A) who is described in section 30A(f)(1), and

"(B) who is not the employee of the Federal Government or any State or subdivision of a State.

"(2) Qualified wages.—

"(A) In general.—The term 'qualified wages' has the meaning given to 'wages' under subsection (b) of section 3306, attributable to services performed for an employer with respect to whom the employee is a qualified employee, in an amount which does not exceed 1½ times the dollar limitation specified in such subsection.

"(B) Exception.—The term 'qualified wages' does not include any compensation received from the Federal Government or any State or subdivision of a State.

"(3) Enterprise zone.—The term 'enterprise zone' means any area with respect to which a designation as an enterprise zone is in effect under section 7881.

"(c) Phaseout of Credit.—In determining the amount of the credit for the taxable year under subsection (a) with respect to qualified wages paid to qualified employees for services performed in an enterprise zone, the following percentages shall be substituted for '5 percent' in subsection (a):

"(1) 3¾ percent in the taxable year in which the date which is—

"(A) 21 years after the date on which such enterprise zone was designated under section 7881 occurs, or

"(B) if earlier, the date 4 years before the date the zone designation is to expire;

"(2) 2½ percent in the next succeeding taxable year;

"(3) 1¼ percent in the second next succeeding taxable year; and

"(4) zero thereafter.

"(d) Application With Other Credits.—The credit allowed by subsection (a) for a taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, 29, and 30, over

"(2) the tentative minimum tax for the taxable year."

(b) Conforming Amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 30 the following new item:

"Sec. 30A. Credit for enterprise zone employees."

(c) Effective Date.—The amendments made by this section shall apply to taxable years after December 31, 1989.

Part II—Credits for Investment in Tangible Property in Enterprise Zones

SEC. 223. INVESTMENT TAX CREDIT FOR NEW ENTERPRISE ZONE CONSTRUCTION PROPERTY.

(a) Section 38 Property.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out "or" at the end of subparagraph (F), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; or", and by adding after subparagraph (G) the following new subparagraph:

"(H) new enterprise zone construction property (within the meaning of subsection (t)) which is not otherwise section 38 property."

(b) Amount of Credit.—

(1) In general.—Subsection (a) of section 46 (relating to amount of investment tax credit) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) in the case of new enterprise zone construction property, the enterprise zone percentage."

(2) Enterprise zone percentage defined.—Subsection (b) of section 46 is amended by adding at the end thereof the following new paragraph:

"(5) Enterprise zone percentage.—

"(A) In general.—The enterprise zone percentage is 10 percent.

"(B) Phaseout of credit as enterprise zone ends.—Subparagraph (A) shall be applied by substituting the following percentages for 10 percent:

"(i) For the taxable year described in section 30(i)(1)(A)(i), 7.5.

"(ii) For the next succeeding taxable year, 5.

"(iii) For the second next succeeding taxable year, 2.5.

"(iv) For any subsequent taxable year, zero."

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraph:

"(4) ENTERPRISE ZONE CREDIT.—The term 'enterprise zone credit' means that portion of the credit allowed by section 38 which is attributable to the enterprise zone percentage."

(c) DEFINITIONS.—Section 48 (relating to definitions and special rules) is amended by redesignating the subsection relating to cross references as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) NEW ENTERPRISE ZONE CONSTRUCTION PROPERTY.—

"(1) IN GENERAL.—The term 'new enterprise zone construction property' means any section 1250 property which is—

"(A) located in an enterprise zone,

"(B) used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone, and

"(C) either—

"(i) the construction, reconstruction, rehabilitation, renovation, expansion, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 7881, or

"(ii) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

"(2) SPECIAL RULES.—

"(A)(i) The term 'new enterprise zone construction property' shall not include property acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (determined as of the time the property is acquired by the taxpayer).

"(ii) For purposes of clause (i), a person (hereinafter in this clause referred to as the 'related person') is related to any other person if—

"(I) the related person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or

"(II) the related person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subclause (I), '10 percent' shall be substituted for '50 percent' in applying sections 267(b)(1) and 767(b)(1). In the case of the acquisition of any property by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the determination of whether the acquiring partnership is related to the other partnership shall be made immediately before the event resulting in such termination.

"(B) In applying section 46(c)(1)(A) in the case of property described in paragraph (1)(C)(i), there shall be taken into account only that portion of the basis which is properly attributable to construction or erection during such period.

"(3) REAL ESTATE RENTAL.—For purpose of this section, ownership of residential, commercial, or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone."

(d) LODGING TO QUALIFY.—Paragraph (3) of section 48(a) (relating to property used for lodging) is amended—

(1) by striking out "and" at the end of subparagraph (C),

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and," and

"(3) by adding at the end thereof the following new subparagraph:

(E) new enterprise zone construction property."

"(e) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULES FOR NEW ENTERPRISE ZONE CONSTRUCTION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an enterprise zone credit is disposed of the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(b) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 46(a)(4) for all prior taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as the number of taxable years that the property was held by the taxpayer bears to the applicable recovery period for earnings and profits under section 312(k)."

"(f) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATION AND ENTERPRISE ZONE EXPENDITURES.—In the case of any credit determined under section 46(a) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, or

"(B) any expenditure in connection with new enterprise zone construction property (within the meaning of section 48(s)(1)),

paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d) shall be applied without regard to the phrase '50 percent of'."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1988, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986.

PART III—NONRECOGNITION OF QUALIFIED ENTERPRISE ZONE CAPITAL GAIN WHERE ACQUISITION OF ENTERPRISE ZONE BUSINESS PROPERTY

SEC. 224. NONRECOGNITION OF QUALIFIED ENTERPRISE ZONE CAPITAL GAIN WHERE ACQUISITION OF ENTERPRISE ZONE BUSINESS PROPERTY.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC 1043. NONRECOGNITION OF CAPITAL GAIN WHERE ACQUISITION OF ENTERPRISE ZONE BUSINESS PROPERTY.

"(a) NONRECOGNITION OF GAIN.—If—

"(1) any property is sold and there would (but for this section) be recognzied gain with respect to such sale,

"(2) within the 1-year period beginning on the date of such sale qualified replacement property is acquired by the taxpayer, and

"(3) the taxpayer elects the application of this section with respect to such sale,

such gain from such sale shall be recognized only to the extent that the amount realized from such sale exceeds the cost to the taxpayer of such replacement property.

"(b) QUALIFIED REPLACEMENT PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified replacement property, means—

"(A) any tangible personal property used predominantly in an enterprise zone in the active conduct of a trade or business within such enterprise zone,

"(B) any real property located in an enterprise zone used predominantly in the active conduct of a trade or business within such enterprise zone, and

"(C) any interest in a corporation, partnership, or other entity if, for the 3 most recent taxable years of such entity ending before the date of the purchase of such interest, such entity, was a qualified business.

"(2) QUALIFIED BUSINESS.—The term 'qualified business' means any person—

"(A) which is actively engaged in the conduct of a trade or business within an enterprise zone during each of the 3 most recent taxable years of such entity ending before the date of sale of the interest,

"(B) with respect to which at least 80 percent of such person's gross receipts for the taxable year are attributable to the active conduct of a trade or business within an enterprise zone, and

"(C) with substantially all of its tangible assets located within an enterprise zone.

"(3) REAL ESTATE RENTAL.—Ownership of residential, commercial, or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone.

"(c) SPECIAL RULES.—for purposes of this section—

"(1) EXCHANGE TREATED AS SALE.—An exchange by the taxpayer of property for other property shall be treated as a sale of the first property, and the acquisition of any qualified replacement property on the exchange of property shall be treated as a purchase of such replacement property.

"(2) SECTION NOT TO APPLY TO ORDINARY INCOME.—Subsection (a) shall not apply to any gain to the extent such gain is treated as ordinary income under any provision of this chapter.

"(d) REDUCTION IN BASIS.—Where the purchase of any qualified replacement property results under subsection (a) in the nonrecognition of gain on the sale of any other property, the basis of such replacement property shall be reduced by an amount equal to the amount of gain not so recognized on the sale of such other property. Where the purchase of more than 1 qualified replacement property is taken into account in the nonrecognition under subsection (a) of gain on the sale of a property, the preceding sentence shall be applied to each such replacement property in the order in which such properties are purchased.

"(e) STATUTE OF LIMITATIONS.—If the taxpayer during any taxable year sells any property at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of the 3-year period beginning on the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing any qualified replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase any such investment within the 1-year period described in subsection (a), or

"(C) the failure by the taxpayer to purchase any such replacement property within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) Holding Period.—Section 1223 (relating to holding period of property) is amended by redesignating paragraph (14) as paragraph (15) and by inserting after paragraph (13) the following new paragraph:

"(14) In determining the period for which the taxpayer has held any qualified replacement property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale or exchange or any other property, there shall be included the period for which the property sold or exchanged had been held as of the date of such sale or exchange."

(c) Basis Adjustment.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (24), by striking out the period at the end of paragraph (25) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(26) in case of any qualified replacement property the acquisition of which resulted under section 1043 in the nonrecognition of gain on the sale or exchange of other property, to the extent provided by section 1043(d)."

(d) Clerical Amendment.—The table of sections of part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1043. Nonrecognition of qualified enterprise zone capital gain where acquisition of enterprise zone business property."

(e) Effective Date.—The amendments made by this section shall apply to sales and exchanges after December 31, 1988, in taxable years ending after such date.

Part IV—Deduction for Purchase of Enterprise Stock

SEC. 225. DEDUCTION FOR PURCHASE OF ENTERPRISE STOCK.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. DEDUCTION FOR PURCHASE OF ENTERPRISE STOCK.

"(a) In General.—At the election of the taxpayer, there shall be allowed as a deduction the aggregate amount paid during the taxable year for the purchase of enterprise stock on the original issue of such stock by a qualified issuer.

"(b) Maximum Deduction.—

"(1) In General.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer for the taxable year shall not exceed $100,000.

"(2) Controlled Groups.—For purposes of paragraph (1), the taxpayer and all persons who are related persons with respect to the taxpayer shall be treated as 1 person, and the $100,000 amount in paragraph (1) shall be allocated among the taxpayer and such persons in proportion to their respective purchases of stock during the taxable year for which credit is allowable by this section.

"(3) Allocation of deduction where more than $100,000 of stock purchased.—If the amount of stock purchased by any person exceeds the limitation under this subsection with respect to such person, the deduction allowed under this section shall be allocated pro rata among the stock so purchased in accordance with the purchase price per share.

"(d) Dispositions of Stock.—

"(1) Gain treated as ordinary income.—If any enterprise stock with respect to which a deduction was allowed under this section is disposed of by the taxpayer, then the lesser of—

"(A) the excess of—

"(i)(I) in the case of a sale or exchange, the amount realized, or

"(II) in the case of any other disposition, the fair market value of the stock, over

"(ii) the adjusted basis of such stock, or

"(B) the amount of the deduction allowed under this section with respect to such stock,

shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) Interest charged if disposition within 3 years of purchase.—

"(A) In General.—If any enterprise stock is disposed of before the end of the 3-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the enterprise stock recapture amount.

"(B) Enterprise stock recapture amount.—For purposes of subparagraph (A), the term 'enterprise stock recapture amount' means an amount equal to the amount of interest (determined at the rate applicable under section 6621) which would accrue—

"(i) during the period beginning on the date such stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this section with respect to the stock so disposed of.

"(d) Treatment Where Issuer Ceases to be Qualified.—

"(1) In General.—If—

"(A) any qualified issuer with respect to the stock of which any taxpayer has made an election under this section ceases to meet the requirements of subsection (e)(2)(A)(i), (iii), or (iv), and

"(B) such cessation occurs at any time before the close of the 5th taxable year ending after the date such stock was issued,

the tax treatment described in paragraph (2) shall apply to the taxable year of the taxpayer in which such cessation occurs.

"(2) Tax treatment of taxpayer.—The tax treatment described in this paragraph for any taxable year is—

"(A) the taxpayer shall include in income as ordinary income the amount of the deduction allowed under this section with respect to such stock,

"(B) the tax imposed by this chapter for such taxable year shall be increased by an amount equal to the amount of interest (determined at the rate applicable under section 6621) which would accrue—

"(i) during the period beginning on the date such stock was purchased by the taxpayer and ending on the disqualification date,

"(ii) on the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this section with respect to the stock.

"(3) Disqualification date.—For purposes of paragraph (2), the term 'disqualification date' means the earlier of—

"(A) the date of the issuance by the qualified issuer (or any related person with respect to such issuer) of any regulated security, or

"(B) the last day of the taxable year of the qualified issuer in which the requirements of subsection (e)(2)(A)(i) or (iv) ceased to be met.

(e) Definitions.—For purposes of this section—

"(1) Enterprise stock.—The term 'enterprise stock' means common stock issued by a qualified issuer but only if the proceeds of such issue are used by such issuer in the conduct of a qualified business (as defined in section 1043(b)(3)(B)).

"(2) Qualified issuer.—

"(A) In general.—The term 'qualified issuer' means any C corporation which, at the time of issuance of the stock involved—

"(i) is conducting a qualified business described in section 1043(b)(3)(B),

"(ii) does not have a net worth (either before or immediately after the issuance of the stock involved) exceeding $2,000,000.

"(iii) has not had at any time during the 5-year testing period any outstanding regulated securities issued by such corporation, and

"(iv) has derived during the testing period more than 50 percent of its gross receipts during such period from sources other than royalties, rents (other than rents from real estate described in section 1043(b)(3)(C)), dividends, interest, annuities, and sales and exchanges of stock or securities.

"(B) Related persons taken into account in certain cases.—For the purposes of clauses (ii) and (iii) of subparagraph (A), the issuer and all persons who are related persons with respect to such issuer shall be treated as 1 person.

"(C) Testing period.—For purposes of subparagraph (A), the term 'testing period' means the period beginning on the first day of the 5th taxable year beginning before the issuance of the stock involved and ending on the date of such issuance.

"(3) Regulated securities.—The term 'regulated securities' means any security—

"(A) registered on a national exchange under section 12(b) of the Securities Exchange Act of 1934, or

"(B) registered (or required to be registered) under section 12(g) of such Act (determined without regard to section 12(g)(2) of such Act).

"(4) Related person.—A person is a related person to another person if—

"(A) such persons are treated as a single employer under subsections (a) and (b) of section 52, or

"(B) in the case of individuals, such persons are husband and wife.

(f) Special Rules—

"(1) Amount paid after close of taxable year.—An amount paid after the close of the taxable year for the purchase of enterprise stock shall be treated for purposes of subsection (a) as paid during such year if—

"(A) such amount is so paid not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof), and

"(B) the taxpayer was under a binding contract as of the close of such taxable year to purchase such stock.

"(2) Limitation on amount of deduction.—If—

"(A) any enterprise stock is issued in exchange for property, "(B) the basis of such stock in the hands of the taxpayer is determined by reference to the basis of such property, and

"(C) the adjusted basis (for determining gain) of such property immediately before the exchange exceeded its fair market value at such time, then the deduction under this section, and such adjusted basis, shall both be reduced by the excess described in subparagraph (C).

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a deduction is allowed under this section with respect to the purchase of any stock, the basis of such stock (without regard to this subsection) shall be reduced by the amount of the deduction allowed with respect to the purchase of such apply to any which is placed in service—

"(i) in connection with any qualified residential rental project (within the meaning of section 142(a)(7)), or

"(ii) as new enterprise zone construction property (within the meaning of section 48(t))."

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Paragraph 12 of section 142(a) (relating to termination of small issue exemption) is amended by adding at the end thereof the following new subparagraph:

"(D) ENTERPRISE ZONE FACILITIES.—This paragraph shall not apply to any obligation which is part of an issue substantially all of the proceeds of which are used to finance facilities within an enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7881."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1988, in taxable years ending after such date.

PART VI—ORDINARY LOSS DEDUCTION FOR SECURITIES OF ENTERPRISE ZONE BUSINESS WHICH BECOME WORTHLESS

SEC. 227. ORDINARY LOSS DEDUCTION ALLOWED FOR SECURITIES OF ENTERPRISE ZONE BUSINESS WHICH BECOME WORTHLESS.

(a) GENERAL RULE.—Subsection (g) of section 165 (relating to losses) is amended by adding at the end thereof the following new paragraph:

"(4) SECURITIES OF ENTERPRISE ZONE BUSINESS.—If any security of a qualified business (as defined in section 1043(b)) which is a capital asset becomes worthless during the taxable year—

"(A) paragraph (1) shall not apply, and

"(B) the loss resulting therefrom shall, for purposes of this subtitle, be treated as a loss from the sale or exchange, on the last day of the taxable year, of property which is not a capital asset."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to losses sustained after December 31, 1988, in taxable years ending after such date.

PART VII—INCREASE IN RESEARCH CREDIT FOR RESEARCH CONDUCTED IN ENTERPRISE ZONES

SEC. 228. INCREASE IN RESEARCH CREDIT FOR RESEARCH CONDUCTED IN ENTERPRISE ZONES.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(i) INCREASE IN CREDIT FOR RESEARCH CONDUCTED IN ENTERPRISE ZONE.—Subsection (a)(1) shall be applied by substituting '37½ percent' for '20 percent' with respect to the lesser of—

"(1) the excess described in subsection (a)(1), or

"(2) the excess which would be described in subsection (a) if only research conducted in enterprise zones were taken into account. For purpose of paragraph (2), an area shall be treated as an enterprise zone for a base period with respect to a taxable year if such area is designated as an enterprise zone for such taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988, and to base periods with respect to such taxable years.

PART VIII—SENSE OF THE CONGRESS WITH RESPECT TO TAX SIMPLIFICATION

SEC. 229. TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1954 added to, or amended by, this Act.

PART IX—REGULATIONS

SEC. 230. REGULATIONS.

The Secretary of the Treasury or his delegate shall issue such regulations as may be necessary to carry out the amendments made by this title not later than 6 months after the date of the enactment of this Act.

Subtitle C—Regulatory Flexibility

SEC. 231. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OR REGULATORY FUNCTIONS

Section 601 of title 5, United States Code, is amended by—

(1) strike out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction within the meaning of paragraphs (3), and (4), and (5) of this section, respectively; and

"(B) any qualified business; any governments which designated and approved an area which has been designated as an enterprise zone (within the meaning of section 7881 of the Internal Revenue Code of 1986) to the extent any rule pertains to the carrying out of projects, activities, or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7881 of the Internal Revenue Code of 1986); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 30(f) of such Code)."

SEC. 232. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of the government which designated and approved an area which has been designated as an enterprise zone under section 7881 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule which it has the authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to section 556 and 557 of this title."

(b) The table of sections for such chapter is amended by redesignating "Sec. 611." and "Sec. 612." and "Sec. 613.", respectively, and inserting the following new item immediately after "Sec. 610.":

"Sec. 611. Waiver or modification of agency rules in enterprise zones."

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means."

(d) Section 613 of such title, redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. 233. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within an enterprise zone designated pursuant to 7881 of the Internal Revenue Code of 1986;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation or forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary."

Subtitle D—Establishment of Foreign-Trade Zones in Enterprise Zones

SEC. 241. FOREIGN-TRADE ZONE PREFERENCES.

(a) Preference in Establishment of Foreign-Trade Zones in Revitalization Areas.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7881 of the Internal Revenue Code of 1954.

(b) Application Procedure.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes," approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone.

(c) Application Evaluation.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

TITLE III—TRADE PROVISIONS

Subtitle A—Expanded Trade Negotiating Authority

SEC. 301. NORTH AMERICAN FREE TRADE AREA.

(a) In General.—The President shall take action to initiate negotiations to obtain trade agreements with Mexico, the Caribbean Basin countries, and Canada, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade for the purpose of promoting the establishment of a North American free trade area.

(b) Reciprocal Basis.—An agreement entered into under subsection (a) shall be reciprocal and provide for mutual reductions in trade barriers to promote trade, economic growth, and employment.

(c) Bilateral or Multilateral Basis.—Agreements may be entered into under subsection (a) on a bilateral basis with any foreign country described in paragraph (1) or on a multilateral basis with all of such countries or any group of such countries.

(d) Caribbean Basin Countries.—For purposes of this section, the term "Caribbean Basin countries" means the countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

SEC. 302. ESTABLISHMENT OF EXPANDED TRADE AREAS.

(a) In General.—The President is authorized to enter into bilateral and multilateral trade agreements with foreign countries, the terms of which provide for reciprocal reductions or eliminations of tariffs and nontariff barriers and subsidies (including, but not limited to, those acts, policies, and practices identified in any report submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)) for the purpose of promoting freer and fairer trade through the establishment of expanded trade areas.

(b) Reciprocal Basis.—An agreement entered into under subsection (a) shall be structured in a manner which ensures a mutual reduction of tariff and nontariff barriers to trade on a reciprocal basis.

SEC. 303. EXPANSION OF TRADE WITH DEVELOPING COUNTRIES.

(a) In General.—The President is authorized to enter into trade agreements with any developing country, the terms of which provide, on a nonsymmetrical basis, for the reduction or elimination of tariff and nontariff barriers to trade for the purpose of establishing expanded trade areas and ultimately promoting a reciprocal reduction in barriers to trade.

(b) Gradual Reduction of Barriers.—

(1) Any agreement entered into under subsection (a) shall provide for a reduction or elimination of tariff and nontariff barriers to trade which may be gradually reduced or eliminated by the developing country over a period that does not exceed 5 years.

(2) The President is authorized to enter into an agreement under this section providing for a gradual reduction or elimination of tariff and nontariff barriers by the developing country only if he determines—

(A) that the benefits to the developing country under the agreement are justified in terms of its per capita income, economic development, and international competitive position, and

(b) that such gradual reduction is mutually advantageous.

(c) Termination and Modification of Agreements.—The President shall terminate or suspend any agreement entered into with a developing country under subsection (a) if the President determines that the developing country has failed to carry out its obligations under the trade agreement.

(d) Developing Country.—For purposes of this section, the term "developing country" means any foreign country designated as a beneficiary developing country under section 502 of the Trade Act of 1974 (19 U.S.C. 2462).

SEC. 304. URUGUAY ROUND TRADE AGREEMENT.

The President is authorized to enter into any multilateral trade agreement resulting from the Uruguay round of trade negotiations conducted under the General Agreement on Tariff and Trade.

SEC. 305. PARTIAL, RECIPROCAL TRADE AGREEMENTS.

In negotiating agreements under this title, the President is authorized to exclude from any of such agreements, on a reciprocal basis, any article if the President determines that the exclusion of such article is necessary to achieve an agreement for an expanded trade area.

SEC. 306. IMPLEMENTATON OF TRADE AGREEMENTS.

(a) Requirements.—Any trade agreement entered into under this title shall enter into force with respect to the United States if (and only if)—

(1) the President has, at least 45 days before the day on which he enters into such trade agreement, notified the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

(2) after entering into the agreement, the President transmits a document to the Congress containing a copy of the final legal text of such agreement together with—

(A) a statement of any administrative action proposed to implement such agreement,

(B) if the trade agreement is described in paragraph (3)(A), a draft of an implementing bill,

(C) an explanation of how the proposed administrative action and implementing bill, if any, change or affect existing law, and

(D) a statement of the reasons as to how the agreement serves the interests of the United States and as to why the proposed administrative action and implementing bill, if any, are required or appropriate to carry out the agreement, and

(3) either—

(A) in the case of a trade agreement that—

(i) is entered into under section 104,

(ii) requires any change in United States laws other than laws relating to tariffs or to restrictions or limitations on the importation of articles, or

(iii) is entered into with any country described in section 2(b)(2)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)(B)),

an implementing bill is enacted into law with respect to such agreement, or

(B) in the case of a trade agreement not described in subparagraph (A), a disapproval bill is not enacted into law within the 90-day period beginning on the date on which the document described in paragraph (2) is submitted to the Congress.

(b) EFFECTIVE DATE OF AGREEMENTS.—If the requirements of subsection (a) are met with respect to a trade agreement entered into under this title, the trade agreement shall enter into force with respect to the United States on—

(1) if the trade agreement is described in subsection (a)(3)(A), the date on which the implementing bill is enacted with respect to such trade agreement, or

(2) if the trade agreement is not described in subsection (a)(3)(A), the day after the close of the 90-day period described in subsection (a)(3)(B).

(c) IMPLEMENTATION AUTHORITY.—The President may, by proclamation or Executive order, reduce, modify, or eliminate—

(1) such duties, and

(2) such restrictions and limitations on the importation of articles,

as may be necessary to implement any trade agreement entered into under this section after such agreement enters into force with respect to the United States.

(d) DISAPPROVAL BILLS.—

(1) For purposes of this section, the term "disapproval bill" means a bill, the only matter after the enacting clause of which is as follows: "That the Congress disapproves of the trade agreement submitted to the Congress on   .", the blank space being filled with the appropriate date.

(2) Any disapproval bill that is introduced in the Senate or House of Representatives shall be treated as an implementing bill for purposes of subsections (d), (e), (f), and (g) of section 151 of the Trade Act of 1974 (19 U.S.C. 2191).

(e) COMPUTATION OF TIME.—Each period of time described in paragraphs (1) and (3) of subsection (a) shall be computed without regard to—

(1) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

(f) CONFORMING AMENDMENT.—Paragraph (1) of section 151(b) of the Trade Act of 1974 (19 U.S.C. 219(b)(1)) is amended by inserting "of this Act or section 106(a) of the American Trade, Growth, and Employment Promotion Act" after "section 102".

SUBTITLE B—ELIMINATION OF UNFAIR TRADE PRACTICES AND BARRIERS TO TRADE

SEC. 311. REMOVAL OF IMPEDIMENTS TO EXPANDED TRADE.

(a) IN GENERAL.—If the President determines that a foreign country consistently engages in unfair acts, policies, or practices identified in the report submitted to Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the President shall—

(1) suspend or terminate any negotiations with such foreign country that are being conducted under title I if, in his view, insufficient progress is being made in obtaining an agreement to expand trade,

(2) take actions to initiate negotiations under title I, on an expedited basis, with any other foreign country whose exports compete with the exports of such foreign country for the purposes of establishing an expanded trade area with such other foreign country, or

(3) expedite any existing negotiations under title I with any other foreign country whose exports compete with the exports of such foreign country for the purposes of establishing an expanded trade area with such other foreign country.

SEC. 312. REPORT ON BARRIERS TO TRADE EXPANSION.

(a) IN GENERAL.—Paragraph (1) of section 181(a) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1)) is amended—

(A) by striking out "Not later than the date on which the initial report is required under subsection (b)(1), the" and inserting in lieu thereof "The",

(B) by striking out "shall" and inserting in lieu thereof "shall conduct an annual study to",

(C) by striking out "and" at the end of subparagraph (A),

(D) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and

(E) by adding at the end thereof the following new subparagraphs:

"(C) identify any act, policy, or practice of a foreign country that constitutes an export subsidy;

"(D) identify acts, policies, and practices of the United States that constitute barriers to foreign imports into the United States; and

"(E) distinguish between those acts, policies, and practices identified under subparagraphs (A) and (B) which appear to be illegal impediments to trade and those that are legal impediments to trade.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)(1)) is amended by striking out "the analysis and estimate" and inserting in lieu thereof "a report on the study conducted".

SUBTITLE C—ANTI-PROTECTIONISM AND TRADE PROMOTION

SEC. 321. CONSUMER IMPACT ESTIMATES OF TRADE LEGISLATION.

(a) IN GENERAL.—The Director of the Congressional Budget Office shall prepare for each bill or joint resolution reported by any committee of the House of Representatives or the Senate (or any conference committee between the two Houses of the Congress) that may affect international trade an estimate, to the extent practicable, of—

(1) the impact such bill or joint resolution would have on United States consumers, and

(2) the costs (in the aggregate and on a per capita basis) of such bill or joint resolution to United States consumers,

and shall submit such estimate in writing to such committee.

(b) ESTIMATES TO BE INCLUDED IN REPORT.—Any estimate made under subsection (a) that is submitted by the Director of the Congressional Budget Office to a committee of the Senate or House of Representatives (or to a conference committee between the two Houses of Congress) shall be included in the report accompanying such bill or resolution.

(c) POINT OF ORDER.—Upon the objection of any Member of either House of the Congress, it shall not be in order for that House to consider any bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of subsection (b).

(d) ASSISTANCE.—Each department and agency of the Federal Government shall provide such assistance as the Director of the Congressional Budget Office may request in order to make estimates required under subsection (a).

SEC. 322. TRADE LIBERALIZATION MANDATE FOR MULTILATERAL DEVELOPMENT BANKS.

(a) LIST OF COUNTRIES.—

(1) The Secretary of the Treasury shall annually prepare a list, by country, of current loan disbursements and any loan applications that the Secretary of the Treasury determines are likely to be brought before loan review committees of multilateral development banks during the calendar year.

(2) The Secretary of the Treasury shall submit the list prepared under paragraph (1) to the United States Trade Representative.

(b) IDENTIFICATION OF COUNTRIES WHICH RESTRICT TRADE.—The United States Trade Representative, in consultation with the Secretaries of Commerce and Agriculture, shall identify those foreign countries listed by the Secretary of the Treasury under subsection (a) that take actions or maintain policies or practices that—

(1) restrict the sale of products of the United States in the markets of such foreign country, or

(2) provide the products of such foreign country an unfair economic advantage over the products of the United States in the markets of other foreign countries.

In identifying foreign countries under this subsection, the United States Trade Representative shall compare the acts, policies, and practices of such foreign country with the acts, policies, and practices of the United States.

(c) TRADE LIBERALIZATION RECOMMENDATIONS.—The Secretary of the Treasury and the United States Trade Representative shall jointly develop recommendations of trade liberalization actions for each foreign country identified under subsection (b) that remedies the actions, policies, and practices of such foreign country which are identified under subsection (b).

(d) ACTIONS.—The Secretary of the Treasury shall instruct the United States Executive Director of each of the multilateral development banks and of the International Monetary Fund to—

(1) vote against the proposed approval by the respective institution of any loan or lending decision with respect to any foreign country identified under subsection (b) that refuses to accept the trade liberalization recommendations developed under subsection (c) as a condition of the proposed loan for such foreign country, and

(2) vote against any proposed approval by the respective institution of any "tranch" or "drawing" of an approved loan with respect to any foreign country identified under subsection (b) that, in the determination of the United States Executive Director, has failed to carry out the trade liberalization recommendations developed as a condition of the loan.

(e) MULTILATERAL DEVELOPMENT BANKS.—For purposes of this section, the term "multilateral development banks" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

By Mr. FORD:

S. 2431. A bill to require the Secretary of Transportation to initiate a rulemaking procedure to enable any airport to change its location identifier assigned to such airport by the Federal Aviation Administration; to the Committee on Commerce, Science, and Transportation.

RULEMAKING PROCEDURES WITH RESPECT TO AIRPORT IDENTIFIER LOCATORS

● Mr. FORD. Mr. President, it has come to my attention that it is nearly impossible for airports to change their location identifier. The airport identifier is usually three letters which is used for airport navigational aids, on aeronautical charts, on baggage tags and freight way bills. These identifiers are considered permanent and not interchangeable. Just last week, after a long campaign, the Sioux City, IA Airport was successful in changing their airport identifier. Other airports should not suffer the same long bureaucratic process as Sioux City; therefore, I am introducing legislation today which would allow for a rulemaking for a one-time opportunity for airports to change their location identifier.

Some travelers are only aware of the identifier on the baggage tag and local officials are interested in having the location identifier somewhat reflect the community. There was an effort in the beginning to use letters associated with the name of the airport, local community, or landmark. It is helpful for economic development to promote airports and, therefore, business leaders are interested in location identifiers. Frequent travelers are very familiar with LAX, DIW, DCA, and SFO.

Due to the cost of changing identifiers, the airlines have always opposed any change. I understand that training is involved with baggage handlers, computer programming needs to be changed and aeronautical charts must reflect the changes. I agree that the cost should be considered, but I do not believe it should be impossible to change an identifier. My legislation would direct the FAA to conduct a rulemaking proceeding to enable any airport to change its location identifier. This rulemaking would parallel an open season like that used for health insurance. Airports would have one chance to change the identifier. The FAA would determine the time period and at the end of the rulemaking, a 3-year period would lapse before enactment so that the cost would be minimal to the airlines. Charts can be changed, the FAA would have adequate time to deal with the international aspects of the changes, and training of airline personnel would occur. I am aware of four communities that are interested in a change. I do not think there will be many, but I do believe airports should be given the opportunity, just once, to make changes if the FAA approves and the international ramifications are considered.

Just recently, Sioux City was allowed to change because its identifier was similar to slang with a derogatory connotation. Also, US Air will be changing from AA to USA this summer. There have been recent changes so it is only fair that other airports get the opportunity to make changes. As drafted, my bill allows ample training time and, therefore, would be less costly than the present system. All changes would be made at one time. At the end of the rulemaking, it would be understood that no more changes could be made, but I think since an airline has been granted the right to change for promotional purposes, that airports should have the same opportunity.●

By Mr. STAFFORD (by request):

S. 2432. A bill to achieve greater accountability in Federal student assistance programs, to minimize the potential for waste and abuse, and for other purposes; to the Committee on Labor and Human Resources.

STUDENT AID INTEGRITY AND ACCOUNTABILITY ACT

Mr. STAFFORD. Mr. President, I am today introducing, by request of the administration, the Department of Education's Student Aid Integrity and Accountability Amendments of 1988. Accompanying the bill is a section-by-section analysis and letter to the President of the Senate by Secretary of Education William J. Bennett, and I ask unanimous consent that these be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a proposed bill entitled the "Student Aid Integrity and Accountability Act of 1988." Also enclosed is a section-by-section analysis explaining the proposed amendments. An identical letter has been sent to the Speaker of the House.

These reforms are urgently needed in order to address a number of serious problems that threaten the integrity and viability of our student aid programs. Such problems include an alarming rate of student loan defaults, the exploitation of unqualified students by some schools, and a lack of institutional accountability for educational results in the student aid programs. These amendments would strengthen the Secretary's ability to hold individuals and institutions accountable for maintaining the integrity of these important programs. Major provisions of the proposed bill are highlighted below.

REDUCING STUDENT LOAN DEFAULTS

This year, defaults in the Guaranteed Student Loan program alone are expected to cost taxpayers $1.6 billion. Every means available must be used to reduce these defaults, which endanger the integrity and the viability of our student loan programs. The bill would remove the current statutory prohibition against use of the newly authorized National Student Loan Data System to verify compliance with eligibility rules, such as aggregate loan limits and the prohibition against student loan defaulters receiving further Federal student assistance. To deprive the Government of the ability to enforce these statutory rules in the most effective manner is a mistake. The Administration cannot justify seeking funds for the Data System until this prohibition is removed.

In order to prevent defaults by individuals who have already demonstrated their lack of credit-worthiness, lenders would be required to check the credit histories of all Perkins Loan, Income-Contingent Loan (ICL), regular Guaranteed Student Loan (GSL), Parent Loan (PLUS), and Supplemental Loan (SLS) borrowers over age 21. Lenders would be allowed to charge applicants up to $25 to cover the cost of such credit checks. Borrowers with poor credit records would be required to obtain a creditworthy co-signer. The loan access of students with little or no credit history, who would be the vast majority of applicants, would not be affected.

In order to facilitate loan collection, the bill would require a GSL, SLS, ICL, or Perkins Loan borrower to provide his or her driver's license number, and, as part of the school's exit interview, the address of his or her next-of-kin, his or her expected address and the name and address of his or her expected employer after graduation.

In order to introduce a real incentive for lender diligence in GSL collection and default prevention, the bill would reduce a lender's insurance level from 100 to 90 percent. Lenders would thus bear a small share of the financial responsibility for meeting the cost of defaults. Several Federal loan guarantee programs already include such a risk-sharing feature (e.g., FHA) as called for by OMB Circular A-70 for all such programs.

Similarly, in order to stimulate greater default prevention efforts by GSL guarantee agencies, the basic level of Federal reinsurance would be reduced from 100 to 90 percent. Reinsurance coverage would fall to 80 percent or 70 percent—in place of 90 percent or 80 percent under current law—depending on an agency's default experience. Also, in order to make these reinsurance "default trigger" provisions more effective and equitable, the statutory formula which determines an agency's reimbursement rate would be amended (1) to take into account a guarantee agency's collections on defaulted loans, and (2) to apply any reinsurance rate reduction to the next entire fiscal year—rather than applying the reduction only to the remainder of the year in which the trigger level is reached.

PREVENTING THE EXPLOITATION OF UNQUALIFIED STUDENTS

Recent studies have documetned the exploitation of unqualified students, who are often admitted through vague "ability to benefit" provisions in the statute, by some proprietary schools. These students drop out at an alarmingly high rate, frequently default on their student loans, and otherwise waste Federal grant, loan, and work assistance. In order to curtail such abuses, this bill would delete the "ability to benefit" eligibility provisions, and simply require that all student aid recipients possess a high school diploma or pass a State-approved high school equivalency test. The Higher Education Amendments of 1986 added a number of provisions intended to limit a school's authority to dispense Federal student aid to non-high school graduates admitted on the basis of "ability to benefit" judgments. however, these new requirements (e.g., "counselling" prior to admission and completion of an institutionally prescribed remedial education program before completion of the postsecondary program) are clearly prone to manipulation by schools and, in our view, will not significantly reduce the enrollment of likely dropouts and defaulters—a situation that is a disservice to the students themselves as well as the taxpayer.

PREVENTING THE ABUSE OF STUDENT AID

In order to reduce opportunities for program abuse, the bill would allow the Secretary to limit, suspend, or terminate the participation of individuals or organizations that act as agents of participating schools in administering title IV student aid programs (such as recruiting or loan collection agents, general servicers and consultants) when these agents have violated Federal law or regulations. The bill would also clarify the Secretary's authority to take a short-term emergency action to suspend the participation of a school or its agent when Federal funds are at risk.

HOLDING SCHOOLS AND COLLEGES ACCOUNTABLE FOR RESULTS

When schools and colleges benefit from and have considerable discretion over the use of campus-based Federal student aid, they should be expected to be held accountable for providing students a high quality education. This bill would tie institutional allocations for the Work-Study and Supplement Grant programs to institutional success in meeting various student outcome goals.

These outcome goals, which could include, for example, job placement rates, program completion rates and student gains on standardized academic achievement tests, would be set by the institution itself within guidelines established by regulation. Schools that meet or exceed their objectives would be eligible to receive additional funds based on relative institutional need. Schools that do not fully meet their objectives would have their allocations proportionately reduced. This policy would not affect other Federal student assistance, such as Pell Grants and Guaranteed Student Loans.

CONCLUSION

I urge the Congress to give early and favorable consideration to this important legislation. The Office of Management and Budget advises that there is no objection to the submission of this legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

William J. Bennett.

The Student Aid Integrity and Accountability Amendments of 1988—Section-by-Section Analysis

Section 2.—Section 2 of the bill would amend section 411(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq., hereinafter referred to as "the Act") to eliminate the requirement that the Department pay an institution, in advance of each payment period, at least 85 percent of the amount the institution estimates that it will need to pay eligible Pell Grant recipients. This provision, which was added by the Higher Education Amendments of 1986 (P.L. 99-498), ignores the Department's authority to place institutions posing a high risk of fund mismanagement on the "reimbursement system" of Pell Grant funding. Under the reimbursement system, an institution must document the need for Pell Grant funds after eligible students have enrolled and have started attending classes, not before. The reimbursement system thus reduces the likelihood that Pell Grant funds will be misspent. It has been an effective enforcement tool for the Department, while only minimally burdening institutions that have already been identified as presenting a greater risk.

Section 3.—Section 3 of the bill would amend section 411(c)(1) of the Act regarding the duration of a student's eligibility to receive Pell Grants. A new maximum of three academic years would be added for degree or certificate programs normally requiring two years or less. Current law permits students enrolled in programs normally requiring four years or less to receive Pell Grants for up to five academic years. Students should not be able to receive Pell Grants for numerous, successive programs of short duration. Current law essentially permits an exception for students enrolled in short educational programs to the general prohibition against providing Federal assistance to "professional students," who may not be serious about their education. A three-year maximum would still provide sufficient flexibility to students enrolled in shorter programs, but would reduce the potential for abuse of the current, overly generous, maximum duration for Pell Grant eligibility. It should be noted that if a student initially subject to the proposed three-year maximum subsequently enrolled in an educational program leading to a first baccalaureate degree, that student would then be subject to the applicable five- or six-year maximum for all Pell Grants permitted in current law.

Section 4.—Section 4 of the bill would replace the current section 411E of the Act with a new provision relating to the Secretary's regulatory authority. In place of the many restrictions on the Secretary's regulatory authority in the current law, proposed new section 411E would instead provide the Secretary with general authority to promulgate regulations to carry out the Pell Grant program. The provisions detailing the method for publishing revisions to the calculation of the expected family contribution would also be eliminated. These amendments would restore the flexibility needed to regulate the Pell Grant program, and would eliminate inappropriate intrusion into the Secretary's administrative functions.

Section 5.—Sections 5 (a) and (b) of the bill would add new subsections to sections 413D and 442 of the Act that would modify an institution's Supplemental Educational Opportunity Grant and Work-Study allocations, respectively, to reflect the institution's compliance with an "accountability plan" proposed by the institution itself, and approved by the Secretary after consultation with panels representative of the higher education community. These plans would include institutionally established outcome objectives set for the institution's students, and quantifiable measures of effectiveness in areas such as student learning, as measured by net gains on general or job-related standardized tests, job placement rates, where appropriate, and program completion rates. The Secretary would reduce the allocations of institutions that failed to achieve their goals, and any excess allocations resulting from these reductions would be allocated to schools which have met or exceeded their objectives. Such additional allocations would be made on the basis of relative institutional need, using the statutory "fair share" formula for the SEOG program, and the section 442(c) formula for the Work-Study program. These amendments are designed to improve the quality of postsecondary education by linking the receipt of Federal funds to institutional success in providing an education of demonstrable value to their students.

Section 5(c) of the bill would override the Master Calendar in section 482 of the Act by delaying the deadline by which final award notifications of allocations of campus-based funds for award year 1989-1990 must be sent by the Department to participating institutions from April 1, 1989 to June 1, 1989. This one-time override of section 482(a)(2)(I) of the Act is necessary to ensure that institutions have adequate time to prepare and submit their initial accountability plans, and that the Department has adequate time to review the initial plans before the final award notifications must be sent out.

Section 6.—Section 6 of the bill would amend Federal guarantee and reinsurance requirements under the GSL program for new loans in order to mandate that lenders under both Federal and non-Federal guarantees, and the guaranty agencies themselves, share the risk of loss for at least 10 percent of the amount of the loan guaranteed under this part. For loans made after the effective date of these provisions, direct Federal insurance or Federal reinsurance (depending on the type of loan) would cover 90 percent of the amount of the loan, and guaranty agencies would be prohibited from guaranteeing more than 90 percent of the amount of the loan, including the interest. The reinsurance coverage would fall to 80 percent, or 70 percent, depending on each guaranty agency's default experience. The manner in which a guaranty agency's reimbursement rate is determined would also be modified to take into account agency collections and to apply any reduction in the reimbursement rate to the next entire fiscal year, both of which would make the reimbursement reduction provisions more effective.

The amendments proposed in this section of the bill would provide incentives for improved agency collections, as well as expanded default prevention efforts by lenders.

Section 7.—Section 7 of the bill would amend sections 427(a)(2)(A), 428(b)(1)(N), 454(a), and 464(c)(1)(E) of the Act to require that all applicants for loans under the GSL (including Supplemental Loans for Students and PLUS loans), Income Contingent Loan (ICL), and Perkins Loan programs who are age 21 and over undergo credit checks, and that applicants who, in the judgment of the lender or institution (subject to regulatory standards prescribed by the Secretary), have negative credit histories shall be required to obtain a creditworthy co-signer in order to receive the loan. Lenders or institutions would be authorized to charge applicants up to $25 or the actual cost of obtaining the credit report, whichever is less, to defray the cost of the credit checks. Students with very little or no credit history, which would be the majority of applicants, would not be required to have a co-signer, and, consequently, their access to financial assistance and to postsecondary education, would not be limited. By requiring credit checks only of applicants who are at least age 21, this amendment would be more cost-effective than requiring credit checks of all loan applicants, because the students who are least likely to have a credit history would not have to pay for a needless credit check, and the lenders' or institutions' burden would be minimized. This amendment is targeted at only those loan applicants who have already demonstrated their lack of credit-worthiness, and would reduce defaults by requiring that a financially responsible individual, whether it is the student or the student's co-signer, stand behind the student's loan obligation. A conforming change would be made to section 428(a) of the Act as well.

Section 8.—Section 8 of the bill would amend section 484 of the Act to make three significant changes to student eligibility requirements for all of the title IV student assistance programs, as well as certain conforming changes.

Sections 8(a)(1) and (3) of the bill would amend section 484(a) of the Act to require that, in order for a student to be eligible to receive any title IV assistance, the student must have been awarded a high school diploma or its recognized equivalent (for example, the General Education Development Test, or GED), rather than merely possessing the "ability to benefit" from a postsecondary education. Recent attempts in the Higher Education Amendments of 1986 (P.L. 99-498) and the subsequent Higher Education Technical Amendments Act of 1987 (P.L. 100-50) to reduce abuse of the "ability to benefit" standard have been insufficient to prevent institutions from enrolling inadequately prepared students. Unfortunately, the academically disadvantaged students who were intended to be helped by this provision are often victimized by high-pressure and often misleading recruiting techniques that leave such persons as dropouts with student loans to repay, but no training to show for their investment, and no increased skills to help them more easily repay their loans. These individuals drop out without obtaining the training that the Federal aid was provided for, wasting Federal grant, loan and work assistance, and frequently defaulting on their student loans. This is a disservice to those students who are promised an education they are not prepared to undertake. Requiring that a student possess a high school diploma or GED in order to obtain Federal student assistance would significantly reduce this form of abuse by removing the incentive to enroll more inadequately prepared students in order to increase the Federal funds flowing to the institution. Students must have sufficient preparation before they can complete and benefit from the training offered by a postsecondary institution. It is important to note that institutions would not be precluded from enrolling students on the basis of ability to benefit, an other eligible students at the institution would still be able to receive Federal assistance. However, students admitted on the basis of "ability to benefit" would not generate Federal funds for the institution.

Section 8(a)(2) of the bill would amend section 484(c)(3)(C) of the Act to require that the institutional waiver of the satisfactory progress requirements because of undue hardship based on special circumstances, be determined in accordance with regulatory criteria developed by the Secretary. This amendment would still provide the flexibilty needed to waive the satisfactory progress requirements in legitimate circumstances of undue hardship, yet would minimize the potential for institutional abuse of discretion. Similar limitations to institutional and aid administrator discretion are proposed in section 9 of the bill.

Section 8(a)(3) of the bill would also eliminate the limitation, in section 484(f) of the Act, on the Secretary's authority to verify the accuracy of the data reported by aid applicants. The current limitation prohibits verification of the data on more than 30 percent of aid applications per institution in any award year. This is an arbitrary limitation which interferes with the Department's efforts to reduce the documented high error rate on student aid applications. The Department has spent many years developing a national, statistically valid system for identifying error-prone applications that will be seriously undermined by the 30 percent per institution limitation added by the Higher Education Technical Amendments Act of 1987 (P.L. 100-50). Up to 60 percent of the applications each year at some participating institutions now contain patterns of reported data which, historically, have proven to be erroneous. This provision of current law permits institutions to manipulate the system by delaying the processing of difficult or error-prone aid applications until after the 30 percent limitation has been reached.

Finally, the remaining provisions of section 8 of the bill would make minor numbering and conforming changes to sections 481, 484, 489, and 1201 of the Act that are necessary because of the changes proposed in this section.

Section 9.—Section 9 of the bill would amend section 485B of the Act as follows:

Section 9 (1) and (2) of the bill would amend sections 485B (a) and (b) of the Act, which list the types of information to be included in the National Student Loan Data System and the reasons for which the Secretary may approve access to such information, respectively. These amendments would add to these subsections the authority for the Secretary to require the inclusion of additional information in the system and to approve access to the system for additional uses. These amendments would provide the necessary administrative flexibility currently lacking in the system.

Section 9(3) of the bill would amend section 485B(c) of the Act by removing the prohibition against the Secretary requiring lenders, guaranty agencies, or institutions to use the Data System to verify or obtain information prior to making, guaranteeing, or certifying a loan under part B or E of title IV of the Act. The use of the system as a verification tool should be its principal use, and could save taxpayers millions of dollars annually in erroneously awarded student assistance. Additionally, this data system could reduce or eliminate the need for the duplicative collection of student financial assistance information by the Federal Government. The establishment of such an expensive data system would not be cost-effective, and the Administration proposes no funding for it, without allowing the use of the system to enforce the loan limits and the prohibitions that are in current law against providing further aid to loan defaulters.

Section 10.—Section 10 of the bill would place certain needed restraints on the exercise of discretion by student financial aid administration that are similar to changes proposed in section 8 of the bill. These amendments would also ensure a greater degree of uniformity in the treatment of similarly situated students who attend different institutions with similar costs.

Section 10(a) of the bill would amend section 411(c)(1)(C)(iii) of the Act to require that the institutional waiver of the maximum duration for Pell Grant eligibility because of undue hardship based on special circumstances be determined in accordance with regulatory criteria developed by the Secretary. This amendment would still provide the flexibility needed to waive the maximum period of Pell Grant eligibility in special circumstances, yet would minimize the potential for institutional abuse of discretion, that under current law could render the statutory maximums meaningless.

Sections 10 (b) and (c) would amend the independent student definitions in sections 411F(12) and 480(d) of the Act, respectively, to require that an aid administrator's determination that a student is independent based on unusual circumstances not described in those provisions be made in accordance with regulatory criteria prescribed by the Secretary. Again, as in similar amendments proposed elsewhere in this bill, requiring that the exercise of discretion in determining whether a student is independent be in accordance with regulatory criteria would provide sufficient flexibility to accommodate special or unusual circumstances, yet would serve as an important check on the potential for abuse of discretion by aid administrators.

Section 11.—Section 11 of the bill would require institutions and lenders to obtain additional information from borrowers under the GSL, Income Contingent Loan (ICL), or Perkins Loan programs that would make it easier to locate delinquent or defaulting borrowers. Section 11(a) of the bill would amend sections 427(a)(2), 428(a)(2), 454(a), and 464(b) of the Act, respectively, to require that the lender (or the institution) obtain the borrower's driver's license number, if any, at the time of application for a GSL, ICL, or Perkins Loan. Section 11(b) of the bill would amend section 485(b) of the Act to require institutions to obtain, during the exit interview, the borrower's expected address after graduation, the name and address of the borrower's expected employer after graduation, and the address of the borrower's next of kin. The institution would be required to forward this information to the lender in the case of a GSL borrower. This information would greatly enhance collection efforts with little increase in the administrative burden of schools and lenders.

Section 12.—Section 12 of the bill would make several needed additions to the sanctions that may be imposed for violations of the program statute and regulations, as follows:

Section 12(a) of the bill would amend section 432 of the Act to prevent a lender or a guaranty agency from avoiding liability by correcting a violation after discovery by the Department, and to clarify the authority of the Secretary to take emergency actions against lenders participating in the Guaranteed Student Loan program and the bases on which the Secretary may limit, suspend, or terminate participating lenders.

Section 12(b) of the bill would add new subparagraphs (E), (F), and (G) to section 487(c)(1) of the Act and would make these new subparagraphs. New subparagraph (E) would clarify the authority of the Secretary to take emergency actions against participating institutions in which the Secretary withholds funds from the institution and withdraws the institution's authority to obligate title IV funds for up to 30 days (or longer, if limitation, suspension, or termination proceedings are initiated) in situations where the Secretary has learned of violations by the institution and determines that immediate action is necessary to prevent the misuse of Federal funds. New subparagraph (F) would authorize the Secretary to prescribe regulations regarding the limitation, suspension, termination, or fining of individuals and private sector organizations that administer institutions' title IV student assistance programs and that violate applicable program requirements. While an institution may be held liable for the actions of its servicing agent under current law, this new authority is needed to prevent program abuse by unscrupulous servicers that move on to contract with different institutions and repeatedly violate program requirements without fear of any meaningful sanctions under the Act. New subparagraph (G) would authorize the Secretary to take emergency actions against servicing agents in a manner similar to the procedures described in new subparagraph (E).

Section 13.—Section 13 of the bill would amend section 481(d) of the bill to require an institution to measure the length of the course of study or its academic year for that course of study on a "clock hour" basis for purposes of title IV, if the course of study is licensed by the State in which it is located only on that basis. An institution whose course of study is licensed by the State in which it is located on both a clock hour and a "credit hour" basis may measure the length of a course of study or its academic year for that course of study on either basis for purposes of the student aid programs, but the State's view as to the number of credit hours constituting the course of study shall apply for purposes of the title IV programs. A number of institutions have converted the measurement of their courses of study for student aid purposes from a clock hour to a credit hour basis using highly questionable systems of equivalency. This has often had the effect of increasing the amount of Federal aid students in such programs may receive—by "converting" a six-month program (600 clock hours) to a one-year program (24 semester hours)—without any substantial change to, or lengthening of, the course of study. By relying on the licensing standards of each State, the opportunity for program abuse in this area would be significantly diminished.

Section 14.—Section 14 of the bill would add a new subsection (e) to section 433 of the Act that would require the purchaser (or transferee) of a GSL to notify the borrower, the guaranty agency, and the institution of higher education that the borrower attended, of the acquisition within 30 days of the sale or other transfer of the loan. This amendment would better enable all parties involved to keep track of the ownership of the loan, thereby eliminating confusion and reducing the potential for inadvertent defaults and erroneous reporting of the loan's repayment status.

Section 15.—Section 15 of the bill would clarify the effective date for a provision in the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-2720) (COBRA) that added an expanded statute of limitations for the collection of defaulted loans and refunds due on grants and work assistance. The House and Senate versions of COBRA both placed in language amending pertinent sections of parts B and E of title IV of the Act the identical provisions containing the limitations period applicable to the student loan programs. A new provision establishing a statue of limitations for grants was added to part F (now part G) of that title. During the conference on COBRA, all three provisions were merged into section 484A in part F of title IV. However, although both the House and Senate bills contained identical language directing that the new statute of limitation apply to "all loans, including loans made before the enactment of this Act," the conferees inadvertently omitted this language from COBRA's effective date language. This technical correction would clarify that section 484A of the Act is applicable to all student loans and work assistance, including loans and assistance made prior to the enactment of COBRA, which is fuly consistent with the Congressinal intent to enhance collection efforts by enacting the expanded statute of limitations provisions.

Section 16.—Section 16 of the bill provides the effective dates for the amendments proposed in the bill. The amendments made by sections 2, 3, 8, 10, and 13 of the bill, which relate to Pell Grant advances to institutions, duration of Pell Grant eligibility, student eligibility, aid administrator discretion, and definitions for title IV of the Act, respectively, would be effective for periods of enrollment beginning on or after July 1, 1989.

The amendments made by section 4 of the bill, which would amend the Secretary's regulatory authority under the Pell Grant program, would be effective upon enactment.

The amendments made by section 5 of the bill, which would amend the SEOG and Work-Study allocation formulas, would be effective on October 1, 1988.

The amendments made by section 6 of the bill, which would amend the Federal guarantee and reinsurance requirements for the GSL program, would be effective for regular GSLs, SLS and PLUS loans made on or after the date of enactment to cover periods of instruction beginning on or after July 1, 1988, and for Consolidation loans made on or after July 1, 1988.

The amendments made by sections 7(a), (b), and (c) of the bill, which would require credit checks for GLS borrowers, and co-signers for loan applicants over 21 with negative credit histories, and sections 12(a)(1) and (2) of the bill, which would require lenders to obtain loan applicants' driver's license numbers at the time of application for GSLs, would be effective for loans made on or after the date of enactment to cover periods of instruction beginning on or after July 1, 1988.

The amendments made by section 7(d) and (e) of the bill, which would require credit checks for ICL and Perkins Loan borrowers, and co-signers for loan applicants over 21 with negative credit histories, and sections 11(a)(3) and (4) of the bill, which would require institutions to obtain loan applicants' driver's license numbers at the time of application for ICLs or Perkins loans, would be effective for loans made on or after the date of enactment to cover periods of instruction beginning on or after July 1, 1988.

The amendments made by section 11(b) of the bill, which would require institutions to obtain additional information from borrowers during their exit interviews, section 12 of the bill, relating to limitations, suspensions, terminations, and fines, and 14 of this Act, which would require an entity that acquires a GSL to notify the borrower, the guaranty agency, and the institution, of the acquisition within 30 days would be effective 90 days after enactment.

The amendments made by section 15 of the bill, which would make a technical correction in the effective date for the COBRA provision that enacted an expanded statute of limitations for the collection of defaulted loans and refunds due on grants and work assistance, would be effective as if enacted by COBRA.

By Mr. ROCKEFELLER:

S. 2433. A bill relating to the use of certain revolving loan funds under title VI of the Federal Water Pollution Control Act, and for other purposes; to the Committee on Environment and Public Works.

CLEAN WATER ASSISTANCE ACT

● **Mr. ROCKEFELLER.** Mr. President, I rise to introduce legislation to respond to the crisis confronting many of our communities in their valiant effort to meet urgent and important goals set by the Clean Water Act.

Currently there are over 1,000 communities across the country that are not going to be in compliance with the Clean Water Act's mandate for sewage treatment by the deadline of July 1, 1988. Of these, 59 communities are in my State of West Virginia. Their noncompliance is not out of disregard for Federal laws or any lack of desire to have clean water. In most cases, they are still behind in compliance simply because they lack the financial resources to meet the clean water mandate on time.

In West Virginia, the communities that aren't able to comply have high unemployment rates, a per capita income that is less than 75 percent of the national average, and a population with a great many citizens on fixed incomes. To help alleviate the burden on communities like these, where local economic conditions hinder their ability to put sewage treatment in place in time, I am introducing this legislation to extend the Clean Water Act's deadline by 1 year—to July 1, 1989. My bill will also require the Environmental Protection Agency to change its policies that affect communities' ability to mix loan and grant funds in paying for the same clean water project. I see no reason why loans and grant funds can't be mingled to implement the law as quickly as possible.

My legislation is targeted to assist fiscally distressed communities because I believe they have a valid case in asking Congress and the EPA for more time to finish these very expensive clean water projects. They will still face the same local financial problems, but perhaps this extra time will enable States and the Congress to find additional resources to help them get the job done. My bill proposes this combination—a delayed compliance deadline and changes affecting loans and grants—to make it easier and more feasible for these communities to fulfill the intention of the Clean Water Act in the near future.

Mr. President, the funding situation for clean water projects has steadily worsened since 1982. In 1982, when I was Governor of West Virginia, a group of Governors met with President Reagan and worked out a very specific agreement. We, the Governors, agreed to accept a phaseout of Federal involvement in the Construction Grants Program. In return, the President promised to support the necessary funds for those sewer projects already planned as well as whatever other projects had to be undertaken by communities to meet the Clean Water Act's water quality standards. Instead, to our surprise and horror, the administration proceeded to seek cuts each year since 1982 in the construction program. In fact, the President's budget for fiscal year 1989 included a request for yet another major cut—this time, a 35-percent cut—in EPA's Construction Grants Program, far below the levels authorized by Congress. Our agreement was reneged on, and now we see more than a thousand communities unable to complete their projects.

Prior to 1984, the EPA Construction Grants Program provided grants on a 75-25 Federal-State matching basis for construction of secondary wastewater treatment facilities. But that has changed, too, and now EPA's Grants Program provides only 55 percent of the funds to the State. The average cost of a local treatment facility is $3 million, which therefore requires local communities to come up with almost $1.5 million for the typical project.

Local economic conditions make it impossible for some communities in West Virginia and other States to come up with their share of the match. In Bramwell, WV, for example, a community with a per capita income far below the national average, an individual household's sewer bill would average $53 per month if the community had borrowed the money necessary to come up with the required 45 percent match. Many of Bramwell's citizens—especially the elderly—simply do not have an extra $53 a month.

The effort to meet clean water standards has also been hurt by the fact that Federal programs which have historically provided assistance to the Nation's small rural communities have fallen victim to the administration's budget ax over the past 7 years. Severe cuts have been made in the Farmers Home Administration, Appalachian Regional Commission, Economic Development Administration, and the Community Development Block Grant Program. And general revenue sharing has been terminated. All of these programs were once alternative sources of funds for communities to tap into for wastewater treatment projects. These funds have disappeared.

As my colleagues know, EPA's Construction Grants Program will be completely phased out in 1990. Then communities will have to finance 100 percent of the cost of their projects. To help ease the burden, the 1987 Water Quality Act established a State revolving loan fund. Many States, including my own, had hoped to use the State revolving loan fund, administered by EPA, to help finance construction in fiscally distressed communities by using loan funds to serve as the local match for Federal grant moneys. However, according to EPA's interpretation of the 1987 amendments, communities that want to obtain grant funds are not permitted to borrow from the loan fund for the same project.

Mr. President, this policy doesn't make sense and it should be changed. As long as communities meet the criteria for obtaining a loan, they should be able to blend funds from both sources to build their wastewater treatment facilities. That is done in other areas and is a practice used by private business—mixing cash with borrowed money—to finance major capital projects.

To add further insult, in January EPA advised State governments that Federal money counted on to capitalize a permanent revolving loan fund for sewage treatment projects would be given in the form of letters of credit rather than cash to minimize the outlay burden on the budget. This may sound like nothing but fiscal semantics, but it is a major problem. It will stifle many States' plans to raise substantial amounts of money that they need to comply with the Clean Water Act's important but strict water quality standards. That is because it is not clear whether letters of credit, as opposed to cash, can be used by State and local governments to issue tax-exempt bonds for their sewage projects.

I was pleased to learn that the Internal Revenue Service determined on April 21 that EPA's payment approach under the new State Revolving Fund Program for sewage plant construction does not affect the tax-exempt status of State and local bonds. It is my understanding, however, that this determination has not been completely well received by the financial community. In fact, despite IRS's ruling, many State and local bond counsels are still advising their clients against issuing bonds backed by letters of credit. Tax-exempt bonds are the only way many communities have any hope of financing wastewater treatment projects. According to the National League of Cities, EPA's decision to use a letter of credit system—unless IRS's ruling takes hold—will double the cost of the construction of the remaining secondary treatment systems.

Mr. President, cleaning up the Nation's water is a top priority, but we must not ignore the special problems that exist for small rural communities that are fiscally distressed. I urge my colleagues to review my legislation and consider its purpose—to provide additional tools that will enable our most financially strapped cities and towns to put wastewater treatment systems in place and live up to the Nation's goal of clean water as soon as possible. I strongly support the Clean Water Act and this specific mandate. But I also believe Congress must step in and recognize the obstacles that are before so many of our communities. We should respond with constructive, targeted help to overcome these problems and ensure clean water for all of our citizens. I sincerely hope that we will agree on the need to take action and enact the changes I suggest and others as quickly as possible.●

By Mr. CHILES (for himself and Mr. Graham):

S. 2434. A bill to designate Building No. 31, National Institutes of Health reservation, 9000 Rockville Pike, Bethesda, MD, as "The Claude Denson Pepper Building;" to the Committee on Environment and Public Works.

CLAUDE DENSON PEPPER BUILDING

● Mr. CHILES. Mr. President, today I am introducing a bill, for myself and Senator Graham, in tribute to one of our most distinguished colleagues in the House of Representatives, Claude Denson Pepper.

I ask unanimous consent that the bill be printed in the Record at the end of my statement.

Congressman Mr. Pepper has been serving the people of Florida in the U.S. House of Representatives for 26 years now. He also served them in this body for 14 years.

When people think of Claude Pepper they usually think of him in his role as champion of the elderly. There is no doubt that he is that. However, those of us who know him well and have worked with him know him as that and much more.

Since 1983, Mr. Pepper has chaired the House Rules Committee, the powerful body which determines how legislation is considered on the floor of the House, and since 1975 he has chaired the House Aging Committee's Subcommittee on Health and Long-Term Care. Mr. Pepper headed the full Committee on Aging between 1977 and 1982—in the minds of many, this is the period during which gerontology and aging became public issues for the first time and senior citizens began recognizing the potential political power they now command. During his tenure as chairman of the House Aging Committee, Mr. PEPPER conducted landmark investigations into fraud against the elderly, elder abuse in nursing homes and in the home, age discrimination, Medicare/Medicaid fraud, and the need for health care reform, to name a few.

Mr. PEPPER also has been a member of the House Democratic Steering and Policy Committee since 1983, and has been the conscience of that group on aging issues, informing key party leaders about the special needs of seniors. He also has advised the Democratic National Committee on Senior Affairs, officially and unofficially, over the past two decades and, in 1983, in conjunction with that organization, put together his own grassroots lobby, "Pepper's People," to inform seniors around the Nation about issues of interest to them.

Mr. PEPPER, considered by members of both parties the voice of senior citizens, was also appointed to the bipartisan National Social Security Reform Commission, which, with its report and resulting legislation, enacted changes that ensured the financial solvency of that program in 1983. He has tirelessly campaigned to ensure that benefits are not capriciously cut by Government action and he has kept a watchful eye to see that the Social Security trust funds are not borrowed from for other Government functions.

Still committed to doing all he can for the elderly of America, Mr. PEPPER is an active participant in conferences and forums that intend to educate and influence elderly people or their advocates. He has a crowded schedule of appearances before trade associations, again to inform them of the needs of senior citizens and to let them know what they can do to improve the quality of life for our elderly.

Mr. PEPPER has shown a continued commitment to the elderly consumer during his tenure on Capitol Hill. He succeeded at initiating reduced airline and rail fare for the elderly in 1977. And, he sponsored the Mail Order Consumer Protection Amendments of 1983, which strengthened the authority of the U.S. Postal Service to crack down on mail fraud.

In 1980, he held hearings and introduced legislation which became law, establishing Federal standards for "Medigap" insurance policies, which pay for medical expenses not covered under Medicare. Not convinced that the Medigap enforcement efforts have been carried out adequately, Mr. PEPPER asked his Subcommittee on Health and Long-Term Care to conduct followup hearings in 1986, at which time flagrant abuses were again reported. He is currently working on additional ways of protecting older Americans from unscrupulous salespersons and from their being offered worthless insurance policies of all types.

In 1980, Mr. PEPPER started a syndicated column entitled, "Ask Claude Pepper," in which he responded to questions posed by seniors around the country. Many of his columns fill the pages of a recently published book by the same title.

PEPPER was one of the principle sponsors of the Older American Act (1965), which created the Administration on Aging under the Department of Health and Human Services and a network of Area Agencies on Aging nationwide to serve as central clearinghouses for services to the elderly. The program also provide funding for several thousand meals every day to senior citizens and this congregate meal program was specifically created by Mr. PEPPER's legislation.

And, ever an innovator, Congressman PEPPER is currently at work to expand the Medicare Program to include long-term home care with his bill, H.R. 3436, the Medicare Long-Term Home Care Catastrophic Protection Act.

CLAUDE PEPPER, who coined the term "elder abuse" and held the first congressional hearings on that subject in May 1987, succeeded at including an amendment to the Older Americans Act, which he also helped pass in 1965, mandating the designation of one program in each State to deal with elder abuse victims, and to lead efforts at education and prevention. He is also working for passage of his bill to improve Federal standards in nursing homes, by toughening inspections, increasing penalties, and devoting money and staff to ferreting out patient abuse and neglect.

Congressman PEPPER does not let the results of his investigations go to seed. As a result of his investigation into fraudulent medical degrees, he is working to pass legislation making it a crime for a doctor or resident in a Medicare or Medicaid facility to use credentials which have been procured by illegal means. And, ever interested in aiding elderly consumers, he is also working on legislation to increase the penalties for mail fraud, the method by which older persons are frequently swindled. The penalties, not at all commensurate with this serious crime, were last changed in 1909.

CLAUDE PEPPER's excellence and accomplishments have been recognized by numerous other groups. He received the prestigious Lasker Award for Public Service in 1967. He has received highest honors from the National Retired Teachers, AFL-CIO, National Council on the Aging, Western Gerontological Association—now Gerontological Society of America—Fraternal Order of Eagles, Florida Council on Aging, National Association of Home Care, and University of Alabama, to name a few. He also holds honorary degrees from 11 colleges and universities around the United States and Canada.

CLAUDE PEPPER is a man with a rich past but he is a man who considers the future much more important. Therefore, his potential for future achievement in the field of aging is considerable.

Although it was in his role as chairman of the House Aging Committee that he first achieved national recognition for his work in aging issues, CLAUDE PEPPER's career has always reflected an interest in the elderly, especially their health care needs. In 1937, the year he was appointed to the Senate Committee on Labor and Public Welfare, he became a prime cosponsor of legislation creating the first of the National Institutes of Health, the National Cancer Institute. This single institute with a budget of roughly $500,000 its first year laid the groundwork for a system of 12 National Institutes—11 of which were either sponsored or cosponsored by Mr. PEPPER—which are considered today the flagship of such national research institutions around the world.

During World War II, Senator PEPPER chaired the Senate Subcommittee on Wartime Health and Education which not only played a leading role in adding additional institutes—PEPPER was the chief Senate sponsor of legislation creating the National Institute of Mental Health in 1946, the National Heart Institute in 1948, the National Institute of Neurological Diseases and Blindness, and the National Institute of Arthritis and Metabolic Diseases in 1950—but also held landmark hearings in 1944 on the extent of illness in this country.

Mr. PEPPER's vision is reflected in the fact that, when his subcommittee held hearings in 1944 on the state of medical research in this country, the NIH was spending only $2.4 million a year in research and training programs, for all disease categories. He spurred legislation increasing the Government's commitment for research at the National Institutes. He has been a strong supporter of funding ever since and, in 1986, witnessed passage of his bill to establish a separate National Arthritis Institute.

Decades later, recognizing the benefits of bringing together experts in the study of cancer and the aging, Mr. PEPPER worked with the National Institute on Aging and the National Cancer Institute to bring about the First International Symposium on Cancer and Aging, held in Washington in 1981. This session, which brought together leading experts and Nobel Prize winners from both disciplines, has led to a continuation of discussions between the cancer and aging communities.

Although it was he who introduced legislation creating 5 of the National Institutes of Health, and he was a cosponsor of 11 of the 12 Institutes of Health, he recently proposed the creation of a separate National Institute of Deafness and Communications Disorders, in part because of the high percentage of senior citizens with hearing problems.

Always a strong backer of research funding for the Institutes, Congressman Pepper has recently become involved with one pursuit which has implications for all of the categorical institutes—biotechnology. He has introduced legislation in the 100th Congress to establish a National Center for Biotechnology Information within the National Library of Medicine. In biotechnology, the study of the genes and their relation to disease, Mr. Pepper feels that major breakthroughs in diagnosis, treatment and cure of such illnesses as Alzheimer's disease, Parkinson's disease, cancer, and heart disease may be possible. He has proposed the national center so that the extensive and unwieldy information on genetic material, which is currently fragmented and divided among a variety of databases nationwide, can be organized and disseminated, thus speeding the progress of research and treatment.

Another innovation was the first National Conference on Mental Health and the Elderly, which resulted from a Mr. Pepper initiative and was held in 1979 with First Lady Rosalynn Carter as honorary chair. In 1980, he organized the World Assembly on Aging in Vienna, Austria, in conjunction with the United Nations. This meeting, the first of its kind, drew together experts on aging from around the world to share views on the state of the elderly and possible policy changes to benefit them.

Congressman Pepper conducted the first congressional hearings on Alzheimer's disease in 1983, and the last Congress passed his bill establishing 10 demonstration projects throughout the United States for the research and treatment of Alzheimer's disease. However, recognizing the weightiness of this illness, currently the fourth leading killer of adults, he has in the 100th Congress introduced legislation for the creation of 10 additional Alzheimer's disease treatment centers.

Today, at the age of 87, many would argue Claude Pepper is only now nearing the peak of his considerable powers and abilities. In his service with the U.S. Senate—1936-51—and the U.S. Congress—1962 to present—he has molded a career characterized by excellence, creativity, and innovation. Official recognition of his tireless efforts on behalf of the elderly and in the health care and research fields is long overdue.

Therefore, I believe it is very appropriate that we designate the NIH Building named in my bill which houses facilities for the National Institute on Aging, the National Cancer Institute, and most of the other 10 National Institutes of Health as "The Claude Denson Pepper Building." I hope that my colleagues will join me in this tribute to his fine past and future service.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2434

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING

The consolidated office building numbered 31, located on the National Institutes of Health reservation, 9000 Rockville Pike, Bethesda, Maryland, which houses facilities for the National Institute on Aging and the National Cancer Institute, along with elements of many other of the National Institutes of Health, shall be known and is designated as "The Claude Denson Pepper Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to "The Claude Denson Pepper Building". ●

By Mr. MOYNIHAN:

S.J. Res. 326. Joint resolution designating June 12 through 18, 1988, as "Lyme Disease Awareness Week;" to the Committee on the Judiciary.

LYME DISEASE AWARENESS WEEK

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a joint resolution designating June 12 through June 18, 1988 as "Lyme Disease Awareness Week." This resolution was introduced in the House of Representatives on May 13 by Congressman DioGuardi.

Although Lyme disease was first officially reported just 13 years ago in Lyme, CT—thus its curious appellation—it has fast become the most common tick-borne disease in the United States. If treated early, the disease can be easily cured by antibiotic therapy; however, early diagnosis is often thwarted by Lyme disease's pernicious resemblance to the flu and other, much less dangerous ailments. Indeed, without early treatment, a victim of Lyme disease can expect meningitis, heart disease, encephalitis, facial paralysis or even, albeit in rare cases, death.

The Center for Disease Control [CDC] has reported 6,000 cases of Lyme disease in the last 6 years; however, the CDC indicates that because the existence of the disease is not widely known, there have been many more cases which have gone unreported, undiagnosed, and worse, untreated.

It is my hope that by dedicating a week in June to Lyme disease awareness, we will be able to effectively curtail the number of untreated cases. I urge my colleagues to join me in support of this resolution.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the Record at this point.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 326

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that—

Whereas Lyme disease is spread by the tick species Ixodes Dammini by means of the bacterium Burrelia Burgdorferi;

Whereas these ticks are no larger than the head of a pin;

Whereas these ticks can be carried by domestic animals such as cats, dogs, and horses;

Whereas these ticks can be transferred from domestic animals to humans;

Whereas Lyme disease started in southeastern Connecticut and has spread to 32 States;

Whereas the Center for Disease Control has reported 6,000 cases of Lyme disease since 1982;

Whereas Lyme disease is easily treated in its early stages by an oral vaccine administered by a physician (penicillin and erythromycin for young children and tetracycline for persons allergic to penicillin);

Whereas the early symptoms of Lyme disease are a rash, mild headaches, a slight fever, and swollen glands;

Whereas Lyme disease often mocks rheumatoid arthritis and heart disease;

Whereas if left untreated, Lyme disease can cause severe depression, brain disorders, and even death;

Whereas the best cure for Lyme disease is prevention;

Whereas prevention of Lyme disease depends upon public awareness; and

Whereas education is essential to making the general public and health care professionals more knowledgeable of Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That June 12 through 18, 1988, is designated as "Lyme Disease Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.●

By Mr. GLENN (for himself, Mr. Bentsen, Mr. Boschwitz, Mr. Cochran, Mr. DeConcini, Mr. Dole, Mr. Graham, Mr. Gramm, Mr. Hatch, Mr. Heflin, Mr. Hollings, Mr. Inouye, Mr. Lugar, Mr. Matsunaga, Mr. McCain, Mr. McClure, Ms. Mikulski, Mr. Murkowski, Mr. Shelby, and Mr. Stennis):

S.J. Res. 327. Joint resolution commemorating January 28, 1989, as a "National Day of Excellence" in honor of the crew of the space shuttle *Chal-*

lenger, to the Committee on the Judiciary.

NATIONAL DAY OF EXCELLENCE IN HONOR OF THE CREW OF THE SPACE SHUTTLE "CHALLENGER"

● Mr. GLENN. Mr. President, on behalf of myself and 19 of my colleagues I rise to introduce a joint resolution designating January 28, 1989, as the "National Day of Excellence."

It has been over 2 years since the tragic loss of the space shuttle *Challenger* and the seven brave Americans aboard, on January 28, 1986. It has been a time of pain, and sorrow, and the frustration of many hopes and dreams, not only of the astronauts and their families, but also of the American people. It has also been a time of rebirth, a time in which a nation decided to forge ahead with its dreams, a time which has seen more than the mere continuation of the old dream, but a commitment to a new one.

This third annual observation asks Americans to pay tribute to the crew of the space shuttle *Challenger* by striving for excellence in all their activities on the anniversary of the accident. January 28, 1989, provides an opportunity to forge a positive event out of a national tragedy. This day should be a day when Americans rededicate themselves to the pursuit of excellence exemplified by the *Challenger* crew who gave their lives while striving for excellence.

This commemoration of the *Challenger* and her crew is not intended to be just another holiday, nor simply a once-a-year observation of a tragic event. January 28, 1989, will be a day when all Americans can share and embrace the goals and ideals of the *Challenger* crew, and I urge my colleagues to join me in supporting the 1989 National Day of Excellence dedicated to the ideals represented by the *Challenger* crew. I ask unanimous consent the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 327

Whereas on January 29, 1986, the seven crew members of the space shuttle Challenger, Commander Francis R. Scobee, Pilot Michael J. Smith, Mission Specialist Ellison S. Onizuka, Mission Specialist Ronald E. McNair, Mission Specialist Judith Resnik, Payload Specialist Gregory B. Jarvis, Teacher-Observer S. Christa McAuliffe, were killed in a tragic explosion shortly after liftoff;

Whereas each of the crew members of the Challenger was a true American hero who represented the best and the brightest that our Nation has to offer;

Whereas the crew of the Challenger gave their lives while striving for an excellence of technology, of goal, and of personal achievement which fills all Americans with a sense of pride in their fellow human beings and countrymen;

Whereas the most appropriate tribute we could pay the crew of the Challenger is a national day when Americans would dedicate themselves in all their endeavors to the pursuit of excellence which makes our country great;

Whereas the American spirit is most responsive to a living tribute in which all citizens can participate and be enriched by such participation; and

Whereas this is a day for which our national character cries out: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1989, is designated as a "National Day of Excellence". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day—

(1) by resolving that in the course of their regular activities they will pursue the spirit of excellence represented by the crew of the space shuttle Challenger; and

(2) with appropriate ceremonies and activities.●

By Mr. WEICKER:

S.J. Res. 328. Joint resolution to designate the day of September 14, 1988, as "National Medical Research Day;" referred to the Committee on the Judiciary.

NATIONAL MEDICAL RESEARCH DAY

● Mr. WEICKER. Mr. President, today I am pleased to introduce a joint resolution designating September 14, 1988 as "National Medical Research Day." I do so to pay special tribute to those people who, through their research efforts, have dedicated their lives to making good health an appropriate expectation of every American. This joint resolution also stands as a testament to America's premier place in promoting health and preventing disease.

The accomplishments of this Nation's medical researchers are too numerous to state here. The lives saved through ongoing endeavors to develop therapies for cancer, heart disease, genetic defects, rare disorders such as multiple sclerosis, and other life-threatening diseases including AIDS cannot begin to be counted. The benefits of this research not only reach the teenager in this Nation who is cured of Hodgkins disease, but also the child in a Third World country who will never fear the paralysis of polio. Our achievements in medicine and pharmacology are a source of national pride and international hope.

Mr. President, I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 328

Whereas America's medical research enterprise has been, and will continue to be, the acknowledged world leader in promoting health and preventing disease and disability;

Whereas medical research (defined for purposes of this Joint Resolution as biomedical, behavioral, and related research) continuously contributes to the discovery of new knowledge that will lead to the improved health and well-being of Americans and of all humankind;

Whereas America's medical research enterprise continues to pioneer breakthroughs in the detection and treatment of diseases and promote the widespread application of these methods and technologies to medical practice;

Whereas medical research has significantly contributed to bringing America's death rate to an all-time low and its life expectancy rates to all-time highs;

Whereas America's medical research enterprise has contributed enormously to the control and virtual worldwide eradication of epidemic diseases such as cholera, smallpox, yellow fever, and bubonic plague, and the prevention in this country of childhood diseases such as diptheria, polio, tetanus, and pertussis;

Whereas medical research has successfully produced effective vaccines now widely used to combat measles, mumps, rubella, meningitis, pneumonia, influenza, rabies, upper respiratory diseases, and hepatitis B;

Whereas America's financial investment in medical research has consistently been rewarded with positive returns as measured by reduced morbidity, and improved individual productivity and health status;

Whereas the products and by-products of medical research contribute significantly to the health of America's overall economy and its ability to compete successfully in international commerce and trade;

Whereas medical research in this country has fostered a productive and ongoing positive public and private sector partnership among government, academia, industry, and voluntary organizations in the pursuit of research excellence and discovery;

Whereas the Congress of the United States has consistently demonstrated a Federal financial commitment to maintaining America's preeminence in medical reseach through support of such agencies as the National Institutes of Health, the Alcohol, Drug Abuse and Mental Health Administration, the Centers for Disease Control, and the Veterans' Administration;

Whereas 1987 was formally recognized by the Congress and the President of the United States as the National Institutes of Health centennial year, commemorating 100 years of Federal support for medical research;

Whereas America's medical research enterprise has produced 85 internationally respected Nobel laureates in physiology, medicine, and chemistry and must continue to foster the interest and training of young scientists, medical practitioners, and other health professionals in research careers, as well as ensure the adequacy of the settings within which they will work;

Whereas America's medical researchers are working at the forefront of biomedical technologies which create exciting new medical research opportunities that hold the best hope for unraveling the mysteries of cancer, AIDS, Alzheimer's disease, arthritis, epilepsy, diabetes, multiple sclerosis, heart and lung diseases, mental illness, and the many other diseases and disorders which claim or severely impair the lives of millions of Americans; and

Whereas the Congress of the United States acknowledges with pride the many accomplishments of America's medical research enterprise and confidently looks to it for continued progress in relieving human suffering and conquering the diseases and disorders that afflict the people of this country: Now, therefore, be it:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the day of September 14, 1988, is designated as "National Medical Research Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate cremonies and activities.●

ADDITIONAL COSPONSORS

S. 708

At the request of Mr. PROXMIRE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

S. 1586

At the request of Mr. KERRY, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1586, a bill to provide financial assistance under the Education of the Handicapped Act to assist severely handicapped infants, children, and youth to improve their educational opportunities through the use of assistive device resource centers, and for other purposes.

S. 1652

At the request of Mr. BENTSEN, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1652, a bill to authorize the establishment by the Secretary of Agriculture of plant stress and water conservation research laboratory and program at Lubbock, TX.

S. 1804

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1804, a bill to amend the National Wildlife Refuge Administration Act.

S. 2013

At the request of Mr. SHELBY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2013, a bill to prevent distortions in the reapportionment of the House of Representatives caused by the use of census population figures which include illegal aliens.

S. 2042

At the request of Mr. DURENBERGER, the names of the Senator from Idaho [Mr. SYMMS] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2066

At the request of Mr. ROTH, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 2066, a bill relating to the ocean dumping of municipal sludge.

S. 2099

At the request of Mr. LEVIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2099, a bill to amend the Internal Revenue Code of 1986 to permit taxpayers to elect to pay tax shown on return in installments and to authorize the Secretary to enter into installments agreements.

S. 2180

At the request of Mr. METZENBAUM, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2180, a bill to amend chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale, or possession of firearms, not detectable by metal detection and x-ray systems.

At the request of Mr. WILSON, his name was added as a cosponsor of S. 2180, supra.

S. 2345

At the request of Mr. WEICKER, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2345, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of handicap.

S. 2427

At the request of Mr. PRESSLER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2427, a bill to require the Secretary of the Treasury to mint coins in commemoration of the golden anniversary of the Mount Rushmore National Memorial.

SENATE JOINT RESOLUTION 149

At the request of Mr. HELMS, the names of the Senator from Mississippi [Mr. STENNIS], the Senator from Ohio [Mr. GLENN], the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. EXON], the Senator from Florida [Mr. CHILES], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of Senate Joint Resolution 149, a joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 169

At the request of Mr. MOYNIHAN, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Colorado [Mr. WIRTH], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 169, a joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi.

SENATE JOINT RESOLUTION 294

At the request of Mr. TRIBLE, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Arizona [Mr. MCCAIN], the Senator from Mississippi [Mr. STENNIS], the Senator from Arizona [Mr. DECONCINI], the Senator from Nevada [Mr. HECHT], the Senator from New York [Mr. D'AMATO], the Senator from North Dakota [Mr. BURDICK], the Senator from New Mexico [Mr. DOMENICI], the Senator from Arkansas [Mr. PRYOR], the Senator from North Carolina [Mr. SANFORD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Maine [Mr. MITCHELL], the Senator from Michigan [Mr. RIEGLE], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 294, a joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 295

At the request of Mr. DECONCINI, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Tennessee [Mr. GORE], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 295, a joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 312

At the request of Mr. D'AMATO, the names of the Senator from Mississippi [Mr. STENNIS], the Senator from Ohio [Mr. METZENBAUM], the Senator from Florida [Mr. GRAHAM], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 312, a joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 316

At the request of Mr. SASSER, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 316, a joint resolution designating October 1, 1988, as "National Quality First Day."

SENATE JOINT RESOLUTION 318

At the request of Mr. ARMSTRONG, the names of the Senator from Utah [Mr. GARN] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 318, a joint resolution to designate the week of July 25-31, 1988, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War."

SENATE JOINT RESOLUTION 319

At the request of Mr. LEAHY, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Mississippi [Mr. COCHRAN], the Senator from Vermont [Mr.

Stafford], the Senator from Hawaii [Mr. Inouye], the Senator from Nevada [Mr. Reid], the Senator from West Virginia [Mr. Rockefeller], and the Senator from North Carolina [Mr. Sanford] were added as cosponsors of Senate Joint Resolution 319, a joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week."

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. Sanford, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of Senate Concurrent Resolution 63, concurrent resolution expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DeConcini, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of Senate Concurrent Resolution 103, concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

AMENDMENT NO. 2104

At the request of Mr. Hollings, the names of the Senator from Wyoming [Mr. Wallop], the Senator from Indiana [Mr. Quayle], and the Senator from Idaho [Mr. Symms] were added as cosponsors of amendment No. 2104 intended to be proposed to Treaty No. 100-11, the treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, together with the Memorandum of Understanding and two protocols, signed at Washington on December 8, 1987.

AMENDMENT NO. 2114

At the request of Mr. Symms, his name was added as a cosponsor of amendment No. 2114 intended to be proposed to Treaty No. 100-11, the treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, together with the Memorandum of Understanding and two protocols, signed at Washington on December 8, 1987.

AMENDMENT NO. 2122

At the request of Mr. Grassley, the names of the Senator from Kansas [Mr. Dole] and the Senator from Idaho [Mr. Symms] were added as cosponsors of amendment No. 2122 intended to be proposed to Treaty No. 100-11, the treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, together with the Memorandum of Understanding and two protocols, signed at Washington on December 8, 1987.

At the request of Mr. Murkowski, his name was added as a cosponsor of amendment No. 2122 intended to be proposed to Treaty No. 100-11, supra.

At the request of Mr. DeConcini, the names of the Senator from Nebraska [Mr. Exon], the Senator from South Carolina [Mr. Thurmond], the Senator from Michigan [Mr. Levin], the Senator from Montana [Mr. Melcher], the Senator from Illinois [Mr. Simon], and the Senator from Tennessee [Mr. Gore] were added as cosponsors of amendment No. 2122 intended to be proposed to Treaty No. 100-11, supra.

At his own request, the name of the Senator from Idaho [Mr. McClure] was added as a cosponsor of amendment No. 2122 intended to be proposed to Treaty No. 100-11, supra.

SENATE CONCURRENT RESOLUTION 121—COMMEMORATING THE 50TH ANNIVERSARY OF THE JAVITS-WAGNER-O'DAY ACT

Mr. HARKIN (for himself, Mr. Weicker, Mr. Metzenbaum, Mr. Kennedy, Mr. Hatch, Mr. Simon, Mr. Stafford, Mr. Adams, Mr. Cochran, Mr. Dodd, Mr. Pell, Mr. Matsunaga, Ms. Mikulski, Mr. Chiles, Mr. Thurmond, Mr. Dole, Mr. D'Amato, Mr. Cranston, Mr. Moynihan, Mr. Shelby, Mr. McCain, Mr. Durenberger, Mr. Ford, Mr. McClure, Mr. Boren, Mr. Daschle, Mr. Trible, Mr. Bond, Mr. Packwood, Mr. Pressler, Mr. DeConcini, Mr. Hollings, Mr. Conrad, Mr. Mitchell, Mr. Nunn, Mr. Riegle, Mr. Warner, Mr. Wilson, Mr. Kasten, Mr. Lautenberg, Mr. Bumpers, Mr. Bentsen, Mr. Roth, Mr. Johnston, Mr. Graham, Mr. Boschwitz, Mr. Danforth, Mr. Kerry, Mr. Stennis, Mr. Inouye, Mr. Murkowski, and Mr. Heflin) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary.

S. Con. Res. 121

Whereas June 25, 1988, is the 50th anniversary of the enactment of the Act commonly known as the Javits-Wagner-O'Day Act, formerly known as the Wagner-O'Day Act (52 Stat. 1196);

Whereas under the Javits-Wagner-O'Day Act, workshops currently provide employment in jobs of direct labor and ancillary support services throughout the United States to more than 4,500 blind and multi-handicapped blind employees and vocational rehabilitation clients at 92 workshops and to over 11,000 persons with other severe handicaps at 254 workshops;

Whereas the Javits-Wagner-O'Day Act provides blind and severely handicapped individuals, and the workshops in which they work, with an opportunity to demonstrate their ability to provide quality commodities and services for purchase by the Federal government;

Whereas the Javits-Wagner-O'Day Act provides an opportunity for persons who are blind or who have other severe disabilities to demonstrate their capability to lead productive and independent lives;

Whereas under the Javits-Wagner-O'Day Act workshops should, whenever feasible, continue to place their blind and other severely handicapped employees and vocational rehabilitation clients in competitive employment or in training for competitive employment and maintain an ongoing program to assist those employees and vocational rehabilitation clients who are capable of normal competitive employment to obtain jobs in the competitive labor market;

Whereas in addition to hiring persons for direct labor jobs, workshops in the Javits-Wagner-O'Day program should continue and expand their efforts to serve as models of affirmative action by hiring qualified blind and severely handicapped persons for all positions in the work force for which they are qualified, including management and supervisory positions;

Whereas the Committee for Purchase from the Blind and Other Severely Handicapped and any central nonprofit agency or agencies designated by the Committee under the Javits-Wagner-O'Day Act should also continue and expand their efforts to serve as models of affirmative action in hiring qualified blind and severely handicapped persons for all positions, including management and supervisory positions;

Whereas the Congress reaffirms its support for the continuation and expansion of the Javits-Wagner-O'Day Act to provide improved work opportunities for blind and severely handicapped employees and vocational rehabilitation clients in all workshops: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President of the United States is requested to issue a proclamation commemorating the 50th anniversary of the Javits-Wagner-O'Day Act, which occurs on June 25, 1988, and calling upon the people of the United States to observe the anniversary with appropriate ceremonies and activities designed to reaffirm the Act's historical objectives of providing opportunities for productivity and upward mobility to blind and severely handicapped employees.

● Mr. HARKIN. Mr. President, I am pleased to introduce today, along with 51 colleagues, a concurrent resolution commemorating the 50th anniversary of the Javits-Wagner-O'Day Act. Originally enacted as the Wagner-O'Day Act on June 25, 1938, the law was designed primarily to provide employment opportunities for blind workers in a sheltered work environment. It directed agencies of the Federal Government to purchase, under specified conditions, products from workshops employing blind people.

In 1971, the Javits amendment expanded the program and extended Federal contracting opportunities to workshops employing persons with severe disabilities other than blindness. To implement provisions of the act, it also established a Federal agency, the Committee for Purchase from the Blind and Other Severely Handicapped. As a tribute to former Senator Jacob K. Javits of New York, the law has become known as the Javits-Wagner-O'Day [JWOD] Act.

Today, the program provides employment to over 16,000 blind persons and other severely handicapped persons. Over 4,500 of these individuals are employed on JWOD contracts in workshops for the blind. About 50 percent of these blind employees also have a secondary disability. Mental retardation, severe hearing loss, and diabetes are the most common secondary disabilities for individuals employed on JWOD contracts in workshops for the blind. Approximately 13 percent of the individuals employed in workshops for the blind also have two or more significant disabilities in addition to blindness.

Workshops for the other severely handicapped employ over 11,000 individuals with severe disabilities—other than blindness—on JWOD contracts. Approximately 80 percent are severely mentally retarded. Others are seriously mentally ill. Some have cerebral palsy, autism, seizure disorders, or other types of disabilities. Many have combinations of these disabilities.

Workshops perform a wide variety of contract work to the Federal Government. One workshop in Maryland has a JWOD contract to reproduce microfiche for the Library of Congress, using highly sophisticated equipment and paying careful attention to quality control. Another uses computers to maintain an extensive inventory of forms and publications for a government agency, and to distribute them to offices and individuals all over the country. A number of JWOD workshops produce medical supplies and equipment for the Veterans' Administration. Workshops also manufacture field equipment for the Armed Forces, aircraft parts, writing instruments, plastic flatware, and aerosol paints. These contracts teach skills and sophisticated manufacturing techniques that will serve a person with disabilities in good stead when he or she is capable of employment in competitive industry.

Many JWOD contracts offer persons with disabilities the opportunity to work side by side with people who are not disabled. You will find workshop employees working as food service attendants in dining facilities at Lackland Air Force Base in Texas, distributing mail at Environmental Protection Agency offices in Chicago, and maintaining grounds at the National Zoo. A workshop in northern Virginia operates the gift shop and the mail order operation for the Department of Treasury's Bureau of Engraving and Printing. Their employees make sales, operate the cash register, stock vending machines, balance daily receipts, and make up bank deposits in a busy gift shop that grosses as much as $10,000 a day. In short, the JWOD Program is diverse enough to offer a full range of vocational opportunities to people with severe disabilities.

For the individuals employed on these contracts, JWOD serves as a means of providing employment, and a wide range of skills training that can lead to competitive placement or opportunities for advancement within the workshop if competitive placement is not currently a viable option. Through employment in the JWOD Program, some of these individuals are able to become economically self-sufficient and move into independent living arrangements. Some others are able to eliminate their dependence on public assistance programs and become taxpayers, often for the first time.

When you realize that two-thirds of all Americans with disabilities between the ages of 16 to 64 are unemployed, you recognize how important it is to have employment options such as the JWOD Program. Not only is unemployment a significant problem for our disabled citizens, it results in staggering costs to the Federal Government. A recently published report, issued by the President's Committee on Employment of the Handicapped, indicated that in 1985 alone the Federal Government spent $62 billion in subsidies, medical care, and other programs for people with disabilities, and 93 percent of that was to support unemployed persons with disabilities.

Within the context of these statistics, the employment provided through the JWOD Program not only makes good sense in terms of its human value, it also makes good economic sense. JWOD is an outstanding example of a productive private sector-Federal initiative. While it provides employment opportunities to blind and other persons with severe disabilities, it also provides quality products and services to the Federal Government at a fair market price. There are few Federal programs that do so much good for so little expenditure of tax dollars.

For 50 years, the JWOD Program has successfully used the purchasing power of the Federal Government to create employment and training opportunities for blind individuals. For the last 17 years, these opportunities have also been extended to other severely handicapped persons. It has provided opportunities that frequently did not exist for these people and would not have been available without the JWOD Program.

In addition to hiring persons for direct labor jobs, workshops in the Javits-Wagner-O'Day Program should continue and expand their efforts to serve as models of affirmative action by hiring qualified blind and severely handicapped persons for all positions in the work force for which they are qualified, including management and supervisory positions.

The Committee for Purchase from the Blind and Other Severely Handicapped and any central nonprofit agency or agencies designated by the committee under the Javits-Wagner-O'Day Act should also continue and expand their efforts to serve as models of affirmative action in hiring qualified blind and severely handicapped persons for all positions, including management and supervisory positions.

I believe that all industry, whether commercial or not-for-profit, should implement aggressive affirmative action programs to give persons with disabilities leadership roles according to their capacities.

This highly successful program deserves recognition for its accomplishments in employing and training blind and other severely handicapped individuals. I am, therefore, introducing this resolution asking the President to issue a proclamation commemorating the 50th anniversary of the Javits-Wagner-O'Day Act, which occurs on June 25, 1988, and calling upon the people of the United States to observe the anniversary with appropriate ceremonies and activities designed to reaffirm the act's historical objectives of providing opportunities for productivity and upward mobility to blind and severely handicapped employees.●

● Mr. D'AMATO. Mr. President, I rise today to support legislation commemorating the 50th anniversary of the enactment of the Javits-Wagner-O'Day Act. Enacted on June 25, 1938 as the Wagner-O'Day Act, this legislation sought to provide employment opportunities for blind individuals and to guarantee a marketplace, particularly among Government agencies, for products crafted from industries employing blind persons.

In 1971, my predecessor, Senator Jacob Javits, introduced an amendment to expand the act by extending similar employment opportunities to individuals with severe disabilities other than blindness. His amendment also established a Federal agency, the Committee for Purchase From the Blind and Other Severely Handicapped. With the passage of his amendment, and for his outstanding work on behalf of all handicapped individuals, Senator Javits was honored with the inclusion of his name in the title of the original Act. It is today known as the Javits-Wagner-O'Day Act.

The programs established under the Javits-Wagner-O'Day Act today serve an ever increasing number of individuals throughout the United States. Many corporations such as Kodak and IBM have recognized the value of subcontracting projects to agencies employing blind and handicapped individuals and continue to do so. The Federal Government procures a substantial amount of the products manufactured in JWOD sponsored workshops. These consist of paper products, writing instruments, bedding and textiles, aerosol paints, detergents, and a multitude of office and medical supplies for use by the General Services Administration, the Defense Logistics Agency, the Veterans' Administration, and the U.S. Post Office.

Mr. President, employment opportunities for blind and handicapped individuals in the United States have grown since 1938 and will continue to grow in the future. I am honored to recognize the dedication to this goal exhibited by my fellow New Yorkers, Senator Jacob Javits, Senator Robert Wagner, and Congresswoman Caroline O'Day. I am pleased to lend my support to this legislation, and I urge my colleagues to join me in cosponsorship.●

● Mr. ROTH. Mr. President, today I rise in support of legislation introduced by my colleague Senator TOM HARKIN commemorating the 50th anniversary of the Javits-Wagner-O'Day Act. Fifty years ago, the Wagner-O'Day Act established a procedure for guaranteed Federal Government purchase of goods manufactured by blind people. In creating the purchase mechanism, the Congress paved the way for expanded employment opportunities for the blind and ultimately for other severely handicapped individuals also.

The original act established an advisory committee to coordinate Federal agency needs with the output of the sheltered workshops. Workshops were allocated production orders—the first being brooms and mops. By no means were the workshops ever exempted from meeting stringent quality tests as well as Government standards. Blind persons proved that they are capable of manufacturing a wide range of products, and in 1971 the program was extended to persons with severe disabilities other than blindness. Today, these workshops fabricate items for the Federal Government ranging from Kevlar helmet components to equipment suspenders to pens and pencils.

It was not always smooth sailing for the workshops, yet the program succeeded because of the capabilities of those persons working in the workshops to fabricate good quality finished goods and ability to manage the direction of the industry. Over time, the workshops developed efficient manufacturing methods for producing top quality finished products while providing a means for people to maintain their independence by contributing to society. The success of the program and the achievements of those enrolled is reflected in the annual sales that in 1987 totaled $196 million.

For 50 years, the Javits-Wagner-O'Day Act has aided disabled persons to contribute to the labor force in a meaningful way. In addition, the vocational training for persons with special needs over the years has offered important rehabilitation in an exemplary manner. Today, over 15,500 people benefit from the Javits-Wagner-O'Day Act where they can prove their ability to produce quality goods and services. The Federal Government procurement mechanism provided the possibility for the opportunities to be offered, but the achievements and success of the program can only be attributed to the workers. Fifty years of such success warrants commemoration.●

SENATE RESOLUTION 435—COMMEMORATING THE 90TH BIRTHDAY OF NORMAN VINCENT PEALE

Mr. DOLE (for himself, Mr. BYRD, Mr. D'AMATO, and Mr. MOYNIHAN) submitted the following resolution; which was considered and agreed to:

S. RES. 435

Whereas, on May 31, Norman Vincent Peale will celebrate his 90th birthday; and

Whereas, he is widely recognized as one of the most influential and admired Protestant clergyman in the United States as the pastor of the oldest continuous pastorate in this country, the Marble Collegiate Reformed Church; and

Whereas, during this sixty-six years in the ministry, Norman Vincent Peale has been a inspiration and a comfort to thousandsof Americans by offering his upbeat, positive message; and was a pioneer in combining religious with psychiatric counseling, establishing the American Foundation of Religion and Psychiatry; and

Whereas, his constructive themes have reached men and women all across the globe, through Dr. Peale's written and spoken word, including his book, "The Power of Positive Thinking," which has been translated into 33 languages and is one of the best-selling inspirational books of all time; and

Whereas, with his wife and partner of 55 years, Loretta, Dr. Peale established the Foundation for Christian Learning, which provides written and taped religious material to hundreds of thousands of people every year; and

Whereas, he has served as the President of the National Temperance Association, the Reformed Church in America; and the President's Council of New York; and

Whereas, Dr. Peale has also made significant contributions as a member of the midcentury White House Conference on Children and Youth and the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations: Now, therefore, be it

Resolved, That the Senate of the United States extend its heartfelt congratulations to Reverend Norman Vincent Peale on reaching his 90th year with vigor and in good health; and be it further

Resolved, That the Senate's best wishes for many, many more years of happiness and productivity, be conveyed to Reverend Peale, his wife Loretta, and their three children, Margaret Ann, Elizabeth Ruth, and John Stafford.

AMENDMENTS SUBMITTED

INF TREATY

DECONCINI EXECUTIVE AMENDMENT NO. 2123

(Ordered to lie on the table.)

Mr. DECONCINI submitted a declaration intended to be proposed by him to the resolution of ratification to Treaty Doc. 100-11, treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles; as follows:

At the end of the resolution of ratification, add the following:

"The advice and consent to ratification given by the Senate in this resolution of ratification is subject to the declaration, which shall be made a part of the instrument of ratification, that the United States views the renewal of military base rights in North Atlantic Treaty Organization (NATO) member countries as vital to the security interests of both the United States and the NATO member countries and as advantageous to the political and economic security interests of such host countries".

NATIVE AMERICAN MUSEUM CLAIMS COMMISSION ACT

MELCHER AMENDMENT NO. 2124

(Ordered referred to the Select Committee on Indian Affairs.)

Mr. MELCHER submitted an amendment intended to be proposed by him to the bill (S. 187) to provide for the protection of Native American rights for the remains of their dead and sacred artifacts, and for the creation of Native American cultural museums; as follows:

Strike out all after the enacting clause and insert the following:

This Act may be cited as the "Native American Museum Claims Commission Act."

FINDINGS

SEC. 2. Congress finds that—

(a) numerous museums, universities, and government agencies have acquired collections of Native American items including human skeletal remains, ceremonial artifacts and grave goods;

(b) Native American collections have been acquired through archaeological excavation, contributions from the U.S. military which had collected human remains and the spoils of war, and through donations or purchase of items from private individuals;

(c) Public Law 95-341 (42 U.S.C. 1996), the "American Indian Religious Freedom Act", established that it is the policy of the United States to protect Native American religious practices and beliefs;

(d) American public law has historically respected the sanctity of burial grounds and protected such grounds from desecration and depredation;

(e) the ability to practice Native American religious ceremonies and activities is often linked to certain ceremonial objects which are necessary for the proper observance of Native American religion;

(f) the freedom to practice religion is a right constitutionally guaranteed to all Americans; and

(g) there is no Federal law to facilitate the resolution of disputes which arise when Native Americans claim skeletal remain(s), ceremonial artifact(s) or grave good(s) held by a museum or other institution.

DEFINITIONS

SEC. 3. For purposes of this Act:

(a) The term "repatriation" means the formal and official process of returning ceremonial artifact(s), human skeletal remain(s), or grave good(s) to the Indian tribe(s) or Native Hawaiian group from which it originated.

(b) The term "Native American" means any individual who is—

(1) an Indian, or

(2) a Native Hawaiian, or

(3) an Alaskan Native, Aleut, or Eskimo.

(c) The term "Indian" means any individual who is an enrolled member of an Indian Tribe.

(d) The term "Native Hawaiian" means any individual who is—

(1) a citizen,

(2) a resident of the State of Hawaii, and

(3) a descendent of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

(A) geneological records,

(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(C) birth records of the State of Hawaii.

(e) The term "Indian Tribe" means any tribe, band, nation or other organized group or community of Indians including any Alaska Native village (as defined in, or pursuant to, the Alaska Native Claims Settlement Act), which is recognized by the Federal Government or a State as eligible for special programs and services provided to Indians because of their status as Indians.

(f) The term "museum" means any museum, university, government agency, or other institution which possesses or has control over, any—

(1) Native American skeletal remains, or

(2) Native American ceremonial artifacts, or

(3) Native American grave goods.

(g) The term "ceremonial artifact" means any item which is or has been devoted to a Native American religious ceremony by an Indian tribe, Native Hawaiian group, or an individual member of such tribe or group and which is necessary for the on-going observance of religious ceremony or ritual by the tribe, group, or its members.

(h) The term "grave good(s)" means any object which was found in the grave of a Native American, or otherwise directly associated with the skeletal remains of a Native American.

(i) The term "Commission" means the Native American Museum Claims Commission established in this Act.

THE NATIVE AMERICAN CLAIMS COMMISSION

SEC. 4(a). There is hereby established as an independent agency the Native American Museum Claims Commission (herein after referred to as the "Commission"). The principal office of the Commission shall be in the District of Columbia.

(b) The Commission shall consist of three (3) voting members appointed by the President with the advice and consent of the Senate.

(c) At least one of the Commission members shall be a native American.

(d) Each individual member of the Commission shall be significantly interested and experienced in matters which the Commission shall consider.

(e) No more than two members shall be of the same political party.

(f) Members shall be appointed a term of four years, except that of the members first appointed, one shall serve for a term of two years; one shall serve for a term of three years; and one shall serve for a term of four years.

(g) Vacancies occurring on the Commission shall be filled in the same manner as the original appointment. A member may serve after the expiration of this term until his successor has been appointed.

(h) Members may be removed for just cause provided that the Commission holds a hearing on the charges and a majority of the members of the Commission vote to remove a member.

(i) The presence of two members of the Commission shall constitute a quorum for the purpose of conducting the business of the Commission.

(j) The Commission shall select, by majority vote, one of its members to serve as Chairman and one of its members to serve as Vice-Chairman who shall serve as Chairman during meetings of the Commission in the absence of the Chairman.

(k) The Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every four months.

(l) Each member of the Commission who is not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily equivalent to that of level V of the Executive Schedule (5 U.S.C. 5316) for each day such member is engaged in the actual performance of duties as a member of the Commission. A member of the Commission who is otherwise an officer or employee of the Federal Government shall serve without additional compensation; but all members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

SEC. 5. (a)(1) The Chairman, with the approval of the Commission shall appoint an Executive Director and General Counsel to the staff of the Commission. The Executive Director and General Counsel shall be paid at the annual rate of basic pay payable for GS-18 of the General Schedule (5 U.S.C. 5332).

(2) The Executive Director shall appoint other staff of the Commission pursuant to the provisions of title 5, United States Code, governing appointments in the competitive service, but such permanent appointments shall be subject to sections 12 and 19 of the Act of June 18, 1934, (25 U.S.C. 472, 479). The Executive Director shall be responsible for the day-to-day administration of the Commission activities, supervision of staff, financial management of the Commission, and such other duties as the Chairman of the Commission may direct.

(3) The Chairman, with the consent of the Commission, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at the rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule under Section 5316 of such title.

(b)(1) Upon the request of the Chairman, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act, unless otherwise prohibited by law.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairman, the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law.

(c) The Commission is authorized to—

(1) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

(2) procure supplies, services, and property by contract in accordance with applicable Federal laws and regulations;

(3) to the extent feasible, enter into contracts for activities necessary to the discharge of the duties of the Commission;

(4) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate;

(5) administer oaths or affirmations to witnesses appearing before the Commission;

(6) promulgate such guidelines and regulations as it deems appropriate to implement the provisions of this Act;

(7) enter into agreements with the General Services Adminstration and any other agency of the Federal Government for the procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds appropriated for the Commission.

SEC. 6. The General Counsel of the Commission is authorized, subject to the direction of the Commission, to—

(a) appoint such other attorneys as may be necessary to assist the General Counsel;

(b) represent the Commission in courts of law whenever appropriate;

(c) oversee any investigations the Commission may direct arising from claims brought before it;

(d) submit to the Commission all pertinent evidence, including the full unedited reports and findings of expert consultants and/or investigators; proposed findings of fact, and proposed recommendations upon which Commission findings and orders may be based; and

(e) perform such other legal duties and functions as the Commission may find necessary to conduct its responsibilities.

SEC. 7. The Commission functions shall be to—

(a) receive, consider and determine the facts relative to claims filed before it, to facilitate negotiated settlements of claims brought before it, and to issue orders of the right to possess items which are the subject of such claims involving Native American skeletal remain(s), ceremonial artifact(s) or grave good(s) filed with the Commission;

(b) in conjunction with the fiscal cycle of the United States, adopt an annual budget for the expenses and operation of the Commission; and

(c) prepare and submit annual reports, together with minority views, if any, to Congress by December 31 of each year concerning the progress of the Commission, funding recommendations, including such sums as may be necessary for negotiated settlement which the Commission has forwarded to the Congress, recommendations for amendment to this Act and any other matters deemed appropriate.

SEC. 8. There are authorized to be appropriated for each fiscal year such sums as are necessary to enable the Commisssion to carry out its functions for such fiscal year, including such sums as are necessary to implement negotiated settlements arrived at as a result of the Commission's activity.

RESOLUTION OF CLAIMS

SEC. 9. (a) The governing body of any Indian tribe or the Office of Hawaiian Affairs of the State of Hawaii may file in such form as the Commission shall prescribe, a claim for the repatriation of any one of the following categories of objects held by a museum:

(1) skeletal remains which—

(A) are of a Native American who was a member, or was the ancestor of a member, of the Indian tribe or Native Hawaiian group that is a party to the claim; or

(B) were obtained from lands on which the Indian tribe or Native Hawaiian group, its individual members, or ancestors of such group that is a party to the claim, had interred human remains.

(2) ceremonial artifacts involved in a claim are ceremonial artifact(s) of the Indian tribe or Native Hawaiian group that is a party to a claim, or of any individual member or ancestor of such Indian tribe or Native Hawaiian group.

(3) grave good(s) which—

(A) were obtained from the grave(s) of members, or the ancestors of members of the Indian tribe or Native Hawaiian group that is a party to the claim; or

(B) were obtained from lands on which the Indian tribe or Native Hawaiian group, its members or ancestors of such group had interred such grave good(s).

(b) The Commission may hear any and all claims described in this section notwithstanding any Statute of limitations or laches.

(c) A claim may be filed only after the earlier of—

(1) the date that is six months after the date on which written notice was submitted to the party in possession of the items subject to the claim;

(2) the date on which the party subject to the claim submitted written notice to the claimant expressing a refusal to negotiate; or

(3) the date that is 90 days after the date on which the claimant submitted such notice to the party subject to the claim and such party has not responded in writing to acknowledge the claim.

SEC. 9. Within ten business days after a claim has been filed with the Commission, the Commission shall serve notice of the claim on the party alleged to be in possession of the skeletal remain(s), ceremonial artifact(s) or grave good(s) that are the subject of the claim. The claim shall not be made public by the Commission. After giving notice, the Commission shall encourage and attempt to negitiate a voluntary settlement of the dispute and shall make its good offices available to that end. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees.

SEC. 10. When a voluntary negotiated settlement of a claim brought before a Commission is achieved and is acceptable to all parties subject to a claim, the Commission shall certify the voluntary settlement in such form as the Commission may prescribe and shall forward a report on the settlement to Congress for such action as is appropriate.

SEC. 11.(a) If the respective parties to a claim fail to arrive at a negotiated settlement of the claim pursuant to the conditions of Sec. 9, within 120 days after the filing of such claim with the Commission, the Commission shall take such action as it deems advisable to resolve such claims.

SEC. 12. For all claims brought before the Commission which are not resolved through a negotiated settlement the Commission shall utilize such Commission staff and/or consultants who are deemed to have the requisite background and experience to render competent findings and recommendations to the Commission on a particular claim or claims.

SEC. 13 (a). The Commission may authorize the Chairman to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter which the Commission is empowered to investigate by this Act. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place within the United States.

(c) If a person issued a subpoena by the Commission pursuant to this section, refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may, upon application of the Commission, order such person to appear before the Commission to produce evidence or give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(e) All processes of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

SEC. 14. For each claim that is considered, the Commission shall, on the basis of the evidence disclosed in the claim, or any investigation the Commission may order, issue a preliminary order containing findings of fact and determinations of the right to possess the object(s) that are the subject of the claim. Such findings of fact and determinations of the right to possess items that are the subject of a claim and any repatriation recommended by the Commission shall be based on the evidence disclosed in the investigation.

SEC. 15. If the Commission determines, on the basis of the evidence disclosed in the claim or any investigation the Commission may order, that there is no basis to substantiate the claim of the Indian tribe or Office of Hawaiian Affairs to the object(s) subject to such claim, the Commission shall dismiss such claim.

SEC. 16. If the Commission determines that repatriation of an object(s) is supported by the facts disclosed in the investigation of a claim, its order shall—

(a) to the maximum extent possible, provide for conditions which will protect the object(s) subject to repatriation from future loss or alienation, provided that such conditions are compatible with the religious and cultural values of the Indian tribe or Native Hawaiian group determined to have the right to possess the item; and

(b) to the maximum extent possible, provide for historic preservation efforts, such as photography, replication, scientific analysis or study or other means, to mitigate the loss of the item in question by the museum in possession of the object(s) subject to repatriation, provided that such mitigation measures are compatible with the religious and cultural values of the Indian tribe or Native Hawaiian group determined to have the right to possess the object(s).

SEC. 17. The Commission shall submit a copy of any preliminary order issued, to each party to the claim, together with notice that the order will become final if within thirty (30) days no party files a written objection to the order with the Commission.

SEC. 18. Upon receiving a written objection citing the basis of the objection to a preliminary order from any party, the Commission, acting through one or more of its members shall, within sixty days, conduct a hearing to provide affected parties the opportunity to show cause why its preliminary order should or should not be made final. The testimony taken during such hearing shall be transcribed and filed with the Commission.

SEC. 19. Within thirty days after completion of a hearing required under section 16, and after evaluating the evidence, the Commission shall issue a final order to resolve the claim in question. The Commission shall provide each party to the claim a written copy of the final order of the Commission of which party to the claim has the right to possess the items in dispute.

SEC. 20. If the Commission determines that any final order to resolve a claim is not being carried out, it shall give written notice of noncompliance to the party alleged not to be complying with the order. The Commission shall have the authority to impose a fine not to exceed $500 for each day of noncompliance subsequent to such notice for which it finds no just cause.

SEC. 21. Any notice of noncompliance issued by the Commission shall be sent by certified mail and shall be effective on the date on which the aggrieved party receives such notice.

SEC. 22. Decisions made by the Commission pursuant to this Act shall be final agency decisions for purposes of appeal to the Federal District Court pursuant to chapter 7 of title 5, United States Code. The court shall have jurisdiction to grant such temporary relief as it deems just and proper, and to make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Commission. The findings of the Commission with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole.

SEC. 23. Any party aggrieved by an order assessing a civil penalty under section 211, may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such party resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such fine was received by the aggrieved party. The court shall hear such action on the record made before the Commission and shall sustain the Commission's action if it is supported by substantial evidence on the record considered as a whole.

SEC. 24. If any party fails to pay a fine—

(a) after the order imposing such fine has become a final order and such party has not filed a petition for judicial review of the order in accordance with Sec. 23,

(b) after a court has entered a final judgment upholding the imposition of the fine pursuant to Sec. 23,

the Commission may request the Attorney General to institute a civil action in a district court of the United States for any district in which such party is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such fine shall not be subject to review.

Mr. MELCHER. Mr. President, I am submitting an amendment in the nature of a substitute for S. 187, which I introduced last year to rectify a national disgrace.

The purpose of this amendment is to create a system to resolve disputes which occur when native Americans claim skeletal remains, grave goods, and ceremonial artifacts which have been made part of museum collections without the consent of the native American tribe including native Hawaiians.

All Americans should be outraged that museums have been systematically collecting the bones of their ancestors and certain ceremonial artifacts as scientific curios. I believe Congress must take action to demonstrate basic human respect to native Americans who want to retrieve the remains and grave goods of their ancestors from museum collections for a respectful reburial. The same goes for ceremonial artifacts which are needed by the tribe for religious ceremonies and rituals.

Last year, I was shocked to learn that the Smithsonian Institution has collected approximately 18,000 native American skeletal remains—many of which are identified by name and tribal affiliation. This enormous collection was obtained from several sources: From systematic archeological excavation of native American burial grounds and grave sites; from the Army, which systematically collected Indian bodies—particularly the heads of famous chiefs—for medical experiments and research; and from private donations. Although the Smithsonian collection has been the focus of attention, it is estimated that as many as 200,000 native American remains are housed in other museums and institutions across the country.

Institutions collect human remains for scientific research. Museums attempt to justify the massive collections on the basis that new techniques in forensic research may lead to helpful discoveries from the study of native American remains. While there is scientific value in studying human remains which are thousands of years old, I question the necessity of hoarding remains once scientific study is finished. I do not believe that native American tribes would object to some study of native Americans human remains if there is some value which could benefit mankind. They do, however, object strenuously to the continued hoarding of human remains. Many of the remains in the Smithsonian collection, for example, have never been studied and are of limited, if any, scientific value. Yet, the institution continues to resist efforts of native Americans to claim the remains for reburial.

Morally, I believe it is highly objectionable to collect and hoard human remains despite the wishes of the living descendants request that the remains be reburied.

The native Americans are appalled that the remains of their ancestors and tribesmen are viewed as scientific curios. Indeed, if any other group of people in this country were subjected to similar treatment there would be a great hue and cry of outrage because the American people would not abide by the wholesale collection of their ancestors remains. It is time to ensure that native Americans are accorded the same protections as other Americans receive with respect to human remains.

This issue is very simple. It is an issue of common human dignity and respect. Native Americans want to retrieve the remains of their ancestors for proper and respectful reburial. I believe Congress has a responsibility to act forthwith to assure that is immediately permitted.

My bill also addresses religious ceremonial artifacts. Often, the ability to properly observe an Indian religion hinges upon certain ceremonial objects which are necessary to conduct a tribal ceremony or ritual. Over the years, many of these objects have been lost to the tribes and ended up in museum collections, which has eroded the ability of the tribes to fully observe their religion. Existing Federal policy through the American Indian Religious Freedom Act, protects American Indian religion, and I believe that Congress must take existing policy one step further to assist the tribes in retrieving objects which are essential for the ongoing conduct of native American religion.

Native Americans are very frustrated with the lack of cooperation and understanding from the museum and scientific community about these issues. Although there are a few instances when tribes have gone to court and won cases of this nature, very few tribes have the resources to engage in protected and costly litigation. A better solution must be developed.

The amendment I am submitting would establish a three-member Museum Claims Commission with authority to resolve native American claims to certain objects in a manner which is fair and expeditious to both native Americans and museums. Under the provisions of this amendment, native Americans would be required to try and resolve these disputes locally before the Commission would accept a claim. Further, the Commission would be required to facilitate a negotiated settlement of any claims brought before it. If necessary, the Commission would submit its recommendations for negotiated settlement to Congress for appropriate action.

I believe that most of the cases before the Commission could be resolved voluntarily. However, if necessary, the Commission would be empowered to fully investigate the claim, and issue orders determining which party has the right to possess the objects subject to claims before the Commission. This would be based on the evidence disclosed in the investigations and any hearings the Commission may hold on a particular claim. Decisions of the Commission would be appealable in Federal district court.

Mr. President, the situation which I have described must be addressed. The amendment I propose, is modeled on the Indian Claims Commission, which worked successfully to resolve Indian claims to lands wrongfully taken from the tribes. I think it provides a workable framework which would be fair and equitable. This is a highly emotional issue to both native Americans and museums, but the proposal I am making provides a mechanism for both sides to sit down and work out solutions to these disputes. I have requested a prompt hearing on the bill before the Select Committee on Indian Affairs so that it can be fully discussed.

INF TREATY

LAUTENBERG (AND OTHERS) EXECUTIVE AMENDMENT NO. 2125

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself, Mr. GRASSLEY, Mr. D'AMATO, Mr. SYMMS, Mr. WALLOP, Mr. WIRTH, Mr. HATCH, Mr. ARMSTRONG, Mr. DIXON, Mr. SPECTER, Mr. METZENBAUM, Mr. WILSON, Mr. GRAMM, Mr. WEICKER, Ms. MIKULSKI, and Mr. GRAHAM) submitted a declaration and understanding intended to be proposed by them to the declaration and understandings intended to be proposed by Mr. DECONCINI to the resolution of ratification to Treaty Doctrine 100-11, supra; as follows:

Strike out "advice" and all that follows of the language proposed to be added and insert in lieu thereof the following: "advice and consent to ratification given by the Senate under this resolution of ratification is subject to the following declaration and understandings, which the President, using existing authority, shall communicate to the Union of Soviet Socialist Republic, in connection with the exchange of the instruments of ratification of the Treaty:

"(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls upon the President to use every opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace;

"(2) the understanding that the President shall seek sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

"(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the 'Helsinki Final Act'),

"(B) the Madrid Concluding Document of the Commission on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the 'Madrid Concluding Document'),

"(C) the Universal Declaration of Human Rights (also known as the 'Universal Declaration'), and

"(D) other international human rights agreements to which the Soviet Union is a signatory or party,

including provisions relating to—

"(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,

"(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness,

"(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and

"(iv) the right of individuals to know and act upon their rights and duties in these agreements; and

"(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document".

FIREARMS DETECTION ACT

METZENBAUM AMENDMENT NO. 2126

Mr. METZENBAUM proposed an amendment to the bill (S. 2180) to amend chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale, or possession of firearms, not detectable by metal detection and x-ray systems; as follows:

On page 16, strike lines 21 through line 25, and on page 17, strike lines 1 through 8.

DOLE (AND WILSON) AMENDMENT NO. 2127

Mr. McCLURE (for Mr. DOLE, for himself and Mr. WILSON proposed an amendment to the bill S. 2180, supra; as follows:

At the appropriate place, add the following:

SEC. . (a) It shall be unlawful for any person to manufacture, enter into commerce, ship, transport, or receive any toy, look-alike, or imitation firearms unless such firearm contains, or has affixed to it, a marking approved by the Secretary of Commerce, as provided in subsection (b).

(b)(1) Except as provided in paragraph (2), each toy, look-alike, or imitation firearm shall have as an integral part, permanently affixed, a blaze orange plug inserted in the barrel of such toy, look-alike, or imitation firearm. Such plug shall be recessed no more than 6 millimeters from the muzzle end of the barrel of such firearm.

(2) The Secretary of Commerce may provide for an alternate marking or device for any toy, look-alike, or imitation firearm not capable of being marked as provided in paragraph (1).

(c) For purposes of this section, the term "look-alike firearm" means any imitation of any original firearm which was manufactured, designed, and produced since 1988, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. Such term does not include any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1988, or traditional B-B or pellet-firing air guns that expel a metallic projectile through the force of air pressure.

(d)(1) Any person who violates any provision of this section shall be subject to a civil penalty of not more than $1,000 for the first such violation.

(2)(A) Any person who violates the provisions of this section a second or subsequent time shall be guilty of a misdemeanor and upon conviction shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

(B) Any individual director, officer, or agent of a corporation who authorizes, orders, or performs any act which constitutes in whole or in part, a violation of the provisions of this section, shall be subject to penalties under this section without regard to any penalties to which such corporation may be subject under subsection (a).

(e)(1) The provisions of subsection (d) shall not apply to any manufacturer, importer, seller, or dealer of toy, look-alike, or imitation firearms in the case of a toy, look-alike, or imitation firearm which complied with the provisions of this section while in the possession or control of such person, but which was subsequently altered so that it no longer complies with such provisions.

(2)(A) The provisions of subsection (d) shall not apply to a law enforcement officer, as defined in subparagraph (B), who is acting in good faith and within the scope of his employment.

(B) For purposes of this paragraph, "law enforcement officer" has the meaning given such term in section 1203(5) of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(f) This section shall become effective on the date one year after the date of its enactment and shall apply to toy, look-alike, and imitation firearms manufactured or entered into commerce after such date of enactment.

(g) The provisions of this section shall supersede any State or local laws or ordinances which provide for markings, identification, or other restrictions inconsistent with provisions of this section.

INF TREATY

HUMPHREY EXECUTIVE AMENDMENTS NOS. 2128 THROUGH 2208

(Ordered to lie on the table)

Mr. HUMPHREY submitted 81 amendments intended to be proposed by him to Treaty Doc. 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2128

In Article II, paragraph 2 of the treaty, strike "that is a weapon-delivery vehicle" and insert in lieu thereof "that is a nuclear weapon-delivery vehicle."

EXECUTIVE AMENDMENT No. 2129

"In Article II, paragraph 2, after "that sustains flight through", add the following; "the use of an engine and through"."

EXECUTIVE AMENDMENT No. 2130

In Article II, Paragraph 5 of the treaty, strike "5500" and insert in lieu thereof "7000".

EXECUTIVE AMENDMENT No. 2131

In Article II, paragraph 6, strike "500", and insert in lieu thereof "250".

EXECUTIVE AMENDMENT No. 2132

In Article IV, Paragraph 2, after "shall be implemented in two phases" add the following:

"provided that prior to commencement of the second phase, the basing countries have agreed to the redeployment of missiles covered by this Treaty in the event that one Party withdraws from the Treaty in response to violations by the other Party".

EXECUTIVE AMENDMENT No. 2133

In Article IV, paragraph 2 of the Treaty, after "all its intermediate-range missiles", insert ", including all stages of such missiles,".

EXECUTIVE AMENDMENT No. 2134

In Article V, paragraph 1 of the Treaty, after "all its shorter-range missiles", insert ", including all stages of such missiles,".

EXECUTIVE AMENDMENT No. 2135

In Article VI, paragraph 1(a) after "flight-test", add "launch".

EXECUTIVE AMENDMENT No. 2136

In Article VI, Paragraph 1, add new subparagraph (c):

"(c) flight-test any missile within intermediate-range and shorter-range as such ranges are defined in this treaty."

EXECUTIVE AMENDMENT No. 2137

In Article VI, paragraph 2 of the Treaty, strike "which is outwardly similar to, but not interchangeable with" and insert in lieu thereof "which is either outwardly similar to, or interchangeable with".

EXECUTIVE AMENDMENT No. 2138

In Article VII, paragraph 3, after "the surface of the earth", add the following:

", and the party can demonstrate that it can not be used for offensive purposes."

EXECUTIVE AMENDMENT No. 2139

In Article VII, paragraph 4, delete "500", and insert in lieu thereof, "250".

EXECUTIVE AMENDMENT No. 2140

In Article VII, paragraph 4, delete "5500", and insert in lieu thereof, "7000'.

EXECUTIVE AMENDMENT No. 2141

In Article VII, paragraph 8, add after "or launched", the following: "or is capable of being modified so that it can launch".

EXECUTIVE AMENDMENT No. 2142

In Article VIII, paragraph 6, delete "listed in the Memorandum of Understanding".

EXECUTIVE AMENDMENT No. 2143

In Article VIII, paragraph 8, delete "or for elimination by means of launching conducted at elimination facilities".

EXECUTIVE AMENDMENT No. 2144

In Article VIII, paragraph 3, add before the period, the following: ", provided that the obligation of the United States to conduct eliminations called for in Article IV shall be null and void unless and until the President of the United States certifies that he and the intelligence community of the United States are confident that the data is an accurate accounting of missiles, launchers, and support structures possessed by the Soviets as of the date of entry into force."

EXECUTIVE AMENDMENT No. 2145

In Article IX, paragraph 5 (f), delete "after it has been completed", and insert in lieu thereof "prior to commencement of such transit".

EXECUTIVE AMENDMENT No. 2146

In Article X, paragraph 1 of the Treaty, after "its intermediate-range and shorter-range missiles", insert ", including all stages of such missiles,".

EXECUTIVE AMENDMENT No. 2147

In Article X, delete paragraph 5.

EXECUTIVE AMENDMENT No. 2148

In Article X, paragraph 9, before the period, add: "provided that conversion of such bases shall not enable the conventing party to inhibit the other Party's right to conduct inspections of such bases under Article XI"

EXECUTIVE AMENDMENT No. 2149

In Article XI, third sentence of paragraph 6, strike "neither Party shall have the right to inspect", and insert in lieu thereof: "neither Party shall restrict the right of the other Party to inspect".

EXECUTIVE AMENDMENT No. 2150

In Article XI, paragraph 6(a), after "the portals", add: "and perimeter".

EXECUTIVE AMENDMENT No. 2151

Add at the end of Article XI the following new paragraph:

"9. Notwithstanding any other provision of this Treaty, the Parties understand and agree that this Treaty shall not enter into force unless and until the United States has been granted the right to inspect sites in Cuba at which missiles to be eliminated by this Treaty have been deployed; provided further, that the Union of Soviet Socialist Republics shall by basing country agreement with Cuba obtain the granting of such right to the United States at all SS-4 and SS-5 missile deployment sites in Cuba identified in the Interim Report of the Preparedness Investigating Subcommittee of the Committee on Armed Services of the United States Senate done under authority of Senate Resolution 75 (88th Congress, 1st Session).".

EXECUTIVE AMENDMENT No. 2152

In Article XII, paragraph 3(a), delete "six" and insert in lieu thereof "two".

EXECUTIVE AMENDMENT No. 2153

In Article XIII, paragraph 1(b) before the period, add: "provided, that such measures which alter the obligations of the Parties shall be submitted to the Senate of the United States for advice and consent prior to being effective."

EXECUTIVE AMENDMENT No. 2154

In Article XIV, add at the end thereof the following new sentences: "This provision thus reflects the duty of each Party under customary international law to comply with the Treaty. This provision does not impose any additional obligation on the Parties, nor does it broaden the interpretation of other obligations in the Treaty. This provision refers only to the assumption of obligations in the future, and existing agreements are therefore not affected. Article XIV will not affect existing patterns of defense collaboration or cooperation with U.S. allies. Nor would this provision preclude cooperation with U.S. allies in modernization."

EXECUTIVE AMENDMENT No. 2155

In Article XV of the proposed Treaty add the following new paragraph:

"3. Notwithstanding any other provision of this Article, the Parties understand and agree that a material breach of this Treaty or its Protocols by one Party shall give the other Party the right immediately to terminate, void, and withdraw from this Treaty. In such event, this Treaty shall terminate 15 days after receipt of notice from the Party exercising its right under this paragraph. The Parties understand and agree that, in the case of the United States, such notice may be given by the President of the United States upon his finding of any material breach by the Union of Soviet Socialist Republics; provided, further, that the President of the United States shall provide every quarter year to the United States Senate a report of compliance by the Union of Soviet Socialist Republics with this Treaty and, at any time after the receipt of such first report, notice under this paragraph shall also be deemed given if a majority of the Senate by resolution finds that there has been any material breach of this Treaty by the Union of Soviet Socialist Republics and a copy of such resolution is made available to the Embassy of the Union of Soviet Socialist Republics in Washington, D.C. The Parties further understand and agree that the term "material breach" as used herein shall include but not be limited to the following: (a) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister required to be eliminated by this Treaty after the date at which such item should have been eliminated pursuant to this Treaty and its Protocols; (b) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister in excess of the numbers of such items by type provided by either Party pursuant to the Memorandum of Understanding to this Treaty which is hereby incorporated herein in full by reference; (c) the failure of either Party to eliminate any missile, missile launcher, or missile canister at the time and in the manner specified by this Treaty and its Protocols, and (d) the production of any missile, missile launcher, or missile canister for any new ground-based missile system having a range capability equal to or in excess of 500 kilometers but not in excess of 5,500 kilometers.".

EXECUTIVE AMENDMENT No. 2156

In Article XVII, paragraph 1, after "constitutional procedures of each party", add: "provided, that such procedures in the United States shall entail submission to the Senate of the United States for advice and consent".

EXECUTIVE AMENDMENT No. 2157

In Article XVII, paragraph 1, add after "constitutional procedures of each Party.", the following, "The Parties understand and agree that, notwithstanding the other provisions of this Article, the instruments of ratification shall not be exchanged until after the Congress of the United States has authorized by statute the disposition of U.S. government property provided for in this Treaty."

EXECUTIVE AMENDMENT No. 2158

In Article XVII, Paragraph 1, before the period at the end of the paragraph, add the following: "*Provided, however,* That the Parties understand and agree that the United States shall not exchange instruments of ratification until the President has submitted to the Senate for advice and consent, the Declaration of International Guarantees and the Agreement on the Interrelationships for the Settlement of the Situation Relating to Afghanistan, agreed to by the United States on April 13, 1988".

EXECUTIVE AMENDMENT No. 2159

In Article XVII, Paragraph 1, before the period at the end of the paragraph, add the following: "*Provided, however,* That the Parties understand and agree that the United States shall not exchange instruments of ratification until the President has certified to the Senate that the Union of Soviet Socialist Republics has removed all of its combat forces from Afghanistan".

EXECUTIVE AMENDMENT No. 2160

In Article IV, paragraph 2, after "implemented in two phases", add the following: ", *Provided,* That the second phase shall not commence until such time as the Union of Soviet Socialist Republics has withdrawn all of its combat forces from Afghanistan,".

EXECUTIVE AMENDMENT No. 2161

In Article XVII, Paragraph 1, before the period at the end of the paragraph, add the following: "*Provided, however,* That the Parties understand and agree that the United States shall not exchange instruments of ratification until the Union of Soviet Socialist Republics has implemented a policy providing for free emigration of its citizens".

Executive Amendment No. 2162

In Article IV, paragraph 2, after "implemented in two phases", add the following: ", *Provided*, That prior to commencement of the second phase, the Union of Soviet Socialist Republics has instituted a policy permitting free emigration of its citizens,".

Executive Amendment No. 2163

In Article XVII, Paragraph 1, before the period at the end of the paragraph, add the following: "*Provided, however,* That the Parties understand and agree that the United States shall not exchange instruments of ratification until the President, without delegation, shall have certified to the United States Senate that the Union of Soviet Socialist Republics has complied with all its purchase obligations in grain agreements with the United States".

Executive Amendment No. 2164

In Article IV, paragraph 2, after "implemented in two phases", add the following: ", *Provided*, That the second phase shall not commence until such time as the Union of Soviet Socialist Republics has come into compliance with all its purchase obligations in grain agreements with the United States,".

Executive Amendment No. 2165

In Article XVII, Paragraph 1, before the period at the end of the paragraph, add the following: "*Provided, however,* That the Parties understand and agree that the United States shall not exchange instruments of ratification until the President, without delegation, shall have certified to the United States Senate that, in his judgment, the Union of Soviet Socialist Republics is in compliance with all arms control treaties currently in force between the parties".

Executive Amendment No. 2166

In Article XVII, paragraph 1, before the period at the end of the paragraph, add the following: "*Provided, however,* That the Parties understand and agree that the United States shall not exchange instruments of ratification until the President, without delegation, shall have certified to the United States Senate that, in his judgment, the Union of Soviet Socialist Republics is in compliance with all arms control treaties currently in force between the parties".

Executive Amendment No. 2167

Add at the end of paragraph 2 of Article XV of the Treaty the following new sentence:

"The Parties understand and agree that any closure of the Panama Canal without the express consent of the United States of America or any material violation by the Republic of Panama of any provision of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal between the United States of America and the Republic of Panama or the provision of munitions to, or the deployment of combat forces in, the Republic of Panama by the Union of Soviet Socialist Republics, by any of its military allies, by Cuba, or by Nicaragua shall with respect to the United States of America constitute an extraordinary event under this paragraph and that, in such event, the President of the United States shall give notice on behalf of the United States of its decision to withdraw from this Treaty as provided in this paragraph except that any notice given pursuant to this sentence shall be given not less than 14 days nor more than six months prior to withdrawal from this Treaty.".

Executive Amendment No. 2168

Add at the end of paragraph 1 of Article XVII of the Treaty the following new sentence:

"Notwithstanding any other provision of this Article or of any other Article or provision of this Treaty, its Protocols, or its Memorandum of Understanding, this Treaty shall not enter into force until the President of the United States of America has, on behalf of the United States, notified the Union of Soviet Socialist Republics that he has certified to the United States Senate that, in his judgment as Commander-in-Chief of the Armed Forces of the United States, there is better than a 50 percent probability that the United States using national technical means of verification could detect a significant violation of this Treaty by the other Party and that there has been authorized in law the sum of at least $2,000,000,000 for United States Fiscal Year 1989 and at least $2,000,000,000 for United States Fiscal Year 1990 to be appropriated for additional national technical means for verification of compliance by the other Party with this Treaty.".

Executive Amendment No. 2169

In paragraph 1 of Article X of the Treaty insert after the word "Party" the following clause: ", subject, in the case of the United States of America, to the enactment of appropriate authorizing legislation,".

Executive Amendment No. 2170

Add at the end of paragraph 1 of Article XVIII of the Treaty the following new sentence:

"Notwithstanding any other provision of this Article or of any other Article or provision of this Treaty, its Protocols, or its Memorandum of Understanding, this Treaty shall not enter into force unless and until the Parties have also exchanged instruments of ratification of a treaty between them which reduces their conventional forces and the forces of their respective military allies deployed on the Eurasian land mass.".

Executive Amendment No. 2171

In Article XVII add at the end thereof the following new paragraph:

"3. Notwithstanding the provisions of paragraph 1 of the Article or of any other provision of this Treaty, its Protocols, or its Memorandum of Understanding, this Treaty shall not enter into force unless and until the President of the United States shall have certified, without delegation, to the United States Senate that, in his judgment as Commander-in-Chief of the Armed Forces of the United States, the Armed Forces of the North Atlantic Treaty Organization, including those of the United States, can successfully defend Western Europe without resort to the use of nuclear weapons during a period in excess of two weeks after any attack initiated by the Union of Soviet Socialist Republics or its military allies employing only their conventional weapons and forces.".

Executive Amendment No. 2172

In Article I insert before the period at the end thereof the following: "; provided, however, that the Parties understand and agree that, if any country located in the Western Hemisphere other than the United States of America deploys at any place within the Western Hemisphere any system of the type to be eliminated by this Treaty, then, notwithstanding any other provision of this or any other Article or clause of this Treaty, its Protocols, or its Memorandum of Understanding, the United States of America shall have the right to manufacture and deploy within the continental territory of the United States of America, excepting its territory within the State of Alaska, systems of the type to be eliminated by this Treaty.".

Executive Amendment No. 2173

In Article XVII add at the end thereof the following new paragraph:

"3. Notwithstanding the provision of paragraph 1 of this Article or of any other provision of this Treaty, its Protocols, or its Memorandum of Understanding, this Treaty shall not enter into force unless and until the President of the United States shall on behalf of the United States have notified the Union of Soviet Socialist Republics that he has certified to the United States Senate that the Union of Soviet Socialist Republics is not in material breach of any other arms treaty currently in force between the Parties.".

Executive Amendment No. 2174

In Article I of the proposed Treaty insert before the period the following: "; provided, further, that each Party shall eliminate all nuclear warhead devices and associated guidance elements removed from such systems down to a number of retained warhead devices and associated guidance elements not in excess of 600 and that the elimination of the nuclear warhead devices and associated guidance elements not retained under this provision shall be accomplished in accordance with the procedures and schedules set forth in the Protocols to this Treaty, provided, however, that all fissionable materials shall be removed from all warhead devices to be eliminated".

Executive Amendment No. 2175

In Article I insert before the period the following: "Provided, however, that the disposition of the property of the United States to be disposed of pursuant to this Treaty and its Protocols shall be subject to the enactment of appropriate authorizing legislation by the Congress of the United States".

Executive Amendment No. 2176

At the end of Article XV of the proposed Treaty add the following new paragraph:

"3. Notwithstanding any other provision of this Article, the Parties understand and agree that the provision of materially misleading and false data in any exchange of data between the Parties under the Memorandum of Understanding to this Treaty or any other material breach of this Treaty or its Protocols by a Party shall immediately give the other Party the right to terminate, void, or withdraw from this Treaty. In such event, this Treaty shall terminate 15 days after the Party exercising its right under this paragraph shall have given notice to the other Party. The Parties understand and agree that, in the case of the United States, such notice may be given by the President of the United States upon his finding of any material breach by the Union of Soviet Socialist Republics; provided, further, that the President of the United

States shall provide every quarter year to the United States Senate a report of compliance by the Union of Soviet Socialist Republics with this Treaty and, at any time after the receipt of such first report, notice under this paragraph shall also be deemed given if a majority of the Senate by resolution finds that there has been any material breach of this Treaty by the Union of Soviet Socialist Republics and a copy of such resolution is made available to the Embassy of the Union of Soviet Socialist Republics in Washington, D.C. The Parties further understand and agree that the term "material breach" as used in this paragraph shall include but not be limited to the following: a) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister required to be eliminated by this Treaty after the date at which such item should have been eliminated pursuant to this Treaty and its Protocols; b) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister in excess of the numbers of such items by type provided by either Party to the other pursuant to the Memorandum of Understanding to this Treaty which, together with any data exchanged thereunder, is hereby incorporated herein in full by reference; c) the failure of either Party to eliminate any missile, missile launcher, or missile canister at the time and in the manner specified by this Treaty and its Protocols, and d) the production of any missile, missile launcher, or missile canister for any new ground-based missile system having a range capability equal to or in excess of 500 kilometers but not in excess of 5,500 kilometers.".

Executive Amendment No. 2177

Add at the end of Article XI the following new paragraph:

"9. Notwithstanding any other provision of this Treaty, the Parties understand and agree that this Treaty shall not enter into force unless and until the United States has been granted the right to inspect sites in Cuba at which missiles to be eliminated by this Treaty have been deployed; provided, further, that the Union of Soviet Socialist Republics shall by basing country agreement with Cuba obtain the granting of such right to the United States at all SS-4 and SS-5 missile deployment sites in Cuba identified in the Interim Report of the Preparedness Investigating Subcommittee of the Committee on Armed Services of the United States Senate done under authority of Senate Resolution 75 (88th Congress, 1st Session) and incorporated by the Parties in this paragraph by reference.".

Executive Amendment No. 2178

Added at the end of Article X the following new paragraph:

"10. Notwithstanding any other provision of this Article, the Parties understand and agree that the undertakings and obligations of the United States of America under this Article are, in accordance with the Constitutional procedures of the United States, subject to the enactment of authorizing legislation by the Congress of the United States; provided, further, that if the United States of America does not give notice of the enactment of such authorizing legislation to the Union of Soviet Socialist Republics prior to the expiration of two years after the date of entry into force of this Treaty, then each Party shall have the right to terminate this Treaty by giving notice of such intention to the other Party and this Treaty shall terminate 15 days thereafter.".

Executive Amendment No. 2179

In Article XVIII, add at the end of Paragraph 1 thereof the following new sentence: "Notwithstanding the preceding sentence of this Paragraph, this Treaty shall not enter into force unless and until the Union of Soviet Socialist Republics has withdrawn all of its combat forces from Afghanistan and the President of the United States of America has on behalf of the United States notified the U.S.S.R. that he has so certified to the United States Senate.".

Executive Amendment No. 2180

In Article XIII, add at the end thereof the following new paragraph:

"3. The Parties shall bear their own costs of compliance, inspection, and verification, and, insofar as regards the United States of America and notwithstanding any other provision of law or of this Treaty, the costs of compliance, inspection, and verification shall, subject to the enactment of authorizing and appropriating legislation by the United States Congress, be paid by funds appropriated for the United States Department of State which shall provide for such expenses in its annual budget requests or, if required, in supplemental budget requests, and such Department shall reimburse, or make funds available to, other involved governmental departments for Treaty attributable personnel salaries and costs and any other Treaty related disbursements of such other departments.".

Executive Amendment No. 2181

In Article XIV insert before the period the following: "; provided, however, that neither this Article nor any other provision in this Treaty or its Associate Protocols and Memorandum of Understanding shall be construed as prohibiting either Party from conducting operational tests in outer-space of anti-ballistic missile systems based on other physical principles (within the meaning of the term "other physical principles" as used in the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems) or of components of such systems or from deploying such systems or components and each Party expressly agree that the other Party has such rights notwithstanding any provision, or the interpretation of any provision, in any previous treaty between the Parties.".

Executive Amendment No. 2182

Before the period at the end of the pending amendment insert the following: "; provided, however, that nothing in this Treaty shall be construed as prohibiting either Party from conducting operational tests in outer-space of anti-ballistic missile systems based on other physical principles (as such terms are defined in the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems) or of components of such systems.".

Executive Amendment No. 2183

In Article XIV add at the end of such Article the following:

"Pursuant to Article XIV, Paragraph 1, of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitaton of Anti-Ballistic Missile Systems, With Associated Protocol, the Parties agree that Article V of such Treaty is amended by adding at the end thereof the following new paragraph:

'3. Notwithstanding the provisions of Paragraph 1 of this Article or any other provision of this Treaty, each Party expressly acknowledges the right of the other Party to conduct operational tests in outer-space of anti-ballistic missile systems based on other physical principles or of components of such systems or to deploy such systems or components.'.".

Executive Amendment No. 2184

In Article XIV insert before the period the following: "; provided, however, that the Parties expressly agree that the proper interpretation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Limitation of Anti-Ballistic Missile Systems, With Associated Protocol, insofar as such Treaty may be deemed ambiguous with respect to tests and deployment in outer-space of any Strategic Defense Initiative system or any similar systems based on other physical principles, is that *inter alia* neither Party has the right to test in whole or in part any component of any such system in outer-space nor has either Party the right to develop any component of any such system capable of being tested in outer-space nor has either Party the right to deploy any such system or component thereof in outer-space.".

Executive Amendment No. 2185

At the end of the Resolution consenting to ratification insert before the period the following condition: "subject, however, to the further condition that the President is not authorized to sign or exchange instruments of ratification unless and until he has, without delegation, certified to the Senate that there exists a strong basis in fact for his judgment that, before the completion of the elimination procedures contemplated by this proposed Treaty, the United States and the Union of Soviet Socialist Republics will have reached and substantially carried out an agreement for reductions in conventional forces whereby, notwithstanding the completion of such elimination procedures, the security of NATO or of the United States military personnel stationed in Europe or of the dependents of such personnel will not be in jeopardy.".

Executive Amendment No. 2186

Insert before the period in the Resolution consenting to ratification the following condition: "subject, however, to the further condition that the President is not authorized to sign or exchange instruments of ratification until the President, without delegation, shall have certified to the United States Senate that, in his judgment as Commander-in-Chief of the Armed Forces of the United States, there is parity in the conventional forces of the deployed and reserve conventional forces of the United States and the North Atlantic Treaty Organization and the reserve and deployed conventional forces of the Union of Soviet Socialist Republics and the Warsaw Pact and asymmetries in such forces favoring the U.S.S.R. and Warsaw Pact do not jeopardize the security of NATO or of United States military personnel stationed in Europe or of the dependents of such personnel.".

Executive Amendment No. 2187

Add at the end of Article XVII of the proposed Treaty the following new paragraph:

"3. Notwithstanding any other provision of this Treaty including other provisions of this Article, this Treaty shall not enter into force until the President of the United States of America, without delegation, shall have certified to the United States Senate that, in his judgment as Commander-in-Chief of the Armed Forces of the United States, after the completion of the eliminations contemplated by this Treaty, any conventional force imbalance as may then exist between the deployed and reserve conventional forces of the United States and the North Atlantic Treaty Organization (hereinafter "NATO") and the reserve and deployed conventional forces of the Union of Soviet Socialist Republics and the Warsaw Pact will not jeopardize the security of NATO or of the United States military personnel stationed in Europe or the dependents of such personnel. In the event such certification is made the United States of America shall immediately notify the Union of Soviet Socialist Republics of such fact, and this Treaty shall enter into force ten days after such notification or upon the date of exchange of instruments of ratification whichever shall later occur."

Executive Amendment No. 2188

Add at the end of Article XVII of the proposed Treaty the following new paragraph:

"3. Notwithstanding any other provision of this Treaty including other provisions of this Article, this Treaty shall not enter into force until the President of the United States of America, without delegation, shall have certified to the United States Senate that, in his judgment as Commander-in-Chief of the Armed Forces of the United States, there is parity in the conventional forces of the deployed and reserve conventional forces of the United States and the North Atlantic Treaty Organization and the reserve and deployed conventional forces of the Union of Soviet Socialist Republics and the Warsaw Pact. In the event such certification is made the United States of America shall immediately notify the Union of Soviet Socialist Republics of such fact, and this Treaty shall enter into force ten days after such notification or upon the date of exchange of instruments of ratification whichever shall later occur."

Executive Amendment No. 2189

Add at the end of Article XVII of the proposed Treaty the following new paragraph:

"3. Notwithstanding any other provision of this Treaty including other provisions of this Article, this Treaty shall not enter into force until the President of the United States of America, without delegation, shall have certified to the United States Senate that, in his judgment as Commander-in-Chief of the Armed Forces of the United States, the conventional force imbalance between the deployed and reserve conventional forces of the United States and the North Atlantic Treaty Organization and the reserve and deployed conventional forces of the Union of Soviet Socialist Republics and the Warsaw Pact does not exceed a ratio of 3:2 of advantage in favor of the Union of Soviet Socialist Republics and the Warsaw Pact. In the event such certification is made the United States of America shall immediately notify the Union of Soviet Socialist Republics of such fact, and this Treaty shall enter into force ten days after such notification or upon the date of exchange of instruments of ratification whichever shall later occur."

Executive Amendment No. 2190

In Article XIV of the proposed Treaty insert before the period the following: "; provided, however, that the Parties understand and agree that nothing in this Treaty, its Protocols, or its Memorandum of Understanding shall be deemed to be, or construed as, a relinquishment by the United States or by the State of Alaska of any claim of sovereignty or jurisdiction over Wrangel Island, Herald Island, Henrietta Island, Jeannette Island, and Bennett Island together with the surrounding outer continental shelf within the American waters of the Chukchi Sea and the East Siberian Seas.".

Executive Amendment No. 2191

Add at the end of the proposed Treaty the following new Article:

"Article . The Parties understand and agree that the testimony of duly designated and authorized officials of the Administration (Executive Branch of Government) of the United States of America given to the United States Senate prior to the ratification of this Treaty concerning the meaning and interpretation thereof is authoritative and dispositive and can be relied upon for the purpose of resolving any ambiguity or lack of clarity which in this Treaty may exist or at any time be said to exist.".

Executive Amendment No. 2192

Add at the end of the proposed Treaty the following new Article:

"Article . The Parties understand and agree that the testimony of duly designated and authorized officials of the Administration (Executive Branch of Government) of the United States of America given to the United States Senate prior to the ratification of this Treaty concerning the meaning and interpretation thereof is authoritative and dispositive and can be relied upon for the purpose of resolving any ambiguity or lack of clarity which in this Treaty may exist or at any time be said to exist; *provided, further,* That prior to the exchange of the instruments of ratification of this Treaty, the United States of America shall convey to the U.S.S.R. authenticated transcripts of all such testimony translated into the Russian language, exclusive however of such testimony as was given in secret which shall bind neither Party nor be translated.".

Executive Amendment No. 2193

Add at the end of Article I, the following:

"Notwithstanding the provisions of this Article, Article XIV, or any other article of this Treaty or of any provision of its Protocols or Memorandum of Understanding, the Parties understand and agree that the United States of America shall not be prohibited from providing the State of Israel with any non-nuclear technical assistance of whatever nature necessary for the State of Israel to develop missiles of the type to be eliminated by this Treaty so long as missiles of the type to be eliminated by this Treaty are possessed or deployed by any nation still in a state of belligerency or declared war with the State of Israel; provided, further, that the Parties agree that neither Party will provide such assistance to any State which is in a state of belligerency or declared war with the State of Israel.".

Executive Amendment No. 2194

In the resolution consenting to ratification as reported by the Committee on Foreign Relations insert before the period at the end thereof the following new condition: "subject, however, to the further condition that the President is not authorized to sign or exchange instruments of ratification unless and until the President, without delegation, shall have certified to the United States Senate that, in his judgment as Commander-in-Chief of the Armed Forces of the United States, the number of SS-20 missiles possessed by the Union of Soviet Socialist Republics on November 1, 1987, is the number of SS-20 missiles reported by the Union of Soviet Socialist Republics as being possessed by it on such date pursuant to the exchange of data under the Memorandum of Understanding contained in the Message of the President dated January 25, 1988, transmitting the proposed Treaty (Treaty Doc. 100-11, 100th Congress, 2nd Session) and that, in his judgment as Commander-in-Chief of its Armed Forces, the United States in monitoring compliance with the proposed Treaty will have a 50 percent or better probability of detecting a major Soviet violation constituting a material breach of such nature as to defeat the principal objects and purposes of the Treaty.".

Executive Amendment No. 2195

In the resolution consenting to ratification, insert before the period at the end thereof the following new condition: "subject, however, to the further condition that neither the President nor any other agent of the Executive Department is authorized to sign or exchange instruments of ratification unless and until the President, without delegation, shall have certified to the United States Senate that the Union of Soviet Socialist Republics is faithfully meeting its obligations under, and is in compliance with all provisions of, the Final Act of the Conference on Security and Cooperation in Europe done at Helsinki, Finland, on August 1, 1975".

Executive Amemdment No. 2196

In the resolution consenting to ratification strike out the condition reported by the Committee on Foreign Relations and insert in lieu thereof the following new condition as a substitute thereof: "subject, however, to the condition that neither the President nor any agent of the President is authorized to sign or exchange instruments of ratification unless the same shall include the following declaration:

'The United States of America declares that its interpretation of the treaty ratified hereby shall be governed by the following principles:

'When interpretating a treaty, one obviously looks first and foremost to the text of the treaty itself. In instances where the treaty text is not dispositive or is unclear, under international law one looks primarily to the negotiating record and the subsequent practice of the treaty parties. As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification'.".

EXECUTIVE AMEMDMENT No. 2197

In the resolution of ratification, insert before the period, the following: "subject to the inclusion in the instruments of ratification of the following declaration:

'Declaration.—The United States of America condemns the provisions of missiles of the types to be eliminated by the Parties to this Treaty to countries in a state of belligerency or at war with the State of Israel; *provided, further,* That the United States deems the provision or acceptance of such missiles as an act hostile to its fundamental national interest in the peace and stability of the Middle East and it shall, accordingly, take account of such acts as when considering future requests by such countries for combat aircraft, any lethal accessories for combat aircraft, missiles, or air defense systems'.".

EXECUTIVE AMENDMENT No. 2198

In the resolution consenting to ratification insert in lieu of the condition reported by the Committee on Foreign Relations the following new condition as a substitute therefor: "subject, however, to the condition that neither the President nor any agent of the President is authorized to sign or exchange instruments of ratification unless the same shall include the following declaration:

'The United States of America declares that, in the event that any part of the text of the Treaty ratified hereby is not deemed dispositive or is unclear, the United States of America shall resolve such issues of interpretation, insofar as regards the obligations of either Party under international law, primarily by resort to the negotiating record of this Treaty and to the subsequent practice of the Parties under this Treaty.

'The United States further declares that, as a matter of its own internal or domestic law, it shall, in the event that any part of the text of the Treaty ratified hereby is not deemed dispositive or is unclear, resolve such issues of interpretation by resort to those shared interpretations which were both authoritatively communicated to the United States Senate by the President of the United States and were clearly intended, generally understood, and relied upon by the United States Senate in giving its advice and consent to ratification of this Treaty notwithstanding whether the negotiating record of this Treaty and subsequent practice of the Parties under this Treaty should indicate an interpretation contrary to such shared interpretation; *provided, however,* That nothing in this paragraph shall be deemed or construed to affect or vary the international obligations under this Treaty of either Party thereto'.".

EXECUTIVE AMENDMENT No. 2199

Insert before the period in the resolution consenting to ratification the following Treaty conditions: "subject, however, to the condition that the President is not authorized to sign or exchange instruments of ratification unless and until the President, without delegation, shall have certified to the United States Senate that, in his judgment, the number of SS-20 missiles possessed by the Union of Soviet Socialist Republics on November 1, 1987, is the number of SS-20 missiles reported by the Union of Soviet Socialist Republics as being possessed by it on such date pursuant to the exchange of data under the Memorandum of Understanding contained in the Message of the President dated January 25, 1988, transmitting the proposed Treaty (Treaty Doc. 100-11, 100th Congress, 2d Session).".

EXECUTIVE AMENDMENT No. 2200

Before the period at the end of the resolution reported by the Committee on Foreign Relations insert the following: "; *provided, however,* That nothing in the Treaty or this Resolution shall be construed as prohibiting either Party from conducting operational tests in outer-space of anti-ballistic missile systems based on other physical principles (as such terms are defined in the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems) or of components of such systems.".

EXECUTIVE AMENDMENT No. 2201

Insert before the period at the end of the resolution consenting to ratification as reported by the Committee on Foreign Relations the following new condition: "subject, however, to the further condition that the President is not authorized to sign or exchange instruments of ratification unless and until the President, without delegation, shall have certified to the United States Senate that, in his judgment as Commander-in-Chief of the Armed Forces of the United States, the number of SS-20 missiles possessed by the Union of Soviet Socialist Republics on November 1, 1987, is within 50 missiles of the number of SS-20 missiles reported by the Union of Soviet Socialist Republics as being possessed by it on such date pursuant to the exchange of data under the Memorandum of Understanding contained in the Message to the President dated January 25, 1988, transmitting the proposed Treaty (Treaty Doc. 100-11, 100th Congress, 2d Session).".

EXECUTIVE AMENDMENT No. 2202

In Article II, add a new paragraph (3) as follows:

"(3) The United States does not condone the Soviet production, testing, and deployment of the missiles described in paragraph 2 which represent a Soviet violation of the SALT II constraints."

EXECUTIVE AMENDMENT No. 2203

In Article VI, paragraph 2 of the Treaty, strike "which is outwardly similar to, but not interchangeable with" and insert in lieu thereof "which is either outwardly similar to, or interchangeable with".

EXECUTIVE AMENDMENT No. 2204

In Article XIV, add at the end thereof the following new sentences:

"This provision thus reflects the duty of each Party under customary international law to comply with the Treaty. This provision does not impose any additional obligation on the Parties, nor does it broaden the interpretation of other obligations in the Treaty. This provision refers only to the assumption of obligations in the future, and existing agreements are therefore not affected. Article XIV will not affect existing patterns of defense collaboration or cooperation with U.S. allies. Nor would this provision preclude cooperation with U.S. allies in modernization."

EXECUTIVE AMENDMENT No. 2205

In Article X, paragraph 9 of the Treaty, insert before the period: ", *provided,* That the operating base has been eliminated in accordance with the procedures set forth in the Protocol on Elimination".

EXECUTIVE AMENDMENT No. 2206

In Article IV add at the end of Paragraph 2 thereof the following new subparagraphs:

(c) by the end of the first phase, that is, no later than 29 months after entry into force of this Treaty, all dependents of all United States military personnel on the continent of Europe shall have been withdrawn from that continent pursuant to such rules and regulations as may be prescribed by the Congress of the United States;

(d) after the entry into force of this Treaty, no United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall be newly assigned to duty on the continent of Europe for any tour of duty in excess of 12 months and having served such tour shall not thereafter be reassigned to that continent except in case of war declared by the Congress of the United States; provided, further, that no tour of duty limited in duration by this subparagraph shall be a tour accompanied by dependents; and

(e) by the end of the second phase, that is, no later than three years after entry into force of this Treaty, all United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall have been withdrawn from the continent of Europe pursuant to such rules and regulations as the Congress of the United States may prescribe for such purpose; provided, further, that thereafter, subject to the exclusion hereinbefore specified, no United States military personnel shall be stationed on the continent of Europe except after a declaration of war by the Congress of the United States expressly so providing."

EXECUTIVE AMENDMENT No. 2207

In Article II, paragraph 2 of the treaty, strike "that is a weapon-delivery vehicle" and insert in lieu thereof "that is, or could be used as, a weapon-delivery vehicle".

EXECUTIVE AMENDMENT No. 2208

In Article III, paragraph 2(b), at the end of the subparagraph, add before the period: "and missiles which are known to the United States of American as the SCUD B".

SYMMS EXECUTIVE AMENDMENTS NOS. 2209 AND 2210

(Ordered to lie on the table.)

Mr. SYMMS submitted two amendments intended to be proposed by him to Treaty Doc. 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2209

At the end, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following:

( ) CONDITION.—In authorizing the end strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities provided for in the Treaty, Congress shall take into account the number of such personnel that will be assigned to such activities during such fiscal year.

EXECUTIVE AMENDMENT No. 2210

At the end add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following:

( ) CONDITION.—Under existing authority any request submitted to the Congress by the executive branch for the enactment of budget authority for the On-site Inspection Agency, or for the enactment of any other legislation concerning the On-Site Inspection Agency, shall be submitted separately from any other request for the enactment of budget authority or other legislation.

HOLLINGS EXECUTIVE AMENDMENTS NOS. 2211 THROUGH 2213

(Ordered to lie on the table.)

Mr. HOLLINGS submitted three amendments intended to be proposed by him to the resolution of ratification on Treaty Doc. 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2211

At the end add the following:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

EXECUTIVE AMENDMENT No. 2212

In lieu of the matter proposed to be inserted, insert the following:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

EXECUTIVE AMENDMENT No. 2213

Strike all after the word "provided" and insert in lieu thereof the following:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

WALLOP EXECUTIVE AMENDMENT NO. 2214

(Ordered to lie on the table)

Mr. WALLOP submitted an amendment intended to be proposed by him to Treaty Doc. 100-11, supra; as follows:

At the proper, insert:

The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republic that if either Party exercises its right under Article VI, Paragraph 2 of the Treaty to produce a type of ground-launched ballistic missile (GLBM) not limited by the Treaty using a stage which is outwardly similar to, but not interchangeable with, any stage of an existing type of intermediate-range GLBM having more than one stage, it may not produce any other stage that is either outwardly similar to or interchangeable with any other stage of an existing type of intermediate-range GLBM.

WALLOP (AND OTHERS) EXECUTIVE AMENDMENT NO. 2215

(Ordered to lie on the table.)

Mr. WALLOP (for himself, Mr. KARNES, Mr. GARN, Mr. MCCAIN, Mr. MCCLURE, Mr. NICKLES, Mr. WILSON, and Mr. GRASSLEY) submitted an amendment intended to be proposed by them to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

At the end of the resolution of ratification, add the following:

"The President shall not exchange the instruments of ratification unless, using existing power, he communicates to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty, the following:

"(1) the declaration that the United States will consider any violation by the Soviet Union of its obligations under the Treaty, including any violation described in a report to the Congress by the President, pursuant to section 1002 of the Department of Defense Authorization Act, 1986, or any other notification required by paragraph (2), as grounds for undertaking appropriate responses or withdrawing from the Treaty, in accordance with the Treaty's terms and generally recognized principles of international law;

"(2) the reservation that, before the date of exchange of the instruments of ratification of the Treaty, the President shall agree to submit, every 12 months after the date of entry into force of the Treaty, to the Senate a report or an addendum to the report required by section 1002 of the Department of Defense Authorization Act, 1986, which—

"(A) contains a detailed net assessment of the overall trends in the strategic and theater balance, and the effectiveness of the Treaty and other arms control treaties in ensuring a stable nuclear balance that protects the security of the United States and its allies;

"(B) certifies whether the Soviet Union is in compliance with the Treaty;

"(C) if the President does not certify full compliance, contains a net assessment of the nature of the non-compliance, the reliability of the evidence and the vulnerability of the sources of that evidence to countermeasures, and the risks each detected or suspected violation poses to the security of the United States and its allies; and

"(D) upon request of the Select Committee on Intelligence of the Senate, discusses the question of compliance raised by any intelligence information notified under paragraph (3);

"(3) the declaration that, the Director of Central Intelligence should transmit to the Select Committee on Intelligence of the Senate any finished analysis of intelligence information which raises questions about whether Soviet activities are in compliance with the Treaty;

"(4) the declaration that, whenever the President submits to the Senate a report pursuant to paragraph (2) or a report pursuant to section 1002 of the Department of Defense Authorization Act, 1986, that describes a violation by the Soviet Union of the Treaty, and he decides not to withdraw the United States from the Treaty, the President will certify to the Senate, not later than 90 calendar days after the Senate receives such a report that either—

"(A) he is undertaking appropriate responses to any such Soviet violation, which certification will detail the specific actions being taken in response to the Soviet violation; or

"(B) the Soviet Union has returned to compliance with the Treaty, whcih certification will provide a description of the actions taken by the Soviet Union to return to compliance;

"(5) the declaration that, the Treaty will no longer continue to remain in force with respect to the United States if the Senate adopts a resolution by majority vote that disapproves the certification submitted by the President pursuant to clause (A) or (B) of paragraph (4), as the case may be; and

"(6) the declaration that, if the President announces the intention of the United States to withdraw from the Treaty or to take appropriate responses to Soviet violations, he should obligate or expend funds to protect the interests of the United States and it allies under such circumstances as the Congress may specifically make available to him for those purposes".

HOLLINGS EXECUTIVE AMENDMENTS NOS. 2216 THROUGH 2221

(Ordered to lie on the table.)

Mr. HOLLINGS submitted six amendments intended to be proposed by him to the resolution of ratification to Treaty Doc. 100-11 supra; as follows:

EXECUTIVE AMENDMENT No. 2216

At the end add the following:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

EXECUTIVE AMENDMENT No. 2217

At the end add the following:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

Executive Amendment No. 2218

In lieu of the matter proposed to be inserted, insert the following:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

Executive Amendment No. 2219

In lieu of the matter proposed to be inserted, insert the following:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

Executive Amendment No. 2220

Strike all after the word "provided" and insert in lieu thereof the following:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

Executive Amendment No. 2221

Strike all after the word "provided" and insert in lieu thereof the following:

The Senate's advice and consent to ratification of the Treaty is subject to the condition that, in connection with the exchange of instruments of ratification of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics to the following reservation:

References in the Treaty to ground-launched cruise missiles shall be deemed to be references only to ground-launched cruise missiles which are equipped with nuclear warheads.

NUNN (AND OTHERS) EXECUTIVE AMENDMENTS NOS. 2222 THROUGH 2226

(Ordered to lie on the table.)

Mr. NUNN (for himself, Mr. Warner, Mr. Boren, and Mr. Cohen) submitted five amendments intended to be proposed by them to Treaty Document 100-11, supra; as follows:

Executive Amendment No. 2222

Strike all after the word provided and insert in lieu thereof the following:

The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties on certain issues related to the Treaty are of the same force and effect as the provisions of the Treaty.

Executive Amendment No. 2223

In lieu of the matter proposed to be inserted, insert the following:

The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties on certain issues related to the Treaty are of the same force and effect as the provisions of the Treaty.

Executive Amendment No. 2224

At an appropriate place insert the following:

The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties on certain issues related to the Treaty are of the same force and effect as the provisions of the Treaty.

Executive Amendment No. 2225

At the end of the matter proposed to be inserted, insert the following:

The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties on certain issues related to the Treaty are of the same force and effect as the provisions of the Treaty.

Executive Amendment No. 2226

In lieu of the matter proposed to be stricken, insert the following:

The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties on certain issues related to the Treaty are of the same force and effect as the provisions of the Treaty.

BOREN (AND COHEN) EXECUTIVE AMENDMENTS NOS. 2227 AND 2228

(Ordered to lie on the table)

Mr. BOREN (for himself and Mr. Cohen) submitted two amendments intended to be proposed by them to Treaty Document 100-11, supra; as follows:

Executive Amendment No. 2227

After the worlds "as used in the Treaty", delete the word "is" and insert in lieu thereof the following:

", and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty, are".

Executive Amendment No. 2228

After the words "as used in the Treaty", delete the word "is" and insert in lieu thereof the following:

", and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty, are".

BOREN (AND OTHERS) EXECUTIVE AMENDMENTS NOS. 2229 AND 2230

(Ordered to lie on the table)

Mr. BOREN (for himself, Mr. NUNN, Mr. WARNER, and Mr. COHEN) submitted two amendments intended to be proposed by them to Treaty Document 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2229

At the end of the Committee Amendment insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related questions of the definition of the term "weapon-delivery vehicle" as used in the Treaty, and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty, are of the same force and effect as the provisions of the Treaty."

EXECUTIVE AMENDMENT No. 2230

At the end of the Committee Amendment insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty, and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty, are of the same force and effect as the provisions of the Treaty."

BOREN (AND COHEN) EXECUTIVE AMENDMENTS NOS. 2231 THROUGH 2238

(Ordered to lie on the table.)

Mr. BOREN (for himself and Mr. COHEN) submitted eight amendments intended to be proposed by them to Treaty Document 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2231

In lieu of the matter proposed to be inserted, insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty is of the same force and effect as the provision of the Treaty."

EXECUTIVE AMENDMENT No. 2232

In lieu of the matter proposed to be inserted, insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty is of the same force and effect as the provision of the Treaty."

EXECUTIVE AMENDMENT No. 2233

At the end of the matter proposed to be inserted, insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty is of the same force and effect as the provision of the Treaty."

EXECUTIVE AMENDMENT No. 2234

At the end of the matter proposed to be inserted, insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty is of the same force and effect as the provisions of the Treaty."

EXECUTIVE AMENDMENT No. 2235

In lieu of the matter proposed to be stricken, insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty is of the same force and effect as the provisions of the Treaty."

EXECUTIVE AMENDMENT No. 2236

In lieu of the matter proposed to be stricken, insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty is of the same force and effect as the provisions of the Treaty."

EXECUTIVE AMENDMENT No. 2237

At the appropriate place insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty is of the same force and effect as the provisions of the Treaty."

EXECUTIVE AMENDMENT No. 2238

At the appropriate place insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty is of the same force and effect as the provisions of the Treaty."

DOLE EXECUTIVE AMENDMENTS NOS. 2239 THROUGH 2241

(Ordered to lie on the table.)

Mr. DOLE submitted three amendments intended to be proposed by him to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2239

Before the period at the end of the Resolution of Ratification, insert a comma and add the following:

"The President shall not exchange the instruments of ratification unless, using existing powers, he has communicated to the government of the Union of Soviet Socialist Republics that the United States regards arms control agreements, such as the present Treaty, as packages which, when taken as a whole, verifiably reduce certain weapons to enhance stability. Consequently, the United States cannot agree to any interim arrangement short of a treaty which would be submitted to the United States Senate for its advice and consent to ratification, which commits it to any portion of a potential future agreement on strategic arms reductions. The United States continues to believe that periodic descriptions of the status of the talks are constructive and useful."

EXECUTIVE AMENDMENT No. 2240

Before the period at the end of the Resolution of Ratification insert a comma and add the following:

"The President shall not exchange the instruments of ratification unless, using existing powers, he has communicated the following declaration to the General Secretary of the Communist Party of the Soviet Union:

Conventional Stability Talks leading to effectively verifiable asymmetrical reductions in tanks and artillery, resulting in parity of NATO and Warsaw Treaty Organization conventional forces in Europe should proceed with the highest priority; and the further declaration that no negotiations on U.S. nuclear forces in Europe not covered by the present Treaty are possible until conventional parity between NATO and the Warsaw Treaty Organization has been achieved."

EXECUTIVE AMENDMENT No. 2241

Before the period at the end of the Resolution of Ratification, insert a comma and add the following:

"The President shall not exchange the instruments of ratification unless, using existing powers, he has communicated to the government of the Union of Soviet Socialist Republics that the United States is ratifying the Treaty in accordance with the common understanding already existing between the two parties that Article VI, paragraph 2 means that should either party produce a type of GLBM not limited by the Treaty using a stage which is outwardly similar to, but not interchangeable with, any stage of an existing type of intermediate-range GLBM having more than one stage, it may not produce any other stage that is either outwardly similar to, or interchangeable with, any other stage of an existing type of intermediate-range GLBM.

WALLOP (AND OTHERS) EXECUTIVE AMENDMENT NO. 2242

(Ordered to lie on the table.)

Mr. WALLOP (for himself, Mr. KARNES, Mr. GARN, Mr. MCCAIN, Mr. MCCLURE, Mr. NICKLES, Mr. WILSON, and Mr. GRASSLEY) submitted an amendment intended to be proposed by them to the resolution of ratification to Treaty Document 100-11, supra; as follows:

At the end, add the following:

"The President shall not exchange the instruments of ratification unless, using existing power, he communicates to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty, the following:

"(1) the declaration that the United States will consider any violation by the Soviet Union of its obligations under the Treaty, including any violation described in a report to the Congress by the President, pursuant to section 1002 of the Department of Defense Authorization Act, 1986, or any other notification required by paragraph (2), as grounds for undertaking appropriate responses or withdrawing from the Treaty, in accordance with the Treaty's terms and generally recognized principles of international law;

"(2) the reservation that, before the date of exchange of the instruments of ratification of the Treaty, the President shall agree to submit, every 12 months after the date of entry into force of the Treaty, to the Senate a report or an addendum to the report required by section 1002 of the Department of Defense Authorization Act, 1986, which—

"(A) contains a detailed net assessment of the overall trends in the strategic and theater balance, and the effectiveness of the Treaty and other arms control treaties in ensuring a stable nuclear balance that protects the security of the United States and its allies;

"(B) certifies whether the Soviet Union is in compliance with the Treaty;

"(C) If the President does not certify full compliance, contains a net assessment of the nature of the non-compliance, the reliability of the evidence and the vulnerability of the sources of that evidence to countermeasures, and the risks each detected or suspected violation poses to the security of the United States and its allies; and

"(D) upon request of the Select Committee on Intelligence of the Senate, discusses the question of compliance raised by any intelligence information notified under paragraph (3);

"(3) the declaration that, the Director of Central Intelligence should transmit to the Select Committee on Intelligence of the Senate any finished analysis of intelligence information which raises questions about whether Soviet activities are in compliance with the Treaty;

"(4) the declaration that, whenever the President submits to the Senate a report pursuant to paragraph (2) or a report pursuant to section 1002 of the Department of Defense Authorization Act, 1986, that describes a violation by the Soviet Union of the Treaty, and he decides not to withdraw the United States from the Treaty, the President will certify to the Senate, not later than 90 calendar days after the Senate receives such a report that either—

"(A) he is undertaking appropriate responses to any such Soviet violation, which certification will detail the specific actions being taken in response to the Soviet violation; or

"(B) the Soviet Union has returned to compliance with the Treaty, which certification will provide a description of the actions taken by the Soviet Union to return to compliance;

"(5) the declaration that, the Treaty will no longer continue to remain in force with respect to the United States if the Senate adopts a resolution by majority vote that disapproves the certification submitted by the President pursuant to clause (A) or (B) of paragraph (4), as the case may be; and

"(6) the declaration that, if the President announces the intention of the United States to withdraw from the Treaty or to take appropriate responses to Soviet violations, he should obligate or expend funds to protect the interests of the United States and its allies under such circumstances as the Congress may specifically make available to him for those purposes".

QUAYLE EXECUTIVE AMENDMENTS NOS. 2243 THROUGH 2246

(Ordered to lie on the table.)

Mr. QUAYLE submitted four amendments intended to be proposed by him to the resolution of ratification to Treaty Document 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2243

At the end of the resolution of ratification, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following, which the President shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

( ) UNDERSTANDING.—The United States understands that the Treaty does not cover nonweapons delivery vehicles including—

(1) any ground-launched ballistic missiles or ground-launched cruise missiles having a range capability of more than 500 kilometers but less than 5,500 kilometers and that has not been flight-tested or deployed to carry or be used as a weapon, including any warhead, mechanism, or device, which when directed against any target, is designed to damage or destroy it; and

(2) ground-launched ballistic missiles or ground-launched cruise missiles having a range capability of more than 500 kilometers but less than 5,500 kilometers and carrying devices designed to spoof, upset, jam, deceive, or disrupt enemy electromagnetic devices, or to dazzle, disrupt, or interfere with the normal operation of enemy optical or electro-optical capabilities, disable or incapacitate enemy assets or troops temporarily, or provide military intelligence, surveillance, communication, missile guidance, target designation, or range-finding information.

EXECUTIVE AMENDMENT No. 2244

At the end of the resolution of ratification, add the following:

The Senate's advice and consent to ratification of the treaty is subject to the following, which is to be included in the protocol of exchange of the instruments of ratification:

( ) UNDERSTANDING.—The United States understands that Article XIV of the Treaty does not in any way constitute an undertaking by the United States against circumvention of the treaty, nor does it impose any obligation on the Parties that is not otherwise expressed in the Treaty Questions as to the types of assistance to other foreign states prohibited under the Treaty must be addressed under the specific prohibitions in the Treaty, not by references to article XIV of the Treaty.

EXECUTIVE AMENDMENT No. 2245

At the end of the resolution of ratification, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following:

( ) DECLARATION.—The Senate declares that—

(1) because the incentive for Soviet noncompliance, and the difficulty of monitoring will be greater for any Strategic Arms Reduction Talks (START) agreement than for the INF Treaty, the United States will have to rely on its own independent national technical means to verify Soviet compliance regardless of what cooperative verification schemes are agreed to in START including such on-site inspection procedures as those agreed to in the INF Treaty;

(2) because the United States enjoys a comparative advantage in the development of nonnuclear technologies that can raise the nuclear threshold and reduce the likelihood of war and because START and the INF Treaty will increase the military need

to rely more heavily on such nonnuclear capabilities, it should be the position of the United States that in START no restrictions should be established on current or future nonnuclear cruise missiles; and

(3) because the reductions contemplated under any START agreement would change the character and optimal mix of strategic nuclear forces that the United States will need to maintain stability, it is imperative that the United States Congress and the President agree on the character of, and funding for, these forces before any START agreement, framework or otherwise, is signed or agreed to.

EXECUTIVE AMENDMENT No. 2246

Strike out "*Provided* That" and all that follows through "Party" of the Committee Amendment and insert in lieu thereof:

"Subject to the following condition:

(a) the United States and the Soviet Union shall interpret this Treaty in accordance with the understanding of the Treaty shared by the Executive and the Senate at the time of Senate consent to ratification;

(b) such common understanding is:

(i) based on the text of the Treaty; and

(ii) reflected in the authoritative representations provided by the Executive branch to the Senate and its committees in seeking Senate consent to ratification, insofar as such representations are directed to the meaning and legal effect of the text of the Treaty."

HELMS EXECUTIVE AMENDMENTS NOS. 2247 THROUGH 2250

(Ordered to lie on the table.)

Mr. HELMS submitted four amendments intended to be proposed to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2247

At the end of the resolution of ratification, insert the following before the period: "; provided, further, however that the following text shall be included in such instruments:

"1. Article II of the Treaty is amended by adding at the end thereof the following: Notwithstanding any other provision of the Treaty, its Protocols, or its Memorandum of Understanding, the conduct of the Parties with respect to missiles and missile systems subject to the provisions of this Treaty shall be governed by the following principles to which the Parties pledged adherence by an Exchange of Notes of May 12, 1988, to wit:

The Government of the Union of Soviet Socialist Republics acknowledges receipt of the note of the Government of the United States of America of May 12, 1988, as follows:

"In light of the discussions between the Secretary of State of the United States of America and the Foreign Minister of the Union of Soviet Socialist Republics in Geneva and Moscow on April 14 and April 21-22, 1988, and the Foreign Minister's letter to the Secrtary of State, dated April 15, 1988, the Government of the United States of America wished to record in an agreement concluded by exchange of notes the common understanding reached between the two Governments as to the application of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-range and Shorter-range Missiles (hereinafter referred to as "the Treaty"), signed at Washington on December 8, 1987, to intermediate/range and shorter-range missiles flight-tested or deployed to carry weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty.

It is the position of the government of the United States of America that the Parties share a common understanding that all their intermediate-range and shorter-range missiles as defined by the Treaty, both at present and in the future, are subject to the provisions of the Treaty.

In this connection, it is also the position of the Government of the United States of America that the Parties share a common understanding that the term "weapon-delivery vehicle," in the Treaty means any ground-launched ballistic or cruise missile in the 500 kilometer to 5500 kilometer range that has been flight-tested or deployed to carry or be used as a weapon—that is, any warhead, mechanism or device, which, when directed against any target, is designed to damage or destroy it. Therefore, the Treaty requires elimination and bans production and flight-testing of all such missiles tested or deployed to carry or be used as weapons based on either current or future technologies, with the exception of missiles mentioned in paragraph 3 of Article VII of the Treaty. It is also the position of the Government of the United States of America that the Parties share a common understanding that the Treaty does not cover non-weapon-delivery vehicles.

It is the understanding of the Government of the United States of America that the above reflects the common view of the two Governments on these matters. If so, the Government of the United States of America proposes that this note and the Soviet reply note confirming that the Government of the Union of Soviet Socialist Republics shares the understanding of the Government of the United States of America, as set forth above, shall constitute an agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics.";

The Government of the Union of Soviet Socialist Republics states that it is in full accord with the text and contents of the note of the Government of the United States of America as quoted above and fully shares the understanding of the Government of the United States of America set forth in the above note.

The Government of the Union of Soviet Socialist Republics agrees that the note of the Government of the United States of America of May 12, 1988, and this note in reply thereto, constitute an agreement between the Government of the Union of Soviet Socialist Republics and the Government of the United States of America that the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the elimination of Their Intermediate-range and shorter-range missiles is applicable to intermediate-range and shorter-range missiles flight-tested or deployed to carry weapons based on either current or future technologies, and also regarding the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty.

2. Article XI is amended by adding at the end thereof the following: Not withstanding any other provision of the Treaty, its Protocols, or its Memorandum of Understanding, the conduct of the Parties with respect to verification procedures of the Treaty shall be governed by the following principles to which the Parties pledged adherence by an Exchange of Notes on May 12, 1988, to wit:

Representatives of the United States of America and the Union of Soviet Socialist Republics discussed the following issues related to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington on 8 December, 1987, during the meeting between Secretary Shultz and Foreign Minister Shevardnadze in Geneva on 11-12 May 1988. As a result of these discussions, the parties agreed on the points that follow.

"1. In accordance with paragraph 7 of Section VII of the Inspection Protocol, during baseline, close-out and short-notice inspections, the parties will be inspecting the entire inspection site, including the interior of structures, containers or vehicles, or including covered objects, capable of containing: for the United States—the second stage of the Pershing II, and the BGM-109G cruise missile; for the USSR—the first stage of the SS-12 missile, the stage of the SS-23 missile, the SSC-X-4 cruise missile and the SS-4 launch stand.

"2. Regarding the second stages of United States GLBMs, the aggregate numbers of these stages are listed in the Memorandum of Understanding and will be updated in accordance with Article IX of the Treaty no later than 30 days after entry into force of the Treaty and at six-month intervals thereafter. Except in the case of close-out inspections and inspections of formerly declared facilities, the United States in-country escort is obliged to provide the Soviet inspection team leader with the number of such second stages at the inspection site as well as a diagram of the inspection site indicating the location of those stages. Finally, as set forth in the Elimination Protocol, Soviet inspectors will observe the elimination of all the stages of United States GLBMs.

"3. The entire area of an inspection site, including all buildings, within the outer boundaries depicted on the site diagrams are subject to inspection. In addition, anything depicted outside these outer boundaries on the site diagrams is subject to inspection. Any technical corrections to the site diagrams appended to the Memorandum of Understanding will be made via the corrigendum exchange of notes prior to entry into force of the Treaty. Such corrections will not involve the exclusion of buildings, structures or roads within or depicted outside the outer boundaries depicted on the site diagrams currently appended to the Memorandum of Understanding.

"4. The Soviet side assured the United States side that, during the period of continuous monitoring of facilities under the Treaty, no shipment shall exit a continuous monitoring facility on the territory of the USSR whose dimensions are equal to or greater than the dimensions of the SS-20 missile without it's front-end section, but less than the dimensions of an SS-2-launch canister, as those dimensions are listed in the Memorandum of Understanding. For the purposes of this assurance, the length of the SS-20 missile without its front section will be considered to be 14.00 meters. In the context of this assurance, the United States will not be inspecting any shipment whose dimensions are less than those of an

SS-20 launch canister as listed in the Memorandum of Understanding.

"5. Inspection teams may bring to the inspection site the equipment provided for in the Inspection Protocol. Use of such equipment will be implemented in accordance with the procedures set forth in that Protocol. For example, if the inspecting Party believes that an ambiguity has not been removed, upon request the inspected Party shall take a photograph of the object of building about which a question remains.

"6. During baseline inspections, the Parties will have the opportunity, on a one-time basis, to verify the technical characteristics listed in Section VI of the Memorandum of Understanding, including the weighs and dimensions of SS-20 stages at an elimination facility. Inspectors will select at random one of each type of item to weigh and measure from a sample presented by the inspected Party at a site designated by the inspected Party. To ensure that the items selected are indeed representative, the sample presented by the inspected Party must contain an adequate number of each item (i.e., at least 8-12, except in the case of the United States Pershing IA launcher, only one of which exists).

"7. Immediately prior to the initiation of elimination procedures, an inspector shall confirm and record the type and number of items of missile systems which are to be eliminated. If the inspecting Party deems it necessary, this shall include a visual inspection of the contents of launch canisters. This visual inspection can include looking into the launch canister once it is opened at both ends. It can also include use of the equipment and procedures that will be used eight times per year at Votkinsk and Magna to measure missile stages inside launch canisters (i.e., an optical or mechanical measuring device). If it should turn out, in particular situations, that the inspector is unable to confirm the missile type using the above techniques, the inspected Party is obligated to remove the inspector's doubts that inspector is satisfied as to the contents of the launch canister.

"8. The length of the SS-23 missile stage will be changed, in a corrigendum to the Memorandum of Understanding, to 4.56. meters. The length of the SS-12 first stage will continue to be listed as 4.38 meters, which includes an interstage structure.

"9. The sides will exchange additional photographs no later than May 15, 1988. For the United States side, these photographs will be of the Pershing IA missile and Pershing II missile with their front sections attached and including a scale. For the Soviet side, these photographs will be of the SS-23, SS-12, and SS-4 with their front sections attached, and of the front section of the SS-20.

"10. In providing notifications of transit points in accordance with paragraph 5(f)(iv) of Article IX of the Treaty, the Parties will specify such intermediate locations by providing the place-name and its center coordinates in minutes.

"11. The United States side has informed the Soviet side that Davis Monthan Air Force Base, Arizona will serve as the elimination facility for the U.S. BGM-109G cruise missile. In order to address Soviet concerns on a related matter, the United States will formally inform the Soviet side before entry into force of the Treaty, of an elimination facility for each of its Treaty-limited items.

These points reflect the understandings of the two sides regarding their obligations under the Treaty.

'3. The Memorandum of Understanding is amended by adding at the end thereof a new section employing additional relevant information provided pursuant to secret agreement of the Parties made in Geneva on May 12, 1988, to wit:

'(4) DECLARATION. The United States of America declares that, as an integral factor in this decision to adhere to this Treaty, it intends to seek activity to negotiate with the Union of Soviet Socialist Republics, a treaty or treaties effecting reductions in the conventional and stategic nuclear forces of the Parties and, in so doing, that it shall be guided by the following principles and considerations:

(a) A main object of such future treaties shall be international stability and reduction of the risk of war by obtaining general equality in the resultant forces of the Parties;

(b) During any negotiations contemplated by this declaration, the United States shall take all actions in close consultation with its allies who are member states of the North Atlantic Treaty Organization and with such other states as depend upon, in whole or in part, the military forces of the United States for their national security and the independence of their governmental institutions;

(c) Negotiations contemplated by this declaration shall also be conducted in close and detailed coordination with the United States Senate as a body, and the same, as a body, should be kept fully apprised of all significant proposals intended to be made, or made, to the Union of Soviet Socialist Republics and, with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given plenary consideration and due regard;

(d) The negotiations contemplated by this declaration shall also seek to secure regimes of stringent verification and effective compliance which carry forward but strengthen significantly the verification and compliance regimes of the present Treaty;

(e) In accordance with the Constitutional process of the United States, the United States shall, notwithstanding any presumed or asserted contrary principle of international law, adhere to and undertake obligations with respect to any treaty contemplated by this declaration upon ratification thereof pursuant to the advice and consent of the Senate;

(f) Pursuant to this declaration, the United States shall seek a joint declaration with the Union of Soviet Socialist Republics of a framework for the negotiation of the treaties contemplated hereby and such framework shall be considered a position of the United States only if achieved after close and detailed consultations with the United States Senate and shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously;

(g) Notwithstanding the other provisions of this declaration, the United States considers full and exact compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting i) the proposals and attitudes of the United States with respect to the future treaties contemplated hereby and ii) proportionate and appropriate responses with respect to such existing agreements.'."

EXECUTIVE AMENDMENT NO. 2248

At the end of the resolution of ratification, insert the following before the period: "; *provided further, however,* That the following text shall be included in such instruments: In Article IV, add at the end of paragraph 8 thereof the following new subparagraph:

(c) by the end of the first phase, that is, no later than 29 months after entry into force of this Treaty, all dependents of all United States military personnel on the continent of Europe shall have been withdrawn from that continent pursuant to such rules and regulations as may be prescribed by the Congress of the United States;

(d) after the entry into force of this Treaty, no United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall be newly assigned to duty on the continent of Europe for any tour of duty in excess of 12 months and having served such tour shall not thereafter be reassigned to that continent except in case of war declared by the Congress of the United States; provided, further, that no tour of duty limited in duration by this subparagraph shall be a tour accompanied by dependents; and

(e) by the end of the second phase, that is, no later than three years after entry into force of this Treaty, all United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall have been withdrawn from the continent of Europe pursuant to such rules and regulations as the Congress of the United States may prescribe for such purpose; provided further, that thereafter, subject to the exclusion hereinbefore specified, no United States military personnel shall be stationed on the continent of Europe except after a declaration of war by the Congress of the United States expressly so providing."

EXCLUSIVE AMENDMENT NO. 2249

At the end of the resolution of ratification; insert the following before the period: "; provided further, however, that the following text shall be included in such instruments: At the end of Article XV of the proposed Treaty add the following new paragraph:

"3. Notwithstanding any other provision of this Article, the Parties understand and agree that the provision of materially misleading and false data in exchange of data between the Parties under the Memorandum of Understanding to this Treaty or any other material breach of this Treaty or its Protocols by a Party shall immediately give the other Party the right to terminate, void, or withdraw from this Treaty. In such event, this Treaty shall terminate 15 days after the Party exercising its right under this paragraph shall have given notice to the other Party. The Parties understand and agree that, in the case of the United States, such notice may be given by the President of the United States upon his finding of any material breach by the Union of Soviet Socialist Republics; notice under this paragraph shall also be deemed given if a majority of the Senate by resolution finds that there has been any material breach of this Treaty by the Union of Soviet Socialist Republics and a copy of such resolution is made available to the Embassy of the Union of Soviet Socialist Republics in Washington, D.C. The Parties further understand and agree that the term "material breach" as used in this paragraph shall include but not be limited to the following: a) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister required to be eliminated by this Treaty after the date at which such item should have been eliminated pursuant to this Treaty and its Protocols; b) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister in excess of the numbers of such items by type provided by either Party to the other pursuant to the Memorandum of Understanding to this Treaty which, together with any data exchanged thereunder, is hereby incorporated herein in full by reference; c) the failure of either Party to eliminate any missile, missile launcher, or missile canister at the time in the manner specified by this Treaty and it Protocols, and d) the production of any missile, missile launcher, or missile canister for any new ground-based missile system having a range capability equal to or in excess of 500 kilometers but not in excess of 5,500 kilometers.".

EXECUTIVE AMENDMENT No. 2250

At the end of Article XV of the proposed Treaty add the following new paragraph:

"3. Notwithstanding any other provision of this Article, the Parties understand and agree that the provision of materially misleading and false data in any exchange of data between the Parties under the Memorandum of Understanding to this Treaty or any other material breach of this Treaty or its Protocols by a Party shall immediately give the other Party the right to terminate; void or withdraw from this Treaty. In such event, this Treaty shall terminate 15 days after the Party exercising its right under this paragraph shall have given notice to the other Party. The Parties understand and agree that, in the case of the United States, such notice may be given by the President of the United States upon his finding of any material breach by the Union of Soviet Socialist Republics; provided, further, that notice under this paragraph shall also be deemed given if a majority of the Senate by resolution finds that there has been any material breach of this Treaty by the Union of Soviet Socialist Republics and a copy of such resolution is made available to the Embassy of the Union of Soviet Socialist Republics in Washington, D.C. The Parties further understand and agree that the term "material breach" as used in this paragraph shall include but not be limited to the following: a) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister required to be eliminated by this Treaty after the date at which such item should have been eliminated pursuant to this Treaty and its Protocols; b) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister in excess of the numbers of such items by type provided by either Party to the other pursuant to the Memorandum of Understanding to this Treaty which, together with any data exchanged thereunder, is hereby incorporated herein in full by reference; c) the failure of either Party to eliminate any missile, missile launcher, or missile canister at the time and in the manner specified by this Treaty and its Protocols, and d) the production of any missile, missile launcher, or missile canister for any new ground-based missile system having a range capability equal to or in excess of 500 kilometers but not in excess of 5,500 kilometers.".

BYRD EXECUTIVE AMENDMENTS NOS. 2251 THROUGH 2291

(Ordered to lie on the table.)

Mr. BYRD submitted 41 amendments intended to be proposed by him to Treaty Document 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2251

At the end, add the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT No. 2252

In lieu of the matter proposed to be inserted, insert the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT No. 2253

At the end, add the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT No. 2254

Strike all after the word "provided", and insert in lieu thereof the following:

That the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT No. 2255

Strike all after the word "provided", and insert in lieu thereof the following:

That the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2256

In the matter proposed to be stricken, strike all after the word "provided" and insert in lieu thereof the following:

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2257

In the matter proposed to be stricken, strike all after the word "provided" and insert in lieu thereof the following:

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2258

In lieu of the matter proposed to be stricken, insert the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the test of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2259

In lieu of the matter proposed to be stricken, insert the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2260

In lieu of the matter proposed to be inserted, insert:

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2261

In lieu of the matter proposed to be inserted, insert:

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2262

At the end, add the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2263

In lieu of the matter proposed to be inserted, insert:

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is

not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT NO. 2264

In lieu of the matter proposed to be inserted, insert:

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT NO. 2265

In lieu of the matter proposed to be inserted, insert:

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT NO. 2266

In lieu of the matter proposed to be inserted, insert:

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT NO. 2267

In lieu of the matter proposed to be inserted, insert:

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT NO. 2268

In lieu of the matter proposed to be inserted, insert: The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT NO. 2269

In lieu of the matter proposed to be inserted, insert: The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT NO. 2270

In lieu of the matter proposed to be stricken, insert the following: provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfuly made pursuant to any subsequent statute or Treaty shall have no force or effect.

EXECUTIVE AMENDMENT NO. 2271

In lieu of the matter proposed to be stricken, insert the following: provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfuly made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2272

In lieu of the matter proposed to be stricken, insert the following: provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and it Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2273

In lieu of the matter proposed to be stricken, insert the following: provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and it Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2274

In the matter proposed to be stricken, strike all after the word "provided" and insert in lieu thereof the following: The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2275

In the matter proposed to be stricken, strike all after the word "provided" and insert in lieu thereof the following: The Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2276

In the matter proposed to be stricken, strike all after the word "provided" and insert in lieu thereof the following: The Senate' advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2277

In the matter proposed to be stricken, strike all after the word "provided" and insert in lieu thereof the following: The Senate' advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2278

Strike all after the word "provided", and insert in lieu thereof the following: that the Senate's advice and consent to ratification of the INF Treaty is subject to the conditions, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2279

Strike all after the word "provided", and insert in lieu thereof the following: that the Senate's advice and consent to ratification of the INF Treaty is subject to the conditions, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2280

Strike all after the word "provided", and insert in lieu thereof the following:

That the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2281

Strike all after the word "provided", and insert in lieu thereof the following:

That the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2282

At the end, add the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2283

At the end, add the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2284

At the end, add the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's power under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2285

At the end, add the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2286

At the end, add the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's power under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2287

In lieu of the matter proposed to be inserted, insert the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2288

In lieu of the matter proposed to be inserted, insert the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2289

In lieu of the matter proposed to be inserted, insert the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Senate's powers under the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2290

In lieu of the matter proposed to be inserted, insert the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

Executive Amendment No. 2291

In lieu of the matter proposed to be inserted, insert the following:

Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty;

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

QUAYLE EXECUTIVE AMENDMENTS NOS. 2292 THROUGH 2294

(Ordered to lie on the table.)

Mr. QUAYLE submitted three amendments intended to be proposed by him to the resolution of ratification to Treaty Document 100-17, supra; as follows:

Executive Amendment No. 2292

At the end, add the following:

The Senate's advice and consent to ratification of the Treaty is subject to the following, which is to be included in the protocol of exchange of the instruments of ratification:

( ) Understanding.—The United States understands that Article XIV of the Treaty does not in any way constitute an undertaking by the United States against circumvention of the Treaty, nor does it impose any obligation on the Parties that is not otherwise expressed in the Treaty. Questions as to the types of assistance to other foreign states prohibited under the Treaty must be addressed under the specific prohibitions in the Treaty, not by reference to Article XIV of the Treaty.

Executive Amendment No. 2293

At the end, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following:

( ) Declaration.—The Senate declares that—

(1) because the incentive for Soviet noncompliance, and the difficulty of monitoring will be greater for any Strategic Arms Reduction Talks (START) agreement than for the INF Treaty, the United States will have to rely on its own independent national technical means to verify Soviet compliance regardless of what cooperative verification schemes are agreed to in START including such on-site inspection procedures as those that agreed to in the INF Treaty;

(2) because the United States enjoys a comparative advantage in the development of nonnuclear technologies that can raise the nuclear threshold and reduce the likelihood of war and because START and the INF Treaty will increase the military need to rely more heavily on such nonnuclear capabilities, it should be the position of the United States that in START no restrictions should be established on current or future nonnuclear cruise missiles; and

(3) because the reductions contemplated under any START agreement would change the character and optimal mix of strategic nuclear forces that the United States will need to maintain stability, it is imperative that the United States Congress and the President agree on the character of, and funding for, these forces before any START agreement, framework or otherwise, is signed or agreed to.

Executive Amendment No. 2294

At the end, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following, which the President shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

( ) Understanding.—The United States understands that the Treaty does not cover nonweapons delivery vehicles including—

(1) any ground-launched ballistic missiles or ground-launched cruise missiles having a range capability of more than 500 kilometers but less, than 5,500 kilometers and that has not been flight-tested or deployed to carry or be used as a weapon, including any warhead, mechanism, or device, which when directed against any target, is designed to damage or destroy it; and

(2) ground-launched ballistic missiles or ground-launched cruise missiles having a range capability of more than 500 kilometers but less than 5,500 kilometers and carrying devices designed to spoof, upset, jam, deceive, or disrupt enemy electro-magnetic devices, or to dazzle, disrupt, or interfere with the normal operation of enemy optical or electro-optical capabilities, disable or incapacitate enemy assets or troops temporarily, or provide military intelligence, surveillance, communication, missile guidance, target designation, or range-finding information.

HELMS EXECUTIVE AMENDMENT NO. 2295

Mr. HELMS proposed an amendment to Treaty Doc. 100-11, supra; as follows:

At the end of Article XV of the proposed Treaty add the following new paragraph:

"3. Notwithstanding any other provision of this Article, the Parties understand and agree that the provision of materially misleading and false data in any exchange of data between the Parties under the Memorandum of Understanding to this Treaty or any other material breach of this Treaty or its Protocols by a Party shall immediately give the other Party the right to terminate, void, or withdraw from this Treaty. In such event, this Treaty shall terminate 15 days after the Party exercising its right under this paragraph shall have given notice to the other Party. The Parties understand and agree that, in the case of the United States, such notice may be given by the President of the United States upon his finding of any material breach by the Union of Soviet Socialist Republics; provided, further, that the President of the United States shall provide every quarter year to the United States Senate a report of compliance by the Union of Soviet Socialist Republics with this Treaty and, at any time after the receipt of such first report, notice under this paragraph shall also be deemed given if a majority of the Senate by resolution finds that there has been any material breach of this Treaty by the Union of Soviet Socialist Republics and a copy of such resolution is made available to the Embassy of the Union of Soviet Socialist Republics in Washington, D.C. The Parties further understand and agree that the term "material breach" as used in this paragraph shall include but not be limited to the following: a) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister required to be eliminated by this Treaty after the date at which such item should have been eliminated pursuant to this Treaty and its Protocols; b) the discovery by national technical means or otherwise of any missile, missile launcher, or missile canister in excess of the numbers of such items by type provided by either Party to the other pursuant to the Memorandum of Understanding to this Treaty which, together with any data exchanged thereunder, is hereby incorporated herein in full by reference; c) the failure of either Party to eliminate any missile, missile launcher, or missile canister at the time and in the manner specified by this Treaty and its Protocols; and d) the production of any missile, missile launcher, or missile canister for any new ground-based missile system having a range capability equal to or in excess of 500 kilometers but not in excess of 5,500 kilometers.".

BYRD EXECUTIVE AMENDMENT NO. 2296

Mr. BYRD proposed an amendment to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

Strike all after the word "provided", and insert in lieu thereof the following:

That the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clause of the Constitution, that—

(1) the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) such common understanding is based on:

(A) the text of the Treaty and the provisions of this resolution of ratification; and

(B) the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty; and

(3) any interpretation or implementation of the Treaty which is inconsistent with such common understanding and which is not lawfully made pursuant to any subsequent statute or Treaty shall have no force or effect.

MURKOWSKI (AND OTHERS) EXECUTIVE AMENDMENT NO. 2297

Mr. MURKOWSKI (for himself, Mr. QUAYLE, Mr. DOLE, Mr. HOLLINGS, Mr. GRASSLEY, Mr. SYMMS, Mr. KARNES, and Mr. WILSON) proposed an amendment, which was subsequently modified, to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

At the end of the resolution of ratification, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following:

( ) DECLARATION.—The Senate declares that—

(1) because the incentive for Soviet noncompliance, and the difficulty of monitoring will be greater for any strategic arms reduction talks (START) agreement than for the INF Treaty, the United States should rely primarily on its own national technical means of verification rather than any cooperative verification scheme, such as the onsite inspection procedures agreed to in the INF Treaty;

(2) because the United States enjoys a comparative advantage in the development of nonnuclear technologies that can increase the nuclear threshold and reduce the likelihood of war and because START and the INF Treaty will increase the military need to rely more heavily on such nonnuclear capabilities. In any subsequent agreement between the United States and the Soviet Union regarding the reduction of Strategic Weapons, it should be the position of the United States that no restrictions should be established on current or future nonnuclear air or sea-launched cruise missiles developed or deployed by the United States, or on nonnuclear or ground launched cruise missiles of ranges not prohibited by the INF Treaty.

(3) because the reductions contemplated under any START agreement would change the character and optimal mix of strategic nuclear forces that the United States will need to maintain stability, the United States Congress and the President should agree on the character of, and funding for, these forces before any START agreement, framework or otherwise, is signed or agreed to.

HELMS EXECUTIVE AMENDMENT NO. 2298

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to Treaty Doc. 100-11, supra; as follows:

At the end of the pending amendment to the Resolution of Ratification, insert the following before the period: "; *Provided, further, however,* That the following declaration shall be included in any instruments of ratification exchanged between the parties:

DECLARATION. The United States of America declares that, as an integral factor in its decision to adhere to this Treaty, it intends to continue to actively negotiate with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO allies, to negotiate a treaty effecting reductions in the conventional forces of NATO and the Warsaw Pact, and in so doing, that it shall be guided by the following principles and considerations:

(a) A main object of such future treaties shall be international stability and reduction of the risk of war by obtaining general equivalence in the resultant forces of the Parties;

(b) During any negotiations contemplated by this declaration, the United States shall act in close consultation with its allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

(c) Negotiations contemplated by this declaration shall also be conducted in close and detailed coordination with the United States Senate, and the Senate should be kept fully appraised of all significant proposals intended to be made, or made, to the Union of Soviet Socialist Republics and, with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given plenary consideration and due regard;

(d) The negotiations contemplated by this declaration shall also seek to secure regimes of stringent verification and full and exact compliance which carry forward but strengthen significantly the verification and compliance regimes of the present Treaty;

(e) In accordance with the Constitutional process of the United States, the United States shall, notwithstanding any presumed or asserted contrary principle of international law, not be bound to adhere to or observe any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate;

(f) Pursuant to this declaration, any joint declaration reached with the Union of Soviet Socialist Republics of a framework for the negotiation of the treaties contemplated hereby, and such framework itself, shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously, and shall not constrain any military programs of the United States unless otherwise provided for in accordance with Section 33 of the Arms Control and Disarmament Act.

(g) Notwithstanding the other provisions of this declaration, the United States considers full and exact compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting (i) the proposals and attitudes of the United States with respect to the future treaties contemplated hereby and (ii) proportionate and appropriate responses with respect to such existing agreement.'."

JOHN O. HOLLY BUILDING OF THE U.S. POSTAL SERVICE

McCAIN (AND DECONCINI) AMENDMENT NO. 2299

Mr. DOLE (for Mr. McCAIN, for himself and Mr. DECONCINI) proposed an amendment to the bill (H.R. 4448) to designate the Cleveland, OH, general mail facility and main office in Cleveland, OH, as the "John O. Holly Building of the U.S. Postal Service" as follows:

Insert at the appropriate place the following new section:

SECTION 1. DESIGNATION OF GRANITE REEF AQUEDUCT AS THE "HAYDEN-RHODES AQUEDUCT".

(a) The Granite Reef Aqueduct of the Central Arizona project, constructed, operated, and maintained under section 301(a)(1) of the Colorado River Basin (43 U.S.C. 1521(a)(1), hereafter shall be known and designated as the "Hayden-Rhodes Aqueduct".

(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1 hereby is deemed to be a reference to the "Hayden-Rhodes Aqueduct".

CONDITIONAL ADJOURNMENT OF THE HOUSE AND CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

BYRD AMENDMENT NO. 2300

Mr. BYRD proposes an amendment to the concurrent resolution (H. Con. Res. 306) providing for a conditional adjournment of the House until June 1 and a conditional adjournment or recess of the Senate until June 6; as follows:

On page 1, line 7, following the word "on" insert: Thursday, May 26, 1988, or on".

On page 1, line 10, after "adjourned" insert: "or in recess".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 25, 1988, at 10 a.m. to hold a hearing on the nominations of W. Allen Moore to be Under Secretary of Commerce for International Trade, Jan W. Mares to be Assistant Secretary of Commerce, and Jill E. Kent to be Assistant Secretary of the Treasury for Management.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, May 25, 1988, at 10 a.m. to conduct an oversight hearing on the condition of the banking industry.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BYRD. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on S. 1997, the proposed "Montgomery GI Bill Amendments of 1988"; S. 2307, the proposed "Veterans' Educational Assistance Act of 1988"; S. 2383, the proposed "Veterans' Education Benefits Amendments of 1988"; and S. 820, the proposed "Veterans' Education Amendments of 1987", on Wednesday, May 25, 1988, at 10 a.m. in SD-418.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, May 25, at 10:30 a.m., for hearings on the subject of alcoholism.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Production and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, May 25, 1988, at 10 a.m. to hold a hearing on current and expected world wheat demand and the status of the U.S. marketing tools.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, May 25, beginning at 10 a.m., to conduct a hearing on S. 2384, a bill to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on May 25, 1988, at 10 a.m., to hold a hearing on S. 2274, alternative dispute resolutions, H.R. 2182 the provision titled "Rules Enabling Act", and S. 1996, court jurisdiction involving citizens and foreign persons.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 25, 1988, at 2 p.m. to hold a hearing on the Local Rail Service Assistance Program.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

SOLAR ENERGY RESEARCH IN NEW MEXICO

● Mr. BINGAMAN. Mr. President, contrary to what some may think, America's energy problems have never been solved. While we are not today faced with gasoline lines and fuel shortages, our energy problems manifest themselves in our trade deficit. Most trade analysts agree that imported energy is the most volatile part of our trade. In 1987, imported oil accounted for 26 percent of our trade deficit. In the next few years, that number is expected to rise. Projections are that we will import over half of our oil in just a few years, and that imports could be over 57 percent of consumption by 1995.

An important tool in combating our growing dependence on imported sources of energy is research on energy alternatives, especially solar energy. One of the leaders in solar energy research and applications is my home State of New Mexico. According to a article in last Sunday's New York Times by Catherine C. Robbins, entitled "Where the Sun Shines, Solar Activity Is Still Brisk," research at Sandia National Laboratories in Albuquerque is finding new uses for solar energy in toxic waste disposal. And applications of solar energy for household use is a commonly accepted practice.

As the article points out, not everyone supports the Federal Government's research efforts—not even some of those in the solar energy business. However, I believe we must move forward with research if we are to reduce our serious dependence on imported energy. More importantly, we must be willing to commit to a long-term research strategy with a consistent funding level. The off-again-on-again pattern of funding for solar energy over the past decade has seriously undermined our research efforts. For that reason, I am pleased to be a cosponsor of legislation introduced last year by Senator FOWLER—S. 1554, the Renewable Energy and Energy Conservation Technology Competitiveness Act—which will set longterm goals and policy for our alternatives energy programs. We need to move ahead with the establishment of such a long-term policy to meet the growing energy challenge.

I ask that a copy of the article by Ms. Robbins appear in the RECORD following my remarks.

The article follows:

[From the New York Times, May 22, 1988]

WHERE THE SUN SHINES, SOLAR ACTIVITY IS STILL BRISK

(By Catherine C. Robbins)

ALBUQUERQUE, NM.—Nearly 10 years have passed since President Carter committed the nation to achieving a 20 percent reliance on solar and other renewable energy sources by the year 2000. His 1980 budget included $597 million for solar research, and for symbolic measure, Mr. Carter had solar panels installed in the White House roof to heat the water.

Today, the Federal budget for solar energy is about $100 million, tax credits to promote the solar industry have been eliminated, and Mr. Carter's solar panels have been removed from the roof.

Nevertheless, energy experts say, solar technology is developing fast enough to promise competition with oil for some electrical generation.

New Mexico, blessed with sunshine and a solar tradition, is a leading center for solar research and entrepreneurship. In the 11th century, the Anasazi Indians oriented their multistory buildings to the sun and chose materials that worked in blistering summers and frigid winters. A Santa Fe architect, William Lumpkins, designed his first solar house in 1935.

Today, New Mexico architects continue to integrate solar principles into much of what is built here. In Albuquerque, scientists at the Sandia National Laboratories say they can use the sun to help destroy toxic wastes, and a solar manufacturer, Steve Baer, has a thriving business two years after the end of tax credits.

TREATMENT ON SITE

At Sandia, a solar reflector will use the sun's heat and a catalyst to break down toxic compounds, including PCB's (polychlorinated biphenyls), into relatively benign byproducts. Resembling a mirror-lined satellite dish, the reflector could be installed on a plant site, eliminating the expensive and risky transport of wastes. It should be marketed in about five years, said Donald Schueler, manager of Sandia's solar energy department.

Mr. Schueler said he is convinced that in time the nation will be forced to rely more heavily on solar energy. "We have to be smarter than we were in 1980 when we went out and attacked the energy market," he said.

Sandia is financing research for hardware that can be transferred to the marketplace. A private company, Luz International, has installed hundreds of collectors developed at Sandia in a solar field near Edwards Air Force Base in California that Southern California Edison is using at peak times. The project will eventually generate 500 megawatts of electricity for about 150,000 households.

While the Department of Energy is proceeding with solar research at Sandia and the Solar Energy Research Institute in Boulder, Colo., this year's budget request is at its lowest point since the Reagan Administration began cutting the solar research effort.

That does not bother Mr. Baer, an inventor and the president of Zomeworks Corporation, which manufactures passive solar equipment.

Mr. Baer believes not only that solar energy "resists bureaucratization," but that government should not be involved at all in solar development. He calls Sandia's projects a "waste of taxpayers' money," and he even opposes tax credits. "It's such an insulting way to run a country—to steal from everybody and give to a few who claim to be able to do something that they couldn't," he said.

Mr. Baer was not unscathed by the cutoff of tax incentives. His company's sales dropped 28 percent last year. But this year has seen a recovery; sales of a specialized rack that holds photovoltaic cells are twice what they were in the same period last year.

For architects, passive solar principles in design are taken for granted, according to Toby Pugh, the president of the New Mexico Society of Architects. For example, Mr. Pugh said, he recently designed two solar houses that in the 1970's might have been subjects for professional journals. "Now they're just good houses," he said. "More of us are doing good, conscientious solar design in residential and small commercial buildings and not making a big deal of it."

"It takes more thought," he said, "but I don't think it takes more money."●

SOVIET REPRESSION OF ARMENIANS: THE CONTINUING ISSUE OF CIVIL RIGHTS

● Mr. McCAIN. Mr. President, it is all too easy to forget, amid our debates on arms control, that our relations with the Soviet Union involve more than the risk of war. Regardless of how many arms control treaties we sign with the U.S.S.R., they will not improve the situation of the nations the U.S.S.R. occupies, or the minorities it oppresses. Their plight will remain unchanged unless we keep up constant pressure on the U.S.S.R. to improve its positions on human rights.

There are many groups I could cite as cases in point. They include the nations of Eastern Europe, the Soviet Jews, and the peoples of the former Baltic States that the U.S.S.R. seized during its pact with Hitler.

I hope—indeed, I think we have a right to expect—that President Reagan will remember all these human rights issues during his current summit meeting, but I also hope that he will give special attention to a minority that is currently undergoing a new cycle of violence and repression.

I am speaking about the Armenian minority in Armenia and Azerbaijan. They are the living demonstration that glasnost currently seems to apply largely to ethnic Russians. For far too much of the rest of the population of the Soviet Union, the situation is still gulag, not glasnost.

The Soviet response to the demands of its Armenian minority for the right to their religion, culture, and basic freedoms is still to send in troops. It has persecuted and detained humans rights activists, it has dealt with the threat of public protests with thousands of soldiers. It has turned Jerevan, the capital of Soviet Armenians, into an occupied city.

Mr. President, we cannot ignore these actions in some theoretical spirit of detente. We cannot ignore the fact that KGB Director Victor Chebrikov is treating the Armenians in the same spirit that has cost the lives of millions of Soviet minorities in the past, and imprisoned millions of others.

We also cannot ignore the fact that the U.S.S.R. is deliberately attempting to use faith in God to divide its own people. It is turning Christian Armenians against Muslim Azerbaijanis precisely because it fears the results of reaching any settlement based on the real interests and population of these ethnic groups. In a supposedly Marxist mix of republics with equal rights, ethnic Russians are using Azerbaijani rule over an Armenian majority in Nagorno-Karabakh in exactly the same way authoritarian Czars once used one minority against another.

We cannot ignore these abuses of the human rights of Soviet Armenians. In fact, we cannot ignore any abuse of human rights, whether it is in the Soviet Union, South Africa, Cambodia, or Latin America. Mr. Gorbachev must be put on notice that there must be more to glasnost than trade or arms control, or the world will remain an armed camp—devided between the free and the repressed. We ourselves must remember that there can be no hope of lasting peace or stability without an end to such repression.

Mr. President, in the Washington Post, Thursday, April 14, the KGB chief, Victor Chebrikov, blamed the turmoil in Armenia on shortcomings in the Soviet education system and the meddling of foreign intelligence services. This is an outrageous assertion. It is a statement which justifies the repression and oppression of the brave Armenian people.

Mr. President, I hope that our President, Ronald Reagan, will remind Mr. Gorbachev not only about glasnost but about the Helsinki agreeements that were signed by the Soviet Union and minimal adherence to it will give the Armenian people the right to preserve their culture, their religion and, indeed, their rich heritage, which is the tradition of the Armenian people and the basic human rights which we believe are guaranteed to peoples throughout the world.●

INFORMED CONSENT: ARIZONA

● Mr. HUMPHREY. Mr. President, no matter where one stands on the abortion issue, we should all be able to agree that women should be given complete factual information concerning the nature of any risks both physical and psychological, as well as alternatives to abortion.

Yet, every day, women in our country are denied this essential medical information. Indeed, they are denied information that is routine for virtually every other medical procedure. S. 272 and S. 273 would require informed consent before abortions are performed. This is very reasonable legislation. More importantly, it is fair. Freedom of choice is only protected when information vital to making an informed decision is available. I urge my colleagues to support my informed consent legislation, and I ask that a letter from the State of Arizona be inserted in the CONGRESSIONAL RECORD.

The letter follows:

APRIL 1, 1987.

DEAR SIR: This letter reveals my secret shame, and must necessarily be unsigned. My family would never understand or forgive me.

I was married a few days after my eighteenth birthday and became pregnant the first couple of months. There were four children in swift succession. When I became pregnant with my fifth child it was so overwhelming that my mind and body fell apart. We were poor and my work was never done, with babies constantly screaming and no help from my husband, except to get me pregnant again.

After all of this, when the fifth pregnancy became known panic truly set in. We decided for me to abort the child. He took me to another town to an old upstairs dark, dingy room to a "doctor" who was known for this type of work. I was very frightened and my husband was told to leave. There was a female attendant, whether a nurse or not I do not know. Do not let any woman tell you she does not know she is murdering her baby when she chooses abortion, because even a young girl inherently recognizes that fact!

Needless to say, he butchered me and I began to hemorrage a few days later. Surgery was needed to scrape out the remains of my baby that he had killed. My regular doctor did the surgery and he was kind enough not to ask any questions, but the shame and remorse I went through was hell.

This all took place in 1949. The pain and shame are just as fresh for me as it has ever been. I cannot bear to see a film on abortion and even get nauseated just to see a picture of an unborn child. I was not a Christian at the time this took place, but have now been a Christian for many, many years. I do know that this sin has been forgiven by my Lord Jesus Christ, but I have never been able to forgive myself.

We had two more children after this and my last child was carried ten months and was an emergency C section. She did not live and my life was also almost lost. How many complications in the last two pregnancies were due to the horrible butcher job during the abortion, I will never know.

Thank you and God Bless You for your concern.

EMMA, *Arizona*.●

DR. TELLER'S OBSERVATIONS

● Mr. BOSCHWITZ. Mr. President, I recently had the opportunity to reread an article by Dr. Edward Teller that appeared on the op-ed page of the Washington Times, February 23, 1988. The article concerned the use of x-ray lasers in SDI research. X-ray lasers represent the most novel scientific endeavor of the entire strategic defense initiative effort, in Dr. Teller's view.

Lasing—in which a beam becomes brighter as energy is transferred to it—was until recently thought impossible to apply to x rays; x-ray wavelengths are, after all, a thousand times shorter than visible light. By 1979, however, a small number of scientists began to argue that lasing could be possible for x rays, and they proved to be right. Dr. Teller, referring to himself as an "older and appropriately more conservative physicist," was doubtful that it would be possible. However, his doubts have since been overcome.

There remain complex engineering details to solve in order to provide an x-ray beam with sufficient energy to penetrate the surface of a missile hundreds or perhaps thousands of miles away, but these may not necessarily be insurmountable. After all, countless times in the past there have been difficult problems translating what was possible into reality that eventually were solved. Dr. Teller's examination of this very issue is illuminating and deserves close attention by my colleagues. I ask that the article be reprinted in the RECORD.

The article follows:

[From the Washington Times, Feb. 23, 1988]

A GLEAM IN THE EYE OF SDI—MANY USES SEEN FOR X-RAY LASER

(By Edward Teller)

Controversy is an impediment to progress. It also may stimulate badly needed public interest. The X-ray laser program has been involved in plenty of controversy in recent months. But some of the most important facts about X-ray lasers have escaped public attention.

First of all, the X-ray laser project represents the most novel scientific endeavor of the entire Strategic Defense Initiative effort. Lasing can be thought of as the opposite of the process of casting a shadow: A beam becomes brighter as energy stored in a material is transferred to it. That transfer occurs in an exponential manner (doubling and redoubling the energy of the beam each time it passes through a specific distance).

However, lasing becomes more difficult as the wavelength of the beam grows shorter, and while laboratory apparatus suffices to produce a laser of low intensity, a very great concentration of energy is required for lasers of sufficiently high intensity to be useful in defense.

About 1979, a number of people, including my friends George Chapline and Lowell Wood, began arguing that lasing should be possible for X-rays, which have a wavelength a thousand times shorter than visible light. There have even been proposals to look for lasers at wavelengths almost another factor of 1,000 shorter-gamma ray lasers.

As an older and appropriately more conservative physicist, I expressed doubt about both possibilities. In the case of the gamma ray laser, my doubts persist. In the case of the X-ray laser, they have been disproved. That is a very great scientific accomplishment.

The X-ray laser's political importance is more widely recognized but not always accurately envisaged. In the summer of 1982 I appeared on the television program "Firing Line." Bill Buckley asked me what could be done to defend against a nuclear attack. I replied that new methods were becoming available.

I particularly had in mind an X-ray laser. Of course, that is only one of many ways in which missiles can be damaged. But an X-ray beam of exceedingly high energy could destroy a missile at a distance of hundreds, perhaps even thousands, of miles, because X-rays would penetrate the rocket surface and blow off a small part of the missile, thus producing an explosive shock.

After I had mentioned new possibilities for missile defense, Mr. Buckley asked me: "Why don't you ask your friend President Reagan for $30 billion for missile defense?" I replied that I had not seen the president since his election and that, actually, for the necessary research, I would be satisfied with 1 percent of the sum he mentioned.

Concurrently, I was serving on the White House Science Council as an adviser to President Reagan's adviser, George (Jay) Keyworth. Mr. Keyworth was (and remained) rather doubtful, not only of the usefulness, but even of the very existence of an X-ray laser. But President Reagan happened to see the "Firing Line" program and invited me in for a discussion. There were eight or 10 people present. The discussion lasted less than half an hour. I asserted that real possibilities for strategic defense exist. Mr. Keyworth agreed that interesting work was being done.

In the meantime, work on the X-ray laser continued and within a year additional experiments firmly established the principle of the X-ray laser. It gave me great pleasure to write a classified letter to my skeptical friend Jay Keyworth, which started with the unclassified words, "Merry Christmas." I was able to say that the scientific principle of the X-ray laser was proven and that we only have to solve engineering details.

The engineering details connected with a workable X-ray laser are extremely difficult. Such engineering difficulties are familiar to me because of work almost half a century ago in Los Alamos. The scientific problem of the atomic bomb was settled shortly after the discovery of fission in 1939. But it took six years of effort, led by scientific giants like Enrico Fermi, Harold Urey, Arthur Compton, J. Robert Oppenheimer, Hans Bethe, Luis Alvarez and Johnny von Neumann, to solve the engineering problems involved in developing the atomic bomb, which is merely the source of the energy for the X-ray laser.

The main difficulties at present are that powerful X-ray lasers require the highest energy content, and that energy content is present only for a small fraction of a microsecond. The brevity of available time has an advantage, because nothing will stay put near a nuclear explosion for very long. But each X-ray experiment requires very careful planning, predictions from the best computers available and measurements in the very brief time available. Then the results are compared with the predictions, and all the steps are repeated before the next experiment.

All of that is not inexpensive, but expenditures on the X-ray laser program amount to only a few percent of the SDI budget, and the SDI budget, in turn, has hardly amounted to more than 1 percent of our military expenditures. The relatively modest effort on the X-ray laser has produced quite a few facts—but not enough of them to say how important the laser will be to defense.

The contrasts between work on the atomic bomb, the hydrogen bomb and the SDI are remarkable and obvious. A united and dedicated scientific community gave its best efforts to the atomic bomb; a smaller fraction of the scientific community continued the tradition established a few years earlier and worked on the hydrogen bomb. Partly because of circumstances and partly from luck, the development proceeded without a hitch; similar and practically simultaneous progress occurred in the Soviet Union.

A young and ingenious team of scientists is working on the SDI, and its youth and ingenuity are particularly notable in the scientifically innovative small X-ray laser project. On occasion, those researchers have even won the personal approbation of an old-timer like Hans Bethe. However, they have never won the support of the academic community.

Their isolation from their more established colleagues, like the widespread criticism and dismissal of their efforts, has turned out to be a real impediment. Some of them have failed, some have dropped out and some have criticized the program in an excessive manner. I don't feel like criticizing the critics. The pressures they struggle with are even greater than those besetting the champions of the wartime Manhattan Project. However, constructive criticism, of which there has been practically none, would be a wonderful change.

I have no doubt that strategic defense will succeed in a technical sense. The X-ray laser effort is the most novel and, from the point of view of science, the most exciting branch of the SDI. It may become the most successful or the least successful of the SDI enterprises. But because of the negative attitudes of American academic scientists, success may be achieved only in the Soviet Union. That could have tragic consequences.

Throughout history the Soviets have shown a particular interest in defense. In the 1970s they deployed a substantial system of defensive rockets around Moscow. They are currently developing the SA-12, a surface-to-air missile that could be used against incoming missiles. The SA-12 is launched from a mobile carrier and, therefore, could be deployed anywhere in the Soviet Union. The expensive Soviet inland radar stations already built, together with the SA-12's radar, could provide protection throughout the Soviet Union. We also know that the Soviets have made a very substantial effort on laser defense.

In 1977 I.I. Sobelman and several other leading Soviet physicists published papers on a long wavelength X-ray laser of a novel and promising type. Publications on the topic stopped abruptly the following year. The importance of an X-ray laser to the Soviet Union should not be underestimated. X-ray lasers deployed on submarines located near the coasts of the United States, popped up at the appropriate time, could easily destroy our retaliatory missiles as they rose in response to a Soviet attack.

The recent Soviet efforts to ban further nuclear tests have been remarkable. One explanation is that they may know important details about X-ray lasers that they hope we will never learn.

That information seemed important enough to some of us that we felt we should alert the appropriate people in Washington about the technical possibilities of X-ray lasers. Knowledge about possible future weapons must be available if mistaken decisions or mistakenly formulated treaties that would put the West in an inferior position are to be avoided.

Whether or not the X-ray laser becomes important in defense, it certainly is an important discovery in science. Microscopes using light can view objects of a few thousand atoms. Electron microscopes can almost see atoms, but they can only observe near a surface, not in depth and not in three dimensions. An X-ray laser can provide three-dimensional pictures of almost atomic-sized objects.

Nuclear explosions are not required to activate an X-ray laser. Concentrating energy by means of ordinary lasers has accomplished this purpose. But such a low intensity cannot be used effectively for defense, nor can it be used for the most interesting scientific purpose—to investigate the living cell. Only at high intensities can the cell be surprised in the act of living. A truly high-intensity X-ray laser utilizing the energies of a nuclear explosive could open a new chapter in biology.

The separation of nuclear explosions from science in the West is most unfortunate. Those responsible for nuclear tests have a limited interest in science (though the leader of the SDI is strongly supportive), and the scientific community has not even considered the prospect of cooperation in a serious manner.

In that respect, the accomplishment of Ernest O. Lawrence is still unique. He managed to get effective support from the scientific community for the development of weapons and effective support from the military community for science. If nuclear tests were performed both for the purpose of developing science and for the purpose of developing defense, our future would be more secure, more hopeful and more interesting.●

WORDS WE SHOULD HEED

● Mr. PELL. Mr. President, on May 21, 1988, I had the privilege of being awarded an honorary doctorate by the University of Vermont. The commencement speaker on that occasion was my friend, colleague and partner in education, Bob Stafford.

As we are all too painfully aware, this marks the final year of Bob Stafford's long and distinguished service in the U.S. Senate. For the 17 years that he has served in this body, we have worked together to further the cause of education. So close has been our association that it has been called the firm of Pell and Stafford, of Stafford and Pell depending on political fortune and the whims of the voter.

In an era of mergers, takeovers and conglomerates, I am sad to report that this is one firm that will be breaking up when this year comes to a close. What will not be breaking up, however, is the permanent, constructive contribution Bob Stafford has made to American education. For through his gentle, determined leadership, we have survived a stormy sea and our education programs are secure.

The challenge that faces us in the years ahead is to make sure that we stay the course that Bob Stafford has set, and which he so eloquently reaffirmed in his address to the graduating class at the University of Vermont. They are words that merit our attention. They are words we should heed.

Mr. President, I ask that the text of Senator Stafford's commencement address be reprinted in the Record in its entirety.

The remarks follow:

REMARKS OF U.S. SENATOR ROBERT T. STAFFORD

When you invite someone at my stage of life to speak you have to accept the fact that you're going to get a few reminiscences before you get the "pearls of wisdom" that one is required to produce in a commencement address.

But you are fortunate. President Coor has advised me to hold this under 15 minutes so that only allows 14 minutes worth of memories! Senator Pell and I could use a couple of hours just telling you about our experiences in the Senate.

Let's start 50 years ago. I was receiving my law degree from Boston University, while the girl I was to marry in October of that year was graduating from Middlebury College—a small liberal arts college down the road from which I had received my own undergraduate degree three years previously.

The world was in the midst of a monstrous depression. Supremist dictators in Europe were about to launch a war which would soon engulf the world, including the whole population of the United States. Medicines that we take for granted were unheard of, and I remember watching an otherwise healthy grandfather die because no antibiotic was available to treat pneumonia.

Those of us who received college educations were a fortunate minority. But for most, college educated or not, many of the next 15 years would be spent at war. World War II—the Korean War, which in Washington often seems to be the "Forgotten War."

And then into the mid-fifties, and for this particular individual, the start of a government career which would last until this time. A career, which quite frankly, has been immensely rewarding—indeed, fun. And I am and will be ever grateful to the good people of this wonderful state for allowing me to remain in it.

So what has been learned that can be passed on to you—you who are among the most educated people ever, and as such, you who are among those best equipped to take the problems of today and turn them into the opportunities of tomorrow.

Certainly, I, having spent much of my Senate career on environmental matters, could warn you of the fragile conditions which threaten our air, water and soil.

Certainly, having been trained in the law and having spent the last 28 years in Washington, I could speak to you about ethics and an ever-pervasive human frailty called greed.

Or I could talk to you, as I did at Marlboro College last week, about the need for us in the United States to make sure our own house was in order before trying to dictate to the rest of the world's cultures how they ought to live.

But, no, I want to talk about something else—something which includes all of the above and a whole lot more. And that is education.

You who graduate today have a responsibility when you leave here. You have a responsibility to continue your own education through the remainder of your life, and you have an ever greater responsibility to ensure that an education at least equal to what you have received is available to every young person in this land, regardless of that person's race, creed, economic background, sex, or physical condition.

There is no excuse in this country for not making a quality education available to every American and it is up to your generation to see that the priorities of this nation are changed to pay for the cost of that quality education.

I submit to you that nuclear war is not an option for settling international disputes. It is your responsibility to change the spending priorities of this nation to reflect that.

I submit to you that the United States should no longer be called on to also shoulder the military protection of our most prosperous allies, and you should insist that our spending priorities reflect this also.

When I first ran for public office it would have been political suicide to suggest that there was a federal role in education. Even just seven short years ago—a period within your memories—a new administration came to Washington hell-bent on doing away with the young United States Department of Education.

Well, things have changed today. Not everyone is afraid to talk about a federal role in education. Even the current occupants of the White House are no longer talking about doing away with the Department of Education. And both leading candidates to move into the White House next January are talking about making education the certerpiece of their administrations.

Thank the Lord.

It is in the federal interest to ensure that all children are provided a free, quality, public elementary and secondary education. It should be national policy that no individual is denied the opportunity to pursue his or her education also at the college level. And the money to educate these Americans should come off the top of American tax dollars, not be determined by what is left over after arming the nations of the world.

We are making progress. A report received from the Vermont Student Assistance Corporation this last week showed nearly 60 percent of the Vermont High School Class of 1986 actually enrolled in a postsecondary education program. This is a 12.3 percent increase over 1978.

But a disturbing note accompanied the report. Twenty-eight percent of the graduates who did not pursue postsecondary education indicated that the cost of attendance was a "very important" reason for not continuing their education. And more than two out of every five in this group assumed they were ineligible for grants or loans.

I can tell you that those for whom the Pell Grants and the Stafford Loans were named find this factor most distressing.

Whether your own future is in public service or private enterprise, I plead with you to take up the challenge of changing the spending priorities of this nation. Because business has even a greater stake in the future education of Americans, it would further its own cause if a larger share of profits were invested in the education of its future employees.

If it is to be America First, then it better start being Education First when we allocate our spending priorities, whether that spending is by federal, state or local governments or by the private sector. When we have established this priority then we will be well on the way toward solving the problems which you will be facing as you leave this marvelous institution today.

Thank you.●

ICTA PRAISED ON FIFTH ANNIVERSARY

● Mr. SYMMS. Mr. President, in the May 24, 1988 issue of Numismatic News, an editorial appeared citing the fifth anniversary of the Industry Council for Tangible Assets.

This trade association, headed by a good friend of mine, Howard Segermark, recently celebrated 5 years of service to coin and precious metals dealers around the country. As one who recognizes the importance of investments one can hold—tangible investments—I am glad to know many of the members of ICTA and to see their successes.

Many Members of Congress are grateful for the help that ICTA and its staff and members have given us in the battles to establish the American Eagle bullion coin program, and its efforts to allow all coins in individually directed retirement programs. Of the Nation's several thousand coin and precious metals dealers, over 650 are members of the association, and the group has accomplished much.

In addition, the Bureau of the Mint and its director, Donna, Pope have valued the input that is provided by ICTA.

Mr. President, I congratulate the Industry Council for Tangible Assets and its members on their fifth anniversary and I wish them success for many more. I ask that the editorial from Numismatic News be printed in the RECORD at this point.

The article follows:

[From the Numismatic News, May 24, 1988]

CONGRATULATIONS

The Industry Council for Tangible Assets is five years old. It marked this milestone in late April with special congressional briefings and celebration dinners. (See story on Page 3). The manner of its anniversary observance is indicative of just how far this lobbying organization has come since its founding. We offer our congratulations.

Created in a turbulent world of potential tax grabs and draconian regulation that threatened many in numismatics' commercial sector, ICTA went to work to win for numismatic dealers and precious metals traders treatment equal to other lines of work. It has, by and large, succeeded. That does not mean Washington will not again be the source of problem legislation or regulatory proposals, but it does mean the industry has a strong voice on the scene to make sure that its interests are protected.

A strong voice in Washington is important. Anyone who flies into the city and who sees the skyline of suburban Virginia offices can see that numerous other groups and industries have reached the same conclusion. Unfortunately for those of us living in the late 20th century, government in its continuing growth often leaps into an area without adequate study, without a rational plan and without any understanding of what it hopes to accomplish.

During the early days of ICTA, "productive assets" was the buzz phrase. Assets held long enough to get the favorable capital gains tax treatment were going to be divided into productive assets and unproductive assets. Naturally, someone in Washington was going to make the determinations and coins and bullion were going to be officially relegated to unproductive status. The result would have been the tax man digging deeper into your pocket when you went to sell your collection than if you had sold shares of stock. ICTA went to work and this unfairly discriminatory proposal did not find its way into law. Numismatic assets still are treated equally with other assets.

Another area that has been a major focus since ICTA's founding is the reporting to the Internal Revenue Service of certain bullion purchases by dealers from individuals. For five years, this has hung over their heads without a set of rules to guide them. ICTA is still fighting.

Postal hikes, state sales tax laws and dealer accreditation are all areas that have seen major work performed by ICTA and the industry is the better for it.

One thing ICTA is not. It is not a collector group. It is a trade group. However, very often interests of the trade and the interest of collectors concide. Where they do, it is important to work together. Where our interests do not coincide, or where we disagree with an ICTA position, we have pointed it out. That, however, does diminish the fact that the hobby generally has been served by ICTA.

Some skeptics did not think ICTA could hang together for five months, let alone five years, but it has. Achievement of its fifth anniversary shows that the many independently minded people who populate the industy can pull together through ICTA and can accomplish great goals.

We wish ICTA well and hope its future accomplishments match or exceed the record for the past five years.●

NATIONAL POW/MIA RECOGNITION DAY

● Mr. D'AMATO. Mr. President, I rise today to join my colleagues in recognition of America's POW's and MIA's, and to urge support for "National POW/MIA Recognition Day."

Through National POW/MIA Recognition Day, we honor our POW's and MIA's and renew our promise to their families and loved ones that this Nation will never rest until we resolve the POW/MIA issue.

The uncertainty surrounding the fate of some American POW/MIA's continues. Though many years have passed since American service personnel were recalled from Vietnam, we do not have a full accounting of all those who have not returned home. For more than 20 years, the United States has been pressing the Indochinese governments for assistance and information about those still listed as missing and unaccounted for. Thus far, we have made negligible progress. It is important, however, that we continue our search for answers. We must not allow time or frustration to weaken our will to resolve this painful issue.

It is certainly appropriate that we set aside a day each year to underscore the importance of continuing efforts to liberate American POW's and MIA's.

We must encourage nationwide participation in elevating awareness of the POW/MIA issue, and work together until we account for all of these special Americans. They must never be forgotten.●

THE CARROLLTON TRAGEDY

● Mr. FORD. Mr. President, 1 week ago, 27 innocent victims lost their lives on I-71 near Carrollton, KY. This was the worst schoolbus accident in the history of this country and only one of three schoolbus accidents that occurred last week.

There have been numerous calls for tightened regulations and new safety devices on school buses as a result of the Carrollton tragedy. I would like for my colleagues not to lose sight of the fact that the police report indicated the Kentucky accident was caused by a drunk driver. There may be some positive reforms in bus safety result from this tragedy, but I do not want to lessen the fact that drunk driving was the cause of the accident.

I was contacted by Marsha Woodward of Scottsville, KY, last Tuesday. Marsha lost her daughter Alice 4½ years ago to a drunk driver incident and is active in MADD. She suggested contacting the President and requesting that he assist in making drunk driving a national crisis. Just a week before, 99 members of the Senate had written the Surgeon General, Dr. C. Everett Koop, making the same request. Carrollton brought out the need for the President's immediate attention. At Marsha's suggestion, I initiated a letter to the President and am pleased to say that the entire Kentucky delegation cosigned the letter. If the President would declare a national crisis, hold a White House conference or appoint a Presidential commission to combat alcohol abuse and drunk driving, the 27 victims in Kentucky will not have died in vain. The letter pointed out that as tragic as the bus accident was, it is but an extreme example of the everyday problems of drunk driving.

Now is the time to act by bringing together experts in traffic safety, law enforcement officials, judicial representatives, persons involved in research of alcohol abuse, educators, public officials and the families of victims of drunk driving accidents. Averting another accident such as the one in Carrollton will take the combined efforts of leaders in all these areas since the problem involves many disciplines. There are no easy answers, but we have not done enough and now is the time to act.

We have had numerous hearings in the Senate on the drunk driving issue. Many parents have come and testified and offered assistance to find solutions. We have acted, but this tragedy proves more needs to be done. This accident should culminate with action.

Mr. President, I would like to commend the Governor of the Commonwealth of Kentucky, Wallace Wilkinson, for his efforts to respond to the problems highlighted by this tragedy. He is considering many steps, but I am especially impressed with his decisions to provide a free inspection program for church buses like the one in the accident, more statewide police roadblocks to catch drunk drivers, close monitoring by alcoholic beverage control agents of businesses that have served alcohol after legal hours, and increased efforts by the cabinet for human resources to educate people about the dangers of alcohol and drug abuse. It is hoped that more Governors will follow his leadership and take similar actions. Although this is a Kentucky accident, the Nation should react not just in the State where it occurred.

I do not want my colleagues to forget the 27 lives, most of whom were those of teenagers. The loss to their families, communities, and their schools will have a long-term impact. Let us finally solve the drunk driver problem as a memorial to these lost lives.●

CHRISTIAN SOLIDARITY INTERNATIONAL

● Mr. ARMSTRONG. Mr. President, I was privileged last week to meet with some individuals who are among the great unsung heroes of our time—individuals of extraordinary faith, strength, and courage. Such persons, and the stories of their lives, remind us what faith in God is all about, how fortunate we are to live in a country where we can worship God freely, and how important it is to remember that such freedom doesn't exist in many parts of the world.

Rev. Stephan Matveiuk arrived here in the United States in January, after spending the past 15 years of his life in a Soviet prison. What was his crime? In the view of the Communist authorities, he was guilty of believing in God and of sharing the Gospel of Christ. He was treated brutally during those 15 years of imprisonment, and worst of all, he witnessed the suffering of his fellow believers, including the murder of his own son.

Valeri Barinov was a gospel singer in the Soviet Union. Because he publicly revealed his commitment to Christ through his music, he was sentenced to 2½ years in a dreaded labor camp, known as "Blood Camp." He hopes one day to return to Russia and once again share his love of God through his music.

I was fortunate to meet these two men, along with Rev. Hans Stuckelberger and Rev. Stephen Snyder, leaders of a very important organization called "Christian Solidarity International." Although still little known in this country, CSI is doing vital work in calling Christians to express solidarity with all those around the world who are being persecuted for their faith. Reverend Stuckelberger formed the group in 1977, when he rallied Swiss Christians to express support for Christians who were being imprisoned and murdered by the Soviet Government for their belief in God.

Under the leadership of Reverend Stuckelberger and Reverend Snyder, who is president of CSI here in the United States, I hope more and more Americans will learn about the problems of oppression and persecution of Christians in other parts of the world, and will decide that they can't just stand by while their brothers and sisters are being discriminated against, imprisoned, and even killed for their faith.

CSI is a worldwide, interdenominational organization committed to providing legal, material, and spiritual help to those Christians who are arrested, tortured, and otherwise persecuted for worshiping God. I hope my colleagues, and all Americans, will join with them in putting pressure on governments which forbid religious freedom, in praying for the persecuted Christians, in writing letters, in organizing delegations to visit the oppressed, and in raising public awareness of this critical issue.

Mr. President, I want to express before the Senate my thanks and gratitude for the work of Christian Solidarity International and to encourage my colleagues and all Americans to stand with them in the fight for religious freedom. We are all heartened by the effectiveness of various groups working to expose and to stop the persecution of Jews around the world. I am pleased that this Christian group is making that same kind of effort.

In this great land blessed by God with so many freedoms, including the freedom to worship, let us always stand in solidarity with groups like CSI who reach out to help those who are punished for their faith.●

DEFENSE SPENDING REALITIES

● Mr. ARMSTRONG. Mr. President, as we near a final vote on the Defense authorization bill, it is important to put American defense spending in perspective.

Continuing to rebuild America's defense is of vital importance to our Nation. By building a stronger America, we maintain peace and freedom for ourselves and our allies. When America is strong, so is our global prestige, our prospects for peace and our deterrence of Soviet expansionism in the Third World.

Mr. President, I send to the desk and ask that there appear in the RECORD immediately following my remarks two documents prepared by the Republican Policy Committee which detail several defense spending misconceptions. "U.S. Defense Spending: The Real Story" and "Rebuilding America's Defense 1981-1988" are two studies important to review before casting a final vote on this bill.

The documents follow:

U.S. DEFENSE SPENDING: THE REAL STORY

("The price of liberty is eternal vigilance."—Thomas Jefferson)

INTRODUCTION

How in the world can we decide anything if we can't first agree on the facts? Take any hot issue—budget deficits, Central America, AIDS, the future of the economy—and you can find completely opposite descriptions of the problem, let alone the solution. No wonder citizens and members of Congress alike throw their hands up in despair. Unfortunately, this leaves the field open to those who deal in slogans, quips, and stale information treated as current fact.

This is particularly true for any discussion of U.S. defense spending and defense budgets. Clearly the preservation of our nation and our freedom is the most important responsibility of the federal government. But misconceptions, misunderstandings, and misleading arguments abound. We can't deal with all of them and have any hope you will keep reading to the end of this paper. So, here is a report on just six misconceptions about U.S. defense spending. Pick up any newspaper, listen to any speech and sooner or later you will hear one of these six. When that happens, we urge you use this report and say, "Wait a minute!"

[Charts not reproducible for the RECORD]

Misconception No. 1: Huge defense spending increases are the major source of the large federal deficits. We are spending more for defense now than ever before.

Reality: Today's enormous budget deficits are attributable not so much to the military as to the skyrocketing growth of entitlements and other social spending that began in the late 1960s. Over the past three decades, while defense has gone from one-half of the federal budget to one-fourth, social spending has gone from one-fourth to one-half.

In FY 1988, the U.S. devoted 5.9 percent of its Gross National Product (GNP) to defense. Compared to 9.1 percent of GNP in 1955, 6.8 percent in 1965, and 5.6 percent in 1975, the portion of U.S. GNP devoted to defense today is relatively modest.

Misconception No. 2: Defense budgets under the Reagan administration have been increasing at unprecedented rates, with Congress giving the President everything he has asked for in defense.

Reality: Real growth in defense budgets has been declining. In the last three years alone, the defense budget declined in real terms by almost 10.2 percent because of congressional reductions. In six of the last seven years, Congress appropriated less for defense than was projected in congressional budget resolution targets.

Misconception No. 3: Doesn't the Pentagon waste billions of dollars on overpriced hammers, toilet seats, and the like?

Reality: Some of the headline stories on exaggerated spending have been found to be equally exaggerated. Beyond that, defense spending abuses are being uncovered and corrected by the Pentagon's newly created Office of the Inspector General.

Misconception No. 4: In pursuit of the so-called "arms race," the US spends as much as the Soviet Union on defense.

Reality: The Soviet Union devotes two-and-a-half times more percentage of their GNP to military purposes than does the United States. Soviet military spending has exceeded that of the US every year since 1969, such that in the 17 years since 1970, Soviet defense procurement outspent the US by $300 billion. The Soviet Union annually outproduces the U.S. in tanks, artillery, naval vessels, bombers, Intercontinental Ballistic Missiles (ICBMs), and Submarine-Launched Ballistic Missiles (SLBMs).

Misconception No. 5: The purchase of new weapons and equipment makes up the major portion of the defense budget. Cutting back on strategic nuclear forces, in particular, will slash the defense budget.

Reality: Only 29 percent of the FY 1988 defense budget will go to buying new weapons (procurement). The majority of our defense budget (55%) goes for operations and personnel costs, which include payments to military and civilian personnel, medical costs, training, spare parts, etc. The Soviet Union, on the other hand, spends only 11% of its military budget on personnel. Spending on nuclear forces is but a fraction of overall US defense spending. In FY 1988, only 7.6 percent of the defense budget went toward strategic nuclear forces. From 1974 to 1983, the Soviet Union outspent the US in strategic forces by more than $250 billion.

Misconception No. 6: Spending on the Strategic Defense Initiative is too high, contributing significantly to a large defense budget.

Reality: For the FY 1985-1989 period, the government increased spending on strategic defenses by only $6 billion over what they had planned to spend on missile defense research before President Reagan's March 1983 SDI speech. For each year since the SDI program was announced, the share of the defense budget allocated to the program never exceeded 2 percent.

Today's enormous budget deficits are attributable not so much to the military as to the skyrocketing growth of entitlements and other social spending that began in the late 1960s. Over the past three decades defense has gone from one-half of the federal budget to one-fourth; conversely, social spending has gone from one-fourth to one-half.

In 1958 some 54 percent of the federal budget went to national security. By 1965 this had fallen to 38.8 percent. In 1975 defense spending was only 25.5 percent of federal outlays. By 1980, Carter's last year, defense was at its lowest point—22.5 percent of federal spending. under Reagan there has been a rise to 26.8 percent in 1986, 27.3 percent in 1987, and 26.2 percent in 1988.

During the 1960's, when almost 50 percent of the federal budget was devoted to defense, federal deficits were almost non-existent. Yet in the 1970s, when defense accounted for 25 percent of federal spending, the deficit was on the rise.

In 1955 US defense spending accounted for 9.1 percent of the nation's GNP. In 1965 it was 6.8 percent, and in 1975 it declined further to 5.6 percent. When President Reagan took office in 1981, the defense share had fallen to 5.2 percent of GNP. At the end of Reagan's first term, defense expenditures rose slightly to 6.2 percent of GNP. Currently, defense expenditures are approximately 5.9 percent of GNP; defense expenditures are expected to stay below 6 percent of GNP for at least the next five years. [Department of Defense, "Report to Congress, FY 1988," p. 17.]

By contrast non-defense outlays as a percentage of GNP increased from 8.6 percent in 1955, to 16.2 percent in 1975, to 16.5 percent in 1988. [Department of Defense, "Report to Congress, FY 1988," p. 327.]

Since 1982, congressional add-ons and other factors have added $250 billion to requests for non-defense budget authority, not including interest and social security. At the same time, Congress cut defense requests by $125 billion. [Weinberger, "Congress continues domestic spending at the expense of maintaining defense." "Atlanta Constitution," 6 August 1987, p. 7.]

The "defense buildup" began in 1980, when a general perception emerged that, after a decade of shrinking defense funding, US defense capability had seriously declined. In response to these deficiencies, Congress appropriated over $1.1 trillion during the FY 1980-1985 period. By 1985, however, enthusiasm for growing defense budgets had waned considerably in response to deficit reduction pressures and a perception that the US had closed the military gap with the Soviets. While many people think defense spending has constantly been increasing, the truth is that the defense budget has experienced *negative* real growth rates for every year since FY 1986 (inclusive).

Growth in Reagan defense budget authority declined from a positive real growth rate of 12.5 percent and 11.6 percent for the first two years of the administration to *negative* real growth rates of −4.2 percent in FY 1986, −2.5 percent in FY 1987, −3.5 percent in FY 1988 and −1.2 percent estimated for FY 1989.

In the last three years alone, the defense budget has actually declined in real terms by almost 10.2 percent because of congressional reductions.

Congressional cuts in the last three years drove the fiscal year 1988 defense budget down about 11 percent below the FY 1985 figure. Now we face a fourth year of cuts that could place the FY 1989 defense budget about 13 percent below the FY 1985 level (in real terms).

In six of the last seven years, Congress appropriated less for defense than was projected in Congressional budget resolution targets. In other words, Congress reneged on its promise to spend money it already allocated.

Congress has denied the President the full amount of his defense budget request for every year of his administration. The total cut approaches $147 billion: Congress cut $10 billion in FY 1982; $18 billion in FY 1983; $15 billion in FY 1984; $19 billion in FY 1985; $33 billion in FY 1986; $31 billion in FY 1987; and $20.5 billion for FY 1988.

Congressional budget cuts and budget instability result in program stretch-outs, unit cost increases, costly contract modifications, and lead to inefficient utilization of defense dollars, in general.

MISCONCEPTION NO. 3: DOESN'T THE PENTAGON WASTE BILLIONS OF DOLLARS ON OVERPRICED HAMMERS, TOILET SEATS, AND THE LIKE?

Many "horror stories" about defense spending have been incompletely or inaccurately reported. For example:

DoD did buy ten large coffeemakers for the C-5 aircraft at $3,046 each. When configured for troop-carrying, the C-5 can carry up to 365 people. Similar coffeemakers used by TWA and Delta cost $3,107 each.

The famous $640 "toilet seat cover" for the P-3 aircraft is actually not a toilet seat cover at all! It's a molded plastic cover made for the entire toilet system. The price DoD pays for regular toilet seat covers for the P-3 is $9.37.

The Department of Defense is not blind to waste and mismanagement. Since the creation of the Pentagon Inspector General's Office in 1982, over 600 audit reports have identified nearly $5 billion in potential monetary benefits. In addition, Defense Contract Audit Agency (DCAA) audits are responsible for a total reduction in procurement spending of over $9 billion since FY 1982.

Recently, the Packard Commission made several recommendations to help improve Pentagon management further. In an attempt to stabilize the acquisition process, the Pentagon has submitted its first biennial budget with increased emphasis on multiyear procurement.

Bear in mind that most of the abuses that have occurred were uncovered by Secretary Weinberger's own investigations. It was the Republicans who created DOD's Office of the Inspector General, and it has been through our efforts that disciplinary actions have been taken against contractor abuses.

Congress contributes somewhat to defense spending inefficiency through defense cuts that stretch-out programs and increase unit costs. According to the Congressional Budget Office, 99 program stretch-outs from 1981 to 1984 accounted for $16 billion in program cost increases. ["Assessing the Effectiveness of Milestone Budgeting," July 1987, p. 14.]

While U.S. and Soviet GNPs are not directly comparable due to different economic bases, a comparison of the percentage of GNP both sides devote to defense shows the relative emphasis on defense priorities. The Soviet Union now devotes two-and-a-half times more percentage of their GNP to military purposes than does the United States.

It is conservatively estimated that the Soviets now spend some 14-16 percent of their GNP on the military. The Defense Intelligence Agency estimates that by the late 1980s, Soviet military spending may increase to 17-19 percent of GNP. [Testimony of Secretary of Defense Weinberger before the House Appropriations Subcommittee on Defense, 1984.]

Soviet military spending has exceeded that of the United States every year since 1969. While the Soviet military budget increased annually, the U.S. defense budget actually declined in real terms nine out of eleven years between FY 1969 and FY 1979 (inclusive). From 1974 to 1983, Soviet military spending exceeded U.S. defense spending by about 40 percent. [Weinberger testimony to HASC, Dept. of Defense Authorization and Oversight, FY 1985.]

Another useful index is a comparison of U.S. and estimated Soviet spending over the past 20 years for military investment programs—procurement, construction, and research and development activities. From 1970 to 1986, the Soviet Union has outspent the U.S. in defense investment expenditures by $500 billion. In defense procurement alone, a gap of $300 billion has emerged since 1970.

Between 1977 and 1986, the Soviet Union outproduced the United States in the following arms categories: ICBMs/SLBMs, 3,000 to 850; Long and Intermediate-Range Bombers, 375 to 28; Submarines, 90 to 43; Fighters, 7,150 to 3,450; Tanks, 24,400 to 7,100; Artillery, 28,200 to 2,750. ["Soviet Military Power, 1987," p. 121.]

The Soviet Union has, since 1970, consistently outspent the United States in terms of both military procurement and military investment.

The distribution of FY 1988 defense budget authority is shown above. [Chart not printed.] Military personnel and Operations and Maintenance represent about 55% of the DoD budget authority. These include payments to military and civilian personnel (both active and retired); allocations for maintenance and repair of equipment and for utilities; medical costs; training; petroleum, spare parts, etc.

Only 28 percent of the FY 1988 defense budget will go to buying new weapons (procurement).

The Soviet Union only spends about 11 percent of its military budget on personnel. This means that not only is the Soviet Union spending a greater portion of its GNP on defense than the U.S. is, it is also devoting more of those defense funds to weapons than to manpower and associated costs.

While the chart on the previous page shows distribution of defense budget authority in terms of major appropriation categories, the above chart [not printed] looks at that same budget authority, only this time in terms of major program areas.

Spending on nuclear weapons is but a fraction of overall U.S. defense spending. For FY 1985, 10-15 percent of the defense budget went to strategic nuclear force programs. This fraction has declined to 7.6 percent for FY 1988.

From 1974 to 1983, the Soviet Union outspent the U.S. in strategic forces by more than $250 billion.

Spending on conventional forces accounted for 55.7 percent of the FY 1988 defense budget. Reductions in nuclear weapons will necessitate increased spending for conventional forces, which are relatively more expensive.

President Reagan has not received the level of funding he's requested for the SDI. Congress had planned to spend $9 billion on strategic defense research from 1985 to 1989, even before President Reagan announced his SDI Program. Over the last four years, President Reagan has tried to increase that five-year-budget total to almost $20 billion. Taking into account past and expected SDI budget cuts, expenditures for SDI research will fall close to $15 billion for the same period.

In other words, the government decided to increase spending on strategic defense by $6 billion over a five-year period. That's less than one-half of one percent of the 1985-1989 defense outlays.

The share of the defense budget allocation each year to SDI research has never been more than 2 percent.

SOURCES

Unless otherwise noted, all budget figures are taken from: Congressional Budget Office, "The Economic and Budget Outlook: FY 1988-1992"; Office of Management and Budget, "Budget of the United States Government, FY 1989"; Office of Management and Budget, "Historical Tables, FY 1989."

Additional sources include: Secretary of Defense, "Annual Report to Congress, FY 1989"; U.S. Department of Defense, "Soviet Military Power, 1987"; the Joint Chiefs of Staff, "Military Posture, FY 1988".

REBUILDING AMERICA'S DEFENSE 1981-1988—APRIL 28, 1988

This is part 2 of a three part series on defense. The first part, a paper on defense spending, looked at common misconceptions. For example, most people don't realize that in recent years real (inflation-adjusted) dollars authorized for defense have been going down, not up! So while our first paper answers many of the false charges against defense spending, this paper takes a look at what we have bought. In other words, what did we get for all the money we did spend? The last paper in this series will look at the unfinished agenda—what we must do in the years ahead to defend America.

INTRODUCTION

2 trillion dollars on defense!

This is the handy catch-all phrase that Reagan Administration critics use to explain the federal budget deficit or any other ill currently facing the nation. *Two trillion* spent on defense during the Reagan years! After all, even for the federal government, that's a big number. It is an easy target for those who don't want to talk about steeper increases in other areas of the federal budget.

The *2 trillion* figure you sometimes hear is calculated by adding the dollars spent from fiscal year 1981 (really the last Carter year, since FY81 budgets were acted on in 1980) to fiscal year 1989 (amounts for which are estimated since that fiscal year doesn't start until October 1, 1988). But, total defense spending for all these years is $2.167 trillion. Total federal spending for all purposes, not just defense, was $8.125 trillion during this same period. Thus the defense share of total federal spending during this period was 26.6 percent.

Even put in perspective, critics still use the phase—*2 trillion on defense*—with a tone of disbelief, as if they can't imagine any reason for spending such sums. Well, if your view of the world reaches back as far as say last week, you would wonder too. But, if you care more deeply about defending America, you will recall why we launched an emergency program to rebuild America's defenses.

"Is America Strong Enough?" That was the question asked in the headline of an article in the October 27, 1980 issue of Newsweek Magazine. Many Americans were asking that same question.

From that article, this excerpt:

"For the first time since the missile-gap scare of the 1960 Presidential campaign, a feeling is building that American defenses have slipped—so badly that the nation may no longer be capable of protecting its interests abroad, or containing Soviet expansionism." [p. 48]

"Is U.S. Military a Paper Tiger?" That was the question asked in the headline of an article in the October 13, 1980 issue of the U.S. News and World Report [p. 12]. This article questioned the readiness of U.S. combat forces. For example, only half of our aircraft carriers and army divisions were ready for combat!

"Support for Increased Defense Spending Up Sharply." That was the title of a February 1980 ABC News-Harris Survey indicating that 71 percent of Americans favored increasing the defense budget of the United States. The number was an incredible turnaround given that in 1971 only 10 percent of Americans favored increasing defense spending.

We can scarely remember now, some eight or nine years later, how dangerous the situation had become. During the four years of the Carter presidency our military strength declined in the face of growing Soviet military capabilities, leading some of our adversaries to believe that the U.S. was retreating from its international obligations.

It took, perhaps, the Soviet invasion of Afghanistan in December 1979 to reawaken the country. The 1980 presidential campaign brought on an agonizing reappraisal of the state of U.S. defenses. The result: the election of Ronald Reagan and a clear mandate to restore our nation's military stength and international prestige.

A DECADE OF NEGLECT

When President Reagan took office in 1981, U.S. defenses were sorely in need of strengthening. A decade of neglect allowed the Soviet Union to overtake the U.S. in many critical categories of military power. During the 1970s, the so-called "decade of detente," U.S. defense spending as a percentage of GNP declined from a high of 7.8 percent in 1970 to a low of 4.7 percent in 1979. It was only after the Soviet invasion of Afghanistan in December 1979 that the country became aware that detente was not all that it was cracked up to be, and that military trends seemed to indicate that the Soviet Union was surpassing the United States in every meaningful category of strategic strength.

The Reagan administration leveled two principal criticisms at the Carter defense program. The first was directed at the imbalance in strategic and theater nuclear forces in favor of the Soviet Union. Soviet nuclear superiority, in conjunction with the inability of U.S. strategic nuclear forces to carry out established nuclear strategy, had created a "window of vulnerability" that needed to be slammed shut; and quickly at that. The second criticism emphasized shortfalls in our general purpose forces, such as a lack of training, readines, numbers, combat capability, and rapid deployment capability.

Strategic Forces: By the time President Reagan took office, the United States had moved from essential equivalence to inferiority in strategic nuclear forces with the Soviet Union. The decline, which began during the "decade of détente," was spurred on by decisions made during the Carter administration. Most importantly, the survivability of our deterrent force was seriously questioned.

The U.S. greatly reduced its number of nuclear weapons. We had one third more nuclear weapons in 1967 than we did in 1981. Until the deployment of the MX in 1986, we had not deployed a single new ICBM since 1971. Our nuclear missile submarines fell from 41 boats to 31 between 1966 and 1981, and the U.S. deployed no strategic bombers from the time production of B-52 bombers ended in 1962 until the deployment of the B-1B in 1986.

Mr. Carter cut back, cancelled, or delayed every strategic initiative proposed by his Republican predecessor. He cancelled production of the Minuteman missile and the B-1 bomber. He delayed all cruise missiles, the MX missile, the Trident submarine and the Trident II missile. He even postponed production and deployment of the enhanced radiation (neutron) weapon after Western European leaders had gone to great political expense to convince their electorate that it was necessary.

Conventional Forces: At the beginning of the Reagan administration, our conventional forces were suffering from shortfalls in spare parts, ammunition, and trained personnel. Essential training declined as did the readiness and sustainability of our deployable forces. The moral of our servicemen was affected accordingly.

The Carter administration significantly cut President Ford's shipbuilding program and vetoed a nuclear aircraft carrier; this at a time when the Soviets pursued an aggressive shipbuilding program giving them a worldwide ocean going navy. The administration failed to stem the exodus of trained manpower in our armed services, opposing efforts to correct the inadequate pay rates for our military personnel.

The Carter administration's neglect of America's defense posture in the face of overwhelming evidence of a threatening Soviet military buildup, in addition to its inept handling of foreign policy, led to the widespread perception by our adversaries and friends that the U.S. lacked the will to use its power where necessary to protect its freedom and that of its allies. This was the situation inherited over seven years ago. What has been accomplished?

THE REAGAN DEFENSE PROGRAM

Strategic nuclear forces

In 1981 the administration undertook the Strategic Modernization Program in order to maintain the essential survivability and effectiveness of US forces in the face of continuing qualitative and quantitative improvements in the Soviet threat. The Program called for:

Improved strategic command, control, and communications, to ensure timely warning of attack and an assured means of passing retaliatory orders to our strategic forces;

Intercontinental Ballistic Missile (ICBM) modernization, calling for the deployment of 100 Peacekeeper (MX) missiles;

Submarine-Launched Ballistic Missile (SLBM) modernization, including continued deployment of the Trident submarine and development and deployment of the Trident II (D-5) missile;

Bomber and cruise missile upgrades, including deployment of 100 B-1B intercontinental bombers, the modification of B-52 bombers to carry air-launched cruise missiles, and development of the Advanced Technology Bomber and Advanced Cruise Missile; and

In 1983, emphasis was given to strategic defense programs, including SDI and the Air Defense Initiative, to redress the longstanding neglect of defensive programs generally, and lay the groundwork for transforming the concept of deterrence based on offensive nuclear retaliation to one that emphasized protection against nuclear attack.

What Has Been Accomplished?

MX Peacekeeper and Midgetman Missile: The first 21 MX missiles have been deployed in silos vacated by aging Minuteman III ICBMs. The full compliment of 50 missiles should be operational by the end of 1989. Initial studies for a rail-garrison mobile basing system for an additional 50 Peacekeeper (MX) missiles began in FY 1987. Full operational capability for the planned 100 MX force is estimated at 1993. Though its status is tenuous, advanced development of the Small ICBM has also begun with prospective deployment slated for the early 1990s.

Trident Submarine and D-5 Missile: We are building Trident submarines at the rate of one per year to replace our aging Poseidon nuclear-powered ballistic missile submarine force. Eight Trident boats are now deployed, while the FY 1988/89 defense budget procures the 15th and 16th ships, which will be deployed in 1994 and 1995. Deployment of the D-5 missile in the Trident, beginning in late 1989, will significantly increase the accuracy and payload capability of our SLBM force, making the Trident effective against many hardened military targets.

B-1B Bomber and Cruise Missiles: The installation of air-launched cruise missiles (ALCM) on over 130 of our 25-plus year-old B-52 bombers will extend their usefulness into the 1990s. The squadron of B-1B bombers became operational in October 1986, with a total of 100 B-1Bs planned. The deployment of a new advanced-technology bomber is expected in the 1990s.

Command and Control: We have improved this survivability and endurance of our strategic command, control and communications by deploying more satellites and ground-based radars to provide early warning of ballistic missile attack; by hardening our command centers against nuclear blasts and electromagnetic pulse (EMP) effects; and by modernizing our communications systems to provide more reliable and survivable links to the forces.

Air Defense: Besides advance research into ballistic missile defense and air defense, existing continental air defense are being upgraded with more surveillance systems and interceptor forces. We are deploying a network of 12 Over-the-Horizon Backscatter (OTH-B) radars that will provide early earning detection of intruders at any altitude; with Canada, we are replacing the obsolete Distant Early Warning (DEW) line with a new radar network; and we will be modernizing our air national guard squadrons with modified F-16As.

Nuclear Strategy: Since the dawn of the nuclear age, the focus of U.S. strategic thought has been on deterring nuclear war by the threat of massive nuclear retaliation. The nuclear doctrine that developed in the mid-1960s (mutual assured destruction, MAD) made a virtue of each side's vulnerability to nuclear attack. According to MAD, if each side was vulnerable to nuclear retaliation, even after launching a first strike against the opponent, then nuclear war was unthinkable. Unfortunately, the Soviet Union never subscribed to this deterrence theory and it soon became apparent that deterrent threats which amounted to national suicide—if they were carried out—lacked credibility.

In the early 1970s, the basis for U.S. nuclear strategy began to shift from mutual assured destruction toward a strategy that would deter Soviet attack by the clear capability of our forces to survive a Soviet nuclear strike and retaliate with flexibility against a wide range of hardened Soviet targets. The Reagan administration has further contributed to the move away from MAD by examining the relationship between strategic defenses and deterrence stability. The hope is to move to a more secure basis for deterrence that rests on defending against nuclear attacks, rather than having to resort to nuclear retaliation. Strategic defenses, it is posited, would so thoroughly complicate Soviet nuclear attack plans that the Soviets would be deterred from attacking due to the uncertainty of military success.

General purpose forces

Toward improving the robustness of our conventional forces, the administration sought to increase the combat-effectiveness of our general purpose forces, specifically their readiness and sustainability, and add to our capability to deploy forces rapidly to distant theaters. The centerpiece of this effort is a 600 ship navy. Additionally, the administration placed emphasis on recruiting and retaining quality people for our all volunteer forces.

What Has Been Accomplished?

Naval Forces: In 1980, the Chief of Naval Operations (CNO) testified that the Navy no longer enjoyed superiority at sea. Weapons costs were up, retention and moral of personnel were down, and readiness and sustainability were at a low ebb.

Since 1980, the U.S. Navy has grown from 479 to 564 deployable battleforce ships, while overall combat readiness improved by 93 percent. The navy hopes to achieve its goal of 600 ships by the late 1990s. Major new force capabilities since 1980 include:

A 14th Nimitz-class aircraft carrier, to be followed by the 15th carrier at the end of the decade;

Three reactivated battleships;

Harpoon and Tomahawk cruise missiles deployed on our surface ships;

The expansion of fleet anti-air warfare capabilities with the deployment of 7 Aegis cruisers;

The deployment of 26 modern attack submarines since 1980; and

The deployment of four squadrons of the new Light Airborne Multipurpose System (LAMPs) anti-submarine warfare helicopter.

Aviation: Over the past seven years, the overall U.S. fighter/attack aircraft force has increased by about 10 percent, while significant modernization has taken place with continued fielding of the F-14, F-15, F-16, and F/A-18 aircraft. Improvements are being made in the area of surveillance and warning, and air defense suppression. Development continues on the Advanced Tactical Fighter program. Additional force capabilities since 1980 include:

185 F-15 aircraft procured;

1074 improved F-16 aircraft procured;

165 modified F-14 aircraft procured;

573 F/A-18 aircraft procured; and

Development of the advanced tactical aircraft and advanced tactical fighter.

Ground Forces: Land forces are being modernized through the deployment of the M1A1 tank, the Bradley fighting vehicle, and the Apache antitank helicopter. The FY 1988 program continues the expansion to a 32 division force comprising of 21 active divisions (18 army, 3 marine) and 11 reserve divisions (10 army, 1 marine). Key equipment inventory increases from 1980-1987 include:

Over 4500 M1 tanks;

Over 3000 Bradley Fighting Vehicles;

Over 340 Multiple Launch Rocket System (MLRS) launchers with over 188,000 MLRS Rockets; and

Over 1300 Helicopters.

Airlift and Sealift: Over the past six years, the U.S. has increased its force projection capabilities through a combination of airlift, sealift, and pre-positioning of equipment. Airlift capability increased 35 percent since 1980; approximately 103 dry cargo ships and 30 tankers are under control of the Military Sealift Command or the Ready Reserve Force—these forces can be augmented by 180 cargo ships and 110 tankers in the U.S. civilian fleet; and prepositioning programs are in effect for Europe, the Pacific, and Southwest Asia. Eight SL-7 class fast sealift ships have been acquired and converted to military use. Together they are capable of transporting an entire mechanized army division to Europe at a speed approaching 30 knots.

Readiness and Sustainability: In the decade preceding the Reagan administration, stocks of essential war-fighting materials were well below necessary levels. Some examples: Navy levels of ammunition, torpedoes and missiles were such that they could not load out the reduced fleet of 479 ships—even once—with full magazines; the most important air defense munitions were at less than one week's supply; the Marine Corps was unable to procure sufficient ammunition to replace the stocks expended in normal peacetime training.

These shortages will not disappear overnight, but seven years of sustained growth in the ammunition stocks has began to refill the stockpiles. In the FY 1980-1986 period, funding for readiness and sustainability grew in real terms by 38 percent. Analysts generally agree that personnel readiness has much improved, but disagree about improvements in other readiness areas.

Manpower and Qualified Personnel: In the foreward to his 1981 annual report to Congress, President Carter's Secretary of Defense Harold Brown stated: "Our most severe readiness problem is shortage of personnel, in particular, of senior enlisted personnel." In 1981 the services were unable to meet their recruitment or retainment goals, while the quality of those recruits had been declining.

Today, we have better educated and more highly motivated servicemen, and all services are meeting their recruiting objectives and Congressionally authorized manpower strengths.

In 1980 less than 70 percent of recruits were high school graduates; by 1985 this figure increased to 91 percent.

Since 1980, the average period of service for enlisted personnel has increased nearly 10 percent, and reenlistments increased from 68 percent in 1979 to 84 percent in 1987.

CONCLUSION

America is stronger today than ever before. According to the Joint Chiefs of Staff, "Military Posture Statement" for FY 1989: "The war fighting ability of our nation's military forces has continued to improve. These enhancements encompass all aspects of military capability: readiness, sustainability, modernization, and force structure efforts. This is due primarily to investment decisions made in 1982-1985." [P. 6.] As a result, U.S. global prestige has been restored; Soviet adventurism in the third world has declined; and for the first time in history the U.S. and Soviet Union have concluded an agreement reducing nuclear weapons.

Though the Reagan administration has made significant strides in addressing U.S. military deficiencies, continuing congressional budget cuts and the ongoing growth of Soviet military capabilities mean that we still have a long way to go toward redressing the U.S.-Soviet military imbalance. The simple truth is that the Soviets have acquired considerable momentum in their defense buildup; turning around those unfavorable trends will take a steady and long-term commitment to rebuilding U.S. nuclear and conventional forces. In order to ensure the gains we have made over the last seven years, the Congress needs to end the "feast or famine" cycle that characterizes U.S. defense efforts, and set upon a sustained and steady growth rate for defense spending. In our next report, the RPC will examine just what needs to be done.●

RAIL GARRISON MX MISSILE PROGRAM

● Mr. SIMON. Mr. President, in the May 19 Washington Post, a story by George Wilson detailed how the Rail Garrison MX Missile Program was being pressed by Secretary of Defense Frank Carlucci. Secretary Carlucci approved $328.7 million in contracts to rush forward with this deeply flawed idea. According to a similar story in the Defense News of May 23, these contracts were awarded after the Pentagon approved full scale development for MX rail garrison.

The administration ought to reconsider. Both Houses of Congress have expressed skepticism about a crash rail garrison program. Rail garrison should be derailed before we commit billions to a highly dubious strategic effort.

These MX contracts were let just 6 days after the Senate debate on the amendment I offered with my distinguished colleague Senator CARL LEVIN, which sought to transfer $500 million from rail garrison research into several important but underfunded conventional arms programs. During the House debate on a similar amendment, and during our debate in this Chamber, we made the point several times that the Air Force had only managed to obligate 14 percent of the $353 million appropriated for fiscal year 1988 after nearly half-a-year—$49 million—and had managed to actually spend just half of 1 percent—$1.8 million—during that time.

This is well below the average spendout rates for strategic research programs, which after half-a-year usually obligate 50 percent of appropriated funds. I am not convinced that the Senate agrees that MX rail garrison is the way to go, despite the vote on my amendment. It is absolutely clear that the other body does not agree with rail garrison.

The intent of Mr. Carlucci's decision, as hinted at by Mr. Wilson's article, is to tip the "balance toward the rail MX at the expense of the proposed Midgetman." I am not here today to discuss the debate between Midgetman and MX. I am more concerned that we are about to press forward with MX rail garrison.

But here we have Secretary Carlucci, a man I greatly respect, rushing headlong into MX rail garrison before Congress has met in conference on these issues. At the same time, our official negotiating position in the Geneva arms talks calls for outlawing mobile missiles. Does the right hand know what the left hand is doing?

Mr. President, the fundamental problem here is not the previously slow pace of MX contracting. It is not even the contradiction between our official arms control negotiating posture and our strategic arms programs, as unfortunate as that is. The fundamental problem here is the flawed nature of MX rail garrison.

From a strategic perspective, numerous military analysts have said we are making a big mistake with rail garrison. Our own distinguished chairman of the Armed Services Committee, Senator SAM NUNN, argued last December during floor debate on the continuing resolution that the rail garrison "system is dependent on strategic warning and is admittedly vulnerable to a surprise bolt out of the blue attack." As Senator NUNN said then, a surprise attack today is very unlikely, but there were probably some admirals around in 1941 who thought a surprise attack was equally unlikely just before Pearl Harbor.

Our land-based missiles now in hardened silos can be launched in a matter of minutes. But rail garrison needs a minimum of 4 to 6 hours of warning time before we can even move the MX trains out of their garrisons and onto the civilian rail network. Four to six hours! Unless the Soviet Union is planning on sending us a telegram before they try to wipe out our missiles, this dependency on lengthy warning time could be plain suicidal.

Proponents of rail garrison then argue that we could easily fire our missiles from within their garrisons, if we had to. That is true. But these garrisons will have only a minimal amount of protection—known as hardening. On average, the garrisons will be about 20 times less protected against direct missile attacks than our silos are today—20 times as vulnerable. So with rail garrison the only thing we purchase is much less survivability, and much more vulnerability.

In 1985 Congress voted to cap MX deployment in fixed silos, because there was a fear that silo deployment was simply not survivable. That was a wise decision. Yet here is Secretary Carlucci rushing ahead with MX rail garrison contracts that will guarantee permanent vulnerability.

Now what will happen if we disperse the MX trains out onto the civilian rail network in a real emergency? These trains will run the very real risk of accident or sabotage. There is no way for the Air Force to guard every mile of track in the United States, some 180,000 miles of track. And there are periodic accidents on our rail network. In a time of crisis, when other military and civilian rail traffic may be expected to increase, these trains will only add to confusion, panic, and fear.

And of course, the Soviet Union will know where the MX rail garrison bases are. They know where the U.S. rail network is located. It would not be a difficult feat to target selected portions of the rail network, cutting severely into the mobility of MX on trains. Once on the rail network, the MX trains will be even less hardened than that afforded by the garrisons—about one-third as protected as the garrisons, or about 67 times more vulnerable than missiles in silos. Today only the 10-warhead SS-18 is accurate and powerful enough to take out our silos. But the "softness" of MX on trains, out on the civilian rail system, allows the Soviet Union to use almost any strategic missile in its arsenal to damage or destroy rail MX.

For these reasons, it is doubtful that the public will embrace rail garrison. When the MX racetrack scheme was considered in the Carter administration, only Utah and Nevada were affected. Under rail garrison—a proposal that was several times rejected throughout the 1960's and 1970's—every corner of the country will be affected. A preliminary environmental impact statement has not yet even been issued.

Mr. President, there are other good reasons why both the MX missile and rail garrison are bad ideas. The Air Force and this administration would like to marry these two quickly, before serious debate can really begin.

This is a shotgun marriage, one that ought not occur. MX and rail garrison are now at the altar. In my judgment, now is the time for those questioning their union to object.

Mr. President, I ask that the Washington Post article of May 19 by Mr. George Wilson, "Rail-Mobile MX Is Pressed by Carlucci," be entered in the RECORD in full.

The article follows:

RAIL-MOBILE MX IS PRESSED BY CARLUCCI

(By George C. Wilson)

Defense Secretary Frank C. Carlucci has ordered full speed ahead for the controversial rail version of the MX blockbuster missile, approving $328.7 million in contracts to build test versions of railroad cars to carry and fire it, the Pentagon announced yesterday.

Critics who back the rival Midgetman missile charged last night that Carlucci was moving so far ahead with the rail-mobile MX that the next president might be locked in to this deployment scheme.

Carlucci has championed putting the 10-warhead MX on rails rather than confining deployment to existing Minuteman silos, arguing that mobility would make the blockbuster missile harder for the Soviets to target.

Opponents warned that the money Carlucci has now earmarked in 1988 funds will be supplemented by additional appropriations when Congress finishes the fiscal 1989 Defense Department budget, perhaps tipping the balance toward the rail MX at the expense of the proposed Midgetman, a much smaller missile carrying a single warhead.

The American public will never accept the idea of nuclear weapons being carried through towns in railroad cars during periods of tension, the opponents say. They also contend that going ahead with the rail MX conflicts with the Reagan administration's call for banning U.S. and Soviet deployment of such mobile missiles under a strategic arms reduction treaty (START).

President Reagan and Soviet leader Mikhail Gorbachev at their May 29–June 2 Moscow summit are expected to discuss the question of mobile, long-range missiles. The Soviets have deployed mobile missiles: the 10-warhead SS24 on rails and the single-warhead SS25 on trucks. Carlucci views the rail MX as a counter to these weapons.

An Air Force spokesman said last night that MX contracts of $167 million to Westinghouse Electric Marine Division of Sunnyvale, Calif., to develop the launch car by mid-1992, and $161.7 million to Rockwell International Autonetics Electronics Systems of Anaheim, Calif., for a launch control system, came from money Congress appropriated last year. This year the House and Senate are far apart on how much money should go for a rail-mobile MX.

Carlucci requested, in the fiscal 1989 defense budget currently under debate, $800 million for the mobile MX and $200 million for the mobile Midgetman, which would be hauled around military bases in the West. The House Armed Services Committee authorized $500 million for each proposal, while the House, in passing the defense authorization bill, authorized only $100 million for MX and $600 million for Midgetman.

The Senate is proposing to authorize $700 million for MX and $50 million for Midgetman, setting the stage for a House-Senate compromise measure earmarking about $350 million for each missile.

The Air Force plan calls for 25 short MX trains, carrying two missiles each, for a total of 50 MXs. Congress has limited MX deployment to 50 missiles in existing Minuteman silos.

An MX train would have two locomotives, two missile cars, a launch control car, two "security" cars for protection, and several other cars. F.E. Warren Air Force Base in Cheyenne, Wyo., would be the Grand Central Station for the MX railroad.

In a crisis, the trains would rumble off the base and onto the nation's civilian rail system, making them difficult to target by incoming Soviet nuclear warheads. Another 10 Air Force bases would get trains later if the rail scheme goes forward.

Sen. Albert Gore Jr. (D-Tenn.), a leading Midgetman proponent, warned last night against allowing the Pentagon to push the rail-mobile MX beyond the point of no return.

"It would be disastrous for this administration to leave its successor only one ICBM [intercontinental ballistic missile] option," he said. Congress should split the money more evenly between MX and Midgetman to preserve the next president's flexibility, he said.●

SELF-INTEREST AND THE COMMON WEAL: FOCUSING ON THE BOTTOM HALF

● Mr. SIMON. Mr. President, today I am inserting an excellent article, "Self-Interest and the Common Weal: Focusing on the Bottom Half," by M. Sandra Reeves that recently appeared in Education Week. This article hits precisely upon the subject of a recent subcommittee hearing I held on April 27, 1988, regarding non-college-bound youth in America and the transition from high school to the workplace for these students. Our Federal education resources focus primarily on those students going to college, and have been increasingly focused on dropout prevention. But, minimal attention is paid to the vast majority of students who do not drop out nor go on to college.

When these students leave high school—with or without a diploma—they are essentially on their own. One of the reports discussed in this article has aptly labeled these children "The Forgotten Half." They have few second chances—and, yet, many do need additional training or education to get started in a career.

Our economy is facing two human resource trend lines—the supply of unskilled and uneducated labor is increasing, while the demand for unskilled labor is declining. By the year 2000, employment in professional and managerial jobs will increase by 5.2 million, while laborer positions will grow by only 1.3 million jobs. Only 10 percent of the new jobs created by 1995 will be in manufacturing—the rest will be in the service sector.

At the same time that our labor force is growing more slowly (the post-baby boom), it is also made up of more women and minorities. Blacks, Hispanics, Asians, and other races will account for roughly 57 percent of the labor force growth from 1986 to 2000. If we include white women, the minority and female share of labor force growth will exceed 80 percent. These are the same groups that have historically been disadvantaged. If we want a skilled, competitive labor force, we can no longer afford to ignore these groups, nor can we continue to disadvantage them. We must plan to convert an expected flood of unskilled labor to a skilled one.

While we will be increasingly placing tougher demands upon our future work force—current trends tell us that less than 30 percent of today's high school students will eventually get a college degree. We must increase opportunities for the non-college-bound, and we cannot begin after they have completed high school or dropped out. It is an issue of economics and of fairness. If these youth are unemployed or underemployed, they become an economic burden upon society. And, it is only fair to give these youth a share of Federal resources, when we spend $112 billion a year on higher education for the college bound. The following article aptly addresses the issue of non-college-bound youth and many problems of at-risk students in general. I ask that the article be inserted in the RECORD.

The article follows:

"SELF-INTEREST AND THE COMMON WEAL": FOCUSING ON THE BOTTOM HALF

(By M. Sandra Reeves)

Whenever America gets serious about an issue, it reaches for the right metaphor, for language that will simplify and give power to ideas. Thus, it was not by accident that the report of the National Commission on Excellence in Education—issued five years ago this week—sounded more at times like a replay of World War II than a prelude to school reform.

Even the document's title, A Nation At Risk, was a call to arms. And its rhetoric, heavy on economic and achievement comparisons with former enemies, principally Japan, sustained the alarm:

"If an unfriendly power had attempted to impose on America the mediocre educational performance that exists today," it read, "we might have viewed it as an act of war. . . . We have, in effect, been committing an act of unthinking, unilateral educational disarmament."

What is ironic, on this fifth anniversary of its release, is not that A Nation At Risk failed to instill its sense of urgency—virtually every state has acted to impose its recommended higher standards—but that a message implicit in its international comparisons has been until recently, all but ignored.

The Japanese achieve their extremely high average level of academic performance by taking great care to see that their weakest students do well. As they have often claimed, they have "the best bottom 50 percent in the world" educationally—and virtually no dropouts.

American school reform, on the other hand, was launched with a rhetoric of "excellence" that did not take into account the bottom 50 percent.

It is an omission that many have seized upon in assessing the government's progress at the half-decade mark.

In a report on urban education released last month, the trustees of the Carnegie Foundation for the Advancement of Teaching note a "disturbing gap between reform rhetoric and results."

"We are deeply troubled," they say, "that a reform movement launched to upgrade all students is irrelevant to many children—largely black and Hispanic—in our urban schools."

Albert Shanker, president of the American Federation of Teachers, wrote in a recent newspaper column that "what now mostly passes for reform has been an especially empty gesture when it comes to our most disadvantaged students and schools."

A William T. Grant Foundation study released this year warns that through some reforms are promising, "a sizeable number of youth—too many for a pragmatic or a just society to ignore—already suffer the consequences of school failure."

And in a new publication from the National Education Association, the Harvard University economist Robert B. Reich says, when assessing the future needs of the U.S. workforce, that "we will have to do a better job . . . helping all our children become minimally numerate and literate."

The attention, it would seem, is turning more and more to what the authors of a new Ford Foundation study, Toward a More Perfect Union, call "the second achievement gap."

This gap is a domestic one, they say, "one between the bottom scorers and the top scorers, between minorities and nonminorities, and between the poor and the nonpoor."

WHAT—OR WHO—IS IN JEOPARDY?

The locus of America's "risk" is shifting from the nation as a whole to its children. And, as it does, a variant of the excellence commission's rhetoric is becoming the most widely used term in the educational lexicon: "students at risk."

A catch-all phrase with both descriptive and predictive meanings, "at risk" is now being used to categorize large portions of the reform movement's unfinished agenda. It is "often a euphemism," notes Walter Hathaway, research director for the Portland, Ore., public schools, a verbal dumping ground for "a variety of ills of an educational nature and of a profound personal and societal nature as well."

What it lacks in precision, however, at-risk makes up for in resonance. It can evoke the full range of perplexities facing schools and society—unacceptable dropout rates, increases in problem behavoir such as teen pregnancy and drug use, persistent underachievement on standardized tests, inadequate job skills, and growth in what the Annie E. Casey Foundation calls the "inactivity rate," a depressing social barometer showing the number of youths who are neither in school nor into productive work lives.

INDEXING "FUTURES FORECLOSED"

"No single index exists to gauge the scope of the problem," the foundation says in the planning guide for its New Futures initiative. "Instead, we try to measure it by counting 'symptoms' or 'events' in young lives, which, when added up, give us a proxy for the number of youthful 'futures' that are each year being foreclosed."

The foreclosures have been most visible in the nation's large urban school districts, where the poor and minority populations are disproportionately represented. Here, dropout rates can soar to 50 percent or more, and students face a world that is often characterized by apathy anonymity, and an absence of adult support.

Children "know that they can disappear here and not be missed," says the Carnegie Foundation's report, An Imperiled Generation.

"It is not possible," it says, "to have an island of excellence in a sea of indifference."

"INTENSE" POVERTY, DEVASTATING RESULT

But the problem is not limited to urban youths. It is prevalent also in small, poor rural districts, especially those in the South, according to Martin Orland, a research specialist in the U.S. Education Department.

In a paper prepared for a College Board colloquium on "Access to Knowledge" held last month, to be published with other papers from the meeting later this year, Mr. Orland lays out statistical correlations between poor academic achievement and what he calls "intense" poverty factors—being poor over long periods of time and living and attending school in areas with high concentrations of the poor.

For each year a child lives in poverty, Mr. Orland has found, the likelihood of falling behind his expected grade level increases by 2 percent. Thus, a child whose family has been mired in poverty for 10 years is 20 times more likely to do badly in school than a child who is poor for only a year.

If that same child also attends a school with a very high concentration of poor students, his statistical chances of school failure increase strikingly.

In Mr. Orland's research, the percentage of low achievers in schools with relatively little poverty was 11.9 percent. It jumped to 23.9 percent in schools with moderate rates of poverty, and to 47.5 percent in schools with the highest poverty rates.

A report this year from the National Policy Institute confirms the link between poverty and school failure. It says that socioeconomic level has a far greater bearing on dropout rates than race. Youths from poor families are, regardless of race, three to four times more likely to drop out of school than those from more affluent households.

According to the Grant Foundation report, The Forgotten Half, living in poverty also increases a young person's statistical chances of having weak basic skills. "Nearly half of all poor youths score in the bottom fifth of the basic-skills distribution," it says, "while over three-fourths of all poor youths have below-average basic skills."

THE ACHIEVEMENT GAPS PERSIST

Scott Miller, an Exxon Education Foundation official who has studied comparative data on standardized-test scores, says that while gains have been made, "the achievement gaps between minority and disadvantaged youngsters and their majority and middle-class counterparts remain enormous."

It is not simply a matter of lower average scores, he explains, but of a markedly weaker distribution of scores, so that "minority students are both very underrepresented among the highest scores on such tests and very overrepresented among the lowest scorers."

What is even more disturbing, Mr. Miller adds, is that after a pattern of low achievement has been established by these students in the elementary grades, "educators have not demonstrated that they know how to make substantial improvements in that pattern."

"AT RISK": A NEW TERM FOR MANY OLD PROBLEMS

The relatively recent explosion in the use of the term "at risk" to describe such student problems may say much about where the reform movement has been, where it is going, and why.

In a search of the Educational Resources and Information Centers' "thesaurus of descriptors," two University of Arizona researchers found that the related term "high-risk student" had only been in use since 1980. But by 1987, wrote Virginia Richardson-Koehler and Patricia Colfer in an unpublished College Board paper, ERIC was listing the following categories of "at risk": school and academic failure, potential dropouts, educationally disadvantaged, and underachievement.

The term appears to have been coined by the Boston-based National Coalition of Advocates for Students. In 1985, a distinguished "board of inquiry" assembled by the group issued a reform report called Barriers to Excellence: Our Children At Risk. It was deliberately titled to draw the distinction between its message and that of A Nation At Risk.

"Policymakers at many different levels talk about bringing excellence to the schools and ignore the fact that hundreds of thousands of youngsters are not receiving even minimal educational opportunities," the report said.

"From the minute they walk into school, many low-income students get the message that society does not really care about their education, that schools expect little from them."

Barriers to Excellence had been preceded by two other studies making mention of that issue. A task-force report of the Twentieth Century Fund, released just a month after *A Nation At Risk,* called for federal "impact aid" and other assistance to help school districts struggling with the problems of substantial immigrant and impoverished populations.

And Ernest L. Boyer, writing in the Carnegie study, *High School: A Report on Secondary Education in America,* warned that "in the great debate about public schools, equity must not be seen as a chapter of the past, but as the unfinished agenda of the future."

Despite these references, however, few of the earliest reform documents laid aside the preoccupation with tougher curricula and increased requirements to focus on the needs of the educationally disadvantaged. And until *Barriers to Excellence,* none suggested that pupils, rather than the nation, might be "at risk."

Subsequently, a few other groups, such as the Education Commission of the States' business advisory panel, highlighted the phrase in their reports. But it was not until 1986 that "at risk" as a characterization of students began to gain the kind of visibility that has propelled it to virtual cliché status.

THE IMPETUS WAS DEMOGRAPHY

The reason, in a word, is demographics.

Beginning in 1986, the work of such population analysts as Harold L. Hodgkinson, the former head of the National Institute of Education, started to attract wide attention. These studies showed in graphic detail what the first wave of reform had ignored: that the schools of tomorrow would not be like the schools of the past.

Not only were the disadvantaged becoming numerically ascendant, the researchers said, but work patterns and industrial needs were changing, the traditional notion of family was disintegrating, and the population was becoming older and more racially and culturally diverse.

Suddenly, the outlines of a future without substantial improvements in the way all children—especially those at the social margins—are taught became clear. It would include a lowered standard of living, fewer government services, intensified class divisions, a weakened democratic process, and lost human potential.

Left, then, was the task of redirecting a reform movement basically concerned with more—more requirements, more discipline, more homework, more tests—to one seeking better—better matching of learning style to course content, better instructional methods, better access to resources.

BEYOND THE MIDDLE CLASS?

The first stirrings of such a development can now be seen in the movement to professionalize teaching and restructure school governance to allow for more school-site autonomy and experimentation.

But to adapt and direct such ideas to the students who most need them will require a reversal of past patterns of school improvement, notes the University of Washington researcher John I. Goodlad.

"One of the predictable outcomes of school reform," he argues in an unpublished paper prepared for the College Board colloquium, "is that improvements motivated at the outset by the need or desire to serve the disadvantaged better are incorporated first into schools and school districts or segments of schools populated disproportionately by the advantaged."

It is ironic to note in this respect that the Italian educator Maria Montessori considered her experimental teaching method, which stresses sensory stimulation, as especially helpful in the education of disadvantaged children, whose environments are often deficient in such sense-related experiences. Today, Montessori schools cater almost exclusively to the advantaged.

To Jose Cardenas, executive director of the Intercultural Development and Research Association, the problem is one of money and motivation.

"Historically, the growth of the American public school has paralleled the growth of the American middle class," he writes, in another of the colloquium papers. And there are few signs, he says, that the current movement aims to be anything more than a middle-class phenomenon.

Mr. Cardenas admonishes state governments for their "attempts to bring about education reform in the absence of equitable allocations of resources and instructional fairness."

"A focus on outcome measures, particularly achievement-test requirements for promotion and graduation, rather than on input equity, has exacerbated the rates of failure and school dropouts among minority and disadvantaged students," he says.

There also have been few penalties for ailing schools, he points out. "If anything, school systems have been rather successful in having the victim of the educational inadequacy held accountable for the crime."

Concludes Mr. Goodlad: "It is cynical but realistic to observe that the common welfare is likely to advance when the advantaged see their self-interests and the common weal to be entwined."

There are signs that this confluence of self-interest and common weal may be taking place now.

WE'RE ALL GROWING OLDER, WE'LL BE DEPENDING ON YOU

When professional football's latest hero, the Washington Redskins quarterback Doug Williams, announced this month that he was creating a foundation to supply college-scholarship funds to disadvantaged students in the nation's capital, he said this: "We're all growing older, and we'll be depending on you."

He was referring to a dynamic of self-interest built into the new demographics: Baby Boomers must be supported in their old age by substantially fewer—and more racially and ethnically diverse—workers.

But all the indicators imply that there will have to be massive revisions in both the quality and the kind of instruction students receive if these future workers are to be able to push the economic engine toward solvency, let alone prosperity.

The chorus of business complaints about high-school graduates' lack of skills continues to grow. Last year, when the New York Telephone Company launched a massive recruiting effort, Mr. Reich relates, 80 percent of the applicants from New York City schools failed an entry-level test of basic reading and reasoning skills. About one-third of Polaroid's hourly workforce, he says, is enrolled in a company program teaching elementary reading and writing.

Altogether, American corporations will need to spend nearly $25 billion a year on remedial education, according to a study by the American Society for Training and Development.

In the N.E.A. white paper on "Education and the Next Economy," Mr. Reich concludes that while a higher proportion of the young are well prepared for work, "the worst-prepared third of our young people—disproportionately lower income—are almost totally unprepared."

In fact, as the Committee for Economic Development's report, Investing in Our Children, noted, "nearly 13 percent of all 17-year-olds enrolled in schools are functionally illiterate and 44 percent are marginally literate. Among students who drop out, an estimated 60 percent are functionally illiterate."

MISSING: "FOLK THEORY" OF ATTAINMENT

There is growing consensus in many quarters that something deep-seated and fundamental is wrong with a system producing so many failures. But narrowing that "something" down to a manageable set of conditions that education can address has proved troublesome.

Some argue, for example, that real progress in learning will take place only as the social conditions that feed low self-esteem and motivation are improved or countered.

The University of California at Berkeley researcher John U. Ogbu says that education policymakers "tend to ignore the fact that people go to school and work hard to succeed in school not out of a love of learning, but because they perceive and experience significant economic and other benefits of education."

"Blacks," he says, "may say they believe school helps people to get ahead, but actually they do not buy the white middle-class folk theory" of achievement through education.

There is, instead, a "deep mistrust" built on past discrimination in the relationship between the public schools and what Mr. Ogbu calls "nonimmigrant minorities"—those who were involuntarily incorporated into the U.S. population, such as blacks, American Indians, and native-born Mexican-Americans.

IMMIGRANTS: NO "ACTING WHITE" PROBLEM

Immigrants to the United States often fare much better educationally than native-born minorities, the researcher has found, because they generally perceive their status as outsiders to be a temporary situation that can be overcome through hard work.

Blacks and other nonimmigrant minorities tend to see their life condition as permanent and unchangeable, he says, giving rise to such counterproductive school attitudes as the recently explored phenomenon of labeling high academic achievement "acting white."

"The lack of serious academic attitudes and efforts appear to increase as nonimmigrant minority students get older and apparently become more aware of the reality that as members of a subordinate minority group they have limited future opportunities for getting good jobs even with good education," he writes in Policies for America's Public Schools: Teachers, Equity, and Indicators.

Others, however, say that too great a concentration on the socioeconomic well-springs of low achievement can remove schools' incentive—and sense of responsibility—for trying new and better approaches to educating the disadvantaged.

"It is important to note," says that Casey Foundation's New Futures planning guide, "that dropout rates are not exclusively a function of either the overall state of the economy or the background and circumstances of students. A growing body of research indicates that schools themselves vary dramatically in their ability to accommodate and respond to youths at risk of dropping out."

A JOYLESS SCHOOL EXPERIENCE?

Mr. Reich maintains that changes in the labor market will put a premium on interpersonal skills and the ability to learn rapidly and continuously on the job. He strongly recommends that schools do more to foster collaboration and work within groups.

Yet, as the University of Pennsylvania educator Michelle Fine points out, this is precisely the type of school activity usually denied to so-called at-risk students. "Students in high school seemingly need to earn the opportunity to be critical, participate, and work collectively," she says, "'Smart kids' get to work in groups; 'remedial kids' are accused of cheating. 'Smart kids' are creative; 'remedial kids' are right or wrong."

Such attitudes on the part of schools, she says, ignore the fact that minority and poor populations are often more group-oriented and interactive than the white, middle-class culture, which tends to stress and reward individualism.

The Stanford University researcher Henry M. Levin criticizes current intervention strategies for stigmatizing disadvantaged students and creating a "joyless" school experience where mechanics are stressed over content.

An effective curriculum for such children, he says, would be accelerated, rather than paced behind the normal grade level, to give them the chance to make up the "mainstream" learning deficiencies they enter school with during the elementary years. It would also, he says, build on the "unusual assets" these students often display.

FULLER DEFINITION OF HUMAN TALENT

This is an area that Sue E. Berryman, director of the National Center on Education and Employment at Teachers College, Columbia University, stresses. She says there is a second school reform waiting in the wings, one that "will be organized in some way around a much fuller definition of human talent than narrowly defined academic skills."

This will be so, Ms. Berryman says, not only because the economy needs, uses, and rewards a much wider group of skills, but also because the at-risk populations may be bringing a greater diversity of talent with them.

She cites the work of Howard Gardner, the Harvard University cognitive psychologist whose book *Frames of Mind* is being used as a guide for some experimental classrooms. To the traditional academic abilities, Mr. Gardner's theory adds talents in such areas as spatial relationships, physical coordination, music, interpersonal perceptiveness, and inner attunement. While not prized or encouraged in the current school structure, such special gifts might be critical, Ms. Berryman points out, to success in an architectural, diplomatic, therapeutic, theatrical, or clerical field.

In her speeches, she likes to quote Mr. Gardner: "We should spend less time ranking children and more time helping them identify their natural competencies and gifts and cultivate them. There are hundreds of ways to succeed, and many, many different abilities that will help you get there."

From her own research, Ms. Berryman has become convinced that children develop early on an "inner vision" of their place in the adult world, one that they act on in making choices, whether or not they realize they are doing so.

The child who decides to drop out, she suggests, "may not be able to envision or emotionally claim an adult future that requires the core curriculum of a high school."

"When schools concentrate on narrow verbal and mathematical-logical skills," she says, "they may unintentionally be limiting the child's vision of the adult world to academic activities, whereas in fact only a small share of jobs are highly academic in skill content and requirements."

PARENT ASPIRATIONS, POVERTY SHAPE CHILD'S "INNER VISION"

But this inner vision of the future is also shaped in the home. And it is here, many researchers insist, that schools face their most complex challenges.

The studies Mr. Orland cites show that "the factors which explain most of the variation in student achievement [are] not parental income levels or other levels of socioeconomic status, but rather measures of 'home atmosphere,' such as parental aspirations for their children, the amount of reading materials in the home, and family attitudes toward education."

He adds that this home atmosphere may vary dramatically depending on the length and depth of a family's poverty.

"A poverty measure which merely assesses whether a person is poor or not at one point in time would not capture much of this relationship," he notes.

"It would be roughly akin to trying to predict a person's life expectancy by asking whether that individual was currently ill," he adds, "but without distinguishing whether he was suffering from the flu or cancer."

That is why the entrenched nature of poverty in some portions of the population—and the mounting evidence that certain behavior trends, such as teen-age motherhood, may be accelerating the inter-generational transfer of that poverty—are of such concern to educators.

More than 70 percent of the teachers interviewed for the Carnegie urban-schools study identified low parental involvement as a major problem. The report tells of a high school in New Orleans which, like others in the city, requires parents to pick up their children's report cards. Seventy percent of the cards at this particular school, located in a low-income area, remained unclaimed two months after the marking period.

A 1st-grade teacher in Cleveland told the researchers, "You send notices home, there's no response. You ask parents to come to conferences, they don't come."

"You send homework home, you can see that parents aren't paying any attention to it," the teacher added. "They aren't helping their kids."

FOR MANY, A LOSS OF "SOCIAL CAPITAL"

The University of Chicago scholar James S. Coleman says that the transformations occurring in work and family life have reduced for all children the level of what he calls "social capital"—the home and community resources available for nurturance, mentoring, personal attention, and intimacy. For the impoverished child, living in situations where life stresses are generally much greater, the loss can be profound.

Schools as they currently are structured, Mr. Coleman says, can provide only "a certain class of inputs into the socialization process"—mainly opportunities, demands, and rewards—leaving to the child's "more persisting environment" the provision of such intangibles as attitudes, effort, and conception of self.

To be effective, Mr. Coleman says, schools must "change as families change, must be adjusted to the institution they complement."

In making a plea for schools to accept the challenge of replacing this lost social capital in children's lives, he points to his research showing lower dropout rates and higher levels of academic achievement in Catholic schools than in either public or nonreligious private schools.

The findings do not necessarily reflect differences in what happens within the schools, the Chicago researcher says, but are "due to a different relationship of the school to the parental community."

"Religious organizations are one of the few remaining institutions in society, beyond the family, that cross generations," Mr. Coleman explains. "Thus, they are one of the few in which the social capital of the adult community is available to children and youths."

FAMILY-SUPPORT CENTERS

A growing number of communities are creating family-support centers in low-income neighborhoods to provide this type of cross-generational pooling of social resources. The centers, which can be but are not exclusively located in schools, offer such services as child care, summer and afterschool enrichment classes for children, and personal, academic, and job counseling for adults.

The New York state department of education is operating a pilot program of 10 "community schools" in economically depressed areas. They remain open for much longer than the traditional school day—in some cases seven days a week or year-round—and serve as the hub for social-services delivery. Their activities for children, including day care, prekindergarten programs, homework assistance, and artistic and recreational programs, are augmented by programs for parents ranging from adult education to dental clinics.

PARENT'S ATTAINMENT AIDS CHILD'S

This attention to the needs of the parents is a particularly promising area for schools, in the view of many researchers. Studies have shown relationship, for example, between the academic attainment of parents—particularly the mother—and the school progress of their children.

The Northeastern University researcher Andrew Sum was able to use family data from the National Longitudinal Survey of Youth Labor Market Experience to predict test scores based on parental education. When other variables were constant, he and his colleague Robert Taggart found, "an extra grade of attainment for the mother was associated with an extra half-grade equivalent of achievement for her children."

"Because of this intergenerational effect of the parents' education on the child's," Mr. Sum writes, with Gordon Berlin, in Toward A More Perfect Union, "it is unlikely that we will be able to make a major difference for the child unless we place equal priority on education and academic remediation for the parent."

Mr. Coleman bolsters this observation with an anecdote. In an article on "Families and Schools" in the journal Educational Researcher, he tells of one district's discovery that some Asian families were buying two sets of school textbooks. One of them, they found, was for the child and the other was for the uneducated mother—"to enable her to better help her child succeed in school."

Some schools are already trying to give parents the same kind of opportunity—not by providing textbooks, but by facilitating their own quest for education, either by having regular "drop in" days at school or by supporting classes in adult education.

MY MAMA SAID I DON'T HAVE TO

During the 18 years that James P. Comer headed an experimental school-development program at Yale University's Child Study Center, many of the participating parents were motivated enough by the experience to obtain a General Educational Development diploma, he reports. And seven parents not only got their G.E.D., but also completed college and entered professions.

In the program, sponsored by Yale's Child Study Center, Dr. Comer and his colleagues were able to turn around the parental apathy at two predominantly low-income elementary schools in New Haven, Conn., and in the process, produce "significant achievement gains."

Their approach involved the intensive collaboration of parents, administrators, teachers, and support-staff members on school problems, from discipline to instructional program. A team of mental-health specialists aided the process, helping to facilitate interaction and head off disputes.

In a paper to be published later this year as part of the College Board colloquium on access, Dr. Comer illustrates the parental mistrust noted in Mr. Ogbu's research by relating the experience of one 1st grade teacher in New Haven on the first day of school: "A six-year-old raised his hand, as instructed by his teacher, and said, "Teacher, my mama said I don't have to do anything you say.' "

Such difficult home-school relations form, he says, "a barrier to learning for all children, but particularly for low-income children from families under stress, and certain minorities."

Programs to improve them need not be as inclusive or structured as the Yale approach, he adds. "It is my impression that almost anything done . . . that is systematic enough and done with great energy can bring about change."

The question, then, is whether schools—and the society that supports them—are willing and able to create the systems and expend the energy needed for change.

THE GREAT EQUALIZER OF THE CONDITIONS OF MAN

When the great 19th-century educator Horace Mann completed 12 years of school reform as Massachusetts' first secretary of education, he was able to write in his last report to the board that education was "the great equalizer of the conditions of man."

Today, almost a century and a half later, there are some who question the continued validity of that notion. Mr. Cardenas of the Intercultural Development and Research Association offers this assessment: "If the purpose of the American public school were to perpetuate class differences, then public schools have not been the failure we have been led to believe."

Equal access to schools has been assured by the courts. But Mr. Cardenas and others maintain that persisting imbalances in school quality still block the attainment of equal access to knowledge.

And Mr. Goodlad adds that the "startling statistic" encountered in setting about to correct these imbalances is the growth occurring in the bottom half educationally.

"We are not talking about socializing, accommodating, or rehabilitating 10 or 15 percent of our total population," he says, "but perhaps 35 percent or more."

CAN SERVICES BE "GUARANTEED"?

The current means of addressing the problem at the federal and state level is through additional funding for compensatory education and other special services. But often these programs suffer from the perennial shortcomings of bureaucracies—too little funding to cover need, inadequate or inflexible distribution formulas, and insufficient monitoring to ensure effectiveness.

"If there is anything we have learned over the past 15 years, it's that we can't help these kids unless we can guarantee a whole range of special services that go way beyond what we have done to date," says Gordon Ambach, executive director of the Council of Chief State School Officers.

Yet some of the more promising federal initiatives, such as the Head Start preschool program and school-nutrition programs, are serving fewer children during a time of deficit reduction. Both address what many consider to be a growing danger for disadvantaged school children: unmet health needs.

HEALTH AND NUTRITION

Research has documented both the role nutrition and good health play in learning and the risk teen-age mothers without health care run of having premature and low-birth-weight babies—babies who in turn run a greater than average risk of poor cognitive development.

Yet, according to the National Policy Institute study, children now constitute one-third of America's 35 million people without health insurance. One in four black children, it says, is uninsured.

School health clinics, which have been controversial because of their role in birth-control counseling, may provide a partial answer to this problem for some impoverished communities.

But others are exploring a more comprehensive option. Last October, for example, the Philadelphia school board proposed establishing a health-maintenance organization, or H.M.O., for all the city's schoolchildren.

The Forum of Educational Organization Leaders, a coalition of 11 major education groups, has called for legislative guarantees at both the state and federal levels to provide the full range of special services at-risk students will need to graduate from high school.

THE ANSWERS SCHOOLS HOLD

But, more and more, educators are concluding that add-ons will help but not cure what is a complicated systemic problem. The answers must be sought, they say, in the schools themselves.

Mr. Orland's analysis of data from several federal studies reinforces, he says, "the notion that there are independent school-level factors which depress the academic-achievement level of students attending high-poverty schools."

One of his most interesting findings, for example, is that in schools with high concentrations of low-income students, the detrimental impact on achievement rates holds true for nonpoor as well as poor students. "In fact, according to these data," he says, "a nonpoor student in a poor school is actually more likely to be a low achiever than is a poor student in a low-poverty school."

GREATEST SOURCE OF INEQUITY

One of the reasons, many suggest, is differences in the level of teacher competence.

In an unpublished paper from the College Board colloquium, the researchers Linda Darling-Hammond and Joslyn Green call disparities in the availability and distribution of highly qualified teachers "perhaps the single greatest source of educational inequity."

"As matters stand now," they write, "the students who most need the best teaching are the least likely to get it."

And the situation will not change, they say, until the profession offers greater inducements and rewards to teachers willing and able to take on the challenge. Easier teaching assignments are one of the "few real incentives to staying in the profession," the researchers explain.

Thus, beginning teachers—and uncertified teachers when districts face shortages—are usually forced to "pay their dues" in schools with high concentrations of at-risk students, while awaiting the opportunity to transfer to others where the conditions are more conducive to learning.

LOW EXPECTATIONS ARE MET

Teacher attitudes also hamper the acquisition of knowledge, according to the Carnegie Foundation's trustees.

In their study of urban schools, they found that many teachers working with at-risk students—more than one in five in their survey—simply do not believe, that all students can learn. These teachers' low expectations, the board concluded, become a self-fulfilling prophecy.

In addition, says Suzanne Soo Hoo, an elementary-school principal in Cerritos, Calif., the advent of "pull out" programs such as special education and Chapter 1 has changed regular classroom teachers' perspective on the role they should play with marginal students. Where once they tried to "accommodate the diverse needs of students without question," she writes in one of the unpublished College Board papers, now they think that helping certain children is the job of someone else.

"They doubt their ability, as well as their responsibility," Ms. Soo Hoo says.

Tracking, adds Mr. Levin of Stanford, reduces the status of student and teacher alike and offers no real help in reaching what he calls "the mainstream educational agenda."

Mr. Goodlad is more forceful in his condemnation of divided school agendas for students who bring differing cultural adaptations to the learning process. "It is simply immoral," he says, "for schools to perpetuate practices which clearly discriminate against poor children, many of whom are from minority groups."

"How would federal and state governments respond if 50 percent to 70 percent of white, middle-class students dropped out of high school?," Ms. Fine of the University of Pennsylvania asks. "Would they increase promotional standards, toughen testing and standardization, cut access to school lunches, reduce students' options in coursework, and make it harder to graduate? Or would they reassess the policies, structures, and practices of education? "

REFORM'S CHALLENGE: "ATTACK" OR "BE OVERWHELMED"

Many are now choosing the latter course.

The presidents of both national teachers' unions, in their assessments of reform at the five-year mark, criticize the "more of the same" approach taken thus far and call for experimental programs that give greater leeway to teachers and parents in planning new configuration for learning.

The new Carnegie study suggests smaller schools, new governance structures, and federal money for building improvements in its list of remedies for the bleak conditions in urban schools.

"The reforms of the last five years may pale against the requirements of the next 10," says the statement on at-risk students from the Forum of Educational Organization Leaders.

In fact, many predict that the task will require nothing short of a fundamental reordering of the institution called school.

As Mr. Coleman phrases it, "School as we conceive of it implies family as we conceive of it. Yet family as we conceive of it no longer corresponds to family as it now exists."

Some of the restructuring will require experimental links to the larger community, experts say, and additional care-giving activities by schools. Most of it, they add, will require the vital school-site creativity that comes through teacher empowerment and professionalization.

"And it will require more money," contended the Committee for Economic Development in Children in Need.

The committee warned: "Any plan for major improvements in the development and education of disadvantaged children that does not recognize the need for additional resources over a sustained period is doomed to failure."

"We are, in hard fact, confronted with phenomena we have never faced before," writes Mr. Goodlad, "phenomena which could overwhelm us—and which will, indeed, overwhelm us in one way or another unless we undertake a direct attack on them and their inevitable consequences. Bold ideas are needed as never before."●

ABE STOLAR—PART XIII

● Mr. SIMON. Mr. President, yesterday, on behalf of the Stolar family, I submitted a letter to the CONGRESSIONAL RECORD written by Abe Stolar to President Reagan. In his letter, Abe requested that he be allowed to meet with his President during the summit. To use Abe's words:

> Imagine what an honor it would be to meet my President in Moscow since I am prevented from going to Washington to see him. It would inspire me to see you for a hopeful moment during your 4 day stay after my 57 years of stagnation in the USSR.

I am pleased to report that Abe's wish will be granted. On Monday, May 30, Abe will meet with President Reagan in Moscow. I believe that these two people will find they have a lot in common. President Reagan and Abe Stolar are the same age, both grew up in Illinois, and both are Cubs fans. I am confident they will enjoy talking with one another.

Hopefully, the next time Ronald Reagan and Abe Stolar meet will be in freedom.●

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, following the prayer, the Senate, being in executive session at that time, resume consideration of the treaty; that the pending committee amendment, with the amendment thereto, be temporarily laid aside, only for the purpose of consideration of the futuristic definition amendment by Messrs. NUNN and WARNER, the onsite inspection by Messrs. BOREN and COHEN, and the corrigendum amendment by Mr. HELMS; that there be a time limitation on each of those amendments of not to exceed 40 minutes each, to be equally divided and controlled in accordance with the usual form; that no amendment not enumerated in the trio of amendments be in order to either of the amendments but that any one or more of the three amendments may be fused into one amendment, first and second degree; and that upon the disposition of the three amendments, either singly or in fusion or en bloc, the majority leader be recognized.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that any rollcall vote be a 15-minute rollcall vote and the call for the regular order be automatic.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, am I correct in that the entering of this order providing for the three amendments in the morning automatically postpones the vote on cloture accordingly?

The PRESIDING OFFICER. The Senator should specifically make that part of his request.

Mr. BYRD. Mr. President, I think the order that has been entered postpones the cloture vote, but in any event I shall make that part of the request, that rule XXII as it applies to a cloture motion be postponed accordingly in accordance with the order entered, and so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. This would mean then, Mr. President, that following the disposition of the three amendments in whatever way, the majority leader would then be recognized and the majority leader would then be in a position to put the Senate into recess, adjourn the Senate, provided he could get the votes, of course, or could get unanimous consent, or could postpone the cloture vote further. It gives the majority leader an opportunity to make a unanimous-consent request or a motion whichever is deemed advisable at that point so that the majority leader's action can be governed by the circumstances then prevailing.

Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BYRD. I yield the floor.

Mr. DOLE. Mr. President, I thank the majority leader and compliment the majority leader.

I think we are making progress. We have disposed of important amendments this evening, and I think we can do even better tomorrow. They are going to start going very rapidly. Some are going to be acceptable. I think there are only one or two that are fairly controversial and, of course, the one that we hoped to be able to resolve in maybe one additional meeting is the so-called committee amendment as amended by the Senator from West Virginia. So we will continue cooperating.

I think there is an excellent opportunity of getting a unanimous-consent agreement by noon tomorrow.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader if the following calendar orders have been cleared on his side: Calendar Orders Nos. 675 through 678, and also Calendar Order No. 689.

Mr. DOLE. Those have been cleared on this side.

Mr. BYRD. Mr. President, I thank the leader.

Mr. President, I ask unanimous consent that the aforegoing calendar orders be considered en bloc; that if there are any amendments thereto, that they be agreed to; provided further, that any statements by Senators be included in the Record as though read; that the action on the several measures appear in the Record separately; and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RELIEF OF SUKHJIT KULDIP SINGH SAUND

The bill (S. 425) for the relief of Sukhjit Kuldip Singh Saund, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 425

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Sukhjit Kuldip Singh Saund shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

RELIEF OF MARIA ANTONIETA HEIRD

The Senate proceeded to consider the bill (S. 1583) for the relief of Maria Antonieta Heird.

Mr. GORE. Mr. President, I would like to call my colleagues' attention to the moving story of Mrs. Maria Antonieta Heird, and ask their support in helping to provide a just solution to the problems she and her children face.

Mrs. Heird was born in Honduras, where her parents continue to reside. In 1970, she married Robert Ward Heird, a U.S. citizen. For several years, Mr. and Mrs. Heird traveled back and forth between North and South America, but in February 1984, they moved permanently to this country, taking up residence in Maryville, TN. The Heirds raised two children: Edna, now 10 years old; and Robert, age 5.

Upon their arrival in Tennessee, Mr. Heird began the process of naturalization for his wife. He obtained and completed the necessary papers to secure his wife's citizenship, but before he filed them, he tragically was struck and killed by a bolt of lightning while attending a cattle auction in Maryville.

Since her husband's death in 1984, the task of obtaining U.S. citizenship has been most difficult for Mrs. Heird. I have spoken to the local immigration officials and to Mrs. Heird's attorney. It is their consensus that a private relief bill is the only viable and expedient way to solve Mrs. Heird's problem.

In the past several months, I have received a number of letters and phone calls from friends, relatives, and associates of Mrs. Heird. Each of these people praise Mrs. Heird as an exceptional woman, one who has contributed greatly to her community, and one who would be an exemplary citizen of this country.

Mr. President, this is precisely the kind of case for which the mechanism of private relief legislation is intended. I urge my colleagues to support private relief bill S. 1583 and grant permanent residence in this country to Maria Antonieta Heird. I believe that such a step will help relieve Mrs. Heird and her young children from the extraordinary difficulties they have faced since Mr. Heird's tragic death.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Antonieta Heird shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act, or if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

RELIEF OF SCHLECHTER FAMILY

The bill (S. 1842) for the relief of Mr. Wilhelm Jahn Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo David Schlechter, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1842

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Mr. Wilhelm Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo David Schlechter shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraph (1) through (8) of section 203(a) of the Immigration and Nationality Act.

RELIEF OF IRMA AND DANIEL PURISCH

The bill (S. 1972) for the relief of Irma Purisch and Daniel Purisch, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Irma Purisch and Daniel Purisch, shall each be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on their behalf by Carolyn Weiss Purisch, a citizen of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Irma Purisch or Daniel Purisch shall, by virtue of such relationship, be accorded any right, privilege, or status under the immigration and Nationality Act.

CROSS COMPLIANCE REQUIREMENTS UNDER THE EXTRA LONG STAPLE COTTON PROGRAM

The bill (H.R. 4556) to amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program, was considered, ordered to a third reading, read the third time, and passed.

ORDER TO INDEFINITELY POSTPONE S. 2180

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 668, S. 2180, be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER TO MAKE CORRECTIONS IN AMENDMENT NO. 2127 TO S. 2180

Mr. DOLE. Mr. President, I ask unanimous consent that the clerk be authorized to correct the Dole amendment No. 2127 to S. 2180. On page 2, lines 11 and 15, the dates 1988 be changed to 1898.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the business transacted thus far be as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 more minutes as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN O. HOLLY BUILDING OF THE U.S. POSTAL SERVICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar Order No. 673.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4448) to designate the Cleveland Ohio General Mail Facility and Main Office in Cleveland, OH, as the "John O. Holly Building of the United States Postal Service."

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 2299

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator McCAIN naming the Granite Reef Aqueduct as the "Hayden-Rhodes Aqueduct," and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. McCAIN (for himself and Mr. DECONCINI) proposes an amendment numbered 2299.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place the following new section:

SECTION 1. DESIGNATION OF GRANITE REEF AQUEDUCT AS THE "HAYDEN-RHODES AQUEDUCT".

(a) The Granite Reef Aqueduct of the Central Arizona project, constructed, operated, and maintained under section 301(a)(1) of the Colorado River Basin Act (43 U.S.C. 1521(a)(1)), hereafter shall be known and designated as the "Hayden-Rhodes Aqueduct".

(b) Any reference in any law, regulation, document, record, map or other paper of the United States to the aqueduct referred to in section 1 hereby is deemed to be a reference to the "Hayden-Rhodes Aqueduct".

Mr. McCAIN. Mr. President, I am pleased to sponsor this amendment which seeks to rename the Granite Reef Aqueduct of the central Arizona project as the Hayden-Rhodes Aqueduct. This amendment will enable us to honor two dedicated Arizonans without whose foresight, commitment, and diligence the central Arizona project would not have been possible.

On November 15, 1985, the first major portion of the central Arizona project known as the Granite Reef Aqueduct was completed. On that day, Arizona history was written. Colorado River water began flowing into the Phoenix metropolitan area. The occasion was marked by celebrations of this long-awaited triumph. That date marked the culmination of the tireless efforts of an untold many; however, the names of Carl Hayden and John Rhodes, whose careers in public service spanned over 70 years, are among those we must honor for their individual efforts to see this dream become a reality.

Carl Hayden and John Rhodes were truly dedicated to seeing the CAP deliver water not only to the Phoenix area, but ultimately to Tucson. Senator Hayden, as the long-time chairman of the Senate Appropriations Committee, was in the unique position to transform the concept of delivering Colorado River water to central and southern Arizona into a reality. His efforts culminated in September 1968 when the Lower Colorado River Basin Act was signed into law authorizing the central Arizona project.

Senator Hayden's work in the Senate was matched by John Rhodes' contribution in the House of Representatives. During his 30 years of service to the people of Arizona, and the Nation, John Rhodes displayed the leadership and the statesmanship necessary to forge the alliance that would ensure funding for the central Arizona project.

Arizona owes a tremendous debt of gratitude to Carl Hayden and John Rhodes. Designating the Granite Reef portion of the central Arizona project as the Hayden-Rhodes Aqueduct is only a small token of the appreciation that all Arizonans feel toward these two great Americans. It is only appropriate that the aqueduct which carries the waters of the Colorado River to the district that these men once represented be named in their honor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2299) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 4488), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME LIMITATION AGREEMENT—S. 552

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of S. 552, Calendar Order No. 587, a bill to provide for the appointment of a commission to study the efficiency of the Federal classification system and to promote equitable pay practices within the Federal Government, that it be considered under the following time agreement:

Two hours on the bill to be equally divided and controlled by the two leaders or their designees; 40 minutes on any amendment in the first degree; 30 minutes on any amendment in the second degree; 20 minutes on any debatable motion, appeal, or point of order if submitted by the Chair to the Senate for debate; provided further, that only the two amendments that are germane to the bill be in order; and ordered further, that the agreement be in the usual form.

Mr. DOLE. Mr. President, I object.

The **PRESIDING OFFICER.** An objection is heard.

Mr. BYRD. Mr. President, I ask unanimous consent that there be 2 more minutes as in legislative session.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ADJOURNMENT OR RECESS OF THE CONGRESS

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate, House Concurrent Resolution 306.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 306) providing for a conditional adjournment of the House until June 1 and a conditional adjournment or recess of the Senate until June 6.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

AMENDMENT NO. 2300

Mr. BYRD. Mr. President, I send to the desk two amendments. I ask unanimous consent they be agreed to en bloc, and that reading of the amendments be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment, (No. 2300) as agreed to, is as follows:

On page 1, line 7, following the word "on" insert: Thursday, May 26, 1988, or on":

On page 1, line 10, after "adjourned" insert: "or in recess."

The **PRESIDING OFFICER.** The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 306), as amended, was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I think that the Republican leader and I should probably proceed on the basis, and we put it in the form of a unanimous-consent request, that there be no rollcall vote prior to 11 o'clock tomorrow. There are three amendments which have been ordered. And it is possible that one or more of those amendments would require a rollcall vote. It is possible that they may all be fused into one or into two amendments with 40 minutes on each amendment.

It seems to me if we could agree that there would be no rollcall vote before 11 o'clock, Senators would know therefore that they would not be caught unaware by sudden yielding back of time on one of the amendments, and a vote thereon.

The **PRESIDING OFFICER.** Is there objection?

Mr. DOLE. We have no objection.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BYRD. Mr. President, I believe, so that the record is clear, under the order that has been entered, the Senate will not go into legislative session up and to and including the moment that the majority leader is recognized under that order.

The **PRESIDING OFFICER.** That is correct.

Mr. BYRD. I thank the Chair. Mr. President, does the distinguished Republican leader have any further statement or business?

Mr. DOLE. I have no further business.

Mr. BYRD. I thank the distinguished Republican leader, Mr. President, for his able cooperation. I look forward to visiting with him again on tomorrow.

LIMITATION OF LEADERS' TIME

Mr. BYRD. Mr. President, I do ask unanimous consent that the time for the two leaders under the standing order be limited to 5 minutes each on tomorrow.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

RECESS UNTIL THURSDAY, MAY 26, 1988, AT 10 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and, at 11:39 p.m., the Senate recessed until Thursday, May 26, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 25, 1988:

DEPARTMENT OF STATE

SHELDON J. KRYS, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF STATE, VICE DONALD J. BOUCHARD, RESIGNED.

WARREN ZIMMERMANN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA.

DEPARTMENT OF JUSTICE

HAROLD G. CHRISTENSEN, OF UTAH, TO BE DEPUTY ATTORNEY GENERAL, VICE ARNOLD I. BURNS, RESIGNED.

EDWARD S.G. DENNIS, JR., OF PENNSYLVANIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE WILLIAM F. WELD, RESIGNED.

THE JUDICIARY

RICHARD L. NYGAARD, OF PENNSYLVANIA, TO BE U.S. CIRCUIT JUDGE FOR THE THIRD CIRCUIT VICE JOSEPH F. WEIS, JR., RETIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TIMOTHY L. COYLE, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE STEPHEN MAY, RESIGNED.

DEPARTMENT OF ENERGY

ROBERT O. HUNTER, JR., OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF ENERGY RESEARCH, VICE ALVIN W. TRIVELPIECE, RESIGNED.

GENERAL SERVICES ADMINISTRATION

JOHN ALDERSON, OF VIRGINIA, TO BE ADMINISTRATOR OF GENERAL SERVICES, VICE TERENCE C. GOLDEN, RESIGNED.

IN THE ARMY

THE FOLLOWING-NAMED ARMY MEDICAL CORPS OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent major general

BRIG. GEN. ALCIDE M. LANOUE, [redacted] MEDICAL CORPS, U.S. ARMY.

BRIG. GEN. RICHARD T. TRAVIS, [redacted] MEDICAL CORPS, U.S. ARMY.

BRIG. GEN. JAMES H. RUMBAUGH, [redacted] MEDICAL CORPS, U.S. ARMY.

To be permanent brigadier general

COL. RICHARD O. PROCTOR, [redacted], MEDICAL CORPS. U.S. ARMY.

COL. THOMAS E. BOWEN, [redacted] MEDICAL CORPS. U.S. ARMY.

COL. MICHAEL J. SCOTTI, JR., [redacted], MEDICAL CORPS. U.S. ARMY

COL. WILLIAM L. MOORE, JR., [redacted] MEDICAL CORPS. U.S. ARMY.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 624:

To be permanent major general

BRIG. GEN. WILLIAM B. MCGRATH, [redacted] U.S. ARMY.

BRIG. GEN. HERMAN C. KAMMER, JR., [redacted] U.S. ARMY.

BRIG. GEN. THOMAS B. ARWOOD, [redacted] U.S. ARMY.

BRIG. GEN. WILLIAM A. FITZGERALD, JR., [redacted] U.S. ARMY.

BRIG. GEN. DONALD R. WILLIAMSON, [redacted] U.S. ARMY.

BRIG. GEN. LOUIS J. DELROSSO, [redacted] U.S. ARMY.

BRIG. GEN. TRAVIS N. DYER, [redacted] U.S. ARMY.

BRIG. GEN. WILLIAM E. HARMON, [redacted] U.S. ARMY.

BRIG. GEN. FRED A. GORDEN, [redacted] U.S. ARMY.

BRIG. GEN. RICHARD B. GRIFFITTS, [redacted] U.S. ARMY.

BRIG. GEN. PETER A. KIND, [redacted], U.S. ARMY.

BRIG. GEN. RICHARD D. BELTSON, [redacted] U.S. ARMY.

BRIG. GEN. LEO J. PIGATY, [redacted] U.S. ARMY.

BRIG. GEN. JOE W. RIGBY, [redacted] U.S. ARMY.

BRIG. GEN. PAUL G. CERJAN, [redacted] U.S. ARMY.

BRIG. GEN. ALONZO E. SHORT, JR., [redacted] U.S. ARMY.

BRIG. GEN. ROGER K. BEAN, [redacted] U.S. ARMY.

BRIG. GEN. JERRY C. HARRISON, [redacted] U.S. ARMY.

BRIG. GEN. RUDOLPH OSTOVICH, III, [redacted] U.S. ARMY.

BRIG. GEN. CHARLES R. HENRY, [redacted] U.S. ARMY.

BRIG. GEN. JOHN R. PIATAK, [redacted] U.S. ARMY.

BRIG. GEN. CARMEN J. CAVEZZA, [redacted] U.S. ARMY.

BRIG. GEN. EUGENE C. RENZI, [redacted], U.S. ARMY.
BRIG. GEN. JAMES H. JOHNSON, JR., [redacted], U.S. ARMY.
BRIG. GEN. PAUL L. GREENBERG, [redacted], U.S. ARMY.
BRIG. GEN. JERRY A. WHITE, [redacted], U.S. ARMY.
BRIG. GEN. IRA C. OWENS, [redacted], U.S. ARMY.
BRIG. GEN. J.H. BINFORD PEAY, III, [redacted], U.S. ARMY.
BRIG. GEN. JEROME H. GRANRUD, [redacted], U.S. ARMY.
BRIG. GEN. CARYL G. MARSH, [redacted], U.S. ARMY.
BRIG. GEN. JACK C. WHEELER, [redacted], U.S. ARMY.
BRIG. GEN. WILLIAM G. PAGONIS, [redacted], U.S. ARMY.
BRIG. GEN. CLOYD H. PFISTER, [redacted], U.S. ARMY.
BRIG. GEN. JOSEPH S. LAPOSATA, [redacted], U.S. ARMY.
BRIG. GEN. CHARLES H. ARMSTRONG, [redacted], U.S. ARMY.
BRIG. GEN. WILLIAM S.C. CHEN, [redacted], U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JEROME L. JOHNSON, [redacted]/1310, U.S. NAVY.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. ROBERT K.U. KIHUNE, [redacted]/1110, U.S. NAVY.

IN THE NAVY

THE FOLLOWING FORMER U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JERRY A. COOK

THE FOLLOWING MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

MARK E. THOMAN

IN THE NAVY

THE FOLLOWING-NAMED NAVY ENLISTED CANDIDATES TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

HOWARD W. JONES
DAVID M. PEARCE
JANET E. TOTTER

THE FOLLOWING-NAMED NAVY ENLISTED CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

DANIEL S. ALEXANDER
GARY C. ANGELL
PAUL E. BEDSOLE
MICHAEL C. BILAK
DAVID J. BROWER
MARQUEZ F.A. CAMPBELL
JAMES F. COUNTS
PEGGY J. COX
JOSEPH A. DACORTA
MARTHA L. DASCH
DALE H. FULLER, II
BEVERLY HALL
PATRICK L. HAWKINS
IAN P.B. HENDRICKS
AUGUST G. HURSTON
DANNA M. JEFCOAT
DAVID C. KILLINGSWORTH
DAVID B. LILE
MARK P. LISA
WILLIAM P. MACCHI
SANDRA K. MUSTAIN
GARY L. PACHKOSKI
WILLIAM K. PREVO
PEDRO RIVERA
RICHARD L. SHELTON
MARTIN E. SHEPHERD
STEPHEN T. TOOMEY
DARYL R. VISSER
MICHIAL S. WARRINGTON
BRENT E. WHITE

IN THE ARMY NATIONAL GUARD

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE U.S., UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 3385:

ARMY PROMOTION LIST

To be colonel

JOHN K. ATKINSON, [redacted]
JOEL T. CASSIDY, [redacted]
NORMAN V. COCHRAN, SR., [redacted]
EDWARD R. CRUICKSHANK, [redacted]
WALTER B. DAVIS, [redacted]
WILLIAM G. FORE, JR., [redacted]
RICHARD E. HARRISON, [redacted]
SIDNEY E. HESTER, [redacted]
DENNIS W. HUGGINS, [redacted]
DONALD J. KNAUF, [redacted]
ROBERT D. KOHLER, [redacted]
GEORGE J. LIVIERATOS, [redacted]
ROBERT G. MILLER, [redacted]
JAMES F. OLSAKOVSKY, [redacted]
GORDON E. PONDER, [redacted]
RICHARD S. POOLE, [redacted]
DONALD E. POWER, [redacted]
JAMES M. RICHARDSON, [redacted]
GERALD A. RUDISILL, JR., [redacted]
THOMAS O. SANDERS, III, [redacted]
DOUGLAS P. SEARCY, [redacted]
WALTER R. SIDERS, [redacted]
JAMES Q. WEBBER, JR., [redacted]
MARVIN L. WOOD, JR., [redacted]

CHAPLAIN

To be colonel

JOHN F. CONNOLLY, [redacted]

MEDICAL SERVICE CORPS

To be colonel

GREGORY W. LEWIS, [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

WILLIAM D. ANTHONY, [redacted]
JOHN G. ASAY, [redacted]
THOMAS L. BROCK, JR., [redacted]
ERNEST D. BROCKMAN, JR., [redacted]
GEORGE R. BROOKS, [redacted]
ROBERT E. CARLSON, JR., [redacted]
RONNIE D. CLAYTON, [redacted]
WILLIAM D. COLVIN, [redacted]
LARRY E. CRAVEN, [redacted]
WILLIAM L. CROWSON, [redacted]
CARL DILISIO, [redacted]
ROGER D. DUBS, [redacted]
RANDALL T. ENG, [redacted]
DELBERT W. FOOTE, [redacted]
HOWARD S. FREEDLANDER, [redacted]
WILLIAM L. FREEMAN, JR., [redacted]
DAVID K. GERMAIN, [redacted]
EDDIE H. GONZALEZTORRES, [redacted]
MICHAEL M. HARAN, [redacted]
RONALD R. HENLEY, [redacted]
WARREN G. HERREID, [redacted]
ROBERT G. HOLT, [redacted]
JOHN T. IVY, [redacted]
STEVEN A. KAVANAUGH, [redacted]
AARON D. KELLEY, JR., [redacted]
EDWARD G. KLEIN, [redacted]
MARTIN R. LAATSCH, JR., [redacted]
STAFFORD J. LANDRY, JR., [redacted]
CHARLES T. MICHAELSON, [redacted]
JOHN R. NORTON, III, [redacted]
LARRY A. OSVOLD, [redacted]
WALTER A. PAULSON, [redacted]
ROBERT A. PERRY, [redacted]
ROGER M. RADUE, [redacted]
DAVID L. RANEY, [redacted]
RICHARD D. READ, [redacted]
JAMES H. ROBERTS, III, [redacted]
PAUL G. SUMMERS, [redacted]
BRIAN L. TARBET, [redacted]
MICHAEL E. THOMPSON, [redacted]
JAMES V. TORGERSON, [redacted]
PAUL R. WAITE, [redacted]
RONALD A. WALLER, [redacted]
JAMES H. WELCH, [redacted]
PAUL H. WIECK, [redacted]
CLAUDE A. WILLIAMS, [redacted]

CHAPLAIN

To be lieutenant colonel

ARCHIE V. LAWRENCE, [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

JOHN D. DUSENBERY, [redacted]
SANDRA J. MILLARD, [redacted]

MEDICAL CORPS

To be lieutenant colonel

FAUST M. ALVAREZ, [redacted]
JOHN W. ASHWORTH, III, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

EDWARD YOUNG, [redacted]

VETERINARY CORPS

To be lieutenant colonel

DONALD G. VALOIS, [redacted]

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE U.S. OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593 AND 3353:

MEDICAL CORPS

To be colonel

WILLIAM R. FOWLER, [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

JAMES R. ACREBACK, [redacted]
JERALD R. AGENBROAD, [redacted]
JOHN F. AMEND, JR., [redacted]
CECIL J. AMPARAN, [redacted]
JOHN M. BASEL, [redacted]
DENNIS R. BLANKENSHIP, [redacted]
DAVID W. BLIZZARD, [redacted]
THOMAS A. BRAATEN, [redacted]
JAMES BRIGADIER, [redacted]
GEORGE M. BROOKE, III, [redacted]
MARK C. BUNTON, [redacted]
GLENN F. BURGESS, [redacted]
JIMMIE W. CHILDS, [redacted]
JAMES G. COLLINS, [redacted]
JOHN R. DEMPSEY, [redacted]
STEPHEN J. DLUGOS, II, [redacted]
WILLIAM R. DONNELLY, JR., [redacted]
ROBERT L. EARL, [redacted]
JOHN S. EVANS, JR., [redacted]
TONY R. GAIN, [redacted]
ALGIMANTAS V. GARSYS, [redacted]
GEORGE E. GERMANN, [redacted]
LEE C. GOUND, [redacted]
WILLIAM R. HIGGINS, [redacted]
TERRY L. HODGES, [redacted]
THOMAS W. HOLDEN, [redacted]
JOHN M. HOLLADAY, [redacted]
FRANZ H. HONEYCUTT, [redacted]
PATRICK G. HOWARD, [redacted]
PETER M. IVERSON, [redacted]
JAMES L. JONES, JR., [redacted]
THOMAS A. KAHL, [redacted]
WILLIAM H. KELLER, III, [redacted]
JOHN J. KISPERT, [redacted]
DOUGLAS M. KRUSE, [redacted]
GREGORY S. KUZNIEWSKI, [redacted]
GEORGE LANGE III, [redacted]
JAMES T. LUKEN, JR., [redacted]
JAMES G. MAGEE, [redacted]
CHARLES J. MALONEY, JR., [redacted]
ALICE B. MARSHALL, [redacted]
E. T. MATTKE, [redacted]
FREDERICK MCCORKLE, [redacted]
FRANK W. MCDUFFEE, [redacted]
DANIEL P. MCKNIGHT, [redacted]
JOHN A. MORRISON, [redacted]
ROBERT B. NEWLIN, [redacted]
RONALD N. OLEARY, [redacted]
PETER PACE, [redacted]
LESLIE M. PALM, [redacted]
JAMES M. PENDERGAST, [redacted]
SEPP D. RAMSPERGER, [redacted]
JOHN E. RHODES, [redacted]
DURWOOD W. RINGO, JR., [redacted]
EDWARD J. RITCHIE, [redacted]
WAYNE E. ROLLINGS, [redacted]
MICHAEL D. RYAN, [redacted]
RICHARD L. RYAN, [redacted]
JAMES H. SCHAEFER, JR., [redacted]
CHARLES J. SCHOENER, III, [redacted]
MICHAEL D. SMITH, [redacted]
RAY L. SMITH, [redacted]
JOHN S. SNOWDEN, [redacted]
BILLY C. STEED, [redacted]
MARTIN R. STEELE, [redacted]
JAMES M. STRICKLAND, [redacted]
RICHARD A. STRICKLAND, [redacted]
DALE S. TOWN, [redacted]
DAVID A. VETTER, [redacted]
RICHARD G. WALLS, [redacted]
THOMAS D. WALTERS, [redacted]
ROBERT W. WATKINS, [redacted]
BARBARA WEINBERGER, [redacted]
DONALD T. WELSH, [redacted]
THOMAS L. WILKERSON, [redacted]
MICHAEL J. WILLIAMS, [redacted]
WILLIAM C. WOLFE, [redacted]
LARRY A. WOOD, [redacted]
LAWRENCE R. ZINSER, [redacted]

EXTENSIONS OF REMARKS

CONGRESSIONAL HEARING ON LONG ISLAND SOUND

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. MRAZEK. Mr. Speaker, it is clear from all available evidence that Long Island Sound is dying. This great body of water, perhaps the most important natural resource for Connecticut and Long Island, is in unprecedented danger.

The attached record represents testimony from Long Islanders who can attest to the need for prompt action if Long Island Sound is to be saved for future generations of Americans.

It is our hope that my colleagues here in the House will have an opportunity to learn firsthand the parameters of this challenge from people on Long Island who know best.

APRIL 18, 1988.

DEAR CONGRESSMAN MRAZEK: My name is George Doll, I am a commercial lobsterman. I have lobstered out of Northport for the past 25 years. My main area of operation is in Long Island Sound off Eatons Neck. I have lived in Northport for the past 35 years. During that 35 years I've seen most of our native fish, shellfish and other aquatic life slowly fade from existance. As a child I remember seeing tremendous schools of fish, oysters, scallops, turtles even smelts right in Northport Harbor. Porpoises were a common sight off Eatons Neck. Most of these things are gone now. The last porpoise I had seen in the Sound was about 30 years ago. The last smelts about 20 years ago. All that's left of the oysters and scallops are empty shells.

I was fortunate in choosing lobstering as a profession. It seems that scavengers such as lobsters, eels and some crabs have done well up until now. Last year we saw evidence that even the lobsters are in trouble in the western part of the Sound. Last summer was the first time in 25 years that I had lobsters die in holding cars in Northport Harbor. I understand that some of my colleagues that fish further west than I found dead lobsters and crabs in their traps. The culprit; lack of oxygen in the water. This lack of oxygen is supposedly the result of the tremendous amount of sewage and other pollutants that are released into the Sound.

I urge you to please move ahead with the Long Island Sound study at the greatest possible speed. We need to act now to stop this pollution so that the aquatic life that we once thought of as common will still be here for our children and their children in the years to come.

Thank you,

GEORGE J. DOLL, JR.

THEODORE ROOSEVELT SANCTUARY, INC.,
Oyster Bay, NY, April 18, 1988.

Hon. ROBERT MRAZEK,
Congress of the United States, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MRAZEK: I am William J. Kolodnicki, Executive Director of the Theodore Roosevelt National Audubon Sanctuary in Oyster Bay, N.Y. I am speaking for myself and the Huntington Audubon Society.

I have an M.S. in Marine Science and my area of expertise is Least Tern Biology. I serve on the CAC for the EPA Long Island Sound Study and have served on its steering Committee for the last three years.

I am hopeful for the Sound because of the initiation of the EPA study. I do, however, wish to share some fears of mine and thank you for the opportunity.

I have heard complaints from Marine Biologists on Long Island that the grant money is not as competitive as it should be and that the scientific channels of communication are not broad enough. The educational part of the grant has done little to impress me and is terribly restricted by having one CAC Coordinator for both states located in Connecticut.

It has been my experience for the last 11 years as I study terns on Long Island Sound that people think that their fish have disappeared from the sound. They think that their water is unsafe to swim in. They fear that there are toxins in their water. We are beginning to find out some of the answers to those questions. The educational program of the EPA Study is critical so that our citizens fears may be substantiated or removed as a valid concern. The educational program is ineffective at this time and people's fears are high.

A fuller knowledge of the toxins in the Sound is critical. Although we are preserving some habitats, it profits us little if the reproductive biology of the organisms that terns and plovers eat is being mutated or if the fish and other wildlife that inhabit the sound are they themselves adversely affected by the toxins present. Wildlife pathology and analysis are as important now as they were when we discovered DDT in Ospreys and Eagles.

I recently attended the North American Wildlife Conference in which I learned of the Critical Habitat Program for the Chesapeake Bay Shoreline. The Sound coastline cannot be protected by a piecemeal plan which allows Town Governments the freedom to disregard sound Coastal Managment whenever it is inconvenient to their industrial or recreational pleasure.

There must be a better educational effort for the wide and diverse communities in Connecticut and Long Island which surround the Sound. There must be more attention given to the wildlife pathology of the Sound. The research of the toxins must be expanded. The coastline must not be compromised any further. These will be expensive words to people that regard the Sound as a new place to dump what they cannot put in their landfill.

Sincerely,

WILLIAM J. KOLODNICKI.

Thank you very much. My name is Judy McEvoy and I am the Director of Legislative & Economic Affairs for the Long Island Association, the region's largest business and civic organization consisting of employers representing over 400,000 employees. The LIA would like to take this opportunity to thank Congressman Mrazek and Congressman Hochbrueckner for holding this most important hearing on the Long Island Sound.

The Long Island Sound, once one of our most beautiful treasures, is fast becoming a condemned area of the communities that border it. After countless years of neglect, the problems of pollution in the Sound must be recognized and rectified. In recent years mounting problems have reached epidemic proportions and only promise to get worse, culminating in the destruction of one of Long Island's most valuable resources, both economically and environmentally. Something must be done.

Constant dumping of both nutrients and toxic contamination have taken its toll on the Sound resulting in numerous disasters such as the "Brown Tide" of the past 3 summers. Since 1985, this Brown Tide, composed of tiny marine organisms, have enveloped the Sound each summer resulting in destruction and death. In July 1987 the concentration of these organisms had reached epidemic proportions. The Suffolk County Health Department cites a level of 250,000 cells per millimeter—as the threshold level at which marine life could be harmed. Alarmingly enough scientists measured levels of nearly 1 million cells per millimeter in certain areas of the Sound, almost 75% above this threshold level! This unprecedented algae boom appears to have killed nearly all scallop larvae by slowing down their feeding process.

Dives conducted at various depths in different areas of the Sound have revealed absolutely dismal conditions. Fish were dying, unable to move. Lobster populations were almost entirely destroyed as were invertebrates such as the jellyfish. The sad truth is that these populations of fish and marine life will not be replenished again for many years to come, if at all. We will have destroyed almost the entire marine population.

While these algae are not believed to be toxic, other contaminants found in the Sound are. Traces of several toxic materials including copper, cadmium and lead were detected. In certain parts of the Sound, it is reported that the bottom is covered by a "thick layer of toxic sludge." This, however, is as great a threat to humans as it is to fish. Fish, experts concluded, ingest the toxic materials. Humans in turn, eat this fish and are poisoning themselves with a wide range of contaminants.

As populations and waste streams of our municipal areas of LI Sound continue to expand, the situation will only get worse. The recreational uses of the Sound are even beginning to become affected. Already last summer, some of the beaches bordering the Sound were closed for a few weeks because of heavy pollution. In addition, many recreational fishermen lost out when a number

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of clamshell beds and fish areas were forced to be closed because of contaminants. Continuation of these events will add to a growing negative opinion of New York and Long Island. Who is going to want to vacation at a resort with brown water and closed beaches. A large part of Long Island's $7 billion tourism industry is at stake.

The economic conditions of the region's commercial fishing industry is also in trouble. The entire striped bass fishing industry, which brought in 14.7 million pounds in 1973 has now been eliminated because of PCB contamination. In the last decade, algae has virtually wiped out the once substantial clam and scallop industry. Whereas in the 1970s it was a $110 million business; today it has dwindled to less than half that. In addition, over 200,000 acres of shellfishing grounds throughout New York were closed. These shellfish bed closings along with the other problems jeopardize the livelihoods of the area's fishermen. The number of Long Island Bay men has dropped dramatically in the last 10 years. Those who are still around have reported fewer and fewer catches.

The causes of all of these problems are not fully understood. Many experts feel the algae problem stems from nutrients being dumped by treatment plants. The nutrients come into contact with the algae and accelerate their growth. Others believe that contaminants are due to rainwater draining from urban and agricultural land. Industry, according to one expert, does not contribute as much as previously thought. Rather, the lack of rainfall, very warm weather and sunlight intensely may promote the algae growth. Furthermore, the Sound's weak, waveless currents make it hard for residue and debris both manmade and naturally occurring, to move away.

Although there are differences in opinion on what should be done for the Long Island Sound, there is a general consensus that something must be done. Some experts believe that the water cannot be managed until the land is, namely the wetlands. Acting as a natural filter to trap pesticides from farms, waste from urban runoff and industrial chemicals, the wetlands are being eroded away. In 1984 40% of the U.S. population lived within 50 miles of the shore. By 1990, it is estimated that the percentage will be 75%. Thus, all of us must do a better job to ensure that our land uses on these areas are acceptable and will not hinder the protection which the wetlands provide. In addition, where necessary local governments should purchase the land areas along the shoreline so as to ensure that incompatible uses do not take place.

This is a small start, but other steps need to be taken. One such step is to require more rigid enforcement of existing federal antipollution laws. This involves a crackdown on violators as well as the tightening of controls on sewer and industrial discharges. Companies and municipalities should be held responsible for their unlawful activities. Additionally, the FDA should set new standards for contaminants that would prevent the harvesting and selling of fish that are known to contain harmful toxins.

Of course, the most important part of any movement to clean up the Sound must come from the people. Therefore, a public education program to increase awareness of the problems in the Sound—both on Long Island and in Connecticut is strongly advocated by the LIA. Such a program should include a lecture series, fact sheets and video taped segments shown in public schools. It is essential, though, that all the people and groups in favor of saving the sound, form one unified voice. Currently jurisdiction is divided among 2 states, 4 to 5 U.S. government agencies and scores of counties, towns and cities along both shores. Any time there are so many different jurisdictions, there are bound to be differences and conflicts of interest, which in effect, weakens the effort.

Clearly, our shoreline is one of the essential ingredients of the Long Island quality of life. The LIA urges that additional research and funds be made available now to ensure that this gift to all Long Islanders is protected.

The price of inaction is tremendous. The entire food chain as well as human health is in jeopardy, not to mention many aspects of our economy. Once all the research is in, work must begin immediately on saving what is one of Long Island's most precious natural resources for future generations. Oceanographer Jacques Cousteau put it best—"Poisoning the sea will inevitably poison us."

Thank you very much.

TESTIMONY OF KENNETH L. ROBINSON ON BEHALF OF SIERRA CLUB LONG ISLAND GROUP, APRIL 18, 1988, HAUPPAUGE, NEW YORK

On behalf of the almost 5,000 members of the Sierra Club in Nassau and Suffolk Counties, I wish to express our appreciation to Congressman Robert J. Mrazek and George J. Hochbrueckner, for sponsoring tonight's hearing on the state of Long Island Sound.

The reports of the death of Long Island Sound have *not* been greatly exaggerated. As the members of the Long Island Sound Caucus are well aware, the Environmental Protection Agency's Long Island Sound Study is focusing on hypoxia, commercial fishing, and toxic pollutants. The most recent issue of the Long Island Sound Report, prepared with funds from the Environmental Protection Agency's Long Island Sound Study, revealed that the Long Island Sound estuary is high in hypoxia, in other words, low in oxygen, high in fish deaths, and abysmally, low in clean healthy water. Art Glowka, long time Long Island Sound activist, has declared the sound dead.

It is the task of the Long Island Sound Caucus, the New York State Assembly Long Island Sound Commission, the federal, state, and local governments, environmental organizations, such as the Sierra Club, and the people in this room to resuscitate, improve, restore and preserve the Sound.

The Environmental Protection Agency, with the Cooperation of the NYSDEC, Connecticut DEP, and the Interstate Sanitation Commission are attempting to study, determine and model the causes and extent of pollution in Long Island Sound. Their efforts must continue to receive the necessary funding, despite the persistent attempts at cutbacks by the present administration.

While the EPA Long Island Sound is examining the macroecological causes of Long Island Sound's destruction, it has purposefully avoided confronting issues of residential and commercial development along the coastline, improper enforcement of SPDES permits issued to municipalities and private interests, coordinated planning for use of the Sound, the enhancement of public access to the coast, preservation of significant areas of environmental concern along the sound, erosion, and so forth.

The real tough part, and the part that no one has taken any concerted action upon, despite the recommendations of the New England River Basin Commission's Study, Senator Ribicoff and Congressman Lester Wolff's legislation, and the present state of the Sound, is to bring advocacy of Long Island Sound to the forefront. If trees can have standing in court, as Supreme Court Justice William O. Douglas declared several decades ago, so too must the Long Island Sound have standing before the public, before the myriad of government agencies whose dominion includes the Sound and its coastline, and the Courts.

Our first job is to make the public aware that the Sound is in danger from pollution, from overdevelopment, from misuse and from a misunderstanding of its proper role in the regional environment. We also must explain to the Sound's constituency what is being done to protect and enhance our most important estuary.

The Long Island Sound Heritage Endowment of the Sierra Club Foundation has, during the past five (5) years, developed the only Long Island Sound database, on Long Island. The Long Island Sound Collection is located at the Port Washington Public Library, whose property overlooks the Coast. The Long Island Sound Collection is the only compendium of documentation easily accessible to the general public who want to explore the Sound, its history, its meaning and its problems. For three (3) years an able and dedicated intern, Mrs. Patricia Donecho, both created the Long Island Sound Collection, under the supervision of Edward de Sciora, Director of the Library, and Virginia Parker, and advocated the interests of the Sound.

We are now in the process, with the Port Washington Public Library, and the C.W. Post School of Library Sciences, attempting to locate a new intern to continue the Long Island Sound Collection.

However, the missing element in all plans to save the Sound is a Long Island Sound Advocate. There is not one local, state, or federal governmental agency whose sole legislated function is to protect Long Island Sound. Rather, as stated earlier, dominion over the Sound has been splintered among countless governments.

Thus, the Sierra Club today is calling upon Congress, with the cooperation of the New York State and Connecticut Legislatures to create the Office of the Long Island Sound Advocate. Perhaps modelled after the New York State Consumer Protection Board or the New Jersey Office of Public Advocacy, the Long Island Sound Advocate should be an independent organization composed of two (2) persons—one (1) for New York State and one (1) for Connecticut—with an appropriate budget-whose *sole* legislated function would be to advocate the interests of Long Island Sound as spelled out in both the new England River Basin Commission's 1975 Long Island Sound Study and EPA's updated version of that report.

They should work to "empower" the public (to use a phrase common to the foundation community) to locate, educate and assist the public in appearing before local planning boards and boards of zoning appeals when the waterfront is threatened by overdevelopment, to assistant in the creation of coastal zone and public access management plans, to implement programs to preserve and purchase waterfront property, to monitor SIDES permits and assure that the Sound is not further polluted by municipal sewage treatment plants, storm water runoff, untreated effluent and the like, to advocate local, state and federal law makers on matters concerning the Sound that require additional strengthening or amended legislation, and, most importantly, to return Long Island sound to a healthy estuary.

Without an Office of the Long Island Sound Advocate, the recommendations of the NERBC study will continue to collect dust, the EPA Long Island Sound Study will be hailed in the New York Times and then discarded, and million of dollars and countless hours will have been wasted.

Given the billions of dollars our governments exhaust on matters of little concern to the millions of New York and Connecticut residents who live on or are near the Long Island Sound or who enjoy its waters and vistas, the sums required for an Office of the Long Island Sound Advocate are well worth the investment. We look forward to prompt action by the Long Island Sound Caucus in drafting, introducing and approving appropriate legislation.

GREENLAWN VETERINARY CLINIC,
Greenlawn, NY.

Re Testimony for the congressional hearing concerning pollution of Long Island Sound.

Date: April 19, 1988

To: Congressman Robert J. Mrazek.

As requested at the hearing on 4/18, I should like to submit the toxicological data which I have collected to date from marine birds. I have enclosed a photocopy of a preliminary draft of a paper that will be submitted for publication which details the toxicological findings on three marine birds: two black-crowned night herons from Northport Bay and one glossy ibis found in Huntington. These birds contained lethal levels of various organochlorines, including DDT and chlordane. As indicated in this paper, the scientific literature suggests that these birds do not acquire these toxins on migration to foreign land, but rather in their nesting and feeding habitats here on Long Island.

I have also submitted apathology report from an osprey originating from Oyster Bay which possessed highly elevated levels of mercury which Dr. Stone at the Wildlife Pathology Unit (N.Y.S. Dept. of Environmental Conservation) considered significant.

Finally, I have appended a graph which depicts some preliminary data on a study I am conducting on blood lead levels in the herring gull. Sixteen samples yielded blood lead concentrations of 2 to 29 micograms per deciliter from gulls exhibiting no clinical signs of toxicosis. To put this in perspective, normal values for mammals are generally considered to be less than 10μg/dl. Obviously, gulls are exposed to large quantities of lead in the environment.

Herons and gulls occupy niches which are at the top of several food chains in the marine ecosystem, and thus are valuable as monitors of environmental pollutants. This is especially so of the herring gull. I would recommend that this species be considered as part of the overall study on the toxic burden on Long Island Sound. Specifically, studies on changes in the hematology, blood chemistry and tissue levels of various toxins be conducted.

Respectfully submitted.

BASIL P. TANGREDI, D.V.M.

STATEMENT BY LEROY R. SUBIT, SC.D. PH.

There is no question whatever to the fact that man, himself has created a monstrous situation.

A situation so vastly encompassing that it threatens the very air we breathe, the food we eat, the lives of all mankind, the lives of animals which have been on this earth of us since the dawn of history, the very lives of fish in the sea, the life of our rivers and other bodies of fresh water.

A complete lack of foresight in planning for a rapidly expanding population has caused, even in our enlightened age, serious inroads on the balance of nature, and a critical hazard to life itself.

In his greed and short-sighted attitude, man has created a deathwish.

Man has set himself on the road to mass suicide.

Man himself is the murderer.

Unless rigid steps are taken to preserve and ensure the ecology, all life will eventually be eliminated from this planet.

Water, such an accepted thing, such a commonplace thing, rain falling from the clouds, snow and ice melting to moisten the earth, replenish the rivers and the oceans, and ground water providing for the needs of man, animal, bird, fish, and even the worms which make soil rich.

But the fact is, without water, pure water, there can be no growing things, no food from the land, no fish from the sea. Without pure water, there can be no life!

Who else but man, himself is responsible for the pollution of our land, our rivers, our sounds, our bays, our oceans?

Who else but man is responsible for the destruction of the balance of nature, the destruction of many natural habitats, the destruction of fish and waterlife which form an exceedingly important part of the food supply required by human beings, the destruction of the health and welfare of his fellow man?

Look at Long Island Sound, at one time one of the most beautiful bodies of water in the world, teeming with marine life, giving sanctuary to wild fowl, offering sportsmen a very rewarding day, permitting swimmers to enjoy clean water. Long Island Sound is now a dumping ground for garbage, waste matter and other pollutants from factories, complexes and cities which have never given a thought to preserving a balance with nature, maintaining a healthy environment where life can go on.

The feeble efforts of local ordinances have provided too many loopholes for the pollutors, and the problem of pollution has now become a matter of serious national concern.

The only way to counteract the eventual destruction of life itself is for the State and Federal government to effect strict mandates and rigid enforcement, and to advocate and develop the use of modern technology to convert pollutants into sources of energy.

Life on this Earth must continue.

OYSTER BAY, NY, *April 8, 1988.*

Congressman ROBERT MRAZEK,
Huntington, NY.

DEAR MR. MRAZEK: Thank you for your letter concerning the Long Island Sound hearing on April 18. I plan to be at the hearing to make a personal statement. Enclosed are the published results of a survey of the large single colony of cormorants, herons, egrets and gulls in the western sound. It was done by Peter Capainolo, Curator of the Queens College Center Museum in Caumsett State Park and myself on Huckleberry Island in New Rochelle.

This tiny island is essential to these species' well-being in a big part of the sound, including its south shore, and is of significance on a state-wide basis. Along with terns, these species are the largest, showiest and most visible of Long Island Sound's locally breeding wildlife. They are also good indicators of the general health of the sound since they depend on its resources for their survival and are easily monitored in their concentrated nesting colonies. These birds and much of the sound's ecosystem are threatened by overdevelopment. In this case, Huckleberry Island's birds are at great risk from a nearby $1 billion development proposal on Davids Island, which itself is probably the only suitable remaining nesting area that the Huckleberry birds could use as an alternative, which they will probably need in the not-too-distant future. This is because the droppings from this dense population have, after only about 13 years, apparently eliminated nearly all vegetation smaller than large saplings and are already damaging the mature trees in which most of these species need to nest.

I hope you will find the paper of use. Huckleberry Island is, unfortunately, but a microcosm of the problems facing Long Island Sound—which mostly stem from human overpopulation and overdevelopment.

Sincerely,

DAVID KÜNSTLER.

The following is a copy of the testimony I gave at the public hearing, New York State Senate, Senate Subcommittee on the Long Island Marine District—Owen H. Johnson, Chairman. The hearing took place at the Kingsborough Community College, Brooklyn, New York on January 28, 1988.

Hi, my name is Sharon Samuel Brown. I have come to speak to you as a concerned resident of the North Shore of Long Island, as a blue water sailor who has crossed the Atlantic Ocean three times from Bermuda to Long Island Sound, as an avid observer of marine mammals, as a public relations representative of my husband's business, Sportique Motors in Huntington, Long Island and lastly, but of greatest importance as a mother.

As a concerned resident of Long Island's North Shore, I am greatly saddened by the pollution and eventual destruction of the marine habitat in our area. A shoreline famous in the past for being abundantly rich in sea life, a shoreline which boasted about the whaling port of Cold Spring Harbor now has to face the grim fact that for the past two summers Cold Spring Harbor has yielded massive fish kills, the stench of which was carried for miles.

My privilege as a sailor on our 47 foot sailboat has been to enjoy contact, up close with the friendly air breathing, intelligent dolphins and whales who make their home in our coastal waters. Counting the numbers of beached mammals angers me and creates in me the desire to share with you the facts I have learned about these creatures—so that we all may know about how the improper disposal of our waste is causing the murder of innocent, beautiful, intelligent life. There was a time when human beings lived a less exploitive life. The Earth still held her secrets and we revered those creatures who could reveal them. Now we find ourselves approaching the seas as we did the land: creating boundaries, carving up territories, dividing—in the name of nations—the waters that link each living thing to every other. To fill our emptiness and loneliness we must view our planet as a whole world. Currently we are bound to a vision that leads us further away from each other. We must take a second look, for we cannot accept the wholesale destruction of life and the alienation which accompanies it. Let us take a second look at the incredible essence of these aware creatures.

Whales and dolphins have very large and complex brains. These animals are extremely conscious of what they are doing. After reading many stories and having encounters with whales and dolphins it is clear that their actions are purposely and stunningly specific to the occasion. They intend us no harm.

The human mind has changed the basic nature of soil, the chemical composition of air and human tissue. The ability of our hands to devise images brings us a power almost beyond our control—we don't know what to do with it anymore except to keep on using it. Then what is this other mind, the mind that is in the waters? These enormous alien brains that flow in the oceans—what is in the mind world of a creature with a brain bigger and possibly more complex than ours, who cannot act out its will to change the world, if only for the simple reason that it hasn't any hands? Author John McIntyre writes in his book, Mind In The Waters, and I quote, "This is the mind I have always believed existed somewhere. The deep calm mind of the ocean, connected to body, living in the world, not looking out at it. Not changing the world around them—only listening, touching, eating and being. It seems to be enough. There was a time in our culture, not long ago, when the essential role of men and women was to nurture and protect each other, to be caretakers of life and earth. At that time, when the sun sparkled on the sea of our imagination as freshly as it sparkled on the sea herself, we thought of our world and each other in ways which were life venerating and death respecting."

In a report written for the Cousteau Societies' Calypso Log December 1987, entitled Detective Among Dolphins, expert Dr. Joseph R. Geraci noted after investigating an unprecedented death of 400 stranded bottlenose dolphins in July and August of last year on the East Coast of the United States I quote "What we are dealing with is a condition in which it seems these animals are presensitized to invasion by bacteria that are otherwise innocuous." The dolphins immune systems were seemingly stressed beyond responding. The direct role of pollution was unclear, but suspected. An earlier report from the coastline of California speaks of dolphins sharing a similar problem. A startling conclusion was reached by Dennis Kelly, a professor of marine science at Orange Coast College in Costa Mesa, California. California coastal bottlenose dolphins may be endangered by a pollution caused disease that attacks the immune systems, the weakening and eventually killing them. Necropsy—animal autopsy—has shown startling results. All the tissue from all of the dolphins including blubber, muscle, liver, kidney and brain tissue revealed high levels of DDT and PCB. Dolphins, like humans are highly evolved, intelligent mammals that feed from the top of the food chain, like us humans. They sustain themselves on a wide variety of food such as halibut and perch—they even tug clam siphons from the ocean bottom. The fate of their health—death through breakdown of the immune system through pollutants could effectively forshadow our own.

The raw sewage and chemical dumping is worsened by the hideous dumping of plastics into the coastal waters. According to an article printed in the most recent issue of the ASPCA magazine it takes 450 years for the plastic to begin to disintegrate, and there is doubt of the safety of the disintegrated debris of plastics. In its current disposed of state, it provides deadly traps for birds and sea life. Plastic bags are consumed by sea turtles who mistake them for jelly fish. Plastic packing pellets are mistaken for seeds and are fed by birds to their young. The enormity of plastic abuse is surely on the rise as we witness daily the additions to our life of plastic disposable items.

As a society we have gone to great lengths in accommodating our handicapped citizens. We face the adjustments and accommodations daily, such as handicapped parking spaces.

In order to provide a safe environment for our intelligent sea mammals who, too compared to us humans, are handicapped, we must keep their waters clean for them.

I suggest we go back to nature by using more natural products such as cardboard instead of plastic straps around our aluminum six packs, let's use more paper bags in grocery stores and how about living again with the lovely glass bottles more than we do. Let's increase our deposits up to twenty-five cents on recyclable containers. We should begin to educate our children, at the kindergarten level about saving our watery planet. We need awareness and education not only to save the earth for us and our children, but for the children of the oceans as well. Thank you.

Testimony of Patrick G. Halpin, Suffolk County Executive

Ladies and gentleman, the Long Island Sound is obviously one of the nation's important recreation and commercial urbaj bodies of water, in which almost a quarter of a million boats are currently registered throughout the various jurisdictiojs in New York and Connecticut; coimercial fishing alone produced over $20 million in landings, of which $3.5 million was produced from lobsters and crabs in New York waters; in addition to almost $14 million in the commercial landings of fin fish; Connecticut lobster landings amounted to over $4 million.

The Long Island Sound Study produced a number of disturbing preliminary findings that give great weight to the importance of today's hearing. For example, the problems of hypoxia, a prevalent summer condition in which the bottom waters in the western half of the Sound have very low levels of dissolved oxygen. In areas of lowest dissolved oxygen there are fewer fish and shellfish as opposed to more well-oxygenated areas. The historical data in studies conducted by the Long Island Regional Planning Board and others indicate that hypoxia is a greater problem now than it ever has been in the past. It is our suspicion that nutrients from sewage treatment plants and non-point source urban runoff are major contributing factors to hypoxia in Long Island Sound. I, therefore, am pleased that the Long Island Sound Study is currently developing computerized water quality and hydrodynamic models of the Sound in order to help discover the full range of causes of this problem.

The Long Island Sound Study has also measured the extent to which water, sediments and fish and shellfish are contaminated with toxic materials. Many of the sources of these toxic materials have also been identified and inventoried. The evidence seems to indicate that some of these contaminants may be declining. For example, metal levels found in oysters appear to be lower now than they were a decade ago. However, other contaminants have not declined. This factor alone more than justifies, in my opinion, the opposition that we in Suffolk County have placed against the dumping of dredge spoil from the various Connecticut rivers into Long Island Sound. From my days as a member of the Suffolk County Legislature (with my friends and colleagues Congressmen Mrazek and Downey) we have vigilently opposed further contamination of our "Urban Sea". The materials coming out of some of the Connecticut dig sites beyond question contain toxic materials.

One of the important areas that the Long Island Sound Study is dealing with is the measurement of the distribution and abundance of fish and shellfish in the Sound. When this inventory is complete, we should have a better knowledge of whether or not the resource is improving or in decline.

Over the past several years, Suffolk County and its municipalities have undertaken a number of projects to improve the sewage treatment plants that discharge into the Sound. These would include the Huntington scavenger waste pretreatment plants and modifications to the Huntington sewage treatment plant that were both recently completed. Work is also under way on the rehabilitation of the Northport sewage treatment collection system and force/main. By July of this year I am hopeful that the Village of Port Jefferson plant will be upgraded. The completion of the sewage treatment plant on the grounds of SUNY at Stony Brook is scheduled for completion by February of next year; effluent from this plant is discharged to Port Jefferson Harbor. Work is also under way to improve effluent standards for the pretreatment of scavenger waste discharged to the Greenport sewage treatment plant.

However, in my judgment, a number of activities must be undertaken by the County, State and Federal governments to address the deterioration of Long Island Sound water quality. Although I do not agree with Dr. Jacques Cousteau's dire judgment of the Sound when he visited here several years ago by proclaiming it a dead body of water, I nevertheless do feel that this vital arm of the Atlantic Ocean, which serves so many beneficial uses, from transportation, recreation, commerical and sport fishing, commercial and recreational boating, as well as one of the most magnificant settings for residential communities surrounding both sides of the Sound, deserves priority attention and action.

Long Island's 208 Study had observed that the western Long Island Sound waters are characterized by high levels of solids, nitrogen and bacteria. Since most of the high levels of suspended solids, nitrogen and coliform bacteria in western Long Islands can be traced to discharges within New York City, it is, therefore, obvious that conditions in the Sound are largely beyond the control of the governments of Nassau and Suffolk Counties. It is the responsibility of the U.S. Environmental Protection Agency and the New York State Department of Environmental Conservation to require the implementation of waste controls necessary to improve water quality to meet acceptable standards. These controls could include nitrogen removal for existing sewage treatment plants and the retention and treatment of combined sewer overflows. Pretreatment for metals and/or organic chemicals should also be undertaken. Despite numerous efforts in both Counties to insure the quality of the inlets and harbors, the background conditions eminating from New York City overwhelm local efforts.

Stormwater runoff, which is one of the major non-point sources of the transport of sediment, nutrients, metals, organic chemicals and bacteria into the Sound, must be controlled. This will require State, County and municipal action to assure that no additional stormwater runoff discharges will occur as a result of new development, or the redevelopment of urban areas. Wherever possible, direct inputs of runnoff into the surface waters should be eliminated through the installation of storm drain systems that discharge into new or existing recharge basins, retention ponds or other alternative structures.

It is also important that intelligent open space measures be taken to preserve access to the Sound for conservation and recreational enjoyment. In this regard, I am extremely proud of the record that Suffolk County has established in preserving areas from the threat of development. Just recently the County has successfully concluded the acquisition of five parcels on the Sound amounting to over 200 acres—Camp Barstow in Miller Place; Inlet Pond addition in Greenport; Port Jefferson Headlands; Orient Point in the Town of Southold; and an addition to the County holding at Crab Meadow in the Town of Huntington. We are currently negotiating for an additional 116 acres at: Crab Meadow, Nissequogue River addition, and Fresh Pond Greenbelt at the Smithtown/Huntington border. We have also proposed an additional 635 acres to be acquired through the State EQBA funds. Unfortunately the State moves much slower than the County of Suffolk.

I further recommend that the Federal Government assume a more active role, particularly in the funding of facilities for urban runoff mitigation. In addition, the Federal Government should move for the acquisition of parcels that have resource value. I do support the mechanism suggested in H.R. 4127, which calls for the establishment of an American Heritage Trust, and I would urge my distinguished friends and Members of Congress representing Long Island here today to support to the fullest this type of measure.

I would like to close with a somewhat happy comment that on March 22, 1988, the U.S. District Court ruled in favor of the Town of Huntington, County of Suffolk et al., plaintiffs against the Department of the Army, Corps of Engineers, et al., defendants, and issued an injunction enjoining the Corps from dumping dredged material or issuing permits to other parties for dumping dredged spoil at the site known as WLIS III in the western portion of the Sound. I am sure this must have come as a special satisfaction and victory to Congressman Mrazek, who has so vigilently fought this battle for so many years.

Unfortunately, over 667,000 cubic yards of dredged material have been dumped at the WLIS III site since its initial designation in March 1982. I fully expect that the Army Corps of Engineers will consider appealing the decision. At the very least, I would hope they would comply with the National Environmental Policy Act as well as other Federal statutes pertaining to the dredged spoil disposal site designation process. Since using the Sound as a dump site is not in accord with the Long Island Coastal Zone Management Plan, it should be expected that at the very least, the Federal Government would follow its own consistency clause and help us in our battle to preserve and enhance this vital body of water.

Thank you for the opportunity to be with you.

TESTIMONY OF FRANCIS V. PADAR, P.E., M.C.E., DEPUTY COMMISSIONER, NASSAU COUNTY DEPARTMENT OF HEALTH

The County of Nassau through its Department of Health has been actively involved on a long term basis in studying the marine waters of Nassau County which are tributary to the Sound and further is participating in the current comprehensive study of the Sound headed by the Environmental Protection Agency. Our surface water quality data covering the period since 1969 was instrumental in defining the scope and content of the current study. Department staff serve on the technical and citizens advisary committees of the L.I. Sound Study.

A definitive statement on the condition of the Sound and the specific steps necessary to clean it up is not possible at this time. Indeed, that is the purpose of the very comprehensive study now in process. There are however, some basic facts which can be stated which help to identify the extent and the causes of the quality stresses and the kinds of programs and projects which will be needed to restore the Sound to its proper viable condition.

A fundamental problem is the organic matter discharged to the Sound which by natural biodegradation robs the oxygen dissolved in the marine waters to the extent that fishkills occur and, in extreme cases, when oxygen is completely exhausted, that septic conditions are created. This organic matter also contributes nutrients which support algal blooms which outgrow their food supply, die, and sink to the bottom. The decay of this organic matter further exacerbates the dissolved oxygen deficit of the water particularly at the bottom of the water column where dissolved oxygen is already relatively low.

Primary sources of organic matter are the effluent of municipal sewage treatment plants but, in addition the overflow of combined sewer systems in New York City which is caused by even the slightest rainfall, as well as the stormwater runoff from all areas tributary to the Sound with the greatest organic loading coming from urban areas. The dumping of dredge spoils in Western L.I. Sound since 1982 under the control of the U.S. Corps of Engineers may also be a significant factor.

Health Department data reveals that dissolved oxygen levels have been decreasing significantly since 1982 in the western portions of the Sound. Instances of low dissolved oxygen levels in bottom waters of the Sound and harbors occur almost every year during the calm, hot days of July and August. In August 1987 however, a complete absence of dissolved oxygen was observed in many locations in the Sound as well as the harbors. This condition caused the fish kills of 1987.

Attributing the greater than normal oxygen deficit at any location to specific causes is not possible at this time. The progressively lower overall dissolved oxygen in the Sound since 1982 corresponds to a period of below average rainfall in seven of the last 10 years with corresponding lower quantities of combined sewer overflows in New York City as well as from both stormwater discharges and river flows in other areas tributary to the Sound.

During the same period however, dredge spoil disposal at the Western Sound site has been initiated and routinely practiced and New York City sewage treatment plants have been bypassed during breakdowns and repairs with quantities fluctuating from 0.7 billion gallons in 1985 to 2.1 billion gallons in 1986.

The current phase of the L.I. Sound Study involves the development and use of a state-of-the-art mathematical model which will be designed to specifically identify the causal relationships between sources of pollution and levels of contamination at critical areas of the Sound.

It should be understood at all levels of government that the current L.I. Sound Study will identify the problem and provide general plans for their resolution. The Study will not however, implement the solutions. Correcting the problems will be by far the major task and the most costly by several orders of magnitude compared to the cost of studying the problems. An important federal level priority should be to begin to plan the manner and the means to subsidize the necessary corrective programs.

By way of illustration, some of the programs and projects will probably encompass major capital intensive efforts such as construction of several plants in New York City to treat combined sewage overflow. Additional major facilities required may include plants to intercept and treat stormwater runoff or such runoff may have to be recharged in upland locations. Such projects could be needed for all drainage basins tributary to the Western Sound. Critical restriction of dredge spoil disposal in the Western Sound is a good possibility as well, or use of disposal sites in the Eastern Sound.

The modeling study will probably be able to prioritize these projects and enable a schedule to be developed for phasing the capital construction effort in order to realize some improvements in water quality in the short term and to spread the cost over an extended timeframe.

The project of saving the L.I. Sound has begun, the investigative phases are reaching columination. We should not be deterred by the realization that the solutions to the problem may be difficult and expensive.

TESTIMONY OF NINA MARDEN

We all know that Long Island Sound is polluted, very badly so from Huntington to New York, less so but still significantly, as far out as New Haven.

Most of us tend to think of the Sound as the water that laps on our beaches and then spreads out vaguely to separate us from that distant and foreign country, the mainland.

We must change our point of view if the sound is to be saved. We must see ourselves as a unit, the Long Island Sound Basin. That is to say, the Sound itself, its bays and harbors, the rivers that empty into it and the water sheds that run off into it.

We, all of us who live or work within that basin, are responsible directly or indirectly for its pollution. If it is to be cleaned up now and protected in the future we must all work together; householders, business, industries, conservationists, historians, archeologists and all levels of government.

The Environmental Protection Agency is currently making a five year study of the Sound focusing on three major problems: toxic contamination, low dissolved oxygen concentration and the health of fish and shellfish.

When this is completed, a management plan will be worked out based on its findings and the needs and desires of the users and the resident population.

The implementation of this plan will require legislation. It is most encouraging that Congress has formed a caucus of Long Island and Connecticut Representatives to deal with the Sound and its problems, particularly so that they see the need for one now, before the study and management plan are completed. We cannot afford to let the pollution to continue at its present level until then.

There are of course, many controls now in existence from village ordinances to federal laws; however, there are gaps in them as they have grown up in more or less haphazard fashion to cover specific problems. In some cases they are outdated. There are differences and inequities between the two states and these need to be identified and brought into balance.

In many areas, the present laws will be inadequate for the future. The population of the United States is migrating towards the shoreline. It is estimated that by the year 2000 seventy-five percent of all the people in this country will be living at waters edge. This will mean much greater density which will generate vastly more waste of all kinds. New laws will be needed to minimize the waste and rid us of the rest without harming the environment.

The State Assemblies of New York and Connecticut both have bills pending proposing a bi-state Long Island Sound Marine-Resources Committee. It would be the duty of this committee to coordinate and recommend the standardization of all laws relative to Long Island Sound.

This is an excellent first step; however, there is urgent need for a committee with specified powers of much broader scope.

Mr. Hochbrukner, Mr. Mrazek, I recommend to you a bi-state commission similar to the Chesapeake Bay Commission.

This commission, which was enacted into law in 1984, is made up of members from Pennsylvania, Virginia and Maryland. Its duties are as follows:

Identify specific Bay management concerns requiring inter-governmental coordination and cooperation;

Recommend to the states and/or to the federal and local governments legislative and administrative actions necessary to effectuate coordinate and cooperative management of the bay;

Collect, analyze and disseminate information pertaining to the region and its resources for the respective legislative bodies;

Represent the common interests of the signatories as they are affected by the activities of the federal government, and assist in monitoring those activities;

Provide an arbitration forum to serve as an advisory mediator for conflicts among the states.

Having an agency specificly authorized to act for the states in relation to the federal government and to act as mediator between the states themselves has proven to be very effective for Chesapeake Bay.

Should we not have one also?

Thank you.

Statement of Prof. Henry Bokuniewicz, State University of New York at Stony Brook, Marine Sciences Research Center

We are now in the middle of an unprecedented study of Long Island Sound. There has never been so extensive an examination, or one so intensive. To know what is happening to the Sound is a big job; to understand why it is happening requires a major effort; and to place ourselves in control of the Sound will demand our best technology and a firm commitment.

Long before this Long Island Sound study, there were scientists dedicated to the study of the Sound. To these researchers, the Sound presented, and still presents, a multifaceted challenge to explain its changes and unravel its complexity. The water quality and the biological communities differ tremendously from place to place. There is a strong web of interactions among the Sounds currents, its chemical reactions and the biological activity; and all its characteristics change dramatically from day to day, week to week, month to month and year to year. Under such conditions, even the most elementary questions we can ask about the Sound have been very difficult to answer. Measurements needed to answer our questions, although simple, are not easily made. Since the Sound is so complex and variable, many measurements have to be made repeatedly over a wide area to properly characterize the Sound's behavior. To a geologist, for example, its important to know how much sediment is carried to the Sound by its rivers (This is also important ecologically because many of the most troublesome contaminants are attached to that sediment). To adequately answer that simple question has required thousands of measurements and years of persistent effort. Although past studies have been fragmented and narrowly focused, we are fortunate to have an answer to this question.

The answers to other basic questions are plagued with uncertainty. How badly is the Sound contaminated? Are low oxygen conditions getting worse? The Long Island Sound Study gives us an unprecedented opportunity to address these critical issues. To know what is happening in the Sound we must go out to it and look. The Long Island Sound study has mobilized the resources needed to prove the Sound with some of the most sophisticated instruments and the latest techniques. Shipboard measurements are being made every few days and instruments are in place to make other measurements automatically and continuously. All this activity, however, is only setting the foundation for the next step, which is already underway. Computer models of the Sound are being designed to use this data to tell us how the Sound works, and, more importantly, to predict what will happen if we change the way we use the Sound.

Research takes on an added importance when we consider human uses and human impacts on the Sound. Human activity can rival and even surpass nature. Dredges, for example, move two and a half times more sediment than all Sound's rivers do. Having an impact, however, is not to be confused with control; nature still has the upper hand. Tides and currents move hundreds of times more sediment than our best combined efforts and contaminants traveling with sediment particles are widely dispersed by these currents. As a result, even if we turned off all the sources of contamination today some contamination would persist in the Sound for many decades.

If the Sound is sick, we are in the process of diagnosing its symptoms. A remedy can be sought—a remedy that is commensurate with any illness as well as effective. I don't know what the remedy will be, but the prognosis for technical solution is good. The remedy will have to be dynamic and multifaceted, like the Sound itself. The remedy will not be simple. The remedy will not be quick. The remedy will not be inexpensive. The Long Island Sound Study can point the way to the solution and we need the resolve to follow it.

Statement of Okeanos Ocean Research Foundation, Inc., Hampton Bays, NY

The Okeanos Ocean Research Foundation is providing this written statement regarding its interest on effects in Long Island Sound. The Okeanos Foundation is a nonprofit research and education organization. The foundation conducts research and educational programs on marine mammals and sea turtles. The majority of the animals we work with are endangered species and are federally regulated. The Okeanos Foundation is the only organization authorized by federal and state laws to handle these species.

Since the Foundation began its work in 1979 it has made a number of significant discoveries on marine mammals and sea turtles in the region. Anecdotal and historical records indicate that dolphins were once common in Long Island Sound. Schools of hundreds of animals were seen on a daily basis. At some point approximately 15 years ago they were no longer seen in the region. Over the last ten years less than 20 dolphins have been sighted in the Long Island Sound, and over 150 hours of Okeanos survey time has failed to produce a single sighting. Since the population of dolphins along the east coast of the United States has not significantly changed it is unlikely that an overall population decline can account for their absence.

Recently the Okeanos Foundation has received funding to investigate the presence of sea turtles in the Sound. Over the last three years the Foundation has found that four species of sea turtle are regularly found in the region. All the species found here are either federally listed as endangered or threatened. The most frequently encountered sea turtle in Long Island Sound is the Kemp's ridley (*Lepidochelys kempi*). This is also the most endandered sea turtle and one of the most endangered animals in the world.

The Kemps ridleys found in Long Island Sound have all been juveniles. These animals have been observed to be utilizing the rich resources of the Sound including all types of shellfish such as mussels, clams and various species of crabs. Historical evidence indicates that young sea turtles, particularly the Kemp's ridley, have occurred in the Sound since at least the turn of the century. Long Island Sound has probably always been a developmental habitat for these animals.

Our research has shown that sea turtles utilize an area extending from Orient Point on the eastern end to the Throgs Neck bridge on the western end. Sea turtle activity is concentrated along the shore and out to the 20 meter contour including various bays and harbors. They also spend a significant portion of their time foraging at or near the bottom.

Sea turtles arrive in our waters in the spring and remain active in the Sound throughout the summer. During the early fall there is a purposeful movement to the east and out toward the open ocean, presumably toward warmer waters.

During the summer of 1987 tests in Long Island Sound revealed extreme anoxic conditions throughout the water column as far east as Huntington Harbor. The lack of oxygen caused the death of a large number of benthic organisms. Our research shows that sea turtles occur throughout the Sound and are active primarily during the summer months. Growth and development of young sea turtles requires extensive feeding along the bottom. Obviously any event that impacts the organisms living on the bottom could have a significant effect on these endangered species' ability to feed. Any detrimental effects would be amplified during the summer.

During the last three years our research staff has spent an extensive amount of time out on the Sound. We have observed a deterioration of the water quality. Since we have not conducted studies on water quality we cannot say what is causing the change. Diminishing marine mammal and sea turtle populations and the concurrent death of other marine biota in the Sound raise important concerns. Development and its associated forms of pollution may be the cause of these problems. We have recently received an environmental impact statement for condominium construction in New Rochelle in which they cite the Kemp's ridley as a "trivial" and "infrequent" visitor to Long Island Sound. This is not true! Our research indicates that Long Island Sound may be a critical developmental habitat for this highly endangered turtle. Sea turtles have been around for more than 200 million years and have probably utilized Long Island Sound for a long time. Over the past 30 years the population of Kemp's ridleys has declined from more than 40,000 nesting females to less than 500. While it may still be possible to retrieve these turtles and other animals from the brink of extinction, it becomes increasingly difficult with the continued degradation and destruction of critical habitats such as Long Island Sound. We believe that it is essential for proper management of this resource that integrated ecological studies be conducted now. Different institutions with diverse expertise should be enlisted for that purpose. During this time development our habitat destruction should be minimized. If this is not done, endangered species such as the Kemp's ridley will not recover.

STATEMENT OF MARK KING, COMMERCIAL FISHERMAN, LONG ISLAND SOUND

My name is Mark King and I've been fishing and lobstering on Long Island Sound since I was four years old, that's 28 years. I've been fishing on my own and self employed for the last 13 years. I now own and operate a 55 foot steel dragger based out of Mattituck Inlet. These are my own personal thoughts about Long Island Sound although I think many commercial fishermen would agree with much of what I'm about to say.

It seems to me that the only thing saving the water quality in the Sound is the degree of tidal flushing that occurs that brings in relatively clean water and takes out many of the pollutants on the outgoing tide. There is constant movement of water in the Sound. Many of the water quality problems in the Sound come from Connecticut. This is not to put down those people because their major problem is that the geography of their state provided them many rivers to dump pollutants into. We would probably do the same thing here in NY. These rivers however, accumulate the waste of many cities and it eventually winds up in the Sound. Something must be done to clean these pollution sources up or eventually the Sound will die much the same way Chesapeake Bay has; slow and almost unnoticeable unless you are there every day.

Also, people are generally unaware of the water quality problems in the Sound and need to be educated. Most people use the Sound for fun or commerce. Fishermen's livelihoods depend on water quality in the Sound and we are very concerned. It is getting worse. We are concerned because our futures depend on it, and the food we harvest from it must be clean if we are to survive as an industry.

Runoff, cesspools, sewege, etc. all wind up in the water. For many years the Sound has been a dumping ground for our waste. Public awareness of this problem needs to be increased. People must begin to care and education is needed to make them do that. Much can be done right now and we should not study it to death. It's going to take a lot of money, political will, and whoever heads this up will have to be a tough nut.

FOREIGN TRAVELERS AND VISA DELAYS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. SKELTON. Mr. Speaker, recently, my Small Business Subcommittee on Exports and Tourism heard testimony that it is becoming increasingly difficult for foreign visitors to obtain visas to come to the United States. Long delays in the visa application process have become so frustrating that it appears we are actually trying to discourage potential travelers to America.

During this time of the weak dollar overseas, when we are making great effort to attract foreign visitors to come and spend their money here, this kind of bureaucratic roadblock is counterproductive to our goals. Attempts to save money by cutting back visa personnel at the embassies or reducing the number of offices of the U.S. Travel and Tourism Administration overseas are unwise and shortsighted and most of all costly.

Every time a foreign tourist is discouraged from coming to America money is lost. It is lost to local, State, and Federal coffers. It is lost to all the businesses big and small that serve travelers. It is lost to the breadwinners whose paychecks would be increased by more tourists. It's hard to think of a company that does not benefit from increased tourism to America. It's good for American business and helps reduce our trade deficit.

America is always on top in surveys when foreigners are asked where they want to visit. Yet our percentage of world tourism has fallen from 12 percent in 1985 to 10.3 percent in 1987. During this time of the reduced dollar we should be doing everything we can to encourage foreign travelers to spend their money here to increase our world market share.

I have strongly urged the Secretary of State to take action to streamline the visa application process and eliminate this bureaucratic bottleneck, thereby allowing foreign travelers to feel welcome here in America. This will prove to be a major economic benefit to our country.

DRAFT MILITARY INTO THE DRUG WAR

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. BEREUTER. Mr. Speaker, in light of all the overblown arguments outside Congress against any possible use of the U.S. armed services to detect and assist in the interception of the illicit shipment of drugs into this country and the Pentagon's dramatically and deliberately exaggerated concept of what the Congress might have in mind for a role of the armed services in such an endeavor and the costs, personnel, equipment, and logistical requirements of such operations, I urge my colleagues to read the attached remarks of nationally syndicated columnist, Mr. James J. Kilpatrick. His column appeared, among many other places, in the Lincoln (NE) Journal under the headline, "Draft Military Into the Drug War."

WASHINGTON.—Face it: This nation's appalling problem of narcotic drugs is a problem of both supply and demand. Until we steel ourselves for a combined attack, not only on supply but also on demand, the war will merely drift along. The administration's tough program of "Zero Tolerance" deserves overwhelming support.

On the supply side, it is high time to throw our military resources into the battle. Both House and Senate now have voted overwhelmingly for this overdue move. As a matter of general principle, Defense Secretary Frank Carlucci's objections are sound: Military personnel are not trained in law enforcement; they are trained to wage war.

Even so, extraordinary circumstances demand extraordinary measures. There are real enemies of the United States out there. Some of them are identifiable; they have names, they can be fought as other enemies are fought. The kingpin suppliers, the big boys in the drug racket, the smugglers and peddlers and little guys—all of them have to be fought with every weapon at the nation's command. There is no reason on earth not to enlist the military in this fight.

All that is now proposed, as I understand it, is to call on the Air Force for aerial surveillance of the southern border. Chase planes and helicopters would intercept incoming planes of undisclosed origin and purpose. The Navy would provide ships to "locate, pursue and seize" contraband at sea. Without the slightest damage to military readiness, the Army and National Guard could contribute greatly to deterring shipments of narcotics from Mexico.

Once again, we ought to learn from the bitter lessons of Vietnam: Halfway measures won't suffice. Granted, the analogy is not exact. This is a different kind of war. Unconditional surrender is an impossible goal. But vastly more can be done to interdict supplies of marijuana, cocaine and heroin coming into this country. Our soldiers, sailors and airmen are being paid to protect the national security. Let them earn their pay.

The war has to be waged on the civilian side as well. New York's Sen. Alphonse D'Amato is right in urging capital punishment for the kingpins. No one is talking about executions or life sentences for the street peddlers. Punishments ought to fit crimes. It is the big racketeer, the wholesaler, who should be targeted for arrest and indictment.

Give such defendants every benefit of the Constitution. Give them fair trials, and then, if they are found guilty, hang them. Literally hang them. Nothing might so effectively deter the big boys as the sight of their buddies swinging from a gallows on the docks of Miami.

Are we serious about ridding our society of drugs? Then let us get serious. Let us attack the demand side with the same ruthless effort. Of course constitutional protection have to be maintained. Of course law enforcement must be reasoned and prosecutions appropriate.

Yet another part of an effective assault lies in public education. It lies in the cultivation of attitudes. Somehow the notion must be dispelled that it is smart, or chic, or fashionable to snort a little coke. If a few high-society consumers were brought publicly to trial, handcuffed and humiliated, sentenced to time behind bars, the word might get out.

The stigma of a jail sentence would work wonders upon the "casual" consumers who make up the bulk of the drug market.

FRED HARTMAN: BAYTOWN'S "MAN OF THE LAST HALF CENTURY"

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. FIELDS. Mr. Speaker, one of my constituents is to be honored Thursday evening in his adopted hometown of Baytown, TX. Fred Hartman will be recognized as Baytown's Man of the Last Half Century by the local chamber of commerce.

It will be a richly deserved honor.

From headlines to highways, from public service to protecting the people's right to breathe clean air, Fred Hartman's exemplary record over the last half century stands as a monument to the term, "giving of one's self."

No one man has made more of an impact on the dynamic growth of Baytown and East Harris County over the last 50 years than has this son of deep central Texas. He came to Baytown by way of Marlin, TX, and Baylor University, and his service to his community, county, and State has touched thousands of lives.

Fred Hartman is recognized throughout the State of Texas as a newspaperman with few peers. A delightful wordsmith, Hartman served as editor and publisher of the Baytown Sun for 25 years and only recently stepped down as chairman of the board of Southern Newspapers, Inc., an organization that owns and operates newspapers in a number of States.

Fred Hartman has always believed that a newspaper should be an integral part of its community, a partner in progress rather than a standoffish overseer—and he often used the pages of his beloved Baytown Sun to promote and sell the many virtues of Baytown and east Harris County. More often than not, his voice was heard.

But newspapering was only one way Fred Hartman touched so many lives. Public service was another. And the record shows that he gave, and continues to give, a full measure of devotion to those efforts. From serving on the board of directors of San Jacinto Methodist Hospital in Baytown to serving on the Texas Air Control Board, Fred Hartman has put community and State before self, giving of his time and efforts to make Baytown and the State of Texas a better place in which to live. His work with the Baytown Chamber of Commerce and the Baytown Rotary Club also have improved the lives and well-being of thousands of men and women.

All the while, he has found time to advise, counsel and serve the last six Governors of Texas in a variety of capacities, and has long been recognized as a leader in pushing for highway improvements. In fact, there are those who believe that Fred Hartman enjoys the challenge of securing highway funds for east Harris County almost as much as he enjoys baseball. His 30 years of service as chairman of the Baytown Chamber of Commerce's highways committee attest to that fact.

A family man and a Christian Fred Hartman is the kind of person that younger generations should look up to. Older generations already do.

Simply put, if Fred Hartman had chosen to be a baseball player rather than a newspaperman and servant for community good, he would have been a lifetime .300 hitter and a member of the Hall of Fame.

Perhaps the most appropriate way to sum up this fine gentleman is to use Hartman-like lexicon and borrow one of his own favorite phrases: Fred, you are without question one of the finest persons ever to "slide into third base" in east Harris County. And we all are the better for it.

ROBERT KUCHTA, ASUR CLUB'S MAN OF THE YEAR

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Robert Kuchta of Frackville, PA. On June 5, 1988, Mr. Kuchta will be honored by the Schuylkill County American, Slavonic, Ukrainian, Russian Club as their 1988 Man of the Year. The ASUR Club was organized by Americans of Slavonic background who work together to promote good citizenship and to help build and improve their communities.

This is a great honor for Mr. Kuchta and recognition he richly deserves. A lifelong Schuylkill County resident, he is an outstanding community leader and a dedicated civil servant. Mr. Kuchta has been working in State government since 1974 and has also been active in local politics in Frackville. He is a former Borough councilman, Democratic committeeman and now serves on the Crime Watch Committee as a block captain.

Mr. Kuchta is also active in community and church affairs. He is a member of the Holy Ascension Orthodox Church where he also serves as a member of the board of trustees and as treasurer of the church choir club for over 27 years. In other community affairs, he is active in the ASUR Club, the Elks Lodge, the American Legion, the Friendship and Goodwill Fire Companies, Frackville Lodge No., 737 F. & A.M. and several other organizations.

The ASUR Club is well known throughout Schuylkill County for its commitment and dedication to community service. Robert Kuchta exemplifies the best of this tradition. On June 5, 1988, we will have an opportunity to honor him for his many years of service and for his selection as the ASUR Man of the Year. I know that my colleagues will join me in congratulating Robert Kuchta for this outstanding achievement and in wishing him and his family continued success and good fortune in the years to come.

RECOGNIZING THE HOME BUILDERS ASSOCIATION OF MARYLAND

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. CARDIN. Mr. Speaker, I rise today to salute the Home Builders Association of Maryland for their efforts in raising $1 million for the enterprise loan fund. This fund will enable nonprofit developers and civic groups to provide decent and affordable housing to low-income families.

On any given night in Baltimore up to 1,500 individuals are homeless. In addition, there are 36,000 families on the waiting list for subsidized housing, yet Baltimore has only 18,000 units of public housing. According to the center for budget and policy priorities, less than 38 percent of the very low income renter households in Maryland received Federal housing assistance.

The substantial unmet need for housing in Maryland will contine to grow in the coming years due to Federal inaction. Although nothing can replace a robust Federal housing program, the work of community development corporations will continue to play an important role in bringing affordable housing within the grasp of everyone. The generous contribution of the Home Builders Association of Maryland will go a long way in assisting these groups in their efforts. I invite my colleagues in the House to join me in saluting the generosity and community spirit of the Home Builders Association of Maryland.

LITHUANIAN IMMIGRANT, CHESTER BUTKYS, ENRICHES THE LEHIGH VALLEY AND OUR NATION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. RITTER. Mr. Speaker, Ceslovas—or "Chester"—Butkys, born in Latvia in 1894 to Lithuanian parents, resided in Bethlehem and Nazareth, PA, from the mid-1960's until his death at the age of 93 on March 26, 1988. It was an honor to have this quiet, generous man as a constituent and the Lehigh Valley is richer because of his presence among us.

In his early days, Ceslovas pursued a path that led through the Lithuanian Supreme Court, a professorship of law at Baltic University in Hamburg-Pinneber, Germany, and the key position as librarian for the Gilbert Association in Reading, PA. He had previously received a law degree in 1916 from the University of Moscow. What historic events he must have witnessed during that period in Russia under the tsars—who made no pretense of loving liberty—as Lenin—who made the pretense—prepared to strike.

In Lithuania, fortunately he was able to devote significant time and energy to courtroom cases involving civil rights, hunting and forest management, business, and commerce. According to Butkys' son Adolph, his father not only served on the bench but also lectured at the Universities of Kaunas and Vilnius. At 87, Ceslovas authored the book, "Memory of a Judge."

After his move to America from Hamburg, Germany, in 1951, Ceslovas settled in Reading, PA. He had to make a second, major adjustment to his lifestyle as he utilized his savings to care for the education and care of Adolph who had been crippled by a bomb explosion. Adolph studied at Albright College, the University of Pennsylvania and Temple University. After obtaining his Ph.D. in economics, Adolph taught at Lehigh and Villanova Universities Though he is confined to a wheelchair, what an asset Adolph has become—a testimony to the faithful and dedicated support provided by his father.

Mr. Speaker, this is a simple story of the life of an immigrant who did not travel far in this country yet enriched the Lehigh Valley and our Nation by his insight into law and human relations. And we are twice blessed by his son who has carried on his father's integrity and professional skills.

AIR SAFETY RESEARCH LEGISLATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. LEWIS of Florida. Mr. Speaker, the time is long past for the Federal Aviation Administration to have a mandate to conduct long-term air safety research. Recent events in Hawaii and Detroit bear this out in alarming detail.

To this end, today I am introducing two legislative bills designed to help find and correct problems before they become accidents.

Congressman DAN GLICKMAN, who is the ranking Democrat on the Subcommittee on Transportation, Aviation and Materials, and Congressman DAVE MCCURDY, the chairman of the TAM Subcommittee, are original cosponsors of the research bill.

As many are probably aware, the FAA directed airlines flying 737's to inspect for metal fatigue and delamination. The problem occurred in trying to accurately determine affected aircraft.

What happened on Aloha Airlines' flight 243 is proof positive the detection system needs improvement.

To be fair, it should be noted that since the accident Aloha Airlines has removed three more aging 737's from service, and the FAA has begun an aggressive inspection program.

Unfortunately, graveyard reactions such as these have too often been the norm. All too often we see aggressive attempts to correct problems—after the loss of life or a major accident.

It's a fact that failure to detect metal fatigue and delamination will remain the norm until the FAA has a wide spectrum of research programs directed toward detecting problems before they become accidents.

The easiest and most common way to detect leaks in the fuselage today is to look for tobacco smoke stains on the outside metal. Not very reassuring, is it? It also will become an ineffective detection method as smoking is rightfully banned on more and more flights.

The major research bill I'm introducing today mandates a program to develop better detection equipment and systems.

Along these lines, Congressman GLICKMAN and I attached an amendment to the NASA authorization bill 2 weeks ago that outlines the specific research needed on portable devices needed to detect fatigue cracks, corrosion, and delamination.

The research bill also addresses the need for an aggressive human factors research program to scientifically understand the causes and correct human mistakes.

More than 70 percent of accidents, industry-wide, have resulted from human error. The most current and glaring example is Northwest flight 255, which crashed in Detroit in August of 1987.

Another major portion of the legislation is directed toward preventing postcrash fire.

More than 40 percent of the fatalities in survivable accidents is caused by fire, with a significant correlation between flammability and toxic emissions. This bill mandates the FAA to undertake a research program with a goal of a fire resistant cabin interior that would not produce toxic smoke.

The focus of the legislation is simple: Realizing most accidents are preventable and avoidable, use the funds and resources available to do the necessary research to prevent them.

The funds are there. A little of what passengers and pilots pay for tickets and gas every time they fly goes into the airways trust fund. That now has more than $7 billion available for research.

Wherever it comes from, the bill requires 15 percent of all research funds to be used for long-range research and study.

There's no doubt the FAA and the industry will tell us what we propose is too costly. Our answer is it is time that passenger safety become the only consideration of the FAA.

Along these lines, I'm also introducing legislations today that repeals section 305 of the Federal Aviation Act of 1958, which directs the FAA to promote air commerce.

The only responsibility the FAA should be charged with is air safety. Promoting air commerce conflicts with that responsibility. Research to develop a fire resistant cabin interior, or noise reduction research, can be deemed too costly.

The fact is long-term research has been routinely slashed from FAA budget requests by the Office of Management and Budget, primarily because the request is for "long-term" research.

These two bills are positive steps toward a new generation of safer air travel. This legislation will get us out of the model T stage in air safety research. I urge my House colleagues to cosponsor this important and timely legislation.

Mr. Speaker, at this point I ask that analyses of my two aviation safety bills be included in the CONGRESSIONAL RECORD. Thank you.

ANALYSIS OF "AVIATION SAFETY RESEARCH ACT OF 1988"

Section 1. Title—the Aviation Safety Research Act of 1988.

Section 2. Aviation Maintenance and Fire Safety Research Act of 1988.

The Administrator is mandated to undertake long-range research to develop technologies to analyze and improve aircraft maintenance.

This is directed toward developing electric current resistive techniques to measure corrosion, heat or infrared measurements for quantitate assessment of delamination and bond integrity, and advanced ultrasonic techniques for complex structural analysis.

The Administrator is also directed to conduct a long-range research program on fire and smoke resistant aircraft interiors and on minimizing post-crash fire hazards.

Most deaths in survivable aircraft crashes are caused by fire. This research effort is directed toward the goal of developing fire and toxic smoke resistant cabin interiors.

Section 3. Research on the Relationship Human Factors and Air Safety and on Dynamic Simulation Modeling.

The Administrator is mandated to conduct a long-range research program on understanding the relationship between human factors and aviation accidents and to develop technologies to prevent human errors that lead to accidents.

Statistics from the National Transportation Safety Board for 1980-1985 indicate that the major cause of accidents is human error. This includes errors by pilots, air traffic controllers and maintenance workers. In order to eliminate human factors as a source of accidents, the Agency will conduct research to scientifically understand the causes of these errors and to develop preventative measures.

The Administrator is also mandated to develop a dynamic simulation model of the air traffic system that could be used to predict future safety related problems.

In order to address long-term air safety problems, the Agency is requested to develop a model system that would predict future problems. Such a model would allow sufficient time for conducting safety research to examine the problems.

Section 4. Plan.

The Administrator will develop a long-term research plan to implement Sections 2 and 3 and to include the Agency's complete research program in the plan.

By preparing and submitting the plan, Congress can follow the research progress as well as assess the goals and funding levels of the research program. The plan calls for research programs covering up to 15 years in length.

Section 5. Funding.

The FAA authorized research funding for FY 1989 and 1990, which was signed into law in 1987. (P.L. 100-223) is amended by reducing the total funding level for each category by 15 percent and designating the amount to be used for long-range research.

This provision establishes an on-going long term research program by designating a minimum of 15 percent of research funds for this research in the authorizing legislation.

ANALYSIS OF LEGISLATION TO REPEAL FAA MANDATE TO PROMOTE AIR COMMERCE

Title—Repeal of Authority of the Secretary of Transportation to Encourage and Foster U.S. Air Commerce.

Section 1. Section 305 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. App. 1346) is repealed.

Section 305 reads, "The Administrator is empowered and directed to encourage and foster the development of civil aeronautics and air commerce in the United States and abroad."

Conflicts may arise between the two conflicting and mandated duties of the Administrator to both regulate air safety and to promote the industry. This legislation removes the duty of promoting air commerce so that the first and only duty of the Administrator is regulating air safety.

BICENTENNIAL DAY IN SOUTH CAROLINA

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. SPENCE. Mr. Speaker, Monday, May 23, marked the bicentennial of South Carolina's ratification of the U.S. Constitution. As history records, the contribution of my State to the writing of the Constitution is significant. The four men who represented South Carolina in Philadelphia during the summer of 1787 played an active role in the work of the Convention. And, on September 17, 1787, all four—Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler, and John Rutledge—joined 35 other men in signing this historic document. The finished product was then forwarded to the Confederation Conference—sitting in New York City—and it, in turn, called on the States to ratify or reject the new Constitution.

There was an intense debate in South Carolina between the Federalists and the anti-Federalists over the ratification process. South Carolinians have always possessed an independent spirit, and when the South Carolina Delegates returned home from Philadelphia, they encountered a great deal of opposition to the document, including the exact location where debate on ratification would take place.

Despite the objections of the anti-Federalists, Charleston was selected as the site for the convention, convened on May 12, 1788, at the Exchange Building, which still stands today. The Federalists had the four signers—the two Pinckneys, Butler, and Rutledge—as their spokesmen, while the anti-Federalists had their eloquent spokesmen also—men like Rawlins Lowndes, Gen. Thomas Sumter, one of the State's leading fighters in the War for Independence, Wade Hampton, and Judges Henry Pendleton, and Aedanus Burke.

In the convention, Federalists extolled the virtues of the new document, created to bring a more efficient National Government to the new Nation; the anti-Federalists complained that only local government could preserve the rights of the States such as South Carolina.

After 10 days of debate, at 5, on the afternoon of May 23, 1788, 200 years ago today, the convention ratified the Constitution by a vote of 149 to 73. South Carolina had become the eighth State to ratify the Constitution.

South Carolinians are proud of the role that our Founding Fathers played in the creating of this, our most treasured, document.

BASIC HUMAN RIGHTS OF SOVIET JEWS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. SCHEUER. Mr. Speaker, as the summit unfolds, I respectfully urge General Secretary Gorbachev to heed calls from the four corners of the globe to respect the basic human rights of Soviet Jews and other minorities. I commend President Reagan and Secretary Shultz for their dedication and persistence on this issue.

Although glasnost has ostensibly reduced the harassment of Soviet Jews, the fundamental problems which they face remains the same. Not only are they denied the right to practice their religion freely, but also they are officially labeled as a class separate from all other Soviet citizens. They are victims of government-sponsored discrimination and anti-semitism. Yet, the Soviet Union will not allow Jews to emigrate to Israel, the Jewish homeland, or to any other country where they can enjoy equal citizenship and practice Judaism.

I submit the following appeal from Eduard Markov and 85 other Soviet Jews. Mr. Markov, a leader in the Leningrad Jewish community, has lived a life of refusal since 1979. A former energy engineer, Mr. Markov now does boiler work on a part-time basis. He is separated from his only son who lives in Israel.

Mr. Markov expresses his hope to the leaders of the superpowers that this historic summit will establish a foundation for progress on all issues of human rights.

Lynn Singer of the Long Island Committee for Soviet Jewry recently visited Mr. Markov and received his appeal which I am sending to President Reagan and General Secretary Gorbachev.

The letter follows:

MAY 20, 1988.

We, Jewish refuseniks who fight for our legal right of family reunion and repatriation to our historical motherland, the State of Israel, and who are being kept forcibly in the U.S.S.R. many years, appeal to you at that moment when your negotiations reach a climax in the most essential question to all humankind, the question of armament reduction. Bringing in a lengthy contribution to the matter of saving humankind from nuclear disaster, you are guided undoubtedly by the principles of humanism and love of fellow man. We want to attract your special attention to the notion that the results of the achieved agreements must not overshadow your interest to the fate of a relatively small number of people because the basic principles of humanism assume that the value of one human being and of all humankind are equal.

We are convinced that today at a time of rapid growth of technology including military and achieved successes in the field of disarmament including unprecedented measures of verification, the departure of Soviet Jews who many years ago have limited access to secret information cannot cause damage to the security of the USSR.

We ask you to not forget about children and parents who found themselves on the different sides of the borders because of refusal on the grounds of so-called secrecy. We have no doubts that the problems of poor relatives must and can find a positive solution.

Dear Mr. President, dear Mr. General Secretary, we hope that these questions of vital importance for us will be discussed at our summit and will find a positive solution.

Markov, Shpeizman, Shpeizman, Ludmilla Morkova, Sheibs, Sheibs, Lev Alexandrovsky, Ankelevich, Akselrod, Isakovich, Akelevich, Archipova, Aronson, Agranova, Aron, Abramson, Arbilskaya, Bezprosvanny, Bezprosvanny, Blinov, Bilitsky, Beilenson, Blinder, Bobrina, Berson, Schwartz, Dinkin, Dubrov, Diskin.

Kolodner, Kagan, Kustanovich, Kushnirova, Kochitov, Khadina, Kachakov, Kogan, Lindberg, Lutskaya, Latinsky, Latinskaya, Levin, Evgeny Lein, Irina Lein, Lembikov, Modlin, Mishina, Nosik, Nevransky, Oserman, Okun, Ostovsky, Olinko, Oserov, Pevzner, Pedorovsky, Spitkovsky.

Feshter, Fishkin, Fain, Gershun, Gimpelson, Gurevich, Gershuvitch, Gutterman, Inselevic, Ioffe, Irush, Kalendarov, Katzman, Kashdelon, Keiss, Kuna, Khnoch, Sardichenko, Smodkin, Shapiro, Shklar, Vilenchik, Vilnikov, Voskovoynikova, Volskaya, Zelichenok, Zeidinsk, Zomanskaya, Yampolsky.

A TRIBUTE TO WALLACE J. PAPROCKI

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. DYMALLY. Mr. Speaker, today it is my great pleasure to rise in order to pay special tribute to Mr. Wallace J. "Pap" Paprocki—on the occasion of his retirement after 41 years of service to the J.C. Penney Co. and his community.

Mr. Paprocki's career focused on the most important aspect of our society today. He dedicated his life to community service.

For the past 16 years, Paprocki served as the coordinator of government relations for the J.C. Penney Co. in the State of California.

In addition to his professional commitment to the Penney Co., he devoted many long hours, on a regular basis, to various causes in his community—oftentimes taking the much needed leadership position. He championed the fight to address various issues affecting the less fortunate. In 1986, he was honored by the press as the "Mover and Shaker of the Inland Empire."

I call on my colleagues to join me in applauding Mr. Wallace J. "Pap" Paprocki for his years of public service—on this the occasion of his retirement.

SPRINGFIELD SHRINERS HOSPITAL—A BEACON OF HOPE FOR CRIPPLED CHILDREN AROUND THE WORLD

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. BOLAND. Mr. Speaker, June 5 will be an important date for the Shriners Hospital for crippled children in Springfield, MA. On that day, ground will be broken for a new hospital building for the Springfield unit. Shriners from around the Nation and from the very active Springfield Melha Shrine will be on hand to begin the task of building a modern hospital to replace the current one at 516 Carew Street.

Springfield is proud to be home to this hospital. Parents and children around the United States and the world look to the Springfield Shriners Hospital when a child needs orthopedic surgery. The Springfield Shriners Hospital began treating children in 1925. It was one of the first Shriners Hospitals. Since that year, thousands of children with orthopedic handicaps have arrived in Springfield and left with hope for a full, active life. All cases are reviewed by the board of governors and the chief of staff. Children are admitted for care from infancy up until their 18th birthday without regard to race, creed or national origin. The amazing thing about this hospital, and all the Shriners Hospitals, is that no payment is accepted in whole, or in part, for any treatment or service rendered.

All services are free, including braces, artificial limbs, and crutches. This is truly charity at its finest, and the quality of care at the Springfield Shriners Hospital is so highly regarded that the top juvenile orthopedic experts in dozens of countries regularly send patients to Springfield to be treated.

Mr. Speaker, visiting the Springfield Shriners Hospital is a moving experience. There are children of many nations sharing rooms and sharing the experience of having surgery to correct handicaps. It is often a difficult, uncomfortable time for these children. But visitors to the Springfield unit find a hospital that is full of joy and happiness. The credit for this healing atmosphere goes to Administrator. Edwin Thorn, Chief of Staff Dr. Leon Kruger, and the chairman of the board of governors, Jack Butterfield. They, along with the many doctors, nurses, support staff, local Shriners and volunteers, keep the spirits of the children strong. Many patients have to learn to use artificial limbs, or to walk on surgically corrected legs. Holidays are a special time at the hospital, as the Springfield community pitches in with cards, food, toys, and visits from local schoolchildren. A visit to the Springfield Shriners Hospital is an experience one can never forget.

The future for the Springfield unit is bright. When opened in 1990, the new hospital—which will be constructed on the same 7-acre site—will have 40 beds for patients and a greatly expanded out-patient service unit. There will be two operating rooms. The current hospital has one operating room. The $20 million building will be two stories tall and have 105,000 square feet of space. No public funds are involved in this project. The new Springfield Shriners Hospital will be funded by the National Endowment of the Shriners Hospitals for Crippled Children. This is truly one of the great private philanthropic organizations and all Shriners can be proud of the great work done in the 22 Shriners Hospitals in the United States.

I salute Edwin Thorn, Dr. Leon Kruger, Jack Butterfield, and all those involved in running the Springfield Shriners Hospital on their June 5 groundbreaking. We can all look forward with great joy to the day that the new building receives its first patient. And, of course, I salute the Springfield Melha Shriners and the many Shriners nationwide who bring hope to children in need.

A TRIBUTE TO TEACHERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. SKELTON. Mr. Speaker, in the April 29 issue of the Lexington News, of Lexington, MO, Editor Michael Crawford published an excellent tribute to teachers. I congratulate the Lexington News on this editorial and I commend it to the membership of this body:

[From the Lexington News, Apr. 29, 1988]

EDITOR'S NOTES

(By Michael Crawford)

On Tuesday May 3, one of the most important segments of our community will be recognized—teachers.

Many area businesses and individuals have joined us (see page 9B) in recognizing this special group of people who are doing a special job.

It was too many years ago that a teacher taught the basics of reading, writing and 'ritmetic in a one-room building. Through the years, the role of the teacher has expanded. Today, the teacher not only instructs students on the basics, but also helps them prepare to meet life's everyday challenges. The teacher serves as counselor, coach and surrogate parent.

All too often we take for granted the responsibilities that a teacher takes on. It is not easy to keep the attention of 25 ten-year-olds, or any age of students as far as that goes. Daily, they must create an interesting yet informative way to convey the messages and information which are essential to our children.

Today, teachers must battle drugs, alcohol, cigarettes, unmotivated students, parents who do not support educational programs and parents who neglect and abuse their children.

After four years of additional education and many more hours of advanced study, teachers today do not command the respect they deserve. It is this group of dedicated professionals who are providing the basis for our future—the education of our children.

I urge you to take time Tuesday to say thank you or to acknowledge the exceptional job your child's teacher is doing. A note letting a teacher know you appreciate his or her efforts might brighten a day!

THE IMPORTANT UNFINISHED AGENDA ON TRADE FOR THE 100TH CONGRESS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. BEREUTER. Mr. Speaker, this Member is pleased that the House has overwhelmingly voted to override the Presidential veto of the omnibus trade bill on May 24, 1988, for many reasons including those this Member cited in the record of debate on that legislation on that same date. In light of the expected failure of the other body to override the veto I call to the attention of all Members of Congress to the lead editorial in the May 25, 1988, edition of the Washington Post which is attached.

If the veto is not overridden it is this Member's fervent hope that the Congress would quickly make only minor modifications to the comprehensive bill that was numbered H.R. 3 and send it to the President as a new bill. While our colleagues in the majority party in the Congress may be sorely tempted to consider reaping political gains from the unfortunate veto of H.R. 3 and while emphasizing the difficulties in crafting new legislation in the remaining days of the 100th Congress, the Post editorial points to two reasons why members of the majority party should be inclined to push for the enactment of a new trade bill:

[From the Washington Post, May 25, 1988]

AN UNWISE VETO

President Reagan was wrong to veto the trade bill, and particularly to veto it over the clause on plant closings. Unfortunately, it serves the purposes of people in both parties to exaggerate grossly the importance of this modest and limited requirement to give working people advance notice of layoffs and shutdowns. This proposal has allowed the administration to advertise its role as the champion of the factory managers, but it has given the Democrats an invaluable opportunity to win back those blue-collar voters who, in large numbers, twice supported Mr. Reagan. The Republicans have belatedly realized that they are likely to lose more than they can gain in this quarrel, and that's why, in his veto message, Mr. Reagan gave much emphasis to his endorsement of the placebo of voluntary notification.

The centrally important provision in this trade bill is not the plant-closing requirement, but rather the authority for the United States to take part in the current round of world trade negotiations. Until Congress gives the American negotiators the legal authority to make commitments, other countries are not likely to take them very seriously. And if the United States cannot pull the talks forward, there is no other country with the will or the stature to do it. In a year in which there is rising anxiety here about the alleged decline in American national power, it's hard to think of a more glaring case of U.S. international leadership sacrificed to a second-rate domestic political quarrel.

The House has voted by a wide margin to override the veto, but the outlook in the Senate is very different. If the Senate sustains the veto, it will make compellingly good sense for both parties to collaborate in rapid enactment of the trade bill with the plant-closing clause dropped out. The veto message broadly hints that Mr. Reagan would sign it.

Some Democrats are doubtless inclined to let the veto stand and use the plant-closing issue in the fall campaign. There are two reasons for them to reconsider, one partisan and one not. First, the next president may be a Democrat. Is there any Democratic congressman who doesn't think that a President Dukakis would have better things to do in his first term than to grind away on trade legislation?

Beyond that, the country's prosperity in the next administration—regardless of the party in power—is going to depend on getting its exports up. That's the only way—short of recession—to get U.S. trade in balance, to get the foreign debts under control and to stabilize the dollar. New and stronger world trade rules could give powerful help to American exporters, and exports mean jobs. To abandon the trade negotiations now, and to let them drift for another two or three years while a new administration wrestles with another bill, would be perverse and foolish even by the normal standard of campaign-year politics. The trade bill needs to be enacted this summer.

INTRODUCTION OF THE WORLD WAR II MERCHANT MARINERS FAIRNESS ACT OF 1988

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. FIELDS. Mr. Speaker, it is an honor for me to introduce today, on this National Maritime Day, the World War II Merchant Mariners Fairness Act of 1988.

While this day is special for all merchant mariners, this year's celebration is particularly poignant for thousands of our World War II merchant seamen who finally have been granted veterans status. After nearly 43 years, these brave Americans have received the recognition and benefits which they so fully deserve.

As someone who long has championed the cause of these forgotten men, I was pleased when Judge Louis S. Oberdorfer declared on October 2, 1987, that the Pentagon's previous decisions in this matter—rejecting veterans status for World War II merchant seamen—were "arbitrary and capricious and * * * not supported by substantial evidence."

As a result of this landmark decision, Secretary of the Air Force Edward C. Aldridge, Jr., issued a statement on January 19, 1988, which stipulated that service of the "American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945," should be considered "active duty" for purposes of all laws administered by the Veterans' Administration.

While I am glad that we have finally made the right decision in granting veterans status to some of these forgotten patriots, I am compelled to say that I believe the Secretary's decision is flawed in one critical aspect.

By creating the so-called period of armed conflict, the Secretary again has made an arbitrary and capricious decision which has no basis in law.

By selecting these dates, he has discriminated against hundreds, perhaps thousands, of Americans who served our Nation's Armed Forces with distinction and honor during late 1945 and 1946.

To illustrate my point, let me use the example of Mr. Charles Richard Page, a Houstonian, who was in U.S. maritime service from August 21 1945 to May 6, 1947. While Mr. Page enlisted in our merchant marine on July 15, 1945, certain bureaucratic delays prevented his actual induction by about 5 weeks. Following his induction, he successfully completed his military training at Catalina Island, off the coast of California, and he served with great distinction.

I disagree with those who argue that persons who entered service after August 15, 1945, are not entitled to veterans' status. Let me tell you why I believe all merchant mariners who served between December 7, 1941 and December 31, 1946, should be granted veterans' status.

Once again using Mr. Page as an example, while it is true he was on "active service" after August 15, 1945, the Japanese did not formally surrender to the United States and its allies until September 2, 1945.

Mr. Page and the other hundreds of merchant mariners who completed training in late 1945 and 1946 at places like Kings Point, St. Petersburg, and Catalina Island served on ships under the direct military control of the U.S. Navy. These merchant mariners traveled under sealed orders and their vessels were equipped with an array of military equipment, including 50-caliber guns.

In addition, President Roosevelt nationalized the shipping industry by placing it under the War Shipping Administration [WSA]. The WSA was in control of all ship movements until December 31, 1946.

Mr. Speaker, these ships were not taking pleasure cruises. They were transporting desperately needed supplies, including medicine, to countries that had been devastated by the war. The ships and their crews traveled through heavily mined waters, like the Mediterranean Sea, and on more than one occasion merchant ships were sunk by mines. In addition, the lives of our merchant mariners were threatened by local partisans who were still engaged in armed conflict.

Not until December 31, 1946, did President Harry Truman state during a press conference that he was issuing Proclamation 2714 which read in part that "although a state of war still exists, it is at this time possible to declare, and I find it to be in the public interests to declare, that hostilities have terminated."

Mr. Speaker, all other laws that affect World War II veterans use the date December 31, 1946. Quoting from the Veterans' Administration manual, "Chapter IV—Veterans Benefits. War Period. World War II comprises the period from December 7, 1941, to December 31, 1946."

Mr. Speaker, the August 15, 1945, date simply has no basis in law. In fact, the overwhelming preponderance of evidence suggests that the correct and only relevant date is December 31, 1946. After all, that is the date of Proclamation 2714, and that is the date used for all other World War II veterans laws. While I don't question the motives of the Secretary of the Air Force for choosing this so-called "period of armed conflict," justice demands that Congress finish the job which Secretary Aldridge began. That is the purpose of my legislation: to extend veterans' status to all merchant mariners who served our country's war effort between December 7, 1941 and December 31, 1946.

While it is true that people like Mr. Page received letters, ribbons, and other citations for their outstanding service, they are entitled to more than just these tokens of service. They deserve not only our respect, but they deserve to be treated in exactly the same manner as all other World War II veterans.

As MEBA President Gene DeFries noted in his National Maritime Day speech 2 years ago, "These merchant seamen are men who passed the test, a greater test than most have ever been called upon to face. They are men who went to sea. They are not armchair warriors. They are not 'Rambos' who have never seen the face of war. These are men of true courage. These are men who deserve our thanks, deserve our support, and above all, deserve our honor."

I agree entirely with that statement and urge my colleagues to join me today—on National Maritime Day—to treat these brave Americans with fairness and equity.

Let us finally end this injustice by enacting the World War II Mariners Fairness Act of 1988.

Thank you, Mr. Speaker.

H.R. 1988—POLLING DATA FROM CENTRAL CATHOLIC HIGH SCHOOL

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. YATRON. Mr. Speaker, the junior social studies classes of Central Catholic High School in Reading, PA, have been studying the American political process this year. They have been closely analyzing the legislative process and how our laws are made. In recent months, they have conducted a public opinion poll on H.R. 1988, the Olympic Checkoff Act.

This legislation would establish a special tax return checkoff which would be earmarked for use by the U.S. Olympic team.

The students polled 1,553 individuals from 20 States and the District of Columbia. The results were also tabulated according to several demographic characteristics such as age and sex. This was truly an impressive effort by the Central Catholic students. The polling team, led by Marisa DeSantis, Kristen Stubbelbine, Marcy Moyer, and Lynn Madl, came up with some very interesting results. Overall, the students found that 86.3 percent of their sample supported H.R. 1988; 10.9 percent of those surveyed opposed the bill and 3 percent expressed no opinion.

These poll results provide strong evidence of the wide public support for H.R. 1988. I am pleased to convey these results to my colleagues and I hope that they will keep this data in mind as we continue our efforts to enact H.R. 1988. I also want to take this opportunity to congratulate the students of Central Catholic High School for their fine work on this survey and to wish them continued success in their studies. Their interest in the work of the Congress deserves commendation and I hope that they will continue to participate in the democratic process.

ON BEHALF OF DAVID W. HORNBECK

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. CARDIN. Mr. Speaker, I rise today to mark the passing of an era in Maryland public education. David W. Hornbeck will soon be retiring after serving 12 years as Maryland State Superintendent of Schools.

Mr. Hornbeck's career in education began in 1966 when he was named director of a public school tutorial project in Philadelphia. Later he served as deputy counsel to the Governor of Pennsylvania and special assistant and counsel to the Pennsylvania Secretary of Education, before being named Maryland's Superintendent of Schools.

Maryland public schools have experienced a steady and recognizable improvement under Mr. Hornbeck's stewardship. The number of students taking the scholastic aptitude test, the average scores on the test and the percentage of Maryland high school students going on to college have all increased over the past 12 years. We are hopeful that equally capable and dedicated individuals will step to the fore as we address the challenges of the future.

Although his departure is a big loss for our schools, all Marylanders are pleased that Mr. Hornbeck will continue to be active in the field of education both as a lawyer specializing in education issues and as a visiting Professor of Education and Public Policy at Johns Hopkins University. He will also continue his work as vice chairman of the board of directors of the Carnegie Foundation for the Advancement of Teaching.

I invite my colleagues in the House of Representatives to join me in saluting the career of an exemplary public servant, David W. Hornbeck.

STEPHEN B. ROMAN, HUMAN RIGHTS LEADER

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. RITTER. Mr. Speaker, this week we will consider House Resolution 437, protesting Soviet human rights violations and I am reminded of the recent passing of Stephen B. Roman of Toronto, Canada. He was a leader and organizer of all Slovaks outside of Czechoslovakia and was looked on as a fighter for human rights by those inside as well as outside of his homeland.

Mr. Roman, named to the Order of Canada, was chairman and chief executive officer of Denison Mines Ltd. and was succeeded by his daughter, Helen Roman-Barber who has been vice-chairman of Denison since 1985. Like many others, I got to know Stephen at one of the many world congresses he organized to promote human rights and to highlight the abuses inside Communist Czechoslovakia.

Moreover, it is my good fortune to have many constituents of Slovak heritage who are vitally concerned and active in breaking down human rights barriers behind the Iron Curtain. Through their initiative and efforts, supported by Stephen Roman and his family, abuses, such as religious restrictions in Czechoslovakia, are exposed. In fact, at the March funeral, there was a personal message for Stephen's wife Betty from the Vatican:

> The Holy Father was greatly saddened at the sudden loss, and vividly recalls his special apostolic visit to Unionville to bless the cornerstone of the Cathedral of the Transfiguration and prays for the soul of your deceased husband.

Although Stephen was the head of a multi-billion-dollar empire, he once said: "There can be no joy in forever commanding an earthly empire." According to a friend: "In an age when many leaders rule by consensus, Stephen was a man who spoke his mind on communism, politics, and business without looking at which way the wind was blowing." Stephen devoted his life to helping others and he did not forget those in his homeland.

He was 16 years of age when he arrived in the United States just prior to World War II and went on to build a vast business empire but never forgot the plight of his brethren. At his passing, he was honored by friends from all walks of life—from Prime Ministers to this Congressman, farm workers and children. There is no doubt that Slovaks, not only in my Lehigh Valley Congressional District but throughout the world will cherish the memory of Stephen Roman and look to his family to carry on his fight for human rights.

SUPPORT FOR VETO OF TRADE BILL

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. LEWIS of Florida. Mr. Speaker, the omnibus trade bill recently vetoed by the President contained a number of provisions which are important for the long-term viability of America's trade prosperity, economic growth and future standard of living. The major thrust of this legislation was free, fair, and open trade, at a time when the United States is suffering from a record trade deficit and has recently become the world's largest debtor nation. In real terms, our deficit means record surpluses for many of our trading partners, many of whom restrict their own markets from American products and services.

In the past, the United States has stood idly by while our trade partners were busy gobbling up our markets both home and abroad, and protecting their own markets with restrictive quotas, tariffs and nontariff barriers. While the United States does maintain our share of tariffs, quotas, and nontariff barriers, our markets continue to remain freer, fairer and more open than any market in the world.

I supported the calls for stronger enforcement of this country's trade laws. I pushed for stronger legislation regarding exports of America's precious technology, and I continue to fight against market barriers on American exports. All of these concerns were addressed in the omnibus trade bill. This begs the question, why did I vote to sustain the President's veto?

In reaching my decision, I had to balance the benefits as well as the burdens of this legislation. In addition to those positive aspects mentioned above, a provision was included that would require private businesses with 100 or more employees, to give 60 days notice of any layoffs or plant closings. On the surface, giving advance notice to employees is both reasonable and fair. Any reputable business should give this consideration to their most important asset, their people. The problem, however, is the principle.

Legislating business to run their internal affairs as the Government sees fit is simply wrong. Not only is it bad for business to have Uncle Sam telling them how to run their business, but it's a bad use of Government resources. American business needs Government assistance in opening foreign markets, not help in running their own business.

Moreover, once Government starts telling private business how to run their internal affairs, it will only be a matter of time before Government starts telling business what else to do. This provision simply establishes a bad precedent.

I support giving American workers fair and adequate notice, but I believe Government should not be mandating this requirement. America needs Government to do what it does best by keeping markets free, fair, and open so business can do what it does best, compete.

TRIBUTE TO JIM DICK

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. BADHAM. Mr. Speaker, I rise today to bring to the attention of my colleagues the achievements of a great Orange County citizen. Jim Dick has been a leader in Fountain Valley, CA, for nearly a quarter of a century. Recently, he was recognized for his devotion to his community by being named Fountain Valley Citizen of the Year.

In 1964, Jim and his wife, Doris, settled in Fountain Valley, and ever since, the community has had good reason to applaud their decision to relocate there from the east coast.

Jim has been an active force behind the Fountain Valley Historical Society. Through his commitment to the preservation of the history of the area, buildings have been saved, site markers positioned, and historical site calendars printed.

He did not stop there. He has been a member of the planning commission, the Friends of the Fountain Valley Library, the Belfontaine Homeowners Association, and the Fountain Valley Traffic Commission.

Through the years, Jim Dick has been a resource the community could count on and is certainly deserving of the Citizen of the Year Award. It is my distinct honor and pleasure to ask my colleagues to join me in honoring Jim Dick and wishing him all future success. I know he will continue to work to improve the quality of life for his Fountain Valley neighbors.

CELEBRATING 40 YEARS OF PUBLIC SERVICE

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. KOLTER. Mr. Speaker, today marks the celebration of Beaver Valley Radio Station WBVP. Throughout its 40 years of existence, WBVP has been enormously successful and important to the community.

On May 25, 1948, at 5 p.m., the late radio announcer Chuck Wilson anchored the station's first broadcast. WBVP's programming provides Beaver Valley with news, sports, public information, and entertainment. Over the past four decades, air personalities were featured such as Gertrude Trobe, the "Teddy Bear" Jim Reynolds, and former Pennsylvania Lt. Gov. Ernie Kline.

WBVP is active in the community. The station has coordinated everything from school closings to assisting families after disasters. WBVP received national notoriety in 1981 when it was the first radio station to interview President Ronald Reagan after the assassination attempt.

Through its programming and community participation, WBVP has served the Beaver Valley area well. I ask my colleagues to join me today to commend WBVP for 40 years of local radio broadcasting. I convey best wishes for many more successful years.

PRESERVING THE COMMITMENT TO FREEDOM

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. GALLO. Mr. Speaker, as the President departs for the historic summit with General Secretary Gorbachev, we must reconfirm our commitment to people who have been denied exit visas from the Soviet Union, the free practice of their religion, and other basic human rights. We are all too familiar with their sad and frustrating stories.

Now is the time for the Soviet Government to comply with the International Covenant on Civil and Political Rights and the Helsinki accords. These treaties, along with several other agreements, place responsibility on each participating nation, including the Soviet Union, to permit individuals to emigrate. Sadly, the Soviet Government has not complied with treaties that its delegates freely signed.

As representatives of the United States and Members of Congress, we must insist that the Soviet Government permit Soviet people to leave their homeland at their own discretion. Only then will trade concessions, sharing of scientific breakthroughs, and arms limitation talks be successful between our two nations.

On a personal level, I would like to share with you some of the tales of hardships that individuals and families have faced over the years. Many of my constituents are either friends or family members of Soviet citizens who remain in the Soviet Union against their will.

Members of my most recently adopted family, the Mendeleevs, have been refused exit visas since May, 1973, because of Oscar Mendeleev's exposure to "alleged state secrets" during employment that he held before 1969.

Doctor Igor and Ina Uspensky have also been prevented from leaving because of "state secrets" which cannot possibly be based on any of their research and scientific work that has been published.

The Raiz family of Vilnius, who have two sons old enough to be drafted into the Soviet military, have been denied any type of permission to leave until the year 2000. In the meantime, Mrs. Karmellah Raiz is ill and has not received proper medication.

Mr. and Mrs. Kalendariov have been separated from their daughter and son since 1973 and 1979 respectively. The couple, upon applying for a visa in 1973, repeatedly have been harassed. They were told that they could not reapply until 1992.

The Zelichonoks suffer from health problems. Mr. Zelichonok was also arrested and sentenced in 1985 to 3 years in a labor camp because of "correspondence with foreigners in the West."

Mr. Nikolai Ferenc, an 80-year-old man, has been separated from his family for over 40 years. His sad situation has received the heartfelt support of the children in my district. Students from Mr. Ferenc's great-grandson's third grade class have written to General Secretary Gorbachev urging him to release Mr. Ferenc. I have also received many additional letters from other children and adults who are very concerned about the separation of Mr. Ferenc from the rest of his family.

Our commitment to free emigration and protection of human rights is the window of opportunity and reason for hope for families who wish to be reunited with their loved ones. We need to urge the Soviet Government to uphold its commitments as we are upholding ours. The Soviet Government must fulfill the terms of the agreements to human rights and abide by them.

Sadly, history shows that emigration doubles during negotiations and shuts down once the summit is over. In light of the upcoming summit, I urge General Secretary Gorbachev to remain committed to free emigration and protection of human rights. Closing the door once the present summit concludes will only create more mistrust of the Soviet Government and reduce chances for peaceful negotiations between the Soviet Union and the United States.

HONORING THE KEARNY FIRE DEPARTMENT

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. TORRICELLI. Mr. Speaker, it is with great admiration and respect that I rise today in recognition of the growth and accomplishments of the Kearny Fire Department and the valor and uncommon courage of its members. What began on January 9, 1888 as a volunteer force, using a two-wheeled hose cart and a crude bell alarm system, became the foundation for the professional 146-member team of today, which provides fire protection in the town of Kearny and surrounding neighbor communities, utilizing a sophisticated communications system and modern, efficient equipment.

During the year of 1988, the Kearny Fire Department is celebrating the 100th anniversary of service to the community. In recognition of this important milestone, a special anniversary celebration will take place on Memorial Day, May 30, 1988. I wish to thank all the members of the Kearny Fire Department who act in the highest traditions of the fire service when they face the reality of danger with prompt action, concern, and responsibility, often in disregard for their own personal safety. I take special pleasure and pride in recognizing their spirit, unswerving dedication, service and ongoing commitment to the safety and betterment of their community. Of special significance and importance in Kearny Fire Department history, is the firehouse built in 1894, which was officially registered among State of New Jersey historic places on April 20, 1987 and listed on the National Register of Historic Places on May 29, 1987 by the department of environmental protection in Trenton.

Mr. Speaker, let me conclude my remarks by extending my appreciation for their efforts and offer my best wishes in the future. I hope the House will join me in saluting all the members, past and present, who represent the highest ideals of the American spirit and reflect the history of their proud, strong and loyal fire department.

TRADE BILL—WHAT THE HYPE WAS ABOUT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. BEREUTER. Mr. Speaker, in light of the overwhelming decision by the House to override the Presidential veto of the omnibus trade bill and the impending decision in the other body on the veto, the attention of Members of Congress is invited to the following excellent excerpted article by the business writer of the Lincoln (NE) Journal, Mr. Dick Piersol, which is found in the May 15, 1988, edition of that newspaper.

The article follows:

TRADE BILL—WHAT THE HYPE WAS ABOUT

(By Dick Piersol)

Nobody really expected the President to veto the omnibus trade bill on Friday the 13th.

So as the bill descends slowly into file 13 of the White House, it may be an auspicious time to take a look at what the fuss was about.

This thing has been hyped and maligned about as much as anything that has passed through Congress in a long time.

And for what?

The really crazy parts of it were knocked out in conference committees.

For example, former presidential candidate Richard Gephardt's political cynical and jingoistic approach to foreign trade policy—mandatory retaliation toward trading partners that carry too large a trade surplus—was thrown overboard and keelhauled a long time ago.

Maybe Congress perceived, however dimly, that:

It took 13 years for the United States to build its trade deficit to its current record levels. Any attempts to restore equilibrium is unlikely to succeed by blaming and attempting to punish the foreign governments whose merchants sold to willing buyers in the United States. The deficit grew because of a combination of currency exchange rates, foreign protectionism, and not least, because U.S. industry and the government let it happen.

Any attempt for a quick fix would bear the legacy of the notoriously protectionist Smoot-Hawley Act enacted in 1930.

* * * * *

The reduction of the trade deficit depends not only on the opening of existing markets in foreign industrialized nations, but also on the creation of markets in nations whose governments, as a matter of policy, maintain cultures that deprive the majority of their citizens the opportunity to buy anything, much less U.S. goods designed without a thought of foreign buyers in mind.

Perhaps the most significant but least appreciated part of the trade bill authorizes the executive branch to negotiate new trade agreements. It would be difficult, if not impossible, to exaggerate the importance of those negotiations. The nation's international trade depends much more on these deals than the ones cut in the lobbies of Congress.

Among our government's laudable positions in those negotiations is to open world markets in agriculture, one of the few sectors of trade in which the United States still runs a surplus, and in services. Never before has either sector been the subject of negotiations under the worldwide auspices of the General Agreement of Tariffs and Trade.

All other things being equal, all playing fields being level, all subsidies aside, the United States has little to lose and a lot to gain by insisting on free trade in agriculture and services.

An equally important position is to address as trade issues the domestic policies of foreign governments.

The United States is the most lucrative market in the world. Why? Because its people created a government that allowed the evolution of a middle-class bunch of consumers. Other governments, and not all of them regarded as our enemies, have deliberately retarded the growth of broad-based economies to the benefit of privileged classes and to the detriment of the world economy.

* * * * *

So what else did the trade bill do?

It takes some of the president's power and gives it to the U.S. trade representative. All those who think this Cabinet-level employee is likely to do anything the boss doesn't like, raise your hands.

It eases the provisions of the corrupt practices act so U.S. businesses can go to work in the Middle East under the prevailing ethos there. Some people call it bribery.

It requires companies to give 60-days public notice to close a plant or lay off a lot of people. During an interview when he was in Lincoln to deliver a commencement speech, Yeutter made it clear the Reagan administration will do nothing that might encourage unions or their friends in Congress to make any kind of demands on industry or the government.

It expands loans and grants to small businesses trying to break into international markets.

In fact, when you get to examining the thing, the trade bill looks a lot more like a farm bill, an artifice to continue propping up the farm economy in an election year, or a hammer to bring reluctant foreign negotiators to heel.

No fewer than 15 portions of the bill deal with agricultural trade policy, trade subsidies for U.S. farmers and export subsidies for grain merchants.

As international trade issues continue to mature, it might be worth pondering these facts collected from Harper's Index in the monthly magazine:

Percentage of world exports in 1966 that were sold by American companies: 18.

Percentage today: 18.

ADVICE ON LAW AND THE PRACTICE OF LAW

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. RANGEL. Mr. Speaker, I would like to share with my colleagues the remarks made by the Honorable James L. Watson of the U.S. Court of International Trade on May 5, 1988, before the Black Law Students' Association of the Brooklyn Law School. His remarks contain advice for minority members and others who are considering careers in law.

Judge Watson's speech addresses the problems of greed and blindness in today's law profession. Too many are approaching the law as a means for earning large sums of money, luxuries, and power while law's true values are being forgotten. Law was created to hold society together in relative harmony, not to simply further the lives of those who practice it.

Minority members in the law, cites Judge Watson, have a special responsibility to see the realities of society and never fall prey to the materialism which often accompanies success. A minority member is able to have a special perspective of society and must continually remain aware of justice and fairness. A minority member must also stay attuned to his culture.

I believe that Judge Watson's advice is both sound and timely. His remarks make us keep in mind the fact that law is a tool for society, not for the individual. This fact must be taken seriously due to the current influx of law students specializing in corporate law. I hope that my fellow Members of Congress will agree with Judge Watson's advice and urge others to pursue a career as a lawyer with law's true essence in mind. Lawyers are the protectors of a most sacred pediment of society; and law cannot afford to be blinded by greed and ignorance.

REMARKS BY JUDGE WATSON, BROOKLYN LAW SCHOOL, BLACK LAW STUDENTS' ASSOCIATION—MAY 5, 1988

I am dividing my remarks into two sections, both of them giving some practical advice on law and the practice of law. The first part is directed to matters which anyone entering the field of law should know. The second is specifically directed to members of minorities.

Law is a gigantic and pervasive field and I can only discuss a few fundamental aspects of it. One of the most disturbing trends in law in recent times has been the growth of the belief, that the only law worth practicing is the law which focuses on big deals, big money and big issues. This is part of the general infatuation of modern society with large size and material wealth. It is particularly sad, and more than that, dangerous, when lawyers become the blind and obedient servants of power and wealth. I try never to forget that law is an idea or institution which humans have devised in order to maintain a semblance of fairness and harmony in society. I presume that without law, human society would be dominated by the use of force and violence. Of course, some cynical people would say that, that is precisely what we have, and that, in most respects, law is simply the instrument by which the ruling establishment maintains itself in power while providing the illusion of fairness and justice. But I hold to the ancient, if perhaps naive view, that there is a genuine respect for the law at the core of this society and that, when the day of judgment comes, justice is dispensed without partiality and without regard for position in society.

One of the big problems with power law, that is to say, law which focuses on accomplishing the objectives of the established interests, usually powerful business interests, is that the practice of such law often causes the practitioner to become dehumanized. You should never forget that law is a profession designed to help human beings cope with the rules of society. If your scale of values is not completely warped there should be at least as much satisfaction helping a person deal with a landlord/tenant problem as helping a multi-national corporation deal with a problem of government regulation or a hostile takeover.

So the first thing I would say to you is not to be fixated on practicing law as an associate in a big firm. Many people find working for such firms to be a dehumanizing experience. These law firms are such massive enterprises that they require a great deal of mechanical efficiency and bottom-line thinking in which the needs and wants of the workers, or drones, are not much taken into account.

Another thing that I want to emphasize is that a really good lawyer is not a person who is completely wrapped up in law and completely uninterested in other fields of human activity. The best lawyers are well-rounded people. People who understand human psychology. People who appreciate art and science in general. People who understand how to enrich what they do in the law with the multitude of humanistic skills which come from familiarity with other areas. That is why it is important for you to respect, understand and enjoy great literature, great art and great history. You must also recognize the fundamental importance of learning how to appreciate other people whether or not they occupy an important rank or station in your scale of judgment.

In this way you finally come to realize that what is important in the world is not the accumulation of material wealth or the exercise of power. Although it cannot be denied that a certain level of comfort makes life more enjoyable, the establishment of certain basic, human relationships and a meaningful human environment in which to live your life is of the greatest importance. I believe that a person can be comfortable without being overly acquisitive. Now, I am going to turn my attention to the question of how a minority lawyer fits into the big picture.

It is a natural human tendency, and certainly a lawyerly tendency, to notice distinctions, and the distinctions which make one a member of a minority are noticed, particularly by those examining an applicant for the purpose of employment. As crude as these superficial distinctions are, they are a real factor in human behavior and you must reconcile yourself to the idea that in most settings in the legal profession the fact that you are a member of a minority will be the subject of notice. I don't mean necessarily that it will evoke a negative response but it will be a distraction. There is nothing you can do to counteract this response except to conduct yourself with the maximum of professional dignity.

One of the things which I think you must come to terms with is that whether or not you want to that way, a special role will be thrust upon you as you make your way in the legal profession. It may not be a role that you want. You may not have within yourself any particular consciousness of yourself as a member of a minority, or you may even wish to obliterate that consciousness in the neutral role of a pure professional. Or, as is possible for any intelligent person, you may be looking to deemphasize your minority status within that range of human behavior by which we can either stress or unstress certain aspects of our personality or behavior. However, it is one of the seemingly unchangeable facts of human life that very often we are defined in the world not by what we are ourselves but by the category in which we are placed by others, even if it is something as crude as "you are not one of us and I don't particularly care what you are once I've made that distinction."

Now, I don't want to suggest that the existence of this special consciousness regarding your minority status is going to be the dominant factor in your legal careers. But, I think it would be foolish to ignore the fact that it will be an important element. Now, this doesn't mean that it is a negative element. From my point of view, it is a positive element because a person with a minority consciousness is particularly valuable in the field of law. A person with a minority consciousness always has a special appreciation of the importance of genuine justice in the conduct of the society. The person who is from the majority background, who has been brought up as a beneficiary of the sheer weight of numbers, who has the untroubled expectation of exerting overwhelming force in the society, simply does not have this consciousness and sensitivity as a matter of course.

I think that as a member of a minority in this society and a member of the legal profession you are going to (if you want to maintain honesty in your professional life) have to keep up a special awareness of justice and fairness and a continuing awareness of the deficiencies existing in this society.

Even in this best of all possible worlds there are tremendous social problems remaining and developing in terms of the fair distribution of the country's wealth, in terms of a development of a class of permanently underprivileged persons who are not sharing in the pursuit of happiness, in the continued existence of hunger and homelessness, and in the seemingly endless addiction of this country to drugs, both pharmaceutical and mechanical, and corruption. I don't expect you to turn into saviors, or crusaders, but I do expect that you will maintain a higher than average standard of interest in seeing that justice is done, in focusing on the problems faced by the nation, in resisting the temptations of greed and selfishness, and in using the law to do the right thing rather than the expedient thing.

As you make your way in the law I hope that you will keep your antennae attuned to the existence of other minorities, particularly that larger minority of people who truly believe in justice and equality and who do what they can to make the dream come true. That minority cuts across racial and ethnic lines and consists of all people who, one way or another, have arrived at a balanced and harmonious view of themselves and other human beings. Some enter that larger minority by force of intellect or logic, or spiritual enlightenment, or reaction to evil. But, in this society, you are born into that minority, you are kept in it whether you like it or not, and you should make it into a source of pride, strength and accomplishment in your professional career.

Now, I am open for questioning.

COMMUNIST SANDINISTAS DO IT AGAIN AT SAPOA

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, when the Sandinistas signed the peace agreement in Sapoa in March, they were probably thinking exactly the same thing they were thinking when they signed the Guatemala accord in August 1987: they would never comply.

You don't even have to guess what the Sandinistas are thinking to predict the future of Nicaragua as long as the Communists are in power. All you have to do is open your eyes to what they are doing.

The Sandinistas have blatantly violated the Sapoa agreement—as they have over and over in the past.

SOVIET MILITARY AID

U.S. military aid to the freedom fighters has been cut off in accordance with the agreement. But the Sandinistas continue to receive millions of dollars in military aid from the Soviets.

CEASE FIRE

On April 4, Sandinista soldiers attacked a resistance unit in La Vigia and wounded three freedom fighters. The Sapoa cease fire was effective April 1. The Washington Post reported that a captured Sandinista verified the attack.

POLITICAL PRISONERS

Most of Nicaragua's 10,000 political prisoners remain incarcerated. Prisoners released under the guise of compliance with Sapoa are often not political.

FREEDOM OF THE PRESS

Under Sapoa, the Sandinistas promised full freedom of the press. The government's refusal to sell La Prensa newsprint makes this another empty promise.

POLITICAL PARTICIPATION

Under Sapoa, the Sandinistas promised to guarantee the right of full political participation. On May 4, Sandinista State Security arrested 25 opposition leaders.

Every day, the evidence keeps stacking up against the Communist Sandinistas. It couldn't be more clear.

Mr. Speaker, I am inserting the following article from the Washington Post regarding the necessity of the Communist Sandinistas now fulfilling their commitment to freedom, which they have so dismally failed to do thus far.

[From the Washington Post, March 25, 1988]

CEASE-FIRE IN NICARAGUA

If the cease-fire takes hold, Nicaragua will see an end of fighting for the first time in nearly seven years. Undeniably, this is a great boon. Thousands of lives have been lost, the life of the nation shredded and a whole region drawn into a maelstrom by the long war between the ruling Sandinistas and their rebel challengers. The cease-fire negotiators sang the national anthem when they signed. But it is far from certain that the community of purpose implied in the song has much of a chance—or even exists.

The cease-fire accord has the superficial appearance of an agreement between equals. The Sandinistas won a respite from a draining war. The contras gained a political beachhead in Nicaragua. But there is a difference. The two sides had arrived at that critical moment in a negotiation when both simultaneously agreed that further delay risked losing more than could be gained. But with the war, the Sandinistas were hurting badly, while with the aid cutoff, the contras were collapsing. The regime has a better chance to consolidate the truce on its terms than the rebels have to expand their beachhead.

The Sandinistas are opening the political door just a crack; their record suggests they will struggle to limit any democratic passage through it. Their immediate strategy is to ensure that Honduras shuts down its contra sanctuaries. From last week's—and this week's?—incursions into Honduras, it is plain what Nicaragua's threats to Honduras are. What are its positive assurances? Another part of the Sandinista strategy is to draw the United States out of its role as the partisan of one Nicaraguan party and into a role as guarantor of the cease-fire. The United States should indeed become a guarantor—but not simply of a cease-fire. It has a stake in the fulfillment of the Sandinista pledges on democratic practice too.

The problem is that it has also now pretty much abandoned or lost the instruments of pressure for seeing that this comes about. Congress cut off the contras at the American end and the cease-fire cuts them off at the Nicaraguan end. The remaining external lever is chancy, abstract, suspect and easily ridiculed: the political and moral force that others in Central America and the United States can bring to bear. But improbable though it might be that these pressures can succeed, at the very least those who urged the aid cutoff and the present course have an obligation to pursue them rigorously.

It has been argued by the anticontra left over the years that the Sandinistas could not reasonably be expected to democratize while facing a mortal threat. It follows in this logic that, being no longer under the gun, they can reasonably be expected to honor their pledges to democratize. Central America has an evident self-interest in hounding them to do so. And those Americans who have repeatedly urged others to "give peace a chance" now have an obligation to turn their attention and their passion to ensuring democracy a chance as well.

INVITATION TO SWAPO LEADER

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. HERGER. Mr. Speaker, for the past few weeks Sam Nujoma, the leader of the South West African People's Organization [SWAPO], has been traveling throughout the United States speaking out on United States policy toward Namibia. During his time in Washington, Nujoma participated in so-called hearings on Namibia on Capitol Hill and met with Undersecretary of State Armacost at the State Department.

When asked on these occasions what kind of government Namibians could expect under SWAPO leadership, Nujoma indicated that he foresees a democracy with the protection on basic human rights. Nujoma also told his audience on Capitol Hill that the suspected traitors and collaborators would be treated well if SWAPO were to be in power after Namibian independence.

Given SWAPO's track record of well documented terrorism and its continuing atrocities against the civilian population of Namibia, this new-found conciliatory attitude displayed by Nujoma seems a bit suspect. At a press conference immediately following these Capitol Hill meetings the panel either sidestepped or ignored any questions having to do with SWAPO's current attitude toward human rights.

One question left unanswered at these meetings sheds particular light on SWAPO's true character: The plight of the "missing SWAPO 100."

On February 16, 1986, SWAPO admitted that they were holding 100 detainees who allegedly were "South African spies." Other organizations have suggested that they were innocent civilians. Since then, a number of human rights groups, including Amnesty International and the International Society for Human Rights as well as our own State Department, have condemned the abduction. SWAPO, however, continues to refuse to provide any information about the status of the detainees. Not even the pleas of parents and relatives who make up the Parents Committee in Namibia can convince Sam Nujoma to release any information about their well-being.

Is it any wonder that many question the sincerity of Sam Nujoma when he speaks so eloquently about democracy and human rights?

Eager to exploit the possibility that SWAPO may be realizing that the armed struggle is counterproductive, the internal political parties in Namibia have again called on SWAPO to join them in discussions to finalize a constitutional draft embodying the principles spoken of by Nujoma while here in the United States. If Sam Nujoma is serious about what he has said while here in the United States, he will take this challenge and join those who seek peace and national reconciliation in Namibia.

JIM THORPE'S BIRTHDAY CENTENNIAL CELEBRATED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. KANJORSKI. Mr. Speaker, 100 years ago one of the world's all-time greatest athletes was born on an Indian reservation near Prague, OK. I am speaking of course, of Jim Thorpe, the phenomenal athlete who excelled in every sport he attempted and won gold medals in the decathlon and the penthathlon in the 1912 Olympics in Stockholm.

In the western Pocono Mountains in northeastern Pennsylvania, a town formerly known by the Indian name Mauch Chunk changed its name to Jim Thorpe to honor this great athlete and to give his remains a final resting place of honor. At the Jim Thorpe mausoleum in Jim Thorpe, PA, the town will be holding a birthday party in celebration of the birth of this famous athlete 100 years ago.

Mr. Speaker, the story of Jim Thorpe is one of the American dream fulfilled and then lost. Born on an Indian reservation, Jim Thorpe attended the Carlisle Indian School in Carlisle, PA, and became a national sensation as a football player. He became a semiprofessional baseball player while working on a farm in North Carolina during the next several years. In 1912 he went to Stockholm with the U.S. Olympic team and won gold medals in the pentathlon and decathlon, setting records which have never been matched. He was elected as the first President of the American Football League, which later became the National Football League. In the 1930's Thorpe returned to Oklahoma to work on behalf of the Sac and Fox Indians. He served in the Merchant Marines during World War II. Associated Press elected him the Greatest Football Player and Greatest Male Athlete of the Half-Century in 1950, and Sport magazine named him the "Greatest American Football Player in History" in 1977.

For all of the recognition Jim Thorpe received for his athletic ability, he died of cancer in the poverty wing of a Philadelphia hospital. His Olympic gold medals had been taken from him because he had been accused of playing professional baseball before the 1912 games; he had earned approximately $60 and never knew that taking the money would violate Olympic rules. Although his medals were restored posthumously in 1983, Jim Thorpe never knew that his reputation and fame would find resurgence after his death. Now he is revered for his tremendous athletic talent.

Mr. Speaker, I join the town of Jim Thorpe in honoring the memory of their namesake on this centennial of his birth. As a young American Indian who became an international sensation for the talent he worked so hard to develop, Jim Thorpe is a man all can learn from.

NATIONAL RURAL HEALTH AWARENESS WEEK

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. LIGHTFOOT. Mr. Speaker, this week is "National Rural Health Awareness Week." I am pleased to support legislation designating the week of May 19, 1988, as "National Rural Health Awareness Week."

I am a cosponsor of this legislation, which was unanimously approved by both the House and Senate and emphasizes the importance of an accessible and affordable rural health care delivery system.

Rural America's health care needs are not being adequately met. This legislation recognizes that rural America has special health care needs and should not be confused with or treated as our urban counterparts.

As members of the Rural Health Care Coalition, my colleagues and I are currently examining various problems encountered by rural hospitals. The coalition is diligently pursuing research to find solutions for the rural health care crisis. Our agenda includes the payment differential between rural and urban hospitals and the serious shortage of physicians and other health care providers in our rural areas. The difficulty in recruiting health professionals is to a great degree attributed to the differential in Medicare physician reimbursement rates.

The elderly in rural America often have to travel longer distances to be treated by a health care provider. Twenty percent of my congressional district is comprised of older Iowans who depend on having accessible care to meet their health needs.

I am pleased to offer my support for this worthy resolution as it will educate our Nation regarding the health care needs of rural America. I hope that legislation will be introduced and supported which will address rural health care inequalities.

KILDEE HONORS CONCERNED PASTORS FOR SOCIAL ACTION COURIER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to a newspaper that is an advocate in promoting human dignity and justice in my hometown of Flint, MI, the Concerned Pastors For Social Action Courier.

For several years now, the CPSA Courier has played an active role in keeping our community abreast of current events and community activities. The Courier has a deep and abiding commitment to serving the people in our city, and its news stories oftentimes focus on the human element which is largely forgotten by most newspapers. The Courier continually urges its readers to get involved in their churches and neighborhoods. In many ways, the CSPA Courier serves as the social and religious conscience of our community.

I believe that the Courier's commitment to our city is reflective of the outstanding efforts of the members of the Concerned Pastors For Social Action. This group of pastors, representing some of the largest congregations in the city of Flint, have long served our community as dedicated public servants. Their deep sense of compassion and understanding, and their active role in helping those who are the most vulnerable in our society, has won them the respect, the admiration and the heartfelt thanks of our entire community. We in Flint and surrounding areas consider ourselves truly fortunate to have these pastors living amongst us.

Mr. Speaker, it is with great pleasure that I ask my colleagues in the House of Representatives to join me in recognizing the Concerned Pastors For Social Action Courier as an outstanding newspaper which has significantly contributed to improving the quality of life in our community.

NATIONAL LIGHTHOUSE DAY RESOLUTION

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. HUGHES. Mr. Speaker, today I am introducing a resolution to designate August 7, 1989, as "National Lighthouse Day." I am pleased to be joined in sponsoring this resolution by my colleagues DANTE FASCELL, of Florida, JIM SAXTON, of New Jersey, and BILLY TAUZIN, of Louisiana.

August 7, 1989, is the date on which we will be celebrating the 200th anniversary of the signing of the Lighthouse Act and the commissioning of the first Federal lighthouse in the United States. We believe it would be an appropriate occasion for Congress to call special attention to the unique role which lighthouses have played in our country's history.

There are very few symbols of our Nation's rich maritime history as visible and familiar as lighthouses. The first American lighthouse was built in Boston Harbor in 1716, and over the years some 1,200 lighthouses were constructed along our coastlines, rivers, and lakes. Initially, these structures served as key navigational aids marking the channels and reefs.

For a number of reasons, however, lighthouses diminished in use over the years. The development of highways and railroads shifted much of our commerce from water to land. New technology came on line to replace lighthouses with more sophisticated electronic navigational devices. Finally, the elements themselves took a toll, causing many lighthouses to fall into disrepair.

Today, there are approximately 750 lighthouses still standing, perhaps only 500 of which are still lit. In fact, I am proud to point out that the oldest standing lighthouse in America in continuous use—it was lit in 1764—is located in New Jersey at Sandy Hook State Park. While most lighthouses are no longer operational, they remain historically and culturally significant. All across the country, communities and private organizatioins have taken the lead in restoring local lighthouses, so that future generations will have an opportunity to visit and learn about these facilities.

In Salem County, NJ, for example, a group of citizens organized a successful effort to restore the historic Finns Point Rear Range Lighthouse near Fort Mott State Park. The two lights at the Finns Point Range were established as navigational aids on April 2, 1877, to mark the natural channel of the Delaware River.

Similarly, the Mid-Atlantic Center for the Arts has been working for the past 2 years to restore the historic Cape May Point Lighthouse in New Jersey. That facility was completed in 1859 and the beacon is still operated by the Coast Guard as an active aid to navigation. Nearly 50,000 people visited the ground floor of the Cape May Point lighthouse when it was opened to the public last year. I am very pleased to note that the MAC will soon be opening the rest of the structure, to permit the public to climb to the top of the lighthouse tower for the first time in half a century.

Unfortunately, not every lighthouse is as lucky as these to have been adopted by their local community. Many lighthouses, particularly those which are not located on land, have fallen into disrepair. For that reason, I was very pleased to join with other Members of Congress last year in sponsoring legislation to establish a national Bicentennial Lighthouse Fund, to provide some Federal assistance for the local lighthouse restoration efforts.

Mr. Speaker, lighthouses have long been a symbol of safety, heroism, and American ingenuity. I would urge my colleagues to join with me in sponsoring this "National Lighthouse Day" resolution, in recognition of the 200th anniversary of the Federal lighthouse program.

A REMARKABLE PROJECT

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. WISE. Mr. Speaker, the following is the text of a speech given by Senator Jennings Randolph on May 21, 1988, at the dedication of the Stonewall Jackson Dam in Lewis County, WV. I include the full text into the RECORD:

REMARKS BY SENATOR JENNINGS RANDOLPH, DEDICATION OF STONEWALL JACKSON LAKE, SATURDAY, MAY 21, 1988

It has been said that even the most worthwhile objectives are not always easy to achieve. As we meet today to dedicate this imposing structure, I am reminded again of the truth of that statement.

The nearly 22 years since the Congress authorized the creation of Stonewall Jackson Lake have not been easy. But as I look around me, it is obvious that the effort has been worthwhile. The work has been hard, but it has been well done. The problems have been difficult, but they have been overcome. We stand today at the threshold of reaping the benefits of what we knew was the right course.

This project began in late 1966 when the Congress gave its go-ahead signal. I had been Chairman of the Senate Public Works Committee for only six months. You will forgive me for saying I was gratified that one of my first actions in that important position was to secure the approval of an undertaking that will be of immense value to West Virginia for years to come.

But that was just the beginning. That we are here today is a tribute to the efforts of many people. Our state government, our representatives in Congress, the citizens of this area, the Army Corps of Engineers all have been deeply involved.

It is true that from the beginning Stonewall Jackson was a controversial project. Many questions were raised, not the least of which was whether it was even needed. Then there were questions about whether flood protection could be provided in some other way. The acquisition of property, the relocation of public and private facilities and the uses of the lake all came under intense scrutiny.

The process was difficult and sometimes painful. But I am convinced that it enabled us to refine the Stonewall Jackson project so it can reach its maximum potential to serve the people of our state.

Some of those who had early reservations about Stonewall Jackson are with us today. I am glad that their concerns were addressed and that we can all stand together as what was once a dream becomes a reality.

The execution of the plan for this lake called upon the many skills the Corps of Engineers have developed over the years. It was necessary to obtain about 800 individual parcels of land. The construction was equally complex and included the relocation of highways, railroads, gas storage wells, cemeteries, historic buildings and at least one school. Work was under way for six years before the building of the dam itself began in July, 1983.

I look forward to the day, about one year hence, when the lake will be filled with water. In the summer of 1989 we will look out over 2,600 acres of water ready to welcome the boaters and fishermen, the picnickers and those who just want to stretch out on the shore. Recreation facilities will be completed in the following year.

It is gratifying that the State of West Virginia is taking advantage of this lake by creating a major state park here. This facility, with its easy access by Interstate highway, will draw not only West Virginians, but visitors from other states who will be attracted by our growing reputation as a vacation center.

Through the efforts of Senator Byrd and Senator Rockefeller, serious consideration is being given to establishing a national park centered on Stonewall Jackson. This action would give a national focus to central West Virginia and bring even more visitors.

Long ago I became convinced that we should do all we could to let potential visitors know what is available to them in West Virginia. For many years, our friends at the Corps of Engineers insisted on referring to their work as "dams and reservoirs." While probably technically accurate, this description invoked a picture of a dull, utilitarian installation. It gave no hint of the beauty or pleasure awaiting the traveler, nor did it induce him to turn off the road to find out.

Unfortunately, persuasion did not work. So I turned to legislation to require that these great impoundments be properly called "lakes." The result has been that the term is now used throughout West Virginia and all across the country.

So Stonewall Jackson Lake will take its place among those other shimmering jewels that enhance the beauty of our mountains and valleys—Beech Fork, Bluestone, Burnsville, East Lynn, R.D. Bailey, Summersville, Sutton and Tygart.

Since 1934 this network of lakes has been created to serve many purposes. Mainly intended to reduce the damage of floods, they provide added benefits, including recreation, water supply, water quality improvement, and fish and game conservation.

Even at this early stage in its life, we are reaping benefits from Stonewall Jackson. Eighteen months ago, heavy rains threatened once more to flood nearby communities as they have for many years. Although unfinished, the dam held back enough water to prevent what the Corps of Engineers estimated as $25 million in flood damage.

That occasion alone suggests what the people of this area can expect in the future when the constant threat of flooding is greatly relieved. Most important, there will be peace of mind in these valleys. And it will not take long to recover the more than $200 million invested in Stonewall Jackson Lake.

It is always a pleasure to stand with friends among the West Virginia hills. I do so today knowing that the work we see nearing completion here will help to create a better, more secure life for the dedicated people of this area and our wonderful state.

DUTY-FREE TREATMENT OF TOBACCO GROWN IN UNITED STATES AND PROCESSED IN CARIBBEAN BASIN COUNTRY

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. PICKLE. Mr. Speaker, today I am introducing legislation to clarify the tariff treatment of United States-grown tobacco that is processed in a Caribbean Basin country. Under current law, it is possible that tobacco grown in the United States, processed in a CBI-designated country, and returned to the United States may be considered ineligible for duty-free treatment. This bill clarifies the intent of current law that in the above-described case, tobacco may be reimported without duty.

An anomaly currently exists: The tobacco is changed enough during processing that it is treated by the Customs Service as no longer a United States product but rather a Caribbean product. Caribbean products are ineligible for CBI duty-free treatment unless a two-part rule of origin requirement is satisfied, including a determination that the product is substantially transformed as a result of processing in the Caribbean.

The tobacco in question is changed enough to be considered a Caribbean product but is not changed enough to be eligible for CBI duty-free treatment. So, an article which should enjoy duty-free treatment is currently dutiable. This legislation, Mr. Speaker, corrects this anomaly.

Counterpart legislation was introduced in the other body by Senator BENTSEN of Texas. I trust this legislation will be scheduled for Ways and Means Committee action as part of the miscellaneous tariff package.

TRIBUTE TO C.R. MEROLLA

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. LENT. Mr. Speaker, I rise to pay tribute to Mr. C.R. Merolla, who is being recognized for distinguished community service by the Anti-Defamation League of B'nai B'rith. A dinner in his honor is being held on June 18, and I would like to take this opportunity to express my personal appreciation to Mr. Merolla for his dedicated efforts on behalf of his community.

As president and chief executive officer of the Bank of Long Island, Mr. Merolla is a respected leader in the business community. However, he donates a substantial amount of his time to charitable and other organizations benefiting his fellow man. As cofounder and chairman of the Long Island Philharmonic, he is an active director of the Long Island Association, a trustee with the Good Samaritan Hospital in West Islip, a Suffolk County Economic Advisory Committee member and active with the Boy Scouts Suffolk County Council. In addition, he is a former founder and director of the Long Island Coalition for Fair Broadcasting.

Mr. Merolla has been chosen for this distinguished award in recognition of his deep commitment to excellence and concern for his community. These characteristics exemplify the goals of the ADL and serve as a role for all of us to emulate in our daily lives.

On behalf of my constituents in the Fourth Congressional District, I offer my deepest thanks to Mr. C.R. Merolla for his tireless dedication to the betterment of Long Island and its citizens. I'd also like to extend my congratulations and best wishes for his continued success.

TRIBUTE TO MIDLAND, MI, 10TH ANNIVERSARY MATRIX MIDLAND FESTIVAL

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. SCHUETTE. Mr. Speaker, it gives me great pleasure to share with you a unique celebration of the arts which is held annually at the Midland Center for the Arts in Midland, MI. The Matrix:Midland Festival is celebrating its 10th anniversary season June 1 through June 18, 1988.

This season the Matrix:Midland Festival will provide exceptional programming to mid-Michigan audiences featuring four commissioned works, nearly two dozen world renowned musicians, dancers, scientists, writers, speakers, and notable personalities such as Beverly Sills, Dr. Bruno Bettelheim, Steven Rosenberg, and the Nikolais Dance Theatre.

Since the festival's inception, the format of this multidisciplinary celebration has provided a supportive environment for creative people in the arts, sciences, and humanities to nurture the new and rediscover the old often from new perspectives.

A unique feature of the festival is an award of excellence which recognizes artists, scientists, authors, composers or choreographers who have made an exceptional contribution to their field. The award is often in the form of a commission and the resulting work premiers during the festival. Over the past 10 years, 11 commissions have premiered during the festival representing the creativity of such distinguished individuals as Gerhardt Knodel in visual art, Dr. Robert B. Livingston in science, Jerry Mayer in theatre, Cathy Guisewite in poetry/literature, Choreographer Nils Christe and the soloists of the Royal Danish Ballet in dance and Charles Strouse in music.

Another important component of the festival is the Affiliate Artist Dow Corning Residency Program which presents artists performing in various disciplines, who bring their unique performances of music, theatre or dance to numerous area schools, enriching the arts education experience.

The festival in cooperation with the Grace A. Dow Memorial Library has provided keynote speakers for an annual writers conference. Past speakers have included Arthur M. Schlesinger, Jr., Joseph Heller, Norman Cousins, Allen Drury and Tom Wolfe. The conference has become an established forum for writers, both beginning and established, to meet and exchange ideas, to discuss professional concerns and to share challenges writers face.

The Matrix:Midland Festival enjoys community support through individual contributions and cosponsorships with various businesses in the surrounding communities. Annually, thousands of hours of volunteer time are committed to the common goal of the pursuit of excellence which has become the hallmark of the festival.

Matrix:Midland Festival, through a decade of growth and creativity, reflects the Midland community's quest for innovative growth in the arts, sciences, and humanities, and has become a nationally recognized program and a significant resource to the State of Michigan.

I am proud of this opportunity to publicly congratulate the people of Midland on this special occasion.

OGLALA LAKOTA COLLEGE—A SUCCESS STORY

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. JOHNSON of South Dakota. Mr. Speaker, on the Pine Ridge Indian Reservation in the State of South Dakota there exists one of the finest higher educational institutions in the country for native Americans. The Oglala Lakota College is truly one of the major success stories for the Oglala Sioux Tribe—a tribe which has struggled for years to provide a decent quality of life to its people amidst very adverse conditions. Consider the following: Shannon County, the county in which the Pine Ridge Reservation lies, had the lowest per capita income in the entire United States—$2,637, and suffers from an unemployment rate of 80 percent. In such a depressed economy, the tribe is struggling to provide for its members a way out of this poverty, and the tribe knows that one of the most important tools it can equip its people with is an excellent, quality education.

Oglala Lakota College is the second largest tribally controlled college in the country and is fully accredited by the North Central Association of Colleges and Schools. I have here a copy of an article that appeared on the front page of the Chronicle of Higher Education in the April 6, 1988, issue which gives an excellent background on the college and its successes. Mr. Speaker, I would like to request that portions of this article be reprinted in the CONGRESSIONAL RECORD so that others can be encouraged by the tribe's efforts. I am extremely proud of this success, and the Oglala Lakota College deserves to be commended for its efforts.

THE CHRONICLE OF HIGHER EDUCATION

(By Carolyn J. Mooney)

PINE RIDGE RESERVATION, SD.—In a land so barren that it became known years ago as the Badlands, and in a community so poor that it had the nation's lowest per-capita income in 1980, a tribally controlled college considered by some outsiders to be one of the nation's best-kept higher-education secrets is quietly flourishing.

Its name is Oglala Lakota College, and for 17 years its American Indian students, instructors, and administrators have followed a philosophy that now serves as a college motto—"Wa Wo Ici Ya," a Lakota Indian expression meaning "We can do it ourselves."

Chartered in 1971 by the Oglala Sioux Indian Tribe as a higher-education center, the college grew out of a few classes that initially were offered on the reservation under agreements with Black Hills State College and other state institutions. It began receiving federal money in 1974, but it wasn't until Congress passed the Tribally Controlled Community College Assistance Act in 1978 that it became eligible for the annual federal support that provides about 36 per cent of its approximately $4.5-million operating budget.

Now, 10 years after the passage of that act, some 20 tribally controlled colleges stretching from Washington State to Oklahoma are regularly—if not generously—financed by it. Two of the 20—Oglala Lakota and neighboring Sinte Gleska College—have become four-year institutions; ten are approved by regional accreditation bodies. Almost all are located on American Indian reservations and controlled by governing boards made up of tribe members. * * *

If the Lakota's landscape, history, and economic situation are bleak—unemployment hovers around 75 per cent, and the reservation's poverty, alcoholism, and other social problems have been well documented—the future of Oglala Lakota College appears much brighter. College officials have learned that their accreditation, first approved in 1982, would be extended for five more years.

Tom Allen, the development director, is optimistic about a direct-mail fund-raising campaign started last year with a $50,000 private grant. The American Indian College Fund, created by the tribal colleges last year and patterned after the United Negro College Fund, is also expected to provide Oglala Lakota and other tribal colleges with scholarship money once it gets off the ground (The Chronicle, September 2, 1987).

Enrollment is at its highest level ever, with a total of 1,050 students registering for classes last fall.

And college officials are buzzing about the possibility of even offering a graduate-degree program in the future.

"People here are finally starting to realize that you don't have to leave the reservation to get an education," says Dennis M. Brewer, a tribe member who has served on one of the nine local boards that help formulate college policy.

Besides training teachers, nurses, and police officers for the reservation, the college offers programs in tribal management. Lakota studies, computer science, and other fields. As of last June, it had granted some 413 associate degrees, 48 baccalaureates, which it only recently began offering, and 865 high-school-equivalency certificates. Nearly 90 per cent of the graduates find jobs. * * *

Unlike other minority groups, American Indians have a special trust relationship with the federal government. Many of the 19th-century treaties negotiated between various tribes and the federal government stipulated that the tribes, in exchange for the land that provided them with their livelihood, would receive federal assistance for education and other services.

But advocates of American Indians' rights claim the federal government has never fully met those obligations. Frustration with the government—and particularly with the Indian bureau, which oversees the tribal colleges and numerous public schools on reservations—runs high among tribe members, some of whom joke that B.I.A. is an acronym for "Boss Indians Around."

Officials at many of the tribal colleges complain that while their enrollment continues to rise, the number of federal dollars they receive for each full-time student has steadily declined, to about $2,491 last year from $2,900 in 1980. And while some non-Indians attend tribal colleges, the institutions do not receive federal funding based on their enrollment.

John B. Forkenbrock, a Washington-based lobbyist for the tribal colleges, says they do not fare nearly as well as other institutions that rely on the federal government for their base funding, such as Howard University or the military academies. Nor, he adds, do they receive as much money per student as most state institutions.

Tribal-college officials also claim that the Bureau of Indian Affairs has stalled in establishing a federally supported endowment fund, revising the way it counts students, and providing construction money—benefits approved by Congress in recent years. Some advocates of the tribal colleges say the situation won't improve unless the colleges are removed from the jurisdiction of the bureau, and have called for an independent commission to oversee the colleges. * * *

* * * the college is trying desperately to improve its facilities by the time it is considered for accreditation in 1990. Like some of the other small tribal colleges, it has struggled constantly to continue operating since it opened in 1981.

SPIRIT OVERCOMES MONEY WOES

Some officials as the tribal colleges wonder whether all the institutions will be able to survive, or whether there will be a weeding out among the smallest and weakest if their financial situations don't improve.

At a recent reception in Washington, Sen. Daniel K. Inouye, a Hawaii Democrat who has been one of the colleges' strongest advocates in Congress, told a group of American Indian leaders that he hoped there would be many more tribally controlled colleges in the future. But many of those present agreed they would be pleased if the existing colleges continued to operate at a level that would allow them to keep—or earn—their accreditation.

By far the biggest factor in the colleges' favor is the commitment of the tribes that control them.

Concludes Mr. Forkenbrock, the colleges' lobbyist, and a non-Indian; "Their funding is very shaky, but their spirit is strong and healthy."

Says Simon Looking Elk, Oglala Lakota's executive vice-president: "I'm proud of this college. It always amazes me. It takes education directly to our people."

Adds Ms. Pease-Windy Boy of Little Big Horn: "I think there are phenomenal things going on in these colleges. They started out of nothing. I think they're going to make it out of sheer guts."

SOVIET MINES IN AFGHANISTAN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. PORTER. Mr. Speaker, as Soviet tanks rumble through the streets of Kabul on their way home, they leave behind 7 million mines scattered throughout the Afghan countryside.

During the 9-year war, Soviet and Afghan forces used mines to indiscriminately maim and kill Afghan citizens. We all remember pictures of the gruesome site of children mutilated by mines disguised as toys.

Now, these minds represent a real threat to the spirit of the recently signed Afghan accords, which were to provide for the return of the refugees in safety and in honor. You can be sure that refugees in Pakistan will think twice about returning home once they hear reports of the fatalities that these mines will inevitably cause.

Last week in Geneva, Secretary Shultz received a wholly unsatisfactory response from Mr. Shevardnadze regarding these mines. The Soviet Army is unwilling to remove the mines or provide maps of where they are placed.

Mr. Speaker, I hope that President Reagan discusses this issue with General Secretary Gorbachev when they meet later this month. The Soviets must live up to the spirit as well as the letter of the Afghan accords, and remove these mines. Only then will the refugees return to their homeland.

PERSONAL EXPLANATION

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. BADHAM. Mr. Speaker, my travel arrangements prevented me from voting on the trade bill yesterday, but had I been here, I would have voted "nay," to sustain President Reagan's veto of this misguided bill. I agree with the President that this bill contains provisions that will hurt international trade rather than help and share his hope that the other body will sustain his veto.

IMPACT OF THE HOUSING CRISIS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Ms. PELOSI. Mr. Speaker, the United States is experiencing a housing crisis that will not disappear on its own. This crisis is having a dramatic impact on the lives of the poor and on people trying to buy their first home. Repercussions of the housing crisis extend well beyond these groups and affect local municipal governments and communities, corporations and the national economy.

The very root of the American dream, home-ownership, is being shaken by the reality of soaring housing costs. Not only is home-ownership now out of the reach of many, but rental costs are also skyrocketing, making homelessness or the threat of homelessness a real possibility in the lives of our citizens.

I encourage my colleagues to read the following article, from the Christian Science Monitor of May 12, which describes the far-reaching impact of the housing crisis.

[From the Christian Science Monitor, May 12, 1988]

HOUSING SQUEEZE HAS A RIPPLE EFFECT—COMMUNITIES AND BUSINESSES PAY A PRICE BECAUSE OF CRUNCH

(By Victoria Irwin)

The shortage of affordable housing in the United States is taking a toll on the poor and on those trying to buy their first home. But signs of the crunch can also be seen on the larger canvas of regional economies, community activities, and local governments.

Businesses in areas with high housing costs are finding it difficult to attract employees. Many of the communities ringing New York are experiencing a labor shortage, and the high cost of housing is definitely a component, says Samuel Ehrenhalt, Middle Atlantic Regional Commissioner for the Bureau of Labor Statistics.

In the Connecticut suburbs, employers cannot fill such semi-skilled jobs as restaurant work, so they are van-pooling workers in from other areas. In New York's Chinatown the vans pull up early in the morning and a clutch of riders—mostly Chinese men—piles in. They are headed out to the suburbs.

In areas surrounding Philadelphia, hundreds of office and service jobs are opening up as corporations, shopping malls, and conference centers burgeon. The Philadelphia Private Industry Council, which concentrates on training and placing the city's unemployed, has been exploring ways to place the city's jobless in suburban jobs. But again, the talk at this point is of tranportation, not housing.

The lack of affordable housing does not just affect businesses trying to fill lower-paying jobs. Companies in cities like Boston and San Francisco often find it hard to recruit white-collar employees from cities with more moderate housing costs. In the New York area some corporations have even decided to move their facilities, citing lack of affordable housing as a major reason. Others are offering employee housing benefits.

The housing shortage has a legal dimension. In wealthy Westchester County, housing costs of more than twice the national average led to a shortage of corrections officers and clerical workers who were legally bound to live in the county but could not afford to. In 1987, as a result of the shortage, the law requiring most county employees to reside there was repealed.

Besides contributing to a labor shortage in certain regions, the crunch is affecting the national economy as a whole. The drop in home ownership—2 percent nationally—has affected home builders and financiers, who depend on healthy housing starts and sales. That is one reason groups such as the National Association of Home Builders, the National Association of Realtors, and the Mortgage Bankers Association of America are actively promoting a new national housing policy.

A recent report from the National Association of Home Builders hints at how many actual and potential job are at stake. It asserts that from 1983 to 1987, 8.6 million new houses and apartment units were built, creating 2.5 million full-time jobs and $55 billion in wages each year.

Local economies are drained by the costs of providing temporary shelter for the homeless—which may take the form of congregate shelters for single adults or welfare hotels. And the number of homeless is on the rise.

Some of the increasing homeless population is made up of the mentally ill, who have not been able to settle in housing. But part of the increase is because of gentrification, the tightening of the rental market because of the increased number of young adults who stay in rental housing rather than buy their first home, and the deterioration of low-income housing. In towns like Tulsa, Okla., many new poor who lost jobs during the oil industry slump have been evicted or foreclosed on.

When communities take responsibility for addressing the housing situation, there can be dramatic effects on institutions. For instance, churches and synagogues have found themselves in the shelter business.

Robert Wollenburg is the pastor of Trinity Lower East Side Lutheran Church in Manhattan. His small parish is hard at work running a community soup kitchen and a shelter for homeless men, a time consuming project. It means duty at the shelter, finding funding, dealing with city agencies, coping with emergencies, and spending time with the clients.

"It's a long-term project," the Rev. Mr. Wollenburg says. "And it takes a great deal more involvement than I imagined. I thought we'd get [the shelter] on its feet and then I'd do more pastoral ministry."

Sadly, increasing awareness of the homeless is, in a sense, a "friend" to those hoping to recommit the federal government to a national housing policy, says James W. Rouse, a Baltimore developer and chairman of the National Housing Task Force. The searing pictures of men sleeping on grates and families living in cars has pricked the country's consciousness.

But some advocates of low-income housing say it will be the problems facing the middle class that will bring housing to the national agenda. These are the constituents that politicans actually worry about, they say.

RECOGNIZING CALVERT COUNTY'S VALUABLE WOMEN

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. DYSON. Mr. Speaker, today I rise with pleasure to salute nine special women of my district. These women have made outstanding contributions to Calvert County, contributions that have not gone unnoticed. In recognition the Calvert County Commission for Women has named these nine women as recipients of special honors on Women's Recognition Day. I am very proud of my constituents, and I would like to insert their names into the RECORD so that we can all honor them.

The nine women to be honored are: Carole Allen of Chesapeake Beach, Lorene Bates of Lusby, Kathleen O'Brien Branch of Port Republic, Joyce Freeland of Huntingtown, Margaret F. Gill of Huntingtown, Carolyn Gray of Huntingtown, Doretta Popka of Lusby, Joan M. Randles of Lusby, and Ann Snider of Prince Frederick.

I hope everyone will join with me in saluting the accomplishments of these special women.

TRIBUTE TO GLENDALE PUBLIC SCHOOL

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise today to congratulate the people of Glendale on the U.S. Department of Education's recognition of Glendale Public School for excellence in education.

This honor is indicative of the ongoing commitment which the people of Glendale have made to the future of their children. Glendale has set an example for other communities to follow in its dedication to the education of our children—those who represent our best hopes for the future of our communities and our Nation.

I join with the Secretary of Education and all of the friends of Glendale Public School in recognizing this outstanding achievement. I am confident that Glendale's tradition of excellence will carry far into the future.

ON THE PASSING OF MRS. MARY McAVOY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. LIPINSKI. Mr. Speaker, it is with great sadness today that I bring to the attention of my colleagues the passing of an exemplary member of Chicago's Southwest Side community, Mrs. Mary McAvoy.

She briefly worked as a telephone operator for Illinois Bell prior to her 1932 marriage to Mr. Walter McAvoy. Mr. and Mrs. McAvoy were blessed with a daughter, Patricia, a son, Thomas, and one grandchild. In 1942, with Mary's assistance, Mr. McAvoy won election to the Illinois General Assembly and began 36 years of public service in the State of Illinois. This example was followed by the McAvoy's son, Thomas who is currently a Republican committeeman for Chicago's 15th ward.

The loss of her devotion and her love for others will truly be missed by her family and her many friends throughout the community. This is also, however, a time for remembering her example of service and dedication to family which is very valuable in today's transitory world. I am sure my colleagues join me in extending condolences to Mrs. McAvoy's husband, Walter "Babe" McAvoy and to the remaining members of her family on the loss of this very special person.

IN HONOR OF THE 50TH ANNIVERSARY OF THE BETTY LEE STORE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to the Betty Lee Store of Warren, PA, which is celebrating its 50th anniversary. Betty Lee was founded in June 1938 by Hyman and Nahum Levinson, sons of Russian immigrants. The Levinsons, taking the lead from their father, who was a merchant himself, were able to establish a solid business in only a few short years. Joined a few years after by brothers Bert and Jake, the Levinson partnership began to build and soon the family enterprise owned and operated stores across a wide swath of western Pennsylvania. Betty Lee, a specialty retail shop for women, has served Warren and surrounding communities with outstanding service for an impressive five decades. It has grown and changed with the marketplace and has succeeded in providing quality products for its many longtime customers. As a native of Warren, I have known the Levinsons for years. I applaud their many successes and congratulate them for their continued commitment and dedication, as well as their ability to face the challenge of our ever-changing marketplace. Congratulations Betty Lee for 50 years of noteworthy achievement and service.

HUMAN RIGHTS IN INDIA

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. MAVROULES. Mr. Speaker, I would like to take this opportunity to express my concern over the deteriorating situation in India.

As many of you know, at least 1,023 people have been killed in Punjab this year. These killings prompted the siege at the Golden Temple at Amritsar, which is Sikhdom's holiest shrine.

There is good reason to believe that the human rights of the Sikhs in Punjab are being violated. It is my sincere hope that the Indian Government will make every effort to formulate a peaceful, negotiated solution to the problems in Punjab.

TRIBUTE TO DR. GARY S. OLSON

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. PACKARD. Mr. Speaker, I rise today to honor one of the most distinguished members of the education community of Vista, CA, Dr. Gary S. Olson. Dr. Olson is retiring this year after 24 years of dedicated and loyal service. He will always be highly thought of and belong to the hearts of all the people of the Vista community, especially the students and his colleagues in the Vista unified school district.

Before coming to Vista, Dr. Olson received his B.S. from Bemidji State University in Bemidji, MN, and his masters in education from the University of North Dakota at Grand Forks. He developed much of the invaluable experience and talent that he has brought to Vista by serving as superintendent of schools for the Blackduck Public School System as well as principal of Karlstad Junior/Senior High School. He also taught science courses and served as a U.S. Army instructor at Fort Rucker in Ozark, AL.

Dr. Olson moved to the Vista area in 1964 and immediately made an important contribution to the community. He started as senior high school assistant principal and moved steadily up the ranks to director of personnel and eventually superintendent of schools for the Vista unified school district. Gary has been of immense value to the community by taking special interest in recruiting, motivating and retaining quality people and personnel for the district. His strength lies in his systematic strategic planning which has greatly benefitted the district for several years. He possesses the technical knowledge and valuable hands on experience necessary to cope with the problems and issues that face a district currently exceeding a 10-percent growth rate. He continues to dedicate himself to providing effective alternatives for high growth districts.

Along with serving in the public school system, Dr. Olson has served as an important part of the general community by giving graciously of his time, energy and experience. He is currently on the board of directors of the North County United Way. He has taken a large role in the Vista sports community, where he has participated as a manager in the Vista Little Pony and Colt Leagues and served as past president of the San Diego County Football Officials Association.

Dr. Olson's retirement is a great loss for Vista's students as well as the education community. He is admired by all and has been an inspiration to all of us who have known him. We wish him well in his future endeavors.

DEPARTMENT OF ENERGY FISCAL YEAR 1989 FUNDING FOR STANFORD SYNCHROTRON RADIATION LABORATORY

HON. ERNEST L. KONNYU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. KONNYU. Mr. Speaker, today I rise to convey my concern over the level of funding for the Stanford Synchrotron Radiation Laboratory [SSRL]. If this Nation is to maintain a half-decade lead in synchrotron radiation research, it is vital that we, as Members of Congress, recognize the severity of this problem.

We have discussed in the committee, the appropriate level of funding which will maintain the research output of this premiere facility. The PEP spear ring of the SSRL facility is already performing at the levels estimated to be achieved by the Argonne National Facility.

Department of Energy officials have stated that never before had they received so much for their money.

If we are to remain consistent with the long-range scientific needs of this Nation, we need to focus our attention on issues such as this. It is time for us to realize that for facilities such as SSRL to keep their promise to the taxpayer, appropriate funding levels must be maintained.

With SSRL serving 650 scientists in 30 States, the original funding level of $11.75 million is critical for it to sustain its research output. We must ensure that the Department of Energy's fiscal year 1989 appropriations bill reflects this understanding. This effort is the first key step to ensure that the United States will be able to maintain its leadership and effectively continue its efforts in pushing the frontiers of research with synchrotron radiation.

CONGRESSMAN BARTLETT INTRODUCES THE SOCIAL SECURITY WORK INCENTIVES ACT OF 1988

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. BARTLETT. Mr. Speaker, 18 months ago Congress enacted Public Law 99-643, the Employment Opportunities for Disabled Americans Act. This law eliminates work disincentives for SSI recipients who want to accept a job without losing their health care benefits.

Data from the Social Security Administration shows that this legislation is having its intended effect. Participation in the 1619(a) Program—receiving cash benefits and Medicaid—has increased dramatically since July 1987, when Public Law 99-643 took effect. All persons in the "trial work" status at the end of June 1987 are now in the 1619(a) Program. Participation in the 1619(b) Program—continued Medicaid coverage only—has increased by 20 percent since July 1987. Passage of this legislation has provided work incentives for the disabled.

But Public Law 99-643 is not enough. It only applies to persons with disabilities who participate in the SSI Program. This work incentive should be extended to persons who participate in the SSDI Program.

Today, I am introducing legislation entitled, the Social Security Work Incentives Act of 1988. Congressmen MATSUI, GRADISON, LEVIN, LAGOMARSINO, and WORTLEY join me in this effort. This legislation removes an essential disincentive to work by allowing SSDI recipients who do return to work and earn above the SGA level—$300 per month—to be considered "disabled but working."

When an SSDI recipient returns to work, regardless of whether his earnings would place him in the disabled but working status, his monthly benefit will be reduced by $1 for every $2 earned, after exclusion of the first $85 and impairment-related work expenses. The person will be permitted to stay in the disabled but working status as long as he continues to have the disabling impairment that is the basis of his eligibility. This is parallel to section 1619 in the SSI Program.

The real disincentive in current law, though, is a loss of medical benefits rather than cash benefits. Under the 1619 Program, the SSI recipient continues to receive Medicaid upon returning to work, but SSDI participants in similar circumstances cannot receive Medicare.

SSDI recipients do not have access to Medicaid coverage, but are instead covered, after a 2-year waiting period, by Medicare. Under current law, SSDI recipients who return to work are covered by Medicare for 48 months and are then shut off. This legislation will allow SSDI recipients in the disabled but working status to continue to receive Medicare benefits for 48 months and be able to buy into Medicare once the 48-month period is exhausted.

The buy-in arrangement is outlined as follows:

The State Medicaid plan would pay the Medicare premium for individuals with earnings below 150 percent of the poverty line—$8,655—and individuals who meet the SSI resource test.

The State Medicaid plan would pay a portion of the Medicare premium and the individual would pay the rest if the individual's earnings are between 150 and 300 percent of the poverty line—$8,655 to $17,310.

Individuals whose earnings are above 300 percent of the poverty line would pay the entire Medicare premium.

While I have not yet received a cost estimate from CBO, I believe the bill will generate savings to the disability insurance trust fund through reduced benefit payments. In addition, there will be increases in Federal income taxes and revenues will increase in the OASDI and HI trust funds from income and employment taxes as well. The legislation will reduce any Medicare costs because it requires employers to cover their disabled workers under their employment-based health plan with Medicare as the secondary payor.

Other provisions of the legislation would: First, provide for automatic reinstatement for those individuals whose income fluctuates; second, allow an individual who is working and receiving disability benefits on the date of enactment not to be subject to these rules if his income does not exceed $250; third, and allow individuals to retain SSI eligibility for Medicaid even though they receive SSDI benefits based on their parents' retirement, disability, or death.

In 1987, 2.8 million disabled people received SSDI benefits and approximately 33 percent were under age 45. Only one-half of 1 percent of these workers ever return to the workforce. SSDI recipients under age 45 are in their prime working years and could contribute substantially to our economy if they could return to work. If this legislation can double that percent, it will be a tremendous success.

I urge my colleagues to cosponsor this legislation. It will promote employment among persons with disabilities by removing a major disincentive which currently exists in the SSDI Program.

SECTION-BY-SECTION OF THE SOCIAL SECURITY WORK INCENTIVES ACT OF 1988

Section 1: Title.

Section 2(a): When a person who is receiving Social Security disability benefits returns to work, his/her monthly benefit will be reduced by one dollar for every two dollars earned, after exclusion of the first $85.00 and impairment-related work expenses, for so long as the person is working. For a person receiving disability benefits on his/her own account, the deductions are made against all benefits received on the same account. Reductions are made first to the wage earner's benefit then, after it is exhausted, to dependents' benefits on a proportional basis. Where the person is receiving disability benefits as a dependent of a deceased, retired, or disabled worker, the reduction is made only to the benefit of the dependent who is disabled and working.

Where a person is receiving both Social Security and SSI and is eligible for benefits under § 1619(a), the reductions shall first be taken from the § 1619(a) SSI benefit until it is exhausted.

In determining the amount of the reduction in any month, the Secretary shall use the person's earnings from either the first or second month preceding the month involved.

Section 2(b): The Act provides that where a person is entitled to receive more than one Social Security benefit, the person will receive the higher of the benefits. In calculating which is higher where the person is disabled and his/her benefit is reduced due to earnings, the Secretary will treat that benefit as if it had not been reduced.

Section 2(c): Normally, the Secretary may attempt to collect overpayments from any beneficiary receiving benefits on the same record. This rule is changed where the person who is receiving disability benefits receives the benefits as a disabled adult child of a deceased, retired or disabled worker. In these cases, the Secretary will only be able to recoup benefits or otherwise secure repayment from the person who is (or was) earning the income which caused the overpayment to occur.

Section 2(d): This section provides that if a person who is receiving disability benefits or who is in the same period of disability (including in "disabled and working" status, see description below) is no longer able to work and returns to regular benefit status or resumes receiving cash benefits under disabled and working status, the person's primary insurance amount (PIA), and therefore the amount of the benefit, can not be less than the PIA when s/he last received benefits.

Section 2(e): The provision of the Act requiring that benefits be rounded to next lower $1 is included here.

Section 2(f): Conforms title of section.

Section 2(g): The provisions take effect four months after June 30, 1989. An individual who is receiving disability benefits on the date of enactment and is also working on that date will not be subject to these rules if his/her earnings do not exceed $250 at that time and for so long as they do not exceed $250/month.

Section 3 (a) and (b): A person receiving disability benefits who is working will be shifted into a new status, entitled "disabled and working," once his/her earnings exceed the SGA dollar level established by the Secretary. His/her entitlement to disability benefits will continue under this new status. The person will be permitted to stay in "disabled and working" status so long as s/he continues to have the disabling impairment that is the basis for eligibility and s/he meets all of the other non-disability requirements of the Act.

Section 3(c): The current provisions for a 9-month trial work period are eliminated.

Section 3(d): Individuals who are in "disabled and working" status will continue to receive Medicare benefits for the first 48 months in which they are in "disabled and working" status. The Secretary is required to provide the individual with notice not later than the 45th month that (i) s/he has a certain number of months of Medicare eligibility remaining in disabled and working status and (ii) that after the 48th month, the person will have the opportunity to buy into the Medicare program.

If a person is already receiving Medicare either under a trial work period or an extended period of eligibility on the effective date of these provisions, those months of Medicare will be counted against the 48-month period.

Section 3(e): The provisions of this section take effect four months after June, 1989.

Section 4(a): This section permits individuals who are in "disabled and working" status, regardless of whether they continue to receive a cash benefit, to buy in to Medicare after the 48 months of Medicare coverage under "disabled and working" status is exhausted. The Secretary shall determine when the enrollment periods will occur. However, every individual will have the option of enrolling during the 10-month period which begins 3 months before the 48th month and ends 7 months after the 48th month.

Section 4(b): Medicare will be the secondary payor where the person is also covered under an employer's health plan.

Section 5(a): In cases where the individual's income and resources qualify the individual, the state Medicaid program will pay all or part of the Medicare premiums for the individual.

Section 5(b): A person will be considered to be a "qualified disabled and working individual" if (a) s/he is entitled under this new provision to buy in to Medicare, (b) s/he is not otherwise eligible to receive Medicaid, (c) his/her income does not exceed 300% of the official poverty line, and (d) his/her resources do not exceed the allowable SSI levels.

Section 5(c): If a person who is a qualified disabled and working individual has income which exceeds 150% of the poverty line, the State Medicaid plan will pay a portion of the Medicare premium and the individual will pay rest. The amount which the State pays will be established on a sliding scale.

Section 5(d): Defines the term "Medicare cost-sharing" in Medicaid to include premiums paid as a result of these provisions.

Section 5(e): The effective date is July 1, 1989.

Section 6: This section deems certain disabled individuals to be SSI eligible. Any individual who received SSI benefits but who lost those benefits due to receipt of a Social Security disabled adult child benefit would be deemed SSI eligible, and therefore eligible to receive Medicaid, for months after June, 1989. [Current law already covers SSI individuals who first became eligible for the Social Security benefit on or after July 1, 1987.]

A GOOD RECORD ON BEHALF OF VETERANS

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. CLARKE. Mr. Speaker, as Memorial Day approaches, I would like to commend the Veterans' Affairs Committee and its distinguished chairman for its fine record during the 100th Congress. I am proud that the committee has reported, and the House has passed, the following bills for veterans:

The New GI Bill Continuation Act made permanent the new GI bill, which provides education assistance of $300 a month for up to 36 months in return for a 3-year commitment to active-duty service and a $1,200 reduction in basic pay over the first 12 months of service; or $250 monthly in education assistance for a 2-year commitment to active duty. National Guard and Reserve personnel can receive $140 a month for up to 36 months in return for a 6-year enlistment or reenlistment, and no pay reduction is required. The measure renames the program the Montgomery GI bill, for the respected chairman of the committee.

The Veterans Home Loan Program Improvements and Property Rehabilitation Act of 1987 made major reforms in the VA Home Loan Program, including provisions to help veterans avoid foreclosure and to decrease a veteran's indebtedness should he or she default on a low- to moderately-priced home mortgage backed by the VA.

The Veterans' Compensation Cost-of-Living Adjustment Act of 1987 provided a 4.2-percent COLA for compensation benefits paid by the VA to 2.2 million veterans with service-connected disabilities and to 265,000 surviving spouses and 48,000 children of veterans who died of service-connected causes.

The Radiation-Exposed Veterans Compensation Act of 1988 authorizes the Veterans Administration to pay compensation benefits to certain veterans who were exposed to ionizing radiation while in service. Under this act, 13 cancer-related conditions would be presumed to be service-connected for veterans who participated in atmospheric nuclear tests or the occupations of Hiroshima and Nagasaki, Japan.

The Veterans' Benefits and Services Act of 1988 reinstates the allowance for travel to VA medical facilities for certain veterans who have been denied the benefit due to VA-imposed eligibility restrictions; establishes an entitlement to VA outpatient care for veterans for service-connected disabilities and veterans rated 50 percent or more disabled or greater for treatment of any disability; improves benefits for former prisoners of war; calls for a national plan for the future of Vietnam Veteran Readjustment Counseling Centers (Vet Centers); provides pay incentives to recruit and retain nurses at VA medical facilities; increases specially adapted housing and automobile assistance allowances for severely disabled veterans; increases the levels of VA per diem payments to State-run veterans' facilities; and authorizes a pilot program of community-based residential care for homeless chronically mentally ill veterans and includes $12 million in funding for the program.

The Veterans' Employment, Training and Counseling Amendments of 1988 extend the Veterans' Job Training Act for 2 years—through March 1990—and authorize an additional $120 million for the program. The amendments also establish a National Veterans' Employment and Training Service Institute to train personnel who provide employment-related services to veterans.

The Department of Veterans' Affairs Act would make the Veterans Administration a Cabinet-level department, giving veterans a voice at the President's Cabinet table.

The House of Representatives has passed a budget resolution calling for $28.7 billion in budget authority for veterans' benefits and services in fiscal year 1989. In this time of fiscal restraint and painful deficits, we must make every effort to economize, but essential veterans' programs are much needed and we must keep them intact

Mr. Speaker, I congratulate the Veterans' Affairs Committee and the House for producing such fine legislation for our veterans. We can offer no finer tribute to them on Memorial Day, as we pause to remember the many Americans who have given their lives on land and ocean around the world to protect our beloved country.

JIM MOLLOY: A STAND UP GUY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. MANTON. Mr. Speaker, I want to call the attention of my colleagues to an article that appeared in last Thursday's Washington Post. The article, entitled "Standing Tall at a Prestige Desk," discusses the history of standup desks and focuses on prominent business, political, and military leaders who utilize these items at work.

Prominently featured in this article is the Doorkeeper of the House, Jim Molloy. Jim, whose love for standup desks is shared by many elected politicians including Senators WILLIAM PROXMIRE and HOWARD METZENBAUM, says he uses his desk to alleviate a back problem. However, those of us who know Jim realize he is so quick on his feet a regular desk would simply get in his way.

I urge my colleagues to read this intriguing article.

STANDING TALL AT A PRESTIGE DESK

18TH-CENTURY CUSTOM EASES BACK TROUBLES

(By Nancy L. Ross)

What do Gerhard Gesell, William Proxmire and Caspar Weinberger have in common with Thomas Jefferson, Winston Churchill and Ernest Hemingway?

Not politics, not writings. The answer is desks; more precisely, their stand-up desks. Like their illustrious predecessors, the judge, the senator and the former Cabinet officer keep on their toes by working at high desks.

They are not alone. A small but growing number of Americans are averse to sitting down on the job. They have switched to elbow-high, slanted-top reading and writing stands. Today these desks are found not only in law offices and executive suites, but also in restaurants and hotels, banks, churches and homes. Simple models serve as telephone or kitchen utility tables while more elaborate ones are displayed as accent pieces in living rooms.

Many owners and users are motivated by physical and psychological reasons. Others prize them not for their functional purpose but for their esthetic or status value. Depending on style and workmanship, stand-up desks sell for anywhere between $700 and $5,000.

Throughout his tenure, defense secretary Weinberger did most of his paperwork at a plain, wooden stand-up desk because it was easier on his back, according to Thelma Stubbs, private secretary to the Secretary of Defense. He would write at it while listening to taped classical music and looking out over the Potomac.

On the other hand, Sen. Proxmire (D-Wis.), who has gained a reputation as a physical fitness buff, used a stand-up desk for only a few months 20 years ago when he had a problem with his back. Standing at a desk in chambers is a welcome relief for Judge Gesell from sitting for hours on the bench of U.S. District Court.

The doorkeeper of the House of Representatives, James T. Molloy, also prefers to stand at a desk while carrying out his functions as protocol officer. Molloy cited a minor back problem and a love of antiques as the reasons why he has both old and new standing desks in his office in the Capitol.

Stand-up desks are often associated with back troubles. By relieving the pressure on the shock-absorbing disks between the vertebrae, working in a standing position can have a therapeutic effect on lower back pain, according to Dr. Sam W. Wiesel, professor of orthopedic surgery at George Washington University. He has recommended stand-up desks many times, he added, "especially to middle-aged people whose disks are not dried out, that still have some play in them, and who may or may not have leg pains."

Changed work habits since the turn of the century have made the inclined standing desk almost an anachronism. You can't put a computer on it (although one company is working at solving that problem). The anatomy of the human back, however, hasn't changed.

There have always been some people who continued to read or write or dictate standing up. Notable amoung them, in addition to the aforementioned, were authors Virginia Woolf, John Dos Passos and Vladimir Nabokov.

"Old ideas are the best ideas," quipped Maj. Gen. Thomas C. Brandt, chief of staff, Air Force Systems Command, Andrews Air Force Base. Bothered by severe back problems, the general got a stand-up desk last winter through military procurement. He plans to buy one for his home soon.

Ford administration official Donald Rumsfeld became a convert before the tall desk was widely available. His first experience working while standing was with a wall-mounted drafting desk in Brussels when he was appointed ambassador to NATO in 1973. Later he bought an old school desk for $215 and mounted it on a credenza. He continued to use a stand-up desk when he was White House chief of staff in 1974 and 1975 and then as secretary of defense from 1975 to 1977.

Now senior adviser to William Blair and Co., an investment banking firm, in Chicago, Rumsfeld mused about his desk: "I can't claim my brain worked better, but if you feel good, you do tend to work better."

Other Washingtonians whose names may not be as familiar also use high desks. Richard Kimberly, a lobbyist for Kimberly-Clark Corp. and scion of the company's founding family, first sought to alleviate his backaches in the late 1960s by having a blacksmith weld an extension onto a desk top he had purchased. He now uses a wooden stand-up desk at his McLean home for reading the Sunday papers, working on blueprints and drafting reports.

"The good thing about this desk is that I have yet to fall asleep at it. If you do, you hit your head on the way down and wake up quickly," said Kimberly.

Among users, the ratio of men to women is 9-to-1, according to Marty Burns, owner of the Stand-Up Desk Co. of Bethesda. Judy Mroczka is an exception. On the other hand, she is a lawyer, a member of the profession that accounts for at least half of all stand-up desk sales, say manufacturers.

Plagued by back problems, Mroczka used the stand, a gift from her husband for five years. It does not fit her current editing job with the Bureau of National Affairs, which requires her to sit at a word processor. The standing desk, which she used to edit with pencil at home, helps relieve the backaches that result from sitting all day, she added.

Besides being the desk for disk woes, the stand-up model often appeals to people who like to pace the floor while they work. Dr. Robert Berenson, who also has a bad back, said he paces while writing health policy papers at home in a basement office. He admitted he got the idea from watching François Truffaut's film "The Wild Child" in which a 17th-century physician worked at a high desk. "There is a certain cachet to having a stand-up desk," he added.

One ancillary benefit is mentioned by Herman Wouk in his novel "War and Remembrance." The hero, Pug, observes that the stand-up desk serves the purpose of "keeping conversations short." Seeing the boss on his feet, visitors don't dare sit down. Pug, incidentally vowed to get himself a stand-up desk "if his time became valuable again."

The market for standing desks has developed so rapidly that there are now more than a half dozen manufacturers, compared with one or two six years ago. Styles vary from Shaker to Chippendale, hinged or closed, with or without drawers or leather covered tops.

The stand-up desk may have evolved from the portable lap desk, whose origins date as far back as medieval times. This kind of portable writing surface mounted on tall legs was in common usage by the 18th century.

A William Hogarth print circa 1740 depicts a magistrate dispensing justice from a tall desk. A 1789 portrait by American artist Ralph Earl shows a Connecticut dry goods merchant working at one.

Extant examples of tall desks include one allegedly commissioned by Thomas Jefferson on which he is said to have drafted a portion of the Declaration of Independence. It is on display in the diplomatic reception rooms of the State Department. Jefferson's household accounts tell of a writing desk he ordered from a Williamsburg cabinetmaker in 1769. Two stand-up desks are displayed at his home in Monticello. Yet, when the elderly statesman experienced rheumatic pains in his back, he resorted to a desk at which he could write in a recumbent position.

Another antique tall desk, made in colonial Massachusetts, was used by two generations of Harvard students according to Colonial Williamsburg's furniture curator, Ronald L. Hurst. Fortunately for history's sake, they resisted not the temptation to carve their initials and dates in the wood. In 1750—the date of this piece—it was the custom for students to furnish their own desks so the furniture passed down in the family. One of several owned by Colonial Williamsburg, it is on loan to the Boston Museum of fine Arts.

The Maryland State house has four stand-up desks. One of them, a tall mahogany Senate desk with a scalloped molding, was made circa 1797 by Jon Shaw, the celebrated Annapolis cabinetmaker.

Besides students and merchants, 18th-century accountants and bankers frequently used these stand-up desks. Writing stands were utilized on board ship or on the docks to check inventory. Plantation overseers gave their name to the genre as overseer's desks in the antebellum South.

By the late 19th century, the tall desk had become so utilitarian that a simple oak version for office workers was mass-produced in Grand Rapids, according to Wade Lawrence, of the Henry Francis du Point Winterthur Museum near Wilmington, Del. Clerks, who had to consult ledgers ranged on shelves around the room, commonly sat on tall stools before such desks. "The image of Bob Cratchit is valid," said Lawrence. "They were not meant to be comfortable. They were not gentlemen's furniture," he added. Whether for reasons of comfort or efficiency, the stand-up desk eventually disappeared from the American office by the turn of the century.

The legal profession, more than any other, has kept alive the tradition of the high desk. In fact, a number of companies specializing in this type of furniture were founded by lawyers. After he retired from the bench, Judge Wilson Hayes, a circuit judge in Baldwin County, Ala., founded the Lazy Lawyer Co. in Foley, Ala. (The name, incidentally, comes from a lazy Susan-type bookcase the company produces, not its stand-up desk.) Last year the Lazy Lawyer sold about 75 of its $718 solid mahogany desks with turned legs and brass rails.

Rita Roppolo of Arlington, Va., formerly a Labor Department attorney, stowed away her law books last year and went back to school to learn furniture making. Her shop, Rita Roppolo Furniture, produces three models of standing desks ranging from $900 for a cherry country model to $2,100 for a leather-topped walnut one.

Former English professor Thomas Moser, 12 years ago founded Thos. Moser Cabinetmakers of Portland, Maine, to produce traditional New England furniture. His basic Shaker-like cherry or ash lectern desks sells for $950. More elaborate custom made models sell for $2,400.

For the tall desk industry, 1982 would turn out to be a watershed year. In late fall both the Wall Street Journal and Time magazine published articles about "stand-up guys" who headed such prestigious corporations as IBM, Xerox, Prudential, Kellogg and Merrill Lynch. And the clerk's modest work table of a century ago was quickly transformed into an upscale addition to the executive suite. Most users also have a sit-down desk.

One of those who realized there might be a market for stand-up desks was Jorge Lopez Morton, vice president of Lopez Morton Inc. Last year it sold 300 tall desks, mainly on the East and West coasts. It has even exported them to Spain and Saudi Arabia. Its deluxe custom model, which is made at the company's factory in Mexico and sold through its Houston office, retails for $2,600. Lopez Morton said 40 percent of his customers buy standing desks for medical reasons; the other 60 percent do so for prestige.

Business is booming, according to Robin Steele, owner of the two-year-old Time 'n' Timber Woodcraft in Mobile, Ala. Steele calculates that 30 percent of his customers purchase his $712 mahogany desk for health reasons, 50 percent because they like the look of it and 15 to 20 percent because they are high-energy people who don't like to be stuck at an ordinary sit-down desk.

Soon after the articles appeared, Kittinger, the Buffalo manufacturer specializing in reproductions of antiques, got out its drawing board and made modifications to an 18th-century desk. Its top-of-the-line mahogany model offers optional pull-out slides suitable for candlestick, lamp or coffee mug, a keyed drawer, a hinged top that can be locked in the open position, Chinese Chippendale motifs, and a gold-tooled, hand-padded leather top. It retails for $4,864.

Other features found in elegant, updated 20th-century stand-up desks include a front brass rail or stretcher to accommodate one foot, brass appointments, a pencil tray on the exterior or under the lid, pigeonhole compartments inside, and even casters.

The proper height is all important. Most antique tall desks are too short for today's users. Today's more-or-less standard model is 46 inches high, (measured at the top of the inclined front) but many upscale manufacturers sell only made-to-measure desks.

One of the newest entrants into the tall desk field is the Jasper Cabinet Co. of Indiana, which markets it in this area through Mastercraft Interiors.

David Schwartz, vice president and general manager, reports a "very good response thus far" to its 18th-century-style, leather-topped desk that retails for $1,524. Schwartz, whose company does not promote the desk for its healthful properties, says unabashedly that customers buy it as a "status piece."

So much for Dickensian-style drudgery. Today the standing desk not only helps the boss' back; it helps the boss' image.

Finally, lest you think that back sufferers are now going to begin complaining instead about their aching feet, let a footnote show, as one manufacturer reported, that almost half of his clients also purchase high stools to match their stand-up desks.

INTRODUCTION OF THE MANASSAS NATIONAL BATTLEFIELD PARK AMENDMENTS OF 1988

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1988

Mr. WOLF. Mr. Speaker, I am introducing legislation today which is designed to preserve and protect the Manassas National Battlefield Park which is located near my congressional district in Virginia and to ensure that future generations can enjoy what is truly one of America's finest and most historical parks.

The legislation I am introducing presents, for the first time, a comprehensive approach that addresses threats to the park which have attracted national attention and which have been the focus of several other legislative initiatives by other Members of this body.

As a former employee of the Department of the Interior under Secretary Rogers C.B. Morton during a time when the National Park System expanded as much as any other time in our Nation's history, I am sensitive to protecting the heritage embodied in our National Park System and preserving our great Nation's history.

I have spent a great deal of time and effort in developing this legislation. I believe it addresses the questions raised by preservationists, citizens groups, and the National Park Service. Most importantly, Mr. Speaker, it does so in a way that protects the interests of all of the parties involved.

My legislation has three major provisions, each of which is critical to the protection and preservation of the battlefield.

Section 1 of the bill provides for a legislative taking of approximately 600 acres of land adjacent to the existing park boundaries. This land has been the subject of considerable controversy because a local developer who owns the tract plans to use it to construct a shopping mall, office park, and town houses.

Preservationists and others have argued that this land is historically significant and should not be the site of commercial development.

Under a legislative taking, upon enactment of the legislation, title to the property is immediately transferred from the private owner to the Federal Government which will in turn negotiate with the owner for a fair price as compensation.

This approach was used successfully by the Federal Government to acquire the Fort Washington Marina as part of Piscataway Park in Maryland in 1975.

In that case, an amusement park, visible from George Washington's home, Mount Vernon, was in operation along the shores of the Potomac. The Federal Government felt it was critical that the scenic view from George Washington's home be preserved so a legislative taking was enacted.

A legislative taking was also used in California to obtain lands for the Redwoods National Forest.

If the Congress and others believe this land is historically significant and should be a part of our National Park System, then the fair and honest approach is to use a legislative taking.

The second section of this legislation provides for visual protection of the views from within the park. The battlefield is surrounded by privately owned land and steps must be taken to ensure that these parcels are not used in such a way as to destroy the views and scenery from within the park.

Under my legislation, the Secretary of the Interior is directed to work with the Commonwealth of Virginia and Prince William County and others to develop a plan that protects scenic views from within the park.

The third section of the bill calls for closing U.S. Route 29 and State Route 234 which run through the battlefield park and for the construction of a Route 234 bypass. The bypass is necessary to accommodate traffic that would have used Routes 29 and 234 through the park.

Currently, Routes 29 and 234, which bisect the park, are heavily traveled by rush hour commuters, dump trucks loaded with sand and stones headed for construction sites, other commercial truck traffic, tourists, and others.

Simply put, if the Manassas Battlefield Park is to be preserved and protected, these two roads must be closed and the bypass must be built. The National Park Service agrees. Preservationist groups agree. Just about anyone who has recently visited the park can see that the heavy volume of traffic that uses these two roads each day threatens to destroy the battlefield.

Closing these two roads and constructing the bypass will provide needed protection for the park that will ensure future generations can understand and appreciate the circumstances surrounding the battles of Manassas during the Civil War.

In recent weeks the Manassas Battlefield Park has attracted attention from groups around the Nation. There are many different view points and agendas involved.

My legislation is an honest and fair solution which respects the rights of all of the parties involved.

It is an attempt to force everyone involved to deal with the issues in an intellectually honest way.

If my colleagues in Congress and preservation and citizens groups truly believe the 600 acres involved are historically significant and should be added to the park, then they will support my legislation which takes the land in the quickest, most cost efficient manner and which diverts through traffic from the park ensuring that this precious legacy will be preserved.

This legislation is about choices. We must decide just how important Manassas Battlefield Park is to our Nation's heritage and just how much we are willing to pay to protect and preserve our Nation's history.

I encourage my colleagues to carefully weigh all of the issues that are involved and to consider giving their support to this legislation.

H.R. 4691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Manassas National Battlefield Park Amendments of 1988".

SEC. 2. ADDITION TO MANASSAS NATIONAL BATTLEFIELD PARK.

The first section of the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b), is amended—

(1) by inserting "(a)" after "That"; and

(2) by adding at the end thereof the following:

"(b)(1) In addition to subsection (a), the boundaries of the park shall include the area, comprising approximately 600 acres, which is south of U.S. Route 29, north of Interstate Route 66, east of Route 705, and west of Route 622. Such area shall hereafter in this Act be referred to as the 'Addition'.

"(2)(A) Notwithstanding any other provision of law, effective on the date of enactment of the Manassas National Battlefield Park Amendments of 1988, there is hereby vested in the United States all right, title, and interest in and to, and the right to immediate possession of, all the real property within the Addition.

"(B) The United States shall pay just compensation to the owners of any property taken pursuant to this paragraph and the full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of such property. Payment shall be made by the Secretary in the amount of the agreed negotiated value of such property or the valuation of such property awarded by judgment. Such payment shall include interest on the value of such property which shall be compounded quarterly and computed at the rate applicable for the period involved, as determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities from the date of enactment of the Manassas National Battlefield Park Amendments of 1988 to the last day of the month preceding the date on which payment is made.

"(C) In the absence of a negotiated settlement, or an action by the owner, within one year after the date of enactment of the Manassas National Battlefield Park Amendments of 1988, the Secretary may initiate a proceeding at any time seeking in a court of competent jurisdiction a determination of just compensation with respect to the taking of such property.

"(3) Not later than 6 months after the date of enactment of the Manassas National Battlefield Park Amendments of 1988, the Secretary shall publish in the Federal Register a detailed description and map depicting the boundaries of the Addition. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

"(c) In order to effectuate the purposes of subsection (b), the Secretary shall implement a development plan which shall assure public access to, and public use and enjoyment of, the Addition. The Secretary shall allow for the orderly termination of all operations on the Addition and for the removal of equipment, facilities, and personal property from the Addition. In no event shall the Secretary allow any unauthorized use of the Addition after the date of enactment of the Manassas National Battlefield Park Amendments of 1988.".

SEC. 3. VISUAL PROTECTION.

Section 2 of the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b-1), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) The Secretary shall cooperate with the Commonwealth of Virginia, the political subdivisions thereof, and other parties as designated by the Commonwealth or its political subdivisions in order to promote and achieve scenic preservation of views from within the park through zoning and such other means as the parties determine feasible.".

SEC. 4. HIGHWAY SYSTEM.

Section 2 of the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b-1) is amended by adding at the end thereof the following:

"(e)(1)(A) There is authorized to be appropriated $30,000,000 for the construction of the highway approved by the Secretary of Transportation on April 17, 1980, running from I-66 north to the Catharpin Community in the vicinity of the Manassas National Battlefield Park. Such amounts are authorized to remain available until expended. Such highway shall be constructed in the manner approved by the Secretary of Transportation.

"(B) Not more than 50 percent of the cost of construction of such highway may be paid from Federal funds. The Secretary of Transportation may accept and use donations of funds, property, and services from nonFederal persons for constructing such highway. The amount of such funds, property, and services shall be credited toward the nonFederal share of such construction.

"(2) Notwithstanding subsection (d), upon the completion of construction of the highway referred to in paragraph (1), title to the rights-of-way of Route 234 from its intersection with Featherbed Lane in the north to its intersection with the entrance of the Northern Virginia Community College in the south and Route 29 from its crossing of Bull Run in the east and its intersection with Pageland Road in the west shall be transferred from the Commonwealth of Virginia to the National Park Service. Upon such transfer, the Secretary of the Interior shall close such routes to through traffic.".

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, May 26, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 27

9:00 a.m.

Foreign Relations

To hold hearings on the nominations of Robert S. Barrett IV, of Virginia, to be Ambassador to the Republic of Djibouti, Jeffrey Davidow, of Virginia, to be Ambassador to the Republic of Zambia, Mary A. Ryan of Texas, to be Ambassador to the Kingdom of Swaziland, and Philip D. Winn, of Colorado, to be Ambassador to Switzerland.

SD-419

9:30 a.m.

Finance

Health Subcommittee

To hold hearings on long-term health care.

SD-215

10:00 a.m.

Labor and Human Resources

To hold hearings on S. 2034, to provide financial assistance for programs for prekindergarten students designed to prevent students from later dropping out of school.

SD-430

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

JUNE 6

2:00 p.m.

Governmental Affairs

To hold hearings on issues concerning acquired immunodeficiency syndrome (AIDS).

SD-342

JUNE 7

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Karen B. Phillips, of Virginia, to be a Member of the Interstate Commerce Commission.

SR-253

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

Governmental Affairs

To hold hearings on budget reform.

SD-342

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for export financing programs.

S-126, Capitol

Rules and Administration

To hold hearings on S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States.

SR-301

JUNE 8

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study on the impact of acid precipitation on coastal waters and the National Oceanic and Atmospheric Administration's sanctuary program.

SR-253

10:00 a.m.

Governmental Affairs

To resume hearings on issues concerning acquired immunodeficiency syndrome (AIDS).

SD-342

2:00 p.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To hold hearings to review youth employment issues and related provisions of Title II of the Job Training Partnership Act.

SD-430

JUNE 9

9:00 a.m.

Veterans' Affairs

To hold hearings on S. 2011, to increase the rate of VA compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans, S. 1805, to protect certain pensions and other benefits of veterans and survivors of veterans who are entitled to damages in the case of "In re: 'Agent Orange' Product Liability Litigation", and to hold oversight hearings on activities of the Board of Veterans' Appeals, and related matters.

SR-418

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Department of Labor, Health and Human Services, and Education, and related agencies.

SD-192

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 1737, to provide for the completion of the Colorado River Storage Project, and S. 2102, to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho.

SD-366

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

SD-226

JUNE 10

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for migration refugee assistance, international narcotics control and anti-terrorism programs.

S-128, Capitol

JUNE 13

9:30 a.m.

Special on Aging

To hold hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.

SD-628

JUNE 14

9:30 a.m.

Energy and Natural Resources

Energy Regulation and Conservation Subcommittee

To hold hearings on S. 1717, to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions.

SD-366

Joint Economic

Education and Health Subcommittee

To resume hearings to review the future of health care in America.

Room to be announced

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

S-126, Capitol

JUNE 16

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

SD-192

9:30 a.m.

Governmental Affairs

To resume hearings on issues relative to alcoholism.

SD-342

Veterans' Affairs

To hold hearings on S. 2207, to authorize the Administrator of Veterans' Affairs to provide assistive simians and dogs to veterans who, by reason of quadriplegia, are entitled to disability compensation under laws administered by the Veterans' Administration, S. 2105, to extend for 4 years the authority of the VA to contract for drug and alcohol treatment and rehabilitation services in halfway houses and other certain community-based facilities, and S. 2294, to extend the authority of the VA to continue major health-care programs, and to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain certain health-care personnel.

SR-418

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).

SR-332

JUNE 21

9:00 a.m.

Office of Technology Assessment

The Board, to meet to consider pending business.

Room to be announced

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2055, to designate certain National Forest System lands in Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management.

SD-366

JUNE 22

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on proposed legislation authorizing funds for the U.S. Fire Administration of the Federal Emergency Management Agency.

SR-253

JUNE 23

9:30 a.m.

*Commerce, Science, and Transportation

*Communications Subcommittee

To hold hearings on S. 2221, to expand national telecommunications system for the benefit of the hearing impaired.

SR-253

Governmental Affairs

To resume hearings on S. 1504, to facilitate regulatory negotiation and other procedures to enhance the quality of regulations and foster communications between agencies and those affected by regulations.

SD-342

JUNE 24

9:30 a.m.

Commerce, Science and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings on Japanese patent policy.

SR-253

Special on Aging

To hold hearings on the Equal Employment Opportunity Commission enforcement of the Age Discrimination in Employment Act of 1967.

SD-628

JUNE 27

2:00 p.m.

Governmental Affairs

To resume hearings on issues relative to alcoholism. SD-342

JUNE 29

10:00 a.m.

Governmental Affairs

To resume hearings on issues relative to alcoholism SD-342

JULY 11

9:30 a.m.

Special on Aging

To resume hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems. SD-628

JULY 14

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233). SR-332

POSTPONEMENTS

MAY 26

9:00 a.m.

Agriculture, Nutrition, and Forestry

Nutrition and Investigations Subcommittee

Business meeting, to mark up proposed legislation providing for nutrition programs. SR-332

HOUSE OF REPRESENTATIVES—*Thursday, May 26, 1988*

The House met at 10 a.m.

The Reverend Dr. Littleton Fowler, retired pastor, Grand Avenue Methodist Church, McAlester, OK, offered the following prayer:

This is the day which the Lord hath made; let us rejoice and be glad in it.

Let us pray:

Eternal God our Father. Thou the creator of the world and guide in all eternal values.

We pause in Thy presence in this time and place to invoke Thy blessings upon our deliberations, and to offer to Thee our profound gratitude and the dedication of our hearts.

Grant wisdom and courage to our President, the Speaker, and distinguished Members of Congress. May all people who make decisions in high places be sensitive to Thy will as they wrestle with the complicated problems of our world.

We thank You for another day, another chance to make our world a better place in which to live. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **HERGER**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **HERGER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 253, nays 118, not voting 60, as follows:

[Roll No. 155]

YEAS—253

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bennett
Bevill
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clarke
Clement
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Derrick
Dingell
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (PA)
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Lott
Lowry (WA)
Luken, Thomas
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McEwen
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Patterson
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Price
Quillen
Rahall
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sawyer
Schaefer
Scheuer
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torricelli
Towns
Traxler
Valentine
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—118

Armey
Badham
Baker
Ballenger
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Callahan
Cheney
Clinger
Coble
Coleman (MO)
Coughlin
Courter
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Emerson
Fawell
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Gregg
Hammerschmidt
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McCrery
McDade
McGrath
McMillan (NC)
Meyers
Miller (OH)
Molinari
Murphy
Oxley
Parris
Pashayan
Penny
Porter
Pursell
Rhodes
Ridge
Roberts
Rogers
Roth
Rowland (CT)
Saiki
Saxton
Schneider
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stump
Sundquist
Swindall
Tauke
Taylor
Thomas (CA)
Traficant
Upton
Vander Jagt
Vento
Walker
Weber
Wheat
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—60

Aspin
Bartlett
Barton
Berman
Biaggi
Bilbray
Boulter
Brooks
Campbell
Chandler
Chappell
Clay
Coyne
Craig
Dellums
Dicks
Dixon
Duncan
Dymally
Dyson
Edwards (OK)
Flake
Flippo
Florio
Ford (TN)
Gallo
Gejdenson
Gray (IL)
Green
Guarini
Hansen
Holloway
Hunter
Kemp
Kleczka
Konnyu
Leland
Lipinski
Lowery (CA)
Lujan
Lungren
Mack
MacKay
Mica
Michel
Moody
Moorhead
Pepper
Rangel
Rose
Roukema
Savage
Smith (NJ)
Spence
Stangeland
Torres
Udall
Vucanovich
Weiss
Wolpe

☐ 1026

Mr. **BONKER** changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

THE REVEREND LITTLETON FOWLER

(Mr. **WATKINS** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **WATKINS**. Mr. Speaker, I take great but humble pride in the honor which falls to me today to introduce to the House of Representatives my long time friend and constituent, the Reverend Littleton Fowler, now of Hugo, OK, who offered prayer opening today's proceedings.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Reverend Fowler and Nettie, his charming bride of 52 years this coming August, are participating this week as senior interns under Close-Up Foundation coordination. The Fowlers have a son and daughter and three grandchildren and he is a fishing buddy of my son, Wade.

For 49½ years, Rev. Littleton Fowler ministered to various Methodist congregations throughout Oklahoma. Included among those people who were in his congregations is former Speaker Carl Albert of McAlester, my predecessor in the Congress, and now one of my most cherished constituents. Reverend Fowler also ministered to churches in Hugo, Seminole, Antlers, Sulphur, all in the Third District, along with Miami and Sapulpa. In addition to his direct pastoral duties at assigned churches, he was for 10 years director of the Oklahoma Methodist camp system, which are operated for both young people and adults.

Reverend Fowler was graduated from the University of Oklahoma and had further theological studies from Southern Methodist University in Dallas. He brings honor to his profession, his family, to me, to the Third District, and to Oklahoma by his years of dedicated service.

Thank you, Reverend Fowler.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4556. An act to amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 306. Concurrent resolution providing for a conditional adjournment of the House until June 1 and a conditional adjournment or recess of the Senate until June 6.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1989

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes.

Mrs. SMITH of Nebraska reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES PROGRAMS APPROPRIATIONS, 1989

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for Rural Development, Agriculture, and related agencies programs for the fiscal year ending September 30, 1989, and for other purposes.

Mrs. SMITH of Nebraska reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1989

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Mrs. SMITH of Nebraska reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1025

PERMISSION TO HAVE UNTIL MIDNIGHT, TUESDAY, MAY 31, 1988, TO FILE CONFERENCE REPORT ON H.R. 2470, MEDICARE CATASTROPHIC PROTECTION ACT OF 1987

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Tuesday, May 31, 1988, to file a conference report on the bill, H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 456 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 456

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), and all points of order against the bill for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, the bill shall be considered for amendment under the five-minute rule by titles instead of by sections and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 456 is the rule providing for consideration of H.R. 4387, the Intelligence Authorization Act for fiscal year 1989. It is an open rule, providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence.

The rule provides for the bill to be considered for amendment by titles, rather than sections, with each title considered as read. It allows one motion to recommit.

The rule waives section 401(b)(1) of the Congressional Budget Act, which prohibits consideration of new entitlement authority which becomes effective prior to October 1 of the year in which it is reported. The rule also waives clause 5(a) of rule XXI, which prohibits appropriations in a legislative bill.

Both of these waivers are necessary to allow consideration of the provision in H.R. 4387 establishing a new position at the Department of Defense—an Assistant Secretary of Defense for Intelligence. The Intelligence Committee has found that responsibility for intelligence matters within DOD is fragmented, and believes that there is an urgent need to have one official supervise all intelligence and intelligence-related activities in that Department. The two waivers contained in this rule will allow us to make the funds available to pay the salary for that position—$74,500—immediately upon enactment of this bill.

Mr. Speaker, H.R. 4387, the bill for which the Rules Committee has recommended this rule, authorizes appropriations for the intelligence and intelligence-related activities of the U.S. Government for fiscal year 1989. The bill requires the explicit authorization and appropriation of any assistance provided for the military or paramilitary activities of the Contras by any department or agency of the United States. It also directs the Federal Bureau of Investigation and the Office of Personnel Management to conduct a demonstration project aimed at improving the recruiting and retention of FBI personnel in the New York metropolitan area. And, as I mentioned earlier, it creates a new position in the Department of Defense for an assistant secretary who will oversee the Department's intelligence activities.

Mr. Speaker, I urge adoption of House Resolution 456, so that we can proceed to consideration of H.R. 4387.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California [Mr. Beilenson] has described the provisions of the rule. I will not repeat them.

However, there is one provision in this rule which is becoming too routine. That is the Budget Act waiver. In this case it is a waiver of the section 401(b)(1) of the Budget Act. This section prohibits new entitlement authority effective prior to October 1 of the year in which the bill is reported.

This intelligence authorization provides new entitlement authority by creating a new assistant secretary position in the Department of Defense. As a result, the bill violates the Budget Act.

Mr. Speaker, if we are going to have a Budget Act, then we should comply with it.

Mr. Speaker, the chairman of the Budget Committee, in his letter to the chairman of the Rules Committee concluded that "* * * the Committee on the Budget has no objection to a waiver of the Budget Act to allow consideration of the bill." However, in order to clarify the Record, it should be noted that all but one of the Budget Committee Republicans responding voted against recommending the waiver. And three of the Budget Committee Democrats took this same position. Maybe one of these days a majority will decide to follow the Budget Act requirements.

Mr. Speaker, because of the Budget Act waiver, I will vote against this rule.

Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. Rowland].

(By unanimous consent, Mr. Rowland of Connecticut was allowed to speak out of order.)

THE WALL

Mr. ROWLAND of Connecticut. Mr. Speaker, I am sure that all of us have heard about the vandalism done to the wall at the Vietnam Memorial. It was a disgraceful action done by a few misguided individuals.

Mr. Speaker, I do have some good news. Students at Weston Middle School in Weston, CT, got together and raised over $800 in a bake sale to help repair the damage done to the wall. The students have come to Washington, DC, this week to see the wall for themselves. They presented their check and Brian McGrath from the eighth grade has written a poem in honor of this occasion. This type of compassion, this type of concern, and this type of action by these wonderful young people certainly restores our confidence in the future of our country. I say thank you to Weston Middle School.

THE WALL

(By Brian McGrath)

Mothers, fathers, sisters, brothers
  Standing side by side,
Honoring their loved ones.
  For this country they have died.
Though we want to forget
  The evilness of war.
We must remember the brave ones
  Who have fought deep to the core.
Perhaps this wall will teach us
  To always keep in our thoughts
That war is not the answer for
  The troubles we have brought.
Although this wall may bring
  Tears of deepening sorrow,
If we change our ways of violence
  There may be a peaceful tomorrow.

Mr. LATTA. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER.** Pursuant to House Resolution 456 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4387.

□ 1039

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency retirement and disability system, and for other purposes, with Mr. Pickle in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio [Mr. Stokes] will be recognized for 30 minutes and the gentleman from Illinois [Mr. Hyde] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. Stokes].

□ 1040

Mr. STOKES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4387, the Intelligence Authorization Act for fiscal year 1989. The principal purpose of this bill is to authorize appropriations for all of the intelligence and intelligence-related activities of the U.S. Government during fiscal year 1989. As in the past, the actual amounts authorized are contained in a classified schedule of authorizations which is incorporated by reference and which is available, along with a classified annex to the committee's report, in the committee's offices.

Members who read both of the classified documents will recognize that, although the committee's recommendations are slightly below those amounts requested by the administration, the committee has recognized the high priority which intelligence should enjoy within the larger national security budget. It has made appropriate recommendations so that all essential intelligence programs and activities can be funded. Most of the amounts authorized are in the defense budget.

Mr. Chairman, as it does every year, the committee has worked closely with the Committee on Armed Services to produce recommendations for the authorization of appropriations of intelligence-related activities over which the committees share jurisdiction. The amounts authorized by H.R. 4387 are therefore fully consistent with those authorized by H.R. 4264, the fiscal year 1989 defense authorization bill, as it passed the House. Both committees agreed on these amounts. I appreciate the assistance of the members and staff of the Committee on Armed Services in arriving at this outcome.

Mr. Chairman, in addition to the authorization of appropriations, H.R. 4387 contains a number of legislative provisions.

Section 104 is a provision similar to that enacted in the fiscal years 1987 and 1988 acts that would limit assistance to the Contras to that specifically authorized by law.

Other provisions of title I prohibit procurement of more than three Guardrail RC-12K aircraft and sensors until the submission of a report by the Army on tactical airborne reconnaissance; establish restrictions on; provide specific authorization of appropriations and transfer authority for the Federal Bureau of Investigation with respect to its foreign counterintelligence activities; authorize transfer of $15.1 million from the Defense Intelligence Agency to the FBI; and exempt the Defense Intelligence Agency and Defense Mapping Agency from certain statutorily required personnel reductions.

Title II would authorize $23,745,000 and 244 personnel for the intelligence community staff, which provides staff assistance for the Director of Central Intelligence. Title II also defines how personnel are to be assigned to the staff and how it is to be administered.

Title III would authorize $144,500,000 for fiscal year 1989 for the Central Intelligence Agency retirement and disability system.

Title IV contains various general provisions repeated from previous years' intelligence authorization acts. In addition, the committee adopted an amendment requiring submission by the Director of Central Intelligence and the Secretary of Defense of equal opportunity plans addressing any minority underrepresentation at the Central Intelligence Agency and the National Security Agency, respectively.

Title V would permit the Director of Central Intelligence to grant monetary and other relief during fiscal year 1989 to former employees whose careers were unfairly affected as a result of allegations concerning their loyalty to the United States.

Title VI would provide for a demonstration project to test the effects of lump sum and periodic payments on recruitment and retention of FBI personnel and on FBI field operations in the New York City area.

Title VII contains provisions affecting the intelligence activities of the Department of Defense. Section 701 would allow the Secretary of Defense to pay for arrangements with foreign countries for cryptologic support. Section 702 would provide for an Assistant Secretary of Defense for Intelligence who would be responsible for overall supervision of intelligence and intelligence-related activities of the Department of Defense.

Mr. Chairman, H.R. 4387 enjoys strong bipartisan support within the committee and represents, I believe, the product of an excellent working relationship by both members and staff to carefully assess the needs of intelligence and make recommendations that are consistent both with the national security and the state of the Nation's finances. I want to pay tribute to the ranking minority member of the committee, the gentleman from Illinois [Mr. Hyde], for his thoughtful and cooperative approach. My thanks also to the gentleman from Wyoming [Mr. Cheney], the ranking minority member of the Subcommittee on Program and Budget Authorization, who has worked tirelessly and effectively in the hearings and deliberations that have produced this bill.

And, last, I want to pay tribute to the hard work, dedication, and high professionalism of the committee staff.

H.R. 4387 provides what is needed for intelligence, and I urge its adoption.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the ranking Republican on the House Permanent Select Committee on Intelligence, I wish to express my support for H.R. 4387. The authorization bill is the committee's primary annual legislation, and a large number of hearings and a great deal of work have gone into it. The programs involved are many and complicated. We have all been immeasurably aided by our highly skilled and hard-working budget staff—Marty Faga, Duane Andrews, Bob Fitch, and Bob Surrette, whose dedication we greatly appreciate.

Most of these programs are highly classified, so the discussion today must focus on some of the more mundane aspects of intelligence administration and oversight. The intelligence budget is largely included within the defense budget. However, it has been spared some of the deeper cuts taken by defense. The committee slightly reduced the administration's overall request in the process of augmenting a few programs, while cutting back several others.

One substantive issue which can be discussed is our deferral of the purchase of certain Guardrail aircraft pending submission of a report on tactical airborne reconnaissance. This was done without prejudice and from a belief that the program should be better thought through and coordinated, but our action was certainly not from a preconceived opposition to this program.

Unfortunately, support for military or paramilitary operations in Nicaragua continues to be banned unless specifically approved by Congress.

A number of Members have asked about the Senate Intelligence Committee's request for a budget supplement to improve collection on Soviet strategic weapons and on verification of arms control agreements. We have not yet acted upon this issue, and it is something which the two intelligence committees will have to seriously address and in some detail.

A few actions relating to administrative measures are worth mentioning. The committee specifically excepted some Defense Intelligence Agency and Defense Mapping Agency employees from personnel cuts imposed on DOD as a whole, because they are already understaffed in some areas due to assignment of new responsibilities. The bill establishes a pilot project to allow supplemental pay for FBI personnel stationed in New York City, an active area for Soviet espionage.

We want to see whether such measures will help our counterintelligence capabilities by improving recruitment and retention rates. Most counterintelligence agents do not come from the New York area, and they find the costs of establishing a home and raising families there to be prohibitively high, and some are even forced to commute from Philadelphia. Also, in the counterintelligence area, we have been concerned about FBI fund-allocation practices and whether all the money authorized to augment counterintelligence activities actually is spent for that purpose.

There will be further discussions with both the Senate Intelligence Committee and the administration over the committee's recommendation that a new Assistant Secretary of Defense for Intelligence position be created. I am happy to join with the gentleman from Massachusetts [Mr. Mavroules], who proposed similar legislation within the Committee on Armed Services in this effort to improve the Department of Defense's handling of intelligence matters. In particular, members of the Intelligence Committee have been very concerned about the adequacy of the Department of Defense's counterintelligence efforts and their effective use of collected intelligence when designing U.S. weapons systems.

□ 1050

Although Nicaragua remains a contentious issue, most of the bill is accepted by both Republicans and Democrats on the committee. I, therefore, endorse it and recommend it to all Members of the House.

If I may, Mr. Chairman, one final note. This is the last time the gentleman from Ohio [Mr. Stokes] will manage our annual authorization bill, and I want everyone in this House to know what an outstanding job Lou Stokes has done as our chairman. He has been fair, of exemplary integrity and above all a perfect gentleman. It has been an honor and a pleasure working with him as together we have tackled some of the most important and complicated security issues facing the Nation.

There is a line in Camelot where King Arthur says all of us are tiny drops in a vast ocean, but some of them sparkle. Even though we have struggled and fought over issues and will again shortly, I just want to say Lou Stokes is one of the sparklers.

Mr. Chairman, I reserve the balance of my time.

Mr. STOKES. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Beilenson].

Mr. BEILENSON. Mr. Chairman, I commend the distinguished gentleman from Ohio [Mr. Stokes], the chairman of our committee, and the distinguished gentleman from Illinois [Mr. Hyde], our ranking minority Member, for their very good work under very difficult fiscal constraints. I think they have done an excellent job.

Mr. Chairman, I rise in strong support of H.R. 4387, the Intelligence Authorization Act for Fiscal Year 1989. I believe the Intelligence Committee has made a series of balanced and careful recommendations concerning the fiscal year 1989 funding levels for intelligence and intelligence related activities. I urge my colleagues in the House who have not already done so to review the classified schedule of authorization incorporated by the bill and also the classified annex to the committee's report. I believe that a reading of these documents will bear out my confidence in the committee's recommendations.

Mr. Chairman, I would also like to draw attention to several provisions of the bill which I believe have a particular importance for a subject to which, as chairman of the Intelligence Committee's Subcommittee on Oversight and Evaluation, I have devoted some considerable attention; that is, counterintelligence and security.

First, the committee makes a number of recommendations concerning the foreign counterintelligence activities of the Federal Bureau of Investigation. Specifically, we require that funds authorized to be appropriated for the foreign counterintelligence activities of the FBI actually be spent for this purpose. This has not been the case for a number of years. The committee has been placed in the position of agreeing to the FBI's budget request based on strong representations that every penny is needed to counter Soviet and other espionage activities in this country, only to learn that the FBI has consistently underspent the amounts authorized and appropriated because it has devoted its attention to other areas. The committee believes strongly that if, as we have been consistently told, foreign counterintelligence is such a high priority, the FBI should make every effort to devote the resources it says it needs to this problem.

The second action of the committee has been to provide additional resources within the budget request of the Bureau for the acquisition of technical surveillance equipment. I am constrained in further describing the need for this equipment but I believe the committee's classified report goes into that in compelling detail. The intent of the committee, in this case, is to help ensure the availability as soon as possible of both the quantities and the quality of equipment very clearly needed by the Bureau.

Mr. Chairman, beyond the allocation of these resources, the committee is in the process of reviewing executive branch progress in addressing the recommendations made by this committee in its 1987 report entitled "U.S. Counterintelligence and Security Concerns, 1986."

That report made numerous findings and recommendations concerning the U.S. Government's personnel, industrial security, and counterintelligence programs—recommendations that were shared or augmented by similar reports by the Senate Select Committee on Intelligence and a number of blue ribbon panels appointed by the executive branch, including one chaired by Gen. Richard Stilwell, then Deputy Under Secretary of Defense for Policy.

The 63 recommendations of the Stilwell Commission have been accepted and implemented by the Department of Defense. DOD security regulations have been revised, and the number of security clearances in the department were ordered reduced by 10 percent, with possible further reductions to follow. As with most efforts of this magnitude, however, the problem is ensuring that broad policy directives are taken seriously, and implemented, by the military services and appropriate agencies.

While some measures, such as the actual reduction in clearances, appear to have been implemented with some degree of success, others, such as expanding the scope of background investigations into financial information, appear to be languishing—either because of bureaucratic inertia or because of a serious lack of funding.

The questions the committee has been asking itself have been broad and basic:

Have the reductions in security clearances been real, and have they had any impact on enhancing the national security?

Have all of these improvements and task forces resulted in a more secure method of hiring people, or the selection out of those who pose security risks?

All the recommendations aside, is there a commitment within the U.S. intelligence and national security community to fund the necessary improvements in security programs.

Some of the witnesses before the subcommittee have questioned one of the most basic elements of our security policy, the viability of the background investigations process. Statistics show that, of the many thousands of investigations conducted each year of newly hired and currently employed personnel, less than 1 percent are denied a clearance. Expert witnesses in the security field have suggested that this process may need to be revamped, if not eliminated, for certain large categories of personnel because it simply doesn't have a significant impact on the security picture.

The more difficult issues, of course, are those which can't be fixed with new regulations or even with money:

How do you instill in agencies, where virtually everybody has a security clearance, a rigid application of the need-to-know principle?

How do you ensure that the creation of new special access programs protects sensitive information and is not designed to eliminate oversight, either internal or external?

Mr. Chairman, the subcommittee is only at the beginning stages of examining the answers to these questions. At present, we are not in a position to recommend major new allocations of funding or drastic changes in security procedures. But is is clear to me that unless the committee and other interested committees of the Congress continue their probing and their examination of this issue. It will—like so many other difficult and large-scale problems—slip away from us and return to the status quo. The status quo is what led us to the so-called year of the spy, and to major compromises in our national security programs. We simply cannot afford the cost and the danger inherent in repeating the security lapses of the very recent past.

Mr. Chairman, your committee will continue to review counterintelligence and security programs and, to the greatest extent possible, make its recommendations and findings public. It is only on the basis of such examination and public discussion that we will move closer to the hard decisions that will be necessary to solve these very large and very complex problems.

Mr. Chairman, I thank the House for allowing me to take the time to discuss this issue at some length but I believe it is one which cannot be ignored, and one which I want Members of the House to understand that the Permanent Select Committee on Intelligence is addressing with care and persistence.

Mr. STOKES. Mr. Chairman, I just want to take a moment to commend the gentleman from California [Mr. BEILENSON] for the remarks he has just made regarding the area in which he has expressed this interest. As a Member of this committee he has done an outstanding job, and I look forward to his continuing to pursue this specific area of interest to which he has so eloquently addressed his concerns.

Mr. HYDE. Mr. Chairman, I yield such time as he may consume to the gentleman from Wyoming [Mr. CHENEY].

Mr. CHENEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise at this time to be very brief and simply to express my appreciation for having had the opportunity to serve this past 2 years under the chairmanship of the gentleman from Ohio [Mr. STOKES]. It would be difficult to find two Members of the House whose voting records are farther apart than the gentleman from Ohio and myself. On many of the issues of the day we have fundamentally different approaches, and I am not one who often sings the praises of the leadership of my colleagues on the other side of the aisle. But I have enjoyed immensely my service on the committee with the gentleman from Ohio [Mr. STOKES]. As the ranking member, the gentleman from Illinois [Mr. HYDE], so ably stated earlier in his remarks, he has been an outstanding chairman.

This is one of the most difficult assignments because we are not able to talk publicly about what we do. The committee consumes a great deal of time that is not available for other purposes, but it is important work, and the issues that we have to address are extremely complex and sensitive ones.

Consistently throughout his tenure, the gentleman from Ohio [Mr. STOKES] has proven to be extremely fair. There has been a high degree of comity on the committee and I have always been treated with respect and dignity regardless of party or regardless of my views and, frankly, Mr. Chairman, I have often felt that if we could extend the good feelings and the cooperation that exists on the Permanent Select Committee on Intelligence to the House at large this would be a much more productive body.

I urge my colleagues to approve the legislation that is before us today.

Mr. HYDE. Mr. Chairman, I have no more requests for time, and I yield back the balance of my time.

Mr. STOKES. Mr. Chairman, I just want to thank both the gentleman from Wyoming [Mr. CHENEY] and the gentleman from Illinois [Mr. HYDE] for their very gracious remarks and to say in turn, although I have already made reference to both of them and the service that they have rendered to this committee, it has indeed been a real pleasure for me to work with both of them in a leadership role, and it is an experience that I shall treasure as having served in this capacity in the House.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to express my concern over the accountability of appropriated funds expended by the CIA. As the gentleman from Ohio, the distinguished chairman of the committee, knows, I am most concerned about recent abuses of taxpayer funds as illustrated by the Iran-Contra Affair. For these reasons, I introduced the CIA Accountability Act, H.R. 3603 on November 3, 1987. As the House sponsor of that legislation, I want to take a moment to commend the distinguished gentleman and chairman of the House Select Committee on Intelligence for his work on this authorization act and H.R. 3822, the Intelligence Oversight Act of 1988. I am pleased that the committee has acted to improve its oversight of CIA operations and financial activities. I understand the Intelligence Oversight Act will address prior notification of covert action activities, regulate the use of nonappropriated funds, and require improved reporting of the covert transfer of military equipment.

I am pleased to learn that the committee is planning to begin the process of developing an improved audit capability that can work with the recently created audit staff of the Senate Select Committee on Intelligence. However, I believe that additional accountability steps must be implemented.

I believe that my legislation is in keeping with the need to improve the accountability of our Nation's intelligence oversight. The purpose of my legislation is to clarify and restate the General Accounting Office's [GAO] Comptroller General's authority to audit the financial transactions and evaluate the programs and activities of the CIA.

As the chairman knows, the CIA is the only Federal Agency whose files are not open to examination by the GAO. Yet, the National Security Agency as well as the Department of Defense's highly sensitive activities are regularly reviewed and examined by the GAO.

Currently, the only method used to ensure CIA accountability is the use of internal reviews by the CIA's inspector general, who is appointed by the CIA Director. The Iran-Contra scandal offers evidence that an aggressive director, like William Casey, without proper oversight, can circumvent any accountability system. The inspector general was unable to respond to the inquiries of the Iran-Contra committees because he had no access to the information as to how the intelligence agency's funds had been expended in this regard.

Currently, there is no comprehensive manner for Congress and the American taxpayer to ensure that the CIA is carrying out its activities legally or effectively. GAO performs this auditing and evaluating function for Congress throughout the executive branch. It is a highly competent and strictly nonpartisan agency. It is the logical organization for the committee to consider to carry out this work.

The National Security Agency and numerous military services regularly permit GAO auditors with top secret clearances to review many of their highly sensitive activities, including special access programs such as highly secret weapons projects and sensitive intelligence operations. Also, the Iran committees borrowed GAO personnel to establish the money trail of the Iran-Contra affair. My measure would allow the GAO to apply to the CIA the same strict standards of financial accountability and performance that it applies to other agencies. It provides that CIA programs and activities can be subject to possible audit or evaluation. At the same time, my proposal carefully limits the GAO personnel who could be involved in CIA audits, the methods by which the GAO could obtain access to CIA personnel and records, and the dissemination of the audit results.

My measure is carefully drafted to ensure that secret activities and classified documents are not compromised. It would allow the President to shield specific employees from investigation, but no written records could be kept from GAO review. My approach insists on accountability while recognizing the unique role of the CIA.

At this point, I would ask the gentleman from Ohio, Mr. STOKES, the chairman of the Intelligence Committee, if he would engage in a colloquy with me concerning H.R. 3603. It is my understanding, based on my conversations and correspondence with the gentleman, that the Intelligence Committee is not willing to adopt the approach of H.R. 3603 at this time. Would the gentleman from Ohio explain to the House his reasons for this position and his position on the legislation?

Mr. STOKES. Mr. Chairman, if the gentleman will yield, I would say that

I am very familiar with H.R. 3603 and I commend him for taking such a strong interest in the accountability of U.S. taxpayer funds in the intelligence field. I share the gentleman's interest in assuring that the funds appropriated for intelligence activities are neither mismanaged nor unaccountable to outside review. But, as I have indicated to you in our conversations and correspondence, I am inclined to defer to Director of Central Intelligence strongly urged concerns about the security of CIA activities and am currently of the opinion that the intelligence committees should seek to improve their own audit capability and oversight before considering the approach contained in H.R. 3603. I believe the committees have done a credible job in those audits that they have performed and I am thinking in particular of the House Intelligence Committee's audit and review of the expenditure of Contra aid funds during fiscal years 1987 and 1988.

Further, as I have indicated to the gentleman, I have not closed the door to additional financial audits. I remain open to other alternatives, such as that presented by H.R. 3603. As the gentleman has mentioned, the committee has taken steps in its adoption of H.R. 3822 and its increased audit activities to see if improved congressional oversight will do the job. If it does not, and at present I don't know whether it will or will not—then the committee will be in a position to review additional options.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for his review of this important issue and look forward to consulting with him in the future on the implementation of increased intelligence oversight. I continue to stand ready to press my legislative proposals should the approach adopted by the Intelligence Committee prove inadequate.

□ 1105

Mr. Chairman, I thank the gentleman for his colloquy and for all of his work.

Mr. STOKES. Mr. Chairman, I thank the gentleman for his comments in this very important area, and we will certainly keep his concerns in mind.

Mr. SWINDALL. Mr. Chairman, in considering my amendment to H.R. 4387, the Intelligence Authorization Act for fiscal year 1989, the issue before us is curtailing espionage by foreign diplomats in the United States. Protecting our military secrets and advanced technology from our enemies is of vital interest to U.S. national security. However, I unfortunately was forced to withdraw my amendment because of a conflict with the Parliamentarian. While this temporary setback leaves the issue of hostile diplomatic travel unresolved, my colleagues can be sure that I will raise it again during next year's State Department authorization bill.

I had planned today to offer the Anti-Espionage Act of 1988 as an amendment to grant the Secretary of Defense and the FBI Director authority over individual travel requests to the State Department's Office of Foreign Missions by diplomats from Communist and terrorist countries in the United States. My amendment affects all Communist countries listed in section 620(f) of the 1961 Foreign Assistance Act and all countries determined by the Secretary of State as terrorist for purposes of the 1979 Export Administration Act. Specifically, it states that individual travel requests in the United States by personnel of hostile foreign countries and entities shall not be permitted if the Secretary of Defense or the Director of the Federal Bureau of Investigation judges that such travel might enhance the capability of those countries or entities to intercept U.S. military, intelligence or diplomatic communications or engage in forms of human intelligence collection. In either case, the Secretary of State and the Director of Central Intelligence must be consulted.

Instead of one executive branch authority having exclusive oversight of the travel requests of hostile foreign diplomats (as in current law), my amendment creates authority for two Departments to review diplomatic travel, both of which have responsibilities that are directly affected by such travel. My amendment balances our national security interests with our political and diplomatic concerns by creating a system of checks and balances within the executive branch to oversee the travel requests of hostile intelligence operatives on American soil.

This amendment differs greatly from the travel restriction compromise reached in section 162 of last year's State Department authorization bill. Instead of imposing specific restrictions on entire missions like section 162, the Anti-Espionage Act of 1988 creates a process for reviewing individual cases of hostile diplomatic travel.

My amendment does not deprive the State Department of any authority that it legitimately should have. It rests on the principle that regulating the movement of spies in the United States should properly be the responsibility of those agencies concerned with counterintelligence and national security—namely, the FBI and Defense Department. Current law allows too little input on questions of individual travel from the agencies most affected by the trips of hostile intelligence personnel in the United States.

Soviet travel within the United States increasingly will impinge directly upon Defense Department and FBI concerns. With the INF treaty, nuclear testing verification, and possibly in the future with START, there will be a great deal of on-site inspection travel and activity at or near defense and national security installations.

With the passage of the Foreign Missions Act [FMA] in 1982, Congress gave the Office of Foreign Missions [OFM] the responsibility to decide between intelligence and reciprocity concerns in regulating diplomatic travel. Congress created OFM because of serious dissatisfaction with the State Department's disregard for the intelligence and counterintelligence interests of the United States. But in the time since OFM was established, the State Department has remained continuously hostile to the goals which Congress intended to achieve in passing the Foreign Missions Act.

The Department has not fully implemented the FMA and, in some cases, has even chosen to ignore the law completely. For example, it failed to implement Section 162 of 1987's State Department authorization bill until 8 weeks after the deadline and five months after the bill became law. In finally applying the restrictions, the Department still chose to bypass such U.S. intelligence threats as the Hungarian and Romanian missions to the U.N. Similarly, the State Department has also chosen for 3 years not to fully implement the 1985 Roth-Hyde amendment by allowing Soviet members of the U.N. Secretariat to travel to sensitive closed areas. More recently, State has been willing to grant travel requests and allow negotiations with a known KGB agent appointed to head a new U.S.-U.S.S.R. trade commission—the obvious purpose being to improve the Soviets' efforts to acquire denied technology. In other words, smooth relations with the Soviets took precedence over the damage and even the humiliation to the West.

The precedent for my amendment rests in section 161 of the 1987 State Department authorization bill. That section, part of the bipartisan Diplomatic Reciprocity and Security Act of Representatives FASCELL, MICA, BROOMFIELD, and SNOWE, plugged the loophole in the law with respect to the acquisition of American property by hostile foreign diplomats by giving the Defense Department and FBI jurisdiction over future property acquisitions. This was aimed at avoiding another scandal like Soviet occupation of Mount Alto. Section 161 is identical to the substance of my amendment. The only difference is that, instead of avoiding the prospect of giving the Soviets and their allies real property to spy on U.S. military, diplomatic and intelligence matters, my amendment gives the executive authority to avoid spies having the run of the country.

My amendment is a recognition of the fact that, in addition to the State Department's legitimate political and diplomatic interests, diplomatic travel affects the FBI and DOD's internal security responsibilities. These agencies' concerns deserve to be recognized and acted upon. Diplomatic travel involves many competing interests in the executive branch. Therefore, there should be a balance of power within the executive to deal with the issue, not a single department with unilateral and final authority over the subject. Otherwise, the State Department will continue to ignore the Congressional intent and mandate of the Foreign Missions Act.

My amendment should not be misinterpreted as a DOD and FBI "veto" over travel requests because both must consult with the Secretary of State and the Director of Central Intelligence before using their authority in the amendment to deny an individual diplomat's travel. Neither the FBI or DOD would use their authority lightly. One can hardly claim that the FBI has a history of ignoring or overriding State Department concerns. As for the FBI, they are a far smaller and less powerful agency than State, and traditionally have accommodated and deferred to the State Department except in extreme cases. Meanwhile, the Defense Department has its own concerns about reciprocity, such as ensuring that U.S. defense attachés stationed abroad have a maximum of free movement. Besides, no executive branch agency is free to disregard totally the points of view and desires of another because the head of the department always has the recourse to go to the President to seek resolution of the interagency dispute. In the case of foreign policy or national security related questions, a mechanism clearly rests within the process of the National Security Council. The current arrangement, whereby the FBI and DOD having no vested or institutional arrangement to object to individual instances of travel, does not serve U.S. national security interests.

In addition, by offering this amendment, I am allowing the FBI and DOD to specifically target those types of travel which directly threaten U.S. national security, while at the same time respecting the State Department's interests in allowing the nonthreatening types of travel to proceed unimpeded. That ability does not exist now. The present law only creates arrangements for broad travel controls rather than finely tuned restrictions. As it stands now, travel controls must apply to intelligence personnel as well as nonintelligence personnel within a given mission. Such an across-the-board, generic approach deprives the FBI, the Defense Department and the State Department the ability to respond to hostile intelligence activities on an individual basis. My amendment offers a more sophisticated, "rifle" approach to the problem, instead of the present "shotgun" approach and thereby protects both diplomatic and counterintelligence interests.

If Congress fails to enact legislation of this kind in the future, it will be saying to the FBI and DOD that they do not deserve an institutional means of objecting to hostile intelligence activity and also tell the State Department that the congressional intent of the Foreign Missions Act no longer matters.

To underline the significance of this issue, I am including in the RECORD a backgrounder written by two brilliant Heritage Foundation analysts, Tom Dewey and Ambassador Charles Lichenstein.

NEW MEASURES NEEDED TO FIGHT ANTI-U.S. SPYING

INTRODUCTION

Devastating security breaches at American diplomatic installations abroad have highlighted once again the unrelenting threat of Soviet espionage. Coupled with the threat itself has been near criminal neglect by top United States diplomatic officials of even the most routine security precautions.

These events abroad, however, should not divert attention from one blunt fact: the major components of Soviet espionage targeted against the U.S. are located in the U.S.-Soviet and Soviet bloc diplomatic and United Nations Missions, within the United Nations Secretariat, at commercial offices and news bureaus, and among the thousands of Soviet and Soviet bloc visitors who come to the United States each year.

Among the most important covers for Soviet and Soviet bloc espionage is U.N. Headquarters in Manhattan. Examples:

On May 20, 1978, two Soviet employees of the U.N. Secretariat, Valdik Enger and Rudolph Chernyayev, and one employee of the Soviet Mission to the U.N., Vladimir Zinyakin, were expelled from the U.S. on charges of trying to buy information about American submarine defenses.

On April 21, 1983, two "diplomats" at the Soviet U.N. Mission, Aleksandr Mikheyev and Oleg Konstantinov, along with a Washington-based Soviet "diplomat," were expelled from the U.S. on charges of espionage. All were trying to obtain secret information about U.S. weapons technology.

On August 23, 1986, Gennadiy Zakharov, a KGB operative working as a science officer in the U.N. Secretariat, was arrested for purchasing classified documents on robotics, computers, and artificial intelligence from an undercover informant.

A 1986 Senate Intelligence Committee Report[1] identified Vladimir Kolesnikov, Special Assistant to U.N. Secretary-General Javier Perez de Cuellar, as a China expert for the KGB, the Soviet intelligence and security service.

Previous Senate reports[2] identified other U.N. posts as "traditional" KGB jobs. These include the post of External Relations Director of the U.N. Department of Public Information.

The abundant evidence reveals how much Moscow uses the U.N. Secretariat for hard-target espionage (buying or stealing classified government documents), for acquiring sensitive scientific and technical information, and for furthering Soviet disinformation and propaganda themes. These activities, however, are only part of the problem. Other documented cases of Soviet bloc espionage in the U.S. include agents as diverse as a California-based Polish trade official engaged in procuring top-secret information on U.S. nuclear weapons and a West German auto mechanic arrested in Florida for buying U.S. Army documents for sale to East Germany.

It is now clear, moreover, that the Soviets have been just as active at such U.N. specialized agencies as the International Atomic Energy Agency in Vienna and the United Nations Environment Program in Nairobi. This problem appeared so serious that the CIA investigated it, and, in a still classified report, details the use of such agencies by the Soviets for large-scale scientific and technical espionage.

The Reagan Administration, working with bipartisan majorities in Congress, has begun the critical job of rebuilding U.S. defenses against this multifaceted espionage threat. Major initiatives taken since 1981 include reductions in Soviet personnel at Soviet diplomatic installations, the imposition of travel restrictions on Soviet and Eastern bloc diplomats in the U.S., the creation of an Office of Foreign Missions (OFM) within the State Department to coordinate security programs, and increased funding and training for FBI counterintelligence agents. This combination of legislative and executive action is paying dividends. Says a senior FBI official: "We've hurt them."

They have not, however, been hurt enough. If the U.S. is more effectively to counter espionage inside the U.S., steps are needed. Among them:

(1) Streamlining a number of OFM Regulations, such as the travel restrictions that currently apply to most Soviet bloc nations;

(2) Extending the reach of such OFM regulations as "closed area" restrictions;

(3) Increasing pressure for strict enforcement by the U.N. of the U.N.'s own regulations on Soviet and bloc personnel in the U.N. Secretariat;

(4) Tightening surveillance of non-Soviet bloc targets, especially the People's Republic of China, and non-diplomatic Soviet bloc personnel, such as trade and press representatives; and

(5) Expanding the OFM authority to coordinate U.S. policy toward diplomatic installations.

Though these steps cannot fully insure the U.S. against damage caused by U.S. and U.N.-based espionage, they will enhance the odds in favor of U.S. counterintelligence.

THE SOVIET BLOC

An October 1986 Report of the Senate Intelligence Committee states: "Among foreign intelligence services, those of the Soviet Union represent by far the most significant intelligence threat in terms of size, ability and intent to act against U.S. interests."[3]

Soviet espionage in the U.S. (and Canada) is planned and conducted by the First Department of the First Chief Directorate of the KGB, by other operational components of the KGB, and by the GRU, the Soviet military intelligence agency. Their respective responsibilities are described in a report on foreign espionage in the U.S., recently transmitted to Congress by Ronald Reagan. It says: "Within the Soviet services, GRU personnel are targeted primarily against strategic military intelligence while KGB personnel are assigned to one of four operational components or "lines"—Political (PR), Counterintelligence (KR), Scientific and Technical (X), or Illegals Support (N)."[4]

While the tasks of the first three KGB "lines" are clear, the fourth, Line N, comprises what the presidential report identifies as "a small group involved in the operations of illegals, that is, intelligence officers and agents infiltrated into a foreign country under false circumstances for intelligence purposes."[5] An example of a successful "Illegal" operation is the case of Karl Koecher, a U.S. citizen of Czech origin who "emigrated" to the U.S. in the 1960s and worked for the CIA as a translater in the 1970s—before being uncovered as a Czech "illegal" dispatched to the U.S. to penetrate American intelligence agencies.

Dangerous East Germans and Cubans. The Soviets are aided in their espionage activities by the foreign intelligence services of their Warsaw Pact allies and by the Cuban intelligence service, the Direccion General de Inteligencia (General Directorate of Intelligence), generally known as the DGI. The capabilities of the services vary. Particularly dangerous, explains the presidental report, are the East German service (MfS), which has run several successful operations involving "illegals," and the Cuban DGI, whose "usefulness to the KGB . . . cannot be underrated." [6]

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[1] "Meeting the Espionage Challenge: A Review of United States Counterintelligence and Security Programs," Report 99-252 of the Select Committee on Intelligence of the United States Senate (Washington, D.C.: U.S. Government Printing Office, 1986), p. 23.

[2] See, for example, "Soviet Presence in the U.N. Secretariat," Report of the Senate Select Committee on Intelligence, S. RPT. 99-52, United States Senate (Washington, D.C.: U.S. Government Printing Office, 1985).

[3] 1986 Select Committee Report, *op. cit.*, p. 17.

[4] "A Report on Foreign Espionage in the United States Department of State (Washington, D.C.: U.S. Government Printing Office, 1987), p. 4.

[5] *Ibid.*, p. 5.

Since the KGB plays a major role in operations of most of these services, the Soviets have been able to develop particular areas of specialization. Example: Romanian spies in the U.S., explains the report, ". . . tend to concentrate on gathering political and economic information," while the U.S.-based East Germans' "central focus" is on "a broad variety of S&T [scientific and technical] information." [7]

Some Soviet bloc espionage services cooperate with Moscow more closely than others. Observes Jeffrey Richelson, a professor of government at American University: "The relationship between the Soviet intelligence and security services and those of the Warsaw Pact nations and Cuba vary with the particular service, the Bulgarians and the Cubans being the most and the Romanians the least tightly tied." [8] Despite this uneven cooperation and the inevitable friction between the Soviets and these subordinate services, significant information collected by Soviet bloc intelligence officers almost certainly is shared with Moscow. The Polish intelligence officers, for example, who supervised James Harper, the California-based engineer who provided the Poles with classified documents pertaining to U.S. strategic nuclear forces, received personal letters of commendation from Yuri Andropov, who then was KGB boss.

SPIES AT U.N. HEADQUARTERS

American counterintelligence against U.S.-based Soviet and Soviet bloc espionage is made particularly tough by the fact that these countries use for espionage tasks their nationals in the U.S. who are not attached to embassies or diplomatic missions.

By far the largest such permanent concentration of Soviet and Soviet bloc intelligence officers is at the U.N. Secretariat in Manhattan, where 265 Soviets and 33 Soviet bloc nationals are currently employed. The Senate Intelligence Committee confirms that between 30 and 40 percent of these ostensible "international civil servants" are in fact officers of the KGB, GRU, or their Soviet bloc equivalents; all are subject to cooptation and "spot" use by bloc services. As the current Director of Central Intelligence, William Webster, stated in a speech when he was FBI Director:

". . . the U.N. is indeed a rat warren of intelligence operatives and needs to be severely constrained." [9]

The value of U.N. Headquarters in New York to the Soviet bloc goes far beyond using its U.N. employees for intelligence collection. Numerous studies indicate that, through a series of bureaucratic maneuvers, with the acquiescence of top U.N. officials, Moscow virtually now controls entire segments of the U.N. bureaucracy.[10] This allows the Kremlin, for example, frequently to include Soviet disinformation and propaganda themes in U.N. publications and activities, giving such themes legitimacy they could never enjoy if datelined Moscow. It is for this reason that the "non-militarization of space" was a major theme of the U.N.'s 1986 International Year of Peace program; this theme is at the core of Moscow's worldwide propaganda effort to derail the Reagan Administration's Strategic Defense Initiative. The U.N.'s International Year of Peace program was run by a Pole.[11]

Recruiting Third World Citizens. The U.N. community itself is a prime intelligence target for the Soviet bloc. With its thousands of accredited diplomats representing virtually every country, the U.N. offers an ideal setting to identify and recruit Third World citizens, many of whom will return home to assume high positions in their national bureaucracies or governments. Many already have access to sensitive information. Even Western diplomats are targets. Example: Norweigian diplomat Arne Treholt, who served as a high-ranking official of the Norwegian U.N. Mission, was arrested in 1984 and identified as a longtime Soviet agent. U.S. officials confirm that a significant number of non-Soviet bloc U.N. employees are Soviet agents or agents of influence. A top Soviet official boasted to Arkady Shevchenko, a former Soviet citizen who was U.N. Under-Secretary General when he defected to the U.S. in 1978, that the U.N. "is our best watch-tower in the West." [12]

NON-DIPLOMATIC COVERS

The Soviets and their bloc allies make espionage use of other permanent non-diplomatic establishments in the U.S. All the Warsaw Pact countries, for example, have trade or commercial offices in the U.S., not only in major cities like New York and San Francisco, but also in Charlotte, North Carolina and Columbus, Ohio, and other regional centers. Most Soviet bloc nations also have established so-called news bureaus in the U.S.; these routinely are used for espionage purposes, as the public explusions of TASS News Agency personnel shows.[13] As the Soviet and Soviet bloc intelligence officers operating under U.N. cover, intelligence officers nominally employed by TASS or AMTORG (the Soviet trade agency) have the advantage of creating less suspicion in the minds of potential targets than Soviet diplomats would.

Soviet Scientists as Spies. All Soviet bloc intelligence services use visiting delegations in the U.S. as cover for intelligence officers. Soviet bloc security personnel accompany every delegation visiting the U.S. to prevent defection or "unauthorized contact" with U.S. citizens. Members of such delegations also are used for "offensive" purposes. Reports the Senate Intelligence Committee: "In one case cited in KGB training manuals, an intelligence officer spotted a possible recruit while serving as interpreter for a Soviet scientist visiting the laboratory of a private U.S. company. The KGB account states that the scientist was aware of his interpreter's intelligence function and actively assisted him in that role." [14]

Effective U.S. counterintelligence is thus extremely difficult, because every national from the Soviet bloc in the U.S. for whatever apparent reason, as well as the thousands of bloc visitors to the U.S., must be considered a potential agent. A cursory examination of the numbers involved (see Appendix), as well as the range of possible intelligence activities, from traditional scientific, military, political, and economic to disinformation and "active measures," make the job seem nearly impossible.

NON-SOVIET INTELLIGENCE SERVICES HOSTILE TO THE U.S.

While the Soviet and Eastern bloc services represent by far the most serious intelligence threat to the U.S., the activities of other hostile services in the U.S. cannot be ignored. Two threats are of primary importance: the intelligence activities of the People's Republic of China (PRC) and the espionage efforts of other hostile countries, including non-Warsaw Pact Communist states and states supporting terrorism.

Countering PRC espionage in the U.S. is difficult. The reasons: 1) food relations and expanding economic and military cooperation between the U.S. and PRC have made Washington reluctant to raise sensitive intelligence issues; 2) the U.S. seems to know very little about PRC intelligence, not even, it appears, how many intelligence services Beijing maintains; and 3) the huge PRC presence in the U.S. give PRC personnel excellent opportunities for espionage.

Chinese Espionage. Explains an FBI official: "The PRC is working on the 50 year plan." Meaning: The Chinese have built their espionage apparatus in the U.S. slowly. This apparatus focuses, according to the Senate report, "primarily on [obtaining] advanced technology not approved for release so as to further PRC military and economic modernization in the 1990's and beyond." Though the PRC does not engage in the systematic subversion and disinformation characteristic of the Soviets, continues the report, ". . . the PRC intelligence threat continues to be significant . . . and justifies alerting American citizens to the current risks." [15]

Within the context of the valuable U.S.-PRC strategic relationship, therefore, Washington must do more to monitor and restrict PRC espionage.

Generally, the activities of the intelligence services of such nations as Vietnam, Libya, and Afghanistan pose only a relatively small long-term threat to U.S. national security. For one thing, their known involvement with terrorism makes the U.S. especially vigilant in monitoring their activities in America. For another, North Korea, Iran, and several other hostile countries are not allowed to have diplomatic relations with the U.S. In addition, they have relatively few diplomats at their U.N. Missions and in the U.N. Secretariat. And most of these countries lack sophisticated foreign intelligence services and do not conduct large-scale traditional intelligence collection operations.

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[6] Harry Rositzke, "The KGB" (Garden City, New York: Doubleday and Company, 1981), p 225.

[7] 1987 State Department Report, *op. cit.*, pp. 10, 11.

[8] Jeffrey Richelson, *"Sword and Shield: Soviet Intelligence and Security Apparatus"* (Cambridge, Massachusetts: Ballinger Publishing Company, 1986), p. 212.

[9] Remarks by William H. Webster, Director, Federal Bureau of Investigation, before the Society of Former Special Agents Annual Convention, Boston, Massachusetts, September 29, 1986, p. 8.

[10] See, for example, Juliana Geran Pilon, "Moscow's U.N. Outpost," Heritage Foundation *Backgrounder* No. 307, November 22, 1983, and Charles M. Lichenstein, "By Breaking the Rules, Moscow Keeps A Tight Grip on the U.N.," Heritage Foundation *Backgrounder* No. 526, July 23, 1986.

[11] For an excellent overview of Soviet disinformation techniques, see Richard H. Shultz and Roy Godson, *Dezinformatsia: Active Measures in Soviet Strategy* (Washington, D.C.: Pergamon-Brassey, 1984.

[12] Arkady Shevchenko, *Breaking with Moscow* (New York: Alfred A. Knopf, 1985), p. 237.

[13] See "Expulsions of Soviet Officials, 1986," Foreign Affairs Note, United States Department of State (Washington, D.C.: U.S. Government Printing Office, January 1987), pp. 4-11.

[14] 1986 Senate Select Committee Report, *op. cit.*, pp. 26-27.

[15] *Ibid.*, p. 19.

Most of these countries, moreover, spend a large part of their intelligence resources simply monitoring the activities of their U.S.-based emigres.

RECIPROCITY CONSIDERATIONS

Washington's policy toward diplomatic installations in the U.S. is based generally on the principle of reciprocity. This means that the U.S. will extend to the U.S.-based diplomats of a particular country the same treatment and conditions that apply to U.S. diplomats in that country. With respect to most countries, full reciprocity is in force. Example: because the USSR places stringent travel restrictions on American diplomats in Moscow, Washington places similar restrictions on Soviet diplomats in the U.S.

In terms of U.S. counterintelligence capabilities, the generally sound policy of reciprocity is flawed. First, it is not feasible to compare the privileges and immunities granted American diplomats in Soviet bloc countries, especially the USSR, with those granted bloc personnel in the U.S. America is an open society committed to freedom of information and movement. The Soviet bloc makes good use of freedom of information and movement. The Soviet bloc makes good use of the inherent nature of U.S. society, by collecting huge amounts of information from "open" sources [16] and by playing on instinctive U.S. resistance to the imposition of restrictions on free movement. In the USSR, by contrast, even if there were no restrictions on the movement of U.S. personnel, all such movement would be known and reported to the Kremlin, due to the constant surveillance and harassment that all foreigners suffer there. The situation, in short, is inherently unequal and asymmetrical.

Flawed Reciprocity. The second major flaw in the policy of reciprocity is that U.N. Headquarters is in New York City; there is no equivalent facility anywhere in the Soviet bloc. This gives the Soviets the ability to place some 450 "diplomats" in the U.S. who otherwise would not be there. U.S. intelligence enjoys no reciprocal opportunity. In fact, while there are major U.N. offices in Rome, Vienna, Geneva, Nairobi, Paris, and other large cities, there are none in any Soviet bloc nation.

A case can be made that reciprocity helps to ensure acceptable status and working conditions for U.S. diplomats in the Soviet bloc countries and also offers the U.S. intelligence collection opportunities abroad. But concerns for U.S. diplomats overseas must not deter Washington from imposing and implementing whatever restrictions on Soviet bloc personnel are necessary to deter espionage in the U.S. This is especially necessary in light of the tremendous damage done to U.S. national security by U.S.-based Soviet spies, and in light of the inherently unreciprocal situation as it affects intelligence collection opportunities.

U.S. COUNTERINTELLIGENCE AND SECURITY PROGRAMS

The Congress in 1982 established the Office of Foreign Missions within the State Department. This was one of the most important recent U.S. anti-espionage initiatives. The OFM has statutory authority to "assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled." [17] By placing U.N. Missions under OFM authority, Congress and the Reagan Administration openly admitted the problems caused by U.N.-based espionage.

In 1985, the Roth/Hyde Amendment to the Foreign Missions Act expanded OFM's authority by making all restrictions that apply to diplomatic missions of particular countries applicable also to that country's nationals in the U.N. Secretariat. The Amendment's intent was to curtail the espionage activities of U.N. employees, primarily those from the Soviet bloc.

The most important OFM anti-espionage regulations restrict the travel of foreign diplomats and nationals in the U.S. These are now imposed, on the basis of reciprocity, on nationals of 15 countries.[18] The tightest cover all Soviet nationals in the U.S., with the strange exception of certain trade officials. Restricted Soviets who now want to travel beyond a 25-mile radius of their base city must make their arrangements through the OFM Travel Service Bureau. OFM reserves the right to deny travel permission and insists that travel requests be filed 48 hours in advance, to permit checking with the FBI on the backgrounds of those wishing to travel. Since the Soviets "close" parts of the USSR to Americans, the U.S. reciprocally "closes" certain American cities and areas to Soviet travel.

Violating the Roth/Hyde Law. There are, however, serious inconsistencies in the application of these restrictions. These inconsistencies are particularly significant since the State Department has acknowledged publicly that most Soviet bloc intelligence services use their travel privileges for intelligence activities. In violation of the Roth/Hyde Amendment, for example, Soviet U.N. employees travel to "closed areas" in the U.S. As for Moscow's Soviet bloc allies, the U.S. regulations are less restrictive and coherent than those imposed on the Soviets. Though all Polish, Balgarian, Czech, and East German personnel in the U.S. (except certain commercial and trade officials) must book travel through OFM, they can travel to "closed areas" and beyond the 25-mile radius of their base. They can do so because Washington insists on honoring what has become an asymmetrical reciprocity.

What is worse, Hungarian and Romanian officials, who cooperate extensively with the KGB, are subject to no restrictions at all. Although the Cubans at the U.N. are under the 25-mile restriction, members of their Interest Section in Washington can travel anywhere they desire in the U.S. These restrictions, distressingly, apply only to travel by commercial carrier; any national of any of Moscow's Warsaw Pact allies in New York or Washington, can get into their cars and drive where they want—to the submarine construction facility at Groton, Connecticut, or to the Navy base at Newport News, Virginia, for example.

Lack of FBI Manpower. Not only does the U.S. apply its restrictions inconsistently, but Soviet bloc personnel probably violate the restrictions. Even if all of the FBI's 9,220 agents were detailed to counterintelligence, the Bureau would still not have the manpower to ensure that the roughly 110,000 nationals of communist countries in the U.S. at any given time do not violate the restrictions.[19] This is despite completion of the FBI's five-year agent expansion program and increased training and expertise in counterintelligence techniques. Even with a one to one ratio, tight surveillance would be impossible; a single FBI agent cannot keep tabs on a potential spy.

Though they now have some means of monitoring hostile intelligence officers, some counterintelligence officials still are skeptical of the efficacy of travel restrictions in curtailing espionage, particularly in light of their inconsistent application. Says one official: "These guys will always find a way to go about their business despite these inconveniences." Yet, combining tighter travel restrictions with strict limits on the numbers of potential hostile agents may deter Soviet bloc espionage more effectively. No actions have done as much to wound the Soviet intelligence apparatus in the U.S. as Ronald Reagan's expulsion last September of 25 Soviets from the Soviet U.N. Mission and October's expulsion of 60 Soviets from their Washington Embassy and San Francisco consulate.

In the U.N. expulsion, the entire KGB and GRU leadership was sent back to Russia, along with the ablest professional intelligence officers. In the Washington case, the Soviet technicians manning their technical collection apparatus were expelled along with the leadership cadre. Moscow's office in New York City and Washington, moreover, now will be subject to mandatory ceilings on the number of Soviets allowed at them—170 in New York (down from 275) and 251 in Washington and San Francisco (down from roughly 320).

Paying a Heavy Price for the U.N. No such actions can be taken with respect to the U.N. Secretariat, where 265 Soviets currently are employed. Although the U.S. does deny visas to known intelligence officers from time to time, the Soviets are entitled to send their citizens to serve at the Secretariat. This is one of the heavy prices that the U.S. pays for hosting the U.N. Moscow, however, is not entitled to use these individuals to control entire components of the U.N., nor does Moscow have any right to house its international civil servants in a compound protected by diplomatic immunity—as it currently does.

The U.S. can and should take steps to eliminate the manifold Soviet abuses of the U.N. The U.S. also can take measures better to protect its own secrets, to ensure that individuals with access to classified information are not security risks, and to alert all such individuals to the dangers of espionage. The most serious damage to U.S. national security has been from those already willingly working with hostile services. At last there are signs that Washington is taking more seriously the existing components of a "good defense." An encouraging example of this is the FBI's Development of Defense Counterintelligence Awareness program, or DECA, which alerts employees of U.S. defense contractors to the dangers of espionage.

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[16] Intelligence professionals and scholars estimate that between 70 and 90 percent of all information gathered by the Soviet intelligence services in the U.S. comes from open, public sources. See, for example, "Remarks by William Webster before the Standing Committee on Law and National Security of the ABA," Federation Bureau of Investigation, Washington, D.C., December 1, 1985, p. 7.

[17] Section 203(c), (1), Title II of the State Department Basic Authorities Act (As Added by the Foreign Missions Act), as cited in Compilation of Intelligence Laws and Related Laws and Executive Orders of Interest to the National Intelligence Community," Permanent Select Committee on Intelligence of the House of Representatives (G-45-8820), U.S. Government Printing Office, Washington, D.C., 1985.

[18] Afghanistan, Byelorussia, Bulgaria, Cambodia, Cuba, Czechoslovakia, German Democratic Republic, Iran, Libya, Mongolia, North Korea, Poland, USSR, Ukraine, Vietnam.

[19] Figure cited in Remarks by William H. Webster, footnote 9, above.

Perhaps most important, Washington can try to turn the large hostile presence in the U.S. to American advantage by operations to penetrate the hostile services and known arenas of Soviet activity. The secret defection "in-place" of Arkady Shevchenko three years before it was made public, allowed him to keep his top U.N. job for that period. In that time, the U.S. learned much about Moscow's systematic use of the U.N. as cover for espionage. There is reason to believe that the U.S. has had similar success with other Soviet bloc intelligence officers, particularly during the early 1980s, when there was widespread disaffection in parts of Eastern Europe.

RECOMMENDATIONS

The U.S. probably will never be able to protect itself completely from hostile intelligence services. Washington, however, can take steps to reduce the dangers from U.N.-based espionage and other activities of hostile intelligence services. These steps include:

Increased funding for FBI manpower, training, and technical support. FBI agents in the New York Field Office should receive "hardship post" adjustments, particularly housing allowances to offset New York City's towering rents.

Authority for the FBI and other intelligence agencies to pursue offensive counterintelligence opportunities within the constraints of U.S. foreign policy concerns. The huge foreign presence in the U.S. presents obvious opportunities for penetrating hostile services. So do the headquarters in the U.S. of international organizations.

Placing all Warsaw Pact and Cuban diplomats in the U.S. or at the U.N. under the tight restrictions now applied to Soviet diplomats and officials. This could trigger reciprocal restrictions on U.S. diplomats in Soviet bloc countries. Nonetheless, the burden of proof must be on those officials who would justify the absence of meaningful restrictions by citing the value of intelligence collected in those countries. Given the huge amounts of intelligence collected by bloc spies in the U.S., this is a heavy burden.

Limiting the number of hostile country nationals allowed in the U.S., and requiring the Office of Foreign Missions to report to Congress every six months on the numbers of those officials.

Granting the OFM primary responsibility for enforcing all travel restrictions applied to foreign nationals. Currently, the State Department's Bureau of European and Canadian Affairs shares with OFM responsibility for the travel of Soviets.

Requiring U.S.-based officials of mainland China to use the OFM Travel Service Bureau to book all travel in the U.S. This would allow the FBI to track their movement.

Coordinating more closely the work of the numerous federal agencies involved in issuing entry visas for the U.S. Often, the FBI is advised that visiting delegations from Soviet bloc and other hostile nations are coming to the U.S. only days before the visit. This makes monitoring nearly impossible.

Insisting that the U.N. end its abuse of "secondment," whereby the Soviets have gained control of key units of the U.N. Secretariat. The U.N. should adopt a rule limiting to 50 percent the number of nationals at the U.N. which a country can have "seconded," with a waiver for small states who use "secondment" legitimately. This would cripple Moscow's ability to rotate inelligence officers in and out of the U.N. Secretariat.

Requiring that the top 3,000 professionals posts at the U.N. Secretariat be subject to five-year rotation. This would prevent nationals of the same country or groups of countries as the current occupant of a given post from replacing the incumbent in that job. This would loosen the Soviets' hold on key positions in the Secretariat. If the U.N. fails to adopt these measures, the U.S. should consider denying entry visas to "replacement" nationals of countries with more than 50 percent of their U.N. personnel on secondment.

Prohibiting by law the housing of foreign nationals lacking full diplomatic privileges and immunities in compounds protected by such immunity. Most Soviet bloc countries and China house their nationals from the U.N. Secretariat in their diplomatic compounds. Though this actually makes surveillance of them a bit easier, it makes a mockery of the separation of diplomats and "international civil servants."

In light of recent, repeated breaches of U.S. security, the Reagan Administration and Congress must cooperate to crack down on U.S.-based hostile intelligence activities. For too long, the Soviet and other hostile intelligence services have been allowed to use the facilities of the U.N. in New York and other diplomatic and commercial installations in the U.S. as cover for large-scale espionage activities. Although the U.S. has at long last recognized the scope of the problem, and taken some important steps to deal with it, more needs to be done to reduce the danger and enhance the effectiveness of U.S. counterintelligence.

THOMAS E.L. DEWEY,
Policy Analyst.
CHARLES M. LICHENSTEIN,
Senior Fellow.

APPENDIX

Countries	Permanent official presence [1]	Visitors [2]
USSR	1,344	5,000
Bulgaria	84	1,000
Czechoslovakia	144	N/A
East Germany	90	853
Hungary	110	6,000
Poland	300	N/A
Romania	72	N/A
Afghanistan	11	N/A
Cuba	127	N/A
Iran	16	N/A
Libya	9	N/A
Nicaragua	43	N/A
North Korea	16	N/A
People's Republic of China	1,500	25,000
Vietnam	29	N/A

[1] "Permanent" official presence reflects the total number of officials—diplomats, consular officers, commercial and press personnel of a given country in the U.S. as of December 1986. In some cases, Cuba, for example, the number also includes working wives. In the case of USSR, the number may also reflect clerical personnel and servants, who have been used for espionage tasks.

[2] "Visitors" includes full time students, East-West Exchange Participants and tourists, as well as members of official visiting delegations.

Sources: Department of State, Protocol, Diplomatic and Consular Lists, 1987. List of Employees of Diplomatic Missions. Senate Report "A Review of United States Counter-Intelligence and Security Programs" 1986. Unclassified Report on Foreign Espionage in the USA.

Prepared by Lee Avrashov.

Excerpts from October 1986 Senate Intelligence Report, "Meeting the Espionage Challenge":

The hostile intelligence threat to the United States is severe, and it confronts the government and the American people with increasingly serious challenges. The threat spans all types of intelligence operations from traditional human espionage to the most sophisticated electronic devices. Every kind of sensitive information is vulnerable, including classified government information, emerging technological breakthroughs, and private financial transactions. Foreign intelligence services also sometimes target the political process, seeking both information and influence.

The research and development cost savings to the Soviet Union from illegal western technology acquisition are believed to be enormous. Taken together, the damage to national security from espionage, technology theft and electronic surveillance amounts to a staggering loss of sensitive information to the hostile intelligence services. As an open society, the United States already allows its adversaries unfettered access to vast amounts of information that must be shared widely so that our political system can function democratically and the process of free scientific inquiry can be most productive. Our openness gives hostile intelligence services the ability to focus their efforts on those few areas of our government and society where confidentiality is required.

Excerpt from 1987 unclassified State Department document:

The primary Soviet intelligence goal worldwide continues to be the recruitment of agents targeted against Americans, particularly those with access to classified and sensitive national security information. One of the gravest threats to U.S. national security is the KGB's efforts to recruit American citizens holding sensitive positions in government, the military, and the U.S. intelligence community. Soviet intelligence expends considerable manpower, time and resources to spot, cultivate, and recruit Americans with access to classified sensitive information.

Mr. Chairman, I insert a copy of my amendment:

AMENDMENT TO H.R. 4387 OFFERED BY MR. SWINDALL

At the end of the bill, add the following new title:

TITLE VIII—ANTI-ESPIONAGE ACT OF 1988

SHORT TITLE

SEC. 801. This title may be cited as the "Anti-Espionage Act of 1988".

AUTHORITY OVER INDIVIDUAL TRAVEL REQUESTS OF PERSONNEL OF CERTAIN COUNTRIES AND ENTITIES

SEC. 802. (a) SECRETARY OF DEFENSE.—Travel in the United States by the personnel of a foreign mission of a foreign country or foreign entity described in subsection (c)(1) shall not be permitted if, in the judgment of the Secretary of Defense (after consultation with the Secretary of State and the Director of Central Intelligence), such travel might contribute to the capability of that country or entity to intercept communications involving United States Government diplomatic, military, or intelligence matters unless the Secretary of Defense determines that national security interests of the United States require such travel.

(b) DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.—Travel in the United States by the personnel of a foreign mission of a foreign country or foreign entity described in subsection (c)(1) shall not be permitted if, in the judgment of the Director of the Federal Bureau of Investigation (after consultation with the Secretary of State and the Director of Central Intelligence), such travel might contribute to the capability of that country or entity to engage in intelligence activities directed against the United States Government, other than the intelligence activities described in subsection (a) unless the Director of the Federal Bureau of Investigation determines that national security interests of the United States require such travel.

(c) DEFINITIONS.—For the purpose of this section—

(1) the term "foreign country or foreign entity" means—

(A) any country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961;

(B) any country determined by the Secretary of State, for purposes of section 6(j) of the Export Administration Act of 1979, to be a country which has repeatedly provided support for acts of international terrorism;

(C) any other country or entity which engages in intelligence activites in the United States which are adverse to the national security interests of the United States; and

(D) any country or entity with respect to which the United States withholds funds from the United Nations for International Organizations, Conferences, or Programs under section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e, note) or section 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100-202); and

(2) the term "personnel of a foreign mission of a foreign country or foreign entity" includes the family members and dependents of such personnel, but such term does not include persons who are nationals or permanent resident aliens of the United States.

(d) REPORTS.—The Secretary of Defense and the Director of the Federal Bureau of Investigation shall transmit to the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate, and to the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, not later than 6 months after the date of enactment of this section, and not later than 6 months thereafter, a report on the actions taken by the Secretary of Defense and the Director of the Federal Bureau of Investigation in carrying out this section within the previous 6 months.

Mr. STOKES. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule by titles instead of by sections, and each title shall be considered as having been read.

The Clerk will designate title I.

The text of title I is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1989".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1989 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(b) None of the funds authorized to be appropriated by this Act may be used to procure more than three Guardrail RC-12K aircraft and sensor suites until the Department of the Army has submitted to the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives and to the Committee on Armed Services of the Senate a report detailing the long-range plans and budgetary commitments to meet the future requirements for tactical airborne reconnaissance in support of the United States Army. The report should include, but not be limited to, the contribution of remotely piloted vehicles and other reconnaissance assets.

(c)(1) None of the funds authorized to be appropriated by this Act for the foreign counterintelligence activities for the Federal Bureau of Investigation may be used for any other purpose.

(2) Of the funds described in paragraph (1) not less than the amount listed for the "FBI Dedicated Technical Program" in the Schedule of Authorization described in section 102(a) shall be obligated for the development and procurement of counterintelligence technical equipment.

(3) Of the funds authorized to be appropriated in this Act for the Defense Intelligence Agency, the Secretary of Defense shall tranfer not to exceed $15,100,000 to appropriations for the foreign counterintelligence activities of the Federal Bureau of Investigation.

(d) The expiration date provided for in section 803(b) of the Intelligence Authorization Act for Fiscal Year 1986 (Public Law 99-169) shall be extended until one year after the submission of the report required by section 803(a) of such Act.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. (a) The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1989, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Permanent Select Committee on Intelligence to accompany H.R. 4387 of the One Hundredth Congress.

(b) The Schedule of Authorizations described in subsection (a) shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the schedule, within the executive branch.

(c)(1) In computing the number of nonheadquarters personnel required to be reduced under subsection (b)(2)(A) of section 602 of Public Law 99-433 (100 Stat. 1065), the Secretary of Defense shall exclude personnel of the Defense Intelligence Agency and the Defense Mapping Agency, and in carrying out that reduction, the Secretary shall allocate such reduction (under the authority of the Secretary under subsection (d) of that section) so that none of such reduction is applied to personnel of the Defense Intelligence Agency or the Defense Mapping Agency.

(2) For purposes of paragraph (1), the term "nonheadquarters personnel" means members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned or detailed to duty in management headquarters activities or management headquarters support activities.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1989 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

The CHAIRMAN. Are there any amendments to title I?

Mr. STOKES. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the remainder of H.R. 4387 is as follows:

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community

Staff for fiscal year 1989 the sum of $23,745,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized 244 full-time personnel as of September 30, 1989. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1989, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1989, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1989, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1989 the sum of $144,500,000.

TITLE IV—GENERAL PROVISIONS

RESTRICTION OF CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

TITLE V—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

ONE-TIME PERSONNEL AUTHORITY

SEC. 501. (a) Whenever the Director of Central Intelligence finds during fiscal year 1989 that a former employee of the Central Intelligence Agency has unfairly had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such former employee, the Director may grant such former employee such monetary or other relief (including reinstatement and promotion) as the Director considers appropriate in the interest of fairness.

(b) Any action of the Director under this section is not reviewable in any other forum or in any court.

(c) The authority of the Director to make payments under subsection (a) is effective only to the extent that appropriated funds are available for that purpose.

(d) The Director shall report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives any use of the authority granted by this section in advance of such use.

TITLE VI—FBI ENHANCED COUNTERINTELLIGENCE AUTHORITIES

DEMONSTRATION PROJECT ON MOBILITY AND RETENTION FOR THE NEW YORK FIELD DIVISION

SEC. 601. (a) Notwithstanding any other provision of law, the Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall conduct a demonstration project to ascertain the effects on the recruitment and retention of personnel, and on field operations in the New York Field Division of the Federal Bureau of Investigation of providing—

(1) lump-sum payments to personnel upon directed assignment to the New York Field Division from another geographical location, and who enter into an agreement to complete a specified minimum period of service, not to exceed three years, in the New York Field Division; and

(2) periodic payments to New York Field Division employees who are subject by policy and practice to directed geographical transfer or reassignment.

(b) Such demonstration project shall commerce not later than ninety days after the date of enactment of this Act and shall terminate five years after such date, unless extended by law.

(c) The Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall jointly provide to the President and the Congress annual interim reports and, at the conclusion of the 5 year period, a final evaluation concerning the results of the demonstration project.

TITLE VII—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SEC. 701. (a) Section 421 of title 10, United States Code, is amended to read as follows:

"§ 421. Funds for foreign cryptologic support

"(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

"(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard for the provisions of law relating to the expenditure of United States Government funds, except that—

"(1) no such funds may be expended, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds, and

"(2) the authority provided by this subsection may not be used to acquire items or services of value for the United States that could otherwise be obtained by the use of appropriated funds.

"(c) Any funds expended under the authority of this section shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House pursuant to the provisions of title V of the National Security Act of 1947, as amended.".

(b) The reference to section 421 in the sections at the beginning of chapter 21 of such title is amended to read "Funds for Foreign Cryptologic Support".

ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

SEC. 702. (a) Paragraph (3) of section 136(b) of title 10, United States Code, is amended to read as follows:

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Intelligence. He shall have as his principal responsibility the overall supervision of intelligence and intelligence-related activities (including intelligence oversight, counterintelligence, covert action, preparation of threat assessments, and intelligence support for net assessments) of the Department of Defense. Such responsibility includes authority for coordination of all policy, planning, budgetary, and management matters within the Department respecting such activities. The Assistant Secretary shall report directly, without intervening review or approval, to the Secretary and Deputy Secretary of Defense.".

(b)(1) Section 136(a) of title 10, United States Code, is amended by striking out "eleven" and inserting in lieu thereof "twelve".

(2) Section 5315 of title 5, United States Code, is amended by striking out "(11)" after "Assistant Secretaries of Defense" and inserting in lieu thereof "(12)".

REQUIREMENTS TO DISCLOSE DEFENSE INTELLIGENCE AGENCY ORGANIZATIONAL AND PERSONNEL INFORMATION

SEC. 703. (a) Section 1607 of title 10, United States Code (as added by section 603 of Public Law 100-178), is transferred to the end of chapter 21, redesignated as section 424, and amended to read as follows:

"§ 424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency

"(a) Except as required by the President or as provided in subsection (b), the Secretary of Defense may not be required to disclose information with respect to—

"(1) the organization or any function of the Defense Intelligence Agency; or

"(2) the number of persons employed by or assigned or detailed to such Agency or the name, official title, occupational series, grade, or salary of any such person.

"(b) This section does not apply—

"(1) with respect to the provision of information to Congress; or

"(2) with respect to information required to be disclosed by section 552 or 552a of title 5.".

(b) The table of sections at the beginning of chapter 21 of such title is amended by adding at the end the following new item:

"424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency.".

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 8, after line 18, insert the following:

EQUAL EMPLOYMENT OPPORTUNITY PLAN

SEC. 403. Ninety days after enactment of this Act, the Director of Central Intelligence and the Secretary of Defense shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report setting forth an analysis of each equal employment opportunity group's representation in the Central Intelligence Agency and the National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by September 30, 1991.

(b) The Director of Central Intelligence and the Secretary of Defense shall each submit interim reports on February 1 of 1989, 1990, and 1991 concerning the Central Intelligence Agency and the National Security Agency respectively detailing the efforts made, and the progress realized, by such agency in achieving the objectives of each such plan, including, but not limited to, the number of applications from, and the hiring, promotion, and training of, members of equal employment opportunity group."

(c) For purposes of this section, the term "equal employment opportunity group" means—

(A) white women,

(B) black men,

(C) black women,

(D) Hispanic men,

(E) Hispanic women,

(F) Asian American and Pacific Islander men,

(G) Asian American and Pacific Islander women,

(H) Native American and Alaskan Native men, or

(I) Native American and Alaskan Native women.

Mr. STOKES (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Is there any debate on the committee amendment? If not, the question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. MC HUGH

Mr. McHUGH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McHUGH:

On page 8, after line 6, add the following new section:

COMPARABILITY OF CERTAIN SPOUSE PROVISIONS WITH CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 302. (a) Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new section:

"SURVIVOR ANNUITIES FOR PREVIOUS SPOUSES AND SECOND CHANCE TO ELECT SURVIVOR ANNUITY FOR CERTAIN SPOUSES

"SEC. 226. (a) The Director shall prescribe regulations under which any previous spouse (including former spouses who are also previous spouses), divorced after the effective date of this section from a participant, former participant, or annuitant whose retirement or disability or FECA (chapter 81 of title 5, United States Code) annuity commences after the effective date of this section, shall be eligible for a survivor annuity to the same extent, and, to the greatest extent practicable, under the same conditions (including reductions to be made in the annuity of the participant) applicable to spouses of participants in the Civil Service Retirement and Disability System (CSRS) married for at least 9 months with service creditable under section 8332 of title 5, United States Code.

"(b) The Director shall prescribe regulations under which participants, retired participants, and former participants who have separated from service with a deferred annuity may make an election within two years after the effective date of this section (or, if later, at the time of retirement) to receive a reduced annuity, pay a deposit, and provide a survivor annuity for any spouse for whom survivor benefits were not elected at the time of retirement, or (if the marriage occurred after retirement) were not elected in a timely manner, and for any previous spouse (including former spouses who are also previous spouses) who is not eligible for a survivor annuity under subsection (a) of this section, under, to the greatest extent practicable, the same terms and conditions as those prescribed for participants in the Civil Service Retirement and Disability System (CSRS) by the Civil Service Retirement Spouse Equity Act of 1984.

"(c) As used in this section, the term 'previous spouse' means a former wife and husband who was married for at least nine months to a participant or former participant who had at least 18 months of service which are creditable under section 251, 252, and 253 of this Act.

"(d) This section shall take effect on the date of enactment of the Intelligence Authorization Act of Fiscal Year 1989.".

(b)(1) Section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(A) in subsection (a)(2), by inserting "an amount equal to any survivor annuity payments made to the former spouse under section 223 and also by" after "shall be reduced by"; and

(B) in subsection (b), by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) The amendments made by paragraph (1) shall take effect as of October 1, 1986.

(c)(1) Section 225(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "and any former spouse divorced after November 15, 1982, from a participant or former participant who retired before November 15, 1982," after "1982,".

(2) The amendment made by paragraph (1) shall take effect as of December 2, 1987.

(d)(1) The third sentence of section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking out "one year" and inserting in lieu thereof "nine months after the date of remarriage".

(2) Section 221 of title II of such Act is amended by adding at the end thereof the following new subsection:

"(p) The election of a survivor annuity and the reduction of an annuity under subsection (f)(2) or (n) of this section shall take effect on the first day of the first month beginning 9 months after the date of marriage. For the purposes of this subsection, the 9-month period shall be deemed to be satisfied in any case in which—

"(1) the annuitant dies within such period;

"(2) the surviving spouse of the annuitant had been previously married to the annuitant and subsequently divorced; and

"(3) the aggregate time married is at least 9 months.".

(3) The amendments made by this subsection shall apply to marriages which occur on or after May 7, 1985.

(e) Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

Mr. McHUGH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McHUGH. Mr. Chairman, I would first like to join my colleagues on the Permanent Select Committee on Intelligence in commending our chairman, the gentleman from Ohio [Mr. STOKES]. As everyone knows, the rules of the House require him to step down as chairman at the end of this year and he has served all of us with great distinction. We will miss him very much not only for his contributions substantively, but for the way in which he has conducted the committee and made his contributions. He is one of the real gentlemen of the House, not only in his service on our committee but in all of the things he does as a Member of this body. I would like to say that it has been a personal pleasure for me and an example for me to serve with him as chairman of our committee.

Mr. Chairman, this amendment consists of several technical corrections to those provisions of the CIA Retirement Act of 1964 which provide retirement and survivor benefits to former spouses. These provisions, first enacted in 1982, were expanded in 1986 and 1987. Corresponding provisions affecting civil service and Foreign Service former spouses were enacted in 1980, 1984, 1985, and 1987.

Today's technical amendment makes changes necessary to eliminate unintended inconsistencies among CIA, civil service, and Foreign Service in this area, and to correct previous drafting errors which, in some cases, have resulted in a denial of benefits to former spouses, usually older women without a job and without social security benefits.

The technical amendments have been cleared with the Post Office and Civil Service Committee and with the distinguished ranking Republican member of the Intelligence Committee.

The amendment makes changes in the following five areas:

1. MARRIAGE DURATION REQUIREMENT FOR SPOUSES ACQUIRED AFTER RETIREMENT

There is presently a 1-year marriage duration requirement before a CIA Retirement Act [CIARDS] participant may provide a survivor annuity to a spouse married after the participant has retired. Consistent with the recent Civil Service Retirement Act [CSRA] and Foreign Service Act [FSA] amendments, this requirement is shortened to 9 months. In addition, if a couple has been married and then divorced, and the couple remarries after retirement, the marriage must endure at least 1 year after the remarriage or the widow or widower technically is not eligible for a survivor annuity even if the participant elects to provide one. Consistent with the CSRA and FSA amendments, the amendment provides that all periods of marriage (whether or not they are interrupted by divorce) will be considered in determining whether the 9-month marriage duration requirement has been satisfied.

2. SURVIVOR ANNUITY FOR "PREVIOUS SPOUSES"

Consistent with the CSRA and FSA, the amendment changes CIARDS to permit a survivor annuity to be provided (by election at the time of retirement, by court order, or by spousal agreement incident to a court order of divorce, annulment or legal separation) to former husbands and wives who were divorced from CIARDS participants after at least 9 months of marriage, provided that the CIARDS participant had at least 18 months of creditable service. The survivor annuity will be funded by a reduction in the retirement annuity of the CIARDS participant.

At present, there is no satisfactory way to insure that a survivor annuity will be available to a "previous spouse" like this if the "previous spouse" does not meet the 10-year marriage duration requirement and 5-year overseas residence requirement of section 204(b)(4) of the CIA Retirement Act and thus is not a "qualified former spouse."

3. SETOFF OF SECTION 223 ANNUITY BENEFITS AGAINST SECTION 224 ANNUITY ENTITLEMENTS INSTEAD OF DISQUALIFICATION

Section 223 was included in the CIA Retirement Act in 1982 to permit CIARDS participants to elect to provide a survivor annuity for former spouses who would have been qualified for a survivor annuity under section 222(b) except for the effective date provision, which excluded former spouses divorced before November 15, 1982. The election results in a reduction in the retirement annuity of the participant. Section 224 of the CIA Retirement Act, added in 1987, provides a generous survivor annuity to individuals who were qualified former spouses on November 15, 1982, but disqualifies any former spouse who is provided a survivor annuity (no matter how small) under section 223. The ironic result from these two provisions, read together, is that if a participant cared for his former spouse enough to take a reduction in his retirement annuity to provide a survivor annuity for her under section 223 of the CIA Retirement Act, then the former spouse is entirely disqualified from receiving the more generous benefit which would otherwise have been provided to her by section 224 at no cost to the retired participant.

The amendment resolves this inequity in the same manner it has been resolved in the FSA. Instead of being disqualified to receive benefits under section 224, the benefits received under section 224 would be reduced by the amount of the benefits received under section 223.

4. SECOND CHANCE TO PROVIDE SURVIVOR ANNUITY FOR SPOUSE DESPITE FAILURE TO MAKE A TIMELY ELECTION AT RETIREMENT, OR TO MAKE A TIMELY DECISION FOR A SPOUSE ACQUIRED AFTER RETIREMENT

The 1984 amendments to the CSRA and last year's FSA amendments provided a second chance to provide a spousal survivor annuity to retirees who had elected not to produce such a survivor annuity at the time of retirement, or who had failed to make a timely election to provide a survivor annuity for a spouse married after retirement. The amendment provides a similar second chance to CIARDS retirees.

5. EXTENSION OF FORMER SPOUSE LIFETIME BENEFITS UNDER SECTION 225 TO QUALIFIED FORMER SPOUSES DIVORCED AFTER NOVEMBER 15, 1982, FROM AGENCY EMPLOYEES WHO RETIRED BEFORE NOVEMBER 15, 1982

The CIA Spouse Retirement Equity Act of 1982 granted certain former spouses of CIA employees a presumptive entitlement, subject to revision by state courts in divorce proceedings or by spousal agreement, to a pro rata share of the employee's retirement annuity. Former spouses qualified for the presumptive entitlement were those married to a CIA employee during at least 10 years of the employee's credible service, at least 5 years of which must have been spent together overseas.

The provisions of the 1982 act were made to operate prospectively, to cover only those divorced and retired after November 15, 1982. This was done because the entitlement was funded by a reduction in the employee's retirement annuity and it would not have been fair to apply such a reduction retroactively.

In the fiscal year 1987 Intelligence Authorization Act, some of the former spouse benefits were extended to cover pre-November 15, 1982, former spouses, but the cost was borne by the retirement fund, not the retiree.

Last year, in the fiscal year 1988 Intelligence Authorization Act, the full presumptive entitlement was applied retroactively, again, with the retirement fund bearing the cost. The intent of the fiscal year 1988 provision, in the words of the House Intelligence Committee's report, was to afford retirement benefits to "former spouses who were divorced prior to November 15, 1982, or whose spouse retired from the CIA prior to November 15, 1982," that is, those not covered by the 1982 act. However, the actual language in last year's act covered "any individual who was a former spouse * * * on November 15, 1982." Since "former spouse" is a defined term in CIARDS, the language had the unintended effect of excluding from coverage those individuals whose spouse retired before November 15, 1982, but whose divorce occurred after such date. The amendment corrects this error.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, the minority agrees with the gentleman from New York. This is a good amendment. We are pleased to accept it.

Mr. McHUGH. I thank the gentleman for his support.

Mr. STOKES. Mr. Chairman, if the gentleman will yield, the amendment offered by the gentleman from New York is indeed a technical amendment; it is a helpful and needed change in the generic CIA spouses law. The committee has no objection to the amendment, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. McHUGH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE: Page 6, strike out line 3 and all that follows through the end of line 15.

Mr. HYDE. Mr. Chairman, on February 29 of this year we cut off all military aid to the democratic resistance in Nicaragua. On March 23, an agreement was signed between the Sandino Communists and the Contras at Sapoa and on March 30, this House passed the House Joint Resolution 523 to send some humanitarian aid to the Contras while the negotiations pursuant to the Sapoa agreement were to be advanced.

Now in the last 60 days what has happened? Well, La Prensa, Nicaragua's opposition newspaper has been censored, threatened, and has twice been closed. Mobs of government-sponsored hooligans, called Turbas Divinas, have taunted, harassed, and beaten citizens including repeated assaults on the elderly and desperate women whose sons are held captive in Sandinista prisons. And by the way, there are 9,000 political prisoners inaccessible to Amnesty International and the Red Cross.

The Ministry of Justice has been closed and its functions turned over to the head of the state police; peaceful demonstrations have been forcibly disrupted by the Government; independent radio stations have been closed down for opposition to the government line; journalists have been beaten and expelled; labor leaders and leaders of the internal democratic opposition have been arrested and tossed into jail.

So flagrant has been the so-called democratization of the Sandino Communists that on May 12 of this year 27 members of the democratic party sent a letter to Daniel Ortega complaining of what they were doing. This letter says in part:

> First, we are troubled by the apparent unwillingness of your government to facilitate delivery to the Resistance forces of food, clothing, and medical supplies. Second, we are deeply concerned by your reported threats to launch a military offensive against the Resistance if a permanent ceasefire agreement is not signed by May 30.

Now what the Sandinistas have done is set out some very inhospitable areas and called them cease-fire zones. They have told the Contras, "If you move in there, you disarm, lay your arms down and then we'll talk democracy."

Well, we have waited from thence until now and nothing has happened.

The Soviet Union supports the Sandinistas, nobody supports the Contras. And the food and the bandages and the medicine that we, in our beneficence, legislated to give them, have not been delivered. We cannot get it into Nicaragua because the Sandinistas will not let us. It has to be flown in and if they fly it in they will be shot down.

Oh, some food has been delivered on the Honduran border. So to keep from starving, the Contras, the democratic resistance, have to leave Nicaragua and go into Honduras to eat and to keep body and soul together.

Well, I suggest today we fire a shot, a mild benign shot, but a shot nonetheless, across the bow of President Ortega.

This amendment does the following: Effective the 1st of October 1988—it does not take effect now, it takes effect when the next fiscal year starts—it eliminates all the restrictions in this bill on the executive branch's ability to provide military or paramilitary assistance to the Nicaraguan democratic resistance using funds available in the CIA's reserve for contingencies for fiscal 1989; not a lot of money, I can assure you, minuscule. It sends a clear and unmistakable signal to the Sandinistas to negotiate seriously, respect their commitments at Esquipulas and at Sapoa, institute real democratic reforms, halt labor repression, cease harassment of the media and the internal political parties or face the prospect—and it is only a prospect—of U.S. paramilitary assistance next October. But this sends a signal to the freedom fighters they have not been abandoned, there is still support for their cause and they should not make unreasonable concessions amounting to unilateral disarmament or surrender to the Sandinistas in their efforts to reach a peaceful solution to their differences.

Mr. Chairman, this is a mild reaction to the oppression, to the arrogance, to the failure of the Sandino Communists to live up to their obligations under Esquipulas and under Sapoa.

It is pathetic that the Soviets keep pouring in military aid, economic support to the Sandino Communists while we look impotent at the border because we cannot get in food to starving campesinos who are doing only what we did back in 1776, fight to free their country from tyranny.

I hope you will vote "yes" on this amendment.

Mr. CHENEY. Mr. Chairman, I move to strike the last word and I rise in support of the amendment.

Mr. Chairman, let me begin by apologizing to my colleagues for the fact that we have had to bring this amendment up without the kind of notice we would ordinarily hope to be able to exchange. The difficulty we have encountered on this side in being able to offer amendments, the growth in restrictive rules that allow no amendments to bills, led us to believe that if we did in fact surface in advance today our intention to have a debate on Nicaragua and the situation there, that we would not be allowed to do so by the leadership of the majority party. That has been our experience for several months now.

And I certainly meant no disrespect and I am sure Mr. HYDE would join with me in that, either to the gentleman in the chair or to our colleagues on the other side of the aisle on the Committee on Intelligence by not being able to give them advance notice today. But unfortunately, the way the House works these days we felt we had no other choice.

Mr. Chairman, this is a fairly straightforward proposition. The amendment simply removes from the Intelligence Authorization Act the language which prohibits the President from undertaking a covert action to support military or paramilitary operations inside Nicaragua. It would not be effective until the new fiscal year, that is fiscal year 1989, because that is all this authorization deals with. It would not take effect until October 1.

This amendment that we are proposing today does not specifically authorize the provision of military aid; it simply would permit the President at some future time if he were to undertake the normal proceedings of making a finding that he wanted to initiate a covert action in Nicaragua that he would be able to do so. He would have to notify Congress, the oversight committees, and then he would be able to use whatever resources are available to him in the reserve for contingencies to finance military support for the democratic resistance inside Nicaragua. I want to emphasize for all my colleagues who are listening that we are not talking about sending military aid to the Contras tomorrow, perhaps none would ever go. But this would allow the President to have restored to him the same authority that he currently has with respect to any other nation in the world. He would in fact be able, once this provision took effect after the end of this fiscal year, to again provide paramilitary support for the democratic resistance.

I think it is appropriate, Mr. Chairman, that we undertake this action at this time. When we cut off military aid to the Contras earlier this year we were told that this is a worthwhile and well-conceived plan to test the good faith of the Sandinistas.

□ 1120

Some of us warned that the Sandinistas had given ample notice that they had no intention of democratizing or negotiating in good faith. I believe we have been proven right.

No sooner was the truce signed, then those who dared to demonstrate in the Managua streets for more freedom were beaten and intimidated. Some labor unions dared to strike for better working conditions. Even the Communist union in Managua raised its voice in dissent over Sandinista mismanagement and suffering by the common people. But the government's response was to beat supporters, block visitors and deliveries to the strike, and to refuse for the past 89 days even to talk to the unions.

The Government continues to claim there is freedom of the press in Nicaragua even as it cuts off periodically supplies of newsprint to the only opposition newspaper and shuts down radio stations which broadcast news the Government does not like. Statements by Sandinista officials right up to this week reaffirmed that they have no intention of negotiating opposition political rights either with the 14 opposition political parties of widely varying ideologies over the Contras themselves. The Sandinistas openly state that talks with the resistance are negotiations only in the sense that they provide cover for Contra surrender.

A few days ago, even as he declared a 30-day extension of the cease-fire, Daniel Ortega reiterated his insistence that the Contras surrender their arms before political conditions will even be discussed. We predicted the Sandinistas would drag out the negotiations and try to extend them indefinitely while the Contras' options narrowed and they withered on the vine. Those who voted for the proposal assured us that Contra capabilities would not be affected and that humanitarian aid would be delivered promptly.

Again what we predicted has come true. The Sandinistas' first action was to dump Cardinal Obando y Bravo as mediator, apparently both because he pushed for Sandinista as well as resistance concessions and because he served as a witness to the goings on. When agreement on the cease-fire zones was near, the Sandinistas suddenly said that the Contras also were required to surrender their arms. When the Contras insisted on the original Sapoa terms, this threw the negotiations into stalemate.

On May 23 Ortega once more reiterated his insistence that the Contras surrender their arms. Stalemate over cease-fire zones in turn was used by the Sandinistas as an excuse to refuse to allow delivery of food to resistance forces. Not a single such delivery has taken place inside Nicaragua. When AID finally concluded it would have to send couriers with money for food purchases instead, the Sandinistas loudly insisted this was illegal, and they got the House Democratic leadership to agree with them.

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. CHENEY] has expired.

(On request of Mr. HYDE and by unanimous consent, Mr. CHENEY was allowed to proceed for 5 additonal minutes.)

Mr. CHENEY. Resistance fighters have thus been forced to evacuate in increasing numbers. Again there were protests, both from Nicaragua and the Democratic leadership in the House. The humanitarian aid deliveries to the Honduran border were illegal. AID did not commence such deliveries until April 28, halfway through the original 60-day cease-fire.

Faced with no option worth the name, the Contras felt the disputes among themselves about the best source of action. Now the Sandinistas are proposing to extend the cease-fire for another 30 days, but warning that, if the Contras do not accede to their terms, they will launch a major military offensive, the likes of which has never been seen during all the years of the war.

Since Soviet and bloc weapons deliveries have flooded in at high rates, as Contra military supplies have been cut off, the Sandinistas have repositioned their forces to maximum advantage, and the Contras are once again huddled in a vulnerable position on the Honduran border rather than scattered throughout the country.

In light of all this, what Member can claim that the U.S. Congress has not both misgauged Sandinista intentions and forced the Contras to negotiate from a position of extreme weakness such that their only choice is to accede to Sandinista demands or perpetuate a stalemate? The Sandinistas have made it clear that they have no intention of negotiating democratic reforms, only Contra surrender.

Mr. Chairman, what more proof do we need? The 30-day extension is a farce, and at the end the Contra position will be weakened still further. It is time for Congress to admit that we gave negotiations our best try, but so far they failed miserably, and it is time to reconsider military aid.

This amendment will restore the President's ability to use his authority to initiate covert action including supporting military operations of the democratic resistance in Nicaragua. It is prospective in that it would not take effect until the beginning of the next fiscal year, October 1. By this vote today we will end the policy of the Democratic leadership of this House of imposing unilateral surrender on the Contras. We will signal the Communist regime in Managaua that failure to negotiate in good faith, failure to live up to the requirements for the restoration of democracy in Nicaragua, failure to abide by the Esquipulas and Sapoa agreements will lead to a renewal of military aid for the democratic resistance in Nicaragua.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to compliment the gentleman from Wyoming [Mr. CHENEY] on an excellent statement and mention, of course, that this amendment negates anything to the contrary in the classified annex and reemphasize nothing happens until October 1. This simply provides flexibility to the President and confines that flexibility to contingency funds that the CIA has, a relatively very small amount of money, and it gives the flexibility of the President toward Nicaragua the same flexibility that he has to all the rest of the globe.

Why we should immunize and isolate Nicaragua under the present situation I cannot understand, so I hope that poeple will bear that in mind, and support the amendment, and again I thank the gentleman from Wyoming for an excellent statement.

Mr. CHENEY. Mr. Chairman, I thank the gentleman and I yield back the balance of my time.

Mr. STOKES. Mr. Chairman, I rise in opposition to the amendment because it would sweep away with one brush a principal for which Congress has fought long and hard over 6 years to establish—the principle that assistance to the Contras is not a covert program. It is not a covert action in support of our foreign policy toward Nicaragua; it is our foreign policy toward Nicaragua. And as such, it ought to be subject to full debate and a requirement that any funds expended to assist the Contras be voted on openly by the Congress.

Yet, the effect of this amendment would be to sweep away a restriction which prohibits the expenditure of intelligence contingency funds to assist the military and paramilitary activities of the Contras. Without this provision, the President could once again use secret intelligence funds to aid the Contras without congressional debate.

I think such a course would be a grave mistake, but, in any event, striking this language would leave it to the President to decide, not the Congress. I think we have come too far, Mr. Chairman, to regress to the point at which we stood in 1981 when the President first launched this unfortunate and ineffective policy.

The amendment is a terrible mistake for another reason. However imperfect, there is a cease-fire in Nicaragua between the Contras and the government. However unsatisfactory to both parties, there are continuing negotiations aimed at resolving their differences. However unwelcome, it is still a fact that only the two parties sitting down in Managua today can resolve the differences between Nicaraguans. The U.S. Congress cannot. Most assuredly, CIA assistance cannot.

It would be a tragic misstep for the United States to resume military aid to the Contras at this juncture—at a time when the regional peace accord signed by all the Central American countries has had its culmination in a series of continuing discussions between the Contras and the Sandinista government in Nicaragua.

I believe the House should continue to support the process established at Esquipoulas furthered at Sopoa and continued in the negotiations in Managua today. This is in every sense of the word the worst time for the United States to once again reinsert its heavy hand into Central American affairs.

Haven't we learned enough, Mr. Chairman, about the unpopularity of the Contra war, about the ineffectiveness of Contra pressure, about the inevitability of a negotiated settlement.

Mr. Chairman, the tragedy of our policy toward Nicaragua has been that although we can all agree on major substantive goals such as democracy, freedom, and an end to war, we have so frequently split along the question of how to bring about these goals. I would have hoped that the House had learned after 6 long bloody years that the United States cannot itself alone enforce a settlement in Nicaragua, that the guns of the Contras cannot alone obtain the democratic process they say they seek.

For the first time in 8 years, Central American governments have come together to seek a solution which is regional and which is self-imposed. Now is not the time for the United States to declare that effort a failure. Now is not the time for the Congress to reject a peace process devised and implemented by Central Americans, not by the CIA or the State Department. Mr. Chairman, now is the time for the House of Representatives to continue to support the Esquipoulas agreement, the San Jose declaration, the Sapoa agreement, and the bipartisan compromise legislation to provide humanitarian assistance to the Contras and to the young victims of that long war in Nicaragua.

Mr. Chairman, United States policy toward Nicaragua has been a total failure. Let's give the Central American governments a chance to fail on their own, but let it be their failure if that is what it must be, not one generated by a return to failed and fatal assistance to the Contras.

I urge my colleagues to reject this amendment and to continue patiently to support the ongoing peace process in Nicaragua.

□ 1130

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment because it provides an essential ingredient to the process which might ultimately provide peace, stability, and democracy to Nicaragua.

On February 3, 1988, a day which may well be recorded as a day of infamy in foreign policy for the United States of America, the U.S. Congress, with a vote of this House of 219 to 211, voted to stop Contra aid.

"Give peace a chance," we said. Give peace a chance, so we annihilated Contra aid and probably brought about the annihilation of the Contras themselves. That was the carrot. That was the carrot to the Nicaraguan Sandinistas to give peace a chance, to provide peace and stability, to provide freedom and democracy, to fulfill the promises that they made at Esquipulas and 10 years ago, when they seized power in Nicaragua with our help. That was the carrot.

The amendment today provides the stick. If the Sandinistas fail to live up to all those promises, if over the next 4 months they fail to abide by the commitments that they have made time and time again to provide peace and dignity and democracy and opportunity to their people to live in freedom without totalitarianism, then there must be a stick, and this amendment provides it to us.

Mr. Chairman, I do not think the Nicaraguan Sandinistas really want to abide by their commitments or their promises of peace and democracy, because I have listened to their words, I have read what they have said in recent weeks and months and years, and I have seen that they have reneged openly on all the commitments they have made to let the Contras and Nicaraguan citizens survive and live in peace and dignity and freedom.

On February 4, 1988, the very day after this House pulled the rug out from underneath the Contras, Daniel Ortega said on national radio in Nicaragua,

> The vote doesn't mean the war is over, and the Nicaraguans should complete the total defeat of the rebels.

In early March 1988, Mr. Ortega stalled the peace talks and moved 2,000 troops into Honduras. He tried to surround the Contras, and he would have succeeded and defeated them and annihilated them at that time since the Contras had no ammunition or food, except for the fact that President Reagan acted and moved United States troops into Honduras. Mr. Ortega had second thoughts, and a stalemate arose. But the Contras still had no ammunition and no food, and because of that, and as a result of this House pulling the rug out from under them, they agreed to a ceasefire and to engage in desperate talks for peace.

The talks are ongoing and will probably end by early June. Then the Contras may go back to war, but they are living on borrowed time.

The deck is stacked. Time is on the side of the Sandinistas.

Mr. Chairman, I ask this House, do you really think the Sandinistas have moderated? Do you really think that they are going to live up to all those promises that they have made? Do you really think so, when you consider that between August 1987 and January 1988, the turbas divinas, the "divine mobs," instigated by the Sandinista government, constantly and physically attacked the two human rights groups of Nicaragua?

In February 1988, the turbas divinas, the "divine mobs," inspired brutal Communist attacks on 15,000 labor protestors who were simply trying to march in hopes of better wages and better working conditions in their country. Two days later, the riot police, under the auspices of the Sandinista government, beat and arrested the leaders of the demonstrators.

On March 6, 1988, 100 women and girls marched peacefully to protest the draft, and they were dispersed by 150 club-wielding Sandinistas.

Then on May 5, more than 30 workers were arrested by the government simply for demonstrating their support for construction workers conducting a hunger strike to protest low wages.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. Livingston was allowed to proceed for an additional 2 minutes.)

Mr. LIVINGSTON. On the same day, Radio Catolica, Radio Mundial, and Radio Corporacion, despite the Sandinistas claims of free and open press, were closed down and barred from broadcasting news programs for 1 to 8 days for reporting on the workers' hunger strike. That was reported in the Washington Post.

Then on May 11, Nicaraguan President Daniel Ortega said:

> We are determined to defend our nation. We have proposed a 30-day extension of the peace talks. Logically, if no reply is received, there would be no other alternative other than to continue with a military confrontation.

May 16, he said again:

> The Contras should be grateful that we are not offering them the guillotine or the firing squad, which is what they deserve.

Mr. Chairman, the Sandinistas are not living up to their commitments today. They will not in the future. We have offered them a carrot. By pulling the rug out from under the Contras, we have denied them the aid and the assistance that the Contras so desperately need to fight for freedom in Nicaragua. All we ask today is to give the Contras the stick that they need to enforce the Sandinistas' commitment to peace and freedom in Nicaragua. If they do not live up to those commitments 4 months from now, then we shall go back to the drawing board, and we shall allow the CIA to pick up the pieces of this tragedy, so as to restore the stick which will compel the Sandinistas to live up to their promises, and allow us to live up to the promises that we made to the freedom fighters in Nicaragua a few years ago.

Mr. Chairman, I urge the adoption of this amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

The gentleman knows that Daniel Ortega back, I believe it was, in December in a speech to government labor unions made the comment,

> In a hypothetical case, if we would lose the election, we might turn over government, but we would never turn over power.

Mr. LIVINGSTON. As the gentleman well knows, Mr. Chairman, the Communist government has never voluntarily shared power.

Mr. LAGOMARSINO. Mr. Chairman, if the gentleman will yield further, is it not true that this amendment would only take place on October 1?

Mr. LIVINGSTON. And then only if the Sandinistas do not live up to the promises that they have made for 11 years and failed to keep.

Mr. LAGOMARSINO. Well, I thank the gentleman.

Mr. BONIOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose this amendment with all the vigor I can muster this morning. I could not think of a more pernicious, ill-timed amendment, than that which has been offered to this body at this particular time. At the very minute, the very time that the Contras who have struggled for 3 weeks to put their own act together, and having done that, at the very hour that they have come together to meet with the government of Nicaragua, with 4 days remaining on a temporary cease-fire, an amendment is offered to put the CIA back into this war.

After all we went through over the last couple months to work together in a bipartisan way to come up with a bill that will move the peace process forward, we want to mine another harbor and blow it up.

Mr. Chairman, this is ill-timed. It sends a bad signal.

For those on this side of the aisle and on my side of the aisle who care about the CIA as an agency, please keep them out of this conflict. There has been nothing that has harmed the agency more in the last 7 years than our involvement in this ill-fated adventure.

Mr. Chairman, there was a disagreement this week on where the Contra forces and the Nicaraguan Government were going to meet, one of many bumps that we have had to hurdle and overcome in the last 9 months since the Arias peace plan was first put forward last August, but it was overcome, and for those who suggest on this side of the aisle and some of my friends here that the Sandinistas have not done anything to move this process forward, I say you are absolutely wrong. They agreed to meet head to head. They agreed to meet in Nicaragua. They agreed last week to allow the Contra forces who were coming into Nicaragua to meet with church leaders, to meet with the press, to meet with political parties, and that is why they are there today discussing these issues.

This is bad timing. It sends a bad signal. It is bad for the agency and it will repudiate the overwhelming bipartisan effort that was put together by each of us here a month ago.

Do not cut the process short. There is still a week left in the negotiating process. Do not cut it short with a signal that I can almost assure you will blow this process up.

Do not corrupt, if I might say—perhaps corrupt is too strong a word—do not taint the reasonable work of the AID with this amendment.

As much as I have had problems and our leadership has had problems with the way AID is implemented, I understand how they are struggling and are caught between a wedge on this issue and within the State Department. Do not put the CIA back into the operation of this process alongside the AID and create problems for the AID in every part of this world.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Is it not a fact that the Democratic Members of this body held a caucus and passed a resolution to remove the AID from any operational function in this program in favor of some private organization, and so far from supporting the AID and the program that they are undergoing, it has rejected, and did not this caucus further say that delivering food to starving Contras in Honduras is illegal?

Mr. BONIOR. Well, Mr. Chairman, that is incorrect. What the caucus did yesterday was say to the AID people and to the State Department people that since the Verification Commission, and Baena Soares, the Secretary General of the EOAS has agreed, has suggested that the Pan American Development Foundation deliver the money and since the Nicaraguan Government has agreed to let them do that and since the Contras have suggested that that would be an acceptable alternative, that perhaps since everyone is in agreement, we might want to participate in that regional effort to feed the Contras through that Pan American Development Foundation. That is what the caucus said.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. Cheney, and by unanimous consent, Mr. Bonior was allowed to proceed for 2 additional minutes.)

Mr. CHENEY. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Wyoming.

Mr. CHENEY. Mr. Chairman, I have the utmost respect for the gentleman from Michigan, because I know he has worked very hard on this matter, and while we look at it from different perspectives, I have never doubted the gentleman's commitment to his beliefs or his view of the situation; but I have a recollection a couple weeks ago of a meeting that both of us participated in where a request was made by the Democratic leadership of the House to Mr. Woods of the AID that no food be delivered until the next round of negotiations with the Contras.

Our problem is that on February 3 we voted against military aid. At the end of February all resupply shipments of all kinds were cut off. There has been no resupply of food inside Nicaragua to the Contra forces whatsoever since then and no resupply of medical equipment.

☐ 1145

Now the caucus has taken the position that we are not to make cash payments to the Contras that they can use to purchase food inside Nicaragua and not to deliver food inside Honduras. It is very difficult for this Member who participated in putting together that bipartisan accord to believe that there is anything bipartisan about it. It is difficult for us to see this as anything other than an exercise in which we continue to dry up the flow of support to the Contras, to guarantee they will have no choice but to surrender to the Sandinistas.

Mr. BONIOR. Mr. Chairman, reclaiming my time, the gentleman from Wyoming [Mr. Cheney] will recall that in fact food has been delivered to the Contra forces inside Nicaragua which may in fact have been a violation, and is a violation not only of the Sapoa accords but Esquipulas. But given the fact that that has happened that is the reality. The suggestion that food should not be delivered inside Nicaragua has never been a position held by the Democratic Members on this side. We have always advocated that it be delivered but through an organization that has been agreed upon by both sides.

Mr. Chairman, I have suggested to our friend the gentleman from Illinois [Mr. Hyde] just a second ago that we have presumably reached that solution to that impasse in the last week, and we are ony calling upon AID to live up to the accord and live up to what the Nicaraguan Government and the Contra forces have presumably agreed to.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. Bonior] has expired.

(On request of Mr. Burton of Indiana and by unanimous consent, Mr. Bonior was allowed to proceed for 1 additional minute.)

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I am happy to yield to the gentleman from Indiana [Mr. Burton].

Mr. BURTON of Indiana. I just have one question, if the Contras and Sandinistas do not agree on that mutual third party to bring the food in, then the food does not get in and the Sandinistas I understand have been holding out on agreeing to a third party.

Mr. BONIOR. Mr. Chairman, reclaiming my time, they have not. No they have not.

Mr. BURTON of Indiana. If the gentleman will yield further, they have asked for the International Red Cross as I understand.

Mr. BONIOR. They asked for the International Red Cross, that was rejected by the Contra forces, and the Nicaraguan Government was waiting for a counteroffer since the International Red Cross by the way which operates in these situations all over the world, but since the Contra forces rejected that, a counteroffer was hopefully going to be forthcoming. It never did come so it was suggested to the Secretary General of the Organization of American States that he put something forward. He put forward the Pan-American Development Foundation for this reason, and I think it is important for Members to know, that it is the only organization that both the Contra forces and Nicaraguan Government agreed upon when they submitted their list of approved organizations for the Children's Fund.

As far as I am aware, from conversations with both parties in the last week, they both agree on the Pan-American Development Foundation. That process of delivery presumably has been worked out and hopefully will be sanctioned today, but this amendment that we have before us I can assure my colleagues will create enormous problems in moving that forward.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman from Michigan [Mr. Bonior] for yielding.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one of the toughest aspects of serving on the Permanent Select Committee on Intelligence is that it makes one see the world as it really is rather than as one wish it were. I would suggest respectfully that we are smoking political opium in this Chamber if we think the Sandinistas are living up to that exalted peace process we hear so much about. If ever, and I repeat if ever anyone is in the business of practicing Napoleon's dictum, "talk peace and think war," the actions of the Sandinistas, the Sandinista Communists in Nicaragua, clearly demonstrate that is precisely what Ortega and his band of Communists are doing down there.

We have been told here a few minutes ago by one of our colleagues that we send the wrong signal if we pass this modest amendment. How many clear signals have the Sandinista Communists sent to us over the past several weeks, and are we going to keep our collective head in the sand or are we going to face the harsh reality of what is happening down there?

Consider: while we have cut off aid, the Soviets are pouring in military supplies.

Consider: Radio Catolica closed for several days this month, not several months ago, this month.

Consider: Dr. Julio Garcia, representing all 14 opposition parties, said on May 14, not months ago but just a week or so ago, that as of this date President Ortega has not complied with the agreement, and Mr. Garcia refers to several points including unrestricted freedom of the press, freedom of expression, no full freedom of thought, and no immediate implementation of the general amnesty.

Consider: President Arias on May 21, just a few days ago, indicated that the Sandinistas really are not creating the conciliatory atmosphere that should exist prior to such a meeting, and Arias went on to say, "Without democracy peace will not be possible."

Mr. Chairman, I say to my colleagues unfortunately President Arias is not quite right when he says that without democracy peace will not be possible because in Nicaragua peace will be possible without democracy, the same kind of a peace that we have in the gulag, the same kind of a peace we have in Cuba, the same kind of a peace that exists in many countries around this world, peace without freedom.

So I suggest to my colleagues let us pass this modest amendment. Let us indicate that we are pulling our heads out of the sand, and that we are willing to face harsh reality rather than hopeful unjustified optimism. Let us indicate that we are willing to support freedom in Central America by supporting the Hyde amendment.

Mr. FRANK. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. SHUSTER. Mr. Chairman, I am happy to yield to the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Chairman, the gentleman has invoked the name of President Arias who a lot of us admire for the work he has done.

Mr. Chairman, I would ask the gentleman from Pennsylvnia [Mr. Shuster] would he be thinking of President Arias and that President Arias would be supportive of this amendment?

Mr. SHUSTER. Certainly not. I think President Arias would not be supportive, and the reason I think he would not be supportive is that while he is a fine man, he fits the category of having on those rose-colored glasses of seeing the world as we all wish it would be rather than seeing the reality of the Communist menace in Central America and on our doorstep.

Mr. McHUGH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am opposed to this amendment, but let me first say a word about process. I think it is clear that the Members of the House, at least on the majority side of the aisle, have had no notice of this amendment which is clearly a significant amendment.

I appreciate the explanation offered by my friend, the gentleman from Wyoming [Mr. Cheney], to the effect that if the majority had known about this amendment the leadership would have fashioned a rule to preclude its being offered.

However, the chairman of the Permanent Select Committee on Intelligence indicated last week to the minority members that he would be recommending an open rule. This week, on Tuesday, the Committee on Rules granted an open rule. Certainly as of Tuesday, therefore, the minority was guaranteed the opportunity to offer this amendment and could have notified the Members of the House that the amendment would be offered.

I would also say that if the minority fears that the leadership will craft restrictive rules in the future, they are playing into the hands of the leadership. Many of us on the majority side believe that the minority should have an opportunity to offer serious amendments such as this, but we also believe that notice is important in fairness to the Members of the House, and therefore if the minority withholds reasonable notice on significant amendments I will urge the leadership to craft restrictive rules. Accordingly, I would hope as a matter of fair process that the Members of the minority would consider it carefully before proceeding down this path any further.

Mr. Chairman, with respect to the amendment itself, it seems clear that this amendment if adopted would once again give to the President a blank check with regard to covert operations and to military assistance to the Contras in particular.

Section 104, which this amendment would strike, has been on the books now for 3 fiscal years. The reason Congress adopted section 104 was to assure that Congress had an opportunity to publicly debate and vote on the merits of such covert operations.

Section 104 became necessary because of how the President acted when he had the discretion to initiate covert aid unilaterally, which this amendment would give him again.

Let us not forget what happened when the President had such discretion. The President authorized the mining of Nicaraguan harbors. There was, with or without the President's knowledge, the preparation of a manual which, among other things, promoted assassinations.

There was a variety of explanations offered to the public as to why this policy was being pursued. First it was simply to interdict arms going into El

Salvador. Then it was to put a little pressure on the Sandinista government for a political settlement. At other times it was to "excise the cancer" of the Sandinista government out of Central America.

This policy lost whatever public support it had because of the way this policy was pursued from the very beginning, and one result of the way in which the policy was handled was that Congress said, "Mr. President, we need to review carefully this policy before any money is spent on military or other aid in Central America."

Section 104 was put into the authorization bill 3 or 4 years ago to assure a fair opportunity for Congress to consider, debate and vote on that policy.

Mr. Chairman, my friends on the minority side are disappointed because as a result of that debate, as a result of the consideration which Congress has given to this issue over a period of time, their position has not prevailed. A majority of Congress has consciously decided to support the Arias peace proposal and, despite my minority friends' derision, to give peace a chance.

Mr. Chairman, I understand the position of the minority and I respect the thoughtful way in which many of them have proceeded even though I disagree with them, but the fact is that the effect of the pending amendment is to give the President total discretion on what will happen on aid to the Contras and to take Congress out of the game.

Mr. Chairman, given the long history regarding the policy in Central America, some of which I have mentioned and including the diversion of funds to the Contras when Congress acted expressly to deny those funds, I think Congress would be foolish to give the President total discretion with respect to this policy and to surrender the opportunity now guaranteed to us by section 104 now, the opportunity to publicly debate and vote on aid to the Contras.

Mr. Chairman, I ask for defeat of this amendment.

The CHAIRMAN. The time of the gentleman from New York [Mr. McHugh] has expired.

(On request of Mr. Hyde and by unanimous consent, Mr. McHugh was allowed to proceed for 2 additional minutes.)

Mr. HYDE. Mr. Chairman, will the gentleman from New York yield?

Mr. McHUGH. Mr. Chairman, I yield to the gentleman from Illinois [Mr. Hyde].

Mr. HYDE. Mr. Chairman, I agree with the gentleman from New York [Mr. McHugh]. There is nothing more painful in my congressional career than not notifying the gentleman from Ohio [Mr. Stokes] of this amendment, but until the rule was adopted we did not have an open rule. Had word of this leaked out, it is entirely conceivable we would have been back to the Committee on Rules and we would have had a losing battle where the Committee on Rules is stacked 9 to 4, even if the Republicans show up. So we had to keep it a secret and we did. It is very painful to me to do that.

Insofar as giving the President a free hand, this only talks about contingency funds that the Central Intelligence Agency has which as my colleagues know are severely limited, and this is not the only operation in the world.

Mr. Chairman, I hope the gentleman from New York [Mr. McHugh] accepts my apology, but until that rule was adopted we did not have an open rule. Yesterday there was a rule on the foreign operations bill and there were 11 waivers of the section forbidding legislation on an appropriation bill. I had one, but I did not get a chance to offer mine. The gentleman from Wisconsin [Mr. Obey] offered his, some of which were eccentric in my humble opinion, but that is OK because when you got the power you rule.

□ 1200

We have to do what we have to do, and I hope the gentleman understands and never has to serve in the minority.

Mr. McHUGH. I hope not as well.

Mr. DOWNEY of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. DOWNEY of New York. Mr. Chairman, a little history first. It is quite clear that when this administration came to power, it had one goal with respect to Nicaragua: the overthrow of the Sandinistas by whatever means possible. During the 7 years that the administration has been in office, they have lived up to their stated goal. Indeed, Director Casey early on in his tenure was quoted as saying when asked about how he would get rid of the Sandinistas, he said, "Whatever it takes," and they tried almost everything.

First, as the gentleman from New York [Mr. McHugh], my friend, mentioned, there was the illegal unauthorized mining of harbors. There was the publication of death manuals. There was the money supposedly to interdict arms to El Salvador. All of these were justifications for one purpose or another, but always the goal was the violent overthrow of the Sandinistas government.

The issue at hand here today says to the American people, "We think the CIA is better at determining the policy than are our elected officials. We believe that it is much more appropriate to allow an agency that has erred time and again to make the decision with respect to how your money is spent." That is what this amendment says: "Trust the CIA. Do not trust the Congress."

Second, it ignores, it seems to me, at your own political peril, the enormous dissatisfaction that the people of this country have with the way the administration has prosecuted public policy with respect to Latin America. The debacle of Manual Noriega is a stain that is going to be very hard for this administration to whitewash in November; the stain and the mistakes in Nicaragua are also abundantly clear to the American people. They do not support the President. They do not support this policy, and if they had a chance, they would not support restoring discretion to the discredited Central Intelligence Agency to make these decisions.

The American people, my Republican colleagues, are not on your side. They want the war to end. They understand that the peace process is maybe not as pristine or as precise as you or I would like it, but they prefer the Arias peace plan to the Hyde amendment. They prefer the idea of talk to the continuation of war. They recognize that freedom is not guaranteed by continued warfare. This is only guaranteeing continued death.

That is why every fall the majority here and to a certain extent a limited number there support the process of allowing the process to go ahead. They do not want to see unlimited discretion in the hands of the administration or in the hands of the CIA, because, frankly, they have made too many mistakes. We do not want to repeat the mistakes of history by taking off the wraps of restraint on what has been, in my opinion, an ineffective policy.

I will be happy to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I would be astonished if I heard the gentleman correctly suggest that it was a bad idea to want to eliminate a Soviet-backed Communist government on the mainland of the Western Hemisphere. Did I understand the gentleman correctly?

Mr. DOWNEY of New York. No. I do not think that the gentleman either understands the import of my comments or——

Mr. SHUSTER. Is that not what you said a few moments ago?

Mr. DOWNEY of New York. Or the thrust of my comments. What I would like to see happen is peace restored to Central America. I would like to see the twin pathologies of injustice and social depredation removed from the landscape.

Mr. SHUSTER. That is not what the gentleman said a few moments ago.

Mr. DOWNEY of New York. Therefore, the seeds of communism would never have an opportunity to start.

Mr. KEMP. Mr. Chairman, I rise in support of the amendment.

Mr. HYDE. Mr. Chairman, will the gentleman from New York, my friend, yield to me for just a moment?

Mr. KEMP. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say to the gentleman from New York [Mr. DOWNEY], who just spoke, that he committed what logicians call the fallacy of the false alternative. Supporting the Hyde amendment buttresses support for the Arias peace plan, because it kind of makes the playing field a little more level by showing that the Contras have some support, not just the Soviets supporting the Sandinistas.

Mr. KEMP. Mr. Chairman, let me say that I think this has been a good debate. One of my dissappointments over the past couple of years has been that since television started in the House, the House which we all love has turned into less of a debating forum and more of a speech forum. I want to congratulate the gentleman from Ohio [Mr. STOKES] and those who are carrying on the debate from that side of the aisle as well as the gentleman from Illinois and the gentleman from Wyoming.

The Hyde-Cheney amendment is something I strongly support. It is strongly opposed by the left side of the aisle and very frankly it is a good debate. No one is getting up and just reading speeches, and that is what should take place more often here in the Chamber. In that regard, let me just say that I am sorry the gentleman from New York [Mr. DOWNEY] left, but when he said, "Give peace a chance, give the peace process a chance, let us talk not fight," I was thinking about the statement that Daniel Ortega made the other day when he said the Contra or the freedom fighter or the resistance, whichever name one chooses, should be grateful to the Communists. He said, "Because we are not offering them the guillotine or the firing squad. That is what they deserve." That is kind of an example of why some of us on both sides of the aisle are profoundly concerned about the so-called give peace a chance movement, or let us talk not fight.

What I think is happening is that the Communists Sandinistas, particularly Ortega, has learned the Clausewitzian theory that the absence of war is not peace, it is war by another means. What is going on is not peace. What is going on is not the absence of war. What is going on is the prototypical Clausewitzian example of war by another method, and they are slowly starving to death the freedom fighters, and they are using the peace talks as a means by which they can destroy the Contras.

There was an interesting article a couple of days ago in the New York Times international section by Robert Pear in which he said, "The Sandinistas are preparing to attack." That did not come from the Reagan administration. It did not come from the CIA. It came from photographs of storage facilities, artillery capability, and the gathering of the Communist soldiers in the parts of Nicaragua where they can mount an attack on the Contras as a way of wiping them out if the Contras do not go into these areas to surrender. That is what is at stake here.

The gentleman from New York [Mr. DOWNEY], the gentleman from Michigan [Mr. BONIOR], the gentleman from New York [Mr. MCHUGH], and I am only mentioning the names not to take advantage of the fact that they may not be here at the moment but simply to remind people of their debate, kept saying that this is a pernicious amendment, and ill-timed.

I think it is exactly the right time. Today in Managua the Sandinista government of Ortega is going to meet with the resistance. They are talking and they are negotiating, but we have, on the one hand, the specter of a Sandinista gathering of their forces to wipe out the Contras. It is timely, not pernicious, but exactly the right time for the Congress to get involved in helping the talks. I think it is exactly the right thing to do to pass this amendment.

I congratulate the gentleman from Illinois [Mr. HYDE] and the gentleman from Wyoming [Mr. CHENEY] for their wisdom. It is not turning it over to the CIA. It is bringing to the attention of the Sandinistas during the talks that the Congress is not going to stand by and allow them to take advantage of the peace process.

□ 1210

That is what is so desperately needed.

The gentleman from New York kept saying we need to learn the lesson of history. I do not know if any one of my colleagues last night was watching cable news. There happened to be a show on one of the cable networks, about the 1930's. It talked about exactly 50 years ago in September.

The CHAIRMAN. The time of the gentleman from New York [Mr. KEMP] has expired.

(By unanimous consent Mr. KEMP was allowed to proceed for 3 additional minutes.)

Mr. KEMP. The show last night chronicled the anniversary of the 50th year of the Munich accords, in September 1938 when Neville Chamberlain got up on the floor of the House of Commons right after getting back from Munich, and he held up a piece of paper and he said he had Adolph Hitler's name on it. He said that Hitler did not want the Sudetenland, he did not want Czechoslovakia, he did not want living space, he had enough territory.

Neville Chamberlain was cheered in the House of Commons. A back bencher in the House of Commons with white hair got up and spoke eloquently about the fact that war was coming because of Munich. He was booed. Catcalls rang out. The House of Commons voted overwhelmingly to support the peace process at Munich, and by early 1939 the Sudetenland fell. In another 3 months all of Czechoslovakia fell, and within I guess a year from September 1938 Poland was invaded. The story is so sad.

No parallel in history is perfect, and perhaps this is not perfect. But it does teach us something about the negotiation process. To negotiate we must negotiate, from strength, and it is a sign of weakness to tell the Contras that we are going to sit here in our chairs, here in the Congress of the United States, and not be concerned about the buildup of the Communists, not be concerned about the violation of Sapoa, not be concerned about a violation of the Guatemala accords, not be concerned about violations by the Sandinistas of the Arias peace proposal, that we do not care that the Sandinistas are in violation of the promises they made to the OAS in June of 1979. For us to sit here in May 1988 and make the same mistake that was made in the House of Commons in September 1938 is to make the same historical mistake over and over again. And the gentleman from New York has said have we not learned anything from history. I want to stand here and say I think we must learn from history. We cannot expect to deny the lesson from that tragic period of the 1930's.

And I say give peace a chance by strengthening the peace process, by voting for the Hyde-Cheney amendment, and let us truly give peace a chance by supporting the amendment of the gentleman from Illinois and the gentleman from Wyoming and suggest that we remove this restriction and send a signal to Managua that we are not going to stand by and allow the guillotine to be used by Ortega against freedom-loving men and women.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I am glad to yield to the gentleman from Pennsylvania.

The CHAIRMAN. The time of the gentleman from New York [Mr. KEMP] has again expired.

(On request of Mr. WALKER and by unanimous consent, Mr. KEMP was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding and want to congratulate him for his statement.

I just want to also say that his statement is in direct contrast to the, I think, some rather shocking statements that are coming from the other side. I mean the gentleman who spoke previous to the gentleman in the well seemed to me to revert to the "blame America first" rhetoric that we have heard all too often on this floor. It seems that when we weigh the relative questions that what we have is people on the other side who say that they believe that the actions of the CIA are far more of a threat than the actions against freedom by the Sandinistas. I think that is the point the gentleman is making, and I really find that very, very disturbing as a part of the debate.

We are literally sounding like the Parliament of England in 1938 that did not understand the disaster that was about to occur.

Mr. KEMP. I thank the gentleman for his comments and want to remind all Members I bet if we go back in the RECORD and look at this debate and look at the mention of the words "peace process," it will be redundant. Everybody wants peace. I give that motive to Members of both sides of this debate.

But there has not been a single mention of the word "freedom," and peace without freedom is not peace. It is simply the extension at least in Nicaragua of slavery.

There is peace, as the gentleman from Pennsylvania said, there is peace in Cuba, there is peace in Vietnam, there is peace in the gulag, but there is no peace with freedom there.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I yield to my friend, the gentleman from Massachusetts, who is an eloquent spokesman for peace in our time.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding and appreciate that. I would ask the gentleman from New York for his help in understanding history.

If the general analogy was 1938, I assume the Communists played the role of the Nazis and the general analogical theme of totalitarianism.

Mr. KEMP. Totalitarianism.

Mr. FRANK. The Communists have the totalitarian role, which was presumably the Nazis in 1938, and I presume that Gorbachev is somewhat analagous to Hitler, but with a lot of changes.

Mr. KEMP. The gentleman's point is correct.

Mr. FRANK. So if I follow the analogy, my question is now as Ronald Reagan is over there talking to Gorbachev, whom he has called his friend, where does Ronald Reagan fit in this analogy to 1938 as the Russians have replaced the Germans and Gorbachev has replaced Hitler, but where does Ronald Reagan fit in?

Mr. KEMP. I will take back my time.

The CHAIRMAN. The time of the gentleman from New York [Mr. KEMP] has again expired.

(By unanimous consent, Mr. KEMP was allowed to proceed for 2 additional minutes.)

Mr. KEMP. Mr. Chairman, it is a valid point that the gentleman from Massachusetts raises, and he is an eloquent spokesman for his point of view.

Let me just say the jury is out on what is going to happen in Moscow. My hope is that it turns out to be the fact that we have developed a stronger Nation, a stronger foreign policy, a resistance to communism in Central America and throughout the world and those negotiations are different than the negotiations that were held in the 1930's.

But I did want to make the point to the gentleman from Massachusetts, before I yield to my friend from California, there is no doubt about it, and if the President does not say it I will. In fact I would like to quote Hannah Arendt, who wrote about the nature of the 20th century and the drama that is unfolding before the American people, and she said there are two evils on the Earth. One is nazism and the other is communism, and Hannah Arendt said the central drama of the 20th century is the struggle between totalitarian evil and freedom, and I think those men and women who are on the side of freedom in history are going to be on the right side, notwithstanding the eloquent point of the gentleman from Massachusetts.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Chairman, first a correction. The gentleman from Pennsylvania [Mr. WALKER] stated the expression that Jeane Kirkpatrick coined the "blame America first crowd." To use those words denotes there is someone else to blame secondarily, I believe now we have advanced in the last 2 or 3 years since Ambassador Kirkpatrick used that expression to a simple blame America, there is no second point, there is no blaming of the Soviet Union, there is just blame America.

Mr. KEMP. Or the CIA, or Reagan. And I want to say on the eve of his trip to Moscow that I am glad that it is going to be Ronald Reagan in Moscow and not Neville Chamberlain. I am glad that it will be Ronald Reagan in Moscow and not Jimmy Carter. I am glad it is Ronald Reagan in Moscow and not Michael Dukakis.

Mr. DORNAN of California. Amen.

Mr. MAVROULES. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

I just want to make three very quick points. First, to take an action on May 26, an action that would take effect on October 1 of this year in my judgment would be very presumptuous, and I quite frankly do not see why the makers of the amendment find an emergency here this morning so that they have to come forth with this kind of an amendment. We do not have an emergency.

Second, in my judgment, I think the policy of the administration has been quite flawed for 7 years and the lives of 40,000 innocent people have been affected, whether through death, malignment, or injury.

Finally, Mr. Chairman, my opposition to this is that we do not have a policy put forth to give this peace process a chance. The question I want to ask is how many innocent people have been killed during this peace process? I challenge anyone to get up and state that innocent people are not being killed by the wayside while this process is going on.

I think that is the bottom line, Mr. Chairman, and that is why we ought to reject the amendment.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to my colleague, the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank my friend, the gentleman from Massachusetts, for yielding.

I was very surprised at the notion that my colleagues would put forward that what we should do to respond to this is put the CIA back in with no restraints.

As to blame America first, no, I do not do that. I am amused when I hear that from some of my colleagues, not amused, but we say that to be polite, because one of the major subjects facing America today is a problem of the trade deficit. When it comes to blaming America and letting others off the hook when we deal with trade, that comes from the other side. Those of us who think that Americans ought to be given a chance with trade to defend themselves, and when we talk about unfair practices, blaming America first comes from the other side. But we ought to talk here about the merits.

We have an acknowledged set of facts from the CIA, and we are not talking about the CIA as an entity, we are talking about leadership under this administration, which in my judgment corrupted the CIA by having members of that agency violate the law. That has been admitted. Assistant Secretary Abrams admitted that to the Congress, and what we have now is a proposal to reward people for an explicit policy of breaking the law and of lying to Congress on what we before we are told is on behalf of the Arias peace plan. But we also heard the gentleman from Pennsylvania, and I appreciate his candor in this regard, say that President Arias is opposed to this effort to implement the Arias plan. This is more Arias than Arias. It is not an effort to implement that Arias plan, it comes from people who were frustrated and unhappy when the Contras signed that accord, and we know that as a fact. We know that Assistant Secretary Abrams and the others in the administration, and some of those here, thought the Contras made a mistake and do not want the Contras to go ahead with that process.

The notion that they are being starved is simply false, as was pointed out by the gentleman from Michigan. The Nicaraguan Government has agreed on the Pan American Development Foundation. That is an offshoot of the OAS. If the OAS is considered somehow to be a tool of the Communists, I misread the last 20 years. The OAS if anything would have been accused of being too close to us. We are fortunate that it is there. There is the OAS Pan American Development Foundation today which is acceptable I would think to everyone to give out the food.

This is not about food, and it is not about negotiating tactics. It comes from people who are frustrated that there was a peace talk, and as the gentleman from Massachusetts pointed out, that peace talk has accomplished one very important thing: The absence of killing. I do not regard that as mere artifice. I think that is a very important goal. We are hoping that we will continue to go forward with this.

But to say that the CIA should go back into this with no restraint is not only bad for the peace process, it is bad for the CIA. I think my colleagues on the other side made an error when they take what should be our intelligence agency, that we all want to have as a respected and important agency, and make it bear the burden of this mistaken policy when they say to the CIA we will impose a leadership on you that will distort your mission, that will take the great bulk of you and entangle you in illegal efforts which we will admit we have done as they had admitted. That is a very grave error. This would be bad for peace, bad for the CIA, and it is not an effort to advance the peace process. This comes from people who never wanted to see it work in the first place.

Mr. CHENEY. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Wyoming.

Mr. CHENEY. Mr. Chairman, I would ask the gentleman from Massachusetts a question. He made a very strong statement that CIA employees have broken the law or committed a crime. I wonder if the gentleman could tell me who at the CIA has been accused of any crime?

Mr. FRANK. I am glad to tell the gentleman that at the CIA they fired some people. I cannot tell him exactly who because they kept changing their names, but there were some. I remember acknowledgments.

Mr. CHENEY. Mr. Chairman, will the gentleman yield again?

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MAVROULES] has expired.

(By unanimous consent, Mr. MAVROULES was allowed to proceed for 2 additional minutes.)

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Chairman, during the Iran-Contra hearings there were several acknowledgments of people who acted in violation of the law, who misled and in some cases lied to the Congress. I believe the mining of the harbors was an illegal act, so there are several cases of that being done. We have a number of allegations against some people who are no longer alive and cannot defend themselves, but there were several allegations. In fact, people were dismissed from the CIA, and I really cannot recall all of the names because the names changed several times who acted in violation of what the laws were restricting certain actions that were being taken. There was cooperation by the CIA and a couple of people in carrying out things they were told they should not be doing by law, not asked not to do, but told they should not be doing.

Mr. CHENEY. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I am delighted to yield to the gentleman from Wyoming.

Mr. CHENEY. I thank the gentleman for yielding. I think it is very important, I would say to my colleague from Massachusetts, that we not malign the reputation and integrity of the men and women who oftentimes put their lives on the line for the United States by their services at the Central Intelligence Agency.

No member of the CIA has been charged with a crime in connection with any of these activities. If I may, no member of the CIA has been indicted, and no member of the CIA has been convicted of any crime.

□ 1225

The gentleman is entitled to his opinion, but he should get the facts correct. The facts are that to say the CIA employees committed a crime is simply wrong.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MAVROULES] has expired.

(On request of Mr. FRANK and by unanimous consent, Mr. MAVROULES was allowed to proceed for 2 additional minutes.)

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman for yielding.

Mr. Chairman, I think I spoke precisely. I did not say anyone was convicted. There are crimes committed for which there are no convictions. There are people who admit breaking the law. The fact that they are not convicted does not mean that crimes were not committed.

When people violate the law and there are people who violate the law and who are not always convicted, there are acknowledgments that the law was violated by people at the CIA. And I agree we should not malign the great bulk of CIA agents.

I think it is my friends on the other side who are unfair to the CIA because we have political leadership being imposed by this administration unfairly involving the CIA in things which they should not be doing. I believe it is that effort to use them to frustrate the peace process that does a great disservice to the CIA.

But I would differ with the gentleman to say that because no one has been convicted or even indicted, that does not mean no one has committed a crime.

I believe a few people have admitted breaking the law.

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have seen a great deal of progress in the course of this debate. I can remember during the early part of this decade when we were lectured to at length by certain Members of this House that those involved in the Sandinista Government were not Communists. And then after repeated statements on behalf of the Sandinista leadership that they were Communists, they began to backpedal just a bit and say well, they were not expansionists, that they were really just good Communists and we should not interfere in the operations of a neighboring country.

Then as you are fully aware, Daniel Ortega said, "We are like Che Guevara, we are committed to taking our struggle to other lands." Then in about 1984 or so they began to say, "Well, all right, they are expansionist Communists but they are not subjects of the Soviet Union."

Little by little we began to see, as millions of dollars of aid were flowing into the country, even to the point where they did not even bother to paint over the Soviet symbols of the Hind helicopters they were delivering to attack their neighboring countries, that it was obviously a Soviet expansionist base inside Central America.

So about 36 months ago, out of great frustration, certain Members of this House created a cocoon. They began to say that every option that is available to the President, every option that is available to our defense agencies will not be available to this particular island, this one little country in Central America that is involved in Soviet Marxist expansionist revolution, that we will create a cocoon around them whereby other assets that are available to the President and to our National Government will not be allowed to be employed.

Now whenever we discuss matters of this type, it happens, as has been said in a court of law, when you have the facts you argue the facts, when you have the law you argue the law, and when you have neither the facts nor the law you argue.

So there has been a great deal of discussion about what this amendment does. This amendment does not really do anything. What it does is remove the cocoon that was created around a particular country. It strikes out some words that give special privileges to the Marxist Sandinista Government in Nicaragua. It does not put the CIA back in charge of any wars, it does not allow mining of any harbors, it is not a pernicious amendment, it is not a blank check to anyone; it allows only the United States government to engage in activities in Central America that it is allowed to engage in elsewhere with the complete and mandatory oversight not only of this House but particularly of the intelligence committees.

The question was raised as to why the emergency is now? The emergency is now simply because this bill is on the floor now. The emergency is now because we have played this game now for many, many months. We have taken every step that has been lectured to us by those who use the phrase that we are supposed to give peace a chance, we have reneged from our commitments to help the democratic resistance.

We have given the extended arm of support to those who want to negotiate. We have done everything on our side. What has happened in response? This afternoon one of the members of the original Sandinista directorate, Violetta Chamorro, will be here. One of the people who was a part of the revolutionary guard in 1978 that led to the ultimate establishment of the new government will be here to explain exactly what is going on. They pledged not more than a few weeks ago and we were told and lectured in this very Chamber and in the well of this House that there were going to allow freedom of the press. This editor of La Prensa will explain that they do not allow freedom of the press because they do not allow any newsprint to be available to those involved in printing the newspapers.

The fact of the matter is that the time has come that we must no longer be blind, deaf, and dumb. There comes a time when intelligent people must face facts. And when the facts come to the floor that we have been played for a fool time after time after time, no longer can we give special privileges to the Sandinista Government, no longer should this cocoon be allowed to be established around this one particular government. But the United States of America, its President and its Congress should be allowed to engage in the same sort of national security interests in this area of the world as it does elsewhere.

That is simply what the amendment does. It makes no special privileges. It gives nothing to the CIA. It does not involve us in any sort of conflict. It simply removes a special privilege from those who are dedicated to supporting that Marxist expansionist government in Nicaragua.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, there are two cardinal principles I think we must keep in mind in dealing with the situation in Nicaragua. One is we must assure the Contras that we have not abandoned them. Second, we must let the Sandinista government know that we mean business when we say we insist that they negotiate to bring peace and democracy to Nicaragua. This amendment in my opinion is in furtherance of those two objectives.

I support the amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Chairman, I merely rise to compliment the gentleman from Florida for his consistent support of the situation in Nicaragua to make sure that the Contras are not eliminated from meaningful negotiations for peace in that country. I just want the gentleman to know that it is deeply appreciated. He is very, very sincere and what he has to say should mean a lot to all the Members.

Mr. Chairman, I strongly support the amendment offered by my distinguished colleague on the Foreign Affairs Committee and ranking Republican member of the Intelligence Committee, Mr. HYDE of Illionois.

Although the time is late, we should renew our efforts to support genuine negotiations by keeping the Contras a viable force for freedom and democracy in Nicaragua.

"This amendment would keep the pressure on the Sandinista government to negotiate in good faith," knowing that the President could resume assistance to the freedom fighters in October.

The main advantage of this amendment, is the Sandinistas could not just "wait out" the remaining days of this administration by stalling the negotiations.

The Sandinistas could not simply starve the Contras into submission.

This amendment would put the President back into the driver's seat on foreign policy. The Sandinistas would no longer be able to negotiate directly with Congress and exclude the Secretary of State.

With United States leverage taken away, the Sandinistas have dragged their feet in the negotiations, repressed domestic opposition, censored the press and restricted labor unions, and continued to accept huge Soviet arms deliveries.

Mr. Chairman, it's time we removed the straitjacket from our policy on Nicaragua.

This amendment would not undermine the Sapoa agreement, but instead would restore the pressure that is needed to keep the Sandinistas at the bargaining table.

I strongly urge adoption of the Hyde amendment.

Mr. PEPPER. I thank the gentleman.

Mr. SCHUMER. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, as I listened to this debate, I am sort of surprised because something is missing. We have had on this floor amendments coming forth, all sorts, in all sorts of other situations dealing with what I would call the drug mania that is sweeping this body, the other body and everywhere else.

Yet one of the areas where we should be having the most concern about drugs is in Central America, with the Contras. There have been all sorts of allegations that the Contras involved themselves or some members of the Contras in drug trafficking in one way or another. And yet here where we have one of the few provisions that would be able to control the things that the Contras are doing, we do not get any amendment from the other side, any mention that perhaps we should not do anything until the Contras are drug free. I mean, after all, if we are going to hold every American contractor and every American business to a very, very tough and rigorous standard, should we not hold probably one of the greatest contractors of this Government, of this administration, the Contras—they have received I think over $1 billion over the course of the years, far more than many of those affected by the gentleman from Pennsylvania's amendment would receive—should we not hold them to the same standard?

So I would plead with my colleagues from the other side of the aisle who have been so tough on drugs in the work place, in every appropriation that has come up, before they rush to this amendment which, after all, brings some controls on the Contras—and I have always believed the problem that we have in Central America is not that the Sandinistas are so wonderful, but that the Contras are so bad—I would ask my colleagues on the other side of the aisle if they have any intention of bringing up some kind of amendment here on this proposal that would say, "Certify the Contras are drug free." And before we take off the little controls that we have on the Contras as in section 104, could we get some kind of provision that would make the Contras or attempt to make the Contras drug free? Because, after all, we all know that the drugs that start out in South and Central America end up in Miami and New York and Chicago and Los Angeles. They are every bit as damaging. It is every bit as damaging to have Contra members selling drugs here, who knows with what funds, as it would be to have some worker be smoking a marijuana cigarette and having a whole factory of 10,000 people closed down.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Illinois [Mr. Hyde].

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman and I want to compliment him. He has added so much to this debate that if he needs extra time I will be happy to try to get it for him.

Mr. SCHUMER. I thank the gentleman. I wonder if the gentleman is going to propose that kind of amendment today? And if not, why not?

Mr. HYDE. Only if it applies to the Democratic Cloakroom.

Mr. SCHUMER. Well, I would say that that is not a response worthy of the gentleman from Illinois.

Mr. HYDE. Then I ask it be stricken from the record.

Mr. SCHUMER. I thank the gentleman.

We on this side are waiting for some kind of amendment that would help make the Contras as drug-free as we seek to make the rest of the American workplace.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, as one of the previous spokesmen has said, serving on the intelligence committee does give you an opportunity for some real insights that you might not get any other way. However, this debate I think can be dealt with on public statements made by the participants to the process in Central America.

One of those I would like to refer to is Mauricio Diaz Avila in his February 22 statement upon his ouster from a National Assembly leadership position because his party was one of the 14 opposition parties engaged in the national dialog with the government. He said that that action showed "the Sandinista party tendency to force the assembly's political parties to either assume servile roles or be left out. * * * The FSLN is demonstrating an enormous lack of tolerance for its opponents. This shows that it is not one bit democratic and that it intends to stay in power forever. We have been demanding these reforms since the 1984 elections. How many victims, how many deaths could have been avoided if they had complied with what they signed in 1984? However, they are intransigent and inflexible; they prefer monolog to dialog." Now that is someone who is involved in the process who asks us and the world how many deaths could have been prevented if the Sandinistas had lived up to the promises they made in 1984?

Let us get back to the central debate here, ladies and gentlemen. It is a question of peace with honor, it is a question of peace with freedom, it is a question of essential democracy that is to be given to the people of Central America in our own hemisphere.

Dr. Julio Garcia, a member of the Social Christian Party, on behalf of those 14 opposition parties said just 10 days ago on Managua Radio, "As of this date President Ortega has not complied with the Esquipulas II agreement, particularly the points referring to, among other things, unrestricted freedom of the press and freedom of expression, full freedom of thought and the immediate implementation of the general amnesty."

Dr. Garcia went on to say in that interview on radio, "We maintain that the definitive cease-fire will not last long unless there is a true democratization process in Nicaragua. There is no democracy if there is no peace and there can be no peace if there is no democracy.

In the context of all of this, what does Daniel Ortega say? Daniel Ortega says if the Contras do not agree to what he has presented to them, "We will use all the human and material resources necessary to combat and annihilate them." Not pat them on the head, but annihilate them! "We are determined to employ every means we have to annihilate and destroy those who refuse to accept this peace process and prolong the war."

He has set out the terms of the debate. He has said, "When you are at the bargaining table, accept our bargain or we will annihilate you."

How can he say this? He can say this because there is a continued flow of Soviet support, of Communist country support to his side and we have cut off any support and any threat of our support from our side.

□ 1240

If you want to look at bargaining positions, as an attorney you look and see if the people who are at the table have equal bargaining positions. In the law we sometimes say that if someone has an unequal bargaining position, the contract is invalid. Why? Because the one party can take advantage of the other party.

What is the difference between that and when you have people negotiating their very lives in the peace process in Central America? And what we have is we have created an unequal bargaining position. The Sandinistas on one side have the steadfast support of the Soviets, and they can back up their threat. They can back up their threat to annihilate the Contras if the Contras do not genuflect and bow to them at the bargaining table.

And what do the Contras have? They look here to Washington, and what do they see? They see us afraid to even say the President of the United States could consider, starting next October, the possibility of assistance to counterbalance in some way what the Sandinistas are getting. We are talking about several months hence. But what have we done? We have said we are going to pick one group, one fighting force, one freedom fighter group, the Contras, out of all the rest of them in the world and say, "No matter what happens, we are not going to give you the possibility of support that you need to bring an equal bargaining position to the table when you are negotiating today." That is what we have now before us.

The CHAIRMAN. The time of the gentleman from California [Mr. Lungren] has expired.

(By unanimous consent, Mr. Lungren was allowed to proceed for 1 additional minute.)

Mr. LUNGREN. So, Mr. Chairman, I would just say this: We have had a lot of debate. Some Members want to make some strong debating points about the drug issue. Some Members want to say we are trying to further the killing. Yet the people who are down there negotiating on the part of the opposition parties are telling us the killing has been prolonged because of the intransigence of the Sandinistas.

They are asking for support from us. The humane thing for us to do is to support the Hyde amendment. It is the humane thing because it gives hope to the people who wish to have an opportunity for democracy. We owe them at least that much. I would rather give them that much than tell them that I am going to send my 14-year-old son down to Central America 5 years from now when this policy fails. And that is what you are doing: You are putting those of us who have children at risk of sending our sons down there to Central America in 5 years because we do not have the guts to give a reasonable threat on behalf of the Contras at the bargaining table.

Ms. PELKSI. Mr. Chairman, I move to strike the requisite nuiber of wkrds, and I rise in oppksition to the amendment.

Mr* Chairmaj, when I came here nearly a year agk, this was the first vote I made on the floor, the vote for the intelhigence authorization. A lot has happened in the peace process since that time. President Arias was recognized as a Nobel Peace Prize winner for its efforts for peace in Central America. We have had the Sapoa agreement, and indeed even today, talks will be resumed in Managua. But not much progress has been made on the other side of the aisle in terms of peace in Central America. This Hyde amendment is the same old thing. I see no growth, no responding to changing circumstances in Central America, no response to the wishes of the people of Central America, no response to the wishes of the people of the United States.

A few years ago I visited Central America and I resolved—and this is one of the reasons I worked hard to come to Congress—to do whatever I could in my power to stop the suffering there.

My colleague addressed the issue of his 14-year-old son 5 years from now. I would like to address the issue of the 14-year-old children fighting this illegal war in Central America just because it happens to be a policy preference of our colleagues in the House on the other side of the aisle.

We have heard much talk about peace today, but the fact is that if we want peace, we should heed the words of Pope Paul VI, who said, "If you want peace, work for justice."

If we want peace, we should eliminate the embargo in Central America and give the Nicaraguan people their own chance for peace. We should reject the Hyde amendment for the Nicaraguan people and their children. Are these Sandinista children? They are not Sandinista children; they are Nicaraguan children, children of Contras, children of Sandinistas, children of Nicaragua. These are 15- and 16-year-old boys who are losing their lives and their limbs because of the misguided policies of this Reagan administration.

We should end the suffering of young children and the babies born in camps because there is no respect here for self-determination in Nicaragua, again because of the misguided policies of this administration.

We have heard the Hyde amendment characterized by some of our colleagues on the other side of the aisle, and I would say we should recognize it for what it is. The Hyde amendment would increase the militarization of the area. It is not in support of peace in Central America. It would remove any restriction on the use of the CIA in Nicaragua. It would dump the bipartisan support of the peace process. It would put the House on record for more war in Nicaragua, more suffering, more dying, and more killing of children in Central America on the same day, the very same day that the Contras and the Sandinistas are talking about peace.

Mr. Chairman, the Hyde amendment would say no to the Central American peace process. it would reopen the Contra war to the full establishment of the CIA contingency fund, and it would end congressional participation in making peace, not war, in Central America.

Mrs. BOXER. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to my colleague, the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, I want to compliment my colleague, the gentlewoman from San Francisco, CA, on her effort, and I would associate myself with her remarks. I am proud to serve with the gentlewoman in representing that city.

I would like to say that the gentlewoman is right, this amendment brings us back to the same old thing. We have seen those planes go down with weapons and come back with drugs. We do not want that same old thing. We do not want to see the same people who brought us General Noriega. I would say to the Members who support this Hyde amendment, "I don't know where you people have been." Noriega is looking at America with a sword over his head, and we are going to take the same old people who brought us Noriega and put them in charge of our Nicaraguan policy.

Mr. Chairman, I ask the Members to vote "no" on that policy, vote "no" on the Hyde amendment.

Ms. PELOSI. Mr. Chairman, I would like to say that I would like to see some response by this Congress to the efforts being made by the people of Nicaragua for their own peace.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is almost surreal. I feel as though we have been frozen in time. I would say that while we have disagreed, I cannot really find fault with those Members who place their hope in a peace process. We all have times when we are guided by our dreams and by our hopes, but this is not the week of the unveiling of the Arias peace plan, this is not the week of the signing of the agreement at Esqipulas, and this is not the week of the signing of the agreement at Sapoa. This is the week the talks come to an end with no agreement because the Sandinistas have said to the President, said to JIM WRIGHT, and said to you, "You can take your plan and your list of reforms and your democratic process and shove it."

Then we hear this debate, and this place becomes like a twilight zone. It is as though none of the past 6 months had even happened, as though none of the articles had appeared as though none of the trips to Central America had been made, as though none of the speeches by Ortega had been made. It is as though Major Miranda had not defected and told us of the Sandinista military plans. It is as though the Sandinistas had not moved their troops into Honduras. It is as though the Sandinistas were not threatening and preparing a new military offensive. It is as though news print had not been held from newspapers, as though labor leaders had not been thrown into jail, as though journalists had not been beaten, as though peaceful demonstrations had not been broken up, and as though the ministry of justice had not been closed and its functions turned over to the police. You can ignore the fact that you voted for food and it was not delivered.

□ 1250

My colleagues could ignore the fact that Daniel Ortega and the Sandinistas are laughing at them, but my colleagues cannot ignore the fact that they are destroying the last hope of freedom and democracy for millions of Nicaraguans. Nicaraguans may have dark skin, and they may speak a foreign language, but they have every bit as much right to a free press, and free elections and free speech as my colleagues have. To have not voted against Contra aid months ago, with what my colleagues knew then, is understandable, but to vote against this amendment is absolutely indefensible.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I am wondering if the gentleman from Oklahoma would present to us the evidence that he apparently has that indicates that talks are breaking off, that there is somehow a conclusion that we have not heard about. I think most of us heard the Sandinistas were willing to extend the cease-fire another 30 days, and the talks continue today in Managua. What evidence is there that we have reached the end of our rope? Is there some information that the gentleman has that is not publicly available?

Mr. EDWARDS of Oklahoma. Oh, I think it is very publicly available. I say to the gentleman from California, if he reads the papers, if he talks to the Contras, if he listens to what the Sandinistas are saying, the Sandinistas are willing, of course, to be able to continue the sham while the Contras run out of food, while they have no ammunition and to keep the pressure on.

But these talks, the gentleman from California knows and I know, are not going to go anywhere unless the Sandinistas are willing to provide some of the democracy that, not only the Contras have been willing to fight and die for, but that this Congress in the Dreier and Chandler resolution said we insisted upon.

Mr. BONIOR. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Chairman, with all due respect to my friend from Oklahoma, that is not what the Contras told us. The directorate, who appeared before the Democratic leadership just 2 days ago they have a plan. They are in agreement on the Pan American Development Foundation for delivery of food, as is the Nicaraguan Government. They are meeting seriously now in Managua with the rights to visit the church, the right to visit La Prensa, the right to visit friends, the right to associate with political parties while they are in Managua.

Why would the gentleman want to do this today when it took 3 weeks to put together the whole Contra thing when it fell apart? Now they have got some semblance of order when it took us 8 months to put together a bipartisan package. Why in God's name would the gentleman want to come to this floor today and propose this thing that has the effect of blowing it all up?

Mr. EDWARDS of Oklahoma. Three weeks to put it together? Is this the same gentleman from Michigan with whom I have been engaged in dialogue over this for 2 years trying to get it put together? Does the gentleman still believe today, after everything that has happened, that the Sandinistas are going to bring democracy to Nicaragua? Does the gentleman believe that?

Mr. BONIOR. Yes, I do.

Mr. EDWARDS of Oklahoma. Then it is absolutely amazing. The gentleman from Michigan [Mr. BONIOR] ought to subscribe to the newspapers.

Mr. AuCOIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would say to the gentleman from Oklahoma [Mr. EDWARDS] and his supporters that I do not believe for a moment that the Contras will restore democracy or freedom to Nicaragua. And I cannot understand anyone believing in such a preposterous position.

Let me tell you something about the Contras. I go back long enough to remember when Bill Casey told me and other Members of the Congress that the purpose of this whole Contra covert exercise was to stop arms being sent into El Salvador. Under our questions they could never point to a single cache of a significant number of arms sent from Nicaragua into El Salvador, so we moved along to another rationalization. And what we have seen is one rationalization after another, each one shot down.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. Mr. Chairman, I will not yield just yet. I will try to yield to the gentleman from Illinois in a moment. He never yields to me, but I will try to yield to him in a moment.

Mr. Chairman, we have seen one justification after another shot down in flames, and each time we finally get closer to the truth. The truth is that under the guise of the words, "freedom" and "democracy," we are expected to believe the Contras have made as their target of choice not regular Sandinista troops but rather civilians, and women and children in co-ops around the countryside of Nicaragua who are somehow the spiritual descendants of Thomas Jefferson. That is absolutely preposterous.

Benjamin Lender from Portland, OR, is a constituent of mine, and he was shot; and all the evidence suggests that he was shot at point-blank range in the temple, in all probability by Contras, and we cannot find the answers. We cannot get a full identification or a full report from the CIA even today after 2 years of trying. The State Department would not cooperate with us either.

These are the spiritual descendants of Thomas Jefferson? Give me a break.

Right now in Managua we have peace talks, cease-fire talks, going on. And your side, which says to the chairman that it is sorry it is necessary to bring this amendment to the floor without giving them notice, brings it to the floor on a day when both sides are talking, when there is a chance for an agreement. The problem on that side is that when the situation down in Nicaragua is seen, it is felt that the only way to solve the problem is to give ammunition to not freedom fighters but to mercenaries, mercenaries who are indiscriminate in their choices of targets.

Mr. Chairman, I have got a dead constituent to prove that these mercenaries do not stand for democracies. They cannot even account for where we have sent the funds. There are hundreds of thousands of dollars in Cayman Island bank accounts that are unaccounted for today. These are the spiritual descendants of Thomas Jefferson?

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. Mr. Chairman, I am not going to yield at this point. I am going to finish my remarks as the gentleman did.

These are not the spiritual descendants of Thomas Jefferson. These are not freedom fighters. These are mercenaries.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. They are not going to bring democracy to Nicaragua.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I would not yield, either.

Mr. AuCOIN. They are not going to bring democracy to Nicaragua and, if your litmus test on Nicaragua is freedom of the press, full participation in society, why not fund the Contras in South Africa where none of those freedoms exist? The gentleman is silent on those questions. We will have sanctions on the question of that country, and the gentleman is silent on that. The gentleman's dual standard is absolutely unbelievable to this Member of Congress.

Mr. Chairman, I say we should defeat the Hyde amendment. It is untimely. It is guerrilla warfare on the House floor. It will introduce the combat, the war, in Nicaragua, and I think we have a chance to solve it by peaceful means.

Mr. HYDE. Mr. Chairman, will the gentleman yield now?

Mr. AuCOIN. Mr. Chairman, this is a preposterous amendment.

Mr. HYDE. Mr. Chairman, now will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Oregon [Mr. AuCOIN] has expired.

(On request of Mr. HYDE, and by unanimous consent, Mr. AuCOIN was allowed to proceed for 1 additional minute.)

Mr. HYDE. Mr. Chairman, now will the gentleman yield?

Mr. AuCOIN. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I direct my friend, the gentleman from Oregon to a series of reports from the Permanent Select Committee on Intelligence which recites how much arms are being shipped into El Salvador from Nicaragua when the gentleman from Massachusetts [Mr. BOLAND] was the chairman. I will even get them and hand-carry them to the gentleman's office.

Mr. AuCOIN. Mr. Chairman, I will reclaim my time. I understand the gentleman's point. I want to reclaim my time.

I want to tell the gentleman that I sat on the Defense Appropriations Committee. I have had the secret briefings as well. I understand what the facts are as well as the gentleman does. Drug interdiction was a sham, and I think that the chutzpah award ought to be given to the gentleman from Illinois [Mr. HYDE].

Mr. Chairman, Arias got the Nobel Peace Prize. The gentleman from Illinois ought to get the chutzpah prize.

Mr. HYDE. Mr. Chairman, now will the gentleman yield?

Mr. AuCOIN. Here we have, as the reward for people who went through the back door, using illegal means, shredding documents in the basement of the White House, and is there a reward? The gentleman from Illinois says we ought to pass an amendment.

Mr. Chairman, it is ridiculous. Let us defeat the Hyde amendment.

Mr. KASICH. I move to strike the requisite number of words.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I would just like to point out for the Record, certainly not to instruct my friend from Oregon, that the House Committee on Intelligence reports certify the traffic in arms from Nicaragua to El Salvador and, if he had ever read those reports, which are public records, not classified, he would know better.

Second, America does contribute money for democracy in South Africa. Millions of dollars go over there to democratic institutions, so again the gentleman is misinformed.

Mr. KASICH. Mr. Chairman, I appreciate the gentleman's contribution, and I really do not want to talk to the people on this side who are already entrenched. What this debate comes down to is whether we can get people in who have been undecided about this issue for the last several years.

I want to tell my colleagues, first of all, I opposed the adminstration about delivering military aid about a year and half ago. I said that I thought it was the wrong signal to send, and then I supported the bipartisan policy, and in fact I chastized people on both sides who tried to politicize the debate when we had the bipartisan policy that passed through this House several months ago. But do my colleagues know what? To those who were in the middle, they have got to look at the facts, and they have to look at the truth, and they cannot ignore it any more because the program is not working.

□ 1300

Please look at the letter that the gentleman from Oklahoma, Mr. MICKEY EDWARDS, wrote to President Arias. Here is what Mr. EDWARDS revealed: La Prensa, the great newspaper in Nicaragua censored, threatened, twice closed; one of the most respected television journalists in the country, beaten on his doorstep as the result of his reports; labor leaders and leaders of the internal democratic opposition arrested, thrown in jail; the Ministry of Justice closed down, government sponsored hooligans have disrupted and abused those few people who dare protest against the government.

Mr. Speaker, on the front page of the New York Times yesterday was an article about the Sandinistas preparing attacks, and we used aerial photography and we discovered some interesting things. The Sandinistas are building up ammunition supplies, they have got more than what they can even put in their warehouses.

The photographs indicate movements and buildups on the Honduran borders, in fact even extending an air field on the Honduran border.

I mean, this has all been happening, Mr. Chairman, since we tried this bipartisan plan. I do not want to talk to those who are entrenched. I want to talk to those people in this House who do not like the Sandinistas, who want peace and who are trying to be objective; my friend from Delaware, my friend from Kansas, who have been on the edge of these votes for vote after vote.

What do we do here? What we say is that the Sandinistas will not comply, which clearly they have not been doing.

To my good friends, in the middle, I say that if the Sandinistas will not comply next year, we ought to give our Government the opportunity to support the opposition.

Let me tell you, I do not care who you want to quote. If you want to talk abut Luis Sancho, do you know what he says? He is a leader of the Nicaraguan Socialist Party. Listen to this:

> The Sandinistas see the Contras falling apart, and they see the United States not disposed to help them. They feel they now control the situation, which means there's no reason to compromise on anything.

Mr. Chairman, we met the Contras a couple days ago. Do you know what they told us? They may not survive for 2 or 3 more months. If you want the Contras to survive within Nicaragua, if you want the peace talks to be successful, if you want to be in a position where you do not wipe out the opposition to the Sandinistas in Nicaragua, you have got to support this amendment, because this amendment sends a signal that the Contras desperately need.

I wish you all have a chance to see these people. What they will tell you is one basic thing, "our people are starving. Our units are falling apart." The Sandinistas know it and the timetable is their ally.

If you will remember the debates that we have had for the last couple of years, we have asked you, we have pleaded with you, not to let the calendar be an ally of the Communists, and that is exactly what they are doing. Do not let the Contras starve to death.

For those in the middle who want to keep the process going, give us an option down the road. Let us not eliminate any possibility we have to call the Sandinistas on the carpet for all these violations.

I plead with you and I beg you in that bipartisan spirit that we had in this House several months ago, support the Hyde amendment, really give peace a chance and do not put your heads in the sand to wake up one day and find out that the Contras exist no more, that the Sandinistas have consolidated and there is no hope for the future in Nicaragua.

Mr. CARPER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief.

At the very best, the amendment before us is premature. At the very worst, this amendment is a step back, not a step forward.

I would ask you to consider the following for just a moment. What has been the policy of our country, at least in the 6 years that I have been a Member of this body? The policy of our country has been to bring pressure to bear on the Sandinista regime to compel them to live up to the original promises of their revolution, a more open society, and a mixed or a pluralist economy.

We have brought strong pressure indeed, economic pressure, military pressure and diplomatic pressure. For years the Sandinistas said to me and to others in this body and to anyone who would listen, "Uncle, Uncle." They expressed repeatedly their desire to negotiate with us toward a solution involving both peace and democracy.

Finally, at long last, somebody decided to call their bluff. Somebody decided to test the sincerity of the Sandinistas. We test that sincerity, we put them under the glare of the spotlight with the agreement worked out at Esquipulas. Our pressure compelled the Sandinistas to sign that agreement as well.

We are not testing even today as we speak that sincerity to further talks between the Contras and the Sandinistas. Those talks should go forward.

Let me return closer to home right here. For 6 years I have witnessed partisan bickering and sniping on this issue, this foreign policy issue, which almost alone we are able to reach any kind of bipartisan accord on, until 1 or 2 months ago when finally we agreed on a policy. What was that policy?

The policy says that we are going to provide the sustenance to sustain the Contras for 6 months, and beyond that if necessary, in order to permit them to try to reach a negotiated settlement with the Sandinistas to bring both peace and democratic reforms.

It has been pointed out that the progress in those talks has been slow. Let me just say that progress in the talks to negotiate the withdrawal of Soviet troops from Afghanistan has been slow as well. It did not happen in a day. It did not happen in a week. It did not happen in 1 month.

Similarly, the negotiations for the INF Treaty did not take place in a day, in a week or in a month. These things do not go by quickly.

Further, there is plenty of blame to go around on both sides of this issue. Neither side is without sin.

Finally, let me just say, I wish all the energy that we are consuming today on this debate could somehow be turned to the following subject: We have enormous security concerns in Central America. I want to see and I think you want to see, we all want to see the assurance that no foreign military bases will be established in Nicaragua. We want to see the size of the military there reduced, not increased. We want to see the foreign military advisors thrown out of that country.

Our President 1 year ago said,

> Let's enter into multilateral talks with all the Central American countries on those national security interests and let us do so as soon as the Contras and as soon as the Sandinistas begin to talk.

They are talking. The time has come for us to follow through.

Mr. LOWRY of Washington. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Chairman, I compliment the gentleman for his leadership in this speech. The leadership of this House has given a performance that is working. There is a real chance that we are going to have something that everybody can be for. We have bipartisan support for what got us here.

Let us defeat the Hyde amendment and give what the leadership of this House has given, a chance for peace to work.

Mr. STOKES. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude in 36 minutes, the time to be accorded equally to each side.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The time limitation is now 36 minutes.

The gentleman from Ohio [Mr. Stokes] will be recognized for 18 minutes and the gentleman from Illinois [Mr. Hyde] will be recognized for 18 minutes.

The Chair recognizes the gentleman from Ohio [Mr. Stokes].

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. Obey].

Mr. OBEY. Mr. Chairman, I simply want to make one practical point. After many years of arguing and partisan bickering, we have been able in the last 2 months to establish a very tenuous bipartisan consensus in many areas of foreign policy. We did that on the Contra agreement which was reached just a few weeks ago on the floor of the House and we did that again yesterday on the foreign aid bill, after 7 years of very hard fighting.

I would suggest, Mr. Chairman, that nothing would be more damaging to the national interests of the United States than to, 1 day after that bipartisan support was demonstrated on the bill that we dealt with just yesterday, without any notice whatsoever, in the middle of negotiations taking place in Nicaragua right now, to adopt the amendment that is now before us.

Mr. Chairman, good public policy is not served by surprise amendments which only have the effect of sandbagging the negotiations that are going on. I have no idea whether those negotiations will prove fruitful or not, and as I have indicated many times before, I would not trust either side in the Contra-Sandinista debate as far as I could throw either one of them. I have been lied to so much by both sides that I do not believe anybody on that score anymore. But I would suggest that this amendment deletes all restrictions on CIA activity in that part of the world. It would allow a resurrection of the war. It would be the worst possible thing we could do at the worst possible time. If we are interested in seeking peace, we should not be in the business, right now, of each individually predicting what we think the outcome of those negotiations is going to be. We ought to be in the process of trying to give those negotiations every possible opportunity to succeed, and we should not set up the United States as an easy target for the Sandinistas to blame if those negotiations fall apart.

Passage of this amendment gives the Sandinistas an easy excuse, an easy out. It gives them an easy reason to walk away from the negotiations or to be even more obstreperous in the negotiations than they usually are. I cannot think of anything that would be dumber for us to do at this moment. If those negotiations do finally break down, let it be Nicaragua that does it. Let it not be the U.S. Congress.

The CHAIRMAN pro tempore (Mr. Gray of Illinois). The Chair recognizes the gentleman from Illinois [Mr. Hyde].

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. Johnson].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of the Hyde amendment.

Whenever we discuss this issue on the House floor, we tend to fall into rhetoric that is divisive and polarizing. The real issue here is how do we achieve the goals of the Arias peace plan, the twin goals of peace and democratization?

The negotiations that some of my colleagues have referred to, the negotiations about the cease-fire that have not progressed very well and still have a few weeks remaining, may succeed, but they only address the issue of the cease-fire. They do not address the parallel issue of democratization, and on the record of democratization, and I will not repeat the record because many of my colleagues here have spelled it out in great detail and it is in fact detailed in the State Department publication, The Sandinista Actions Since Esquipulas, August 7, 1987, which I intend to submit for the Record: but the record on the democratization actions is indeed very bad. They have gone backward, not forward.

So the issue is, how do we restore the forward process. The Hyde amendment is in the tradition of those actions taken that have in our experience promoted negotiations.

Now, Members will recall that the Democrats of this House sent a delegation down to the meeting of the Presidents in January and only when House Democrats said to Ortega, "Unless you negotiate, you will face renewed military aid," did negotiations proceed, did Ortega take a new step and agree to the negotiations that led to the Sopoa agreement.

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Our point is now from this side to again restore the kind of pressure that the Democrats in this House found necessary to bring to bear in order to get the negotiations in place that brought into being the Sapoa agreement. That Sapoa agreement has not worked to create forward progress on the democratization issues which underlie the peace issues. We are trying to again restore comparable pressure, the same kind of pressure the majority restored in January to get Sapoa. We are trying now to restore to the current process so that in the next few weeks there will be some progress on the cease-fire, but also on the democratization issues that fundamentally underlie and are essential to peace in Central America.

What we are trying to do here is limit it. It only restores aid as of October or allows that possibility with no new money. We have plenty of time. My colleagues are familiar with this body, if we see that aid is going to run and we want to condition it, we can do it, but it sends a strong signal in any event. It sends exactly the kind of signal the majority found necessary to send in Janaury to create forward motion and new commitment. The Sandinistas have an abominable record on the democratization commitments that they themselves made in

Sapoa, and only this amendment will restore their interest.

THE COMMITMENTS

Esquipulas, August 7, 1987:

The Accord signed in Guatemala City by the five Central American presidents contains a broad commitment to popular participation by the regions' citizens in an authentically democratic process. The five presidents pledged themselves to "promote an authentic democratic, pluralist and participatory process that includes the promotion of social justice, respect of human rights. . . ."

The Accord specifically notes that political parties would have the right to organize, to participate in decision-making, and to have access to the media to make their views known. The signers, however, go beyond pledging themselves not to institute restraints on freedom of expression, such as prior censorship, to making a positive commitment. Political groups are guaranteed "broad access to communication media, full exercise of the rights of association and the right to manifest publicly the exercise of their right to free speech, be it oral, written or televised, as well as freedom of movement by members of political parties in order to proselytize."

San Jose, January 16, 1988:

The five Central American presidents meeting in San Jose, Costa Rica, reaffirmed their commitment to fulfill unconditionally their obligations under the Esquipulas Accord including "above all, democratization, which shall include the lifting of the state of emergency, total freedom of the press, political pluralism, and the termination of the use of special courts."

Sopoa, March 23, 1988:

The Nicaraguan government agreed to decree an amnesty for prisoners, to guarantee "unrestricted freedom of expression, as contemplated in the Esquipulas II Accord," to guarantee the right of all political and other exiles to return to Nicaragua without punishment, and to ensure free participation in municipal, national and Central American parliament elections.

THE ACTIONS

August 7: Esquipulas Accord signed.

August 8: Sixteen members of the Nicaraguan Conferderation of Trade Union Unity arrested and imprisoned.

August 15: Police, using electric cattle prods, and "turbas" (mobs led by FSLN activists) break up two opposition attemps to hold peaceful rallies.

The head of the CPDH (Permanent Committee on Human Rights) and the leader of the independent bar association are arrested while observing a peaceful demonstration; they begin a hunger strike to protest their detention.

September 27: Police arrest 18 Social Christian Party (PSC) members prior to a rally in Managua.

PSC members outside of Managua are prevented from obtaining transportation to participate in the commemoration of the PSC's thirtieth anniversary.

October 19: Radio Catolica's first newcast since reopening is cancelled by government officials who claim the radio lacks the proper permits.

October 22: Turbas disrupt a peaceful human rights vigil and attack members of the "January 22 Movement of Mothers of Political Prisoners" in El Calvario church in Managua.

October 25: An estimated 5,000 potential emigrants walking to the Costa Rican border are turned back by Sandinista security forces.

October 26: "Turbas" numbering approximately two thousand surround the headquarters of the Permanent Committee on Human Rights (CPDH) where the "January 22 Movement of Mothers of Political Prisoners" has gathered.

October 31: Nearly 300 Nicaraguans flee to Honduras following a meeting with families at the border.

November 1: Julio Bustamante of the Office Workers Union of El Viejo is taken from his home at 10:00 P.M. and beaten by three men wearing army uniforms.

November 18: President Ortega says he will not approve the request of private businessmen to open an independent television station.

Case comes to light of a Resistance member who on April 30 surrendered under the Sandinista amnesty on April 30 and, the amnesty notwithstanding, was arrested nine days later and sentenced to 15 years in prison.

November 19: Miguel Salas, machinists union member, is seriously wounded by Sandinista official Wilfred Dominguez who shot him four times.

November 27: Nicaraguan police arrest and beat two youths for distributing anti-government leaflets for the Liberal Independent Party.

December 3: Police detain persons in Jinotega for publicly voicing support for thirteen individuals falsely arrested by the Sandinistas.

December 13: Security forces detain a Social Democratic party leader for three days following his organization of a December 13 march in opposition to the government.

December 13: President Ortega tells a labor group that while the Sandinistas might give up the formal trappings of government, they would never yield power.

December 15: Three Supreme Court judges resign to protest Sandinista non-compliance with judicial orders.

December 17: Government imposes a requirement for a 72-hour notice prior to holding pooitical events and makes sponsors responsible for all damage, including that caused by participants in government-backed counter-demonstrations.

December 18: President Oscar Arias denounces Nicaragua's plans for a military buildup as a violation of the Esquipulas Accord.

January 14: Interior Ministry threatens Nicaraguans who met with Resistance representatives in Guatemala with a "thorough investigation."

January 15: President Daniel Ortega threatens to reimpose a state of emergency and censorship of La Prensa if new funding for the Resistance is approved.

January 16: Joint communique issued by the five Central American Presidents.

Twelve opposition leaders arrested and interrogated for meeting with the Resistance outside of Nicaragua.

January 19: Strongly worded Sandinista editorial warns opposition that restoration of civil rights should not be taken as a "blank check."

January 22: A Sandinista "turba" yelling "People Power!" hurls rocks into the headquarters of the Democratic Coordinadora, smashing windows and injuring several.

Comandante Bayardo Arce warns the opposition parties to "return to their holes or we will crush them."

January 31: Sandinista authorities threaten to hang, take away land, and seize ration cards from participants in a Liberal Constitutionalist Party rally in San Dionisio, Matagalpa.

Transport Ministry refuses to allow opposition parties to rent buses to transport supporters.

February 6: Sandinista military recruiters round up 300 youths in Matagalpa and herd them into vehicles. Boys as young as thirteen and men as old as fifty are press-ganged into military service. More than two hundred youths later reportedly escape. One youth is seriously injured.

February 8: 200 Sandinista police confront demonstrators in Masaya protesting military recruitment. Demonstrators are beaten and arrested.

February 9: Sandinista police briefly detain and confiscate television crews' film of police brutality in Masaya.

February 10: Government newspapers charge independent newspaper La Prensa with supporting the Resistance and threaten to use physical force to close it down.

February 18: Violeta Chamorro, widow of Pedro Joaquin Chamorro, assassinated owner of La Prensa, writes to President Oscar Arias that "the Sandinista regime . . . has entered into a phase of total indifference to the points stipulated in the Esquipulas II Accord."

February 20: Police raid Managua's Eastern Market. Thousands of cordobas worth of merchandise seized from small entrepreneurs.

February 23: President Ortega accuses democratic opposition political parties of having a "perfidious, blackmailing attitude . . . which is treason to the fatherland."

February 25: During a strike by 2000 restaurant workers in Managua four union leaders are detained and pro-Sandinista mobs threaten strikers.

The International Committee of the Red Cross, while conducting a census of political prisoners, is denied access to security police prisons under the control of Tomas Borge's Interior Ministry.

February 26: Two U.S. Embassy officers are assaulted and harassed by FSLN supporters during a pro-government rally in Managua.

February 27: After being held for 15 days after their February 12 acquital, five opposition members acquitted of alleged involvement in anti-government bombings in Jinotega are released from jail. They were released only after intervention by an international human rights organization.

February 28: Cardinal Obando y Bravo calls Daniel Ortega's insistence that the Sandinista agenda serve as the basis for the next round of cease-fire talks "a backward movement to zero."

February 29: Sandinista television begins broadcasting spots accusing La Prensa owner Violeta Chamorro of war crimes.

March 1: President Ortega closes Ministry of Justice. Tomas Borge's Interior Ministry now oversees control over organizations, associations and other "legal personalities" such as political parties.

Security officials threaten to jail leaders of the Democratic Coordinadora if they proceed with plans for a March 6 rally in Masaya.

March 2: Miguel Cardinal Obando y Bravo is dismissed as cease-fire mediator by President Ortega.

March 3: Several hundred "turbas" break up a meeting of 15 leaders of the Permanent Congress of Workers (CPT). Police watch from a distance as the "turbas" storm the hall where the union leaders are meeting.

A Sandinista-organized, rock-throwing mob officially estimated at 3,000 gathers outside La Prensa offices, shouting anti-La Prensa slogans and burning Mrs. Chamorro in effigy.

Transported to the scene in government trucks, a pro-Sandinista mob storms an opposition labor meeting in Managua.

The secret police (the DGSE) warn three opposition reporters that they are being watched and monitored because of their connection to "counter-revolutionary organs." Two weeks earlier, a reporter is briefly detained while covering an anti-government demonstration by women in Managua's Eastern Market.

March 5: Two labor activists leading a peaceful march of 60 peasants en route to a rally sponsored by the Labor Unity and Action Central (CAUS) are killed by troops near the village of El Tuma in Matagalpa department.

March 6: 150 Sandinista counter-demonstrators wound seven opposition demonstrators in Masaya protesting military recruitment policies.

Sandinistas employ "turbas" to violently disrupt a peaceful Women's Day march of the "January 22 Movement of Mothers of Political Prisoners." Five hundred peaceful marchers are attacked and beaten by a government mob armed with rocks, chains and iron bars. Over 150 government vehicles reportedly were used to transport city workers and DGSE employees to Masaya for the government-organized countermarch. DGSE agents repeatedly threaten march organizers and their families.

March 9: Police refuse to grant a march permit to the CPT.

March 13: President Ortega warns opposition parties "not to overstep their right to criticize the government." "Everything has its limits," Ortega warns, and "he who sows the wind reaps a storm."

An extraordinary session of the FSLN Assembly warns the opposition against provoking the "ire" of the people.

March 15: Sandinista-organized mobs backed by Nicaraguan police sweep through three Managua markets seizing merchandise from private vendors to enforce new price restrictions.

Seven labor organizers arrested in Masaya.

Labor leaders protest the arrest of Justo Pastor Espinoza in Granada. Pastor, a labor organizer for CAUS (Labor Action and Unity Central), was arrested and later turned over to a mob which beat him in front of police headquarters and stole his megaphones.

March 16: All radio stations required to join a government network three times a day, thus preventing local radio stations from reporting on the Nicaraguan incursion into Honduras.

March 17: President Ortega tells opposition leaders the political opening permitted to date would be terminated if they continue to pressure the regime to abandon its revolutionary principles.

March 18: Vice-President Sergio Ramirez again declares that the Sandinistas will not grant a license for a non-government television station.

March 19: Labor march planned for Masaya is cancelled because police refuse to indicate whether permission to march will be granted. Marchers also fear government-organized violence.

March 23: Sapoa Agreement between the Government of Nicaragua and the Nicaraguan Resistance signed.

March 28: La Prensa suspends publication because of a shortage of newsprint. Sandinistas refuse to permit La Prensa to purchase foreign newsprint.

April 12: Sandinistas officials deny permission for AmeriCares (a private US humanitarian aid organization) to deliver newsprint to La Prensa and medicine and clothing for use by the Catholic church.

April 17: Sandinista authorities deny permission for an opposition rally in San Ramon, Matagalpa province.

April 25: Permanent Congress of Workers (CPT) launch a hunger strike at the Independent General Confederation of Labor (CGT-I) headquarters to protest Sandinista non-compliance with labor promises.

April 26: Fourteen political parties walk out of national dialogue talks with the government in sympathy with striking unions.

April 27: A special police unit, the "Black Berets," attempts to occupy CTG-I union hall and prevent cars driving along road in front of building from stopping to make donations to strike fund collectors.

Approximately 100 Sandinista police beat and arrest four workers from the Labor Action and Unity Central (CAUS) carrying signs supporting the hunger strike. Police attempt to enter the building, but are blocked by a crowd of trade unionists in front of building.

April 29: Interior Minister Tomas Borge orders Radio Corporacion Director Jose Castillo brought in to his office and assaults him there because of the station's coverage of police actions against CPT hunger strikers.

The "Black Berets" forcibly clear protesting workers from the CGT-I parking lot. Several people are arrested, including union leader Antonio Jarquin and Horaxio Sanchez, leader of the construction trades union.

Police disperse group of youths from the social democratic and conservative parties who arrive at CGT-I headquarters to support hunger strikers. Some reported arrested.

May 1: 5,000 march in CPT-sponsored May Day rally. The Nicaraguan Workers Central (CTN) May Day rally with 1,500 marchers is disrupted by what appears to be "turba" harassment.

May 3: Antonio Jarquin and Roberto Moreno arrested along with a dozen other people for attempting to hold a press conference at the CGT-I hunger strike headquarters.

All entry and exits from the CGT-I building are blocked by police. Water, electricity and telephones shut off.

Interior Ministry informs Radio Mundial its morning and noon news broadcasts are suspended for one week because of its reporting of the hunger strike.

Unknown persons break into Radio Mundial destroying control console and FM transmitter, breaking tubes and ripping wires. There are no signs of forced entry and nothing is stolen.

The government suspends the following newscasts for eight days: Radio Catolica's "Iglesia," Radio Noticia's "El Pueblo," Radio Mundial's "El Nicaraguense."

Radio Corporacion shut down completely for 24 hours.

May 4: Police detain between 25–30 opposition political leaders as they attempt to visit the trade union hunger strikers. Sandinista police head Doris Tijerino declares there will be no concessions to workers as long as the hunger strike continues.

May 8: Government refuses permission to the Democratic Coordinadora to hold a march in Jinotepe. Secret police threaten local Coordinadora organizer with imprisonment.

On the morning of a planned demonstration, Sandinista authorities refuse permission for the Liberal Constitutionalist Party (PLC) to hold a peaceful rally in El Corozo, Matagalpa province.

A PLC member reports his supervisor at a state-owned factory seized his PLC membership card and threatened to fire him for joining the party.

May 14: The Interior Ministry orders directors of independent radio news programs not to broadcast reports on forced military recruitment or the economic crisis, and not to or show "lack of respect" for Sandinista officials. They are warned that violators face permanent closure. Tomas Borge's Interior Ministry will enforce the censorship laws.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in strong support of this amendment. This amendment does not in my judgment hinder the peace talks going on at this very moment. It strengthens the peace talks. This amendment does nothing until October 1. This amendment allows a strategy of peace through strength to occur and that is what all of us have wanted, peace.

Many of us are divided about the proper way to accomplish it, and 27 of us on my side of the aisle sent a letter to President Ortega 2 weeks ago of which he took as being a threat from Members of Congress to him, but it was not meant to be a threat. Mr. Chairman, that letter was meant to be a response to threats by President Ortega where he publicly not once, not twice, but three times all of which have been reported on by the media, threatened to annihilate these Contras the day after the peace talks break down.

I say to my colleagues this is a difficult time. None of us have the simple answer to this and I quarrel not with most of the factual statements that have been made on this floor today. What we are talking about is a proper strategy for America to help the peace process work. I suggest we forget the partisan rhetoric we have heard today and concentrate strictly on the peace process and see if there is not some little question in the back of our minds that providing doubt in the Sandinistas of what might happen on October 1 if they do not live up to the peace accords, because we have already told the Contras what this Congress will do to them. Let us be fair to both sides and let us give peace a chance. Support this amendment very strongly.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, before I get to the crux of this amendment I want to refer to a couple of things that were mentioned thus far in the debate.

First of all, it seemed that some were trying to draw a parallel between the 1930's and the 1980's. I suppose that was to be drawn between Chamberlain and Reagan, but I would like to say that Mr. Chamberlain was not an appeaser. He had no choice. France, England, and the United States collectively could not have fought their way out of a paper bag at that particular time.

That situation does not happen at this particular time.

Second, I hear time and time again that we were told in the Permanent Select Committee on Intelligence over and over again that the whole purpose was to interdict arms.

Mr. Chairman, that is nonsense. That was No. 2 on the list.

First on the list every time when the former CIA director came before us was that he wanted to cause the Sandinistas to turn inwardly, to look inwardly, but we seem to have forgotten that. He did it all the time.

I left the committee for two reasons, because as my colleagues know I was not a supporter of the effort. I left the committee because I thought the administration had enough opposition on that committee without having somebody on their side.

However, the Ortega brothers have convinced me that I should take them for what they are and what they believe. They are making a believer out of me. I supported the $75 million that Carter wanted. I supported the $100 million that went in as a matter of fact because I wanted to do something differently than we did with Cuba. It did not work.

Mr. Chairman, I am here to say today that unless we have a stick, unless we have a stick I am thoroughly convinced at this point that it is not going to work. There will not be a peaceful settlement and whether this is the right stick or not I do not know but the beauty of this stick is that it does not get used until October, so as a matter of fact there are many months yet to bring about this entire peace process. The stick is there. Every time we have taken the stick away they have made a fool out of the previous Speaker, they have made a fool out of this Speaker, they have made a fool out of this person who is standing in the well. So I think if we cannot get a bipartisan stick quickly, it is going to be too late. My hope is that as a matter of fact this will be the stick that will bring about what all of us want and that is a peaceful resolution. Without a stick I am no longer going to be naive enough to believe that it can happen.

Mr. STOKES. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Chairman, my congratulations to the chairman of the Permanent Select Committee on Intelligence for bringing this bill to the floor. I just do not understand why today we want to take a chance in interfering with the tremendous opportunity that is going on in Nicaragua and Managua right now.

On March 30 this House to its credit by a broad bipartisan effort, as a matter of fact 166-5 on the Republican side, passed a tremendous effort to support the Nicaraguan people's chance for them to accompliah peace. Now the parts of that package are moving forward.

Two days ago the Contra leadership here in a press conference, as most of us know, said that they will accept and look forward to the delivery of food, clothing, and medical supplies by the Pan-American Development Foundation, and the previous week the Nicaraguan Government had said the same thing. So that element called for within that bipartisan package that passed here on March 30 was being met.

Last week at long last, but it has now been done, the Independent Varification Commission established by the Organization of American States, that bipartisan movement that was so successful on this floor, was funded and we now have the Organization of American States with the Independent Verification Commission as called for by the package that passed the House, to support the chances of peace in Nicaragua going forward.

There has been about $12 or $13 million of the children's health aid package that has been sent forward to the private organizations to work on the health problems of the victims of that terrible war that we are all for stopping down there. That has been sent forward. It is moving forward. It is a tremendous success.

Let us not today take a chance in interfering with the Nicaraguan people to obtain the negotiated peace that we all support. I think the last 4 months' action in this House by a bipartisan means to really move forward has been a tremendous success for this House. I compliment the House on that. Let us not put that all aside today and lose that. Let us defeat the Hyde amendment.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I do not think a more eloquent statement has been spoken in this well than that by the gentleman from Pennsylvania [Mr. GOODLING]. He alluded to the fact that Ortega is the head of the Communist Government of Nicarauga, and it is ruled under the threat of guns and terror, with nighttime arrests and private executions. He also said that, "Mr. Speaker, you have been made a fool of. Mr. Speaker, when you received one of those Communist thugs in your office, an office supplied by the taxpayers, on Veterans' Day of last year, you were duped." In that meeting, to which the gentleman from Wyoming [Mr. CHENEY] referred and in written comments after a meeting with the press the other day, I heard the Speaker refer to the Contras as "our people down there."

That was said right to the face of our Secretary of State, Mr. Shultz.

Not everybody in this Chamber believes that the Contras are our people. Certainly not a couple of gentleman from New York, nor the gentleman from Oregon [Mr. AUCOIN]. They think they truly are mercenaries and thugs.

Some of us believe, most of us I hope, that the Cubans, the East Germans, and the Bulgarians, are the mercenaries.

The Nicaraguan young men and women from the fincas, the small coffee and cotton farms and destroyed cattle ranches, are Nicaraguans fighting for freedom on Nicaraguan soil. They are hardly anybody's definition of a mercenary.

Let me clean up some things before I refer to these newly released pictures of the prison camps in Nicaragua. They are very clear in detail, the clearest ever released. Every Member is invited to a top secret briefing by any of our intelligence agencies, the DIA, or the CIA particularly, to see these three times closer.

Mr. Chairman, the International Red Cross has been so compromised after the Sandino Communists executed hundreds of young guardia soldiers the Red Cross turned over to them in 1979 after a promise of sanctuary, they are so compromised by that deed and by their acceptance of Communist figures that there are barely over 3,400 political prisoners, inside Nicaragua. In fact, Louis Rouge Mont in New York, told me to my face that the Red Cross would bet me $50 that these prison camps are military installations. They are obviously prisons, just look at the three rows of concertina barbed wire and gun towers. There are over 8,000 political prisoners still in prison, most for so-called political crimes against the Communist government. Just a little cleanup before I go on.

The gentleman from Oregon [Mr. AUCOIN] mentioned Benjamin Linder. Benjamin Linder was in uniform, he was carrying a Russian assault rifle, and he was killed in a firefight. After the incident, the Communists lied five times in five major disinformation stories over a 5-day period. It was the Sandino Communists who put the coup de grace into his corpse. It was those lying Communists who shot him in the head after he had been dead 5 days. No one has been allowed to see his body, not his parents, not American doctors. The Communists floated a ludicrous story that nobody of good sense could really believe.

Mr. Chairman, the gentleman from New York [Mr. SCHUMER] talks about drugs, I would ask him if we are going to make the workplace drugfree for the Sandinista Communists?

Mr. Chairman, we have film taken from the tail of a C-47, with people from the Mint, the Ministry of Interior, Tomas Borge's gang, loading drugs on an airplane. That is where the drug-running took place, and that is where it continues to take place.

Mr. STOKES. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I rise in strong opposition to this amendment. I cannot think of a more mischievous, counterproductive to the national interest, bit of legislation than this proposed amendment. Let us make no mistake as to the net end result of this amendment if it is enacted by the Congress. The so-called exertion of pressure on the Sandinistas will mean the further murdering and raping on the part of those that the President in an excess of verbiage calls freedom fighters, perpetrated against innocent men, women, children, schoolteachers, and American social workers.

□ 1330

On top of that, our country has been disgraced in the tribunals of international justice. We stand condemned because of CIA activity in Nicaragua, of acts of terrorism. We not only stand in condemned judgment, but we have been fined by the World Court of Justice, the international tribunal of justice, because of the thing that this amendment would seek to bring about restoration of. I say for the sake of our own honor, the well-being of the future interests of the Nation, we turn this amendment down overwhelmingly.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding.

They are Communists. They are committed to expanding their revolution throughout Central America, and they are being heavily supported by the Soviet Union. They received over $200 million in aid, I think, since the first of the year, while we have not even been able to get $17 million in humanitarian assistance in to help the freedom fighters.

The point has been made earlier today that an agreement has been reached between the freedom fighters and the Communists down there that the Pan-American Development Corp. will take the food in. That agreement has been reached, but it will not be implemented until certain other conditions are met. For instance, the Sandinistas are arguing about the seven cease-fire zones and, more importantly, what is going to happen inside those zones. Until this is resolved, they will not let the food in. They are going to drag this peace process out as long as they can to starve the freedom fighters, the Contras, into submission. That is a fact. That is why they want to extend this cease-fire another 30 days, and we are playing right into their hands by not doing anything about it.

Not one penny of the $17 million allocated by the United States Congress on April 1 for humanitarian assistance has been given to the freedom fighters inside Nicaragua. They are starving to death. Are we going to wait until they are no longer a viable force before we do something? I hope not.

That is why I think the Hyde amendment should be passed and passed rather rapidly today. When the U.S. Agency for International Development tried to send some bananas, some bananas, to the refugee camps in Nicaragua, the Congress forced the Price Waterhouse accounting firm to count each banana and run them through a metal detector to make sure they contained no weapons. That is the kind of aid we are getting in. They are counting bananas to keep weapons from getting in. It is a terrible, terrible thing we are doing to the Contras right now.

What is even more absurd is that one of the Senators in the other body from Hawaii ordered a GAO study to see if the sending of the food to the refugee camps in Honduras was illegal, was illegal. At the same time, we are sending rice and beans to refugee camps, and the Soviets have already shipped over 200 million dollars' worth of military aid in the first quarter of this year alone.

Right here in my hand I have seven pages of violations of the Sapoa agreement. As the gentleman from New York [Mr. KEMP] said earlier today, they have not complied with the agreements that they signed in 1979 at Esquipulas, at Sapoa. They violated everything, and yet we continued to support them by going along with this peace process. It is not a peace process. It is a process for capitulation.

Daniel Ortega said just recently, and I think it bears repeating here today, he said, "The Contras are defeated criminals who deserve the guillotine." He went on to say that their demands that the Sandinista front relinquish control of the army and police would never be accepted. He later said that changes in Nicaragua's revolutionary path are not on the table in the peace negotiations.

Mr. STOKES. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY], a member of the Permanent Select Committee on Intelligence.

Mrs. KENNELLY. Mr. Chairman, as a new member of the Permanent Select Committee on Intelligence, I had not planned on speaking today.

This bill was marked up in deliberation with quiet professionalism. The staff, working with the members in a bipartisan fashion, listened to the advice of the counterintelligence agency, the Defense Department and State Department.

With the introduction of this amendment, we have opened up the whole Contra question again, a question that has been debated time and time on this floor, hundreds of hours of Members' time involved. That is all well and good if it makes people feel better.

Right now the Contras and the Sandinistas are trying to bring peace to their own area, and since we have not been very successful, we should allow them to do that.

I would suggest that we just defeat this amendment and return to the bill, which is a good bill, the kind of bill we should have with the Permanent Select Committee on Intelligence, and vote for it, and this debate obviously will come up again.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, this is the right amendment, the right policy statement at the right time. As our Committee on Rules chairman, the gentleman from Florida [Mr. PEPPER] said, we need to do something now. We need to show, first of all, that we have not abandoned the Contras, and second, we need to show that the United States means business in pursuit of hopefully a solution to the problem.

Military aid is obviously not an option at this time. All this amendment does is to bring policy toward Nicaragua into conformance with our policy everywhere else in the world as of next October, but it will still send a message, and that is the point.

The real question is: Why should this amendment be opposed? First of all, it will not really go into effect until October, so it does not disrupt negotiations, and it can very well provide an incentive to the Sandinistas to negotiate and to comply with what they have already promised.

Second, it does not provide new aid to the Contras. No aid, additional aid, could even be given until after next October.

Third, it conforms United States policy in Nicaragua, with respect to intelligence activity, to that policy which exists everywhere else in the world, the Soviet Union, Cuba, and everywhere else where we conduct a foreign policy.

In short, for those who have opposed aid to the Contras but who believe that the Sandinistas have not yet complied with the agreements to which they have been committed, that they have not yet made sufficient progress toward democracy in Nicaragua, for those who believe those two things, this amendment provides a very good answer and a very good vote. It is the right vote for this point in time.

Already alluded to has been the State Department chronology of page after page of page of Sandinista violations of the agreements that they have promised to comply with so far, a really sorry state of affairs in Nicaragua today. If you believe that the Sandinistas have not lived up to their agreements as these documents and the news stories in the New York Times and the Washington Post have confirmed, then we ought to do something to try to provide that incentive to send a message, and as the gentleman from Florida [Mr. PEPPER] said, this is the right thing to do, because while it is not aid to the Contras today, it is the establishment of a policy as of next October that would permit us to begin to do some things that we do in other parts of the world. Therefore, I say that to provide or to promote democracy as well as peace, this is the amendment to support, and I would urge all of the Members, my colleagues, those who have not supported aid to the Contras in the past, to please consider this as the moderate position, the amendment that can be supported to bring that pressure to bear in the appropriate way.

Mr. STOKES. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON] a member of the committee.

Mr. RICHARDSON. Mr. Chairman, there are six reasons why we should not support this amendment, which perhaps may be opportune later if there is generally a stalemate in the negotiations.

Let me just review what this amendment would do. It would remove any restrictions on the use of the CIA in Nicaragua. This amendment would dump the bipartisan support for the peace process that many on both sides tried to achieve. This amendment would put the House on record for more war in Nicaragua on the same day that the Contras and the Sandinistas are talking about peace. This amendment would say no to the Central American peace process and replace an American solution for a Central American solution in the region.

It basically would reopen the Contra war, because negotiations would most likely break down. It would open the full extent of the CIA contingency funds. Most importantly, though, this amendment would end congressional participation in Contra aid decisions. This amendment is not opportune at this time.

If there is a continuing stalemate, if there are continuing problems on the part of the Sandinistas that have shown generally not to be supportive of the peace process, then I say perhaps this amendment is opportune later, but now it would be a disaster.

□ 1340

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Chairman, I thank the gentleman from Illinois for yielding time to me.

Mr. Chairman, my colleague from Oregon indicated in his remarks a short time ago that we on this side view the Contras as the "spiritual descendants of Thomas Jefferson." I agree that it is doubtful that they are the image of Thomas Jefferson, however, one thing is very certain: Ortega's Communist thugs certainly do not resemble Jefferson.

The continual stalling of this peace plan starves the Contras, ignores hundreds of millions of Soviet arms to Nicaragua and slowly chokes to death any hope of freedom in Nicaragua.

The opposition looks upon the Contras as less than people. They speak of the Nicaraguan people and the Contras. Time and time again they say it.

Support the Hyde amendment and send a message to Ortega that the United States of America stands, yes, for peace, but also for freedom and democracy.

Mr. STOKES. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding. Since I have never spoken on this subject before, I thought I would take the opportunity to express my position.

Earlier this week I had the opportunity to spend about 3 hours with a Nicaraguan who no longer lives in that country. He told me in confidence and with other government agents that are pursuing his testimony as evidence of a meeting he had with former dictator Somoza back in 1980 before the Reagan administration came into power, and of the fact that it was Somoza's idea to establish the Contras.

As long as the United States continues to provide money, the ghost of Tacho Somoza will continue to oppress and plague and kill the people of Nicaragua.

I urge my colleagues to vote down this amendment, and let us bury Somoza once and for all.

Mr. STOKES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Washington [Mr. FOLEY], the majority leader.

Mr. FOLEY. Mr. Chairman, I think in deciding this quesiton Members should be very clear on what the amendment seeks to do. The issue is not about sending signals to the negotiations that are going on in Managua even at this moment between the resistance and the Nicaraguan Government.

The question is whether we will authorize, effective October 1, the sending of military and paramilitary equipment and funds to resume the war. That is what it is about, and no Member should be in any doubt about it.

It is not about helping the peace process but abandoning it, of rearming the Contras to conduct by military means an effort to overthrow the Government of Nicaragua.

This is not a new issue but one we have considered repeatedly since December 1, 1981; the provision that our friend would like to strike, has been in the law for the last 4 years.

What will occur if the gentleman is successful in removing it ought to be very clear. Not only will the contingency funds available to the Central Intelligence Agency be available for military or paramilitary operations without restriction as of October 1 but any funds which might accrue, under a finding, to the Department of Defense or any other agency will be available for military operations in Nicaragua. In addition as far as I know there will be no legal restriction on the Department of Defense's making personnel or materiel available to the Central Intelligence Agency, subsequent to a finding, to put an unlimited number of American military trainers into the field to transfer material virtually with any legal limits to the democratic resistance or to provide any other implements of war.

If that is what Members want, this is one opportunity to do it and obviously they will find others.

It is, however, both incorrect and unwise to say that all we are doing here is balancing the negotiating scales. What we are doing is sending a clear signal that we have lost confidence in the negotiations between the 2 parties and in the peace process while they continue to demonstrate their aspirations for them. It is saying that we want the administration to be able to send military and paramilitary aid to the democratic resistance in quantities limited only by the size of the contingency funds or its ability to transfer or reprogram funds subject only to the required notification of the relevant committees without the knowledge of the American people or the rest of Congress. At a time when the administration is clearly not committed to the peace process.

If we want to abandon the peace process, this is the time, and as far as our friends say certainly the way to do it.

Mr. HYDE. Mr. Chairman, I am pleased to yield our final 2 minutes to the gentleman from Kentucky [Mr. Bunning], who will discuss this amendment, which does not take effect until next October.

Mr. BUNNING. Mr. Chairman, the time is now. I have been in this Congress for 15 months. This is the fifth time we have had this issue before us. I have voted 4 times on aid or military assistance or withholding military assistance from the Contras.

The Sandinistas, with the good help of their PR firm in New York, have played our Congress like a drum. They make promises to bring peace and democracy to Nicaragua. Every time they get close they say we need more time, we need more time.

As soon as they get there, they reject what has been proposed in the negotiations. They stonewall peace, they stonewall democracy.

It should not surprise us. They have done it all along and they are doing it to us presently.

I thought the Secretary of State, when I was elected to Congress, was the policymaker as far as the U.S. Government is concerned. I got a real education when I came to this Congress. There are 535 Secretaries of State, and they seem to be sitting in this House and on the other side of the aisle and over on the other side of the Capitol.

Instead of living up to the promises of meaningful negotiations they are counting on starving Contras, starving those people that want to fight for their own freedom.

I think it is time that the Congress get back to their business and send a message to those people that want to fight for their own freedom that the United States of America stands for freedom, stands for democracy, and we ought to support those people.

I just wish that the Hyde amendment will be passed and I ask for every Member to consider that this is the only means that we have right now to send a message to those people.

Mr. STOKES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am concerned about this amendment in a respect that I do not think has been properly addressed here this afternoon.

If this amendment is adopted, funding for the Contras would then be conducted through the reserve or the contingency fund that belongs to the CIA. I think the gentleman from Illinois [Mr. Hyde] and the gentleman from Wyoming [Mr. Cheney], the authors of the amendment, would agree with me that this is an area in which our committee has oversight function on behalf of the Congress. It is an area that has had some problems, but on a bipartisan basis we have worked together trying to work out those problems. And to the credit of the CIA, they have been responsive to our concerns and to the initiation of restrictions regarding that fund.

I cannot refer to how much money is in there because that is privileged. But that fund is for the precise purpose of giving the CIA the opportunity to have funds for unforeseen emergencies, not to conduct wars or other affairs such as would be conducted here. It is precisely to enable them to be able to meet unforeseen emergencies around the world.

I think that this amendment being sponsored by Members of our committee who have responsibly worked with me and other Members to try to bring an area of responsibility to this fund really in effect undoes the work that we have engaged in up to now. I really hope that Members understand we are bypassing the authorization and appropriation process totally by enacting an amendment of this sort. I think it allows for mischief to occur once again in an area where there should not be any mischief, in an area where we have tried to exercise the oversight function of Congress.

I would urge the Members not to adopt this amendment and to defeat this amendment.

Mr. HOUGHTON. Mr. Chairman, the Hyde amendment springs from the debate on the Intelligence Authorization Act of 1989.

I see no problem with it. The amendment would not unleash military aid. That still is the prerogative of the Congress. This amendment merely reinstates the President's constitutional freedom to exercise his rights under the general umbrella of the Intelligence Act. Why should Congress tie the President's hands when it comes to foreign policy?

So, this issue today has nothing to do with military aid to the Contras. But considering recent events, I thought I might include a letter, which I just wrote to Gen. Daniel Ortega:

Dear General Ortega: In February, I voted to prohibit the sale and supply of military equipment to the Contras. My decision was based on the hope that you would follow through on what you promised—meaning to negotiate and grant amnesty to the Contras, permit early elections, and allow the press to be free.

I said then that although there was reasonable evidence to the contrary, I wanted to believe your words; I wanted a peaceful solution to this conflict for the people—the humanity of Nicaragua.

So, I was willing to hold back on arms shipments hoping that you would honor your pledge to the outside world. At the same time, I made it clear I would change my vote if the "actions" of peace did not follow the "words" of peace.

I am troubled. I am troubled by your treatment of the Miskito Indians who want recognition and respect. I am troubled by your words in a recent speech about the Contras. "They should be grateful," you said, "that we are not offering them the guillotine or the firing squad, which is what they deserve." Strange words of conciliation. And lastly, I'm troubled by reports that two weeks ago your Interior Minister General Borge called Mr. Jose Castillo Osejo, one of your country's leading radio newsmen, to his office, then started shouting and punching him.

At some time or other, all of us in this life are on trial. Without trying to sound presumptuous, may I suggest that you, sir, are now on trial in the eyes not just of your people, but also the American people, and the people of the world.

May your actions suit your promises.

Very sincerely,

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. Hyde].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HYDE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 156]

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs

Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1411

The CHAIRMAN. Three hundred ninety-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois [Mr. HYDE] for a recorded vote.

A recorded vote was ordered.

[Roll No. 157]

The vote was taken by electronic device, and there were—ayes 190, noes 214, not voting 28, as follows:

AYES—190

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Chapman
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dowdy
Dreier
Dyson
Edwards (OK)
Emerson
Erdreich
Fascell
Fawell
Fields
Fish
Flippo
Gallegly
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kemp
Kolbe
Kyl
Lagomarsino
Latta
Leath (TX)
Lent
Lewis (FL)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Pepper
Petri
Pickett
Porter
Pursell
Ravenel
Ray
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Rowland (CT)
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—214

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Bruce
Bustamante
Campbell
Cardin
Carper
Carr
Clarke
Clay
Clement
Coelho
Collins
Conte
Conyers
Cooper
Coyne
Crockett
de la Garza
DeFazio
Dellums
Derrick
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
English
Evans
Fazio
Feighan
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Hoyer
Hughes
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Penny
Perkins
Pickle
Price
Rahall
Regula
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Wheat
Whitten
Williams
Wise
Wright
Wyden
Yates
Yatron

NOT VOTING—28

Aspin
Biaggi
Boulter
Brown (CA)
Bryant
Coleman (TX)
Craig
Dicks
Duncan
Espy
Flake
Florio
Gallo
Gejdenson
Hansen
Jones (TN)
Konnyu
Lewis (CA)
Lujan
Mack
MacKay
Mica
Quillen
Rangel
Roukema
Spence
Weiss
Wolpe

□ 1428

The Clerk announced the following pairs:

On this vote:

Mr. Quillen for, with Mr. Coleman of Texas against

Mr. Hansen for, with Mr. Wolpe against

Mr. Gallo for, with Mr. Brown of California against

Mr. Craig for, with Mr. MacKay against

Mr. Mack for, with Mr. Flake against

Mr. Boulter for, with Mr. Rangel against

Mr. Konnyu for, with Mr. Florio against.

Mr. DERRICK changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. MICHEL was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Chairman, I take this time to discuss with my distinguished friend, the majority leader, to inform the Members of how we will proceed for the balance of this afternoon to expedite the business of the House.

Mr. Chairman, I yield to the distinguished majority leader, the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I thank the distinguished Republican leader for yielding.

Mr. Chairman, it is my understanding that we have about six more amendments with respect to this bill. Three of those amendments, it is my understanding from the distinguished chairman, will be accepted on this side. One of them will be the subject of a point of order, which will be the privilege of the House, of course, to decide.

The Smith-Solarz amendments with respect to MIA-POW's I have been informed have been concluded and can be adopted without extensive debate. It is our hope under these circumstances that we could proceed for a vote on this bill shortly after 3 o'clock.

Following the conclusion of this bill, the Intelligence Act authorization for 1989, we would proceed to take up the conference report on the budget. It would be my intention to request that our side yield to the distinguished minority, and this has been discussed with the minority, 15 minutes for debate on the rule and utilize 15 minutes on this side to expedite the consideration of the rule.

Following that, there is 1 hour of debate on the conference report itself, which we would not propose to limit, but which we would hope would be judiciously used by each side in the hope of getting to a vote on the conference report prior to 5 p.m.

That is the general schedule and intention for the rest of the afternoon.

We are conscious that Members, particularly those who are some distance from the Capitol, have departure times that become very difficult after 5 p.m., so it is our hope to try to conclude the business of the House by 5 p.m.

Mr. MICHEL. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. MAVROULES

Mr. MAVROULES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAVROULES: On page 13, line 13, strike Sec. 702 in its entirety and insert in lieu thereof:

"SEC. 702. ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE.

"(a) ESTABLISHMENT OF POSITION.—Section 136(b) of title 10, United States Code, is amended—

"(1) in paragraph (3)—

"(A) by striking out 'Assistant Secretary of Defense for Command, Control, Communications, and Intelligence' and inserting in lieu thereof 'Assistant Secretary of Defense for Command, Control, and Communications'; and

"(B) by striking out 'communications, and intelligence' and inserting in lieu thereof 'and communications'; and

"(2) by adding at the end the following new paragraph:

"'(5) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Intelligence. He shall have as his principal duty the overall supervision of intelligence and intelligence-related activities of the Department of Defense.'

"(b) NUMBER OF ASSISTANT SECRETARIES.—(1) Section 136(a) of title 10, United States Code, is amended by striking out 'eleven' and inserting in lieu thereof 'twelve'.

"(2) Section 5315 of title 5, United States Code, is amended by striking out '(11)' after 'Assistant Secretaries of Defense' and inserting in lieu thereof '(12)'."

Mr. MAVROULES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MAVROULES. Mr. Chairman, my amendment is a simple one. It would conform the language of section 702 with the language creating an assistant Secretary of Defense—adopted as an amendment to H.R. 4264—the National Defense Authorization Act for Fiscal Year 1989.

The amendment to the Defense authorization bill was a revision of my earlier amendment creating an Assistant Secretary of Defense for Intelligence. It was worked out between myself and the gentleman from Alabama, the chairman of the Investigations Subcommittee of the Committee on Armed Services. Our agreement was—that I would offer identical modifications to the intelligence bill to ensure that the House position in both bills was the same.

Mr. Chairman, as the Intelligence Committee's report sets forth in some detail, there is a very real need for a single focal point within the Department of Defense for intelligence matters. My own limited experience on the Intelligence Committee has convinced me of this, as has my previous and continuing service on the Committee on Armed Services. This is an amendment whose time has come and one for which I will work very hard to secure the understanding and final approval of the Congress.

Mr. Chairman, I urge the adoption of my amendment.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I am happy to yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, on our side of the aisle, I would like to say that we are in support of the amendment. The gentleman from Illinois [Mr. HYDE] has testified on behalf of it and supports it, and we accept the amendment.

Mr. MAVROULES. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MAVROULES].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF NEW HAMPSHIRE

Mr. SMITH of New Hampshire. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Hampshire: At the end of title IV (page 9, after line 25), add the following new section:

DISCLOSURE OF INFORMATION CONCERNING AMERICAN PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR IN SOUTHEAST ASIA

SEC. 404. (a) This section is enacted to ensure that current disclosure policy is incorporated into law.

(b) Except as provided in subsection (c), the head of each department or agency—

(1) with respect to which funds are authorized under this Act, and

(2) which holds or receives live sighting reports of any United States citizen reported missing in action, prisoner of war, or unaccounted for from the Vietnam Conflict,

shall make available to the next-of-kin of that United States citizen all reports, or portions thereof, held by that department or agency which have been correlated or possibly correlated to that citizen.

(c) Subsection (b) does not apply with respect to—

(1) information that would reveal or compromise sources and methods of intelligence collection; or

(2) specific information that has previously been made available to the next-of-kin.

(d) The head of each department or agency covered by subsection (a) shall make information available under this section in a timely manner.

Mr. SMITH of New Hampshire (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. SMITH of New Hampshire. Mr. Chairman, this amendment really is quite simple. It simply provides that all agencies of the U.S. Government that hold live-sighting reports of our missing men in Southeast Asia make available to the next of kin of that citizen all records or portions thereof held by that Department or Agency which have been correlated or possibly correlated, to that citizen.

Before yielding to my friend, the gentleman from New York, I would like to commend the gentleman for the manner in which we have been able to accommodate the language of two different amendments here. I had an original amendment and he had a substitute and we were able to agree on the language, and I think accomplish the same purpose.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Hampshire. I am happy to yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding.

I think this is an example of the legislative process at its best. I want to applaud the willingness of the gentleman to reach a constructive compromise with us on this issue.

I think the amendment before us goes a long way toward satisfying the concerns which he eloquently and effectively represented, while at the same time being compatible with what some of us felt needed to be some limits on access to this information.

I think it does represent a significant step forward. It will codify an important right which the family members of the men missing in action or who were POW's are entitled to have.

I believe it will be acceptable to the administration and to the League of Families and others who are intimately and deeply involved in this issue.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield to me?

Mr. SMITH of New Hampshire. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I want to commend the gentleman from New Hampshire [Mr. SMITH] and the gentleman from New York [Mr. SOLARZ], as well as the gentleman from New York [Mr. SOLOMON], for working out this arrangement. I think it is in the best interests of everyone, and especially in the best interests of those who are still missing in action in Southeast Asia. It shows that we can work together in a bipartisan way to help solve this remaining problem that we have.

I especially commend the gentleman for doing so and I urge my colleagues to accept the amendment.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Hampshire. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding.

I want to take my hat off to the gentleman from New Hampshire [Mr. SMITH]. The gentleman is a Vietnam veteran.

As the former chairman of the POW Task Force, I just want to say that no one has worked harder or more diligently than the gentleman from New Hampshire in looking out for this terribly important issue.

I also want to commend the gentleman from New York [Mr. SOLARZ] and the gentleman from California [Mr. LAGOMARSINO], the present task force chairman, because they have all done a magnificent job on this issue. It is so good to have them all come to an agreement on this. I thank them all very much on behalf of all the families.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Hampshire. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, the language of this amendment was worked out with the Intelligence Committee. It is my understanding that it represents currrent DIA disclosure policy and it is acceptable to the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire [Mr. SMITH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ACKERMAN: Strike paragraphs (1) and (2) of section 601(a) and insert the following:

(1) lump-sum payment to personnel upon directed assignment to the New York Field Division from another geographical location, and who enter into an agreement to complete a specified minimum period of service, not to exceed three years, in the New York Field Division, except that no lump-sum payment under this paragraph may exceed $20,000, and no employee shall be eligible to receive more than one lump-sum payment under this paragraph in connection with each such assignment; and

(2) periodic payments to New York Field Division employees who are subject to policy and practice to directed geographical transfer or reassignment, except that the amounts paid under this paragraph to an employee for any period may not be less than 20 percent nor greater than 25 percent of the basic pay paid or payable to such employee for service performed during such period.

Any lump-sum payment under paragraph (1) and any periodic payment under paragraph (2) shall be in addition to basic pay. Any authority to make payments under this section shall be effective only to the extent of available appropriations.

Mr ACKERMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Mr. Chairman, the amendment I am offering today is very straightforward. Section 601 of H.R. 4387 establishes a personnel demonstration project for the New York Field Division of the FBI. This project will allow the FBI to pay certain employees a lump-sum allowance upon directed assignment to New York City and to make periodic payments to those employees throughout their service in the New York Field Division.

Special legislation is required because the FBI is excluded from the demonstration project provisions of title 5, United States Code.

My amendment—which is supported by the FBI—simply limits the initial lump-sum payment to a maximum of $20,000 and provides a range for the periodic payments of between 20 and 25 percent of base pay. My amendment also specifies that these payments shall not be part of basic pay for retirement and other purposes.

I believe that the limitations contained in my amendment are reasonable and are necessary to both ensure that the recruitment and retention needs of the New York Field Division of the Federal Bureau of Investigation are addressed, and the potential budgetary implications are confined within appropriate parameters.

As the recent report of the FBI and the Office of Personnel Management attests, the FBI is experiencing serious recruitment and retention problems as a result of the unusually high cost of living in the New York metropolitan area.

As but one example, the head of the New York Field Division recently resigned citing the high cost of living as a factor in his decision.

This demonstration project is intended to provide FBI agents who are subject to mandatory mobility requirements, with a reasonable lump-sum payment to help them settle in the New York City area and periodic retention payments to help maintain a reasonable standard of living.

The Committee on Post Office and Civil Service recognizes the unique circumstances of FBI agents in New York City. The committee also recognizes that other Federal employees live and work in the New York metropolitan area, as well as in other high cost areas around the Nation.

To address the problems of other Federal employees, the committee is pursuing comprehensive pay reform legislation.

I want to thank the chairman of the Intelligence Committee for his cooperation on this amendment and for moving expeditiously to solve the special recruitment and retention problems the FBI is having in New York.

Mr. STOKES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment of the gentleman from New York is acceptable to the committee. It is a helpful refinement of the committee's recommendation and it is a reflection of the strong interest that the gentleman from New York has exhibited from the beginning of congressional consideration of a cost-of-living relief for the FBI New York field office.

The gentleman from New York strongly endorsed the requirement for a study on this matter and has helped to engender support for it within the

Committee on Post Office and Civil Service.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. Ackerman].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Foley) having assumed the chair, Mr. Pickle, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency retirement and disability system, and for other purposes, pursuant to House Resolution 456, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1445

MESSAGE FROM THE SENATE

The SPEAKER pro tempore (Mr. Foley) laid before the House the following message from the Senate:

Resolved, That the concurrent resolution from the House of Representatives (H. Con. Res. 306) entitled "Concurrent resolution providing for a conditional adjournment of the House until June 1 and a conditional adjournment or recess of the Senate until June 6", do pass with the following amendments:

Page 1, line 7 after "on" insert "Thursday, May 26, 1988, or on".

Page 1, line 10, after "adjourned" insert "or in recess".

The SPEAKER pro tempore. The question is on the Senate amendments.

The Senate amendments were concurred in.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 4387, the bill just passed.

The SPEAKER pro tempore (Mr. Foley). Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1500

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 268, CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1989

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 461 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 461

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the United States Government for fiscal years 1989, 1990, and 1991, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration. Debate on the conference report shall be limited to not more than one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

Sec. 2. The chairman of the Committee on the Budget may file, not later than June 1, 1988, a report in the House containing the allocations required to be made pursuant to section 302(a) of the Congressional Budget Act of 1974, as amended. The report shall be printed as, and considered to be, a report of the Committee on the Budget and such allocations made in that report shall be considered to be the allocations required to be in the joint explanatory statement accompanying this conference report.

Sec. 3. Rule XLIX shall not apply with respect to the adoption by the Congress of the conference report on the concurrent resolution (H. Con. Res. 268).

The SPEAKER pro tempore (Mr. Foley). The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, in accordance with an agreement between the majority and minority leaders to limit debate on this rule to 30 minutes and with the concurrence of the gentleman from Ohio [Mr. Latta], I yield back 30 minutes of debate time and, for the purposes of debate only, I yield 15 minutes to the gentleman from Ohio [Mr. Latta] and, pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 461 is a rule providing for the consideration of the conference report on House Concurrent Resolution 268, the budget resolution for fiscal year 1989. The rule waives all points of order against consideration of the conference report. This waiver is necessary to allow the House to consider the budget resolution expeditiously since the conference report is technically beyond the scope of the conference and the conference report has not laid over for 3 days. The rule also provides that the conference report shall be considered as having been read. Debate on the conference report is limited to 1 hour, with the time equally divided between the chairman and ranking minority member of the Budget Committee.

The rule also provides that the chairman of the Budget Committee will have until June 1, 1988, to file the allocations required by section 302(a) of the Budget Act to be included in the joint explanatory statement accompanying the budget resolution conference report. This will provide the time necessary for the allocations to be accurately crosswalked, which is important since points of order for violation of the budget targets are based on these allocations.

Finally, the rule provides that House rule XLIX does not apply with respect to the adoption of this conference report. That rule provides that when Congress adopts a budget resolution, the House is considered to have adopted a joint resolution increasing the statutory limit on the public debt to the level called for by the budget resolution. The application of this rule is waived because there is no need to increase the debt limit at this time.

Mr. Speaker, I will not take much time to describe the contents of the budget resolution, since Chairman Gray and others will do that once we have adopted this rule. I think it is enough to say that the conference report meets the Gramm-Rudman targets and is consistent with the budget summit agreement reached last year. I also would like to point out that this conference agreement is a product of the same bipartisan cooperation in the House that has marked the entire budget process this year. I would like to congratulate Chairman Gray and the ranking minority member of the Budget Committee, Mr. Latta, for the excellent work they have done on this budget resolution.

Mr. Speaker, we need to adopt this rule so that we can move ahead with the adoption of the budget resolution and take another step toward completing our budget business this year in a timely and responsible manner.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the Committee on Rules considered this rule yesterday, it was given 1 hour notice of the meeting. At the time there was no final agreement on the budget resolution conference report, so the Committee on Rules was asked to provide what was labeled "an anticipatory rule." In past years we used to call this buying a pig in a poke, but now the language has been updated. In any case, the Committee on Rules reported this rule before final agreement on the conference report had been reached.

Mr. Speaker, when we agree or disagree with the substance of the conference report, there is still a need for an orderly process in this House. The Members should know what is in a piece of legislation before they have to vote on it. Over the years I have come to appreciate the need for an orderly process. This rule, as it went through the Committee on Rules yesterday, was not the product of an orderly process.

The rule before us, Mr. Speaker, waives all points of order against the conference report and its consideration. Among other things, this means that the normal layover requirements are being dispensed with in this case. The rule also reduces the general debate time to 1 hour instead of the 5 hours provided for under the Budget Act.

Under this rule, the chairman of the Committee on the Budget was given additional time to file the allocations required under section 302(a) of the Budget Act. These allocations divide the amounts in the conference report among the various committees in the House.

Finally, the rule eliminates for this year the usual procedure for automatically sending a new debt limit to the Senate. The debt ceiling set last year is supposed to be sufficient to eliminate the need for a debt-ceiling increase at this time, and hopefully that is true.

Mr. Speaker, I include the following functional analysis:

FUNCTIONAL ANALYSIS

[In billions of dollars]

	House passed Mar. 23, 1988			Senate passed Apr. 14, 1988			Conference agreement May 26, 1988		
	1989	1990	1991	1989	1990	1991	1989	1990	1991
Budget authority	1,232.10	1,305.85	1,389.20	1,231.00	1,302.80	1,385.00	1,231.70	1,305.40	1,389.50
Outlays	1,098.20	1,157.15	1,215.70	1,100.60	1,158.10	1,215.70	1,099.70	1,160.10	1,218.30
Revenues	964.25	1,042.70	1,122.70	964.60	1,043.20	1,123.20	964.40	1,042.90	1,123.00
Deficit	133.95	114.45	93.00	136.00	114.90	92.50	135.30	117.20	95.30
Debt subject to limit	2,823.40	3,062.90	3,287.50	2,825.40	3,065.30	3,289.50	2,824.70	3,066.90	3,293.90
050 National Defense:									
Budget authority	299.50	313.10	325.80	299.50	312.30	325.00	299.50	312.90	325.60
Outlays	294.00	302.75	314.65	294.00	304.20	316.00	294.00	304.60	316.60
150 International Affairs:									
Budget authority	16.60	17.50	17.80	16.60	17.70	17.20	16.60	17.60	17.50
Outlays	16.20	16.10	16.05	16.20	16.00	15.80	16.20	16.00	15.90
250 General Science, Space and Technology:									
Budget authority	12.45	13.00	13.50	13.40	14.00	14.50	13.00	13.50	14.00
Outlays	12.20	1300	13.40	13.00	13.90	14.40	12.60	13.50	13.90
270 Energy:									
Budget authority	4.80	5.20	5.00	4.90	5.40	5.20	4.80	5.20	5.00
Outlays	4.35	4.05	3.55	4.20	4.30	3.70	4.40	4.10	3.50
300 Natural Resources and Environment:									
Budget authority	15.05	15.80	16.45	14.60	15.20	15.90	15.80	18.50	17.20
Outlays	15.60	16.20	16.45	14.90	15.50	15.80	16.30	17.00	17.30
350 Agriculture:									
Budget authority	26.40	25.25	22.35	27.00	25.20	22.20	25.50	24.30	21.40
Outlays	22.40	21.90	20.05	23.20	21.90	19.90	21.60	21.00	19.10
370 Commerce and Housing Credit:									
Budget authority	13.75	15.60	9.55	13.50	15.10	9.00	13.60	15.40	9.40
Outlays	9.40	8.55	4.05	9.10	8.10	3.60	9.30	8.40	3.90
400 Transportation:									
Budget authority	28.95	29.55	30.25	28.40	28.90	29.06	28.60	29.10	29.90
Outlays	27.95	28.55	29.55	27.90	28.90	30.00	27.90	28.50	29.40
450 Community and Regional Development:									
Budget authority	7.55	7.30	7.50	7.10	6.90	7.10	7.30	7.10	7.30
Outlays	6.60	7.00	6.70	6.50	6.80	6.40	6.60	6.90	6.50
500 Education Training, Employment and Social Services:									
Budget authority	37.55	38.85	39.75	36.60	37.90	38.70	37.20	38.60	39.50
Outlays	35.45	37.70	38.80	35.30	36.80	37.80	35.40	37.50	38.50
550 Health:									
Budget authority	49.65	54.15	59.20	49.90	54.40	59.50	45.80	54.30	59.40
Outlays	48.70	53.90	58.40	48.90	54.20	58.70	48.90	54.10	58.60
570 Medicare:									
Budget authority	103.75	113.20	124.15	103.70	113.20	124.10	103.70	113.20	124.10
Outlays	86.85	97.50	108.45	86.90	97.50	108.50	86.90	97.50	108.40
600 Income Security:									
Budget authority	176.60	181.20	213.20	176.20	181.00	213.00	176.50	181.40	213.30
Outlays	137.70	144.65	151.80	138.30	145.30	152.40	138.10	145.30	152.40
650 Social Security:									
Budget authority	278.10	306.25	332.85	278.10	306.30	332.80	278.10	306.30	332.80
Outlays	233.40	248.90	263.40	233.50	249.00	263.50	233.50	249.00	263.50
700 Veterans Benefits and Services:									
Budget authority	28.70	30.90	31.35	28.80	30.90	31.40	28.80	31.00	31.50
Outlays	28.25	29.85	30.45	28.40	29.90	30.50	28.40	30.00	30.60
750 Administration of Justice:									
Budget authority	8.85	9.15	10.30	9.00	9.10	10.30	8.90	9.20	10.40
Outlays	8.55	9.05	10.25	9.00	9.10	10.20	8.70	9.10	10.30
800 General Government:									
Budget authority	9.65	10.15	10.60	9.525	10.10	10.60	9.50	10.10	10.50
Outlays	9.35	10.20	10.25	9.425	10.20	10.20	9.40	10.20	10.30
900 Net Interest:									
Budget authority	151.95	158.35	159.95	151.90	158.50	160.10	152.00	158.50	160.30
Outlays	151.95	158.35	159.95	151.90	158.50	160.10	152.00	158.50	160.30
920 Allowances:									
Budget authority	0.00	0.00	0.00	−0.125	0.00	0.00	0.00	0.00	0.00
Outlays	0.00	0.00	0.00	−0.125	0.00	0.00	0.00	0.00	0.00
950 Undistributed Offsetting Receipts:									
Budget authority	−37.75	−38.65	−40.35	−37.60	−39.30	−41.20	−37.50	−38.80	−39.60
Outlays	−50.70	−51.05	−40.50	−49.90	−52.00	−41.80	−50.50	−51.10	−40.70

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I rise in opposition to this rule. I will tell you why. There is a provision down in here that I think the Members ought to be very interested in. It sounds harmless enough. It simply reads, "All points of order against the conference report and against its consideration are hereby waived." That does not sound like it is very much of a problem except that there is a scope waiver that goes here that I think the Members might be very interested in, because when the bill passed the House of Representatives, we in fact approved a 3-percent pay increase for civilians, a 3-percent increase for military.

When it passed the Senate, there was a 2-percent pay increase for civilians and a 4-percent pay increase for the military, but guess what, when it comes back from the conference committee, guess what, we have a 4-percent increase for civilians and a 4-percent increase for military, beyond the scope of the conference.

You may say that we can probably live with that except that you may be interested in who is included in that 4-percent increase. Right, the U.S. Congress has decided to give itself a $3,580 pay increase. I think that the fact that we ought to be able to have a point of order against that provision of the bill is extremely important in this rule. If a point of order rests against that particular portion of the bill, I think we ought to be able to raise that point of order. When we pass this rule, we will say that that point of order is no longer valid, and so, therefore, we will go ahead.

People will say, oh, but they have to have a separate vote sometime later on on that pay increase for Members of Congress—no. There is an automatic appropriation for pay raises for Members of Congress, so that once we approve this budget, once this budget is gone, there will be no other vote. Members will have made their vote on a pay raise for Members of Congress at that point, because of the automatic appropriation, and so this is a rather significant little waiver that is down in the rule. It is a rather significant little action that we are going to take in the House.

I simply do not want anybody to be legislating in the dark. We have not had very much time to consider this budget. We have not had very much time to consider the rule. The Members ought to know, at least.

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman.

Mr. GRAY of Pennsylvania. Mr. Speaker, I thank the gentleman from Pennsylvania, from Lancaster County, for yielding, and I would point out that the gentleman is correct in terms of the scope issue.

However, the gentleman is dead wrong with regard to that, that if a Member votes for this budget they will guarantee an automatic 4-percent pay raise for anybody, let alone Members of Congress. If a Member votes for this conference report, all the conference report says is that Federal civilian pay and military pay cannot exceed 4 percent. It will be up to the appropriating committees, both military, legislative branch, to make that determination. The gentleman knows that, and, therefore, to say to this body that a vote here automatically guarantees 4 percent is just wrong.

Mr. WALKER. Mr. Speaker, reclaiming my time, the gentleman knows that there is an automatic appropriation for the pay of Members of Congress. We have no opportunity to act on that appropriation in the House of Representatives. There is no way we will get a vote on that appropriation, because it is automatic for Members of Congress. Once it becomes a part of the law, we are going to get it. A Member in fact has their only vote on that issue in this budget, and I suggest to the gentleman that it is a disservice to the Members to suggest that they are not voting for their pay increase when they vote for this budget.

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will yield to the gentleman.

Mr. GRAY of Pennsylvania. Mr. Speaker, I will say to the gentleman that, yes, there is an automatic process, but it is not triggered by a vote on the conference report of the budget of the United States, and the gentleman knows that.

Mr. WALKER. Reclaiming my time, the point is, once you have enacted the budget, once you have made the reservation for it, it in fact takes place as a part of the automatic appropriation. That is exactly what is going to happen here, and it seems to me that the Members just ought to be aware of what they are voting on. I do not care how they vote. They just ought to be aware of what is down in here, because they have not had much time to consider it.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Let me just say, Mr. Speaker, one thing that the gentleman who just spoke well knows, that this is a concurrent resolution and does not have the force of law.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GRAY of Pennsylvania submitted the following conference report and statement on the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991:

CONFERENCE REPORT (H. REPT. 100-658)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the budget for fiscal year 1989 is established, and the appropriate budgetary levels for fiscal years 1990 and 1991 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $964,400,000,000.
Fiscal year 1990: $1,042,900,000,000.
Fiscal year 1991: $1,123,000,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $1,231,700,000,000.
Fiscal year 1990: $1,305,400,000,000.
Fiscal year 1991: $1,389,500,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $1,099,700,000,000.
Fiscal year 1990: $1,160,100,000,000.
Fiscal year 1991: $1,218,300,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $135,300,000,000.
Fiscal year 1990: $117,200,000,000.
Fiscal year 1991: $95,300,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1989: $705,900,000,000.
Fiscal year 1990: $760,450,000,000.
Fiscal year 1991: $817,000,000,000.

and the amounts by which the aggregate levels of Federal revenues should be reduced are as follows:

Fiscal year 1989: $350,000,000.
Fiscal year 1990: $500,000,000.
Fiscal year 1991: $500,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1989: $63,400,000,000.
Fiscal year 1990: $68,150,000,000.
Fiscal year 1991: $73,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1989: $973,200,000,000.

Fiscal year 1990: $1,022,900,000,000.

Fiscal year 1991: $1,083,400,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1989: $885,800,000,000.

Fiscal year 1990: $934,900,000,000.

Fiscal year 1991: $981,500,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1989: $179,900,000,000.

Fiscal year 1990: $174,459,000,000.

Fiscal year 1991: $164,500,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1989: $2,824,700,000,000.

Fiscal year 1990: $3,966,900,000,000.

Fiscal year 1991: $3,293,900,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1988, October 1, 1989, and October 1, 1990, are as follows:

Fiscal year 1989:

(A) New direct loan obligations, $28,300,000,000.

(B) New primary loan guarantee commitments, $110,950,000,000.

(C) New secondary loan guarantee commitments, $93,050,000,000.

Fiscal year 1990:

(A) New direct loan obligations, $27,000,000,000.

(B) New primary loan guarantee commitments, $122,700,000,000.

(C) New secondary loan guarantee commitments, $96,900,000,000.

Fiscal year 1991:

(A) New direct loan obligations, $26,700,000,000.

(B) New primary loan guarantee commitments, $132,200,000,000.

(C) New secondary loan guarantee commitments, $100,800,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1989 through 1991 for each major functional category are:

(1) National Defense (050):

Fiscal year 1989:

(A) New budget authority, $299,500,000,000.

(B) Outlays, $294,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $312,900,000,000.

(B) Outlays, $304,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $325,600,000,000.

(B) Outlays, $316,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1989:

(A) New budget authority, $16,600,000,000.

(B) Outlays, $16,200,000,000.

(C) New direct loan obligations, $5,950,000,000.

(D) New primary loan guarantee commitments, $9,550,000,000.

(E) New secondary loan guarantee commitments, $200,000,000.

Fiscal year 1990:

(A) New budget authority, $17,600,000,000.

(B) Outlays, $16,000,000,000.

(C) New direct loan obligations, $6,050,000,000.

(D) New primary loan guarantee commitments, $9,900,000,000.

(E) New secondary loan guarantee commitments, $200,000,000.

Fiscal year 1991:

(A) New budget authority, $17,500,000,000.

(B) Outlays, $15,900,000,000.

(C) New direct loan obligations, $6,150,000,000.

(D) New primary loan guarantee commitments, $10,300,000,000.

(E) New secondary loan guarantee commitments, $250,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1989:

(A) New budget authority, $13,000,000,000.

(B) Outlays, $12,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $13,500,000,000.

(B) Outlays, $13,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $14,000,000,000.

(B) Outlays, $13,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1989:

(A) New budget authority, $4,800,000,000.

(B) Outlays, $4,400,000,000.

(C) New direct loan obligations, $2,000,000,000.

(D) New primary loan guarantee commitments, $50,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,200,000,000.

(B) Outlays, $4,100,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New primary loan guarantee commitments, $50,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $5,000,000,000.

(B) Outlays, $3,500,000,000.

(C) New direct loan obligations, $2,250,000,000.

(D) New primary loan guarantee commitments, $50,000,000.

(E) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1989:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $16,300,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $16,500,000,000.

(B) Outlays, $17,000,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $17,200,000,000.

(B) Outlays, $17,300,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1989:

(A) New budget authority, $25,500,000,000.

(B) Outlays, $21,600,000,000.

(C) New direct loan obligations, $15,550,000,000.

(D) New primary loan guarantee commitments, $6,700,000,000

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $24,300,000,000.

(B) Outlays, $21,000,000,000.

(C) New direct loan obligations, $14,100,000,000.

(D) New primary loan guarantee commitments, $6,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $21,400,000,000.

(B) Outlays, $19,100,000,000.

(C) New direct loan obligations, $13,500,000,000.

(D) New primary loan guarantee commitments, $6,850,000,000.

(E) New secondary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

Fiscal year 1989:

(A) New budget authority, $13,600,000,000.

(B) Outlays, $9,300,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $64,050,000,000.

(E) New secondary loan guarantee commitments, $92,850,000,000.

Fiscal year 1990:

(A) New budget authority, $15,400,000,000.

(B) Outlays, $8,400,000,000.

(C) New direct loan obligations, $2,750,000,000.

(D) New primary loan guarantee commitments, $67,050,000,000.

(E) New secondary loan guarantee commitments, $96,700,000,000.

Fiscal year 1991:

(A) New budget authority, $9,400,000,000.

(B) Outlays, $3,900,000,000.

(C) New direct loan obligations, $2,900,000,000.

(D) New primary loan guarantee commitments, $73,800,000,000.

(E) New secondary loan guarantee commitments, $100,550,000,000.

(8) Transportation (400):

Fiscal year 1989:

(A) New budget authority, $28,600,000,000.

(B) Outlays, $27,900,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $29,100,000,000.

(B) Outlays, $28,500,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $29,900,000,000.

(B) Outlays, $29,400,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1989:

(A) New budget authority, $7,300,000,000.

(B) Outlays, $6,600,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $250,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $6,900,000,000.

(C) New direct loan obligations, $1,050,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $7,300,000,000.

(B) Outlays, $6,500,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $300,000,000.

(E) New secondary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1989:

(A) New budget authority, $37,200,000,000.

(B) Outlays, $35,400,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $10,400,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $38,600,000,000.

(B) Outlays, $37,500,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $39,500,000,000.

(B) Outlays, $38,500,000,000.

(C) New direct loan obligations, $50,000,000.

(D) New primary loan guarantee commitments, $10,800,000,000.

(E) New secondary loan guarantee commitments, $0.

(11) Health (550):

Fiscal year 1989:

(A) New budget authority, $49,800,000,000.

(B) Outlays, $48,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $350,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $54,300,000,000.

(B) Outlays, $54,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $350,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $59,400,000,000.

(B) Outlays, $58,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $400,000,000.

(E) New secondary loan guarantee commitments, $0.

(12) Medicare (570):

Fiscal year 1989:

(A) New budget authority, $103,700,000,000.

(B) Outlays, $86,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $113,200,000,000.

(B) Outlays, $97,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $124,100,000,000.

(B) Outlays, $108,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1989:

(A) New budget authority, $176,500,000,000.

(B) Outlays, $138,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $181,400,000,000.

(B) Outlays, $145,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $213,300,000,000.

(B) Outlays, $152,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(14) Social Security (650):

Fiscal year 1989:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $5,400,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $4,300,000,000.

(B) Outlays, $4,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(15) Veterans' Benefits and Services (700):

Fiscal year 1989:

(A) New budget authority, $28,800,000,000.

(B) Outlays, $28,400,000,000.

(C) New direct loan obligations, $950,000,000.

(D) New primary loan guarantee commitments, $19,600,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $31,000,000,000.

(B) Outlays, $30,000,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New primary loan guarantee commitments, $27,450,000,000.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $31,500,000,000.

(B) Outlays, $30,600,000,000.

(C) New direct loan obligations, $650,000,000.

(D) New primary loan guarantee commitments, $29,700,000,000.

(E) New secondary loan guarantee commitments, $0.

(16) Administration of Justice (750):

Fiscal year 1989:

(A) New budget authority, $8,900,000,000.

(B) Outlays, $8,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $9,200,000,000.

(B) Outlays, $9,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,400,000,000.

(B) Outlays, $10,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1989:

(A) New budget authority, $9,500,000,000.

(B) Outlays, $9,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $10,100,000,000.

(B) Outlays, $10,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $10,500,000,000.

(B) Outlays, $10,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1989:

(A) New budget authority, $161,700,000,000.

(B) Outlays, $161,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $171,700,000,000.

(B) Outlays, $171,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $177,000,000,000.

(B) Outlays, $177,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(20) Allowances (920):

Fiscal year 1989:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1989:

(A) New budget authority, −$32,900,000,000.

(B) Outlays, −$45,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1990:

(A) New budget authority, −$33,600,000,000.

(B) Outlays, −$45,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

Fiscal year 1991:

(A) New budget authority, −$33,900,000,000.

(B) Outlays, −$35,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(E) New secondary loan guarantee commitments, $0.

SALE OF GOVERNMENT ASSETS

SEC. 4. (a) It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to the committee and shall not be scored with respect to the level of budget authority or outlays under a committee's allocation under section 302 of such Act.

(c) For purposes of this section—

(1) the terms "asset sale" and "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987); and

(2) the terms "asset sale" and "prepayment of a loan" do not include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986.

FUNDING FOR THE WELFARE REFORM AND CATASTROPHIC INSURANCE INITIATIVES

SEC. 5. (a) In the Senate, budget authority and outlays for fiscal year 1988 or 1989 (or both) may be allocated to the Senate Committee on Finance to provide for the welfare reform and medicare catastrophic health insurance initiatives, and the aggregates for fiscal years 1989, 1990, and 1991 in sections 2 and 3 of this resolution may be adjusted accordingly, when the Committee on Finance, the committee of conference on the welfare reform initiative, or the committee of conference on the catastrophic insurance initiative reports legislation that will, if enacted, make funds available for such initiative and ensure, to the extent that such costs are not included in this resolution, that such legislation will not increase the deficit in this resolution for fiscal year 1988 or for fiscal year 1989, and will not increase the total deficit for the period of fiscal years 1988 through 1991.

(b) Upon the reporting of legislation pursuant to subsection (a), the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution, and the Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this section.

FUNDING FOR ANTI-DRUG INITIATIVE

SEC. 6. (a) Budget authority and outlays in amounts not to exceed the amounts specified in subsection (a)(2) may be allocated to the appropriate committees of the House of Representatives and the Senate to provide for an anti-drug initiative, and the aggregates for fiscal year 1989 in this resolution may be adjusted accordingly, when—

(1) the appropriate committees of the House of Representatives or the Senate have reported legislation that will, if enacted, make funds available for such initiative; and

(2) the President and the Congress agree through the normal legislative process that a sufficiently dire state of emergency exists to justify specified spending levels different from those specified in the summit agreement between the President and the joint leadership of Congress (and carried out in this resolution) that do not increase the deficit for fiscal year 1989, 1990, or 1991 above the levels set forth in this resolution: Provided, That such agreed upon amounts for funding the anti-drug initiative for fiscal year 1989 shall not exceed $2,600,000,000 of new budget authority and $1,400,000,000 of outlays.

(b) Upon the reporting of legislation pursuant to subsection (a), the chairmen of the Committees on the Budget of the House of Representatives and Senate may file with the House of Representatives and the Senate, respectively, appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution, and the Committees on Appropriations of the House of Representatives and the Senate shall report revised allocations pursuant to section 302(b) of such Act for fiscal year 1989 to carry out this section.

SENSE OF CONGRESS REGARDING ANTI-DRUG PROGRAMS

SEC. 7. It is the sense of the Congress that antinarcotics activities, including law enforcement, drug interdiction, drug treatment, and substance abuse education, are vital to the Nation's future and should be among the top funding priorities in the fiscal year 1989 budget. All authorizing and Appropriations Committees and subcommittees are urged to examine programs within their jurisdictions to enhance their participation in the anti-drug effort and to give top priority to this effort in allocating their share of the funds available under this budget resolution.

SENSE OF CONGRESS REGARDING COAST GUARD DRUG INTERDICTION

SEC. 8. (a) The Congress finds that—

(1) the war against drugs is an ongoing effort that must be continually waged and that every effort to interdict the flow of illegal substances into the United States should be pursued; and

(2) one of the most important lines of defense against the importation of illegal drugs into the United States is the Coast Guard, but because of its limited resources, the Coast Guard is unable to devote sufficient manpower and materials to carry out the war against drugs.

(b) It is the sense of the Congress that the authorizing committees of jurisdiction should consider whether it is appropriate to enact legislation providing that the private sector should be more fully utilized to perform nonemergency, nonessential Coast Guard functions, such as nonemergency towing, thereby allowing the Coast Guard to devote more resources to law enforcement, *military readiness, and emergency search and rescue functions.*

SENSE OF CONGRESS REGARDING FEDERAL TRUST FUNDS

SEC. 9. (a) The Congress finds that—

(1) under current law, neither the Senate nor the House may consider reductions in social security as part of a budget reconciliation bill or resolution pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985;

(2) current law requires a balanced budget by fiscal year 1993, but includes the projected social security surpluses as offsetting deficits; and

(3) current law requires the budget resolution to display budget authority, outlays, revenues, and the deficit excluding social security, in the aggregate and by function.

(b) It is the sense of the Congress that the National Economic Commission should—

(1) study the budgetary treatment of social security, airport and highway, military retirement, civil service retirement, unemployment and other trust funds and self-supporting public enterprise funds including Postal Service, Federal Deposit Insurance Corporation, Comptroller of the Currency, National Credit Union Administration, Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation, and Securities and Exchange Commission;

(2) analyze the economic, budgetary, and programmatic effects of taking these funds off-budget;

(3) consider the effects of setting trust fund surpluses aside as additional savings, including effects on the national savings rate, investment, and economic growth, as well as on program beneficiaries;

(4) include in its final report a recommendation on the budgetary treatment of these funds; and

(5) report on the means to achieve a balance in the remaining budget and on the economic effects of a unified budget surplus.

And the Senate agree to the same.

William H. Gray III,
Thomas S. Foley,
Mike Lowry,
Pat Williams,
Martin Frost,
Charles E. Schumer,
Jim Slattery,
Chester G. Atkins,
Frank Guarini,
Bill Goodling,
Mickey Edwards,
Wm. Thomas,
Managers on the Part of the House.
Lawton Chiles,
Jim Sasser,
Don Riegle,
J.J. Exon,
Frank R. Lautenberg,
Pete V. Domenici,
Rudy Boschwitz,
Chuck Grassley,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the United States Government for the fiscal years 1989, 1990, and 1991, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

EXPLANATION OF CONFERENCE AGREEMENT

The following tables show the functional allocations and budget aggregates included in the conference agreement. The fiscal year 1989 columns show the budget aggregates and functional allocations for the budget resolution for fiscal year 1989. The columns for fiscal year 1990 and fiscal year 1991 show budget aggregates and functional allocations which the conferees consider appropriate for those years.

Conference agreement

	Billions
Fiscal year 1989:	
Budget authority	$1,231.70
Outlays	1,099.70
Revenues	964.40
Deficit	135.30
Debt subject to limit	2,824.70
Fiscal year 1990:	
Budget authority	1,305.40
Outlays	1,160.10
Revenues	1,042.90
Deficit	117.20
Debt subject to limit	3,066.90
Fiscal year 1991:	
Budget authority	1,389.50
Outlays	1,218.30
Revenues	1,123.00
Deficit	95.30
Debt subject to limit	3,293.90

CONFERENCE AGREEMENT BY FUNCTION

[In billions of dollars]

	1989	1990	1991
050 National Defense:			
Budget authority	299.50	312.90	325.60
Outlays	294.00	304.60	316.60
150 International Affairs:			
Budget authority	16.60	17.60	17.50
Outlays	16.20	16.00	15.90
250 General Science, Space and Technology:			
Budget authority	13.00	13.50	14.00
Outlays	12.60	13.50	13.90
270 Energy:			
Budget authority	4.80	5.20	5.00
Outlays	4.40	4.10	3.50
300 Natural Resources and Environment:			
Budget authority	15.80	16.50	17.20
Outlays	16.30	17.00	17.30
350 Agriculture:			
Budget authority	25.50	24.30	21.40
Outlays	21.60	21.00	19.10
370 Commerce and Housing Credit:			
Budget authority	13.60	15.40	9.40
Outlays	9.30	8.40	3.90
400 Transportation:			
Budget authority	28.60	29.10	29.90
Outlays	27.90	28.50	29.40
450 Community and Regional Development:			
Budget authority	7.30	7.10	7.30
Outlays	6.60	6.90	6.50
500 Education, Training Employment and Social Services:			
Budget authority	37.20	38.60	39.50
Outlays	35.40	37.50	38.50
550 Health:			
Budget authority	49.80	54.30	59.40
Outlays	48.90	54.10	58.60
570 Medicare:			
Budget authority	103.70	113.20	124.10
Outlays	86.90	97.50	108.40
600 Income Security:			
Budget authority	176.50	181.40	213.30
Outlays	138.10	145.30	152.40
650 Social Security:			
Budget authority	278.10	306.30	332.80
Outlays	233.50	249.00	263.50
700 Veterans Benefits and Services:			
Budget authority	28.80	31.00	31.50
Outlays	28.40	30.00	30.60
750 Administration of Justice:			
Budget authority	8.90	9.20	10.40
Outlays	8.70	9.10	10.30
800 General Government:			
Budget authority	9.50	10.10	10.50
Outlays	9.40	10.20	10.30
900 Net Interest:			
Budget authority	152.00	158.50	160.30
Outlays	152.00	158.50	160.30
920 Allowances:			
Budget authority	0	0	0
Outlays	0	0	0
950 Undistributed Offsetting Receipts:			
Budget authority	−37.50	−38.80	−39.60
Outlays	−50.50	−51.10	−40.70

HOUSE–PASSED BUDGET RESOLUTION

[In billions of dollars]

	1989	1990	1991
050 National Defense:			
Budget authority	299.50	313.10	325.80
Outlays	294.00	302.75	314.65
150 International Affairs:			
Budget authority	16.60	17.50	17.80
Outlays	16.20	16.10	16.05
250 General Science, Space, and Technology:			
Budget authority	12.45	13.00	13.50
Outlays	12.20	13.00	13.40
270 Energy:			
Budget authority	4.80	5.20	5.00
Outlays	4.35	4.05	3.55
300 Natural Resources and Environment:			
Budget authority	15.05	15.80	16.45
Outlays	15.60	16.20	16.45
350 Agriculture:			
Budget authority	26.40	25.25	22.35
Outlays	22.40	21.90	20.05
370 Commerce and Housing Credit:			
Budget authority	13.75	15.60	9.55
Outlays	9.40	8.55	4.05
400 Transportation:			
Budget authority	28.95	29.55	30.25
Outlays	27.95	28.55	29.55
450 Community and Regional Development:			
Budget authority	7.55	7.30	7.50
Outlays	6.60	7.00	6.70
500 Education, Training, Employment and Social Services:			
Budget authority	37.55	38.85	39.75
Outlays	35.45	37.70	38.80
550 Health:			
Budget authority	49.65	54.15	59.20
Outlays	48.70	53.90	58.40
570 Medicare:			
Budget authority	103.75	113.20	124.15
Outlays	86.85	97.50	108.45
600 Income Security:			
Budget authority	176.60	181.20	213.20
Outlays	137.70	144.65	151.80
650 Social Security:			
Budget authority	278.10	306.25	332.85
Outlays	233.40	248.90	263.40
700 Veterans Benefits and Services:			
Budget authority	28.70	30.90	31.35
Outlays	28.25	29.85	30.45
750 Administration of Justice:			
Budget authority	8.85	9.15	10.30
Outlays	8.55	9.05	10.25
800 General Government:			
Budget authority	9.65	10.15	10.60
Outlays	9.35	10.20	10.25
900 Net Interest:			
Budget authority	151.95	158.35	159.95
Outlays	151.95	158.35	159.95
920 Allowances:			
Budget authority	0	0	0
Outlays	0	0	0
950 Undistributed Offsetting Receipts:			
Budget authority	−37.75	−38.65	−40.35
Outlays	−50.70	−51.05	−40.50

SENATE-PASSED BUDGET RESOLUTION

[In millions of dollars]

	1989	1990	1991
050 National Defense:			
Budget authority	299.50	312.30	325.00
Outlays	294.00	304.20	316.00
150 International Affairs:			
Budget authority	16.60	17.70	17.20
Outlays	16.20	16.00	15.80
250 General Science, Space and Technology:			
Budget authority	13.40	14.00	14.50
Outlays	13.00	13.90	14.40

SENATE-PASSED BUDGET RESOLUTION—Continued

[In millions of dollars]

	1989	1990	1991
270 Energy:			
Budget authority	4.90	5.40	5.20
Outlays	4.20	4.30	3.70
300 Natural Resources and Environment:			
Budget authority	14.60	15.20	15.90
Outlays	14.90	15.50	15.80
350 Agriculture:			
Budget authority	27.00	25.20	22.20
Outlays	23.20	21.90	19.90
370 Commerce and Housing Credit:			
Budget authority	13.50	15.10	9.00
Outlays	9.10	8.10	3.60
400 Transportation:			
Budget authority	28.40	29.90	29.60
Outlays	27.90	28.90	30.00
450 Community and Development:			
Budget authority	7.10	6.90	7.10
Outlays	6.50	6.80	6.40
500 Education, Training, Employment and Social Services:			
Budget authority	36.60	37.90	38.70
Outlays	35.30	36.80	37.80
550 Health:			
Budget authority	49.90	54.40	59.50
Outlays	48.90	54.20	58.70
570 Medicare:			
Budget authority	103.70	113.20	124.10
Outlays	86.90	97.50	108.50
600 Income Security:			
Budget authority	176.20	181.00	213.00
Outlays	138.30	145.30	152.40
650 Social Security:			
Budget authority	278.10	306.30	332.80
Outlays	233.50	249.00	263.50
700 Veterans Benefits and Services:			
Budget authority	28.80	30.90	31.40
Outlays	28.40	29.90	30.50
750 Administration of Justice:			
Budget authority	9.00	9.10	10.30
Outlays	9.00	9.10	10.20
800 General Government:			
Budget authority	9.525	10.10	10.60
Outlays	9.425	10.20	10.20
900 Net Interest:			
Budget authority	151.90	158.50	160.10
Outlays	151.90	158.50	160.10
920 Allowances:			
Budget authority	−.125	0	0
Outlays	−.125	0	0
950 Undistributed Offsetting Receipts:			
Budget authority	−37.60	−39.30	−41.20
Outlays	−49.90	−52.00	−41.80

CONFERENCE AGREEMENT TOTAL BUDGET

[In billions of dollars]

	1989	1990	1991
Budget authority	1,231.70	1,305.40	1,389.50
Outlays	1,099.70	1,160.10	1,218.30
Revenues	964.40	1,042.90	1,123.00
Deficit	135.30	117.20	95.30
050 National Defense:			
Budget authority	299.50	312.90	325.60
Outlays	294.00	304.60	316.60
150 International Affairs:			
Budget authority	6.60	17.60	17.50
Outlays	16.20	16.00	15.90
250 General Science, Space and Technology:			
Budget authority	13.00	13.50	14.00
Outlays	12.60	13.50	13.90
270 Energy:			
Budget authority	4.80	5.20	5.00
Outlays	4.40	4.10	3.50
300 Natural Resources and Environment:			
Budget authority	15.80	16.50	17.20
Outlays	16.30	17.00	17.30
350 Agriculture:			
Budget authority	25.50	24.30	21.40
Outlays	21.60	21.00	19.10
370 Commerce and Housing-Credit:			
Budget authority	13.60	15.40	9.40
Outlays	9.30	8.40	3.90
400 Transportation:			
Budget authority	28.60	29.10	29.90
Outlays	27.90	28.50	29.40
450 Community and Regional Development:			
Budget authority	7.30	7.10	7.30
Outlays	6.60	6.90	6.50
500 Education, Training, Employment and Social Services:			
Budget authority	37.20	38.60	39.50
Outlays	35.40	37.50	38.50
550 Health:			
Budget authority	49.80	54.30	59.40
Outlays	48.90	54.10	58.60
570 Medicare:			
Budget authority	103.70	113.20	124.10
Outlays	86.90	97.50	108.40
600 Income Security:			
Budget authority	176.50	181.40	213.30
Outlays	138.10	145.30	152.40
650 Social Security:			
Budget authority	278.10	306.30	332.80
Outlays	233.50	249.00	263.50
700 Veterans Benefits and Services:			
Budget authority	28.80	31.00	31.50
Outlays	28.40	30.00	30.60
750 Administration of Justice:			
Budget authority	8.90	9.20	10.40
Outlays	8.70	9.10	10.30
800 General Government:			
Budget authority	9.50	10.10	10.50
Outlays	9.40	10.20	10.30
900 Net Interest:			
Budget authority	152.00	158.50	160.30
Outlays	152.00	158.50	160.30
920 Allowances:			
Budget authority	0	0	0
Outlays	0	0	0
950 Undistributed Offsetting Receipts:			
Budget authority	−37.50	−38.80	−39.60
Outlays	−50.50	−51.10	−40.70

CONFERENCE AGREEMENT OFF-BUDGET

[In billions of dollars]

	1989	1990	1991
Budget authority	258.50	282.50	306.10
Outlays	213.90	225.20	236.80
Revenues	258.50	282.45	306.00
Deficit	44.60	57.25	69.20
050 National Defense:			
Budget authority			
Outlays			
150 International Affairs:			
Budget authority			
Outlays			
250 General Science, Space and Technology:			
Budget authority			
Outlays			
270 Energy:			
Budget authority			
Outlays			
300 Natural Resources and Environment:			
Budget authority			
Outlays			
350 Agriculture:			
Budget authority			
Outlays			
370 Commerce and Housing Credit:			
Budget authority			
Outlays			
400 Transportation:			
Budget authority			
Outlays			
450 Community and Regional Development:			
Budget authority			
Outlays			
500 Education, Training, Employment and Social Services:			
Budget authority			
Outlays			
550 Health:			
Budget authority			
Outlays			
570 Medicare:			
Budget authority			
Outlays			
600 Income Security:			
Budget authority			
Outlays			
650 Social Security:			
Budget authority	272.80	300.90	328.50
Outlays	228.20	243.60	259.20
700 Veterans Benefits and Services:			
Budget authority			
Outlays			
750 Administration of Justice:			
Budget authority			
Outlays			
800 General Government:			
Budget authority			
Outlays			
900 Net Interest:			
Budget authority	−9.70	−13.20	−16.70
Outlays	−9.70	−13.20	−16.70
920 Allowances:			
Budget authority			
Outlays			
950 Undistributed Offsetting Receipts:			
Budget authority	−4.60	−5.20	−5.70
Outlays	−4.60	−5.20	−5.70

CONFERENCE AGREEMENT ON-BUDGET ONLY

[in billions of dollars]

	1989	1990	1991
Budget authority	973.20	1,022.90	1,083.40
Outlays	885.80	934.90	981.50
Revenues	705.90	760.45	817.00
Deficit	179.90	174.45	164.50
050 National Defense:			
Budget authority	299.50	312.90	325.60
Outlays	294.00	304.60	316.60
150 International Affairs:			
Budget authority	16.60	17.60	17.50
Outlays	16.20	16.00	15.90
250 General Science, Space and Technology:			
Budget authority	13.00	13.50	14.00
Outlays	12.60	13.50	13.90
270 Energy:			
Budget authority	4.80	5.20	5.00
Outlays	4.40	4.10	3.50
300 Natural Resources and Environment:			
Budget authority	15.80	16.50	17.20
Outlays	16.30	17.00	17.30
350 Agriculture:			
Budget authority	25.50	24.30	21.40
Outlays	21.60	21.00	19.10
370 Commerce and Housing Credit:			
Budget authority	13.60	15.40	9.40
Outlays	9.30	8.40	3.90
400 Transportation:			
Budget authority	28.60	29.10	29.90
Outlays	27.90	28.50	29.40
450 Community and Regional Development:			
Budget authority	7.30	7.10	7.30
Outlays	6.60	6.90	6.50
500 Education, Training, Employment and Social Services:			
Budget authority	37.20	38.60	39.50
Outlays	35.40	37.50	38.50
550 Health:			
Budget authority	49.80	54.30	59.40
Outlays	48.90	54.10	58.60
570 Medicare:			
Budget authority	103.70	113.20	124.10
Outlays	86.90	97.50	108.40
600 Income Security:			
Budget authority	176.50	181.40	213.30
Outlays	138.10	145.30	152.40
650 Social Security:			
Budget authority	5.30	5.40	4.30
Outlays	5.30	5.40	4.30
700 Veterans Benefits and Services:			
Budget authority	28.80	31.00	31.50
Outlays	28.40	30.00	30.60
750 Administration of Justice:			
Budget authority	8.90	9.20	10.40
Outlays	8.70	9.10	10.30
800 General Government:			
Budget authority	9.50	10.10	10.50
Outlays	9.40	10.20	10.30
900 Net Interest:			
Budget authority	161.70	171.70	177.00
Outlays	161.70	171.70	177.00
920 Allowances:			
Budget authority	0	0	0
Outlays	0	0	0
950 Undistributed Offsetting Receipts:			
Budget authority	−32.90	−33.60	−33.90
Outlays	−45.90	−45.90	−35.00

CREDIT SUMMARY

[In billions of dollars]

	House	Senate	Conference
FISCAL YEAR 1989			
Function 150:			
Direct loans	5.55	5.90	5.95
Primary guarantees	9.50	9.50	9.55
Secondary guarantees	NA	0	.20
Function 270:			
Direct loans	2.00	2.00	2.00

CREDIT SUMMARY—Continued

[In billions of dollars]

	House	Senate	Conference
Primary guarantees	.05	0	.05
Function 300:			
Direct loans	.05	.10	.05
Primary guarantees	0	0	0
Function 350:			
Direct loans	15.55	15.60	15.55
Primary guarantees	7.50	6.70	6.70
Function 370:			
Direct loans	2.75	2.70	2.70
Primary guarantees	64.05	63.70	64.05
Secondary guarantees	NA	92.85	92.85
Function 400:			
Direct loans	.05	0	.05
Primary guarantees	0	0	0
Function 450:			
Direct loans	1.05	1.00	1.00
Primary guarantees	.30	.30	.25
Function 500:			
Direct loans	.05	.10	.05
Primary guarantees	10.40	10.40	10.40
Function 550:			
Direct loans	0	0	0
Primary guarantees	.35	.40	.35
Function 600:			
Direct loans	0	0	0
Primary guarantees	0	0	0
Function 700:			
Direct loans	.95	.90	.95
Primary guarantees	19.60	19.60	19.60
Total:			
Direct loans	28.00	28.30	28.30
Primary guarantees	111.30	110.60	110.95
Secondary guarantees	NA	92.85	93.05
FISCAL YEAR 1990			
Function 150:			
Direct loans	5.80	6.00	6.05
Primary guarantees	9.85	9.90	9.90
Secondary guarantees	NA	0	.20
Function 270:			
Direct loans	2.10	2.10	2.10
Primary guarantees	.05	0	.05
Function 300:			
Direct loans	.05	.10	.05
Primary guarantees	0	0	0
Function 350:			
Direct loans	14.10	14.20	14.10
Primary guarantees	7.15	6.80	6.80
Function 370:			
Direct loans	2.80	2.70	2.75
Primary guarantees	67.00	67.20	67.05
Secondary guarantees	0	0	96.70
Function 400:			
Direct loans	.05	0	.05
Primary guarantees	0	0	0
Function 450:			
Direct loans	1.10	1.10	1.05
Primary guarantees	.30	.30	.30
Function 500:			
Direct loans	.05	.10	.05
Primary guarantees	10.80	10.80	10.80
Function 550:			
Direct loans	0	0	0
Primary guarantees	.35	.40	.35
Function 600:			
Direct loans	0	0	0
Primary guarantees	0	0	0
Function 700:			
Direct loans	.80	.80	.80
Primary guarantees	27.45	27.50	27.45
Total:			
Direct loans	26.85	27.10	27.00
Primary guarantees	122.95	122.90	122.70
Secondary guarantees	NA	0	96.90
FISCAL YEAR 1991			
Function 150:			
Direct loans	6.00	6.10	6.15
Primary guarantees	10.25	10.30	10.30
Secondary guarantees	NA	0	.25
Function 270:			
Direct loans	2.25	2.30	2.25
Primary guarantees	.05	.10	.05
Function 300:			
Direct loans	.05	.10	.05
Primary guarantees	0	0	0
Function 350:			
Direct loans	13.50	13.60	13.50
Primary guarantees	7.20	6.90	6.85
Function 370:			
Direct loans	2.95	2.80	2.90
Primary guarantees	73.80	74.00	73.80
Secondary guarantees	NA	0	100.55
Function 400:			
Direct loans	.05	0	.05
Primary guarantees	0	0	0
Function 450:			
Direct loans	1.15	1.10	1.10
Primary guarantees	.30	.30	.30
Function 500:			
Direct loans	.05	.10	.05
Primary guarantees	10.80	10.80	10.80
Function 550:			
Direct loans	0	0	0
Primary guarantees	.40	.40	.40
Function 600:			
Direct loans	0	0	0
Primary guarantees	0	0	0
Function 700:			
Direct loans	.65	.70	.65
Primary guarantees	29.70	29.70	29.70
Total:			
Direct loans	26.65	26.80	26.70
Primary guarantees	132.50	132.50	132.20
Secondary guarantees	NA	0	100.80

ECONOMIC ASSUMPTIONS

The Conferees accepted the economic assumptions used in the President's budget and both the House- and Senate-passed resolutions as the basis for the budget estimates. These economic assumptions are shown in the table below. Rates of change have been adjusted to reflect revisions in economic data for 1987.

[Calendar years]

	Actual 1987	1988	1989	1990	1991
Annual averages:					
Gross national product (billions)	$4,488	$4,779	$5,113	$5,481	$5,850
Percent change	6.0	6.5	7.0	7.2	6.7
Real GNP (billions 1982)	$3,821	$3,932	$4,054	$4,196	$4,340
Percent change	2.9	2.9	3.1	3.5	3.4
GNP deflator (percent change)	3.0	3.5	3.8	3.6	3.2
Consumer Price Index (percent change)	3.7	4.3	4.1	3.6	3.2
Civilian unemployment rate (percent)	6.2	5.9	5.7	5.5	5.4
3-mo Treasury bill rate (percent)	5.8	5.3	5.2	5.0	4.5
10-yr Treasury note rate (percent)	8.4	8.0	7.4	6.8	6.0
Taxable incomes (billions):					
Wages and salaries	$2,213	$2,344	$2,502	$2,676	$2,858
Corporate profits before tax	$274	$310	$353	$406	$448
4th quarter to 4th quarter (percent change):					
Gross national product	7.4	6.2	7.3	7.1	6.5
Real GNP	4.0	2.2	3.5	3.5	3.4
GNP deflator	3.3	3.9	3.7	3.5	3.0
Consumer Price Index	4.5	4.3	3.9	3.5	3.0
Civilian unemployed rate (percent, 4th quarter level)	5.9	5.9	5.6	5.5	5.4

FUNCTION 050

The House-passed, Senate amendment, and conference agreement all include $299.50 billion in budget authority and $294.00 billion in outlays as set forth in the Bipartisan Summit agreement between the President and the Joint Leadership of Congress.

The conferees continue to be concerned about the decline in U.S. competitiveness in the production of semiconductor chips. The conferees believe that a viable U.S. semiconductor industry is essential to support the critical national economic and defense requirements of the United States. The conferees note that legislation was enacted at the end of last year which provided fiscal year 1988 Federal funding of $100 million for SEMATECH, the industry's new semiconductor research and development consortium aimed at assuring manufacturing excellence in the U.S. semiconductor industry. This was to be the beginning of a five-year Federal program; Federal funding would be provided on a 50-50 matching basis with domestic industry, with the Federal contribution projected at $100 million per year. The President, however, recommended only $44.8 million in his fiscal year 1988 Budget for SEMATECH. The conferees believe that the additional $55.2 million is needed to support the SEMATECH program, especially in the critical early years. The conference agreement, therefore, assumes that within the totals in this resolution, $100 million in funding should be made available for the puposes of assisting the U.S. semiconductor industry in its start-up efforts to develop new and advanced semiconductor technologies.

The conference agreement also assumes that within the funds available in this function, funding will be made available sufficient to pursue a vigorous Defense Waste and Transportation Management Program to provide for the cleanup, interim storage, transportation and disposal of radioactive and hazardous wastes at the several affected sites (including Hanford and Savannah River among other).

FUNCTION 150

The House-passed. Senate amendment, and conference agreement all include $16.60 billion in budget authority and $16.20 billion in outlays. This agreement conforms to the Summit agreement between the President and the Joint Leadership of Congress which set discretionary spending levels of $18.10 billion in budget authority and $16.10 billion in outlays.

FUNCTION 250

The House-passed resolution included $12.45 billion in budget authority and $12.20 billion in outlays. The Senate amendment included $13.40 billion in budget authority and $13.00 billion in outlays. The conference agreement includes $13.00 billion in budget authority and $12.60 billion in outlays.

Within these totals, the conferees assume a split between the House and the Senate assumed levels of funding for the Department of Energy's Superconducting Super Collider (SSC), and full funding for the National Science Foundation's (NSF) proposed research and education programs.

The conferees believe that the National Academy of Science, acting jointly with the National Academy of Engineering and the Institute of Medicine, should provide advice on developing an appropriate institutional framework and information base for conducting cross-program development and review of the Nation's research and development program. This should be structured in such a way that it can be used by both the Executive Branch and Congress as a method for reviewing program contents and strategies and in determining funding and organizational priorites for science and technology.

FUNCTION 270

The House-passed resolution included $4.80 billion in budget authority and $4.35 billion in outlay. The Senate amendment assumed $4.90 billion in budget authority and $4.20 billion in outlays. The conference agreement include $4.80 billion in budget authority and $4.40 billion in outlays.

The conferees believe that the funding assumed in this function should be sufficient to support a strong national R&D program in energy conservation and variety of energy resources including basic coal sciences, magnetohydrodynamics (MHD) and solar, among others.

The conferees also are concerned that the Department of Energy's (DOE) natural gas and petroleum research and development programs have not been adequately funded in the past. In its February 1987 report, the DOE Energy-Research Advisory Board (ERAB) recommended significant funding increases for gas and oil-related geosciences R&D in order to increase the availability of domestic gas and oil and to reduce our dependence on imported oil. The conferees encourage the committees of jurisdiction to provide a funding level for gas and oil exploration and recovery R&D that more accurately reflects the importance of these fuel sources. The conferees also believe that a Geosciences Institute for oil and gas, as well as a National Laboratory Coal Science Consortium could be accommodated within these totals.

The conferees do not assume the privatization of the Federal Power Marketing Administrations, including the Bonneville, Western Area, Southeastern, and Southwestern Power Administrations as well as the Tennessee Valley Authority and further assume that no funds will be provided to solicit proposals or carry out activities to implement privatization. The conferees do not assume the sale of the Naval Petroleum Reserves.

FUNCTION 300

The House-passed resolution included $15.05 billion in budget authority and $15.60 billion in outlays. The Senate amendment included $14.60 billion in budget authority and $14.90 billion in outlays. The conference agreement includes $15.80 billion in budget authority and $16.30 billion in outlays.

FUNCTION 350

The House-passed resolution included $26.40 billion in budget authority and $22.40 billion in outlays. The Senate amendment included $27.00 billion in budget authority and $23.20 billion in outlays. The conference agreement includes $25.50 billion in budget authority and $21.60 billion in outlays.

The conference agreement is above both the House and Senate levels in Function 300 and below in Function 350. However, the conferees note that this merely reflects the decision that a greater share of the Conservation Reserve be funded from appropriations in Function 300 and a lesser share from PIK certificates (through the Commodity Credit Corporation) in Function 350. This functional shift is not intended to alter eligibility for or participation in the program.

FUNCTION 370

The House-passed resolution included $13.75 billion in budget authority and $9.40 billion in outlays. The Senate amendment included $13.50 billion in budget authority and $9.10 billion in outlays. The conference agreement includes $13.60 billion in budget authority and $9.30 billion in outlays.

The conferees assume that the appropriations for revenue foregone for the Postal Service are fully adequate to preserve the subsidy level currently in effect.

FUNCTION 400

The House-passed resolution included $28.95 billion in budget authority and $27.95 billion in outlays. The Senate amendment included $28.40 billion in budget authority and $27.90 billion in outlays. The conference agreement includes $28.60 billion in budget authority and $27.90 billion in outlays.

The conferees assume that, within amounts provided by the conference funding levels for Function 400, serious consideration be given to using available funds for the airport and airway improvement program to provide for critical capacity expansion projects with national significance, such as the new airport in Denver, Colorado.

The conferees assume that funding for the Coast Guard in Function 400 can be sufficient to allow the reopening and full operation of any stations closed as a result of the fiscal year 1988 appropriation, as deemed necessary by the Coast Guard.

FUNCTION 450

The House-passed resolution included $7.55 billion in budget authority and $6.60 billion in outlays. The Senate amendment included $7.10 billion in budget authority and $6.50 billion in outlays. The conference agreement includes $7.30 billion in budget authority and $6.60 billion in outlays.

FUNCTION 500

The House-passed resolution included $37.55 billion in budget authority and $35.45 billion in outlays. The Senate amendment included $36.60 billion in budget authority and $35.30 billion in outlays. The conference agreement includes $37.20 billion in budget authority and $35.40 billion in outlays.

FUNCTION 550

The House-passed resolution included $49.65 billion in budget authority and $48.70 billion in outlays. The Senate amendment included $49.90 billion in budget authority and $48.90 billion in outlays. The conference agreement includes $49.80 billion in budget authority and $48.90 billion in outlays. The House recedes to the higher figure for medicaid, rejecting the medicaid regulatory savings assumed in the House-passed resolution. The conference agreement enactment of legislation to broaden medicaid for pregnant women and children, to protect families during a period of welfare to work transition, and to protect low-income elderly against spousal impoverishment and medicare cost-sharing amounts.

FUNCTION 570

The House-passed resolution included $103.75 billion in budget authority and $86.85 billion in outlays. The Senate amendment included $103.70 billion in budget authority and $86.90 billion in outlays. The conference agreement includes $103.70 billion in budget authority and $86.90 billion in outlays.

FUNCTION 600

The House-passed resolution included $176.60 billion in budget authority and $137.70 billion in outlays. The Senate amendment included $176.20 billion in budget authority and $138.30 billion in outlays. The conference agreement includes $176.50 billion in budget authority and $138.10 billion in outlays. The conference agreement includes $275 million in entitlement authority (budget authority and outlays) for expanded nutrition assistance.

The conference agreement assumes $275 million in additional entitlement authority for expanded nutrition assistance in this function for fiscal year 1989 and $525 million in fiscal year 1990 and $575 million in fiscal year 1991. The intent is to provide these additional resources to nutrition programs, including food stamps, that are highly targeted to low-income populations, particularly children and families.

FUNCTION 650

The House-passed resolution included $178.10 billion in budget authority and $233.40 billion in outlays. The Senate amendment included $278.10 billion in budget authority and $233.50 billion in outlays. The conference agreement includes $278.10 billion in budget authority and $233.50 billion in outlays.

The conferees are concerned that Social Security programs should be administered in a manner to assure that beneficiary inquiries and claims are efficiently and appropriately processed. The conferees assume that funds will be provided to assure staff levels that are sufficient to achieve these goals. This may require an increase over the staffing levels proposed in the Fiscal Year 1989 President's Budget.

FUNCTION 700

The House-passed resolution included $28.70 billion in budget authority and $28.25 billion in outlays. The Senate amendment included $28.80 billion in budget authority and $28.40 billion in outlays. The conference agreement includes $28.80 billion in budget authority and $28.40 billion in outlays.

The conferees encourage the appropriate committees to carefully consider the priorities established by the Veterans' Affairs Committee with regard to veterans' medical care and medical facility construction, such as the Spinal Cord Injury Center in Dallas, Texas, the psychiatric facility and Spinal Cord Injury Center in Gainesville, Florida, and nursing home units in Tampa and Lake City, Florida.

FUNCTION 750

The House-passed resolution included $8.85 billion in budget authority and $8.55 billion in outlays. The Senate amendment included $9.00 billion in budget authority and $9.00 billion in outlays. The conference agreement includes $8.90 billion in budget authority and $8.70 billion in outlays.

FUNCTION 800

The House-passed resolution included $9.65 billion in budget authority and $9.35 billion in outlays. The Senate amendment included $9.525 billion in budget authority and $9.425 billion in outlays. The conference agreement includes $9.50 billion in budget authority and $9.40 billion in outlays.

FUNCTION 920

The House-passed resolution included no budget authority and no outlays. The Senate amendment included $-0.125 billion in budget authority the $-0.125 billion in outlays. The conference agreement includes no budget authority and no outlays.

FUNCTION 950

The House-passed resolution included $-37.75 billion in budget authority and $-50.70 billion in outlays. The Senate amendment included $-37.60 billion in budget authority and $-49.90 billion in outlays. The conference agreement includes $-37.50 billion in budget authority and $-50.50 billion in outlays. Relative to the House-passed resolution, this includes the following changes: $4.2 billion in unspecified asset sales; no funding is assumed to be derived from rescissions or transfers of existing budget authority; and unspecified new entitlement authority of $125 million in fiscal year 1989, $325 million in fiscal year 1990, and $350 million in fiscal year 1991 is assumed for programs in Functions 500, 550, and 600.

With respect to the Federal pay raise issue, the conference agreement assumes amounts consistent with a military and civilian pay raise of four percent, effective in January 1989. The conferees recognize, however, the authority of the committees of jurisdiction to legislate in this area, as well as the President's authority to propose an alternative plan under the Pay Comparability Act.

The conferees remain concerned about the unresolved state claims of ownership of lands within Naval Petroleum Reserve Number One (Elk Hills). The conferees urge the Secretaries of Energy and Interior to recognize and provide appropriate compensation for these state claims as soon as possible. Failure to resolve this issue only heightens the conferees' concern about the valuation and proposed sale price discussed when sale of this Reserve is considered, making swift resolution of the state claims issue important to future consideration of Elk Hill's role as a Federal asset.

REVENUES

The House resolution provided for a fiscal year 1989 revenue level of $964.25 billion.

The Senate amendment provided for a fiscal year 1989 revenue level of $964.60 billion.

The conference agreement provides for a fiscal year 1989 revenue level of $964.40 billion, and for a $350 million revenue loss in fiscal year 1989 relative to the current law baseline.

Senate recedes to House on foregone revenue collections to accommodate certain pending revenue legislation. The fiscal year 1989 revenue loss provided for in the conference agreement is intended to accommodate pending trade legislation: the Omnibus Trade and Competitiveness Act of 1988 and the President's proposed Canada-US Free Trade Agreement. These revenue changes are relative to laws in effect as of March 1988, and extension of expiring trust fund taxes in future years. Under the conference agreement, other non-trade miscellaneous and technical revenue legislation is not to increase the budget deficit. The recommended level and changes in revenues are consistent with a revenue baseline which reflects administration economic and technical estimates, but which has been adjusted to add back revenue losses from the proposed Canada-US Free Trade Agreement that the administration included in its baseline even though the agreement was not part of the current law.

LOW-INCOME HIGH-PRIORITY PROGRAMS

The conferees believe that programs serving low-income households and individuals, including homeless assistance programs, deserve a very high priority. Many of these low-income programs are discretionary and are found in several different functions throughout the budget: functions 270, 450, 500, 550, 600, 700 and 750. The conferees believe that the function totals agreed to in this conference report could accommodate funding for these low-income high-priority programs at levels equal to the CBO current services level or substantially higher.

For example, the function totals for function 600: Income Security are sufficient to allow for a program expansion of $150 million above the CBO current services level for the Supplemental Nutrition program for Women, Infants and Children (WIC). The function totals could also accommodate refugee assistance for 31 months for cash and medical assistance and funding for the Low-Income Home Energy Assistance Program (LIHEAP) at up to the CBO current services level.

The Conference Agreement for Function 500 (Education, Training, Employment and Social Services) could accommodate funding at or above the CBO current services level for education, job training and social services programs such as P.L. 100-297 (the Elementary and Secondary School Improvement Amendments of 1988 including Chapter 1, Drug Free Schools, math/science education, Indian education), Head Start, Pell Grants, handicapped education, TRIO, Historically Black Colleges, Older Americans Employment, WIN, vocational and adult education, Job Training Partnership Act programs, and the Community Services block grant.

The Conference Agreement for Function 550: Health could accommodate the CBO current services level for low-income high-priority programs including maternal and child health, community and migrant health centers, family planning, immunizations, Indian health services and facilities, and health care for the homeless. Recognizing the severe national AIDS crisis, the conferees urge $1.45 billion for research, education, prevention, treatment and other Federal efforts to combat AIDS, the nation's number one health priority.

The Conference Agreement could accommodate CBO current services funding or higher for all low-income high priority programs in functions 270, 450, 700 and 750.

SCOREKEEPING

The House-passed resolution and the Senate-passed resolution assumed scorekeeping treatments or bases that differed for twelve programs. The Conference Agreement resolves those issues as follows:

Classifications.—The advance appropriations for Clean Coal Technology and the Payment to D.C. are classified as discretionary, as proposed by the Senate. The offsetting collections into the Panama Canal fund are classified as discretionary, as proposed by the House. The payment to the Superfund is classified as mandatory, as proposed by the Senate.

Adjustment to 302(a) allocations.—The House-passed and Senate-passed resolutions agreed that the incremental cost of the additional IRS agents agreed to by the Summit will not count towards the domestic discretionary caps. The conferees agreed on figures of $443 million in budget authority and $385 million in outlays for that incremental cost. These figures differed from those initially proposed by either the House or Senate. These figures represent CBO's most recent estimate of these costs.

The House-passed and Senate-passed resolutions agreed that the income from Nuclear Regulatory Commission fees that existed at the time of the Summit will not count towards the domestic discretionary caps. The conferees agreed to use $136 million in budget authority and outlays for this figure, as proposed by the Senate.

Scorekeeping base, dual-funded programs.—Certain revolving fund accounts are financed both from appropriations (classified as discretionary by the 1987 Summit agreement for purposes of allocation under the 1989 discretionary cap) and from borrowing authority or Payment-in-Kind certificates (PIK) (classified as mandatory spending). Since any change in the amount appropriated produces an offsetting change in the use of borrowing authority or PIK certificates, virtually no savings or costs results from such a change in appropriations. The House-passed and Senate-passed resolutions agreed on this principle but included different estimates of the scorekeeping base for the six programs involved.

The conferees agreed on the scorekeeping base proposed by the Senate for the Farmers Home Administration funds (Agriculture Credit Insurance Fund, Rural Housing Insurance Fund, and Rural Development Insurance Fund) and the Rural Electrification Administration fund. The discretionary estimates for these programs are at the levels estimated by the Congressional Budget Office when the 1989 discretionary spending cap was calculated. The conferees agreed on the 1989 CBO baseline estimate for the Federal Housing Administration Fund. For the Conservation Reserve program, the conferees agreed on the budget authority estimate used to derive the 1989 discretionary cap, but based outlays on the 1988 enacted level for the program. The budget estimate of the 1989 discretionary cap included an allowance for certain outlay increases due to programmatic changes anticipated for 1989.

The appropriations for these six programs will be scored under the 1989 discretionary cap at the levels assumed in the conference report and crosswalked as discretionary to the Appropriations Committees. The Committees will be held harmless for amounts above the resolution that would otherwise be provided through borrowing authority or PIK certificates. However, the Appropriations committee will be charged for the full discretionary amount if they fund below the resolution amount for any of these programs.

As a group, the adjustments described above and shown on the table below provide limited flexibility to the Appropriations Committee in meeting the levels set by the 1989 discretionary spending caps. The conferees agree that no further scorekeeping adjustments will be made that result in additional discretionary spending under the caps.

DISCRETIONARY SCOREKEEPING BASE

[In millions of dollars]

Program	Senate-passed	House-passed	Conference agreement
Classifications:			
Clean coal:			
BA	525	0	525
0	53	0	53
DC advance:			
BA	20	0	20
0	22	0	22
Panama Canal Commission:			
BA	441	0	0
0	458	3	3
Payment to Superfund:			
BA	0	249	0
0	0	249	0
Adjustments to Budget Act discretionary scorekeeping:			
NRC revenues:			
BA	136	206	136
0	136	206	136
IRS adjustment:			
BA	−358	−389	−443
0	−292	−384	−385
Dual-funded programs:			
ACIF:			
BA	3,423	2,487	3,423
0	0	0	0
RHIF:			
BA	2,567	2,222	2,567
0	206	189	206
RDIF:			
BA	689	578	689
0	0	0	0
FHA:			
BA	608	112	238
0	0	0	0
REA:			
BA	22	341	22
0	22	341	22
Cons. res:			
BA	572	1,129	572

DISCRETIONARY SCOREKEEPING BASE—Continued

[In millions of dollars]

Program	Senate-passed	House-passed	Conference agreement
0	572	1,253	1,086

DOMESTIC DISCRETIONARY SPENDING BY FUNCTION IN BUDGET RESOLUTION CONFERENCE AGREEMENT

[In billions of dollars]

	1989	
	Budget authority	Outlays
Function 250	13.00	12.60
Function 270	5.73	6.12
Function 300	16.36	17.36
Function 350	5.57	2.28
Function 370	5.51	3.10
Function 400	11.14	27.36
Function 450	5.84	5.81
Function 500	27.28	26.50
Function 550	13.45	13.15
Function 570	0	2.12
Function 600	14.61	21.01
Function 650	0	2.16
Function 700	12.09	12.13
Function 750	9.33	9.16
Function 800	8.22	8.36
Function 900	0	0
Function 950	0	0
Totals	148.10	169.20

Note.—Detail may not add due to rounding.

MISCELLANEOUS PROVISIONS

RECONCILIATION INSTRUCTIONS

The House resolution did not contain reconciliation instructions.

The Senate amendment contained reconciliation instructions directed to four House committees and four Senate committees for fiscal year 1989. The Senate amendment required instructed committees to report by April 29, 1988.

The conference agreement does not contain reconciliation instructions.

FUNDING FOR ANTI-DRUG INITIATIVE

The House resolution did not include a separate reserve funding for anti-drug programs for fiscal year 1989.

The Senate amendment provided for the subsequent allocation of budget authority and outlays to the approriate committees of each House for an anti-drug initiative.

The amendment further provided for the fiscal year 1989 budget aggregates to be adjusted when the deficit-neutral legislation for the initiative is reported. The funding made available by the legislation was to be in compliance with the bipartisan budget summit agreement unless the President and the bipartisan leadership agreed that a dire state of emergency existed to raise discretionary spending allocations as specified in Section 8001 of the Omnibus Budget Reconciliation Act of 1987.

The Senate amendment also authorized the Budget Committee Chairman of each House to file appropriate 302(a) allocations and revised functional levels and aggregates which would be considered part of the budget resolution. The Committees on Appropriations were directed to file complying 302(b) reports.

The conference agreement allows funding for drug initiatives for fiscal year 1989 if the appropriate committees of Congress report legislation funding such initiatives and if the President and Congress agree through the normal legislative process that a dire state of emergency exists to justify spending levels different than those specified in the summit agreement, without increasing the deficits set forth in the resolution.

FUNDING FOR THE WELFARE REFORM AND CATASTROPHIC INSURANCE INITIATIVES

The House resolution contained no provisions relating to welfare reform or catastrophic insurance initiatives for fiscal year 1989.

The Senate amendment provided that budget authority and outlays for fiscal years 1988 or 1989 (or both) shall be allocated to the Senate Committee on Finance to provide for welfare reform and Medicare catastrophic health insurance initiatives that are deficit neutral and the budget resolution aggregates shall be adjusted accordingly for fiscal years 1989, 1990, and 1991.

The conference agreement includes a provision similar to that of the Senate amendment. The measurement of deficit neutrality, to the extent that such costs are not incuded in the resolution, shall be determined for each of the fiscal years 1988 and 1989, as well as for the period covering fiscal years 1988 through 1991. The provision is applicable in the Senate only.

SALE OF GOVERNMENT ASSETS

The House resolution contained no asset sales provision.

The Senate amendment included a provision expresssing the sense of Congress that, from time to time, the Government should sell assets to non-government buyers, but noted amounts realized from such sales are not recurring and do not reduce the demand for credit. The provision further included language providing that amounts realized from these sales and loan prepayments are not to be allocated to the committee or scored with respect to the Committee's budget authority allocation, for purposes of Section 302 allocations of the Budget Act.

The conference agreement includes a provision similar to that in the Senate amendment.

SENSE OF CONGRESS REGARDING ANTI-DRUG FUNDING

The House resolution contained no provision for anti-drug funding.

The Senate amendment contained a provision expressing the sense of Congress that anti-narcotics activities are vital to the Nation's future and should be a top priority in the fiscal year 1989 budget and urged all authorizing and Appropriations Committees and subcommittees to examine programs within their jurisdictions to enhance the anti-drug efforts.

The conference agreement includes the provision.

SENSE OF CONGRESS REGARDING COAST GUARD DRUG INTERDICTION

The House resolution contained a provision expressing the sense of Congress that the war on drugs is an ongoing effort that must be continually waged. It provided that increased Coast Guard drug interdiction should be encouraged through the enactment of legislation allowing the private sector to perform non-emergency and non-essential Coast Guard functions and that the resulting savings from such activities should be used to increase Coast Guard funding for law enforcement, military readiness, and emergency search and rescue functions.

The Senate amendment contained no such provision.

The conference agreement includes a provison similar to that in the House resolution.

SENSE OF CONGRESS REGARDING TRUST FUNDS

The House resolution contained no provision regarding trust funds.

The Senate amendment included a provision expressing the sense of Congress that the National Economic Commission should study and include in its final report a recommendation on budgetary treatment of Social Security, airport and highway, military retirement, civil service retirement, unemployment and other trust funds and self-supporting public enterprise funds including Postal Service, Federal Deposit Insurance Corporation, Comptroller of the Currency, National Credit Union Administration, Federal Home Loan Bank Board, Federal Savings and Loan Insurance, and Securities and Exchange Commission. The provision further provided that the National Economic Commission should analyze the effects on taking these funds off budget and report on the means of achieving a balance in the remaining budget and on the economic effects of a unified budget surplus. The Senate amendment also provided that the analysis should include the economic, budgetary, and programmatic effects of doing so and the effects of setting trust fund surpluses aside as additional savings.

The conference agreement includes a provision similar to that in the Senate amendment.

PUBLIC DEBT LIMIT

Rule XLIX of the House of Representatives sets forth a procedure for increasing the level of the public debt. The rule blends the public debt limit increase into the congressional budget process which, by setting the budget totals, determines what amount of debt must be outstanding.

Upon final passage by both bodies of the Concurrent Resolution on the Budget, the public debt level for fiscal year 1989 set forth in the resolution becomes the substance of a joint resolution, deemed passed by the House, and is sent to the Senate for its approval. If the Senate approves the joint resolution without amendment, the joint resolution is sent to the President for his signature. The public debt level in the joint resolution becomes effective upon signature by the President. (If the Senate amends the joint resolution, then it would return to the House for further action).

Pursuant to the rule, the text of the joint resolution would be as follows:

That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof:

Legislative jurisdiction over the public debt remains in the Committee on Ways and Means. The rule does not preclude that committee from originating public debt bills whenever necessary.

WILLIAM H. GRAY III,
THOMAS S. FOLEY,
MIKE LOWRY,
PAT WILLIAMS,
MARTIN FROST,
CHARLES E. SCHUMER,
JIM SLATTERY,
CHESTER G. ATKINS,
FRANK GUARINI,
BILL GOODLING,
MICKEY EDWARDS,
WM. THOMAS

Managers on the Part of the House.

LAWTON CHILES,
JIM SASSER,
DON RIEGLE,

J.J. EXON,
FRANK R. LAUTENBERG,
PETE V. DOMENICI,
RUDY BOSCHWITZ,
CHUCK GRASSLEY,
Managers on the Part of the Senate.

□ 1510

Mr. GRAY of Pennsylvania. Mr. Speaker, pursuant to House Resolution 461, I call up the conference report on the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the U.S. Government for the fiscal years 1989, 1990, and 1991.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 461, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GRAY] will be recognized for 30 minutes and the gentleman from Ohio [Mr. LATTA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have finally reached agreement with our Senate counterparts on a final document after several weeks of negotiations. Attempting to forge a consensus on a wide range of issues is not an easy task. However, we were elected by our constituents to exercise leadership and make the difficult choices.

Many observers predicted that it would be an uncomplicated and simple process to reach agreement on a Federal budget for fiscal year 1989 in light of the accord reached in the summit agreement on the budget. That was when all the tough choices supposedly had been made. However, it has been more difficult than originally predicted because within the overall framework there was not a lot of room for flexibility and, as a result, the differences in numbers while small, highlighted major policy differences. Debate was keen and we found plenty of issues where difficult choices had to be made to allocate the limited resources available. But this after all is as it should be. The budget process is dealing with the issues which brought about its adoption and implementation—establishing national budget priorities and forcing tough choices.

Given the overwhelming votes for the summit agreement on the budget last year, it is only logical that we now support the necessary phase 2 of that agreement which is embodied in the conference report on the budget for fiscal year 1989. I urge its adoption.

The conferees have agreed to the following budget framework:

The conference agreement meets the Gramm-Rudman-Hollings deficit-reduction target of $136 billion for fiscal year 1989.

The conference agreement assumes the level of defense spending agreed to in the summit agreement on the budget. Defense would be funded at $299.5 billion in budget authority and $294 billion in outlays.

The conference agreement maintains the summit-agreed levels for domestic discretionary programs and international affairs.

The conference agreement adheres to last year's bipartisan summit agreement in the area of revenues—there are no new revenues.

The conference agreement also includes the following major elements:

The conference agreement could accommodate enactment of deficit-neutral catastrophic health insurance as well as deficit-neutral welfare reform.

The conference agreement assumes unspecified asset sales of $4.2 billion which are not reconciled.

The conference agreement assumes amounts consistent with Federal civilian and military pay increases of 4 percent in January 1989 with 50-percent absorption.

The conference agreement assumes sufficient funds to fully match the President's antidrug law enforcement increases and fund the State and local drug enforcement grant program at $255 million—which the President would have eliminated.

In addition, the agreement assumes unspecified entitlement authority of $125 million in fiscal year 1989, $325 million in fiscal year 1990, and $350 million in fiscal year 1991.

The conference agreement assumes that the overall funding levels and the specific function levels are sufficient, at a minimum, to allow funding for the traditional list of high-priority low-income programs at levels equal to the CBO baseline which provides a full allowance for inflation.

In addition, the conference agreement assumes sufficient funding to allow for additional priority program increases in several low-income areas including the Women, Infant, Children Supplemental Nutrition Assistance Program [WIC]; homeless assistance programs under the McKinney Homeless Assistance Act; and education, job training, and social services programs such as Pell grants, compensatory education, handicapped education, Head Start, and dislocated workers.

The conference agreement protects low-income, high-priority discretionary health programs, including community and migrant health, maternal and child health, family planning, immunizations, Indian health services and facilities, and health care for the homeless by assuming the CBO baseline level which provides a full inflation adjustment. The agreement also assumes $1.4 billion for AIDS funding.

Other low-income program areas assumed to be covered in the conference report include Indian, energy, and housing assistance.

Let me briefly address the issue of the possibility of sequestration in fiscal year 1989 under the Gramm-Rudman-Hollings law. OMB Director Miller has recently been quoted in the press to the effect that we are in danger of sequestration because of changes in the economic outlook.

When the President sent up his budget I raised the question of sequestration with the administration. They said that their economic assumptions were, if anything, conservative, and that they would not entertain the possibility of revising the summit agreement to achieve deeper deficit reduction to avoid sequestration.

The first point I would make is that implementation of this budget resolution will clearly avoid sequestration on the basis of the President's own economic assumptions, which we have been using on the advice of the administration. The deficit in this conference agreement is $135.3 billion and, after adjusting for Gramm-Rudman scoring by setting aside asset sales, would be about $142 billion. This is substantially below the Gramm-Rudman sequestration threshold of $146 billion.

It is true that changes in the economic outlook will lead OMB to revise its economic forecast for its July 15 midsession budget review—and this is the forecast that OMB is required to use in its August sequestration report. It is also true that small changes in the forecast could push the projected 1989 deficit up or down by billions of dollars.

However, it is not clear at this point whether changes in the economic outlook will raise or lower the deficit. This morning's report of unexpectedly strong GNP growth of 3.9 percent in the first quarter suggests that economic growth in 1988 will be stronger than forecast by the administration in February. This will raise incomes and reduce the deficit. Unemployment is also lower than forecast earlier by the administration, which will also reduce the deficit. Interest rates, on the other hand, which were close to the administration's forecast in the first quarter, are now running higher, and, if higher rates continue, that would tend to raise the deficit. We do not know, on balance, whether the net effect will be to raise or lower the deficit.

More important, we do know that the effect on the deficit will be determined by the administration's own interpretation of the economic data. The economic forecast is not handed to

OMB on stone tablets by the great economist in the sky. The Gramm-Rudman forecast will be made by the administration—by Director Miller, Secretary Baker, and Chairman Sprinkle. These gentlemen will face the same great uncertainty, and have the same wide latitude, that economic forecasters always have in interpreting the data.

Because the deficit projection under the current economic assumptions is only a few billion dollars under $146 billion, the administration forecast will be crucial in determining whether there is sequestration or not. For instance, a small, and perfectly defensible, shift of 50 basis points in their interest rate forecast one way or the other can raise or lower the 1989 deficit projection by about $5 billion.

The Congress does not, of course, control the economy. Furthermore, as a result of last year's Gramm-Rudman amendments, the Congress has no control over the Gramm-Rudman deficit projections. The administration has the sole control over the forecast and the projections.

Given these circumstances, all I can say to my colleagues is that we should proceed to adopt this conference agreement, as it has been designed bipartisanly in good faith to avoid sequestration under the administration's own assumptions. If it then turns out that the administration changes its assumptions in a manner which would produce sequestration, we shall have to address the issue of further policy changes in a bipartisan manner at that time.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GRAY of Pennsylvania. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman says it is simply not true that this includes the pay increase for Members of Congress. I wonder if the gentleman could describe to me how it is that once we put this into place a pay increase will be blocked?

If the President, for instance, comes forward with a recommendation in August of 4 percent, the conference report left room for that in there and there is an automatic appropriation for Members of Congress. How is it under that scenario that the pay increase for Members of Congress would be stopped?

Mr. GRAY of Pennsylvania. First of all, I would answer the gentleman by saying the budget resolution is not signed by the President so, therefore, it does not have the power of law and, therefore, granting that raise.

Second, as the gentleman well knows, the President will submit his pay recommendations in August, as he normally does, whether it is Ronald Reagan or anyone else. Under current law, which we do not change in this budget resolution, unless the Congress votes, as they have by the way before, to exclude themselves, then, yes, an automatic pay raise would occur.

But the budget resolution does not automatically trigger a Member's pay raise, and the gentleman I am sure recalls those procedures. Because this does not change current law, is not signed by the President, it is wrong to say that this is going to "give an automatic pay raise."

Mr. WALKER. Will the gentleman yield further?

Mr. GRAY of Pennsylvania. Yes, I yield to the gentleman from Pennsylvania.

Mr. WALKER. The problem becomes that each time we have done this we have figured out a way to make certain that we got the pay increase, and so this is the first step down the road. The fact is that we have a list of miscellaneous provisions put in there limiting the use of funds. It seems to me if the committee wanted to block a congressional pay increase, all they would have had to do was to put the language in the bill.

Mr. GRAY of Pennsylvania. I would say to the distinguished gentleman from Pennsylvania his argument is not with the budget conference report. It is clear he does not like current law and, therefore, he ought to change current law.

To change current law, he therefore will need to pass a piece of legislation in the House and in the Senate and have it signed by the President. This budget is not signed by the President; therefore, it does not change the current law. The gentleman knows that after the President makes his recommendations in August he, as well as others, will have an opportunity to work their will, as they have done in the past. The gentleman from Pennsylvania has been one of the leaders on this issue in the past, and he has launched off from the same aircraft carrier of the President's pay recommendations to exclude Members. So I would just remind him to use that platform.

Mr. WALKER. The gentleman thinks I have a lot more power than I do, I believe.

Mr. GRAY of Pennsylvania. Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say there is little change in the numbers in this budget from what passed the House. There has been a little reshuffling. Let me just review them for my colleagues.

In the House-passed budget, budget authority was $1.232 trillion, the Senate passed $1.231 trillion, and this conference agreement is $1.231.7 trillion.

The outlays as passed by the House were $1.98 trillion, under the Senate-passed version it was $1.100 trillion, and under the conference agreement it is $1.997 trillion.

Revenues under the House-passed bill was $964.25 billion, under the Senate-passed bill was $964.6 billion, under the conference agreement it is $964.4 billion.

The deficit under the House-passed version is $133.95 billion, under the Senate-passed version is $136 billion, and under the conference agreement it is $1.997 trillion.

□ 1525

So there is very little difference in the conference agreement from what the House passed.

Let me say, the chairman has alluded to the fact that there are some new entitlement authority in this bill and that is what disturbs me and others who are concerned about the deficit and concerned about sequestration. For fiscal year 1989 there is $400 million. In 1990 there is $850 million and in 1991 there is $925 million, which means $2.175 billion.

The chairman has also mentioned that it has been in the press that the head of the OMB is concerned about sequestration. Well let me say I talked to him today and he is very concerned. As a matter of fact, he said, and I quote him, "It would be a miracle if we avoid sequestration in August."

What are we talking about? Right now he is saying that the $146 billion trigger in deficit that will be in 1988, this year, August, will now be $158 billion.

So we are over the trigger by $12 billion, under the present forecast by the Director of OMB.

So the question is if we are over the trigger now with these projections, why should we be taking up this new entitlement authority? Mr. Speaker, let me just say that this is very serious. Come August we will be running around this House wondering how we ever got sequestration and there will not be much we can do about it.

Let me say that the chairman is now handling his last conference committee report and since I have been in the Congress on this committee I have worked with a good many chairmen. It has always been a delight to work with them but let me say it has been delightful to work with BILL GRAY. BILL has always been very pleasant to deal with, he has always been very thorough; he is a man of his convictions and he has worked very diligently and very hard to bring to this House today a conference committee report.

So since this is his last time that he will be bringing before this House a conference committee report, I just want to say it is good, BILL, to have worked with you all this time.

I also want to say it is good to know that he has such a wonderful family—and we know them well. The House could not have a better chairman for this 100th Congress for the Budget Committee than BILL GRAY.

So I salute him for his work.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. I thank the gentleman for yielding.

Mr. Speaker, I rise somewhat reluctantly to oppose the conference report on the budget for 1989—reluctantly because I supported the House version and because all the Republican members have been involved in all stages of the decisionmaking process. But oppose this report I do.

Not only does this conference report go beyond the House version in undesirable and expensive ways, but it fails to take into account a new reality—the growing possibility of sequestration. Both in public and in private, the administration has warned us that new figures will bring us very close to the $146 billion deficit figure which could trigger sequestration in October. This is not the result of earlier OMB forecasts of economic growth, which many inside and outside of government considered too optimistic. In fact, these have proven close to the mark. What is happening is a significant increase in short-term interest rates, heavy expenses to shore-up troubled financial institutions, which can no longer be ignored, and a modest revenue shortfall.

To say that the conference report should be approved because it is consistent with last fall's budget summit misses the point. The point is that the summit agreement no longer assures us of avoiding sequestration, if indeed it ever did. Rather than using scorekeeping gimmicks, or budget authority-outlay mismatches, or new entitlement authority to raise spending above the summit levels, we should be scaling back spending below the summit levels to avoid the arbitrary cuts which sequestration would require.

Mr. Speaker, I have had the privilege of serving on the Budget Committee for 6 years—and I do consider it a privilege. Under the rules this is my last year on the Budget Committee as a representative of my principal committee, the Committee on Ways and Means. Nothing would suit me better in my swan song than to sound a positive note about this budget and indeed about the budget process. As for the process—at least for fiscal years 1988 and 1989—the Budget Committee has been largely irrelevant. First, it was supplanted by Gramm-Rudman and then by the summit. Not only the Budget Committee, but the Congress as a whole could prove irrelevant if we fall into the trap of approving a budget which almost invites sequestration. This could put those who support this conference report in the position of letting sequestration happen by failing to insist on action to prevent it.

Mr. Speaker, I urge a "no" vote on the conference report.

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. GRADISON. I am happy to yield to my chairman, the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. I thank the gentleman for yielding.

Mr. Speaker, I would like to take a moment to compliment the gentleman from Ohio for the distinguished service that he has given on the Budget Committee. Even though we may not be in agreement at this particular moment, I want to say it was a great pleasure working with him as one of the senior members. Then I would like to comment, if I might, on a statement made by the distinguished gentleman from Ohio where he pointed out that he thought the summit agreement did not guarantee us avoiding sequestration.

I think that that may be the case or may not be the case, as I said in my opening statement. There are some factors out there that could determine that.

However, I would point out that when we met with the President in February to receive the budget, the first question asked was asked by me and I asked that if we thought that the summit was not strong enough in deficit reduction, could we possibly open it up again this spring to get even lower deficit reduction? I would just point out to the gentleman and my colleagues that Secretary of the Treasury Baker said, and I quote, "No, we do not agree with that. If that is true we will find it out in August. Then we will be willing to sit down to do more."

I thank the gentleman for his observations and, more importantly, I thank him for his commitment and hard work on the Budget Committee. He has been one of the distinguished economic minds of that committee.

Mr. GRADISON. I thank my chairman for his comments and I want to associate myself with the remarks of the gentleman from Ohio [Mr. LATTA] his very appropriate remarks about the service of the chairman.

Let me merely point out that the budget resolution as such never reaches the President. And if we chose to scale back spending below the summit levels we could do so in this budget resolution whether the White House liked it or not.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Speaker, our Nation's future success depends on our children, yet our children, especially those from low-income families, are growing up with drugs and crime and without the proper education, health services and job opportunities.

The House passed a budget resolution back in March that stayed within the confines established during the budget summit agreement while setting our Nation's priorities—fighting the war on drugs with a 13-percent increase over last years level.

A significant increase in NASA space programs;

A serious commitment to health and human services including $1.4 billion for AIDS funding; a continued commitment to the low-income priority programs such as child nutrition, homeless assistance, assisted housing and education;

And restoring vital community development programs that the President proposed to eliminate or severely cut including the urban development action grant and the community development block grant.

The conferees had a difficult task this year with the Senate's budget tilted more toward the administration's position. I think this conference agreement adequately reflects the House priorities and our Nation's priorities as we enter into the 1990's.

While we can certainly do more in areas like affordable housing, I must commend Chairman GRAY for his leadership and guidance throughout this sometimes frustrating budget process. But overall I think we learned a lot about the process. The summit agreement provided a framework for a 2-year budget and demonstrated the merits of a bipartisan effort, between the Congress and the administration.

If we are truly going to maintain our fiscal sanity, we should look at ways to improve and strengthen the process including a 2-year budget, more actively involving the future President in the budget resolution and in my opinion making the Budget Committee a standing committee.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, first of all I want to compliment both the Democrats and Republicans who participated in this process.

You might recall that the reason that we entered into this year's budget process was because of the summit agreement between the leadership in the House and the Senate and the administration.

Many of the vexing numbers that had caused us problems in the past were presented to us through the summit agreement. I might briefly recall for my colleagues on my side of the aisle there are only 44 Members out of the House of Representatives who supported that summit agreement. Nevertheless, with the leadership in both the House and in the administration committing us to the numbers in the summit agreement we set out to try to reach agreement within a budget compromise for this year, fiscal year 1989 and for 1990 and 1991.

You have been told that you should not vote for this budget conference report because of salaries for Members of Congress. That simply and flatly is not true.

We have been told that we have to be very concerned about this budget in terms of entitlements. Just give me a second to talk about numbers.

Yes, we are talking about dollars but do you appreciate how much $1.231 trillion are? That is the budget for fiscal year 1989. One percent of that is $10 billion.

The entitlement increase in total between the House and the Senate for fiscal year 1989 is $400 million that was one four-hundredth of 1 percent. Yes, it is too much as far as I am concerned, but is it a reasonable compromise under the summit amount? My answer is "Yes."

Over 3 years, $4 trillion are going to be spent. The growth segment, the entitlement segment will be one five-hundredth of 1 percent. Yes, we are curbing that area. Is it fast enough? No. Is that the way we are going to reach a balanced budget? No.

It is entitlements, it is payments to individuals and it is defense. And the sooner this Congress begins focusing its attention on those areas where the bulk of the money is spent we can begin closing the gap on the deficit. To beat the almost-dead horse of entitlements is simply unacceptable.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. Goodling].

Mr. GOODLING. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this agreement that we bring to you today. First of all, I want to congratulate Chairman Gray because this was the first year that I was allowed to participate. I enjoyed that participation. Furthermore, I think we contributed to his ability as a matter of fact to hold the line against the Senate. He did not have to give us all that opportunity, but he did and I appreciate it very much. He provided us with very fair leadership.

I want to also thank Mr. Latta for serving as long as he has on this committee because if it has been frustrating for me, just think how much more frustrating it must have been for him since he has been serving there much longer than I.

Let me talk a little bit about the agreement. I wish it were better. I have an area where it could be better. But first of all, I think that the summit agreement last fall really makes sequestration automatic. I do not think there is any question. I think we are kidding ourselves if we do not think that will happen. I think last fall's summit agreement makes that a reality.

But let me tell you the area where I think we could have done better and should have done better, but unfortunately I understand the chairman on the Senate side had to get some support from some of his farm Senators. So we are going to do something very, very stupid. We are going to do something that as a matter of fact will make it even more difficult for farmers to make a go of it.

What are we going to do? Well, we have decided we will increase the amount of money and therefore commodities. Why are we doing that? Well, some of the programs are beginning to work so we are running out of surpluses. That is what was supposed to happen. That is what we hoped would happen. What is going to happen instead? Well, as a matter of fact now we will put money in to buy commodities.

□ 1540

And what will we do when we do that, when we go to buy the cheese? Then we take away the money we used to buy all the other commodities that we use in the School Lunch Program, et cetera. The minute we do that, then we tell the dairy farmers that we need more milk, and then they start producing more and we get more surpluses then, and lo and behold, we have another whole herd dairy buy-out, a Vermont special, offered to the Congress. And on and on the cycle goes, and all we do is punish that farmer who really would like to see us reduce the commodity support so as a matter of fact they would have a fighting chance to survive.

So even though this is not everything we hoped for, it is a darned sight better than what it would have been, I think, if we had not helped the chairman and if we had not participated in it on our side.

So, Mr. Speaker, I wholeheartedly support this agreement.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. Denny Smith].

Mr. DENNY SMITH. Mr. Speaker, I rise in strong opposition to this conference report on the budget.

I think that really the budget process has worked much better this year, and I, too, would like to compliment both the chairman of the committee, the gentleman from Pennsylvania [Mr. Gray], and the ranking member, the gentleman from Ohio [Mr. Latta] for their activities in trying to head up this process.

Yes, we had a summit agreement, and that made it work better. Maybe a 2-year budget process is what we ought to have. I think that there are an awful lot of us on the committee who would support that and who think we would be in better shape to try to guide the direction of this country.

But I have to oppose this document because I still think it is based on flawed numbers. It has an increase of only $2.2 billion of new entitlements.

Third, I happen to agree with the gentleman from Pennsylvania, because I think we are voting, if we vote for this, for a pay increase for the Members of Congress, and I think one of the things we have been highly criticized for in the last few years is the way we have been mis-manipulating the process to get our pay increased.

First, what about this new entitlement? Is it only $400 million, and is $400 million only four-tenths of 1 percent? That is ridiculous. The gentleman from California well knows that we should not be adding anything. The summit agreement was to try to reduce Federal spending, and here we are with our tax situation already having to add more taxes in the Ways and Means Committee. The gentleman well knows, because he serves on that committee, that we are in a situation where we have to add further, and there is no guarantee that these programs are only going to be $400 million in 1 year and then $2.2 billion. We have an increase in the Medicaid portion for catastrophic, we have the trade bill adjustment assistance, we have an emergency hunger bill that is now going to become a permanent emergency hunger bill, and we have some kind of work transition and welfare. All these things are just ways to pad the books in an election year. It is a ridiculous thing to do.

The so-called leadership agreement that was worked out last fall has nothing but increases in spending. I did not vote for that thing because the President had no idea what they were doing downtown. The leadership in both bodies has increased spending by about $50 billion. How is that ever going to get this budget balanced? When I came to the Congress, we had spending of $660 billion. We are at $1 trillion, 232 billion now. That is outrageous.

Why should we vote for this? It is going to force sequestration. We are nowhere near the $136 billion figure, and we could have done better.

Mr. LATTA. Mr. Speaker, I yield back the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Speaker, before I yield time to the distinguished gentleman from Kansas [Mr. Slattery], a member of our committee, to be our final speaker, I yield myself such time as I may consume because I wish to take this opportunity to thank the staffs on both the majority and the minority sides for their tremendously hard work this year in the budget process and to thank all the members of the committee with whom I have had the privilege of serving, both Democrats and Republicans.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. SLATTERY], a member of the committee, to close the debate.

Mr. SLATTERY. Mr. Speaker, I rise to urge my colleagues to support the conference agreement for the fiscal year 1989 budget.

I wish to commend the work of our distinguished chairman, Mr. GRAY, and the ranking minority member, Mr. LATTA. Both of these gentlemen have labored long and hard hours to produce an agreement with the Senate for fiscal year 1989. Both Mr. GRAY and Mr. LATTA will be sorely missed. I have personally enjoyed working with them and wish them luck and success in their future endeavors.

Mr. Speaker, the conference agreement represents the best agreement which could be produced this year, given the summit agreement of last fall and the political realities of today.

As with most conference agreements, there are compromises which were reached with which I disagree and which other Members of this body will criticize. Certainly, this conference agreement does not represent the blueprint for halting the flood of red ink in which this country is drowning. Unfortunately, the task of halting the spend and borrow policies of the present administration will fall on the shoulders of the next Congress and the next President. But because this is not a perfect agreement, we should not overlook the good in it:

First, the conference agreement does not exceed the level of discretionary spending which President Reagan and congressional leaders set in the summit agreement.

Second, does not raise any new taxes.

Third, the conference agreement provides for the level of defense spending which the President and congressional leaders agreed to.

Fourth, it provides funding for increased antidrug efforts. Including the funding of the State and local drug enforcement program, which President Reagan wanted to eliminate.

Fifth, the conference agreement preserves funding for the vast majority of the low-income high priority programs we agreed to in our budget resolution including homeless assistance, the Women, Infant, and Children [WIC] Nutrition Assistance Program, veterans' pensions, compensatory education programs including Indian education, job training, Head Start, and older Americans employment, as well as low-income energy assistance programs and Medicaid.

Sixth, the conference agreement provides for a 6-percent increase in discretionary budget authority above the 1989 freeze level for education programs.

Seventh, the conference agreement provides a level of funding for NASA and basic research programs which will enable our space program to get back on its feet and which allow our colleges and universities to enhance their needed research efforts.

Eighth, finally, if the conference agreement is fully implemented the deficit will decline to $135.3 billion in fiscal year 1989.

We obviously have not solved our deficit problem but let us not forget that just a few years ago the deficit was projected to reach $300 billion in 1989-90.

Most importantly, I want my colleagues to recognize the difference in the way this agreement was reached this year. In all of the deliberations on the budget this year, both sides of the aisle fully participated in reaching this agreement. Democrats and Republicans worked in a bipartisan spirit and were able to reach a compromise on all issues. From the initial discussions of the task force which we established in the House, to the final conference with our Senate colleagues, the process which produced this agreement included the active participation of members of both parties. This is a major victory for both parties and for the country. It is my hope that this spirit of cooperation will continue as we face the real problem of deficit reduction during the next administration.

Mr. FAZIO. Mr. Speaker, I want to express my strong support for the conference report to House Concurrent Resolution 268, the fiscal year 1989 budget resolution. I would also like to congratulate my colleagues who served as conferees for their efforts in reaching this agreement and for the work of Chairman BILL GRAY. He deserves to be recognized for his tireless efforts as chairman of the conference committee, as well as for his work as chairman of the House Budget Committee over the past 4 years.

The conference agreement we have before us today accomplishes a number of goals. First, it meets the Gramm-Rudman deficit reduction target with a projected deficit of less than $136 billion, which will mean that we avoid sequestration this fall. The conference agreement also conforms to last year's bipartisan summit agreement between the President and the joint leadership of Congress, which established levels of defense and discretionary spending and revenues. Finally, the agreement provides adequate funds for us to balance low-income, high priority programs with other important programs which address the infrastructural and scientific needs of our Nation. Agreement on these decisions was especially difficult because of the limited amount of available funding from which to draw and the fact that so many of these programs have already been significantly cut since 1980.

I believe the committee budget achieves a careful balance while meeting its prescribed deficit reduction targets. As a member of the House Budget Committee, I strongly urge my colleagues to support the conference report to House Concurrent Resolution 268.

Mr. CONTE. Mr. Speaker, I want to commend the conferees on finally coming out with a conference report on the budget. I only wish I knew what was in that report.

We have had no time to take a look at the figures, or the convoluted assumptions for some of the biggest programs on budget. Why the rush? The conference report is already late, so what does another week matter? Maybe I should ask the chairman, does the conference report conform to the four appropriations bills already passed by the House? If he can assure me that it does, then I have no strong objections to going through the formality of approving this conference report—unless it violates the budget summit agreement we hammered out last October and November.

Supposedly it does conform to the budget summit targets. I only hope that the assumptions that were retained in the conference report don't mislead us. The Nation can't afford the uncertainty and dreadful cost of another Gramm-Rudmann-Hollings sequester.

Mr. Speaker, we are working extremely hard to meet all the targets of the summit, of the budget, of the leadership on both sides of the aisle for proceeding with each of the 13 individual appropriations bills for fiscal year 1989, and I want to repeat my commitment to reporting them all on time and on budget. You may be surprised, you may be shocked, but we're going to do it.

Mr. ROTH. I rise to express my opposition to, and my disappointment in, this final budget plan which we have before us today. I voted against the original House version in March and I will vote against this plan, too. The reason: This budget, which is the Federal Government's blueprint for overall spending and revenues for the next fiscal year, authorizes too much spending, too much taxation and another big deficit of $135 billion.

While we have made some progress in reducing the deficit from the $230 billion levels of 2 to 3 years ago, we are not moving fast enough, and this plan does not measure up to what the American people deserve from their Congress.

Some of us in this House want to act on a sound fiscal policy, but our efforts have been blocked by the Democrat majority, who continue to be caught in the tax and spend spiral that has driven the total national debt up to $2.5 trillion, imposing an annual interest burden of $150 billion a year, the third largest category in the budget.

This budget underscores the importance of budget reform. Once again, I urge my colleagues to join me in supporting House Joint Resolution 321, which would amend our Constitution to require a balanced budget. Further, I ask my colleagues to join me in supporting House Joint Resolution 8, which would give the President a line-item veto, so he can remove the waste from appropriations bills. In addition, I ask for your support for H.R. 2232, which would enforce the existing budget rules, so that we at least have an orderly process for drafting the annual budget and then living within its limits.

But more than any legislative changes, restoring fiscal sanity in Washington depends on a change in attitude among those in Congress who have been careless with the public purse. Just as with every individual, every family and every business in America, our Government must live within its means, limiting spending to the revenues the taxpayers can fairly be expected to contribute.

Sound fiscal policy starts with a balanced budget, and a balanced budget requires difficult choices. Ideas may be desirable and intentions may be well-meaning, but some programs simply cannot be afforded and must be turned down. That is the responsibility each of us is given by the American people, and I stand here today to remind my colleagues of this duty.

Finally, Mr. Speaker, I want to close on a positive note. Last December, we did make one step forward, when Congress enacted a bipartisan commission to work through this year and prepare for the next President a blueprint for reducing the Federal deficit. This was included as title II of the 1987 Omnibus Budget Reconciliation Act. The provision closely parallels my original proposal, House Joint Resolution 37, which is the latest version of a plan I first introduced in 1984.

The Commission is now at work, and I look forward to its recommendations in a few months.

Meanwhile, let us reject this out-of-balance budget, go back to work and come up with a plan which meets the same discipline that each of us must live with when we go home at night.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield back the balance of time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 201, nays 181, not voting 49, as follows:

[Roll No. 158]

YEAS—201

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Atkins
AuCoin
Barton
Bateman
Beilenson
Bennett
Bentley
Berman
Bilirakis
Boehlert
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Byron
Cardin
Chappell
Clarke
Clay
Clement
Coelho
Coleman (MO)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Derrick
DeWine
Dingell
Dixon
Donnelly
Dowdy
Downey
Dymally
Dyson
Early
Edwards (CA)
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gonzalez
Goodling
Gordon
Grant
Gray (PA)
Green
Guarini
Hall (OH)
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hyde
Jeffords
Johnson (CT)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lagomarsino
Lantos
Leath (TX)
Lehman (CA)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Murtha
Natcher
Neal
Nelson
Nowak
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Rahall
Rangel
Ray
Richardson
Rinaldo
Robinson
Rodino
Roe
Rostenkowski
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Smith (FL)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Stratton
Swift
Synar
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Volkmer
Walgren
Waxman
Wheat
Williams
Wise
Wolf
Wyden
Young (AK)

NAYS—181

Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Bates
Bereuter
Bevill
Bilbray
Bliley
Boggs
Broomfield
Brown (CO)
Bruce
Buechner
Bunning
Burton
Callahan
Campbell
Carper
Carr
Chandler
Cheney
Clinger
Coats
Coble
Combest
Coughlin
Courter
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Eckart
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gekas
Gilman
Gingrich
Glickman
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Holloway
Hopkins
Hubbard
Huckaby
Hughes
Hunter
Inhofe
Ireland
Jacobs
Johnson (SD)
Kasich
Kemp
Kolbe
Kyl
LaFalce
Latta
Lehman (FL)
Lent
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
McCandless
McCrery
McEwen
McGrath
McHugh
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Murphy
Myers
Nagle
Nielson
Olin
Parris
Pashayan
Patterson
Petri
Porter
Pursell
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Rowland (CT)
Roybal
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stenholm
Studds
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Upton
Vander Jagt
Visclosky
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wylie
Yates
Yatron
Young (FL)

NOT VOTING—49

Aspin
Biaggi
Boland
Boulter
Brown (CA)
Bryant
Bustamante
Chapman
Coleman (TX)
Craig
Dellums
Dicks
Duncan
Dwyer
Espy
Florio
Gallo
Garcia
Gray (IL)
Hansen
Hatcher
Hiler
Hutto
Jenkins
Jones (TN)
Konnyu
Lancaster
Leach (IA)
Lewis (CA)
Lujan
Mack
MacKay
Martin (NY)
McCollum
Mica
Moakley
Mrazek
Nichols
Oakar
Oxley
Quillen
Rose
Roukema
Spence
St Germain
Weiss
Wilson
Wolpe
Wortley

□ 1607

The Clerk announced the following pairs:

On this vote:

Mr. Mica for, with Mr. Craig against.

Mr. Oxley for, with Mr. Boulter against.

Mrs. Roukema for, with Mr. Hansen against.

Mr. Konnyu for, with Mr. Quillen against.

Mr. Dellums for, with Mr. Leach of Iowa against.

Mr. Chapman for, with Mr. McCollum against.

Mr. BATES, Mrs. BOGGS, and Messrs. NAGLE, GLICKMAN, and HUGHES changed their votes from "yea" to "nay."

Mr. VOLKMER, Mrs. BENTLEY, Mr. BILIRAKIS, and Mr. SCHEUER changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GRAY of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the conference report on House Concurrent Resolution 268.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4445. An act to amend title 18, United States Code, to prohibit certain firearms especially useful to terrorists; and

H.R. 4448. An act to designate the Cleveland Ohio General Mail Facility and Main Office in Cleveland, OH, as the "John O. Holly Building of the United States Postal Service."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 425. An act for the relief of Sukhjit Kuldip Singh Saund;

S. 1583. An act for the relief of Maria Antonieta Heird;

S. 1842. An act for the relief of Mr. Wilhelm Jahn Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo David Schlechter; and

S. 1972. An act for the relief of Irma Purisch and Daniel Purisch.

CONFERENCE REPORT ON H.R. 1212, EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

Mr. WILLIAMS submitted the following conference report and statement on the bill (H.R. 1212) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce:

CONFERENCE REPORT (H. REPT. 100-659)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1212) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Polygraph Protection Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) COMMERCE.—The term "commerce" has the meaning provided by section 3(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(b)).

(2) EMPLOYER.—The term "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.

(3) LIE DETECTOR.—The term "lie detector" includes a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(4) POLYGRAPH.—The term "polygraph" means an instrument that—

(A) records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(B) is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(5) SECRETARY.—The term "Secretary" means the Secretary of Labor.

SEC. 3. PROHIBITIONS ON LIE DETECTOR USE.

Except as provided in sections 7 and 8, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(1) directly or indirectly, to require, request, suggest, or cause any employee or prospective employee to take or submit to any lie detector test;

(2) to use, accept, refer to, or inquire concerning the results of any lie detector test of any employee or prospective employee;

(3) to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against—

(A) any employee or prospective employee who refuses, declines, or fails to take or submit to any lie detector test, or

(B) any employee or prospective employee on the basis of the results of any lie detector test; or

(4) to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against, any employee or prospective employee because—

(A) such employee or prospective employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act,

(B) such employee or prospective employee has testified or is about to testify in any such proceeding, or

(C) of the exercise by such employee or prospective employee, on behalf of such employee or another person, of any right afforded by this Act.

SEC. 4. NOTICE OF PROTECTION.

The Secretary shall prepare, have printed, and distribute a notice setting forth excerpts from, or summaries of, the pertinent provisions of this Act. Each employer shall post and maintain such notice in conspicuous places on its premises where notices to employees and applicants to employment are customarily posted.

SEC. 5. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall—

(1) issue such rules and regulations as may be necessary or appropriate to carry out this Act;

(2) cooperate with regional, State, local, and other agencies, and cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this Act; and

(3) make investigations and inspections and require the keeping of records necessary or appropriate for the administration of this Act.

(b) SUBPOENA AUTHORITY.—For the purpose of any hearing or investigation under this Act, the Secretary shall have the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50).

SEC. 6. ENFORCEMENT PROVISIONS.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Subject to paragraph (2), any employer who violates any provision of this Act may be assessed a civil penalty of not more than $10,000.

(2) DETERMINATION OF AMOUNT.—In determining the amount of any penalty under paragraph (1), the Secretary shall take into account the previous record of the person in terms of compliance with this Act and the gravity of the violation.

(3) COLLECTION.—Any civil penalty assessed under this subsection shall be collected in the same manner as is required by subsections (b) through (e) of section 503 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1853) with respect to civil penalties assessed under subsection (a) of such section.

(b) INJUNCTIVE ACTIONS BY THE SECRETARY.—The Secretary may bring an action under this section to restrain violations of this Act. The Solicitor of Labor may appear for and represent the Secretary in any litigation brought under this Act. In any action brought under this section, the district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with this Act, including such legal or equitable relief incident thereto as may be appropriate, including, but not limited to, employment, reinstatement, promotion, and the payment of lost wages and benefits.

(c) PRIVATE CIVIL ACTIONS.—

(1) LIABILITY.—An employer who violates this Act shall be liable to the employee or prospective employee affected by such violation. Such employer shall be liable for such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, promotion, and the payment of lost wages and benefits.

(2) COURT.—An action to recover the liability prescribed in paragraph (1) may be maintained against the employer in any Federal or State court of competent jurisdiction by an employee or prospective employee for or on behalf of such employee, prospective employee, and other employees or prospective employees similarly situated. No such action may be commenced more than 3 years after the date of the alleged violation.

(3) COSTS.—The court, in its discretion, may allow the prevailing party (other than the United States) reasonable costs, including attorney's fees.

(d) WAIVER OF RIGHTS PROHIBITED.—The rights and procedures provided by this Act may not be waived by contract or otherwise, unless such waiver is part of a written settlement agreed to and signed by the parties to the pending action or complaint under this Act.

SEC. 7. EXEMPTIONS.

(a) NO APPLICATION TO GOVERNMENTAL EMPLOYERS.—This Act shall not apply with respect to the United States Government, any State or local government, or any political subdivision of a State or local government.

(b) NATIONAL DEFENSE AND SECURITY EXEMPTION.—

(1) NATIONAL DEFENSE.—Nothing in this Act shall be construed to prohibit the administration, by the Federal Government, in the performance of any counterintelligence function, of any lie detector test to—

(A) any expert or consultant under contract to the Department of Defense or any

employee of any contractor of such Department; or

(B) any expert or consultant under contract with the Department of Energy in connection with the atomic energy defense activities of such Department or any employee of any contractor of such Department in connection with such activities.

(2) Security.—Nothing in this Act shall be construed to prohibit the administration, by the Federal Government, in the performance of any intelligence or counterintelligence function, of any lie detector test to—

(A)(i) any individual employed by, assigned to, or detailed to, the National Security Agency, the Defense Intelligence Agency, or the Central Intelligence Agency,

(ii) any expert or consultant under contract to any such agency,

(iii) any employee of a contractor to any such agency,

(iv) any individual applying for a position in any such agency, or

(v) any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency; or

(B) any expert, or consultant (or employee of such expert or consultant) under contract with any Federal Government department, agency, or program whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2(a) of Executive Order 12356 (or a successor Executive order).

(c) FBI Contractors Exemption.—Nothing in this Act shall be construed to prohibit the administration, by the Federal Government, in the performance of any counterintelligence function, of any lie detector test to an employee of a contractor of the Federal Bureau of Investigation of the Department of Justice who is engaged in the performance of any work under the contract with such Bureau.

(d) Limited Exemption for Ongoing Investigations.—Subject to sections 8 and 10, this Act shall not prohibit an employer from requesting an employee to submit to a polygraph test if—

(1) the test is administered in connection with an ongoing investigation involving economic loss or injury to the employer's business, such as theft, embezzlement, misappropriation, or an act of unlawful industrial espionage or sabotage;

(2) the employee had access to the property that is the subject of the investigation;

(3) the employer has a reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(4) the employer executes a statement, provided to the examinee before the test, that—

(A) sets forth with particularity the specific incident or activity being investigated and the basis for testing particular employees,

(B) is signed by a person (other than a polygraph examiner) authorized to legally bind the employer,

(C) is retained by the employer for at least 3 years, and

(D) contains at a minimum—

(i) an identification of the specific economic loss or injury to the business of the employer,

(ii) a statement indicating that the employee had access to the property that is the subject of the investigation, and

(iii) a statement describing the basis of the employer's reasonable suspicion that the employee was involved in the incident or activity under investigation.

(e) Exemption for Security Services.—

(1) In general.—Subject to paragraph (2) and sections 8 and 10, this Act shall not prohibit the use of polygraph tests on prospective employees by any private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 90 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power,

(ii) public water supply facilities,

(iii) shipments or storage of radioactive or other toxic waste materials, and

(iv) public transportation, or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) Access.—The exemption provided under this subsection shall not apply if the test is administered to a prospective employee who would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(f) Exemption for Drug Security, Drug Theft, or Drug Diversion Investigations.—

(1) In general.—Subject to paragraph (2) and sections 8 and 10, this Act shall not prohibit the use of a polygraph test by any employer authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. 812).

(2) Access.—The exemption provided under this subsection shall apply—

(A) if the test is administered to a prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(B) in the case of a test administered to a current employee, if—

(i) the test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employer, and

(ii) the employee had access to the person or property that is the subject of the investigation.

SEC. 8. RESTRICTIONS ON USE OF EXEMPTIONS.

(a) Test as Basis for Adverse Employment Action.—

(1) Under ongoing investigations exemption.—Except as provided in paragraph (2), the exemption under subsection (d) of section 7 shall not apply if an employee is discharged, disciplined, denied employment or promotion, or otherwise discriminated against in any manner on the basis of the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence. The evidence required by such subsection may serve as additional supporting evidence.

(2) Under other exemptions.—In the case of an exemption described in subsection (e) or (f) of such section, the exemption shall not apply if the results of an analysis of a polygraph test chart are used, or the refusal to take a polygraph test is used, as the sole basis upon which an adverse employment action described in paragraph (1) is taken against an employee or prospective employee.

(b) Rights of Examinee.—The exemptions provided under subsections (d), (e), and (f) of section 7 shall not apply unless the requirements described in the following paragraphs are met:

(1) All Phases.—Throughout all phases of the test—

(A) the examinee shall be permitted to terminate the test at any time;

(B) the examinee is not asked questions in a manner designed to degrade, or needlessly intrude on, such examinee;

(C) the examinee is not asked any question concerning—

(i) religious beliefs or affiliations,

(ii) beliefs or opinions regarding racial matters,

(iii) political beliefs or affiliations,

(iv) any matter relating to sexual behavior; and

(v) beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations; and

(D) the examiner does not conduct the test if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the actual testing phase.

(2) Pretest phase.—During the pretest phase, the prospective examinee—

(A) is provided with reasonable written notice of the date, time, and location of the test, and of such examinee's right to obtain and consult with legal counsel or an employee representative before each phase of the test;

(B) is informed in writing of the nature and characteristics of the tests and of the instruments involved;

(C) is informed, in writing—

(i) whether the testing area contains a two-way mirror, a camera, or any other device through which the test can be observed,

(ii) whether any other device, including any device for recording or monitoring the test, will be used, or

(iii) that the employer or the examinee may (with mutual knowledge) make a recording of the test;

(D) is read and signs a written notice informing such examinee—

(i) that the examinee cannot be required to take the test as a condition of employment,

(ii) that any statement made during the test may constitute additional supporting evidence for the purposes of an adverse employment action described in subsection (a),

(iii) of the limitations imposed under this section,

(iv) of the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act, and

(v) of the legal rights and remedies of the employer under this Act (including the rights of the employer under section 9(c)(2)); and

(E) is provided an opportunity to review all questions to be asked during the test and is informed of the right to terminate the test at any time.

(3) Actual testing phase.—During the actual testing phase, the examiner does not ask such examinee any question relevant during the test that was not presented in writing for review to such examinee before the test.

(4) POST-TEST PHASE.—Before any adverse employment action, the employer shall—

(A) further interview the examinee on the basis of the results of the test; and

(B) provide the examinee with—

(i) a written copy of any opinion or conclusion rendered as a result of the test, and

(ii) a copy of the questions asked during the test along with the corresponding charted responses.

(5) MAXIMUM NUMBER AND MINIMUM DURATION OF TESTS.—The examiner shall not conduct and complete more than five polygraph tests on a calendar day on which the test is given, and shall not conduct any such test for less than a 90-minute duration.

(c) QUALIFICATIONS AND REQUIREMENTS OF EXAMINERS.—The exemptions provided under subsections (d), (e), and (f) of section 7 shall not apply unless the individual who conducts the polygraph test satisfies the requirements under the following paragraphs:

(1) QUALIFICATIONS.—The examiner—

(A) has a valid and current license granted by licensing and regulatory authorities in the State in which the test is to be conducted, if so required by the State; and

(B) maintains a minimum of a $50,000 bond or an equivalent amount of professional liability coverage.

(2) REQUIREMENTS.—The examiner—

(A) renders any opinion or conclusion regarding the test—

(i) in writing and solely on the basis of an analysis of polygraph test charts,

(ii) that does not contain information other than admissions, information, case facts, and interpretation of the charts relevant to the purpose and stated objectives of the test, and

(iii) that does not include any recommendation concerning the employment of the examinee; and

(B) maintains all opinions, reports, charts, written questions, lists, and other records relating to the test for a minimum period of 3 years after administration of the test.

SEC. 9. DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—A person, other than the examinee, may not disclose information obtained during a polygraph test, except as provided in this section.

(b) PERMITTED DISCLOSURES.—A polygraph examiner may disclose information acquired from a polygraph test only to—

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the employer that requested the test; or

(3) any court, governmental agency, arbitrator, or mediator, in accordance with due process of law, pursuant to an order from a court of competent jurisdiction.

(c) DISCLOSURE BY EMPLOYER.—An employer (other than an employer described in subsection (a), (b), or (c) of section 7) for whom a polygraph test is conducted may disclose information from the test only to—

(1) a person in accordance with subsection (b); or

(2) a governmental agency, but only insofar as the disclosed information is an admission of criminal conduct.

SEC. 10. EFFECT ON OTHER LAW AND AGREEMENTS.

Except as provided in subsections (a), (b), and (c) of section 7, this Act shall not preempt any provision of any State or local law or of any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to lie detector tests than any provision of this Act.

SEC. 11. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall become effective 6 months after the date of enactment of this Act.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act.

And the Senate agree to the same.

AUGUSTUS F. HAWKINS,
MATTHEW G. MARTINEZ,
PAT WILLIAMS,
JIM JEFFORDS,
STEVE GUNDERSON,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
SPARK MATSUNAGA,
ORRIN HATCH,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate, to the bill (H.R. 1212) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DEFINITIONS

The House bill defines the terms "lie detector test," "employer," and "commerce."

The Senate bill defines these terms and others.

The conference agreement contains definitions that are generally self-explanatory. However, two points of clarification should be made with respect to the definition of "lie detector" adopted by the conference. First, unlike the House bill and Senate amendment, the conference agreement defines not a lie detector test but the device itself. The conferees did so to provide greater clarity to the definition, and intend that the prohibition on a lie detector test be construed broadly to include any use of a lie detector. Second, the conference agreement parallels the House definition of lie detector to prohibit the use of all such devices, whether mechanical or electrical. By declining to include chemical testing, the conferees intend that the term "lie detector" does not include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids. The conferees also do not intend to include written or oral tests (commonly referred to as "honesty" or "paper and pencil" tests) within the definition of lie detector.

In distinguishing between the lie detector and the polygraph, it is the intent of the conferees to prohibit private employers from using the deceptograph, voice stress analyzer, psychological stress evaluator or any other similar device (whether mechanical or electrical) while permitting only the use of the polygraph for those purposes under the special circumstances defined in the Act.

PROHIBITIONS ON LIE DETECTOR USE

The House bill generally prohibits the use of all types of lie detectors in private employment settings. Federal, state and local government employers are exempt from this prohibition, as are private contractors engaged in intelligence or counterintelligence work. Employers providing private security services, and employers involved in the manufacture, distribution and dispensing of controlled substances, may also request polygraph tests under certain circumstances.

The Senate amendment contains a similar prohibition against lie detector tests. It provides almost identical exemptions for governmental and national security usage, as well as for employers providing private security services. It also exempts employees or any prospective employee of a nuclear power plant. Moreover, the Senate amendment provides that all employers may request a polygraph test in connection with an ongoing investigation of a specific incident or activity involving economic loss or injury.

The conference agreement retains the exemptions for federal, state and local governments. The exemption provided for national security functions specifies that the federal government may administer lie detector tests to certain employees of contractors to various federal agencies engaged in intelligence and counterintelligence work. The conference agreement is designed to conform with the National Defense Authorization Act for Fiscal Years 1988 and 1989 (H.R. 1748), which restricts such testing to individuals whose duties involve access to top secret or special access program information.

By exempting public sector employers and private contractors engaged in intelligence and counterintelligence functions, the conferees recognize the functions performed by these employers are not within the jurisdiction of the committees which reported the legislation, and the policy decisions as to the proper or improper use of such tests are left to the committees of jurisdiction and expertise.

The conference agreement provides a limited exemption from the general prohibition on lie detectors for the use of polygraphs in connection with an ongoing investigation involving economic loss or injury to the employer's business. An employer may request such a test of an employe only when the employee had access to the property and the employer has a resonable suspicion that the employee was involved in the incident.

The conference agreement slightly alters the description of economic loss to clarify that the examples cited are illustrative and not exhaustive. The conferees do not intend that all losses, such as an unintentional economic loss stemming from a truck or workplace accident, should serve as a pretext for the administration of a polygraph test. Similarly, the economic loss incident to law ful union or employee activity would not satisfy this standard. There are also specific incidents, such as check-kiting, money laundering, or the misappropriation of inside or confidential information which would meet the requisite injury standard even though they might result in short term gain. Similarly, such instances as theft from property managed by an employere would meet the required injury standard.

Prior to requesting a polygraph test, an employer must execute a statement setting forth with particularity the specific incident or activity being investigated and the basis for testing a particular employee. The statement must be signed by a person authorized by law to bind the employer and must be retained by the employer for three years. At a minimum, the statement must identify the specific loss or injury to the employer, must describe the employee's access, and must explain the basis of the employer's reasonable suspicion that the employee was involved in the incident or activity. This statement must be provided to an employee prior to the administration of a test.

The conferees intend that the term "reasonable suspicion" refers to some observable, articulable basis in fact beyond the predicate loss and access required for any testing. This could include such factors as the demeanor of the employee or discrepancies which arise during the course of an investigation. And while access alone does not constitute a basis for reasonable suspicion, the totality of circumstances surrounding such access, such as its unauthorized or unusual nature, may constitute an additional factor.

The conference agreement provides for two additional exceptions from the general prohibition on lie detector tests. Employers engaged in providing certain private security services, and employers engaged in manufacturing, distributing or dispensing controlled substances, are not porohibited from using polygraphs for employees or prospective employees if such tests are conducted in accordance with certain restrictions.

The conferees did not adopt the exemption for employees of a nuclear power facility. Under current law (P.L. 99-399), these employers are already required to fingerprint all unescorted personnel in such facilities. These fingerprints must be submitted to the Attorney General of the United States through the Nuclear Regulatory Commission for identification and a criminal history records check. The conferees believe that these extensive and unusual requirements are much more likely to provide accurate, verifiable information about an applicant than could be obtained from a lie detector test.

NOTICE OF PROTECTION

The House bill requires the Secretary of Labor to prepare and distribute a notice regarding the Act. Employers must post and maintain such notice in a conspicuous place.

The Senate amendment is similar.

The conference agreement adopts the language of the Senate amendment. The conferees recognize that it is not possible for the Secretary to distribute a notice by mail to each affected employer, but expect that such notices will be made available and the Secretary will take appropriate steps to advise employers of their obligations.

ENFORCEMENT PROVISIONS

The House bill provides for a penalty for failure to post notices, civil penalties of not more than $10,000 for other violations, authority for injunctive actions by the Secretary, and authority for private civil actions.

The Senate amendment does not provide a separate penalty for failure to post notices, but is similar to the House bill in other respects.

The conference agreement does not include a separate penalty for failure to post notices. It does permit the assessment by the Secretary of Labor of a civil penalty of not more than $10,000 for any violation of the Act. The Secretary is also permitted to bring an action for injunctive relief or other legal or equitable relief incident thereto. The Solicitor of Labor is authorized to appear on behalf of the Secretary in such proceedings. An employee or prospective employee may bring an action as well, provided it is commenced within three years of the date of the alleged violation. The rights and procedures afforded under the Act may not be waived unless such waiver is part of a written settlement agreed to and signed by each of the parties to the pending action or complaint.

The conferees intend that the enforcement provisions are not to be construed as a limitation upon private actions being brought under current law. Nothing in the Act is intended to limit the courts in granting any and all remedies currently available.

RESTRICTIONS ON POLYGRAPH USAGE

The House bill stipulates that the results of lie detector tests may not be used as the sole basis for an adverse employment action when used in the private security or pharmaceutical industries.

The Senate amendment prohibits adverse employment action based on the results of a polygraph test, or the refusal to take a polygraph test, whether in connection with an ongoing investigation or within the private security industry, without additional supporting evidence. The Senate amendment also requires that an examiner must provide information regarding the details of the test and the examinee's rights. Finally, the Senate amendment establishes minimum standards for polygraph examiners.

The conference agreement provides that the refusal to take a polygraph test, or the results of a polygraph test generally may not serve as the basis for an adverse employment action without additional supporting evidence. Evidence leading to the employer's reasonable suspicion may constitute such additional supporting evidence. In the case of the pharmaceutical and private security industries, the refusal to take a polygraph test or the results of a polygraph test may not serve as the sole basis upon which an adverse employment action is taken against an employee or prospective employee.

The conference agreement provides that prior to the test an examinee must be read and provided in writing a notice including each of the examinee's rights and the limitations imposed, such as prohibited areas of questioning and restrictions on the use of test results. The conferees intend that this notice may clear to examinees that admissions of criminal conduct made by the examinee may be transmitted to any appropriate governmental agency.

The conference agreement makes clear that, among other rights an examinee may refuse to take a test, terminate a test at any time, or decline to take a test if subject to a medical condition that might cause an abnormal response. The conferees intend that an individual who exercises any of these rights be treated the same as one who refused to take a test, with the protections incident thereto. The conference agreement also makes clear that an examinee must be informed of the actions an employer may take if the examinee exercises these rights, including taking an adverse employment action provided that the other requirements of the Act have been satisfied.

The conference agreement establishes no licensing standards for polygraph examiners except that they must have a valid and current license if required by the state in which a test is to be conducted; they must maintain a $50,000 bond or equivalent amount of professional liability coverage; and they must meet certain requirements regarding the nature, form and retention of opinions and other records related to the test.

DISCLOSURE OF INFORMATION

The House bill contains no provision relating to the disclosure of information obtained during a polygraph test.

The Senate amendment restricts the ability of examiners and employers to disclose such information.

The conference agreement prohibits examiners and employers from disclosing information obtained during a polygraph test other than to a person designated by the examinee, the person who requested the test, or certain other persons pursuant to a court order. The conference agreement also permits the disclosure of an admission of criminal conduct made by the examinee to any appropriate governmental agency. However, the employer may not transmit any other information, including opinions, charts, or other records relating to the examination, unless such governmental agency complies with all other provisions of the Act to obtain such information.

EFFECT ON OTHER LAWS AND AGREEMENTS

The House bill provides that its provisions will not preempt more restrictive provisions found in state or local laws or negotiated agreements.

The Senate bill contains similar provisions.

The conference agreement provides that its provisions will not preempt any provision of state or local law, or any provision of a collective bargaining agreement, that prohibits lie detector tests or is more restrictive with respect to lie detector tests. The conferees intend that this provision apply to all aspects of such tests, including procedural safeguards, the use of test results, the rights and remedies provided examinees, and the rights, remedies, and responsibilities of examiners and employers. For example, more stringent bonding requirements in a state law would preempt the federal bonding requirement. State prohibitions on the use of polygraphs in private employment could preempt the limited exemptions provided in this Act. A collective bargaining agreement that provides greater protections to an examinee would take precedence over the correlative provisions in this Act. In addition, since the Act does not apply to state and local governments it would not impede their ability to enforce existing statutes or to enact subsequent legislation restricting the use of lie detectors with respect to public employees.

EFFECTIVE DATE

The House bill provides for an effective date six months from the date of enactment.

The Senate amendment provides for an effective date six months from the date of enactment and provides for all necessary regulations to be issued by the Secretary 120 days from the date of enactment.

The conference agreement provides for an effective date six months from the date of enactment, and for the Secretary to issue necessary rules and regulations no later than 90 days from the date of enactment. The conferees intend that this six-month time period between that date of enactment and the effective date be utilized by the Secretary to develop and promulgate regulations, and for information regarding the requirements of the Act and regulations to be disseminated to affected employees and employers. The conferees do not intend that polygraph examinations be conducted by employers during this time in an effort to administer a greater number of polygraph tests to employees before the effective date of this Act.

MEXICAN STEEL LOAN

The House bill contains no provision regarding the World Bank's proposed loan to the Mexican steel industry.

The Senate amendment includes a sense of the Senate provision that the World Bank should reject a proposed loan to the Mexican steel industry because it would not be in the best interests of the United States.

The conference agreement deletes the sense of the Senate provision. Despite the objections of the Senate, the World Bank approved the loan to the Mexican steel industry on March 3, 1988. Therefore the provision is moot. The deletion of the provision does not reflect any opinion of the conferees regarding this provision.

AUGUSTUS F. HAWKINS,
MATTHEW G. MARTINEZ,
PAT WILLIAMS,
JIM JEFFORDS,
STEVE GUNDERSON,
Managers on the part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
SPARK MATSUNAGA,
ORRIN HATCH,
ROBERT T. STAFFORD,
Managers on the part of the Senate.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, May 13, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on May 5, 1988:

LEASE PROSPECTUSES

Department of the Interior, Fish and Wildlife Service, Washington, D.C. or Northern Virginia.

Department of Commerce, Census Bureau, Louisville Kentucky/Jeffersonville, IN area.

Department of Commerce, Census Bureau, New York, NY.

U.S. Customs Service, Long Beach, CA.

Corps of Engineers, Internal Revenue Service and National Labor Relations Board, Chicago, IL.

Foley Square (lease-purchase), Manhattan, NY.

CONSTRUCTION

U.S. Courthouse and Federal Building, St. Croix, Virgin Islands.

U.S. Courthouse and Federal Building Annex, Bridgeport, CT.

A.A. Ribicoff Federal Building and Courthouse Annex, Hartford, CT.

U.S. Post Office and Courthouse, Camden, NJ.

U.S. Courthouse and Federal Building Annex, Trenton, NJ.

Federal Building-U.S. Courthouse, Champaign-Urbana, IL.

Border Station, International Falls, MN.

REPAIR AND ALTERATION

Prospectus for Design fiscal year 89.

PCB Program—(Polychlorinated Biphenyl Abatement), Various Buildings.

Automatic Sprinkler Systems, Various Buildings.

Elevators—upgrading.

Federal Building-Post Office-Courthouse, Juneau, AL.

Federal Building, Post Office and Courthouse, Pine Bluff, AR.

Jacob Weinberger Federal Building, San Diego, CA.

Federal Building, Jacksonville, FL.

Gene Snyder Courthouse—Customhouse, Louisville, KY.

Hale Boggs Federal Building—U.S. Courthouse, New Orleans, LA.

John F. Kennedy Federal Building, Boston, MA.

James O. Eastland Post Office—U.S. Courthouse, Jackson, MI.

Federal Records Center, 9700 Page Boulevard, Overland, MO.

Federal Building and U.S. Courthouse, Trenton, NJ.

Emanuel Celler Federal Building and U.S. Courthouse, Brooklyn, NY.

U.S. Mission to the United Nations, New York, NY.

Kenneth B. Keating Federal Building, Rochester, NY.

Clifford Davis Federal Building, Memphis, TN.

U.S. Post Office, Austin, TX.

Bob Casey Federal Building, Houston, TX.

Federal Building-Courthouse, Lubbock, TX.

Post Office-Courthouse, Salt Lake City, UT.

Federal Building, U.S. Post Office and Courthouse, Burlington, VT.

U.S. Courthouse Annex Building, Richmond, VA.

Federal Building-Courthouse, Milwaukee, WI.

Forrestal Building, Washington, DC.

General Accounting Office Headquarters Building, Washington, DC.

General Services Administration, Headquarters Building, Washington, DC.

Ariel Rios Federal Building, Washington, DC.

11(B) RESOLUTIONS

Boulder, Colorado.

Buffalo, New York.

Cleveland County, NC.

The original and one copy of the authorizing resolution is enclosed.

Sincerely,

GLENN M. ANDERSON,
Chairman.

There was no objection.

PERMISSION FOR MEMBER TO BE COSPONSOR OF H.R. 3807

Mr. KLECZKA. Mr. Speaker, I ask unanimous consent to be made a coauthor of the bill, H.R. 3807.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader the program for next week after we return from the Memorial Day recess.

Mr. FOLEY. Mr. Speaker, will the distinguished Republican minority leader yield?

Mr. MICHEL. I am happy to yield to the distinguished gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican leader for yielding.

We have now concluded the business for the day and for the week, and the House will begin this evening the Memorial Day recess.

On Monday, May 30, the House will not be in session. We will not be in session tomorrow, of course. We will not be in session on Monday or Tuesday.

We will be in session at 1 p.m. on Wednesday, June 1. We will be considering H.R. 1801, the Juvenile Justice and Delinquency Prevention Act under an open rule with 1 hour of debate.

On Thursday, June 2, and Friday, June 3, the House will meet at 10 a.m. to consider H.R. 4561, the NASA authorization for fiscal years 1989-91, under an open rule with 1 hour of debate.

H.R. 4505, the Department of Energy authorization for fiscal year 1989 under an open rule with 1 hour of debate; and H.R. 4418, the National Science Foundation authorization for fiscal year 1989 with 1 hour of debate under an open rule.

Members should be advised of possible action on the conference report on H.R. 2470, the Medicare Catastrophic Protection Act of 1987, and H.R. 1212, the Employee Polygraph Protection Act.

Mr. MICHEL. I know in our previous colloquies the gentleman had made it quite clear after we return from the Memorial Day recess and do not reconvene until 1 p.m. on Wednesday that we would definitely have a session both on Thursday and Friday. While I note that there are three bills scheduled, two of those are very noncontroversial. I assume we still have to give Members the indication that there will be a Friday session, as previously indicated.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield further, if we conclude the program or it appears we will conclude the program on Thursday, we will schedule bills for Friday as well which will bring about a vote.

Mr. MICHEL. I understand.

Mr. FOLEY. Members should have no illusions that there will be an early conclusion of the program next week and that we will not have a Friday session. We will bring up available business on Friday.

We have tried to give Members now a month and a half notice of all votes and only two of the Mondays and Fridays of May and June have we given notice of any votes, and that is Friday, the 3d of June, and Friday, the 10th of June.

In effect, out of the 16 Wednesdays and Fridays of the 2 months, we have announced no votes for 14 of them, but I think Members should expect that on these two small minority Friday and Monday days, the 3d and the 10th, we will have votes. We are not going to have a huge program of many, many votes, but there are going to be votes. We find, frankly, that Members complain if we do not do that. There are Members who say. "Well, at last minute if we don't have any business, why do you just not drop the votes on Friday, the 3d and the 10th?

But if we do that, other Members come to us and say, "In response to your announcement that we would have votes on the 3d and the 10th, I changed my schedule and I cancelled events in my home constituency and now I am embarrassed because it is clear that at the last minute you have cancelled those schedules and made my cancellation of other appearances seem unnecessary."

So in the interests of making the schedule as predictable, as advanced, as reliable and as dependable as possible, when we say that we are not going to have any votes, we are going to stick by that, and when we say we are going to have votes, we are going to stick by that.

I hope that will meet with the approval of the Members.

□ 1615

Mr. MICHEL. Let me simply say that when the distinguished majority leader laid out nearly 6 weeks of advance notice with the schedule, that I thoroughly concurred in that scheduling and a commitment was made at that time. I think that is what the membership was looking for.

I would say further that the minute we get to the point that we are not back until Wednesday, for example, and we only have a session on Thursday, the question automatically arises why do we even come back at all next week? That is the next question that I get. But we did lay it out ahead of time, and we have to stick with it. My view is that I think come Friday I think Members could reasonably be assured that we would like to shoot for that 3 o'clock conclusion time on a Friday so that there are opportunities to make the flights for Members who have to travel considerable distance.

Mr. FOLEY. If the gentleman will yield further, we will do that, and I want to thank the Members for their cooperation today which made it possible to conclude action on the budget resolution as well as the intelligence authorization bill before 4 o'clock and afford an opportunity for Members to make afternoon planes. That was the result of very much appreciated cooperation on your side, Mr. Leader, and on this side as well and with the cooperation of committee staffs. I think it has been in the interests of the membership. I appreciate the strong support of the leader on the matters we have discussed.

Mr. MICHEL. Mr. Speaker, I appreciate the remarks of the gentleman from Washington [Mr. FOLEY].

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The **SPEAKER** pro tempore (Mr. KLECZKA). Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, June 1, 1988, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

HOME OWNERSHIP ASSISTANCE ACT

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, I rise today to introduce legislation to ease one of the most pressing problems facing American families—the increasing difficulty of raising a sufficient down payment for the purchase of a first home.

After rising steadily for decades, the rate of home ownership in the 1980's has dipped sharply, particularly among younger Americans. In some age groups, the decline in home ownership is approaching 20 percent. Accumulating evidence shows that the task of scraping together the sum required for a down payment, rather than the obligation of meeting monthly mortgage payments, is the chief obstacle to first-time buyers.

Therefore, Mr. Speaker, today I am introducing legislation, the Home Ownership Assistance Act of 1988, that would increase the percentage of a home's value that the FHA is able to insure. In the case of first-time home buyers, the FHA could insure 97 percent of the home's value; this would permit a reduction in the down payment of about 30 percent. The bill would make additional changes in FHA programs aimed at lowering monthly payments and adjusting the mortgage cap in regions where families of moderate income are being priced out of the housing market. My bill is similar to S. 2379, recently introduced in the other body by Senators SASSER, HEINZ, and SANFORD.

I stress to my colleagues that this expansion of FHA assistance programs will not add one penny to Federal spending obligations. The basic FHA Home Ownership Program, even with these modifications, should continue to run a surplus for the Federal Government. Mr. Speaker, I invite all of my colleagues to join me in helping to make the dream of home ownership and all of its benefits, both economic and social, possible for all Americans.

THEY MISSED THE BOAT

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BEREUTER. Mr. Speaker, I wish to call to my colleagues' attention an editorial in the Washington Post of this morning entitled, "They Missed the Boat," the editorial discusses the failure of the United States to use the World Bank as well as it might in a multilateral approach to assisting developing nations.

The United States was a leader in establishing international organizations as vehicles for development. Now other nations are seizing the lead and paying more and more of the costs—over 80 percent in the case of the World Bank. We find ourselves in the position of following their leadership or balking at their leadership rather than maximizing our own leadership in the multilateral framework.

World Bank loans are usually needed as a catalyst for new funds from commercial sources. Given the debt crisis, other commercial money has almost dried up. The role of the World Bank is even more critical now for economic growth and for the survival of democracy in many of these nations.

Some of my Democrat colleagues on the Banking Committee argue that the "World Bank is merely bailing out the commercial banks." To that the Washington Post says flatly, and I quote, "That's incorrect."

Respected environment groups are also arguing that we should hold up U.S. participation in the recently approved multilateral expansion of the Bank's capital for the same reason. The failure to act for either reason will really only hurt the less fortunate who need the World Bank's assistance.

What is needed is a creative, innovative approach that places the World Bank in a leadership position in resolving the debt issue and fostering environmentally sound economic growth and the United States needs to continue to be the leader within the World Bank, not sit out the game. This multilateral approach maximizes the impact of the U.S. dollars that are spent to benefit the needy in poor countries, to stimulate the free world's economic growth, and still pursue U.S. national interests.

I submit the text of the editorial to print following my remarks.

THEY MISSED THE BOAT

Congress is trying to set conditions on the World Bank's expansion and threatens to hold up the American contribution until the bank changes policy. But the congressmen are neglecting one important reality. The World Bank has already voted the expansion. The other members didn't wait for Congress to make up its 535 minds. The only real question now is whether Congress will come through with the contribution that the United States, as a member of the World Bank, is committed to make.

Much of Congress has yet to come to terms with the shareholder democracy of international organizations like this bank. Most congressmen approve of the voting system in theory, and of the principle that the majority rules. But in their hearts they think it only proper that the other members should let the United States make the key decisions, as they did for many years. This time, the other members went ahead without waiting.

The purpose of the World Bank is to make loans to poor countries to strengthen their economies and lift their people's standards of living. It is run by the rich countries, which cast votes in proportion to their contributions to the bank's capital. Currently, the United States holds 18.75 percent of the votes. So far, 79 percent of the votes have been cast in favor of the expansion—that is, just about all the members but the United States have agreed to proceed and to put up the money to do it. Since it takes 75 percent of the votes to carry the expansion, that issue is settled.

Increased lending is urgently needed in the countries that are struggling to carry large foreign debts to commercial banks. Some of the House Democrats object that the World Bank is merely bailing out the commercial banks. That's incorrect. The World Bank's loans do not replace commercial banks' loans. To the contrary, its loans are often contingent on the commercial banks' putting up more money. The indebted countries need credit to keep growing, and without the World Bank their chances of finding it would be greatly diminished. The U.S. share of this expansion would cost $70 million a year for six years, which, with the other contributions, will raise the bank's lending about $5 billion a year.

If the United States doesn't come through with its share, it's possible that other countries will back away from their promises. The World Bank has always depended on American leadership. But there's another possiblity—that the other countries won't back away. If that happened, the American votes would drop to a little more than half the present share. U.S. influence would drop as well, and leadership would have to pass to other hands.

CELEBRATING THE ABANDONMENT OF THE SHOREHAM NUCLEAR POWERPLANT

(Mr. HOCHBRUECKNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOCKBRUECKNER. Mr. Speaker, I am absolutely delighted this afternoon to announce a major but incomplete victory for the people of Long Island relative to the closing of the Shoreham Nuclear Powerplant.

This is a plant that many people on Long Island, in fact 85 percent of the people in my congressional district have opposed. For 5 years we have worked to stop this nuclear powerplant from opening and I am extremely pleased to say that a bargain has been struck which will apparently guarantee the abandonment of the Shoreham plant as a nuclear facility. It is a major victory for the people of Long Island, and a tribute to our high hopes and hard work. It is however an incomplete victory in that we were not successful in going all the way and bringing public power to Long Island.

We will be shutting down the plant and that is good news, and I hope in the future we will be able to bring public power to Long Island and reap the associated benefits. Clearly, public power is in the best interests of the people of Long Island. I hope we can achieve that goal in phase two of this program. Phase one is in place, the Shoreham Nuclear Powerplant will be abandoned. Hooray for the people of Long Island.

LEGISLATION ESTABLISHING TRUST FUND FOR VICTIMS OF L'AMBIANCE PLAZA COLLAPSE IN BRIDGEPORT, CT

The SPEAKER pro tempore (Mr. JONTZ). Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I rise today to join with my colleague from Connecticut to introduce legislation establishing a trust fund to help compensate the families of the victims who were tragically killed in the L'Ambiance Plaza collapse in Bridgeport, CT, in April of last year. Twenty-eight construction workers lost their lives when the partially built 13-story apartment complex toppled to the ground. This catastrophe was the worst human toll from a construction accident in a decade.

The legislation establishes a trust fund from the record $5.1 million in fines levied by the Occupational Safety and Health Administration [OSHA] against the contractors and subcontractors that engaged in sloppy construction and engineering practices and wantonly disregarded worker safety.

If the Government successfully collects the $5.1 million in fines, there may be little left to compensate the victims' families. The purpose of our bill is to ensure that the victims' claims come first. Once the civil suits have been settled, the remaining monies in the trust fund, if any, will be paid to the Secretary of Labor to be deposited into the Treasury. The fund will be administered by the U.S. District Court.

The Government must share in the responsibility for the tragedy. After listening to extensive testimony at five congressional hearings, it is clear OSHA has failed to properly carry out its mandate to protect workers' health and safety in several important areas of responsibility. Today I would like to share my impressions of OSHA and the way it has handled events surrounding the L'Ambiance Plaza collapse.

First, it is imperative that OSHA review and change its reporting requirements. Current OSHA regulations stipulate that a construction accident must be reported only when a fatality or five or more hospitalizations occur. I find it incomprehensible that an accident of the magnitude of L'Ambiance would have gone unreported if fewer than five people were hospitalized or no life was lost.

OSHA's investigation into the L'Ambiance collapse revealed a near disaster involving the same lift-slab contractor at the Metro Center construction site in Stamford, CT, 1 year earlier. This accident should have served as a warning of impending tragedy. But it was never reported because OSHA had no requirement that it be reported.

The Metro Center accident occurred when a shearhead failure caused part of a concrete floor to sag some 15 inches in an accident nearly identical to the L'Ambiance incident. Not only was the same contractor involved in both accidents, but the same faulty building techniques and practices were responsible. OSHA officials expressed astonishment that more devastating damage did not take place at the Metro Center site.

It is clear an accident of this severity warranted a thorough investigation even though no lives were lost and only one worker was injured. Had OSHA officials been notified of what happened at Metro Center, they could have taken steps to prevent the tragedy at L'Ambiance.

Second, from the testimony I heard from representatives of labor and the construction industry, it is obvious that OSHA is severely understaffed and underfunded. In the State of Connecticut, there are ten OSHA inspectors. However, of those 10, only 2 specialize in construction. Given the inherent hazards in the construction industry, I find this statistic unacceptable. Regrettably, OSHA officials testified before the Health and Safety Subcommittee that they have all the resources they need.

Third, besides requiring more resources, OSHA may need to reorganize itself. At the very least, a separate division should be established within OSHA solely to monitor and regulate the construction industry. Given the unique dangers of this industry, it may even be advisable to create an entirely new agency under the Department of Labor.

Finally, the assessment of high financial penalties, such as the record $5.1 million in the L'Ambiance Plaza disaster, cries out for criminal sanctions as well. Employers who knowingly violate safety codes should be held accountable for their actions. For too long, individuals within a corporation have been allowed to hide behind their corporate shield. The company is fined; the major decision makers within the company walk away scot-free. It seems so obvious to me that an employer who knowingly disregards safety regulations resulting in the serious injury or death of an employee should be subject to criminal prosecution. Murder in the workplace cannot be tolerated.

Recently OSHA referred the L'Ambiance case to the Department of Justice for criminal prosecution. The Justice Department must now decide whether to prosecute. Twenty-eight workers lost their lives, fines were imposed, and yet no one has been prosecuted. But even if individuals are prosecuted, under current law the penalties can only be a maximum of $10,000 and 6 months in jail.

According to testimony before the Employment and Housing Subcommittee, OSHA has referred only 38 cases since its inception in 1970 for criminal prosecution. Of those 38 cases, the Justice Department has pursued 14. This record is pathetic. It is my understanding no one has spent 1 day in jail for violating Federal OSHA law.

Because of this dismal record, States such as New York, Illinois and California have had the take the initiative. In cases where OSHA has imposed a minimal monetary fine for a serious violation of safety codes, State prosecutors have successfully pursued homicide convictions.

Regrettably, State prosecutors have recently pursued cases and won criminal convictions only to have them challenged on the grounds that Federal law preempts State law. OSHA should immediately clarify the right of State prosecutors to impose criminal sanctions against employers who knowingly and recklessly disregard worker safety. If necessary, it should recommend to Congress that the law be amended to make absolutely clear that the Federal statute does not preempt the States. In addition, we must have a tougher and more aggressive Federal statute. The penalties are simply not strong enough.

It has been more than a year since the L'Ambiance collapse. Tragically, we have seen little movement to change any of the factors that contributed to the accident. OSHA has not reviewed or modified its reporting requirements. OSHA is undermanned and underfunded, yet it has not requested additional resources. OSHA has made no effort to establish a separate division to oversee construction, in spite of the unique dangers of the industry. OSHA refuses to recommend any legislative or regulatory charges imposing tougher criminal sanctions or addressing the pre-emption issue.

Twenty-eight people lost their lives. The victims' families must not only live with the loss of their loved ones but also with the reality that their Government has not responded to their tragedy.

The legislation we introduced yesterday will not correct the shortcomings of OSHA, but it will ensure that the victims' families be afforded every opportunity for a just and fair financial settlement.

□ 1630

THE PYRAMID PLAN FOR PROSPERITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, a recent resurgence of debate on public policy options for Arkansas is most encouraging. The following is the text of the the 1988 commencement address that I delivered at Arkansas State University in which I address future economic opportunities for Arkansas:

THE PYRAMID PLAN FOR PROSPERITY

(Address by Congressman Bill Alexander, Arkansas State University, May 13, 1988)

Mr. President, Trustees of the University, Distinguished Faculty, Graduates of the Class of 1988, Ladies and Gentlemen:

I feel that I am typical among the students of ASU—one of two children born to a household where neither of my parents went to college. My father left high school at age 16 to earn a living, part of which helped his parents. My mother, though graduating high in her class at Osceola High School, did not have the opportunity to attend college; and, like many of you, I was raised partly on a small farm and in a small town.

Like you, I was taught that all things of value come from honest work and that an education was essential to achievement. Because neither of my parents had the benefit of a college education, education became an early priority in my life. I share the joy and sense of accomplishment that each one of you feels this evening. Also, I can sense the relief among the parents who have helped the graduating class of 1988 along the way.

As we celebrate graduation at this fine University tonight, my thoughts turn to the time I first became acquainted with ASU, forty years ago. In 1948, as a teenager in Osceola I was beginning to read the newspapers—beyond the sports pages—there was no television then—I was becoming aware of the serious public policy issues of the day. I recall reading about a tri-state meeting of the governors of Arkansas, Mississippi, and Louisiana to sign a cooperative agreement for economic development in the region. The tri-state governors met again on a barge in the middle of the Mississippi River at the same tri-state junction where their predecessors met forty years ago today.

What were the conditions then?

In 1948, Arkansas ranked 49th among states in per capita income, 49th in teachers' pay, and near the bottom in most every other category that measures economic progress. We had a saying in those days, "Thank God for Mississippi," because in most areas of economic development only Mississippi lagged behind the national averages in all categories more than Arkansas. In 1948, there was an awakening of interest in promoting future economic development in Arkansas. World War II veterans had returned home with new ideas and a popular coalition emerged to support the concept of balancing industrial growth with agricultural production, in order to help bring our state within the mainstream of life in America. The leaders of that era resolved that Arkansas would not forever remain in the doldrums of economic stagnation, and they embarked upon an ambitious program of development. It was a beginning!

The primary emphasis has been to import industry in order to create jobs. Although, from time to time, there were intermittent periods in which federal and state government policies and programs have added a second dimension for importing jobs by providing electricity, building roads, constructing modern water and sewer systems, and schools, all of which improve the quality of life and contribute to the effort to compete for industry.

The Rural Electrification Administration has made the first step by bringing electricity to 300,000 farmers and other rural residents throughout Arkansas since 1937, improving the quality of life, expanding productivity, and enhancing balance in the economy by helping to create industrial employment.

Another major example of federal investment in capital improvements and infrastructure is the Farmers Home Administration of the U.S. Department of Agriculture, and the Department of Housing and Urban Development which provided funding for construction of water and waste treatment facilities, housing, community centers and other improvements in every county in Arkansas.

The job creation programs of the Economic Development Administration of the U.S. Department of Commerce has not only brought 78,000 private sector jobs to Arkansas since 1965, but have also repaid the initial federal investment many times over through the economic development and increases in personal income that they have created.

I could go on to provide a long list of Federal and Stage public assistance programs that have made significant contributions to economic development in Arkansas.

However, national policy fails to make a difference in Arkansas when public investments in economic development suffer from policies of neglect and social disinterest. In other words: You miss the water when the well goes dry.

Where are we today and where do we go from here?

Altogether, we have experienced economic successes in parts of our state over the past forty years in providing building blocks for economic progress.

To improve conditions in East Arkansas, and other areas suffering from cronic unemployment and economic stagnation, we need more than a one-dimensional strategy supplemented by intermittent periods of public investments.

Although noticeable progress has been achieved in some parts, Arkansas still lags behind in many areas of development.

Our people are hardworking, loyal and self-reliant.

What is lacking is the correct policy.

We must chart new directions.

I propose a three-dimensional strategy that we may envisage as a pyramid plan for prosperity.

The three fundamentals of this pyramid would be:

1. First, we should continue the traditional strategy of importing jobs.

2. Second, we should conceive a long-term, comprehensive program of public investments in education, public works, transportation, and other government programs and not persist in the on-again, off-again pattern of investing in public projects during some periods, but neglecting them in others.

In the recent report by the Carnegie Foundation commissioned by the Arkansas Business Foundation entitled "The Rise to Excellence" the following quotation from the Wall Street Journal caught my eye:

"One of the most critical challenges to leadership is to read the signs that announce the status quo has outlived its time. Established habits of thought always tend to prevail over the candid recognition of emerging realities. What is involved is not a failure of intelligence—or even a weakness of will—but a deficiency of imagination, that rarest of faculties in any leadership. It is rare because it is not usually very important. But it becomes crucial at precisely those moments when its absence is most critical—moments that represent turning points in the evolution of policy. At such moments innovation, not coping, is the order of the day" (Wall Street Journal, January 21, 1988, The Rise To Excellence).

What is needed in Arkansas is to leap beyond the status quo with imagination, courage and discovery. I sense a moment in our history that, if seized, can add a new dimension to Arkansas' economic progress.

In order to determine how we can best progress from this point forward, we need to develop a plan to earn increased profit from the products and services produced in our State.

How can we in Arkansas earn more wealth from our resources?

The answer, I believe, is the third dimension of our strategy.

3. We must aggressively promote and develop expansion of Arkansas products into new markets, both foreign and domestic.

I believe that we should actively involve ourselves in discovering and expanding new markets for all products, both agricultural and industrial.

I do not presume to know all the opportunities that may exist but may I share with you two examples of what I mean?

During the last seven years America has declined from being the world's largest creditor nation to the world's largest debtor nation. This year, Americans will buy from foreigners approximately $180 billion more than we export to them. The trade deficit must and will be reversed.

Thus an enormous opportunity is created for you to become involved in exporting our products to foreign countries.

A national policy is being formulated now to accommodate this national need.

While expanding opportunities for our products exist in the Soviet Union and Eastern Europe, I believe that Latin America offers the most immediate potential.

In a personal meeting last Fall with Oscar Arias, President of Costa Rica and winner of the 1987 Nobel Peace Prize, he told me that the key to peace in Central America lies in trade economic development, and political reform, rather than in military interventionism.

Dr. John Kaminarides and Dr. Keith Rogers of ASU are now actively assessing the nation's trade potential with Cuba.

As a nation we are awakening to the uselessness of trade embargos as a strategy to force foreign governments to change their internal policies.

After thirty years of legally prohibiting trade with Cuba, we have discovered that the people who are most hurt are American citizens who are denied the freedom to compete in the international market place.

While the wealth of Latin American commerce is yet to be determined, Central America and Cuba will soon offer new megamarkets for Arkansas agricultural and industrial products.

Although opportunities are to be found abroad, the richest market on Earth is still the United States.

As an example of a potential domestic market, the establishment of a National Energy Policy utilizing fuel from our farmlands would create a vast new domestic market for Arkansas products. The United States presently imports about 35% of its energy from foreign countries at an annual cost of about $35 billion. In essence, Americans borrow money from foreigners to buy oil from foreigners. The Office of Technology Assessment estimates that by the early 1990's or before, there will be a sharp increase in the level of imported oil to about 50% of U.S. oil consumption. "At an oil price of $18/BBL this would amount to a $50 to $60 billion per year drain on the U.S. balance of payments." (U.S. Congress, Office of Technology Assessment Report Brief. U.S. Oil Production, July 1987).

Those billions do not include the additional billions of dollars in military costs required to pay for the U.S. Navy escorts to ensure safe passage through the Persian Gulf. The New York Times reported last summer that the real cost of oil is $5.00 per gallon—one dollar at the pump and $4.00 for the naval escorts. It must be noticed that a protracted holy war in the Middle East threatens to escalate with the potential of throwing the industrial world into a state of economic shock.

Defense and foreign policy costs are an integral part of a national energy strategy; but I believe that economic necessity alone will force a decision! The commanding need for a National Energy Policy utilizing ethanol and/or methanol to blend with gasoline is too compelling to ignore. It is only a matter of a short period of time until someone will seize this opportunity. It is my hope that it will be Arkansas.

What is the potential of a National Energy Policy?

If the United States should follow the successful Brazilian energy experience utilizing alcohol fuels, America could replace imported oil with fuel grown on the farm. In a 100 billion gallon domestic market, if taken in its extreme, would mean a potential of more than 80 billion gallons of American ethanol or methanol fuel. Just imagine what this could do to increase income in Arkansas.

As a footnote, a National Energy Policy would lead to the construction of nearly one hundred new ethanol manufacturing facilities.

A National Energy Policy is the kind of powerful engine for economic development that is needed in Arkansas. Also, it would strengthen America from within by lowering budget and current account deficits; produce a cleaner environment; revive the economy; and, make America energy independent.

The Alternative Motor Fuels Act of 1988 passed by both Houses of Congress, if the President signs it into law, will crack the window of opportunity for someone to seize. Let it be Arkansas.

You are graduating into a dynamic era, at the most exciting time during the 20th Century:

There's talk of democracy in China.

A trade union movement esculates in Poland.

Peace talks progress in Central America.

Openness in the Soviet Union offers prospects for peace and trade.

And, numerous breakthroughs are frequently occurring in science and technology.

Today, you go forth from this university armed with the skills you need to participate in a dynamic and changing global economy.

As you graduate, your country stands poised to discard the indulgent in instant gratification that has marked its recent history and return to first principles.

More and more, Americans are realizing that the enormous potential of this bold young land of free people can be fulfilled only if we again take up our once-proud role as a producer nation.

This is a time of testing. Five decades ago, in an earlier time of testing, President Franklin Roosevelt said:

"To some generations much is given. Of other generations much is asked. This generation has a rendezvous with destiny."

Now, once again, a generation of Americans—your generation—is called to a rendezvous with destiny. Much has been given to you. For that reason, much is now asked.

America watches with hopeful eyes as you leave ASU, and as thousands of your counterparts leave colleges and universities across the country.

Do not be satisfied with the fleeting pleasures of ruinous consumption. I challenge you to lead, to produce, to participate, to act. Do so, and you will help make America great again.

PAN-AMERICAN DEMOCRACY AND ECONOMIC RECONSTRUCTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

(Mr. GEJDENSON asked and was given permission to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, today I have introduced the Pan-American Democracy and Economic Reconstruction Act. What has become clear from the developments yesterday with the negotiations with General Noriega is that we need to make some long-term plans for our commitment to our friends and allies and the great citizens of Panama.

What we have seen in the last several months is hasty attempt after hasty attempt by the administration to try to remove General Noriega. We need not just a stick, but also a carrot, and we need to develop this carrot not just with the people of Panama but with all the people in the region around Panama. This need not be just an American battle. This is a battle with Panama, a battle that goes on with the region of Central America and it is primarily their responsibility. Our Government ought to be there to help. Our people ought to be supportive, but we ought not allow General Noriega to turn this conflict into one between him and the American Government. The real battle goes on between the Panamanian people and General Noriega's military forces that now control that country.

In the legislation that I have introduced today, I try to provide the kind of leverage that the Panamanian civic crusade will be able to use to remove General Noriega from power, to show the Panamanian people that the United States is not just willing to help in penalizing General Noriega and his drug-running but is willing to be there with a guarantee afterwards to reconstruct their country. The legislation that I have introduced today would provide the kind of economic assistance from existing funds in the U.S. Government. It calls for no new expenditure of funds in the fiscal year. It provides economic support funds to help stabilize the banking system. It provides development assistance, housing guarantees and Public Law 480 Food-for-Peace money to help feed the people in Panama that may be hurt by the present turmoil.

What we should have learned long ago is that unless the people of a country take the first line of action, unless they lead the conflict, the United States only complicates the situation in that country. General Noriega, if we allow the Panamanian people to take the lead, will no longer be able to point to the United States as the villain. The Panamanian people will clearly see that it is he who causes damage to the Panamanian economy and the Panamanian people on a daily basis.

The legislation which I have introduced will provide this assistance and based on certain reforms; the development of real democracy, an agreement on banking reform, a halt to drug activity in Panama, reform of the judicial system, and a clear guarantee for freedom of the press.

This Congress needs to put itself on record for quick reconstruction of Panama as soon as General Noriega leaves. As for the administration, I think they have learned their lesson. They need to make sure that it is the Panamanian people who are at the forefront of this battle. One of the reasons we see Soviet troops leaving Afghanistan today is not because of United States support for the rebels, but we have allowed the Afghanis to take the lead. We did not get out in front of the resistance. We supported a resistance that is indigenous.

For a great power like the United States, it is difficult to get involved in a small country like Panama without creating an overwhelming shadow. We have to take careful action to make sure that everyone, both in Panama and around the globe, understands that it is up to the Panamanian people to remove General Noriega. They have the power and ability to do so, just as the Haitians removed Duvalier from power, and just as the Philippine people removed President Marcos from power.

What this Congress needs to learn is that after a crisis we need to support it immediately. We squandered precious time when Marcos left the Philippines, and we are still squandering time in trying to help democracy in the country of Haiti. The Panama Canal is too important to us. The region is too important to our Southern Command to be left to flounder unassisted.

I would hope that my colleagues will join me in cosponsoring this legislation that will give the administration the tools they need to save Panama once General Noriega is removed from power.

THE 100TH ANNIVERSARY OF THE VILLAGE OF SKOKIE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues the 100th anniversary of the incorporation of the village of Skokie, which is located in the 11th Congressional District of Illinois that I am privileged to represent.

During the entire year of 1988, beginning with a centennial dance that was held on February 13 at the North Shore Hilton and concluding with a gala ball on November 5 at the North Shore Hilton, various events have been scheduled to observe this important anniversary in the history of Skokie, IL.

On May 18, the actual day of incorporation, Skokie celebrated its 100th birthday with a gigantic party featuring a 6-foot birthday cake, entertainment, and an ice cream social at the Old Orchard Shopping Center.

Additionally, an open house will be held on June 26 at Village Hall and a summer festival is planned for August 12, 13, and 14 at Niles West High School featuring an Olympic competition, a fabulous parade, and a spectacular show of fireworks, as well as special recognition in November in the hall of fame of 10 citizens for their outstanding contributions to the Skokie community.

I want to take this opportunity to extend my sincerest congratulation to Mayor Jacqueline Gorell as well as to all of the officers of the village of Skokie and those who are serving on the centennial committee. Together they have done an outstanding job of planning Skokie's official centennial celebration. Just as Skokie has prospered in the past, I know that it shall continue to grow and flourish in the future with the support of its outstanding officials and its dedicated and generous citizens who have together created a community of which we are all proud.

Mr. Speaker, a brief history of the village of Skokie, as well as a listing of the officials of the village and those connected with the centennial celebration, follow:

THE HISTORY OF SKOKIE

Skokie was Indian territory until 1833 when white settlers began to migrate here. Some say the area's first settler was an Irishman named O'Brien. Others claim it was Swiss-born Nicolas Meyer who constructed the log cabin currently located behind Skokie's first fire station, now the Skokie Historical Society. The majority of the early settlers came from Germany and Luxembourg fleeing religious persecution. By 1850 the population numbered 260 and the government incorporated the area as Niles Township. Niles Township attracted numerous farmers who were drawn by the food needs of the city of Chicago. By 1858 they had become the hub of farm market activity and the market trails coursed by farm wagons gradually turned into paved roadways.

In 1888, Niles Center became the first settlement in the Township to incorporate as a

Village. Over the next 20 years, the Village developed into a thriving community with churches, shops and schools. By 1910, Niles Center's population numbered 568. But disaster soon struck in the form of a fire which destroyed an entire half block of the downtown area. Having to rebuild from ashes, a more modern community emerged with a water system and up-to-date utilities. In 1914 the Chicago and Northwestern railway came to this region and in 1920 Niles Center initiated its first "building boom." When the Depression hit in 1929, expansion came to a halt and did not start up again until after WWII.

At the urging of real estate developers, in 1940, the Village changed its name to Skokie. "Skokie" is a Pottowatami word believed to mean "bigswamp." In 1946 expansion boomed again and Skokie continued to grow and prosper with the addition of Old Orchard Shopping Center in 1956 and the institution of the Skokie Swift in 1964.

By 1970 Skokie hit its peak population of 68,322 combining a successful residential community with a healthy business climate.

Today Skokie is a thriving, modern and progressive community, proud of its 100 years of heritage, growth and determination.

Mayor: Jacqueline Gorell.

Clerk: Marlene Williams.

Board of trustees: Manly R. Croft, Robert S. Fritzshall, William J. Elliott, Frank G. McCabe, George Van Dusen.

Counsel: Barbara M. Meyer.

Centennial committee: Albert J. Smith, honorary chairman; Frank McCabe, chairman; Albert Rigoni, vice chairman; Neil Bergman; Daniel Brown; John Haben; Archel Hanson; Sue Schwartz; Roberta Sweetow.

Centennial birthday celebration committee members: Connie Markoutsas, cochairman; Barbara Meyer, cochairman; Susan Braubach; Margi Englehardt; Joe Folise; Eleanor Greenspan; Joanne Grousnick; Doug Kiehn; Mary Manning; Ellen Murphy; Sara Lee Rodgers; Kathy Ryan; Walter Sala; Shauna Scott; Shirel Shapiro; Florine Siegelman; Phyllis Silver; Nancy Van Milligen.

THE COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. ENGLISH], is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, I have today introduced the Computer Matching and Privacy Protection Act. The purpose of the bill is to regulate the use of computer matching conducted by Federal agencies or using Federal records subject to the Privacy Act of 1974.

The bill is a companion to S. 496, legislation introduced by Senator COHEN and passed by the Senate about a year ago. The Subcommittee on Government Information, Justice, and Agriculture held a hearing on computer matching legislation last June.

The House bill is generally similar to the Senate bill, but a number of minor changes, refinements, and improvements have been made. We have worked closely with the Office of Management and Budget, and I hope that the Reagan administration will be able to support this bill as I have introduced it. We expect to hold a markup early in June.

A brief summary of the bill follows:

Purpose.—The purpose of the bill is to regulate the use of computer matching conducted by federal agencies or using federal records subject to the Privacy Act of 1974.

Computer Matching.—Computer matching is the computerized comparison of records for the purpose of (i) establishing or verifying eligibility for a federal benefit program, or (ii) recouping payments or delinquent debts under such programs. Matches performed for statistical, research, law enforcement, tax, and certain other purposes are not subject to the Act.

Matching Agreements.—The bill provides that computer matching involving federal data can be conducted only pursuant to matching agreements entered into by the agency providing the data to be matched and the agency receiving the data. Matching agreements must specify the purpose and legal authority for the matching program, describe the nature of the match and the expected results, include procedures for notifying individuals affected by the match and for verifying information, and describe how the records will be protected.

Verification and Due Process.—Information resulting from computer matching programs must be independently verified before any adverse action can be taken. Individuals must be given notice and an opportunity to contest any findings resulting from a computer match.

Data Integrity Board.—The Act requires each federal agency involved in a matching program to establish a Data Integrity Board composed of senior agency officials. The Board will review and approve matching agreements, programs, and activities; evaluate compliance of matching programs with applicable requirements; review the continued justification for matching; provide guidance; and file an annual report with OMB.

OMB Responsibilities.—The Office of Management and Budget's Privacy Act responsibilities are consolidated and codified. OMB is required to issue guidelines and regulations for computer matching; hear appeals from Data Integrity Board disapprovals of matching programs; and file a consolidated report on computer matching with the Congress.

Other Changes.—Existing Privacy Act system reporting requirements are modified to include computer matching. The reporting requirements for new and changed system notices are revised. Current requirements for a report by OMB and publication of a compilation by the Federal Register are changed from annual to biennial.

MORE GREEN TEA AND DIRTY TRICKS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, from time to time in recent weeks I have been discussing our trade relations such as they may be with Japan and reading from the book "The Japanese Conspiracy" which explains how certain of our industries, in fact many of our industries, have been targeted by the Government of Japan, particularly the Ministry of International Trade and Industry and major industrial goliaths of that country working in conspiracy with the government.

The U.S. industries which have been targeted include the very vital, the very basic machine tool industry, and the latest is the semiconductor industry. Apparently the American public understands what Mr. Wolf, and he is the author of this book, Marvin Wolf, who wrote the book, what he wrote in his book, whether or not they have had the opportunity to read it, and the people say in a recent poll by Marttila & Kiley, a political research and consulting firm, nearly three out of five voters view Japan and other economic competitors as a greater threat to overall United States security than the Soviet Union and other military adversaries.

In today's climate, we can safely say that the semiconductor route is the one way that we could stop the erosion of our industrial base and, therefore, it became very important for Japan in its conspiracy to target, undermine and destroy our semiconductor industry.

Let me read only one or two paragraphs out of the chapter "Green Tea and Dirty Tricks" which I have been referring to from time to time over the past month, a couple of paragraphs about the semiconductor business. It says that in 1970 after it was well-recognized that computers were here to stay and that the computer business was very important that MITI, and MITI is the Ministry of International Trade and Industry, had decided that it wanted to foster a domestic computer industry that could compete with and ultimately replace IBM. This was a key reason behind the MITI campaign to match and pass the United States in semiconductor technology, but Japan's computer manufacturers found that competing with IBM was not easy. "We tried to sell our own machines," recalled Taiyu Kobayashi, chairman of Fujitsu, in 1982. "However, the installed base of IBM is so large and the users quite naturally want to use the software base they have built up over the years. The relative value of software on the computer system has risen to in excess of 70 percent of the cost of the system. Being compatible was the only way to get started in the computer business."

"Kobayshi confirmed that the Japanese sales strategy—compatibility with IBM's hardware—was the keystone of an effort to cut into IBM's share of the market. But in the early years, plug-compatible Japanese-made computers were not received well, even in Japan. Despite the unpopularity of their products, the Japanese industry continued its efforts to improve them. 'MITI'—and once again I want to emphasize that it was a government agency, a government agency of Japan—'put out research and development funds and brought the various companies for joint development projects,' confirmed Kobayashi. 'When domestic makers began building products and it was not clear whether what we made would work or not, MITI' "—once again, the Government of Japan—"went around to the industries that had benefited from its patronage—automobiles, steel, et cetera, and said, 'Here, use these.' "

In other words, MITI, which had set up the steel industry there and which had set up the automobile industry there and which had set up the typewriter industry there, went to each of these industries and directed those industries to use a Japanese product. It was the government who directed them.

Mr. Wolf goes on to say, "While they sat about rationalizing the Japanese computer industry, MITI"—once again, the government arm of Japan—"MITI also restricted the import of foreign-made IBM computers.

□ 1640

"They would not allow into Japan the machines, the equipment made in this country, and I think it is important that the American public understands this. There were barriers placed there and they would not allow them in," Mr. Wolf goes on to point out.

"There was considerable pushing and hauling about how to restructure the Japanese industry to compete with IBM," Mr. Kobayashi explained. Some in Japan wanted to merge all the companies into one giant computer corporation, but a decision was finally made to align the companies into three groups. Fujitsu was paired with Hitachi to pursue large computer development, and just about that time someone important quit at IBM. And I will continue that story next week. Some of my colleagues may recall that Hitachi was found guilty in years to come for stealing from IBM, and so forth.

Along that line, Mr. Speaker, there was a story in the news this week dealing with another product of ours in trade with Japan, and this one talks about beef. Our good Special Trade Representative, our Ambassador, Clayton Yeutter, was in negotiation with Japan on the semiconductor industry a little earlier this year, and more recently he has been in negotiations with them on citrus fruit and on beef, and as a matter of fact the citrus fruit and beef negotiations have become so stalled that Mr. Yeutter, our Ambassador, has put the problem in front of GATT, the General Agreement on Tariff and Trade, headquartered in Geneva, to say that there is plenty of discrimination here and we need some help.

In response to that I think the American people should know that in response to our request to Japan of letting this product in so that their people will be able to buy the product more cheaply, and the consumers in Japan are the ones who are suffering because beefsteak runs anywhere from $36 a pound and upward and an orange costs $3, a single orange $3 over there because of the restrictions placed on American imports going into that country.

This news story this week in the Journal of Commerce says that Japan is giving serious consideration to plans to triple, to raise by 3 times the country's tariffs on imports of beef in order to protect local producers. Government officials in Japan reported that this week.

"Authorities of the Ministry of Agriculture, Forestry and Fisheries told the press that the Takeshita administration is considering raising the present 25 percent duty on beef imports to approximately 70 percent to 80 percent following liberalization of the product.

"Beef imports are not subject to stiff quota controls under Japanese Government regulations," and so on it goes, and of course Japan has opposed our going to GATT, which once again is the international body dealing with trade and tariffs and fair trade between countries.

This again, Mr. Speaker, points out to me, and I in turn want to point out to the American people, what unfair trade, unfair trade we are faced with the country of Japan, with whom we have the largest trade deficit, and with which country the trade deficit decreased almost nary a yen in the last report.

Mr. Speaker, I yield back the balance of my time.

PROMOTING TOURISM IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 10 minutes.

Mr. SKELTON. Mr. Speaker, today I am introducing important legislation affecting tourism in America, House Concurrent Resolution 307. This legislation will enable us to take advantage of the good news about tourism and do something about the bad news.

Let's talk about the good news. Tourism is thriving in America. It is the third largest retail or service industry in the United States, with revenues of over $292 billion per year. It has become the second largest private employer in the Nation, with employment growing 57 percent over the past 10 years. The tourism business is not a monopoly nor is it dominated by multinational corporations, but rather 98 percent of the industry consists of diversified small businesses. This great American business brings foreign visitors to our shores contributing to the balance of trade and also to international understanding and goodwill, thereby reducing tensions and keeping peace in the world. And tourism has proven every dollar invested in its promotion is returned over tenfold. But, now the bad news: No. 1, those figures I gave you should be much higher. No. 2, many of our States are not sharing in this economic marvel. No. 3, and worst of all: We here on Capitol Hill must share the responsibility for the bad news.

My Small Business Subcommittee on Exports and Tourism held hearings around the country during the past 2 years on the economic importance of tourism. We wanted to find out how the Federal Government could assist State and local government and cooperate with private industry to tap the vast market of tourism. What became clear to us in the hearings was that the travel and tourism market remains undeveloped in many regions of the United States and there is no national tourism policy to develop the vast potential for new markets around the country.

Let me talk in particular about international tourism. Tourism is America's largest business export. In 1987, 29 million foreign visitors came to the United States and spent $19 billion. Those dollars have a multiplier effect that benefits virtually everyone in the United States. You have to look hard to find a company that doesn't benefit one way or another from tourism. Tax revenues are enhanced by foreign visitors. In 1986 international travel to the United States resulted in Federal, State, and local tax revenue of more than $1.6 billion, of which $884 million was in Federal tax revenues. You would think we would be doing everything we can to keep those dollars coming in and yet the Federal Government continues to refuse to provide the investment needed to promote foreign travel. The Government receives more money in tax revenues from foreign visitors in just 5 days than it spends on promoting foreign travel to the United States in 1 year. The administration of recent years has sought to eliminate the U.S. Tourism and Travel Administration, the Federal agency tasked with the mission to increase the U.S. share of worldwide tourism receipts.

The budget proposed for USTTA for 1989 is $11 million dollars, to promote the United States worldwide. Compare this to what other governments invest. Italy spends just below $100 million to promote itself to foreign travelers, Canada spends $26 million (who can resist those "Come to Canada" ads on television that we see here in America). Poland spends $61 million. The United States ranks just below Pakistan in its per capita spending to promote tourism. The USTTA has done a good job under the circumstances doing what they can with what they have. Unfortunately, because of budget constraints they have had to close some of their overseas offices and they don't seem to be able to meet their prime objective of increasing the United States market share of international tourism. In 1982 America's share of international tourism receipts was 12.6 percent. Five years later in USTTA's 1987 report to Congress our percentage of market share declined to 10.3 percent. It's difficult to compete with the kind of budget constraint they are under.

This decline comes at a time when people in foreign countries want to visit America. The continuing decline in the dollar, and the availability of low international air fares, will allow many people to come to the United States who could not afford to come before. The opportunity to promote the United States to this potential market is now and it is bewildering that we are not investing in a sure thing. In 1987, USTTA co-op advertising programs achieved a return on investment of $13 for every $1 of agency expenditure. Where else can you get that kind of return on your money?

Let me mention another barrier we seem to have put up to hinder travel to this country by foreign visitors: Bureaucracy. Testimony revealed shocking delays and problems in obtaining Visas to visit America. The State Department has cut their personnel in this area and the result is frustration over the bureaucratic morass of obtaining a Visa for the United States. What are we doing? We have also had a inexplicable delay in implementing a policy that was signed into law in the Immigration Reform Act in 1986. Included in this act was a provision to establish a pilot project of Visa waivers. USTTA pressed the State Department for 2½ years to begin the pilot projects and finally, the first one will begin with the United Kingdom this July. This 2½ years cost us money. People want to come, they have the means to come, we try to entice them to come and then they run into a delay on a Visa. We've heard testimony that the impression given overseas is that America doesn't want people to visit. We spend money inviting people to come and then make them stand in line until they change their mind.

What America needs is a national tourism policy. We need to promote all of America to our potential visitors. Our foreign friends want to visit the well-known destinations of Disneyland, San Francisco, the Grand Canyon but they also need to be told about what the rest of America has to offer, the beautiful scenery, the historic battlefields, the historic preservation of cities, history and culture. They cannot understand the American character without seeing the evidence of our cultural past and our pioneering spirit, without visiting our small towns and rural areas. These areas could be a major attraction for us but they don't have the resources to market themselves. They don't have the expertise needed to develop and implement an international marketing plan to attract the foreign market and to service their clients once they arrive. They need state, Federal and industry help. Foreign visitors are delighted to see the historic preservation of their ancestors' journey and settlement in the new land and to see the prosperity that has come from the hardship and sacrifice of early Americans.

It is said that by the year 2000, tourism will be the world's number one industry. Changing economic conditions have caused the character of many cities to change. It is our role to plan for the smooth transition and maintain prosperity as old industries close down and some of our cities and towns are forced to begin anew. There are those who have invested in their cities, who have taken advantage of the changing times and made a comeback. They have turned to tourism as a way to diversify their economy. In the case of scenic or historic beauty, it is a commodity that can be resold year after year. A little investment now would go a long way.

We need to act now as other countries have done. We need to stop the decline of America's share of the world tourism market. We need to make a concerted effort to find the most effective and cost efficient way of approaching the problem. During our hearings it was clear that local, State, regional, national, and private industry were pulling in all directions and not together. It is a disjointed effort in need of centralized leadership and a clear, effective tourism policy and program.

The failure to develop the potential new markets for tourism indicates the need to review the present situation. Toward this end, I am today introducing a resolution calling for a Presidentially appointed commission on travel and tourism, consisting of representatives from regional, State and local governments and the tourism industry. This special blue ribbon panel will study all aspects of the travel and tourism markets in the United States, both developed and undeveloped, and make recommendations to the President and Congress for establishing a national tourism policy with a special emphasis on developing the travel and tourism industry in regions of the United States where the industry remains undeveloped.

Mr. Speaker, as I have said many times before, there's no place like the United States. What we have here cannot be duplicated by anyone. It makes no sense for a country to be the No. 1 choice made by foreigners when asked where they would like to travel and to continue to decline in its share of the international tourism market. We have the potential to benefit from showing off this great land to all who want to visit. Now is the time to act so that in years to come the only news we will have about tourism in America will be good news.

□ 1655

GIVE DEMOCRACY AND FREEDOM A CHANCE

The SPEAKER pro tempore [Mr. JONTZ]. Under a previous order of the House, the gentleman from New York [Mr. KEMP] is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, today a very impressive and distinguished bipartisan coalition of Members from both parties and both Houses of Congress came together at a press conference to announce a comprehensive timetable that will lead to a vote on renewed military aid to the Nicaraguan democratic resistance if the Sandinista Communist government fails to implement the Sapoa accord. I want to thank and praise those that attended and those that are with us in spirit. Among those attending were Chairman CLAUDE PEPPER, Senator FRITZ HOLLINGS, Senator DAVID BOREN, Senator GORDON HUMPHREY, Representative BEVERLY BYRON, Representative IKE SKELTON, Representative TOMMY ROBINSON, Representative MICKEY EDWARDS, Representative BOB MCEWEN, Representative HENRY HYDE, and Representative DAN BURTON.

Mr. Speaker, include my remarks at the press conference into the RECORD:

We are today as a bipartisan group to issue an ultimatum to the Communist Sandinistas. If the Sandinistas do not completely comply with the Sapoa and Esquipulas II (Arias Peace Plan) Accords by the technical end of the cease-fire—the 31st of May, we will be ready to offer a comprehensive aid package that includes military aid on the 1st of June.

The 31st is a critical deadline. By that time, if the Sandinistas act in good faith with the Sapoa accord, they will have to release more than 2,000 political prisoners, guarantee food and basic supplies for the Resistance, guarantee freedom of speech without limitations as defined in the Arias plan (Esquipulas II), and allow the Resistance to send delegates to the internal national dialogue.

In reality, the Sandinistas have arrested labor leaders on a hunger strike for higher wages, arrested internal opposition leaders for showing support for the striking Union members and shut down radio stations, including the Catholic radio station, Radio Catolica. They have censored La Presna by denying them paper supplies. They have released only 100 of the over 2,000 political prisoners still in jail. The Sandinistas who were supposed to guarantee delivery of food aid within Nicaragua, have so far been unwilling to allow any deliveries.

According to a New York Times article published yesterday, the Sandinistas have built up stocks of weapons, explosives and ammunition. They have constructed and expanded new depots and airports.

The military build-up is perfectly consistent with what the Sandinistas have been telling the world.

Daniel and Humberto Ortega have told us that if the Democratic Resistance does not agree to a permanent cease-fire, the Sandinistas will carry out "actions on a scale never before seen in this war." Ortega also recently added that the Resistance "should be grateful that we are not offering them the guillotine or the firing squad."

Those outrageous statements as well as news of a pending attack led many of my Democratic colleagues to warn Ortega that "Actions taken by your government will not only affect events in Nicaragua but in Washington as well."

The Sandinistas have offered a unilateral 1 month extension of the cease-fire. The offer means nothing because they have consistently violated the terms outlined in Sapoa and Esquipulas II. An extension of the current situation is merely an extension of Sandinista violations.

Sapoa had called for the Democratic Resistance to cease all military actions and the Resistance has complied. Daniel Ortega has not even accused the Freedom Fighters of firing a single shot. They have kept their end of the deal while the Sandinistas have not.

The details of the plan have not been worked out but we will be working together to agree upon the best course of action and best combination of humanitarian and lethal aid. We hope that the White House will take this bipartisan cue and send a request to the Speaker predicated on the bipartisan package on which we will be working. Under the April agreement the Speaker is committed to allow a vote within 10 legislative days of receiving the request from the White House. We have given the Sandinistas a chance. It is now time to give Democracy and Freedom a chance.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MacKay] is recognized for 5 minutes.

Mr. MacKAY. Mr. Speaker, due to a previous commitment, I missed several votes. Had I been able to vote, I would have voted for approving the Journal, and for final passage of House Concurrent Resolution 268.

I appreciate having this opportunity to state my position on these measures.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hutto (at the request of Mr. Foley), for today after 2:30 p.m., on account of official business.

Mr. Wolpe (at the request of Mr. Foley), for today, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. Bentley) to revise and extend their remarks and include extraneous materials:)

Mr. Shay, for 5 minutes, today.
Mr. Boehlert, for 5 minutes, today.
Mr. Burton of Indiana, for 60 minutes, today.
Mrs. Bentley, for 60 minutes, on June 21.
Mrs. Bentley, for 60 minutes, on June 22.
Mrs. Bentley, for 60 minutes, on June 23.
Mrs. Bentley, for 60 minutes, on June 28.
Mrs. Bentley, for 60 minutes, on June 29.
Mrs. Bentley, for 60 minutes, on June 30.
Mr. Kemp, for 10 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Alexander, for 5 minutes, today.
Mr. Gejdenson, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. English, for 5 minutes, today.

(The following Member (at the request of Mr. Skelton) to revise and extend his remarks and include extraneous material:)

Mr. MacKay, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. Bentley) and to include extraneous matter:)

Mr. Shays.
Mr. Boehlert.
Mr. Fish.
Mr. Barton of Texas.
Mr. Kemp in two instances.
Mr. Tauke.
Mr. Weldon in two instances.
Mr. Kolbe.
Mr. Roth.
Mr. Ritter.
Mr. Buechner.
Mr. Whittaker.
Mr. Donald E. "Buz" Lukens.
Mrs. Bentley.
Mr. Bereuter.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Traficant.
Mr. Hoyer.
Mr. Biaggi in three instances.
Mr. Rangel.
Mr. Hamilton.
Mr. Leland.
Mr. Lipinski.
Mr. Lowry of Washington.
Mr. Ackerman.
Mr. Jones of North Carolina.
Mr. Stark in two instances.
Mr. Rodino.
Mr. Vento.
Mr. Brown of California.
Mr. Dingell.
Mr. Roe in two instances.
Mr. LaFalce.
Mr. Jontz.
Mr. Walgren.
Mr. Kanjorski.
Mr. Morrison of Connecticut.
Mr. Sikorski.
Mr. Guarini.
Mr. Kolter.
Mr. Darden.
Mr. Fazio.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 425. An act for the relief of Sukhjit Kuldip Singh Saund; to the Committee on the Judiciary.

S. 1583. An act for the relief of Maria Antonieta Heird; to the Committee on the Judiciary.

S. 1972. An act for the relief of Irma Purisch and Daniel Purisch; to the Committee on the Judiciary.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1988. An act to amend the Merchant Marine Act, 1920, and for other purposes, and

S. 1989. An act to implement the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 3987. An act to designate the U.S. Post Office Building located at 500 West Chestnut Expressway in Springfield, MO, as the "Gene Taylor Post Office Building";

H.R. 2878. An act to designate certain national forest system lands in the States of Virginia and West Virginia as wilderness areas; and

H.J. Res. 530. Joint resolution designating May 1988 as "Take Pride in America Month."

ADJOURNMENT

Mr. SKELTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 306 of the 100th Congress, the House stands adjourned until 1 p.m. Wednesday, June 1, 1988.

Thereupon, (at 4 o'clock and 58 minutes p.m.), pursuant to House Concurrent Resolution 306, the House adjourned until Wednesday, June 1, at 1 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3701. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize a scholarship program for selected junior military officers and defense force leaders with similar status from the countries of the Americas, other than the United States or Canada, to attend accredited educationl institutions in the United States which host, or have an agreement with, a Senior Reserve Officers' Training Corps [ROTC] unit; to the Committee on Armed Services.

3702. A letter from the Secretary of Education, transmitting a copy of final regulations—National Resource Centers for Foreign Language and Area Studies and Foreign Language and International Studies Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3703. A letter from the Assistant and Vice President, Government and Public Affairs, National Railroad Passenger Corporation, transmitting the annual review of each route in the basic system covering fiscal year 1988, pursuant to 45 U.S.C. 564(c)(4)(C); to the Committee on Energy and Commerce.

3704. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Warren Zimmerman, of Virginia, Ambassador Extraordinary and Plenipotentiary-designate to Yugoslavia and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3705. A letter from the Army (Civil Works), transmitting a copy of the in-depth review to clarify and modify the original report of construction authorizations eligible for deauthorization (Ex. Com. No. 2429), pursuant to 33 U.S.C. 579a; to the Committee on Public Works and Transportation.

3706. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the extent to which: the Government of Mozambique has entered into a dialogue with the Catholic Church regarding the return of church property; taken steps to assure against future expropriation of private property without due process; the number of Soviet and Eastern bloc military and security personnel are being reduced, pursuant to Public Law 99-83, section 813(b)(1) (99 Stat. 266), Public Law 100-202, section 590; jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. House Joint Resolution 495. Resolution disapproving the 1988 certification by the President with respect to Paraguay under section 481(h) of the Foreign Assistance Act of 1961 (Rept. 100-602, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4211. A bill to reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes; with amendments (Rept. 100-657, Pt. 1). Ordered to be printed.

Mr. GRAY of Pennsylvania: Committee of conference. Conference report on House Concurrent Resolution 268 (Rept. 100-658). Ordered to be printed.

Mr. HAWKINS: Committee of conference. Conference report on H.R. 1212 (Rept. 100-659). Ordered to be printed.

Mr. KASTENMEIER: Committee on the Judiciary. S. 952. A bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes (Rept. 100-660). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER (for himself and Mr. Bereuter):

H.R. 4692. A bill to provide that the President may not prohibit or curtail the export to any country of agricultural commodities produced in the United States unless that country is engaged in war or military hostilities against the United States; to the Committee on Foreign Affairs.

By Mr. BARTON of Texas:

H.R. 4693. A bill to establish a federally chartered corporation for the operation of the air traffic control system, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. de la GARZA (for himself (by request), Mr. Madigan, Mr. Panetta, Mr. Pashayan, and Mr. Lewis of Florida):

H.R. 4694. A bill to amend the Perishable Agricultural Commodities Act to increase the statutory ceilings on license fees; to the Committee on Agriculture.

By Mr. DeFAZIO (for himself, Mr. Bonker, Mr. Lowry of Washington, Mr. Swift, Mr. Robert F. Smith, Mr. Wyden, Mr. Morrison of Washington, Mr. Miller of Washington, and Mr. Dicks):

H.R. 4695. A bill to amend title 5, United States Code, to allow all forest fire fighting employees to be paid overtime without limitation while serving on forest fire emergencies; to the Committee on Post Office and Civil Service.

By Mr. DWYER of New Jersey:

H.R. 4696. A bill to suspend for 3 years the duty on Norfloxacin; to the Committee on Ways and Means.

H.R. 4697. A bill to suspend for 3 years the duty on amiloride hydrochloride crude; to the Committee on Ways and Means.

H.R. 4698. A bill to suspend for 3 years the duty on D-carboxamide; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 4699. A bill to amend title 5, United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish data integrity boards within Federal agencies, and for other purposes; to the Committee on Government Operations.

By Mr. FAUNTROY (for himself and Mr. Rahall):

H.R. 4700. A bill to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia, and for other purposes; jointly, to the Committees on Government Operations and the District of Columbia.

By Mr. FRANK:

H.R. 4701. A bill to amend the Communications Act of 1934 to prohibit certain practices involving commercial uses of automatic telephone dialing systems; to the Committee on Energy and Commerce.

By Mr. GALLEGLY:

H.R. 4702. A bill to require the Federal Communications Commission to conduct a study of the impact of the Cable Communications Policy Act of 1984 on the rates charged for cable television service; to the Committee on Energy and Commerce.

By Mr. GEJDENSON:

H.R. 4703. A bill to support the people of Panama in their transition to democracy; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. JONES of North Carolina (for himself, Mr. Davis of Michigan, Mr. Lowry of Washington, Mr. Studds, Mr. Biaggi, Mr. Bateman, Mr. Anderson, Mrs. Bentley, Mr. Lipinski, Mr. Hughes, and Mr. Tallon):

H.R. 4704. A bill authorizing the National Oceanic and Atmospheric Administration to modernize and expand its fleet of ocean research vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. NIELSON of Utah (for himself, Mr. Hansen, and Mr. Owens of Utah):

H.R. 4705. A bill to modify the boundary of the Uinta National Forest, Utah, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. OWENS of Utah:

H.R. 4706. A bill to establish the Wasatch National Recreation Area in the State of Utah, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PICKLE:

H.R. 4707. A bill to amend the Internal Revenue Code of 1986 to provide that the passive loss limitation shall not apply to deductions allowable for cash out-of-pocket expenses for taxes, interest, and trade or business expenses in connection with rental real estate activities in which the taxpayer actively or materially participates; to the Committee on Ways and Means.

By Mr. PRICE of North Carolina (for himself and Mr. Clement):

H.R. 4708. A bill to authorize the insurance of certain mortgages for first-time home buyers, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RICHARDSON:

H.R. 4709. A bill to establish the Los Luceros National Monument and Juan de Onate Interpretive Center in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RODINO:

H.R. 4710. A bill to authorize appropriations to carry out the activities of the Department of Justice for fiscal years 1989 and 1990, and for other purposes; to the Committee on the Judiciary.

By Mr. ST GERMAIN (for himself, Mr. LaFalce, Mr. Wylie, Mr. Fauntroy, Mr. Neal, Ms. Oakar, Mr. Vento, Mr. Garcia, Mr. Schumer, Mr. Morrison of Connecticut, Ms. Kaptur, Mr. Carper, Mr. Kleczka, Mr. Kanjorski, Mr. McMillen of Maryland, Mr. Kennedy, Mr. Flake, Mr. Mfume, Mr. Leach of Iowa, Mr. McCollum, Mr. Wortley, Mr. Bereuter, Mr. Ridge, and Mr. Roth):

H.R. 4711. A bill to extend the prohibition on the voluntary termination of any thrift institution's insured status under title IV of the National Housing Act for 1 additional year; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SIKORSKI (for himself and Mr. McCloskey):

H.R. 4712. A bill to reauthorize the Office of Government Ethics, and for other purposes; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Ms. SNOWE (for herself and Mr. Brennan):

H.R. 4713. A bill to require the provision of certain employee protection arrangements in certain railroad transactions involving parties under common control unless the Interstate Commerce Commission imposes employee protection arrangements within 6 months; to the Committee on Energy and Commerce.

By Mr. TAUKE:

H.R. 4714. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize abbreviated new animal drug applications and to amend title 35, United States Code, to authorize the extension of patents for animal drug products; jointly, to the Committee on Energy and Commerce and the Judiciary.

By Mr. TRAFICANT:

H.R. 4715. A bill to amend the Horse Protection Act to prohibit the use of certain pads at horse shows: to the Committee on Energy and Commerce.

By Mr. YOUNG of Alaska (for himself and Mr. Rangel):

H.J. Res. 582. A bill to designate October 24-30, 1988 as "Drug Free America Week" to the Committee on Post Office and Civil Service.

By Mr. FRENZEL (for himself and Mr. Hayes of Illinois):

H.J. Res. 579. Joint resolution to designate February 1989 as "America Loves Its Kids Month"; to the Committee on Post Office and Civil Service.

By Mrs. MORELLA:

H.J. Res. 580. Joint resolution to designate the Month of September 1988 as "National Sewing Month"; to the Committee on Post Office and Civil Service.

By Mr. NELSON of Florida (for himself, Mr. Akaka, Mr. Badham, Mr. Ballenger, Mr. Bateman, Mr. Bennett, Mr. Bevill, Mr. Bilbray, Mr. Bilirakis, Mr. Bliley, Mr. Bonior, Mrs. Boxer, Mr. Brown of Colorado, Mr. Bryant, Mr. Bunning, Mr. Campbell, Mr. Carr, Mr. Chappell, Mr. Clarke, Mr. Clement, Mr. Clinger, Mr. Conte, Mr. Cooper, Mr. Craig, Mr. Darden, Mr. Davis of Illinois, Mr. de Lugo, Mr. de la Garza, Mr. Derrick, Mr. Dickinson, Mr. Dornan of California, Mr. Dowdy of Mississippi, Mr. Edwards of Oklahoma, Mr. Emerson, Mr. Espy, Mr. Evans, Mr. Flippo, Mr. Ford of Tennessee, Mr. Fuster, Mr. Gejdenson, Mr. Gingrich, Mr. Gordon, Mr. Grant, Mr. Hall of Texas, Mr. Hammerschmidt, Mr. Harris, Mr. Hatcher, Mr. Hayes of Illinois, Mr. Hefner, Mr. Henry, Mr. Hochbrueckner, Mr. Holloway, Mr. Hutto, Mr. Ireland, Mr. Jeffords, Mr. Jenkins, Mr. Johnson of South Dakota, Mr. Jones of Tennessee, Mr. Kolter, Mr. Kostmayer, Mr. Lancaster, Mr. Lantos, Mr. Lehman of Florida, Mr. Leland, Mr. Lipinski, Mr. Livingston, Mrs. Lloyd, Mr. Lott, Mr. Lowery of California, Mr. Thomas A. Luken, Mr. Mack, Mr. Manton, Mr. Martin of New York, Mr. McCollum, Mr. Mineta, Mr. Montgomery, Mr. Natcher, Mr. Neal, Mr. Nichols, Mr. Oberstar, Mr. Owens of New York, Mrs. Patterson, Ms. Pelosi, Mr. Ravenel, Mr. Ritter, Mr. Roe, Mr. Roth, Mr. Rowland of Georgia, Mr. Russo, Mrs. Saiki, Mr. Saxton, Mr. Shaw, Mr. Sisisky, Mr. Smith of Texas, Mr. Smith of Florida, Mr. Robert F. Smith, Ms. Snowe, Mr. Solomon, Mr. Spence, Mr. Spratt, Mr. St Germain, Mr. Staggers, Mr. Stratton, Mr. Sundquist, Mr. Sunia, Mr. Tallon, Mr. Thomas of Georgia, Mr. Torres, Mr. Upton, Mr. Valentine, Mr. Vander Jagt, Mrs. Vucanovich, Mr. Wolf, Mr. Wortley, and Mr. Young of Florida):

H.J. Res. 581. Joint resolution to designate the week beginning May 21, 1989, as "National Tourism Week"; to the Committee on Post Office and Civil Service.

By Mr. SKELTON:

H. Con. Res. 307. Concurrent resolution expressing the sense of the Congress that the President should establish a special commission on travel and tourism to offer recommendations for establishing a national tourism policy to develop the travel and tourism industry in the United States; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER:

H. Res. 462. Resolution expressing the sense of the House of Representatives that the United States should not provide any agricultural commodities under the Food for Peace Act of 1966, or any other economic assistance, to the Socialist Republic of Vietnam until the Government of the Socialist Republic of Vietnam fully accounts for all members of the Armed Forces of the United States during the Vietnam era still listed in a missing status; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

396. The SPEAKER presented a memorial of the General Assembly of the State of Arkansas, relative to a proposed amendment to the Constitution relative to the compensation of Members of Congress; which was referred to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. IRELAND introduced a bill (H.R. 4716) to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Encore*; which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 80: Mr. Carper.

H.R. 190: Mr. Evans.

H.R. 593: Mr. Grant, Mr. Frost, Mr. Stokes, and Mr. Wortley.

H.R. 693: Mr. Swindall.

H.R. 817: Mr. Smith of Texas.

H.R. 918: Mr. Flake, Mr. Weiss, Mr. Visclosky, and Mr. Hawkins.

H.R. 955: Mr. Upton.

H.R. 958: Mr. Sisisky, Mrs. Lloyd, Mr. Callahan, Mr. Lewis of California, Mr. Thomas of California, Mr. Borski, Mr. Gray of Illinois, Mr. Skelton, Mr. Walgren, Mr. Bateman, Mrs. Boggs, and Mr. Dingell.

H.R. 1028: Mr. Anthony, Mr. Gibbons, and Mr. Jenkins.

H.R. 1036: Mr. Fazio.

H.R. 1428: Mr. Swindall.

H.R. 1587: Mr. Torricelli and Mr. Sunia.

H.R. 1769: Mr. Fuster and Mr. Lagomarsino.

H.R. 1810: Mr. Stark.

H.R. 1925: Mr. Tallon.

H.R. 2306: Mr. Swindall.

H.R. 2363: Mr. Craig.

H.R. 2559: Ms. Snowe and Mr. Vento.

H.R. 2603: Mr. Moody.

H.R. 2626: Mr. Evans.

H.R. 2678: Mr. Feighan.

H.R. 2701: Mr. Livingston.

H.R. 2848: Mrs. Smith of Nebraska and Mr. Hatcher.

H.R. 2854: Miss Schneider, Mr. Conyers, and Mr. Kolter.

H.R. 2880: Mr. Blaz, Mr. Jeffords, Mr. Leach of Iowa, Mr. Lancaster, and Mr. Dwyer of New Jersey.

H.R. 2925: Ms. Pelosi.

H.R. 2928: Mr. Hefley, Mr. Tauzin, Mr. Burton of Indiana, Mr. Lungren, and Mr. Weldon.

H.R. 3081: Mr. Coelho, Mr. McCandless, Mr. Pashayan, and Mr. Rose.

H.R. 3133: Mr. Solarz and Mr. Lantos.

H.R. 3229: Mr. Swindall.

H.R. 3245: Mr. Moody, Mr. Kildee, Mr. Henry, Mr. Jontz, Mr. Wortley, Mr. Williams, Mr. Gunderson, Mrs. Johnson of Connecticut, Mr. Porter, Mr. Foley, Mrs. Bentley, Mr. Penny, Mr. DeFazio, Mr. Wyden, Mr. Fazio, Mr. Wheat, Mr. Udall, Mr. Chandler, Mr. Packard, Mr. Buechner, and Mr. Levin of Michigan.

H.R. 3334: Mr. Gray of Illinois and Mr. Lowry of Washington.

H.R. 3382: Mr. Emerson and Mr. Towns.

H.R. 3481: Mr. Spratt.

H.R. 3565: Mr. Ireland.

H.R. 3620: Mr. Chapman, Mr. Fazio, and Mr. Lagomarsino.

H.R. 3633: Mr. Martinez and Mr. Durbin.

H.R. 3639: Mr. Harris, Mr. Burton of Indiana, Mr. Shays, Mr. Gunderson, and Mr. Porter.

H.R. 3719: Mr. Yates, Mr. Grant, Mr. Savage, Mr. AuCoin, Mr. Nielson of Utah, Mr. Leland, Mr. Packard, Mr. Mrazek, and Mr. Boehlert.

H.R. 3723: Mr. Vander Jagt, Mr. Hansen, Mr. Lightfoot, Mr. Dyson, Mr. Johnson of South Dakota, Mrs. Smith of Nebraska, Mr. Tauke, Mr. Wise, Mr. Smith of Texas, Mr. Boulter, and Mr. Dickinson.

H.R. 3807: Mr. Kleczka.

H.R. 3892: Mr. Swindall.

H.R. 3893: Mr. Porter, Ms. Snowe, and Mr. Gekas.

H.R. 3900: Mr. Packard.

H.R. 3907: Mr. Pashayan, Mr. Spratt, Mr. Lewis of California, Mr. Kasich, Mr. Schuette, and Mr. Huckaby.

H.R. 3921: Mr. Hiler, Mr. Skelton, Mr. Broomfield, Mr. Mfume, Mrs. Meyers of Kansas, Mr. Baker, Mr. Rhodes, Mr. Cooper, Mr. Ray, and Mr. Hefley.

H.R. 3944: Mr. Gallegly, Mr. Lent, Mr. Sundquist, and Mr. Roberts.

H.R. 3994: Mr. Murphy.

H.R. 4008: Mr. McMillan of North Carolina.

H.R. 4015: Mr. DioGuardi, Mr. Mack, Mr. Upton, and Mr. Ballenger.

H.R. 4055: Mr. Schaefer.

H.R. 4089: Mr. Badham, Mr. Boland, Mr. Dixon, Mr. Donnelly, Mr. Dymally, Mr. Mavroules, and Mr. Yatron.

H.R. 4091:Mr. Edwards of Oklahoma.

H.R. 4111: Mr. Robinson, Mr. Bonker, Mr. Conyers, Mr. McDade, and Mr. Flake.

H.R. 4136: Mr. Wyden and Mr. Sikorski.

H.R. 4185: Mr. Lagomarsino.

H.R. 4192: Mr. Valentine, Mr. Price of North Carolina, Mr. Barnard, Mr. Hutto, Mr. Miller of Washington, Mr. Kyl, Mr. McCloskey, Mr. Jones of Tennessee, Mr. Gunderson, Mr. Campbell, and Mr. Packard.

H.R. 4238: Mr. Bevill, Mr. Dickinson, and Mr. Erderich.

H.R. 4250: Mr. Traficant, Mr. Rahall, Mr. Hayes of Illinois, Mr. Manton, Mr. Smith of Florida, Mr. Clement, Mr. Kanjorski, Mr. Frank, Mr. Kastenmeier, Mr. Oxley, Mr. Lightfoot, Mr. Fazio, Mrs. Collins, Mr. Foglietta, Mr. Barnard, Mr. Nelson of Florida, Mr. Neal, Mr. Wortley, Mr. Erdreich, Mr. Atkins, Mr. Parris, and Mr. Hiler.

H.R. 4277: Mr. Lungren, Mr. Staggers, and Mrs. Schroeder.

H.R. 4297: Mr. English and Mr. Studds.

H.R. 4308: Mr. McEwen, Mr. Schuette, and Mr. Towns.

H.R. 4353: Mr. Vento.

H.R. 4373: Mr. Frost, Mr. Livingston, and Mr. Holloway.

H.R. 4402: Ms. Kaptur and Mr. Packard.

H.R. 4441: Mr. Gilman, Mr. Packard, Ms. Kaptur, Mr. Edwards of Oklahoma, Mr. Rangel, Mr. Coyne, and Mr. Swift.

H.R. 4463: Mrs. Bentley.

H.R. 4478: Mr. Hall of Texas, Mr. McEwen, Mr. Studds, Mr. Rinaldo, and Mr. Hamilton.

H.R. 4481: Mrs. Byron, Mr. Clinger, Mr. Fawell, Mrs. Meyers of Kansas, Mr. McEwen, Mr. Shays, and Mr. Wylie.

H.R. 4511: Ms. Kaptur, Mr. Penny, Mr. Skeen, Mr. Tauzin, Mr. Wortley, Mr. Alexander, Mr. Traxler, Mrs. Bentley, and Mr. Hatcher.

H.R. 4526: Mr. Rahall, Mr. Nagle, Mr. Glickman, Mr. Alexander, Mr. Mollohan, Mr. Gejdenson, Mr. Gephardt, and Mr. Kolter.

H.R. 4534: Mr. Chapman and Mrs. Bentley.

H.R. 4542: Mr. Campbell, Mr. Brown of California, Mr. Synar, Mr. McCloskey, Mr. English, and Mr. Moody.

H.R. 4562: Mr. Eckart, Mr. Slattery, Mr. Pursell, and Mr. Gunderson.

H.R. 4568: Mr. Robinson.

H.R. 4575: Miss Schneider, Mr. Smith of Florida, Mrs. Collins, Mr. Bustamante, Mr. Matsui, Mr. Gilman, Mr. Frank, Mr. Garcia, Mr. Horton, Mr. Madigan, Mr. Mrazek, and Mr. Fuster.

H.R. 4576: Mr. DioGuardi, Mr. Rangel, Mr. Owens of Utah, Mr. Echart, Mr. Morrison of Washington, Mr. Carper, Mr. Dewine, Mr. Johnson of South Dakota, Mr. Solarz, Mr. Owens of New York, Mr. Neal, Mr. Jacobs, and Mr. Mfume.

H.R. 4598: Mr. Dyson.

H.R. 4612: Mr. Hughes.

H.R. 4618: Mr. McCloskey, Mr. Owens of New York, Mr. Hayes of Illinois, Mr. Lagomarsino, and Mr. Hyde.

H.R. 4646: Mr. Hawkins, Mr. Owens of New York, and Mr. Chapman.

H.R. 4651: Mr. Eckart, Mr. Johnson of South Dakota, and Mr. McEwen.

H.R. 4652: Mr. Bliley, Mr. Wortley, Mr. Michel, Mr. Morrison of Washington, and Mr. Swindall.

H.R. 4664: Mr. Horton, Mr. Schumer, and Mr. Wolpe.

H.J. Res. 171: Ms. Snowe and Mr. Swindall.

H.J. Res. 360: Mr. Fawell and Mr. Kleczka.

H.J. Res. 446: Mr. Nowak, Mr. Sunia, Mr. Grant, Mr. Young of Alaska, Mr. Leach of Iowa, Mr. Smith of Florida, Mr. Espy, Mr. Wise, Mr. Johnson of South Dakota, Mr. Rose, Mr. Jones of North Carolina, Mr. Olin, Mr. Neal, Mr. Martin of New York, Mr. Gunderson, Mr. Hansen, Mr. Coble, Mr. Hefner, Mr. Dowdy of Mississippi, Mr. Tallon, Mr. Dwyer of New Jersey, Mr. Gejdenson, Mr. McEwen, Mr. Boucher, Mr. Weber, Mr. Moody, Mr. Valentine, Mr. Cooper, Mr. Grandy, and Mr. Roth.

H.J. Res. 458: Mr. Bustamante, Ms. Oakar, Mr. Nelson of Florida, Mr. Lent, Mr. Gaydos, Mr. Moody, Mr. Fuster, Mr. Roth, Mr. Hiler, Mr. Hyde, Mr. Jacobs, Mr. Davis of Illinois, and Mr. Inhofe.

H.J. Res. 463: Mr. Solomon, Mr. Emerson, Mr. Rowland of Connecticut, Mr. McDade, Mr. Akaka, Mr. Miller of California, Mr. Volkmer, Mr. Lowery of California, Mr. Bilirakis, Mr. Fazio, Mr. Lungren, Mr. Yates, Mr. Buechner, Mr. Young of Florida, and Mr. Hefner.

H.J. Res. 465: Mr. Fish, Mr. Bates, Mr. Grandy, Mr. Atkins, Mr. Bonior of Michigan, Mr. Hertel, Mr. Broomfield, Mr. Davis of Michigan, Mr. Dingell, Mr. Kildee, Mr. Vander Jagt, Mr. Foglietta, Mr. Schuette, Mr. Chappell, Mr. Mrazek, Mr. Jones of North Carolina, Mr. Lewis of California, Mr. McCloskey, Mr. McDade, Ms. Oakar, Mr. Ravenel, Mr. Rodino, Mr. Savage, Mr. Sawyer, Mr. Scheuer, Mr. Stangeland, Mr. Skelton, Mr. Tallon, Mr. Traxler, Mr. Jones of Tennessee, Mr. Wolpe, Mr. Leach of Iowa, and Mr. McHugh.

H.J. Res. 489: Mr. Atkins, Mr. Coleman of Missouri, Mr. AuCoin, Mr. Hansen, Mr. Towns, Mr. Kolter, Mr. Young of Florida, Mrs. Lloyd, Mr. Neal, and Mr. Mack.

H.J. Res. 501: Mr. Ritter, Mr. Hughes, Mr. Volkmer, Mr. Wheat, Mr. Inhofe, Mr. Bateman, Mr. Early, Mr. Rangel, Mr. Lantos, Mr. Jeffords, Ms. Kaptur, Mr. Mineta, Mr. Sunia, Mr. Smith of New Hampshire, Mr. Lipinski, Mr. Vander Jagt, Mr. Spence, Mr. Skeen, Mr. Swindall, Mr. Erdreich, Mr. Jontz, Mr. Spratt, Ms. Pelosi, Mr. Jones of Tennessee, Mr. Robert F. Smith, Mr. Whitten, Mr. Fascell, Mr. Owens of New York, Mr. Crockett, Mr. Ford of Michigan, Mr. de Lugo, Mr. Broomfield, Mr. Henry, Mr. Savage, Mr. Cooper, Mr. Buechner, Mr. Hochbrueckner, Mr. Manton, Mr. Kasich, Mr. Torres, Mr. Parris, Mr. Cardin, Mr. Mfume, Mr. Vento, Mr. Mrazek, Mr. Young of Florida, Mr. Holloway, and Mr. Bilirakis.

H.J. Res. 526: Mr. Lagomarsino.

H.J. Res. 540: Mr. Packard, Mr. Edwards of Oklahoma, and Mr. Saxton.

H.J. Res. 549: Mr. Montgomery, Mr. Fawell, Mr. Anderson, Mr. Boucher, Mr. Horton, Mr. Annunzio, Mr. Kolter, Mr. Foley, Mr. de la Garza, Mr. Gonzalez, Mr. Moakley, Mr. Clay, Mr. McDade, Mr. Robinson, Mr. Gilman, Mr. Hefner, Mr. Skaggs, Mr. Martin of New York, Mr. Roe, Mr. Gregg, Mr. Lantos, Mr. Neal, Ms. Kaptur, Mr. DeFazio, Mr. Biaggi, Mrs. Boxer, Mr. Dyson, Mr. Roberts, Mr. Chapman, Mr. Wheat, Mr. Packard, and Mrs. Collins.

H.J. Res. 554: Mr. Owens of New York, Mr. Frost, and Mr. Campbell.

H.J. Res. 564: Mrs. Bentley, Mr. Buechner, Mr. Dingell, and Mr. Packard.

H.J. Res. 565: Mr. Gilman, Mr. Matsui, Mr. Brown of Colorado, Mrs. Lloyd, Ms. Kaptur, Mr. Wheat, Mr. Annunzio, Mr. Horton, Mr. Lungren, Mr. de la Garza, Mr. Buechner, Mr. Vento, Mr. Valentine, Mr. Chapman, Mr. Grandy, Mr. Hammerschmidt, Mr. Price of North Carolina, Mr. Lipinski, and Mr. Roberts.

H.J. Res. 571: Mr. Fuster, Mr. Manton, Ms. Pelosi, Mr. Broomfield, Mr. Levin of Michigan, Mr. Bilirakis, Mr. Clarke, Mr. McDade, Mr. Donald E. Lukens, Mr. Mrazek, Mr. Roe, Mr. Fazio, Mrs. Lloyd, Mr. Smith of Florida, Mr. Dyson, Mr. Buechner, Mr. DioGuardi, Mr. Bustamante, Mrs. Boxer, Mr. Green, Mr. Lantos, Mr. Inhofe, Mr. Wylie, Mr. Frost, Mrs. Collins, and Mr. Kemp.

H. Con. Res. 239: Mr. Shays and Mr. MacKay.

H. Con. Res. 260: Mr. Fauntroy, Mr. Atkins, Mrs. Collins, Mr. Levine of California, Mr. DioGuardi, Mr. Coats, Mr. Donnelly, Mr. Gibbons, Mr. Roth, Mr. DeFazio, Mr. Whittaker, Mr. Goodling, Mr. Valentine, Mr. Sikorski, Mr. Daub, Mr. Frank, Mr. Shays, Mr. Stangeland, Mr. Moody, Mr. Manton, Mr. Harris, Mr. Lagomarsino, Mr. Sunia, Mr. Hayes of Illinois, Mr. Pickle, Mr. Williams, Mr. Hefner, Mr. Edwards of Oklahoma, Mr. Blaz, Mr. Hayes of Louisiana, Mr. Bereuter, and Mr. Upton.

H. Con. Res. 265: Mr. Wylie and Mr. Brown of California.

H. Con. Res. 277: Mr. Bates, Mr. Moody, Mr. DeFazio, Mr. Owens of New York, and Mr. Bonker.

H. Con. Res. 298: Mr. Bateman, Mr. Holloway, and Mr. McEwen.

H. Con. Res. 301: Mr. Mineta, Mr. Bilbray, Mr. Coelho, Mr. Dorgan of North Dakota, Mr. Stokes, Mr. Valentine, Mr. Hammerschmidt, Mr. Waxman, Mr. Oberstar, Mr. Cheney, Mrs. Saiki, Mr. Bunning, Mr. Tauzin, Mr. Swift, Mr. Whitten, Mr. Natcher, Mr. Schumer, Mr. Sisisky, Mr. Horton, Mr. Conte, Mr. Smith of New Jersey, Mr. Denny Smith, Mr. McCurdy, Mr. Leath of Texas, Mr. Fazio, Mr. Hall of Texas, Mr. Lent, Mr. Dicks, Mr. Petri, Mr. Edwards of Oklahoma, Mr. Gilman, Mr. Harris, Mr. Traficant, Mr. Hughes, Mr. Lewis of Georgia, Mr. Dymally, Mr. Mollohan, Mr. Bliley, Mr. Clinger, Mr. Gallo, Mr. Bevill, Mr. Dannemeyer, Mr. Jones of North Carolina, Mr. Nielson of Utah, Mr. de la Garza, Mr. Torres, Mr. Leland, Mr. Volkmer, Mr. Hefner, Mr. Johnson of South Dakota, Mr. Rowland of Connecticut, Mr. Lancaster, Mr. Price of North Carolina, Mr. Jontz, Mr. McCloskey, Mr. Brennan, Mr. Darden, Mr. Jenkins, Mr. Coleman of Texas, Mr. Evans, Mr. Hayes of Illinois, Mr. Ackerman, Mr. Murtha, Mr. Borski, Mr. Florio, Mr. Lipinski, Mr. Ritter, Mr. Dellums, Mr. Stark, Mr. Beilenson, Mr. Lagomarsino, Mr. Moorhead, Mr. Shaw, Mr. Bereuter, Mr. Stump, Mr. Hubbard, Mrs. Bentley, Mr. Davis of Michigan, Mr. Hopkins, Mr. Roth, Mr. Neal, Mr.

BUSTAMANTE, Mr. LOWRY of Washington, Mr. LEWIS of California, Mr. HUCKABY, Mr. FRENZEL, Mr. KOLBE, Mr. PERKINS, Mr. NICHOLS, Mr. HUTTO, Mrs. BYRON, Mr. BOEHLERT, Mr. GIBBONS, Mr. GONZALEZ, Mr. McGRATH, Mr. GRAY of Illinois, Mr. HUNTER, Mrs. MARTIN of Illinois, Mr. HATCHER, Mr. HAYES of Louisiana, Mr. BRUCE, Mr. SHUMWAY, Mr. CHANDLER, Mr. SOLOMON, Mr. KEMP, Mrs. VUCANOVICH, Mr. SENSENBRENNER, Mr. RAVENEL, Mr. GREGG, Mr. STANGELAND, Mr. MYERS of Indiana, Mr. WISE, Mr. STAGGERS, Mr. SHARP, Mr. MILLER of California, Mr. HAWKINS, Mr. ARMEY, Mr. CRANE, Mr. BADHAM, Mr. HERGER, Mr. McCANDLESS, Mrs. MEYERS of Kansas, Mr. SAXTON, Mr. MOLINARI, Mr. SUNDQUIST, Mr. LOWERY of California, Mr. ROE, Mr. LEWIS of Florida, Mr. HYDE, Mr. WHITTAKER, Mr. HOLLOWAY, Mr. SCHULZE, Mr. GINGRICH, Mr. GALLEGLY, Mr. SLAUGHTER of Virginia, Mr. COBLE, Mr. SCHUETTE, Mrs. MORELLA, Mr. LUJAN, Mr. ANDERSON, Mr. KONNYU, Mr. GUNDERSON, Ms. SNOWE, Mr. MATSUI, Mr. RAY, Mr. RUSSO, Mr. BOUCHER, Mr. MAZZOLI, Mr. BLAZ, Mr. BATES, Mrs. COLLINS, Mr. KOLTER, Mr. MURPHY, Mrs. KENNELLY, Mr. BAKER, Mr. CLARKE, Mr. STENHOLM, Mr. DeLAY, Mr. EMERSON, Mr. MILLER of Washington, Mr. DICKINSON, Mr. MICHEL, Mr. CRAIG, Mr. BARTLETT, Mr. SCHAEFER, Mr. HEFLEY, Mr. FAWELL, Mr. THOMAS of California, Mr. GEKAS, Mr. DREIER of California, Mr. PORTER, Mr. YATES, Mr. BONIOR of Michigan, Mr. GARCIA, Mr. ASPIN, Ms. KAPTUR, Mr. MONTGOMERY, Mr. SMITH of Texas, Mr. FASCELL, Mr. LEVIN of Michigan, Mr. SAVAGE, Mr. CALLAHAN, Mr. LUNGREN, Mr. FOLEY, Mr. PEPPER, Mr. CONYERS, Mr. CARPER, Mr. McEWEN, Mr. WEBER, Mr. SUNIA, Mr. RHODES, Mr. PURSELL, Mr. GRANDY, Mr. FORD of Tennessee, Mr. YOUNG of Alaska, Mr. TAUKE, Mr. BUECHNER, Mr. DioGUARDI, Mr. HASTERT, Mr. KYL, Mr. CROCKETT, Mr. WOLPE, Mr. OXLEY, Mr. JACOBS, Mr. RODINO, Mr. WORTLEY, Mrs. BOXER, Mr. ERDREICH, Mr. STALLINGS, Mr. ALEXANDER, Ms. OAKAR, Mr. LIGHTFOOT, Mr. CAMPBELL, Mr. McMILLEN of Maryland, Mr. LEACH of Iowa, and Mr. BATEMAN.

H. Res. 439: Mr. RHODES, Mr. BEREUTER, Mr. FAWELL, Mr. HENRY, Mr. WORTLEY, Mr. NIELSON of Utah, Mr. BALLENGER, Mr. GREGG, Mr. SCHAEFER, Mr. SMITH of Texas, Mr. MORRISON of Washington, Mr. HANSEN, Mr. SOLOMON, and Mr. DENNY SMITH.

SENATE—*Thursday, May 26, 1988*

(Legislative day of Wednesday, May 18, 1988)

The Senate met at 10 a.m., in executive session, on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. SANFORD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Eternal God, Ruler of the universe, Sovereign Lord of history and the nations, Thou hast spoken plainly in Your word:

"The earth is the Lord's and the fulness thereof; the world, and they that dwell therein."—Psalm 24:1.

"Behold, the nations are as a drop of a bucket, and are counted as the small dust of the balance * * *. All nations before Him are as nothing; and they are counted to Him less than nothing, and vanity."—Isaiah 40:15 and 17.

"* * * the most High ruleth in the kingdom of men, and giveth it to whomsoever He will * * *."—Daniel 4:17.

As the people of the Earth look toward Moscow and the summit, rule and overrule in all the details of preparation and during the meeting of President Reagan and General Secretary Gorbachev. Give to our President special wisdom and grace. Grant to each leader a strong sense of friendship and the will to reconciliation and peace. Impress upon them the cosmic implications for the peoples of the world in their meeting. Fill them with a passion for truth and justice. Mighty God, let Thy will be done in Moscow and in Washington as it is in heaven. We pray in the name of Him who is the Prince of Peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

A BEAUTIFUL PRAYER, A BEAUTIFUL DAY

Mr. BYRD. Mr. President, I thank our Chaplain for the prayer, for his reading of the beautiful Scriptural passage from that great, old King James Version of the Holy Bible.

It is such a beautiful day outside, and that prayer has made it a beautiful day inside—inside the Chamber—and, for those who carefully listened, inside the hearts of men and women.

LEADERSHIP TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader may be extended to the full 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. And that that time may be utilized by speakers as in legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield my time to Mr. PROXMIRE, following the Republican leader.

SENATE SCHEDULE

Mr. DOLE. Mr. President, before I yield my time to the distinguished Senator from Oregon [Mr. HATFIELD], I wish to say that I am very optimistic about finishing this matter before the Senate today. As I reviewed it this morning, there are only two or three areas where there is really any controversy.

I indicate—as I indicated to the majority leader when we left about midnight last night—we will do whatever we can on this side to cooperate with the majority leader and try to get this matter behind us. We still have one area on which we are conferring, which is an important amendment, one about which the majority leader feels strongly. But I am confident that everybody now is going in the same direction and that we can complete action on this matter today or, if not today, tomorrow.

I believe we can avoid invoking cloture and that we can get a unanimous-consent agreement. I know that is the wish of the majority leader.

I want the Members on this side to know that we are encouraged and that we will be calling on each of them to help us finish this job today.

Mr. President, I yield any time I have remaining, following the speech by the Senator from Wisconsin, to the Senator from Oregon.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, before the Senator yields, I express the hope that on Monday of the Senate's return, following the break, we can dispose of the war powers matter. That should not take all day, by any means. I would like to see that disposed of before the Senate proceeds to the consideration of the veto message. That is a matter that can be disposed of. I doubt that the veto message can be disposed of on that day.

It would give us a chance to begin to try to create an arrangement whereby all Senators would know the day and the hour of the vote on the override of the veto.

So I will attempt to work that out with the distinguished leader on the other side of the aisle.

Mr. NUNN. Mr. President, will the Senator yield for a question?

Mr. BYRD. With the indulgence of the distinguished Republican leader.

Mr. NUNN. I ask both the majority leader and the minority leader whether, based on the schedule they now see, they believe that there would be an appropriate time for Senator WARNER and myself to try to get the defense bill to conference—that is, resolve the D'Amato amendment.

I hope we can resolve it by unanimous consent. I am still working with the Senator from New York and the Senator from Michigan on that matter. Senator WARNER has been working with them, also.

If we cannot resolve it by unanimous consent, because of the timeframe we are in, because of the necessity of having the staff do some work next week with a de jure type arrangement with the House of Representatives in conference—all those things are very important—if we do not resolve it by unanimous consent, it would be my hope that there could be a tabling motion.

I would like to have an opportunity, before we leave tomorrow afternoon, or whenever we complete the INF matter, to at least have a window to either work out a unanimous-consent agreement or to move to table.

I do not know whether we have the votes to table; but it would be my hope that a number of people who are for the D'Amato amendment—capital punishment on narcotics—would join in tabling, knowing that we are going to have a time certain to vote on that matter in the future. It is my hope that we could then move the defense bill to conference.

I ask the majority leader if there will be a time to take that step tomorrow or another time this week.

Mr. BYRD. Mr. President, I certainly will make every effort to cooperate with the distinguished Senator. I hope that the distinguished ranking manag-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

er, the distinguished Republican leader, and I can work on an arrangement whereby the Senator from Georgia will have that opportunity.

Mr. NUNN. I thank the majority leader.

Mr. WARNER. Mr. President, in response to the distinguished majority leader and the chairman of the Armed Services Committee, I assure them that the Republican leader at this moment is working on a resolution of the options by which we can bring up the defense bill. The Republican leader will speak for himself. He and I have been working on this through the night, and I think there will be progress in a short period of time.

Mr. DOLE. We are making contact with the Senator from New York to see if we can sit down with him later this morning and work out something that is satisfactory to all sides.

Mr. BYRD. I thank all Senators.

Mr. President, I ask unanimous consent that the time for this colloquy not come out of the Republican leader's time or my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A GRIM FAIRY TALE: AMERICA'S FISCAL FUTURE

Mr. PROXMIRE. Mr. President, assume it is a year from now. It is June 1989. A new President has taken office. There is a new leadership in the U.S. Senate. There are a sprinkling of new Members in both bodies and chairmanship of congressional committees have shifted in some cases. The new President is about to abruptly finish his honeymoon with Congress. He has a spanking fresh Cabinet. Then suddenly on this day 1 year from now the stockmarket drops with a Dow Jones collapse of 250 points only interrupted by a circuit breaker pause of an hour followed by another prompt 250 point drop, then a 2-hour circuit breaker halt in trading. When trading resumes the market falls another hundred points. In Tokyo, London, Bonn, Rome, Toronto, Mexico City stock markets suffer free fall. In July, August, and September 1989 business and consumer confidence ebbs as the country suffers its first recession in 7 years. The longest peacetime recovery in American history comes to a close. Because the debt of American business had grown enormously by June 1989, and because equity had continued to dwindle in relation to debt, the sudden collapse in consumer spending and business revenues brings losses that force thousands of firms into insolvency. Business failures in the United States break all records. Friday before the June 1989 stock market crash, the Bureau of Labor Statistics announces that unemployment has fallen to less than 5 percent, the lowest level since the end of the Vietnam war. But by September 1989 unemployment has risen by 3 million. It is up to 7½ percent and rising.

In October 1989 the country suffers a banking crisis. American financial institutions that hold much of the debt of bankrupt American businesses are in a painful quandary. With every passing week that the banks forebear and refrain from foreclosing insolvent businesses and home mortgages, the ultimate loss the bank will have to take grows larger. Bank regulators press for prompt foreclosure. The banks protest that foreclosure is no answer. The collateral for their business loans is the building, the equipment of corporations that have failed because their markets disappeared. And, of homes that no one can afford. What can the bank do with a collapsing market for this useless collateral? The regulators call for mergers of failing banks with healthy banks. But where are the healthy banks? There are a few. They are prudent, cautious institutions. There are fewer still of these prudent institutions that will agree to merge with their failed and failing brethren. So the President and Congress confront the supreme credit crisis. The General Accounting Office estimates that a nationwide financial rescue would cost at least $1 trillion. It would save the Nation's banks. But for what? It could not rebuild the thousands of failed American businesses or bankrupt families. Nevertheless in November 1989 the President and the Congress act. The historic trillion dollar bailout of 1989 takes place. The June national debt of $3 trillion rises to $4 trillion.

By December unemployment has risen by another 2 million to about 9 percent. The President declares a national economic emergency. He proposes a $200 billion job program. He calls for a new $100 billion housing program. He announces that spending on highways, bridges, Federal buildings, and the improvements in national parks in ports and waterways, at airport and in railroad construction will be stepped up by $100 billion. The President also announces a $100 billion immediate tax cut. Congress pushes through the entire program in less than a month. But it doesn't work. American consumers and business have lost confidence. The national debt has become to overwhelming. So revenues fall as the depression deepens. The deficit goes to an annual rate of $1 trillion a year. By mid-1990 the national debt has climbed to $6 trillion. Meanwhile the Federal Reserve Board continues to be occupied by seven Governors all of whom have been appointed by the Reagan administration. It refuses entreaties by Congress and the President to stimulate the economy by increasing the supply of credit. The President proposes and the Congress agrees to abolish the Federal Reserve Board and to recreate it. The President appoints seven new members to the Board. They promptly increase the money supply to an annual rate of more than $1 trillion. Unemployment—that had risen to 14 percent and to 18 million out-of-work people—declines as interest rates fall and housing construction and auto sales begin to pick up. The economy recovers until the middle of 1991, then with unemployment still at 10 percent and consumer demand still low, long-term interest rates—especially mortgage rates—begin to climb again.

How could they climb in recession? How could they climb with demand so feeble and the Nation's production facilities operating at only 65 percent of capacity? Interest rates climb because lenders recognize that the huge flood of money and credit created by the newly constituted Federal Reserve Board will inevitably raise prices and interest rates in the future. With rising long-term rates, housing collapses once again. By November 1992 when the country once again goes to the polls to elect a new President the depression is worse then ever. Unemployment has risen to 25 percent. A record-breaking 30 million Americans are out of work. The national debt has zoomed to $8 trillion. Interest rates have risen so fast that the interest cost of servicing the debt is just over $1 trillion annually.

It is time for a revolutionary political change. The country gets just that. For the first time in history literally no one, not Harold Stassen, not Lyndon La Rouche, no one, will agree to run for President. The incumbent President who had been first elected in 1988 calls the Presidency the worst job on Earth. He is reelected as an act of universal American revenge. Almost no one will run for Congress. The number of Members of the House of Representatives falls to 59 elected Congressmen, the level of the first Congress elected in 1788. The number of Senators is severely diminished to 1 less than the original 26—that is 25. Hold over Senators resign en masse. In the entire country only 25 persons can be found who will take this job.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the leader for yielding time.

FOOD ASSISTANCE FOR VIETNAM

Mr. HATFIELD. Mr. President, the New York Times and the Washington Post are reporting that the country of Vietnam is facing severe food shortages, with as many as 7 million civilians affected by inadequate food supplies. It is no secret that the United

States Government has no diplomatic relationship with the Socialist Republic of Vietnam, and we will not normalize relations with Vietnam until the POW-MIA matter is resolved and the Vietnamese Army withdraws from Cambodia. Let me point out that there are about 2,400 persons who fought in Vietnam for whom there still is no accounting, and while two-thirds of these cases involved service personnel who were considered lost at sea or presumed dead at war's end, we must move quickly for the fullest possible accounting of these brave Americans.

But today, I turn to the immediate question of whether the United States should respond to the food shortages afflicting millions of Vietnamese men, women, and children.

The concurrent resolution which I am introducing today along with Senator KENNEDY and Senator PRESSLER answers that question affirmatively, in a manner consistent with the lessons of American history and our best humanitarian impulses to feed the hungry as a means of waging peace.

Some very compelling parallels can be drawn between the current crisis in Vietnam and the period from 1921-23 when tens of millions of Soviet citizens were facing what the League of Nations at that time termed the worst famine in the history of Europe. The Soviets then were considered an unfriendly, hostile regime and the United States had no diplomatic relationship with them. Interestingly, the Soviets were actually holding at that time Americans involved in World War I. The United States thought it had 20 Americans imprisoned, but later we discovered over 100 had seen holed up in Soviet dungeons.

It would be no exaggeration, particularly when you consider the "red scare" tactics of the preceding Wilson administration, to say that the Soviet Government was every bit the anathema then that the Vietnam Government is today.

There was a great debate within U.S. governmental circles in those days about whether or not the United States should provide food to the starving Soviet citizens, and in so doing, provide a boost to the Bolshevik regime.

To this question, the Secretary of Commerce Herbert Hoover responded without hesitation—he arranged for the American Relief Administration to send in 540,000 tons of food, which sustained 10 million people over 2 years, and saved so many lives. Incidentally, Congress was no silent bystander. It appropriated funds for this relief program, and with the President's Executive order designating Secretary Hoover as the manager of the program, the American Government was on record in support of this daring humanitarian initiative.

Mr. President, the United States can take pride today in this enlightened endeavor that looked beyond ideologies to the unmet human needs of suffering people. I believe the United States can apply this great precedent to the more than 1 million children in Vietnam under the age of 5 who are facing "serious food shortages," as reported by the U.N. Development Program. But unfortunately, some officials in the administration are counseling the President to ignore the emergency, to look the other way, and in fact to not even talk to Vietnam about the problem. They point instead to the occupation of Cambodia and refuse to become involved in the negotiated settlement process.

Mr. President, as we debate the INF Treaty, and I will address that topic in some detail at a later time, I want to make one observation: If we had chosen not to speak to the Soviets until they had pulled out of Afghanistan, we would have no treaty before us today and no possibility for future arms control agreements.

Mr. President, what we see emerging is a diplomatic double standard. While the United States is willing to talk with the Soviet Government on a range of important arms control and foreign policy issues, the United States is unwilling to talk with the Vietnamese Government about the Vietnamese occupation of Cambodia. Had the United States followed for Afghanistan the policy it is following for Cambodia, there would have been no possibility of a Soviet troop withdrawal, no possibility of the repatriation of the refugees, and no prospect of peace in that region of the world.

I condemned nearly a decade ago and I condemn now the Vietnamese occupation of Cambodia and the subjugation of the Laotian people.

But I rise today to condemn the lamentable condition of the current diplomatic situation: First, the Chinese have armed the Khmer Rouge and Pol Pot to the teeth without any opposition from the United States, making this resistance group the only viable alternative to the current government in Cambodia; second, the United States has abandoned any responsibility for being a player in the negotiations, pretending that some magic wand will emerge and disarm the Khmer Rouge at the right time and bring Prince Sihanouk to power; and finally, third, that the United States has adopted a strategy to resolve the pending humanitarian issues in dispute with Vietnam involving the most improbable logistical arrangements and low-level governmental officials.

Mr. President, one need only travel through Vietnam and Cambodia to realize that our current foreign policy is running out of gas far short of its intended goals, or as my colleague, Senator PRESSLER, said in Monday's New York Times, "our policy of isolation has reached the point of diminishing returns."

Now the United States faces a critical decision: Should we avert our eyes from the hunger and suffering of the Vietnamese people? Should we allow the millions of Vietnamese civilians who are victims of their own economy and system of government to go without food and starve to death, when many of these Vietnamese were our close allies and look to the United States as their light of hope?

Mr. President, the same arguments opposing food assistance to any Communist country, which Herbert Hoover disarmed 67 years ago, are being circulated in Washington on the question of food assistance for Vietnam. And there is a school of thought which says: The Government of Vietnam must be punished for what it did in the war, and since the only tool left at our disposal is economic, we can starve them out and let them feel the pain for their military policies and poorly managed economy. The only problem with that thinking is that the Government is not suffering—the people are.

And worse, such a U.S. foreign policy cannot and should not survive, because you cannot build a lasting peace in the region on the backs of broken people and malnourished children. Our great friend Thailand, a front-line country whose security interests must be protected, is in danger because hunger is the most destabilizing force in the world, and Thailand is seeing this all too clearly as new waves of Vietnamese are seeking asylum on Thai soil. Our ASEAN friends also have a serious stake in this matter, but again, the United States can be a better friend to them by taking an active, aggressive role in the discussions taking place within the region on how each nation's independence and security can be preserved, and not by sitting back while China brokers decision after decision for us.

Mr. President, I am introducing a concurrent resolution today which calls upon the President to address the food shortages in Vietnam by exercising powers statutorily authorized for such disaster situations.

Reports from the United Nations indicate that the squeeze of this food shortage will be felt in the next few months, and so there is a time factor which must be addressed.

By sending food to Vietnam, the United States could embark upon a new foreign policy in the region that goes directly to the people. If the United States wants to pressure Vietnam to withdraw from Cambodia and cooperate with the United States on the POW-MIA and other humanitarian issues, it can best leverage this through policies which are progressive and aggressive, not passive and isolationist. And the United States can take full advantage of its continued popularity with the people of Vietnam as well as accelerate progress with the Government of Vietnam on the POW-MIA issue and the timetable for a Vietnamese withdrawal from Cambodia, by participating in the international effort to respond to the hunger crisis in Vietnam.

The minute you mention Vietnam and hungry people I know that elicits an ambivalent response.

Mr. President, I introduce this concurrent resolution on behalf of Senators KENNEDY, PRESSLER, and myself calling upon the President to address the food shortage in Vietnam by exercising powers that are statutorily authorized for such disaster situations.

What I am suggesting is that U.S. food relief could well lay the foundation for the final resolution of that humanitarian issue and the related humanitarian issues of Amerasian children, of the reeducation camp prisoners, and those issues that have been identified that have to be resolved in addition to our dealing with the Vietnamese Government in relation to their invasion and occupation of Cambodia, which is threatening, of course, all of Asia, and which is of great concern to our ally and long-time friend Thailand. In other words, we could be motivated by humanitarian impulses to meet the needs of starving people and if that does not appeal to the humanitarian instinct, then let us look at the geopolitics. It could lay the foundation indeed for the resumption of political relationships with Vietnam which in turn could resolve the MIA-POW problems which in turn could help resolve the Cambodian issue, which in turn would be stopping the source of the refugee problem that we have to wrestle with here year in and year out.

So there is the geopolitical approach.

But my view is that by sending food to Vietnam, we could embark upon a new foreign policy that can bear results. We are now at a point where I think we have to create new foreign policy as it relates to Southeast Asia and we can seize this opportunity or we can continue to ignore it.

Mr. President, in another week the United Nations will complete its assessment of this famine situation, but I think we should be preparing to embark upon this kind of relief to the Vietnamese people, notwithstanding the wrongness of their political ideology as we view it, or the wrongness of their invasion in Cambodia, which I thoroughly condemn.

But this is a people problem, and perhaps in addressing the people problem, we can at the same time lay a better foundation to resolve our political problems.

I yield the floor.

Mr. KENNEDY. Mr. President, I am pleased to join in supporting Senator HATFIELD's concurrent resolution in support of emergency food assistance to the people of Vietnam.

It is one of the hallmarks of American tradition that we reach out to assist people facing famine or grave shortages of food wherever they may be and whatever government they may be under. Our humanitarian assistance has always been just that—a reflection of the humane concerns of the American people.

It should be so today.

The people of Vietnam are facing a food shortage of tremendous proportions, and I believe the United States should join the international community in providing emergency food assistance to avert a possible famine.

For the past 2 years, Vietnam has suffered an unusual sequence of drought, damaging typhoons, and insect infestations that have destroyed much of the country's crop. Vietnamese government officials suggest that some 7 million of the country's population are short of food and are near starvation in some areas.

U.N. officials estimate that as much as one-third of this season's crop may be lost. There is likely to be a 1.5 million ton food deficit this year alone.

As one U.N. official recently explained, "that means that the average Vietnamese will receive only 70 percent of a normal diet of rice—even less than that in the north," which is most severely affected by the food shortages.

Mr. President, all of us in the Senate have profound differences with the Hanoi government. These should not—and cannot—be brushed aside. Vietnam today is among the very poorest countries in the world, and a large measure of the blame lies with that government.

But whatever our particular views are on those policies, it is important, Mr. President, as I said at the outset, that we not lose sight of the American tradition of assisting those in need around the world.

This tradition was illustrated by our response to famine conditions in Ethiopia in 1984. At that time, the President and the American people put aside their objections to the policies of the government in Addis Ababa to assist the people in the countryside.

We should do the same today for the people of Vietnam. We are already beginning to see the first stages of the famine conditions there. Not only are people in Vietnam experiencing untold suffering, but just as with other famines, Vietnamese are also beginning to migrate abroad in search of food. These new food refugees are now appearing in boats in Hong Kong, Thailand, and other parts of Southeast Asia.

It's clearly time to move ahead to avert further disaster for the Vietnamese people, and to stem this new flow of refugees from hunger. I would urge Senators to join in support of this responsive and most responsible concurrent resolution.

Mr. HATFIELD. Mr. President, I understand I have to ask unanimous consent to submit the concurrent resolution for referral as if in legislative session, and I so request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution is as follows:

S. CON. RES. 122

Whereas Vietnam is experiencing severe food shortages that have led to hunger in many provinces;

Whereas, according to international aid organizations, as many as three million Vietnamese civilians face critical food shortages;

Whereas concerned United Nations organizations already have confirmed the authenticity of these food shortages and currently are in the process of conducting independent surveys to evaluate the extent of the hunger problem;

Whereas many refugees departing by boat from Vietnam and arriving in Thailand, Hong Kong, Malaysia, and other countries of first asylum in the region are citing fears of food shortages as a factor in their decisions to flee;

Whereas these journeys by sea expose the refugees to the dangers of pirate attacks, boat rammings, pushbacks, and drownings due to vessel failure; and

Whereas the sharp increase in refugee arrivals in Hong Kong and Malaysia, and the frequent instances of pushbacks off the eastern and southern coasts of Thailand, endanger first asylum for all refugees of the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should exercise his authority to provide international disaster assistance under chapter 9 of part I of the Foreign Assistance Act of 1961 in order to respond promptly and compassionately, in cooperation with international organizations and private and voluntary organizations, to the urgent need for food assistance by those civilians in Vietnam affected by food shortages.

EXECUTIVE SESSION—TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE ELIMINATION OF THEIR INTERMEDIATE-RANGE AND SHORTER-RANGE MISSILES—THE INF TREATY

THE ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 9, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 9, Treaty Document No. 100-11, Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles.

The Senate resumed consideration of the treaty.

Pending: Byrd Amendment No. 2296, to the committee condition, to establish common understanding that the Senate's advise and consent to ratification of the INF Treaty is subject to the condition that the President shall implement and interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate.

Mr. WARNER. Mr. President, momentarily the chairman of the Armed Services Committee and the distinguished ranking member of the Intelligence Committee and myself—Mr. BOREN is not present at this time—will be sending to the desk an amendment.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

AMENDMENT NO. 2302

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of myself and Senators NUNN, BOREN, and COHEN and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. NUNN, Mr. BOREN, and Mr. COHEN, proposes an amendment numbered 2302.

At the appropriate place in the resolution of ratification insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty, and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty, are of the same force and effect as the provisions of the Treaty."

Mr. HELMS addressed the Chair.

Mr. WARNER. Mr. President, if I might just continue for a moment, and then I will yield to the distinguished Senator from North Carolina.

As we will explain later as we address this issue, the amendment will incorporate as part of the treaty certain diplomatic notes and minutes which then become an integral part of the treaty. This will make the two items the supreme law of the land, as opposed to an executive understanding.

Mr. President, I yield to the distinguished Senator from North Carolina.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

AMENDMENT NO. 2303

Mr. HELMS. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. If the Senator would suspend for a moment, in order for a second-degree amendment to be sent forward, the time for the first-degree amendment would have to have expired.

Mr. NUNN. Mr. President, this is not going to be a problem. May I suggest the Senator go ahead and make his statement on it. I would like to make a statement on the first-degree amendment prior to actually having the second-degree amendment pending, and perhaps we could then expedite the matter.

Mr. WARNER. Mr. President, what we intended to do was lay before the Senate the two amendments, then we will go in order of the first-degree, followed by the second-degree.

Mr. NUNN. I would think it would be logical to discuss the first-degree amendment first.

The ACTING PRESIDENT pro tempore. We can do that by unanimous consent.

Mr. HELMS. Mr. President, I ask unanimous consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the second-degree amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], proposes an amendment numbered 2303 to amendment No. 2302.

(a) After the words "as used in the Treaty," delete the word "and"; and

(b) after the words "related to the Treaty," insert the following: ", and the agreements signed on May 21, 1988 in Vienna and Moscow, respectively, correcting the site diagrams and certain technical errors in the Treaty"

The ACTING PRESIDENT pro tempore. Who yields time?'

Mr. NUNN. Mr. President, how much time is there on each amendment, if the Chair could inform the Senator.

The ACTING PRESIDENT pro tempore. Forty minutes, equally divided, on each of the two amendments.

Mr. NUNN. Mr. President, who controls the time on the Nunn-Warner amendment?

The ACTING PRESIDENT pro tempore. The sponsor of the amendment, Senator WARNER, would control time for the proponents.

Mr. WARNER. Mr. President, I suggest the distinguished chairman control the time. As far as we know at this moment, we know of no opponent, and we will carefully guard whatever rights other Senators may have.

Mr. NUNN. Mr. President, if I could inform the Senate, this really is an amendment sponsored by myself, Senator WARNER, Senator BOREN, and Senator COHEN. There are really two parts to the amendment. We will make sure that Senator BOREN and Senator COHEN have enough time on their part of the amendment.

It is my understanding, though, that we have three amendments under the time agreement, each of which has 40 minutes, and that that time is equally divided. That would mean that the first-degree amendment would really incorporate both the Boren-Cohen amendment and the Nunn-Warner amendment, which means we would have a total of 80 minutes on those two, and that we would have 40 minutes on the Helms amendment. I would not think we would need anything like that much time on any of them but that we would be able to expedite it and yield back, I hope, the remainder of our time.

Mr. WARNER. In that light, Mr. President, I think we should urge all Senators who wish to address these amendments to come to the floor at this time, because it is the anticipation of the five sponsors of the combined amendment to yield back as much time as possible.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NUNN. Mr. President, I yield myself such time as I may require.

Mr. President, the amendment at the desk has been submitted on behalf of myself, Senator WARNER, Senator BOREN, and Senator COHEN.

Mr. President, during the Armed Services Committee hearings on the INF treaty, a critical issue arose as to precisely which types of ground-launched missiles of INF range are covered under the treaty. At the heart of the issue lay a fundamental question: In a treaty which is intended to ban certain weapons systems, what is a "weapon-delivery vehicle"? In addition, a major issue arose in the Intelligence Committee as to certain Soviets efforts to walk away from obligations under the treaty in the area of onsite inspection.

Had these issues not been clarified prior to ratification, they could have sown the seeds for highly contentious compliance disputes with the Soviet Union in the future. I am pleased, therefore, that the administration responded in a positive fashion to the concerns expressed by the Senate and that the United States and the Soviet Union were able to reach two agreements in Geneva on May 12 resolving these matters in a satisfactory manner.

In the opinion of the sponsors of this amendment, all that remains to put this matter to rest is to ensure that the May 12 agreements have the same force and effect as the treaty itself. Our category III understanding will, if adopted by the Senate, accomplish this result.

Mr. President, in my remarks I will focus on the future INF weapons issue. Senators **COHEN** and **BOREN** will speak to the onsite inspection dispute.

I am sure that Senator **WARNER** will speak on one or both of these, since he is the ranking member of the Armed Services Committee and also a valued member of the Intelligence Committee.

The May 12 United States-Soviet agreement on future INF weapons in effect adds a new provision to the treaty; that is, a definition of the term "weapon-delivery vehicle" as used in the treaty. In light of all the confusion within the administration on this issue, and I assume also within the Soviet Union, I do not think it would be wise for the Senate to let this matter rest as a side agreement that is not formally incorporated into the treaty.

I know the Senator from North Carolina is a part of this overall effort and that he would like to see this as part of the treaty, also. I believe the Senator from North Carolina's second-degree amendment is another matter, but a similar matter, which will be incorporated if the Senate decides to pass this amendment and if the second-degree amendment is a part of this amendment.

So we are really all aiming toward putting into the treaty in a formal way matters that have been agreed to between the two parties but which now are side agreements.

I recognize that some might argue that it is not necessary for the Senate to make this side agreement an integral part of the treaty. However, the same argument could have been made with respect to the three other documents which the administration itself chose to make an integral part of the treaty, that is, the memorandum of understanding [MOU] on data, the protocol on inspections, and the protocol on elimination. As stated in article I of the treaty:

> In accordance with the provisions of this Treaty which includes the Memorandum of Understanding and Protocols which form an integral part thereof.

In short, even though the administration could have argued that the MOU and the two protocols were legally binding and did not require any additional action, the administration correctly perceived that the documents were too important and too central to the integrity and effectiveness of the treaty not to be made a formal part of the treaty. I believe the same logic applies to the May 12 agreement on future INF weapons, and the May 12 agreement on verification as well. Had not these additional agreements been reached, we would not have proceeded with the floor debate.

I would also note that in 1979 the Senate Foreign Relations Committee voted unanimously, 14 to 0, for a category III understanding that would have required President Carter to have secured Soviet agreement that the numerous agreed statements and common understandings that were negotiated as part of SALT II were of the same force and effect as the provisions of the treaty. This condition was supported by a number of Senators who are still Members of this body, including Senators **PELL**, **LUGAR**, **HELMS**, **BIDEN**, **GLENN**, and **SARBANES**. It is also interesting to note, Mr. President, that the Carter administration took the position that it was unnecessary for the Senate to take any action with regard to these associated agreements—that the Senate need only ratify the treaty itself.

Mr. President, I do not think we should be surprised that this administration takes the position that no further action by the Senate is required. The executive branch never wants further action by the Senate on matters it has negotiated if it can help it. It is instructive to remember that the Nixon administration took the position in 1972 that submission of the SALT I interim agreement on offensive weapons to the Congress for its approval was not strictly required. But we in the Senate must decide what we think is required consistent with our responsibilities under the Constitution for treatymaking.

BACKGROUND

Mr. President, we have come a long way since the future weapons issue first surfaced in the course of Armed Services Committee hearings on the treaty in January. The journey we have travelled to reach this point has not been quick or easy. We have spent countless hours in hearings and meetings discussing this question. It took several weeks for the administration to decide what its position was on the issue. Twice, the administration had to go back to the Soviets to seek a clarification of their position.

Although this process has been neither easy or quick, the treaty is much the better for the Senate's having raised this concern. The procedure we have followed to ensure that the treaty obligations in this area were clearly understood has, in my opinion, underscored the soundness of the constitutional responsibilities afforded the Senate by the Founding Fathers. The Senate was meant to act as a check and a balance against the possibility of excessive haste on the part of the executive in concluding treaties. In the case of the INF Treaty, the Senate has performed that function with distinction.

TREATY DEFINITIONS

Mr. President, to understand this issue one must begin with the relevant provisions in the treaty text. By way of background, I would explain that the INF Treaty establishes a permanent ban on all United States and Soviet intermediate-range missiles and shorter-range missiles. Both of these terms are defined in the treaty. Article II, paragraph 5 defines an "intermediate-range missile" as a GLBM or a GLCM having a range capability in excess of 1,000 kilometers but not in excess of 5,500 kilometers. Article II, paragraph 6 defines a shorter-range missile as a GLBM or a GLCM having a range capability equal to or greater than 500 kilometers but not in excess of 1,000 kilometers.

GLBM and GLCM are also terms defined in the treaty. Article II, paragraph 1 states: "The term 'ground-launched ballistic missile [GLBM]' means a ground-launched ballistic missile that is a weapon-delivery vehicle." Acticle II, paragraph 2 states: "The term 'ground-launched cruise missile [GLCM]' means a ground-launched cruise missile that is a weapon-delivery vehicle." The treaty provides definitions of the terms "ballistic missile" and "cruise missile;" however, it does not contain a definition of the term "weapon-delivery vehicle."

I believe that the Senator from North Carolina joins with us in believing that this is the correct way to proceed. So we have, I believe, a general understanding between the Intelligence Committee chairman and ranking member—Senators **BOREN** and **COHEN**; the Armed Services chairman and ranking member, myself and Senator **WARNER**—and the ranking member of the Foreign Relations Committee, Senator **HELMS**. I also believe that Senator **PELL**, the chairman of the Foreign Relations Committee, agrees with this approach.

Let me say, trying to abbreviate my remarks this morning to expedite the matter, we have come a long way since the future weapons issue first surfaced in the course of the Armed Services Committee hearings on the treaty in January. The journey we have traveled to reach this point has not been quick or easy. We have spent countless hours in hearings and meetings discussing this question. It took several weeks for the administration to decide what its position was on this issue. Twice the administration had to go back to the Soviets to seek a clarification of their position.

Although this process has been neither easy nor quick, the treaty is much the better for the Senate's having raised this concern. The procedure we have followed to ensure that the treaty obligations in this area were clearly understood has, in my opinion, underscored the soundness of the constitutional responsibilities afforded the Senate by the Founding Fathers.

The Senate was meant to act as a check and a balance against the possibility of excessive haste on the part of the executive in concluding treaties. In the case of the INF Treaty, I believe the Senate has performed that function with distinction.

APPLICABILITY OF THE DEFINITIONS TO MISSILE CATEGORIES

To determine what is and is not covered under the INF Treaty, the agreement's definitions of "intermediate-range missile," "shorter-range missile," "GLBM," and "GLCM" must be examined in relation to four general categories of ground-launched missiles of INF ranges:

A. Nuclear-armed missiles;

B. Conventionally-armed missiles (i.e., missiles armed with traditional types of nonnuclear warheads, such as warheads filled with chemical explosives or chemical warfare agents);

C. Futuristic or exotic types of nonnuclear missile weapons (e.g., missiles armed with a laser kill device or a microwave pulse generator or a missile that is designed to collide with its target (kinetic kill)); and

D. Unarmed drones and RPVs, such as missiles for surveillance, reconnaissance, communications, target designation, or any other non-weapon-delivery purpose.

These are the four categories we are talking about. The latter category, that is unarmed drones, RPV's missiles for surveillance, reconnaissance, communications, target designation or any other nonweapon delivery purpose, are not covered by this treaty. I think that is going to be a distinction that is extremely important. Not in 10 or 15 years but in the next few years and we are going to have to make sure that the Senate understands this and agrees to this overall approach.

CATEGORY A: NUCLEAR-ARMED MISSILES

There is no question that current and future "intermediate- and shorter-range missiles" armed with nuclear warheads are banned by the INF Treaty and that both parties consider themselves bound by this prohibition. From the outset of the negotiations, both sides agreed that the treaty would apply to nuclear-armed GLCM's and GLBM's of INF range.

The second category, which I have labeled category B, conventionally armed missiles.

We debated that question yesterday, the Senator from South Carolina felt strongly that these conventionally armed missiles should not be banned but they are banned. There is no question about that. We reiterated that yesterday by the vote on the floor of the Senate where we turned down the proposal to allow conventionally armed missiles. There is just no question that current and future intermediate and short-range missiles armed with nonnuclear or conventional warheads—for example warheads filled with high-energy explosives or chemical warfare agents, are banned by the treaty and that both sides consider themselves to be so bound.

In this regard, the acronym "INF"—which stands for intermediate-range nuclear forces—is somewhat misleading, since the treaty eliminates conventional as well as nuclear GLCM's and GLBM's of INF range. In fact, the INF Treaty could be described as the first conventional arms control agreement between the superpowers in the post-war era.

Unlike category A, the United States did not agree to the Soviet position that the treaty would apply to conventionally armed GLCM's and GLBM's of INF range until President Reagan decided late in the negotiations (September 1987). The administration's rationale for this decision is discussed in the Armed Services Committee report on the treaty.

CATEGORY C: FUTURISTIC MISSILE WEAPONS

In contrast to the ultimate U.S. decision to agree to ban conventionally armed GLCM's and GLBM's of INF ranges—which followed a protracted and hard-fought debate within the administration—the implications of this decision for potential types of futuristic or exotic non-nuclear-armed GLCM's and GLBM's of INF range appears to have received little, if any, high-level policy review prior to the Senate hearings on the treaty.

In response to a letter from Senator Quayle, former Secretary Weinberger and former ACDA Director Adelman recently wrote letters denying that there was any understanding within the administration that the treaty would apply to futuristic systems (attachments 2 and 3). This contention was disputed by administration officials during an April 14 Armed Services Committee hearing.

For example, General Herres, Vice Chairman of the Joint Chiefs of Staff, testified:

> I would just have to say, with all due respect, Mr. Weinberger has to be mistaken. You know, if weapons based on future technologies had been meant for exclusion * * * there would have to be some record or some documentation which defines the scope of that exclusion. I do not know of one shred of documentation anywhere. I have never heard any discussion in all of these deliberations that at any time ever suggested that there was any intent of defining the scope of some exclusion that would facilitate the use of future technologies for weapons using these platforms.

At this hearing, Ambassador Woodworth, the deputy chief INF negotiator, conceded that "at the time of that decision, which is what he (Mr. Weinberger) was addressing, we had not explicitly discussed futures, and I think that is what he was reflecting." Ambassador Woodworth went on to say, however, that "we have looked at this issue in OSD, as we have in the entire administration, and we have reached a conclusion about what we think the logic of the record and the treaty means, and it is difficult to reach any other conclusion." In this regard, Ambassador Woodworth testified, "it appears he (Mr. Weinberger) does not agree with the position we have taken."

Whatever the degree of understanding at the time the decision was made to ban conventionally armed GLCM's, the question which arose during our hearings was what is the effect of the treaty which the Senate is now being asked to approve. As Ambassador Glitman testified on April 14 with regard to the Weinberger and Adelman letters:

> * * * it is not a question of who is telling the truth. It seems to me it is a question of what does the Treaty do and what does it not do.

The question of whether potential types of nonnuclear GLCM's and GLBM's of INF ranges that would carry or be employed as futuristic or exotic weapons are covered under the treaty bears directly on the definition of "weapon-delivery vehicle." The treaty clearly specifies that any cruise or ballistic missile of INF range that is ground-launched is banned if it is a "weapon-delivery vehicle." By implication, any cruise or ballistic missile of INF range that is ground-launched and is not a "weapon-delivery vehicle" is permitted. As will be noted, this differentiation also relates directly to the determination of which types of missiles qualify as permitted category D missiles; that is, unarmed drones or RPV's used for "non-weapon-deliver" purposes, such as surveillance or reconnaissance.

Although the treaty does not contain a definition of "weapon-delivery vehicle," the article-by-article analysis of the treaty submitted by Secretary Shultz stated that this term meant "those types of (GLCM's and GLBM's) that have been * * * flight-tested or deployed with any type of warhead device or simulation thereof." This suggested that any GLCM or GLBM which did not carry a warhead was excluded. Put differently, this suggested that GLCM's or GLBM's of INF range which attacked their targets through more exotic means (such as a laser, a microwave pulse generator or direct impact (kinetic kill)) were not covered.

During hearings on March 18 and 24, the administration testified to the Armed Services Committee that it could not say what its position was on this key definitional issue or in response to specific questions about which types of future or "exotic" technology systems were banned by the treaty. Finally, Ambassador Glitman appeared before the Foreign Relations Committee on March 30 and announced that the administration had determined that the term "weapon-delivery vehicle" meant "any INF ballistic or cruise missile system that is tested or deployed to carry a weapon—that is, any mechanism or device which when directed against a target is designed to damage or destroy it." Since this definition incorporated means of damage or destruction other than warheads, it constituted a more inclusive definition than that contained in the article-by-article analysis.

CATEGORY D: UNARMED DRONES AND RPV'S

Any cruise or ballistic missile of INF range that is ground-launched and that is not covered by the administration's definition is necessarily encompassed under category D. In other words, if a cruise or ballistic missile of INF range that is ground-launched does not carry a "mechanism or device which when directed against a target is designed to damage or destroy it," then it is permitted under the treaty.

After the administration determined its position on the definitional issue, executive branch witnesses discussed the implications of the definition with reference to specific types of future weapons which would and would not be covered by this definition. Based on this testimony and additional consultations with the administration, it is the understanding and intent of the sponsors of this amendment what the following represents an illustrative list of potential RPV/drone mission areas which the United States regards as "non-weapon-delivery" missions for purposes of treaty interpretation:

I emphasize this list is an illustration. It is not intended to envision every possibility of excluded weapons, but it is illustrative of those missions that we believe are not weapon delivery missions:

Surveillance, reconnaissance, target simulation, communications relay, signals intelligence, such as electronics eavesdropping; decoying, psychological warfare activities, such as leaflet dropping, weather data gathering, bomb damage assessment, target designation, electronic countermeasures [ECM] and other electronic warfare activities, such as radar jamming and chaff dispensing.

Mr. President, those are items which we feel strongly about, after going through this in detail and developing with the administration and the administration with the Soviet Union this definition which had not been covered in the original treaty as submitted.

We feel that these items are excluded, meaning the United States or the Soviet Union will be able to develop these type of devices without breaching the treaty that we have before us.

NEGOTIATING HISTORY

Mr. President, the administration conceded that at no point in the negotiations did the two parties specifically discuss INF missiles using future technologies and that the parties never specifically addressed the meaning of the term "weapons-delivery vehicle" or its application to the four categories which I have outlined. The administration contended that this omission was not an oversight per se, but rather reflected a general policy of the two sides that it would not be necessary to negotiate the meaning of "ordinary, commonly understood" words.

Nonetheless, the administration did point to several U.S. memorandums of conversations [memcons] with the Soviet side during the negotiations which it contends contain inferences that the Soviet Union viewed the scope of the treaty broadly, with no exemption for any type of future conventionally armed GLCM's or GLBM's. This view was challenged by some members of the Armed Services Committee during the hearings, primarily because the memcons related to negotiations on whether conventionally armed GLCM's would be prohibited under the treaty. These memcons have been provided to the Senate but remain classified.

Finally, the administration cited the Vienna Convention on the Law of Treaties as supportive of its position. Article 31 of that agreement provides that treaties "shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context."

Based on these arguments, the administration asserted that no clarification of the Soviet position on this issue was technically required since the administration believes that a common understanding has already been established. As stated in Secretary Shultz' letter to Senator Dole of April 20:

> The Administration has concluded that the INF negotiating record, viewed in conjunction with the Treaty text and with customary international law and the Vienna Convention on the Law of Treaties, demonstrate that the United States and the Soviet Union share a common understanding that all U.S. or Soviet ground-launched missiles with ranges between 500-5500 kilometers, both present and future, should be subject to the provisions of the INF Treaty.

According to Secretary Shultz, it is also the "considered judgment" of the administration that "the parties understand the term 'weapon-delivery vehicle' to mean any INF ballistic or cruise missile system that is tested or deployed to carry a weapon—that is, any mechanism or device which when directed against a target is designed to damage or destroy it;" that is, the same definition which Ambassador Glitman presented on March 30.

RECENT DIPLOMATIC INITIATIVES

Although the administration had stated that no clarification was technically required, Secretary Shultz elected to raise the future weapons question with Mr. Shevardnadze on the occasion of their April 14 meeting in Geneva to sign the U.N. convention on Afghanistan. On April 15, the Soviet Ambassador in Washington delivered a letter to the Secretary from the Foreign Minister which commented on their discussion in Geneva.

Unfortunately, the letter raised more questions about the Soviet position than it answered. Compounding the problem was the fact that the Senate was provided two versions of the letter which differ in key respects. The first was an "unofficial" English-language translation of the original Russian text prepared by the Soviet Government that was sent by Ambassador Kampelman to Senator Pell on April 18. The second was an "official" State Department translation sent by Secretary Shultz to Senator Dole on April 20.

There were several problems with the April 15 Shevardnadze letter. For example, the first translation of the letter raised a question as to whether the Soviet Union agrees that unarmed—that is, category D—missiles are exempted from the treaty. It is possible to read the phrase in the first translation of the letter "intermediate-range and shorter-range missiles, however equipped" as including surveillance drones or RPV's and other non-weapons-equipped missiles. In the second, official translation, the phrase "however equipped" was changed to read "however armed." The State Department explained that the Russian word in question could be translated both as "armed" and "equipped" but that during the INF negotiations it was standard practice to translate it as "armed."

Second, in both translations, the letter referred only to missiles which are equipped with "warheads." This is significant since, as previously noted, this issue first arose, in part, because the article-by-article analysis appeared to indicate that only those INF missiles equipped with "warheads" were covered.

Furthermore, the letter failed to provide an explicit assurance that the Soviet Union agrees with the administration's contention that the parties understand the term "weapon-delivery vehicle" to mean "any INF missile which carries a weapon; that is, any mechanism or device which, when directed against a target, is designed to damage or destroy it."

Recognizing that many Senators were dissatisfied with the April 15 Shevardnadze letter, the administration initiated an exchange of diplomatic notes with the Soviet Union during the recent ministerial meetings in Geneva. These letters, dated May 12 and signed by Ambassador Kampelman and Ambassador Karpov, respectively, confirm the parties' understanding as to the definition of "weapon-delivery vehicle" and the applicability of the treaty to future INF weapons.

As stated in the May 12 diplomatic note of the Soviet Union to the United States, the Soviet Union confirmed that it "is in full accord with the text and contents of the note of the Government of the United States of America," including the statement in the United States note that the definition of "weapon-delivery vehicle" is "any ground-launched ballistic or cruise missile in the 500-kilometer to 5,500-kilometer range that has been flight-tested or deployed to carry or be used as a weapon—that is, any warhead, mechanism or device, which, when directed against any target, is designed to damage or destroy it." This final version of the definition incorporated several modifications suggested by the Armed Services Committee but remains fully consistent with the text of the definition presented by Ambassador Glitman on March 30.

Mr. President, I ask unanimous consent that the United States and Soviet diplomatic notes of May 12 and the May 12 agreement on onsite inspection issues be inserted in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, I believe, in conclusion, that these agreements with the Soviet Union must be incorporated into the treaty and given the same weight and stature as the existing MOU on data and the protocols on elimination and inspection.

Mr. President, the Category III understanding to the resolution of ratification which we are proposing requires that, as a condition for entering the treaty into force, the President must obtain a formal and binding assurance from the Soviet Union that the May 12 exchange of notes and the verification agreement have the same force and effect as the treaty. Such an assurance would have to be secured through a procedure that would leave no doubt as to the explicit agreement of the Soviet Union to the Senate understanding.

The protocol of exchange of instruments of ratification is the normal vehicle for recording such clarifications. It is this document which both parties sign at the time they exchange their respective instruments of ratification which specifies the effect each party gives to any conditions contained in the instrument of ratification of the other party.

I certainly do not see this as a "killer" amendment or as a requirement which will delay the treaty in any respect. In a May 13 letter to Senators BOREN, WARNER, COHEN, and me, General Powell, the National Security Adviser, stated that the May 12 letters:

> Constitute a mutual and binding commitment on both the United States and the Soviet Union which has the same force and effect under international law as the provisions of the treaty itself.

So there is no disagreement as to the substance of this condition between the White House and the sponsors of the amendment.

Furthermore, the Soviet Union has already indicated that it shares a common understanding with the United States on these issues, thus there should be no problem with asking the Soviet Government to confirm that the two parties' agreement on these issues have the same force and effect as the provisions of the treaty. Such a confirmation would only require one additional sentence in the protocol of exchange and could be accomplished in a matter of minutes.

EXHIBIT 1

NOTE OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS

In light of the discussions between the Secretary of State of the United States of America and the Foreign Minister of the Union of Soviet Socialist Republics in Geneva and Moscow on April 14 and April 21-22, 1988, and the Foreign Minister's letter to the Secretary of State, dated April 15, 1988, the Government of the United States of America wished to record in an agreement concluded by exchange of notes the common understanding reached between the two Governments as to the application of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-range and Shorter-range Missiles (hereinafter referred to as "the Treaty"), signed at Washington on December 8, 1987, to intermediate-range and shorter-range missiles flight-tested or deployed to carry weapons based on either current of future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty.

It is the position of the Government of the United States of America that the Parties share a common understanding that all their intermediate-range and shorter-range missiles as defined by the Treaty, both at present and in the future, are subject to the provisions of the Treaty.

In this connection, it is also the position of the Government of the United States of America that the Parties share a common understanding that the term "weapon-delivery vehicle" in the Treaty means any ground-launched ballistic or cruise missile in the 500 kilometer to 5500 kilometer range that has been flight-tested or deployed to carry or be used as a weapon—that is, any warhead, mechanism or device, which, when directed against any target, is designed to damage or destroy it. Therefore, the Treaty requires elimination and bans production and flight-testing of all such missiles tested or deployed to carry or be used as weapons based on either current or future technologies, with the exception of missiles mentioned in paragraph 3 of Article VII of the Treaty. It is also the position of the Government of the United States of America that the Parties share a common understanding that the Treaty does not cover non-weapon-delivery vehicles.

It is the understanding of the Government of the United States of America that the above reflects the common view of the two Governments on these matters. If so, the Government of the United States of America proposes that this note and the Soviet reply note confirming that the Government of the Union of Soviet Socialist Republics shares the understanding of the Government of the United States of America, as set forth above, shall constitute an agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics.

NOTE OF THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

The Government of the Union of Soviet Socialist Republics acknowledges receipt of the note of the Government of the United States of America of May 12, 1988, as follows:

"In light of the discussions between the Secretary of State of the United States of America and the Foreign Minister of the Union of Soviet Socialist Republics in Geneva and Moscow on April 14 and April 21-22, 1988, and the Foreign Minister's letter to the Secretary of State, dated April 15, 1988, the Government of the United States of America wished to record in an agreement concluded by exchange of notes the common understanding reached between the two Governments as to the application of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-range and Shorter-range Missiles (hereinafter referred to as 'the Treaty'), signed at Washington on December 8, 1987, to intermediate-range and shorter-range missiles flight-tested or deployed to carry weapons based on either current or future technologies and as to the related question of the definition of the term 'weapon-delivery vehicle' as used in the Treaty.

"It is the position of the Government of the United States of America that the Parties share a common understanding that all their intermediate-range and shorter-range missiles as defined by the Treaty, both at present and in the future, are subject to the provisions of the Treaty.

"In this connection, it is also the position of the Government of the United States of America that the Parties share a common understanding that the term 'weapon-delivery vehicle' in the Treaty means any ground-launched ballistic or cruise missile in the 500 kilometer to 5500 kilometer range that has been flight-tested or deployed to carry or be used as a weapon—that is, any warhead, mechanism or device, which, when directed against any target, is designed to damage or destroy it. Therefore, the Treaty requires elimination and bans production and flight-testing of all such missiles tested or deployed to carry or be used as weapons based on either current or future technologies, with the exception of missiles mentioned in paragraph 3 of Article VII of the Treaty. It is also the position of the Government of the United States of America that the Parties share a common understanding that the Treaty does not cover non-weapon-delivery vehicles.

"It is the understanding of the Government of the United States of America that the above reflects the common view of the two Governments on these matters. If so, the Government of the United States of America proposes that this note and the Soviet reply note confirming that the Government of the Union of Soviet Socialist Republics shares the understanding of the Government of the United States of America, as set forth above, shall constitute an agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics."

The Government of the Union of Soviet Socialist Republics states that it is in full accord with the text and contents of the note of the Government of the United States of America as quoted above and fully shares the understanding of the Government of the United States of America set forth in the above note.

The Government of the Union of Soviet Socialist Republics agrees that the note of the Government of the United States of America of May 12, 1988, and this note in reply thereto, constitute an agreement between the Government of the Union of Soviet Socialist Republics and the Government of the United States of America that the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-range and Shorter-range Missiles is applicable to intermediate-range and shorter-range missiles flight-tested or deployed to carry weapons based on either current or future technologies, and also regarding the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty.

GENEVA, *May 12, 1988.*

Representatives of the United States of America and the Union of Soviet Socialist Republics discussed the following issues related to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington on 8 December, 1987, during the meeting between Secretary Shultz and Foreign Minister Shevardnadze in Geneva on 11-12 May 1988. As a result of these discussions, the Parties agreed on the points that follow.

1. In accordance with paragraph 7 of Section VII of the Inspection Protocol, during baseline, close-out and short-notice inspections, the Parties will be inspecting the entire inspection site, including the interior of structures, containers or vehicles, or including covered objects, capable of containing: for the United States—the second stage of the Pershing II, and the BGM-109G cruise missile; for the USSR—the first stage of the SS-12 missile, the stage of the SS-23 missile, the SSC-X-4 cruise missile and the SS-4 launch stand.

2. Regarding the second stages of United States GLBMs, the aggregate numbers of these stages are listed in the Memorandum of Understanding and will be updated in accordance with Article IX of the Treaty no later than 30 days after entry into force of the Treaty and at six-month intervals thereafter. Except in the case of close-out inspections and inspections of formerly declared facilities, the United States in-country escort is obliged to provide the Soviet inspection team leader with the number of such second stages at the inspection site as well as a diagram of the inspection site indicating the location of those stages. Finally, as set forth in the Elimination Protocol, Soviet inspectors will observe the elimination of all the stages of United States GLBMs.

3. The entire area of an inspection site, including all buildings, within the outer boundaries depicted on the site diagrams are subject to inspection. In addition, anything depicted outside these outer boundaries on the site diagrams is subject to inspection. Any technical corrections to the site diagrams appended to the Memorandum of Understanding will be made via the corrigendum exchange of notes prior to entry into force of the Treaty. Such corrections will not involve the exclusion of the buildings, structures or roads within or depicted outside the outer boundaries depicted on the site diagrams currently appended to the Memorandum of Understanding.

4. The Soviet side assured the United States side that, during the period of continuous monitoring of facilities under the Treaty, no shipment shall exit a continuous monitoring facility on the territory of the USSR whose dimensions are equal to or greater than the dimensions of the SS-20 missile without its front section but less than the dimensions of an SS-20 launch canister, as those dimensions are listed in the Memorandum of Understanding. For the purposes of this assurance, the length of the SS-20 missile without its front section will be considered to be 14.00 meters. In the context of this assurance, the United States side will not be inspecting any shipment whose dimensions are less than those of an SS-20 launch canister, as listed in the Memorandum of Understanding.

5. Inspection teams may bring to the inspection site the equipment provided for in the Inspection Protocol. Use of such equipment will be implemented in accordance with the procedures set forth in that Protocol. For example, if the inspecting Party believes that an ambiguity has not been removed, upon request the inspected Party shall take a photograph of the object or building about which a question remains.

6. During baseline inspections, the Parties will have the opportunity, on a one-time basis, to verify the technical characteristics listed in Section VI of the Memorandum of Understanding, including the weights and dimensions of SS-20 stages, at an elimination facility. Inspectors will select at random one of each type of item to weigh and measure from a sample presented by the inspected Party at a site designated by the inspected Party. To ensure that the items selected are indeed representative, the sample presented by the inspected Party must contain an adequate number of each item (i.e., at least 8-12, except in the case of the United States Pershing IA launcher, only one of which exists).

7. Immediately prior to the initiation of elimination procedures, an inspector shall confirm and record the type and number of items of missile systems which are to be eliminated. If the inspecting Party deems it necessary, this shall include a visual inspection of the contents of launch canisters. This visual inspection can include looking into the launch canister once it is opened at both ends. It can also include use of the equipment and procedures that will be used eight times per year at Votkinsk and Magna to measure missile stages inside launch canisters (i.e., an optical or mechanical measuring device). If it should turn out, in particular situations, that the inspector is unable to confirm the missile type using the above techniques, the inspected Party is obligated to remove the inspector's doubts so that the inspector is satisfied as to the contents of the launch canister.

8. The length of the SS-23 missile stage will be changed, in a corrigendum to the Memorandum of Understanding, to 4.56 meters. The length of the SS-12 first stage will continue to be listed as 4.38 meters, which includes an interstage structure.

9. The sides will exchange additional photographs no later than May 15, 1988. For the United States side, these photographs will be of the Pershing IA missile and Pershing II missile with their front sections attached and including a scale. For the Soviet side, these photographs will be of the SS-23, SS-12, and SS-4 with their front sections attached, and of the front section of the SS-20.

10. In providing notifications of transit points in accordance with paragraph 5(f)(iv) of Article IX of the Treaty, the Parties will specify such intermediate locations by providing the place-name and its center coordinates in minutes.

11. The United States side has informed the Soviet side that Davis Monthan Air Force Base, Arizona will serve as the elimination facility for the United States BGM-109G cruise missile. In order to address Soviet concerns on a related matter, the United States will formally inform the Soviet side before entry into force of the Treaty, of an elimination facility for each of its Treaty-limited items.

These points reflect the understandings of the two Parties regarding their obligations under the Treaty.

MAYNARD W. GLITMAN,
Ambassador, United States Chief Negotiator on Intermediate-Range Nuclear Forces.

N. CHERVOV,
Colonel General, Chief of Directorate General Staff of the Soviet Armed Forces.

Mr. WARNER. Mr. President, this amendment, in the judgment of the Senator from Virginia, represents some of the most constructive work done by the Senate on this treaty. And it was done in what I call a complete spirit of consultation with the President, the Secretary of State, the National Security Adviser, and others who have from time to time met with us as a group and defined the framework of the area. We believe this was necessary and had to be corrected as a consequence of our hearings. There were certain informal exchanges of letters which led to the eventual exchange of formal diplomatic notes between the United States and the Soviet Union. Those notes, Mr. President, are incorporated by reference under this amendment, and become an integral part of the treaty.

The chairman of the Armed Services Committee, Mr. NUNN, addressed in some detail as to how the issue of the futuristic systems arose in the context of the hearings of the Senate Armed Services Committee. On September 17, 1987, the President made the decision to include in a general category the conventional ballistic and cruise missiles under the terms of the treaty. The record, in the judgment of the Senate, did not fully cover the types of weapons in the conventional area.

That oversight led to the exchange of notes which stand before us today making it very clear the categories of weapons that would be included under the treaty.

We want to also make clear, and the Senator from Georgia has touched on this, and I think the distinguished Senator from Indiana will soon address this subject, that the INF missiles with an electronic warfare payload which do not damage or destroy a target are permitted by this treaty. That is a very important category of weaponry that in the future I am sure this Nation may or will develop.

We also learned from the chairman in his statement that certain weapons systems which incorporate lasers, microwaves, directed energy, and kinetic kill systems are included in this category of prohibited weapons under the treaty. These are typical technologies that when developed to damage or destroy a target are considered a weapon delivery system. Finally, I would like to inform the Senate that anyone interested in reading the history of the INF future weapons issue should refer to a report written by Senator NUNN and myself. This details how this issue surfaced, debated, and was subsequently resolved. The report is an unclassified addendum that we submitted to this SSCI report on future INF weapons.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ADDENDUM TO SSCI REPORT ON FUTURE INF WEAPONS SUBMITTED BY SENATORS NUNN AND WARNER

BACKGROUND OF THE FUTURE INF WEAPONS ISSUE

During the Armed Services Committee hearings on the INF Treaty, a critical issue arose as to precisely which types of ground-launched missiles of INF range are covered under the Treaty. Unless clarified prior to ratification, this ambiguity could sow the seeds for highly contentious compliance disputes with the Soviet Union in the future. At the heart of this issue lies a fundamental question: in a Treaty which is intended to ban certain weapon systems, what is a "weapon-delivery vehicle"?

TREATY DEFINITIONS

The INF Treaty establishes a permanent ban on all U.S. and Soviet "intermediate-range missiles" and "shorter-range missiles." Both of these terms are defined in the Treaty. Article II, Paragraph 5 defines an "intermediate-range missile" as "a GLBM or a GLCM having a range capability in excess of 1000 kilometers but not in excess of 5500 kilometers." Article II, Paragraph 6 defines a "shorter-range missile" as "a GLBM or a GLCM having a range capability equal to or greater than 500 kilometers but not in excess of 1000 kilometers."

GLBM and GLCM are also terms defined in the Treaty. Article II, Paragraph 1 states: "The term 'ground-launched ballistic missile (GLBM)' means a ground-launched ballistic missile that is a weapon-delivery vehicle." Article II, Paragraph 2 states: "The term 'ground-launched cruise missile (GLCM)' means a ground-launched cruise missile that is a weapon-delivery vehicle." The Treaty provides definitions of the terms "ballistic missile" and "cruise missile;" however, it does not contain a definition of the term "weapon-delivery vehicle."

In point of fact, the term "weapon-delivery vehicle" is not original to the INF Treaty. Rather, this term appears to have been carried over from the SALT II Treaty, where it was used in a definition of cruise missile. Article II, Paragraph 8 of SALT II defines cruise missiles as "unmanned, self-propelled, guided *weapon-delivery vehicles* which sustain flight through the use of aerodynamic lift over most of their flight path . . ." (emphasis added.) The INF Treaty defines a cruise missile as an "unmanned, self-propelled vehicle that sustains flight through the use of aerodynamic lift over most of its flight path" and defines a GLCM as a "ground-launched cruise missiles that is a weapon-delivery vehicle."

Although the SALT II Treaty did not contain a definition of "weapon-delivery vehicle," it does include a definition of what is not a "weapon-delivery vehicle." The Third Common Understanding to Article II, Paragraph 8 reads:

> Unmanned, self-propelled, guided vehicles which sustain flight through the use of aerodynamic lift over most of their flight path *and are not weapon-delivery vehicles, that is unarmed, pilotless, guided vehicles,* shall not be considered to be cruise missiles if such vehicles are distinguishable from cruise missiles on the basis of externally observable design features. (Emphasis added.)

A review of Senate hearings in 1979 on the SALT II Treaty reveals no instance in which Carter Administration officials addressed the meaning of the terms "weapon-delivery vehicle" and "unarmed." However, discussions with former SALT II negotiators indicate that in late December 1978, the Soviet Union unexpectedly claimed that all types of remotely-piloted vehicles (RPVs), included unarmed RPVs, would be covered under the SALT II Treaty. The RPV issue was successfully resolved during negotiations in January and February of 1979, with the Soviet Union agreeing that "unarmed, pilotless, guided vehicles" would be excluded from the agreement provided they were equipped with so-called "externally observable differences (EODs)."

During this period, the two SALT II delegations apparently made some references to specific RPV mission areas which would be exempt, including surveillance and communications. At the recommendation of the Armed Services Committee, the Arms Control and Disarmament Agency (ACDA) will review the SALT II negotiating history to determine whether the Soviet Union and the United States reached a common understanding during these discussions on RPVs designed for missions other than recommendations and communications that would also be considered by the two sides not to be "weapon-delivery vehicles."

APPLICABILITY OF THE DEFINITIONS TO MISSILE CATEGORIES

To determine what is and is not covered under the INF Treaty, the agreement's definitions of "intermediate-range missile," "shorter-range missile," "GLBM," and "GLCM" must be examined in relation to four general categories of ground-launched missiles of INF ranges:

A. Nuclear-armed missiles;

B. Conventionally-armed missiles (i.e., missiles armed with traditional types of non-nuclear warheads, such as warheads filled with chemical explosives or chemical warfare agents);

C. Futuristic or exotic types of non-nuclear missile weapons (e.g., missiles armed with a laser kill device or a microwave pulse generator or a missile that is designed to collide with its target (kinetic kill); and

D. Unarmed drones and RPVs, such as missiles for surveillance, reconnaissance, communications, and target designation, or for any other non-weapon-delivery purpose.

CATEGORY A: NUCLEAR-ARMED MISSILES

There is no question that current and future "intermediate- and shorter-range missiles" armed with nuclear warheads are banned by the INF Treaty and that both Parties consider themselves bound by this prohibition. From the outset of the negotiations, both sides agreed that the Treaty would apply to nuclear-armed GLCMs and GLBMs of INF range.

CATEGORY B: CONVENTIONALLY-ARMED MISSILES

There is also no question that current and future "intermediate- and shorter-range missiles" armed with non-nuclear, or "conventional," warheads (for example, warheads filled with high energy explosives or chemical warfare agents) are banned by the Treaty and that both sides consider themselves to be so bound. In this regard, the acronym "INF" (which stands for Intermediate-range Nuclear Forces) is somewhat misleading, since the Treaty eliminates conventional as well as nuclear GLCMs and GLBMs of INF range. In fact, the INF Treaty could be described as the first conventional arms control agreement between the superpowers in the post-war era.

In contrast to Category A, the United States did not agree to the Soviet position that the Treaty would apply to conventionally-armed GLCMs and GLBMs of INF range until late in the negotiations (September 1987). The Administration's rationale for this decision is discussed in the Armed Services Committee report on the Treaty.

CATEGORY C: FUTURISTIC MISSILE WEAPONS

In contrast to the ultimate U.S. decision to agree to ban conventionally armed GLCMs and GLBMs of INF ranges—which followed a protracted and hard-fought debate within the Administration—the implications of this decision for potential types of futuristic or exotic non-nuclear-armed GLCMs and GLBMs of INF range appears to have received little, if any, high-level policy review prior to the Senate hearings on the Treaty.

In response to a recent letter from Senator Quayle (Attachment 1), former Secretary Weinberger and former ACDA Director Adelman wrote letters denying that there was any understanding within the Administration that the Treaty would apply to futuristic systems. (Attachments 2 & 3.) This contention was disputed by Administration officials during an April 14 Armed Services Committee hearing.

For example, General Herres, Vice Chairman of the Joint Chiefs of Staff, testified:

> I would just have to say, with all due respect, Mr. Weinberger has to be mistaken. You know, if weapons based on future technologies had meant for exclusion . . . there would have to be some record or some documentation which defines the scope of that exclusion. I do not know of one shred of documentation anywhere. I have never heard any discussion in all of these deliberations that at any time ever suggested that there was any intent of defining the scope

of some exclusion that would facilitate the use of future technologies for weapons using these platforms.

At this hearing, Ambassador Woodworth, the Deputy Chief INF Negotiator, conceded that "at the time of that decision, which is what he [Mr. Weinberger] was addressing, we had not explicitly discussed futures, and I think that is what he was reflecting." General herres agreed with the point that it was more due to assumption and inference than any explicit discussion that policy-makers would have concluded that futures were included. Ambassador Woodworth went on to say, however, that "we have looked at this issue in OSD, as we have in the entire Administration, and we have reached a conclusion about what we think the logic of the record and the Treaty means, and it is difficult to reach any other conclusion." In this regard, Ambassador Woodworth testified, "it appears he [Mr. Weinberger] does not agree with the position we have taken."

Whatever the degree of understanding at the time the decision was made to ban conventionally-armed GLCMs, the Administration now insists that the Treaty prohibits the deployment of INF missiles using future or "exotic" technologies. The question now before the Senate is what is the effect of the Treaty in this area. As Ambassador Glitman testified on April 14 with regard to the Weinberger and Adelman letters:

> * * * it is not a question of who is telling the truth. It seems to me it is a question of what does the Treaty do and what does it not do.

The question of whether potential types of non-nuclear GLCMs and GLBMs of INF ranges that would carry or be employed as futuristic or exotic weapons are covered under the Treaty bears directly on the definition of "weapon-delivery vehicle." The Treaty clearly specifies that any cruise or ballistic missile of INF range that is ground-launched is banned if it is a "weapon-delivery vehicle." By implication, any cruise or ballistic missile of INF range that is ground-launched and is not a "weapon-delivery vehicle" is permitted. As will be noted, this differentiation also relates directly to the determination of which types of missiles qualify as permitted Category D missiles, i.e., unarmed drones or RPVs used for "non-weapon-delivery" purposes, such as surveillance or reconnaissance.

Although the Treaty does not contain a definition of "weapon-delivery vehicle," the Article-by-Article Analysis of the Treaty submitted by Secretary Shultz stated that this term meant "those types of [GLCMs and GLBMs] that have been * * * flight-tested or deployed *with any type of warhead device or simulation thereof.*" (Emphasis added.) This suggests that any GLCMs or GLBMs which did not carry a warhead was excluded. Put differently, this suggests that GLCMs or GLMBs of INF range which attacked their targets through more exotic means (such as a laser, a microwave pulse generator or direct impact (kinetic kill)) were not covered.

During hearings on 18 and 24 March, the Administration testified to the Armed Services Committee that is could not say what its position was on this key definitional issue or on which specific types of future or "exotic" technology systems were banned by the Treaty. On March 30, Ambassador Glitman appeared before the Foreign Relations Committee and testified that the Administration had determined that the term "weapon-delivery vehicle" meant "any INF ballistic or cruise missile system that is tested or deployed to carry a weapon—that is, any mechanism or device which when directed against a target is designed to damage or destroy it."

That description incorporates means of damage or destruction other than warheads and thus is a more inclusive definition than that contained in the Article-by-Article Analysis. In subsequent closed hearings before the Armed Services and Foreign Relations Committees, Administration witnesses discussed the application of this definition with reference to specific types of future weapons which would and would not be covered by this definition.

CATEGORY D: UNARMED DRONES AND RPVS

Any cruise or ballistic missile of INF range that is ground-launched and that is not covered by the Administration's definition is necessarily encompassed under Category D. In other words, if a cruise or ballistic missile of INF range that is ground-launched does not carry a "mechanism or device which when directed against a target is designed to damage or destroy it," then it is permitted under the Treaty.

A list of potential RPV/drone mission areas which the United States would presumably regard as "non-weapon-delivery" missions would include: Surveillance; reconnaissance; communications relay; signals intelligence (electronics eavesdropping); decoying; leaflet dropping; chaff dispensing (radar interference); weather data gathering; bomb damage assessment; target designation; electronic countermeasures or other forms of electronic warfare.

However, since the definition of "weapon-delivery vehicle" was announced by the Administration on March 30, questions have arisen as to its meaning and its implications for RPV/drone missions areas such as those listed above. For example, what is meant by the words "Designed to damage"? Is a radar jammer or high-powered microwave generator which renders enemy electronics systems inoperable "designed to damage"? Is a laser device which "blinds" optic sensors on enemy weapons platforms "designed to damage"? What if the "damage" caused by such systems is incidental to the system's primary function? Furthermore, what is meant by "damage"? Does "damage" mean damage that is lasting unless repaired, or does it also encompass temporary interference effects which cease when the mechanism or device in question stops operating?

Answers to these questions have been provided by Administration witnesses in closed committee sessions. There is no indication, however, that any discussions at this level of detail and specificity have taken place with the Soviet Union since the Treaty was signed.

NEGOTIATING HISTORY

The Administration has conceded that at no point in the negotiations did the two Parties specifically discuss INF missiles using future technologies and that the Parties never specifically addressed the meaning of the term "weapon-delivery vehicle." The Administration contends that this omission was not an oversight per se, but rather reflects a general policy of the two sides that it would not be necessary to negotiate the meaning of "ordinary, commonly understood" words.

Nonetheless, the Administration does point to several U.S. memoranda of conversations (memcons) with the Soviet side during the negotiations which it contends contain inferences that the Soviet Union viewed the scope of the Treaty broadly, with no exemption for any type of future conventionally-armed GLCMs or GLBMs. This view was challenged by some members of the Armed Services Committee during the hearings, primarily because the memcons related to negotiations on whether conventionally-armed GLCMs would be prohibited under the Treaty. These memcons have been provided to the Senate but remain classified.

Finally, the Administration cites the Vienna Convention on the Law of Treaties as supportive of its position. Article 31 of that agreement provides that treaties "shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context."

Based on these arguments, the Administration has asserted that no clarification of the Soviet position on this issue is technically required since the Administration believes that a common understanding has already been established. As stated in Secretary Shultz's letter to Senator Dole of April 20:

> The Administration has concluded that the INF negotiating record, viewed in conjunction with the Treaty text and with customary international law and the Vienna Convention on the Law of Treaties, demonstrate that the United States and the Soviet Union share a common understanding that all U.S. or Soviet ground-launched missiles with ranges between 500–5,500 kilometers, both present and future, should be subject to the provisions of the INF Treaty.

According to Secretary Shultz, it is also the "considered judgment" of the Administration that "the Parties understand the term 'weapon-delivery vehicle' to mean any INF ballistic or cruise missile system that is tested or deployed to carry a weapon—that is, any mechanism or device which when directed against a target is designed to damage or destroy it;" i.e., the same definition which Ambassador Glitman presented on March 30.

RECENT DIPLOMATIC INITIATIVES

Although the Administration had stated that no clarification was technically required, Secretary Shultz elected to raise the future weapons question with Mr. Shevardnadze on the occasion of their April 14 meeting in Geneva to sign the United Nations convention on Afghanistan. On April 15, the Soviet Ambassador in Washington delivered a letter to the Secretary from the Foreign Minister which commented on their discussion in Geneva.

Unfortunately, the letter raised more questions about the Soviet position than it answered. Compounding the problem was the fact that the Senate was provided two versions of the letter which differ in key respects. The first was an "unofficial" English-language translation of the original Russian text prepared by the Soviet Government that was sent by Ambassador Kampelman to Senator Pell on April 18. (Attachment 4.) The second was an "official" State Department translation sent by Secretary Shultz to Senator Dole on April 20. (Attachment 5.)

There were several problems with the April 15 Shevardnadze letter. For example, the first translation of the letter raised a question as to whether the Soviet Union agrees that unarmed (i.e., Category D) missiles are exempted from the Treaty. It is possible to read the phrase in the first translation of the letter "intermediate-range and shorter-range missiles, however equipped" as including surveillance drones or RPVs and other non-weapons-equipped missiles. In the second, official translation, the phrase "however equipped" was changed to read "however armed." The State Department explained that the Russian word in question could be translated both as "armed" and "equipped" but that during the INF negotiations it was standard practice to translate it as "armed".

Second, in both translations, the letter referred only to missiles which are equipped with "warheads." This is significant since, as previously noted, this issue first arose, in part, because the Article-by-Article Analysis appeared to indicate that only those INF missiles equipped with "warheads" were covered.

Furthermore, the letter failed to provide an explicit assurance that the Soviet Union agrees with the Administration's contention that the Parties understand the term "weapon-delivery vehicle" to mean "any INF missile which carries a weapon, that is, any mechanism or device which, when directed against a target, is designed to damage or destroy it."

Recognizing that many Senators were dissatisfied with the April 15 Shevardnadze letter, the Administration is now proposing to initiate an exchange of diplomatic notes with the Soviet Union to confirm the Parties' understanding as to the definition of "weapon-delivery vehicle" and the applicability of the Treaty to future INF weapons.

The question of the content of the U.S. note (and, in particular, the question of the adequacy of the Administration's definition of "weapon-delivery vehicle") is currently a matter of discussion within the Senate. Assuming agreement is reached on the content of the letter, some Senators have indicated that any exchange of notes with the Soviet Union on this issue would have to be incorporated into the Treaty as a legally binding document with the same status as the existing Memorandum of Understanding on data and the Protocols on Elimination and Inspection.

This requirement could be met through a Category III Understanding requiring that, as a condition for entering the Treaty into force, the President obtain a formal and binding assurance from the Soviet Union that it regards the exchange of notes as an integral part of the Treaty. Such an assurance would have to be secured through a procedure that would leave no doubt as to the explicit agreement of the Soviet Union to the Senate Understanding.

The Protocol of Exchange of Instruments of Ratification is the normal vehicle for recording such clarifications. It is this document which both Parties sign at the time they exchange their respective Instruments of Ratification which specifies the effect each Party gives to any conditions contained in the Instrument of Ratification of the other Party.

[Attachment 1]

U.S. SENATE,
Washington, DC, April 12, 1988.

Hon. CASPAR WEINBERGER,
Rogers & Wells,
Washington, DC.

DEAR CAP: As you may know, a question has been raised in the INF Treaty hearings as to whether or not the INF Treaty covers not just existing INF missiles and types like them, but futuristic weapons as well. The specific question that the Senate Armed Services Committee is now trying to resolve is what the common understanding was during our negotiation of the INF Treaty of the phrases "weapons delivery vehicle" and "deployed for weapons delivery."

The question is being debated because of the difference between the Administration's article-by-article analysis of the Treaty and the Administration's testimony concerning the meaning of "weapons delivery vehicle". The Administration's analysis clearly suggests that only cruise or ballistic missiles carrying existing types of weapons—i.e., chemical, high explosive or nuclear warheads—were covered by the Treaty. Indeed, the analysis says "weapons delivery vehicle" refers to missiles deployed or flight tested "with any type of warhead device or simulation thereof."

The Administration's most recent testimony, on the other hand, goes well beyond this analysis to include not just warheads, but "any mechanism or device which, when directed against a target, is designed to damage or destroy it." This would include ground-launched missiles carrying any radio or directed energy device or kinetic kill mechanisms that might do significant harm to their intended target.

The claim now made is that this latter all encompassing broad interpretation of the phrase "weapons delivery vehicle" was commonly understood at the time. This, then, brings me to my question. Is it your recollection, when you were Secretary of Defense, that it was commonly understood that the INF Treaty was going to cover not just INF-type missiles carrying existing types of warheads, but futuristic INF weapons carrying payloads unrelated to nuclear, chemical or high explosive munitions? Indeed, did you ever discuss this question with any official or have the implications of such a ban against futuristic weaponry evaluated by our military prior to the Treaty's signature?

[Attachment 2]

ROGERS & WELLS,
Washington, DC, April 13, 1988.

Hon. DAN QUAYLE,
Hart Senate Office Building,
Washington, DC.

DEAR DAN: In response to your question as to what consideration was given to "futuristic" weaponry beyond existing nuclear, chemical and high explosive munitions, prior to signing the INF Treaty, I can simply state that there was no understanding of any kind that I knew about that the treaty covered anything related to these so-called futuristic weapons.

Certainly, there was no discussion or evaluation of the military sufficiency questions involved in banning futuristic weaponry that I ever participated in, and I never heard any others having such a discussion. When conventionally armed missiles are mentioned in the treaty, my clear understanding was that everyone on our side was talking only about *existing* types of INF, cruise or ballistic missiles, or types similar to them carrying a conventional type—i.e., high explosive or chemical—munition.

Indeed, had there been any such suggestions that "futuristic" weapons were banned, I would have opposed it in the strongest possible terms, because it would have had an obvious adverse effect on SDI for us to agree to any limitation on any systems not yet designed or "futuristic" systems, and would have enabled the Soviets to argue that they have finally succeeded in making our SDI efforts ineffective.

With best wishes,

CAP.

[Attachment 3]

KEN ADELMAN,
Arlington, VA, April 13, 1988.

Hon. DAN QUAYLE,
U.S. Senator,
Washington, DC.

DEAR DAN: First, to answer the two questions posed in your letter of April 12th. (1) I cannot recall the issue of futuristic INF weapons ever arising during my tenure as ACDA Director. It was certainly not discussed in any National Security Council meeting I attended—and I attended all dealing with arms control—nor any meeting with Soviet officials with which I am familiar. (2) I am not aware of a ban on futuristic INF weaponry ever being evaluated for its military or arms control implications. Again because futuristic systems was just not an issue then.

Second, to go beyond your questions: I feel strongly that the Armed Services Committee and the Senate as a whole needs to clear up all known ambiguities now. There will be ambiguities enough uncovered later without letting some pass by now. Hence, if the President believes that futuristic systems should be banned by the treaty—which I take it he does—that prohibition should be clearly agreed, not only between the Administration and the Senate but much more importantly between the Soviets and the Americans.

If this futuristic ban constitutes no problem for the Soviets, there should be no problem in getting their clear confirmation. If there would be a problem, I would be concerned. It would be similar to the Soviet refusal in 1971-72 to agree to our simple and straight-forward language banning futuristic ABM systems, a refusal which led me to consider the narrow interpretation of the ABM Treaty incorrect. I do not believe the U.S. should ever be bound by arms control restrictions to which the Soviets are not bound.

I know that it is the Senate's intention to do a more thorough job on INF than on previous arms control treaties. By clearing up known ambiguities now, not with the Administration but primarily with the Soviets, we can avoid a grand debate over the true meaning of the INF Treaty sixteen years from now, as we're now stuck with, on the ABM Treaty.

I stand ready to help the Senate in any way possible.

Sincerely,

KENNETH L. ADELMAN,
Ambassador.

[Attachment 4]

DEPARTMENT OF STATE,
Washington, DC, April 18, 1988.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations,
U.S. Senate

DEAR SENATOR PELL: In my letter to you of April 14, I reviewed the Administration's position on the issue of the possible use of future technologies in connection with INF missile systems. Although the Administration did not believe it necessary to confirm with the Soviet Union our common understanding on this issue, the Secretary raised this question with Foreign Minister Shevardnadze in Geneva on April 14 in order to meet the expressed concerns of some Senators.

On April 15, Ambassador Dubinin delivered Minister Shevardnadze's reply to the Secretary, a copy of which is attached. As you will note, Minister Shevardnadze confirmed that the Soviet side's understanding of this issue is the same as that of the U.S. side.

Sincerely,

MAX M. KAMPELMAN.

[Unofficial translation]

MR. SECRETARY: In our conversation in Geneva on April 14 you raised the question of the INF Treaty interpretation in connection with the fact that a question has arisen during the US Senate debate on this treaty as to whether the ban covers the intermediate- and shorter-range missiles that could be equipped with warheads developed with some future technologies. As you noted, in responding to senators the administration is saying that the Treaty ban covers intermediate- and shorter-range missiles, however equipped.

At the same time you were interested in knowing the Soviet side's understanding of this question so as to convey it to the US senators.

I would like to confirm to you once again that the Soviet side's understanding of this question is the same as that of the US side's. The definitive view of the Soviet side is that the Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles bans these two classes of missiles, however equipped, nuclear or any non-nuclear.

[Attachment 5]

THE SECRETARY OF STATE,
Washington, DC, April 20, 1988.

Hon. ROBERT DOLE,
U.S. Senate.

DEAR BOB: Many thanks for your letter of April 13. I was reassured to learn that you have again become involved in INF Treaty issues.

The Administration has given careful consideration to the question of the INF Treaty's effect on future technologies, ever since Senator Quayle raised this issue in Senate Armed Services Committee hearings beginning in January. The Administration has concluded that the INF negotiating record, viewed in conjunction with the Treaty text and with customary international law and the Vienna Convention on the Law of Treaties, demonstrates that the United States and the Soviet Union share a common understanding that all U.S. or Soviet ground-launched missiles with ranges between 500-5500 kilometers, both present and future, should be subject to the provisions of the INF Treaty.

During the INF negotiations, the United States and the Soviet Union did not specifically discuss INF ballistic and cruise missiles uring future technologies, such as lasers, to damage or destroy targets; nor did the Parties specifically address the meaning of the term "weapon delivery vehicle". Instead, the Parties recognized that it was unnecessary to define in the Treaty terms which had ordinary, commonly understood meanings or where the common sense meaning of the term was intended by the Treaty. Indeed, Article 31 of the Vienna Convention on the Law of Treaties (which the U.S. recognizes as largely reflecting customary international law) provides that treaties "shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context . . ."

In the context of the INF Treaty, it is our considered judgment that the Parties understand the term "weapon-delivery vehicle" to mean any INF ballistic or cruise missile system that is tested or deployed to carry a weapon—that is, any mechanism or device which when directed against a target is designed to damage or destroy it.

The Senate Armed Services Committee, however, called upon the Administration to "demonstrate to the Senate's satisfaction, before the final floor vote on advice and consent, that the United States and the Soviet Union reached a clear understanding on this question." In addition, some Senators, including Senators Nunn and Quayle, have called a written confirmation of this understanding with the Soviet Union. As you know, the Administration believes that the INF Treaty stands on its own merit and opposes any Treaty amendments and conditions.

To meet these concerns by some Senators without requiring a written Soviet confirmation, which could possibly reopen the negotiations, the President decided that I should raise the issue with Foreign Minister Shevardnadze during my April 14 meeting with him in Geneva. Minister Shevardnadze told me that he was not aware there was a problem, but that he would look into the matter and get back to me.

On April 15 Ambassador Dubinin delivered Minister Shevardnadze's reply, a copy of which is attached. As you will note, Minister Shevardnadze confirms that the Soviet side's understanding of this issue is the same as that of the U.S. side.

I look forward to working with you in a common effort to conclude the Treaty ratification process successfully.

Sincerely yours,

GEORGE P. SHULTZ.

[Translation]

DEPARTMENT OF STATE,
DIVISION OF LANGUAGE SERVICES,
(LS No. 125833, BL/AO, Russian)

DEAR MR. SECRETARY: In the course of our conversation in Geneva on April 14 you touched on the question of the interpretation of the INF Treaty in connection with the fact that during the U.S. Senate debate of this Treaty, the question has arisen whether the ban extends also to intermediate and shorter-range missiles which could be armed[1] with warheads developed with some future technologies. As you noted, the Administration's response to the senators is that the ban under this Treaty covers intermediate and shorter-range missiles, however armed.[1]

At the same time, you were interested in the Soviet side's understanding of this question in order to convey it to the U.S. senators.

I would like to confirm to you once again that the Soviet side's understanding of this question is the same as that of the U.S. side. The Soviet side unequivocally assumes that the Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles bans these two classes of missiles, irrespective of their armament[1], nuclear or any kind of nonnuclear.

Mr. QUAYLE. Will the Senator yield for a question?

The ACTING PRESIDENT pro tempore. The time for the proponents has expired.

Mr. WARNER. Has the time for proponents expired?

Knowing of no opponents at this time, I ask I——

The ACTING PRESIDENT pro tempore. Under the general procedures, the Senator from North Carolina being the ranking member of the Foreign Relations Committee, regardless of his position, would control the opponents' time.

Mr. HELMS. If the Senator will yield, I do not know if anybody opposes it.

The ACTING PRESIDENT pro tempore. Under the rules, the Senator from North Carolina controls the time. Because of that, he may yield to the Senator from Virginia.

Mr. HELMS. I shall accept the burden of controlling the time.

Mr. QUAYLE. Will the Senator from North Carolina or the Senator from Georgia yield me a few minutes so I can ask a question?

Mr. HELMS. I do not know that I have the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina has the authority to control the time and the Chair will recognize those to whom the Senator yields time.

Mr. WARNER. Mr. President, may I suggest to the Senator from North Carolina that we proceed to frame the amendment, put it in, and then following that—I shall be brief—we will have such colloquy as other Members may desire.

Mr. BOREN addressed the Chair.

Mr. WARNER. I would suggest that as soon as I have completed my brief remarks, the distinguished chairman of the Intelligence Committee be recognized for the purpose of introducing the second part of this amendment together with the distinguished ranking member.

Mr. COHEN. It is already part of one.

Mr. WARNER. Very well.

Mr. HELMS. I understand the distinguished Senator from Oklahoma has an urgent meeting he must attend. Did he seek recognition?

Mr. BOREN. Mr. President, I thank the Senator from North Carolina. I am in the midst of a hearing. I was going to ask unanimous consent, and then perhaps I would make some very brief comments following the Senator from Virginia. We had originally envisioned under the time agreements that these would be separate amendments and therefore we would have been entitled to 40 minutes on the amendment in the second degree offered on behalf of Senator COHEN and myself and members of the Intelligence Committee.

Mr. President, I ask unanimous consent that 40 minutes be authorized for the discussion of this subject matter and that it be equally divided between the proponents and opponents of that amendment as if it were standing alone as a separate amendment as we discussed that originally in the time agreement.

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[1] The Russian word used here, "osnashcheny, osnashcheniye" can be translated both as "armed, armament" and "equipped, equipment". During the INF Treaty negotiations in Geneva, it was standard practice to translate it as "armed, armament".

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered. Who yields time?

Mr. WARNER. Mr. President, I am happy to yield to the distinguished Senator from Oklahoma. As I understand he has a tight schedule.

Mr. BOREN. Mr. President, I thank my colleague from Virginia very much for yielding to me. I understand the second-degree amendment has been laid down by the distinguished Senator from North Carolina.

Mr. President, I am pleased to join in proposing this amendment to the resolution of ratification with my colleagues from Georgia, Virginia, and Maine, and also we have had the able assistance and cooperation of our friend and colleague from North Carolina. Our amendments will serve to add the weight of this treaty to two subsequent agreements that have been reached between the United States and the Soviet Union. Those agreements bear the mark of Senate concern and encouragement. They are testaments both to the important role that this body can play and to the benefits that can flow from a policy that combines firmness with reason.

The first of the subsequent agreements concerns the definition of the term "weapon-delivery vehicle" and the application of the INF Treaty to missiles flight-tested or deployed to carry weapons based on future technologies. This is an issue that was first raised in the Armed Services Committee, which has performed a signal service to the Senate and to the country by pursuing this matter until a clear solution was obtained. My colleagues the chairman and ranking minority member of the Armed Services Committee, both of whom are also valued members of the Intelligence Committee, were steadfast in their insistence that this issue be decided clearly and authoritatively. They and the junior Senator from Indiana—Senator QUAYLE, who likewise deserves the appreciation of this body—kept the pressure on the executive branch and made sure that the final outcome was unambiguous.

The agreement concluded by exchange of notes in Geneva on May 12, 1988, was carefully reviewed by the Armed Services Committee before its submission to the Soviet Union, in a bipartisan cooperative effort between the executive and legislative branches. This approach is sadly rare in recent years, but perhaps our success in this case will serve as a model for future cooperation. We on the Intelligence Committee also were consulted regarding the notes to be exchanged between the United States and the Soviet Union, but our contribution was clearly secondary to that of the Armed Services Committee.

The second subsequent agreement, as recorded in a joint minute of May 12, 1988 signed by Ambassador Glitman and General Chervov, covers a wide variety of issues relating to implementation of the INF Treaty. These are matters that the Intelligence Committee followed closely for a period of several weeks. After a closed hearing on May 9, Senator COHEN and I advised that these issues were of such concern that the Senate ought not to begin debate on the treaty until they were settled to the satisfaction of the United States.

The Senate's firmness in this regard was crucial, I am certain, in convincing the Soviet Union to meet all the U.S. concerns on these issues. The success in Geneva on this matter is an example of what can be achieved when the executive and legislative branches work together and speak with a single voice. Our Nation desperately needs a revitalization of the traditional spirit of bipartisanship in foreign policy.

There were nine issues that the United States raised with the Soviet Union. It is worth quickly reviewing these issues, because they illustrate both the sort of problems that we must expect in implementing arms control treaties with the Soviet Union and—most importantly—how solutions to these problems are indeed possible, if we will be both firm and reasonable.

The first issue concerned the right of onsite inspectors to inspect any structure, container, or vehicle that could contain the smallest treaty-limited item. The treaty clearly calls for this, but Soviets in the technical talks on treaty implementation had questioned that right. The joint minute confirms Soviet obligations under the treaty and solves the technical issue by specifying the small items for which each side's inspectors may search.

The second issue concerned the right of onsite inspectors to inspect the entire area of an inspection site, including all buildings within the outer boundaries shown on the site diagrams appended to the memorandum of understanding. Soviet technical negotiators had suggested that this was not the case, but the agreed minute makes this right absolutely clear. The Soviets also agreed that any later corrections to site diagrams will not exclude any areas in the current diagrams.

The third, and most complicated issue concerned the right of portal monitors at Votkinsk, the final assembly plant for the SS-20 and S-25 missiles, to search vehicles that are large and heavy enough to carry an SS-20 missile. The Soviets had argued that this meant a misisle in its canister, while the United States maintains that it means a missile inside or outside its canister. The Soviet Union agreed at Geneva not to ship out of Votkinsk any cargo with a length or diameter greater than that of the SS-20 missile, but less than that of the SS-20 canister. They also agreed to consider the length of the missile to be 14.00 meters for this purpose. The United States, in turn, reassured the Soviet Union that if no shipments come out of Votkinsk with a dimension between that of the SS-20 and that of its canister, the U.S. monitors will not be inspecting any shipments smaller than an SS-20 canister. This is because any shipment smaller than the SS-20 is not covered by the treaty.

The practical effect of this complicated paragraph, then, is to provide the United States with a Soviet commitment not to ship out of Votkinsk any cargoes that we might fear were SS-20's. Passage of this amendment to the resolution of ratification will make clear that this Soviet commitment will have the same force and effect as the treaty itself.

The fourth issue concerned the right of onsite inspectors to bring and use such equipment as cameras, weighing devices, and radiation detection devices. Soviet technical negotiators had tried to assert a right to block the use of equipment under some circumstances, but the agreed minute makes clear that the protocol on inspections governs this question. The agreed minute cites, as an example, one major issue—the obligation of host-country escorts to photograph an object or building if the onsite inspectors believe that a question remains concerning that object or building. So, the United States achieved its objectives on this matter as well.

The fifth issue concerned the means by which to verify the technical data in the memorandum of understanding on the weights and dimensions of treaty-limited items. The agreed minute sets up these procedures to U.S. satisfaction, including agreement that the stages of the SS-20 missile will be weighed and measured.

The sixth issue concerned the means of determining that an SS-20 missile slated for elimination is indeed an SS-20. The Soviets have agreed that this can include looking into the launch canister from both ends and using the same equipment and procedures that we have developed for inspecting a missile canister at Votkinsk. They also agreed that if these steps should prove insufficient to convince the U.S. inspector that the item is indeed an SS-20, the Soviets will be obligated to do whatever is necessary to remove the inspector's doubts.

The seventh issue concerned the length of the SS-12 missile's first stage and of the SS-23 missile's propulsion stage. The Soviet Union agreed that the length of the SS-23 stage would be changed to delete the length of an interstate connector that was disclosed by the photographs provided under the treaty. The SS-12 first stage's length was left unchanged, because the interstate connector on that missile does not separate from the first stage in flight.

The eighth issue concerned each side's requests for better photographs of treaty-limited missiles. The Soviets have now provided pictures of three missiles with their front sections attached, plus a picture of the front section of the SS-20, which apparently is not attached to the missile until it is inside the launch canister. The United States, in turn, has provided the Soviets with new pictures of the Pershing I-A and Pershing II missiles.

The final issue raised by the United States concerned the means by which each side will notify the other of the intermediate stops at which missiles in transit have been located. The Soviets agreed to provide both the place-name and its center coordinates in minutes. This will enable the United States to determine whether any questionable items that it might observe through national technical means are, in fact, items that were moved legally under the transit provisions of the treaty.

The agreed minute also reassures the Soviet Union that their onsite inspectors may search for the second stages of United States missiles and are to be told by their United States hosts where such second stages are located. This is fully in keeping with U.S. obligations under the treaty itself.

Finally, the agreed minute includes the U.S. declaration that Davis Monthan Air Force Base, AZ, will serve as the elimination facility for the BGM-109G cruise missile. The United States also agrees to inform the Soviets of our other elimination sites before the treaty enters into force, which is again quite in keeping with our obligations under the treaty.

In conclusion, Mr. President, I would like to reiterate that the agreed minute signed in Geneva on May 12 is a success for United States negotiators that shows how a firm and reasonable approach to dealing with the Soviet Union can result in agreements that are to everybody's advantage. This agreement also shows that the Senate can play a most useful role by scrutinizing arms control treaties and insisting upon clarity both in the treaties and in Soviet acceptance of their treaty obligations.

The Senate's role in this effort has been to strengthen the U.S. negotiating position and to remove some potentially significant obstacles to the effective implementation of this treaty. By passing this amendment to the resolution of ratification, we will give these fine agreements the force and effect of the treaty itself—and thereby make absolutely unambiguous the obligations on both the United States and the Soviet Union that they contain.

I urge all my colleagues to support these amendments.

Again, Mr. President, I thank my colleague from Virginia for his courtesy in yielding to me as I do have to return to another meeting. I thank all those on both committees who worked with us, particularly the vice chairman of the Intelligence Committee, on the issues raised on the nine points and the very significant contribution that he made to the resolution of these matters in our committee. I think it is a tribute to the work of both of these committees that these issues have not been satisfactorily resolved and a tribute to the administration to work with us in order to see it happen. Again, I thank my colleagues.

Mr. COHEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. How much time does the Senator require.

Mr. COHEN. Two minutes.

Mr. HELMS. Let us make it 4 minutes, and the Senator can yield back the time.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, I will be brief. I would like to associate myself, first of all, with the remarks of the distinguished Senator from Oklahoma, with whom I work very closely on the Intelligence Committee, and simply point out that this is not a mere technicality. This is not a technical matter, as such. This addresses a very substantive matter regarding the treaty.

It came about as a result of not only a different interpretation of treaty terms on the part of the Soviet Union but an apparent Soviet attempt to repudiate the actual text of the treaty regarding what I consider to be rather fundamental matters such as what objects will be inspected, where the inspectors will conduct their inspections, and what inspection equipment will in fact be used.

It struck us as puzzling, certainly, that in the technical talks the Soviet side would raise objections to the clear language of the treaty. This was so serious that Senator BOREN and I felt that we could not in good conscience recommend that the treaty be brought to the floor for debate and deliberation and advice and consent to ratification until such disputes were clearly resolved, so that there would be no ambiguity, no misinterpretation, no potential for the Soviets at some future time to assert that they had a different interpretation and therefore not be bound by the clear wording of the treaty text.

That was the reason we publicly recommended to Senator BYRD and to Senator DOLE that the treaty not come to the Senator floor until these problems could be resolved. As a result of the objections raised in the Intelligence Committee, Ambassador Glitman, Secretary Shultz, and others were able to resolve these disputes in a record period of time, about a day and a half or 2 days. The reconciliation of these points they achieved I think has been clearly established now. We have this resolution in the agreed minute of May 12 which is addressed by the amendment now before the Senate.

I would simply like to point out that we have insisted that it be a category III. This is because while the agreed minute may in fact be legally binding upon the Soviets and upon the United States, nonetheless an agreed minute might be viewed by some as subordinate to the treaty itself. Moreover, an agreed minute could be changed in the future without the consent of the U.S. Senate. We want to make it perfectly clear that the agreed minute cannot be terminated or altered by the executive branch without the advice and consent of the Senate. For these reasons, we insisted it be a category III so that there is no question that the agreed minute has the same status as the treaty itself.

The agreed minute, itself, makes clear the resolution of those areas of dispute—such as the smallest size object subject to inspection; where the inspectors can, in fact, conduct inspections; what size object shall not be shipped out of the Votkinsk plant; and the equipment that will be used in the inspection process.

All of that now is clearly set forth in the agreed minute which is made integral to the treaty by this category III amendment.

I think it is a very substantive matter addressed by the agreed minute and the amendment. I think we should move toward adoption of the amendment as soon as possible.

I thank the Senator from North Carolina for yielding.

Mr. HELMS and Mr. WARNER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, first I would like to correct a possible error at the desk. The amendment submitted by the Senator from Georgia and myself would be known as the Nunn-Warner amendment, which is the first part of the amendment that is now pending.

Mr. President, I wish to associate myself with the remarks of the distinguished chairman of the Armed Services Committee, Mr. NUNN.

The ACTING PRESIDENT pro tempore. It will take unanimous consent.

Mr. WARNER. Mr. President, I ask unanimous consent that the technical change be made.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COHEN. Might I reserve the right to object? The first part of the amendment is the Nunn-Warner.

Mr. WARNER. That is correct.

Mr. COHEN. But I understand the Boren-Cohen provision regarding the agreed minute on inspections is now part of the Nunn-Warner.

Mr. WARNER. Mr. President, the confusion arose when I submitted the amendment which started off as Warner. I wanted to turn it to the order that we listed in the amendment which is Nunn-Warner-Boren-Dole. And Mr. HELMS——

Mr. COHEN. Is it a separate amendment which will be debated shortly?

Mr. WARNER. That is correct.

The PRESIDING OFFICER. Who yields time? As to the time available, the Senator from North Carolina has 34 minutes but the Senator from Maine would have 14 minutes on the Boren unanimous consent.

Mr. HELMS. Mr. President, if I may interject.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, we thought there was going to be trouble at the time we lumped all of it together. I do want a little time to speak in support of the Nunn-Warner, and I assume that I will be added as a cosponsor of it. While I am at it, I ask unanimous consent that, if I am not identified as a cosponsor of Nunn-Warner, that I may be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I also ask unanimous consent that on the second-degree amendment, the distinguished majority leader, Mr. BYRD, the distinguished minority leader, Mr. DOLE, and the distinguished assistant minority leader, Mr. SIMPSON, be added as cosponsors of the second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. WARNER. Mr. President, if the Senator would indulge me.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I ask unanimous consent, because there has been some confusion on this, that the amendment be listed as the Nunn-Warner-Boren-Cohen-Helms amendment. That was the way we had intended it to go to the desk to begin with. I am not sure it went to the desk quite that way. But nevertheless I ask unanimous consent that it be listed that way.

The PRESIDING OFFICER (Mr. REID). Hearing no objection, that will be the order.

Mr. NUNN. I thank the Chair. It is my understanding also that the second-degree amendment will be listed as the Helms amendment or has been listed as the Helms amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, at this time I will proceed under the time allocated by the Senator from Virginia to the Senator from North Carolina.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Indiana?

Mr. WARNER. Mr. President, I think we have a rather informal arrangement on time. The Senator from North Carolina controls a block which I am sure he is willing to yield.

Mr. COHEN. I think I have 14 minutes of Senator BOREN's time remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. COHEN. I yield such time as the Senator from Indiana may consume.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 14 minutes.

Mr. QUAYLE. Mr. President, I rise to try to put into the RECORD a little bit of definitional history to these agreed-upon diplomatic notes of exchange.

I wonder if either the chairman of the Armed Services Committee or the ranking member can give me what the origin is of this commonly understood definition of a weapon—where it came from. I have looked long and hard for the origin of the definition of "weapon" which is commonly understood. I have looked in Webster's dictionary. I have looked in the Joint Chiefs of Staff dictionary. I have looked in the Russian military dictionary. I do not find the commonly understood definition of a weapon as something that is designed to damage and destroy.

I believe that the definition was somewhat discovered or made up along the way. That is fine. We agree now. The Soviet Union and the United States agree on it. There is no dispute on the agreement. I am just curious, as a matter of record and historical perspective, where we got this definition of weapon.

Mr. WARNER. To the extent we received it, it was received from the authoritative testimony of administration witnesses.

Mr. QUAYLE. It was received from the authoritative testimony of administration witnesses, and where did they get the definition?

Mr. WARNER. Mr. President, the hearing record may reflect that. So far as I know, it was a term that was generally accepted, they felt, within military parlance, and they selected and used it.

Mr. QUAYLE. Is there any definition of "weapon"—and the Senator from Virginia is a former Secretary of the Navy—that it is something designed to damage and destroy?

Mr. WARNER. Mr. President, so far as I know, there is no recorded definition.

Mr. QUAYLE. Was there anything in the negotiating record—any letters, any discussion—that this definition of weapon was something that was designed to damage or destroy?

Mr. WARNER. Not to the knowledge of this Senator.

Mr. QUAYLE. In other words, there is absolutely nothing in the negotiating record, no discussion beforehand, of this commonly-understood definition of weapon. That is my understanding as well.

Now that we are on this commonly-understood definition, it gets into interpretation. The Senate, so far as this issue in the future is concerned, did the right thing, because we were told by administration witnesses—we raised the question, and first they could not give us an authoritative definition of weapon or weapon delivery vehicle. But then they came back and said it is commonly understood.

If we had relied on that commonly understood definition, the Senate would have made a grave mistake, because what the Armed Services Committee demanded in testimony before the Foreign Relations Committee was that we have to nail down this definition and have to nail it down with the Soviet Union. I thought that once we had this commonly understood definition of weapon, we should bring it up with Foreign Minister Shevardnadze and say, "This is our commonly understood definition of weapon." I understood it was orally communicated, that it was designed to damage or destroy a target. I was under the impression that they understood that was the case.

Then we received a letter from Foreign Minister Shevardnadze, and he used the word "warhead." Warhead was the same definition used by the State Department article-by-article analysis.

So, we never did have this definition of what a weapon was or what a weapon delivery system was. To my knowledge, we simply made it up. We created this definition. The Soviets now agree to this definition.

Instead of just relying on testimony that was given by administration witnesses, the Senate rightfully demanded that we go back and ascertain that the Soviet Union agreed with this definition; and that was good, constructive dialog and good, constructive work. The Senate really got into this issue.

We went to the negotiating record and there was nothing in the negotiating record. We asked the administration witnesses whether there was any discussion beforehand of the so-called futuristics, and the answer came back that there were not any real discussions—no memorandum, no oral discussions. As a matter of fact, the former Secretary of Defense, intimately involved in the negotiations, said futuristic issues were never discussed.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. QUAYLE. I yield.

Mr. WARNER. The Arms Control and Disarmament Agency did send to the Senate an interagency definition of what constitutes a weapon delivery system.

Mr. QUAYLE. When was that definition——

Mr. WARNER. I will soon be able to supply the Senator with that definition.

Mr. QUAYLE. They have a definition as of today?

Mr. WARNER. No. It was sent to the Senate in the course of the hearings.

Mr. QUAYLE. A definition of a weapon?

Mr. WARNER. A weapon delivery system.

A weapon delivery vehicle is defined as a weapon that when directed against a target, it will damage or destroy it. Damage and destroy are defined as follows:

Damage means an externally caused change in the target condition which requires that the target be repaired by external intervention in order to be able, once again, to perform its original function.

Destroy means an externally caused change in target condition such that restoration of the target to its original condition requires at least as much time and effort as to create the target from scratch.

Mr. QUAYLE. That was established after we raised the question of the futures. Is that correct?

That is my point. We did not have this commonly understood definition of weapon until the issue was raised: and once the issue was raised, they said it is commonly understood. If we just relied on that testimony as commonly understood, the Soviet Union had a commonly understood definition, according to the Shervadnadze letter, of "warhead" or "however armed" or "however equipped," whichever translation you want to use.

So I think the record clearly shows that this was not commonly understood, that it was a definition simply made up once these questions came; and I think that is a very important fact, as we take very cautious deliberations on treaties. We did not just rely upon the testimony of administration officials. We said: "You have to do more than that, because what you say is commonly understood, we cannot find."

If we stopped there and said we agree with it, that it is commonly understood, the Senate would not have done its job. But the Senate did its job. It was not commonly understood, even though we were told that, and we went back, and we now have this definition which is agreed upon.

I think it is unfortunate that we got into the banning of futuristics. It is difficult to ban something we do not know anything about. I hope others will agree with that. I think there is strong agreement. I know that in the discussions in the Armed Services Committee and the Intelligence Committee, it was very perplexing to try to ban something we did not know anything about. Banning things in the future is very difficult.

Mr. President, another problem we have with this definition is, how do we define damage? Damage is something that needs repair. If you damage something temporarily and it does not need repair, that is OK; but if you damage something and it needs repair, that is not OK. If you design a weapons system that does not have damage that needs repair, that is OK, too.

So we are getting into verification, of getting inside the Soviet mind and verifying intent, verifying whether a system was designed to do something. I submit to the Senate that that is almost impossible. I think it is impossible, unless you are simply going to take a statement of good faith: "Oh, well, this weapons system was not designed to damage, and therefore it was OK."

I am sure the Congress of the United States will make sure that the Defense Department and this administration do not go beyond that. I am not sure that the supreme Soviet and the constituency in the Soviet Union will do that. I think that when we get into verifying design and intent, it is impossible.

Mr. WARNER. Mr. President, I ask the Senator to yield for the purpose of putting into the RECORD a complete definition of damage, which we understood in the course of our hearings to be the authoritative representation of the administration.

Damage is acceptable if it can be internally repaired. By that I mean, the system repairs itself.

Mr. QUAYLE. Then, it is not damage?

Mr. WARNER. It is not damage. But we have to bring in some external assistance.

Mr. QUAYLE. In other words, if it can self-repair, it is OK; but if it does not self-repair, you cannot do it.

Mr. WARNER. The Senator is correct.

Mr. QUAYLE. If you would design a weapons system that you did not want to damage but it happened to damage, that would be OK, because it was designed not to damage. We have national technical means. I am not sure how these national technical means are going to get inside the Soviet mind, and figure out how something is designed to damage.

But that is the definition. Now you are going to put in exhaustive definition of damage and I assume that that is also commonly understood, right?

Mr. WARNER. Mr. President, I am not sure how common it is understood, but it is the definition that has been provided by the administration as authoritative testimony to clarify this point raised by the Senator from Indiana and others.

Mr. NUNN. Mr. President, will the Senator yield for a brief observation?

Mr. QUAYLE. I am glad to yield.

Mr. NUNN. Mr. President, the Senator from Indiana makes a good point here, but it really also applies to the word "destroy." Any time you use the words "design to" those are the words that activate the subjective judgment. Whatever follows that, whether it is the word "damage" or "destroy" it is still subject to that subjective judgment by the designers. It will be very difficult to basically prove in a court of law any of these things.

So you are really in a political contest with the Soviet Union if this subject comes up on either side. But if you design a system to destroy that is a subjective judgment. It can fall short of destruction and yet be designed to destroy. Or I suppose it is theoretically possible that it could destroy on some occasions but not having been designed to.

The same applies to "damage." When you put the words "designed to" before the word "damage" it is subjective. Was it designed to damage or was it designed simply to interfere?

So I would say to the Senator from Indiana the point he is making is correct and valid. There is a subjective judgment. It is going to be terribly difficult for us to draw the line, but the same thing would apply if you did not have the word "damage" and simply has the word "destroy."

Mr. QUAYLE. I wonder if the Senator might agree with me what we are seeing is a very difficult problem when we start banning futuristic system, that when we start banning futuristic systems we are getting ourselves in really what I call sort of never, never land. We do not know what these systems are and that is why we have to resort to such types of definition as "designed" whether it is to damage or destroy.

Would he agree with me it is very problematic in the future we ought to be very careful about going down the road and banning futuristic systems that we do not know anything about?

Mr. NUNN. I think the Senator is correct in this area because I think it is very difficult to draw a line here. On the other hand, if you basically, clearly and unequivocally exclude futuristic systems, then you will give a real incentive to the Soviet Union to go out and to take ground-launched cruise missiles and to take warheads off of them and put every conceivable device you can imagine in the future on them. So it cuts both ways. You have to make a judgment whether—in my opinion our country usually abides, sometimes we are not perfect—but usually we abide by the letter and the spirit of treaties. I cannot say the same thing for the Soviet Union. Usually based on history they push right up to the point and sometimes they cross that point.

So we have to have a definition here that we understand, and I was very careful in my statement to point out systems that, based on our hearings and based on the testimony, the surveillance systems and several other type systems that are not banned by this treaty, so I think that we have a record in the committeee and here on the floor as to what we believe are not covered here, and I think we are going to have to move forward with our research and development in these areas to determine the future course of those.

There are occasions where if you had gotten out front——

Mr. QUAYLE. Mr. President, I ask unanimous consent—is the time up?

The PRESIDING OFFICER. The Senator from Maine has control of the time and he has about a minute and a half left.

Mr. QUAYLE. Could I ask unanimous consent at the time for debate be extended for 5 minutes?

Mr. NUNN. We have extra time I think if the Senator from North Carolina will yield a couple minutes.

The PRESIDING OFFICER. The Senator from North Carolina has time.

Mr. HELMS. I yield an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. There are periods in history if arms control agreements can get out in front of something that is going to happen it is to the advantage of both sides.

So I do not want to say that we should never get out in front on future weapons. For instance, if both sides had never had MIRV'd missiles, we would not have the SS-18 threat, we would not have some of our vulnerability threats we have now and we would have a much more stable situation. But we did not get out in front of that situation.

Let me give you another futures problem. We are going to be struggling with this one in conference. I do not know how we are going to come out of it. But a real big problem for the United States in terms of vulnerability would be if the Soviet Union starts testing present trajectory tests so instead of having a missile go up and come down in a normal pattern you have a capability for present trajectory. If they start doing that it changes the whole vulnerability pattern, it changes our warning time in this country, it makes the submarines off the shore much more threatening and I suppose they might feel the same way if we start that kind of testing.

The House of Representatives has passed an effort to begin curbing that on both sides. I am not sure what my position is gong to be.

What I am saying is we do not want to make a statement, whatever we do in arms control we simply open up the future and never try to deal with it.

At some point we have to get out in front of the things that are coming down the line. Although I would say when you get into this, it is enormously difficult.

Mr. QUAYLE. Would the Senator agree with me when we went through this in the Senate Armed Services Committee, in trying to get a definition of what a weapons delivery vehicle was, an original State Department article by article analysis referred to warhead. Certainly my understanding of a warhead was a nuclear warhead, a conventional warhead, and a chemical warhead. I believe that was certainly understood, whether it was a warhead like that today or a warhead like that in the future, and that was the futuristics issue.

But what we did was simply take that definition and say that is not good enough. We have to go beyond that once these questions came up. If they would just have stuck to the traditional word "warhead" I think we would have had a much better understanding of what this treaty banned and what it does not ban because I think once we got down that road of banning all the futuristics and getting into the design, the damage or destroy, or even if you left out the word "damage" when you start getting into design and to banning something beyond what we know as a warhead, I believe you are asking for trouble. I think it is a mistake that they made going down that route.

I ask the Senator if he would agree with that observation.

Mr. NUNN. I would not want to agree completely with that because I do not know I could see that far in the future as to which side might want to exploit this more nearly if we had left that out because if we left it out completely and never asked any questions about it, then we could have had a major dispute with the Soviet Union moving out in this area and the United States being reluctant to do so because of the treaty implications.

So I think it is much better whatever the outcome of it we at least participated in it and both sides are going to be bound by the same rules.

Mr. QUAYLE. I agree both sides need to be bound by the same rules. I think it would certainly be possible and do not think there is any dispute we are bound by the Shevardnadze letter that referred to warhead. The State Department referred to warhead. There is certainly a common understanding what a warhead is. A warhead is an explosive device, whether chemical, conventional, or nuclear. There is where we should have rested our case.

The other stuff you simply do not know. If it is an explosive device that is a weapon it is a warhead and it is out. But we have gotten into this thing designed to damage or destroy, and you get into that.

Another thing is the balanced technology initiative of which the Senator from Georgia has been the champion.

You are talking about high-powered microwaves, talking lasers, all sorts of things, and this type of banning will have an impact on the balance technology initiative if we ever want to do the ground launch because they simply would not be able to do it.

So there are a lot of problems with this definition.

I ask for 2 more minutes.

Mr. NUNN. I believe the Senator makes a very good point. There are a lot of problems with this definition. We are going to have some of them in the future. I say, though, in this area there are a lot of problems wherever you try to draw that line. I think if you draw the line simply on warheads, given the political situation we face in NATO, and we have said to the Soviet Union, OK, clear line, nothing but warheads, future weapons are OK, we might have developed those weapons in this country, and we might even have an edge. I think we do in the technological development of some of those weapons. What happens when it comes time to deploy them, though?

We went through one terrible difficulty in deploying Pershing II missiles and other missiles. What kind of repercussions would there be within the NATO alliance? We face some political problems we have to deal with here, too.

Mr. QUAYLE. I think the NATO allies and particularly the Pershing II and the ground launch cruise missile, the problem there from a political point of view they were nuclear. We are talking about conventional.

I think NATO is going to welcome conventional weapons that are going to raise that nuclear threshold and become less dependent on nuclear weapons.

This, as the Senator pointed out, is to our advantage, and what we have done is conceded something that is to our advantage from a technological point of view in this arms control agreement which is more of a conventional arms control agreement than it is one dedicated to getting rid of nuclear weapons.

That is my problem.

Mr. NUNN. Mr. President, I must say I have many of the same concerns the Senator from Indiana articulated this morning. He does make a good point on a number of concerns.

The PRESIDING OFFICER. The time has expired.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

First of all, in the event it is needed to clarify the unanimous-consent request earlier, I identified the cosponsors of the amendment, and I want to make it clear that the cosponsors I identified are being associated with the amendment which I shall subsequently offer with reference to a declaration. I ask unanimous consent, if such a unanimous consent is required, that that be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, what we have heard here underscores what some of us have been trying to say all along—that haste makes waste. We have heard the very erudite discussion between the able Senator from Indiana, Mr. QUAYLE, and the distinguished Senator from Georgia, Mr. NUNN, which ought to be explored longer on this floor than it will be. I commend the Senator from Indiana for his knowledge and his study of this matter and his eloquent discussion of it.

The problem is, from the very beginning, we have been trying to make a silk purse out of a sow's ear. This treaty is fatally flawed. That is why, standing alone early on, I tried to raise a hand and say, "Wait a moment. Let's think about it." We had a plethora of administration witnesses coming up contradicting each other, making statements implying that this treaty was perfect. They took the position at the very outset that we must not have one amendment to the treaty. And we have not had. They took that position because they were scared to death to go back to Mr. Gorbachev and say, "Look, we fouled up." They wanted a treaty at any cost.

Then came the cloture motion which was filed by the distinguished majority leader, Mr. BYRD. I have known Senator BYRD for a long time, and I respect him. I have no notion whatsoever that Senator BYRD would have filed that cloture motion had it not been for that excursion to Moscow by the President, which, as much as anything else, is going to be a PR trip. So the Senate has fallen in line, and that is all right. I did what my conscience told me to do. I did the best I could. But when the cloture motion was filed, the ballgame was over. One way or another, we could have fought it out and kept Senators here on Sunday and Monday, but that is no way to operate around this place.

So now I'm trying to salvage what I can. We made some headway in that regard with respect to the resolution of ratification, but not to the treaty, not to the treaty text. And there is a difference.

I am a cosponsor of the Nunn-Warner amendment to which I have sent to the desk a second-degree amendment. I will discuss the second-degree amendment momentarily, but first let me discuss, if I may, the underlying amendment by Mr. NUNN and Mr. WARNER.

I think it is absolutely essential that we remember that, while the SALT II Treaty did not come before the full Senate, it was considered and approved by the Committee on Foreign Relations. History repeats itself. Thus, we have an important parallel to the committee's consideration of that treaty which seems appropriate to apply to this treaty, the INF Treaty.

As a part of the very first day's markup of the SALT II Treaty, the Foreign Relations Committee added explicitly to the treaty text the "agreed statements and common understandings" that had been signed at Vienna on June 18, 1979.

There was that old process that I just alluded to—trying to make a silk purse out of a sow's ear. It cannot be done.

The same issue arose then that has arisen now: What is the precise legal status of the "extra-treaty" representations, documents and so forth, supposedly agreed to by the two parties? I had one heck of a time getting the State Department to fess up on various matters, including secret exchanges that still have not been made public to the American people.

Well, let us go back to 1979 and the SALT II Treaty. The Foreign Relations Committee that year unanimously adopted a so-called category III—that means binding language—category III amendment to the treaty providing "That the agreed statements and common understandings associated with the treaty and protocol signed on June 18, 1979, with the treaty are of the same force and effect as the provisions of the treaty itself and the protocol."

All right. Now, the State Department people came up here back then and contended, just as the current representatives have done with respect to this INF Treaty, that such an amendment to the treaty was not really necessary. The State Department claimed that the agreed statements and common understandings were equally binding on the Soviets as the treaty text and protocol. Just so, Secretary Shultz and Ambassador Kampelman claimed back on May 16, just a few days ago, that the diplomatic note and minute are equally binding on the Soviets as are the treaty text and the protocols, together with the memorandum of understanding.

The point is, Mr. President, in order to make explicit the incorporation of the Soviets' assurances in SALT II, the Foreign Relations Committee, in 1979, adopted, by a unanimous vote, the amendment which I read into the RECORD a minute ago.

But I think the purpose of such an amendment was eloquently stated—and this was 1979, SALT II—by the distinguished Senator from Maryland, [Mr. SARBANES]. Let me read you what he said.

> It seems to me that one of our responsibilities in doing a craftsmanlike and professional markup with respect to these documents is to clarify in those instances in which we think clarification is necessary. There have been a number of instances in which it has been asserted that there is agreement with respect to certain meanings, and there may be some doubt about that.

Well, that was an understatement, but the Senator was exactly correct.

I would interject that the present situation is precisely the same. That is a reason I have been here on this floor for the last 10 days. That is the reason I did what I could in the Foreign Relations Committee.

I say to you, Mr. President, that Secretary Shultz and Foreign Minister Shevardnadze would not have had to deal with these nine verification issues and to the futuristic issue if there had been a perfect agreement about the meaning of these provisions in the treaty.

Senator SARBANES continued in an eloquent fashion. He said:

> One of the ways to remove this doubt is, of course, to go through the process which we are not going through with respect to these matters.
>
> Now, I do not contend that the Soviets have an entirely different view of this particular issue that is now before us. In fact, it has been asserted to us that they in fact agree that these statements and understandings are legally binding as is the treaty, but they are not part of the treaty.
>
> As part of doing a craftsmanlike job, we are now going to make them a part of this treaty through this reservation. We will deal with other issues of that sort, I am sure, later. Some people will propose changes that do not represent the clarification of supposed understanding between the parties, but may in fact involve a matter in which the proposal clearly is changing an understanding reached in the treaty. At that point, we will have to judge that accordingly.
>
> I do not make of this what I think we would have to make of a proposal of that latter sort, but it seems to me this is an essential part of doing a good job here in the committee." [October 15, 1979, page 18, Part 6 (Markup) of SALT II Treaty Hearings

before the Committee on Foreign Relations.]

Mr. HELMS. Parenthetically, I note that the only opposition to the 1979 amendment was that Senator LUGAR, the distinguished Senator from Indiana, contended that the amendment did not do enough to cure the obvious defects in the SALT II Treaty.

Senator LUGAR said:

> Let us call it for what it is. It is a way of covering yourself for a pro-SALT II vote.

That is what has been going on around here. Senators want to cover their backsides because they nervously anticipate that just a few years down the road they are going to regret this bum's rush to ratify this sow's ear.

Senator Percy also noted the importance of clarifying such issues by amendment, saying:

> I think it establishes the precedent and procedure for understandings, statements, and so forth that will be considered an integral part of the treaty and which really go to the heart of it. . . They are so essential that I could not possibly vote for the treaty without them. As during the Panama Canal debate we did not accept the joint statement made at the White House; rather, we made the statement a part of the treaty itself.
>
> I believe that satisfied some of us that it was binding upon both parties. So, I think this procedure is an essential and necessary procedure. . . . "

Senator Percy reminded the committee of a good point in 1979 which bears repeating in 1988. The Senate did take action in the 1978 consideration of the Panama Canal Treaties to incorporate various statements into the text of the treaty. It did not make any difference to Torrijos and Noriega. They paid no attention whatsoever to the two treaties giving away the Panama Canal.

The same approach was necessary in 1979 during the Foreign Relations Committee deliberations on the SALT II Treaty.

I submit, to the point of being redundant and repetitive, that this is what we ought to have done in the first place. We should have taken our time. When the President took off from Andrews Air Force Base yesterday, this Senate ought to have been engaged in consideration, careful consideration of the implications of this treaty.

But, no, there came the rush. I do not think Senator BYRD really wanted, in his heart of hearts, to shut off debate and to shut off the possibility of further amendments except for the time pressures with respect to the President's trip. I shall forever be grateful to BOB BYRD for his constancy in protecting the meaning and the purpose and the traditions of this Senate. But he has done what he did to accommodate the President of the United States and that is fine.

So here we are. DANNY QUAYLE made excellent sense in his discussion with the distinguished Senator from Georgia [Mr. NUNN]. We ought to have had a day or more, whatever is necessary, to discuss this point because I am afraid it is going to come back to haunt us because we did not do it right. The sow's ear is still a sow's ear.

It should be clear to all that the kind of approach we have taken is unwise. But that is a fait accompli. It is a proper and appropriate decision by the Senate every time we have a treaty to make certain that our constitutional role in granting advice and consent is taken seriously. If we are not going to take it seriously, take it out of the Constitution. Let this Senate never be a rubber stamp for another President of the United States.

Obviously this treaty lacked the perfection claimed for it by the steady stream of advocates of the treaty who came before the Foreign Relations Committee day after day and who worked assiduously to make sure that no amendment to the treaty text would be accepted. And, of course, it was not. Of course, the media hooted and hollered: Oh, these few conservatives were beat down, they were overwhelmed yesterday by an enormous vote. Well, we were. We were.

But history is going to decide and disclose who was right and who was wrong.

Because the same media that have been so gleefully engaged in a putting down of admittedly a few Senators, 10 years ago were saying: Let us go with the give-away of the Panama Canal. They were wrong then and they are wrong now. Our job in the Senate is to do the best we can to rectify as many errors as we can. And that brings me to the second-degree amendment which I have offered to the underlying amendment. I want to say a few words about that and I will yield the floor.

The second-degree amendment which I filed corrects a number of admitted errors, deficiencies, mistakes in the treaty text that have been acknowledged even by the State Department and identified by the State Department. The same crowd that says: Oh, this treaty is perfect. That is all we heard this entire year thus far. But now we know after months of declarations about the perfection of this treaty that it was as full of holes as a piece of Swiss cheese.

So modifications are imperative in order to make binding the clarifications with regard to the future risks issue, and some of the verification procedures on which the Soviets were attempting to renege, even before the treaty enters into force.

I might say, Mr. President, parenthetically, because it is relevant, that driving to work this morning, early this morning, I heard a report that President Reagan is going to be denied the opportunity of going to that monastery. The Soviets decided it would be bad PR for them. So the President and his party are going to have to make arrangements to get together with religious groups somewhere else at some other time. But this is the way Soviets operate, and I do not know how to get the point across that you cannot trust them.

They are going to pursue their course whether the chairman—equivalent of chairman—of the Communist Party, the Soviet Union, is the front man or somebody else. They have not changed, and I do not think they are going to change.

At any rate, this amendment, this second-degree amendment will make corrections in the treaty, including its memorandum of understanding and protocols for mistakes that were made in the unseemly haste to complete this treaty by the December summit—for the signing on December 8.

If they had spent a little more time they might have made only two dozen errors. As it turns out, they have made 50 or 60. I have lost count.

As further evidence of the haste, the initial corrections—get this, Mr. President—the initial corrections identified by the State Department and permitted by the State Department were made known in January. And now they have sent up some corrections to the corrections. Perhaps before it is all over, there will be corrections to the corrections to the corrections.

Hopefully, the State Department has it right this time. I hope they did a little better than they did in dealing with Noriega, for example. What a travesty that has been. And I might say parenthetically again, because I think it is relevant to the big picture, that if there had just been the decision to work with and accommodate the opposition to Mr. Noriega by allowing the opposition access to facilities owned by the United States of America, this problem in Panama would probably be resolved by now. We will never know.

But what we did was say, "Oh, no, oh, no; we cannot allow you access to our facilities."

And the same sort of message would go to freedom fighters in Hungary. And look what this Congress is doing to the freedom fighters in Central America.

So you go on and on and on, like Tennyson's brook.

The State Department was reluctant to admit all of these errors, to identify them or notify the Senate of them. But we finally obtained a copy of the corrigendum exchanged with the Soviets on May 21, and I received it, Mr. President, last night, May 25. It has been there all the time.

I do not think there is any objection whatsoever to the second-degree amendment, and I urge the adoption of it.

I inquire of the Chair if the yeas and nays have been obtained on the underlying amendment?

The PRESIDING OFFICER. They have not.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, one further thing. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask unanimous consent that the English language text of the notes of May 21, to which I have just alluded, done at Vienna and Moscow be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTES OF MAY 21, 1988

The Ministry of Foreign Affairs of the Union of Soviet Socialist Republics presents its compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of the Embassy's Note of May 21, 1988, and Annex thereto containing notification of corrections to data submitted by the American side in accordance with the Memorandum of Understanding Regarding the Establishment of the Data Base for the Treaty Between the Union of Soviet Socialist Republics and the United States of America on the Elimination of Their Intermediate-Range and Shorter-Range Missiles of December 8, 1987. The Soviet side takes note of the aforementioned notification.

The Ministry also has the honor to advise the Embassy that the data submitted by the Soviet side in accordance with the Memorandum of Understanding Regarding the Establishment of the Data Base for the Treaty Between the Union of Soviet Socialist Republics and the United States of America on the Elimination of Their Intermediate-Range and Shorter-Range Missiles will be provided with corrections contained in the Annex to this note.

The Ministry further has the honor to advise that the Soviet side agrees to the proposal of the American side, contained in the Embassy's Note, to enter corrections to the text of paragraph 1 of section XI of the Protocol Regarding Inspections Relating to the Treaty Between the Union of Soviet Socialist Republics and the United States of America on the Elimination of Their Intermediate-Range and Shorter-Range Missiles for the end of the third sentence of that paragraph to read: ". . . pursuant to paragraph 11 of Section VI of this Protocol."

The Soviet side shares with the American side the understanding that the aforementioned Note of the Embassy and the Reply Note of the Ministry shall constitute a correction of the text of the Treaty.

The Ministry avails itself of this occasion to renew to the Embassy the assurance of its highest consideration.

Seal of the Ministry,
Moscow, May 21, 1988.

CORRECTIONS TO DATA

Submitted by the Soviet side in accordance with the Memorandum of Understanding Regarding the Establishment of the Data Base for the Treaty Between the Union of Soviet Socialist Republics and the United States of America on the Elimination of Their Intermediate-Range and Shorter-Range Missiles.

1. In paragraph 2(a)(ii) [2(b)(ii) in English-language text] of Section IV of the Memorandum of Understanding, the geographic coordinates for the V.I. Lenin Petropavlovsk Heavy Machine Building Plant, Petropavlovsk, should be 54°54′20″ N and 69°09′58″ E.

2. In paragraph 2(a)(i) [2(b)(i) in English-language text] of Section III and in paragraph 2(a)(i) [2(b)(i) in English-language text] of Section IV of the Memorandum of Understanding, the geographic coordinates for the Barrikady Plant, Volgograd, should be 48°46′50″ N and 44°35′44″ E.

3. In paragraph 2(a)(i) [2(b)(i) in English-language text] of Section III of the Memorandum of Understanding, the Elimination Facility at Aral'sk with the coordinates 46°50′ N and 61°18′ E should be changed to the Elimination Facility at Kapustin Yar with the coordinates 48°46′ N and 45°59′ E.

Moreover, in the Protocol Regarding Inspections Relating to the INF Treaty, paragraph 7 of Section I regarding points of entry for the Union of Soviet Socialist Republics should read "Moscow or Ulan Ude."

EMBASSY OF THE
UNITED STATES OF AMERICA,
Moscow, May 21, 1988.

No. MFA/130/88.

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Union of Soviet Socialist Republics, and has the honor to refer to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-range and Shorter-range Missiles, with Memorandum of Understanding and Protocols (the Treaty), signed at Washington December 8, 1987.

The Embassy proposes that the corrections set forth in the attachment to this note be made in the text of the Treaty. The Embassy further proposes that this note and the Ministry's note in reply accepting the corrections shall constitute a correction of the text of the Treaty.

JOHN M. JOYCE,
Minister-Counselor.

ATTACHMENT TO NOTE NO. MFA/130/88

The following corrections should be made in the text of the Treaty:

1. In the Memorandum of Understanding (MOU) regarding the establishment of a data base for the Treaty, Section II, paragraph 1, concerning intermediate-range missiles and launchers, for the United States: the number of non-deployed missiles should read "226," the aggregate number of deployed and non-deployed missiles should read "695," and the aggregate number of second stages should read "238."

2. In the MOU, Section III, paragraph 1(A)(II), for missile operating base Wueschheim—the geographic coordinates should read, in the pertinent part, 007 25 40 E., and the number of launchers should read "21."

3. In the MOU, Section III, paragraph 2(A)(I), for launcher production facilities: Martin Marietta—the geographic coordinates should read, in the pertinent part, 39 19 N. For missile storage facilities: Pueblo Depot activity—the number of missiles should read "120"; Redstone Arsenal—the number of training missile stages should read "0"; Weilerbach—the number of missiles should read "9." For launcher storage facilities: Redstone Arsenal—the number of training missile stages should read "4." For launcher repair facilities: Redstone Arsenal—the number of training missile stages should read "20"; Ft. Sill—the number of launchers should read "1"; Pueblo Depot activity—the geographic coordinates should read, in the pertinent part, 38 17 N. For training facilities: Ft. Sill—the number of training missile stages should read "76."

4. In the MOU, Section IV, paragraph 2(A)(I), for missile production facilities: Longhorn Army Ammunition Plant—the number of missiles should read "8" and the number of training missile stages should read "1." For launcher production facilities: Martin Marietta—the geographic coordinates should read, in the pertinent part, 39 19 N. For missile storage facilities: Pueblo Depot activity—the number of missiles should read "162" and the number of training missile stages should read "63." For missiles, launchers, and support equipment in transit the number of missiles should read "0" and the number of training missile stages should read "6."

5. In the MOU, Section VI, paragraph 1(A)(IV) for the BGM 109G, the maximum diameter of the missile should read "0.52."

6. In the MOU, Section VI, paragraph 1(B)(I), for the BGM 109G launcher the maximum length should read "10.80" and the maximum height should read "3.5."

7. In the MOU, Section VI, paragraph 1(D)(I) for the BGM 109G launch canister the maximum length should read "6.97" and the maximum diameter should read "0.54."

8. In the protocol regarding inspections, Section XI, paragraph 1, the reference to "paragraph 10 of Section VI of this protocol" should read "paragraph 11 of Section VI of this protocol."

EMBASSY OF THE
UNITED STATES OF AMERICA,
Moscow, May 21, 1988.

No. MFA/131/88.

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Union of Soviet Socialist Republics, and has the honor to refer to the Ministry's note of May 21, 1988. On behalf of the Government of the United States of America, the Embassy accepts for information the items presented by the Soviet side, as set forth in the Ministry's note.

JOHN M. JOYCE,
Minister-Counselor.

VIENNA, *May 21, 1988.*

The Government of the United States of America refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed at Washington, December 8, 1987, and proposes that the corrected site diagrams attached to this Note replace the respective site diagrams of the United States of America, as appended to the Memorandum of Understanding.

The Government of the United States of America further proposes that this Note shall constitute a correction to those site diagrams of the United States of America appended to the Memorandum of Understanding.

FRANK A. PARTLOW, Jr.,
Brigadier General,
U.S. Army.

VIENNA, *May 21, 1988.*

The Government of the United States of America refers to the Note of the Government of the Union of Soviet Socialist Republics of May 21, 1988, and accepts for information the corrections presented by the Government of the Union of Soviet Socialist Republics to the respective site diagrams of the Union of Soviet Socialist Republics appended to the Memorandum of Understanding, as set forth in the aforesaid Note.

FRANK A. PARTLOW, Jr.,
Brigadier General,
U.S. Army.

VIENNA, *May 21, 1988.*

The Government of the Union of Soviet Socialist Republics refers to the Treaty Between the Union of Soviet Socialist Republics and the United States of America on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed at Washington on December 8, and proposes that the corrected site diagrams attached to this Note replace the corresponding site diagrams appended by the Union of Soviet Socialist Republics to the Memorandum of Understanding.

The Government of the Union of Soviet Socialist Republics further proposes that this Note constitute a correction of the relevant site diagrams appended by the Union of Soviet Socialist Republics to the Memorandum of Understanding.

Attachments: As stated

Signature,
M.N. STREL'TSOV,
Chief Counsellor,
U.S.S.R. Ministry of Foreign Affairs.

VIENNA, *May 21, 1988.*

The Government of the Union of Soviet Socialist Republics refers to the Note of the Government of the United States of America of May 21, 1988, and takes note of the corrections submitted by the Government of the United States of America to the site diagrams appended by the United States of America to the Memorandum of Understanding, as set forth in the afore-mentioned Note.

Signature,
M.N. STREL'TSOV,
Chief Counsellor,
U.S.S.R. Ministry of Foreign Affairs.

Mr. HELMS. I thank the Chair, and I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HELMS. Parliamentary inquiry. What is the matter before the Senate at this time?

The PRESIDING OFFICER. The matter before the Senate at this time is the amendment offered by the Senator from North Carolina, a second-degree amendment.

Mr. HELMS. And the time remaining?

The PRESIDING OFFICER. The Senator from North Carolina has remaining about 8 minutes. The Senator from Maine has 2 minutes.

Mr. WARNER. Mr. President, I wonder if the distinguished Senator from North Carolina would grant the distinguished Senator from Maine and myself such time as we may require to have a colloquy?

Mr. HELMS. I yield the remainder of my time to the Senator from Virginia to be controlled as he so desires.

Mr. WARNER. Mr. President, I yield to the Senator from Maine.

Mr. COHEN. I thank the Senator.

First, Mr. President, let me respond briefly to the comments made by my colleague from North Carolina. In my judgment, there has never been any assertion that this treaty is perfect. No one that I have listened to has indicated this is an absolutely perfectly crafted treaty. There is not a treaty perfectly crafted in existence, nor is there any piece of legislation ever adopted by this body or the other that is perfect in its provisions.

The notion that somehow it is flawed I think we would all concede. This treaty is flawed like other treaties are flawed, but, in my judgment, it is not fatally flawed, as the Senator from North Carolina has suggested.

It has also been suggested that every other Senator, save a few, have abdicated their senatorial responsibilities by simply joining or caving in to President Reagan's public relations excursion to Moscow—sort of a magical mystery tour that he is taking us all along with him on.

In my judgment, the Members, certainly those on the other side of the aisle, are not particularly interested in simply promoting President Reagan's public relations efforts. I believe they are equally dedicated, as the President and those of us on this side of the aisle who support this treaty are, to reducing a potential area of conflict and to try to reduce the size of our nuclear aresenals.

To suggest somehow everybody else in this Chamber simply wants to join a public relations campaign I think is not supported by the facts.

The third point I would make is that I serve on the Intelligence Committee along with Senator WARNER. He also serves on the Armed Services Committee, as do I, along with Senator NUNN and others. We have held hearing after hearing in the Intelligence Committee, the Armed Services Committee, and the Foreign Relations Committee. It is not as if this particular treaty has not been given very close scrutiny.

Indeed, there were deficiencies and flaws, and we tried to identify them and correct them. I believe we have done so. Speaking on behalf of myself, I feel I have carried out my obligations under the Constitution, and I certainly do not wish to accede to the notion that I and others have caved in and simply abdicated that measure of responsibility.

Now to the amendment, if I might address the Senator from Virginia, with whom I have prepared a colloquy. The Helms amendment is quite different from the underlying Nunn-Warner-Boren-Cohen amendment in that it refers to two exchanges of notes on technical matters. Such exchanges of technical corrections may continue, and quite possibly will continue, in the future. My understanding is that such future technical changes will not require the advice and consent of the Senate, nor will the regular data updates. Is that the understanding of the Senator from Virginia?

Mr. WARNER. Mr. President, the Senator from Maine is correct. The purpose of the Helms amendment is to give the full force and effect of the treaty to the note of May 21, 1988. Those notes constitute the corrected baseline in effect on which the Senate's advice and consent to the ratification of the treaty is based.

The regular data updates and further exchanges of technical corrections, as envisioned by the treaty, would not require the advice and consent of the Senate, although they would, of course, be provided to the Senate.

Mr. COHEN. I thank the Senator from Virginia. Just to draw the distinction with the first-degree amendment, any changes to the diplomatic notes or the agreed minute referenced in the underlying Nunn-Warner-Boren-Cohen amendment would require the advice and consent of the Senate. As to the second-degree amendment, it requires notification, but not advice and consent. In this regard, I note that the authoritative testimony of Ambassador Glitman to the Armed Services Committee confirms that there can be no change in the substantive obligations under the treaty without the advice and consent of the Senate.

Mr. HELMS. Will the Senator yield on that point for just 30 seconds?

Mr. WARNER. Yes.

Mr. HELMS. Mr. President, in the interest of time, and I hope no interruption will be shown in this colloquy.

Mr. WARNER. In that case, let me indicate——

Mr. HELMS. I will finish in 20 seconds. I will ask unanimous consent that my comment about the colloquy appear immediately after that.

Mr. WARNER. Mr. President, while we have the distinguished Senator from North Carolina on the floor, is it this Senator's understanding that it would be the wish of the Senator from North Carolina or he would concur in the Senate voice voting the amendment in the second degree, and we would then have a rollcall vote on the underlying amendment as proposed by Mr. NUNN, myself, Mr. BOREN, Mr. COHEN, and Mr. HELMS?

Mr. COHEN. If the Senator will yield, what I am suggesting, I am willing to accept the second-degree amendment provided it is predicated upon the understanding that the Senator from Virginia and I have just established—that is, that technical changes in data information would not require advice and consent of the Senate; rather, they would require simply notice to the Senate. That is the basis on which I recommend we accept the second-degree amendment.

Mr. HELMS. If the Senator will yield.

Mr. WARNER. Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. For the purposes of legislative history to my response to the colloquy, let the record speak for itself in that regard.

Mr. WARNER. Mr. President, the Senator from Maine and I do not have the benefit of the knowledge of the response of the colloquy. I ask my colleague from Maine as to how we can answer his question?

Mr. COHEN. I suggest the basis for accepting, indeed endorsing, the second-degree amendment would be predicated upon the colloquy that the Senator from Virginia and the Senator from Maine have just had; notwithstanding any information put into the record inconsistent with that colloquy. My recommendation is that the representations the Senator from Virginia and I have just made would be the basis for approval of the second-degree amendment.

Mr. WARNER. Mr. President, that is the understanding the Senator from Virginia proceeded on when he entered into colloquy. I note the presence on the floor of the Senator from North Carolina. It seems to me before we ask the Senate to voice vote this amendment, we should have some clarification.

Mr. HELMS. I want to hear the remainder of the colloquy. I did not realize I was yielding for that purpose.

Mr. WARNER. Mr. President, the colloquy that the Senator from Maine and I entered into was in accordance with a prepared text. My understanding is that text was prepared with the concurrence of the Senator from North Carolina. Then the Senator from Maine added another perspective to it. I leave it to the Senator from Maine to respond to his question. This Senator from Virginia has given the prepared text.

Mr. HELMS. All I am saying, if the Senator will yield.

Mr. WARNER. Yes.

Mr. HELMS. Is that the record ought to contain both sides. We are making legislative history here. I am perfectly content for the record, as it will stand, to be examined and whichever one of us are correct suits me fine.

Mr. COHEN. If the Senator will yield, I do not know what the other side referred to is. I do not know what the other colloquy is.

Mr. WARNER. Mr. President, I do not know what the other colloquy is. That is the dilemma we seem to be faced with. It seems to me before we ask the Senate to voice vote this matter, we ought to have some clarification. Does the Senator agree or disagree?

Mr. HELMS. Why not finish the colloquy?

Mr. WARNER. Mr. President, this Senator has finished the colloquy. Has the Senator from Maine finished?

Mr. COHEN. I have completed my statement.

Mr. WARNER. The Senators from Maine and Virginia have completed their statements.

Mr. HELMS. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. SHELBY). Two and a half minutes.

Mr. HELMS. Two and a half. Mr. President, I ask unanimous consent that it be in order for me to suggest the absence of a quorum so that we can work this whole matter out even if it takes 3 or 4 minutes in addition to the 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will now call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I rise merely to congratulate Senators NUNN, WARNER, BOREN, COHEN, and HELMS on this amendment.

It grew out of a conversation yesterday morning, and there is a general agreement that the three different viewpoints that were represented here, three different thoughts could be integrated into a single amendment. They worked hard at it and it is being done. I think it is a good piece of work, and it has helped move along the whole concept of the treaty. It is an example, too, of where our colleagues try to see what can be done in a positive way, rather than examining what is wrong in a negative way. For that reason, I know that this amendment will pass in very fine form. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island controls the only time left. The Senator from Rhode Island has approximately 10 minutes left.

Mr. PELL. Mr. President, I yield to the Senator from North Carolina as much time as he wants.

Mr. HELMS. Mr. President, Two minutes on the outside.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. HELMS. I thank the Chair. I thank the distinguished Senator from Rhode Island.

Mr. President, I simply wanted to add my own comments at the end of the colloquy between the distinguished Senator from Maine and the distinguished Senator from Virginia. We have consulted about this because I think it is an important point. I think they agree.

Mr. President, I would like to follow the earlier colloquy between the two Senators in the RECORD because it is legislative history of equal weight and significance.

The other side is that the colloquy may not, of course, overturn the Constitution of the United States. The treaty text may not be changed after the Senate has given its advice and consent in terms of domestic law, not even for so-called technical modifications. Senator COHEN is going to note certain delegations in just a moment. However, for purposes of international law, so-called minor, nonsubstantive, purely technical corrections are made on occasion by the exchange of notes or other methods.

The Senate, in the judgment of this Senator, and I believe all Senators, must zealously guard its duty and its prerogatives to ensure that these provisions of international law do not become loopholes by the Constitution and the role of the Senate in making treaties which could be thereby subverted.

That is the end of my contribution to the colloquy.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island has the time.

Mr. PELL. Mr. President, I yield such time as he may desire to the Senator from Virginia.

Mr. WARNER. Thank you, Mr. President.

Mr. President, I yield such time to the Senator from Maine as he may require.

Mr. COHEN. I thank the Senator from Virginia.

Mr. President, let me say there is no other side to the colloquy. There can be no two sides or any difference in interpretation of what we are trying to establish. Otherwise, there is no agreement, and it would force a vote on the measure. There is one understanding, and I believe it has been correctly stated by the Senator from Virginia, the Senator from Maine, and the Senator from North Carolina as to one colloquy, as such. They are not in contradiction. It is correct to say that the treaty text may not be changed without the advice and consent of the Senate. That is categorical, and there is no disagreement.

But as the Armed Services Committee pointed out on page 25 of its report, the section "Amendment to the protocols":

Once the Treaty enters into force, amendments to the Treaty can be made only with the consent of the Senate (Articles XVI and XVII). However, the protocols permit changes without a treaty amendment on "such measures as may be necessary to improve the viability and effectiveness" of the Protocols.

I ask unanimous consent that the full text of the Armed Services Committee report's section "Amendments to the protocols" be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

11. AMENDMENTS TO THE PROTOCOLS

Amendments to the INF Treaty generally require the advice and consent of the Senate, but certain changes may be made in the Protocols without the Senate's consent. At the Committee's hearings, questions were raised as to what types of changes could be made without the approval of the Senate.

Once the Treaty enters into force, amendments to the Treaty can be made only with the consent of the Senate (Articles XVI and XVII). However, the Protocols permit changes without a treaty amendment on "such measures as may be necessary to improve the viability and effectiveness" of the Protocols. The Article-by-Article Analysis describes such modifications to the Protocols as "technical changes."

At the Committee's hearing on February 23, 1988, Ambassador Glitman assured the Committee that the procedure for such technical changes applies only to the Protocols and cannot be used to alter any other provision of the Treaty.

With respect to changes in the Protocols, he was asked to describe the difference between a "technical" change (i.e., one that can be accomplished without the Senate's consent) and other changes to the Protocols (which require an amendment to the Protocols and the Senate's consent). He responded: "The question is [whether] you have changed a substantive obligation under the Treaty, and such a change under the Treaty would clearly require an amendment." He added: "We are going to have to work with the * * * the Congress to ensure in the future that if there are changes, Congress will know that they are on their way and that they are either technical or a major obligational change." He confirmed that changes made without the consent of the Senate would be reported to Congress under the Case Act.

Ambassador Glitman assured the Committee that, with the exception of "technical" modifications to the Protocols, the Executive Branch, without the approval of the Senate, cannot modify the Protocols or adopt a meaning for any provision of the Treaty in a manner that is contrary to or inconsistent with the meaning of the Treaty as presented to the Senate.

RECOMMENDATION

In light of Ambassador Glitman's assurances to the Committee and the statements in the Article-by-Article Analysis, the Committee sees no need to recommend an understanding to the Resolution of Ratification clarifying protocol amendment procedures.

Mr. WARNER. Mr. President, this Senator has the understanding that three Senators who participated in this colloquy have a "common understanding," as we use that phrase.

Mr. HELMS. And have stated a common understanding in our own vernacular. I ask unanimous consent to include in the RECORD at this point an exchange between myself with Secretary Shultz and Ambassador Glitman.

There being no objection, the exchange was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM MARCH 16, 1988, FOREIGN RELATIONS HEARING WITH SECRETARY SHULTZ

Senator HELMS. * * * I want to talk to you, if I may, about some legal concerns.

Article 13, paragraph 1B provides that the Special Verification Commission will be able to "agree upon such measures as may be necessary to improve the viability and the effectiveness of this treaty."

Now, it is not clear to me and maybe to others who have accepted this treaty from the outset, some of them before they even looked at it, how the U.S. representatives could do that unilaterally. Maybe you could clear that up.

Why would such improvements not be subject to submission to this Senate for approval?

Secretary SHULTZ. I would like to ask Ambassador Glitman to give you the negotiating background for why that is there and what it means.

Ambassador GLITMAN. Well, briefly, Senator, the answer to your question is there is no reason why it need not be brought to the Senate for approval if the measure which has been agreed upon between the United States and the Soviet Union at the executive branch level.

Senator HELMS. I think we may be getting somewhere. Go ahead.

Ambassador GLITMAN. All I am saying is if that measure were to change the substantive obligations of the treaty, then it would also require article 16, which is the amendment article, to take effect.

If it is a technical difference, and we have talked about that, I think, in one of the other committees, where you may want to change a measuring device, for example, or you come up with a new means of communication which we did not foresee, that would be the sort of thing that could be done without requiring formal amendment.

But we are also aware of the Case act provisions, which require us to notify the Congress.

Senator HELMS. But do you see the quagmire you are moving into? I was going to bring up article 16, which talks about substantive amendments.

The question came to my mind, Who is going to determine whether a modification is merely a technical improvement or a substantive change? Who will make that judgment?

Ambassador GLITMAN. I think we will want to cooperate with the Senate on that matter. That is why we would have to notify the Senate of any type of change.

In the case of an agreement that was a very technical change, we would want to come to this committee and the proper organs of this body, of this Senate, and let them know what we have in mind.

FINAL INF QUESTIONS FOR THE RECORD

Mr. HELMS. Mr. President, Secretary of State Schultz promised, in open session at the final, unprecedented joint committee INF hearing on May 16, 1988, that he would answer all questions for the record. I have just today received the answers to my May 16 questions for the record and I ask unanimous consent that these questions and answers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, May 16, 1988.

Hon. GEORGE SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: We are deeply concerned about whether there has been final resolution of several important remaining issues relating to the proposed INF Treaty. Accordingly, we request that all of the questions in the attached unclassified and classified sets of questions for the record resulting from the unprecedented joint hearing today of the Senate Committee on Foreign Relations, Committee on Armed Services, and Select Committee on Intelligence, be answered as soon as possible.

We fully appreciate the Administration's strong desire that the Senate give its advice and consent for the President to ratify this Treaty at the impending Moscow meeting. We believe, however, that all of these questions should be answered before debate begins on the Senate Floor.

Sincerely,

JESSE HELMS,
GORDON HUMPHREY.

FINAL INF VERIFICATION QUESTIONS—UNCLASSIFIED

1. In January, 1988, the State Department spokesman stated in answer to questions from Congressman Kemp about INF Treaty data discrepancies that there were no data discrepancies, and that the State Department was fully satisfied with the accuracy and completeness of the Soviet-supplied missile data and photographs.

State Department spokesman Redmond stated on January 6, 1988:

"We have no reason to doubt the *accuracy* or the authenticity of the SS-20 photograph or *any* of the others." (Emphasis added.)

Moreover, in answer to my January 12, 1988 letter, on February 5, 1988, the State Department stated:

". . . we have no basis to charge the Soviet Union with failure to provide the data required by the Treaty . . . the U.S. government has no basis to believe that the photograph of the SS-23 missile stage is inaccurate. . . . There is no inconsistency between the interagency assessment of the SS-23 photograph and the public statements of the State Department regarding that photograph."

But at the same time the State Department was denying these Soviet data discrepancies, it was secretly negotiating with the Soviets, trying to get the Soviets to correct them by furnishing new data and photographs. Now, however, the State Department is finally requiring the Soviets to furnish additional photographs of their SS-4, SS-12, SS-23, and SS-20, showing the front sections and connecting sections, afterall. Moreover, the Soviets have also finally corrected the length of their SS-23 first stage afterall.

[The May 12, 1988 Glitman-Chervov note states: "The sides will exchange additional photographs no later than May 15, 1988. . . . For the Soviet side, these photographs will be the SS-23, SS-12, and SS-4 with their front sections attached, and of the front section of the SS-20. . . . The length of the SS-23 missile stage will be changed, in a corrigendum to the Memorandum of Understanding, to 4.56 meters."]

QUESTIONS

(a) Why did the State Department deny to Congress that the Soviet data was inaccurate, precisely when the State Department was negotiating with the Soviets to correct these inaccuracies?

(b) How do you explain the inconsistency in the State Department position?

(c) Because the INF Treaty Memorandum of Understanding on Data states that each side is responsible for the accuracy of its own data, why was the State Department attempting to cover-up the now-confirmed inaccuracies in the Soviet data?

(d) Was it appropriate for the State Department to be the advocate of the accuracy of Soviet data now confirmed to be inaccurate?

2. The May 12, 1988 Glitman-Chervov note, point #1, refers to paragraph 7 of Section VII of the INF Treaty Inspection Protocol. This paragraph states that:

"... inspectors shall have the right to inspect the entire inspection site, including the interior of structures, containers or vehicles, or including covered objects, whose dimensions are equal to or greater than the dimensions specified in Section VI of the Memorandum of Understanding for the missiles, *stages* of such missiles, launchers or support equipment of the inspected Party." (Emphasis added.)

The stage lengths for the SS-20 in Section VI of the MOU are 8.58 meters for the first stage and 4.60 meters for the second stage.

The May 12, 1988 Glitman-Chervov note in point No. 1 specifies that for "baseline, close-out, and short-notice inspections, the Parties will be inspecting . . . for the USSR—the first stage of the SS-12 missile, the stage of the SS-23 missile, the SSC-X-4 cruise missile, and the SS-4 launch stand."

The SS-20 first and second stages are not mentioned as inspectable items in the new note, yet the proposed INF Treaty clearly allows the U.S. to inspect for the SS-20 first and second stages at all inspectable sites. Indeed, the MOU clearly recognizes the importance of SS-20 stages, because the MOU states that the Soviets have "650 second stages" for intermediate range missiles, the exact number of Soviet-declared deployed and non-deployed SS-20 missiles, also implying the right to inspect SS-20 second stages.

QUESTION

Why at the last moment did the U.S. agree to delete the crucially important right to inspect for SS-20 stages, when the INF Treaty gives the U.S. this vital right?

3. Section IX, paragraph 11 and 12, of the Protocol on Inspection states that the U.S. can weigh and measure: "any shipment exiting through the portal specified in paragraph 1 of this Section [i.e. at Votkinsk] which is *large* enough and *heavy* enough to contain an intermediate range GLBM or *longest stage* of such a GLBM of the inspected Party." (Emphasis added.)

Yet the May 12, 1988 Glitman-Chervov note states in point No. 4: "In the context of this assurance, the United States will *not* be inspecting any shipment whose dimensions are *less* than those of an SS-20 launch canister as listed in the Memorandum of Understanding." (Emphasis added.) The length of the SS-20 longest stage—its first stage—is 8.58 meters, and the length of the SS-20 canister listed in the MOU is 19.32 meters. Thus the U.S. has given up the right to inspect any object shorter than 19.32 meters.

QUESTIONS

(a) Why did the U.S. give up the right, clearly specified in detail in the proposed INF Treaty, to inspect SS-20 first stages?

(b) Using this last-minute U.S. concessions, can the Soviets legally bring SS-20 first and second stages separately through the Votkinsk portal, for assembly elsewhere, completely destroying the purpose of the highly touted portal inspections?

(c) Can the Soviets thus continue to produce SS-20s under the proposed INF Treaty afterall, despite the State Department's claims that the Treaty prevents this?

4. The May 12, 1988 Soviet note on futuristics, apparently initialed by Soviet negotiator Vicktor Karpov, is from the "Government of the Union of Soviet Socialist Republics." Yet the proposed INF Treaty itself was signed by Mikhail Gorbachev, who listed himself as "General Secretary of the Communist Party of the Soviet Union.

QUESTIONS

(a) How can you explain the addition of notes from the Soviet Government to a proposed Treaty signed by the leader of the Party?

(b) Is the State Department recognizing the Soviet Government or the Soviet Communist Party as representing the USSR, or both?

(c) Why did the State Department fail to ask Gorbachev to provide documentation for any plenipoteniary powers he may have had to sign the proposed INF Treaty, as is required under international law and Soviet laws?

5. The MOU gives the Soviet SS-5 missile's length, with front section, as 24.30 meters. Yet the Soviet photograph of the SS-5 supplied before the Treaty was signed does not show its front section. The Soviets are being required to furnish photographs of the front sections of all their INF missiles except the SS-5. The State Department's February 5, 1988 answer to my January 12, 1988 letter states: "The Parties are under an obligation to provide photographs of Treaty-limited items."

QUESTION

Why will no photograph of an SS-5 with front section be required, if the Soviets are required to eliminate this missile with front section, and are providing photographs of the front sections of all their other INF missiles?

6. The Senate has learned of the following documents which should be integral parts of the proposed INF Treaty:

(a) Corrigendum note as of January 15, 1988;

(b) Dubinin note of May 8, 1988, Secret;

(c) Kampelman—"V K" and/or Kampelman-Karpov note on futuristics, May 12, 1988;

(d) Glitman-Chervov note on verification, May 12, 1988;

(e) Glitman letter to Chervov on FRG Pershing 1As, May 12, 1988, Secret;

(f) Additional photographs to be added to MOU—

SS-4 with front section;
SS-12 with front section;
SS-23 with front section;
SS-20 front section.

QUESTIONS

(a) When will we receive copies of each of these documents?

(b) Should they be incorporated into the Treaty?

(c) If not, what is their status, and what should the Senate do with them?

(d) Will the additional 40 verification issues still under negotiation with the Soviets be reported to the Senate promptly?

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. JESSE HELMS,
U.S. Senate.

DEAR SENATOR HELMS: I have been requested to respond to your and Senator Humphrey's 16 May letter to the Secretary concerning questions inter alia about results from the 11-12 May Ministerial and aspects of the Soviet SS-N-19 cruise missile. Our answers to these questions are attached. As requested, the answers to your first six questions are unclassified; the answers to the second six questions are classified "Secret." A copy of this material has been sent to Senator Humphrey.

Sincerely,

J. EDWARD FOX,
Assistant Secretary,
Legislative Affairs.

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. GORDON J. HUMPHREY,
U.S. Senate.

DEAR SENATOR HUMPHREY: I have been requested to respond to your and Senator Helms' 16 May letter to the Secretary concerning questions inter alia about results from the 11-12 May Ministerial and aspects of the Soviet SS-N-19 cruise missile. Our answers to these questions are attached. As requested, the answers to your first six questions are unclassified; the answers to the second six questions are classified "Secret." A copy has been sent to Senator Helms.

Sincerely,

J. EDWARD FOX,
Assistant Secretary,
Legislative Affairs.

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1. In January, 1988, the State Department spokesman stated in answer to questions from Congressman Kemp about INF Treaty data discrepancies that there were no data discrepancies, and that the State Department was fully satisfied with the accuracy and completeness of the Soviet-supplied missile data and photographs.

State Department spokesman Redmond stated on January 6, 1988:

"We have no reason to doubt the *accuracy* or the authenticity of the SS-20 photograph or *any* of the others." (Emphasis added.)

Moreover, in answer to my January 12, 1988 letter, on February 5, 1988, the State Department stated:

". . . we have no basis to charge the Soviet Union with failure to provide the data required by the Treaty . . . the U.S. Government has no basis to believe that the photograph of the SS-23 missile stage is inaccurate . . . There is no inconsistency between the interagency assessment of the SS-23 photograph and the public statements of the State Department regarding that photograph."

But at the same time the State Department was denying these Soviet data discrepancies, it was secretly negotiating with the Soviets, trying to get the Soviets to correct them by furnishing new data and photographs. Now, however, the State Department is finally requiring the Soviets to furnish additional photographs of their SS-4, SS-12, SS-23, and SS-20, showing the front sections and connecting sections, afterall. Moreover, the Soviets have also finally corrected the length of their SS-23 first stage afterall.

(The May 12, 1988 Glitman-Chervov note states: "The sides will exchange additional photographs no later than May 15, 1988 . . . For the Soviet side, these photographs will be of the SS-23, SS-12, and SS-4 with their front sections attached, and of the front section of the SS-20 . . . The length of the SS-23 missile stage will be changed, in a corrigendum to the Memorandum of Understanding, to 4.56 meters.")

1a. Why did the State Department deny to Congress that the Soviet data was inaccurate, precisely when the State Department was negotiating with the Soviets to correct these inaccuracies?

1b. How do you explain the inconsistency in the State Department position?

1c. Because the INF Treaty Memorandum of Understanding on Data states that each side is responsible for the accuracy of its own data, why was the State Department attempting to cover-up the now-confirmed inaccuracies in the Soviet data?

1d. Was it appropriate for the State Department to be the advocate of the accuracy of the Soviet data now confirmed to be inaccurate?

We had no basis in January, and have no basis now, to charge that the Soviet-provided photograph of the SS-23 missile stage was not accurate or authentic. Our discussion of this matter with the Soviets was based on the fact that SS-23 photograph depicted the missile stage without a front section. Comparing the length of the stage in the photograph to the length provided in the MOU, it was apparent to us that MOU length included a connector. Nothing in the Treaty or the negotiations specified whether photographs or MOU data should include connectors. We told the Soviets, after reviewing the photographs and data, that we preferred a photograph of the missile with its front section, and that the MOU length for the SS-23 missile stage should exclude the connector. the Soviets have now agreed with us that the appropriate length for the SS-23 missile stage without connector is 4.56 meters.

We also have had no basis for charging that the other Soviet-provided photographs were inaccurate or inauthentic. We did raise with the Soviets the fact that the photographs of their ballistic missiles depicted missiles without their front sections. In subsequent discussions, the Soviets agreed to provide the additional photographs, and they have done so. The Soviets stated that the photographs we had provided of our ballistic missiles had not included measuring scales and we agreed to provide them. The two sides exchanged photographs on May 15, 1988.

Both sides have also exchanged corrigenda to the MOU.

2. The May 12, 1988 Glitman-Chervov note, point #1, refers to paragraph 7 of Section VII of the INF Treaty Inspection Protocol. This paragraph states that:

". . . inspectors shall have the right to inspect the entire inspection site, including the interior of structures, containers or vehicles, or including covered objects, whose dimensions are equal to or greater than the dimensions specified in Section VI of the Memorandum of Understanding for the missiles, *stages* of such missiles, launchers or support equipment of the inspected Party." (Emphasis added.)

The stage lengths for the SS-20 in Section VI of the MOU are 8.58 meters for the first stage and 4.60 meters for the second stage.

The May 12, 1988 Glitman-Chervov note in point #1 specifies that for "baseline, close-out, and short-notice inspections, the Parties will be inspecting . . . for the USSR—the first stage of the SS-12 missile, the stage of the SS-23 missile, the SSC-X-4 cruise missile, and the SS-4 launch stand."

The SS-20 first and second stages are not mentioned as inspectable items in the new note, yet the proposed INF Treaty clearly allows the U.S. to inspect for the SS-20 first and second stages at all inspectable sites. Indeed, the MOU clearly recognizes the importance of SS-20 stages, because the MOU states that the Soviets have "650 second stages" for intermediate range missiles, the exact number of Soviet-declared deployed and non-deployed SS-20 missiles, also implying the right to inspect SS-20 second stages.

Why at the last moment did the U.S. agree to delete the crucially important right to inspect for SS-20 stages, when the INF Treaty gives the U.S. this vital right?

The U.S. did not "delete" the right to inspect for SS-20 stages. Your citation of the May 12, 1988 agreed minute left out a particularly relevant passage. The May 12, 1988 agreed minute specifies that the "Parties will be inspecting the entire inspection site, including the interior of structures, containers or vehicles, or including covered objects, *capable of containing* (emphasis added) . . . for the USSR, the first stages of the SS-12 missile, the stage of the SS-23 missile, * * *"

This passage means that these items are the smallest Treaty-limited items for which the U.S. can inspect. SS-20 stages are larger than these items and we, therefore, can inspect for them as well.

3b. Using this last-minute U.S. concession, can the Soviets legally bring SS-20 first and second stages separately through the Votkinsk portal, for assembly elsewhere, completely destroying the purpose of the highly touted portal inspections?

3b. There was no U.S. concession with respect to our rights set forth in the Treaty. Votkinsk is a missile final assembly facility where missile stages manufactured elsewhere are mated. The portal monitoring system at Votkinsk enables us to verify that assembled SS-20s are not exiting this facility. We have, moreover, obtained an additional assurance that the Soviet Union will not ship from Votkinsk anything "whose dimensions are equal to or greater than the dimensions of the SS-20 missile without its front section but less than the dimensions of an SS-20 launch canister, as those dimensions are listed in the Memorandum of Understanding".

3c. Can the Soviets thus continue to produce SS-20s under the proposed INF Treaty afterall, despite the State Department's claims that the Treaty prevents this?

3c. Article VI of the Treaty clearly bans the production of SS-20s. Thus, any production of SS-20s after entry into force would be a Treaty violation. If the Soviets attempted to assemble SS-20s outside of Votkinsk, they would face a significant risk of detection by U.S. intelligence. Moreover, if the production of some number of SS-20s did scape detection, the military utility of these missiles would be questionable at best, since the Soviets could not qualify their new assembly line by flight-testing the missiles with significant risk of being detected.

4. The May 12, 1988 Soviet note on futuristics, apparently initialed by Soviet negotiator Vicktor (sic) Karpov, is from the "Government of the Union of Soviet Socialist Republics." Yet the proposed INF Treaty itself was signed by Mikhail Gorbachev, who listed himself as "General Secretary of the Communist Party of the Soviet Union."

4a. How can you explain the addition of notes from the Soviet Government to a proposed Treaty signed by the leader of the Party?

4b. Is the State Department recognizing the Soviet Government or the Soviet Communist Party as representing the USSR, or both?

4c. Why did the State Department fail to ask Gorbachev to provide documentation for any plenipotentiary powers he may have had to sign the proposed INF Treaty, as is required under international law and Soviet law?

4a-c. Under international law, a person has authority to sign a Treaty if it appears from the circumstances that it was the intention of the state involved that he represent it for that purpose. This is true even if he has not been issued full powers, or does not occupy a formal governmental position. No rule of international law requires any particular form of evidence of a foreign leader's power to sign a treaty.

Article 7(1) of the Vienna Convention, which in our view accurately reflects relevant customary international law, states that:

A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:

(a) he produces appropriate full powers; or

(b) it appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.

In accordance with this rule, it is not the practice of the United States to demand full powers where the circumstances indicate that the person signing a treaty does in fact represent his government, as was the case with Gorbachev's signature of the INF Treaty on behalf of the Soviet Union. There is no doubt about the authority of General Secretary Gorbachev, a man who has dealt regularly and authoritatively with the President of the United States, to sign the Treaty. Gorbachev clearly determines the foreign policy of the Soviet Union, and regularly deals on behalf of the Soviet Union with foreign heads of state and foreign ministers. The U.S. Government has no doubt about Gorbachev's authority.

The many high-ranking Soviet governmental officials present at the Washington Summit (including the Foreign Minister) clearly accepted Mr. Gorbachev's authority to represent the Soviet Union and to sign the Treaty. Moreover, since the Treaty was signed the governmental authorities in Moscow have made clear by their conduct that they accept the validity of Gorbachev's signature on behalf of the Soviet government. The Supreme Soviet has carried on its deliberations on the Treaty, with no suggestion whatsoever that Mr. Gorbachev acted without authority.

Earlier this month, Secretary Shultz discussed the implementation of the Treaty with the Soviet Foreign Minister, who undeniably has authority to commit the Soviet Union for these purposes. These exchanges could only have taken place on the assumption that the Treaty had been validly signed. As an outcome of those exchanges, Soviet officials signed two agreements that were expressly based on the Treaty, whose validity the agreements assumed.

The General Secretary of the Communist Party of the Soviet Union obviously occupies a much different position than the officials of political parties in Western countries. The General Secretary currently has the predominant governing authority in Soviet Society, and international law in no way precludes this. In any event, ratification of the Treaty by the Soviet parliament will remove any possible further questions on this point.

5. The MOU gives the Soviet SS-5 missile's length, with front section, as 24.03 meters. Yet the Soviet photograph of the SS-5 supplied before the Treaty was signed does not show its front section. The Soviets are being required to furnish photographs of the front sections of all their INF missiles except the SS-5. The State Department's February 5, 1988 answer to my January 12, 1988 letter states: The Parties are under an obligation to provide photographs of Treaty-limited items."

Why will no photograph of an SS-5 with front section be required, if the Soviets are required to eliminate this missile with front section, and are providing photographs of the front sections of all their other INF missiles?

In the data in the MOU, the Soviets informed us that they have six non deployed SS-5's in their inventory. They also informed us that none of these missiles have front sections. Given these facts, the Soviets are not required to, and indeed have no SS-5 front sections, to eliminate.

6. The Senate has learned of the following documents which should be integral parts of the INF Treaty:

a. Corrigendum note as of January 15, 1988;

b. Dubinin note of May 8, 1988, "Secret";

c. Kampelman—"V K" and/or Kampelman-Karpov note on futuristics, May 12, 1988;

d. Glitman-Chervov note on verification, May 12, 1988, SECRET;

e. Glitman letter to Chervov on FRG Pershing 1 As, May 12, 1988, "Secret";

f. Additional photographs to be added to MOU—

SS-4 with front section; SS-12 with front section; SS-23 with front section; and SS-20 front section.

6a. When will we receive copies of each of these documents?

6b. Should they be incorporated into the Treaty?

6c. If not, what is their status, and what should the Senate do with them?

Regarding the document referred to in "a." above, we advised the Soviets shortly after Treaty signature, of several technical and typographical errors in the Memorandum of Understanding and Inspection Protocol. Such errors can be readily corrected by the Parties in accordance with international treaty law and standard practice, and these corrections have been made in accordance with that law and practice. The exchange of notes effecting these corrections has been completed and is being transmitted to the Senate. This is a matter that in no way affects the substance of the Treaty and thus should have no significance for the Senate's deliberations and decision on the Treaty.

Document b. (Dubinin note of May 8, 1988) was a preliminary communication on verification issues. It had no independent legal status. Whatever substance it contained has now been superseded by the May 12, 1988 agreed minute on verification issues, discussed immediately below.

Documents c. (the Kampelman-Karpov exchange of notes on futuristics) and d. (the Glitman-Chervov agreed minute on verification issues) constitute legally binding common understandings of the signatories' obligations under the INF Treaty. As their substantive relationship to the Treaty is clear, formally incorporating these documents into the Treaty is unnecessary. As international agreements related to the INF Treaty, they have been provided to the Senate for its information in acting on that Treaty. These documents, along with document e. (the Glitman letter to Chervov on FRG Pershing IAs), which has no independent legal status but merely provides certain information to the Soviet Union in the context of the agreed minute, have been provided to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence.

The photographs to be added to the MOU, mentioned in f. above, will be provided to the Senate shortly. As photographs appended to the MOU pursuant to its Section VI, they form part of the Treaty and will be transmitted for inclusion in the official text that is now before the Senate.

6d. Will the additional 40 verification issues still under negotiation with the Soviets be reported to the Senate promptly?

We will report promptly on outstanding implementation questions on a regular basis.

Mr. WARNER. Mr. President, unless other Senators desire a rollcall vote on the amendment in the second degree, I would now ask that the Senate proceed to vote on the amendment in the second degree.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment offered by the Senator from North Carolina.

The amendment (No. 2303) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the first-degree amendment, as amended.

Mr. WARNER. Mr. President, it is the understanding of this Senator that the leadership wishes to have a quorum call at this time for the purpose of notifying Senators.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the first-degree amendment, as amended, On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii Mr. MATSUNAGA] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 157 Ex.]

YEAS—96

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—4

Biden Matsunaga
Kassebaum Specter

So the amendment (No. 2302), as amended, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia with my floor rights protected.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the distinguished majority leader.

Mr. President, I just wish to thank all Senators who participated in working on this amendment and the many staff members that did so.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2305

Mr. BYRD. Mr. President, I withdraw my amendment No. 2296 and send an amendment to the desk. I have a right to do that since no action has been taken on the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2305.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "provided", and insert in lieu thereof the following: "that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clauses of the Constitution, that—

"(1) the United States shall interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

"(2) such common understanding is based on:

"(A) First, the text of the Treaty and the provisions of this resolution of ratification; and

"(B) Second, the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty; and

"(3) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute; and

"(4) if, subsequent to ratification of the Treaty, a question arises as to the interpretation of a provision of the Treaty on which no common understanding was reached in accordance with paragraph (2), that provision shall be interpreted in accordance with applicable United States law."

Mr. BYRD. Mr. President, discussions have been underway including the distinguished Republican leader, the managers of the bill, and other Senators who have been principals in the discussions heretofore, and I think that we are ready to propose an agreement.

TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that there be 4 hours on the overall Biden and Byrd amendments to be equally divided in accordance with the usual form and that at the conclusion of the 4 hours the vote occur on the Byrd amendment to be followed immediately with a vote on the committee amendment, as amended, if amended, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. May I have 20 minutes within that 4 hours?

Mr. BYRD. And I ask unanimous consent that there be an additional 20 minutes to be under the control of Mr. HOLLINGS.

Mr. HOLLINGS. Make it 4 hours and 20 minutes, or however.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

Now, Mr. President, I ask unanimous consent that rule XXII, as it pertains to the cloture motion, be waived until the final disposition of the order.

Mr. DOLE. Will the majority leader yield?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I wonder if, following the disposition of this amendment, we might agree at this time to take up the amendment of the Senator from North Carolina. He, as I understand it, is ready to go.

I just say, the Senator from North Carolina is prepared with an hour equally divided, and I understand there may be an objection. Hopefully, we have worked that out.

Mr. CRANSTON. I object at this time to such an agreement. I may not object later. I am referring only to the Helms amendment.

Mr. DOLE. Can I further inquire of the majority leader if, during this 4-hour interim period, we are able to put together the UC on remaining amendments, I assume we could interrupt and not charge the time against either side to get that agreement.

Mr. BYRD. I ask unanimous consent that upon the disposition of the pending committee amendment and the amendment in the second degree, the majority leader again be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor and thank all Senators.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I suggest the absence of a quorum with the time to be equally divided.

The PRESIDING OFFICER. On whose time?

Mr. LUGAR. To be equally divided between the proponents and the opponents.

The PRESIDING OFFICER. The Chair reminds the Senator from Indiana that that time is now controlled by three Senators.

The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the time be divided equally without prejudice to the time that is under the control of Mr. HOLLINGS.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. BYRD. Madam President, may we have order in the Senate?

The PRESIDING OFFICER. The majority leader is correct. The Senate is not in order. Will Senators in the well please take their seats or retire for further conversations?

Mr. BYRD. Madam President, this time is running on my time, and I ask that there be order in the Senate. I hope that Senators will listen to the Chair. This Senator will insist on order in the Senate.

Madam President, I yield to the distinguished Republican leader.

Mr. DOLE. I thank the majority leader. I want to designate in opposition to the amendment the Senator from California, Senator WILSON.

Mr. **BYRD.** Madam President, I thank the Chair and I thank all Senators. I know that Senators were trying to resolve another amendment, and I compliment them on that. I am fully understanding of that. It is just that time is running, and I want to get on with this amendment. I yield myself such time as I may require.

TREATY INTERPRETATION AMENDMENT

Madam President, the amendment I am offering is intended to clarify and strengthen the Senate's rightful and constitutional role in the approval of treaties. The dispute over the proper interpretation of provisions of the ABM Treaty has thrown a cloud of uncertainty over the definitive meaning of the provisions of a treaty which has been approved by the Senate. This amendment intends to make it crystal clear that common understandings reached by the Senate and the executive branch in the course of the Senate deliberations, and investigations in connection with its advice and consent to the ratification of a treaty, bind any future Presidents. The Senate consents to the ratification of a treaty only on the understanding that the President will interpret a treaty and implement a treaty, in good faith conformity to the meaning arrived at by the Senate, as a result of its deliberations.

Certain administration officials have challenged the role of the Senate in the treaty-making process, and declared that the administration has the right to interpret and implement the provisions of a treaty in a manner inconsistent with that shared by the Senate and the President, through his representatives, when it gave its advice and consent. To accept this proposition would make a mockery of the entire Senate process, and in fact it would reduce the constitutional role of the Senate to a mere nullity. The consent of the Senate would be reduced to a clerical function. This is not what the framers of our Constitution envisioned.

This amendment intends to bind the President, as a condition of Senate approval to his implementing this treaty, to the interpretation understood by this body of the meaning of the provisions of the treaty. If the President does not agree to the common understandings developed in the process of examining the text his negotiators developed, and in the process of the committee's examination of his representatives and their testimony on the treaty, then the President ought not to exchange the instruments of ratification. By his act of exchanging the instruments of ratification, the President is bound by the common understandings developed in the Senate by his representatives. The President and the Senate, through this process entered into a solemn constitutional contract. This amendment does not break any new legal ground. It does not create any new constitutional roles or duties, nor could it, it merely restates what I believe is the current law and the current responsibilities of the two branches regarding the treaty-making power. It would not have been necessary had not a challenge been mounted to that constitutional arrangement. I regard it as a critically important amendment for this body. I regard this amendment as going to the heart of one of the most important powers that the framers of our Constitution gave to the Senate. A proper resolution of this dispute is of great significance.

The amendment states that the President shall interpret this treaty in accordance with the common understanding, shared by the Senate, that prevails at the time the Senate gave its advice and consent to the ratification. It states further that this common understanding is based on the text of the treaty, any reservations or understandings which the Senate may attach to the resolution of ratification, and on the authoritative testimony of executive branch officials concerning the meaning and legal effect of the treaty. The amendment then states, clearly and explicitly, that no subsequent interpretation of this treaty which is inconsistent with this shared understanding shall be permitted, unless the Senate has participated through the passage of a subsequent treaty or protocol on the enactment of a statute.

Mr. President, the amendment addresses the rules of the game when a common understanding between the two branches has been reached. There can be times when, after the resolution of ratification has been approved, a matter arises about which no interpretation was available and no common understanding was reached. Under those circumstances—and I expect that if both sides do their job well, those will be rare circumstances—then paragraph 4 of my amendment provides that the disputed provision shall be interpreted in accordance with applicable United States law. Those instances then would be outside of the rules pertaining to common understandings which are embodied in clauses 1, 2 and 3 of the amendment. We would not be dealing with a reinterpretation of a common understanding. That is where the problem has heretofore arisen. Instead, we would be dealing with a first interpretation of a case which arose after the consent had been given. The distinguished Senator from Maine, Mr. COHEN, is to be commended for fashioning this provision and I think it fills a necessary GAP in my original formulation in which others participated with me, and I think it is an important contribution to the amendment.

The position which the Senate adopts through the passage of this amendment is based on sound constitutional logic. There is no need to restate that logic as part of the condition, but the Senate is clearly acting in accordance with the treaty clause of the constitution—article II, section 2, clause 2—and in accordance with the powers of the Senate in the making of treaties. The amendment emphasizes this point by reference to the constituting language.

The amendment I offer has the same intent as the amendment proposed by the committee on foreign relations, but I believe that in consideration of the hours that have gone into its formulation and the bipartisan efforts, the time involved and the application of the energies and talents of Senators on both sides of the aisle, it is more focused, specific, and precise. It prevents the President from acting unilaterally in a way inconsistent with the meaning of the treaty as understood by both the Senate and the President. There should be no ambiguity about this.

Why is it important to attach this condition at this time?

Once the Senate has concluded its action on this resolution and has given its advice and consent to ratification, the treaty becomes the law of the land. A treaty becomes law unlike other laws—the House of Representatives does not participate, the President does not have the opportunity to veto, and mistakes are not easily corrected by subsequent legislation. A treaty is thus quite different, in the context of the law of the land, from a bill which becomes a law.

For these reasons, the Senate spends considerable time studying the treaty, holding extensive hearings, examining all issues carefully, and, ultimately, approving the resolution of ratification by a two-thirds vote of those Senators present. Three committees of this Senate, composed of nearly half of the membership of this Senate, conducted what has probably been as exhaustive and responsible a scrutiny as of any treaty that has come before this body in our Nation's history. I believe this process has produced a better treaty, and the committees are to be commended for their diligence. In this process. We examine the test of the treaty very carefully. We rely upon executive branch officials to testify as to the meaning of the treaty.

The testimony of these officials as to the meaning of the treaty is authoritative, and any inconsistencies or problems should be detected by the committees or the executive branch and clarified prior to final action by the Senate.

As we all know, several problems were discovered in the course of examination of this treaty, and they did require the negotiation of diplomatic notes and agreements to clear them up.

All of this contributes to what the Senate and the administration understand to be the legal meaning and effect of the treaty.

After all of this, if any administration comes along later and attempts to change the interpretation of the treaty, then that future administration is determining for itself what should be the law of the land.

The Senate's approval of the treaty is based on the proposition that the President will act in good faith to implement the treaty in accord with the common understandings of its terms when that approval was given. If the administration decides later, after the instruments have been exchanged, that it does not like those understandings and decides to interpret the treaty differently, then it breaks the constitutional contract. The Senate, in reaching its decision, based that decision on the testimony and on the record that was made before it in duly constituted hearings, had no opportunity at that time to give its advice and consent to the reinterpretation of that treaty.

That is why it is necessary at this time to state clearly and irrevocably that the Senate insists on its rights and its duty under the Constitution to bind the President to the interpretation of the treaty which the Senate accepted at the time it gave its advice and consent to ratification.

Madam President, in closing I want to thank the chairmen of the three committees: First, the chairman of the Foreign Relations Committee, which has jurisdiction over the treaty, Senator PELL. I also want to thank the other members of that committee. I thank the ranking member even though he was opposed to the treaty. I thank Mr. LUGAR and others on that committee. And I thank Senator BIDEN, who is not present today, but I express deep appreciation to the members of that committee for the dedicated attention that they gave to the treaty, the hearings, the markup, and the application of their not inconsiderable talent in the work that was performed in reporting the treaty to the floor.

I also thank Senator NUNN, Senator BOREN, and Senators WARNER and COHEN, chairmen and ranking members of the Armed Services Committee and the Intelligence Committee, for the extraordinary probative diligence that they exemplified in examining the treaties. They were highly instrumental in bringing about actions that will have resulted in an improvement of the treaty, actions which did result in renegotiations of the areas of the treaty that emerged as problem areas. And I compliment the administration on its recognition that those problems had to be addressed. Some of those were problems that had not been even discussed during the negotiations on the treaty.

Others were areas which had not been thoroughly gone into. But the administration worked fast and effectively in bringing the Soviets to agree in such ways that we feel that the problems have been not only properly addressed but have also been taken care of.

So, Madam President, I thank all of these Senators and their staffs. The staffs on both sides of the aisle have been most, most helpful. And I personally want to thank Senator BAKER for the excellent contributions that he has made, and even those who oppose the treaty are to be thanked, too. After all, they made a great contribution as well. We cannot all agree on everything. But those who oppose certainly render a service because oftentimes they bring about the focusing of minds on a given area, and as a result final actions are affected.

Madam President, I am ready to yield the floor, and I reserve the remainder of my time.

Mr. WILSON. Madam President, will the distinguished majority leader yield for a question on the time of the opposition?

Mr. BYRD. Yes.

Mr. WILSON. I thank my friend the majority leader.

Before I ask the question, if I may be indulged for this personal observation, I think the majority leader is to be commended. The substitute amendment that he has offered seeks in two important ways to address what I think were problems with the Biden-Pell amendment as it was originally drafted and presented.

This is indeed a substitute for it, but the essential distinctions are really, I think he would agree, as follows: That in terms of defining the common understandings between the President and the Senate at the time that advice and consent of the Senate is given, that common understanding is based not only on the text of the treaty and the authoritative representations made by the President and his designees, but under the Byrd substitute there has been added to that definition of common understanding "the provisions of this resolution of ratification."

Second, there is a change in the Byrd amendment offered as paragraph 4 to it which states that if, subsequent to ratification of the treaty, a question arises as to the interpretation of a provision of the treaty on which no common understanding was reached in accordance with paragraph 2, that being the paragraph that defines common understanding, then that provision shall be interpreted in accordance with the applicable U.S. law.

Those are the two essential changes and they are important changes. The first change, that being the addition by the majority leader of the provisions of this resolution of ratification, means that the common understanding upon which future interpretation of this INF Treaty will be based will include those conditions which the Senate adds during this very process now of ratification.

That is a very important addition. The original Biden-Pell amendment lacked those. So what it has done is allow the Senate to make a very substantive contribution to the treaty in terms of the conditions, those that are purely binding upon the United States, and those which, as we shall see, may in fact bind the Soviet Union are additions to what was negotiated by our negotiators in Geneva.

Second, paragraph 4, which speaks to a time subsequent to ratification and the circumstance of a question arising, has two interpretations to which there was no common understanding given at the time of advice and consent, is an effort by the majority leader and Senator COHEN to try to deal with those situations, as I understand it, where there was an omission not detected at the time of ratification but discovered only subsequent, and to deal with those situations where there is in fact a conflict discovered as between witnesses representing the administration in the making of those so-called authoritative representations.

I commend Senator COHEN and the majority leader for the effort to deal with that problem because it is a real problem. In my judgment, it does not go far enough for the reason that it fails to deal with the situation in which we discover that there is an inconsistency between a so-called authoritative representation, and not other conflicting testimony by another administration witness but rather the negotiating record, the very situation which, indeed, we dealt with last year at great length in terms of the debate as to whether the broad or narrow was the correct legal interpretation of the ABM Treaty.

Having prefaced my question with that, and I thank the majority leader for his graciousness and patience, my question is this: During the negotiations to which the majority leader referred in his remarks, which occurred last night, there were repeated efforts by the majority leader, by Senator NUNN, by Senator WARNER, by Senator COHEN, to make a point which was that the Byrd amendment does not seek to dispose of the debate on the broad and narrow interpretation of the ABM Treaty. Rather, I gather that it is the opinion of the sponsor that the Byrd amendment leaves that particular question unresolved. It does not seek to settle the question.

Mr. BYRD. The Senator is preeminently correct.

Mr. WILSON. I thank the majority leader.

I think that is correct—that it does not. I point out that the language that has been chosen in the Byrd amendment speaks to the INF Treaty. It states that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition and does not purport to speak to any other treaty—not the ABM Treaty, not a future treaty, but simply to the INF Treaty.

Is that a correct interpretation?

Mr. BYRD. Mr. President, I am not interested in fighting or refighting the battle concerning the ABM Treaty; but I am interested in establishing clearly the standard by which we all ought to be guided in connection with the making and the interpretation of treaties.

The Senate has a clearcut, vital role in the making of treaties, by virtue of the "advice and consent" which it gives. I believe that the language that has been carefully crafted here establishes that standard, and it in no way, in my judgment, is intended to deal with the ABM Treaty dispute.

It seems to me we have established here what the Senate's proper role is and clearly established that if there is a shared understanding between the Senate and the administration at the time the Senate gives its advice and consent, then that clear understanding—that common understanding, I should say, that shared understanding—there should be no doubts about that, because there has been a meeting of the minds on that.

Consequently, no President should come along later and try to reinterpret that; because if that were to occur then, what good, what benefit is derived, in the interests of the United States and the American people, by the Senate's giving its advice and consent? Its advice and consent is a mere matter of form in that event.

The constitutional framers did not intend for the words "advice and consent" to be symbolic. They meant for those words to be substantive, to have meaning. This amendment establishes and provides that there will be no reinterpretation after the Senate and Executive both agree, through a shared understanding, as to what the treaty means—that there be no reinterpretation without further action and approval by the Senate thereof.

As to the common understanding to which the Senator referred, the amendment, of course, sets forth what that common understanding is based on. As the Senator has correctly pointed out, the Resolution of Ratification is a vital part of the common understanding as evidence of what that common understanding is.

Mr. WILSON. I thank the majority leader.

I simply point out, Madam President, that the inclusion of the provisions of the Resolution of Ratification within the definition of the basis for common understanding between the President and the Senate is of considerable importance as it relates to the interpretation of the INF Treaty; because what occurred during the process leading to the present debate on the floor of the Senate was, without question, the most thorough analysis in the history of any treaty considered by the Senate of the United States. The number of hearings, the length of hearings, the hours of testimony, the fact that for the first time in the history of the U.S. Senate, the Senate had before it not only the authoritative representations of the administration, but also the negotiating history, or the negotiating record, gave to the Senate the opportunity which it had never before had, to actually compare for consistency those authoritative representations and the actual record of the negotiation as it took place in Geneva.

Admittedly, that negotiating record did not contain instructions from the U.S. Government to its negotiators. It did not contain their responses to instructions received. But it did contain those things which were the common history, known to both sides, to the Soviets and to the American negotiators at Geneva. Therefore, all that provides the proper basis in international law for that kind of frame of reference necessary to explain what may occur as ambiguities in the face of the text, and indeed ambiguities did occur. There were clearly some omissions.

We have dealt this morning with one of the most serious. In the debate that occurred this morning on the so-called omnibus amendment, the question of futures as it related to the definition of weapons delivery systems was discussed at considerable length, as it should have been. The point, very simply, was that in the course of negotiations, a representation was made which was not clear at the time. In fact, as a result of the lack of clarity, which was discovered in the course of hearings by the Armed Services Committee of the U.S. Senate, there was necessity to resort to the negotiating record.

The negotiating record, in that instance, disclosed that there was not a clear understanding at Geneva. We, in turn, negotiated the exchange of letters between the Governments of the United States and the Soviet Union, which led to this morning's action, which incorporates into the record—and, really, by incorporating by reference makes a part of the Resolution of Ratification—the letters exchanged between our Governments, in which there was agreement noted as to the proper definition of what constitutes a weapons delivery system precluded under the terms of this arms control agreement affecting intermediate range ballistic missiles and intermediate ground-launched cruise missiles.

That is of great significance, and I think the Senate is to be congratulated, as I said earlier, on the thoroughness with which it has examined the record of this treaty—going through the representations made by a variety of administration witnesses, comparing those representations with the negotiating record.

We had another instance, discussed at some length about two afternoons ago, that had to do with the awkward language, the unclear language, the double-negative situation, that is found in the express language of article VI, paragraph 2. What was necessary there, in order to cure that, was to resort to the negotiating record, where we found that the United States representative, Ambassador Glitman, was asked by his Soviet counterparts to bring them a statement from the United States Government that made clear their right to proceed with the construction of a missile system as a part of their offensive inventory.

And the statement which the Soviets sought was furnished by our Government. The Soviets had earlier sought to change the language. For reasons that we need not repeat here, the American negotiators rejected the repeated entreaties of the Soviets to change the language to rid it of the confusing double negative to give it a clarity which in fact it does not have on the face of the treaty text.

That clarification was gained only by that subsequent statement which was inserted in the negotiating record and which thereby has become a part of the record of ratification in terms of the debate on the treaty and now on the Resolution of Ratification.

The resort to the negotiating record in both cases has made it possible for the Senate to solve what were obvious problems, certainly problems in terms of the potential conflict they might generate had they been left unresolved.

For that reason, I think the Senate and those Members specifically involved in the resolution of these two issues are to be congratulated upon a job not only well done but I would argue much better done than by any preceding Senate considering any preceding treaty.

What we have before us now in the Byrd amendment as a substitute to Biden-Pell is an effort to address a portion of the question how shall the Senate conduct itself with respect to this treaty after ratification? And what the Byrd substitute prescribes is conduct by the President of the United States because it states that the Senate's advice and consent to ratification, which is a duty required of us by the U.S. Constitution, is based upon certain expressed conditions, and the condition is that the United States shall interpret the treaty in accordance with the common understanding shared by the President and the Senate at the time that the Senate gave its advice and consent to ratification.

To the extent that the Byrd substitute has added important qualifications to the Biden-Pell amendment, which it has now replaced, or will replace if it is approved by the Senate, it is a distinct improvement. The question for those of us here is whether or not it goes far enough.

What I would argue, Madam President, is that it deals with a portion of the question how shall the Senate conduct itself in the future, but it really deals with the conduct of the President of the United States and future Presidents. It does not specifically address or prescribe a course of conduct for the Senate apart from stating that the Senate and the President shall interpret the treaty in accordance with the common understanding.

The question that arises and that is not answered by the Byrd amendment is this: If the United States shall interpret the treaty in accordance with the common understanding in existence at the time that the Senate gives its advice and consent, is that condition and that common understanding governing of obligations that are purely domestic, or does it also seek to govern and define those obligations of the United States internationally, which is to say those obligations that are imposed by the treaty itself rather than by a unilateral condition added to the Resolution of Ratification by the Senate?

The important distinction, Madam President, is this, and I think it is obvious to anyone who has spent the first 2 weeks in a first-year law school class on contract law, there cannot be terms added to an agreement that bind both parties to it unless both parties agree. There is in that case no meeting of the minds. It is perfectly possible for one of the parties unilaterally to assume an obligation not imposed upon him or her by the agreement in which case it is binding upon the person assuming that obligation but not the other party to the contract, or, in this instance, the other party to the treaty.

It is possible, in short, for the United States Senate to adopt a condition whereby we impose upon the United States obligations which are not shared by nor imposed by the treaty upon the Soviet Union. We can do that. There is no question that as a matter of domestic law we are in a position to bind ourselves in any way that we choose so long as there is an adequate vote of the Senate to enact such a prescription but that prescription unilaterally imposed upon ourselves does not bind the Soviet Union, not unless or until they have specifically expressly agreed to it.

And that is the question that is left unanswered by the Byrd amendment. There is no question that the Byrd amendment prescribes obligations of the United States in terms of our domestic law. But the question unanswered is, Does it impose upon the United States an obligation under international law that is not matched by any corresponding obligation of the Soviet Union?

I would argue—and I think that the proponents of this amendment would agree—that what this does, clearly, is prescribe a course of conduct for the executive branch in future and it prescribes a condition to which the Senate will in future attempt to hold the executive branch. It does not, however, prescribe a course of conduct on the part of the Senate with respect to what it shall do in future with respect to another treaty. I think that is a significant point.

The majority leader has left his post here upon the floor to consult. But what I would ask of the majority leader at such time as he is able to respond on the time of the opposition is whether or not he agrees that there is nothing in the amendment that he has proposed that would preclude the Senate when it discovers as it did in this case of this INF Treaty from clearing up ambiguity by resort to the negotiating record.

Indeed, I see my friend, the distinguished Senator from Michigan, on the floor. I would ask if he would be kind enough to respond to that question and in fairness, since he has just come upon the floor, let me state to him that both the majority leader and I have made reference in opening comments to the negotiations that took place last evening in his office.

I have made the comment that representations were made at that time by the Senator from Michigan, the majority leader, the Senator from Georgia, the Senator from Maine, and others, seeking to provide reassurance that this one leaves unresolved the debate on the legally correct interpretation of the ABM Treaty.

The majority leader has responded in the affirmative to that question.

The question that I would ask now to the Senator from Michigan or to the majority leader, is it not also true that we agreed last night that there is nothing in the Byrd amendment that would preclude the Senate from having resort to the negotiating record to clarify omissions or ambiguities as indeed we did in the two instances that I have cited here?

Mr. LEVIN. I would answer at least on my part that resort to the negotiating record is not precluded by this amendment. I also would comment, since my friend from California raised the issue relative to the AMB Treaty, that the principles which are set forth in the Byrd amendment, indeed the Biden amendment as well, apply to all treaties.

Mr. WILSON. I am constrained to point out to my friend——

Mr. LEVIN. But if I could finish my sentence, I think the second half will give my friend more comfort than the first half.

Mr. WILSON. That is true, and I am compelled to point out why and, that is, because it is a variance not only with the earlier response of the majority leader but it is also at variance with the repeated reassurances received last night that the language of the Byrd substitute to the Biden-Pell amendment—and I am emphasizing that we are discussing now what is before us, the Byrd substitute, not the Biden-Pell for which it has been substituted—was not intended to resolve the debate on the ABM Treaty.

Mr. LEVIN. The second half of my sentence, I think, will give you some comfort in that regard.

Mr. WILSON. I beg your pardon, I did not realize I had interrupted you.

Mr. LEVIN. As I indicated, the principles set forth in this amendment apply to all treaties. That is why we fought so hard to keep the words in this amendment "the treaty clauses of the Constitution."

There was a big battle over those words, whether they would be in or out. Those that believe very strongly in this amendment insisted that those words be kept in, because we believe these principles apply to all treaties.

The reason that this amendment does not resolve the ABM dispute, however—and it is not intended to resolve the ABM dispute—is because the proponents of the broad interpretation of the ABM Treaty have argued that there was, at a minimum, ambiguity in the representations which were made to the Senate at the time of that ratification debate.

Therefore, the proponents of the broad interpretation of the ABM Treaty are free to argue that there was no authoritative representation provided by the President to the Senate relative to the question of futuristics at the time of the ABM Treaty ratification debate. That is the reason why the explicit language of paragraph 4 of the Byrd amendment is helpful to you as well, because that makes it clear that if a question arises as to the interpretation of a provision of the treaty on which no common understanding was reached—to wit: to which there was no authoritative representation provided to the Senate by the Executive—that then the provision shall be interpreted in accordance with applicable U.S. law.

The proponents of the broad interpretation of the ABM Treaty believe and have argued that there was no authoritative representation provided by the President relative to that issue. Those of us who have supported the narrow or traditional view of the ABM Treaty have argued that indeed there was authoritative representation made by the President relative to that issue.

But that issue is not resolved. The issue simply is not resolved because, again, you are free to argue there was no authoritative representation and those of us who believe in the traditional interpretation of ABM are free to argue that there was authoritative representation that was made.

So, in that important sense, the ABM issue is not intended to be resolved by this language—I do want to give you a clear answer to your question—nor does this language in any way imply the opposite relative to the ABM Treaty interpretation issue.

It was clear in the report language—and I think here my friend would concur with me—it was clear in the report language, and it is clear from the sponsors of this amendment, that the absence of this language during the ABM debate was not intended to imply anything relative to the correct interpretation of the issue in the ABM debate. And that is the other reason why we insisted that the language "treaty clauses of the Constitution" remains, and that is a very important part of this amendment.

The principles of this amendment apply to every treaty, including the ABM Treaty, but the application of the principles is where there is no resolution because of the difference as to whether or not there was authoritative representation or not.

Mr. WILSON. I thank my friend from Michigan. But let me ask him a further question about paragraph 4. Though he was not the author of the paragraph, I think he is competent to respond as an able advocate and a craftsman with the language whose skills I admire. Is it, in your judgment, a correct statement that paragraph 4, by seeking to prescribe a solution to those situations that arise subsequent to ratification where there is a question as to interpretation upon which there was no common understanding, is a first step, but does not totally resolve how we should proceed in instances where there is no agreement that there was no common understanding?

Mr. LEVIN. Where there is disagreement as to whether there was a common understanding or not, or, to put it more precisely, where there is a disagreement as to whether or not there were "authoritative representations which were provided by the President and his representatives to the Senate and its committees, in seeking Senate consent to ratification," then the parties are free to take their best position. The people who claim there was no authoritative representation are then going to argue paragraph 4 applies. The Senators or others who believe that there were authoritative representations provided by the President will argue that paragraph 2 applies.

Mr. WILSON. So, in short, my friend from Michigan thinks paragraph 4 is descriptive of the situation in which the Senate found itself last year when we devoted considerable time and eloquence—at least that was our view of it—to this question of the legally correct interpretation of the ABM Treaty and have come to no resolution.

I look at paragraph 4 and it seems to me it describes that irresolution. It states that if there is agreement that there was no common understanding, or acknowledged that something has come up which was totally omitted, where there is agreement that there was no common understanding, this prescribes that there shall be a determination made in accordance with applicable United States law. But in the situation where there is not an agreement that there was no common understanding and rather one side is contending that there was common understanding and the other contends that indeed there was not, then we have the present impasse as it relates to the ABM Treaty's legally correct interpretation.

Mr. LEVIN. I would not agree with that formulation.

Mr. WILSON. Well, how do you get to the point without there being agreement that there was no common understanding?

Mr. LEVIN. If there is no agreement as to whether there is a common understanding, the parties that believe there was are free to argue that there was under paragraph 2. The parties that feel that there was no common understanding—to wit: that there was no authoritative representation provided by the President—are free to argue paragraph 4.

But I could not agree with your formulation that if there is no agreement as to whether or not there was a common understanding, then paragraph 4 applies. Quite the opposite.

Mr. WILSON. No. No. I think my friend misunderstood. My criticism of paragraph 4—which I recognize to be an effort by the majority leader and Senator Cohen and others to try to give resolution in that situation subsequent to ratification where it is agreed that there was no common understanding—does not deal with the situation that presently exists with regard to the ABM Treaty where there is in fact no agreement about there having been common understanding.

So I think the point is adequately made. Paragraph 4 is somewhat useful in a very limited application. It will assist in those situations where there is a common acknowledgment, where there is no dispute that something has come up, either as a conflict in the testimony of authoritative representations or simply an omission. In those situations where there is no dispute, where it is agreed that there was no common understanding, paragraph 4 is useful.

Mr. LEVIN. I agree with that.

Mr. WILSON. But in another situation, it does not deal with that question, the question that is before us with respect to the ABM Treaty.

Mr. LEVIN. It does not solve the dispute.

Mr. WILSON. I thank my friend.

Madam President, how much time remains to the opposition?

The PRESIDING OFFICER. Three minutes and—excuse me. I was reading the eight as a zero.

Eighty-three minutes and 23 seconds.

Mr. WILSON. I thank the Chair. Your first response, I confess, struck chill into my heart.

The PRESIDING OFFICER. The Chair apologizes.

Mr. WILSON. Madam President, I would reserve the balance of my time.

Mr. BYRD. Madam President, I yield to the distinguished Senator 10 minutes of my time if that would be of assistance to him.

We have chewed up a good bit of his time in responding to questions on his time.

Mr. WILSON. Madam President, I thank the majority leader for his customary graciousness and generosity and gratefully accept the 10 minutes.

Mr. BYRD. Mr. President, against whom is time running at this point?

The PRESIDING OFFICER (Mr. Adams). The Chair will say to the majority leader, time is running equally.

Mr. BYRD. I hope the time will not run equally against Mr. Hollings, who will be in control of 20 minutes.

I ask unanimous consent that Mr. Hollings retain his 20 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. And I ask unanimous consent that throughout the remainder of the debate on these amendments—"these" meaning the first- and second-degree amendments—that where it runs equally it not be charged in any way against Mr. Hollings' 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, in the interest of utilizing our time to the very best advantage on both sides I wonder if any Senators on my side of the question wish to have time at this point so that we are not atrophying. Does Mr. PELL or Mr. NUNN or does Mr. LEVIN or does Mr. SARBANES or does anyone wish time from my side?

Mr. President, I yield 5 minutes to Mr. PELL.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. I thank the majority leader and compliment him on the way he has worked on the Biden amendment and improved the Biden amendment—Biden condition, I should say, rather.

I would also be remiss if we did not pay tribute to Senator BIDEN. Pehaps he is watching this debate in his room, where he is recuperating at home in Delaware. I hope he is. I know we all join in wishing him Godspeed.

In any case, these hours on the Senate floor are really the result of his imagination and depth of thought in trying to handle the problem that we face.

Because the issue addressed by the Biden condition and the Byrd amendment is not a struggle over who interprets treaties. It is the President's responsibility to interpret and implement treaties for the United States. At issue is the question of what limits are to govern the President's latitude in exercising that power.

The Foreign Relations Committee amendment and the Byrd amendment confirm that authoritative representations by the executive branch do indeed have binding significance. The President's representatives simply cannot explain a treaty to the Senate in one way prior to ratification and then seek to change that explanation 10 years later without the approval of the Senate. The Foreign Relations Committee amendment and the Byrd amendment prevent such an action.

The issue before the Senate is not the broad versus the narrow interpretation of the ABM Treaty. The issue is the Sofaer doctrine, which essentially allows the President to reinterpret a treaty unilaterally. The Byrd amendment and the committee amendment prevent reinterpretations. However, to reject the validity of reinterpretations is not to resolve the ABM Treaty dispute, but simply to narrow that dispute to a debate over the facts of what actually transpired in 1972.

I hope the Senate does not digress on this question into a replay of the ABM Treaty dispute. The real issue is whether the Senate will reject the notion that the Executive can reinterpret a treaty. Heretofore, nobody suggested that the Executive could reinterpret a treaty.

I urge my colleagues to support the Biden amendment as amended by Senator BYRD. A vote for this amendment is a vote to uphold the Senate's treaty power under the Constitution and to reestablish the principle that a President cannot walk away from the shared understanding between the Executive and the Senate reached at the time of a treaty's ratification. This notion is central to the Senate's role in the Constitution and I hope this amendment passes through bipartisan support.

I would add that at any time in the future if an Executive wanted to reinterpret a treaty, he would probably try to engage in the same practice: Find a lawyer who would invent the doctrine and redo it. This is what lawyers are very often hired for, to give the interpretation that their client wishes.

So, even with the passage of this amendment, it does not mean that another President, another year, another decade, might not attempt the same legerdemain. But I would add that I think the passage of this amendment as amended would make that more difficult.

Mr. President, I ask unanimous consent that there be printed in the RECORD the portion of the committee report which deals with the issue of treaty interpretation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IX. TREATY INTERPRETATION (CONDITION ADOPTED BY THE COMMITTEE)

While intent on opposing any unnecessary encumbrance on the resolution of ratification, the Committee felt compelled to address the issue of treaty interpretation. As Senator Cranston put it, the Committee acted on this issue "by necessity, not by choice." The Committee did so by approving a formal Condition which affirms certain constitutional principles relating to the Treaty Power, and requires that these principles govern U.S. interpretation of the INF Treaty.

Some Senators questioned the Committee's need to act on the treaty interpretation issue, particularly in the context of a treaty that will mandate a relatively prompt three-year dismantlement of intermediate-range missiles. Is interpretation of the INF Treaty really an issue? The Committee's answer is affirmative, for three reasons:

First, the issue is indeed relevant to the INF Treaty. While involving a three-year missile elimination phase, the INF Treaty is designed to ban a defined class of missiles permanently. Thus, the Treaty's limitations and prohibitions will entail the complexities of interpretation and implementation over a period of unlimited duration.

Second, the issue can hardly be avoided. The Committee could not sidestep the fundamental constitutional question raised by the Administration's recent promulgation of an extraordinary doctrine which asserts wide presidential latitude for changing the interpretation of a treaty, notwithstanding what the Senate may have been told in consenting to ratification. To ignore this question, while dealing with a major treaty, could imply acquiescence in the doctrine.

Third, the inclusion of a Condition on treaty interpretation represented the least problematic means of handling a potentially grave problem for the INF Treaty. In the absence of a Condition reaffirming traditional principles of treaty interpretation—under which the Senate can accept Executive explanations as having binding significance—the Senate would face the alternative of considering countless other Conditions designed to formalize the Senate's understanding of various INF Treaty provisions.

A. THE TREATY POWER

The Constitution's Treaty Clause (Article II, section 2, clause 2) states that the President "shall have Power, by and with the Advice and Consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." Because treaties constitute solemn international commitments of the United States, and hold domestic status as "supreme Law of the Land," the Senate's shared role in the Treaty Power is a central constitutional provision. As such, it represents a principal means by which the Senate participates in the shaping of American foreign policy.

In the words of Alexander Hamilton, the Framers of the Constitution considered the division of the Treaty Power between the Executive and the Senate to be "one of the best digested and most unexceptional parts of the plan." It would have been "utterly unsafe and improper," Hamilton wrote, to entrust the power of making treaties in the President alone. Hamilton's most famous dictum applied directly to the Treaty Power:

> The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate, created and circumstanced, as would be a president of the United States.

The essence of the Treaty Power is that the President and the Senate are partners in the process by which the United States enters into international obligations. It is fundamental to the logic of the Treaty Clause that it does *not* envisage that the President may unilaterally re-make a treaty. If he could, the Senate's portion of the shared power inherent in the Treaty Clause would be nullified.

B. ORIGINS OF THE ISSUE

Last year, in seeking to justify the Administration's "broad" interpretation of the 1972 ABM Treaty, the State Department Legal Adviser, Mr. Sofaer, advanced two claims—one factual, the other constitutional:

(1) The factual claim is that the entire ABM Treaty, in design, genesis, and implementation, was fraught with ambiguity: ambiguity in what the negotiators agreed to, ambiguity in the text they produced, ambiguity in the Executive presentation to the Senate, ambiguity in the Senate's understanding of the Treaty, and ambiguity in the subsequent practice of the parties.

(2) The constitutional claim is that what the Senate is told in the process of consenting to a treaty is not in itself of binding significance in determining the President's obligation in carrying out the treaty.

The constitutional claim was manifest in a number of statements made by Mr. Sofaer, but none more crystallized the issue for Senators than this assertion, made during joint Foreign Relations-Judiciary Committee hearings in early 1987: "When [the Senate] gives its advice and consent to a treaty, it is to the treaty that was made, irrespective of the explanation [the Senate] was provided." Questioning how a treaty could be "made" prior to the Senate's consent, Senators grew increasingly concerned about the Administration's concept of the Treaty Power.

In 1987, the Foreign Relations Committee devoted considerable time and attention to the ABM Treaty dispute in both of these dimensions: factual and constitutional.[13] Having done so, the Committee found no reason, while considering the INF Treaty, to debate again the overall validity of the Administration's assertion of a "broad" interpretation of the ABM Treaty as opposed to the traditional "narrow" interpretation. Indeed, in the Committee's view, that issue is being adequately addressed elsewhere:

First, as to U.S. defense policy, in pursuing the development and testing of ABM systems, that issue is now being addressed through the normal give-and-take of the U.S. *defense budget process.* By means of an amendment to the FY 1988-89 DoD authorization, Congress has employed the power of the purse to assert its views, and similar amendments in the future will succeed or fail on the basis of policy debate.

Second, and even more to the point, it has become patently clear that what is permitted by the ABM Treaty will ultimately be decided by *superpower negotiation.* Such negotiation is virtually inevitable—and the need for it is now part of the Reagan Administration's own position—because the United States, as a precondition of agreeing to major reductions in strategic offensive arms, will be required by self interest to achieve its own clear and detailed understanding of which kinds of Soviet ABM systems to anticipate in the future strategic environment. Any Treaty amendment would, of course, be subject to Senate advice and consent.

In sum, the future of U.S. policy with regard to ABM systems, and U.S. participation in the ABM Treaty, will be addressed in the budget process and in negotations with the Soviet Union. The Committee was unanimous in believing that its action on the INF Treaty required no resolution of the "broad-versus-narrow" ABM Treaty debate.

The one legacy of that debate which the Committee could *not* overlook, however, was the Administration's *constitutional* assertion of a clearly delineated and unprecedented doctrine under which the President has wide latitude for treaty "reinterpretations," notwithstanding what the Senate may have been told in the course of granting consent to ratification. The Committee was intent upon addressing and refuting this effort at Executive enlargement of its share of the Treaty Power.

As Senator Sarbanes emphasized, "We did not raise this issue to begin with; it was in effect raised to us."

Thus, those who have described the Committee's interest in the treaty interpretation issue as an effort to refight the old ABM battle have missed the point. The Committee is looking forward—to the successful implementation of the INF Treaty and other treaties—and looking backward only to a crucial constitutional provision established 200 years ago, which the Committee feels duty-bound to uphold and affirm.

C. DESCRIPTION OF THE SOFAER DOCTRINE

In defending its new, "broad" interpretation of the ABM Treaty, the Reagan Administration employed a dual-track approach:

(1) In the context of *international* law, it used a new reading of the ABM Treaty text and of internal U.S. Government memoranda from 1971-72 (the "negotiating record"[14]) as a basis for asserting that the two superpowers had not actually agreed to limit the development of any ABM systems based on new technologies.

(2) In the context of *domestic, constitutional* law, it argued that alleged ambiguities in the Treaty text and in the negotiating history has been reflected in the Executive's presentation to the Senate—and buttressed this claim with a newly-minted doctrine which asserted wide Executive latitude for "reinterpretation" of treaties.

The argument of pervasive ambiguity—in the ABM Treaty's design and its presentation to the Senate—would have been sufficient, in terms of *logic,* to assert Executive latitude for a "broad" interpretation of the Treaty. Such an approach would have emphasized that the ABM Treaty was being interpreted "within the bounds of the ambiguity in the original shared understanding" held by the Executive and the Senate, rather than "reinterpreted."[15]

The additional assertion, however, amounted to a new constitutional doctrine—which the Committee will here call the Sofaer Doctrine—that effectively claims *an Executive right of treaty amendment disguised as treaty interpretation.*

The essence of the Sofaer Doctrine is the assertion that the Executive is not bound, in implementing a treaty, by what it has told the Senate in seeking consent to ratification. The Executive is only bound, according to the doctrine, by a particular interpretation of a treaty's meaning if that interpretation meets three criteria: the particular interpretation must have been (1) "generally understood" by the Senate, (2) "clearly intended" by the Senate, and (3) "relied upon" by the Senate.

In a letter dated March 17, 1988 (see Appendix), White House Counsel Culvahouse described these criteria as "settled principles." But in fact they have been asserted with *no* constitutional basis— no reference to the intent of the Framers, to historical precedent, to case law—no reference to any source of constitutional authority. These alleged "principles" have been invented during this Administration, from which they emerged in the course of Mr. Sofaer's various presentations to Congress.[16]

Moreover, while such terms as "generally understood," "clearly intended," and "relied upon" may appear straight forward and appealing, in practice such criteria would be so difficult to meet that the Executive would almost never be bound by its own presentation to the Senate:

(1) How many Senators must speak on a given interpretation before it can be proven that the Senate "generally understood" that interpretation?

(2) How, unless the Senate has affirmed a particular intepretation by means of a formal condition, can it ever be demonstrated that the Senate "clearly intended" a particular interpretation?

(3) And if "relied upon" means (as Administration officials have suggested) that a particular interpretation was crucial to the Senate's action in approving a treaty or refraining from the imposition of a formal condition, how can that negative proposition—"The Senate wouldn't have done x if it weren't for y"—ever be proven?

Yet, under the Sofaer Doctrine, all three of these difficult proofs are required if a particular treaty interpretation is not to be subject to "reinterpretation."

Thus, the Sofaer Doctrine is in effect a claim of wide Executive latitude in treaty interpretation by means of the assertion, in the context of *domestic* law, of unreasonable criteria for what may *not* be "reinterpreted." If a particular interpretation of a particular provision of a treaty does not meet these criteria, it apparently is subject—according to the Sofaer Doctrine—to any interpretation the President may wish to place upon it.

As subsequent discussion will underscore, the import of this assertion is that the Senate is not a partner in the treaty process, but essentially an adversary—an onlooker of secondary status which, while it may derive some momentary power from its ability to block a treaty or impose formal conditions on its consent, must take extraordinary precautions if what it is told by the Executive about a treaty is to be determinative of the Executive's obligations in interpreting and implementing that treaty.

It bears note that there is no necessary relationship between the Sofaer Doctrine and a treaty's "negotiating record." By way of example, one may imagine circumstances in which the Sofaer Doctrine would be asserted but the "negotiating record" would play no role. Let us say that President Reagan's successor and Secretary Gorbachev wished to "reinterpret" the INF Treaty in a manner inconsistent with what the Senate has been told in consenting to ratification. The Sofaer Doctrine would play the role of helping the administration loosen its obligations under domestic law, while as between the parties there would be no resistance to the new meaning being put on existing words and thus no need to justify the change by reference to a "record." Indeed, under this scenario the "record" would be assiduously disregarded, because it reflected a mean contrary to that which the parties wished to adopt.

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[13] For the Foreign Relations Committee's actions and views with regard to the overall ABM Treaty dispute, see the Committee's March-April 1987 joint hearings with the Judiciary Committee, entitled "The ABM Treaty and the Constitution," and the Committee's September 1987 report on S. Res. 167, "The ABM Treaty Interpretation Resolution."

The Committee wishes to acknowledge that in the conduct of those hearings, the drafting of that report, and the creation of the Condition herein described, the Committee received extensive and invaluable assistance from its former legal counsel, Professor Michael J. Glennon.

[14] Under international law (and also under domestic law), the primary source of interpretation is the text, which should be interpreted in accordance with the ordinary meaning to be given the treaty's terms in light of their context and in light of the treaty's object and purpose. Another major source of interpretation under international law is practice under the treaty. But the negotiating history—which refers to what happened, as opposed to any particular set of documents—is also recognized as having some interpretive significance insofar as it may reflect what the parties commonly understood about the meaning of the text.

For a discussion of the complexities of defining what a "negotiating record" might be, see the Committee's September 1987 report on S. Res. 167, pp. 49-51. See also *Restatement of the Law (3d), Foreign Relations Law of the United States,* The American Law Institute, 1988; and Reports of the International Law Commission, United Nations, 1966.

[15] Because of its interest in avoiding a renewed debate over the "broad-versus-narrow" interpretation of the ABM Treaty, the Committee will not comment here on its evaluation of the persuasiveness of the factual case for the "broad" interpretation; i.e., the assertion that the ABM Treaty—in genesis, design, and presentation to the Senate—was suffused with ambiguity. The Committee notes only that the assertion of such pervasive ambiguity in the original "shared understanding" of the Treaty, held by the Executive and the Senate, is logically sufficient to make the case for a "broad" interpretation without any need for innovative constitutional assertions.

[16] See, for example, Mr. Sofaer's testimony to the Senate Foreign Relations Committee in the previously cited hearing volume entitled "The ABM Treaty and the Constitution."

Against this background one can examine Mr. Sofaer's provocative declaration that "When [the Senate] gives its advice and consent to a treaty, it is to the treary that was made, irrespective of the explanations [the Senate] was provided."

With the Senate's role denigrated by the Sofaer Doctrine, the essence of the treaty from the U.S. perspective becomes not what the Executive and the Senate jointly understood at the outset but what the Executive at any moment wants to assert was agreed to with the other party. What little constitutional constraint there is on any particular interpretation would require an Executive determination that the Senate has fulfilled the Sofaer Doctrine criteria with regard to that interpretation—criteria the Senate rarely fulfills. This, under the Sofaer model, whatever the President can assert within the context of international law acquires a *de facto* supremacy over constitutional law.

There is, of course, a central defect in Mr. Sofaer's supposition that the President unilaterally "makes" treaties which the Senate subsequently is asked to approve. Constitutionally, no treaty is "made" until the Senate has given its consent. This is how a treaty becomes part of "the supreme Law of the Land."

The Legal Advisers' statement implies that the meaning of a U.S.-Soviet treaty is to be gleaned not by examination of what the President and the *Senate* jointly understood, but by examination of what the President and the *Soviets* agreed upon—regardless of what the President may or may not have told the Senate. This is tantamount to saying that a U.S.-Soviet treaty becomes the supreme law of the United States with the device and consent of the Soviet Union. The Constitution provides otherwise.

D. PROBLEMS WITH THE SOFAER DOCTRINE

The basic problem with the Sofaer Doctrine is that it is founded on the faulty premise that the Senate is not an integral part of establishing the meaning of a treaty under U.S. constitutional law—except insofar as the Senate does so through affirmative steps which impose restrictions on Executive latitude. The doctrine undercuts the basic model of treaty-creation: that the Executive negotiates and signs a treaty,[17] explains its proposed treaty to a listening Senate, and then on that basis is accorded consent to ratify the treaty that has been explained.

Under the Constitution, the President may only ratify a treaty to which the Senate advised and consented. And it must be taken as axiomatic that the Senate cannot consent to that which it did not understand. Accordingly, the operative principle of treaty-making under the Constitution *must* be that, as co-makers of a treaty for the United States, the Executive and the Senate share a common understanding of a treaty which has binding significant domestically as the treaty, upon ratification, becomes an integral part of United States law.

In the establishment and determination of that common understanding, the concept of legislative intent must be as applicable to treaties as it is to statutory law, in which intent may be explicit or implicit.

Explicit understandings regarding a treaty's meaning are manifest in formal conditions to the Senate's consent. These conditions include amendments to the text of a treaty as well as amendments to the resolution of ratification, such as "reservations," "understanding," and the like.

Implicit understandings represent Senate agreement with and acceptance of the Executive's explanations of the treaty. Whereas explicit understandings may at times entail the Senate's imposition on the Executive of a meaning not originally intended by the Executive, implicit understandings never do; they can only reaffirm the meaning presented by the Executive.

Although not formalized, implicit understanding must necessarily be equal in significance to explicit understandings. To accord them lesser significance would be illogical because implicit understandings commonly occur precisely where there is no disagreement as to meaning and where no issue has arisen. Such understandings are reflected in the various materials traditionally described as legislative history. These sources include hearings and committee reports, as well as debates transcribed into the Congressional Record. Such sources must be regarded as indicia of legislative intent as much for a treaty as for a statute.

What is crucial is that legislative intent, with regard to a treaty as well as a statute, is expressed not only in language drafted by legislators but in unchallenged communications of the Executive. Under longstanding principles of textual construction, Executive communications to the Congress concerning the meaning of a text are evidence of the meaning of that text if Congress (or the Senate) acquiesces in that meaning. In other words, the legislative branch is deemed to be placed on notice by the Executive that certain words will be construed in a certain manner. If Congress wishes a different meaning to obtain, it may act so as to effect that different meaning. If Congress does not act, however, it is properly deemed to have accepted—and to intend—the meaning communicated by the Executive.

In testimony to a joint hearing of the Judiciary and Foreign Relations Committees, Professor Louis Henkin, chief reporter of the new ***Restatement of U.S. Foreign Relations Law,***[18] summarized this concept as follows: "Where several [Executive] statements are made and there is general acceptance of their tenor, that is the Senate understanding. That is true in the case of Senate consent to a treaty, as it would be in the legislative history of a statute."

Clearly, in determining whether the Senate consented to the ratification of a treaty pursuant to an implicit understanding, a rule of reason must apply. Obviously, where the indicia of Senate intent or understanding (including unchallenged Executive communications or explanations) are few or inconsistent, no implicit Senate intent can reasonably be said to exist. On the other hand, where the indicia of intent (again, including unchallenged Executive communications or explanations) are several and largely consistent, an implicit intent can reasonably be concluded to exist. In such circumstances, the President is bound constitutionally to regard that intent as an implicit Senate understanding, and therefore an implicit condition of the Senate's consent. The Chief Executive cannot bring the treaty into force unless it reflects that condition, and subsequent Presidents must interpret the treaty subject to that intent.

The essence of the Sofaer Doctrine is to reject this concept of legislative intent as it has been normally understood, and to replace it with a requirement that the Senate act affirmatively to formally demonstrate what is "generally understood, clearly intended, and relied upon" regarding every provision of a treaty, lest that provision be subject to any interpretation a President may later prefer.

E. IMPLICATIONS OF THE SOFAER DOCTRINE

In very practical terms, the Sofaer Doctrine, if accepted, threatens two far-reaching and dangerous consequences:

(1) Nullification of the Senate's Treaty Power. A presidential right to adopt a different interpretation of a treaty, irrespective of the understanding on which the Senate based its consent, would tend to nullify the Senate's share of the Treaty Power and thus undermine a basic provision of the Constitution.

(2) Paralysis in Treaty-Making. The Senate's only recourse, to prevent its share of the Treaty Power being nullified, would be to attach elaborate and numerous conditions to treaties in order to have the Senate's understanding become an integral and explicit part of the ratification documents. Such procedure could easily overburden the treaty process to the point of paralysis.

F. THE INF TREATY AND THE SOFAER DOCTRINE

In the context of the Senate's consideration of the INF Treaty, two letters—from Secretary of State Shultz and from White House Counsel Culvahouse (both reprinted in the Appendix)—became the focus of Senate efforts to deal with the Administration's constitutional assertions.

Some originally saw in the Shultz letter (dated February 9, 1988) an indication of Administration willingness to retreat from its assertion of the Sofaer Doctrine, and thus reacted with disappointment when the doctrine was clearly reasserted in the letter (dated March 17, 1988) signed by White House Counsel Culvahouse. Under analysis, however, it becomes clear that the Administration has remained consistent in its adherence to the Sofaer Doctrine.

Accordingly the Committee agrees with the Culvahouse letter (as he stated in a brief follow-up letter dated March 22, 1988) that the Shultz and Culvahouse letters are consistent on the question of treaty interpretation. The Shultz letter tiptoed around the Sofaer Doctrine; the Culvahouse letter simply stated the Administration's views on the Sofaer Doctrine clearly and boldly.

The key to understanding this consistency is to recognize that the Administration conceded virtually nothing in the Shultz letter, which contained only these three items:

(1) an assertion that Administration testimony on the INF Treaty is "authoritative" (which appears to mean nothing more than dependably accurate);

(2) a kind of admonition that, because of these dependably accurate statements, the Senate need not incorporate Executive ma-

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[17] The signing of a treaty does not bring the treaty into force. Only ratification can do that. Discussion of this and related concepts is contained in the Appendix section entitled "Principles of Treaty-Making and Interpretation."

[18] The full title of this preeminent compendium of U.S. law in the realm of foreign affairs is *Restatement of the Law (3d), Foreign Relations Law of the United States,* 1988.

terials and testimony in the resolution of ratification—but no clear statement that this or a future Administration would be bound in any legal sense by such an "authoritative" presentation;

(3) a promise that the Reagan Administration would not depart from the meaning of the INF Treaty as presented to the Senate.

These three elements offer absolutely nothing by way of any agreement on principles as to what would bind the Executive. Thus, while the Culvahouse letter seemed to some to be a step backward, in fact it served only to articulate the premises underlying the vague and essentially noncommittal language in the Shultz letter. The essence of the Culvahouse letter is its clear reiteration of the Sofaer Doctrine, which asserts wide Executive latitude for "reinterpretations" by promulgating unreasonable criteria for what provisions in a treaty may not be "reinterpreted":

As matter of domestic law . . . the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and *clearly intended, generally understood and relied upon* by the Senate in its advice and consent to ratification. [Emphasis added.]

In criticizing the draft Biden Condition under consideration by the Committee, the Culvahouse letter agreed that U.S. treaty interpretation must be based on the "shared understanding" of the Executive and the Senate when a treaty is made. But it rejected any notion that such "shared understandings" of binding significance could be found by examining the record of Executive testimony:

[The Biden Condition] apparently would define that shared understanding as encompassing all statements made by officials of the Executive branch during ratification proceedings. These statements presumably include and attribute equal dignity to the Secretary of State's definitive article-by-article analysis and to the extensive testimony of Cabinet members, treaty negotiators and other Executive branch officials, as well as to the Administration's answers to over 1,000 questions submitted by Members of the Senate, no matter how trivial or unimportant the issue may be to the Senate's advice and consent deliberation.

In testifying to the Foreign Relations Committee, Senator Nunn saw this sentence as casting doubt on the "authoritativeness" of all Executive branch communications concerning the INF Treaty. But in fact the Culvahouse letter does not deny that all Executive branch communications are "authoritative." Rather, it denies that all "authoritative" communications meet the criteria of the Sofaer Doctrine as to what is binding on the Executive.

This confusion apparently rests on Senator Nunn's eminently reasonable premise that "authoritative" testimony *should* have binding significance. But this is a premise that the Administration has never formally acknowledged—in the Shultz letter or anywhere else.[19]

G. PURPOSE AND CONTENT OF THE BIDEN CONDITION

The purpose of the condition drafted by Senator Biden—and offered on his behalf by Senator Cranston—is to reaffirm the long-standing practice and long-standing principle that the "shared understanding" of the Executive and the Senate, as reflected in the Executive's formal representations, is indeed fully binding—as opposed to binding only with regard to those provisions and interpretations which the Senate has gone to extraordinary lengths to brand as crucial to its consent, by formal condition or some other means.

Unlike the Sofaer Doctrine, the Biden Condition envisages the Executive and the Senate not as adversaries in the treaty-making process but as partners—co-makers of the treaty on behalf of the United States.

While both the Biden Condition and the Sofaer Doctrine rest upon the premise that a "shared understanding" is required to bind the Executive to a given interpretation of a treaty, the crucial difference is that the Biden Condition envisages that a "shared understanding" will be reflected in all "authoritative" statements by the Executive. Under the Sofaer Doctrine, the Executive is bound only by those "shared understandings" which the Senate has somehow labeled crucial to its consent by fulfilling the criteria of "generally understood, clearly intended, and relied upon."

The Committee's purpose, in adopting the Condition, was to lead the Senate to affirm a set of principles which reflect long-standing constitutional practice. By so doing, the Senate can:

Avoid the need for other conditions pertaining to specific interpretations of the INF Treaty;

Repudiate a pernicious doctrine that was asserted solely for a specific purpose; and

Establish a position with regard to future treaties such that the Senate can avoid repeating the inclusion of a formal condition. The Senate's 1988 action will have been sufficient to reaffirm fundamental constitutional principles of treaty-making.

The Biden Condition was drafted in consultation with Professor Louis Henkin, chief reporter of the *Restatement of U.S. Foreign Relations Law* and the nation's most generally esteemed scholar in this field. The provision was designed to articulate and affirm, as succinctly as possible, these constitutional principles reflected in time-honored practice: to wit, that the original shared understanding of the Executive and the Senate must govern a treaty's subsequent implementation, and that such understanding is reflected in the Executive's presentation to the Senate.

A key consideration in the drafting of the Condition was to strike an appropriate balance between the general and the specific. As stated earlier, the Committee did not wish to see the Senate fight once again a battle over the Administration's "broad" interpretation of the ABM Treaty. The Committee therefore sought to direct this Condition, to the maximum degree possible, to the INF Treaty. At the same time, however, the Committee's purpose, in addressing the treaty interpretation issue, was not to erect *sui generis* barriers against any "reinterpretation" of the INF Treaty, but to affirm principles that *inherently apply* to the INF Treaty.

The Committee notes that, in one respect, its action in including this Condition in the INF Treaty's resolution of ratification was unnecessary insofar as principles which inherently apply to the INF Treaty would apply even in the absence of any Senate action affirming them. Given the circumstances, however, the Committee judged that to fail to affirm such principles could suggest some degree of acquiescence in the Sofaer Doctrine, which the Committee views as an Executive attempt to assert an unconstitutional arrogation of the Treaty Power. In the sense the Committee views the Biden Condition, paradoxically, as both unnecessary and highly significant.

The Condition, as approved by the Foreign Relations Committee, stipulates as follows:

That this Treaty shall be subject to the following principles, which derive, as necessary implication, from the provisions of the Constitution (Article II, section 2, clause 2) for the making of treaties:

(a) the United States shall interpret this Treaty in accordance with the understanding of the Treaty shared by the Executive and the Senate at the time of Senate consent to ratification;

(b) such common understanding is:

(i) based on the text of the Treaty; and

(ii) reflected in the authoritative representations provided by the Executive branch to the Senate and its committees in seeking Senate consent to ratification, insofar as such representations are directed to the meaning and legal effect of the text of the Treaty;

(c) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute.

The Condition also stipulates that "This understanding shall not be incorporated in the instruments of ratification of this Treaty or otherwise officially conveyed to the other contracting Party."

Several concepts in the Condition warrant discussion:

Text of the Treaty: Both domestic and international law give primacy in treaty interpretation to the text of the treaty. International law requires that a treaty be interpreted in accordance with the ordinary meaning to be given the treaty's terms in light of their context and in light of the treaty's object and purpose. Domestic law does not differ, and is also premised on the assumption that the Executive and the Senate, as co-makers of a treaty for the United States, will share a common understanding of a treaty's text. As a matter of record, that common understanding of the text will be reflected in the Executive's formal presentation of the treaty to the Senate: in formal presentation documents, in prepared testimony, and in verbal and written intercourse regarding the treaty's meaning and effect.

In Professor Henkin's judgment, the phrase "meaning of a treaty" in the original draft Condition included the treaty text. However, in order to underscore that the Biden Condition had not (as alleged in the Culvahouse letter) ignored the primacy of the treaty text as a source of interpretation, the draft Condition was altered at the initiative of Senator Dodd, who worked in consultation with Professor Henkin to refine language that would serve to preempt any further criticism along such lines. Senator Dodd's adjustments in the Condition also served to underscore that the Executive's "authoritative" representations have interpretive significance only insofar as such representations relate to the meaning and legal effect of the treaty text. Thus are excluded the Administration's answers to such questions as "What is the overall effect of the INF Treaty on U.S. security?" and "What will the Administration do to ensure an adequate military balance in Europe?"

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[19] One individual exception was Ambassador Nitze, speaking spontaneously. See the final paragraph of this section on "Treaty Interpretation" and also the Appendix of this report.

As Senator Dodd stressed, this wording "binds the Executive only in those parts of its presentation where it analyzes and explains the text itself, such as "That is what these words mean." and "This is what their effect is under international law"—in short, where the Executive describes the precise international obligation about to be assumed by the United States.

Authoritative Representations: With regard to what constitutes an "authoritative" representation by the Executive, a rule of reason must apply. Certainly, substantial weight must be accorded the Executive's formal presentation documents, which include the treaty itself and a detailed explanation of the Executive's understanding of the treaty's terms. Considerable weight must also be accorded the prepared testimony of top Executive officials. Additional information elicited during Executive-Senate interaction regarding the meaning and legal effect of treaty terms will also be important because such discussion and questioning will cover items of particular interest and concern to the Senate, as a co-maker of the treaty for the United States. The overall significance of Executive branch representations makes it incumbent upon the Executive to take great care to avoid or remove any inconsistency in its overall presentation of a treaty. The possibility, however, that the Executive may prove fallible—that an "authoritative" representation could, on rare occasion, be inconsistent with the text of the treaty, or with another "authoritative" representation—is simply an unavoidable fact of life, which does not in any way diminish the crucial role of such representations in providing evidence of the common understanding of the text of a treaty held originally by the Executive and the Senate as co-makers of a treaty.

In this context arises the question of the role of the INF Treaty "negotiating record," access to which was afforded Senators not as a part of the Executive's formal or "authoritative" presentation of the Treaty, but in response to a Senate request. This is discussed in the following section, entitled "The INF Treaty Negotiating Record."

Methods for Establishing New Interpretations: As originally drafted, the Biden Condition stated that the United States would not agree to or adopt a new interpretation of the INF Treaty without the "approval of the Senate." That phrase was intended to encompass three possibilities, each of which would legitimately result in the United States adopting a different interpretation of a treaty:

(1) an amendment to the treaty, accomplished by protocol or other means and ratified by the Executive with the advice and consent of the Senate;

(2) a change in the treaty's terms of implementation agreed to by the parties under procedures, and within the framework, established by the treaty as originally ratified with the advice and consent of the Senate; and

(3) a subsequent statute.

In response to a concern expressed by Senator Helms that this should be stated more explicitly, Senator Cranston offered new phrasing which substituted the words, "except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute." Professor Henkin subsequently indicated his judgment that the principle being enunciated had not been altered by the change in language.

With regard to the modality of a statute resulting in a change in U.S. treaty interpretation, the Committee wishes to emphasize that the Condition envisages this possibility not as a matter of advocacy but as a matter of accuracy. In the overwhelming majority of cases, the preferable course for the United States is for the Executive to negotiate an international agreement—a new treaty or a protocol to an existing treaty—which is subsequently ratified with the advice and consent of the Senate. However, as a practical reality, it is a truth of U.S. domestic law that a statute requiring the President to adopt a new interpretation of a treaty is binding on the Executive.[20]

The Committee notes that paragraph (c) of the Condition is essentially a corollary of the principles in paragraphs (a) and (b). The import of paragraphs (a) and (b) is that the Executive must interpret a treaty in accord with the original Executive-Senate "shared understanding" of the treaty, which is reflected in the Executive's presentation to the Senate, and accordingly that the Executive may not, acting alone, adopt an interpretation outside the bounds of that "shared understanding." Paragraph (c) simply spells out the circumstances under which the Executive would receive a mandate to adopt an interpretation outside such bounds.

Non-Conveyance of Condition to the Other Party: A stipulation that the Condition not be conveyed to the Soviet Union as a part of the instruments of ratification was included in the Condition at the initiative of Senator Helms. The Committee viewed this as a matter of underscoring that the Condition is not directed to the U.S. obligations under international law, which provides the context within which the U.S.-Soviet exchange of instruments of ratification will occur. Rather, the Condition is binding under domestic law, and obtains its binding effect because the President, in the absence of the resolution of ratification, lacks authority to participate in the treaty's ratification. He obtains such authority through the resolution of ratification and is governed by any stipulations by which the Senate conditions its consent.

In sum, the President may not act upon the Senate's consent without honoring this Condition. Nothing that he or his Administration does, by statement or action, whether before or after the act of ratification, can alter the binding effect of any condition which the Senate places upon its consent to treaty ratification. If the President brings the INF Treaty into force, the Condition takes effect.

H. THE INF TREATY "NEGOTIATING RECORD"

Because the Sofaer Doctrine and the "negotiating record" were closely tied in the ABM dispute, some Senators demanded the "record" of the INF Treaty by means of underscoring the point that the Administration's assertions about the role of the Senate in treaty-making had destroyed any basis on which the Senate could operate in confidence of Executive good faith. With the INF Treaty "negotiating record" having been provided under these circumstances, both the Administration and the Senate now face the task of ensuring that Senate review of "negotiating records" does not become an institutionalized procedure.

First, a systematic expectation of Senate perusal of every key treaty's "negotiating record" could be expected to inhibit candor during future negotiations and induce posturing on the part of U.S. negotiators and their counterparts during sensitive discussions.

Second, by seeking possession of the myriad internal Executive memoranda comprising the "negotiating record," the Senate would impose upon itself a considerable task with no clear purpose. Because this "record" does not constitute an agreed account of the negotiations, such documents have no formal standing. Accordingly, regularized efforts to reconcile these "snapshots" of the negotiation process with the resulting treaty text as explained by the Executive would serve only to divert the Senate's attention from the central aim of the ratification process—which is to build, between the Executive and the Senate, a clear "shared understanding" of the treaty text and the obligations which that text entails.

The overall effect—of fully exposed negotiations followed by a far more complicated Senate review—would be to weaken the treaty-making process and thereby to damage American diplomacy.

The traditional approach does not, of course, preclude reference to the "record" where such reference can be useful in explaining the effect of treaty provisions which may appear ambiguous or about which questions may arise. The Executive may sometimes wish to initiate such reference to the "record"; on some occasions the Senate may request a detailed account of the interchange which resulted in a particular treaty provision. But this case-by-case approach is far superior to a systematic submission of the "negotiating record," which implies either that treaties tend to be replete with ambiguity or that the Executive cannot be trusted to present an accurate account of the obligations to be assumed by the United States. Neither assumption should be allowed to govern the basic Executive-Senate interaction in the treaty-making process.

Now that the INF Treaty "negotiating record" has been made available to the Senate, the status of these documents requires resolution. In the Committee's view, that resolution would not have been satisfactorily achieved by any stipulation in the resolution of ratification declaring that the Senate had scrutinized the "record" and satisfied itself that the "record" was in harmony with the formal Executive branch presentation of the Treaty. Such an approach could entail three significant problems:

(a) institutionally, it could imply that such security is important to the Senate's examination of treaties and thus should be institutionalized;

(b) retroactively, it could imply that such scrutiny should have been exercised in the past; and

(c) specifically, with regard to the INF Treaty, it could leave open the question of what is to be done if, in the future, there is an assertion—for example, by a subsequent Administration—that notwithstanding the Senate's perception of harmony there was an inconsistency between "record" and the Executive presentation.

Accordingly, the Committee believes that no formal finding concerning the contents of the INF Treaty "negotiating record" would be wise. In the Committee's judgment, the status of this "record" is established by the basic principles affirmed in the Biden Condition. If U.S. treaty interpretation is to be based upon the shared understanding of the Senate and the Executive at the time of ratification, and if the common understanding is reflected in authoritative Executive branch statements made in seeking Senate consent to ratification, then sources of interpretation which appear at variance must be subordinated to those authoritative statements.

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[20] One example, during the Wilson Administration, involved a congressionally-initiated statute requiring a new U.S. policy that contravened existing international arrangements pertaining to the Panama Canal. In successfully persuading Congress to repeal this legislation, President Wilson argued that the United States is simply "too big and powerful and self-respecting" to put a strained interpretation on its promises.

In sum, although internal Executive memoranda and other negotiating materials may have been available to members of the Senate, some of whom have sought to assure themselves that this "record" is consistent with the Administration's formal presentation, the clear corollary of the constitutional principles cited in the Biden Condition is that such documents need not have been examined for consistency and should not be deemed material to U.S. interpretation of the INF Treaty insofar as they are inconsistent with the Executive branch's formal presentation of the INF Treaty.

I. ADMINISTRATION CRITICISMS OF THE BIDEN CONDITION

The Culvahouse letter (previously cited and reprinted in the Appendix) makes three charges against the Condition, which the Committee has considered but to which the Committee can attach little weight:

(1) "Changing the Rules of Treaty Interpretation"

Under this heading, the Administration's position makes two false charges and affirms a false principle.

The false charges are that the Condition (a) ignores the text of a treaty as the primary source of meaning [21]; and (b) accords "equal dignity" to all sources of interpretation, ranging from the Secretary of State's definitive article-by-article analysis to the written answers to hundreds of Senators' questions.

As to the importance of the text, there is no issue. No one disputes that the text of a treaty constitutes the seminal source of the treaty's meaning. (As described previously, at the initiative of Senator Dodd the original draft text of the Condition was revised before Committee approval to underscore this point.) The Condition simply affirms that the Executive must continue to interpret a treaty in accord with the original understanding of that meaning shared by the Executive and the Senate.

As to the weight to be given to various parts of the Executive presentation, there is also no real issue. The Administration's position itself envisages that "the interpretation of a treaty [will be] authoritatively shared with * * * the Senate." Obviously a rule of reason must apply. As stated above, the text is the central source of meaning. But that meaning is elaborated upon through various elements of the Executive's presentation. The Condition does not state that the treaty is "defined by" the Executive's presentation. Rather, it affirms that the "common understanding" of the two branches is reflected in—meaning evidenced by—authoritative representations by the Executive.

The Administration, however, does not wish to accept this because it wishes to assert broad latitude for subsequent Executive "reinterpretation." It therefore affirms what, under analysis, proves to be a truly radical constitutional principle: that the Executive must adhere to a given interpretation of a treaty *only if* that interpretation was "clearly intended, generally understood, and relied upon by the Senate."

(2) "Unconstitutional Mechanism for Altering Treaty Interpretation"

Under this heading the Administration alleges that the Condition "interferes with the President's constitutional responsibility to interpret and implement treaties and also constitutes an unprecedented arrogation of treaty power by the Senate." This charge is without foundation.

It is indisputable that the President alone bears the constitutional obligation to interpret and implement treaties, and the principles affirmed by the Condition are perfectly consistent with that. What the President does *not* have the authority to do is interpret a treaty in a way that constitutes an amendment. His interpretive action must, if he is to behave constitutionally, be in accordance with the original understanding of the treaty. If he wishes to change the meaning of a treaty, he must obtain the agreement of the other party and formalize the change with the established mechanism of Senate advice and consent.

Meanwhile, the President will possess inherent latitude in his capacity as interpreter of every treaty to which the U.S. is a party. In the international context, each such treaty will inevitably provide a measure of flexibility in interpretation and implementation—within the treaty framework. Similarly, in the domestic context, the President will inevitably have latitude for interpretation within the bounds of the "shared understanding" established with the Senate.

(3) "Risk of Unilateral Restrictions on the United States"

Under this heading, the White House letter seeks to raise the specter of the United States being bound by constitutional processes to one interpretation of a treaty while the Soviet Union is free to apply a less restrictive interpretation.

This specter—originally raised by Mr. Sofaer while trying to justify the "broad" ABM Treaty interpretation—is highly theoretical. It is a truism that the Executive has different obligations under domestic and international law, and therefore it is possible to hypothesize situations in which those obligations could conflict. However, in practice this has not proven to be a serious problem and there is no basis for the Administration's assertion that the Condition "would substantially increase this risk." The Condition, after all, does no more than state principles which already suffuse the *Restatement of U.S. Foreign Relations Law.*

An apparent premise of the Sofaer Doctrine is that practical difficulties would ensue if the Executive were bound by what it tells the Senate, because it would not be an abnormal circumstance for a difference to exist between what was agreed to with the other party and the explanations provided to the Senate. There should be no such difference. It is the Executive's responsibility to ensure sufficient clarity in a treaty and in its explanations thereof to the Senate so that no conflict exists between the shared understanding of the parties on the one hand and the shared understanding of the Executive and Senate on the other. If, *in extremis,* such conflict should arise and prove not resolvable by discussion or negotiation with the other party, the United States of course has the option of withdrawing from the treaty.

In sum, this largely theoretical problem should be addressed if and when it arises—not by a preemptive alteration of constitutional principles. The Senate should not accept a doctrine that assumes and protects carelessness or deviousness on the part of the Executive.

J. PROPOSED "COMPROMISES" AND OTHER ALTERNATIVES

The Committee takes note of the assertion that the Committee failed to pursue potential "compromises" that might allegedly have resulted in Committee unanimity on the issue of treaty interpretation. The Committee rejects this assertion as unfounded.

The Committee notes first that when Senator Biden initially drafted the Condition he circulated his text to a number of Senators of both parties in hope of engendering bipartisanship on an issue—the Senate's role in the Treaty Power—that should be of concern to all Senators. Moreover, as Senator Cranston stated when offering the proposal, "I have hoped that this simple language . . . could be adopted unanimously, with the support of Senators on both sides of the aisle. I have worked closely over many weeks with a number of Democratic and Republican Senators on and off this Committee . . . in an effort to work out a bipartisan solution."

As to potential "compromises," the Committee takes note of the following text, submitted by supporters of the Administration as a proposed substitute for the Biden Condition:

(a) that, as a matter of international law, only the mutual obligations assumed by the parties bind the United States;

(b) that the Senate has relied upon the testimony and written submissions, which it regards as authoritative, of witnesses of the Executive Branch concerning the meaning of the Treaty;

(c) that, as a matter of domestic law, the United States is bound by interpretations which the Senate clearly intended and generally understood would bind the United States in giving its advice and consent;

(d) that, the United States being so bound, no interpretation different from that intended and understood by the Senate, as a matter of domestic law, may be agreed to or adopted by the United States without appropriate legislative action.

The Committee points out that, while somewhat masked, the Sofaer Doctrine is clearly present in paragraphs (b) and (c), which have the effect of asserting that the three Sofaer Doctrine criteria—"generally understood, clearly intended, and relied upon"—must somehow be met lest the Executive have a right of "reinterpretation." In the final analysis, the Committee could hardly be expected to affirm the Sofaer Doctrine in a provision the purpose of which was to refute that Doctrine.

To be sure, various members of the Committee and of the Senate leadership displayed a good-faith willingness to discuss possible compromise language. But no compromise was ever reached. Nor was one possible so long as discussions focused on proposals designed to affirm the Sofaer Doctrine and thereby denigrate the Senate's role in exercise of the Treaty Power.

Senator Cranston summarized the situation as follows: "If we settle for a solution that undermines the Senate's role in the treaty process, we who serve together in the Senate now may well be charged with giving away the Senate's treaty powers."

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[21] As discussed earlier, the first draft of the Biden Condition, which is the object of the Culvahouse letter's criticism, used the phrase "meaning of a treaty" on the premise that this phrase is synonymous with "meaning of the text of a treaty." Thus, the concept and central role of the "text" of a treaty were always implicit in the Biden Condition.

The basic issue remains. On the one hand are those who view the Executive as constrained in treaty interpretation by the original shared understanding of a treaty as reflected in authoritative explanations of the text provided by the Executive in seeking consent to ratification. On the other are those who wish to affirm a radical new doctrine that has the effect of requiring the Senate to meet certain criteria lest the Executive have latitude to "reinterpret" a treaty provision as he may find convenient.

The Committee wishes to emphasize that in asserting the binding significance of the Executive's original representations, it has articulated the principle with great care. Whereas some formulations would have asserted that the Executive is directly and explicitly "bound by" its representations, the Biden Condition makes no such assertion. Rather, beginning with the premise of Executive-Senate partnership in the making of treaties, it asserts only the binding quality of the original "shared understanding" and then asserts a derivative principle: that this "shared understanding" of a treaty's text is "reflected in"—meaning evidenced by—the Executive's authoritative representations "insofar as such representations are directed to the meaning and legal effect of the text" of the treaty.

This construction helps to underscore that a rule of reason must apply in instances where inconsistencies may appear, lest the Executive be "bound by" two inconsistent requirements. Thus, the Biden Condition is precisely and carefully balanced in seeking to articulate the constitutional principles it aims to uphold.

Finally, the Committee notes that any "comprise" of this basic formulation would have the effect of diluting and thereby perverting the provision's basic purpose. The Committee does not wish to be a party to any act of Executive aggrandizement which, however expedient, would have the effect of impairing the treaty-making process or future American diplomacy. Specifically, the Committee wishes to uphold principles and practices of treaty-making under which the Senate is able to accept the Executive's presentation of a treaty in confidence and approve the treaty in good faith solely on the basis of that presentation, without the obligation of creating an elaborate formal record, or imposing formal conditions, to display what it "generally understood, clearly intended, and relied upon" as a defense against future Executive "reinterpreters."

The only practical alternative to the Biden Condition is to do precisely that: to lade the INF Treaty and its resolution of ratification with an enormous burden of formal amendments, stipulations, conditions, and the like, which could require months of debate. For example, in response to questions, the Administration provided "authoritative" representations regarding a number of issues of direct concern to the Committee, including:

The meaning of "weapon-delivery" vehicle in Article II;

The effect of Article XIV on U.S.-NATO weapons cooperation;

The effect of Article VII on testing of sea-launched cruise missiles; and

The effect of Article II on the testing of strategic missiles at INF ranges.

Given the context created by the Sofaer Doctrine, however, the Committee could not—without the countervailing effect of the Biden Condition—have been assured that such Administration representations were determinative of the Executive's obligations in carrying out the Treaty. Accordingly, in the absence of the Biden Condition, some Members would have felt obliged to proposed specific conditions on these and other issues.[22]

Senator Nunn articulated this in testimony to the Committee when he noted that in the absence of clear confidence that the Senate could regard Executive testimony as having binding significance, "then of course there are a number of us that feel that we would have to come to the floor of the Senate with a number of amendments that would make it clear that the testimony we received on ambiguities was indeed * * * binding on this Administration and future Administrations."

If the Senate is required to consider formal conditions with regard to every such issue, the result would be indefinite delay, a product which might have been contorted beyond any possibility of U.S.-Soviet ratification, and no resolution at all of the current constitutional issue. Against this prospect, it becomes clear that the Biden Condition is a cautious, responsible, and straightforward means of addressing a complex and potentially grave problem.

As Senator Cranston emphasized during the mark-up, "Adoption of this plain and simple language will liberate us from an exhaustive and absurd obligation to speak in the resolution of ratification to our understanding of every word of the Treaty . . . It allows us to rely on the Administration testimony without the cumbersome, time-consuming process of restating it."

In sum, the two categories of alternatives to the Biden Condition are both undesirable. So-called "compromise" language would be perverse to the degree that it embraced the Sofaer Doctrine. And to delete the Biden Condition would be to lay the resolution of ratification open to a plethora of proposed conditions on the specifics of INF Treaty interpretation.

K. RELATIONSHIP TO ABM TREATY DISPUTE

The Committee points out that its interest in avoiding a replay of the ABM Treaty dispute was manifest in its efforts to make this provision as INF Treaty-specific as possible, through the use of the words "this Treaty," although as indicated earlier the Committee recognized that any assertion of principles would have broader meaning.

The Committee therefore reiterates, that, even if passed by the Senate, this Condition would not be dispositive on the issue of ABM Treaty interpretation because the essential argument used to justify the "broad" interpretation is not an assertion of constitutional principle but a factual claim of pervasive ambiguity. In other words, the Administration's most basic claim is not actually that it is "reinterpreting" that Treaty but that it is interpreting the Treaty within the wide latitude provided by the general ambiguity which, it argues, surrounded the ABM Treaty's meaning at the time of ratification.

Accordingly, as Senator Dodd stressed, "One can vote for [the Biden Condition] and still support the "broad" interpretation of the ABM Treaty because that debate is mostly over facts. You ought to vote against [the Condition] only if you believe that under the Constitution the Executive branch can bring a treaty here, give you an authoritative explanation directed to the meaning of its text, and then after the treaty is ratified return and state that that was not really what the text meant—it meant something else."

In sum, the Biden Condition is not designed to resolve the dispute over alleged ambiguities in the genesis, design, and implementation of the ABM Treaty, or to constitute a final disposition of the issue of Treaty interpretation. Rather, the provision is intended to affirm certain constitutional principles which have been brought into question during the ABM Treaty debate.

At the same time, the Committee wishes to note, on behalf of those who oppose the Administration's "broad" interpretation, that since the issue of Treaty interpretation did not arise during Senate consideration of the ABM Treaty, and was not foreseen at that time, the absence of any action pertaining to interpretation of the ABM Treaty at that time cannot be construed as having any bearing on the interpretation of that Treaty.

L. CONCLUSION: A SUMMARY OF KEY POINTS

In conclusion, the Committee wishes to emphasize what the treaty interpretation issue is and what it is not:

The issue addressed by the Biden Condition is *not* a struggle over who interprets treaties. It is solely and indisputably the President's responsibility to interpret and implement treaties for the United States. At issue is the question of what limits are to govern the President's latitude in exercising that power.

The issue is *not* whether and what testimony by the Executive is "authoritative." To answer that question is still to be without an answer as to whether "authoritative" representations are in any way binding on the Executive. The issue is whether and how such representations have a binding significance under United States law.

The issue is *not* whether to have a "clean" resolution of ratification for the INF Treaty. The issue is how, without burdening the resolution with a *plethora* of formal conditions, the Senate can ensure that the current "shared understanding" of the Treaty, as reflected in what the Executive has told the Senate, becomes determinative of the Treaty's future implementation.

The issue is *not* the "broad-versus-narrow" interpretation of the ABM Treaty. The issue is the Sofaer Doctrine, which asserts unreasonable, highly elastic criteria which must allegedly be met before the Executive may not "reinterpret" a given treaty provision. To reject the Sofaer Doctrine is not to resolve the ABM Treaty dispute, but simply to narrow it to the confines of a debate over facts: that is, to a debate over alleged ambiguities surrounding that particular Treaty.

The issue is *not* whether the Executive is to be bound by every last utterance of its representatives before Congress, but whether and how the principle of original "shared understanding" is to govern a treaty's implementation. Shall it be axiomatic that such "shared understanding" is reflected in authoritative Executive representations of the treaty's meaning? Or must the Senate deal with the Executive as an adversary, who will not act in good faith and around whom a cage of explicit stipulations must be built?

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[22] By way of a detailed example, the text of the INF Treaty does not clearly state that a "weapon-delivery" vehicle encompasses missiles using future technologies to damage or destroy targets. Nor does the INF Treaty specifically define a "weapon-delivery" vehicle as a missile capable of damaging or destroying a target. The Administration provided the Committee with a specific assurance that the United States defines the term "weapon-delivery" vehicle as a missile capable of destroying or damaging a target and that missiles employing futuristic technologies such as lasers would be covered by the INF Treaty. Since the INF Treaty is a permanent treaty, the question of whether it covers missiles using futuristic technologies is a highly relevant concern. Thus, in the absence of the Biden Condition, the Committee might well have attached a condition to the resolution of ratification on this issue.

The issue is *not* a Senate effort to chart new constitutional ground, but an Executive effort to do so. It is not the Senate but the Executive which seeks to assert constitutional principles in a manner which expresses an aggressively broad claim on power. An adequate response requires no counter-assertion of Senate power but a simple manifestation, as reflected in the Biden Condition, of Senate unwillingness to acquiesce in Administration assertions which, if not refuted, could imply acceptance of a radical aggrandizement of presidential power. As Senator Kerry put it, "if we do *not* say this, we are acquiescing in a new statement of constitutional principles."

The Committee reiterates its intent that the Senate not digress on this question into a replay of the ABM Treaty dispute. That question is not here at issue, and will not be disposed of even by a Senate affirmation of the principles embodied in this Condition. The real issue, simply put, is this: that those who oppose this Condition are, in effect, proposing to concede to the President a power the Constitution does not grant him, and which neither any previous President nor any previous Legal Adviser has ever asserted.

The Foreign Relations Committee seeks not to make the Senate the interpeter of treaties, but to require that the Executive interpret and implement treaties within the boundaries of the Executive's original presentation in obtaining Senate consent to ratification. Senator Sarbanes put the issue clearly: "I dare say that if Members . . . think about it carefully, I do not think anyone would want an Executive to be able to alter the interpretation of a treaty from the representations that were made to the Senate at the time the Executive sought the Senate's approval." Heretofore, this principle has never been placed at issue, and the Committee urges the Senate to uphold the principle against the current ill-considered and unnecessary challenge mounted by Mr. Sofaer.

Finally, the Committee notes the February 1 exchange—at the outset of hearings on the INF Treaty—between Senator Biden and Ambassador Nitze, during which Ambassador Nitze stated that "an authoritative statement by a member of the Executive branch is determinative as to what the meaning of the Treaty is from the standpoint of domestic law." [23] Had the Administration subsequently been willing in the Shultz letter, the Culvahouse letter, or any other authoritative representation to affirm this principle—and thereby repudiate the Sofaer Doctrine—the question of treaty interpretation is the Administration's unwillingness to endorse the principle stated by Ambassador Nitze and affirmed more formally and precisely by the Biden Condition.

The PRESIDING OFFICER. Who yields time? The Senator from California.

Mr. WILSON. Mr. President, would my friend from Rhode Island yield for a question?

The PRESIDING OFFICER. Does the Senator from Rhode Island yield for a question?

Mr. PELL. Certainly.

Mr. WILSON. I thank my friend. Mr. President, the question that I would ask is one that has not been described, I think, by the chairman of the committee in his description of the application of the Biden-Pell amendment, or even the Byrd substitute for it. I would point out that we are, of course, now dealing with the Byrd substitute.

But he has made the comment, as have so many who are proponents of this legislation, that they do not wish to see a situation occur in which a future President can come in and change the interpretation that was agreed to by the President and the Senate at the time the advice and consent of the Senate, was given.

Let me ask my friend this question, and I think it is a very straightforward one: What about the situation that you have not described where there is determined to be a clear inconsistency between authoritative representations and the negotiating record?

Mr. PELL. In that case, I imagine the administration would make the choice that most favors its policy, and if the Congress agreed, we would concur in it.

This is one of these things that when the time comes, the decision will probably be made more on its political grounds with a legal covenant.

Mr. NUNN. Will the Senator yield? Let me give my impression on that one.

If I understood the question of the Senator from California, what happens when there is a difference between the authoritative representations made by the negotiators and the legislative history. I think the answer to that is the administration has the burden; they are the ones who negotiate the treaties. The Senate joins in the making of treaties by giving ratification.

They are the ones who have the negotiating record. They are the ones who produce it. They know what it includes. They are the ones who would hold parts of it, which they have done on the INF Treaty. There are parts of this treaty we do not have, and we will never see. They are the ones who know that.

It is their job to make sure what they say authoritatively to the committees of this Senate is consistent with that negotiating history. If they make an error and they know about it before we ratify it, they have agreed, for instance, to let us know. If there is any error they made in any of that testimony or conflicts, they are supposed to let us know. Secretary Shultz knows that; Ambassador Glitman knows that. They let us know.

If there is a conflict, then it is the administration's problem. It is part of their obligation to straighten it out. Otherwise, if you take the other view, the Senate of the United States has to demand every scrap of paper that relates to the negotiating history. We have done that even on the INF Treaty. Then we have to go through and cross-examine it.

What that would finally result in is the executive branch not being able to use treaties to conduct foreign policy. They could not do it because we could not ratify it.

Mr. WILSON. Mr. President, I thank the Senator for his intervention because he makes my point, and that is very simply having earlier commended him and others who have participated in what I conceive to be the most thorough analysis of any treaty in the history of the United States, the most comprehensive examination. He has made the point that it is the obligation of the executive branch to see that there is consistency between those authoritative representations and the negotiating record. It may be their obligation.

On the other hand, Mr. President, I am much more concerned with the ability, as well as the prerogatives of the Senate, to test that consistency. I submit that without resort to the negotiating record, the Senate has no ability, whatever its prerogatives may be. It cannot test for consistency as, indeed, the Senate did in this examination of the INF Treaty because for the first time in history, the Senate, at the time of ratification, had before it the negotiating record with which to compare and measure the consistency of authoritative representation by the administration.

Mr. NUNN. Will the Senator yield on that point briefly?

Mr. SARBANES. Mr. President, who controls the time?

The PRESIDING OFFICER. The Chair will state that the Senator from Rhode Island has the time and has yielded 5 minutes. The Senator from Rhode Island yielded to the Senator from California for a question. It is still the time of the Senator from Rhode Island.

Mr. BYRD. No, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island was yielded 5 minutes.

Mr. BYRD. I yielded 5 minutes to Mr. PELL.

The PRESIDING OFFICER. Correct.

Mr. BYRD. There are times when I will have to be off the floor. I believe I have 84 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

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[23] This exchange is reprinted in full in the Appendix.

Mr. BYRD. I yield that to Mr. NUNN to control until I am on the floor.

The **PRESIDING OFFICER.** The Senator from Georgia is in control of the time.

Mr. NUNN. Mr. President, let me just complete this one thought, and if the Senator from Maryland seeks recognition, I will be glad to yield him time.

I say to my friend from California, I think he is correct in the statement he has made. I believe this is the most thorough review of the negotiating history, the treaty, and all the ramifications.

Mr. WILSON. I thought the Senator would agree with that much.

Mr. NUNN. I think it is the most we probably ever have had, and maybe the most we ever will have, although I think we do have an obligation to do a thorough review.

What I will not agree with is the implication that we have in our possession the whole negotiating history because we have only part of it. We do not have the negotiating instructions.

Mr. WILSON. Will the Senator yield for a question on that point?

Mr. NUNN. Let me complete this, and then I will yield.

We do not have internal memorandums which we call deliberative material. We did not get a number of documents that were exchanged between the two parties.

We give them certain documents; they give us certain documents. We received joint documents. We thought we received all of those. We were supposed to. We did not get documents that the United States turned over to the Soviet Union and documents they turned over to us.

So we do not have the total negotiating history, but we probably have a larger part of it than we will ever get again. We probably will not exceed this.

So to pretend that the United States and our committees can take authoritative testimony that is given by administration witnesses who negotiated the treaty and then cross-examined that against every part of negotiating history, much of which we do not have, is simply an illusion. It cannot be done, and it should never be the responsibility of the Senate to undertake that mission.

That mission should be an Executive mission. They have all the materials. They negotiated it. They know what they have. They know what they have given us. They know what they have said, and it is up to them to determine if there are any conflicts.

I will be glad to yield to the Senator from California for a question, and then I want to yield some time to the Senator from Maryland.

Mr. WILSON. Mr. President, I thank my friend from Georgia, the distinguished chairman of the committee. I think that he has really made my point, but my question to him is that even conceding, as I did earlier, before the Senator from Georgia took the floor, that what we have by way of the negotiating record does not contain instructions to negotiators, their responses to the U.S. Government and a number of other things that admittedly are not contained in it.

Given what we have, is it not true that the distinguished chairman personally found the response of Ambassador Glitman on the futures issue insufficient, and found it necessary to resort to the negotiating record that was available to us; found further that that negotiating record did not clear up the concern which we had, and he rightly pursued it, resulting in the exchange of letters between the two governments which have this morning, in the omnibus amendment that bears his name and others, been incorporated into the RECORD for this debate and formally incorporated into the Resolution of Ratification?

Mr. NUNN. The Senator is correct in the sense that we found that there was not a clear explanation from the administration on the question of futures. We found that the treaty did not clearly cover that. So we did not have either the treaty itself or the authoritative testimony to be able to answer those questions.

We posed questions to the administration. It took them 2 or 3 weeks to get back. We still, in answer to some of Senator QUAYLE's questions and some I posed, were not quite sure where they stood. Under that set of circumstances, we did feel it would be helpful for us to go to the negotiating history to determine if there is anything in the negotiating history that will shed light on this. I think we ought to do that in the future.

The Senator is right, we did not find anything in the negotiating history. Therefore, we put in an amendment.

Mr. WILSON. Will the Senator yield on that point?

Mr. NUNN. Let me finish this thought, and then I will yield for a question.

Where we differ is we started by asking the questions; we started with the treaty; we started with the authoritative testimony. We could not get answers. Then we went to the negotiating history. That is a far different proposition than saying that everything they come up and testify to we have to then go to the negotiating history and read all of the negotiating history, even if it takes 700 hours, and then see if every detail of that authoritative testimony is incontroverted in the negotiating history.

That burden would basically put the Senate of the United States out of the treaty process, as a practical matter, because Presidents would not negotiate treaties if they knew they were going to have to take that degree of time.

The Senate of the United States, to take it further, and this is why I disagree so fundamentally with the Sofaer doctrine, would then have to come to the floor of the Senate and basically read into the RECORD all of that material, particularly anything that had any ambiguity to it.

We would have to take the negotiating history and spread it out. We would have to make all of that negotiating history public and it would back up on the executive branch because then they would have a hard time even having confidential conversations and communications in their negotiations. So the ultimate spinout of the Sofaer theory basically would put in supreme jeopardy the treatymaking power of both the executive and the legislative branches under the Constitution. I think we would be ill served by that kind of process, and I think our foreign policy would be damaged very severely.

I will yield for another question.

Mr. WILSON. I thank my friend from Georgia. I would point out that there was another instance in which the Senator felt it necessary to consult the negotiating record and that was in a rather obvious situation where the language was so awkwardly drawn, involving a double negative, that resort was necessary, because the authoritative representation really did not answer the question. We found that in the negotiating record there had been a requirement for a document about which we had not known and would not have known until we were into the questioning of the authoritative witness that resolved that conflict.

Let me ask my friend this question. Is it not true that just on the basis of the authoritative representations with respect to the issue of the force majeure issue, we did not realize we had a problem until such time as we consulted the negotiating record.

Mr. NUNN. I realized we had a problem in the double negative or triple negative as soon as I read it, because I felt the only way I could understand it was to stand on my head.

Mr. WILSON. How about on force majeure?

Mr. NUNN. I am sorry?

Mr. WILSON. On the force majeure issue?

Mr. NUNN. I do not recall what alerted us to that one. I frankly do not know what alerted us to that one.

I am not saying to the Senator that the negotiating history has no validity, and I am not saying it has no role to play. What I am saying is that the burden must not be placed on the Senate, to take representations by the Secretary of State, the Ambassadors, and people who come up and testify and then put the burden on the

Senate to go back and cross-examine all of that by doing a minute examination of the negotiating history. That is what I am opposed to.

I would be the first to say that the negotiating history has some bearing and at times needs to be consulted by both the Senate and the executive branch of Government. We will have to do that in the future, but that is a far different proposition than the bottom line that the Senator from California I believe advocates, and that is we have a duty to go behind every single piece of authoritative testimony and cross-examine it with volumes and volumes and volumes of negotiating history and with material that is not even in our possession and we will never have turned over to us by the executive branch.

Mr. QUAYLE. Will the Senator yield?

Mr. NUNN. Mr. President, I am going to have to yield on the Senator's time. I will be glad to yield on the time of the Senator from California.

Mr. WILSON. Mr. President, I will take my own time to merely make a response and then I will be happy to yield.

The PRESIDING OFFICER. The Senator from California then is recognized.

Mr. NUNN. I simply yield the floor at this time and the Senator can use his time.

The PRESIDING OFFICER. Is the Senator from California using his own 10 minutes or the time he is controlling for the minority?

Mr. WILSON. The time I am controlling for the minority such as I may require, which will be very little, to make response to my friend from Georgia.

The response is very simply this. He has said that he does not remember, and there is much to remember. I would simply remind him that it is the report of the Senate Armed Services Committee that makes clear it was the negotiating record which tipped us off to having a problem with the force majeure, potentially a very serious problem. In that instance and in many others, had we not looked at the negotiating record, even one which he views as incomplete, we would not have been tipped off that problems existed.

Mr. President, when you are dealing with anything as complex as arms control negotiations—and I would remind my colleagues that what we are talking about in the INF Treaty is monumentally less ambitious and complex than that which we will undertake when, hopefully, we can achieve a START agreement, but when you are dealing with anything that complex there are bound to be omissions, there are bound to be ambiguities, there are bound to be inconsistencies in the testimony of the administration's presumably authoritative witnesses, as in fact there were in the 6,000 pages of testimony by authoritative witnesses which presumably under the Byrd substitute to the Biden-Pell amendment is now a part of the common understanding.

Let me tell you that common understanding is shot full of contradictions, inconsistencies between administration witnesses. So I have to disagree with my good friend, whom I so much admire, the chairman of my committee, and say I think it is the duty of the Senate, very precisely the duty of the Senate, not to look perhaps at every word in the negotiating record but certainly to consult that negotiating record, as indeed we did in this instance. Had we not done so, we would not have incorporated into the record of the Resolution of Ratification the very points that comprise it in the amendment offered this morning by the Senator from Georgia and others. Those would not have been discovered. They would not be now a part of the domestic law in the making of the United States.

It is very important, Mr. President, that we do not simply say, yes, this was a magnificent effort, this one time on this INF Treaty, which is of modest importance in comparison with what we hope to achieve under the START agreement that we hope may someday take place.

To say this was a one-time, magnificent performance but no precedent for how the Senate should conduct itself in the future, to say that the Senate should not undertake to monitor consistency in those so-called authoritative representations of the administration's witnesses with what was said and done by United States negotiators in Geneva is I think palpably ridiculous. It is to prescribe a dereliction of duty. Why did we do it in this instance? We did it in this instance because we learned from sad experience that in a prior test of the Senate in the performance of its responsibilities under the Constitution to ratify or to fail to recommend ratification on the ABM Treaty, not having the negotiating record led to the kind of debate that occupied so much of our time last year.

We should avoid that kind of thing in the future. We should state that it is a part of the duty of the Senate to quite consciously look for the very sorts of things that we found in the negotiating record this time that alerted us to real potential problems. Those instances in which the text of the treaty is ambiguous are more obvious. Those instances in which there is inconsistency between the text and the negotiating record or between the authoritative representations of administration witnesses need to be resolved. We need to go to whatever competent evidence there is to clarify those inconsistencies and ambiguities, and we should begin, as we would in a contract, by going to the record of negotiation, if there is one.

It should be understood that it is the duty of the Senate in the course of performing its responsibility to recommend for or against ratification to compare treaty text and not only the authoritative representations but the negotiating record.

Mr. SARBANES. Will the Senator yield on that point?

Mr. WILSON. I will be happy to yield on the Senator's time rather than my own since we are using ours at a rapid clip.

Mr. SARBANES. I am in control of the time. I know Senator NUNN was yielding to that side on our time previously for questions.

Mr. EVANS addressed the Chair.

Mr. WILSON. Mr. President, I am prepared to yield the floor unless the Senator wishes me to yield for a question on his time. I am sorry to be ungenerous, but we do not have time to spare.

Mr. EVANS addressed the Chair.

Mr. WILSON. Mr. President, I yield to the Senator from Washington 10 minutes.

The PRESIDING OFFICER. Was there a time stated or was it an indefinite yielding? The Chair did not hear.

Mr. WILSON. Ten minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mr. EVANS. Thank you, Mr. President.

I agree wholeheartedly with the remarks of the Senator from California, and I will not attempt in my 10 minutes to say anything more about the negotiating record itself but to deal much more fundamentally with what I believe is at one and the same time a mischevious amendment or a nullity, one or the other, or both.

Mr. President, I think it is time to look pretty fundamentally at just what we are talking about because we are not dealing with what unquestionably would be the problems of the future after a treaty is ratified that will come before either this Senate or this country.

This amendment in its beginning talks about the Senate's advice and consent to the ratification of the INF Treaty subject to the condition based on the treaty clauses of the Constitution. Of course it is. Any treaty is. The Constitution says that it has to be. Then it goes on to talk about in sub (1) the common understanding and in section IV it talks about the provisions of the treaty on which no common understanding was reached. Let me come back to where I think we will run into problems, but deal first with these elements of the amendment and why in this Senator's view they have virtually no real meaning.

In sub (1), "The United States shall interpret the treaty in accordance with the common understanding of the treaty shared by the President and the Senate at the time the treaty was ratified." Well, of course, we would not ratify unless there was that common understanding. We have gone through days and days of hearings in an attempt to reach common understanding. The very definition of common understanding is that both sides have the same view as to a particular provision. If that is true, there can by definition be no disagreement, and as a result there would be no problem.

It goes on further to talk about the basis on which this common understanding is reached. First, the text of the treaty and the provisions of this resolution of ratification—well, what an unnecessary thing to put in any kind of a resolution. Of course you base it on the text of the treaty and resolution of ratification. That is what we have had in front of us for the last 6 days. Second, the authoritative representations which were provided to the President and the President's representatives. The Senator from California has talked about the length and breadth of those representations. but of course, that is the second basis. The only disagreement really is to what degree the second basis, those representations, include or should include references to the negotiating record.

In sub (3) it says that "The United States shall not agree to nor adopt an interpretation different from that common understanding except pursuant to Senate advice and consent." Well, of course that is true. That is what the Constitution and the current laws of the United States require. If there is no common understanding, clearly, and was no common understanding at the time the treaty was ratified, because that is what you say in the beginning that is a requirement, then you have a big problem. But that big problem has another and far more fundamental way of resolution than what is attempted here.

Fourth, of course, it talks about no common understanding and that that provision shall be interpreted in accordance with applicable U.S. law. That is another interesting provision. What is the alternative to doing it in accordance with applicable U.S. law? Somebody else's law or do it unlawfully? The more carefully you read each element of this amendment, the more redundant or mischievous it all appears.

Mr. President, let me refer in as basic terms as I can to the fundamental reference we all have to pay attention to. That is the Constitution itself. Nowhere in the legislative article, article I of the Constitution, are treaties mentioned at all except for the denial to a State of the United States to negotiate or sign a treaty. That is it.

In the executive article, we have the fundamental direction for the President. "He shall have power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; * * *."

Mr. President, there is a vast sea of difference between no common understanding and common understanding. We are dealing with the two ends of the spectrum in this resolution, or amendment. But it is in all that reading in between that we are going to run into problems in the future for this or any other treaty. What happens when a new element comes forth? What happens when the new distinction has to be made, and search as the people of that time might they can find no common understanding? If there is no common understanding, then by definition, you are into a dispute between the Congress—in this case, the Senate—and the President.

How do you resolve those disputes? We do not have to have an amendment here to resolve those disputes which are going to be the focal point of differences in years to come. Our forefathers decided long ago how to do that in the references in the judicial article of the Constitution, which says, "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; * * *."

Mr. President, that is the way to resolve disputes when they occur between this Senate and the President on misunderstandings or differences of understanding in the interpretation of treaties. We have had numerous occasions in our history where we have had differences between these two branches of Government. They have been resolved as they should be resolved by the Supreme Court of the United States. The Chadha decision is one of the more recent where they struck down our attempt to engage in a one-House veto.

Mr. President, finally, it seems to me that what we are attempting to do here in a stilted inappropriate and unnecessary way is to say much the same thing that our forefathers 200 years ago said in much more fundamental and elegant language, and that was in the provisions they put in the Constitution which for this Senator at least are plenty sufficient to handle the difficulties that are now in front of us.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WILSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I yield to the Senator from Pennsylvania [Mr. SPECTER] 45 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER], is recognized for 45 minutes.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from California.

I will choose to use part of it at this time and reserve the balance trying to save as much time as possible for later proceedings on this debate.

Mr. President, I am very much concerned by the debate as it is unfolding on this important condition, as amended by the amendment. In my view, this is really an unconditional surrender by the administration on matters of great importance on international treaty interpretation and U.S. constitutional law interpretation, a matter of unconstitutional surrender which is joined in by a number of my colleagues on this side of the aisle.

I submit, Mr. President, that this is an unconscionable rush to judgment as we are debating in the course of a very limited time span perhaps the most important constitutional issue which has been on this floor for many, many years, and perhaps decades. I would suggest, Mr. President, that the presentation of the so-called Byrd amendment at the last minute poses enormous problems on issues which we do not understand because of the late date of the arrival of this condition and the absence of certain important information for our consideration.

As to the issue of the unconditional surrender, when the administration and key Members from this side of the aisle have agreed with the Byrd amendment, it is enormously different from what the administration has staunchly contended up to as recently as May 19, last week.

At this time, I ask unanimous consent to have printed in the RECORD the full text of an extensive speech by legal adviser Abraham D. Sofaer, a speech which was given last week to the American Law Institute in Chicago, IL.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TREATY INTERPRETATION AND THE SEPARATION OF POWERS

(Abraham D. Sofaer[*])

Luncheons are not the time for lengthy lectures. Yet, this body thrives on serious stuff. And I came here, delighted to accept Rod Perkins' invitation, because I knew that you would have some interest in my topic: treaty interpretation and the separation of powers. While this is not generally seen as an exhilarating subject, Perkins has arranged the timing of the INF debate to give the topic special importance.

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[*] Legal Adviser, Department of State. This speech is the written text of a luncheon address given to the American Law Institute, Chicago, Illinois, May 19, 1988.

During October 1985, as you know, President Reagan announced that he had concluded that a broad interpretation of the ABM Treaty was "fully justified." The President also made clear, however, that he would not implement this interpretation until after consulting with Congress and our allies. Intense opposition arose to the interpretation, and while the Administration's position of the ABM Treaty's language and negotiating record became one focus of attention and debate, even more attention was given in the Senate to whether the President was bound to the restrictive interpretation of the treaty because of certain Executive branch representations made in 1972 during Senate ratification hearings. The particulars of the Senate record need not be examined here. The point presently at issue is whether the condition to the INF Treaty on treaty interpretation, currently proposed by the Senate Foreign Relations Committee, properly states the standards by which the legal effect of such records should be judged.

The rules that have traditionally governed treaty interpretation were recently restated in this Institute's Restatement of the Foreign Relations Law of the United States. A treaty between two or more states is an international agreement, "and is governed by international law." [1] International law establishes rules for the construction of treaties, based on the common understanding that exists or is exhibited between the signatories. Thus, the parties look first to the text, in context, to subsequent conduct, and in appropriate situations to the negotiating history.[2]

The Senate has broad authority to affect the meaning of treaties. It can "exclude, limit, or modify" an obligation of the United States by adopting a "reservation" which, to be effective, must be presented to and accepted by the other party.[3] The Senate may also act by formulating a "statement of understanding" of the treaty's meaning, which it requires the President to present to the other party, but with respect to which it does not require acceptance. "When the Senate gives it advice and consent to a treaty on the basis of a particular understanding of its meaning, the President, if he makes the treaty, must do so on the basis of the Senate's understanding." [4] The President makes a treaty on the basis of a specific understanding by communicating it to the other party prior to ratification. The other party is free to treat the understanding as "a reservation which it is not prepared to accept." [5] Its failure to object is therefore powerful evidence that the understanding is mutual.

The Senate may also adopt particular understandings of a treaty's meaning which it does not require the President to present to the other party prior to ratification. When it does so the "treaty that is ratified or acceded to by the United States . . . becomes effective in domestic law subject to that understanding." [6] The Restatement makes no claim that "a statement of understanding" not communicated to the other party has any authority under international law on the treaty's meaning. Under domestic law, however, even "if no such statement is made, indication that the President or the Senate ascribed a particular meaning to the treaty is relevant" to its interpretation by a United States court "in much the same way that the legislative history of a statute is relevant to its interpretation." [7] Such statements of understanding might be found, in addition to the Senate's resolution of consent, "in the report of the Senate Foreign Relations Committee and in the Senate debates." The relevant rule, "in that event," according to the Restatement, is that "the President must decide whether they represent a general understanding by the Senate and, if he finds that they do, must respect them in good faith." [8]

The ABM Treaty record of proceedings on advice and consent contains evidence of "particular understandings," which though not adopted as formal "statements of understandings," were generally held by the Senate, and on the basis of which the Senate gave its advice and consent. The Senate adopted no formal or informal "statement of understanding," however, to indicate that it had given its advice and consent to the ABM Treaty "on the basis of" the restrictive interpretation.

"Indications" do exist in the Senate record, however, in Executive testimony and statements of Senators, that support the restrictive interpretation of the ABM Treaty, along with indications that cast doubt upon that interpretation or support a broader interpretation. My report on this subject concluded that these indications were insufficient to establish a duty to respect the restrictive interpretation under domestic law, but were sufficient to require the President to decide, in accordance with the Restatement, whether "they represent a general understanding by the Senate" of the restrictive interpretation, and that if he found they do he "must respect them in good faith." [9]

In this discussion I will review the positions taken by the Administration and its opponents on the two principal issues posed by the proposed condition: first, the effect of informal Senate understandings under international law; and second, the standards by which such understandings are properly treated as binding under domestic law.

I. EFFECT OF INFORMAL SENATE UNDERSTANDINGS ON INTERNATIONAL OBLIGATIONS

The Administration believes that informal Senate understandings based on Executive branch statements have no binding effect on a treaty partner. Senator Sam Nunn disagreed with this view in March 1987, contending that the presence of a Soviet official at Senate ABM hearings put them on notice of what was said; even if the Soviets had not been present, Senator Nunn argued, they "understand how our treaty making process works, monitored the proceedings and reviewed the public records." [10] Their "clear awareness of the interpretation being presented to the Senate," followed by their failure to object prior to ratification, provided the U.S. with "a very strong basis in law for insisting on the original meaning as presented to the Senate. . . ." Senator Nunn concluded, moreover, that "it is contrary to the long-term interests of the United States to assert that statements made to the Senate have no standing with other parties to a treaty." The international community is "on notice that the executive branch explains treaties to the Senate during the ratification proceedings. It is to our national advantage to ensure that such authoritative explanations remain available as powerful evidence of a treaty's meaning in the event of an interpetive dispute among nations." [11]

During March and April 1987, the Senate Foreign Affairs and Judiciary Committees held joint hearings under the chairmanship of Senator Joseph Biden to consider a resolution addressed to the ABM Treaty controversy. During the hearings on this resolution, I testified that, in determining the Soviet Union's international obligations, the President cannot safely rely on the Senate's "understanding" of the treaty, let alone an understanding based on "acquiescence." For the purpose of determining whether a treaty partner is bound, I said, "When [the Senate] gives its advice and consent to a treaty, it is to the treaty that was made, irrespective of the explanation [the Senate] was provided.[12] "This single sentence from my testimony, taken out of context, became know as the "Sofaer Doctrine," purporting to state that Presidents may freely disregard prior Executive positions. In actuality, in that testimony, and repeatedly thereafter, I noted with respect to domestic law, that "the President cannot, and should not, disregard views expressed during Senate proceedings . . . ."[13]

During those hearings, the claim that statements made in the Senate can be used to bind another treaty party to the meanings expressed was again advanced. Professor Tribe insisted, for example, that the Soviets could reasonably be expected to know what goes on in the Senate, and must realize that the treaty made is the treaty to which the Senate consents. "It is axiomatic, he said, "that the treaty means what the Senate consented to."[14] He rejected what he called "the Legal Adviser's model," which he understood to take the positions that "the meaning of the ABM Treaty is to be gleaned not by examination of what the President and the Senate agreed upon, but by examination of what the President and the Soviets agreed upon—regardless of what the President may or may not have told the Senate about what he had negotiated."[15]

The Joint Committee' report adopted Professor Tribe's view. It approved a resolution that declared that the President must interpret treaties in accordance with the common understanding of the President and Senate, express or implied from acquiescence in Executive representations. While it recognized the possibility of disparate obligations under international and domestic law, the report joined in the claim that the Soviets as well as the President would be bound:

> [I]t is quite reasonable to expect—indeed, disingenuous to pretend otherwise—that other nations are sufficiently interested and capable to monitor U.S. ratification proceedings. Can anyone seriously believe that the Soviets have remained studiously oblivious to Senate proceedings with regard to arms control? The Committee is well aware of the contrary; Soviet diplomats are diligent in the extreme in monitoring deliberations of the Senate, most particularly on matters pertaining to U.S. Soviet relations.[16]

The Administration's study on the ABM ratification process was completed during May 1987. It concluded that international practice and governing law in fact lend no support to the notice that statements at proceedings before the Sente are a useful or proper device for binding our treaty partners to specific meanings of a treaty. Our treaty partners are undoubtedly aware of our system of treaty making, but it is hardly disingenuous to question whether they follow with care all Senate proceedings, or derive clear messages from the Senate proceedings as to the meaning of given treaty provisions. Relatively little is clarified about most treaties, due to the lack of time Senators are able to devote to their consideration.

Others nations are in any event unlikely to accept the premise that statements not formally communicated to them have binding effect on them with respect to a treaty's meaning. A particularly cogent illustration of this occurred when U.S. and Soviet negotiators discussed the specific issue of MIRV interceptors in 1981, in a formal bilateral exchange. The U.S. negotiator took the position that anything short of field testing of such interceptors was allowed under the ABM Treaty. The Soviet rejected that view, claiming that the U.S. could not engage in research on such an interceptor, as it could lead to a prohibited system. The U.S. negotiator then reminded the Soviets that Ambassador Smith had testified to the U.S. position at the Senate hearings in 1972, and that the Soviets (who were present for Smith's public testimony) should have objected if they disagreed. The Soviet negotiator responded that the USSR had set forth its view on the meaning of "development" during the ABM Treaty negotiation, and, if it differed from the view advanced in the Senate by Ambassador Smith, that was not the Soviet side's fault; the Smith statement was an internal matter.[17] In 1979, when asked if the Soviets could be held to an agreement "as presented to Congress," Sidney Graybeal (an ABM negotiator) replied: "Presentations to Congress can help explain the language and how it was derived, but they should not change the meaning of the language or the scope of the provisions of the agreement." [18]

The United States has itself rejected suggestions that it is bound internationally by what is said in the Senate. For example, when a German civil court used statements made during U.S. Senate ratification discussions, to determine the intent of the parties to a treaty, Secretary of State Hughes instructed the U.S. Ambassador in Berlin that "expressions of opinion as the meaning" of the treaty involved" occurring in general debate, cannot be regarded as affecting the interpretation of that treaty." [19] The U.S. would even more emphatically object to the use by other states of their own internal proceedings as a basis for binding the U.S. to a given meaning. Yet, reciprocity is a guiding principle in international affairs. If the U.S. is going to insist that foreign states follow and object to positions taken by Executive officials or Senators in our internal, advice-and-consent process, we would be obliged to shoulder the same obligations abroad. We could not do so without great additional effort, and in states such as the Soviet Union we could not do so in any meaningful sense. Furthermore, given the frequent ambiguity of such legislative history, this practice would add great uncertainty to the process of treaty formulation and interpretation, and would become a nightmare in connection with multilateral treaties.

The proper and workable rule was stated in a report on treaty procedures, prepared by the professional staff of the Senate Foreign Relations Committee in 1977. The study noted that Senate committee reports, and statements and colloquies by the floor manager, were intended to present the committees' understanding of the meaning of treaty provisions, but that these sources were "purely domestic documents and of no concern to the other party. . . ." [20] This rule is implicit in the accepted Senate practice of formulating statements of understanding in some cases which it does not require the President to communicate to the treaty partner. The recognized legal effect of this practice is to condition the Senate's advice and consent under domestic law without requiring an assurance that the condition also binds the treaty partner.

The Senate did not act upon the ABM Treaty Resolution proposed by the Joint Committee, because Congress incorporated into the Defense Appropriation bill a provision prohibiting spending without specific appropriation on ABM development or testing that is inconsistent with the restrictive interpretation.[21] President Reagan agreed to this provision in advance, thus accepting Congress, role and deferring the underlying controversy.

Submission of the INF Treaty to the Senate led, however, to renewed debate on the treaty-interpretation issue. The Administration received from several leading Senators demands for the treaty's entire negotiating record. These Senators claimed that, in light of the Administration's position in the ABM Treaty debate that the treaty to which the Senate gives its advice and consent is the treaty made by the parties, the Senate would need to check the negotiating record to be confident that the Executive branch had fully and accurately explained the treaty's meaning.[22] Some Senators also threatened to condition their advice and consent with numerous reservations and understandings, because they thought the Administration had claimed it could disregard Executive branch statements.[23]

The Administration responded constructively to both these concerns. First, we agreed that the Senate had a legitimate interest in the negotiating history, and supplied the whole record—31 binders of documents.[24] Secretary Shultz also provided a letter to deal with the erroneous assumption that the Executive branch was claiming the freedom to disregard its own presentations.[25] The Committee nonetheless decided to recommend to the Senate as a condition to its advice and consent to the INF Treaty, a declaration of the principles governing treaty interpretation.[26] While acknowledging that the ABM Treaty interpretation dispute should not be revisited unnecessarily, the staff report claims that the committee could not overlook the "constitutional assertion of a clearly delineated and unprecedented doctrine under which the President has wide latitude for treaty 'reinterpretations,' notwithstanding what the Senate may have been told in the course of granting consent to ratification." [27] Authority to disregard prior Senate statements would enable the President unilaterally to amend treaties, the report claims, contrary to the Senate's advice-and-consent authority.[28]

In claiming that the "Sofaer Doctrine" entitles the President to disregard Executive representations to the Senate, the INF Treaty Report reiterates the erroneous premise adopted in the earlier Joint Committee Report. In fact, as the record demonstrates, the testimony cited as the Sofaer Doctrine related only to the nation's international obligations, and not to any domestic, constitutional limitation implicit in the advice and consent process. On this point, the INF Treaty report agreed with the Administration by acknowledging that the domestic representations of the Executive branch cannot be relied upon to bind the other party to a treaty under international law. The Committee ordered that its treaty interpretation resolution not be conveyed to the Soviet Union as part of the instruments of ratification, because it "viewed this as a matter of underscoring that the Condition is not directed to U.S. obligations under international law. . . ." [29]

II. EFFECT OF INFORMAL SENATE UNDERSTANDINGS UNDER U.S. LAW

The Administration has repeatedly recognized that informal Senate understandings based on Executive representations can result in binding commitments under domestic law. In my testimony before the Joint Committee I said, for example, that "the President cannot, and should not, disregard views expressed during Senate proceedings. . . ." [30] I noted Secretary Shultz's statement that, while what is said during the ratification process in the U.S. is important to the Executive branch, "that has absolutely no standing as far as the Soviets are concerned." I said: "That is the point that we are making here today—'insofar as the Soviets are concerned." We do believe that such statements have standing insofar as the Senate is concerned and insofar as our relationship with the Senate is concerned." [31] I noted that my memorandum on the ABM negotiating record "is not addressed to any duties created by the entire ratification process for the President to the U.S. Senate. So, the President cannot and will not and does not disregard those statements." [32] Despite the clarity of these statements, the Administration was accused of having advocated the proposition that the President is free to disregard Executive representations.

After its hearings, the Joint Committee adopted a resolution stating that, under the U.S. Constitution, the President is obliged to interpret all treaties in accordance with the "Senate's understanding." [33] The resolution in effect claims that only one treaty can exist, the one to which the Senate gives its advice and consent. The Administration agrees with this principle; the question is how one goes about determining the meaning of the treaty to which the Senate has given its advice and consent. The Joint Committee's Report asserts that sources upon which the President must sometimes rely in determining the parties' international obligations, particularly the negotiating history, cannot be relied upon if they have not been given to the Senate. The report rejects the "premise" on which it says the Administration's position is based—"that a treaty's meaning derives from communications between the parties. This is true," the report states, "under international law. But it is not true under United States law." [34] In the view of the Committee report, the President's broad power of treaty interpretation is limited by the constitutional principle that the President can only interpret treaties as they were understood by the Senate when it voted, and a Senate understanding need not be formally recorded, but may involve mere "acquiescence" in Executive statements or a host of other possibilities under what the report called a "rule of reason." [35]

The INF Treaty report follows in most respects the ABM Joint Committee report in its approach to the domestic law limitations on the President's power to interpret treaties. The proposed condition, as adopted by the Committee, notes that the "principles" it states are necessarily derived from the Constitution, an assertion that could be seen as an attempt to control the outcome of the ABM Treaty debate despite the report's claim to the contrary.[36] The Resolution then goes on to state that "the United States shall interpret this Treaty in accordance with the understanding of the Treaty shared by the Executive and the Senate at the time of Senate consent to ratification." [37] The "common understanding" thus referred to is, in the Resolution, "based on the text of the Treaty," and "reflected in the authoritative representations [concerning meaning or legal effect] provided by the Executive branch to the Senate and its committees" in seeking consent to ratification.[38] The President would be bound to this "common understanding" unless a change was authorized by amendment, in accordance with a procedure authorized by the treaty's terms, or in a subsequent statute. The report continues to rely on the claim that what it calls the Sofaer Doctrine would allow the President to disregard prior Executive statements to the Senate.[39]

Two important questions arise under the proposed condition: what is meant by "common understanding," and when is the evidence concerning a particular meaning sufficient to bind the President. The report explains the condition as intended to give overriding priority in treaty interpretation for domestic purposes to the representations of Executive officials. It states that any negotiating history, and presumably any subsequent practice, that is inconsistent with Executive representations considered binding must be subordinated to the meaning supported by the representations.[40]

In reaching this conclusion, the INF Report had to deal with the fact that the Executive has submitted to the Senate the full INF negotiating record. The Joint Committee Report rejected the relevance to the shared understanding of the Senate and President any negotiating history not submitted to the Senate, in itself a questionable conclusion. But why should the Senate not be assumed to have considered evidence actually received by it, pursuant to its request? The INF Report claims, in effect, with classic circularity, that because it is necessary to make Executive statements binding, any inconsistent materials, although accurate and truly authoritative, must be ignored. Thus, the report states:

> If U.S. treaty interpretation is to be based upon the shared understanding of the Senate and the Executive at the time of ratification, and if the common understanding is reflected in authoritative Executive branch statements made in seeking Senate consent to ratification, then sources of interpretation which appear at variance must be subordinated to those authoritative statements.[41]

The INF report also deals with the standards by which the "common understanding" is to be determined, and at what point the evidence of a particular interpretation is to be deemed binding.

The Administration's position on this question draws once again on the Restatement, concluding that the President would be bound for domestic purposes if the Senate relied on a particular meaning as a basis for granting advice and consent, with the Senate's intent to be ascertained in much the same way courts determine whether Congress intended to bind the Executive in legislation. After examining the standards actually applied by the Supreme Court in recent cases, combined with the Restatement rules, we concluded that a particular interpretation would bind the President, despite the treaty's actual meaning, when it was "generally held by the Senate, relied upon, and clearly intended.[42] The relevant cases fail to support the notion that acquiescence in Executive statements automatically creates a binding meaning. For legislative history to prevent the President from adopting a construction that is otherwise reasonable, the record as a whole must reflect a positive legislative determination to adopt a different interpretation. In the Japanese Whaling Association case the Court required deference to the Executive's construction of a statute "unless the legislative history of the enactment shows with sufficient clarity that the agency construction is contrary to the will of Congress.[43] Where no such express intent is found, subsequent agency interpretation—including reinterpretation—is generally accorded appropriate deference and held to a general standard of reasonableness.[44] And these standards should be applied to treaty interpretation with a special regard for the President's broad authority to interpret treaties and conduct foreign affairs. We did not conclude, however, that the Senate must adopt a formal "statement of understanding" to create a binding obligation. Our study in fact collected several examples from ratification records of cases in which the Senate manifested its intention through reports, in heaings, speeches, and colloquies which thereafter were treated by the Executive as creating binding obligations.[45]

The INF report condemns the criteria relied on by the Administration as having "no constitutional basis—no reference to the intent of the Framers, to historical precedent, to case law—no reference to any source of constitutional authority." [46] Furthermore, the report argues, "while such terms as 'generally understood,' 'clearly intended,' and 'relied upon' may appear straight forward and appealing, in practice such criteria would be so difficult to meet that the Executive would almost never be bound by its own presentation to the Senate. . . ." [47] These "unreasonable criteria," the report claims, would allow the President to "reinterpret" treaties in any way he chose, without constraint, conferring "an effective right of treaty amendment disguised as treaty interpretation." [48]

When the report turns, however, to the task of determining the criteria which it would advance to judge whether the President is bound by a particular though informal Senate understanding, the report agrees that the standards should be the same as those used in ascertaining legislative intent. Without citing a single such authority, however, the report asserts that "implicit" intent must be treated as equally significant to explicit intent, stating that "implicit understandings represent Senate agreement with and acceptance of the Executive's explanations of the Treaty . . ., [which] although not formalized . . . must necessarily be equal in significance to explicit understandings. To accord them lesser significance would be illogical because implicit understandings commonly occur precisely where there is no disagreement as to meaning and where no issue has arisen." [49] Congress' failure to act to alter the meaning in "unchallenged communications," expresses "acquiescence" in that meaning, and therefore an intention that it be maintained.

The report is correct in stating that "a rule of reason"—in which all the relevant circumstances are considered—should guide the determination of whether an Executive representation is "authoritative." But it is wrong to treat the Senate's "acquiescence" in Executive statements too readily as a basis for implying an intention to bind the President. In the absence of a formal "statement of understanding," the Restatement provides that the President must decide whether a particular understanding was "generally held" by the Senate, and whether the Senate gave its advice and consent "on the basis" of the understanding.[50] This formulation may, in some instances, permit an inference of intent to bind from acquiescence, as where highly authoritative statements are made on an issue of fundamental importance to the treaty. The judicial precedents indicate, however, that binding legislative intent is formed only when Congress "has directly spoken to the precise question at issue." [51] While courts have properly given "great weight" to authoritative statements on issues the record shows to have been a basis for legislative action,[52] no case could be found in which such intent was established merely by Senate acquiescence in Executive testimony. This is hardly surprising, since the silence, for example, of a handful of Senators at a hearing, in the face of testimony of an official, bearing on an issue of less than central importance, is as likely to reflect the absence of any intention as it is an implied decision of the Senate to limit the President for all time.

On this issue, as on the status of informal understandings under international law, the differences between the Administration and Senate advocates of the proposed condition are narrowing. Senator Nunn, for example, recently testified that he agreed completely with the following excerpt from a letter by White House Counsel A.B. Culvahouse, restating the Administration position:

> As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification.[53]

Senator Nunn said: "I don't think we are that far apart on the Constitution itself. I think this letter here comes a long way along that line." [54] (Senator Adams, who supports the proposed condition, agreed with this appraisal.)[55]

The INF report exaggerates the dangers of accepting these standards. The rules to which the Administration agrees it is bound do not allow it to disregard either the Senate's intentions or the treaty's meaning. Where a conflict in fact exists between the treaty as made under international law and understandings generally held and relied on by the Senate in granting advice and consent, the President would be required to abide by his domestic obligation. No constitutional confrontation is created by this rare situation, since U.S. law accords priority to constitutionally based duties. Even where the President is free as a matter of law to construe a treaty in a manner that differs from an Executive representation, he is nonetheless obliged to act within the constraints of international law. He cannot "amend the treaty," but is allowed only to construe it in accordance with the text and negotiating history. Indeed, the freedom he has when these requirements for a binding domestic obligation are not satisfied is to adopt an interpretation that actually reflects the treaty's obligations, rather than being bound by representations that fail accurately to describe those obligations. He is limited here in the same way the Executive is limited in construing a statute; the construction must be reasonable or it can properly be regarded as in excess of his authority. And even though a reasonable basis exists for a particular construction, nothing prevents the treaty partner or Congress from exercising all lawful pressures to prevent its adoption or implementation. An interpretation need not be found unlawful to be deemed unwise.

The actual effects of the condition proposed for the INF treaty would prove detrimental to the nation's interests if adopted. First, the rules proposed would upset established standards of treaty interpretation, based on commonly accepted principles of international law. By insisting on a meaning for treaties derived from unilateral Executive representations the Senate would signal to U.S. treaty partners a broad discretion to invoke domestic law to disregard the treaty actually made. In some instances this may please the treaty partner, which may want to see the U.S. restrained to a particular rule. But as a general matter it will tend to create additional uncertainty in a process that is already complex. We would resist such a claim by any of our treaty partners, to avoid the uncertainties and burdens it would entail. Furthermore, the proposed condition would by definition only have practical effect in situations where the treaty partner is not bound by the same standard to which the condition would bind this nation. This is an undesirable consequence, and it should be restricted to those situations in which the record truly reflects a generally held intention on the Senate's part to rely on the meaning at issue.

It is simply wrong, moreover, to claim that one demeans the Senate's role by saying the Senate gives its advice and consent to the treaty made between the parties. The Senate's constitutional role is to pass on the international agreements that are actually to be made at ratification, not to insist on limiting the U.S. unilaterally on the basis of evidence of a domestic understanding that a Senate majority later deems sufficient to be a binding interpretation. The Senate is entitled to proper respect, and to a full and accurate explanation of treaties. But it is entitled to receive—and obliged to give—far more. It is entitled and obliged to determine the true meaning of treaties, and jointly with the President to decide whether and in what form they should be ratified. It demeans the Senate's role to suggest that it will rely upon the power to insist that Executive representations be binding irrespective of a treaty's true meaning, rather than participating as a partner in ascertaining the true meaning and shaping it as necessary through proper means.

In fact, the Senate in considering the INF Treaty has acted in accordance with its constitutional responsibilities. On a series of issues concerning which Senators found ambiguity, including the regulation of INF missiles that would be equipped with future forms of weapons, they were unwilling to accept Executive representations, however explicit, authoritative, and often repeated. They wanted to know what the parties to the treaty had actually agreed on each of these issues, and to find that out they examined the relevant negotiating history. When that history failed to satisfy concerned Senators as to the treaty's negotiated meaning, they asked the Executive to go back to the Soviets for clarification. We saw, in short, a demonstration of the Senate playing its intended role by exercising its constitutional authority to assure itself that it understood and found acceptable the treaty to which it was considering giving its advice and consent. The law should not be distorted in order to create a standard for implying binding domestic obligations that is designed to accommodate a record in which the Senate failed to perform this role. If adopted, the condition could readily be used as a vehicle for binding the President to Senate treaty interpretations based on mere acquiescence in Executive representations, thus impinging upon the President's recognized authority.

III. CONCLUSION

The treaty interpretation debate continues. This review of the issues shows, however, that the differences have narrowed considerably.

Both sides in the debate agree that a shared or common understanding in the Senate, if based on Executive representations, cannot be used to bind treaty partners to a meaning other than that established under international law.

Both agree that the President cannot disregard Executive statements to the Senate, and may in proper circumstances be bound by such statements under domestic law.

Both largely agree on the standards for determining if the President is bound domestically: a rule of reason, reference to cases on legislative intent, and the need to establish a generally held understanding on which the Senate relied.

The remaining differences should be overcome. We intend to keep working so that President Reagan gets to go to Moscow with the INF Treaty ready to ratify, thus concluding a strategic plan that is a bipartisan triumph. We must also succeed, however, in preventing misunderstanding and inter-branch rivalry from distorting the law governing treaty interpretation and the advice-and-consent process. I am grateful for this opportunity to address you on this subject.

FOOTNOTES

[1] Restatement (Third) of the Foreign Relations Law of the United States (hereinafter "Restatment") § 301.

[2] Id. § 325.

[3] Id. § 313, comments f and g.

[4] Id. § 314.

[5] Id. § 313, comment g.

[6] Id. § 111 (emphasis added).

[7] Id. § 314, comment d.

[8] Id. Ibid., (emphasis added).

[9] Id. Ibid.; see Office of the Legal Adviser, The ABM Treaty Studies Part II: The Ratification Record (hereinafter "ABM Treaty Study Part II") 27-29 (May 11, 1987).

[10] Id. § The ABM Treaty and the Constitution, Hearings before the Committee on Foreign Relations and Committee on the Judiciary, S. Hrg. 100-110, (hereafter "Hearings") at 59 (statement of Honorable Sam Nunn).

[11] Id. at 59-60.

[12] Hearings at 130 (statement of Abraham D. Sofaer).

[13] Id. at 128. See ibid. (explaining that testimony concerned "the evidentiary value of ratification proceedings in the context of determining international legal obligations"); infra, text accompanying notes 30—32; see also letter from Abraham D. Sofaer to the Editor, Time Magazine, March [], 1987, explaining that, while executive statements to the Senate cannot change the nation's international obligations under the treaty, such statements could create domestic obligations under the Constitution.

[14] Hearings at 415 (prepared statement of Laurence H. Tribe).

[15] Reprinted in The ABM Treaty Interpretation Resolution, S. Rep. 100-164, 100th Cong. 1st Sess. 57 (hereinafter "Report on The ABM Treaty Interpretation Resolution") (September 22, 1987) (emphasis in original).

[16] Report on the ABM Treaty Interpretation Resolution at 59.

[17] ABM Treaty Study Part II at 41.

[18] Briefing on SALT I Compliance: Hearing before the Senate Comm. on Foreign Relations, 96th Cong., 1st Sess. 13 (1979); quoted in ABM Treaty Study Part II at 41, text at note 73.

[19] Secretary of State Hughes to Ambassador Houghton, July 30, 1923, reprinted in 5 G. Hackworth, Digest of International Law 262 (1943); quoted in ABM Treaty Study Part II at 38.

[20] Staff of the Senate Comm. on Foreign Relations, 95th Cong., 1st Sess. (Comm. Print 1977) at 13.

[21] Section 225 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Pub. L. 100-180, 101 Stat. 1019, Dec. 4, 1987) provides that no funds available to the Department of Defense may be obligated or expended for any development or testing of ABM systems or components except those described in the Administration's April 1987 Strategic Defense Initiative Organization Report, which the Senate Armed Services Committee considered to be consistent with the narrow interpretation of the ABM Treaty.

[22] E.g., Letter from Senator Byrd to Secretary of State Shultz, October 15, 1987; Letter from Senator Nunn to President Reagan, September 1, 1987. See also Letter from Senator Pell to Secretary of State Shultz, November 30, 1987.

[23] E.g., Letters from Senators Byrd and Nunn, supra, note 22.

[24] Letters from Secretary of State Shultz to Senators Byrd and Dole, February 5, 1988.

[25] Letter from George P. Shultz to Honorable Sam Nunn, February 9, 1988, reprinted in Committee on Foreign Relations, The INF Treaty, 100th Cong., 2d Sess. ("hereinafter INF Treaty Report") 442 (April 14, 1988).

[26] The proposed condition would provide:

That this Treaty shall be subject to the following principles, which derive, as a necessary implication, from the provisions of the Constitution (Article II, section 2, clause 2) for the making of treaties:

(a) the United States shall interpret this Treaty in accordance with the understanding of the Treaty shared by the Executive and the Senate at the time of Senate consent to ratification;

(b) such common understanding is:

(i) based on the text of the Treaty; and

(ii) reflected in the authoritative representations provided by the Executive branch to the Senate and its Committees in seeking Senate consent to ratification, insofar as such representations are directed to the meaning and legal effect of the text of the Treaty;

(c) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute.

This understanding shall not be incorporated in the instruments of ratification of this Treaty or otherwise officially conveyed to the other contracting party.

INF Treaty Report at 436.

[27] INF Treaty Report at 89.

[28] Id. at 90-91.

[29] Id. at 99-100.

[30] Hearings at 128.

[31] Hearings at 129.

[32] Ibid.

[33] Resolution Concerning Constitutional Principles Pertinent to the Making of Treaties, and Further Concerning the Interpretation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, S. Res. 167, 100th Cong., 1st Sess.

[34] Report on the ABM Treaty Interpretation Resolution 55.

[35] Id. at 40.

[36] INF Treaty Report at 436.

[37] Ibid.

[38] Ibid.

[39] INF Treaty Report at 90-94.

[40] Id. at 101.

[41] Ibid.

[42] Letter from White House Counsel A.B. Culvahouse to Honorable Richard G. Lugar, March 17, 1988, reprinted in INF Treaty Report at 443-445, at 444.

[43] *Japan Whaling Association* v. *American Cetacean Society,* 106 S.Ct. 2860, 28 , 92 L Ed 2d 166, 181 (1986).

[44] See, e.g., *Chevron, U.S.A.* v. *Natural Resources Defense Council,* 467 U.S. 837, 857-58 (1984) (agency had formerly adhered to one interpretation of the relevant statute, but had adopted the different in-

terpretation at issue after "a new administration took office and initiated a 'Government-wide reexamination of regulatory burdens and complexities' ").

[45] ABM Treaty Study Part II at 50-55.

[46] INF Treaty Report at 90-91.

[47] Id. at 91.

[48] Id. at 90.

[49] Id. at 93.

[50] Restatement § 314.

[51] See Chevron, 467 U.S. at 842.

[52] See *United States* v. *Vogel Fertilizer Co.*, 455 U.S. 16, 31-32 (1982) (relying on executive testimony explaining a bill drafted by the Treasury Department when "[t]he subsequent legislative history of" the statute—including the report on the bill by the relevant House committee—"confirms that Congress adopted not only the proposal of the Treasury Department, but also the Department's explaination and interpretation").

[53] Hearings before the Committee on Foreign Relations, S. Hrg. 100-522 Part 5 at 144 (testimony of Honorable Sam Nunn) (March 22, 1988).

[54] Ibid.

[55] Id. at 153.

Mr. SPECTER. Mr. President, I ask unanimous consent to have printed in the RECORD the text of the letter from legal counsel A.B. Culvahouse dated March 17.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, March 17, 1988.

Hon. RICHARD D. LUGAR,
U.S. Senate,
Washington, DC.

DEAR SENATOR LUGAR: This letter responds to your letter to Howard Baker of March 9, 1988. The Administration has reviewed the attached March 2 draft of a proposed Senate resolution of advice and consent to the ratification of the INF Treaty.

For the reasons discussed below, the Administration believes that sections 1 and 2 of the Resolution (hereinafter these sections are referred to as the "Resolution") are seriously flawed. The Resolution would change the legal rules of treaty interpretation. It would impose an unconstitutional mechanism for the alternation of a treaty interpretation. Moreover, it would greatly increase the risk of inflexible distinctions between the meaning of a treaty for purposes of international law and its meaning for purposes of domestic law—distinctions that could operate to the disadvantage of the United States.

Therefore, we believe the Resolution is not in the best interests of the United States.

Changing the rules of treaty interpretation:

We agree that the Executive is, as a matter of domestic law, required to adhere to the interpretation of a treaty authoritatively shared with, and clearly intended, generally understood and relied upon by, the Senate at the time of its advice and consent to ratification. The Resolution, however, would purport to expand the Executive's obligation beyond this settled principle. Sections 1(b) and 2 of the Resolution apparently would define that shared understanding as encompassing all statements made by officials of the Executive branch during ratification proceedings. These statements presumably include and attribute equal dignity to the Secretary of State's definitive article-by-article analysis and to the extensive testimony of Cabinet Members, treaty negotiators and other Executive branch officals, as well as to the Adminstration's answers to over 1,000 questions submitted by Members of the Senate, no matter how trivial or how unimportant the issue addressed may be to the Senate's advice and consent deliberations.

This overly broad standard is inconsistent with the principles governing judicial interpretation of treaties as a matter of domestic law. Such a general statement would not in our view provide the guidance required for the President or a court to give meaning to the INF Treaty.

Section 1 of the Resolution focuses solely on the role that Executive representations play in the interpretation of treaties, but fails to acknowledge the most important interpretative tool—the text of the treaty itself. Ignoring the text of the treaty is inconsistent with bedrock rules of treaty interpretation, which mandate that the text is the best evidence of the parties' intent. Although "authoritative representations" are among the tools for interpreting ambiguous provisions in a treaty under domestic law, the language of the treaty is the primary means by which a treaty is interpreted.

Unconstitutional mechanism for altering treaty interpretation:

Section 1(c) of the Resolution would purport to grant the Senate a role in interpreting treaties not contemplated by the Constitution. Section 1(c) states that the "United States shall not agree to or adopt [a different] interpretation" of a treaty "without the approval of the Senate." This provision of the Resolution and the Section 1(b) incorporation by reference of all Executive statements as critical shared understandings purport to provide the Senate with an ongoing power to accept or reject subsequent Executive interpretations and implementations of the INF Treaty. A "reinterpretation," subject to Senate approval, seemingly would occur each time implementation of the treaty calls into question any Executive statement in the massive ratification record. This section, therefore, interferes with the President's constitutional responsibility to interpret and implement treaties and also constitutes an unprecedented arrogation of treaty power by the Senate.

The Constitution does not provide that treaties may be amended by the Senate and the Executive acting alone after ratification, nor does it permit unicameral "interpretive" legislation. The provisions in Sections 1(c) and 2 that contemplate such a process are not consistent with the Constitution.

Risk of unilateral restrictions on the United States:

As noted above, when interpreting a treaty, one obviously looks first and foremost to the text of the treaty itself. In instances where the treaty text is not dispositive or is unclear, under international law one looks primarily to the negotiating record and the subsequent practice of the treaty parties. As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification. This is true even if the treaty negotiating record and subsequent practice indicate an interpretation contrary to that shared understanding. Exchanges in Senate proceedings in connection with the ratification of a treaty cannot under international law alter the meaning of a treaty where they are not officially communicated to the other treaty party prior to the exchange of instruments of ratification. The result might be two INF treaties, one binding domestically against the President and a second one binding internationally between the United States and the Soviet Union. In our view, the Resolution would substantially increase this risk of a dichotomy between the interpretation of a treaty under international law and the interpretation to which the President constitutionally is bound under domestic law. While we have spared no effort to ensure that Administration statements reflect the correct interpretation of the INF Treaty, the magnitude of the record heightens the risk of divergence between our domestic and international legal obligations. Any such difference will favor the Soviet Union because the Soviet Union is not and cannot be bound by our domestic processes.

The principles of treaty interpretation stated herein in no way contradict the position previously taken by the Administration with respect to the ABM Treaty. The President is obligated to abide by a treaty interpretation clearly intended, generally understood and relied upon by the Senate, based on authoritative Executive Branch representations during its advice and consent to ratification. Our position in the ABM case is not that the President may disregard such clearly intended interpretations, but rather that the ABM Treaty ratification record does not establish as a matter of law that the Senate clearly intended that the restrictive interpretation be followed. Administration witnesses had presented inconsistent and ambiguous views on the reach of these provisions, and the Senate as a whole did not assert a view. The President, therefore, is legally entitled to interpret the ABM Treaty on the basis of materials other than the ratification record, including the negotiating history. As you know, we believe that the negotiating record shows that the Soviet Union did not agree to be bound to the restrictive interpretation.

This letter is presented in a spirit of cooperation and in the hope that the Senate and the Executive can agree that the INF Treaty should receive the advice and consent of the Senate without any conditions. We do not believe that it is necessary or desirable to address broad, free-standing constitutional principles in a resolution of advice and consent. We believe that the proposed Resolution only serves the interests of confusion, ambiguity, confrontation and uncertainty. This Administration, of course, intends to consult closely with the Senate as the INF Treaty, upon ratification, is implemented and interpreted, and we will continue to embark upon such consultation in candor and good faith.

This letter also reflects the views of the legal offices of the Department of State, Department of Defense, the Office of Legal Counsel, Department of Justice, the Arms Control and Disarmament Agency, and National Security Council.

Sincerely,

ARTHUR B. CULVAHOUSE, Jr.,
Counsel to the President.

RESOLUTION OF RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediatde-Range and Shorter-Range Missiles and the two Protocols thereto, together, referred to as the INF Treaty, all signed at Washington, on December 8, 1987 (Treaty Doc. 100-11), subject to the finding contained in Section 1 and the condition contained in Section 2:

SECTION 1. FINDING CONCERNING CONSTITUTIONAL PRINCIPLES.

The following principles derive, as a necessary implication, from the provisions of the Constitution, Article II, section 2, clause 2, for the making of treaties:

(a) the United States shall interpret in accordance with the understanding of the meaning of the treaty shared by the Executive and the Senate at the time of Senate consent to ratification;

(b) such common understanding is reflected in authoritative representations as to the meaning of the treaty provided by the Executive branch in seeking Senate consent to ratification;

(c) the United States shall not agree to or adopt an interpretation different from that common understanding without the approval of the Senate.

SEC. 2. CONDITION OF SENATE ADVICE AND CONSENT.

The Senate's advice and consent to ratification of the INF Treaty is subject to the condition that the United States shall interpret the INF Treaty in accordance with the principles cited in Section 1 of this Resolution.

Report Language: "This provision is not designed to resolve the dispute over alleged ambiguities in the genesis, design, and implementation of the ABM Treaty, or to constitute a final disposition of the ABM Treaty 'reinterpretation' issue. Rather, the provision is intended to affirm certain constitutional principles which have been brought into question during the 'reinterpretation' debate."

Mr. SPECTER. Mr. President, these documents and the underlying legal arguments are directly at variance with the substance of the so-called Byrd amendment, and a comparison of these documents shows the unconditional surrender by the administration on these issues of really great importance.

Last week, there was an interesting exchange on the floor of the Senate. I have just asked to notify the distinguished majority leader that I would be making reference to some of his arguments, and I repeat that at this moment. The majority leader was commenting about the distinguished Senator from New Hampshire [Mr. HUMPHREY] not disclosing an amendment, and the allusion was made to a switchblade knife that Mr. HUMPHREY was allegedly carrying in his pocket. The request was made that the amendment be made available so that it would be known to people as to what was going to be argued.

Yesterday morning, at the conclusion of morning business, I asked the distinguished majority leader about an amendment which I had heard he was going to offer to the Biden condition. It was not yet available, but I got a copy of it late yesterday afternoon. The amendment has been forwarded by the distinguished majority leader, Senator BYRD, and it is a different amendment, not enormously different. But I would suggest, Mr. President, that the issues involved here are so complex and so important that there is a necessity for some time to study the issues which are involved and to compare the specific language with the Biden condition.

I have referred to the allusion of the switchblade knife because I believe that the pending amendment is a switchblade knife aimed at the security of the United States, in what is done here, because the reality is that it imposes a burden on the United States which is not imposed upon the Soviet Union.

The thrust of what has been argued here today and what is set forth extensively in chapter 9 of the Foreign Relations Committee report on the Biden condition is a long-studied argument over the ABM Treaty. The thrust of what is argued versus narrow and broad in the ABM Treaty is to impose an obligation on the United States, through the so-called understanding of the Senate, which is not binding on the Soviet Union.

What we really have here, on the Biden condition, slightly modified by the Byrd condition, is a document of two treaties: one treaty between the executive branch and the Soviet Union and a second treaty between the executive branch and the Senate of the United States.

Mr. President, it is plain on a reading of the ABM documents that the United States tabled the narrow interpretation and the Soviets rejected. The Soviets had the latitude for the broad interpretation until they found it to their benefit to come back to a narrow interpretation.

The United States has been driven, is being driven, to the narrow interpretation by references in the ratification record to the so-called narrow interpretation. This works to the decisive disadvantage of our country, in terms of the strategic defense initiative, which costs billions more when restricted to the narrow interpretation, and in terms of a much longer process for experimentation.

As I have said on this floor before, and as my voting record shows, I have not been an advocate or devotee of the strategic defense initiative; and until the most recent vote, I continuously voted for lesser funding.

I say that if the ABM Treaty binds the United States to the narrow interpretation, so be it; but if it does not, it is inappropriate, in terms of our national security, to aim a switchblade knife at the heart of our security by holding the United States to an interpretation which is different from the obligation of the Soviet Union. That is precisely the thrust of the narrow interpretation, and that is precisely the thrust of this Byrd condition, and that is the impact of what will happen here today.

What we are dealing with, realistically, is two treaties: one to be used at the pleasure of the Soviet Union, and a more restrictive one in terms of what happens on United States obligations.

Mr. President, the Byrd condition, like the Biden condition, stands the international law of treaty interpretation on its head, because international law in treaty interpretation has, as a fundamental requirement, mutuality. The United States cannot be bound, realistically, if the Soviet Union is not bound. But the Biden condition and the Byrd condition impose upon the United States a greater obligation by holding the United States to what some may say is the Senate's understanding. There is no question that the Soviet Union is not bound by the Senate's understanding.

Some references have been made to that by the distinguished Senator from Georgia, and perhaps in this debate we will have an opportunity to see if he really contends that the Soviet Union is bound by what goes on in Senate ratification proceedings; but the clear law is that the Soviet Union is not so bound.

What is endeavored here today is to make the United States bound on tighter restrictions than those which apply to the Soviet Union.

Mr. President, the thrust of the Biden condition and the Byrd condition has the same fatal flaw, but the thrust of the Biden condition is to render irrelevant the negotiating record, which is a cardinal principle of international law treaty interpretation.

The distinguished Senator from Georgia [Mr. NUNN] was on the floor a few moments ago—and I have sent notice through staff that I would be referring to this—saying that the negotiating record is important. Certainly it is under all standards of international law. But what does the Biden condition and what does the Byrd condition do with the negotiating record?

According to the Foreign Relations Committee report, it makes it immaterial. At page 101 of that report:

"Such documents"—referring to the negotiating record—"need not have been examined for consistency and should not be deemed material to U.S. interpretation of the INF Treaty insofar as they are inconsistent with the executive branch formal presentation of the INF Treaty."

Can you imagine that under a condition adopted by this body today the negotiating record is immaterial?

I have already introduced into the RECORD voluminous authorities from the Supreme Court of the United States, the prestatement of foreign relations law, consented to by most Members of this body, that state that the negotiating record is an indispensable tool on treaty interpretation. But under the Biden condition and the Byrd condition the negotiating record is deemed irrelevant and that is an underlying fallacy of this condition.

The Biden condition and the Byrd condition as well turn upside down U.S. constitutional law interpretation because they develop a new theory, a new approach on what they call implicit understandings. I have sought to find any authority for the so-called implicit understandings. We know of reservations. We know of expressed understandings. We know of a managers report. We know of dialog on the floor where a question is asked of the managers of a bill.

But this condition brings forward a new concept which is revolutionary and extremely destructive because it is up to anyone's guess as to what will happen with respect to such implicit understandings.

Mr. President, one of the leading proponents for the Foreign Relations Committee report has been Professor Henkin, who was the chief reporter for the restatement of foreign relations law on international treaty conditions, and I believe that Professor Henkin's views are very important for our consideration here today. Yesterday I had directed a question to the distinguished majority leader about two letters from Professor Henkin. I have since obtained one from staff, and I would appreciate obtaining the other.

But Professor Henkin's letters are very important not only because his opinions are referred to in the text of the Foreign Relations Committee report and not only because he is the chief reporter for the restatement of foreign relations law on this important subject, but because he puts on the record his view that it is unwise to have a condition attached to a treaty like this one.

I had an opportunity to talk to Professor Henkin yesterday, and I have sought the documents. I have read the second letter made available by staff. But I state flatly that it is not possible in the course of a few minutes to digest and to interpret that letter. I cannot make it a part of the RECORD.

I ask unanimous consent that a letter from Professor Henkin dated May 24, 1988, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TEXT OF LETTER MAILED ON MAY 24, 1988

MR. JOHN B. RITCH III,
Deputy Staff Director, Senate Foreign Relations Committee, Washington, DC.

DEAR MR. RITCH: It has come to my attention that I have been quoted as saying that the Senate Foreign Relations Committee Report on the INF Treaty misrepresented my views. I have made no such statement and that is not my view. I did express some concern that, in view of the way my name was used in the Report, a reading—surely a quick reading—of the Report might lead the reader to believe that I was behind the Report's statement of, and attack on, the so-called Sofaer Doctrine and that I favored the addition of the Condition on interpretation.

Let me make my position clear. I discussed the substance of the statement of Constitutional principle with you and others; I agree that what has emerged in that respect is substantively sound. As I said from the beginning, however, I am not in favor of making a statement of Constitutional principle a condition of Senate consent. If the Senate thinks it is necessary or desirable to declare its views of Constitutional principle—which in the present instance I agree are sound—it should put them into a separate Resolution.

The Committee draft in effect combines two resolutions: it combines an understanding, stated as a condition, on the interpretation of the particular INF Treaty (which condition is binding on the President, and on future Presidents) with a statement of general Constitutional principle (which is not binding on anyone). If there is insistence that the reference to Constitutional principle should be included, the text as it appears in the Committee Report is not unsound. The condition is applicable to the interpretation of this Treaty and as such is binding on this and any later President; the statement of Constitutional principle is included only parenthetically in a kind of editorial reference in passing. Perhaps it would be better to make the parenthetical character of the reference to the Constitutional principle even clearer by adding a few words, so that the introductory phrase would read:

That the Treaty shall be subject to the following principles, which, in the judgment of the Senate, derive, as a necessary implication, etc.

All good wishes.

Sincerely,

LOUIS HENKIN.

Mr. SPECTER. I consider this to be of enormous importance, Mr. President.

I am going to conclude the first portion of my time with these comments: I believe that I said during opening statements that I thought the INF Treaty was a very important treaty, but I am, frankly, not so sure any more, with the Biden condition or Byrd condition. We are going to be paying a very, very high price for this treaty. It is a very valuable commodity, but it may not be worth the price we are being asked here to pay today, and that is something I am reflecting on.

I believe there are many Senators who are concerned about what is happening with this treaty when we are adding on these conditions, which devastate international law in treaty interpretation and decimate U.S. constitutional law on treaty ratifications. These are matters that are going to have to be considered and thought hard by quite a number of Senators between now and the time of final passage.

Mr. President, it may be that the most we will be able to do here is to establish a record, a record which will be viewed by other Senators and other Senates on another day, very much in the nature of a dissenting opinion in the Supreme Court of the United States where frequently a dissent later becomes the law of the land. A dissent of one man against eight in Plessy versus Ferguson on desegregation later became the law of the United States in Brown versus Board of Education as what equal protection meant.

Right now this body, I submit, is on a very dangerous course. We are being propelled on a frantic rush to judgment. We are being propelled in a context where materials were not made available like the Henkin letter, in a context where we have had a very limited amount of time to examine this document. We are propelled by the interest of many of the Democrats in the narrow interpretation of ABM. We are being propelled by many Republicans in an effort to reach a conclusion on this matter today, tomorrow, or Saturday.

So, it may be that in terms of what we are doing here today, those of us who are advancing legal arguments and resisting the changes in international law and changes in U.S. constitutional law, may be putting into the CONGRESSIONAL RECORD the statements which will be picked up another day, very much as Plessy versus Ferguson may be picked up.

Mr. President, I ask unanimous consent that a statement of law on the implications of the Biden condition which will be equally applicable to the Byrd condition be printed in the RECORD at this point as if read in full.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

IMPLICATIONS OF THE BIDEN CONDITION

Mr. President, I am opposed to the so-called Biden condition, which I more appropriately refer to as the ABM reinterpretation condition, because it revises international law on treaty interpretation, confuses U.S. constitutional law on treaty ratification, and interjects in the deliberations on the INF Treaty an attempt to resolve the continuing dispute over the ABM Treaty.

As I stated on this floor on May 18, inclusion of the ABM reinterpretation condition is the resolution of ratification by the Senate Foreign Relations Committee has proven to be a detrimental factor in debate on the INF Treaty which continues to threaten the treaty's ratification.

The ABM reinterpretation condition poses three serious implications for treaty interpretation. The condition would: First, fundamentally change international law on treaty interpretation; second, change and confuse U.S. constitutional law regarding the Senate's role in the treaty ratification process; and third, necessarily implicate the complex facts of the ABM Treaty and its interpretation.

I. INTERNATIONAL LAW ON TREATY INTERPRETATION

Mr. President, the ABM reinterpretation condition fundamentally changes international treaty interpretation.

The ABM reinterpretation condition establishes, in effect, a two-treaty doctrine, where there is a treaty between the executive branch and the Soviet Union and simultaneously a second treaty between the executive branch and the U.S. Senate. This concept is discussed at length in chapter IX of the Senate Foreign Relations Committee report on the INF Treaty entitled "Treaty Interpretation, condition adopted by the committee," which, in effect, gives primacy to the agreements reached between the executive branch and the Senate. The committee report's analysis of the ABM reinterpretation condition creates confusion and contradiction in the treaty ratification process, and represents a turf battle between the two branches.

Although it includes reference to the "common understanding" between the executive branch and the Senate "based on the text of the treaty" and "authoritative representations," the ABM reinterpretation condition elevates the provisions of the understanding reached between the executive branch and the Senate, making them paramount to the understanding between the executive branch and the foreign nation. Subsection (a) of the condition reads:

> The United States shall interpret this treaty in accordance with the understanding of the treaty shared by the executive and the Senate at the time of Senate consent to ratification.

Chapter IX of the Senate Foreign Relations Committee report includes a number of references establishing the committee's priorities in the treaty ratification process. For example, the committee report states:

> The Legal Adviser's statement implies that the meaning of a U.S.-Soviet treaty is to be gleaned not by examination of what the President and the Senate jointly understood, but by examination of what the President and the Soviets agreed upon—regardless of what the President may or may not have told the Senate. Report at 92.

This statement and other similar statements throughout chapter IX of the committee report establish the committee's view and the underlying doctrine of the ABM reinterpretation condition that the paramount consideration in treaty interpretation is what was agreed upon between the President and the U.S. Senate.

Mr. President, a treaty is valid and binding only if it establishes mutual obligations between the two contracting parties—in the case of the INF Treaty, the United States and the Soviet Union. Although the Senate's understanding plays a critical role in what the United States agrees to in the treaty process, it certainly is not the dominant factor to be considered in interpreting a treaty.

In this regard, the ABM reinterpretation condition turns the international law of treaty interpretation on its head, because the dominant consideration in interpreting an international treaty is what was agreed upon between the two nations—the intent of the parties. The committee report, however, reads:

> In sum, although internal Executive memoranda and other negotiating materials may have been available to Members of the Senate, some of whom have sought to assure themselves that this "record" is consistent with the Administration's formal presentation, the clear corollary of the constitutional principles cited in the Biden Condition is that *such documents need not have been examined* for consistency and *should not be deemed material to U.S. interpretation* of the INF Treaty insofar as they are inconsistent with the Executive Branch's formal presentation of the INF Treaty. Report at 101 (emphasis added).

The committee's conclusion that such documents are not material flatly contradicts firmly established principles of treaty interpretation. The committee report notes that only the Senate's understanding matters, and does not mention the subsequent practices of the parties—thereby inferentially deeming them irrelevant as well.

The committee's attempt to exclude the negotiating record and the subsequent practices of the parties by placing sole reliance on what the committee defines as the Senate's understanding clearly revises treaty interpretation under international law, which recognizes that a treaty reflects the intent of the parties. The parties to the INF Treaty are the United States and the Soviet Union; the Senate is not, nor should be considered, an independent party. The committee report, however, requires a treaty to be in accordance with what the committee determines the Senate's understanding to be regarding that treaty.

By elevating the Senate's understanding of the agreements between the executive branch and the Senate, the ABM reinterpretation condition subordinates the agreements reached between the President and the other contracting country—the Soviets in the case of the INF Treaty—to the indicia of the Senate's intention.

The condition's effect of elevating the Senate's understanding of agreements reached between the President and the Senate may instill reluctance in other nations to negotiate treaties with the United States. Nations like the Soviet Union may be far less willing to enter into treaties with the United States if we claim that such treaties will be interpreted in light of the intentions of the U.S. Senate. The United States certainly would object—vociferously—if another country asserted a similar condition.

The ABM reinterpretation condition also has the effect of proposing a dramatic and one-sided change in the interpretation of international law, by urging that international agreements should be interpreted without regard to the intent of the parties, whenever that intent conflicts with the intent of the U.S. Senate.

Mr. President, to the contrary, the Supreme Court of the United States and established constitutional doctrine clearly recognize the following vital factors in treaty interpretation: the negotiations, the terms of the treaty, the negotiating record, and the practical construction adopted by the parties, also referred to as the "subsequent practice" of the parties.

The U.S. Supreme Court recently restated this fundamental tenet of treaty interpretation. In *Societe Nationale Industrielle Aerospatiale* v. *U.S. District Court for the Southern District of Iowa*, slip op. 85-1695 (1987), the Supreme Court stated:

> In interpreting an international treaty, we are mindful that it is "in the nature of a contract between nations" . . . [and] The treaty's history, "the negotiations, and the practical construction adopted by the parties" may also be relevant. Id. at 10.

The Senate Foreign Relations Committee report on the INF Treaty is inconsistent with this firmly established principle. It is possible that the understanding between the Senate and the President may be at variance with what the United States agreed to with the other contracting country. In such cases, the Senate's understanding is an important, but not the determinative factor—or even the factor to be considered first.

In cases of ambiguity regarding interpretation of a treaty, the law is clear that the negotiating record and the subsequent practices of the parties are the critical factors in resolving the ambiguity. The Senate should reject contrary statements included in the committee report.

II. U.S. CONSTITUTIONAL LAW

The ABM reinterpretation condition changes and confuses U.S. constitutional law regarding the Senate's role in the treaty ratification process.

Mr. President, the law is well established that the executive interprets the meaning of a treaty. The "Restatement of the Foreign Relations Law of the United States," section 326, sets forth U.S. law on the authority to interpret international agreements:

> (1) The President has authority to determine the interpretation of an international agreement to be asserted by the United States in its relations with other states.
>
> (2) Courts in the United States have final authority to interpret an international agreement for purposes of applying it as law in the United States, but will give great weight to an interpretation made by the executive branch. "Restatement of the Law Third," American Institute (1987) at 202.

The "Restatement's" Comment elaborates on Presidential authority to interpret treaties:

> The President has authority to interpret international agreements for the purpose of United States foreign relations since he is the country's "sole organ" in its international relations and is responsible for carrying out agreements with other nations. . . . The Senate, whose consent is necessary for the United States to conclude a treaty, has no special role in the implementation of the treaty after it is made, though, of course, it participates equally with the House of Representatives in enacting implementing legislation or appropriating funds. Interpretation by the Senate of a treaty after it has been concluded may have no special authority, but understandings expressed by the Senate in giving its advice and consent must be respected. *Id.*, comment a.

Professor Henkin, who is extensively relied upon by the Foreign Relations Committee, has posited a similar doctrine:

> The obligation and authority to implement or enforce a treaty involve also the obligation and authority to interpret what the treaty requires. For international purposes, no doubt, the President determines the United States position as to the meaning of a treaty. Domestically, too, since the President has usually the principal, often the sole, responsibility to execute a treaty, the treaty means what he says it means. Henkin, "Foreign Affairs and the Constitution" 167 (1972).

The Supreme Court also addressed subsequent Senate interpretation of a treaty in *Fourteen Diamond Rings* v. *United States*, 183 U.S. 176 (1901). The Court considered the Senate's adoption of a resolution, subsequent to ratification of a peace treaty between the United States and Spain, which attempted to clarify the application of customs duties to the Philippines, and determined "that it is absolutely without legal significance on the treaty interpretation question before us." Id. at 180. The Supreme Court held:

> The meaning of the treaty cannot be controlled by subsequent explanations of some of those who may have voted to ratify it. Id.

In a concurring opinion, Justice Brown stated that the Senate resolution "cannot be regarded as part of the treaty, since it received neither the approval of the President nor the consent of the other contracting power." Id. at 182. Justice Brown also discussed at length the treaty ratification process and the authority to interpret treaties:

> A treaty . . . [i]n its essence is a contract. It differs from an ordinary contract only in being an agreement between independent states instead of private parties. . . . Obviously, the treaty must contain the whole contract between the parties, and the power of the Senate is limited to a ratification of such terms as have already been agreed upon between the President, acting for the United States, and the commissioners of the other contracting power. The Senate has no right to ratify the treaty and introduce new terms into it, which shall be obligatory upon the other power, although it may refuse its ratification, or make such ratification conditional upon the adoption of amendments to the treaty. Id. at 182–83.

Justice Brown concluded that the resolution at issue "can be considered only as expressing the individual views of the Senators voting upon it." Id. at 184.

Mr. President, the principles of treaty interpretation which apply in cases of ambiguity are similar to those used in determining the legislative intent of a statute. This standard was outlined by the Supreme Court in *Japan Whaling Association* v. *American Cetacean Society*, slip op. No. 85–954 (1986):

> If a statute is silent or ambiguous with respect to the question at issue, our longstanding practice is to defer to the "executive department's construction of a statutory scheme it is entrusted to administer" [quoting *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. at 843] unless the legislative history of the enactment shows with sufficient clarity that the agency construction is contrary to the will of Congress. Id. at 11.

The Court continued:

> It may be that the legislative history of these amendments [at issue] there are scattered statements hinting at the per se rules advocated by respondents, but read as a whole, we are quite unconvinced that this history clearly indicates, contrary to what we and the Secretary have concluded is a permissible reading of the statute. . . . Id. at 18.

In this case, the Supreme Court clearly indicated that it is the executive branch which interprets the statute, just as it is the executive branch which interprets a treaty.

The U.S. Supreme Court articulated the same doctrine in *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984). The Court stated:

> When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress had directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress. If, however, the court determines Congress has not directly addressed the precise question at issue, the court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, *if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.* Id. at 842–43 (emphasis added).

Mr. President, the committee report is inconsistent with U.S. constitutional law on the Senate's role in the treaty ratification process.

A. THE SOFAER DOCTRINE

The Committee report rejects the so-called Sofaer doctrine which articulates three criteria which must be met for the executive to be bound by the Senate's understanding of a treaty:

> The particular interpretation must have been: first, "generally understood" by the Senate; second, "clearly intended" by the Senate; and third, "relied upon" by the Senate. Committee report at 90.

These criteria, however, are based on principles set forth in section 314 of the "Restatement of the Foreign Relations Law of the United States and on well-established constitutional doctrine.

During the March 22, 1988, hearing on the INF Treaty before the Senate Foreign Relations Committee, Senator NUNN himself agreed with those three criteria when he quoted with approval the following sentence from a March 17 letter from the President's Counsel, Mr. Culvahouse, to Senator LUGAR:

"As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification."

Senator NUNN stated: "That sentence there I agree with completely." Hearings at 144. Senator NUNN again quoted this sentence and the following sentence from the Culvahouse letter, id. at 153, and stated: "Now, I think those two sentences are something we can build on here." Id. at 154.

B. EXPLICIT/IMPLICIT CONDITIONS

Mr. President, the Senate traditionally performs its constitutional function by expressing any particular views of a treaty in the form of explicit conditions.

The committee report discusses at length how the Senate reaches its understanding, both explicit and implicit, of a treaty's meaning. The report noted that explicit understandings "are manifest in formal conditions to the Senate's consent. These conditions include amendments to the text of a treat as well as amendments to the resolution of ratification, such as 'reservations,' 'understandings,' and the like." Report at 93.

"Implicit understandings" are much more complicated. The committee report noted that "implicit understandings represent Senate agreement with and acceptance of the executive's explanations of the treaty." Id. at 93. The committee report refers to testimony by Professor Henkin to help define this concept: "Where several executive statements are made and there is general acceptance of their tenor, that is the Senate understanding." Id. at 93. The report continued:

> Clearly, in determining whether the Senate consented to the ratification of a treaty pursuant to an implicit understanding, a rule of reason must apply. Obviously, where the indicia of Senate intent or understanding (including unchallenged executive communications or explanations) are few or inconsistent, no implicit Senate intent can reasonably be said to exist. On the other hand, where the indicia of intent (again, including unchallenged executive communications or explanations) are several and largely consistent, an implicit intent can reasonably be concluded to exist. Id. at 93–94.

These statements are illustrative of repetitious ambiguity in the committee report; they also reflect that implicit understandings realistically have no meaning where there is "a factual claim of pervasive ambiguity"—see id. at 106.

Mr. President, the committee report seeks to elevate implicit understandings * * * to be equal in significance to explicit understandings. Id. Such a doctrine of implicit understandings is obviously tailored to buttress the narrow interpretation of the ABM Treaty. It acknowledges that there is no implicit understanding where the executive communications are few or inconsistent, id. at 94, and then refers to the ABM controversy as a factual claim of pervasive ambiguity. Id. at 106. As to the ABM Treaty, and treaty interpretation generally, such a doctrine of implicit understandings inevitably will raise complex—and probably insolvable—arguments about what is sufficient to imply an understanding. It is precisely for that reason that explicit understandings are formulated to remove such ambiguities and disagreements.

Had there been an explicit understanding of the scope of the ABM Treaty's application—narrow or broad—this issue would not now be before us. This Senator and many others have illustrated the lack of an explicit understanding in the ABM Treaty record—the text of the treaty, committee proceedings and floor debate. The ABM Treaty debate would not be a part of the INF Treaty debate today had there been an explicit understanding on narrow versus broad application of the ABM Treaty.

III. THE ABM TREATY

Mr. President, debate on the ABM reinterpretation condition necessarily will implicate the complex facts of the ABM Treaty and its interpretation.

While its proponents maintain otherwise, the condition necessarily rekindles—and, realistically viewed, seeks to resolve—the substance of the ABM Treaty reinterpretation debate. This is so because the Constitution obviously binds the President with respect to interpretation of all treaties and the condition purports to state principles of constitutional law. Its intent, quite clearly, is to bind the President generally, including his interpretation of the ABM Treaty. This is obvious from reading chapter IX on the condition, which refers repeatedly to the ABM controversy.

Mr. President, Chapter IX of the Senate Foreign Relations Committee report on the INF Treaty clearly is an attempt to discredit the so-called Sofaer doctrine and influence the argument on the narrow versus broad interpretation of the ABM Treaty. Apart from these two purposes, the committee acknowledges that this condition is unnecessary. The report reads:

> The committee notes that, in one respect, its action in including this condition in the INF Treaty's resolution of ratification was *unnecessary* insofar as principles which inherently apply to the INF Treaty would apply even in the absence of any Senate action affirming them. Given the circumstances, however, the committee judged that to fail to affirm such principles could suggest some degree of acquiescence in the Sofaer doctrine, which the committee views as an executive attempt to assert an unconstitutional arrogation of the treaty power. In this sense the committee views the Biden

condition, paradoxically, as both *unnecessary* and highly significant. Report at 97, emphasis added.

The committee report repeatedly raises the interpretation issue, only to discuss at length what the interpretation is not. The extended discussion in chapter IX of the so-called Sofaer doctrine clearly reflects the committee's attempt to interject the ABM Treaty debate into the INF Treaty ratification debate.

The ABM reinterpretation condition clearly implicates the ABM controversy when the ultimate question was asked of Senator CRANSTON on May 18:

> Mr. SPECTER. When the distinguished Senator from California says that there is no objection to the current interpretation of the INF Treaty, only as to issues of reinterpretation, the sole issue in the Senate today is the interpretation of the INF Treaty, why bring up the question of reinterpretation of treaties? CONGRESSIONAL RECORD, May 18, 1988, at S6064.

Had Senator CRANSTON replied that there is no reason to bring up the question of reinterpretation of treaties, the debate on this condition would be over. However, Senator CRANSTON's answer brought up ABM and the Sofaer doctrine and that is where the extensive debate necessarily leads if the condition is pursued.

Mr. President, the debate over interpretation of the ABM Treaty highlights the importance of treaty interpretation principles. The ratification record of the ABM Treaty contains only a few statements on the issue of narrow versus broad, and these statements are themselves inconsistent. This Senator suggests that if a full debate of the ABM Treaty is pursued in the context of the INF Treaty ratification process, the record will reveal the degree of ambiguity on the narrow versus broad issue, which thus requires deference to the executive branch's interpretation given established principles of international law and U.S. constitutional law.

The only issue before the Senate today, however, is the interpretation of the INF Treaty, as to which there is no real dispute.

IV. CONCLUSION

Mr. President, inclusion of the ABM reinterpretation condition in the INF Treaty's resolution of ratification threatens to embroil the Senate in a protracted debate over the constitutional treaty power and continues to threaten ultimate ratification of this historic agreement. The concern I expressed on this floor on May 18—that the condition would be a detrimental factor in the ratification of the INF Treaty—unfortunately and regrettably still may prove accurate.

Ratification of the INF Treaty prior to the President's departure for the Moscow summit is too important to the Nation to be ensnared in a turf battle between a few individuals in the Senate and a few in the executive branch. The Senate should reject the ABM reinterpretation condition in the INF Treaty's resolution of ratification, and should continue to follow established principles of international law and U.S. constitutional law regarding treaty interpretation.

Mr. SPECTER. I thank the Chair, and I yield the floor. How many of my 45 minutes have I remaining?

The PRESIDING OFFICER. The Senator has 27 minutes remaining.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I would like to have yielded not more than 10 minutes.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I yield not to exceed 10 minutes to Mr. CRANSTON.

Mr. CRANSTON. I thank the majority leader.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. CRANSTON. Mr. President, I want to begin by making clear that the issue before us is one which we must confront by necessity, not by choice.

It is an institutional issue, which goes to the heart of the meaning of the long treaty ratification exercise in which we, as Members of the U.S. Senate, are engaged.

It is not—or at least it need not and should not be—a partisan issue.

The question, simply put, is:

> How can we ensure that the Senate and the President share a common understanding of our obligations under the INF Treaty?

It is not an academic question. And it is not one devised as a means of introducing an element of complexity into our INF deliberations. Rather, it is a question thrust upon all Senators by the awkward efforts certain State Department lawyers have made to reinterpret U.S. obligations under a previous nuclear arms agreement, the 1972 ABM Treaty.

We are not trying to resolve that ABM dispute today. Indeed, as we in the Senate Foreign Relations Committee made crystal clear, the language on interpretation of the INF Treaty which was adopted by the committee is not dispositive of the "ABM reinterpretation issue"—nor, I should note, should the failure of Senators to address treaty interpretation principles during the 1972 ratification be deemed to prejudice subsequent debate and decisionmaking.

The ABM/SDI traditional interpretation versus broad interpretation debate has become charged with emotion—despite the fact that the funding issue has been, for all intents and purposes, resolved on Department of Defense authorization measures. We must set the ABM issue aside if we are to resolve the task before us—which is to vote on consenting to ratify the INF Treaty.

Having said what our amendment to the resolution of ratification does not do, let me briefly clarify what it does seek to accomplish.

Our amendment is an understanding which governs Senate consent to ratification. It is a "category one condition" which the President is obliged to accept as governing on his authority to exchange INF instruments of ratification with the Soviets.

It is treaty-specific. It applies only to this INF debate.

It stipulates that the U.S. Government shall interpret the treaty on the basis of the shared understanding of the Senate and the Executive at the time of ratification.

It defines this shared understanding in language that is essential and that is quite clear.

Our shared understanding is not limited to areas where the Senate has amended the resolution of ratification, or where it has extensively debated a specific provision on the Senate floor.

Our shared understanding is based primarily on a commonsense reading of the text and upon authoritative representations about this text provided to the Senate and its committees by administration officials during the ratification debate.

Adoption of this plain and simple language will liberate us from an exhaustive—and absurd—obligation to speak in the resolution of ratification to our understanding of every word of the treaty. It allows us to rely on the administration testimony without the cumbersome, time-consuming process of restating it.

I had honestly hoped that this simple language—which does not dispose of the past ABM dispute—could be adopted with the strong bipartisan support of Senators on both sides of the aisle.

I have worked closely with my friends DICK LUGAR, ALAN SIMPSON, HOWARD BAKER, and others, seeking, through hours of good-faith discussions, to devise a remedy which can invite consensus support, which avoids partisan divisions.

Regrettably, this has not proven possible. Although the latest version offered by the majority leader has seemingly served to end the opposition of some Senators on the minority side, a determined group of colleagues on the other side of the aisle have refused to agree on any language which effectively protects the role of the Senate in making a treaty.

Frankly, Mr. President, I simply cannot understand why some Republican Members object so strenuously to the committee resolution—the so-called Biden amendment.

Some of them have even actually threatened to vote against the treaty because of the resolution—a treaty the Republican administration negotiated, which President Reagan signed and which they themselves support.

Why?

Mr. SPECTER. Will the Senator yield?

Mr. CRANSTON. Certainly.

Mr. SPECTER. The Senator asked a question and I will give him an answer to the question. When you have a conclusion that the negotiating record is immaterial or conflicts with the understanding of the Senate, is that not consistent with decades, if not centuries, of international law on treaty interpretation?

Mr. CRANSTON. Well, the negotiating record is not immaterial, but what is material to this is what we were told the treaty meant when the administration presented it to us.

What does the Biden amendment—stripped of its parliamentary language——

Mr. SPECTER. Will the Senator yield?

Mr. CRANSTON. No, I do not want to yield any further. We have limited time.

What does the Biden amendment—stripped of its parliamentary language—say that so arouses some Republican Senators?

It simply says that the treaty means what President Reagan, Secretary of State Shultz and other key administration officials said it means.

It says the treaty hides no secret meaning that the American people have not been told about.

And it says there is no valid basis for someone in the future to claim that it means something else, unless the Senate agrees to accept that new meaning.

What is so horrendous about such an amendment?

Why should it excite Republicans to such a fever pitch that they threaten to scuttle the treaty?

The Constitution specifically mandates that two units of the U.S. Government must participate in a treaty for that treaty to be legally binding; the Executive and the Senate.

But only the Executive negotiates treaties.

And only the Executive is privy to all the discussions that took place during the negotiations.

So the Senate must rely on the Executive as the only authoritative source for information on the treaty.

Why should Republicans object to including a simple statement that in effect says the Senate has been told the truth—the whole truth and nothing but the truth—about this treaty?

As I said at the beginning, Mr. President, I just cannot understand it.

I thank the many Senators, and administration officials, who have made constructive efforts to resolve this issue.

But now the time has come to vote, and shortly we will.

Before us is a proposal which I believe is fair, is balanced, and which meets all reasonable and legitimate concerns expressed by parties to this dispute.

I urge all Senators to support this language, and to thereby uphold the integrity of this Senate, and the meaning of the INF Treaty ratification process.

Mr. SPECTER. Will the Senator from California respond to a question on my time?

Mr. CRANSTON. Certainly.

I yield back the remainder of my time.

The **PRESIDING OFFICER.** The Senator from California has terminated his time. The Senator from Pennsylvania is recognized on his own time.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, when the Supreme Court of the United States said, in the 1942 session in the Choctaw Nation of Indians case that the negotiations were important for treaty interpretation and the U.S. Supreme Court restated that proposition on June 15, 1987, in the Societe case that the negotiations and the practical construction adopted by the parties may also be relevant, how can the Senator from California support a condition which says the negotiating record is immaterial?

Mr. SARBANES. Will the Senator yield?

Mr. SPECTER. No, I want an answer from the Senator from California, on my time.

Mr. CRANSTON. What was your question?

Mr. SPECTER. When the Supreme Court of the United States has repeatedly said—and I might throw in the restatement of the law on international relations—that the negotiating record is the most critical aspect of determining the meaning of the treaty, how can the Senator from California support a condition which says the negotiating record is immaterial?

Mr. CRANSTON. That is not basically what we have said. What we are trying to do is uphold the traditional approach.

Let me read to you from the committee report:

> The traditional approach does not, of course, *preclude* reference to the "record" where such reference can be useful in explaining the effect of treaty provisions which may appear ambiguous or about which questions may arise. The Executive may sometimes wish to initiate such reference to the "record"; on some occasions the Senate may request a detailed account of the interchange which resulted in a particular treaty provision. But this case-by-case approach is far superior to a systematic submission of the "negotiating record," which implies either that treaties tend to be replete with ambiguity or that the Executive cannot be trusted to present an accurate account of the obligations to be assumed by the United States. Neither assumption should be allowed to govern the basic Executive-Senate interaction in the treaty-making process.

Mr. SPECTER. Mr. President, that is very interesting, but it has nothing to do with my question. My question related to ruling out the negotiating record when it was inconsistent with the understanding of the Senate.

Certainly, as the Senator from California reads, even under the report, the negotiating record comes into play in many circumstances, but that is not the issue.

The issue is that the Biden condition and the Byrd condition say that if the negotiating record is inconsistent with the Senate's understanding, whatever that may be, under an implicit understanding, the negotiating record is immaterial. That is what the committee report says at page 101.

When the Senator from California asked why Republican Senators object to this condition, that is why.

How much time do I have remaining, Mr. President?

Mr. CRANSTON addressed the Chair.

The **PRESIDING OFFICER.** Just a moment. Senators will suspend.

The Senator has 16 minutes remaining.

Mr. SPECTER. Sixteen minutes? Was 10 minutes consumed on the question and answer?

The **PRESIDING OFFICER.** Just a moment.

The Senator has 23 minutes remaining.

Mr. SPECTER. That is much better. I thank the Chair.

Mr. WILSON. Mr. President, will the Senator from California yield for a question on my time?

Mr. BYRD. Mr. President, I yield 5 minutes to Mr. Sarbanes.

The **PRESIDING OFFICER.** The Senator from Maryland is recognized for 5 minutes.

Mr. SARBANES. Mr. President, I thank the leader for yielding.

Before I make a brief statement, I want to comment with respect to the colloquy that was just taking place. Let me simply make the observation that, in most instances, in considering a treaty, what the Senate receives from the administration is the text of the treaty, and then the authoritative representations of the President and his representatives, who come to the Senate and say, "This is what the treaty means."

We then give our advice and consent. In most instances, we do not go to the negotiating record, and there is no reason to go to the negotiating record.

The Byrd amendment makes it very clear that those authoritative representations by the President and his representatives to the Senate and its committees, insofar as such representatives were directed to the meaning and the legal effect of the text of the treaty, are a basis of the common understanding of the treaty shared by the President and the Senate, and that later an administration cannot come along and adopt an interpretation of the treaty different from the common understanding based upon the authoritative representations made to the Senate at the time it was engaged in the advice and consent process.

Now, if, at the time of examining the treaty, the Senate finds ambiguities, or feels that the treaty is not clear, and probes as to what it means, it may well go into the negotiating record in order to help ascertain the meaning of a provision.

In the instance the negotiating record is relevant, and Senate reference to it is of course not precluded. That, in fact, happened in the case of this treaty.

But in most treaties the Senate does not refer to the negotiating record. The negotiating record is not before the Senate. It is in the hands of the administration, so the Senate looks to the text of the treaty and the authoritative representations made by the President and his representatives as to the meaning of the treaty.

Once we give our advice and consent to the treaty on the basis of the common understanding, a subsequent administration cannot come along and reinterpret that treaty contrary to what was presented to the Senate at the time its advice and consent was obtained.

I want to commend the Majority Leader, the very distinguished Senator from West Virginia; Senator NUNN, Chairman of the Armed Service Committee; and our colleague from Delaware, Senator BIDEN, who unfortunately, cannot be with us today to participate in this debate but who, I know, very much would have wanted to be here; for their efforts in fashioning the provision that is now before us, and in ensuring thereby that the Senate's time-tested, time-honored, constitutional role with respect to treatymaking will be upheld in the course of considering the treaty that is now before us.

Mr. President, I want to take a moment or two to quote from some newspaper editorials and to have them printed in the RECORD.

There are some who have asserted that this is not an issue of importance. I absolutely agree with the majority leader when he said in his opening statement that this is a matter of great consequence, and that what is at issue is the rightful and constitutional role of the Senate in the approval of treaties.

The Baltimore Sun stated, in an editorial of the 16th of May:

> An no point, however, should the Senate withdraw from its insistence that treaty testimony offered by an incumbent administration is binding on future administrations.
>
> If logic prevailed, any administration would want its treaty interpretations to have the force of law on its successors. But the Reagan White House has gotten itself into the crazy position of arguing that its own INF testimony is only transitory and less than authoritative.

I will ask that the full text of that editorial be included in the RECORD, along with one of April 29, and another one from the Sun of April 18.

I quote from the latter editorial of April 18, in the Baltimore Sun, entitled,: "The Word of the United States." That editorial leads off as follows:

> Was Reagan administration testimony on the INF treaty banning intermediate-range nuclear forces "authoritative" and binding on future administrations? Curiously enough, Reagan officials find themselves arguing vociferously that it was not—that Senate efforts to give their interpretations permanence amounts to a legislative assault on executive prerogatives.
>
> This is a serious constitutional question despite its Alice in Wonderland qualities. It is the major roadblock to Senate ratification of a pact that on its own merits has wide bipartisan support.

Later it goes on to state, and I quote:

> Leading the opposition to the White House view that treaties mean only what governments of the moment say they mean is Sen. Sam Nunn, D-Ga. His extensive comments have brought two profound matters to the fore—one dealing with credibility, the other dealing with the division of powers between the Senate and the executive.
>
> We believe an administration that negotiates a treaty should offer testimony that the Senate can rely upon in giving its assent to ratification.

Further on, the editorial states:

> As much as this newspaper would welcome INF treaty ratification and the arms control agreements it might generate, we would urge the Senate to oppose the cavalier White House view on treaty interpretation. The Reagan approach is not conservative; it is radical.

The PRESIDING OFFICER (Mr. DIXON). I regret to advise the Senator his time has expired.

Mr. SARBANES. Would the Senator yield me an additional 3 minutes?

Mr. BYRD. I yield the Senator 3 minutes.

Mr. SARBANES. In the same vein, Mr. President, the New York Times in an editorial on May 25, said in speaking of the President: "If only he would now agree to a simple, honorable proposition—that the administration means what it says to the Senate—the treaty will be his."

The editorial goes on to note:

> The need for such explicit reassurance was shown anew in a little-noticed Federal court case decided last week that demonstrated the Administration's determination to revise treaties as it wishes. In this case, it tried to reinterpret an obscure treaty concerning Iceland; Judge Harold Greene told a Justice Department attorney, "You are taking the same position that the State Department is taking on the [Euromissile] treaty that whatever is said to the Senate doesn't mean anything."
>
> The Judge held that reinterpretations may not violate the "solemn representations" made to the Senate.
>
> Mr. Reagan can win rousing Senate backing for this sound treaty, and add the final seal of approval in Moscow, just as he hopes. He need only agree that when his Administration tells the Senate what the treaty means, it means what it says.

And it concludes with the following paragraph:

I will ask that New York Times editorials of February 9 and May 17 also be included in the RECORD, as well as one of May 5, in which the Times notes, and I quote:

> The serious obstacle to ratification, however, is the so-called Sofaer Doctrine. Named for Abraham Sofaer, the State Department's legal adviser, it holds that official testimony on the meaning of a treaty is binding only if it is "generally understood, clearly intended, and relied upon" by the Senate. Since it's hard to know what this mumbo-jumbo means, Presidents would be free to do with treaties as they wish.
>
> The Senate Foreign Relations Committee hopes to solve the problem, simply and sensibly, by making executive branch testimony binding.

In fact, what the Byrd amendment seeks to do is to make it clear that the text of the treaty, the provisions of the resolution of ratification, and the authoritative representations which were provided by the President and his representative to the Senate and its committees, in seeking Senate consent to ratification go to constitute the common understanding.

Mr. President, the Washington Post has also editorialized to the same effect as the Baltimore Sun and the New York Times. Let me quote from an editorial of May 20 about the importance of this issue. It alludes to the fact that some may seek to depict this issue as a rather arcane point of institutional privilege. The Post says, and I quote:

> But it's not an arcane point. It's common sense. The Senate is not above being picky and precious, but here it is insisting on a procedure that merely reaffirms good faith. With or without a summit, the Senate's position deserves to be upheld.

I will ask unanimous consent that two other editorials of April 1 and February 9 from the Post on this subject also be included in the RECORD. In the one of February 9, the Post says and I quote:

> Hardball? Yes. A small point of Senate privilege? No, a large point: the Senate cannot possibly be asked to approve a treaty when the administration reserves a right to say later that it means something other than what the executive branch asserted at the time.

The PRESIDING OFFICER. I regret to advise the Senator all his time has been consumed.

Mr. BYRD. Does the Senator need 1 more minute?

Mr. SARBANES. I would appreciate an additional minute.

Mr. BYRD. I yield 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Let me emphasize that editorial comment: "the Senate cannot possibly be asked to approve a treaty when the administration reserves a right to say later that it means something other than what the executive branch asserted at the time"—at the time that it was seeking the advice and consent of the Senate to the treaty. No treaty can come into force until the Senate advises and consents to its ratification. And in the course of that process, we receive from the administration authoritative representations as to the meaning of the treaty.

I am not talking about situations of ambiguity or instances in which the meaning of a particular provision was not addressed, where perhaps the Executive made no representation.

In those instances in which the administration has made authoritative representations to the Senate, where they are clear about the meaning of the treaty, they cannot later, after advice and consent has been obtained, reinterpret those provisions. Stop and think about it for just a moment.

If such reinterpretations are allowed, then the Senate's role has become a nullity. An administration can come in and tell the Senate anything it wants to tell it in order to get advice and consent, and later, turn and say: "Well, that provision does not mean what we represented that provision to mean at the time that we were seeking your advice and consent."

What does that do to the role of the Senate? I submit to you, it destroys our role, and I strongly commend the majority leader for insisting on sustaining our constitutional system with respect to the treatymaking power and the role of the Senate in that regard.

Mr. President, I now ask unanimous consent that all of the articles, excerpts of which I read into the Record, be printed in full at this point in the Record.

I thank the majority leader and I yield the floor.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Baltimore (MD) Sun, May 16, 1988]

SENATE TREATY POWERS

Having cleared away obstacles to the INF treaty in negotiations with the Soviet Union, the Reagan administration now faces even tougher bargaining with the United States Senate. Tougher because this time the obstacles are of its own making, not of its adversary. Tougher, because the last-minute glitches with the Russians pushed back Senate debate a week, leaving only a few days for ratification of the pact eliminating intermediate-range nuclear forces before the Moscow summit.

The administration deserves to lose this face-off with the Senate for two key reasons: First, its attempt to reinterpret the 1972 Anti-Ballistic Missile treaty in order to promote the Strategic Defense Initiative is so obviously contrary to law and custom that it cannot bear close scrutiny. Second, the Senate's need to reassert its constitutional treaty powers so obviously outweighs President Reagan's desire for a pro forma diplomatic ceremony with Soviet General Secretary Mikhail S. Gorbachev that the White House is bound to blink.

Humiliation of the president is hardly a wise gesture before the summit. Therefore, American citizens have a right to expect the executive and legislative branches to work out some face-saving language to cover an administration retreat on the ABM issue. At no point, however, should the Senate withdraw from its insistence that treaty testimony offered by an incumbent administration is binding on future administrations.

If logic prevailed, any administration would want its treaty interpretations to have the force of law on its successors. But the Reagan White House has gotten itself into the crazy position of arguing that its own INF testimony is only transitory and less than authoritative. It also wants the INF treaty to ban forever the very kind of futuristic technologies (lasers and particle beams) that it wants excluded from ABM coverage.

The Senate's seriousness about its treaty powers was a factor in the administration's successful bid to stop the Kremlin from fudging on the INF pact. After the treaty was signed Dec. 6, U.S. negotiators discovered the Russians wanted to bar verification teams from looking into containers holding only stages or parts of intermediate missiles; to limit inspection rights within missile test sites or launching sites, and to restrict the use of cameras and other monitoring equipment. Both the White House and the Senate agreed this was a serious attack on intrusive verification provisions that could set a pattern for more complicated pacts dealing with strategic weapons.

Moscow's readiness to accede to American demands on verification is a sign that Mr. Gorbachev wants an INF treaty as much as Mr. Reagan. So Senate leverage could be strong enough to pry both summit leaders from obtructive positions. It is leverage that should be used wisely and resolutely, but not to excess.

[From the Baltimore (MD) Sun, Apr. 29, 1988]

CAUGHT IN ITS OWN ILLOGIC

The Reagan administration keeps tripping over its own feet in its race to obtain ratification of the treaty banning intermediate-range nuclear forces before the next Reagan-Gorbachev summit. Its latest pratfall has arisen from its admitted failure to negotiate clear provisions on just what kind of land-based missiles would be forbidden by the INF pact. There is no argument that the treaty would eliminate missiles armed with warheads, either nuclear or conventional. But what about futuristic missiles, such as those equipped with lasers or microwave pulse generators? And what about surveillance, radar-jamming and other types of unarmed drones and remotely piloted vehicles?

Sen. Sam Nunn, D-Ga., chairman of the Senate Armed Services Committee, has extracted the astounding confession from the administration that the latter two categories of missiles were not even mentioned in the long negotiations on the INF treaty. His objections have extracted some clarifications from the Russians. But so far enough ambiguities remain to justify Senate demands for more explicit assurances from the Kremlin, even if this complicates preparations for the summit.

It is ironic that the same administration that has been arguing for a "broad" interpretation of the 1972 Anti-Ballistic Missile (ABM) treaty so it could deploy futuristic strategic defense systems is now pushing for an treaty that supposedly would bar futuristic medium-range systems. It is even more ironic that to protect its tortured illogic in the ABM case it holds that its own definitions of the INF treaty are subject to reinterpretation by future administrations. No wonder the Senate feels a need to negotiate a pact with its own government before it agrees to ratification of the Reagan-Gorbachev treaty.

Former President Richard Nixon has categorically rejected the Reagan administration approach. In an exchange with the American Society of Newspaper Editors earlier this month, he said he had never anticipated that a succeeding administration would try to reinterpret testimony offered on the treaty by his own officials. He said Senator Nunn is "absolutely correct" in his constitutional argument that "what a treaty means is what and how it was presented to the Senate." Rather than try to reinterpret the treaty and risk senatorial ire, Mr. Nixon said the Reagan administration should either have gotten the Kremlin to accept its views or should have abrogated the treaty.

Although this newspaper has consistently supported research on strategic defense, we believe the United States is ill-served by the sophistry and contradiction built into the Reagan administration's legal and diplomatic positions. It is better to get these matters straightened out right now so that the credibility of future U.S. administrations is not compromised by the Reagan administration's lack thereof.

[From the Baltimore (MD) Sun, Apr. 18, 1988]

THE WORD OF THE UNITED STATES

Was Reagan administration testimony on the INF treaty banning intermediate-range nuclear forces "authoritative" and binding on future administrations? Curiously enough, Reagan officials find themselves arguing vociferously that it was not—that Senate efforts to give their interpretations permanence amounts to a legislative assault on executive prerogatives.

This is a serious constitutional question despite its Alice in Wonderland qualities. It is the major roadblock to Senate ratification of a pact that on its own merits has wide bipartisan support.

What brought this issue to the fore is a persistent Reagan effort to discard Nixon administration testimony on the 1972 Anti-Ballistic Missile Treaty and to offer a broader interpretation that would permit space-based testing of the Strategic Defense Initiative. Last year Congress turned to its power of the purse to cut off funds for tests that Nixon testimony would bar. But Reagan officials have returned to the fray, even if it means putting the INF treaty and the coming summit at risk.

Leading the opposition to the White House view that treaties mean only what governments of the moment say they mean is Sen. Sam Nunn, D-Ga. His extensive comments have brought two profound matters to the fore—one dealing with credibility, the other dealing with the division of powers between the Senate and the executive.

We believe an administration that negotiates a treaty should offer testimony that the Senate can rely upon in giving its assent to ratification. Otherwise, there is no reason why the Senate, or foreign powers, should rely on the word of the United States government or, indeed, why other governments should not reinterpret pacts willy-nilly. Treaties as such would be rendered unreliable: international law would become more of a jungle.

On the division of powers, the assumption that each administration can reinterpret treaties at will is not only outrageous but unworkable. Thousands of pacts with foreign countries are as much part of the law of the land as domestic statutes. Chaos would be the product of a doctrine that renders legislative history meaningless.

As much as this newspaper would welcome INF treaty ratification and the arms control agreements it might generate, we would urge the Senate to oppose the cavalier White House view on treaty interpretation. The Reagan approach is not conservative; it is radical. It is not principled; it is a tortured exercise to justify strategic defense tests clearly banned by the 1972 ABM treaty.

The Senate Foreign Relations Committee has approved a reservation to the INF treaty that says the United States will interpret the treaty "in accordance with the understanding . . . shared by the executive and the Senate at the time of Senate consent to ratification." This is not a "killer amendment." If the Reagan administration wishes to make it so, it will have to accept responsibility for delaying INF treaty ratification.

[From the New York Times, May 25, 1988]

THE TREATY AND ITS ENEMIES

For a while, it looked as though several willful men could derail the Euromissile treaty and President Reagan's wish to make the treaty a centerpiece of his summit meeting in Moscow next week. Two of them are Jesse Helms and Gordon Humphrey, Republican Senators who have been trying to obstruct ratification with one niggling amendment after another.

Their obstructionism now seems to have been swept away, leaving just one willful man blocking fulfillment of President Reagan's wish: President Reagan.

If only he would now agree to a simple, honorable proposition—that the Administration means what it says to the Senate—the treaty will be his.

This final obstacle arises from the Administration's devotion to Star Wars. Wanting to conduct tests prohibited by the Antiballistic Missile Treaty when it was presented to the Senate under President Nixon, the Reagan Administration hit on a novel idea: reinterpret the treaty. The State Department's legal adviser, Abraham Sofaer, obliged with an opinion saying that what an Administration tells the Senate about a treaty's meaning is not necessarily binding.

This expedient assault on the Senate's treaty responsibilities understandably offended the Foreign Relations Committee. It approved this treaty to eliminate Soviet and U.S. missiles with ranges of 300 to 3,400 miles and attached only one condition: Testimony to the Senate on the treaty's meaning indeed binding.

The need for such explicit reassurance was shown anew in a little-noticed Federal court case decided last week that demonstrated the Administration's determination to revise treaties as it wishes. In this case, it tried to reinterpret an obscure treaty concerning Iceland; Judge Harold Greene told a Justice Department attorney, "You are taking the same position that the State Department is taking on the [Euromissile] treaty, that whatever is said to the Senate doesn't mean any thing." The judge held that reinterpretations may not violate "the solemn representations" made to the Senate.

Unless the Administration is willing to reassure the Senate as to the integrity of its role in treaty making, the ratification Mr. Reagan seeks is unlikely. But once reassurance is given, ratification will follow swiftly and overwhelmingly.

The United States has not ratified an arms control treaty for 16 years. This treaty richly warrants ratification. It requires the Soviet Union to destroy missiles that can carry four times as many nuclear warheads as the missile to be destroyed by the U.S. It is the most thoroughly examined, exhaustive detailed arms control pact in history.

Mr. Reagan can win rousing Senate backing for this sound treaty, and add the final seal of approval in Moscow, just as he hopes. He need only agree that when his Administration tells the Senate what the treaty means, it means what it says.

[From the New York Times, May 17, 1988]

VERIFY, CLARIFY, RATIFY

The Senate rightly held back on ratifying the treaty on medium-range missiles in Europe when Soviet-U.S. verification differences sprang up. Now Secretary of State Shultz is back from Geneva with the differences resolved.

If the Senate now moves promptly, it could ratify the treaty in time for the President's trip to Moscow late this month. If not, the necessary spur of the summit deadline will be lost, risking the loss of the treaty's benefits, specific and on Soviet-U.S. relations in general.

The Senate Foreign Relations Committee six weeks ago approved the treaty, which would eliminate all Soviet and U.S. missiles with ranges between 300 and 3,400 miles. Then prospective inspection teams from the two countries began to discuss how the treaty's many verification provisions would be implemented. Disagreements appeared, then grew, and finally Mr. Shultz and the Soviet Foreign Minister, Eduard Shevardnadze, had to take them up last week in Geneva.

The actual details were minor. They were important because the Russians seemed to be backsliding. Mr. Shultz's report yesterday was thus heartening: The Russians largely assented to what the U.S. held to be the original terms. The treaty will not cover West German-owned missiles. U.S. readings prevailed on the size of containers open to inspection, the right to inspect any buildings within monitoring sites and the unrestricted use of cameras.

Growing stability in U.S.-Soviet relations made this resolution easier. A successfully concluded treaty will contribute to this stability, moving away from unthinking hostility and a wasteful arms race. But if the Senate should now fail to ratify, America will squander a precious chance to cement a bipartisan domestic consensus for arms control.

Besides this benefit to better relations, the treaty will require the Russians to destroy missiles that can carry four times as many nuclear warheads as the missiles the U.S. would destroy. And its verification provisions the most extensive ever, set a valuable precedent.

These benefits have won the treaty solid bipartisan backing in the Senate. Prospects for a smooth ratification are good, but for one issue. Many senators are understandably reluctant to ratify a treaty presented by this Administration because it claims the right to reinterpret treaties unilaterally. The Administration has made that claim in reckless pursuit of its Star Wars dream.

The one condition attached by the Senate Foreign Relations Committee is that testimony to the Senate on the treaty's meaning is binding. To win ratification President Reagan will need to swallow hard and accept this clarification.

Ratification is all the more important because the U.S. and Soviet Union have scaled back what they hope to achieve by the summit meeting in the way of strategic arms reductions. President Reagan needs to take this treaty to Moscow as a small but solid gain for national security, arms control and saner international relations.

[From the New York Times, May 5, 1988]

THE DOCTRINE OR THE TREATY?

The Reagan Administration negotiated an important treaty with the Soviet Union that would eliminate Euromissiles. Now it jeopardizes that accomplishment by insisting on a novel and absurd Presidential doctrine that few senators will or should swallow.

The Administration created the problem by asserting the right to reinterpret treaties unilaterally, and then doing just that with the Antiballistic Missile Treaty to suit President Reagan's Star Wars programs. The Senate Foreign Relations Committee rightly responded by attaching a condition to the new Euromissile treaty: Neither Mr. Reagan nor future Presidents would be permitted to disregard understandings of a treaty's meaning at the time of ratification.

If President Reagan wishes to see his new Euromissile treaty ratified, he will have to accept the committee's assertion of good sense and sound constitutional procedure.

The treaty comes to the Senate floor this week, in plenty of time to debate, approve and send it with President Reagan to Moscow on May 29. Three last-minute glitches have sprung up. none likely to block ratification.

Senate leaders vow to work furiously with the Administration on these three problems before floor debate begins. The Russians have been edging off commitments on on-site inspections; the Administration is confident Moscow will reaffirm earlier understandings. The treaty ignored futuristic technologies; now language is being worked out. There are concerns about U.S. long-range monitoring capability; the Senate and the White House will have to provide for this.

The serious obstacle to ratification, however, is the so-called Sofaer Doctrine. Named for Abraham Sofaer, the State Department's legal adviser, it holds that official testimony on the meaning of a treaty is binding only if it is "generally understood, clearly intended, and relied upon" by the Senate. Since it's hard to know what this mumbo-jumbo means, Presidents would be free to do with treaties as they wish.

The Senate Foreign Relations Committee hopes to solve the problem, simply and sensibly, by making executive branch testimony binding. Yet the Administration has persuaded some loyalist senators to oppose it, a move that could well sink the treaty.

If the Senate does not approve the treaty before the Reagan-Gorbachev summit meeting, it's likely not to happen under President Reagan—and then perhaps never. Presidential campaigns and the first year of a new Administration are not conducive to ratifying arms agreements. The choice of doctrine or treaty rests with the White House.

[From the Washington Post, May 20, 1988]

INF: THE COUNTDOWN

The mischief wrought by the Reagan administration's ardor for its vision of nuclear defense in space continues to dog consumation of its most important diplomatic success, the INF Treaty. To make possible "Star Wars" tests more advanced than the political consensus would support, the administration discovered some previously undetected wiggle room in 1972 ABM Treaty—it became known as the Sofaer Doctrine, after State Department lawyer Abraham Sofaer. Congress found ways to block the Star Wars tests, but the administration's claim of a basis on which the executive can reinterpret a treaty on its own has carried over into Senate consideration of the Intermediate-Range Nuclear Forces Treaty.

A few respected Republicans who support the treaty have signed on in defense of the president's refusal to weaken his grip on the Sofaer Doctrine, and that makes what otherwise might be an open-and-shut case a bit less so. But the Senate Democrats seem to us to have much the better of the argument all the same. They are asking simply that the executive not to be permitted to walk away from the shared interpretation of a treaty reached by the executive and the Senate at the time of ratification: no later unilateral rereadings. They are saying that it cannot be, as the administration holds, that some things the executive tells the Senate during a ratification debate are binding and other things are not.

A kind of political "chicken" is being played here. The treaty itself is assured of approval. Everyone can see how eager the president is to carry it, ratified, to the Moscow summit, which opens in barely a week, and almost everyone agrees it would be a good thing, though not an absolute necessity, for the treaty to be wrapped up by then. There is a general appreciation that the Soviets did their part by answering promptly and constructively the Senate's last-minute queries on verification.

The calculation in the Senate seems to be that a president with his eye on history will swallow the "Biden condition" rather than go to Moscow with no treaty. The calculation in the White House seems to be that the Senate will not want to expose itself to an election-year charge of undercutting the president for what can be depicted as a rather arcane point of institutional privilege. But it's not an arcane point. It's common sense. The Senate is not above being picky and precious, but here it is insisting on a procedure that merely reaffirms good faith. With or without a summit, the Senate's position deserves to be upheld.

[From the New York Times, Feb. 9, 1988]

SOUND WAY OUT OF THE TREATY TRAP

Dumb. Deceitful. Self-defeating. The Reagan Administration set senators to sputtering when it offered up a new doctrine on treaties: Administration testimony during hearings on treaty approval need not be binding on Presidents. That doctrine, intended to protect President Reagan's Star Wars dream, prompted senatorial fury over legal treachery. Now the anger returns to haunt—perhaps even hinder—approval of the Administration's Euro-missile treaty.

Senators eager to clarify and avenge may hold the new treaty hostage until the Administration agrees to clever language to circumvent the legal problem. They would do well to stop before they compound the confusion and jeopardize the treaty. There's a simpler remedy.

The intricate constitutional, institutional and legal tale deserves to be savored and dissected. It began in 1983 when Mr. Reagan announced his goal of creating space-based defense. The Administration was informed that the scheme ran counter to the Antiballistic Missile Treaty of 1972, which restricts testing to fixed land-based sites. At least that's what the Senate was told during ratification hearings by the Nixon Administration.

The Reagan Administration found this interpretation unacceptable and discovered a loophole. A careful study of the full record, it claimed, showed that the Soviet Union and the U.S. never agreed to restrict the testing of exotic technologies. No matter that officials had testified otherwise to the Senate and that Moscow and Washington had abided by the original interpretation.

Many senators protested. The White House, however, stood its shaky ground, creating an impasse. Everyone knew the issue would be tested with the Euromissile treaty.

The hearings on this treaty proceeded smoothly for two weeks. Enter Senators Robert Byrd and Sam Nunn. They did not insist on forcing the Administration to back down on the general legal principle and abandon Star Wars. They wanted a compromise: Let Secretary of State Shultz agree in a letter that in the case of Euromissiles, the Administration's testimony on the meaning of the treaty is consistent with the final terms of the accord and will be considered "authoritative and binding."

Under pressure from conservatives, the Administration decided to say yes to "authoritative" but not to "binding." Binding, it was reckoned, would be too prejudicial to the Star Wars stance.

Thus a standoff, and luckily so for the Senate. The Nunn-Byrd compromise was flawed. It would have given too much away on the legal principle. Administration officials could say they negotiated a deal on Euromissiles without having to back down on the ABM treaty. Nor would a letter from the Secretary of State be legally binding.

Now, enter Senator Joseph Biden with a remedy. He would sidestep negotiations with the Administration. Why weaken the Senate's constitutional and institutional position by bargaining, and hold up the treaty as well? Instead, he would ask the Senate by majority vote to attach to the treaty a statement. It would declare that the Administration's testimony is authoritative and binding and in accord with the understanding of the treaty as shared by the Senate and the executive branch at ratification.

Such an attachment makes sense. It would not wholly clarify the general legal dispute, but by passing it, senators would reaffirm their constitutional responsibilities. It would be binding, yet would not require renegotiation with Moscow. And it would not delay ratification of the sound and popular Euromissile treaty.

[From the Washington Post, Feb. 9, 1988]

HOW TO KILL THE INF TREATY

Think hard, now. What is the most efficient and certain way the Reagan administration might ensure the collapse of its No. 1 foreign policy project, securing Senate approval for ratification of the INF Treaty? This problem may already have been solved. The administration, by prolonging its dispute with Sens. Nunn and Byrd, may be doing everything necessary to derail the treaty and consummate a political, diplomatic and strategic disaster.

The trouble arises from the course President Reagan has chosen on his Strategic Defense Initiative. When he wanted to open the door to ambitious testing of this space-based missile defense system, he found that the Anti-Ballistic Missile Treaty of 1972 barred the way. The lawyers, however, came up with something: the notion that although the way was barred by what the executive branch had told the Senate the treaty meant at the time, the way was actually opened by what the treaty's secret negotiating record revealed.

Right at that point, a flag should have gone up over at the State Department. Somebody should have said: Wait a minute. What about the next time? Suppose the Senate asks how it can believe what we're saying about the next treaty? Instead, State Department legal adviser Abraham Sofaer said . . . Well, what he said is what has Sam Nunn and Robert Byrd insisting that if the administration is not prepared to vouch for its own testimony before the Senate, then the Senate is going to have to examine the (30-volume) negotiating record "exhaustively" and meanwhile put the INF Treaty on hold. Secretary of State George Shultz appeared ready at one point to accommodate to the Senate position but then, it's reported, backed off.

Hardball? Yes. A small point of Senate privilege? No, a large point: the Senate cannot possibly be asked to approve a treaty when the administration reserves a right to say later that it means something other than what the executive branch asserted at the time. A point on which the public (and perhaps other senators) will not support the insisting senators? An administration with the ambitious foreign policy agenda of this one would have to be very careless to make a full-scale test. A point important in order to preserve a broad SDI testing option? If that's so, it's better to suspend the INF debate right now and sort out the cluttered SDI issue before the president goes any farther down the diplomatic path.

[From the Washington Post, Apr. 1, 1988]

FORWARD WITH THE INF TREATY

The Senate Foreign Relations Committee has sent President Reagan's first arms control treaty to the Senate floor by a vote of 17 to 2. It was the expected result, and the right one. In several months of hearings on the INF treaty, which Mr. Reagan and Mr. Gorbachev signed last December, substantive objections were considered and found to be unpersuasive. Not that this treaty eliminating all of the two powers' intermediate-range missiles gained in stature. On the contrary, a consensus deepened that the treaty is a politically pioneering but strategically limited measure whose chief significance is to propel its signers on to larger tasks in reducing conventional, chemical and strategic arms. Still the treaty itself, as a contract standing on its own, has held up.

A cloud nevertheless hangs over the prospect of certain and prompt Senate ratification. It arises from the clash over treaty reinterpretation that a blindered administration carelessly precipitated three years ago when it announced that the ABM Treaty of 1972 meant something other than what successive administrations had said all along. Mr. Reagan intended to clear a legal path for otherwise prohibited tests of his proposed strategic defense system, SDI. But the Senate, looking at SDI but beyond SDI, saw a challenge to its institutional powers. A fight over which branch has the last word on interpreting a treaty is now going to be carried to the floor, and the INF treaty is hostage to it. The lawyers and the constitutional scholars have learned things to say, but the real burden of an expeditious resolution rests with the president, who started this distracting and unnecessary fight in the first place.

Treaty debates seem always to be about something other than the text on the table. This has produced some questionable results in the past, but our impression is that this time around the results are good. The American political system was shocked by the Reagan-Gorbachev treaty and needed an interlude to consider not simply the strategic implications but the whole idea of dealing again with the Kremlin—something that had seemed remote when Ronald Reagan came to power. Coincidentally but usefully, the debate overlaps the American political campaign. The upshot of the whole passage, we think, is that people understand better the promise and the complexities of moving forward, carefully with the Kremlin. It may also be worth noting that denunciations of the prospective INF treaty by most of the Republican candidates in the face of George Bush's strong support of it didn't seem to do them a lot of good.

The **PRESIDING OFFICER.** Who yields time?

Mr. **WILSON** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from California.

Mr. **WILSON.** Mr. President, I yield 5 minutes to the Senator from Indiana.

The **PRESIDING OFFICER.** The Senator from Indiana is recognized for 5 minutes.

Mr. **QUAYLE.** Mr. President, I think what we, unfortunately, have before this Senate today, is in my judgment, a constitutional power play. We have a situation where an administration is slowly fading into history and a Senate that now sees an opportunity to reinterpret the Constitution; reinterpret what the Supreme Court says; reinterpret what international law calls for and to do something that I think is not only totally unnecessary, but will ultimately cause more problems in the future.

This all stems from the ABM debate, no matter whether everybody stands up here and says, "Oh, this isn't related to the ABM debate." Everybody knows it is related to the ABM debate. The Senator from South Carolina is going to get into that later on.

They keep talking about reinterpretation. In the ABM debate, there was not any reinterpretation. It was never discussed, except in passing reference. I think one Senator talked on the floor of the Senate about it.

Reinterpretation? It was never interpreted, but here the Senate today is going to do plenty of reinterpretation on the Byrd amendment, the Biden amendment. We are going to reinterpret our Constitution, what our courts say it means and the principles of international law.

I submit that it is fundamentally wrong for three reasons: One, it is contrary to international law. Second, it is contrary to our Constitution. Third, it will create more problems than it solves.

International law says that to determine a treaty's meaning we consult the treaty first; we look then at the negotiating record and at subsequent practice. This amendment, basically, says, "Don't worry about the negotiating record after ratification. The negotiating record is not that relevant." The negotiating record is relevant. You have to go into the negotiating record to find out, as a matter of fact, that what the people told you happened really happened, and how it happened. Yet, the negotiating record has been very important on a number of things.

This amendment is contrary to the principles of international law. It is contrary to our law. The Constitution gives the President of the United States the power to interpret treaties and to implement treaties. Nowhere does it say in the Constitution that the Senate has the constitutional responsibility to execute or interpret treaties after they are ratified. Interpretation is done by the executive branch. Passing this amendment is reinterpreting this point, it overturns it.

Finally, Mr. President, this amendment is going to create more problems than it solves.

I find it very interesting that this amendment talks about the definition of "commonly understood." What is "commonly understood"? During the hearings, we were told that the definition of a weapon was commonly understood; that everyone commonly understood what the definition of a weapon is. The definition of a weapon was something that was designed to damage or destroy its target. Commonly understood: The Senate was given this definition repeatedly in authoritative testimony.

But the testimony turned out to be a bunch of nonsense. The definition was not commonly understood. As we established on the floor here this morning in debate, the definition was made up by our negotiators alone after the treaty was signed. Yet we were told by authoritative sources that it was commonly understood. The Senate luckily did not accept that. The Armed Services Committee did not accept it, and the other committees did not accept it.

We said we did not believe that was what was commonly understood, and we made our negotiators go back and go through a lot of new negotiations with the diplomatic notes of exchange to get the Soviet Union pinned down on what was "commonly understood" by "weapons delivery vehicle."

But this amendment says: The United States shall interpret this treaty in accordance with the shared understanding of the Senate and executive as reflected by the executive's authoritative testimony on the treaty before the Senate.

Well, we were told what was commonly understood, and we found out it really was not commonly understood. We had dissension in the administration on what was commonly understood. We had dissension in the committees on what was commonly understood, but we were told that. You can see where we would be with this kind of an amendment on this treaty in the future. As I said, luckily, we cleared this one up. What about the problems we didn't clear up or even discuss? Will they be commonly understood? I doubt it.

I say that what is commonly understood is that this is a rehash of the ABM debate. What is commonly understood is that we are simply reinterpreting our Constitution and the principles of international law.

This is a constitutional power grab, and what is of interest is that this amendment, which will only be binding on our officials, not the Soviets, will become binding domestic law by a majority vote of just the Senate. It will not be a majority vote of both Houses as the Constitution requires, but only a majority vote of the Senate.

The only thing I commonly understand about this amendment is that it is contrary to international law, to our Constitution, and it is unnecessary.

Mr. President, I hope it is rejected.

The **PRESIDING OFFICER.** Who yields time?

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The Senator from California.

Mr. **WILSON.** Mr. President, I find myself in the interesting and entertaining position of mediating between Democratic friends and colleagues. I was going to suggest, partly by way of response to my colleague from California, that this is not a purely partisan matter. The unhappiness with this resolution is shared by Democratic Members as well. Apparently, he was under the mistaken belief that it is purely a Republican concern, and it is not.

The majority leader, in his request for unanimous consent, sought and obtained consent that the Senator from South Carolina [Mr. HOLLINGS] should have 20 minutes of his own. I was going to suggest, if there was no objection on the part of the majority, and there is none on the Republican side, to his going forward now. If the Senator from Michigan wishes to go first.

Mr. **BYRD.** I yield 5 minutes to Mr. LEVIN.

The **PRESIDING OFFICER.** The Senator from Michigan is recognized for 5 minutes.

Mr. **LEVIN.** Mr. President, I want to congratulate and commend Senator BYRD and all the others who have participated in working out this Byrd substitute. It represents the Senate at its best, at its bipartisan best, because there will be a strong bipartisan vote for this bipartisan substitute that is offered by Senator BYRD.

The basic issue is whether or not authoritative representation of the executive branch as to the meaning and interpretation of the treaty are going to be binding on the executive branch.

That is the gut issue here. It is the issue which we all have to decide as Members of this institution.

Inside that issue there is another issue. Who has the burden of showing that those representations are wrong? Should that burden be on the Senate to go to that portion of the negotiating record which is given to us—and I emphasize only a portion of the negotiating history is given to us—to sniff out the portions of the negotiating history, thousands of pages sometimes, and prove that the representations of the executive branch to this body as to the meaning of a treaty are wrong?

That is putting the burden in exactly the wrong place. We do not have the documents that make up the negotiating history. We have not created those documents. They are not in our possession. The burden belongs on the party that has created the negotiating history—the executive branch; that has possession of the negotiating history—the executive branch. To say that somehow or other we have the burden of going through whatever pieces of negotiating history are offered us to show that authoritative representations to us are wrong puts an unfair burden on this body, a burden that no court would ever put on a party before it, since it is the other party, the executive branch, which is in possession of that history and which is making the representations.

Why should the burden of proving a representation false be on the party that is hearing the representation, rather than on the party that is making the representation? What kind of shift of burden does that represent? A totally unacceptable shift of burden, may I suggest.

If the opponents of the Byrd substitute are correct, we would have to make all of these representations to us part of the resolution of ratification. In order to make certain that what has been told us is binding on the executive branch, we would have to incorporate every single one of those representations which are relevant and germane and that we care about—and this could be hundreds and perhaps thousands of representations—we would then have to go and make them part of a resolution of ratification in order to make them binding on the executive branch we are told.

That is a cumbersome process, a process which will make the treaty ratification procedure completely unworkable. It will bog down, But that is what would happen. If this amendment is defeated, what we are going to have to do is make all of those representations part of the resolution of ratification.

Now, let us say we followed that process. Let us assume we accepted that challenge, we took on ourselves the burden of showing that representations were false, we took on ourselves the burden of making all those representations part of the Resolution of Ratification. Let us say we did accept that challenge. What then? We still have two treaties. My friend from Pennsylvania says his approach avoids two treaties. No, it does not. No, it does not. Because if we make those representations that have been made to us explicitly a part of the Resolution of Ratification, I think my friend from Pennsylvania would concede that they are then binding on the executive branch.

Mr. Culvahouse concedes that. And then if they are binding on the executive branch because they have been explicitly made part of the Resolution of Ratification, they are now explicit and no longer just implicit. We then have two treaties just the way we have two treaties under the analysis of the Senator from Pennsylvania.

Let me tell you why it works that way. And I am now quoting from the Culvahouse letter. Culvahouse says in his letter of March 17,

> As a matter of domestic law, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification.

And this is the key line.

> This is true,

Culvahouse says,

> even if the treaty negotiating record and subsequent practice indicate an interpretation contrary to that shared understanding.

I would ask my friend, the majority leader, if I could have 2 more minutes.

Mr. BYRD. Mr. President, I yield 2 additional minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 2 more minutes.

Mr. LEVIN. Unless my friend from Pennsylvania rejects the Culvahouse approach—and I assume he does not and accepts it—he is saying make it explicit, show you relied upon it, prove you intended it, and then he says it is OK to have two treaties.

Now, what kind of principle is that? You wrap yourself in a principle that you do not want to have two treaties, one between us and the Executive and one between the Executive and the other country, but then you say,

> Oh, but it is OK to violate that providing you make it explicit in the Resolution of Ratification.

Just make it explicit, we are told by Mr. Culvahouse.

So what I am suggesting, Mr. President, is that the approach of the Senator from Pennsylvania does not indeed avoid the two-treaty problem at all. He has wrapped himself in a principle and then violated it unless he rejects the Culvahouse approach.

Now, I reject the Culvahouse approach because it is not logical and it is burdensome to say that we have to make those representations which have been made to us explicit. I think we have a right to rely on the representations of the executive branch. If we are smart, we will check the negotiating record in many instances where there is some indication that those representations may be shaky or there may be other reasons for checking the negotiating record.

So my friend was precisely wrong when he asked the Senator from California whether or not it makes any sense to support an amendment which says that the negotiating record is not material. This amendment does not say the negotiating record is not material. Not at all. The negotiating record remains material to our deliberations. It is material in these deliberations.

So the conclusion is this. Opponents would give us a burden which does not belong to us but belongs to the party that is making the representations, the same party that has in its possession the entire negotiating history. It would create a cumbersome process because we would be required to put all of those representations to us explicitly into the resolution of ratification, and it would do so to achieve no principle, because if we accepted that challenge and incorporated all of those representations in the resolution of ratification, we then would still have two treaties, one binding on the executive branch and the Senate and one between the executive branch and the Soviet Union.

I hope we will adopt this amendment. The Byrd substitute carries out the most important institutional, not only prerogatives but obligations of the Senate in the treatymaking process. Without this amendment and the principles it embodies, the Senate's function will have been severely diminished because we will never know what the real treaty is, the real treaty being something out there that was negotiated between the executive branch and the other country. We could then not rely on the representations that have been made to this body by the executive branch. So I hope there is an overwhelming bipartisan vote for this amendment.

Mr. President, I ask unanimous consent that a portion of Judge Greene's opinion also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(Civil Action No. 88-0992)

EXCERPT—JUDGE HAROLD H. GREENE

OPINION

I

This is the third time that these parties have been before the Court with respect to similar controversies.[*]

In October 1985, at the request of Rainbow Navigation, Inc. (Rainbow), the Court issued an injunction against the Department of the Navy, restraining Navy plans to deprive Rainbow of the preference granted to it by the Cargo * * *.

Similarly, the treaty goes on to state in Article IV that the "provisions of this Treaty and any implementing arrangements concluded pursuant to Article I shall apply notwithstanding any prior inconsistent law or regulation of the United States of America. . . ." Thus, the treaty mandates in terms that, for domestic law purposes, it displaces existing American law.

Perhaps even more significant than the treaty language are the representations made by Executive Branch officials to the United States Senate in connection with the ratification proceedings. These statements, discussed below, clearly support the interpretation that rights would vest without further legislation, for the officials represented to the Senate that if ratified, the treaty would protect the existing U.S./flag presence on the United States-Iceland route.[17]

Thus, at the hearings on ratification of the treaty, the Honorable Edward J. Derwinski, Counselor of the Department of State, with Rear Admiral Walter T. Piotti, Jr., Commander of the Military Sealift Command, at his side, assured the Senate that he agreed with the statement by American maritime organizations of which the following paragraph is a part:

The ABM Treaty Interpretation Resolution, Report of the Committee on Foreign Relations, United States Senate, S. Rep. No. 164, 100th Cong., 1st Sess. 49 (1987). *See also* Restatement (Second) Foreign Relations Law of the United States (Revised), Tentative Draft No. 6 (1985), § 314, comment d and § 314(2):

The Administration must further assure that the Treaty, if ratified, will be implemented in such a fashion that the existing United States-flag service in the Iceland trade will not be disadvantaged. In other words, the United States-flag presence and the maritime employment will be maintained just as if the 1940 Act were fully in effect in the Iceland trade.[18]

Similarly, on the question as to how the treaty would affect Rainbow, the only U.S.-flag carrier on that route, Senator Mathias asked and Mr. Derwinski replied:

Senator MATHIAS. What about the current American flag carrier? Are there any plans in effect to save harmless the *current cargo carrier* that is now carrying supplies to the [U.S.] military base in Iceland?

DERWINSKI. My understanding is that the current carrier has been involved in a number of discussions with appropriate authorities, and despite the fact that we could not provide, obviously, within the treaty for specific protection for an entity, we did have in mind at all times the need to *protect the interests of the current carrier* (emphasis added).[19]

Relying in part upon these representations, the Senate Foreign Relations Committee recommended that the Senate ratify the treaty. In fact, the Committee stated in its report to the full Senate that advice and consent were being conditioned upon three assurances given by the Departments of State and Defense, one of them being that "the treaty will be implemented in such a way that the existing United States-flag service in the Iceland trade would not be disadvantaged as a result of the Treaty. The Committee received these assurances at its hearing and recommends advice and consent on that basis only." [20]

Two days after the Committee Report was issued, and on the day the Treaty was ratified, Senator Pell repeated this condition of ratification on the Senate floor.[21]

This history clearly shows that the Senate was concerned about protecting the interests of the current American carrier; [22] that to give meaning to that concern, it intended the treaty to provide that protection without further requirements; and that the Executive Branch agreed.

By even raising the standing issue, the Navy is adding to its pattern of false representations discussed in Part I, *supra*. Having assured the Senate that the treaty would not disadvantage the "existing United States flag service . . . [and that] United States presence and the maritime employment will be maintained" as under the Cargo Preference Act, the Navy is now arguing through its counsel that this assurance is meaningless unless new implementing legislation is first enacted. No mention appears to have ever been made to the Senate or its committee regarding implementing legislation or the need therefor, and the Administration has never proposed such legislation.

The Court concludes that the Iceland treaty is self-executing and that Rainbow and the Union have standing to bring this action.

As to the other threshold defenses advanced by the Navy, they either fall away upon the determination that the treaty is self-executing or they are otherwise unfounded. The Navy protests that the Court lacks subject matter jurisdiction over Rainbow's claims, but according to 28 U.S.C. § 1331, "[t]he district courts shall have original jurisdiction of all civil actions arising under . . . treaties of the United States." *See also* U.S. Const. Art. VI Cl. 2. And it is of course well established that the review provision of the Administrative Procedure Act, 5 U.S.C. § 502, waives sovereign immunity for injunction actions.[23]

IV

The Court now turns to the merits of Rainbow's complaint and its request for a preliminary injunction.[24] Rainbow alleges that the 1988 Navy procurement for the United States-Iceland route is contrary to the language and the purposes of the memorandum of understanding. The Navy's answer is that two competitions between American and Icelandic shippers are permitted by the treaty and MOU—one competition for 65% of the cargo, and a second competition for 35% of the cargo. In the opinion of the Court, that construction of the treaty and the MOU is untenable.

The language of the MOU [25] is straightforward and unmistakable: [26]

. . . *Each competition* shall result in contract awards to both an Icelandic shipping company and a United States flag carrier such that not to exceed *65 percent* of the cargo shall be carried *by the lowest bidder* and *the remainder* shall be carried *by the next lowest bidder of the other country* . . . (emphasis added).

Thus, according to the MOU, for any given shipment period, there is to be a single competition dealing with 100% of the cargo. At each such competition, the Navy awards up to 65% of the cargo to the lowest bidder—a shipper from either country—and the remainder, 35% of the cargo or more [27] to the next lowest bidder—a shipper from the other country.

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[*] The parties are the Department of the Navy and some of its officials, Rainbow Navigation, Inc., the International Organization of Masters, Mates & Pilots (the Union), and Iceland Steamship Co., Ltd. (Eimskip). Eimskip is before the Court for the first time in the current phase of the litigation.

[17] The Department of Justice disavowed in court the representations made by the Navy and the Department of State to the Senate during treaty ratification proceedings as merely "precatory" and "non-binding." Hearing on Rainbow's motion for a temporary restraining order, April 15, 1988. This position is disturbing since it undercuts the foundation upon which Senate ratification was based, at least in part. As Professor Henkin recently testified:

The President can only make a treaty that means what the Senate understood the treaty to mean when the Senate gave its consent . . . The Senate's understanding of the treaty to which it consent is binding on the President. He can make the treaty only as so understood. He cannot make the treaty and insist that it means something else . . . the Constitution clearly implies [ ] that it is what the Senate understands the treaty to mean—that is what the treaty means for purposes of its consent.

[18] *United States-Icelandic Treaty on the Carriage of Military Cargo: Hearings on the Treaty Before the Comm. on Foreign Relations*, 99th Cong., 2nd Sess. p. 9 (1986).

[19] Id. at 11.

[20] S. Rep. No. 27, supra, note 5.

[21] 132 Cong. Rec. S15661 (daily ed. October 8, 1986).

[22] As this discussion illustrates, Rainbow has standing since it could hardly be more directly within the "zone of interests" protected by the treaty.

[23] See *Warin* v. *Director, Department of Treasury*, 672 F.2d 590, 591-92 (6th Cir. 1982); *Neal* v. *Secretary of Navy*, 639 F.2d 1029, 1036-37 (3d Cir. 1981); *Jaffee* v. *U.S.*, 592 F.2d 712, 717-719 (3d Cir. 1979); *Beller* v. *Middendorf*, 632 F.2d 788, 796-97, 799 (9th Cir. 1980).

[24] To prevail on a motion for a preliminary injunction, Rainbow must show (1) that it has a substantial likelihood of prevailing on the merits; (2) that it will be irreparably harmed if an injunction is not granted; (3) that the interests of all affected parties are properly balanced by the said relief; and (4) that the public interest is clearly served by the issuance of an injunction. See *Washington Metropolitan Area Transit Commission* v. *Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977); *Virginia Petroleum Jobbers Association* v. *Federal Power Commission*, 259 F.2d 291 (D.C. Cir. 1958).

[25] An MOU is an international executive agreement which must be interpreted according to the principles applicable to treaties. *Air Canada* v. *U.S. Department of Transportation*, No. 87-1300, slip op. at 6 (D.C. Cir. Apr. 15, 1988). The general rule in interpreting treaties is:

The clear import of treaty language controls unless "applicable of the words of the treaty according to their obvious meaning effects a result inconsistent with the intent or expectations of its signatories.

Sumitomo Shoji American, Inc. v. *Avagliano*, 457 U.S. 176, 180 (1982) *quoting Maximov* v. *United States*, 373 U.S. 49, 54 (1963).

[26] "An international agreement is to be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of its objects and purpose." Restatement of the Law (Second) Foreign Relations Law of the United States (Revised), Tentative Draft No. 6 (1985), § 325(1). This same rule of interpretation is prescribed by the Vienna Convention of the Law of Treaties Article 31(1). S. Exec. L. 92d Cong., 1st Sess. (1971), 8 I.L.M. 679. As the State Department has noted, "the Convention is already recognized as the authoritative guide to current treaty law and practice." Id.

However, under the Navy's construction of the MOU, and under the awards procedure it contemplates, the "next lowest bidder" will never receive any portion of the contract. That result is achieved by having two competitions rather than one: once the lowest bidder from one country wins the contract for 65% of the cargo, instead of the remainder going to the next lowest bidder, a second competition is held for that remainder at which, again, the lowest bidder prevails. With respect to neither competition will the "next lowest bidder" even be considered; it would have to be the lowest bidder in the second competition to receive any portion of the contract.[28] The language in the MOU referring to the "next lowest bidder" is simply disregarded and given no effect.

The language of the MOU—which the Court finds to be unambiguous in its support of Rainbow's position—is further buttressed by the construction placed thereon by the Secretary of Defense himself. Secretary Carlucci wrote as follows on March 25, 1988 to Senator Lugar of Indiana, a member of the Committee on Foreign Relations: [29]

The treaty and implementing memorandum of understanding foster competition between U.S. and Icelandic flag carriers for 100 percent of the cargo transported by sea between Iceland and the United States for purposes of the 1951 Defense Agreement between the two countries. The overall low bidder is awarded 65 percent of the cargo and the low bidder of the other country is awarded the remaining 35 percent. This is how the existing contracts were awarded.

Thus, the Secretary concluded that the MOU requires a single competition in which the contestants bid for 100% of the cargo, and that the "overall low bidder" wins a contract to carry 65% of the cargo, while the "remaining 35 percent" goes to the low bidder from the other country—precisely as Rainbow asserts. Any still remaining doubt is allayed by the Secretary's reference to a continuation of the method by which the existing contracts were awarded. Those (1987) contracts were, of course, awarded precisely on the basis of the interpretation of the MOU urged upon the Court by Rainbow.

V

Rainbow and its seamen have an extremely strong likelihood of success on the merits. These parties also stand to be irreparably harmed if the procurement is not enjoined. As concerns Rainbow, its business would in all likelihood have to be shut down; as regards the Union, its members employed by Rainbow will lose their jobs. Indeed, the Court is persuaded, on the basis of the evidence before it, that Rainbow cannot secure alternate shipping business and that, in view of the depressed nature of the American merchant marine, its seamen are unlikely to find new employment.

By issuing a preliminary injunction, the Court preserves the status quo between the parties.[30] And, in view of the existence of present arrangements, there will be no interruption of the delivery of the cargo and thus no injury to the public interest or to the defendants.

VI

As indicated, the recent events connected with implementation of the treaty represent the third time that the Navy has attempted to eliminate Rainbow, a small American-flag shipper, from the Icelandic trade. In 1985, the Navy announced and assured the Court that Rainbow had to be disqualified from a cargo preference because its rates were excessive. Upon examination, it was found that this was untrue and that the real reason for the attempted disqualification was the Department of State's plan to permit Icelandic shippers to regain their monopoly with respect to that trade. In 1986, the Navy assured the Court that Rainbow's services could be dispensed with because military aircraft which were flying by way of Iceland anyway could perform Rainbow's role. Upon inquiry, it became apparent that, contrary to the Navy's assurances and contrary to binding regulations, military aircraft were capable of taking on that role only if they were diverted from their normal duties.

Now the Navy is attempting to eliminate Rainbow once again, this time under the treaty with Iceland. The present effort is as disingenuous as the other two. The construction of the memorandum of understanding adopted by the Navy is contrary to the ordinary meaning of the language contained in that document. It is contrary also to the assurances given by Mr. Derwinski and Rear Admiral Piotti, Jr., to the Senate Committee on Foreign Relations when the treaty was before the committee for ratification. And it is contrary, finally, to an interpretation of the treaty announced just two months ago by Secretary of Defense Carlucci himself.

The Court understands that Iceland is a staunch ally of the United States, and it sympathizes with the efforts of our government to satisfy the demands of that nation. But this may not be done at the expense of one of the few remaining American-flag vessels of our merchant marine and the few remaining American seamen who have found employment there. More particularly, this may not be done in violation of American law, of the language and purpose of a treaty, and of the solemn representations made to the United States Senate in connection with the ratification of that treaty.

The Court has accordingly, once again, enjoined the Navy's attempt to put Rainbow out of business.

May 17, 1988.

HAROLD H. GREENE,
U.S. District Judge.

The **PRESIDING OFFICER.** Who yields time?

Mr. **WILSON** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from California.

Mr. **WILSON.** Mr. President, once again, before the Senator from South Carolina takes to his feet, I wonder if he would object to the Senator from Texas taking 3 minutes.

Mr. **HOLLINGS.** Go right ahead.

Mr. **WILSON.** Mr. President, I yield 3 minutes to the Senator from Texas.

The **PRESIDING OFFICER.** The Senator from Texas.

Mr. **GRAMM.** Mr. President, maybe I can give a little of that time back. I know people get confused during all this debate with all these fancy terms, but I just want to convert it into English. The real debate is this. You can put it in an analogy. A fellow goes out and he goes down to the Back Street Motors and he buys a used car, and he has a contract and he comes back and he wants his wife to be happy with the car and the contract so he tells her what is in the contract. And if he is lucky, she smiles and kisses him and says that was a really good deal. Now, incidentally, there is a dispute about this contract and they go into court and the fellow who bought the car says, "You ought to look at the contract and you ought to look at what I told my wife. That is what I ought to be bound with, what I told Sara."

Now, the fellow who sold the car says, "Now, wait a minute; I never even met Sara. I want you to look at the contract we signed, and I want you to look at what we each said when we signed it."

If you believe what this fellow told his wife, that was the contract in buying this used car which ought to be binding, then you want to vote for this amendment. On the other hand, if you think you have a more accurate picture by looking at what the fellow said when he was talking to the used car dealer then you are going from what he said to his wife, you want to vote no on this amendment. That is about as clear as it can be clear.

Mr. **SARBANES.** Mr. President, will the Senator yield for a question on my time?

Mr. **GRAMM.** I would be happy to yield for a question.

Mr. **SARBANES.** Does that fellow who bought the car need the consent of his wife in the example the Senator is postulating does he have to have his wife's consent to buy the car?

Mr. **GRAMM.** It was a joint bank account in my example. I did not make that clear. Yes. He did. I think the fact that he has to have his wife's consent tells one why one needs to especially go back and look at what he said with the used car dealer, because he has to have her consent to sign the check. He is likely to make it look like as good a deal as he possibly can make it look.

So the Senator simply made my point.

I yield back the balance of my time.

The **PRESIDING OFFICER.** Who yields time?

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[27] More than 35% of the cargo will be so awarded if the lowest bidder takes less than 65%.

[28] Rainbow claims that, for a variety of reasons, it will not be able to compete effectively under the Navy's two competition system, and the Court is persuaded on the basis of the evidence available at this juncture, that this representation is correct.

[29] Secretary Carlucci's letter was attached to the Union's motion for preliminary injunction.

[30] Rainbow will continue to carry its share of the cargo under the 1987 procurement, and so will Eimskip, the Icelandic carrier. The Court takes no position on the issue of how Eimskip should be paid for transporting its 65% of the cargo during the period of this injunction. That is a matter for resolution between the Navy and Eimskip.

Mr. WILSON and Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. If there are no objections, I think it would be appropriate, if the majority leader agrees, that the Senator from South Carolina take his 20 minutes with the understanding under the majority leader's unanimous-consent request that that be charged to neither side.

The PRESIDING OFFICER. The Senator from South Carolina is recognized on his own time for 20 minutes.

Mr. HOLLINGS. Mr. President, let me thank our distinguished majority leader for protecting our rights and providing me this opportunity. He has been very considerate, as always, and he has been very sincere in trying to bring order out of this chaotic nonsense that we have worked ourselves into. I use that word "nonsense" advisedly.

My friend and desk mate, Senator BIDEN, is not here. He and I have had discussions, and I know he was very well intentioned in presenting this amendment. It is unfortunate that he cannot be here. The Senator from West Virginia, in his opening comments, observed that the whole idea with this amendment is to strengthen the role of the U.S. Senate in the interpretation of treaties, and the need for that strengthening arose as a result of the ABM dispute.

I want to make the record absolutely clear by pointing out, in a tactful and dignified fashion, that this particular dispute has been conceived and framed in error. I and several others here today were Members of that U.S. Senate that advised and consented on the ABM Treaty in 1972. Previous to ratification of that treaty, I had the opportunity, with then-majority leader Mike Mansfield, to visit in what we called the "tent" in Helsinki where our distinguished President met with those who negotiated the ABM Treaty. Senator NUNN, the Senator from Georgia, has framed this "reinterpretation" dispute, asserting that President Reagan tried to reinterpret the ABM Treaty. I was taken aback by Senator NUNN's presentation. I knew differently. I did not have time in the spring of 1987 to immediately respond to him. But, later in the year, I did have the opportunity to rebut Senator NUNN here on the floor of the Senate, in a lengthy Washington Post op-ed column, and before the Foreign Relations Committee.

I want to reiterate, today, that the ABM Treaty is best understood through the testimony of those who negotiated it. And those negotiators speak very unambiguously and authoritatively.

My time is limited, but I would like to cite several statements by the ABM Treaty principals. Gerard C. Smith, who was our chief ABM Treaty negotiator, testifying a response to a question on future ABM systems, practically, restated Agreed Statement D when he said:

> One of the agreed understandings says that if ABM technology is created based on different physical principles. . . . work is (sic) that direction, development work, research, is not prohibited, but deployment of systems using those new principles . . . would not be permitted unless both parties agree by amending the treaty.

In later testimony before the House, he stated that:

> If such systems are developed, and one or the other side wants to deploy them under the limitation of this Treaty, there would have to first be a discussion of the question in the Standing Consultative Commission we are proposing to establish under the Treaty, and then the Treaty would have to be amended before such novel ABM system would be deployed.

When Senator Barry Goldwater asked Negotiator Smith:

> Under this agreement are we and the Soviets precluded from the development of the laser as an ABM?, Mr. Smith: "No, sir."

On June 19th, appearing with Secretary of State Rogers before the Senate Foreign Relations Committee, Ambassador Smith, Director of ACDA, responded to the question by Senator Aiken as follows:

> Mr. Smith: Senator Aiken. I think it is an entirely different problem with respect to the one of lasers to help guide offensive missiles and from their use to guide defensive missiles, but we have covered this concern of yours in this treaty by prohibiting the deployment of future type technology. Unless the treaty is amended, both sides can only deploy launchers and interceptors and radars. There are no inhibitions on modernizing this type of technology except that it cannot be deployed in mobile land-based or space-based or sea-based configurations. But the laser concern was considered and both sides have agreed that they will not deploy future type ABM technology unless the treaty is amended.

In his book, "Double Talk," Gerard Smith stated that the ABM Treaty:

> Should keep future generations of ABMs that American and Soviet weaponeers may conceive of in the infancy of research and development." (page 455).

I also met Lt. Gen. Royal Allison in that "tent" in Helsinki. Regarding future AMB systems, General Allison stated on June 21, 1972, and I quote:

> (a) Constraints in the Treaty apply to deployment only. Research and development are not constrained.
>
> (b) The U.S. Delegation, under instructions, sought a clear-cut ban on deployment of future ABM systems but the Soviets would not agree. Hence the finally agreed and initialled interpretative statement: [quoting Agreed Statement D].
>
> (c) Article III spells out the ABM defenses which can be deployed—one site for NC and one site for ICBM defense—utilizing components described in Article III (ABM interceptor missiles, ABM launchers and ABM radars). . . .
>
> The upshot is that to be accurate we must avoid the connotation of an absolute "ban" in discussing future ABM systems. We should say that there is an obligation not to deploy such systems without taking certain specified and agreed steps; i.e., in the event such systems are created in the future, specific limitations on them would be subject to discussion and agreement.

In September, 1977, then-Secretary of Defense Harold Brown, a negotiator, purportedly stated in the course of the 5-year periodic review of the treaty that the Soviet Union did not believe the treaty precluded the development and testing of future ABM systems, and that the Chairman of the Joint Chiefs of Staff also believed the treaty placed no limitations on development and testing of ABM systems based on other physical principles.

Former negotiator Paul Nitze analyzed the treaty and in testimony before the Senate Appropriations Committee on March 19, 1987 stated: "In sum, my recollection of the negotiating process leaves me convinced that the Soviets agreed in a binding manner to prohibit only the deployment, not the creation, that is, the development and testing, of systems based on other physical principles and their components capable of substituting for conventional components as defined in Article II, regardless of basing mode."

Henry Kissinger, former Secretary of State and National Security Adviser at the time the treaty was negotiated, has also affirmed, "I personally believe the broad interpretation of the Anti-Ballistic Missile Treaty to be more nearly correct than the narrow interpretation.

Gen. Bruce L. Palmer, Jr., is often misinterpreted or misquoted by those favoring the narrow interpretation. Let me set the record straight. General Palmer in testimony before the Senate Armed Services Committee on July 19, 1972, stated, "My understanding is in the defensive area, R&D on such systems is basically prohibited." Realizing he had made a mistake, he later stated, "I would like to correct my statement. I was referring to the deployment of such systems. There is no limit on R&D in the futuristic systems, but would require an amendment of the treaty or further agreement to deploy such a system"

Incidentally, Mr. President, I have not found a Senator yet from 1972 to say he was mislead. Find me one and I will jump off the Capitol dome. But I want to emphasize this point. Not a single Senator who participated in the 1972 debate has come before us and said, "Oh, heavens, I was mislead. Now they are claiming a different treaty than the one I voted for."

Mr. President, I continue by citing Adm. Thomas Moorer. The theme of the "broad" interpretation is embodied in both the fiscal years 1974 and 1975 "Posture Statements" by then-Chairman of the Joint Chiefs of

Staff, Adm. Thomas Moorer. The parameters established by our own military after ratification of the ABM Treaty were consistent with the broad interpretation espoused by President Reagan. In his "Military Posture for Fiscal Year 1974," the JCS Chairman wrote:

> As a hedge against the emergence of new threats which could gravely jeopardize our national safety, we plan to continue . . . new technological approaches to even more advanced ABM systems. The strategic situation is still fraught with many uncertainties. It is only prudent, therefore, that we continue our efforts to advance our ABM technology to the full extent permitted by the Treaty. This is the kind of action the Joint Chiefs of Staff had in mind with regard to the third of the "three assurances" I presented to this Committee last summer in connection with the Hearings on the SAL Agreements; namely, full support of a "vigorous research and development program."

In the fiscal year 1975, "Posture Statement," the chairman repeated the general thrust of the 1974 statement, but added:

> . . . and retain the option to deploy a more advanced ABM system for the defense of the National Command Authority or to deploy a more extensive system should the ABM Treaty be abrogated for any reason.

The letter of transmittal accompanying the treaty from Secretary of State Rogers stated unequivocally that:

> Development, testing, and development of ABM systems or ABM components that are sea-based, air-based, space-based or mobile land-based are prohibited; deployment (and not research and testing) of ABM systems involving new types of basic components to perform the current functions of ABM launchers, interceptors, or radars is prohibited * * *.

Senator Fulbright stated, "the treaty permits modernization and replacement within the present technology but does not permit the deployment of a system or component capable of substituting for ABM interceptor missiles, launchers, or radars.

Senator Fong stated on page 29707 of the RECORD: The principal provisions of the ABM Treaty may be summarized as follows:

> * * * Fourth, Allows research and development on ABM systems to continue, but not the deployment of exotic or so-called future systems.

The 6-hour debate on the ABM Treaty's resolution of ratification in August 1972 hardly refers to the issue at hand. Rather, the debate was on the pending SALT I Treaty ratification and the pending Jackson amendment to that treaty. There was no question that the Senate, in the ratification of SALT I and the Jackson amendment within the same month of 1972, had clearly in mind research and development. For the Jackson amendment provided: ". . . the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance of a vigorous research and development and modernization program leading to a prudent strategic posture."

Any question about the right of the United States to research, test and develop and the Congressional intent in the ratification of the ABM Treaty becomes categorically clear by the same Congress providing in its appropriation for research, testing and development of futuristic systems as follows:

Fiscal year 1973

	Million
Army, Laser Technology Program	$11.9
Navy, high energy laser	18.2
Air Force, strategic laser technology.	1.3
DARPA, Short-wave laser technology	20.0
Total fiscal year 1973 appropriation	51.4

Fiscal year 1974

	Million
Army, laser technology	$11.7
Navy, high energy laser	19.5
Air Force, strategic laser technology.	3.0
DARPA, short-wave laser technology	17.0
Total fiscal year 1974 appropriation	51.2

Garthoff claims that the Soviets agreed to ban deployment of futuristic ABM technologies on September 15, 1971. Yet a cursory review of the negotiating record reveals at least 22 instances between late September and February 1 where negotiators focused on the Soviets's steadfast rejection of United States proposals to outlaw futuristic ABM systems.

The impasse on this issue was resolved December 20 when Garthoff and his Soviet counterpart agreed to defer the issue of futuristic systems to a separate addendum to the treaty. That addendum, Agreed Statement D, communicates very clearly that future ABM systems based on other physical principles are permitted. As Soviet negotiator V.P. Karpov wrote in the May 29, 1987 Izvestia on the occasion of the treaty's 15th anniversary,

> It would [have been] premature to make new systems subject to the same limitations as existing ones. At the same time, we believed it necessary to supplement the treaty with a provision introducing additional limitations on the DEPLOYMENT of ABM systems or their components which would be created on the basis of new technologies. Agreed Statement D introduced them.

Article II, paragraph 1 of the ABM Treaty states that, "For the purposes of this treaty an ABM system is a system . . . currently consisting of . . ." Paragraph 2 further specifies that the five types of systems covered by this definition are those that are "(a) operational, (b) under construction, (c) underground testing, (d) undergoing overhaul, repair or conversion, and (e) mothballed." All of these are manifestly "current" in nature. Nowhere in article II is there mention of "future" systems. Everywhere in the negotiating record and in statements by the negotiators, future systems were to be dealt with elsewhere than in article II; and thus Agreed Statement D was included to govern future systems. The restrictions in article V, paragraph 1, apply only to the development, testing, and deployment of ABM systems described in article II as "current".

Common sense says that the phrase "currently consisting of" in paragraph 1 is a limiting phrase designed to exclude systems invented in the future. Yet Garthoff insists the opposite: that "current" encompasses "future." In a leap of faith and language, Garthoff asserts that "currently consisting of" was written into the text in order not to exclude future systems. If, as Garthoff claims, the research, testing, and development of "future" as well as "current" systems are governed by the main body of the treaty, then Agreed Statement D—whose sole thrust is to spell out the treatment of "future" systems—would be superfluous.

In brief, the Soviet stance against banning futuristic systems prevailed. Under Agreed Statement D, "creation"—research and testing—of futuristic ABM systems is permitted.

Mr. President, we, as Senators, can dance around the fire all we want, but we are not going to change the elementary principles of contract law.

I understand that we ought to be able to depend on the executive branch when it makes its representations, and I think we can. Likewise, I think they can depend on the Senate, and we should not get bogged down in this intramural dispute over what constitutes a "common understanding" and what does this mean. We have, here, a bunch of nonlawyers trying to make contract law that is not binding whatsoever in the treaty; and, incidentially, it cannot bind the executive branch.

Under the Constitution, we bind the executive branch by three readings in the House and three readings in the Senate and law signed by the President, or an overriden veto. There is no constitutional provision for treaties between the President and the U.S. Senate. There is only a constitutional provision for the Senate to advise and consent with respect to ratification.

Read the Foreign Relations Committee report. The parties who have been engaged in this exercise are trying to get away from the negotiating record because they are distracted and distorted by the so-called Sofaer doctrine and his comments about treaty interpretations being transitory. I am not here either to defend or criticize Sofaer or anyone else. The fact is that he indulged in an unfortunate exercise at that time, and we have been distracted ever since.

Any contract lawyer will say: "Senator, I will take you into court. You are bound by the words and language of that treaty."

If there is an ambiguity, we then go first to the negotiating record. Otherwise, there is the parole evidence rule. You cannot say what you "thought" the contract meant. The judge will not allow such testimony.

Mr. President, we can pass this amendment, and, likewise, the President can ignore it. Presidents have ignored our unconstitutional actions in the past. We had three readings in the House and three readings in the Senate and overrode his veto of the war powers resolution, and it has been ignored by the executive branch ever since.

So let us not get exercised about words, and let us not indulge in allegations that there was a reinterpretation of the ABM Treaty. I am willing to debate this matter at any time, anywhere.

I have talked to the best of lawyers and the best of minds, and they all agree that R&D on strategic defense is permitted. Nonetheless, we have been derailed politically by pressure from the other body not to get into certain advanced technologies. We cannot even get conventional cruise missles through this Congress. We cannot get an ASAT system; we cannot test.

We are not doing our duties around here, and it disturbs me, but let us not ignore the Constitution this afternoon, in a misguided effort to reaffirm our constitutional authority. We do protest too much. No Senate condition or action is going to embellish or enhance, and no Senate action is going to take away from that constitutional authority which is undisputably ours.

We are trying to give legal aura and precedent to political shenanigans. There is a meeting of the minds between the two parties to the treaty, and now we are coming in with a separate treaty, a meeting of the minds between the President and the Senate, and that approach is not going to fly. That is what the root issue is here. Opponents of SDI are attempting to seize the high ground on the treaty itself, because it is easier to argue that they are constitutional and law-abiding than it is to argue against R&D on a particular advanced technology.

I am for defense, but I am prohibited from defending this Nation. That is what is involved in this particualr exercise. We all know it, and it is unfortunate that we got into this situation.

I am glad to present what Mr. Garthoff said, because he said that there was a meeting of the Soviet and American minds on September 15, 1971. It was all agreed to. But I then went back to the record, and I picked out 22 instances thereafter where it is clear that there was no such agreement.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was orderd to be printed in the RECORD, as follows:

SOVIET REJECTIONS OF LIMITATIONS ON FUTURISTIC ABM SYSTEMS SUBSEQUENT TO SEPT. 15, 1971

1. September 17, 1971. Smith: * * * had the feeling that the Soviet position on Article 2 reflected a desire that nothing be done to prejudice the Soviet position on the issue treated in paragraph 1 of Article 6.

Semenov: * * * bearing in mind that inclusion of uncertainties in an agreement would surely lead to all sorts of misunderstandings in the future. * * * with reference to the U.S. position on Article VI * * * he would not care to say any more. * * * this problem would be kept in his field of vision. * * * for the next Vienna phase.

2. September 20, 1971. Garthoff: stated there would remain seven points of difference including a provision to cover future "unconventional" ABM systems. * * *

3. November 30, 1971. Shchukin: * * * the Soviet side cannot recognize as well-founded the proposal of the U.S. involving an obligation not to deploy ABM systems using devices other than missiles, launchers, radars. The subject of a Treaty (Agreement) could only be a specific and concrete limitation of ABM systems. * * *

4. December 7, 1971. Garthoff: On Article V, both sides reiterated the strong positions which they hold on the question of the paragraph relating to future systems. * * * Kishilov and Grinevsky flatly asserted that they were certain there would be no change in the position on the Soviet side.

5. December 10, 1971. Brown: The Soviet side has objected to limits on possible future ABM systems on the basis that such systems are defined only in general terms.

6. December 14, 1971. Nitze: noted in connection with Shchukin's comments * * * on future systems he had emphasized the inappropriateness of this subject for treaty language. * * *

7. December 14, 1971. Semenov: Although Dr. Brown said that the question of future ABM systems, which do not include launchers, radars, and interceptors. * * * I would like to ask what this is all about in concrete terms. In what does the U.S. side see a danger in the absence of a provision on this account in the treaty? If these systems cannot be defined now, except that they are not something known today, and, at the same time, the draft treaty includes a number of clear limitations and constraints not to deploy territorial ABM systems, not to give the capability for rapid reload, etc., is it not sufficient to have such limitations? To be sure, including in the treaty a provision covering something that is not known cannot be justified by any considerations, and therefore this proposition cannot be the subject of a treaty.

8. December 17, 1971. Garthoff: On future ABM systems, I suggested to Kishilov the possibility of a new approach to meeting the issue. Perhaps it would be possible to have a clear and explicit understanding, for example, in an agreed minute, that neither side would deploy a future ABM system or components without prior consultation and mutual agreement in the Standing Consultative Commission.

9. December 17, 1971. Garthoff: Grinevsky referred to the conversation I had had that morning with Kishilov concerning a possible alternative approach to handling future ABM systems. * * * handling these matters through the Standing Consultative Commission, rather than through explicit treaty provisions, offered a possible resolution to our differences.

10. December 20, 1971. *Semenov:* * * * suppose that the draft treaty had a provision on limiting systems other than those now known which use interceptors and launchers such a provision would create the grounds for endless arguments, uncertainties. He asked if the goal of the two Delegations isn't just the opposite, that is to reach agreement on limiting known ABM systems, certainly such limitations on known ABM systems constitute a factor for relaxing international tension and curbing the race in strategic arms and limiting them. How then could an ABM treaty include a provision about whose content the sides do not have the vaguest notion? Could the sides include in an ABM treaty the unknown without risk of making the treaty indefinite and amorphous? The sides cannot and must not engage in discussion of questions not known to anyone. The task faced by the two sides is to erect reliable barriers against deployment of known ABM components in excess of the levels defined by the ABM treaty. If it should appear necessary to supplement the ABM treaty by a provision prohibiting or limiting other ABM components in addition to those now known, this can be done in accordance with the procedures provided for in the provision on review.

11. December 20, 1971. *Grinevsky:* raised the question of dealing with future ABM systems through statements on the record. ***

Garthoff: noted that the suggestion he had advanced in this respect was for an agreed minute; there must be a clear agreed mutual understanding that, prior to any deployment of future systems there would be consultation and agreement in the Standing Consultative Commission.

12. December 21, 1971. *Grinevsky:* asked if the American side had proposed language for the suggested separate agreed understanding on future ABM systems.

Garthoff: said he could provide an illustrative draft statement as a possible solution to the impasse over the American proposal for a third paragraph in Article V. The Soviet Delegation has said on several occasions that it is opposed to the proposal by the United States to include a provision in the ABM agreement prohibiting ABM systems in the future which would use devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of those components. In order to contribute to negotiating progress, while maintaining our basic position on this matter, the U.S. side is willing to drop Article V(3) if there is clear agreed understanding as part of the negotiating record. An Agreed Minute could read as follows:

The Parties agree that the deployment limitations undertaken in Article I and Article III are not to be circumvented by deployment of components other than ABM interceptor missiles, ABM launchers, or ABM radars for countering strategic ballistic missiles in flight trajectory. They agree that if such components are developed and the question of deployment arises, neither side will initiate such deployment without prior consultation and agreement in the Standing Consultative Commission.

13. January 11, 1972. *Shchukin:* The Soviet side continues to believe that only quite specific ABM system components of which each side had a clear idea could be in-

cluded in an ABM treaty . . . For this reason the Soviet delegation continues to consider this point "not suitable" for inclusion in the draft ABM treaty we were negotiating.

Nitze: said he had understood from Shchukin's remarks that he believed that if ABM components other than radars, interceptors and launchers were developed, they could appropriately be the subject of consultations under Article XIII. However, if such components were developed and could, in fact, be deployed in a manner to circumvent the specific limitations of Article III of the treaty, would it not be appropriate that they also be subject to agreement between our Governments?

14. January 11, 1972. *Grinevsky:* said that the treaty referred to ABM systems which were defined in Article II. It could not deal with unknown other systems.

Garthoff: challenged this interpretation on two grounds: first, the treaty dealt not only with ABM systems compromising components identified in Article II, but all ABM systems; second, the issue did not concern "other" systems but rather future ABM systems. However, what Garthoff was referring to—and what the U.S. was particularly concerned about—was precisely ABM systems and components of some new kind in the future. Garthoff repeated his reference to laser ABM interceptors as an example. . . .

15. January 14, 1972. *Trusov:* affirmed the Soviet position that it is premature to discuss limiting systems which are now nonexistent, and that if and when such systems appear then limitation would be subject to discussion under the provisions of Articles XIII and XIV of the Draft ABM Treaty.

16. January 14, 1972. *Shchukin:* said he had a very brief comment to make. At the January 11 meeting, Mr. Nitze had asked the question whether so-called "other ABM means" would be a subject not only for appropriate consultation but also for agreement. Both sides agree that they should assume obligations not to deploy ABM systems excepts as provided in Article III of the draft ABM Treaty. In order to insure implementation of this provision of the Treaty, the sides could, in the event of the emergence of ABM systems constructed on the basis of other physical principles, further discuss the question of their limitation in accordance with Articles XIII and XIV of the draft ABM Treaty.

17. January 14, 1972. *Grinevsky:* produced a Soviet draft, based closely upon (but not identical with) the statement made in the meeting that morning by Academician Shchukin. The statement read:

"With a view to ensuring the implementation of the provisions contained in Articles I and III of the Treaty on the limitation of ABM systems, the Parties agree that in the event of the emergence of ABM systems based on other principles questions of their limitation may be discussed further in accordance with Articles XIII and XIV of the ABM Treaty."

18. January 26, 1972. *Grinevsky:* in response to the latest proposed U.S. language on the Agreed Interpretive Statement on future ABM systems strongly urged that the American side not pursue this proposed addition, i.e., a clause reading to perform the functions of ABM interceptor missiles, ABM launchers, or ABM radars. He also commented that his side had now accepted the earlier American formulation completely, and in fact had accepted the American position on the subject entirely, save only that it would be a jointly agreed interpretation rather than a paragraph in the treaty.

DRAFT INTERPRETIVE STATEMENT OF FUTURE ABM SYSTEMS

In order to insure fulfillment of the obligation not to deploy ABM system components except as provided in Article III of the Treaty, it is agreed that in the event ABM system components other than ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such system components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

19. January 31, 1972. *Garthoff:* I suggested that perhaps we need a fresh approach, first survey the problem and see if we agreed on the substance of the matter—which I believed we did—and then find appropriate language to express this agreed position. Grinevsky saw that I was speaking from prepared notes and seemed interested. I thereupon gave him a copy . . . after reading the talking points, Grinevsky said that he believed there was complete agreement.

Garthoff talking points:

It is understood that both sides agree that:

1. ABM systems and their components, as defined in Article II, should not be deployed except as provided for in Article III.

2. The deployment of ABM system components other than ABM interceptor missiles, launchers, or radars to perform the functions of those components is banned.

3. Devices other than ABM interceptor missiles, ABM launchers, or ABM radars could be used as adjuncts to an ABM system provided that the devices could not perform the functions of and substitute for ABM interceptor missiles, ABM launchers, or ABM radars. For example, a telescope could be deployed as an adjunct to an ABM system, whereas a laser for performing the function of an interceptor missile by rendering ineffective a strategic ballistic missile in flight trajectory could not be deployed.

4. Article III should be drafted so as not to permit the deployment of devices other than ABM interceptor missiles, ABM launchers, or ABM radars to substitute for and perform their functions.

5. If such devices are created in the future, their deployment could be provided for by limitations subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV.

20. February 1, 1972. Allison: I observed that both sides have had a clear understanding for some time that within the context of our negotiations when we speak of an ABM system we are referring to a system made up of three components—ABM launchers, ABM interceptor missiles, and ABM radars. We also appear to agree that substituting a different component for one of these three in the future would result in a "future" or "other" ABM system. It seems that our Delegations should be able to agree on a set of words for the interpretive statement.

21. February 1, 1972. Nitze: It seemed to me to be most likely that if something new were to become possible in the future, that this would be of such a nature as to substitute for either launchers or interceptors or radars, but not for all three.

Shchukin said that if a new system were developed which could substitute either for radars or for interceptor/launchers, this would be a new system and, as such, subject to Articles XIII and XIV.

22. February 1, 1972. Garthoff: Grinevsky called to say that he believed his Delegation could accept the proposal if the words "based on other physical principles and" were included before the phrase "including components."

AGREED STATEMENT D TO THE TREATY

In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

Mr. HOLLINGS. Mr. President, I regret that this afternoon we have become embroiled in this dispute, because it does not reflect well on the U.S. Senate as a mature, deliberation body, when what we are doing is playing "catch the President." I prefer to catch Gorbachev. I want to bind him in a treaty. If we can get a treaty, let us advise and consent to it; and if the Senate disagrees with that agreement made by President Reagan and Secretary Gorbachev, then let us put a reservation in. But do not embarrass us by saying: "Here is a condition—and, by the way, don't bother telling the Soviets, because we are just imposing a constitutional binder on our own Executive." No Congress is going to bind a future Congress. We have to work together and trust each other.

There has been a misunderstanding regarding the ABM Treaty. But you cannot enact a law that will prevent any other misunderstanding in the future.

The bottom line is that supporters of the Byrd amendment are trying to say: "By the way, what we say does not mean what it says." But it is obvious on the face of it that their objective is to supersede the authority of the negotiating record. That is the whole purpose of the ABM debate on the so-called narrow interpretation.

Advocates of this amendment assert, and I quote the Foreign Relations Committee's report, "In sum, the President may not act upon the Senate's consent without honoring this condition."

That is wishful thinking. The President is acting now, in my opinion, in open disregard of the War Powers Resolution right out in the Persian Gulf. Do not worry about it. We all sit around and pontificate that there are certain limits to our powers. I quote, "Knowing what he or his administration does by statement or action whether before or after the act of ratification can alter the binding effect of any condition which the Senate places upon its consent for treaty ratification."

That is not so at all. No one really believes that. Sure, someone can write it. But you take the case up in a court of law, you take it up in an international court or before the U.S. Supreme Court. They are going to tell you differently. I tell you that right now.

That is not to say these authoritative understandings mean nothing. They mean a lot. What I am saying, what the other Senator says, all has significance, but it will be weighed in the light of whether you are really faithful to the negotiating record in determining the intent; whether you are using that record in authoritative and common understandings at the time to clarify ambiguity. Otherwise, the treaty speaks for itself. Certainly, the ABM Treaty does. It is clear, both in the negotiating record and in authoritative testimony by the principal ABM Treaty negotiators. I am prepared any time to debate the advocates of the so-called narrow interpretation. I know they have been ambivalent, because they do not remember. I questioned Secretary Brown the other day at a hearing. He testified in favor of some $4 billion for SDI and I asked him about the letter. He said he would have to refresh his memory. Memories do get him. We went back to that record and we studied it. Similarly, it is a valuable exercise to review the authoritative testimony of all the negotiators, the Secretary of State, the Chief of Staff, the Secretary of Defense, and even Karpov on the other side.

Mr. President, I want to give my thanks to the distinguished majority leader for providing me this opportunity.

Mr. BYRD. Does the Senator want additional time, 2 or 3 minutes?

Mr. HOLLINGS. That is all right.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield 10 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 10 minutes.

Mr. SARBANES. Will the Senator yield for a unanimous-consent request?

Mr. DODD. I am glad to yield.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that an exchange that took place at the American Society of Newspaper Editors, questions and answers, and an article on that exchange, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS

Q. Mr. President, I'm Joseph Stern from the Baltimore Sun. You described the INF treaty as a "done deal." But when it goes before the Senate, a major question is going to be whether the testimony offered by your administration in 1972, and the whole legislative history of the ABM treaty, is subject to reinterpretation by future administrations. Senator Nunn has described this as a major constitutional question. When your officials were testifying on the ABM treaty, did you ever anticipate that a succeeding administration would try to reinterpret that testimony?

President NIXON. No, I did not. (Pause.) (Laughter.) Let me say, I—didn't mean to try to cut you off. I'm simply—I was going to say that there is, here, a constitutional argument, as you know. On the one side, it is said that what a treaty means is what—how it was presented to the Senate. Since the Senate has to advise and consent, a treaty must—it means whatever was presented to the Senate. As far as what was presented to the Senate was concerned, it was what we call the narrow interpretation. There is no question about that. And so Senator Nunn is absolutely correct on that point.

On the other hand, there are those who say—and here is where the counsel, of course as you know, for the State Department, who has taken that line—who say that what a treaty really means is how was it negotiated with the adversary, in this case the Soviet Union. And that in the negotiating with the Soviet Union, the broad interpretation was possible. That was the point.

Now, let me express my own view, though, about how we ought to deal with that and SDI in the future, because I think that would be a followup question that you might have. I don't go along with those that say that what we should do is to go forward with SDI, and just say that we accept the counsel from the State Department's interpretation. Because if you do that, you're going to find that the Senate, particularly with Nunn, a very powerful senator there, is—will then block the funds for it. So that isn't going to work.

What I feel about the SDI thing is that we should first determine what our national security requires. We will then determine, if we want to go forward in SDI, we determine what we have to do. If we believe that is within the treaty, we should negotiate that, discuss that, with the Soviets. If they accept our interpretation, we go forward with it. If they do not accept our interpretation, then we have a choice. As you know, the ABM Treaty provides that if supreme national interests are involved, that then you can give six-months' notice and go out of the treaty. And my view is let's start, first, what does the national security require? If it requires SDI, then go forward with it and then see if you can do it within the treaty. If you can't, then break out of the treaty—by "breaking out" I mean give the notice and go forward in that way. That's the only way to do it.

LESSONS IN HONOR FROM RICHARD NIXON

(By Lars Erik Nelson)

WASHINGTON—Richard Nixon came to town last week and promptly solved a problem that has been vexing the White House, the State Department, the Pentagon and the Senate for the last four years. He said the Anti-Ballistic Missile Treaty that he signed with Moscow in 1972 does not allow the development of Star Wars.

There it is, flat and simple. Funny, nobody had the wit to ask him earlier. Instead, the government has torn itself apart over what the treaty does and doesn't mean—in the process, calling into question the value of any U.S. signature on any treaty.

The ABM treaty—as written, signed and ratified—prohibits the development, testing and deployment of any space-based antimissile system. The Reagan administration, which wants to develop a space-based system, says, however, the treaty doesn't mean what it says or what the Nixon administration said it would.

Reagan's State Department counselor, Abraham Sofaer, says the executive branch has a right to reinterpret treaties in the light of the negotiations that produced them and the other side's behavior after ratification. Sofaer says the treaty in fact allows tests for Reagan's Strategic Defense Initiative.

Sen. Sam Nunn (D-Ga.) calls this "an amazing sort of legalistic gymnastics" and a challenge to the constitutional powers of the Senate. Nunn insists on a "narrow interpretation"—which would bar Star Wars tests—arguing that a treaty can only mean what the Senate ratifies.

When Nixon appeared at the American Society of Newspaper Editors last week in his new role as elder statesman, Joseph Sterne of The Baltimore Sun asked him to resolve the dispute.

"When your officials were testifying on the ABM treaty," Sterne said, "did you ever anticipate that a succeeding administration would try to reinterpret that testimony?"

"No, I did not," Nixon said, and he turned away. Nixon does not like to say anything bad about the Reagan administration. But Nixon also feels a responsibility, at 75, to pass on his experience and his wisdom. He turned back toward Sterne.

"There is, here, a constitutional argument, as you know. On the one side, it is said that what a treaty means is what and how it was presented to the Senate. Since the Senate has to advise and consent, a treaty must mean whatever was presented to the Senate. As far as what was presented to the Senate, it was what we call the narrow interpretation. There is no question about that. And so Sen. Nunn is absolutely correct on that point.

"On the other hand, there are those who say . . . that what a treaty really means is how it was negotiated with the adversary, in this case the Soviet Union, and in negotiation with the Soviet Union, broad interpretation was possible.

"Now let me express my own view: I don't go along with those that say that we should go forward with SDI and . . . accept (Sofaer's) interpretation. Because if you do that, you're going to find that the Senate, particularly with Nunn, a very powerful senator, will then block the funds for it. So that isn't going to work."

This is classic Nixon: Weaseling out of your commitment is wrong—and besides it won't work. Nixon continued:

"What I feel about SDI is that we should first determine what our national security requires. We will then determine—if we want to go forward with SDI—what we have to do. If we believe that is within the treaty, we should negotiate that, discuss that, with the Soviets.

If they accept our interpretation, we go forward with it. If they do not accept our interpretation, then we have a choice. As you know, the ABM treaty provides that if supreme national interests are involved, then you can give six-months' notice and get out of the treaty. . . . That's the only way to do it."

How strange that we have reached a point where we must learn lessons in honor from Richard Nixon—but, at the same time, how encouraging that he, in his retirement, has reached the point where he can persuasively and usefully teach them.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all let me commend the majority leader and others who are involved in making some very creative and thoughtful suggestions to the condition presently concluded that came out of the result of the hearings of the Foreign Relations Committee involving this particular debate. Let me also say and I gather this has already been introduced into the RECORD, there is a letter from Professor Henkin, of Columbia University, on the very issue of whether or not a condition is applicable to the interpretation of this treaty and as such is binding on this or any later President. President Kennedy once noted scholars in the area of treaty-making under the Constitution suggests it is.

With all due respect to our good and dear friend from South Carolina, Professor Henkin has the expertise and knowledge in that area and would suggest anyway, not that he is without those who would disagree with him, I think it worth noting he draws that conclusion.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield?

Mr. DODD. I will be glad to yield.

Mr. HOLLINGS. Will we at this time include in the RECORD for edification of all just exactly what Professor Henkin said in toto? I have a Restatement of the Law of the Foreign Relations Law of the United States and particularly from section 303 right on through, those particular references. Can we include this in the RECORD at this particular time?

Mr. DODD. Absolutely.

Mr. HOLLINGS. You see he comes down on both sides.

Mr. DODD. Like any good law professor.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have that material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 24, 1988.

Mr. JOHN B. RITCH III,
Deputy Staff Director, Senate Foreign Relations Committee, Washington, DC.

DEAR MR. RITCH: It has come to my attention that I have been quoted as saying that the Senate Foreign Relations Committee Report on the INF Treaty misrepresented my views. I have made no such statement and that is not my view. I did express some concern that, in view of the way my name was used in the Report, a reading—surely a quick reading—of the Report might lead the reader to believe that I was behind the Report's statement of, and attack on, the so-called Sofaer Doctrine and that I favored the addition of the Condition on interpretation.

Let me make my position clear. I discussed the substance of the statement of Constitutional principle with you and others; I agree that what has emerged in that respect is substantively sound. As I said from the beginning, however, I am not in favor of making a statement of Constitutional principle a condition of Senate consent. If the Senate thinks it is necessary or desirable to declare its views of Constitutional principle—which in the present instance I agree are sound—it should put them into a separate Resolution.

The Committee draft in effect combines two resolutions: it combines an understanding, stated as a condition, on the interpretation of the particular INF Treaty (which condition is binding on the President, and on future Presidents) with a statement of general Constitutional principle (which is not binding on anyone). If there is insistence that the reference to Constitutional principle should be included, the text as it appears in the Committee Report is not unsound. The condition is applicable to the interpretation of this Treaty and as such is binding on this and any later President; the statement of Constitutional principle is included only parenthetically in a kind of editorial reference in passing. Perhaps it would be better to make the parenthetical character of the reference to the Constitutional principle even clearer by adding a few words, so that the introductory phrase would read:

> That the Treaty shall be subject to the following principles, which, in the judgment of the Senate, derive, as a necessary implication, etc.

All good wishes.

Sincerely,

LOUIS HENKIN.

RESTATEMENT OF THE LAW: THE FOREIGN RELATIONS LAW OF THE UNITED STATES

§ 303. Authority to Make International Agreements: Law of the United States

Subject to § 302(2),

(1) the President, with the advice and consent of the Senate, may make any international agreement of the United States in the form of a treaty;

(2) the President, with the authorization or approval of Congress, may make an international agreement dealing with any matter that falls within the powers of Congress and of the President under the Constitution;

(3) the President may make an international agreement as authorized by treaty of the United States;

(4) the President, on his own authority, may make an international agreement dealing with any matter that falls within his independent powers under the Constitution.

Comment:

a. United States terminology as to international agreements. United States terminology as to international agreements differs from that employed in the Vienna Convention. See Introductory Note to this Part. The United States Constitution in Article II, Section 2, provides that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur." It is therefore necessary to use a term other than "treaty" to refer to agreements made by other processes. Such agreements are sometimes referred to collectively as "international agreements other than treaties" and specific categories are referred to as "Congressional-Executive agreements" (Subsection (2)), "executive agreements pursuant to treaty" (Subsection (3)), and "sole executive agreements." (Subsection (4)). However, the term "treaty" is not always restricted to the meaning signified in Article II, Section 2. It has been interpreted to include other international agreements in the provisions of the Constitution defining the Judicial Power of the United States (Article III, Section 2) and the Supremacy Clause (Article VI). A reference to a "treaty" in an act of Congress has in certain contexts been construed to include other international agreements.

b. Breadth of treaty power. Subject to constitutional limitations, § 302(2), the treaty power may be used to make international agreements of the United States on any subject. See Comment *c* and § 302, Comments *c* and *d*.

c. Treaties and the legislative powers of Congress. A treaty may deal with a subject that Congress could not regulate by legislation in the absence of treaty. See Missouri V. Holland, 252 U.S. 416, 40 S.Ct. 382, 64 L.Ed. 641 (1920); § 302, Comment *d*. A treaty may also deal with a subject that can be regulated by act of Congress, for example, a tariff, other regulations of foreign commerce, postal service, coinage, war and peace. That treaties and statutes can deal with the same subject is reflected in the rule that when a treaty and a statute are inconsistent the later in time prevails. See § 115. A different question is whether a treaty on a particular subject can be self-executing. While a treaty may properly obligate the United States to pay money or to go to war, action by Congress is required to appropriate the funds or to declare or otherwise authorize war. See § 111, Comment *i*.

d. Advice and consent of Senate. Under Article II, Section 2 of the Constitution, quoted in Comment *a*, it is the President who "makes" a treaty by ratifying or acceding to it (§ 312, Comment *d*), but he may do so only after the Senate consents. Even if a treaty has received the advice and consent of the Senate, the President has discretion whether to make the treaty.

The Senate often has given its consent subject to conditions. Sometimes the Senate consents only on the basis of a particular understanding of the meaning of the treaty, or on condition that the United States obtain a modification of its terms or enter a reservation to it. See § 314. The Senate may also give its consent on conditions that do not require change in the treaty but relate to its domestic application, *e.g.*, that the treaty shall not be self-executing (§ 111(4)); or that agreements or appointments made in implementation of the treaty shall require the Senate's advice and consent.

There is no accepted doctrine indicating limits on the conditions the Senate may impose. Surely, a condition that has no relation to the treaty would be improper, for example, a requirement that the President dismiss or appoint some cabinet officer. But a condition having plausible relation to the treaty, or to its adoption or implementation, is presumably not improper, and if the President proceeds to make the treaty he is bound by the condition. Compare § 339, Comment *a* and Reporters' Note 3.

e. Congressional-Executive agreements. Congress may enact legislation that requires, or fairly implies, the need for an agreement to execute the legislation. Congress may authorize the President to negotiate and conclude an agreement, or to bring into force an agreement already negotiated, and may require the President to enter reservations. See, *e.g.*, § 468, Reporters' Note 6. Congress may also approve an agreement already concluded by the President. Congress cannot itself conclude such an agreement; it can be concluded only by the President, who alone possesses the constitutional power to negotiate with other governments.

Since any agreement concluded as a Congressional-Executive agreement could also be concluded by treaty (see Subsection (1) and Comment *b*), either method may be used in many cases. The prevailing view is that the Congressional-Executive agreement can be used as an alternative to the treaty method in every instance. Which procedure should be used is a political judgment, made in the first instance by the President, subject to the possibility that the Senate might refuse to consider a joint resolution of Congress to approve an agreement, insisting that the President submit the agreement as a treaty.

Constitutional limitations applicable to treaties apply also to Congressional-Executive agreements. See § 302.

f. Agreements pursuant to treaty. An executive agreement may be made by the President pursuant to a treaty, Subsection (3), when the executive agreement can fairly be seen as implementing the treaty, especially if the treaty contemplated implementation by international agreement. Such an executive agreement has the same effect and validity as the treaty itself, and is subject to the same constitutional limitations as the treaty. See § 302.

g. President's authority to make sole executive agreements. The Constitution designates the President as commander in chief, and gives him power to make treaties and appoint ambassadors (Article II, Section 2); it provides that he "shall receive Ambassadors" and "take Care that the Laws be faithfully executed" (Article II, Section 3). There is some authority for the view that the Executive Power clause (Article II, Section 1) is itself a grant of power and vests in the President all "executive power," notably the conduct of foreign relations. See 7 A. Hamilton, Works 76, 81 (Hamilton ed. 1851) ("Pacificus" letter). These various sources of authority support power for the President to conclude some international agreements. It is established that the President can make agreements incidental to recognizing foreign states or governments. He can also make agreements as commander in chief during declared wars, including armistice agreements. Presidents have asserted a broad authority to make many other international agreements, at least in the absence of inconsistent legislation or of Congressional action restricting such agreements. See Comments *h* and *i*. The great majority of sole executive agreements are of a routine character.

h. Limitations on subject matter of sole executive agreements. Sole executive agreements are subject to the constitutional limitations applicable to treaties and other international agreements. To the extent that the President's constitutional authority overlaps powers of Congress (see § 1, Reporters' Note 3), he may make sole executive agreements on matters that Congress may regulate by legislation. As to whether the President can make an agreement inconsistent with an act of Congress, and whether Congress can legislate to curtail such agreements, see Comments *i* and *j*.

i. Congressional restrictions on sole executive agreements. Congress has not enacted restrictions on sole executive agreements generally, but some statutory restrictions on Presidential authority would forbid some sole executive agreements. For example, the War Powers Resolution of 1973, 50 U.S.C. § 1541-48, inhibits the President from making agreements that commit the United States to introduce armed forces into hostilities or into situations where involvement in hostilities is likely, or to increase or redeploy United States combat forces abroad. See also the Arms Control and Disarmament Act, Reporters' Note 8. The validity of such restrictions on Presidential powers, and of attempts to control and limit sole executive agreements generally, has not been authoritatively determined and may differ according to the character of the restriction and the circumstances of its application.

j. Sole executive agreements as law of the land. Sole executive agreements within the President's constitutional authority are law of the United States and supreme over State law. Like treaties and other international agreements, they can be superseded as domestic law by later international agreements or by acts of Congress within its constitutional authority. Their status in relation to earlier Congressional legislation has not been authoritatively determined. See § 111, Comment *d* and Reporters' Note 2; § 115, Comment *d* and Reporters' Note 5.

REPORTERS' NOTES

1. *Use of term "treaty" in domestic law.* For cases in which a reference to "treaty" has been construed to include other international agreements, see B. Altman & Co. v. United States, 224 U.S. 583, 32 S.Ct. 593, 56 L.Ed. 894 (1912) (executive agreement is "treaty" under statute conferring appellate jurisdiction); Weinberger v. Rossi, 456 U.S. 25, 102 S.Ct. 1510, 71 L.Ed.2d 715 (1982) (under statute forbidding employment discrimination except where permitted by "treaty," "treaty" includes executive agreement). See § 111, Reporters' Notes 2 and 4.

2. *Treaties and legislative powers of Congress.* In Edwards v. Carter, 580 F.2d 1055 (D.C.Cir. 1978), *certiorari denied,* 436 U.S. 907, 98 S.Ct. 2240, 56 L.Ed.2d 406 (1978), the court, affirming the general principle that treaties may deal with matters within the legislative power of Congress, held that a treaty may dispose of property of the United States in the Panama Canal Zone, although Article IV, Section 3, clause 2, of the Constitution provides that "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States . . . ." (That the treaty in fact disposed of property belonging to the United States was assumed without discussion.) Compare § 111(4) and Comment *i* and Reporters' Note 6 to that section.

3. *Senate advice and consent.* There is confusion about terminology in United States treaty practice. Properly speaking, the Senate does not ratify a treaty; the Senate gives its consent to ratification. The President makes, ratifies, or accedes to a treaty on behalf of the United States. The Senate cannot amend a treaty or enter reservations to it. It can, however, give its consent to a treaty on condition that it be modified, or, in the case of a multilateral agreement, that the United States enter one or more reservations. The President need not fulfill those conditions, but he cannot proceed to make the treaty unless they are met, whether they concern the terms of the treaty or its implementation in the United States.

The President may decline to make the treaty after the Senate has approved it. Comment *d*. Sometimes there has been a substantial delay between consent by the Senate and ratification. The United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, 21 U.S.T. 2517, T.I.A.S. No. 6997, 330 U.N.T.S. 38, received Senate consent in 1968 but the United States did not accede to it until 1970, following enactment of implementing legislation. See § 487. Reservations proposed by the Senate or other conditions attached to its consent may move the President not to adhere to the treaty. For example, President Taft declined to ratify the arbitration treaties of 1911 with France and Great Britain after the Senate demanded unwelcome reservations. Fleming, The United States and the World Court 21 (1945); 4 Wiktor ed., Unperfected Treaties of the United States of America, 1776-1976, at 217-18, 225-26 (1979). See also § 314.

The Constitution gives the President power to make treaties "by and with the Advice and Consent of the Senate," but Senate advice, as distinguished from consent, is not necessary. Presidents since the early years of the nation's history generally have refrained from formally consulting the Senate prior to negotiating a treaty. However, there has been a practice of notification and exchange of information and views with Senate committees or selected members of the Senate, and sometimes with committees or selected members of the House of Representatives, especially where legislative implementation might be necessary, or where approval as a Congressional-Executive agreement was contemplated. Infrequently, the Senate has given formal advice. Compare the resolution of both Houses which approved the Interim Strategic Arms Limitation Agreement and "urge[d]" the President to seek further talks and to work towards further reduction in armaments. 86 Stat. 746-47 (1972). For other resolutions of that character, see Treaties and Other International Agreements: The Role of the United States Senate, S.Rep.No. 205, 98th Cong., 2d sess. at 92-93 (1984).

4. *Senate conditions of domestic import.* A condition imposed by the Senate that does not seek to modify the treaty and is solely of domestic import, is not part of the treaty and hence does not partake of its character as "supreme Law of the Land." See § 11(1) and Comment *d*. It was once assumed, therefore, that a Senate proviso that a treaty shall not take effect for the United States until Congress adopts implementing legislation could not have the force of law necessary to prevent the agreement from automatically taking effect as law in the United States. See Power Authority of New York v. Federal Power Commission, 247 F.2d 538 (D.C.Cir. 1957), *vacated and remanded with instructions to dismiss as moot,* 355 U.S. 64, 78 S.Ct. 141, 2 L.Ed.2d 107 (1957). The effectiveness of such a Senate provision, however, does not depend on its becoming law of the land as part of the treaty. Such a proviso is an expression of the Senate's constitutional authority to grant or withhold consent to a treaty, which includes authority to grant consent subject to a condition. The authority to impose the condition implies that it must be given effect in the constitutional system. See Henkin, "The Treaty Makers and the Law Makers: The Niagara Power Reservation," 56 Colum.L.Rev. 1151 (1956).

The Senate has not made a practice of attaching conditions unrelated to the treaty before it. If the Senate were to do so, or were to attach a condition invading the President's constitutional powers—for example, his power of appointment—the condition would be ineffective. The President would then have to decide whether he could assume that the Senate would have given its consent without the condition.

5. *United States treaties with Indian tribes.* Until the practice was terminated by the Act of Congress of March 3, 1871 (25 U.S.C. § 71), agreements by the United States with American Indian tribes usually were called "treaties," were concluded as treaties with the advice and consent of the Senate, and were treated by the courts like other treaties in principle, although sometimes with greater flexibility in fact. See Worcester v. Georgia, 31 U.S. (6 Pet.) 515, 582, 8 L.Ed. 483 (1832) (treaties with Indians "should never be construed to their prejudice"); United States v. Shoshone Tribe, 304 U.S. 111, 116, 58 S.Ct. 794, 797, 82 L.Ed. 1213 (1938) (Indian treaties to be construed "in the sense in which naturally the Indians would understand them"); *cf.* Squire v. Capoeman, 351 U.S. 1, 6–7, 76 S.Ct. 611, 614-615, 100 L.Ed. 883 (1956). The Act of 1871 preserved the obligation of prior treaties, and cases involving pre-1871 Indian treaties continue to arise. The courts have applied to them the principles applicable to treaties with foreign states, *e.g.*, that subsequent legislation will be construed so as to avoid abrogating a prior treaty. Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n, 443 U.S. 658, 690, 99 S.Ct. 3055, 3076, 61 L.Ed.2d 823 (1979), *modified*, 444 U.S. 816, 100 S.Ct. 34, 62 L.Ed.2d 24 (1979). See § 114.

6. *Executive agreement pursuant to treaty.* An executive agreement defining jurisdiction over United States forces in Japan, concluded pursuant to treaty, was given effect in Wilson v. Girard, 354 U.S. 524, 77 S.Ct. 1409, 1 L.Ed.2d 1544 (1957).

7. *Constitutional basis of Congressional-Executive agreements.* Although the Constitution speaks only of the power of the President to make treaties and prescribes a special procedure for making them, it is long established that the United States may make international agreements other than treaties, and do so by other procedures. B. Altman & Co. v. United States, Reporters' Note 1; see also United States v. Belmont, 301 U.S. 324, 57 S.Ct. 758, 81 L.Ed. 1134 (1937) cited in § 111, Reporters' Note 2.

In principle, a Congressional-Executive agreement must be within the powers of the President and Congress. As stated in Subsection (2), such an agreement can be made on any subject within the legislative powers of Congress or within the President's own constitutional authority. It has been suggested that the authority to make a Congressional-executive agreement may be broader than the sum of the respective powers of Congress and the President; that in international matters the President and Congress together have all the powers of the United States inherent in its sovereignty and nationhood, and they can therefore make any international agreement on any subject. See § 302, Comment *a*. Issues of delegation of authority are not involved. *Cf.* United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 57 S.Ct. 216, 81 L.Ed. 255 (1936).

On numerous occasions, Presidents have made certain kinds of agreements, such as claims settlements, on their own authority, and Congress has not objected. The Supreme Court upheld such agreements, though it is not clear whether it did so on the ground that such agreements had been authorized by Congress by implication, under the principle of Subsection (2), or because such agreements are within the President's sole authority, Subsection (4), such authority having been confirmed by a history of Congressional acquiescence. Compare Dames & Moore v. Regan, 453 U.S. 654, 101 S.Ct. 2972, 69 L.Ed.2d 918 (1981).

8. *Congressional-Executive agreement as alternative to treaty.* At one time it was argued that some agreements can be made only as treaties, by the procedure designated in the Constitution. See, for example, Borchard, "Shall the Executive Agreement Replace the Treaty?" 53 Yale L.J. 664 (1944); Borchard, "Treaties and Executive Agreements—A Reply," 54 Yale L.J. 616 (1945). Scholarly opinion has rejected that view. McDougal and Lans, "Treaties and Congressional-Executive or Presidential Agreements: Interchangeable Instruments of National Policy," 54 Yale L.J. 181, 534 (1945); Henkin, Foreign Affairs and the Constitution 173–76 (1972); see also 40 Op.

The **PRESIDING OFFICER.** The Senator from Connecticut.

Mr. **SPECTER.** Mr. President, will the Senator yield?

Mr. **DODD.** If I may proceed with my remarks, then I will be glad to yield. I would like to make a general comment on the position we are in today. But I will come back and I will be glad to yield at that particular moment.

Mr. President, as one of the authors of the condition the Foreign Relations Committee attached to the resolution of ratification on treaty interpretation, I rise to speak for retaining that condition with the modifications suggested by the distinguished majority leader, whom I compliment for his creative suggestions. I compliment those who are responsible for the modifications that have been made.

Ever since the committee markup, this condition has been under attack by its opponents in floor statements, in at least three Dear Colleague letters that I am aware of, and in statements in the media. What is astonishing to me in these attacks is the fact that I have not seen one single opposing statement that correctly represented of what that condition means. In other words, this one-sided debate is conducted on distortions and misrepresentations of the content and effect of this condition. What I would like to do at this point is to describe in the simplest possible language the exact content and effect of this condition and have its declared opponents take on the real thing instead of strawmen and red herrings raised, it seems to me, over the last several weeks that this issue has been in debate.

What this condition does is very simple. It reinforces what is already clear from the constitution; that is, that the Senate shares with the President the constitutional power to make treaties and that the Senate has to be accorded a full understanding of what exactly a treaty means, what obligations it imposes, at the time the Senate is asked to give its advice and consent. This means assuring that the Executive and the Senate has identical understanding of the meaning and the legal effect of the text of the treaty at that time, and that subsequently the Executive does not have the right to unilaterally change the content of that understanding. That is all this condition does, it reiterates what is undisputably clear from the Constitution itself given its solid constitutional foundation, there should be no need for this condition, unfortunately, these clear constitutional principles were called into question recently by the administration and, specifically, the State Department legal advisor, so the need arose to reinforce them. This is not an attack on the Constitution. This is a defense of the Senate's constitutional powers.

Let me simplify this even further by reviewing the ratification process in the Senate.

The President, as we all know signs a treaty that he negotiated through his emissaries and submits it to the Senate. At this point, Senators usually have only a scant idea of what the treaty contains. Senators were not parties to the negotiations. A few of them may have been consulted. Most of them certainly were not. The Senate had little or no input onto the negotiations. The President, up to this particular print was free to shape the treaty according to his own priorities subject, of course, to the consent of the other contracting party.

The executive-Senate interchange in the ratification process is twofold. The executive presents the text of the treaty with its annexes, if any, and then proceeds to explain it to the Senate. Through the experts of the administration, it explains the meaning of the words of the treaty, wherever any ambiguity may exist, and explains the effect of those words and provisions under international law, again, the President retains a substantial control over this process. The treaty is his product, he knows how it was written, what exactly was agreed to, and he is free to give any kind of explanation he deems to be appropriate, up to this particular point, the Senate is merely an audience, a very active audience to be sure, asking questions, following up, conducting its own investigation, still, the material presented, text plus explanations, is substantially under the control up to this particular print of the executive branch.

It is evident from the advice and consent provision of the Constitution, that the purpose of this process is to provide the Senate a full understanding of the content and effect of the treaty before the Senate consents to its ratification. Without such an understanding, shared with the executive, the advice and consent function would be a largely pointless exercise it does not require a great leap of logic. In fact, it is also self-evident that once the Senate consented to ratification of the treaty. As presented by the executive, the executive has no unilateral right to change the content of that understanding without the agreement of the Senate it cannot come back and say to the Senate that "you may think you agreed to version a of the treaty, but now I decided that you really agreed to version b". This is the essence of this dispute, our condition is the simple reiteration of the fact that the constitutional advice and consent power does not allow for such chicanery.

Instead of arguing with this fundamental and commonsense principle, critics of the condition stay on the level of generalities about "power-grabbing", "artificial constitutional confrontation", "partisan dispute" and the like. This will not do. I challenge every opponent of this condition to come down from the level of generalities and focus on the essence. To oppose this condition, you have to tell the Senate, that contrary to the position taken by the Foreign Relations Committee, the President does have the right to unilaterally change the content of the understanding that was the basis of the Senate's advice and consent. If you do not believe this, you ought to support the condition because all it does is to reiterate the substance and the integrity of the Senate's treaty power.

The opponents' position carries at least one of two implications. Either the executive has to be allowed to deceive the Senate—or the executive is so incompetent that it has to be allowed liberal opportunity to unilaterally change its understanding of the treaty that it authored. I find both of these premises unacceptable.

As for the charge that this condition will make thousands of pages of administration testimony binding without regard to the importance or relevance of the particular reference or the rank of the witness in question, this objection is simply groundless. I carefully reviewed the objections of the administration as presented, for instance, in the letter of White House Counsel Arthur Culvahouse to Senator LUGAR, dated March 17 of this year.

The PRESIDING OFFICER (Mr. BREAUX). The time of the Senator from Connecticut has expired.

Mr. DODD. Mr. President, I request of the opponents if I may have a couple of more minutes, and then I would be glad to respond to some questions. I request 2 minutes from the opponents of the condition.

Mr. BYRD. Mr. President, is the Senator supporting the Byrd amendment?

Mr. DODD. I am supporting the Byrd amendment.

Mr. BYRD. I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. DODD. I thank the majority leader. I am sorry the majority leader did not understand exactly where I was coming out on this.

In my review of the letter dated March 17 of this year, it is my conviction that, while our Constitution anticipates conflict and struggle between branches of our Government, it works best when those conflicts and struggles are tempered by civility and accommodation. In this spirit I suggested two modifications to the draft to allay the concerns of the White House. One modification reasserted the self-evident rule that the primary source of treaty interpretation is the text itself. The other made clear that of thousands of pages of Executive testimony only those parts are considered binding where authorized witnesses of the executive directly analyze specific parts of the text as for their meaning and legal effect. This reduces those ominous "thousands of pages" to a few dozen pages at most in my estimate. I call my colleagues' attention to what must have been obvious to any observer of these hearings. Even high-ranking administration witnesses showed enormous caution when addressing the interpretation of specific treaty language. I have seen Secretary Shultz turning to the negotiators or his other experts repeatedly on such questions. When I queried Ambassador Glitman, whose knowledge of the field of arms control is nothing less than encyclopedic, on a specific question of international law, he answered me only upon consulting his expert on international law sitting behind him. The implication by the opponents of this condition, that there are somehow hundreds or thousands of loose and careless assertions by executive witnesses spread over the record and this condition will make all of them binding is nonsense.

While this dispute originated in the ABM Treaty controversy, this condition avoids trying to solve that controversy using the ratification procedure of this treaty. One can vote for this amendment and still support the broad interpretation of the ABM Treaty because that debate is mostly over facts, and this condition is over constitutional principles. You ought to vote against this proposal only if you believe that under the Constitution the Executive can bring a treaty here, give you an authoritative explanation directed to the meaning of its text, and than, after the treaty is ratified, to return and state that that was not really what the text meant, it meant something else.

Let me finally dispose of a red herring. The March 17 letter of White House counsel raises the possibility that this condition would increase the risk of a treaty having one meaning domestically and a different meaning under international law.

First of all, this objection is curious from a White House that is trying hard to give a crucial provision of the ABM Treaty a domestic meaning that is very different from the meaning shared with the Soviets under international law.

Second, while the possibility for dual effect always exists in theory, the modification I suggested, restricting the binding effect of executive presentations to those parts that speak directly to the text of the treaty minimizes this danger.

Third, disputes over the interpretation of an international agreement almost never occur this way, that is, by an attempt to reverse the very meaning of a treaty provision authoritatively given at the time of ratification.

Interpretation disputes typically arise in two ways. One is a legal gap. The treaty was supposed to have covered a given set of circumstances, but by a drafting error or oversight it does not. There is no treaty text covering the case, there can be no shared understanding between the Executive and the Senate, and the President is free to enter the dispute with our treaty partner to try to work out the issue under the rules of international law. The second type of dispute arises from changed circumstances, new facts not foreseen and provided for at the time of writing the treaty. The result is the same, no shared understanding could exist with the Senate and the President has a free hand to negotiate a solution with our treaty partner.

I gave these examples to illustrate to my colleagues not how much but how little this finding and condition will bind the President. With a little simplification, what it says is that the Executive has no right either to mislead the Senate, or unilaterally change what was mutually agreed to under the Constitution. In closing, let me just point out that this is a fundamental general principle under any system of law, domestic or international.

I strongly urge the support of the Byrd compromise proposal that is before us. It would, I believe, tremendously enhance this particular document and clarify what is an extremely important point. There is nothing trivial about this debate at all.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. SPECTER. Mr. President, at last report, I had 23 minutes remaining. I would like to ask if that is so?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Mr. President, on my time, I would ask a question of the distinguished Senator from Connecticut, but there is not time enough under this arrangement to debate anything. I wanted to have an exchange with the distinguished Senator from Michigan, but since there is not time to debate it, I simply want to state for the record this point. According to my copy of Professor Henkin's letter, he says:

> I am not in favor of making a statement of constitutional principle a condition of Senate consent.

So I do not believe that Professor Henkin favors that, as represented by the distinguished Senator from Connecticut.

But I will add this, Mr. President: Professor Henkin's letter is sufficiently complicated so it requires a lot of analysis, more than the few moments I have had today, and it requires some debate, as well.

I yield the floor. I ask how much time I have remaining, Mr. President?

The **PRESIDING OFFICER.** The Senator has 22 minutes remaining.

Mr. SPECTER. I thank the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. WILSON. Mr. President, I yield 5 minutes to the Senator from Delaware [Mr. ROTH].

The **PRESIDING OFFICER.** The Senator from Delaware is recognized for 5 minutes.

CONDITONAL CONSENT

Mr. ROTH. Mr. President, it is well established that in considering a treaty the Senate may grant its consent, may refuse its consent, or may condition its consent. The Senate's power to attach conditions is grounded in the customs of this body and recognized in the opinions of the Supreme Court.

Although the Senate's power to attach conditions is clear, the legal effect of exercising that power appears to be cloudy. In my opinion, the confusion about conditions arises from a failure to make a fundamental distinction between making law and making a political bargain.

How we make law is stated in the Constitution. The Senate participates in three kinds of lawmaking: In writing amendments to the Constitution, in writing legislation, and in consenting to treaties. These are the only ways for the Senate to make binding law under the Constitution.

Is the pending amendment to the resolution binding law? No it is not. Clearly, it is not part of a constitutional amendment or statute. Nor is it part of a treaty. Therefore, the condition is not binding law. If it is not binding, then no one is bound—either the Soviets or the President.

Of course, making a law is not the only way to prompt someone to act. Bargaining is a widely accepted technique. The mother who promises to take her son swimming if he cleans up his room or the Senator who promises a favor in return for a favor is not making law. Just a bargain.

People respond to bargaining because they want something and not because they wish to avoid violating a law. Suppose that the Senate consented to the INF Treaty on condition that the treaty not take effect until the President removed the Secretary of State. That condition in itself would not have the force of law. The President would not be legally bound to remove the Secretary of State. But he would have to politically if the wanted the Senate's consent to the treaty. The Senate's posture may be viewed as a refusal to consent outright but an offer to consent on other terms. In effect, the Senate is exacting a price for its consent.

Normally, bargaining works better when the price exacted is paid up front. But suppose the Senate granted its consent this month on condition that the President would remove the Secretary of State at some later time, say, by the end of July. Suppose further that the condition is not met. On August 1 do we have a treaty or not?

In my opinion, the answer is yes. The condition is not law. The Senate made a bad deal insofar as it gave its consent but is left to hope that the President complies. The condition is not part of the treaty. The signatories therefore remain obligated.

The pending amendment is a condition much like the above example. It seeks to impose on the President and the Supreme Court certain rules for interpreting the treaty, which must temporally relate to postratification events. While it makes clear its purpose not to impact upon the obligations assumed by the signatories under the treaty, it seeks nonetheless to claim that it is binding domestically. I do not believe that it is possible for a condition to be nonbinding internationally while at the same time it is binding domestically.

A condition is either binding or it is not. For a condition to be legally binding it must be part of a treaty, statute, or constitutional amendment. The pending amendment is none of those. Therefore, it is not binding. If it is not binding, it is not binding internationally or domestically.

Once the Senate consents, where does the condition get its authority to bind? The Senate can prompt action by withholding or threatening to withhold its consent and making a bargain. But there is hardly any leverage here. Once the Senate consents and there are no conditions contained in the treaty papers, the executive branch has what it wants and the President, particularly succeeding Presidents, are free to ignore bargains that are not part of the treaty.

Proponents of the condition may argue that the condition is binding on the President because he accepts the condition when he signs the protocol of ratification. But the condition is not part of the papers he signs. Moreover, even if it were part of the papers, it makes no difference. Remember that the President signed the Gramm-Rudman-Hollings law; yet was able to challenge one of that law's provisions that affected his authority to withhold spending. The Supreme Court struck down that provision and, in effect, said it was not legally binding on the President. The fact that the President accepted the invalid provision by actually signing the legislation was not said to transform a nonbinding provision into a binding one. Therefore, in my opinion, the President could not be deemed to accept the reported condition either in fact or in law.

If the law were otherwise, if the President were held to accept the reported condition, we would be presented with the incongruous situation that the condition binds the President but not the Supreme Court. The Supreme Court is part of the "United States" referred to in the text of the condition, and it also from time to time interprets treaties. But as far as I know, they are not part of the bargain. Therefore, within the context of this argument, the Supreme Court would not be bound while the President is, even though the condition embraces them both. This cannot be.

What we have here is a condition that is not binding at all, neither internationally nor domestically. In my opinion, the notion of splitting Senate consent and placing it on two tracks—one for the Soviets and another for the President—is novel, confusing, and mischievous.

Proponents who argue that the condition has legal significance may inadvertently be creating a basis for the Soviets to claim, at some future date, that the treaty is no longer binding on them. For they could argue at some future time when the President interprets the treaty that the condition has been violated, that as a consequence the Senate's conditional consent is no longer operative, that the United States is not bound to treaty obligations for which there is no Senate consent, and that therefore the Soviets themselves are no longer bound.

If the Soviets fail to grasp the notion of split consent, with a condition that binds the United States but not the Soviets, I cannot blame them. If they take the position that a condition is either binding or it is not, and if proponents and opponents of the condition take the view it is binding, as many do, then we have a problem here. If the Soviets someday need an argument to cover possible violation or abrogation of the treaty, this condition provides a lot better pretext than the Soviets have needed on other occasions.

I do not believe their argument would be valid. Nor do I believe that anyone here or in the administration wishes to give them such a pretext. But that is not the point. It is not wise to provide such an opportunity.

In opposing this condition on jurisprudential grounds, I hope no one misunderstands my point. I do not have any difficulty with conditions that seek to perfect the treaty or which otherwise prepare us for the signing of the protocol of ratification. Such conditions are consistent with the constitutional role of the Senate. Rather my problem is with conditions that are not part of the treaty papers and which are to take independent effect after consent is given and after the treaty is formally ratified by the signatories. In my opinion, such conditions have only the force of sense-of-the-Senate resolutions.

If that is true, it might be asked why I will not support it. The reason is that the condition itself—apart from the merits of the vexing question it addresses—may be a source of mischief insofar as it grants the Soviets a pretext for shirking its treaty obligation.

The question of how a treaty may be interpreted is certainly worthy of Senate consideration. But if the Senate's purpose is to set out a blueprint which the executive must follow, this should be accomplished by binding law—by enacting a statute.

If it would be considering inconvenient to bring the House into the picture, then I might suggest that the Senate and the President negotiate the terms of an executive order. Since the Senate and the President agree that interpreting treaties is an executive function, an executive order would be appropriate. Of course, it would not have the permanence or status of a statute.

Mr. President, I recognize that there is very little law on the legal status of conditions that are not part of the treaty papers. In this body, there may well be 100 views on the subject. It is with some humility that I undertake to state my thoughts, in view of the respect I have for the Senators and legal thinkers who may disagree.

I rise to speak because I believe that the Constitution speaks plainly regarding our authority. There are but three ways to make law. This condition is not any one of them.

The PRESIDING OFFICER. Who yields time? Who yields time under the time agreement?

The Senator from California.

Mr. WILSON. Mr. President, I would ask unanimous consent that a call of the quorum be undertaken without that being charged to either side.

Mr. BYRD. I would object to that.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. BYRD. I would be happy to charge it equally to all sides if the Senator would wish. Against all sides?

Mr. SPECTER. Mr. President, rather than let the time lapse, there is substantial time this Senator would need, but I am reluctant to use my time at this point. I spoke with the Senator from Georgia, Mr. NUNN, who said he expected to be on the floor between 4:15 and 4:30, but rather than let the time go to waste, if it will not go against my 22 minutes, I will seek the use of the time.

Not a bad alternative to having it under the quorum call.

The PRESIDING OFFICER. Who yields time under the agreement? The time allocated—the Senator from Pennsylvania has 22 minutes remaining. Do you seek to use the time?

The Senator from California.

Mr. WILSON. Mr. President, I would inquire how much time remains to all parties?

The PRESIDING OFFICER. The Senator from Pennsylvania has 22 minutes remaining. The Senator from California has 16 minutes remaining. The majority leader has 28 minutes remaining. That is all the remaining time.

Mr. WILSON. Mr. President, owing to the earlier generosity of the majority leader, I believe I have 10 minutes personally?

The PRESIDING OFFICER. The Chair will state to the Senator from California that he has 6 minutes of his original time allocated to him, plus 10 minutes from the majority leader for a total of 16 minutes.

The Chair will state to the Senator that if no one yields time, time will be allocated and charged equally to those Members who have time allocated to them.

Mr. SPECTER. Well, Mr. President, rather than sit here and do nothing.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I would direct a question to the majority leader on my time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. But not the answer.

I would ask the distinguished majority leader, as the sponsor of this condition, whether he agrees with the statement of Senator NUNN on hearings before the Armed Services Committee earlier this year, 1988, page 28 of the record where Senator NUNN says:

> I want to make it clear that if the Soviet Union disagrees with the reading of the treaty being presented in these hearings by our executive branch witnesses, then the time for the Soviet Union to speak out is now, not after the Senate gives approval and not several years down the line.
>
> If the Soviets remain silent on points of interpretation presented by the executive branch witnesses then I believe the U.S. Senate as well as our Government can reasonably believe and contend that silence connotes assent to those interpretations. That is my own view.

How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator from Pennsylvania has 20 minutes remaining.

Mr. SPECTER. I would ask the distinguished majority leader, on the interpretation of the Byrd condition, if the distinguished majority leader agrees with Senator NUNN's interpretation of the law on treaty interpretation?

Mr. BYRD. Mr. President, I do not answer on my time.

Shall I respond on the Senator's time?

The PRESIDING OFFICER. The Senator from Pennsylvania still has the floor.

Mr. SPECTER. No, I do not yield time for purpose of a response.

The PRESIDING OFFICER. The Senator from Pennsylvania yields the floor?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator from Pennsylvania yields the floor.

Who yields time?

Mr. WILSON. I yield 5 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina, Senator THURMOND, is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by the distinguished majority leader. I recognize and congratulate both the majority leader and the Republican leader for the considerable effort that has gone into the formulation of this amendment to accommodate concerns that had been expressed about the earlier Biden-Pell amendment.

Nonetheless, Mr. President, I continue to hold to the belief, that I expressed the other day on the floor, that any amendment along these lines is unnecessary. The assurances provided by the administration with respect to these issues are both appropriate and adequate in my view.

Mr. President, I am concerned about several implications of the amendment that is now before the Senate.

My first concern is how we deal in the future with contradictions that may become apparent in the testimony of authoritative witnesses. During the course of committee deliberations on the treaty, one such potential contradiction did arise, but was subsequently resolved. However, the record is very long, and has only been scrutinized for consistency for those issues that were of particular interest during the committee reviews, such as the future systems issue.

My second concern, Mr. President, is with the lack of status afforded by the amendment to the negotiating record. It is my understanding that the negotiating record was a critical contributor to our understanding of several issues that arose during committee review of the treaty, including the double negative issue that was taken up several days ago.

Finally, and most importantly, Mr. President, I am concerned that the amendment as drafted puts the United States in the position of being held in accordance with United States law to an interpretation to which the Soviet side would not be held. Such a unilateral treaty obligation seems to this Senator to put us in exactly the same situation that was debated on the floor of the Senate for several months last summer in conjunction with the ABM Treaty.

Mr. President, this amendment is at best unnecessary, and at worst, raises the potential for future concerns that may jeopardize the best interests of the United States.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator yields the floor. Who yields time?

The Senator from California.

Mr. WILSON. Mr. President, I would inquire of my distinguished colleague from Pennsylvania whether he is ready to take the floor at this point?

Mr. SPECTER. Mr. President, rather than allow the time to be unused, may I ask again if my time remains. Is it 20 minutes at this point?

The PRESIDING OFFICER. The Senator from Pennsylvania has 19 minutes remaining.

Mr. SPECTER. Mr. President, as I said earlier, there are a series of questions that I had intended to propound to both Senator NUNN and Senator BYRD. I am going to propound the questions at this time because I believe they are important questions.

I cannot yield my time because I have so little left. I think this illustrates the lack of wisdom of having this kind of a time agreement. I have asked the minority leader, the distinguished Senator from Kansas, Senator DOLE; the request has been relayed to the distinguished majority leader, Senator BYRD, for extra time so that we can have response here, and I hope we would have some extra time.

My questions for the sponsor of this amendment, the distinguished Senator from West Virginia, on the Byrd condition, is whether Senator BYRD—first, I already asked him the question about whether he agrees with Senator NUNN's interpretation that the Soviets are bound by what goes on in the United States ratification process.

I next ask Senator BYRD whether he agrees with the three conditions of the so-called Sofaer doctrine on reaching an understanding of the Senate generally understood and clearly intended and relied upon by the Senate, which has been agreed upon by Senator NUNN in testimony, and whether or not the proponents of the Byrd condition agree with the committee report that the negotiating record is immaterial, where it disagrees with the understanding of the Senate.

I submit those are three important questions which ought to be answered, and I would like to have the time to yield, but I simply do not. Can I inquire how much time of mine is remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 17 minutes remaining.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania yields the floor. Who yields time? The Chair will state again that no one yields time, so the time will be charged proportionately to the Members who control time.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may use the time without having it charged as my time until someone seeks the floor.

Mr. KERRY. Objection.

The PRESIDING OFFICER. An objection is heard.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, there seems to be a little game called freezing the puck underway here. I will yield myself such time as I require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WILSON. Mr. President, the Byrd substitute to the Biden-Pell amendment has no place on the INF resolution of ratification. It is not necessary. Indeed, it imperils some votes for the treaty from Members who have expressed publicly their desire to vote for it, their intention to vote for it.

Some have expressed such concern about the lack of wisdom of this condition, that it may be decisive in changing their votes, so some of my colleagues have related to me. It may very well be unconstitutional as a limitation upon executive authority.

It is certainly counter to international law. Professor Henkin, who has been much referred to today, has, as the distinguished Senator from South Carolina put it, come down on both sides.

This debate is really about Senate prerogatives and Senate ability to do its job, Senate duties. Those who are pushing the Byrd substitute to the Biden-Pell amendment have expressed a concern for Senate prerogatives. Well they might, but the great irony of their effort is that they are undermining the ability of the Senate to actually perform its responsibility, to do its duty, to examine the record, all of the record and not simply authoritative representations.

The great irony, Mr. President, is that those who are pursuing this amendment, this condition, are in this instance prepared to detail wholesale the representations, authoritative representations of the Executive.

My colleague from California has so indicated. So has my colleague from Michigan. They have said we do not hold the documents; it is not our responsibility to look at the negotiating record. They agree that we are not precluded from this condition from doing so. That is a question in itself, but, my god, we should not be satisfied with not being precluded. We ought to prescribe unto ourselves a duty to compare for consistency and for accuracy the negotiating record of what actually happened in Geneva as between the negotiators on our side and the Soviet side and what is being presented here.

The great irony is that this morning in the omnibus amendment, to which there were no dissenting votes, there was no opportunity, without resort to the negotiating record, for the very points that were included in that condition attached to this resolution of ratification to have ever been discovered.

So there is more than a little irony in arguing about Senate prerogatives and ignoring the Senate's responsibility to do its job.

I had been assured last night in the negotiations, to which the majority leader referred and to which we have referred here today, that this Byrd substitute for the Biden-Pell condition does not settle the ABM interpretation dispute. That is quite true. It does not. It leaves it unsettled.

It is also true that, as they have said, it does not preclude resort to the negotiating record. At least that is not their intention. However, perhaps the most dangerous thing about this, already hit upon by other speakers, is that by implication, it prescribes the basis for both international as well as domestic obligations.

It is for that reason that it should, in fact, go further than it does and describe a duty explicitly that we make consistent not only the testimony of administration witnesses with the record of what the negotiators did in Geneva, but we must do so so there will be consistency between domestic law and international obligations of the United States under this treaty whereas, in fact, by implication, in defining common understanding, the Byrd substitute for Biden-Pell makes the same mistake as Biden-Pell.

It does not really improve it. It does somewhat, but not nearly enough because it does not say that the following things comprise the basis for common understanding in a way that says that they are the exclusive, but it does not similarly say including the following but not limited to.

It says that the common understanding shall be the text of the treaty, the provisions of the resolution of ratification, and the authoritative representations. It does not by implication, and certainly does not expressly say, included as the basis within the definition of common understanding that there shall be other competent evidence, including first and foremost the negotiating record.

Mr. President, the Biden-Pell amendment had its origins in an effort to try to dispose of the debate about the interpretation of the ABM Treaty. It may very well be that wiser heads have understood the necessity to placate Members concerned about that debate and, for that reason, have given repeated reassurances that this will not preclude further consideration of the question or settle the debate.

What it really amounts to in this case, Mr. President, is INF medicine is far worse than the perceived ABM disease. What the Biden amendment did and what the Byrd amendment does is cut off the Senate's nose to spite Ronald Reagan's face, and that is a costly exercise.

If those who are concerned with Senate prerogatives are truly concerned with them, they need to be concerned as well with the Senate's ability to do the job. My friend from Michigan says we do not have the documents. He is of sterner stuff than that. Twice now he and I have both demanded the documents, demanded the negotiating records and, I dare say, my friend and I will do so again in the future if another treaty comes our way that requires us to resolve ambiguities on the text or to go further and do our job examining the negotiating record and finding things which are not apparent on the face of the treaty or even apparent in the explicit testimony of authoritative witnesses on behalf of the administration. That is what we did in this treaty. That is how the Senate did its job.

The great irony of this debate, Mr. President, is that we have done our job in this instance, but this amendment, this condition that would be attached, by the Byrd substitute, to the resolution of ratification would, in effect, prescribe a different course for the future.

It would, in fact, if not preclude the Senate from doing its job, at the very least imply that our job is completed when we simply listen passively to witnesses and do not look behind their testimony. That is precisely the problem in the ABM Treaty. Representations were made that were not only in conflict with that of other administration witnesses, but that were flatly contradicted by the negotiating record.

To say that there was at least ambiguity is to understate the case. That is what is wrong with the Byrd amendment. It does not settle that question, and it does something very dangerous. By not specifically addressing itself to the question of whether this binds us only domestically, it by implication states that the basis for the advice and consent of the Senate to ratification of the INF Treaty is a common understanding, and it by implication professes to bind us both with respect to domestic and to international obligations. It makes no distinction; it does not call forth any different course of action. It simply says that there is a basis in common understanding that is the condition upon which Senate advise and consent to this treaty is given.

Mr. President, how much time remains?

The **PRESIDING OFFICER**. The Senator has 2 minutes 15 seconds.

Mr. **WILSON**. Mr. President, let me inquire if the Senator from Pennsylvania is prepared to use some of his time since evidently he is going to have to ask rhetorical questions.

Mr. **SPECTER**. I have already asked questions. They are not rhetorical. I am waiting for responses. I do not choose to use any more time at this point.

Mr. **McCLURE**. Mr. President, will the Senator from California yield to me?

Mr. **WILSON**. I yield to the Senator from Idaho.

Mr. **McCLURE**. Mr. President, I thank the Senator for yielding.

I rise in strong opposition to the amendment.

Mr. President, we have heard a lot during the last 2 weeks about killer amendments, and dilatory amendments, and other dark and nasty things lurking around like ghosts. Or as one of my colleagues put it, like the Loch Ness Monster. And I must confess that I didn't know what people were talking about. All I saw was a group of amendments, some of which I supported and some of which I opposed, that addressed important issues associated with this treaty. And I had just about stopped believing in the Lock Ness Monster, when along came this amendment, and I thought, well, there goes a killer amendment.

Let me tell my colleagues who are worried that those other amendments would kill the treaty because the Soviets would refuse to accept them: this amendment is sufficient reason alone, to vote against this resolution and may well persuade Senators to vote "No."

Mr. President, the supporters of this amendment have presented it as a nonpartisan issue relating solely to the INF Treaty before us, and not to the highly partisan ABM Treaty interpretation issue, which as my colleagues remember kept the Senate tied up in knots last summer.

That, my friends, is simply not true. This amendment is clearly, transparently nothing more than another salvo in the battle over the ABM Treaty. The intention, pure and simple, is to prejudice the administration's interpretation of that treaty and cripple SDI. This amendment would affect all treaties, not just the treaty at hand. The Byrd amendment, and I quote, "is based on the treaty clause of the Constitution." This is not some one-time deal. This is an attempt to reinterpret the treaty clause to alter the constitutional balance of power. It is an attempt to arrogate to the Senate the President's right to make, interpret, and implement treaties. It is an unconstitutional power-grab, pure and simple. But in its application it may well give a future administration the opportunity to bind our country in ways the other signatory nation is patently not bound to observe.

So much for the constitutional theory. What would this amendment have meant for the INF Treaty in practice? Among other things, it would have crippled the Senate's ability to answer the questions over futuristic systems. Because the negotiating record would have been inadmissible evidence in that debate. The Senate, whose job it is to ratify treaties, would have been forced to rely on the administration's testimony, which originally held that these systems had been addressed and were covered under the treaty.

But as we all know, the administration's authoritative testimony turned out to be not so authoritative, and it turned out these issues were never even discussed. The Senate had to send the State Department back to the negotiating table to clear this issue up. If we had not known that these issues were never discussed, we would not have been aware of the need to send them back to the drawing board. And the United States would have ended up bound unilaterally to something the Soviets never agreed to.

Here is another example of what Biden-Pell-Byrd would have meant for the INF Treaty. The so-called double-negative in article VI paragraph 2 as written is ambiguous and confusing. Nevertheless, we know that the Soviets do understand this provision in the same way we do, and that they in fact expressed concern about the sloppy way the language was drafted. How do we know this? The negotiating record.

Mr. President, far from enhancing the Senate's ability to properly consider treaties, this amendment would make it harder, by excluding a vital body of evidence. This could have dangerous results. The essence of a treaty, that which is agreed upon between the two parties, is not necessarily to be found in communications between the executive and legislative branches of one of those parties. It is to be found in the record of what was discussed, what was offered, what was rejected and what was accepted. By seeking to exclude this body of evidence, the amendment represents an abdication of the Senate's responsibilities.

I urge its defeat.

Mr. President, one of the things that disturbs me about the proposal we have is that while some may argue, and indeed it can be argued, that it is an attempt to tilt the balance to the Senate and deprive the administration the opportunity to interpret treaties, it may well in the future work in exactly the opposite manner by allowing an administration to misrepresent a treaty to the Senate in ways which give the administration more authority to create a different kind of treaty than was agreed upon between the parties and mislead the Senate in ways that bind the United States unilaterally without binding the other signatory to the treaty.

I thank the Senator for yielding.

The **PRESIDING OFFICER.** The Senator from California has 1 minute remaining.

Mr. **WILSON.** Mr. President, because this does not prescribe the kind of duty that the Senate is in fact under as a matter of constitutional mandate, because it suggests that there may be a way to perform that responsibility with less than the care given in the course of the INF Treaty and because it implies that we will be bound both internationally and domestically, at the appropriate time I will move to table the Byrd substitute to the Biden-Pell amendment.

The **PRESIDING OFFICER.** The time of the Senator from California has expired. Who yields time?

Mr. **BYRD.** Mr. President, I yield 5 minutes to the distinguished Senator from Indiana, Mr. LUGAR.

The **PRESIDING OFFICER.** The Senator from Indiana [Mr. LUGAR] is recognized for 5 minutes.

Mr. **LUGAR.** Mr. President, I thank the distinguished majority leader.

I rise to ask Senators to vote for the Byrd substitute. I do so having participated in the discussions with the distinguished majority leader, with colleagues on both sides of the aisle representing the Foreign Relations, Armed Services, and Intelligence Committees, and of course, our Republican leader, Senator DOLE.

I would simply comment, Mr. President, as is I think well known from the letters that I have written to colleagues and public statements that I have made, I hoped this particular amendment would not be necessary on the INF Treaty. Indeed, I described the entire operation as a mistake, in my judgment. I suspect that each one of us tries to determine what is relative and what is important, and it is apparent to me that a number of colleagues believe this matter is very important. Indeed, the majority leader has pointed out that in his judgment the role of the Senate in the treaty-making process is the most important factor superseding even perhaps the treaty we are discussing.

I would say, Mr. President, that my judgment about these matters is somewhat reversed. I come to a conclusion of support for this amendment because I believe the INF Treaty is very important, and it is apparent to me that the passage of this treaty would have been difficult within the time period which we are talking about without accommodation of colleagues listening to one another.

Having said that, Mr. President, let me simply comment that the amendment as it has been worked out in a bipartisan way does recognize various arguments of both Democrats and Republicans, both sides of the aisle. I think a reading of that shows through recognition that colleagues were listening to each other and working with each other. But I would point out that the Byrd amendment speaks only to relations between the two branches, that is, the Senate and the President.

As was clear in our conversations, the Supreme Court is entirely outside of this agreement, and as other colleagues have pointed out in due course the Supreme Court may very well rule quite apart from the general description of events which we give to each other today on the Byrd amendment.

I point out, furthermore, that the checks and balances of our Government still work, and I appreciate the frustration of many colleagues on the other side of the aisle who feel that the current administration has attempted to reinterpret a treaty. In my own judgment, the current administration did not attempt to reinterpret a treaty. The ambiguity at least in the ABM Treaty has been cited by the administration as a basis for interpretation. But let us take the worst case, that the current administration deliberately took a look at a proposition that both the Senate and the President had looked at and went entirely in a different direction. In truth, Mr. President, we have in front of us the actual political history of the past 2 years, and that is the majority party in the Senate has not agreed with the interpretation of the President of the United States of how we ought to develop the SDI program, and as a result that program has either been stymied or has been tailored to fit the will of the majority.

Now, I have not agreed with the tailoring or the stymieing, but nevertheless, I recognize that in our political system this is the way it works. In short, even if a President should attempt to reinterpret a treaty, the checks and balances of the legislative-executive relationship check any exercise of arbitrary judgment or arbitrary authority.

Therefore, Mr. President, I saw no particular reason to try to pin all of this down 15 different ways. It seems to me the system works adequately as it stands and that the Supreme Court finally will offer judgments in any event quite apart from what we are saying to each other today.

But that argument cuts both ways. If my argument is correct that what we are doing today is redundant or maybe even irrelevant, others could argue, if that be so, why worry about it?

In my judgment, Mr. President, we finally come down to a point in which the amendment we have fashioned, whether it is redundant or irrelevant, does at least recognize several points of view which I think have validity.

The **PRESIDING OFFICER.** The time of the Senator from Indiana has expired.

Mr. **LUGAR.** I thank the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. **KERRY.** Mr. President, will the distinguished majority leader yield time?

Mr. **BYRD.** I yield 5 minutes to the distinguished Senator.

The **PRESIDING OFFICER.** The Senator from Massachusetts, Mr. KERRY, is recognized for 5 minutes.

Mr. **KERRY.** I thank the distinguished majority leader.

Mr. President, I would agree with certainly part of the comments from the Senator from Indiana. It is unfortunate that we are here discussing this particular amendment. But I would assert that it is vital to the treaty process that this amendment be passed, and that the Senate assert its constitutional prerogatives.

Mr. President, article VI of the Constitution is very clear. It says that:

> . . . all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, . . .

Article II says the President must take care that the laws be faithfully executed. And in another article, it says that a treaty can be made only with the advice and consent of the Senate.

So it is only with our advice and consent when we interpret what a treaty means that a treaty can become the supreme law of the land, which the President must carry out.

In the course of hearings I had an exchange with Judge Sofaer which I think is relevant to why this is so necessary. I asked the judge what was put in front of the Senate in 1972. And he said in referring to comments he made that the executive could tell the

Senate what a treaty meant. And I said to Judge Sofaer:

> . . . And the Executive had an opportunity to tell the Senate how to interpret the treaty of 1972, didn't it?
>
> Judge Sofaer. Yes.
>
> Senator Kerry. And it did so by sending specifically the treaty itself, document one, it sent the agreed statements; correct?
>
> Judge Sofaer. Yes.
>
> Senator Kerry. It sent the unilateral statements.
>
> Judge Sofaer. [Nods affirmatively.]
>
> Senator Kerry. It sent the letter of transmittal.
>
> Judge Sofaer. [Nods affirmatively.]
>
> Senator Kerry. And it sent the Rogers report to the President.
>
> Judge Sofaer. Precisely.
>
> Senator Kerry. Those are the items that were before the U.S. Senate. That was the communication of the Executive to tell us what the treaty meant. Correct?
>
> Judge Sofaer. Yes, sir.

The Senate then proceeded, based only on those items, to interpret that treaty and to decide what it meant.

As the distinguished Senator from Georgia has said very clearly in a statement that is part of the record, all of the Senators, including Senator Buckley who voted against the treaty precisely because it did not do what he wanted it to do, interpreted the treaty on the basis of what was in front of them.

Thirteen years later a different President, who had nothing to do with that negotiating process, comes before us and says, wait a minute, the treaty does not mean what the Senate believed it meant in 1972. It means something that is sent out in a secret document that was never put in front of you, which you never saw, which was never even collected as a document in one entity, and that is what it means today.

Now, if that were true, any President at any time could withhold any document, call it a secret, come back years later, and say, when you voted to say the treaty meant X, it did not mean X at all, it meant Y. If that were true, Mr. President, then the entire Constitution would be turned topsy-turvy. It would be meaningless to say that this is the supreme law of the land, passed only with the advice and consent of the Senate, meaning what the Senate interpreted it to mean at the time it passed it.

So it is too bad that we are here today, Mr. President. But we are here today not to resolve the ABM issue, and this does not. We are here today simply to assert that this treaty when we pass it will mean what the record of debate and what we have interpreted it to mean based on what the executive told us that it means in 1988, not when someone comes forth and says what it means years hence.

And the Byrd change to the Pell-Biden amendment sets forth nothing except the law. It sets forth what is precisely the constitutional responsibility of this institution. And it says that we will not agree or adopt, the United States will not agree or adopt, an interpretation that is different from what we believe this treaty to mean today based on the understanding that is put in front of us by the text and based on the authoritative representations provided by the executive itself.

I cannot think of a more important statement for us to make though an unfortunate statement for us to have to make. But it is vital to the meaning of this treaty and it is far, far more vital as the majority leader has asserted to the Senate process and to the constitutional process itself.

I yield such time back to the leaders as may remain.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired. Who yields time? The Chair will announce that the majority leader has 17 minutes remaining and that the Senator from Pennsylvania has 17 minutes remaining.

Who yields time?

Mr. SPECTER. Mr. President, rather than have time wasted, I ask unanimous consent that half of the time I use be charged to the other side.

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Chair will announce the time, if no one yields time, will be allocated proportionately to the two Members that have the time remaining.

Mr. BYRD. Mr. President, I believe I have 17 minutes left. I want to save 12 minutes of that for Mr. Nunn. I had intended to save myself 5. I yield 3 minutes of my 5 to Mr. Simon.

The PRESIDING OFFICER. The Senator from Illinois, Senator Simon, is recognized.

Mr. SIMON. I thank the distinguished minority leader and my colleagues in the Senate.

I rise in support of this amendment, and I think if we move away from the principles of the Biden amendment—and this perfecting amendment does not—we are really getting on thin ice. If we can massively reinterpret contrary to the common understanding of a treaty, then a succeeding administration that will be in here in another 7 months can reinterpret that. We will not know where we are. It is inviting all kinds of problems. And then there is a second consideration that I think should not be lost in this body, and that is if we can reinterpret contrary to the common understanding, then there is nothing to prevent the Soviets or any other country with whom we have a treaty from massively reinterpreting.

I think it is simple prudence that we stick with the basics of the Biden amendment and the perfecting amendment offered by the distinguished majority leader.

There will be things that are ambiguous from time to time. And there we may have some problems, or there will be interpretations that we may disagree on how to interpret. But where there is that clear common understanding as in the ABM Treaty, we cannot suddenly unilaterally and unilaterally within a single administration decide we are going to take off in a different direction. I think we are getting on really thin ice, and we are jeopardizing the whole treaty process if we do that.

I strongly support the amendment of my distinguished majority leader, and the thrust of the Biden amendment. I think it is a safeguard for all of us.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Who yields time?

The Chair will announce that the majority leader has 14 minutes remaining, and the Senator from Pennsylvania has 16 minutes 48 seconds remaining.

Mr. BYRD. Mr. President, I am sure the distinguished Senator from Pennsylvania wants the last word. I am perfectly willing for him to have it. I am going to use 2 minutes of my own time. The remaining time will be for Mr. Nunn. I hope he will be on the floor and ready to utilize it.

Mr. President, let me summarize the intent and the purpose of the amendment in closing. It binds the President to the interpretation of the treaty which the Senate and the President share at the time that the Senate gives its advice and consent to the treaty. The amendment makes clear the bases on which that shared understanding are: first, the text of the treaty and the provisions of the resolution of ratification; second, the authoritative representations of the administration regarding the meaning of the treaty.

The amendment states that no reinterpretation can occur without the Senate's proper participation. The amendment acknowledges that if future cases arrive concerning the interpretation of the meaning of a provision of the treaty where a shared understanding has not been reached, then applicable U.S. law will apply. This provision does not refer to ambiguities or disagreements but to new issues that may arise in the future which we have not anticipated at the present time.

The amendment protects and reinforces the role of the Senate in the treatymaking process. It ensures that the representations of the executive branch regarding the meaning of the treaty are binding on future administrations. In other words, reinterpretation by a future President without the Senate's consent will be impossible.

In adopting this amendment, we will not only be strengthening the role of the Senate and its institutional responsibilities; we also will be strengthening this treaty and strengthening the United States in its dealings in future negotiations. It will be clear that the U.S. Senate as a whole, the President, and Congress understand what the treaty means and agree to bind the United States to the obligations which the treaty entails. This is as it should be, and this amendment deserves the support of all Senators.

The **PRESIDING OFFICER**. The time of the majority leader, allocated to himself, has expired.

Who yields time?

Mr. **BYRD**. Mr. President, does the distinguished Senator from Georgia wish me to yield the remaining time to him?

Mr. **NUNN**. I will try to use less than that.

Mr. **BYRD**. I yield the remaining time to Mr. Nunn.

The **PRESIDING OFFICER**. The Senator from Georgia is recognized for 11½ minutes.

Mr. **NUNN**. Mr. President, I rise in support of the Byrd amendment on treaty interpretation. It is most appropriate this amendment bears the name of the majority leader. Over the last 3 years, when the Senate's institutional role has been under serious challenge, he has steadfastly preserved and protected the constitutional prerogatives of this body.

It is also fitting that this amendment has strong bipartisan support. Senators Dole, Lugar, Warner, and Cohen have ensured that this historic provision will be viewed as representing the broad views of the Senate as an institution. We owe a particular debt of gratitude to Senator Cohen, who fashioned the language that met the bipartisan needs of the Senate.

I would also like to commend the Foreign Relations Committee for including in the resolution of ratification a provision to ensure that the Senate's consent to the INF Treaty is conditioned upon agreement by the President that the treaty we are reviewing today will be respected by the executive branch in the future. I would like to pay special tribute to Senator Biden for his thoughtful leadership on this issue, to Senators Pell, Cranston, and Sarbanes for carrying on this effort during Senator Biden's illness, and to Senators Helms and Murkowski for their role in ensuring bipartisan support in the Foreign Relations Committee.

ORIGINS OF THE TREATY INTERPRETATION CONTROVERSY

The necessity for this provision stems from the effort by the State Department's legal advisor, Judge Abraham Sofaer, to radically alter the relationship between the Senate and the President in the treatymaking process.

Under the Constitution, the President makes treaties "by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur." Hamilton, in the Federalist (No. 75) clearly illustrated the intent of the framers that treatymaking be a shared power between the Senate and the President, based on mutual trust:

> The power, in question seems . . . to form a distinct department, and to belong, properly, neither to the legislative nor the executive. The qualities elsewhere detailed as indispensible in the management of foreign negotiations, point out the Executive as the most fit agent in those transactions; while the vast importance of the trust, and the operation of treaties as laws, plead strongly for the participation of the whole or a portion of the legislative body in the office of making them.

Because the Senate is an equal partner with the President in the treatymaking process, we have a direct, constitutional interest in ensuring that treaties are accurately presented and faithfully upheld. The executive branch, however, has challenged the Senate's role by inventing a novel theory—that the President has the power to reinterpret treaties and change obligations that were clearly understood and accepted by the Senate at the time of ratification.

We first encountered this doctrine in 1985 during hearings before the Senate Armed Services Committee. Judge Sofaer was asked if he agreed "that the purpose of the Senate's extensive ratification hearings on the ABM Treaty was to clarify ambiguities of interpretation." In his response, he argued that: "Although this process may have helped answer questions in particular Senators' minds, it could not result in authoritative clarifications of any ambiguities in the treaty, because statements made during the hearings were unilateral." In other words, because the testimony on the treaty was not offered in a joint United States-Soviet forum, Judge Sofaer viewed it as nothing more than interesting information which could be freely disregarded by the exectuive branch in the future.

Judge Sofaer expanded his assault on the role of the Senate in March 1987 when he told the Foreign Relations Committee:

> When [the Senate] gives its advice and consent to a treaty, it is to the treaty that was made, irrespective of the explanations it is provided.

Under this version of the Sofaer doctrine, the executive branch could treat prior testimony to the Senate as irrelevant. Indeed, under Judge Sofaer's approach, the executive branch is free to mislead the Senate as to the meaning of a treaty simply because the statments in ratification hearings are "unilateral."

PROBLEMS POSED BY THE SOFAER DOCTRINE FOR THE SENATE'S CONSIDERATION OF THE INF TREATY

In a letter to the President last September, I noted the grave implications of the Sofaer doctrine for the Senate's consideration of the INF Treaty:

> In effect, the Sofaer doctrine holds that if the Senate is misinformed by Executive Branch officials as to the meaning of a proposed treaty, that is simply too bad. Judge Sofaer has put the Senate on notice that if Congress relies upon the testimony of your Administration as to the meaning of an INF treaty, it will be at its own risk * * *.

The effect of the Sofaer doctrine for the INF Treaty in particular and the treaty making process in general would have been disastrous. Because treaties are the supreme law of the land, the Sofaer doctrine—if not repudiated—would compel the Senate to incorporate into its resolution of ratification on every treaty and amendment for every explanation given by an executive branch official lest it be disavowed as "unilateral" after ratification. Treaties so laden would sink of their own weight. This would be very damaging, not only to the Senate but also, more important, in the long run, to the Presidency itself, in the conduct of foreign policy. You cannot conduct foreign policy through treaties if these are the rules of the game.

THE AGREEMENT WITH SECRETARY SHULTZ

In an effort to expedite consideration of the INF Treaty, Senators Byrd, Pell, Boren, and I worked with Secretary Shultz to address the Treaty interpretation issue. The Secretary, in a letter dated February 9, 1988, assured us that—

> All INF testimony of executive branch witnesses, within their authorized scope, is authoritative. We will inform the relevant committee of any instance in which a witness' testimony is not authoritative in any respect.
>
> Administration testimony and materials for the record can be regarded as authoritative, as described above, without the need for the Senate to incorporate them in its resolution of ratification.
>
> The Reagan administration will in no way depart from the INF Treaty as we are presenting it to the Senate.

THE ADMINISTRATION CASTS DOUBT UPON THE SHULTZ AGREEMENT

We began our hearings on the assumption that the administration was prepared to agree that the executive branch would be bound by the authoritative testimony of its witnesses. As our hearings drew to a close, however, the administration undermined our confidence in that assumption, in a letter from the counsel to the President, Arthur B. Culvahouse, Jr. The letter suggested that it would be wrong to treat testimony as authoritative if it is received from officials below the level of Secretary of State or if it is addressed to trivial or unimportant issues. The Culvahouse letter would have had the effect of leaving the executive in the future with the freedom to reinterpret the INF Treaty by claiming that the administration's testimony only addressed a trival or unimportant issue.

The Colvahouse letter also suggested that the administration testimony would not be binding unless "the Senate as a whole" asserted a view on the subject of the testimony. This completely undermined the assurance from Secretary Shultz that the Senate need not incorporate administration testimony in its resolution of ratification, because the only way that "the Senate as a whole" can assert a view is to attach a condition on the resolution of ratification.

In addition, the Culvahouse letter implied that the Shultz letter was intended merely to serve as an expedient means of dealing with the INF Treaty and that the commitments by Secretary Shultz would apply only to the Reagan administrtion. By denying that the Shultz letter had any constitutional foundation, the Culvahouse letter would have served as a invitation for a future administration to disavow the Shultz assurances at the earliest opportunity.

Finally, Mr. Culvahouse stated that the President could only be bound by testimony that was "generally understood, clearly intended and relied upon by the Senate." As the New York Times noted in an editorial: "Since it is hard to know what this mumbo-jumbo means, Presidents would be free to do with treaties as they wish." (May 5, 1988).

Mr. Culvahouse issued a subsequent letter which asserted that there were no conflicts between his letter and the assurances we received from Secretary Shultz. This simply underscored our concern that the commitment from Secretary Shultz would expire next January, leaving future administrations free to reinterpret the INF Treaty and give it a meaning contrary to the interpretations presented to the Senate by the Reagan administration.

In the report of the Armed Services Committee on the INF Treaty, we noted the problems presented by the Culvahouse letter and said: "If the matter is not satisfactorily resolved, Members of the Committee may find it necessary to offer appropriate measures during consideration of the Treaty by the Senate, including understandings or amendments to the Treaty."

THE ADOPTION OF THE BIDEN CONDITION AND ITS BENEFICIAL EFFECT IN EXPEDITING SENATE CONSIDERATION OF THE TREATY

Recognizing the serious difficulties that the Sofaer doctrine would present for the ratification process, the Foreign Relations Committee—under the guidance of Senator PELL, with the leadership of Senator BIDEN, Senator SARBANES, and others—wisely added a treaty interpretation condition to its resolution of ratification.

As we noted in the report of the Armed Services Committee on the treaty: "All Administration testimony and material submitted for the record have been regarded by the Committee as significant, and will form an essential element of the body of evidence before the Senate as it determines whether to give its consent to the INF treaty." Because the Foreign Relations Committee included a treaty interpretation condition on its resolution of ratification, there has been no need to clutter the resolution with issues satisfactorily addressed by the administration in its testimony before the Senate.

My approach to the ratification debate would have been much different had the Foreign Relations Committee not included the treaty interpretation condition in its resolution of ratification. Rather than signing a cloture petition, I would have vigorously opposed cloture until every aspect of the administration's testimony had been incorporated in the resolution. This would have required extensive floor debates on both the form and content of amendments governing—

the effect of article XIV on assistance to our allies;

the impact of the double negative in article VI on interchangeable stages;

the definition of range of new type of INF missiles;

the GLCM range definition;

the relationship between the treaty and Pershing 1A missiles;

the ability of the parties to make technical changes to the protocols without using the treaty's formal amendment procedures;

the definition of "force majeure" for purposes of canceling an inspection;

the inspection of SS-20 cannisters prior to elimination;

and literally hundreds of other issues raised by the members during our hearings.

If the Foreign Relations Committee had not recommended a treaty interpretation condition, there would have been hundreds of issues we would have had to incorporate on the floor of the Senate, indeed, rather than attempting to complete the INF Treaty debate this week, we would be planning for an exhaustive debate throughout the summer.

THE IMPORTANCE OF RETAINING A TREATY INTERPRETATION CONDITION ON THE RESOLUTION OF RATIFICATION

Now that the treaty interpretation condition has performed its service and brought us to the point where timely Senate consent is virtually assured, there are some who have suggested that we should strip it from the resolution of ratification and rely on the good faith of the executive branch. Should anyone doubt that the Sofaer doctrine is alive and well, they need only consider the position that the executive branch has taken in a case entitled Rainbow Navigation, Inc. versus Department of the Navy, decided only last week in the District Court for the District of Columbia.

The Rainbow Navigation case involved a 1986 treaty between the United States and Iceland regarding allocation of shipping rights. An American carrier, *Rainbow Navigation*, alleged that the Navy planned to administer the rights in a manner that would prejudice the interests of American shipping protected by the treaty, and a preliminary injunction was granted by Judge Harold Greene.

In the course of his opinion, Judge Greene noted that the administration had expressly testified on the issue in question:

> Perhaps even more significant than the treaty language are the representations made by Executive Branch officials to the United States Senate in connection with the ratification proceedings. These statements * * * clearly support the interpretation that rights would vest without further legislation, for the officials represented to the Senate that if ratified, the treaty would protect the existing U.S. flag presence on the United States-Iceland route.

Judge Greene noted that during the litigation, the administration "disavowed in court the representations made by the Navy and the Department of State to the Senate during treaty ratification proceedings as merely 'precatory' and 'nonbinding.'"

When you tell the court that your testimony before the Senate Foreign Relations Committee on a treaty is merely precatory and nonbinding, you have indeed undermined not only the Senate as an institution but the whole treaty ratification process as set forth in the U.S. Constitution. So this is not a trivial matter.

The executive branch's position in the Rainbow Navigation case illustrates very well the administration's utter contempt for the ratification process.

This was not an ancient treaty or an agreement negotiated by a different administration. This was a case in which the current administration found it convenient to disavow its own testimony less than 2 years after it was presented to the Senate.

What is particularly damning about the Rainbow Navigation case is the fact that the administration's testimony to the Senate on the Iceland treaty was, in the now-famous words of the Culvahouse letter, "clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification" and hence binding on the President "as a matter of domestic law." As Judge Greene noted in his opinion:

> Relying on these representations, the Senate Foreign Relations Committee recommended that the Senate ratify the treaty.

> In fact, the committee stated in its report to the full Senate that advice and consent were being conditioned upon * * * assurances given by the Departments of State and Defense * * *.

By adopting a position in the Rainbow Navigation case that deviates even from the statements made by the administration in the Culvahouse letter, the administration has made it very clear to us that we obviously cannot rely on letters or memos as the basis for precluding reinterpretation of the INF Treaty by a future administration.

This Justice Department simply has no sense of shame. At the very height of the controversy over treaty interpretation, it has had no compunction about telling a Federal court that when the executive branch represents the meaning of a treaty to the Senate, it can say whatever it wants and then disavow it shortly after ratification. Without a treaty interpretation provision, we have nothing to prevent the executive branch from walking away from its INF testimony in less than a year. It is essential that we condition our consent to the treaty upon the agreement of the executive branch to abide by the meaning of the treaty as presented to us in our hearings.

Without a treaty interpretation provision, we have nothing to prevent the executive branch from walking away from its testimony on INF in less than a year. I do not think that is going to happen, but certainly this provision would ensure that it does not happen.

In the future this amendment, which has bipartisan support, will be deemed to have set forth not a new law, not something that is new, not a new constitutional principle, but rather a reaffirmation of what the law of the land and the Constitution of the United States have provided for all of these years.

This is not a new departure. It is really unfortunate that we are even having to deal with it because it is so clearly based on history, based on the U.S. Constitution, based on the laws of the land, based on the role of the Senate as an institution, and based on pure common sense and comity between the executive branch and the Senate as an institution.

THE BYRD AMENDMENT

The Byrd amendment is consistent with the condition recommended by the Foreign Relations Committee. The committee, in its report, went to great lengths to state that the condition was not intended "to be dispositive on the issue of ABM Treaty interpretation." While the Byrd amendment does not resolve the ABM Treaty issue, it affirms enduring constitutional principles which apply to the interpretation of all treaties, including the ABM Treaty. I understand that differences may persist as to factual issue of ambiguity as to the text, ratification debate, and negotiating history of the ABM Treaty. But this amendment repudiates the Sofaer it clear that the executive branch is bound by authoritative representations as to the meaning of a treaty, and that such meaning cannot be changed by resort to the negotiating record or otherwise without the approval of the Congress through a subsequent statute or treaty.

The Byrd amendment must be understood in the following context:

All executive branch testimony is regarded by the Senate as important to its consent.

The negotiating documents provided to the Senate have not been presented in such a way that they constitute representations by the executive branch as to the meaning of the treaty.

The Senate has relied on executive branch representations in the hearings on the treaty, and has therefore deemed it unnecessary to make a detailed review of the negotiating documents or to attach to the resolution of ratification understandings, amendments, or reservations embodying all such testimony.

The Senate reserves the right to obtain any element of the negotiating history necessary to meet the consitutional obligations of the Senate should an issue arise as to treaty interpretation involving the President's reliance on the negotiating history.

Nothing in the treaty interpretation condition shall be construed to imply, with respect to any prior or subsequent treaty, that the President can interpret such treaty in a manner contrary to or inconsistent with the meaning of the treaty presented to the Senate, regardless of whether such a condition was placed in the resolution of ratification.

The treaty interpretation condition provides a sensible approach to a critical problem. Newsday, in an editorial on May 23, observed that this issue is "central to our constitutional system * * *. The Constitution says treaty making is a shared responsibility. The * * * condition simply says that the executive branch cannot decide by itself to reinterpret the INF Treaty." According to the Association of the Bar of the City of New York, the principles set forth in the treaty interpretation condition "are fundamental to our constitutional scheme and cannot reasonably be questioned." By including the treaty interpretation condition on the resolution of ratification, we will confirm the constitutional significance of the Senate's proceedings in the ratification process, thereby ensuring that this treaty will be respected by the executive branch in the future.

Mr. President, I know the time is precious here at this hour so I reserve the remainder of my time.

Mr. BUMPERS. Is the Senator reserving the remainder of his time?

Mr. NUNN. Yes. I will be glad to yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Does the majority leader have any time remaining?

Mr. NUNN. I will yield the floor. The time is under control of the majority leader.

Mr. BYRD. I yield the remaining time to Mr. BUMPERS.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. BUMPERS. Mr. President, actually the Senator from Georgia in his summation just now said what I wanted to say and that is that we are talking as much about common sense here as we are international law and treaty interpretations and constitutional law.

I want to say that it is an absolute mystery to me why we are here. We are here for a simple reason. That is Judge Sofaer was told to find a loophole of some kind that will allow us to test in violation of what we believe in the preceeding 15 years was the ABM Treaty and to give the President on the Sofaer doctrine the right to literally lie to the U.S. Senate and say, "Just because I said it does not make it so" is offensive to me.

How can you expect nations like the Soviet Union to negotiate with us? No self-respecting nation is going to negotiate with you seriously when you have a negotiating record, when you have a clear understanding of the clear intent of a treaty and you can come back 15 years later for whatever reason because you want to test SDI or some other reason in the future and literally unilaterally abrogate a solemn compact.

It is offensive to me as a Senator.

The PRESIDING OFFICER. All time has expired.

Mr. BUMPERS. I thank the majority leader for yielding.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, will the Chair confirm that I have 17 minutes remaining?

The PRESIDING OFFICER. Sixteen minutes and 48 seconds.

Mr. SPECTER. I thank the Chair.

Mr. President, I ask the distinguished Senator from Georgia [Mr. NUNN] to respond to a few questions, but before proceeding, the distinguished Senator from Georgia made a reference to the Rainbow navigation case and it was referred to earlier. Part of it was placed in the RECORD.

I ask unanimous consent at this point that the full text of the opinion be printed in the RECORD.

There being no objection, the full text of the opinion was ordered to be printed in the RECORD, as follows:

[Civil Action No. 88-0992]

RAINBOW NAVIGATION, INC., PLAINTIFF, v. DEPARTMENT OF THE NAVY, ET AL., DEFENDANTS

OPINION

I

This is the third time that these parties have been before the Court with respect to similar controversies.[1]

In October 1985, at the request of Rainbow Navigation, Inc. (Rainbow), the Court issued an injunction against the Department of the Navy, restraining Navy plans to deprive Rainbow of the preference granted to it by the Cargo Preference Act of 1904, 10 U.S.C. § 2631. It appeared that the Secretary of the Navy had determined that Rainbow's rates were "excessive and otherwise unreasonable"—if true, a valid reason for denying it the otherwise available preference. But after briefing and hearing, the Court found that the Secretary's findings "were nothing more than an after-the-fact attempt to shore up a decision made on other grounds." *Rainbow Navigation, Inc.* v. *Department of the Navy*, 620 F. Supp. 534, 540 (D.D.C. 1985). More specifically, the Court concluded that the Navy's determination was not based on Rainbow's freight rates but on "foreign policy, political, or geopolitical grounds." Id. at 541.

What had happened was that the Department of State, desirous of good relations with Iceland, an ally of the United States, gave in to entreaties from that nation for the recapture of the U.S. military cargo trade exclusively for Icelandic shipping interests.[2] The determinations, declarations, and representations made to the Court regarding Rainbow's allegedly excessive rates, it had turned out, not only were not borne out by the facts but were merely a pretext obscuring the real foreign policy purposes of our government.

Since Rainbow was not in violation of the Cargo Preference Act, and was entitled under law to the benefits of the Act, the Court issued an injunction which required the restoration of that company's preference with respect to the carriage of U.S. military supplies between this country and Iceland in accordance with the Act. The Court of Appeals, in an opinion by then Judge Scalia, affirmed this Court's decision. *Rainbow Navigation, Inc.*, v. *Department of the Navy*, 783 F.2d 1072 (D.C. Cir. 1986).

While the issues regarding this Navy attempt to bypass the law were still in the courts, the Department engaged in yet a second subterfuge designed to elbow Rainbow out of the Icelandic trade. This time the Navy sought to dispense with Rainbow's services by a diversion of the cargo at issue to military aircraft. Government regulations provided that "the preferred method of transporting supplies for the Government is by commercial carriers," and that government aircraft may be used only "if . . . they are available and not fully utilized . . ." 48 C.F.R. 47.101(b)(1). Once again, solemn declarations were submitted to the Court to the effect that all missions that carried cargo from Iceland to this country were scheduled there "for purposes other than the carriage of cargo back to the United States" and that "missions were not flown to [Iceland] for the purpose of picking up [such] cargo." This, too, was untrue.

The evidence showed that, after the then lawsuit was filed, a sharp increase occurred in the number of flights from Iceland to this country, and a corresponding decrease in the amount of cargo carried by Rainbow. The Court ultimately concluded that the Navy had once again taken steps unlawfully to squeeze Rainbow out of the Icelandic trade. Memorandum Order dated October 17, 1986.[3] This brings us to the current phase of the litigation.

II

On September 24, 1986, the United States and Iceland signed a treaty, including a memorandum of understanding (MOU),[4] regarding the same military cargo route between the two countries that had been at issue previously.[5] That treaty provides for a competition between United States flag carriers and Icelandic shipping companies for the transport of military cargo beteeen the two countries. The method by which the competition is to be carried out is described in the memorandum of understanding as follows:

> Each competition shall result in contract awards to both an Icelandic shipping company and a United States flag carrier such that not to exceed 65 percent of the cargo shall be carried by the lowest bidder and the remainder shall be carried by the next lowest bidder of the other country . . . .

Pursuant to the treaty and the MOU, a single competition was held in 1987 for the carriage of one year's worth of military cargo on the United States-Iceland route. Eimskip, an Icelandic concern, was the "lowest bidder," receiving 65%, and Rainbow took the remaining 35% as the "next lowest bidder." However, this year the Navy planned to change the process. Acting through the Military Sealift Command,[6] the Navy has announced that it intends to hold two separate competitions, separately priced—one competition for the 65 percent of the cargo, the other, a separate competition, for the remaining 35 percent of the cargo.[7] Had Rainbow[8] not filed this action to stop the procurement as violative of the treaty, the MOU, and the Administrative Procedure Act, the Navy would have awarded contracts for the two portions of the cargo carriage on April 25, 1988.[9] However, since April 15, 1988, the Navy has been under a temporary restraining order enjoining it from proceeding with the 1988 procurement in the manner planned.

III

Before the Court can reach the substance of Rainbow's complaint, it must address the Navy's threshold defenses—that Rainbow lacks standing to sue, that the Court has no jurisdiction, and that sovereign immunity bars the action. None of these defenses has merit; only the standing issue deserves extended discussion.

The Navy suggests that Rainbow lacks standing because neither the treaty nor the MOU expressly grants a private right of action.[10] However, the absence of an express grant is not determinative. When a treaty is not explicit on the question whether it is of its own force a part of United States domestic law, a court must interpret it to effectuate the intent of the signatory parties.[11]

As the Court of Appeals for this Circuit concluded in *Diggs* v. *Richardson*, 555 F.2d 848, 851 (D.C. Cir. 1976); and *Cardenas* v. *Smith*, 733 F.2d 909, 918 (D.C. Cir. 1984),[12] the language of a treaty may manifest an intent by the signatories that it be or not be self-executing, and if the language is uncertain, resort may be had to the circumstances surrounding the treaty's execution to ascertain that intent. Id.[13] A court interprets a treaty as self-executing unless "the agreement manifests an intention that it shall not become effective as domestic law without the enactment of implementing legislation, or in those rare cases where implementing legislation is constitutionally required."[14] Applying these standards, the Court has no difficulty concluding that the United States-Icelandic treaty does not require implementing legislation.[15]

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[1] The parties are the Department of the Navy and some of its officials, Rainbow Navigation, Inc., the International Organization of Masters, Mates & Pilots (the Union), and Iceland Steamship Co., Ltd. (Eimskip). Eimskip is before the Court for the first time in the current phase of the litigation.

[2] Rainbow may be the only effective competitor of the Icelandic shippers.

[3] Partial Summary Judgment was granted to Rainbow as it had requested.

[4] Treaty between the United States of America and the Republic of Iceland to Facilitate their Defense Relationship, with related Memorandum of Understanding, September 4, 1986. The United States Senate ratified the treaty and memorandum of understanding on October 8, 1986.

[5] Before the treaty was signed and ratified, the Navy proposed a regulation that, as the Senate recounted in its report on the treaty, "purported to interpret the 'excessive or otherwise unreasonable' provision in the 1904 [A]ct, but that would have, in effect, given the Secretary of the Navy the discretion to waive the [A]ct at any time." S. Rep. No. 27, 99th Cong., 1st Sess. 3 (1986). This appears to have been yet another attempt to oust Rainbow from the Icelandic trade route.

[6] The Military Sealift Command is the United States contracting agency responsible for procurements for the United States-Iceland military cargo sea route.

[7] The Request for Proposals for these competitions was issued on March 25, 1988. In addition to holding two competitions instead of one, other changes in the RFP included that all the cargo would be charged on a straight freight basis (rather than permitting the carrier of the 35 percent to use a time charter), that vessel specifications would no longer be required, that the Icelandic port of destination would be Reykjavik, much farther from the U.S. military base than Njardvik, that there would be no established schedule for travel, and that there would be no small business setaside. Rainbow complains about these changes as well, but the-Court need only rest its preliminary injunction on the Navy's violation of the treaty and MOU.

[8] While the Court herein generally refers for the sake of convenience only to Rainbow on the plaintiffs' side of this litigation, the Union has intervened; it is proceeding on the basis of the same arguments as those made by Rainbow; and it is entitled to the same benefits flowing from the Court's orders. See note 1, supra.

[9] None of the changes from the 1987 requirements (see note 7, supra) may become effective if their purpose or effect would be to interfere, directly or indirectly, with the preliminary injunction or the Rainbow and Union rights recognized herein.

[10] In the Administrative Procedure Act, Congress conferred the right of judicial review upon any person "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. Potential and actual government contactors have standing to proceed in district court to challenge a procurement under the Administrative Procedure Act. *Scanwell Laboratories, Inc.* v. *Shaffer*, 424 F.2d 859, 861–873 (D.C. Cir. 1970).

[11] Restatement (Second) of Foreign Relations § 154 (1965).

[12] *See also People of Saipan* v. *Department of Interior*, 502 F.2d 90, 97 (9th Cir. 1974).

[13] Reference by courts to contextual factors surrounding a treaty in order to determine whether it is self-executing occurred even in the politically charged atmosphere of Iranian seizures of property and a suit against a foreign government. *See American International Group* v. *Islamic Republic of Iran*, 493 F. Supp. 522 (D.D.C. 1980).

In the first place, the government has offered no evidence to rebut the presumption (see text to note 14, supra) that the Iceland treaty was intended to be effective as domestic law. That alone should end the matter. But there is also ample positive evidence of the self-executing nature of the treaty.

The language of the treaty itself suggests that it was intended to operate of its own force upon ratification. Article I declares that cargo transportation services "shall be provided" on the basis of a competition between United States and Iceland shipping companies which will "ensure" the continued well-being of shippers from each country. Since the subject of the treaty is U.S. military cargo, it is implicit that the United States contracting authority would carry out the competition. This understanding is borne out by the terms of the MOU which explicitly refer to the United States contracting authority.[16]

Similarly, the treaty goes on to state in Article IV that the "provisions of this Treaty and any implementing arrangements concluded pursuant to Article I shall apply notwithstanding any prior inconsistent law or regulation of the United States of America. * * *" thus, the treaty mandates in terms that, for domestic law purposes, it displaces existing American law.

Perhpas even more significant than the treaty language are the representations made by Executive Branch officials to the United States Senate in connection with the ratification proceedings. These statements, discussed below, clearly support the interpretation that rights would vest without further legislation, for the officials represented to the Senate that if ratified, the treaty would protect the existing U.S.-flag presence on the United States-Iceland route.[17]

Thus, at the hearings on ratification of the treaty, the Honorable Edward J. Derwinski, Counselor of the Department of State, with Rear Admiral Walter T. Piotti, Jr., Commander of the Military Sealift Command at his side, assured the Senate that he agreed with the statement by American maritime organizations of which the following paragraph is a part:

The ABM Treaty Interpretation Resolution, Report of the Committee on Foreign Relations United States Senate, S. Rep. No. 164, 100th Cong., 1st Sess. 49 (1987). See also Restatement (Second) Foreign Relations Law of the United States (Revised), Tentative Draft No. 6 (1985), § 314, comment d and § 314(2).

The Administration must further assure that the Treaty, if ratified, will be implemented in such a fashion that the existing United States-flag service in the Iceland trade will not be disadvantaged. In other words, the United States-flag presence and the maritime employment will be maintained just as if the 1904 Act were fully in effect in the Iceland trade.[18]

Similarly, on the question as to how the treaty would affect Rainbow, the only U.S.-flag carrier on that route, Senator Mathias asked and Mr. Derwinski replied:

Senator MATHIAS. What about the current American flag carrier? Are there any plans in effect to save harmless the *current cargo carrier* that is now carrying supplies to the [U.S.] military base in Iceland?

DERWINSKI. My understanding is that the current carrier has been involved in a number of discussions with appropriate authorities, and despite the fact that we could not provide, obviously, within the treaty for specific protection for an entity, we did have in mind at all times the need to *protect the interests of the current carrier* (emphasis added).[19]

Relying in part upon these representations, the Senate Foreign Relations Committee recommended that the Senate ratify the treaty. In fact, the Committee stated in its full report to the full Senate that advice and consent were being conditioned upon three assurances given by the Departments of State and Defense, one of them being that the treaty will be implemented in such a way that the existing United States-flag service in Iceland trade would not be disadvantaged as a result of the Treaty. The Committee received these assurances at its hearing and recommends advice and consent on that basis only.[20]

Two days after the Committee Report was issued, and on the day the Treaty was ratified, Senator Pell repeated this condition of ratification on the Senate floor.[21]

This history clearly shows that the Senate was concerned about protecting the interests of the current American carrier; [22] that to give meaning to that concern, it intended the treaty to provide that protection without further requirements; and that the Executive Branch agreed.

By even raising the standing issue, the Navy is adding to its pattern of false representations discussed in Part I, *supra*. Having assured the Senate that the treaty would not disadvantage the "existing United States flag service . . . [and that] United States presence and the maritime employment will be maintained" as under the Cargo Preference Act, the Navy is now arguing through its counsel that this assurance is meaningless unless new implementing legislation is first enacted. No mention appears to have ever been made to the Senate or its committee regarding implementing legislation or the need therefor, and the Administration has never proposed such legislation.

The Court concludes that the Iceland treaty is self-executing and that Rainbow and the Union have standing to bring this action.

As to the other threshold defenses advanced by the Navy, they either fall away upon the determination that the treaty is self-executing or they are otherwise unfounded. The Navy protests that the Court lacks subject matter jurisdiction over Rainbow's claims, but according to 28 U.S.C. § 1331, "[t]he district courts shall have original jurisdiction of all civil actions arising under . . . treaties of the United States." See also U.S. Const. Art. VI Cl. 2. And it is of course well established that the review provision of the Administrative Procedure Act, 5 U.S.C. § 502, waives sovereign immunity for injunction actions.[23]

IV

The Court now turns to the merits of Rainbow's complaint and its request for a preliminary injunction.[24] Rainbow alleges that the 1988 Navy procurement for the United States-Iceland route is contrary to the language and the purposes of the memorandum of understanding. The Navy's answer is that two competitions between American and Icelandic shippers are permitted by the treaty and MOU—one competition for 65% of the cargo, and a second competition for 35% of the cargo. In the opinion of the Court, that construction of the treaty and the MOU is untenable.

The language of the MOU [25] is straightforward and unmistakable:[26]

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[14] Restatement (Second) Foreign Relations (Revised) Tentative Draft No. 1 (1980) § 131.

[15] Were the treaty not to be read as self-executing, it would not become part of United States domestic law. As a result, Rainbow presumably could sue for relief under the Cargo Preference Act. However, that was not the intent of the two governments when they signed the treaty.

[16] As Article I is written, the United States may not qualify or modify the obligations placed upon it by the treaty through legislation or administrative regulation. *See British Caledonian Airways Ltd.* v. *Bond*, 665 F.2d 1153, 1161 (1981).

[17] The Department of Justice disavowed in court the representations made by the Navy and the Department of State to the Senate during treaty ratification proceedings as merely "precatory" and "non-binding." Hearing on Rainbow's motion for a temporary restraining order, April 15, 1988. This position is disturbing since it undercuts the foundation upon which Senate ratification was based, at least in part. As Professor Henkin recently testified:

The President can only make a treaty that means what the Senate understood the treaty to mean when the Senate gave its consent . . . The Senate's understanding of the treaty to which its consent is binding on the President. He can make the treaty only as so understood. He cannot make the treaty and insist that it means something else . . . the Constitution clearly implies[ ] that it is what the Senate understands the treaty to mean—that is what the treaty means for purposes of its consent.

[18] *United States-Icelandic Treaty on the Carriage of Military Cargo: Hearings on the Treaty Before the Committee on Foreign Relations,* 99th Cong., 2nd Sess., p. 9 (1986).

[19] Id. at 11.

[20] S. Rep. No. 27, supra, note 5.

[21] 132 Cong. Rec. S15661 (daily ed. October 8, 1986).

[22] As this discussion illustrates, Rainbow has standing since it could hardly be more directly within the "zone of interests" protected by the treaty.

[23] *See Warin* v. *Director, Department of Treasury,* 672 F.2d 590, 591-92 (6th Cir. 1982); *Neal* v. *Secretary of Navy,* 639 F.2d 1029, 1036-37 (3d Cir. 1981); *Jaffee* v. *U.S.,* 592 F.2d 712, 717-719 (3d Cir. 1979); *Beller* v. *Middendorf,* 632 F.2d 788, 796-97, 799 (9th Cir. 1980).

[24] To prevail on a motion for a preliminary injunction, Rainbow must show (1) that it has a substantial likelihood of prevailing on the merits; (2) that it will be irreparably harmed if an injunction is not granted; (3) that the interests of all affected parties are properly balanced by the said relief; and (4) that the public interest is clearly served by the issuance of an injunction. *See Washington Metropolitan Area Transit Commission* v. *Holiday Tours, Inc.*, 559, F.2d 841 (D.C. Cir. 1977); *Virginia Petroleum Jobbers Association* v. *Federal Power Commission*, 259 F.2d 291 (D.C. Cir. 1958).

[25] An MOU is an international executive agreement which must be interpreted according to the principles applicable to treaties. *Air Canada* v. *U.S. Department of Transportation,* No. 87-1300, slip op. at 6 (D.C. Cir. Apr. 15, 1988). The general rule in interpreting treaties is:

The clear import of treaty language controls unless "application of the words of the treaty according to their obvious meaning effects a result inconsistent with the intent or expectations of its signatories.

Sumitomo Shoji America, Inc. v. *Avagliano,* 457 U.S. 176, 180 (1982), *quoting Maximov* v. *United States,* 373 U.S. 49, 54 (1963).

[26] "An international agreement is to be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of its objects and purposes." Re-

. . . *Each competition* shall result in contract awards to both an Icelandic shipping company and a United States flag carrier such that not to exceed *65 percent* of the cargo shall be carried *by the lowest bidder* and *the remainder* shall be carried *by the next lowest bidder of the other country*. . . (emphasis added).

Thus, according to the MOU, for any given shipment period, there is to be a single competition dealing with 100% of the cargo. At each such competition, the Navy awards up to 65% of the cargo to the lowest bidder—a shipper from either country—and the remainder, 35% of the cargo or more [27] to the next lowest bidder—a shipper from the other country.

However, under the Navy's construction of the MUO, and under the awards procedure it contemplates, the "next lowest bidder" will never receive any portion of the contract. That result is achieved by having two competitions rather than one: once the lowest bidder from one country wins the contract for 65% of the cargo, instead of the remainder going to the next lowest bidder, a second competition is held for that remainder at which, again, the lowest bidder prevails. With respect to neither competition will the "next lowest bidder" even be considered; it would have to be the lowest bidder in the second competition to receive any portion of the contract.[28] The language in the MOU referring to the "next lowest bidder" is simply disregarded and given no effect.

The language of the MOU—which the Court finds to be unambiguous in its support of Rainbow's position—is further buttressed by the construction placed thereon by the Secretary of Defense himself. Secretary Carlucci wrote as follows on March 25, 1988 to Senator Lugar of Indiana, a member of the Committee on Foreign Relations: [29]

The treaty and implementing memorandum of understanding foster competition between U.S. and Icelandic flag carriers for 100 percent of the cargo transported by sea between Iceland and the United States for purposes of the 1951 Defense Agreement between the two countries. The overall low bidder is awarded 65 percent of the cargo and the low bidder of the other country is awarded the remaining 35 percent. This is how the existing contracts were awarded.

Thus, the Secretary concluded that the MOU requires a single competition in which the contestants bid for 100% of the cargo, and that the "overall low bidder" wins a contract to carry 65% of the cargo, while the "remaining 35 percent" goes to the low bidder from the other country—precisely as Rainbow asserts. Any still remaining doubt is allayed by the Secretary's reference to a continuation of the method by which the existing contracts were awarded. Those (1987) contracts were, of course, awarded precisely on the basis of the interpretation of the MOU urged upon the Court by Rainbow.

V

Rainbow and its seamen have an extremely strong likelihood of success on the merits. These parties also stand to be irreparably harmed if the procurement is not enjoined. As concerns Rainbow, its business would in all likelihood have to be shut down; as regards the Union, its members employed by Rainbow will lose their jobs. Indeed, the Court is persuaded, on the basis of the evidence before it, that Rainbow cannot secure alternate shipping business and that, in view of the depressed nature of the American merchant marine, its seamen are unlikely to find employment.

By issuing a preliminary injunction, the Court preserves the status quo between the parties.[30] And, in view of the existence of present arrangements, there will be no interruption of the delivery of the cargo and thus no injury to the public interest or to the defendants.

VI

As indicated, the recent events connected with implementation of the treaty represented the third time that the Navy has attempted to eliminate Rainbow, a small American-flag shipper, from the Icelandic trade. In 1985, the Navy announced and assured the Court that Rainbow had to be disqualified from a cargo preference because its rates were excessive. Upon examination, it was found that this was untrue and that the real reason for the attempted disqualification was the Department of State's plan to permit Icelandic shippers to regain their monopoly with respect to that trade. In 1986, the Navy assured the Court that Rainbow's services could be dispensed with because military aircraft which were flying by way of Iceland anyway could perform Rainbow's role. Upon inquiry, it became apparent that, contrary to the Navy's assurances and contrary to binding regulations, military aircraft were capable of taking on that role only if they were diverted from their normal duties.

Now the Navy is attempting to eliminate Rainbow once again, this time under the treaty with Iceland. The present effort is as disingenuous as the other two. The construction of the memorandum of understanding adopted by the Navy is contrary to the ordinary meaning of the language contained in that document. It is contrary also to the assurances given by Mr. Derwinski and Rear Admiral Piotti, Jr., to the Senate Committee on Foreign Relations when the treaty was before that committee for ratification. And it is contrary, finally, to an interpretation of the treaty announced just two months ago by Secretary of Defense Carlucci himself.

The Court understands that Iceland is a staunch ally of the United States, and it sympathizes with the efforts of our government to satisfy the demands of that nation. But this may not be done at the expense of one of the few remaining American-flag vessels of our merchant marine and the few remaining American seamen who found employment there. More particularly, this may not be done in violation of American law, of the language and purpose of a treaty, and of the solemn representations made to the United States Senate in connection with the ratification of that treaty.

The Court has accordingly, once again, enjoined the Navy's attempt to put Rainbow out of business.

May 17, 1988.

Harold H. Greene,
U.S. District Judge.

Mr. SPECTER. Mr. President, I would like to point out that this is a very extraordinary case that came to the court on three occasions. Without going into it in great length, as summarized by Judge Greene on page 13 of the slip opinion, that the Navy hearing was adding to its pattern of false representations which I think is a very terrible factor in delimiting the treaty interpretation issue.

I would now like to direct a question to the distinguished Senator from Georgia, Senator Nunn, and that relates to the criteria reaching common understandings because this is important in light of what we are doing here today and referring to page 90 of the committee report. The Sofaer doctrine is quoted as saying that there will be an understanding where first, "generally understood" by the Senate; second, "clearly intended" by the Senate; and third, "relied upon" by the Senate.

I now refer to testimony Senator Nunn gave according to the record before the Foreign Relations Committee, page 144, where he said, referring the Culvahouse letter, "As a matter of domestic law; however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive, clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification."

Then the Senator makes the statement, "That sentence I agree with completely." And my question is: Does the Senator concur that those criteria are indispensible in order to have the application of an understanding of the Senate?

Mr. NUNN. I will say to the Senator it depends on how one interprets those words. I would certainly not interpret them the way I am afraid the Senator from Pennsylvania interpreted those words.

When the administration comes up and testifies before a committee of the Senate, the Senate has received that information and has relied on that information. I do not think the Senator has to jump up and down in the Foreign Relations Committee and say, "Oh, I relied on that, you told us that and I rely on that."

No; I do not think that. I think when the testimony comes in, Senators can sit there calmly and even snooze off if they like to—and not many of our colleagues do that—they

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statement of the Law (Second) Foreign Relations Law of the United States (Revised), Tentative Draft No. 6 (1985), § 325(1). This same rule of interpretation is prescribed by the Vienna Convention of the Law of Treaties Article 31(1). S. Exec. L 92d Cong., 1st Sess. (1971), 8 I.L.M. 679. As the State Department has noted, "the Convention is already recognized as the authoritative guide to current treaty law and practice." *Id.*

[27] More than 35% of the cargo will be so awarded if the lowest bidder takes less than 65%.

[28] Rainbow claims that, for a variety of reasons, it will not be able to compete effectively under the Navy's two-competition system, and the Court is persuaded on the basis of the evidence available at this juncture, that this representation is correct.

[29] Secretary Carlucci's letter was attached to the Union's motion for preliminary injunction.

[30] Rainbow will continue to carry its share of the cargo under the 1987 procurement, and so will Eimskip, the Icelandic carrier. The Court takes no position on the issue of how Eimskip should be paid for transporting its 65% of the cargo during the period of this injunction. That is a matter for resolution between the Navy and Eimskip.

can even snooze off and if the Secretary of State, or another authoritative witness, makes a statement, then the Senate, through its committee, has relied——

Mr. SPECTER. I ask the Senator to be as brief as he can be. I am not suggesting jumping up and down here. I am talking about criteria as a legal matter and there are three conditions. Generally understood, clearly intended, and relied upon. And it is a matter of what the facts show.

But I take it the Senator does agree that those are the three criteria which establish the Senate's understanding if they are met.

Mr. NUNN. I do not agree with that because I know where the Senator is coming from. He is coming from the point of view the Senate has to understand, we have to prove that we understood, we have to show that we relied on. I do not agree that you have to demonstrate that we relied on testimony, other than by showing that we received authoritative testimony. If you had to prove that we came out here on the floor with everything the Senate Foreign Relations Committee received, with everything the Armed Services Committee received, and everything the Intelligence Committee received, that we put it in the record, and that we said we relied on it and understood it, that would be an exercise in absolute absurdity, and I think it would render the process unworkable.

So I would not agree that those words should be added to simply the words "authoritative testimony."

I am glad the Senator has given me the opportunity to make that perfectly clear.

Mr. SPECTER. This Senator is not coming from anywhere. I understand the answer of the distinguished Senator from Georgia. He is now saying he disavows what he testified to before the Foreign Relations Committee, where he said that sentence there, "I agree with completely." He is now saying he does not agree with it at all.

Mr. NUNN. If the Senator would go right down the page on that same transcript, he will find that I went on and say, and I quote from that statement:

> We have always thought that it [the understanding of the executive branch testimony relied upon by the Senate] was through the committee process. If we can simply declare that the U.S. Senate works through its committees, which we all know we do, and that matters that have been received, authoritative testimony received before the committees is deemed to have been received by the entire Senate and deemed to have been focused on by the whole Senate, then it seems to me that we could go a long way.

If the Senator has the whole page of that transcript instead of one part of it then he will see there was a qualification and I made it clear in that hearing what I was talking about.

Mr. SPECTER. Well, I have looked at the entire page. But the three references which track Sofaer directly are "clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification." The Senator from Georgia said that he agreed with that sentence there and I agree with him completely.

Mr. NUNN. I would say, if the Senator would yield, I do agree with that completely, provided it is understood when an authoritative witness comes from the administration and testifies before a committee, the Senate should be deemed to have relied on that testimony in its deliberations.

Mr. SPECTER. Well, I thank the Senator. When he says he agrees with it completely, under that proviso, I accept that.

I had earlier asked the distinguished majority leader the question which I have since privately discussed with the Senator from Georgia relating to what the Senator from Georgia said at a committee hearing—that the Soviets were bound by what they heard in ratification proceedings, where the Senator from Georgia was quoted as saying that:

> If the Soviets remain silent on points of interpretation presented by executive branch witnesses, then I believe the U.S. Senate, as well as our Government, can reasonably believe and contend that silence connotes consent to those interpretations.

It seems to this Senator that this is where the Biden, now the Byrd, condition is going, and it is a remarkable change in international law treaty interpretation, in light of the statements by the Supreme Court of the United States in Societe versus U.S. District Court, decided on June 15 of last year, referring to the negotiations and the practical construction adopted by the parties, and the decision back in 1942 on the Choctaw Nation case, and as those principles are picked up in Copeland versus United States, which says this:

> Most important, foreign governments dealing with us must rely upon the official instruments of ratification as an expression of the full intent of the Government of the United States, precisely as we expect from foreign governments.

Now, my question to the Senator from Georgia is: Do you have any authority at all that there is any weight at all to be attached to bind a foreign nation from what goes on in a domestic ratification proceedings?

Mr. NUNN. I would say to the Senator—I do not have my exact words and I would like to get those—but what I intended to convey was——

Mr. SPECTER. Let me make them available to you. I have them right here.

Mr. NUNN. If we have an open and public hearing in which statements relating to a treaty are made by the executive branch of Government, and if the Soviet Union disagrees with those statements, then I think they have some duty to come forward and let the executive branch know that they do not agree with that interpretation.

Now, I would not go so far as to say they are bound. I think that would be overstating it. If I stated it as the Senator said, then I would say that was going too far.

I do believe there is a strong argument to be made that when one party publicly and openly cites their interpretation of a treaty in a way that is fundamentally different from the other party's understanding, the other party, knowing of that, if they know of it, has some affirmative duty to make that known. I would not go so far as to say they are bound, though. I am told that I did not say that.

Mr. SPECTER. I read what the Senator said.

Mr. NUNN. If I did, I went too far.

Mr. SPECTER. Do you have any authority at all for the proposition that a foreign government has to pay any attention at all to what goes on in a ratification proceedings and has any duty at all to make any response at all; any authority for that?

Mr. NUNN. I think basic contract law would tell you that when one party, before a contract has been completely entered into by the ratification thereof or formal procedure, hears the other party misinterpret it, there is some obligation for that party to correct it, and that silence does have some evidentiary effect on the interpretation of that contract. That is basic contract law and basic common sense.

Mr. SPECTER. No court opinion, no judicial opinion, just general interpretation.

Mr. NUNN. Does the Senator have any court opinion that says that is not?

Mr. SPECTER. Yes, I do. I would be glad to yield for a question on that.

The Copeland versus United States case says that; Societe says it is negotiations which govern, as does the Choctaw Indian case.

Mr. President, I inquire how much time I have remaining.

The PRESIDING OFFICER. One minute and 45 seconds.

Mr. SPECTER. I have quite a few more questions, Mr. President. I will seek to have an amendment which I will add to bring these issues up in a time sequence when we have more than the limited time. On the questions which I propounded, we did not have a time for discussion with the distinguished majority leader.

Mr. President, in conclusion, in the minute that I have left, I think the arguments here have disclosed conclusively that the Byrd condition makes major modifications in international law and treaty interpretation by disregarding the negotiating record deemed immaterial under the committee report——

Mr. WILSON. The Senator has 6 minutes.

Mr. SPECTER. Six minutes?

Well, in light of having 6 minutes, I say to Senator NUNN, I have some more questions.

I turn to an exchange which you and I had before the joint hearings of the Foreign Relations Committee and Judiciary Committee. I alerted you on this a few minutes ago, where we had this exchange. I think that the discussion which we had early in 1987 really capsulates the problems which we have here on the so-called two treaty doctrine, which this Senator sees, where we have the negotiations with the Soviet Union on one treaty and we have a general understanding with the Senate on another.

It may be that under the Biden condition, as restated by the Byrd condition, that the understanding may arise in some implicit way, nebulous way, as the committee report spells out. I had asked you at that time what happens where, at page 72, the U.S. position to which the Senate has concurred is at variance with what the executive and the Soviets agreed to. Your answer was:

> I think it would be a first-class, royal mess if that proves to be the case.

What happens is, as, and when we get around to debating narrow versus broad, and the wisdom of the distinguished Senator from South Carolina is not accepted and we come to the conclusion that the Soviets rejected the narrow interpretation when we tabled it and the subsequent practices of the parties showed that there was a broad interpretation? We do not have time now to go into all the records. I am asking you to assume my hypothetical.

Mr. NUNN. I already fundamentally disagree with every assumption you have made, so it is hard for me to answer the question.

Mr. SPECTER. Well, then, I will not ask the question. I will just make the argument.

The argument that I will make is that, as this Senator reads the negotiating record—and I have read it ad nauseam—there is solid evidence that the Soviets rejected the narrow interpretation and then, when it came into their interest to accept the narrow interpretation, they did so.

The ABM Treaty, if, as and when we complete the hearings, which have not yet been completed, will show that we have two treaties, much to the disadvantage of the United States. If the ABM Treaty says we have the narrow interpretation, so be it, Mr. President. But where it does not say it and where there is an ambiguity on the record, then the United States ought not to be disadvantaged to spend billion of dollars more in tests and to have tests delayed in that respect.

Mr. NUNN. Will the Senator yield? I promise just 30 seconds on this point.

Mr. SPECTER. I ask unanimous consent that we have the additional time for what the Senator wishes to ask.

Mr. BYRD. Mr. President, how much additional time does the Senator want?

Mr. SPECTER. How much time Senator NUNN uses.

Mr. NUNN. I withdraw the request.

Mr. BYRD. Mr. President, I ask unanimous consent that there be 3 additional minutes to the distinguished Senator from Pennsylvania and 3 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the majority leader.

Mr. NUNN. Mr. President, I would say on the question of where there are two different interpretations—and I think the executive branch would have really made a very serious error if that happened, but if it did—Charles Cooper, an Assistant Attorney General, has written an opinion on that. He is an Assistant Attorney General in this administration. He states in that opinion:

> Accordingly, in such extreme cases, we would have little doubt that, as a matter of domestic law, the courts would construe the treaty as presented to and accepted by the Senate, even if as a matter of international law the treaty might have a different meaning.

Mr. SPECTER. Well, Mr. President, I think that quotation just cited by the Senator from Georgia illustrates the point that you have two treaties. You have a treaty negotiated by the executive branch with the Soviet Union and you have a treaty which was apparently implicitly understood by the Senate. If and when we get around to debating the ABM Treaty and go through the negotiating record and finish those hearings, this Senator submits that the evidence will be conclusive that there is at least ambiguity and that what we are doing here today with the Biden condition as amended by the Byrd condition is strangling the United States. We are holding our Government to a tougher standard than the standard which is binding on the Soviet Union.

Mr. President, when this record is reread in a later day, when there are not the partisan passions present today and where there is not the rush to judgment, I submit there will be a different conclusion reached.

We have established a record, regardless of the vote, and I am not so naive as to think that the Biden condition will not prevail here today. We have established a record which I think is an accurate statement of the law to which this body will return in a more deliberate fashion at a later date. Much like the decision on Plessy versus Ferguson in 1896 when one sole Supreme Court Justice stood in dissent, later adopted as the law of the land. But in calmer reflection, this record is replete with legal principles that are being violated, on international law, interpretation of treaties, and violated on U.S. constitutional interpretation.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Maine has 3 minutes.

Mr. COHEN. Mr. President, let me just offer a personal view of why we are here discussing this matter right now. It has to do with the interpretation of the ABM Treaty. This is no doubt about it, just listening to the debate that has been taking place.

It is my personal judgment that the administration found itself bumping up against the restrictions of the ABM Treaty and, rather than give notice and opt out of that treaty, they sent Judge Sofaer and others back through the records, perusing through the records, and they came up with a different interpretation. Whether you call it an original interpretation or a reinterpretation is a matter of some dispute here.

But, in essence, what they are saying is: The Nixon administration was wrong, the Ford administration was wrong, and the Carter administration was wrong; and that we now have the correct interpretation.

Well, that is subject to debate. I do not accept that particular view, but that view is shared by a number of my colleagues on this side of the aisle.

But what we have tried to do in working out this particular compromise is to accommodate that kind of dispute. Paragraph 4 added to the Byrd amendment was designed specifically to defuse the issue. There are those on this side of the aisle who feel that the Byrd-Biden-Nunn-et al. amendment really is designed to give leverage to the Senate to use and whack the Reagan administration on its interpretation of the ABM Treaty.

Senator NUNN has indicated he does not seek to use this particular amendment to achieve that end. The purpose of including paragraph 4—and this was negotiated in a bipartisan fashion, Senator DOLE took part, we had Senator Baker here, we had others—was to try to break this logjam.

It seems to me that paragraph 4 ought to at least allow some opportunity for those who disagree with the so-called narrow interpretation to fight that particular battle at another time. I would hope that the Members who are coming to the floor to vote on the Byrd amendment would take into account the fact that we have tried to strike a balance. Where there has been a clear representation on a provision of a treaty given by an authoritative representative on behalf of the administration, that ought to be binding. That ought to be binding. A future administration or the same administration wanting to alter the common understanding ought to be forced to come back to the Senate to say we need your consent to this.

Where there is no meeting of the minds, where there is no common understanding, where there is ambiguity, that is another matter. That is up to a future determination. That is a battle to be fought out either, certainly in the political forum, or in a legal one.

But I submit to you that the Byrd amendment as modified is a compromise that is responsible, it is fairminded and it ought to be adopted by the Senate.

I yield back the remainder of my time.

The **PRESIDING OFFICER** (Mr. LEAHY). The Senator's time has expired.

Mr. **BYRD**. Has all time expired?

The **PRESIDING OFFICER**. The Senator from Pennsylvania has 3 minutes and 42 seconds remaining.

The Senator from Pennsylvania is recognized.

Mr. **SPECTER**. Mr. President, the distinguished Senator from Maine makes a persuasive argument, but the difficulty with the argument is the context of the origin of the Biden condition, and then the Byrd condition. The condition is backed by some 23 pages of legal analysis in the committee report which is totally flawed.

The analysis in the committee report refers repetitively to the ABM Treaty. The Biden condition was inserted into the committee report and is on the floor today because of concerns which had arisen as a result of the ABM Treaty.

The interpretation of the board interpretation came about at a time after the National Security Council and McFarlane had made a statement about the intent to have broad tests and the motivation was suspect at that time. But I submit that a close reading of the record, the negotiating record and the subsequent practice of the parties, supports the broad interpretation.

Where the committee report concedes that it is really unnecessary to have this condition at all and where it treats international law on treaty interpretation and constitutional law on treaty ratification and such, I would urge the Members of this body to reject the condition.

I thank the body, I thank the Chair, and if there is any time left, I yield the remainder.

Mr. **DIXON**. Mr. President, what is at stake here is of fundamental importance. The committee condition affirms the Senate's constitutional role in the treaty-making process.

The treaty power of the Senate is derived directly from the Constitution. The Constitution's treaty clause states that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur."

This language is very clear. The Senate is provided an essential role in the treaty-making process. The Executive cannot act to make a treaty with a foreign country without the Senate. There is no treaty until the Senate consents to it.

The traditional understanding of this process is that after the Executive negotiates a treaty, it then presents the proposed treaty and explains it to the Senate. On that basis, the Senate then gives consent for the treaty to be ratified.

For the Senate's role to be meaningful, the Executive's authoritative representations of a treaty's meaning must be binding. These representations are a fundamental component of the common understanding between the Executive and the Senate on the meaning of the treaty. The Senate's consent decision is based on this common understanding. Therefore, the importance of the Senate's role in the treatymaking process is based on the principle that the Executive will use the same interpretation to carry out the treaty that it presented to the Senate. Without this understanding, the role of the Senate in making treaties is nullified.

This is exactly what the Sofaer doctrine, asserted by this administration, threatens to do. The Sofaer doctrine claims that what the Senate is told in the process of consenting to a treaty is not in itself binding in determining the subsequent obligations of the Executive in carrying out the treaty. In other words, this doctrine asserts that the Executive can come before the Senate, make authoritative representations as to the meaning of a provision of a treaty, clearly stated and put on the record, and then, after ratification, say that the representation can be ignored.

In testimony before a joint Foreign Relations-Judiciary hearing, Judge Sofaer went so far as to say: "When the Senate gives its advice and consent to a treaty, it is to the treaty that was made, irrespective of the explanation the Senate was provided."

Accordingly, the Executive would have the power to unilaterally reinterpret a treaty. The practical effect of the Sofaer doctrine would be to make the Senate's role in the treaty process meaningless.

In my view, the Sofaer doctrine is an assertion of power by the Executive that has no basis in the treaty clause of the Constitution. This committee condition is no more than the Senate's refusal to concede to the President a power which he is not granted by the Constitution, and which no previous Executive has ever asserted.

If the Senate were to acquiesce to the Sofaer doctrine, the Senate would undermine its own role in the treaty-making process. I want to be absolutely clear on this point: The Senate would become irrelevant to the treaty-making process. The only way for the Senate to prevent becoming irrelevant would be to attach elaborate and numerous conditions to treaties in order to have the Senate's understanding become an integral and explicit part of the ratification documents. I believe that such a procedure would so overburden our treatymaking process that it would be unable to effectively function.

Mr. President, this conditon is based on sound constitutional logic, and will assure that the Senate's role in treaty-making is maintained. It will prevent the Executive from acting unilaterally, without the consent of the Senate, to reinterpret this treaty.

What this committee condition does is really rather limited. We are not insisting that ambiguities, and issues that did not arise during the ratification process, be resolved in the manner Congress sees them at the moment.

We are saying that ratified treaties are the law of the land, and because treaties are the law of the land, the President may not unilaterally change them. That is the point which is fundamentally important.

The committee condition is not attempting to supplant the power of the President in the treaty process, it is simply reaffirming the proper role of the Senate.

The issue here is not partisanship, it is preservation of the power of the Senate defined by the Constitution. The question is fundamental: Should the Senate have a meaningful role in the treatymaking process? The answer provided, in no uncertain terms by the Constitution, is "yes." I agree.

Therefore, I urge my colleagues to support this condition.

The **PRESIDING OFFICER**. The Senator from Kansas.

Mr. **DOLE**. I wonder if I may proceed for 5 minutes.

Mr. **BYRD**. Mr. President, I ask unanimous consent the distinguished Republican leader may have 5 minutes and I may have 3.

The **PRESIDING OFFICER**. Is there objection? Hearing none, the Senator from Kansas has 5 minutes and the Senator from West Virginia, 3.

Mr. **DOLE**. Mr. President, let me say at the outset that I am not an expert, as many are in this Chamber, on the interpretation issue. Obviously honest men can have honest disagreements. There are probably still some disagreements in this Chamber.

I want to applaud those who have taken the time, as many have on each side of the aisle, to really get into this issue, read the cases, understand it fully. We did not do that in the last several hours but we have had a lot of meetings. I certainly want to commend my friend from Pennsylvania, Senator SPECTER, who has been working night and day on this issue for the past several months.

As I have discovered over the years, there are about three ways in this body to deal with disagreements.

We can argue and argue and argue, ad infinitum; and produce little but an especially fat edition of the CONGRESSIONAL RECORD. Or we can put down our honest differences in pretty stark form, and then vote—up or down, winner take all.

Or, finally, we can look for compromise. It seemed to me after several hours of meetings that was our only real choice, if we wanted to get this treaty done, without a truly dangerous and damaging amendment attached to it.

I want to correct any misunderstanding. The White House is not supporting this compromise. There may have been some indication that it is the case. They are not up here opposing it actively but they are not supporting it. We were pleased when Senator BAKER came in and made the case for the administration. They wanted some changes. They wanted some changes we did not give. Some of the changes were made: compromise.

So I think if I had my way this amendment would not be on this treaty. I do not think it even belongs here. But I know who is in the majority and I know where the votes are and I knew that the majority leader felt strongly about this issue on one side. Many others felt strongly on the other side.

Let me say up front: I don't think this treaty is the place to deal with this issue at all. We have differences on the ABM issue, and on the broader constitutional question—we should have agreed to fight those out, or work those out, without putting this very important nuclear arms reduction agreement in jeopardy at all.

That would have been the best course, by far. But it just was not a real option, because of the strong determination of our opponents to put their amendment on this treaty; and because they may well have had the votes to do what they wanted.

So the simple facts are: We were going to vote on this issue on this treaty; and—on the underlying amendment standing alone—we were probably going to lose.

If we invoked cloture, we would have acted on it. Had we not invoked cloture, we would do what we are doing now. Sooner or later, we were going to act on this amendment. And that is what we are doing now.

And so we did the best we could. The result, to me personally, is far from the best solution; again, I suggest I am not the constitutional scholar. But to me, sincerely, it is the best we can achieve.

We ended up with a better result than we started with. The majority leader and others on that side were willing to make some concessions. I think one key provision and one addition was what we call subsection (4). It was an initiative of the distinguished Senator from Maine, Senator COHEN.

That provision makes clear, at least it does to me, that the decision we are making on this treaty applies solely to this treaty and does not prejudice our position on the ABM interpretation issue at all.

I thank the Senator from Maine for his contribution.

It is my understanding, based on the conversations—and I do not believe I missed much of any of the meetings, that was pretty well the feeling of most participants, Republicans and Democrats—that that was the effect of that subsection (4).

Another major improvement that was made during our negotiations was the reaffirmation of subsection (2), that treaty interpretation first and foremost depends upon the text of the treaty, and the provision of the resolution of ratification. That is a key reaffirmation of a very important principle and, again, we made a slight change today by numbering one first, one second. We argued whether it would be first, second, primarily, secondarily, whatever. We ended up first and second.

On the bottom lines, what is going to prevail in the final analysis, the Senator from Pennsylvania made clear time after time, is the Constitution.

Mr. President, may I have 2 additional minutes?

Mr. BYRD. Mr. President, I ask for the distinguished Senator from Kansas—Russell, KS—to have at least 2 additional minutes.

The PRESIDING OFFICER. The Senator from Russell, KS, is recognized for 2 additional minutes.

Mr. DOLE. We have two Senators from Russell, KS.

Mr. BYRD. Right now it is this one. [Laughter.]

Mr. DOLE. I do not think we are going to have any impact on the Constitution whatever happens to this amendment. I do believe we are making a record—I am not making a record—but a record has been made by those who are experts in this area. We have had a number of Members participate in this particular area, and not all who contributed will support the final product.

The Senator from California, Senator WILSON, was there and was very helpful. He is not going to vote for the final product, but I am.

I indicated to the majority leader it seemed to me that we had made some progress, and the question is whether we are going to come out here and just have a partisan bloodletting and go back to the original amendment, or whether we are going to try to modify it the best we can and try to get some bipartisan support.

I want to say one special word about the Senator who has played a lead role in this whole process, the distinguished Senator from Delaware [Mr. BIDEN]. While he happened to be on the other side of this issue, all of us regret his absence, and we look forward to his speedy return.

Mr. President, this has been serious business. This is a very, very important issue. I think this compromise will permit us to avoid a collision on the first and open the door to finishing the work on the second. So we can now provide the President a finished treaty, and I hope, as I said to the majority leader just a few moments ago, as he said to me I guess, maybe the way things are moving, continue to move, we may complete action maybe as early as 10 o'clock this evening. That is what the work behind the U.S. Senate is all about.

I am pleased that we have come this far, and I am pleased that my distinguished colleague from Alaska, Senator STEVENS, will also be supporting the compliments.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, in this Senator's view, the preservation of the institutional role of this Senate in the making of treaties is more important than this treaty itself because there are going to be other treaties long after all of us have shuffled off this mortal coil. I want this Senate's role under this Constitution to be forever uneroded. That is my main interest in this amendment.

It does not make any difference as to what party is in power in the White House. This is not a partisan amendment, as far as I am concerned. After January the 20th of next year, if we have a Democratic President, I do not want even that President to be able to reinterpret this treaty. You will then see some fast shuffling of feet on the part of some of those today who have stood on the other side to oppose this amendment. They will be on the other side of the issue then, but this Senator will be right here where he stands today.

Presidents will come and go, but the Senate will remain, and the Constitution will remain.

Mr. President, this amendment provides that this treaty will be interpreted on the basis of the common understanding, the shared understanding that is reached between the Senate and the President, through his representatives, at the time the Senate gave its advice and consent.

How will we interpret the treaty? First, by the text. We will go to the four corners of the treaty itself; then we will go to the resolution of ratification because this Senate does not vote on any treaty. It votes on the resolution of ratification. It may amend the treaty, but it can vote only on the resolution of ratification. That is where the Senate speaks. Then it goes to the authoritative statements and representations of those who speak for the administration in power.

If there is an explanation to be desired, if there is something to be clarified and it is not in the text of the treaty, we have to depend upon those who represent the President to explain what was negotiated.

Mr. President, if we cannot believe them, to whom can we turn?

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. I ask for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, we are today making this treaty binding on this administration after the treaty is ratified and binding on the next administration and on and on.

Mr. President, the Senate must be able to rely upon the authoritative statements of those representing the administration that made the treaty, else the words "advice and consent" in the Constitution amount to nothing because the treaty's meaning will depend on who is in the White House at a given moment.

This Senate has an equal role with the President in the making of treaties. Those words were not written into the Constitution by the framers to be only symbolic words. They were to have meaning, and I am not willing to surrender that Senate role to any President of any party. I am for this institution first, last, and always, insofar as its role under the Constitution is concerned.

It would seem to me that the administration that made this treaty would want the next administration and the next administration thereafter to be bound by the treaty that is made by this administration. That is what I am fighting for today, not so much as to what administration or what party, but rather that this Senate be able to rely upon administration witnesses who come before it to explain the things that it cannot understand about the treaty and about which it needs clarification.

I want this Senate to be able to depend upon those of any administration who come here to represent that administration as to the meaning or the interpretation of words or phrases or terms in a treaty. I am not for any erosion of that power.

It shakes me a little bit, Mr. President, when Senators reduce the Constitutional role of this institution to partisan terms. I believe that every Senator first, last, and always ought to stand for this institution and its role under the Constitution, and we ought to carefully and zealously guard that role against any erosion from any quarter, from any party. That is precisely my interest in this amendment. I want to see a better treaty, and this treaty is a better treaty by virtue of this amendment because once the Senate has given its advice and consent to this treaty and the treaty has been ratified through the proper exchange of the instruments of ratification, this treaty cannot be reinterpreted by the next administration or any subsequent administration. The Senate will have assured that.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. BYRD. Mr. President, I talked longer than I intended. I ask for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, Ambassador Glitman committed as to any authoritative statement made before our committee which was in conflict in the Armed Services Committee as witnesses testified, they would review that, they would diligently pursue it, and before the Senate voted on final consent to ratification they would let us know if there was a conflict or any error or omission. Secretary Shultz made the same statement to the Foreign Relations Committee. So before we vote on this, hopefully tonight or tomorrow, if there are any omissions or errors in the presentation the administration made on this treaty, they have an affirmative duty to come forward and to let us know of them.

Mr. BYRD. Mr. President, I ask unanimous consent for 2 minutes so that the distinguished Republican leader and I may have an exchange.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I hope that the Senate can complete work on this treaty yet this evening. If the Senate could complete work on this treaty this evening and if we could arrive at some understanding that would allow us to dispose of the DOD authorization bill—and this should not take long—if we could have an agreement dealing with the amendment that is presently pending to that bill, the Senate would not come in tomorrow or the next day.

Now, I wonder if the distinguished Republican leader can indicate what his feelings are in that regard, and if we can have some understanding as to how many amendments remain we may know whether or not that is achievable.

Mr. DOLE. Mr. President, if the majority leader will yield, there are 15 listed amendments, but I have to say there are probably about 8. I think some of those 8 could be disposed of within a minute or 2, but there are probably 4 that will require rollcall votes. There is an amendment by Senator HELMS, and we hope to take that up next. There was an objection on that side to a time agreement, but Senator HELMS will accept 1 hour. There is a Wilson amendment on which there will probably be a rollcall vote. There is a Wallop amendment that might require a rollcall vote, and perhaps a Pressler amendment that might require a rollcall vote. And then there would be the rollcall vote on the resolution of ratification.

I do believe that we could move very quickly on those if we can get worked out whatever problem may remain on the Helms declaration amendment. On the DOD authorization bill I know there have been Members on both sides working all afternoon in good faith to see if they could come to some resolution. There is one caveat though, and I know the majority leader's feeling about bringing up the trade bill veto. We hope that if we are going to dispose of the DOD bill, we could also vote on the veto message before we recess.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader. Would he indicate, if he has the list there on those amendments—and he did indicate the substance of some of those amendments—would he please indicate the substance on all so that we all may know what type of amendments remain?

Mr. DOLE. The Helms declaration is a START-related amendment. In other words, go cautiously on START. The Quayle amendments, I would give the numbers, 2243 and 2244, which are at the desk; the Wilson amendment dealing with article XIV. That is noncircumvention. That may go into another amendment. A Wilson amendment on obligation. As I understand, the provisions which apply to us would also apply to the Soviet Union. It should not take long to dispose of that; the Wallop-Karnes amendment, which is on compliance, and I know they are working out some differences with the administration and maybe others who have problems; the Symms amendment dealing with end strength, and I think he has been discussing that with Members on that side, and a Symms amendment dealing with cost line. I do not know what cost line is, but I think he has also been working with Senator NUNN and others; the Pressler amendments, 2101 and 2103. I do not know what they are, but those are the numbers. Then there are three Dole amendments. I am not certain if any will be offered. One is on the double negative. That is a category II amendment. It will not be offered if Senator WALLOP offers a double negative amendment; a Lugar amendment dealing with Vienna, Moscow, and Geneva. I think that amendment has been taken care of in the earlier Nunn, Warner, Lugar, Pell, Cohen, Boren, Helms amendment. And then the Specter amendment that is on treaty interpretation.

Mr. BYRD. Mr. President, the distinguished Republican leader has outlined a number of amendments, a good many of which I believe he earlier said he thought would not be called up. Is it reasonable to think that we might be able to reach a conclusion on this treaty, say, by 10 o'clock, 10:30 tonight?

Mr. DOLE. That is possible. What we are doing now, we are going back to each one of the amendments to see if Senators are actually going to offer two or one, and I should have that information available at the time we finish the rollcall vote.

Mr. BYRD. Very well.

Mr. DOLE. If I can take it up later.

Mr. BYRD. I appreciate that. I do not think there are any further amendments on this side. Mr. President, we have the cloture motion still to be voted on today unless we can find a way to vitiate it. I ask unanimous consent that the cloture motion not be voted on prior to 6:45 p.m. today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

All time has expired.

Mr. WILSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON, I announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 72, nays 27, as follows:

[Rollcall Vote No. 158 Ex.]

YEAS—72

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Helms
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Wirth

NAYS—27

Armstrong
Bond
Boschwitz
Danforth
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Hollings
Humphrey
Karnes
Kasten
McCain
McClure
Murkowski
Nickles
Pressler
Quayle
Roth
Rudman
Specter
Symms
Thurmond
Wallop
Wilson

NOT VOTING—1

Biden

So the amendment (No. 2305) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I pay special attention and recognition to Senator BIDEN, who is not with us today in person but whose extensive work, leadership, and desires are in the measure now before us. It was he who took a leadership role last year in focusing our attention on the dimensions of the treaty interpretation issue through the hearings held jointly by the Foreign Relations and Judiciary Committees. It was he who took the lead in drafting a condition on the INF Treaty that would make necessary affirmation of constitutional principles concerning treaty interpretation.

The only difference is the addition of a corollary, the answers to which are already stated in the committee report that was, as the substitute states, more formal. This corollary, Cohen corollary, is consistent with the intent of making of the original condition. Otherwise, the substitute is in no respect the functional equivalent of the original Biden condition. The strange thing is that, in the final negotiations with the administration on the substitute, the administration found itself on several points arguing in favor of the language of the original Biden condition as being more carefully conceived than possible alternatives.

In closing, I wish to acknowledge the extensive efforts of other committee members, particularly Senators SARBANES, CRANSTON, DODD, and KERRY, and the work and determination of Senators BYRD, NUNN, and LEVIN, all of whom made possible the moving forward of the Biden interpretation.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The majority leader is correct. The Senate is not in order. The Chair will not proceed until the Senate is in order.

Under the previous order, the majority leader is to be recognized, and the Chair recognizes the majority leader, but will withhold until we can get order in the Chamber.

Mr. BYRD. Mr. President, I believe that the order was for the Senate, without further debate or action, to immediately vote on the underlying committee condition to the resolution of ratification.

The PRESIDING OFFICER. The majority leader is correct. The Chair wanted to obtain order before it posed that.

Under the previous order, the question now occurs on the committee condition to the resolution of ratification, as amended. The yeas and nays have not been ordered.

The committee condition to the resolution of ratification, as amended, was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the committee condition to the resolution of ratification, as amended, was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, the vote on cloture has been suspended for an additional 30 minutes, has it not, until 6:45 p.m. today?

The PRESIDING OFFICER. The majority leader is correct—6:45.

Mr. BYRD. Mr. President, I hope we can now have some understanding as to the number of amendments that remain and whether or not we will be able to finish action on the resolution by 10 or 10:30 this evening.

Also, while I am inquiring, are there Senators who would call up amendments at this point?

Mr. President, does the distinguished Republican leader wish to respond?

Mr. DOLE. We are not quite prepared to do that. But I can say, as I did before, that Senator HELMS is ready with his START declaration amendment. He is willing to accept a 1-hour time agreement. He also has an amendment on troop withdrawal, 20 minutes, and will accept a voice vote on that.

In the order they are listed: Senator QUAYLE has two amendments, and I understand they are colloquys. Senator WILSON has two amendments and may offer one of those. He is now checking to see if it can be accepted. Senator WALLOP has one or two amendments.

Mr. WALLOP. I have one which I may offer. I do have the compliance amendment. It is not my wish to take a lot of time. There are several people on our side who wish to speak to it. An hour equally divided, I think, would be sufficient, if we can get it without an amendment in the second degree.

Mr. DOLE. Senator SYMMS has two amendments.

Mr. SYMMS. That is correct. There are two amendments. One deals with end-strength personnel troops. The other deals with a line in the DOD budget.

It is my hope, I say to the leadership, that the Senate Armed Services Committee will look at these and possibly be able to accept them. I do not think there is any controversy. I hope they can be accepted by the committee. I do not know whether that has been worked out yet.

Mr. DOLE. There would probably be a rollcall vote if they were not accepted.

Mr. SYMMS. I announce to the majority leader and the minority leader that on the amendments that were filed yesterday, some errors have been pointed out, so I would want unanimous consent to modify the amendments, to put them in line with what we are trying to do.

I just wanted to announce that to the leader.

Mr. DOLE. Senator PRESSLER has, I believe, one amendment.

Mr. PRESSLER. Two amendments.

Mr. DOLE. He has two amendments. They will be what—20 minutes equally divided or less?

Mr. PRESSLER. I think I have to require a rollcall.

Mr. DOLE. On each?

Mr. PRESSLER. Yes.

Mr. DOLE. Then I have three amendments. I am not certain I will offer any of the amendments. I will talk to the Senator from Wyoming. If he is going to offer the double negative, I will not offer it. It is his issue.

Mr. WALLOP. Mr. President, if the Republican leader has one that is worked out, I will talk with him about it.

I will say with regard to my amendment I will ask consent that I be permitted to modify it from the verb "will" to "should."

Mr. BYRD. Mr. President, Senators are asking the Senate to modify amendments. Once cloture is invoked, no modification can take place. I would rather not agree to give Senators permission to modify amendments until we see whether or not we can get an agreement worked out because if we have to go to cloture, those amendments that are filed at the desk are the only amendments that will be in order, those that were filed in timely fashion.

Mr. DOLE. The final amendment would be a Specter amendment on treaty interpretation, 1 hour equally divided.

Again, I know that is a fairly good number. I think we are probably talking about 3 hours of debate and probably an hour for rollcalls.

Mr. BYRD. That would be 4 hours.

Mr. DOLE. It could extend beyond that. Depending on the Senator from California who indicated to me earlier he may want to amend the amendment of the Senator from North Carolina. I am not certain how much time that will take.

Mr. BYRD. I wonder if I could get unanimous consent now. This was not the only thing we would do to assure that no amendments other than the amendments that the distinguished Republican leader has enumerated would be in order on this treaty, and that that order which I am discussing would only be valid in the event that we do not go to cloture and that we do finally settle on a time agreement, because if we do not get a time agreement and have to go to cloture, only those amendments that would qualify as being timely filed under the rule would be valid.

Mr. DOLE. I do not have any objection, except for a couple questions. First, we have had a couple of Senators indicate they want to modify their amendments. That would not affect that.

Mr. BYRD. I probably will not have any objection to their modification. But I do not want to allow modification of an amendment and then find we go on to cloture and that amendment could be called up as modified when it was not entered in a timely fashion at the desk.

Mr. DOLE. Right.

Second, that would not prejudice anyone as far as a second-degree amendment if we agree with these.

Mr. BYRD. There will be no second-degree amendments to those, I would hope, if we entered into an agreement.

Mr. LEVIN. Mr. President, reserving the right to object on that, I do have a second-degree amendment at the desk. I am trying to work on something with staff. In the event that Senator DOLE offers an amendment on conventional ring and we do not work it out, then I want the right to offer a second-degree amendment. I expect we can work something out. It is just to that one amendment.

Mr. DOLE. I would say to the distinguished committee chairman if we cannot work it out, I do not intend to offer it.

Mr. CRANSTON. Mr. President, reserving the right to object also, I do want the right to offer a second-degree amendment to the Helms amendment.

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not, the only purpose of modification I seek is to try to make it more acceptable, not less.

Mr. SYMMS. Further reserving the right to object, that is exactly the case with my amendment, and I think the modifications have taken away some objection people have and makes it more clear what my intention was, which is not a major change of what we are trying to do. It can be explained in 30 seconds of what the purpose of the amendments are.

Mr. BYRD. Mr. President, I ask unanimous consent that only those amendments that have been enumerated by Mr. DOLE may remain to be called up to the resolution of ratification.

Mr. CRANSTON. Mr. President, reserving the right to object, I do want my rights to offer a second-degree amendment to the Helms amendment.

Mr. BYRD. Mr. President, I would hope we could include Mr. CRANSTON with an amendment.

Mr. DOLE. I have been notified that Senator SPECTER now wants a second amendment, 1 hour equally divided.

Mr. BYRD. That is fine with me.

I ask unanimous consent that before we get any more telephone calls from staff people that the amendments that have been enumerated by Mr. DOLE be the only remaining amendments to be called up to this resolution of ratification which includes the amendment by Mr. CRANSTON and the amendment by Mr. SPECTER.

Mr. DOLE. The second amendment.

Mr. BYRD. Yes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

Mr. President, I ask unanimous consent that the vote on cloture be postponed to the hour of 7:30 p.m. because we understand this cloture motion is still out there. We may have limited the number of amendments that may be called up, but we have not limited debate. So that cloture motion is out there hanging like a Damocles sword over all of us.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Mr. President, reserving the right to object, all I wish to do is ask the majority leader a question.

Under the request he is propounding, do I understand that the only second-degree amendment that would be in order is that offered by the senior Senator from California to the Helms amendment?

Mr. BYRD. Yes. The only amendments that remain to be offered, whether first degree or second degree, would be those enumerated by Mr. Dole. This order does not open up those amendments to amendments.

Mr. WILSON. I thank the majority leader.

I do not object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. Would the Chair state the unanimous consent? There is so much noise in the Chamber.

The PRESIDING OFFICER. The Senator from North Carolina is correct. The Chamber will be in order.

The unanimous-consent agreement is there shall be no amendments in order to the resolution of ratification other than the amendments enumerated by the distinguished Republican leader, Mr. Dole, which included a Cranston amendment to an amendment by the distinguished Senator from North Carolina, Mr. Helms.

Mr. HELMS. It is too late, I suppose—may I address the question, Mr. President, to the distinguished majority leader? There was so much noise in the Chamber I did not hear what the unanimous-consent request was with respect to the second-degree amendment by the distinguished Senator from California.

I would hope that I might be able, even at this late date, to reserve the right to object, because of the noise, and include a second-degree amendment of my own. Then it will be a question of getting recognition, I suppose.

I withdraw it. That is all right. We will work it out.

Mr. BYRD. Mr. President, I am sorry that the Senator was not able to hear. There was a good bit of noise at that time.

At this point, the order has been entered with only those amendments that were enumerated, and one by Mr. Cranston was added. I did not say it could be offered as a second-degree amendment, but I believe Mr. Cranston himself asked that it be, and nobody raised any objections to that.

Mr. HELMS. Well, that is the luck of the draw. We have had everything in this Chamber going on except dancing girls. Maybe we will have that before the evening is over.

Mr. CRANSTON. If the Senator would will, I hope that perhaps we can work out an understanding on it where there need be no amendment offered, if the Senator can accept what the administration has been suggesting to him and what I would like to suggest to him.

Mr. HELMS. When you translate around this place, in terms of this treaty, when you say "the administration," you mean the State department, and that frightens me badly. We will see. I will certainly be glad to work with the Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Carolina.

Mr. President, is there an amendment pending? I hope a Senator will call up an amendment now.

The PRESIDING OFFICER. To respond to the question of the distinguished Senator from West Virginia, there is no amendment now pending.

AMENDMENT NO. 2317

(Purpose: To include in the instruments of ratification a unilateral declaration of the United States regarding Strategic Arms Reduction Talks)

Mr. HELMS. Mr. President, I have an amendment at the desk and I call it up and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms), for himself, Mr. Byrd, Mr. Dole and Mr. Simpson, proposes an amendment numbered 2317.

Mr. HELMS. Mr. President, we are in the same problem.

The PRESIDING OFFICER. The Senator from North Carolina is correct. The Senate will be in order. The Senate will be in order. The clerk will suspend until the Senate is in order.

The clerk may continue.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Resolution of Ratification, insert the following before the period: "; provided, further, however, that the following declaration shall be included in any instruments of ratification exchanged between the parties:

'Declaration. The United States of America declares that, as an integral factor in its decision to adhere to this Treaty, it intends to continue to negotiate with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO allies, to negotiate a treaty effecting reductions in the conventional forces of NATO and the Warsaw Pact, and in so doing, that it shall be guided by the following principles and considerations:

(a) A main object of such future treaties shall be international stability and reduction of the risk of war by obtaining general equivalence in the resultant forces of the Parties;

(b) During any negotiations contemplated by this declaration, the United States shall act in close consultation with its allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

(c) Negotiations contemplated by this declaration shall also be conducted in close and detailed coordination with the United States Senate, and the Senate should be kept fully apprised of all significant proposals intended to be made, or made, to the Union of Soviet Socialist Republics and, with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given plenary consideration and due regard;

(d) The negotiations contemplated by this declaration shall also seek to secure regimes of stringent verification and full and exact compliance which carry forward but strengthen significantly the verification and compliance regimes of the present Treaty;

(e) In accordance with the Constitutional process of the United States, the United States shall, notwithstanding any presumed or asserted contrary principle of international law, not be bound to adhere to or observe any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate;

(f) Pursuant to this declaration, any joint declaration reached with the Union of Soviet Socialist Republics of a framework for the negotiation of the treaties contemplated hereby, and such framework itself, shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously, and shall not constrain any military programs of the United States unless otherwise provided for in accordance with Section 33 of the Arms Control and Disarmament Act;

(g) Notwithstanding the other provisions of this declaration, the United States considers full and exact compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting i) the proposals and attitudes of the United States with respect to the future treaties contemplated hereby and ii) proportionate and appropriate responses with respect to such existing agreements.'."

AMENDMENT NO. 2320 TO AMENDMENT NO. 2317

(Purpose: to include in the resolution of ratification a unilateral declaration of the Senate regarding Strategic Arms Reductions Talks)

Mr. CRANSTON. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mr. Cranston] proposes an amendment numbered 2320.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike all after the word "however" in line 1 and insert the following: "That it is the sense of the Senate: that, as an integral factor in the U.S. decision to adhere to this Treaty, the U.S. intends to continue to negotiate actively with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO allies, to negotiate a treaty effecting reductions in the conventional forces of NATO and the Warsaw Pact, and in so doing, that it should be guided by the following principles and considerations:

"(a) A main object of such future treaties should be international stability and reduction of the risk of war;

"(b) During any negotiations contemplated by this declaration, the United States should act in close consultation with its allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

"(c) Negotiations contemplated by this declaration should continue to be conducted in close and detailed consultation with the United States Senate, which should be kept fully apprised, as provided in Section 37 of the Arms Control and Disarmament Act, as amended, of all significant proposals made to the Union of Soviet Socialist Republics, and with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given highest consideration and due regard;

"(d) The negotiations contemplated by this declaration should also seek to secure an effective verification regime which builds significantly upon the verification regime of the present Treaty;

"(e) In accordance with the Constitutional process of the United States, the United States will not be bound to adhere to any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate, but will have an obligation to refrain from acts that would defeat the object and purpose of such treaty;

"(f) Pursuant to this declaration, any joint declaration reached with the Union of Soviet Socialist Republics on a framework for the negotiation of the treaties contemplated hereby should guide the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously;

"(g) Notwithstanding the other provisions of this declaration, the United States considers full compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting the proposals and attitudes of the United States with respect to the future treaties contemplated hereby."

Mr. CRANSTON. Mr. President, in the opinion of this Senator—and I believe other Senators on both sides of the aisle—the Helms amendment, in its original form, places unnecessary and complicating restraints on our negotiators that will add to the negotiating burdens of the Reagan administration and to the next administration, whatever party may win the election this fall.

The provision offered by the Senator from North Carolina establishes goals which could help to set up START or a conventional arms treaty for defeat in the Senate if either treaty does not succeed in meeting these goals, even if the treaty is in U.S. security interests.

Specifically, I have the following problems with the amendment as offered by the Senator from North Carolina.

The PRESIDING OFFICER (Mr. Conrad). The Senator will suspend for a moment. Maybe we can return order to the Chamber so that we can hear the Senator. We are not going to proceed until there is order in the Senate and Senators can be heard.

Believe me, we are not going to proceed until there is order so Senators can be heard.

The Senator from California.

Mr. CRANSTON. Mr. President, let me state again that I have been talking with Ambassador Glitman throughout the day. It is plain that the administration shares many, if not all, of the concerns that I will now very briefly express and perhaps they have some other concerns—I believe they do—that I will not express. My principal concerns can be very succinctly summed up as follows:

The Helms amendment, I believe, is unwise because it would require the United States to reject, as a matter of policy, international law that requires that parties to a treaty will take no action contrary to its object and purpose pending ratification.

Second, it would compromise efforts of President Reagan and/or the next President—whether Democratic or Republican—to establish interim restraint pending final ratification of START.

Third, it would require prenotification of the Senate for "all significant proposals" before proposing them to the Soviets and would require convening of a Geneva plenary renegotiating session whenever the Senate has proposals that it wished to be considered.

Senator Byrd spoke eloquently in the closing of the debate we just had over the interpretation matter about the powers of the Senate. He was, of course, speaking in terms of the separation of powers. I believe that this provision would violate the separation of powers and would intrude into the realm of the executive. And, much as we want to protect our role—the Senate's role, the legislative role, the congressional role—we also, I believe, have a responsibility not to unnecessarily seek to intrude into the role and realm reserved to the executive branch.

Fourth, the Helms amendment would set as a standard for future treaties on strategic and conventional forces a measure of "general equivalence"—which, in the case of conventional talks and hopes for negotiations, is a requirement totally rejected by our NATO allies. They do not believe that general equivalence makes sense in terms of what we hope can be accomplished in conventional negotiations.

Fifth, the requirement for "exact compliance" is unrealistic and could cause trouble if it was taken literally.

Sixth, it makes a sense-of-the-Senate resolution a binding declaration that "the U.S. declares"—this is the Senate declaring, not the United States—and it requires delivery of policy declarations to the Soviets in Moscow.

Overall, I believe the impact would be—and I think the administration shares this view—the impact would be a chilling effect on efforts to negotiate the START Treaty that President Reagan hopes to move forward, to some degree, before he leaves the White House.

There are those who say that this is unnecessary. It certainly is that.

There are those also who say that no administration will pay any attention to this and no Senate will insist that it be implemented. However, we should take more seriously what we do or not do in this body.

Let me cite the authoritative Restatement of the Formulations Law of the United States, volume I, chapter 2, about the significance of what we do in matters like this. That authoritative volume makes clear that a declaration and a resolution of ratification is no mere statement of the Senate's preferences. it is binding on the President and all future Presidents as a matter of domestic law.

We should consider that before we take actions of this sort.

Did the Senator from Tennessee seek the floor?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. I seek recognition.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I would like to speak in favor of the Cranston second-degree amendment, and I would like to say to my colleagues here that I feel this is an extremely important matter. Many Americans are hopeful not only that the INF Treaty will be ratified but that the summit meeting about to take place will see further progress toward a resolution of the far more important controversies in the area of strategic arms control.

It is toward the prospect of such progress that the amendment offered by the Senator from North Carolina appears to be aimed. That amendment, the first degree amendment, is a very skillfully drafted amendment in the sense that it leaves me wondering whether what is being offered here is an innocuous restatement of existing, and well understood constraints on the authority of Presidents, or whether it is an effort to radically limit the authority of this and future Presidents.

The second-degree amendment clarifies the matter in a wise fashion. We cannot take the risk that this language will ever be interpreted in the latter fashion. It must either be clarified in ways that make this impossible, or rejected.

I draw my colleagues' attention to two portions of the proposed amendment: sections (e) and (f).

Section (e) says:

> In accordance with the Constitutional process of the United States, the United States shall, notwithstanding any presumed or asserted contrary principle of international law, not be bound to adhere to or observe any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate.

The phrase "notwithstanding any presumed or asserted contrary principle of international law" is a direct attack on a very specific concept which has been an important element in earlier debates about arms control.

Customary international law, as codified by the Vienna Convention of 1969, creates an obligation for states that have signed treaties, to take no action that would be inconsistent with such treaties, pending their entry into force. This means that between signature and ratification of treaties, the United States does incur obligations. So, too, with the Soviets.

If no obligations had existed, Mr. President, there would have been no point whatsoever to all the complaining we have heard over the years from the administration, regarding Soviet noncompliance with elements of the signed, but unratified, SALT II Treaty.

The same would be true of complaints from the administration regarding alleged Soviet violations of the signed, but unratified TTBT and PNE Treaties.

As written, the Helms amendment would have the following effect. It would vitiate the force of customary international law as applied to a possible START and/or conventional arms control agreement, should either be accomplished by this or any future president.

Although such treaties might be signed, we know only too well that there can be a prolonged period extending over years before it is clear whether such treaties will be ratified. The issue is whether during this time, the United States considers itself and the Soviet Union obliged to respect the terms of the treaty, or completely free to act. If the latter, then of course it will be "Katy, bar the door."

I, therefore, suggest Mr. President, that section (e) be rephrased and dealt with in language similar to that suggested by the Senator from California.

> In accordance with the Constitutional process of the United States, the United States shall, other than as required under customary international law, not be bound to adhere to or observe any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate.

Let me now move on to section (f).

Section (f) anticipates that this or some future president might one day reach a joint declaration of principles or a framework agreement on START or on conventional forces, with the Soviets—as a step along the route toward a completely worked out text. There are some well known precedents: the Nixon-Brezhnev joint statement of principles to guide negotiators and the Ford-Brezhnev accord at Vladivostok.

In this event, the section provides that any such agreement:

> shall not constrain any military programs of the United States unless otherwise provided for in accordance with Section 33 of the Arms Control and Disarmament Act.

Section 33 of the Arms Control and Disarmament Act reads as follows:

> no action shall be taken under this or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution, or unless authorized by further affirmative legislation by the Congress of the United States.

I have no objection, Mr. President, to reiterating the provisions of existing law. But I submit that the proposed amendment is substantially broader in the scope of its language than is the law to which it refers. There is a nontrivial difference between the amendment's stricture that the President may "not constrain any military programs of the United States," and the law's formulation which is limited to actions that would "disarm or reduce or limit the Armed Forces or armaments of the United States."

Moreover, Mr. President, I do not think we are dealing with theoretical distinctions. Let me illustrate. Suppose, for example, this or a future President agrees with the Soviets that a START treaty yet to be completed will ban the further testing of nuclear weapons. Suppose further, that the President then wishes to declare a moratorium on such testing, in concert with a similar declaration from the Soviet Union.

Under the amendment, he could not do so—because this would be a constraint on a military program of the United States. Under existing law, he could do so, since what is involved is arguably not disarmament, or a reduction, or a limit to the Armed Forces or armaments of the United States.

So, Mr. President, I might not agree with such voluntary actions by a President, but I believe he has the authority to take them.

Therefore, I believe that section (e) of the amendment should be as proposed in the second degree amendment offered by the Senator from California, revised as follows, after the word "shall":

> . . . shall not obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, unless otherwise provided for in accordance with Section 33 of the Arms Control and Disarmament Act.

Mr. President, I recognize that the proposed Helms amendment is in the form of a unilateral declaration of the United States to be included in the instruments of ratification of the INF Treaty. And in that sense, the amendment has no force to bind the future behavior of the United States or of the Soviets.

But, inasmuch as this language would have the United States declare unacceptable principles, even theoretically, I think the Senate should not adopt the amendment and should, instead, vote in favor of the second-degree amendment offered by the Senator from California.

I urge my colleagues to do precisely that.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I recognize that the amendment of the Senator from North Carolina is not earth-shaking in its consequences due to the fact it is a declaration, unilateral declaration by the United States, and thus we can observe it or not observe it.

Nonetheless, it seems to me that it sets forth some principles therein that it would be wiser for us not to adopt. I refer particularly starting with (a).

In (a) it talks about, "We shall seek international stability and reduction of the risk of war by obtaining general equivalents in the resultant forces of the parties."

Just the use of the words "general equivalents," Mr. President, seems to me vague and confusing. It is not clear exactly what we are saying.

But, Mr. President, I find (c) a more disturbing provision. In it it says that "The Senate should be kept fully apprised"—well, nobody will object to that—"of all significant proposals." And then it talks about the proposals that are to be made.

"The Senate shall be kept fully apprised of all significant proposals intended to be made or made to the U.S.S.R." Yes, it is clear. It would be nice if it were possible to keep the Senate fully apprised. But the mandatory word "should," it seems to me goes too far.

Furthermore, it says with respect to such negotiations the judgments and the recommendations of the U.S. Senate shall be given plenary consideration. Clearly, any President does want to negotiate with the support of the Senate and will do everything he can to keep the Senate posted and informed, but it is not possible all the time, nor do I believe he should be constrained, any President should be constrained, in the midst of negotiations with being required first to notify the U.S. Senate.

I do not find that a meritorious provision, and that, of course, is one of the provisions that is removed under the amendment by the Senator from California.

Proceeding with (e). What (e) does, it eliminates the possibility for what we might call interim restraint. I do not think that is wise. It seems to me between (e) and (f), and particularly (e), that the President might well reach some constraining agreements with the Soviet Union that, for example, they would not test further weapons or they would agree to the limitations as they currently existed while they are working on a further agreement, such as the START agreement.

I do not think that (e) is a wise provision to have in there because it says that those shall not be observed, regardless of whether the President has entered into them or not.

Overall, it seems to me, Mr. President, that the language of the Senator from North Carolina, even though it is not totally binding on the Senate or our U.S. Government, is not the best to have in there. Therefore, I do support the further qualifying amendment by the Senator from California.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I also agree with the qualifying amendment of the distinguished senior Senator from California. The question is whether we are in the ninth hour where we are going to change, basically, all international law and how treaties are set up, how they are to be negotiated and what is to be the conduct of parties, especially major parties that the rest of the world looks to, like the United States and the Soviet Union, what is going to be their practice, policies during the time they are negotiating treaties? It would appear that the administration will not negotiate another arms control agreement before it leaves office.

It has negotiated this one, albeit as a minor arms control agreement. It is a positive step forward and one the majority of Senators will applaud. But should we now in the ninth hour, the ninth hour of the debate suddenly tell the next administration what will be their conduct and how they must negotiate an arms control agreement? None of us even know whether that is going to be a Democratic or a Republican administration , but even if we did, is it appropriate for us to tell them the rules are about to change, that the Senate, in fact, will negotiate the treaty, not the administration? I think not.

So what we must do is look at this and suddenly realize in the basic amendment, the underlying of the distinguished Senator from North Carolina, we are saying that the power to negotiate and to act under those negotiations by the President, the Commander in Chief, shall be severely constrained.

I have heard for the 14 years I have been here by the proponents of the underlying amendment that we should stop trying to tie the hands of the President. This would tie the President for more than he ever has been, certainly any time in my lifetime.

Under this, the President could have his budget plans to spend $2 to $3 billion on a particular weapon system. They go into negotiations, they agree: "Let us not deploy this weapon system." We agreed not to use it. The Soviets agreed not to go forward with one of theirs, but it might be 6 or 7 months before all the ratification procedures start, before the Senate consents.

Are we saying, "Well, Mr. President, go ahead and spend the $2 to $3 billion anyway and the day you ratify that treaty, assuming the Senate has consented to it, we will give you another $50 million to $100 million to go out and dismantle everything you have built"? Well, that is the height of absurdity.

It will do something for the easing of tensions, but it certainly will do nothing to ease the budget deficit. That is one example.

I know the distinguished Senator from Arkansas wishes to speak. Let me close with one thing. I might mention this as sort of an adjunct of this whole debate on the INF Treaty. I hope that the members of the press are listening. I hope that those who write about this are listening. Just once, Mr. President, and I have constrained myself for weeks from saying this on the floor, just once so everybody will understand: the U.S. Senate does not ratify the treaty. The U.S. Senate will advise and consent to it. The President of the United States ratifies the treaty.

I mention this only because 20 or 30 times a day, I hear on the radio and on television, or in newspapers I read about whether or not the U.S. Senate will or will not ratify this treaty. We advise and consent to it. I suspect the President in short due course will ratify the treaty. I just want it said that we do not ratify it, the President ratifies it. He does it only if we advise and consent to it.

Sorry, I could not constrain myself any further on that, Mr. President. I held back for 2 or 3 weeks. I just had to say it. I yield the floor.

Mr. CRANSTON. Will the Senator yield? I just want to thank the Senator from Vermont for the particular leadership he has given on this issue of restraint when treaties are in the works or pending. He and Senator BUMPERS, Senator CHAFEE, and Senator HEINZ have together worked very hard to try to quell this arms race and to prevent the United States from doing things that undermine potential treaties that would reduce the scale, the cost, and the danger of the arms race. PATRICK LEAHY has been a great leader on this front for a long, long time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia sought recognition first. The Senator from Virginia.

Mr. TRIBLE. Mr. President, I would like to step back from the two pending amendments and underscore my support for the INF Treaty now before us.

This treaty may prove to be the most lasting legacy and crowning achievement of the Reagan Presidency.

The hearings held by 3 Senate committees over the last 4 months have underscored the benefits of this treaty.

For the first time in history, we have done more than simply reshuffle the nuclear chess board. INF eliminates an entire class of nuclear weapons. The treaty wipes out the most lethal threat that NATO has ever faced—the Soviet SS-20—and it requires the Soviets to destroy roughly four missiles for every one we give up.

In addition, it will likely enhance the prospects for an agreement on long-range nuclear weapons. Because of INF, we are closer to a START accord.

This treaty also contains the most comprehensive verification requirements ever contained in an arms control agreement. The Soviets will be barred from testing missiles. The United States will have unprecedented rights of onsite inspection. American observers will be able to see first-hand whether the Soviets are keeping their promises.

Politically, INF is a stunning success for the Western alliance. NATO succeeded because it had the will to resist repeated Soviet attempts to split the alliance, and because we won major concessions from the U.S.S.R. As Secretary of State Shultz testified, "historians may come to see the INF experience as NATO's finest hour."

These are important advantages, and they argue strongly for ratification. But the treaty's significance goes much beyond this. The INF process reveals much about arms control, national security and the requirements of negotiations with the U.S.S.R.

For the United States alone, the lessons are many.

First, decisions taken now on arms and weapons systems will affect this nation for years, indeed for decades, to come. The Dual-Track decision that began the INF process was made by NATO in 1979, nearly a full decade ago. Only now do we realize its benefits.

We must be mindful of that as we decide each year which weapons to build and which to abandon. Shortsighted decisions, taken now will leave us vulnerable many years down the road. They may well force the United States to negotiate from a position of weakness rather than strength.

In addition, INF has put to rest the simplistic notion that building more weapons is always and inevitably a destabilizing act. How often were we told that we already had sufficient weapons to destroy the Soviet Union, that we needed no more?

This treaty was won because NATO built and deployed. Had it not, the Soviet monopoly on INF missiles would remain, and Western Europe and the American forces stationed there would be more vulnerable than ever.

INF has proved that weapons are not destabilizing merely because they enlarge our nuclear arsenal. The worth of any weapons system must be judged by its contribution to our national security. INF demonstrates the application of that principle to nuclear arms.

Finally, the INF treaty is symbolic of the profound change that President Reagan has wrought in Foreign Affairs—America is ready to lead once again. For years before the Reagan presidency, America's ability to lead the West was in doubt; its will to do so was questioned. No longer. The United States is the free world's unquestioned leader. We no longer shun the mantle of leadership; we seek it.

Our resolve led to the success of INF. Year after year, the United States urged, prodded, and cajoled our allies to stick with the deployment of INF weapons. Our negotiators consulted often with NATO leaders about how the Soviet-American talks were progressing, where they were headed, and why it was important to stay the course. Our West European allies agreed. They went ahead with the INF deployment, and they fully support this treaty.

That is the kind of leadership that NATO needs and that only the United States can provide.

But, Mr. President, as America has been transformed, so too has the Soviet Union. There, too, new leadership has wrought new ideas. The manner of governing the Soviet Union has changed immensely, and with good reason.

Mikhail Gorbachev faces immense difficulties. The Soviet economy does not work. The costs of empire are staggering. Indeed, the Soviet Union today has become a muscle-bound Third World country. Gorbachev recognizes this, because he must. He has sought reforms—not because he dislikes Soviet Communism but because reforming it may be the only way to save it.

We should welcome these reforms but we should not underestimate the impact of those reforms on the future of the Soviet-American relationship. They may well make the Soviet Union more productive, more powerful, and the more powerful and emboldened our foe, the more difficult our task.

And Mr. Gorbachev's ability to attain an INF Treaty is, ironically, cause for vigilance as well. When in history has a Soviet leader successfully told his military leaders that he was going to eliminate an entire class of nuclear weapons? Gorbachev's ability to do so speaks volumes about his hold on power.

These changes in the United States and the Soviet Union have enormous implications, particularly for future arms control efforts.

The Soviets will be tenacious in future arms talks. Their leader has tightened his grip on the reins of power. He will be a difficult foe, especially if his domestic reforms begin to produce a stronger Soviet economy. The United States must be prepared.

Mr. President, another central lesson of INF is that arms control by legislative decree is unilateral arms control. Politics ought not to be the basis of defense spending and arms control decisions.

We must also be poised to take advantage of a final lesson of INF. President Reagan has upset two decades of arms control assumptions. For years, it has been said that the very best we could accomplish was to set limits on numbers of nuclear arms, limits that we would reach at some distant point in the future. Not so.

When we negotiate from strength and when we are prepared to deal with a tenacious adversary, when we are patient, we can achieve arms reductions. We have done so with this INF accord, but only because we resisted repeated Soviet attempts to wring concession after concession from us.

Time and time again, the Soviet Union laid down a marker, and proclaimed that if we failed to give in, the arms talks would end and we should be to blame. They demanded linkage to a host of other issues, including the strategic defense initiative. Time and time again, the United States and our allies refused. And because we pursued a single goal, we prevailed.

Mr. President, those are the paths that have brought us to this INF accord. In voting to ratify this treaty, we will support much more than its text. We will vote for much more than the elimination of intermediate nuclear forces. For we will support a way of governing that relies on a strong national defense, a willingness to lead, and an ability to stand up to an increasingly capable adversary.

When we are strong, we will be better able to defend freedom in the world and keep the peace. We will be better able to secure those lines that divide free men from those not yet free.

The same decisions that enhance our strength will enhance our ability to lead. As America asserts her individual will, we engender a collective will and support from our allies and friends.

It has taken nearly the entire Reagan Presidency to achieve this arms accord. But it stands as a paradigm on why a strong national defense is so vital; on how to employ a strong defense policy in the cause of nuclear arms reduction; on how to unify an alliance around that single goal; and now how to unify an alliance around a single goal and how to lead an alliance against a foe that grows more and more formidable.

That is why this treaty may become the crown jewel of the Reagan years. That is why I support it and encourage my colleagues to do so.

Mr. PELL. Returning to the matter at hand, and the amendment before us, I have a couple of concerns here, and if I could ask the Senator from North Carolina, when he talks about plenary consideration——

Mr. HELMS. Mr. President, I can anticipate the question. I will say to the distinguished Senator that that word was changed to the words "full and highest level" at the suggestion of the distinguished chairman of the Armed Services Committee, Mr. NUNN.

Mr. PELL. In other words, the document we have a copy of is not what it says here.

Mr. HELMS. I will ask the clerk. On page 2——

Mr. PELL. The one at the desk says "plenary." I would concur with the Senator from North Carolina if it has been changed. I know he and I mean the same thing.

Mr. HELMS. Incidentally, if I may, Senator—if he will yield to me, I thank him for doing so—this amendment was part of the agreement reached yesterday with the leadership at the time that I agreed to expedite further consideration and action on the resolution of ratification. We consulted everybody in sight—the chairmen and ranking members of the Intelligence Committee, of the Armed Services Committee, and of the Foreign Relations Committee, and the staffs thereof. We have worked on this thing for more than 24 hours.

I thought we had a good-faith agreement about it. But I have heard nothing until the time of the Cranston amendment in the second degree was sent to the desk. I had not seen it. We would have entertained any suggestion about it and did make a number of changes.

I might add that the distinguished majority leader is a cosponsor, as is the distinguished minority leader and the distinguished assistant minority leader. Senators BYRD, DOLE, and SIMPSON, respectively, are cosponsors. You had better believe Senator BYRD went forward with a fine-tooth comb and he indicated to me that he liked it, and obviously did because he authorized me to include him as a principal cosponsor.

So I am at a loss to understand what is going on here. But I will say that the distinguished Senator from California is well within his rights under the rule. But I still do not understand what is going on in the context of an agreement having been reached yesterday.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HELMS. Yes.

Mr. BYRD. Mr. President, as one who has probably participated in more unanimous-consent agreements than has any other human being who ever served in this Senate, and as one who will still be active for awhile at least in trying to get unanimous-consent agreements, let me say for the Record that Senator HELMS, I am sure, was under a clear impression that he would get a vote on a freestanding amendment without an amendment to it. That was my clear impression as to what we were doing at the time. Nobody raised any question about a second-degree amendment. I did not give it any thought. I thought we were all talking about how we would get the Senator from North Carolina and others to release the treaty so we could get on to the resolution of ratification. And with Mr. HELMS, we agreed that he would have one additional amendment to the treaty; we could then go to the resolution of ratification, and we could waive the "subsequent day" provision in paragraph (c) of section 1 of rule XXX of the Standing Rules of the Senate.

He entered into that agreement in good faith. We were all acting in good faith. The distinguished Senator from California, Mr. CRANSTON, was not present. He is not bound in any way by what we did, and he is acting within his rights under the rules.

But I must say that I am chagrined that there is a second-degree amendment offered to the Senator's amendment. It is done properly within the rules. Nobody is sneaking up on anybody. I was a party to these understandings, and I was recreant in not raising the question then as to whether or not there might be a second-degree amendment. But I did not. I did not think about it.

Mr. HELMS. I did not, either.

Mr. BYRD. Many of us who are accustomed to working here with the rules every day cannot possibly think of everything, every contingency that might arise, under the pressures and under the circumstances that envelop us as we are trying to work out a very critical and complex arrangement.

The Senator from North Carolina expedited the work of this Senate when he said he would offer one more amendment on the treaty, and we could then move to the resolution of ratification. He and other Senators could have kept us on that treaty until the cloture motion operated, and that could have been for an additional 30 hours.

So I really feel badly about this. I must say to the Senator, and I do not cast any reflection on Mr. CRANSTON in saying this. I will tell the Senator that I have to sit down with other Senators here and work out these time agreements, and the Senator from North Carolina gave up a great deal. He gave up a great deal.

I wish I were the one, let me say this, who wanted to offer the second-degree amendment. I would not do it. I would offer a separate amendment. But I was there and had the understanding that the Senator from North Carolina would limit his remaining amendments, among which this one would be included.

Mr. CRANSTON was not there, and had no reason to know anything about the understanding. But it is extremely difficult, and it makes it difficult in the future, to get agreements when we may want them just as badly as we wanted this one, if something intervenes which is unavoidably unfair. In that sense, I apologize to the distinguished Senator.

I am going to vote with him, and frankly, I hope his amendment is adopted because I feel somewhat embarrassed by this situation. It is nobody's fault. I could have saved myself that embarrassment by thinking of the possibility of a second-degree amendment. I did not think of it. The other Senators in the room obviously did not think of it. I feel I ought to say this for the record because I operated with complete honesty, absolute good faith, and I am sorry that this is turning out this way.

I am going to vote with the Senator. If there is a motion to table the Cranston amendment, I am going to vote for that motion to table, not because the amendment of the Senator from California is not a worthwhile amendment, not because of that at all, but because I think that good faith in this Senate—and the Senator from North Carolina acted in good faith—is worth more than any single amendment can ever be worth. I know the Senator understands that nobody has operated in bad faith. This is just a development that neither he nor I foresaw. But I know one thing: He did let us off the hook and so expedited the work on this treaty for no telling how many hours when he could have done otherwise.

I feel a little better, having said that, and I hope no Senator will take umbrage at anything I have said, because my remarks are not pointed toward any Senator. I have to face the Senator and other Senators in the future, for the rest of the years here, in working out time agreements and other matters.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BYRD. The Senator has the floor.

Mr. HELMS. I thank him very much.

Let me say, for the RECORD, and I have said it many times, that nobody with whom I have ever worked, either in the Senate or previously, has operated with more good faith than the distinguished Senator from West Virginia. I appreciate him for that and for many other reasons. I appreciate his statement on this question.

Mr. PELL. Mr. President, I think we have ground for compromise here on one thing. I do not think that the Senator from North Carolina has realized that it says "plenary consideration," at the desk. I am sure he does not mean that any recommendation of the Senate should be had in plenary session in Geneva with the Soviets, which is what it says now.

Mr. HELMS. If the Senator will read the dictionary, and I am sure he has——

Mr. PELL. I have.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, the underlying amendment offered by the distinguished Senator from North Carolina raises a number of questions in my mind, but one of them relates to section (c), in which the amendment states:

> Negotiations contemplated by this declaration shall also be conducted in close and detailed coordination with the United States Senate, and the Senate should be kept fully apprised of all significant proposals intended to be made, or made, to the Union of Soviet Socialist Republics and, with respect to such negotiations * * *.

As I read this section of the amendment, the President of the United States, President Ronald Reagan, during the summit meeting in the coming week, would be unable to even discuss START negotiations. On the face of it, this is absurd.

Why should the Senate handicap the President of the United States from discussing START negotiations in Moscow in the coming week? I do not know if it is the intention of the Senator from North Carolina to handicap the President of his own party in negotiations with the Soviet Union, but clearly this is what this amendment says.

I would hope that we could proceed by adopting the Cranston amendment, and if that fails, reject the amendment of the Senator from North Carolina.

There are a number of other reasons why it should be rejected, but the one at this moment that is to my mind most important is that it would shackle President Reagan in his discussions with Mikhail Gorbachev.

I hope the Senator from North Carolina does not want to do that.

Mr. President, I would hope that we would reject the amendment of the Senator from North Carolina.

Frankly, the INF Treaty, the discussion about the INF Treaty, I think, should not be a vehicle for a lot of non-INF Treaty issues.

Those are two reasons why, in my view, the Cranston amendment should be selected and adopted, and the amendment of the Senator from North Carolina should be rejected.

The amendment of the Senator from North Carolina is precisely the wrong signal for the U.S. Senate to send, as the President of the United States is heading toward Moscow. The summit is clearly going to be in an atmosphere in which some START negotiations are taken. If the Senate adopts this amendment, we are telling the President: "No, Mr. President, you can't even discuss any aspect of the START negotiation unless the U.S. Senate has been fully informed." The language says that the proposals intended to be made should be shared with the U.S. Senate. I think it is enormously shortsighted.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. HELMS. I yield.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture occur 3 minutes from now; if this request be objected to, that it be suspended until the hour of 8:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I think I have an answer to the confusion about the amendment.

There were two amendments. One was submitted after my discussion this morning with Senator Nunn.

I ask unanimous consent that on page 2 of the amendment, line 19, the word "plenary" be stricken and the words "full and highest level" be inserted, making it read, "shall be given full and highest level consideration and due regard."

Mr. BRADLEY. Mr. President, reserving the right to object, will the Senator repeat where the change is?

Mr. HELMS. I say to the Senator that this is precisely the language suggested by Senator Nunn, after consultation with several Members on the side of the Senator from New Jersey.

On page 2, line 19, the word "plenary" is stricken and the words "full and highest level" inserted.

Mr. BRADLEY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, in deference to the majority leader's views, in deference to the views of others who feel there were some good-faith negotiations with the Senator from North Carolina, I am going to make a suggestion.

Nobody has charged anybody with bad faith here. I was not involved in the negotiations. The staff of the Foreign Relations Committee, incidentally, was not involved in the negotiations. The Senator may have mistaken other staff for Foreign Relations Committee Staff, but they were not involved.

The Senator apparently felt that he would have a chance to have a vote on something that he would offer relating to START, and others feel that they made that commitment to him.

I will be willing to withdraw my second-degree amendment so that we can continue to debate this and then have a tabling motion on the proposal of the Senator from North Carolina so then we will get a sense of where we are on this. So I will do that after I make one more point as to where I feel that the amendment offered by the Senator from North Carolina is very unwise. It would shackle President Reagan right now on the eve of his going to Moscow. He would be unable to discuss START in any way in Moscow because section (c) of the proposal of the Senator from North Carolina reads:

> Negotiations contemplated by this declaration shall also be conducted in close and detailed coordination with the United States Senate, and the Senate should be kept fully apprised of all significant proposals intended to be made, or made, to the Union of Soviet Socialist Republics and, with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given plenary consideration and due regard:

The Senate has not been apprised in any formal manner and I do not think very much in any informal manner of what the President and his people might discuss in regard to START with the representatives of the Soviet Union in Moscow. So we would be saying no discussion of START. A prime purpose of the President's mission, as I understand it, has been to try to move us along toward deeper reductions than are brought about by INF.

I think it would betray the hopes of the people of this country and the hopes of the people of the world to end this nuclear arms contest before it ends us, if we say to the President, "You cannot discuss this in Moscow."

I trust that Republicans will share the viewpoint of this Democrat on that subject and not shackle the President.

That is part of what is at stake. It is not all of what is at stake. The administration has its own very grave concerns about all this and it does not support the proposal of the Senator from North Carolina. It does support efforts to modify it along the lines of what I have proposed.

But having said all that in the interest of comity and in the interest of finding out where we stand on all this and interest of dealing with the problems of those who feel that some sort of an agreement to which I and others were not a party would be violated if I persisted in offering my second-degree amendment, I withdraw my second-degree amendment.

The PRESIDING OFFICER. Is the Senator from California proposing a unanimous consent request to withdraw it?

Mr. CRANSTON. I do not think I need it. We have not had the yeas and nays on it.

The PRESIDING OFFICER. It does take unanimous consent.

Mr. CRANSTON. I ask unanimous consent.

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not object because it is the prerogative of the Senator from California to make his request if he wants.

Certainly, when you have negotiations around here, one of the most important things is that negotiations always are in good faith. I realize there is no way for everybody to keep track of everybody's interest, but this amendment of the distinguished Senator from North Carolina has parts of it that are just very, very directly related to a resolution amendment that has been in here a number of times, the Bumpers-Leahy-Chafee-Heinz. I am not aware that Mr. Bumpers, Mr. Heinz, Mr. Chafee, or I were in any way involved in the negotiations. I think had we been it would have raised the same concerns that Senator Cranston has raised here, and I mention this only because the matter of arms control is of paramount interest, I think, to all Senators, not just some. Many have expressed a great deal of interest in certain aspects of arms control. Involving them in such negotiations would probably avoid the confusion here.

I suggest everybody acted in good faith, but I also suggest that perhaps it should have involved more or different people.

I will not object.

The PRESIDING OFFICER. Is there objection?

The Senator from New York?

Is there objection?

Mr. CHAFEE. Mr. President, reserving the right to object, I want to commend the senior Senator from California for what he is doing. I think it helps us move along here and I commend him for that.

There has been some confusion. I think it is an excellent step he has taken. I want to express my appreciation to him.

Mr. CRANSTON. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, the amendment before us now is the Helms amendment. It is very clear. It would shackle—

The PRESIDING OFFICER. If the Senator will suspend, is there objection to the unanimous consent request to withdraw the amendment?

Mr. BYRD. Mr. President, reserving the right to object, I commend the distinguished majority whip for the fairness which he has demonstrated.

Let me say again that nobody, nobody at any time in connection with this agreement, said anything or acted in anything but good faith, and nobody since then has done such. The Senator from California has not acted in bad faith. The Senator from Vermont has not acted in bad faith. I have explained that already. It was just an unfortunate circumstance that developed that could make it a little difficult for us in the future.

I am glad that Senator CRANSTON has shown the fairness and rectitude that he demonstrated here today, and that is characteristic of him.

I thank him.

Mr. CRANSTON. I thank the majority leader.

Mr. EVANS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I think it should be said that this Senator, a member of the Foreign Relations Committee, had no knowledge whatsoever of this arrangement put together. I know that there is great concern on the part of the Senate, certainly on this Senator, that we finish this treaty and present it to the President in time for the summit, but that is not as important as doing it right.

We have been treated to about 7 or 8 days of I guess what some could call debate but for the first three-quarters of that there was no debate. There was no amendment being offered. There was no identification of what was coming. It was just pure delay, just pure delay.

We finally got the majority leader to the point where he suggested and filed a motion for cloture and then apparently this arrangement was made. Once the motion for cloture was filed, all we had to do was wait until it matured.

This amendment in either the first or second degree would not have been in order, and this Senator certainly would have objected to it.

I hope that we are where we are. I shall not object to the unanimous consent of the Senator from California, but we have gotten ourselves into a position we need not have gotten ourselves into.

I think there are a multitude of things in this amendment which are dangerous, and I hope that we will promptly debate it and then vote it down.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The amendment was withdrawn.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, the amendment before us now is the Helms amendment. We have discussed this amendment in great length. The amendment would clearly shackle the President of the United States in his meetings in the Soviet Union with Mikhail Gorbachev. It would require any President to submit to Congress the positions he intends to propose to the Soviet Union prior to proposing it. That means President Reagan could not even discuss the START negotiations.

We have had over 1½ hours debate on this. I think, frankly, Mr. President, it has gone far enough. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. COHEN. Mr. President, would the Senator withhold?

Mr. CHAFEE. I wonder if he would withhold.

The PRESIDING OFFICER. There is not a sufficient second.

Is the Senator insisting on the motion?

Mr. BRADLEY. I am insisting on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Jersey to lay on the table the amendment of the Senator from North Carolina.

The clerk will call the roll.

Mr. HELMS. Mr. President, there has not been a response. May I ask unanimous consent for 1 minute? I have not been allowed even to discuss may own amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BRADLEY. Mr. President, reserving the right to object, the request is what?

The PRESIDING OFFICER. The request, as the Chair heard it, was 1 minute for the Senator from North Carolina.

Mr. BRADLEY. I do not object.

Mr. HELMS. I did not understand the Senator. That is quite all right.

Mr. BRADLEY. I do not object.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. STENNIS] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 38, nays 60, as follows:

[Rollcall Vote No. 159 Ex.]

YEAS—38

Adams
Bingaman
Bradley
Bumpers
Burdick
Conrad
Cranston
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Metzenbaum
Mikulski
Mitchell
Moynihan
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wirth

NAYS—60

Armstrong
Baucus
Bentsen
Bond
Boren
Boschwitz
Breaux
Byrd
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Quayle
Roth
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—2

Biden
Stennis

So the motion to lay on the table amendment No. 2317 was rejected.

The PRESIDING OFFICER. The Senator from Arkansas.

May we have order in the Chamber?

The Senator from Arkansas has the floor.

Mr. BUMPERS. Mr. President, I thank you very much. I regret very much that this amendment, the Helms amendment, has gotten mixed up with something of a parliamentary problem and the feelings of the majority leader that at least if it was not said overtly, it was his understanding that there would not be a second-degree amendment and possibly not a tabling motion on the Helms amendment. I may be wrong, but I get the impression that the last vote is not a manifestation of the feelings of the Senate on the Helms amendment, but was a vote to demonstrate concern for, perhaps, the Senator from North Carolina having been wronged by a second-degree admendment being offered or tabling motion being offered before he had an opportunity to fully express himself and fully describe his amendment to the Senate.

Now that the amendment has not been tabled, the underlying amendment has not been tabled, there should be adequate time for everybody to express themselves, especially the Senator from North Carolina if that is a problem for him.

I will just be very brief, Mr. President, in my remarks. We have been here now for 2 weeks on this treaty and to my knowledge absolutely nothing has happened in that 2-week period except to debate. Nothing has been adopted. No changes have been made in the treaty. And we are exactly where we started 2 weeks ago with a treaty that, in my opinion in the final analysis, 90 Senators will vote for. I may be wrong. But, so far as the Helms amendment is concerned, it violates everything that most of us in the Senate believe about this treaty.

First of all, the U.S. Senate does not have the unilateral right or power to issue a declaration on behalf of Congress. The Constitution gives this body the responsibility for advising and consenting to treaties, but it does not say that we can preempt the House of Representatives on questions such as what weapons systems we are going to build, whether we will discontinue building them after the framework of a treaty has been announced or whether or not the House and Senate will agree to interim restraints, which the House has already adopted on the DOD bill.

Mr. President, the Helms amendment really creates mischief. It is a mischievous amendment. It contradicts the Vienna Convention on Treaties, 1969, later ratified by this body, which says once you sign a treaty, you will not take unilateral actions to undercut its object and purpose.

Mr. President, you can hear it on every Law Day across the country, we are a Nation of laws, not of men. In order for this country to be a civilized place for all of us to live in, there must be order. It is that way in the schoolroom. You cannot teach children unless you have an orderly environment. You cannot have a society that is worth living in unless you have order, and you will never have a world that is decent and fit to live in until you have order. Even though international law is not always correct, it is always binding on us. We are entering into an agreement with the Soviet Union here that is absolutely crucial to the future of negotiations to get the nuclear arms race under control.

What do you think our President is doing in Finland right now on his way to Moscow? He is trying to develop an environment that will allow your children and my children to grow to adulthood.

There are some people who do not want a treaty of any kind with the Soviet Union under any circumstances, and that is their prerogative. I happen to be on the other side, but I also believe in national law and order, and I believe in international law and order, too. You ought to take the Senate into consideration, and from time to time during the deliberations on this treaty and on the START Treaty, Members of this body have gone to Geneva and sat and watched the negotiations take place. To suggest, as the Helms amendment does, that you must give the Senate advance notice and make them a negotiating partner is really a usurpation of the President's prerogative.

Mr. SYMMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senators will take their seats. The Senator from Arkansas.

Mr. BUMPERS. Section (c) of the Helms amendment says, in effect, the verification procedures under the INF Treaty are inadequate. It says, in effect, do not come back to the U.S. Senate with another treaty unless the verification procedures are more stringent. That is what lawyers call a condition preceding. We are telling them how to negotiate the treaty. Again, a usurpation of Presidential prerogative. If it comes back here with inadequate verification procedures, then vote no on the treaty.

The Senate has no right injecting itself into the negotiating business. It has no business telling the President what kind of verification procedures we will accept. It has no business saying that nothing in any future treaty will keep us from going ahead with any weapons that we happen to be in the process of building.

Those are decisions that the House and the Senate together will determine in their own right. It would be folly in the extreme for the U.S. Senate to prejudge that and to try to take away the President's negotiating right. This is all pure sophistry. it is arcane; it not well drafted.

Every single provision in that declaration can be argued either way, and it is designed for that purpose. It is designed to allow you to argue it either way.

So I hope we have a healthy debate. I am not going to move to table. I am prepared to sit here all night and debate this issue. I would like to see the Helms amendment withdrawn or tabled. The Cranston amendment is designed to preempt the Helms amendment. Neither of them are really needed. So whatever it takes for this body to exercise its solemn responsibility in the treaty-making process we ought to do.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent——

Mr. COHEN. Will the Senator withhold?

Mr. BYRD. Yes.

Mr. COHEN. I would like to make a few comments.

Mr. BYRD. I was hoping we could set the amendment aside—and I will not make the request—set this amendment aside temporarily so that the Senators may work on it and let Mr. Wallop proceed with an amendment and get a time agreement on that amendment so the Senators will know what time there will be a vote and that will give them, hopefully, 1 hour. I can stack a couple of votes in this way. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I just want to take a few moments to share some of the concerns expressed by the Senator from Arkansas.

The PRESIDING OFFICER. If the Senator from Maine will suspend. The Senate is not in order. The Senate will come to order. The Senator from Maine.

Mr. COHEN. I thank the Chair. Let me just take a moment to articulate what the motivation is or the objective is by the sponsor of the amendment and some of us who may, in fact, support the amendment, if it is redrafted.

I have stood on the floor for several days now expressing some concern that we not understand what I believe will be an overwhelming vote in favor of the INF Treaty to send a signal to the administration that we might negotiate anything that would provide for substantial reductions without adequate verification measures.

We have all expressed those apprehensions. We recall, for example, how there seemed to be a rush toward an agreement at Reykjavik which scared a lot of us, including our allies.

There was some concern expressed that we not have the President rushing off to Moscow to sign an agreement without taking into account some of the genuine and legitimate concerns some of us might have. That is the framework, at least my frame of mind, within which I made the statements during the past several days.

With respect to the amendment that has been offered, I find some problems with it. I find some difficulties with subsection (c), as did the Senator from Arkansas.

I do not think it is the intent of the Senator from North Carolina to insist that the President of the United States tell us in advance everything he intends to do, even significant proposals he intends to make to Mr. Gorbachev during the negotiations.

I believe, for example, that that should be modified to say: "apprised of all significant proposals made to the Soviet Union." I also believe that section really ought to be crafted in a way that keeps in place the arms control observer group. That has worked well on INF. It should work well on START.

I think if that kind of a change is made, and others such as striking the word "plenary," that would deal with the issues raised by the Senator from Arkansas. I would also note that the Senator from North Carolina raised one of the very same issues as the Senator from Arkansas when Secretary Shultz testified before the Foreign Relations Committee. The Soviets were accused of violating the provisions of the INF Treaty, and Secretary Shultz said they cannot because it has not been ratified.

The Senator from North Carolina correctly pointed out saying something to the effect: "Don't be too sure, Mr. Secretary, because there are international laws which prevent that from taking place, which obligate both countries from taking actions which would negate or nullify the very object and purpose of the treaty itself."

I think those changes can be made in the amendment and this resolution can in fact express the declaration on the part of a number of us who are concerned that we just not rush into an agreement without adequate concerns being devoted to the questions about verification and other matters.

So I would hope, Mr. President, that the amendment may be laid aside, that we can work out some of the changes suggested by Senator Bradley and myself, and that we could bring this back at a later time and deal with it at that time in a positive fashion.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, earlier this evening I spoke against the Helms amendment and in support of the amendment of the senior Senator from California which was later withdrawn. Then I voted against tabling because I felt the Senator from North Carolina did not have a fair shot to explain his amendment. I think it can be cleared up, or should be straightened out. Some of the suggestions that have come forward are good ones, and I do hope during the period it is laid aside it can be cleaned up and strengthened, some of the ambiguities removed and some of the language I found at fault, particularly in section (c), can be straightened out. So that was the reason I voted against the tabling motion.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. Shelby). The majority leader.

Mr. BYRD. I am going to ask that the amendment be temporarily laid aside. Did the Senator want to be recognized?

Mr. BUMPERS. No. Go ahead.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. Helms be temporarily laid aside until disposition of an amendment by Mr. Wallop, on which there be a time limitation of not to exceed——

Mr. WALLOP. Mr. Leader, I think it will take less but some on my side have expressed a desire to speak, and I would at this moment in time be happy to settle for 80 minutes equally divided, with the hope that it would take less than that. But I want to assure people on my side who wish to speak on it to be able to do it.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. If there is no objection, I think we could follow that amendment with the amendment of the Senator from California, Mr. Wilson, under a 30-minute time agreement. And that would protect some who have to be away during this time period.

Mr. BYRD. These are amendments that have been enumerated.

Mr. DOLE. Yes.

Mr. BYRD. I ask unanimous consent that time for debate on the Wallop amendment be 80 minutes, to be equally divided and controlled in the usual form; that that amendment then be temporarily laid aside and that Mr. Wilson may call up his amendment, on which there be a 30-minute time limitation to be equally divided and controlled in accordance with the usual form.

If rollcall votes are ordered, I ask unanimous consent that those rollcall votes be stacked to begin not earlier than 9:30 p.m. and that the second and third votes, if they are immediate backup votes, be limited to 10 minutes each, and that the call for the regular order be automatic in each instance at the expiration of the time. Mr. President, provided further and finally that the vote on cloture which is now set for 8:30 today be waived until 10:30 this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank all Senators.

AMENDMENT NO 2324

(Purpose: To provide for a United States response to possible violations of the INF Treaty)

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. Wallop] for himself, Mr. Karnes, Mr. Warner, Mr. Garn, Mr. McCain, Mr. Nickles, Mr. Wilson, Mr. Grassley, Mr. Thurmond, Mr. Murkowski, and Mr. Symms proposes an amendment numbered 2324.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end to the resolution of ratification, add the following:

"The President shall not exchange the instruments of ratification unless, using existing power, he communicates to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty, the following:

"(1) the declaration that the United States will consider any violation by the Soviet Union of its obligations under the Treaty, including any violation described in a report to the Congress by the President, pursuant to section 1002 of the Department of Defense Authorization Act, 1986, or any other notification required by paragraph (2), as grounds for undertaking appropriate responses or withdrawing from the Treaty, in accordance with the Treaty's terms and generally recognized principles of international law;

"(2) the reservation that, before the date of exchange of the instruments of ratification of the Treaty, the President shall agree to submit, every 12 months after the date of entry into force of the Treaty, to the Senate a report or an addendum to the report required by section 1002 of the Department of Defense Authorization Act, 1986, which—

"(A) contains a detailed net assessment of the overall trends in the strategic and theater balance, and the effectiveness of the Treaty and other arms control treaties in ensuring a stable nuclear balance that protects the security of the United States and its allies;

"(B) certifies whether the Soviet Union is in compliance with the Treaty;

"(C) if the President does not certify full compliance, contains a net assessment of the nature of the non-compliance, the reliability of the evidence and the vulnerability of the sources of that evidence to countermeasures, and the risks each detected or suspected violation poses to the security of the United States and its allies; and

"(D) upon request of the Select Committee on Intelligence of the Senate, discusses the question of compliance raised by any intelligence information notified under paragraph (3);

"(3) the declaration that, the Director of Central Intelligence should transmit to the Select Committee on Intelligence of the Senate any finished analysis of intelligence information which raises questions about whether Soviet activities are in compliance with the Treaty'

"(4) the declaration that, whenever the President submits to the Senate a report pursuant to paragraph (2) or a report pursuant to section 1002 of the Department of Defense Authorization Act, 1986, that describes a violation by the Soviet Union of the Treaty, and he decides not to withdraw the United States from the Treaty, the

President should certify to the Senate, not later than 90 calendar days after the Senate receives such a report that either—

"(A) he is undertaking appropriate responses to any such Soviet violation, which certification will detail the specific actions being taken in response to the Soviet violation; or

"(B) the Soviet Union has returned to compliance with the Treaty, which certification will provide a description of the actions taken by the Soviet Union to return to compliance;

"(5) the declaration that, the Treaty should no longer continue to remain in force with respect to the United States if the Senate adopts a resolution by majority vote that disapproves the certification submitted by the President pursuant to clause (A) or (B) of paragraph (4), as the case may be; and

"(6) the declaration that, if the President announces the intention of the United States to withdraw from the Treaty or to take appropriate responses to Soviet violations, he should obligate or expend funds to protect the interests of the United States and its allies under such circumstances as the Congress may specifically make available to him for those purposes".

Mr. WALLOP. Mr. President, on behalf of myself and Senators KARNES, WARNER, GARN, MCCAIN, MCCLURE, NICKLES, WILSON, GRASSLEY, THURMOND, MURKOWSKI, and SYMMS, I offer this amendment. At this moment, Mr. President, I yield to the chief cosponsor of the amendment, Senator KARNES, for his opening statement.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KARNES. Thank you, Mr. President.

Mr. President, the amendment just called up will establish a mechanism for effectively responding to Soviet violations of the INF Treaty. First, let me describe the content of this amendment and then I will discuss the specifics of it in more general terms later.

This amendment is a category II reservation and will not require renegotiation with the Soviet Union.

First, the amendment declares that the United States will consider any violation of the treaty as grounds for undertaking proportionate responses or withdrawing from the treaty. This language is a simple reiteration of accepted practice under international law for responding to noncompliance by a treaty partner. While this language is a firm statement of policy, it does not require this administration or any future administration to take any specific action in response to a Soviet violation, which is reported pursuant to an annual reporting requirement established by this amendment or pursuant to the existing requirement for reporting arms control treaty violations. The language only establishes that it is the policy of the United States that such violations will be grounds for responding, either with a proportionate response or by withdrawing from the treaty.

Second, the amendment sets forth the reservation that the President must agree to submit to the Congress a report every 12 months after the date of entry into force assessing the status of the treaty with regard to Soviet violations. The report may also be submitted as an addendum to the arms control compliance report required by existing law. This report, or addendum, is to include a net assessment of the overall trends in the strategic and theater balance, as affected by military developments and arms control. Also, the report is to contain a statement of the risks a detected violation poses to the security of the United States and its allies, if a Soviet violation is found. Finally, the report must address questions of compliance that are of concern to the Senate Intelligence Committee. The final provision in this reporting requirement pertains to another section of this amendment, which I will discuss in a moment. While the President's report must address the topic of concern to the Senate Intelligence Committee, it is not essential that the Soviet activity in question be assessed as a violation. The final determination about whether any particular activity of the Soviet Union constitutes a violation of the treaty still rests entirely with the President.

As I stated a moment ago, the Senate Intelligence Committee may request the President to touch upon a question of Soviet compliance in the annual report. The third provision of this amendment declares that the Director of the Central Intelligence Agency should transmit to the Senate Intelligence Committee any finished intelligence which raises questions about Soviet compliance with the INF treaty in a timely fashion.

The fourth provision of this amendment declares that when the President determines that a violation to the INF Treaty has occurred, he should either certify that he is undertaking proportionate responses to the Soviet violation or certify that the Soviet Union has returned to compliance, assuming of course he decides not to withdraw the United States from the treaty, as he is always allowed to do. Such a certification, whether it be one outlining appropriate responses or asserting that the Soviet Union has returned to compliance, should be submitted not later than 90 days after the President reports that a violation has occurred in the annual report.

The fifth provision of this amendment also consists of a declaration. It states that after the President certifies that he intends to undertake responses or certifies that the Soviet Union has returned to compliance, the Senate may, but is not required to, adopt a resolution disapproving his proposed actions. If such a resolution is adopted, it is the intent of this amendment that the treaty should no longer remain in force with respect to the United States.

The final provision of this amendment states that if the President announces that it is the intention of the United States to withdraw from the treaty or undertake proportionate responses to Soviet violations, he may obligate or expend funds to protect the interests of the United States as Congress may make specifically available to him for those purposes. It is the intention of this Senator, perhaps on a future Department of Defense authorization bill, to offer an amendment that establishes a contingency fund for responding to Soviet violations of arms control treaties. Of course, no such funds are authorized or appropriated here.

In sum, Mr. President, this amendment is simply a mechanism or procedure for developing a proportionate response policy. Its purpose is to ensure that the United States will respond if the Soviet Union fails to comply with the terms of this treaty. It does not, however, attempt to prescribe specific responses to hypothetical Soviet violations. Thus, the amendment provides the flexibility required for responding to future Soviet violations of the INF Treaty in a prudent and reasoned manner. Nevertheless, it states that the United States's respond in some fashion when a Soviet violation is found and not just stand idly by.

I would like now to turn to some of the implications of this proposal. Since it is likely that some of my colleagues will have specific concerns about the amendment, in anticipation of those concerns I am going to discuss what this amendment does not require.

First, as I stated at the outset, this reservation does not require renegotiation of the treaty. In fact, no party external to the Government of the United States is affected by this language in any way, other than to assert the established rights of the United States under international law. The Soviet Union should have no objections to this language, and in fact I would argue that Soviet attempts to alter a proposal of this sort would constitute a violation of the sovereign rights of the United States.

Second, there is nothing in this language that will require the United States to do anything that is at odds with accepted practice under international law. The language has been drafted so that this administration and future administrations can plan and undertake actions in response to Soviet violations that are consistent with international law. The purpose of the language, in fact, is to ensure that the United States takes advantage of its rights under international law.

Third, the scope of this amendment is generally limited to the INF Treaty and is prospective in nature. It does not require the President to certify that the Soviet Union is in compliance with all existing arms control treaties before this treaty may be ratified. Thus, this amendment should in no way cause undue delay in the ratification of this treaty. While there is language in a reporting requirement that does touch upon other arms control treaties in the form of a net assessment, the response mechanism is limited to the INF Treaty.

Fourth, this language does not imply that there are fatal flaws in the text of the INF Treaty as some have argued. Thus, a vote for this amendment should by no means be interpreted as a vote against the treaty. In fact, this Senator plans to vote in favor of granting consent to the ratification of this treaty, assuming objectionable language is not added to it in the course of Senate consideration. While other Senators may believe that the treaty is flawed in several respects, these objections are not the concern of this amendment. In general, what this amendment says is that this treaty is fine on paper, but lets make sure that we pay close attention as to how it is implemented.

Fifth, this amendment is not an attempt to tie the hands of the executive branch as it carries out its responsibilities for implementing the treaty. This language has been drafted to give the executive branch broad discretion in addressing future violations of this treaty. The responsibility for finding and reporting a violation would rest exclusively with the executive branch. Broad discretion for deciding how to respond is retained by the executive branch. The role of the Senate under this language is a relatively narrow one. Its role is to pass judgment on whether the President's proposed response to a reported violation is strong enough to protect the interests of the United States, given the nature of the Soviet violation. Thus, the executive branch will retain the responsibility for detecting violations and may choose from an unrestricted list of options for responding to a violation. Finally, the enforcement mechanism established by this amendment comes in the form of a declaration. Thus, it is a statement of intent as to how the United States will respond to a violation and is not legally binding.

Mr. President, the failure of the Soviet Union to fully comply with past arms control agreements poses a serious threat to the entire arms control process.

The President's report on Soviet noncompliance with arms control agreements, issued on December 2, 1987, states that the Soviet Union is in violation of the ABM Treaty, the biological and toxin weapons convention, and the limited test ban treaty. The administration also states that the Soviets may be in violation of the Helsinki Final Act's arms control provisions. While not all these violations pose an immediate security threat to the United States and its allies, they deserve the attention of the American people. We should be prepared to take all appropriate actions to ensure that the Soviet Union lives up to its obligations.

We have a direct interest in defending the integrity of the arms control agreements that have been the object of the administration's negotiations with the Soviet Union over the last several years, and this INF Treaty is no exception. This agreement will have an important impact on our security and the security of our allies for the foreseeable future. We must not allow these agreements to become a tool for the Soviet Union to weaken the position of the United States. The amendment before us now is designed to prevent this treaty from becoming just such a tool.

I should also point out that public opinion seems to support establishing a prudent policy for responding to Soviet violations. In January of this year market opinion research undertook a survey of 1,000 Americans to get their views on issues related to national security. This survey resulted in a report called Americans Talk Security. According to the report, 55 percent of those interviewed said that the Soviets could not be trusted in the area of nuclear arms control. Further, 71 percent of those interviewed stated that if the Soviets do not keep their part of arms control agreements and the United States keep its part that it would put the United States in a dangerous position. A later survey in this same series states that 54 percent of Americans believe that the President should be required to certify that the Soviet Union is in compliance with all past arms control agreements before the INF Treaty should take effect, even if such a requirement would kill the treaty. The result of this survey make it clear to me that the American people want the United States to respond swiftly and effectively to Soviet treaty violations.

While I believe we should applaud the Reagan administration for what it has achieved in the area of arms control with this treaty, we should also make it clear to the American people that we will protect both the integrity of the agreement and the security of the United States. This body should state unequivocally that it supports a policy of responding swiftly and effectively to Soviet violations of arms control agreements. This amendment attempts to establish such a policy.

Mr. President, arms control treaties can have enormously important implications for the security of the United States. Success in foreign policy is most often based on vigilance and arms control is no exception to this rule. The United States must be vigilant in protecting the security of the United States in implementing arms control agreements. President Reagan has already demonstrated considerable vigilance in arms control negotiations. The same vigilance should be demonstrated after arms control agreements, such as this INF Treaty, come into force. It must be remembered that the contributions of successful arms control are derived from the actual implementation of agreements and the elimination of weapons. The signing of an agreement is that start, not the end, of successful arms control. As we move forward with this treaty, we also have a responsibility to focus the attention of the American people on ensuring that the Soviets live up to their obligations. This amendment will discourage the Soviets from violating this treaty and ensures that action will be taken if the Soviets do violate the treaty. Thus, Mr. President, I urge my colleagues to support this reservation. Mr. President, I yield the floor.

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. KARNES. Yes.

Mr. COHEN. I was interested in a few points in looking through the amendment, and I have not had a chance to study this in depth yet, but particularly I am concerned about page 3, subparagraph (3), where it says in the declaration that "the Director of Central Intelligence should transmit to the Select Committee on Intelligence of the Senate any finished analysis of intelligence information which raises questions about whether the Soviet activities are in compliance." I would defer to other people's judgment on this. But my understanding is that the Director of Central Intelligence is not charged with making judgments or decisions as to whether or not this is compliance or noncompliance but, rather, he submits that intelligence information to the State Department, ACDA, an interagency group, to the NSC, or the President.

It seems to me we ought to be very careful before we start mandating the Director of Central Intelligence start, upon requests from the Intelligence Committee, sending information about possible violations. We are now putting him in the position of not only monitoring but making qualitative judgments about compliance here which I think would be a mistake.

Mr. WALLOP. Mr. President, if the Senator from Maine will yield, I will respond. It does not call for judgment on the part of the Director of Central Intelligence, only that he provide them with any finished analysis of information which raises questions. This was carefully constructed with some members of the staff of the committee of which the Senator is vice chairman.

It is designed specifically not to put the DCI into the business of judging whether the Soviets are in compliance, but providing analysis which raises questions about their possible noncompliment activity.

Mr. COHEN. I thank the Senator for his comments. I would like to pursue this a little bit further at a later time so the Senator from Wyoming has a chance to address his own remarks to the amendment.

But also in subsection (4), it states "and he decides not to withdraw the United States from the treaty." It seems to me the implication of that statement is that the President can decide to withdraw. As I recall, Senator Goldwater, of Arizona, went through some legal contest as to whether or not a President can unilaterally decide to terminate a treaty and ended up in court on that. The Supreme Court did not take the question largely because it was a political question. But it seems to me the implication of that statement that "he decides not to withdraw" means that he can decide to withdraw. I think that is going to entangle us in some kind of a legal analysis here. I would refer my colleagues to a document on this question which I included in my remarks yesterday; it appears on page S6570 of the RECORD for May 25.

Mr. WALLOP. The President of the United States can make such a decision. Whether he can accomplish it or not may be subject to the reaction of the Senate as a matter of some constitutional question. But clearly he can make the decision. Whether he can accomplish that or not is not particularly relevant.

Mr. COHEN. The way in which it is phrased implies the possibility that "He decided to withdraw."

Mr. WALLOP. He can make that decision. Whether he can get it accomplished or not is another story. But he can certainly make that decision.

Mr. COHEN. The Senator is not implying he can unilaterally withdraw?

Mr. WALLOP. No such thing. He has the decision. He is providing his decision as to what is the proportionate response. If you read the rest of the amendment, you will see the Senate gets involved in things like that.

Mr. COHEN. I thank the Senator for his comments. I still have some question about subsection (3). We are indeed, I think, creating at least the appearance that we are politicizing the intelligence process by requiring——

Mr. WALLOP. I would suggest if the Senator is going to oppose the amendment—as his line of questioning suggests—he begin to seek time from the other side because with all respect we did just expand the time available in order to try to accommodate some on this side.

Mr. COHEN. I thank the Senator.

Mr. WARNER. Mr. President, I ask the distinguished Senator from Wyoming for 4½ minutes.

Mr. WALLOP. Mr. President, I will yield 5 minutes to the Senator from Virginia. But let me just state my personal appreciation to the Senator from Virginia, and Mr. BRADLEY and his staff who have worked with us a long time. It is noted that Senator BRADLEY is not a cosponsor. But it is an amendment which we took considerable pains owing to a remarkable op/ed piece which he had in the New York Times suggesting that it was not responsible to enter into a treaty without some kind of an idea in mind that there would be a response to violations.

I yield the 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 minutes.

Mr. WARNER. Mr. President, I thank my distinguished colleague from Wyoming. Indeed he has been most cooperative. I know how strongly he feels about this subject because it is not the first time he has risen in this Chamber to express his dissatisfaction with the pattern of Soviet treaty noncompliance of arms control agreements. Out of my respect for him and for the content of his amendment, I rise in support of this amendment on which I am now a cosponsor.

Over the past months in the Senate, through primarily committee action and now through extensive floor debate and deliberation on the treaty, we have heard much criticism of the fact that we are considering a treaty, the INF Treaty, at the same time the Soviets are in violation and probable violation of other arms control agreements.

Indeed, during the course of our deliberation of this treaty, we have had six votes on various compliance amendments to the treaty, all of which were voted down by wide margins. I participated in the votes against those amendments. I disagreed with these particular amendments, for I believe that, on balance, this treaty is in our interests, irrespective of the regrettable Soviet noncompliance with other treaties. But I also believe that we have an obligation, as we are about to adopt this treaty, to send a very clear signal to the Soviet Union that we will not tolerate further noncompliance, either with this treaty or with other arms control agreements.

Thus, I believe we need to demonstrate dissatisfaction with Soviet noncompliance and our resolve not to stand for violations of the INF Treaty. For this reason, I support this amendment. It is, on balance, the most effective and most constructive amendment to date on this subject.

Let us be clear that this amendment does not bind the President. In fact, it coincides in many ways with the recommendation of the Senate Armed Services Committee, section 912 and 913 of its fiscal year 1989 defense authorization bill, which is an amendment to section 1002 of the 1986 Department of Defense authorization language, and which is referred to in the Wallop amendment.

The Armed Services Committee I might add also expresses the sentiment in its committee report on the INF Treaty, as clearly on record as being dissatisfied with Soviet noncompliance. This amendment, therefore, gives the Senate a vehicle in which to express its dissatisfaction with Soviet Union violations at the same time not threaten the treaty's ratification. I commend the distinguished Senator from Wyoming.

Mr. WALLOP. I thank the Senator from Virginia. I appreciate the help I have had from him and his staff as we have sought to do this.

It has not been my intention to have this a killer amendment, but simply to recognize that, for all the proud boasts of verification regimes in this treaty, there has been no expression of a desire to enforce the terms of the treaty. This amendment is merely that expression.

It does very little binding on the President of the United States. There is only one thing binding, and it is the requirement of a report. It does not ask him to undertake specific responses or any such thing. It says we should indicate our seriousness about the Soviet Union's commitments as well as our own under the terms of this treaty.

It recognizes that our track record and our experience with the Soviet Union under these previous agreements has not been satisfactory.

In point of fact, there is new evidence of violations of the ABM Treaty, as we speak. There have been violations of the Biological Weapons Convention, Limited and Threshold Test Ban Treaties, the SALT II Treaty. Indeed, one of the principle violations of the SALT II Treaty, as the Senator from Wyoming has expressed before, is enshrined in the INF Treaty. So it says that we are serious about this.

The Senator from Wyoming and the Senator from Virginia would much prefer to have the Soviet Union in compliance before we enter into this. My view is that in addition to asking us to give consent to ratify this treaty, the President of the United States, absent some expression of compliance, is asking us to give our consent to past Soviet behavior and license to future Soviet behavior. This says we do not license them.

The Senator from Wyoming would have much preferred harsher language, but in the interests of trying to get this along as a category II amendment and to get some expression by the Senate of the United States in response to the people of the United States, who genuinely believe there ought to be compliance, that it ought not be based solely on trust, that there ought to be some responsive action, I hope this amendment will be adopted by the Senate.

Mr. President, at this moment, before continuing my remarks, I yield 7 minutes to the Senator from Arizona.

Mr. WARNER. Mr. President, will the Senator yield me 1 minute?

Mr. WALLOP. I yield.

Mr. WARNER. Mr. President, I am grateful, as are all Senators, for the Senator from Wyoming mentioning the participation of our staff. I would particularly like to commend my staff member, Brian Dailey, who joined the Senate Armed Services Committee just 4 months ago. He came from the Naval postgraduate school, where he was a professor for several years on subjects relating to national security affairs. He collaborated with members of the staff of the Senator from Wyoming and the staff of Senator BRADLEY as well as others. He has worked tirelessly for the Senate Armed Services Committee during the deliberations on the treaty, and we owe him a deep sense of gratitude.

Mr. WALLOP. He and others have been very helpful.

The Senator from Wyoming wishes to express again that this is not intended to be a killer amendment, but an expression of the seriousness of the United States with regard to the Soviet Union's performance under the obligations of this treaty.

I yield 7 minutes to the Senator from Arizona.

Mr. McCAIN. Mr. President, I thank my friend from Virginia for his support of this amendment. It lends a great deal of credibility to it. I appreciate his kind remarks concerning these efforts, and I join him in complementing the efforts of the Senator from Wyoming.

There is no Member of this body who has shown a greater concern or a greater expertise on the issue of Soviet violations and noncompliance with previous treaties than the Senator from Wyoming. I recognize very well, as we all do, that the Senator from Wyoming would like to have seen much stronger language in this amendment. But, for the sake of receiving the widespread support that I think this amendment enjoys, he has agreed to tone down many aspects of this amendment that he would like to see and have liked to have seen included.

At the same time, this amendment still addresses several vital issues applying to both the INF Treaty and the future of arms control,

We need to remember that at this point in our deliberations, the issue is not one of whether to ratify the INF, but rather one of how we deal with the treaty we are about to ratify and with the future of arms control.

This amendment is not designed to block the INF Treaty in any way. It is not designed to block further arms control. Quite to the contrary, it is designed to ensure a stable and cautious approach to arms control that can build a solid consensus around a process that will grow far more difficult as we move toward START and conventional force reductions.

I realize that there are a few people in the NSC and State Department that may have forgotten what happened to SALT. I suspect these same people do not really understand how fragile the consensus behind this treaty really is, and the risk of nonratification or delay that the INF Treaty would have encountered if it had been sent forward by any President other than President Reagan.

These people will ultimately do far more to hurt the cause of arms control than to help it. The present consensus on arms control can dissolve overnight if we do not have a more realistic approach to reporting on compliance and deterring Soviet violations, if we cannot build a consensus around an arms control strategy that looks beyond "summitry" and day to day negotiations, and if we cannot tie our arms control activities to a clear perception of the impact of arms control on the military balance and on our security.

It is important to note that no arms control treaty can ever avoid some ambiguities in its wording, specify detailed penalties for every violation, or create a foolproof mechanism for defining the nature and seriousness of every possible violation. We have tolerated many failings and uncertainties in the INF Treaty, and we will have to tolerate at least some major uncertainties in any further arms control treaty.

The only practical alternative to a perfect treaty is a greater confidence within this body that we can trust both the arms control process and the compliance process. This is particularly true because a treaty like the START Treaty will affect our very survival as a nation, while conventional arms control will affect the very survival of our closest allies.

The INF Treaty is the practical limit of what the West can accept in the form of arms reductions whose main effect is political symbolism.

Any future reductions in strategic nuclear arms, conventional arms, and NATO's remaining theater nuclear arms must come to grips with the three real goals of arms control: Reducing the overall arms race and the instabilities in the military balance, reducing the risk of war, and reducing the cost of war if deterrence fails. Above all, they must provide the West a firm assurance that a higher level of deterrence will exist after such reductions than before the reductions take place.

We can deal with these issues without delaying ratification of, or adopting "killer amendments" to, the INF Treaty. This is why I am proud to be a cosponsor of the amendment we are discussing here today.

While some of this language in this amendment is already in the Defense Authorization Act, I believe that we need to go further, and to provide stronger wording regarding the enforcement of our arms control treaties and a warning to the U.S.S.R. that it must negotiate in good faith.

This amendment will accomplish that purpose in several important ways. It will establish more stringent procedures in dealing with arms control violations, it will ensure that timely intelligence reporting on any violation is given to the Congress in a form that will ensure that the Congress can act, and it will ensure that future arms control agreements are part of a strategy that focuses on reducing the risk and cost of war, and not simply on weapons numbers or immediate political advantage.

The first major step this amendment makes in the arms control process is to ensure that the West will publicize all Soviet violations and react with suitable countermeasures. This amendment provides a legal mechanism that goes beyond the current narrow focus on the technical details of verification and compliance and which can ensure that no Soviet violation is disguised or ignored because of a desire to preserve the overall climate of East-West relations or domestic political convenience.

It puts the U.S.S.R. on notice that it will face formal and public United States reaction to each violation, and we need to ensure that we use the Congress and Western public opinion as a deterrent to any Soviet violations or sudden buildup in military capability. It expands the current annual compliance report on arms control treaties with the U.S.S.R. to give this report real teeth.

The second major step this amendment makes in improving our approach to arms control is to create a comprehensive arms control strategy that will be regularly updated, force the administration and Congress to work toward a consensus, and educate public opinion in the United States and allied countries.

It requires the President to submit an annual report to the Congress that would provide a detailed and comprehensive statement of U.S. arms control strategy on all existing and prospective arms control treaties and negotiations. It would specify the nature and sequence of an administration's future arms control efforts.

This report would describe how the United States will approach strategic, conventional, and additional theater nuclear force reductions. It would provide a comprehensive net assessment of the current trends in the military balance as they affect arms control.

It would include a comprehensive data base on the forces on both sides affected by the arms control treaty, it would specify the methodology used to analyze them in full detail, it would provide the results of both static and dynamic methods of analysis, and it would examine all major scenarios and contingencies ranging from political confrontation to full scale war.

The report would assess the military impact of arms control proposals and would explain the level and impact of U.S. arms control proposals on the risk and cost of war in typical contingencies or scenarios.

It would show the impact of proposed subceilings, asymmetries, and other driving factors affecting a treaty or arms control proposal on the military balance, and show how these act to increase deterrence and to reduce the risk and cost of war.

It would describe the strategy the United States will use to verify and enforce proposed arms control treaties. It would describe how the United States will consult with its allies and tailor its force improvement strategy to ensure it can preserve national security with and without arms control.

We need to take these two steps to ensure that the present treaty will be complied with and to ensure we fully understand the degree to which it does and does not ensure a secure level of deterrence and reduce the risk of war.

More importantly, however, we need to lay the groundwork for the kind of arms control process that is vital in the future. The fact we need to face, as we go beyond the INF Treaty, is that the West's competition with the U.S.S.R. in arms control will be a long and difficult process, and that the most serious risk it will face is the U.S.S.R.'s ability to exploit political divisions within the United States and other Western nations.

Some divisions are inevitable. There will always be differences between liberals and conservatives, and among the nations of the West, as to the best way of dealing with verification and enforcement and with arms control strategy.

The challenge we face is to find ways to limit those differences and to use them constructively, rather than allow the Soviet Union to exploit them. To do this, we have to work toward a consensus on key issues and we must do so in an open and democratic way.

If we do not establish a clear arms control strategy and trust in our compliance procedures, we are almost certain to see the left and right polarize. We are likely to see domestic politics force unilateral cuts in modernization, manpower, and forces in anticipation of arms reductions.

We also are likely to see the U.S.S.R. split the West by exploiting its lack of cohesion and national differences, and we may well destroy any serious interest in arms control by creating so many opportunities for political opportunism that the U.S.S.R. cannot resist exploiting them.

This amendment will accomplish that purpose. It will ensure that the Congress can act in concert with the executive branch, it will help build a bipartisan approach to arms control, it will help create a consensus within the United States and between the United States and its allies, it will help deter any treaty violations, and it will help build a consensus in the West.

Mr. President, I urge the adoption of this amendment.

The **PRESIDING OFFICER.** The Senator from Wyoming.

Mr. **WALLOP.** The Senator from Iowa wishes me to yield 4 minutes.

The **PRESIDING OFFICER.** The Senator from Iowa is recognized for 4 minutes.

Mr. **GRASSLEY.** Mr. President, I rise in support of the reservation because it addresses what I, and many of my colleagues, feel is one of the major flaws of this treaty: the lack of a viable compliance policy.

This reservation is an attempt to rectify this omission.

All of the verification procedures, regardless of how technically sophisticated or involved, are useless if there is not a will to take positive action when faced with the reality of evasion or outright violation on the part of the Soviets.

We all know the record of Soviet adherence with international security agreements. It has been one of selected compliance, evasion, and violations.

We have repeatedly heard the litany of Soviet arms control violations listed by distinguished Senator after Senator in remarks made before this body during this INF debate.

Senators have pronounced that they are aware that the Soviets continually cheat and cannot be trusted to comply fully with arms control pacts.

In a series of statements before this body, this past week, I have examined the history of noncompliance with arms control agreements by totalitarian regimes in the pre-World War II era. When these governments saw an opportunity to gain military or political advantage, they violated or ignored the treaty with impunity.

The Versailles Treaty, the 1922 Washington Naval Agreement, and the Anglo-German Naval Pact of 1935 were all treaties that lacked a positive compliance policy and/or the democracies involved lacked the will on the part of the democracies to invoke one.

And the refusal to act on the part of the democracies served only to embolden the totalitarian regimes to further violations. History reminds us of the disastrous results from this failure to act.

I also listed in previous remarks the dismal record of Soviet noncompliance with arms control pacts.

The results are obvious to anyone who looks closely at the issue.

In dealing with totalitarian regimes, we can, and should, expect them to evade or violate an arms control treaty.

Yet, given this reality, Mr. President, there is no positive compliance policy in this treaty. There is nothing there that says to the Soviets, "if you commit certain transgressions, we will respond with in appropriate way". To make this treaty work, the Soviets have to know that the cost of cheating will exceed any benefit to be gained by such action.

In the absence of such a compliance mechanism in the treaty, this reservation is an attempt to provide one.

It sets the framework for the President to respond with proportional action to Soviet violations and for the Senate to be given the opportunity to approve or disapprove of the President's actions by resolution.

This reservation will not affect the treaty other than to put the Soviets on notice that noncompliance will not be tolerated.

It will not require renegotiation of the treaty with the Soviets. It is meant to demonstrate that the United States will not ignore evasions and has the will and the tools to act.

We all saw how quickly the verification issues were resolved when there was a quid pro quo threat that we could hold over the Soviet Union.

In this case, the threat was holding up debate on this treaty until the verification issues were resolved.

This reservation will help put some teeth into this treaty, to show the Soviets that there will be an effective compliance policy conducted by the President and supported by the Congress.

Mr. President, we have seen the results of the past, and treaties that did not have a viable compliance policy.

Such an omission or the lack of a will to act invariably produced violation after violation.

This reservation is an effort to correct this flaw in this treaty by setting up a policy that presents the President and Congress as a united front against Soviet noncompliance.

I urge adoption of this reservation, Mr. President. We should not accept this treaty without a viable compliance policy and of course we must also have the will to enforce it. This reservation will have a twofold benefit.

It will show our resolve to make the Soviets comply with the INF Treaty, and put them on notice that in negotiating a workable START Treaty we will demand a positive compliance policy.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Nebraska.

Mr. EXON. I yield myself 10 minutes of the 40 minutes we have on our side.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I am most delighted that the conference on the floor of the Senate has broken up because as important as that discussion was on the floor of the Senate, we have before us now a worse amendment, in my view, than the amendment that has caused a great deal of time and furor in the Senate over a parliamentary procedure.

I want to start out by saying that I find myself in an unusual position again. Here I am carrying the load for the administration when that should befall some of the other Members of this body.

The chairman of the committee will be back very shortly and will undoubtedly have some things to say about this. I just want to lay some of the groundwork before he makes those comments.

I suspect that the authors of this amendent do not fully know and understand what they are about to do.

I agree with the general thrust of what they are trying to do with the amendment, and many of my friends and colleagues, including my colleague from Nebraska, are in support of this amendment. I am going to try to convince them that at best this amendment should be withdrawn because at worst it would be added as part of the treaty.

Having said that, let me state that this is not a killer amendment, and let me make that clear. This amendment could go on the treaty. It would not necessarily have to be renegotiated or approved by the Soviet Union. It would send some warning to them in some certain areas that might get their attention, but I suspect it would not.

Mr. WALLOP. Mr. President, will the Senator yield for an observation?

Mr. EXON. Mr. President, I shall not yield and I will not yield. I will retain the right to the floor.

I would remind those on his side that I have very carefully and patiently listening as they used up their time, and I intend to do likewise on this side.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President I was trying to say that this is a good cover because we are all very much concerned about the treaty compliance record of the Soviet Union in the past. The main difference, I guess, between myself and my colleagues on that side of the aisle that are presenting this is I just have a little bit more faith in President Reagan or President Bush or President Dukakis than they evidently do. I think they are all great Americans. And I do not think that we need this kind of language in a treaty that is a fight that is being carried on over what the Soviets do or do not do between the United States Senate and the President of the United States. And the Soviets, in this case, are pretty much bystanders.

What this is addressing, Mr. President, is how and when and under what circumstances should the United States dictate before a treaty is put into effect what the President is going to tell the Soviet Union in this regard as he exchanges the final document with them.

There are many reasons that this should not be put forward. Even before I knew that this measure was opposed by the administration, before I knew that this amendment was opposed by this administration's Secretary of Defense and before I knew that this amendment was opposed by the Chairman of the Joint Chiefs, I was opposed to it for a very simple and fundamental reason.

I would cite that the amendment now before us, in paragraph (5), says:

> The declaration that, the treaty should no longer continue to remain in force with respect to the United States if the Senate adopts a resolution by majority vote.

Now let me recite that again, Mr. President.

If the Senate adopts a resolution by a majority vote, that disapproves the certification submitted by the President, and so forth. So what we have here, Mr. President, probably unbeknownst or not fully understood by the authors of this amendment is that we are going to require 66 votes to pass a treaty by the U.S. Senate but, in this amendment, a majority vote could take us out of the treaty.

Now, I suspect that the framers of the amendment did not know, did not realize, or did not think that through. I would simply say to them that the amendment is faulted for many reasons, but for that reason alone it should not be part of this treaty. At an appropriate time, before we table or take other action that I think we feel we must take on this, we might give a proper chance for those who offered this amendment to withdraw it and forget about it on this treaty and come up maybe in the future with something that we could all get behind with regard to our instructions and feelings that could be expressed by a sense-of-the-Senate resolution of some type to the President of the United States with regard to what we feel he should or should not be doing.

I do think, though, that when we have disputes in a democracy between the President of the United States and the confirming body on treaties, the Senate, that we should keep that in-family fight between ourselves and not involve the Soviet Union because, from their past experience, I do not think they would be particularly helpful in settling the differences between the U.S. Senate and the President of the United States, whoever that is.

Mr. President, let me go through some of the statements that came up during the hearings on this treaty. I cite from the record a statement from Secretary Carlucci, February 1 of this year. The question of Secretary Carlucci:

> Do you think the Senate should condition its approval of a treaty on some kind of guaranteed response? What would be the risks of such conditions?

Answer:

> We do not believe that such a condition is necessary or useful. We would hope that Congress would express its willingness during the INF Treaty debate to work closely with this and future administrations in reaching agreement on responses which would be appropriate should Soviet violations of the INF Treaty occur.
>
> We would wish to determine our response on a case-by-case basis as actual problems are unlikely to fit hypothetical scenarios determined in advance. Consequently, we require the flexibility to deal with compliance issues as they might arise, and need the cooperation of Congress in implementing the appropriate response.

Mr. President, I wish to cite further from the record. I have just read from the Secretary of Defense, who I think most would consider an expert in this area and one who is not soft in any way, shape, or form on the compliance that we expect the Soviets to live up to.

In this case it is from the Chairman of the Joint Chiefs, February 4, 1988. In response to questions posed by Senator PELL along the same lines of the questions that I just read that was addressed to Secretary Carlucci, here is what the Chairman of the Joint Chiefs said in this regard:

> We would wish to determine our response on a case-by-case basis as "real world" problems are unlikely to fit hypothetical scenarios. Consequently, we require the flexibility to deal with compliance issues as they might arise.

The **PRESIDING OFFICER.** The Senator from Nebraska has used his 10 minutes.

Mr. **EXON.** I yield myself whatever additional time I might need. I would ask the Chair to advise me if I go beyond another 10 minutes.

Continuing the quote from the Chairman of the Joint Chiefs:

> Should a Soviet violation be detected, the appropriate response would depend on a timely assessment of the effect the specific violation would have on the military balance. Predetermined response criteria would narrow the assessment and limit both its value and impact. An appropriate response to Treaty violations should be determined on a case-by-case basis and predicated on a comprehensive assessment of a host of complex security considerations.

Mr. President, I would like to continue with a whole series of thoughts in opposition to this amendment that have been provided to us by the administration, who, after all, are the ones who are over there or will be over there in the next few days exchanging these final documents, we hope, with regard to the INF Treaty. So these are points that the administration have brought up, in addition to the points in opposition that I have already raised.

The reservation proposed by Senator Wallop on treaty compliance reflects the concerns not only of the Senate, but also of the administration over the Soviet pattern of non-compliance with earlier agreements.

We are united on the need to be vigilant in monitoring Soviet compliance with the INF Treaty's provisions and to continue to press for resolution of Soviet non-compliance with previous arms control agreements.

With respect to the proposal in the Wallop reservation that the President submit an annual report on Soviet compliance with the INF Treaty, it should be recalled that the President is already required to submit reports each year on Soviet compliance and non-compliance with all arms control agreements.

These annual reports are lengthy, detailed documents which have had a record of candor and thoroughness in discussing Soviet violations or possible violations of arms control agreements.

In the administration's view, these annual reports are more than sufficient for conveying to the Senate the kinds of information about Soviet performance envisaged in the Wallop amendment.

Another case where the amendment seems redundant.

With respect to the proposal in the Wallop resolution that stipulates procedures for responding to Soviet violations, this is neither necessary nor desirable.

These are the words of the administration not mine.

Article XV, para 2 of the treaty gives the U.S. the right to withdraw from the treaty "if it decides that extraordinary events related to the * * * Treaty have jeopardized its supreme interests."

Additionally, international law permits the U.S. to withdraw from the treaty immediately in the event of a material breach of the provisions of the treaty.

The administration clearly contemplates close consultation with the Senate in case the Soviets fail to comply with the INF agreement. As Secretary Shultz noted in his testimony both on January 25 and March 14, "The role of the Congress in this will remain essential * * * If the Soviets cheat on this Treaty, the President must be about to count on Congress to help him take the measures necessary to preserve our security and that of our Allies."

Mr. President, just as an added caveat on my part here, I think that is what I was referring to earlier. There has got to be some trust. I do not trust the Soviet Union and that is why I am demanding verification; that is why I am disappointed that we do not have more flexibility to the on-site inspection that we already have. That is why I have been working very diligently, certainly as the President in the Chair now recognizes, in the Strategic Subcommittee, to assist our Intelligence Committee in providing every possible advantage that we can or any new innovation to provide for the surveillance that we obviously need with regard to the INF Treaty.

A further caveat, I would say, is that I have grave concerns with regard to proceeding with the START Treaty at this time. I think there is no possibility of that taking place, nor should it, in my view. But I do think that the present President of the United States has laid the groundwork, laid the foundation for some understandings with the Soviets in the future with regard to some kind of a START agreement. But I, for one, am not in favor of proceeding in that area until we have more surveillance techniques than we currently have and certainly not until we have at least some indication from the Soviet Union that they are going to discuss with us their superiority in conventional warfare at least on the NATO front.

Now, back to the administration points. This is the next administration point.

> But we do not want to establish hard and fast rules on the precise manner in which the President must respond to any compliance charge. We need to preserve flexibility in this regard and in the manner in which the Executive Branch can respond to both the Soviets and the Senate concerning compliance points.
>
> Moreover, this Treaty is not based on trust, but on the most stringent verification provisions in history. While the INF Treaty does not guarantee Soviet compliance—no treaty can—it builds on lessons of the past and its provisions increase the cost of trying to cheat and the likelihood that violations will be detected through using a combination of enhanced national technical means, cooperative measures, and on-site inspections.

The next point by the administration:

> In addition the Treaty contains clear incentives for Soviet compliance with the INF Treaty:
>
> First, the Treaty provisions increase the probabilities of detecting cheating, since the existence of any Treaty-limited item after three years constitutes a clear violation. This means cheating entails a higher risk of detection in this Treaty than in previous ones under which we have detected Soviet violations.
>
> Second, the U.S. has demonstrated through termination of its political commitment to adhere to the provisions of SALT II that the U.S. will not abide unilaterally by agreements whose security benefits are negated by Soviet violations.

And, of course, Mr. President, the caveat here on my part, I am sure what they are talking about there is that since the Reagan administration knew and recognized the fact that there were violations by the Soviets, they in turn went beyond the limits of SALT II.

There was some concern and gnashing of teeth about that at the time. But at least the Soviets, I do not believe for one moment, think we are asleep at the switch with regard to their violations or thoughts of violating. We will be watching them very, very carefully.

The Wallop amendment or anything like it is not going to either enhance our posture or position in that area.

The next point by the administration:

> The Administration is pressing and should continue to press the Soviets to end their non-compliance with arms control agreements.
>
> But this should not cause us to surrender the benefits of the INF Treaty or to lose the opportunity to put its landmark verification provisions into practice, in part to determine whether these provisions will prove more effective in bringing about strict Soviet compliance.

The **PRESIDNG OFFICER.** The Senator from Nebraska has used another 10 minutes.

Mr. **EXON.** As I say, at the proper time if this amendment is not withdrawn we will move to table on this side and I reserve the balance of my time.

The **PRESIDING OFFICER.** Who yields time? If no one yields time, time will be charged against both sides.

The Senator from Indiana.

Mr. **LUGAR.** Mr. President, will the distinguished Senator from Nebraska yield 6 minutes?

Mr. **EXON.** I will be glad to yield 6 minutes to my friend from Indiana.

Mr. **LUGAR.** I thank the distinguished Senator. I thank the Chair.

Mr. President, I rise with reluctance because I appreciate the contributions made by each of the distinguished colleagues on this side of the aisle who have presented this amendment. It is an important consideration for all of us.

I suspect that each one of us will start by indicating how important compliance is; the anxieties we have with regard to compliance.

I shall not repeat the arguments made by the Senator from Nebraska but will underline at least two of them. First of all, it appears to this Senator that even though the language has been changed from "will" to "should," in each of the situations where those words are used—in paragraph 5 of the declaration that the treaty should no longer continue to remain in force with respect to the United States if the Senate adopts a resolution by majority vote that disapproves the certification submitted by the President pursuant to clause A or B of paragraph 4, as the case may be—that gives this Senator very grave concern.

Mr. President, the President of the United States, at least as I read this amendment, must make these certifications and must indicate the type of action that he and his administration are prepared to take when the violations are indicated. The Senate, by majority vote, could then suggest and I stress the word "should" now rather than will, and that is an improvement, but it could suggest that the United States leave the treaty at that very point.

Mr. President, clearly a very sizeable constitutional change is contemplated in that sort of a relationship.

The President of the United States is vested with authority to implement treaties, to take action with regard to foreign policy. As the distinguished Senator from Nebraska has pointed out, the Senate offers its advice and consent to the resolution of ratification by a two-thirds vote. But on a particular day—and I have seen a number, as have other Senators in which a particular event of foreign policy comes to our attention—as a member of the Senate Foreign Relations Committee, I can recall many times when Senators rush to the floor, demand the Senate take action to indicate our disapproval of a world leader or a disgraceful situation.

Frequently, the Foreign Relations Committee has been bypassed; the whole committee system is bypassed. The majority leader and Republican leader gathered together. Quickly they hover together everybody else and before the 6 o'clock newscast is on, the Senate has decisively, by a vote of 93 to 0, or perhaps one poor soul has a second thought about it—that is not a very good way to handle the constitutional relationship with the President, nor treaties, nor for even policy.

This is a serious business. We are in the process now of trying to add on additional things to a treaty which, at least to this point, I believe, looks like a pretty good treaty.

In our rush to conclude or in our desire to accommodate each other, we are almost likely to take the situation that comes with a domestic appropriation bill, perhaps, trading off this and that to accommodate each other, to try to grease the skids of this situation. That I think would be a bad mistake.

I appreciate that we are interested in compliance. But I would reiterate what the Senator from Nebraska has stated, and that is that the world now, in particular the Senate, is replete with reports from the President of the United States and the administration with regard to compliance.

They are coming out of our ears. The problem is that violations are not always a sure thing. We may think they are. We may be certain that the Soviets have cheated. I am simply here to tell you that most of the violations that are out there are still under consideration, under debate.

Most of us believe the presence of the radar facility is a violation. I believe it is a violation, and it is not really clear how the Soviets are going to deal with that with the great pressure put on them to do something.

I also say the President of the United States takes activity with regard to that radar installation. It is not up to us to have a majority vote as to whether we liked or thought it was sufficient or not and to take ourselves out of the ABM Treaty or, in this particular case, the INF Treaty if a violation were perceived and found wanting in terms of response by the Senate.

I hope, Mr. President, that we will not overstep the constitutional bounds in our anxiety about compliance and our desire to indicate toughness with regard to the Soviets. I just say on this side of the aisle, I applaud the distinguished Senator from Nebraska. I believe the President of the United States is a strong man. I am certain his successor is going to be a strong man. I happen to believe that Presidents ought to have executive authority. I sort of lost that argument a bit, in my judgment, earlier on in the day.

I expressed some misgivings with regard to the Byrd amendment, although I voted for it.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Chair must point out the time of the Senator has expired.

Mr. LUGAR. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this amendment I know is offered in a constructive spirit, in a positive spirit, by its proponents. But on balance, we have to judge whether it is an amendment that helps our Nation, in its development of foreign policy, helps our President, and helps ourselves.

What this amendment would basically mean is that while it takes two-thirds of the Senate to enter into a treaty, any time half of the Senate got impatient, it could withdraw from that same treaty.

It forces the President, in addition, to resolve the problem or propose a response in 90 days. That does not give the President very much time to solve a problem.

Basically, I think this is an amendment that would tie our President's hands in foreign policy to an extent that would be harmful to our basic interest.

I join with my colleague from Indiana in urging that we vote to defeat or perhaps even to table this amendment.

Mr. President, I still have the floor. I would like to yield 2 minutes to Senator LEVIN.

Mr. LEVIN. addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this is really quite an extraordinary amendment because it represents a significant arrogation of power to the Senate and by the Senate. Under the Constitution, it takes two to make a treaty. Under this amendment, it takes but one to withdraw from a treaty.

If there has been a violation of the treaty, as certified by the President, no matter how minor he thinks it might be, and if the Senate is not satisfied with the way the President has tried to correct the violation, that is a significant change in the Constitution.

The Constitution does not provide the Senate and, indeed, may not permit the President—we do not know—to unilaterally withdraw from a treaty. It took two of us to enter into that treaty. It took our advice and consent. We had to consent to it before a treaty could be ratified.

Under this amendment, the Senate is given the unilateral right by majority vote to withdraw from a treaty if it disagrees with the Presidential certification in paragraph (4), clause (A) or (B).

Mr. McCLURE. Will the Senator yield for a question?

Mr. LEVIN. I will be happy to.

Mr. McCLURE. There have been two references that the Senate, by majority vote, could abrogate a treaty.

Is it not more correct to say that the President is required to give a report to the Congress which, by majority vote, the Congress could reject? Is there anything in the Constitution today that says that the Senate of the United States or the House of Representatives, the Congress as a whole, could not, by majority vote, say we do not like what is happening?

Mr. LEVIN. As far as I know, it is unclear in the Constitution as to whether the Senate—not the Congress—this says the Senate, whether the Senate unilaterally on its own can withdraw from a treaty.

The PRESIDING OFFICER. The Senator from Michigan has used his 2 minutes.

Mr. McCLURE. I wonder if the Senator will yield the Senator 2 more minutes so he can respond further?

Mr. PELL. I yield 2 minutes to the Senator from Michigan.

Mr. LEVIN. I know of nothing in the Constitution which gives the Senate the right on its own by majority vote to unilaterally withdraw from a treaty.

Mr. McCLURE. Will the Senate point to any language in this that gives the Senate by any vote, by any margin of vote, the right to withdraw from a treaty? It says on the face of the amendment that, by majority vote, the Senate could disapprove of the report that was filed by the President.

Mr. LEVIN. What is the effect of that?

Mr. McCLURE. It says the Senate disagrees with the report sent by the President.

Mr. LEVIN. And the effect of that be?

Mr. McCLURE. Is that the Senate does not approve of the report sent by the President.

Mr. LEVIN. It also says that "the declaration that the treaty should no longer continue to remain in force with respect to the United States if the Senate adopts a resolution," which the Senator just referred to.

Mr. McCLURE. No, it does not say that, I would say to the Senator. It says that the President can submit a report about whether or not we should or should not withdraw from the treaty, and the Senate has the right to approve or disapprove of that report by the President.

Mr. LEVIN. I am reading the language here at (5). Perhaps I am not reading the same amendment that has been offered. It says, "the declaration that the treaty should no longer continue to remain in force with respect to the United States if the Senate adopts the resolution."

Mr. McCLURE. Will the Senator not agree, however, that that is the language of a report required of the President?

It does not say that if the Senate votes to disapprove that report, that the treaty is automatically abrogated. This does not say that, does it?

Mr. LEVIN. It seems to say it to me, but I just read it. I cannot read it again any more clearly than I did the first time. If all the Senator is saying is that nothing happens if the Senate disagrees, then it seems to me this is an uttely useless amendment.

Mr. McCLURE. The Senator might have that——

Mr. LEVIN. The Senate has a right to adopt a resolution at any time disagreeing.

Mr. McCLURE. That is exactly the point I was trying to make and nobody has yet argued that that is unconstitutional.

Mr. LEVIN. The Senate has a right to express an opinion every time, but here we are saying that the treaty should no longer continue to remain in force.

The PRESIDING OFFICER. The time of the Senator from Michigan has once again expired.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Wyoming has 7 minutes and 18 seconds.

Mr. WALLOP. And?

The PRESIDING OFFICER. The other side has 5 minutes and 36 seconds.

Mr. WALLOP. Mr. President, I yield myself 6 minutes.

Mr. President, let me say that this whole debate has been Alice in Wonderland, but this in particular gets us there. The treaty itself permits the President to withdraw from the treaty. Let's not make any foolish statements about that. The senior Senator from Nebraska has made statements which tell me that he nor the administration have read the amendment. What they want to do is not have any amendment. First of all, the Senator from Nebraska says this is an amendment to the treaty, and nothing could be further from the truth. The treaty has been set aside. He may not realize that but it is true.

Second of all, he read something from the administration and Secretary of Defense Carlucci that said we ought to do this on a case-by-case basis. What in Heaven's name does he think this treaty provides except the response on a case-by-case basis. I do not know where has head is but it is not in the amendment.

Third, these reports are redundant and he said we should not trouble the administration to prepare the one report and submit it on both cases. The Senator from Nebraska was unwilling to yield to me just for the observation that this is not an amendment to the treaty, does not go on the treaty, cannot go on the treaty. That is all gone, and it will not come back. We have made a provision for the administration to handle the reporting requirements through an existing report.

One of the things that this amendment does is put the Senate on notice that it pays the bill, a rare occasion for us. If we do not pay the bill, nothing takes place.

He said maybe in a few weeks we could find something that we could all get behind. I can tell you what we can all get behind. That is a piece of mush. The Senate has had an opportunity throughout the experience of this Senator to do something about Soviet violations and all it does is constrain the behavior and actions of the United States, not seek in any way to constrain the behavior and actions of the Soviet Union.

The administration and the Senator from Nebraska and the Senator from Indiana all say they do not want to set a standard for compliance. There is no standard for compliance in here, to the great regret of the Senator from Wyoming. I wish there was, I wish that we had something that said to the Soviet Union we are serious about your undertakings as well as our own. What this Senate and this debate says to me is that the only undertakings we are serious about in this treaty are those of the United States. We ratify in addition to this treaty your past behavior and your future behavior. We license it.

The Senator from Indiana says that violations are not a sure thing. If the violations are not a sure thing, no action is required. What we have here is the administration mewling and whining about a fact that this Senate would like to have us say we are serious about the compliance regimes under this treaty.

There is no more useless word in arms control than verification absent an intent to take some action once you verify a violation. That is the whole point of this. Modest as it is, it says the American people would like to be sure that the Soviet Union lives up to it. The American people would like to be sure that the Senate is serious that if the Soviet Union does not, as it has not in the past, live up to its obligations under this treaty, there is some contemplated review and action possible to us there. Nothing, unfortunately, is mandated. It just says take compliance seriously.

The Senator from Nebraska says that cheating contains in this treaty a higher risk of detection. So what? If after detection we have no action in mind, what in Heaven's name is the use of detection? That is really what this is all about. He said we should press and continue to press for compliance. What a wonderful thing. Yes, let us press. With what? Our little finger or something even less strong? He said we should not lose our stringent verification. Why would this amendment damage in any way the INF Treaty's verification regime? On what basis could anybody say that is would? There is no recorded or required action on behalf of the Soviet Union other than to listen to this thing being read to them. That is it. So how are we going to lose our stringent verification? And what in Heaven's name is the use of our stringent verification if we do not have the simplest idea that we would like to require compliance should we through verification determine them to be in violation of the treaty?

Mr. President, I reserve the remainder of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, will the distinguished chairman of the Foreign Relations Committee yield 3 minutes?

Mr. PELL. I yield 3 minutes to the Senator from Indiana.

Mr. LUGAR. I thank the Senator.

Mr. President, the distinguished Senator from Wyoming has mentioned at least some judgmental views that somehow or other the Senate would say through this amendment that we are serious about violations, about compliance. The American people would like to be sure that the Soviets live up to the treaty and that some contemplated review is going to occur, that we are not licensing the Soviet Union to violate.

Mr. President, I do not detect in President Reagan any intention in his actions to show any degree of license, as he approaches the Soviet Union, to violate treaties, violate relations with our country. I have not detected in President Reagan that the American people feel he is soft on communism, soft on violations, soft on arms control. Quite to the contrary, Mr. President. One reason, in a very practical sense, we have before us tonight the INF Treaty and have a very good chance of seeing its passage is because a very conservative Republican President decided to negotiate from strength. That is a very important factor. The impression given, I fear, by this amendment is that somehow or other our President is beguiled or asleep or simply does not understand the whole violation process.

Now, I would submit he does. The administration has been furnishing reports of violations. The administration has been working through the consultative commission to try to work out violations. We have spotted them. We ought to say to the American people in this debate we are serious about it, we have been serious about it, one by one we are following through on them, and to give any other impression, it seems to me, would be a gross violation of the facts.

Now, we might be able to do more, and to the extent that this debate spurs the administration on to greater compliance, that is to the good. But it is not the time and place to add an amendment to the INF Treaty or to the resolution of ratification, more particularly, that is unnecessary, and for reasons that I suggested earlier on I think is a constitutional breach of some significance.

I thank the Chair.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Will the distinguished chairman of the committee yield me 2 minutes?

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, I suspect that time has about run out. We are ready to vote on this. I had hoped that my friend and colleague from Wyoming would withdraw the amendment. I take it he does not intend to do that by the remarks that he just made.

I would simply say that the Senator from Nebraska made the case as he saw it. He made the case for the administration. I suspect that I will be the first Democrat that will be called down to the White House, ushered into the Oval Office and have my picture taken with the President of the United States for the great service that I have rendered to his administration and the Republic for standing up for what I believe in here. I say that facetiously. I know that is not going to happen.

Some of the remarks that my friend from Wyoming made with regard to what the Senator from Nebraska thought were not my thoughts. I thought I clearly indicated those thoughts that he, many of the thoughts that he took objection to, were point papers that were furnished to us by the administration, which I tend to support whenever we leave the shores of the United States and enter the very complicated world of international politics. I think it would not help the President of the United States—if we can ever get this treaty ratified and handed to Mr. Howard Baker so he can rush over there with it, because of our negligence and time-consuming actions, some of which are not unlike this particular amendment. I do not think it would help the President of the United States to have to fumble around with this kind of language that is as ridiculous and redundant as this amendment is.

Last but not least, if we would ever pass an amendment like this, then we would indeed have a historical moment. We would be putting the United States on record as allowing half of the Members of this body, as the Senator from Indiana has said so well, in any given moment and at a moment's notice, to vote to withdraw from the treaty with a simple majority vote.

I am as much concerned as anybody else about Soviet violations. But this amendment does not begin to cure anything. I yield back the balance of my time.

The PRESIDING OFFICER. The Senator's time has expired. All time on the majority side has expired.

Mr. WALLOP. Mr. President, I ask unanimous consent that a poll be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Q. 10. And, do you think the U.S. Senate should or should not require:

c1. That President Reagan certify that the Soviet Union is adhering to all past arms control agreements before the treaty can take effect:

ATS March 1988—Should require, 71%; Should not require, 24; Not sure (volunteered), 5.

c2. And, would you still favor requiring this condition if it meant the risk of killing the INF treaty?

Among those favoring condition in Q.10c1:

ATS March 1988—Should require, 76%; Should not require, 20; Not sure (volunteered), 4.

Net total from Q.10c1 and Q10c2.

Even If Condition Would Kill INF Treaty:

ATS March 1988—Should require, 54%; Should not require, 39; Not sure (volunteered), 7.

Mr. WALLOP. Mr. President, I do not know what goes on in here. I do not know why the opposing side chooses to misrepresent what is taking place in here. There is no majority vote in the Senate that eliminates the binding effect of this treaty, and they say it is simply to cloud the issue. It is in fact not true. Let me just assure the Senate of that case as the Senator from Idaho has just done.

Second, this is not an accusation that the President is soft on communism or weak or anything else. It is a historical reaction of the Senate of the United States, should we be brave enough to pass it, that we have viewed past Soviet behavior—and there is record of noncompliance—and we want for darned sure this time to be certain that they comply.

That is not a very bad thing.

I yield the remainder of my time to the Senator from Nebraska, Senator KARNES.

Mr. KARNES. Mr. President, I appreciate that, and the words of my distinguished colleague from Wyoming.

I would just like to make a couple of very brief observations. I heard the old saying, "Where's the beef?" I think in this case this amendment deals with, "Where's the teeth?" There have been a number of statements made about the teeth of these treaties that have been signed by various countries with the United States on arms control. There have been no teeth.

There was a statement made by my distinguished colleague from Nebraska, I believe aside from the administration, that says this treaty builds on the lessons of the past. If there is one lesson of the past that this amendment builds on, it is the fact of what we have done in the face of violations by the Soviets of the ABM Treaty, the Chemical, Biological, and Toxic Weapons Convention, the Nuclear Limited Test Ban Treaty, and the Helsinki Final Act, to name a few. That is what I am asking. Where is the teeth? I believe this amendment provides those teeth.

Mr. WALLOP. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I move that when the appropriate time comes, perhaps Senator LUGAR and myself should move to table the Wallop amendment. I make that motion now. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order the Senator from California is recognized for the purpose of making an amendment.

AMENDMENT NO. 2325

(Purpose: To provide that the only interpretations of the Treaty which bind the United States are those which are equally binding on the Soviet Union under applicable international law)

Mr. WILSON. Mr. President, there is an amendment at the desk which I offer on behalf of myself, Senators NICKLES, QUAYLE, DOLE, LUGAR, WARNER, and MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. WILSON), for himself, Mr. NICKLES, Mr. QUAYLE, Mr. DOLE, Mr. LUGAR, Mr. WARNER, and Mr. MCCAIN, proposes an amendment numbered 2325.

At the end of the resolution of ratification, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following:

( ) CONDITION.—The United States shall not be bound to any interpretation of this Treaty that is not equally binding on the Soviet Union under applicable international law.

Mr. WILSON. Mr. President, I did not ask for a suspension of the reading. It took him a very brief time to read the entire amendment. It is a single sentence. It states:

> The United States shall not be bound to or constrained by any interpretation of this treaty that is not equally binding or constraining upon the Soviet Union.

Mr. President, a great Senator, a great Democrat, "Scoop" Jackson, at the time of the SALT I agreement, offered an amendment that said essentially the same thing. His concern at that point had to do with mutuality of obligation in terms of quantity, in terms of the number of units that we were concerned with, but the principle was the same.

Mr. President, I can think of no reason, frankly, why this amendment is not acceptable, and would be happy to have it accepted. It simply says that the United States and the Soviet Union shall operate under mutuality of obligation with respect to an interpretation of this treaty.

Mr. President, at this point, I reserve the balance of my time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

If the Senator will suspend for a moment, who yields time?

Mr. WILSON. I yield to the Senator from Oklahoma such time as he may require.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise in support of this amendment and as a cosponsor of it. I appreciate and compliment my good friend and colleague, Senator WILSON from California.

This amendment is simple, but probably as important as any amendment which we have discussed over the last couple of weeks. It says and states very frankly and very briefly that the United States should not be constrained by any interpretations of the treaty that are not equally binding upon the Soviet Union.

We should not be more binding on the United States than we are on the Soviet Union. Very often, despite the fact that the United States adheres to treaties very strictly and closely, the Soviet Union has taken advantage of us and "driven a truck" through a very broad or gray area of various treaties.

This amendment says we will not be held bound by any interpretation in any way that the Soviet Union is not also equally bound. It is a very commonsense amendment, a very important amendment, one that I would hope would be passed by an overwhelming majority of the Senate tonight.

The PRESIDING OFFICER. Who yields time? Who yields time?

Mr. NUNN. Mr. President, may I ask who controls the time in opposition?

Mr. PELL. I believe I control that time. I will yield as much time as the Senator may desire.

Mr. NUNN. I thank the Senator.

Mr. President, this looks like an amendment that everyone should immediately go down and say, "I am in favor of this." But I think it is important for the Senate to understand what it does. This basically sets up international law, applicable international law, and says by implication that international law will override domestic law. That has the effect of severely undermining, if not completely diluting the Byrd amendment, which was passed by 72 votes a few minutes ago, maybe a few hours ago.

It also is contrary to the Culvahouse letter that was sent to Senator LUGAR. The Culvahouse letter states clearly, and I quote from that letter:

> The President is bound by authoritative interpretations * * * and relied upon by the Senate.

Quoting from the letter:

> * * * even if the treaty negotiating record and subsequent practice indicate an interpretation to the contrary.

This is also contrary to the Cooper memo which was a Justice Department memo which came out about a year ago which states, and I quote from that Cooper memo:

> Obviously a President could not negotiate a treaty with other nations on the basis of one understanding of its import, submit the treaty to the Senate on the basis of a wholly different understanding, and then in implementing the treaty rely solely on the understanding he had reached with other parties.
>
> Such results would essentially eviscerate the Senator's constitutional advice and consent role, because it would deprive the Senate of a fair opportunity to determine whether or on what conditions the treaty should become the supreme law of the land.

So I say about the Wilson amendment, for those who voted for the Byrd amendment, I urge them to vote against this amendment.

We do not believe that the Senate of the United States and the authoritative representations given to the Senate of the United States should be rolled back by international law. What this basically says is that if you have a negotiating history or a negotiating record that is contradicted by the administration's own authoritative testimony, the international law principle would set up a negotiating history. That may not be what the author means, but that is the clear import of this amendment.

It basically would mean that the ratification process we go through in the Senate, no matter what we are told, is forbidden by international law or could be interpreted that way, and we could go back to the negotiating history.

So an administration could come up here and say: "We have agreed to treaty A. We want you to give consent to ratification of treaty A." We could give consent to ratification of treaty A. They could sign that—let us say the INF Treaty. They could sign the INF Treaty and then testify before the Senate what it meant. Then they could go to Moscow, with the Senate's consent, and could exchange the articles of ratification, and we could have a treaty. They could come up a year later and say: "Wait a minute, fellows. Locked in the State Department's safe, we forgot to give you part of the negotiating history. Under the rules of international law, we now have a treaty we explained to you as treaty A, but it is really treaty B, because we didn't give you that, or at least you didn't catch it. So what we have here is that the Soviet Union is not bound, because of negotiating history, by treaty A, and they are bound by treaty B. We are sorry, and we are now bound by treaty B. We will help you next time, Senate, but right now we're going to go with another treaty, even though we testified that this was the treaty we agreed to."

So anyone who believes that the Senate of the United States has a role in this matter should vote against this amendment.

Mr. NICKLES. Mr. President, will the Senator yield?

Mr. NUNN. I yield for a question.

Mr. NICKLES. That is the purpose. I do not know how much time the Senator has.

Mr. NUNN. I do not know about the time.

Mr. PELL. Mr. President, I yield such time as may be necessary to the Senator from Georgia.

Mr. NUNN. I thank the Senator.

I yield for a question.

Mr. NICKLES. To my friend and colleague from Georgia, I say that I am surprised by his statement and by his opposition to this amendment.

Is he telling us that by adoption of the Byrd amendment, we are saying, automatically, that the United States is going to be agreeing to more strict interpretation, more constraints, than the Soviet Union is going to be agreeing to?

This amendment is just trying to make sure that will not happen. I read the Byrd amendment; I have read it several times. With this amendment we are trying to make sure that we do not put more restraint on the United States than we do on the Soviet Union. That would not be to the advantage of the United States.

Mr. NUNN. The way to do that is that the administration tells the truth and gives authoritative testimony and has competent people negotiating. Then you make sure the authoritative testimony is also binding on the Soviet Union. That is what we have tried to do. Unfortunately, we have had unpleasant experiences in recent years with things like that not being the case.

Mr. NICKLES. I doubt if the Soviet Union has to testify before three committees, hundreds of hours, thousands of pages, and submit their leaders to the type of detail we do.

I am glad we do look at treaties to the extent we do, but I am afraid part of the result is that we are going to develop a treaty that will be much more restraining on the United States than on the Soviet Union.

It is a very simple amendment. Basically, it states that we do not want to have an interpretation that is more binding on the United States than on the Soviet Union. It is very clear. I hope the Senator from Georgia, knowing him as I do, would support this amendment, to make sure that we do not place more restraint on the United States than the Soviet Union.

Mr. NUNN. I am in complete accord with the Senator to make sure that we are not bound by anything the Soviet Union is not bound by. That is the reasons why we are careful in our committees to make sure that the administration gets a good, sound treaty, that we have sound cross-examination about what the treaty means, and that if there is any doubt about whether the Soviet Union is equally bound, we go through the procedure we go through here today, of attaching amendments to the articles of ratification.

I agree with the goal this amendment is aimed at, but this amendment is clearly an effort to basically unwind the Byrd amendment. That is what it is.

Mr. NICKLES. If this is to unwind the Byrd amendment, was the purpose of the Byrd amendment to impose more restraint on the United States than it does on the Soviet Union?

Mr. NUNN. No. That was not the purpose, and that would not be the case, except in rare circumstances, where you had administrations which were incompetent or devious or some combination of that.

There is a possibility that you could have an administration come up and say: "This is what we believe the treaty is. It is treaty A."

Then they could come back in 6 months and say, after we have already consented to ratification: "We're sorry, it wasn't treaty A. We found something in our safe that says this point was incorrectly explained; and even though the testimony was authoritative, that was not in the negotiating history, and therefore, Senate, we're sorry, but you consented to treaty B, even though we told you it was treaty A." That is how this whole proposition got started.

We are not going to relegate the Senate of the United States and the law of the United States to some principle of international law that refers to a negotiating history that we do not even have before us when we are going to examine a treaty. I do not think that is what the Senate wants. I do not think that is what the Senate will get.

I assure the Senator that the people on his side of the aisle who may be in favor of this amendment may change their minds if there is a different President of the United States, because I do not think you would want the President of the United States in the next go-round, if it happens to be someone you do not particularly agree with, to be able to come in and say: "Look, folks, we sure are sorry about the Reagan administration. But that INF Treaty they explained to you was not right. They just made some bad mistakes on that, and they had some ambiguities in there. We found some memoranda in the Joint Chiefs' office that said no, that was not right. They explained the right treaty to you, and therefore we're sorry, but you agreed to something else—and we abolished air-launched cruise missiles, too. We abolished sea-launched cruise missiles. But we forgot to tell you."

Is that what the Senator wants?

Mr. NICKLES. This Senator wants to make sure, by the language we have in this amendment, that nothing is more binding on the United States than it is on the Soviet Union.

If the Soviet Union is not bound we do not want to be bound. That is all this amendment does.

I want to make sure that the Senator is well aware of what the amendment says.

Mr. NUNN. Mr. President, I ask the Senator from Rhode Island how much time does he have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. NICKLES. How much time does this side have?

The PRESIDING OFFICER. Twelve minutes to Senator WILSON.

Mr. NUNN. Mr. President, I close with this comment: Perhaps the Senator would rather have both sides equally bound and know what is in the treaty. We could say right here that, yes, the Reagan administration made a mistake on INF. They thought they were abolishing ground-launched cruise missiles. Oh, but they made a mistake. In the negotiating history they abolished air-launched cruise missiles and they abolished sea-launched cruise missiles. But do not worry, the Senator from California, the Senator from Indiana, do not worry about that because the Soviet Union is equally bound. We have all theirs, too. And then this wonderful principle here we say we are in great shape. We are equally bound but, oh, we just gave away our air-launched cruise missile and our sea-launched cruise missile because the Senate of the United States was given the wrong information.

So you have two principles here. Both of them are important. But I think the principle we first ought to adhere to is one which assures we know what a treaty is and what it means before we consent to the ratification.

So anyone voting for this is basically saying as long as the Soviet Union is equally bound, the administration can tell us anything they want to, anything they want to, and we will go along with it because later on they could change their mind.

Of those two principles which are desirable, I prefer to take a chance every now and then that we are going to have one danger rather than the danger this creates, which is to basically say, "Agree to anything you want to, administration, lie to us, if you want to, be devious, be tricky, just make sure the Soviets are equally bound." We may give away the Stealth next, but as long as they give away their Stealth, OK; if that is what the Senators want, fine, but I will vote against this amendment.

Mr. WILSON. Mr. President, how much time remains to the proponents?

The PRESIDING OFFICER. Twelve minutes, five seconds.

Mr. WILSON. How much remains to the opponents?

The PRESIDING OFFICER. Two minutes and fifty seconds.

Mr. WILSON. Mr. President, as great as is my respect for my friend from Georgia, frankly that is not one of his better efforts. I would just have to say that he has constructed more straw men than I thought could probably be crowded into a single hayloft. He has come up with every impossible, fatuous example. I cannot conceive of any Senate capable of doing what he has just suggested.

But let me just state this: He is flat wrong in his statement of the law. It is quite possible that with the adoption of this amendment the Senate of the United States could legally adopt a different domestic obligation and we would be binding ourselves to a different standard domestically than we would under international law.

If we chose to do that for reasons the Senate thinks good so be it. I cannot conceive of many instances in which I think it would make sense to have a different domestic obligation than that proposed by international law which is to say imposed by the mutual treaty obligations of this treaty, and I think the Senator from Oklahoma is absolutely right.

If this undoes the Byrd amendment, then it was much worse than I thought it was. Indeed, I do not think that it is quite that bad.

But what this simply says is that in any treaty obligation assumed by the United States under the INF Treaty, we will expect the Soviets to abide by at least as constraining an interpretation, and we will not be constrained more than they. We will have mutuality of obligation because we will have a mutuality of interpretation.

Scoop Jackson would have understood that if the Senator from Georgia does not. I am frankly shocked.

Mr. President, I yield to the Senator from Indiana 2 minutes.

Mr. QUAYLE. Mr. President, this is such a straightforward amendment. The principle is that the United States and the Soviet Union ought to be bound by the same interpretation of the treaty. End of amendment. End of principle. And what I guess the opponents of this amendment are in effect saying is that, no, the United States and the Soviet Union do not have to be bound by the same interpretation. I think that is——

Mr. NUNN. Mr. President, will the Senator yield?

Mr. QUAYLE. I do not have but 2 minutes. I do not have time.

I think that is a very unfortunate position for this Senate to get itself into, because certainly, we have had voluminous debate on interpretation and everything. When it comes down to it, it is whether we are going to be bound by the same interpretation of a treaty, and that has been the whole debate. All of a sudden we get off on the ABM interpretation and who is telling the truth to whom and all of this. I do not know if we are talking about the United States lying or the Soviet Union lying.

But I can tell you this, that the basic principle is that we are talking about interpretation of a treaty and if we do not have both sides bound by an interpretation of the treaty, that treaty is not very good.

And if that is not a fundamental principle that the U.S. Senate can go on record to support, I really do not know where we are as far as giving our advice and consent for ratification.

This is a very simple, straightforward amendment. What we are bound to as far as interpretation, the Soviets are bound to.

That is all this amendment does. It is logical. It is straightforward. This is not any kind of frontal or behind attack on the so-called Byrd amendment. This does not have anything to do and should not have anything to do with the interpretation argument.

This is just a simple thing. We have a treaty out there and the interpretation of that treaty ought to be adhered to by both sides, and we ought to have an understanding of what that interpretation is. The United States should understand what that interpretation is and the Soviet Union ought to understand that. If we do not, we have a long way to go as far as treaties are concerned.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Will the Senator from Rhode Island yield me about 2 more minutes?

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield 2 minutes to the Senator.

Mr. NUNN. Mr. President, I will take about a minute and a half.

I ask the Senator from Indiana this question, and he can answer it on his own time. We spent a lot of time in the committee on article XIV of the noncircumvention clause. We were not trying to establish there an obligation as much as we were trying to reserve U.S. rights to cooperate with our allies.

We think we know what that means. But if the U.S. governmental representatives testify before our committee and they are wrong, and we have not established those rights because of the negotiating history, the next President will come in and say "Wait a minute, we discover that noncircumvention was not as explained before the Senate. Rather we agreed not to really exchange with our allies. We have a rather strict noncircumvention. We cannot cooperate with them on sea launched missiles because the Reagan administration's negotiating history shows otherwise, not what they told you before in the Senate, no matter what questions you asked."

They say, "Wait a minute, now the Wilson amendment if it passes says as long as the Soviet Union is bound that is OK, All right. We are both bound. The Soviet Union is bound and we are."

But the authoritative testimony was dead wrong and you would be letting our own administration in the future reinterpret the treaty. I do not believe that is what you want to do. But I think that is what you are doing by implication.

Mr. President, I yield the floor.

Mr. WILSON. Mr. President, I yield to the Senator from Indiana 1 minute.

Mr. QUAYLE. Let me just respond to that.

As far as the article XIV, we spent a lot of time on that. We have what we believe is an interpretation of that article and, by golly, that interpretation of that article better be understood and accepted by the Soviet Union, and I assume that it is. And if in fact that interpretation of article XIV, which we found out is not a noncircumvention issue and allows us to transfer certain components to our allies, if the Soviet Union does not have that same interpretation of article XIV, we have problems. And that is what this amendment does. It makes certain that our interpretation and the interpretation of the treaty itself, whether it is article XIV or anything else, that the interpretation is also agreed to by the Soviet Union or you do not have a treaty. You simply do not have a treaty that is worth the paper it is written upon if you do not have a basic commonsense amendment like this that both sides are bound by a common interpretation.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, will the Senator yield me a couple minutes?

Mr. WILSON. Mr. President, I yield to the Senator from Oklahoma 2 minutes.

Mr. NICKLES. Mr. President, part of the problem as I see it, is that our negotiators—and I have had the privilege of visiting with our negotiators and serving on the Arms Control Observer Group with Senator PELL and Senator LUGAR and others—negotiate with the Soviet Union but they also many times find themselves negotiating with Members of Congress, through various means, because Congress attempts to convey what we want our negotiators to do, maybe through funding, or maybe through amendments on DOD bills.

But not only do they have to negotiate through the appropriations process and also through the hearings in various committees, but they also, to some extent, end up negotiating when they are clarifying the record.

We now have a situation where the chairman of the Armed Services Committee is saying: "Well, yes, we are going to be totally bound by whatever authoritative comments were made before the committees, even if that is more restrictive than what is placed on the Soviet Union.

I find that to be going too far. I am bothered by the fact that we would impose on our country more stringent requirements than we impose on the Soviet Union. I have an idea that, when the Soviet Union was having hearings on this treaty, they did not go to this extent. I doubt that their hearings were quite this extensive. I doubt that they were this thorough. I doubt that it makes that much difference in the Soviet Union, because probably a few generals and members of the Politburo decide and make any decisions concerning any treaty, period.

I would hate to see us fail to adopt this amendment. It would be a serious mistake to say that, yes, we are going to be more restrictive on the United States than we are on the Soviet Union.

Mr. President, this is not a killer amendment. This is a positive amendment. This amendment is supported by the administration. I think that it should be adopted by a strong vote in the Senate.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. BYRD. Mr. President, I have been listening to the voices of Mr. NICKLES, Mr. QUAYLE, and Mr. WILSON, not one of whom voted for the reinterpretation amendment, which protects the role of this Senate under the Constitution in the making of treaties.

Mr. President, I want to see the President get this treaty because, as far as the treaty now stands, it can go on to the President while he is at the summit. But I think that what we had better do, Mr. President, is not to let this amendment be adopted. We had better get off somewhere and have a little talk and come to our senses, because this resolution of ratification is not going to be voted on tonight and it is not going to be voted on tomorrow and it is not going to be voted on on Saturday if this amendment is on it.

This Senator thinks more of this Senate than he does of this administration or any other administration, this treaty, or any other treaty. I hope we will sober up.

The PRESIDING OFFICER. The Chair points out that all time has expired for the opponents of the measure.

Mr. BYRD. Mr. President, has all time expired?

The PRESIDING OFFICER. The proponents have 3 minutes and 39 seconds. The opponents have no time remaining.

Mr. WILSON. Mr. President, how much time do the proponents have remaining?

The PRESIDING OFFICER. Three and a half minutes.

Mr. WILSON. The opponents have no time?

The PRESIDING OFFICER. That is correct.

Mr. WILSON. Mr. President, I will respond to the observation made by my friend, the majority leader. I will tell you who did vote for your amendment and who is a cosponsor of this legislation: Senators WARNER, DOLE, LUGAR, and D'AMATO. Clearly they do not find anything so terribly conflicting between supporting the Byrd amendment and supporting the Wilson-Nickles-Quayle amendment.

Mr. BYRD. Will the Senator yield?

Mr. WILSON. I yield for about 1 minute, because I do not have much more time.

Mr. BYRD. That is why I am saying we should get off and have a little talk before we vote on this amendment. There are some Senators, I am sure, who cosponsored the amendment, who probably did not realize the gravity of this amendment when they cosponsored it. I am hoping that we can convince them to not support this amendment.

I thank the Senator for yielding.

Mr. WILSON. Mr. President, with all due respect to my friend the majority leader—and I was pleased to yield to him—I think that Senator WARNER and Senator DOLE and Senator LUGAR and Senator D'AMATO understood full well. We discussed the meaning of this amendment. Its meaning is clear. It simply requires that there be a mutuality of obligation with respect to the interpretation of the treaty. In fact, I think it does disservice to the Byrd amendment to say that the Byrd amendment required, as apparently the Senator from Georgia thinks, that we be at a disadvantage. I certainly did not have that idea.

What I do say is that we must not be at a disadvantage. There must be mutuality with respect to interpretation. And, I repeat, Scoop Jackson would have understood that. He understood it during the time of the SALT I when he proposed, essentially, the same safeguards for the United States as we are proposing tonight with this very simple amendment.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER [Mr. LEVIN]. The Senator has 1 minute and 15 seconds remaining.

Mr. WILSON. Mr. President, I yield the remainder of my time to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague from California.

Mr. President, as the debate moves on, when we consider the ramifications of the Biden condition, as amended by the Byrd condition, we see really how far afield we have come. The distinguished Senator from California is proposing mutuality, which is the cornerstone of all treaty obligations.

This Senator has two amendments to offer to follow up to clarify the Biden condition, as amended by the Byrd condition. But if we do not pass this amendment, then we have destroyed the total foundation of international treaty interpretation, which is bottomed solely on mutuality of obligations. If that is not present, goodbye to treaties.

Mr. WILSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BYRD. Does this amendment qualify under the cloture rule, if cloture is invoked?

The PRESIDING OFFICER. The amendment is a first-degree amendment and was not filed by the deadline.

Mr. BYRD. Very well.

Mr. WILSON. Mr. President, could you repeat the ruling? I could not hear the Chair.

The PRESIDING OFFICER. The amendment is a first-degree amendment and was not filed by the appropriate deadline.

Mr. BYRD. Mr. President, I hope the Senators will reflect on the response of the Chair to that question and vote to table the amendment now so that we can get on with the business of the Senate. Otherwise, we will have a cloture vote.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, I request on our side a short quorum call, if that is permissible, so that Members might be notified.

Mr. BYRD. That is a good idea.

Mr. President, I ask unanimous consent that, upon the disposition of this tabling motion, the majority leader be recognized because, otherwise, upon the disposition of this tabling motion, cloture, under the previous order, will be voted on. So I ask that the majority leader be recognized at that time.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, let me just inquire: What would the effect be if the majority leader proceeded to invoke cloture on those remaining amendments?

Mr. BYRD. Only those amendments that had been timely filed under rule XXII would qualify under cloture. The Senator from California's amendments would not qualify.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Mr. President, reserving the right to object.

Mr. President, I will object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. What this means is that when the vote on a tabling motion is completed, the Senate will immediately have the mandatory quorum under cloture and then there will be the cloture vote.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. BYRD. Mr. President, I ask to proceed for 30 seconds. I am trying to save this treaty. I am trying to save this treaty because, as of now I think it is a good treaty and I would like to see the President have it before he leaves the summit. This is no empty threat. I think if we can get off the floor for just a few minutes we can resolve this, but as it now stands, if I do not get consent that I be recognized upon the disposition of this vote, the Senate will go to the cloture vote. And this amendment will not qualify under cloture.

Mr. WILSON. Did I understand the majority leader to ask for unanimous consent to postpone cloture?

Mr. BYRD. No. I might do that, depending on how this vote comes out. That is why I wanted to get recognition at the conclusion of this vote.

Mr. President, I ask unanimous consent that the majority leader be recognized for not to exceed 1 minute upon the conclusion of the rollcall vote which will occur on the tabling motion.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The question is on the motion to table Amendment No. 2325. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. STENNIS] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 160 Ex.]

YEAS—53

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Conrad
Cranston
Daschle
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Stafford
Weicker
Wirth

NAYS—45

Armstrong
Bond
Boschwitz
Chafee
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Heinz
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—2

Biden
Stennis

So the motion to table the amendment (No. 2325) was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, may we have order in the Cloakroom?

[Laughter.]

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Senators will have plenty of time to watch the game a little later.

The PRESIDING OFFICER. Will all Senators please take their seats? The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on cloture be suspended until I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators for their patience and attention.

This is a very beautifully worded amendment on its face. It almost had me voting for it. But this amendment will not uphold the role of this Senate under the Constitution and the making of treaties.

Mr. President, I warned Senators before this vote that if this amendment were not tabled, the President would not have the treaty before he leaves the summit. That is no empty threat. But Senators did not listen. I think we had three votes from the other side, three or four. The rest voted a party line vote, against their own President's having that treaty approved before he leaves the summit.

I have had a good bit to do with helping to save this treaty and helping the President to have it approved. I resisted the pressure to bring up this treaty until the faults could be corrected. The administration's negotiators went back to Geneva and corrected those faults. It is now a better treaty than it ever was before. If this is the kind of cooperation we are going to get, if we are going to continue to have to deal with Mickey Mouse amendments like this one that was tabled, the President is not going to have his treaty before he leaves the summit. And that is no empty threat.

Mr. WILSON addressed the Chair.

Mr. BYRD. Mr. President, I do not yield to anyone at this moment.

We Democrats have just saved the treaty, but we are not going to be in any longer tonight. I want Senators to think about this overnight.

I ask unanimous consent that following the prayer on tomorrow morning, the time of the two leaders be waived and that I be recognized for not to exceed 5 minutes, and that the vote on cloture be waived until I have yielded the floor at that time.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. I do not have any intention to object, but I would like to maybe speak for 3 minutes before we recess.

Mr. BYRD. Absolutely. Mr. President, I ask unanimous consent that the distinguished minority leader be recognized for whatever he wants; that I then be recognized for an additional 3 minutes and that the vote on cloture be suspended until I have yielded the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Republican leader is recognized.

Mr. DOLE. Mr. President, let me first indicate this amendment has been around for some time—in fact, probably a week or 10 days. It was never a part of any discussion. In fact, earlier today when I was asked to identify the amendments, I made it a point to identify this one rather precisely and I must say no one said a word. It is an amendment that Senator Scoop Jackson had offered previously to another—I do not know which particular treaty it was but with a couple of word changes the amendment was adopted at that time.

I think what we have now is a difference of interpretation. It is not this Senator's intention, after having walked the plank as I promised I would do, in support of the amendment of the distinguished majority leader today, to try to sneak in later and undo that. I do not operate that way. This amendment has been, as I indicated, pending for some time. I think I can speak for my other colleagues who were cosponsors of this amendment, and have been for some time, who may have voted not to table the amendment. So I would not want the Record—and I am sure the majority leader did not intend that—to indicate we were not cooperating because we disagreed on a matter of interpretation. Where we have had an agreement we have cooperated in an effort to get this treaty, I must say, for our President. As I said here last week to some of my colleagues on this side, this is our President and it was our obligation and it was our burden in particular on this side not to do anything that might derail prospects for passage of the resolution of ratification.

We have had, as the majority leader has indicated, his full cooperation or we would not be here now. We have had the cooperation of Members on both sides. The Senate has demonstrated that the Founding Fathers were right in giving us a constitutional responsibility. We have made some appropriate changes because of the Senate, so I hope that we do not have a falling out over this difference of opinion.

The Senator from Georgia and the majority leader see it one way and a number of other well-intentioned Senators, who I think in nearly every case are going to vote for the resolution of ratification, see it another way.

There is still the amendment of Senator WALLOP that is pending, two amendments by Senator PRESSLER, I think one or two that will be taken, and then there are two amendments that were filed, which would not be protected if cloture were invoked, by Senator SPECTER as part of the unanimous-consent agreement. So I would indicate to the majority leader that I believe we are fairly near the end. It might take 2 or 3 hours. And the majority leader is probably right, maybe if we come in tomorrow morning we can move right along.

I only rose to indicate to the majority leader that I believe we are cooperating, and I would not want the RECORD to in any way indicate that somehow we were at one point doing something and at another point trying to undo what we agreed to do earlier. So we are prepared to go on tonight.

All the amendments are on this side, so we have been hustling around all day trying to get Senators on this side to shorten the time they would take, and we believe we have a pretty good order and can probably complete action on all the other amendments in a couple of hours. I thank the majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader, and I could not ask for better cooperation than the Republican leader has given.

As I said earlier, when I first saw this amendment, I thought it was a good amendment and I would vote for it. Then I saw those words "applicable international law," and I began to think about the effect of the amendment. On its face, it looks good and I can understand how Senators could vote for it. But I warned Senators earlier when I made the motion to table. Yet, Senators would not listen, and our friends across the aisle voted the party line.

Let me say this about the party, Mr. President. I have been privileged to be this party's leader now for 12 years, but there are some things more important to me than party. I have never yet read a party platform, and I do not ever intend to read a party platform.

I have stood up for my party as strongly as has anybody else in my party when appropriate and necessary, but there are some things I put ahead of my party. The vote to table should not have been a partisan matter.

I want to thank Senators HATFIELD, WEICKER, and STAFFORD for voting to table the amendment. We are not going to have any more votes tonight. There are one or two other amendments like this one still hanging around. I am going to let that cloture motion also hang around until tomorrow morning. And remember that if cloture is involked there are 30 hours that can be utilized after that, and over a hundred amendments are at the desk. We have adopted an adjournment resolution that provides for adjournment either today, or Friday, or Saturday. It does not allow the Senate to go over to Monday. The Senate will be out until the week after next. Think about it.

[Disturbance in the Cloakroom.]

Mr. President, my speech is already having some results. [Laughter.]

Mr. President, was the order entered that allows the majority leader to be recognized on tomorrow morning following the prayer?

The PRESIDING OFFICER. That was part of the agreed to unanimous-consent request.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WALLOP. Mr. President, will the Republican leader yield?

Mr. BYRD. Perhaps Senators ought to listen.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. They will know how early the votes may occur tomorrow.

The PRESIDING OFFICER. The Senate will be in order.

THE INF TREATY

Mr. HEFLIN. Mr. President, on Monday, May 23, in a speech here on the floor of the U.S. Senate, I announced my intention to vote for the ratification of the INF Treaty and to reduce the potential of nuclear destruction of the world.

In my speech, while still having reservations, I briefly described the unprecedented verification provisions contained in the treaty, and intelligence capabilities with which we should be able to ensure Soviet compliance. Also, I briefly described reservations I have relative to the imbalance in conventional and chemical arms which exists between the Soviets and the NATO alliance, and the remaining deterrents to Soviet aggression in Europe. However, at this time, I would like to examine in more detail these matters, and then offer priorities which I believe the United States should adopt in the coming years to ensure further deterrence and guarantee our national security and that of our allies.

After two world wars, it is clear that the United States must do all that is necessary and proper to help defend and maintain Western European peace and security. Likewise, the defense of the United States is closely linked to the peace and stability of Europe. Any future outbreak of aggression in Europe would necessarily involve the United States.

It is very reassuring to know that all of the NATO alliance members support the INF Treaty and that the rules for verifying compliance have been resolved to the mutual satisfaction of the officials of the United States and the Soviet Union.

If the U.S. Senate fails to ratify this treaty now, I am afraid that we would send the wrong political signals to both NATO and the rest of the world. Granted there are some legitimate problems with the treaty that should to be addressed and accounted for immediately, yet, the overall treaty itself should be ratified.

Now, Mr. President, all these things considered, let me now turn to some of my concerns relative to the treaty.

On many occasions, the distinguished majority leader, Senator BYRD, stated that this treaty should be a good treaty for the United States. This INF Treaty would eliminate an entire class of nuclear weapons. However, if the treaty is not a good treaty for the United States as a whole, and would not increase the security of our NATO allies, we should not approve its ratification—no matter how historical and unprecedented it may be.

Mr. President, I must completely agree with the distinguished majority leader. We must ask ourselves, "Is this treaty good for the United States? Will the United States and NATO be more secure with the ratification of the INF Treaty, provided, of course, that the Soviets comply with it?"

Mr. President, I remain concerned over the Soviet's superiority in conventional forces and chemical weaponry, and I remain skeptical as to the treaty's verifiability.

The conventional superiority over NATO forces that the Warsaw Pact now currently enjoys is of great concern to me. Ratification of this treaty will make modernization of conventional forces in NATO countries more important than ever before. Our NATO commanders must have the ability to utilize a "flexible response" in the event of a Soviet conventional attack. Unless we substantially increase our efforts to modernize our conventional forces and substantially add to the actual numbers of those conventional forces, we will completely destroy the doctrine of "flexible response."

For decades, the Warsaw Pact has been building its conventional force levels, in terms of numbers, to the point that they could be insurmountable. If it were not for the technical advantage we and our NATO allies hold over the Soviets, the Warsaw Pact conventional superiority may well be insurmountable today. Now, through various means, not the least of which is espionage, the Warsaw Pact is rapidly gaining in technical breakthroughs in conventional weaponry. However, for now, Mr. President, I would like to simply deal with numbers.

In reviewing the report of the Armed Services Committee on the INF Treaty, I was interested in the supplemental views of our distinguished colleague from Arizona, Senator MCCAIN. In the report, the Senator from Arizona stated that in 1987, the Warsaw Pact had: One million servicemen as compared to 780,000 servicemen for NATO, a ratio of 1.3 to 1; 16,900 medium tanks to 6,500 for NATO, a 2.6 to 1 ratio; 22,000 armored personnel carriers and infantry fighting vehicles to 14,000 for NATO, a 1.57 to 1 ratio; 11,000 anti-tank guided missiles to 7,500 for NATO, a ratio of 1.47 to 1;

800 attack helicopters to only 500 for NATO, a ratio of 1.45 to 1; 1,100 multiple rocket launchers to 200 for NATO, a ratio of 5.5 to 1.

Mr. President, I could go on and on listing weapon systems in which the Warsaw Pact has a distinct advantage over NATO in conventional forces. In my judgment, this matter of the conventional imbalance between NATO and the Warsaw Pact must be addressed if we are to realize any type of significant arms control, and reduce the threat of war to our nation and our allies. I would have preferred that the President link, in some way, the conventional arms imbalance to the INF Treaty. While, the treaty does, in fact, address some conventional weapons—a mistake, in my judgment, in the case of conventionally armed ground-launched cruise missiles—it does not go far enough. It is my hope that the next administration will deal with this matter in a meaningful way.

As with conventional weapons, the Soviets have also slowly and methodically developed a tremendous stockpile of chemical weapons. Mr. President, for 18 years—from 1969 to 1987—the United States did not produce any chemical agents for use in weapon systems. During that time, our existing stockpile of chemical agents deteriorated to the point that its effectiveness and safety became questionable when operated by our servicemen.

Currently, the Soviets have a chemical war fighting capability far superior to that of the NATO alliance. The Soviets use modern chemical agents and protective systems as a major part of their conventional war fighting systems. This is Soviet doctrine.

Only last year did the United States again begin to produce chemical weapons, and this happened only after years of congressional debate. However, should they become available for deployment, neither of the binary chemical weapons of the United States, the 155-millimeter artillery shell nor the Bigeye chemical bomb, could be deployed in Europe during peace time. In addition, all existing unitary chemical weapons must be removed from West Germany by 1992.

Mr. President, it is my sincere hope that the matter of the chemical weapons imbalance between NATO and the Soviet Warsaw Pact will be a point of serious negotiations in Geneva. If this does not happen, the Soviets and the Warsaw Pact will hold the advantage in these horrid weapons for many years to come.

All this considered, let me now, Mr. President, turn to an issue which gives me the most concern relative to this treaty. This is the matter of verification.

There is no question that this treaty makes an unprecedented and historical step toward treaty verification procedures with the introduction of on-site inspection and the monitoring of each nation's activities. This is a breakthrough which cannot, and must not, be taken lightly. However, even with the advent of on-site inspection and monitoring, I have concerns relative to the actual verifiability of this treaty. What concerns me the most is the Soviets' past history of compliance with arms control treaties with the United States.

Mr. President, can we trust the Soviets? In my judgment, the answer is no, we cannot. The Soviets' past history with arms control treaties is outright deplorable. In that regard, the Soviets have never complied with an arms control treaty with the United States. Most recently, the President certified to Congress that the Soviets were, in fact, in violation of the 1972 ABM Treaty by constructing the Krasnoyarsk radar. This is only one of a great many of their arms control treaty violations.

However, we cannot overlook the fact that witnesses who appeared before the three Senate committees that were charged with reviewing this treaty testified that the treaty was effectively verifiable and that there was a high confidence that a militarily significant violation would be detected. I would certainly hope that all violations of the treaty would be detected and not simply those that have a military significance. Also, in private conversations with officials charged with ensuring the treaty's verification, I asked them point blankly: "Is this treaty verifiable?" While the answer would always be in the affirmative, voice, tone, inflection and expression repeatedly left me with some doubt.

I recall a recent news article in which an administration official who is a veteran of United States-Soviet arms control negotiations was quoted as saying, and I will only paraphrase here, that no agreement with the Soviet Union is finished until all of the papers are signed and sealed, and even then, it is usually not over. The truth is that the Soviets rarely live up to their agreements. Even with on-site inspections that take arms control verification further than ever before, we can never let down our guard. We should never forget that while glasnost is a very popular word these days, it is still a Soviet Communist world and the Communist doctrine of worldwide domination has not changed one bit. Mr. President, I am afraid that in their efforts to secure an arms control treaty before this President goes out of office, the administration may have acted too hastily and made mistakes which could easily lead to a situation of a decreased level of national security and a greater risk of war.

At any rate, Mr. President, again, we cannot ignore the consistent authoritative testimony by highly reputable administration officials that the treaty is effectively verifiable. Also, with our sophisticated intelligence capability and with inspection rights outlined in the treaty, I believe we have an unprecedented capacity to catch the Russians if they cheat. Thus, we have come closer than ever before to having a cheat proof treaty.

In that regard, I do not intend to oppose the treaty. However, I would call on the administration to develop a better compliance and response policy so that in the event the Soviets do violate this treaty, the United States will not simply make idle protests, but will take action that will either bring the Soviets into compliance or the United States out of the bounds of the treaty itself.

Mr President, all things considered, pros and cons, strengths and weaknesses, foreign policy and military strategy, in my judgment, the INF Treaty is a symbol of the strength and unity of the joint efforts of the United States and the NATO alliance. It represents the culmination of 9 years of implementing the landmark, historic duo-track strategy to proceed simultaneously with INF modernization and INF arms control.

As a result of this treaty, both the United States and the NATO alliance will enjoy restored public faith, as well as increase credibility in securing East-West peace. Also, as a result of this treaty, I believe we can safely say that we have reaffirmed the principles upon which NATO was founded 40 years ago.

Thank you, Mr. President.

RATIFICATION OF THE INF TREATY

Mr. RUDMAN. Mr. President, I rise today to support ratification of the INF Treaty. As a member of the Senate observer delegation at Geneva, I have carefully monitored the progress of the negotiations which produced the accord before us, and am mindful of the risks inherent in any such undertaking. Yet, after thoroughly reflecting on the treaty's substance and implications, I am satisfied that, on balance, it usefully serves U.S. and allied security interests.

To note the existence of some uncertainties, however, is not to devalue the strategic merits of the pact as a whole. It is, rather, to acknowledge reality and to dispel any illusion about what a single agreement can reasonably be expected to achieve within a complex strategic relationship. Superpower arms control is not an exercise in philanthropy. States with competing interests will enter into agreements limiting or, in this case, eliminating a portion of their military power only when they perceive strategic benefits in doing so.

Accordingly, no such agreement can be made absolutely foolproof or devoid of all risk. The challenge of prudent statecraft is to reduce those risks to minimal levels which can be managed effectively through calculated adjustment. It is critical, however, that we have reasonable confidence that the future force balance will not be revised to our disadvantage in a strategically meaningful manner. And ultimately, Mr. President, we need to inquire if the treaty advances the security objectives we sought when the negotiations commenced. On balance, I believe it does.

There can be little doubt that Moscow's introduction of the triple-warhead SS-20 missile in 1977 redefined the threat facing the Western alliance. The increased target coverage and additional options afforded Soviet military planners were the immediate tangible products of a dangerous disparity in "Eurostrategic" force deployments.

Even more ominous, perhaps, was the mobile SS-20's sinister potential to intimidate our European allies into making political concessions which would rend the fabric of NATO cohesion and decisively alter the continental power balance in Moscow's favor. The emerging strategic equation was frighteningly stark and chilling to contemplate.

As a result, in 1979, NATO, with the support of the United States, announced that it would deploy intermediate nuclear forces in Western Europe holding comparable Soviet targets at risk unless Moscow agreed to eliminate the SS-20's. In November 1981, President Reagan followed up on this by announcing the "zero option" dedicated to the total removal of the expanding SS-20 force and associated INF systems. This announcement, however, would surely have rung hollow in the absence of NATO's determination to take the concrete measures necessary to ensure its own security.

These two steps by NATO and the United States did not lead to any change in Soviet behavior so, in 1983, NATO decided to proceed with the deployment of Pershing II and ground launched cruise missiles in Europe. It is worth recalling how controversial this step was in the NATO countries. Efforts were made in Congress and in the parliaments of our allies to delay the deployment. Large public demonstrations were held in opposition to this step, notably in Great Britain and West Germany. The Soviet Union attempted to fan the concerns of those westerners fearful of the NATO decision by first threatening, and then actually walking out of all arms control negotiations.

Allied steadfastness in the face of withering pressure to make unilateral concessions which would have perpetuated a Soviet advantage in modern INF systems, was vital to achieving the agreement we now consider. The summit declaration of NATO leaders in Brussels earlier this year stressed that the INF Treaty was—

> * * * the impressive result of the political courage, the realism, and the unity of the members of the Alliance. The Treaty's provisions on stringent verification and asymmetrical reductions provide useful precedents for future agreements.

One is compelled to ask whether alternative strategies embracing options such as the once-touted "nuclear freeze" would have proven equally adroit. What strategic merit would have accrued from freezing in place a destabilizing imbalance in INF systems? To pose the question is, I believe, to answer it.

Yet in pursuing an equitable agreement, we did not fall victim to our often distressing tendency of negotiating with ourselves to mollify Soviet objections to stated positions. Consider, for example, that in advancing the zero option, we withstood the following, ultimately abandoned, Soviet responses:

That the initial proposal was totally unacceptable;

That the deployment of United States INF forces would terminate all arms control negotiations, bluster unmatched by reality despite a temporary suspension of the talks at Soviet behest in 1983;

That any putative agreement must cover British and French nuclear forces;

That the talks must include other intermediate-range U.S. nuclear delivery systems, such as forward-based bombers;

That any INF accord must be linked to an agreement which precludes strategic defenses; and finally,

That Moscow be permitted to retain 100 INF missiles in Soviet Asia.

Moreover, as recently as 1984, congressional critics and some leading academicians were predicting a dire crisis in United States-Soviet relations if we proceeded with the Pershing II and ground-launched cruise missile deployments instead of making preemptive concessions. Had we succumbed to domestic and foreign blandishments on this score, does anyone seriously believe we would now be on the threshold of removing the INF threat? I think not.

What does the INF Treaty do? It is noteworthy that the elimination on a global basis of an entire class of missiles systems will derive from markedly asymmetrical starting points that favor Moscow.

In the long-range INF category, the Soviets would give up 441 SS-20 and 112 SS-4 missiles, with an aggregate of 1,435 warheads. The United States, by contrast, would remove from Europe 108 Pershing II, 256 ground-launched cruise missiles and 72 obsolescent Pershing 1A missiles, all single-warhead systems carrying a combined 436 warheads. With respect to short-range INF systems, Moscow would yield 110 single-warhead SS-12/22 and 20 SS-23 missiles. The United States has no comparable systems in this category. As such, by ultimately removing Soviet weapons of choice for preemptive attacks against key NATO military assets and support areas at the outset of a conflict, the treaty enhances the alliance's deterrent capability against potential aggression.

It is, of course, well to recall that effective deterrence is largely a product of multiple uncertainties. While Moscow retains various options for providing target coverage to compensate for removal of the SS-20, the United States is hardly without alternative means for holding selected Soviet targets at risk. In addition, continuing upgrades to allied defensive systems provide increasing capability against the kind of threat which weapons, not covered by the pact, might plausibly pose. Beyond the sustained modernization of Western conventional forces, anticipated improvements to tactical nuclear assets will also enhance the credibility of NATO deterrence against an invasion by numerically superior Warsaw Pact units. The cumulative result of measured force improvements should still make the costs of contemplated aggression outweigh any conceivable benefits.

No agreement of military and political value is ultimately acceptable if compliance with its legal terms cannot be equitably and effectively verified by the signatories. It is here, Mr. President, that the most gnawing uncertainties associated with the treaty admittedly reside. Moscow's record of less than full compliance with previous arms control accords has been amply documented by the Reagan administration. Worrisome differences remain, within the intelligence community, over estimates about the acutal number of SS-20 missiles produced. We cannot discount the possibility that some SS-20 systems may be covertly stockplied and evade detection under the vertification procedures established.

To be sure, verification is an inexact science, with much depending on judgments made on the basis of often ambiguous and inconclusive data. And it is precisely on these counts, that a pact eliminating, as opposed to merely limiting, a given class of weapons, becomes a boon to verifiability. Once the period of phased removal of systems subject to the treaty has ended, any activity related to that system would be deemed a violation. A militarily significant infraction, such as missile construction or flight testing to assess reliability, could be detected with reasonable confidence by "national technical means" of verification. And the prospect of Moscow's brandishing covertly deployed systems of uncertain reliability for political intimidation, does not seem overly credible.

I would note, that the treaty incorporates unprecedented successive layers of inspection procedures to facilitate verification which transcend the prior exclusive reliance on national technical means. These involve comprehensive onsite inspections, including continuous monitoring of specific installations where missiles, launchers, and related support structures subject to treaty provisions are, or have been, located.

The designated inspection sites in the Soviet Union result from more than merely accepting Moscow's certification of its missile production, assembly and deployment complexes. The initial data base, which will undergo continuous revision, has been confirmed independently by U.S. intelligence-gathering systems.

Rigorous exercise of agreed inspection rights and prompt inquiry into questionable activities are essential to a healthy verification process. Under this treaty, the means for the United States to do so, exist.

The paramount question then becomes whether sufficient disincentives to noncompliance exist within the treaty to minimize the incidence of possible violations, and provide reasonable confidence that any infractions which may occur are not of a magnitude to alter the prevailing force balance to our disadvantage.

I am confident the answer to both these questions is yes.

Yet far beyond the terms of the accord itself lies an only vaguely appreciated strategic phenomenon. A new era is dawning, where the foundations of NATO theater deterrence subtly shift from principal reliance on nuclear weapons to increased emphasis on conventional forces. Sustained efforts to accommodate this reality are necessary. They must be accompanied by creative operational thinking to guide the development of doctrine and tactical employment concepts. This will, quite candidly, take money. Nobody should be under the illusion that this treaty will lessen our national defense obligations or efforts.

In this regard, I should take a moment and address the concern raised by some that the proposed INF Treaty will lead to a dangerous conventional force imbalance in Europe. First, the United States did not put intermediate nuclear weapons in Europe to address a conventional imbalance; those weapons were deployed to address a strategic threat which is being removed. Had Soviet INF missiles not been deployed, we would, today, be in the situation the INF Treaty is designed to produce. Second, the United States has spent the last 8 years, and tremendous amounts of money, for the express purpose of upgrading our conventional forces to redress that imbalance. While more remains to be done, this effort led by President Reagan, has had substantial effect. The solution to the remaining conventional imbalance is to continue upgrading United States and NATO forces. It is not to reject a treaty which eliminates destabilizing nuclear weapons.

Mr. President, history may not soon forgive us if we fail now to advance our security interests by ratifying the treaty. Manageable risk is an inescapable aspect of any worthwhile enterprise.

As we seek to further stabilize the strategic order, let us not waver in our resolve to conclude a START agreement which reflects the realistic precedents of the INF Treaty. Let no one ever question our constancy of purpose in taking whatever measures are required to meet challenges to our interests in a forthright manner. But finally, Mr. President, let no one ever accuse us of having lacked the vision to recognize our interests by irresponsibly rejecting agreements designed to contain threats to these interests.

INF TREATY RATIFICATION

Mr. ROCKEFELLER. Mr. President, in its consideration of the Intermediate-Range Nuclear Force [INF] Treaty, the Senate is fulfilling a solemn and historic mandate of shared treaty-making powers between the Executive and the Senate. The extensive hearings conducted by the Foreign Relations, Armed Services and Intelligence Committees bear witness both to the importance of this treaty and to the Senate's constitutional role in treaty-making. Today I rise in support of affirmative Senate advise and consent and passage of the resolution of ratification.

The INF Treaty, related protocols and memorandum of understanding, signed in Washington on December 8, 1987, by President Reagan and General Secretary Gorbachev, represents a unique and momentous achievement. For the first time since the dawn of the nuclear age, the two nuclear superpowers have agreed to destroy some of their newest and most capable nuclear delivery systems. Whereas previous agreements, such as SALT I, simply placed aggregate constraints on the two sides which required them to dismantle obsolete nuclear systems as newer models were deployed, the INF Treaty mandates the complete destruction of all United States and Soviet ground-based medium- and short-range cruise and ballistic missiles. Soon after entry into force, the INF Treaty will require both superpowers to engage in a dramatic spectacle: the destruction, by launching or burning, and crushing of thousands of modern nuclear delivery systems.

Another novel element of this treaty is the fact that the Soviet Union has agreed to asymmetrical reductions to reach equal limits. Over the next 3 years, the Soviet Union will destroy 1,752 INF missiles, while the United States will destroy 859 INF missiles in order to eliminate all medium- and short-range INF worldwide. The principle of asymmetrical cuts has an important bearing on future negotiations with the Soviet Union on conventional forces and chemical arms—two areas in which the Soviet Union maintains clear numerical superiority of deployed forces—as well as the ongoing Geneva talks on strategic force reductions.

A third unique element of the INF Treaty is the new ground it breaks in the ability to verify compliance. As with previous nuclear accords, national technical means will be heavily relied upon to verify adherence to treaty provisions. But the INF Treaty also contains long-sought-after intrusive monitoring provisions—provisions which the United States has promulgated in various manifestations, and which the Soviets have consistently rejected ever since the Baruch plan. Both sides will have the right under this treaty to conduct onsite inspections to verify the baseline from which reductions will occur, to conduct short-notice inspections, and to continue to monitor production facilities for a full decade after the INF systems are destroyed.

A fourth precedent worthy of mention is the high degree of involvement of America's Pacific partners in deliberations on the INF negotiations. For the first time in nuclear arms control, Japan, Korea, Australia, and other Asian nations were regularly consulted and took active interest in the evolution of negotiating positions. Of obvious concern to our Asian allies was the fear that we might agree to reductions in the European theater while ignoring ongoing SS-20 deployments in Soviet Asia. The final outcome was, of course, a global ban on INF systems—thereby protecting equally the security interests of our European and Asian allies. Under this treaty, 262 Soviet INF missiles capable of carrying 581 warheads will be eliminated from the Asian theater, due in no small measure to the active role played by our allies in the region.

In addition to these important precedents, Mr. President, the INF Treaty is widely seen as vindication of NATO's solidarity in adhering to the 1979 "dual track" decision to deploy Pershing II's and ground-launched cruise missiles [GLCM's] while simultaneously seeking to negotiate limits on that class of armament. Credit is due here not only to the conservative governments of President Reagan, Prime Minister Thatcher and Chancellor Kohl—but also to their democratic and social democratic predecessors who formulated the NATO decision in 1979: President Carter, Chancellor Schmidt, and Prime Minister Callaghan.

Mr. President, the treaty now before the Senate primarily affects nuclear systems which are deployed with or aimed at our allies in Europe and Asia. As I mentioned earlier, I believe that this treaty breaks important new ground in nuclear arms control—but it only affects a very small fraction of nuclear systems at the disposal of the United States and the Soviet Union. And none of the systems to be destroyed under this treaty are capable of striking the United States. The most direct impact of this treaty is the effect it will have on America's alliances.

For NATO, the ratification of the INF Treaty marks a watershed in the politics of alliance nuclear policy. For the past decade, the alliance has been engaged in a prolonged debate among defense experts and in the streets of London, Bonn, and Amsterdam concerning the role of nuclear weapons in NATO security. What has emerged is a political victory for NATO—but a qualified one. The INF Treaty has eased European anxieties about East-West confrontation, but has left in its wake considerable confusion and uncertainty about the future direction of NATO defense doctrine.

Part of this confusion stems from the somewhat unconventional approach of the Reagan administration toward strategic nuclear doctrine and NATO's agreed policy of "flexible response". From the "zero option", to star wars, to Reykjavik, the Reagan administration has mounted what seems to be an unintentional attack on the underlying precepts of Western nuclear strategy. The case study in the INF context is the way in which the "zero option" emerged—and how the U.S. arms control proposal for complete elimination of INF contradicted the rationale for the 1979 dual track decision.

Contrary to the prevailing wisdom, the primary rationale for the 1979 NATO decision was not the deployment of the Soviet SS-20, but the perceived need to bolster NATO's long-range nuclear deterrent in light of strategic parity. SALT II codified the strategic equivalence of the two superpowers and resurfaced old doubts about whether the United States would sacrifice Chicago for Paris. The growing obsolescence of existing nuclear systems (such as the U.K.-based FB-111's), along with fears that the United States might agree in SALT II to ban the transfer of cruise missile technology to Europe, caused considerable concern among European defense analysts about the credibility of America's nuclear commitment to the defense of a conventionally inferior Western Europe. These concerns were highlighted in a oft-quoted speech by Chancellor Helmut Schmidt at the London-based Institute for Strategic Studies in 1977. Soviet deployment of the SS-20 follow-on to the SS-4 and SS-5 intermediate-range missiles was one of the concerns expressed by Schmidt in 1978—but certainly not the primary one.

The North Atlantic Council's decision in December 1979 to deploy 108 Pershing II's and 464 GLCM's in five European countries was essentially the most recent of many alliance responses to the erosion of American nuclear superiority: the introduction of theater nuclear systems in the 1950's, the proposal for a multilateral force in the early 1960's, the creation of the high level group for nuclear policy consultation, the assignment of Poseidon nuclear warheads to SACEUR, and the adoption of NATO's doctrine of flexible response in 1969. That doctrine rejected the notion of massive retaliation in favor of a graduated spectrum of retaliatory options to deter Soviet adventurism—including the use of theater nuclear weapons, or, as they are now known, INF. The 1979 decision emphasized in particular the need to deploy a limited number of American weapons in Europe capable of striking Soviet territory in order to strengthen the credibility of extended deterrence.

The change of administrations in Washington in 1981 brought with it a marked increase in bellicose rhetoric toward the Soviet Union—rhetoric which served to fan European anxieties about basing additional United States nuclear weapons. As public opposition to the deployment of Pershings II's and GLCM's in West Germany, Belgium, Holland, Britain, and Italy began to grow, governments increasingly cast the rationale for those deployments in terms of countering Soviet SS-20's rather than the more arcane justification of bolstering the means to implement NATO's doctrine of flexible response.

It was in the context of growing European opposition to new INF deployments that the Reagan administration agreed in November 1981 to embrace the zero option—the United States would forgo planned deployments of INF if the Soviets would dismantle the over 200 already deployed SS-20's, SS-4's and SS-5's. This proposal was first adumbrated by the leftwing of the German Social Democratic Party and later embraced by the Regan administration as a means of allaying European concerns that Washington had little interest in pursuing the arms control track of the "dual track" decision. But it was obvious to all involved that the "zero option" was nonnegotiable at the time—and if accepted would have undermined the rationale for the 1979 decision. NATO's INF were deemed important for the coherence of NATO's own nuclear strategy—not because of Soviet INF modernization.

Five years after the Reagan administration proposed the zero option, a new Soviet leader called the President's bluff at the Iceland summit. What had been put forward in 1981 as a public relations exercise now had become a fait accompli; there was no way for political leaders in Europe or America to renege on the zero option offer. American nuclear weapons based in Europe capable of striking the Soviet Union were to be banned in perpetuity in exchange for deeper cuts in redundant Soviet systems. In a very real sense, the zero option means zero for the West—but not for the Soviets who can easily retarget longer range missiles on targets previously covered by the SS-20.

Mr. President, I have engaged in this historical review of the dual track decision not to argue against the treaty, but to indicate that in my view this treaty does not represent the most carefully considered, coherent approach to Western security interests. It is instead the result of having been trapped by this administration's cavalier approach to arms control in its first term. By pursuing arms control as a public relations exercise, we have ended up with a treaty which eliminates the one category of weapons we should retain in Western Europe while perversely increasing our reliance on those we should be eliminating—short-range nuclear systems.

Despite these shortcomings, Mr. President, I believe that the INF Treaty deserves the support of the Senate this week. Perhaps the single most important reason for supporting this treaty is not its military implications, but its likely political ramifications for East-West and West-West relations. The potentially historic changes underway in the Soviet Union may allow us to make lasting progress in stablizing the military competition between our two countries. This treaty, which breaks so much new ground in superpower arms control, holds out the possibility of fundamentally transforming East-West relations. As so many witnesses critical of the INF's Treaty had pointed out in their testimony—whatever conceptual faults the treaty may have, it would be an enormous political mistake for the United States now to abandon it, in terms of allied reaction as well as United States-Soviet relations.

The importance of the INF Treaty is primarily political, after all. The United States will still retain over 4,500 nuclear weapons and 325,000 troops in Europe capable of deterring Warsaw Pack aggression. The Soviet Union, absent any strategic arms restraints, will be capable of striking the entire range of targets covered by the SS-20's by simply retargetting strategic arms at shorter distances. The military missions previously assigned to INF missiles will be able to perform in other ways. The political legacy of the INF Treaty, on the other hand, is potentially of enormous significance. It promises to pave the way for genuinely historic nuclear strategic agreements with the Soviet Union. And it portends a basic turning point in the Atlantic Alliance and a maturation of America's security relations with its Asian allies.

The breakthroughs achieved in the INF negotiations—which, it should be noted, cover only less than 4 percent of the nuclear arsenals of the superpowers—make agreement with the Soviet Union on the vastly more complex strategic issues much more likely. The precedents of asymmetrical reductions, onsite and intrusive monitoring, and actual reductions of nuclear systems hold out great hope for the strategic and space talks. It will be imperative, however, that we approach these ongoing negotiations with a clearer sense of what it is that we hope to achieve beyond the superficially appealing allure of numerical reductions. And the inevitable reality is that for the foreseeable future we are going to have to continue to rely on nuclear weapons to deter adventurism or aggression. This, in turn, requires being serious about maintaining stable, survivable second-strike forces—as well as ridding ourselves of the delusion that erecting comprehensive strategic defenses will do anything other than stimulate increased competition in the ability to overcome those defenses, for example, an offensive arms race. This is the unassailable logic behind the 1972 ABM Treaty. It is still valid today.

For the North Atlantic alliance, the INF Treaty represents a political watershed. Confused by President Reagan's embrace of strategic defenses, shocked by the last-minute attempt at nuclear disarmament at Reykjavik, and unconvinced of the unambiguous wisdom of the INF Treaty, European political leaders and publics are now giving serious attention to the creation of a true European defense identity, largely as a hedge against an uncertain superpower guarantor. An unintended but, in my view, welcome consequence of the INF story is the additional impetus provided to the creation of the "European pillar" of which John Kennedy spoke. Franco-German security cooperation has been at the core of the renewed interest in the "European pillar," sparked in no small measure by French concern over the future direction of West Germany absent coherent NATO moorings.

The post-INF agenda for NATO is not an easy one. The elimination of an important category of NATO's nuclear deterrent "in theater" places increased importance on the conventional balance. Fiscal realities virtually assure that no NATO member will have the available resources to augment significantly NATO's conventional war-fighting potential. The focus will be on familiar formulas for doing better with less, greater prioritization, enhanced arms cooperation across the Atlantic. Yet the burden-sharing debate could well heat up to the point that—just as American forces in Europe are more important than ever—there will be a call to "punish" the Europeans by withdrawing a significant number of U.S. troops.

One very appealing way to deal with the conventional imbalance is through negotiated reductions and increased stability brought about by confidence building measures. A traditionalist's view of these talks would suggest that the West has a much greater need to achieve results than does the Soviet bloc and for that reason we should not expect any quick or easy progress. But economic reform pressures and the burden of military expenditures in the Soviet Union may well provide the basis for truly meaningful achievements in the CSCE follow-on negotiations.

A third troublesome item on NATO's agenda will be dealing with the military's perceived need for modernization of NATO's remaining short-range nuclear arsenal. The 1983 alliance decision in Montebello committed NATO members to a rationalization and modernization of the remaining 4,600 weapons assigned to NATO. But the polarization of Western European publics over the INF issues makes further nuclear modernization problematic in the foreseeable future—especially in light of continued progress in arms control and a much less menacing leadership style in Moscow.

The political legacy of the INF Treaty for Asia and the Pacific is less ambiguous. While the United States has engaged in close consultations on nuclear policy with NATO allies for decades, there had been a conspicuous lack of similar contacts with America's partners in the Pacific region. This changed with the onset of the INF negotiations in 1981.

Although the United States had not deployed any land-based INF in Asia, roughly one-third of the Soviet SS-20's addressed by the INF Treaty are deployed in Soviet Asia. From their bases in the Eastern U.S.S.R., nearly 170 triple-warhead SS-20's pose a devastating threat to Asian countries from Korea to Thailand. All of these SS-20's, along with 95 short-range INF SS-23's and SS-12's, will be destroyed within the next 3 years.

From 1981 through 1986, the Soviets insisted on focusing on European deployments only, while the United States—with the support of its Asian allies—pressed to include all Soviet SS-20's in any reduction regime. Continuing consultations with Asian nations served to keep the pressure for "global" limits alive both in Washington and, through direct bilateral talks, with the Soviets. The initiative of the Government of Japan to engage the Soviets in direct bilateral talks on this subject was of particular value in making clear to the Soviets the political costs of intransigence.

The result is that we achieved an agreement which will protect equally the security interests of our European and Asian allies. We have set in motion a much closer level of consultation on nuclear arms control policy with our Asian allies, and they in turn have enhanced the quality of debate within their own societies on the problems of nuclear arms control.

Soviet INF Missiles Reductions in Asia

SS-20, 162 deployed (5 nondeployed).
SS-4, 0.
SS-23, 22 deployed .
SS-12, 73 deployed.
Total, 262 deployed; capable of carrying 581 warheads.

Mr. President, I ask unanimous consent that a paper prepared by Mr. Leo Reddy entitled "INF Treaty: Implications for Asian-Pacific Security" be inserted in the RECORD immediately following my remarks. This paper was delivered last January at the Annual Pacific Parliamentary Conference, cosponsored by the Atlantic Council of the United States and the Pacific Forum. It represents a very cogent review of the Asian dimension of the INF story and I commend it to all of my colleagues. Mr. Reddy served as the State Department's representative at the Geneva negotiations on INF, although the views contained in this paper are his own and do not necessarily reflect administration policy.

Mr. President, I hope that my colleagues will support the Resolution of Ratification as reported by the Senate Foreign Relations Committee.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

IMPLICATIONS OF INF TREATY FOR ASIAN-PACIFIC SECURITY

(Address by Leo J. Reddy)

The Treaty on Intermediate-Range Nuclear Forces signed by President Reagan and General Secretary Gorbachev in Washington on December 8 represents a significant benchmark in the evolution of United States-Soviet relations. Among other things, this treaty, which will eliminate all land-based missiles with ranges between 500 and 5,500 kms, marks the first time that these two nations have agreed to reduce their respective nuclear forces.

Beyond the import of this treaty for bilateral United States-Soviet relations, this agreement has special and important implications for Asian-Pacific security. Since this is an important aspect of the INF Treaty which is not well understood publicly, it is instructive to review the ways in which INF relates to Asian-Pacific issues. In presenting this review, I will provide my personal assessment as an INF negotiator and not the official assessment of the U.S. Government.

THE HARD ROAD TO "GLOBALITY"

Asian-Pacific security was, in fact, one of the most difficult and critical issues throughout the INF negotiations. In the parlance of INF this was known as the "globality" issue. It is instructive to recall the highlights of the protracted negotiations between the United States and the Soviet Union on this problem.

From the very opening of the INF negotiations in Geneva in 1981, the Soviet Union adopted the firm view that any INF agreement should deal only with Europe. The Soviet side had a single-minded objective; to prevent the United States from deploying INF missiles in Europe to counter Soviet SS-20 deployments. When the United States, also from the very beginning of the talks, argued for a global rather than a regional European agreement, the Soviet side claimed that SS-20 missiles in Asia could not be limited under an agreement because they were needed to counter growing U.S. nuclear power in the Pacific, especially sea-based cruise missiles and dual-capable aircraft. The United States pointed out that ballistic missiles seemed an improbable weapon to use against ships and planes.

Frankly, we would not have been surprised to hear the Soviets say that their SS-20s in Asia were intended mainly to counter Chinese military power, including Chinese nuclear capabilities. Yet the Soviets would never admit publicly that their SS-20 deployments had anything to do with China. They consistently maintained their focus on U.S. nuclear power in the Pacific.

The United States had a strong case to support its position in favor of a global agreement. Given their mobility and transportability, SS-20 missiles could be moved readily from one region to another. Reducing missiles in Europe alone would not contribute to global stability, since the threat could simply be transferred from Europe to Asia. As it was, one-third of the Soviet SS-20 force—180 deployed missiles carrying 540 warheads—was located in Soviet Central Asia in places like Novosibirsk, Barnaul, Kansk and Drovyanaya. From these strategic strongholds, SS-20 missiles, with their 5,000 km range, could threaten nearly every nation in East Asia, Southeast Asia and South Asia, where roughly one-half of the world's population resides. There was no objective basis for limiting this agreement to Europe alone.

After two years of debate on this subject, in the fall of 1983—when Soviet Asian SS-20 deployments were essentially complete—Mr. Andropov offered to freeze these missiles at their current levels in Asia as long as there was "no change in the strategic situation." The Soviets never defined this phrase precisely, but they clearly meant that the freeze would end if the U.S. deployed land-based INF missiles in Asia. If accepted by the U.S., the practical effect of this offer would have been to legitimize a Soviet monopoly in land-based INF missiles in Asia. This freeze offer was thus wholly unacceptable to the U.S.

When the INF talks resumed in Geneva in March 1985 following the Soviet walkout, the Soviet side withdrew even this Asian freeze offer and debate over the "globality" issue began all over. During the debate the Soviets tried to get the U.S. to agree that it would never deploy INF missiles in Alaska, which was wholly unacceptable to the U.S. The turning point came in October 1986 when the Soviet Union agreed to reduce its SS-20 missile force in Asia to 100 warheads. This did not happen by accident. Before Reykjavik, Asian nations, particularly Japan and China, had expressed to the Soviet Union in strong terms that reductions of only those SS-20 missiles located in Europe without proportionate and concurrent reductions of such missiles in Asia would not be conducive to their bilateral relations with Moscow. In addition, the U.S. agreed at Reykjavik to confine its corresponding 100 warheads to U.S. territory, not excluding Alaska.

This agreement marked major progress on the Asian SS-20 issue. Asian concerns remained, however, over Soviet determination to return some SS-20 missiles in Asia, while eliminating them in Europe. Criticism also appeared in the U.S. over an arrangement under which the Soviet Union would retain 100 SS-20 warheads in Asia, where they could reach military significant targets, while U.S. missile warheads would be confined to U.S. territory, where they would obviously have far less military value. As pressure grew on the Soviets to agree to eliminate their final 100 SS-20 warheads in Asia, they at first lashed back, demanding that, in return for such action by the Soviet Union the U.S. must withdraw its seabased nuclear forcs and nuclear capable aircraft from the Asian region.

This protracted debate finally drew to a close last July when Mr. Gorbachev invited a journalist from Merdeka, an Indonesian newspaper, to his Kremlin office and informed him of his decision to drop the earlier Soviet requirement for 100 SS-20 warheads in Asia. The result is that the INF Treaty makes no reference whatsoever to regional distinctions. Both sides will eliminate their intermediate-range and shorter-range INF missiles on a global basis.

There is no question that this is a significant development in Soviet military strategy in Asia. The dramatic deployment of SS-20 missiles since 1977 had spearheaded the Soviet military buildup in Asia. The SS-20 had become the primary Soviet ballistic missile system targeted against that region.

Yet the Soviet Union agreed under an INF treaty to eliminate this force entirely, without any corresponding U.S. reductions in Asia or any restrictions on Chinese nuclear capabilities.

THE KEY ROLE OF ASIAN STATES

The question is, why did the Soviet Union agree to take this step? As always in trying to unscramble the mysteries of Kremlin decision-making, one can only speculate on Soviet motives. One common line of analysis might be that the new Soviet leadership had simply decided that the SS-20 force, which had been deployed as much for political as for military reasons, had become a political liability. rather than intimidating states on the Soviet periphery, this nuclear weapons system was galvanizing opinion against the Soviet Union and had thus lost its principal utility. Another explanation could be that Moscow recognized that acceptance of global zero, which had been proposed by President Reagan in 1981, would improve chances for reaching a nuclear agreement with the U.S. and that Mr. Gorbachev, for his own domestic reasons, wanted such an agreement to bring about a change in direction in U.S.-Soviet relations.

As a participant in the negotiations, I find all these explanations plausible. Yet, I am even more impressed with an analysis based upon the role of the Asian nations themselves. Observing Soviet behavior on this issue close at hand in Geneva, I was often struck with the difficulty Soviet officials had in justifying their position against SS-20 reductions in Asia. The more the Asian nations expressed their concerns over SS-20 deployments in Central Asia and over the Soviet refusal to treat European and Asian security concerns equally, the more defensive Soviet negotiations in Geneva became on the "globality" issue.

Most of the direct pressure on Moscow on this issue from Asian nations came in the last 15 months of the INF negotiations. Those nations' forthrightness in registering directly with Soviet officials their deep concerns over Soviet SS-20 missiles in Asia was a bold departure and a highly successful one. It was critical to the achievement of the INF Treaty. Special thanks for this initiative—especially the insistence on concurrent and proportionate reductions between Europe and Asia—should go to members of the Japanese Foreign Ministry.

What must have been convincing to Mr. Gorbachev and his colleagues was not just the diplomatic activism of Asian governments on the SS-20 question, but the correlation of forces which lay behind their actions. While in years past, the Soviet Union had not hesitated to use its military power to intimidate weak Asian states, Mr. Gorbachev and his colleagues must now deal with an Asia whose economic growth, technological dynamism and financial strength command great respect. In making his decision to eliminate Asian-based SS-20 missiles, Mr. Gorbachev must surely have been influenced in part by the commercial and technological cooperation with the vibrant countries of East Asia and the Pacific. The second was that some of these nations were adopting a position that threatening Soviet military behavior, particularly in the nuclear field, could well jeopardize that cooperation.

IMPLICATIONS FOR FUTURE SOVIET POLICY

What are the implications of these developments for future Soviet conduct in the Asia-Pacific region? Much will depend upon which of the foregoing analytical possibilities are correct. If Moscow agreed to eliminate Asian based SS-20 missiles simply as a tactical necessity to secure an arms control agreement with Washington, then we can expect very little additional change in Soviet politico-military policy in the Asian region. On the other hand, if Moscow's agreement to eliminate those missile systems reflects an awareness of the new political-economic realities there, then we can expect a continuing evolution of Soviet policy away from the use of military means to influence Asian states and towards expanded economic cooperation.

All of us will need to observe Soviet conduct closely to see which path the new Soviet leadership will take.

An early indication will be the outcome of the negotiations in Geneva, which are resuming this week, on strategic arms. If the Soviets are willing to reach an agreement which resolves the problems posed by their dependence on the most threatening nuclear weapons systems, heavy ICBMs, which addresses the special difficulties created by new Soviet ICBM systems, the road-mobile SS-25 and rail-mobile SS-24, which no longer holds a strategic agreement hostage to U.S. concessions on SDI, and which is effectively verifiable, then a treaty on 50 percent reductions in strategic nuclear arms may indeed be possible. And such Soviet moves would suggest that Mr. Gorbachev has firmly decided to downplay nuclear weapons as instruments of political coercion.

I might note that the two sides made good progress on important elements of a START treaty during the Reagan-Gorbachev Summit in December. It is too soon to say, however, whether a treaty on this vast subject will be completed in time for the Moscow Summit in June.

Beyond an INF treaty and a possible START agreement, we must also monitor closely Moscow's uses of the numerous other military instruments which will continue to be available to Soviet policymakers. Even after a START agreement, the Soviets will still have a large number of strategic nuclear weapons; and short range nuclear missiles with ranges below 500 kms will not be limited by any agreement. A quarter of Soviet land divisions is still located in Asia, the Pacific Ocean Fleet has become the largest of the Soviet Fleets and the Soviets have made significant qualitative improvements in their bomber forces. Moreover, the Soviets may try to use the momentum generated by arms control agreements to renew political pressure on the U.S. and its Allies to withdraw America's military forces from Asia and weaken the structure of collective security.

Let us turn then to policy implications for our side deriving from our experience in negotiating an INF Treaty with the Soviet Union.

IMPLICATIONS FOR FUTURE ALLIED POLICY

In my view, the INF experience suggests three policy directions.

First, we must maintain our military strength and a full range of military options. From this position, we can deal confidently with whatever use the Soviet leadership makes of its various military instruments, with or without nuclear arms control agreements.

The main lesson learned from INF is the importance of dealing with the Soviet Union from a position of strength. Only when the U.S. and its NATO Allies began deployments of Pershing II and ground-launched cruise missiles in Europe did the Soviets begin to negotiate seriously in Geneva. Only when the Soviets recognized that those deployments would continue until the agreed NATO levels had been reached did they move beyond public propaganda and into the hard work on concrete details, binding legal formulations and intrusive verification measures which are the building materials of sound arms control agreements. Only military strength makes such agreements with the Soviet Union possible.

Second, both America's Asian allies and European allies need to define their security interests increasingly in global terms. Quite frankly, the INF record is spotty in this regard. Our Asian allies seemed preoccupied with the single question of whether an agreement would treat them less favorably than Europe and were not vocal in their support of those European leaders who acted with great political courage in permitting U.S. INF missile deployments on their territory against powerful domestic resistance. The NATO allies favored globality, but seemed more motivated by concern over the fact that SS-20 missiles in Central Asia could still reach parts of Europe and could be redeployed Westward than over the threat which those missiles posed to the consultations between America's Asian and European allies on meeting this grave Soviet threat.

Yet, the concrete experience of INF certainly indicates that closer consultation among these allies on security issues would be in the mutual interest of Europe and Asia in dealing with the Soviet Union. Trilateralism may be too limited a concept, since it does not involve enough Asian nations. The Pacific Parliamentary Caucus is an admirable recognition of the close interrelationship between the interests of many nations in the Atlantic and Pacific regions.

More than better mechanisms for consultation, however, what is needed is a fundamental change in attitude and perception. NATO countries continue the old habit of thinking of the Soviet Union exclusively as a European power, while Asian friends and allies are preoccupied with the Soviet Union's Asian dimensions. Their policies need to reflect the fact that the Soviet Union is a Eurasian power. This geopolitical fact of life gives the Soviets a distinct advantage, since they can follow differentiated policies in the two areas and shift their military resources rapidly from one region to the other. The only way for Europe and Asia to minimize these Soviet advantages is to maintain a global view of their own interests and to remain in close communication with each other.

Third, our Asian allies and friends should act with increasing self-confidence in defending their security interests directly with Moscow. They should recognize that their markets, economic resources and technological know-how give them a significant leverage. In particular, they should not hesitate to establish a strong link between Soviet behavior in the military sphere and the prospects for cooperation in the economic sphere.

The combination of these three policy directions—strength, unity and self-confidence—will provide a powerful incentive to the Soviet Union to conduct its relations with Asian states along the lines of mutual interest and peaceful cooperation.

THE INF TREATY

Mr. WARNER. Mr. President, during the recent May recess, the senior Senator from South Carolina, and the ranking member of the Strategic Forces and Nuclear Deterrence Subcommittee, Senator Thurmond, made a trip to Germany to discuss INF issues with senior military commanders. Following his trip, Senator Thurmond reported his timely findings to Chairman Nunn and myself.

The issues raised by Senator Thurmond with senior military leaders are most pertinent to the INF Treaty ratification process and to the post-INF period, and I will ask that the entire text of the Senator's report be made part of the Record.

Senator Thurmond has already addressed on the floor his findings with respect to the issue of amending the treaty to allow conventional ground-launched cruise missiles, a matter that the Senate disposed of yesterday. The report notes several reasons cited by military commanders that support the action taken by the Senate yesterday in rejecting the conventional cruise missile amendment to the treaty. These include military concerns about verification, and military concerns about potential Soviet use of conventional ground launched cruise missiles to deliver chemical warheads on critical NATO targets.

Mr. President, I believe the Senator's report is a valuable addition to the overall record of the ratification process and I congratulate and thank Senator Thurmond for his efforts.

I ask unanimous consent that the entire text of the report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report of Senator Strom Thurmond—Trip To Discuss INF Treaty Issues With U.S. Military Commanders in NATO—May 4–8, 1988

ITINERARY

The focus of the trip was to discuss INF Treaty related issues, especially post-INF challenges, with senior U.S. military commanders in Europe. To this end, I was fortunate in being able to meet with three of the most senior U.S. military leaders in Germany, and their staffs: General Thomas Richards, USAF, is the Deputy Commander in Chief, United States European Command; General Glenn Otis, USA, is the Commander of U.S. Army forces in Europe; and General William Kirk, USAF, is the Commander of U.S. Air Forces in Europe. Each of these leaders is directly involved with forces covered by the INF treaty, and they, or their successors, must meet the challenges posed by the post-INF era.

In addition, I was able to visit the headquarters of V Corps, one of the two U.S. Corps facing Warsaw Pact forces, which afforded an opportunity to receive briefings and to participate in discussions with Chief of Staff BG Ross W. Crossley and V Corps Artillery Commander BG Richard Reynard, and their staffs. My visit to V Corps also afforded an opportunity to visit troop and family related facilities in the Frankfurt areas.

I was accompanied on this trip by Mr. Robert Bott, Professional Staff Member on the Senate Armed Services Committee, and by LTC Robert Bludworth, USA, from the Office of Army Legislative Liaison.

My findings from these visits and discussions are summarized by topic area in the paragraphs that follow.

RATIFICATION OF THE INF TREATY

The senior military leaders with whom I spoke were unanimous in their support for ratification of the INF Treaty. While several leaders observed that if they had it to do over again, they might have approached the arms control process differently (specifically, they would have demanded progress in conventional arms control before signing an INF Treaty), all agreed that failure to ratify would be a disaster for the alliance. Several pointed to the political difficulty in the current environment for sustaining support for continued NATO INF deployments if the U.S. failed to ratify what is a very popular treaty in Europe. Moreover, U.S. failure to ratify the treaty would not jeopardize continued deployment of Warsaw Pact INF forces.

AMENDMENTS TO THE INF TREATY

I solicited the views of each of the military leaders with whom I met about amending the INF treaty to permit deployment of ground launched conventional cruise missiles of INF range. There is no support among these leaders for such an amendment, and several indicated that they had been consulted during the negotiations on the conventional cruise missile issue. All pointed to the difficulty of verifying the treaty if conventional cruise missiles were permitted. One noted, for example, that it would be very difficult to determine whether a nuclear weapon had been substituted for a conventional one, and that the treaty provision permitting the retention of the nuclear warhead device would facilitate this possibility. There was general concern about Soviet cheating.

Another leader noted the significant advantage from his perspective of eliminating all ground launched missiles of INF range was that significant Warsaw Pact chemical weapons delivery capability would thereby be curtailed. Of particular concern to NATO military leaders has been the threat of long range missile delivery of chemical munitions on critical targets such as ports, airfields, and POMCUS sites.

IMPLEMENTING THE TREATY

I was briefed on both Air Force and Army plans for carrying out the phased reduction and verification aspects of the INF Treaty. The schedule, by base and by system, for phased destruction seems to be well thought out, although some details about methods and location of destruction remain to be finalized. Consideration has been given to the requirements of verification and the impact of Soviet inspectors having access to facilities co-located with unrelated but sensitive missions. Exercises of verification procedures have already begun.

Both Air Force and Army staffs have developed plans to utilize the facilities made available by the destruction of INF missiles, and to realign the personnel from Ground Launched Cruise Missile (GLCM) and Pershing II units. Both Air Force and Army leaders noted that INF deployments were accomplished to a considerable degree "out of the hide" of other European missions. They emphasized that we should not expect to see a net manpower reduction in the European theater as a result of the INF Treaty.

CHALLENGES IN THE POST-INF PERIOD

Discussions about the challenges that the Alliance will face in the post-INF period focused on the need for conventional and theater nuclear modernization, and on the need for progress in arms control to limit conventional and chemical weapons.

Two of three senior military leaders, when asked whether higher priority should be attached to theater nuclear or to conventional forces modernization, responded that theater nuclear modernization, and in particular longer range systems, should enjoy priority. Depending on the command, a long range standoff tactical air-to-surface missile (TASM) and a longer range replacement for the LANCE missile were emphasized. Continued modernization of the artillery fired atomic projectiles (AFAPs) was strongly supported on the basis of safety, reliability, and effectiveness. It was also noted that there need not be a one-for-one replacement of existing AFAPs, but there is a requirement for more modern 155 millimeter atomic projectiles than is permitted under existing law.

All leaders emphasized the importance of dual capable aircraft (DCA) in the post-INF period, and made a strong appeal that these systems not be included in a conventional arms control agreement. They also noted the improvements in DCA capability that will result from the F-15E.

All leaders noted the significant warfighting, force structure, and resource advantages of dual capable systems, while recognizing the potential complication that they present to the arms control process. No leader I consulted considered dual capability to undermine conventional effectiveness and one noted changes in the nuclear alert posture that have had the effect of making more DCA aircraft available for conventional missions and training.

One leader also emphasized the need for the Weapon Security Storage system (WSS) as an urgent post-INF priority. This system affords secure storage of nuclear weapons within a hardened aircraft shelter. In effect, this system presents the enemy with a multiple aimpoint problem similar to the one presented by deployed Pershing II and GLCMs. In the absence of WSS, the Soviet planner need only focus his resources on a limited number of airfields and weapon storage areas.

The leaders also emphasized the need for continued support for conventional modernization. This point was most clearly brought home by a V Corps net assessment of their force posture, including chemical weapons capability, versus the Warsaw Pact's Eighth Guards Army that faces them across the border.

Several leaders emphasized the importance of airlift and sealift as an essential part of the overall conventional modernization picture. Continued support for the C-17 was emphasized in this context.

All leaders emphasized the importance of progress in conventional arms control in concert with conventional modernization. Their points echoed similar arguments made during Armed Service Committee hearings with respect to the need for asymmetrical reductions (including unilateral Soviet reductions at the outset) and the need to reduce the most threatening aspect of the Soviet conventional force posture, namely their tank and motorized artillery.

One final note is germane to the post-INF period, and that is the challenge presented by the leadership of General Secretary Gorbachev. Several leaders cited recent polls in Europe that found the Soviet leader to be more popular than the American President. NATO's political and military leaders know that the Soviets must continue to be judged by their deeds and not by their words—and that there is no evidence that the Soviets have abandoned their aggressive goals. The leaders with whom I spoke saw a formidable challenge for NATO leaders to convince their populations that the threat has not diminished, and of the need to remain steadfast in meeting that undiminished threat.

OTHER ISSUES

Each time I visit our troops in Europe, I am impressed by the quality and dedication of our service men and women. Several trends in the makeup of our forces became apparent during this visit.

One is the education level of our troops. In V Corps, for example, over 95% of the troops have high school degrees, and over 50% are taking college level courses. A second trend is the growing percentage of married personnel in our armed forces—again, over 50% in V Corps. These developments put special demands on the facilities in Europe that are essential to maintain the quality of life our more educated and more career minded service men and women deserve and expect.

I toured Department of Defense Dependent Schools (DODDS) facilities in the Frankfurt area whose physcial plant frankly does not begin to meet acceptable standards, and I intend to follow up with the DoD on the resource prioritization process that has permitted this situation to develop.

Another quality of life issue is the increased demands on the Post Exchange system brought about by the higher percentage of married soldiers and by very adverse currency exchange rates. In this environment, it is essential that the Army Air Force Exchange System (AAFES) place its highest priority on serving the special needs of our uniformed men and women overseas.

Finally, I had the opportunity to meet with several members of the German community who have made a substantial contribution to the American military community in Germany. Cooperation and friendship between Americans and Germans are and will increasingly continue to be key features of the quality of life enjoyed by our service men and women, and their families, stationed in Germany.

Mr. MOYNIHAN. Mr. President, we embark today on something novel: the destruction of nuclear weapons. As Members of the Senate, we have the responsibility to act on the Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles, deciding either to approve or to reject its ratification. I will vote to approve ratification of that treaty.

For nearly 7 years, American and Soviet negotiators worked to reach the agreement now before us.

In 1977, the Soviets began to deploy intermediate-range ballistic missiles aimed at Western Europe. In 1979, NATO responded with a "dual track" strategy. President Carter stated that the United States would send intermediate-range Pershing II's and ground-launched cruise missiles to Europe, but would negotiate reductions if the Soviets were willing. Formal negotiations began on INF in November 1981.

As a member of the bipartisan Arms Control Observer Group since 1985, I watched the negotiation process. I made visits to Geneva with that group in July 1985, February 1986, and June 1987.

In several respects, the INF Treaty differs from previous arms control agreements. It requires the total elimination of an entire class of nuclear missiles. It mandates asymmetric reductions, requiring the Soviet Union to eliminate more weapons systems than the United States. Finally, the treaty includes intrusive onsite inspection procedures.

In 1979, I wrote an article for the *New Yorker* in which I argued that for all its virtues, the SALT II Treaty did nothing to *reduce* the number of nuclear weapons. Ronald Reagan called me in August of that year to express his agreement with my view. The INF Treaty before us breaks the pattern of arms control agreements which facilitate increasing nuclear arsenals.

The United States and the U.S.S.R. may now rely on this precedent of eliminating entire types of weapons systems to resolve other arms control problems. By approving the INF Treaty, the Senate can endorse a new objective for future agreements on both strategic and conventional weapons.

The INF Treaty breaks new ground on verification. The agreement provides for unprecedented onsite inspections, including sudden, unannounced visits. American experts will verify the numbers of Soviet missiles declared on the execution of the treaty. They will observe the destruction of Soviet missiles. They will inspect former INF missile bases in order to insure that no missiles have been retained in violation of the treaty. Finally, American inspectors will conduct continuing surveillance at a Soviet missile production facility to insure that INF missiles are no longer being built.

The Soviet acceptance of onsite inspection sets an important precedent. In conjunction with verification through national technical means, onsite inspections allow confidence in our ability to determine whether significant Soviet violations have occurred. The INF precedent improves the tools that will be available to verify any future START agreement.

American negotiators accomplished a great deal before the signing of the treaty. The Senate's delay of debate on the treaty until it received clarification of ambiguities provided the negotiators with the leverage to accomplish even more. The treaty before us should now be approved.

I support the INF Treaty. I know what is in it, I have watched it be negotiated.

The people of New York support this treaty. During a series of town meetings in January, I polled those attending on their opinions of the treaty. At each meeting, the overwhelming majority favored ratification. Mr. President, I ask unanimous consent that a list of the dates and locations of those town meetings be included in the RECORD.

I also ask unanimous consent that a joint letter from the New York Committee for a Sane Nuclear Policy and the Downstate New York Nuclear Weapons Freeze be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW YORK TOWN MEETINGS POLLED ON THE INF TREATY

January 12, 1988, Cheektowaga, N.Y. (Erie County); Albion, N.Y. (Orleans County).

January 13, 1988, Penn Yan, N.Y. (Yates County); Montour Falls, N.Y. (Schuyler County).

January 14, 1988, Ithaca, N.Y. (Tompkins County); Elmira, N.Y. (Chemung County).

January 19, 1988, Mineola, N.Y. (Nassau County); Riverhead, N.Y. (Suffolk County).

NEW YORK COMMITTEE FOR A
SANE NUCLEAR POLICY,
New York, NY, March 2, 1988.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: We are writing to urge you and your colleagues in the Senate to give your consent to the INF Treaty. We think that the treaty merits prompt ratification without amendments or reservations. We see many virtues to both the treaty and its passage.

First, and most obvious, is that the treaty would eliminate a whole class of nuclear weapons from Europe, which has the densest concentration of such weapons in the world. The Soviet intermediate weapons have given our allies cause to believe that they face a military threat distinct from that faced by us. Our intermediate weapons, particularly the Pershing II missiles, being first-strike capable weapons situated minutes from major Soviet cities and military facilities, must make any Soviet leader seriously question our intentions, possibly to the point of adopting a policy of launch on warning. Neither sentiment is conducive to the stable political and military structures on which we base our hopes for peace.

Second, the Treaty sets many new precedents for verification of arms accords. It embodies many longstanding American aims, particularly the right to on-site inspection. It requires a high degree of Soviet-American cooperation to carry out its provisions over 13 years, in effect making the avoidance of nuclear war a joint Soviet-American project.

Third, it paves the way for agreement on cuts in strategic weapons. It is the first time that the U.S. and the U.S.S.R. have agreed to eliminate a large number of nuclear delivery vehicles. That is an important precedent for future reductions.

Fourth, the INF Treaty allows us to begin to discharge our obligations under the Non-Proliferation Treaty. One cannot expect other nations to abide by that treaty indefinitely if we and the Soviets refuse to carry out the reductions agreed to by the nuclear powers.

There are several concerns being raised in connection with the INF Treaty that we feel merit consideration, but not by amending the Treaty or adding reservations.

First, there are some who feel that the departure of intermediate weapons from Europe gives greater importance to what they see as Soviet superiority in conventional arms. From a full assessment, taking into account such factors as training, readiness, and quality of weaponry, there emerges a picture of rough parity in Europe rather than decisive Soviet advantage. But even for those who believe otherwise, the INF should be seen as a useful precedent, with the Soviets destroying many more weapons than the U.S. The INF establishes the principle of asymmetrical reduction where disparity exists. The U.S. and the U.S.S.R. have agreed to negotiate balanced reductions in conventional forces. Passage of the INF could give these efforts new energy. We urge that the Executive branch make special efforts to move these negotiations to a high priority.

Second, we do not want debate over the INF to obscure the larger aim of bringing a halt to the Arms Race. Admittedly, the INF is a small step: it encompasses a small proportion of Soviet and American nuclear weapons. For addressing the larger issues of strategic weapons, and modernizations that bring more and more weapons capable of being used in a first strike, we call upon the Senate to work with the House toward a cutoff of funding for nuclear warhead and ballistic missile flight testing in a bilateral framework. However, the INF Treaty does not impede progress on these larger aims and does create a favorable climate for their resolution.

Turning down the INF Treaty or hobbling it with reservations would do great damage. It would cause tremendous consternation in Europe and great recrimination against the U.S. We would be seen as being unable to take yes for an answer. It would dim or even extinguish the prospects for progress on strategic weapons or conventional forces. And it would put our commitment to the Non-Proliferation Treaty in a very unfavorable light.

For all these reasons, we urge passage of the INF without amendment. It deserves passage in its own right; it sets the proper context for progress in other areas; and rejection would do U.S. interests great harm.

Sincerely,

John Dougherty, Chair, Downstate N.Y. Nuclear Weapons Freeze Campaign; Peggy Guiton, Chair, East Side FREEZE; Hortence Lopez, Chair, Brooklyn Coalition for Peace and Justice; Queens Nuclear FREEZE Campaign; Carola Walton, President, Greenwich Village Coalition Against Nuclear Arms.

Rose Marie Franklin, M.M., Coordinator, Peace & Disarmament Program, Intercommunity Center for Justice and Peace; Betty G. Lall; Jacques Sartisky, Chair, Life Insurance Committee for Nuclear Disarmament; West Side SANE/FREEZE; Andrew Bernhard, Flatbush-Midwood SNAP; Laura Seitz, Chairperson, Westchester Nuclear Weapons Freeze Campaign.

Harold W. Egeln, Jr., Executive Director, N.Y. SANE Council; Alex Smith, Chair, East Side SANE; Jan Kirsh, M.D., President, Physicians for Social Responsibility, N.Y.C.; Robert J. Schwartz, PhD., Chair, New York SANE Council; Leonard M. Marks, Chair, New York Lawyers Alliance for Nuclear Arms Control.

Magda Salvensen, Executive Administrator, Architects/Designers/Planners for Social Responsibility/NY; Bob Bogen, Chairperson, Westchester SANE; Alice Tepper Marlin, Executive Director, Council on Economic Priorities; Alex Miller, Executive Director, Lawyers Committee on Nuclear Policy; Rev. Erik Kolbell, Director, Disarmament Program, Riverside Church.

TESTIMONY OF RABBI DAVID SAPERSTEIN ON BEHALF OF THE UNION OF AMERICAN HEBREW CONGREGATIONS, CENTRAL CONFERENCE OF AMERICAN RABBIS, AND THE NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL

The Coordinating Agency for 114 Local Jewish Community Relations Councils and 13 National Community Relations Agencies, including: American Jewish Committee, American Jewish Congress, Anti-Defamation League, B'nai B'rith International, Hadassah, Jewish Labor Committee, Jewish War Veterans, National Council of Jewish Women, Union of Orthodox Jewish Congregations of America, United Synagogue of America, Women's League for Conservative Judaism, and Women's American ORT.

Mr. Chairman, I am pleased to address this committee this morning on behalf of a large segment of the organized American Jewish community. In addition to my own organizations, the Union of American Hebrew Congregations (comprised of 800 congregations and 1.3 million Jews throughout the United States) and the Central Conference of American Rabbis (representing over 1500 Reform Rabbis in the United States), I also represent today the National Jewish Community Relations Advisory Council (NJCRAC). NJCRAC is the coordinating umbrella organization of 13 national Jewish organizations and 114 local Jewish Community Councils representing Jewish communities throughout the United States (see appendix).

NJCRAC constituent national agencies include the Anti-Defamation League, American Jewish Committee, American Jewish Congress, B'nai B'rith International, Union of Orthodox Jewish Congregations of America, United Synagogue of America, Women's League for Conservative Judaism, Jewish War Veteran's of America, Hadassah, Women's American ORT, National Council of Jewish Women and the Jewish Labor Committee as well as the UAHC.

I welcome this opportunity to testify before the Senate Foreign Relations Committee today because I believe the Jewish experience is of particular relevance to your deliberations. Precisely because of the enormity of the nuclear danger, there are those who would close their eyes to it, deny that humankind is capable of so infinite a folly as that which these wretched weapons make possible. Alas, while other people see merely as vague possibility the evil unleashed by technology misused; for us this is already tragic memory. No people knows better than we how close to the surface the demons are buried, how casually they may be disinterred and come to consume us all.

Samuel Pizar, a Holocaust survivor, while addressing the Israeli Knesset made this very point when he said:

"To us, the holocaust was not only an indelible memory of horror; it is a permanent warning . . . in the shadow of permanently flaming gas chambers where Eichmann's reality eclipsed Dante's vision of Hell, we have witnessed a pilot project for the destruction of humanity, the death rattle of the entire species on the eve of the atomic age, of thermonuclear proliferation—the final solution.

"We know that man is capable of the worst as he is capable of the best, of madness as of genius. We know that the unthinkable is indeed possible . . . Here with the authority of the numbers engraved on our arms, we cry out the commandment of 6 million innocent souls . . . : Never again.

"From where, if not from us will come the warning that a new combination of technology and brutality can transform the planet into a crematorium?"

His words reach to the heart of concern over the nuclear arms race. If good people who are alarmed about an increasingly destabilized nuclear arms race do not act to prevent it, these bombs may one day be used, changing for eternity life as we know it. We must, therefore, begin by recognizing that the unbelievable can happen. Let us not recreate the mistakes of the past when the world would not believe Auschwitz existed until the smoke ceased to rise from its chimneys.

Mr. Chairman, it has long been obvious that we must reclaim mastery over our weapons, that it is we, the citizens of this planet, who must set the strategies on which our fate depends, rather than allowing our technology to dictate those strategies. And the INF treaty is a first step in precisely that direction. It will not end the terror, nor is it even a significant enough step to set in motion an irreversible momentum. But it does offer us all a clear and present hope that we will not forever permit ourselves to be passive witnesses to endless escalation. It offers us all, for the first time, the hope that we can regain control over our destiny, that we can grab hold of the nuclear arms race and turn it in a more constructive direction.

Let us acknowledge that the INF treaty is not only an important step in the right direction, but has established several historic breakthroughs. First, this treaty permits a range of on-site inspection for both the U.S. and the U.S.S.R. This is something that many members of Congress have for years argued that the Soviets would never agree to—but we have it today. Second, we have an unprecedented agreement not merely to put a cap on future building but actually to reduce arms; literally to dismantle hundreds of nuclear weapons—in the process eliminating an entire class of nuclear weapons. Third, this treaty represents the Soviets willingness to engage in asymetrical reductions based on the equivalent effect of the reductions not on an arbitrary reduction of equivalent numbers of weapons from asymetrical arsenals. This development enhances prospects for new agreements which could provide greater stability in the nuclear arms race.

The fact that INF does not yet put an end to that race, the fact that we remain a very long way from the time of the plowshares and the pruning hooks, is hardly a relevant criticism. In the Talmud we are taught, "It is incumbent upon thee to complete the task; neither art thou free to desist from it." So also here.

INF must be part of a process. And we hope that the Administration will push ahead vigorously in pursuing its START talks so that the benefit of this treaty will not be off-set by deployment of more strategic weapons aimed at the same targets as the intermediate missiles.

Mr. Chairman, the Jewish community wholeheartedly supports the INF treaty in its current form. We oppose any amendment or reservation that would require renegotiation of the treaty because we believe that while no treaty is perfect, this one enhances American security and can lead to more sustained efforts to reverse the nuclear arms race. We urge this committee and the Senate to pass a resolution of ratification as expeditiously as possible because we believe that men and women around the world look to us to endorse the new road on which we have embarked, and to endorse it with enthusiasm, not with a grudging and half-hearted reluctance. We believe that if INF is to be not only a step away from the brink, but a step towards a more comprehensive agreement, its ratification must give evidence of America's commitment to continue the climb from the abyss to the mountain top.

No one supposes that will be an easy climb. We are prisoners of doctrines past and of fears present, and there are rational foundations for both our doctrines and our fears. But are we not like that prisoner, locked in solitary confinement for 30 years, who one day thought to try the door to his cell only to discover that it had been unlocked all along? With INF we have the opportunity to begin, one step at a time, to replace the doctrines and the fears that have confined us so long, to become commanders of our fate.

Ever since President Kennedy asserted that peace is, in the last analysis, basically a matter of human rights, we have understood that there is an intimate connection between the two. As we address this INF Treaty, what, then, of human rights? Indeed, the American Jewish community shares with this committee a compelling interest in the status of human rights in the Soviet Union, and particularly in Soviet fulfillment of the promise, recorded in Article XIII of the Universal Declaration of Human Rights and implied in the Helsinki Accords, that all people have the right to leave any country, including their own. How is it that we, despite our profound disappointment in the human rights record of the Soviet Union, nonetheless so enthusiastically endorse INF?

In our view, indeed, the two issues—arms control and human rights—each of such towering importance that to link them formally would be to commit a grave error. When one addresses such crucial concerns of basic moral principal and fundamental interests, improvement in one area should not be made contingent on the other. Treaties which protect human rights ought not be made contingent on improvements in nuclear arms control. Nor should strengthening our strategic interests through reversing the nuclear arms race be contingent on human rights improvements.

The linkage between arms control and human rights is one primarily of meta-legal intuition, whereby the very atmosphere of negotiation and the very foundation of trust in one arena is profoundly colored by behavior in the other. The long-term potential for agreements in either area will be stymied by violations of the accords in the others. Such linkage does not, however, require formal articulation; it is inherent and the Soviet Union knows that quite well.

This linkage should be contrasted to making those aspects of US-USSR relations in which we have a lesser interest dependent on improvements in human rights or other issues of basic principle—hence the continued determination of the US to maintain Jackson-Vanik and make improvements on trade dependent on emigration performance.

For these reasons, we urge the committee to incorporate strong language on behalf of human rights including the right to emigrate into its resolution of ratification in the form of a Type 2 understanding requiring notification of the Soviet Union without requiring Soviet concurrence. For the reasons described above, we would oppose any Type 3 amendment or reservation on these issues which would require renegotiation of the treaty with the Soviet Union.

There are those who argue that if the Soviet Union so blatantly violates human rights accords, why should they be trusted to maintain arms control agreements. There is some truth to this. Our concern for that record does not represent an intrusion into the domestic policies of the Soviet Union. We must never forget that the formal commitments of the Soviet Union with regard to human rights are aspects of solemn international commitments to which the Soviets have pledged themselves. And it is plain that those commitments have not been fulfilled. Over and over again, the U.S. government has made it clear to the Soviet Union that our ability and our readiness to take its commitments regarding arms control and reduction seriously cannot be separated from its record on human rights accords—a record which is, of course, deeply disappointing.

Yet we recognize that there are systemic differences between human rights and arms control agreements which allow us to move ahead on arms control even while addressing vigorously the problems in the human rights arena.

First, the fulfillment of the obligations undertaken through such agreements, and surely under INF, is not left up to the good will or mutual trust of the signatories; it is comprehensively monitored through elaborate systems of verification, including the important new precedent of on-site inspections.

Verification is plainly the key, for the Soviets cannot view casually the implications of their violation of this treaty. They must know that such violations would be spotted quickly and would not only and rightly bring down upon them the condemnation of world opinion, but would also bring to an abrupt halt all negotiations on further arms reduction. This would, indeed, re-ignite the arms race, with all its costs and with all its terrifying possibilities.

Second, violations of arms control agreements can be deterred by the threat of abrogation of the treaty and of concomitant steps by the US to off-set the impact of such violations. A violation of a human rights treaty cannot be deterred by a US "in-kind" response which would off-set the Soviets' violation. Thus, while Soviet human rights violations breed distrust of Soviet intentions and integrity which may impede a positive long-term realignment of our relationship, it need not delay progress in those areas of arms control where verification and reciprocal remedies are available to us.

That is as it should be. Perhaps, some day, we will be able to look back on INF as the first in a series of confidence-building and trust-enhancing measures. For now, it is enough to know that the language of the treaty intself offers all the protection against its violation that is required.

Most importantly, we believe that there is a positive relationship between improvements in arms control and in human rights. No one can be certain of what motivates the actions of Soviet leadership. We can only note the trends of the past and draw inferences from them. As a number of experts on the Soviet Union have noted, the plight of dissidents in general, and the Soviet Jewry in particular, tends to improve during periods of detente and cooperation. When relations between the two countries are most strained, human rights restrictions increase and emigration is restricted. When our countries cooperate, restrictions have been eased and emigration increases. The Soviet leadership seems to have recognized that the benefits from improved relations with the United States will never be fully realized in an atmosphere of criticism, sparked by increasing human rights violations.

Although the period of "glasnost," which has been coextensive with warming U.S.-U.S.S.R. relations, has resulted in modest improvements in human rights and rates of emigration, we note with alarm a disturbing pattern of more restrictive emigration since the December 1987 Reagan-Gorbachev summit. Consistent U.S. pressure on the emigration and other human rights issues is needed to ensure that the message is clearly given that further improvements in overall relations between our countries is dependent on improvement in their human rights record.

In conclusion, Mr. Chairman, we believe the INF treaty can be the first important step down a path to a world not threatened by nuclear holocaust. It seems clear to us that we dare not simply resign ourselves to the sterility of a never-ending escalation and destabilization in nuclear capability without pursuing, as vigorously as we can, creative and responsible alternatives. And it must be said that no one in the United States or in the Soviet Union knows what possibilities might be opened to our planet were the same resources which have been invested in the escalation of the arms race were refocused on resolving world problems. We hope that this treaty will move us in that direction.

Let us always remember that when we enter into arms reduction agreements with the Soviet Union, we are not conferring a benefit on that nation. We are, instead, acting out of our own compelling self-interest—and, we believe, in the interests of all humankind. The hopes of humanity are vested in this treaty and in your deliberations.

Thank you, Mr. Chairman.

Mr. MOYNIHAN. Finally Mr. President, I note that Rabbi David Saperstein testified on this treaty before the Senate Foreign Relations Committee. He spoke on behalf of the Union of American Hebrew Congregations, the Central Conference of American Rabbis, and the National Jewish Community Relations Advisory Council. He stated his strong support for the treaty. I ask unanimous consent that his testimony be included in the RECORD.

Now, let us proceed to the treaty's approval and ratification.

Mr. CONRAD. Mr. President, I rise to express my support for the INF Treaty. For the first time in history, the two superpowers are on the verge of dismantling an entire class of deadly weapons. I believe that ratification of this treaty represents a breakthrough in arms control agreements with the Soviet Union, reducing the dreadful risk of global warfare.

The weapons being dismantled under this treaty comprise 3 to 4 percent of United States and Soviet arsenals. Although this number may seem small in quantity, it is quite significant when one realizes that real nuclear weapons are actually being dismantled because of this treaty. Of even greater significance is the agreement on verification and inspection procedures which give added confidence that each side will eliminate their intermediate-range weapons.

The actions leading to the INF Treaty established a precedent in demonstrating a strong and cohesive NATO alliance. The treaty culminates efforts begun in 1979 when NATO adopted a "dual-track" strategy to counter the deployment of Soviet SS-20 missiles. The SS-20, a three-warhead nuclear ballistic missile, has a range of up to 3,000 miles and was first deployed by the Soviets in 1976 against targets in Western Europe. NATO strategy was to deploy equivalent nuclear ballistic and cruise missiles to counter this threat while simultaneously pursuing negotiations with the Soviets to reduce the total number of these weapons deployed by each side.

In 1981, President Reagan offered a proposal to the Soviets, the "zero-option" proposal, which would have cancelled NATO intermediate-range missile deployment in exchange for Soviet missile withdrawal. This proposal led to several years of on-again, off-again negotiations with the Soviets during which time NATO deployment of intermediate-range nuclear missiles continued. The Soviets finally agreed in 1987 to the elimination of all of their intermediate-range nuclear missiles in Europe and all SS-20's in Asia while NATO would eliminate all of its intermediate-range ballistic and ground-launched cruise missiles—the "double-zero" option. The INF Treaty is the result of these long years of effort.

The treaty was signed by President Reagan and General Secretary Gorbachev Last December. Since then, it has undergone 4 months of exhaustive review by the Senate Armed Services, Intelligence, and Foreign Relations Committees. These committees, examining testimony of witnesses from both inside and outside Government, as well as to representatives of our NATO allies, analyzed volumes of information. The conclusion reached by these committees is that the INF Treaty is basically sound and that ratification is in the best interests of the United States.

The entire body of the Senate has debated this treaty for almost 2 entire weeks. During this debate, various points of concern have been addressed and resolved. The need for the INF Treaty has been reinforced. The provisions of the treaty have been reaffirmed. The ability of the United States to adequately verify Soviet compliance with the treaty has been determined. The hope for future arms control agreements has been expressed. Senate debate has indicated that the INF Treaty is supported by a wide margin of the U.S. Senate and should be considered a major triumph of our arms control efforts.

Major provisions of the INF Treaty deserve mention for the significant precedents they have established. In addition to elimination of the specified categories of missiles, the treaty includes important agreements for compliance and verification. Identification of all locations where missiles are built, tested, stored and deployed as well as the numbers of missiles in each category are included as part of the treaty. Procedures for moving and destroying INF missiles and related equipment are specified to ensure mutual understanding of the steps involved. Another feature is the unprecedented agreement to allow on-site inspections of all treaty related activities which are central to verifying compliance. Combined with our satellite observations of Soviet activity, we will have more information than ever before to judge compliance with this treaty.

Mr. President, I believe the INF Treaty further enhances the national security of the United States and of our allies. The treaty will dismantle four Soviet nuclear warheads for every one of ours. Even though this treaty does not eliminate even one of the over 25,000 warheads the Soviet Union has pointed at the United States, there will be over 1,800 fewer Soviet nuclear missiles aimed at our NATO allies as a result. In my view, this should lessen the nuclear threat against Western Europe and, ultimately, the United States as well.

The treaty offers the Soviet Union an opportunity to legitimately reduce its level of military spending in order to address the enormous problems in their domestic economy. I recently visited the Soviet Union and saw widespread evidence of the country's failed economy. If Mikhail Gorbachev is serious about reforming the Soviet economy, he must take positive action to reverse its decline. The INF Treaty, and resultant potential for reduced Soviet spending on offensive nuclear weapons, opens a door that I believe will be very hard for the Soviets to close in the future.

Mr. President, the United States has its own compelling reasons to seek arms reduction. We want to reduce the threat of nuclear war. We want to enhance our national security, recognizing that Government resources are not unlimited. We want to ensure that the problems with our own economy are corrected and that our huge Federal deficit is brought under control. The INF Treaty offers us the opportunity to begin to address these concerns.

I believe in a strong national defense. Yet it's clear our defense dollars could be more wisely spent. We stockpile nuclear weapons, when we already have the resources to destroy the world many times over. We spend $150 billion a year to protect our allies in Japan and Western Europe, the very countries we borrow from to finance our national debt. We need to set priorities at the Pentagon, to assure that the hundreds of billions of dollars spent on the military truly strengthens the security of this Nation.

Real arms reduction between the United States and the Soviet Union is common sense. I believe the time is now right for these efforts to succeed. Our military expenditures are straining our domestic economy; Soviet military spending is destroying theirs. Our needs match, but the wide gulf of history and mutual mistrust still separates us.

In summary, Mr. President, I have no illusions; we may never bridge that gulf. However, the INF Treaty can provide us with a significant beginning. If we can dismantle an entire class of nuclear weapons, if we can set trustworthy verification procedures, if we can continue to communicate with the Soviets, we will have made a start. If we can make that start, we may someday realize the dream of a more peaceful world.

THE INF TREATY

Mr. **BINGAMAN**. Mr President, I rise today to speak briefly in support of the Senate's giving its advice and consent to ratification of the United States-Soviet Treaty on Intermediate-Range and Shorter Range Missiles, the INF Treaty.

I support this treaty for essentially five reasons. First, the treaty represents a significant diplomatic achievement for the NATO alliance. Second, the treaty is effectively verifiable and breaks new ground in the verification arena. Third, the treaty sets valuable precedents for future arms control agreements with the Soviets, especially the precedent of unequal reductions in forces to equal levels. Fourth, the treaty, while of limited military significance if it is not followed up, is a fundamental building block in the larger arms control framework which we hope to build with the Soviets. Finally, the treaty has been significantly improved and clarified as a result of the very careful process pursued by the Senate in its deliberations in the Foreign Relations, Armed Services, and Intelligence Committees and on the floor.

Let me expand on each point. The treaty is an achievement for NATO diplomacy and cohesiveness. Essentially all of NATO's original objectives have been achieved. When West German Chancellor Helmut Schmidt first called for a NATO response to the Soviet deployment of SS-20 missiles in 1977, he clearly expressed the view that both sides would be better off if neither had intermediate range missiles. That concept was later embodied in the December 1979 NATO "dual track" decision to go ahead with deployment of Pershing II and ground-launched cruise missiles [GLCM's] in Europe, but at the same time pursue arms control negotiations to reach an INF parity at the lowest possible level of forces. Of course, in 1981, President Reagan set zero as the preferred level of INF forces on both sides and as the negotiating goal for the U.S. team. Unfortunately, only after the massive Soviet diplomatic and propaganda effort to block deployment of these missiles in Western Europe failed, did serious negotiations begin. The period between 1979 and the Geneva summit in late 1985 was not an easy one for the allied governments on whose soil the Pershings and GLCM's were to be deployed. But we maintained bipartisan support for the deployment here in the United States and those allied governments held together coalitions necessary to initiate the deployments on their soils. Those government leaders have every right to now be proud and supportive of the result, the treaty signed by the President last December 8 and before us for our consideration today. And, of course, the support for this treaty within NATO is almost universal.

The second point I made earlier is that this treaty is effectively verifiable. Any militarily significant violation will be detected in time for us to take appropriate actions in response. I have been talking for several years now about the importance of development of verification technologies to open up options for our arms control negotiators. Verification was clearly a central issue in this negotiation and will continue to be in the future. The potential verification problems in the INF negotiations were significantly reduced by adopting the President's zero option. The verification problems are only going to become more complex in future negotiations, where more diverse types of weapon systems will be involved and where zero will not be the agreed number of weapon systems.

I am proud of the role which Sandia National Laboratories played in the INF process. They were ready, when called upon by DOD, to provide ideas for how on-site inspections would in fact be carried out. Indeed, a Sandian on loan to the Department of Defense, Stan Fraley, chaired the verification subpanel in the negotiations in Geneva which produced the inspection protocol. The portal monitoring system Sandia developed will be used by us at Votkinsk and possibly by the Soviets at Magma, Utah, as well. Other technologies developed at Sandia will help in the short notice on-site inspections to be conducted under the treaty.

The verification provisions in the INF Treaty form a foundation on which to build in the future. The START Treaty will undoubtedly require even more intrusive verification. For example, a monitored perimeter developed at Sandia may well have to be added to the portal monitoring system at production plants. But with adequate investment in verification technology and procedures and with continued good-faith negotiations, I believe effective verification provisions will prove possible to negotiate in the START negotiations and other negotiations as well.

The third reason I offered for supporting the INF Treaty was that it sets valuable precedents for future arms control agreements. I have just spoken about the INF Treaty's on-site verification provisions as a foundation for the future. I also hope that the precedent of unequal reductions in forces to equal levels set in the INF Treaty will prove possible to follow in the future, particularly in the chemical weapons and conventional forces talks that I believe will take on great importance in the years ahead. Those talks will undoubtedly bog down unless there is a willingness on the part of the Soviets to go the extra mile and make asymmetrical reductions in their forces. Of course, asymmetrical reductions would produce asymmetrical benefits as well in terms of freeing up resources needed by General Secretary Gorbachev to deal with the revitalization of the Soviet economy, or "perestroika" as he calls it. If General Secretary Gorbachev is serious about "military sufficiency" as a guiding principle in sizing his military forces and if he is serious about "perestroika," building on this precedent in the future may well prove possible. In any case, we have no choice but to explore the possibility and to try to build an ever stronger arms control framework that will help prevent superpower conflict and the awful destruction that would accompany it. As the President goes to Moscow for the summit meeting that will begin this weekend, he knows he has strong bipartisan support in this pursuit of that goal.

I come back again to the point I made at the onset of my remarks, that this treaty, while of limited military significance if it is not followed up, is the foundation for future progress. The INF Treaty deals with a very small fraction of the weapons in each side's nuclear arsenal. If it is not followed up by a START agreement and strategic offensive forces continue to grow, the INF missiles destroyed as a result of this treaty will simply be replaced on longerrange weapons. So the significance of this treaty really will be in the fact that it has reopened the United States-Soviet arms control dialog after a long hiatus. It offers the promise for much more far-reaching agreements in the future, and, of course, we all hope that long strides toward those agreements will prove possible at the Moscow summit.

Finally, Mr. President, I feel that the Senate ratification process has served the Nation well. The additional agreements reached in Geneva on May 12 regarding the future technologies issue, the definition of "weapon-delivery vehicle," and several verification issues will significantly strengthen the treaty. Those agreements will as a result of the action the Senate took earlier today on the Nunn-Warner-Boren-Cohen amendment have the same force and effect as the provisions of the treaty. I commend those Senators and their staffs for the diligence with which they pursued these issues in the deliberations of the Armed Services and Intelligence Committees on the treaty.

I also want to commend the majority and minority leaders for working out a compromise on the very difficult treaty reinterpretation issue, a compromise which won the bipartisan support of 72 Senators earlier this evening. I admire Senator BYRD's commitment to the preservation of the institutional role of the Senate in the making of treaties. This institution needs advocates with the vision of the majority leader. As he said during the earlier debate, we as individuals come and go, but the institution and the Constitution remain. I commend Senators BIDEN, CRANSTON, and PELL for their work in the Foreign Relations Committee in laying the foundation for the debate on the reinterpretation issue. I regret Senator BIDEN cannot be with us today and wish him a speedy recovery. I think that the compromise reached on the reinterpretation issue will serve this institution and the American people well in the future, whoever may occupy the White House.

Mr. President, for the reasons I have outlined, I believe that the INF Treaty is in our national interest. It deserves to win the Senate's advice and consent to ratification and I hope that the vote on final passage of the resolution of ratification will be as overwhelming as some of our preliminary votes have been.

ORDERS FOR FRIDAY

RECESS UNTIL 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 o'clock tomorrow morning.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD. These are the alternatives tomorrow morning. Mr. President, the Senate will come in at 10 o'clock, and there will be a prayer.

Mr. LEAHY. Could we have order, Mr. President, please? It is almost impossible to hear.

The **PRESIDING OFFICER.** The Senate will be in order.

The majority leader is recognized.

LEADERS' TIME

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning the distinguished Republican leader have his 5 minutes under the standing order, and that I have my 5 minutes, and at the conclusion of those 10 minutes I be recognized for the purpose of delaying the cloture vote long enough to have the vote on the amendment I believe by Mr. WALLOP which was ordered.

Mr. WALLOP. Mr. President, would there be any possibility of having that vote tonight?

Mr. BYRD. No.

Mr. WALLOP. We are all here. We had the debate. It was supposed to have proceeded the last vote.

Mr. BYRD. I think we ought to go home. Let us go home. We would have been here longer, and we could have done that.

So Mr. PELL has a tabling motion. I will make a judgment at that point as to whether we proceed with the tabling motion, and delay the vote on cloture accordingly, or whether we go forward with the cloture vote either of which will mean that there will be a rollcall vote shortly after 10 o'clock tomorrow morning.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** Is there objection to the unanimous-consent request? The Chair hears none. It is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Senate will be in order.

The majority leader is recognized.

RETIREE BENEFITS BANKRUPTCY PROTECTION ACT

Mr. BYRD. Mr. President, I ask, as in legislative that the Chair lay before the Senate a message from the House of Representatives on H.R. 2969.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2969) entitled "An Act to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retiree Benefits Bankruptcy Protection Act of 1988".

SEC. 2. RETIREE BENEFITS.

(a) BENEFITS.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 1114. Payment of insurance benefits to retired employees

"(a) For purposes of this section, the term 'retiree benefits' means payments to any entity or person for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents, for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purchase of insurance or otherwise) maintained or established in whole or in part by the debtor prior to filing a petition commencing a case under this title.

"(b)(1) For purposes of this section, the term 'authorized representative' means the authorized representative designated pursuant to subsection (c) for persons receiving any retiree benefits covered by a collective bargaining agreement or subsection (d) in the case of persons receiving retiree benefits not covered by such an agreement.

"(2) Committees of retired employees appointed by the court pursuant to this section shall have the same rights, powers, and duties as committees appointed under sections 1102 and 1103 of this title for the purpose of carrying out the purposes of sections 1114 and 1129(a)(13) and, as permitted by the court, shall have the power to enforce the rights of persons under this title as they relate to retiree benefits.

"(c)(1) A labor organization shall be, for purposes of this section, the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, unless (A) such labor organization elects not to serve as the authorized representative of such persons, or (B) the court, upon a motion by any party in interest, after notice and hearing, determines that different representation of such persons is appropriate.

"(2) In cases where the labor organization referred to in paragraph (1) elects not to serve as the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, or in cases where the court, pursuant to paragraph (1) finds different representation of such persons appropriate, the court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, from among such persons, to serve as the authorized representative of such persons under this section.

"(d) The court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, to serve as the authorized representative, under this section, of those persons receiving any retiree benefits not covered by a collective bargaining agreement.

"(e)(1) Notwithstanding any other provision of this title, the debtor in possession, or the trustee if one has been appointed under the provisions of this chapter (hereinafter in this section 'trustee' shall include a debtor in possession), shall timely pay and shall not modify any retiree benefits, except that—

"(A) the court, on motion of the trustee or authorized representative, and after notice and a hearing, may order modification of such payments, pursuant to the provisions of subsections (g) and (h) of this section, or

"(B) the trustee and the authorized representative of the recipients of those benefits may agree to modification of such payments,

after which such benefits as modified shall continue to be paid by the trustee.

"(2) Any payment for retiree benefits required to be made before a plan confirmed under section 1129 of this title is effective has the status of an allowed administrative expense as provided in section 503 of this title.

"(f)(1) Subsequent to filing a petition and prior to filing an application seeking modification of the retiree benefits, the trustee shall—

"(A) make a proposal to the authorized representative of the retirees, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the retiree benefits that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

"(B) provide, subject to subsection (k)(3), the representative of the retirees with such relevant information as is necessary to evaluate the proposal.

"(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1), and ending on the date of the hearing provided for in subsection (k)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such retiree benefits.

"(g) The court shall enter an order providing for modification in the payment of retiree benefits if the court finds that—

"(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (f);

"(2) the authorized representative of the retirees has refused to accept such proposal without good cause; and

"(3) such modification is necessary to permit the reorganization of the debtor and assures that all creditors, the debtor, and all of the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities;

except that in no case shall the court enter an order providing for such modification which provides for a modification to a level lower than that proposed by the trustee in the proposal found by the court to have complied with the requirements of this subsection and subsection (f): Provided, however, That at any time after an order is entered providing for modification in the payment of retiree benefits, or at any time after an agreement modifying such benefits is made between the trustee and the authorized representative of the recipients of such benefits, the authorized representative may apply to the court for an order increasing those benefits which order shall be granted if the increase in retiree benefits sought is consistent with the standard set forth in paragraph (3): Provided further, That neither the trustee nor the authorized representative is precluded from making more than one motion for a modification order governed by this subsection.

"(h)(1) Prior to a court issuing a final order under subsection (g) of this section, if essential to the continuation of the debtor's business, or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim modifications in retiree benefits.

"(2) Any hearing under this subsection shall be scheduled in accordance with the needs of the trustee.

"(3) The implementation of such interim changes does not render the motion for modification moot.

"(i) No retiree benefits paid between the filing of the petition and the time a plan confirmed under section 1129 of this title becomes effective shall be deducted or offset from the amounts allowed as claims for any benefits which remain unpaid, or from the amounts to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future unpaid benefits or from any benefits not paid as a result of modifications allowed pursuant to this section.

"(j) No claim for retiree benefits shall be limited by section 502(b)(7) of this title.

"(k)(1) Upon the filing of an application for modifying retiree benefits, the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and the authorized representative agree.

"(2) The court shall rule on such application for modification within ninety days after the date of the commencement of the hearing. In the interests of justice, the court may extend such time for ruling for such additional period as the trustee and the authorized representative may agree to. If the court does not rule on such application within ninety days after the date of the commencement of the hearing, or within such additional time as the trustee and the authorized representative may agree to, the trustee may implement the proposed modifications pending the ruling of the court on such application.

"(3) The court may enter such protective orders, consistent with the need of the authorized representative of the retirees to evaluate the trustee's proposal and the application for modification, as may be necessary to prevent disclosure of information provided to such representative where such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged.

"(l) This section shall not apply to any retiree, or the spouse or dependents of such retiree, if such retiree's gross income for the twelve months preceding the filing of the bankruptcy petition equals or exceeds $250,000, unless such retiree can demonstrate to the satisfaction of the court that he is unable to obtain health, medical, life, and disability coverage for himself, his spouse, and his dependents who would otherwise be covered by the employer's insurance plan, comparable to the coverage provided by the employer on the day before the filing of a petition under this title.".

(b) PLAN.—Section 1129 of title 11, United States Code, is amended by adding at the end of subsection (a) thereof the following:

"(13) The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.".

(c) TECHNICAL AMENDMENT.—The table of sections for subchapter I of chapter 11, title 11, United States Code, is amended by adding at the end thereof the following new item:

"1114. Payment of insurance benefits to retired employees.".

SEC. 3. CONFORMING AMENDMENTS.

(a) PUBLIC LAW 99-591.—(1) Section 608(a) of the second title VI of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-74), is amended—

(A) by striking "Notwithstanding" and all that follows through "Code" and inserting "(1) Subject to paragraphs (2), (3), (4), and (5), and notwithstanding title 11 of the United States Code",

(B) by striking "until" and all that follows through "1987"; and

(C) by adding at the end thereof the following:

"(2) The level of benefits required to be paid by this subsection may be modified prior to confirmation of a plan under section 1129 of such title if—

"(A) the trustee and an authorized representative of the former employees with respect to whom such benefits are payable agree to the modification of such benefit payments; or

"(B) the court finds that a modification proposed by the trustee meets the standards of section 1113(b)(1)(A) of such title and the balance of the equities clearly favors the modification.

If such benefits are covered by a collective bargaining agreement, the authorized representative shall be the labor organization that is signatory to such collective bargaining agreement unless there is a conflict of interest.

"(3) The trustee shall pay benefits in accordance with this subsection until—

"(A) the dismissal of the case involved; or

"(B) the effective date of a plan confirmed under section 1129 of such title which provides for the continued payment after confirmation of the plan of all such benefits at the level established under paragraph (2) of this subsection, at any time prior to the confirmation of the plan, for the duration of the period the debtor (as defined in such title) has obligated itself to provide such benefits.

"(4) No such benefits paid between the filing of a petition in a case covered by this section and the time a plan confirmed under section 1129 of such title with respect to such case becomes effective shall be deducted or offset from the amount allowed as claims for any benefits which remain upaid, or from the amount to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future benefits or from any benefit not paid as a result of modifications allowed pursuant to this section.

"(5) No claim for benefits covered by this section shall be limited by section 502(b)(7) of such title.".

(2) Section 608(b) of the second title VI of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-74), is amended by inserting before the period the following: "and before the date of the enactment of the Retiree Benefits Bankruptcy Protection Act of 1988".

(3) Section 608 of the second title VI of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-74), is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(B) by adding at the end the following:

"(b)(1) Notwithstanding any provision of title 11 of the United States Code, the trustee shall pay an allowable claim of any person for a benefit paid—

"(A) before the filing of the petition under title 11 of the United States Code; and

"(B) directly or indirectly to a retired former employee under a plan, fund, or program described in subsection (a)(1);

if, as determined by the court, such person is entitled to recover from such employee, or any provider of health care to such employee, directly or indirectly, the amount of such benefit for which such person receives no payment from the debtor.

"(2) For purposes of paragraph (1), the term 'provider of health care' means a person who—

"(A) is the direct provider of health care (including a physician, dentist, nurse, podiatrist, optometrist, physician assistant, or ancillary personnel employed under the supervision of a physician); or

"(B) administers a facility or institution (including a hospital, alcohol and drug abuse treatment facility, outpatient facility, or health maintenance organization) in which health care is provided.".

(b) PUBLIC LAW 99-656.—Section 2 of the Act entitled "An Act to amend the interest provisions of the Declaration of Taking Act", approved November 14, 1986 (Public Law 99-656), is repealed.

SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by section 2 shall not *apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.*

Mr. METZENBAUM. Mr. President, this legislation is a major reform in our bankruptcy laws. It protects retiree health and life insurance benefits when companies go into bankruptcy. This measure sends a strong and powerful message to companies which make promises to their workers—you cannot expect to use the bankruptcy courts as a way of reneging on retiree promises.

Bankruptcies are painful for workers, communities, small business suppliers and others. But the burden of turning a company around should not rest on the backs of retirees. They deserve a fair shake from the companies they build and from the law governing the reorganization process.

The need for this legislation became apparent when LTV entered bankruptcy and immediately terminated its retiree health and life insurance programs. LTV argued that the law mandated such action.

While the Senate Judiciary Committee heard testimony that the law does not mandate such an action, and subsequent court decisions have rejected LTV's contention with respect to union retirees, this legislation goes much further. It makes clear that retiree benefit claims are entitled to an administrative priority. In other words, it moves their claims to the head of the creditor line. This bill establishes a procedure for modifying the benefit program if necessary to keep the company operating—a procedure that clearly favors continuation of the benefits. And it covers both union and nonunion retirees.

Of course, mindful of the original LTV problem, this measure makes absolutely clear that reorganizing companies may never unilaterally cut off retiree insurance benefits. I know there are many Senators who have shared my acute concern over the LTV case in particular and I might just take a moment to report on its present posture, since it is after all the case that prompted this legislation.

After the LTV cutoff, Senate action and a United Steelworkers strike combined to force LTV Steel to restore its retiree insurance program. This restoration set the stage for good faith negotiations between LTV Steel and the Steelworkers. The result is a particularly innovative program. Under an August 1987 agreement between LTV Steel and the Steelworkers, LTV Steel has pledged to continue its retiree insurance program with no reduction in benefits. Retirees will contribute a potentially recoverable payment of $26.82 per month, and—at the conclusion of profitable years—LTV Steel will be required to reimburse the retirees for their monthly payments whenever company earnings exceed designated levels.

For their contributions last year, LTV Steel retirees have already been reimbursed. If LTV Steel has a similar record of profits this year, its retirees will once again recover their contributions. This program will last for the length of the LTV Steel case only, at the end of which the steelworkers will be free to seek improvements as the company emerges from Chapter 11. I applaud this program because it is exemplary of the spirit of this legislation.

Retirees covered under collective-bargaining agreements also have the protections granted under existing section 1113 of the Bankruptcy Code. Thus, the court's decision in United Steelworkers of America against Unimet (sixth circuit, 1988) makes it clear that retiree benefits promised in a collective-bargaining agreement must be honored. Of course, this measure goes much further. For example, it provides protections as a company reorganizes and comes out of bankruptcy.

Thus, the legislation amends section 1129 of title 11 to require that, in order to be confirmed, a plan of reorganization must provide for continued retiree benefit payments at their full unmodified level, or at the modified benefit levels set by the parties under section 1114(e)(1)(B) or the court under section 1114(g). Similar protections are provided for pending cases. And as I already pointed out, it covers nonunion retirees.

This measure is identical to the Senate bill, S. 548, for cases that have not yet commenced. It differs in some respects for pending cases. However, these differences do not reduce the substantive protections afforded retirees.

The provisions of section 3 apply to union and nonunion retirees. The provision which allows modification by the court is intended to permit only those benefit changes which meet the standards of section 1113(b)(1)(A), and only to the extent that the balance of equities clearly favors the modification.

The reference in section 3 to the "standards of section 1113(b)(1)(A)" refers to "necessary modifications in the employees' benefits and protections that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all affected parties are treated fairly and equitably." The benefits subject to these standards are not required to arise from a collective bargaining agreement.

It is also the intent of section 3 to permit modification of the retiree benefit payments only to the extent necessary to permit reorganization of the debtor, which means necessary to prevent the debtor's liquidation.

It is intended that the words "necessary for the reorganization of the debtor" in sections 2 and 3 should be interpreted as the third circuit interpreted them in *In re Wheeling Pittsburgh Steel Corporation,* (791 F.2d 1074 (3d Cir. 1986)). There the court held that a proposal to modify a labor contract is "necessary to permit reorganization" when essential to the "goal of preventing the debtor's liquidation." (791 F.2d 1074, at 1089). The interpretation of the "necessary" standard by the second circuit in the case of *In re Carey Transportation,* (816 F.2d 82 (2d Cir. 1987)) would not afford retirees the full protections intended by this measure. Modifications should be ordered by a court only if necessary to avoid liquidation, and the amoung of modifications ordered should be only those necessary to avoid liquidation.

The phrase "the court finds" means that the court shall schedule a hearing where all interested parties may appear.

"Proposed by the trustee" as used in section 3 means proposed by the trustee to the representative of the retirees. It is intended that the trustee comply with the requirements of section 1113 (b)(2).

Thus, before a court can order a modification the trustee must first make a proposal to the authorized representative of the retirees, and "the trustee shall meet at reasonable times, with the authorized representatives to confer in good faith in attempting to reach mutually satisfactory modifications."

Nothing in section 3 shall prohibit a labor organization from electing not to serve as the authorized representative of the retirees for the purposes of section 3.

The court, under section 3, as under section 2, shall allow authorized representatives other than labor organizations reimbursement from the estate for necessary expenses of representation, such as attorneys' fees. Nothing in this legislation is meant to preclude unions from seeking reimbursement for professional services as allowed by section 503(b)(4) of title 11.

It is expected that the court shall follow the procedures set forth in section 1114(c) in determining who shall represent the nonunion retirees.

The fact that some specific language appears in section 2 but not section 3 shall not imply that section 3 conveys fewer rights or protections to retirees than section 2.

For pending cases, it is intended that representatives of the retirees may petition the court to seek increased retiree benefit payments if such payments have previously been modified. The court shall order an increase if the standards set forth in section 3(a) of the bill are met.

Of course, nothing in this legislation shall preclude negotiation of improved benefits through the normal processes of collective bargaining. In the LTV, Steel case, for example, I understand that the steelworkers will seek such improvements in its next round of bargaining at the company.

Section 3 of this measure covers self-insured health insurance arrangements. Importantly, its protects retirees under such arrangements with respect to pipeline claims. These are claims arising from medical services provided under such arrangements before a company enters bankruptcy, but for which the company has not paid.

For cases already pending, the bill provides that the health plan administrator may go to the bankruptcy court and seek payment from the company of such pipeline claims. To receive payment, the administrator must only prove that it has the right to reverse the charges to the health care providers. Alternatively, if the claims are reversed to the health care providers, they can seek payment in court. the providers must only prove that they have a right to reverse the claims to retirees.

In either case the company must pay the bills. Thus, retirees will not be at risk. Benefits provided postpetition under a self-insured plan are not pipeline claims and like prepetition and postpetition insured benefits and premiums, must be fully paid by the company.

Under section 1114, all retiree benefits—whether insured, self-insured, prepetition or postpetition—must be fully paid by the company.

I believe that this provision for pending cases is very important for thousands of LTV retirees. It means that the law will protect them from paying any part of the $35 million in hospital bills which LTV has not yet paid.

This provision was worked out with the cooperation of Blue-Cross/Blue-Shield of Northern Ohio. I appreciate their assistance and patience. I ask unanimous consent that a letter from its president be printed in the Record. This letter describes how LTV retirees will be protected.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Blue Cross and Blue Shield of Ohio,
Cleveland, OH, April 20, 1988.

Hon. Howard M. Metzenbaum,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator Metzenbaum: For the past 18 months Blue Cross & Blue Shield Mutual of Ohio ("Blue Cross of Ohio") has been proud to work with you on legislation to protect retiree health benefits in bankruptcy, particularly as it relates to the LTV situation. As you are very well aware, at the time of the LTV filing in bankruptcy, the Blue Cross system had processed for payment and credited its hospitals with respect to approximately $35 million of claims relating to both retirees and active employees for which we had not yet been paid. At the time of the filing in bankruptcy, we assured you and the LTV retirees that we would not return these unpaid claims to our hospitals pending our efforts with you to see if legislation could be enacted which would avoid such a result. Pursuant to this commitment, we have continued to hold those claims since the filing in bankruptcy and have yet to be paid by LTV. Our decision to hold these unpaid claims was principally motivated by an interest in protecting the retirees from the mental and financial anguish which would have occurred if they were required to pay these claims directly.

We now understand that a final agreement has been reached between you and Chairman Rodino with respect to this important legislation. With respect to future bankruptcies, we understand that our type of situation will be completely addressed. With respect to pending bankruptcies, we understand that the legislation does not go as far as we would have liked, although, it does require LTV to pay the pending claims if Blue Cross of Ohio has the right to send these claims back to the hospitals involved in the event of nonpayment by LTV. Because we believe that such a right exists, we believe that the legislation will guarantee that LTV pays these claims, thus protecting the retirees from any potential disruption or burden. Likewise, we understand that if these claims are returned to the hospitals, the hospitals would be paid directly by LTV, thus avoiding the imposition of these claims on the retirees involved. While we would have preferred a simpler approach to this problem, we appreciate your persistent attention to this matter and hope that the legislation will assure that the retirees are protected. We look forward to working with you in the future.

Sincerely,

John Burry, Jr.

Mr. METZENBAUM. Section 3 is effective with respect to cases commenced under Chapter 11 after October 2, 1988, and before the enactment of this legislation. Section 3 is also effective with respect to cases commenced under Chapter 11 prior to October 2, 1986, in which a plan for reorganization has not been confirmed by the court and in which any benefit to retired former employees, as defined in section 608(a), is still being paid on October 2, 1986.

Thus, section 608, with the amendments added by this legislation, applied to cases commenced under Chapter 11 where any retiree is being paid such a benefit on October 2, 1986, even if some or most of the retirees had their benefits eliminated by the debtor prior to that date. In such situations, the debtor would be required to reinstate those benefits which had been eliminated prior to October 2, 1986, to reimburse retirees for any benefits lost as a result, and to continue to provide the benefits until section 608 as amended allows otherwise.

I appreciate the cooperation of Chairman Rodino in working out this measure. I also want to express my thanks to Senators Biden, Thurmond, Heflin, DeConcini, and Grassley. Also the staff of the Judiciary Committee, Karen Kremer, Sam Gerdano, Diana Huffman, Terry Wooten, and Ed Baxter. I would also like to thank Ken Scott for his assistance. This is a major change in our bankruptcy code. It will protect millions of retirees whose companies file for bankruptcy.

I urge my colleagues to support this measure.

Mr. HEFLIN. Mr. President, I rise today to urge the Senate to enact legislation which will protect the health, life, and disability benefits of retirees.

Before us today is H.R. 2969, which passed the House last Monday. This bill is similar to legislation which the Senate passed in July 1987 and again in October 1987. The Senate companion of this legislation, S. 548, is a bill I cosponsored along with many of my colleagues who were concerned with the treatment of retired employees of companies who filed Chapter 11 bankruptcy.

S. 548 was introduced in February 1987 in response to the actions taken by LTV to terminate all retiree health, and life insurance benefits when LTV filed for reorganization under the Bankruptcy Code.

Many Alabamians, who had devoted their working lives to this company were hurt by the unilateral termination of their benefits. Health and life insurance benefits are not luxuries for individuals, but necessities. Without the benefits provided by the companies, many of these individuals would be without any insurance coverage for health and disability benefits.

This legislation protects both union and non-union retirees.

It its application to future cases the bill before us today is identical to the Senate bill. Companies cannot unilaterally terminate benefits for retirees when the company files Chapter 11. Rather, this bill makes it clear that when a Chapter 11 petition is filed, retiree benefit payments must be continued without change, until or unless a modification is agreed to by the parties or ordered by the court.

Absent a negotiated settlement, modifications of retiree benefits can only be made by the court upon a finding that the modifications sought are necessary to permit the reorganization of the debtor, are clearly favored by a balance of the equities, and are fair and equitable to all affected parties.

In its application to pending cases, H.R. 2969, provides the same protection for retirees as the earlier Senate bill, with some minor procedural differences.

Finally, H.R. 2969 resolves one of the major issues which has been a stumbling block to this bill's earlier consideration. This is the resolution of what has become known as the pipeline issue, which involves claims by health plan administrators for reimbursement of medical benefits paid on behalf of retirees during the prepetition period. Under the bill, health plan administrators will receive reimbursement for payments made during the prepetition period only if the court determines that there is a contractual right to reverse claims. At the same time the bill ensures that retirees themselves will not get billed for such claims.

Mr. President, this legislation is the result of many hours of negotiation and compromise in the Senate and the House. In our attempts to work out our differences, we have never lost sight of our original purpose—to protect the benefits of retired workers in the wake of a company's bankruptcy. I am pleased that today we have the opportunity to enact this legislation and sent it to the President for his signature.

I am proud to have been a part of an effort that will provide my fellow Alabamians and other retirees across this Nation with a greater sense of security—that our Nation's tremendous health care resources will be available to them in times of need. Our retirees not only deserve this protection they have earned it.

I urge the immediate adoption of this legislation.

Thank you, Mr. President.

Mr. HEINZ. Mr. President, 2 years ago, we set out to protect the health benefits of retirees when LTV Corp. attempted to terminate its retirement health plan upon filing for bankruptcy. LTV's actions made it clear to the Congress, for the first time, just how fragile a company's promise of retiree health benefits could be. One simple decision, made on the advise of the bankruptcy lawyers, was enough to suddenly expose 78,000 LTV retirees to the huge financial risk of a serious illness or injury. LTV's retirees, some only moments from surgery, were simply informed that their health insurance had been canceled by the company—with no forewarning, and no offer of alternative coverage.

Cancellation of health insurance is a serious matter for anyone. It is especially serious for a retiree who is too young for Medicare but too old to buy affordable health coverage. While healthy retirees may find a replacement policy for a hefty monthly premium, sick retirees may be unable to find one at any price. The thought that a company could enter bankruptcy and renege on the promise of health and life insurance without a moment's hesitation or so much as a word to the retirees was troubling to the Congress.

The Congress was also concerned over the treatment of retirees after a company filed for bankruptcy. Once the retirees lost their benefits they were forced by the bankruptcy law to go to the end of the line of creditors and patiently wait for years to get a small cash settlement. While chapter 11 reorganization seemed to work to protect the interests of the major, and usually secured, creditors, it left the retirees totally exposed to catastrophic medical losses while bankruptcy lawyers bickered over the reorganization plan. The retirees had no way to make their concerns known to the court during bankruptcy.

LTV's threatened termination moved the Senate to action, and within a very short time we had passed legislation to prevent the termination of retiree health and life insurance plans by bankrupt companies while Congress considered reform legislation. This temporary provision was continued for almost 2 years while we worked on the bill that is before us now.

Today, Mr. President, we are finally at the point where we can pass the Retiree Benefits Bankruptcy Protection Act of 1988. This legislation has been carefully considered by the Judiciary Committees in the House and Senate, passed by the Senate on two previous occasions, and now finally accepted by the House.

The bill will protect retirees from unilateral termination of benefits by a company filing a chapter 11 bankruptcy petition. Health and life insurance benefits would be continued throughout the proceedings unless it was necessary to discontinue them to keep the company alive. This bill will also finally give retirees adequate representation in the bankruptcy proceedings.

Mr. President, this is a great day for retirees. No longer will companies be able to surprise their retirees when they file for chapter 11 bankruptcy. No longer will retirees have to go to the end of the line and wait for a cash settlement. They will finally become equal partners with the other creditors in bankruptcy.

I would like to thank my colleague from Ohio, Senator METZENBAUM, for his leadership on this legislation and for his persistent efforts to develop this compromise. He and his staff, particularly David Starr, have worked tirelessly to push this legislation through both sides of the Congress. I urge my colleagues to join us in passing of H.R. 2969.

Mr. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, does the distinguished Republican leader have anything further?

Mr. DOLE. No.

Mr. BYRD. Mr. President, I apologize to the distinguished Republican leader. I know he had high hopes that we would go on this evening and work hard and try to speed up the amendments and thin them out. I think we did a good job. I do apologize to him. I am sure he is disappointed, and I can share that disappointment with him.

Mr. DOLE. I think it worked out just about right. I think we probably reached a point that we are within striking distance.

I do not see the same problem developing tomorrow, because the amendments that are out there, which are of concern to the majority leader, are the ones that were discussed and were part of the agreement.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period as in morning business during which Senators may introduce bills and resolutions and statements and that reports may come in as in legislative session and as in morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

WHAT'S THE DEAL WITH NORIEGA?

Mr. BYRD. Mr. President, for the past few weeks we have been hearing repeated reports that the administration was on the verge of making some sort of a deal to get General Noriega to leave Panama. Yesterday morning we heard that a deal was imminent. But then last evening the Secretary of State said that the on-again, off-again negotiations with Noriega had once more broken down and there was no deal.

Mr. President, I wonder what in the world is going on here? The administration's lack of an initial well-thought-out long-term policy on Panama and its subsequent attempts to make almost any kind of a deal that Noriega would accept has left us vulnerable and increasingly humiliated. Why has an administration that just short weeks ago was confidently predicting a quick "knockout" of Noriega now find itself in the embarrassing position of offering to drop drug indictments against Noriega while trying to claim that it is waging a war on international drug traffickers? In this case it was the general who just said no.

It is difficult indeed to understand what the administration hoped to accomplish toward restoring democracy in Panama by spending weeks trying to strike a sweetheart deal with Noriega. The general was unmoved. Does Noriega know something that makes him impervious to the administration's desperate attempts to oust him? Or is it the administration's stubborn penchant for going it alone in Central America that has brought this impasse? Getting a lasting deal which removes Noriega and puts Panama on the road to democracy requires bringing Panamanian, Latin, and American views into the process. I urge the President to make no more concessions to Noriega. The advice and cooperation of our hemispheric neighbors to try getting Noriega out of Panama is the course that should be now followed. It is late, but it is not too late.

BICENTENNIAL MINUTE

MAY 31, 1913: DIRECT ELECTION OF SENATORS

Mr. DOLE. Mr. President, 75 years ago this week, on May 31, 1913, the 17th amendment officially became a part of the U.S. Constitution. That amendment provided that U.S. Senators would be elected directly by the people of each State, rather than by individual State legislatures.

Delegates to the 1787 Constitutional Convention spent relatively little time discussing the manner in which Senators were to be elected. Selection by State legislatures worked reasonably well for the Senate's first 50 years, but as political parties began to play a greater role in the operation of those bodies, stalemates developed. This was particularly common when different parties controlled the two Houses of a legislature, or when a party held only a slim margin in a single Chamber. In 1857 the Democratic-controlled Indiana legislature named two Democrats—one to fill an unexpired vacancy and the other to a new term. The following year, Indiana's rapidly growing Republican party won majorities in both legislature chambers. That new majority promptly sent two Republican Senators-elect to Washington. The Senate, under Democratic control, rejected the Republican challengers by a strict party vote.

In the remaining years of the 19th century, the number of deadlocks and contested election cases increased. In 1895 the Delaware Legislature took 217 ballots over a period of 114 days without electing a Senator. Several States went without full representation in the Senate for 2 years or more.

By the start of the 20th century, direct popular election of Senators had become a major objective of progressive reformers. Although the House of Representatives repeatedly adopted constitutional amendments, only in 1911 did the Senate finally act. Within a year, the necessary three-quarters of the States had ratified this amendment, the only substantive alteration in the Senate's structure under the Constitution during its first two centuries of existence.

SOVIET REPRESSION OF ARMENIANS: THE CONTINUING ISSUE OF CIVIL RIGHTS

Mr. McCAIN. Mr. President, it is all too easy to forget, amid our debates on arms control, that our relations with the Soviet Union involve more than the risk of war. Regardless of how many arms control treaties we sign with the U.S.S.R., they will not improve the situation of the nations the U.S.S.R. occupies, or the minorities it oppresses. Their plight will remain unchanged unless we keep up constant pressure on the U.S.S.R. to improve its positions on human rights.

There are many groups I could cite as cases in point. They include the nations of Eastern Europe, the Soviet Jews, and the peoples of the former Baltic States that the U.S.S.R. seized during its pact with Hitler.

I hope—indeed, I think we have a right to expect—that President Reagan will remember all these human rights issues during his current summit meeting, but I also hope that he will give special attention to a minority that is currently undergoing a new cycle of violence and repression.

I am speaking about the Armenian minority in Armenia and Azerbaijan. They are the living demonstration that glasnost currently seems to apply largely to ethnic Russians. For far too much of the rest of the population of the Soviet Union, the situation is still gulag, not glasnost.

The Soviet response to the demands of its Armenian minority for the right to their religion, culture, and basic freedoms is still to send in troops. It has persecuted and detained human rights activists, it has dealt with the threat of public protests with thousands of soldiers. It has turned Jerevan, the capital of Soviet Armenians, into an occupied city.

Mr. President, we cannot ignore these actions in some theoretical spirit of detente. We cannot ignore the fact that KGB Director Victor Chebrikov is treating the Armenians in the same spirit that has cost the lives of millions of Soviet minorities in the past, and imprisoned millions of others.

We also cannot ignore the fact that the U.S.S.R. is deliberately attempting to use faith in God to divide its own people. It is turning Christian Armenians against Muslim Azerbaijanis precisely because it fears the results of reaching any settlement based on the real interests and population of these ethnic groups. In a supposedly Marxist mix of republics with equal rights, ethnic Russians are using Azerbaijani rule over an Armenian majority in Nagorno-Karabakh in exactly the same way authoritarian czars once used one minority against another.

We cannot ignore these abuses of the human rights of Soviet Armenians. In fact, we cannot ignore any abuse of human rights, whether it is in the Soviet Union, South Africa, Cambodia, or Latin America. Mr. Gorbachev must be put on notice that there must be more to glasnost than trade or arms control, or the world will remain an armed camp—divided between the free and the repressed. We ourselves must remember that there can be no hope of lasting peace or stability without an end to such repression.

Mr. President, in the Washington Post, Thursday, April 14, the KGB chief, Victor Chebrikov, blamed the turmoil in Armenia on shortcomings in the Soviet education system and the meddling of foreign intelligence services. This is an outrageous assertion. It is a lie whose only purpose is to justify the repression and oppression of the brave Armenian people.

Mr. President, I hope that our President, Ronald Reagan, will remind Mr. Gorbachev not only about glasnost but about the Helsinki agreements that were signed by the Soviet Union and minimal adherence to it will give the Armenian people the right to preserve their culture, their religion and, indeed, their rich heritage, which is the tradition of the Armenian people and the basic human rights which we believe are guaranteed to peoples throughout the world.

UNITED STATES RELATIONS WITH JAPAN

Mr. STEVENS. Mr. President, I hope today to bring into focus several defense issues that I have been studying over the past few months concerning our security commitments and relations with Japan. I have raised some of these issues on the floor of this body in previous statements. We face several difficult choices over the next few months in defense spending and other matters, and I believe that the Senate should consider these issues in the full context of our shared responsibilities and burdens with Japan.

I would like to start by introducing for the RECORD an article by Richard Halloran that appeared in Monday's New York Times that addressed the contributions made by our allies to our common defense. The top line of a chart in this article tells us something we all know—that the United States spends the most on defense by any category—percentage of gross domestic product [GDP], per capita, and in total dollars. There should be no doubt to our commitment to maintain our position of leadership in alliances across the globe. We cannot do it alone though.

The leaders of our military and the Department of Defense tell us that more needs to be done. The Soviet threat has not significantly diminished, the number of global flashpoints remains high, and the sophistication of our potential foes continues to advance. At the same time, we continue to face serious budget problems. In light of these facts, we must seek greater cooperation from our allies.

In Europe, most of our NATO partners are spending between 3 and 5 percent of their gross domestic product on defense. Germany, France, and Great Britain all spend about the same on defense in dollars, around $28 billion annually. The least wealthy of the NATO alliance, Greece and Turkey, respectively spend 6.1 and 4.8 percent of their GDP on defense. Let us compare that to what Japan is doing in the Pacific.

The Pacific theater has seen enormous growth in Soviet military power in the last 10 years. New ships, aircraft, and bases all contribute to a significant Russian offensive capability in the region. What is Japan currently spending, in light of the threat it faces in its own backyard? On a per capita basis, Japan spends about $163 a year for defense, or 1 percent of its GDP. This is a meager level of spending for the world's third greatest economic power.

Some have accused the Congress of engaging in "ally bashing" for advocating a more substantial role and for greater support from our security partners. Recent statements by key administration officials indicate though that our message has begun to make a difference. In his recent travels, Deputy Secretary of Defense Taft reported an improved climate for discussions on increased allied efforts. Assistant Secretary of Defense Armitage, in testimony before Appropriation's Defense Subcommittee, credits Congress' continued focus on this issue as critical in convincing our allies that this problem would not simply fade away.

At this stage, only an improved atmosphere has been reported, but little action has occurred. We must not fulfill the hopes of some overseas that the Congress will lose interest in this issue. This is especially critical in the case of Japan.

I am genuinely concerned that our overall policy toward Japan does not integrate security, trade, and economic issues. At the same time, our operational costs in Japan are soaring due to the dramatic growth in the value of the yen, the Japanese flatly reject expanding the importation of U.S. products.

The drop in the value of the dollar will increase our defense costs in Japan by over $400 million for fiscal year 1988. That's not providing more defense, that is simply increasing our balance of payments deficit with Japan. Instead of paying the cost of currency fluctuations, that $400 million would have allowed Secretary Carlucci to avoid all the force structure cuts here in the United States, of concern to many of my colleagues. That $400 million would have made completely unnecessary the threat of furloughs of civilian workers at defense installations around the country. In the end, that $400 million is simply added to the $2.3 billion we will spend this year for the privilege of stationing forces in Japan.

Our costs of defending Japan, and the failure of Japan to in any way responsibly provide for its own defense is no longer an abstract policy question to be debated at think tanks. It's jobs, and families, and the future of towns in each of our States.

Japan's contribution to our common defense is paltry by any measure. We cannot accept as progress the decision of the Government of Japan to increase defense spending to 1.04 percent of their GDP from 1 percent. We are told that we cannot expect miracles overnight, and that it will take years for real changes to occur in Japan's structural defense spending. The Japanese intend to let those years pass as we continue to grapple with massive budget deficits and swollen trade losses. We have to begin to question whether we can afford such alliances.

There are options that we can pursue, unilaterally, to mitigate future damage to our own defense structure due to the spiraling costs of operating in Japan. We can simply begin to bring the forces home. As long as "an improved atmosphere" is the extent of our progress with Japan, as long as we continue to be stonewalled on expanded U.S. exports, as long as our trade deficit stands at over $60 billion annually, the Japanese have no incentive to do more. Meanwhile we're still paying the salaries of thousands of Japanese workers. Their oil arrives safely from the Persian Gulf due to our commitment to protect international shipping. As I reported to the Senate earlier this year, the cost of our Persian Gulf policy is better than $450 million annually. Not an inexpensive proposition by any means.

I do not believe that stating these facts constitutes ally bashing. If such is the conclusion drawn, it may say more about the problem than our retoric. I do not challenge our military leaders on the value and importance of forward deployments to meet war fighting requirements. I do question the risks to our overall security from dismantling our force structure, deactivating units, and reducing the trained and experienced civilian work force here in the United States in order to maintain limited forward operating bases. As we find that these forces have to be reduced for budgetary reasons, we will not only lose these forward units, but will have lost the permanent infrastructure here in the United States.

Certainly, the answer is not a wholesale withdrawal of U.S. forces. There are limited, initial steps we must consider in the near term to help force decisions on the role Japan will play in our joint defense of the Pacific theater.

The basing of the aircraft carrier U.S.S. *Midway* is a case of substantial symbolic and financial importance. The return of that carrier battle group to the United States or U.S. controlled location would account for a $300 million savings in currency valuation alone, aside from other savings.

The Air Force F-16 wing at Misawa, Japan, could be reduced or completely relocated. Substantial Marine Corps and Air Force activities in Okinawa could also be cut back as this issue is settled. We can work with the Department of Defense to examine the prudence of these proposed actions while ensuring the continuity of our defense commitments and requirements.

To be sure, none of these proposals would be popular, and there are real risks to be considered by these actions. But at this juncture, we must consider all options—to include requesting the Japanese to help for these United States defense commitments. In the absence of expanding their defense, this may be the next best alternative.

Mr. President, I will be traveling to Japan later this week to engage officials there in a discussion of these issues. I have attempted to this and other statements before the Senate to lay out some of my concerns. I will report on my impressions and the conversations I have in Japan; I hope to be able to offer more specific recommendations to my colleagues on the Appropriations Committee as the Defense appropriations bill is marked up next month.

I ask unanimous consent that the article to which I had earlier referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 23, 1988]

MILITARY ALLIANCES: FISCAL SQUEEZE RENEWS DEBATE ON ARMS BURDEN

(By Richard Halloran)

WASHINGTON, May 19.—By almost every measure, the United States carries a greater military and financial share of the burden for the common defense than does any ally or combination of the nation's allies in Europe and Asia.

For decades, that has generated a dispute between those Americans who contend that the load is a small enough price to pay for security and others who argue that the Western allies can afford to contribute more and should be required to do so.

A new urgency has now come into that debate. It arises from the economic imperative of holding down military spending and the politics of the election campaigns coming in the fall. More pressure comes from a new emphasis on conventional arms that are more expensive than nuclear weapons and on a spreading, if nebulous, sentiment that the United States is in decline as a world power.

The latest turn is that the Reagan Administration, after years of ignoring this dispute, has begun a campaign to persuade European and Asian allies that this is a serious issue to which they must attend.

The point man has been William Howard Taft 4th, the Deputy Secretary of Defense, who has just returned from hurried swings through allied capitals in Western Europe, Japan and South Korea. Secretary of Defense Frank C. Carlucci will emphasize the problem in meetings with allied defense ministers in the weeks ahead. President Reagan will have it high on his agenda, Administration officials said, when he goes to the economic summit meeting in Toronto in June.

In an interview, Mr. Taft said, "The trip had a single theme, which was to get the ball rolling in the alliances, to share with our allies the strong feeling we have sensed in the Congress and feel has considerable basis in public opinion. The main objective was to sensitize them to the situation here and tell them that we thought this was a subject to which they should turn their attention."

The United States is allied with 15 nations in Europe, plus Canada, in the North Atlantic Treaty Organization and with Japan and South Korea by separate mutual security treaties. Collecitvely, those treaties define a military coalition intended to provide for the defense of all members.

In that coalition, the United States spends more for military power than all members of NATO and Japan put together, carrying fully two-thirds of the cost of common defense. Each American spends twice as much as any allied citizen. Americans provide 40 percent of the people to the allied defense establishment from 32 percent of the combined populations. The United States furnishes the nuclear shield, 63 percent of naval tonnage, 46 percent of ground-based jet fighters and 91 percent of those based at sea, and 39 percent of the ground forces. One quarter of all American forces are stationed overseas; that goes up to a third when temporary deployments, such as that to the Persian Gulf, are counted.

That imbalance has become an issue of urgency to the Reagan Administration for several reasons, including these:

The twin deficits in the Federal budget and the balance of international trade have led to an everwidening consensus that military spending must be held down. That, in turn, has led to demands that allies pay more than they do now for American military expenses or see American forces abroad reduced.

Politically, the Administration has come under fire from Republicans and Democrats alike for failing to persuade the allies to contribute a greater military and financial share to the coalition. Senator Bob Dole made an issue of this before being defeated by Vice President Bush for the Republican party's Presidential nomination. Democrats in Congress, led by Representative Patricia Schroeder of Colorado, are beating the drums, as is the Rev. Jesse Jackson, the Democratic Presidential contender.

A new military situation has arisen from the expected ratification of the treaty with the Soviet Union eliminating ground-based shorter- and medium-range nuclear missiles and a possible agreement on reducing strategic nuclear weapons. If the consequent Soviet advantage in conventional arms is to be met, that would require substantial allied investment in those more expensive weapons.

An undercurrent through polls and books such as Paul Kennedy's "The Rise and Fall of Great Powers" holds that America's military reach has outrun its economic capacity. Mr. Kennedy, a historian at Yale University, contends that the United States runs the risk of "imperial overstretch."

This dispute was born with the establishment of NATO in 1949. Senator Bourke Hickenlooper, a Republican from Iowa who opposed posting American forces abroad, asked Secretary of State Dean Acheson whether American troops would be stationed permanently in Europe. Acheson replied, "The answer to that question, Senator, is a clear and absolute no."

When Mike Mansfield, the United States Ambassador to Japan, was a Senator and then the majority leader from 1961 to 1977, he regularly introduced resolutions to reduce the number of American troops in Europe. Other members of Congress have occasionally made similar proposals, but they were all beaten back by opponents who argued that they represented isolationism.

In the Reagan era, Caspar W. Weinberger began to exhort the allies to improve their military strength almost as soon as he took office as Secretary of Defense in 1981. Pointing to President Reagan's plan to "rearm America," Mr. Weinberger told fellow defense ministers assembled in Bonn: "Our people will not march alone. If our effort is not joined by all who are threatened, by all who face the common danger, we in the United States could lose at home the critical public support for which we have labored long and hard."

But that plea, and similar requests to allies in Asia, fell on deaf ears. The allies resisted greater military spending, criticized American military operation in Grenada and refused, with the exception of Britain, to support military action against Libya. At the same time, American military spending dropped. Mr. Weinberger then muted his message.

The Administration seemed complacent about rising demands for pressure on the allies even after Representative Schroeder began hearings this winter before the Burden-Sharing Panel of the Armed Services Committee. President Reagan skirted the issue when he met with European leaders in Brussels in March. A tepid communique said NATO's arms would be "kept up-to-date where necessary."

But in April, Administration officials said, Mr. Carlucci began to take seriously the sentiments on Capitol Hill. He appointed Mr. Taft chairman of a Pentagon group to fend off Congressional demands and to warn allies that consequences of ignoring those sentiments could be serious.

Mr. Taft said he repeatedly told the Europeans and Asians that the United States, having cut spending and personnel this year, might be forced to withdraw troops from abroad unless allied help was forthcoming. "At some point," he said, "if you pull down a lot, then you pull back those forward deployed troops."

The Administration does not want that, Mr. Taft said. But, he added: "At some point you get an army that is of such a size that you cannot have 300,000 of its troops overseas. It just doesn't work."

OAO WINS GOLDEN FLEECE FOR MAY

Mr. PROXMIRE. Mr. President, today, I am giving my Golden Fleece of the Month Award for May to the Office of Aircraft Operations (OAO) of the Department of Commerce for wasting $1.9 million on two unneeded helicopters.

The National Oceanic and Atmospheric Administration (NOAA) established OAO in 1983 as an attempt to improve aircraft management. But in this case they managed to leave the taxpayers out in the cold and up in the air.

According to the inspector general, "OAO circumvented the Department's budget and justification process in order to purchase the Bell 212 [helicopters] and now cannot identify specific NOAA programs to justify keeping them." In fact, only one new NOAA program, the eastern tropical Pacific porpoise survey, will require helicopter support. Even worse, the Bell 212's aren't suited for this project. Incredibly, OAO needed still another, lighter helicopter for the job. OAO got the rotors and the taxpayers got the shaft.

OAO justified replacement of their single-engine UH-1 helicopters with the new twin-engine Bell 212 helicopters as a move to improve safety in the Arctic environment. The major use of its helicopters' time has been in the Alaskan Outer Continental Shelf Environmental Assessment Program (OCSEAP). But OAO neglected to mention to Congress that the program's funding was being phased down from $21.4 million in fiscal year 1980 to $6.1 million in fiscal year 1987 to an estimated $3.8 million in fiscal year 1988, with a corresponding decrease in flight hours. An OCSEAP manager stated that it is highly uncertain that this program will even continue beyond 1988.

As a result of these cuts, one of the helicopters logged only 40 hours of flying time last year. I doubt that many of these hours were spent exploring the Arctic Continental Shelf, since the helicopter was kept at OAO headquarters in Miami for the last 20 months.

OAO claimed that this new helicopter would stay in sunny Miami only until they could resolve problems with using it in the Arctic. The inspector general, however, found that, "both OAO and OCSEAP officials stated that the second [helicopter] will probably not be needed in Alaska." Incredibly, if OCSEAP continues, even one helicopter may be one too many. Meanwhile, OAO plans to keep and store its two older single-engine helicopters in Alaska.

It would be easy to call this a fly-by-night scheme, but even that would overstate these helicopters' actual usefulness. For a purchase that should never have seen the light, northern or otherwise, OAO deserves this month's Fleece.

ARMENIAN INDEPENDENCE DAY

Mr. RIEGLE. Mr. President May 28 marks the 70th anniversary of the proclamation of independence by the Armenian people from Turkish and Soviet domination. Throughout the world, this is a day when Armenians remember their history and renew their struggle for human rights and self-determination for modern-day Armenia.

The Armenian people have historical roots and a political identity which dates back over 1,500 years in what is now eastern Turkey, northwestern Iran, and south-central Soviet Union. They have a distinctive linguistic and religious heritage within the Christian tradition. Although Armenia's autonomous existence dates back 2,000 years, with the fall of the Byzantine Empire in the early 16th century, the Armenian people came under the subjugation of the Turkish Ottoman Empire.

Toward the end of the 600-year Ottoman rule over the Armenians, Ottoman leaders who saw the Armenians' national spirit as a dangerous threat to their huge empire promulgated anti-Armenian policies, which included mass deportations of Armenians in the eastern provinces to Syria. These policies resulted in the death, through massacres, disease, and starvation, of a large segment of the Armenian population. In the years preceding World War I, the Turks continued to attempt to silence this proud nation, massacring hundreds of thousands of Armenian men, women, and children. Despite the persecution inflicted on the Armenian people, the Turks were unable to destroy their pride or slow their growing nationalism.

As World War I ensued, the Turkish rulers in 1915, initiated a policy to exterminate the Armenian people. This extermination would prove to be the first genocide of the 20th century. An estimated 1.5 million Armenians were killed, tortured, or deported in massive death marches between the years 1915 and 1923. These genocidal atrocities virtually eliminated the Armenian community in the Ottoman Empire, and is one of the greatest tragedies in modern history.

Even the genocide could not destroy the strong Armenian people and their nationalistic aspirations. On May 28, 1918, the remaining ill-prepared Armenians defeated an invading Turkish army and set up an independent state. Unfortunately, this freedom that was gained at such an exorbitant cost in human suffering, was short-lived. In 1920, the Soviet Union and Turkey invaded Armenia, destroying the new Armenian Republic. Turkey retained all of Armenia except for eastern Armenia which remains today under Soviet control.

To dismiss the Armenian case or consider their story completed would be a grave mistake. The Armenian people have survived centuries of persecution and still maintain a unique cultural, religious, and linguistic identity. Their determination to survive has been vividly shown in a series of demonstrations which have rocked the Soviet-controlled Armenian Republic in recent months.

In the largest public demonstrations ever reported in the U.S.S.R., Armenians gathered to focus attention on the injustice suffered by their brothers and sisters living in the neighboring Azerbaijan Republic, and to draw attention to serious environmental problems which pose a grave threat to the quality of life in the region. On May 19, 1988, about 200,000 Armenians gathered again to stage a peaceful demonstration.

Today the Armenian people in Soviet Armenia continue to struggle for their human rights and national and cultural identities. They have endured many hardships throughout the ages and deserve our support. We share the hope of Armenian Americans that these rights will be returned to those living under Soviet occupation. On the anniversary of Armenian independence, let us remember their enduring efforts and dedicate ourselves to supporting their struggle.

A REVIEW OF THE FACTS ON AGENT ORANGE

Mr. DASCHLE. Mr. President, on May 12, the Senate Veterans' Affairs Committee held a hearing on the issue of agent orange. I want to thank Senator CRANSTON, the chairman of the committee, and Senator MURKOWSKI, the ranking minority member, for scheduling this important hearing and for allowing me to participate as a guest of the committee.

Many significant findings were reported at the May 12 hearing, and the case for compensation for Vietnam veterans with disabilities that may be attributable to agent orange was presented well by several witnesses. Senator KERRY has already entered into the RECORD his own testimony as well as the testimony of Adm. Elmo R. Zumwalt, Jr. Both of these men spoke eloquently about the need for fair, compassionate attention to the concerns of agent orange victims, and I appreciate their testimony.

Of course, we also heard testimony from opponents of agent orange compensation. While some of that testimony reflected honest differences of opinion, some of it was simply inaccurate. In response to those inaccurate statements, I submitted an additional statement for the hearing record. So that my colleagues may have a more complete picture of the results of the hearing, I ask unanimous consent that both my original statement and my additional statement be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR TOM DASCHLE BEFORE THE COMMITTEE ON VETERANS' AFFAIRS, MAY 12, 1988

Mr. Chairman, thank you for the opportunity to appear today to discuss the continuing problem of Agent Orange and its effects on Vietnam veterans. I would like to focus attention on S. 1787, the bill Senator Kerry and I have introduced to establish, for disability compensation purposes, a presumption in favor of Vietnam veterans suffering from diseases associated with exposure to Agent Orange. I am confident that my colleagues will find the case for compensation compelling once the full truth is known about current dioxin research and the government's teatment of this issue, which has been, at best, woefully inadequate.

The Vietnam War ended long ago, but many Vietnam veterans continue to fight a seemingly endless battle against bureaucratic intransigence—a battle for government recognition of what they firmly believe are service-connected disabilities due to exposure to Agent Orange. It is a battle in which the veterans can hope to win only a partial victory, for even compensation will not erase the hurt caused by a combination of disease and government insensitivity.

There are encouraging signs, however, that some in the government are finally responding more effectively to this problem. Until recently the government has consistently argued that few veterans were exposed to substantial levels of Agent Orange, that those most heavily exposed were the "Ranch Handers," who executed the Air Force defoliation and crop destruction missions, and that studies show the Ranch Handers are not suffering from any significant increase in major illnesses. Those making this argument have relied heavily on reports that the Air Force's 1984 "Ranch Hand" Report was "negative" and "should be viewed as reassuring to the Ranch Handers and to their families."

In February 1988 the Air Force issued an interim report on the Air Force Health Study (Ranch Hand Report) entitled "United States Air Force Personnel and Exposure to Herbicide Orange." This report offers a reassessment of the original "negative" study, pointing out important new evidence and drawing a very different conclusion. While the 1984 report found a statistically significant increase among the Ranch Hand population in birth defects and cancers, the report downplayed the significance of those findings, suggesting that might be explained away in further review. The report noted that birth defects were self-reported and, thus, needed to be verified by record review, and that they appeared to be limited to minor skin defects. The report also noted that cancers were also limited to the skin and that they were probably due to overexposure to the sun.

The February 1988 report provides a long-overdue update. According to this report and information I have received from the Air Force, positive reports of birth defects have been verified, and the defects are not limited to the skin. There are major birth defects in the Ranch Hand children, and it appears that the overall birth defect rate is approximately twice the rate of birth defects in the control group. The skin cancers cannot be explained by overexposure to the sun, and an increase in systemic cancers cannot be ruled out.

The 1988 report also explains the inherent problems in the study's current method for identifying exposure (the Air Force is developing a new exposure index based on dioxin levels in the blood), and takes a special look at health effects generally associated with dioxin exposure. Finally, the report's abstract concludes that "dioxin is not exonerated as a causative agent."

It is also important to note that the 1987 VA Mortality Study released reluctantly by the VA last fall found that Marine troops serving in an area of I Corps sprayed heavily with Agent Orange had a 110% higher rate of death from non-Hodgkin's lymphoma than their Army counterparts who served in less heavily sprayed areas. The Marines also suffered from a 58% higher death rate from lung cancer than the Army veterans.

Agent Orange victims ask only to be given accurate, timely information about their health and to be treated fairly within the Veterans Administration (VA) disability compensation system. Because many of their disabilities manifest themselves years after their military service, they have been asked to "prove" that their illnesses are service-connected. That is a standard to which other veterans are not held.

In the cases of veterans whose disabilities are caused by enemy fire, there is little question of their relationship to military service. For the sake of argument, I will not compare Agent Orange victims to those veterans, though their pain and injuries are no less real. I will, instead, compare Agent Orange victims to veterans with multiple sclerosis, or those with diabetes contracted within seven years of service, or POWs with spastic colon. All these veterans have been granted a presumption of service-connected disability, though many might find the scientific evidence linking their disabilities to service weaker than the evidence suggesting a relationship between certain disabilities and exposure to Agent Orange.

S. 1787 is a reasonable approach to a very difficult problem. It is not rigid and uncompromising in its identification of diseases to be considered for compensation. It does not close its eyes to the need for continued scientific inquiry into the effects of dioxin. Moreover, it is not a bill which takes lightly our obligation to exercise restraint in spending federal funds.

S. 1787 would presume that non-Hodgkin's lymphoma and lung cancer manifested within 25 years of service, both clearly linked in the scientific literature to dioxin exposure, are service-connected disabilities to be compensable under the VA disability compensation system for those veterans who, based on current VA regulations, were exposed to Agent Orange. The bill would also establish a procedure for identifying immune system disorders which might, in the future, be compensable. Finally, the bill would require that the VA make a careful and concerted effort to gather and analyze information about the medical treatment of veterans' disabilities which may have been caused by exposure to Agent Orange and other toxic herbicides.

Does the scientific evidence of Agent Orange toxicity support the presumption provided in S. 1787? Numerous studies on animals make it abundantly clear that dioxin—the contaminant of Agent Orange most often alleged to have harmful effects—is an extremely toxic substance. The precise level of toxicity varies from species to species, but the evidence of harm is incontrovertible. For some species of guinea pigs, minute quantities of dioxin are sufficient to cause immediate death.

Are humans at risk from dioxin exposure? Some studies have been inconclusive, but many others have provided strongly suggestive—and frightening—evidence of the tragic effects of dioxin exposure. Various studies of men and women exposed to dioxin, including those of American soldiers in Vietnam, have linked the chemical to health problems ranging from skin disorders to liver damage to cancer to birth defects. The Environmental Protection Agency puts dioxin at the very top of its list of carcinogens and requires its dioxin researchers to wear "moon suits" to prevent contact of any kind while handling the substance.

No one should misconstrue S. 1787 as a statement that dioxin research should stop. I will continue to support an aggressive research effort, and I greatly appreciate the work of those scientists, in the Air Force and in the scientific community at large, who are working to uncover the full extent of dioxin's effects. Indeed, I am gratified to see that the scientists who have worked on the Agent Orange problem appear to be coming together to help us answer these difficult questions. Our job is to (1) oversee these studies, ensuring that valid scientific efforts will be freed from the interference of those who feel threatened by the results of objective scientific inquiry; and (2) promote a sound, cautious policy to meet the public health and environmental concerns related to dioxin.

Will the scientists here today claim that the link between dioxin and disease is definitive, that a simple cause and effect relationship has been irrefutably established? No. It is far too easy, in fact, to argue that more time is needed to study the problem, that more time is needed to ensure that money is not paid to veterans who don't deserve compensation. Indeed, there are those who would wait for science to "prove" beyond a shadow of doubt that dioxin is a killer.

I submit that we will be waiting for a very long time, and at an unacceptable human cost.

There is a time for study and more study, and there is a time for leadership. We cannot wait for science to dictate this policy. As United States Senators, we must be willing to act on behalf of our nation's veterans while that action can still be meaningful.

Are we so afraid of being wrong that we are unwilling to risk being right?

Public Law 98-542 specifies that in compensation cases where there is reasonable doubt, the benefit of the doubt shall be awarded to the veteran. Mr. Chairman, the evidence supporting the claims of Agent Orange victims far exceeds this "reasonable doubt" standard. Our policy choice is clear: Do we give the benefit of the doubt to the veterans or the VA? As a member of Congress, I have faced this choice for almost ten years. Based on the preponderance of evidence I have seen, the choice has not been difficult for me. I decided some time ago that if I am going to err in this case, I will err on the side of caution and compassion. It is time to grant meaningful compensation to Agency Orange victims.

In conclusion, Mr. Chairman, I want to thank you for conducting this hearing. S. 1787 represents an attempt to address the Agent Orange problem in a comprehensive fashion. I welcome suggestions as to how the bill could be improved. If there are legitimate concerns about specific language in the bill, I am hopeful this hearing will provide opportunity to consider them. In the process, however, we should not forget that many Vietnam veterans are suffering—some dying—as we debate the most effective, compassionate way to deal with this problem.

ADDITIONAL STATEMENT OF SENATOR TOM DASCHLE BEFORE THE SENATE VETERANS' AFFAIRS COMMITTEE FOR THE MAY 12, 1988, AGENT ORANGE HEARING RECORD

Mr. Chairman, let me thank you and the ranking minority member, Senator Murkowski, for allowing me to testify and sit as a guest of your committee during the May 12, 1988, Agent Orange hearing. As you know, this issue is very important to me, and I deeply appreciate the opportunity to participate actively with you and other committee members.

The hearing was an important step toward updating members of Congress, veterans, and the general public on the status of Agent Orange-related studies and legislation to address the issue of compensation for veterans' disabilities that may be attributable to exposure to Agent Orange. Nevertheless, I remain concerned about some of the testimony that was inconsistent with reports I have been given on the status and details of several of the studies covered in the hearing. For the hearing record, I am submitting my review of those discrepancies and a few additional comments on the Agent Orange issue. I am also submitting the enclosed written followup questions for several of the witnesses.

First, as I mentioned in the hearing, I am disturbed by the comment by the Deputy Administrator of the VA, Thomas E. Harvey, that there is not a "shred of evidence" linking dioxin with supression of the immune system. I am enclosing a partial bibliography of studies relating dioxin with suppression of the immune system.

I would also refer the Committee and Mr. Harvey to the testimony of Dr. Tom Gasiewicz, Associate Professor of Toxicology at the University of Rochester, and the "Immunotoxicity" section of the VA's "Review of Literature on Herbicides, Including Phenoxy Herbicides and Associated Dioxins (Volume IX: Analysis of Literature on Health Effects Published in 1986)," dated May 26, 1987. In its conclusions, the VA's own literature review states, "Although no study has provided direct evidence of immune suppression in humans exposed to chlorinated dibenzo-p-dioins and/or phenoxy herbicides, the indirect evidence that human immune suppression might result from exposure to these compounds is increasing." I stand by my claim that there is more than a "shred of evidence" linking dioxin with suppression of the immune system.

The comments by the Chairman of the White House Agent Orange Working Group, Don M. Newman, that "service in Vietnam and possible exposure to Agent Orange are not resulting in adverse health effects," and "in the studies which have come to conclusion, we are seeing no cause-effect relationship between service in Vietnam and possible exposure to Agent Orange and adverse health," epitomize this Administration's tendency to oversimplify, downplay, or blatantly misrepresent scientific evidence suggestive of a link between negative health effects and exposure to dioxin. This is certainly not a minor concern, given the important implications this issue has for veterans, their families, the environment, and public health. While I am pleased that Mr. Newman retreated somewhat from his "no causal link" position under questioning, his prepared statements appear to represent a deliberate attempt to, at the very least, soften the public view of dioxin studies.

While I am not a scientist, one thing I have clearly learned from my work on this issue is epidemiology is both extremely complex and severely limited in its ability to either prove or disprove a causal link between exposure to a substance and health effects. Science may never give us a definitive answer. Furthermore, an understanding of the importance of an accurate exposure index is vital to an understanding of the issue. I think it is important to point out, therefore, that none of the federal studies to date have provided accurate exposure indices. The absence of such indices tends to allow for misclassification in "exposed" and "control" groups, and that misclassification tends to hide any potential dioxin effects or dose-response relationships.

Perhaps one of the most disturbing statements at the hearing was made by General Alexander M. Sloan, who testified on behalf of the Air Force. General Sloan stated that self-reported birth defects in the 1984 "Baseline Morbidity Study Results" of the Air Force Ranch Hand Study have not yet been verified. I submit for the record a joint letter to me, dated August 25, 1987, from Dr. Joel Michalek, Dr. Richard Albanese, and Col. William Wolfe, signed by Col. Wolfe, stating quite clearly that "Verification of all reported birth defects in the children fathered by participants in our study was conducted using medical records and birth certificates in 1984. . . . A report of the analyses of these data was submitted to the Advisory Committee in 1984 but they recommended that it not be published."

General Sloan's statement, in conjunction with his testimony that the information and conclusions in the Air Force's 1988 interim report on the Ranch Hand Study "were essentially the same as in previous reports" causes me great concern about apparent Air Force management attempts to misrepresent, delay, or cloud reports concerned the Ranch Hand Study. The Air Force statements are especially perplexing in light of the fact that the Air Force attended a meeting in my office in January of this year to explain to me the Air Force's refusal to release the four-year-old report on birth defects. In fact, the 1988 interim report was released, in part, due to my request for a public update on this as yet unreported information.

It is important to note that while I was disappointed in some of the Air Force testimony, I was pleased that the Air Force scientists confirmed several important points: (1) that the excess in birth defects—an approximate doubling—in the Ranch Hand population is an important finding of which veterans should be aware; (2) that the exposure index currently used in the Ranch Hand Study has serious deficiencies that limit the study's ability to detect potential group differences and dioxin effects; (3) that some, but certainly not all, of the Ranch Handers were heavily exposed to Agent Orange; and (4) that Dr. Wolfe, Dr. Michalek, and Dr. Albanese collaborated on the 1988 interim report and agree on the technical merit and substance of this official Air Force report.

Although I continue to be concerned about Air Force management and Peer Review Group bias in the Ranch Hand Study, I have been very favorably impressed with the work of the Air Force scientists themselves. Their commitment to an improved exposure index based, at least in part, on actual body burdens of dioxin is encouraging and will take some of the guesswork out of exposure estimates, which, according to virtually every scientist I have talked to, have been notoriously poor. In fact, in spite of the deficiencies in the current Ranch Hand exposure index, there are indications that it is better than other exposure indices, such as the one attempted by the Centers for Disease Control in its aborted Agent Orange Exposure Study. As you know, I strongly support the Air Force project to determine actual dioxin levels of participants in the Ranch Hand Study and have pledged to support full funding for this effort.

The Air Force's blood studies should allow the Ranch Hand scientists to establish an exposure index based on actual dioxin levels. It will be interesting to see whether or not patterns of exposure emerge from these data. Since not all of the Ranch Handers were heavily exposed, it is possible that dioxin levels will correspond with certain occupations. We know from initial Air Force tests that several of the Ranch Hand enlisted ground crew had high exposures, and it will be important to see how the exposures of the pilots and the enlisted flyers compare with those of the ground crew.

Discussion of the National Cancer Institute's study of the effects of dioxin-laced 2,4-D on the health of Kansas farmers was also provocative. While a representative of the VA's Advisory Committee on Environmental Hazards suggested that there is conclusive evidence that "Vietnam veterans have not suffered adverse health effects as a result of their exposure to Agent Orange," he also conceded the strength of the Kansas farmer study, which detected a sixfold increase in non-Hodgkin's lymphoma in the exposed farmers. In addition, he and the representative from the Office of Technology Assessment, Hellen Gelband, stated that it may be relevant to extrapolate from the Kansas study an increased risk of non-Hodgkin's lymphoma in certain portions of the Ranch Hand population or other veterans with high exposures to Agent Orange. This appears to me a tacit admission of the potential adverse effects of at least high exposures to Agent Orange.

It was also interesting to note the conflicting reports on whether or not the 2,4-D mixture in the Kansas study had dioxin in it. It would seem that the answer would be unequivocal on that point. Nevertheless, we witnessed attempts to characterize the study as somehow unrelated because "there was no dioxin in the mixture." We discovered, in fact, that dioxin, though not the 2,3,7,8 TCDD compound considered most dangerous, was in the mixture. There seem to be four possible conclusions to be drawn from the Kansas results: (1) the increase in non-Hodgkin's lymphoma is unrelated to the 2,4-D/dioxin mixture; (2) 2,4-D is the cause of the increase; (3) 2,4-D and dioxin worked together to cause the increase; or (4) dioxin is the cause, indicating negative health effects could result from dioxin doses even smaller and weaker than those in the Agent Orange mixture.

As for the assessments of the VA's Proportionate Mortality Study, it was encouraging to hear government witnesses acknowledge that there is "something special" about the Marines in the study. The "special" findings were cited as possibly attributable to Agent Orange, even by a representative of the VA's Advisory Committee on Environmental Hazards. It seems clear from the testimony that this study should not be ignored.

The lung cancer finding from the VA study was questioned by many who expressed concern that the data were not adjusted for smoking histories. I understand this concern and believe that adjusted analyses should be used whenever possible. It is difficult to adjust for smoking histories in a deceased population, however, and I am informed that the VA scientists did attempt to address this issue in other ways. First, they observed the death records of Army veterans in areas less heavily sprayed with Agent Orange and found no corresponding increase in lung cancers. The scientists said they had no reason to assume that Marine veterans smoked more than Army veterans. In addition, the VA scientists studied the data on other diseases reasonably associated with smoking, such as emphysema, and observed no corresponding increases in those diseases among the Marine veterans.

The discussion of the importance of adjusting the VA lung cancer data for smoking histories brings up a related issue: statistically significant findings in the Ranch Hand Study suggesting adverse health effects in the Ranch Hand population. Although several witnesses suggested that there are no statistically significant group differences adversely affecting the Ranch Hand group, this is not the case.

The 1988 Air Force interim report and the 1987 Morbidity Followup results show group differences in several important areas reasonably associated with dioxin exposure in the literature, including cancers and birth defects. While the Air Force has made a point to claim that group differences are "going away," a look at the adjusted analysis in the Ranch Hand Study would suggest that there are important group differences, such as a statistically significant increase in systemic cancers in the Ranch Hand enlisted flyers, the men who served in the back of the planes and controlled the release of Agent Orange. The importance of adjusted analyses, therefore, is important for all studies, not just the VA Mortality Study.

The fact that one of the witnesses claiming there are no significant health problems in the Ranch Hand population is the President of the Ranch Hand Vietnam Association, Major Jack Spey, is especially disconcerting. Major Spey authors newsletters to the members of the Ranch Hand Association and provides a major source of their information on this issue. It appears that Major Spey has been misinformed about the potential health risks facing the Ranch Hand population and has passed that "good news" along to the Ranch Handers. It seems to me the only way to avoid this kind of situation is to ensure accurate, timely information—the good and bad news—to the Ranch Handers and any other population at a potential health risk.

While I have not yet had a chance to review the entire Vietnam Experience Study conducted by the Centers for Disease Control (CDC), I am troubled by the way in which the study has been reported. First, it is important to emphasize that the study is not an Agent Orange study and lacks the statistical power to detect many of the potential health effects associated with Agent Orange exposure. Furthermore, statistically significant findings seem to have been treated in a less than even-handed way, and there is an apparent desire to scrutinize the positive findings until they can be explained away. One example is the group difference (six cases to one) in non-Hodgkin's lymphoma reflecting a substantial increase in the Vietnam veterans. The CDC witnesses did not give much weight to these findings, claiming three of the cases have not yet been confirmed.

The birth defects data is another example of particular concern to me. While the Vietnam veterans reported a statistically significant increase in birth defects in their children as compared to the non-Vietnam veterans, the Centers for Disease Control (CDC) explains that the non-Vietnam veterans apparently underreported birth defects in their children and that hospital birth records do not verify the reported increase. What is not explained is that only a small, non-random sub-sample of the birth records were checked. As I understand it, there are two problems with this approach: (1) it would be preferable to verify all birth defects, or at least a larger, random subsample; and (2) it would be preferable to verify the birth defects through the use of current medical records or examinations instead of hospital birth records, which would not reflect learning disabilities or other birth defects, not readily apparent at birth.

Another CDC study mentioned at the hearing was the aborted Agent Orange Exposure Study. As a prime sponsor of legislation mandating that study, I continue to be amazed at the way it has been handled. While it is difficult for me and many others to understand how CDC could spend years and millions of dollars only to fail to find enough exposed veterans to conduct a valid study, my strongest frustration regarding this study is that CDC and others have insisted on drawing conclusions about Agent Orange exposure from a study that was never actually conducted. The CDC "hit model" used to identify exposure was recognized by CDC as flawed. To "correct" the flaws, CDC took 665 of the veterans identified by the flawed hit model and tested the dioxin levels in their blood. When they found "normal" dioxin levels in these veterans, they concluded that a valid ground troop study could not be conducted and that the blood tests proved that ground troops weren't exposed to Agent Orange to any substantial degree.

Since the 665 veterans were identified by the flawed hit model, the only thing that could be "proved" by the blood tests was that the original method for identifying exposure was faulty—far more faulty than the Air Force's current, limited exposure index. It is amazing to me that CDC, OTA, and the AOWG are willing to accept this failed study as "proof" of a lack of veterans' exposure to dioxin. I would refer the Committee to the March 18, 1988, issue of the Journal of the American Medical Association for a more complete explanation by Dr. Peter Kahn and his associates of the pitfalls of the CDC study.

Finally, I want to call to the Committee's attention my strong belief that peer review and monitoring standards in government Agent Orange and dioxin studies need to be reassessed. Obviously, high peer review standards need to be maintained in order to ensure that the public has the benefit of good science. I am deeply concerned about government interference in dioxin studies—from the Office of Management and Budget, which has blocked funding for certain studies and suggested that there has been "enough" dioxin research, to the White House Agent Orange Working Group. I think Congress should pay particular attention to the VA's Advisory Committee on Environmental Hazards and the Ranch Hand Advisory Committee, both of which are involved in peer review of numerous government studies. If we want government science to be taken seriously, we need to ensure that these studies are conducted as freely and independently as possible.

In the specific case of the Air Force Ranch Hand Study, I am aware of a clear protocol violation with respect to the peer review group, which is chaired by a White House appointee. Page 89 of the protocol describes the "monitoring group": "Approximately equal representation will be maintained between government scientists, academic scientists, and scientific personnel nominated by veterans' advocacy groups." The Air Force scientists have confirmed that there are no scientists on the peer review group who have been nominated by veterans' advocacy groups. This seems to me something that should have been corrected years ago and should certainly be corrected now.

Other peer review group behavior of concern is the Ranch Hand Advisory Committee's direction to the Air Force scientists in 1984 that the Baseline Morbidity Report's final conclusion that "It is incorrect to interpret this baseline study as 'negative,'" should be deleted. As you know, the study was later called "negative" by the Administration, and it has taken the Air Force four years to state in its 1988 interim report what the Air Force scientists tried to state in its original 1984 report—that dioxin cannot be exonerated as a causative agent in negative health effects. The peer review group at one point tried to discontinue verification of the reported birth defects and recommended that the 1984 report of birth defects and the 1988 interim report not be published.

These are some of my concerns about the Agent Orange issue. As you can see, it is far from resolved, as the Senator from Wyoming suggested. I hope to work with you and the other Committee members in the coming months to address these very important matters.

Once again, thank you for your consideration and your work on behalf of America's veterans.

OHIO PROPRIETARY SCHOOLS

Mr. METZENBAUM. Mr. President, the Cleveland Plain Dealer recently published an excellent series of articles which brought to light some serious abuses occurring in Ohio proprietary schools. According to the Plain Dealer, some of these private trade schools are exploiting the poor and unemployed by aggressively recruiting unqualified students and encouraging them to enroll in programs and to apply for Federal student aid. The Plain Dealer series recounts heartbreaking stories of illiterate and mentally handicapped students, lured by false promises of employment, who are fast talked by commissioned recruiters into signing up for courses which they have no hope of completing, and taking out Federal student loans to pay for them. When these students find they cannot handle the work, they drop out of the program and find themselves worse off than before—still unemployed, but now deeply in debt for student loans. With no jobs and no income, the students have no way of repaying their debt, and default on their federally guaranteed student loans, increasing costs to the taxpayer.

The Plain Dealer has exposed a disturbing problem in a thorough and even-handed manner. I commend these articles to my colleagues' attention, and will ask that the entire series be printed in the RECORD at the conclusion of my remarks.

It is important to note that these practices are not typical of most trade schools. The majority of proprietary schools are well run and are doing a responsible job. In fact, these schools provide a valuable service, preparing and retraining workers to meet the changing needs of our Nation's workplace, and offering expanded opportunities to some of the most disadvantaged members of our society. The Ohio Diesel Technical Institute is cited in the articles as one example of these quality institutions. They, and other responsible schools, should be commended for their efforts.

However, as the Plain Dealer reveals, other schools are being permitted to abuse the system and victimize some of the most vulnerable members of our society. These "bad apples" are also contributing to the serious problem of defaults on the federally Guaranteed Student Loan Program.

It is ironic that, while Secretary of Education Bennett has been outspoken in his criticism of proprietary schools, lack of proper oversight by the Department of Education has been a major factor in permitting these abuses to continue. There are already laws and regulations on the books which prohibit many of the harmful practices which the Plain Dealer articles describe. For example, the Secretary of Education has the power to deny participation in Federal financial aid programs to any institution that misrepresents the nature of its educational program, its finance charges, or the employability of its graduates. In the 1986 higher education amendments, Congress added a requirement that schools admitting students without high school diplomas take specified steps to ensure that these students have the ability to benefit from their programs.

Under the Reagan administration, however, there has been a serious decline in efforts by the Department of Education to enforce the law and police these schools. While there has been a substantial growth in the number of eligible schools participating in Federal student aid programs, there has been a sharp drop in the number of schools actually reviewed by the Department. In 1981, the Department conducted 1,058 program reviews of participating schools. In 1986, this number had decreased to 417. In 1987, only 372 reviews were conducted.

It is obvious that lack of oversight and enforcement has created a climate where unscrupulous schools feel free to exploit the system. The Department of Education should take immediate steps to correct this situation by committing additional time and resources to its investigatory and oversight responsibilities.

Although strict enforcement by the Department of Education is crucial, there are other steps that can be taken to increase the accountability of these schools. The Department, national accrediting bodies, State licensing boards, and the schools themselves must all take responsible action to ensure that problems are identified and corrected before they reach the crisis stage.

In addition, Congress can tighten up the laws governing the administration of Federal financial aid programs. The Education Subcommittee is currently developing legislation to address the overall problem of defaults in the GSL Program. I will be working with other members of the subcommittee to ensure that this measure will help to eliminate loopholes in the law which allow unethical schools to cheat the Federal Government and take advantage of their students.

I commend the Plain Dealer for bringing this situation to light. Proprietary schools serve some of the most vulnerable members of our society. We cannot permit unscrupulous schools to exploit the hopes and aspirations of the poor and the disadvantaged who are seeking employable skills and a better life for themselves and their families. I intend to do everything I can to ensure that this deplorable problem is corrected.

Mr. President, I ask unanimous consent that the articles to which I have referred be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Plain Dealer, Apr. 24, 1988]

School Daze Kills Hopes of Family

(By Bob Becxer and John S. Long)

Rosemarie Bonner, an Akron mother of eight struggling to rear her family on welfare, thought she had found a road out of poverty three years ago when she heard about a Cuyahoga Falls electronics school.

What she got instead, she said, was a fast-talking recruiter who signed up her and three of her children—two of them teenagers and all high-school dropouts—for a sophisticated 18-month electronics program they had virtually no chance of understanding.

Now, their hopes dashed, they are thousands of dollars in debt and unemployed.

The Bonners are among thousands of Ohioans who have enrolled in programs of business, trade and technical schools not knowing that they have little chance of completing them.

A Plain Dealer investigation has found that dozens of these for-profit schools, called proprietary schools because they are privately owned, have exploited the poor, the unemployed, welfare recipients and the mentally handicapped.

Those schools, The PD has found, have recruited unqualified students and have encouraged them to seek taxpayer-supported guaranteed loans and grants for tuition. When the students find they can't handle the work, they usually drop out. The schools not only get their money, but vacant spaces to fill with more paying students.

And the odds of an enrollee being placed in a relevant job are slim. Without jobs, the ex-students have little means to repay loans.

So who pays? The taxpayers do, because the loans are guaranteed by the federal government. And the bill is getting steeper.

The PD found that at 60 of the state's largest proprietary schools, 28,362 of 62,737 enrollees dropped out of their programs last year.

Only 14,026 completed their educational programs in 1987. The programs range from six months to two years. Most are one year or less.

At the school in which Bonner and her children enrolled, the National Education Center, 39% of the 561 enrolled students dropped out last year, according to state records. Of those who enrolled, 36% found jobs. The previous year, 31% dropped out, and just 10% found jobs, the data show.

The repayment default rate among the school's students holding guaranteed loans was 38.9% over fiscal 1985 and 1986, the latest period for which such figures are available, according to U.S. Department of Education records.

At least 11 proprietary schools in Ohio had default rates ranging from 50% to 100% of the students with loans in 1985-1986.

In comparison, students at Cuyahoga Community College had a default rate of 8.5%; the figure for students at Lorain County Community College was 11.5%; at Cleveland State University, 3.1%; and at Case Western Reserve University, 3.6%.

U.S. officials foresee the number of Ohio proprietary schools in the 50%-100% default range rising sharply when 1987-88 data are in.

Nationwide, an estimated $1.6 billion, or nearly half the amount budgeted for underwriting student loans, will be used to pay defaults in fiscal 1988, which began last Oct. 1, according to the Education Department. The default bill in fiscal 1981 was about $250 million.

Michael R. McKinney, president of Careercom Corp., which owns numerous chains of proprietary schools in Ohio and other states, said the schools had high dropout and default rates because many are in low-income areas that historically have had such problems.

"I don't like the high default rates either," said McKinney. "But what are we going to do, quit lending to poor students, the blacks, Hispanics, minorities. Quit giving them an opportunity?

"Let say we start with 100, and 50 drop out, but the other half . . . better themselves. Is that not good enough?

"Do we just give up? . . . Who's going to train these people if we go out of business?"

Some of the Ohio proprietary school dropouts say they left in disgust over poor curriculum, unqualified teachers and inadquate facilities. Others simply lacked the necessary basic training to succeed in higher education. Some graduates said they found their training insufficient.

Officials of several local job-placement companies said they had little demand for clerical and office-worker graduates of proprietary schools.

Janet Mitchell, manager of Medical Office Services, said she placed people in a number of medical jobs, including as office assistants and nurses' aides, but added that her placements were generally people with four- and two-year degrees. She said she received many applications from trade school graduates, but placed very few.

"We use more two-year degree people from Tri-C and Lakeland Community College," said Mitchell. "We just can't place many out of the trade schools. They (clients) really prefer students from two- or four-years programs."

The manager of one Cleveland employment agency that places legal secretaries said her firm didn't deal with graduates of proprietary schools because they weren't trained well enough.

The owner of another placement service specializing in recruiting minorities said employers had frequently told her that they did not want to be bothered with applicants from certain trade schools.

"What I have said to candidates is. 'Do yourself a favor save a lot of money and go to Tri-C,'" said the agency's owner. "One of the saddest things to see is someone come in with a data entry cerificate and so proud that they have it, but it will never get them a job."

Last month, the Education Department reported that a study it commissioned on vocational-technical education had found that "low or no real admission standards, high dropout rates, programs of marginal quality, and low placement rates at these institutions virtually guarantee high default rates."

Admission standards are key to the story of Bonner and her children.

Bonner said that a recruiter from National Education Center had phoned her for a year until she finally agreed to attend the school and enroll her daughter Michelle, 17, and son Jon. 16. Another daughter, Gina Brogan, then 20, also enrolled. Brogan said the recruiter, Wilhelmina Naso, "just hounded me" until Brogan turned off the ringer on her phone.

Bonner said Naso had told her "a dummy" could pass the course.

"I was on ADC (a welfare program for families with dependent children) and had all those children. They out-and-out lied, and got us roped into this." Bonner said.

Bonner and her children all dropped out in the second quarter. But here's what the family members got into when they started their course in January 1985:

Bonner, a 10th-grade dropout, obtained a $2,057 federally guaranteed student loan and a $1,287 Pell Grant. She co-signed a $2,342 student loan for Jon, a 9th-grade dropout, and a $2,267 loan for Michelle, a 10th-grade dropout.

Brogan, who has a high school equivalency certificate, got a $2,327 guaranteed loan, bringing the family's total student loan debt to $9,203.

If all four family members had stayed in the program for the entire 18 months, their total tuition would have been $28,800.

Brogan said that once the course started, she realized she would need to use algebra and logarithms, of which she knew nothing.

"After I started, I said. 'Mom, we made a big mistake.' " Brogan said.

Recruiter Naso said that to be admitted, applicants must pass a test that shows their ability to handle the course. "They don't have to be math majors to get into the electronics field," she said.

Students must learn the math as they go along, and the school will help them do that, she said.

Jon and Michelle, the teen-agers, said they had been allowed to complete their admissions tests at home, a clear violation of the rules of the school's accrediting agency.

Naso said that it was against school policy for students to take home admissions tests and that she had "no recollection" of allowing the two minors to take theirs home.

Asked about the allegations of high-pressure sales tactics, Naso said, "I'm sorry they feel that way." She said some students enrolled in the school simply to escape "a humdrum existence."

Don Miller, the school's director, said Nasco was "very laid back" and had not had any complaints against her in eight years.

Bonner eventually complained about the school to the State Board of School and College Registration, and the school subsequently told state officials in a letter that it had refunded the loans of Jon and Michelle and refunded $1,134 to Bonner and $652 to Brogan.

Miller acknowledged in the April 1986 letter that the reason he would not try to collect on Jon's loan was "due to his age." He would not try to collect on Michelle's loan, he wrote because her enrollment agreement was not signed by someone of legal age.

Bonner said recently that she had gotten only $667 of the promised refund and that she and Brogan owe more than $5,000.

"Gina never got a dime," she said.

Despite his letter to the state, Miller maintained in an interview that Jon and Michelle had been enrolled properly. He said the two could not have taken the tests home as "it is not our policy."

However, Bonner said she had kept a copy of the test which she gave to The PD.

Asked why the school had forgiven the debt of the two minors but charged the two adult members of the family, he said, "I couldn't tell you that."

Miller said he saw nothing out of the ordinary in his school's enrolling four members of a family, three of whom were on welfare. "It's not unusual," he said. "They met our enrollment requirements."

Some applicants with little education can master electronics, he said, "You'd be surprised. Desire plays a big part in this."

Bonner and her children feel they never had a chance of succeeding at the electronics program, however. Brogan is struggling to pay back her loan, and Bonner, because she has no money believes her loan is in default.

They have lots of company.

In Ohio and across the nation the amount of federal grants and guaranteed loans has mushroomed in recent years. The amount of loan defaults has skyrocketed as well.

At the same time enrollments in proprietary schools and their branches have risen sharply. And those students are getting a bigger piece of the government aid pie.

According to government records and reports:

Between 1976 and 1982 enrollments at proprietary schools nationwide increased 60%: in the last two years, it increased 18%.

Since 1980, 392 new proprietary schools and 493 new proprietary school programs have been approved by the State Board of School and College Registration.

Students in Ohio proprietary schools got $32.9 million in federal grants in the 1984 fiscal year and $47.7 million in fiscal year 1987, an increase of 45% in just three years.

In 1974, students at proprietary schools nationwide received $3.5 million in Pell Grants, 7% of the money available. In 1986, proprietary school students got $783.5 million, 21% of the total.

In 1984, students at Ohio proprietary schools had 12,760 guaranteed loans totaling $27.78 million, or 11% of the guaranteed loan money for all students in Ohio. Just two years later, students at proprietary schools in Ohio received 37,190 guaranteed loans totaling $85.78 million or 26% of the guaranteed loan total for Ohio.

In 1981, major private accrediting agencies with jurisdiction over proprietary schools began changing guidelines for branch campuses. The new standards immediately gave any branch the same accreditation held by the main campus, abandoning a requirement for a two-year tryout.

Because the federal government honors the decisions of the accrediting agencies, that change meant students at the branch were eligible immediately for government aid programs.

The federal government has legislative authority to oversee schools at which students get federal aid and state education boards also have oversight authority. But The Plain Dealer found that the schools largely have been left to regulate themselves.

Education Secretary William J. Bennett has called for a crackdown on trade schools that would include cutting off student loans and grants to schools with a default rate of 20% or higher. That would essentially put more than 30 of the state's largest trade schools out of business, since the majority of their students rely on Pell Grants and/or guaranteed loans for tuition.

BRANCH CAMPUS GROWTH CUTS QUALITY, CRITICS SAY

The explosive growth of branch campuses by proprietary schools is to blame for the administrative and academic shortcomings that lead to high dropout rates and defaults on student loans, critics charge.

A sharp increase in branching, warns a February U.S. Department of Education report, has lead to schools' circumventing the accreditation and regulatory processes that safeguard quality of education.

In turn, many students drop out, frustrated by what they deem inadequate instruction or by their inability to handle the work.

When dropouts can't repay the federally guaranteed student loans because they can't find jobs, or won't pay them because they feel the schooling was not worth the money, taxpayers foot the bill.

At a press conference last November, U.S. Education Secretary William J. Bennett said, ". . . We must be skeptical about the real educational opportunities provided by an institution with a very high default rate, since high default rates tend to correlate with high dropout rates and other institutional deficiencies."

A Plain Dealer examination of major proprietary schools in Ohio shows that of the 15 schools with the highest dropout rates, all but two have more than one campus in Ohio. Eight of the 15 with the lowest dropout rates have only one campus in the state.

Regulators in the industry and government agree that schools with high dropout rates are either not screening prospective students well or have curriculum problems that discourage students.

"I don't think there is any doubt in anyone's mind that branching has caused problems," said Larry Dodds, executive director of the Accrediting Council for Continuing Education and Training (ACCET) in Richmond, Va. "Too many schools were allowed to branch too fast."

Dodds said schools that set up branches too quickly had often not been able to keep tabs on admissions practices and quality of instruction at the branches.

"Then the branches just don't function properly," Dodds said.

Dorothy Fenwick, president of the National Association of Trade and Technical Schools, said the branching trend began in 1981, when accrediting agencies began certifying branch campuses immediately if the main campus was already accredited. By gaining automatic accreditation, she said, branch campuses avoided the two-year waiting period that all-new schools had to endure before students were eligible for federal aid.

Accreditation by a federally recognized agency is crucial. Without it, a school's students cannot qualify for federal grants and guaranteed loans.

Problems did not crop up until 1986, when branches began sprouting so rapidly that the schools couldn't handle administrative requirements, Fenwick said.

John C. Haworth, who evaluates proprietary schools for the Illinois Board of Education, said branching was profitable, since each new campus is a new magnet for more loan money.

"After it (a branch) has that accreditation, the value of the school itself increases," Haworth said, "When people see a chance to get that entrepreneurial profit naturally they will move into that vacuum."

But the entrepreneurs, some of whom know little about education, Haworth said, stretch themselves too thin by trying to run several branches. The schools are plagued by frequent turnover in ownership and faculty, he said.

The rapid growth of branching moved one accrediting agency for proprietary schools to temporarily ban branching last year among its 1,200 members, which include 550 branch campuses.

"There were excessive numbers (of schools adding campuses). In order to get control of that we just stopped (allowing branching)," said James Phillips, president of the Association of Independent Colleges and Schools (AICS).

Phillips said that after establishing rules, such as limiting schools to one new branch per year, the agency halted the moratorium.

NATTS also might take action, said Fenwick. "Branching is a significant issue, but we don't feel intimidated by the branching because we hold the main campus accountable for anything that happens on the branch campus," she said.

NATTS, which has 228 branches among its 1,200 members, nonetheless is considering a moratorium on branching or a one-year waiting period before a branch campus can be accredited, she said.

Though Fenwick said she did not believe NATTS members had been at the center of the branching controversy, she said branching had led to unethical, sometimes fraudulent recruiting and poor academic programs in the industry.

The ACCET's Dodds said his organization had developed regulations for schools that want to establish branches but was still examining the problems brought on by branching and would probably establish a new policy this summer.

Illinois' Haworth dismisses the policing efforts of accrediting agencies, which he said were nothing more than trade groups unwilling to evaluate each other. "It doesn't work, it simply doesn't work," he said.

PELL GRANTS, LOANS WIDELY AVAILABLE

Students who are enrolled at least half-time in proprietary schools and who can show financial need may qualify for federal education grants and federally guaranteed student loans.

A Pell Grant may be as much as $2,100 a year. The grants, named for Sen. Claiborne Pell, D-R.I., need not be repaid.

Pell Grants and the guaranteed loans are supposed to be used for education expenses, which may include the costs of housing, transportation, food and recreation.

The current maximum guaranteed loan for first- and second-year students is $2,625 a year. Eligibility is determined by a formula taking into account family income, assets, family size and number of members attending college.

To qualify for a loan, an applicant must be a high school graduate or have an equivalency certificate, or the applicant must have passed a standardized admissions test or agree to complete a high school equivalency program and enroll in a remedial program.

The loans usually are issued by banks and other conventional lenders, and are insured by state loan guarantee agencies or by quasi-governmental agencies and reinsured by the federal government. The current interest rate is 8%, and borrowers must start paying back the loan six months after they graduate or leave school.

If the student fails to repay the loan after it is six months past due, it is placed in default and the federal government eventually pays off the loan, including interest.

When a former student defaults, credit bureaus are notified. They may curtail the defaulter's ability to obtain credit, and the Internal Revenue Service may withhold future income tax refunds. The guarantee agency also may sue the former student.

WE PAY TUITION DEFAULT—U.S. PICKS UP TAB AT TRADE SCHOOLS

(By Bob Becker and John S. Long)

Ohio proprietary schools compete for students worth millions of dollars in tuitions and fees, much of that courtesy of taxpayers.

The for-profit trade, business and technical schools have been tapping a smooth-flowing pipeline of education grants and loans, confident that the federal government is waiting in the wings, ready to step in with taxpayers money should students default on the loans.

And the government has stepped in, often. Tens of thousands of proprietary school students have defaulted, bleeding millions of dollars from the federal loan-guarantee fund that would otherwise help deserving students go to school.

According to the U.S. Department of Education, the roots of the bloodletting can be found in the high dropout rates at proprietary schools, and a major factor behind the large number of dropouts is the schools admissions practices.

Although some proprietary schools in Ohio have low dropout rates and high job placement rates, a Plain Dealer investigation has found others that engage in practices that contribute to the drain on federal education aid funds.

Some of the schools sign up students for grants and guaranteed loans without regard for their ability to benefit from the program.

Two major chains were found to use abbreviated, unauthorized versions of a copyrighted admissions test as justification for enrolling students and signing them up for federal aid.

Among schools with recruiting practices criticized by former students is Cambridge Technical Institute, a chain that opened a campus in March 1987 in an aging building at W 3rd St. and St. Clair Ave.

The PD found that Cambridge solicitors sought out students in welfare and unemployment lines and in low-income public housing projects. The solicitors earned $25 for each student they brought in, and later were promised color televisions if they signed up more students.

Last year, the school signed up 2,000 students, many of them poor, black or unemployed. "School can be fun and rewarding!" promised a Cambridge flier. "Feel good about your future."

Former students said the recruiters promised that they would get $1,280 in expense money if they attended school, that their education would be financed by the government and that they would get good jobs after graduation.

But the students, some of whom were mentally handicapped or unable ro read at more than a third-grade level, said they found overcrowded and poorly equipped classrooms, ill-planned curricula and an environment unsuitable for learning.

Hundreds dropped out, and others were dismissed because instructors told them they couldn't do the work.

Instead of jobs and careers they face the nearly hopeless task of repaying thousands of dollars in federally guaranteed education loans.

According to Cambridge documents, its qualified students receive $4,725 in Pell Grants and guaranteed loans. The school pays students $1,280 of that for living expenses, and the rest is used for tuition, fees and books.

One nationwide accrediting agency, the Association of Independent Colleges and Schools (AICS), barred its members as of March 1 from offering money as an incentive to attend their schools.

Cambridge is accredited by the Accrediting Council for Continuing Education and Training (ACCET). Dr. Larry Dodds, ACCET president, speaking generally about such incentives, said his agency had no specific written policy against offering them, but it prohibited unethical advertising and recruitment practices. Dodds said he would "strongly discourage" offering such financial inducements to attend a school.

It's just not ethical practice in advertising, he said.

Cambridge has been offering courses in custodial maintenance, data entry, nursing assistancy, private security and word processing.

In an interview L. Henry Whitesell, chairman of the Cambridge chain, said the Cleveland campus graduated 65% to 75% of its students and placed 70% to 80% of them in jobs.

Cambridge bases its placement percentage on only its graduates, excluding dropouts, and it doesn't count the graduates who missed job interviews or failed to use its placement service.

By its method of calculation, the school placed 70% of its first class of 1987 graduates. But counting them as a percentage of total students enrolled. Cambridge placed 9% of its enrollment.

Of the 104 students placed, nine went to temporary employment agencies, eight of them at wages from $3.35 per hour to $4 per hour. Thirty-eight of the others were placed as nursing assistants in nursing homes paying frm $3.35 to $5.35 an hour.

Kendall C. Wright, a Cambridge placement official, said Cambridge counted temporary agency assignments as placements when they get 25 to 30 hours of work weekly. Such assignments often lead to full-time jobs, he said.

Federal law requires that proprietary schools—so-called because they are privately owned—receiving federal aid must use a nationally recognized standardized admissions test that measures a prospective student's ability to benefit from its curriculum.

Cambridge officials said they used the Wondertic test, a nationally known test that measures an individual's aptitude for various lines of work.

The Plain Dealer provided a copy of Cambridge's purported Wonderlic test to E.F. Wonderlic Personnel Test Inc., the Northfield, Ill., company that licenses the test. "That is not our test whatsoever," said Charles F. Wonderlic Jr., the company's marketing director.

Wonderlic said Cambridge had rearranged questions and used just some of them from a copyrighted Wonderlic test to come up with its own version. Doing that destroys the test's ability to predict aptitude for various endeavors, he said.

Wonderlic said any use of the test that eliminated questions and reduced the test time, as did the Cambridge application, was "completely useless."

"This is just straight-out fraud." he said.

Wonderlic said Cambridge had not applied to his company for permission to use the test, nor had it paid any licensing fees for its use. Wonderlic said that after he confronted Whitesell about it, the Cambridge chief ordered 2,000 complete tests from his company.

Wonderlic said it would be impossible for anyone with a third-grade reading level to pass the real test, though some Cambridge students reportedly possessed reading skills no higher than that.

Whitesell said he didn't know how the school had come to use an abridged version of the test. "I can't remember what the circumstances were on that," he said.

The test was approved by the state and an accrediting agency, he said, "I think it's a valid test."

Nancy C. Oakley, director of Project: Learn, a remedial program for adults who read no better than the third-grade level, said students from Cambridge and other proprietary schools had come to her program for help.

Oakley said at least 10 students who had passed various proprietary school's admissions tests had been enrolled in Project: Learn because their reading skills were so poor.

Gloria Nettis, who taught English and secretarial courses at Cambridge last year, said the school was poorly run.

"Even I protested that the students were not getting an education and that it was filthy." she said. "I had three in my class who could not read or write, and they (administration) would tell me to pass them, but I wouldn't."

Some students had handicaps and emotional problems, while others would smoke marijuana and drink wine in the halls, she said.

Students who signed up for Cambridge's "Free-Lance Reporting"—actually court reporting—believed they were enrolling in a journalism program.

Debra Hairston, who taught the course until she was fired Nov. 18. said the school had no court-reporting machines when the program began in March 1987, so she provided cardboard facsimiles of the keyboards on which the students could practice. State records show the school bought 25 machines in the third quarter of the course.

Seven students complained in a letter to Cambridge's education director last November that they were told when they signed up that the course would take seven months. Halfway through, they were told it was a 10-month program, the students wrote, and later still, they were told they could take as much time as needed to complete it.

Donna Gaede, program assistant for the court reporting program at Cuyahoga Community College, said it took two full years to complete CCC's associate degree program, which costs no more than Cambridge's program.

Asked if professional court reporters could be trained in a year or less, Gaede laughed and said. "That's a hard question to answer without slandering somebody."

An official of the National Shorthand Reporters Association (NSRA), a national standard-setting organization, said Cambridge's program was not accredited.

Joe Corsillo, owner of Certified Court Reporters, a court reporting company here, said he would not hire anyone from a school not certified by NSRA.

Cambridge's Whitesell said the court reporting program had been approved by state authorities. He said the dexterity and typing skills required were so great that some students had gotten discouraged and dropped out.

Cambridge, however, is abandoning the course. "We decided on our own we couldn't make that program work," Whitesell said.

Whitesell said the program had been set up for 15 months, not the shorter period alleged by the students. "I think somebody could get through that program in that length of time," he said.

Whitesell said he believed that employers would hire court reporters based on their skills not the length of the program.

Last June 58 Cambridge students gave school officials a petition complaining about disrespectful management attitudes, dirty facilities, inadequate security, poor maintenance and garbage disposal, unsafe elevators and parking and fire safety hazards.

Whitesell said the school had spent $500,000 in renovations since the school opened, correcting all the problems.

ABRIDGED ENTRANCE TEST

The Miamisburg-based DRET Schools chain, which has two branches here, also has used an abridged Wonderlic test.

An official at DRET's Aetna Rd. branch here said the school had been using the Wonderlic test in its admissions process, and The PD found a copy of the test in a state file of DRET documents.

However, Charles Wonderlic said DRET did not have his firm's permission to use the copyrighted test. He said the test DRET was using was an abbreviated and questionable version.

DRET president Michael I. Hook said he believes his admissions based on the shortened version were valid, but he added that he would begin using "the most up to date" Wonderlic test. He acknowledged students who lacked a high school diploma or its equivalency took the abridged test to qualify for admission.

TOO LATE FOR A REFUND

Harvey W. Pierce, 34, collects Social Security benefits because of a mental disability—in his words, because of his "nerves" and because he is a slow learner. Last summer, while on a Regional Transit Authority bus, he heard about PSI Institute of Cleveland from a student attending the computer school, 1858 Euclid Ave.

Pierce, whose work experience consisted largely of temporary laborer's jobs, said he wanted to learn data entry so he could become self-employed. Jobless and with just a ninth-grade education, he had spent much of his life in institutions, foster homes and group homes.

Pierce said he passed the school's entrance examination and received more than $4,000 in federal grants and federally guaranteed student loans when he enrolled last July 20.

He said he received an F in a business machine course, scoring 46%: failed typing getting a 45% grade: and got a C-plus in computer literacy scoring 79%.

Pierce, who had never taken typing said his typing instructor had moved too quickly for him. He said he had stayed up late nights trying to keep up. "It's frustrating it's agonizing. You'd be trying your best to do the work." he said.

Pierce said he was dismissed after the point of no return for refunds. His bill totaled $4,439 including books and supplies.

Pierce said he was unaware of the school's refund policies when he enrolled. He said that when he asked for a refund officials told him that he had already paid the school and that he must repay the lending agency.

PSI officials refused to comment on the Pierce case unless questions were submitted in writing.

"I didn't know what I was getting into. We go through one end, and we come out the other end, with no hopes and dreams." Pierce said.

Pierce's mother, brother and sister have died in recent years, Pierce said he saw no future for himself. "I don't know what went wrong." he said.

BILL FOR ONE DAY: $702

Thomas Burns of Cincinnati got an expensive lesson in proprietary schools from his one day of attendance at Southern Ohio College in that city: a bill for $702.

Burns, 35 said he enrolled in a computer programming course at the school after getting "a sales pitch" from a Southern Ohio recruiter over the phone. Burns, who had worked as a security guard said he concluded that computer training would be a step up.

But Burns dropped out Jan. 11. He said he left because he had felt uncomfortable with high-pressure recruitment tactics and his hurried processing through financial aid and enrollment. A school official had written out his class schedule without talking to him, he said.

Burns said he had been surprised to learn after he dropped out that the course had been in session for a week before he enrolled. He was even more surprised to learn that the school insisted on billing him for two weeks of attendance even though he had attended only one day.

The school sent him a letter threatening to turn the matter over to a collection agency

"I felt that all they were interested in was the money, he said

Burns said he had pointed out to a school official that he should not have been charged because his contract provided for a six-day period in which a student could withdraw without charges. Despite that, he said, the school insisted that he pay.

Later, however, after Southern Ohio President Duane W. Hawkins learned of Burns' complaint and The Plain Dealer's interest in it, the charge was canceled. Hawkins told Burns in a letter that he had been incorrectly charged and that his bill would be wiped clean.

Burns nonetheless believes school officials had intentionally overlooked their own rules on withdrawals when they insisted that he pay, "I think they knew what they were doing. They should know their own contract," he said.

PROBED BY JUSTICE DEPT.

One Cleveland school's recruiting and financial aid practices prompted the U.S. Justice Department on Aug. 29, 1986, to take over a fraud lawsuit against Airco Technical Institute, a longstanding welding school at 1361 F. 55th St., and its parent company.

The government proceeded under the False Claims Act, a law designed to aid in prosecuting contractors who cheat the government. After an individual files a false claims suit, the government can take it over. The government and the individual who filed the suit may split any judgment.

The Airco suit was filed by Pate A. Purvis, who was an Airco recruiter from May 15 to June 1, 1986.

Purvis contended that Airco, which was sold and is now known as Great Lakes Technical Institute, had defrauded the Education Department of more than $7.5 million. Purvis alleged that Airco admissions representatives had prompted students to submit false information on applications for grants and loans.

In an interview, Purvis, who now lives in Connecticut, said that soon after going to work at Airco, he noticed that other recruiters were giving students answers to admissions tests and that some recruiters were falsifying student loan forms.

"These (the students) were depressed, oppressed, uneducated individuals. They couldn't read, they were illiterate, and they (the school) lied on their student forms," he said.

Purvis said that after he told a supervisor what he had seen, he began getting the silent treatment and harassment from coworkers. Soon, he was fired.

"A trade school, from my experience, is a money-making operation, not an educational institution. I'm sure not all of them are, but that's my experience," he said.

Ira M. Rubins, Great Lakes director, discounted the complaints, saying Purvis was irate over being fired. "The suit is totally without merit. It has no basis in fact," he said.

Rubins, who also was director when Purvis worked at the school said no one at the school had falsified records, which he said had been cross-checked and carefully verified. "He (Purvis) was fired because he didn't enroll anybody," he said.

Rubins said federal investigators had found nothing wrong in Great Lakes files going back five years. "It (the suit) will be dropped," he said.

A Justice Department official said that the case was active and that the department was being assisted by Education Department investigators.

Ohio Diesel Praised as Model School

At Ohio Diesel Technical Institute young men sporting American flag patches on clean coveralls quietly walk between classes, making sure to stay within painted lines in the halls.

In the school's cavernous main workshop, 65 tractor-trailer diesel engines stand in gleaming rows, waiting to be taken apart and reassembled by diesel mechanics-in-training.

While some trade and technical schools are wracked by charges of poor education, exploitation of the poor and unethical enrollment practices, Ohio Diesel, 1421 E 49th St., is a bastion of the old-fashioned values of family owned proprietary schools to its admirers.

Last Nov. 3, Secretary of Education William J. Bennett held a press conference at which he criticized proprietary schools for practices that lead to high default rates for federally guaranteed student loans.

Bennett vowed to crack down, but he singled out Ohio Diesel as an example of the reputable schools that would have nothing to fear.

"You can bet that not many minutes after this press conference, the phones are going to be ringing up on the Capitol Hill, not from Ohio Diesel Institute, which is a very good institution, but maybe from Scam School of Technology, calling up and saying 'You got to protect us, we contributed to your campaign.' and so on and so on." said Bennett.

Ohio Diesel's statistics tell part of the story. The school places 80% to 85% of its graduates in the automotive and diesel mechanics jobs for which they were trained, according to Julius A. Brenner, the school's chairman.

According to federal data, 46% of the school's students with federally guaranteed loans defaulted on them in 1985–1986, giving it one of the lowest default rates among Ohio post-secondary schools. Ohio Diesel's students are placed in jobs across the country, and recruiters for large firms regularly visit to sign up its students.

The school established in 1969, has more than 250,000 square feet of workshop space kept spick-and-span by work-detail students who have run afoul of the school's many rules. Students have 250 working engines to learn on.

The school's catalog lays out Ohio Diesel's philosophy of "order and discipline in the shop and classroom." It has a tough attendance policy. Illnesses must be fully documented and repeated tardiness can lead to expulsion.

Students address Brenner as "sir," and they are required to be neatly groomed.

Students can be expelled for using drugs or alcohol on school property or for sleeping in class. One afternoon, Brenner entered a classroom to brusquely admonish a student who had rolled up his coverall sleeves.

He cheerfully acknowledges that his rules are severe and that young students have difficulty adhering to them. To Brenner, imposing tough discipline is the best way to prepare students for the work force.

Some students, and occasionally their parents, have complained about the tough discipline, but Brenner is convinced his approach is best for the students.

"They will thank us for it." he said.

Schools Dredge for Students—Poor Readers, Retarded Signed Up, Get Guaranteed Loans

(By Bob Becker and John S. Long)

A mentally handicapped man with a penchant for dressing as a doctor and walking around in hospitals, a man who couldn't read beyond the third-grade level and a man who had spent two years on the streets with winos and derelicts were among the first students signed up by a new proprietary school branch here last year.

One wanted to be a nurse's aide, and another hoped to work as a security guard. The third decided to be a court reporter. Each took out thousands of dollars in taxpayer-guaranteed loans to fulfill those dreams and gave the money to Cambridge Technical Institute.

Similarly, the Cleveland operation of DRET School, another privately owned chain, recently enrolled a pregnant woman who allegedly was retarded and a woman who had a potentially debilitating nervous condition, according to the school's financial aid officer. In the case of third woman, DRET had no space available in its nursing assistant program, so it talked her into taking a course she hadn't wanted.

The DRET's aid officer warned in a memo that these enrollments were "in bad taste."

"When word of this type of thing gets into the wrong hands, especially the Dept. of Ed., it gives them the opportunity to use the information against us and gives us a bad reputation," the officer said in the memo.

Now, after students at for-profit schools nationwide have defaulted on hundreds of millions of dollars in federally guaranteed loans, government regulators are questioning admissions policies that allow enrollment of students with questionable ability. Such students are considered likely to default on their educational loans and there by waste taxpayers' money.

Cambridge, based in Middletown, O., opened for classes at 1350 W. 3rd St. here in March 1987. The chain, which also has branches in Dayton and Cincinnati, took in $5 million in federal Pell Grants last year and an estimated equal amount from guaranteed loans.

Ernest Hall was among Cambridge's first recruits here. Hall, a welfare recipient who is mentally handicapped and lived in institutions from age 6 to 16, has occasionally wandered in hospitals wearing a stethoscope and white tunic and told doctors and nurses what to do, according to his mother, Mary Wilson.

Hall, 25, enrolled in Cambridge's nurse's aide program after a solicitor handed him a leaflet at the Cuyahoga County Department of Human Services, "I thought, 'it's probably interesting,' " he said.

Someone at the school filled out his admission test for him, he said.

His mother said she had warned school officials that Hall lacked ability to benefit from the school. "I told the superintendent Ernest is not qualified to come here to the school." She said.

She said a school official had assured her that Ernest was doing fine and that it wouldn't cost him any money.

Hall had obtained a $2,100 Pell Grant which he indeed did not have to pay back but he also had signed at the school for a federally guaranteed student loan of $2,625 that he was obligated to repay.

In an interview. Hall said that in his classes at Cambridge he had learned a little cardiopulmonary resuscitation and how to take pulses and temperatures. However, in recounting what he had learned he confused an adult female's pulse rate with normal body temperature. An adult female's pulse should be 98.6 he said.

I didn't learn much he said. "I wanted to find something to do for myself so I wouldn't be locked up."

Hall dropped out in November after disclosing his experience at an October hearing on proprietary schools held by City Councilwoman Fannie M. Lewis, D–7. Lewis said she called the hearing because of numerous complaints from students who felt they had been exploited by business trade or technical schools here.

Hall's sister, Lattisia Hanson said Hall had not completed any grades of school.

Henry Whitesell, chairman of the Cambridge chain, said his staff had looked into the Hall affair. He said Hanson had sat next to her brother when he took the admissions test at the branch here and had given him the answers.

Proprietary schools administer standardized admission tests to show that applicants have the ability to benefit from the schooling—an eligibility requirement for Pell Grants and guaranteed loans. The results could be skewed if someone was allowed to help on the test.

Hanson denied she had been at the school when her brother took the test "I did not take the test for Ernest We fought to keep him out of the school." She said. "How would Mr.Whitesell know? He doesn't even live in Cleveland."

In any case the test given Hall was an unauthorized, invalid version of a nationally recognized exam licensed by an Illinois company, according to Charles F. Wonderlic Jr. marketing director of the test firm. Cambridge's version used just 24 of the test's 50 questions, so its results are useless he said.

Whitesell of Cincinnati said the school had given Hall a full refund after the Lewis hearing and had offered him a job.

"I think we made every effort we could with Ernest Hall," he said.

Another Cambridge recruit was Albert Parker 28, who first heard about the school from a flier placed in his home mailbox at Outhwaite Homes, a tough public housing estate on E 43rd St.

Parker enrolled in the school's security guard program last March. His experience at Cambridge ended disastrously seven months later when clad in academic cap and gown, he was pulled out of line at graduation ceremonies in view of friends and relatives.

Parker is a high school graduate, but before entering Cambridge, he had been enrolled in Project: Learn, a remedial reading program. Nancy Oakley, program director said Parker was reading at the third-grade level when he enrolled at Cambridge.

Parker said Cambridge officials administered an admissions test to him, twice before enrolling him and had helped him get $4,725 in grants and guaranteed loans.

The school gave him $400 for living expenses every three months from his student aid he said.

Parker said he believed he had done well in his classes except for firearms shooting, which he could not pass. "They never told me whether I made it or not" he said.

Parker said that as he waited in line to go on stage and get his certificate at Cambridge graduation ceremonies last October, a school official told him to step out of line because he had not graduated.

His mother and grandparents were in the audience. "I started to cry," he said. "I just looked at everybody and ran outside. I went down the street in my cap and gown."

The school refunded Parker's loan and grant after he told his story at Lewis' hearing.

He makes $100 to $200 a week working for a private security firm, a job he said he obtained halfway through his Cambridge program.

Whitesell said that Parker had not passed and that the school had not ordered a cap and gown for him. When a Cambridge official told Parker at graduation that he hadn't passed, Whitesell said, "he (Parker) said, 'No problem.'"

Whitesell said the school had helped Parker get his job.

When Marvin L. Mylan, 26, was recruited at the county welfare department by a Cambridge employee, he could read better than Parker's third-grade performance, one grade better, according to Oakley.

Mylan, who had completed the 11th grade but nonetheless was a Project: Learn student, enrolled in Cambridge's maintenance course in Cleveland last year.

A Cambridge recruiter who asked him if he "wanted to rededicate his life" told him he would get a high school equivalency certificate if he enrolled at the school, Mylan said. But he never received one, nor was he tested for one, he said.

Mylan, who was dissatisfied with eating in soup kitchens and living on welfare, said Cambridge officials had told him they would get him a job paying $5 an hour.

He said his maintenance teacher had moved through the material so fast he couldn't keep up, but had still passed him.

Mylan said the school had indeed found him a job—as a maintenance man at the Sheraton Hopkins Hotel for $3.55 per hour. He said he was fired after a few weeks because he was too slow for the job, which required that he empty wastebaskets and clear tables.

Now, Mylan must repay a student loan—he isn't sure how much—and he thinks it wasn't worth it.

"I figured I didn't have to go to Cambridge to get that job at Sheraton Hopkins," said Mylan. "I ain't learned nothing, just what I already know."

The admissions at DRET School, a Miamisburg-based chain that has campuses here on Aetna Rd. and Clearaire Rd., were strongly criticized by the financial aid officer, DeAnne Q. Lancaster.

According to a Feb. 29, 1988, memo from Lancaster to the school's director, Joseph G. Allen, one student had to miss three or four weeks of classes to give birth by Cesarean section. The woman's mother subsequently reported to U.S. Department of Education officials that her daughter was retarded, according to the memo.

The woman dropped out.

Another woman, who enrolled Jan. 11 but failed to show up for classes and then re-enrolled and failed again to show up this month, "has a very bad and visible nervous condition which would prevent her from performing well at this school, or at any other school," Lancaster said in the memo.

Lancaster also wrote of a woman who had wanted to become a nurse's aide but was instead talked into enrolling in a dental assistant program. The woman dropped out after five weeks. Now, she not only lacks an education but has the added burden of repaying borrowed money, the memo said.

Bob Richards, who said Allen was his boss, said school officials would not stop the student with the nervous condition from going to the school if she wanted to do so.

The pregnant woman had passed DRET's admission test, Richards said. The PD later obtained the test. According to Wonderlic, DRET, like Cambridge, was using an unauthorized, abridged version of the Wonderlic test that had no value in predicting success in school.

Richards said school officials might not have known the student was pregnant when she enrolled and signed up for financial aid.

When asked about enrolling a retarded student, Richards said that if the woman was retarded, her mother had no business allowing her out to attend classes at the school. Such matters are not DRET's responsibility, he said.

"If she was mentally retarded, where was her mother?" he said.

Richards said DRET wouldn't refund her tuition because she had dropped out after the refund deadline.

Later, however, DRET President Michael L. Hook said the school had refunded the tuition of the pregnant woman. "There is no way you can discriminate against anyone who is pregnant," he said.

Hook also said he would use the correct Wonderlic test in the future.

The DRET president said he was unaware of the nursing student's situation. He said his schools overall had received only seven complaints in seven years.

One recruit at Cambridge who apparently did have the ability to complete post-secondary education courses was Marvin Goins.

Goins, who lived on the streets here for two years, moved into the City Mission in February 1967 and enrolled at Cambridge a month later after being handed a Cambridge flier on the street. Though he earned straight A's, he was dismissed Dec. 21.

Before his dismissal, Goins, who had taken out a guaranteed loan, had become unhappy with his education and had begun writing public officials and newspapers about his complaints.

When he enrolled in what Cambridge calls its free-lance reporting course, which actually is a course in recording court proceedings, Goins thought he would be trained in journalism.

"I was planning on being a hot-shot reporter on the Washington Post," he said.

Goins said that after he eventually accepted the idea of becoming a court reporter, he still felt the school was not training him adequately.

His dismissal notice from Cambridge cited his failure to discuss his grievances with school officials and what the notice called his "libelous letters."

Goins said he had skipped a meeting with Cambridge officials about his complaints because he had wanted to have congressional representatives with him.

Cambridge Chairman Whitesell said Goins had been disruptive and had instigated discontent among other students and teachers. "He was dismissed for disrupting classes, and for being a general nuisance," he said.

Goins and six other Cambridge students wrote a letter Nov. 2 to Cambridge's education director, complaining that they had been given the impression that the court reporting course "had something to do with journalism" and that they had been given varying information on the course's duration. They said they were led to believe they would get jobs after graduation, which they said was unrealistic.

Whitesell said he had offered Goins a refund, which he refused, and help in getting into another school and in job placement. Goins insisted he still wanted to complete Cambridge's program.

Whitesell claimed recently that only a few students had complained about the Cleveland branch, just one-tenth of 1% of the total first-year enrollment of 2,000. "That seems like a pretty low number to me," he said.

Of the school's recruiting on the streets, Whitesell said many schools used "one-on-one recruiting. I don't see anything wrong with that."

Technical schools exist to give short-term training to people out of work, he said. "Is the taxpayers money being used better to keep them on welfare rolls?"

According to state statistics, 44% of Cambridge's students completed their courses in 1986 and 1987, and the chain placed 28.5% of its total enrollment in jobs. Those figures do not include the Cleveland branch, in which 33% of the students dropped out last year after the school's first three months of operation.

SCHOOL RECRUITING STUDENTS IN CINCINNATI JAILS

A large proprietary school chain with a high dropout rate has gone to Cincinnati jails in its search for students. The move has stirred controversy in Hamilton County among critics who doubt the program's quality and whether prisoners will benefit.

DRET School, a chain based in Miamisburg with seven campuses in the state, is recruiting students among the 1,400 prisoners in two Cincinnati jails, and its president says it plans to sign them up for federal Pell Grants and guaranteed student loans.

State record show DRET, whose Ohio campuses have a combined average dropout rate of 42%, plans to offer the prisoners a course in maintenance supervision for $2,650.

DRET is operating a pilot program in the County Jail Hamilton County commissioners are considering awarding it a contract.

The for-profit school was brought into the jails in place of a 1,000 inmate adult-education program for which Hamilton County paid the Cincinnati Board of Education $250,000 last year.

Frank Weikel, a spokesman for Sheriff Simon Leis Jr., said DRET would not charge the county. "The sheriff found it more economical to the county budget to switch the program," he said.

DRET, which began as a Dayton real estate training school in 1980, started its pilot jail program Jan. 11 with 22 inmates, according to Hamilton County officials.

Weikel said DRET had proposed its program to sheriff's officials before Leis, a former Hamilton County prosecutor, became sheriff last June.

But Lincoln Stokes, Leis' predecessor, said he had never heard of DRET. "That is without substance, it won't hold mustard," he said. "Any allegations they (DRET) got their foot in the door in my administration is without foundation."

Weikel later conceded that the administration's first contact with DRET occurred last fall.

David Beran, a county corrections planner, said he opposed awarding the contract to DRET. "I think the (school) board was doing a good job," he said.

Beran said he had misgivings because he had learned of high dropout and loan default rates among proprietary schools.

DRET's jail program is not equal to the school board's, said Lois Wiethorn, a counselor in the board program.

The board had offered high school equivalency board's, said Lois Weithorn, a counselor in the board program.

"There is nothing equivalent about what they're (DRET) offering. It's their (inmates') loss, totally."

Stephen H. Olden, a lawyer with the Legal Aid Society of Cincinnati, agreed that the DRET program was unlikely to benefit the inmates.

"A lot of employers would be unwilling to hire someone who's an ex-con," despite the DRET training, he said.

"The bottom line is nobody is going to benefit from it. . . ." he said. "We have strong concerns about the quality of the program."

Wiethorn said that, because numerous inmates would have sentences shorter than the length of the program, it was questionable whether many of them would graduate from DRET's programs.

Michael L. Hook, DRET president, said the students would be able to benefit from the program because they would have qualified through the same admissions test given students in the community. "I want them to complete the program," he said.

Hook said released prisoners would be able to attend the school's new Cincinnati campus, which he said would open about May 1. DRET will discontinue the program if it is found the prisoners are not benefiting, he said.

Weikel said the minimum sentence prisoners must have to enroll in DRET's proposed program was 28 days; the maximum, one year.

Wiethorn asserted that poorly motivated students would be drawn to what she called DRET's relatively easy program. "The percentage on the outside who will show up and finish is negligible."

Weikel said it was his understanding that DRET would begin charging its inmate students when its community branch opened.

William Barnett, the county's director of corrections, said the county's relationship with DRET had been arranged by Mark Davis, a Cincinnati consultant who specializes in jailhouse educational programs.

SCHOOL POLICING ON BACK BURNER—U.S., OHIO HANDS-OFF POLICY ALLOWS RIP-OFFS OF TAXPAYERS

(By Bob Becxer and John S. Long)

Lack of oversight from the federal government has allowed proprietary schools to recruit unqualified students and then sign them up for federally guaranteed loans that they had little chance of repaying, a Plain Dealer investigation has found.

Defaults on all student loans will cost the federal government $1.6 billion this year, up from $250 million in 1981, the first year of the Reagan administration. Education secretary William J. Bennett has laid much of the blame at the doorstep of the privately owned trade schools.

But Bennett's tough talk contrast with his own department's hands-off attitude for most of this decade toward the industry, which largely has been allowed to police itself.

The federal government has allowed private accrediting agencies, which are financially dependent on the proprietary schools, to police their benefactors. Some of those agencies, according to a February report by a consultatnt to the Education Department, compete for members by lowering administrative and educational standards.

The Education Department blames budget cuts and congressional roadblocks for its failure to put a lid on the mushrooming cost of student aids in Ohio, the understaffed board that oversees proprietary schools has shown little appetite for taking tough action against abuses by the schools.

The State Board of School and College Registration has not revoked the license of a single proprietary school for disciplinary reasons, although state files bulge with accusations of questionable teaching, recruiting and financial aid practices.

Some schools have lured down-and-out students with promises that they would have pocket money while in school and good jobs afterward. The PD found, and some qualified their students for loans and grants with a doctored and reportedly useless version of a nationally recognized admissions test.

Former students said they were fast-talked into programs for which they were unprepared. At many schools, 40% to 50% of former students with loans default.

Such statistics have piled up under an Education Department that has slashed the budget of its student loan office. Manpower has been cut; the oversight division has been drastically reduced.

The department went from reviewing more than 1,000 school programs a year in 1981 to 300 last year. Computer time that would enable the department to keep tabs on institutions with high default rates has been virtually eliminated.

Bruce Carnes, a department deputy undersecretary, acknowledged this month that the department's information on federally guaranteed loans was incomplete, outdated and not easily retrievable.

He blamed Congress, saying lawmakers had cut the department's administrative budget while heaping more programs onto its administrative shoulders. Some areas had to be trimmed, he said, and among them were enforcement activities and especially travel, which is important for making checks in the field.

Carnes said the department would ask Congress for $5.6 million for next year to buy a data system that would help lenders weed out student-loan applicants who had defaulted on previous loans or exceeded their borrowing limits.

But he said the department would not seek the money unless Congress repealed a ban on the government's using that kind of information.

This year, Carnes said, the department will review twice as many schools as last year's 300. The department is "going to start pushing as hard as the law will allow us." he said.

The department is cracking down now because previous enforcement attempts, which he described as closing legislative loopholes and colleting defaulted loans through collection agencies and seizure of tax refunds, haven't worked, he said.

"We've not been able to persuade Congress to adopt the obvious remedies," he said.

One still-open loophole involves a requirement that for an applicant to qualify for a student loan, the school must show that the would-be student has the ability to benefit from the program. To satisfy that requirement, the schools are essentially allowed to use tests they devise and interpret themselves, or offer students high school equivalency and remedial training.

In this way, tens of thousands of people who lack a high school diploma or graduate equivalency certificate are enrolled and get guaranteed loans and grants to pay the bills. Some are lured to drop out of high school by the promise of expense money, according to Carnes, and they then become double dropouts when they quite their proprietary schools.

Being able to offer a student expense money is "an invitation to the unscrupulous to exploit disadvantaged students," Carnes said. "They are stuck with the debt burden and without the education."

Carnes said the department would propose replacement of the ability-to-benefit provisions with a rule that the schools may enroll only high school graduates and people with equivalency certificates.

The department also will make lenders more accountable by reducing the federal guarantees on the loans, from 100% to between 70% and 90%, depending on a lender's default rate.

Although Carnes blamed Congress, Steven Blair, a former Education Department staffer who administered student aid programs, said the department itself bore responsibility for some of the problems.

Blair said the Reagan administration's early professed goal of eliminating the department had been at cross purposes with overseeing the student loan program.

The department chose to cut back on collecting information and cut oversight staff who could have helped in preventing abuses, he said.

Blair, who left the department in 1985 and now is president of the National Association of Trade and Technical Schools, said badly managed schols should have been shut down but weren't because of the department's reduced capabilities.

The federal government's leverage over the schools is in its control over student aid, the lifeblood of many of the schools. At the state level, the leverage is licensing, and in Ohio, it takes little more than a $10,000 surety bond, a facility that meets building codes and a few teachers to obtain a proprietary school license.

Ohio's oversight board licenses 360 of the schools. They vary from small schools teaching dog grooming or training English nannies to large chains that enroll thousands of students for such courses as building maintenance, data entry and private security.

Ohio law requires that two of the three public members of the board have five years of managerial or executive experience in a proprietary school. The third public member must have experience in administering or managing an industrial employee training program.

The other two seats are held by Franklin B. Walter, the state superintendent of public instruction, and William B. Coulter, the chancellor of the Ohio Board of Regents, both of whom regularly send a representative to meetings instead of attending themselves.

The chairman of the Board of School and College Registration is Alfred Jablonski, of Solon, who was appointed by Gov. Richard F. Celeste in 1984. Jablonski is president of Electronic Technology Institute, a longstanding Cleveland proprietary school that enrolled 1,423 students last year.

The board would not let The Plain Dealer see files of hundreds of complaints from students at proprietary schools until the Ohio attorney general's office ruled they were public documents.

Jablonski said the board's role was limited to ensuring that the 360 schools meet minimum standards for facilities, curriculum, staff and equipment.

"Some on the board feel complaints aren't our responsibility." he said.

The board's full-time staff consists of one executive secretary, an administrative assistant and a secretary. It also employs five parttime consultants who monitor the schools.

On the board's $143,000 annual budget, $128,000 comes from the proprietary schools, which pay a registration fee every two years.

Here are some complaints that were made to the board, and how they were handled.

Lewis Albert II, a word-processing instructor at DRET School's Steubenville campus, alleged in 1986 to the Education Department that school officials misused federal funds, changed student grades without instructors' knowledge, and violated school and Pell Grant regulations by transferring students with excessive absences to other classes so their absences wouldn't affect academic eligibility.

The department forwarded the complaints to the state oversight board, which contacted DRET identified Albert as the source of the complaints and asked the school to respond.

DRET fired Albert and another teacher shortly thereafter.

The school's executive vice president, Kenneth Wright, denied the charges in a Sept. 9 letter to the state board but said he would hire a consultant" to conduct an independent investigation of Mr. Albert's allegations."

But the consultant wrote in his report that Wright had instructed him not to investigate Albert's allegations and to limit his probe to whether they were "adversely affecting the continuing operation of the Steubenville branch."

The consultant, a retired University of Toledo professor, did not interview Albert.

After receiving the report, Maurice Jones, the state board's executive secretary, notified the Education Department that "the position of this board is that the complaints are unfair and unwarranted."

Albert and Becky Ensminger, the other dismissed teacher, whom Albert later married, meanwhile sued the school. They and the school reached an out-of-court cash settlement that forbids either side from commenting on the case.

DRET President Michael L. Hook said Albert was not fired because of his complaints. He claimed that the consultants had looked into Albert's allegations. "Why else would we have the consultant in?"

Jones said in an interview that his office had not interviewed Albert because it had not had a consultant available at the time. Jones said he had talked to DRET officials about the case, however.

"I have to admit that this was a poorly handled situation, and I'll take responsibility for it," Jones said.

In February, 30 students from MTA School, a Columbus truck driver and mechanics' school, attended the board's meeting with their lawyer to complain about the school's curriculum. Jablonski denied them permission to speak.

Jablonski said in an interview that he had thought their complaints had already been resolved with refunds to the complaining students. As the students had already made a complaint to the board, and an investigator was looking into it, the meeting was not "the appropriate time" for them to make complaints, he said.

Jones added that the board had been advised by its lawyer not to hear the students, as that could prejudice any later legal hearing.

John Voltolini, the students' lawyer, said that despite his repeated attempts to get the students' complaints on the agenda, the board had shown little interest. "On a scale of one to 10, I'd say it was a one," he said.

From February 1987 until September, the state board's Cleveland-area consultant peppered Jones with memos warning of serious problems at Cambridge Technical Institute's new branch here.

Consultant Leonard Slominski warned of crowded classes, slovenly housekeeping, and other deficiencies.

In an April 7 report, Slominski said Cambridge's court reporting program included just two classes in ninth-grade level remedial English, which he said didn't come close to preparing its students for the realities of court reporting.

Later, Slominski warned of the school's use of overzealous canvassers who walked candidates from the street into the admissions office.

In June, Jones wrote Cambridge Chairman Henry L. Whitesell a soothing letter about criticisms of his school: "I have talked with you on several occasions about this and feel that much of it has been overplayed and possibly evidences some jealousy on the part of your competition.

A month later, board officials discovered that Cambridge had not submitted its catalog, financial statement, teacher qualification sheets and evidence it had a building-occupany permit, as required by regulations. Jones also told Cambridge officials they had not registered three solicitation agents, "a serious violation of our regulations."

"I have endeavored to be supportive of your Cleveland school in the face of almost constant criticism," he wrote Whitesell.

That same month, Cambridge court reporting students told Slominski they had gone three weeks without books, had been hurriedly asked to sign financial aid forms they didn't understand and had been given no course catalogs or outlines. They said their classes were too infrequent to build up their speed.

Slominski warned in a July 13 memo that the school was not ready to be awarded its two-year license, which every proprietary school needs to operate legally and receive federal funds. Cambridge had been operating on a provisional license.

Three weeks later, he noted that the school still did not have court reporting machines available, although the students were in their third quarter.

"The entire school atmosphere lacks the tone of professionalism, organization, competence expected of any organization, to say nothing of a school," Slominski wrote. "Everybody . . . appears to be putting out fires. It's a crisis operation."

Whitesell said recently that the court reporting machines were not needed early in the course but were provided later.

In two reports that followed in September, Slominski again recommended against giving Cambridge its license.

The board voted Sept. 22 to give Cambridge a two-year certificate.

"Generally, they do (take the consultant's recommendation into account.)" Slominski said in a recent interview. He said Cambridge had improved enough since September that he would now recommend licensure.

Jones said he had not received Slominski's negative recommendation until the day of the board meeting. Jones said he had already recommended approval to the board, as he had become convinced from phone conversations with Slominski that Cambridge was improving enough to be certified.

Whitesell acknowledged recently that the school had some crowding when it first opened, but he said that problem ended when renovations were finished. He said all of the school's agents were registered.

All of Slominski's objections have been resolved, he said.

Of the state board's overall performance, Jones said. "I think we've tried to be as fair as we could" in dealing with proprietary schools and students.

He blamed the board's lack of any license revocations on the difficulty of undertaking the necessary legal proceedings. The board has revoked licenses in cases in which schools failed to apply for renewal or failed to obtain bonding, he said.

Jones acknowledged that the board needed to improve its response to student complaints.

"We do not have resolutions on a number of our complaints," he said.

The board has recently attracted some critical attention from Gov. Richard F. Celeste. On March 29, he warned Jablonski in a letter that several proprietary schools were operating "contrary to their purpose."

The governor asked Jablonski to review the board's operations to ensure that the schools were appropriately regulated and would deal seriously with the complaints of students.

Student complaints about Cambridge and other proprietary schools here led to hearings last October and November by Cleveland City Council's health and human services committee. The hearings documented some abuses, but no action has resulted to date.

Councilwoman Fannie M. Lewis, D-7, who chairs the committee, said at an Oct. 20 hearing that she had gotten complaint letters about proprietary schools "from all over the city, about 75 to 100 complaints."

At a hearing a month later, Councilman Dan Brady, D-19, said state and federal authorities should investigate substandard schools, which he said were out to make money and should be run out of town. "What we have is really something that borders on organized criminal behavior," he said.

Lewis said she had invited officials from the state board to attend her hearings, but none showed up. "I'm very disgusted with the regulatory board," she said.

In an interview last week, Lewis said the committee hadn't been able to get results because Council President George L. Forbes, D-9, wouldn't approve payment for transcripts of her hearings.

"That committee was thwarted in its work," she said.

Forbes said Monday he was unaware of any holdup and would approve the funds. "There's no problem," he said.

Lewis said she would press for legislation to close down substandard schools and require local licensing.

SCHOOLS FOR SCANDAL

What kind of people would pick the pockets of the mentally handicapped and steal the dreams of the under-educated and the poor? In Ohio, if not across the country, the perpetrators include many operators of privately run job training schools. While many of these schools are legitimate and perform a worthwhile service, the dregs of the business milk the federal cash cow for student aid and take advantage of lax state regulation of their programs.

Because so many students are unqualified to be in such schools in the first place, the drop-out rate is high, as is the rate of default on guaranteed loans. Taxpayers are stuck for $1.6 billion this year, six times as much as in 1981. Meanwhile, the former students face thousands of dollars in debts but have no jobs, or ability to get jobs, to repay the loans.

The outrageous scam, revealed in a Plain Dealer series this week, cries for redress. The blame lies with both the federal and state governments, which fail to use their levers of money and licensing to ensure compliance with law and ethics.

William Bennett, the U.S. education secretary who has been critical of American schooling, has neglected to have his own department police proprietary schools, with their classes ranging from dog grooming and data entry to private security and engine repair. Regulation is badly needed because the lifeblood of such schools has become federal student aid. But Bennett's department has responded to budget cuts by decimating its loan division so badly that competent monitoring of loan defaults and school dropout rates is not done. The department relies on the industry to monitor itself. That hasn't worked.

A second gatekeeper is the State Board of School and College Registration, which is supposed to control the licensing of 360 Ohio proprietary schools. But the board never has revoked a license for cause, only for failing to apply for a renewal or failing to obtain a bond. Where are the teeth in that watchdog?

Chairman Alfred Jablonski of Solon said the board is supposed to make sure the schools meet minimum standards for curriculum, staff, facilities and equipment. But, he said, "Some on the board feel complaints aren't our responsibility." Poppycock. If the board doesn't have that duty, then who does?

The board and its tiny staff virtually have ignored letters and criticisms of the schools. There are too many cases of instructors who tried unsuccessfully to blow the whistle on shoddy operations, of inspectors' evaluations being ignored, of students—most of them adults—being denied a hearing. The board has isolated itself from reality and public need.

After a team of Plain Dealer reporters got onto the story, Gov. Richard F. Celeste demanded that Jablonski—one of his appointees—shape up the board's scrutiny and be more responsive to complaints. City Council, which heard numerous horror stories about such schools last fall, is considering closing substandard schools and licensing those that remain.

But local licensing is not the answer because many operators have branches scattered statewide. The General Assembly should consider legislation requiring the licensing board to increase fees, hire more staff and crack down on fraudulent operations. Instead of a board dominated by industry representatives, independent citizens should be added. In Washington, the education department must place as high a priority on the loan program for trade schools as it does on defaults on college student loans. Maybe then the vulnerable citizens who badly need to pull themselves up in society will get a break, and taxpayers will not get stiffed by a heavy bill.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:17 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1988. An act to amend the Merchant Marine Act, 1920, and for other purposes; and

S. 1989. An act to implement the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. SANFORD).

At 3:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3146. An act to clarify certain restrictions on distribution of advertisements and other information concerning lotteries and other similar activities;

H.R. 3651. An act to prohibit exports of military equipment to countries supporting international terrorism, and for other purposes; and

H.R. 4637. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes.

At 5:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the U.S. Government for fiscal years 1989, 1990, and 1991.

The message also announced that the House agrees to the amendments of the Senate to the concurrent resolution (H. Con. Res. 306) providing for a conditional adjournment of the House until June 1 and a conditional adjournment or recess of the Senate until June 6.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H. R. 3146. An act to clarify certain restrictions on distribution of advertisements and other information concerning lotteries and other similar activities; to the Committee on the Judiciary.

H.R. 3651. An act to prohibit exports of military equipment to countries supporting international terrorism, and for other purposes; to the Committee on Foreign Relations.

H.R. 4637. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes; to the Committee on Appropriations.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, May 26, 1988, he had presented to the President of the United States the following enrolled bills:

S. 1988. An act to amend the Merchant Marine Act, 1920, and for other purposes; and

S. 1989. An act to implement the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1381: A bill to improve cash management by executive agencies, and for other purposes (Rept. No. 100-362).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2222: A bill to amend the Public Health Service Act to reauthorize programs relating to the National Research Institutes established under title IV of such Act, and for other purposes (Rept. No. 100-363).

By Mr. BREAUX, from the Committee on Environment and Public Works, without amendment:

S. 2443: An original bill to reorganize the functions of the Nuclear Regulatory Commission to promote more effective regulation of atomic energy for peaceful purposes (Rept. No. 100-364).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 2188: A bill to amend section 307 of the Federal Employees' Retirement System Act of 1986.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Alvin H. Bernstein, of Rhode Island, to be a Member of the National Council on the Humanities for a term expiring January 26, 1992;

Arthur C. Beale, of Massachusetts, to be a Member of the National Museum Board for a term expiring December 6, 1991;

Willard L. Boyd, of Illinois, to be a Member of the National Museum Services Board for a term expiring December 6, 1992;

Partick Butler, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 1994;

William P. Wright, Jr., of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 1994;

Charles Ray Ritcheson, of California, to be a Member of the National Council on the Humanities for the remainder of the term expiring January 26, 1990;

Edwin J. Delattre, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 1994;

Carol Pendas Whitten, of Maryland, to be a Member of the National Advisory Council on Educational Research and Improvement for a term expiring September 30, 1990;

Frances Mathews, of Colorado, to be a Member of the National Advisory Council on Educational Research and Improvement for the term expiring September 30, 1990;

Richard C. Crawford, of Oklahoma, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1993;

Gary Eugene Wood, of Texas, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1993;

Barry M. Goldwater, Jr., of California, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of six years;

Richard V. Backley, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 1994;

L. Clair Nelson, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 1994;

Susan S. Suter, of Illinois, to be Commissioner of the Rehabilitation Services Administration; and

John E. Higgins, Jr., of Maryland, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 1992.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. KENNEDY. Mr. President, for the Committee on Labor and Human Resources, I also report favorable two nomination lists in the Public Health Service which were printed in full in the Congressional Record of May 9, 1988, and ask, to save the expense of reprinting these lists, that they lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself, Mr. Stafford, Mr. Lugar, Mr. Matsunaga, Mr. Cochran, Mr. Danforth, Mr. Humphrey, and Mr. Weicker):

S. 2435. A bill entitled the "State and Local Conservation Act of 1988"; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE:

S. 2436. A bill to reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission; to the Committee on Energy and Natural Resources.

By Mr. COCHRAN (for himself and Mr. Stennis):

S. 2437. A bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Oktibbeha County, MS; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GARN (for himself, Mr. Quayle, Mr. Hatch, and Mr. Danforth):

S. 2438. A bill to amend the Internal Revenue Code of 1986 to provide that the time for the payment of the manufacturers' excise tax on bows, arrows and accessories will be the same as the time for payment of the excise tax on sport fishing equipment; to the Committee on Finance.

By Mr. RIEGLE:

S. 2439. A bill to amend the Housing and Community Development Act of 1974 with respect to the eligibility of Indian tribes for urban development action grants; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE:

S. 2440. A bill to amend the Food Security Act of 1985 to adjust the Federal cost share to encourage the entry of windbreaks and shelterbelts into the conservation reserve program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN:

S. 2441. To require the Secretary of Health and Human Services to provide annual personal earnings and benefit statements to workers covered by Social Security; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. Danforth, Mr. Inouye, Mr. Ford, Mr. McCain, and Mr. Kerry):

S. 2442. A bill to amend the Communications Act of 1934 to provide for a program within the National Telecommunications and Information Administration to develop television and radio advertising regarding illegal drug use and to disseminate such advertising by means of mass media; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX from the Committee on Environment and Public Works:

S. 2443. An original bill to reorganize the functions of the Nuclear Regulatory Commission to promote more effective regulation of atomic energy for peaceful purposes; placed on the calendar.

By Mr. STEVENS (for himself, Mr. DeConcini, Mr. Stennis, Mr. Thurmond, Mr. Garn, Mr. Burdick, Mr. Pell, Mr. Inouye, Mr. Hollings, Mr. Dole, Mr. Packwood, Mr. Roth, Mr. Chiles, Mr. Weicker, Mr. Stafford, Mr. Johnston, Mr. Helms, Mr. McClure, Mr. Danforth, Mr. Chafee, Mr. Riegle, Mr. Hatch, Mr. Heinz, Mr. Lugar, Mr. Matsunaga, Mr. Sarbanes, Mr. Wallop, Mr. Durenberger, Mr. Cochran, Mr. Boschwitz, Mr. Warner, Mr. Heflin, Mr. Humphrey, Mr. Pryor, Mr. Mitchell, Mr. Rudman, Mr. D'Amato, Mr. Dixon, Mr. Dodd, Mr. Grassley, Mr. Kasten, Mr. Murkowski, Mr. Nickles, Mr. Symms, Mr. Hecht, Mr. Trible, Mr. Wilson, Mr. Evans, Mr. Gramm, Mr. McConnell, Mr. Rockefeller, Mr. Adams, Mr. Bond, Mr. Conrad, Mr. Fowler, Mr. McCain, Mr. Reid, Mr. Shelby, Mr. Wirth, Mr. Karnes, Mr. Breaux, and Mr. Domenici):

S.J. Res. 329. Joint resolution to designate October 24-30, 1988 as Drug Free America Week; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATFIELD (for himself, Mr. Kennedy, and Mr. Pressler):

S. Con. Res. 122. Concurrent resolution expressing the sense of Congress regarding the urgent need for food assistance by civilians in Vietnam; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. Stafford, Mr. Lugar, Mr. Matsunaga, Mr. Cochran, Mr. Danforth, Mr. Humphrey, and Mr. Weicker):

S. 2435. A bill entitled the "State and Local Conservation Act of 1988"; to the Committee on Energy and Natural Resources.

STATE AND LOCAL CONSERVATION ACT

● Mr. DURENBERGER. Mr. President, with great pleasure I introduce along with Senators Stafford, Lugar, Matsunaga, Cochran, Danforth, Humphrey, and Weicker the State and Local River Conservation Act of 1988.

Under this bill the Federal Government would make cost sharing grants to States, local governments, and concerned citizen organizations for river protection. To achieve this goal it requires States to do a statewide river assessment or inventory of its river resources and identify and rank those rivers that need and deserve protection. Money would be provided to States to assist them in establishing river protection programs at the State level. Finally, grants would be provided to establish and administer river protection plans for the highest ranked rivers.

Rivers are part of our cultural and natural heritage and deserve protection from degradation. There are over 6,200 river miles that have been identified that deserve such protection. Yet, since its inception in 1968, the Wild and Scenic Rivers Program has been the primary Federal protection tool. But it includes only a very small fraction of the Nation's river miles. The Federal Government cannot nor should not protect all these miles. This was recognized by the President's Commission on Americans Outdoors. Thus, Federal, State, and local and citizen partnerships are necessary to reach this goal. This bill will help create those partnerships. In this way, the State and Local River Conservation Act will not replace, but complement and enhance the Federal Wild and Scenic Rivers Program.

Federal support of State river protection efforts is needed because only 28 States have made the commitment to river protection. And even the adequacy of these efforts vary greatly. Lacking funding, personnel, and Federal support, most of these programs exist chiefly on paper. This bill will not only provide the needed government support and funding to these dormant efforts, but encourage more States to make a commitment to river protection.

River conservation has long been an interest of mine. In fact this is the third time I have introduced legislation designed to promote river conservation. I first introduced legislation in the 98th Congress and again in the 99th. Each time it died in that "graveyard-of-ideas-before-their-time." Yet, Mr. President, I persevere, and this time we will succeed because the Nation is awakening to the need for river protection. Evidence of this awakening may be found most dramatically in a a recent special television show broadcast on Public Televison: "Conserving America, the Rivers." The special was created by a talented partnership of WQED/Pittsburgh, the National Wildlife Federation, the Richard King Mellon Foundation, and Combustion Engineering.

"Conserving America, the Rivers" focuses on the selfless people who, in grassroot efforts, seek to preserve the rivers in their hometowns. I was so impressed by the show that I invited my fellow colleagues to a private screening of it. Further evidence of the national recognition rivers are receiving may be found in the National Wildlife Federation's efforts to promote river protection in the schools of America by producing a river conservation resource guide. This guide will assist teachers and students explore the need for and complexity of river conservation.

I believe that efforts of concerned Americans, such as those profiled in "Conserving America, the Rivers," and organizations like American Rivers, the National Wildlife Federation, and the National Association for State River Conservation Programs, with whom I have worked very hard in drafting this bill will propel it into law.

Another very important component of this bill is the river assessments required of each State. This requirement asks States to inventory their rivers and then rank them in order of their need for protection. The assessment requires States to examine its rivers. This examination must consider the conditions of the State's rivers, current and potential uses. Once done, it will enable States to determine which rivers are yet unspoiled and require immediate protection to prevent degradation, which rivers are currently being degraded but can be restored, and finally, and unfortuantely, which rivers are beyond restoration. Although the act provides no direction to States as to how they should rank their rivers, it is assumed that they will rank those unspoiled but threatened rivers the highest.

Ranking rivers is very important. It serves as the arbiter of funding. Because there will never be enough money for all the rivers that deserve protection, criteria must be created for allocating what money is available. Naturally, those rivers that are highest ranked in each State deserve protection before those of lower rank. Thus, the Secretary of the Interior is directed to make grants to States for the protection of the highest rated unprotected river.

To promote grassroots involvement, the act promotes the creation of river protection commissions. Such commissions can be invaluable in facilitating protection efforts. In Minnesota a commission has been managing the headwaters of the mighty Mississippi River since the beginning of this decade. The Mississippi Headwaters Board brought the many interested parties together—Federal, State, local, and private citizens—and made sure that the serenity of those founding waters are not ruined. It is from my involvement with this board that spurred my interest in this legislation.

To facilitate public support for a river's protection, this bill calls for the automatic inclusion of everyone who is affected by and interested in river conservation in the conservation effort. This requirement stems from my long held belief that very few long-term conservation efforts succeed unless those that are most affected by the effort support it. Thus, without the cooperation of the abutting landowners a river cannot be adequately protected. To get this cooperation they must be involved at the outset.

A stumbling block for river protection has been the failure of the Federal Energy Regulatory Commission [FERC] in its hydroelectric licensing to consider State and local river protection efforts. This failure continued even after the Congress specifically ordered FERC to consider such efforts in the Electric Consumer Protection Act of 1986 [ECPA]. Finally, on May 14, 1988, after efforts by myself, my colleagues, adversely affected States, and environmental organizations led by American Rivers, FERC recognized a need to consider State river protection programs in the Federal Register, Vol. 53, No. 86, Order No. 481-A. This recognition reconfirmed my belief that the ECPA did in fact order FERC to give great weight to State river protection efforts when making hydroelectric power licensing decisions. With this viewpoint and FERC Order 481-A in mind, the bill cross references ECPA with the intent of reinforcing its river protection provisions.

This legislation authorizes $18 million to accomplish the purposes of the bill for 5 years following enactment. Two million dollars is to be allocated directly to States for the development of State river protection programs. $3.2 million is to be appropriated each fiscal year for State river assessments and implementation of river protection plans. In each case the money is to be made in a 2 to 1 Federal-State grant form after the Secretary has approved the State's application. This is a very small expenditure that will have such a dramatic long-term beneficial effect.

Mr. President, our rivers need and deserve protection as precious natural resources. I urge my colleagues to join us in sponsoring this legislation and moving this measure toward passage. I ask unanimous consent that the text of the bill and summary appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local River Conservation Act of 1988".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) many rivers throughout the nation possess outstanding scenic, recreational, geologic, fish and wildlife, historical, or ecological values that enhance the nation's cultural and natural heritage and that deserve protection through wise conservation practices;

(2) the President's Commission on Americans Outdoors recognized the need for additional river protection through stronger State and local initiatives and that Federal, State, local, and private partnerships are necessary to achieve this conservation goal;

(3) the States are capable of assessing statewide river resources and establishing effective river protection programs, and are a necessary and integral component in future river conservation;

(4) Federal incentives for river conservation through cooperative efforts between Federal, State, and local governments, and private citizens can provide a significant additional means to protect the values of many outstanding rivers which are not now protected;

(5) the Federal Wild and Scenic Rivers Act provides for designation of significant rivers in the National Wild and Scenic Rivers System by State initiative and section 11(a) of such Act provides that the Secretary of the Interior shall assist the States and their local governments and private nonprofit organizations with the develop-

ment and implementation of river conservation programs; and

(6) cooperation and shared management of rivers among various levels of Federal, State, regional, and local governments as well as private citizens may result in wisely developed and implemented river protection plans.

(b) PURPOSE.—The purpose of this Act is to stimulate the conservation by State and local governments and private citizens of rivers that possess outstanding scenic, recreational, geologic, fish and wildlife, historical, archaeological, cultural, or ecological values.

SEC. 3. DEFINITIONS.

For the purpose of this Act—

(1) the term "Secretary" means the Secretary of the Interior;

(2) the term "natural and environmental values" includes scenic, recreational, geologic, fish and wildlife, historical, archaeological, cultural and ecological values and other assets of a river;

(3) the term "river" means any portion or segment of a river, including the river's instream flow and lands within the river's immediate watershed specifically designated as necessary to protect its natural and environmental values;

(4) the term "interested parties" means those individuals, organizations, and governments that may be affected by or otherwise interested in the river's management and protection including abutting landowners, federal, State, regional, or local governments that have jurisdiction over lands that may be affected by a comprehensive plan, and other concerned private citizens or organizations; and

(5) the term "comprehensive plan" means a plan as defined in the Federal Power Act, as amended, and applicable Federal Energy Regulatory Commission regulations implementing the Electric Consumers Protection Act of 1986 (P.L. 99-495).

SEC. 4. ASSESSMENT AND RIVER PROTECTION PROGRAMS.

In order to fulfill the goals of this Act and conserve the natural and environmental values of all American rivers, States are encouraged to develop—

(a) assessments, including—

(1) an identification and evaluation of the natural and environmental values, as well as economic values, of rivers within, and contiguous to, the State,

(2) an evaluation of potential hydroelectric power sources that could help meet the energy needs for the State, using renewable resources and conservation as encouraged by the Public Utility Regulatory Policy Act of 1978, and

(3) a priority rating indicating which rivers in the State should be protected for their natural and environmental values; and

(b) river protection programs, including—

(1) measures designed to create and implement comprehensive river protection plans,

(2) opportunities for significant involvement of interested parties in the development of such plans, including the establishment of river protection commissions, and

(3) innovative methods of river conservation for those rivers which have important natural and environmental values.

SEC. 5. RIVER PROTECTION PLANS.

(a) After a State has identified and ranked rivers that require special measures of protection, river protection plans shall be developed for the highest ranked rivers.

(b) A river protection plan shall be as detailed and specific as possible and designed to protect its natural and environmental values. A plan should include—

(1) a statement of the natural and environmental values served by the plan;

(2) boundaries of the river to be protected;

(3) limitations on the development and uses, including licensing for the production of original hydroelectric power, or any modification of an existing licensed facility which would have significant adverse effects on the river's natural and environmental values;

(4) measures needed to implement and enforce the plan;

(5) a schedule for the implementation of each element in the comprehensive plan; and

(6) an estimate of the cost of planning and implementation of the plan.

SEC. 6. CONSULTATION.

(a) LOCAL INPUT.—In developing river protection plans the State shall make reasonable efforts, including the creation of river protection commissions, to consult with interested parties.

(b) RIVER PROTECTION COMMISSIONS.—To create a Commission, the Secretary and the State, after consultation with local officials and interested parties, shall jointly appoint river protection commission members. The composition of the commission shall be to the greatest extent practicable, a broad mix of interested parties. The Governor of the State shall determine the size of the commission as well as its chairperson. Commissions should assist in the development and implementation of river protection plans.

SEC. 7. AUTHORIZATION AND ASSISTANCE.

(a) APPROPRIATIONS.—For each of the five fiscal years ending after September 30, 1988, there is authorized to be appropriated $3,200,000 to the Secretary for the purposes of implementing sections 4(b) and 5 of this Act. In addition, there is authorized to be appropriated $2,000,000 to the Secretary for the purposes of implementing section 4(a) of this Act.

(b) GRANT AUTHORITY.—Upon application, the Secretary is authorized to make grants to States, local governments, or river commissions that indicate an intent to develop or implement programs and river protection plans under this Act. Applications shall be submitted to the Secretary at such time and containing such information and assurances as the Secretary may require. Federal funds may not exceed 67% of the cost of State programs developed under this Act. Priority shall be given to—

(1) those States which do not already have river protection programs that meet the requirements of section 4 of this Act;

(2) those rivers ranked highest by State programs; and

(3) States on the basis of the number of river miles in the State for which the State is seeking protection.

SEC. 8. REVIEW.

The Secretary shall review State river protection programs every five years for compliance with this Act and achievement of its goals. Failure to comply shall result in the termination of assistance.

SEC. 9. EFFECT ON OTHER LAWS.

(a) STATE LAWS.—Current State river protection efforts that meet the criteria of section 4 of this Act shall be automatically eligible for grants under section 7.

(b) FEDERAL LAW.—This Act does not affect State or Federal programs developed under the Wild and Scenic River Act. This Act is intended to supplement and enhance the river protection provisions of the Electric Consumer Protection Act of 1986.

SEC. 10. CONSISTENCY.

(a) FEDERAL ENERGY REGULATORY COMMISSION.—

(1) ORIGINAL LICENSING.—No permit, license or exemption or an amendment thereto shall be issued for the construction of an original hydroelectric project by the Federal Energy Regulatory Commission if, at the time the application is considered by the Commission, the project would be inconsistent with a river protection plan developed under section 5 of this Act.

(2) RE-LICENSING.—When re-licensing a hydroelectric project, the Federal Energy Regulatory Commission shall comply with section 10(a)(2)(A) of the Electric Consumers Protection Act of 1986 (16 U.S.C. 803(a)(2)(A)) and a river managed by a river protection program or river protection plan developed under this Act shall be considered a comprehensive plan within the meaning of the Electric Consumers Protection Act.

(b) OTHER AGENCIES.—Each Federal agency conducting, supporting, or regulating activities on rivers or river segments covered by this Act shall conduct, support, or regulate those activities in a manner, to the maximum extent practicable, consistent with the Electric Consumer Protection Act of 1986 and purposes of this Act.

SECTION-BY-SECTION SUMMARY OF THE STATE AND LOCAL RIVER CONSERVATION ACT OF 1988

SECTION 1. TITLE.—State and Local River Conservation Act of 1988.

SEC. 2. FINDINGS AND PURPOSE.—There are many rivers throughout the country that possess outstanding scenic, recreational, geologic, fish and wildlife, historical or ecological values that deserve protection and that Federal, State, local, and private partnerships are capable of providing the needed protection and therefore should be encouraged.

SEC. 3. DEFINITIONS.—Definitions for the terms "rivers," "natural and environmental values," and "interested parties" are purposefully broad to allow the state and local governments the greatest latitude in developing the river protection programs and plans.

SEC. 4. ASSESSMENTS AND RIVER PROTECTION PROGRAMS.—This section requires States to identify and evaluate the rivers within or along its boundaries for their natural and environmental values, hydroelectric potential, and then rank the rivers in order of need of protection. It also requires States to establish and administer programs that will protect rivers.

SEC. 5. RIVER PROTECTION PLANS.—This section calls for a comprehensive plan for the highest ranked rivers in each state. The plan is to include boundaries of river and abutting land to be included in the plan, limitations on developments that adversely affect the river's natural and environmental values, measures to implement and enforce the plan, a schedule for implementing the plan, and a cost estimation.

SEC. 6. CONSULTATION.—This section calls for State and local governments to involve all parties affected by river protection in the planning process. To do this it encourages the creation of representative planning and administering commissions.

SEC. 7. AUTHORIZATION AND ASSISTANCE.—Provides $3,200,000 annually for five years for planning and implementation and $2,000,000 in a lump sum to assist states in developing assessments. Grants are to be issued to the highest ranked river in each state and according to the number of miles to be protected. Grants are issued on a 2-1 Fed-State cost-sharing basis.

SEC. 8. REVIEW.—The Secretary of the Interior shall review state and local plans for compliance with the Act every 5 years and may terminate grant moneys for those found out of compliance.

SEC. 9. EFFECT ON OTHER LAWS.—Current State river protection programs that meet section 4 criteria shall be automatically eligible for grants. This Act does not affect State or federal programs under the Wild and Scenic Rivers Act. The Act is intended to supplement and enhance the river protection provisions of the Electric Consumer Protection Act of 1986.

SEC. 10. CONSISTENCY.—Federal offices and agencies are encouraged not to take actions, or permit actions within their control from occurring, that adversely affect rivers covered under this Act. No original hydroelectric license shall be issued for rivers covered under this Act and the Federal Energy Regulatory Commission shall comply with the river protection intent of section 10(a)(2)(A) of the Electric Consumers Protection Act of 1986 when re-licensing a hydroelectric project.●

By Mr. GARN (for himself, Mr. QUAYLE, Mr. HATCH, and Mr. DANFORTH):

S. 2438. A bill to amend the Internal Revenue Code of 1986 to provide that the time for the payment of the manufacturers' excise tax on bows, arrows, and accessories will be the same as the time for payment of the excise tax on sport fishing equipment; to the Committee on Finance.

PAYMENT OF EXCISE TAX ON CERTAIN SPORTS EQUIPMENT

● Mr. GARN. Mr. President, together with my colleague from Indiana, Senator QUAYLE, we are today introducing legislation to rectify a glaring inequity in our tax laws. We are joined in this effort by Senators DANFORTH and HATCH.

The inequity we are addressing with this legislation concerns the payment schedule of the Federal Excise Tax [FET] by manufacturers of archery equipment. With passage of the Wildlife Restoration Projects Funds Act, archery manufacturers began paying the FET in 1974. The 1974 legislation, in addition to extending the excise tax to include bows, arrows and archery accessories, added several new items to the list of fishing tackle subject to the FET since 1950.

The timing of the FET payment by both manufacturers of fishing tackle and archery equipment was the same until 1984. Treasury regulations stated that the excise tax should be deposited on a quarterly basis. If the tax liability was in excess of $100 in any month of a calendar quarter, then the taxpayer was required to make monthly or bimonthly deposits with the Federal Reserve Bank or other authorized depository. This low floor for payment of the FET has virtually assured that every manufacturer subject to the tax pays the tax on a monthly or bimonthly schedule.

The Deficit Reduction Act of 1984 [DEFRA] changed the payment schedule of the FET for certain manufacturers. While enlarging the list of sport fishing items covered by the FET, DEFRA exempted fishing tackle manufacturers from the monthly payment schedule and permitted their tax to be paid quarterly, no matter the amount of the tax liability. It is clear that the change in the payment schedule was made in exchange for expanding the list of sport fishing items subject to the tax. The Conference Report to DEFRA indicates the payment change was made "because of the unique seasonal nature of the market for sport fishing equipment." I understand the conferees were also concerned that the expansion of the tax might cause cash-flow difficulties for manufacturers who sell directly to retailers on credit.

Apparently, consideration was given to extend the payment schedule change to the manufacturers of archery equipment in the 1984 act. I am not sure why the conferees chose not to change the timing of the payment for archery manufacturers, especially when the same bill expanded the list of archery equipment subject to the FET. In 1984, arrows fewer than 18 inches in overall length, or crossbow arrows, were added to the taxable list. However, unlike the fishing equipment manufacturers, the payment schedule for archery equipment manufacturers was maintained despite the expansion of the tax to include more items.

Mr. President, I believe DEFRA has established a bad precedent by defining which American outdoor sports are supposedly "seasonal." A close examination of archery equipment sales will reveal the seasonality of this sport and contradict any reasoning behind DEFRA's provision changing the payment schedule. Similar to fishing tackle manufacturers, archery manufacturers sell directly to retailers using credit terms which delay full payment until after the summer or fall seasons. In some cases, the FET will be paid in January while a manufacturer will not receive payment for his products until October. In essence, these manufacturers are paying a tax on a product for which they have yet to receive payment. Adhering to the monthly payment schedule with this kind of dating situation imposes significant cash-flow problems on archery equipment manufacturers and has created an administrative and bookkeeping nightmare for archery manufacturers. These problems can be alleviated through compliance with a quarterly filing and payment schedule.

The purpose of our legislation, which is identical to H.R. 3245 already introduced in the House by my fellow Utahn, Representative WAYNE OWENS, is to eliminate the inequity caused by the 1984 act and permit archery manufacturers and fishing tackle manufacturers to pay the FET on a quarterly basis. As I have indicated, the list of items subject to the FET tax was expanded in 1984 for both groups of manufacturers. Unfortunately, archery manufacturers, for a very unrealistic and unfounded reason, did not receive comparable compensation by Congress for this expansion—a significant change in the timing of the FET payment—as did the fishing tackle manufacturers. Along with Senator Quayle and I, those who cosponsor this legislation believe both industries should be treated fairly and properly by the tax laws governing payment of the FET.

My colleagues should be aware that the Joint Tax Committee has indicated the budget impact of this "technical" amendment will be negligible. In addition, by introducing this bill, our intent is to only address the collection period of the FET and not, in any way, attempt to change the amount of the tax or the manner in which it is used.

I urge my colleagues to seriously consider this legislation. It is my hope that the 100th Congress will resolve this matter in a fair and expeditious manner.●

● Mr. QUAYLE. Mr. President, today I am pleased to join my colleague, Senator GARN of Utah, in introducing legislation that will correct an oversight in the Deficit Reduction Act of 1984 [DEFRA] concerning manufacturers of archery equipment. The legislation will amend the Internal Revenue Code of 1986 to provide that manufacturers of archery equipment who are paying manufacturers' excise taxes on bows, arrows, and accessories be allowed to remit these payments quarterly rather than bimonthly, as provided by current law. Our proposal is the companion bill to H.R. 3245, introduced by Representative WAYNE OWENS of Utah on September 9, 1987.

Currently, archery equipment manufacturers are burdened with the requirement of remitting excise tax payments on archery equipment twice each month. The Deficit Reduction Act of 1984 [DEFRA] included a provision to allow fishing equipment manufacturers to abide by a quarterly payment system of remittance, rather than the twice-monthly system to which they were also subject. Unfortunately, DEFRA did not include a provision that would allow quarterly remission for manufacturers of archery equipment. This inequity must be rectified to allow the archery manufacturing industry to function in a more efficient manner.

The estimated cost to the Federal Government is negligible. The only potential revenue impact would result from the deferral of the collection of a portion of tax receipts from the year of enactment to the next year. The

Joint Committee on Taxation has estimated the amount of this deferral to be $2 million. Administrative cost savings would be extremely beneficial to the individual manufacturer and outweigh any negative effects this deferral may have.

The 11 percent Federal excise tax on bows, arrows, and accessories is allocated entirely to the Pittman-Robertson Wildlife Restoration Fund. The Pittman-Robertson Fund is largely responsible for the variety of game animals hunted today. Large percentages of the fund are allocated to research, land acquisition, and habitat development. It is obvious that the problem lies not in how the funds are spent, but how they are collected. In fact, the manufacturers are more than willing to pay the excise taxes, as they realize the positive impact the Pittman-Robertson Fund has had on the sport of bowhunting.

The current collection procedures are not only burdensome to the archery equipment manufacturing industry, but are also potentially ambiguous. Many products are used for the sport of bow fishing. Obviously, this equipment can be considered as both fishing and archery equipment, thus raising questions as to how taxes on this equipment should be paid. If our bill were enacted, this confusion would easily be eliminated, as both fishing and archery tackle manufacturers would be treated the same.

Because this bill eliminates unfair tax practices at no added cost to the Federal Government, I urge support for the swift enactment of this legislation.•

By Mr. DASCHLE:

S. 2440. A bill to amend the Food Security Act of 1985 to adjust the Federal cost-share formula to encourage the entry of windbreaks and shelterbelts into the Conservation Reserve Program, and for other purposes; referred to the Committee on Agriculture, Nutrition, and Forestry.

CONSERVATION COST-SHARE ACT

• Mr. DASCHLE. Mr. President, I rise today to introduce legislation that would adjust the Conservation Reserve Program's cost-share formula in order to advance that program's soil conservation and wildlife preservation goals.

By all accounts, the Conservation Reserve is the most important and succssful erosion-control program in a generation. Created by the 1985 Food Security Act, its general purpose was to control soil loss on 45 million acres of seriously eroding cropland. As of the most recent signup, we are now over half-way toward that goal. My State of South Dakota has enrolled 1 million acres of highly erodible land into the program, saving millions of tons of topsoil.

But the CRP has many important benefits that go beyond soil conservation. In many areas, it has served to stabilize land values that had suffered precipitous declines, pushing farmers and ranchers into severe financial trouble. It has injected cash into farming operations and local economies that were cash poor. Finally, the CRP has greatly expanded the amount of wildlife habitat, something South Dakota and other States had been rapidly losing over the last two decades. This expansion promises dramatic effects. For instance, the South Dakota Department of Game, Fish, and Parks estimates that at its peak, the CRP will double or triple the pheasant population and significantly increase the number of waterfowl and grouse. The resulting increase in out-of-State hunters will bring millions of dollars in additional income for small towns and businesses throughout the State.

One cannot conclude, however, that the Conservation Reserve has been a perfect success. The legislation that I am introducing today is intended to strengthen the program in two important respects. First, it would change the cost-share formula to encourage tree plantings on CRP acres in low-rainfall areas. The 1985 farm bill recognized the substantial benefits associated with planting CRP acres to trees, and several States in the Southeast are doing very well in this respect. But in the low-rainfall areas of the Great Plains, we're only finding a few hundred CRP acres planted to trees. In our region, the cost of establishing them is simply prohibitive. For this reason, I am proposing that the cost-share be raised from 50 to 75 percent for tree planting in areas where the annual average precipitation is less than 25 inches and that the cost of cultivation and supplemental watering be cost-shared at 50 percent for 4 years.

Mr. President, the intent of this provision is not to induce Plain States farmers to plant large numbers of acres in trees; even with an enhanced cost-share formula, the cost of planting grass will be far lower than planting trees in low rainfall areas. Rather, the intent is to encourage the establishment of narrow windbreaks, shelterbelts, and filterstrips. My proposal provides that the enhanced cost-share formula be applicable to strips no wider than 20 rows of trees. The cost of this change would be minimal. USDA would pay for it out of funds already authorized for the Conservation Reserve Program.

This minor change in the cost-share formula promises a number of important advantages. First, greater numbers of shelterbelts and windbreaks will provide long-term protection against wind erosion for adjacent cropland. This is especially important in South Dakota and other Great Plains States, where wind is the most serious cause of erosion. I just returned from a tour of areas in northeast South Dakota that have been suffering severe drought and high winds. The dust storms of recent weeks have reminded many area residents of the Dust Bowl days. For instance, during several storms this month in the Aberdeen area, soil drifted in the ditches, sometimes over the fenceposts. Drivers were forced to use their headlights and reduce speed in the middle of the day because of poor visibility. Reports of the soil "blotting out the sun," of "almost total darkness in midday," of wind erosion worse than "any time since the Dirty Thirties" have been common. When such conditions appear, the topsoil loses in one storm three times the tolerable per annum soil loss if the land is to sustain its long-term productivity.

Mr. President, there is nothing we can do to change the patterns of high winds and drought that periodically occur in the Great Plains. But we can and should take steps to minimize the disastrous effects that such conditions have on our topsoil. Using the CRP Program to encourage greater tree plantings is just such a step.

Beyond the important benefits for erosion control, CRP strips planted to trees would provide excellent wind protection for wildlife, especially important to prevent winter kills during severe ice and snow storms. Likewise, they would provide winter shelter for livestock, thus giving farmers an additional incentive to keep adjoining CRP grassland in pasture at the end of the 10-year contract. Finally, greater tree plantings near streams and lakes would help reduce nonpoint source pollution emptying into valuable water sources.

A second provision in this bill would adjust the current cost-share formula to address the disproportionate cost of seeding CRP land for farmers in low rent/low rainfall areas. As it stands now, the current cost-share formula is simple but inequitable. In many areas of the Great Plains, the cost of seeding CRP ground has proven exorbitant. The high demand for grass seed has driven prices up everywhere, but in our part of the country, the problem is especially severe. This is due to the fact that a smaller range of grasses are suitable when the objective is to establish a permanent ground cover that can withstand drought conditions. The combination of high demand and restricted supply has increased seed prices over 300 percent in many areas.

In addition, these costs are proving highest in exactly those areas where CRP rents are lowest. In some cases, the farmer's out-of-pocket costs equal or exceed his total first-year rental payment. Under current law, ASCS will pay 50 percent of the cost of seeding CRP ground. For a farmer in States where the CRP rent is, say, $80/acre and seeding runs $20/acre, this arrangement is reasonable. For a farmer in western South Dakota, where the CRP rent is $35/acre and the farmer's seeding costs run $35/acre, the 50 percent cost share is clearly insufficient. The latter is paying four times as much of his contract in seeding as the former. As a consequence, many farmers in our region find that the net cost of establishing the CRP cover stands as a substantial barrier to their participation in the program.

In order to correct this inequity, my bill would retain the current 50 percent cost-share formula for expenditures associated with seeding CRP acres to grass, so long as their total is less than or equal to one year's CRP rental payments. For expenditures in excess of 1 year's rent equivalent, however, the Federal cost share would increase to 75 percent. In other words, Mr. President, this change would introduce a measure of progressivity into the cost-share payment schedule. I do not think it was the intention of Congress when it drafted this legislation to make it more difficult to protect erodible land in some areas of the country than others. But this is what has happened. My bill would address this problem.

Mr. President, my bill proposes only minor changes in the cost-share provision of the Conservation Reserve Program. But these changes would significantly improve the ability of the Reserve to achieve its conservation goals. Like most of my colleagues, I do not think that this is the appropriate time to reopen the Conservation title of the 1985 farm bill. But that should not mean that we not make minor corrections in midcourse, especially when those corrections reinforce the intentions of Congress when it drafted that title. I urge my colleagues to support this legislation.●

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. INOUYE, Mr. FORD, Mr. MCCAIN, and Mr. KERRY):

S. 2442. A bill to amend the Communications Act of 1934 to provide for a program within the National Telecommunications and Information Administration to develop television and radio advertising regarding illegal drug use and to disseminate such advertising by means of mass media; referred to the Committee on Commerce, Science, and Transportation.

TELEVISION AND RADIO ANTI-DRUG ADVERTISING ACT

Mr. HOLLINGS. Mr. President, if this Nation, God forbid, should ever again find itself at war, you can be sure that this Government will quickly take whatever steps are necessary to communicate vital information to the American public, as well as enlist their help and support for the war effort. And you can be sure that the Federal Government would make special use of our vast commercial broadcasting system to disseminate the messages Americans need to hear or see.

That's what it's there for. Television and radio are without a doubt the most effective means of mass communications our society has at its disposal. The Communications Act of 1934 provides our President with wartime "emergency powers" to make use of the broadcast spectrum to protect our national security. If we were at war, Government would be all over the airwaves—enlisting recruits for our armed services, selling war bonds, informing civilians on how to protect themselves, and how to make their own contributions to the cause. Money would be no object.

Well, Mr. President, in a figurative sense we are at war. We're at war with a social problem that is destroying our children and our future as a free nation. We are at war with drugs.

I know I'm not the first person to stand here on the floor of the Senate and say that. Nor will I be the last.

Everyone is against drugs. Everyone is against drug traffickers and pushers. And everyone is for the war on drugs. You aren't going to lose any votes at home by talking about a war on drugs.

But talk is cheap. To fight a war you need men and material. You need the commitment of the Congress to provide the resources—the money—necessary to win the war. You need to do more than just talk.

I remember what John Mitchell, our Attorney General, used to say: "Watch not what we say. Watch what we do."

Mr. President, today I join with my colleague, Senator DANFORTH, in introducing legislation which I hope will enable this Congress to lend more than just moral support to the war on drugs. The Television and Radio Anti-Drug Advertising Act of 1988 would direct the National Telecommunications and Information Administration in the Department of Commerce to establish a massive program to produce antidrug radio and television advertisements and air them on commercial broadcasting outlets throughout the Nation.

This bill would also authorize $75 million a year over 3 years for the program, a third of which would be allocated for the production or acquisition of such ads, and the other two-thirds for the purchase of broadcast time to air the spots.

And, just as Congress would be doing its part by providing the money, we also ask that the Nation's commercial broadcasters build on their already substantial commitment to the cause. This legislation makes two requirements of them: First, that they charge no more than their lowest unit rate for the antidrug advertisements, and second, that they provide the Government with reasonable access to all time periods to air the spots.

Indeed, these two requirements are present in the current laws on paid political advertising for candidates. When we run for office, we want our commercials to get on the air at the lowest cost and have access to all segments of the broadcast day. It seems to me that educating our children on the hazards and evils of drug use is a far worthier cause than our own reelection efforts. Does anyone disagree with that?

When it comes to getting involved in causes such as this one, I have nothing but the best things to say about the commercial broadcasters in my State and across the Nation. On issues from "Litter Free America" to drunk driving, the broadcasters and the Ad Council have gone the extra mile to increase public awareness and build foundations for change. And today, on the drug issue, they are working with the "Just Say No" people to get the antidrug message on the air.

That's the free-enterprise voluntarism approach. It's commendable. It's good. But clearly it is not adequate to effectively fight the tremendous drug problem we face today—a problem that threatens our national security and our society's future.

We are presently outgunned in the war on drugs. Multibillion-dollar drug traffickers conduct their evil enterprises freely in our hemisphere. Local law enforcement agencies are pushed to the limit in their efforts to fight drug-related crimes. Let's face facts—we will continue to be at a disadvantage until our Federal Government gets serious about winning and provides the means necessary to prevail.

And just as I would hope we wouldn't depend on voluntarism alone to defend us in the event of a shooting war, we shouldn't depend on it to win the war on drugs.

The legislation I introduce today isn't going to immediately stop illegal drugs from coming across our borders. It won't provide an immediate end to either the supply or demand for drugs in America. But it is a step toward this goal—an important step because it would mean that Congress is not going to sit back and merely talk about the drug problem any more. It would mean that we're finally going to act.

We need a new attitude around here. You can't fight drugs on the cheap. And you can't just talk the problem away—we've been trying to do that for years. Wake up. This is war, Senators. Our children are dying. The American dream is dying with them. If ever there was a cause for Federal action, this is it.

So let's spend the money. Let's saturate the airwaves with the antidrug message. And let's allow ourselves to go to bed at night knowing that we did more than just make political hay out of the drug issue—but that we actually made a difference in the fight against drug abuse.

I invite all of my colleagues to join me in this effort.

Mr. President, I ask unanimous consent that the text of the legislation which I am introducing be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Television and Radio Anti-Drug Advertising Act".

FINDINGS

Sec. 2. The Congress finds that—

(1) reducing the demand for illegal drugs and other controlled substances in the United States is an essential element in the effort to overcome drug abuse throughout the Nation;

(2) it is imperative that the American public, particularly the youth of the Nation, be made aware of the harm that results from illegal use of such controlled substances;

(3) past publicity campaigns have demonstrated that the well-devised use of television, radio, and other mass media can promote changes in public behavior;

(4) a sustained nationwide program of mass media advertising, carefully planned and implemented to communicate effectively with key audiences, has considerable potential for strengthening public attitudes against the illegal use of drugs and other controlled substances;

(5) the impact of such a program will be greatly enhanced if meaningful amounts of Federal funding are made available for the purchase of television and radio time with the goal of distributing anti-drug advertising as widely as possible to targeted audiences; and

(6) such a mass media advertising program aimed at reducing illegal drug use should be built upon the anti-drug use campaigns initiated during the last 5 years by public and private organizations.

MASS MEDIA ADVERTISING AGAINST ILLEGAL DRUG USE

Sec. 3. Title VII of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

"MASS MEDIA ADVERTISING AGAINST ILLEGAL DRUG USE

"Sec. 712. (a) The Administrator shall establish a program to—

"(1) produce or otherwise acquire television and radio advertising aimed at reducing illegal drug use; and

"(2) purchase, or otherwise obtain, television and radio time for the dissemination of such advertising.

"(b) The Administrator shall provide for and oversee the purchase of television and radio time with the objective of gaining the widest dissemination of the advertisements.

"(c) The Administrator may, as a means of reinforcing television and radio advertisements produced or acquired under this section, produce or acquire advertising for other communications media and purchase or otherwise obtain space or time for the publication of such advertising.

"(d) In carrying out the program required to be established under subsection (a), the Administrator shall consider the advice of the Mass Media Advertising Advisory Committee established by subsection (h) and is authorized to—

"(1) contract with or make grants to individuals or private or public entities;

"(2) hire or accept the voluntary services of consultants or experts; and

"(3) take such other actions as are necessary to carry out the program.

"(e) Within 120 days after the date of enactment of this section, the Administrator shall issue regulations to carry out the program required to be established under this section.

"(f) The Administrator shall not provide funds to any person under this section for the production or acquisition of advertising or the purchase of communications media use unless the Administrator finds that such person—

"(1) has expertise in the production of mass media advertising or the dissemination of such advertising; and

"(2) will make the most efficient use of such funds.

"(g) The Administrator shall require that each person receiving funds under this section shall keep such records as may be reasonably necessary to enable the Administrator to carry out an effective audit.

"(h)(1) There is established an advisory committee of 5 members to be known as the Mass Media Advertising Advisory Committee (hereafter in this subsection referred to as the 'Committee').

"(2) The members of the Committee, who may not be full-time officers or employees of the United States, shall be appointed by the President. Each member shall have professional expertise which enables that member to make a substantial contribution to the Committee's effort to provide expert advice to the Administrator in directing the mass media advertising program required to be established under this section. Of the members of the Committee—

"(A) 3 shall be specialists in drug abuse prevention, including those who have published their professional findings in peer-reviewed journals, at least 1 of whom shall possess expert knowledge and experience in the field of child development; and

"(B) 2 shall be specialists in television, radio, and other mass media who possess expert knowledge and experience in the use of mass media advertising as part of a health promotion campaign to deglamorize drug use and induce improved health behavior among audience members.

"(3) Members of the Committee, including replacement members appointed to fill a vacancy, shall be appointed to serve until the Committee is terminated pursuant to paragraph (7).

"(4) The Committee shall advise the Administrator on the planning and implementation of the mass media advertising program required to be established under this section. Such advice—

"(A) shall indicate the approximate mix of advertisements in the program in terms of target audiences, content, and objectives;

"(B) shall identify the appropriate time slots for the dissemination of particular advertisements to their intended audiences;

"(C) shall assess the adequacy of specific advertisements for communicating effectively with targeted audiences and achieving intended purposes; and

"(D) may pertain to any other matter bearing on the successful planning and implementation of the program.

"(5) Each member of the Committee—

"(A) shall be entitled to receive compensation at a rate not to exceed the miximum for GS-18 of the General Schedule for each day, including travel time, during which such member is engaged in the actual performance of Committee duties; and

"(B) shall be paid actual travel expenses, and per diem in lieu of subsistance expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

"(6) The Administrator shall make available to the Committee such staff, information, and administrative services and assistance as may reasonably be required to enable the Committee to carry out its responsibilities under this section.

"(7) The Committe shall cease to exist on the date that is 30 days after the date on which the program required to be established under subsection (a) is terminated.

"(i)(1) There is authorized to be appropriated for each of the fiscal year 1989, 1990, and 1991 a sum not to exceed $75,000,000, of which—

"(A) one-third shall be allocated for the production or other acquisition of television and radio advertising under subsection (a)(1) and of advertising for other communications media under subsection (c); and

"(B) two-thirds shall be allocated for the purchase of television and radio time under subsection (a)(2) and of space or time in other communications media under subsection (c).

"(2) There is authorized to be appropriated for each of the fiscal year 1989, 1990, and 1991 a sum not to exceed $250,000 for the purpose of carrying out subsection (h).".

"(j) As used in this section—

"(1) the term 'Administrator' means the Administrator of the National Telecommunications and Information Administration; and

"(2) the term 'television' includes broadcast television and cable television.".

REASONABLE ACCESS AND CHARGES FOR ANTI-DRUG ADVERTISING

Sec. 4. Part I of title III of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

"Sec. 332.(a) A licensee of any broadcasting station shall allow reasonable access to or permit the purchase of reasonable amounts of time for use of such broadcasting station by the Administrator of the National Telecommunications and Information Administration, or any person acting on behalf of the Administrator, under the anti-drug advertising program required to be established pursuant to section 712 of this Act.

"(b) The change made for the use of any broadcasting station by the Administrator or any person acting on behalf of the Administrator under such anti-drug advertising program shall not exceed the lowest unit charge of the broadcasting station for the same class and amount of time for the same period.

"(c) As used in subsection (b), the term 'broadcasting station' includes any community antenna television system.".

Mr. DANFORTH. Mr. President, I am proud to introduce today a bill with Senator Hollings to decrease the demand for illegal drugs in this country. Our bill would provide for the funding of a massive long-term anti-drug advertising campaign to be run at the intensity of a Presidential campaign. The campaign we are proposing would be designed by the leading experts in drug abuse prevention and would be produced by the most creative and successful advertising professionals.

This is not the first proposal to surface in Congress this year with the intent of furthering the war on drugs. However, this proposal is one that affirms the crucial role of demand reduction in any plan to end the tragic drug epidemic. A recent commentary by William Raspberry in the Washington Post pointed out the interesting, but often forgotten, fact that the current cocaine epidemic is not the first to be suffered by Americans in this century. According to David F. Musto, a professor at the Yale University School of Medicine, the successful end of the first cocaine epidemic had less to do with strict legal sanctions than with public revulsion against drug usage. He believes the current drug epidemic will likewise ultimately find its demise in strongly held public attitudes against drug usage.

Another recent article emphasizes the need to deglamorize drug usage. Charles Krauthammer writes,

> For any problem that is ultimately cultural, there can be no quick fix. The answer has to be cultural, too, and changing attitudes takes decades. But it can be done. The great paradigm is the success of the now 25-year-old antismoking campaigns.

Indeed, the antismoking campaigns have led to a change in public attitudes that is responsible for a decrease in tobacco usage by one quarter in just a generation.

The antismoking campaigns, of course, were run on shoe-string budgets, had to compete against massive amounts of counter advertising by the tobacco industry, and relied for the most part on public service announcements, which are rarely aired during prime time. If the antismoking campaigns could succeed against these obstacles, how much more successful might a well-funded, well-targeted campaign against drugs be? By providing for such a campaign, I am very optimistic that this bill will lead to a significant decrease in drug usage.

The bill we are introducing today, the Television and Radio Advertising Act, would provide $75 million per year for the acquisition and broadcast of advertisments designed to reduce demand for illegal drugs in the United States. The advertising program would be run by the National Telecommunications and Information Administration in the Department of Commerce, which would be authorized to enter contracts for the production and broadcast of anti-drug advertisements. A five-member board of experts in drug abuse prevention and advertising would be established to advise the Secretary on the appropriate mix and content of advertising and would offer advice on the best approach to acquiring such advertising.

I would like to stress the importance of the expert advisory board. The board will be composed of the Nation's top experts in drug abuse prevention and the most creative media and advertising specialists. We will have our greater minds working on this problem; they will have the funding to place on broadcast media the best advertising that can be produced. The results inevitably will be the dissemination of top-rate, powerful messages to convince the public that using drugs is a bad thing to do, it is a dumb thing to do, and it is certainly not "cool."

Mr. President, our public policy on drugs must reflect the fact that we will never solve the drug problem until demand for drugs is reduced. We can't reduce demand through interdiction, or by using the Army or the Coast Guard. Law enforcement is key to combating illegal drugs, but we must not lose sight of the fact that we must reduce demand. As the success of antismoking campaigns has proven over the past 25 years, the creative use of advertising can be an essential component in reducing the demand for drugs.

By Mr. STEVENS (for himself, Mr. DeConcini, Mr. Stennis, Mr. Thurmond, Mr. Garn, Mr. Burdick, Mr. Pell, Mr. Inouye, Mr. Hollings, Mr. Dole, Mr. Packwood, Mr. Roth, Mr. Chiles, Mr. Weicker, Mr. Stafford, Mr. Johnston, Mr. Helms, Mr. McClure, Mr. Danforth, Mr. Chafee, Mr. Riegle, Mr. Hatch, Mr. Heinz, Mr. Lugar, Mr. Matsunaga, Mr. Sarbanes, Mr. Wallop, Mr. Durenberger, Mr. Cochran, Mr. Boschwitz, Mr. Warner, Mr. Heflin, Mr. Humphrey, Mr. Pryor, Mr. Mitchell, Mr. Rudman, Mr. D'Amato, Mr. Dixon, Mr. Dodd, Mr. Grassley, Mr. Kasten, Mr. Murkowski, Mr. Nickles, Mr. Symms, Mr. Hecht, Mr. Trible, Mr. Wilson, Mr. Evans, Mr. Gramm, Mr. McConnell, Mr. Rockefeller, Mr. Adam, Mr. Bond, Mr. Conrad, Mr. Fowler, Mr. McCain, Mr. Reid, Mr. Shelby, Mr. Wirth, Mr. Karnes, and Mr. Breaux):

S.J. Res. 329. Joint resolution to designate October 24-30, 1988 as Drug Free America Week; to the Committee on the Judiciary.

DRUG FREE AMERICA WEEK

Mr. STEVENS. Mr. President, today Senator DeConcini and I are introducing a Senate joint resolution to designate the week of October 24-31, 1988 as Drug-Free America Week.

The consequences of illegal drug use have reached epidemic proportions. Illegal drug use is a major public health problem and poses a threat at every level of American society. It is one of the leading causes of preventable disease, disability, and death and costs American society nearly $100 billion in lost productivity each year. Drug and alcohol abuse undermines our economy, threatens our national security, and ruins and destroys lives.

The scourge of drug addiction knows no age or socioeconomic barriers. It hits all of us either directly or indirectly. According to research, children are particularly susceptible to becoming addicted to illegal drugs.

A recent survey of fourth graders conducted by Weekly Reader found that 34 percent of those surveyed reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack or cocaine. Nearly 23 million Americans of all ages, colors, and nationalities are regular illegal drug users.

The statistics show that we are beginning—just beginning—to turn the tide of illegal drug use. Use of marijuana by high school seniors is at its lowest level in 11 years. The data reveals that in 1987—for the first time—there was a significant drop in cocaine use. Illicit use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general.

Despite these important gains, we must not become complacent. We are beginning to lay the foundation, but we must continue to build. We are mobilizing the troops, but we have not yet finished the battle. Concerned parents, educators, businesses, private sector organizations, and government leaders are banding together to fight this common enemy.

I commend the tenacious efforts of groups such as the National Federation of Parents for Drug-Free Youth, the American Council for Drug Education, the Just Say No Foundation, the National Parents Resource Institute for Drug Education [PRIDE], TARGET, the National Crime Prevention Council, and the Elks.

Together, we must get the message across that any use of an illegal drug is unacceptable—that there is no safe use of these drugs—and that illegal drug use will not be tolerated. We must develop an absolute intolerance for illegal drugs at every level of American society.

Although we do not expect one "Drug-Free America Week will solve the problem, it is our intent to focus the resolve of the American people on forming a singular collective movement that will continue to fight illegal drug use. A lifetime of commitment is what is required of each and every American.

Mr. President, Senator DECONCINI and I extend our thanks to the 58 other cosponsors from both sides of the aisle who have joined us today in sponsoring this joint resolution. I urge all Senators to plan events in their districts during Drug-Free America Week. Although collectively, there is much the Senate can and is doing in terms of legislative initiatives to win this war, there is much we can do as individual citizens in our home States, too.

ADDITIONAL COSPONSORS

S. 430

At the request of Mr. METZENBAUM, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 430, a bill to amend the Sherman Act regarding retail competition.

S. 508

At the request of Mr. LEVIN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 508, a bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes.

S. 820

At the request of Mr. DASCHLE, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 820, a bill to amend titles 38 and 10, United States Code, to provide veteran's educational assistance benefits for flight training.

S. 840

At the request of Mr. THURMOND, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 1124

At the request of Mr. SIMON, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 1124, a bill to amend title 18, United States Code, to require that telephone monitoring by employers be accompanied by a regular audible warning tone.

S. 1511

At the request of Mr. MOYNIHAN, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Oregon [Mr. PACKWOOD], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1511, a bill to amend title IV of the Social Security Act to replace the AFDC program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefits improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal.

S. 1600

At the request of Mr. FORD, the name of the Senator from Mississippi [Mr. STENNIS] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1766

At the request of Mr. SARBANES, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1766, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1851

At the request of Mr. METZENBAUM, the names of the Senator from California [Mr. CRANSTON], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Michigan [Mr. RIEGLE], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 1897

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1897, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Incorporated.

S. 2115

At the request of Mr. DANFORTH, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2115, a bill to amend the Internal Revenue Code of 1986 to eliminate tax credits from the passive activity rules, to modify the business credit limitation provisions, and for other purposes.

S. 2250

At the request of Mr. INOUYE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2250, a bill to ensure that Federal lands are managed in a manner that does not impair the exercise of traditional American Indian religion.

SENATE JOINT RESOLUTION 169

At the request of Mr. MOYNIHAN, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Texas [Mr. GRAMM], the Senator from Arizona [Mr. MCCAIN], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 169, a joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi.

SENATE JOINT RESOLUTION 197

At the request of Mr. DOLE, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 197, a bill to designate the month of April 1988, as "Prevent-A-Litter Month."

SENATE JOINT RESOLUTION 273

At the request of Mr. LUGAR, the names of the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. HATCH], the Senator from Idaho [Mr. MCCLURE], the Senate from Virginia [Mr. TRIBLE], the Senator from South Carolina [Mr. THURMOND], the Senator from the New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. DODD], the Senator from Alabama [Mr. HEFLIN], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of Senate Joint Resolution 273, a joint resolution designated October 6, 1988, as "German-American Day."

SENATE JOINT RESOLUTION 275

At the request of Mr. WEICKER, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 275, a joint resolution to designate August 1-8, 1988, as "National Harness Horse Week."

SENATE JOINT RESOLUTION 288

At the request of Mr. BOREN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Joint Resolution 288, a joint resolution to designate the week of June 5 through June 11, 1988, as "National Intelligence Community Week."

SENATE JOINT RESOLUTION 324

At the request of Mr. DURENBERGER, the names of the Senator from Missouri [Mr. BOND], the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Arizona [Mr. DECONCINI], the Senator from Utah [Mr. GARN], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Indiana [Mr. LUGAR], the Senator from Idaho [Mr. MCCLURE], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], the Senator from Indiana [Mr.

Quayle], the Senator from Alabama [Mr. Shelby], the Senator from Mississippi [Mr. Stennis], the Senator from Virginia [Mr. Warner], and the Senator from California [Mr. Wilson] were added as cosponsors of Senate Joint Resolution 324, a joint resolution to designate February 1989 as "America Loves Its Kids Month."

SENATE JOINT RESOLUTION 325

At the request of Mr. Rockefeller, the names of the Senator from Hawaii [Mr. Matsunaga], the Senator from New Mexico [Mr. Domenici], and the Senator from Arizona [Mr. DeConcini] were added as cosponsors of Senate Joint Resolution 325, a joint resolution designating the third week in May 1989 as "National Tourism Week."

SENATE CONCURRENT RESOLUTION 117

At the request of Mr. Chiles, the name of the Senator from New Mexico [Mr. Bingaman], was added as cosponsors of Senate Concurrent Resolution 117, a concurrent resolution to express the sense of the Congress regarding relief for the U.S. citrus industry under section 301 of the Trade Act of 1974 and other appropriate relief.

SENATE RESOLUTION 394

At the request of Mr. Heinz, the names of the Senator from Arkansas [Mr. Pryor], and the Senator from Kentucky [Mr. Ford] were added as cosponsors of Senate Resolution 394, a resolution expressing the sense of the Senate that funding in fiscal year 1989 for the Federal-aid highway and mass transit programs should be at the levels enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987.

SENATE RESOLUTION 426

At the request of Mr. Baucus, the name of the Senator from South Dakota [Mr. Daschle] was added as a cosponsor of Senate Resolution 426, a resolution expressing the sense of the Senate that the seven major industrial nations of the world must take immediate action to protect the earth's stratospheric ozone layer.

AMENDMENT NO. 1908

At the request of Mr. Bentsen, the names of the Senator from West Virginia [Mr. Rockefeller], and the Senator from Alaska Mr. Murkowski] were added as cosponsors of amendment No. 1908 intended to be proposed to S. 2223, an original bill to promote and protect taxpayer rights, and for other purposes.

SENATE CONCURRENT RESOLUTION 122—RELATIVE TO THE NEED FOR FOOD ASSISTANCE TO VIETNAM

Mr. HATFIELD (for himself, Mr. Kennedy, and Mr. Pressler) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 122

Whereas Vietnam is experiencing severe food shortages that have led to hunger in many provinces;

Whereas, according to international aid organizations, as many as three million Vietnamese civilians face critical food shortages;

Whereas concerned United Nations organizations already have confirmed the authenticity of these food shortages and currently are in the process of conducting independent surveys to evaluate the extent of the hunger problems;

Whereas many refugees departing by boat from Vietnam and arriving in Thailand, Hong Kong, Malaysia, and other countries of first asylum in the region are citing fears of food shortages as a factor in their decisions to flee;

Whereas these journeys by sea expose the refugees to the dangers of pirate attacks, boat rammings, pushbacks, and drownings due to vessel failure; and

Whereas the sharp increase in refugee arrivals in Hong Kong and Malaysia, and the frequent instances of pushbacks of the eastern and southern coasts of Thailand, endanger first asylum for all refugees of the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should exercise his authority to provide international disaster assistance under chapter 9 of part I of the Foreign Assistance Act of 1961 in order to respond promptly and compassionately, in cooperation with international organizations and private and voluntary organizations, to the urgent need for food assistance by those civilians in Vietnam affected by food shortages.

AMENDMENTS SUBMITTED

INF TREATY

NUNN (AND OTHERS) EXECUTIVE AMENDMENT NO. 2302

Mr. NUNN (for himself, Mr. Warner, Mr. Boren, Mr. Cohen, and Mr. Helms) proposed an amendment to the resolution of ratification to Treaty Doc. 100-11, Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles; as follows:

At the appropriate place in the Resolution of Ratification insert the following:

"The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty, and the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty, are of the same force and effect as the provisions of the Treaty."

HELMS (AND OTHERS) EXECUTIVE AMENDMENT NO. 2303

Mr. HELMS (for himself, Mr. Byrd, Mr. Dole, and Mr. Simpson) proposed an amendment to amendment No. 2302 proposed by Mr. Nunn (and others) to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

(a) After the words "as used in the Treaty," delete the word "and"; and

(b) after the words "related to the Treaty," insert the following:", and the agreements signed on May 21, 1988 in Vienna and Moscow, respectively, correcting the site diagrams and certain technical errors in the Treaty"

WALLOP (AND OTHERS) EXECUTIVE AMENDMENT NO. 2304

(Ordered to lie on the table.)

Mr. WALLOP (for himself, Mr. Karnes, Mr. Garn, Mr. McCain, Mr. McClure, Mr. Nickles, Mr. Grassley, Mr. Thurmond, Mr. Murkowski, and Mr. Symms) submitted an amendment intended to be proposed by them to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

"The President shall not exchange the instruments of ratification unless, using existing power, he communicates to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty, the following:

"(1) the declaration that the United States will consider any violation by the Soviet Union of its obligations under the Treaty, including any violating described in a report to the Congress by the President, pursuant to section 1002 of the Department of Defense Authorization Act, 1986, or any other notification required by paragraph (2), as grounds for undertaking appropriate responses or withdrawing from the Treaty, in accordance with the Treaty's terms and generally recognized principles of international law;

"(2) the reservation that, before the date of exchange of the instruments of ratification of the Treaty, the President shall agree to submit, every 12 months after the date of entry into force of the Treaty, to the Senate a report or an addendum to the report required by section 1002 of the Department of Defense Authorization Act, 1986, which—

"(A) contains a detailed net assessment of the overall trends in the strategic and theater balance, and the effectiveness of the Treaty and other arms control treaties in ensuring a stable nuclear balance that protects the security of the United States and its allies;

"(B) certifies whether the Soviet Union is in compliance with the Treaty;

"(C) if the President does not certify full compliance, contains a net assessment of the nature of the non-compliance, the reliability of the evidence and the vulnerability of the sources of that evidence to countermeasures, and the risks each detected or suspected violation poses to the security of the United States and its allies, and

"(D) upon request of the Select Committee on Intelligence of the Senate, discusses the question of compliance raised by an intelligence information notified under paragraph (3);

"(3) the declaration that, the Director of Central Intelligence should transmit to the Select Committee on Intelligence of the Senate any finished analysis of intelligence information which raises questions about whether Soviet activities are in compliance with the Treaty;

"(4) the declaration that, whenever the President submits to the Senate a report to paragraph (2) or a report pursuant to section 1002 of the Department of Defense Authorization Act, 1986, that describes a violation by the Soviet Union of the Treaty, and he decides not to withdraw the United States from the Treaty, the President will certify to the Senate, not later than 91 calendar days after the Senate receives such a report that either—

"(A) he is undertaking appropriate responses to any such Soviet violation, which certification will detail the specific actions being taken in response to the Soviet violation; or

"(B) the Soviet Union has returned to compliance with the Treaty, which certification will provide a description of the actions taken by the Soviet Union to return to compliance;

"(5) the declaration that, the Treaty will no longer continue to remain in force with respect to the United States if the Senate adopts a resolution by majority vote that disapproves the certification submitted by the President pursuant to clause (A) or (B) of paragraph (4), as the case may be; and

"(6) the declaration that, if the President announces the intention of the United States to withdraw from the Treaty or to take appropriate responses to Soviet violations, he should obligate or expend funds to protect the interests of the United States and its allies under such circumstances as the Congress may specifically make available to him for those purposes".

BYRD EXECUTIVE AMENDMENT NO. 2305

Mr. BYRD proposed an amendment to the committee condition to the resolution of ratification to Treaty Doc. 100-11, supra as follows:

Strike all after the word "provided", and insert in lieu thereof the following:

That the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clauses of the Constitution, that——

(1) the United States shall interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(2) Such common understanding is based on:

(A) First, the text of the Treaty and the provisions of this resolution of ratification; and

(B) Second, the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty; and

(3) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute; and

(4) if, subsequent to ratification of the Treaty, a question arises as to the interpretation of a provision of the Treaty on which no common understanding was reached in accordance with paragraph (2), that provision shall be interpreted in accordance with applicable United States law.

WALLOP (AND OTHERS) EXECUTIVE AMENDMENT NO. 2306

(Ordered to lie on the table).

Mr. WALLOP (for himself, Mr. KARNES, Mr. GARN, Mr. MCCAIN, Mr. MCCLURE, Mr. NICKLES, Mr. WILSON, and Mr. GRASSLEY) submitted an amendment intended to be proposed by them to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

In lieu of the language to be inserted, insert the following:

"The President shall not exchange the instruments of ratification unless, using existing power, he communicates to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty, the following:

"(1) the declaration that the United States will consider any violation by the Soviet Union of its obligations under the Treaty, including any violation described in a report to the Congress by the President, pursuant to section 1002 of the Department of Defense Authorization Act, 1986, or any other notification required by paragraph (2), as grounds for undertaking appropriate responses or withdrawing from the Treaty, in accordance with the Treaty's terms and generally recognized principles of international law;

"(2) the reservation that, before the date of exchange of the instruments of ratification of the Treaty, the President shall agree to submit, every 12 months after the date of entry into force of the Treaty, to the Senate a report or an addendum to the report required by section 1002 of the Department of Defense Authorization Act, 1986, which—

"(A) contains a detailed net assessment of the overall trends in the strategic and theater balance, and the effectiveness of the Treaty and other arms control treaties in ensuring a stable nuclear balance that protests the security of the United States and its allies;

"(B) certifies whether the Soviet Union is in compliance with the Treaty;

"(C) If the President does not certify full compliance, contains a net assessment of the nature of the non-compliance, the reliability of the evidence and the vulnerability of the sources of that evidence to countermeasures, and the risks each detected or suspected violation poses to the security of the United States and its allies; and

"(D) upon request of the Select Committee on Intelligence of the Senate, discusses the question of compliance raised by any intelligence information notified under paragraph (3);

"(3) the declaration that, the Director of Central Intelligence should transmit to the Select Committee on Intelligence of the Senate any finished analysis of intelligence information which raises questions about whether Soviet activities are in compliance with the Treaty;

"(4) the declaration that, whenever the President submits to the Senate a report pursuant to paragraph (2) or a report pursuant to section 1002 of the Department of Defense Authorization Act, 1986, that describes a violation by the Soviet Union of the Treaty, and he decides not to withdraw the United States from the Treaty, the President should certify to the Senate, not later than 90 calendar days after the Senate receives such a report that either—

"(A) he is undertaking appropriate responses to any such Soviet violation, which certification will detail the specific actions being taken in response to the Soviet violation; or

"(B) the Soviet Union has returned to compliance with the Treaty, which certification will provide a description of the actions taken by the Soviet Union to return to compliance;

"(5) the declaration that, the Treaty should no longer continue to remain in force with respect to the United States if the Senate adopts a resolution by majority vote that disapproves the certification submitted by the President pursuant to clause (A) or (B) of paragraph (4), as the case may be; and

"(6) the declaration that, if the President announces the intention of the United States to withdraw from the Treaty or to take appropriate responses to Soviet violations, he should obligate or expend funds to protect the interests of the United States and its allies under such circumstances as the Congress may specifically make available to him for those purposes".

LEVIN (AND WIRTH) EXECUTIVE AMENDMENT NO. 2307

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. WIRTH) submitted an amendment intended to be proposed by them to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

At an appropriate place in the amendment, insert the following:

Provided further, that the Senate's advice and consent to ratification of the INF Treaty is further subject to the declaration that it is the sense of the Senate that:

"(1) The INF treaty has renewed attention on the balance of conventional forces in Europe and heightened concerns over the Warsaw Pact's concentation of forward-deployed armored divisions in the Central Region which is inconsistent with a defensive strategy;

"(2) It is essential that NATO adopt defense improvements and press for effective conventional arms control or a combination thereof;

"(3) Conventional force reductions which preclude the possibility of a large-scale, short-warning surprise attack, while not reducing NATO's ability to conduct a forward conventional defense, would dramatically reduce the risk that misperception or miscalculation could lead to war;

"(4) Serious efforts to conduct negotiations on such reductions would provide evidence of General Secretary Gorbachev's determination fundamentally to change East-West relations and would test the Soviets' expressed willingness to achieve a stable and secure balance of conventional forces;

"(5) Given the importance of conventional stability to NATO's security, it is desirable that the West have some understanding of Soviet conventional arms control objectives and of the practical meaning of such Soviet conventional arms concepts as "reasonable sufficiency" and "asymmetrical reductions" before a START agreement is implemented;

"(6) Therefore, the United States and its NATO allies should, in the near term, advance a coherent and unified conventional arms reductions proposal that would effectively limit the capability for large-scale, short-warning offensive action to include:

(a) confidence building measures to enhance the predictability of military behavior, such as reciprocal monitoring of key transportation junctures and storage facilities; military exchanges and discussions of doctrine and strategy; establishment of force structure and maneuver ceilings; and other similar measures agreed upon by the Alliance.

"(b) an effective verification regime—including the mutual exchange of data, onsite inspections, and pilot projects which could be separated out from the negotiations and implemented prior to reaching agreement on actual reductions—to ensure compliance and, in the event of noncompliance, adequate warning time to allow effective military countermeasures;

"(c) substantial asymmetrical reductions in concentrated, forward-deployed, heavy armor and other offensive capable weapons systems, so that approximately equal ceilings on such weapons systems (as contrasted to equal reductions in such weapons systems) are attained.

"(7) In addition, NATO should consider advancing and seeking agreement on confidence-building measures, data exchanges, inspection schedules and other operational arms control measures because of their intrinsic value and because they could serve as stepping stones toward achieving a structurral conventional arms reduction agreement.

"(8) In developing these proposals, NATO should consider how a conventional arms control agreement would fit into the overall framework of NATO defense strategy and resist efforts to negotiate reductions in battlefield nuclear weapons until progress toward a conventional arms control agreement which enhances NATO security and East-West stability is further advanced.

"(9) Simultaneously with its vigorous efforts to achieve such an arms control agreement, NATO should modernize and improve its conventional forces to redress deficiencies in its conventional military posture, thereby strengthening deterrence and enhancing prospects for a successful conventional arms control agreement."

SPECTER EXECUTIVE AMENDMENT NOS. 2308 THROUGH 2313

(Ordered to lie on the table.)

Mr. SPECTER submitted six amendments intended to be proposed by him to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

EXECUTIVE AMENDMENT No. 2308

In lieu of the matter, insert "the negotiating record would be considered material even when the record may contradict implicit understandings of the Senate regarding the interpretation of a treaty."

EXECUTIVE AMENDMENT No. 2309

Strike all after the first word and insert "the negotiating record would be considered material even when the record may contradict implicit understandings of the Senate regarding the interpretation of a treaty."

EXECUTIVE AMENDMENT No. 2310

At the end, add the following: "the negotiating record would be considered material even when the record may contradict implicit understandings of the Senate regarding the interpretation of a treaty."

EXECUTIVE AMENDMENT No. 2311

Strike all after the first word and insert: "such common understanding means a shared interpretation which is both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification."

EXECUTIVE AMENDMENT No. 2312

In lieu of the matter, insert: "such common understanding means a shared interpretation which is both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification."

EXECUTIVE AMENDMENT No. 2313

At the end, add the following: "such common understanding means a shared interpretation which is both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification."

SYMMS EXECUTIVE AMENDMENTS NOS. 2314 AND 2315

(Ordered to lie on the table.)

Mr. SYMMS submitted two amendments intended to be proposed by him to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

EXECUTIVE AMENDENT No. 2314

Strike out "( ) Condition" and all that follows through the end of the condition and insert in lieu thereof the following:

( ) Declaration: Any request submitted to Congress by the executive branch for the enactment of budget authority for the On-Site Inspection Agency for any fiscal year should be included in the budget request for the Department of Defense for such fiscal year and should be specifically identified as a separate budget item.

EXECUTIVE AMENDMENT No. 2315

Strike out "( ) Condition" and all that follows through the end of the condition and insert in lieu thereof the following:

( ) Declaration: In authorizing the strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities provided for in the Treaty, account should be taken of the number of such personnel that will be assigned to such activities during such fiscal year.

CRANSTON EXECUTIVE AMENDMENT NO. 2316

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

In the pending amendment, strike all after the word "however" in line 1 and insert the following: that it is the sense of the Senate: that, as an integral factor in the U.S. decision to adhere to this Treaty, the U.S. intends to continue to negotiate actively with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO allies, to negotiate a treaty effecting reductions in the conventional forces of NATO and the Warsaw Pact, and in so doing, that it should be guided by the following principles and considerations:

(a) A main object of such future treaties should be international stability and reduction of the risk of war;

(b) During any negotiations contemplated by this declaration, the United States should act in close consultation with its allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

(c) Negotiations contemplated by this declaration should continue to be conducted in close and detailed consultation with the United States Senate, which should be kept fully apprised, as provided in Section 37 of the Arms Control and Disarmament Act, as amended, of all significant proposals made to the Union of Soviet Socialist Republics, and with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given highest consideration and due regard;

(d) The negotiations contemplated by this declaration should also seek to secure an effective verification regime which builds significantly upon the verification regime of the present Treaty;

(e) In accordance with the Constitutional process of the United States, the United States will not be bound to adhere to any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate, but will have an obligation to refrain from acts that would defeat the object and purpose of such treaty;

(f) Pursuant to this declaration, any joint declaration reached with the Union of Soviet Socialist Republics on a framework for the negotiation of the treaties contemplated hereby should guide the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously;

(g) Notwithstanding the other provisions of this declaration, the United States considers full compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting the proposals and attitudes of the United States with respect to the future treaties contemplated hereby.

HELMS (AND OTHERS) EXECUTIVE AMENDMENT NO. 2317

Mr. HELMS (for himself, Mr. BYRD, Mr. DOLE, and Mr. SIMPSON) proposed an amendment to the resolution of ratification to Treaty Document 100-11, supra; as follows:

At the end of the Resolution of Ratification, insert the following before the period: "; provided, further, however, that the following declaration shall be included in any instruments of ratification exchanged between the parties:

"DECLARATION

'The United States of America declares that, as an integral factor in its decision to adhere to this Treaty, it intends to continue to negotiate with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO allies, to negotiate a treaty effecting reductions in the conventional forces of NATO and the Warsaw Pact, and in so doing, that it shall be guided by the following principles and considerations:

'(a) A main object of such future treaties shall be international stability and reduction of the risk of war by obtaining general equivalence in the resultant forces of the Parties;

'(b) During any negotiations contemplated by this declaration, the United States shall act in close consultation with its allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

'(c) Negotiations contemplated by this declaration shall also be conducted in close and detailed coordination with the United States Senate, and the Senate should be kept fully apprised of all significant proposals intended to be made, or made, to the Union of Soviet Socialist Republics and, with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given plenary consideration and due regard;

'(d) The negotiations contemplated by this declaration shall also seek to secure regimes of stringent verification and full and exact compliance which carry forward but strengthen significantly the verification and compliance regimes of the present Treaty;

'(e) In accordance with the Constitutional process of the United States, the United States shall, notwithstanding any presumed or asserted contrary principle of international law, not be bound to adhere to or observe any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate;

'(f) Pursuant to this declaration, any joint declaration reached with the Union of Soviet Socialist Republics of a framework for the negotiation of the treaties contemplated hereby, and such framework itself, shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously, and shall not constrain any military programs of the United States unless otherwise provided for in accordance with Section 33 of the Arms Control and Disarmament Act.

'(g) Notwithstanding the other provisions of this declaration, the United States considers full and exact compliance with the present treaty and with all other existing arms control agreements between the parties to be a major issue affecting i) the proposals and attitudes of the United States with respect to the future treaties contemplated hereby and ii) proportionate and appropriate responses with respect to such existing agreements.'."

HELMS EXECUTIVE AMENDMENT NOS. 2318 AND 2319

(Ordered to lie on the table.)

Mr. HLEMS submitted two amendments intended to be proposed by him to the resolution of ratification to Treaty Document 100-11, supra; as follows:

EXECUTIVE AMENDMENT NO. 2318

At the end of the Resolution of Ratification, insert the following reservation before the period: "; provided further, however that the President shall not exchange instruments of ratification unless the following reservation shall be included in any instruments of ratification exchanged between the parties:

"RESERVATION

"1. By the end of the first phase, that is, no later than 29 months after entry into force of this Treaty, all dependents of all United States military personnel on the continent of Europe shall have been withdrawn from that continent pursuant to such rules and regulations as may be prescribed by the Congress of the United States;

"2. After the entry into force of this Treaty, no United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall be newly assigned to duty on the continent of Europe for any tour of duty in excess of 12 months and having served such tour shall not thereafter be reassigned to tht continent except in case of war declared by the Congress of the United States; provided, further, that no tour of duty limited in duration by this subparagraph shall be a tour accompanied by dependents; and

"3. By the end of the second phase, that is, no later than three years after entry into force of this Treaty, all United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall have been withdrawn from the continent of Europe pursuant to such rules and regulations as the Congress of the United States may prescribe for such purpose; provided, further, that thereafter, subject to the exclusion hereinbefore specified, no United States military personnel shall be stationed on the continent of Europe except after a declaration of war by the Congress of the United States expressly so providing."

EXECUTIVE AMENDMENT NO. 2319

At the end of the pending amendment to the Resolution of Ratification, insert the following reservation before the period: "; provided further, however that the President shall not be authorized to exchange instruments of ratification unless the following reservation shall be included in any instruments of ratification exchanged between the parties:

RESERVATION

'1. By the end of the first phase, that is, no later than 29 months after entry into force of this Treaty, all dependents of all United States military personnel on the continent of Europe shall have been withdrawn from that continent pursuant to such rules and regulations as may be prescribed by the Congress of the United States;

'2. After the entry into force of this Treaty, no United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall be newly assigned to duty on the continent of Europe for any tour of duty in excess of 12 months and having served such tour shall not thereafter be reassigned to that continent except in case of war declared by the Congress of the United States; provided, further, that no tour of duty limited in duration by this subparagraph shall be a tour accompanied by dependents; and

'3. By the end of the second phase, that is, no later than three years after entry into force of this Treaty, all United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall have been withdrawn from the continent of Europe pursuant to such rules and regulations as the Congress of the United States may prescribe for such purpose; provided, further, that thereafter, subject to the exclusion hereinbefore specified, no United States military personnel shall be stationed on the continent of Europe except after a declaration of war by the Congress of the United States expressly so providing.'."

CRANSTON EXECUTIVE AMENDMENT NO. 2320

Mr. CRANSTON proposed an amendment to amendment No. 2317 proposed by Mr. HELMS (and others) to the resolution of ratification to Treaty Document 100-11, supra; as follows:

In the pending amendment, strike all after the word "however" on line one and insert the following: that it is the sense of the Senate: that, as an integral factor in the U.S. decision to adhere to this Treaty, the U.S. intends to continue to negotiate actively with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO allies, to negotiate a treaty effecting reductions in the conventional forces of NATO and the Warsaw Pact, and in so doing, that it should be guided by the following principles and considerations:

(a) A main object of such future treaties should be international stability and reduction of the risk of war;

(b) During any negotiations contemplated by this declaration, the United States should act in close consultation with its allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

(c) Negotiations contemplated by this declaration should continue to be conducted in close and detailed consultation with the United States Senate, which should be kept fully apprised, as provided in Section 37 of the Arms Control and Disarmament Act, as amended, of all significant proposals made to the Union of Soviet Socialist Republics, and with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given highest consideration and due regard;

(d) The negotiations contemplated by this declaration should also seek to secure an effective verification regime which builds significantly upon the verification regime of the present Treaty;

(e) In accordance with the Constitutional process of the United States, the United States will not be bound to adhere to any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate, but will have an obligation to refrain from acts that would defeat the object and purpose of such treaty.

(f) Pursuant to this declaration, any joint declaration reached with the Union of Soviet Socialist Republics on a framework for the negotiation of the treaties contemplated hereby should guide the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously.

(g) Notwithstanding the other provisions of this declaration, the United States considers full compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting the proposals and attitudes of the United States with respect to the future treaties contemplated hereby.

HELMS EXECUTIVE AMENDMENT NO. 2321

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

At the end of the pending amendment to the Resolution of Ratification, insert the following before the period:

"; provided, further, however, that the following declaration shall be included in any instruments of ratification exchanged between the parties:

" 'Declaration. The United States of America declares that, as an integral factor in its decision to adhere to this Treaty, it intends to continue to actively negotiate with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO allies, to negotiate a treaty effecting reductions in the conventional forces of NATO and the Warsaw Pact, and in so doing, that it shall be guided by the following principles and considerations:

"(a) A main object of such future treaties shall be international stability and reduction of the risk of war by obtaining general equivalence in the resultant forces of the Parties;

"(b) During any negotiations contemplated by this declaration, the United States shall act in close consultation with its allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

"(c) Negotiations contemplated by this declaration shall also be conducted in close and detailed coordination with the United States Senate, and the Senate should be kept fully apprised of all significant proposals intended to be made, or made, to the Union of Soviet Socialist Republics and, with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given full and highest level consideration and due regard;

"(d) The negotiations contemplated by this declaration shall also seek to secure regimes of stringent verification and full and exact compliance which carry forward but strengthen significantly the verification and compliance regimes of the present Treaty;

"(e) In accordance with the Constitutional process of the United States, the United States shall, notwithstanding any presumed or asserted contrary principle of international law, not be bound to adhere to or observe any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate;

"(f) Pursuant to this declaration, any joint declaration reached with the Union of Soviet Socialist Republics of a framework for the negotiation of the treaties contemplated hereby, and such framework itself, shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously, and shall not constrain any military programs of the United States unless otherwise provided for in accordance with Section 33 of the Arms Control and Disarmament Act.

"(g) Notwithstanding the other provisions of this declaration, the United States considers full and exact compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting (i) the proposals and attitudes of the United States with respect to the future treaties contemplated hereby and ii) proportionate and appropriate responses with respect to such existing agreements.'."

SPECTER EXECUTIVE AMENDMENT NOS. 2322 AND 2323

(Ordered to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

Executive Amendment No. 2322

At the appropriate place insert the following:

"Such common understanding means a shared interpretation which is both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification."

Executive Amendment No. 2323

At the appropriate place insert the following:

"The negotiating record would be considered material even when the record may contradict implicit understandings of the Senate regarding the interpretation of a treaty."

WALLOP (AND OTHERS) EXECUTIVE AMENDMENT NO. 2324

Mr. WALLOP (for himself, Mr. Karnes, Mr. Garn, Mr. McCain, Mr. McClure, Mr. Nickles, Mr. Wilson, Mr. Grassley, Mr. Thurmond, Mr. Murkowski, Mr. Symms, and Mr. Warner) proposed an amendment to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

At the end of the resolution of ratification, add the following:

"The President shall not exchange the instruments of ratification unless, using existing power, he communicates to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty, the following:

"(1) the declaration that the United States will consider any violation by the Soviet Union of its obligations under the Treaty, including any violation described in a report to the Congress by the President, pursuant to section 1002 of the Department of Defense Authorization Act, 1986, or any other notification required by paragraph (2), as grounds for undertaking appropriate responses or withdrawing from the Treaty in accordance with the Treaty's terms and generally recognized principles of international law;

"(2) the reservation that, before the date of exchange of the instruments of ratification of the Treaty, the President shall agree to submit, every 12 months after the date of entry into force of the Treaty, to the Senate a report or an addendum to the report required by section 1002 of the Department of Defense Authorization Act, 1986, which—

"(A) contains a detailed net assessment of the overall trends in the strategic and theater balance, and the effectiveness of the Treaty and other arms control treaties in ensuring a stable nuclear balance that protects the security of the United States and its allies;

"(B) certifies whether the Soviet Union is in compliance with the Treaty;

"(C) if the President does not certify full compliance, contains a net assessment of the nature of the non-compliance, the reliability of the evidence and the vulnerability of the sources of that evidence to countermeasures, and the risks each detected or suspected violation poses to the security of the United States and its allies; and

"(D) upon request of the Select Committee on Intelligence of the Senate, discusses the question of compliance raised by any intelligence information notified under paragraph (3);

"(3) the declaration that, the Director of Central Intelligence should transmit to the Select Committee on Intelligence of the Senate any finished analysis of intelligence information which raises questions about whether Soviet activities are in compliance with the Treaty;

"(4) the declaration that, whenever the President submits to the Senate a report pursuant to paragraph (2) or a report pursuant to section 1002 of the Department of Defense Authorization Act, 1986, that describes a violation by the Soviet Union of the Treaty, and he decides not to withdraw the United States from the Treaty, the President should certify to the Senate, not later than 90 calendar days after the Senate receives such a report that either—

"(A) he is undertaking appropriate responses to any such Soviet violation, which certification will detail the specific actions being taken in response to the Soviet violation; or

"(B) the Soviet Union has returned to compliance with the Treaty, which certification will provide a description of the actions taken by the Soviet Union to return to compliance;

"(5) the declaration that, the Treaty no longer continue to remain in force with respect to the United States if the Senate adopts a resolution by majority vote that disapproves the certification submitted by the President pursuant to clause (A) or (B) of paragraph (4), as the case may be; and

"(6) the declaration that, if the President announces the intention of the United States to withdraw from the Treaty or to take appropriate responses to Soviet violations, he should obligate or expend funds to protect the interests of the United States and its allies under such circumstances as the Congress may specifically make available to him for those purposes".

WILSON (AND OTHERS) EXECUTIVE AMENDMENT NO. 2325

Mr. WILSON (for himself, Mr. Nickles, Mr. Quayle, Mr. Dole, Mr. Lugar, Mr. Warner, and Mr. McCain) proposed an amendment to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

At the end of the resolution of ratification, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following:

( ) Condition.—The United States shall not be bound to any interpretation of this Treaty that is not equally binding on the

Soviet Union under applicable international law.

NOTICES OF HEARINGS

GOVERNMENTAL AFFAIRS COMMITTEE

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a series of hearings on the subject of alcoholism on Thursday, June 16, at 9:30 a.m., and Wednesday, June 29, at 10 a.m. For further information, please call Len Weiss, staff director, at 224-4751.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a series of hearings on the subject of AIDS—health care services and effectiveness of AIDS education—on the dates of Monday, June 6, at 2 p.m., and Wednesday, June 8, at 10 a.m. For further information, please call Len Weiss, staff director, at 224-4751.

Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Tuesday, June 7, at 9:30 a.m., on the subject of budget reform. For further information, please call Len Weiss, staff director, at 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 26, 1988, at 2 p.m., to hold a Department of Justice authorization hearing on civil rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, May 26, 1988. The committee will be meeting with its National Advisory Council.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON HOUSING, BANKING AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, May 26, 1988, to conduct an oversight hearing on the condition of the thrift industry.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, May 26, for hearings on the subject of alcoholism.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 26, 1988, to hold a hearing on issues pertaining to children's health care.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, May 26, 1988, to conduct an executive session on pending business—nominations. Agenda attached.

The PRESIDING OFFICER. Without objection, it is ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, May 26, 1988, to hold a markup on the following bills: S. 2153, the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988, S. 1509, the Indian Health Promotion and Disease Prevention Act of 1987, and H.R. 2615, certain lands held in trust for the Pechanga Band of Luiseno Mission Indians, and to be followed by an oversight hearing on the Federal Acknowledgement Petition [FAP] process for Federal recognition of Indian tribes.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 26, to receive a briefing on the situation in Panama and to continue the nomination hearing of William Graham Walker to be Ambassador to El Salvador.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 26, 1988, to hold a hearing on the Transportation implications of the United States-Canadian free trade agreement.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, May 26, 1988, to hold a hearing on the annual report of the Postmaster General.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON MERCHANT MARINE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Merchant Marine, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 26, 1988, to hold a hearing on the administration's proposal to authorize appropriations for programs of the Maritime Administration and the Federal Maritime Commission.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on May 26, 1988, to receive testimony on S. 1967, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in the State of Oklahoma, and for other purposes.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON SUPERFUND AND ENVIRONMENTAL OVERSIGHT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund and Environmental Oversight, Committee on Environment and Public Works, be authorized to meet during the session of the Senate of Thursday, May 26, to conduct a hearing on the implementation of the Emergency Planning and Community Right to Know Act of 1986, title III.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

SPEECH BY THOMAS A. DINE, EXECUTIVE DIRECTOR OF AIPAC

● Mr. GORE. Mr. President, I would like to submit for the RECORD excerpts of a speech given by Thomas A. Dine, executive director of the American Israel Public Affairs Committee, to AIPAC's 29th annual policy conference held in Washington on May 15. Entitled "The Future of U.S.-Israel

Relations: A Secure Peace," Mr. Dine's address constitutes an extremely thoughtful and evenhanded examination of the circumstances through which United States-Israel policies are now passing. Through this speech, Mr. Dine demonstrates the importance of the relationship between our two countries as we celebrate Israel's 40th birthday, and as we move to secure peace in her region.

I commend Mr. Dine and urge my colleagues to read this important work.

The excerpts follow:

THE FUTURE OF UNITED STATES-ISRAEL RELATIONS: A SECURE PEACE

(By Thomas A. Dine)

* * * * *

Over the past eight years, I have come before this Policy Conference to review with you our challenges and achievements of the past 12 months, and to discuss where we need to go in legislation, foreign policy, and our grassroots efforts.

But this year is different. We meet at a time of great change, uncertainty, and possible danger. Much of what we have achieved over the last several years is being challenged. Our community is seized with the question of how to come to grips with a new threat. I have, therefore, decided to put aside the normal practice of reviewing the state of AIPAC and accounting for our results. Instead I want to devote this time to analyze the situation and present a battle plan, an agenda of action, for all of us to execute here in Washington and back home at state and local levels.

This is a large task. The core issues involve six different questions.

First, there is the Arab uprising, its meaning, and how it is understood in the United States.

Second, is the peace process and the search for a political solution.

Third, there is the bilateral U.S.-Israel relationship in light of the uprising and the peace process.

Fourth is the election in Israel and especially, the impact on our work when the main parties in Israel are so deeply divided, and how we deal with this.

Fifth, is the election in the United States, particularly the Presidential election, and how we prepare for the next Administration.

Finally, there is our own role in this changing and challenging situation, and what we need to do to preserve and enhance the U.S.-Israel relationship.

To begin with the first issue—the Arab uprising. It is clear that, for better or worse, this has brought about a permanent change in the Middle East. The Palestinians in the territories have emerged as a distinct force, they are pursuing very radical demands. Jordan's influence has been dramatically reduced, and Israel is confronted with the reality that it now administers a much more hostile population. The status quo that existed before December 9, 1987, cannot be restored, and a new political solution will have to be found.

The pro-Israel community in America knows that no permanent solution can be achieved between Israelis and Arabs without a political settlement. But we also recognize that, in this extreme situation, there is no quick fix to achieve that settlement. The political process is not some magic hat out of which we can pull a rabbit with the blink of an eye. Today Israel is faced with the stark choice of surrendering to chaos or restoring order though security measures by the army and police.

For this reason, Israel's cabinet, in spite of all the divisions on other matters splitting Labour and Likud, is united on the need to end this wave of violence by talking and by taking strong measures.

Perhaps it would be different if the uprising had a realistic program and a responsible leadership prepared to enter into negotiations toward the achievement of practical goals. This is not the case. What we have instead is a wave of Arab nationalist euphoria, intoxicated with Islamic fundamentalist themes, engaged in violence, with illusions of omnipotence and, most tragically, renewed dreams of driving Israel into the sea.

Listen to the words of Mahmoud Darwish, the Palestinian poet and someone internationally described as a "moderate." His recent poem "Passing between the Passing Words" catches the maximalist mood:

. . .The time has come
  for you to go away
And dwell where you
  wish but do not
  dwell among us
. . .So leave our land
  our wheat, our salt, our wound,
Everything and quit.

Rage and hatred aimed at Jews are not a political program. The goals of the rioters as expressed by the Uprising Committees, the outside PLO, and such poetry as I just read, can be summed up easily: They want it all, they want it now, and they think they can get it.

Insofar as there are defined political demands, they boil down to two coarse objectives: What the leaders of the uprising call the "right of repatriation." In other words, (1) returning the Palestinian refugees to the cities and villages in Israel from which they departed in 1948, that is Haifa, Ashkelon, Beersheba, and Jaffa, and (2) the immediate creation of a Palestinian state under control of the PLO with Jerusalem as its capital.

I want to emphasize a point here. I put the "right of repatriation" first, because the PLO and the uprising statements themselves put it first and enunciate that it is their leading demand.

These are not demands that any realistic person could expect Israel to meet, because they would mean, in plain language, the elimination of the Jewish state. The PLO and the rioters seek to bring one million Palestinian refugees and resettle them within Israel's pre-1967 borders where they will continue their struggle. One million Palestinians who have been kept in camps as refugees by the Arab states over these past 40 years. One million refugees who were tutored in hatred and violence by the Mufti, Shukeiry, and Arafat for the final struggle against Israel. Their plan is not a political program. their plan is a demand for Israel's suicide. Even the most dovish voices in Israel have been saying to the Palestinians, as was seen on Ted Koppel's "Nightline" series from Israel two weeks ago, "Please drop this demand, because it means in reality total war against Israel, and even we cannot accept it."

The second major demand is equally unrealistic: an instant Palestinian state headed by Arafat, with its capital plunked down right in Jerusalem. No duly elected Israeli Government would entertain the relinquishing of Jerusalem. No duly elected Israeli Government would agree to the coronation of Yassir Arafat. The PLO has repeatedly said and reaffirmed that such a state would be used as a platform to move to the second step—which is the destruction of Israel. Let me read from the official PLO program: "After its establishment, the Palestinian national authority will struggle to unite the confrontation countries to pave the way for the completion of the liberation of all the Palestinian territory." In this so-called "Strategy of Stages," the Palestinian state will be the transitional arrangement and the "final status" will be Israel's elimination.

In sum, the political program of the uprising is the "right of repatriation," the instant establishment of a PLO state, and ultimately the swallowing up the Jewish state. These demands offer Israel nothing to negotiate about.

My point to you today, friends, is that this is a continuation of a war that is at least 60-years old, a war that has long been pursued by two kinds of extremists—Arab nationalists and Islamic fundamentalists—for the destruction of the Jewish state. This war is being misrepresented on network television as some sort of children's crusade, or an act of civil disobedience, or a modern-day version of the Palestinian David fighting the Israeli Goliath. This war is being sugarcoated in the United States, by professors and Mahatma Gandhi impersonators who go on television to depict that all they want is an end to the occupation and the beginning of co-existence. Let me stress this is not the reality of the rioter's demands.

If all the uprising wants is ending the occupation and commencing a process of coexistence, why do its leaders continue to vilify the name of Sadat? Why do they describe George Shultz as Satan and his initiative as an "imperialist plot?" Why do they describe the United States as their "arch enemy?" Why do they reject both territorial compromise and autonomy, and express hatred for both Yitzhak Shamir and Shimon Peres?

No, the radicalism of the leaders of the uprising is no accident. It is rooted in the radicalism of the Palestinian residents of the territories themselves. A public opinion poll taken in the area, under the sponsorship of the pro-PLO newspaper Al Fajr, found that less than 20 percent of the Arabs of the West Bank and Gaza are prepared to live in peace with Israel after the establishment of a Palestinian state, while 80 percent are committed to a Palestinian state in all of Palestine, that is, instead of, not alongside Israel. And, as to the nature of this state, only 10 percent have in mind the so-called "democratic, secular state," while over 60 percent want an Islamic state. Three-quarters of the Palestinian respondents saw no possibility of a peaceful solution through political means, regardless of which Israeli party was in power.

That poll was taken two years ago, before the uprising and its contemporary delusions of omnipotence.

No, there is no Palestinian movement seeking a compromise. It is a war against Israel—a "liberation" movement seeking to liberate Israel from the Jews.

Many Americans, however, are confused by this new stage of the war against Israel. On television each night, Americans are reminded of the occupation. They do not like it. What is harder for them to understand is that the people of Israel do not like it either. Israel did not seek to become an occupying power; this was thrust upon her by the Arab attack in 1967. Successive governments of Israel have proposed numerous formulas to end the occupation; all of these political solutions have been rejected by the Arab side. The only offer that has been made to Israel by the Palestinians is if you wish to cease being an occupying power, you must agree to terms that will put us in a position to destroy you. In Israel, then, the question is not whether to end the occupation of Palestinians, but how. To the Palestinians, the question is not whether to make peace with Israel, but how to destroy her.

A leading Israeli dove recently said to me, "What makes me heartsick is that the only option the Arabs are offering me to end the occupation is suicide. Forced to choose between occupation and suicide, I have to choose occupation."

It is Israel that is striving, more than anyone else, to find a realistic way to give the Palestinians control over their own lives.

The Israeli Government has two main objectives. The first is to restore order. On this, what is needed from the United States is understanding. The second is to pursue a political solution that will make true co-existence possible. Here, what is needed from the United States is active involvement guided by a sound strategy.

This brings me to my second topic—the peace process. Without a political settlement, there can be no enduring solution to Israel's security. And it is Israel's security that is our goal.

We have directly, indeed, repeatedly communicated to the Administration and to Members of Congress that AIPAC and our community back the Administration's active involvement in a peace process. We support Secretary of State Shultz's efforts, knowing that Ronald Reagan and George Shultz are stalwart friends of Israel.

Of course, it is not necessary or possible for our community to support every element of an initiative. There are often legitimate differences of opinion among people, all of whom are concerned with peace and Israel's security. For instance, George Shultz and Shimon Peres support the idea of a non-authoritative international conference as a means to bring about direct negotiations. Henry Kissinger and Yitzhak Shamir do not think it is a good idea. It is not as if people on one side of the issue want peace and security and those on the other side do not. AIPAC, as an organization, does not take a position on the non-authoritative international conference as such. That is a decision for the people and Government of Israel. We do, however, have a stake in conducting this debate over reasonable differences in a civilized manner. We oppose any assertion that anyone who does or does not go along with this idea is against peace or the security of Israel.

Another example of an honest difference of views is the debate between those who favor territorial compromise as a way to end the occupation, and those who think autonomy is a better approach. Both seek a means to reconcile an end to the occupation, with the requirements of Israeli security. Both are serious ideas, and each has advantages and disadvantages. The issues are quite complex, and I do not propose to go into the whole logic here. My point is that both major political blocs in Israel are trying to come to grips with the challenge of fashioning a political solution, as they must, with appropriate safeguards for Israeli security. Which path is the best is a decision the people of Isreal must make for themselves, because it is they who will have to live with the consequences.

The United States cannot make these decisions for Israel, nor is the Reagan Administration trying to do so. The most important role for the United States is to bring to the table an Arab partner prepared to discuss in a serious manner alternative ideas for realistic political solutions.

King Hussein has for a decade been playing the tease, saying "Maybe I will, and maybe I won't." He is forever posing challenges to the United States to meet his conditions, giving us litmus tests, and sending us letters full of questions. But, after all the diversionary tactics, he has continued to refuse to sit down in face-to-face public negotiations with Israel.

The foremost obstacle to the commencement of a peace is the veto power being exercised by the rejectionists, particularly Syria and the PLO. Their solution is to bring Israel before a tribunal of unfriendly parties organized as a authoritative international conference—not the kind Shultz or Peres is proposing. Under this formula, Israel would be put on trial and sentenced to its fate. This is, of course, unacceptable to everyone in Israel, and it is certainly unacceptable to us. As President Harry Truman stated before the Liberty Bell in Philadelphia on the 10th anniversary of Israel's independence: "Our government must make it clear that Israel is at the bargaining table . . . not on the bargaining table." This must be, and must remain so, United States Government policy.

The Arab rejectionists also demand a Palestinian state controlled by the PLO with Jerusalem as its capital. This is rejected by all major parties in Israel because it would constitute a mortal threat to Israel's very existence. Governor Mario Cuomo of New York said just last week, the United States must not "demand that Israel become a co-conspirator, in her own suicide, that she acquiesce in the establishment of a state within the occupied territories under a leadership not only hostile to Israel, but officially dedicated to her annihilation."

The same is true for the Hashemite Kingdom. Henry Kissinger pointed out in his memoirs that such a state would also very quickly become a threat to the security of Jordan. An independent Palestinian state would thus boost the worst Palestinian elements, create new obstacles to peace, and possibly destabilize the East Bank.

For all these reasons, the idea of a Palestinian state has been rejected by the past four U.S. Administrations. President Reagan specifically rejected this idea in his September 1982 initiative. Secretary Shultz has restated opposition to it on many occasions, notably including his recent interview with Jordanian journalists which the Jordanian government did not allow to be published or broadcast.

Our job in the peace process is two-fold: To support an activist American approach in the search for a political solution, but also to keep U.S. policy from drifting in directions hostile to Israel's security and the U.S.-Israel relationship. We must work to educate the next Administration to stay on a sound course, avoiding some of the naive and destructive ideas that are put forward from time to time by parts of the federal bureaucracy.

One item in particular, however, that we must oppose is the use of confrontational tactics by either the United States or Israeli governments in dealing with each other when differences arise, as inevitably they do in international affairs. We must especially oppose ad hominem criticism of officials of either government by officials of the other.

A consistently strong and close relationship between the United States and Israel serves the higher interests of both countries, is essential to Israel's security, and is a bedrock of the peace process itself.

Conversely, U.S.-Israel tensions, whatever their motives may be, reduce the incentives for the Arabs to negotiate with Israel. Such tensions contribute to the Arab illusion that they can instead negotiate with the United States and expect the United States to force Israel to accept their terms.

I know this point is fundamental, but I make it tonight because there are major voices in the bureaucracy these days, who are trying to sell George Shultz on the misguided idea that the way to move the peace process forward is by singling out Israeli leaders for public criticism. I see no sign that the Secretary of State is taking this bad advice, but we have to be ever vigilant. Equally, it is part of our job to emphasize to Israeli leaders that the United States is their vital ally, and that when differences of opinion arise, as is bound to happen from time to time, they must be expressed in a way that does not contribute to tensions that will be exploited by Israel's enemies.

This analysis leads me to my third topic, which is keeping the U.S.-Israel bilateral relationship on track. This is a core principle for us. The peace process is a major priority, but it is not the only issue of the U.S.-Israel partnership. Israel is also an important ally of the United States in regional and global affairs, in the search for stability on the southern flank of NATO and in the Eastern Mediterranean, in the war against terrorism, and in many other ways. In addition, Israel needs America's support to help maintain a stable military balance in the region and deter the threat of war. If the Arabs succeeded in driving a wedge between the United States and Israel, this would hurt the search for a political settlement of the Arab-Israeli conflict and the many other vital interests the United States and Israel mutually share. Even an Arab perception of a split between the U.S. and Israel would weaken Israel, make war more likely, and erode the overall position of the United States and its allies in that part of the world. The only winner would be the Soviet Union.

The current situation is made more difficult by the fourth topic I want to discuss, which is the split between the two major parties in Israel. As the Israeli election approaches, the two camps in Israel are more divided than ever before, and have taken to describing each other in increasingly harsh and abusive language. There is an ever-present danger that internal arguments will spill over to the United States, and split apart the unity of our community that is the foundation of our effectiveness here. We cannot afford disunity because there are terrible costs to disunity.

As we approach the Israeli elections scheduled for November 1st, Labour and Likud naturally focus on their differences with each other. This leads to a false impression in the United States that "these guys don't agree about anything" and makes people forget the fundamentals of Israel's situation on which the two parties do very much agree.

Let me mention the fundamentals of the Israeli national consensus, lest they be forgotten in the days ahead.

First, Israel must retain its military superiority. Most of the Arab world, regrettably including the leaders of the uprising in the territories, are completely unreconciled to

Israel's existence as a Jewish state, and would seize the moment to destroy her if the opportunity arose. Israel's very survival as a nation therefore depends on her military strength, and her ability to deter all-out war by convincing the Arabs that such a war could not succeed. On the issue of national survival, there is absolute agreement between Labour and Likud—and in the Diaspora—to maintain military superiority.

Second, Jerusalem is the eternal capital of Israel. This city is the heart of the nation. It is my soul and yours. It cannot be redivided—this very day, by the Hebrew calendar is the 21st anniversary of Jerusalem being reunited—and its surrender cannot be the subject of negotiation. On this, too, there is profound agreement between all parties in Israel—and in the Diaspora.

Third, due to the physical geography of the region, the Jordan River and the Golan Heights must be Israel's defense line for security against both the military threat and terrorism. Israel's defense perimeter could not return to the pre-1967 frontiers—without a severe and unacceptable reduction in the security of the state. All agree on this.

Fourth, this does not mean that the status quo and the military occupation of Arab communities within this defense line must or should continue. Indeed, both Labour and Likud agree that the military occupation should end. Both have put forward serious ideas for new political arrangements to bring it to an end: In the case of Labour, through a territorial compromise that would retain for Israel the Jordan River defense line but cede to the Arabs much of the territory within it, and in the case of the Likud, an arrangement for Palestinian self-rule in an autonomous authority associated with Jordan. Both Israeli parties are committed to a political solution to reconcile Israeli security with political self-government by the Palestinians and an end to the occupation.

Neither party will accept a Palestinian state in the West Bank and Gaza, and neither will negotiate with the PLO.

On these and many other issues there is, in fact, agreement among the Israeli parties. On some of the sub-issues, on the other hand, there are important differences. The people of Israel are coming to grips with a terrible dilemma. Many of the lands of their forefathers, to which they have yearned to return for thousands of years, are now inhabited by another people. Under these circumstances, there are no good choices, only less bad ones.

Is the best solution for the Jews to remain in these areas, in a political co-existence with the Arab inhabitants, each under their own authorities, as the Likud proposes? Or is the best solution for the Jews to withdraw from the territories to establish an international co-existence between the Jewish State and an Arab neighbor, as Labour proposes? This is not a question we can answer. It is not a question the United States Government can answer, nor Western Europeans, nor the Soviet Union, or China. It is a question for the people of Israel, and it is a question to be answered in direct and meaningful negotiations between Israel and her Arab neighbors and the residents of the territories.

We all have our opinions, but our job is to see to it that, while the debate rages in Israel, it does not spill over into the United States. We must create more understanding here at home for the difficult choices that democratic Israel is making.

This is made still more challenging by the fact that we in the United States are having our own election, which is my fifth topic. For the first time in eight years, we are going to have a change of Administration. This means not just a new President, but also a new Secretary of State, a new Secretary of Defense, a new National Security Adviser, and so on throughout the many Cabinet and sub-Cabinet posts that the President must fill. It will be a very new situation.

Let me add a personal note here. The term of public office for Ronald Reagan and George Shultz will soon be over. These last eight years have clearly witnessed the coming of age of the American-Israeli alliance. At the direction of President Reagan, the bilateral relationship has risen to heights beyond the highest hopes any of us had in 1980. The bilateral relationship today is strong and stable and unshakable. The architect of this essential evolution from close friend to strategic partner to de facto ally is Secretary of State George Shultz. He is the man that has ensured that Washington and Jerusalem today cooperate on a vast number of issues more intimately than at any time in history. He leaves an incredible legacy. As the years ahead come and go, let this community always remember George Shultz, honorable man, statesman, a caring and good friend, in the same way we revere Harry S. Truman.

One way a new Administration will not change is the army of civil servants, foreign service officers, and military officials who staff the various agencies and constitute what is sometimes called the permanent government. These the new President will inherit. He will try to control them, and they will try to control him.

Some members of this permanent government in the bureaucracy are committed friends of Israel. Others are individuals who have long believed that the United States is too close to Israel and should tilt toward the Arabs. Washington will soon witness a new round of combat between these two camps for the mind of the new President and his closest advisers.

There is an obvious and great need for us to be involved with the two candidates for the presidency, be we Democrats or Republicans. There is a need for involvement with likely members of the Cabinet, key advisers, and candidates for the significant sub-Cabinet positions at every level. We have dedicated ourselves in recent years to developing a new relationship with the Executive branch, and the challenge in the Administration is never greater than at a time when the whole Administration will turn over at once.

Even more so, we must re-dedicate ourselves to strengthening support for Israel in the Congress.

There is a great unfinished agenda in the U.S.-Israel relationship—in the strategic, diplomatic, and economic spheres. It is our goal to build on the remarkable achievements of the past several years.

This cannot happen unless we maintain and further strengthen the pro-Israel consensus in the Congress. Even with a friendly Administration, the budget axe that is coming under the pressure of the deficit and Gramm-Rudman, and the diplomatic challenges that lie ahead, under the pressures of the peace process, mean that support for Israel in both houses of Congress will be more vital than ever.

This brings me to my sixth and final topic—ourselves. We know who we are—America's pro-Israel community, the domestic base to our policy and programs toward Israel, people who actively practice spectacularly our political citizenship. What are we to do in these difficult and potentially dangerous days ahead to fulfill our responsibilities in enhancing the U.S.-Israel partnership in all its dimensions?

Despite what is going on in Israel and what is perceived to be going on, support for Israel on Capitol Hill remains strong. That is a tribute to your active involvement in the policy-making process at all levels, but particularly in your local communities and in personal relationships with Senators, Representatives, and candidates. I applaud you for your deeds. Day after day a Member of Congress will say to me, "I just spoke to so and so, and he/she made a good point about the Israeli situation."

In the last two weeks in Congress, a major step was taken toward providing Israel $3 billion in military and economic grant assistance when the House Appropriations Subcommittee on Foreign Operations, led by Chairman David Obey of Wisconsin, voted out the FY 1989 foreign aid bill without controversy. In addition, that Subcommittee provided funding for resettling Soviet and other refugees in Israel; for joint U.S.-Israel development projects in the third world; for cooperative programs between Israel and Egypt; and many other measures affecting Israel in the political, economic, diplomatic, and security spheres.

The FY 1989 Defense Authorization bill passed the House last week and will pass sometime this week in the Senate. This measure further strengthens and deepens the U.S.-Israel strategic relationship begun in November 1983. Israel's status as a major non-NATO ally is now assured. A U.S. Defense Department procurement officer is directed by the legislation to be stationed in Israel to help facilitate Israeli military sales to the Pentagon. And the bill provides for continued funding for the Popeye air-to-ground missile and the Arrow anti-ballistic missile, two critical weapons projects that Israel is developing for its and NATO's use.

The Senate on Friday passed two amendments which are of particular interest to all of us. The first, sponsored by Senators Phil Gramm, Carl Levin, and Sam Nunn, prohibits the President from making any future arms sales to Saudi Arabia unless he certifies that the Saudis have not acquired chemical, biological, or nuclear warheads for their new Chinese intermediate-range missiles. In the second amendment, sponsored by our good friend, Senator Howard Metzenbaum of Ohio, restrictions are put on the number and types of F-15 fighter jets the Saudis can possess. Both amendments passed unanimously in the full Senate.

These essential legislative developments could not have happened without your persistent lobbying efforts in personal meetings and on the telephone.

* * * * *

So these are the challenges before us—dealing with the fall-out of turmoil now facing Israel, a hardening of Palestinian and Arab opposition to compromise with Israel, the inspiring but sometimes difficult election processes in the two democracies, and fighting off attempts to weaken the U.S.-Israel relationship.

In actively defining and defending and advocating the U.S.-Israel relationship, we always come back to the bonds that tie the two countries together: our shared Judeo-Christian tradition, our shared democratic values our shared devotion to liberty and justice, our shared strategic interests.

But, in making these comparisons, we should not just compare Israel to the United States today. Let us compare Israel in its 40th year of nation-building to the American historical experience 40 years after the Declaration of Independence. This period was called "The Era of Good Feeling." Historians insist, however, that the period should have been called, "The Era of Inflamed Feelings." Let us recall the United States had just emerged from an unpopular and divisive war. Strong nationalist pressures were being exerted on the government in Washington by pioneers—settlers, if you will—in the territories, the wilderness-beyond the original colonies. Some of those settlers felt they were carrying out a Divine Will that they called "Manifest Destiny."

Internationally, the United States in its 40th year stood alone and isolated. In a world composed of entrenched dictatorships and autocracies, the new United States was suspected, even feared, by the great monarchs of Europe. It was feared not because of its military might—for we had none. It was feared because of the force of democratic ideas which impelled its creation.

The comparisons of Israel today and the United States then are striking. Democratic Israel today represents a powerful force of ideas that threatens the despotic states around her. And what powerful ideas! Free elections, a free press, freedom to assemble and petititon, full rights for women, protection of minorities, a system of checks and balances.

Against powerful ideas, the Arabs mass powerful armies, divisions of tanks, squadrons of jet fighters, and now batteries of ballistic missiles mobilized to destroy the only democracy in the Middle East and the only Jewish state in the world.

There are striking similarities between the two countries in their turbulent 40 years. Perhaps there is a historical crisis point for 40-year-old nations, a point when they feel the stresses of nation-building and when the democratic institutions undergo a catharsis.

For those of us who passionately support Israel, witnessing the process may be frustrating and troubling. It should not be. Israel, you see, in many ways is not just a 40-years-young nation. It is a nation with an educational and university system which competes with the most advanced in the United States, Europe, and Japan. It is a nation with agricultural advances that help feed the world. It is a nation with advanced medical facilities which treat American servicemen and Arabs from the surrounding area. It is a high-tech nation. It is a nation in a hurry and with a commitment to correct those stresses evident in young nations. It is a nation dealing with its problems openly, democratically, and humanely.

I cannot help but remember another line of Harry Truman's when he was asked why he supported the establishment of Israel. He said, "I had faith in Israel even before it was established. I knew it was based on the love of freedom, which has been the guiding star of the Jewish people since the days of Moses." Thank you, Mr. Truman. We share your faith. Israel's love of freedom was true then; it is true today. Like Brahms' third symphony, Israel is a heroic work, engulfed by great contrasts, engaged by great struggles, jarred by storms, hopefully achieving serenity when that prayed for day of a secured peace is at hand.

I have faith in today's Israel, so do you.

I have faith in tomorrow's Israel, so do you.

I have faith in the fruitful and enduring partnership between the United States and Israel. All of us do and all of us are here to work in the American political arena to make the American—and Israeli—dream into reality.

Thank you and shalom.●

NOMINATION OF MICHAEL E. ZACHARIA FOR THE POSITION OF ASSISTANT SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION

● Mr. KARNES. Mr. President, it is indeed a pleasure for me to express my strongest support for the nomination of Mr. Michael Zacharia for the important position of Assistant Secretary of Commerce for Export Administration. I have had the opportunity to become well acquainted with Mr. Zacharia on a professional level since 1981 when we were both selected as White House fellows. Since that time our relationship has grown both professionally and personally. Mike and his wife, Debi, and their three children, Jordon, Corrie, and Tyler have become close personal friends with my family over the past several years. I appreciate this opportunity to let my colleagues know why I feel Mr. Zacharia as an exemplary choice for this position. I have already shared these views with my fellow members of the Senate Banking Committee.

Michael Zacharia's impressive background and experience speak for themselves. Since graduating from the University of California at Berkeley, Phi Beta Kappa, and from Hastings College of Law, Mike has truly accumulated an outstanding record of accomplishment. After graduating from law school, Mike clerked for a chief justice in the U.S. District Court in Sacramento, CA. He moved to Washington, DC, in 1978 to join the law firm of Fulbright & Jaworski where he worked until his selection as a White House fellow. As a fellow, he served for 1 year in the Office of the Secretary of State as Special Assistant to the Deputy Secretary. Mike has also served as special counsel to the Under Secretary of Commerce for International Trade. He has engaged in private practice on complex business litigation matters and international trade issues. He currently serves as Deputy Assistant Secretary of State for International Trade Controls.

Mr. Zacharia's current areas of responsibility include national security and foreign policy trade controls on U.S. exports. Mike has been responsible for all negotiations related to Cocom, personally leading numerous multilateral and bilateral international negotiations on controlling strategic trade. We have seen great strides in the Cocom arena receiving commitments from lesser developed countries to strengthen their organizations. Mr. Zacharia has certainly served our national security and international trading interests well and I fully expect him to continue in that service as the Assistant Secretary of Commerce for Export Administration.

Mr. President, I applaud the nomination of Mr. Zacharia for the position of Assistant Secretary of Commerce for Export Administration, and encourage unanimous approval of the nomination when this matter comes to the Senate floor for consideration.●

THAT POISON IS RACISM

● Mr. SIMON. Mr. President, in recent days there have been too many indications that there is a poison among us. The poison I am talking about is not something that affects our bodies but affects our minds.

That poison is racism.

I recently wrote a column that I distributed to the newspapers in Illinois about it, and I ask that it be inserted in the RECORD at this point.

The article follows:

HATRED AND FEAR RESULT IN VIOLENCE

There are little signs of poison spreading across the land.

A weekly news magazine has an article about "jokes" on some campuses that make fun of Jewish-American women.

A visitor to Chicago told me that he does not remember visiting any American city, including cities in the South, where black/white hostility is so visible and so deep-seated.

In Equador, a candidate for president is defeated who makes speeches about "a Jewish conspiracy." Fortunately, he lost the election, but the hate and fear that he spread will not die quickly.

In Chicago, a city employee with access to top officials there talks the same poison, and adds that Jewish doctors are inflicting black children with AIDS through injection.

After Polish "jokes" seem to finally have died, suddenly one day I am told two.

And not just anti-Polish jokes. They come in anti-black and anti-Hispanic versions too.

On a Chicago radio call-in program some months ago, when I appeared to tell of my proposal to put more Americans to work, one woman called and said, "You know why I'm out of work, don't you?" No, I admitted to her, I do not. "The blacks are getting all the jobs," she assured me.

If she were working, she would not have been on the phone to rail against blacks.

When things go wrong, or do not go quite right, it is easy to blame "them," whoever is an easy scapegoat. It might be blacks or Hispanics or Jews or Poles or Italians or Asian-Americans or Catholics or almost any group you can name.

If you want to believe something, you can build the facts to support your belief, no matter how ridiculous and far-fetched it is.

I remember some years ago receiving a letter from a Turkish-American telling me that there is an Armenian conspiracy to take over the United States.

He outlined a list of key Armenian leaders who had reached positions of responsibility in journalism and business and government. And the passion of his letter was clearly so intense that nothing I or any could say would dissuade him.

Pure, utter nonsense, of course.

But it is worse than that.

If people want to believe in Santa Claus or the tooth fairy or their horoscope or that the world is flat, no great harm is done.

I have a relative who believes that no one has ever walked on the moon, that it was all a movie set that the television producers created. Wrong? Yes. Is any real harm done by that belief? No.

But when myths stir hatred and fear, then great harm can be done. Hitler is an illustration of that, and unfortunately, history is loaded with other examples of unprincipled people, who troubled themselves by hates and fears, sometimes lead others to hate and fear.

Whenever racial or religious or national prejudices rear their vicious, ugly heads—whether in the form of "jokes" or serious talk—make clear where you stand.

The ultimate result of hatred and fear is violence.

The ultimate result of a more understanding society is a brighter future for your children and my children and all people.

I wish I had read an op-ed piece by a longtime friend of mine, Msgr. John J. Egan, before I wrote my column because it would have been much better had I read his first.

In a very moving way, he tells about visiting with our former House colleague and now mayor of Atlanta, Andrew Young.

I urge my colleagues and the staff members to read Monsignor Egan's eloquent plea in the CONGRESSIONAL RECORD.

If all of us stand up when racism rears its ugly head, in whatever form, we will be living up to the ideals of our country and will be protecting our children and generations to come from the inevitable tragedies that follow racism.

I ask to insert the article by Monsignor Egan into the RECORD at this point.

The article follows:

[From the Chicago Tribune, May 20, 1988]

WHAT WENT WRONG IN CHICAGO?

(By Msgr. John J. Egan)

It is a blessing to have Mayor Andrew Young of Atlanta as a friend. Few Americans have his background, record and achievement in the struggle for civil rights in this country and around the world.

I walked with him down Notre Dame Avenue away from the Golden Dome last Sunday afternoon. We had just left the commencement ceremony at the University of Notre Dame, where he had brought the 12,000 graduates, their parents and guests to their feet after what most old-timers considered the finest graduation talk they had ever heard at the university.

He and I were not strangers. Through the years we had shared experiences that seared our souls. It would be impossible to forget standing with him, arm in arm, in Selma, Ala., in 1965 facing the state police, who mercifully stopped our evening march down the road from the famous Brown Chapel; if they had broken ranks we would surely have been killed by the thousands of "rednecks" who stood behind them, taunting and screaming. And the rains came as we prayed and sang through the long, hot night.

We talked about those days and how we were all blessed to be a part of them, for out of the crucible of the suffering of the poor black people of the South and North, and the work of the black churches and the civil rights leaders, came laws that at long last brought voting and public accommodations and the assurance of God-given rights to a long-suffering people.

But I walked with him last Sunday, with the cheers of the Notre Dame student body still in my ears, in some sadness and regret. Was the work of this great man and his associates all for naught in my beloved City of Chicago?

Calmly, but with intensity, he asked me what was happening in Chicago. He was well aware of the past weeks of agony all Chicago citizens had endured. He knew of the unemployment, the condition of our schools, the severe problems in our public housing, the teenage pregnancies, the continuing discrimination against his brothers and sisters because of the color of their skin. Then he was silent. He stopped suddenly and looked at me with tears in his eyes and sweat on his forehead. Those eyes seemed to challenge me with cold questions.

"You, Father, were there and so many others from Chicago also were there when we marched so that we could sing with some assurance 'We Shall Overcome.' But we were not alone in those bleak days.

"Have people forgotten the Jews who were with us every step of the way? Don't they remember the Jewish youths buried with their black brother in the Mississippi swamp just because they were working for people's rights? Have they forgotten the rabbis who were behind me when we marched into Montgomery?

"Good God, Father, I didn't spend my life fighting for the rights of my brothers and sisters who are black to now have to endure the hatred and sickening garbage of anti-Semitism."

I remained silent, for the fury in this strong man's eyes was frightening in its white-hot anger.

He mentioned Rabbi Abraham Heschel marching arm in arm with Dr. Martin Luther King Jr., and the Jewish labor leaders who opened union ranks to blacks. "Has all this been forgotten, Father? Has it all been forgotten?"

He spoke as the old civil rights leader who could fashion coalitions to achieve the goals of right and justice, to change laws, to bring dignity to the most oppressed.

"What happened in Chicago and New York to the old coalitions, the friendships, the structures of civil discourse and cooperation between white and black, between Christian and Jew?" he asked. "What went wrong?"

He urged me to return to Chicago and unite "right-thinking people." He praised Mayor Eugene Sawyer as a "decent and hard-working man," but said that "something is very wrong, and it must be made right again.

"I know about the legacy of Harold Washington and what that meant to your great city. Father, it must not be lost, not because it is the memory of Mayor Washington, but because it was right then and is right now."

At age 77, I don't cry easily, but that Sunday afternoon ride back to Chicago was accompanied by the heavy downpour of rain outside my car and my own tears inside. Yes, the problems are different today. The jobs for the unskilled, like my Irish father, have in great measure disappeared in the big cities. The desperation caused by regressive national administrations has severely affected the poor and the uneducated.

Something had gone terribly wrong, and I knew I had not done enough. Why was Steve Cokely so angry at Jews and Christians? What had I done to cause this suffering and make him cry out with words of hatred against people who had suffered so in centuries past or had died in gas chambers, or who had starved on the stony hillsides and hedge rows of Mayo?

Rev. B. Herbert Martin is a man of good faith who would probably do a credible job as head of Chicago's Human Relations Commission. The young artist, David Nelson, could still be taught the meaning of decency, taste and some prudence in a city where nerves were taut and feelings raw. Aldermen and police, in calmer moments, would recall that the 1st Amendment was one of their and our greatest privileges and blessings.

But is civility—that glue which helps hold our society together—lost in our town?

My patched-up heart was pounding as I came off the Skyway onto the Dan Ryan. I knew I was home, and I felt helpless. I went to Holy Name Cathedral where I live. I looked at the crucifix Steve Cokely said was a symbol of white supremacy. I remembered seeing that crucifix on the walls of the little huts in black townships of South Africa many months ago.

Once again I heard the footsteps of the Hound of heaven reminding me that, truly, I have not loved enough . . . and perhaps none of us have.

Can we, with faith and trust, begin again?

(Msgr. John J. Egan, assistant to the president for community affairs at DePaul University, was a leader in the civil rights crusade in Chicago.)●

WRKA'S FUNDRAISING EFFORTS

● Mr. McCONNELL. Mr. President, a week ago, I rose to inform my Senate colleagues of the terrible bus accident that occurred in my State in which 27 people tragically lost their lives. This accident stunned the entire community, as well as citizens from throughout Kentucky and the Nation.

The Commonwealth's outrage that a drunk driver could be responsible for such an incident was surpassed only by its desire to help the families of the many young victims. This was evidenced by the actions of a Louisville radio station last weekend when it sought to raise money to offset the costs of funeral and medical expenses for the families of the victims. Over the weekend, the station hoped to collect $5,000 from its listeners. Mr. President, as of yesterday afternoon, WRKA has raised $131,500. This figure represents over 26 times their anticipated collection.

Certainly, the generous and compassionate nature of Kentuckians deserves credit for this tremendous accomplishment. However, special recognition should be extended to the people at WRKA who made this possible. Mike Kirtner, the station manager, and John Robertson, the program director, enlisted the support of disc jockeys Steve Hayes, Jeff Tyler, Kathi Lincoln, Tara Bassett, Scott Brady, Jay Roberts, and Shannon in this extraordinary display of magnanimity.

Mr. President, I call this to your attention so that all of my Senate colleagues can be made aware of this remarkable generosity.●

DEFENSE INDUSTRY INITIATIVE ON BUSINESS ETHICS AND CONDUCT

● Mr. WARNER. I would like to take this opportunity to make certain that Members of Congress are aware of a major development in the defense industry. When the Packard Commission reported to the President in 1986 on defense management issues, one of the major recommendations was that there be greater corporate self-governance. In response to this recommendation, the defense industry has undertaken an effort known as the defense industry initiative on business ethics and conduct.

This initiative is now actively supported by 46 defense contractors. These companies have each agreed to develop and implement written codes of conduct, to ensure that new employees are oriented with respect to these codes, to have in place a corporate ombudsman to receive expressions of employee concern about compliance with Federal procurement laws, to conduct energetic ethics and contract compliance training, and to have procedures for voluntary disclosure to the Federal Government when problems are discovered.

One key aspect of this program is a public accountability process, whereby the defense industry can demonstrate the extent to which it has followed through on the commitment in this initiative. As part of this public accountability process, each company completes a specified questionnaire, which is then audited by its independent accountants or other outside independent body. Those questionnaires are then submitted to an external independent body for compilation. This year the Ethics Resource Center, Inc., which is a nonprofit organization specializing in research on ethics in business, served as the external independent body.

Earlier this year, the Ethics Resource Center issued its report on the public accountability of the industry after the first year of the initiative. This report clearly shows that the defense industry has conscientiously established the types of programs to which it has voluntarily committed itself.

I believe that the defense industry is to be congratulated on its outstanding work in this area. In my view, this industry has accomplished more in the area of promoting ethical conduct and ethical decisionmaking on the part of its employees than any other industry of which I am aware. I only hope that the American people will fully recognize the extent of the industry's work in this area. That work should reinforce public confidence in the fundamental integrity of those companies which have assumed the responsibility for developing and manufacturing the equipment upon which we rely to provide for our national security. I ask that a portion of the report of the Ethics Resource Center be printed in the CONGRESSIONAL RECORD.

The excerpts are as follows:

EXCERPTS—ETHICS RESOURCE CENTER

The following is a question-by-question breakdown of the company responses to the questionnaire and an analysis of those responses:

Question 1: Does the company have a written code of business ethics and conduct?

Yes: 34.

No: 0.

A code of ethics articulates the values, principles and standards intended to govern employee conduct. All of the participating companies have codes of ethics. In almost all cases, the code is a separate document entitled "Code of Ethics," "Standards of Business Conduct," "Business Conduct Guidelines," or something similar. In two cases, the company's code consists of separate company policies that have not been systematized or collected into a single document. Ten of the respondents noted that they have had their codes for many years. Six companies stated that they have updated their codes recently, five specifically to address issues related to the Defense Industry Initiatives and contracting with the federal government.

Question 2: Is the code distributed to all employees principally involved in defense work?

Yes: 31.

No: 3.

Of the 31 companies that answered "yes," four specified that they distribute their codes to all employees worldwide. Eighteen companies added, either under Question 2 or in their answers to other questions, that they require employees to execute written acknowledgements that the employees have received the code, have read and understood it, or agree to abide by its provisions.

One of the companies that answered "yes" noted that it had a sizeable group of new employees who were scheduled to receive their copies of the code in October 1987, just after the end of the reporting period.

One of the three respondents that answered "no" is a decentralized company that has left the manner of code distribution up to the individual operating units. Although some units have distributed the code to all personnel, others have so far given it only to managers and certain other key employees. Distribution to hourly employees has not yet taken place. The other respondents that answered in the negative have distributed their codes to all salaried personnel, but not yet to hourly workers. All three of these companies plan to distribute their codes to all employees during 1988.

Question 3: Are new employees provided any orientation to the code?

Yes: 33.

No: 1.

While all but one of the respondents have some sort of orientation to the code for a new employees, there are wide variations in form and content. Two companies stated that new employees simply receive the company's code and sign an acknowledgement. Three others distribute the code to new employees and sign them up for the next available ethics training session (see the commentary on Question 5 below). The remaining 28 distribute the code and provide some sort of formal orientation to it.

Three of the 28 states they did not provide orientation for all new employees during the reporting period of July 1–September 30, 1987. In one case, a formal, systematic orientation to the code for new employees was only instituted toward the end of the reporting period; since that time, however, all new employees have received an orientation to the code. In another case, some operating units had not yet established procedures for conducting an orientation to the code in a few particular functional areas. In the final case, the company provided an orientation for new salaried employees but not for hourly workers.

Respondents use a variety of orientation methods and procedures, which may differ by operating unit or employee level even within the same company. The following list shows how many companies use a given form of orientation. The number in parentheses indicates how many companies use these methods only in particular operating units or among certain levels of employees, usually managers.

Lectures/explanations/briefings/discussions	(4) 16
Videos	(6) 14
Acknowledgment cards	(1) 8
Distribution of other ethics materials	(5) 7
Orientation regarding reporting mechanisms (see Commentary to Question 7, below)	(1) 5
Question-and-answer sessions	(1) 3
Opportunity to discuss code with supervisor or representative from human resources department	1
Assignment of an ethics counselor to each new employee	(1) 1
Viewgraph presentations	(1) 1
Format not specified	3

Six companies noted that they plan to upgrade or expand their new-employee orientation programs. Four are working on new video presentations, three are developing training modules, and one is planning to begin distributing its code to new hourly employees.

The respondent that answered "no" to Question 3 stated that it currently distributes its code to new salaried employees and requires them to sign an acknowledgement. The company intends to expand this practice to new hourly workers as well.

Question 4: Does the code assign responsibility to operating management and others for compliance with the code?

Yes: 34.

No: 0.

All of the respondents' codes mention the role assigned management to ensure compliance. Many of the codes also clearly state the individual responsibility of each employee to abide by the code's principles.

Question 5: Does the company conduct employee training programs regarding the code?

Yes: 33.

No: 1.

There are almost as many varieties of ethics training programs as there are responding companies. Among the respondents that answered "yes," 22 companies stated that they have already trained, are in the process of training, or plan to train all of their employees principally involved in defense work. At five companies, ethics training is provided only to managers and certain other key personnel. One company has a "voluntary, comprehensive" ethics training program. The remaining five companies did not specify whether or not they provide or intend to provide training to all employees with regard to the code. Several of these companies are decentralized, and although they require all operating units with employees principally involved in defense work to conduct ethics training programs, they have left it to the individual operating units to decide which employees should attend.

The different companies use a wide variety of training formats. Several companies have comprehensive training programs with workshops tailored to employees at different levels or in different functions in the corporation. Other companies use a workshop format, but gear the workshops just to particularly sensitive functional areas, such as purchasing, accounting, contracts, or quality assurance. Still others use a presentation/briefing format for their ethics training. A number of companies do not segregate ethics from the rest of employee training, but integrate ethics modules into general or functional training courses.

Based upon analysis of companies' responses and accompanying documentation, the Center has grouped the ethics training programs into three categories with different training objectives. These categories are not necessarily mutually exclusive, but may rather indicate differences in emphasis.

(1) Compliance training familiarizes employees with the provisions of federal laws and regulations in such areas as timecharging, truth in negotiation, unallowable costs, and expense reporting. It also indicates the consequences to firms and individuals if laws or regulations are breached.

(2) Code awareness training elaborates on standards contained in the company's code of ethics and illustrates how these standards apply to employees' day-to-day jobs.

(3) Ethical decision-making training strives to help managers recognize the ethical content and ramifications of business decisions and to give managers a framework for coping with complex issues and "grey areas."

The following figures show how many companies provide training of each type. Some companies provide more than one type of training; others did not specify the objectives of their training programs.

Compliance with federal laws and regulations	13
Code awareness	7
Ethical decision making	3
Objectives not specified	16

In addition, eight companies provide ethics training in functional areas. This training focuses on the special rules or the unique ethical issues that arise or vulnerabilities that exist in functional areas like purchasing, engineering, finance, or quality assurance.

Most respondents did not specifically identify the materials used in their ethics training programs. Among those that did, 12 specified that they utilize videotapes. A few companies mentioned that they use case studies, group discussions or speakers.

The one company that responded in the negative to Question 5 stated that it intends to develop an employee training program regarding the code.

Question 6: Does the code address standards that govern the conduct of employees in their dealings with suppliers, consultants and customers?

Yes: 34.

No: 0.

Codes of ethics can provide employees guidance in dealing with groups that are external to the company, but deeply involved in its day-to-day business. For example, codes may address the need to deal honestly with suppliers and customers, forbidding bribery and kickbacks and restricting the giving and receiving of gifts and gratuities. They may require that the company contract only with consultants and suppliers who agree to abide by the same standards as the company's own employees.

All of the respondents' codes specifically address standards of conduct in relationship with suppliers and customers. Twenty-six of the codes specifically mention consultants. Six companies include consultants under the category "suppliers of services," which their codes specifically address. The remaining two companies consider consultants to fall into the more general category of "suppliers."

Question 7: Is there a corporate review board, ombudsman, corporate compliance or ethics office or similar mechanism for employees to report suspected violations to someone other than their direct supervisor, if necessary?

Yes: 34.

No: 0.

Many companies noted that they prefer that employees report suspected violations to their supervisor whenever possible. However, employees may be reluctant in some cases to report allegations to their direct supervisors, particularly when the employee suspects his or her supervisor of wrongdoing. Accordingly, each of the respondents has some alternative reporting mechanism as well, and many have more than one. The following list shows the types of reporting mechanisms identified by the signatories:

Hotline	17
Ombudsman	16
Ethics office or committee	13
Post office box or other procedure for written allegations	7
"Open door" policy	3
Corporate review board	2
Other	3

One company stated that its employees can contact the regional offices of corporate security. Another company indicated that employees can report allegations directly to corporate or internal audit staff. Another company responded that its employees can report allegations to the company's law department or controller, or to a special advisor to the Chief Executive Officer. Moreover, in some of its operating units, employees can report alternatively to a steering committee, ethics office, or other independent individual or organization.

Of the three companies that have an "open door" policy, two also have other procedures for reporting allegations. The remaining company relies solely on its "open door" policy as an alternative reporting mechanism.

Question 8: Does the mechanism employed protect the confidentiality of reports?

Yes: 34.

No: 0.

Respondents use a variety of methods to protect the confidentiality of reports. It is important to note that, these safeguards notwithstanding, a company may be compelled to reveal the identity of a "whistleblower" under certain circumstances. Respondents frequently have two or three, and sometimes more, of the following policies and procedures:

Provision for anonymous reporting	22
Company pledge, policy, or instruction to handle all calls and reports in confidence to the extent possible	17
Limited access to reports and records	15
Names of reporting employees are removed from reports	5
Reports identified by control numbers rather than by names of individuals involved	5
Company pledge/policy that retribution against "whistleblowers" will not be tolerated	5
Use of hotline telephones that have no trace feature	2
Communication with the reporting employee done away from his or her work station	2
Calls to hotlines not included in lists of calls made from company phones	1
Reporting employee's name not revealed without his or her permission, unless disclosure is unavoidable during an investigation	1
External communication about reports controlled by the Corporate General Counsel	1

Question 9: Is there an appropriate mechanism to follow up on reports of suspected violations to determine what occurred, who was responsible, and recommended corrective and other action?

Yes: 34.

No: 0.

Methods of investigating and adjudicating allegations of wrongdoing vary widely among the responding companies, making categorization difficult. Generally, an individual or office, such as an ombudsman, ethics director, ethics office, or law, audit or security department, has the principal responsibility for conducting investigations. Depending on the nature of the allegation, the individual or office may seek assistance from other areas within the company, such as operating management, human resources, corporate security, the law department, internal audit or contracts.

Question 10: Is there an appropriate mechanism for letting employees know the result of any follow-up into their reported charges?

Yes: 34.

No: 0.

Each of the companies has a procedure for apprising employees of the results of the investigations into the allegations that they have reported.

In 15 of the companies, an ombudsman, ethics director or manager is obliged to advise reporting employees concerning the results of the consequent investigations. At one of these companies, ombudsmen are required to document that they have followed-up with employees who reported allegations. Nine additional companies specified that their procedures provide for a response only if the identity of the reporting employee is known. Six other companies stated that they give feedback even to employees who remain anonymous. Their methods of responding to employees who report anonymously include requesting the employee to call back for a report or publicizing the results of investigations through meetings, public statements by senior executives, or articles in employee newsletters. The remaining four companies notify employees only if the employees so request or call back.

Question 11: Is there an ongoing program of communication to employees, spelling out and re-emphasizing their obligations under the code of conduct?

Yes: 33.

No: 1.

Question 12: What are the specifics of such a program? (a) Written communications? (b) One-by-one communications? (c) Group meetings? (d) Visual aids? (e) Others?

All but one of the companies have ongoing measures to increase awareness of the code and its provisions. The following breakdown indicates which methods are used most widely:

(a) Written communication:	
Articles in company newspapers, newsletters and magazines	30
Letters and memos to employees from senior management	11
Bulletins and notices addressing ethics or compliance matters	8
Messages in pay envelopes or on pay stubs	4
Periodic redistribution of the code of ethics	4
Distribution of ethics-related books and pamphlets other than the code	4
Periodic certifications that the employee has no conflicts of interest	2
Inclusion of ethics-related material in annual reports or other reports	2
Direct communications to suppliers	2
Warnings about falsification printed on timecards	1
Distribution of a copy of the code of ethics to many sales representatives along with their annual quotas	1
Ethics communication resource kit	1
Policies and procedures on business ethics and conduct	1
Articles printed in external publications	1
Internal circulation of externally published articles	1
(b) One-on-one communication:	
Communication from supervisors	5
Employee conversations with ethics office staff and corporate counsel	2
Nature of communication unspecified	5
(c) Group meetings:	
Departmental, divisional or staff meetings	9
Mass meetings	3
Briefing sessions	3
Speeches	3
Counseling sessions	1
Question-and-answer sessions	1
Nature of meeting unspecified	5
(d) Visual aids:	
Videotapes	22
Posters	21
Badge extenders	2
Viewgraphs	1
Unspecified	1
(e) Other:	
Use of employee opinion surveys as a means of communication about standards of business conduct	2
Reviews of potential customers ethics rules	1
Telephone newsline including items about ethics	1
Audio newsletter for employees	1
Electronic access to code of ethics	1
Electronic mail	1
Employee input into biannual reviews of the corporate credo	1
Easy accessiblity of forms for reporting violations	1
Opportunity for employees to attend outside programs dealing with government contract matters	1

One company noted that it plans to implement a procedure to ensure that all employees receive regular updates of the corporation's requirements concerning ethical conduct and compliance with federal procurement regulations.

The one company that responded "no" nevertheless noted that its Chief Executive Officer distributes annual written communications to notify and remind salaried employees of their obligations under the code. These written communications are supplemented by discussions at group meetings and normal supervisory exchanges. The company intends to extend these communication practices to all employees principally involved in defense work.

Question 13: Does the company have a procedure for voluntarily reporting violations of federal procurement laws to appropriate governmental agencies?

Yes: 34.

No: 0.

Procedures for voluntary disclosure to the government vary greatly depending on the company. To a lesser degree, they may also vary within a company depending on the particular case or the manner in which the violation came to light. Typically, a review board, an ethics committee, a compliance officer or the law department examines the results of investigations and makes its recommendation to the Chief Executive Officer, or another senior executive, who has the final decision about whether, when and how to disclose the alleged incident. Some companies mentioned in their responses the parties to whom violations might be disclosed. Those which did so indicated that violations may appropriately be disclosed to the DoD Office of the Inspector General or other government agencies such as the resident Defense Contract Audit Agency (DCAA) auditing staff, the Procurement Contracting Officer, or the Department of Justice.

At one company, operating management is obliged to ensure disclosure of matters that do not involve potential criminal issues. If the matter entails potential criminal issues or civil fraud, it receives an additional review by internal audit, with the possible assistance of the law and human resources departments.

At another company, responsibility for disclosure to the contracting officer or other local representatives of governmental agencies lies with the operating unit from which the allegation was reported. The corporate law department assumes primary responsibility for all reports to the DoD Office of the Inspector General.

The procedures of another company include a comprehensive list of factors to weigh in making decisions about disclosure. Among these factors are the weight of the evidence, the clarity of the law, whether the violation was deliberate or unintentional, whether there was any actual or intended pecuniary gain to any party as a result of the action, and whether there was a single act or a pattern of violations.

A number of companies stated that they have a long-standing practice of making voluntary disclosures to the government or that they have already made disclosures in accordance with the procedures that they have established. Two of the companies noted that they have a practice of reimbursing the government if the company has profited from violations of procurement laws.

Question 14: Is implementation of the code's provisions one of the standards by which all levels of supervision are expected to be measured in their performance?

Yes: 32.

No: 2.

Most of the respondents indicated that implementation for their code's provisions is one measure of supervisory performance. Some companies incorporate specific language about ethics or compliance into performance evaluation forms. Other companies factor implementation of the code's standards into supervisors' performance reviews in some general way. The following is a breakdown of the responses:

Implementation of the code's provisions is a specific aspect of performance reviews	13
Implementation of the code is included in some general way in performance evaluations	6
Corporate policy states that implementation of the code is a standard for performance evaluation	5
Company has issued procedures or instructions stating that managers should have the specific objective of supervising and/or training employees with regard to the code	4
Corporate policy states that compliance with the code is a standard for performance evaluation	4

Of the two companies that gave a "no" response to Question 14, one holds management responsible for ensuring adherence to the code as a matter of company policy. However, the company felt obliged to give a "no" answer because its current performance evaluations do not specifically address the effectiveness with which individuals have implemented the code. The company intends to make implementation of the code's provisions a specific standard for performance reviews after all employees have had the opportunity to attend one of the company's training workshops. The other company answered "no" because some of its operating units, accounting for substantially less than half of the company's defense-related business, "do not specifically address the question of personal integrity and ethics" in their performance evaluations.

Five respondents noted that they are revising their performance review forms to incorporate language addressing implementation of the code, and two additional companies are revising position descriptions along the same lines.

Questiion 15: Is there a program to monitor on a continuing basis adherence to the code of conduct and compliance with federal procurement laws?

Yes: 34.

No: 0.

Many of the mechanisms listed by companies in their answers to Question 7 are also used to monitor compliance. The following is a breakdown of the responses:

Reviews by internal audit	29
Monitoring by ethics office/committee	9

Monitoring by review board/contract compliance committee	8
Oversight by law department	7
Review systems in functional areas	6
Oversight by management and supervisors	5
Self-audits by employees in functional areas	3
Certification with regard to conflict of interest	3
Audits by independent public accountants	3
Audits by accounting department	2
Compliance certification by key employees	2
Reviews by an operations oversight group	1
Company polices and procedures	1
Communications audits	1
Reviews of the numbers and categories of hotline calls	1
Quarterly reports from the ethics committee chairman of each operating unit to the corporate ethics committee chairman regarding efforts to foster ethics awareness and compliance	1
Review of the company's policies, practices, and procedures by an outside law firm	1
Annual reviews by general managers of operating units	1
Analysis of policy violations to identify opportunities to improve compliance routines and training	1
Reviews by the Executive Committee of the Board of Directors	1
Monitoring by corporate security	1
Periodic audits by the parent company	1
Program to ensure compliance with Federal Acquisition Regulations and Cost Accounting Standards	1
Compliance review program	1
Oversight by contracts department	1

Question 16: Does the company participate in the industry's "Best Practices Forum?"

Yes: 34.

No: 0.

All but one of the companies indicated that they had sent representatives to each of the "Best Practices Forums" held to date. The remaining company became a signatory to the Defense Industry Initiatives after the first forum had been held, so it attended only the second one.

Question 17: Are periodic reports on adherence to the principles made to the company's Board of Directors or to its audit or other appropriate committee?

Yes: 33.

No: 1.

As with many other procedures, methods of reporting to the Board of Directors about adherence to the code vary widely. In some companies, reports are made on a regular basis: monthly, quarterly, semi-annually, or annually. In other companies, reporting is done occasionally, or regular reports are supplemented by ad hoc reports as needed. Most respondents stated that a few specific individuals or groups present reports on ethics and compliance to the Board of its committees, as the following list indicates:

Ethics director or ethics committee	12
Internal audit or finance	9
General Counsel	8
Company's independent accountants	5
Corporate executives	4
External, independent ombudsmen	1
Unspecified	6

Reports are usually made either to an audit committee or an ethics committee of the Board of Directors. The following summary indicates the parties to whom these reports are presented:

Audit Committee	26
Ethics/Corporate Responsibility Committee	8
Full Board of Directors	4
Legal Affairs Committee	1
Executive Committee	1
Chairman of the Board	1
Unspecified	1

Reports most frequently address the structure and activities of the company's ethics program and/or provide information about investigations of reported violations.

The respondent that answered negatively stated that its internal audit department does report to the Audit Committee of the Board of Directors on matters relating to the company's code, but no reports have yet been made regarding the DII principles. In the future, the company intends to have reports made to the Board of Directors on matters relating to the DII.

Question 18: Are the company's independent public accountants or a similar independent organization required to comment to the Board of Directors or a committee thereof on the efficacy of the company's internal procedures for implementing the company's code of conduct?

Yes: 34.

No: 0.

Question 18 was subject to the most diverse interpretation of any question on the DII questionnaire. Sixteen companies indicated in their written responses that they were having their independent organizations comment on the efficacy of the company's internal procedures. Seven other companies stated that their independent organizations would be commenting to the Board of Directors on the results of the examination/review of the company's DII questionnaire. The remaining 11 companies did not make clear the nature of their independent organizations' comments.

Follow-up calls to the examiners and reviewers clarified the companies answers and produced the following breakdown of the responses:

Company has asked an independent organization to conduct a separate engagement to evaluate and report on the efficacy of the company's internal procedures	3
Independent organization has rendered or intends to render orally some opinion about the efficacy of the program or suggestions for minor improvements	24
Independent organization has submitted or intends to submit a management letter or similar document	11
Independent organization's comments limited to certification process of DII questionnaire; no rendering of or intent to render any evaluative comments concerning efficacy of policies, procedures and programs	3

One of the companies that requested a separate engagement stated that it intends to request such a report on an annual basis.

Six of the Examiners and Reviewers indicated that they intended to both make oral comments before the Board of Directors and draft a management letter.

IV. CONCLUSION

The responses to this questionnaire documents the efforts of the DII signatory companies to ensure ethical business conduct and compliance with federal procurement laws and regulations. Since the drafting of the Defense Industry Initiatives on Business Ethics and Conduct, signatory companies have taken positive steps to implement or expand ethics programs. Codes of ethics, training and communication programs, and procedures for monitoring compliance cannot guarantee that all employees will observe the rules of proper business conduct; however, these measures can give business ethics a high profile within the companies that implement them. At the very least, ethics programs should help reduce the number of inadvertent violations of company policies and of procurement laws and regulations.

It is noteworthy that where respondent companies did not have particular policies, procedures or programs in place during the reporting period, in most cases they had plans to remedy the situation during 1988. The Center hopes to see the DII self-governance process continue and expand, embracing more companies, encouraging defense contractors to learn from one another, and instilling an on-going commitment to operate in accordance with the highest standards of business conduct.●

HONORING COL. JERRY STONISCH

● Mr. LEVIN. Mr. President, next month fellow officers and friends of Col. Jerry A. Stonisch will be honoring him at a luncheon at the U.S. Military Academy at West Point. I want to take this opportunity to join in this well-deserved tribute.

Colonel Stonisch has been southeast Michigan's liaison with the U.S. Military Academy since 1979. In that capacity, as throughout his military career, Colonel Stonisch has served our country, the State of Michigan, and the Army.

Jerry has been of immense help to my office since I was elected to the Senate in 1978, serving on my military academy screening committee. He helped develop our office's system for screening candidates for admission to West Point. He conducted candidate interviews and physical aptitude examinations. I don't believe that it is a coincidence that an average of 35 southeast Michigan students have been pointed to the U.S. Military Academy during the years Jerry has coordinated screening.

In addition to his military activities, Jerry is an active member of the community. He is a member of the University of Detroit's President's Cabinet and a member of the Spirit of Detroit Committee. He is vice president of the Stonisch Foundation.

In short, Col. Jerry Stonisch has been an asset to the community in a myriad of ways. I salute him and all the contributions he has made to our State and nation.●

DUBLIN'S 1,000TH ANNIVERSARY

● Mr. LEVIN. Mr. President, in March, the Michigan Legislature adopted a resolution saluting the people of Dublin, Ireland on the city's 1,000th anniversary. I want to share the text of that resolution with my colleagues and other readers of the CONGRESSIONAL RECORD and also extend my own congratulations to the citizens of Dublin and to its Lord Mayor, Carmencita Hederman.

HOUSE CONCURRENT RESOLUTION NO. 655

A concurrent resolution extending greetings and congratulations from the people of Michigan to the people of Dublin, Ireland on its 1,000th birthday.

Whereas, it is with deep appreciation of the special relationship that many people in our state have with the Emerald Isle that the members of the Michigan Legislature are pleased to offer this expression of greetings and congratulations to the people of Dublin, Ireland as this storied city celebrates its 1,000th anniversary. As a city that has had a pervasive influence on our language, the arts, and culture in our country, Dublin enjoys a special place of respect in the hearts of many of the citizens in Michigan, especially those who look to Ireland as their ancestral home; and

Whereas, the sons and daughters of Eire have had a profound impact on Michigan's development. Several of our counties were named after counties in Ireland, and many of our communities were developed through the hard work and commitment of individuals and families who came to our State during its pioneer era after fleeing the persecution and starvation in their beloved homeland in the 19th century; and

Whereas, originally a settlement established along the banks of the River Liffey by Norse warriors, the city first known as Dub Linn has evolved over the years to become one of the most important European capitals. As the principal city of the land of poets and saints, Dublin has given the English-speaking world some of its greatest writers and thinkers. It has been the home of Yeats, Joyce, and O'Casey, and the Abbey Theatre, and it continues to be the inspiration for bards of every description; and

Whereas, although to many, especially those who have visited Dublin only in wistful longings, it is a city of charm and beauty of the past, Dublin is also a community gracefully in step with the present. It continues to be a dynamic center of thought, emerging technology, and commerce, a city reflecting the vitality and pride of its people; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Michigan Legislature hereby extend a hearty congratulations to the people of Dublin, Ireland as they celebrate their millenium; and be it further

Resolved, That a copy of this resolution be transmitted to Alderman Carmencita Hederman, Lord Mayor of Dublin, as evidence of our esteem.●

THE HUMANITIES FOUNDATION

● Mr. ROCKEFELLER. Mr. President, I would like to draw attention to the West Virginia Humanities Foundation, an institution that sponsors many impressive educational projects in West Virginia.

One of the foundation's current endeavors is to help develop the Coalways Program. This is an effort to make the citizens of West Virginia, along with tourists from other areas, more aware of West Virginia's economic and coal-related history. Because a key goal of Coalways is to promote tourism in southern West Virginia, the project demonstrates the foundation's concern for the future of the State's economy. In fact, it has designated "Economic Development" as its theme for 1988-89.

The humanities foundation has a history of initiating and sponsoring projects that directly benefit West Virginia. In addition to the Coalways Program, the foundation has provided funding for projects such as the "Coal Life Exhibit" which represented West Virginia in the 1983 World's Fair, and the "Ethics in West Virginia" project which brought professionals together from throughout the State to explore business and related issues from an ethical perspective.

The foundation is now sponsoring a new educational project called the West Virginia Humanities Center. Through this group of citizens and dedicated educators, the foundation is working to strengthen the State's educational institutions by combining research, education, and public support. This is a new idea in the country and is being watched by other States as a model for future similar projects. Among the programs sponsored by the center are seminars for teachers, fellowships, and a humanities resource center.

As one can see, the humanities foundation is a worthwhile and special institution dedicated to a more informed society and improvements in economic development. Its staff, board members, and supporters have made countless contributions to West Virginia and West Virginians in the past 15 years, and I know that the tradition will continue.●

THE CONVENTION AGAINST TORTURE

● Mr. PELL. Mr. President, earlier this week the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was transmitted to the Senate. After some 7 years of intense negotiation in which the United States played an active role, the convention was unanimously adopted by the United Nations General Assembly on December 10, 1984, the 36th anniversary of the Universal Declaration of Human Rights. Today, it has been signed by more than 60 countries and has been ratified by more than 25.

Torture, as a practice engaged in by governments, is thousands of years old. Sadly, some of the most barbaric acts of cruelty and torture have occurred during our own century, particularly during World War II. In response to these developments, the international community adopted the Universal Declaration of Human Rights in 1948. Article 5 of the declaration states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." This principle has been reaffirmed through a number of international treaties and declarations, including the United Nations Covenant on Civil and Political Rights. The Convention on Torture, which the United States has now signed, goes a step further by making torture a punishable offense.

The convention establishes a regime for international cooperation in the criminal prosecution of torturers by relying on so-called "universal jurisdiction." Each state that is a party to the convention is obligated to prosecute torturers found in its territory or extradite them for prosecution elsewhere. The convention also sets up machinery for monitoring implementation of the convention by the parties to it.

Four years ago, I joined my distinguished colleague, Senator PERCY, then chairman of the Foreign Relations committee, in sponsoring a joint resolution reaffirming U.S. opposition to the practice of torture and outlining specific measures to be undertaken by the U.S. Government to expose and halt the practice of torture wherever it is found. I am pleased to say that that resolution was strongly supported in both Houses of Congress and became law in October 1984. In part, the resolution was prompted by Amnesty International's newly initiated campaign to publicize the widespread use of torture by governments throughout the world. I believe that Amnesty International is to be commended for its contribution in this area.

Torture is an evil practice which has no geographical, political, or religious boundaries. While the methods and agents of torture may vary, the results for the victim are the same: intimidation, physical and mental suffering, and degradation. There is no justification for this kind of cruelty to man. By ratifying the Convention on Torture, the United States can demonstrate not only its opposition to the abhorrent practice of torture but also its determination to take concrete steps to eradicate it.●

INFORMED CONSENT: CALIFORNIA

● Mr. HUMPHREY. Mr. President, I have introduced S. 272 and S. 273 to require that prior to the performance of an abortion, a woman be fully informed concerning the nature of the risks and alternatives to this serious surgical procedure. It goes without saying that every woman facing this decision is entitled to accurate and complete information concerning the procedure. The hundreds of letters my office has received indicates to me that some if not many physicians are falling short of this important responsibility. It is my hope, by continuing to bring this matter before the U.S. Senate that we will act, and send an important signal to the medical profession that informed consent is not only a matter of right, but a matter of law. I ask that 12 letters from the State of California be entered into the CONGRESSIONAL RECORD.

The letters follow:

DEAR SIR: I underwent an abortion 14 years ago. I was living in Santa Barbara at the time with 2 children, married when I discovered I was pregnant. Our youngest child was 11 months old and we could not afford another child at this time. I was frantic. I went to the Planned Parenthood organization and did not receive any counseling other than where to go to receive an abortion, that it would be $200 cash, and that I was early in my pregnancy under 7 weeks and the fetus was not a baby yet, only a blob of tissue that was not recognizable as a baby. I was given the address of an abortion clinic in Glendale, California.

I was given no counseling at the clinic at all. I was told the procedure would only be uncomfortable. It was very painful physically and mentally. And I could tell no one, so I never had any one to talk to about my feelings.

My husband and I have always regretted doing what we did back then, 14 years ago. God has forgiven us, but we find it hard to forgive ourselves. I recently saw a movie called "The Silent Scream." I was totally shocked to discover after 14 years that my 7 week old fetus (baby) was not a blob of tissue. They lied to me. The baby's heart was already beating and looking like a human baby. Also that child was a human being and had a soul. We are now Christians and I want to help other women who have to make the same decision I had to make, and I want them to be informed and told the facts and the truth.

Sincerely,

DIANA POWELL,
Atascadero, CA.

DEAR SENATOR HUMPHREY: I had an abortion in early 1976. It was a popular choice at the time. No one told you what happens in an abortion, but you knew it was wrong. I think mine was a suction type. It was very painful and I know I could never have another. I thought women who had more than one were sick. I guess I didn't realize that I was sick. It took nearly 10 years to really start looking at the issue and realize how truly horrible this monster is.

The pain of knowing what I've done is truly devastating. When I think about it, it is even more painful than the physical pain. The only relief is to give your life to God and try to stop others. I will never forget the abortion or that it could be the cause of my three premature children. Most of all, I will never get to hold my first child in this life on earth. Hope this helps.

Yours in His love,

BONNIE MURPHY,
San Rafael, CA.

MAY 31, 1987.

DEAR SENATOR HUMPHREY: In April 1979 I was 18 years old and a freshman at the University of California Santa Barbara. I became pregnant and had an abortion. I received my so-called "counseling" from the UCSB student health service and the abortionist they recommended.

The emotional damage I have suffered from this abortion is tremendous. Still, til this day I am affected. To all in Congress I urge you to please support an informed consent law for abortions. If only I had been truely counseled, things may be different today and my son would be alive.

Sincerely,

JULIE LIVELY,
Santa Barbara, CA.

DEAR SENATOR HUMPHREY: May God Bless your efforts in saving the unborn. I am a victim of abortion. I still have nightmares and suffer tremendous emotional pain from my abortions. The scars will never heal. I was not counseled on what happens during an abortion, and any questions I asked were either left unanswered or they lied to me. One of my questions was, "will the fetus feel pain?" "No" was the answer. I was never told about my alternatives i.e., adoption.

I for one would never have had my abortions if I had but known just what those "products of conception" really were. I am furious that I was a willing albeit unknowing participant in the murder of my children. May God forgive me and my unborn children forgive me. I now have two beautiful children, but there will always be a pain in my heart when I remember the day, September 24, 1981. My baby would have been 7 years old in March. Thank you for your time, and I will be praying for the passage of your bill.

CHALSEY R. DORSEY
California.

APRIL 17, 1987.

DEAR SIR: This letter comes to you in the hope of helping you to compile information demonstrating the need to pass an informed consent bill. Speaking from personal experience, I had an abortion five and one-half years ago without adequate counseling, and I know, upon what knowledge and counseling I've gained on the subject of abortion and my own moral values in the time since the abortion that I definitely would not have had the abortion had I been adequately counseled beforehand.

Most sincerely, speaking for myself, as well as others who had to choose to abort without adequate explanation (or any explanation) or counseling of any kind, I feel we were very definitely "victims" of that choice along with the lives within us that were lost due to our ignorance.

We need an informed consent bill to help others to keep from making the mistake of abortion due to ignorance.

Sincerely,

MRS. AIMEE METZINGER.

FEBRUARY 20, 1987.

DEAR SENATOR HUMPHREY: I am writing in hopes of helping to pass the informed consent bill you have introduced.

I have a son who has muscular dystrophy. When he was 6 he was diagnosed as having it and I was told that it meant a sex-linked recessive inheritance disease, which meant he inherited it from me. I was advised that if I were to get pregnant again there was a 50-50 chance a boy would have the disease, a girl would be a carrier. At that point there wasn't a test developed to tell if an unborn baby was affected. (I don't know if there is now) but they could tell me the sex of the baby should I desire to abort the baby if it was a boy.

I had a 10 year old "normal" son also and I wasn't planning more children or an abortion either, so I didn't think that would ever affect me, but a year later I got pregnant again.

My understanding at that point was that in early pregnancy during the first 2 months there is just some tissues not formed into a baby yet. But I knew if they could tell me the sex then it was definitely a baby, and I would never have an abortion then. So with this information I decided to have an abortion with the thought that there wasn't a baby yet anyway.

At the abortion clinic they asked me why I wanted to have an abortion. I explained my situation and they told me the physical procedures I would be going through to have an abortion. No one mentioned the fact that the tissue was already a baby. No one mentioned the fact that I was carrying a baby. No one mentioned the fact that I was ordering the killing of my own child. No one mentioned the effect all of this would have on me when I realized it. No one mentioned the grief, the shame, the embarassment, the sadness.

The doctors told me my son would probably only live till he was a teenager at the longest. They said there was no hope, no cure, nothing would slow down or stop his muscles from deteriorating, they didn't know the cause of the disease even, only that it was fatal.

I wouldn't want anyone to have muscular dystrophy or any disease, but I know that that isn't a legitimate reason to end their lives. My son is almost 18 now. He's in a wheelchair but healthy and happy. He is as kind, loving, patient, intelligent, humorous, and creative as anyone who can move every muscle. You couldn't find a more positive teenager. He doesn't want to drink, smoke, use drugs or commit suicide. He gets A's and B's at school. He builds and runs remote control planes and cars, is skilled with computers, is a teacher's aide for 4th graders. I'm not trying to just go on and on bragging about my son but I am trying to reinforce the fact that he and others with disabilities are valuable persons. I love my sons the same. I don't love my son or want him less because he's not "perfect." I only wish I'd have known all this 10 years ago and I'd have my other child here to love also. You never forget, the sorrow never goes away.

I feel that every women who is considering having an abortion should be told all it involves, not just the physical procedure, but that in fact—you're ordering the death of your own child. Sure, the abortion solves your immediate problem of an unplanned pregnancy but it creates a new set of problems like you never imagined, that are never solved.

I hope my experience can some how help get this bill passed.

Sincerely,

KAREN WALKER.

DEAR SIR: In June of 1980 I had an abortion. I was approximately ten weeks pregnant. This clinic offered counseling which was a joke! I was never presented any other option beside abortion. Never was there any mention of a baby, never an explanation of the procedure being done—nothing. I was so very frightened and alone and ashamed. Everything was so fast and confusing I was like a mute, I couldn't even talk. I was 26 years old at the time and simply can't imagine how a teenager would feel in similar circumstances.

I truly feel that if someone had shown me pictures of a baby at ten weeks or let me listen to the heartbeat I would not have done what I did. I would have been able to comprehend clearly that it was not a senseless mass of cells to be evacuated but a living growing human being my son or daughter. Somewhere each aborted woman is going to see pictures of aborted babies or of babies at the same age as the one she killed. She should be shown this before she kills. Then at least her "choice" would be a truly informed one.

I am now married with two wonderful children and a loving husband who knows about my abortion and understands my pain. I am forever haunted with knowing I could have a child two years older than my boy. I want that child. They don't tell you about these feelings. I have never yet talked to an aborted woman who doesn't feel as I do. We truly are second victims of abortion.

Sincerely,

SHERYLL D. WARDLEY.

DEAR SENATOR HUMPHREY: I had an abortion 22 years ago and murdering my baby was the most horrible thing I have ever done. The guilt, sense of loss and self hatred I have had all these years makes me want to share my story with you so you can help other women before they commit murder.

If I had been adequately informed on its nature and consequences I would never have murdered my baby.

Four years ago I became a Christian and asked God to forgive me of all my sins, but especially of the horrible sin of murdering my innocent, defenseless baby. I know that He has forgiven me but I have had trouble forgiving myself.

I pray that this letter will help to stop women from taking innocent life the way I did.

ANONYMOUS.

FEBRUARY 13, 1987.

DEAR SENATOR HUMPHREY: I write to you on behalf of myself and many other women who have had abortions. And I am seeing only now that there is a lasting effect on the mother. Just as a man who kills in war is adversely impacted, so is a woman who kills her unborn child. It is murder. And only now are women just beginning to see the dreadful mistake, even as 5,000 more are killed daily in this country alone!

Were it not for the Lord God Almighty and his unlimited forgiveness, the past for me would be an unending torment today. Women need to be informed!

Please, do what you can to pass the informed consent bill. Help lift the veil of deception from America's men and women. Rights of the unborn are being established now in the courts. The truth cannot remain hidden—ABORTION MUST STOP!

Sincerely,

LYNN BRENNAN.

MARCH 12, 1987.

DEAR SIR: When I had my abortion seven years ago, the doctor asked me no questions and only told me when I chose to carry the next baby to term, my labor would be short due to this aborted pregnancy. I had no idea that at 12 weeks that my baby was fully formed, could fit into the palm of my hand and could feel pain. I experienced quite a bit of emotional trauma for 3-4 years after the abortion—I didn't know that was normal though.

The only way I recovered was by asking Jesus Christ to forgive me and what a wonderful blessing that was, and still is!

Please do what you can to expose abortion as the money making, selfish scheme that it is. I have been a sidewalk counselor for 2 years outside of an abortion clinic and I talk to the misinformed and deceived clients. The doctor who owns the largest chain of abortuaries in California told me, "What is the truth . . . well, women don't want to know!"

I know he's wrong and I will pray that you will be successful with this bill.

Sincerely,

DEB VAN TILL.

STOCKTON, CA.

DEAR SENATOR HUMPHREY: I had an abortion in the Spring of 1971 in California. I was a university student and very confused as to what I was to do when I found out I was pregnant. The first doctor I went to see had many reservations about abortion and of course it was not accepted as it is today. He gave me excellent counsel when he said he didn't think that I could take the emotional upheaval of an abortion. He counseled me to have the baby and I agreed with him.

Then fear set in and pride also. The baby's father didn't want to get married at that time. He was separated but not divorced from his first wife and already had one child. He would have helped, but I didn't know if I could face being pregnant and unmarried. I was afraid and ashamed for my parents to know. They lived in Oklahoma and raised me with strong moral and spiritual convictions, however, when the crisis came, they weren't strong enough to do the right and have the baby. So I sought out another doctor who I knew performed abortion. She was cool and indifferent, but performed many abortions. At that time you had to go to see a psychiatrist before they would do the procedure. I told him I was concerned about what I was doing and the after effects. He said we deal with those after the immediate need is taken care of. He refused to talk to me about the abortion or how I felt. I was so angry. All he did was sign the consent form and take my $50.00 and tell me to come back afterward if I had problems.

I can see how phony the set up was, but I had so many problems to deal with that I just went ahead with the plans, trying to forget all the questions and doubts.

To this day I am still ashamed of my decision. It is sad to me and I'm so sorry I lost out on having my first baby. The Lord has blessed me with two others and one adopted at age 8. My husband is the same man I was involved with.

Having an abortion is a bad decision that I have had to live with and find help in receiving God's forgiveness. Thank you for the work you are doing.

ANONYMOUS.

HON. GORDON J. HUMPHREY: Forty years ago, I had an abortion, and I have regretted it all of my life.

I did not know that I was allowing a human being to be killed at the time. If I didn't know the forgiveness of God, I would have not wanted to live.

I believe one of the results of the abortion, was abuse of one of my children and made it very difficult to be a good mother to any of my children.

If I had received counseling, I know I would never have permitted this crime.

Sincerely,

MRS. B. BENT.●

HIGH CAPITAL GAINS RATES DISCOURAGE INVESTMENT

● Mr. BOSCHWITZ. Mr. President, earlier this week I described for the Senate how in response to the repeal of the capital gains exclusion, venture capitalists are avoiding investments in startup companies and are instead making later stage investments or are investing in leveraged buyouts. Repealing the exclusion eliminated the incentive for taking an early equity position in new ventures.

Still more evidence of the negative consequences of eliminating the capital gains exclusion can be found in an article by Earl Gottschalk entitled "Higher Capital Gains Taxes Offer Yet Another Reason Not to Invest," in the Wall Street Journal on May 25, 1988. I will ask that a copy of the article appear in the RECORD following my remarks.

There are three points made in Mr. Gottschalk's article which I want to reiterate:

First, although individual rates for taxpayers were lowered overall by the Tax Reform Act, capital gains taxes were increased 40 percent for those in the 28-percent bracket; capital gains taxes were increased 65 percent for those in the 33-percent bracket.

When State and local taxes are added in, the combined tax on capital gains clearly is excessive. According to a chart included the Gottschalk article, in California the top effective rate on capital gains is 39.2 percent; for a taxpayer in New York City, the maximum tax could be 41 percent.

Second, Mr. Gottschalk's article sheds new light on the revenue consequence of increasing taxes on capital gains. According to Steven Gold, director of financial studies for the National Conference of State Legislatures, "higher capital gains rates are largely responsible for several States' estimates of revenue shortfalls this year." California, for example may have overestimated its revenues by $2 billion; New York faces a possible $900 million shortfall in its current fiscal year.

My final point, Mr. President, concerns the effect of increasing capital gains taxes on startup companies. According to Joseph Vinso, a professor at the University of Southern California, increasing the tax on capital gains will make it more difficult for such companies to raise capital. This is the same point I spoke about earlier this week.

Mr. President, as time goes on, we are seeing more evidence of the damaging effect of increasing—in some cases quite dramatically—the tax on capital gains. By eliminating the distinction between ordinary income and capital gains, we take away the incentive for investors to risk their money by investing in new ventures. This can only harm our economy and makes it more difficult to provide jobs for all Americans who want one.

The article follows:

Higher Capital-Gains Taxes Offer Yet Another Reason Not to Invest

(By Earl C. Gottschalk, Jr.)

The Oct. 19 crash gets much of the blame for drying up investors' interest in the stock market. But there's another culprit: higher taxes on capital gains.

The higher capital-gains tax "is the last straw," says Eric Winkelman, a Franklin, Mich., business consultant. Individual investors already compete against pension funds "who can get information faster, use index-arbitrage techniques and who don't pay taxes when they sell stocks," he says. "Now the individual is taxed at an ordinary rate to boot. There's a total disincentive for me to invest."

Capital-gains taxes "are a very big concern" for investors these days, says William Hiss, a broker for Bateman Eichler Hill Richards Inc., in Santa Clara, Calif., "Their emotions are badly drained from the terrible market, and then the higher capital-gains tax keeps them on the sidelines." No one wants to sell stocks they've made a long-term profit on, and pay that big tax, he says.

Of course, it's in investors' self-interest to gripe about how higher tax rates damp their enthusiasm for the market and hurt the economy. To what extent that actually happens is debated by researchers.

THE NEW RULES

But it's clear that, at the least, the 1986 Tax Reform Act, which eliminated the special preference given long-term capital gains, is providing another reason for investors to stay out of the market—at a time when investors need little prodding to do so. Before 1987, individuals who held an investment for more than six months before selling it were taxed on only 40% of their profits, resulting in a top capital-gains tax rate of 20%. Now capital gains are taxed like ordinary income.

"Sure, they lowered overall tax rates, but capital-gains taxes were increased 40%" for individuals in the 28% bracket, says Mr. Winkelman. For those in the 33% bracket, there's been a 65% effective boost in capital-gains taxes.

When state and local taxes are added in, the bite on capital gains can even be higher. In New York City, for example, a married resident filing a joint return with taxable income of $71,000 to $171,090 could pay a maximum of 41% when federal, state and local taxes are taken into consideration. In California, the top effective rate on capital gains for the same taxpayer is 39.2%, including federal and state taxes.

"Why put my money at risk in investing in a stock—when if it's a winner, I have to cough up 34 to 35 cents of every dollar in federal and state taxes?" asks Phil Sawyer, a South San Francisco, Calif., sales manager for a fertilizer-importing firm.

Accountants say individuals will feel the impact of higher capital-gains taxes more when they complete tax forms for 1988. Capital gains were taxed last year at a maximum rate of 28%. But there's no cap this year.

The impact goes beyond individual portfolios. For instance, higher capital-gains rates are largely responsible for several states' estimates of revenue shortfalls this year, says Steven Gold, director of financial studies for the National Conference of State Legislatures. California, for example, could be facing a tax shortfall of $2 billion this year. New York's tax receipts could show a $900 million shortfall for the current fiscal year, ending March 31, says Dall W. Forsythe, state budget director.

Moreover, the long-term impact will be that start-up companies and smaller firms will have more difficulty raising capital, says Joseph Vinso, a finance professor at the University of Southern California. "That's bad news for small business." And maybe for the country as a whole, because 80% of new jobs created in the U.S. in recent years have been created by companies in business for fewer than 10 years, Mr. Vinso adds.

Meanwhile, researchers have been trying to determine how higher tax rates affect the investment strategy of individual investors who still want to play the market, despite the higher rates.

A survey of 1,270 investors in early 1987 asked what kind of portfolio shifts they planned to make as a result of the new tax law. According to the study conducted by the Center for the Study of Investor Behavior, a Chicago market-research organization, 57% said they would place more emphasis on income-producing investments, 31% said they would keep their same objectives and 12% said they would emphasize growth stocks more.

Since the investor survey was taken, the October stock-market crash, market volatility and the furor over programmed trading and index-arbitrage techniques have masked some of the impact higher capital-gains taxes have had on investors, academic researchers say.

But, as the survey predicted, many investors have shifted away from growth stocks to dividend-paying, blue-chip stocks, market researchers and investment club officials say.

"Risk capital in a growth stock is being taxed at the same rate as that of a blue-chip, dividend-paying stock—so more of our members are saying why take the extra risk?" says Ken Janke, president of the National Association of Investors Corp., a Royal Oak, Mich., network of investors clubs. To meet members' interest in dividends, the association's magazine, Better Investing, which was almost totally devoted to growth stocks in the past, added a special column on high-yield stocks.

LONG-TERM EFFECT?

"There's a well-known theory that in the absence of taxes, investors are indifferent between dividends and capital gains," says Prof. Vinso at the University of Southern California. "There's another theory that argues that investors prefer current dividends to future capital gains. Therefore, if you take away the tax advantage of capital gains, people will invest in stocks that produce dividends and not in capital gains. And that's what's happened."

Investors are left to cope with the immediate effects of the higher capital-gains taxes. For example, William Strother, a recently retired professor from Trenton, N.J., says that higher taxes have "placed me on the horns of a dilemma" over whether he should take the capital gains on some of his holdings and pay the higher taxes, or wait and risk losing his gains. Mr. Strother says he took some capital gains last year and was "very unhappy" with the taxes he paid.

Mary Jane Jarvis, a Westport, Conn., investor, says she's holding onto her portfolio, consisting mostly of blue chips, hoping to ride out the current market difficulties. Higher capital-gains taxes, she says, are "just one more nail in the coffin."●

ABE STOLAR—PART XIV

● Mr. SIMON. Mr. President, on Friday April 29, the Stolar family gained a new member: Julia Shurukht Stolar gave birth to a boy.

The baby is the grandson of Abe and Gita Stoler. Abe, an American citizen, has been trying to emigrate from the Soviet Union for the last 14 years.

As one who cares greatly for this family, I wish to welcome the child into the household of Israel. Israel means "Struggle with God." He is therefore born into a life of struggle. I wish both he and his family sufficient strength and courage to persevere in the celebration of their faith in the face of great obstacles. I also wish to encourage him to grow in the Jewish faith even though it will be difficult.

With the upcoming summit between our two nations, I believe this family's trouble can be resolved so that the newest Stolar can grow up in religious freedom. I urge that the Stolars be allowed to leave together.●

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, is the Senate in executive session?

The PRESIDING OFFICER. The Senate is in executive session.

Mr. BYRD. I thank the Chair.

Mr. President, I move that the Senate stand in recess until tomorrow morning at 10 o'clock.

The motion was agreed to; and at 10:51 p.m., the Senate recessed until tomorrow, Friday, May 27, 1988, at 10 a.m.

EXTENSIONS OF REMARKS

AIR TRAFFIC CONTROL IMPROVEMENT

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. BARTON of Texas. Mr. Speaker, today, I rise with the hope of beginning the process toward creating a truly safe and efficient air traffic control [ATC] system. Each day, travelers must face an air traffic control system paralyzed by increased volume, frequent delays and diminished safety.

Within the constraints of Government bureaucracy, the Federal Aviation Administration [FAA] cannot respond in a timely fashion to the growing needs of the air traffic control system. Federal personnel and procurement regulations pose major road blocks to efficient management and safety. Air traffic control facilities remain understaffed and the civil service system provides no incentives for new controllers. Just as discouraging, few facilities have needed modern radar technology.

Today, I have introduced legislation incorporating several excellent ideas for improvement. The following legislation would divest ATC facilities, personnel, and equipment to a nonprofit, user-owned corporation. The corporation's stockholders would be limited to airlines, private pilots, business aircraft owners, airline pilots, air traffic controllers, and Federal Government users. At the same time, the FAA would retain its existing safety functions.

I believe this revolutionary new concept warrants extensive hearings and review. This much needed legislation can serve as a guidepost as we struggle to restore safety, efficiency, and traveler confidence. In the coming months, I urge my colleagues to carefully consider the merits of this landmark legislation:

H.R. 4693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Air Traffic Control Service Improvement Act of 1988".

TITLE I—AIR TRAFFIC CONTROL CORPORATION

SEC. 101. ESTABLISHMENT OF CORPORATION.

(a) IN GENERAL.—There is established a non-profit corporation, to be known as the Airways Corporation, which—

(1) shall operate the air traffic control system of the United States after the completion of transfers of air traffic control facilities and equipment under section 201;

(2) except as provided in subsection (b), shall not be an agency or establishment of the United States Government;

(3) shall have its principal office in the District of Columbia and is deemed to be a resident thereof; and

(4) to the extent consistent with this Act, shall be subject to the District of Columbia Business Corporation Act (D.C. Code, § 29-301 et seq.).

(b) WAR OR NATIONAL EMERGENCY.—

(1) TRANSFER OF FUNCTIONS.—In the event of a declared war or national emergency, the President may by Executive order transfer any functions, personnel, property, records, funds, and other matters relating to the Corporation to the Department of Defense.

(2) DEVELOPMENT OF PLANS.—The Board, in consultation with the Secretary of Defense, shall develop plans for the effective discharge of the functions of the Corporation in the event of a declared war or national emergency.

SEC. 102. INCORPORATION.

(a) APPOINTMENT OF INCORPORATORS.—The President shall appoint 5 incorporators, by and with the advice and consent of the Senate, who shall serve as the initial board of directors of the Corporation until the first annual meeting of stockholders, or until a board of directors is elected in accordance with section 104, whichever is later.

(b) FUNCTIONS OF INCORPORATORS.—The incorporators appointed under this section shall—

(1) subject to approval by the President, draft and file articles of incorporation for the Corporation, draft the initial bylaws of the Corporation, and take any other actions necessary to the establishment and initial operation of the corporation;

(2) arrange for an initial stock offering in accordance with section 103; and

(3) establish initial criteria for determining who is a private pilot and what is a business aircraft for purposes of section 102(a) (2) and (3).

(c) ARTICLES OF INCORPORATION.—The articles of incorporation filed by the incorporators in accordance with subsection (b)—

(1) shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, § 29-327(d));

(2) may be amended, altered, changed, or repealed by a vote of not less than 66⅔ percent of the outstanding shares of the voting capital stock of the Corportation.

SEC. 103. ISSUANCE OF STOCK.

(a) IN GENERAL.—The Corporation may issue and have outstanding, in such numbers and amounts as it shall determine, shares of capital stock of a total par value of $100,000,000 consisting of 6 classes as follows:

(1) A class of shares to be known as Class A, consisting of not more than 40 percent of all shares of common stock issued by the Corporation, which may only be purchased by persons who are air carriers.

(2) A class of shares to be known as Class B, consisting of not more than 20 percent of all shares of common stock issued by the Corporation, which may only be purchased by persons who are private pilots.

(3) A class of shares to be known as Class C, consisting of not more than 10 percent of all shares of common stock issued by the Corporation, which may only be purchased by persons who are not air carriers who own one or more business aircraft.

(4) A class of shares to be known as Class D, consisting of not more than 7½ percent of all shares of common stock issued by the Corporation, which may only be purchased by persons who are employed by an air carrier as pilots.

(5) A class of shares to be known as Class E, consisting of not more than 7½ percent of all shares of common stock issued by the Corporation, which may only be purchased by persons who are air traffic controllers.

(6) A class of shares to be known as Class F, consisting of 7½ percent of all shares of common stock issued by the Corporation, which shall be owned by the Secretary of Transportation on behalf of the United States.

(7) A class of shares to be known as Class G, consisting of 7½ percent of all shares of common stock issued by the Corporation, which shall be owned by the Secretary of Defense on behalf of the United States.

(b) PRICE OF FIRST ISSUE.—The shares of common stock first issued by the Corporation shall be sold at a price equal to not more than $100 for each share.

(c) VOTING RIGHTS.—

(1) IN GENERAL.—Each share of common stock in the Corporation—

(A) shall be vested with all voting rights; and

(B) shall be entitled to one vote.

(2) ASSIGNMENT.—A person owning one or more shares of Class B, C, E, D, E, of F stock may assign the right to vote all or part of their shares to any person eligible to own shares of that class of stock.

(d) INSPECTION AND COPYING RIGHTS.—The right of a holder of stock issued by the Corporation to inspect and copy records of the Corporation shall not be subject to the requirements of section 45(b) of the District of Columbia Business Corporation Act (D.C. Code, § 29-345(b)) relating to the percentage of stock which a stockholder must hold to have such rights.

SEC. 104. DIRECTORS AND OFFICERS.

(a) BOARD OF DIRECTORS.—

(1) ELECTION.—The Corporation shall have a board of directors consisting of 15 individuals who are citizens of the United States, selected annually as follows:

(A) 6 members elected by shareholders owning one or more shares of Class A stock.

(B) 3 members elected by shareholders owning one or more shares of Class B stock.

(C) 2 members elected by shareholders owning one or more shares of Class C stock.

(D) 1 member elected by shareholders owning one or more shares of Class D stock.

(E) 1 member elected by shareholders owning one or more shares of Class E stock.

(F) 1 member appointed by the Secretary of Transportation.

(G) 1 member appointed by the Secretary of Defense.

(2) CHAIRMAN.—The Board shall elect one of its members annually to serve as Chairman of the Board.

(3) COMPENSATION AND EXPENSES.—Members of the Board may receive compensation

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in accordance with rules established by the Board.

(b) President of Corporation and Appointment of Other Officers.—

(1) Appointment.—The Corporation shall have a president and such other officers as may be appointed by the Board from among persons who are citizens of the United States. Persons appointed under this paragraph shall serve at the pleasure of the Board.

(2) Compensation.—Individuals appointed under paragraph (1) shall be compensated at rates fixed by the Board.

(3) Restriction on Receipt of Other Salary.—A officer of the Corporation shall not receive any salary from any source other than the Corporation during the period of the officer's employment by the Corporation.

(c) Private Pilot and Business Aircraft Criteria.—

(1) In general.—The Board may revise the criteria established by the incorporators under section 102(b)(3) for determining who is a private pilot and what is a business aircraft.

(2) Limitation.—The right of a person to own, and receive dividends and exercise voting rights with respect to, shares of stock of the Corporation referred to in sections 103(a) (2) and (3) shall not be affected by actions of the Board under this subsection.

SEC. 105. POWERS OF CORPORATION.

(a) In General.—The Corporation may—

(1) plan, initiate, construct, own, manage, and operate, by itself or in cooperation with other entities, an air traffic control system;

(2) furnish, for hire, air traffic control services to air transportation common carriers, and other operators of civil aircraft;

(3) establish reasonable nondiscriminatory fees for the provision of air traffic control services;

(4) enter into contracts under which other entities may operate individual air traffic control facilities on behalf of the Corporation;

(5) acquire, by construction, purchase, or gift, physical facilities, equipment, and devices necessary to the operations of the Corporation, including air traffic control and associated equipment and facilities;

(6) issue voting securities in accordance with section 103;

(7) issue nonvoting securities, bonds, debentures, and other certificates of indebtedness as may be appropriate; and

(8) conduct or contract for the conduct of research and development related to the operations of the Corporation, and establish technical specifications of all elements of the air traffic control system.

(b) Usual Powers of Stock Corporation.—To conduct activities authorized by subsection (a), the Corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act (D.C. Code, § 29-301 et seq.).

(c) Review of Fees.—The Secretary of Transportation shall issue regulations not later than 180 days after the date of the enactment of this Act for the review and appeal of fees established by the Corporation under subsection (a)(3).

SEC. 106. FOREIGN BUSINESS NEGOTIATIONS OF CORPORATION.

(a) Negotiations of Corporation.—Whenever the Corporation enters into negotiations with any foreign entity with respect to facilities, operations, and services authorized by this Act to be conducted by the Corporation—

(1) the Corporation shall notify the Secretary of State regarding the initiation, conduct, and foreign policy implications of such negotiations; and

(2) the Secretary of State shall advise the Corporation of relevant foreign policy considerations and, upon request of the Corporation, shall render such assistance as may be appropriate.

(b) Negotiations of Secretary of State.—The Secretary of State shall consult with the Corporation with respect to all negotiations conducted by the Secretary regarding matters which relate to air traffic control.

SEC. 107. SANCTIONS.

(a) Petition for Relief.—Except as otherwise prohibited by law—

(1) if the Corporation engages in any activity, or takes any action in furtherance of any policy, which is inconsistent with the policy and purposes of this Act; or

(2) if any other person—

(A) violates any provision of this Act;

(B) obstructs or interferes with any activity authorized by this Act;

(C) refuses, fails, or neglects to discharge any duty or responsibility under this Act; or

(D) threatens any such violation, obstruction, interference, refusal, failure, or neglect;

the district court of the United States for any district in which such Corporation or other person resides or may be found shall have jurisdiction, upon petition of the Attorney General of the United States, to grant such equitable relief as may be necessary or appropriate to prevent or terminate such activity.

(b) Punishment, Liability, or Sanction Under Other Provisions.—Nothing contained in this section shall be considered to relieve any person of any liability, punishment, or sanction under any other law.

SEC. 108. REPORT.

(a) Corporation.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it considers appropriate, a comprehensive and detailed report of its operations, activities, and accomplishments under this Act.

(b) Administrator.—The Administrator shall transmit to the Congress, annually and at such other times as the Administrator considers appropriate, an evaluation of the capital structure of the Corporation so as to assure the Congress that such structure is consistent with the most efficient and economical operation of the Corporation.

TITLE II—MISCELLANEOUS

SEC. 201. TRANSFER OF FACILITIES AND EQUIPMENT TO CORPORATION.

(a) In General.—Not later than 180 days after the date the Senate approves the appointments of the President under section 102(a), the Secretary of Transportation shall take such steps as may be necessary—

(1) to transfer to the Corporation all right, title, and interest of the United States in, and all control of the United States over, all facilities and equipment under the jurisdiction of the Administration on the date of the enactment of this Act, which are part of the air traffic control system including the air route traffic centers, terminal radar control centers, VHF omnidirectional radio stations, long-range and terminal radar systems, flight service stations, and related facilities and equipment; and

(2) to transfer all right of the United States in airport control towers, landing aids, and landing slots to owners of the airport where such towers and aids are located and to which such landing slots relate.

(b) Compensation.—In consideration for property transferred by the United States pursuant to subsection (a) the Corporation shall pay into the General Fund of the Treasury $100,000,000, and shall relinquish all rights of the Corporation to amounts in the Airport and Airway Trust Fund.

SEC. 202. AIRPORT FEES.

(a) In General.—Notwithstanding any other law, on and after the date of the transfers carried out by the Secretary of Transportation pursuant to section 201(a), an airport may establish and charge fees for use of airport facilities by, and provision of services to, air carriers and air transportation passengers, including—

(1) fees which air carriers must pay for landing aircraft at or taking aircraft off from such facilities; and

(2) fees which passengers must pay for departing from such facilities.

(b) Criteria.—Fees established under subsection (a)—

(1) shall be in an amount equal to the cost to the airport of providing the particular use or service for which the fee is charged, plus a reasonable profit; and

(2) may vary according to time of day and demand for the facility or service.

SEC. 203. AIRPORT ACCESS.

(a) Prohibition.—An owner, operator, or other person in charge of a public-use airport shall not deny access to and use of the facilities of such airport by any person operating an aircraft which is in compliance with all laws relating to aviation safety if the person offers to pay all fees which are usually charged for such use.

(b) Penalty.—Any person who violates subsection (a) shall be subject to a civil penalty under section 901(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)).

SEC. 303. LIABILITY OF CORPORATION.

Notwithstanding any other law, the Corporation is immune from all tort liability which is not based an fault.

SEC. 303. DEFINITIONS.

As used in this Act—

(1) the terms "airport" and "public-use airport", respectively, have the meaning given such terms by section 503 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201 et seq.);

(2) the terms "air carrier", "aircraft", "air transportation", "civil aircraft", "citizen of the United States", "person", and "United States", respectively, have the meaning given such terms by section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.);

(3) the term "Board" means the board of directors of the Corporation elected under section 104;

(4) the term "Corporation" means the corporation established by section 101 of this Act;

(5) the term "Administration" means the Federal Aviation Administration; and

(6) the term "Administrator" means the Administrator of the Federal Aviation Administration.

SEC. 305. CONFORMING AMENDMENTS.

The Secretary of Transportation shall submit to the Congress not later than 1 year after the date of the enactment of this Act such conforming amendments as the Secretary of Transportation determines are necessary to fully implement this Act.

IN HONOR OF THE REVEREND FRANCIS N. MANIOLA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. LIPINSKI. Mr. Speaker, I rise today to honor and recognize a man who has made a distinct and important contribution to the Chicago community on the occasion of two very special events. In 1988 the Reverend Francis Maniola will celebrate the 50th anniversary of his ordination and his 75th birthday.

The Reverend Maniola attended Quigley Seminary South and St. Mary of the Lake Seminary. On April 23, 1938, the Reverend Maniola was ordained into the church and began his service to the church and community. In the 50 years since that time, he has served many parishes including St. Agatha, Christ the King, Presentation B.V.M., Queen of Angels, and our Lady of Mount Carmel. His major appointments have, however, been a professorship at Quigley Seminary South and his present service to the parish of St. Symphorosa in Chicago where he has served since 1967.

The dedication, commitment, and strength of spirit which the Reverend Maniola has exhibited is especially precious and commendable in our material world of today and has been an essential contribution to the Chicago community. I am sure that my colleagues join me in sending the Reverend Maniola our best wishes and congratulations upon the occasion of these two significant milestones in his life; the 50th anniversary of his ordination and his 75th birthday.

NATIONAL MARITIME WEEK, MAY 22-28, 1988

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. BIAGGI. Mr. Speaker, May 22 was National Maritime Day. As we look at the condition of the American merchant marine, I am reminded of a characterization that was first used in the 1960's—benign neglect. This country has always been able to depend on our merchant marine to further American interests in the event of war or national emergency. The problem existing today is a shrinking pool of American seamen and a shortage of military useful U.S.-flag vessels. The Commission on Merchant Marine and Defense—Bennett Commission—has documented the conclusion that the deterioration of our merchant marine poses a clear and present danger to the economic well-being of the United States as well as our national security.

Those of us who fight to strengthen the merchant marine wait in vain for the President to follow up on the Bennett Commission's recommendation that he state a national maritime policy. This administration sabotaged Congress' attempt to create 500 jobs for American seamen on the 11 reflagged Kuwaiti vessels. The Department of Defense argued that, somehow, having foreign citizens on the Kuwaiti tankers furthers our national security. That argument is perplexing at best, and those of us who know this industry were incredulous when we heard it. That argument also ignores the drastic shortage of jobs for American seamen and the impressive role the merchant marine has played in helping to defend our Nation since colonial times.

Turning to international trade, the maritime community worked together and had a decisive victory in the deletion of the transportation annex from the United States-Canada Free Trade Agreement. That annex would have damaged a cornerstone of maritime law, the Jones Act—one of the few remaining aids to our declining maritime industry.

In the face of overwhelming support for the trade bill, the President vetoed legislation that the maritime industry as well as other American businesses need desperately. A veto will not change the fact that free trade does not exist in the world. While every other maritime nation subsidizes the building, repair and, in many cases, the operation of its vessels, this administration opposes giving American shipbuilders, ship repairers, and U.S.-flag operators the help they need to compete in the highly competitive international market.

Many speeches will be made across the land this week on the importance of the merchant marine. A wise man once observed that those who do not learn from the mistakes of the past are bound to repeat them. My hope during this National Maritime Week is that we recognize the critical role the American merchant marine has played in keeping the United States strong and free. Once we recognize the importance of this contribution, we must pay the price to ensure that the merchant marine continues to be the linchpin in our economic and military strength.

Someone, someday is going to have to accept the fact that we are going to have to spend money to strengthen our shipyard mobilization base and keep U.S. merchant mariners and ships at sea. The problem will not go away. Let's hope that we have the courage to do what must be done.

LOS LUCEROS NATIONAL MONUMENT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. RICHARDSON. Mr. Speaker, I am proud today to introduce a bill designating the Los Luceros hacienda in New Mexico as a national monument. A national monument at Los Luceros will commemorate the great heritage of the Spanish explorers who led the European colonization of our Southwest more than four centuries ago. The Spanish conquistadores, led by Juan de Onate, came out of Mexico to found the farthest outpost of the Spanish empire—what we now call New Mexico. In return for leading the colonization effort, Onate was named New Mexico's first Governor. On January 7, 1598, his caravan of 130 traveled north, but instead of following the rivers, the caravan went straight across the desert to intercept the Rio Grande where it swung to the east. Onate had unknowingly finished blazing the Camino Real, the road that would one day carry the commerce of the United States and Mexico.

On July 11, 1598, the Onate expedition reached the end of their journey near the confluence of the Rio Chama and the Rio Grande. At this spot near the present city of Espanola and the San Juan Pueblo, Onate established the first Spanish headquarters in New Mexico. This settlement was called San Gabriel de Yunque-Ouinge. It was the first Spanish-built capitol of New Mexico. The capitol was moved to Santa Fe in 1609.

Near the sight of San Gabriel, a captain in Onate's army, Pedro Lucero de Godoy, began construction of the buildings now known as Los Luceros. This property was developed to include a main house and several other buildings which have great historical significance as some of the earliest relics of the region's Spanish colonial heritage. These buildings served several functions during the next three centuries, notably as a military post and the seat of local justice.

In light of its historical significance as the place where the first Europeans established permanent communities 22 years before the Pilgrims arrived at Plymouth Rock, Los Luceros should be recognized and preserved through designation as a national monument. From these first settlements, the influence of the Spaniards would endure through three successive governments. Combined with the rich cultural traditions of the Pueblo Indians, who had first occupied a pueblo at the site in the early 1300's, the Spanish contributed significantly to the New Mexico culture we have today.

Mr. Speaker, my bill establishes the Los Luceros National Monument to be managed by the National Park Service. In managing and interpreting the national monument the Park Service will highlight the historical and cultural significance of Los Luceros, the significance of the Onate-led colonization to U.S. history, and the role of the Pueblo Indian during this period.

The bill also directs the National Park Service to establish the Juan de Onate Interpretive Center at the Los Luceros National Monument. This center will serve as a focus for interpreting the historic events and cultural resources relating to the monument and the history of Spanish colonization of the interior of the United States.

Finally, the bill directs the Secretary of the Interior to conduct a feasability study of designating the San Gabriel historic landmark as a national historic site, and thus a part of the National Park System. The Park Service will work closely with the San Juan Pueblo in conducting this study.

Mr. Speaker, I urge my colleagues to join me in this long overdue recognition of the significant contributions of this colonization period by supporting this important legislation.

THE ERITREAN CONFLICT IN ETHIOPIA

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. ROTH. Mr. Speaker, Tuesday's Wall Street Journal featured an excellent op-ed on the Eritrean conflict in Ethiopia. The author, a Canadian journalist who recently spent 5 weeks in Sudan and Eritrea, confirms many of the inhumane policies of Colonel Mengistu that we have discussed in this body. I found particularly interesting his interview with Sadiq El-Mahdi, the prime minister of neighboring Sudan. He said this: "In 1984, we all suffered famine, but last year with the same conditions as Ethiopia, we in the Sudan not only fed ourselves but even exported food. Ethiopia's policies are often responsible for its famine."

Having made his observations first hand, the author comes to one, bottom-line conclusion: "There seems only one realistic solution to Ethiopia's problems, be they economic, social, political, or military: a coup to replace the paranoid, homicidal Mengistu regime."

I urge my colleagues to take note of this penetrating analysis of the Ethiopian situation.

The article follows:

[From The Wall Street Journal, May 24, 1988]

ERITREAN WINS PUT MENGISTU ON DEFENSIVE

(By Peter Wirthington)

One of the world's longest-running wars is in Eritrea—the northern province of Ethiopia that is in its 27th year of fighting for self-determination.

I recently returned from five weeks in Sudan and Eritrea, looking into the plight of refugees and checking resistance groups opposed to the Marxist regime of Ethiopia's Lt. Col. Mengistu Haile Mariam. I was in Eritrea in mid-March when the Eritrea People's Liberation Front (EPLF) scored a spectacular military victory that eliminated three Ethiopian divisions and a brigade.

Although every EPLF victory weakens the Mengistu regime, it also increases the suffering of the Ethiopian people. More troops are being moved into the north, food is scarcer for civilians in the Ethiopian-controlled areas as aid is restricted and foreign-aid workers are expelled, renewed napalm bombing has been reported in Tigre, and Lt. Col. Mengistu has appealed to Ethiopian patriotism to rally and resist an "Arab-sponsored invasion from the North." Reports are that every Ethiopian is now required to "volunteer" a month's pay or pension to the war effort.

DEATH AND SURRENDER

The EPLF attack took place on the Nakfa front. One ambush wiped out the 29th Mechanized Brigade. A half mile of road was a tangled mass of tanks, armored carriers, trucks, guns and corpses. A second ambush at Kilhamet, on the mountain road between Afabet and Keren, was another killing ground. In this part of the world enemy dead are left to hyenas, vultures, crows, the sun.

In all, some 20,000 Ethiopian troops were killed or captured in the 48-hour battle. Most simply surrendered.

The advance was so swift that at Ethiopian corps headquarters in Afabet, the Eritreans captured three Soviet military "advisers"—two colonels and a lieutenant—and killed a fourth. Capturing senior Soviet advisers is something that Jonas Savimbi hasn't accomplished in Angola.

If it weren't in such a strategic location, Eritrea probably would have had its independence long ago. But it occupies more than 600 miles of Red Sea coast from Sudan to Djibouti. Were it to be an independent state. It would cut off Ethiopia's access to the sea-something the West couldn't contemplate in the years after World War II when it and the United Nations were deciding the future of Italy's former colonies.

Libya received independence in 1952; Somalia got independence in 1960 after the U.N. put it in trusteeship to Italy for 10 years. But, under pressure from Western powers, the U.N. ruled in 1952 that Eritrea be federated with Ethiopia, a country to which it had few ties in language and culture. It was supposed to have autonomy; Ethiopia would be responsible for defense, foreign affairs, trade and currency.

Ethiopia abrogated the U.N. terms in 1961-62. It made Amharic the official language and banned Tigrinya (the predominant language of Eritrea), Arabic and Ge'ez. It dismantled Eritrean industries, banned unions, and in 1962 annexed Eritrea—without holding a referendum, as the Eritrean constitution required. And the war began.

After Haile Selassie was deposed as emperor in 1974 and the U.S. decided not to support "revolutionary" Ethiopia with arms and weapons, Lt. Col. Mengistu turned to the U.S.S.R., saving Ethiopia from defeat by the Kremlin's other client state, Somalia, which had invaded the disputed Ogaden desert.

After that, Lt. Col. Mengistu decided to eliminate the irritation that was Eritrean independence. He failed, the Eritreans bounced back, and now it is Lt. Col. Mengistu who is threatened by Eritrea, as well as by other resistance movements throughout Ethiopia.

Ironically, Lt. Col. Mengistu's determination to unite Ethiopia by eliminating all opposition has divided the country as never before. Ethiopia's costly, losing war in Eritrea has spurred on Tigrean resistance, as well as encouraged rebel movements in Wollo Province and such groups as the Oromo Liberation Front and the Ethiopian People's Democratic Alliance.

Lt. Col. Mengistu's policy of forcibly resettling people mainly from the dissident territories of Wollo and Tigre to quieter areas both creates resistance and contributes to famine. Farmers are conscripted into the army, property and food are confiscated for taxes, and a bad agricultural and economic situation is made worse.

In an interview last month, Sadiq El-Mahdi, prime minister of Sudan, estimated that two-thirds of some 700,000 Ethiopian refugees in his country were escaping the Mengistu policies rather than drought and famine.

"In 1984 we all suffered famine," he said, "but last year with the same weather conditions as Ethiopia, we in the Sudan not only fed ourselves but even exported food. Ethiopia's policies are often responsible for its famine."

Until recently Ethiopia had insisted none of its troops were EPLF prisoners. Even before its recent military victory, however, the EPLF claimed to hold more than 10,000. Eager to see some, I was taken to a valley a few miles from the now-fluid front, where I saw 7,000 or 8,000 prisoners—all without shoes (to prevent escape); most seemingly relieved that for them the war was over.

All the officers I spoke to said they would be shot if they returned home. Maj. Shimeless Debebe said he was trained in the U.S.S.R., had been a soldier for 14 years, and was political commissar of the 19th Infantry Division. He said he had no intention of going home. Maj. Geiu Asrat Menda, commander of the 29th Mechanized Brigade, recalled a commanding officer who had failed in attack being paraded before division officers and shot. Lt. Tamiral Ohnrko said officers were expected to commit suicide rather than be captured.

Prisoners acknowledged that Ethiopian army morale was low, and that the Eritreans were motivated and good fighters.

All said it should be the Ertireans' decision whether to remain with Ethiopia.

Every prisoner I questioned said the alliance with the Soviet Union wasn't popular in Ethiopia. "The Russians in Ethiopia make the Americans look good—just as Mengistu makes Haile Selassie seem better," said one officer.

For their part, the Ertireans are increasingly concerned about how to feed and care for the prisoners, whose total is now close to 25,000.

Eritrea says it subscribes to the Geneva Convention and treats prisoners humanely. I saw no evidence of maltreatment. On the contrary. I saw many groups of Ethiopians who are no longer prisoners but have the status of free men.

In Eritrea I found high moral and unusual confidence. I had been told that the EPLF was Marxist, but though there is a central committee, Poliburo and general secretary. I found no cult of personality, no dogma, and no slogans. Homage was paid to concepts of self-reliance, individuality, personal initiative and democracy. Before the Ethiopian revolution, the U.S.S.R. supported Ertirean independence. Now the Eritreans see the Soviet Union as an imperialist power whose methods are more oppressive than anything they'd experienced in the past.

There probably is greater sexual equality in Eritrea than in just about any other place in the world. Women serve in the front ranks of the army, and every woman fighter I talked to made a point of saying she will never go back to a subservient role. The men I talked to agree, saying the future is one of equality.

When one thinks of Ethiopia and its civil war, one thinks of famine and refugees. But on the Eritrean side of the war zone one doesn't encounter much hunger. There are few international aid workers here, so Ethiopia's expulsion of foreigners in the areas it controls doesn't mean much as far as the Eritreans are concerned.

The Eritrean Relief Association has the job of feeding, educating and looking after the civilian population. It has a fleet of more than 200 trucks that nightly transport food and supplies on a 12-hour drive from Sudan into Eritrea, where they are redistributed to outlying areas. Tigre has a supply system similar to Eritrea's though not as sophisticated nor as efficient.

I didn't see one starving person in the regions I visited. On the contrary, I saw camels loaded with flour and food heading behind enemy lines to feed people.

The Eritrean Relief Association says it originally budgeted $95 million this year to provide medicine, food, transport and services for 850,000 people. While Lt. Col. Mengistu's expulsion of aid workers and apparent moves toward confiscating Red Cross supplies don't affect people in the Eritrean war zone, Eritrean victories have left the relief association with a million people to feed and double the territory to cover. No Western government provides aid to the Eritrean Relief Association, though nongovernmental agencies and private relief groups provide funds. The association claims 95% of all donations go directly to the needy.

Many Eritreans have never known peace. The war, in fact, is older than many of the fighters. Few are willing to discuss the possibility of someday being part of a united Ethiopia. The bug of independence or self-determination has bitten too deeply.

REALISTIC SOLUTION

It's too early to say how the Eritrean breakthrough on the Nakfa front will affect the war, but it has led Lt. Col. Mengistu to come to terms with Somalia so he can transfer more troops north, and to negotiate with Sudan's prime minister to try to curtail international aid to the Eritreans.

In the meantime, it is the civilian population in the Ethiopian-controlled zones that suffers most and endures the most hunger. There seems only one realistic solution to Ethiopia's problems, be they economic, social, political, or military: a coup to replace the paranoid, homicidal Mengistu regime.

Until that happens, there is faint hope for Eritrea, and less for Ethiopia.

INSTRAW: THE UNITED NATIONS AGENCY FOR TRAINING AND EDUCATION ON THIRD WORLD WOMEN

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. LELAND. Mr. Speaker, I would like to commend to my colleagues' attention to a speech delivered last week in Washington by Ms. Dunja Pastizzi-Ferencic, the director of the International Research and Training Institute for the Advancement of Women [Instraw].

Instraw is the United Nations agency which is responsible for providing the other branches of the United Nations with assistance in training, research, and information relating to Third World women. These are essential services for the United Nations and for other bilateral and multilateral aid agencies. For example, Instraw's research on the roles of women in developing countries has assisted the United Nations and the U.S. Agency for International Development [AID] in the design of its projects and programs.

This little-known but critical branch of the United Nations receives no funding from the U.S. Government. While AID officials often comment on the unavailability of data on Third World women, they have not advocated additional funding for the organization that, collects such data. I have introduced legislation, H.R. 4049, which, among other things, would authorize a modest U.S. contribution to Instraw. U.S. assistance for Instraw would be well spent and would provide the donor community with information and training resources that are badly needed.

Mr. Speaker, I insert the following excerpt from Ms. Pastizzi-Ferencic's speech at this point in the RECORD:

ADDRESS BY MS. DUNJA PASTIZZI-FERENCIC, DIRECTOR OF THE INTERNATIONAL RESEARCH AND TRAINING INSTITUTE FOR THE ADVANCEMENT OF WOMEN

Since its inception, Instraw has been at the frontline to improve methodological approaches to the assessment and recognition of women's contribution to development. We need reliable statistics, indicators and data, if we want to bring women into mainstream development. What do we know about women? We have recently celebrated the birth of the five billionth inhabitant of our planet; we know more than half of them are women. Where do they stand and what are they doing?

According to labour statistics women account for less than 35% of the total labour force. According to an ILO/Instraw projection, in the year 2000 there will be almost 900 million women workers. The following questions immediately arose: do so few women work? What definiton of labour force are we using? What kinds of jobs do women hold and what rewards do they get from their labour? Judging from available data, women presently constitute one quarter of the industrial labour-force and almost one fifth of the labour force in agriculture and services. We are aware that statistical and other surveys provide only a partial view of the vital participation of women in development. The existing data centers mostly on women's reproductive role and educational status. According to statistics, a great number of women are not working. Women are statistically invisible and therefore, forgotten producers and providers of services. Their work falls within the so-called informal sector of economic activities, unrecorded in official statistics and macro-economic aggregates such as the gross national product. It would take me too long to elaborate on all Instraw efforts and results on statistics on women. An example to the point is the Institute's collaboration with the United Nations Statistical Office, aimed at providing a methodological approach for the quantification of women's work in the informal sectors of the economy. Our aim is to reflect women's contribution in the system of national accounts (SNA) and in major international standard classification systems. We have prepared and presented a strong and thoroughly researched case for taking women's role into account in SNA, ISCO and ISIC, which are all due for revision. Reports based on national experiences contained proposals for revision and suggestions for further work. The advocacy voice of Instraw has been heard at all international fora where the issue was discussed, including the UN Statistical Commission and the Conference on Labour Statisticians. If Instraw had not taken these issues into account, we would have to wait for the next revision, probably till the end of this century.

The same approach of co-operation and mainstreaming with other UN bodies was applied in other Instraw programmes, related to issues of policy design such as women in the world economy, South-South co-operation, choice of technology, drinking water and sanitation and new and renewable sources of energy.

Another highlight of Instraw activities refers to our search for innovative and participatory training methodologies. The guiding principles of Instraw training strategy are: (1) operation through networks of international, regional, national and local institutions, (2) training of trainers so as to obtain a multiplier effect, (3) training *in-situ*, primarily in developing countries to stimulate grass-root participation and (4) influencing training activities within and outside the UN system through its role as catalyst for developmental change.

In view of the general scarcity of adequate training material on women and development, Instraw has concentrated its efforts on innovative training modules with an accent on simultaneous awareness raising and information delivery using new communication tools. The training material produced enhances participatory training and is adjustable to various target audiences and different training needs.

Instraw policy is also oriented toward the strengthening of co-operation with international, regional and national training institutes. As a first step in this direction, Instraw has established co-operation with the UN training institutes and institutes with global and regional scope of action, such as CIRDAP, ESAMI and ICPE.

We need to explore further new types of training technology, curricula and training material. We need to foster changes in women's own views as to the value and significance of their potentials. We need to respond to the ever-growing demands of grass-root trainers, facilitators and extension workers. To answer these needs, Instraw will continue to adapt and refine its training strategies by continuous monitoring and evaluation in order to contribute meaningfully to the investment in human resources and women's advancement.

Collecting and providing access to information on women and development constitutes a vital element of Instraw programmes, which requires a modern and efficient communication infrastructure. The new communication technologies could immensely contribute to training with a more effective delivery of distance training, particularly for the population in rural areas. The main problem at the present stage is how to create comprehensible, useful and relevant software or, in other words, relevant information and training messages, which would primarily serve the needs of women in developing countries.

Operating from an island state, it was vital for Instraw to secure direct communication links with other United Nations information data bases and establish an electronic mail system to intensify interaction. The Institute has identified other possible programmes and projects related to the use of communication technology for women and development purposes, with an emphasis on data bases, training and software production. Such possibilities will be further considered and developed by an expert group meeting which will be convened later this year in Rome.

The importance of innovative research is crucial at this stage; the potential of innovative training is enormous; the range of possible applications of communication technologies is striking. If all of this is technically feasible, how shall we use it for development purposes, for bridging the gap between developed and developing countries, between men and women? Women give life and bring to maturity every new generation; they work tirelessly for the benefit of human beings; their vital force is being felt everywhere and yet, there is not enough willingness and there are not enough resources to assist unanimously adopted strategies leading them to a better future.

As a voice from the South, let me finish with a touch of optimism that you will keep supporting Instraw, a small dynamic unit trying to contribute to the advancement of women and their societies to an acceptable level by the year 2000. It is the responsibility we all share and to make it a reality we should pledge our energies and commitment; to this end, we should mobilize all available resources.

TRIBUTE TO ED CRITCHLOW

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay a special tribute to Mr. Critchlow, a journalist in my congressional district who recently passed away. In many ways, Mr. Ed Critchlow was a pioneer in the newspaper business in west Tennessee. He assumed ownership of the Union City Daily Messenger in 1940. He also owned several weekly newspapers in adjacent counties.

Throughout his career and his life, he remained committed to high ideals and standards. He demanded that the news be covered fairly and objectively. That did not mean that he did not have strong views on issues important to his community and his country. He did and he used the editorial pages fearlessly in his pursuit of honesty and high standards.

Mr. Critchlow was the quintessential newspaperman. He was thorough. He doggedly pursued news stories. He was fair. He was objective. Most importantly, he viewed his role as a newspaper owner, reporter, and editor as a sacred trust and never waivered from that belief. He was truly the kind of newspaperman that today's journalism students can look to as a standard of professionalism.

Finally, Ed Critchlow was a good man who cared about his family and his community. He remained deeply interested in the challenges confronting his city and worked diligently to contribute to their resolution.

Ed Critchlow was a close personal friend and one that all of us who knew him will miss very much.

In sharing this man's life with my colleagues, I would like to insert in the RECORD an eloquent article written by David Bartholomew, currently city editor of the Daily Messenger.

[From the Union City Daily Messenger, May 16, 1988]

PUBLISHER AS TEACHER

(By David Bartholomew)

The public lost a champion of its good, the community lost an ardent booster and those of us who worked for him lost a friend as well as an employer with the death Saturday of Ed Critchlow.

Today's journalism schools with their emphases on combination journalism-business degrees or media law don't produce many such editors and publishers in his vein. He was one of the breed who truly saw his community newspaper as a community trust and whose version of journalistic activism was doing what he felt was in the best interest of Union City and Obion County.

He was a man who believed in giving young people a chance. I know. He gave me mine, even as I called him Mr. Critchfield the day I walked in off the street and told him I was a writer. I'm not sure he believed me but he was willing to spend some time and money to find out. That was 20 years ago.

Mr. Critchlow left most of the nuts-and bolts teaching to Bill King but it was from him that I drew my inspiration. He was a newspaperman's newspaperman, determined to get it first and get it right. He told me over and over again that the only way I would ever succeed in this business was if I was enthusiastic and exicited. He instilled that excitement in me to the point my heart still skips a beat every time I hear a siren.

His most-oft repeated advice to me was. "To be a good newspaperman, you've got to cover the waterfront."

Though nearing 70 when he hired me, he still worked the Associated Press wire stories, wrote headlines and dummied out the front page every day. And he left no doubt that he was the editor.

One day when felt I had moved from questioning to learn to questioning his judgment, he grabbed one of his ever-present suspenders, leaned back, and roared, "By gosh, I don't have to have a reason; I own this newspaper." Assurred I was properly chastised, he than took the time to explain why he had handled the story as he had.

I felt he had finally accepted me the day I got the coveted invitation to join him, Bill and ad manager Arthur Melton for coffee. I don't think an invitation to meet the president would have thrilled me any more than for Mr. Critchlow to invite me to go along. "Bill you ready, Arthur, you ready? Preacher." as he called me in reference to my part-time ministry role, "you ready?" was a real morale builder.

When we moved to the present plant, we had our own coffee room—and somehow it was never the same. But I would have traded a raise in salary for those invitations if he had asked me to.

I used to think he was excited as I was when I came up with what I though was a big story. But he was a good enough newsman that he always punched the proper holes in it to make sure I had it solid and that I had it right.

He carried me to play my first round of golf, laughing his warm and hearty laugh at my feeble efforts. He fussed at me more than once for my mistakes. He was a friend when I needed advice. He helped me make more than a few major decisions in my life.

Though he retired fairly early in my career with the Messenger, his health failing soon after, I won't forget him giving me that much-needed chance. And as long as I get to stay in this business, I won't forget to cover the waterfront.

IN HONOR OF THE 60TH ANNIVERSARY OF ST. SYMPHOROSA PARISH

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. LIPINSKI. Mr. Speaker, I rise to honor and recognize the parish of St. Symphorosa as it celebrates its 60th anniversary and jubilee.

On June 2, 1927, Cardinal Mundelein appointed the Reverend J. Leo Sharp to serve the Chicago district of Clearing and organize the parish of St. Symphorosa and Her Seven Sons. The parish officially began its service with a mass on June 18, 1927, at 6147 Mason Avenue in Chicago which was attended by 90 adults and children.

Since those humble beginnings long ago, St. Symphorosa has continued to grow and faithfully serve its parishioners and the Chicago community at large. St. Symphorosa has, as a religious institution, also been an important stabilizing force as the community dealt with the many changes which have occurred in our world over the past 60 years.

I am sure my colleagues join me in congratulating the members of St. Symphorosa Parish on this historic occasion, thanking them for their essential contributions to the community, and wishing them all the best in the future.

TRIBUTE TO NEW YORK CITY'S DEPARTMENT FOR THE AGING: 20 YEARS OF SERVICE TO MILLIONS OF NEW YORK'S ELDERLY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. BIAGGI. Mr. Speaker, on April 28, 1988, the New York City Department for the Aging, located in the heart of New York City, proudly celebrated with proper fanfare a historic occasion in its history—its 20th anniversary. I am pleased and privileged to share this event and this occasion with you, and I know you will join me in wishing them hearty congratulations.

As an original member of the House Select Committee on Aging, but also as the U.S. Representative serving the 19th Congressional District of New York, I am especially proud of the work done by the department. I have had hundreds of occasions to work with the department throughout the course of my career in Congress, which also spans 20 years; and I have seen it become a successful and precious operation that benefits New York's 1.3 million elderly people. Under the leadership of its past Commissioner Alice Brophy, Deputy Commissioner Roberta Spohn and its current Commissioner Janet Sainer, the New York City Department for the Aging has emerged a national leader in the field of aging, and in the area of innovative and effective aging projects geared to benefit the elderly.

Commissioner Sainer has been the impetus behind the department's success stories for the past 10 years that she served as its commissioner. She has brought much positive change to the department through hands-on experience and due to her 33 years devoted to the field of aging. Commissioner Sainer is a well-known and highly respected authority around the Nation in issues affecting the elderly; she has appeared on numerous occasions before the House Select Committee on Aging as a key witness, and I am honored to have her not only as a colleague in the world of aging, but also as a close friend. She is an elegant, energetic, and self-driven individual for whom I have the utmost respect and admiration.

I would like to share with you some of the history of the department, because I think it is essential to this historic occasion. Twenty years ago, the city of New York established a mayor's office for the aging with a small demonstration project grant from the Federal Administration on Aging. Its first undertaking was a research study of inner-city elderly which sought to determine who the urban elderly were, where they lived, what their needs were, and what factors were key to contributing to the quality of their lives. This served the agency as a base from which to construct future programs and services for elderly New Yorkers. Since those days, the New York City Department for the Aging has been a central data source on the aging, providing documentation for planning and advocacy efforts on behalf of the elderly. Title IV of the Older Americans Act did much to enable the department to carry out the early tradition of providing research and analysis to help shape policy beneficial to elderly constituents.

With the creation of title IIIB and IIIC of the Older Americans Act in the early 1970's, the department for the aging was able to develop a major congregate meals program in underserved and unserved areas of the city, launch for the first time home-delivered meals for elderly shut-ins, and in general expand its supportive service activities citywide. Particular emphasis was placed on expanding information and referral capabilities, outreach and advocacy for the elderly as well as legal services, homecare and transportation.

In 1975, the mayor's office for the aging was officially designated a department of New York City government and thus was renamed the New York City Department for the Aging by Mayor Abraham Beame. It had 2 years earlier, been designated the Area Agency on Aging for older New Yorkers. Today the department is one of the largest of the Nation's network of 667 area agencies on aging.

Over the years, funding through the Older Americans Act has helped to broaden the national aging network and to expand services for older Americans. The New York City Department for the Aging built upon this important initial Federal support, receiving as the years went on, additional resources from New York State, the city and the private sector to help address the growing needs of an ever changing aging population.

I am happy to report that as the New York City Department for the Aging celebrates this historic anniversary, it can proudly report that it continues to fund a wide reaching nutrition program, conducts a major employment program for low income elderly, administers the Foster Grandparent Program and has initiated a number of programs especially designed to fill crucial service gaps for the elderly.

In fact, the department has seen the value and benefit of combining funds from multiple sources, but also of forging new public private and voluntary sector partnerships to meet growing demands. Department programs which have a base in such mergings are City Meals on Wheels, a nutrition program which provide hundreds of thousands of additional meals to the homebound elderly, picking up where the Government funds for five meals a week leave off; Health Promotion Services, which originated in response to nationwide evidence that many chronic conditions found in later years are related to poor nutrition, smoking, lack of regular exercise and noncompliance with medical regiments; the Partnership for ElderCare, a program for working caregivers of older relatives; a Hispanic Enhancement Program, which reaches out to the city's Spanish speaking elderly; the Intergenerational Work Study Program designed as a dropout prevention program for teenagers that combines training and work experience with the elderly, and of course, the New York City Alzheimer's Resource Center, which is near and dear to my heart. The center, which was established in 1984, serves over 70,000 New Yorkers who are victims of the debilitating Alzheimer's disease as well as offers of support services to the family members of these victims. The center is an active and extremely successful operation which, under the excellent leadership of its executive director, Dr. Randi Goldstein, is the first municipally funded agency of its kind in the Nation. The resource center was the first center to introduce free legal and financial planning for long-term incapacity, and shows promise of having an extremely bright future.

The New York City Department for the Aging should take great pride and pleasure in its outstanding record of service to New York's seniors. The ceremony which was held on April 28 at New York's City Hall brought together many who have worked with and for the department and whose very lives revolve around its success. There were so many who were recognized as the department's anniversary publication, a 50-page book describing the history and services of the department was presented and as proclamations in honor of the occasion were unfurled and read. In attendance were Mayor Ed Koch, and former Mayor Abraham Beame, New York State Office for the Aging Director, Dr. Eugene Callender, who has provided much support and cooperation to the department, the Honorable David Dinkins, borough president of Manhattan, and Harrison J. Goldin, the comptroller of New York City. In addition, the 200-plus audience was entertained by the sounds of the Bethune Big Band, made up entirely of musically talented seniors and the Tapping Seniors of Central Harlem, a most unique group of senior tapdancers.

Last but certainly not least, I would like to take this opportunity to recognize some of the people who have been instrumental in the department's 20 years of success. In addition to the previously mentioned Commissioner Sainer and Deputy Commissioner Roberta Spohn; Dr. Betty Bernstein, legislative analyst; Mary Mayer, director of research and planning; Valerie Levy, director of minority affairs; Eltima Maharaj, director of the Half-Fare Program; Lynn Harris, special secrectary to the commissioner; Elba Carmone, director of information and referral; Helene Wolff, director of public affairs; Leane Cheek, associate director of public affairs; the numerous directors of the senior centers throughout the New York City metropolitan area and the senior citizens themselves, who make up 18.7 percent of the great city of New York's total population, and who are among some of most active and socially aware citizens in the United States.

As the New York City Department for the Aging launches its 21 year, I wish them continued success and prosperity, and I salute them for their commitment toward enhancing the quality of life for the elderly of New York now and the years to come. As we celebrate May as "Older Americans Month," we also celebrate "New York City Department for the Aging—20 years of Service."

NEW MEXICO HERITAGE PRESERVATION AWARDS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. RICHARDSON. Mr. Speaker, I want to bring to the attention of my colleagues the fine and important work being conducted by the New Mexico Office of Cultural Affairs and several outstanding New Mexicans to preserve the historic and cultural heritage of the Southwest. On May 6, 1988, I had the honor of attending the banquet for the New Mexico Heritage Preservation Awards in Santa Fe, NM. All New Mexicans are fully aware and proud of the Spanish, Indian and Anglo cultures which give New Mexico a unique heritage. I want to congratulate the award winners listed below, as well as the Cultural Properties Review Committee and the Office of Cultural Affairs, for their efforts to preserve our great heritage for present and future generations.

NEW MEXICO HERITAGE PRESERVATION AWARDS

To Ira Clark, of La Mesilla, for his extensive research on water use, development, conservation and exploitation, culminating in his book "Water in New Mexico." This book discusses the importance of water resources to the development of the New Mexico, as we now know it.

To Goody Taylor, owner, and Stevens, Mallory, Pearl and Campbell, Architects, for the sensitive renovation of the Hotel St. Francis, Santa Fe.

To Dr. John P. Wilson, Las Cruces, for his historical research on Lincoln County, resulting in his book, "Merchants, Guns and Money—The Story of Lincoln County and Its Wars."

To Dr. Marjorie Lambert of Santa Fe, for more than 50 years of commitment to the archaeology and ethnohistory of New Mexico.

To Timothy Maxwell and Linda Tigges of Santa Fe, for efforts in establishing Santa Fe's Archaeological Preservation Ordinance. This is the first effort by a local government in New Mexico to establish an ordinance to protect local archaeological resources.

To the New Mexico Community Foundation for their efforts to preserve the historic churches throughout New Mexico.

To the Rail Planning Projects Bureau, New Mexico State Highway and Transportation Department for their efforts to preserve historic railroad stations in Las Vegas, Raton and Gallup.

To the Friends of the Albuquerque Petroglyphs [FOTAP], for efforts to preserve and expand public knowledge and appreciation of the petroglyphs of Albuquerque's West Mesa.

To Tommy Bolack, of the B Square Ranch, Bloomfield, for efforts to preserve the significant archaeological resources on the B Square Ranch.

To the City of Albuquerque Advance Planning Division, the Open Space Division and The West Mesa Escarpment Open Space Task Force Committee, in recognition of the preparation of the West Mesa Escarpment Plan and revisions to the Albuquerque Comprehensive Plan, dealing with the preservation of cultural resources.

To Peggy Stokes, formerly of Roswell, and member of the Chaves County Historical Society, in recognition of her efforts to foster appreciation of the historical resources of Chaves County.

To the Albuquerque Tribune, in recognition of their extensive coverage and support of cultural resource issues in the Albuquerque area and throughout New Mexico.

CULTURAL PROPERTIES REVIEW COMMITTEE

Chairman—Patrick H. Beckett, Archaeologist, Publisher, Researcher Las Cruces.

Vice-Chairman—Dr. Joseph Sanchez, Historian, Albuquerque.

Edith Cherry, Architect, University Professor, Albuquerque.

Ed Mazria, Architect, Santa Fe.

Dr. Phillip Shelley, Anthropologist, Portales.

Dr. Rina Swentzell, Architectural Historian, Santa Fe.

Robert Torrez, State Historian, Santa Fe.

OFFICE OF CULTURAL AFFAIRS

Helmuth J. Naumer—Cultural Affairs Officer.

Thomas W. Merlan—State Historic Preservation Officer.

Dr. Lynne Sebastian—Deputy Director, Historic Preservation Division.

PIONEER PRESS-DISPATCH PROVIDES SOUND ADVICE ON ARCTIC REFUGE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. VENTO. Mr. Speaker, Congress is currently debating the recommendations of the Reagan administration to open to oil and gas leasing the environmentally and ecologically priceless coastal plain portion of the Arctic National Wildlife Refuge in Alaska.

Many of us who participated in the debates prior to enactment in 1980 of the Alaska National Interest Lands Conservation Act continue to believe that the House was right when it twice voted to designate that area as wilderness, so that oil and gas leasing would be precluded. In support of that, I have joined Chairman UDALL of the Interior Committee as a cosponsor of H.R. 39, which would provide such a designation for the coastal plain.

On May 22, the Pioneer Press-Dispatch newspaper in St. Paul, MN, provided sound advice concerning this matter. In reviewing the arguments advanced in support of leasing, the editorial says that while initially they appeared persuasive, they "melt under closer scrutiny." The editorial concludes that, "Rather than pin its energy future on Arctic permafrost and caribou, America should begin to develop the inexhaustible supplies of renewable energy it will need in the soon-to-be-here next century. Congress should reject the oil industry's request to drill in the wildlife refuge's coastal plain region."

Mr. Speaker, I agree, and for the benefit of our colleagues, I am attaching the full text of the editorial referred to.

[From the St. Paul Pioneer Press-Dispatch, May 22, 1988]

DRILLING IN ALASKA: U.S. SHOULD DEVELOP OTHER ENERGY SOURCES

In 1980, Congress defined the borders and set the rules for the Arctic National Wildlife Refuge, a 19-million-acre parcel of rugged land lying along the northeastern coast of Alaska. Since then, the oil industry has been working hard to convince Washington to permit drilling in the refuge's 1.5-million-acre coastal plain region.

Initially, the industry's arguments appeared persuasive: The site is promising, domestic oil production is needed to help reduce reliance on imported oil and ANWR's fields can be tapped without harming the fragile arctic environment.

However, the industry's claims melt under closer scrutiny.

Chances of finding any oil are less than one in five. And if significant fields are discovered, they would furnish less than 2 percent of U.S. oil consumption over the life of the fields. The nation could do better by simply reducing auto gas consumption by an average of two miles a gallon.

Earlier this month, the industry's environmental claims received a severe blow when the New York Times published the results of a U.S. Fish and Wildlife Service study on the environmental damage caused by development around Prudhoe Bay, located just west of the refuge, and the Trans-Alaska Pipeline.

According to the report, environmental damage has been significantly greater than envisioned before the project began 16 years ago. The report found that:

About 11,000 acres of vegetation used by wildlife—roughly double the prediction—have been destroyed.

Most bird species have declined in population.

While the number of caribou in the Central Arctic herd has increased, the number of bears, wolves and other predators has declined. In addition, new roads and increased air traffic have opened the area to more hunting pressure, which has reduced the number of other large mammals.

Sedimentation, erosion and oil spills have damaged both the quality and quantity of North Slope freshwater supplies more frequently and more severely than expected. And while the impact statement made no mention of fresh water uses, the industry now consumes more than 200 million gallons of fresh water a year.

Expansion of oil production into the Arctic Ocean has damaged marine water quality. Moreover, the decline in fish populations has been far greater than expected.

"Intensive" pesticide spraying has created unforeseen pollution problems.

Crude oil has driven the world's economies for nearly a century. But supplies are running out. The long-term solution is not to risk everything in a frantic race to find the last drops of recoverable crude. Rather than pin its energy future on arctic permafrost and caribou, America should begin to develop the inexhaustible supplies of renewable energy it will need in the soon-to-be-here next century. Congress should reject the oil industry's request to drill in the wildlife refuge's coastal plain region.

HOUSING POLICY IN THE NINETIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, May 25, 1988, into the CONGRESSIONAL RECORD:

HOUSING POLICY IN THE NINETIES

Housing has been an American success story. Decent housing is now available to the vast majority of our citizens. Since 1940 the share of housing rated by the Census Bureau as inadequate has dropped from 40% to 50%. In 1940 half of the nation's housing units had no plumbing or heating, while today nearly all of our housing meets these minimum standards. We now have more than 100 million homes in America, and our housing stock is estimated to be worth $5 trillion. The impact of housing and its related industries on the entire economy cannot be overestimated.

Yet the vital signs for housing today indicate disturbing trends. Owning a home has always been an integral part of the American dream. But the housing dream is fading for millions of Americans. The percentage of Americans who own homes has been declining since 1980 after 35 years of steady increases. In many parts of the country, homes are becoming less and less affordable because prices have risen faster than incomes. By one estimate, less than ⅓ of all potential homebuyers today are able to afford a median-priced home. The sharpest drop in homeownership has been in the Midwest.

The nation is also not providing well for lower-income families. Only one-quarter of the very poor are being assisted by existing housing programs, such as Department of Housing and Urban Development (HUD) subsidies. Rental housing that is safe, decent, and affordable is becoming ever more scarce. The homeless are becoming more visible as their numbers increase. Virtually no one who has carefully examined the housing situation in America today believes that the needs of the nation's poor, and increasingly of the middle class, are being met.

The Reagan Administration's housing policy has generally been to cut funding for all housing programs, increasing assistance in the form of rent vouchers while decreasing funds for construction and renovation subsidies. Federal housing programs have suffered a disproportionate amount of domestic spending cuts during the 1980's. Funding for HUD programs dropped by 75% over the past decade, to $7.5 billion last year.

The federal government also provides some $55 billion annually in tax breaks for housing, to ease the cost of homeownership on individuals as well as to encourage rental housing. The mortgage interest deduction alone now costs the treasury $31 billion a year in income taxes foregone. Some changes were made in the 1986 Tax Reform Act to scale back real estate tax incentives, primarily for investors, in exchange for lowering overall tax rates.

More attention has been paid recently to the housing needs of low-income Americans. Last year the Congress passed its first major housing bill since 1979. It doubles the number of needy families receiving HUD subsidies, and steps up efforts to renovate deteriorating public housing. The Congress also provided $280 million in emergency housing assistance to the homeless. These are modest efforts compared to the nation's needs, but they do signify that housing is starting to receive greater attention.

My view is that the nation must renew its commitment to decent and affordable housing of all kinds. We must make housing a higher priority on the national agenda. Given the magnitude of the problem, it is clear that the solution will require great flexibility and broad participation. The effort cannot rest solely on federal spending but will require the participation of state and local governments, non-profit and for-profit sectors, and religious and community organizations. Subsidies from the federal government are needed, but a realistic eye has to be kept on the federal deficit. Non-profit organizations are skillful at rehabilitating housing, but on a farily modest scale. Developers make good use of local tax incentives and innovative zoning laws, but it is difficult for them to assist the very poor and the homeless.

A partnership must be formed involving Washington, state and local governments, developers, financial institutions, and community groups. The federal government should provide assistance in the form of seed money which other partners can leverage to produce far more housing than Washington alone can afford. A national housing task force recently recommended a $5 billion program of federal funds and matching state money to upgrade and expand low-income housing.

I am encouraged by the many innovative programs developed by states and localities faced with sharp cuts in federal housing assistance. They have learned how to cut construction and labor costs, and to finance projects through public-private partnerships. From 1980-1987, state governments created 112 housing programs, compared with 44 state-run efforts established in all prior years. These programs are providing an important new source of low-income housing.

Other proposals are aimed at making homeownership more accessible. They include authorizing federal agencies such as FHA and VA to insure larger mortgages and more adjustable-rate mortgages and to allow smaller down payments. We should continue to experiment with the sale of public housing to tennants. The federal government could also support community development banks providing below-rate, private financing for moderate-income buyers. Another suggestion is to permit individuals to use their tax-exempt IRA or 401(k) savings to buy homes.

The overall success of federal housing policy over the last half century are evident. Yet it is also clear that many needs are not being met. Cuts over the past decade have severely limited housing opportunities for many Americans, but they have also forced us to reevaluate and improve existing progams, and to develop better and more broadly based programs for the nineties. Housing in America is not just a shelter, an asset, or where we happened to live; it represents who we are and what our valves are. Decent housing for all Americans is an important social policy goal that we should all care about.

THE WAY TO MARS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. BROWN of California. Mr. Speaker, I want to commend to my colleagues' attention a special full-page advertisement by the Planetary Society in today's Washington Post, titled "The Way to Mars." With this advertisement, the Planetary Society sends a bold message to President Reagan as he leaves for the summit talks in Moscow. The United States and the Soviet Union can work together on space missions, and Soviet leader Mikhail Gorbachev has recently proposed cooperation in the unmanned exploration of Mars. This joint activity can be a powerful symbol of our Nations' willingness to suspend differences in the pursuit of a common goal.

The Planetary Society makes the convincing argument for joint exploration of the Red Planet beginning with unmanned projects and ultimately leading to joint manned missions. I sincerely believe that much of the credit for a possible cooperative agreement on Mars missions at the summit must go to the Planetary Society's president, Dr. Carl Sagan. He has has been a leading and outspoken advocate of such cooperation for several years. The Planetary Society's Mars declaration initiative has served both to educate the public and to generate broad-based support for joint United States and Soviet missions to Mars. This initiative is truly an act of peace.

Mr. Chairman, at this time I would request that the text of the "The Way to Mars" advertisement from today's Washington Post be inserted in the RECORD.

[Advertisement from The Washington Post, May 26, 1988]

THE WAY TO MARS

We have before us a historic opportunity to fulfill an ancient dream, to help preserve this world and to venture forth to another.

The Planetary Society is the largest space-interest group in the world. For the last four years it has advocated Mars as the principal long-term goal for the U.S. and Soviet space programs—robotic exploratory missions and long-duration human space flight, leading to the epochal first landing of humans on another planet. Since then the moribund U.S.-Soviet Space Cooperation Agreement has been renewed; U.S. scientists will work on the forthcoming Soviet Phobos mission, and Soviet scientists will work on the U.S. Mars Observer mission, and three bills are now before the U.S. Congress setting the goal of human exploration of Mars and encouraging US-USSR cooperation toward that goal.

General Secretary Gorbachev has just explicitly called for a joint U.S.-Soviet unmanned mission of discovery to Mars-important for its scientific harvest; for its potential to bring the two nations together in a great common enterprise; and, along with other robotic missions as a necessary precursor for joint human voyages to Mars early in the 21st century. Mars has now entered the realm of discourse between heads of government.

The Mars Goal has captured the imagination of a strikingly diverse group of American leaders who have signed The Planetary Society's Mars Declaration (below). It includes liberals and conservatives, Democrats and Republicans; Army, Navy, Air Force and Marine general and flag officers, and leaders of peace groups; astronauts and religious leaders; labor and industry executives; politicians and poets; Nobel Laureates and sports figures; ambassadors, university presidents, and former presidential science advisors; former cabinet and sub-cabinet members; and every former Administrator of the National Aeronautics and Space Administration since its founding, except the present incumbent.

THE MARS DECLARATION

Mars is the world next door, the nearest planet on which human explorers could safely land. Although it is sometimes as warm as a New England October, Mars is a chilly place, so cold that some of its thin carbon dioxide atmosphere freezes out at the winter pole. There are pink skies, fields of boulders, sand dunes, vast extinct volcanos that dwarf anything on Earth, a great canyon that would cross most of the United States, sandstorms that sometimes reach half the speed of sound, strange bright and dark markings on the surface, hundreds of ancient river valleys, mountains shaped like pyramids and many other mysteries.

Mars is a storehouse of scientific information—important in its own right but also for the light it may cast on the origins of life and on safeguarding the environment of the Earth. If Mars once had abundant liquid water, what happened to it? How did a once Earthlike world become so parched, frigid and comparatively airless? Is there something important on Mars that we need to know about our own fragile world?

The prospect of human exploration of Mars is ecumenical—remarkable for the diversity of supporting opinion it embraces. It is being advocated on many grounds:

As a potential scientific bonanza—for example on climatic change, on the search for present or past life, on the understanding of enigmatic Martian landforms, and on the application of new knowledge to understanding of our own planet.

As a means, through robotic precursor and support missions to Mars, of reviving a stagnant U.S. planetary program.

As providing a coherent focus and sense of purpose to a dispirited NASA for many future research and development activities on an appropriate timescale and with affordable costs.

As giving a crisp and unambiguous purpose to the U.S. space station—needed for inorbit assembly of the interplanetary transfer vehicle or vehicles, and for study of long-duration life support for space travelers.

As the next great human adventure, able to excite and inspire people of all ages the world over.

As an aperture to enhanced national prestige and technological development.

As a realistic and possibly unique opportunity for the United States and the Soviet Union to work together in the spotlight of world public opinion, and with other nations, on behalf of the human species.

As a model and stimulant for mutually advantageous U.S./Soviet cooperation here on Earth.

As a means for economic reconversion of the aerospace industry if and when massive reductions in strategic weapons—long promised by the United States and the Soviet Union—are implemented.

As a worthy application of the traditional military virtues of organization and valor to great expeditions of discovery.

As a step towards the long-term objective of establishing humanity as a multi-planet species.

Or simply as the obvious response to a deeply felt perception of the future calling.

Advances in technology now make feasible a systematic process of exploration and discovery on the planet Mars—beginning with robot roving vehicles and sample return missions and culminating in the first footfall of human beings on another planet. The cost would be no greater than that of a single major strategic weapons system, and if shared among two or more nations, the cost to each nation would be still less. No major additional technological advances would be required, and the step from today to the first landing of humans on Mars appears to be technologically easier than the step from President John F. Kennedy's announcement of the *Apollo* program on May 25, 1961 to the first landing of humans on the Moon on July 20, 1969.

We represent a wide diversity of backgrounds in the fields of sciences, technology, religion, the arts, politics and government. Few of us adhere to every one of the arguments listed above, but we share a common vision of Mars as a historic, constructive objective for the technological ambitions of the human species over the next few decades.

We endorse the goal of human exploration of Mars and urge that initial steps toward its implementation be taken throughout the world.

(Partial list of signatories)[*]

Carl Sagan, Director, Laboratory for Planetary Studies, Cornell University.

Bruce Murray, Former Director, NASA/Caltech, Jet Propulsion Laboratory.

Thomas O. Paine, Chairman, The President's National Commission on Space, Former Administrator, NASA.

Neil Armstrong, Buzz Aldren, Michael Collins, Appollo II Crew First Manned Lunar Landing.

Diane Ackerman, Poet and Author.

Bill G. Aldridge, Executive Director, National Science Teachers Assn.

Joseph P. Allen, Shuttle Astronaut.

Luis W Alvarez, Nobel Laureate, Physics.

Jack Anderson, Syndicated Columnist.

Christian Anfinsen, Nobel Laueate, Chemistry.

Harry Ashmore, Pulitzer Prize, Journalism.

Isaac Asimov, Author.

Morton Bahr, President, Communications Workers of America, AFL–CIO.

David Baltimore, Nobel Laureate, Medicine.

Lawrence Barker, Jr., President, LSB Leakey Foundation.

Alan Bean, Apollo and Skylab Astronaut.

Steven C. Beering, President, Purdue University.

James Beggs, Former Administrator, NASA.

Lucy Wilson Benson, Former National President, League of Women Voters, Former Undersecretary of State.

Richard Berendzen, President, American University.

Hans A. Bethe, Nobel Laureate, Physics.

Baruch Blumberg, Nobel Laureate, Medicine.

Daniel J. Boorstin, Librarian of Congress Emeritus.

Norman Borlaug, Nobel Laureate, Peace.

Frank Borman, Apollo Astronaut, Vice Chairman and Director, Texas Air Corporation.

Richard L. Bowen, President, Idaho State University.

Ernest L. Boyer, President, The Carnegie Foundation for the Advancement of Teaching.

Ray Bradbury, Author.

Tom Bradley, Mayor, City of Los Angeles.

George E. Brown, Member of Congress, California

John Lott Brown, President, Univ. of South Florida.

E. Margaret Burbidge, Director, Center for Astrophysics and Space Sciences, University of California, San Diego; Former President, American Assn. for the Advancement of Science.

Anthony J. Calio, Former Administrator, National Oceanic and Atmoshpheric Admin.

Melvin Calvin, Nobel Laureate, Chemistry.

A.G.W. Cameron, Professor of Astronomy, Harvard University; Former Chairman, Space Science Board, National Academy of Sciences.

Scott Carpenter, Mercury Astronaut.

Johnny Carson, Talk Show Host, NBC.

Jimmy Carter, Former President of the United States.

Raul H. Castro, Former Governor of Arizona; Former U.S. Ambassador.

Franklin Ramon Chang-Diaz, Shuttle Astronaut.

Warren Christopher, Former Deputy Secretry of State.

Henry G. Cisneros, Mayor, San Antonio, Texas.

John F. Clark, Vice President for Public Policy, American Institute of Aeronautics and Astronautics.

Arthur C. Clarke, Author.

Stephen F. Cohen, Professor of Politics, Princeton University.

William E. Colby, Former Director, Central Intelligence Agency.

Paul Coleman, President, Universities Space Research Association.

Charles Conrad, Jr., Apollo and Skylab Astronaut.

Gordon Cooper, Mercury and Gemini Astronaut.

Robert S. Cooper, Former Director, Advanced Research Projects Agency, Department of Defense.

Norman Cousins, Author.

Walter Cronkite, CBS News Special Correspondents.

Gerard Debreu, Nobel Laureate, Economics.

Federick B. Dent, Former Secretary of Commerce, Former U.S. Special Trade Representative.

John Denver, Composer.

John DiBiaggio, President, Michigan State Univ.

Hugh Downs, Host ABC News 20/20; Chairman, National Space Society.

Frank Drake, Dean, College of Natural Sciences, Univ. of California, Santa Cruz.

Sidney D. Drell, Former President, American Physical Society.

Richard Dreyfuss, Actor.

Robert F. Drinan, S.J., Former President, Americans for Democratic Action.

Ann Druyan, Writer, Producer.

Joseph Duffey, Chancellor, University of Massachusetts; Former Chairman, National Endowment for the Humanities.

Charles M. Duke, Jr., Brig. Gen., USAF, Ret.; Apollo Astronaut.

Bonnie J. Dunbar, Shuttle Astronaut.

Freeman J. Dyson, Institute for Advanced Study, Princeton.

Sylvia A. Earle, Research Biologist.

Donn F. Eisele, Apollo Astronaut; Vice President, Prudential Bache Securities.

Susan Eisenhower, President, The Eisenhower World Affairs Institute.

Farouk El-Baz, Director, Center for Remote Sensing, Boston University.

Ronald Evans, Apollo Astronaut.

John Fabian, Former Director of Space Programs, HQ USAF; Shuttle Astronaut.

Maxime A. Faget, President, Space Industries, Inc.

Richard P. Feynman, Nobel Laureate, Physics.

George Field, Professor of Astronomy, Harvard University.

Daniel J. Fink, Former Chairman, Space Applications Board, National Academy of Engineering.

Val L. Fitch, Nobel Laureate, Physics; Pres., American Physical Society.

William H. Fitch, Lt. Gen., US Marine Corps, Ret.

William A. Fowler, Nobel Laureate, Physics.

John Hope Franklin, James B. Duke, Prof. of History, Duke University.

Herbert Friedman, U.S. Naval Research Laboratory, Emeritus.

Louis Friedman, Executive Director, The Planetary Society.

Robert A. Frosch, Former Administrator, NASA; Vice President for Research, General Motors Corporation.

Don Fuqua, President, Aerospace Industries Association of America, Inc.

John Gardner, Founder, Common Cause.

Jake Garn, U.S. Senator, Utah.

Noel Gayler, Admiral, U.S. Navy, Ret.; Former Director, National Security Agency.

Murray Gell-Mann, Nobel Laureate, Physics.

Alan Geyer, Professor of Political Ethics, Wesley Theological Seminary.

Robert R. Gilruth, Former Director, NASA Project Mercury.

Donald A. Glaser, Nobel Laureate, Medicine.

T. Keith Glennan, Former NASA Administrator.

Joseph Goldstein, Nobel Laureate, Medicine.

Andrew J. Goodpaster, General, U.S. Army, Ret.; Former Commander, NATO.

Richard F. Gordon, Jr., Gemini and Apollo Astronaut.

Stephen Jay Gould, Professor of Geology, Harvard University.

Jerome Grossman, President, Council for a Livable World.

Norman Hackerman, President Emeritus, Rice Univ.; Former Chairman, National Science Board.

Fred N. Haise, Apollo and Shuttle Astronaut; President, Grumman Space Station Division.

Evelyn E. Handler, President, Brandeis University.

Herbert A. Hauptman, Nobel Laureate, Chemistry.

James Head, Prof. of Geology, Brown University.

Jim Henson, Creator of the Muppets.

Rev. Theodore M. Hesburgh, President Emeritus, University of Notre Dame.

Howard H. Hiatt, Former Dean, School of Public Health, Harvard University.

Earl D. Hilburn, Former President, Western Union.

Carl N. Hodges, Director, Environmental Research Laboratory, Univ. of Arizona.

Roald Hoffman, Nobel Laureate, Chemistry.

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[*] Affiliations for identification purposes only.

James Holderman, President, Univ. of South Carolina.

Robert W. Holley, Nobel Laureate, Medicine.

Shirley M. Hufstedler, Attorney, Former Federal Judge, and Former Secretary of Education.

Donald Hunten, Professor of Planetary Sciences, University of Arizona.

James B. Irwin, Appllo Astronaut.

Edward H. Jennings, President, The Ohio State Univ.

George W. Johnson, President, George Mason University.

John A. Johnson, Former Chairman and C.E.O., Communications Satellite Corp. (COMSAT).

James Earl Jones, Actor.

Quincy Jones, Composer.

Henry W. Kendall, Professor of Physics, M.I.T.; Chairman, Union of Concerned Scientists.

Donald Kennedy, President, Stanford University.

Joseph P. Kerwin, Skylab Astronaut.

Vera Kistiakowsky, Prof. of Physics, M.I.T.

James R. Killian, Jr., Former Science Adviser to President Eisenhower; Former President and Chairman, M.I.T.

Jeane J. Kirkpatrick, Former U.S. Ambassador to the United Nations.

Ray Kline, President, National Academy of Public Administration.

Foy D. Kohler, Former U.S. Ambassador to the Soviet Union.

Louis L'Amour, Author.

Gene LaRocque, Rear Admiral, U.S. Navy, Ret.; Chairman, Center for Defense Information.

Donald N. Langenberg, Chancellor, University of Illinois at Chicago.

Ursula K. LeGuin, Author.

Byron Lichtenberg, Shuttle Astronaut; President, Payload Systems Inc.

Peter Likins, President, Lehigh University.

John M. Logsdon, Director, Space Policy Institute, George Washington University.

Jon Lomberg, Artist.

Jack Lousma, Skylab and Shuttle Astronaut.

James A. Lovell, Gemini and Apollo Astronaut.

Bernard Lown, President, International Physicians for the Prevention of Nuclear War (Nobel Peace Prize).

George Lucas, Chairman, Lucasfilm Ltd.; Executive Producer, Star Wars trilogy.

Richard W. Lyman, President, The Rockefeller Foundation.

Barry Mano, President, National Assn. of Sports Officials.

Hans Mark, Chancellor, University of Texas System; Former Secretary of the Air Force.

Spark M. Matsunaga, U.S. Senator, Hawaii.

Thomas Mattingly, Apollo & Shuttle Astronaut; Rear Admiral, U.S. Navy.

William J. McCune, Jr., Chairman of the Board, Polaroid Corporation.

James A. McDivitt, Brig. General, USAF, Ret.; Apollo Astronaut.

John L. McLucus, Chairman, U.S. Commission/International Space Year; Former Secretary of the Air Force.

Bruce Merrifield, Nobel Laureate, Chemistry.

James Michener, Author.

G. William Miller, Former Chairman, Federal Reserve Board.

Marvin Minsky, Professor of Science, M.I.T.; Founder, Artificial Intelligence Laboratory, M.I.T.

Edgar D. Mitchell, Apollo Astronaut.

David Morrison, Chairman, Solar System Exploration Committee; NASA Advisory Council.

Bradford Morse, Former Administrator, United Nations Development Program.

Gerald J. Mossinghoff, President, Pharmaceutical Manufacturers Association.

George E. Mueller, Former NASA Associate Administrator, Manned Space Flight.

Daniel Nathans, Nobel Laureate, Medicine.

John E. Naugle, Former NASA Associate Administrator for Space Science.

Paul Newman, Actor and Director.

Edmund F. O'Connor, Lt. Gen, USAF, Ret.

Eleanor Holmes Norton, Former Chair, U.S. Equal Employment Opportunities Commission; Professor of Law, Georgetown Univ.

Severo Ochoa, Nobel Laureate, Medicine.

Glenn Olds, President, Fetzer Foundation.

Paul Olum, President, University of Oregon.

Tobias Owen, Professor of Astronomy, State University of New York.

Joseph V. Paterno, Head Football Coach, Pennsylvania State University.

Linus Pauling, Nobel Laureate, Chemistry; Nobel Laureate, Peace.

Rev. Norman Vincent Peale, Author.

Gregory Peck, Actor.

Chase N. Peterson, President, University of Utah.

Esther Peterson, Consumer Advocate.

Russell W. Peterson, Former Chairman, U.S. Council on Environmental Quality.

Rocco A. Petrone, President, Space Transportation Systems Division, Rockwell International, Inc.

William Pickering, Former Director, NASA/Caltech Jet Propulsion Laboratory.

Sidney Poitier, Actor, Director.

Rev. Avery D. Post, President, United Church of Christ.

Bruce R. Poulton, Chancellor, North Carolina, State University.

Simon Ramo, Director Emeritus, TRW Inc.

Eberhardt Rechtin, President and C.E.O., The Aerospace Corporation.

Eberhard F.M. Rees, Former Director, Marshall Space Flight Center, NASA.

Roger Revelle, Former President, American Assoc. for the Advancement of Science.

Frank H.T. Rhodes, President, Cornell University, Chairman, American Council on Education.

Elliot Richardson, Former U.S. Attorney General; Chairman, United Nations Association of the U.S.

S. Dillon Ripley, Secretary Emeritus, Smithsonian Institution.

Charles Robb, Former Governor, Virginia.

Walter Orr Roberts, Director Emeritus, National Center for Atmospheric Research.

Gene Roddenberry, Executive Producer, Star Trek.

Herbert J. Rowe, Senior Vice President, Electronic Industries Assn.

Vera C. Rubin, Astronomer, Carnegie Institution of Washington.

Richard G. Rutan, President, Voyager Aircraft, Inc.

Rabbi Alexander M. Schindler, President, Union of American Hebrew Congregations.

Harrison H. Schmitt, Former U.S. Senator, New Mexico: Apollo Astronaut.

Bernard A. Schriever, General, USAF, Ret.

Russell L. Schweickart, Apollo Astronaut.

V. June Scobee, Chairman, Challenger Center for Space Science Education.

Glenn T. Seaborg, Nobel Laureate, Chemistry; Former Chairman, U.S. Atomic Energy Commission.

Donna E. Shalala, Chancellor, Univ. of Wisconsin.

Albert Shanker, President, American Federation of Teachers, AFL-CIO.

Roger L. Shinn, Professor Emeritus of Social Ethics, Union Theological Seminary.

Rev. Robert H. Shuller, Crystal Cathedral Congregation.

William E. Simon, Former Secretary of the Treasury.

Donald K. (Deke) Slayton, Apollo Astronaut (Apollo-Soyuz Mission).

Jane G. Smith, President, Samantha Smith Foundation.

Richard G. Smith, Former Director, Kennedy Space Center, NASA.

Roberta Snow, Founding President, Educators for Social Responsibility.

Steven Spielberg, Director and Producer.

Robert L. Staehle, President, World Space Foundation.

Thomas P. Stafford, Lt. Gen. USAF, Ret.; Apollo Astronaut (Apollo-Soyuz Mission).

Glen H. Stassen, Professor of Christian Ethics, Southern Baptist Theological Seminary.

H. Guyford Stever, Foreign Secretary, National Academy of Engineering; Former Presidential Science Advisor.

Robert L. Stewart, Brig. Gen., Deputy Commander, U.S. Army Strategic Defense Command.

Lewis Thomas, President Emeritus, Memorial Sloan Kettering Cancer Center.

Clyde W. Tombaugh, Discoverer of Pluto.

Lily Tomlin, Actress.

Malcolm Toon, Former U.S. Ambassador to the Soviet Union.

Virginia Trimble, Professor of Physics, University of California, Irvine.

Ted Turner, President and C.E.O., Turner Broadcasting System.

Frank E. Vandiver, President, Texas A&M University.

Charles A. Walker, Chancellor, Univ. of Arkansas.

Paul C. Warnke, Former Chief U.S. Arms Control Negotiator.

James E. Webb, Former Administrator, NASA.

Victor F. Weisskopf, Institute Professor, M.I.T.: Former President, American Academy of Arts and Sciences.

Robert R. Wilson, Former Director, Fermi National Accelerator Laboratory; Former President, American Physical Society.

William W. Winpisinger, International President, International Association of Machinists, AFL-CIO.

Leonard Woodcock, Former Pres., United Auto Workers; Former U.S. Ambassador to China.

Sidney Wolfe, Director, Kitt Peak National Observatory.

John F. Yardley, President, McDonnell Douglas Astronautics Company.

Charles E. (Chuck) Yeager, Brig. Gen., USAF, Ret.

Jeana Yeager, Voyager Pilot.

Herbert F. York, Former Director, Livermore National Laboratory.

Dreams are maps. It is time to set sail for the 21st century.

Under the leadership of Carl Sagan and Bruce Murray, The Planetary Society—a nonprofit, tax-exempt membership organization—is dedicated to planetary exploration and the search for extraterrestrial life. It has been instrumental in promoting international exploration of the planets as an es-

sential step in maintaining peace and in promoting human understanding. We believe that high technology can be used with foresight and wisdom.

To add your signature to the Mars Declaration, or to join The Planetary Society, contact: The Planetary Society.

"YOUNG PEOPLE TOGETHER" AN INTERNATIONAL YOUTH CAMP IN MIDWESTERN IRELAND PLANNED FOR MID-JULY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. BIAGGI. Mr. Speaker, as the chairman of the Ad Hoc Congressional Committee for Irish Affairs, I wish to share with you some information I recently received which may be of interest to you.

The Centre for International Cooperation located in Shannon, Ireland, has contacted me to announce that it is hosting an International Youth Camp "Young People Together" planned from July 17-29, 1988 as the inaugural event of an extensive program of youth exchanges and meetings.

The Centre for International Cooperation which is a grouping of public and private enterprise, has as its goal to promote effective and enduring cooperation among nations thereby assisting in eliminating the basis for potential conflict. By developing carefully managed programs, it aims to forge international links in a variety of specific areas—in education, commerce, trade, industry, communications, tourism, science, and culture. The centre hosts international conferences on many aspects of cooperation at its location at Shannon International Airport.

This concept was adopted in August 1986 by a consortium consisting of Aer Lingus [Irish Airlines], Aer Rianta [Irish Airports], Guiness Peat Aviation, the Irish Peace Institute, Peat Marwick/Stokes Kennedy Crowley, and the Shannon Development Co. These organizations believe that prosperity and peace can be built through managed cooperation in socioeconomic and cultural fields.

The centre is linked with and supported by the companies within the consortium, and by the National Institute for Higher Education in Limerick, which houses the largest college of engineering in Ireland, as well as colleges of science, business, and humanities.

Working within the framework of the centre's activities, the youth program has established the following goals: To facilitate and assist the work of youth organizations working for international understanding; to develop a program of positive interaction among young people from various nations. Activities will be focused on cooperation in a variety of areas including sports, the arts, academic and/or professional interests; and to ensure the continuation of practical cooperative activity among the young people involved in its projects.

The idea of the International Youth Camp originated in discussions between Irish, Soviet, and American delegates at the Conference on International Tourism in May 1987. Work on the development of the concept has been continuous since that time.

I wish to commend the Centre for International Cooperation from this outstanding initiative. Just as it is the goal of the Ad Hoc Congressional Committee for Irish Affairs to find a peaceful solution to the problems that plague Ireland and Northern Ireland, the aims of the centre are admirable as it seeks to counter the atmosphere of mistrust and hostility that exists between the people of the Republic of Ireland and the North of Ireland.

I wish to thank U.S. Program Representative Linda Eastman for taking the time to share this exciting program with us, and to wish her much continued success and good luck.

TRIBUTE TO MARY ANN CAMPANA

HON. JAMES A TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. TRAFICANT. Mr. Speaker, I rise today in order to pay tribute to Mary Ann Campana, an outstanding citizen from my 17th Congressional District of Ohio.

Ms. Campana has made numerous contributions to the field of aviation and the cause of women. At the age of 18, she became the first woman in Ohio to receive her pilot's license. On June 4, 1933, at only 19 years of age, Mary Ann Campana established the world light airplane endurance record of 12 hours, 27 minutes, exceeding the old mark by more than 1 hour.

Ms. Campana immigrated to the United States from Italy with her parents when she was 8 years old. She was educated in the Youngstown school system, where she attended Oak Street and Lincoln Elementary Schools and East High School. She went on to attend Youngstown College.

Saturday, June 4, 1988, will mark the 55th anniversary of Mary Ann Campana's historic flight. She will be feted by several local and State organizations on this day, and I find it only fitting that we in the House do the same.

To this day Mary Ann Campana still resides in Ohio and continues to serve as an inspiration to many. Mr. Speaker, it gives me great pride to pay tribute to such a fine lady and a true pioneer.

INTRODUCING A BILL TO REAUTHORIZE THE OFFICE OF GOVERNMENT ETHICS

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. SIKORSKI. Mr. Speaker, today I am pleased to introduce, along with my colleague, Congressman FRANK McCLOSKEY, a bill to reauthorize the Office of Government Ethics for an additional 6 years. OGE was established by title IV of the Ethics in Government Act of 1978 and reauthorized for 5 years in 1983. Its current authorization expires on September 30, 1988, the end of this fiscal year.

The Office of Government Ethics has the extremely important task of providing "overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency." The Office has responsibility for matters involving public and confidential financial disclosure requirements for executive branch personnel; "revolving door" or post-employment conflicts of interest; other criminal conflict of interest restrictions; and standards of conduct for executive branch employees. In fact, under the Ethics in Government Act, the Director of the Office of Government Ethics is charged with 15 separate and significant responsibilities.

While OGE is a major policymaker and serves as the overseer and watchdog of the entire executive branch "ethics system," each executive branch agency head has first line responsibility for the administration of all so-called ethics in government programs within his or her agency.

To assist them in this task, agency heads appoint designated agency ethics officials [DAEO's]. Each DAEO is responsible for the day-to-day management and coordination of his or her respective agency's ethics program and acts on behalf of the agency head. A DAEO's duties include administering the pubic financial disclosure requirements of title II of the Ethics Act, initiating and maintaining ethics education and training programs, monitoring administrative actions and sanctions, and serving as a liaison with OGE with regard to all aspects of the agency ethics program. Each DAEO must ensure that the agency establish and maintain an effective ethics program, consisting of the numerous elements set forth in the Ethics in Government Act regulations.

Over the past 3 years, the two Post Office and Civil Service Subcommittees I have chaired have devoted a substantial amount of time to examining the workings of this executive branch ethics system. We have held a series of hearings looking at agency ethics programs, allegations of ethical misconduct by several executive branch employees, and the role, organization, operation and performance of OGE.

Subcommittee examination of particular cases and of the executive branch ethics system as a whole show that it is not functioning as it should. In August 1987, for example, the subcommittee conducted an inquiry into the filing and review of Attorney General Edwin Meese's financial disclosure forms. We learned that OGE's review had noted the "limited blind partnership" listed by the Attorney General, but completely failed to identify it as an irregular and improper arrangement. This case raised serious doubts about its adequacy of OGE review of other financial disclosure forms.

Through two other hearings, other problems were raised regarding the conflicts of interest that arise when government officials negotiate for employment with the private sector. In October 1987, the subcommittee considered the case of Mr. Robert Watkins, a high-level Commerce Department official who solicited employment from foreign auto manufacturers immediately after negotiating for the United States in trade talks with some of the same automakers. This case was especially disturbing in light of its similarity to that of Mary Ann Gilleece, examined by the Investigations Subcommittee in 1985. The Gilleece case involved a Defense Department Assistant Secretary who solicited employment from major defense contractors she was simultaneously regulating. Both the Watkins and the Gilleece affairs brought to light inadequacies in the ethics education and counseling available to executive branch employees. Unfortunately, however, it appears that pointing out the problem is not always the first step toward a remedy—the Watkins situation arose a full 2 years after we first examined the Gilleece case.

These subcommittee examinations and our September 1986 oversight hearing on the Office of Government Ethics itself have raised troublesome issues about the executive branch ethics system. We have found that OGE has not kept nor required agencies to keep even rudimentary management data necessary for adequate monitoring, management and oversight of the executive branch ethics programs.

OGE has made little use of the authority granted to it in 1983 to issue its own regulations.

OGE has frequently failed to monitor and follow-up on cases in which the Department of Justice declines criminal prosecution, though a standards of conduct violation may exist.

Furthermore, OGE has chosen not to use its authority to order corrective action by individuals and agencies.

The legislation I am introducing today is a step toward remedying this situation. Beyond merely reauthorizing the Office of Government Ethics, it carefully responds to the shortcomings in the current system. Rather than making sweeping, dramatic changes which will be ultimately unworkable and unacceptably expensive, this legislation addresses the problem areas within the context of the current ethics system. It leaves untouched that which has proven useful and changes only that which clearly needs to be changed. I will briefly describe some of the proposed changes contained in this bill.

Most importantly, the bill establishes, as of October 1, 1989, the Office of Government Ethics as an independent agency and makes the Director removable by the President only for "good cause." Taking the Office out from within the Office of Personnel Management and making it an independent entity will enable the OGE Director to more effectively carry out his often difficult and politically sensitive responsiblities. The good cause removal standard is necessary to ensure that the OGE Director is able to exercise independent judgment.

In addition, the legislation gives the Director the authority to appoint officers and employees and to contract with the General Services Administration or with other Federal agencies for administrative support services. As an independent establishment, the OGE will need these capabilities.

In an attempt to increase OGE's accountability to Congress and the people of the United States, the legislation requires OGE to submit annual reports to Congress describing the actions taken by the Director in fulfillment of his or her statutory duties. OGE will also be required to promulgate regulations requiring each executive agency to submit an annual report to OGE describing and evaluating the various elements comprising the agency's ethics program. Such annual reports will ensure that OGE has available the basic management data it needs to develop truly effective leadership and perform effective oversight of agency ethics programs. These reports will also make agencies more accountable to OGE in the area of ethics.

The bill requires the Director of OGE to ensure that executive agencies establish proper, written procedures for the collection, filing, review, and public availability of financial disclosure statements. Our oversight of agency ethics programs has shown that agency evaluation of financial disclosure forms ranges from detailed conflicts analysis by attorneys using Standard and Poors, to haphazard review by unpaid summer interns. Requiring agencies to develop written procedures will provide continuity and help eliminate inconsistent and inadequate review of disclosure forms.

Next, the legislation requires the OGE Director to prescribe regulations requiring each agency to notify the Director when a violation or possible violation of law, rule, or regulation relating to conflict of interest, financial disclosure, or the standards of conduct is referred by the agency to the Attorney General or the President. This provision will ensure effective oversight and adequate administrative follow-up by OGE of cases in which criminal or civil prosecution is declined. Such notifications by agencies are not to be required if they are otherwise prohibited by law.

This bill also permits the Director of the Office of Government Ethics to request assistance from agency inspectors general in conducting any investigation relating to matters within the jurisdiction of the OGE Director. This provision merely extends the scope of the Director's current authority to request such assistance in cases involving financial disclosure.

Another important provision of the legislation gives the Director the authority to make findings and clarifies the current statutory language which gives the Director the responsibility for "ordering corrective action on the part of agencies and employees which the Director deems necessary." There has been widespread confusion concerning the exact meaning and scope of this authority. The legislation I am introducing makes explicit our intent that the Director of the Office of Government Ethics be permitted to order employees to take specific action to correct a violation of ethics laws or regulations. If the Director finds that the employee has not complied with the order and taken appropriate corrective action within a reasonable period of time, the Director will be required to notify the appropriate agency head or the President.

Last, but certainly not least, this legislation reauthorizes the Office of Government Ethics for 6 years, removing it from the current reauthorization cycle under which reauthorization coincides with presidential transition years. This change, requested by OGE, will enable the Office to operate more efficiently and effectively in both of these important time periods. The legislation authorizes $2,000,000 for OGE for the fiscal year ending September 30, 1989 and such sums as may be necessary for the 5 years thereafter.

I urge my colleagues to support this important measure.

ONE THOUSAND YEARS OF ORTHODOX CHRISTIANITY IN RUSSIA

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mrs. COLLINS. Mr. Speaker, this September millions of Orthodox Christians throughout the world will gather to celebrate the 1,000th anniversary of the conversion of Russia to Orthodox Christianity. This occurrence led directly to the unification of the Russian people, an event with profound consequences in modern history.

Orthodox Christianity has been the inspriation for many. In the Soviet Union, the Russian Orthodox Church has been the locus for organized protest movements, and continues to function as a potent force for social progress. Throughout the world, Christianity has been a rallying call to arms and a claxon for peace. It has the power to make people sacrifice their lives in its name. Religion in general, and Orthodox Christianity in particular, has proven to be an impressive force in its own right.

Russian Orthodoxy has continued to serve as a small light of religious freedom in the sea of oppression that characterizes the Soviet Union. On Christmas Eve, the Soviet Government plays the most modern and exciting Western films in an attempt to lure churchgoers from mass. A recent survey of the theaters during Christmas Eve demonstrated, however, that the overwhelming majority of people who attended the movies were either Jewish, Muslim, or atheist. Despite the advent of glasnost, Orthodox Christianity continues to battle for survival in the Soviet Union.

Our hearts go out to these people, yet another symbol in the ongoing struggle for religious freedom. We commend the Russian Orthodox Chruch on reaching its millenium, and accomplishment that has seemed increasingly difficult as the 20th century has progressed. Its perseverance and longevity are inspirations to all of us who would give up when faced with overwhelming odds.

THE ROTARY CLUB OF PATERSON: 75-YEAR ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. ROE. Mr. Speaker, it is with great pride that I rise today to salute an outstanding service organization in my Eighth Congressional

District of New Jersey which, for three-quarters of a century, has not only assisted individuals in need, but a wide range of other organizations whose common goal it is to serve the community, State, and Nation. I speak of the Rotary Club of Paterson No. 70 which this year is celebrating the 75th anniversary of its founding.

The Rotary Club of Paterson will commemorate its many notable years of service and unity with a gala evening of entertainment on Saturday, June 4, at The Park Ridge Mariott Hotel in New Jersey. I am certain that this affair, under the direction of Rotarian PDG Art Scialla, chairman of the 75th anniversary celebration, will be a terrific success.

Mr. Speaker, it would be impossible to list all of the vital community endeavors that this fine organization has been involved in for the past 75 years. I would like to note, however, that this list includes giving aid to persons in need of hospital care, providing recreation facilities and groups for local youth, and working to ensure the health of newborns in the States and abroad. The Rotary Club of Paterson is one of thousands of Rotary Clubs around the world, including Australia and the United Kingdom. Most certainly, organizations such as this one are highly valued and greatly appreciated by many communities.

The Rotary Club of Paterson was organized in 1913 and was issued its charter on June 2 of the same year. Today, the esteemed leaders of the club must be filled with pride as they look back not only on the years of private successes within their ever expanding membership, but on the decades of widespread community causes they have championed.

Mr. Speaker, I would like to recognize a few of these outstanding gentlemen for the record. They include John B. Tiger, president, William B. Van Benthuysen, president-elect, Gordon R. Geiger, vice president, James H. Jesraly, secretary, Thomas V. Barone, treasurer, and John Manopoli, assistant treasurer. I will also mention the excellent board of directors: Robert Dalzell, Jamie Dykes, James Evans, Ron Farrington, Steve Fava, Brian Fischer, Peter Garafano, William Hannah, Nathaniel Liberman, Albert Manzo, David Meyer, Herbert H. Neelman, Howard Rosen, George Stickney.

Mr. Speaker, as this historic anniversary approaches, for the benefit of my colleagues, I would like to cite the history of the Rotary Club of Paterson No. 70 by quoting from their official literature:

A BRIEF HISTORY—PATERSON ROTARY CLUB No. 70

Less than eight years after Paul Harris and his small group of business friends began holding their regular luncheon meeting in Chicago, another group of community leaders held their first Rotary meeting on February 25, 1913 at Crawford's Restaurant in Paterson, New Jersey. Paul Harris' new idea for a professional men's service club was spreading rapidly in different parts of the country. In 1908, a club was formed in San Francisco; two years later it spread across the Canadian border to Winnipeg, Manitoba and then, a year after that, overseas to Dublin, Ireland. By the time that the Paterson Club was formed, there already were sixty nine other clubs. By 1988 there were over twenty three thousand clubs with over a million members located in almost every country of the free world.

From its very beginnings, Paterson was a most unique city. Created out of the raw wilderness, it was an organized, planned development by a group of investors headed by the first Secretary of the Treasury of the United States, Alexander Hamilton. The group purchased much of the strategic land along the Passaic River for the establishment of mill sites in the name of the Society for the Establishment of Useful Manufactures—know as the SUM. They named their new city after William Paterson who was the first post-revolutionary governor of the state of New Jersey and one of the framers of the Constitution of the United States. Major Pierre L'Enfant, who planned the City of Washington, was engaged to lay out plans of Paterson. Unfortunately, the investors thought it too elaborate and settled for a more modest design.

Shortly after the forming of Paterson's Rotary Club, it began its long time assistance of the YMCA. In 1918, there was the purchase of a quantity of double deck sleeping cots and bedding for use at a summer camp at Greenwood Lake. The support for the needs of the YMCA continues to this day. In the mid-1940's the club gave major financial help for the construction of a large social hall at the YMCA's new summer camp at Silver Lake in Sussex County.

Another major interest has been in a regular support of the Paterson Memorial Day Nursery, which was one of the first centers in the United States created to help in the day care for the children of working mothers. Contributions have been regularly donated to help in the support of work being done by the Boys' Club, the Boy Scouts and, especially, the Salvation Army. Paterson has sponsored an "Interest" Club at Eastside High School, a service club for young people of secondary school age. They practice one of the tenets of International Rotary, "Service Above Self". With over 30 members they have undertaken projects such as visits to hospitalized children and encouragement of scholarship and higher education goals among Paterson High School students.

In an effort to develop programs in which young people can actively participate, the club has sponsored midget baseball teams and boxing club activities. In addition to financial assistance, many members of Club No. 70, have worked with the various groups and taken part in their activities on a regular basis.

Assistance to the local hospitals has been of special concern to the Paterson Rotary Club. Many of its members have been and are now serving on various hospital advisory boards. In the mid-1980's, the club furnished the Downtown Clinic of St. Joseph's Hospital with a fully equipped passenger van unit to transport patients who could not afford bus or taxi fare.

In recent years, the Paterson Club has been taking part in the Rotary Youth Exchange Program, wherein high school students are sent to study in foreign countries and students from those countries are brought to the U.S. for a year of study. Club No. 70, in cooperation with other clubs in District 749, has been active in the Gift of Life program in which Rotarian, Dr. Joseph Amato of Children's Hospital of New Jersey has saved the lives of many children from third world countries due to his great skills at open heart surgery. In 1988, the major drive of Rotary International has been the Polio Plus Program to immunize all of the children of the world by 1990 against polio and five other vaccine preventable childhood diseases—measles, diphtheria, whooping cough, tetanus and tuberculosis. Rotary shares this commitment with the World Health Organization and UNICEF. Of the quota assigned by Rotary International to Club No. 70, Paterson has committed to just over 500% of its assigned goal.

Locally, Paterson Rotary has contributed funds and helped support the following organizations this year: Memorial Day Nursery; Board of Education, School No. 6; Lou Costello Sportsman Club; Don Bosco Technical High School; Jr. State Football Colts; Paterson Rotary Baseball Team; St. Joseph's Hospital & Medical Center; Paterson YMCA; Inner City Ensemble; Paterson Midget Basketball League; Paterson Boys' Club; Boy Scouts of America, Passaic Valley Council; Silk City Boxing Club; Eastside High School Interact Club.

Over the past 75 years, local, national and international figures have addressed the Paterson Rotary Club. In 1913, during the clubs first year, there were raves about the presentation of Dr. Frederick A. Cook, the noted Arctic Explorer. Senator Bill Bradley, Governor Tom Kean, Mayor Frank Graves, Rabbi Martin Freedman, have been recent speakers.

Due to the immense size of the Rotary movement world wide with its thousands of clubs, a visit from a senior officer of Rotary International to a local club is a rare happening. Paterson has been most fortunate in this department. For its 75th Anniversary Celebration on June 4, 1988, the club is to be honored to have as its guest the President Elect of Rotary International for 1988-89, who will be the Keynote Speaker. He is Royce Abbey, from Greenvale, Australia.

Mr. Speaker, I appreciate the opportunity to present this history of a service organization whose widespread efforts have greatly enriched the community, State, Nation, and beyond. We in Paterson are proud to host Rotary Club No. 70 with its dynamic history and members who have always put "Service Above Self." As the Rotary Club of Paterson celebrates its 75th anniversary, I know that you and all of our colleagues here in Congress will want to join me in extending our warmest greetings and felicitations for their many accomplishments and worthy activities on behalf of the entire world community.

SEVENTY-FIFTH ANNIVERSARY OF BLESSED VIRGIN MARY PARISH

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. WELDON. Mr. Speaker, I would like to take a few moments to extend my sincere congratulations to Msgr. Francis Schmidt and the members of the Blessed Virgin Mary Parish of Darby, PA, on the occasion of their 75th anniversary.

For 75 years now, the Blessed Virgin Mary Parish has been spreading the word of Christ and providing spiritual guidance to its parishioners and the residents of Darby Borough and Delaware County. The charitable works and excellent record of community service by its members simply proves the overwhelming success of their efforts.

It is with great pride that I offer my most sincere congratulations to all of the priests and parishioners of Darby Borough's Blessed Virgin Mary Parish. I am sure that they will continue to guide, assist, and service the residents of our region for another 75 years, and beyond.

RESEARCH AND DEVELOPMENT: IS MORE SPENDING THE ANSWER?

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thurday, May 26, 1988

Mr. KEMP. Mr. Speaker, all of us want to increase the competitiveness of American enterprise, though we may disagree on the best means to achieve this. There seems to be fairly wide agreement on the idea that one important way to become more competitive is to spend more on research and development.

While I agree that we want to encourage research and development, there is good reason to doubt that throwing more money at the problem, by itself, will be any more effective in this area than it has been in other areas.

David Soergel is an expert in research and development and Federal procurement policies, whose work I have followed for many years. In recent testimony before the Senate Armed Services Committee, he explained why proper incentives—putting individual entrepreneurs on the same footing with large corporations—are essential if devoting more resources to R&D is really to result in innovation and improved competitiveness.

Some will find Mr. Soergel's comments and conclusions controversial, but everyone involved in the subject will find his ideas stimulating. I commend this important testimony to my colleagues.

The article follows:

COMMENTS BY D.G. SOERGEL

Thank you for the invitation to comment on the SASC Subcommittee's Issues List, regarding DoD acquistion policy and management.

The List is indeed most comprehensive, covering as it does both internal DoD issues and issues involving the complex spectrum of Defense Industry-DoD relations pre, during, and post contracting.

Some of the 36 issues, in my view, could be aggregated and addressed in the context of the larger issue of the effectivenes of competition between independent weapon designers and producers. For example, Issue 3, 4, 5, 6, 7, and 8 relate innovation incentives for new designs to independent R&D. Would more innovative designs be motivated as a consequence of increased IR&D reimbursement? On the face of it, it would seem that the answer would be "yes." The more the better seems to rule here.

But we ought to probe deeper. By far the bulk of defense contract IR&D/B&P overhead reimbursements goes to about 100 of DoD's largest contractors ($3.4 billion in 1985 by DCAA audit), with smaller DoD contractors reimbursed proportionately less IR&D/B&P. These funds are both paid and subsidized by taxpayers (tax deductible by Section 174 of the tax code) and in fact put a double whammy on newcomers into DoD's R&D's markets. Also, the funds are pre-negotiated into the overhead of the contractor's defense contracts. They are non-competitively awarded to current contractors (not to newcomers) for proposing new weapons business.

Because IR&D/B&P funds are equivalent to Applied Research funds—both start selected ideas toward final development—and because DoD sets-aside only 15% of the large firms' IR&D for competitive procurement, DoD's 100 largest firms are a "leg-up" on all other competitive bidders for new system R&D awards. They don't have to compete for their earliest "seed capital" because IR&D/B&P is pre-negotiated into the overhead of their existing contracts.

This negotiation, rather than competition, acts as an effective shield against newcomers into major system R&D markets, and IR&D/B&P becomes more a competition inhibitor than enhancer. DoD's tens of thousands of smaller contractors, and especially newcomers who are not yet federal contractors, cannot afford equivalent independent R&D and proposal expenditures in order to stay competitive and subsequently compete against the largest contractors for system prototypes or full-scale developments.

The rationale for negotiation rather than competition seems to be that the firms best qualified to innovate new systems for the future are the ones that had innovated new systems in the past—for some, in the dimming past. This is a false premise for fashioning weapon acquisition policy, as proven time and again by many empirical research studies which located actual sources for well-known innovations.

For example, Issue Alert #8, "Innovation in Small Firms," SBA, July 1982, concluded that the early 20th century notion—market power and innovation are more likely to occur together—cannot be supported by research. Major innovations, those having had the greatest impact on society and the economy, were most often found in industries of medium concentration (shipments by the four largest firms were 21 to 40 percent of the total). Many have come from newcomers to an established industry; Chester Carlson, the inventor of "Xerox" for example, who revolutionized the office equipment industry.

The defense industry, on the other hand, is a highly concentrated industry. Two firms ship 100% of DoD's total fighter aircraft market; one firm, 100% of Army's tank market; two (shortly one) firms, 100% of the USAF's bomber market, and so on.

Indeed, the supply-side of DoD's marketplace is trending towards unchallengeable monopolies for weapon-types, reinforcing defense industry economic concentrations and decreasing competitiveness within the defense industry as a whole.

So, as we continue to analyze the six IR&D/B&P issues within the context of design competitions, we begin to sense that we are heading in the wrong direction. Competition should be applied to independent design teams during the earliest design phases, where small Applied Research dollars leverage high production dollars. Competition should not be delayed until prototype competitions, final development competitions, or production leader-follower competitions when production prices and qualities have already been locked-in by the much earlier Applied Research expenditures. Designers, after all, are the ones who decide the prices and qualities of materials, components, and subsystems for integration into new systems. And, by those decisions which are made during the earliest design phases, designers do in fact lock-in the majority of a new system's downstream production price and quality.

Obviously, less competition during design means less motivation to use adequate but least cost parts in new system designs, such as non-developmental items that had been developed by someone else. Engineers are in the business of new designs. And the more new design required in a new system, the higher the fee for the company.

A related comment. The Issues List did not address the impact on industrial competitiveness caused by R&D activities performed in-house by DoD's 111 laboratories, which employ 30,000 scientists and engineers, and within Federally-Funded R&D Centers (FFRDCs) that support DoD on a sole-source contract basis.

These private labs (FFRDCs) and public labs (DoD) are tax exempt, non-producing R&D performers. They non-competitively spend the bulk of DoD's non-IR&D/B&P Applied Research funds ($1.4 billion, 1985) for their own in-house R&D work, which mainly consists of research on new materials, components, and subsystems for yet unspecified new systems. They start parts of new systems, but don't finish them through production. Therefore, while they are given decision authority for elements of new systems, they are at the same time shielded against responsibility for system outcomes. Since system designers are required to use the products for their work, most new system designs are very similar and exhibit little innovative span and choice for operators.

When this $1.4 billion (1985) non-competitive Applied Research is connected to the $3.4 billion (1985) of prenegotiated (not completed) IR&D/B&P, we can accurately conclude that the "military-industrial complex" is alive and well.

Indeed, as President Eisenhower warned, by DoD's noncompetitive tax expenditure as outlined above, the complex has put itself into an ideal position for discouraging anyone—individuals, emerging enterprises, Small (Technical) Businesses, commercial firms—who would be so brash as to try to break into the weapon systems market which is now controlled by an oligopoly of large defense contractors.

In summary, it is my belief that many of the 36 Issues could be aggregated under a still larger issue, that of competition between independent weapon designers at the earliest phases of weapon design. It is there relatively small dollars that lock-in major contributions to a weapons production cost and quality. They should be spent within a competitive environment. The long-sought effective and affordable weapon system acquisition policy will come from the institution of new policies which require head-to-head competitions between independent system designers at the least-cost-to-enter Applied Research phase of weapon's innovation.

This earliest use of design competition, with the highest leverage to drive ultimate production prices down and qualities up, should open the door to qualified newcomers by giving them the same independent technical and proposal cost benefits, as currently enjoyed only by established contractors through large scale IR&D/B&P cost reimbursements. Also, these earliest competitions should be designed to centralize to the competitive system designers the authorities, accountabilities, and responsibilities for the development of new materials and components tailored to the needs of their competing dissimilar systems. This amounts to an effective hedging strategy against uncertain technologies and projected geopolitical events and combat scenarios and, in the long run, will cause a much needed widening of DoD's surge mobilization base for conventional weapons.

The above limited (and incomplete) analysis illustrates the power of synthesizing several issues to a higher order. It keeps one focused on "the forest by not getting lost in the trees," which, because of four decades of "word smithing" and tinkering is quite easy to do. Perhaps the 36 Issues of the staff paper (the "trees") could be boiled down by aggregating to 3 or 4 principal issues (the "forest").

Thank you again for the opportunity to comment.

ABOUT THE AUTHOR

David Griffith Soergel is a graduate of the University of Wisconsin (BSEE) and Washington University, St. Louis (MS, Applied Mechanics). He was awarded all undergraduate and graduate academic honors.

He has been employed by major defense contractors in various high level line and staff positions, and by the congressional 1972 Procurement Commission.

Mr. Soergel has produced twenty-one public policy research reports sponsored by twelve federal agencies, testified before congressional committees as an expert in federal policies for procurement and R&D, and has been published extensively with most entered into the CONGRESSIONAL RECORD.

He currently is Executive Director, the Vebel Society, Inc., a nonprofit public interest corporation chartered to inform and educate the general public about tax-financed policies that promote venture inequality before the law throughout the national economy.

MEMORIAL DAY 1988

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. HOYER. Mr. Speaker, once again, we mark another Memorial Day, a day established to honor our Nation's fallen warriors. While all Americans can happily rejoice in the fact that our country is not at war, we must also remember that a number of Americans have died this year in defense of the unique and precious freedom and liberty enjoyed by the American people.

Even as we speak, thousands of young Americans are patrolling the skies, crossing the waves, or standing guard in far-flung spots across the globe. Their service and their sacrifice are on behalf of every American.

We live during troubled and violent times in an often troubled and violent world. History all too frequently has demonstrated the truth in the maxim that if we want peace, we must be prepared for war.

Our Armed Forces, and the men and women who proudly and bravely wear and have worn the uniform of all the branches and components of the U.S. Army, the U.S. Navy, the U.S. Marine Corps, and the U.S. Air Force, serve in the cause of peace by being prepared at a moment's notice to defend the United States. On occasion, it is not enough to be strong; deterrence alone has not sufficed.

The truth is the American people have been slow to anger. Once provoked, however, the American soldier, sailor, marine, and airman has always fought courageously and tenaciously. Frequently though, the United States has not been prepared for war. The Japanese attack on Pearl Harbor on December 7, 1941, the single greatest military disaster in American history, is cited—quite justifiably—as the most graphic illustration of a sleeping giant, of a United States, unprepared to do anything but refight its last war. This lack of preparation, of planning, and of national will has had tragic consequences.

All Americans should be proud that we are a nation of democratic and humane principles and values. Americans tend to prefer peace to war and negotiations to aggression as the way to resolve international disputes. I hope that this will always be the case. At the same time, in a violent and dangerous world, a world filled with powerful regimes fundamentally opposed to individual freedom and liberty, a world replete with smaller states, groups, and people with a strong and decided predilection toward irrational and cowardly acts of terrorism, barbarism, and outrage, the United States needs a strong, effective, and flexible military.

Throughout our history, thousands of Americans have died while wearing their country's uniform in combat ranging from the opening skirmishes of the American Revolution at Lexington and Concord to the most recent armed clashes in the Persian Gulf. Millions of men and women have answered their country's call to arms; thousands did not survive to enjoy the liberty and opportunity so many of their countrymen take for granted.

Mr. Speaker, as the final sad, poignant notes of the lone trumpet echo through the hills and valleys of Arlington National Cemetery, I hope that all Americans will reflect on the values and principles of our great country and people. As we mark this Memorial Day, all Americans should take a moment for reflection, a moment to remember and honor those who have served and died in the cause of peace and freedom.

ST GERMAIN-LAFALCE INTRODUCE BILL EXTENDING FSLIC MORATORIUM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. LAFALCE. Mr. Speaker, today I am pleased to join my colleague, Chairman ST GERMAIN, in introducing legislation that will extend for 1 year the moratorium on thrifts leaving the FSLIC which was imposed under the Competitive Equality Banking Act of 1987. It is my hope that this proposal can be incorporated into the banking bill that the Banking Committee will soon be considering.

When Congress imposed a 1-year moratorium on the departure of thrifts from the FSLIC, it was with the hope and expectation that, in a year's time, the recapitalization plan also approved under CEBA would have put the insurance fund on a sound footing, and there would be no inducement for healthy S&L's to leave the system.

Unfortunately, we have not made the progress we had hoped. I fault the Bank Board for not acknowledging that fact. Representations that all is well as we are piling up debt for future reckoning serve no one's interest.

I note that the Bank Board has endorsed the proposed extension. I would hope that reflects a realization of the seriousness of the problems which remain and how much work needs to be done. But, I must emphasize that extension of the moratorium is no solution; it provides only a window of opportunity for us to work together to find one.

The Board must not use the extension as an excuse to pursue business as usual. I urge the Board to move quickly on its riskbased assessment proposal so as to reduce burdens on our helthier institutions. Proposals for thrift charter enhancement, at least on a case-by-case basis, must also be given serious consideration to provide some inducement for our strongest thrifts to remain in the system. And it is time to take a serious look at proposals to merge FSLIC and FDIC.

Frankly, we must now once again buy time while we reach for a long-term solution. I do not like that. But I am increasingly dubious that we have any real choice.

While I am certainly willing to give the $10.8 billion recapitalization plan approved last year a chance, I am increasingly skeptical. Recent events are not encouraging. The market seems wary of the FICO bonds. Little progress is being made in closing insolvent S&L's. Losses continue to accumulate in hundreds of insolvent thrifts across the country, pushing up estimates of the ultimate cost of restructuring the industry.

At this precarious point, a flight of healthy institutions from the FSLIC would be devastating. Yet they have less and less reason to stay.

Congress must devise a permanent, workable solution to the serious problems facing our thrift industry, not rely on stopgap measures that will drive healthy institutions away. But, as we work together to seek such a solution, we must maintain a minimum level of stability in the system. The St Germain-LaFalce bill is intended to provide the window of opportunity we need.

Congress must use that opportunity to develop a comprehensive reform program. With each day that passes, the problems mount and opportunities to avert a serious crisis grow more elusive. For that reason, the bill will extend the moratorium for only a year. By then, I believe we must have a comprehensive program in place.

PROSPECTS FOR A FLIGHT FROM THE FSLIC SYSTEM

The moratorium is now scheduled to expire on August 10 of this year. At that point, healthy S&L's that qualify will be able to leave FSLIC and transfer to FDIC insurance. Given the continuing pressures within the system, the risk that a large number of healthy thrifts will do so is very real.

William Isaac, former Chairman of the FDIC, has estimated that a third of the Nation's savings and loan associations could qualify to transfer. He has also emphasized that, if the special assessment is not phased out, the cost of staying in the FSLIC could be three times the penalties imposed on those institutions that decide to leave.

Officials of many healthy S&L's have warned that they will indeed seek to leave the system, particularly if their obligation rises above current levels or if the special assessment continues. Given recent events, circumstances are ripe for flight.

There is growing evidence and increasing concern that the $10.8 billion recapitalization provided for last year will prove inadequate to the task. Each day the perceived gap in needed funds appears to grow. Some estimates of funds needed to handle failing S&L's now range upward of $50 billion.

On April 1, the Bank Board announced that it would not begin the phase-out of the special assessment on FSLIC members. The CEBA legislation has called for a 5-year phase-out of the special premium assessment. However, it also gave the Board discretion not to implement the requirement if it believed that severe pressures on FSLIC exist.

Many in the industry have accused the Board of breaking faith. I believe that is too strong. Congress provided an escape valve for a reason, however much we hoped it would not need to be used. The Board's acknowledgement of how serious the problems are cannot be taken lightly.

But, the resulting pressures are pushing our healthier thrifts to flee the FSLIC. If we permit that to happen before a viable solution is in place, we may completely lose the opportunity to put the industry as a whole back on firm ground.

While I, therefore, support an extension of the moratorium, I believe that the concerns of our healthier thrifts must be addressed. The special assessments put debilitating burdens on these institutions, prompting the talk of departure. The extra pressure is particularly damaging to institutions that are weak, but are still viable. A program that sacrifices the healthier thrifts to the failing ones is no program at all.

DEVELOPMENT OF A RISK-BASED ASSESSMENT PROGRAM

I am only too aware that it is impossible to turn the industry around by holding healthy institutions hostage and depleting their resources. If we are to extend the moratorium, I believe that action must be coupled with responsible efforts to alleviate undue burdens on both healthy thrifts, and those that are somewhat weak, but are nonetheless well-managed and still basically sound. It is the latter institutions that warrant particular concern and attention.

The Board's proposed adoption of a risk-based assessment is, I believe, a serious effort to do that. I support that effort and I urge the Board to move quickly to put a program in place that will allow our healthier institutions to stabilize and grow. The Board must not use the extension of the moratorium to delay action on this important intitiative.

However, I do have some serious reservations about elements of the proposal. The Board would choose to measure risk by capital levels. Clearly, capital levels create the necessary buffer for the insurance fund. But other factors, such as quality of assets and management capability must be taken into account. A thrift with a 4-percent capital level and a very conservative portfolio should not necessarily be judged to be in a far riskier position than a thrift with 6-percent capital and a high percentage of high-risk investments.

It is also imperative, in my view, that any risk-based system hold out significant relief for those institutions in the middle. These are institutions that may not be completely healthy but can be turned around and become strong members of the industry, making a positive contribution to the financial health of FSLIC. One option the Board is considering would cut the assessment for this group by 50 percent. An even greater inducement should be considered, even if that might mean maintaining some drastically reduced assessment on the healthiest institutions.

THRIFT CHARTER ENHANCEMENT

Thrift charter enhancement also holds out a real prospect of drawing new capital into the system. We must weigh such proposals carefully. There are two competing policy objectives. While we want to increase the attractiveness of troubled thrifts, we do not want to reward those institutions that have performed poorly with new grants of authority. We must strike the proper balance.

In my view, we could do that by providing for case-by-case reviews by the regulators. Authorities could be expanded in those specific situations where the regulators have determined that the thrift is adequately managed and the acquiror is contributing the necessary capital.

CONCLUSION

I believe it is time that we consider some long-term, comprehensive solutions to the serious problems that remain. Some proposals are already under discussion, such as the recommendation to merge the FDIC and FSLIC funds advanced by my colleague Mr. KLECZKA and the thrift charter enhancement proposal advocated by my colleague Mr. BARNARD.

But, realistically, these may well be matters for the next Congress to consider. August is very nearly upon us. While we work toward a more permanent solution, we must temporarily insulate the thrift industry and its insurance fund from any further blows.

THE DILEMMA OF A GOLDEN AGE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. RITTER. Mr. Speaker, enterprising American scientists are making dramatic progress in areas such as high-temperature superconductivity, biotechnology, photonics, ceramics and manufacturing sciences, to name a few. Advances in these fields will revolutionize our way of life and make us more competitive in global markets.

Naturally, scientists are excited by these breakthroughs. So until now they've been content to fight vigorously for Federal funding for all science projects. Since I am the only doctoral-level scientist in the Congress, I might be expected to do the same. But to stay within the budget, we've got to set some priorities for science funding. The bottom line is that we can't support crucial training and research and still fund all the megaprojects on the drawing board—the Superconducting Super Collider, the mapping of the human genome, the space station, the revitalization of the space shuttle program, and others.

We spend over $62 billion annually on science, and we need to spend that money wisely. We're not doing that now: we're using raw politics to make our choices, while our competitors outpace us by focusing on global competitiveness. Some science funding decisions should be decided by the political process. But there's room for another process as well.

Finally, Members of Congress and others are calling for some priority setting. Until recently, the science and technology community was not involved in this debate. Now, however, voices in the scientific community are calling for involvement in the decisionmaking process and unity behind some greater priority setting.

Dr. Frank Press, the President of the National Academy of Sciences, recently spoke to the NAS members and admonished them to stop "carping and sniping" and unite behind their views of America's priorities. Dr. Press proposes a "cross-cutting review" of the budget proposal, a coordinated process under the President's science adviser, and—most importantly—a system for ranking science projects. The highest priority projects would be those necessary to respond to national crises (such as AIDS), those following up on major scientific breakthroughs (such as superconductivity) and those necessary to train the next generation of scientists.

The second priority would go to megaprojects such as the Superconducting Super Collider or the mapping of the human genome. These projects could be funded at maintenance levels until new funding became available. Finally, projects such as the space station and (in his view) the Department of Defense research and development budget, where the political decisions are the crucial ones, would get a third priority.

Mr. Speaker, Dr. Press' suggestions are a positive step in the right direction. I urge all Members of Congress to become more concerned with setting priorities for funding American science. I am including the full text of Dr. Press' remarks, entitled "The Dilemma of the Golden Age," in the RECORD. I hope that his remarks prove useful to all Members.

THE DILEMMA OF THE GOLDEN AGE

(By Frank Press, President, National Academy of Sciences)

In recent years, I have used this occasion to discuss the Academy—its projects, its influence, and its relations with the government and our society. Today, however, I want to talk with you about the state of science and the scientific community in America. These are confused and troubling times for us. Limits on resources have made visible serious differences within our community, differences that may weaken the nation's scientific enterprise if they are not resolved without acrimony.

We face the dilemma of living in both the best and worst of times. In all fields of science, the journals and professional meetings are filled with exciting and challenging reports of new discoveries, new ideas, new applications. At the same time, President Reagan's proposed budget for 1989 is the strongest budget in support of science and technology in recent history. Yet, that budget is in difficulty with an essentially pro-science congress, and it has divided the scientific community. The United States supports more scientific research than Western Europe and Japan combined, and our system of universities, and national, and industrial laboratories is the envy of the world. Why then is our community in an unprecedented state of stress and internal dissension? That is the issue I want to confront. That is the dilemma that we as an Academy must confront.

The Dilemma of the Golden Age.—We all believe that scientific exploration has intrinsic cultural and intellectual values of the deepest kind, and deserves widespread support on these grounds. However, we also know that the large resources allocated by governments to scientific research find their justification on more pragmatic grounds so well symbolized in the inscription in the dome of the Great Hall: "To science, pilot of industry, conqueror of disease, multiplier of the harvest. . . ." Indeed, throughout history the patrons of science have understood the potential of new scientific knowledge as an instrument of public welfare, of power, of national security, and of national economic strength.

Science has been faithful to that compact—that the American people for their support of science could in time expect a better life and a stronger nation. And we continue to honor that compact, so much so that this can indeed be called the "Golden Age of Science"—a time of unprecedented progress in scientific discovery and its applications.

A confluence of circumstances accounts for the golden age: the large number of scientists at work all over the world; the high level of financial support by governments and industries; the availability support by governments and industries; the availability of small and large instruments of extraordinary sensitivity that make possible experiments of a precision and scale previously unachievable; new mathematical and theoretical tools; and easy access to computers and electronic information transfer, facilitating the rapid acquisition and analysis of large amounts of data.

These tools and support drive an ever-changing science. New scientific fields are being created as traditional fields merge or are redefined. We've seen that with molecular biology, materials science, photochemistry, and microelectronics. We see that with emergent disciplines—in the mathematics of chaos, in optoelectronics, in the exploitation of quantum effects by surface scientists.

Whatever their professional origins, physicists, chemists, biologists, and engineers, and their ideas come together to pursue the new ideas. Boundaries between basic and applied research are eroding and in many fields the time between a discovery and its commercialization is now measured in years, rather than decades. It is a sign of our times and of the state of science that industrial scientists have won Nobel Prizes in physics two years in a row, and university professors have become successful entrepreneurs.

The changing nature of science leads to experimentation with new institutions for conducting scientific and engineering research, such as interdisciplinary science centers and technology centers involving academic and industrial participants on university campuses. Shared facilities housing large and expensive equipment are becoming more common, attracting researchers from across the nation.

The dilemma lies in that very exuberance—in that golden age of discovery and advance. Our scientists are submitting in record numbers proposals of the highest quality, with enormous intellectual and material potential. We have also laid on the budget table very large and very expensive new ventures—in multiple fields from high-energy physics to molecular biology, whose time in the progress of science has arrived. The proposals—small and large—are superb in quality, but unprecedented in overall cost. And the reality is that these proposals come at a time of record budget deficits.

There is the heart of the dilemma. It is not the lack of political support for science. Political decision makers in the executive branch and Congress no longer need convincing that leadership of American science and technology is vital to our nation's future. The real political issue is what does science most urgently need to retain its strength and its excellence.

The issues are funding levels and priorities. Our political leadership has no way of gauging the amount of resources necessary to maintain the strength of American science and technology. What it does see is that the inevitable competition for funds leads to conflicting advice from within the scientific community. It learns of caustic debates among scientists in our journals and in the press. And it sees issues at times frame simplistically, as in the arguments of "big science," as embodied in the superconducting supercollider and the genome sequencing project, and "small science" as represented by scientists working alone or in small teams. Arguments over funding priorities spill over into intellectual attacks on the worthiness of one field of research by practitioners of another. We see confrontation and competition bordering on the unseemly between basic and applied work, between traditional and new fields, between modes of doing research, from the single investigator to centers. At a time when we should revel in dazzling progress in almost every field of science, this sniping and carping among scientists is disturbing and destructive.

The seemingly intractable problem of setting priorities in the allocation of R&D funds has dominated the discussions at our Academy's regional meetings and it consumes my correspondence and conversations with members. We scientists, who recommend the rationality and orderly process of our profession to government policy makers, are fast losing our credibility for being balanced, fair, and analytical. Our internal dissension and the mixed, conflicting, and self-serving advice emanating from our community are threatening our ability to inform wise policy making. I can think of no more important set of issues to address to the annual meeting this year.

The Reagan budget proposal.—The concerns over the future of American science are joined in the preparation and approval of the federal budget. The issues of allocating resources and setting priorities cannot be understood without an appreciation of the federal budget process. So, let us look at the Reagan budget proposed for FY 1989. The President is to be commended for the statement of support for science implicit in his substantial budget initiatives for civil science and technology. He proposes a 29 percent increase over 1988 for budget function 250 which includes the National Science Foundation, NASA's Space Research and Technology programs, and the Department of Energy's general science program. He requests a 5.1 percent increase for the National Institutes of Health. The budget also signals approval and initial funding for the SSC, the genome sequencing project, and the space station. Whether or not one agrees with the specific details, the proposals carry the positive message that support of science and technology is essential to this nation's future.

The President's budget adheres to the bipartisan budget summit agreement reached after last year's stock market collapse. That agreement limits increases in total non-defense discretionary spending to $3.1 billion. That is a 2 percent increase, a virtually static budget. The President's budget hits this limit be allocating almost all of the allowable increase to science, space, and technology, rather than to social programs, such as housing and community development.

But that decision tests political reality. It leaves Congress in the unenviable position of deciding between a budget that enhances America's long-term competitiveness and one more responsive to near-term humanitarian needs and other domestic projects.

Most impartial observers agree that the political process will result in a redirection of the President's budget, with a transfer of some funds to social programs. Several House and Senate committees have already announced such a step.

I believe that it is feckless and destructive for the scientific community to argue "for science at the expense of the homeless", as one congressman put it. It is also unrealistic to argue for generous funding of both science and social programs until the deficit is brought under control. Nevertheless, I believe that we have to make positive and responsible proposals that will strengthen American science and technology. Those proposals include suggesting criteria for setting priorities. I will address such criteria, as I will the system of developing science budgets. Here too, I will offer proposals that, I believe, are not politically stillborn, and that build on the goodwill of public officials towards science.

Criteria for Priorities.—Our colleagues are divided on the issue of establishing priorities across fields. At regional meetings of the Academy we are told by some participants that no one in the scientific community is wise enough to set priorities among fields. Many urge us not to enter what they feel can only be a quagmire. Some believe that we should support all of the science initiatives on the table, that to propose a list of priorities will only serve to divide our community and to insure a reduced budget. Some argue that large science initiatives have historically been accomplished by increases in the entire science budget—small and large. Some propose that tradeoffs with other national needs, such as social programs and national security, should not enter into our considerations and our strategy. And, finally, there are protagonists for specific projects or categories—the SSC, space station, genome sequencing, superconductivity, small science projects, etc.—who argue for their priority at the expense of others.

I say that we have to do better and I would like to propose criteria for the allocation of resources that are appropriate for the unprecedented federal deficit, and the state of science and technology. They are politically realistic and responsive to congressional requests for advice. My soundings of the scientific community lead me to believe that they are the least divisive. They are based on two premises. One is that we must seek to maintain American leadership in science and technology. The other is that we will steadily overcome the current national budget deficit crisis, as demanded by all thoughtful leaders in national government, industry, finance, education, and state government.

Category 1.—To be funded now with highest priority—at a time of budgetary constraint when all agency budgets will be limited. I include in that:

1. Preserving the human resource base and the pipeline[1] for science and technology. This means absolute priority for training and research grants reaching the largest number of scientists, engineers, clinical researchers. This encompasses the funding of research universities and national laboratories in categories reaching the largest number of investigators and graduate students. Examples include NIH, NSF, DOE allocations that reach individuals and small groups, fellowships and assistantships, NASA space science grants, DOE basic energy sciences, mission agency research.
2. National crises, e.g., R&D for AIDS, renewing the nation's space launch capacity.
3. Extraordinary scientific breakthroughs, e.g., high temperature superconductivity.

Category 2.—Large projects, with important national or scientific goals, to be authorized now. If full funding must be delayed beyond the present because of the budget deficit crisis, let it be so. However, sufficient funding should be made available to maintain the project until such time as large-scale commitments can be made. Examples:

1. SSC.
2. Mapping and sequencing the human genome.

Political category.—Prerogatives of the political system. Priority has traditionally been decided on the basis of value judgments by elected officials in the executive branch and Congress. Examples include:

1. The DOD R&D budget and national security.
2. The Space Station.
3. Regional economic development, and employment.
4. Projects that enhance the U.S. image like manned space flight, or projects with significant contributions by foreign governments.
5. Initiatives to enhance U.S. "competitiveness" e.g., education, training, civil sector R&D.

It may be wise for huge multibillion-dollar projects like the space station to be left for major funding decisions by the next President, who will be in office in a scant eight months, and will have the responsibility for seeing them done.

The rationale for these categories is, I believe, straightforward. Above all, the science base must be maintained and even strengthened. And that means support for our ablest men and women with the best ideas. We must confront national crises such as AIDS and our sudden incapacity in space. And we must not be left behind when a major breakthrough occurs, such as with superconductivity.

Finally, although we may have to slow them down temporarily, we cannot shy away from major scientific opportunities simply because they cost a lot.

Basic to these criteria for establishing priorities is my belief that a great nation like the United States can and should undertake all of these initiatives—and can do so in the near term. I also believe, with others, that the next administration, with bipartisan support, must recommend a mix of budgetary cuts, reallocations, and revenue increases over a period of a few years. Those actions hopefully will remove the deficit crisis as a factor limiting the resources that can be committed to education, science and technology. The argument in favor of such support is irresistible—the creation of wealth required to increase living standards and attend to other national needs can only flow from increased productivity, of the kind generated by new knowledge and a well-trained workforce. And if the trends initiated by President Reagan in the relationship between the superpowers continue, future Presidents may even be able to justify substantial reallocation of resources from the military to the civil sector.

Government Organization for Science and Technology Budgeting.—Part of the difficulty with the budget and appropriation process can be attributed to the disarray of the federal government's system for developing the science and technology budget. It is astounding but true that nowhere in the federal budget-making process is there an evaluation of the complete federal budget for science and technology and its overall rationale in terms of national goals. Funds are requested by some fifteen federal departments and agencies without coordination. Requests appear in the budget process as fourteen separate budget functions, spread over at least six divisions of the Office of Management and Budget, and requiring approval by nine appropriations committees in Congress, with input from a number of budget and authorization committees.

I do not argue for a centralized Department of Science and Technology. That would be a disaster. Nor do I propose a politically unachievable change in the complex structure of congressional budget, authorization, and appropriation committees. However, I believe that with the growth and impact of R&D expenditures that now amount to $62 billion, there is now a need to assure a cross-cutting review of the budget proposal, in both the executive branch and the Congress. At present the process examines how each agency's science and technology budget meets the agency's mission. It is now necessary to review how the aggregate science and technology budget serves such national goals as competitiveness, health, security, and world position. It is also important to understand the impact of the overall budget on training and on equipment and facility needs.

It is feasible to do so within the existing governmental structure. I agree with those who propose that in the future the President's science advisor, working with the OMB director, should be given the coordinating role within the executive branch, and should assume the responsibility for providing the rationale for a coherent and adequate federal science and technology budget. This function would have to be carried out, as so many have said, as an instrument of presidential policy, as a resource to OMB, and not as special pleading for scientists.

It is preferable—in fact, it may be the only way to make the system work—for a President to direct his science advisor to assume this function as a part of the organization of the White House staff, rather than seeking to mandate this function by statute of Congress. To be effective in such a role, a science advisor must have authority and standing; elsewhere I have proposed that the science advisor be named a member of the Cabinet without portfolio or a full Assistant to the President to carry out these and other duties of like importance.

In recent weeks some members of the Congress, struggling with the President's budget, have proposed that the two budget committees in Congress provide an overview for the science and technology budget. By statute, the budget committees play a critical role in the budget process. They issue a joint resolution that specifies budget totals as well as allocations to each budget function. However, ultimate decisions are made by appropriations committees and disagreements typically occur. Nevertheless, the influence of the budget committees is undeniable. It is a reasonable extension of their mandate for the budget committees to provide Congress with a cross-cutting evaluation of the entire science and technology budget, with recommendations for allocations and priorities. It will be necessary, and is natural, for Congress to seek outside advice if it takes on this task; and it has been proposed by some that the National Academies, as congressionally chartered advisers, respond if called upon.

In a recent report the Congressional Research Service stated that "Without . . . advice [from the Academies or the Office of Technology Assessment] the Congress will have little choice but to make . . . decisions without formal guidance on priorities from experts in the scientific community, and the scientific community will have no choice but to accept the results."

That is the problem. And that is the challenge.

I believe that we cannot refuse such a call. In doing so, however, we must take care not to subsume a governmental role. However, we can analyse and comment on the impact of the overall budget for science and technology. And we must also be willing, for the first time, to propose priorities across scientific fields, if the times call for it. We can do so in a manner that is knowledgeable, responsible, and useful.

We should accept this new challenge in this, our 125th year of public service.

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[1] It is especially important to attract more Americans now that a substantial fraction of our graduate students in science and engineering are no longer American.

THE PASSING OF A PATRIOT

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. DANNEMEYER. Mr. Speaker, George Edward Durell was a deeply principled man who believed in honest money based upon constitutionally derived authority. He was the motivating force behind the Coalition for Monetary Education, with which I have had the privilege of associating myself, as have several of my colleagues in the House.

George Edward Durell of Berryville, VA, died on April 1, 1988, at the age of 93. Born on December 11, 1894, in Harriman, TN, to George B. and Genevive Hill Durell, Mr. Durell was the retired chairman of the board of the Union Fork and Hoe Co. of Columbus, OH.

Mr. Durell was a patriotic American who contributed significantly to business and community service. A graduate of Princeton University, class of 1917, he served as a captain in the cavalry in World War I, as a member of the board of trustees of the Ohio Manufacturing Association for over 40 years, and as a trustee of the Ohio Forestry Association. For 17 years he was a member of the appeals board of the Ohio Selective Service System. He also served two terms as chairman of the Franklin County (Ohio) Republican Party Finance Committee, and one as a member of the Ohio delegation to the Republican National Convention.

An avid horseman, Mr. Durell was a member of the American Foxhound Association, a co-founder and past master of the Rocky Fork-Headley Hunt Club of Columbus, OH, and a member of the Blue Ridge Hunt of Clarke County, VA. He was also a member of the Early American Industries Association, the Columbus Club, and the Princeton Club of New York.

In 1953, Mr. Durell retired to Berryville, VA, where he began actively investigating the subject of the monetary system of the United States, particularly the history of the country's gold reserves. A tireless worker who consulted widely with Members of Congress, executive officials, other researchers, and a wide variety of individuals and organizations concerned with monetary and banking reform, Mr. Durell developed a considerable fund of knowledge on the history of the gold reserves, and supported the publication of several books on that subject, on the Federal Reserve System, and on monetary policy. Much of this work was done by or through the George Edward Durell Foundation, a nonprofit organization dedicated to public education on sound money.

In addition to the Durell Foundation, Mr. Durell also helped to establish the Coalition for Monetary Education and the National Alliance for Constitutional Money, nonprofit organizations concerned with educating the public and mobilizing legislative opinion in favor of sound money and honest banking. With the formation of these organizations, together with the Durell Foundation, Mr. Durell contributed significantly to broadening the public debate on monetary and banking issues central to the future economic, social, and political health of this country. He has thus left the country an invaluable legacy, for which all Americans should be thankful, today and in the years to come.

Constitutionalists and sound money advocates join his family and friends in mourning his passing.

SUBMISSION OF STATEMENT OF HON. JAMES H. BURNLEY, SECRETARY OF TRANSPORTATION ON PASSAGE OF THE RAIL SAFETY IMPROVEMENT ACT OF 1988

HON. BOB WHITTAKER

OF KANSAS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. WHITTAKER. Mr. Speaker, on May 23, 1988, the House of Representatives approved the Rail Safety Improvement Act of 1988, the first comprehensive railroad safety legislation enacted in many years. This bipartisan bill includes a variety of needed improvements in railroad safety, from both the technical and the human factor perspectives. Upon the approval of the Rail Safety Improvement Act, the Secretary of Transportation, the Honorable James H. Burnley IV, issued an official statement commending the House for its timely action in improving the margin of safety on the Nation's railroads. We are honored by this praise from the Secretary, and we hereby submit his statement for inclusion in the CONGRESSIONAL RECORD.

STATEMENT BY SECRETARY OF TRANSPORTATION JIM BURNLEY ON THE HOUSE OF REPRESENTATIVES' PASSAGE OF 1988 RAIL SAFETY ACT, MARCH 23, 1988

Today's vote by the House of Representatives to pass the Rail Safety Act of 1988 as reported by the conference signals a significant advance in our efforts to improve rail safety in this country. It explicitly provides the Federal Railroad Administration with the same direct authority to enforce safety requirements for railroad employees as the Federal Aviation Administration has for airline employees. The present ability of the FRA to regulate rail companies in areas such as tracks, equipment and signals has resulted in substantial improvement in accident rates. The new legislation clarifies the Department's ability to enforce safety laws and regulations involving human as well as mechanical error—including the disengaging of safety devices, as occurred in the tragic January 1987 Amtrak crash.

Congress is to be congratulated. This legislation, together, with our proposed drug testing rule for railroad employees, will help assure the American public that rail travel in the United States is as safe as possible.

In addition to strengthening FRA's authority over individual employees, the bill will help the Department enforce the law more effectively by increasing the maximum penalty for violations from the current $2,500 to $10,000. Also, our new access to the National Driver's Register will permit us to better evaluate the qualifications of locomotive engineers and other rail personnel by identifying those who have drunk driving convictions.

Today's Congressional action is the culmination of more than a year of hard work on the part of Congress, the Department and many citizens who use the railroads, to give us the authority we need to guarantee maximum levels of safety on the rails.

THE ANIMAL DRUG AMENDMENTS AND PATENT TERM RESTORATION ACT

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. TAUKE. Mr. Speaker, I have today introduced the Animal Drug Amendments and Patent Term Restoration Act of 1988. Modeled after the 1984 Drug Price Competition and Patent Term Restoration Act for human drugs, the legislation I have introduced is designed to promote generic competition while retaining incentives for the development of new animal drugs. The legislation embodies the compromise reached at the end of the last Congress among generic and pioneer drug manufacturers and a number of organizations representing livestock producers.

This legislation establishes an abbreviated new drug application process for generic versions of post-1962 drugs and extends patent life for new animal drugs to reflect the time needed to receive Federal marketing approval.

The Animal Drug Amendments and Patent Term Restoration Act tracks existing Food and Drug Administration policies and procedures for the approval of generic versions of animal drugs approved before 1962. Recognizing, however, that animal drugs are often used in combination and in different species, the act provides the FDA with the flexibility needed to make case-by-case scientific judgments on the data needed to support abbreviated applications. Under this legislation, the generic animal drug must be bioequivalent to the pioneer animal drug. Drugs used in food animals must satisfy requirements for human food safety, and testing in one or more species may be required.

Recognizing the need to show that animal drugs are safe and effective in animals and in human food, the act permits a new animal drug manufacturer to waive the 5 year exclusivity entitlement when the drug is first approved for use in non-food-producing animals and apply this period when the drug is approved for a food-producing animal.

The act provides transition protection for animal drugs developed in reliance on the current approval process. First, the act provides protection from generic competition for any animal drug approved between January 1, 1988, and the enactment date of the legislation for up to 3 years after the drug's patent expires or for up to 10 years from the animal drug's approval date, whichever occurs earlier. Second, this legislation creates a private right of action for companies entitled to exclusive marketing so the use of unapproved animal drugs may be restrained and the black market in unapproved drugs combatted more effectively.

Finding the delicate balance between promoting generic competition, on the one hand, and ensuring that pioneer drug firms continue to have incentives to develop new drugs, on the other, is most difficult. The Animal Drug Amendments and Patent Term Restoration Act I am introducing today comes close, I believe, and merits your support. I encourage my colleagues to cosponsor this legislation and work with me for its enactment.

Thank you for your attention to my comments.

If I may be permitted, I would like to submit the following letter for the RECORD:

MAY 24, 1988.

Hon. THOMAS J. TAUKE,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN TAUKE: As representatives of the livestock and poultry industries, the below listed organizations support the concept of revising the premarket approval of veterinary drugs by authorizing an abbreviated application procedure for generics. This concept will allow the use of generic drugs by this nation's producers. We, therefore, support the Animal Drug Amendments and Patent Term Restoration Act of 1988 which you will soon introduce. This compromise package was developed late in the 99th Congress.

Generic drugs are desirable to the producers of animals and animal food products. The appearance of generics in the marketplace will lower the cost of the product due to increased competition. This, in turn, lowers the cost of production and results in increased profits for livestock and poultry producers. The producer, in this case, is the ultimate consumer of the product and will benefit from the decreased cost of animal drugs.

It is important to realize, however, that producers depend upon pioneer companies to develop new and improved animal drug products. The veterinary drug division of major pharmaceutical companies is small in relation to their other division. The reason is that it represents a smaller market and less profits. Because of this, the development of new animal drugs is currently somewhat stagnant. Therefore, we must not place an overburden on pioneer companies by legislative actions that discourage research and development of new animal drug products. The incentive for new product development is the basis for the needed patent term restoration and exclusive marketing provisions in the compromise package.

There is also a provision in the compromise package entitled "Veterinary Prescription Drugs" which amends Section 503 of the Federal Food, Drug, and Cosmetic Act (FDCA). This section of the bill provides statutory recognition of the veterinary prescription drug categories in the FDCA which exist today through the Food and Drug Administration's regulations.

The appearance of generic drugs will economically benefit livestock and poultry producers, and the compromise package assures that pioneer companies will be anxious to continue to invest in animal and drug research. In sum, the compromise package represents the most beneficial and economical situation for the consumer—livestock and poultry producers, and the producer—generic and brand name companies.

Once again, on behalf of the membership of the organizations below, we support the compromise legislation you are introducing. We hope that the Subcommittee on Health and the Environment, the House Committee on Energy and Commerce and ultimately, the full House will pass this version of the generic animal drug legislation in the 100th Congress.

Sincerely,

Alabama Farmers Federation, American Farm Bureau Federation, American Veterinary Medical Association, Coalition For a Just Animal Drug Law, Generic Pharmaceutical Industry Association, National Grange, National Turkey Federation, United Egg Producers.

ASBESTOS EXPOSURE

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. SIKORSKI. Mr. Speaker, our colleague JIM FLORIO has been at the forefront of our efforts in Congress to reduce the threat of asbestos exposure in our communities. He has recently written an article commenting on the Enironmental Protections Agency's March 1988 Report, required under the Asbestos Hazard Emergency Abatement Act of 1986, on asbestos in public and commercial buildings. The EPA report recommended against taking any action to abate exposure to asbestos in those buildings. I believe Congressman FLORIO'S remarks are worth reading by anyone who shares our concern about the threat of asbestos exposure to public health.

JAMES FLORIO TAKES ISSUE WITH THE EPA

(By U.S. Rep. James Florio)

For those of us who have spent the past few years keeping tabs on the federal Environmental Protection Agency, the recent report on asbestos in non-school buildings was not a shock. It was "merely" a disappointment.

In effect, what EPA was telling us in its rehash of old data and its refusal to assign the issue anything resembling a priority, was that thousands more people will die over the next decades from asbestos exposure that could have been avoided. EPA's only response to such high-risk figures as the fact that 500,000 buildings contain damaged asbestos materials was to say the issue needs more study, and that the cost to building owners of removing asbestos will be high.

What was missing from EPA's assessment is a fair balance of the costs of asbestos exposure. Yes, it is more costly to remove asbestos than to do nothing. But the real question is the cost in human lives if we don't act. Everything in the EPA report pointed to aggressive federal action—everything, that is except the recommendations.

When I sponsored the Asbestos Hazards Emergency Response Act (AHERA) in 1986, my intention, as was the case with the other backers of the measure, was to get rid of the asbestos danger in schools. None of us ever imagined that such a well-meaning and necessary program would then be used by EPA as a smoke screen to prevent action in other equally important areas. But that is what happened. In the public buildings report, which was required under AHERA, the EPA said we should wait and see how the asbestos-in-schools program proceeds before jumping into anything else.

That might make some sense, were it not for the fact that by spring of this year it had become clear that the schools program was going along far too slowly and that EPA deserved a lion's share of the blame. In February, I wrote to EPA administrator Lee Thomas because complaints from around the country were piling up.

In one case, officials from a school district contacted EPA to obtain a list of certified asbestos-removal contractors and they were told to consult the Yellow Pages. In addition to lacking information on accredited inspectors and training opportunities, EPA was acting at a glacial pace regarding establishment of EPA-approved training schools offering asbestos inspector and management courses.

We found, for example, that there was only one school offering the inspector and management course for the states of New Jersey and New York. It is held only once a month, for five days, and limited to 40 students. At that rate, it is hard to conceive of there ever being enough qualified people to remove asbestos safely.

It is clear to me that we cannot let EPA set its own timetable. We need legislation, styled after AHERA, that deals with the problem of asbestos in government buildings, whether state, federal or local. That is a logical next step, to be taken as soon as the school cleanups are completed. Rather than spreading EPA and the asbestos-removal industry too thin, this legislation could act as an incentive to spur both into action. Let's face it, the more certainty there is about asbestos cleanup, the more likely it is that competent people will want to enter the field. And the more important it will be for EPA to treat the problem seriously.

I would like to make it clear that I envision a strong role by the private sector in our effort to rid the nation of the danger of asbestos. And I do not mean for that role to be adversarial. We can, we must, work together. Asbestos removal contractors, building owners, past manufacturers of asbestos—all should have input in developing a program that recognizes everyone's needs and makes sure that costs are borne fairly. Our goals isn't bashing an industry or the government. It is solving a problem.

Having said that, I do believe we have to do more to prod the federal government on environmental issues, and not just asbestos. If anything, the past few years of frustration have made those of us who care about the environment aware of the fact that passing laws just is not enough.

Perhaps we were wrong when we thought back in the late 1970s that the battle to balance economic impacts with environmental protection had ended. We thought it was all over and that the good guys had won. Congress followed through with sweeping measures covering hazardous wastes, clean water, clean air, asbestos and other problems. But we awoke to find many of these policies have been twisted and distorted in their implementation.

Perhaps we were naive or overly optimistic, but we thought that if congress created programs to clean toxic waste sites or control air pollutants, the work would get done. Unfortunately, we left the job in the hands of regulators who either lacked adequate funding or were ideologically opposed—or, sadly, both.

The time has come to look at new ways of getting the job done. In the past couple of years we have responded by adding to legislation mechanisms that make it so that enforcement does not rely on EPA. In the Superfund renewal, we put in a "community right-to-know" provision that forces firms to report directly to their surrounding residents as to what dangerous materials are being processed. In the Resource Conservation and Recovery Act we creatively wrote the law so that safe, appropriate methods of disposing of toxic wastes will be in the economic best interests of those doing the disposing.

We must continue to pursue such solutions, even though they are more complex, or we risk a nation crippled by environmental gridlock. Nor can we simply wait for a new administration to come to Washington, one with a more enlightened view of what it takes to ensure a safe, healthy environment. The massive federal budget deficit will see to it that even the best-intentioned top-level people at EPA will not have at their disposal the resources that were available a decade ago and are still required today.

Knowing that we can neither count on the money or the good faith of those whose job it is to carry out the will of Congress, those of us who care about the environment will just have to be a little wiser, a little more imaginative than we had to be before. Anyone who does not realize that this is what the American people want probably does not belong in office.

DR. ARTHUR LOCKHART, LOCAL HERO

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mrs. COLLINS. Mr. Speaker, this year, Dr. Arthur Lockhart, pastor of the Healing Temple of God in Christ in Chicago, will celebrate his 50th birthday. During the past 22 years, Dr. Lockhart has been a driving force in the improvement of his community.

Dr. Lockhart's accomplishments have been numerous and impressive. As pastor, he has provided counseling and guidance to the church's membership and the community at large. He has initiated programs to provide safe and affordable housing for the residents of the westside of Chicago, and has sponsored the renovation of properties on the depressed 4900 West Chicago Avenue block.

Dr. Lockhart is an inspiration to children in the neighborhood. He has been called "Santa Claus" by the community because of the thousands of toys, food baskets, and clothing he distributed throughout the area. He has personally hired youngsters from the area to work at the church's summer day camp to help develop their sense of responsibility and character. Many of these young people have completed high school and been able to attend college through Dr. Lockhart's monetary contributions.

The Illinois State Legislature declared October 4, 1987, and the first Sunday of every following year to be "Arthur Lockhart Day." This great humanitarian deserves recognition as a role model whose work has brought a better life to the members of his community. The performance of his selfless exploits is a testament to the fact that personal contentment can best be achieved by making others happy. Dr. Lockhart is an American of whom we are proud.

COMMEMORATION OF THE MILLENNIUM OF THE CHRISTIANIZATION OF KIEVAN-RUS'

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. ROE. Mr. Speaker, the year 1988 marks an anniversary which most assuredly has a greater significance then any other for Ukrainian people. I am speaking of the celebration of the millennium of the Christianization of Kievan-Rus', the commemoration of 1,000 years since Volodymyr, Prince of Rus-Ukraine, declared to the Orthodox faith the official faith of his beloved nation and her people.

This historic anniversary of the baptism that took place in the waters of the Dnieper River in 988 will be commemorated by Ukrainian Orthodox faithful everywhere they are free to worship. In my Eighth Congressional District of New Jersey the millennium anniversary will be observed on Sunday, June 5, at the Ukrainian Orthodox Holy Ascension Church in Clifton, NJ, with the greeting of His Beatitude, Metropolitan Mstyslav Skrypnyk, Primate of the Ukrainian Orthodox Church of the United States of America and Diaspora.

Mr. Speaker, such observances, while celebrating an historic event, also serve to remind us how fortunate we are in our great Nation to be able to worship freely, and how, in many nations, such at the Soviet Union, freedom loving people are oppressed and persecuted for their religious beliefs. Here in this great body, we have gone on record as expressing the sense of Congress that in celebration of the millennium the Soviet Union should proclaim a general amnesty for imprisoned Christians and allow Christians to practice their faith within their churches and homes.

This important measure, House Concurrent Resolution 223, passed the House on May 18 by a vote of 394 to 0. Mr. Speaker, because of the great significance of this measure and this anniversary, I would like to insert the text of House Concurrent Resolution 223:

H. CON. RES. 223

Concurrent resolution expressing the sense of Congress that in 1988 in celebration of the millennium of the Christianization of Kievan-Rus' the Soviet Union should proclaim a general amnesty for imprisoned Christians and allow Christians to practice their faith within their churches and homes.

Whereas the Grand Prince of Kiev established Christianity as the offical religion of Kievan-Rus' in 988 A.D. and invited priests of the Byzantine Church to instruct his people in the teaching of Christianity;

Whereas Christian churches have been instrumental in sustaining the faith of the believers and in developing the religious culture of the region for the past one thousand years;

Whereas the Christianization of Kievan-Rus' has made outstanding contributions to world literature, music, folk art, customs and places of worship;

Whereas, although the Constitution of the Soviet Union guarantees religious freedom, Soviet leaders, over the past 70 years, have sought to dissolve many forms of religious witness in the Soviet Union and replace them with Marxist atheism;

Whereas the Soviet Union is signatory to the Helsinki Final Act of the Conference on Security and Cooperation in Europe and the Madrid Concluding Document and has an obligation to comply with the United Nations Universal Declaration of Human Rights;

Whereas the Soviet Union is committed under Principal VII of the Helsinki Final Act to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.";

Whereas in the Soviet Union it is illegal to formally teach religion to persons under 18 years of age;

Whereas openly distributing Bibles or other religious materials has been restricted in the Soviet Union and in some cases has been the basis for imprisonment and harassment;

Whereas thousands of churches have been closed and confiscated in the Soviet Union during the last seven decades, and the Soviets have severely restricted the number of theological seminaries; and

Whereas there are at present nearly 200 Christians who are known to be serving prison sentences, are in exile, or are confined in psychiatric institutions in the Soviet Union because of their religious beliefs, including Balys Gajauskas, Viktoras Petkus, Pastor Ivan Antonov, Pastor Nikolai Boiko, Semyon Skalich, Lev Lukyanenko, Father Vladimir Rusak, and Victor Walter: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), that it is the sense of Congress that in 1988 in celebration of the millennium of the Christianization of Kievan-Rus'—

(1) the Soviet Union should comply with its obligations under the Helsinki Final Act of the Conference on Security and Cooperation in Europe, the Madrid Concluding Document, and the United Nations Universal Declaration of Human Rights and allow Christians to practice their faith without interference, persecution, or harassment;

(2) the Soviet Union should grant a general amnesty for all Christians who have been imprisoned because of their religious beliefs;

(3) the Soviet Union should allow religious believers of all ages to worship and practice their faith without restrictions in their homes and churches;

(4) the Soviet Union should permit unlimited publication, distribution, and importation of Bibles and other religious materials in all languages; and

(5) the Soviet Union should allow churches that are closed or used for secular purposes to reopen, allow new churches to be built when needed, and allow theological seminaries to open or expand in order to insure an adequate supply of priests and pastors for the parish churches.

Mr. Speaker, I believe that the provisions of this resolution are vital to the religious freedom of people everywhere, because if any group of people are denied their religious freedom, then none of us are truly free. In this regard, I wholeheartedly concur with my colleagues, Congressmen CHRISTOPHER SMITH of New Jersey and FRANK WOLF of Virginia, who recently wrote to Feodor M. Burlatskij, Chairman of the Public Commission for Human Rights in the Soviet Union, calling for the following reforms:

The release of all prisoners of conscience who have been convicted because of their religious activities and beliefs.

The end of harassment of religious activists who have been released from confinement.

The institutions of legal and constitutional changes that guarantee religious liberty.

The legalization of religious groups that currently are forbidden to practice their faith openly, such as the Ukrainian Catholic and Orthodox Churches.

Abolishing the requirement that all religious gruops must officially register with the state and have all their activities approved by government authorities.

Allowing religious instruction for both adults and children.

Lifting restrictions on the importation and the free dissemination of religious literature and objects.

Ending government restrictions on the education of clergy.

Allowing religious groups to engage in private charitable activities.

Mr. Speaker, as those of the Ukrainian Orthodox Faith in my Eighth Congressional District of New Jersey, and throughout the world celebrate the millennium of this profound and historic event, I ask you and our colleagues to join me in calling for full amnesty and religious freedom, not only in the Soviet Union, but wherever religious oppression exists.

IN SEARCH OF INNOVATION IN THE CITIES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. KEMP. Mr. Speaker, I would like to call my colleagues' attention to a very thought-provoking article written by my good friend, Mr. Otto Silha. Mr. Silha is chairman of the Innovative City Project and Multihousing World Conference. He has taken an energetic leadership role on the issue of the future of our cities and has been deeply involved in some very exciting urban innovation projects.

One of his most recent articles, which appeared in the May 3 edition of the Christian Science Monitor, follows:

Not long ago Eliot Janeway, the political economist, told his clients, "Forget your hopes for housing. Overnight drops in mortgage rates won't hook new buyers. . . . Housing starts can't recover with homes for sale, a drag on all local real estate markets."

Whether you agree with Mr. Janeway or not—and you probably don't—and whether he's right or not, perhaps one reason that housing in the United States has been, is, and may continue to be flat is failure of our private and public leadership to provide potential buyers with innovative, exciting places to live.

One element of drama and excitement for some people—not all, mind you, but some—is provided by greater density in their living, working, and playing. Meanwhile, opponents of that possibility, taking advantage of the vagaries of environmental reviews and impact statements, have given higher-density housing a bad name.

On Manhattan's East Side, preservationists are attacking density in a city whose crowds and skyscrapers are world famous. Fortunately, the city planning commission is resisting the proposal to halt an increase in apartment towers.

Incidentally, the average density on New York's Park Avenue is 300 households per acre. By comparison, Bertrand Goldberg's Marina City in Chicago has 600 households per acre, still, I believe, the highest density in the Western world.

It is true that more innovative planners, and certainly futurists, have sought to advance the density principle beyond what Manhattan has produced by accident as a result of land costs, and beyond even what Bertrand Goldberg produced in Chicago by design.

The architect-philosopher Paolo Soleri of Arizona best represents futurists with a dream of the ultimate urban density. He calls his urban design discipline "arcology," a combination of architecture and ecology.

One of Mr. Soleri's arcologies, called "A 3-D Jersey," was commissioned by the State of New Jersey, Rutgers University, and the Ford Motor Company. The proposed structure would be three times as high as the Empire State Building, and a mile and a half wide, where a million people could live and work in hivelike urban colonies.

An approach to futuristic urban change more practical than Soleri's emerged in the mid-1960s in the form of the Minnesota Experimental City Project. A distinguished group of experts, under the auspices of the University of Minnesota, began work to test the basic notion of a new kind of city, and to identify the ways in which such a project could be usefully developed.

The 1965-73 project was founded on recognition that urban innovation was approached in piecemeal fashion at best and had been the subject of surprisingly little research and development. In no other part of our society had so much public and private investment been made based on such limited information.

Some of the experiments planned for the Minnesota Experimental City included:

An automated transit system, using personal vehicles, all designed by Ford engineers and displayed in model form at Transpo 74.

All public buildings designed for educational use.

Land bond financing that would provide funds to build the city's infrastructure with a majority of the land value increase resulting from the public decision to build the city. In this plan, residents would pay for services and receive dividends rather than a tax bill.

And a large-scale enclosure (100 acres-plus) supported by housing structures with Goldberg density.

The project was stalemated by the 1973 energy crisis, world economic turmoil, and the years of public and private indecision that have followed. And that is typical of what has happened in our country since we landed on the moon in 1969.

It was no wonder that when the Japanese, early in this decade, began to plan their Technopolis concept—to build a network of more than 20 high-tech cities throughout their country—the only places they visited in the US were Disney World and Silicon Valley.

Where are our new cities? Almost every other major country in the world (and some minor ones) have made significant progress in the design and building of innovative urban centers. A dozen of Japan's Technopolis cities are under construction, and you can bet that their housing designs, spurred by their frugal use of land, will forge new frontiers in housing density.

It is patently true that the failure of US new town projects contributed to the nation's housing crisis.

Cities are the lifeblood of any nation's vitality and the engines of economic growth. They are the centers of work, community, and prosperity.

At a time when the National Commission on Space is recommending that we spend $700 billion on a space colony and a mission to Mars, we must also direct major attention to earthly problems. It is time to marshal private and public leadership to develop new projects, new towns, to test and demonstrate new systems and services, to provide models and show results.

City building and the rebuilding of our present cities will be the major industry in our nation in the year 2000. The combination of the need to innovate and our crumbling infrastructure—roads, sewers, bridges—dictates that fact of life.

The private sector must take the lead, with significant, energetic support and encouragement from public leadership. Housing in innovative settings can be an important initiative. We have high business density in office buildings; we have high people density in shopping centers. We should consider higher density in creative housing.

HONOR THE OLDEST PATRIOTIC FRATERNITIES

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. WELDON. Mr. Speaker, I rise today to honor an organization entering its second century of service to the citizens of our Nation. The Improved Order of Red Men and the Degree of Pocahontas are the oldest patriotic fraternities in the Nation. Their motto of "Friendship, Freedom, and Charity" embodies our most cherished American traditions.

Dedicated to the love of patriotism, the order has strived to make our Nation a better place in which to live. They have worked tirelessly to preserve the ideals and principles for which our forefathers fought so valiantly some 200 years ago.

The Improved Order of Red Men and its sister fraternity, the Degree of Pocahontas, have been instilling in our citizens an ideal which we so desperately need in today's age of public cynicism; a deep love and pride in one's country. On behalf of myself and this historic 100th Congress, let me say that we are truly indebted to this fine organization for their many years of dedicated service to our Nation.

SOVIET POLITICAL PRISONER RELEASES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. HOYER. Mr. Speaker, as chairman of the Helsinki Commission, I am pleased to share with my colleagues the news that, within the last few days, several prominent Soviet dissidents have been freed from incarceration and permitted to go home.

Hanna Mykailenko, who had been forcibly confined in psychiatric hospitals since 1980, when she was arrested for defending Ukrainian cultural and linguistic rights, was released on May 20 and permitted to go to her home in Odessa. A special Serbsky Institute commission had recently examined her case and "found her to be sane."

In addition, we have also learned of the early release of Ukrainian political prisoner, Petro Ruban, who had been sentenced in 1985 to 13 years labor camp and internal exile for "anti-Soviet agitation and propaganda."

Finally, the Commission also received word that Ukrainian Helsinki monitor Vitaliy Kalynychenko was released before the end of his term from perm camp No. 35 and is at home in Ukraine, although he is reported to be in very ill health.

Mr. Speaker, while we welcome the news of the release of these three individuals, on whose behalf the Helsinki Commission and many of my colleagues have repeatedly spoken out over the years, we cannot forget other prisoners of conscience who continue to languish in Soviet psychiatric hospitals and labor camps, including 11 imprisoned Helsinki monitors.

In this regard, the 18 congressional members of the Helsinki Commission recently sent a letter to President Reagan calling the President's attention to the 350 remaining known poltical prisoners. In this letter, the members of the Commission state the belief that the release of these individuals is essential to the improvement of relations between our countries. We hope that these releases signal the beginning of a concerted effort by the Soviet Government to release all of the remaining prisoners of conscience. This, Mr. Speaker, would send a strong signal that the Soviets are intent on taking seriously their commitments under the Helsinki final act and other international agreements.

TRIBUTE TO CHARLES E. WOLF

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Charles E. Wolfe, an outstanding citizen of my 17th Congressional District of Ohio. Mr. Wolfe was recently named "Driver of the Year" for 1987 by the Western Reserve Transit Authority [WRTA].

Mr. Wolfe has been an employee of WRTA for 10 years. He represented WRTA at the American Public Transportation Association's 1986 bus roadeo in Detroit and finished 12th overall in the 35-foot bus category. His performance is a reflection of the many letters he has received on his polite, courteous, and professional approach to his position as a busdriver.

Mr. Speaker, it gives me great pride to represent such a fine and caring gentleman.

REMEMBERING PAMELA MENTZER

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mrs. BENTLEY. Mr. Speaker, many times in our lives we tend not to think too much about the people who hold the often thankless jobs classified under the heading of civil service. When we do, we usually think of the policemen and firemen who make the papers when they save a life or lose their own in the line of duty. However, there is another breed of civil servant—one whose efforts are taken for granted much more than any other.

I am speaking of the paramedics. They too work long hours and often have to work on holidays. These souls must also undergo special training and meet certain standards before they are certified to do their jobs. Several months ago the people in my great State of Maryland got a rude awakening in terms of recognizing the sacrifices made by these people when Pamela Lynn Mentzer, a 22-year-old paramedic, was killed in an auto accident. She was driving home after have completed a grueling 14 hour shift; she was later described by one of her superiors as literally "falling asleep on her feet" due to her exhaustion. It's a shame that it took this incident to make people aware as to how hard these life savers work and the amount of time and energy demanded by their job. However, as Memorial Day approaches, I feel it's only right that people remember Pamela Mentzer, an individual whose devotion to her work as well as her intense desire to save lives wore her out to the point that it cost her her life. While she did not die fighting a fire or by a gunshot wound, I feel that Pamela should be recognized with the same respect afforded all civil servants who have made the supreme sacrifice. For these reasons I shall tell her story here.

Pamela Mentzer—called "Aunt Bea" by all her coworkers—was the daughter of a Baltimore County fire captain. She initially went to nursing school, yet decided later to pursue a career as a paramedic. She initially tried to become a paramedic in Baltimore County, yet was rejected in part because she was somewhat overweight. She then lost 27 pounds in 2 weeks and obtained a job with the Baltimore City Fire Department. This girl, Mr. Speaker, obviously was no quitter.

She worked at one of the busiest medic units in the city; in addition, she was only one of three women assigned to that particular station. However, she approached her duties with a sincere devotion and concern for the well-being of others. The hours were hectic and sometimes the work was gruesome—but she loved it. The one thing about the job she couldn't handle easily was death. During her last tiring shift she was unable to save one man from dying of a heart attack. "She wanted to save people," her mother, Beverly Phillips, explained. "She couldn't stand it when people died."

The man's death and the long hours took its toll on Pamela both physically and emotionally. She climbed wearily behind the wheel of her automobile at nearly 6 o'clock in the morning last December 27 and started on her way home. It's been speculated that she fell asleep at the wheel, for her car sped through a red light and struck a passenger bus. Panela was killed instantly.

I find little difficulty in saying that Pamela Mentzer was a hero. She worked night after night treating the injured and saving the lives of others. Yet even her intense devotion and love of what she was doing could not make up for the toll that the hours put on her. There are thousands of paramedics in our country, and I am sure that they work with the same intensity as did Pamela. I pray that changes can be made so that such a tragedy can never be repeated.

I know that Pamela's family still feels the intense pain of her loss; in addition, I know my words will do little to alleviate the grief which still lingers in their hearts. In any event, they may take some solace in the fact that Pamela—as will all the civil servants who make the supreme sacrifice—will live in our hearts as long as she is remembered.

Believe me, Mr. Speaker, I am sure that she will never be forgotten.

NATIONAL EMPLOYEE ASSISTANCE PROGRAMS RECOGNITION MONTH

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Ms. SLAUGHTER of New York. Mr. Speaker, I recently introduced legislation to declare September "National Employee Assistance Programs Recognition Month." We in Congress should recognize the valuable services that employee assistance programs [EAP's] provide, and help draw the attention of the Nation to their existence and to the benefits they offer. I am hoping this resolution will accomplish these goals, and I urge my colleagues to cosponsor this measure and support its passage.

As the resolution, which I have had reprinted below, states, EAP's are programs in the workplace formally designed to identify employees with personal problems as early as possible, accurately assess the nature and severity of their problems, refer them to appropriate care in the community, follow up to ensure they get the help they need, and monitor the results of this process.

The problems addressed by EAP's are myriad. The EAP "movement" began as a workplace response to employee alcoholism. Today, alcoholism is recognized as being only one of many problems that employees may encounter during their working lives. Employee assistance programs have taken a broad approach to helping troubled employees. They have proven to be a valuable resource for individuals who are in need of guidance but who don't know where to turn.

Mr. Speaker, EAP's have enabled countless numbers of our Nation's work force to get through difficult times. When workers are confronted with problems associated with aging parents, personal substance abuse, financial difficulties, or delinquent children, a workplace EAP counselor can offer the direction and guidance that is needed. By referring these individuals to appropriate agencies, EAP's relieve anguish and preserve the health and productivity of these employees. There can be no question that Employee Assistance Programs are beneficial to all involved.

Mr. Speaker, I urge my colleagues to join me in support of this measure.

H.J. Res. 574

Whereas an employee assistance program (EAP) is a program in a workplace formally designed to identify employees with personal problems as early as possible, accurately assess the nature and severity of their problems, refer them to appropriate care in the community, follow up to ensure they get the help they need, and monitor the results of this process;

Whereas employee assistance programs promote individual employee health, well-being, and productivity by reducing the impact of chemical dependency and other personal problems;

Whereas employee assistance programs enable both labor and management to identify troubled employees with personal problems, motivate them to seek help, and assist them in returning to an acceptable level of performance; and

Whereas there is a need to further educate employees, employers, and the public as to the important benefits of participating in employee assistance programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September, 1988 is designated as "National Employee Assistance Programs Recognition Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

A TRIBUTE TO CHANCELLOR WILLIAM A. JENKINS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. DINGELL. Mr. Speaker, today I rise to pay tribute to an outstanding and respected educator, Dr. William A. Jenkins. He will be retiring as Chancellor from the University of Michigan-Dearborn in June. Over his 8 years tenure at the university, Chancellor Jenkins has made significant contributions to the quality of education in the University of Michigan-Dearborn community.

Chancellor Jenkins has provided effective and progressive leadership through the implementation of many innovative programs and policies on the Dearborn campus. He initiated the Incentive Scholarship Program, which is operated by the University of Michigan-Dearborn in conjunction with the Detroit Public Schools, to provide equal opportunities for all university applicants. The program has since been adopted by 12 of 15 institutions of higher learning in the State. Chancellor Jenkins also improved upon the existing Evening Degree Program whereby working students are afforded the opportunity to obtain a degree from among 11 different fields of study through evening classes. Senior citizens are offered an array of educational opportunities through the Retired Person Scholarship Program. Chancellor Jenkins has also sought the computerization of the Dearborn campus to cut administrative costs and, more importantly, to help students save valuable time and gain access to the latest technologies.

Chancellor Jenkins has also markedly improved the morale and the diversity of the university by involving more students, alumni, businesses and industries in the academic and physical growth of the campus. Student clubs and organizations on campus have nearly doubled since 1980. Enrollment at the University of Michigan-Dearborn has increased by 16 percent from 1980 to 1988. Alumni involvement is also on the rise with the establishment of a director of alumni relations by Chancellor Jenkins. As a result, annual giving to the university from alumni, businesses and industry has increased dramatically in 1986-87, especially in relation to business and industry subsidies for research. In addition, both business and industry have turned to the institution for problem solving advice and personnel recruitment.

I congratulate Chancellor Jenkins for his stellar achievements in improving and progressing the quality of education in the Dearborn community and the State at large. On his retirement, I regret we are losing a fine educator and a good friend, nevertheless, I wish him good luck in the days ahead.

STRENGTHENING THE CARIBBEAN BASIN INITIATIVE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. RANGEL. Mr. Speaker, I would like to share with my colleagues the testimony submitted by Edward A. Laing, the Ambassador to Belize, before the Subcommittee on Trade. Ambassador Laing's remarks are submitted in conjunction with the April hearings on H.R. 3101, the Caribbean Basin Economic Recovery Act.

I would like to commend Ambassador Laing for his understanding of the area and its importance, and for the logic and foresight of his solutions. He recognizes, as do the cosponsors of H.R. 3101, that the Caribbean Basin, in order to be a productive and enriching environment both for its inhabitants and its trading partners, needs a renewed commitment of U.S. economic assistance. Increased assistance is crucial so that countries of the Caribbean Basin can diversify their economies, aid their "infant" industries, and train their populations. I hope that my fellow members of Congress will share Ambassador Laing's sense of urgency and work to enhance the economic and political climate of such a high-need region.

Statement Submitted by Edward A. Laing, Ambassador to Belize

I appreciate this opportunity of addressing this distinguished Subcommittee, of the Committee of Ways and Means, on H.R. 3101. The Subcommittee and the larger group of sponsors of this Bill must be warmly congratulated for this initiative, which would expand the Caribbean Basin Economic Recovery Act of 1983. Above all, permit me to thank you, the Administration and the Congressional Friends of the Caribbean for regarding the health of the fledgeling Caribbean economies as a paramount policy concern of the United States.

The people of our region cannot continue to be mainly primary producers if we are to avoid expanding the international dole, massive migration to the North and social unrest, which respects no boundaries. That the Bill's sponsors recognize this is evident from their efforts therein to: create opportunities for economic diversification, preserve the principles of specialization and comparative advantage, and provide facilities for value-addition, particularly in the more disadvantaged countries.

ECONOMIC DIVERSIFICATION

The Bill's provisions promoting economic diversification include those on the "special category articles" in section 213 of the Caribbean Basin Economic Recovery Act (sec. 4), the removal of quotas for products wholly made from U.S. materials (sec. 7(a)), the increase in the duty-free allowance for returning residents (sec. 7(b)), cumulation in countervailing duty and antidumping law cases (sec. 8) and ethyl alcohol (sec. 9). However, recognizing the acute needs of the Caribbean and the immense difficulties with diversification in our essentially monoproduct economies, I would exhort the Subcommittee to craft provisions which are as flexible and workable as possible. For instance, it would be desirable to simplify section 4, which, as presently written, would be difficult to operate.

SPECIALIZATION AND COMPARATIVE ADVANTAGE

It is not proposed that economic diversification be forced on Caribbean economies at the expense of the basic tenets of the fundamental free trade principles of specialization and comparative advantage. They should all operate together. This is illustrated by tourism. Lacking few mineral resources, skilled work forces or capital, the Caribbean's main assets are its scenic and other natural resources, historical riches and the charm of its human resources. It therefore provides attractive tourism destinations, especially such countries, as Belize, with scores of such hidden treasures as Maya historical sites, the longest coral reef in the Americas and animal preserves.

The Bill seems to acknowledge the importance of tourism with its provision for increased duty-free allowances to returning American tourists. This will contribute to the growth of that industry, thus both fostering economic diversification and underpinning specialization and comparative advantage.

However, we must remember that Caribbean tourism is highly complementary with tourism in the southern United States. We all share in the benefits of increased tourism. I therefore strongly urge that the duty-free allowance be significantly increased. Furthermore, the new Act should (1) clearly express a United States policy to expand Caribbean tourism, which is symbiotic to American tourism, and (2) encourage legislative and executive action by the end of this legislative session tangibly to foster the expansion of such tourism.

At the same time, try as we can to diversify away from sugar, comparative advantage makes it clear that several of the larger territories are most experienced and efficient at producing sugar. The proposal to restore our sugar quota to 1983 levels is therefore one which is dictated by all the circumstances.

VALUE-ADDED IN THE DISADVANTAGED COUNTRIES

Disadvantages of Belize and certain eastern Caribbean states

Section 3 of the Bill wisely recognizes that all of the CBI countries, while poor, are not equally disadvantaged. In particular, Belize and certain Eastern Caribbean States have very limited resource bases. There are lower levels of development than in most other CBI countries; e.g., in Belize, there is a much smaller absolute and relative number of first class hotel rooms than elsewhere in the region.

Infrastructures are weak. For instance, in Belize the important southern highway to our deepest port and fertile banana-producing area is unpaved. The same is the case with the roads in our scenic Mountain Pine Ridge resort area. There are no bridges over the streams leading to our north-east forest preserves. In Belize and most, perhaps all, of the countries, transmission lines shed loads and electric generation is inadequate. Transportation facilities, especially for international shipping, are limited and expensive.

Our per capita incomes are uniformly low though, deceptively, just high enough to disqualify our countries from International Development Association (IDA) assistance. Yet some of the poorer countries with lower per capita incomes have what Belize and these Eastern Caribbean countries do not: manufacturing bases. By comparison, the only "manufacturing" in Belize are small import-substitution plants, for bathroom tissues and matches, and, for the export market, garment-stitching plants employing fewer than 800 persons.

These countries all have small, poorly-trained populations and Belize, a relatively large country, over twice the size of Jamaica, has the added disadvantage of one of the lowest population densities in the world. Belize also has the highest ratio, 1:6, of first generation immigrants (mostly unskilled refugees) in the Hemisphere. I need not belabour to this distinguished Subcommittee the strain these factors impose on the economic and social resources of, and the threat they pose to, our stable democracy.

Justification for differential measures

Such gross disadvantages justify the special measures of the type which have been proposed in section 3 of the Bill for certain Eastern Caribbean countries, and recommended before this Subcommittee, by all the CBI beneficiaries, for Belize. Such measures are consistent with established United States and global policies favouring differential treatment of the lesser-developed and otherwise disadvantaged countries, as exemplified, e.g., by the International Development Association, "soft windows" at international lending agencies, the spirit of Part IV of the General Agreement on Tariffs and Trade (GATT), paragraph 6(iv)(a) of the GATT Ministerial Declaration of November, 1982, and the regime for island and land-locked developing countries within the United Nations system, notably the Conference on Trade and Development (UNCTAD).

The need for differential measures (and special assistance) has also been recognized in Chapter VII of the Annex to the Treaty establishing the Caribbean Community (CARICOM), to which Belize, and the preponderant majority of the Eastern Caribbean countries presently listed in section 3 of the Bill, belong or have the liberty of belonging, by virtue of Article 2 of the Treaty. Approximately, Article 3 of the CARICOM Treaty designates Belize and those countries as "Less Developed Countries" (LDCs).

Differential measures for the CARICOM LDCs are especially justified by the fact that these countries are much more newly-independent than the other CBI countries. Each of them attained independence since 1973, the year the CARICOM Treaty was signed. In Belize's case, independence was attained as recently as September, 1981, making Belize one of the two newest independent countries in the area. As newly-independent states, the CARICOM LDCs have not had equality of time and of opportunity for economic development, unlike many of the world's countries which have been independent for over one century. Section 3 seeks to give these countries a chance to catch-up, to attempt to grow-up industrially, to gain a headstart.

It should be noted that the average GNP of the countries is $136 million and that their trade with this country constitutes less than 1 percent of U.S. imports. Section 3 will therefore be in no way harmful to the U.S. economy.

Value-added in infant industries

Section 3 will provide these lesser-developed countries the opportunity of establishing, for the very first time, in cases like Belize and Dominica, new industries which will enhance local value-added in the territories, provide training for work-forces, furnish employment for large urban populations and allow the countries to attempt to take-off. Above all, "infant" industries will be established, in these infant countries, consistently with the special provisions of Article XVIII of the GATT, which recognize that certain economies "are in the early stages of development," i.e. the countries are newly independent and, as the Ad Note to GATT Article XVIII provides, in some of them there is excessive reliance on primary production, as in Belize and Dominica.

Identifying the countries

The most correct and appropriate method of designating the beneficiaries of section 3 should be "CARICOM LDCs." This would have the advantages, over the present "Eastern Caribbean" terminology, of:

Consistency with the established treaty framework of the regional integration system;

Predictability and objectivity of the underlying economic criteria, by which the countries can, if necessary, be automatically declassified and graduated from the benefits of section 3, if they later become "More Developed Countries," a category prescribed by the CARICOM Treaty;

Fairness; and

Geographic and political neutrality.

If it is still desired to include other countries which are not CARICOM LDCs, such countries can be mentioned by name.

If such an approach is not followed and the Eastern Caribbean terminology is retained, it is suggested that section 3 should be reworded "Belize and the Eastern Caribbean."

Substantial transformation

It has been seen that the class of beneficiaries of section 3 is extremely small. Since the class is defined either in terms of a limited treaty and, by implication, by reference to the countries' recent independence, it is not possible that the class can be enlarged, with the potential for injury to U.S. interests.

Since for neither this reason nor any other, can there be injury to the United States, and since the substantive benefits are extremely limited, no harm can be done by affording the special rule of origin without the requirement of "substantial transformation" of general U.S. trade law. Certainly, any fear of the countries being used for "pass through" operations is unjustified. Therefore, it is recommended that, to satisfy section 3's special rule of origin, the product should be required to belong to a tariff classification different from that of its components. A partial, though rather complex, model can be found in the recent U.S.-Canada Free Trade Agreement.

CONCLUSION

Mr. Chairman, Members of the Subcommittee on Trade: I believe that what the original Caribbean Basin Economic Recovery Act and this new Bill seek to do are to avoid expansion of the international dole by encouraging and, where possible, assisting in the creation of the infrastructures necessary for multi-sectoral economies and by stabilizing and improving the framework for trade. We truly appreciate this exercise in the Hemispheric solidarity and hope that it will be massively expanded.

REPORT OF THE DEMOCRATIC CAUCUS TASK FORCE ON THE STRATEGIC DEFENSE INITIATIVE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. FAZIO. Mr. Speaker, on behalf of myself and Mr. Bennett of Florida, I would like to present to the Members of the House the report of the Democratic Caucus Task Force on the Strategic Defense Initiative. I urge my colleagues to carefully review this concise, balanced and consensus set to recommendations regarding the future of SDI.

The text of the Report follows:

Strategic Defense—Strategic Choices

RECOMMENDATIONS OF THE TASK FORCE ON THE STRATEGIC DEFENSE INITIATIVE

These recommendations are the result of extensive research and consultations conducted by the Task Force on the Strategic Defense Initiative, chaired by Repesentatives Charles E. Bennett (D-FL) and Vic Fazio (D-CA), and appointed by the Democratic Caucus of the House of Representatives for this purpose.

From January to May 1988, the members and staff of the task force held 25 meetings with many of the Nation's most knowledgeable experts on strategic defense. The task force members have all had oversight responsibility for SDI while serving on the Committees on Armed Services, Appropriations, Budget, Foreign Affairs, Government Operations, Intelligence, and Science, Space, and Technology.

The members of the task force are:

Chairman.—Charles E. Bennett and Vic Fazio.

Members.—Les AuCoin; Howard Berman; George Brown; Bill Chappell, Jr., Ronald Dellums; Norman Dicks; Thomas Downey; Ronnie Flippo; George Hochbrueckner;

EDWARD MARKEY; NICHOLAS MAVROULES; FRANK MCCLOSKEY; DAVE MCCURDY; JIM OLIN; MARTIN OLAY SABO; and JOHN SPRATT.

Ex Officio Members.—LES ASPIN; JACK BROOKS; TONY COELHO; DANTE FASCELL; RICHARD GEPHARDT; MARY ROSE OAKAR; and THOMAS FOLEY.

Many members of the Caucus helped by sharing with the task force their assessment of the SDI Program. The task force also sought out the views of experts both inside and outside the administration with experience in the field and with a broad range of views. Those experts who met with the task force include the following: Lt Gen. James A. Abrahamson, Dr. Harold Brown, Dr. Robert Cooper, Lt. Gen. Glenn Kent (ret.), Dr. George Miller, Hon. Robert McNamara, Lt. Gen. Brent Scowcroft (ret.), Ambassador Paul Warnke, and from the Office of Technology Assessment, Dr. Anthony Fainberg, Dr. Thomas Karas, and Dr. Peter Sharfman.

The task force also utilized the expertise of the members' personal and committee staff and of the professional of the Library of Congress, the General Accounting Office, the Congressional Budget Office and the Office of Technology Assessment.

INTRODUCTION

Two technological events at the end of World War II—ballistic missiles and nuclear weapons—have left humanity ever since the awful possibility of extinction. Over the years since the V-2 and the atomic bomb, there have been two concepts for preserving civilization: active defense and deterrence. Active defense relies on intercepting weapons already launched. Deterrence relies on the threat of devastating retaliation to discourage an enemy from daring ever to launch its weapons.

Active defenses clearly have appeal. But as appealing as active defense may seem, the economic and technical challenges posed by the combination of weapons of unimaginable destruction in missiles of unimaginable speed have frustrated every attempt so far to build workable defenses. Thus we have been forced to rely on deterrence.

However, neither the United States nor the Soviet Union has ever abandoned research on active defenses. Strategic defense research, funded at just under $1 billion, was underway when President Reagan made his speech on March 23, 1983, inaugurating the Strategic Defense Initiative [SDI]. The effect of SDI has been to raise funding, as well as expectations, considerably. But, after spending $13 billion over the last 5 years, SDI is a long way from fulfilling the President's expectations. Indeed, there is good reason to question whether present efforts will be any more successful than earlier attempts.

Our primary objective must always be to minimize the likelihood of thermonuclear war. So long as we rely on deterrence, our strategic forces must be able to survive Soviet attack and strike back. At least in theory, active defenses might help, but not if we would have to rob our conventional forces to pay for them. The costs for a ballistic missile defense would be measured in the hundreds of billions of dollars, even without the logically essential addition of a massive new air defense system to defend against Soviet bombers and cruise missiles. In this era of tight budgets, the only realistic source of funds for SDI is where most of the defense dollar now goes: conventional forces. Yet that could easily lead to someday finding ourselves in a conventional war with forces so weakened by budgetary diversions to SDI that our only alternative to capitulation would be precisely what we were trying to avoid in the first place—nuclear war.

WHAT WE ARE FOR

We believe that strategic defense research must continue at a reasonable and stable pace. We must make sure that we understand the technology as least as well as the Soviets do, lest we be caught by a Soviet technological breakthrough. We should also continue to explore potential ballistic missile defenses that would be compatible with the traditional interpretation of the 1972 Anti-Ballistic Missile Treaty.

We also believe that arms control offers the possibility of increasing crisis stability, which is the key objective. While we favor equitable general reductions in nuclear weapons on both sides, a more important goal in our negotiations is eliminating destabilizing weapons—those that by virtue of being both powerful and vulnerable, could tempt a ghastly preemptive strike in desperation by the other side in time of deep crisis.

In addition, we must pursue on our own various programs not dependent on the success of our arms control negotiations. These include a vigorous program in devices to ensure that our missiles could penetrate any potential Soviet ABM defense, and strategic force modernizations aimed at making our offensive weapons more stabilizing and secure.

RECOMMENDATIONS

1. Research on strategic defense technologies is an appropriate part of this nation's defense program. For almost thirty years and at the cost of some $100 billion, the search has continued for ways to counter nuclear weapons. Research should continue, both to keep ahead of similar Soviet efforts and to probe as yet unforeseen defensive technologies.

2. Research should concentrate on new technologies that might have long-term potential of defending our country against Soviet nuclear weapons designed in response to defensive deployments. Such research must address nuclear threats other than ballistic missiles. Because we are conficent of our ability to overcome traditional ABM technologies, basic research into potentially more effective directed energy technologies is a prudent hedge against the risk of a Soviet breakthrough.

3. Research should also explore near-term options, aimed at: guarding against a Soviet breakout of the Anti-Ballistic Missile Treaty by developing decoys and other devices to continue to ensure that United States nuclear missiles can overwhelm and penetrate existing or potential Soviet defensive systems; exploring the cost, technical feasibility, and strategic advisability of ABM Treaty-compliant defenses against the threat of accidental and unauthorized missile attacks, concurrently with a rigorous examination of other options to address that threat; improving surveillance capabilities by developing advanced sensors for early attack warning and for verification of compliance with treaties; and, exploring methods for enhancing crisis stability and the survivability of our nuclear forces through mobility. Strategic mobility would probably be a significantly less costly method of enhancing deterrence than deployment of a Phase I strategic defense.

4. Funding for this research must be based on a realistic assessment of priorities within the defense budget and must not undercut more pressng defense needs, particulaly in areas of conventional force improvements. All our defenses are a deterrent against war; funds spent on strategic defense that is only marginally effective, the nation could be made weaker, not stronger.

5. The research program we recommend (as outlined above) is at odds with phase I of the Strategic Defense System [SDS], as now formulated—a system which emphasizes space interceptors and near-term deployment and which would violate the ABM Treaty. Early deployment of SDS would freeze design of the system prematurely, and divert funds from long-term research into near-term systems with fractional effectiveness at best.

6. U.S. policy should support mutual adherence to the traditional interpretation of the Anti-Ballistic Missile Treaty because it serves our national security interest. The ABM-Ballistic Missile Treaty made possible the Strategic Arms Limitations Treaties (SALT I and II). There is no technical breakthrough in ABM defenses that justifies abrogating the Treaty, providing the Soviets comply with it.

7. The U.S.-Soviet arms control talks underway in Geneva should continue with a focus on resolving current differences over strategic defenses. A resolution of such differences is crucial if the two sides are to reach agreement on deep reductions in offensive forces and further limits on nuclear testing. In this regard, the United States and the Soviet Union should examine ways to limit the escalation of the arms race into space, including mutual and verifiable limitations on specific space tests. This could involve a review of the ABM Treaty to clarify its terms.

NEWARK CELEBRATES CUBAN INDEPENDENCE WEEK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. RODINO. Mr. Speaker, last week the city of Newark celebrated Cuban Independence Week. This special occasion marks the anniversary of Cuba's independence from Spain on May 20, 1902. It is a time to remember the past and the continuing struggle for freedom in Cuba. It is also an opportunity for all Newarkers to express their appreciation to the Cuban people of Newark for their many important contributions to our city. Cuban-Americans have added to the rich diversity of culture that characterizes Newark today and their dedication and hard work have benefited the entire community.

This weeklong celebration began with a special ceremony at city hall where City Council President Henry Martinez and Deputy Mayor Sylvia Guarino read proclamations praising the Cuban people of the city of Newark * * * for their high spiritual and cultural values.

In addition, outstanding citizenship awards were given to several Cuban-American Newarkers. Among those honored were: Lazaro Alvarez, Sr., owner of Newark Business Machines on Ferry Street, as outstanding businessman; Ricardo Pastrana, president of the United Cuban Organizations of Newark as outstanding civil leader; Carlos Bidot, editor and publisher of La Tribuna, as outstanding journalist; Chein Garcia Alonso, as outstanding musician and composer; Migdalia Gonzalez, former president of United Cuban Organizations of Newark, as outstanding woman; and Vicente Lopez, grandmaster of the Caballeros de la Luz organization, as outstanding community leader.

Other activities marking Cuban Independence Week included a wreath laying ceremony at the statue of José Martí, a fighter for Cuban independence, in Cabrini Park and special events at Casa Cuba highlighting Cuban culture.

Mr. Speaker, I want to extend my warmest congratulations to all of those who were honored this year and I want to join in expressing both appreciation and gratitude to all Cuban-American Newarkers for enriching our city.

WASATCH NATIONAL RECREATION AREA

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. OWENS of Utah. Mr. Speaker, the Wasatch-Cache and Uintah National Forests are two of Utah's greatest natural treasures. This narrow strip of forest lands in the Wasatch Mountains provides an imposing natural skyline for Utah's major cities—Salt Lake City, Ogden, and Provo. Besides furnishing critical watershed, it is a unique area that offers a full range of recreational opportunities, from downhill skiing with comfortable resorts and hotels, to primitive wilderness areas for hiking, camping, and fishing, to picnic areas and campgrounds which provide the residents of my district a quick opportunity to get away from the city and spend an hour or a day outdoors. We are truly fortunate to have such a tremendous resource in our backyard.

This proximity to Utah's major population centers has presented certain challenges, however. The most obvious is the extremely heavy use experienced on these two forests. The Wasatch-Cache and the Uintah National Forests serve 8.6 million recreational visitors per year. By comparison, Yellowstone National Park, a much larger area, serves 2.4 million visitors per year. These Utah National Forests also experience year-round use, with all of its attendant pressures, rather than seasonal, summertime use.

This intensive recreational use requires intensive and careful management and maintenance in order to avoid the gradual derogation of our mountains. Unfortunately, the resources needed by the Forest Service to manage this area have been unavailable. A GAO report conducted in 1986 indicated that only $1.5 million had been spent that year on maintenance at the Wasatch-Cache National Forest, and that there were over $10 million in maintenance needs that were going unmet. This translates into a deterioration of many of the facilities in these forests, as campgrounds, picnic areas, and trails fall into disrepair. Perhaps even more significantly, it means that the Forest Service is unable to manage and protect the resource, and that many areas are being overused because we are unable to disperse the recreational users throughout the area.

In order to address this problem, I am introducing today a bill to establish a Forest Service National Recreation Area along the Wasatch front. This legislation will accomplish two important things: first, it will recognize this area as a recreational resource of national significance which deserves greater protection and support; second, it will provide for the management as one integral unit of those areas of the Wasatch-Cache and Uintah National Forests that receive heavy recreational use. This new recreational area will continue to be managed by the Forest Service.

Mr. Speaker, as the population of Utah's Wasatch front continues to grow, our people are going to need more and better recreational facilities. The Wasatch-Cache and Uintah National Forests provide a unique and popular natural recreational resource. My legislation will assure that it is a resource that is available for many years into the future.

MEMORIAL DAY TRIBUTE

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. PERKINS. Mr. Speaker, I rise today to honor all of the brave men and women who have died in the service of their country throughout the years, and to express my deep thanks to all of the veterans in the United States who have given of themselves to keep this land strong and free.

Memorial Day, or Decoration Day, has traditionally been a day that we honor our war dead by decorating their graves with flags and flowers. Memorial Day celebrations started in 1866, just after the Civil War, when memorial associations were formed, mostly of women, to care for the graves of Union and Confederate soldiers. In Waterloo, NY, and Carbondale, IL the dead were honored with parades, business closings, and solemn speeches. Then on May 5, 1868, General Logan, the first Commander-in-Chief of the Grand Army of the Republic, issued the general order for nationwide observance of Decoration Day on May 30.

Since that time we have honored these special people in many ways. But it is because of them that we enjoy the freedom that we do today. The veterans of this country have given of themselves to keep America and her citizens safe. We have all, at one time or another, been touched by war. And many of us have lost someone close to us due to war. The price of freedom is very high. But if we want to keep our freedoms we must be willing to pay that price, no matter how high.

Just since the turn of the century, we have been called to stand strong for our country five times. Many across this Nation can remember each of those conflicts as if they were yesterday. Those memories pull at their heartstrings with thoughts of lost fathers, sons, brothers, and friends. So now it is only right that we honor, not only the soldiers who died, but those who have survived those conflicts that have kept us free. We will never be able to repay them for their sacrifice and courage. We can only promise to them to keep the fire of freedom burning, and to protect this country with our lives as they have done. The veterans of the United States have given us so much to be thankful for that they deserve all of our praise on this very special day.

A TRIBUTE TO ANNE DIAMENT: ALAMEDA, CA, CITIZEN OF THE YEAR

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. STARK. Mr. Speaker, it is with great pleasure that I share with my colleagues the contributions of a truly outstanding public servant, Anne Diament. Anne's longtime commitment to serving the Alameda community has led the South Shore Center and Alameda newspapers to name her "Citizen of the Year." She will be honored with a dinner on June 1, 1988.

There is no one more deserving of this great honor than Anne Diament. Anne has been a vital part of her community for over 35 years. In 1952, when Anne arrived in Alameda from New Jersey, she began volunteering in organizations which directly involved her children, including the PTA, Alameda Girl Scout Council, and Alameda Boy Scout Council. Today, she continues to be a leading member of her community.

As a member of the city council, housing commission, and Alameda Welfare Council, Anne has provided Alameda County with outstanding leadership. As mayor, she was a strong advocate for the city's underprivileged, calling for continued support for social service programs to serve the homeless and hungry. She also worked hard to preserve the city's historical neighborhoods, and to foster good relations between the city and schools.

In her selfless service to others, Anne continues to nurture a sense of community spirit. Not only has she been an active member of the local Red Cross for over two decades, but she has been involved with the League of Women Voters, Meals on Wheels, and numerous other service clubs. She currently serves on the steering committee for the city's strategic plan, and is helping to organize the government watchdog group, Concerned Citizens for Good Government.

Anne is a woman who deserves our respect and admiration. She is an example to us all. And so, it is with great pride and gratitude that I join the members of the Alameda community in honoring and thanking Anne Diament for her dedicated efforts. I wish her much good fortune in her future endeavors.

THE CENTENNIAL OF A GREAT BREWERY

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. BOEHLERT. Mr. Speaker, I would like to call to the attention of my colleagues an important anniversary occurring this year in central New York. The F.X. Matt Brewing Co., in my hometown of Utica, NY, produces some of the finest beer in the Nation. This family business is celebrating its centennial during 1988 and I want to extend my warmest congratulations to all of the people at Matt's as they continue an old honorable tradition.

The F.X. Matt Brewing Co. has been in operation for almost a century. Currently the Nation's 12th largest brewery, a few of the company's labels are: Saranac 1888 All Malt Lager, Matt's Premium, Season's Best Holiday Amber Beer, Utica Club, and Utica Cream Ale. The company also serves as a contract brewer and produces New Amsterdam Amber, Portland Lager, Dock Street Amber Beer, and a nonalcoholic brew, Birell.

Known as the West End Brewing Co., upon its founding in 1888, the name was changed in 1980 to the F.X. Matt Brewing Co., in tribute to its founder. F.X. Matt I—grandfather of the current president—was born in the Black Forest region of Germany, and learned the art of brewing at the famed Duke of Baden Brewery in Rothaus, Germany.

Emigrating to America in 1878, Matt began work in Bierbauer's Columbia Brewery, then one of nine breweries located in Utica. After several years in Central New York, where he learned the management, marketing, and shipping aspects of the brewing industry, he became the manager of the brewery in Utica. In 1888 he reorganized that brewery to form the West End Brewing Co.

The company employed 12 people in 1888, but grew under the guidance of Matt. During the Prohibition years, 1919 to 1933, the brewery survived by making near beer—without alcohol—and soft drinks. My colleagues will appreciate that the founder made several trips to Washington, DC, during Prohibition, in an attempt to learn when the law might be repealed. On March 22, 1933, his persistence paid off, as his brewery was the first in the Nation to obtain a permit to sell—just 1½ hours after repeal was signed by President Roosevelt.

After Prohibition, F.X. was joined by his two sons, Frank and Walter. In 1951, F.X. turned over his role as president to his son Walter. The second Matt embarked on a construction program spanning over a quarter of a century and $18 million of modernization and expansions.

The current president, F.X. Matt II, who succeeded his father Walter in 1980, has continued the modernization tradition of his predecessors. In addition to state-of-the art brewing technology, the company has also opened a Victorian reception area and tour center, and the Brewery Shop, which sells fun, quality gift and specialty items. The modern era also brought some memorable advertising campaigns, the most famous of which was two talking beer steins, Shultz and Dooley, who spoke and sang the virtues of Utica Club.

From its beginning in 1888, the F.X. Matt Brewing Co., has come a long way. At the turn of the century, more than 1,200 breweries were in operation in the United States. Today, 1 of about 40 breweries nationwide, the company employs about 200 people. Anyone who appreciates a delicious, cold, foamy brew or who knows what this kind of ambitious family business means, to a community, can raise a mug in toast to the centennial of a fine old company.

THE DEATH OF MAYOR ART PETERS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. BEREUTER. Mr. Speaker, the citizens of Fremont, NE, in my congressional district, have lost a very popular mayor and a beloved community leader with the sudden death of Art Peters. His loss is felt greatly by his family and the people in the Fremont community where he was elected four times as mayor of this progressive city of 24,000 citizens.

Peters was elected to the Fremont City Council in 1970 and then was elected mayor in 1972. He was reelected in 1976 but stepped down a year later in order to have time to care for his ailing wife, Emma, who died in 1977. Peters was elected as mayor again in 1980 and reelected for the fourth time in 1984.

Peters' accomplishments during his prominent tenure as mayor will prove very beneficial for the Fremont community for many years to come. He has provided leadership in capital improvement projects totaling more than $61 million. Those projects included high-rise housing for the elderly, Keene Memorial Library, and the Stanton and Gifford Towers. Other projects under his direction were a $27 million powerplant addition and the $12 million purchase of a gas utility company for the city. These are just a few examples of his many valuable contributions to the Fremont community.

Mayor Peters was 77 years old when he died in his sleep on May 19, 1988. He has earned the highest respect of the residents of Fremont, and he will certainly be missed by his constituents, by those many Nebraskans who knew him and by this Member. His leadership, service, and dedication as both an elected public official and a citizen will always be remembered.

Mr. Speaker, I ask my colleagues to join me in extending our condolences to the family of Art Peters, his many friends, and to the residents of Fremont, NE.

THE 70TH ANNIVERSARY OF ARMENIAN INDEPENDENCE DAY

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. ANNUNZIO. Mr. Speaker, on Saturday, May 28, 1988, Americans of Armenian descent throughout the United States and their compatriots all over the world will pause to celebrate the 70th anniversary of Armenian independence.

I am pleased to have the opportunity to mark this important milestone in Armenian history, and I want to point out that the Armenian Church has been instrumental in holding the Armenian people together and in preserving their national identity despite centuries of invasion by more powerful neighboring countries.

After 600 years of foreign domination, the courageous Armenians, although small in number and limited in resources, threw off the yolk of their oppressors and declared their independence on May 28, 1918, but this precious freedom was destined to be short lived, for the newborn Armenian Republic was brutally partitioned less than two years later by Russia and Turkey.

Today, historic Armenian lands are in the hands of Turkey and the Soviet Union, and the independence of Armenia remains an unresolved question.

The Armenians have struggled unceasingly and died willingly to preserve their Christianity and to keep alive a free and independent Armenia. Their struggle shall continue until the territorial integrity of Armenia is restored and Armenia achieves its ultimate destiny as a free nation in the consortium of independent world governments.

Mr. Speaker, today we celebrate an anniversary of freedom; in the tomorrows yet to come, hopefully we shall celebrate a rebirth of freedom in Armenia. I join with Armenian Americans in my own 11th Congressional District, as well as across the Nation, in observing this important anniversary, and I share the hope of Armenian Americans that one day Yerevan will once again reign as a capital of an independent Armenia.

INTRODUCTION OF FOREST WILDFIRE EMERGENCY PAY EQUITY ACT OF 1988

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. DEFAZIO. Mr. Speaker, in the 1987 fire season, Federal firefighters from 43 States battled more than 2.3 million acres of burning forests throughout the United States.

The majority of fires started with a split second strike of lightning, and it took a battle force of thousands of dedicated men and women, working endlessly to bring the fires under control. For the forests, the property, and the lives they saved, our debt of gratitude can never be repaid.

But for some we owe more than gratitude. Over 2,000 of these men and women were not paid for a portion of the long overtime hours they spent in the heat, smoke, and dust. During the fiscal year 1988 continuing resolution, Federal firefighters were compensated for their long hours. However, it is time the compensation was made permanent.

By law, Federal employees at the GS-7 level and above cannot earn more than $2,682.40 for a 2-week period, no matter how many hours they work.

Mr. Speaker, today I am introducing the "Forest Wildfire Emergency Pay Equity Act of 1988" to correct this glaring inequity that prevents some of our firefighters form being paid for their long hours and emergency work.

This bill makes possible fair treatment for all the brave men and women who protect America's wildlands by fighting forest fires. It recognizes that fire fighting is not a 9 to 5 job and it assures that firefighters will be compensated for their long hours of hard and hazardous work.

I urge my colleagues to join me in rectifying this unjust situation and showing our support for our Federal firefighters.

ABE MILLER DAY IN FOREST HILLS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. ACKERMAN. Mr. Speaker, I rise today to honor W. Abraham "Abe" Miller for his selfless commitment to the Forest Hills, NY, Little League. Abe Miller is one of the founders of the Forest Hills Little League, and under his 30 years of leadership, thousands of youngsters have learned and loved the game of baseball. I am proud to be a part of Abe Miller day on May 30, when the Forest Hills Little League honors him for his outstanding work.

Abe Miller has been at the forefront of community efforts to provide local youth with challenging extracurricular activities. Throughout his years of service to the Forest Hills area, he has demonstrated particular concern for the needs of all people, especially the young.

When organized youth baseball for the Forest Hills community was just a dream, Abe Miller took the initiative and obtained the land for the playing fields. He continues to handle general administrative duties for the league.

Mr. Speaker, Abe Miller has been a responsive and successful advocate for the youth of the Forest Hills community. He never hesitates to express his concern and hope for young men and women. He represents the finest in human values and ideals, and is a vigorous opponent of inequity and injustice.

Thanks to his tireless work with the Forest Hills Board of Education, the youngsters of Forest Hills have a gymnasium that gives them many hours of pleasure. He has encouraged local merchants to sponsor youth athletic teams, and he has served as treasurer of the Forest Hills Youth Activities Association for the past 5 years.

Mr. Speaker, I ask my colleagues to join me in congratulating Abe Miller for his outstanding community service, and wishing him great success in the future.

A TRIBUTE TO HAMPTON HIGH SCHOOL STUDENTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. WALGREN. Mr. Speaker, I rise today to pay tribute to a special group of high school students from my 18th Congressional District. These students from Hampton High School recently competed in the Pennsylvania State Mock Congressional Hearing Competition sponsored by the National Bicentennial Competition on the Constitution and Bill of Rights. Because the team performed in a superb fashion, Hampton High School placed second overall in the State competition.

I would like to acknowledge the members of the Hampton team who accepted the challenge to study and defend the Constitution as a living document: Tracy A'Hearn, Joe Barricella, Karla Berg, Becky Boyd, Mike Brenneman, Vince Brown, Cherly Capezzuti, Linda Claus, Joe Dalu, Leslie Dunstan, Ed Grazier, Dan Frenia, Katie Heggestad, Jem Houck, Kathy Houggy, Chris Hwostow, Billie Joe Kessler, Renee Leszczynski, Megan McLaughlin, Laurel Penny, Kirsten Rafferty, Scott Salisbury, Lydia Wirtz, Liz Yates, Mike Yukevich, Robin Fako, and Martin Gorski.

These outstanding students were fortunate to have Mrs. Sally Durrant as their adviser and teacher. Mrs. Durrant was the initiating force in bringing the National Bicentennial Competition curriculum to the Hampton students. In addition, her sixth period political science class placed second in the Hampton competition. She is to be commended for fostering in this next generation of American citizens an understanding of the background, creation, and subsequent history of the unique system of government brought into being by our Constitution.

Other involved individuals deserve recognition for their part in the students' success. Mrs. Durrant's assistants who helped coach the students for the State level competition are: Mr. Ron Poister, Mr. Art Chero, Mr. Dave Dunton, Mr. Paul Hoffman, and Mr. Bill Shoemaker. Also, Mr. Paul Kraus from the Hampton Rotary secured the funds that allowed the students to travel to the State Competition in Carlisle, PA.

The National Bicentennial Competition provides an excellent opportunity for students to understand in depth the principles and ideals that underlie and give meaning to the writing, ratification, and implementation of the basic documents of American democracy—the American Constitution and Bill of Rights. I am very proud of the Hampton High School students and faculty for grasping the importance of this challenge to Americans to gain a deep appreciation of the significance of our Constitution, its place in our history and in our lives today.

ORVILLE REDENBACHER HONORED

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. JONTZ. Mr. Speaker, popcorn king Orville Redenbacher has made many Americans happy with his famous gourmet popping corn.

Mr. Redenbacher, who grew up on a farm and has worked in agriculture all his life, was recently recognized for his 40 years of work in corn research with an honorary doctorate from Purdue University.

On May 15, 1988, Mr. Redenbacher received the honorary degree of doctor of agriculture from Purdue University at their commencement exercises in West Lafayette, IN. Mr. Redenbacher, who has just turned 81 years old and is still popping, graduated from Purdue in 1928.

I know Mr. Redenbacher's popcorn well. He grows 95 percent of it in the Hoosier State, and shells it all in my own hometown of Brookston. His popcorn is packaged in Valparaiso, also in Indiana's Fifth Congressional District.

Mr. Redenbacher worked in Indiana as a county extension agent and then as a farm manager before beginning his pop to the top in 1952, when he founded the Chester, Inc., popcorn company in Valparaiso.

Orville Redenbacher's trademarks have always been the quality of his kernels, and his personal touch in marketing his popcorn. In fact, he has always marketed his popcorn personally, first by traveling coast to coast with his tasty product, and then by appearing on TV commercials in his trademark bowtie.

In my office in Washington, we pop Orville's gourmet popping corn for visitors and constituents every day. I invite you, Mr. Speaker, and all of my colleagues to stop by my office to sample one of my State's tastiest products.

Orville Redenbacher can be proud of the honorary degree from his alma mater, and of the pleasure his gourmet popping corn has brought to so many Americans.

THE 40TH ANNIVERSARY OF THE STATE OF ISRAEL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. MAZZOLI. Mr. Speaker, I am pleased to have this opportunity to mark the occasion of the 40th anniversary of the establishment of the independent state of Israel.

There are longstanding cultural, religious, strategic and economic ties between the United States and Israel. And, over the past 40 years our two countries have utilized these shared traditions toward the common goal of advancing democracy and peace in the world. Like all good friends, we have had our differences—but none has come close to destroying our crucial and strategically important alliance.

Mr. Speaker, I congratulate the Israeli people and their leaders during this month of their 40th anniversary and wish them peace and prosperity in the days ahead.

SUPPORT FOR H.R. 2737, THE CONTINENTAL DRILLING AND EXPLORATION ACT

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Miss SCHNEIDER. Mr. Speaker, I introduced H.R. 2737, the Continental Drilling and Exploration Act, into the House because it offers an important opportunity to advance our ability to understand the characteristics and dynamics of the Earth's crust. Research in this area is managed currently by a nonprofit corporation, DOSECC, which is composed of 41 member universities including Brown University.

Funding for continental drilling and exploration comes from the National Science Foundation with additional support from the U.S. Geological Survey and the Department of Energy. The efforts of these agencies could be improved through closer coordination and the formation of a long-term exploration plan. H.R. 2737 would provide this coordination by ensuring that these Federal agencies work together through an interagency group. These agencies are also required to produce a report that describes long-term policy objectives, a schedule of scientific and engineering events, funding needs, and program benefits.

Greater knowledge of the continental crust will provide many useful benefits to humanity. One benefit will be an improvement in our ability to predict earthquakes and volcanoes. One such project is already underway at Cajon Pass on the San Andreas Fault in California. Ultimately, the project plan calls for a 16,000-foot hole to be drilled into the Earth's surface, giving researchers an unusual opportunity to peer deeply beneath the Earth's surface. Although earthquakes are often considered to be a west coast phenomenon, when they occur in the East they can be extremely severe.

Another area of contribution from this research will be the development of geothermal and other energy sources and the discovery of valuable mineral deposits. The United States is largely dependent upon foreign countries for many of its strategic minerals and continues to import 6 million barrels of oil a day 15 years after the first OPEC-induced energy crisis. Recent events in the Persian Gulf remind us that we remain insecure as long as we remain energy-dependent.

Finally, this research will help us evaluate the safety of storing hazardous or radioactive wastes underground. The underground storage of wastes is a practice that has been used without a complete understanding of the degree of porosity and stability that underground depositories in fact possess. Minimizing the generation of wastes should always be the first order of business, but when there is no alternative to disposal, only procedures should be used that have been demonstrated to be safe.

I would like to thank my colleagues who have contributed to the passage of this piece of legislation, especially the leadership of the Science, Space, and Technology Committee and the Interior Committee. Their efforts have ensured smooth and timely progress for this legislation. I would also like to thank the administration for its assistance and support.

In conclusion, I would say that H.R. 2737 will be good both for science and the Nation. I therefore urge my colleagues to give it their support.

ONE HUNDRED YEARS OF LIGHT

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. ECKART. Mr. Speaker, I rise today to congratulate the city of Painesville, OH on the 100th anniversary of the Painesville Municipal Electric System. First established in 1888, the Painesville Municipal Electric System is the tenth oldest in the country and the oldest of the 13 municipally-owned electric systems in Ohio.

While the Painesville Electric System started providing only street lighting for Painesville when the plant first opened on June 15, 1888, the demand for electric power grew quickly. Soon all of Painesville used the electricity that the system generated. Today, the system is expanding more than ever before to serve not only Painesville, but also North Perry Village, Painesville, Concord, and Perry townships.

In an age where it is not uncommon to hear of the problems of providing power and light to communities, it is good to hear of such an unqualified success story. Painesville city officials, stockholders, and the people who have kept the electric plant running smoothly over the past 100 years deserve special thanks for their hard work. I salute the city of Painesville and the Painesville Electric System.

DR. WALTER E. MASSEY FETED AT SCIENCE SKILLS CENTER AWARDS NIGHT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. TOWNS. Mr. Speaker, I rise to draw the attention of my colleagues to the many accomplishments of Dr. Walter E. Massey. Dr. Massey is being honored at the Brooklyn Academy of Music, in Brooklyn, NY, at the Annual Awards Ceremony of the Science Skills Center.

Walter E. Massey earned his bachelor of science in physics and mathematics in 1958 from Morehouse College, Atlanta, GA. He received an MS and Ph.D. in physics in 1966 from Washington University, St. Louis, MO.

After a period as a postdoctoral research associate at Washington University, Dr. Massey joined Argonne National Laboratory in 1966 as a postdoctoral fellow and became a staff physicist in 1968. Later that year he accepted an assistant professorship of physics at the University of Illinois. He became an associate professor at Brown University in 1970, and was promoted to professor of physics and also named dean of the college in 1975. During his tenure at Brown, he received a number of awards, including the Distinguished Service Citation of the American Association of Physics Teachers in 1975, and was named by "Change" magazine as one of the 100 most important educators in America. In July 1979 he became director of Argonne National Laboratory, as well as professor of physics at the University of Chicago. In addition to being director of Argonne, in the fall of 1982 he became vice president for Research of the University of Chicago.

In May 1984, Dr. Massey relinquished the position of laboratory director at Argonne and became vice president of the University of Chicago for Research and for Argonne National Laboratory. In this position he is responsible for formulating, articulating, and implementing the research policies of the university, including relations with industry and Federal agencies. The president, provost, and vice president for research constitute the Academic Affairs Committee of the University. He also has responsibility for the University's management of Argonne National Laboratory. The university operates Argonne National Laboratory under a contract with the U.S. Department of Energy. Argonne is a multi-disciplinary energy research laboratory with a staff of approximately 3,800, with sites in Illinois and Idaho.

Dr. Massey's research has been in the many body theories of quantum liquids and solids. He has lectured and written on the physics of quantum liquids and solids, the teaching of science and mathematics, and the role of science and technology in a democratic society.

During his career, Dr. Massey has been a member of the Physics Advisory Committee of the National Science Foundation, the National Academy of Sciences Advisory Committee on Eastern Europe, and the U.S.S.R., the Council of the American Physical Society, the National Science Board, and the board of directors of the American Association for the Advancement of Science [AAAS].

For the academic year 1974–75, he was an American Council on Education Fellow in Academic Administration at the University of California-Santa Cruz; and in 1979 he conducted seminars on "Science as a Liberal Art" for college faculty under the auspices of the Lilly Foundation. While at Brown, Dr. Massey was the originator and director ICTOS [inner city teachers of science], a program to educate science teachers for urban schools.

Currently Dr. Massey is a member of the board of trustees of Brown University, the board of trustees of the Rand Corp., the Physics Department Visiting Committee on MIT, and the Physics Department Visiting Committee of Harvard University. He is also president of the American Association for the Advancement of Science [AAAS], the first black person to hold that post, and is currently cochairman of the AAAS Steering Committee for the Project to Strengthen the Scientific and Engineering Infrastructure in Sub-Saharan Africa.

In 1982, Dr. Massey chaired the Mayor's—Chicago—Task Force of High Technology Development, and he is the founding chairman of the Chicago High Tech Association. He is a member of the Governor's—Illinois—Commission on Science and Technology, a trustee of the Illinois Mathematics and Science Academy—high school—and a member of the board of directors of the Chicago Council on Foreign Relations. He is chairman of the board of the Argonne National Laboratory/University of Chicago Development Corporation [ARCH], an independent corporation whose purpose is to facilitate the commercialization of the results of research at Argonne and the university, and a member of the board of directors of the Amoco Corp., the Continental Materials Corp., the First National Bank of Chicago, Motorola, Inc., and the Tribune Co.

Dr. Massey is active in cultural and civil affairs: a past director of the United Way of Chicago and a trustee of the Museum of Science and Industry and the Chicago Symphony Orchestra. He holds honorary degrees, doctor of science, from Lake Forest College, Morehouse College, Atlanta University, Rutgers University, Williams College, Elmhurst College, Marquette University, and Boston College.

Dr. Massey was born and attended high school in Hattiesburg, MS. He is married to the former Shirley Anne Streeter, and has two sons, Keith and Eric.

Dr. Massey, through the accomplishments of his life's work, indeed serves as a role model and inspiration, not only to young black children, but to all children who desire to pursue scientific studies. I extend my very best wishes to Dr. Massey for continued success in the years to come.

ST. ANTHONY HIGH SCHOOL BASKETBALL TEAM HONORED

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. GUARINI. Mr. Speaker, a dinner in honor of the St. Anthony High School basketball team known as "The Friars" will be held on May 31, 1988 at 7:00 p.m. at the Plank-Board Inn, Kennedy Boulevard and South Street, Jersey City.

According to Thomas Hart, Jersey City councilman, the St. Anthony High School basketball team, is from a small school in downtown Jersey City, which annually brings great honor and prestige to themselves, their families, their friends, and to the city of Jersey City. This year, they outdid themselves, extending their stature to the national level. They began in December and January by winning the Iolani All America Prep Classic, a most prestigious national basketball tournament held in Honolulu, HI.

In winning the championship of this tourney, they defeated the top teams of the Nation and, as another result, they were rated the No. 1 team in America. As a result of their 29–1 overall season record against top competition, they were ranked the No. 2 team in America at the end of the season. When we realize the number of teams which compete across this Nation, that ranking takes on very poignant significance.

The St. Anthony High School basketball team won the Hudson County Interscholastic Athletic Association Championship—second straight—and won the New Jersey State Interscholastic Athletic Association Championship—Parochial B—for the sixth consecutive year, matching the State record for consecutive championships set by St. Peter's Prep.

The proud staff consists of Bob Hurley, head coach; John Duffy, assistant coach; Paul Steffens, assistant coach; Gary Pitchford, frosh coach; Sister Mary Felicia, principal; Sister Mary Alan, athletic director; Mary Calabrese, assistant athletic director; and Frank Kochanski, assistant athletic director.

The team members are: Syd Raeford, Monty Davis, Rusty Terry, Bobby Hurley, Jr., Jerry Walker, Robert Gleason, Darren Savino, Mark Harris, Terry Dehere, George Dunbar, Chris Jordan, Sean Rooney, Danny Hurley, and Anthony Banks, manager.

This is proof positive that small things can be big. Here we have a valued group of youngsters working under a dedicated coach and devoted and competent nuns and teachers at St. Anthony's High School, winning State championships for basketball when they do not even have a gymansium of their own.

I am sure that my colleagues in the House of Representatives would like to join me in this tribute to the St. Anthony's basketball team, the "The Friars," and their coaches and teachers for their outstanding school and team spirit.

IN SUPPORT OF THE FOREIGN OPERATIONS APPROPRIATIONS BILL H.R. 4637

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. GARCIA. Mr. Speaker, yesterday, I joined the majority of my colleagues to vote in support of H.R. 4637, the Foreign Appropriations bill. I did so after great consideration. It was difficult for me to vote for foreign aid because of the cutbacks in programs that help our inner cities.

Nonetheless, I am aware of the importance of our foreign assistance programs in effectively addressing our foreign policy and security interests. The programs also allow us to maintain our leadership role in assisting in the process of Third World development.

But as chairman of the House Banking Subcommittee on International Finance, Trade and Monetary Policy, I would like to draw your attention to the provisions relating to the U.S. Export-Import Bank. Our country is beginning to realize the importance of exporting to the well being of our economy. More and more businesses, small and large, are learning to take advantage of the lower value of the dollar and the increasing opportunities to sell abroad. But a major obstacle many exporters face is the lack of export financing. More and more commercial banks are withdrawing from trade financing for a variety of reasons, including their experience with the LDC debt crisis. Consequently, the need for the programs of Eximbank has grown. Given our Nation's huge trade deficit and the increasing opportunities to export overseas, it is our job to make sure that Eximbank has enough resources to provide for that increased demand for export financing.

Of course, we are all aware that our resources are limited because of our Nation's unsustainable budget deficit. Given the budget constraints, Congressmen WHITTEN and OBEY have done a fine job in accomplishing the challenging task of making sure that our resources are allocated properly. I appreciate their support of the Eximbank's programs.

I particularly appreciate the gentlemen's efforts to appropriate for the tied aid fund, also known as the war chest. I have included a 1-year extension for the war chest in the trade bill which was vetoed on Tuesday by the President, but which was successfully overridden by this body on the same day. This extension is critically important in assisting U.S. exporters to combat predatory financing by our foreign trade competitors.

I certainly hope that the provisions of H.R. 4637 remain intact as the Senate body considers the bill.

LET'S REVITALIZE THE FEDERAL OCEANOGRAPHIC FLEET

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. JONES of North Carolina. Mr. Speaker, today I am introducing H.R. 4704, the NOAA Fleet Modernization Act of 1988. This bill authorizes the National Oceanic and Atmospheric Administration [NOAA] to develop and implement a fleet modernization and expansion plan over a 10-year period beginning in fiscal year 1990. Unless NOAA begins a modernization and expansion plan for the fleet, we will be unable to carry out important national ocean research objectives.

The NOAA fleet represents about one-third of the total Federal oceanographic fleet. As such, the fleet is vital to carrying out fisheries, oceanographic, mapping, surveying, and meteorological programs. A recently completed contractor study entitled "Assessment and Plan To Extend the Service Life of Vessels of the NOAA Fleet" has identified specific fleet shortcomings and recommended that NOAA expeditiously undertake a modernization plan which includes both vessel upgrades and needed ship replacements. Similarly, an about-to-be-released report of the National Academy of Sciences Marine Board concerning the choice between leasing and buying new ships recognizes that NOAA's unmet needs for vessel time will continue to increase into the next decade.

By the end of this decade the average age for a vessel in the NOAA fleet will be 25 years. This is the average industry accepted service life for most vessels. Without a modernization plan, obsolescence of the entire fleet in the 1990's will be inevitable. Inadequate fleet capabilities could lead to essential oceanographic programs being imperiled.

The modernization plan recommended by the private contractor study will not only extend the life of NOAA's ships, but it will ultimately reduce Government costs by obviating the need for a total fleet replacement program.

New NOAA responsibilities for surveying and mapping the exclusive economic zone of the United States as well as offshore territories and possessions also require an expansion of the NOAA fleet. Furthermore, recent scientific focus on global climate issues requires NOAA to undertake additional research on atmospheric and oceanic processes. These responsibilities justify expanding the size of the fleet from 23 to a total of 30 ships.

As chairman of the Merchant Marine and Fisheries Committee, I am committed to supporting and enhancing the capabilities of the NOAA fleet in accordance with present and future needs. Longstanding national research and management objectives can best be secured by NOAA's maintaining adequate vessel capabilities.

I am also concerned about the deteriorating state of our Nation's shipbuilding capability. The last commercial oceangoing vessel was delivered last year, and there are no new orders on the books. American shipyards are now totally dependent on Navy work, although the Navy's budget is facing a drastic pruning this year. The President's Commission on Merchant Marine and Defense called attention to this perilous situation in its second report and recommended that the United States "implement a national program for merchant ship construction in United States shipyards."

While certainly not a cure-all, I believe that this measure is an important step forward for our shipyards. It will provide them with desperately needed business through this lean time and will also send an important message that the Federal Government will strive to find a solution to the nagging decline of this vital industry. Moreover, the skills and technology necessary to construct a commercial vessel are different from those needed to build a military vessel. Once they are lost, they are not easily retrieved, and this bill will help retain them.

More specifically, my bill authorizes the Under Secretary for Oceans and Atmosphere, the Administrator of NOAA, to develop and implement a 10-year fleet modernization and expansion plan. This plan will generally include: the replacement of four obsolete vessels; the upgrading and modernization of 19 vessels, including two which are at present deactivated; the acquisition of seven new vessels; and the acquisition of new scientific equipment for the entire fleet. The new vessels are likely to include a deep water oceanographic and atmospheric research vessel, a bathymetric survey vessel, a large fisheries research vessel, a coastal fisheries research vessel, and three coastal shipping hazards survey vessels. The bill also directs NOAA to upgrade eight, replace one, and acquire two vessels in the first 3 years of authorization.

NOAA also will require the addition of 301 personnel positions, including 49 commissioned officers, to develop specifications for, acquire, operate, and maintain the vessels called for in the plan. My bill gives NOAA the authority to obtain needed personnel as well as the authority to acquire modern scientific instrumentation for the fleet.

All modernization, upgrading, and construction of vessels must take place in private shipyards in the United States. Furthermore, 50 percent of the cost of all machinery and equipment must be purchased in the United States, except for scientific equipment that reasonably cannot be acquired in the United States. NOAA is granted needed authority to enter into multiyear contracts or charter agreements for the construction, lease, or acquisition of the vessels called for in the plan. Finally, the bill authorizes a total appropriation of $613 million over 10 years, from fiscal year 1990 to fiscal year 1999.

I urge my colleagues to support this bill to restore and expand our oceanographic research capabilities.

FUNDING THE SSC

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. KOLBE. Mr. Speaker, one of the key topics of debate to be brought to the floor in this Congress and the next is the funding for the Energy Department's superconducting super colllider or SSC.

DOE started out last year with an invitation to all the States to enter a competition to be the site for the SSC, which will be the world's largest scientific project when it is built.

With an estimated cost of $4.4 billion, 4,500 construction jobs over a period of about 7 years, and 2,500 permanent jobs, the SSC competition drew 25 States at the proposal filing deadline last September.

A few months later this list was cut to eight, which included Arizona, Colorado, Illinois, Michigan, North Carolina, New York, Tennessee, and Texas. New York later withdrew its proposal.

It's important to note that this paring of the competitors from 25 to 7 was done after an evaluation by a distinguished independent group of experts under the auspices of the National Academies of Science and Engineering.

As one of the seven finalists, or best qualified States as DOE calls them, Arizona obviously has a strong interest in having DOE select our site near Phoenix as the place to build the SSC.

We want this project very much. We want the status as the site of the world's largest scientific project. We want the construction jobs and the permanent jobs.

But I think it is important as we consider this major expenditure for basic research in high energy physics, that we set the record straight on some of the myths that have emerged as the competition gets more intense.

For example, myth No. 1: All of the $4.4 billion will be spent in the State where the SSC is built.

That is not true and I want to clarify it first and foremost for my colleagues who's votes will determine the future of the SSC.

I think the best estimate of what will be spent in the host State of the $4.4 billion is $1 billion or less than 25 percent of the total cost.

Right now, I understand that General Dynamics is one of the leading companies with the capability to build the SSC's magnets, which would be a major part of its total cost. If General Dynamics did get the contract, the work apparently would be done at their facilities in San Diego, CA.

We only have to look right here in the District of Columbia and its metro subway system for an analogy. The subway tunnel and system are here in the Washington area. But the contractors have included Bechtel from San Francisco; Morrison Knudsen from Boise, ID; the subway cars which were built in California and Italy; steel from Bethlehem Steel in Pennsylvania; CRT's and television cameras from IBM and so on.

Or, we can compare the SSC with the Space Program where launches are made in Florida and California but the hardware and expertise come from many, many other States.

Myth No. 2: Only the host State universities will be involved in the research.

The truth is that all U.S. universities involved in high energy research will benefit. In fact, scientists will come from around the world to do research at the SSC.

While California was still in the competition, few would acknowledge that the California Institute of Technology was in fact closer to the proposed Arizona sites than it was to California's proposed sites in the northern part of the State.

Now that California is no longer a contender, I want everyone to know that Cal Tech is close to us and would be very much involved in research at an SSC located in Arizona.

We're close to the physicists at Los Alamos in New Mexico, the University of Utah, and other universities that will be involved with the SSC.

Myth No. 3: Only the State where the SSC is built would benefit from high tech industrial growth.

The truth is that we can trace more than 40 percent of our GNP to being the result of basic research conducted in this country.

I don't believe that Governor Celeste of Ohio rushed to endorse Illinois and Michigan and Governor Bellmon of Oklahoma immediately endorsed Texas, when the list was reduced from 25 to 7 States, just to give the impression they were friendly neighbors.

These neighboring Governors know that their States stand to benefit very substantially from a major project such as this in a nearby State.

In that regard, I want to acknowledge with gratitude the endorsement of the Nevada Commission on Economic Development in support of Arizona's effort to be the site for the SSC.

The Commission, which spearheaded Nevada's own SSC bid, knows that the growing high tech industry in that State will benefit greatly if the SSC comes to Arizona.

Believe me, Arizona knows what it is like to be bypassed in competition for major Federal and private industry projects. Certainly we have not had our share of all the billions of dollars of Federal expenditures that have gone to such national projects as the Space Program and the SDI.

Nevertheless, the Arizona delegation and especially my former distinguished colleague of the other body, Senator Barry Goldwater, have been great supporters of these efforts because they believed they were needed for our country regardless of what might be spent in our own State.

It is my hope that as we consider the SSC project here, that the delegations from all States will give it their support.

A LIGONIER VALLEY TREASURE

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. KOLTER. Mr. Speaker, I proudly rise today in tribute to one of the finest and most compassionate women in Pennsylvania—Dr. Mary Kinney—a true treasure of the Ligonier Valley, located in my congressional district.

Dr. Kinney has admirably served her community both as physician and public servant. She has worked as a general practitioner in Ligonier for 50 years, as well as having dedicated 29 years, to the Ligonier Valley School Board.

For a half century, she has won the admiration and respect of the Ligonier community for her combination of compassion and professionalism in the treatment of her many hundreds of patients. She has, moreover, demonstrated and exemplary effort toward the welfare and enlightment of Ligonier's youth.

Today, I also commend the Ligonier Valley Chamber of Commerce for acknowledging Dr. Kinney's innumerable contributions to the community.

Born in Philadelphia, Dr. Kinney was graduated as valedictorian from North Philadelphia High School, studied pre-med at Chestnut Hill College, and was graduated cum laude with B.S. and M.D. degrees from Loyola University in Chicago, which she attended on scholarship.

While at Loyola, Dr. Kinney met Harold J. Kinney, whom she married in 1936. Their marriage produced five children: James, Thomas, Mary, Jane, and John. Dr. Harold Kinney passed away in 1969.

Following her internship at Pittsburgh's Columbia Hospital, Dr. Kinney moved to Ligonier in 1938 to begin her practice.

In 1959, Dr. Kinney was appointed to the school board to fill the unexpired term of Richard J. Flickinger, was subsequently elected by a large majority in the next election, and has continued to serve ever since.

I trust that Dr. Kinney's dedication and professionalism will serve as an example to all of us. It is my pleasure to honor her today before the entire U.S. House of Representatives.

H.R. 4637 FOREIGN AID APPROPRIATIONS BILL

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. MOODY. Mr. Speaker, I am pleased that yesterday the House of Representatives passed H.R. 4637, the Foreign Aid Appropriations bill be an overwhelming margin. For the first time since 1981, we have been able to pass this as a freestanding bill and not as part of a larger continuing resolution. I applaud the Appropriations Committee for its work.

This bill rightly places a priority on hunger programs. It continues our support to programs fighting disease among the world's children.

I commend the bill's support for famine and disaster relief. While providing immediate relief, this bill also provides important long-term development assistance to aid the poorest nations of the world in the sub-Saharan Africa.

H.R. 4637 includes funds to promote economic development around the world. These funds promote stability and help to build future markets for American goods and services.

This bill renews our commitment to our closest allies around the world. It provides critical assistance to Israel and underscores the Camp David accords as the foundation for peace in the region. H.R. 4637 also provides important assistance to the Philippines and the government of President Corazon Aquino as it moves toward a fuller and richer democracy.

I'm pleased that the measure continues U.S. support for family planning programs. It earmarks 10 percent of child survival funds for family planning and calls on AID to expand family planning programs in Africa.

The funds appropriated in this bill will comprise only 1.4 percent of the total U.S. budget. In this way, the bill strikes a critical balance between meeting our responsibilities abroad and responding to our fiscal restraints at home. It has my strong support.

COLLEAGUES: SUPPORT LEGISLATION TO HELP FARMERS

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I rise today to encourage our colleagues to join me in the fight to end injustices in trade and tax laws that prevent farmers from doing what they know best—producing our Nation's most precious commodities.

Farmers have been hit hard by the new tax laws. The damage has been caused because bill writers in Congress simply did not understand or care about farmers. Since returning to Congress, I have set to work to try to repair damage caused by the new tax laws by cosponsoring several bills to return things the way they were.

One important new bill, H.R. 3844, exempts farmers who purchase fuel for off-road use from fuel road taxes. My belief is that when congressional liberals passed this new tax law, they really hoped farmers would forget to collect their refunds or just give up fighting the redtape. That leaves the liberals more money to spend on their wasteful giveaway programs.

We must work to repair other problems the Tax Reform Act of 1986 have caused. New laws apply uniform capitalization rules to farmers when the preproductive period of a farm product is more than 2 years. A farmer must now maintain records on all the costs attributable to each animal and cannot deduct those costs until the animal goes into production. This new law is causing the American farmer another bureaucratic nightmare. Bureaucrats in the IRS must learn that running a farm is not the same as running a factory.

Another new law I am fighting forces farmers to obtain a commercial drivers license to operate farm equipment. It is ridiculous to expect farmers, who only drive their equipment seasonally in rural areas, to comply with the same license standards as truck drivers who haul hazardous waste. H.R. 4011 will exempt farmers from this unnecessary regulation.

Finally, I am supporting a trade complaint filed with the United States Trade Representative over Japan's illegal quotas on citrus and beef. This action under section 301 of the Trade Act of 1974 alleges that Japan's quotas on citrus and beef are a violation of the rules, principles, and spirit of the General Agreement on Tariffs and Trade [GATT]. This action requests the President and the Trade Representative to take all appropriate action to open Japan's markets for American citrus and beef. I am confident that these actions will give Ambassador Yeutter all the support he needs to open these markets for our beef farmers.

I will continue to push for reforms in tax legislation and to fight against trade injustices which hurt farmers and farm families. I will not support any measure which allows the Federal Government to take additional dollars from the pockets of Ohio's farmers.

THE DIAMOND JUBILEE OF THE CITY OF BEACON

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. FISH. Mr. Speaker, it is with great pride that I rise to salute the diamond jubilee celebrations of the city of Beacon in Dutchess County in my home district of New York.

The jubillee celebrates the 75th anniversary of the city's incorporation, which took place on May 15, 1913, with the merger of the villages of Matteawan and Fishkill Landing.

This May 15, the city celebrated the anniversary with a pancake breakfast and an afternoon ceremony at city hall. These celebrations will reach a crescendo during jubilee week, June 3 to June 11. A jubilee ball, in which period costumes will be encouraged, will be held on June 4 at the Elks Club. Selections will be made for a "Belle of the Ball," "Best Bonnet" for the best lady's hat or costume, and "Best Brush" for the best beard from the members of "Brothers of the Brush," who all sport beards. Earlier in the day, a "Little Miss Beacon" and a "Young Master Beacon" will be selected in a baby beauty pageant.

Other activities for the week will include sports events, concerts and a flea market. The celebrations will culminate June 11 with a parade and fireworks.

Mr. Speaker, I am proud of the people of Beacon and wish them the best in their jubilee celebration.

A TRIBUTE TO FATHER JOHN A. RICHARDSON

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. MORRISON of Connecticut. Mr. Speaker, on June 24 at the Grassy Hill Country Club in West Haven, CT, the Reverend John A. Richardson, O.F.M., one fo the most personable and humane residents of Connecticut's Third District will be honored. Effective June 30, Father John will retire as the chief of chaplain services at the Veterans' Administration Hospital in West Haven. He will be missed.

Father John was born in 1928 in Elmira, NY. He attended schools there and graduated from St. Bonaventure University. After his ordination in 1960, he spent eight years as a missionary in Brazil. He also served at St. Anthony's Shrine in Boston before coming to West Haven.

Over his 20 years of work at the hospital, Father John has counseled those who were injured during the Second World War and the conflicts in Korea and Vietnam. Over the years, he was also successful in drawing outside service organizations into the life of the hospital. He was particularly instrumental in the decision of the local council of the Knights of Columbus to donate a new chapel to the facility in 1969.

While those around Father John well knew the extent of his contributions to the hospital and its patients, his talents were perhaps never so well displayed to the rest of the community as on the day in 1980 that he talked an extremely depressed patient back inside from a window ledge seven stories above the ground. Father John received a commendation that year for this remarkable display of dedication and skill.

The VA Hospital has by no means been Father John's only commitment in the community. He has also served as chaplain for the West Haven Police, the Connecticut State Police, and the Rotary Club. He has been particularly active in the Father Curtain Council of the Knights of Columbus.

At the beginning of July, Father John will move to the Franciscan Order Friary in New York City, where he will continue to serve the order. I hope that his happiness there is commensurate with the joy he has brought not only to the patients at West Haven, but to the community as a whole.

MARIETTA DEFEATS CHERAW IN CHINABERRY CUP

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. DARDEN. Mr. Speaker, most of our Nation's sportwriters neglected to report the recent results of one of the most prestigious tournaments in amateur tennis—the Chinaberry Cup.

Begun 11 years ago at elegant Litchfield Racket Club, near Myrtle Beach, SC, the Annual Chinaberry Cup Tennis Tournament has become a benchmark of amateur tennis competition between selected teams from Marietta, GA, and Cheraw, SC. Traditionally the Cheraw team is much younger and athletically skilled, but the Marietta team is better coached, more strongly motivated, and in better physical condition.

Last April, the Marietta team proved once more its tennis superiority. In decisively defeating the Cheraw team, the Mariettans were models of good sportsmanship. Led by Jon Burke, who played spectacularly in the final match, the Marietta team also consisted of Dr. Clem Doxey, Ron Francis, A.D. Little, Paul "Matty" McCabe, Wallace Montgomery, Jr., Dr. Dan Norris, Terry Segars, D.R. Shamblin, Mike Wilson, and Bill Rohner, substitute.

The losers from Cheraw are as follows: Glen "Bud" Anderson, coach, Mallory Evans, Frank Andrews, Jackie Furr, Fred Craft, Jimmy Spruill, Esq., M.B. Godbold, C.L.U., Dr. B.E. Coggeshall, Jr., Dr. Walter Crosby, Jimmy Quick, and Rich Baker, substitute.

I extend congratulations to the winners from Marietta and condolences to the losers from Cheraw.

IN HONOR OF MAYOR WILLIAM H. WESTBROOKS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. GORDON. Mr. Speaker, I would like today to say a few words in praise of one of the best-liked citizens of my hometown of Murfreesboro, TN.

Mayor William Hollis Westbrooks was born in a farming community called Link, just south of Murfreesboro. Link may not be big enough to make it on all the maps, but it turned out a future big man on March 11, 1988.

The mayor likes to relate his first trip to a city. He ordered a few items off a restaurant menu even though he did not understand what they were. His meal turned out a little on the starchy side. Without realizing it, he had ordered a wide variety of potatoes.

Mayor Westbrooks has been a pillar of Rutherford County for 85 years now. He has served his community honorably both as a public official and as a businessman.

Mayor Westbrooks represented Murfreesboro in the Tennessee Legislature from 1958 to 1964.

He served on the Murfreesboro City Council for 2 years and as mayor for 18, from 1964 until he retired in 1982. In addition, he was chairman of the Rutherford County Board of Education for many years.

His grocery store was an institution on the town square. He also ran a tobacco shop, B&W Cigar and Tobacco.

He served on numerous city commissions and boards, and he received uncountable awards for his public service.

Mayor Westbrooks likes to say that he attended college at Link University. This is a branch of the school of hard knocks.

Mayor Westbrooks has always been noted for his love of history and his desire to preserve the traditions and memories of the past.

A dream of his was realized in 1976, when Murfreesboro opened a historical replica of a Tennessee pioneer village called Cannonsburgh. If you are ever in Murfreesboro, try to stop by and see it, and be sure to look up Cannonsburgh's Honorary Mayor Hollis Westbrooks.

Mayor Westbrooks has done many things for his community, his State, and his country. He has brightened many moments and many meetings with his wit and his storytelling. For Murfreesboro, TN, and the United States, let us show our appreciation.

HONORING FATHER GENNARO SIMONETTI ON THE 50TH ANNIVERSARY OF HIS ORDINATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to recognize Father Gennaro Simonetti, pastor emeritus of Our Lady of Miracles Parish in the Canarsie section of my congressional district.

Father Simonetti first came to Our Lady of Miracles in 1958. He was at the helm of the parish during construction of the new parish center and school, as well as the renovation of the sanctuary.

But more importantly Father Simonetti helped the parish establish its roots throughout the Canarsie community during his tenure. Even after his retirement in 1983, Father Simonetti has remained active at the parish as pastor emeritus.

The parishioners will be celebrating with Father Simonetti at a special Mass on June 12. I would like to extend a hearty congratulations to Father Simonetti upon reaching this milestone and thank him and all of the parishioners of Our Lady of Miracles for all the work they have done for the community.

A CONGRESSIONAL SALUTE TO ANNA McGRATH LaVALLEY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an incredible woman, Mrs. Anna McGrath LaValley. Anna will be 100 years old on July 18, 1988. I am pleased to have the opportunity to honor her on this auspicious occasion.

Anna Winkel McGrath LaValley was born on July 18, 1888, in Burlington, VT. On October 24, 1911, she married Edward McGrath and proceeded to have six children: Catherine, Margaret, Leo, Dorothy, Edward, Jr., and Patrick. Through these children, she is responsible for 13 grandchildren, 29 great-grandchildren and 8 great-great-grandchildren.

Besides caring for her progeny, she was involved in her church, Saint Mary's Cathedral, and her community of Burlington, VT. She still resides in Burlington during the summer, but spends her winters in California with her children. After the death of her first husband, she married Judge Louis LaValley in 1961.

Anna McGrath LaValley is a true example of youth. At 100 years old, this lively woman is still dancing, playing cards, and enjoying a glass of wine every so often. Anna has seen two world wars, a depression, and several small wars, and yet she continues to be upbeat about life, her country, and herself. Anna, though further along in years than most Americans, has never grown old. My wife, Lee, joins me in extending our warmest congratulations on this special occasion. We wish Anna, and all of her many children, all the best in the years to come.

SENATE—*Friday, May 27, 1988*

(Legislative day of Wednesday, May 18, 1988)

The Senate met at 10 a.m., in executive session, on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Father in heaven, we thank You for Isaiah's reminder: of the "everlasting God, who giveth power to the faint; and to them that have no might he increaseth strength." Who promised: "* * * they that wait upon the Lord shall renew their strength * * *."—Isaiah 40:29 and 31. We pray for progress in present legislation, for the resolution of controversy and conflict in ways that unite rather than divide. Thank You for the prospect of the recess with all its possibilities and opportunities; opportunities for the staffs to play catchup and complete unfinished tasks laid aside because of the pressures of legislation; opportunities for Senators to be in their home States with their constituents; opportunities for those running for reelection to meet the people and further their campaigns; opportunities for rest, relaxation and recreation; opportunities to be with families. Loving Father, help Senators and staffs to take special advantage of the opportunity to rest and be with families. Remind them that leadership imposes upon them a responsibility to themselves and family, for their personal health, strengthening of family, for healing brokenness and alienation. Protect all who travel and return them safely home. Prosper their efforts and grant that this coming week will be profitable in every respect. We pray this in the name of Him whose motivation was love for all, who never left a task unfinished, and who was never in a hurry. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 27, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized for not to exceed 5 minutes.

Mr. DOLE. Mr. President, I thank the Chair.

INF TREATY

Mr. DOLE. Mr. President, I would say first of all I do hope, as the majority leader has indicated, we can dispose of this resolution of ratification which means a treaty by 2 or 3 o'clock this afternoon. We will be working to that end.

I would say that anybody who has amendments should come to the Chamber. I know the Senator from South Dakota has been on the floor every morning prepared to offer his amendments. I know Senator SPECTER is also prepared to offer his. I think in fairness perhaps the Senator from South Dakota should precede others since he has been diligent in that effort. So I will be visiting with the majority leader about that.

NATIONAL POW/MIA RECOGNITION DAY

Mr. DOLE. Mr. President, when Americans are called upon to defend their country's freedoms and ideals, they expect to confront enormous hardship and are prepared to endure tremendous sacrifices. But few think about the prospect of capture and torture by a vicious enemy, or never returning home to the country they love so much. Nothing prepares our brave servicemen and women or their families for this fate of the POW/MIA. It is difficult to fully repay former POW's and present MIA's or their families for their loyalty to duty and to country. But we can and should remember and honor them.

FLAG RESOLUTION

Last September 18 on National POW/MIA Recognition Day, we passed Senate Concurrent Resolution 9, which called for the display of the POW/MIA flag in the Capitol rotunda until a satisfactory accounting of all POW's and MIA's from Southeast Asia had taken place. This flag would serve as a reminder to all our visitors of the brave sacrifices of the POW/MIA's and would comfort their families, whose continued vigilance and determination we all admire. The display is but a small way to let those families know that we, too, will not abandon the search for those loved ones who failed to return. I would like to strongly encourage our colleagues in the House of Representatives to pass their similar legislation that would allow such a display. But we should do more.

POW/MIA RECOGNITION DAY

Today, Mr. President, I am pleased once again to introduce legislation to designate September 16, 1988 as National POW/MIA Recognition Day. This special day would encourage our entire Nation to participate in paying tribute to those courageous individuals who served our country in this unique and selfless way, both those who returned and those who did not. It will also serve to further raise American consciousness about this vital issue—an issue that not only remains from the Vietnam war, but from other wars as well. I ask my colleagues to join my 51 cosponsors and wholeheartedly support this legislation. It is the least that a grateful nation can do.

I am pleased to introduce the joint resolution today with 51 cosponsors, and I include the distinguished majority leader, Senator BYRD.

The cosponsors for the National POW/MIA Recognition Day Resolution are:

Senators BENTSEN, BOND, BOSCHWITZ, BYRD, CHAFEE, CHILES, COCHRAN, CONRAD, D'AMATO, DIXON, DOMENICI, DURENBERGER, EXON, FORD, GARN, GLENN, GORE, GRAHAM, GRAMM, HATCH, HECHT, HEFLIN, HEINZ, HOLLINGS, HUMPHREY.

Senators INOUYE, KARNES, KASTEN, LAUTENBERG, LEAHY, LUGAR, MATSUNAGA, MCCAIN, MCCONNELL, MIKULSKI, MOYNIHAN, MURKOWSKI, NICKLES, PELL, PRESSLER, PROXMIRE, QUAYLE, REID, ROCKEFELLER, SARBANES, SHELBY, SIMON, SPECTER, TRIBLE, WALLOP, WARNER, and WILSON.

I send the joint resolution to the desk and ask for its appropriate referral.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 330

Whereas, the United States has fought in many wars;

Whereas, thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas, many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many prisoners of war died from such treatment;

Whereas, many Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and

Whereas, the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That September 16, 1988, shall be designated as "National POW/MIA Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

BICENTENNIAL MINUTE

MAY 27, 1920: SENATE CUTS USELESS COMMITTEES

Mr. DOLE. Mr. President, 68 years ago today, on May 27, 1920, the Senate abolished 42 of its 74 standing committees. The Senate made this change in its rules without debate, and in the face of calls for greater efficiency in the conduct of its business. As one newspaper reported, "Under present conditions with the Senators serving on many important committees, it is difficult for them to keep up with the work of the committees, or even to attend meetings."

Among the panels that would not be renewed in 1921 were the Committee on Revolutionary War Claims, the Committee to Investigate Trespassers on Indian Lands, and the Committee on Pacific Railroads. Most of the committees to be abolished had not conducted business in at least 10 years. They existed solely to provide office space and staff assistance to Senators. In addition to cutting the number of committees, the new rule placed limits on the number of members for each panel, reducing the maximum for major committees from 20 to 15. The average number of committee assignments per Member would drop from nine to three. Presumably, smaller committees, and fewer assignments per Member, would make it easier for each committee to obtain a quorum for business.

At the time the Senate agreed to this reform, the Republicans held a 49 to 47 majority in the Chamber. In the election of 1920, for the first time in the Nation's history, a sitting Senator won the Presidency. Many Republican candidates for the Senate also experienced the sweep of victory that propelled Senator Warren Harding to the White House. At the start of the new Congress in 1921, the number of Republican Senators would increase by 10 to 59. With only 34 chairmanships, it would no longer be possible for every Member of the majority party to preside over a committee. Such was the price of senatorial efficiency 68 years ago.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized for not to exceed 5 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that both the Republican leader and I may have an additional 5 minutes each. We will need that time to discuss the day's events. And I yield 5 minutes off of this time to Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

Mr. PROXMIRE. I thank the leader.

WHY THE COUNTRY IS ON THE VERGE OF AN HISTORIC DEPRESSION

Mr. PROXMIRE. Mr. President, recently I teased some of my colleagues by predicting the far-out possibility that the Federal Government will have such a painful time fighting the next recession that no one will want to run for President in 1992. I also tucked my tongue firmly in my cheek and forecast that very few Members will be willing to stay in the Congress and even fewer newcomers will want to run for the Congress beginning about 1992. I suggested that the poor soul elected President of the United States in 1988 will be the object of deep anger and bitterness. Also, I suggested that Members of the House and Senate will break all previous records for public alienation. Consequently, I suggested that more House and Senate Members will refuse to run for reelection in 1992 than ever before and said I, none of the vacated seats will be contested. Could any of this be possible? After all, among the 30 million Americans unemployed in the great upcoming depression of 1992, isn't it logical that plenty of deluded dreamers will be willing to accept this $90,000 a year job with $1 million to hire staff and unlimited expense money for trips home and elsewhere plus access to newspapers, radio, and television that most American can only dream about?

Consider: By November 1992 the country will be fully aware of what the disgraceful performance since 1981 of the administration and Congress has done to the most productive economy the world had ever seen. By 1992 the country may have suffered the terrible imposition of an $8 trillion national debt and an interest burden exceeding $1 trillion a year and rapidly rising.

That interest burden itself will lock the country into an eternal deficit. The huge annual deficits will do more than amass a continually soaring national debt. They will convince investors who buy the Nation's debt instruments that the great American debt may be repudiated. What will the increasing threat of debt repudiation do to interest rates. The interest cost on the debt will leap ahead.

So what will the administration and the Congress that takes office in the middle of the deep depression of 1993 do? The Congress can reassert its constitutional authority over the Nation's money supply. It can then flood the country with whatever amount of money it takes to put the Nation back to work. Historically this has been the route that virtually every nation heavily in debt has pursued historically. The consequences of this policy have been remarkably similar. Inflation has zoomed. The flood of currency and credit has raised prices exponentially. Would Congress in a depression with 30 million Americans out of work resort to such a super inflationary policy? It would for the same reasons that so many nations historically have done exactly this. Our country has become a nation of far more debtors owing far more debt by any measure than any nation in history. The Federal Government is not alone. Our household and businesses already owe more than three times as much as the Federal Government owes. So an inflationary policy would in the short run enjoy a massive constituency. Here is why: A 100 percent inflation would diminish the "real" cost that is the cost for inflation for the householder or the business' debt by 50 percent. In a single year a household mortgage of $100,000 would shrink to a "real" burden of only $50,000. The monthly $1,000 mortgage payment would diminish in a year to a "real" burden of only $500 per month. Inflation is short run magic and, of course, the Congress, the President and even the Senate operate on a short run political horizon. Our election cycles are short.

But in the long run this inflationary solution is painfully counterproductive. As inflation increases, interest rates follow prices right on up. Few if any leaders will be so foolish as to lend $100,000 for a year when inflation is raging at 100 percent without insisting on an interest rate that is more than

100 percent. The lender could simply invest in any tangible wealth—gold or other commodities of real estate and offer little or no real diminution in his investment. So what? Isn't the debt burden eased? On past debts—Yes. On future debt—No. Interest rates rising as prices rise will torpedo any national recovery. Who could afford to buy autos or homes or major new equipment for business with an interest rate raging in high double or even triple digits?

Mr. President, you see why the economic outlook for this remarkable country and its superb economy is so grim? Sure my projection of our present foolish fiscal policies are what geometricians call reduction ad absurdum. But the fact is that our country is in an economic mess. The President and the Congress that would lift America out of this morass faces an appalling and just possibly an impossible job.

CORPORATE RAIDERS CLEANUP

Mr. PROXMIRE. Mr. President, the landscape is littered with the victims of corporate raiders. State after State has been scorched.

Newspaper editorial writers have responded with calls for reform.

I ask unanimous consent that the articles by Jack Anderson and Neal Peirce be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Corporate Raids Hurt Economy

(By Jack Anderson)

Corporate raiders have acquired the kind of heroic glamour that once attached to entrepreneurs like Henry Ford and Thomas Edison. But unlike these earlier capitalist wizards, today's takeover titans produce neither new products nor improvements on existing ones.

Their multibillion-dollar manipulations have no purpose beyond enriching the raiders and a few big stockholders. Their schemes don't add a single nut or bolt to the gross national product.

Federal Reserve Board economists have been studying the raiders, hoping to learn what the takeover epidemic's effect on the economy will be. Their preliminary conclusions are unnerving, to say the least.

These financial experts told our associate Michael Binstein that the national economy is in great danger from the massive manipulation of stock prices in hostile takeover attempts. Indeed, some experts are afraid the situation could lead to another 1929-style crash.

It would be bad enough if the takeover attempts—both the successful ones and the failures—were merely unproductive. But they have caused enormous damage to many once-healthy companies.

Last year alone, American corporations threatened by hostile takeovers went $363 billion in debt to buy their own stock as a defensive measure. That was double for the 1985 amount of defensive debt and five times the expenditure in 1982.

These gigantic debt loads require huge interest payments—money that could far better be plowed into capital investments. American industry as a whole spent $177 billion last year on hostile takeover games—more than the entire amount spent for improvements in plants and equipment.

To crawl out from under their crushing debts, companies close down operations and lay off employees. It's estimated that 800,000 jobs have been lost in recent years in the aftermath of takeover attempts.

A few of the more notorious insiders are trading in their Wall Street wingtips for prison work boots, and federal prosecutors say these headliners are just the vanguard of many more white-collar defendants.

An inkling of what's coming can be gleaned from some astonishing statistics: In the 50 years before 1984, only 12 cases of insider trading were prosecuted; from 1984 through 1986, 40 individuals were jailed or fined for such activities, and 12 more have been prosecuted so far this year.

Companies with undervalued stock are the raiders' favorite targets, and they're easy to find, since the value of an average company's outstanding stock is about 75 percent of its assets. And with the wild fluctuations in stock prices that have become normal these days, a targeted company's stock can usually be bought at bargain prices.

The inevitable result is a substantial increase in corporate debt—and a consequent decrease in the amount of money the banks have to lend out for more useful purposes. That's what makes the 1929 parallel so ominous. Recession, tight money and high interest rates will bring a flood of defaults and bankruptcies.

The law requires anyone who acquires 5 percent of a company's stock to disclose this to the Securities and Exchange Commission within 10 days. But it's simple to get around the intent of the law by continuing to buy stock quietly until the last day of the deadline period. By the time raiders file with the SEC, they may have acquired as much as 15 percent of their target's stock.

Even if the takeover bid fails, the raider is usually assured of a fat profit when word of the attempt sends the company's stock price soaring. This is often the actual goal of the raider, whose announced intention of a takeover is pure bluff, designed to extract "greenmail" in the form of a premium on the stock for relinquishing it to the threatened company.

Main St. versus Wall St.

(By Neal Peirce)

Minneapolis—Business know-it-alls used to snicker that Dayton-Hudson, the nation's sixth largest retailer, was wasting a lot of money on community service.

What kind of sense, they said, does it make for Dayton-Hudson to pioneer among top corporations by giving 5 percent of its pretax profits to charity, to be first bird off the wire in countless civic enterprises? And isn't it wasteful for a retailer to take back any merchandise a customer returns, no questions asked?

This summer the doubters learned. While many of their own firms have been bought up or gutted by mercenary outsiders, Dayton-Hudson appears to have survived a hostile takeover bid by the Maryland-based Dart Group Corp.

Dayton-Hudson's fans pushed the Minnesota legislature to come to the rescue wit han anti-takeover statute. Senate Majority Leader Roger Moe explained: "It's because of 84 years of good service as an employer and corporate citizen of this state."

There's still some suspense in Minnesota: Dart continues to talk of purchasing more Dayton-Hudson stock and a possible takeover. Most likely, it's a tactic to talk up the price of stock it was left holding.

Variations of the Minnesota statute have recently passed in Washington (for Boeing), Massachusetts (for Gillette), North Carolina (for Burlington Industries), Arizona (for Greyhound), Florida (for Harcourt Brace Jovanovich) and Indiana (for Arvin Industries). Based on the Indiana law, the Supreme Court last April approved reasonable state actions to protect homegrown corporations from hostile takeovers. The decision emboldened other states to act.

But this trend may not stick. The Morgan Stanleys, Goldman Sachses, First Boston Corporations and other Wall Street securities firms that profit from the takeover game are lobbying Congress to pass a "preemptive" federal law to invalidate state laws against takeovers. Some investment brokers say it's their top priority for the next session of Congress. If true, we can expect a classic struggle of the states vs. Wall Street.

In Dayton-Hudson's moment of peril, the firm's vice president for external affairs, Peter Hutchinson, simply called up his firm's friends—nonprofits, foundations, sister corporations. Come to my briefing, said Hutchinson, and you'll hear what's happening.

Three days later, they did—550 strong. It turned out to be "a circling of the wagons, a philanthropic revival meeting," says Curtis Johnson, director of the Twin Cities Citizens League. Arts, children's, education minority-rights and other non-profit groups sprang to their feet, testifying to Dayton-Hudson's good works. If the firm were captured, they said, Minnesota would suffer irreparable loss.

Days later, with scant dissent, the Minnesota legislature voted to forbid the winner of a hostile takeover bid from selling any of its assets for five years. The meaning, says Johnson: "You can buy one of our companies. But you can't use the company's money to do it. And you can't kill it later to pay off the people you borrowed from."

Other state anti-takeover statutes of 1987 go so far as empowering existing shareholders to decide whether an investor who buys a big chunk of stock can vote those shares in corporate elections.

Minnesota's law also plows new ground by empowering boards of directors faced with takeover bids to consider employee, customer, supplier, the community and society—as well as shareholders'—interests.

Poison! Heresy! In the theology of Wall Street financiers, any value save the cash benefit to shareholders is the rankest damnation. Firms susceptible to takeover, they'd have us think, are a drag on the American economy, overvalued, undermanaged, or both. Raiders, they assert, serve the public purpose by restructuring these inefficient firms, spinning off or liquidating their less profitable branches, and letting the core corporation flourish.

If you believe that, entrust your family portfolio to Ivan Boesky. Right now, reports the *Los Angeles Times'* James Flanigan, Wall Street has excess capacity, "well-staffed arbitrage and trading departments taking up high-rent space and bringing in no revenue." They're tempted to bid up stocks of companies "in which chances of a takeover are slim to none."

If the mystique of the supposed free market bedazzles you, consider this from Steve Alnes in the *Minnesota Journal:* "The market is truly efficient in the allocation of resources only in the long run. In the very short run, it has proved, particularly in recent years, to be enormously susceptible to rumors, manipulation, inside deals, political hiccups, chicanery and both genuine and phony takeover bids."

The gut issue, says the Citizens League's Johnson, is how to define a corporation. Is it to be judged solely by its share value, debt-to-equity ratio, last-quarter dividends? Is it a commodity to be traded "like pork bellies, where the traders get rich if no one else does?" Or, is the corporation an entity providing a livelihood to many real flesh and blood people, an entity with multiple constituencies, from workers to suppliers to customers?

No state law is likely to protect for long a corporation so ill-managed or inefficient it can't hack it in the open marketplace. So, goes the new states' rights argument: Why entertain the idea of federally allowed preemption and turn the future of our hometowns over to Wall Street predators?

A plethora of bills to regulate takeovers have been tossed in Senate and House hoppers. But Congress' dismal record in protecting communities from raiders provides scant reason for comfort. I like Johnson's comment on the potential of federal legislation: "Out here in fly-over land, we've lost trust in Congress to fix anything."

There may be another advantage to leaving takeover law to legislatures. Dependent on local governing bodies to ward off raiders, firms with meager corporate citizenship records may discover what Dayton-Hudson has known for a long while. A corporate culture of broad community service isn't just noble and laudatory: It's smart business.

Mr. PROXMIRE. I thank my good friend, the majority leader, and yield the floor.

Mr. LEAHY. Mr. President, will the majority leader yield me 1 minute?

Mr. BYRD. I yield 1 minute to the distinguished Senator.

THE SENATE'S ADVICE AND CONSENT TO THE INF TREATY

Mr. LEAHY. Mr. President, hopefully today we will give our consent to the INF Treaty. I mention that just to underscore one point—and I do it for the sake of my children, who are still in school. The U.S. Senate only advises and consents to the treaty. The President of the United States ratifies the treaty.

My 17-year-old son has told me that on his way going to school each morning, he hears on the radio, or he sees on television, or reads in the paper about the Senate ratifying this treaty. Just for his sake and for other children out there, the Senate does not ratify treaties. It advises and consents to treaties. The President ratifies treaties.

I mention that because I expect that will be done with spectacular panoply in Moscow sometime next week. So everyone will understand, it is upon us, plus him. But if we will give the advice and consent today, that is a good sign.

Mr. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from California.

THE INF TREATY

Mr. CRANSTON. Mr. President, I join the Senator from Vermont in expressing the hope that we will wrap up the INF Treaty today, which would be a very timely resolution of the problems that we have faced over it.

I am primarily concerned by one matter still, and that is the amendment that was offered by the Senator from North Carolina that we spent quite a substantial amount of time on last night. I understand that Ambassador Glitman has been negotiating with the Senator and his staff, expressing the deep concern of the administration over some aspects of that measure. I hope that those matters will be resolved; that the Senator will yield on very substantial points of difference with the administration and with many Senators on both sides of the aisle, and then the matter can be resolved.

If the Senator from North Carolina is unyielding on substantial points, then we will have a problem, because there are a number of Senators that feel, as does the administration, as I understand it, that there are some very fundamental faults that would tie the hands of the administration in negotiating with the Soviet Union and put the Senate in a box in future considerations of treaties negotiated with the Soviet Union, or prospectively to be negotiated with them, that are very, very important.

I believe the most fundamental danger facing our national security and facing the entire world and all human beings on this planet is the nuclear arms race. Under President Reagan's leadership—and I give him credit for this—we finally are making a breakthrough with the INF Treaty.

It is not a substantively significant treaty in very many respects, although it is the first treaty that has led to the abolition of some nuclear weapon systems. But it lays a foundation and is important because it will enable us to move on hopefully to a START Treaty and to other treaties that can substantially reduce the scale, cost, and dangers of this arms race.

If we now tie our hands, tie the Reagan administration's hands, tie the hands of whoever is our next President, and tie the hands of the Congress, we will be making, I think, a very, very serious mistake. That is why I take this so seriously and that is why other Senators on both sides of the aisle are concerned about this matter.

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes and thirty seconds.

Mr. BYRD. I thank the distinguished Senator.

I yield 1 minute to the distinguished Senator from Maryland, Mr. SARBANES.

Mr. SARBANES. I thank the leader for yielding.

THE INF TREATY

Mr. SARBANES. Mr. President, I very much hope that the Senate will be able to move forward today and complete its work on the INF Treaty. It is clear that the Senate's consent and approval to this treaty will take place—following a careful examination of a number of serious issues—and I think it is important to finish our work and send the treaty to the President so that it can be part of his activities at the summit. Otherwise he will be placed at something of a handicap in the summit meeting.

I held strongly to the view that the treaty ought not be approved against some time deadline. It was essential that the treaty be carefully examined and that any deficiencies be corrected.

But, assuming that this has been done—and I think it has been done—it now behooves the Senate to move forward and to act. Therefore, I am hopeful that we will complete work on this matter today. That will enable the President to carry forward with the plans that had previously been laid in terms of including INF Treaty ratification at the summit.

Mr. President, I thank the majority leader for yielding.

ORDER EXTENDING THE MAJORITY LEADER'S TIME FOR 10 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that my time be extended for not to exceed 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The majority leader will state it.

Mr. BYRD. Is the first vote that is pending on the motion to table the amendment by Mr. WALLOP?

The ACTING PRESIDENT pro tempore. That would be the first order.

Mr. BYRD. Mr. President, was there a time limit earlier on the Wallop amendment which has expired?

The ACTING PRESIDENT pro tempore. There had been a time agreement of 80 minutes on the amendment offered by the Senator from Wyoming.

Mr. BYRD. And that 80 minutes has expired or has been yielded back?

The ACTING PRESIDENT pro tempore. That time has expired.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that, immediately upon the disposition of the amendment by Mr. WALLOP, and without further debate or motion, the Senate proceed to an amendment by Mr. PRES-

SLER, the subject matter of which is the Helsinki compliance certification, and that there be a 30-minute time limitation on the amendment, to be equally divided and controlled in accordance with the usual form; and, that, upon the expiration of the time or its having been yielded back, a vote occur in relation to the Pressler amendment; provided further, that, immediately upon the disposition of that amendment, without further debate or action, the Senate proceed to the consideration of an amendment by Mr. SYMMS dealing with end strength, and that there be a time limitation on that amendment by Mr. SYMMS of——

Mr. WARNER. Mr. Leader, I believe we can handle this in 15 minutes.

Mr. DOLE. Total?

Mr. NUNN. Sixteen minutes, equally divided.

Mr. BYRD. That there be a time limitation on that amendment, equally divided in accordance with the usual form.

And that, upon the expiration or the yielding back of that time, the Senate proceed immediately to a vote in relation thereto—that the Senate then proceed immediately and without further action or debate to an amendment by Mr. DOLE which is the double negative amendment on which there be a time limitation of 20 minutes to be equally divided and controlled in accordance with the usual form; and that upon the expiration or yielding back of that time a vote occur on the amendment; that upon the disposition of the Dole amendment, without further action or debate the Senate proceed to the consideration of an amendment by Mr. SPECTER having to do with treaty interpretation, that there be a 40-minute time limit on that amendment to be equally divided and controlled in accordance with the usual form and that, upon the disposition of that on the expiration or yielding back of that time, the Senate proceed without further action or debate to a vote in relation to that amendment;

That upon the disposition of that amendment without any further action or debate the Senate proceed immediately to the consideration of the second amendment by Mr. SPECTER, which is, likewise, on the subject matter of treaty interpretation and there be a 30-minute time limitation to be equally divided and controlled in accordance with the usual form; that upon the expiration or yielding back of that time a vote occur without any intervening action in relation—a vote occur in relation to that amendment; that upon the disposition of the Specter amendments, the Senate then proceed to an amendment by Mr. HELMS dealing with troop withdrawal, that there be 15 minutes on a side on that amendment, and that upon the expiration or yielding back of that time the Senate proceed without further action to a vote in relation to that amendment;

That upon the disposition of that amendment without further action or debate the majority leader be recognized and the cloture motion be vitiated but that the majority leader be recognized at that point.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request?

Mr. COHEN. Reserving the right to object, may I inquire of the majority leader upon the disposition of these amendments and any others that might come up in the intervening time, do you intend to go to the DOD bill after that?

Mr. BYRD. Mr. President, in response to the question by the distinguished Senator from Maine, Mr. COHEN, the amendments that have been enumerated here and included in the time agreement that has just been promulgated, upon the disposition of those amendments there is only one amendment that would remain, if that should be in the form of an amendment. That would be the amendment by Mr. QUAYLE. And so we cannot agree to a time limit on it. As I understand it, that may turn out to be a colloquy.

So I think that every amendment that has been protected by the agreement of yesterday dealing with enumerated amendments has been accounted for in this discussion today.

May I make one further parliamentary inquiry before I respond to the distinguished Senator from Maine?

Mr. President, I am told that the time as set forth in the agreement, which I hope to be executed shortly, would amount to something like 4, 4½ hours, if all the time is taken and if no more than four rollcall votes occur, may I say to the distinguished Senator from Maine, Mr. COHEN, that takes us up to about 2:30.

That does not set a time limit on the Quayle amendment or the Quayle colloquy, whichever he elects to utilize. Nor does it include any time for speeches anent the treaty.

I include in this unanimous-consent request any Senators who may wish to include statements in the RECORD may have until 5 p.m. today to do so, and that those speeches may appear as though read in their entirety. That is part of the request.

Will the Senator allow us to get this agreement and then allow him to respond?

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request?

Mr. EXON. Reserving the right to object, and I shall not, one matter I did not hear the majority leader refer to and maybe he did, last evening on the amendment offered by the Senator from North Carolina, to which the Senator from California had an amendment and withdrew that amendment, that amendment was never laid on the table. Has the majority leader discussed that amendment and has that been disposed of?

Mr. BYRD. That has not been disposed of. It has been included——

Mr. EXON. It has been included in the list you just read?

Mr. BYRD. Yes.

Mr. EXON. I thank the majority leader.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. CRANSTON. Reserving the right to object.

Mr. BYRD. Mr. President, I will amend my response to the question by Mr. EXON. I had included it only by reference. I had forgotten there has been no time agreement on that amendment. I think if we could get the rest of this agreement, it will not prejudice either Mr. HELMS or any other Senator, insofar as debate on that amendment is concerned. I hope that we can proceed with the request.

Mr. CRANSTON. Reserving the right to object, I have a question of the majority leader. Does this preclude further amendments and close out the possibility of any further amendments?

Mr. BYRD. Yes.

Mr. CRANSTON. I would like to reserve the right to offer one amendment with an hour time limit on it only if the Helms amendment is adopted. In case it is adopted and in case I still see problems with it, I would like to have the right to come up with another amendment.

Mr. BYRD. That will be opening up the agreement of yesterday, and that agreement cannot be reopened whether we agree to this one or not.

Mr. CRANSTON. What agreement of yesterday?

Mr. BYRD. The agreement of enumerating the amendments that remained that could be called up.

Mr. CRANSTON. That is closed down because of that process?

Mr. BYRD. Yes, because if we open it up——

Mr. CRANSTON. I understand.

Mr. BYRD. I thank the distinguished majority whip.

Mr. President, has that agreement been agreed to?

The ACTING PRESIDENT pro tempore. The unanimous-consent request propounded by the majority leader has been agreed to.

Mr. BYRD. I thank the Chair and I thank all Senators.

I ask unanimous consent that the Helms amendment No. 2317 continue to be laid aside at the sufferance of the Senator from North Carolina because he is entitled, if there is an objection, to have it come back before the Senate upon the disposition of the Wallop amendment. I ask unanimous consent that the amendment by Mr. Helms continue to be laid aside temporarily as of now.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection it is so ordered.

Mr. BYRD. Mr. President, if the Senators can restrain themselves and yield back some of the time, although I must compliment them, they are not asking for a great deal of time, it would help the Senate to dispose of the amendments and hopefully approve the ratification of the treaty at a reasonably early hour this afternoon. It would be most welcomed in Moscow, I think, by our President if it were done by 3 o'clock.

One might not expect me to have said that the way I did, but I think we have closed all loopholes we know about in this treaty, and it is a much better treaty than it was when he sent it to the Hill. So I will be happy to try to accommodate the President as much as I can.

Mr. NUNN. Mr. President, on another matter, if I can inform the majority leader, Senator Warner from Virginia has been working diligently. I have been assisting him in respect to getting an agreement worked out on the DOD bill so that the D'Amato amendment would not be an impediment to the final passage of the DOD bill. I think a good deal of progress has been made between Senator D'Amato, Senator Levin, and Senator Warner. We have, at least, a prospect of getting a unanimous consent so we can finish the DOD bill today.

If we do not get that unanimous consent worked out by the completion of the INF Treaty, I would ask the majority leader consider going into legislative session to bring up the DOD bill, at which time I would at least try to get the D'Amato amendment tabled.

I hope that would not be necessary. I would feel an obligation to at least try to pass that Department of Defense bill. It contains so many elements that are so important, including pay raises for the military, including trying to avoid as much as possible the deferment of civilian employees.

The longer we delay it, the more the deferment and layoff of civilian employees is going to be. I would like to at least feel obligated to try to move that this afternoon. It should not take long. We will either get a unanimous consent or we will not. We will either get it tabled or not. It might necessitate or would necessitate, in the absence of a unanimous consent, one rollcall vote. If we get a unanimous consent, I do not have any need to have a rollcall vote on final passage, but someone else may ask for that.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Georgia for his observations. It is most helpful.

Let me respond to my friend from Maine. I hope that the Senate can go to the DOD authorization bill this afternoon and dispose of it, and I hope that a unanimous-consent request can be developed which would entertain the separation of the D'Amato amendment from the bill.

There is one caveat; that the Senate cannot go into legislative session to take up the DOD authorization bill without unanimous consent for the reason that once the Senate goes into legislative session, the veto message from the President will be read to the Senate, and immediately upon the reading of that, it will be attached to the Journal, following which the veto message is before the Senate for disposition. That has precedence over anything else, even over rule XXII, if there has not been a vote, and would have precedence over the War Powers Resolution, which has been triggered by the Senator from Washington [Mr. Adams].

We do face that problem getting to the DOD authorization bill this afternoon. I hope the distinguished Republican leader and I and the Senator from Virginia and the Senator from Georgia and other Senators may be able to collaborate in bringing about that desired result, but there are those obstacles.

Mr. President, I thank the distinguished Republican leader for the outstanding cooperation that he has given in advancing this treaty to this point. The daylight is really at the end of the tunnel. I yield the floor.

EXECUTIVE SESSION—TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE ELIMINATION OF THEIR INTERMEDIATE-RANGE AND SHORTER-RANGE MISSILES (THE INF TREATY)

The Senate resumed with the consideration of the treaty.

Pending:

Helms Amendment No. 2317 (to the resolution of ratification), to include in the instruments of ratification a unilateral declaration of the United States that, as an integral factor in its decision to adhere to the Treaty, it intends to continue to negotiate with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the parties and, in conjunction with its NATO allies, to negotiate a treaty effecting reductions in the conventional forces of NATO and the Warsaw Pact, and in so doing, that it shall be guided by certain enumerated principles and considerations.

Wallop Amendment No. 2324, to provide for a United States response to possible violations of the INF Treaty.

The ACTING PRESIDENT pro tempore. The vote now occurs on the motion to table the Wallop amendment and the yeas and nays have been ordered.

Mr. McCLURE addressed the Chair.

The ACTING PRESIDENT pro tempore. The gentleman from Idaho.

Mr. McCLURE. Mr. President, I rise as a cosponsor of the compliance condition before the Senate, and to urge its adoption.

Mr. President, 27 years ago, Fred Ikle wrote a seminal and prophetic article entitled "After Detection, What?" The article addressed the difficulty of enforcing compliance with arms control agreements once violations have been detected.

When I say prophetic, I mean both foresightful and, also, little honored in his own land. For it is not until today, 27 years later, that we in the Senate are acting to address the problems Fred Ikle outlined in 1961. I hope the Senate will see fit today to honor this prophet, who recently retired, after a career of distinguished service, as Under Secretary of Defense for Policy.

We are all aware of the unprecedented strides that have been made in the verification regime of the INF Treaty. We have the right to inspect Soviet missile assembly and deployment sites deep within the country Churchill once described as "a riddle, wrapped in a mystery, inside an enigma." We have Soviet agreement on extensive cooperative measures to enhance the ability of our national technical means to monitor Soviet compliance.

But critical though verification is, it is only half the problem. "After Detection, What?" That is the question we seek to answer today.

For it is not enough to detect violations. What counts is the political will to impose a political and military price to ensure that arms control scofflaws do not gain from their violations. If we cannot do that, all the onsite inspections, satellites, and monitoring sites in the world are useless.

The condition before us creates a mechanism to deter the Soviets from violating the INF Treaty, and to respond if they do. It does so before the fact of a Soviet violation, and as an essential part of the Senate's own understandings regarding the treaty.

The condition is straightforward. It establishes that the United States will consider any Soviet violation as grounds for a proportionate response or for withdrawal from the treaty, in accordance with generally recognized principles of international law. It establishes a procedure to ensure that the State is kept informed of Soviet compliance, or intelligence information indicating noncompliance, including the reliability of the evidence for, and the military significance of, any Soviet violations.

If the President reports to Congress that the Soviet Union is no longer in compliance with the treaty, and the President decides not to exercise the right to withdraw from the treaty, the President should certify to Congress that either:

The United States is undertaking appropriate responses, or

The Soviet Union has returned to compliance.

The Senate may reject the Presidential certification, in which case the treaty should no longer remain in force. However, this is not binding. It is a statement of how the Senate intends the United States to respond.

Mr. President, some may ask, why is this condition necessary? It is necessary because, to date, the United States record in making the Soviet Union pay for its violations of existing treaties has been abysmal. The House and Senate have voted unanimously to recognize the Krasnoyarsk radar site as a violation of the 1972 Anti-Ballistic Missile Treaty. But they then turned around and voted to force the United States to comply with the narrowest interpretation of that treaty, forestalling our ability to respond to a Soviet violation of potentially enormous military significance.

Our track record on the SALT II Treaty sends the same message. In 1979, as many of my colleagues recall, President Carter said that encryption, or scrambling, of missile telemetry would be just as significant a violation as exceeding the limits on strategic weapons. Such a violation, the Carter administration told us, could be considered grounds for abrogation of the treaty. The Senate Foreign Relations Committee endorsed this position. The committee also said, in its report, that any significant Soviet violation would "be countered by a timely response upon detection." On another issue, Secretary of State Cyrus Vance touted the ban on new types—the ban violated by the SS-25—as one of the cornerstones of the treaty.

As we all know, the Soviets went ahead and violated both those provisions, the ban on encryption and the ban on a new type. And after 5 years of voluntary U.S. compliance with SALT II, the Reagan administration finally moved to abandon the SALT II limits. Yet Congress is still trying—it is taking another shot on this year's defense authorization bills—to force the United States back into compliance with a treaty which the Soviets are violating and which, even had it been ratified, would have long since expired.

Mr. President, the arms control lobby blames the Reagan administration for the breakdown in Soviet compliance. The administration, they say, is being too confrontational, blowing Soviet violations out of proportion. Instead, we are told, the United States should use the Standing Consultative Commission for a quite resolution of disagreements.

But the SCC, which was established by the ABM Treaty to serve as a forum for compliance disputes, has been useless, an "Orwellian memory hole" as Cap Weinberger described it. As of March of last year, the SCC had spent 224 hours discussing Krasnoyarsk—with absolutely no effect on Soviet actions. The committee had also spent 270 hours on the SS-25, and 385 hours on the Soviet encryption of telemetry. Meanwhile the SS-25 has gone from the development stage to deployment, and the Soviets continue to encrypt their telemetry.

I know there is a son of SCC established by the INF Treaty, called the Special Verification Commission. I hope that body is more successful than its predecessor. And I hope the Senate will take action today to give our SVC people some leverage.

Mr. President, what we have done through our refusal to respond to Soviet violations is to send a dangerous message. In one breath, we have said that we believe the Soviets are in violation of treaties. But through our legislative actions, we have said that violations do not matter, and the Soviets can continue to cheat with impunity.

Today, the Senate has a chance to reverse that message. And let me make it clear to any of my colleagues, who think this condition somehow hurts the INF Treaty, that passing the compliance reservation is the best thing we can do for this treaty. In fact, I would go so far as to call this a "reverse-killer amendment." What's that? That is an amendment that kills the treaty if it does not pass. Because if the Senate rejects this amendment, that action could eventually kill this treaty. If we reject this amendment, we will be telling the Soviets: "Go ahead. Cheat. Keep cheating. We aren't going to do anything." And the Soviets can take a hint. If they believe they can gain from cheating, they will.

Mr. President, when he signed this treaty, President Reagan cited an old Russian proverb. "Doveryai, no proveryai." Trust, but verify. I would like to add a word to that. Doveryai, proveryai, i prinuzhdai. Trust, verify, and enforce.

I urge the adoption of the reservation.

VOTE ON AMENDMENT NO. 2324

THE ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to table the amendment of the Senator from Wyoming. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON; I announce that the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

I further announce that the Senator from Ohio [Mr. GLENN] is absent due to death in family.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 30, as follows:

[Rollcall Vote No. 161 Ex.]

YEAS—66

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Evans
Exon
Ford
Fowler
Gore
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Melcher
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Stafford
Stennis
Stevens
Weicker
Wirth

NAYS—30

Armstrong
Cochran
D'Amato
Dole
Domenici
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Humphrey
Karnes
Kassebaum
Kasten
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Shelby
Simpson
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—4

Biden
Glenn
Matsunaga
Metzenbaum

So the motion to lay on the table the amendment (No. 2324) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senate will be in order. Senators will please take their seats. The Senate will be in order.

AMENDMENT NO. 2101

(Purpose: To condition ratification on the certification whether the Soviet Union is in compliance with the Helsinki Final Act)

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement, the Senator from South Dakota is recognized for 15 minutes. The opposition is recognized for 15 minutes.

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The Clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2101.

At the appropriate place in the resolution, insert the following condition: "Subject, however, to the condition that neither the President nor any other agent of the Executive Department is authorized to sign or exchange instruments of ratification unless and until the President, without delegation, shall have certified to the United States Senate whether the Union of Soviet Socialist Republics is faithfully meeting its obligations under and is in full compliance with all provisions of the Final Act of the Conference on Security and Cooperation in Europe".

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I thank you for your efforts to establish order.

Mr. President, the key word in this amendment is "whether." It does not ask the President to certify "that" the Soviets are in compliance with the Helsinki Final Act on security, cooperation, and human rights. In fact, the Soviets, in my judgment, are not in compliance. Therefore, it would be a very simple matter for the President to issue a statement to that effect whereupon he would then be authorized to sign and exchange the instruments of ratification.

So the point of this amendment, is to highlight the Helsinki Final Act and human rights in the Soviet Union. The Soviets are not in full compliance. I believe the President should certify whether they are or are not, before entering into final ratification of this treaty. I think it should not take the President and his many advisers more than a half-hour to complete this task. In doing so, they would reiterate the obvious—that the Soviets are not in full compliance with the Helsinki accords on security, cooperation, and human rights.

Some might ask, "What is the point of doing this on the eve of the summit in Moscow?" Many of us in the Senate have been signing letters to the President and Secretary Gorbachev in recent weeks, asking that the various human rights and emigration cases be favorably resolved by the Soviet Union. There have been dozens of these letters this year, and I have signed many of them. They are good letters, and all produced desirable results in this era of glasnost and perestroika.

However, we should go beyond sending letters, to draw attention to the persistent problems of Soviet violation of the Helsinki accords.

The INF Treaty is a historic agreement in several respects. It is the first time the superpowers have agreed to mutually reduce nuclear armed missiles, and it makes a leap forward in the area of onsite inspection of nuclear facilities by human beings. But the Helsinki Act also was a historic agreement. It codified the idea that true security requires cooperation between nations and respect for certain basic human rights within nations.

The Helsinki Final Act has been the foundation for many effective efforts to advance the cause of human rights in Europe, especially in Eastern Europe. Unfortunately, there is a long way to go before we can rest assured that the Helsinki principles are respected in the Soviet Union, let alone fully observed. The Soviet Union signed this solemn agreement.

On this occasion of the imminent ratification of the INF Treaty, I urge the Senate to reaffirm the principles and ideals of the Helsinki Final Act by supporting my amendment. In doing so, we will be saying to the Soviet Union that we regard progress toward compliance with the Helsinki principles to be as important as this INF Treaty.

The INF Treaty is an extension of the Helsinki principles. The Helsinki Final Act may be regarded as an umbrella under which arms control agreements fall. It is the parent agreement, in a real sense, and has earned the respect and appreciation of millions of Europeans. Therefore, we can accomplish two historic feats: Ratification of the INF Treaty and reaffirmation of the Helsinki principles.

Mr. President, there are many minority groups in the Soviet Union, and their friends in the United States are very interested in this amendment.

For example, there is the Soviet Armenian minority. The Armenians want respect for their basic rights in the Soviet Union, and they have been demonstrating to make known to the world that they feel they are not being treated fairly. The Helsinki accords are not being respected by the Soviet Union regarding the Armenians.

Recently, it was my pleasure to travel to Turkey where I discussed with the leaders of that country some of the issues regarding the Ottoman Empire's genocide against the Armenians. They pointed out that most Armenians live across the border in the Soviet Union, and that they have recently been demonstrating very strongly. This amendment would very much highlight the Armenians in the Soviet Union. It would highlight their plight.

Also, the Baltic States—Estonia, Latvia, and Lithuania—have been struggling for greater autonomy, the freedom to practice religion, and respect for their unique cultural heritage and customs.

Last night, on television, it was pointed out that in the Soviet Union it is illegal to have a meeting to study the Bible. Certainly, the Christians and others who wish to practice religion, except where there are television cameras, are not being accorded the protection of the Helsinki principles. Discrimination against Ukrainians has been widespread. That is something that this amendment would address—not to mention the Soviet Jews who have suffered so much. Although the Soviets have permitted a higher level of Jewish emigration during the past year, the number of those permitted to emigrate to Israel remains far below the level of several years ago.

Mr. President, I think it is very important to make this statement on human rights. There are many citizens of the United States who welcome glasnost but who, at the same time, see continuing patterns of violations of the Helsinki accords.

This amendment would not require the Soviet Union to satisfy the requirements of the Helsinki accords. It would require that the President certify whether or not the Soviets are complying fully with Helsinki accords. This exercise on the eve of the summit would highlight the cause of human rights in many areas of the world.

Mr. President, we are on the verge of a historic act in the Senate. What we do here today will affect future generations. I have expressed great concern about the conventional defense forces in Europe and the imbalances that exist between NATO and Warsaw Pact nations. In some ways, I feel that we are giving up our INF missiles trump card while they are keeping their trump card, their superiority in conventional forces.

I am concerned that, next year, the administration—be it Republican or Democrat—will seek increases in military spending to increase our conventional forces in Europe; and I will raise questions about that, because I think there should be a more equitable defense burden sharing by our allies.

However, let us not go forward with this treaty without considering the issue of human rights. I know that this body has adopted, by unanimous consent, another Helsinki amendment, but that amendment has no teeth in it. It does not require any action by the President. I think that on the eve of the summit, the President could make the proposed certification in a half hour, and it will not hold up the treaty. It would not force renegotiation of the INF Treaty. It will not hurt the treaty. In fact, it will strengthen it.

There are literally millions of people who are crying out for human rights and religious freedom, and many of us have worked on this. It seems strange that we should enter into this agreement with the Soviet Union without having this certification by the President on the eve of the summit. That is the purpose of my amendment.

Mr. President, I have offered many amendments in the Foreign Relations Committee on verification and other issues. I think that the efforts we made in the Foreign Relations Committee helped to bring about a stronger United States-Soviet agreement on verification procedures; as a result of our committee efforts, and the efforts of many of my colleagues, there was another meeting between the Secretary of State and the Soviet Foreign Minister, and additional verification procedures were clarified.

Also, I raised many questions and offered an amendment in the committee on conventional forces, which was defeated. I feel very strongly that any START agreement the President might initiate in Moscow should be tied to a reduction of Soviet/Warsaw Pact conventional forces in Europe, especially the Soviet combat-ready divisions that are located in Poland, Hungary, Czechoslovakia, and East Germany, not to mention the Soviet Union itself. They clearly have a 2-to-1 superiority at least, and maybe a 4-to-1 superiority in troops, tanks, artillery and other coventional weapons. So long as this exists, there cannot be a relaxing of the West's defense efforts.

Mr. President, the long debate we have had on this treaty has illustrated the concerns of many Senators. Amendments such as mine in committee and here on the floor have sent a signal to the White House to be very careful on the START Treaty. Most of our amendments have been defeated; but, as a result of offering these amendments and as a result of this fight, we have a stronger assurance that the verification procedures will work. We have clarified important treaty provisions, but I wish we would clarify the area of human rights before going forward.

My amendment would not require a renegotiation. It would not hold up the treaty. It merely says, on the eve of the summit—and the President and his advisors could do it in 30 minutes—that the President must issue a certification on whether or not the Soviets are complying with the Helsinki Final Act. It would not hurt the treaty one way or another, but it would highlight the issue of human rights and would show that Americans care about the Armenians in the Soviet Union, who are crying out; that we care a great deal about the Christians in the Soviet Union who want to read the Bible; that we care a great deal about the Jewish people who wish to emigrate or are struggling for greater freedom; it would show that we care about the Ukranians who for so long have had their freedoms denied. But most importantly it will show that we care about the human rights provisions of the Helsinki Final Act, and I think that is very important.

In my various travels about the world I have come very much to respect the efforts of the chairman of the Foreign Relations Committee, Senator PELL, to look into conditions in prisons when he is traveling abroad. I made a trip to Argentina with him years ago when he nudged the conscience of the entire country regarding the disappeared.

I also had the honor of traveling with him in Central America where he guided us to raise questions about prison conditions in Nicaragua.

So, as we move toward giving our consent to this treaty, I offer this amendment in all sincerity—not to hold up the treaty, not to in any way detract from it—but to put an exclamation point to this summit that we care a great deal about human rights.

Mr. President, I yield the floor, but I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CONRAD). Who yields time?

Mr. PELL. Mr. President, I yield myself 5 minutes.

Mr. President, I thank the Senator from South Dakota for his kind words and commend him for his interest in this whole subject of human rights.

As a founding member and once upon a time a cochairman of the Helsinki Commission, I have, as he knows, shared this interest over the years.

I recognize that it is in the spirit of trying to improve human rights that this commendable amendment is brought forward. However, I do not believe that the language that is proposed should be adopted by the Senate at this time because it could delay the ratification process in the eleventh hour. Moreover, through the adoption of the DeConcini-Lautenberg amendment, the Senate has put the Soviet Union on notice that the United States will continue to seek improvements in human rights. Certainly arms control is not the be all and end all of our relationship with the Soviet Union. I agree we must press the Soviets for progress in the area of human rights. But I question whether this condition is an effective way of doing it. It moves us down the road toward a formal linkage between arms control and human rights. Most of the witnesses who testified before the Foreign Relations Committee rejected the idea of linkage.

I, myself, asked Secretary Shultz what his views were with regard to attaching various provisions relating to the Soviet withdrawal from Afghanistan or improvement of human rights to the INF Treaty. Secretary Shultz replied "I see no purpose to be served by burdening this treaty with other matters. It seems to me it stands on its own feet."

I believe that the administration is not supportive of this condition. In my view, timely ratification of the INF Treaty would contribute to a positive atmosphere in which progress can be better made on the human rights front.

So when the appropriate time comes I do intend, I hope in collaboration and in cooperation with the Senator from Indiana, to move to table.

I yield 5 minutes to Senator DECONCINI.

Mr. DECONCINI. Thank you, Mr. President. I thank the chairman of the Foreign Relations Committee.

I thank the Senator from South Dakota. I understand his motivation here to make sure that human rights are clearly articulated in terms of Helsinki compliance in the Soviet Union. I appreciate that effort.

What concerns me here is that in my best judgment there is no way this President or any President could certify today that the Soviet Union is in compliance with the Helsinki Final Act and to make that part of this treaty would in my judgment really make the treaty inoperative, which the good Senator from South Dakota says is not his intent, but in my judgment that is exactly what would happen here.

So I think we are moving down a road here that would really be a killer amendment. We addressed this in what I thought was a constructive way a couple nights ago, about 10 o'clock when we did pass the DeConcini-Lautenberg-Grassley and others human rights amendment which was really a declaration and an understanding that the President should and would when he hands over the ratification instruments, ask Gorbachev, request Gorbachev, and extol Gorbachev to comply with the Helsinki Final Act and with the Madrid concluding document, that was consummated in 1985 and any other international instruments and agreements that have been made as they relate to human rights.

That, to me, is a very strong, forceful statement by this body as to our position on human rights and our desire to bring them to the attention of the Soviet Union.

But here we are making a condition that a President in all honesty could not certify.

If that is the intent of the Senator from South Dakota, I respect that. If it is the intent to make this treaty not be able to come into effect, I respect anybody who disagrees with my view that this treaty should be ratified.

But my best judgment is this amendment really makes it impossible to ratify the treaty. How could anyone certify that the Soviet Union is in compliance? Some might even question whether the United States is in full compliance of the Helsinki Final Act. But we know for a fact the Soviet Union is not just by their emigration laws. They have still failed to pass emigration laws guaranteeing emigration. For example, their linkage of relatives' invitations, close relatives living outside the Soviet Union, in order for Soviet citizens to get a visa to travel outside the country is in total violation of the Helsinki Final Act.

So, Mr. President, I hope that we will table this amendment and believe that if we do not and if it passes it would indeed be a killer amendment and make this treaty inoperative and something that the Soviets could not accept nor could President Reagan accept a treaty with this type of amendment on it because in no god's way could he certify or anyone else that the Soviet Union is in compliance.

I thank the Senator from Rhode Island.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, will the distinguished Senator yield 5 minutes?

Mr. PELL. I yield 5 minutes to the Senator from Indiana.

Mr. LUGAR. I thank the Senator.

Mr. President, as I have listened to the debate, the distinguished Senator from South Dakota in describing his amendment read the first lines which I suppose are the most important. He said "The purpose of the amendment is to condition ratification on the certification whether the Soviet Union is in compliance with the Helsinki Final Act."

I will point out initially when the distinguished Senator's amendment was offered in the Foreign Relations Committee and likewise published here as amendment 2101 in the Senate, the first line read "to condition ratification on the certification that the Soviet Union is in compliance." "That" has been changed to "whether."

Now I make that point because the Senator has tried to cure a defect that the Foreign Relations Committee found regrettable; namely, that the entirety of this treaty might lie as the distinguished Senator from Arizona has pointed out on whether or not the Soviets are in compliance.

Frequently, the President has spoken out and said they are not. There is no secret as to his judgment about that.

So the distinguished Senator has eliminated the word "that" and said the President has to certify now "whether" the Soviet Union is in compliance or not.

As I read the amendment, the President could say, yes, no, or maybe. He is required to say something about it.

I would simply point out the President, as early as this morning had a lot to say about it in Helsinki. He pointed out that be believes the Soviet Union has made some progress. He commended the Soviets on a number of actions. But he pointed out very clearly they have a long way to go.

That was as definitive a judgment in response to the request of the Senator from South Dakota as I think we will get, and it came this morning. It was on worldwide television. The whole world knows our President's views on the human rights condition and the Helsinki accords, and the President commended the Helsinki accords which indeed was an anniversary celebration of them.

Therefore, Mr. President, I question the advisability of attaching this amendment to the treaty at this point. With full regard for the distinguished Senator from South Dakota, I am not certain it is useful to add questions of this variety that are answered really in public dialog as this one has been. The treaty ought not to be a questionnaire literally of the President, whether he feels that the Soviets are making headway or not, and the Senator has pointed out "whether" is the important word.

I ask Senators to reject this amendment and to keep it off the treaty.

I would agree with the distinguished Senator from Arizona that he and the distinguished Senator from Iowa and the distinguished Senator from New Jersey addressed this. They put the Soviets on notice that we care, a very important part of this treaty.

For these reasons, I am hopeful that the amendment will not be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 4 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I join the Senator from South Dakota in his concerns, but I join the chairman and the ranking member of the Senate Foreign Relations Committee—the former chairman of the Senate Foreign Relations Committee—in their concerns about where we are going on this.

I believe one of the things that we should keep in mind is the Helsinki accords is precisely that. It is an accord. It is not a treaty. It does not have the binding force of law and there is a very marked distinction, a distinction that we were very much aware of in 1975 when we signed the Helsinki accords.

There is no question the Soviets are in violation of human rights, one facet of the three facets of the Helsinki accords that deals in this. I believe our amendment that I was pleased to add my name as a cosponsor of, sponsored by Senator DECONCINI, Senator LAUTENBERG, and Senator GRASSLEY, that deals with that sends a clear, strong message that we are concerned. I would add that we also have to keep in mind that the Helsinki accords is not simply human rights. We have focused primarily on that. It is also a number of other things.

Part of the Helsinki accords also is that the signatory powers agree to promote the teaching of foreign languages. Has the United States of America lived up to this part of the Helsinki accords? I think you could make a very strong case that we have not. We are the only nation on the face of the Earth where you go through grade school, high school, college, get a Ph.D., and never have a year of a foreign language.

I do not suggest that the Soviets ought to have a quiz on us on all the aspects of the Helsinki accords and we should not in reverse. We ought to reexamine where we are deficient and the Soviets ought to reexamine. There is no question they are deficient in these very questions the Senator from South Dakota has brought up this morning in human rights, in emigration, in these areas.

I am pleased, as has been mentioned by both Senator PELL and Senator LUGAR, that there does appear to be some modest change in this area of human rights in the Soviet Union. We hope there will be more.

But I do not think this is the instrumentality through which we achieve greater human rights in the Soviet Union. I shall join in the motion to table. With all due respect to the aim of my colleague from South Dakota, I do not think this is the means by which we achieve that.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Dakota has 3 minutes and 26 seconds remaining. The Senator from Rhode Island has 2 minutes and 11 seconds remaining.

Mr. PRESSLER. Mr. President, I yield myself the remainder of my time.

Mr. President, let me respond to some of the arguments from my fine colleagues. I commend each of them because they have all been leaders in the area of human rights.

First of all, my distinguished colleague from Rhode Island and chairman of the committee, who has done so much in this area, argues that this is not timely on this particular treaty. I would argue that it is very timely. The time could not be better, in terms of making a determination whether or not the Soviet Union is in compliance, because it would highlight these concerns at the summit in Moscow next week.

I know the President has talked about this issue, and I believe it would be a great declaration at this hour for him to formally certify Soviet noncompliance with the Helsinki Final Act.

Now, my distinguished colleague from Indiana pointed out that the word "whether" was the key to this condition, which is true. We changed it in the Foreign Relations Committee to "whether" so that the President could go ahead and ratify this treaty after issuing the certification regarding Helsinki compliance. As a result, the human rights issue, the Helsinki Final Act issues, would be highlighted.

My colleague from Arizona spoke about the amendment that has already been adopted, but that is merely a declaration. Mine requires some specific action. My distinguished friend from Illinois who has done a great deal in this area, made the same point.

Mr. President, I would conclude by saying that this is an historic agreement that we are entering into. I think it is very important that we regard respect for human rights to be as important as arms control. In the future, we must be very vigilant in verifying compliance with this treaty. We must be vigilant on what the President does in the area of START. I come from a State that has many long-range missiles. South Dakota has many of these missiles, so we are concerned about what happens in the START agreement that may follow the INF Treaty.

But we also must be vigilant on what the Soviet Union does in other areas. It appears that the glasnost policy has introduced some changes but, in fact, there are still too many regional conflicts. The activities of the Soviets in Central America and their activities in Vietnam—where I visited recently—all of these indicate to me that we have a long way to go in achieving peaceful resolution of international differences.

I do commend President Ronald Reagan. His initiatives on arms control and summit meetings with the Soviet leader can lead to more exchanges and the opportunity for greater United States and world security.

But, through all this, our theme should be that we are very concerned with human rights.

Again, I repeat, this is not a killer amendment. It cannot hold the treaty up. It would not in any way hurt the treaty, but it would highlight our basic values and the values put forth in the Helsinki accords.

Mr. President, if a tabling motion is made, I will ask for the yeas and nays.

Mr. PELL. Mr. President, I yield the remainder of my time to the Senator from Colorado, Mr. Wirth.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes and 6 seconds.

Mr. WIRTH. I thank the distinguished chairman for yielding.

Mr. President, I thank the Senator from South Dakota for raising this issue and once again reminding us of the importance of human rights. I am sure, in referencing Helsinki, he would also, by implication, outline the importance of us to be thinking about other areas of the Helsinki agreement relating to Third World conflicts, trade and other exchanges, and so forth.

But I think we should table this amendment. It is very clear in the Helsinki agreement that Helsinki does not speak to any formal linkage, as in this amendment. It does not speak to any formal linkage, but, rather, to a relationship between arms control and human rights, that those should run concurrently. And they are running concurrently in Vienna as we right now are in the process of finishing off the CSCE discussions there and getting the Soviets to commit, we hope, to next steps.

We are also, under Ambassador Ledogar's direction, focusing on next steps in the CST process and also on further steps in CDE, confidence and security building measures.

In any event, congressional control and human rights are running as envisioned in the Helsinki process concurrently.

So I think the Senator has done a service in again reminding us of the importance of this issue. But we certainly should go along with the tabling motion and not agree to this killer amendment at this point. It is inappropriate.

I hope our colleagues join with the Senator from Rhode Island in tabling the amendment offered by the Senator from South Dakota.

Mr. PELL. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Rhode Island has 20 seconds remaining.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. PELL. Mr. President, the point before us now is the amendment and, on behalf of myself and the Senator from Indiana, Mr. Lugar, I move to table the amendment.

Mr. PRESSLER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island [Mr. Pell] to table the amendment of the Senator from South Dakota [Mr. Pressler]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. Matsunaga] and the Senator from Ohio [Mr. Metzenbaum] are necessarily absent.

I further announce that the Senator from Ohio [Mr. Glenn] is absent due to death in the family.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 10, as follows:

[Rollcall Vote No. 162 Ex.]

YEAS—86

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Gore
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Wilson
Wirth

NAYS—10

Armstrong
Hatch
Hecht
Helms
Humphrey
McClure
Pressler
Symms
Thurmond
Wallop

NOT VOTING—4

Biden
Glenn
Matsunaga
Metzenbaum

So the motion to lay on the table amendment No. 2101 was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. We must have order in the Chamber in order for Senators to be heard. Please, if we can hold down conversations and take discussions to the cloakrooms so Senators can be heard. The Senate cannot proceed until the Chamber is in order.

The motion to reconsider has been made.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Symms amendment is now before the Senate.

AMENDMENT NO. 2326

(Purpose: To encourage the adjustment of the end strength of military departments to take account of certain military personnel assigned to on-site inspection activities under the Treaty)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 2326.

At the appropriate place in the following:

( ) Declaration: In authorizing the strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities provided for in the Treaty, account should be taken of the number of such personnel that will be assigned to such activities during such fiscal year.

Strike out "( ) Condition" and all that follows through the end of the condition and insert in lieu thereof the following:

( ) Declaration: In authorizing the strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities and support of such activities provided for in the Treaty, account should be taken of the number of such personnel that will be assigned to such activities during such fiscal year.

The **PRESIDING OFFICER.** If the Senator will suspend for one moment, the Senate will be in order so the Senator can be heard.

Mr. SYMMS. Mr. President, the purpose of this amendment is very simple and very straightforward. We all know preparing a DOD budget, a personnel chart of where everybody is to make productive use of the resources, is a very difficult task.

All this amendment states is that the strength of the respective services and support agencies that are set by Congress and set by the administration in our DOD bills will not be interfered with, and that these personnel will be assigned to this function without deleting people from the strength of the other services.

I say to my colleagues, it is estimated that it may be somewhere between 100 and 250 people that will be engaged in this activity.

To put this in perspective, 100 people would be a tank company; 250 people could be a reinforced rifle company.

It is not a great deal of people now, but looking down the road——

The **PRESIDING OFFICER.** If the Senator will suspend for one moment, let us have order in the Chamber so the Senator can be heard.

Mr. SYMMS. Mr. President, there are two amendments that I wanted to offer. One I am not going to offer and wait until next year on the defense authorization bill and the budget process, and that is to isolate how much money it takes for on-site inspection and verification personnelwise, to the best of our ability. I offer this amendment of end strengths so that we are not sending a message to the GI's in the field and the respective services that we are going to expect them to do more with less again and that we get engaged in these treaty arrangements and then just expect the Defense Department to take it out of operation and maintenance budgets.

It is not a big, big issue at the present time. If you look down the road at verification under these procedures in the START Treaty or other treaties that may come up, it could become a much more important and significant point.

The treaty cost over the next 5 years, in terms of on-site verification, is going to be somewhere between $800 million and $1 billion and require somewhere between 100 and 250 people. Simply put, this amendment recognizes the potential impact of a loss of those personnel and resources on DOD and that account should be taken of the loss of those personnel devoted to treaty implementation from the personnel end strengths of DOD. I do not believe that it is the intention of my colleagues to make DOD absorb the costs for personnel support of the on-site inspection agency. Consequently, this amendment states that DOD should not be held accountable for end strength of military and DOD-civilian personnel assigned to the on-site inspection agency.

Given the smaller defense budgets and reduced force structure that we all see coming down the road, Mr. President, I just do not think it makes sense to further cut DOD personnel authorizations and complicate the intensity of the debate over the defense budget.

Mr. President, I urge my colleagues to support the amendment. It is my understanding that this amendment will be accepted.

Mr. PELL addressed the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. PELL. What is the time situation?

The **PRESIDING OFFICER.** There is 20 minutes equally divided. The Senator from Idaho retains 6 minutes and 57 seconds, the Senator from Rhode Island has 10 minutes under his control.

Mr. PELL. I thank the Chair.

This amendment serves to identify the number of people attached to the on-site inspection agency. It would be more appropriate I would think as an amendment to the defense authorization bill, so I am very interested in the reaction of the Armed Services Committee.

Mr. WARNER addressed the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. SYMMS. Mr. President, I ask unanimous consent that a letter to President Reagan as Europe's message to the President with respect to INF which was printed in the Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 9, 1987]

EUROPE'S INF MESSAGE TO PRESIDENT REAGAN

Mr. President:

As longstanding admirers of your great personal contribution to the cause of freedom we wish to draw your attention, and that of the Senate, to the risks inherent in the agreement now signed to eliminate intermediate-range nuclear forces from Europe. Although we would like to convince ourselves otherwise, we believe that the accord will seriously and adversely change the balance of military and political forces within Europe in favor of the Soviet Union.

We are also fearful that unless NATO defenses are buttressed by a range of compensatory measures the agreement may set in train a course of events that will progressively undermine the fragile cohesion of the Western Alliance.

Ours is not, we think, a Euro-centric view. We fear that the accord will damage the influence and reputation of the United States, upon which all free, democratic societies remain dependent. It also will damage the vital interests of the U.S. itself. We must therefore decline to join in the summit euphoria that has gripped so many and that brings to mind unfortunate historical precedents. Rather, we would respectfully ask you—and by means of this open letter, members of the Senate who will soon be asked to ratify the accord—to consider the following:

The zero-zero option will remove a vital part of the architecture of deterrence that cannot be replaced soon. The cruise and Pershing II missiles serve a combination of functions that are essential to NATO strategy in an age of growing Soviet military superiority. The missiles make a general contribution to deterrence through their ability to reach targets deep within the Soviet Union—a capability not matched by any other U.S. land-based missile in Europe. The missiles link the European pillar of the alliance to the American pillar. They provide a crucial element between the level of tactical missiles and the strategic level. Take away that vital rung in the escalatory ladder and you immediately throw into question the mutual transatlantic involvement and solidarity that have preserved the peace in Europe for 40 years.

It is also important to bear in mind that the Soviet SS-20s no longer present the same threat to Western Europe they once did: the strategic and political value of their removal may therefore be exaggerated. This is partly because, by the latest standards, the SS-20 lacks accuracy and sophistication. Indeed, it will soon be obsolete.

Meanwhile, the Soviets are modernizing their nuclear arsenals by the inclusion of such weapons as the SS-24 that are outside the scope of the agreement. Thus, although the Soviets will give up many more warheads than the U.S., there is no balance or symmetry in this exchange. Even in the short term the accord will not exclude the possibility of an intermediate-range nuclear strike against Europe: The Warsaw Pact may simply re-target a proportion of its Intercontinental Ballistic Missiles against Europe.

It should also be remembered that if the Soviets break the agreement—as they have violated earlier deals—or find ways of avoiding its provision, it is unlikely that any American president will be able to put the missiles back. It is doubtful, too, whether it would be possible to create a European consensus in favor of the missiles' re-deployment. At a later date some European nations may have been effectively neutralized.

We regret that you have not followed the advice of European political leaders who urged that what was needed to preserve deterrence in Europe was not the zero-zero option but a balanced *reduction* of INF forces. Perhaps the Europeans did not speak sufficiently clearly and consistently. We fully understand that Americans must be irritated by Europeans who appear ambivalent or hostile to the U.S. position when so many of their fellow Europeans have pushed you relentlessly in the direction of the negotiating table.

These comments, however, come from those who have publicly supported both the case for INF deployment throughout and the case for SDI program. We are not partisans of the arms race for its own sake and we emphatically are not opposed to arms reduction in principle. Indeed, we are saddened to read that you recently dismissed informed criticism of the INF deal as coming from those who believed nuclear conflict was in any case inevitable.

SDI, the British and French strategic nuclear deterrents, Pershing II, cruise missiles, shorter-range intermediate nuclear weapons, the N-bomb and conventional weaponry—all these interdependent assets complicate the calculations of the Soviet military planner and so deter attack. This may not be the case if the Soviet Union comes to believe that a conventional land battle waged in Europe can be successfully fought without risk of a nuclear response. Clearly, the Soviet political leadership already believes the new agreement brings it closer to securing its related objectives of achieving a nuclear-free Europe and of dividing that continent from its Atlantic partner.

All this we have explained at length to our countrymen. Our friends will be baffled and our adversaries delighted if the great political and strategic victory represented by the INF deployment is now to be canceled. Such an eventuality would provide the most unexpected and welcome encouragement to neutralists and unilateralists who in Holland, Belgium, West Germany and Britain lost the game and were proved wrong.

Americanism scarcely provides evidence of brilliant statecraft. Whatever show of unity Western politicans may now feel obliged to provide, the inescapable truth is that the West has been comprehensively outplayed. We run the risk of a denuclearized, neutralist West Germany, which in our view would be fatal to the alliance. Europe generally may be plunged into a worse state of doubt than that which existed prior to INF deployment. All this because in our haste for an agreement the arms-control process became an end in itself.

As Frank Barnett has written: "We have played at the arms-limitation table now for more than 60 years, first against Nazi Germany and Japan, then against the Soviet Empire. For the most part we gained little more than the euphoria of being seen at the Peace Casino while our adversaries went home to convert 'lawful' winnings into larger stockpiles of more advanced weapons."

It is one thing to strike a spectacular arms deal with one's advisory. It is another to preserve the conditions of peace and freedom. We remember the president who once denounced the "empire of evil" and who courageously scorned fashionable opinion in order to build up Western defenses. To that president we wish renewed courage, resolve and good fortune. We extend no less to the members of the United States Senate to whom the burden of a historic responsibility now passes.

Mr. PELL. I yield time to the Senator from Virginia.

Mr. WARNER. I concur in the observations of the distinguished chairman of the Foreign Relations Committee. Indeed, this type of legislation, while on its merits I think has considerable value, should more appropriately be attached to the defense authorization bill. Nevertheless, we are at this juncture on the treaty. The amendment is the pending business before the Senate. In terms of the Armed Services Committee, we have examined it. We are prepared to recommend that the Senate accept it.

I think I can speak for the distinguished chairman, Mr. NUNN, of Georgia. I spoke with him earlier today. It would be our hope, however, that perhaps we could persuade our distinguished colleague we could incorporate it in the conference which is pending, as you know, between the House and the Senate on the armed services authorization bill.

Might I ask my colleague if we could pledge to do that, would he be willing to withdraw his amendment?

Mr. SYMMS. If I understand correctly, if the Senator will yield, he is pledging that this amendment will be part of the armed services authorization bill which is still pending?

Mr. WARNER. Well, that bill by procedure in the Senate is closed to further amendment. So in the event the Senate acts on the pending armed services bill, we could not incorporate it, but at the time we come to conference between the House and the Senate I give the Senator my personal assurance that we can get it incorporated.

Mr. SYMMS. I think I need to counsel with my cosponsor, the minority leader, on this amendment.

Mr. President, with the assurances of the Senator from Virginia and others, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment was withdrawn.

Mr. PELL. I thank the Senator from Idaho. I will ask the Chair what the pending business is.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I have no objection. The Senator would have to have unanimous consent to withdraw his amendment because of the time agreement.

The PRESIDING OFFICER. The Chair did state that it was without objection that the amendment was withdrawn.

Mr. BYRD. I beg the Chair's pardon.

AMENDMENT NO. 2327

The PRESIDING OFFICER. Under the previous order, the Republican leader has an amendment with a 20-minute time agreement.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] for himself, Mr. WALLOP, Mr. MCCAIN, and Mr. WARNER, proposes an amendment numbered 2327.

Mr. DOLE. Mr. President, I ask that further reading of the amendment be dispensed with.

Mr. SANFORD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk read as follows:

Before the period at the end of the Resolution of Ratification, insert a comma and add the following condition: "that prior to the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall certify that it is the common understanding of the United States and the Soviet Union that if either Party produces a type of ground-launched ballistic missile (GLBM) not limited by the Treaty using a stage which is outwardly similar to, but not interchangeable with, a stage of an existing type of intermediate-range GLBM having more than one stage, it may not produce any other stage which is outwardly similar to, whether or not it is interchangeable with, any other stage of an existing type of intermediate-range GLBM."

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Our 4-month scrutiny of the INF Treaty has confirmed the initial reaction which many of us shared. The INF Treaty is a good treaty. I would say to all the people who worked so hard on this treaty and who have been following our deliberation on this treaty closely, do not be disheartened. We are going to get it done. We have focused on potential problems and overall I believe our negotiators have done a superb job in drafting a very complex document. As I think everyone understands, the Senate has also fulfilled its constitutional role in identifying some of the problems. Everyone who has examined the so-called double negative in article VI, paragraph 2, agrees that there is clearly a common understanding between the United States and the Soviet Union about what can and cannot be done with certain stages of intermediate-range ballistic missiles.

We had a good debate on the floor about a week ago, the Senator from Indiana, the Senator from Rhode Island, the Senator from Wyoming, and others, and I believe we should formalize that understanding. I am doing this with what we call a category 1 amendment. I see no reason to belabor the point with anything more than a category 1 condition. This condition requires absolutely nothing more from the Soviets, but it does require something from our President.

I particularly want to thank the Senator from Wyoming, Senator WALLOP, for his hard work and patience on this matter. With his help we have now developed language which is acceptable to the administration and to both sides of the Armed Services Committee where the potential problem was originally identified. I believe the amendment has been cleared on both sides and I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. The committee has been assured by Ambassador Glitman that in no case can the Soviet Union produce a stage of the SS-25 interchangeable with a stage of the SS-20 contained in the provisions of paragraph 2 of article VI, and I think also an examination of the negotiating history of this provision confirms the administration's assertion that the Soviet Union shares the same understanding of this provision as do we.

Accordingly, a meeting of the minds has been reached. I do not believe the amendment by the Senator from Kansas is absolutely necessary. However, no harm would be done by having the President certify to the common understanding, and I am prepared to yield back my time.

Mr. LUGAR. Will the Senator yield 2 minutes?

Mr. PELL. Certainly. I yield 2 minutes to the Senator from Indiana.

Mr. LUGAR. I thank the distinguished chairman.

Mr. President, I commend the minority leader for this amendment and Senator WALLOP for discussion which we had during the debate on the treaty. I believe their efforts have been constructive. On our side we are prepared to accept and vote for the amendment. I thank the Chair.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2327) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2328

(Purpose: To clarify the meaning of "common understanding" in treaty interpretation)

The PRESIDING OFFICER (Mr. SHELBY). Under the previous order, the Senator from Pennsylvania, Mr. SPECTER, has an amendment.

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an amendment numbered 2328.

At the appropriate place insert the following:

"Such common understanding means a shared interpretation which is both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification."

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I offer this amendment as a means of clarifying the Biden condition as amended yesterday by the Byrd condition.

I think it necessary at the outset to respond to some of the comments of the distinguished majority leader yesterday, when he referred to certain "Mickey Mouse" amendments. I do not know whether the distinguished majority leader was referring to the amendments which this Senator intended to offer. But I believe that the Senate made a very bad decision last night in rejecting the amendment offered by the distinguished Senator from California, Senator WILSON, which requires mutuality; that if the United States is to be bound by a treaty; that the same obligations must be imposed upon the Soviet Union. When this body rejected that amendment very late last night, I believe it tried to establish a principle that is very destructive to the interests of the United States of America.

I said "tried to establish a principle" because I do not believe that the action of the Senate last night established that principle. I do not believe that by our unilateral declarations here in the U.S. Senate attached to this treaty are in the form so designed that you can wipe out decades, centuries of international law on what a treaty means. But it obscures the issue, it obfuscates the issue, and I think it is very bad.

As I said earlier, what this Senator has attempted to do is to create a record that the Senate will look to in calmer days in the future. And when the distinguished majority leader said earlier that the procedures and principles on treaty ratification were more important than any one treaty, I agreed with the distinguished majority leader on that point. And that is saying something because I believe the INF Treaty is very, very important, and this Senator intends to vote for the INF Treaty when that vote comes up. But to the extent this Senator can do so, it will be my effort on two amendments which I will offer today, this morning—we are now a little after noon—to try to clarify the record.

I must say that I think to refer to any amendments as "Mickey Mouse" amendments is not constructive for the work of this body. I want to emphasize that point as this Senator responds. What the distinguished majority leader said late last night, "warning" the Senators on undertaking votes of that sort, I must take exception to as well.

This Senator, and I think other Senators, recognize their responsibilities under the Constitution, representing the people of our States. It is a solemn obligation to uphold the Constitution. When we offer amendments, we do so with the utmost seriousness. This Senator does so with the utmost seriousness, against a lifetime of study of U.S. Constitution and a lifetime of concern about United States-Soviet relations. I wrote a college thesis in 1951 on the subject.

One of the first things I did in the Senate was to propose a sense-of-the-Senate resolution calling for some meetings between President Reagan and the Soviet leader and I have constantly urged arms control and arms reduction. It is with some sense of misgiving that I see a conflict between the very excellent provisions of the INF and conditions attached to this treaty which violate long-standing principles of international law, treaty interpretation, and constitutional law on ratification.

So this Senator does not need any warnings or any notice as to what his duties are, and this Senator takes exception to any appellation of a "Mickey Mouse" amendment.

I have proposed this amendment, Mr. President, for consideration because I believe it to be a very important amendment. It essentially tracks, really directly tracks, the language of the Culvahouse letter which was referred to in testimony by the distinguished Senator from Georgia, Senator NUNN, before the Foreign Relations Committee. I discussed this on the record with Senator NUNN yesterday afternoon. It is a long sequence.

I ask unanimous consent that the full text of Senator NUNN's response be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. SPECTER. Mr. President, I would like to point out that this is a very extraordinary case that came to the court on three occasions. Without going into it in great length, as summarized by Judge Green on page 13 of the slip opinion, that the Navy hearing was adding to its pattern of false representations which I think is a very terrible factor in delimiting the treaty interpretation issue.

I would now like to direct a question to the distinguished Senator from Georgia, Senator NUNN, and that relates to the criteria reaching common understandings because this is important in light of what we are doing here today and referring to page 90 of the committee report. The Sofaer doctrine is quoted as saying that there will be an understanding where first, "generally understood" by the Senate; second, "clearly intended" by the Senate; and third, "relied upon" by the Senate.

I now refer to testimony Senator NUNN gave according to the record before the Foreign Relations Committee, page 144, where he said, referring the Culvahouse letter, "As a matter of domestic law; however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the Executive, clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification."

Then the Senator makes the statement, "That sentence I agree with completely." And my question is: Does the Senator concur that those criteria are indispensible in order to have the application of an understanding of the Senate?

Mr. NUNN. I will say to the Senator it depends on how one interprets those words. I would certainly not interpret them the way I am afraid the Senator from Pennsylvania interpreted those words.

When the administration comes up and testifies before a committee of the Senate, the Senate has received that information and has relied on that information. I do not think the Senator has to jump up and down in the Foreign Relations Committee and say, "Oh, I relied on that, you told us that and I rely on that."

No; I do not think that. I think when the testimony comes in, Senators can sit there calmly and even snooze off if they like to—and not many of our colleagues do that—they can even snooze off and if the Secretary of State, or another authoritative witness, makes a statement, then the Senate, through its committee, has relied——

Mr. SPECTER. I ask the Senator to be as brief as he can be. I am not suggesting jumping up and down here. I am talking about criteria as a legal matter and there are three conditions. Generally understood, clearly intended, and relied upon. And it is a matter of what the facts show.

But I take it the Senator does agree that those are the three criteria which establish the Senate's understanding if they are met.

Mr. NUNN. I do not agree with that because I know where the Senator is coming from. He is coming from the point of view the Senate has to understand, we have to prove that we understood, we have to show that we relied on. I do not agree that you have to demonstrate that we relied on testimony, other than by showing that we received authoritative testimony. If you had to prove that we came out here on the floor with everything the Senate Foreign Relations Committee received, with everything the Armed Services Committee received, and everything the Intelligence Committee received, that we put it in the record, and that we said we relied on it and understood it, that would be an exercise in absolute absurdity, and I think it would render the process unworkable.

So I would not agree that those words should be added to simply the words "authoritative testimony."

I am glad the Senator has given me the opportunity to make that perfectly clear.

Mr. SPECTER. This Senator is not coming from anywhere. I understand the answer of the distinguished Senator from Georgia. He is now saying he disavows what he testified to before the Foreign Relations Committee, where he said that sentence there, "I agree with completely." He is now saying he does not agree with it at all.

Mr. NUNN. If the Senator would go right down the page on that same transcript, he will find that I went on and say, and I quote from that statement:

"We have always thought that it [the understanding of the executive branch testimony relied upon by the Senate] was through the committee process. If we can simply declare that the U.S. Senate works through its committees, which we all know we do, and that matters that have been received, authoritative testimony received before the committees is deemed to have been received by the entire Senate and deemed to have been focused on by the whole Senate, then it seems to me that we could go a long way."

If the Senator has the whole page of that transcript instead of one part of it then he will see there was a qualification and I made it clear in that hearing what I was talking about.

Mr. SPECTER. Well, I have looked at the entire page. But the three references which track Sofaer directly are "clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification." The Senator from Georgia said that he agreed with that sentence there and I agree with him completely.

Mr. NUNN. I would say, if the Senator would yield, I do agree with that completely, provided it is understood when an authoritative witness comes from the administration and testifies before a committee, the Senate should be deemed to have relied on that testimony in its deliberations.

Mr. SPECTER. Well, I thank the Senator. When he says he agrees with it completely, under that proviso, I accept that.

I had earlier asked the distinguished majority leader the question which I have since privately discussed with the Senator from Georgia relating to what the Senator from Georgia said at a committee hearing—that the Soviets were bound by what they heard in ratification proceedings, where the Senator from Georgia was quoted as saying that:

"If the Soviets remain silent on points of interpretation presented by executive branch witnesses, then I believe the U.S. Senate, as well as our Government, can reasonably believe and contend that silence connotes consent to those interpretations."

It seems to this Senator that this is where the Biden, now the Byrd, condition is going, and it is a remarkable change in international law treaty interpretation, in light of the statements by the Supreme Court of the United States in Societe versus U.S. District Court, decided on June 15 of last year, referring to the negotiations and the practical construction adopted by the parties, and the decision back in 1942 on the Choctaw Nation case, and as those principles are picked up in Copeland versus United States, which says this:

"Most important, foreign governments dealing with us must rely upon the official instruments of ratification as an expression of the full intent of the Government of the United States, precisely as we expect from foreign governments."

Now, my question to the Senator from Georgia is: Do you have any authority at all that there is any weight at all to be attached to bind a foreign nation from what goes on in a domestic ratification proceedings?

Mr. NUNN. I would say to the Senator—I do not have my exact words and I would like to get those—but what I intended to convey was——

Mr. SPECTER. Let me make them available to you. I have them right here.

Mr. NUNN. If we have an open and public hearing in which statements relating to a treaty are made by the executive branch of Government, and if the Soviet Union disagrees with those statements, then I think they have some duty to come forward and let the executive branch know that they do not agree with that interpretation.

Now, I would not go so far as to say they are bound. I think that would be overstating it. If I stated it as the Senator said, then I would say that was going too far.

I do believe there is a strong argument to be made that when one party publicly and openly cites their interpretation of a treaty in a way that is fundamentally different from the other party's understanding, the other party, knowing of that, if they know of it, has some affirmative duty to make that known. I would not go so far as to say they are bound, though. I am told that I did not say that.

Mr. SPECTER. I read what the Senator said.

Mr. NUNN. If I did, I went too far.

Mr. SPECTER. Do you have any authority at all for the proposition that a foreign government has to pay any attention at all to what goes on in a ratification proceedings and has any duty at all to make any response at all; any authority for that?

Mr. NUNN. I think basic contract law would tell you that when one party, before a contract has been completely entered into by the ratification thereof or formal procedure, hears the other party misinterpret it, there is some obligation for that party to correct it, and that silence does have some evidentiary effect on the interpretation of that contract. That is basic contract law and basic common sense.

Mr. SPECTER. No court opinion, no judicial opinion, just general interpretation.

Mr. NUNN. Does the Senator have any court opinion that says that is not?

Mr. SPECTER. Yes, I do. I would be glad to yield for a question on that.

The Copeland versus United States case says that; Societe says it is negotiations which govern, as does the Choctaw Indian case.

Mr. President, I inquire how much time I have remaining.

The PRESIDING OFFICER. One minute and 45 seconds.

Mr. SPECTER. I have quite a few more questions, Mr. President. I will seek to have an amendment which I will add to bring these issues up in a time sequence when we have more than the limited time. On the questions which I propounded, we did not have a time for discussion with the distinguished majority leader.

Mr. President, in conclusion, in the minute that I have left, I think the arguments here have disclosed conclusively that the Byrd condition makes major modifications in international law and treaty interpretation by disregarding the negotiating record deemed immaterial under the committee report——

Mr. SPECTER. I refer now to page 144 of the Foreign Relations Committee record to this testimony by Senator NUNN. And he cites the Culvahouse letter:

> As a matter of domestic law, however, the President is bound by shared interpretations which were both authoritatively communicated to the Senate by the executive and clearly intended generally under and relied upon by the Senate in its advice and consent to ratification.

That refers to the Culvahouse letter and then Senator NUNN goes on to say "That sentence there I agree with completely."

Mr. President, we had a discussion and Senator NUNN said that was accurate providing the balance of his statement was included. As I see it, the balance of his statement will be in the RECORD but it does not really go to the heart of this particular issue.

Mr. President, the amendment which I am offering based upon the Culvahouse letter is firmly established in international law. I refer to section 314 of the Restatement—Third—of U.S. Foreign Relations Law section 2 referring to the Senate's understanding, and referring to advice and consent of the treaty on the basis of a particular understanding which is language of reliance.

I refer to the Chevron case, by the U.S. Supreme Court, recorded in 467 United States at page 836, which contains the language of "* * * if the intent of Congress is clearly * * *" which is part of the essence of my amendment, and the definition of the Supreme Court in the Japan Whaling Association case.

These provisions are forcefully articulated in the law as it exists today; that is what the Senate's understanding means. Mr. President, I believe it is important to focus on the factor that we are talking about, the intent of the Senate as opposed to any intent of any specific Senator or the intent of any specific committee or the testimony of any specific witness. And that principle of law is firmly established in many court decisions. I refer to the opinion of the Supreme Court of the United States in McCaughn versus Hershey Chocolate Co., reported at page 488 of volume 283 of the U.S. reports. I refer to the opinion of the Supreme Court of the United States in New York Indians versus United States (1897) and to an opinion of the Court of Appeals for the District of Columbia Circuit, in *Austasia Intermodal Lines* v. *Federal Maritime Commission,* 580 F.2d, at page 645: "The views expressed by witnesses in congressional hearings are not necessarily the same as those of the legislators ultimately voting on the bill." Also, an opinion of the Court of Claims in Coplin versus United States, which makes an important distinction between what a legislative committee does and what the full Senate does.

Mr. President, it may be that, at the bottom, there may not be a great deal of difference between this Senator's views and the views expressed by the distinguished Senator from Delaware [Mr. BIDEN]. I congratulate him for having offered the Biden condition and for his extraordinary work in this important field and chairing the joint hearings of the Judiciary Committee, together with the distinguished Senator from Rhode Island [Mr. PELL], in the Foreign Relations Committee.

It may be that we are not too far apart, if you are looking for a common understanding that is really a common understanding, as opposed to a few scattered references to testimony and a few scattered statements in a very long record of ratification.

A comment has been made that we want to avoid chicanery or incompetence by the executive branch, and I agree with that. I do not think that is really the issue. The issue is what happened at ABM, with a few scattered bits of testimony, where there is a factual dispute about what the intent of the Senate was.

So that if you articulate the doctrine which is present in the law, in the restatement and by the Supreme Court of the United States—that the common understanding has to be both authoritatively communicated to the Senate by the executive and, first, clearly intended; second, generally understood; third, relied upon by the Senate—then I think you have a standard where there will not be confusion. But if you adopt the language of the Foreign Relations Committee report about implicit understandings, whatever that means, then we are going to be in a morass on a continuous basis.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 8 minutes and 15 seconds remaining.

Mr. SPECTER. Mr. President, yesterday afternoon, the distinguished Senator from Michigan [Mr. LEVIN] raised a question concerning the possibility of two treaties that he said would be present under the Culvahouse letter. I did not have a chance to discuss this issue with him at that time, because the time was limited, and I had filed this amendment because time was limited, to give us time to consider these issues; and, upon reflection, I decided to put this matter to the Senate for a vote.

The Senator from Michigan raised the issue about two treaties even under the Culvahouse doctrine. I think that is true. I think it is possible to have two treaties when you have the executive negotiating with the Soviet Union, when you have the executive then reporting to the Senate, looking to the Senate's consent. But if a standard is established which does not lend itself to a few scattered bits of testimony and perhaps only the understanding of the committee, but have really some rigid standards, such as "clearly intended," such as "generally understood," such as "relied upon by the Senate," then I think you have a standard where we will not have the two-treaty problem.

I believe we should do everything within our power to avoid having that kind of problem, which will hold the United States to a tougher standard than the Soviet Union, which will result in having this body impose restrictions on the United States which the Soviet Union does not have. I do not think anybody wants that to occur.

What has happened in ABM and what has happened in these debates, I think, has sensitized the administration substantially, but we cannot rely on that alone. We should have standards as clearly articulated as possible. I think this accomplishes that result.

Parenthetically, Mr. President, I put this matter to a vote by the Senate because if the Senate chooses to reject this language as to defining and amplifying what "common understanding" means in the Biden condition, as amended by the Byrd condition, I think it will be underscoring the irrationality and inappropriateness of the Biden condition.

I yield the floor, and I reserve the remainder of my time.

Mr. PELL. Mr. President, I rise in opposition to the amendment offered by Senator SPECTER.

The Senate has just passed by an overwhelming margin a bipartisan approach to the treaty interpretation issue. The Biden amendment, as amended by Senator BYRD, was supported by Senators from both sides of the aisle.

The amendment offered by Senator SPECTER would re-open and undermine the action just taken by the Senate. This amendment is essentially the Sofaer doctrine.

The Sofaer doctrine asserts that, regardless of what the administration may have said in presenting a treaty to the Senate, the President is constitutionally bound to adhere to a particular treaty interpretation only if the Senate has "generally understood, clearly intended, and relied upon" that interpretation.

The fact is that the Senate almost never meets these criteria:

How many Senators must speak on a matter in order to demonstrate conclusively that the Senate "generally understood" that interpretation?

How can the Senate demonstrate that it "clearly intended" a particular interpretation unless it acts to approve or disapprove a formal condition relating to that interpretation?

And, the most difficult criterion, how can it be proven that the Senate "relied upon" a particular interpretation as being crucial to its consent?

Mr. President, I oppose this amendment because it would reestablish the Sofaer doctrine and force the Senate to go to extraordinary lengths in order to prevent the President from reinterpreting a treaty.

The Senate has already spoken by adopting the Biden amendment as amended by Senator BYRD, and I believe the Senate should not change that amendment. I urge my colleagues to oppose the amendment offered by Senator SPECTER.

I think this amendment would simply reopen and undermine the action taken by the Senate.

I know that many of my colleagues want to speak on this matter.

Mr. SARBANES. Mr. President, will the Senator yield me 4 minutes?

Mr. PELL. I yield 4 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 4 minutes.

Mr. SARBANES. Mr. President, I rise in strong opposition to this amendment. It will, in effect, nullify the Senate's treaty power. I do not believe the amendment is consistent with existing law and existing practice over the history of the Republic.

Let me quote, very quickly, an editorial from the New York Times of May 5. I ask unanimous consent that the full editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE DOCTRINE OR THE TREATY?

The Reagan Administration negotiated an important treaty with the Soviet Union that would eliminate Euromissiles. Now it jeopardizes that accomplishment by insisting on a novel and absurd Presidential doctrine that few senators will or should swallow.

The Administration created the problem by asserting the right to reinterpret treaties unilaterally, and then doing just that with the Antiballistic Missile Treaty to suit President Reagan's Star Wars programs. The Senate Foreign Relations Committee rightly responded by attaching a condition to the new Euromissile treaty: Neither Mr. Reagan nor future Presidents would be permitted to disregard understandings of a treaty's meaning at the time of ratification.

If President Reagan wishes to see his new Euromissile treaty ratified, he will have to accept the committee's assertion of good sense and sound constitutional procedure.

The treaty comes to the Senate floor this week, in plenty of time to debate, approve and send it with President Reagan to Moscow on May 29. Three last-minute glitches have sprung up, none likely to block ratification.

Senate leaders vow to work furiously with the Administration on these three problems before floor debate begins. The Russians have been edging off commitment on on-site inspections; the Administration is confident Moscow will reaffirm earlier understandings. The treaty ignored futuristic technologies; now language is being worked out. There are concerns about U.S. long-range monitoring capability; the Senate and the White House will have to provide for this.

The serious obstacle to ratification, however, is the so-called Sofaer Doctrine. Named for Abraham Sofaer, the State Department's legal adviser, it holds that official testimony on the meaning of a treaty is binding only if it is "generally understood, clearly intended, and relied upon" by the Senate. Since it's hard to know what this mumbo-jumbo means, Presidents would be free to do with treaties as they wish.

The Senate Foreign Relations Committee hopes to solve the problem, simply and sensibly, by making executive branch testimony binding. Yet the Administration has persuaded some loyalist senators to oppose it, a move that could well sink the treaty.

If the Senate does not approve the treaty before the Reagan-Gorbachev summit meeting, it's likely not to happen under President Reagan—and then perhaps never. Presidential campaigns and the first year of a new Administration are not conducive to ratifying arms agreements. The choice of doctrine or treaty rests with the White House.

Mr. SARBANES. Mr. President, I read from the editorial:

The Reagan Administration negotiated an important treaty with the Soviet Union that would eliminate Euromissiles. Now it jeopardizes that accomplishment by insisting on a novel and absurd Presidential doctrine that few senators will or should swallow.

It then goes on to say:

The serious obstacle to ratification, however, is the so-called Sofaer Doctrine. Named for Abraham Sofaer, the State Department's legal adviser, it holds that official testimony on the meaning of a treaty is binding only if it is "generally understood, clearly intended, and relied upon" by the Senate. Since it's hard to know what this mumbo-jumbo means, Presidents would be free to do with treaties as they wish.

And my question is: Does the Senator concur that those criteria are indispensable in order to have the application of an understanding of the Senate?

Mr. NUNN. I will say to the Senator it depends on how one interprets those words. I would certainly not interpret them the way I am afraid the Senator from Pennsylvania interpreted those words.

When the administration comes up and testifies before a committee of the Senate, the Senate has received that information and has relied on that information. I do not think the Senator has to jump up and down in the Foreign Relations Committee and say, "Oh, I relied on that, you told us that and I rely on that."

No; I do not think that. I think when the testimony comes in, Senators can sit there calmly and even snooze off if they like to—and not many of our colleagues do that—they can even snooze off and if the Secretary of State, or another authoritative witness, makes a statement, then the Senate, through its committee, has relied—

Mr. SPECTER. I ask the Senator to be as brief as he can be. I am not suggesting jumping up and down here. I am talking about criteria as a legal matter and there are three conditions. Generally understood, clearly intended, and relied upon. And it is a matter of what the facts show.

But I take it the Senator does agree that those are the three criteria which establish the Senate's understanding if they are met.

Mr. NUNN. I do not agree with that because I know where the Senator is coming from. He is coming from the point of view the Senate has to understand, we have to prove that we understood, we have to show that we relied on. I do not agree that you have to demonstrate that we relied on testimony, other than by showing that we received authoritative testimony. If you had to prove that we came out here on the floor with everything the Senate Foreign Relations Committee received, with everything the Armed Services Committee received, and everything the Intelligence Committee received, that we put it in the record, and that we said we relied on it and understood it, that would be an exercise in absolute absurdity, and I think it would render the process unworkable.

So I would not agree that those words should be added to simply the words "authoritative testimony."

I am glad the Senator has given me the opportunity to make that perfectly clear.

To try to impose those tests upon the Senate is to shift the burden in treaty making as the distinguished Senator from Michigan pointed out yesterday, in a way that would nullify the Senate's power.

The Senator has quoted the remarks of the Senator from Georgia—who is on the floor and of course will answer for himself—but I want to include at this point in the RECORD the exchange that appears in the RECORD for yesterday's debate on pages 12650 and 12651, when the Senator from Georgia rejects these three criteria.

The Senator from Pennsylvania said to him:

Mr. President, I think that the administration can send a treaty to the Senate——

Mr. SPECTER. Mr. President, will the Senator yield?

Mr. SARBANES [continuing]. Have the text laid before the committee.

Mr. SPECTER. Will the Senator yield?

Mr. SARBANES. The Secretary of State can come and say this is what the treaty means. The committee can receive that testimony, decide for one reason or another they have no questions to ask, that it is clear on the record from the text of the treaty and the representations of the administration what the treaty means, and adjourn the hearing.

Neither that administration nor a subsequent administration can then come along and try to give the treaty a different meaning, a reinterpretation from what they said that text meant at the time that they presented it to the Senate committee.

The Senator has tried here to allow for such a reinterpretation. And I gather he may try in another amendment, which will deal with implicit understandings, to assert that the negotiating record could be used after consent has been given by the Senate to contradict an authoritative representation made to the Senate by the administration in the course of ruling Senate approval.

The PRESIDING OFFICER. The Senator from Maryland has used 4 minutes.

Mr. SARBANES. The Byrd amendment has precluded that kind of approach, and I strongly oppose the effort in this amendment to undo the Byrd amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I asked the Senator from Maryland to yield because in looking at the CONGRESSIONAL RECORD he did not read the whole RECORD. The Senator from Georgia and I did have an exchange. He is on the floor now, and he can comment for himself. But at page 12650 this comment is made by me: "Well, I have looked at the entire page."

Well, never mind my comment—it appears there—in the interest of time.

> Mr. NUNN. I would say, if the Senator would yield, I do agree with that completely, provided it is understood when an authoritative witness comes from the administration and testifies before a committee, the Senate should be deemed to have relied on that testimony in its deliberations.

So when I make the representation that Senator NUNN agreed to it subject to that proviso I was making an accurate representation.

When the Senator from Maryland makes a comment that these three conditions are "mumbo-jumbo," he flies in the face of the decisions of the Supreme Court of the United States which this Senator has cited and flies in the face of the statement of law when he makes his bland, unsubstantiated, nonauthoritative assertions of law.

I thank the Chair and yield the floor and ask how much time I have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 4 minutes and 10 seconds.

Mr. SARBANES. Will the manager yield me 1 minute?

Mr. PELL. I yield 1 minute.

Mr. SARBANES. Mr. President, I make only two observations. First of all, the reference to "mumbo-jumbo" was quoting the New York Times editorial. I do not disagree with that editorial, but I simply want to make it clear that phrase was not my original product.

Second, let me simply say on the Nunn exchange, and that is why I wanted to put it in the RECORD, the Senator from Pennsylvania has tried very hard throughout this debate to put this side on the hook of those three criterias. That has been rejected clearly. It was rejected by the Senator from Georgia. It is rejected by this Senator. That is not the test. Those criteria are not what has to be applied, in arriving at the Senate's common understanding—it is the text of the treaty and the authoritative representation of the President which were provided by the President and his representatives to the Senate and its Committee. To impose those criteria in the way the Senator from Pennsylvania would try to do so shifts the burden with respect to the treatymaking as to really render the Senate a nullity. We reject that approach. It should be clear it is rejected.

The PRESIDING OFFICER. The Senator from Maryland has used up the 1 minute. Who yields time?

Mr. PELL. Mr. President, I yield 4 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 4 minutes.

Mr. LEVIN. I thank the Chair.

Mr. President, not only has this formulation that is being offered this morning by the Senator from Pennsylvania been rejected by Senator NUNN as was pointed out by Senator NUNN yesterday, by the Senator from Maryland, and others, it has been rejected by the Senate. This amendment today will void the action that we took yesterday.

The action that we took yesterday was to define what is meant by the words "common understanding." We said that it was based on the text of the treaty, the provisions of the resolution of ratification, and by authoritative representations provided by the President to the Senate and its committees. We defined it yesterday. We had this debate yesterday.

The Culvahouse formulation was brought in yesterday as an argument not to adopt the Byrd version. We rejected the Culvahouse version yesterday by adopting Byrd.

Today we are asked again to go into this issue. And I would say but three things. No. 1, the Culvahouse formulation puts the burden on the wrong party. It says that the Senate must show not just what was authoritatively communicated to us but that we must show that we clearly intend that understanding or that interpretation, we generally understood that interpretation, and that we relied on that interpretation. That burden becomes ours under Culvahouse and under the Specter amendment this morning.

That burden is on precisely the wrong party. We did not negotiate the treaty. We do not possess the negotiating history, although we are given part of it. All of that is in the hands of the executive branch. They are the ones that should have the burden, not us, and if they make clear authoritative representations to the Senate of the United States, they ought to be bound by them and the burden should not shift to us to prove that we generally understood that interpretation and that we relied on that interpretation.

As my friend from Pennsylvania knows, there is only one real way to prove it and that is to load every single one of these representations made by the executive branch during this ratification proceeding onto the resolution of ratification. There is no other sure way that we can prove what we clearly intended, generally understood, and relied on.

And that is going to burden this process. It is going to load it down and it is going to kill the treatymaking process because we are going to have to incorporate all of these representations that are important into that resolution of ratification in order to meet the Culvahouse test.

No. 1, you are putting the burden on the wrong party, the party that is receiving those representations rather than the party that is making them. You are loading down the treatymaking process. And for what?

My friend I think has conceded this morning that he no longer can maintain the principle that there is only one treaty because if we went through those hoops and loaded down that resolution of ratification, to incorporate all the representations which were made to us by the executive branch at that point, under Culvahouse when you read the Culvahouse letter you no longer can consider the negotiating record and you no longer can consider subsequent practice.

We were told yesterday by the Senator from Pennsylvania that the Constitution and international law require that we be able to look at the negotiating record and that we be required to look at subsequent practice. But under the Culvahouse formulation if we make those recommendations to us an explicit part of the resolution of ratification at that point there can be a different understanding here between us and the executive than there is between the executive and the other country. So you open up the door.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. May I have 1 more minute?

Mr. PELL. I yield an additional minute.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank my friend from Rhode Island. I thank the Chair.

So what you have done is you have put the burden on the wrong party. You have loaded down the ratification process and you have not maintained the principle which yesterday the Senator offered as an essential principle. It is no longer there because if we went through those hoops which we should not go through we then come up with the same situation which the Senator from Pennsylvania yesterday said should not be allowed to happen under principles of international law.

So you do not even protect your principle. You do not protect it in any pristine form, that is for sure, and I do not think you protect it at all because, as a matter of fact, the only way the Senate could ever protect itself would be to put every single one of those representations into that resolution of ratification at which point there will be as much conflict under the Senator's approach between what is represented to us and what is negotiated with the other country than there is under the Byrd approach.

This amendment completely undercuts, obviates and voids what this Senate yesterday adopted by a vote of 72 to 27. I hope we will reject it.

Mr. SPECTER. Mr. President, the distinguished Senator from Michigan is just wrong when he says there is any burden of proof on the Senate to do anything. It is just not true, if you read the simple language of my amendment.

When the distinguished Senator from Michigan talks about burdening the record, it is no more so than any other legislation or any other treaty where there is an interpretation. You do not have to burden the record at all.

When he talks about pristine, I agree, there is no such thing as pristine here or anywhere. But if you have this kind of a standard, absent malice or total incompetence, you have the best chance of not having two treaties. That is why the language of the Biden condition ought to be specified with these three important tests.

I yield the floor and ask how much time I have remaining.

The PRESIDING OFFICER. Three minutes and 12 seconds.

Mr. SPECTER. I thank the Chair.

Mr. SARBANES. How much time remains on this side?

The PRESIDING OFFICER. Seven minutes and 26 seconds.

Mr. NUNN. Will the Senator from Maryland yield me 4 minutes?

Mr. SARBANES. I yield 4 minutes to the Senator from Georgia.

Mr. NUNN. Mr. President, The Senator from Pennsylvania and I have been discussing this now for 1½ years. I am not under any illusion that either of us is going to change each other's mind at this stage.

But I do congratulate the Senator from Pennsylvania for getting into this subject at great depth, because it is complex and complicated and he has worked on it long and hard.

I must say that I fundamentally disagree with this amendment. I agree with the comments made by the Senator from Maryland and the Senator from Michigan. The Senator from West Virginia's amendment yesterday was adopted overwhelmingly. If we adopt this amendment today, we will be undermining the Byrd amendment.

Mr. President, there is a difference between saying that testimony is clearly understood, clearly intended, generally understood and relied upon by the Senate; that that is certainly testimony that has been received and saying that only if that testimony is clearly intended, generally understood, and relied upon will it be deemed to be authoritative.

That is what the Senator is doing with this amendment. He is saying only if it was clearly intended, only if it is generally understood, only if it is relied upon by the Senate in its advice and consent. So he is saying these are three roadblocks and burden is all on the Senate to demonstrate that. If they do not, any President can go forward, no matter what his Secretary of State has said, no matter what his Ambassadors have said, and reinterpret a treaty according to his own liking. That is what we are deciding here today.

I would say that if we had had that procedure in this deliberation, there would be no hope whatsoever that we would be ratifying this treaty by this afternoon. There would be no hope we would be ratifying it by next Friday or even in 2 or 3 weeks or a month. We would be here for at least the rest of the summer, the reason being because the only way the Senate could maintain that burden and fulfill its responsibility that the Senator from Pennsylvania would place on the Senate is to take every bit of testimony that came before the Senate, and anything that we deemed to be important to our deliberations we would have to specify that it was important. We would have to read it out, sentence by sentence.

The Armed Services Committee had 33 hearings. It would take us probably a month to read into the RECORD all of those hearings. That does not even count the Foreign Relations Committee and the Intelligence Committee.

Now, if we really want to fulfill the intent of the Senator's amendment, we would have to have amendments out here so that the Senate as a whole could have focused and been able to establish later that we had clearly intended and we had general understanding and it was relied upon by the Senate.

I guess we could also have to, if you take it to the logical conclusion, every time a statement was made in committee or every time at least a paragraph, maybe each sentence, we would have to stop the witness and say, "Yes, Mr. Secretary, we believe that that was clearly intended, we generally understand it, and we rely on it."

It would get into one of those "amen, brother" situations. After each sentence, we would say, "amen, brother, we generally understand, we clearly intend, and we rely on it. Amen."

What kind of sense does that make? It makes no sense at all. It makes no sense at all. That is a burden the U.S. Senate should not have to bear.

I would say also to the Senator from Pennsylvania that there is a great deal of difference in legislation and a treaty. When the administration comes up and testifies on legislation, that is their opinion. The Congress can either regard or disregard it. The Senate can say we believe that is correct or we can say we disagree.

Now, what happens after that? We pass a law. That law goes though the committee process. We have a markup. We go over every word of it. Then it comes to the Senate, where we debate it. Then it goes to the House. They debate it in committee. Then it goes to a conference committee after the House passes it. It goes through that process.

That is not the case with a treaty. A treaty is the law of the land. But it is a unique way in which we make that law. The way we make that law is through the executive branch negotiating the treaty and then presenting it to the Senate for our advice to the ratification thereof. The Senate does not make that law in the same sense it makes legislation. It is a jointmaker in the treaty context, but we do not have the negotiations. The executive branch does that.

So there is a fundamental difference in having law made by treaty, which is a unique executive kind of negotiation, and having a piece of legislation passed by the House and Senate. In fact, there may be another instance where the executive branch can make the law.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

Mr. NUNN. I ask for 1 more minute.

Mr. SARBANES. I yield another 2 minutes to the Senator.

Mr. NUNN. Mr. President, this is rather unique. When the Founding Fathers debated this, they wanted, first, the U.S. Senate to have some part of the debate, where the Senate of the United States should be the negotiators of treaties. They finally compromised and said both the Senate and the executive branch would be the jointmakers through the ratification process. So this is a unique kind of method of making law that both the executive and the Senate share in.

But it is not like legislation, where the Senator cites case after case relating to the making of law by legislation. There is a fundamental difference. In one case, the treaty is totally different from the way we have it in the other case.

Mr. President, I hope the Senate will reject this amendment, because it would, as has already been said, completely undermine the Byrd amendment, which has been carefully worked out in a bipartisan fashion.

Mr. SPECTER. Mr. President, contrary to the assertions of the distinguished Senator from Georgia, the case law is clear and the commentators are clear on the Chevron case, McCaughn, Schwegman Bros., and New York Indians, and the restatement—third—of foreign relations law, that the effort to find the intent of the Senate follows the same principles in treaties as in legislation.

But I would ask the Senator from Georgia one question, even on my time: Where do you find in my amendment any burden on the Senate to prove the common understanding?

Mr. NUNN. Your amendment clearly intends to say only if it is clearly intended to be a shared interpretation, only if it is generally understood to be a shared interpretation, and only if it relied upon the statement in its advice and consent.

So the Senate would have to, in fulfilling its responsibilities, make sure each of those conditions existed. Otherwise, the testimony given to the Senate by the executive branch would not fulfill those conditions and, therefore, would not be generally understood and would not be a common or shared view.

Mr. SPECTER. Well, what you say simply does not respond to my question, because it does not respond to the burden of proof. If the executive branch seeks to establish some understanding different from what the Senate has said, why, then, would not the executive branch have the burden of proof? And what you have said and what the distinguished Senator from Michigan has said relating to burden of proof simply is not present. There is nothing that establishes the burden on the Senate any more than on the executive branch. Whoever has something to say, only has to look at the record and show that the standards are met. If the President wants to come in and, as you say, change the interpretation of ABM, then the President would have the burden of proof.

Where is there anything in this language relating to your arguments that the Senate has the burden of proof to concoct this "chamber of horrors" which you have articulated here about all these witnesses and all these amendments? I rather got lost in that line of argument.

Mr. NUNN. Well, I thank my friend for yielding for the answer.

The real answer is the executive branch, in most cases, implements treaties. So if there is going to be a construction of a treaty and the implementation is affected thereby, and the executive branch asserts that it was not clearly intended testimony, it was not generally understood, it was not relied on by the Senate, then they would go out and begin to implement, and the burden would be on the Senate of the United States to find some way to stop that, either through the appropriations process, or through going to court. The burden would have to be on the Senate because the executive branch implemented it. If the Senate implemented the treaty, then you could say, well, the Senate could march off and do whatever it wanted to do and the executive would have the burden.

So the Senator's amendment has the clear implication, based on common sense and the way Government works, of putting the burden on the Senate.

Mr. SPECTER. You are talking about implementation to stop the executive from making a mistake or a false interpretation. But in terms of the executive's——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. Will the Senator from Rhode Island yield 1 minute to me?

The PRESIDING OFFICER. The Senator from Rhode Island has 1 minute, 37 seconds.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may have 1 minute to finish the sentence.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. SPECTER. Mr. President, just to finish the sentence, and this will conclude my argument; and I think this shows the fallacy of claiming there is a burden of proof. The distinguished Senator from Georgia then starts to talk about how the Senate implements a cutoff of funds and so forth. But if it is a matter of interpretation, as he postulates it, even if the executive changes it, the executive has the burden and not the Senate.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield the remaining minute and 37 seconds to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am just staggered that we are revisiting an issue that the Senate, in what I thought was one of the its finest hours, put a very fundamental constitutional issue to bed.

This amendment is so mischievous it really is not in keeping with the commitment of the Senator from Pennsylvania to the Constitution. I look at this and I think, "authoritatively communicated"; does that put a burden on all the committees of the Congress to ask every witness: Is this authoritative? Could you provide a letter from the President, now, that says this is authoritative as compared to some other witness who does not deliver authoritative testimony?

And "clearly intended"; can you promise us that this is what the President clearly intends? And, even if it does, and the Senate clearly infers from testimony a certain viewpoint, shared understanding, later on the President can say you may have inferred it and you may have thought it was clearly intended but it is not what I really intended and therefore your understanding is wrong. I did not mean futuristic weapons, I meant ultrafuturistic weapons.

That is the kind of nonsense all of this leads to. There is no end to the prerogative the President has to do mischief to the treatymaking process and to subordinate the understanding of all 100 Senators here to something he may think about later on.

I will just close by saying it is a happy thought that when Ronald Reagan is gone you will never hear broad versus narrow interpretation again. Nobody else could ever think of such a cockamamie thing.

The PRESIDING OFFICER. All time has expired.

Mr. BYRD. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. SPECTER. Mr. President, this Senator does not seek the yeas and nays. I have no objection to having the yeas and nays, but I do not seek them.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. METZENBAUM] is necessarily absent.

I further announce that the Senator from Ohio [Mr. GLENN] is absent due to death in the family.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 30, as follows:

[Rollcall Vote No. 163 Ex.]

YEAS—67

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Daschle
DeConcini

Dixon
Dodd
Dole
Durenberger
Exon
Ford
Fowler
Gore
Graham
Harkin
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kennedy

Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle

Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Stafford
Stennis
Stevens
Warner
Weicker
Wirth

NAYS—30

Armstrong
Bond
Boschwitz
D'Amato
Danforth
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Heinz
Humphrey
Karnes
Kasten
McCain
McClure
McConnell
Nickles
Pressler
Quayle
Rudman
Simpson
Specter
Symms
Thurmond
Trible
Wallop
Wilson

NOT VOTING—3

Biden
Glenn
Metzenbaum

So the motion to lay on the table amendment No. 2328 was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ADAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized to offer an amendment on which there shall be 30 minutes of debate equally divided and controlled in the usual form.

The Senator from Pennsylvania.

AMENDMENT NO. 2329

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Pennsylvania (Mr. SPECTER) proposes an amendment numbered 2329.
>
> At the appropriate place insert the following:
>
> "Notwithstanding any provision in the Resolution of Ratification, or the Biden Condition as amended by the Byrd Condition, or any statement in the Senate Foreign Relations Committee Report on the INF Treaty, there is no intent by the Senate to change the heretofore accepted constitutional law of the United States on treaty ratification as interpreted by the Supreme Court of the United States or the heretofore accepted international law on treaties as interpreted by the Supreme Court of the United States."

Mr. ADAMS. Parliamentary inquiry, Mr. President. Is this the amendment that was filed? It is different than the amendment we have before us.

Mr. SPECTER. I have modified the amendment, Mr. President.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, this amendment provides, as read by the clerk, that action heretofore taken by this body is not intended to change the Supreme Court of the United States interpretation of constitutional ratification or of international treaty interpretation. If the Senate votes this amendment down, I submit, Mr. President, that the Senate will have fully executed the coup de grace to the annihilation of existing law, Constitution of United States law on treaty ratification and international law on treaty interpretation.

The intent of the sponsor of this amendment plainly stated at the outset is to undercut what has been said about making the negotiating record immaterial, inferentially making the practices of the parties immaterial on deciding what is the intent of the parties, to undercut the approach that the treaty does not require mutuality in order to be binding, and to establish new standards for ascertaining what is the intent of the Senate realistically by casual, few, inconsistent references in the ratification record.

Mr. President, there have been some amazing things said on the floor of this Senate. The distinguished Senator from Arkansas, Senator BUMPERS, charged that my last amendment was "not in keeping with the Senator from Pennsylvania's commitment to the Constitution." That is a rather startling statement when we are debating the Constitution, especially considering the authority offered by this Senator on the last amendment. It may be that this debate is reaching the quick—a lot of comments which are really surprising, if not totally out of order.

But, Mr. President, I would suggest that what has occurred here is really surprising and really farfetched.

The proposition has been advanced that the Soviet Union has an obligation to attend Senate ratification proceedings and that the Soviet Union might be bound by what they have heard. When pressed, a little retreat: "Well, they are under a duty to speak up." When pressed, "Well, it is evident as to what was intended."

The proposition has been advanced on this floor that it is not necessarily the intent of the Senate but only the intent of a committee of the Senate, which is a radical departure from clearcut case law as to what the intent of the Senate is, not just of a Senator or two, not just of a committee, but what happens on the floor with the managers and the determination of intent of the Senate if there is not an explicit reservation.

Mr. President, this amendment is like apple pie, motherhood, and milk. It says that the laws on constitutional ratification interpreted by the Supreme Court still stand after what the Senate has done, that the law on international treaty interpretation still stands after what the Senate has done here.

Mr. President, not to be in derogation of my responsibilities under the Constitution, which I think I understand as well as the distinguished Senator from Arkansas [Mr. BUMPERS]. I shall now read from the Constitution. The Constitution says this in article 3, section 2—it may be out of order to read the Constitution on the floor of the Senate—but it says:

> The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which may be made, under their authority.

Now, what this amendment seeks to do, Mr. President, is to insert in categorical terms that it is the Supreme Court of the United States which establishes the law on treaties that applies to the intent of the parties, the meaning of the treaties, as the Supreme Court has repeatedly interpreted the international law on treaties, and it is meant to say that, notwithstanding what this body has done on this process, the Supreme Court interpretation of the constitutional ratification stands.

I yield the floor and reserve the remainder of my time. I ask how much time I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I rise in opposition to this amendment offered by Senator SPECTER. This amendment would reopen the debate that we have completed on the Sofaer doctrine. We have worked long and hard to produce an acceptable amendment, which was the Biden amendment, as amended by Senator BYRD, which was adopted by an overwhelming margin. I see no purpose in reopening this issue, which has been a factor in bogging down consideration of the INF Treaty.

The amendment offered by Senator SPECTER is another attempt to change what has already been established by this body by an overwhelming vote, and I urge my colleagues to oppose this amendment and uphold the Senate's constitutional role which has been established by the vote of this body and by the discussion which has gone forth both on the preceding amendment and on the amendments that were offered earlier and were established.

Does the Senator from Maryland seek time at this point?

Mr. SARBANES. Will the Senator yield me 3 minutes?

Mr. ADAMS. I yield 5 minutes to the Senator from Maryland.

Mr. SARBANES. Three minutes will do.

Mr. President, I strongly oppose the amendment offered by the Senator from Pennsylvania. The Senator from Pennsylvania throughout this debate has tried to establish a proposition that there is one treaty between the executive and the foreign country and another treaty between the executive and the Senate of the United States. And then he asserts that they could in fact differ, a proposition with which I have great difficulty.

However, even if they do differ, I flatly disagree with his proposition that then the President can make reference to the treaty arrived at with the other country rather than the treaty as understood by the Senate on the basis of the text and authoritative representation by the President and his representatives. There are rules of international law for interpreting treaties. And those are the general rules that apply to all countries regardless of their internal form of government. And, therefore, when international law with respect to treaties is set out, it does not have to address the question of what is necessary within a country in terms of its internal processes in order to actually put a treaty in place.

Those international principles in my judgment cannot, in the instance of the United States, take precedence over, or provide the basis for a view of the treaty different from the common understanding of the treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification.

The Sofaer doctrine has consistently tried to assert that, and this amendment in the language in the last clause referring to "accepted international law on treaties," does the same thing once again. The body of law that takes precedence is based on the treatymaking clause of the Constitution.

It has been argued here by the Senator from Pennsylvania and others who support him that if the President has this arrangement with the other country, he can in fact reinterpret his arrangement with the Senate in order to satisfy his arrangement with the other country. I submit that our position is directly counter to that. The arrangement that makes the treaty possible is reaching a shared understanding with the Senate and obtaining, as the executive is now seeking to do, the advice and consent of the Senate. Absent that consent, you have no treaty. Therefore, the common understanding that is shared by the President and the Senate at the time the Senate gives its advice and consent to ratification constitutes the meaning of the treaty and is the basis on which it is interpreted.

You cannot come along later and refer to a body of international law and principles that guide treaty interpretation between two nations and use those principles to support a different view, a different interpretation than the one that was at the basis of the common understanding between the President and the Senate in the course of the advice and consent process.

So I see the last clause of this amendment of the Senator from Pennsylvania as laying the basis—because of its references to international law, and the assertions by Judge Sofaer, by the Senator from Pennsylvania, and by others as to international law—whereby the President can give an interpretation to a treaty contrary to or at variance with what constituted the common understanding in the course of the Senate's advice and consent process.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator's 5 minutes has expired.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, before yielding to my friend, the distinguished Senator from California, Senator WILSON, I want to reply to what the distinguished Senator from Maryland said. He says he finds a problem with the last clause because there might be an international law to support the Sofaer doctrine. The last clause says "heretofore accepted international law on treaties as interpreted by the Supreme Court of the United States."

So when the distinguished Senator from Maryland talks about some interpretation of international law at variance with the Constitution, constitutional ratification of the Constitution generally, he is totally wrong because it is international law on treaties that is interpreted by the Supreme Court of the United States. The distinguished Senator from Maryland is saying the Supreme Court of the United States does not consider the U.S. Constitution when it interprets international law, which is obviously an absurdity.

When the distinguished Senator from Washington—I did not have a chance to reply before, when the distinguished Senator from Maryland spoke—Senator ADAMS said that this amendment changes what has been established—well, he is right. It changes what has been established by the Senate in the last few days in terms of elevating the Senate's role above the intent of the parties, in terms of changing the way you find the understanding of the Senate from the Supreme Court decision, but then the distinguished Senator from Washington says we cannot have this amendment because we have to uphold the Senate's constitutional role.

Is the Senate's constitutional role what the Byrd amendment says it is? Or is the Senate's constitutional role what the Supreme Court of the United States has said it is for the past 200 years? Who makes the law of this country on the role of the Senate—Senator BYRD or the Supreme Court of the United States? And vote against this amendment if you are for Senator BYRD and vote for this amendment if you are for the Supreme Court of the United States.

I yield.

Mr. SARBANES. Will the Senator yield me 2 minutes?

Mr. SPECTER. No.

I yield 3 minutes to the distinguished Senator from California, Senator WILSON.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, I thank my friend from Pennsylvania not only for yielding me some time but also for doing the yeoman's service that he has done providing a clear legal perspective in this debate.

I find it no less remarkable that the partisans of the Byrd condition would oppose this than that it was remarkable last night they could not find it within themselves to support the central proposition that the United States should not be disadvantaged by adhering to a more stringent standard of treaty interpretation than that binding the Soviet Union.

But what he is saying here is also a very difficult thing to understand in that what he is proposing is that the Senate not usurp the function of the courts, not seek to overturn established law and precedent by which we have been governed in the interpretation of treaties.

And apparently those who are partisans of the Byrd condition think that this must be resisted precisely because if it is followed, if we agree that we will make no change, then the Byrd condition is in peril.

Even at the time that I was arguing against the Byrd condition, it really did not seem to me to be too pernicious, that we take special steps to announce clearly that in fact we would not try to upset constitutional precedent.

Let me just say that more important than any question about Senate prerogatives really is a question of the Senate's duty to do its job, that job imposed by the Constitution, to recommend for or against ratification. But what this makes plain is that the partisans of the Byrd condition obviously are fearful of anything that will shed light on the very obvious possibility, indeed perhaps almost the probability, that by following the Byrd condition the Senate will be in a position to put before the United States different obligations imposed on the one hand by domestic law and on the other by our treaty obligations.

Well, I will only say this: I think it is a sorry day when Senators are unable to vote for this amendment. It is not a killer amendment. Happily, the Byrd condition will not be a killer amendment either. It is bad law. But I must say that in time it will be I think revealed for what it is, unconstitutional as well as bad law. It will not, happily, prevent conscientious Senators from doing their job.

The **PRESIDING OFFICER.** The Senator's time has expired. The Senator from Pennsylvania has 3 minutes remaining; the Senator from Washington has 8 minutes remaining.

Mr. **SARBANES.** Mr. President, will the Senator yield me 2 minutes?

Mr. **ADAMS.** I yield 2 minutes to the Senator from Maryland.

Mr. **SARBANES.** Mr. President, the absolutely pernicious nature of this amendment is revealed if one focuses on the fact that it is framed in the disjunctive.

What the Senator from Pennsylvania has advanced in his amendment is the concept of accepted constitutional law on treaty ratification on the one hand or—and the word is his—accepted international law on treaties on the other.

That has been at the root of this whole issue, because it is an effort to use accepted international law on treaties between the parties as a justification for ignoring what is accepted constitutional law and practice with respect to how the United States goes about making a treaty and the Senate's role in that process.

The Senator has framed his amendment in the disjunctive, and he has put the constitutional law of the United States in one clause and has put international law on treaties in the other clause. They are set out as alternatives.

That is exactly the Sofaer doctrine—the effort to use international law and the concepts governing there, as between States, as a way to provide a means for the President to ignore the understanding reached with the Senate and to proceed down a different path. It would enable the President to reinterpret a treaty—a treaty which only took place, only went into effect, because the Senate gave advice and consent to it—by using the principles of international law as a way to support a reinterpretation different from the shared understanding reached with the Senate in the course of the advice and consent function. The Senator has framed his amendment that way. He has put the constitutional law of the United States on treaty ratification in one clause and the international law on treaties in another, thereby opening up that Sofaer loophole again.

This amendment should be defeated.

Mr. **NUNN.** Mr. President, will the Senator yield?

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **ADAMS.** I yield 1 minute to the Senator.

Mr. **NUNN.** Mr. President, I agree with the argument the Senator from Maryland has made persuasively.

If we vote for this amendment, are we not saying, in effect, that we in the U.S. Senate are saying, basically, that international law as interpreted by the executive branch can override the relationship under the U.S. Constitution between the U.S. Senate and the executive branch?

Mr. **SARBANES.** I think we are.

Mr. **NUNN.** Basically, we are putting international law, if so interpreted by the executive branch, on a higher plane than the Constitution provides.

Mr. **SARBANES.** This amendment is framed in the disjunctive. It says constitutional law in one clause or international law in the other, which opens up the loophole to use international law to nullify or negate constitutional law.

Mr. **NUNN.** It is basically saying to the executive branch: "Mr. President, or, Judge Sofaer, take your choice. If international law is better for you, use that. If constitutional law is better for you, use that. But don't worry about the relationship between the Executive and the Senate, and don't worry about what you say before the Senate when you tell us what a treaty means. If you want to negotiate a treaty, tell us anything you want to, and then find some international law, getting the negotiating history out of the safe, that the Senate never saw, change the treaty, and then say, 'Too bad, folks. That's they way it is.' "

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **SPECTER.** Mr. President, how much time do I have?

The **PRESIDING OFFICER.** The Senator from Pennsylvania has 3 minutes. The Senator from Washington has 4 minutes.

Mr. **SPECTER.** Mr. President, will the Senator from Georgia respond to two questions?

Mr. **NUNN.** I would be delighted.

Mr. **SPECTER.** Has the Senator read the amendment?

Mr. **NUNN.** I have.

Mr. **SPECTER.** Since the Senator has read the amendment, how can he say that the amendment proposes international law as interpreted by the executive branch, when the amendment specifically says international law on treaties as interpreted by the Supreme Court of the United States.

Mr. **NUNN.** I will answer the Senator.

Does he remember the Taiwan case, where President Carter terminated the Taiwan treaty? That case went to court. Senator Goldwater brought the position to court, and a number of people on that side of the aisle joined in, as well as a couple on this side. Basically, it said that the President could not terminate the treaty.

The Supreme Court of the United States said: "That is a political question. It has to be adjudicated between the Executive and the Senate of the United States. It is not a case that we are going to decide."

So, by delegating it to the Supreme Court of the United States you are in effect, giving the executive branch the right to interpret international law. When someone tries to go to the Supreme Court to stop that interpretation by the executive branch, then the Supreme Court is very likely to say: "It is a political question, folks. You decide it."

So it is a clever way of giving the executive branch the right to take any principle of international law it wants and hang its hat on and that basically overrides everything that has been said in the U.S. Senate.

I have a hard time believing that people who serve in this body really want to undermine the institution of the U.S. Senate as much as these amendments reflect.

I wonder what will happen if we have a different President in the White House, whether we will get the same kind of thrust at that stage. That will be an interesting question for history.

Mr. **SPECTER.** It is hard for this Senator to understand how the distinguished Senator from Georgia says that this amendment delegates the interpreting power from the Supreme Court of the United States, when it is the Constitution—article III, section 2—which gives the interpretive power on treaties to the Supreme Court of the United States, not the Specter amendment.

Mr. President, how much time do I have remaining?

The **PRESIDING OFFICER.** The Senator has 30 seconds.

Mr. **SPECTER.** I yield the floor.

Mr. **LEVIN.** Mr. President, will the Senator yield me 1 minute?

Mr. **ADAMS.** I yield 1 minute to the Senator from Michigan.

Mr. **LEVIN.** Mr. President, there is not much I can add to what Senators SARBANES and NUNN have said on the key point of this amendment; but let me quote the words of the Senator from Pennsylvania, because he says it all.

He said that this amendment changes what was established in the Byrd amendment. That is his intent; the intent is clear. It is to reverse the amendment, and that is what we are voting on.

I yield the floor.

The **PRESIDING OFFICER.** Who yields time?

Mr. **SPECTER.** Mr. President, that is true, because the Byrd amendment changes the law of the United States of America, constitutional law on ratification and law on interpretation of treaties, under the Supreme Court decisions. That is why it is wrong.

The PRESIDING OFFICER. Who yields time?

Does the Senator yield the floor?

Mr. SPECTER. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has all of 15 seconds remaining.

Mr. ADAMS. Does the Senator yield back the remainder of his time, or does he wish to continue?

The PRESIDING OFFICER. Who yields time?

Time will be taken from both sides.

Mr. SARBANES. Let it be taken.

Mr. SPECTER. Mr. President, on my final 15 seconds: I have earlier argued that if you vote against this amendment, you vote to follow Senator Byrd. If you vote for it, you vote to follow the Constitution.

Senator Grassley approached me and said: "You made it clear, Arlen, because my oath is to uphold the Constitution, not Senator Byrd."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. Mr. President, will the Senator yield me 1 minute?

Mr. ADAMS. I yield 1 minute to the Senator.

Mr. SARBANES. Mr. President, I want to be absolutely clear. The person who is seeking to uphold the Constitution of the United States in this debate is the able and distinguished majority leader Senator Byrd. It is the Senator from West Virginia who has stood as the champion of our Constitution. I commend and thank him for his leadership.

The phrasing of the Specter amendment makes it clear, because it is in the disjunctive, as between constitutional law and international law that it in fact does not fully uphold the Constitution in that regard. Otherwise, this amendment would not have been put in the disjunctive, and the Senator would not have set up in his amendment two paths—one path following the Constitution, accepted constitutional law, and another path, separate and apart, on the basis of the word "or," which follows "international law on treaties."

This opens up the possibility of following the path of international law on treaties in order to negate accepted constitutional law. It is this possibility which the distinguished Senator from West Virginia sought to preclude in his amendment, and that is why it commanded the overwhelming support it has received in this body.

This amendment ought to be rejected.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Washington has 2 minutes and 30 seconds remaining.

Mr. ADAMS. Mr. President, in conclusion on the debate, the Senator from Maryland has stated it very well. The majority leader, Senator Byrd, by the amendment that was overwhelmingly adopted, established the constitutional power and the constitutional right, the shared power of the Senate of the United States with the executive in creating a treaty.

This is another attempt to circumvent the Constitution of the United States by stating that you would use, as the Senator from Maryland has so well stated, a separate path around it.

I hope this amendment will not be adopted. I yield back the remainder of the time.

The PRESIDING OFFICER. All time has now been yielded back.

Mr. BYRD. Mr. President, I move to table the amendment, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia to lay on the table the amendment of the Senator from Pennsylvania.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. Metzenbaum] is necessarily absent.

I further announce that the Senator from Ohio [Mr. Glenn] is absent due to death in the family.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 33, as follows:

[Rollcall Vote No. 164 Ex.]

YEAS—64

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Exon
Ford
Fowler
Gore
Graham
Harkin
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Stafford
Stennis
Stevens
Weicker
Wirth

NAYS—33

Armstrong
Bond
Boschwitz
D'Amato
Danforth
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Heinz
Humphrey
Karnes
Kasten
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Rudman
Simpson
Specter
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—3

Biden
Glenn
Metzenbaum

So the motion to lay on the table the amendment No. 2329 was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I wonder if the distinguished Republican leader and I now could discuss further the remaining items and perhaps arrive at a time for our final vote on the resolution of ratification.

Mr. President, as I understand it, there will be a colloquy between Mr. Quayle and Mr. Nunn. There remains the amendment by Mr. Helms on troop withdrawal.

Mr. DOLE. Fifteen minutes, equally divided.

Mr. BYRD. I ask unanimous consent that there be 15 minutes, equally divided, in accordance with the usual form on the Helms troop withdrawal amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And that there be no more amendments other than these amendments.

Mr. DOLE. And the pending Helms amendment.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the final vote on approval of the resolution of ratification occur no later than 3:15 p.m. today and that the time—may I inquire of the Chair how much time is there to be on the colloquy?

The PRESIDING OFFICER. There is no time set for colloquy at this point.

Mr. BYRD. I thought that was entered this morning as 10 minutes.

The PRESIDING OFFICER. The Chair has no official advice to that effect.

Mr. BYRD. Ten minutes equally divided; I ask unanimous consent, on the colloquy.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. All right. That means we have 10 minutes on the colloquy and 15 minutes equally divided on the amendment by Mr. Helms; that is 25 minutes. That would end at 2:15 p.m. today.

Mr. DOLE. Then there is 30 minutes on the declaration, the pending Helms amendment, and I hope there will be no rollcall. Maybe there is. That will be another 15 minutes. So it looks about, just about, maybe, 3:30 will get it, 3:05 or 3:10.

Mr. BYRD. Mr. President, is there a 30-minute time limit already ordered on the pending amendment by Mr. Helms?

The PRESIDING OFFICER. There is no time agreement on the pending amendment that has been set aside.

Mr. BYRD. Mr. President, I ask unanimous consent that there be a 30-minute time limitation on the pending amendment by Mr. Helms to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. CRANSTON. Reserving the right to object, it is not the pending amendment. It is a revised version of the pending amendment.

Mr. BYRD. Well, it is in the pending place because we have continued it temporarily—set it aside.

I ask unanimous consent that the amendment may be modified in accordance with the understanding of the two Senators, Mr. Helms and Mr. Cranston.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. That is fine.

Mr. BYRD. Mr. President, I ask unanimous consent that no amendments be in order, other than those amendments which are contained in this most recent order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Not counting rollcalls, that would put the Senate to 2:45 or 2:50 p.m. today.

Could we agree on a 3 o'clock vote? Mr. President, I ask unanimous consent that the vote on the approval of ratification for the INF Treaty occur today at 3 o'clock p.m. or no later than 3 o'clock p.m. today. No later than.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators and I particularly thank the distinguished Republican leader.

The PRESIDING OFFICER. Under the previous order the Senator from North Carolina is recognized to call up his amendment upon which there shall be 15 minutes of debate divided and controlled in the usual form.

The Senator from North Carolina is recognized.

Mr. QUAYLE. Mr. President, I ask unanimous consent that that amendment be set aside so Senator Nunn and I can agree in our colloquy.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The Senator from Georgia.

Mr. NUNN. Mr. President, this will only take a few minutes but it is an important subject.

Mr. President, I would like to engage the Senator from Indiana, Senator Quayle, in a brief discussion about the meaning of the May 12 United States/Soviet agreement on future INF weapons as it applies to permitted types of drones, remotely piloted vehicles [RPV's] and other categories of non-weapons-delivery vehicles.

In my remarks yesterday on the Nunn-Warner-Boren-Cohen-Helms Category III Understanding, I said:

> After the administration determined its position on the definitional issue, executive branch witnesses discussed the implications of the definition with reference to specific types of future weapons which would and would not be covered by this definition. Based on this testimony and additional consultations with the administration, it is the understanding and intent of the sponsors of the amendment that the following represents an illustrative list of potential RPV/drone missions areas which the United States regards as "non-weapons-delivery" missions for purposes of treaty interpretation:
>
> I emphasize this list is an illustration. It is not intended to envision every possibility of excluded weapons, but it is illustrative of those missions that we believe are not weapon delivery missions:
>
> Surveillance, reconnaissance, target simulation, communications relay, signals intelligence, such as electronics eavesdropping; decoying, psychological warfare activities, such as leaflet dropping, weather data gathering, bomb damage assessment, target designation, electronic countermeasures [ECM] and other electronic warfare activities, such as radar jamming and chaff dispensing.

I would ask my colleague if he agrees with that list of permitted RPV's and drones, recognizing that it is only illustrative and not all-inclusive?

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I do agree with that statement. Let me also observe that electronic warfare or combat includes all "electromagnetic actions required to support military operations" including but not limited to military:

Deception, jamming, suppression of enemy air defenses, electronic countermeasures, and C^3 countermeasures.

Those electromagnetic devices that are not designed to damage or destroy a target but only disrupt its normal operation temporarily are not considered to be weapons.

The electromagnetic spectrum includes laser and microwave emitters, and it is clear that any devices designed to provide missile guidance, military intelligence, or communication that use laser or radio energy are not weapons payloads.

Finally, all delivery vehicles that are not cruise or ballistic missiles as defined in the treaty but of INF range are permitted no matter what their payload because they are not weapons delivery vehicles as defined by the treaty.

I would ask the Senator from Georgia if he agrees with that elaboration?

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I do agree with the Senator's statements and commend him for the important contribution he has made to the Senate's review of this treaty by first raising and then continuing to diligently pursue the meaning and effect of the treaty's provisions in this area.

On another matter, Mr. President, with regard to the Murkowski-Quayle amendment passed Wednesday night, I would ask your confirmation that you did not mean by the phrase "no restrictions should be placed on current or future nonnuclear sea- or air-launched cruise missiles," to restrict our ability to, for example, mark a cruise missile so as to be able to distinguish between a conventional and nuclear cruise missile?

Mr. QUAYLE. I answer my friend from Georgia: No, our intent was to make it clear that the Senate opposes any START treaty which would include nonnuclear ALCMS, SLCMS, or even ground-launched cruise missiles outside of INF ranges. We recognize that there could be requirements under a START treaty to distinguish nonnuclear ALCMS, SLCMS, or even ground-launched cruise missiles outside of INF ranges from nuclear variants for arms control purposes but not to do so in any way that might facilitate enemy military countermeasures.

Mr. NUNN. I thank the Senator from Indiana.

Mr. QUAYLE. Mr. President, I also thank my friend from Georgia for getting into this.

I had originally intended to offer this as an amendment. I conversed with him and now I think this is a far preferable way.

After I make a unanimous-consent request I am just going to put in a couple of definitions as I found in the Joint Chiefs of Staff's military dictionary. That does not relate to our colloquy but relates to a previous statement I had made.

I do at this time, Mr. President, ask unanimous consent to make a technical correction that has been cleared in the Murkowski-Quayle amendment 2279 agreed to on Wednesday evening. In paragraph 2 strike the last occurrence of the word "or".

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. QUAYLE. Mr. President, finally, as I said, I am not going to offer an amendment. There were some concerns that some of the words that I had put in the amendment lacked any definitions. Some of these concerns came from the Joint Chiefs of Staff and the military. I am just going to put into the RECORD a couple of the definitions of some of the words as provided by the Joint Chiefs of Staff's own dictionary of military and associated terms and the Air Force's "Electronic Combat-Principles," so in case they had missed it somewhere along the line they might want to read the RECORD and find out what the amendment really meant, other than some of the concerns that we got back. I think they happened to forget to consult their own military dictionaries over there. I ask unanimous consent to have this printed in the RECORD after my remarks.

Mr. NUNN. Mr. President, reserving the right to object, and I will not object, as I understand the statement of the Senator this does not relate to the amendment that we were discussing, the Murkowski-Quayle amendment, but rather an amendment the Senator did not present to the Senate for its consideration but had intended at one time?

Mr. QUAYLE. The Senator is absolutely correct. This has no relationship to the Murkowski-Quayle amendment. It does relate to an amendment that I had intended to offer but did not after conferring with the distinguished chairman of the Senate Armed Services Committee.

I think this is a far preferable way. My desire was to try to get some feeling of what a nonweapon delivery vehicle is. I think this probably adequately explains it. On May 19 I made a speech, an opening statement in which I listed several specific types of clearly permitted nonweapons systems; things that did not directly damage or destroy their targets. Later, I filed an amendment that generally described what at the very least would be allowed. There were concerns, however, which the JCS raised, that the amendment used words, such as "spoof," "electromagnetic," "dazzle," "deceive," "interfere," "disrupt," that lacked any definitions that were as clear as the treaty definition for "weapon"—a device designed to damage or destroy its intended target. In fact, the military's own dictionaries define the terms used in my amendment but they do not define the words "damage," "destroy," or "designed." I ask unanimous consent to place in the RECORD the military's definitions for those who may have concerns about some of the definitions along with my original amendment.

There being no objection, the material was/were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE—DICTIONARY OF MILITARY AND ASSOCIATED TERMS

SCOPE. Terms and definitions identified with NATO represent terms standardized and agreed for use within the NATO community. Entries identified with IADB represent terms standardized and agreed for use between member countries of the Inter-American Defense Board. The symbol I means that the entry has United States Government interdepartmental approval for national usage. The symbol DOD marks the entry as official for DOD Components, which will use the terms and definitions so designated without alteration unless a distinctly different context or application is intended. To provide a common interpretation of terminology at home and abroad, US officials participating in either NATO or IADB activities will use the terms and definitions designated for that organization. When an agreed organizational term does not exist, the DOD term and definition will take precedence.

Electronic warfare—(DOD) Military action involving the use of electromagnetic energy to determine, exploit, reduce or prevent hostile use of the electromagnetic spectrum and action which retains friendly use of the electromagnetic spectrum. Also called EW. There are three divisions within electronic warfare:

a. Electronic countermeasures—That division of electronic warfare involving actions taken to prevent or reduce an enemy's effective use of the electromagnetic spectrum. Also called ECM. Electronic countermeasures include:

(1) Electronic jamming—The deliberate radiation, reradiation, or reflection of electromagnetic energy for the purpose of disrupting enemy use of electronic devices, equipment, or systems. See also jamming.

(2) Electronic deception—The deliberate radiation, reradiation, alteration, suppression, absorption, denial, enhancement, or reflection of electromagnetic energy in a manner intended to convey misleading information and to deny valid information to an enemy or to enemy electronics-dependent weapons. Among the types of electronic deception are:

(a) Manipulative electronic deception—Actions to eliminate revealing, or convey misleading, telltale indicators that may be used by hostile forces.

(b) Simulative electronic deception—Actions to represent friendly notional or actual capabilities to mislead hostile forces.

(c) Imitative electronic deception—The introduction of electromagnetic energy into enemy systems that imitates enemy emissions.

b. Electronic counter-countermeasures—That division of electronic warfare involving actions taken to ensure friendly effective use of the electromagnetic spectrum despite the enemy's use of electronic warfare. Also called ECCM.

c. Electronic warfare support measures—That division of electronic warfare involving actions taken under direct control of an operational commander to search for, intercept, identify, and locate sources of radiated electromagnetic energy for the purpose of immediate threat recognition. Thus, electronic warfare support measures (ESM) provide a source of information required for immediate decisions involving electronic countermeasures (ECM), electronic counter-countermeasures (ECCM), avoidance, targeting, and other tactical employment of forces. Also called ESM. Electronic warfare support measures data can be used to produce signals intelligence (SIGINT), both communications intelligence (COMINT) and electronics intelligence (ELINT).

Electronic warfare—*(NATO)* Military action involving the use of electromagnetic energy to determine, exploit, reduce, or prevent hostile use of the electromagnetic spectrum and action to retain its effective use by friendly forces. See also electronic countermeasures; electronic countermeasures; electronic warfare support measures.

Electronic warfare—*(IADB)* Military action involving the use of electromagnetic energy to determine, exploit, reduce or prevent hostile use of the electromagnetic spectrum and action that retains friendly use of the electromagnetic spectrum.

Barrage jamming—*(DOD, NATO, IADB)* Simultaneous electronic jamming over a broad band of frequencies. See also jamming.

Deception—*(DOD, NATO, IADB)* Those measures designed to mislead the enemy by manipulation, distortion, or falsification of evidence to induce him to react in a manner prejudicial to his interests. See also counter-deception; military deception.

Deception means—*(DOD)* Methods, resources, and techniques that can be used to convey information to a foreign power. There are three categories of deception means:

a. Physical means—Activities and resources used to convey or deny selected information to a foreign power. (Examples: military operations, including exercises, reconnaissance, training activities, and movement of forces; the use of dummy equipment and devices; tactics; bases, logistic actions, stockpiles, and repair activity; and test and evaluation activities).

b. Technical means—Military materiel resources and their associated operating techniques used to convey or deny selected information to a foreign power through the deliberate radiation, reradiation, alteration absorption, or reflection of energy; the emission or suppression of chemical or biological odors; and the emission or suppression of nuclear particles.

c. Administrative means—Resources, methods, and techniques designed to convey or deny oral, pictorial, documentary, or other physical evidence to a foreign power.

Dazzle—*(DOD, IADB)* Temporary loss of vision or a temporary reduction in visual acuity. See also flash blindness.

Electromagnetic interference—*(DOD)* Any electromagnetic disturbance that interrupts, obstructs, or otherwise degrades or limits the effective performance of electronics/electrical equipment. It can be induced intentionally, as in some forms of electronic warfare, or unintentionally, as a result of spurious emissions and responses, intermodulation products, and the like. Also called EMI.

Electromagnetic intrusion—*(DOD)* The intentional insertion of electromagnetic energy into transmission paths in any manner, with the objective of deceiving operators or of causing confusion. See also electronic warfare.

Electromagnetic pulse—*(DOD)* The electromagnetic radiation from a nuclear explosion caused by Compton-recoil electrons and photoelectrons from photons scattered in the materials of the nuclear device or in a surrounding medium. The resulting electric and magnetic fields may couple with electrical/electronic systems to produce damaging current and voltage surges. May also be caused by nonnuclear means. Also called EMP.

Electromagnetic radiation—*(DOD, IADB)* Radiation made up of oscillating electric and magnetic fields and propagated with the speed of light. Includes gamma radiation, X-rays, ultraviolet, visible, and infrared radiation, and radar and radio waves.

Electronic simulative deception—*(NATO)* The creation of electromagnetic emissions to represent friendly notional or actual capabilities to mislead hostile forces.

Electromagnetic spectrum—(DOD) The range of frequencies of electromagnetic radiation from zero to infinity. It is divided into 26 alphabetically designed bands. See also electronic warfare.

Electromagnetic spectrum—(IADB) The frequencies (or wave lengths) present in a given electromagnetic radiation. A particular spectrum could include a single frequency or a wide range of frequencies.

Electromagnetic vulnerability—(DOD) The characteristics of a system that cause it to suffer a definite degradation (incapability to perform the designated mission) as a result of having been subjected to a certain level of electromagnetic environmental effects. Also called EMV.

Electronic counter-countermeasures—See electronic warfare.

Electronic countermeasures—See electronic warfare.

Electronic deception—See electronic warfare.

Electronic deception—(NATO) Deliberate activity designed to mislead an enemy in the interpretation or use of information received by his electronic systems. See also electronic imitiative deception; electronic manipulative deception; electronic simulative deception.

Electronic imitative deception—(NATO) The introduction into the enemy electronic systems of radiations imitating the enemy's own emissions.

Electronic jamming—See electronic warfare; jamming.

Electronic line of sight—(DOD, IADB) The path traversed by electromagnetic waves that is not subject to reflection or refraction by the atmosphere.

Electronic manipulative deception—(NATO) The alteration of friendly electromagnetic emission characteristics, patterns, or procedures to eliminate revealing, or convey misleading, tell-tale indicators that may be used by hostile forces.

Electronic reconnaissance—(DOD, IADB) The detection, identification, evaluation, and location of foreign electromagnetic radiations emanating from other than nuclear detonations or radioactive sources.

Electronics intelligence—(DOD, IADB) Technical and intelligence information derived from foreign non-communications electromagnetic radiations emanating from other than nuclear detonations or radioactive sources. Also called ELINT. See also intelligence; signals intelligence; telemetry intelligence.

Electronic warfare support measures—(NATO) That division of electronic warfare involving action taken to search for, intercept, identify and locate radiated electromagnetic energy for the purpose of immediate threat recognition. It provides a source of information required for immediate decisions involving electronic countermeasures, electronic counter-countermeasures and other tactical actions such as avoidance, targeting and homing.

Electronic warfare support measures—See electronic warfare.

Electro-optical intelligence—(DOD) Intelligence information other than signals intelligence derived from the optical monitoring of the electromagnetic spectrum from ultraviolet (0.01 micrometers) through far infrared (1,000 micrometers). Also called ELECTROOPTINT.

Electro-optics—(DOD, NATO) The technology associated with those components, devices and systems which are designed to interact between the electromagnetic (optical) and the electric (electronic) state.

Flash blindness—(DOD, NATO, IADB) Impairment of vision resulting from an intense flash of light. It includes temporary or permanent loss of visual functions and may be associated with retinal burns. See also dazzle.

Jamming—See barrage jamming; electronic countermeasures; electronic jamming; selective jamming; spot jamming.

Spoofer—(DOD) In air intercept, a code meaning, "A contact employing electronic or tactical deception measures."

Spot jamming—(DOD, NATO, IADB) The jamming of a specific channel or frequency. See also barrage jamming; electronic warfare; jamming.

Spotting—(DOD, NATO, IADB) A process of determining by visual or electronic observation, deviations of artillery or naval gunfire from the target in relation to a spotting line for the purpose of supplying necessary information for the adjustment or analysis of fire.

Department of the Air Force, Electronic Combat Principles

Finally, destructive and disruptive measures describe the dimensions of operations in the electromagnetic spectrum. A destructive measure seeks the termination of the target system, its operating personnel, or both. A disruptive measure is anything that does not directly seek destruction, and its effects are reversible.

Executive Amendment No. 2248

At the end of the resolution of ratification, add the following:

The Senate's advice and consent to ratification of the Treaty is further subject to the following, which the President shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

( ) Understanding.—The United States understands that the Treaty does not cover nonweapons delivery vehicles including—

(1) any ground-launched ballistic missiles or ground-launched cruise missiles having a range capability of more than 500 kilometers but less than 5,500 kilometers and that has not been flight-tested or deployed to carry or be used as a weapon, including any warhead, mechanism, or device, which when directed against any target, is designed to damage or destroy it; and

(2) ground-launched ballistic missiles or ground-launched cruise missiles having a range capability of more than 500 kilometers but less than 5,500 kilometers and carrying devices designed to spoof, upset, jam, deceive, or disrupt enemy electromagnetic devices, or to dazzle, disrupt, or interfere with the normal operation of enemy optical or electro-optical capabilities, disable or incapacitate enemy assets or troops temporarily, or provide military intelligence, surveillance, communication, missile guidance, target designation, or range-finding information.

The PRESIDING OFFICER (Mr. Breaux). Under the unanimous-consent agreement and the previous order, the Senator from North Carolina is now recognized to offer an amendment upon which there shall be 15 minutes of debate equally divided and controlled in the usual form.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, if the managers of the bill or any other Senator have no objection, I should like to reserve the order and proceed with the declaration. I ask unanimous consent that I may do so.

The PRESIDING OFFICER. Is there objection to the request of the Senator?

Without objection, it is so ordered.

AMENDMENT NO. 2317, AS MODIFIED

(Purpose: To include in the resolution of ratification a unilateral declaration of the United States regarding Strategic Arms Reduction Talks)

Mr. HELMS. Mr. President, I send a modification amendment of declaration to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. Helms] for himself, Mr. Byrd, Mr. Dole, and Mr. Simpson, proposes an amendment numbered 2317, as modified.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution of ratification, insert the following before the period: "*Provided* that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition: Declaration. It shall be the declared policy of the United States of America that, as an integral factor in its decision to adhere to this Treaty, the United States intends to continue to negotiate with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO Allies, to negotiate a treaty establishing conventional stability in Europe. In so doing, it shall be guided by the following principles and considerations:

(a) A main object of such future treaties shall be international stability and reduction of the risk of war by obtaining general equivalence in the resultant strategic forces of the Parties;

(b) During any negotiations contemplated by this declaration, the United States shall act in close consultation with its Allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

(c) Negotiations contemplated by this declaration shall also be conducted with close and detailed consideration of the advice of the United States Senate, and the Senate should be kept fully apprised of all significant proposals made to the Union of Soviet Socialist Republics and, with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given full and highest consideration and due regard;

(d) The negotiations contemplated by this declaration shall also seek to secure regimes of effective verification and mechanisms for full compliance which build upon the verification regime and compliance mechanisms of the present Treaty, strengthening them appropriately for any subsequent treaty;

(e) In accordance with the Constitutional process of the United States, the United States shall, consistent with correctly construed principles of international law, not be bound to adhere to or observe any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate. However, nothing in this declaration shall imply that the United States will take an action of such nature as to make impossible the performance of any future treaty contemplated by this declaration after the signing of such treaty and during the period in which there is a clear prospect of timely ratification thereof;

(f) The United States considers full and exact compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting (i) the proposals and attitudes of the United States with respect to the future treaties contemplated hereby and (ii) proportionate and appropriate responses with respect to such existing agreements;

(g) Pursuant to this declaration, any joint statement by the United States of America with the Union of Soviet Socialist Republics of a framework for the negotiation of strategic arms treaties contemplated hereby, and such framework itself, shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously, and shall not constrain any military programs of the United States unless otherwise provided for in accordance with Section 33 of the Arms Control and Disarmament Act; and

(h) The capability of the United States of America to monitor any future treaty contemplated by this declaration shall be strengthened in order to increase the ability of the United States to detect violations thereof.'."

Mr. HELMS. Mr. President, this is the amendment that caused a little bit of brouhaha last night, and I want to say to all Senators that I was not offended in the least by anything that occurred. Everybody was tired. Nonetheless, the declaration was recognized as significant and binding and of a good precaution in advance of the Moscow summit so the effort to table it failed by a wide margin.

In any case, as the Senate functions and should function, we worked further on the declaration, made a few not major but strengthening changes, and I am now ready to proceed.

It is a straightforward declaration, Mr. President. It is cosponsored by the distinguished majority leader, Mr. BYRD; and the Republican leader, Mr. DOLE; and the assistant Republican leader, Mr. SIMPSON.

Specifically, it creates a binding legal duty on this and future Presidents to adhere to a declared U.S. policy with respect to future treaties involving conventional and strategic arms.

We worked much of the night in formulating revise language in the declaration because of its permanent status. The work was conducted with Ambassador Glitman and other representatives of the White House and Department of State, including eventually the President's Chief of Staff, our former colleague, Senator Baker.

I ask unanimous consent that a letter attesting to the negotiations and the most important conclusion thereof be entered in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
May 27, 1988.

Hon. JESSE HELMS
U.S. Senate
Washington, DC.

DEAR SENATOR HELMS: The Declaration you have proposed states principles and considerations by which the present Administration and future Administrations would have a duty to be guided, since it would be adopted as a valid condition and would constitute the basis on which the Senate grants its advice and consent.

This undertaking does not constitute a legal precedent for other purposes, or for any other declaration.

Sincerely,

ABRAHAM D. SOFAER,
Legal Adviser.

Mr. HELMS. Mr. President, the declaration emphasizes close coordination with the Senate as a body as contemplated by the Constitution and with our NATO allies with respect to future arms negotiations. It also emphasizes that any agreement on such issues would not be binding on the United States without Senate advice and consent, as provided for in the U.S. Constitution, but, perhaps even more importantly, also that no framework or unratified treaty will in any way whatsoever constrain any arms program of this country.

There has been a great deal of discussion in this body about the significance of the INF Treaty. Some have contended, "well it's not really that big a deal, so we might as well ratify it forthwith." I do not share that view either as to the treaty's significance or the Senate's position on it. It seems to me the treaty is significant—not only politically, but more important, militarily.

Regardless of the degree of importance attributed to the INF Treaty, I do not believe I have heard any Senator disagree—not one Senator, Mr. President—disagree with the assessment that any START Treaty, dealing with proposed reduction in strategic—that is long-range—nuclear weapons will be far more significant.

For this reason, Mr. President, I have concluded that it is imperative that the administration coordinate every stage of negotiations—every step of the way and extensively—with the Senate well in advance of the formulation of any START Treaty, and even in the formulation of some less formal framework or other outline of a START Treaty or for that matter any other arms treaty of whatever nature. That is what the declaration provides in legally binding terms. No more faits accomplis.

The declaration puts the United States on record by codifying as national policy that a main object of future treaties, such as START, shall be international stability and reduction of the risk of war by obtaining at least general equivalence—as is already provided in Federal law by the Jackson amendment, which is familiar to all of us.

The amendment also declares the intention of the United States to coordinate with the Senate—not a select group but the Senate—in advance of any START framework or outline, and certainly before the initiation of any further START negotiations pursuant to any such framework or joint communique.

Mr. President, there have been press reports suggesting that some sort of framework for a START agreement will in fact, be announced in Moscow during the summit. The declaration also makes clear that any such framework shall be viewed by the U.S. Government as advisory only with respect to negotiations only and will not constitute a commitment nor contrain any military program of the United States unless specifically provided for in accordance with section 33 of the Arms Control and Disarmament Act. In other words, Mr. President, a clear-cut statute enacted subsequent to the declaration, or a ratified—a ratified—treaty.

The declaration also notes another factor with which I have heard few, if any disagreements—that is, that the verification and compliance regimes for a START Treaty will need to build upon the verification and compliance regimes of the present treaty, strengthening them appropriately for any subsequent treaty. It requires improvement because improvement is badly needed, both in this proposed treaty and any future treaty.

Many have pointed to what they regard as the unprecedented verification procedures provided in the INF Treaty. The onsite inspection procedures, in particular, have received widespread attention and acclaim. I, for one, believe that the accolades are greatly overdone. Under the provisions of the treaty, the United States is given permission to inspect sites that the Soviets so designate, not other sites where covert activity might be taking place, even if we have good reason to suspect such covert activity. That is just one of the many flaws which I consider to be fatal in the INF Treaty, but which others have chosen to overlook.

Nonetheless, regardless of my own reservations about the widely presumed achievements in verification in the INF Treaty, Mr. President, almost all witnesses before the Committee on Foreign Relations, including the administration witnesses, have noted that a START verification regime, in particular—and compliance mechanism—will have to be far more extensive than that provided in the case of the INF Treaty.

Even in public sessions, Mr. President, we have had unclassified discussion to the need for significant improvements in our national technical means for intelligence gathering in order to monitor the much more complex procedures of any START Treaty.

The declaration puts the United States, as a nation, on record in support of a much more extensive verification and compliance regime for any proposed START Treaty.

Similarly, Mr. President, the declaration notes that the United States will consider the Soviet Union's "full and exact" compliance with the INF Treaty and other existing arms control agreements to be a major issue affecting the proposals and attitudes of the United States with respect to any envisioned START or other arms treaty.

I have noted on previous occasions that the Soviets have an extensive history of cheating. It would be this Senator's hope that we will learn our lesson before it is too late for the safety of our country and that if the Soviets persist in this consistent pattern of cheating, we must call a halt to further treaties with the Soviets until they come into compliance. I believe that principle should have been applied to the INF Treaty. While others disagreed, I am pleased that there is much broader support for such a position with respect to any proposed START Treaty.

Mr. President, former Secretary of State Henry Kissinger recently laid out some of the pitfalls in negotiating a START Treaty and the need for full consultation with our allies. Now, I do not always agree with Dr. Kissinger, although I tend to agree with him more often now that he is no longer Secretary of State, but the distinguished former Secretary of State is absolutely correct, in my judgment, in his analysis this time, so I ask unanimous consent, Mr. President, that the article on the subject by Dr. Kissinger, published in the Washington Post and perhaps elsewhere on April 24, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 24, 1988]

START: A DANGEROUS RUSH FOR AGREEMENT

(By Henry Kissinger)

President Reagan has stated that he hopes the START agreement to reduce U.S. and Soviet strategic forces by 50 percent will be completed in time for the summit at the end of May. There has been astonishingly little debate about the impact of such an agreement on strategy, verifiability and foreign policy. A pause in the rush to agreement is needed to permit a national debate while the treaty can still be reshaped. It is essential also to insure that Congress will fund the measures that will be necessary to ensure the survivability and strategic effectiveness of America's nuclear deterrent under START conditions. Before America makes another arms control deal with the Soviet Union, it must make a deal with itself.

For START is being negotiated in a conceptual vacuum. The United States has not yet decided—or at least has not put forward—what strategic forces it proposes to deploy under the START ceiling of 4,900 warheads in 1,600 missiles and 1,100 nuclear weapons on aircraft. Or how it plans to verify Soviet observance of these limits. Yet the relative capability of U.S. strategic forces—or the perception of it—has been the key element in Western security policy for the entire postwar period.

Still, common sense permits certain projections. The United States will almost certainly opt to retain 18 submarines out of the current 36, down from 41 in the 1970s. Since each Trident submarine has 24 missiles counted as having eight warheads each, this would place 3,456 warheads on submarines and leave 1,444 warheads to be distributed among land-based missiles.

When the number of submarines is cut so drastically while the agreement leaves Soviet antisubmarine forces free to grow and modernize, the vulnerability of the U.S. residual submarine force must inevitably increase. This would be especially true were a technological breakthrough to occur in antisubmarine warfare.

The situation with respect to land-based missiles is more precarious still. The Washington summit agreement reduces Soviet heavy missile warheads from 3,080 to 1,540. Though this is lauded as a great achievement, any serious analysis shows that the survivability of the U.S. land-based force after the proposed reductions can be maintained at present levels only by a major—and expensive—modernization program. And the present level of vulnerability already is considered dangerous by most experts.

U.S. land-based missiles now consist of 2,000 warheads on three types of missiles: 500 highly accurate warheads on 50 MX missiles; 1,500 reasonably accurate warheads on 500 Minuteman III missiles and 500 inaccurate large warheads on Minuteman II single-warhead missiles—the oldest in the U.S. arsenal.

Retaining the most accurate and modern weapons—the MX and Minuteman III—and scrapping the Minuteman II would be most cost effective and most consistent with a strategy of sparing civilian populations and concentrating on military targets. However, it would also produce the most vulnerable U.S. deployment. Indeed, such a START scheme would actually worsen the vulnerability of American silos. Today the Soviet Union has 3,080 SS-18 warheads aimed at 1,000 U.S. silos. After START, assuming the United States retains its most effective weapons, the Soviets would have 1,540 warheads aimed at 364 silos, thereby raising the ratio of warheads to silos from 3.08:1 to 4.2:1. It is hard to argue that such a result would be a contribution to "stability."

The cheapest way to maintain the existing ratio of Soviet warheads to U.S. missiles would be to disperse U.S. targets by replacing a number of Minuteman IIIs with three warheads for a three times larger number of Minuteman IIs with single warheads. The disadvantage is that Minuteman IIs have relatively poor accuracies. They are most useful for a strategy of civilian devastation and least suitable for a strategy concentrating on military targets.

The wisest course would be to develop a new single-warhead missile to combine the advantages for discriminating targeting and dispersal for survivability. It could be placed into a silo or preferably be made mobile or both. But the best course is also the most expensive.

But no agreement on the composition of the strategic forces exists either within the executive branch or between the administration and Congress. For budgetary reasons the administration has all but shelved the Midgetman, the proposed single-warhead mobile missile. The Senate Armed Services Committee has approved a mobile Minuteman III; the House Armed Services Committee has opted for the Midgetman in principle but allocated insufficient funds. There are drawing board schemes to reduce the number of missiles on Trident submarines from 24 to 16, thus increasing the number of submarines by a third and complicating the tasks of Soviet antisubmarine warfare. But nobody has advanced a concept for how to pay for the additional submarines.

The administration therefore needs to make sure that Congress will in fact fund the necessary programs. At a minimum, there should be an executive-legislative summit in which the administration outlines how is proposes to compose post-START U.S. strategic forces and congressional leaders agree to fund the programs needed to improve their survivability.

A pause in the rush to agreement also would permit closer examination of verification in the crucible of the realities that would be created by the new agreement.

A verification system would have to be able to determine whether the permitted numbers of 6,000 warheads and 1,600 missiles have been exceeded.

I know of no expert who believes that the margin of error with respect to counting the number of mobile intercontinental missiles can be smaller than 25 percent. Yet the two newest Soviet missiles are mobile; the SS-25 is land mobile and the SS-24 is rail mobile.

The problem of counting Soviet missiles produced but never deployed is even more intractable. In the negotiations for the recently concluded INF agreement, the Soviet Union revealed that it had produced 50 percent more medium-range weapons than it had deployed. In START, unlike INF, the production lines for strategic weapons would remain open.

If verification of the total number of missiles is difficult, determining the number of warheads could turn into a nightmare. Since it is impossible to establish from a satellite how many reentry vehicles a missile carries, certain mechanical "counting rules" have been established over the years. Every multiple-warhead missile was assumed to have the maximum number of reentry vehicles that had been tested on that missile even if it carried fewer reentry vehicles when actually deployed.

The Washington summit jettisoned that principle. America's new submarine-launched missile, the D-5 has been tested with 10 warheads. Nevertheless, to maintain a minimum number of submarines the United States chose to equip each D-5 missile with eight reentry vehicles. In return the Soviets were permitted ot count the reentry vehicles on their submarine-launched missile, the SSN-23, at four, even though it had been tested in an 8-to-10-warhead version. Similar discrepancies exist with respect to the Soviet heavy ICBM, the SS-18. The number of reentry vehicles assigned to missiles has become a subject of negotiation, not of verifiable testing data.

Complex schemes—probably too complex for day-to-day use—for the on-site inspection of deployed warheads are being discussed, but no arrangement could prevent the Soviet Union from producing warheads with the largest number of reentry vehicles already tested, stockpiling them and installing them in time of crisis or perhaps even between inspections. We must take care lest on-site inspection works more to tranquilize than to reasssure.

Before an agreement is signed, the public and Congress need to understand precisely the scope and limits of verification. A number of questions must be answered, such as:

(a) What confidence do we have in the verification scheme for limitation subject to the START agreement?

(b) What is the cumulative risk if the verification system is under stress and not carried out under ideal laboratory conditions?

(c) By how much and in what ways does on-site inspection improve on national technical means, such as satellites?

(d) How will the verification system be integrated into American decision-making at the highest levels?

(e) What is the United States prepared to do in case of violations?

(f) What level of violation would threaten free-world security and why?

In the end the START process will mark another major step away from the deterrent strategy pursued for the entire postwar period. It will be another step toward stripping away the legitimacy of nuclear weapons without linking that process to the vital need to reduce the conventional arms threat either by building conventional forces or via conventional arms control. The growth of Soviet strategic forces in the mid-'70s coincided with making nuclear strategy a domestic issue in most democracies. As a result Western nuclear strategy has progressively become separated from rational objectives. Accurate warheads and missile defenses have all been vilified; mass destruction of civilian targets has been emphasized as if only the prospect of a holocaust would preserve peace. These evasions leave the democracies increasingly suspended between Armageddon and surrender. The prospective START agreement will inevitably exacerbate this incoherence, accelerating abdication from the weapons on which Western strategy is based without producing an alternative.

It is self-evident that the dismantling of American medium-range weapons in Europe, followed by a 50 percent cut in the strategic forces of the United States, must have some impact on Western strategy. What targets that once were covered will be left unattended under the new agreement? What happens to the four submarines "assigned" to the North Atlantic Treaty Organization when the total number of submarines on station in the Atlantic has shrunk to around six? How does NATO visualize the relationship between nuclear and conventional defense in both strategy and arms control? How do we propose to link these processes?

One way to improve the survivability of strategic forces would be to build a strategic defense at least for missile sites. Yet in order to achieve START the administration has agreed to a nine-year deployment ban extending into a third presidential term after the Reagan administration. It is in the process of agreeing to unspecified restrictions on testing. If history is any guide, these restrictions are likely to atrophy the program, since no deployment ban or testing restrictions have ever been abandoned by the United States. If the administration is willing to accept that outcome, it should obtain a higher price, for example, scrapping all the Soviet heavy missiles. If, however, the administration seriously intends to proceed with the Strategic Defense Initiative, it should put before an executive-legislative summit a strategic rationale and a program and budget levels for the next decade. If it fudges the issue, it will inhert the disadvantages of every course of action: de facto abandonment of SDI for no equivalent concession.

"Reductions" and "ending the nuclear threat" have become catchwords in the domestic debate of all NATO countries. But the Western alliance requires a strategy, not a slogan. START should not proceed further until the American people and our allies have been told with some precision where this process is leading.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

Mr. COHEN. Will the Senator yield?

Mr. HELMS. Certainly.

Mr. COHEN. I commend the Senator from North Carolina for making the changes that were suggested yesterday. I think he has worked in absolute good faith in trying to clarify the exact intention of this particular amendment, and I think the amendment reflects a broad bipartisan consensus on what the objective should be.

Mr. HELMS. I thank the Senator. And may I say to him that he has been exceedingly helpful in formulating this binding declaration and voting yesterday to prevent the effort that Senator BRADLEY made to table the proposal.

The PRESIDING OFFICER. The Senator reserves the remainder of his time.

The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield 6 minutes to the Senator from California [Mr. CRANSTON] who was the individual who first blew the whistle on this amendment and saw its pitfalls.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. I thank the distinguished chairman for the time and for the comment.

Mr. President, yesterday in the interest of comity and more importantly in the interest of moving this important INF Treaty forward, I withdraw my second-degree Cranston-Leahy amendment to the Helms "Start Principles" amendment. There was a lot of confusion, as one Republican Senator noted, over what kind of an agreement had been reached by the majority leader and the minority leader and a few other Senators with the Senator from North Carolina.

I want to be clear that I and many others in this Chamber were not a party to any deals cut with the Senator from North Carolina. It was acknowledged by all concerned that I was clearly within my rights in offering my second-degree amendment. I walked through the front door. I was not attempting a sneak attack through a side door or the back door.

Frankly, I was somewhat startled then when the majority leader and the Senator from North Carolina both acknowledged that they had never given any thought to the possibility that some Senator might come up with a second-degree amendment.

I have served in this body with the Senator from West Virginia for 20 years and with the Senator from North Carolina for 16 years and never before in my memory has either Senator forgotten about the possibility that somebody might offer an amendment or, indeed, failed to take into account any potential use of Senate rules, Senate traditions, Senate procedures, Senate habits and mores, or anything else.

I guess what this proves is that nobody is perfect, neither the Senator from West Virginia, the Senator from North Carolina, or anybody on the face of this Earth.

Anyhow, in the interest of comity, I withdrew my amendment.

Mr. President, I welcome the numerous substantive changes which have now been made in the Helms proposals in order to make it acceptable to all parties. In fact, all of the major remedies in the Cranston-Leahy second-degree amendment offered last night have been accepted. Specifically, the watered-down hortatory language in the Helms amendment now before us no longer requires prenotification of the Senate for "all significant START proposals." It no longer requires the United States to convene a Geneva plenary every time the Senate has recommendations. It no longer requires conveyance to the Soviets, nor does it make a binding declaration exclusively by the Senate of the U.S. policy. It no longer sets general equivalence or force symmetry as a goal for conventional force reduction talks. It no longer rejects the U.S. obligation to avoid undermining the terms of emerging treaties pending verification. It no longer sets possible standards for verification or compliance, not does it cast aspersions on the effect of verification procedures established in the INF Treaty.

And, finally, and more importantly, it no longer, as did the previous objectionable Helms draft, prevents President Reagan from discussing START in Moscow next week.

By taking the guts out of the Helms proposal, we have ensured that neither this President, nor any future President will have his options foreclosed by this amendment.

The amendment before us will have no meaningful effect on future START negotiations—deleterious or beneficial.

It is utterly harmless.

In a spirit of accommodation, and with the hope that we can soon vote for final passage of the INF resolution of ratification, I am prepared to permit this harmless verbiage to pass.

We will not send President Reagan to Moscow muzzled and handcuffed. He will arrive there Sunday unshackled. He will be able to explore with the Soviet leadership steps toward START and any and all prudent steps designed to deliver all of us from the nuclear brink. There is now no reason for any controversy over the pending amendment. I will vote for it. I urge all other Senators to do likewise.

The PRESIDING OFFICER. The Senator from Rhode Island controls time.

Mr. PELL. I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee, Mr. GORE, is recognized.

Mr. GORE. Mr. President, I thank the chairman of the committee for yielding this time. I will not take the full 3 minutes.

My purpose in rising is, first of all, to express my thanks to the Senator from North Carolina for his willingness to make such significant and sweeping changes in the amendment as it was originally presented to the Senate.

As one who expressed concern yesterday, I have appreciated the opportunity to work with the Senator from North Carolina, the Senator from California, and the Senator from Maine, in fashioning some changes in the amendment as it was originally introduced.

My concern has been completely alleviated. I feel that one of the bases for hope that Americans feel with regard to the summit meeting about to begin is not only that we will have the formal exchange of ratified documents, not only that there will be a general improvement in the atmosphere of the relationship between our Nation and the Soviet Union, but a very specific hope that the success of the INF negotiations as embodied in this treaty, hopefully a treaty that will be ratified shortly, will give a powerful impetus to the ongoing negotiations with respect to the far more important subject of strategic arms reductions.

If the amendment as it was originally presented had been adopted, it might well have had a chilling effect on some of the potential agreements that might have come toward the end of the current President's term. This changed version avoids those problems in my view, and I want it clear that those of us who opposed the original amendment did so in a bipartisan spirit, working with the principal negotiator of the INF Treaty.

And I wish at this time to again compliment Ambassador Glitman for his outstanding work in negotiating the treaty in Geneva and in his work on this particular matter. Again in thanking the Senator from North Carolina I want to pay my respects particularly to the Senator from California, Senator CRANSTON, who has played such leadership in this and other matters.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield myself 4 minutes.

The amendment offered by the Senator from North Carolina is being substantially revised, and I think meets the objections that many had to the original one. The new version does away with the more onerous aspects of the previous one.

I am pleased that paragraph (c) of the declaration dealing with Senate oversight of negotiations affirms that there shall be close and detailed consideration of the Senate's advice as negotiations proceed and that the Senate's judgments and recommendations will be given proper consideration, while not placing the Senate in a too-intrusive position.

Paragraph (e) deals with the obligations of the United States in the period between the signing of new treaties on conventional forces and strategic arms and their ratification pursuant to the consent of the Senate. Nothing in this section would be inconsistent with our obligation under customary international law to refrain from acts that would defeat the object and purpose of such treaties.

As Senator HELMS said himself during the committee's last INF hearing with Secretary Shultz, our hearings, "I think you will find that international law requires the signatories to take no steps to defeat the object and purpose of the treaty before it is ratified."

Paragraph (g) contemplates that this President or the next President may agree with the Soviet leader on the framework to guide further negotiations. I would agree that any such framework should not obligate the President to disarm or to reduce or to limit our Armed Forces. At the same time, the President should remain free, as he is under this formulation, to take unilateral actions regarding our forces pursuant to his authority as Commander in Chief.

So I question whether the declaration is necessary. It has been much improved, and since it does not have legal force, I will not oppose it.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island has 5 minutes and 28 seconds remaining, and the Senator from North Carolina has 4½ minutes remaining.

Mr. PELL. I yield 2 minutes to the Senator from Washington, Mr. ADAMS.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. I thank the chairman. I want to compliment those who have worked on this particular amendment and the changes that have occurred. I think it is terribly important, Mr. President, that we send a strong message with this treaty, which I believe now that this amendment does, that the United States is looking forward to a regime in the future, for future generations where we reduce the total number of nuclear weapons significantly. If we had not changed this, it might have had, as the Senator from Tennessee so well stated, a chilling effect. We do not want a chilling effect. We hope that the President of the United States and the General Secretary of the Soviet Union join together in the beginning of a movement toward reducing the 25,000 nuclear warheads that face one another.

I think as we have worked on this treaty, Mr. President, a great many Senators have spent a great deal of time trying to be certain that this treaty was truly a step toward a new set of relations in the world where the superpowers begin to build their economic strength again, and not simply be involved in an endless arms race.

I think the Senator from North Carolina is to be complimented for his strong views that he has had, and his understanding in this particular case that it is the future that we are talking about. And it is the hope and intent of all of the Senators, and I think it is now expressed in this treaty, that we will move toward a total reduction in arms. I hope the treaty will be voted for, Mr. President. I will vote for this amendment.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time? The Senator from Rhode Island has 3 minutes, 45 seconds; the Senator from North Carolina has 4½ minutes remaining. Who yields time?

Mr. PELL. I suggest the absence of a quorum.

Mr. HELMS. Mr. President, will the Chairman withhold?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I believe the distinguished Senator from Indiana, Mr. LUGAR, has a couple of questions, after which I shall address the unusual and bemusing comments made by the Senator from California and others who must now realize that their position of yesterday, had then, and does not now have majority support.

Mr. LUGAR. I thank you very much.

I have two questions, Mr. President. With regard to paragraph A in the declaration, is it to be understood that the phrase "general equivalence" should be construed to mean that a strategic arms treaty need not require identical force structures?

Mr. HELMS. I say to the Senator that is absolutely correct.

Mr. LUGAR. I thank the Senator. With regard to paragraph (g) in this declaration is it understood that this paragraph has no application to separate policy decisions of the President? For example, the President will not be precluded from using existing authority to reduce or increase arms for reasons other than complying with the terms of a framework agreement?

Mr. HELMS. The Senator is correct. There is a separation. It would not have clear sense otherwise. I say the Senator is correct.

Mr. LUGAR. If I may have the indulgence of the Senator for a few seconds, let me respond to a question raised as to how we came to this declaration, that in a general meeting of leadership Senator HELMS indicated a very strong interest which members of that leadership group share. As one who sat around the table with the distinguished Senator, we pledged to work with him on that repatriation. There was no pledge. It is specific wording. There certainly was a good-faith intent on the part of all parties. I am pleased to support the declaration the Senator has brought forward.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes and 40 seconds.

Mr. PELL. I yield 1 minute to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, let me compliment all Members who have been a part of this negotiation. This is a dramatically different amendment than the one that was moved to be tabled last night. I think that has changed in the way that all parties can accept. I want to thank all Senators for taking those steps. I believe if it passes, the President will not be shackled in his discussions with Mr. Gorbachev at the summit. And I thank all Senators for their persistence. I hope we will accept this amendment.

I thank the distinguished Senator from North Carolina for making the modifications.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Rhode Island has 2 minutes 40 seconds remaining. The Senator from North Carolina has 2 minutes 48 seconds remaining.

Mr. PELL. I am prepared to yield back my time.

Mr. HELMS. I am not quite, I say to my friend, because in facing defeat of their position, it appears to me that some Senators, who had no part in writing this declaration are trying to rewrite it now with rhetoric rather than with binding terms.

In fact, Mr. President, as I listened to some of the earlier comments I wondered if the Senators who are talking about this declaration being watered down had read it. I am satisfied with it. I would have liked one particular section to be a little bit stronger, but in any case I certainly appreciate the support of my distinguished colleagues from California, Tennessee, and other States—although in some cases I must say that in candor that I am somewhat baffled by it.

I thank the distinguished majority leader, the distinguished minority leader, and the distinguished assistant minority leader for cosponsoring this amendment. I have no pride of authorship. We have to start from somewhere. You have to realize that beauty is in the eye of the beholder. I hope the beholders who attempt through debate to create an impression that we have given away the store on this matter will at least read it and see what has been done. They may wish to change their position based on what I know of the past views. But perhaps they have had a revelation over night.

At least the legal adviser for the Department of State understands precisely where this amendment is coming from and what it accomplishes. I inserted his letter in the RECORD at the outset of my remarks just a few moments ago. He said:

> DEAR SENATOR HELMS: The Declaration you have proposed states principles and considerations by which the present Administration and future Administrations would have a duty to be guided, since it would be adopted as a valid condition and would constitute the basis on which the Senate grants its advice and consent.
>
> This undertaking does not constitute a legal precedent for other purposes, or for any other declaration.

Of course I did not intend that it would affect other declarations. It is this declaration which must be clearly binding. It is signed Abraham Sofaer, legal adviser to the State Department.

This declaration sets forth the position of the United States of America—not the Senate—but the entire Nation with respect to any potential strategic arms limitation treaty, or any other arms treaty. It is a binding declaration of instructions to this and all—all—future Presidents on the need for full coordination with this Senate, for due regard for the advice of the Senate during negotiations—and for consultations with our NATO allies. I referred earlier to the letter from the administration. So I will not repeat that. The declaration places the Senate where the framers of the Constitution intended it to be: squarely in the middle of treaty negotiations through advice to the President based on coordination of information from and to him. It gets the Senate back where it was meant to be: at the takeoff and not just the landing.

As I said, I have discussed this matter with the Chief of Staff at the White House, the former majority leader of the Senate, Mr. Baker, this morning, and Mr. Culvahouse, legal counsel at the White House. I am perfectly satisfied that this amendment accomplishes precisely what I wanted to do. I am particularly satisfied that it eliminates the concept that asserted concepts of international custom can supersede the Constitution.

I regret the suggestion that we had to back down or that it was watered down. It is particularly peculiar in that neither those making the suggestions nor their staffs had any part whatsoever in the strengthening revisions made in discussions with the administration. In any case, I am delighted to have the support of all Members on the matter, even those whose position was defeated yesterday and who now seek to claim victory while in the awaiting jaws of their defeat.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island has 2½ minutes.

Mr. PELL. Mr. President, I point out that the administration, which opposed the amendment originally offered by Senator HELMS, is now in support of it. I congratulate Senator HELMS and the administration.

Mr. HELMS. Mr. President, I reclaim some of my time.

They agree with us now. We sat around the table about 4 or 5 hours. I would state to the Senator that the extent of disagreement was not significant—nor particularly substantive—but that the wordsmithing was arduous because all recognized that we were creating in perpetuity binding obligations.

I say again that this amendment accomplishes what I set out to accomplish, that it does so in very precise fashion, and that I am delighted that we have such a clear understanding with the executive about its legal duty to observe its requirements and to implement its provisions completely and faithfully.

I suggest that the news media read the amendment and see what they think of it, rather than accept the suggestion that it was watered down. It speaks for itself and does not need the gratuitous characterizations of those who now—I suspect with great but supressed reluctance—now profess support.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], is absent due to illness.

I also announce that the Senator from Ohio [Mr. GLENN], is absent because of death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 165 Ex.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—4

Bumpers
Hatfield
Hollings
Johnston

NOT VOTING—2

Biden
Glenn

So the amendment (No. 2317), as modified, was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2330

(Purpose: To provide for the phased withdrawal of the dependents of all United States military personnel stationed in Europe during the first 29 months after the entry into force of the Treaty, to provide that all military personnel who shall, after the entry into force of the Treaty, be newly assigned to duty on the continent of Europe be so assigned for any tour of duty in excess of 12 months and that such tour shall be unaccompanied, and to provide for the phased withdrawal of all United States military personnel from the continent of Europe beginning after the completion of the withdrawal of dependents and ending not later than the third year after the entry into force of this Treaty)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator form North Carolina [Mr. HELMS] proposes an amendment numbered 2330.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Resolution of Ratification, insert the following before the period: "; provided further, however that the following text shall be included in any instruments of ratification exchanged between the parties:

"DECLARATION. It is the policy of the United States that:

"1. By the end of the first phase, that is, no later than 29 months after entry into force of this Treaty, all dependents of all United States military personnel on the continent of Europe shall have been withdrawn from that continent pursuant to such rules and regulations as may be prescribed by the Congress of the United States;

"2. After the entry into force of this Treaty, no United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall be newly assigned to duty on the continent of Europe for any tour of duty in excess of 12 months and having served such tour shall not thereafter be reassigned to that continent except in case of war declared by the Congress of the United States; provided, further, that no tour of duty limited in duration by this subparagraph shall be a tour accompanied by dependents; and

"3. By the end of the second phase, that is, no later than three years after entry into force of this Treaty, all United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall have been withdrawn from the continent of Europe pursuant to such rules and regulations as the Congress of the United States may prescribe for such purpose; provided, further, that thereafter, subject to the exclusion hereinbefore specified, no United States military personnel shall be stationed on the continent of Europe except after a declaration of war by the Congress of the United States expressly so providing."

Mr. HELMS. Mr. President, it is important to look at the INF Treaty from the standpoint of Soviet strategy. When we are trying to predict Soviet behavior, including compliance with the INF Treaty, we have to try to recreate in our minds the motivating factors that underlie Soviet military structures and deployments.

I have heard it said, over and over again on this floor, that there is little military significance to this treaty. It has been stated that the original Soviet deployment of the SS-20 didn't make much sense from a military standpoint—that, indeed, these deployments were only intended to have a political impact. It has been said that this treaty cannot create a military threat because it only removes 3 percent, or some say 5 percent of the warheads in Europe. It has been repeated, almost like a ritual incantation, that NATO forces in Europe will still have 4,000 nuclear warheads left as a presumed deterrent against Soviet forces.

The Senator from North Carolina has listened to these statements with growing amazement. It is almost a self-evident fact that massive military deployments do indeed have important military significance; they give such overwhelming military power that no conventional military force could hope to withstand them—and that in turn results in massive intimidation.

Most of the 4,000 nuclear warheads in Europe are of types that were there at the time of the deployment of the SS-20's, and their lack of deterrent capability was the reason NATO agreed to deploy the Pershing II's. Most of those so-called warheads are on zero-range or short-range weapons useful on a battlefield, but not capable of threatening retaliation against command and control centers in the Soviet Union. General Rogers, former commander of NATO, has given positive testimony that these warheads are not capable of deterrence.

There are only two good reasons to sign any arms control treaty. First, to reduce the risk of war. Second, to enhance the security of our country. Tragically, the INF treaty accomplishes neither purpose.

The Soviets enjoy a decisive 5-to-1 margin of superiority over our forces in Europe, on the basis of their strength in chemical and conventional warfare forces. As Winston Churchill has reminded us, "Strength helps prevent war. Weakness invites aggression."

The danger of war is enhanced if the totalitarians in the Kremlin see an opportunity to dominate Western Europe at minimal military risk. With the removal and destruction of our Pershing II missiles, we will surrender our ability to retaliate effectively against Soviet aggression. We will no longer be able to hold at risk 2½ million Communist troops, 40,000 Communist tanks, and 6,000 Communist fighter aircraft.

With the elimination of our nonnuclear ground-launched cruise missiles, we will no longer be able to disrupt Soviet supply lines as a way of neutralizing the enemy's "blitzkrieg" strategy.

Warsaw Pact supply routes in Eastern Europe contain thousands of choke points, most or all of which could be disrupted with nonnuclear cruise missiles. Without those supply routes, Communist-bloc forces simply would be stranded in the field.

Soviet and Warsaw Pact armies already have created the basic structure—bridges, roads, storage depots, airfields, and fuel supplies—necessary to mount a European invasion.

Mr. President, why has the Soviet Union and the Warsaw Pact created such a tremendous force structure in Eastern Europe? Why have they built the infrastructure for an invasion of the West when the West has never shown the slightest inclination to prepare for an invasion of the East?

Mr. President, the Soviet Union has made these massive deployments because, from the Soviet standpoint, they follow eminent strategic and military logic. We must remember that the Soviet Union has always considered an invasion from Europe to be a strong threat to its national security, from the time of Napoleon's campaign. In the United States, we look upon strategic threats as threats which could deal an overwhelming blow to the American homeland. In our view, these could come only from the Soviet Union, so we have a tendency to include only intercontinental striking forces as "strategic."

But the Soviets look at it differently. Any strike, from whatever place of origin, is considered strategic when it is capable of striking deep within the Soviet Union. A prime object of their strategy, therefore, has always been to protect against an attack coming from Europe. There has been an inbred assumption in Soviet thinking that the Soviet Union cannot rest easy until all the countries of Europe are "peace-loving"—that is, governed by Communist governments controlled by the Soviet Union. The key aim, therefore, is to nullify any military power in Western Europe capable of striking the Soviet Union, destabilize existing governments, and replace them with governments friendly toward communism.

Mr. President, the INF Treaty helps the Soviets to accomplish the objective of nullifying Western military power in Western Europe. The removal of the Pershing II's cuts the heart out of any deterrent to Soviet invasion. The Senate has received testimony that NATO could fight for less than a week against the massive Soviet/Warsaw pact military deployment. Moreover, the INF Treaty does not remove the Soviet nuclear threat against Western Europe. Testimony received by the Foreign Relations Committee showed clearly that the Soviets can remove the SS-20 delivery vehicles from the warheads, and bolt new SS-25 delivery vehicles onto the old warheads. We heard talk about all the declarations about warheads being destroyed. Finally that misrepresentation was abolished. In short, the INF Treaty gives the Soviets a way to modernize their own nuclear weapons, while eliminating the NATO nuclear capability completely.

Thus Soviet armies can move into Europe and take it over in a few days, and NATO has no way to stop them. Moreover, the inherent threat provided by this Soviet capability is enough to demoralize and destabilize Western politics, inducing gradual accommodation and "cooperation" with Russia.

Moreover, the INF Treaty will deliver over 600,000 U.S. hostages into the power of the Soviet Union. Today, in 1988, 325,000 American military personnel and 300,000 of their dependents are on the frontiers of freedom in West Germany. Today, these men and women have a clearly defined mission—to deter and, if necessary, to defeat a Soviet-initiated attack on Western Europe. In 3 years, however, if the INF Treaty is ratified, those 625,000 American will have replaced our missiles as the main barrier to Soviet intimidation and aggression.

Instead of using Pershing II's and GLCM's to ward off a Soviet attack, our soldiers and their dependents will be standing, completedly exposed, in the breach. Our troops are good, but their equipment is no match for the Soviet/Warsaw pact armies backed up with SS-25's and other nuclear weapons.

Twice in this century our troops have been sent to fight "no-win" wars, in Korea and in Vietnam. In both places, our Government's goal was not victory, but stalemate. Tens of thousands of our sons were sacrificed for the sake of State Department theories and diplomatic negotiations. Now in Western Europe we are once again about to sacrifice our children on the altar of arms control, detente, and so-called "limited war" theories.

Despite an unbroken record of Soviet cheating on every treaty we have ever signed with the Soviet Union, the Senate, undoubtedly, in just a few minutes, will entrust the lives of our young people and the security of our country to yet another treaty.

I believe it would be unconscionable to leave our young people as hostages in Europe, knowing full well that if war breaks out—and I am tempted to say "when," instead of "if"—that there is nothing the United States can do or will do—knowing that the Europeans will do scarcely anything more themselves, as has been the case in the past couple of decades, to provide for their own defense.

Specifically, this amendment provides for the phased withdrawal of the dependents of all United States military personnel stationed in Europe during the first 29 months after the entry into force of the treaty, to provide that all military personnel who shall, after the entry into force of the treaty, be newly assigned to duty on the continent of Europe be so assigned for any tour of duty in excess of 12 months and that such tour shall be unaccompanied, and to provide for the phased withdrawal of all U.S. military personnel from the continent of Europe beginning after the completion of the withdrawal of dependents and ending not later than the third year after the entry into force of this Treaty.

The withdrawal of U.S. forces from Europe is inherent in the meaning of the INF Treaty. If we are voluntarily removing the only deterrent to Soviet aggression in Europe, we will be leaving our young men and women completely exposed to that same Soviet aggression. U.S. forces in Europe cannot hope to hold back a Soviet attack when the deterrent weapons to back them up have been removed.

The amendment I am proposing therefore provides for the phased withdrawal of U.S. troops and their dependents in conjunction with the withdrawal of our Pershing II and ground-launched cruise missile force as scheduled in the INF Treaty.

Specifically, it provides that by the end of the first phase of missile withdrawals—29 months after entry into force—all dependents of the all American military personnel shall have been withdrawn from Europe.

In addition, it provides that by the end of the second, and final phase of missile withdrawals—3 years after entry into force—all American military personnel, except those necessary for protection of diplomatic missions, shall have been withdrawn from Europe.

Therefore, by the time that all of our missiles have been withdrawn, so will all of our troops and dependents. This is a minimum step that we can pass for the safety of these young men and women.

One final note, and I do not think many Americans are aware of this even yet. It costs the American taxpayers $447 million every day to defend Europe. I think it is high time that Europe defend itself and pay for it, certainly under the circumstances, when there is a great possibility and probability that these young people, our fighting personnel, will be left hostage to that superior onslaught of conventional forces by the Soviet Union.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Parliamentary inquiry. Who controls the time?

The PRESIDING OFFICER. The Senator from Rhode Island controls the time in opposition to the amendment.

Mr. BUMPERS. Will the Senator from Rhode Island yield me 2 minutes?

Mr. PELL. I have a summation statement here. Let me speak for a minute, if I may.

Mr. President, I just wanted to tell my colleagues that I received a letter from Joe Biden, who wants his thanks to go to all of those who supported him and helped him in the effective advocacy of his original matter and said that he hoped to be back joining us before long.

Mr. President, I ask unanimous consent that the letter to me from Senator Biden be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, May 27, 1988.

Hon. Claiborne Pell,
Chairman, Foreign Relations Committee, U.S. Senate, Washington, DC.

Dear Claiborne: I would be very grateful if you could take just a moment of the Senate's time to express my regard for those Senators who worked so ably to uphold the condition on treaty interpretation adopted by the Foreign Relations Committee. I was proud of the Senate's action yesterday—not in expanding its power but in upholding the balance of power on which our Constitutional government depends.

I was particularly gratified by the effective advocacy of Senators Sarbanes, Nunn, Dodd, Levin, Cranston, and Kerry in support of the Majority Leader, without whose clear priorities and determination this crucial result would not have been obtained. I would also add a word of praise to Senator Cohen, whose integrity is a special asset for the Senate.

With the Senate's share of the Treaty Power now reaffirmed, I look forward to returning soon to work with my colleagues on the thorough review of the War Power that the Foreign Relations Committee will now commence.

Sincerely,

Joseph R. Biden, Jr.,
U.S. Senator.

Mr. BUMPERS. Will the Senator yield me 2 minutes?

Mr. PELL. There are only 2 minutes remaining.

Mr. BUMPERS. One minute?

Mr. PELL. I yield 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I want to say that the Senator from North Carolina is onto a really serious problem. His amendment is entirely too precipitous to be taken seriously when you talk about withdrawing troops from Western Europe.

But, just for the edification of this body, the United States spends twice as much per capita to defend Western Europe as any other nation. As a matter of fact, it is the Scandinavian nations who make the biggest personal sacrifice for defense.

Paul Kennedy, in his book called "The Rise and Decline of a Great Power," says very simply that if we continue to spend 7 percent of our gross national product per year, which we are doing, to defend countries like Japan, who spend 1 percent of theirs, we are going to remain in decline.

The Soviet Union is spending somewhere between 15 and 25 percent and they are in a much greater state of decline than we are for the same reason.

So I want to say to the Senator from North Carolina that I will not support his amendment because, as I say, I think it ought to be negotiated and done in a timely way. But what he is trying to do is right on target. The United States has been a patsy entirely too long.

It is their defense, it is their countries, and we are spending twice as much, making twice as big a sacrifice as they are.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I thank the Senator from Rhode Island for yielding.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time for the opponents has been yielded back.

Mr. HELMS. Do I have time remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 21 seconds remaining.

Mr. HELMS. I yield such time as the Senator from Texas may require.

Mr. GRAMM. Mr. President, I will be brief. I did not know we were in decline. We have created, since 1982, more jobs than all of trading partners combined. If that is in decline, I hope it continues and I hope it spreads to Texas.

I yield back the remainder of my time.

Mr. BUMPERS. Will the Senator yield 10 seconds?

I just want to say, you let me write a $200 billion check to you and I will show you a good time, too, Senator.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina [Mr. Helms].

The amendment (No. 2330) was rejected.

The PRESIDING OFFICER. Under the previous order the Senate will now vote on the question on the adoption of the Resolution of Ratification of Calendar No. 9, treaty document No. 100-11.

The majority leader is recognized.

Mr. BYRD. Mr. President, I ask to proceed for 30 seconds.

The PRESIDING OFFICER. Without objection.

Mr. BYRD. Mr. President, I ask unanimous consent that all Senators may submit their statements for the Record until 5 o'clock p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this will probably not be the last rollcall vote today. So stick around.

INF: A FLAWED TREATY THAT WILL WEAKEN EUROPE'S DEFENSE

Mr. HOLLINGS. Mr. President, today's vote on the INF Treaty is an act of retreat. We have begun the march back down the hill. Seven years ago we and our NATO allies charged up that hill with courage and resolution. In the face of Brezhnev's crude attempt at intimidation—his deployment of SS-20's targeted at Western Europe—we jointly deployed Pershing II and cruise missiles in Europe. Brezhnev's bluster was defeated, and the NATO alliance stood strong.

However, what the Soviets could not win through bombast and intimidation, they are winning today through public relations and finesse. Chairman Gorbachev is attractive, smart, and savvy—and therefore dangerous. He seeks hegemony, not through the sledgehammer of SS-20's, but through the low-key, insidious influence of overwhelming conventional superiority in Europe.

Sixteen years ago, when SALT I was being negotiated and ratified, the fervor and fetish of the day was for "bargaining chips." Today, in the negotiation and ratification of the INF Treaty, the fetish is "verification." We have had some 27 amendments proposed to this treaty, and the overwhelming majority have focused on issues of verification. The shame is that this obsession with verification has distracted the Senate from the central issue—the critical flaw—of this treaty, which is that, though it purports to be a nuclear arms treaty, it is also the most significant conventional arms treaty in history.

For misguided reasons related to verification, the INF Treaty bans conventional ground-launch cruise missiles [GLCM's], a weapon which could be of incalculable value in the defense of Western Europe from Soviet ground attack. Yet, as we have discovered in the ratification hearings, this ban was a unilateral concession by U.S. negotiators. We received no concession in return. What is more, the impact of this ban will be strictly to the disadvantage of the West. The Soviets have no GLCM's; they have no need for GLCM's, because they have already covered all important West European military targets with their short-range missiles permitted by the INF Treaty. Meanwhile, NATO is sacrificing the most potent weapon in its conventional arsenal, a weapon we have already deployed and one which the highest Pentagon advisory boards have identified as critical to the long-term conventional defense of Europe.

Of course, this is all the more ironic because everyone agrees that the INF Treaty will make it imperative for NATO to boost its conventional capabilities; and no weapon is more ideally suited—in terms of affordability and military value—than the conventional GLCM. A NATO defense premised on, say, 3,000 conventional GLCM's would raise the nuclear threshold and bring real credibility to our defense. What is more, it would promote cohesion within NATO, because it would require a collective alliance decision to launch the GLCM arsenal in response to a Soviet attack. Instead, with the elimination of this conventional, all-alliance defense based on GLCM's, we are forced to revert to defense based on the threat of massive nuclear retaliation by the United States. This nuclear defense posture excludes the Europeans from the decision process—the United States must act unilaterally. And it is manifestly lacking in credibility: No one seriously believes we will let loose a barrage of MX's from the American Midwest in response to a Soviet incursion into West Berlin.

This is the box we are painted into by the INF Treaty. It is a giant step backward. It returns us to a fatalistic, noncredible reliance on massive nuclear retaliation. It lowers the nuclear threshold. It denies NATO its best bet for an effective, credible, conventional defense.

In our misguided zeal for abstract verification, we have been distracted from the crux of this treaty. The INF Treaty sacrifices NATO's security. I believe we should reject it.

INF TREATY RATIFICATION

Mr. HARKIN. Mr. President, I rise in strong support of the INF Treaty.

President Reagan is to be congratulated for persevering on the so-called zero option.

Mr. Gorbachev is also to be congratulated for agreeing to a treaty that calls for the Soviet Union to destroy twice the number of missiles, carrying four times the number of warheads with eight times the megatonnage. Can you imagine the uproar here in the Senate if we were asked to ratify a treaty which forced the United States to give up two or eight times the power of the Soviet Union?

Fortunately, Mr. Gorbachev has learned the lesson of the nuclear age: Nuclear superiority has no meaning. Nuclear weapons have become our common enemy. The nuclear arms race is consuming resources in both countries that are needed to expand our economies and to solve our immediate societal problems, including the environment, crime, drugs, deteriorating bridges, and cities.

We are bleeding our economies to expand our nuclear arsenals, increasing the chances of a nuclear holocaust in the process. What foolishness!

A few hundred nuclear explosions would destroy either civilization. Today we each have over 10,000 strategic or long-range nuclear weapons. In addition, even after the INF nuclear weapons are removed, we will have over 4,000 tactical or battlefield nuclear warheads or bombs left in Europe, and the French and English have over 800 nuclear warheads, twice the number the United States will remove under the treaty.

Under these conditions, does it really make any difference if the Soviets have to remove 1,600 INF warheads while the United States has to remove only 400? Fortunately, Mr. Gorbachev recognized that starting the process of nuclear arms reductions was much more important than haggling over asymetries in the numbers.

THE PERSHING II

Some treaty detractors have made the claim that our Pershing II missiles are much more important than the Soviet's SS-20. By this line of reasoning, the Soviets will gain militarily by giving up 405 of the triple-warhead SS-20's to remove 120 of our single-warhead Pershing II's. Frankly, I would have a hard time explaining to the Politboro how removing 120 Pershing-II nuclear warheads justifies eliminating 1,215 SS-20 warheads.

This argument is based on the claim that only the Pershing II can threaten Soviet strategic forces with rapid retaliation, whereas the SS-20 targets in Western Europe can be covered by the long-range Soviet SS-24's or SS-25's that are not covered by the INF Treaty.

In place of our weapons removed by the INF Treaty, we could use our strategic weapons based in the United States to aim at the Warsaw Pact targets, but, according to this reasoning, we would not risk attack on the United States to respond to an attack on Europe * * * a plausible supposition.

We could use aircraft to deliver an estimated 1,700 tactical nuclear bombs. However, they are slow, and they would have to fly through Soviet air defenses.

We could use submarine-based missiles, including the Poseidon submarines assigned to NATO. Each Poseidon carries 16 missiles with 10 to 14 warheads each; thus each Poseidon carries more warheads than we have deployed on all the Pershing II missiles.

But, the detractors say, the Poseidon does not have the accuracy to destroy Soviet buried silos or command and control bunkers. These Poseidon warheads could, however, attack almost all other Warsaw Pact military targets including airfields, ports, radar installations, supply depots, fuel tank farms, barracks, antiaircraft installations, and so forth.

The bottom line, then, is the Pershing II serves one purpose and one purpose only, compared to the other nuclear retaliatory forces assigned to Europe: The Pershing II has "prompt, hard-target kill capability." It could attack Soviet command and control and underground silos. In a crisis, this capability would be destabilizing * * * it would give the Soviets strong incentive to use nuclear weapons early * * * to use them or lose them.

Do we really want to give the Soviets incentive to use nuclear weapons in a crisis?

Mr. President, it seems to me that the European nuclear balance will be much more stable without the Pershing II. I argued against deploying the Pershing II in the first place for this very reason. The INF Treaty now allows us to remove not only this destabilizing weapon, but also all 405 deployed SS-20 missiles as well as all stored missiles. This is a bargain we cannot refuse.

This treaty is clearly in the best interests of the United States and the Soviet Union. This is not a zero sum game. We both win.

In the nuclear age, there is no American security without Soviet security. There is only common security.

FLEXIBLE RESPONSE

Another argument against this treaty is that it removes one rung on the ladder of flexible response. Without the INF weapons, so the argument goes, we would have to escalate quickly from using tactical nuclear weapons to strategic weapons. This would deprive us of one major opportunity to control and limit a nuclear war.

There are—at least—two major fallacies with this supposition: First, that the Soviets would not be deterred by 4,000 tactical nuclear weapons, by 800 French and English nuclear weapons, and by 11,000 strategic nuclear weapons, and, second, that we could control and limit a nuclear war even with INF weapons.

Are we to believe that the Soviets are deterred by 16,200 nuclear warheads, but they would not be deterred if we only had 15,800 warheads? Did we not deter nuclear war for 40 years prior to the introduction of these INF weapons just 4 or 5 years ago?

We forget that we got along fine for decades without these INF weapons. They were installed to counter the SS-20's, or at least so we were told. Now that the SS-20's will all be removed, we have lost our original reason for the Pershing II and the ground-launched cruise missiles.

DECOUPLING

Detractors of this INF Treaty also claim that the United States would be decoupled from the defense of Europe. Without the INF weapons, so they say, the United States would not come to the aid of our NATO allies in the remote event that the Soviet Union should ever attack Western Europe.

Are we to believe that the United States would not become involved when we have over 200,000 ground troops stationed in Central Europe? Would we do nothing as our young men were directly engaged in this hypothetical battle? This is preposterous.

No one questioned that we would defend NATO in 1980, before these few extra INF weapons were placed in Europe. Why would we behave any differently now, with the withdraw of a few percent of our vast nuclear arsenals?

NUCLEAR WEAPON FREEZE

Finally, I would like to comment on claims by some that the success of the "zero option" proposal, which led to this INF Treaty, proves once and for all that the nuclear weapons freeze concept is a bad idea. I agree that, in the case of INF weapons, we did gain a net reduction in Soviet SS-20 missiles by introducing our own INF weapons.

However, we should also note that the United States has no deployed weapons in the shorter range (500 to 1,000 km), and yet the Soviet Union under Gorbachev still agreed to remove all 387 of their existing SS-12 and SS-23 missiles. At least in this case, we did not need to build up our weapons to induce the Soviets to eliminate their missiles in this range. We do have 178 of the old Pershing I missiles stored in Colorado. But even here the Soviets have many more stored missiles of the shorter range category: 539.

More importantly, the success of the INF Treaty in getting the Soviets to remove the SS-20's does not automatically extend to the strategic arena. And, after all, it is the massive strategic nuclear arsenals on both sides that most threaten the future of our world.

The intermediate range nuclear weapons form a unique situation: The Soviets had weapons in this range, and we did not.

This is not the case with strategic weapons: We both have massive strategic nuclear arsenals. There is no need to build more strategic weapons to convince the Soviets to reduce. We have plenty of weapons to negotiate, thanks to 40 years of building these weapons of mass destruction.

Detractors of the freeze fail to account for Soviet advances in deployed strategic forces since 1980. Between 1980 and 1986, the Soviet Union in fact added 2,500 more strategic nuclear warheads and 885 nuclear bombs or cruise missiles, or a total of 3,385 more strategic nuclear weapons. Had we agreed to a nuclear weapons freeze in 1980, there would be 3,385 fewer strategic nuclear weapons in the Soviet arsenal today.

As a matter of fact, a nuclear weapons freeze in 1980 would have established about the same quantity of Soviet warheads now considered under the START negotiations: about 6,000 warheads.

In other words, since 1980, the Soviets have added the very warheads that would be removed under START, should the START negotiations succeed. However, in 1980, the United States had about 7,000 deployed warheads on land-based and submarine-based missiles. Thus we would have been in a slightly better position with a nuclear weapons freeze in 1980 than with the proposed 6,000 warhead limit suggested under START.

The INF Treaty requires the Soviets to remove missiles carrying 1,667 warheads. A nuclear weapons freeze in 1980 would have prevented them from adding 3,385 strategic nuclear weapons * * * the freeze would have given us a net gain of 1,718 warheads.

Furthermore, a nuclear weapons freeze did not and does not preclude large reductions in nuclear weapons. In fact, the original freeze declaration in the 1979-80 time period stated clearly that the freeze was merely the first step, to be followed by reductions. Had we and the Soviets agreed to a freeze in 1980, then we could have moved to lower levels yet, starting from the level of 6,000 warheads instead of today's 10,000 warhead levels.

A nuclear weapons freeze today on strategic nuclear weapons would still be in the best interests of the United States and the world. If we proceed with current research and development of the next generation of nuclear weapons, we will degrade our future security when the Soviet Union develops these new weapons, as they always do.

For example, we are now developing Earth penetrating warheads, precision guided maneuvering reentry vehicles, and weapons designed to track down and kill mobile targets in the Soviet Union. These weapons, if developed and deployed, would degrade our security, because they would be used to destroy Soviet command and control bunkers and retaliatory missiles. In a crisis, these new weapons would create incentive for the Soviets to strike first, to "use them or lose them." These new weapons would lower the nuclear threshold.

We are also experimenting with nuclear-pumped directed energy weapons at the Nevada test site. These weapons would focus some form of energy such as x rays or microwaves over long distances. We would no longer have to explode a nuclear weapon near its intended target, thereby reducing the chances of "collateral damage"—meaning fewer civilians killed. With reduced collateral damage, future military or civilian leaders might be more inclined to use nuclear weapons. Escalation to nuclear war would be more likely in the future.

In addition, when the Soviets caught up to us and developed their own nuclear pumped directed energy weapons, our military assets, particularly those in outer space, would be placed in grave jeopardy. Ironically, these third generation weapons would be the death knell of star wars: Soviet nuclear pumped x rays or microwaves could destroy our space-based star wars battlestations.

We can stop the Soviet Union from developing these dangerous new weapons with a ban on nuclear weapons explosions, a ban on flight tests, a ban on all weapons in space, and a halt to the deployment of new weapons—that is, a nuclear weapons freeze.

That is why Senator HATFIELD and I, along with eight of our colleagues have introduced S. 2346, the "Outer Space Protection Act of 1988," which calls for a ban on all weapons in space and the testing of all weapons designed to destroy objects in space, provided that the Soviet Union also refrains from these two activities.

There are no weapons in space today; the space weapons genie is still in the bottle. We can keep it there. If you agree that our national security would be protected by banning all weapons in outer space, I urge you to cosponsor S. 2346.

Deep reductions in nuclear weapons such as those discussed now in the START negotiations without a freeze on improvements in technology could lead to a less stable nuclear environment. Focusing exclusively on numbers of weapons would ignore destabilizing new weapons developments that threaten our security in the future. Even if 50 percent reductions were agreed to in START, returning us to 1980 levels of nuclear weapons, the Soviets could continue to develop third generation weapons.

The nuclear weapons freeze on strategic nuclear weapons was a good idea in 1980 and remains the best hope to stop the qualitative, technological arms race in 1988. Combining a freeze on qualitative advances in nuclear weapons with deep reductions in the quantity of weapons offers the best hope for an enduring and stable peace.

In conclusion, Mr. President, the INF Treaty is a small but significant step toward stopping and reversing the nuclear arms race. It resumes the momentum of arms control after 7 years of nuclear weapon escalation by this administration. It paves the way for deep reductions and movement toward more stable nuclear arsenals, provided that the next administration backs away from the quest for nuclear superiority in offensive and defensive weapons. A freeze on the qualitative advances in nuclear technology combined with deep reductions in offensive forces would dramatically improve our common security as we enter the 21st century.

Mr. President, I enthusiastically support the INF Treaty. This treaty marks the first time in 16 years that there has been an overwhelming, bipartisan consensus that arms control is a necessary and vital part of our national security.

Now we must continue and expand the momentum of arms control. The INF Treaty begins to reduce the threat of a nuclear holocaust in Europe. Now we need to reduce the threat of nuclear war in the United States by jointly reducing our much larger strategic nuclear forces.

There are those who are counseling to "go slow." Mr. President, we have heard these words of caution for over 40 years * * * "Go slow" on arms control while the arms makers go full speed ahead. We must reverse the priorities: stop the qualitative arms race and move full speed ahead with arms reductions. Otherwise the meager gains of the INF Treaty will soon be overcome by new advances in strategic and tactical nuclear weapons.

The arms control process must continue and expand in the years ahead. We have taken but the first step.

Mr. COHEN. Mr. President, the Senate has essentially concluded with its floor consideration on the treaty between the United States and the U.S.S.R. on the elimination of their intermediate-range and shorter range missiles—the INF Treaty. In the 4 months since the treaty was formally transmitted to this body, the Senate, acting through its committees, has been engaged in an extremely productive review of the treaty, its meaning, and its implications for the security of the United States and our allies.

As the vice chairman of the Select Committee on Intelligence and a member of the Committee on Armed Services, I have had the opportunity to participate in the deliberations of those committees on the treaty and related matters. Both committees held numerous hearings on treaty-related matters on which they have special expertise and issued reports setting forth their findings, conclusions, and recommendations.

As a result of this review, the meaning and the implications of the treaty are much better understood both by Members of the Senate and, I believe, by administration officials. This review has led me to the conclusion that the INF Treaty would serve the security interests of the United States and our allies. Accordingly, I vigorously support the Senate giving its advice and consent to ratification.

INTELLIGENCE COMMITTEE DELIBERATIONS

From last September to March of this year, when it submitted its report, the Intelligence Committee conducted 15 closed hearings and 17 on-the-record staff briefings on INF monitoring, in addition to many informal staff briefings. On March 21, the committee unanimously adopted a report which addressed not only the immediate intelligence issues raised by the treaty, but also the longer term implications of the treaty, including its relationship to further requirements that may be levied against our intelligence capabilities. The unclassified committee report, which was included in the report of the Foreign Relations Committee, addresses the issues involved in the monitoring and verification process and describes the role which monitoring and verification plays in the overall assessment of the INF Treaty. Each of these issues is addressed in detail in the classified report, which is available to each of the Members of the Senate.

The committee's unclassified report, "The INF Treaty: Monitoring and Verification Capabilities," noted that "since no verification and monitoring regime can be absolutely perfect, a central focus for the committee has been to determine whether any possible infractions would be of sufficient military significance to constitute a threat to our national security interests." The committee found that while some of the treaty's provisions will be difficult to monitor, the limited military utility, high cost, or operational difficulties associated with potential cheating scenarios made such cheating unlikely. The committee noted, however, that if a START Treaty on long-range, strategic arms is achieved, the incentives for and military significance of Soviet violations of the INF Treaty would increase. Moreover, the need to monitor START limits in addition to the INF limits could strain our intelligence capabilities. For these reasons, the committee recommended support for a long-term program to modernize and improve upon current plans for intelligence collection, specifically those that would be most helpful in verifying a START Treaty.

Last week, the chairman of the Intelligence Committee, Senator Boren, and I had the opportunity to meet with the President to discuss these matters. I am pleased to report that after our meeting, the President issued a statement that he supports the initiation this year of a multi-year program to improve our intelligence capabilities and that he will include funding for the second year of this program in next year's budget. Mr. President, I will ask that the full statement issued by the President be included in the Record at the end of my statement.

As Senators are aware, subsequent to the issuance of the Intelligence Committee's March 21 report, additional matters arose related to the treaty. The Intelligence Committee held a number of additional hearings and meetings, including a joint meeting with the Foreign Relations and Armed Services Committee, to address these additional matters and a report regarding the so-called futuristic weapons question was adopted by the committee earlier this month. I will summarize these issues in a moment.

ARMED SERVICES COMMITTEE DELIBERATIONS

As part of its inquiry into treaty-related matters, the Armed Services Committee held 29 hearings between January and March. This included a review of NATO defense issues and an extensive article-by-article review of the treaty text. The latter included 4 days of hearings with the chief U.S. negotiator of the treaty, Ambassador Maynard Glitman, to receive detailed answers to a lengthy list of questions in order to clarify potential ambiguities in the treaty text.

On March 28, the committee adopted, by a vote of 18 to 2, its report on "NATO Defense and the INF Treaty." In its report, the committee identified 15 issues which it believes warranted particular attention and offered recommendations on these issues. The committee's fundamental conclusion was that, on balance, the positive features of the treaty outweigh its weaknesses. Moreover, the committee concluded that if the Senate were to reject the treaty, the adverse political repercussions in Europe and elsewhere would be very significant.

"FUTURISTICS" AND THE DEFINITION OF "WEAPON-DELIVERY VEHICLE"

Among the 15 issues identified by the Armed Services Committee was the question of so-called "futuristic" weapon systems and, in particular, the definition of the term "weapon-delivery vehicle." The article-by-article analysis submitted by the Secretary of State defines this term as "those types of ground-launched cruise missiles that have been * * * flight tested or deployed with any type of warhead device or simulation thereof." As the Armed Services Committee's report noted, this suggests that the treaty might not cover ground-launched ballistic missiles or ground-launched cruise missiles that destroyed their targets through other, perhaps more futuristic or exotic, means such as lasers, microwave pulse generators, or direct impact. The committee recommended "that the Senate insist that the administration tell it authoritatively first, what they think the definition of weapon-delivery vehicle and second, whether this definition was clearly agreed to by the Soviet Union."

The committee also raised the possibility of the need to adopt an appropriate understanding on this matter.

The committee concluded, and I fully concurred in this evaluation, that this issue is critical. The INF Treaty is intended to last in perpetuity. Accordingly, the treaty must be very clear in defining what types of future weapons of INF range will and will not be allowed.

Following close consultations on this matter among the Senate leadership, the three committees, and the executive branch, the United States raised this matter with the U.S.S.R. On May 12, during the ministerial meeting in Geneva, Ambassador Kampelman and Soviet Ambassador Karpov concluded a diplomatic note on the application of the treaty to intermediate-range and shorter range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and on the related question of the definition of the term "weapon-delivery vehicle" as used in the treaty. I believe that this diplomatic note represents full agreement on these very important matters.

INSPECTION PROTOCOL ISSUES

After the three committees issued their reports, it also became clear that problems had arisen regarding the implementation of the protocol on inspections. During the technical discussions between United States and Soviet representatives on implementation of the inspection provisions of the treaty, it became apparent that, in addition to differences over the details of implementation, the Soviet side was seeking to repudiate certain obligations that are clearly spelled out in the actual text of the treaty. These issues included such fundamental matters as the smallest size objects which are subject to inspection, where inspectors can conduct inspections, the equipment which will be used in inspections, and so on.

Unable to satisfactorily resolve these problems at the technical level, the U.S. Embassy in Moscow raised them with Soviet Foreign Ministry officials. The Soviet response was delivered by Ambassador Dubinin on May 8. The following day, the Intelligence Committee received a briefing on the exchange of views with the Soviets. Based on that briefing, it was quite clear that the issues had not been resolved.

Accordingly, on May 9, the Senate leadership decided to postpone consideration of the INF Treaty until these problems were fully resolved. This decision represented the clear consensus of the majority and minority leaders, the leadership of the relevant committees, including the Intelligence Committee, and the Reagan administration.

On May 12, during the ministerial meeting in Geneva, the two sides also reached agreement resolving the inspection dispute. An agreed minute was signed by Ambassador Glitman and Colonel General Chervov on the inspection matters. The agreed minute reaffirms those provisions of the treaty text that the Soviet side was apparently seeking to renounce. It also sets forth additional details to ensure that the implementation of the inspections is consistent with the intent of the treaty. Additionally, in the agreed minute, there is an additional Soviet assurance that they will not send out of their Votkinsk facility objects of certain sizes, and, in that context, we will not be inspecting such objects since they will not exist. I am satisfied that this agreed minute represents full agreement on the issues involved.

The treaty was brought up only after we were convinced that the agreed minute reached at the Geneva ministerial meeting did, in fact, completely resolve these matters. In short, the Senate's consideration, and therefore its approval, of this treaty was made contingent upon the agreed minute which resolved the inspection dispute.

CATEGORY III AMENDMENT ON FUTURISTICS AND INSPECTIONS

Mr. President, I am pleased that, yesterday, the Senate unanimously agreed to adopt a category III amendment to the resolution of ratification offered by Senators NUNN, WARNER, BOREN, and myself addressing the status of the diplomatic notes on futuristic weapons and the agreed minute on inspections. I would note that the portion of the amendment crafted by Senators NUNN and WARNER, the chairman and ranking minority member of the Armed Services Committee, addresses the diplomatic notes on futuristic weapons and the definition of the term "weapon-delivery vehicle." The portion crafted by Senator BOREN and me, in our role as chairman and vice chairman of the Intelligence Committee, addresses the agreed minute regarding on-site inspections.

This amendment makes the advice and consent of the Senate to the ratification of the INF Treaty subject to the condition that in connection with the exchange of instruments of ratification, the President shall obtain the agreement of the Soviet Union that the agreement concluded by the exchange of the diplomatic notes and the agreed minute are of the same force and effect as the treaty.

Since the Soviets have already agreed to be bound by the exchange of the diplomatic notes and the agreed minute, the Senate was confident that this reservation would pose no risk to the treaty's being implemented. The amendment simply addresses the status of the agreement reached in the diplomatic notes and the agreed minute, it does not alter the content of that agreement.

With regard to the agreed minute, this amendment emphasizes the importance the Senate places on both the inspection issues involved and the Soviet's abiding in good faith to their treaty obligations. Moreover, while the agreed minute may have a legally binding character, it could appear to some to be subordinate to the treaty, in either a legal or political sense. A category III understanding ensures that there are no questions that the agreed minute has the same political stature and legal force and effect as the treaty.

From the perspective of domestic law and the relationship between the Senate and the Executive, it is also essential to ensure that the agreed minute is of the same force and effect as the treaty. An agreed minute can be terminated or altered by the executive branch without the advice and consent of the Senate. Thus, we could conceivably face the situation in which the Senate's decision to give advice and consent to ratification was contingent upon this agreed minute, only to find that subsequent to ratification the agreed minute is altered. A category III understanding ensures that substantive changes could not be made in the agreed minute without the advice and consent of the Senate.

Likewise, this amendment ensures that there will be no question that the agreement on the critical matters of futuristic weapons and the definition of the term "weapon-delivery vehicle" contained in the May 12 exchange of diplomatic notes is of the same force and effect as the treaty. The treaty is designed to cover certain weapon systems. It is not designed to cover nonweapon systems; in fact, I would say that it is designed to not cover nonweapon systems. Accordingly, the definition of such a fundamental term as "weapon-delivery vehicle" is essential, as is a clear agreement on the application of the treaty to weapons based on future technologies.

Finally, Mr. President, I would note that our amendment was amended to include the agreements signed on May 21, 1988, in Vienna and Moscow correcting the site diagrams and certain technical errors in the treaty. Senator WARNER and I engaged in a colloquy in which it was made clear that the acceptance of the second degree amendment was subject to the condition that future technical changes will not require the advice and consent of the Senate, nor will the regular data updates. Senator HELMS joined us in colloquy, and I refer my colleagues to yesterday's RECORD for the complete text of our colloquy.

NATO SECURITY AND THE INF TREATY

Mr. President, in recent weeks, much attention has been focused on these very complicated and arcane issues of futuristic weapons and inspection rights. I believe that "details" such as these are critical in determining whether the Treaty will serve our interests, fulfill its purposes, and remain viable over time. At the same time, Mr. President, this focus on treaty details should not overshadow the significant attention we have accorded to the broader implications of the Treaty for the security of the United States, NATO, and our Asian allies.

As I mentioned earlier, the Armed Services Committee report was entitled "NATO Defense and the INF Treaty." The relationship between the treaty and NATO's security was, indeed, the central focus of the committee's deliberations. 19 of the committee's 29 hearings on the treaty explicitly dealt with NATO security issues, including one meeting with Dr. Willen van Eekelen, the defense minister of the Netherlands and chairman of the Eurogroup Defense Ministers. In addition to these formal meetings, I and many members of the committee held numerous meetings with European political and military officials.

The committee examined NATO's present ability to successfully implement its strategy of flexible response, including forward defense, and the impact the INF Treaty would have on NATO's ability to do so. Flexible response requires that NATO have sufficient forces to respond to any level of aggression and a full spectrum of forces—conventional, theater nuclear, and strategic nuclear—so that it can counter any act of aggression with an appropriate response. In our view, there are serious deficiencies in NATO's ability to implement its strategy.

Of particular concern is the failure of NATO to develop an adequate conventional force posture. Not only has the alliance permitted the nuclear threshold to remain unacceptably low, conventional deficiencies call into question whether NATO's conventional defense forces would hold out long enough to enable political authorities to make a carefully deliberated decision to turn to a nuclear response to aggression.

There is also concern regarding our theater nuclear force posture. Over the last decade, there has been a significant increase in Soviet theater nuclear forces. During the same period, NATO has decided to retire some 2,400 older theater nuclear weapons in conjunction with a commitment to pursue theater nuclear modernization. I believe it is very important that we adhere to this commitment. In doing so, I believe that we can address certain concerns expressed by European, particularly German, officials. In this regard, of particular importance is proceeding with a tactical air-to-surface missile which can reach beyond German territory and is compatible with both United States and allied aircraft.

I would urge my colleagues to take the time to read the Armed Services Committee's evaluation of NATO's defense posture and how it will be affected by the INF Treaty.

As I indicated earlier, I have had the opportunity to discuss these issues with a number of European officials. The large majority of them expressed support for the INF Treaty. At the same time, many had concerns about what would follow once the treaty is in place. Such concerns involved the relative priority among future arms control efforts, modernization of remaining theater nuclear forces, the viability of and U.S. commitment to extended deterrence, and efforts to enhance NATO's conventional deterrent. Such concerns were particularly pronounced among West Germans.

An articulate expression of such concerns was made by Dr. Alfred Dregger in a recent speech in Washington, which I will ask be inserted in the RECORD at the end of my statement. Dr. Dregger is the chairman of the ruling party parliamentary group in the Bundestag of the Federal Republic of Germany. I should point out that I disagree with Dr. Dregger on many counts, both in terms of fact and judgment. However, I believe it is critical that we understand views that are commonly held in allied countries. Dr. Dregger's speech is representative of a perspective which I have heard repeatedly from a number of German officials, and I would commend it to my colleagues' attention.

Among the concerns frequently expressed are that the strategic unity of Alliance territory from North America to the Federal Republic of German is being called into question; that the credibility of extended deterrence is rapidly weakening; that the elimination of ground-launched INF missiles will leave the alliance with no intermediate-range nuclear forces, opening a gap in the spectrum of deterrent forces and making German territory uniquely exposed to nuclear weapons; that the intermediate-range nuclear forces that do, in fact, remain might be negotiated away.

These concerns, sincerely held by many responsible individuals in Germany and even some in this country, have been extensively examined by the Armed Services and Foreign Relations committees and individual Senators. I understand the origins of such concerns and, frankly, must acknowledge that the sometimes imprudent actions by officials in the United States have contributed to these concerns.

Perhaps the single event which best captures the complexities and contradictions displayed in the Reagan years was the summit in Reykjavik, where the President seemed prepared to give up all ballistic missiles, and possibly even all nuclear weapons. The administration was accused of, at best, placing higher priority on public relations than on policy and, at worst, of fundamentally misunderstanding the role of nuclear weapons in NATO strategy. Those concerns were, in my view, justified. And while the administration has largely recanted, some in Europe continue to have gnawing doubts.

More recently, a January 1988 report entitled "Discriminate Deterrence," authored by former Under Secretary of Defense Ikle and other prominent individuals, was read by some as suggesting that the American nuclear umbrella might no longer cover Western Europe. This exacerbated the concern raised by the INF Treaty, itself, that the removal of U.S. Pershing II and ground-launched cruise missiles would lead to the decoupling of the U.S. strategic deterrent from the defense of Europe. Given the emphasis on the need to strengthen this coupling that accompanied the INF deployment decision, this concern is understandable. But the response to dual-track decision indicates that this original rationale was given more credence by its authors than by the two audiences at which it was primarily aimed.

First, large minorities of Western European publics quickly came to the conclusion that far from strengthening coupling, the INF deployments were in fact decoupling. According to this view, the INF deployments were foisted by the United States on Europe so as to allow the United States to fight a nuclear war in Europe while American soil remained a sanctuary. As Senator NUNN and many others have noted, when we deploy many Europeans cry "decoupling" and when we withdraw many Europeans cry "decoupling."

Equally important, the Soviet reacton was to clearly state that any United States nuclear weapon landing on Soviet soil would be considered a "strategic weapon" regardless of its launching point, and that retaliation would be directed at United States soil. Perhaps this was mere propaganda, but I think that our German friends would be the first to say that differentiating between "strategic" and "tactical" nuclear weapons means little when the explosions are occurring on one's homeland. Thus, one could argue that the INF missiles were perfectly coupling—but that raises the question of whether they were really essential in the first place if, in Soviet eyes, they were no difference from strategic missiles. If that were the case, the credibility of using INF missiles would be little more than the credibility of using strategic missiles.

There are no simple or clearcut answers to such questions. Perhaps the INF missiles enhanced coupling somewhat, and their removal will reduce coupling somewhat. However, as former Secretary of Defense James Schlesinger noted in his testimony to the Armed Services and Foreign Relations Committees, it is European parochialism to believe that the Soviet Union has been deterred primarily by a relative handful of weapons based in Europe, none of which were deployed before December 1983. I would note that former Secretary of Defense Harold Brown expressed essentially the same opinion in his testimony.

There are also concerns about German "singularization." While I appreciate these concerns and understand their origin, I find them exaggerated. Air- and sea-based intermediate-range forces remain. Moreover, as I already indicated, the alliance's existing commitment to modernization, particularly with the tactical air-to-surface missile, can ameliorate such concerns. And, of course, other alliance nations that remain targeted by Soviet nuclear weapons, including tactical nuclear weapons, find it difficult to accept that Germany has been singled out.

INTERPRETATION OF TREATIES

Mr. President, in considering this treaty, the Senate has also addressed the Senate's role in treatymaking and how treaties are to be interpreted. We were forced to address this, of course, because the administration has put forth a novel and disturbing theory of treaty interpretation in its effort to shed some of the constraints of the ABM Treaty.

Under this theory set forth by the State Department's legal adviser, Abraham Sofaer, the executive branch is not bound by its explanation of a treaty to the Senate unless the Senate satisfies a set of criteria arbitrarily defined by Mr. Sofaer. These arbitrary criteria are, not surprisingly, of such a nature that the Senate, as a practical matter, would rarely meet them and an effort to do so would result in virtual paralysis of the treatymaking process. In a vote earlier today, the Senate rejected these criteria by a vote of 60 to 30.

The Foreign Relations Committee in its consideration of the INF Treaty attached a condition to the resolution of ratification to reaffirm the constitutional role of the Senate in treatymaking. This condition was altered by an amendment offered by Senator Byrd which contained a provision I suggested in an effort to promote bipartisan consensus. I am pleased that we were successful in achieving such consensus and that the Senate approved this condition on a vote of 72 to 27.

The condition approved by the Senate states that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the treaty clauses of the Constitution, that the United States shall interpret the treaty in accordance with the common understanding shared by the President and the Senate at the time the Senate gave its advice and consent to ratification.

The condition states that such common understanding is based on, first, the text of the treaty and the provisions of this resolution of ratification; and, second, the authoritative representations which were provided by the President and his representatives to the Senate and its committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the treaty.

The condition also states that the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute.

Finally, in the provision which I suggested in order to address the concerns of some Senators, the condition states that if, subsequent to ratification of the treaty, a question arises as to the interpretation of a provision of the treaty on which no common understanding was reached in accordance with the above, that provision shall be interpreted in accordance with applicable U.S. law.

Mr. President, I would note that the condition does not question the authority of the President to interpret treaties. Rather, it prevents him from reinterpreting them. Without such a bar on Presidential reinterpretation, the Senate's role in treatymaking would be essentially nullified. This condition reaffirms that when a common understanding has been reached between the Senate and the executive, that is binding. If the same administration or a future administration wants to alter that common understanding, it is required to come back to the Senate and seek the Senate's advice and consent.

Finally, Mr. President, I would note that this condition does not directly address the ABM Treaty. In my view, this condition ought to allow some opportunity for those who disagree with the so-called narrow interpretation of the ABM Treaty to fight that battle at another time.

CONCLUSION

Mr. President, the Senate's review of the INF Treaty has been thorough, perhaps more thorough than the review of any comparable treaty in the Senate's history. The 4 months which has been required to conduct this review has been a very valuable and productive investment of time which has served the interests of the Senate and the United States well. I would argue that the treaty to which the Senate will give its advice and consent to ratification is a better treaty than that which was submitted to the Senate in January.

Mr. President, as other Senators have correctly noted, our objective has been to deal with this treaty responsibly, not to meet a deadline. At the same time, I am pleased that we have been able to conclude our consideration in a responsible manner in time to allow the President to exchange the instruments of ratification with General Secretary Gorbachev during the Moscow summit, thus bringing the INF Treaty into force.

Once again, Mr. President, let me express my strongly held view that this treaty will serve the security interests of the United States and our allies. Accordingly, I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the statement of President Reagan and the remarks of Dr. Dregger, to which I referred, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATEMENT BY THE PRESIDENT

I strongly support bipartisan efforts by the Senate Committees on Intelligence and Armed Services to work with the Administration to modernize and upgrade our intelligence capabilities. It is important as we work toward future arms reduction agreements that our country have all of the means necessary to assure compliance with these agreements. With or without future arms control agreements, it is important for our national security interests that we keep pace with changes in technologies in other nations. For that reason, I welcome bipartisan support to start this year on a multiyear program to improve these systems. I will also include funding for the second year of this program in the final budget which I submit to the Congress, and I will urge the next administration to assure continuity of this vital effort. After 1989, the funding for the program should be additive to the 2-percent real growth objective for national security spending.

NUCLEAR DISARMAMENT: CONSEQUENCES FOR THE ALLIANCE—PERSPECTIVES FOR GERMANY AND EUROPE

(Address by Dr. Alfred Dregger)

INTRODUCTION

Since 1945 the hegemony of the East is present already in peacetime—if that is how we want to describe Europe's existing state—in the middle of Germany. Its pressure is directed straight at Western Europe. This is an unprecedented situation in history.

1. In an east-westerly direction our country is only 250 km deep. In its north-south direction, however, it encompasses the entire front in central Europe, from the North Sea to the Alps. In this situation we are and will continue to be dependent upon the Alliance. It is and will remain essential that allied forces are stationed on West German territory. It is and will continue to be important, indeed crucial, for our country to be part of the risk- and deterrence-sharing alliance which creates North Amer-

ica and Western Europe and strategic whole.

Only in this way has it been possible to build up in what is now a narrow Western Europe a risk which a potential aggressor cannot take. Thus in a world fraught with war the Alliance's territory, including its exposed parts, has been an area of peace and security.

There are schools thought in the United States who, following the INF agreement, would substitute this strategic whole by a more regionalized defense strategy. This would have serious implications for the Alliance, and in the first part of my address I shall try to analyze them.

2. Alongside the Atlantic Alliance the European solidarity is of great importance to us West Germans. Together with others, we are striving to merge the European members of the Alliance, with the full participation of France, into a European security union which will enable Europe to exercise greater influence and assume greater responsibility within the Alliance. This point I shall be dwelling on in the second part of my address.

3. And finally I shall turn to a problem that is still unsolved, the division of Germany and Europe. Here, too, it is a question of the security of all concerned, but also of the human and civil rights of the people of Eastern central Europe who, after 1945, were subjected to communist rule against their will.

A.

My starting point is the INF agreement. We Germans assume that it will be ratified. My Government and my parliamentary group have expressed their approval, so today I will merely try to analyze the agreement's implications for Europe's security and the consequences to be drawn from them.

1. The INF agreement has relieved the Soviet Union of the risk of a possible strike by US land-based systems in Europe. The Pershing II, the weapon system which commanded most respect from the Soviet Union, is to be removed from Europe.

2. True, Europe will be freed from the threat posed by the Soviet SS-20s, but the Soviet Union will still have, in addition to its other tremendous nuclear potential, 1,365 land-based nuclear systems with ranges below 500 km which cover every point in the Federal Republic of Germany. It makes no difference to us whether we are destroyed by medium-range or short-range weapons.

3. However one assesses Mr. Gorbachev's policy, how great its chances and what the results are likely to be, there has so far been nothing to justify the assumption that the Soviet Union has finally abandoned its Czarist legacy of expansion to the East, West and South, or its communist aim of the revolutionary change of the world.

Western Europe is the part of the world on which the Soviet Union still focuses most of its interest and energy. The "common European house" is a metaphor regularly used by Mr. Gorbachev. In its Western territories the Soviet Union has the largest concentration of resources, infrastructure and armed forces. The Federal Republic of Germany is only a narrow barrier to the Soviet Union's western route to the Atlantic.

4. Situated along the dividing border between East and West, we Germans recognize that we cannot sustain ourselves on our own. To do so we need the help of the Europeans acting in unison within the Atlantic Alliance. We, the CDU/CSU, led the Federal Republic of Germany into the Alliance in the face of stiff opposition from the SPD. We secured a parliamentary majority in favor of the NATO decision to modernize nuclear weapons in Europe which had been championed by chancellor Helmut Schmidt who, however, had been abandoned by his own party because of that very decision. We know that we depend on the United States if we want to preserve freedom, security and democracy—and this is our aim.

5. But we also know that the United States and the free nations of Europe depend on the Federal Republic of Germany if, with the Eastern half of Europe already gone, they do not want Western Europe, too, to become part of the Soviet Union's sphere of influence. * * *

Without us, without the territory of the Federal Republic of Germany, and without the military contribution of the Federal Armed Forces, Western Europe can neither be defended nor protected from blackmail.

If the Soviet Union succeeded in bringing the Federal Republic of Germany and other West European countries into its power orbit it would have under its control a Euro-Asian bloc which not even the United States would be able to cope with. Thus the United States, through its miltiary presence in Europe, is defending not only us but itself.

8. The Alliance has a moral foundation. It lies in the conviction that its members are defending common values and in the certainty that none of them wittingly or unwittingly disregards the vital interests of the others. To prevent any doubt arising or increasing in Germany as a result of the disarmament process, it is in our allies' own interest that we Germans should make our security aims unmistakably clear to them. This is my intention.

B.

1. Germany's primary aim is to prevent our country being destroyed by war. We Germans, 14 million of whom were expelled from their native regions in East Germany, Eastern and South-Eastern Europe after World War II—and two million of them died—today live in one of the most densely populated countries on earth. It is a country which can be destroyed but not defended by nuclear weapons. We therefore expect our allies to target their nuclear deterrents, whenever possible, not on our country but on the territory of the potential aggressor. This explains our aversion to short-range nuclear systems, which in either direction can only carry from Germany to Germany, and our even greater aversion to nuclear artillery. Anyone who ignores this basic fact resulting from the geography and division of our country cannot expect to gain any lasting political success in Germany. We Germans are glad that our French allies appreciate our position on these issues.

2. Preventing a non-nuclear war is likewise vital to the Germans. Our country would be the main theater in a European war, by virtue not only of its division but of the fact that the East pursues an offensive and the West a defensive military strategy. What it means to be the main theater of war we know only too well from our own experience, particularly during the last war. Dresden was no less terrifying than Hiroshima.

3. Since 1945 the Alliance has prevented war in Europe and kept it free from blackmail. We Germans appreciate this. We are a reliable ally and our armed forces represent an important contribution to the Alliance. Of course, the deterrent effect of nuclear weapons has helped preserve peace in Europe, though only within the framework of the Alliance's overall strategy. The crucial factor has not been the weapons, not even the nuclear variety, but the shared risk and the shared deterrence which makes the Alliance's territory, that is to say North American and Western Europe, a strategic whole.

This strategic unity implies that if the Soviet Union were to attack Germany it would not only be confronted with the conventional and nuclear forces of the United States, Canada and Europe stationed in our country—which are still greatly outnumbered by those of the Soviet Union but with an alliance which, by virtue of its risk-sharing and deterrence-sharing, spans the geographical distance between Europe and North America; an alliance whose philosophy does not tolerate zones with different degrees of security; an alliance which for this reason would not shrink from, any means of repulsing an aggressor, repulsing him—and this is what matters—on his own territory with devastating consequences for himself.

4. The strategic unity of the alliance's territory, the unreserved commitment of North America and Western Europe to risk-sharing and deterrence-sharing, has enabled the Federal Republic of Germany to place its forces completely under NATO command, to forgo nuclear weapons, and to link its destiny to that of the Alliance.

Will this philosophy, and with it the strategy of war prevention through deterrence, if necessary using the ultimate means, be maintained or is the United States in the act of drafting a completely different strategy?

The Iklé report contains the following key sentence: "To help our allies and to defend our interests abroad we cannot rely on threats expected to provoke our own annihilation if carried out."

This sentence is remarkable because it does not refer to the defense of the Alliance's territory by the Alliance but to the help which the United States will afford to those who defend their territory. This help would exclude those weapon systems which, if used, could lead to the destruction of the United States. Obviously these are the US strategic systems, whose deterrent capability would no longer be used for the defense of Europe.

This sentence is all the more remarkable as it comes at a time when the United States is eliminating its land-based intermediate-range systems. What remains are chiefly the short-range systems which would not affect the United States or the Soviet Union but could not lead to the annihilation of Germany in particular.

The Iklé report following this line of reasoning when it implies that the American nuclear weapons in Europe should not be seen primarily as a means of escalation but as means with which the Alliance can, with selective and controlled measures, defeat attacking Soviet forces without any escalatory effect. Paul Nitze has apparently even proposed the elimination of all air- and sea-based intermediate-range systems. This would imply complete intermediate-range denuclearization.

On such a vital question as this I must state unequivocally that a strategy that would be tantamount to the regionalization of a European war would deprive the Alliance of the basis for its existence in Europe, especially in Germany. We Germans cannot make our small and densely populated country available for a nuclear war strategy which, if implemented, would mean the end for us.

Our only option is a war-preventing strategy which in a divided Europe must be based on the strategic unity of the whole territory of the Alliance, that is to say the unqualified commitment of North America and Western Europe to risk-sharing and deterrence-sharing. Such a strategy, too, has its risks, for America as well as for Europe. But it has served its purpose. It has kept the Alliance's territory free from war and blackmail and bolstered America's world-power status. In this respect NATO is the most successful alliance in history. All of us should do, everything possible to preserve it.

This includes not questioning the Alliance's risk-sharing arrangement. Referring to this at a CDU congress on security held in Bonn on 13 April, Ambassador Richard Burt said that to the United States risk-sharing means rejecting the idea of limiting a nuclear war to European territory. To the Federal Republic it means rejecting the denuclearization of its territory.

That is true. The two are interrelated. This fact has to be allowed for in disarmament negotiations. Those who, following the removal of land-based systems, would also eliminate the air- and sea-based intermediate-range systems and instead increase the short-range variety, must realize that they are thereby rejecting the risk-sharing principle and hence NATO's present philosophy and strategy.

With respect to the INF agreement's implications, I should like to say the following:

1. We reject proposals for compensating for the loss of intermediate-range systems with short-range systems. This would mean that the intermediate category, which can reach the territory of the potential aggressor, would no longer be available, whereas the short-range category, most of which could in Central Europe reach only Germany on both sides of the dividing line, in other words the potential victim, would be increased. Such a switch from longer to short range systems would be in contravention of the general political guidelines which the Alliance had good reason to adopt.

2. We reject all so-called "firebreak." concepts. Disarmament in the intermediate-range sector has made disarmament in the short-range sector not superfluous but more urgent. We cannot agree to an avoidable nuclear threat being added to the special, unavoidable conventional threat to which our country is already exposed on account of its geographical position. Consequently, in view of the elimination of intermediate-range systems, short-range systems must follow suit. This depends not only on what happens, following the INF agreement, with regard to short-range weapons but particularly with regard to air- and sea-based intermediate-range weapons. The more intermediate-range systems are eliminated, the more short-range systems will have to be eliminated as well.

3. The 1,365 short-range systems of the Soviet Union, compared with only 88 on the Western side, pose a threat to our country's existence. That would also apply to Western systems if they were no longer part and parcel of a war-preventing, risk-sharing and deterrence-sharing alliance but became instruments of a strategy for waging war.

On numerous occasions, we have called upon Mr. Gorbachev to unilaterally reduce his overwhelming superiority in terms of short-range missiles for the sake of confidence building. We have had no reply. As regards these weapons too we want negotiations with the Soviet Union on the basis of a NATO disarmament and security concept.

4. So long as risk-sharing and deterrence-sharing with respect to intermediate-range weapons is maintained we, the CDU/CSU, will reject a third zero solution, because the denuclearization of Europe would give full effect to the Soviet Union's huge conventional and chemical superiority.

This is a factual argument which is not easy to assert because it contradicts the philosophy of the first two zero solutions. I have never concealed my view that it would have been better to start the nuclear disarmament process with weapons of ranges below 500 km than with the intermediate-range categories. But it didn't work out that way. We therefore have to face the facts and we will do so.

But before any decisions are taken with regard to the modernization of short-range systems we want clarification within NATO as to what would be the strategic purpose of the nuclear weapons with ranges below 500 km, how many of them would be needed, and what their ranges would be. In our view the purpose can only be a limited one, that is to say, to prevent the concentration of conventional assault forces, especially tank armies. In this connection it is clear that the greater the range of a modernized version of the Lance the fewer will be needed.

5. We would like above all to know whether and with which air- and sea-based systems the United States is prepared to maintain the intermediate-range deterrence once the land-based variety has been scrapped. The credibility of the flexible-response strategy depends on this.

6. At their meetings in Brussels on June 12, 1987 and March 2/3, 1988 respectively, NATO's Foreign Ministers and Heads of State and Government decided to develop a comprehensive concept (Gesamtkonzept) for disarmament which will embrace systems with ranges below 500 km. This concept is intended as the basis for decisions on modernization and for negotiation proposals to the Soviet Union. There will be no more decisions restricted to specific weapon systems as in the case of the two zero options. That is a good thing. We Germans expect all allies to follow this line.

7. We Germans also want the Alliance's comprehensive concept to consider whether the nuclear artillery is necessary and expedient. If our allies say these weapons are needed in order to protect their forces then I must point out that protection of the civilian population is just as important—at least to us—as the protection of our own and allied forces. The fighting spirit of the Federal Armed Forces does not depend solely on its equipment but more so on the conviction of our servicemen that NATO's strategy is necessary to ensure the survival of the German people. In any case, we must seriously doubt the value of such protection for the Alliance forces as well if their own leaders were to expose them to the effects of nuclear weapons on the battlefield. Chernobyl gave us an idea of what this would mean.

8. Allies who depend on one another should appreciate one another's situation even though their situations differ in the extreme. My country's situation can be described in three short sentences: Germany and its capital Berlin are divided. On both sides of the dividing line there are huge concentrations of forces of opposing alliances. The people east of the dividing line are forced to live under a communist regime. These are our burdens.

With the Bundeswehr, a conscript army, we have placed the strongest and most up-to-date conventional force in Europe at NATO's disposal. We have recently increased the period of conscription from 15 to 18 months. The sons of the Federal chancellor and my own sons are officers of the reserve. They will be called up for periods of reserve training and will be liable to compulsory military service up to the age of 60. No member of the Alliance demands anything like so much of its ablebodied men.

Americans who are aware of this will not say that the German burden and the German contribution to the Alliance is too small. We do not expect gratitude for what we do because we are doing it for our country. But because we are doing it for the Alliance as well we expect our allies to show consideration for our special geographical situation and our vital interests.

9. The Warsaw Pact's capability for surprise attack and large-scale offensive action and for force generation from deep within its own territory will remain the key problem of European security until the Soviet superiority has been removed by means of asymmetric reductions. Whether the Warsaw Pact is prepared to make such reductions will be seen when the West have tabled their disarmament concept, which will hold General-Secretary Gorbachev to his word. We Germans urge that it do so.

10. We Germans call for a global ban on and global elimination of chemical weapons. Both sides can manage without them. It should be possible to solve the verification problem. The superpowers can also manage without a very large proportion of their strategic nuclear systems, which are to be reduced by 50%. We welcome this intention on the part of the United States and the Soviet Union.

D.

1. In 1963 McGeorge Bundy, President Kennedy's National Security Adviser, told Konrad Adenauer that in the next ten to fifteen years neither France nor England would be the leading power in Europe but the United States of America. His forecast was correct. It is in neither America's nor Europe's interest that this should remain so.

Europe needs to have more confidence in its own abilities and to develop its own identity in matters of defense as well. Only in this way can one European voice which will be taken seriously emerge from the babble of European voices that crosses the Atlantic and also reaches the Kremlin. Europe itself must become America's ally and conduct a dialogue with the Soviet Union. The Europeans must emerge from their present role in which they are at best consulted but have no say in decisions concerning their own fate.

2. We already have a European security union, Western European Union, whose members have pledged to afford each other "all the military and other aid and assistance", over and above the requirements of the NATO Treaty. This WEU, which embraces Germany, France, the United Kingdom, Italy and the Benelux countries, must be activated. It needs all those institutions which today enable NATO to function as an alliance: a council of ministers, a permanent council, and a military committee. Western European Union must be open to all European countries who are prepared to accept its mutual assistance obligation.

The fact that we have a European security union does not mean we reject our American ally, on the contrary. In a changing world in which the United States is no longer the sole dominating power, the Americans want, I expect, not weak but strong allies. NATO can only stay strong if Europe becomes strong. This presupposes the political and military integration of the free States of Europe.

3. Europe's two nuclear-weapon States, France and the United Kingdom, have a special responsibility for Europe's security. They must coordinate their nuclear systems and place them in the service of their European allies too. So long as the superpowers have not reduced their nuclear systems to the level of those of the two European nuclear powers added together there is no reason, in the German view, to call for nuclear disarmament on the part of France or the United Kingdom.

4. A European security union that is able to act would enable Europe to participate in all negotiations which directly concern Europe's security. This must apply in particular to negotiations on nuclear arms control. It is not the Americans but the Europeans themselves who are to blame for not having been a party to the Reagan-Gorbachev talks in Reykjavik.

5. The European Community aims to establish the internal European market by 1992. A European economic and monetary union is envisaged. Together with a European security union it would form the political union of Europe. That union would be a strong and valuable ally to the United States. The creation of a political union of the free States of Europe has been the CDU/CSU's aim since the days of Konrad Adenauer. Helmut Kohl has moved a good way towards that goal, particularly in co-operation with France. It is my hope that after the French presidential elections—regardless of the result—France and Germany will be able to launch the initiatives that are needed to achieve this goal.

E.

1. While to many people the political unification of Europe today seems possible, indeed probable, there are many who feel that it is unrealistic to seek the termination of the division of Germany and Europe. But the nations of Europe want an end to division. It is the totalitarian regimes in the communist countries that prevent this from happening. We cannot ignore these regimes but neither can we accept them. We should therefore adhere to our aim of German and European unity.

2. The principles established by the Atlantic Alliance in the 1967 Harmel Report are therefore still as valid today as they were then. Let me quote paragraph 8 of that report: ". . . No final and stable settlement in Europe is possible without a solution of the German question which lies at the heart of the present tensions in Europe. Any such settlement must end the unnatural barriers between Eastern and Western Europe, which are most clearly and cruelly manifested in the division of Germany."

3. The border that was drawn right through the middle of Europe over forty years ago is neither a historical nor a cultural border. It is a demarcation line drawn by the victorious powers, a remnant of rigid military rule which violates Europe's dignity and the right of its peoples to enjoy freedom and self-determination.

Terminating the division of Germany and Europe is an objective which can only be achieved in close co-operation with both superpowers, taking into account their interests, including their security interests. Whether and when the Soviet Union will be amenable to such a policy is just as uncertain as the process of change initiated by Mr. Gorbachev.

But the Soviet Union, too, must ask itself what will be better for itself in the long run: a reunited Europe with whom it will be able to develop close co-operation, or the maintenance of its domination over the nations of eastern central Europe, forcibly allied to it a domination the economic, political and military burdens of which are not diminishing but growing from year to year.

The faster the process of West European integration, the sooner the Soviet Union will ask itself this crucial question. When the European Community, which already represents part of that peaceful order for the whole of Europe which must be the West's objective, develops via an economic and monetary union and a security union into a political union, then we shall have an outstanding model for a united Europe based on freedom and justice, reconciliation and harmony.

4. On June 12, 1987, President Reagan, in his speech at the Brandenburg Gate in Berlin, called upon General Secretary Gorbachev to open the Wall. He coupled this demand with proposals for providing opportunities for Berlin, the divided German capital. All this strengthens our hope that the United States will remain our valuable and reliable partner, not only in defense matters but in European matters as well.

THE INF TREATY

Mr. WALLOP. Mr. President, this is a political treaty, not a strategic or military effort. If nothing else demonstrates this, consider for a moment that most of the debate has centered on Congress' relations with the President, and not America's relations with the Soviet Union. Virtually every so-called expert from the left through the center to the right have found fault with the treaty, though many argue that the politics of it in Europe override its military inadequacies.

In the Biden-Pell amendment the Senate stated explicitly that while it has refused the role the Constitution contemplated, it would postpone its judgement to some later, less visible time when perhaps the public would be less able to understand and witness our decisons. The Senate has slinked away from a close examination, let alone effect any changes upon the text of the treaty or on the resolution. Yet it says it will share a common understanding with some future administration.

Take for example my amendment on the double negative in article 6, paragraph 2, which could authorize the construction of both stages of the prohibited SS-20 missile. The amendment tracked the specific recommendation of the Senate Armed Services Committee. No one argued against the amendments in substance, but only against doing it. To be sure, the Republican leader later addressed the problem with an amendment to the resolution of ratification—but this amendment is strictly unilateral and nonbinding on the Soviet Union. Indeed it does not even get read to them.

Politics not strategy? To be sure. The President, who only last May said he would not even present a treaty to the Senate until the Soviets were in compliance with all previous treaty obligation, had his administration oppose any mention—any mention at all—of Soviet compliance in our resolution of ratification. My amendment only set forth a framework for dealing with Soviet violations, but despite the proud boast that this treaty requires stringent verification, there is absolutely no intention to require compliance. If a violation occurs—it occurs. Under these circumstances, heavy new expenditures for personnel and equipment to verify are a waste of resources.

Senator WILSON's amendment to restate the Scoop Jackson amendment to SALT I that the United States should be no more tightly bound by the provisions of the treaty than the Soviets was rejected. The conclusion? Once again, it is the internal relations of the United States between Congress and executive that ruled the day. We now may be more constrained than the Soviet Union. Again the arms control process has become the means by which some Americans control the arms in the hands of other Americans, and the Soviets are not expected to be treated with equal diligence.

On the issue of futuristic weapons, an administration that had not even contemplated them as an issue sought unilaterally to constrain them once the issue was raised. The decision was to safeguard the summit, not the integrity of the treaty. The reputation of the negotiators was placed above the national interest. Politics once again ruled military reason.

The decision to ban conventional cruise missiles in a treaty banning nuclear weapons was taken solely because it was thought the argument was politically difficult to make even though it was militarily sounder to maintain our technological advanatage in the areas of greatest strength.

Europe's defense is now basically dependent on weapons we cannot use, solely because we state that they cannot be. They thus become no deterrent at all and the face of NATO is today forever changed.

Make no mistake, the Soviet ability to deliver nuclear weapons to targets throughout Europe remains undiminished. The SS-25 is both the principal violation of the SALT II agreement and a much more sophisticated version of the now banned SS-20. Its range, power, mobility, and accuracy all exceed the capabilities of its predecessor. So it is clear that a whole class of nuclear weapons has not been banned, only a whole class of Western capability has been abolished. I question the wisdom of this militarily and warn of its consequences politically in Europe.

Mr. President, while a large majority of my colleagues is going to vote for this treaty, I am confident that I will sleep better tonight than many of them will. That is because most of my colleagues who are going to vote for the treaty know that they are doing something that will harm this country in the not-so-long run.

They also sense that in the not too distant future there will have to be an answer for the vote today. They hope against hope that this treaty's ill effects on this country's principal alliance will be smaller rather than larger, and above all that they will materialize later rather than sooner. They hope to prolong the interval before they will have to deal with the next phase of that crazy Reykjavik package of which this treaty is but the first installment. Nevertheless, a majority of my colleagues will not be able to say no to the short term boost they hope to receive from this act. It must be troubling for the more thoughtful among them to reflect that we are engaging in political self-gratification while neglecting long-term consequences that are bad for great nations. It is the very definition of the underclass as Senator MOYNIHAN well knows.

I believe that the majority of those who vote for this treaty are painfully aware that they do so without a shred of intellectual justification. Sixteen years ago, when the SALT I package came before this body, those eager to posture as peacemakers could point to a plausible theory of how that arrangement would make us all safer by stopping the development of counterweapon weapons so that we would all live happily ever after under Damocles' sword. It was a silly theory, as the Soviets showed by building a missile force far more fearsome than the one that the treaty was supposed to stop. Nevertheless, those who voted for it can still point to a coherent explanation for what they did. But there is no theory whatever that justifies what this treaty does.

This is what Henry Kissinger, the architect of SALT I testified about the INF Treaty:

> On the one hand, INF shifts the nuclear defense of Europe to weapons based in the United States or at sea, and now at the same time we are cutting these weapons by 50 percent and shifting the ratios with respect to land-based weapons to an even more unfavorable direction to the United States, so that the practical result will be, as soon as people start doing the figures, to raise even more doubts about the American willingness to initiate general nuclear war in the defense of Europe.

Is there any theory according to which these considerations ought to be set aside? None. And yet most Senators are setting them aside. Why? Many have been asked, but they won't say.

Perhaps the answer was given by Brent Scowcroft and James Woolsey, hardly conservatives, in the Washington Post, December 3, 1987 "* * * to implement a slogan, to flatter the ego of an outgoing administration * * *." But surely this is no good reason for pulling our Pershings and cruise missiles out of Europe.

Scowcroft and Woolsey also write:

> Since NATO's nuclear weapons were deployed in Europe principally to compensate for NATO's conventional inferiority, the removal of the INF force would accentuate NATO conventional weakness as well.

The treaty they say "would be a significant step toward denuclearizing Europe, a long-time Soviet objective. Such an eventual step would wholly undercut NATO strategy, leaving no counter to Soviet conventional superiority except the use of U.S. strategic nuclear forces."

Are Scowcroft and Woolsey mistaken? Or perhaps it would be a good idea to irrevocably commit U.S. nuclear forces to firing on targets in Europe. I and others have asked such questions of Senator NUNN and Sentor LUGAR. But they have not answered. They wish to put off such questions as long as possible because all the answers say the same thing: This treaty is a mistake. They know it, yet they want it.

This is what James Schlesinger has said, "The movement toward the treaty was a mistake."

How else can one characterize the attempts to eliminate midrange missiles? As Scowcroft and many others have asked, why should these be first? A cogent argument can be made that short range weapons, the ones that blow up on our allies, should go. Another cogent argument is that the longest range weapons should go because they can only be used for United States-Soviet armageddon. But why single out the weapons that can only be launched to protect Europe? Why is it supposed to be a coup to get rid of the Soviet SS-20 only to have it replaced by the SS-25? This makes sense for the Soviets. Not for us. Note that nobody has argued otherwise.

But the bottom line was stated in testimony by Ambassador Robert Blackwell—an ardent arms controller if there ever was. He supports it, he says, "But I do so holding my nose."

For something that old-line arms controllers openly say stinks, and you know that is not good, you are willing to roll our opposition. More important, you, a majority of my colleagues are willing to endorse this intellectual bankruptcy.

What else can one call Secretary of Defense Carlucci's statement that "what we do militarily in Europe should not be affected by the political atmosphere engendered by the treaty?" This is a bit like saying that what happens in the hotel room should not be influenced by the champagne and flowers. Or how about Secretary Shultz's statement to us on Tuesday, that he does not understand the notion that a treaty on weapons in Europe will have political consequences in Europe? How about Shultz's other statement in defense of the treaty, that what we do about the nuclear balance should have no connection with what the conventional balance happens to be? Make no mistake about it. This is the level of political-military understanding that has brought us this treaty, and this is what you are endorsing.

How ironic it is that so many of my colleagues will be voting for this because voting for this kind of thing has come to be a test of acceptability to the foreign policy establishment.

But this foreign policy establishment is bankrupt. And associating with it is a guarantee of embarrassment.

If anyone has any doubts, let him look at a tape of Mr. Shultz's news conference of Wednesday, May 25, on General Noriega. Shultz and the entire foreign policy establishment were played for fools and incompetents by a petty caribbean tyrant. These are the people whose lead you are following when dealing with the biggest league. Tyrant of them all, Mr. Gorbachev. Do you feel confident?

The United States' embarrassment in Panama is only just beginning. Recall that we voted to ratify a treaty giving our canal to whomever rules that country. And it will come out that every Member of the Senate who voted for that treaty knew at the time that Manuel Noriega was the real power in that country, and that he was deeply involved with drugs, and that he was deeply involved with Castro. So why did my colleagues vote for that treaty? I look forward to the attempts to evade an explanation. I guess many voted for it for the same reason many are voting for the INF Treaty. It may be bad for our country, but that will be later. Meanwhile, those who vote "no" will be called names. Well, I'll take the long view.

The long view regarding the INF Treaty is pretty sobering. What are my colleagues who will vote for the treaty today going to say when Germany's refusal to modernize the Lance system can't be hidden anymore? What will you do when Germany agrees to denuclearize itself but begs us to keep our troops there as hostages? Will you wring your hands and claim you were not at the briefings where it was mentioned that this would be the likely consequence of the INF Treaty? Will you vote to keep our troops there as hostages, or will you vote to withdraw or redeploy them? Will you be able to hide the fact that the United States' forward defenses will have collapsed? Will you be able to hide your personal responsibility for what will happen? What will you do about START, the part of that crazy Reykjavik package? How will you be able to resist that, after having done this? Would it not have been easier to just say no to this entire denuclearization campaign to begin with? When will be a good time to stand up and grapple with the real responsibilities for which we were elected?

Today those who really wanted this treaty have won a victory. But it is a victory of obscurantism over reason and of posturing over responsibility. Events are coming that will make you wish you had lost this contest.

Mr. FORD. Mr. President: the Intermediate Nuclear Forces Treaty [INF] that is now before the Senate is the first arms control agreement that has been reached in 10 years. It is long overdue. One of the highest priorities of any administration must be the pursuit of an end to the deadly and costly nuclear arms race in which we are engaged with the Soviet Union. Although the INF Treaty comes at the end of the Reagan administration, it is nonetheless welcome and it brings with it promise of better things to come.

Modest in scope—the treaty speaks to only 4 percent of the world's arsenal, its unprecedented on-site verification procedures lay important groundwork for further arms control agreements, notably the strategic arms reduction talks, and also to verify any agreement on conventional arms. It is unique in the history of arms control in that, for the first time ever, it requires actual destruction of existing nuclear delivery systems. Previous agreements have imposed ceilings on categories of weapons; the INF Treaty calls for the destruction of all missiles with a range between 300 and 3,400 miles. Even more unusual is the asymmetry of the mandated reduction—the Soviet Union must give up a 2-to-1 advantage in intermediate range missiles.

A word on verification is in order. Soviet compliance with the INF treaty may not be 100 percent. The verification procedures set forth in the treaty are not perfect as they do not allow for on-site inspection anywhere at any time. The Administration considered and rejected this idea because it would have given Soviet inspectors unlimited access to our own most secure facilities. It is possible that the Soviets could hide an INF missile somewhere on their territory and that it would go undetected. But, I submit, they could not test such missiles, or train troops to operate or maintain them in their proper basing structures without detection. Absent such preparations, the Soviet Union could not maintain a militarilly significant capability in these theater weapons. That is the mark of effective verification.

The INF Treaty has been studied at great length by our own experts on the Senate Foreign Relations, Armed Services, and Intelligence Committees and, of course, the majority leader. We owe our colleagues a vote of thanks for the many, many hours they have dedicated to the issue.

In the course of these deliberations, three key areas have been identified as being in need of further clarification—future interpretation, futuristic weapons, and verification. Although a flurried exchange of diplomatic notes has taken care of some of the concerns raised, there are still several serious amendments to the resolution of ratification that must be considered by this body.

It is the Senate's constitutional right and duty to give a treaty—any treaty, but particularly one of such import as the one before us, the closest scrutiny and to modify any provision or aspect we find inconsistent with the national good—even if that change requires the explicit agreement of the other party or parties. So we will do in the days ahead and I encourage the process.

It is obvious that the overwhelming majority of the Senate will give its consent to the resolution of ratification. It is testimony to the wholeness of the treaty, to the good and, I might add, ongoing efforts of the Reagan administration, and to the hope that one day the treaty will be used as a building block for continuing an arms control process many of us had thought was no longer alive.

I rise in support of the INF Treaty.

Mr. SASSER. Mr. President, the U.S. Senate stands at the threshold of what posterity may well come to know as the beginning of the end of the age of nuclear weapons. As my colleagues know, the treaty on the elimination of intermediate-range and shorter range missiles—better known as the INF Treaty—is unique in that it would eliminate two entire classes of nuclear weapons. It provides for highly intrusive verification measures, including onsite inspections. The agreement mandates the destruction of all intermediate and shorter range missiles and launchers. Furthermore, it bans the production, flight testing, or possession of these missiles for the unlimited duration of the treaty. The agreement would eliminate U.S. Pershing II, BGM-109G ground-launched cruise missiles, the Pershing 1A, and the Pershing 1B and Soviet SS-20's, SS-5's, SSC-X-4's, SS-12's and SS-23's. Both deployed and undeployed ground-launched ballistic and cruise missiles carrying nuclear or conventional warheads are included in the agreement. Elimination of intermediate-range and shorter range missiles capable of reaching targets from 300 miles to 3,400 miles away is a considerable step forward in the effort to free the world from the threat of nuclear war. I think the vast majority of my colleagues would agree that, although this agreement eliminates only a minute percentage of United States and Soviet warheads—about 3 or 4 percent—this is a small but extremely important step forward. I am pleased that the INF Treaty is before the Senate for consideration.

The agreement includes an unprecedented verification regime which includes onsite inspections. For years, U.S. negotiators have stressed the importance of onsite inspections to effective verification. Within its scope, the treaty provides for comprehensive monitoring and specific measures to be taken to verify data and to verify the destruction of missiles and delivery systems. U.S. inspectors have the right to conduct short-notice inspections and portal monitoring of designated missile operating bases or missile support facilities for 13 years after the treaty enters into force. This will ensure that the Soviets are complying with the terms of the treaty. The treaty establishes a special verification commission to help resolve any disputes over compliance which may arise. Recognizing that while such a commission is a good safety valve, so to speak, the agreement accommodates the realities of the international political system and the imperatives of protecting national security: the agreement also provides that each side may, in "exercising its national sovereignty," have the right to withdraw from the treaty if it judges that "extraordinary events related to the subject matter of this treaty have jeopardized its supreme national interest."

In short, Mr. President, the agreement contains a system of monitoring and verification measures designed to deter and detect cheating. It also contains a mechanism for resolving any compliance disputes which may arise, and an escape clause should the President determine that the treaty has ceased to serve and protect the national interest. Mr. President, there are those who object to the INF Treaty because the Soviets are not trustworthy—because they are historically and notoriously duplicitous.

I certainly understand those very legitimate concerns. Those who cite the Soviet's poor record on treaty compliance should find some comfort in the verification regime. The ban on testing missiles which are covered by the treaty and the high confidence in our ability to detect violations of the testing ban on intermediate-range missiles and the decreasing performance reliability of untested weapons are mutually reinforcing disincentives to cheat. There is much cause for optimism that the Soviets will not commit militarily significant violations. The military benefits of cheating are relatively low while the political costs are extremely high.

I believe that the backbone of any arms control agreement is its verification regime. The Intelligence Committee undertook the crucial task of assessing the capacity of our intelligence community, our national technical means, such as photo-reconnaissance satellites, and our onsite inspectors to meet the additional demands on resources which the INF Treaty would place on them. In looking to the future, the committee noted that, in addition to the current responsibilities of verifying compliance with the terms of the antiballistic missile treaty and other arms control agreements—particularly in view of a prospective start agreement. The new demands of the INF Treaty and current efforts to negotiate a strategic arms reduction treaty should be considered.

The successful negotiation and subsequent ratification of a treaty which would substantially reduce nuclear strategic arsenals would place even more demands on these resources. Verification of compliance with the agreements and closer monitoring of technological advances and of certain military activities, which, although not prohibited by the treaties, would greatly increase in importance under the restrictions of the arms control agreements. The committee recommended that the Congress authorize and appropriate additional funds to beef up monitoring capabilities. I understand that the President will include additional funds in next year's budget request.

Mr. President, there is hardly a Senator more keenly aware than I that this country is in urgent need of reducing its Federal deficit. Increased fiscal responsibility is a must if we are to recover our economic equilibrium. But this request for additional funds for the verification is one request which the Congress should grant—and I feel confident that the Congress will grant it. I will certainly do what I can to ensure that adequate funds for effective monitoring and intelligence gathering for arms control treaty verification are appropriated.

Mr. President, with a matter as important as national security, we cannot afford to make mistakes. The Senate has the constitutional role of providing its advice and consent for ratification of treaties negotiated by the executive. I have the highest regard for my Senate colleagues who have labored long and hard in the Foreign Relations, Armed Services, and Intelligence Committees to lay the ground work for the ratification process and to ensure that the Senate is presented with the best possible treaty to consider.

After nearly completing committee work on the treaty, it was necessary to double back for further discussion of some important outstanding issues relative to futuristic weapons and technical compliance issues with regard to verification. Administration officials returned to Geneva to fine tune the agreement with regard to these issues. Committee members held more hearings this week and approached the task of examining administration reports on these matters with the same vigor and critical analysis that characterized their examination of the treaty in previous hearings. I understand that these issues have been satisfactorily resolved.

The strong spirit of bipartisanism and the exemplary cooperation between the Foreign Relations, Armed Services, and Intelligence Committees is indeed commendable. I congratulate the members of those committees for a job well done.

Mr. President, I believe that the INF Treaty would greatly enhance U.S. national security. As welcome as the prospect of ratification of the INF Treaty is to the overwhelming majority of my colleagues here however, complying with the treaty would raise many new defense policy questions. For example, the Armed Services Committee took a detailed look into the implications for the North Atlantic Treaty Organization of the loss of the weapons to be destroyed under the agreement. Overall, the treaty is found to enhance NATO and U.S. security.

I do not believe that any of the Senators who support this treaty and who plan to vote for its ratification believe that the INF agreement is perfect or that it alone will end the nuclear arms race. I do believe that Senators who support this treaty and who plan to vote for it believe that it is a good, verifiable, treaty and that it is a landmark contribution toward arms control. I support the INF Treaty and I urge my colleagues to vote for its ratification.

Mr. MELCHER. Mr. President, there can be no greater or more significant achievement in this generation than the ratification of the Intermediate-Range Nuclear Forces Treaty, because it starts us down the path of, first, limitation, and, then, elimination of nuclear weapons. By our vote, we speak not just for Americans, but also on behalf of all mankind.

What we unleashed in awesome, destructive power upon Hiroshima and Nagasaki has since then by immense technological changes wrought even more terrible powers of destruction. There could be no small nuclear war because, when either side uses nuclear weapons of any size, the opposing side would use larger and larger nuclear weapons. What was not destroyed by initial blasts would eventually be plagued by fallout anywhere and everywhere on the planet. Air currents would circumvent the globe, eventually delivering radioactive particles to all parts of the globe and all creatures, great and small, would eventually perish while mankind, whoever and wherever, peasant or Pope, serf or king, could await and anticipate their demise and death.

What mankind has wrought in harnessing the nuclear powers of destruction, mankind has to control to avoid destruction of all man.

So, make no mistake. This nuclear arms limitation involves only a small fraction of the nuclear warheads on Earth and only a limited area of the Earth, but it is the most significant achievement of this generation because it is a first step in controlling the destiny of the world toward limiting and then eliminating the threat of the world's destruction.

As in the Chinese proverb, in a journey of a thousand miles, the most important step is the first step.

This treaty ratification is that most important first step.

MINUTIA, MYTH, AND MACHINATION

Mr. HATFIELD. Mr. President, I have spent the better part of these last 2 weeks watching this debate. Let me say at the outset that it was a relief to finally have the opportunity to cast a vote for a treaty, any treaty, that moves forward the cause of arms control. I did so in good conscience. I did so without ambivalence.

I wish I could also say that I did so knowing that the positive benefits of this treaty will negate the cumulative damage done to arms control and strategic stability over the last decade. But I cannot. It is difficult to estimate how many steps backward we took before deciding to take this one small step forward.

And so I am troubled, Mr. President. I am troubled because while the content of this treaty offers some hope for the future, the content of this debate offers little hope. I am troubled because the principal concerns with which this Chamber has obsessed itself for almost 2 weeks, can be summed up in three words: minutia, myth, and machination.

Let me turn first to the minutia. I contend that when all is said and done and the smoke has cleared, history will note the significance of this treaty for one reason and one reason only: that reason is onsite verification. By all logic, onsite verification should have been as nonnegotiable for Soviet General Secretary Gorbachev as it would have been for a Russian tsar.

I dare say, however, that those of us who have a record of support for mutual and verifiable arms control were less taken aback by the recent change in the Soviet position than were the resident arms control saboteurs of the Reagan administration. There have been two types of individuals dealing with arms control in this administration—the saboteurs and the hard bargainers. Fortunately, the latter—like the tortoise and the hare—outlasted and outendured the former.

It is unfortunate that the true meaning of this historic moment, the fact that we have shattered a barrier of immeasurable significance to the promise of peace, has been obscured by the obsession with minutia which has characterized this debate. I submit that this treaty should have been named the "On Site Verification Treaty of 1988."

So much for the minutia, Mr. President. Now for the myth. One of the amazing things about all myths is that if you tell them often enough, everyone begins to believe that they are true. If you say something, anything, over and over again with enough conviction—no matter what it is—it becomes virtually impossible to distinguish fiction from fact, rhetoric from reality.

So it is with what my colleagues have been calling our grave conventional vulnerability in Western Europe.

Mr. President, we have been hearing about the overwhelming superiority of Warsaw Pact forces for so long now that hardly anybody questions it anymore.

Mark my words: The "conventional gap" is going to be the battle cry of the 1990's. You would think the NATO alliance will be left with nothing more than a couple of sling shots.

Is that really the situation, Mr. President? I suggest not.

If it were, technology would mean nothing. The Joint Chiefs of Staff—our Joint Chiefs of Staff—estimate that out of 20 key military technologies the United States—and therefore NATO—leads in 14, the two sides are equal in 5 and the Soviets lead in 1.

If it were, all the money we have spent over the years would mean nothing. This overwhelming superiority argument implies that, although NATO has outspent the Warsaw Pact on defense since 1965, the Warsaw Pact is somehow vastly more efficient and more capable than NATO.

Let me also remind my colleagues that we are not creating a nuclear free zone in Europe. There will be 4,350 nuclear weapons in Western Europe after the INF Treaty goes into force. Artillery shells, depth charges, Lance missiles—and that does not even take into account the 400 submarine-based ballistic missiles included in NATO's general strike plan.

I could go on and on, Mr. President, about terrain and morale and training and leadership, about our longstanding, and I think sensible, commitment to quality over quantity. But if sheer numbers always translated into victory, battles from Fredericksburg to Barbarosa, from Korea to the Falklands, would have turned out very differently.

You do not add up numbers of troops and tanks and hardware and compare them to the capability of the enemy to determine if the defensive posture is adequate, because the defense relies on an entirely different configuration of forces.

Before my colleagues buy into this myth of a grave conventional gap, this myth of a defenseless Western Europe, I have a warning: We have heard about these "gaps" before.

In the 1950's, it was the bomber gap. The fear was the Russians would have 600 to 700 long-range bombers by 1960. What they actually had by 1960 were 190 long-range bombers—at least 300 less than what we had.

In the 1960's, it was the missile gap. The Soviets were expected to have between 500 and 1,000 intercontinental ballistic missiles by 1961. What they actually had in 1961 were 10 ICBM's, while the United States had 200.

More recently, it was the spending gap. The 1970's—when U.S. defense outlays totaled $2 trillion—were labeled the "decade of neglect." The truth is that defense outlays grew 38 percent more rapidly than the corresponding Soviet figure even during the much-maligned Carter years, but that did not stop us from approving what had become a 69-percent increase by 1987. And now the conventional gap is being stuffed down our institutional throat. I would just suggest that before we start lending our support to immense appropriations to plug this latest gap, we make sure it really exists at all. I maintain that it does not.

Now, Mr. President, let me address the machinations.

I have heard Senators on this floor talking about the lack of adequate verification to enforce the ban on ground-launched cruise missiles. I do not remember any of my concerned colleagues raising an objection at that critical moment when the technology was becoming reality; and I do not remember any of these Senators urging the President during the period prior to the deployment of cruise missiles in Europe to try to negotiate an escape.

In fact I am quite certain that they were convinced that deployment was the only language the Soviets understand, and that serious negotiations could only begin after deployment had occurred. That it might be difficult to verify a cruise missile ban somehow escaped their attention at the production and deployment stages. But at the removal stage—at the removal stage they display the nervousness of an expectant father—pacing, wringing their hands, tossing in their sleep.

But the ultimate irony is this, if verification is the primary concern and peace truly is the objective, it is far easier to verify all facets of nuclear weapons activity—production and testing and deployment—than it is to verify one isolated component. Yet I have not noticed any of the "peace through mistrust" crowd advocating the most verifiable course of all, which is a comprehensive bilateral nuclear freeze.

It is the technological dimension, not numbers of weapons, which remains the true lifeblood of this nuclear arms race. We are becoming slaves to nuclear technology and very soon there will be no means of escape.

As the inheritor of this agreement, the next President will assume a place in history both surging with opportunity and fraught with peril. Surging with opportunity because we may be facing a new dawn of superpower relations. Fraught with peril because there are going to be a lot of people around this town who will be out of a job—virtually devoid of a justification for existence—if peace were to break out.

The most fraudulent enemy of arms control has always been the charge "You can't trust the Russians."

Yet all of the initiatives put forward by responsible advocates of arms control have been firmly grounded on the unequivocal principle that they must be mutually verifiable. If you cannot verify it, you do not do it. It is that simple. In fact, the world "trust" does not belong in any responsible debate or discussion about arms control. We should banish it from the official vocabulary. Therein lies the true significance of this treaty. More than anything else, this treaty holds forth the promise of a world devoid of the incredibly false contention that if only we could trust the Russians, there would be peace.

Let no one be fooled—least of all the American people—about the meaning of this moment. As my colleague Senator Bumpers observed the other day, we already have produced more warheads since that much hailed and historic occasion when the leaders of the superpowers signed this agreement than will be reduced by the agreement itself.

A few of us attended a play the other night entitled "Walk in the Woods." It is based on the famous walk in the woods taken by Paul Nitze, the American arms control negotiator and his Soviet counterpart. A few of the lines were very relevant to this point. The American negotiator says "But there is not a quest for peace here." And his Soviet counterpart responds, "Ah, but there is a quest for the appearance of the quest for peace."

We could video tape, wiretap, and employ electronic surveillance against every Communist on the face of the Earth and they would say: "The technology isn't good enough." We could drain every last penny from the Federal budget to build every conceivable weapon the scientists can come up with, and they would say: "We need more money." And we could develop such astonishing military might that it would bring the Soviets to their knees begging us to stop and they would say: "Not just yet." And each and every time they will justify it in the name of peace.

So when I hear the so-called voices of reason, as I have on this floor, join in a chorus of caution to "go slow" with START: I wonder what it would take to get them to demand that we move faster. When I hear the so-called voices of reason call for "caution" on this treaty: I wonder what it would take to embolden them. And when I hear the voices of doom weaving scenarios of imminent destruction resulting from this small step forward for humankind: I wonder what they think will happen if we wait another 16 years. It has been 16 years since we voted on an arms control treaty. Do we really want to wait until the year 2004 for the next one? Call it what you want, but as far as I am concerned the treaty I voted for is the "onsite verification treaty." This Senate has been locked in a cold war time capsule since 1945. This treaty unlocks the door. Now it falls to us to decide whether we want to evacuate the time capsule—or to stay inside—in which case we will surely plunge into the abyss. That does not need to happen. Let us open the door and let ourselves out.

Mr. GRASSLEY. Mr. President, soon we will have to decide whether we will approve the United States-Soviet INF Treaty that is before this body. The concept of removing an entire class of nuclear weapons is a goal that all of us subscribe to, for its own value and as a first step toward further serious arms control.

I firmly support the effort toward a reduction in nuclear arms.

Both sides, the United States and the Soviet Union have sufficient nuclear weapons to destroy each other and possibly the world. To diminish this threat is something I wholeheartedly endorse.

In examining this treaty, it is obvious that it accomplishes some significant breakthroughs and achievements that might lead the way to further and more comprehensive nuclear arms reduction agreements. For this, the administration and its negotiators deserve credit.

In evaluating this treaty, the main criteria that I used to judge this or any arms control agreement that comes before this body is, does it enhance the ultimate security of this country? By agreeing to these reductions in INF nuclear weapons, as small as they are—and we are really only talking about a 3- to 4-percent reduction in our nuclear arsenals—are we maintaining our ability to adequately defend ourselves? I am not under the illusion that this treaty will seriously threaten our national security, but there are several issues that cause me concern, concern for this particular INF Treaty, and serious concern for future arms control agreements.

The first concern that I have is over verification. Numerous flaws and problems have arisen over the verification procedures in this treaty. We recently heard from Secretary Shultz that these differences have been resolved to our satisfaction.

This body should examine closely these issues to make sure they are indeed resolved to our satisfaction and that the ambiguities have been cleared up and the verification procedures are as we negotiated them.

Both the administration and the intelligence community agree that this, or any treaty is not 100 percent verifiable and that the Soviets could maintain a covert force of SS-20's without being detected. They argue, however, that the Soviets could not cheat in a "militarily significant" way and that training, deployment, and testing of a covert force would certainly be detected.

This leads me to my second concern that of a compliance policy.

These statements about Soviet cheating concern me because it seems to imply that we can expect some violations of the treaty on the Soviet's part, violations that we might or might not be able to detect. And quite frankly, I do not put a great deal of faith in the Soviets willingness to adhere to treaties.

An examination of past arms control agreements in general, does not give one a good feeling about how well totalitarian states comply with arms reduction pacts. When these governments see an opportunity to gain military or political advantage, they violate or ignore the treaty with impunity. The experience the democratic governments of pre-World War II had with the Axis Powers over naval arms control pacts was one of violation after violation with little or nothing done to penalize the offending party.

The lesson to be learned from this experience is that any verification process, regardless of how accurate it can be, will be meaningless if the will to take specific and definite action against violations is lacking.

When one examines the record of Soviet adherence to arms control pacts, there is the feeling we are watching history repeat itself.

We all know the litany of Soviet arms control violations, and I am sure we will hear them listed in great detail before this debate is over.

What has been the U.S. Government response to these violations? Basically, nothing. President Reagan finally had enough of Soviet noncompliance and withdrew the United States from its voluntary compliance with SALT II. This has been the only real retaliatory action taken by the United States.

None of the treaties had any type of compliance policy that detailed what the consequences of Soviet violations would be. And we can clearly see the results this has produced.

Yet with these lessons to draw upon, how have we tried to remedy the problem? An examination of this treaty provides no glimmer of a positive compliance policy. We have set up another commission—the Special Verification Commission—to deal with compliance questions.

This will probably be as ineffectual as the Standing Consultative Commission set up to deal with SALT I and II problems.

The Soviets have already tried to evade and renege on verification procedures, before the treaty was even ratified. What can we expect if the treaty is ratified and the threat of delaying action on it as this body did last week is removed? The administration must provide some indication of its response to potential Soviet violations.

If the administration refuses to do this, then the Senate should in the future do it for them. We need to put the Soviets on notice that we will not tolerate violations to the treaty.

I cosponsored an amendment with Senators WALLOP, KARNES, GARN, McCAIN, NICKLES, McCLURE, and WILSON that will impose a compliance policy on the treaty. It does not go as far as I would have liked, but it does force the President to report to Congress on Soviet compliance and, in the absence of compliance, set up a mechanism for the President to initiate a proportional response. The Senate will then have the opportunity to approve or disapprove by resolution the President's actions. Of course, the Wallop amendment was defeated, but I have hopes future administrations will carry out its goals regardless.

In conclusion, Mr. President, let me say, I applaud the spirit and intent of this treaty. It is a first step toward serious arms control reduction. And with constructive and responsible action we can make this a viable treaty and at the same time send a message to the Soviets that we are serious about a workable START Treaty.

Mr. BENTSEN. Mr. President, I support ratification of this treaty. It provides important limits on the Soviet military threat to Western Europe and unprecedented measures to protect us against any secret Soviet cheating.

This agreement will force the Soviet Union to withdraw and destroy some 1,836 intermediate and shorter range missiles which are now targeted on us and our allies. We will have to destroy less than half that number. The 3,136 Soviet nuclear warheads associated with these missiles must also be removed. We will remove 859 such warheads, still leaving over 4,000 nuclear weapons in NATO to help deter Soviet aggression.

As the Chairman of the Joint Chiefs of Staff testified, "The Soviets will lose capability in both the European and Asian theaters. They no longer will have the capacity to hit with ground-launched theater ballistic missiles Great Britain, Spain, France, Italy, and a large part of Turkey; or strike with these weapons many of our pre-positioned major equipment sites and debarkation sea and airports in Western Europe."

Admiral Crowe also noted that two of the major shorter range delivery systems which could be used for a chemical weapons attack on NATO Europe, the SS-12's and SS-23's, would be removed from the Soviet order of battle by this treaty.

While the military benefits are the principal test of this agreement, it also constitutes a major success for United States and allied diplomacy. We decided to modernize our nuclear forces in Europe and carried through with the deployment of these systems in spite of strong domestic opposition in some countries. We called the Soviet bluff when they walked out on the talks in 1983, and we eventually achieved President Reagan's original zero option—the elimination of all ballistic and ground-launched cruise missiles with ranges between 300 and 3,300 miles on both sides.

As a member of the Senate Intelligence Committee, I was involved in our comprehensive review of verification issues. We concluded that the United States should be able to monitor the removal and elimination of the Soviet weaponry declared under the treaty with certainty.

We also noted, however, that significant improvements in our intelligence capabilities are needed if we are to be able to monitor and verify a strategic weapons treaty—where the Soviet incentives to cheat would be much greater and the consequences of any such cheating far more serious.

While Europe without the INF weapons would not be denuclearized, the remaining balance would still show important Soviet advantages, particularly in conventional forces. I believe that NATO must take prompt steps to redress that balance in order to maintain the credibility of its strategy.

The Soviet arsenal is too menacing for us to rely on anything short of countervailing power. We know from history that Soviet smiles may vanish overnight, and cooperation can turn quickly into fierce antagonism. Accordingly, we need a defense force that can deter or if necessary defeat the Soviets, an American force tailored to Soviet capabilities, regardless of their intentions.

Mr. President, I do not have confidence in the Russians. I believe that they will do whatever they perceive to be in their own best interests, regardless of treaties or international law or world public opinion.

It so happens that this treaty seems to be consistent with Soviet interests as well as with our own. In addition to the modest military benefits of removing certain missiles on each side, the agreement allows the Russians to proclaim their peacefulness and to renew their propaganda offensive in Western Europe. But it also shows the world that the United States is committed to both peace and strength.

We have also obtained important Soviet concessions in the INF Treaty which I hope will be exploited in the negotiations on strategic forces. For example, the Russians agreed to disproportionate reductions in their own forces compared to ours, more than twice as many missiles and nearly four times as many nuclear warheads. They also agreed to onsite inspection on an unprecedented scale and to cooperative measures to improve verification.

The Soviets will now be tested, tested on whether they will accept similarly tough provisions in future arms control agreements and tested on whether they will fulfill their other international obligations, such as on human rights. They also will be challenged to carry out their promises to withdraw from Afghanistan and to demonstrate cooperation on other international problems, such as the Middle East, Africa, and Latin America.

As Soviet President Gromyko has said, General Secretary Gorbachev has a smile with iron teeth. He is tough and smart. And we have to be tough and smart in dealing with him. That is why we should use approval of this INF treaty as part of the foundation for broader cooperation—if the Soviet Union is willing, and if the terms are fair and equitable for us.

Mr. President, I know that many proposals will be offered to alter or impose conditions on this agreement. I am sympathetic to several of them. For example, I regret that the agreement has forever precluded development of a conventionally armed ground-launched cruise missile, for I believe that such a capability could be very valuable in NATO.

I also regret that this administration has not pushed the Russians harder about past violations of arms control agreements. For this and future agreements to succeed, there must be a much tougher standard of compliance, and a much greater willingness to raise complaints directly with the Russians.

Nevertheless, I do not want to sacrifice the positive achievements of this agreement for the sake of preferable "might-have-beens." I certainly do not want the Senate to give aid and comfort to America's opponents by trying to reopen settled questions, thus letting our adversaries blame us for delays in the ratification of the treaty and perhaps even a stalemate in renegotiations that kills the treaty.

I do want the Senate to approve this agreement, and do so in time to strengthen President Reagan for his Moscow summit meeting. It would undercut his standing, and thus his ability to press the Soviet leader on so many issues which we also consider important in United States-Soviet relations, if we stall on the treaty or burden our approval with conditions that we know to be nonnegotiable.

Mr. President, my enthusiasm for this agreement is tempered by my recognition of its limitations and of the disappointing record of bilateral agreements in bringing lasting changes in Soviet behavior at home and abroad. While the consequences of approving the treaty are modest, those of rejection would be immediate and severe, particularly among our allies. I also am willing to tilt toward my hopes and away from my skepticism.

This treaty can lead to a safer world for us and our children and grandchildren. It can be the first step toward much more significant measures that enhance our security and reduce the terrifying danger of nuclear war. I hope and pray that our actions this week do lead in that direction.

Mr. DODD. Mr. President, although I am in my eighth year as a Member of the U.S. Senate, this is the first time that I have had an opportunity to review and pass judgment on a new arms control treaty.

This is also the first time, even for the most senior members of the Senate, that a treaty eliminating a whole class of nuclear weapons is subjected to the advice and consent of this body. These two "firsts" indicate the significance of this debate for me, as well as for the Senate, and the whole Nation.

Having examined this treaty very carefully during the past 5 months, I want to commend the President, the Secretary of State, and our superb negotiators, for their persistence in pursuing this agreement and the negotiating skill with which they accomplished their task. They deserve full credit for the success. I also want to point out that President Reagan, and President Carter before him, enjoyed solid bipartisan congressional support on the INF issue every step of the way. We backed the dual-track decision, we consistently supported the deployment of the Euromissiles, and when the Soviets walked out in Geneva, together with most of my colleagues, I put the blame squarely on the Soviet Union.

This treaty was negotiated against a backdrop of solid bipartisan support, and rightly so. Arms control negotiations, where the security and survival of our Nation is at stake, must be the last place for partisan bickering.

Our support for this important national undertaking did not mean, of course, that we went about our constitutional role of advice and consent in a perfunctory fashion. As a member of the Foreign Relations Committee I have experienced firsthand the very thorough, responsible, and expert manner our committees reviewed all facets and implications of this treaty and its annexes.

My first reading of this treaty last December convinced me that it was a good, solid accord. Nonetheless, to make my final decision, I needed clarifications and reassurances on several aspects, and I made full use of the committee procedure to obtain those clarifications and reassurances.

One major area of concern for me was the continuing vitality, security, and cohesion of the NATO alliance. I was particularly disturbed by several articles written by Henry Kissinger, who is certainly one of the most profound and original strategic thinkers our country has ever had. While giving lukewarn endorsement to eventual ratification, Dr. Kissinger raised a number of points that he deemed to be shortcomings of this treaty and its negative effects on NATO. Beyond engaging Dr. Kissinger himself on these points, I repeatedly quoted his arguments to other witnesses, among them Secretary Shultz, former Secretaries Vance and Rogers, and Ambassadors Burt, Keel, and Galbraith. From this fascinating clash of expert views I concluded that while Dr. Kissinger's arguments are legitimate, the NATO alliance will not be weakened by the implementation of this agreement as long as its members retain their dedication to its common objectives. The dual track process, from its inception to the conclusion of the INF Treaty, was one of the best examples of concerted, coordinated, and decisive allied action in recent memory.

I carefully questioned our witnesses on the continuing modernization of our NATO forces. I am a dedicated supporter of further vigorous arms control efforts. At the same time, I am not blind to the fact that for almost 43 years nuclear weapons have insured the peace in Europe by providng a certain stability and balance, albeit a balance of terror. Those of us who strive to reduce nuclear weaponry must take on, with equal vigor, the obligation to insure a new balance in a world with reduced weaponry. Moreover, we must maintain stability not only at the starting point, and not only at the finish line, but at every point along the way. In my statement to the Foreign Relations Committee I likened this process to the precarious dissassembly of a house of cards. Card by card it must be disengaged without ever letting the house collapse, until the last two aces, leaning against each other, are removed. During my exchanges with Ambassadors Kampelman and Glitman I gained assurances that article XIV of the treaty about conflicting undertakings cannot be interpreted as barring efforts to modernize NATO weaponry as long as we do not produce, test, or deploy weapons specifically banned in this treaty.

We are all concerned about Soviet violations of past treaties and about prospective future violations. With our able negotiators I explored the consequences of such violations, and the available remedies, including withdrawal from the treaty. In the same issue area I also discussed the significance of the Krasnoyarsk radar with our verification panel.

The recent controversy about the ABM Treaty made me keenly aware of the importance of clarifying this treaty's provisions to leave very little room for potential confusions and disagreements. I asked many questions to clarify the meaning and legal effect of particular wordings in the treaty. It was also due to the ill-effects of the ABM controversy that I fully supported the inclusion of a committee condition in the resolution of ratification on constitutional principles concerning treaty interpretation. My suggestion to narrow and focus the suggested language was accepted by the committee and included in the reported condition. This condition is likely to become subject of a separate debate and I will address this particular question in more detail at that point.

As for the technical details of verifying the data base and the future implementation of the treaty. I have complete confidence in my colleagues on the Intelligence Committee who did a very thorough job ascertaining that the verification regime is more than adequate to prevent any militarily significant violation from remaining undetected. I also approved of the requests of the Armed Services and the Intelligence Committees to seek and obtain supplemental agreements on questions of futuristic systems and verification details.

Mr. President, I have worked hard during the past 4 months to reassure myself, my colleagues, and the American people on the soundness of this agreement and the rightness of our agreeing to its ratification. This treaty is not prefect, but it is as good as it can be made under the circumstances. There is no doubt left in my mind that it is very much in our national interest to consent to its ratification.

It is true that the military significance of this treaty is small. It removes but a fraction of the existing nuclear arsenals. But the political significance is enormous, not just by what it accomplishes in the short term, but more by what it achieves in the long term. It restarts a process by which we can continue to strive for a less dangerous world; a world where we can preserve and enhance our security at a lower level of armaments, with less risks, with no incentives to strike first, and maybe ever with lower expenses.

I am not among those who believe that everything labeled "arms control" is necessarily desirable. There can be bad agreements, and there can be fatally dangerous agreements. But I believe fervently that good, comprehensive, solid agreements are achievable. We should spare no effort to work for them while providing prudently for the maintenance of our strength and acting in concert with our allies.

Mr. President, this treaty fully deserves what, I hope, it will receive in this Chamber, an overwhelming vote of confidence.

LINKAGE ON THE INF TREATY TO PARITY IN THE CONVENTIONAL BALANCE

Mr. WIRTH. Mr. President, during the debate on this treaty, we have heard considerable discussion of the conventional balance in Europe. This is an important issue, but for a variety of reasons it should not be linked to the INF Treaty. The issue will be discussed under the CDE framework, and I hope we will come to agreement with the Soviets on conventional arms control. But as I will outline at some length, linkage with INF is neither appropriate nor timely.

The effort to create a linkage between the INF Treaty and the achievement of conventional force parity in Europe is a dangerously misguided exercise.

There is no inherent relationship between the two. The provisions of this treaty and their impact on NATO's defenses and security were thoroughly studied by the Armed Services Committee during the course of its review of the INF Treaty. The committee's conclusion was that the INF Treaty did not increase or exacerbate unfavorable aspects of the existing balance between NATO and Warsaw Pact conventional forces. In fact, we found the opposite to be true, as we stated in our report, "in broad terms, the committee believes the INF Treaty can make a modest but useful contribution to NATO security."

So to attempt to create an artificial, negative linkage between the INF Treaty and the conventional balance in Europe is to do injustice to an agreement which adds to NATO's security.

The second dangerous element in this attempted linkage is the very concept of parity in conventional forces in Europe. Once the INF Treaty is ratified, the focus of our attention will turn to conventional arms control in Europe. It is very important that we begin this debate with a clear understanding of what the issues are. We can take a significant step toward ensuring an educated, accurate debate on conventional arms control, if, at the outset, we lay to rest obfuscating fallacies before they take hold. Today I want to address what I fear may become a central fallacy in the conventional arms control debate.

I believe there exists a serious misunderstanding about conventional parity—what it means, and even more importantly, what it does not mean. "Conventional Parity"—it has a nice ring to it if you say it fast enough, Taken at face value, it would seem there could be no argument over the desirability of parity between adversaries who live in uneasy peace on opposite sides of a fortified border. It would seem that the continuance of this peace might depend on equal numbers of forces and equipment on each side, so that both sides would view initiating aggression as fraught with risks, and the outcome highly uncertain.

However, simple parity is not just simple, it is simplistic. It assumes that the only variable that is important is a simple numerical ratio: tank for tank; artillery tube for artillery tube; division for division. This simple numerical logic is an illusion, but before addressing the factors that make it so, let me ask two questions.

First, are those who decry the conventional balance in Europe, who claim it is so unfavorable to NATO that without the missiles removed by the INF Treaty NATO is in imminent danger of being overrun by Soviet forces—are those critics ready to transfer funding from the Strategic Defense Initiative to the conventional forces budget? If the conventional balance is really in such a criticial state, we should do it without delay. But I daresay if it were put to a vote these critics would not support it.

Second, if such a conventional comparison is paramount, the proponents of improving the conventional balance should be leading a mad stampede to transfer money from aircraft carriers to tanks and artillery. In aircraft carriers we have a 14 to 1 advantage over the Soviet Union, and we're still building carriers. Following the logic of the conventional balance doomsayers, increasing this already great U.S. advantage makes no sense. We should be using these carrier funds to buy tanks. But we're not, and I daresay there would be considerable opposition were it proposed.

The negative answers to these questions demonstrate a fundamental and almost incomprehensible inconsistency in our allocation of defense resources, if, the conventional balance is as dangerously unbalanced as those who call for conventional parity claim. Let us examine this apparent inconsistency, and begin by reviewing a variety of variables.

1. STRATEGY

Is NATO strategy the same as the Warsaw Pact's? Or are there fundamental differences? Proponents of conventional linkage assume our strategies are the same, and so assume that the same weapons systems are required. But this is gravely wrong.

2. QUANTITATIVE COMPARISON

The unspoken assumption of the proponents of linkage is that it is a straightforward matter of adding up totals. It is not; any quantitative comparison involves a broad variety of vexing variables. A bean count is not enough.

3. QUALITATIVE COMPARISON

If quantity is hard to measure, so much more so is quality. Factoring in quality makes any quantitative assessment much more difficult and complex, and ultimately, uncertain. But to ignore the qualitative factor is to render any bean count even more shallow.

Finally, we should recognize that the key to assessing the European balance is not simply to compare the size of the opposing forces, but to focus on the use each side would make of the resources available. I intend to examine this issue now. I believe when I have finished my colleagues will be persuaded that the linkage drawn between the INF Treaty and conventional force ratios in Europe is not firmly based in fact, but instead rests on very weak, unstable ground.

Let us first look at strategy. Gen. John Galvin, Commander in Chief, U.S. European Command, testified this year before the Armed Services Committee on the role and mission of NATO:

> NATO is a defensive alliance. Its members are committed to use military force only in response to aggression. Therefore the Alliance does not maintain forces capable of overwhelming its potential adversaries. Because our primary objective is to deter attack we must be able to convey the message that as an alliance we have both the capability and will to protect our interests. In the event that deterrence fails, NATO forces must be able to preserve or restore the territorial integrity of Alliance nations and bring the war to a close on favorable terms as soon as possible.
>
> Any force comparison is incomplete without considering what the forces are trying to accomplish. The strategic doctrines of the two alliances are in sharp contrast. NATO's strategy is entirely and exclusively defensive, rejecting the advantages of initiative that accrue to any attacker; that is, ability to select the time, place, and nature of an attack. * * * Every aspect of Soviet military posture—weapons, force structure, training, and doctrine—are all designed to maximize the potential for rapid offensive operations over long distance.
>
> We do not need to match the Warsaw Pact man for man or tank for tank. What we do need is a conventional capability strong enough to frustrate aggression and increase the time before nuclear weapons would have to be used. Such a capability would preclude hasty decisions to use nuclear weapons and enhance NATO's strategy of flexible response. Deterrence would be more credible because Soviet planners could not be sure of gaining the objectives of aggression so swiftly that NATO would be unable to consider the use of nuclear weapons.

As General Gavin has testified, the strategies of NATO and the Warsaw Pact are dramatically different, requiring very different resources and alignments.

Let us now turn to a second variable—the static quantitative comparison itself. Once again I shall quote General Galvin:

> In order to know what action needs to be taken to maintain adequate conventional forces, we must have a clear understanding of the relative strengths and weaknesses of the two alliances. The NATO-Warsaw Pact military balance is a measure of the relative capability of military forces that results from a complex combination of factors that together form military power.
>
> Even a quantitative comparison is not simple. At Supreme Headquarters Allied Powers Europe we have examined more than 150 analyses of the East-West balance. These reflected a great variation in analytical techniques—and a wide variety of conclusions.

Even the prestigious International Institute of Strategic Studies is backing off specific bean counts. The recently published 1987-88 edition of the Institute's The Military Balance notes that its figures have been "much quoted but also at times misrepresented", and that "political leaders, East and West, sometimes use assessments of the balance selectively to rally public support for their foreign defense policies."

Significantly, this year the Institute includes an essay on the conventional balance in Europe, going beyond quantity alone:

> No single approach is likely to prove useful for all purposes. Indeed, it is a misnomer to speak of a single, overall balance.

According to John Cross, who oversees the compilation of the report, the Institute has "started to spell out the 999 ways in which pure bean counting doesn't give a sensible answer."

And even if quantity were the only measure, would that be enough to assure victory? History tells us it is not. At Austerlitz in 1805, the smaller force won; at Antietam and Fredricksburg in 1862, and Chancellorsville in 1863, the smaller force won.

> At the Battle of Frontiers in 1914; the fall of France in 1940; the Nazi invasion of Russia in 1941; the North Korean invasion of South Korea in 1950; the Sinai in 1967; the Golan Heights in 1967 and 1973; and in the Falklands—The Smaller force won.

A reliance on static quantitative comparisons alone to measure NATO and Warsaw Pact forces does show that NATO's is the smaller force. But this is not the whole story. To quote again from General Galvin,

> If we look only at forces stationed in Western or Eastern Europe, the Warsaw Pact outnumbers NATO only slightly in personnel and more than 3 to 1 in tanks, artillery, and combat aircraft. If we look at both sides when fully mobilized and reinforced, the Soviet advantage declines.

Furthermore, "NATO has traditionally sought to make up for its numerical disadvantages by maintaining an edge in quality of its forces." Some weapons are more equal than others. The point can not be ignored—combat capability is another crucial variable in an estimate of a military balance. One not taken into consideration by the traditional bean count.

Neither is readiness. Again according to General Galvin, "the readiness of NATO forces is generally higher than those of the Warsaw Pact." But the General also said, "we have to improve readiness throughout NATO with better training." And NATO's interoperability problems are well-known. All this simply demonstrates that readiness is yet another complex variable.

There is, in fact, a whole list of qualitative variables that make the static quantitative analysis unrewarding by itself. Josh Epstein of the Brookings Institute has given a summary of this issue:

> * * * bean counts—static side-by-side enumerations—of peacetime military inventories of tanks, planes, and so forth do not constitute assessment of the conventional military balance in Europe or anywhere else. A close accounting of each side's pre-battle forces is obviously necessary to any assessment of warfighting capability; but such accounting alone is far from sufficient. Warfare is a dynamic process in which the opposed forces grind each other down, a process whose pace and outcome depend crucially upon factors that simply cannot be captured in a bean count, no matter how balanced. Some of these factors are obvious: Technology (weapons' quality); Training and troop skill; Command, control, communications and intelligence; Reconnaissance and targeting capabilities; Relative concealment and exposure (use of terrain); Logistics; Force-to-space constraints; Reliability of allies; Readiness; Warning and suprize; the relative willingness to suffer attrition and yield territory; asymmetries in goals and tactics.

Finally, we cannot ignore the context in which any comparison exists—the respective economic, social and political environments. We are all aware how very different these environments are. We must also acknowledge that they are never static.

Furthermore, not only are our respective political and economic systems so different, but so too are the challenges we face. In the West, a number of factors on both sides of the Atlantic have been working against NATO's military posture; the public diplomacy of Gorbachev, diminished concern about a Pact attack on the West, euphoria on the arms control front, a tangled web of economic uncertainties, chronic Federal budget deficits, and the allure of distant as opposed to current military technologies.

But the Eastern bloc also has more than its share of problems: a legacy of economic and political stagnation from the pre-Gorbachev era; continuing structural economic difficulties; a weak and limited technological base far inferior to those of NATO nations; demographic trends unfavorable to the ruling ethnic Russians; and an uncertain allegiance among the Warsaw Pact countries.

Clearly, there is much more to evaluating and determining the conventional balance than a simple bean count approach to parity. I would be the first to admit that NATO's conventional forces have their weaknesses, and to acknowledge that a diligent and determined commitment of resources is required for NATO to retain its deterrent capability. But NATO has many strengths as well, strengths poorly represented by a bean count. Thus the call for conventional parity, with or without the INF Treaty, is not only unnecessary, but very much the wrong approach to conventional arms control. Consequently, linkage between the INF Treaty and conventional parity is inappropriate and unnecessary.

In conclusion, I direct my colleagues' attention to the following statement by Admiral Crowe, Chairman of the Joint Chiefs of Staff, from his testimony on the INF Treaty before the Armed Services Committee:

> The JCS have unanimously concluded that on balance this Treaty is militarily sufficient and also adequately verifiable. In turn, they believe that this accord is in the best interests of the United States and it allies and strongly recommend its ratification by the U.S. Senate.

Mr. HECHT. Mr. President, this discussion we have undertaken on the INF Treaty has been a tough question for me. One of the toughest I've faced in the Senate. A President for whom I have the greatest respect and affection urges us to trust that the leaders of the Soviet Union are beginning to change their behavior, to honor treaty commitments, to behave responsibly in the international community. This, against a long history—some quite recent—of Soviet misconduct, attacks on our interests, and violation of numerous treaties and other agreements. We're being asked to agree to elimination of a weapons system that just a short time ago, we were told was vital to the defense of Western Europe.

And, to make the matter still more difficult, Mr. President, the technical questions of arms control itself, and the technological aspects of intelligence support to the compliance verification process, are almost beyond comprehension by anyone other than arms control specialists, engineers, and mathematician war gamers. The complexity and the incredible amount of detailed information we've had to examine on the intelligence aspects of the proposed treaty alone are mind boggling. On this point, Mr. President, as a member of the Intelligence Committee and one who has been intimately involved in this process, I want to compliment Chairman BOREN and Vice Chairman COHEN, for the quality and the exceptionally efficient management of our committee work on the treaty. They have shown outstanding balance, fairness, and understanding of the very complex intelligence issues involved and I applaud their high caliber leadership.

Mr. President, most Americans, when confronting a difficult decision will normally examine the positive side of a debate first. We're just adapted to the action oriented approach—but—given the history of this issue, and the possible consequences if we make the wrong decision, I want to begin with the basic arguments against ratification.

First, Mr. President, should the Senate accept what we've seen so far of glasnost and perestroika as solid evidence that the leaders of the Soviet Union are giving up a singularly bad part of Marxist-Leninist political doctrine? Have they abandoned those concepts which they claim give them a philosophical right to lie, cheat, and steal in international relations in pursuit of Soviet Communist expansionism? I think not.

There's much intellectual debate around the world on this question these days, but we see no real renunciation of the basic political philosophies which stand behind Soviet Communist expansionism. I have had a number of opportunities to question Soviet officials directly about this point, and the responses have been at best evasive and murky. In a previous statement I made on this floor, I cited the U.S.S.R.'s long history of treaty violations and international misconduct. That list, of course, is based on proven Soviet action, all in the name of Communist expansion and increases in Russian nationalist power.

From the intelligence viewpoint, Mr. President, we cannot offer the American people complete assurance that we will be able to detect and report accurately—and in a timely manner—possible Soviet attempts to cheat on this treaty. Senators should note the careful and precise language of the Intelligence Committee report on this point.

Ratification of this treaty is an important—if somewhat symbolic—step toward denuclearization of our defense of Western Europe. The ultimate result could be for the United States to drop what has been a successful strategy, without a prior reduction in superior Soviet/Warsaw Pact conventional forces. The danger lies in attempting to defend Western Europe without either a significant reduction in Warsaw Pact conventional forces or a costly upgrade in NATO conventional forces strength.

There are early signs of a change in the Soviet "closed society," and indications of a turn toward greater concern for domestic economic development and increased domestic flow of information in pursuit of that development. Nevertheless, they are a long way from an open society in the way we in the west understand and live that concept. The implication for their ability to cheat on treaty compliance are obvious.

The final negative argument I wish to cite is an internal budget issue—that is, if this treaty is ratified, the administration must find a way to pay for special intelligence collection resources to participate in the verification process. A significant sum must come from a nonincreasable national defense budget figure. There has been no proposal that elimination of the nuclear IRBM will create amortization funds to pay for the inspection/verification process.

Now, Mr. President, what are the arguments for ratification? For starters—despite efforts from some sources to depict Senate conservatives as the bad guys, we, too, would like to see a real lessening of military tensions with the Soviet Union. But only if there's a basis for belief that we can achieve that decrease without serious risk to our own freedom and independence. As well as that of our allies. We are told by the administration that we can move in that direction with this treaty without serious risk—and I would remind my colleagues that we would have to strain reason to accuse the Reagan administration of seeing our conflicts with the Soviet Union through rose-colored glasses.

On a closely related question: is the current Soviet shift in policy emphasis for real—that is, toward domestic economic improvement—with possible decrease in emphasis on international expansionism? If it is, should we encourage that shift? I believe the right answer in both cases is "yes." I've consulted some of the more suspicious Russian watchers in the national intelligence and foreign policy community, and they generally agree that Gorbachev is serious about his domestic economic focus. They also agree he has a very difficult task, and that his chances of success are not at all good. My own views on this question are that the United States should encourage the U.S.S.R. to focus on its domestic problems. But we should be very cautious and wary—this leopard has a long way to go before we can say it has changed its spots.

With respect to absolute assurance of timely detection of Soviet attempts to violate the treaty—again I urge each Member to review closely the Intelligence Committee's assessments on this question. I support the findings of that report. Its bottom line is that while absolute assurances are not possible, the risks involved are well within reasonable limits. As a Nevadan from Las Vegas, a former businessman, and a former banker, I claim some understanding of calculating odds and risks. And, finally, on this argument for ratification, I call your attention to the favorable outcome of the last round of clarification negotiations with the Russians in Geneva.

Will the INF Treaty take us too far down the denuclearization road in European defense—without prior redress of the conventional forces imbalance? I think not—especially if we continue to press the conventional forces balance issue. Our NATO alliance leaders have said that the INF Treaty is a reasonable and desirable course, and they have at least as much, if not more, at stake on this point as we do.

On my last point for ratification, Mr. President—based on our research and evaluation in the Intelligence Committee, I believe that the administration can—through the "rob Peter to pay Paul" process known formally as adjustments in priorities and limited recovery of the program costs for the INF weapons and units—find the funds to pay for the new intelligence collection capabilities we must have.

So, Mr. President, after balancing pros and cons—where are we? Like most important questions in national security, it's where you put the weight in the values area—what's most important? For me, I am inclined to accept the judgment of the military men who have to command our forces in war, that the Pershing missile system is not absolutely vital to the defense of Western Europe. I believe we can afford the limited risk involved, especially if we have some years of experience with this treaty, as a way of judging Soviet intentions and behavior before—and I underscore before—the United States undertakes to make arms control agreements on the truly critical weapons—the strategic missiles.

In this context, Mr. President, barring the revelation of new information, or vital arguments I have not yet heard, I will vote to support this treaty, and I therefore urge the rest of the Senate to support ratification.

RATIFY THE INF TREATY

Mr. PRYOR. Mr. President, I want to state my support for Senate consent to the ratification of the INF Treaty. Its final signing by President Reagan and Secretary Gorbachev, will give people around the world a glimmer of hope for finally putting an end to the global nuclear arms race.

While this accord is historic for a number of reasons, its immediate military impact will be modest. The missiles that will be eliminated represent only 4 percent of the world's nuclear arsenal. But to the extent that it does have a military impact, I believe it tips the scales in favor of U.S. security interests.

The treaty's greatest significance is that it lays the groundwork for future arms accords by creating a better environment between ourselves and the Soviets and by making two historic advances.

The first breakthrough is that this is the only agreement in history to actually eliminate an entire class of nuclear weapons. With this accord, we will eliminate all United States and Soviet nuclear missiles with a range of 300 to 3,000 miles. This will require the Soviets to remove four times more nuclear warheads than the United States will remove.

And second, the INF accord establishes unprecedented methods to minimize the possibility of either side cheating on the agreement. Just a short time ago, we thought that the Soviets would never agree to the onsite inspections of Soviet facilities that we believe are necessary to verify compliance. Yet, these intrusive methods are included in the treaty and its protocol regarding inspections.

Before going further, I want to complement the leaders and members of the Foreign Relations Committee, the Armed Services Committee, and the Select Intelligence Committee who spent over 4 months grappling with every aspect of this agreement. The thoroughness of their review was evidenced when the leaders held up consideration of the treaty by the full Senate until several problems regarding verification and inspection conditions could be cleared up with the administration.

Much of the debate on the INF Treaty has stemmed from concern about the agreement's possible affect on the conventional arms balance in Europe. Some have charged that the conventional forces leg of NATO's flexible response triad will be exposed by the removal of part of a nuclear leg of the triad, the INF missiles.

Mr. President, I agree that there are serious problems with NATO conventional forces that need to be addressed. Legitimate concerns have been raised about NATO firepower, sustainability, and reinforcement rates.

This INF Treaty certainly will not solve a NATO-Warsaw Pact conventional arms imbalance. Nor is it accurate, however, to portray the treaty as laying bare NATO conventional vulnerability.

Mr. President, I would note that this treaty eliminates only a small fraction of either superpowers nuclear arsenal. The United States will retain well over 4,000 nuclear warheads in Western Europe, which could be supplemented by nuclear weapons on U.S. submarines, aircraft carriers, and other maritime assets available for use in the European theater of operations.

It is a sobering fact that European targets that will no longer be covered by INF missiles, simply will be retargeted by the immense nuclear assets remaining on both sides.

Furthermore, the INF Treaty will take a heavier toll on Soviet nuclear forces than on United States nuclear forces. Specifically, it will require the elimination of 859 United States missiles versus 1,752 Soviet missiles and it will reduce the number of deployed United States nuclear warheads by 429 as compared to 1,687 for the Soviets.

I was impressed by the comments of the Chairman of the Joint Chiefs of Staff, Admiral Crowe, on this subject during treaty hearings this spring. He said:

> We are never going to negotiate a treaty where we do not give up something. * * * But we believe that in this one the trade has been favorable to the U.S. and that the balance we are seeing with the implementation of the INF Treaty is better than the one when it started.

Mr. President, my point is that this treaty is not going to create major new vulnerabilities for NATO conventional forces. The modernization of conventional forces are necessary with or without the treaty. Addressing conventional shortcomings deserve our attention and, perhaps more importantly, the increased attention of our NATO allies.

As I mentioned earlier, I believe this treaty has limited military significance. Its greatest importance is that it sets the stage for further serious arms talks, such as the START negotiations to limit strategic classes of nuclear weapons. In fact, without successful negotiations on these weapons, the Soviets will be free to simply fill the small void left by the missile eliminations in this treaty with the production of other missiles.

We are unlikely to even approach agreement in these important START talks without the groundbreaking verification conditions established in this INF Treaty.

Clearly, the Achilles heel of any arms agreement is the ability to assure each side that the other side is not cheating.

I agree with Secretary of State Shultz who testified this spring that, "there is no such thing as absolute or 100 percent verification (of compliance)." Our goal must be to assure ourselves that the treaty provides a high level of confidence that even a low level of cheating is not occurring.

This spring, Defense Secretary Carlucci testified that the provisions of the treaty do provide adequate and effective verification of compliance. He said:

> The prohibition of flight testing, the production ban, and geographic constraints will make it difficult for the Soviet Union to deploy a militarily significant covert force of the INF missiles. Should the Soviets still elect to violate the Treaty, this will prove costly, complicated, and—we believe—detectable before any significant military threat to U.S. interests arise.

The verification procedures agreed to in this treaty include onsite monitoring of specified production facilities in both countries, open inspections of missile deployment, storage, and elimination areas, the ability of either country to conduct challenge inspections for 13 years when violations are suspected, and unprecedented data exchanges to support these efforts.

If implemented correctly, these procedures should provide the confidence we need that the Soviets are in compliance. They also set an important precedent and foundation for the START talks and other arms negotiations.

Mr. President, I think that the debate on this treaty has been healthy. It has forced us to contemplate the unthinkable horrors of nuclear war, while daring us to envision a world with less nuclear tension. I think we all feel some shame that the powerful nations of the world have come to rely so heavily on the unstable protection of a nuclear umbrella.

When the Senate votes on this treaty and when the President signs it, the people of the United States and the Soviet Union can be proud that they have taken at least a small step back from nuclear war. The INF Treaty is probably not anyone's idea of perfection, but it does open the door to a safer world, while promoting our Nation's security interests.

Mr. KERRY. Mr. President, at the outset of hearings on the INF Treaty, I set forth criteria that I believed the Senate should focus on in deciding whether the treaty merited our support:

First, and most importantly, would the treaty increase stability on the East-West border in Europe, reducing the risk of a crisis turning into a war?

Second, would the INF Treaty improve the overall military balance on the East-West border, making it less likely that if such a war took place, the West would lose?

The testimony the Foreign Relations Committee received during the hearings amply demonstrated that the INF Treaty does meet this criteria: It increases stability through eliminating a class of weapons that placed Europe within 8 minutes of nuclear destruction in a superpower crisis, and it does so on terms that favor NATO.

It does so through the treaty's military and political consequences. Let us take the purely military situation first.

As we know, the object and purpose of the treaty is to eliminate weapons that target Europe at distances of between 500 to 5,500 kilometers, or about 300 to 3,300 miles. Under it, the Soviets are destroying 857 deployed intermediate-range missiles and shorter range missiles and 895 nondeployed missiles for a total of 1,752 missiles with the potential of delivering about 3,052 Soviet warheads—almost four times the number of warheads that the United States and NATO will give up under INF.

I asked Secretary of State Shultz and Secretary of Defense Carlucci, among others to define the military significance of the treaty. The answers given are worth citing. In the words of Secretary Shultz:

> As a result of the treaty, the Soviets will lose considerable capability in both the European and Asian theaters to strike our allies. In addition, in Europe, they no longer will have the capacity to strike with these weapons many of our prepositioned major equipment sites, and debarkation points, both ports and airfields. Additionally, we have long been concerned about Soviet capabilities to attack NATO Europe with chemical weapons. We still are, but at least two of the significant shorter-range delivery systems for chemical and conventional weapons—SS-12's and SS-23's—will be removed from the Soviet order of battle as a result of this treaty.

In the words of Secretary Carlucci:

> The elimination of Soviet INF missiles will reduce the number of Soviet missiles capable of threatening NATO's remaining systems with nuclear, chemical and conventional weapons [leaving] the Soviet Union with little confidence in its ability to preempt successfully NATO's European based forces and predict NATO's response.

Or to quote the Chairman of the Joint Chiefs of Staff, Adm. William J. Crowe,

> Successful implementation of this treaty will reverse a 40-year buildup, during which Western Europe has become the most militiarized region in the world, and eliminate completely two classes of very destructive, short warning nuclear weapons systems. * * * The Soviets will no longer have the capacity to hit with ground-launched theater ballistic missiles Great Britain, Spain, France, Italy, and a large part of Turkey.

In addition, Japan, Taiwan, the northern Philippines, and a portion of Alaska, now covered by the SS-20's will no longer be subject to their possible use for chemical weapons attacks, according to Admiral Crowe.

So from a military point of view, this treaty is indeed a good one.

But equally important are the political effects of the INF Treaty. We know the attitude of our allies to the treaty—for them, it is an agreement which gives profound relief from the real anxieties of being targeted by thousands of intermediate range nuclear missiles. Yet it is not merely European anxieties that will be lowered with the implementation of this treaty—it is the anxieties of our military and of the Soviet military. Reducing these tensions itself reduces the risk of war. It moves us further away from the crisis atmosphere engendered by the aftermath of World War II, by the fate of Eastern Europe, and the invasions of Hungary and Czechoslovakia, the Berlin crisis, and the other Soviet actions that have made the West legitimately fear for its security. The INF Treaty gives us a chance to see if the glasnost and perestroika of Mikhail Gorbachev can translate into coexistence at a reduced level of tension. The INF Treaty is thus potentially a seminal political document—a sign that we are not frozen forever in the patterns and relationships defined by Stalinism and the cold war.

This is not a matter of wishful thinking, but is inherent in the procedures for cooperative verification set forth and required by the treaty, which for the first time since the dawn of the cold war lets each side inspect the destruction of weapons by the other. These inspections, with all of their detailed procedures, have the potential to increase the confidence of each side's military that the other is acting in good faith in carrying out the terms of the treaty. Each side will see that its national security has not been weakened by the fact that it has given up some of its nuclear weapons. To the contrary, it will see its security strengthened by the knowledge that it no longer has to worry how the other side might use its intermediate range nuclear weapons in a crisis.

At this point, I would like to address some of the assertions made about this treaty's verifiability, Soviet cheating, and other criticisms of the treaty.

Let me take verifiability first. I don't think anyone contends that we will be unable to verify whether or not the Soviets are actually dismantling and destroying the missiles and missile support structure as set forth in the Memorandum of Understanding. We will be able to verify the fact that the Soviets are destroying 857 deployed intermediate range missiles and shorter-range missiles and 895 nondeployed missiles for a total of 1,752 missiles with the potential of delivering about 3,052 Soviet warheads.

Instead, the debates have been over whether or not we can certify if the Soviets were to have secretly deployed a small number of hidden SS-20's that the United States does not know about. This suggests that our intelligence community does not know what it is doing, that national technical means has failed, and that the Soviets would blithely take an enormous risk of being discovered to have cheated on this treaty when they could accomplish the same military goals legally by simply deploying new SS-25's instead.

I have yet to hear any Member of this body, or any critic of this treaty describe what possible military benefit the Soviets could gain out of a secret force of SS-20's that they could not gain out of the deployment of a similar number of legal SS-25's. The limited coverage of this treaty—a coverage which could have been easily broadened by the United States if it had wished through a commitment to interim restraint according to the terms of SALT II while START remained under negotiation—eliminate any incentive to cheat. The political impact of such cheating would be substantial. The military utility of such cheating is hard to fathom. The argument about hidden SS-20's fails to pass the fundamental test of common sense.

In the words of Admiral Crowe, "The measures in this treaty has taken together create major disincentives to Soviet cheating by raising significantly the cost that the Soviet Union would have to incur in order to covertly deploy a significant force of banned missiles, while raising the probability of getting caught if they do cheat. This is particularly true because of the flight testing and production bans which, over time, would impair the military utility and viability of any covert force."

In other words, according to the head of the Joint Chiefs, this treaty makes it very difficult if not impossible for the Soviets to covertly test SS-20's. If they can't test them, they can't rely on them in the already unlikely event that they have somehow secreted them away somewhere.

If the Soviets did decide to cheat, I personally believe we could catch them, and catch them early. The testimony the Senate has received on that point is pretty clear, as the unclassified record reflects. For example, Admiral Crowe has testified, "the total web of all intelligence sources, including our national technical means and onsite inspection procedures, provides high confidence that the United States Government can detect breaches of treaty provisions by the Soviet Union before such violations become militarily significant. * * *" Thus, the JCS have unanimously concluded that on balance this treaty is militarily sufficient and also adequately verifiable.

As Gen. Larry D. Welch, the Air Force Chief of staff told the Foreign Relations Committee February 4, 1988, "it is not practical for the Soviets to hide significant numbers in any useful state of readiness for a significant period of time. * * * We think the treaty has an effective verification scheme that makes it difficult, costly and unprofitable for the Soviets to cheat on any significant scale."

For the record, one should note that it was the United States which abandoned negotiations aimed at achieving "anytime, anywhere" inspections to ensure verification, because our military didn't want to give the Soviets that much access to our military technology. In response to one of my questions on this issue, Secretary of Defense Carlucci noted, "we concluded that 'anytime, anywhere' inspections were not essential given the extensive and unprecedented nature of our verification procedures as a whole."

Then there is the argument that the treaty was not sufficiently clear about futuristic systems, that the Soviets might be intending to use future weapons other than conventional or nuclear explosives in lieu of the weapons banned under INF.

As far as I am concerned, this argument was one that could have been avoided if the United States has been willing to ban reconnaissance drones, because such drones are basically the only kind of intermediate range GLCM's permitted under the treaty. The concern has been that the Soviets would test and deploy GLCM's that looked like reconnaissance drones, but which might really be futuristic weapons. The administration argued, and I believe definitively, that the term "weapon" obviously applies to any device that can "damage or destroy" a target, regardless of the principle involved. But the treaty itself was silent on the issue.

As a result, several Senators pushed for specific, clear language confirming the understanding of both parties to the treaty that futuristics were covered. Because of congressional concern, the administration went beyond this and exchanged diplomatic notes with the Soviet Union on this issue on May 12, 1988, agreeing that "weapon delivery vehicles" include all devices designed to damage or destroy any target. This definition would appear to solve the question of whether futuristics are or are not covered. The verification procedures that apply to all other GLCM's will apply to these GLCM's as well. The precise means of differentiating a reconnaissance drone which is permitted from a futuristic weapon which is banned is classified, and available in an addendum to the Intelligence Committee's verification report. In testifying before the Foreign Relations Committee on these matters May 13, Secretary of State Shultz confirmed, in answering one of my questions, that any action by the Soviets inconsistent with the terms of this note would be considered a violation of the treaty by the United States. So I think controversy should be behind us.

But the treaty is only a first step, and its political impact in the long run depends much on what steps we take to follow it up. As I suggested at the start of the hearings, the treaty's impact will be reduced if the Soviets replace the eliminated weapons with new weapons of other types, retargeting Europe, ensuring that NATO too will move to undertake the deployment of new systems, not covered by the treaty, that compensate for the systems eliminated. I asked administration witnesses if we would be better off if both sides did not replace the banned INF weapons with other weapons.

The administration took the position that no such constraints were advisable. The Soviets do have the right to replace the INF systems with strategic weapons such as the SS-25, and to do so will not violate the treaty. Similarly, the United States can replace its Pershings and GLCM's by deploying additional sea-launched cruise missiles or air-launched cruise missiles. I believe this is unwise, and that the political meaning of the treaty will be eroded if both sides add new strategic weapons targeted at Europe. I hope that instead, a more conservative approach will prevail, and each side will exercise restraint in deploying additional strategic weapons while strategic arms reduction talks continue. Without such restraint, the military implications of the new deployments could overwhelm the INF Treaty before the ink dries upon ratification.

It is clear that we do not need to replace the INF weapons with strategic weapons in order for the treaty to be in the interests of the United States. In response to questions I asked them, Secretary Carlucci and Secretary Shultz agreed that no "compensatory measures" need be taken by NATO to replace the INF missiles we are removing under the treaty. In Secretary Carlucci's words, "'compensatory measures' is a misleading term, since the treaty enhances NATO's security."

Replacement of the INF weapons with other weapons by both sides would ultimately undermine and make meaningless the real gains the INF Treaty has brought us. Furthermore, in the long run, the failure to achieve real cuts in strategic forces such as discussed in the START Treaty will relegate the INF Treaty to little more than a historical footnote. This treaty is important—but it will not remain so if we fail to achieve a workable reduction in strategic forces soon to halt the spiraling forward of the nuclear arms race that has continued for 40 years.

During consideration of the INF Treaty, I asked a number of witnesses about the structure of the START Treaty in its current form, a structure which would leave the United States with about 330 land-based targets against as many as 3,300 Soviet land-based ICBM's, if we deploy 100 MX missiles and do not move toward a single warhead land-based system. Administration witnesses refused to answer questions about START on the ground that it was still being negotiated. Secretary Carlucci, for example, took the position that "until the negotiations are completed * * * it would be premature and indeed unwise to speculate on what the makeup of these forces might look like."

I have to disagree with the Secretary of Defense. We cannot negotiate a START Treaty without a very clear idea of what kind of force structure we want to have after it is ratified.

As former Secretary of Defense James Schlesinger stated in response to my questions on this issue, "the greatest potential danger in a START agreement [is] that it would not achieve greater stability, but, by contrast * * * would increase the number of Soviet RV's, or accurate counterforce RV's, in relation to United States aim points." As former Secretary of Defense Robert McNamara noted, "perceptions are important * * * we are not and would not be vulnerable, but the force structure * * * referred to could lead the public to a perception of vulnerability."

Supporters of arms control need to recognize that perception problem now, and be prepared to respond to it properly. As Dr. Schlesinger suggested, there are obvious fixes to the perception problem. If the United States and Soviet Union begin to de-MIRV—even if the United States were to shift to fewer warheads per delivery system unilaterally—the argument that we are vulnerable will be less and less appealing.

By contrast, rail garrison MX makes even less sense under a START regime than it does today. Rail garrison MX would not alleviate the problem of the perception of vulnerability to a surprise first strike, because the delays involved in moving the missiles from their garrisons would put a premium on surprise attack, potentially increasing U.S. anxieties. At the same time, deployment of MX under a treaty that limits the total number of land-based warheads would reduce the total number of our land-based targets, exaggerating rather than decreasing anxieties about a possible first strike. Instead of rail garrison, we need to be prepared to move, in the context of a strategic arms reduction agreement, to a single warhead missile. Deployment of such weapons by both sides could allow us to move beyond START to deep cuts in the nuclear arsenals of the superpowers, in which both forces might go down to not just 35 or 50 percent, but 90 percent or more.

In the meantime, I would hope the Joint Chiefs would not recommend a submarine force structure under START that would take submarines out of the water and reduce their number to as few as 17 targets, as has been under consideration by the Joint Chiefs. I hope we would instead move under START to reduce the number of launchers in each submarine, perhaps by sealing launch tubes.

These kinds of solutions are fundamentally more affordable and less risky that any form of strategic missile defense options, including the so-called accidental launch protection system of ALPS.

ALPS has been suggested by some as the one ABM option that might make sense, because it would not be used to stave off a determined Soviet nuclear attack, but merely to prevent an accidental nuclear weapon from destroying an American city. The net technical assessment for many years has been that the threat of accidental launch is not high. But if that assessment has now changed within the administration, the cheaper solution is for the United States to press the Soviets to implant permissive action links or PAL's which enable missiles that are accidentally launched to be disabled before they reach the unintended target.

Much has been said about the treaty interpretation issue and I see no reason to go into it in depth here. I would note however that the Byrd amendment was added to the treaty as the direct consequence of the administration's decision to unilaterally reinterpret the AMB Treaty to permit testing of Star Wars components otherwise prohibited. The reinterpretation turned the traditional interpretation of the ABM Treaty on its head, and was rejected by all persons associated with its negotiation other than Paul Nitze, who, of course, continues to serve in this administration. The reinterpretation effectively eliminated the congressional role in treaty making. If the Executive can choose to reinterpret a treaty at will, regardless of what statements are made by the executive branch to the Congress prior to the approval of the treaty, he has effectively eliminated the Congress' constitutional role in the making of treaties.

The Byrd amendment merely reasserts Congress' traditional role and ensures that on this treaty, we have the right to rely on statements made by the executive branch, and the Executive may not reinterpret a treaty in light of such statements without the Congress' permission. That is not a radical position, but a deeply conservative one, that protects the historic perogatives of this body.

I would also like to say a few words about the road from here. As I have suggested, INF will soon become meaningless without strategic reductions. Press accounts suggest that the biggest hangup to a START Treaty has been the President's insistence that the Soviets agree to permit star wars tests and United States right to withdraw from the treaty in 5 years. It would be too bad for President Reagan to miss the opportunity for an immediate, real, and significant improvement in our national security in pursuit of the chimera of star wars.

I urge President Reagan to shift this position and thus make it possible to get closer to a START agreement. Second, I urge him to move forward with negotiations on space weaponry, with a view to outlawing the deployment or testing of weapons in space. As part of those negotiations, we should propose limitations on antisatellite testing. I would hope also that the President would begin to consider a series of challenges to Mr. Gorbachev to effect further reductions in tensions between our countries. One such challenge would be to take up Gorbachev's offer of a nuclear testing moratorium as a means of stopping the development of new kinds of new nuclear weapons. Two generations remain more than enough—we need not add a third to terrorize the world. Another challenge, would be to challenge Gorbachev to reduce the tanks and other ground-based forces deployed in Eastern Europe—and perhaps to offer Gorbachev a real and appropriate United States response in return that would not injure United States security, but which might lead to further Soviet actions to reduce its forces.

The Soviets need to move away from a strategy in which NATO can legitimately be concerned about the potential of a deep strike into NATO territory. They can do this by restructuring their forces further back from the borders in a reinforced defense. Such a strategy would meet their legitimate security concerns while reducing the threat to NATO, paving the way for an alternative to the fear that has dominated the European East-West border for more than 40 years. Perhaps Gorbachev will not or cannot do this, but I believe such actions would ultimately prove to be in the Soviets' interest, as well as NATO's. Additionally, the majority of Warsaw Pact divisions are not combat-ready divisions but reserve divisions. Many of them could be demobilized.

At the same time, the United States and NATO can independently take some actions to improve our security, while reducing the risk of war, regardless of Soviet actions.

For a generation, NATO has defined its strategy in terms of forward defense, for political reasons as much as military ones. But forward defenses are shallow and perhaps inherently unconvincing. As a result, NATO has moved more toward a strategy of "follow on forces attack," a strategy involving the use of airpower and high levels of explosive power to wipe out Soviet and Warsaw Pact follow on forces before they reach the front. One problem with this approach is that to the other side it suspiciously may resemble a deep-strike or offensive strategy. I believe NATO needs to begin to consider proposals to move toward "defense in depth" instead of merely forward defense. Defense in depth is the orthodox military answer to the desire to have a defense posture that is both effective and visibly defensive in nature. Such a move by NATO might well strengthen NATO defenses, while simultaneously encourage the Soviet Union to demobilize offensive forces near the border that NATO justifiably finds deeply disturbing.

A move toward defense in depth might combat the general belief that successful conventional defense of Western Europe over an extended period of war is improbable and that therefore the West needs to retain a strategy of possible early use of nuclear weapons. NATO remains prepared to use nuclear weapons in a war with the Soviet Union and Warsaw Pact. Yet, many experts believe there is no clear bright line that would guarantee that a limited nuclear war could be fought and won by anyone, and that such a war would not spread to demolish everything we believe in. If a move by NATO toward defense in depth would reduce the risk of use of nuclear weapons by anyone, that in and of itself would be a very positive development.

Less ambitious than defense-in-depth would be a decision by NATO to move ahead with constructing light field fortifications and tank barriers at the most vulnerable points of the dividing line between the two German states. Stocks of remote-controlled scatter mines could be built up near the border. Plastic pipes could be laid at vulnerable points to be filled with slurry explosive from tank trucks in mobilization and detonated if conflict seemed certain. NATO has done relatively little with this kind of nonprovocative defense. In the wake of INF, as an alternative to other more expensive and less stabilizing options, it should begin to do far more with these kind of relatively low-technology barriers. This is not to suggest a new kind of Maginot Line; rather, it is to create real obstacles in Germany to a possible forward land thrust identified by NATO experts as one of the greatest threats NATO faces.

Finally, I believe that the United States and NATO should seriously consider the negotiation of a restricted armament zone along the German and Czech borders, under which mobile heavy weapons such as tanks and self-propelled artillery and helicopters, as well as all nuclear delivery and dual capable systems are prohibited from within 50 or more kilometers from the border. This would not be a move to triple zero as has been proposed by Secretary Gorbachev, but it would provide a safety zone making a short-warning blitzkrieg less likely, and giving both sides an added measure of security.

While the President is in Moscow for the summit with Mr. Gorbachev, I hope he will intensify discussions on conventional force reductions, focusing Soviet attention on NATO's legitimate concerns about the tanks and artillery amassed facing the West.

As he conducts such discussions, as well as the discussions on START, on space weaponry, on human rights and other issues central to our relationship with the Soviet Union, there is no action we could take that would help him more than to swiftly ratify this treaty today.

I urge the swift approval of this treaty.

Mr. DOMENICI. Mr. President, I support the treaty to eliminate intermediate range nuclear weapons.

The Senate's consideration of the Treaty is a major event in America's defense policy. Since President Reagan signed the treaty last December, it has received very careful review by the Senate. Three Senate committees held extensive hearings on the treaty. We have been debating the treaty on the floor for 1 week.

This debate, as well as the treaty, will serve our Nation well.

The treaty has received broad support in this country and abroad. While I share that support, I do so for reasons which have less to do with the weapons we are eliminating than with the prospects for further actions to control arms.

There are four points I wish to make regarding the treaty, four points about what the INF Treaty is likely to mean for the future.

Before stating those points, I want to put this treaty in perspective, to describe what it does and what it fails to do.

While it does eliminate an entire class of nuclear weapons, we must remember that the missiles involved make up less than 5 percent of the nuclear arsenals of the superpowers.

None of the Soviet missiles to be destroyed under the treaty are targeted on United States soil.

Reductions in our own stockpile of nuclear weapons through modernization more than outnumber the cut in Soviet warheads as a result of this Treaty and the 50-percent reductions being negotiated at the START talks.

With that background, let us look at the four lessons we can learn from this important Treaty.

First, in arms control as in most other endeavors, you never get something for nothing. The negotiating history of the INF Treaty is testimony to the fact that the free world must bargain from strength, if we expect the Soviets to agree to meaningful actions.

Until the United States and its NATO allies made the difficult decision to build and deploy INF weapons, the Soviets showed no interest in removing theirs. Once our INF missiles were deployed, the Soviets returned to the negotiating table and a bargain was struck.

In Churchill's phrase, we "armed to parley" and it worked.

We cannot expect to succeed in future arms control agreements by following some other course. We cannot sit at the negotiating table with nothing to offer and expect something in return. Strength is the predicate of success in arms control. Logic demands it, the Soviets respect it.

Developing and maintaining strength is difficult. The Soviets spent $140 billion more on nuclear forces than we did between 1966 and 1985. Since 1975 they have produced and deployed 840 new long-range missiles; we have deployed 310. The Soviet advantage in Europe in both conventional and chemical weapons is similarly imposing.

The Strategic Modernization Program initiated by the Reagan administration has narrowed but not closed this gap. Our deterrent must be strengthened, both in its offensive and its defense forces.

If we allow the Soviets a significant military advantage, the Soviets will have little or no incentive to negotiate a more even-handed and stable strategic relationship.

The second lesson to be learned from the INF Treaty involves our NATO allies. This treaty grew from of a common understanding of objectives. Euorpean governments took high political risks in their commitment to INF deployment. The alliance was tested in this policy. But the payoff has been substantial.

The Soviet INF missiles are aimed at Western European targets. The fact that it was in the interest of our allies to dismantle these missiles must not diminish the Treaty's significance in sharing the defense burden.

If our NATO allies desire to be rid of Warsaw Pact tanks lined up on their borders, the INF experience should tell us how to respond.

Any threat needs to be met with strength and persistence.

Prime Minister Thatcher was right about Mr. Gorbachev. We can "do business with him." But we always remember that behind his smile are columns of tanks and artillery.

The third INF lesson involves the importance of counting.

Numbers of warheads and launch vehicles is critical. The ratio of Soviet first strike warheads to strategic targets in the United States is a number with great public significance. We know with certainty where we are at a military disadvantage and what it will take to reverse it and thereby lower the risks.

In this Treaty, the Soviets were persuaded to eliminate nearly three times as many launchers and twice as many missiles as we were. The reason was they had three times as many launchers as we did and twice as many missiles. A one-for-one cut would have left us at a great disadvantage. We need to determine with precision the level of each weapon that makes us safer, then pursue that level.

Because of the advantage the Soviets have in conventional forces, disproportionate reductions must also be our policy objective in this area. The Warsaw Pact must be persuaded to cut much more than NATO.

And in talks on long-range strategic weapons, critical attention must also be paid to the sublimits in specific systems.

Without disproportionate reductions, we and our NATO allies face increased risks, or significant increases in defense spending for conventional arms. The point is this: We must avoid being outnumbered where it really matters. All arms control numbers are not equal, and they need not be treated equally. With this points of background, now let me turn to the issue of verification, which has received such careful attention in this debate.

The on-site verification measures in this treaty represent two kinds of breakthroughs, one poltical, the other technological.

The Soviets have accepted an unprecedented level of instusion into their military-industrial complex. As important, new technologies have been developed to fill this verification demand.

While it is premature to conclude that the INF verification regime is a success, it seems clear that no treaty could exist without it.

We must look forward to further developments in the science and technology of verification.

It is imperative that we produce the verification technology we need for arms control. To achieve that, we need an appropriate division of labor within the arms control and defense bureaucracy.

A recent proliferation has occurred in the Federal offices and agencies dedicated to one aspect or another of verification. The INF Treaty adds a special verification commission, while the Defense Department has created its own on-site inspection agency to implement the Treaty. The verification technology, which the Pentagon will deploy in the Soviet Union, was designed by scientists and engineers at the Department of Energy's Sandia Laboratory.

Others involved in verification include the State Department, the Arms Control and Disarmament Agency, and the intelligence community.

These offices need to be integrated into a coherent arms control regime. The science of verification needs to proceed in step with arms control strategy. We need verification for current arms control treaties as well as research on verification for agreements which our children may negotiate.

But verification cuts two ways. It will not always be in our interest to share the military information that verification yields—or verification technology itself—with the Soviets. Verification experts must be in a position to inform policymakers of the potential losses, as well as the gains associated, with any technology.

And I believe it is clear that as we increase the ambitiousness of our arms control agenda, we increase the verification task. We have seen evidence that we are in danger of overdriving our headlights in the arms control and verification area, trying to solve verification problems only after we began negotiating the agreements to be verified.

Innovation in verification, as in other dynamic fields, will result from the push of technology and the pull of the demand. Strategists in the Departments of State and Defense, the Arms Control and Disarmament Agency, and the intelligence agencies need to be in a position to tap existing verification technology, and to direct resources into verification research in support of future arms control agreements. The Pentagon should be responsible for the acquisition and operation of the verification systems selected for any agreements we sign.

On the other hand, there will be a push from those in the research, design, and testing of verification technology that is sound. Most of our verification technology comes from the Department of Energy laboratories, the same laboratories that design and manage our nuclear arsenal. In the course of carrying out their research to retirement responsibilities for these weapons, they have produced an extraordinary change in our nuclear stockpile. The explosive power to today's nuclear weapons has been reduced by one quarter, as compared with 1960. The average yield of today's nuclear weapons has been reduced to one-fifteenth of what it was in 1957. The result is a more discriminating and flexible deterrent. Smaller weapons delivered by more accurate launchers allows our military to tailor its response to any level of Soviet threat. The President would not have to choose between an all out attack and surrender.

Our national laboratories have been as effective in fashioning plowshares as they have been in forging swords.

They have been in the verification research and development business for nearly as long as they have been in the weapons business. For that reason, the responsibility for all scientific and technological efforts in support of verification must be consolidated within the DOE laboratories.

The next generation of arms control will ask even more of the labs. The verification requirements associated with future arms control agreements—most notably the START agreement currently being negotiated—will be far more challenging.

We will need to distinguish between nuclear and conventional cruise missiles. We will need to identify multiple warhead systems from single warhead systems, and to account for mobile strategic missiles. We will need technology for on-site inspections that is less intrusive, but just as accurate.

Verifying limits on chemical weapons, as well as the industrial complex on which they are based, or limits on material placed in space, poses particularly difficult problems for the science of verification.

Before they signed the INF Treaty, President Reagan and Secretary Gorbachev agreed that the future of arms control lies in the ability to trust but verify. If we are to enjoy the security that verification makes possible, we must insure that verification works.

As President Reagan departs for what is likely to be his final summit sessions with Secretary Gorbachev, I wish him godspeed. I congratulate him and Mr. Gorbachev on the historic agreement we have debated this week.

It is only a beginning, but a beginning with such great significance. In the words of Secretary Gorbachev:

> There are grounds to foresee a bloom in Soviet-American relations * * * which would benefit the U.S.S.R., U.S.A., and the world community.

Mr. President, I am proud to stand on the floor of the Senate during this important time. I hope that a few years from now we can look back and tell our grandchildren: We turned the corner with INF.

Mr. COCHRAN. Mr. President, this INF Treaty is an historic agreement, and ratification seems to be imminent. I hope so.

This treaty represents a real breakthrough in super power relations. For the first time:

First, entire classes of weapons will be dismantled by agreement;

Second, more Soviet missiles than American are destroyed under the treaty; and

Third, onsite inspections within the U.S.S.R. will be permitted to verify their compliance with the treaty.

My hope is that we can build on this new agreement and enter a new era of less dangerous, and more cooperative, relations, with the Soviets—realizing that we must require them to earn our trust through their actions and that we cannot just rely on their words or their promises.

The Soviets have broken their promises before. They have violated the terms of other agreements in the past. It will be very important for us to monitor their actions closely so we will know that their behavior matches their assurances.

We must be prepared to protect ourselves in the event the Soviets do not keep their part of this bargain. We can do that. We will do that in my opinion.

I don't think the American people need to worry that we will let our guard down or fail to provide for our Nation's security or fail to fulfill our obligations to NATO in reliance upon the hope that this treaty makes us safe from the Soviet military threat.

We will still be required, after this treaty is approved, to defend ourselves and our interests against conventional military threats and nuclear weapon threats from other systems that aren't covered by this treaty.

But, this agreement is important. It is an encouraging development. It sets new precedents. It makes more likely agreements on conventional force reductions in Europe and strategic arms limitations. This treaty does not guarantee peace, but it makes a peaceful relationship with the Soviets more likely than was the case before it was negotiated.

These are my personal conclusions. I have read the treaty and the supporting documents given to the Senate by the administration. I have reviewed the reports of the Committees on Foreign Relations, Armed Services and Intelligence, and the briefing book provided to Senators by the State Department. I have also read "The INF Treaty: Pro and Con" of the Hudson Institute, White House Issue Briefs, The American Enterprise Institute Reviews of the INF Treaty dated February 3, 1988 and May 18, 1988, and the reports of the INF Treaty by the Republican Policy Committee of the Senate.

Although this Senator did not have the benefit of hearing the testimony of the witnesses at the committee hearings, I feel that we all have had a good opportunity to become familiar with the issues involved in the ratification process.

On the basis of the entire record and the debate on the floor of the Senate, I am convinced this resolution of ratification should be approved.

I will vote for it, and I congratulate the President for a superb job of negotiation and for his perseverance with his policy of peace through strength. He has led us to this point, and he deserves to be commended for his efforts, and his success, in behalf of our citizens and all mankind.

Mr. KARNES. Mr. President, I rise to discuss my views on the INF Treaty as we approach the vote providing consent to the ratification of the agreement. I believe the agreement before the Senate can benefit the security of the United States and its allies. By the same token, we must be aware that the treaty imposes many important responsibilities on the United States and its NATO allies that must be met to realize these security benefits. Thus, there are several aspects of the treaty, and the history behind it, that deserve special attention. First, let me focus on the opportunities presented by this treaty and then I will turn to the questions related to our future responsibilities.

First, it is important to take note of the lessons that should be derived from the history of the negotiation of this agreement. The central lesson to be learned is that successful arms control requires that we negotiate from strength. This treaty is a monument to the strength and resolve of the United States and its allies. Many in Europe and here in the United States were arguing that what the administration termed the zero option, which serves as the foundation of this treaty, was proof that the administration was philosophically opposed to arms control. They were arguing that we should not deploy the Pershing II and ground-launched cruise missiles. They campaigned in favor of the nuclear freeze. The events of the last several years have proved that these people were profoundly wrong. If these critics had prevailed in 1982, the Soviets would have retained a substantial portion of their intermediate-range missile force. Under this treaty those missiles will be dismantled. It is interesting to point out that these critics of the administration's original INF proposal have suddenly reversed their earlier position and are now supporting this treaty.

As my colleagues know, the agreement requires both the Soviet Union and the United States to eliminate all intermediate-range and short-range nuclear missiles currently in their possession and never to possess such weapons in the future. Based on the memorandum of understanding, the agreement will require the Soviets to dismantle 1,836 missiles, which are capable of carrying 3,136 warheads. The United States, on the other hand, will be required to dismantle 859 missiles, which are capable of carrying the same number of warheads.

Given the inventory of missiles retained by the two sides, it is clear that the agreement will require the Soviets to destroy more missiles than the United States. The Soviets will have to destroy 1,836 missiles, more than double the 859 the United States will have to destroy. Also, the Soviet force is capable of carrying 3,136 warheads, compared to the United States force that is capable of carrying only 859 warheads. Although the agreement does not require the destruction of warheads and not all the missiles listed above contain warheads, it is important to keep the warhead numbers in mind. This so-called asymmetrical reduction of missiles is among the most appealing elements of this agreement. While there is much more to successful arms control than simple "bean counting," we should build upon the principle of asymmetrical reductions in future arms controls treaties.

The verification regime established in the treaty is the best we have ever negotiated with the Soviets. The verification regime includes on-site inspections, as well as national technical means. Again, many critics of the administration argued that such stringent verification requirements would block the achievement of an agreement. Again, the administration's persistence paid off.

Mr. President, now let me turn to the responsibilities imposed by this treaty. Obviously, the detailed and complete inspection and verification regime established by this treaty also must be considered a major breakthrough that is achieved by this agreement. One must keep in mind, however, that the Soviets will be tempted to cut corners on procedures related to inspection and verification. There is plenty of room for Soviets to undertake subtle forms of cheating in these areas precisely because the provisions are so detailed. The protocol on elimination, for example, sets very specific means for eliminating specific kinds of missiles, launchers, support facilities, and support structures. The protocol on inspections sets forth very specific procedures for conducting several sets of inspections. The Soviets may be tempted to interfere with United States inspectors or undertake limited modifications of the elimination procedures required under the agreement. The United States should be prepared to challenge the Soviets in an effective fashion if they violate the agreement with regard to these details.

The Soviet record on complying with past arms control agreements is spotty at best. The United States must be prepared to challenge the Soviets if they violate this agreement and take substantive action in responding to such violations. A reliable verification system is of little value if we are not prepared to take actions to redress discovered violations. What is most disturbing about past actions related to this issue is that the United States seems unable to reach a consensus about what to do about violations. The result has too frequently been an acrimonious internal debate that crates an impasse that in turn results in no action being taken in response to the violation. Recent debates over the Anti-Ballistic Missiles Treaty and the SALT II Treaty are two examples of failing to respond to Soviet violations. It is my hope that we can break with this unfortunate history. We should make it very clear among ourselves that we will respond to Soviet treaty violations. We cannot afford to continue ignoring Soviet violations of arms control treaties. It must be remember that the contributions of successful arms control are derived from the actual implementation of agreements and the elimination of weapons. The signing of an agreement is the start, not the end, of successful arms control.

In this regard, I am disappointed that the Senate chose not to accept an amendment to the resolution of ratification offered by Senator WALLOP and me to establish a positive compliance policy. The American people clearly believe that the United States must be prepared to deal with cheating by the Soviet Union on arms control treaties. I am prepared to continue to press the Senate on this issue. It is my hope that the Senate will undertake to establish a positive compliance policy in the future.

As I stated earlier, there is more to successful arms control than simple "bean counting." While the numbers are important, we should also be clear that this treaty has important political, military, and security implications. The problems related to these broader implications are real and must be addressed. Ignoring these problems will only serve to undermine our security.

We must be aware that it has been a long-sought Soviet goal to weaken NATO. Our Western European allies agreed to form the cooperative defense structure that constitutes NATO in large measure because they sought the protection of the American nuclear umbrella. The deployment of the American intermediate-range missiles in Europe during the early 1980's was a powerful symbol of American resolve to protect our Western European allies. Removing these missiles now may lead some Western Europeans to question the willingness and ability of the United States to protect them against a Soviet/Warsaw Pact attack. We must work very hard to see that what may be a success in arms control does not splinter NATO and become a collective security failure.

Mr. President, many of my colleagues have discussed the superiority of the Soviet/Warsaw Pact conventional forces in Europe. This imbalance in conventional forces is a serious problem that his agreement makes ever more pressing. We should be prepared to give the question of addressing the superiority of Soviet/Warsaw Pact conventional forces in Europe the highest priority. A comprehensive review should be undertaken that addresses the full range of options open to the United States and NATO for addressing this imbalance. These options include increased funding for our own conventional forces, reviewing our program related to battlefield nuclear weapons, reviewing our program for nuclear-armed aircraft in Europe, reviewing the mission requirements of our strategic nuclear weapons, and moving aggressively to achieve an agreement that would result in an asymmetrical reduction of conventional forces in Europe. Without taking appropriate action, this agreement will only further weaken the United States' and NATO's military position in an area where there are already glaring vulnerabilities.

It is important that the Senate, along with the House of Representatives, focus on the future needs of our defense forces, as this agreement is implemented. Defense and arms control are interrelated elements of our national security structure. We cannot afford to have these two elements become unrelated. This agreement will require modifications in our defense structure. Failure to make these required modifications will only serve to undermine our national security.

Finally, there is a domestic element to this essentially international undertaking to eliminate intermediate-range and short-range missiles. It concerns our perceptions of the Soviet Union as a nuclear power and a longstanding adversary. It is related to what I have called the euphoria factor, which reached its heights during United States-Soviet summits. We would be making a serious error in judgment, an error bordering on self-deception, if we allowed the successful conclusion of this agreement to alter our view of the Soviet-American relationship in any fundamental way. It is unrealistic to expect the Soviets to change the basic premise of their foreign policy, which is expansionist in outlook and reliant on military power.

In Soviet-American relations, arms control is only one of four issues on the agenda for discussion. The other three areas are human rights, regional conflicts, and bilateral issues. Many times, little attention is paid to these other issues, compared to the coverage given to arms control. Regional conflicts such as Afghanistan, Angola, Nicaragua, and Cambodia remain important obstacles to peace. The Soviet Union, while taking token actions in recent months to improve its image, still abuses the rights of its people. These problems, as well as continuing problems related to military forces and security, should make it clear that we cannot expect a radical shift in Soviet-American relations. Under no circumstances should we come to base our security requirements on the good will and intentions of the Soviet Union.

Thus, Mr. President, I am going to vote to give consent to the ratification of the INF Treaty. I do so with no illusions. The Treaty in many ways is the embodiment of our hopes for reducing the stockpiles of nuclear weapons and reducing the risk of nuclear war. But this treaty is also going to impose many important responsibilities, as well as offering many benefits. We must recognize these responsibilities and not shrug them off. Thus, it is important that the Senate pay very careful attention to the implementaion of this treaty, as well as giving special consideration to the new military and security requirements brought about by the treaty. If the Senate is careful to meet the responsibilities derived from the INF Treaty, then this treaty will indeed contribute to the long-sought goals of peace and security with reduced levels of armament.

Mr. MURKOWSKI. Mr. President, this is a historic moment.

For the first time since the beginning of the postwar arms race between the United States and the Soviet Union, we have before us a treaty that would not simply slow the rate of growth of nuclear weapons, but would eliminate an entire class of those weapons.

This is a time of great hope and great trepidation.

Great hope, because this treaty and the ongoing negotiations in Geneva seem to hold the hope of further reductions of tactical and strategic nuclear weapons and chemical weapons.

And great trepidation because most Americans and most Europeans have lived their entire lives under a system of nuclear deterrents which the great powers now seem to be dismantling.

While the nuclear arms race has been terrifying, it has been terror that we have understood. The future is less clear than the past.

I am proud to say that those of us, here in the Senate, who have the responsibility to provide our concurrence on this treaty have not been caught up in the euphoria of the summit process. We have given this treaty one of the most careful analyses that has ever been applied to any treaty.

As one of five Senators who have had the responsibility to sit on two of the three committees which have conducted hearings on this treaty, I can bear witness that the issue has been studied from every angle in Foreign Relations Committees and Intelligence Committees. We have learned the strengths of the treaty, and its weaknesses.

We have sought to correct a key weakness with respect to the elimination of conventionally armed ground-launched cruise missiles.

We did not succeed in that effort, but I must say that as a result of the efforts of the Senator from South Carolina, my friend, Senator HOLLINGS we had in this Chamber one of the most enlightening debates on the significance of nuclear and nonnuclear deterrence that I have heard since I have been here.

I am happy to say that in passing the resolution which I and my colleague from Indiana, Senator QUAYLE sponsored, that the Senate has put itself firmly on record that nonnuclear cruise missiles are not to be placed on the table at the START talks.

As we reflect on the implications of the advise and consent which this body is about to give to this treaty, we must consider whether a world, or even a Europe, free of nuclear weapons is in fact a safer place;

As we consider the realities of a post-INF world, we must measure the requirements for conventional forces which will exist after these intermediate and short range weapons have been destroyed; and we must consider what requirements would exist with the conclusion of additional treaties between ourselves and the U.S.S.R.

Mr. President: this treaty may well reduce the danger of nuclear war, but it does not reduce our responsibilities for national defense. In the absence of these INF weapons, other weapons systems will have to bear the burden of deterrence. As we depend less on nuclear weapons for our national security we will have to depend more on conventional weapons and forces. Conventional weapons are expensive, in some cases much more expensive than nuclear weapons. In many cases they require more manpower.

More importantly, Mr. President, the task of verifying this treaty will require an extensive dedication of our national intelligence assets, not only the collection resources but also the time and talent of our intelligence analysts.

If any of my colleagues, Mr. President, are going to vote for this treaty because they believe it will necessarily reduce our expense for national defense. They need to consider again.

There is no question, Mr. President, that this treaty will lower the risk of war, but it will not necessarily save money.

In this context, Mr. President, I would like to quote from the report on this treaty of the Senate Select Committee on Intelligence, of which I am a member.

> U.S. intelligence requirements should not be dictated solely by arms control treaty monitoring needs. The committee believes that monitoring Soviet activities is necessary not only to verify arms control agreements, but also to provide timely warning of possible threats that are not prohibited by the treaty.

During the course of the hearings in the various committees and in the course of a long debate here on the Senate floor, Senators have given voice to a number of arguments pro and con. There has been a full airing of views.

That there are different opinions in ths body, Mr. President, or indeed in this Nation, on the ways and means of national defense, is not a sign of national weakness. It is rather a sign of the strength of our democracy. The issue has not been whether or not we should have a national defense, nor how strong that defense should be. The issue has been rather how most effectively to provide that defense.

It is essential, Mr. President, that those who watch us in other nations understand this point as well. Nothing that we say or do here, no disagreement that is aired, should be taken as a sign that the United States is not firmly committed to its own defense and that of its allies. The fact that we have given this vital treaty such considered analysis should not lead anyone to believe that the United States is not capable of making quick and clear judgments in the event of a threat to our security.

The United States entered in to the treaty negotiation process from a position of strength. This ratification process is a further element of our strength as a democracy.

This treaty is not the end of our arms control agenda, it is rather the beginning.

In a hearing in the Foreign Relations Committee, Secretary of Defense Carlucci outlined for me an entire menu of arms agreements which the NATO leadership has agreed to pursue.

Mr. President, according to the evidence submitted by the Secretary of Defense, the schedule is as follows:

A 50-percent reduction in the strategic nuclear weapons.

The Global elimination of chemical weapons, the establishment of a conventional weapons balance, and finally additional reductions of nuclear weapons.

With respect to the START treaty, Mr. President, I urge the administration to proceed slowly and with great care. It is more important that an agreement which protects our security be reached than that a START treaty be signed this weekend or this year.

In its report on the INF Treaty, the Intelligence Committee has called the attention of the Senate to the very grave, and very expensive verification measures that will have to be taken to guarantee such a treaty.

If we are prepared to undertake a START treaty, we must also be prepared to provide to our intelligence community the resources which will be required to verify it.

Further, Mr. President, it is vital that in reaching nuclear arms treaties that we not give away conventional arms simply to solve negotiation or verification problems. As we lower the nuclear risk, we must not increase the conventional risk.

We must maintain deterrence whether nuclear or conventional. It must always be clear to anyone who would be our enemy that the price of attacking us is greater than any sane person would pay.

Mr. President, much has been said here and in the various committee hearings about the reduction of nuclear arms. This is an important moment, however, for us to focus on a threat which is older and in some ways more terrifying than nuclear weapons, that is chemical weapons.

Mr. President, it is incredible that in the late 20th century, we can witness the barbarity of chemical weapons being used in the Iran-Iraq war. It is also incredible that civilized nations must maintain chemical warfare arsenals at this late date.

I do not have to remind my colleagues of the horrors of chemical warfare. The history of the First World War tells us that and our televisions news broadcasts have reinforced the lesson.

Much has been said of the possibilities of nuclear weapons being employed by terrorists. We have read that it is possible to develop a nuclear bomb in a relatively unsophisticated laboratory with relatively sophisticated materials.

It is much simpler, Mr. President to develop and field chemical weapons.

Mr. President, as we reflect on this step we are taking in arms control, I urge the administration to place emphasis on the achievement of a ban on chemical arms. I urge the other nations of the world, friends and adversaries, to join in this effort. The tale of suffering which has been written across the record of this century must end.

We in the Congress must support this effort, first of all by assuring that our own Armed Forces have adequate defenses against chemical weapons and then by urging our administration to place a chemical weapons treaty on the highest priority.

Mr. President, I would, however, caution my colleagues and the American people not to be so swept up in this treaty process that they lose sight of other critical political and social issues which remain unsettled between the United States and the Soviet Union.

True peace comes from understanding, simply eliminating one class of weapon does not advance peace. Peaceful cultural contacts between our peoples are important building blocks to true peace. It is essential that we consider how this treaty process and the summit meetings that accompany it can advance these ideas as well.

In summary, Mr. President, this treaty provides an excellent frameword for the discussion on key issues involving the United States Soviet relationship. The treaty promises that the strategic realities of the next century will be different from those that have been obtained during the latter half of this century.

For that reason, it is my intention to support granting advice and consent to this treaty.

Mr. DURENBERGER. Mr. President, I rise today as the Senate completes action of the INF Treaty and the resolution of ratification. It has been a difficult—and at times frustrating—trip on the road to ratification. A nearly unprecedented move to invoke cloture was averted at the 11th hour. Serious—and not so serious—issues have been debated at length. The Senate has passed judgment on a number of issues. Before our final vote on the resolution of ratification, we voted 21 times on amendments, conditions, and a point of order. And as we prepare for the final vote, it is clear that the resolution will be approved by far more than the required two-tirds.

It is important to remember what this treaty is designed to address—and what it was never meant to address. The INF negotiations were about intermediate range forces. They were not about the conventional force imbalance between NATO and the Warsaw Pact. They were not about Soviet human rights violations. And they were not about Soviet violations of past arms control agreements. The Senate considered these issues—and many more—in the course of our work on the treaty.

The negotiations on INF were a complete and resounding success. It is absolutely essential to remember that for many years it seemed the chances of success were small. For a decade after the deployment of SS-20's, it appeared the Soviet Union would succeed in its goal of fostering disunity in NATO, and intimidating western Europe. Many predicted the end of NATO in the early 1980's over the INF issue. Many criticized President Reagan for being not serious about arms control because he strove to eliminate—rather than merely limit—an entire class of nuclear weapons. And many urged a halt in deployment of our ground-launched cruise missiles [GLCM's] and Pershing II's in 1983, arguing that arms control would be irreversably damaged if deployment proceeded.

The critics and the doomsayers have been decisively proven wrong. This treaty is evidence of the success of the Reagan approach to arms control. Secretary of State Shultz, on the first day of hearings on the treaty, correctly stated: "The way we and our allies met the Soviet INF challenge shows that tough-mindedness, clarity of purpose, and resolve pay off."

The INF Treaty is evidence of the amazing triumph of NATO solidarity over Soviet attempts to decouple Western Europe from the United States. The first sentence of the Senate Foreign Relations Committee report summarizes the point: "The INF Treaty is a tribute to the collective resolve of the North Atlantic Alliance." The Soviet decision to deploy SS-20's was a political master stroke. It raised the specter of decoupling Europe from the United States because the modernized Soviet weapons threatened to deprive NATO of escalatory options in a crisis. The SS-20's were a huge advance over the antiquated SS-4's and SS-5's: They were mobile, carried three warheads, could be reloaded, and were more accurate.

The deployment of SS-20's forced NATO to face a vexing dilemma: Respond with a comparable but politically very difficult program of modernization or ignore the new threat and endanger the alliance. NATO responded with the 1979 dual-track decision which stated that if arms control could not address the SS-20 threat, nuclear modernization would. Arms control did address the threat—and in a manner few observers predicted—by completely eliminating the SS-20's. But arms control only worked after deployment began. The INF Treaty is a prime example of how arms control and defense programs complement each other.

The Soviets attempted to forestall our modernization through a skillful propaganda campaign. Threats were alternated with inducements in an effort to splinter the alliance. The Soviets walked away from all arms control negotiations in 1983 when deployment began. In spite of the Soviet efforts, President Reagan and NATO perservered—and the INF Treaty is the result.

Senate action on this treaty took nine very busy legislative days. The Senate conducted its work under a deadline. It was not an artificial deadline as some have charged, but a very imporant deadline: the beginning of President Reagan's fourth summit with his Soviet counterpart. I strongly supported completing action on the INF Treaty before this weekend. I spoke on the floor in favor of invoking cloture on the treaty if necessary. I took this view because I believe the President should be able to exchange instruments of ratification at the Moscow summit. I found no reason—none—for this body to delay its advice and consent. Exchange of the instruments of ratification at the summit may not be crucial to progress in the U.S. summit agenda. But final action on INF would make it clear that our President is able to deliver on arms control with the strong support of the

U.S. Senate—and the American people.

Consideration of the INF Treaty was the first time this Senator has had the privilege of speaking and voting on an arms control agreement. The Senate has not considered an arms control agreement for ratification since the Anti-Ballistic Missile Treaty of 1972. The fact that the INF Treaty will be the first arms control agreement to come into force since 1972 illustrates a truth about the reality of arms control in the United States: the constitutional requirement for two-thirds of the Senate to consent to ratification sets a very high standard for any arms control agreement.

As I wrote in my 1984 book, "Neither Madmen Nor Messiahs," "Like it or not, arms control must ultimately be shaped in the world of politics." As the last 2 weeks of debate illustrated, the politics of ratification are very contentious. Even the unique credibility and leadership of President Reagan and a broad bipartisan consensus in favor of the INF Treaty did not prevent a serious campaign against ratification. President Reagan unfortunately could not mobilize all the members of his party in support of the treaty.

The lesson is, I believe, that any future arms control agreement—whether by this President or the next—will face very difficult obstacles on the road to ratification. The INF Treaty was subject to closer scrutiny than any treaty in the history of the Senate. And it is clear that any future treaty will face even more scrupulous examination.

In the course of Senate consideration of the INF Treaty, it is clear that the treaty was improved. While the killer amendments were overwhelmingly rejected, a number of positive conditions were added to the resolution of ratification. Two concerns, in particular, that were raised after the treaty was transmitted to the Senate were addressed. The fate of so-called futuristic weapons—weapons that destroy targets through nonnuclear and nonexplosive means—was raised in Senate committee hearings. The administration argued that such weapons were prohibited along with other weapons with ranges between 500 and 5,500 kilometers. The Senate argued, wisely, that clarification on this point should be explicitly reached with the Soviet Union.

The issue of futures was raised by the United States with Soviet representatives. A diplomatic note was exchanged in Geneva which made the United States understanding explicit. I voted for a category 3 condition which makes Senate consent of the INF Treaty conditional on Soviet agreement that the note has the same force and effect as the treaty provisions. The same amendment required Soviet acceptance of the agreed minute clarifying a number of verification issues. That minute, signed on May 12 by the United States and Soviet Union, also grew out of concerns raised during Senate consideration of the treaty.

The issue that threatened to be most contentious—the Biden condition on treaty interpretation—was resolved in a bipartisan compromise. Compromise on this issue eluded the Senate for months, but the pressure of a cloture threat and diligent work by concerned Senators resulted in a workable solution. Like all compromises, it does not completely satisfy all participants. Twenty-seven Senators opposed the compromise, arguing that the Byrd amendment language was too restrictive. I supported the amendment because it was a good resolution of a complex constitutional issue. The Senate must be able to rely upon the authoritative testimony of administration officials concerning the meaning and effect of the text of a treaty. That is what the Byrd amendment states, and that is why I supported it.

I also supported the Wilson amendment which simply stated that the United States would not be bound to a treaty interpretation that was not equally binding on the Soviet Union. The Wilson amendment engendered tremendous controversy and was eventually tabled.

This brief summary of the INF Treaty as we approach the momentous vote on approving the resolution of ratification is by no means comprehensive. Prehaps the greatest importance of this treaty lies in the promise it holds for United States relations with the Soviet Union. The Soviet acceptance of the zero option, proposed in 1981, is indicative of the reevaluation evident in the range of Soviet policies. Our historic adversary is in the midst of the most dynamic change in Soviet history. A combination of economic, political, and social factors have pushed the Soviet Union toward the promise embodied in glasnost and perestroika.

President Reagan's policy of strong defense and strong negotiation played a major role in moving the Soviet Union toward more accommodating attitudes on a range of foreign affairs issues. Tough negotiating paid off in the INF Treaty—and the Soviet Union acceded to our position. Tremendous progress has been made in the START negotiations. There is great potential for real advances in a number of regional security.

It is too soon to tell what the eventual outcome of Gorbachev's policies will be. But it is clear that United States-Soviet relations stand at a historic crossroads. The INF Treaty is the first tangible evidence of change in the Soviet Union. The horizon is full of indication of greater progress. That is what President Reagan is exploring in Moscow—after he presents Secretary Gorbachev with a ratified INF Treaty.

Mr. President, I will cast my vote in favor of the resolution of ratification, and I urge my colleagues to do likewise.

Mr. LEVIN. The INF Treaty has undergone intense Senate scrutiny by the Armed Services, Foreign Relations, and Intelligence Committees. As a result of that scrutiny the administration sought and received clarification of the Soviet understanding of certain treaty limits. There is no question that the Senate has in its possession the information necessary to decide whether to consent to ratification. It is time to make that decision.

I support ratification of the INF Treaty because it establishes many precedents which are in our national security interest.

First, it completely eliminates an entire class of nuclear weapons from the arsenals of the two superpowers, and it does so in a way that enhance our security, and the security of our allies.

Second, it asymmetrically reduces those weapons it covers in a manner which favors NATO.

Third, it includes new, unprecedented verification procedures which will make it extremely difficult to violate this treaty in a militarily significant manner without detection.

These are important accomplishments. But rather than directly expounding on them in more detail I wish to respond to some of the allegations against the treaty that have been made on this floor during the past 10 days of debate.

IS THE TREATY MILITARILY SIGNIFICANT?

We all know that the INF Treaty is only going to eliminate about 4 percent of the nuclear weapons—launchers missiles, and support facilities—on both sides. And we know the treaty does not provide for the destruction of a single warhead. Critics, therefore, ask how much good does it really do?

First of all, 4 percent of the superpowers' nuclear stockpiles represents a destructive power many thousand times that of the Hiroshima bomb, and its removal is a militarily significant achievement.

But the same critics often go on to complain that the withdrawal of our Pershing II's and GLVM's would have serious negative military significance, because it would curtail NATO's capability to target military installations, railway chokepoints, staging areas, and industrial facilities in the U.S.S.R. in case of an attack. They also argue that we will denude ourselves of our most modern nuclear weapons, while the Soviets could simply reassign their SS-25 missiles to targets which they formerly covered with their SS-20's. The Soviets may well do so, but NATO can certainly do the same. The important point, however, is there will be fewer missiles on both sides to do that. Both sides give up nuclear options. The treaty significantly reduces Soviet capacity to strike NATO targets while holding their strategic forces in reserve. For instance, if they reallocate SS-25's to targets in Europe, they will reduce their capability to attack targets in the United States.

At the same time, while the treaty requires the elimination of U.S. intermediate-range, ground-based systems, it does not eliminate the United States and allied nuclear deterrent.

Admiral Crowe, the Chairman of the Joint Chiefs of Staff, made both these points in hearings on the treaty:

> * * * the Soviets will lose capability in both the European and Asian theaters. They will no longer have the capacity to hit with ground-launched ballistic missiles * * * our prepositioned major equipment sites and debarkation sea and air ports in Western Europe, thereby reducing our ability to reinforce NATO.

FLEXIBLE RESPONSE STAYS EFFECTIVE

Critics of the treaty have also contended that the elimination of Pershing II's and GLCM's would open a window of vulnerability because it will force us to sacrifice an important part of our nuclear deterrent. Without intermediate-range nuclear forces, we could be forced to escalate to strategic nuclear forces if our conventional defenses in Europe prove to be inadequate. Flexible response, these critics claim, has always meant that we could escalate on each step of the ladder of destruction and respond to a Soviet attack at any level we choose.

Let me first say, Mr. President, that this is a flawed understanding of the flexible response doctrine. In developing that doctrine more than 20 years ago, NATO planners wanted to leave a potential attacker uncertain about the level of response and the degree of escalation the Western alliance would choose in defending itself. It is true that the deployment of Pershings and GLCM's in Europe gave us more operational choice. But getting rid of them does not mean NATO is losing flexibility. An attacker would still be uncertain how soon we would respond with nuclear weapons, and with which of a still vast array of such weapons we might counterattack.

Admiral Crowe, in the course of our hearings, also said that after the INF Treaty takes effect:

> * * * the U.S. will retain a spectrum of capabilities to selectively execute NATO's strategy of flexible response.

The Pershing II and ground-launched cruise missiles eliminated by the INF Treaty are but a part of NATO's current nuclear deterrent. Over 4,000 nuclear warheads will remain in Western Europe after the INF Treaty is implemented. 1,700 of those 4,000 are aircraft bombs.

As Walter Slocombe told the Foreign Relations Committee:

> * * * it is simply false to suggest that without them (i.e. the Pershing II's) NATO will lack the means to attack Soviet forces and Soviet territory with nuclear weapons.

And former Defense Secretary Schlesinger testified:

> It is a form of parochialism in Europe to suggest that the Soviets have basically been deterred by a relative handful of warheads in Europe, none of which were deployed before 1983.

Even after INF ratification, we will have the capability in Europe to strike at targets in the Soviet Union. The Foreign Relations Committee report discusses NATO's remaining military options in some detail:

> Among the aircraft capable of striking deep into Soviet territory are 150 F-111 bombers stationed in Britain. There are also additional F-111's in the United States that could be quickly transferred to NATO in a crisis. In addition to these F-111's, NATO has an ongoing program to upgrade the capability, range, and survivability of its other nuclear capable aircraft. As part of this program, NATO continues to introduce upgraded F-16's and Tornado aircraft with greatly enhanced range and penetration capability. Finally, as Secretary Carlucci reported in "Support of NATO Strategy in the 1990's," NATO's planned deployment of the nuclear capable F-15E Strike Eagle in the early 1990's "will significantly augment the capabilities of NATO's dual-capable aircraft."

It is simply not true that we are denuding our forces in Europe of the deterrent and protection nuclear forces can provide. Certainly, both sides are giving up part of their nuclear forces. The Soviet intermediate nuclear missiles covered by this treaty were precisely those in the late 1970's that threatened the European theater the most. How can getting rid of them make us and our allies' security less safe? And is the nuclear deterrent after INF ratification less credible?

THE EFFECT OF THE INF TREATY ON THE CONVENTIONAL FORCE BALANCE

Another allegation made by those Senators who intend to vote against the treaty is that it will relegate our 325,000 soldiers in Europe to the role of hostages in the face of overwhelming Warsaw Pact superiority in conventional forces. Without adequate nuclear protection, the saying goes, our troops would be run over in no time at all, so let's bring them home before that happens.

The INF Treaty does not make Europe safe for conventional war. As Secretary Carlucci recently wrote:

> The key point is, in addition to eliminating a category of weapons in which the Soviet Union has enjoyed a significant preponderance, will not impede NATO's ability to maintain and modernize a credible mix of nuclear and conventional forces.

Let me stress that a conventional war in Europe would not be a particularly safe enterprise for the Soviets. As the latest edition of the Pentagon publication "Soviet Military Power" noted:

> At the conventional level, the Soviets may conclude that, despite their advantages, they may not have sufficient forces to assure them a high probability of success in the event of war in Europe.

This is not to say that as we continue to reduce our reliance on nuclear weapons our conventional forces should not be improved. They should be. In fact, improving our conventional forces and achievement of conventional arms control would be the most-effective means of reducing the risk of nuclear war, because a nuclear war is most likely to result from the controlled or uncontrolled escalation of a conventional conflict.

The INF Treaty highlights the necessity to modernize and improve our conventional forces. Reliance on the nuclear deterrent has always been potentially devastating. By providing sufficient logistical support, enough modern weapons, ammunition and fuel supplies to our combat forces, and by keeping up the high level of our soldiers' training we can improve our conventional deterrent.

THE NATO ALLIANCE WILL BE STRONGER

Some critics of the INF Treaty suggest the alliance will break apart as a result of the elimination of the intermediate nuclear weapons.

I don't see how NATO could possibly break apart because of an action that is supported by all its European governments and welcomed by the overwhelming majority of their people. Politically and psychologically, the treaty serves to strengthen the cohesion of the Western alliance. For the first time it could be shown in a palpable way that reductions of weapons can be achieved if the alliance takes and maintains a unified position of strength.

We face new demands on our and the allies' defense budgets in order to modernize remaining nuclear weapons and improve our conventional capabilities. How in the world will we muster political support in our democracies for these undertakings if we don't deliver on our promise to withdraw INF missiles from Europe if the Soviets agree to withdraw theirs?

Our political credibility and maneuvering room are at stake. Ratification will enhance them, while rejection would cause considerable political turmoil, and could actually result in the unilateral withdrawal of our INF forces.

In sum, all the evidence points to a serious crisis in NATO if we do not ratify the INF Treaty, not the other way around.

INF VERIFICATION MEASURES ARE PRECEDENT SETTING

Nobody doubts the extraordinary achievement of having the Soviets agree to onsite inspections for the first time in the history of arms-control agreements.

No verification regime can be made absolutely foolproof. If the Soviets intend to cheat, they will do so. If they do it in any militarily significant way, there is a high probability for detection and our response to that is not limited to diplomatic protest alone.

But the fact of the matter is, there is little incentive for the Soviets to cheat. If they are at all serious about further reductions in nuclear arsenals, they will have to prove to us that they are willing to cooperate. Also, rather than hiding some SS-20's or GLCM's somewhere in the Siberian tundra, where they would be militarily useless, they could—and probably will—retarget some of their SS-25's to targets in Western Europe. But that is not an argument against INF. It is an argument for further, cautious negotiations on the reduction of strategic nuclear forces.

The verification scheme tested under the INF Treaty will not be an exact model for START. The START agreement does not plan to abolish all nuclear weapons of a particular type, which is one of the things that makes verification of the present treaty considerably easier. But the experience we will gain with onsite verification from INF should prove helpful in arriving at effective START verification. Not only do we need experience in monitoring Soviet weapons production, we also need to learn how to handle a large number of Soviet inspectors in our own country. We must, for example, develop sufficient counterintelligence measures.

INF creatively mixes the prohibitions in the agreement with specific verification procedures to ensure that no militarily significant violations will go undetected. For example, the prohibition on flight testing and production of systems banned by the agreement, combined with the onsite inspection, facility monitoring, and challenge inspection provisions, make the maintenance, production, or deployment of a militarily significant covert INF force next to impossible without detection.

Mr. President, the Senate has done an excellent job of resolving the issue of how this treaty and other treaties are to be interpreted by future Presidents by adopting the Byrd amendment yesterday. This amendment was absolutely essential to reaffirm the Senate's constitutional role in treatymaking.

Under the Constitution, the Senate must give its advice and consent to the ratification of a treaty which is negotiated by the President and his representatives in order for it to take legal effect. Treatymaking is thus a cooperative undertaking, a power shared by the Executive and the Senate, and in order for this process to work, they must also share a common understanding of what the treaty they are making together means. The Byrd amendment clearly establishes that the text of a treaty and the resolution of ratification have primary status as to its meaning. The next binding source for establishing a treaty's meaning under domestic law is the explanation provided to the Senate by the President's authorized representatives. These representatives form a binding contract between the President and the Senate as to U.S. obligations under the treaty. The common understanding of the treaty is thus established by its text, the resolution of ratification and the administration's authoritative explanations. No administration may deviate from that understanding without the consent of the Senate.

White House Counsel Arthur B. Culvahouse, Jr., made clear in a letter to Senator LUGAR last March that "all INF testimony of executive branch witnesses, within their authorized scope, is authoritative." I ask unanimous consent that the full text of that letter be printed at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. Some Senators have claimed that such a standard will establish two treaties, one between the President and the U.S.S.R., another between the President and the U.S. Senate. They fear that the Soviets will not be bound by the United States' common or shared understanding. However, it is the administration's responsibility to make sure that what they explain the treaty to mean is consistent with what the Soviets agreed it would mean. In establishing a shared understanding with the Executive the Senate is simply establishing what the negotiating partners both intended the treaty to mean. As long as the administration properly explains the meaning of the treaty to the Senate, the Soviets will be as much bound by the administration's authoritative statements as is the United States itself.

Other Senators have claimed that the Byrd amendment could prevent clarification of future ambiguities such as those we detected in the treaty with respect to future technologies. We solved that problem in part by looking at the negotiating record, and the Byrd amendment would clearly allow such references to take place in the future. But we have not and should not establish a procedure in which the Senate has to wade through what negotiating history is provided to it to ensure that the administration's authoritative representations are not in conflict with that record. Such a procedure would completely bog down the treatymaking process.

It was also critically important that the Senate defeated the amendment by the junior Senator from California last night. His amendment would ostensibly have said that the United States would not be bound to any interpretation that didn't also bind the Soviet Union. This sounds simple and appealing, but this was nothing but an effort to vitiate the Byrd amendment. It would have, for instance, allowed a future President to bow to Soviet pressure and agree to a new Soviet interpretation of the treaty which might allow the Soviets to conduct weapons programs which President Reagan's representatives swore to the Senate would be prohibited. International law would thereby override domestic U.S. law, and the President would not be bound by the representations made to the Senate.

Let me be clear on this point, Mr. President: The authoritative statements made by the Executive are more important to U.S. security in evaluating a treaty's meaning than the negotiating history. Without being sure that the administration means what it says when it explains the treaty to us, we cannot sensibly advise and consent to it.

If the executive was not bound by its statements, a subsequent administration could come back and say, "sorry folks, the treaty means something else. We found a paper here in the negotiating history that proves it means something different than was represented to you during the hearings." And what is even worse, the Soviets could at some future date pressure our administration to interpret a certain section in the treaty a certain way—for example as a concession during another treaty negotiation.

This is why the adoption of the Byrd amendment and the defeat of the Wilson and also the Specter amendments today were so important.

Mr. President, we cannot allow this opportunity to pass. There is a unique, and propitious, convergence of events today that we may not soon see again. The President who negotiated this treaty is known for his skepticism about Soviet intentions, but he has approved the verification procedures included in this treaty. The Soviet leader is new, apparently determined to pursue a new economic course at home, and determined to achieve an INF Treaty both to demonstrate his adroitness and to begin a process that could lead to reduced military spending. We don't know what the situation will be a year from now. But we do know what it is today. We have what may be a unique opportunity.

I urge ratification of this treaty. I don't claim that it is perfect. I don't know of any treaty the Senate has ever ratified that was. I think of the proverb, "Even a journey of a thou-

sand miles begins with a single step." This is that step. Our goal is nothing less than the elimination of the threat of nuclear annihilation that hangs over us, our children, and our planet. In pursuit of that goal, even a relatively small step is of the greatest significance. Let's take it. Now.

EXHIBIT 1

THE WHITE HOUSE,
Washington, March 22, 1988.

Hon. RICHARD D. LUGAR,
U.S. Senate,
Washington, DC.

DEAR SENATOR LUGAR: Discussions concerning my letter to you of March 17, 1988, have raised a question about the Secretary of State's identical letters of February 9, 1988, to Senators Byrd and Nunn. To clear up any misunderstanding that may exist, I should like to assure you that no inconsistency was intended or in fact exists between my letter and Secretary Shultz' letters. Whereas Secretary Shultz responded to the Senators' request for assurances regarding the "authoritativeness" of Executive branch testimony on the INF Treaty and the Senate's ability to rely on such testimony, my letter addressed a specific draft text setting forth what we believe to be unconstitutional and unworkable rules of treaty interpretation.

As the Secretary of State's February 9 letters pointed out: (1) all INF testimony of Executive branch witnesses, within their authorized scope, is authoritative; (2) Administration testimony and materials for the record can be regarded as authoritative without the need for the Senate to incorporate them in its Resolution of Advice and Consent; and (3) the Reagan Administration will in no way depart from the INF Treaty as we are presenting it to the Senate. Those letters remain an accurate statement of our policy and intention with respect to the INF Treaty.

My March 17 letter is consistent with Secretary Shultz' statement of Administration views.

Sincerely,
ARTHUR B. CULVAHOUSE, Jr.,
Counsel to the President.

Mr. DOMENICI. Mr. President, I would like to share with the Senate a few thoughts that I have about what brought us to this first significant step in nuclear arms reduction which culminated here in the U.S. Senate when our constitutional ratification processes were completed.

Clearly, I need not go through a list of congratulations. Others have done it better than I and certainly know more intimately the committee activities of staff than I do.

But I would like to congratulate President Ronald Reagan, the Soviet leader Mikhail Gorbachev, our Secretary of State and his counterpart in the Soviet Union, the United States Congress, and the U.S. Senate in particular.

Having said that, I would like to talk for a minute about the people of the world that I think caused this treaty to happen, and the evolution of democracy and entrepreneurship in the world that I think America started after the Second World War that brought us here. So before I give my few observations, I would like to say a very big thank you to the American people for having consistently supported at critical times since the Second World War a strong American military.

But I would also like to congratulate American leaders who at the end of the Second World War had a kind of foresight that, if you think about it for a minute, is so farsighted that it is almost frightening. Mr. President, the Soviet Union decided to negotiate with the United States of America and the Free World, represented on the Free World side by our President, Ronald Reagan, as much because of economics as because of military might.

Let me put this this way, Mr. President: The Soviet Union at the end of the Second World War decided that they were going to have a kind of empire. It was an empire that was going to be built on their kind of political system and their kind of economic system. What did the United States of America do? The United States of America did one of the most incredible things that a superpower has done in all of history. We decided that we would not take 1 ounce of retribution against our enemies, Japan and Germany. Quite to the contrary, we welcomed them with open arms into a new alliance of broad-based democracy for their people, and a competitive or entrepreneurial, noncentralized economic system. And that decision was so far-sighted that it probably reflects the most important single quality of our 200-year democracy. Because from that decision has mushroomed an evolving free industrial economic base the likes of which the world has never seen, from Japan to Germany, to Europe with the Marshall Plan, to Korea and new budding democracies around the world.

Believe it or not, that one decision fueled the concepts that caused the world to produce five times as much material wealth since the Second World War as was produced in all of previous history.

Now, I return to where I start. The Soviet Union looks out a window at prosperity and material wealth, technological advance, educational superiority. It must now, with new younger leaders in that country shake them to the very bones to understand that, as they look back at their kind of empire, with its economy in decay, they are incapable of competing with the free market system which our decision that I have just described started.

It was sort of a freedom machine that we think comes from the Constitution and our people and probably will never stop as long as people live on this Earth. It has spread, and its economic base is profound.

While we Americans look out at that free world, we have from time to time been burdened and bothered by the successes of our partners, because some of them learned from us and are doing better than we are, be it the Japanese or the Germans or others. They learned from us in terms of broad-based education, economics, and the formation of wealth. They are, in some respects, causing us to play catch up in some areas. But when you look at the big picture, it appears to this Senator that we should say, "Thank you" to our forefathers for their wisdom in moving this kind of economic base out into the world—and to the American people who work hard every day to keep this economy robust, and to our friends and partners in the free world who are moving science, technology, and mankind ahead with us in a manner that must frighten the Soviet Union immensely.

Obviously, there is a long way to go. But this step is a giant step and, hopefully, it will yield more and more results as time passes.

Clearly, we have to remain vigilant, and we will have to keep this economic production machine of the free world the envy of those who have not joined it. Collectively and collaboratively, we have to spread the opportunity to other parts of the world—the opportunities of institutional democracy, capital formation, and the production of wealth and jobs for people.

More on the parochial and back-home front, I want to thank the national laboratories in my State—Sandia, Los Alamos, and the laboratory at Lawrence Livermore in California. They are our nuclear deterrent laboratories run by the Department of Energy. They are the greatest scientists in the world. They house themselves there, and since the Second World War they have operated under a very loose charter. They have been asked to maintain our nuclear deterrent, and they have.

They are the ones who produce the science, the technology, and the evolution of nuclear weapons, such that the Senate has finally decided to approve this treaty, along with the economic reasons I stated here today and our conventional expenditures on military might. This is what has caused the Soviet Union to begin to rethink the enormous amount of money they are putting into the military.

Those laboratories have played a vital role in this treaty. It might be ironic to some—but not to this Senator—that the same scientists who produced the first atomic bomb and its subsequent generations, and all the sophisticated technology that goes with that, have also produced the verification science that permitted us to enter into this treaty.

As a matter of fact, one of those national laboratories, Sandia National Laboratory, in Albuquerque, NM, was asked to prepare the model for the

verification system we will put on the ground in the Soviet Union. Since this treaty is a zero option, none of these weapons will be allowed. We are going to man equipment in the Soviet Union to do the monitoring to verify their production facilities.

It is one of the same three laboratories, with their scientific excellence, that was called upon to produce the scientific information and the basic science and engineering that will be used when we build in the Soviet Union the facilities to verify their production facilities.

I do not think that is ironic—some may think so—because they are great scientists, with great versatility, perhaps the greatest in the world.

When we add those three to the other Department of Energy laboratories, we have the greatest scientific organization in the world. Because they are so capable, so familiar with nuclear activities, it seems to this Senator that they are going to play a vital role in putting the genie back in the bottle, just as they played a vital role in the genie getting out of the bottle.

Mr. President, I close by congratulating all those men and women, the scientists, and Congress, who all these years have supported these great institutions.

I congratulate them for their efforts, because they were working on very short timeframes and were able to assure American policymakers that we could engineer, design, and deliver the verification needed for us to feel secure—our President, first, and then us—in ratification, in delivering a completed package to President Ronald Reagan so that he and Mikhail Gorbachev, the leader of the Soviet Union, could meet and talk about further problems between our two nations, other problems, including perhaps further arms reduction in the field of nuclear armaments, and many of the other thorny problems that separate us.

Mr. EXON. Mr. President, I have listened with great interest to my friend and colleague from New Mexico.

When we talk about the heroes of peace and the heroes of war, I am struck by the fact that all too often we do not pay enough attention, as we should, to those scientists, as has just been done very eloquently by my friend and colleague from New Mexico. I thank him for making these statements, because these are indeed the people we are relying on to lead us to proper verification, which is part and parcel of the peace process we hope will be moved ahead even further with the summit meeting next week between the leader of the Soviet Union and the leader of the free world, President Reagan.

TRIBUTE TO INF DELEGATION

Mr. NUNN. Mr. President, at the first of what became many hearings with Ambassador Glitman, I made the following statement about the review process upon which we were about to embark:

> Ambassador Glitman, I thank you for your patience and welcome you before the committee. At the outset, I want to emphasize that however tedious, protracted or difficult these proceedings may seem, we are guided by a common goal: to ensure that the treaty that has been presented to the Senate for its advice and consent is both fully understood and fully supportive of our national security interests.
>
> From our trips to Geneva with the Senate Arms Control Observer Group, we know how hard you and your team worked on this treaty. Your hours were long and your patience was often tested. In the end you prevailed and faithfully executed your negotiating instructions as given to you by the President. You did your duty and you did it well. Now is the time for us to do ours with your help.
>
> As the long journey traveled by this treaty now enters the final phase, I would ask all of you to recall Winston Churchill's famous observations to the House of Commons in 1947 when he said, "Many forms of government have been tried and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time."
>
> So we will have to keep that in mind as we go through this tedious journey.

Mr. President, as we now reach the end of this long road toward ratification of the INF Treaty, I would again like to pay tribute to Ambassador Glitman and his able and professional negotiating team.

Through the months of Senate hearings and 2 weeks of floor debate, Ambassador Glitman has demonstrated the same diligence, expertise and calm patience which he maintained through the years of negotiating this treaty. I commend him and his colleagues for their hard work and their constant willingness to respond to our questions and assist us in our review of this treaty.

Mr. President, I ask unanimous consent to insert in the RECORD a list of the members of the U.S. INF delegation and commend them for their important contribution to making this treaty a reality.

There being no objection, the list of members was ordered to be printed in the RECORD, as follows:

INF DELEGATION AT SIGNATURE—DECEMBER 1987

Amb. Maynard W. Glitman.
Amb. John Woodworth—OSD.
Mr. Leo Reddy—Department of State.
Mr. David Jones—Department of State.
Ms. Karin Lawson—ACDA.
Mr. Robert Simmons—ACDA.
BGEN Frank A. Partlow—JCS.
Mr. Alan Foley—State.
LTC Jeffrey Ankley.
Mr. James Hurd.
Dr. Stan Fraley.
Mr. Ronald Bartek.
Mr. Timothy Tulenko.
Mr. David Sloss.
LTC Jerry Myers.
COL Ronald Forrest.
COL Thomas Kincaid.
LTC Joseph Grubb.
LTC Ken Keating.
MAJ Timothy Hayes.
Ms. Paulette Grabulis.
Mr. Jerry Cady.
Mr. Michael Pecotte.
Ms. Susan Kosinski.
Ms. Jan Hughes.
Ms. Alexandra Miller.
Ms. Helen Moses.
Ms. Peggy Woosley.
Ms. Jo Reklis.
Ms. Dorothy Peratt.

Mr. HELMS. Mr. President, there is a passage from Livy's "History of Rome" which calls to mind what is about to happen in the Senate today. It reads as follows.

> Until at last not only Rome's resources but her spirit failed her also . . . and so the Senate foregathered, and bade the generals find some way of inducing the invader to depart . . . and a treaty was made . . . that they should deliver a thousand pounds weight of gold to Brennus King of the Gauls who should rule both nations thereafter. And upon this wicked and humiliating settlement, the invader's insolence heaped another injury: for when the gold was to be weighed he would have it measured in his own lying scales: and when the Roman general refused, the Gaul flung his sword into the false balance "that they might pay all and the sword's weight, too." And they say a voice was heard that the Romans could not endure hearing, crying "Conquered! Woe to thee, thou art Conquered!"
>
> But Camillus [outside the City] bade them recover their country with iron not gold, having before them the temples of their gods, their wives, their children, and the land where they were born. Livy, History of Rome, describing events of 390 B.C.

Mr. PELL. Mr. President, as the Senate winds up its consideration of the INF Treaty, I would like to make some observations on the significance of this treaty. Many of us have pointed out that the reductions mandated by this treaty are marginal militarily since they involve only 5 percent or so of the two sides' deployed nuclear arsenals, but that the treaty is nevertheless important because it is a necessary first step toward significant reductions in strategic weapons and in other offensive forces. I would like to expand a bit on what we have accomplished by approving this treaty.

For the first time, however modestly, we are reducing nuclear weapons. We are not just limiting the growth for freezing the level of nuclear weapons, we are lowering the level of such weapons and establishing the basis for further dramatic reductions. That is a truly remarkable achievement.

For almost a decade and one-half, we and the Soviets have been engaged in a Euromissile arms race costing billions of dollars. The INF Treaty means that both sides now implicitly admit that they have wasted billions of dollars in a fruitless effort to outbid each other in theater nuclear armament. More importantly, a conceptual breakthrough has been achieved in Soviet thinking about what constitutes sufficiency in its arsenal of deterrence. The Soviets are prepared to sacrifice the capacity to deliver four warheads for every one that the United States gives up, because—apparently—they accept that the world can be destroyed by a fraction of the nuclear weapons that now exist. Therefore, there is an apparent acceptance that fewer missiles do not necessarily imply a decrease of security and since there can be no victor in so-called nuclear warfighting, there is no point in piling up nuclear armaments above the level that would deter attack.

It is this change in mind-set that is the important thing about the INF Treaty, and it is this change in mindset that, once embodied in the INF Treaty, makes it possible to reduce even more superfluous nuclear weapons. By approving this treaty we are generating momentum for truly significant reductions that will make the world safer for all of us, for our children and for their children. I, for one, am proud and privileged to be a part of this historic beginning; and I hope to be a part of the subsequent process of deep reductions in nuclear weapons.

It took great political courage and skill on both sides to open the way to the INF Treaty and to the further arms control agreements that are almost sure to follow. More courage and skill will be needed to achieve these further agreements, but I am confident that our efforts will be crowned with success.

I wish to congratulate President Reagan, Secretary Shultz, Ambassador Kampelman and Ambassador Glitman for what they have achieved in this INF agreement. I also commend Senator BYRD, Senator DOLE, Senator NUNN, Senator WARNER, Senator BOREN, Senator COHEN, Senator LUGAR and all of my colleagues on the Foreign Relations Committee for the leadership and support they have given to this historic effort.

In addition, I would like to thank the staff for its excellent work in making this treaty possible. I would like to commend in particular John Ritch, Bill Ashworth, Dave Keaney, Jamie Rubin, Chris Van Hollen, Nancy Stetson, Hank Kenny, Kathi Taylor, Steve Polansky, George Pickart, Mary Jane Hatcher, Charlotte Ford, Betty Alonso, Jonathan Litchman, David Hill, Joanna Figueroa, and Jerry Christianson, who, as Staff Director, coordinated the work of the committee staff.

Finally, although we were on opposite sides of the fence on this issue, I would like to pay tribute to Senator HELMS, the ranking minority member of the Foreign Relations Committee. He fought a valiant, often lonely, fight; but he is a man of patriotism and conviction, and I respect him for that. He fought for what he believed was in America's best interest, and we simply agreed to disagree. He has conducted himself with considerable dignity and civility, and I thank him for his cooperation in ensuring that this treaty was brought to the floor with a minimum of delay and, above all, without any personal rancor whatsoever.

I would be remiss if I did not also pay tribute to our absent colleague, Senator BIDEN, who contributed so much to the success that the Senate achieved in defending its prerogatives in treaty making. I wish him a speedy recovery, and I look forward to his early return to the Senate.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the resolution of ratification of Treaty Document No. 100-11. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] is absent due to death in the family.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Ohio [Mr. GLENN] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 93, nays 5, as follows:

[Rollcall Vote No. 166 Ex.]

YEAS—93

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—5

Helms
Hollings
Humphrey
Symms
Wallop

NOT VOTING—2

Biden
Glenn

So it was

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, together with the Memorandum of Understanding and the two Protocols thereto, collectively referred to as the INF Treaty, all signed at Washington on December 8, 1987 (Treaty Doc. 100-11), subject to the following—

(a) CONDITIONS:

(1) Provided, that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clauses of the Constitution, that—

(A) the United States shall interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(B) such common understanding is based on:

(i) first, the text of the Treaty and the provisions of this resolution of ratification; and

(ii) second, the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty; and

(C) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute; and

(D) if, subsequent to ratification of the Treaty, a question arises as to the interpretation of a provision of the Treaty on which no common understanding was reached in accordance with paragraph (2), that provision shall be interpreted in accordance with applicable United States law.

(2) The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty, the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty, and the agreements signed on May 21, 1988 in Vienna and Moscow, respectively, correcting the site diagrams and certain technical errors in the Treaty, are of the same force and effect as the provisions of the Treaty.

(3) That prior to the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall cer-

tify that it is the common understanding of the United States and the Soviet Union that if either Party produces a type of ground-launched ballistic missile (GLBM) not limited by the Treaty using a stage which is outwardly similar to, but not interchangeable with, a stage of an existing type of intermediate-range GLBM having more than one stage, it may not produce any other stage which is outwardly similar to, whether or not it is interchangeable with, any other stage of an existing type of intermediate-range GLBM.

(b) Declarations:

(1) The Senate's advice and consent to ratification of the Treaty is further subject to the following:

(A) because the incentive for Soviet noncompliance, and the difficulty of monitoring will be greater for any strategic arms reduction talks (START) agreement than for the INF Treaty, the United States should rely primarily on its own national technical means of verification rather than any cooperative verification scheme, such as the onsite inspection procedures agreed to in the INF Treaty.

(B) because the United States enjoys a comparative advantage in the development of nonnuclear technologies that can increase the nuclear threshold and reduce the likelihood of war and because START and the INF Treaty will increase the military need to rely more heavily on such nonnuclear capabilities, in any subsequent agreement between the United States and the Soviet Union regarding the reduction of Strategic Weapons, it should be the position of the United States that no restrictions should be established on current or future nonnuclear air- or sea-launched cruise missiles developed or deployed by the United States, or on nonnuclear ground launched cruise missiles of ranges not prohibited by the INF Treaty; and

(C) because the reductions contemplated under any START agreement would change the character and optimal mix of strategic nuclear forces that the United States will need to maintain stability, the United States Congress and the President should agree on the character of, and funding for, these forces before any START agreement, framework or otherwise, signed or agreed to.

(2) Provided, that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition: Declaration.—It shall be the declared policy of the United States of America that, as an integral factor in its decision to adhere to this Treaty, the United States intends to continue to negotiate with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO Allies, to negotiate a treaty establishing conventional stability in Europe. In so doing, it shall be guided by the following principles and considerations:

(A) A main object of such future treaties shall be international stability and reduction of the risk of war by obtaining general equivalence in the resultant strategic forces of the Parties;

(B) During any negotiations contemplated by this declaration, the United States shall act in close consultation with its Allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

(C) Negotiations contemplated by this declaration shall also be conducted with close and detailed consideration of the advice of the United States Senate, and the Senate should be kept fully apprised of all significant proposals made to the Union of Soviet Socialist Republics and, with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given full and highest consideration and due regard;

(D) The negotiations contemplated by this declaration shall also seek to secure regimes of effective verification and mechanisms for full compliance which build upon the verification regime and compliance mechanisms of the present Treaty, strengthening them appropriately for any subsequent treaty;

(E) In accordance with the Constitutional process of the United States, the United States shall, consistant with correctly construed principles of international law, not be bound to adhere to or observe any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate. However, nothing in this declaration shall imply that the United States will take an action of such nature as to make impossible the performance of any future treaty contemplated by this declaration after the signing of such treaty and during the period in which there is a clear prospect of timely ratification thereof;

(F) The United States considers full and exact compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting i) the proposals and attitudes of the United States with respect to the future treaties contemplated hereby and ii) proportionate and appropriate responses with respect to such existing agreements;

(G) Pursuant to this declaration, any joint statement by the United States of America with the Union of Soviet Socialist Republics of a framework for the negotiation of strategic arms treaties contemplated hereby, and such framework itself, shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously, and shall not constrain any military programs of the United States unless otherwise provided for in accordance with Section 33 of the Arms Control and Disarmament Act; and

(H) The capability of the United States of America to monitor any future treaty contemplated by this declaration shall be strenthened in order to increase the ability of the United States to detect violations thereof.'."

(c) Declaration and Understandings:

The advice and consent to ratification given by the Senate under this resolution of ratification is subject to the following declaration and understandings, which the President, using existing authority, shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls pon the President to use every opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace;

(2) the understanding that the President shall seek sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the "Helsinki Final Act"),

(B) the Madrid Concluding Document of the Commission on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the "Madrid Concluding Document"),

(C) the Universal Declaration of Human Rights (also known as the "Universal Declaration"), and

(D) other international human rights agreements to which the Soviet Union is a signatory or party, including provisions relating to—

(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin.

(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness,

(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and

(iv) the right of individuals to know and act upon their rights and duties in these agreements; and

(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that the President of the United States be immediately notified that the Senate has given its consent to the Resolution of Ratification on the INF Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Applause, Senators rising.)

Mr. BYRD. Mr. President, there will be no more rollcall votes today. I thank all Senators and hope they have a good rest.

Mr. NUNN. Mr. President, let me thank the majority leader. I congratulate him again for his tremendous work on the INF Treaty. That treaty has now been given consent by the Senate, ratification, and it is a better treaty because of the majority leader's insistence that we not have any arbitrary timeframe; we take our time and do an expeditious but very thorough job in bringing about that Senate ratification.

We do have, I think, good evidence that the constitutional process by which the Senate and executive branch jointly make treaties has worked and worked very well. I think most of the credit is due to the majority leader for that process working so well.

I would also want to add to that that I think the Republican leader did a superb job and, as the majority leader said to the President of the United States a few minutes ago on the telephone, he has reason to be very, very proud and grateful of the Republican leader, Senator DOLE.

Mr. WARNER. Mr. President, I join the distinguished chairman in praising our majority and minority leaders. Indeed, they were of invaluable assistance to make the passage possible.

Mr. NUNN. I think the way they handled their telephones in talking to the President, switching them back and forth in talking to the President, was truly remarkable. They had great mental process and acumen.

Mr. BYRD. And they demonstrated dexterity and they are both ambidextrous.

Mr. WARNER. Mr. President, we should also note both are members of the Rules Committee, which approved the phone system.

Mr. NUNN. As is the Senator from Virginia. The Senator from Georgia is not a member of that committee, but would like to consult with the committee about that telephone system.

Mr. WARNER. We will look into it.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there may be some Senators who would like to speak.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. BYRD. Mr. President, there may be some Senators who would wish to speak as in legislative session. I ask unanimous consent that Senators may speak as in legislative session for not to exceed 5 minutes each and that the period not extend beyond 4 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent, also, Mr. President, that the Chair not entertain any request that would involve putting the Senate into legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

STATEMENT BY THE PRESIDENT ON THE INF TREATY

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement issued by the President following Senate action on the INF Treaty today, issued by the Office of the Press Secretary in Helsinki, Finland.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT

I am very pleased with the action of the United States Senate in consenting to ratification of the INF Treaty.

In 2 days, I will arrive in the Soviet Union to meet with General Secretary Gorbachev to discuss our four-part agenda. Today's action by the Senate clearly shows support for our arms reduction objectives.

I want to express my appreciation for the leadership demonstrated by Majority Leader Bob Byrd and Republican Leader Bob Dole in securing the timely approval of this treaty. I have invited them to join me for the exchange of ratification documents in Moscow.

I continue to have concerns about the constitutionality of some provisions of the Resolution of Ratification, particularly those dealing with interpretation, and I will communicate with the Senate on these matters in due course.

THE INF TREATY

Mr. HEINZ. Mr. President, we have just had a historic vote on the INF Treaty. I believe we have advanced this treaty and passed ratification for two reasons. The first is that this treaty has been all along in the U.S. national security interest. It is in our interest because it forces the Soviets to dismantle twice as many deployed missiles and four times as many warheads as the United States. It also is a treaty that sets several useful precedents which are of key importance to future progress in strategic arms control, and those are worth having as well.

But before I discuss these and other points, I think we should all remember why there have been last-minute delays in taking up the ratification of this treaty.

At the 11th hour, the Soviet Union showed once again that it is a tough negotiating partner. Just as we were about to debate the treaty, the Soviets tried to back out of key verification provisions. But the Senate stood its ground, and insisted on the tight verification rules that are one of this treaty's contributions to the arms control process.

This final chapter in the INF Treaty's evolution underlined a key point: it is indeed possible to deal with the Russians, and to negotiate agreements that are in our interest, but it must be done with open eyes, and with a determination to be firm in sticking to our positions on key issues.

In many respects this treaty represents a major accomplishment for the United States. It is an accomplishment made possible by one key factor—a bipartisan determination to stick to our guns and settle for nothing less than a verifiable elimination of the Soviet medium-range nuclear threat to Western Europe.

The INF saga began in 1979, when the United States and its NATO Allies decided to match the Soviet medium-range missile threat with missiles of our own. The decision had two tracks—one the deployment of missiles, the other the willingness to negotiate limitations on intermediate range weapons. Under Republican and Democratic Presidents, the United States and its allies pushed ahead despite a fierce Soviet propaganda offensive and strong public opposition to deploy our intermediate nuclear forces. After they failed with propaganda, the Soviets tried the bluff. In 1983, the Soviets walked out of the INF talks.

But they came back to the table. They came back to discuss the Reagan administration plan to eliminate all such missiles—the double zero—that they had dismissed earlier as unacceptable. And last December, General Secretary Gorbachev signed a treaty that embodied this plan.

The United States and the allies were firm in their determination. And because we were, we have a treaty that makes real reductions in the nuclear threat. And the Senate refused to be prodded at the 11th hour as well. Because of that steadfastness the treaty establishes verification principles we have sought for decades.

Mr. President, the INF Treaty before us eliminates an entire class of nuclear weapons. It establishes principles of unequal reduction and strict verification that show the way for future advances in nuclear arms control. This treaty is in the national security interest of the United States and our allies. I support it, and urge my colleagues to do likewise.

The treaty serves the interests of the United States and the NATO Alliance by reducing the number of nuclear weapons available to attack Western Europe. This reduction is important militarily because the Soviets will be removing a far larger number of deployed warheads than will we. They will remove over 1,600 warheads, while the United States will remove just over 400. Nevertheless, as has been widely noted, this treaty will eliminate only a small percentage, about 4 percent, of the total nuclear weapons arsenals of the two superpowers.

But the political contribution made to NATO strength by the INF Treaty may be even greater. That is because the treaty is more than anything the result of alliance unity in the face of Soviet pressure and intimidation. In 1979, the NATO Alliance decided to field intermediate range United States nuclear missiles in Europe to counter the alarming growth of Soviet SS-20 missiles.

In November 1983, after 4 years of Soviet bluster, threats, intimidation, and propaganda campaigns, at the strong recommendation of the NATO ministers, the first American intermediate missiles were deployed in Europe. The Soviet delegation at the INF talks walked out, and the Kremlin began an intense propaganda campaign to block full deployment of the United States missiles.

But the United States and the allies would not be intimidated by Soviet pressure, and deployment proceeded. After the failure of their gambit was apparent, the Soviets returned to the table, and in the end embraced the zero-zero plan, which by then had been expanded to cover the entire globe, thereby eliminating Soviet missiles in the Far East that threaten our ally, Japan.

Under the INF Treaty, the Soviet Union will have to destroy over 1,800 missiles, while the United States will destroy around 800. The Soviets will remove over 1,600 warheads from the total available to strike Western Europe and Japan. The United States will remove just over 400 warheads based in Europe. This unequal reduction in weapons is a very valuable advance in arms control. It may be a guide to future reductions of conventional arms in Europe, where we will begin talks facing a significant Soviet numerical advantage in most categories of weaponry. It is a clear precedent for disproportionate Soviet cuts in strategic weapons, where they hold certain numerical advantages that are the chief threat to deterrence and stability.

The INF Treaty will not eliminate the Soviet nuclear threat to NATO. But it will reduce it substantially, and will force the Soviets to divert their strategic forces aimed at the United States to European targets if they wish to maintain their nuclear threat against NATO. In short, the work and determination that went into matching Soviet intermediate-range deployments in Europe have borne fruit, and that is the elimination of the Soviet missile force that was created beginning in the middle of the last decade.

Some critics of the treaty argue that it will weaken NATO's deterrent, or that it will denuclearize Europe. These statements do not stand up to examination. First, the NATO Alliance deterred Soviet attack for over three decades before the United States INF missiles were in place. We only started putting our INF missiles in Europe in late 1983. Clearly, these missiles were never the basis for our deterrence of the Warsaw Pact. That deterrence rests primarily on the massive military resources of NATO, which have evolved over the history of the alliance and continue to require modernization.

Second, removal of the INF missiles, while reducing the nuclear options of both sides, hardly denuclearizes Europe. The United States alone will retain over 4,000 tactical nuclear weapons for use in Europe. That does not count Poseidon missile submarines dedicated to NATO missions. Nor does it include other American nuclear missiles, such as submarine-based cruise missiles, which can be used to support our NATO operations. In addition, our French and British allies maintain their own independent nuclear forces. In other words, Mr. President, even after the removal of the INF missiles, the United States and its NATO allies will retain many nuclear weapons systems to help counterbalance traditional Soviet strength in conventional military terms.

Mr. President, I think the American people are a trusting people. We maintain the most open form of government in the world. We fear no idea, we welcome debate on all issues of public importance. But the American people also understand that trust is not enough of a basis for international agreements with the Soviet Union.

An old Russian saying is in vogue these days: "Trust, but verify." The new American version is shorter: "Verify." This treaty does not rely on trust. It establishes precedents of detailed and intrusive onsite verification to ensure the destruction of missiles and the ban on production of missiles. It is the sort of verification approach many Americans have sought for many years in our arms control dealings with the Kremlin.

Under the INF agreement, the Soviets have provided us with unprecedented military information. This includes photos of all the missiles and equipment concerned, photos and maps of their missile bases, diagrams of their missile production facilities. We have the right to conduct onsite inspections of these facilities. We will witness the destruction of their missiles and associated equipment. We will continuously monitor their missile factory to make sure banned systems are not being produced.

The procedures established in the INF Treaty are not the last word, but they are a good start on creating verification arrangements that will allow the United States to enter more important and, therefore, more risky arms-control agreements with the Soviet Union. The experience we gain in implementing the INF Treaty, in destroying missile arsenals under foreign supervision, cannot but help both countries improve on the mechanism already agreed to and will build confidence in the verification process.

Mr. President, the INF Treaty is a good treaty. It is a tribute to the bipartisan determination of the United States and its allies to match or eliminate the Soviet nuclear threat to Europe. It is a milestone in setting a precedent for unequal reductions and in creating reliable verification mechanisms that we need to make significant progress in strategic arms control with the Soviet Union.

The American people have a mature view of relations with the Soviet Union. They now realize that our relationship, so long as the Soviet system does not undergo fundamental change, will of necesssity be one that mixes both competition and cooperation.

This means that while we can, indeed, we must, negotiate with the Kremlin to stabilize the nuclear military rivalry, we must keep the full agenda of United States-Soviet issues in mind as we define a relationship. We can afford neither the infatuation of détente nor the blind hostility of a cold war. We must learn from these past experiences and sustain a posture that exploits potential for accommodation while not abandoning fundamental values and principles.

As we do this, we must maintain a vigorous and balanced defense posture to defend our interests and meet our alliance obligations. We must continue to limit the flow of Western technology and credit to the Soviet Union that might help them to offset some of our key technological advantages. We must maintain pressure on the Soviet Union to cease its meddling in trouble spots throughout the Third World. And we must continue to insist that the Soviet Union live up to its international obligations on human rights.

At the same time, as the INF Treaty demonstrates, we can secure agreements with the Soviet Union that serve our security interests and the cause of peace. We can best reach those agreements by presenting the Kremlin with a unified determined approach that links the United States and its allies in defense of key security interests.

The INF Treaty is only a small step, but an important one, in bringing the nuclear arms competition under control. I applaud the President for securing this treaty, and look forward to the next and more momentous step in controlling the arms race.

THE RETIREE BENEFITS BANKRUPTCY PROTECTION ACT OF 1988

Mr. HEINZ. Mr. President, 2 years ago, we set out to protect the health benefits of retirees when LTV Corp. attempted to terminate its retirement health plan upon filing for bankruptcy. LTV's actions made it clear to the Congress, for the first time, just how fragile a company's promise of retiree health benefits could be. One simple decision, made on the advice of the bankruptcy lawyers, was enough to suddenly expose 78,000 LTV retirees to the huge financial risk of a serious illness or injury. LTV's retirees, some only moments from surgery, were simply informed that their health insurance had been canceled by the company—with no forewarning, and no offer of alternative coverage.

Cancellation of health insurance is a serious matter for anyone. It is especially serious for a retiree who is too young for Medicare but too old to buy affordable health coverage. While healthy retirees may find a replacement policy for a hefty monthly premium, sick retirees may be unable to find one at any price. The thought that a company could enter bankruptcy and renege on the promise of health and life insurance without a moment's hesitation or so much as a word to the retirees was troubling to the Congress.

The Congress was also concerned over the treatment of retirees after a company filed for bankruptcy. Once the retirees lost their benefits they were forced by the bankruptcy law to go to the end of the line of creditors and patiently wait for years to get a small cash settlement. While chapter 11 reorganization seemed to work to protect the interests of the major, and usually secured, creditors, it left the retirees totally exposed to catastrophic medical losses while bankruptcy lawyers bickered over the reorganization plan. The retirees had no way to make their concerns known to the court during bankruptcy.

LTV's threatened termination moved the Senate to action, and within a short time we had passed legislation to prevent the termination of retiree health and life insurance plans by bankrupt companies while Congress considered reform legislation. This temporary provision was continued for almost 2 years while we worked on the bill that is before us now.

Today, Mr. President, we are finally at the point where we can pass the Retiree Benefits Bankruptcy Protection Act of 1988. This legislation has been carefully considered by the Judiciary Committee in the House and Senate, passed by the Senate on two previous occassions, and now finally accepted by the House.

The bill will protect retirees from unilateral termination of benefits by a company filing a chapter 11 bankruptcy petition. Health and life insurance benefits would be continued throughout the proceedings unless it was necessary to discontinue them to keep the company alive. This bill will also finally give retirees adequate representation in the bankruptcy proceedings.

Mr. President, this is a great day for retirees. No longer will companies be able to surprise their retirees when they file for chapter 11 bankruptcy. No longer will retirees have to go to the end of the line and wait for a cash settlement. They will finally become equal partners with the other creditors in bankruptcy.

I would like to thank my colleague from Ohio, Senator METZENBAUM, for his leadership on this legislation and for his persistent efforts to develop this compromise. He and his staff, particularly David Starr, have worked tirelessly to push this legislation through both sides of the Congress. I urge my colleagues to join us in passing of H.R. 2969.

THE INF TREATY

Mr. NICKLES. Mr. President, several years ago I had the pleasure of being appointed to the Senate arms control observer group with several of my colleagues, and we spent a great deal of time discussing the fine points and political implications of arms control. We spent countless hours visiting with American negotiators both in the United States and Geneva. In Geneva we had the opportunity to sit across the table from and discuss arms control with the Soviet arms control negotiators. This has been a very enligtening experience, one from which this Senator, I hope, has learned.

Mr. President, I have not changed my position, I still maintain a distrust for the Soviet Union. This distrust comes from many of the comments they made while sitting across the table.

Mr. President, I voted in favor of this treaty for a lot of reasons. In the final analysis, the Soviet Union accepted the U.S. position, the same position that this administration took in December 1981, which said that we will not deploy the Pershing II's, we will not deploy the cruise missiles if the Soviet Union would remove the SS-20's. At that time, Mr. President, you remember the Soviet Union refused. They continued deploying SS-20's, and so we began deploying the Pershing II's in late 1983. In November 1983 the Soviets walked out of the former INF talks; they called for a freeze. The Soviet Union said, "We are going to freeze, we will not deploy any more SS-20's if you will not deploy any of the Pershing II's."

We said, "No. If you take out all of your SS-20's, we will not deploy the Pershing II's." They withdrew from the bargaining table for over a year. We were consistent. We deployed Pershing II's, we deployed the ground-launched cruise missiles, and eventually after over a year the Soviet Union returned to the bargaining table.

Again we said, "We will withdraw what we have if you will withdraw all of your intermediate-range missiles."

Mr. President, the treaty which has just been agreed upon by the Senate, to which we have given our advice and consent by an overwhelming margin, was the result of this administration's consistent policy of saying to the Soviets we will take our intermediate-range missiles out if you will remove your intermediate range missiles.

Also, the treaty achieved a little bit more. We actually have for the first time in any arms control agreement in the history of the United States onsite inspection. Previously I mentioned my distrust of the Soviet Union. I have been at the table when factual misstatements were made to me by the Soviets. In this treaty, we do not have to trust the Soviets. We are going to have onsite inspectors. We are going to have Americans witness the destruction of Soviet missiles. So it is not a question of trust but of verification, whether or not we can verify. And counting will be more intrusive than ever before. This is not as much as what I and other Senators would like but it is a giant step in the right direction. I compliment the administration for it.

This treaty in my opinion is not perfect. I doubt that we will ever see treaties that are perfect. When we brought the INF Treaty before the Senate, it was my intention to support the treaty but I will mention two reservations that I had. One was Soviet noncompliance with previous treaties, and, two, was the banning of the conventional ground-launched cruise missile. These two issues concern this Senator. They still concern this Senator. We have to weigh the pluses on the treaty. We are having the Soviet Union remove a significant number of intermediate range missiles. We are going to for the first time have United States inspectors on Soviet soil witnessing not only the destruction of missiles but also the dismantling of the plants where those missiles are made. I think that is positive.

Also what is positive, Mr. President, is the fact we are able to lead the NATO alliance. I visited with many of the leaders in NATO who supported this treaty very, very strongly. If the Senate had denied its consent to this treaty, it would have been a disaster for NATO, particularly a disaster for the leadership of the United States in NATO. That issue concerned this Senator.

When we considered the treaty on the floor of the Senate, I mentioned my concerns. A couple of improvements were made. We found there was a void in futures. That issue now seems resolved. But I hope it was not resolved in a manner which would totally cap and ban the United States in an effort any more so than the Soviet Union.

I will say also that I was very concerned and continue to be concerned about the so-called Byrd amendment.

This Senator's opinion is that the Byrd amendment has a net effect of putting more restraints on the United States than have been put on the Soviet Union. I hope this is not the case. The Byrd amendment applies just to this treaty and certainly this treaty has been scrutinized beyond that of any previous treaty. It is incumbent upon all of us as we monitor this treaty and the Soviet compliance or noncompliance of this treaty in the future that we make sure that we do not handicap, that we do not limit the United States at any time at a point beyond what we also are limiting the Soviet Union. That would be a very serious mistake. That would be a very bad example to follow in any future arms control treaties.

Mr. President, we are here today because this administration had the leadership and the foresight to take a strong position, one which was criticized by many people. The so-called zero option, which then became the zero-zero option, was criticized by people as not realistic. Why would the Soviet Union ever go to zero in intermediate-range missiles when they had a monopoly of intermediate and also short-range missiles? They had a monopoly. They had hundreds. We had very few. Mr. President, we ended up with zero-zero. We ended up with a treaty where we have on-site inspections and verifications. I think that is significant. It is historic.

I compliment the President and the administration for their work and the negotiators as well. They have worked long and hard. Again, this treaty is not perfect but I do think it is a step in the right direction. I compliment the President today.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

COMMENDATION OF SENATOR BYRD

Mr. FORD. Mr. President, I will just take a moment. I have been in the Senate now almost 14 years. This is probably the most significant vote I have cast, not quite as emotional as the Panama Canal Treaty vote as it related to the general public, but this vote as it relates to the future of my grandchildren I think was the most significant. It is a step in the right direction, a step to the elimination of nuclear weaponry, a step toward continued world peace.

So as you look at what happened today and its finality, you look back to see how it occurred. I have been looking at that and thinking about it most of the day. I think if there ever was one individual that I have read in history and had the opportunity to serve with, no one is more superior to our majority leader, Senator BYRD, in his firmness as it relates to the position of the U.S. Senate, its constitutional role, and what the responsibility of this body should be. I think if there was any doubt in one's mind as to his love and belief in what this Senate was organized for, its responsibility under the Constitution, if there had been any doubt and they listened to his speech yesterday, I think any doubt would have been eliminated.

We were forced by the majority leader not to be stampeded or rushed into consideration of this treaty, that the legislative process of this body would be followed. I think you have to look back from the time the majority leader said we will do it in the way the Senate was intended to do it, relating to approving of the treaty. And as a result of that, many changes were made. It was even sent back to be renegotiated to clear up some items. There was not even a definition of what weapons were. So it indicates that the majority leader, doing what was right, even though being pushed and sometimes coerced, would not allow this Senate to be stampeded into making mistakes.

So today in taking that step back and looking at the past few weeks, I want to compliment the majority leader, Senator BYRD for what he has meant to this Senate, for what he has meant to this country, and what he has meant to the acceptance of this treaty.

COMMENDATION OF SENATOR DOLE

Mr. FORD. Mr. President, I cannot pass up the minority leader in this respect also. I want to take this opportunity to commend the Senate minority leader for his leadership as it relates to this historic treaty. Even though it was introduced by his President, the President of his party, he refused to be stampeded into blindly endorsing that treaty. Even though the pressure to climb on the bandwagon reached almost unbearable proportions, I suspect because of Presidential campaign politics, the Senator from Kansas, Mr. DOLE, held firm. There was no signing on the dotted line until the Senate could read it and understand it cover to cover.

I think the minority leader's insistence that we fulfill, to the letter of the law, our constitutional responsibilities, that we read the fine print, that we check with our allies, consult with our experts, and work together in a bipartisan spirit and effort, and then do what we have done, paid great dividends. So I compliment the minority leader, also.

I compliment my colleagues. The work of the Senators uncovered flaws and imperfections. Thanks to our healthy debate in committee and on the floor, we strengthened the INF Treaty.

So while we are passing out congratulations today, let us remember the courage and vision of the Senator from West Virginia and the Senator from Kansas. Neither took an easy way out. It would have been easy for the minority leader to just roll over and say: It is my President; it is my party. But he did not. I do not believe that Senator BYRD, regardless of who was President and what party was in office, would have taken any different approach. I believe, that with both gentlemen, their country comes first, before politics.

Mr. President, I have had some down times when I have been in this body; felt that we were not making very good movement; worried about the quality of life; worried about spinning our wheels; worried about lots of things; frustrations. In the end, today made everything right. The point at which we arrive today underscores why this country is so great and why the Founding Fathers made the right decision. The leaders we have selected on both sides believe that the country comes first.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, it has been a little over an hour since the Senate by an overwhelming vote voted for the resolution of ratification of the INF Treaty, a vote of 93 to 5. I think that in itself indicates strong support, strong bipartisan support. Since that time the President has called from Helsinki, placed a call to Senator BYRD and myself, and invited us to join him in Moscow for the exchange of the articles of ratification. So we are very honored to be invited to represent our colleagues on both sides of the aisle. I am not certain when we leave, but we will be there in time for the exchange.

So I am very grateful, speaking for myself, to the President. As I said in the telephone conversation, it reflects the President's understanding of the Senate's role, which is the constitutional role, to advise and consent on treaties, and in this case because of the Senate's diligence and many Members on both sides of the aisle, we did make corrections, did make improvements in the treaty itself, and did strengthen the treaty through amendments on the resolution of ratification.

So I believe all of us, those who fought for the treaty and even those who opposed it, will say that we have a better product because of it. So I am very pleased about that.

Now that the majority leader is coming to the floor, I want to add that I am particularly grateful for his leadership. There is no question about it. As I indicated to the President, Senator BYRD said we were going to get it done and we did. That is the hallmark of the Byrd leadership, not overreaching, but when you make the decision, you make the commitment, then you get it done.

So I think the country, all of us, owe a particular debt of gratitude to our leader, the majority leader, Senator BYRD, and others on both sides of the aisle: Senator NUNN, Senator WARNER, Senator LUGAR, Senator PELL, Senator BOREN, Senator COHEN, Senator SIMPSON, Senator CRANSTON, and many others on both sides of the aisle who have played a vital role in this entire matter.

Winston Churchill remarked that democracy is the worst system of government except for all the rest. I think that sums up the experience many of us have had the last 124 days. For just over 4 months we have examined the INF Treaty in every detail, and I think it is fair to say the treaty has been scrutinized more carefully than any other arms control treaty, and frankly that is why it passed today by a vote of 93 to 5. It would have been 95 to 5, I think I can safely assume, if two of the unavoidably absent Senators could have been present.

Three committees have held scores of hearings. We have had hundreds of witnesses. The administration has answered 1,300 questions in writing. Where problems have been found—and there have been some—they have been fixed. For the first time ever the history of the treaty negotiation has been made available to the Senate, and I think this has been a very positive development. With these documents we now have a precise understanding of the obligations mutually undertaken by the parties. For the Senate the process culminated over the last 9 days as we considered the views and suggestions of every Senator who wished to be heard. The true climax of the INF Treaty starts next week when President Reagan takes the product of our work to the Soviet Union for ratification.

The Senate has asked for formal clarification of several points. But since the Soviets have acknowledged that our two countries shared a common view on these issues, this should present no problem.

We also used this opportunity to remind the Soviets of our unflagging insistence on fundamental values like human rights. While Americans welcome this treaty, we must never lose sight of the differences—in philosophy and practice—which still divide our two societies.

Finally, the Senate used the resolution of ratification to address its own concerns, for example, on treaty interpretation, and the compromise we fashioned works—at least for the INF Treaty. But, we also agreed to continue disagreeing on the ABM Treaty dispute. We are indebted to the Senator from Maine, Mr. COHEN, for this provision.

Our work is done. I said at the outset, and at every opportunity since, that the Senate would play a constructive role on this treaty; and we have lived up to that promise. Doing so took time, effort, and a bit of frustration. But that is how the U.S. Senate works.

Mr. President, as I have indicated also, there has been a call placed to the President. The President has talked to both myself and Senator BYRD. We told him we had finished our work and we told him we were proud for the American people that the treaty was approved in a bipartisan fashion.

This is America's treaty, not the President's, not the Senate's, not either party's.

So it is a milestone, and a President that has earned—Ronald Reagan—a place in history and the affection and admiration of the American people.

I would also like to add a few words about some who have helped us, men and women on our staff, on staffs of everyone in this Senate, those who helped the President negotiate this treaty, our arms negotiators, and for all the backup help they have had.

We will also let him know that we back him 100 percent as he takes this historic document the final step toward ratification. Achieving this agreement—an effectively verifiable treaty which for the first time ever will reduce nuclear weapons—is one more milestone in a Presidency that has earned Ronald Reagan a place in history and the affection and admiration of the American people.

Before we leave our work on the INF Treaty, I'd like to add a few words on some of the people who have helped us arrive at this moment.

I would like especially to thank the managers of the treaty, Senator PELL and Senator LUGAR. They have been both patient and persistent. This complex agreement spans the jurisdiction of three committees; and Senators NUNN, WARNER, BOREN, and COHEN have always been here when we needed them.

While the debate featured the fine work of those three committees, there is another group which shares a much longer history with the INF Treaty: the arms control observer group. Senator STEVENS led the Republican contingent, and made many important contributions, such as focusing attention on the question of the zero-option. The Democrat contingent was also ably led by Senator PELL. This group keeps pace with the course of treaty talks. The group's impact is felt not with reports or amendments, but with quiet conversations and explanations, and in many other concrete ways.

I think every one of us knew more about this treaty, and arms control in general, because of the existence of the arms control observer group. I particularly commend all members of that group.

I also want to take note of people who may not support this treaty—such as the distinguished Senator from North Carolina, Senator HELMS, who have made sure that the Senate rigorously examined every important question raised by the treaty; and in so doing, ensured that we ended up with the best possible product.

Sometimes there is some frustration; sometimes it is hard to move the Senate along, but every Senator has a right which we will always protect, regardless of his party, to raise questions, any time, any place; and Senator HELMS has done that and made a contribution.

Finally, I want to remind my colleagues that the careful work we and our staffs did on the negotiating history was made possible by the staff of the treaty support office: Judy Keating, Dick Kimmel, Bruce Vaughn, Bob Esler, Tom Tremble, Kevin Appleby, Jan Suter, and Preston Sweet. These people organized the record so efficiently that the State Department asked to use the Senate program to check answers to our questions.

And thank you as well to the staff members from our side, key staff people who have worked so hard here on the floor: Ken Myers from Senator LUGAR'S office; Brian Dailey from Armed Services; Gary Sojka from Intelligence; and Rob Soofer from the Policy Committee. I would also like to mention, too, Dave Smith of the Republican leader's office, as well as two young people from my office, Ethan Segal and Laurie Howell, who did much of the unseen legwork to support floor action.

So, Mr. President, I think we have accomplished a great deal. It is a small step in arms reduction, but it is a step. It is a step that many people a year ago in this country thought was impossible, many who doubted Ronald Reagan's commitment to arms reduction. That has been disproved many, many times, and today was the final gesture in that, the final mark, effort by the President.

So I thank my colleagues for their patience and again I thank the majority leader and all others who have played an important role in this significant accomplishment.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, the Senate is still in executive session, is it not?

The PRESIDING OFFICER. It is.

Mr. BYRD. I thank the Chair.

INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed as in legislative session to the consideration of Calendar Order No. 518, S. 1703, Indian Self-Determination Act Amendments, and that the Senate proceed as in legislative session for not to exceed 10 minutes on this matter.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1703) to amend the Indian Self-Determination and Education Assistance Act, and for other purposes.

The Senate proceeded to consider the bill (S. 1703) to amend the Indian Self-Determination and Education Assistance Act, and for other purposes, which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

TITLE I—ADMINISTRATIVE PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Indian Self-Determination and Education Assistance Act Amendments of 1987".

TABLE OF CONTENTS

TITLE I—ADMINISTRATIVE PROVISIONS

Sec. 101. Short title and table of contents
Sec. 102. Declaration of Policy
Sec. 103. Definitions
Sec. 104. Reporting and audit requirements
Sec. 105. Carryover Funding

TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS

Sec. 201. Self-Determination Contracts
Sec. 202. Technical Assistance and Grants to Tribal Organizations
Sec. 203. Personnel
Sec. 204. Administrative Provisions
Sec. 205. Contract Funding and Indirect Costs
Sec. 206. Contract Appeals
Sec. 207. Promulgation of Rules and Regulations
Sec. 208. Reports
Sec. 209. Consolidated Contract Funding
Sec. 210. Savings Provisions
Sec. 211. Severability

SEC. 102. DECLARATION OF POLICY.

Section 3 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended by striking existing subsection "(b)" and inserting the following new subsection "(b)" in lieu thereof:

"(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to individual Indian tribes and to the Indian people as a whole through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from the Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. In accordance with this policy the United States is committed to supporting and assisting Indian tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities.".

SEC. 103. DEFINITIONS.

Section 4 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended—

(a) by adding the following new subsections (a), (b), (c), and (d):

"(a) 'construction programs' means programs for the planning, design, construction, repair, improvement, and expansion of buildings or facilities but not limited to, housing, law enforcement and detention, sanitation, and water systems, roads, schools, administration and health facilities, irrigation and agricultural works and water conservation, flood control, or port facilities;"

"(b) 'contract costs' means all direct program costs and indirect costs which are necessary and reasonable for the proper and efficient administration of self-determination contracts;"

"(c) 'contract funding base' means the base level from which contract funding needs are determined, and includes all contract costs;"

"(d) 'direct program costs' means costs that can be identified specifically with a particular contract objective;";

(b) by redesignating existing subsections "(a)" and "(b)" as subsections "(e)" and "(f)" respectively;

(c) by adding the following new subsections (g), (h), and (i):

"(g) 'indirect costs' means costs incurred for a common or joint purpose benefiting more than one contract objective, or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved;

"(h) 'indirect costs rate' means the rate arrived at through negotiation between an Indian tribe or tribal organization and the cognizant Federal agency;

"(i) 'mature contract' means a self-determination contract that has been continuously operated by an Indian tribe or tribal organization for three or more years, and for which there are no significant and material audit exceptions in the annual financial audit of such Indian tribe or tribal organization: Provided, That, upon the request of an Indian tribe, a contract in existence on the date of enactment of this Act which meets this definition shall be considered to be a mature contract;";

(d) by striking existing subsection "(d)" and by redesignating as subsection "(k)" and inserting the following new subsection in lieu thereof:

"(k) 'Secretary', unless otherwise designated, means either the Secretary of Health and Human Services or the Secretary of the Interior or both;";

(e) by adding the following new subsection "(l)":

"(l) 'self-determination contract' means a contract entered into pursuant to this Act between an Indian tribe or tribal organization and an agency of the United States for the purpose of assuring Indian participation in the planning, conduct and administration of programs or services which are otherwise provided to Indian tribes and their members pursuant to Federal law: Provided, That no contract entered into pursuant to this Act shall be construed to be a procurement contract; and"; and

(f) by redesignating existing subsection "(f)" as subsection "(m)".

SEC. 104. REPORTING AND AUDIT REQUIREMENTS.

(a) Subsection (a) of section 5 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended by inserting after the words "as the appropriate Secretary shall prescribe," the following: "by regulations promulgated under the Administrative Procedures Act (sections 552 and 553 of title 5, United States Code),; and by changing the period at the end of the subsection to a colon and inserting the following proviso: "Provided, however, That for the purposes of this subsection, such records for a mature contract shall consist of quarterly financial statements for the purpose of accounting for federal funds, the annual single-agency audit required by the Single Audit Act of 1984 (Public Law 98-502, Act of October 19, 1984; 98 Stat. 2327, chapter 75 of title 31, United States Code), and a brief annual program report.".

(b) Section 5 of the Indian Self-Determination Act is further amended by adding the following new subsection "(e)":

"(e) The Secretary shall report annually in writing to tribes in each service area regarding projected and actual staffing levels, funding obligations and expenditures for programs operated directly by the Secretary in the respective service area.".

SEC. 105. CARRYOVER FUNDING.

Section 8 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended by striking existing section 8 and inserting the following new section in lieu thereof:

"CARRYOVER FUNDING

"SEC. 8. Notwithstanding any other provision of law, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), for any fiscal year which are not obligated or expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation or expenditures during such succeeding fiscal year. If the funds are to be expended in the succeeding fiscal years for the purpose for which they were originally appropriated, contracted or granted, no additional justification or documentation of such purposes need be provided by the tribal organization to the agency as a condition of receiving or expending such funds.".

TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS.

SEC. 201. SELF-DETERMINATION CONTRACTS.

(a) Section 102 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended to read as follows:

"SEC. 102. (a)(1) The Secretary is directed, upon the request of any Indian tribe, by tribal resolutions, to enter into a self-determination contract or contracts with a tribal organization to plan, conduct, and administer programs, including construction programs, or portions thereof—

"(i) provided for in the Act of April 16, 1934 (48 Stat. 596), as amended;

"(ii) any program or portion thereof which the Secretary is authorized to administer for the benefit of Indians under the Act

of November 2, 1921 (42 Stat. 208), and any Act subsequent thereto;

"(iii) any or all of the functions, authorities, and responsibilities of the Secretary of Health and Human Services under the Act of August 5, 1954 (68 Stat. 674), as amended;

"(iv) any program or portion thereof, including construction programs, administered by the Secretary for the benefit of Indians for which appropriations are made to agencies other than the Department of Health and Human Services or the Department of the Interior; and

"(v) any program, or portion thereof, for the benefit of Indians without regard to the agency or office of the Department of Health and Human Services or the Department of the Interior within which it is performed.

"(2) If so authorized by an Indian tribe under paragraph (1) of this subsection, a tribal organization may submit a proposal for a self-determination contract to the Secretary for review. The Secretary shall, within ninety days after receipt of the proposal, approve the proposal unless a specific finding is made that—

"(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted will not be satisfactory;

"(B) adequate protection of trust resources is not assured; or

"(C) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract.

"(3) Indian tribes and tribal organizations authorized by an Indian tribe under paragraph (1) of this subsection shall be entitled to contract for any program or function operated by the Federal Government for the benefit of such tribe, as provided in this section.

"(4) Upon the request of any tribal organization that operates two or more mature self-determination contracts, the Secretary is authorized to allow such Indian tribal organization to consolidate such contracts into one single contract.

"(b) Whenever the Secretary declines to enter into a self-determination contract or contracts pursuant to subsection (a) of this section, the Secretary (1) state any objections in writing to the tribal organization within sixty days of receipt of the proposal, (2) provide assistance to the tribal organization to overcome the stated objections, and (3) provide the tribal organization with a hearing, under such rules and regulations as he or she may promulgate, and the opportunity for appeal on the objections raised.

"(c)(1) For purposes of chapter 171 and section 1346 of title 28, United States Code, a tribal organization carrying out a contract, grant agreement, or cooperative agreement under this section or section 104(b) shall deemed to be a Federal Agency while carrying out such contract or agreement and its employees (including those acting on behalf of such tribal organization as provided in section 2671 of title 28) are deemed employees of the United States while acting within the scope of their employment in carrying out the contract or agreement.

"(2) Subsection (c)(1) shall apply to an urban Indian organization, and to employees of an urban Indian organization, only with respect to services provided to Indians.".

(b) Section 103 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is hereby repealed.

SEC. 202. TECHNICAL ASSISTANCE AND GRANTS TO TRIBAL ORGANIZATIONS.

Section 104 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended—

(a) by redesignating such section as section "103";

(b) by repealing section 103(a)(4); and

(c) by adding the following new subsections (d) and (e) at the end thereof:

"(d) The Secretary is directed, upon the request of any tribal organization, to provide technical assistance on a non-reimbursable basis to such tribal organization—

"(1) to develop any new self-determination contract authorized pursuant to this Act;

"(2) to provide for the assumption by such tribal organization of any program, or portion thereof, provided for in the Act of April 16, 1934 (48 Stat. 596), as amended, any other program or portion thereof which the Secretary is authorized to administer for the benefit of Indians under the Act of November 2, 1921, (42 Stat. 208), and any Act subsequent thereto; or

"(3) to develop modifications to any proposal for a self-determination contract which the Secretary has declined to approve pursuant to section 102 of the Act.

"(e) The Secretary is authorized, upon the request of an Indian tribe, to contract with or make a grant to any tribal organization for—

"(1) obtaining technical assistance from providers designated by the tribal organization, including tribal organizations that operate mature contracts, for the purposes of program planning and evaluation, including the development of any management systems necessary for contract management, and the development of cost allocation plans for indirect cost rates; and

"(2) the planning, designing, monitoring, and evaluating of Federal programs serving the tribe, including Federal administrative functions.".

SEC. 203. PERSONNEL.

Section 105 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended—

(a) by redesignating such section as section "104";

(b) in subsection (e)—

(1) by deleting the words "on or before December 31, 1988"; and

(2) in paragraph (2) of subsection (e) by inserting "or chapter 84 ('Federal Employees' Retirement System')" after "chapter 83 ('Retirement')" and before "of title 5"; and

(c) by adding the following new subsections (k), (l), (m), (n), and (o):

"(k) Section 3372(a) of title 5, United States Code, is further amended to add the following to the end thereof: " 'If the assigned employee fails to complete the period of assignment, and there is another employee willing and available to do so, the Secretary may assign the employee to complete the period of assignment, and may execute an agreement with the tribal organization with respect to the replacement employee. That agreement may provide for a different period of agreement and such other modifications to the original agreement as may be agreed to by the Secretary and the tribal organization.';

"(l) Section 402 of the Intergovernmental Personnel Act of 1970, as amended (42 U.S.C.A. 3372) is further amended by adding a new subsection (d) as follows:

" '(d) Where the employee is assigned to a tribal organization, the employee shall be eligible for periodic step-increases, additional step-increases, merit pay, and cash awards, as defined in chapters 53 and 54 of this title, on the same basis as other federal employees.'.

"(m) An Indian appointed to the Federal service under an excepted appointment under the authority of section 12 of the Act of June 18, 1934, or any other provision of law granting a preference to Indians in personnel actions, shall be converted to a career appointment in the competitive service after three years of service and satisfactory performance. The conversion does not alter the Indian's eligibility for preference in personnel actions.

"(n) From funds not budgeted or earmarked for direct services or benefits to Indians or for contracts or grants to tribal organizations, the Secretary shall provide a one-time only payment to an employee of the Secretary of an amount equal to one-half of the annual salary rate of the employee if the employee's position is terminated because of a contract or agreement under this Act and the employee is not offered another position of at least equal grade and pay and is either separated from employment by the Secretary, or is transferred to a position at a lower grade and headquartered more than fifty miles from the headquarters of the employee's terminated position. Such payment shall be in addition to any other payments or benefits the employee is entitled to under any other law or regulation. This subsection applies only to contracts or agreements executed after its enactment.

"(o) In addition to payments made pursuant to subsection (n), from funds not budgeted or earmarked for direct services or benefits to Indians or for contracts or grants to tribal organizations, the Secretary is authorized to pay cash bonuses to the employees of the Secretary whose positions are terminated because of a contract or agreement under this Act or who made a contribution to the successful contracting with the tribal organization. This subsection applies only to contracts and agreements executed after its enactment.".

SEC. 204. ADMINISTRATIVE PROVISIONS.

Section 106 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended—

(a) by redesignating such section as section "105";

(b) by changing the period at the end of existing subsection "(a)" to a colon and adding the following new proviso at the end thereof: "Provided further, That the Office of Federal Procurement Policy Act (Public Law 93-400, Act of August 30, 1974; 88 Stat. 796) and Federal acquisition regulations promulgated thereunder shall not apply to self-determination contracts.";

(c) by striking existing subsection "(c)" and inserting the following in lieu thereof:

"(c) Any self-determination contract requested by an Indian tribe pursuant to section 102 of this Act shall be for a term not to exceed three years in the case of a new contract, unless the appropriate Secretary and the tribe agree that a longer term would be advisable, and for an indefinite term in the case of a mature contract: Provided, That the amounts of such contracts shall be subject to the availability of appropriations: Provided further, That the amounts of such contracts may be renegotiated annually to reflect factors, including but not limited to cost increases beyond the control of an Indian tribe or tribal organization.";

(d) by adding the following new subsection (d):

"(d)(1) No later than fiscal year 1989, the Secretary shall begin using the calendar year as the basis for contracts and agreements under this Act except for instances where the Secretary and the Indian tribe or tribal organization agree on a different period.

"(2) The Secretary shall submit a report to the Congress within ninety days of enactment of this Act on the amounts of any additional obligational authority needed to implement this section in fiscal years 1988 and 1989.";

(e) by striking existing subsection "(d)" and by redesignating as subsection "(e)" and inserting the following new subsection in lieu thereof:

"(e) Whenever an Indian tribe requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, such retrocession shall become effective upon a date specified by the appropriate Secretary not less than one year from the date of the request by the Indian tribe or at such date as may be mutually agreed to by the Secretary and the Indian tribe.";

(f) by striking existing subsection "(e)" and by redesignating as subsection "(f)" and inserting the following new subsection in lieu thereof:

"(f) In connection with any self-determination contract or grant made pursuant to section 102 or 103 of this Act, the appropriate Secretary may—

"(1) permit an Indian tribe or tribal organization in carrying out such contract or grant, to utilize existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance;

"(2) donate to an Indian tribe or tribal organization the title to any personal property found to be in excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, including property and equipment purchased with funds under any self-determination contract or grant agreement; and

"(3) acquire excess or surplus Government property for donation to an Indian tribe or tribal organization if the Secretary determines the property is appropriate for use by the tribe or tribal organization for a purpose for which a self-determination contract or grant agreement is authorized under this Act."; and

(g) by striking existing subsection "(h)".

SEC. 205. CONTRACT FUNDING AND INDIRECT COSTS.

Title I of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended by adding the following new section 106:

"SEC. 106. (a) The amount of funds provided under the terms of self-determination contracts entered into pursuant to this Act—

"(1) shall include all contract costs incurred by a tribal organization in connection with such contract;

"(2) shall not be reduced to make base funding available for any new self-determination contract;

"(3) shall not be reduced to make funding available for contract monitoring or administration by the Secretary;

"(4) shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract: Provided, That any savings in operation under such contracts shall be utilized to provide additional services or benefits under the contract;

"(5) shall not be reduced by the Secretary in subsequent years except by a reduction in congressional appropriations from the previous fiscal year for the program or function to be contracted;

"(6) shall not be reduced by the Secretary to pay for Federal functions, including but not limited to Federal pay costs, Federal employee retirement benefits, automated data processing, contract technical assistance or contract monitoring; and

"(7) shall not be reduced by the Secretary to pay for the costs of Federal personnel displaced by a self-determination contract.

"(b) The Secretary shall provide an annual report in writing on or before March 15 of each year to the Congress on the implementation of this Act. Such report shall include—

"(1) an accounting of the total amounts of funds provided for each program and budget activity for direct program costs and indirect costs of tribal organizations under self-determination contracts during the previous fiscal year;

"(2) an accounting of the actual obligations of tribal organizations for direct program costs and indirect costs for self-determination contracts for the current fiscal year;

"(3) an accounting of any deficiency of funds needed to provide required indirect costs to all contractors for the current fiscal year;

"(4) the indirect cost rate and type of rate for each tribal organization negotiated with the Department of Interior Office of Inspector General;

"(5) the direct cost base and type of base from which the indirect cost rate is determined for each tribal organization;

"(6) the indirect cost pool amounts and the types of costs included in the indirect cost pools;

"(7) activities of the Secretary in assisting tribal organizations to establish and administer indirect cost systems;

"(8) a list of requests for technical assistance made by tribal organizations made pursuant to section 103; and

"(9) any findings and recommendations regarding needed improvements in the system of indirect cost funding.

"(c) Where a tribal organization's allowable indirect cost recoveries are below the level of indirect costs that the tribal organization should have received for any given year pursuant to its approved indirect cost rate, and such shortfall is the result of lack of full indirect cost funding by any Federal, State, or other agency, such shortfall in recoveries shall not form the basis for any theoretical overrecovery or other adverse adjustment to any future years' indirect cost rate or amount for such tribal organization, nor shall any agency seek to collect such shortfall from the tribal organization: Provided, That nothing in this section shall be construed to authorize the Secretary to fund less than the full amount of need for indirect costs associated with a self-determination contract.

"(d) Indian tribes and tribal organizations shall not be held liable for amounts of indebtedness attributable to theoretical or actual underrecoveries or theoretical overrecoveries of indirect costs, as defined in Office of Management and Budget Circular A-87, incurred for fiscal years prior to fiscal year 1988.

"(e) Any right of action or other remedy relating to any disallowance of costs shall be barred unless the Secretary has given notice of any such disallowance within three hundred and sixty-five days of receiving any required annual single agency audit report or, for any period covered by law or regulation in force prior to enactment of the Single Agency Audit Act of 1984 (chapter 75 of title 31, United States Code), any other required final audit report. Such notice shall set forth the right of appeal and hearing to the board of contract appeals pursuant to section 206. Nothing in this subsection shall be deemed to enlarge the rights of the Secretary with respect to section 16 of the Indian Reorganization Act (Act of June 18, 1934; 48 Stat. 984.).

"(f) The Secretary of the Interior shall not remove or alter any program in the Indian priority system, or portion thereof, or in any other system of advising a tribe of appropriations estimates or Federal projects for the benefit of the tribe pursuant to the Indian Reorganization Act (Act of June 18, 1934; 48 Stat. 987), except pursuant to an Act of the Congress. The Secretary shall publish in the Federal Register a notice of intent at least one hundred and eighty days prior to the date of seeking such authority. Such notice shall provide a statement of the impact on base funding levels for each affected Agency and tribe.

"(g) Upon the approval of a self-determination contract and at the request of an Indian tribe or tribal organization, the Secretary shall add the indirect cost funding amount awarded for a self-determination contract to the amount awarded for direct program funding for the first year and, subject to adjustments in the amount of direct program costs for the contract, for each subsequent year that the program remains continuously under contract. Such combined amount shall be carried in the Secretary's budget at the specific budget location of the contracted program for as long as the contractor continuously contracts such program.

"(h) In calculating the indirect costs associated with a self-determination contract for a construction program, the Secretary shall take into consideration only those costs associated with the administration of the contract and shall treat those moneys actually passed onto construction contractors and subcontractors as passthrough funds.

"(i) Within one month after enactment of the Act, the Secretary is mandated to establish a team in each area of the Bureau of Indian Affairs which consists of agency personnel and tribal representatives for the purpose of analyzing the "Indian Priority System" and other aspects of the budgeting and funding allocation process of the Bureau of Indian Affairs for the purpose of making a report to Congress with appropriate recommendations for changes and legislative actions to achieve greater tribal decision making authority over the use of funds appropriated for the benefit of the tribes and their members. The report along with the analysis, findings and recommendations of the area teams shall be submitted to Congress within six months of enactment of this provision.".

SEC. 206. CONTRACT APPEALS.

Title I of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended—

(a) by adding the following new section 110:

"SEC. 110. (a) The United States district courts shall have original jurisdiction over any civil action or claim against the appropriate Secretary arising under this Act and, subject to the provisions of subsection (d) of this section and concurrent with the United States Court of Claims, over civil action or claim against the Secretary for money damages arising under contracts authorized by this Act. In an action brought under this paragraph, the district courts may order appropriate relief including money damages, injunctive relief against any action by an officer of the United States or any Agency thereof contrary to this Act or regulations promulgated thereunder, or mandamus to compel an officer or employee of the United States or any agency thereof, to perform a duty provided under this Act or regulations promulgated hereunder.

"(b) Where the Secretary proposes a revision or amendment to a specific contract, the Secretary shall notify the contractor and the tribal governing body(s) in writing of the specific revision or amendment which is proposed, and the rationale for the proposal. All amendments proposed by the Secretary must be agreed to, in writing, by the contractor, the tribal governing body(s) and the Secretary. If such agreement cannot be obtained, the proposed amendment shall not be adopted by the Secretary.

"(c) The Equal Access to Justice Act (Public Law 96-481, Act of October 1, 1980; 94 Stat. 2325, as amended) shall apply to administrative appeals by Indian tribes and tribal organizations regarding self-determination contracts.

"(d)(1) Except as provided in paragraph (2), the Contract Disputes Act ((Public Law 95-563, Act of November 1, 1978; 92 Stat. 2383) as amended) shall apply to self-determination contracts.

"(2)(A) Notwithstanding the provisions of section 8(g)(1) of the Contract Disputes Act ((Public Law 95-563, Act of November 1, 1978; 92 Stat. 2383) as amended), an Indian tribe or tribal organization may, within one hundred twenty days after receipt of a copy of a decision of an agency board of contract appeals, appeal such a decision—

"(i) to a United States district court; or

"(ii) to the United States Court of Claims.

"(B) Notwithstanding the provisions of section 10(a) of the Contract Disputes Act ((Public Law 95-563, Act of November 1, 1978; 92 Stat. 2383) as amended) or of any contract provision, regulation, or rule of law to the contrary, and in lieu of appealing the decision of the contracting officer under section 6 of the Contract Disputes Act to an agency board, an Indian tribe or tribal organization may bring an action directly on the claim—

"(i) in a United States district court; or

"(ii) in the United States Court of Claims.

"(e) Subsections (c) and (d) of this section shall apply to any case pending or commenced on or after March 17, 1986, before the Boards of Contract Appeals of the Department of the Interior or the Department of Health and Human Services except that in any such cases finally disposed of before the date of enactment of these amendments, the thirty-day period referred to in section 504(a)(2) of title 5, United States Code, shall be deemed to commence on the date of enactment of this subsection.".

(b) by redesignating existing section "110" as section "111".

SEC. 207. PROMULGATION OF RULES AND REGULATIONS.

(a) Section 107(a) of the Indian Self-determination Act is amended by removing the period at the end and inserting in lieu thereof the following: : Provided, however, That all Federal requirements for self-determination contracts and grants under this Act shall be promulgated as regulations in conformity with the Administrative Procedures Act (sections 552 and 553 of title 5, United States Code)."

(b) Section 107(b) of the Indian Self-Determination Act is amended to read as follows:

"(b)(1) Within three months from the date of enactment of this Act, the Secretary shall consider and formulate appropriate regulations to implement the provisions of this Act, with the participation of Indian tribes: Provided, That such proposed regulations shall contain all Federal requirements applicable to self-determination contracts and grants under this Act.

"(2) Within six months from the date of enactment of this Act, the Secretary shall present the proposed regulations to the Select Committee on Indian Affairs of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(3) Within seven months from the date of enactment of this Act, the Secretary shall publish proposed regulations in the Federal Register for the purpose of receiving comments from tribes and other interested parties.

"(4) Within ten months from the date of enactment of this Act, the Secretary shall promulgate regulations to implement the provisions of this Act.".

SEC. 208. REPORTS.

Section 108 of the Indian Self-Determination Act is redesignated as subsection 5(f) and is amended by deleting the period at the end and inserting the following: "through regulations promulgated under the Administrative Procedures Act (sections 552 and 553 of title 5, United States Code).

SEC. 209. CONSOLIDATED CONTRACT FUNDING.

The Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975; 88 Stat. 2203, as amended) is further amended by adding a new title III to the end for the purpose of a three-year demonstration project, as follows:

(a) At the request of a tribal governing body, the Secretary of the Interior is authorized, for a period of three years beginning on the date of enactment of this Act, to pay to the tribe (in a lump sum or in such installments as the tribe may request) an amount equal to at least the amount the tribe would be eligible to receive under contracts with the Secretary under section 102 of this Act for direct program costs and indirect costs, except for funds provided under the Indian School Equalization Formula (ISEF) pursuant to title XI of the Education Amendments of 1978 (Public Law 95-561, as amended). For the year for which and the extent to which funding is provided to a tribe pursuant to this section the tribe shall not be entitled to contract for such funds under section 102.

(b) The Secretary of the Interior shall not be obligated to provide services or benefits to a tribe or its members to the extent that funding is provided for such services or benefits pursuant to this section: Provided, That a tribe receiving funding pursuant to this section is not obligated to provide the same services and benefits as the Secretary would otherwise have provided.

(c) The tribe may contract or otherwise provide for the services or benefits to be provided by another entity, including the Secretary or other Federal agencies and the Secretary and such other Agencies are hereby authorized to enter into contracts or agreements with the tribe for such purpose.

(d) The Secretary and each tribe receiving funding pursuant to this section shall report annually to the Congress on the relative costs and benefits of funding consolidation, including the merits of full tribal responsibility for the management of resources.

SEC. 210. SAVINGS PROVISIONS.

Nothing in this Act shall be construed as—

(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or

(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indian people.

SEC. 211. SEVERABILITY.

If any provision of this Act or the application thereof to any Indian tribe, entity, person or circumstance is held invalid, neither the remainder of this Act, nor the application of any provisions herein to other Indian tribes, entities, persons, or circumstances shall be affected thereby.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT NO. 2331

(Purpose: To make technical amendments)

Mr. INOUYE. Mr. President, I send to the desk amendments. These are committee amendments. I ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], proposes an amendment numbered 2331.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 20, strike out "1987" and insert in lieu thereof "1988".

On page 23, strike out line 9 and insert in lieu thereof the following:

"(a) 'allowable contract costs' means all direct program costs and indirect costs which are necessary and reasonable for the proper and efficient administration of self-determination contracts;

"(b) 'construction programs' means programs for

On page 23, strike out lines 17 through 20.

On page 24, line 23, strike out "this Act" and insert in lieu thereof "the Indian Self-Determination and Education Assistance Act Amendments of 1988".

On page 25, line 2, strike out "(k)" and insert in lieu thereof "(j)".

On page 25, lines 7 and 8, strike out "(l)" and insert in lieu thereof "(k)".

On page 25, strike out lines 18 and 19 and insert in lieu thereof the following:

(f) by adding at the end thereof the following new subsection:

"(l) 'service area' means the geographic area in which services or benefits are provided by each program, activity, area, agency, service unit, field office, or other organizational unit.";

(g) by redesignating existing subsection (f) as subsection (m); and

(h) by redesignating existing subsection (c) as subsection (n).

On page 27, line 11, insert "or for which they are authorized to be used pursuant to the proviso in section 106(a)(4)," after the comma.

On page 27, line 13, strike out "agency" and insert in lieu thereof "Secretary";

On page 29, line 1, insert ", within sixty days of receipt of the proposal," after "unless".

On page 29, line 22, insert "shall" after "Secretary".

On page 29, beginning on line 23, strike "within sixty days of receipt of the proposal".

On page 30, line 1, insert "on the record" after "hearing".

On page 30, strike out lines 4 through 16 and insert in lieu thereof the following:

"(c)(1) The Secretary shall obtain liability insurance for Indian tribes, tribal organizations, and tribal contractors carrying out contracts, grant agreements and cooperative agreements pursuant to this Act. Any policy of insurance purchased by the Secretary pursuant to this subsection shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of an Indian tribe from suite, but that such waiver—

"(A) shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance, and

"(B) shall not include liability for interest prior to judgment or for punitive damages or for any other limitations on liability imposed by the law of the State in which the Indian tribe is located or in which the alleged injury occurs.

"(2) For purposes of chapter 171 and section 1346 of title 28, United States Code, and with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, an Indian tribe or tribal organization carrying out a contract, grant agreement, or cooperative agreement under this Act shall be deemed to be a Federal agency while carrying out such contract or agreement and its employees (including those acting on behalf of such tribal organization as provided in section 2671 of title 28) are deemed employees of the United States while acting within the scope of their employment in carrying out the contract or agreement.".

On page 32, between lines 22 and 23, insert the following new paragraph:

(3) by striking out "Notwithstanding any other law," and inserting in lieu thereof "Notwithstanding the provisions of sections 8347(o), 8713, and 8914 of title 5, United States Code,"; and

On page 33, lines 12 and 13, strike out "Section 402 of the Intergovernmental Personnel Act of 1970, as amended (42 U.S.C.A. 3372)" and insert in lieu thereof "Section 3372 of title 5, United States Code,".

On page 33, line 25, insert "continuous" after "years of".

On page 36, beginning on line 21, strike out "upon a date specified by the appropriate Secretary not less than".

On page 38, line 12, insert "allowable" after "all".

On page 38, strike out lines 14 and 15.

On page 38, line 16, strike out "(3)" and insert in lieu thereof "(2)".

On page 38, line 19, strike out "(4)" and insert in lieu thereof "(3)".

On page 39, line 1, strike out "(5)" and insert in lieu thereof "(6)".

On page 39, line 5, strike out "(6)" and insert in lieu thereof "(5)".

On page 39, line 9, strike out "and".

On page 39, line 10, strike out "(7)" and insert in lieu thereof "(6)".

On page 39, line 12, strike out the period and insert in lieu thereof "; and".

On page 39, between lines 12 and 13, insert the following:

"(8) may at the request of the tribal organization be increased by the Secretary if necessary to carry out this Act or as provided in section 105(c).

On page 41, line 16, insert "(other than those relating to a criminal offense)" after "remedy".

On page 43, line 4, strike out "treat" and insert in lieu thereof "not take into consideration".

On page 44, strike out lines 16 through 24 and insert in lieu thereof the following:

"(b) Unless otherwise agreed to by the resolution of an Indian tribe, the Secretary shall not revise or amend a self-determination contract with such tribe.

On page 46, line 24, strike out "this Act" and insert in lieu thereof "the Indian Self-Determination and Education Assistance Act Amendments of 1988".

On page 47, line 6, strike out "this Act" and insert in lieu thereof "the Indian Self-Determination and Education Assistance Act Amendments of 1988".

On page 47, line 11, strike out "this Act" and insert in lieu thereof "the Indian Self-Determination and Education Assistance Act Amendments of 1988".

On page 47, line 15, strike out "this Act" and insert in lieu thereof "the Indian Self-Determination and Education Assistance Act Amendments of 1988".

On page 47, line 19, insert "of the Indian Self-Determination and Education Assistance Act" after "subsection 5(f)".

Mr. INOUYE. Mr. President, I am sending to the desk two amendments to S. 1703, the Indian Self-Determination and Education Assistance Act Amendments of 1987.

The first amendment would delete section 209 from S. 1703 and would insert in lieu thereof a new section 301, which would establish a tribal self-governance demonstration project for a period of 5 years. This demonstration project, which would be limited to no more than 20 tribal governments, would provide participating tribes with increased access to Federal funds which are otherwise spent to support Federal personnel and offices serving those tribes. Participating tribes would be given greater flexibility to design their programs and plan their budgets according to locally determined needs. At the same time, provisions in this amendment would ensure accountability on the part of the tribes for the expenditure of funds, and would continue protections for the Federal Government's trust responsibility to Indian tribes and individual Indian people. Over the period of 5 years, the Secretary of the Interior, along with the participating tribes, would report to the Congress on the costs and benefits of this approach to funding tribes. These reports will form the basis for any further long-range policy changes.

The second amendment makes several technical changes to the bill. The most important technical amendment would replace a provision in S. 1703 which would provide Federal Tort Claims Act coverage for all Indian self-determination contracts. The amended provision would restate current law which provides Federal Tort Claims Act coverage for medical liability. Federal Tort Claims Act coverage for medical liability purposes for self-determination contracts with the Secretary of Health and Human Services was enacted in the continuing appropriations resolution for fiscal year 1988. The technical amendment would also require the Secretary of the Interior to purchase a master liability policy for self-determination contracts with the Bureau of Indian Affairs.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii [Mr. INOUYE].

The amendment (No. 2331) was agreed to.

AMENDMENT NO. 2332

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator EVANS, from the State of Washington, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for Mr. EVANS (for himself and Mr. INOUYE) proposes an amendment numbered 2332.

S. 1703, as reported, is amended by deleting section 209 and inserting the following in lieu thereof:

SEC. 301. TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT.

The Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended), is further amended by adding a new Title III, as follows:

TITLE III—TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

SEC. 301. The Secretary of the Interior shall, for a period not to exceed five years following enactment of this title, conduct a research and demonstration project to be known as the Tribal Self-Governance project according to the provisions of this title.

SEC. 302. (a) The Secretary shall select twenty tribes to participate in the demonstration project, as follows:

(1) A Tribe that successfully completes a Self-Governance Planning Grant, authorized by Conference Report 100-498 to accompany H.R. Res. 395, 100th Cong., 1st Sess., and meets all of the criteria in subsection (2) of this section shall be selected to participate in the demonstration project; and,

(2) The Secretary shall randomly select in such a manner as to achieve geographic rep-

resentation the remaining Tribal participants from the pool of qualified applicants. In order to be in the pool of qualified applicants:

(A) the governing body of the tribe shall request participation in the demonstration project;

(B) such tribe shall have operated two or more "mature contracts" as defined in section 103(i); and,

(C) such tribe shall for the previous three years demonstrate financial stability and financial management capability as evidenced by such tribe having no "significant and material" audit exceptions in the required annual audit of such tribes' self-determination contracts.

SEC. 303. (a) The Secretary is directed to negotiate and to enter into annual written funding agreements with the governing body of a participating tribal government which—

(1) shall authorize the tribe to plan, conduct, consolidate and administer programs, services and functions authorized under the Act of April 16, 1934 (48 Stat. 596), as amended, and the Act of November 2, 1921 (42 Stat. 208), *Provided, however,* That the tribe is authorized to redesign programs, activities, functions or services and to reallocate funds for such programs, activities, functions or services and, shall not be required to provide the same programs, services, functions or activities as the Secretary would have provided to the tribes and its members, pursuant to a written agreement authorized by this Title: *Provided, further,* That the agreement shall not include funds provided for tribally controlled community colleges pursuant to the Tribally Controlled Community Colleges Act (Public Law 95-471), for elementary and secondary schools under the Indian School Equalization Formula pursuant to title XI of the Education Amendments of 1978 (Public Law 95-561, as amended), or for either the Flathead Agency Irrigation Division or the Flathead Agency Power Division, provided that such Divisions remain contractible under section 102 of the act.

(2) shall specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to this agreement;

(3) shall specify the authority of the tribe and the Secretary, and the procedures to be used, to reallocate funds or modify budget allocations within any project year;

(4) shall, except as provided in paragraph (1), provide for payment by the Secretary to the tribe of funds from one or more programs, services, functions, or activities in an amount equal to that which the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs and indirect costs, and for any funds which are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe and its members, *Provided, however,* That funds for trust services to individual Indians are available under this written agreement only to the extent that the same services which would have been provided by the secretary are provided to individual Indians by the tribe;

(5) shall not allow the Secretary to waive, modify or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians which exists under treaties, Executive orders, and Acts of Congress;

(6) to the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will not prohibit or restrict the agreements authorized in this Title:

(7) shall allow for retrocession of programs or portions thereof pursuant to section 105(e) of this Act; and

(8) shall be submitted by the Secretary ninety days in advance of the proposed effective date of the agreement to the Congress for review by the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) For the year for which and to the extent to which funding is provided to a tribe pursuant to this title, such tribe—

(1) shall not be entitled to contract with the Secretary for such funds under section 102, *Provided,* That such tribe shall be eligible for new programs on the same basis as other tribes; and

(2) shall be responsible for the administration of programs, services and activities pursuant to agreements under this title.

(c) At the request of the governing body of the tribe, and upon following the negotiation and under the terms of an agreement pursuant to subsection (a), the Secretary shall provide funding to such tribe to implement the agreement.

(d) Disputes, arising in the course of the negotiation and implementation of agreements authorized by this Title, shall be resolved pursuant to section 206 of this Act.

SEC. 304. The Secretary shall identify in the President's annual budget request to the Congress any funds proposed to be included in the Tribal Self-Governance Project and to be provided by the Secretary. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriations acts.

SEC. 305. The Secretary shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary and participating tribes, and shall separately include the views of the tribes.

SEC. 306. Nothing in this title shall be construed to limit or reduce in any way services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable federal law.

Mr. EVANS. Mr. President, it is appropriate that today, as we considered the historic INF Treaty, we also take a step to advance our relationship with those within our borders with whom treaties already have been signed. Specifically, I am referring to American Indian tribes.

In the 1800's, the U.S. Government signed treaties with hundreds of Indian tribes, and recognized by Executive order several dozen more. These federally recognized Indian tribes, by contract with Federal agencies, provide Federal services previously by those agencies directly to their constituencies. The bill we are presenting to the Senate today, the Indian Self-Determination Act Amendments of 1988, is designed to respond to the concerns expressed by Indian tribal leaders with regard to the implementation of the Indian Self-Determination Act of 1975. These amendments are designed to strengthen the policy of Indian self-determination while maintaining accountability for Federal funds.

Mr. President, the Self-Determination Act, signed into law on January 4, 1975, by President Gerald Ford, has provided the statutory basis for tribal contracting with the U.S. Government for the last 12 years. The Indian Self-Determination Act established the right of Indian tribes to contract with the Secretary of the Interior and the Secretary of Health and Human Services to operate programs otherwise operated by the Bureau of Indian Affairs and the Indian Health Service. The law transfers resources to the tribes to enable them to participate fully in the planning, management, and delivery of services to Indian people.

Indian tribes have responded positively to this law. Since 1975, many tribes have gained valuable experience in operating and managing human services, economic development, and natural resources programs. Currently, there are 1,400 contracts between the Bureau of Indian Affairs and Indian tribes, involving some $280 million, which is one-fourth of the total BIA budget.

Although the act has been, for the most part, a success, there have been problems. Federal procurement laws and Federal acquisition regulations have been inappropriately imposed on Indian self-determination contracts, resulting in burdensome and unnecessary reporting requirements. Federal agencies have failed to pay their fair share of direct costs for self-determination contracts. This has resulted in many tribes subsidizing Federal contract administration costs, and foregoing opportunities for economic development. Federal agencies have passed Federal pay costs, retirement costs, and computer equipment acquisition costs on to tribes, which has resulted in deteriorating budget levels for tribal programs. Tribes that have demonstrated program competence and sound management are required to annually submit voluminous recontracting applications.

The Indian Self-Determination Act is a declaration of our commitment to maintain the Federal Government's unique and continuing relationship with and responsibility to the Indian people. The act is intended to permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning and administration of those programs and services. This bill provides the necessary changes in the Indian Self-Determination Act to ensure its continued viability in the years to come.

Mr. President, I am particularly proud of the fact that this bill was developed with the active participation of those who will benefit most from its passage: the Indian people themselves. In particular, I would like to thank the Honorable William "Ron" Allen, chairman of the Jamestown Klallam Indian Tribe, the Honorable Joe DeLaCruz, president of the Quinault Indian Nation, the Honorable Philip Martin, chief of the Mississippi Tribe of Choctaw Indians, Mr. John Lewis, executive director of the Arizona Intertribal Council, Mr. George Shellhammer of the Rosebud Indian Reservation, Mr. Lloyd Coon of the Columbia River Intertribal Fish Commission, Mr. Alan Parker, Staff Director of the Senate Indian Affairs Committee, Mr. Michael Hughes of the committee staff, Ms. Clara Spotted Elk of Senator MELCHER's staff, and Mr. Ralph Reeser of the Bureau of Indian Affairs, and many others for their untiring efforts to develop and pass this monumental legislation.

Mr. INOUYE. Mr. President, there is need to comment on the amendment to title III of this bill which excludes the Flathead Agency irrigation project from the demonstration agreement authority. The confederated Salish and Kootenai Tribal Council chairman has informed me today by telefaxed letter that they object to any language in the bill that would impair or diminish their legal right to contract for such irrigation project. I would like to take this opportunity to assure the tribe that this amendment does not do so. It has been carefully stated to clarify this point.

The PRESIDING OFFICER (Mr. FOWLER). Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington [Mr. EVANS].

The amendment (No. 2332) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendments, as amended, were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MELCHER. Mr. President, I appreciate the efforts by the chairman of the Indian Affairs Committee, Senator INOUYE, in developing the language in S. 1703 dealing with the Flathead Indian irrigation project in Montana. The language that the committee has agreed to exempts the Flathead Agency Irrigation Division and the Flathead Agency Power Division from any block grant funding under the tribal self governance demonstration project.

The Flathead Indian irrigation project is the subject of numerous disputes between irrigators on the reservation and the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation. Based on an existing memorandum of agreement within the Department of the Interior, the Bureau of Reclamation is supposed to assume substantial management of the project. Furthermore, the Department of the Interior has been in consultation with the tribes, the irrigators and the Montana congressional delegation since early this year in an effort to develop a supplement to the existing memorandum of agreement clarifying the precise nature of the Bureau of Reclamation's role in managing the project.

Mr. President, the goal is to develop a framework for the efficient operation of the Flathead irrigation project. The Department's current timetable calls for a final draft of this agreement to be circulated for comment by mid-June. It is unclear at this point when a final agreement will be reached. In light of these on-going developments, I do not think it would be appropriate to further complicate the situation under the proposed legislation for demonstration projects. I believe this langauge relating to the Flathead irrigation project is critical to this legislation in order that all parties involved in the controversy surrounding the irrigation project have an opportunity to develop an acceptable resolution.

The language that has been agreed to by the committee is totally neutral and does not affect Public Law 97-638. The amendment, in effect, leaves all parties concerned about both the power and irrigation divisions of this project in the same position they were in prior to enactment of this legislation in terms of whatever authority may or may not exist to contract the project.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 1223, that the Senate proceed to its immediate consideration, that all after the enacting clause be stricken, and that the text of S. 1703, as amended, be substituted in lieu thereof, that the bill be advanced to third reading, that it be read the third time, that it be agreed to, that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1703 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I thank the majority leader.

Mr. BYRD. I congratulate my good friend, the distinguished Senator from Hawaii [Mr. INOUYE].

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 2355

Mr. BYRD. Mr. President, I ask unanimous consent that the D'Amato amendments, numbered 2070 and 2071, be withdrawn from S. 2355, the DOD authorization bill; that the D'Amato amendments be drafted as a freestanding bill, to be placed on the calendar, and that the Senate proceed to the freestanding bill on June 8, 1988, under the following agreement:

That there be 6 hours on the bill, to be equally divided between the two leaders or their designees; that if a cloture motion is filed on the bill, the cloture vote occur on the second day of the Senate's consideration, waiving the intervening day requirement under rule XXII.

Provided, further, that if cloture is invoked on the D'Amato bill, no time under the 30 hours provided postcloture occur, once action has been completed on the amendments in order, which are listed below; that the following amendments be the only amendments in order; that they be first-degree amendments only and limited to 1 hour each, to be equally divided in the usual form:

An amendment by the proponents making technical changes.

An amendment by the opponents substituting life imprisonment, without possibility of release, for death penalty, for drug-related offense in which an officer or bystander is killed.

An amendment by the opponents requiring public viewing of imposition of the death penalty.

An amendment by the opponents with respect to racial discrimination in capital sentences.

An amendment by the opponents to limit the crime subject to death penalty for drug-related killing of a law enforcement officer.

Provided, further, that the D'Amato bill have incorporated into the text the following four Kennedy-Levin amendments; that if any of the four amendments listed below are not incorporated, they may be offered as first-degree amendments, under a 1-hour time limitation each, as provided for in the above-listed amendments—namely, age, appointment of counsel for the indigent, other aggravating factors, and forbid penalty in cases where certain mental illness is present, and that all of the foregoing amendments be divided and controlled in accordance with the usual form; that there be a time limitation on any debatable motions, appeals, or points of order if submitted to the Senate not to exceed 30 minutes to be equally divided and controlled in accordance with the usual form; that immediately following the entering of this agreement the Senate proceed to the consideration of the unfinished business, S. 2355; finally, that if cloture is not invoked on the D'Amato bill, the time limitation for debate on the bill be vitiated and that no call for the regular order serve to displace the D'Amato bill.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, I want to thank all the parties involved, and I do understand that once the DOD bill is before us there will be a technical amendment on behalf of Senator SYMMS, one that he would have attempted to offer to the resolution of ratification, and both Senators WARNER and NUNN indicated it belonged on the DOD bill.

With that understanding, I have no objection.

Mr. BYRD. Provided further that the amendments enumerated may qualify if cloture is invoked, they may qualify under cloture; provided further, that the action on the veto message be deferred for the remainder of this day.

The PRESIDING OFFICER. Is there an objection to the unanimous-consent request of the majority leader?

Mr. D'AMATO. Mr. President, reserving the right to object, and I am not going to object, I simply would like to take this opportunity because I think it is the opportune time to thank the majority leader. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That on June 8, 1988, the Senate proceed to the consideration of S. 2455, a bill entitled "Death Penalty in Case of Drug-Related Killings," previously offered to S. 2355, the DOD Authorization Bill.

Ordered further, That there be 6 hours on the bill, to be equally divided and controlled between the 2 Leaders or their designees.

Ordered further, That if a cloture motion is filed on the bill, that the cloture vote occur on the second day of the Senate's consideration, waiving the intervening day requirement under Rule XXII.

Ordered further, That if cloture is invoked on S. 2455, no time under the 30 hours provided post cloture occur once action has been completed on the amendments listed below, and that they be first degree amendments only and limited to 1 hour each, to be equally divided and controlled in the usual form:

Proponents—An amendment making technical changes

Opponents—An amendment substituting life imprisonment without possibility of release for death penalty for drug-related offense in which an officer or bystander is killed

Opponents—An amendment requiring public viewing of imposition of death penalty

Opponents—An amendment dealing with respect of racial discrimination in capital sentencing

Opponents—An amendment to limit crime subject to death penalty to a drug-related killing of a law enforcement officer

Ordered further, That S. 2455 have incorporated in the text the following four Kennedy/Levin amendments, and that if any of the four amendments listed below are not incorporated, they may be offered as first degree amendments under a 1 hour time limitation each, as provided for the above listed amendments: age; appointment of counsel for indigent; other aggravating factors; and forbidding penalty in cases where presence of certain mental illness.

Ordered further, That if cloture is not invoked on S. 2455, the time limitation for debate on the bill be null and void, and that no call for the regular order serve to displace the bill.

Mr. D'AMATO. Mr. President, I would like at this time to submit the bill so that those who might want to have an opportunity to call hearings, and I understand that may be the case, can do so.

I would also like to take this time to thank the majority leader and our distinguished leader, Senator DOLE; the committee chairman, Senator NUNN, whose perspicacity helped save the day; our ranking member, Senator WARNER; and also say how gracious Senator LEVIN has been.

I think the bill is a better bill, by the way, as a result of some of the amendments that we have incorporated into it that have come as a result of the suggestions of Senator KENNEDY and Senator LEVIN, and others.

There may be an honest disagreement. I think the way to do it is the way that the leader and others have given us the opportunity to do this so we do not impede the important business of the people.

Let me simply conclude by saying this: I believe that we are moving upon a course of action that is responsible, that is not going to cure all the defects in the criminal justice system but that addresses a problem of concern to the Members of this body and, more importantly, to the American public.

Again, I thank my colleagues all of whom I think have taken a step in the right direction not only to accommodate each other but more importantly to do the business of the people in a manner in which we can all take some pride.

The PRESIDING OFFICER. The Senator from Virginia, Mr. WARNER.

Mr. WARNER. Mr. President, on behalf of the leadership of the Senate and the leadership of the Armed Services Committee and all members of the Armed Services Committee who labored on this bill so many, many months, with close to 100 different hearings, we thank the senator from New York for his cooperation and the Senator from Michigan for his making possible this compromise that allows the important legislation of the Congress of the United States on behalf of the Armed Forces of the United States and our national security policy to go forward. I do not object.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. BYRD. Mr. President, I believe that under the previous order there is no time remaining for debate on the DOD authorization bill. I ask unanimous consent that there be not to exceed 30 minutes for debate and whatever action is necessary to be taken by the chairman and that that time be equally divided between the manager and the ranking manager.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

Mr. BYRD. Why do we not proceed now and have the clerk state the bill?

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 2355) to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. LEVIN. Mr. President, very briefly, let me add my thanks to the leaders, Senator BYRD and Senator DOLE, who have made this agreement possible. I thank also, Senators NUNN and WARNER, for their patience. We serve together on the Armed Services Committee. We were put in a difficult position there because we did not want to hold up the DOD bill, Lord knows. Now that we have separated the death penalty bill from the DOD bill, we can now proceed. Senator EXON has also been so helpful in trying to implement this agreement.

Senator D'AMATO, of course, has worked on it.

One quick word: Senators EVANS, KENNEDY, HATFIELD, and SIMON have also had great concerns, among others, with the death penalty bill that has been offered. They have offered amendments to it.

Four of those amendments which were enumerated have, I understand now, been incorporated into the revised bill that has just been introduced by Senator D'AMATO and others and there will be opposition, still, of course, to this bill. There will be a cloture vote on this bill. The time has been set for it. Four amendmednts will be in order and now this frees the DOD bill to be on its way.

I congratulate Senator NUNN and Senator WARNER for always working as partners to keep this DOD bill moving.

Congratulations to both of you.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from Michigan for his kind remarks and for his sterling performance as subcommittee chairman of one of our most important subcommittees, and also most of all today for the diligent work he has done in bringing about this unanimous-consent request which has allowed us to move forward on the Department of Defense bill.

I also want to thank the Senator from New York, who has been very cooperative in trying to help us work out this unanimous-consent request and I am pleased that we have now done so.

I thank the minority leader, Senator DOLE, for his great assistance in making this possible. I suppose, without any question, the Senator from Virginia has to be given great credit for working diligently to get this unanimous-consent agreement worked out.

Mr. President, I yield to the Senator from Nebraska for whatever remarks he would like to make.

Mr. WARNER. Mr. President, we need to be expeditious. Can we hear from the Senator from Nebraska as soon as we finish the amendment or would the Senator from Nebraska rather go ahead now?

Mr. NUNN. I would yield to the Senator from Nebraska at this point and thank him for his work as subcommittee chairman of the Strategic Subcommittee and I know we have a lot of work in front of us with the conference but I thank the Senator from Nebraska for his great assistance.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank the Senator from Georgia for his kind remarks. I just want to add a brief note: By congratulations, because I watched this unfold. It would not have been possible without the diligent efforts of the majority leader and the minority leader; and certainly the Senator from Georgia and the Senator from Virginia who have worked tirelessly on this, throughout, moving the defense authorization bill forward. And, certainly not without the understanding and assistance of the Senator from Michigan on one side of the death penalty matter and the Senator from New York on the other side.

We had an awful lot of discussions. The Senator from New York and I were in debate several times on this on the floor of the U.S. Senate. I never doubted for a moment that we would come to some kind of agreement. The question was when.

The Senator from New York indicated one day in our debate that he thought I was berating him. I was not berating him. If I was, I apologize. The facts of the matter are, I was beating over the head the Senator from New York and the Senator from Michigan, trying to forge a compromise that was finally worked out, basically, between the people I have just enumerated.

We can now move ahead on the defense authorization bill and, under the leadership of Senator NUNN and Senator WARNER, we have already begun a consultation with our counterparts in the House to move as expeditiously as possible as we can do to return a defense bill to the House and Senate for ratification.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we thank our distinguished colleague. I was privileged to come to the Senate with him some 9 years plus ago and we have sat side by side and worked these many years, and I hope many more in the future. He is chairman of the Strategic Subcommittee, perhaps the most significant subcommittee in our structure, and I commend him for his work and contribution.

Mr. EXON. I thank the Senator.

AMENDMENT NO. 2333

(Purpose: To encourage the adjustment of the end strength of military departments to take account of certain military personnel assigned to on-site inspection activities under the Treaty)

Mr. WARNER. Mr. President, on behalf of Mr. SYMMS I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for the Senator from Idaho (Mr. SYMMS), proposes an amendment numbered 2333.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the DOD authorization bill add to following:

( ) Declaration: In authorizing the strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities and support of such activities provided for in the Treaty, account should be taken of the number of such personnel that will be assigned to such activities during such fiscal year.

Mr. WARNER. Mr. President, this is a technical amendment. The majority leader and minority leader are aware of the contents. Of course the chairman is aware of it. I do not believe there is need for further debate on the matter.

Mr. President, I urge the adoption of the amendment.

Mr. NUNN. Mr. President, I urge the passage of the amendment.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2333) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I would like to add my thanks to the managers of the bill, Senators NUNN and WARNER. With the exception of this last issue, I can't recall in recent years having completed this very important legislation in such a short period of time. They and their staffs are to be complemented.

This is a pivotal year for our Armed Forces in that the leveling off characterized by this year's defense budget is clearly foretelling of future fiscal constraints. While we would all like to spend more for our Nation's security in the face of aggressive Soviet defense spending, today's fiscal constraints are tomorrow's fiscal realities.

This bill represents a 10-percent decrease of nearly $33 billion from the President's original fiscal year 1989 request last year. The Pentagon has clearly tightened its belt and kept its side of the summit agreement. Now we, the Congress, must do our part toward making a more economic process work. We can do this in two significant ways.

First, we must continue all efforts toward passing a 2-year authorization bill. Individual program stability would significantly increase and real savings could be realized. Substantial progress was made last year toward this goal and it's my hope that next year we will make that 2-year cycle a reality.

Also, the program turbulence caused by the conflicts between the authorization and appropriations process has caused funds to be ineffectively spent. Billions of dollars worth of programs have fallen into this category over the last 2 years. I am pleased that the committees who oversee those bills have agreed on procedures that will avoid the reoccurrence of this problem.

THE BILL IN GENERAL

Mr. President, several key issues addressed in the bill deserve note.

I am pleased that the committee has recommended a $4.5B funding level for the Strategic Defense Initiative while continuing its aggressive strategic modernization efforts.

As a result of my recent meeting with Soviet negotiators in Geneva, I am convinced more than ever that arms control gains by the Reagan administration resulted from progress made in SDI and our willingness to fund programs like the MX and Trident D-5. It is clear that crippling SDI is high on the Soviets' agenda. We must proceed full speed ahead with an aggressive testing and development program.

Further, I would applaud the Armed Services Committee in their success in limiting the numbers of arms control related provisions in their bill and also in defeating attempts to add more on the floor. It is critically important to the President that, while negotiations are ongoing, the Congress not unilaterally tie his hands and thus, give the Soviets some of the very provisions they seek at the bargaining table.

OTHER ISSUES

Finally, Mr. President, while these high visibility issues will always get headlines, there are others that merit equal attention.

Readiness and sustainability accounts are among these. I am concerned that these accounts not be neglected in favor of the more visible procurement programs. I am pleased that the committee agreed with me and added funds to programs such as Army ammunition.

Any further reductions in these accounts will not only reduce our overall combat capability, but will also serve to adversely impact our domestic production capability as well. My State of Kansas contains some of that domestic ammunition production and I am proud of the extremely important job they do. I would also point to two other Kansas related programs that I feel need priority.

This bill contains initial funding for the Air Force's tanker-transport trainer system [TTTS] aircraft, an aircraft that will be utilized in training pilots who fly multiengine aircraft. The House bill failed to include this initial funding, citing lack of an Air Force master plan for training. I would hope that the House would accede to the Senate's position in light of the published plan.

I would also want the Armed Services members to know that I would favor funding the KC-135 aircraft reengining program at a more efficient rate as marked up by the House. Funding of 47 reengining kits will keep the program at a more efficient level and could eventually result in total program savings of nearly $1 billion.

Again, my compliments to the bill's managers. Hopefully we can complete action on the INF treaty in a similarly expeditious manner.

Mr. PROXMIRE. Mr. President, I am going to vote against this defense bill. While I am pleased that Secretary Carlucci and his staff have cut $33 billion from the Defense budget, as mandated by last year's budget summit, I do not think that this reduction goes far enough. I will cite just a few examples: The bill funds SDI at a level that could be cut by at least $1 billion; it provides $807 million for the MX missile which we all know is a sitting duck in the Minuteman silos; and it provides $700 million for research on the rail basing of the MX, which by one count is the 37th basing option considered for this missile.

Mr. President, my colleagues know only too well that the United States is wrestling with a serious and prolonged deficit problem. The massive debt that has been accumulated by this country is one of primary threats to our national economy which is the bedrock of our national security. In the past 7 years we have massively increased the Federal debt. We have been spending at such a frantic pace that just one substantial recession could leave the U.S. Government $5 trillion in the red. If this occurs, this Nation will face a threat that will be as severe and frightening as any it has ever faced in its history. I hope my colleagues recognize and believe that further reductions in the military budget will need to be made if the security of this Nation is to remain strong and be resilient.

Mrs. KASSEBAUM. Mr. President, I want to join with my colleagues in congratulating Senator NUNN, Senator WARNER, and other members of the Armed Services Committee for their work on this legislation. I also want to speak briefly about a program contained in this bill which generated no debate or controversy, but which I believe is an important one.

This program is known as the tanker-transport trainer system, and it deals with one of the most basic requirements of our Air Force—the training of skilled, well-trained pilots.

Mr. President, as many Senators know, and as the Armed Services Committee is well aware, the airplanes currently used for training Air Force pilots, the T-37 and the T-38, are aging rapidly and their overall performance is a matter of real concern. The current training system is straining to produce the pilots we need, and it is incapable of producing a surge of new graduates if they were needed in an emergency.

A few weeks ago, the Air Force released its trainer masterplan to deal with this problem. The key recommendation of this report was to return to an early practice of providing specialized training for pilots either for tanker-transport aircraft or for fighters and bombers. The first step toward implementing this proposal is contained in this bill with the adoption of the tanker-transport training system.

In brief, TTTS calls for the Air Force to buy off-the-shelf, twin-engine business jet aircraft for training future tanker and transport pilots. This would cut in half the present workload on the T-37 and T-38 system and would allow these airplanes to be devoted to the specialized needs of fighter and bomber pilots.

In keeping with the idea of full disclosure, I would say at this point that the top competitors for producing TTTS aircraft are in my home state. While that gives me a parochial interest in this program, I am convinced that it is a sound, sensible solution for a serious problem and stands up under impartial scrutiny. I want to quote one paragraph from the recent Air Force report:

> Of all the options examined, SUPT (Specialized Undergraduate Pilot Training) is the least expensive to acquire and the least expensive to operate. Equally or more important, SUPT will be able to meet the USAF rated requirements, in terms of both quantity and quality (emphasis in original) well into the next century. Its graduates will possess all of the operational mission skills needed in 21st century systems. Improved, modernized training translates into a fighting force well prepared to employ the technologies of the future.

In short, Mr. President, this program will give the Air Force the capability to produce more and better-trained pilots at a lower cost than is possible today. In fact, when fully implemented, the program would save about $317 million a year.

Given the strong merits of this program, it is no surprise that the Armed Services Committee and the full Senate now have authorized the first step to implement it. It will be equally essential that we take the next step by appropriating the necessary funds for next year. As the Air Force report noted: "If the TTTS program slips, there will be significant training and budgetary impact."

Mr. PELL. Mr. President, I am very pleased that reason and comity have prevailed and that the contentious issue of capital punishment for drug dealing has been set aside temporarily, allowing the Senate to pass the Defense authorization bill for fiscal year 1989.

This year's Defense authorization bill represents a further readjustment of defense spending to a more moderate scale, which I applaud. The total authorization of $299.5 billion, while representing an increase of 2.7 percent over fiscal year 1988, is a reduction of some $32.5 billion from the administration's earlier projections for fiscal year 1989.

I congratulate Secretary Carlucci for his flexibility in coming to terms with the limitations which were imposed by last fall's summit agreement on the budget. His constructive and cooperative approach to the legislative process is most welcome.

I am particularly pleased that, notwithstanding cutbacks in many areas, the bill continues the Navy's commitment to undersea warfare capability. The bill authorizes funds for the construction of the 16th Trident submarine, as well as two SSN-688 attack submarines and the first SSN-21 Seawolf submarine.

These continuing investments in undersea weaponry are important elements in preserving the defense industrial base in southern New England. And they also indicate a continuing commitment to a defense strategy which is both stabilizing and least disruptive to the delicate process of arms control.

While the many positive aspects of the bill are a source of satisfaction, I regret that we were not able to make more progress in reducing other elements of the defense budget. I would like to see a reduced commitment to the Strategic Defense Initiative, reduced funding for the MX rail garrison program, no increase in the number of deployable aircraft carriers and curtailment of chemical warfare programs, to name a few. I look forward to revisiting these issues in other legislation.

In general, however, the bill before us represents a continuation of a trend to moderation in defense spending and I support it in the hope that we will achieve even further moderation as time goes on.

Mr. BINGAMAN. Mr. President, as we conclude debate on this bill, I want to note one important action taken by the Defense Department since the bill was reported by the committee. That is the planned increase in the rate of progress payments during fiscal year 1989 from 75 to 80 percent on new contracts on major systems and from 80 to 85 percent on new small business contracts.

Mr. President, I am glad to see the Defense Department looking carefully at its financing policies. In recent years, a host of changes have been made in DOD's financing policies on defense contracts, all in the direction of postponing payments and adding to the debt which defense contractors must carry. Of course, the interest on that debt is nonallowable on government contracts. Those charges were largely driven by a mismatch each year between defense budget authority and defense outlays that emerged in the congressional budget process.

This year, for the first time in several years, we do not have such a mismatch between defense budget authority and outlays. That is a major accomplishment of the budget summit last November. As a result DOD now has increased flexibility to take an objective look at its financing policies and to make adjustments in them.

That is what section 801 of the bill before the Senate mandates DOD do. The ad hoc defense industry advisory group to my subcommittee in its report in February had highlighted the problems they saw with the financing policies then in effect. We had further testimony in our oversight hearings this spring that the then-existing financing policies were likely to have adverse effects on the long-term vitality of the defense industry.

The committee therefore adopted a provision which requires the Secretary of Defense to establish, in conjunction with the development of the five year defense program, an integrated plan that will ensure DOD's financing policies are structured to meet the Department's long-term needs for industrial resources and technology innovation.

We did not attempt to micromanage those policies ourselves. We felt that the Department was in the best position to gather the necessary information and make the proper tradeoffs to ensure its long-term needs.

I believe that the newly announced progress payment policy for fiscal year 1989 is a significant step forward in the process of defining rational overall financing policies on defense contracts. I commend Secretary of Defense Carlucci and Under Secretary Costello for taking this action. I look forward to working with them to continue to develop a sound defense acquisition system.

Mr. McCLURE. Mr. President, I want to commend the distinguished floor managers of the Defense authorization bill for fiscal 1989, Senator NUNN, Senator THURMOND, and Senator WARNER for the great efforts they have made to complete action on this important piece of legislation. It is always difficult to accommodate our many national security requirements with the limited funds at the committee's disposal. I know the floor managers are disappointed that the Senate has yet to pass the Defense bill, but I would remind my friends that they are still way ahead of last year's pace.

I had a deep interest in a number of issues in this bill, and for the most part they were satisfactorily concluded. One of the areas of concern was the funding for the cooling tower for the K reactor at the Savannah River plant. Under the heading "Cooling Tower at Savannah River Plant," this provision states that, "Funds appropriated to the Department of Energy for fiscal year 1989 for construction of a cooling tower for the K reactor may be obligated or expended only for the purpose of thermal mitigation in connection a new production reactor."

When I first read this language, I was puzzled. The cooling tower construction costs total $106 million; construction would take more than 4 years. The K reactor will be almost 40 years old when the tower is completed, with a limited operating life remaining to it.

I concluded this language was intended to indicate the committee's concern that the expenditure of these funds might not be prudent. However, I feared that it might be argued that the language referred to might be used, by some, to support the view that the committee intended to suggest a conclusion or to influence the decision as to the technology or site to be chosen for a new production reactor. However, in discussions with the distinguished Senator from South Carolina, it has become clear that the committee's language, contained in the bill, was not intended to have that effect and does not do so.

The Secretary of Energy, under a mandate from Congress by the Energy and Water Appropriations Act for fiscal year 1988 incorporated in Public Law 100-202, will report to Congress this summer regarding the technology and site selected for the new production reactor. I would like to note that the Senate Armed Services Committee affirmed in its report that accompanied the bill, that the term "new production reactor" was not intended to prejudge the site or technology and that "site" and "technology" have plural application.

I thank my colleagues for their attention to this matter.

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4264, Calendar No. 679.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

The bill (H.R. 4264) to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

Mr. NUNN. Mr. President, I move to strike out all after the enacting clause of H.R. 4264 and insert in lieu thereof the text of S. 2355, as amended.

The **PRESIDING OFFICER**. The question is on agreeing to the motion of the Senator from Georgia.

The motion was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4264), as amended, was passed as follows:

Resolved, That the bill from the House of Representatives (H.R. 4264) entitled "An Act to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1989".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is divided into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Other National Defense Authorizations.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Army as follows:

(1) For aircraft, $2,794,900,000.

(2) For missiles, $2,541,800,000.

(3) For weapons and tracked combat vehicles, $2,959,200,000.

(4) For ammunition, $2,035,536,000.

(5) For other procurement, $4,781,154,000 of which $23,549,000 shall be available for procurement of Tactical Army Combat Service Support Computer System (TACCS).

SEC. 102. NAVY AND MARINE CORPS

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Navy as follows:

(1) For aircraft, $9,076,200,000.

(2) For weapons (including missiles and torpedoes), $6,193,100,000.

(3) For shipbuilding and conversion, $9,056,100,000, of which—

(A) $1,368,100,000 is for the Trident submarine program;

(B) $1,493,600,000 is for the SSN-688 nuclear attack submarine program;

(C) $1,488,000,000 is for the SSN-21 nuclear attack submarine program;

(D) $135,400,000 is for the aircraft carrier service life extension program (SLEP);

(E) $2,207,300,000 is for the DDG-51 guided missile destroyer program;

(F) $737,500,000 is for the LHD-1 amphibious assault ship program;

(G) $197,200,000 is for the MHC coastal minehunter program;

(H) $284,900,000 is for the TAO-187 fleet oiler program;

(I) $84,900,000 is for the AO (Jumbo) conversion program;

(J) $159,600,000 is for the TAGOS ocean surveillance ship program;

(K) $363,900,000 is for the AOE fast combat support ship program;

(L) $192,600,000 is for the landing craft, air cushion (LCAC) program; and

(M) $343,100,000 is for outfitting and post delivery.

(4) For other procurement, $4,836,200,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Marine Corps in the amount of $1,167,270,000.

SEC. 103. AIR FORCE

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Air Force as follows:

(1) For aircraft, $16,256,100,000.

(2) For missiles, $8,011,400,000.

(3) For other procurement, $8,318,023,000.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement by the Defense Agencies in the amount of $1,207,920,000.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1989 for the chemical demilitarization program under section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) in the amount of $174,500,000, of which—

(1) $44,300,000 is for procurement;

(2) $17,900,000 is for research, development, test, and evaluation; and

(3) $112,300,000 is for operation and maintenance.

SEC. 106. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $180,000,000.

For the Air National Guard, $183,000,000.

For the Army Reserve, $30,000,000.

For the Naval Reserve, $30,000,000.

For the Air Force Reserve, $10,000,000.

For the Marine Corps Reserve, $10,000,000.

SEC. 107. AUTHORIZED MULTIYEAR CONTRACTS

(a) ARMY.—Subject to subsection (d), the Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) CH-47D Helicopter Modernization.

(2) Multiple Launch Rocket System (MLRS).

(3) H-60 Series Competitive Engine.

(4) M1 Abrams tank.

(5) AH-64 Apache helicopter.

(b) NAVY.—Subject to subsections (d) and (e), the Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the AV-8B aircraft.

(c) AIR FORCE.—Subject to subsection (d), the Secretary of the Air Force may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) Defense Meteorological Satellite System.

(2) F-16 Aircraft.

(d) CONDITIONS.—A multiyear contract authorized by subsection (a), (b), or (c) may not be entered into unless the anticipated cost over the period of the contract is no more than 90 percent of the anticipated cost of carrying out the same program through annual contracts.

(e) LIMITATIONS ON PROCUREMENT OF THE AV-8B AIRCRAFT.—Of the funds made available to the Navy for fiscal year 1989 for advance procurement of the AV-8B aircraft for fiscal year 1990, $91,481,000 may not be obligated or expended unless the Secretary of the Navy enters into a multiyear contract for the procurement of 24 such aircraft during each of the fiscal years 1989 through 1991. In the event the multiyear contract is not entered into, such funds shall be available only for procurement for the Marine Corps.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 111. ARMY PROGRAM

(a) FINDINGS REGARDING 155 MILLIMETER AMMUNITION.—The Congress is concerned that the schedule of the Army for propellant production and load assemble pack of 155-millimeter M864 ammunition base bleed burn assemblies may not make it economic to carry out such production at two sources concurrently.

(b) LIMITATION ON CONTRACTING FOR SECOND SOURCE.—The Secretary of the Army may not select a second source for production of the program referred to in subsection (a) until the program enters full-rate production and the Secretary reports to the Committees on Armed Services of the Senate and House of Representatives the acquisition plan of the Secretary for the establishment of a second source for the program.

SEC. 111A. NAVY PROGRAMS

(a) TRIDENT II MISSILE PROGRAM.—(1) Of the amounts appropriated pursuant to section 102 for the Navy for the procurement of missiles for fiscal year 1989, $1,865,609,000 may be obligated only for the Trident II missile program.

(2) In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

(b) DDG-51 DESTROYER PROGRAM.—(1)(A) Notwithstanding the matter relating to the DDG-51 destroyer program in the undesignated paragraph under the heading "SHIPBUILDING AND CONVERSION, NAVY" in title III of the Department of Defense Appropriations Act, 1988, as contained in section 101(b) of Public Law 100-202 (101 Stat. 1329-54), the Secretary of the Navy may not limit competition for the shipbuilding portion of the DDG-51 destroyer program in fiscal year 1989 to the two shipyard contractors to which the competition is limited on the date of the enactment of this Act unless the Secretary certifies to Congress that the limitation of such competition to such contractors—

(i) will result in a lower total cost to the United States for the program than would result from including other shipyard contractors in the competition; or

(ii) is necessary to meet the cost, schedule, performance, or other requirements of the Navy determined by the Secretary.

(B) If the Secretary submits a certification to Congress under subparagraph (A), the Secretary shall transmit to the Comptroller General of the United States, at the same time as he submits such certification to Congress, a copy of such certification and a discussion of the criteria applied by the Sec-

retary in making the determinations necessary for such certification.

(2) If the Secretary submits a certification to Congress under paragraph (1)(A), the Comptroller General of the United States shall review the certification and the criteria applied by the Secretary in making the determinations necessary for such certification. Not later than 30 days after the date on which the Secretary submits such certification to Congress, the Comptroller General shall submit to Congress the Comptroller General's assessment of the validity of such criteria.

(3) If the Secretary limits the competition for the shipbuilding portion of the DDG-51 destroyer program in fiscal year 1989 to the two shipyard contractors referred to in paragraph (1)(A), the Secretary may not award any contract for the shipbuilding portion of such program until the expiration of a period of 30 days immediately following the date on which Congress receives the assessment required by paragraph (2).

(c) 5-INCH SEMI-ACTIVE LASER GUIDED PROJECTILE PROGRAM.—Of the funds appropriated or otherwise made available for other procurement for the Navy for fiscal year 1989, the Secretary of the Navy shall make available such amount as may be necessary for the 5-inch semi-active laser guided projectile program in order to complete production qualifications of 150 such projectiles, with 50 such projectiles to be procured from each of the three established competitive sources.

(d) AH-1W GROUND SUPPORT EQUIPMENT.—Of the amount appropriated pursuant to section 102 for the Navy for procurement, $55,000,000 may be obligated only for the procurement of AH-1W ground support equipment.

(e) AN/SQR-17A ACOUSTIC PROCESSORS.—Funds appropriated to or for the use of the Navy by this or any other Act may not be used for the procurement of AN/SQR-17A acoustic processors.

(f) USE OF PRIOR YEAR FUNDS FOR DDG-51 DESTROYER PROGRAM.—Up to $730,000,000 of funds appropriated in prior years that remain available for obligation may be transferred from any such appropriation to and merged with Shipbuilding and Conversion, Navy for the procurement of one DDG-51 class destroyer: Provided, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this or any other Act.

SEC. 112. AIR FORCE PROGRAM

Funds appropriated or otherwise made available to the Air Force for fiscal year 1989 may not be obligated or expended in connection with the launch facility at Vandenberg Air Force Base, California (designed for the launch of Titan IV expendable launch vehicles), identified as the SLC-7 Launch Facility.

SEC. 113. ELECTRONIC WARFARE EQUIPMENT

Of the funds appropriated pursuant to section 102(a)(4), $54,000,000 shall be available for procurement of SIDEKICK electronic warfare equipment.

PART C—MISCELLANEOUS PROVISIONS

SEC. 121. REPORT ON NAVY AIRCRAFT

Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a detailed report on the current and projected requirements of the Navy for aircraft. The Secretary shall include in such report the following information:

(1) The plans of the Department of Defense to alleviate existing shortfalls of Navy aircraft.

(2) The plans of the Department of Defense to maintain or reduce the current average age of Navy combat aircraft.

(3) The plans of the Department of Defense to modify Navy aircraft to make such aircraft effective against current and projected threats.

(4) The level of funding required to carry out the plans referred to in paragraphs (1), (2), and (3) during fiscal years 1990 through 1994.

SEC. 122. EXTENSION OF DEADLINE FOR COMPLETION OF CHEMICAL DEMILITARIZATION PROGRAM

(a) EXTENSION OF DEADLINE.—Section 1412(b) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(b)) is amended—

(1) by striking out "September 30, 1994" in paragraphs (1) and (3)(A) and inserting in lieu thereof "April 30, 1997";

(2) in paragraph (3)(B), by striking out "within 30 days" and all that follows and inserting in lieu thereof "not later than the earlier of (i) 30 days after the date on which the decision to defer is made, or (ii) 30 days before the date for completing the destruction of the stockpile specified in paragraph (1)."; and

(3) by adding at the end the following new paragraph:

"(4) If the Secretary determines at any time that there will be a delay in meeting the deadline for completing the destruction of the stockpile specified in paragraph (1), the Secretary shall immediately notify the Committees on Armed Services of the Senate and House of Representatives of that projected delay.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—FUNDING AUTHORIZATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, $5,008,400,000.

For the Navy (including the Marine Corps), $9,274,600,000.

For the Air Force, $14,721,709,000.

For the Defense Agencies, $8,990,541,000, of which—

(1) $150,900,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation;

(2) $133,400,000 is authorized for the Director of Operational Test and Evaluation; and

(3) $120,000,000 is authorized for the University Research Initiative Program.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. ARMY PROGRAMS

(a) ANTI-ARMOR WEAPON SYSTEMS-MEDIUM.—Section 202(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is repealed.

(b) LIMITATION ON CERTAIN ANTI-ARMOR WEAPON SYSTEMS.—Funds appropriated pursuant to this or any other Act may not be used for procurement or for research, development, test, or evaluation in connection with the MILAN II system or the Bofors BILL medium anti-tank system.

SEC. 212. NAVY PROGRAMS

(a) TRIDENT II MISSILE.—Of the amounts appropriated pursuant to section 201 for the Navy for research, development, test, and evaluation, $580,889,000 may be obligated only for the Trident II missile program.

(b) UNDISTRIBUTED REDUCTION.—In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

(c) PROHIBITION ON TESTING ELECTROMAGNETIC PULSE IN CHESAPEAKE BAY.—During fiscal year 1989, the Secretary of the Navy may not carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for ships (EMPRESS).

SEC. 213. AIR FORCE PROGRAMS

(a) NATIONAL CENTER FOR MANUFACTURING SCIENCES.—Of the amounts appropriated pursuant to section 201 for the Air Force Manufacturing Technology (MANTECH) program, $5,000,000 shall be available only for the purpose of making a grant to the National Center for Manufacturing Sciences in connection with a program of research relating to manufacturing technology.

(b) ICBM MODERNIZATION.—(1)(A) The Secretary of Defense shall conduct a study to determine the feasibility of developing a common launch control system for the MX rail-garrison program and the Small Intercontinental Ballistic Missile program.

(B) If, on the basis of such study, the Secretary determines that a common launch control system for such programs is both feasible and cost-effective, the Secretary shall proceed with the development of such a system.

(2) The Secretary of Defense, through the Under Secretary of Defense for Acquisition, shall conduct a review of the Small Intercontinental Ballistic Missile program. On the basis of such review, the Secretary shall—

(A) estimate the date for the initial operational capability of the program assuming the program is adequately funded beginning in fiscal year 1990; and

(B) estimate the life-cycle cost and the investment cost of such program in both current and constant 1989 fiscal year dollars.

(3)(A) The Secretary of Defense shall conduct a study of the potential vulnerability of a small intercontinental ballistic missile system to special operations forces of a potential enemy or to domestic saboteurs and other persons opposed to such system.

(B) In carrying out such study, the Secretary shall—

(i) consult with appropriate elements of the intelligence community, including the Federal Bureau of Investigation; and

(ii) devote special attention to potential threats that could restrict the mobility of Small ICBM transporters based at Minuteman launch facilities by use of covertly emplaced smart munitions.

(4) The Secretary shall submit the results of the studies provided for in paragraphs (1)(A) and (3)(A) and the review provided for in paragraph (2) to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives, together with such comments and recommendations as the Secretary considers appropriate, not later than March 1, 1989.

(5)(A) Of the amounts appropriated for the Intercontinental Ballistic Missile Modernization program for fiscal year 1989, not more than $10,000,000 shall be available for the studies and review required by this subsection.

(B) Of the amounts appropriated for the Intercontinental Ballistic Missile Modernization program for fiscal year 1989, not more than $50,000,000 shall be available for the Small Intercontinental Ballistic Missile program and not more than $700,000,000 shall be available for the MX rail-garrison program.

SEC. 214. DEFENSE AGENCY PROGRAMS

(a) Optoelectronics Materials Center.—Of the amounts appropriated pursuant to section 201 for Defense Agencies, $14,500,000 shall be available only for the establishment of an Optoelectronics Materials Center at a university in the United States and for the acquisition of associated facilities.

(b) Consolidated DOD Software Initiatives Program.—Of the amounts appropriated pursuant to section 201 for the Defense Agencies, $45,120,000 shall be available only to the Defense Advanced Research Projects Agency for the Consolidated Department of Defense Software Initiatives program.

(c) Extended Air Defense.—Of the funds appropriated pursuant to section 201 for the Defense Agencies, $50,000,000 may be obligated only upon approval of the Director of Defense Research and Engineering for the purpose of research and development in connection with anti-tactical missile systems. In the event any such funds are made available to firms in allied countries, such funds shall be available for obligation only after the Secretary of Defense has entered into a cooperative program with such allied countries for that purpose.

SEC. 215. BALANCED TECHNOLOGY INITIATIVE

(a) Purpose.—It is the purpose of this section to authorize funds for the Balanced Technology Initiative program.

(b) Program Focus.—The focus of the Balanced Technology Initiative program shall be on the development of innovative concepts and methods of enhancing conventional defense capabilities, including the development of concepts and methods to take full advantage of the technological superiority of the United States and its allies as a means of increasing the rate of obsolescence of equipment, doctrine, and tactics of the Soviet Union and other Warsaw Pact countries. Such development shall give particular emphasis to the following:

(1) Armor/anti-armor initiatives.

(2) Defenses against armed helicopters.

(3) Hypervelocity missiles for ground combat use.

(4) Defense against anti-ship missiles, including those with "stealth" characteristics.

(5) "Smart" mines for both land and ocean warfare.

(6) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(7) Improved conventional anti-submarine warfare munitions.

(8) "Smart" standoff munitions and submunitions for delivery outside of lethal air defense ranges.

(c) Amounts Authorized.—Of the amounts appropriated pursuant to section 201 for research, development, test, and evaluation—

(1) not less than $288,000,000 shall be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the Department of Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) or section 215 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 100 Stat. 1050); and

(2) not less than $50,000,000 shall be obligated only for research and development under the Balanced Technology Initiative and shall be used only for new and innovative programs, projects, and activities that have not been designated for funding under a provision of law referred to in clause (1).

(d) Determination of Source of Funds.—The Director of Defense Research and Engineering shall determine the amount of the funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated (as provided in subsection (c)) for the Balanced Technology Initiative. The Director shall make such determination on the merits of the programs, projects, and activities referred to in subsection (b) that are carried out by the Army, Navy, Air Force, and Defense Agencies, taking into consideration ongoing technology research and exploitation opportunities.

(e) Relationship To Conventional Defense Initiative.—The Conventional Defense Initiative provided for in section 221 of the Department of Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) is not an element of the Balanced Technology Initiative. Funds made available for the purpose of this subsection may not be obligated for any program, project, or activity of the Conventional Defense Initiative.

(f) Prohibition Regarding Undistributed Reductions.—No portion of any undistributed reduction may be applied against the funds allocated under subsection (c) or against any funds made available for the Balanced Technology Initiative that are in addition to the funds specified in subsection (c).

(g) Prohibition on Use of Funds.—None of the funds allocated under subsection (c) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(h) Report.—Not later than 90 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Such report shall include—

(1) the amount allocated under subsection (c) for each program, project, or activity and the identification of the source of such amount;

(2) identification of other ongoing research and development projects not provided for under this section that should be included in the Balanced Technology Initiative in order to improve conventional defense capabilities; and

(3) for each program, project, or activity for which funds have been allocated under subsection (c) or which is identified under clause (2), a 5-year funding plan that is sufficient to maintain significant progress in research and development under such program, project, or activity, including a description of the major milestones for each such program, project, or activity and the projected dates for achieving such milestones.

(i) Restriction on Obligation Authority.—None of the funds allocated pursuant to subsection (c) may be obligated until—

(1) the report required by subsection (h) has been received by the committees referred to in such subsection; and

(2) a period of 30 days has elapsed following the date on which the report is received by the committees.

SEC. 216. ADVANCED TACTICAL AIRCRAFT AND ADVANCED TACTICAL FIGHTER

(a) Advanced Tactical Aircraft, Navy.—Of the amounts made available to the Department of Defense pursuant to section 201 for the Advanced Tactical Aircraft, not more than 50 percent of such amounts may be obligated or expended unless the Secretary of Defense certifies to Congress that the Navy has budgeted sufficient funds in the Fiscal Year 1990 Five-Year Defense Program to participate in the demonstration and validation program (including source selection) for the Advanced Tactical Fighter of the Air Force.

(b) Advanced Tactical Fighter, Air Force.—Of the amounts appropriated pursuant to section 201, not more than $350,000,000 may be obligated or expended for the Advanced Tactical Fighter unless the Secretary of Defense certifies to Congress that the Air Force has budgeted sufficient funds in the Fiscal Year 1990 Five-Year Defense Program to participate in the full scale development of the Advanced Tactical Aircraft of the Navy.

SEC. 217. MARK XV IDENTIFICATION FRIEND OR FOE SYSTEM

Of the amounts appropriated pursuant to section 201, not more than $90,000,000 may be obligated or expended for combat identification systems unless the Secretary of Defense certifies to Congress—

(1) that sufficient funds have been included in the Fiscal Year 1990 Five-Year Defense Program and Extended Planning Annex to install not later than the end of fiscal year 1998 Mark XV interrogator and transponder units in each of the following weapon systems deployed in operational units:

(A) The Patriot, Hawk, Pedestal Mounted Stinger, and Forward Area Air Defense Line-of-Sight Forward-Heavy Air Defense systems (in all configurations) for the Army;

(B) The F-14, F-18, A-6, A-7, A-12, and S-3 combat aircraft (in all configurations) for the Navy; and

(C) The Advanced Tactical Fighter, F-15, F-16, A-7, B-1, and B-2 combat aircraft (in all configurations) for the Air Force; or

(2) that—

(A) the Mark XV program has been terminated and the United States has entered into an agreement to develop positive hostile identification systems through the North Atlantic Treaty Organization Cooperative Research and Development Program; and

(B) sufficient resources have been included in the Fiscal Year 1990 Five-Year Defense Program and Extended Planning Annex to install such systems on the aircraft and air defense systems specified in paragraph (1).

SEC. 218. AIR-TO-AIR MISSILE PROJECT OFFICE

Of the amounts appropriated pursuant to section 201—

(1) not more than $20,000,000 may be obligated for the Advanced Air-to-Air Missile (AAAM) program; and

(2) not more than $15,000,000 may be obligated for the Advanced Medium Range Air-to-Air Missile (AMRAAM) program,

unless the Secretary of the Navy and the Secretary of the Air Force establish joint program offices, under the guidance of the Office of the Secretary of Defense, for co-development of the Advanced Air-to-Air Missile and product improved Advanced Medium Range Air-to-Air Missile.

SEC. 219. UNDISTRIBUTED REDUCTIONS

(a) Limitation on Authorizations for Certain Programs.—(1) Notwithstanding section 201, the total amount authorized to be

appropriated for the programs specified in paragraph (2) is $218,789,000.

(2) The limitation provided in paragraph (1) shall apply to the following programs:

(A) The Defense Support Program (DSP).

(B) The Defense Meteorological Satellite Program (DMSP).

(C) The Global Positioning System (GPS-Navstar).

(D) The Defense Satellite Communications System (DSCS).

(b) Requirement for Program Reduction.—The Secretary of Defense shall reduce the amounts authorized for the programs specified in subsection (a) by such amounts as the Secretary determines necessary to achieve a total reduction of $10,000,000.

SEC. 220. TRAINING IN ADVANCED MANUFACTURING TECHNOLOGIES

(a) Funds for Purchase and Installation of Equipment.—Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1989, may be obligated for the purchase of high technolgoy manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, machine tool operators in skills critical to the defense technology base to build, operate, and maintain such equipment.

(b) Requirements.—Funds may not be obligated for the purpose described in subsection (a) until—

(1) the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education enter into a memorandum of understanding concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility;

(2) the Secretary of Defense approves the obligation of such funds for such purpose; and

(3) a period of 60 days elapses after the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a report that sets forth a detailed explanation of proposed Federal expenditures, a description of the cost-sharing arrangements between the Government agencies concerned and the private sector, and a description of how the proposed program furthers the industrial and technological goals of the Department of Defense.

SEC. 220A. BIGEYE BOMB

Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1989 or any subsequent fiscal year may not be obligated or expended for procurement of the BIGEYE binary chemical bomb, for any component of such bomb, or for the assembly of such bomb unless and until the Comptroller General of the United States determines and certifies to Congress that—

(1) the operational and developmental tests conducted in connection with such bomb after the date of enactment of this Act were realistic and adequate;

(2) the test plan and objectives established for such bomb were clear, well defined, and properly quantifiable;

(3) the design of such test supports a valid statistical analysis of data;

(4) the criteria for a no-test were adequately defined in the test plan for such bomb;

(5) such bomb met or exceeded the test standards established for the bomb; and

(6) such bomb is ready for full-scale production.

SEC. 220B. PRODUCT EVALUATION ACTIVITY

Of the funds appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1989, $17,500,000 shall be available only for the product evaluation activity provided for under section 2369 of title 10, United States Code, as added by section 816 of this Act.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FISCAL YEAR 1989 LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

(a) Amount Authorized.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, testing, and evaluation for fiscal year 1989, not more than $4,271,000,000 may be obligated for the Strategic Defense Initiative.

(b) Specified Activities.—Of the amounts available for the Strategic Defense Initiative program under subsection (a)—

(1) $200,000,000 shall be available only for the Advanced Launch System (ALS);

(2) $175,000,000 shall be available only for the Boost Surveillance and Tracking System (BSTS);

(3) $202,000,000 shall be available only for the Exoatmospheric Reentry-vehicle Interceptor System (ERIS);

(4) $150,000,000 shall be available only for the High Endoatmospheric Defense Interceptor (HEDI) system; and

(5) $17,000,000 shall be available only for research on gallium arsenide (Ga As) integrated circuit technology.

(c) Defense-Wide Mission Support.—Of the amount made available pursuant to subsection (a), $21,000,000 may be used for defense-wide mission support of the Strategic Defense Initiative.

(d) Restriction on Use of Funds.—Funds appropriated to or for the use of the Department of Defense may not be used to establish a Strategic Defense System Operational Test and Evaluation activity.

SEC. 222. REPORT ON ALLOCATION OF SDI FUNDING FOR FISCAL YEAR 1989

(a) Report.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated or otherwise made available for the Strategic Defense Initiative for fiscal year 1989. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) Deadline for Report.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1989.

SEC. 223. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) Use of Funds.—(1) Funds appropriated to the Department of Defense for fiscal year 1989, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1989 or for any fiscal year before 1989, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the March 1988 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the March 1988 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1989 if the transfer is made in accordance with section 901 of this Act.

(b) Definition.—As used in this section, the term "March 1988 SDIO Report" means the report entitled, "Report to Congress on the Strategic Defense Initiative", dated March 23, 1988, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 10 U.S.C. 2431 note).

PART D—MISCELLANEOUS PROVISIONS

SEC. 231. LONG-RANGE CONVENTIONAL CRUISE MISSILE

(a) Report.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than December 31, 1988, a report on the plans and projected expenditures for the Long-Range Conventional Cruise Missile program of the Department of Defense.

(b) Content of Report.—The Secretary shall include in such report the following:

(1) The 5-year funding plan for the program.

(2) A discussion of how the program might be carried out under a joint entity of the military services.

(3) A discussion of the military missions that a long-range conventional cruise missile would be designed to fulfill.

(4) A list of the validated military requirements prescribed for a long-range conventional cruise missile.

(5) An estimate of when a long-range conventional cruise missile system incorporating the most recent advances in guidance, propulsion, mission planning, and munitions technologies would be ready for full-scale engineering development and testing of initial operating capability.

SEC. 232. SENSE OF THE SENATE ON STRATEGIC MISSILE MODERNIZATION

(a) Findings.—The Senate makes the following findings:

(1) It is essential that the Nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces.

(2) The capabilities of the conventional forces of the United States and its allies will become more important if the Intermediate-range Nuclear Forces (INF) treaty between the United States and the Soviet Union is ratified and implemented.

(3) It is both desirable and possible to reduce the reliance of the North Atlantic Treaty Organization on the threat of an early resort to nuclear weapons for the defense of all members of the alliance if the member nations of the alliance assert the political will to reduce such reliance and establish sound defense priorities, including the elimination of critical conventional force deficiencies.

(4) The United States is currently procuring and deploying one land-based intercontinental ballistic missile (ICBM) system (the MX system in fixed silos) at significant cost while developing two additional ICBM sys-

tems (the mobile Small ICBM or so-called Midgetman system and the mobile rail-garrison MX system) at significant additional cost.

(5) Efforts to reduce the Federal budget deficit, which are imperative for the economic well-being of the United States, will continue for the foreseeable future to require limits on all discretionary Federal spending, including defense spending.

(b) SENSE OF THE SENATE.—In light of the findings in subsection (a), it is the sense of the Senate that the authorization of funds in this Act for research and development for both the Small ICBM and the rail-garrison MX does not constitute a commitment or express an intent by the Senate to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-mobile basing mode or both.

SEC. 233. AUTHORITY OF MILITARY DEPARTMENTS TO LOAN AND BORROW FROM FOREIGN COUNTRIES MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES

(a) IN GENERAL.—Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2368. Loan of materials, supplies, and equipment for research and development purposes

"(a) IN GENERAL.—(1) Except as provided in subsection (b), the Secretary of a military department may loan to a foreign government materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary of a military department may also accept as a loan or a gift from a foreign government materials, supplies, or equipment for such purpose.

"(2) A program of testing or evaluation for which the Secretary of a military department may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the foreign government to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

"(3) The materials, supplies, or equipment loaned to a foreign government under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursing the United States if the Secretary concerned—

"(A) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the foreign government; and

"(B) approves of the expenditure or consumption of such materials, supplies, or equipment.

"(b) EXCEPTION.—The Secretary of a military department may not loan to a foreign government any material if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) is less than the quantity of such material to be stockpiled, as determined by the President under section 3(a) of such Act.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2368. Loan of materials, supplies, and equipment for research and development purposes.".

SEC. 234. MODIFICATION OF REPORT REQUIREMENT CONCERNING DESIGNATION OF MAJOR NON-NATO ALLIES

Section 1105(f) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3966) is amended by inserting "to be added or deleted from the existing designation of countries" in clause (1) after "countries".

SEC. 235. UNIVERSITY RESEARCH INITIATIVE PROGRAM

Funds made available to the Department of Defense pursuant to this or any other Act for the University Research Initiative Program may be obligated or expended in any State without regard to any limitation on the amount that may be expended under such program in any one State.

SEC. 236. SPACE CONTROL CAPABILITIES

(a) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1990 to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on space control capabilities of the Armed Forces of the United States.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A description of requirements for space control capabilities related to deterrence and warfighting objectives, including space surveillance and anti-satellite capabilities, that have been validated by the Joint Chiefs of Staff and transmitted to the Commander-in-Chief of the United States Space Command.

(2) A net assessment of United States and Soviet space control capabilities.

(3) An assessment of current United States space control deficiencies and recommendations for overcoming those deficiencies.

(4) A five-year plan for improving ground and space-based surveillance systems and their associated command, control, and communications systems, and the cost and schedule for implementing the plan.

SEC. 237. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the funds appropriated pursuant to this title, $6,800,000 is available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $22,142,400,000.

For the Navy, $24,879,700,000.

For the Marine Corps, $1,792,000,000.

For the Air Force, $21,898,700,000.

For the Defense Agencies, $7,636,880,000.

For the Army Reserve, $794,900,000.

For the Naval Reserve, $979,200,000.

For the Marine Corps Reserve, $77,500,000.

For the Air Force Reserve, $1,028,500,000.

For the Army National Guard, $1,805,300,000.

For the Air National Guard, $1,965,400,000.

For the National Board for the Promotion of Rifle Practice, $4,300,000.

For the Court of Military Appeals, $3,500,000.

For Environmental Restoration, Defense, $500,000,000.

For Humanitarian Assistance, $13,000,000.

(b) GENERAL AUTHORIZATION FOR CONTINGENCIES.—There are authorized to be appropriated for fiscal year 1989, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, $291,900,000.

For the Navy Stock Fund, $184,700,000.

For the Air Force Stock Fund, $186,900,000.

For the Defense Stock Fund, $30,000,000.

SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—The amount authorized in section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the amount authorized in such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to section 301 for humanitarian assistance to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriations Act.

(f) REPORTS.—The Secretary of Defense shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives not later than 60 days after the date of the enactment of this Act and not later than June 1, 1989, and not later than June 1 each subsequent year until the funds are expend-

ed. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under the provisions of this section, the amendments made by section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3856), and section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 100 Stat. 1078).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under the provisions referred to in paragraph (1).

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 304. PERFORMANCE OF FIREFIGHTING AND SECURITY GUARD FUNCTIONS AT AMCHITKA, ALASKA

(a) Authority To Contract.—The Secretary of the Navy may contract for the performance of firefighting and security guard functions required by the Navy at the over-the-horizon radar site at Amchitka, Alaska.

(b) Inapplicability of Limitation on Use of Funds.—Section 2693 of title 10, United States Code, shall not apply with respect to the authority provided in subsection (a).

SEC. 305. TRIPLER ARMY MEDICAL CENTER

The Department shall, from within the funds authorized, establish a video teleconferencing center for the Tripler Army Medical Center.

Part B—Limitations

SEC. 311. PROHIBITION ON FINANCING CERTAIN ACTIVITIES BY DIRECT APPROPRIATIONS

(a) Prohibition.—During fiscal year 1989, the Secretary of the Navy may not take any steps for the purpose of planning or converting the operation of an activity specified in subsection (b) from operation as an activity financed by the Naval Industrial Fund (as authorized by section 2208 of title 10, United States Code) to operation as an activity financed by direct appropriations.

(b) Activities Covered.—An activity referred to in subsection (a) is any of the following:

(1) Naval Avionics Center, Indianapolis, Indiana.

(2) Naval Civil Engineering Laboratory, Port Hueneme, California.

(3) Naval Air Engineering Center, Lakehurst, New Jersey.

Part C—Permanent Law Changes

SEC. 321. LIMITATION ON PRIVATE OPERATION OF COMMISSARY STORES

Section 2482 of title 10, United States Code, is amended by adding at the end the following new sentences: "A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.".

Part D—Defense Supplies Security and Control

SEC. 331. DEFENSE SUPPLY MANAGEMENT STUDIES AND MODERNIZATION PLAN

(a) Defense Inventory Security and Control Enhancement Study.—(1) The Secretary of Defense shall carry out a study to determine the effectiveness of Department of Defense procedures for ensuring security and control of supplies at Department of Defense depots.

(2)(A) Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study. The Secretary may submit the report in both classified and unclassified forms if the Secretary considers it necessary to do so in the interest of national security.

(B) The Secretary of Defense, at the same time as the Secretary submits the report to Congress under subparagraph (A), shall transmit a copy of the report to the Comptroller General of the United States.

(3) The Comptroller General shall—

(A) review the report transmitted by the Secretary of Defense under paragraph (2)(B); and

(B) submit to the Committees on Armed Services of the Senate and the House of Representatives, within 90 days after the date on which the Comptroller General receives such report, any findings and recommendations on procedures for ensuring the security and control of supplies at Department of Defense depots that the Comptroller General considers appropriate.

(b) Analysis of Sales of Surplus Munitions.—The Secretary of Defense shall—

(1) conduct a cost-benefit analysis of the practice of selling surplus Department of Defense munitions to the public; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than 180 days after the date of the enactment of this Act, a report containing a description and discussion of each such practice.

(c) Supply Traceability Enhancement.—The Secretary of Defense shall—

(1) develop improved methods for the identification of and accounting for individual items of ammunition, explosives, and other Department of Defense supplies that are susceptible to pilferage; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than one year after the date of the enactment of this Act, a report containing a description and discussion of each such method.

(d) Supply System Modernization Plan.—The Secretary of Defense shall—

(1) prepare a plan for the modernization of the supply facilities and supply distribution procedures of each of the military departments and Defense Agencies of the Department of Defense; and

(2) not later than one year after the date of the enactment of this Act, transmit a copy of such plan to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 332. SUPPLY SECURITY AND CONTROL IMPROVEMENTS

(a) Security and Control of Supplies: Reports, Funding, Procedures.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 170 (as added by section 804(b)) the following new chapter:

"CHAPTER 171—SECURITY AND CONTROL OF SUPPLIES

"Sec.

"2891. Report on security and control of supplies.

"2892. Miscellaneous security and control procedures.

"§ 2891. Report on security and control of supplies

"(a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1 of each year, a report on security and control of Department of Defense supplies for each of the three fiscal years following the fiscal year in which this section is enacted.

"(b) Each report shall include the following:

"(1) A summary of each of the physical inventory program plans of the Department of Defense, the Defense Logistics Agency, and the military departments for the fiscal year in which the report is submitted.

"(2) A discussion of the deficiencies, if any, in the security and control of Department of Defense supplies in the fiscal year preceding the year in which the report is submitted and a discussion of the extent to which such deficiencies have been corrected.

"(3) A discussion of—

"(A) research and development projects carried out by the Department of Defense in such preceding fiscal year for the improvement of the inventory and recordkeeping capabilities of the Department;

"(B) any proposals for expeditious application of any new technology resulting from such projects; and

"(C) the budget needs for research and development for such purpose in the fiscal year in which the report is submitted and any subsequent fiscal year for which the budget needs have been determined.

"(4) The budget authority made available to the Department of Defense for inventory control functions in the fiscal year in which the report is submitted and in each of the five fiscal years preceding such fiscal year.

"(5) The budget authority proposed for such purpose in the budget submitted to Congress under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(6) The budget authority needed for such purpose in each of the five fiscal years following the fiscal year for which such budget is submitted.

"(7) An evaluation of the effectiveness of supply inventory control in the fiscal year preceding the fiscal year in which the report is submitted, the criteria used by the Secretary to make such evaluation, and the information considered by the Department in making the evaluation, including the value of supplies lost or stolen or for which accountability has otherwise been lost.

"(8) The aggregate statistics for all incidents of theft, fraud, or breach of security involving Department of Defense supplies that were investigated by military or civilian law enforcement agencies during the fiscal year preceding the fiscal year in which the report is submitted (including incidents involving munitions), a summary description of all such incidents (including the circumstances under which the incidents occurred), and the lessons learned by the Department of Defense from such incidents.

"§ 2892. Miscellaneous security and control procedures

"(a) The Secretary of Defense shall require an investigation of each discrepancy in an accounting for supplies of the Department of Defense involving an amount exceeding the amount determined under procedures prescribed by the Secretary. The Secretary shall prescribe procedures that provide for random investigation of physical inventory discrepancies, regardless of the value of the property involved in the discrepancy.

"(b) The Secretary of Defense shall, to the extent feasible, require that the job function of supply ordering and the job function of supply receiving be performed by different offices and individuals.

"(c) The Secretary shall ensure—

"(1) that the employees of the Department of Defense and members of the armed forces assigned to manage Department of Defense supplies are skilled in the management of such supplies; and

"(2) that no employee of the Department of Defense and no member of the armed forces is assigned to perform such function for disciplinary reason.".

(2) The table of chapters at the beginning of such part and such subtitle are each amended by inserting after the item relating to chapter 170 (as added by section 804(b)) the following new item:

"171. Security and control of supplies .... 2891".

(b) REPORT EXCEPTION.—The Secretary of Defense may omit in the report for any fiscal year under section 2891 of title 10, United States Code, as added by subsection (a), the information relating to any of fiscal years 1983 through 1988, described in subsection (b)(4) of such section for which there are inadequate records, as determined by the Secretary.

SEC. 333. INVENTORY INVESTIGATIONS

(a) UNDERCOVER INVESTIGATIONS.—(1) Congress finds that the use of undercover investigative techniques by the Department of Defense enhances the ability of the Department of Defense to detect and investigate theft of Government property (including munitions) from the Department of Defense supply system.

(2) The Secretary of Defense is urged to continue to conduct undercover investigations to detect and investigate thefts referred to in paragraph (1).

(b) INVENTORY SECURITY INCIDENT REPOSITORY.—The Secretary of Defense shall establish and maintain a centralized computer system for recording and organizing information on theft, fraud, and breach of security, and incidents involving the loss of Department of Defense supplies (including munitions).

SEC. 334. REPORTS OF MUNITIONS LOSSES TO THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

(a) IN GENERAL.—Chapter 161 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2722. Theft or loss of ammunition, destructive devices, and explosives: report

"(a) IN GENERAL.—The Secretary of Defense shall report the theft or other loss of any ammunition, destructive device, or explosive material from the stocks of the Department of Defense to the Secretary of the Treasury within 24 hours, if possible, after the discovery of such theft or loss.

"(b) DEFINITIONS.—In this section:

"(1) The term 'explosive materials' means explosives, blasting agents, and detonators.

"(2) The terms 'destructive device' and 'ammunition' have the same meanings as provided in paragraphs (4) and (17), respectively, of section 921 of title 18.".

(b) TECHNICAL AMENDMENTS.—(1) Chapter 161 of such title is further amended—

(A) by striking out the chapter heading at the beginning and inserting in lieu thereof the following:

"CHAPTER 161—PROPERTY RECORDS AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY"; and

(B) by adding at the end of the table of sections at the beginning of such chapter the following new item:

"2722. Theft or loss of ammunition, destructive devices, and explosives: report.".

(2) The tables of chapters at the beginning of part A and at the beginning of part IV of part A of such title are each amended by striking out the item relating to chapter 161 and inserting in lieu thereof the following:

"161. Property Records and Report of Theft or Loss of Certain Property........ 2722".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to thefts and losses discovered more than 180 days after the date of the enactment of this Act.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized end strengths for active duty personnel as of September 30, 1989, as follows:

(1) FOR THE ARMY:

Officers, 106,927.

Enlisted members, 660,423.

Cadets (Military Academy), 4,450.

(2) FOR THE NAVY:

Officers, 72,610.

Enlisted members, 515,815.

Midshipmen (Naval Academy), 4,775.

(3) FOR THE MARINE CORPS:

Officers, 20,120.

Enlisted members, 177,080.

(4) FOR THE AIR FORCE:

Officers, 105,038.

Enlisted members, 465,645.

Cadets (Air Force Academy), 4,417.

SEC. 402. REDUCTIONS IN STRENGTH OF ACTIVE-DUTY OFFICER CORPS

Notwithstanding section 403(a) of the Department of Defense Authorization Act, 1987 (10 U.S.C. 521 note), and section 402(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 521 note), the total number of officers serving on active duty in the Army, Navy, Air Force, and Marine Corps—

(1) as of September 30, 1989, may not exceed the total of the numbers authorized for such officers in section 401 of this Act; and

(2) as of September 30, 1990, may not exceed the total of such numbers reduced by 6,176.

SEC. 403. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

Notwithstanding section 523 of title 10, United States Code, the number of officers otherwise authorized to be serving on active duty in the Air Force in fiscal year 1989 in the grade of colonel is reduced by 125, and the number of such officers otherwise authorized to be serving on active duty in fiscal year 1990 is reduced by 250.

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) AUTHORIZATION.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1989, as follows:

(1) The Army National Guard of the United States, 457,300.

(2) The Army Reserve, 320,600.

(3) The Naval Reserve, 152,600.

(4) The Marine Corps Reserve, 43,600.

(5) The Air National Guard of the United States, 115,200.

(6) The Air Force Reserve, 83,600.

(7) The Coast Guard Reserve, 13,000.

(b) CONFORMING AMENDMENTS.—(1) Section 411(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1082) is amended by striking out "or subsection (b)" and inserting in lieu thereof "or section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

(2) Section 411(d) of such Act is amended by striking out "subsections and (b)" and inserting in lieu thereof "subsection (a) and by section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1989, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,725.

(2) The Army Reserve, 13,329.

(3) The Naval Reserve, 21,991.

(4) The Marine Corps Reserve, 1,945.

(5) The Air National Guard of the United States, 7,948.

(6) The Air Force Reserve, 657.

SEC. 413. NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) SENIOR ENLISTED MEMBERS.—The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	529	180	150	13
E-8	2,350	400	425	74".

(b) OFFICERS.—The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,600	875	575	110
Lieutenant Colonel or Commander	1,250	520	322	75
Colonel or Navy Captain	348	185	190	25".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1988.

PART C—MILITARY TRAINING

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) In General.—For fiscal year 1989, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 80,281.

(2) The Navy, 65,925.

(3) The Marine Corps, 18,064.

(4) The Air Force, 36,857.

(5) The Army National Guard of the United States, 19,561.

(6) The Army Reserve, 17,190.

(7) The Naval Reserve, 3,136.

(8) The Marine Corps Reserve, 3,459.

(9) The Air National Guard of the United States, 2,868.

(10) The Air Force Reserve, 1,827.

(b) Adjustments.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

PART D—CIVILIAN PERSONNEL

SEC. 431. AUTHORIZATION OF END STRENGTHS

(a) In General.—The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1989, as follows:

Department of the Army, 400,092.

Department of the Navy, 339,551.

Department of the Air Force, 263,756.

Defense agencies, 98,841.

(b) Counting of Personnel.—(1) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding personnel in special employment categories for students and disadvantaged youth (such as the stay-in-school campaign, the temporary summer aid programs, and the Federal junior fellowship program) and personnel participating in the worker-trainee opportunity program.

(2) Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Personnel employed in an overseas area on a part-time basis under a nonpermanent local-hire appointment who are dependents accompanying a Federal civilian employee or a member of a uniformed service on official assignment or tour of duty shall also be counted as prescribed by section 3404 of that title.

(3) Whenever a function, power or duty, or activity is transferred or assigned to a military department or an agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another military department or agency within the Department of Defense, the civilian personnel end-strength authorized for each such military department or agency of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

TITLE V—MILITARY PERSONNEL POLICY

SEC. 501. SELECTION BOARDS

(a) Information Furnished to Boards.—Section 615 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out clause (4) and inserting in lieu thereof the following:

"(4) information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including guidelines or information relating to the need for either a minimum number or a maximum number of officers with particular skills within a competitive category;"; and

(2) by adding at the end thereof the following new subsection:

"(c) Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits the report to the Secretary of the military department concerned pursuant to section 617(a) of this title, except that, in the case of a report returned to a board pursuant to section 618(a)(2) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in such section.".

(b) Recommendations for Promotion.—Section 616(a) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "particular skills".

(c) Reports of Selection Board.—Section 617(a)(2) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "concerned".

(d) Action on Reports.—Section 618 of such title is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) Upon receipt of a report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned shall review such report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 615(a) of this title. Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), he shall submit the report as required by subsection (b) or (c), as appropriate.

"(2) If, on the basis of a review of the report under paragraph (1), the Secretary of the military department concerned determines that the board acted contrary to law, regulation, or guidelines furnished the board under section 615(a) of this title, the Secretary shall return the report together with a written explanation of the basis for such determination to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title."; and

(2) in subsection (c)(1)—

(A) by striking out ", modification,"; and

(B) by adding at the end the following: "If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.".

(e) Effective Date.—The amendments made by this section shall take effect 60 days after the date of enactment of this Act and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after such effective date.

SEC. 502. EXPANSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113 note) is amended by striking out "above grade GS-1 (or its equivalent)" and inserting in lieu thereof "in grade GS-1 (or its equivalent) or above".

SEC. 503. MANPOWER COST ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Section 2434 of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking out "90 days" and inserting in lieu thereof "30 days";

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following new subsection (b):

"(b) Exceptions.—(1) Subsection (a)(2) shall not apply during time of war or during a national emergency declared by Congress or the President.

"(2) The 30-day period described in subsection (a)(2) shall be reduced to 10 days in the case of a major defense acquisition program if the manpower estimate submitted to the Secretary of Defense under subsection (a)(2) with respect to such program indicates that no manpower increase in military or civilian end strength will be required."; and

(4) in paragraph (3)(A) of subsection (c), as redesignated by clause (2), by striking out "both in total personnel and" and inserting in lieu thereof "in total personnel or in".

SEC. 504. REMOVAL FROM PROMOTION LIST

(a) Authority To Remove.—Section 5905(a) of title 10, United States Code, is amended to read as follows:

"(a) The President may remove the name of any reserve officer from a promotion list established under this chapter. Such action may be taken at any time before the promotion of the officer.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to remov-

al actions taken by the President on or after the date of the enactment of this Act.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1989

(a) WAIVER OF SECTION 1009 ADJUSTMENTS.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

(b) INCREASE IN BASIC PAY, BAQ, AND BAS.—(1) Subject to paragraph (2), the rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 4.3 percent effective on January 1, 1989.

(2) If the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in basic allowance for quarters specified in paragraph (1) among such pay grade and dependency categories as he considers appropriate. Any such allocation may be made on a percentage basis other than an equal percentage basis.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1989, section 203(c)(1) of title 37, United States Code, is amended by striking out "$504.30" and inserting in lieu thereof "$525.90".

SEC. 602. ALLOWANCE FOR TRANSPORTATION OF HOUSEHOLD GOODS

(a) ALLOWANCE.—Section 406(b)(1) of title 37, United States Code, is amended—

(1) by striking out "within such weight allowances prescribed by the Secretaries concerned," in subparagraph (A) and inserting in lieu thereof "within the weight allowances listed in subparagraph (C)"; and

(2) by adding at the end the following new subparagraph:

"(C) Under regulations prescribed by the Secretary of Defense, the weight allowance to which a member is entitled under subparagraph (A) is the number of pounds listed in the first column (in the case of a member without dependents) or in the second column (in the case of a member with dependents) across from the member's pay grade in the following table:

"Pay Grade	Without Dependents	With Dependents
O-10 to O-6	18,000	18,000
O-5	16,000	17,500
O-4	14,000	17,000
O-3	13,000	14,500
O-2	12,500	13,500
O-1	10,000	12,000
W-4	14,000	17,000
W-3	13,000	14,500
W-2	12,500	13,500
W-1	10,000	12,000
E-9	12,000	14,500
E-8	11,000	13,500
E-7	10,500	12,500
E-6	8,000	11,000
E-5	7,000	9,000
E-4 [1]	7,000	8,000
E-4 [2]	3,500	7,000
E-3	2,000	5,000
E-2	1,500	5,000
E-1	1,500	5,000

"[1] Member with more than two years of service computed under section 205 of this title.

"[2] Member with less than two years of service computed under section 205 of this title.".

(b) EFFECTIVE DATE.—The weight allowances in section 406(b)(1)(C) of title 37, United States Code (as added by subsection (a)), shall apply with respect to transportation of baggage and household effects commencing after June 30, 1989.

PART B—OTHER PERSONNEL BENEFITS

SEC. 611. AVIATOR CONTINUATION BONUS

(a) IN GENERAL.—(1) An aviation officer described in subsection (b) who executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the written agreement by the Secretary concerned, be paid a continuation bonus as provided in this section.

(2) The amount of such a continuation bonus shall be not more than $12,000 for each year covered by the agreement. The agreement may be for a number of years not more than eight, except that no agreement may be entered into for a partial year.

(3) The agreement length and payment amount may be prorated as long as an agreement under this section does not extend beyond the date on which the officer would complete 14 years of commissioned service.

(4) Upon the officer's acceptance of the agreement the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

(b) APPLICABILITY.—This section applies to an officer of a uniformed service who—

(1) is entitled to aviation career incentive pay under section 301a of title 37, United States Code;

(2) is in a pay grade below pay grade O-6;

(3) is qualified to perform operational flying duty (as defined in paragraph (6) of section 301a(a) of title 37, United States Code);

(4) has completed at least six but less than 13 years of active duty;

(5) has completed any active duty service commitment incurred for undergraduate aviator training; and

(6) is in or is projected to be in an area designated by the Secretary concerned, and approved by the Secretary of Defense, as retention sensitive.

(c) A continuation bonus under this section is in addition to any other pay and allowances to which an officer is entitled.

(d) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(2) Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the agreed-upon period of active duty in aviation service under this section shall not obligate the President to accept a resignation submitted by a regular officer.

(3) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(4) A discharge in bankruptcy under title 11, United States Code, that is entered less than 10 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under such title after October 1, 1988.

(e) TERMINATION OF PROGRAM.—No new agreement may be entered into under section 301b of title 37, United States Code, on or after the date of the enactment of this Act.

(f) LIMITATIONS ON OBLIGATIONS.—The total amount of payments that may be made by the Secretary of the Air Force during fiscal year 1989 as the result of agreements entered into under this section may not exceed $30,000,000.

(g) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretaries concerned and approved by the Secretary of Defense or the Secretary of Transportation, as appropriate.

(h) DEFINITIONS.—In this section:

(1) The term "aviation officer" means an officer of the Army, Navy, Air Force, Marine Corps, or Coast Guard who performs aviation service.

(2) The term "aviation service" means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer).

(3) The term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

(i) EXPIRATION OF AUTHORITY.—The authority for the Secretary of a military department or the Secretary of Transportation to enter into an agreement under this section shall expire on September 30, 1989.

(j) REPORTING REQUIREMENTS.—Not later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the retention of aviators in the Armed Forces. The report shall include as a minimum:

(1) An analysis of aviator requirements and inventories (current and projected) of the Armed Forces by grade and years of service.

(2) An analysis of current and projected aviator retention rates in the Armed Forces and the current and projected retention rates actually needed to meet the requirements of the Armed Forces.

(3) Such recommendations as the Secretary considers appropriate regarding—

(A) the initial active-duty service commitment of aviators;

(B) the integration of the aviator career incentive pay and continuation bonus into a structure that more efficiently supports the retention requirements for aviators in the Armed Forces; and

(C) changes in the aviator management policies of the Armed Forces that would eliminate the disincentives cited by aviators as retention detractors.

(4) Specific proposals for such legislation as the Secretary considers necessary to retain on active duty the aviators required to meet the needs of the Armed Forces.

SEC. 612. ENHANCEMENT OF SPECIAL PAYS FOR CERTAIN MEDICAL OFFICERS

(a) VARIABLE SPECIAL PAY.—An officer described in section 302(a)(1) of title 37, United States Code, who is serving in a pay grade below pay grade O-7, and who has at least eight years creditable service, may be paid variable special pay at the following rates rather than at the rates set forth in section 302(a)(2) of title 37, United States Code:

(1) Not more than $14,060 per year, if the officer has at least eight but less than ten years of creditable service.

(2) Not more than $13,320 per year, if the officer has at least ten but less than twelve years of creditable service.

(3) Not more than $11,840 per year, if the officer has at least twelve but less than fourteen years of creditable service.

(4) Not more than $10,360 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

(5) Not more than $8,880 per year, if the officer has at least eighteen but less than twenty-two years of creditable service.

(6) Not more than $7,400 per year, if the officer has twenty-two or more years of creditable service.

(b) Additional Special Pay.—(1) An officer who has at least eight years of creditable service may be paid an amount of additional special pay under this subsection, not in excess of $4,320, for any twelve-month period that the officer is entitled to additional special pay under section 302(a)(4)(A) of title 37, United States Code. Additional pay under this subsection shall be in addition to any special pay under section 302(a)(4)(A) of such title.

(2) An officer may be paid an amount of additional special pay under this subsection not to exceed $4,800 for any twelve-month period during which the officer is entitled to additional special pay under section 302(a)(4)(B) of title 37, United States Code. Such additional pay shall be in addition to special pay under such section 302(a)(4)(B).

(3) An officer described in section 302(a)(5) of title 37, United States Code, who has at least eight years of creditable service may be paid additional special pay at the following rates rather than at the rates set forth in such section 302(a)(5):

(A) Not more than $2,960 per year, if the officer has at least eight but not more than ten years of creditable service.

(B) Not more than $3,700 per year, if the officer has at least ten but less than twelve years of creditable service.

(C) Not more than $4,440 per year, if the officer has at least twelve but less than fourteen years of creditable service.

(D) Not more than $5,920 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

(E) Not more than $7,400 per year, if the officer has eighteen or more years of creditable service.

(c) Administration and Implementation.—The provisions of subsections (a) and (b) of section 303a of title 37, United States Code, shall apply to the administration of this section as if a reference to this section were included in the list of sections referred to in such subsections.

(d) Limitation on Total Compensation.—The Secretary of Defense shall ensure that no officer receives pay under subsections (a) and (b) which, when added to all other pay and allowances such officer receives pursuant to titles 10 and 37, United States Code, results in such officer receiving total compensation in an amount that exceeds the total compensation paid to comparable physicians (considering age, education, experience, certification, training, and other appropriate criteria), as determined by the Secretary, who are physicians employed in private practice. The Secretary shall target payments under this section to officers with training and experience levels in which the most severe shortages exist in the Department of Defense.

(e) Reports.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in subsections (a) and (b) is to be used. The report shall include a description of the relative level of payments between officers with various amounts of creditable service and specialty training.

(2)(A) Not later than December 1, 1988, the Secretary of Defense shall also submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(i) such recommendations for legislation as the Secretary considers necessary to attract and retain on active duty the health care professionals needed to meet the needs of the Armed Forces; and

(ii) the Secretary's assessment of the adequacy of the existing compensation system for such health care professionals.

(B) The Secretary shall include in his report a draft of legislation which, if enacted, would establish either—

(i) an alternative compensation system which provides total compensation that is comparable to the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in private practice; or

(ii) a single military health care professional incentive compensation program which provides incentive compensation in sufficient amounts to ensure that the total amount of such compensation to which such health care professionals are entitled under the provisions of titles 10 and 37, United States Code (other than chapter 5 of such title 37) is comparable to the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in private practice.

(f) Limitations on Obligations.—The total amount of the payments that may be made during fiscal year 1989 under this section may not exceed a total of $30,000,000.

(g) Effective Date.—The authority to make payments under subsections (a) and (b) shall become effective with respect to pay periods beginning after December 31, 1988.

(h) Termination of Authority.—If the report and the legislative proposal required by subsection (e)(2) are not received by the Committees on Armed Services of the Senate and the House of Representatives before December 1, 1988, the authority to make payments under subsections (a) and (b) shall terminate effective with respect to pay periods beginning after September 30, 1989.

SEC. 613. SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE

(a) In General.—(1) An officer of a reserve component of the Armed Forces described in paragraph (2) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $10,000.

(2) An officer referred to in paragraph (1) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

(3) Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

(b) Refund Requirement.—An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.

(c) Inapplicability of Discharge in Bankruptcy.—A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the person receiving such special pay from the debt arising under the agreement.

(d) Termination of Agreement Authority.—No agreement under this section may be entered into after September 30, 1990.

(e) Purpose of Program.—The authority provided under this section shall be used only for the purpose of establishing and conducting a pilot test program to determine the effect that the program provided for in this section has on the retention of officers who are qualified in specialties designated by regulation as critically short wartime specialties.

(f) Regulations.—(1) This section shall be administered under regulations prescribed by the Secretary concerned and approved by the Secretary of Defense.

(2) As used in paragraph (1), the term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

(g) Limitations on Obligations.—The total amount of payments that may be made during fiscal year 1989 as the result of agreements entered into under this section may not exceed $4,000,000.

(h) Report.—Not later than September 1, 1988, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of the manner in which the pilot test program described in subsection (e) is to be structured, including the minimum periods of service to be required for various levels of special pay under this section.

(i) Effective Date.—The authority to enter into agreements under this section shall be effective 30 days after the date on which the committees referred to in subsection (h) receive the report required by such subsection.

SEC. 614. RETIRED PAY INVERSIONS RESULTING FROM COURT-MARTIAL PUNISHMENT

(a) In General.—Section 1401a(f) of title 10, United States Code, is amended by inserting after the second sentence the following: "However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member was retired.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the first day of the first month that begins after the date of the enactment of this Act and shall apply to the computation of the retired or retainer pay of members of the

Armed Forces who initially become entitled to such pay on or after such effective date.

SEC. 615. SPECIAL ANNUITY FOR CERTAIN SURVIVING SPOUSES

(a) In General.—(1) The Secretary concerned shall pay a $165 monthly annuity to any unremarried surviving spouse of a member of the uniformed services who—

(A) died before November 1, 1953; and

(B) was entitled to retired or retainer pay on the date of death.

(2) The annuity paid to any unremarried surviving spouse under this section shall be reduced by—

(A) the amount of compensation to which such surviving spouse is entitled under section 411(a) of title 38, United States Code; and

(B) any amount such surviving spouse is entitled to receive as an annuity under subchapter I or II of chapter 73 of title 10, United States Code.

(3) The annuity paid to any unremarried surviving spouse under this section shall be in addition to any pension to which such surviving spouse is entitled under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (38 U.S.C. 521 note), and any payment made under the provisions of section 4 of Public Law 92-425 (10 U.S.C. 1448 note). An annuity paid under this section shall not be considered as income for the purposes of eligibility to any such pension.

(b) Cost-of-Living Increases.—Whenever retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent. The amount of the increase shall be based on the monthly annuity payable before any reduction under this section.

(c) Definitions.—In this section:

(1) The term "uniformed services" has the same meaning as provided in section 101(3) of title 37, United States Code.

(2) The term "surviving spouse" has the meaning given the terms "widow" and "widower" in paragraphs (3) and (4), respectively, of section 1447 of title 10, United States Code.

(3) The term "Secretary concerned" has the meaning given such term in section 101(8) of title 10, United States Code, and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

(d) Effective Date.—The provisions of this section shall become effective on the date of enactment of this Act, except that no benefit shall accrue to any person before the first day of the second month following the month in which the Secretary receives an application from such person for such annuity.

SEC. 616. TRAVEL AND TRANSPORTATION ALLOWANCES FOR EMERGENCY TRAVEL

Section 411e(a) of title 37, United States Code, is amended by striking out "incident to the serious illness or injury or the death of a dependent of the member" and inserting in lieu thereof "incident to a personal emergency of the member".

SEC. 617. DEPENDENT STATUS OF CERTAIN CHILDREN

Section 401(2) of title 37, United States Code, is amended by striking out "member)" and inserting in lieu thereof "member, or any other child for whom care and support is provided by the member pursuant to an order of custody issued by a court of competent jurisdiction)".

SEC. 618. CIVILIAN CLOTHING ALLOWANCE

Section 419 of title 37, United States Code, is amended—

(1) by striking out "member" each place it appears and inserting in lieu thereof "officer";

(2) by striking out "is entitled" and inserting in lieu thereof "may be paid"; and

(3) by striking out "member's" and inserting in lieu thereof "officer's".

SEC. 619. TRAVEL AND TRANSPORTATION ALLOWANCES INCIDENT TO VOLUNTARY EXTENSION OF OVERSEAS TOURS OF DUTY

(a) Change From Mandatory to Permissive.—Section 411g(a) of title 37, United States Code, is amended by striking out "is entitled" and inserting in lieu thereof "may be paid".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to agreements to extend overseas tours of duty made on and after the date of the enactment of this Act.

SEC. 620. COMMISSARY STORES PRIVILEGES

(a) In General.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1055. Commissary store privileges for custodial parents

"The unremarried former spouse of a member or retired member of the Armed Forces may use commissary stores for the benefit of a dependent child (as described in section 1072(2)(D) of this title) of such member during any period when all of the following conditions apply:

"(1) such former spouse has legal custody of such a child;

"(2) such a member or retired member is authorized to use commissary stores;

"(3) such dependent child is unable to use commissary stores because of administrative restrictions on the use of commissary stores by dependent children.".

(b) Technical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1055. Commissary store privileges for custodial parents.".

SEC. 620A. INJURY, DISABILITY, AND DEATH COMPENSATION COVERAGE FOR ROTC CADETS DURING MILITARY TRAINING ACTIVITIES

(a) Authority to Prescribe Training.—Section 2109 of title 10, United States Code, is amended—

(1) by striking out the catchline and inserting in lieu thereof the following:

"§ 2109. Practical military training";

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) For the further practical instruction of members of, and designated applicants for membership in, the program, the Secretary of the military department concerned may prescribe and conduct practical military training, in addition to field training and practice cruises prescribed under section 2104(b)(6) of this title. The Secretary concerned may require that some or all training prescribed under this subsection must be completed by members before they are commissoned."; and

(3) in subsection (b)—

(A) by inserting after "Secretary of the military department concerned may" the phrase ", with respect to practical military training prescribed under this section and field training and practice cruises prescribed under section 2104(b)(6) of this title"; and

(B) by striking out "field training or practice cruises", "training or cruise", "field training and practice cruises" and "training or practice cruises" each place such phrases appear and inserting in lieu thereof "such training".

(b) Coverage for Injury, Disability, and Death.—Section 8140 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "disability or death from an injury" and inserting in lieu thereof "an injury, disability, or death"; and

(B) by striking out "field training or a practice cruise" and inserting in lieu thereof "training prescribed";

(2) in subsection (f), by striking out "while attending field training or a practice cruise under chapter 103 of title 10" and inserting in lieu thereof "by a military department"; and

(3) by adding at the end thereof the following new subsection:

"(g) For purposes of this section, the term 'applicant for membership' includes a student enrolled, during a semester or other enrollment term, in a course which is part of Reserve Officers' Training Corps instruction at an educational institution.".

(c) Training Included Within Certain Definitions.—Section 101 of title 38, United States Code, is amended—

(1) in paragraph (22) by inserting "for not less than four weeks duration and which must be completed before commissioning" after "title 10" in clause (D) thereof; and

(2) in paragraph (23)—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting "; and" in lieu thereof; and

(C) by inserting immediately after clause (B) the following new clause:

"(C) training (other than active duty for training) by a member, or applicant for membership (as defined in section 8140(g) of title 5) of the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10.".

(d) Pay Status While in Certain Training.—Section 209(c) of title 37, United States Code, is amended by striking out "field training or practice cruises under section 2109 of title 10" and inserting in lieu thereof "training prescribed under section 2109 of title 10 if such training is of at least four weeks duration and must be completed before commissioning".

(e) Effective Date.—The amendments made by this section shall apply only to training performed and injuries, disabilities, or death occurring during training performed, after September 30, 1988.

Part C—Health Care Provisions

SEC. 621. EXTENSION OF USE OF PUBLIC HEALTH SERVICE HOSPITALS BY THE UNIFORMED SERVICES

Section 1252(e) of the Department of De-

fense Authorization Act, 1984 (42 U.S.C. 248d(e)), is amended by striking out "December 31, 1988" in the first sentence and inserting in lieu thereof "December 31, 1991".

SEC. 622. REPEAL OF AUTHORITY TO ALLOCATE SPECIFIED PORTION OF NAVY OFFICER ACCESSIONS AND GROWTH IN END STRENGTHS TO HEALTH PROFESSIONS

Section 723 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1116) is repealed.

SEC. 623. MODIFICATION OF DEFINITION OF DEPENDENT

(a) Amendment to Section 1072(2) of Title 10.—Section 1072 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (F);

(2) by striking out the period at the end of clause (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(H) the grandchild of a member or former member if the grandchild is in fact dependent on the member or former member for over one-half of the grandchild's support and if a parent of the grandchild qualifies as a dependent of the member or former member under clause (D).".

(b) Non-retroactive Benefits.—No health care benefits shall be payable to or on behalf of any person as a result of the amendment made by this Act for any health care furnished to any person for any period prior to the date of the enactment of this Act.

TITLE VII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 701. JOINT OFFICER MANAGEMENT POLICIES

(a) Selection of Officers for the Joint Specialty.—The last sentence of subparagraph (D) of section 661(c)(3) of title 10, United States Code, is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(b) Critical Joint Duty Assignments.—The last sentence of paragraph (2) of section 661(d) of such title is amended to read as follows: "Not less than 80 percent of the positions so designated by the Secretary shall be held at all times by officers who have the joint specialty.".

(c) Promotion Policy Objectives.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) Length of Joint Duty Assignments.—Section 664 of such title is amended—

(1) in subsection (a)—

(A) by striking out "three" in paragraph (1) and inserting in lieu thereof "two";

(B) by striking out "three and one-half" in paragraph (2) and inserting in lieu thereof "three";

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Exception for Assignment of Officers With Critical Occupational Specialties.—The Secretary may prescribe the length of a joint duty assignment to be less than the length prescribed in subsection (a) (without the requirement of a waiver under subsection (b)) in the case of an officer who has a military occupational specialty designated as a critical occupational specialty under section 661(c)(2) of this title. In no case may the Secretary prescribe the length of a joint duty assignment to be less than two years.";

(3) in subsection (e)(2), by striking out the comma after "subsection (c)" in subparagraph (A) and all that follows through the end of the subparagraph and inserting in lieu thereof a period;

(4) in subsection (f)—

(A) by striking out "or" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new paragraphs:

"(4) a joint duty assignment outside the 48 contiguous States or in Alaska or Hawaii for which the normal accompanied-by-dependents tour of duty is prescribed by regulation to be at least two years in length, if the officer serves in the assignment for a period equivalent to the accompanied-by-dependents tour length; or

"(5) a joint duty assignment during which the officer is selected for promotion to the grade of brigadier general or rear admiral (lower half), if the officer served at least two years in such assignment.";

(5) in subsection (g)—

(A) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(1) Cumulative service for purposes of subsection (f)(3) is service in joint duty assignments which totals in length not less than the applicable standard prescribed in subsection (a).

"(2) In computing the cumulative service of an officer in joint duty assignments for purposes of paragraph (1), a tour of duty of the officer in a joint duty assignment may not be counted—

"(A) unless the officer served at least 10 months in that assignment; or

"(B) in the case of an assignment other than an assignment that—

"(i) was performed outside the United States or in Alaska or Hawaii; or

"(ii) was terminated because of a qualifying reassignment,

unless the officer served at least two years in that assignment.

"(3) The prohibition in paragraph (2)(B) does not apply to a joint duty assignment which follows a reassignment described in paragraph (4)(B)."; and

(B) by striking out "paragraph (1)(B)" in paragraph (4) in the matter preceding clause (A) and inserting in lieu thereof "paragraph (2)(B)(ii)"; and

(6) by adding at the end the following new subsection:

"(h) Constructive Credit.—The Secretary of Defense may accord constructive credit in the case of an officer who, for reasons of military necessity, is reassigned from a joint duty assignment within 60 days of meeting the tour length criteria prescribed in subsection (a), (c), (f), or (g) (or in section 406(b) of Public Law 99-433). The amount of constructive service that may be credited to such officer shall be an amount sufficient for the completion of the applicable tour of duty requirement, but in no case more than 60 days. This subsection shall not apply in the case of an officer who serves less than 10 months in the joint duty assignment.".

(e) Modification of Definition of Joint Duty Assignment.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 250 assignments which the Secretary, after consultation with the Chairman of the Joint Chiefs of Staff, designates as assignments that provide significant experience in joint matters.".

(f) Joint Duty Assignment as Prerequisite for Promotion to General or Flag Officer Grade.—Section 619(e) of such title is amended—

(1) in paragraph (1), by striking out the second sentence and inserting in lieu thereof the following: "An officer of the Navy designated as a qualified nuclear propulsion officer may be appointed to the grade of rear admiral (lower half) without regard to the preceding sentence.";

(2) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) in the case of an officer who served in a joint duty assignment begun before January 1, 1987, if the officer served in such assignment for a period of sufficient duration (not less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect at the time the assignment began or, in the case of any other joint duty assignment, if the officer served in such assignment for not less than two years; and"; and

(3) in paragraph (3)(C), by striking "or (2)(D)" and inserting in lieu thereof "(2)(D), or (2)(E)".

(g) Transition.—Section 406 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 661 note) is amended—

(1) in subsection (a)(1), by striking out "two" and inserting in lieu thereof "three";

(2) in subsection (b)(1)(B), by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) waive the requirement for the length of a joint duty tour assignment in the case of a joint duty assignment begun by an officer before January 1, 1987, if the officer has served in such assignment for a period of sufficient duration (not less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect at the time the assignment began or, in the case of any other joint duty assignment, if the officer has served in such an assignment for not less than two years; and"; and

(C) in subsection (b)(3), by striking out "two" and inserting in lieu thereof "three".

(h) Report.—(1) The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall submit a report on joint officer management policies to the Committees on Armed Services of the Senate and House of Representatives.

(2) The report required by paragraph (1) shall comprehensively address the following:

(A) The principles that should guide joint officer management policies.

(B) The goals that should be established for joint officer management policies.

(C) The detailed concepts that support these principles and goals.

(D) The extent to which the joint officer personnel policies provided for in title IV of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 have been implemented.

(E) Changes in the laws relating to the joint officer management policies that would make those policies more consistent with the principles of subparagraph (A), would achieve the goals of subparagraph (B) more effectively, and would simplify procedures for joint officer management.

(3) The report required by paragraph (1) shall be submitted not later than February 1, 1990.

SEC. 702. DEFERRED RETIREMENT DATE FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Notwithstanding the limitation contained in the first sentence of subsection (b) of section 1251 of title 10, United States Code, the President may defer until October 1, 1989, the retirement of the officer serving as Chairman of the Joint Chiefs of Staff for the term beginning October 1, 1987.

SEC. 703. ASSIGNMENT OF COMBATANT FORCES

Section 162(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or to United States elements of binational or multinational military commands" in the first sentence after "combatant commands";

(2) in paragraph (2), by inserting "or other commands" after "combatant commands"; and

(3) in paragraph (3), by inserting "or to the United States element of a binational or multinational military command" after "combatant command".

SEC. 704. RESPONSIBILITY AND AUTHORITY OF COMMANDER OF SPECIAL OPERATIONS COMMAND

Section 167(e) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "of such command" in the matter preceding subparagraph (A);

(B) by redesignating subparagraphs (B) through (J) as subparagraphs (C) through (K), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for special operations forces.";

(D) by inserting "of assigned forces" after "readiness" in subparagraph (G), as redesignated by subclause (B);

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(L) Monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions."; and

(3) by redesignating paragraph (3) as paragraph (2), and by striking out "paragraph (1)(G)" in such paragraph and inserting in lieu thereof "paragraph (1)(H)".

SEC. 705. PROHIBITION ON USE OF FUNDS FOR AN OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

Funds made available to the Department of Defense for fiscal year 1989 may not be used for the purpose of—

(1) establishing or operating an Office of the Assistant Secretary of Defense for Intelligence; or

(2) paying the salary of an Assistant Secretary of Defense for Intelligence.

SEC. 706. GENERAL COUNSELS OF MILITARY DEPARTMENTS

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Sections 3019, 5019, and 8019 of title 10, United States Code, are each amended by inserting ", by and with the advice and consent of the Senate" after "President".

(b) APPLICABILITY.—The amendments made by this section shall apply to appointments made under sections 3019, 5019, and 8019, respectively, of title 10, United States Code, on and after the date of the enactment of this Act.

SEC. 707. ANNUAL NET ASSESSMENTS

Section 113(j) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(j)";

(2) by striking out the second sentence; and

(3) by adding at the end the following:

"(2) Each such report shall—

"(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies and the armed forces of potential adversaries of the United States and allies of the United States;

"(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during the five years covered by the five-year defense program submitted to Congress in such year pursuant to section 114(g) of this title;

"(C) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

"(D) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

"(3) The Secretary of Defense shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in such year. Such report shall be transmitted in both classified and unclassified form.".

TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

SEC. 801. INTEGRATED FINANCING POLICY

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2330. Integrated contract finance, investment, and risk-sharing plan

"(a) IN GENERAL.—(1) The Secretary of Defense shall develop each year, in conjunction with the five-year defense program submitted to Congress under section 114(g) of this title in such year, a plan that ensures that Department of Defense policies referred to in subsection (b) are structured to meet the long-term needs of the Department of Defense for industrial resources and technology innovation. In developing each such plan, the Secretary shall take into consideration the five-year defense program and Department of Defense mobilization plans.

"(2) In developing each plan required under paragraph (1), the Secretary shall take into account the different characteristics of separate segments and tiers of private industry.

"(b) APPLICABILITY.—Subsection (a) applies to the following policies applicable to Department of Defense contractors:

"(1) Policies relating to progress payments or other financing of contractors by the Department of Defense.

"(2) Policies relating to the return on contractor investment under Department of Defense contracts.

"(3) Policies relating to the division of contract risk between the Department of Defense and a contractor.

"(c) EXPLANATION OF PLAN.—The Secretary of Defense shall submit to Congress each year a report which contains the plan required by subsection (a) and an explanation of the manner in which the policies referred to in subsection (b), as reflected in the budget for the fiscal year following the fiscal year in which such report is submitted, enhance the ability of the Department of Defense to obtain industrial resources and encourage technology innovation. Such report shall be submitted each year at the same time that the five-year defense program is submitted to Congress in such year.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2330. Integrated contract finance, investment, and risk-sharing plan.".

(b) TRANSITION DATES FOR SUBMISSION OF THE FIRST THREE PLANS.—The first plan required by section 2330 of title 10, United States Code (as added by subsection (a)), shall be submitted to Congress in 1989. Notwithstanding subsection (c) of such section, the plans required to be submitted in 1989, 1990, and 1991 shall each be submitted not later than March 1 of such year.

SEC. 802. GUIDANCE ON USE OF FIXED PRICE DEVELOPMENT CONTRACTS

(a) IN GENERAL.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe guidelines that provide that a fixed-price contract should be awarded in the case of a development program conducted by the Department of Defense only when—

(A) the level of program risk permits realistic pricing; and

(B) the use of a fixed-price contract permits an equitable and sensible allocation of program risk between the United States and the contractor.

(2)(A) The Secretary of a military department and the head of a Defense Agency may not award a firm fixed-price contract in

excess of $10,000,000 for the development of a major system or a subsystem of a major system unless the Under Secretary of Defense for Acquisition determines and states in writing that the award of such contract is consistent with the criteria specified in clauses (A) and (B) of paragraph (1) and the guidelines prescribed under such paragraph.

(B) The Under Secretary of Defense for Acquisition may delegate his authority under subparagraph (A) only to a person who holds a position in the Office of the Secretary of Defense at or above the level of Assistant Secretary of Defense.

(b) DEFINITIONS.—In this section:

(1) The term "Defense Agency" has the same meaning as is provided in section 101(44) of title 10, United States Code.

(2) The term "major system" has the same meaning as is provided in section 2302(5) of title 10, United States Code.

(c) EXPIRATION.—Paragraph (2) of subsection (a) shall cease to be effective two years after the date of the enactment of this Act.

SEC. 803. INCENTIVES FOR INNOVATION

Section 2305(d) of title 10, United States Code, is amended by adding at the end the following:

"(4)(A) Whenever the head of an agency requires that proposals described in paragraph (1)(B) or (2)(B) be submitted by an offeror in its offer, the offeror shall not be required to provide for future competition between identical items for an item developed exclusively at private expense by a contractor or subcontractor unless the head of the agency determines that—

"(i) the original supplier of such item will be unable to satisfy program schedule or delivery requirements; or

"(ii) the price of such item provided in economic order quantities to the Government will not be fair or reasonable based on an analysis of cost and performance comparisons with competing substitutes.

"(B) The restrictions in subparagraph (A) shall not preclude the head of an agency from requiring proposals from the developer of an item developed exclusively at private expense to provide for the mobilization needs of the agency for such item.

"(C) In the event that the proposals described in paragraph (1)(B) or (2)(B) are required, the head of an agency shall adjust the consideration of such proposal in the evaluation of the offeror's price or the consideration under paragraph (3) of negotiating objectives to accommodate subparagraphs (A) and (B).".

SEC. 804. MAINTENANCE AND IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

(a) FINDINGS.—The Congress finds that—

(1) a strong defense industrial base in the United States is essential to the national security and significantly enhances the capability of United States manufacturers and producers—

(A) to develop technologically superior defense material rapidly and to produce such material efficiently in cost-effective quantities during peacetime; and

(B) to expand productive capacity to meet the demands of a national emergency;

(2) a strong and responsive defense industrial base is a basic deterrent to aggression and, thus, helps to preserve peace;

(3) a series of studies conducted over a 10-year period by Congress, the General Accounting Office, the Department of Defense, and others have consistently shown a steady, unchecked erosion of the defense industrial base in the United States;

(4) despite the uniformly adverse findings contained in the reports on such studies, the United States still lacks a coherent industrial base policy that is directly linked to national security strategy;

(5) reliable methods for assessing the weaknesses and strengths of the defense industrial base have not been utilized;

(6) the development and implementation of an effective program for the restoration and maintenance of the defense industrial base is unlikely to occur without improved centralized policy direction and management;

(7) existing programs and authorities designed to restore and maintain the defense industrial base have received inconsistent and, frequently, inadequate allocations of resources and management attention from the military departments and the Defense Agencies because the Office of the Secretary of Defense has not exercised strong leadership in defense industrial base management;

(8) procurement policies, regulations, and practices of the Department of Defense do not sufficiently encourage—

(A) investment in advanced manufacturing technology and modernization of manufacturing facilities and equipment;

(B) the entry of efficient producers from the commercial sectors of the economy into the defense procurement market; and

(C) continued participation of efficient producers in the defense procurement competitions; and

(9) several foreign governments, including allies of the United States, have established defense industrial base policies and defense trade policies that promote national economic interests rather than the achievement of maximum defense capability from limited resources.

(b) AMENDMENTS TO TITLE 10.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 169 the following new chapter:

"CHAPTER 170—DEFENSE INDUSTRIAL BASE MANAGEMENT AND SUPPORT PROGRAMS

"Sec.

"2871. Centralized guidance, analysis, and planning for programs affecting the defense industrial base.
"2872. Analysis of the capability of the defense industrial base to support certain defense acquisition programs.
"2873. Increased reliance on commercial manufacturing processes and commercial items.

"§ 2871. Centralized guidance, analysis, and planning for programs affecting the defense industrial base

"The Under Secretary of Defense for Acquisition shall, subject to the authority, direction, and control of the Secretary of Defense—

"(1) provide overall policy guidance and direction to the military departments and the Defense Agencies on matters relating to the maintenance, expansion, and readiness of the defense industrial base of the United States;

"(2) analyze the capabilities of the defense industrial base of the United States to fulfill the requirements of the national defense strategy in time of peace and the expanded requirements of the national defense strategy in time of war or national emergency;

"(3) develop and direct the implementation of plans and programs that promote the ability of the defense industrial base to meet the requirements referred to in clause (2); and

"(4) identify and plan for the procurement of items of supply that—

"(A) are suitable substitutes for military standard items of supply, or suitable substitutes for subsystems or components of military standard items of supply, that are anticipated to be unavailable from existing sources in quantities that are sufficient to meet planned requirements in time of war or national emergency; and

"(B) are commercially available from domestic sources.

"§ 2872. Analysis of the capability of the defense industrial base to support certain defense acquisition programs

"(a)(1) The Under Secretary of Defense for Acquisition may require that each defense acquisition program designated by the Under Secretary for the purposes of this section include a requirement for an analysis of the capability of the defense industrial base to develop, produce, maintain, and support the system to be acquired under such program.

"(2) In the conduct of any analysis required under paragraph (1), the following factors, as appropriate, may be considered:

"(A) The availability of essential raw materials, special alloys, and composite materials.

"(B) The availability of components or subsystems essential for—

"(i) the production of a system that is fully capable of performing its purpose;

"(ii) the maintenance and repair of such system; and

"(iii) the operation of such system.

"(C) The production capacity of the prime contractor, subcontractors, and component suppliers to maintain adequate production rates.

"(D) The availability of required production test equipment to assure quality.

"(E) The identification of components or subsystems that are available solely from sources outside the United States.

"(F) Planned alternatives, if appropriate, for meeting requirements that during peacetime are supplied by sources outside the United States.

"(3) In the conduct of the analysis required under paragraph (1), the Under Secretary shall minimize the paperwork burden on the contractor, its subcontractors, and suppliers.

"(b) The Under Secretary of Defense for Acquisition shall be responsible for compiling and analyzing the data obtained under subsection (a) in order to insure that, in the case of each program referred to in such subsection—

"(1) the capabilities of the defense industrial base of the United States to meet program requirements has been assessed by the military department or Defense Agency carrying out such program; and

"(2) the capabilities of the defense industrial base of the United States to meet the aggregate requirements for all such programs has been assessed in the Office of the Secretary of Defense.

"§ 2873. Increased reliance on commercial manufacturing processes and commercial items

"The Under Secretary of Defense for Acqui-

sition shall establish and implement to the maximum extent practicable acquisition policies which provide for—

"(1) expanded use of commercial manufacturing processes rather than military standard requirements;

"(2) elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under defense contracts; and

"(3) encouragement of the military departments and the Defense Agencies to identify commercial items that are suitable substitutes for military standard items incorporated into weapon systems or other items of equipment.".

(2) The tables of chapters at the beginning of such part and such subtitle are each amended by inserting after the item relating to chapter 169 the following:

"170. Defense Industrial Base Management and Support Programs........................ 2871".

(c) DEFENSE PRODUCTION INNOVATION CENTER.—The Under Secretary of Defense for Acquisition may establish within the Office of the Under Secretary of Defense for Acquisition a defense production innovation center to be the principal office in the Department of Defense for the development of policies and plans regarding the conduct of programs for the improvement of the defense industrial base of the United States. The head of any center established under this subsection shall be the Defense Production Base Director. The Defense Production Base Director shall—

(1) develop and propose plans and programs for the maintenance and fostering of defense industrial readiness in the United States;

(2) encourage the utilization of advanced manufacturing technology and processes by the defense industries of the United States;

(3) encourage Department of Defense contractor investment in improved productivity;

(4) propose, consistent with existing law, the repeal or amendment of such Defense Acquisition Regulations and other regulations and policies as may be necessary to eliminate any adverse effect that the regulations and policies may have on investment in improved productivity;

(5) as authorized by the Under Secretary, evaluate and provide direction for testing (through demonstrations or otherwise) innovative ideas for improving defense industrial readiness in the United States, including ideas for improving—

(A) manufacturing processes; and

(B) the acquisition procedures of the Department of Defense; and

(6) perform such other functions as may be assigned by the Under Secretary.

(d) ANALYSIS OF DEFENSE INDUSTRIAL BASE CAPABILITY.—(1) During fiscal year 1989, the Under Secretary of Defense for Acquisition shall require each military department to initiate at least one analysis of the type described in section 2872 of title 10, United States Code (as added by subsection (b)) of the capability of the defense industrial base of the United States to develop, produce, maintain, and support the system or systems to be acquired under one or more acquisition programs carried out by such department.

(2) A program may not be selected for an analysis under this subsection if production of the system to be acquired under such program has begun.

(3) All analyses required under this subsection shall be completed not later than September 30, 1990.

(4) Not later than February 1, 1991, the Under Secretary of Defense for Acquisition shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the analyses required under this subsection.

SEC. 805. DEFENSE MEMORANDA OF UNDERSTANDING

(a) IN GENERAL.—The Secretary of Defense shall consult with the Secretary of Commerce in the negotiation and renegotiation of memoranda of understanding between the Department of Defense and one or more foreign countries (or any instrumentality of a foreign country) relating to defense trade, cooperation on defense research, or production of defense equipment.

(b) REPORTS.—Not later than 30 days after a memorandum of understanding described in subsection (a) is entered into, the Secretary of Defense, in consultation with the Secretary of Commerce, shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives containing a description of the anticipated effects of the implementation of such memorandum on the defense industrial base of the United States.

(c) WAIVER.—The President may waive the requirements of subsections (a) and (b) in the event of war or of a national emergency declared by the President.

(d) IMPLEMENTATION OF MEMORANDA.—In implementing memoranda of understanding described in subsection (a), the Secretary of Defense shall fully utilize such resources of the Department of Commerce as the Secretary of Commerce may make available to the Department of Defense pursuant to an agreement entered into by the Secretary of Defense and the Secretary of Commerce for the purpose of this subsection.

SEC. 806. DEPARTMENT OF DEFENSE OFFSET POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) Many contracts entered into by United States firms for the supply of weapon systems to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as "offsets", distort international trade and may contribute to a decline in United States defense industry opportunities in domestic and foreign markets.

(2) United States subcontractors are adversely affected by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the foreign trade policies of the countries of such firms frequently give foreign firms a competitive advantage against United States firms in world markets for products utilizing such technology.

(5) A purchase of defense equipment pursuant to an offset arrangement is likely to increase the cost of the defense equipment to the purchasing country and, in the case of a country with limited resources, reduce the defense capability of that country.

(6) A substantial increase in the exporting of defense equipment produced in the United States is critical in order to maintain the defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States.

(b) AMENDMENT TO TITLE 10.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410. Offset policy; notification

"(a) ESTABLISHMENT OF OFFSET POLICY.—The Secretary of Defense, through the Under Secretary of Defense for Acquisition and in coordination with the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements, including policy on the following matters:

"(1) Transfer of technology in connection with offset arrangements.

"(2) Limitations on the application of offset arrangements in cases in which United States funds are used in financing the purchase by a foreign government.

"(3) Means for measuring the effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

"(b) TECHNOLOGY TRANSFER.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

"(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Under Secretary of Defense for Acquisition, in consultation with the Secretary of Commerce, determines that a transfer of United States defense technology pursuant to such understanding or agreement will result in strengthening the national security of the United States and so certifies to Congress.

"(c) NOTIFICATION REGARDING FIRM OFFSETS.—If at any time a United States firm enters into a contract for the sale of a weapon system to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in accordance with

regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

"(d) Definitions.—In this section:

"(1) The term 'foreign firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities outside the United States.

"(2) The term 'United States firm' means a business entity other than a foreign firm.".

(2) The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

"2410. Offset policy; notification.".

(c) Negotiations.—(1) The Secretary of Defense, in consultation with the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The Secretary shall conduct such negotiations with a view to achieving an agreement with the countries concerned (A) that would limit the adverse effects that such arrangements have on the defense industrial base of each such country, and (B) that would prohibit such arrangements between the United States and the countries concerned after a specified date.

(2) The Secretary of Defense shall make every effort to achieve, within two years after the date of the enactment of this Act—

(A) an initial agreement that would limit the adverse effects (described in subsection (a)) that offset arrangements have on the industrial bases of the countries concerned; and

(B) within 4 years after the date of the enactment of this Act, a final agreement that would prohibit such arrangements after a specified date.

(3) The Secretary of Defense, in consultation with the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, shall report to Congress at least once each year, for a period of 4 years, on the progress of the negotiations referred to in paragraph (2). The first such report shall be submitted not later than one year after the date of the enactment of this Act.

(d) Reports.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on contractual offset arrangements required of United States firms for the supply of weapon systems to foreign countries or foreign firms. Such report shall include the following:

(A) An analysis of the amount and type of contractual offsets required of United States firms by the governments of foreign countries or by foreign firms.

(B) An assessment of the benefits for and costs to United States manufacturers of defense products at all tiers that result from requirements of foreign governments for contractual offset arrangements in the case of products procured from United States firms.

(C) An assessment of the benefits for and the costs to United States manufacturers of defense products at all tiers that would result from restriction of the ability of foreign governments or foreign firms to require contractual offsets in the case of defense products procured from United States firms.

(D) An assessment of the benefits and costs of a United States policy that requires reciprocal offsets in the procurement of defense products from those countries whose governments have a policy of requiring contractual offsets in the case of defense products procured from United States firms.

(E) An assessment of the impact that elimination of contractual offset requirements in international sales of defense products would have on the national security of the United States.

(F) Recommendations for a national policy with respect to contractual offset arrangements.

(G) A preliminary discussion of the actions referred to in paragraph (2)(A).

(2)(A) Not later than March 15, 1989, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of appropriate actions to be taken by the United States with respect to purchases from United States firms by a foreign country (or a firm of that country) when that country or firm requires an offset arrangement in favor of such country. The report shall include a discussion of the following possible actions:

(i) A requirement for an offset in favor of the United States or United States firms in any case in which the Department of Defense or any other department or agency of the United States purchases goods from such foreign country or a firm of such country.

(ii) A demand for offset credits from such foreign country to be used, to the extent practicable, to meet offset obligations of United States firms to such foreign country or to a firm of such country.

(iii) A reduction in assistance furnished such foreign country by the United States.

(iv) A requirement for alternative equivalent advantages in the case of any such foreign country or a firm of such country if the United States does not purchase a sufficient volume of goods from such country or firm for a requirement described in clause (i) to be effective.

(B) In this paragraph, the terms "foreign firm" and "United States firm" have the same meanings as are provided in section 2410(e) of title 10, United States Code, as added by subsection (b).

SEC. 807. EXPORT OF UNITED STATES DEFENSE PRODUCTS

(a) In General.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The regulations shall provide that foreign selling costs, including costs incurred at domestic and international exhibits to promote the export of products of the United States defense industry, shall be allowable to the extent that such costs are—

"(A) allocable, reasonable, and not otherwise unallowable; and

"(B) within dollar ceilings established in advance agreements that—

"(i) are negotiated between the Secretary of Defense and the contractor or subcontractor before or during the fiscal year covered by such agreements; and

"(ii) are entered into after the Secretary determines that cost advantages for the United States will result from allowing such foreign selling costs under such agreements.

Each of the budget requests submitted to Congress by the Secretary after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1989 shall reflect such cost advantages.".

(b) Implementation.—The Secretary of Defense shall issue final regulations required by paragraph (5) of section 2324(f) of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are issued.

SEC. 808. APPROVAL OF CONTRACTS

Section 2304(f)(1)(B)(iii) of title 10, United States Code is amended by inserting "or, in the case of an element of the Department of Defense for which the Under Secretary of Defense for Acquisition would be the sole designated senior procurement executive, the senior level official designated for that element by the Under Secretary of Defense for Acquisition," after "(41 U.S.C. 414(3))".

SEC. 809. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) Purpose of Program.—Section 2412 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause (3):

"(3) to encourage eligible entities to furnish to business entities, especially small businesses, procurement technical assistance that facilitates the exporting of defense-related products and services by such business entities.".

(b) Limitation.—Section 2414 of title 10, United States Code, is amended to read as follows:

"§ 2414. Limitation

"(a) In General.—The value of the assistance furnished by the Secretary to any eligible entity to carry out a procurement technical assistance program under a cooperative agreement under this chapter during any fiscal year may not exceed—

"(1) in the case of a program operating on a State-wide basis, $300,000; or

"(2) in the case of a program operating on less than a State-wide basis, $150,000.

"(b) Determinations on Scope of Operations.—A determination of whether a procurement technical assistance program is operating on a State-wide basis or on less than a State-wide basis shall be made in accordance with regulations prescribed by the Secretary of Defense.".

(c) Procurement Technical Assistance for Indian Tribal Organizations.—Section 807(a)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1128) is amended by striking out "amount provided under paragraph (1) for fiscal year 1988, $500,000 shall be available" and inserting in lieu thereof "amounts provided under paragraph (1) for each of fiscal years 1988 and 1989, $500,000 shall be available for each such fiscal year".

SEC. 810. REGULATORY SIMPLIFICATION AND STREAMLINING OF OVERSIGHT ACTIVITIES

(a) Report.—(1) Not later than December 1, 1988, the Under Secretary of Defense for

Acquisition shall submit to Congress a report on the current programs of the Under Secretary regarding simplification of procedures governing the acquisition process of the Department of Defense and an assessment of the results of those programs.

(2) The report shall include the following:

(A) A schedule or timetable to effectuate regulation reform measures based upon the lessons learned from the conduct of such programs.

(B) In the case of any programs described in paragraph (1) which have not been completed—

(i) a methodology for evaluating such programs; and

(ii) a schedule or timetable for completing an assessment of the results of such programs.

(C) A comprehensive analysis of the effects that existing procurement laws, regulations, and guidelines have on the capability of the Department of Defense efficiently and effectively to meet the national defense needs of the United States, including any recommendations for legislation that the Under Secretary considers appropriate to improve that capability.

(D) A description of the results of the studies undertaken by the Under Secretary in conjunction with the Inspector General of the Department of Defense and the Comptroller of the Department of Defense regarding the responsibilities of the Under Secretary under section 133(d) of title 10, United States Code, to prescribe policies for the prevention of duplication by different elements of the Department of Defense.

(E) A discussion of the feasibility and desirability of—

(i) tailoring the degree of audit and oversight conducted by the Department of Defense to the degree of risk assumed by a contractor in the types of contracts entered into with the Department of Defense;

(ii) granting authority to a senior official of the Department of Defense to receive and promptly resolve complaints of acquisition officials and contractors of the Department of Defense regarding allegations of duplicative oversight activities;

(iii) establishing a formal independent means within the Department of Defense to ensure quality, integrity, and professionalism in the performance of audit and oversight activities; and

(iv) establishing and implementing a policy that no oversight organization within the Department of Defense may conduct an audit or review of an activity in the Department of Defense if any other oversight organization of the Department of Defense has conducted an audit or review of such activity within a fixed period of time preceding the proposed audit or review, if the audit or review proposed to be conducted is not substantially different in type and scope from such prior audit or review, and if there is no compelling reason not to rely on the prior audit or review.

(b) AMENDMENT TO SECTION 133(d) OF TITLE 10.—Section 133(d)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "Such policies shall provide for coordination of the annual plans developed by each such element for the conduct of audit and oversight functions within each contracting activity.".

SEC. 811. DEPARTMENT OF DEFENSE ADVISORY PANEL ON GOVERNMENT-INDUSTRY RELATIONS

(a) ESTABLISHMENT OF ADVISORY PANEL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory panel to study and make recommendations to the Secretary on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including—

(1) procedures governing the debarment and suspension of contractors from doing business with the Department of Defense;

(2) the role of self-governing oversight programs established by defense contractors;

(3) expanded use of alternative dispute resolution procedures; and

(4) the desirability of establishing a permanent advisory panel on government-industry relations.

(b) MEMBERSHIP OF ADVISORY PANEL.—The Secretary of Defense shall appoint persons to the advisory panel who are especially qualified to serve on such panel by virtue of their education, training, and experience in defense acquisition matters. The Secretary shall include on the membership of such panel an appropriate balance of persons from government, private industry, and academia.

(c) REPORT DEADLINE.—(1) The Secretary shall require the advisory panel to submit its findings and recommendations to him not later than 180 days after the date on which the panel is appointed.

(2) The Secretary shall transmit a copy of the report of the advisory panel to Congress, together with such comments and recommendations thereon as the Secretary determines appropriate, within 30 days after the date on which the report is submitted to the Secretary.

SEC. 812. EVALUATION OF CONTRACT PROPOSALS FOR PROFESSIONAL AND TECHNICAL SERVICES

It is the sense of Congress that the evaluation by the Department of Defense of professional and technical services contract proposals should be made on the basis of a 40-hour work week standard.

SEC. 813. ACQUISITION MANAGEMENT AND GOVERNMENT CONTRACTING EDUCATION

(a) IN GENERAL.—Not later than April 1, 1989, the Secretary of Defense, in consultation with the Director of the Office of Personnel Management, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the extent to which institutions of higher education offer and conduct educational programs and courses on Government contracting and acquisition management.

(b) CONTENT OF REPORT.—The report shall include—

(1) a description of graduate-level programs and courses on Government acquisition that are currently offered in the fields of public administration, business, and law;

(2) an assessment of the extent to which such programs meet the needs of the Department of Defense and defense industries for highly qualified, entry-level specialists in Government contract administration, Government contract financing, and Government contract law; and

(3) a plan for determining and prescribing appropriate education and training qualifications for applicants for Government contracting and acquisition management positions.

SEC. 814. SCIENCE AND ENGINEERING WORKFORCE STUDY

The Secretary of Defense shall complete the study that was initiated by the Department of Defense in 1985 for the purpose of determining and testing the factors that increase the supply of minority and women scientists, engineers, and technologists needed by defense industries and the Department of Defense to fulfill the national defense mission.

SEC. 815. AUTHORITY AND RESPONSIBILITIES OF DEPARTMENT OF DEFENSE ACQUISITION OFFICERS

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2303 the following new section:

"§ 2303a. Authority and responsibilities of program managers and contracting officers

"The Secretary of Defense shall prescribe by regulation the authority and responsibilities of Department of Defense acquisition program managers and contracting officers. The Secretary shall ensure that such regulations provide acquisition program managers and contracting officers with decision-making authority that is commensurate with their responsibilities.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2303 the following new item:

"2303a. Authority and responsibilities of program managers and contracting officers.".

(b) IMPLEMENTATION.—The Secretary of Defense shall prescribe the regulations required by section 2303a of title 10, United States Code (as added by subsection (a)), not later than 180 days after the date of the enactment of this Act.

SEC. 816. PRODUCT EVALUATION

(a) IN GENERAL.—Chapter 139 of title 10, United States Code (as amended by section 233), is further amended by adding at the end the following new section:

"§ 2369. Product evaluation activity

"(a) ESTABLISHMENT.—There is established within the Department of Defense an office for the supervision and coordination of product evaluation activities within the Department of Defense. The Under Secretary of Defense for Acquisition shall be the head of such office.

"(b) CONDUCT OF PRODUCT EVALUATION.—(1) The Secretary of each military department and the head of each Defense Agency may, subject to supervision and coordination by the Under Secretary of Defense for Acquisition, establish and conduct a product evaluation activity.

"(2) The purpose of each product evaluation activity established under paragraph (1) is to evaluate products developed by private industry independent of any contract or other arrangement with the United States in order to determine the utility of such products to the Department of Defense.

"(c) COST SHARING.—As a condition to conducting an evaluation of any product under this section, the producer of the product shall be required to pay one half of the cost of conducting such evaluation.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter (as amended by section 233) is further amended by adding at the end the following new item:

"2369. Product evaluation activity.".

SEC. 817. CRITICAL TECHNOLOGIES PLAN

(a) In General.—(1) Chapter 139 of title 10, United States Code (as amended by sections 233 and 816(a)), is further amended by adding at the end the following new section:

"§ 2370. Critical technologies plan

"(a) Annual Plan.—(1) Not later than March 15 of each year, the Under Secretary of Defense for Acquisition, in consultation with the Assistant Secretary of Energy for Defense Programs, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for developing the 20 technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most essential to develop in order to ensure the long-term qualitative superiority of United States weapon systems.

"(2) In selecting the technologies to be included in the plan, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies.

"(3) Such plan shall be submitted in both classified and unclassified form.

"(b) Content of Plan.—Each plan submitted under subsection (a) shall include, with respect to each technology included in the plan, the following matters:

"(1) The reasons for selecting such technology.

"(2) The milestone goals for the development of such technology.

"(3) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for the fiscal year in which the plan is submitted.

"(4) A comparison of the relative positions of the United States and the Soviet Union in the development of such technology.

"(5) The potential contributions that the allies of the United States can make to meet the needs of the alliance for such technology.

"(6) The extent to which the United States should depend on its allies for the development of such technology.

"(7) The potential contributions that the private sector can be expected to make from its own resources in connection with development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter (as amended by sections 233 and 816(a)) is further amended by adding at the end the following new item:

"2370. Critical technologies plan.".

(b) First Report.—The first report under section 2370 of title 10, United States Code (as added by subsection (a)), shall be submitted in 1989.

SEC. 818. UNDEFINITIZED CONTRACTUAL ACTIONS

(a) Inspector General Audits.—Section 2326 of title 10, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Inspector General Audits.—The Inspector General of the Department of Defense shall—

"(1) conduct periodic audits of contractual actions by the Defense Agencies, the Department of Defense field activities, and the military departments; and

"(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each head of an agency, including the percentage of all contractual actions of such agency that are undefinitized contractual actions.".

(b) Repeal of Redundant Report Requirement.—Section 908(a)(4) of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3919; 10 U.S.C. 2326 note) is amended by striking out subparagraphs (C), (D), and (E).

SEC. 819. COMPETITIVE PROTOTYPE STRATEGIES

Section 2365 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "(or a subsystem of such system)";

(2) in subsection (b)—

(A) by striking out "or subsystem" in clause (1);

(B) by striking out "or subsystems" in the matter before subclause (A) in clause (2);

(C) by striking out "or subsystem" in clause (2)(B); and

(D) by striking out "or subsystem" in clause (3);

(3) in subsection (c)—

(A) by striking out "(or subsystem of such system)" in the matter before clause (1);

(B) by striking out "or subsystem" in clause (1)(A); and

(C) by striking out subclause (B) of clause (1) and inserting in lieu thereof the following:

"(B) a report that fully explains why the use of such a strategy is not practicable; and"; and

(4) in subsection (d)—

(A) by striking out "major" the second place it appears in paragraph (1); and

(B) by striking out paragraph (3).

SEC. 820. NEGOTIATION OF SUBCONTRACTING PLANS

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following new paragraph:

"(12) A subcontracting plan negotiated by a Federal agency and a contractor for purposes of paragraph (4) or (5) shall apply to the contractor or, if the plan so provides, only to the organizational component or components of the contractor that perform the contract.".

SEC. 821. SMALL BUSINESS ADMINISTRATION CERTIFICATE OF COMPETENCY

Section 8(b)(7)(C) of the Small Business Act (15 U.S.C. 637(b)(7)(C)) is amended by striking the last sentence and inserting in lieu thereof the following: "In the case of a small purchase contract (within the meaning of section 2304(g)(2) of title 10, United States Code, with respect to contracts awarded pursuant to chapter 137 of such title, or within the meaning of section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) with respect to contracts awarded pursuant to title III of such Act), a contracting officer shall not be required to refer a determination of nonresponsibility to the Administration unless the small business concern applies to the Administration for a determination of its responsibility and requests the issuance of a certificate. Nothing in this paragraph requires the processing of an application for certification if the small business concern to which any referral pertains declines to have the application processed.".

SEC. 822. PROCUREMENT OF CRITICAL SPARE OR REPAIR PARTS FOR AIRCRAFT

(a) In General.—The Secretary of a military department procuring a spare or repair part that is critical to the operation of an aircraft shall require the contractor to supply a part that meets applicable qualification and quality requirements.

(b) Applicable Requirements.—The qualification and quality requirements applicable to a spare or repair part referred to in subsection (a) for an aircraft shall be at least as stringent as (1) those qualification and quality requirements that applied to the original part included in the aircraft at the time the aircraft was procured, or (2) if the original part has been redesigned for use in such aircraft, those qualification and quality requirements that applied to the redesigned part.

(c) Construction.—Nothing in this section limits the application of section 2319 of title 10, United States Code, to the procurement of spare or repair parts described in subsection (a).

(d) Effective Date.—This section shall apply with respect to solicitations for contracts (for the supply of parts) that are issued on or after the date of the enactment of this Act.

TITLE IX—GENERAL PROVISIONS

Part A—Financial and Budget Matters

SEC. 901. TRANSFER AUTHORITY

(a) Authority To Transfer Authorizations.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in title I, II, or III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) Notice to Congress.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 902. FISCAL YEAR 1988 DEFENSE FUNDS TRANSFER AUTHORITY

(a) Enhanced Transfer Authority.—Section 1201(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153) is amended—

(1) by inserting "of this Act or any prior defense authorization Act" in paragraph (1) before "for any fiscal year"; and

(2) by striking out "$2,000,000,000" in paragraph (2) and inserting in lieu thereof "$4,000,000,000".

(b) Specified Purposes.—In determining the purposes for which amounts of authorizations transferred pursuant to section 1201(a) of the Act referred to in subsection (a) will be used, the Secretary of Defense—

(1) shall ensure that an appropriate portion of that authority is used to transfer to operation and maintenance accounts of the Department of Defense for fiscal year 1988 (A) funds for depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur, and (B) funds for pay of civilian personnel in amounts sufficient to prevent furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to insufficient

funding for civilian personnel of the Department of Defense for fiscal year 1988;

(2) shall give special consideration and priority to civilian employees of the Department of Defense, readiness, and more efficient acquisition processes; and

(3) shall provide funds for other high priority readiness items.

SEC. 903. RESTRICTION ON OBLIGATION OF FUNDS APPROPRIATED IN THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1988

(a) The following programs and amounts provided in the Department of Defense Appropriations Act, 1988, may not be obligated or expended:

(1) Maxicube Cargo System under research, development, test, and evaluation for the Army, $10,000,000;

(2) Coastal Defense Augmentation, $20,000,000;

(3) AN/SQR-17 Acoustic Processors for the Mobile In-Shore Undersea Warfare group under procurement of National Guard and Reserve Equipment, $10,000,000;

(4) P-3C aircraft under procurement of National Guard and Reserve Equipment, $193,800,000.

(b)(1) Funds appropriated or otherwise made available for the Army for procurement may not be obligated or expended for the procurement of any air defense system submitted to the Army for evaluation in response to any Army request for proposal for the Forward Area Air Defense Line-of-Sight-Forward-Heavy (LOS-F-H) system unless the Secretary of Defense certifies to Congress that the system has met or exceeded full system requirements.

(2) For purposes of this paragraph, the term "full system requirements" means the most stringent system requirements specified by any request for proposal for accuracy, range (detection, tracking, and engagement), reaction time, and operation in the presence of electronic countermeasures.

(c) None of the funds appropriated for the procurement of aircraft for the Navy for fiscal year 1988 or 1989 may be obligated or expended for procurement of any A-6 aircraft configured in the F model configuration (as described in connection with the A-6E/A-6F aircraft program in the Selected Acquisition Report submitted to Congress for the quarter ending December 31, 1986).

(d) Funds appropriated for procurement of weapons and tracked combat vehicles for the Army for modification of M60 tanks in the amount of $90,000,000 may be used only for procurement or modification of M1 tanks.

(e) For purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153), $233,800,000 (the sum of the amounts described in subsection (a) of this section) shall be deemed to have been authorized by such Act in equal amounts to the Army, Navy, and Air Force for operation and maintenance for the exclusive purpose of preventing the furlough and separation of civilian employees and for the purpose of funding other high priority readiness programs.

PART B—MISCELLANEOUS MATTERS

SEC. 911. SENSE OF CONGRESS ON EXPANDING CONFIDENCE-BUILDING MEASURES

(a) FINDINGS.—Congress makes the following findings:

(1) Approximately two years have passed since the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) adjourned in Stockholm following the adoption of measures designed to increase openness and predictability of military activities in Europe.

(2) To date, there have been seven formal observations and challenge inspections which have been conducted in accordance with the Stockholm agreements.

(3) The military leaders of the North Atlantic Treaty Organization have concluded that the Stockholm observations and inspections have positively contributed to an improved understanding of Warsaw Pact forces and capabilities.

(4) The Conventional Stability Talks (CST), which may begin before the end of 1988, will likely require careful and potentially prolonged negotiation.

(5) New negotiations will also begin under the auspices of the Conference on Security and Cooperation in Europe (CSCE) as a follow-on to the Stockholm conference.

(6) The confidence-building measures established at Stockholm could, if expanded, contribute significantly to the success of the CDE follow-on conference and also to the establishment of a procedural framework for verifying a future CST agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should give high priority to developing, in coordination with the North Atlantic Treaty Organization allies of the United States, stabilizing and verifiable proposals for expanding the regime of confidence-building measures in conjunction with the follow-on to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) and the new Conventional Stability Talks (CST).

SEC. 912. ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS

(a) AMENDMENT TO PUBLIC LAW 99-145.—Section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a), is amended by adding at the end the following: "The President shall specifically include in such report the following:

"(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

"(2) An assessment of all violations by the Soviet Union of such agreements and the risks such violations pose to the national security of the United States and its allies.

"(3) A net assessment of the aggregate military significance of all such violations.

"(4) A statement of the compliance policy of the United States with respect to Soviet violations with such agreements.

"(5) What actions, if any, the President has taken or proposes to take to bring the Soviet Union into compliance with its commitments under arms control agreements with the United States.

"(6) If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning with the report to be submitted by the President pursuant to section 1002 of the Department of Defense Authorization Act, 1986, in 1990.

SEC. 913. ANNUAL REPORT ON ARMS CONTROL STRATEGY

(a) IN GENERAL.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

(1) The nature and sequence of the future arms control efforts of the United States.

(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

(4) A net assessment of the impact that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the impact that such proposed agreements would have on the risks and costs to the United States.

(5) An assessment of the impact that proposed treaty sub-ceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

(6) A statement of the strategy the United States and NATO will use to verify and ensure compliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserved with or without arms control agreements.

(b) EXPLANATION OF METHODOLOGY.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsection (a)), the President shall—

(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analyses in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

(c) FORM OF REPORT.—The President shall submit such report in both classified and unclassified form.

SEC. 914. ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH ALLIED COUNTRIES

Section 2347(a)(1) of title 10, United States Code, is amended by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000".

SEC. 915. AUTHORITY TO WAIVE SURCHARGE ON CERTAIN SALES TO NATO

(a) In General.—Chapter 3 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 130a. Waiver authority for certain charges in connection with certain sales to NATO

"(a) The Secretary of Defense may waive, in connection with any sale made by the Department of Defense to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of weapon system partnership agreements and NATO/SHAPE projects, the charges that would otherwise be applicable to such sale under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A)).

"(b) Funds available to the Department of Defense may be used by the Secretary of Defense to reimburse the fund established to carry out section 43(b) of the Arms Export Control Act (22 U.S.C. 2792(b)) in the amount of the charges waived under subsection (a).

"(c) Definitions.—In this section:

"(1) The term 'weapon system partnership agreement' means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

"(A) is entered into pursuant to the terms of the charter of that organization; and

"(B) is for the common logistic support of a specific weapon system common to the participating countries.

"(2) The term 'NATO/SHAPE project' means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.".

(b) Technical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"130a. Waiver authority for certain charges in connection with certain sales to NATO.".

SEC. 916. ADVANCE PAYMENT OF ADMINISTRATIVE CLAIMS

(a) Increase in Maximum Payment.—Subsection (a) of section 2736 of title 10, United States Code, is amended to read as follows:

"(a)(1) Under such regulations as the Secretary of a military department may prescribe, the Secretary or the Judge Advocate General of an armed force may make a payment of an amount not in excess of $100,000 in advance of the submission of a claim or before the final settlement of a claim to or for any person, or the legal representatives of any person, who was injured or killed, or whose property was damaged or lost, under circumstances for which allowance of a claim is authorized by law.

"(2) The Secretary of a military department may delegate to an officer or employee under the jurisdiction of the Secretary the authority to make a payment under paragraph (1) in an amount not to exceed $25,000.

"(3) Payments under this subsection are limited to payments which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to any claim which would otherwise be payable under section 2733 or 2734 of title 10, United States Code, or under section 715 of title 32, United States Code, and which has not been finally settled on the date of the enactment of this Act.

SEC. 917. COURT OF MILITARY APPEALS RETIREMENT REVISIONS

(a) Civil Service Retirement and Disability System.—Subchapter III of chapter 83 of title 5, United States Code, is amended—

(1) in section 8336(l), by striking out the second sentence;

(2) in section 8338—

(A) by striking out subsection (c); and

(B) by redesignating subsection (d) as subsection (c);

(3) in section 8339(d)(6)—

(A) by striking out "(6) The" and inserting in lieu thereof "(6)(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following:

"(B) If an employee referred to in subparagraph (A) of this paragraph has completed the term of service for which the employee was appointed as a judge of the United States Court of Military Appeals, then the annuity of such employee is the greater of—

"(i) the amount computed as provided in subparagraph (A) of this paragraph; or

"(ii) the amount equal to 80 percent of the rate of pay established for a judge in active service on such court as in effect on the date of such employee's retirement under this subchapter.

"(C) The amount of the annuity under of this paragraph is the amount initially payable to the employee at the time of the retirement of the employee and is subject to adjustment under section 8340 of this title."; and

(4) in section 8339(h)—

(A) by inserting "(d)(6)," after "(d)(5)," in the first sentence; and

(B) by striking out the third sentence and inserting in lieu thereof the following: "Notwithstanding the first sentence of this subsection, the annuity of an employee who is a judge or a former judge of the United States Court of Military Appeals and who has completed the term of service for which he was appointed as a judge of such court shall not be reduced.".

(b) Federal Employees' Retirement System.—Chapter 84 of title 5, United States Code, is amended—

(1) in section 8412, by adding at the end the following new subsection:

"(i) An employee who is a judge of the United States Court of Military Appeals, or a former judge of such court, and who is separated from the service after completing the term of service for which he was appointed as a judge of such court is entitled to an annuity."; and

(2) in section 8415, by adding at the end the following new subsection:

"(h)(1) The annuity of an employee who is a judge of the United States Court of Military Appeals, or a former judge of such court, who is retiring under section 8412(i) of this title is the greater of—

"(A) the amount computed under paragraph (2) of this subsection; or

"(B) the amount equal to 54 percent of the rate of pay established for a judge in active service on such court as in effect on the date of the retirement.

"(2) The annuity computed in the case of a judge of the United States Court of Military Appeals, or a former judge of such court, for purposes of paragraph (1)(A) is the annuity computed under subsection (a) of this section, except that, with respect to his service as a judge of such court, his service as a Member, his congressional employee service, and his military service (not exceeding 5 years) creditable under section 8411 of this title, his annuity is computed by multiplying $1\frac{7}{10}$ percent of his average pay by the number of years of such service that does not exceed 20 years.

"(3) The amount of the annuity under paragraph (1) is the amount initially payable to an employee referred to in paragraph (1) and is subject to adjustment under section 8462 of this title.".

(c) Effective Date.—The amendments made by this section shall take effect with respect to judges of the United States Court of Military Appeals whose term of service on such court ends on or after the date of the enactment of this Act.

SEC. 918. VOLUNTARY LEGAL ASSISTANCE

(a) Acceptance of Voluntary Services.—Section 1044 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) Notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person voluntary attorney, paralegal, clerical, or related services for the provision of legal assistance under this section. Such services shall be performed under the direction and control of the judge advocate or chief legal officer of the command for which the legal assistance services are performed.".

(b) Defense of Suits.—Section 1054(a) of title 10, United States Code, is amended by striking out "title 32)" and inserting in lieu thereof "title 32 and persons furnishing voluntary services that are accepted under section 1044(b) of this title)".

SEC. 919. LEASE OF AIRCRAFT FOR FLEET ELECTRONIC WARFARE SUPPORT GROUP ACTIVITIES

The Secretary of the Navy may lease aircraft for Fleet Electronic Warfare Support Group activities in accordance with section 2401 of title 10, United States Code, if the cost of such a lease is less than the cost of operating and maintaining the same number of existing aircraft of the Navy for that purpose.

SEC. 920. SPECIAL OPERATIONS AIRLIFT

(a) Findings.—Congress makes the following findings:

(1) Adequate airlift for special operations forces of the Armed Forces is essential for the successful performance of many of the missions of such forces.

(2) Inadequate airlift capacity impairs the capability of such forces to carry out such missions.

(3) In June 1987, the Secretary of Defense submitted to Congress a plan to meet the immediate airlift requirements of the special operations forces.

(4) The plan specified that, except for 49 CV-22A aircraft, the remainder of the special operations forces airlift aircraft are scheduled to be procured or modified not later than fiscal year 1992.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the plan submitted to Congress in June of 1987 by the Secretary of Defense is a sound proposal to redress the serious deficiency in airlift capability for special operations forces;

(2) the Secretary of Defense should formulate a five-year defense program for fiscal years 1990 through 1994 that, at a minimum, includes sufficient funds for the procurement or modification, not later than the end of fiscal year 1992, of all the airlift aircraft specified in the plan referred to in paragraph (1); and

(3) the President should submit budgets to Congress for fiscal years 1990, 1991, and 1992 that, at a minimum, include sufficient funds for the procurement or modification, by the end of fiscal year 1992, of all the airlift aircraft specified in the plan referred to in paragraph (1).

SEC. 921. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

(a) IN GENERAL.—The Secretary of Defense shall—

(1) close all military installations recommended for closure by the Commission on Base Realignment and Closure in the report transmitted to the Secretary pursuant to the charter establishing such Commission;

(2) realign all military installations recommended for realignment by such Commission in such report; and

(3) initiate all such closures and realignments no later than September 30, 1991, and complete all such closures and realignments no later than September 30, 1995.

(b) CONDITIONS.—(1) The Secretary may not carry out the closure or realignment of any military installation under this section unless—

(A) within 15 calendar days after the date on which the Commission transmits the report described in subsection (a)(1) to the Secretary, the Secretary transmits to the appropriate committees of Congress a report containing a statement that the Secretary has approved and proposes to implement all of the military installation closures and realignments recommended by the Commission in the report described in subsection (a)(1);

(B) the Commission has recommended, in the report described in subsection (a)(1), the closure or realignment, as the case may be, of the installation; and

(C) the Secretary of Defense completes the study required by subsection (f)(2) and submits the certification required by subsection (c)(3)(B).

(2) The authority of the Secretary to carry out any closure or realignment under this section shall terminate on October 1, 1995.

(c) THE COMMISSION.—(1) The Commission shall consist of 15 members appointed by the Secretary of Defense. In addition to the members appointed by the Secretary of Defense on May 3, 1988, the Secretary shall appoint 6 additional members (and fill any subsequent vacancies on the Commission) after consultation with (A) the Chairman and ranking minority members of the appropriate committees of Congress and the military construction subcommittees thereof and (B) national associations of State and local officials. The members shall be chosen on the basis of knowledge and experience in matters related to Federal property or national security affairs, or economic planning, and shall reflect a reasonable geographic balance.

(2) The Secretary of Defense shall provide the Commission with an objective, independent staff, which shall be selected by the Commission. The senior staff shall consist of government employees and consultants who have not been employed by the Department of Defense during calendar year 1988.

(3) The Commission shall—

(A) transmit the report described in subsection (a)(1) to the Secretary no later than December 31, 1988; and

(B) on the same date on which the Commission transmits such report to the Secretary, transmit to the appropriate committees of Congress—

(i) a copy of such report; and

(ii) a statement certifying that the Commission has identified any military installations to be closed or realigned after reviewing all military installations inside the United States, including all military installations under construction and all military installations planned for construction, and that no installation identified to be closed or realigned is of a higher priority to the national defense than any installation (domestic or foreign) that has not been identified by the Commission or the Secretary of Defense for closure or realignment.

(d) IMPLEMENTATION.—(1) In closing or realigning a military installation under this section, the Secretary—

(A) subject to the availability of funds authorized and appropriated to the Department of Defense for planning and design, minor construction, and operation and maintenance, and the availability of funds in the Account established under subsection (g)(1), may take all actions necessary to implement such closure or realignment, including acquiring land, constructing replacement facilities, relocating activities, and conducting advance planning and design;

(B) subject to the availability of funds authorized and appropriated to the Department of Defense for economic adjustment assistance and community planning assistance and the availability of funds in the Account, shall provide—

(i) economic adjustment assistance to any community located near a military installation being closed or realigned; and

(ii) community planning assistance to any community located near a military installation to which functions are to be transferred as a result of such closure or realignment;

if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate;

(C) subject to the availability of funds authorized and appropriated to the Department of Defense for environmental restoration and the availability of funds in the Account, may carry out activities for the purpose of environmental restoration, including reducing, removing, and recycling hazardous wastes and removing unsafe buildings and debris;

(D) except as provided in paragraph (2), may sell or exchange, at not less than fair market value, any real property or facility under the jurisdiction of the Department of Defense and located at such an installation; and

(E) shall deposit any amount received from such sale or exchange, and from any transfer or exchange made under paragraph (2), into the Account.

(2)(A) Before any sale or exchange or other conveyance of any real property or facility is made under this section, the Secretary shall inform other instrumentalities of the Federal Government of the availability of such property or facility and, in response to an offer submitted by such an instrumentality within a reasonable period specified by the Secretary, shall transfer such property or facility for fair market value to such instrumentality if such instrumentality agrees to reimburse the Secretary for such transfer in an amount equal to the fair market value of the property or facility and such instrumentality has the necessary funds available (within a reasonable period specified by the Secretary) for such purpose.

(B) After carrying out subparagraph (A) with respect to any real property or facility under the jurisdiction of the Department of Defense and located at an installation scheduled for closure or realignment under this section, the Secretary—

(i) may transfer such property or facility to any other instrumentality of the Federal Government at less than fair market value or without reimbursement; or

(ii) subject to subparagraph (C) and in any case in which savings will be realized by the Department of Defense from a conveyance of a property or facility, may—

(I) sell or exchange such real property or facility at less than fair market value if it is to be used for a commercial or industrial purpose in accordance with a reuse plan formulated by the community involved; or

(II) convey such property or facility without reimbursement to a State or local government if such property or facility is to be used by such government for airport, education, or health purposes in accordance with such a reuse plan.

(C)(i) Any property or facility conveyed under subparagraph (B)(ii) may be conveyed only as part of economic adjustment assistance made available to a community located near an installation scheduled for closure or realignment.

(ii) The Secretary shall provide that all right, title, and interest in and to any real property or facility conveyed under subparagraph (B)(ii) shall revert to the United States, which shall have right of immediate entry thereon, if such property or facility is used for any purpose other than the one for which it was conveyed under such clause.

(e) WAIVER.—The Secretary may carry out the authority provided in subsection (d) without regard to—

(1) any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) restricting the Secretary of Defense from disposing of real property and facilities;

(2) any provision of law restricting the use of funds for closing or realigning military installations included in appropriation or authorization Acts, other than this Act;

(3) the procedures set forth in sections 2662 and 2687 of title 10, United States Code; and

(4) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) REPORTS.—(1) As part of each annual request for authorization of appropriations, the Secretary shall transmit to the appropriate committees of Congress—

(A) a schedule of the closure and realignment actions proposed to be carried out under this section in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which the savings are to be achieved in each case, together with the Secretary's assessment of the environmental consequences of such actions; and

(B) a description of the military installations, including military installations under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental consequences of such transfers.

(2)(A) The Secretary shall conduct a study of the military installations of the United States outside the United States to determine if efficiencies can be realized through closure or realignment of the overseas base structure of the United States. Not later than September 15, 1988, the Secretary shall transmit a report of the findings and conclusions of such study to the Commission and to the appropriate committees of Congress. The Commission shall consider the *impact of the Secretary's study in developing its recommendations.*

(B) Upon request of the Commission, the Secretary shall provide the Commission with such information about overseas bases as may be helpful to the Commission in its deliberations.

(C) The Commission, based on its analysis of military installations in the United States and its review of the Secretary's study of the overseas base structure, may provide the Secretary with such comments and suggestions as it deems appropriate regarding the Secretary's study of the overseas base structure.

(3) When a decision is made to carry out a construction project under subsection (d)(1) and the cost of the project will be greater than the maximum amount for a minor construction project, the Secretary shall notify in writing the appropriate committees of Congress of the nature of and justification for the project and the amount proposed to be expended for such project.

(g) ACCOUNT.—(1) There is hereby established on the books of the Department of the Treasury the Department of Defense Base Closure Account which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress; and

(C) any amount described in subsection (d)(1)(E) and any other funds received by the Secretary in connection with any closure or realignment of a military installation under this section.

(3) There is authorized to be appropriated to the Account for any fiscal year after fiscal year 1989 the sum of $300,000,000.

(4) The Secretary may use the funds in the Account only for the purposes described in subsection (d).

(5) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit a report to the appropriate committees of Congress of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount of expenditures made pursuant to subparagraphs (A) through (C) of subsection (d)(1).

(6) Unobligated funds which remain in the Account after the termination of the authority of the Secretary under this section shall be held in the Account until transferred by an appropriation Act enacted after the appropriate committees of Congress receive the report transmitted under paragraph (7).

(7) No later than 60 days after the termination of the authority of the Secretary to carry out an alignment or closure under this section, the Secretary shall transmit to the appropriate committees of Congress a report containing an accounting of—

(A) all the funds deposited into and expended from the Account or expended under subparagraphs (A), (B), and (C) of subsection (d)(1); and

(B) any amount remaining in the account.

(h) CONGRESSIONAL DISAPPROVAL PROCEDURES.—(1) Notwithstanding any other provision of this section, the Secretary of Defense may not take any action with regard to the report of the Commission on Base Realignment and Closure if, within 45 session days after the date on which Congress receives the report of the Secretary described in subsection (b)(1)(A), Congress enacts a joint resolution disapproving the plan of the Commission.

(2) For the purpose of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the report of the Secretary referred to in subsection (b)(1)(A) is received by Congress the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Commission on Base Realignment and Closure established by the Secretary of Defense as submitted to the Secretary of Defense on ________ (the blank space being appropriately filled in).".

(3) A resolution described in paragraph (2) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in paragraph (2) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(4) If the committee to which is referred a resolution described in paragraph (2) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (2), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (2), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (2) shall be decided without debate.

(6) If, before the passage by one House of a resolution of that House described in paragraph (2), that House receives from the other House a resolution described in paragraph (2), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (2) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(7) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (2), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(i) DEFINITIONS.—In this section:

(1) The term "Account" means the Department of Defense Base Closure Account established by subsection (g)(1).

(2) The term "appropriate committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(3) The terms "Commission on Base Realignment and Closure" and "Commission" mean the commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988.

(4) The term "charter establishing such Commission" means the charter referred to in paragraph (3).

(5) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ships or other activity under the jurisdiction of the Secretary of a military department.

(6) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions.

(7) The term "Secretary" means the Secretary of Defense.

(8) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

SEC. 922. MODERNIZATION OF NATO'S THEATER NUCLEAR CAPABILITIES

(a) FINDINGS.—

(1) Notwithstanding the critical need for conventional force improvements, the security of the NATO Alliance will rely on modern and credible nuclear weapons, with a goal of raising the nuclear threshold.

(2) The modernization of NATO's theater nuclear capabilities is a continuing process, stemming from NATO's 1983 Montebello decision to reduce the European nuclear stockpile while taking steps to insure that the re-

maining nuclear weapons are responsive, survivable and effective.

(3) Theater nuclear modernization programs, which enjoyed a high priority for NATO before the INF Treaty, are no less important for the post-INF period.

(4) NATO Ministers, meeting most recently at the Nuclear Planning Group (NPG), reaffirmed their endorsement of United States development of a Follow-on to Lance (FOTL) with a view toward an eventual decision on deployment.

(b) Therefore it is the Sense of the Senate that—

(1) Modernization of NATO's theater nuclear capabilities following ratification of the INF Treaty is essential to the deterrence strategy of the Alliance.

(2) Continued United States modernization of its theater nuclear capabilities should be undertaken in close consultation with our NATO Allies.

(3) The United States should proceed with ongoing activities for satisfying the identified Alliance requirement for a Follow-on to Lance.

SEC. 923. AIR TRAVEL EXPENSES OF DEFENSE CONTRACTOR PERSONNEL

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4118. Air travel expenses of contractor personnel

"(a) NEGOTIATED AIR FARE DISCOUNTS.—The Administrator of General Services shall enter into negotiations with commercial air carriers with a view to achieving agreements that permit personnel of contractors traveling solely in the performance of contracts awarded by the Department of Defense to be transported by such carriers at the same discount air passenger transportation rates as such carriers charge for travel by Federal Government employees traveling at Government expense.

"(b) REQUIREMENT TO USE DISCOUNT FARES.—Each contract awarded by the Department of Defense shall include a clause that requires contractor personnel, when traveling by commercial air carrier solely in the performance of one or more contracts awarded by the Department of Defense (including such contract), to travel under conditions that qualify such personnel for a discount rate available under an agreement entered into under subsection (a). Travel under such conditions shall not be required under such clause if it is determined, under regulations prescribed by the Secretary of Defense, that travel under other conditions is necessary for performance of one or more of such contracts.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4118. Air travel expenses of contractor personnel.".

(c) EFFECTIVE DATE.—Subsection (b) of section 4118 of title 10, United States Code (as added by subsection (a)), shall apply with respect to contract solicitations issued on or after the date on which the first agreement between the Administrator of General Services and a commercial air carrier is entered into under subsection (a) of such section 4118.

SEC. 924. STUDY AND REPORT ON SOVIET ANTIBALLISTIC MISSILE CAPABILITY AND ACTIVITIES

(a) STUDY REQUIRED.—(1) The President shall conduct a study regarding the antiballistic missile capability and activities of the Union of Soviet Socialist Republics. As a part of such study, the Secretary shall assess—

(A) the military capabilities and significance of the Soviet extensive network of large-phased array radars;

(B) whether the Soviet Government is illegally developing or producing mobile or transportable engagement radars;

(C) the Soviet ability to develop an effective exoatmospheric antiballistic missile defense without using widespread deployments of traditional engagement radars;

(D) the ability of Soviet air defense interceptors missiles now and in the future to successfully destroy ballistic missile warheads;

(E) whether Soviet silos or hardened facilities outside of the antiballistic missile site permitted near Moscow are or could be associated with illegal antiballistic missile defenses;

(F) whether the Soviet Government is developing terminal antiballistic missile defenses;

(G) whether the antiballistic missile site permitted near Moscow conceals or could conceal development, testing, or deployment of a widespread Soviet antiballistic missile system;

(H) Soviet activities regarding sea, land or air-based boost-phase intercepts of ballistic missiles;

(I) the status of Soviet laser, particle beam, and other advanced technology programs comparable to programs conducted by the United States under the Strategic Defense Initiative; and

(J) the consequences for the United States of a successful Soviet effort to acquire an effective nationwide or limited antiballistic missile system and the ability of the United States to respond to such effort.

(2) The assessment provided for in paragraph (1) shall include, but not be limited to, discussion of the ability of the United States to modify its existing strategic offensive forces, including the use of penetration AIDS, and its strategic doctrine and tactics to effectively counter such a Soviet ABM system over the same period of time that the Soviets required to deploy it.

(b) PREPARATION OF REPORT.—The President shall prepare a report, in both a classified and an unclassified version—

(1) specifying the results of the study required by subsection (a); and

(2) containing such recommendations as the Secretary considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States given the antiballistic missile capability and activities of the Union of Soviet Socialist Republics.

(c) SUBMISSION OF REPORT.—The President shall submit to the Speaker of the House of Representatives, and the President pro tempore of the Senate the report required by subsection (b) not later than October 1, 1989.

SEC. 925. ENERGY EFFICIENCY INCENTIVE

(a) The services of the Department of Defense shall be authorized to establish a program of incentives for the purpose of conserving, and otherwise making more efficient use of, energy by the services.

(b) In carrying out this program, the head of each service shall, by no later than 120 days from the enactment of this Act, implement procedures for the identification, verification, accrual, and use of the first year's energy cost savings resulting from contracts entered into under title VIII of the National Energy Conservation Policy Act as amended in 1986.

(c) The portion of the funds appropriated for payment of a service's energy expenses that is equal to the Government's share of the first year's energy cost savings resulting from contracts entered into under title VIII of the National Energy Conservation Policy Act as amended in 1986, shall be treated as an unobligated balance and shall be available to the service in the fiscal year after the fiscal year in which the savings occur to be used in equal amounts, until expended, for the purposes of:

(1) additional energy efficiency projects by the service, and

(2) appropriated morale, welfare and recreation purposes and minor construction projects that enhance the quality of life at the installation at which the savings are realized.

(d) For the purposes of this section, "energy cost savings" means the present dollar value of the Government's share of the first year's energy cost savings resulting from contracts entered into under title VIII of the National Energy Conservation Policy Act, as amended.

SEC. 926. HUMAN RIGHTS VIOLATIONS BY THE POLISH REGIME

(a) The Senate finds—

(1) that the regime of General Wojciech Jaruzelski has again violated the most fundamental rights of the people of Poland, including the right to peaceably assemble, the right to strike, the right to freely associate, the right to speak freely, and the right to due process;

(2) that the Jaruzelski regime has retaliated against the justified, peaceful protests of workers at Nowa Huta through the use of violent force;

(3) that the Jaruzelski regime has sentenced human rights activist Bogdan Lis to three months imprisonment for his activities on behalf of the rights and freedoms of Polish workers, and has in addition sentenced Janusz Onyszkiewicz, Czeslaw Nowak, Tadeusz Pikurski, Halina Lopek, Stefan Malecki, Janusz Dura, Adam Jedrasiak, Stanislaw Strzepek, Edward Banaszkiewicz, Julian Gasior, Bogdan Kowalewski, Lech Matiaszkiewicz, and Robert Pawlik to terms of imprisonment ranging from one month to three months in duration;

(4) that a number of other persons have been prosecuted and imprisoned for politically related offenses;

(5) that several hundred workers have been temporarily detained;

(6) that the Jaruzelski regime refuses to take steps, which would guarantee the Polish peoples' right to participation in the management of the country's economy, and would accept the principle of pluralism in the country's national life.

(b) It is therefore the sense of the Senate that:

(1) it condemns the actions of the Jaruzelski regime to violate the fundamental rights of the people of Poland; and

(2) any improvement in relations between the United States and Poland must be predicated on a fundamental improvement in human rights in Poland, including the release of political prisoners, the rights of independent trade unions to organize, and steps toward genuine national reconciliation and dialogue.

SEC. 927. ADVANCE TACTICAL RECONNAISSANCE SYSTEM DEVELOPMENT COMPETITION

Not later than 90 days after enactment of this Act, the Secretary of the Air Force shall submit a report to the Congress outlining his plans for establishing, to the maximum extent practicable, competition in the devel-

opment and production of components for the Advance Tactical Reconnaissance System.

SEC. 928. NATO DEFENSE PROGRAM REPORT

Not later than January 15, 1989, the Secretary of Defense shall submit to Congress a report detailing the programs to be included in the NATO Defense Program. This report shall include—

(1) an identification of each program by program element; and

(2) a description and the level of funding that the President will be requesting for each of these programs for fiscal year 1990.

SEC. 929. GLOBAL POSITIONING SYSTEM

(a) Of the funds authorized to be appropriated in this Act for Missile Procurement, Air Force, not less than $75,600,000 is authorized to be appropriated for the Global Positioning System, and not more than $366,200,000 is authorized to be appropriated for Space Boosters.

(b) Of the funds authorized to be appropriated in this Act for RDT&E, Air Force, not more than $48,200,000 is authorized to be appropriated for the Global Positioning System.

SEC. 930. PHILIPPINE BASES

(a) Congressional Findings.—The Congress finds that—

(1) the United States has maintained military bases in the Philippines for more than ninety years;

(2) Clark Air Force Base, Subic Bay Naval Station, and the other United States military installations in the Philippines significantly promote the mutual interests of the United States and the Philippines;

(3) leaders of the states of the Association of South East Asian Nations have emphasized the importance of such bases to the development of democratic institutions and economic progress in South East Asia;

(4) the United States military installations in the Philippines employ a loyal and highly skilled cadre of Filipinos, and make a substantial contribution to the Philippine economy;

(5) the Base Rights Agreement between the United States and the Republic of the Philippines by which the United States maintains its military installations and stations military personnel in the Philippines expires in 1991;

(6) the United States and the Republic of the Philippines are currently engaged in a review of the Base Rights Agreement;

(7) in connection with the current Base Rights Agreement, the President has undertaken a "best efforts" pledge to obtain security assistance for the Philippines;

(8) officials of the Philippine government have demanded that the United States significantly increase the consideration for the use of military bases in the Philippines; and

(9) the President of the Republic of the Philippines has stated that consideration of the Base Rights Agreement should be separate from any consideration of security assistance to the Philippines.

(b) Study of Costs and Benefits.—(1) Not later than ninety days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall prepare and transmit to the Congress, in classified and unclassified versions, a study of—

(A) the costs and benefits of maintaining United States military bases in the Republic of the Philippines;

(B) the costs and benefits of relocating such bases to potential alternative host countries; and

(C) any alternative means of funding payments to the host country of such bases.

(2) The study required by paragraph (1) shall include, but not be limited to:

(A) an analysis of—

(i) the strategic value to the United States;

(ii) the operation, maintenance and other costs to the United States; and

(iii) the economic, social and other benefits to the Philippines;

of maintaining United States military bases in the Philippines;

(B) an identification of potential alternative host countries for the United States' military bases currently located in the Philippines;

(C) an analysis of—

(i) the strategic value to the United States;

(ii) the operation, maintenance and other costs to the United States; and

(iii) the economic, social and other benefits to potential alternative host countries;

of establishing and maintaining United States military bases in such potential alternative host countries;

(D) an analysis of—

(i) the cost to the United States; and

(ii) the economic, social and other costs to the Philippines;

of relocating the United States military bases from the Philippines to potential alternative host countries;

(E) an analysis of the availability of skilled indigenous personnel and the cost of training such personnel in the potential alternative host countries; and

(F) a comparative analysis of the benefits to the United States from the use of the various methods which are now employed for compensating host nations around the world for the use of bases on their soil as applied to compensating either the Philippines or the host nations of alternative locations.

SEC. 931. EXCLUSIVE ECONOMIC ZONE

Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall prepare and transmit to the Congress a review of current and planned Defense assets that might be utilized to reduce and prevent unlawful foreign fishing in the United States Exclusive Economic Zone. Such review shall include, but not be limited to, an analysis of:

(1) the feasibility of using over-the-horizon backscatter radar devices to locate and identify fishing vessels in and beyond the Exclusive Economic Zone, both as a discrete system and in conjunction with other monitoring systems and devices;

(2) the use of Defense assets routinely deployed in areas where unlawful fishing may occur to monitor and report potential violations of United States fisheries laws and regulations; and

(3) the application of information gathered by intelligence collection assets which are deployed in such a way as to detect illegal fishing activities as a byproduct of other data collection missions.

SEC. 932. RESTRICTION ON SALE OF ARMS TO SAUDI ARABIA AND CERTAIN OTHER NATIONS

Notwithstanding any other provision of law, no sale of arms may be made by the United States to Saudi Arabia or to any other nation in the Middle East which has procured CSS-2 Chinese-made missiles unless the President has first certified to Congress that Saudi Arabia or such other nation, as the case may be, does not have chemical, biological, or nuclear warheads for such missiles. A separate certification is required in the case of each proposed sale of arms and may not be made more than 90 days before the proposed sale is to be concluded.

SEC. 933. REPORT ON, AND DISCUSSIONS REGARDING, JAPANESE CONTRIBUTIONS TO GLOBAL STABILITY AND THE INDIVISIBLE SECURITY OF THE LEADING INDUSTRIALIZED DEMOCRACIES

(a) Findings.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of the Western countries is indivisible and must be approached on a global basis", the government of Japan continues to fulfill the pledge of Prime Minister Suzuki to defend the territory, airspace and sealanes of Japan to a distance of 1,000 miles by 1990, has increased its foreign assistance in fiscal year 1988 by 6.5 percent, and is, according to recent reports, actively involved in increasing its contributions to the stability of the Republic of the Philippines, actions welcomed by the United States.

(3) Japan could, because of its recent history and economic status, best fulfill a politically acceptable and significant role in maintaining the indivisible security of the Western nations by increasing its Official Development Assistance to a level consistent with the provisions of section 1012 of Public Law 100-180.

(4) However, continued unwillingness by Japan to bear its fair share of the burden of maintaining the indivisible security of the leading industrialized democracies could weaken the long-term vitality, effectiveness, and cohesion of the alliance between the United States and Japan.

(b)(1) Study.—The Secretary of Defense shall, in coordination with the Department of State and the Agency for International Development, incorporate within the report required by section 1003 of Public Law 98-525, a report on Japan's Overseas Development Assistance.

(2) Report.—The report shall contain a description of the amount and nature of Japanese Overseas Development Assistance by recipient, including distinguishing between grant aid, loans and credits.

(c) Policy.—It is the sense of Congress that—

(1) the President should enter into discussions with Japan for the purpose of reaching a more equitable distribution of the burden of financial support for the indivisible security of the leading industrialized democracies;

(2) the objective of such discussions with Japan should be to establish a schedule of increases in Japan's Overseas Development Assistance and its defense budget so that, by 1992, the level of spending on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products);

(3) the President should report to Congress, within 180 days after the date of the enactment of this Act, on the progress of such discussions; and

(4) if, in the judgment of Congress, the President's report does not reflect substantial progress toward a more equitable distri-

bution of the burden of maintaining the indivisible security of the leading industrialized democracies, the Congress should review the extent of the distribution of the mutual security burden between the United States and Japan and consider whether additional legislation is appropriate.

SEC. 934. MISSILE TECHNOLOGY, PERSONNEL DEFICIENCIES

(a)(1) The number of countries that have acquired ballistic missiles or have actually used them in combat has increased significantly in the past six months.

(2) The Secretary of Defense has expressed concern about missile proliferation.

(3) Congress directed that the Department of Defense provide a report specifying personnel requirements to implement the Missile Technology Control Regime Policy that was concluded by the United States and six other countries in April 1987 to control the proliferation of missiles capable of delivering nuclear weapons.

(4) The Department of Defense report was due February 1, 1988 and has not yet been received: Now, therefore

(b) it is the sense of the Senate that—

(1) the Secretary of Defense should file the requested report as soon as possible but not later than July 30, 1988 and

(2) Department of Defense personnel deficiencies which prevent effective performance of missile technology control responsibilities be rectified as soon as possible; using temporary duty assignments if deemed necessary.

SEC. 935. MILITARY BASE CLOSING COMMISSION

The Congress urges the President to ensure that any military base closing commission established by this or any other legislation—

(1) takes into account the total economic cost to the country as a whole, and not just to the Department of Defense or to the Federal Government, in making decisions concerning the closing or functional realignment of any military installations; and

(2) is appropriately briefed on the basing requirements and basing implications of compartmented programs, popularly known as "black" programs, within the executive branch before issuing any report recommending the closing or functional realignment of any military installations.

SEC. 936. REGULATIONS FOR DELIVERY OF MILITARY PERSONNEL TO CIVIL AUTHORITIES WHEN CHARGED WITH CERTAIN OFFENSES

(a) Not later that 90 days after the date of enactment of this Act, the Secretary of Defense shall ensure that the Secretaries of the military departments have issued uniform regulations pursuant to section 814 of title 10, United States Code, to provide for the delivery of members of the Armed Forces to civilian authority when such members have been accused of offenses against civil authority. Such regulations shall specifically provide for the delivery of such members to civilian authority, in appropriate cases, when such members are accused of parental kidnapping and other similar offenses, including criminal contempt arising from such offenses and from child custody matters, and shall specifically address the special needs for the exercise of the authority contained in section 814 of title 10, United States Code, when members of the Armed Forces assigned overseas are accused of offenses by civilian authorities.

(b) Not later that 120 days after the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives a copy of all regulations promulgated under section 814 of title 10, United States Code, as a result of this section and any recommendations that the Secretary may have concerning the need for additional legislation related to the amenability of members of the Armed Forces to civil authority.

SEC. 937. CONDITIONS FOR SALE OR OTHER TRANSFER OF F-15 AIRCRAFT TO SAUDI ARABIA

Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any such F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15-E with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies the Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is totally removed from the inventory of Saudi Arabia.

SEC. 938. ENFORCEMENT OF THE FINAL ACT OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (ALSO KNOWN AS "THE HELSINKI FINAL ACT")

(a) No country signatory to the Final Act of the Conference on Security and Cooperation in Europe (also known as "the Helsinki Final Act") which as of May 1, 1988, did not enjoy Most Favored Nation (MFN) trade status with the United States shall be extended such status unless the President first certifies in writing to the Chairman of the Committee on Foreign Relations of the Senate and to the Chairman of the Committee on Foreign Affairs of the House of Representatives that such signatory country is in complete compliance or in substantially complete compliance with such Final Act, particularly the human rights and humanitarian affairs provisions.

(b) For the purposes of the foregoing subsection, "substantially complete compliance" is defined as—

(1) A pattern of compliance with the requirements of the Helsinki Final Act in a manner comparable to that displayed by democratic signatory countries, with any violations clearly the rare and exceptional act of local authorities contrary to established policy and generally observed practice in such country;

(2) The existence, in theory and in practice, of legal procedures and presumptions, statutes, administrative regulations, limitations on law enforcement authorities, and judicial means of redress that facilitate and encourage, rather than frustrate, the exercise of basic rights as specified in the Helsinki Final Act by the citizens and inhabitants of such country; and

(3) The ability of citizens of such country and citizens of other signatory countries, in theory and in practice, freely to monitor the performance of the governmental authorities of such country with regard to the requirements of the Helsinki Final Act throughout the territory of such country, and to publicize their findings, both in such country and abroad.

SEC. 939. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Union of Soviet Socialist Republics are engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a Treaty requiring deep reductions in the strategic forces of the United States.

(3) The Senate must advise and consent to the ratification of any such Strategic Arms Reduction Treaty (START).

(4) Any START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

(5) The Congress must authorize and appropriate the funds to procure such permitted forces as are required to insure the stability of the force balance under any arms reduction agreement.

(6) The Congress faces critical resource choices for fiscal year 1989 and beyond which could substantially influence the strategic force posture of the United States in a post-START era.

(b) PRESIDENTIAL REPORT.—The President shall provide to the Congress prior to the conclusion of any Strategic Arms Reduction Treaty or agreement between the United States and the Union of Soviet Socialist Republics, but in any event not later than September 15, 1988, a comprehensive report, in classified and unclassified form, on the implications such an accord might have for future strategic force postures of the United States in the 1990s. This analysis shall include the following:

(1) Alternative force postures for the United States permitted under an arms reduction agreement, including the Administration's recommended posture.

(2) The costs associated with acquiring each alternative force posture, assessed over at least a seven-year period.

(3) The damage limitation capability, survivability and retaliatory potential of each force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union and the first-strike potential of such Soviet force postures.

(4) The likely effect of Soviet breakout from START on the survivability and effectiveness of the United States force posture.

SEC. 940. DRUG ENFORCEMENT ASSISTANCE

(a) FINDINGS.—The Congress finds that—

(1) the transport of weapons, drugs, and other contraband, as well as terrorists, across the borders of the United States constitutes a threat to the national security;

(2) a mission of the Armed Forces of the United States will be to assist Federal law enforcement agencies responsible for the interdiction of illicit drugs entering the United States by an aircraft or vessel;

(3) the additional resources and funds necessary to carry out this section should be made available to the Department of Defense; and

(4) activities under this section by members of the Armed Forces should be carried out to the maximum extent practicable in consultation and cooperation with appropriate law enforcement agencies.

(b) GUIDELINES TO THE MILITARY DEPARTMENTS.—Section 113 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k) The Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the Commanders of the Combatant Commands written guidelines to direct the effective detection and monitoring by the Army, Navy, Air Force, and Marine Corps of all potential aerial and maritime threats to the national security of the United States. Such guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which such guidelines are to be effective.".

(c) Lead Agency for Detection.—(1) Not later than 30 days after the date of enactment of this Act, the President shall designate a single lead agency for detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2) It is the sense of the Congress that the Department of Defense has unique capabilities, experience, equipment, and trained personnel and has contributed to the detection and monitoring of aerial and maritime transit of illegal drugs into the United States, and the President shall give priority consideration to these factors in making the designation required by paragraph (1).

(d)(1) Command, Control, Communications, and Intelligence Network.—Not later than 90 days after the date of enactment of this Act, the President shall report to Congress his plan for integration by the Department of Defense of command, control, communications, and intelligence assets of the United States dedicated to the interdiction of illegal drugs.

(2) Not later than 120 days after submission of the report required by paragraph (1), the President shall report to Congress his plan for assignment of the responsibility for operating the command, control, communications, and intelligence network described in paragraph (1).

(e) Airborne Radar Coverage.—As soon as practicable after the date of enactment of this Act, the President shall deploy radar surveillance aircraft in sufficient numbers to provide an appropriate increase in the flying hours dedicated to drug interdiction. An appropriate increase of flying hours shall be dedicated to assistance to civilian agencies responsible for drug interdiction. An appropriate increase of flying hours shall be dedicated to such assistance along the Southwest border of the United States until such time as the aerostat radar surveillance systems that, as of the date of enactment of this Act, are planned for installation along such borders, are fully operational.

(f) Loan of Pursuit Aircraft.—The Department of Defense shall make available to the Coast Guard and Customs Service rotor wing and fixed wing aircraft of the Armed Forces to be used by such agencies in the pursuit of aircraft or vessels involved in illegal drug operations.

(g) Drug Interdiction Assistance.—(1) Section 374(c)(2) of title 10, United States Code, is amended by inserting at the end thereof the following new subparagraph:

"(C) equipment operated by or with the assistance of personnel of the Department of Defense for the purpose of monitoring and communicating the movement of air and sea traffic (including equipment operated by or with the assistance of personnel assigned under subsection (a)) may be used to intercept vessels and aircraft for the purpose of identifying and communicating with such vessels and aircraft and directing such vessels and aircraft to a location designated by appropriate civilian drug enforcement officials.".

(2) Section 374(c)(1) of title 10, United States Code, is amended by—

(1) striking out "In an emergency circumstance, equipment" and inserting in lieu thereof "Equipment"; and

(2) striking out "determine an emergency circumstance exists" and inserting in lieu thereof "approve such assistance".

(3) Section 379 of title 10, United States Code, is amended by inserting the following new subsections at the end thereof:

"(e) Under regulations jointly prescribed by the Secretary of Defense and the Secretary of Transportation in consultation with the Attorney General, members of the armed forces who—

"(1) are assigned to duty on vessels of the Navy to which a member of the Coast Guard has been assigned under this section,

"(2) have been provided with appropriate training in the law enforcement functions of the Coast Guard, and

"(3) have been designated by an authorized member of the Coast Guard to perform the law enforcement functions of the Coast Guard

may, outside the United States, assist or perform any of the law enforcement functions of the Coast Guard under section 89 of title 14, United States Code.

"(f) Upon motion by the Attorney General or his designee, any civil action, claim, or proceeding brought against any member of the armed forces arising from such member's performance of duties under this chapter shall be deemed an action exclusively against the United States and the United States shall be substituted as a party defendant. The United States shall be entitled to all defenses otherwise available to an employee of the United States under State or Federal law as well as defenses to which the United States is independently entitled.".

(h) Enhanced Drug Interdiction and Enforcement Role for the National Guard.—

(1) Preamble.—Congress having made a finding that "the transport of weapons, drugs, and other contraband, as well as terrorists, across the borders of the United States constitutes a threat to the national security," the Secretary of Defense is directed to urge the Governors of the several States to provide plans for participation by the National Guard in performing the objectives of this law.

(2) In General.—(A) The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under paragraph (B) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used for the purpose of drug interdiction and enforcement operations and for the operation and maintenance of the equipment and facilities of the National Guard of such State used for such purposes.

(B) The Secretary may provide funds under paragraph (A) to the Governor of a State who submits a plan to the Secretary specifying how personnel of the National Guard of such State are to be used in drug enforcement and interdiction operations by a National Guard of a State unless—

(i) such operations are conducted at a time when personnel of the National Guard of the State are not in Federal service; and

(ii) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(C) Before funds are provided to the Governor of any State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(3) Source of Funds.—(A) Of the amounts appropriated pursuant to section 301(a), up to $30,000,000 shall be available for the purposes specified in paragraph (1).

(B) Of the amounts appropriated for National Guard Personnel, Army, and National Guard Personnel, Air Force, for fiscal year up to $30,000,000 shall be available for the purposes specified in paragraph (1).

(4) Report.—(A) Not later than 90 days after the date of enactment of this Act, the President shall submit to Congress a report on the potential effectiveness of using members of the National Guard and the Reserves for drug interdiction efforts, consistent with applicable law, along the borders and at the ports of entry of the United States.

(B) The report described in paragraph (A) shall include consideration of the potential for the long-term use of National Guard units of Arizona, Texas, California, Oklahoma, New Mexico, Tennessee, South Carolina, Florida, Virginia, New York, Georgia, and other States as appropriate, to perform drug interdiction operations, consistent with applicable law, coordinated by the Chief, National Guard Bureau, the Director of Operation Alliance Joint Command Group, and the Command, Communications, Control, and Intelligence Centers at March Air Force Base, California and Richmond Heights, Florida.

(i) Rule of Construction.—Nothing in this section or in the amendments made by this section shall be construed to limit the authority of the executive branch in the use of Department of Defense personnel or equipment for law enforcement purposes otherwise authorized by law.

(j) Report by the President.—Not later than September 1, 1988, the President shall submit a report to Congress containing legislative proposals, including budgetary requests, to enhance the capability of the Department of Defense to perform the functions described in this section.

SEC. 941. DRUG RELATED INDICTMENTS AGAINST NORIEGA

(a) Findings.—The Congress finds—

(1) Panamanian strongman Manuel Noriega has been accused of serious violations of American law involving trafficking in illegal drugs, providing protection and support to drug traffickers, and laundering drug related money;

(2) Federal indictments have been handed down against Noriega in the State of Florida on a number of these drug-related charges;

(3) there are media and other reports that negotiations with Noriega may have occurred, on arrangements under which he would give up political power and leave Panama, in exchange for the dropping of the Federal drug-related indictments against him.

(b) It is the sense of the Congress of the United States that—

(1) no negotiations should be conducted, nor arrangements made by the United States Government, with Noriega, which would involve the dropping of the drug-related indictments against him.

(2) any such negotiations, or arrangements, would send the wrong signal about the priority which the United States attaches to the war on drugs; would not fur-

ther the prospects of restoring noncorrupt, democratic government to Panama; and would not serve the overall national security interests of the United States.

SEC. 942. STRATEGIC AIR DEFENSE ALERT MISSION

(a) LIMITATION.—Except as provided in subsection (b)(2), the Secretary of the Air Force may not make any change in the alert status of any Air National Guard unit in the strategic air defense mission in the northern portion of the United States, or in the deployment of units assigned to that mission, from that status and deployment as in effect on April 10, 1988.

(b) REPORT.—(1) After the North Warning System and the Over-the-Horizon Backscatter Radar System are deployed and in operation as replacements for the Distant Early Warning (DEW line) system, the Secretary of the Air Force shall submit to Congress a report on those systems. The report shall—

(A) describe the implementation of those systems and their operational capability and effectiveness as demonstrated up to the time of the report;

(B) describe plans, in light of those new systems, for the forward deployment of the interceptor aircraft from United States bases during periods of heightened international tension; and

(C) clarify the alert status in the strategic air defense mission, under those new systems, of elements of the Air Force (including elements of the reserve components) at Air Force bases in the northern portions of the United States.

(2) The limitation in subsection (a) shall cease to be effective 180 days after the date on which Congress receives the report required by paragraph (1).

SEC. 943. SENSE OF THE SENATE ON THE NEED TO PROTECT NON-NUCLEAR CRUISE MISSILES IN START

(a) FINDINGS.—

(1) The Senate supports the President's efforts in the Strategic Arms Reduction Talks (START) to make deep and verifiable cuts in strategic nuclear weapons.

(2) Conclusion of a START Treaty between the United States and the Soviet Union will increase the relative importance of each nation's non-nuclear weapons capabilities.

(3) Advanced, long-range, non-nuclear cruise missiles are among the most promising technologies for reducing the current reliance of the United States and its allies upon the threat of an early resort to nuclear weapons to deter a conventional attack by the Soviet Union.

(4) The United States has taken a position in START that we will not agree to any limitations on non-nuclear cruise missiles.

(b) SENSE OF THE SENATE.—In light of the findings in subsection (a), it is the sense of the Senate that it should be the position of the United States that in START no restrictions shall be established on current or future non-nuclear cruise missiles.

SEC. 944. STUDY AND REPORT ON THE USE OF NON-BIODEGRADABLE PLASTIC

(a) STUDY.—The Secretary of Defense shall conduct a study in order to identify the types of disposable plastic items that are used by the Department of Defense in fiscal year 1989, to determine the approximate quantity used annually and to determine which such items are biodegradable and which such items are not biodegradable.

(b) REPORT.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Forces of the Senate and of the House of Representatives a report on the results of the study required by subsection (a) and the feasibility of substituting agricultural commodity based biodegradable plastic items for nonbiodegradable plastic items identified in the study that are needed by the Department of Defense. The report shall include the following matters:

(1) The availability of agricultural commodity based biodegradable plastic items that are suitable substitutes for the nonbiodegradable plastic items.

(2) Any additional cost that would result from conversion to the use of such substitutes over the cost of continued use of the nonbiodegradable plastic items.

SEC. 945. REPORT ON SMALL PATROL BOATS OF NAVY

(a) FINDINGS.—Congress finds that—

(1) on April 23, 1988, officials of the Department of Defense announced that consideration was being given to the deployment of United States Coast Guard vessels to the Persian Gulf for duty in conjunction with the Navy; and

(2) according to public reports based on statements from officials of the Department of Defense, the Navy has a significantly inadequate number of small patrol boats in the Navy fleet of ships.

(b) REPORT.—The Secretary of the Navy shall submit a report to Congress within 60 days after the date of the enactment of this Act regarding the capability of the Navy to carry out missions requiring the use of small patrol boats. The Secretary shall include in such report—

(1) an evaluation of the ability of the Navy to carry out missions requiring the use of small patrol boats that are less than 150 feet in length;

(2) a discussion of the contingencies that would necessitate the use of small patrol boats (of less than 150 feet in length) rather than larger warships;

(3) a discussion of any plans the Navy has for eliminating the Navy's shortage of such boats; and

(4) such recommendations as the Secretary considers appropriate to strengthen the capabilities of the Navy to carry out effectively missions which would require the use of such boats.

SEC. 946. CONFLICT OF INTEREST REGULATIONS

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue regulations that prohibit a contracting officer—

(1) from knowingly receiving any offer in connection with a contract to be awarded by the Department of Defense from an officer or employee of the Federal Government or from any business concern or other organization owned or substantially owned or controlled by one or more such officers and employees; and

(2) from knowingly awarding such a contract to—

(A) any person who, on either the date of the award of the contract or the date on which the Department of Defense received an offer from such person in connection with such contract, is an officer or employee of the Federal Government; and

(B) any business concern or other organization that, on either the date of the award of the contract or the date on which the Department of Defense received an offer from such business concern or organization in connection with such contract, is owned or substantially owned or controlled by one or more such officers and employees.

(b) EXCEPTIONS.—The Secretary of Defense may include in the regulations issued under subsection (a) such exceptions as he determines to be necessary in the interest of national security.

SEC. 947. APPLICABILITY OF CONTRACT GOAL FOR MINORITIES TO PRINTING-RELATED SERVICES

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) Notwithstanding sections 501 and 502 of title 44, United States Code, and section 309 of the Legislative Branch Appropriations Act, 1988 (as contained in section 101(i) of Public Law 100-202 (101 Stat. 1329-310)), printing, binding, and related services needed by the Department of Defense may be procured from entities referred to in subsection (a) in order to meet the objectives set out in such subsection. The procurement of printing, binding, and related services from such entities shall be conducted for the Department of Defense by the Public Printer as directed by the Secretary of Defense. Printing, binding, and related services needed by the Department of Defense and not procured from such entities shall be procured from the Government Printing Office.".

SEC. 948. SENSE OF THE CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW

(a) FINDINGS.—

(1) The Senate finds that the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol (hereinafter the "ABM Treaty" or the "Treaty") in its Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.".

(2) The Senate further finds that such Treaty entered into force on October 3, 1972, and that the third five-year anniversary date specified by Article XIV, Paragraph 2, for the conduct of the review contemplated therein was October 3, 1987.

(3) The Senate further finds that, as a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore that the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Senate finally finds that the Parties to the Treaty have not met as required by Article XIV, Paragraph 2, because the United States of America refused to meet on the date required: to wit, October 3, 1987, and that the United States, seven months later, still refuses to propose a date for this meeting.

(b) SENSE OF CONGRESS.—Taking account of the findings of this section, it is the sense of the Congress that the President should without any further delay propose an early date to conduct the overdue five-year review of the ABM Treaty and immediately thereafter inform the Congress of the results of that review.

SEC. 949. ECONOMIC SANCTIONS AGAINST COMMUNIST REGIME IN ETHIOPIA

(a) CONGRESS.—

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to

allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (via direct representations to the Government of Ethiopia, certain rebel groups, and via sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in the north, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Union of Soviet Socialist Republics in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high Soviet priority and that the approach of the Union of Soviet Socialist Republics is consistent with that of the West.

(b) SANCTIONS.—

(1) SANCTIONS URGED UNDER CERTAIN CONDITIONS.—The President is strongly urged, and is hereby authorized (notwithstanding any other provision of law), to impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to subparagraphs (2) and (3) of this subsection) if, at any time after the date of enactment of this section, the Government of Ethiopia engages in any of the following outrages:

(i) Forced resettlement.

(ii) Forced confinement in any resettlement camp.

(iii) Diversion of international relief to the military.

(iv) Denial of international relief to any persons at risk because of famine.

(v) Seizure of international relief assets provided by the United States.

(vi) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) SANCTIONS TO BE INCLUDED.—Sanctions imposed pursuant to subparagraph (1) shall include sanctions which substantially affect the major exports of Ethiopia.

(3) EXPORT SANCTIONS.—If a sanction imposed pursuant to subparagraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(4) REPORTS TO CONGRESS.—Not later than the end of the 15-day period beginning on the date of the enactment of this section and at the end of each 60-day period thereafter, the President shall submit to the Congress a report on whether, during that period, the Government of Ethiopia engaged in any conduct described in paragraph (1) of this subsection. Each such report shall describe the response of the United States to such conduct.

(5) REGULATION AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanctions imposed under this subsection.

SEC. 950. COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

(a) Not later than June 30, 1989, the President shall submit a report to the Congress which includes a review of the relationship of the arms control objectives of the United States with the responsiveness of research and development of monitoring systems for weapons verification. Such review shall include but not be limited to the participation of the Departments of Defense, State and Energy, the Director of Central Intelligence, and the Arms Control and Disarmament Agency.

(b) At a minimum, the report shall include the findings of the President, and such recommendations for improvement as the President shall deem appropriate, with respect to the following—

(1) the status of coordination in the formulation of United States arms control treaty verification policy;

(2) the status of efforts to ensure that the arms control treaty verification policy is formulated in a manner which takes into account available technology for monitoring systems; and

(3) the status of efforts to insure that research and development on monitoring systems technology evolves in step with arms control treaty verification policy.

SEC. 951. COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

(a) Within 30 days after the enactment of this legislation, the President shall establish a Commission on Alternative Utilization of Military Facilities. The Commission shall be made up of representatives from the Department of Defense, the Bureau of Prisons of the Department of Justice, the National Institute on Drug Abuse of the Department of Health and Human Services and the General Services Administration.

(b) On a biannual basis, the Commission shall—

(1) prepare a report listing active and non-active military facilities that the Department of Defense has identified as fit for closure, underutilized in whole or part, or on the surplus property list;

(2) identify those facilities, or parts thereof, that could be utilized or renovated as minimum security facilities to hold nonviolent prisoners;

(3) identify those facilities or parts thereof, that could be utilized or renovated to house nonviolent persons for drug treatment purposes; and

(4) present this list to the President and to the Congress.

(c) The first report required by subsection (b) shall be submitted to the President and to the Congress no later than September 1, 1988. Further reports shall be issued not later than September 1 every 2 years thereafter through fiscal year 1996.

SEC. 952. ASSISTANCE TO PANAMANIAN DEFENSE FORCE

(a) None of the funds authorized or appropriated by this or any other Act shall be obligated or expended for assistance to the Panamanian Defense Force unless and until the President has certified to Congress that no armed forces of the Union of Soviet Socialist Republics, Cuba, or Nicaragua are present in the Republic of Panama and that General Manuel Noriega has been removed as Commander of the Panamanian Defense Force, barred from all offices and authority, and prohibited from designating or appointing his successor.

(b) Provided further that nothing in this section shall prohibit the President from obligating or expending any funds necessary for the defense of the Panama Canal or for the maintenance of United States Armed Forces or interests in Panama.

(c) Ten days after the enactment of this section, the President shall provide a detailed report to Congress, in both classified and unclassified form, regarding (1) whether Soviet, Cuban, or Nicaraguan military, paramilitary, or intelligence personnel are present in Panama and (2) whether the Panamanian Defense Force has coordinated with, cooperated with, supported, or receive support from, such personnel.

SEC. 953. TECHNICAL AMENDMENTS

(a) AMENDMENT TO TITLE 10.—Section 2343(b) of title 10, United States Code, is amended by striking out "section" before "2306a".

(b) AMENDMENT TO TITLE 37.—Section 101(5) of title 37, United States Code, is amended by striking out "secretary" and inserting in lieu thereof "Secretary".

(c) AMENDMENTS TO PUBLIC LAW 100-180.—(1) Paragraph (1) of section 802(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1123) is amended by inserting end quotation marks and a period after "section." at the end of such paragraph.

(2) Section 803(a) of such Act (101 Stat. 1125) is amended by inserting "the first time it appears" after "paragraph (1),".

SEC. 954. SENSE OF CONGRESS RELATING TO PERSONNEL STRENGTH FOR ON-SITE INSPECTION PURPOSES.

In authorizing the strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities and support of such activities provided for in the Treaty, account should be taken of the number of such personnel that will be assigned to such activities during such fiscal year.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $6,000,000.

Fort McClellan, $7,900,000.

Redstone Arsenal, $14,800,000.

Fort Rucker, $2,110,000.

ALASKA

Fort Wainwright, $35,490,000.

Fort Richardson, $6,250,000.

ARIZONA

Fort Huachuca, $6,600,000.

ARKANSAS

Pine Bluff Arsenal, $7,500,000.

CALIFORNIA

Fort Ord, $13,050,000.

Sierra Army Depot, $380,000.

COLORADO

Pueblo Depot, $3,200,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $1,600,000.

GEORGIA

Fort Benning, $24,350,000.

HAWAII

Fort Shafter, $7,200,000.
Schofield Barracks, $8,500,000.

ILLINOIS

Rock Island Arsenal, $10,980,000.
Savanna Army Depot, $470,000.
Fort Sheridan, $3,280,000.

KENTUCKY

Fort Campbell, $20,500,000.
Lexington-Bluegrass Depot, $770,000.

MARYLAND

Aberdeen Proving Ground, $8,400,000.
Fort Detrick, $6,500,000.
Fort Ritchie, $9,100,000.

NEW JERSEY

Fort Dix, $6,200,000.

NEW YORK

United States Military Academy, West Point, $19,750,000.

NORTH CAROLINA

Fort Bragg, $36,602,000.

OKLAHOMA

Fort Sill, $3,700,000.

OREGON

Umatilla Army Depot, $3,600,000.

PENNSYLVANIA

Letterkenny Army Depot, $1,900,000.

TEXAS

Corpus Christi Army Depot, $7,400,000.
Fort Hood, $15,900,000.
Red River Army Depot, $88,400,000.
Fort Sam Houston, $3,250,000.

UTAH

Dugway Proving Ground, $12,800,000.
Tooele Army Depot, $92,300,000.

VIRGINIA

Fort A.P. Hill, $9,900,000.
Fort Eustis, $2,500,000.
Fort Pickett, $4,000,000.
Vint Hill Farms Station, $800,000.

WASHINGTON

Fort Lewis, $9,800,000.

WISCONSIN

Fort McCoy, $2,100,000.

VARIOUS LOCATIONS

Classified Locations, $3,600,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Ansbach, $15,000,000.
Friedberg, $1,300,000.
Giessen, $6,300,000.
Grafenwoehr Training Area, $7,000,000.
Hohenfels Training Area, $36,960,000.
Karlsruhe, $2,550,000.
Mainz, $19,550,000.
Mannheim, $14,400,000.
Rheinberg, $12,400,000.
Schweinfurt, $9,700,000.
Stuttgart, $3,350,000.
Vilseck, $44,600,000.
Wiesbaden, $13,900,000.
Worms, $1,300,000.
Wuerzburg, $33,650,000.
Various Locations, $18,000,000.

ITALY

Various Locations, $1,250,000.

JAPAN

Various Locations, $7,900,000.
Various Locations, $5,300,000.

KOREA

Camp Casey, $3,700,000.
Camp Gary Owen, $1,150,000.
Camp Greaves, $1,540,000.
Camp Hovey, $3,200,000.
Camp Kittyhawk, $1,350,000.
Camp Libby, $1,150,000.
Camp Page, $670,000.
Camp Sears, $1,100,000.
Camp Stanley, $1,200,000.
Camp Stanton, $1,400,000.
K-16 Army Airfield, $670,000.
Taegu, $990,000.
Yongsan, $1,400,000.
Various Locations, $6,200,000.
Various Locations, $9,200,000.

KWAJALEIN

Kwajalein, $15,490,000.

VARIOUS LOCATIONS

Various Locations, $27,250,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Wainwright, Alaska, one hundred and fifty units, $27,000,000.

Fort Irwin, California, two hundred and sixty-three units, $24,000,000.

Helemano, Hawaii, one hundred units, $11,400,000.

Schofield Barracks, Hawaii, forty units, $4,450,000.

Fort Leavenworth, Kansas, two hundred and seventy-two units, $20,000,000.

Fort Drum, New York, one hundred units, $10,000,000.

Augsburg, Germany, thirty-four units, as described in section 2103(b).

Hohenfels, Germany, eighty-eight units, $8,400,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $10,628,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), improve existing military family housing units in an amount not to exceed $72,300,000.

(b) WAIVER OF MAXIMUM PER COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown for each installation:

Pearl Harbor, Hawaii, eight units, $550,000.

Augsburg, Germany, convert unused attic space and upgrade fourteen units into forty-eight adequate units, as authorized in section 2102(a), $3,360,000.

Taegu, Korea, ninety-six units, $4,450,000.

SEC. 2104. DEFENSE ACCESS ROADS

The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(4), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Belvoir, Virginia, and other locations, in the amount of $1,000,000.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,419,301,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $451,432,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $332,070,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $1,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $93,328,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $188,178,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,335,093,000, of which not more than $52,190,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $183,600,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000, to remain in effect until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $78,400,000 (the balance of the amount authorized for the construction of the Central Distribution Center, Red River Army Depot, Texas).

SEC. 2106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661) and section 2105(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authoriza-

tions for the following projects authorized in sections 101 and 102 of that Act as extended by section 2105(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 99-180), shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(2) Modified record fire range in the amount of $2,850,000 at Nuremberg, Germany.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(4) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(5) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(6) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(7) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) Child development center/religious education facility in the amount of $820,000 at Yuma Proving Ground, Arizona.

(2) Primary water supply connection in the amount of $2,150,000 at Fort Riley, Kansas.

(3) Material test facility in the amount of $9,700,000,000 at Dugway Proving Ground, Utah.

(4) Barracks modernization in the amount of $3,700,000 at foreign various location 276.

(5) Dining facility in the amount of $2,100,000 at Giessen, Germany.

(6) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.

(7) Contingency facility in the amount of $4,300,000 at Palmerola Air Base, Honduras.

(8) Seventy manufactured home spaces in the amount of $1,100,000 at Aberdeen Proving Ground, Maryland.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Naval Station, Mobile, $19,700,000.

ALASKA

David Taylor Research Center Detachment, Ketchikan, $12,000,000.

Naval Air Station, Adak, $29,000,000.

ARIZONA

Marine Corps Air Station, Yuma, $11,770,000.

CALIFORNIA

Marine Corps Air-Ground Combat Center, Twentynine Palms, $26,630,000.

Marine Corps Air Station, Camp Pendleton, $9,450,000.

Marine Corps Air Station, El Toro, $3,970,000.

Marine Corps Air Station, Tustin, $10,990,000.

Marine Corps Base, Camp Pendleton, $64,460,000.

Marine Corps Logistics Base, Barstow, $1,190,000.

Mountain Warfare Training Center, Bridgeport, $3,200,000.

Naval Air Station, Moffett Field, $650,000.

Naval Air Station, North Island, $6,150,000.

Naval Amphibious Base, Coronado, $870,000.

Naval Amphibious School, San Diego, $10,100,000.

Naval Aviation Depot, North Island, $2,110,000.

Naval Construction Battalion Center, Port Hueneme, $10,900,000.

Naval Construction Training Center, Port Hueneme, $10,080,000.

Naval Hospital, Lemoore, $2,160,000.

Naval Ocean Systems Center, San Diego, $8,660,000.

Naval Post Graduate School, Monterey, $3,140,000.

Naval Civil Engineer Corps Officers School, Port Hueneme, $7,420,000.

Naval Security Group Detachment, San Diego, $1,950,000.

Naval Shipyard, Mare Island, $3,950,000.

Naval Space Surveillance Field Station, San Diego, $3,760,000.

Naval Station, Treasure Island, San Francisco, $5,000,000.

Naval Submarine Base, San Diego, $3,150,000.

Naval Supply Center, San Diego Annex, North Island, $1,695,000.

Naval Training Center, San Diego, $7,980,000.

Naval Weapons Center, China Lake, $12,260,000.

Naval Weapons Station, Seal Beach, $13,890,000.

Navy Public Works Center, San Diego, $500,000.

Navy Public Works Center, San Francisco, $15,810,000.

Pacific Missile Test Center, Point Mugu, $20,470,000.

Personnel Support Activity, San Diego, $1,180,000.

Shore Intermediate Maintenance Activity, San Diego, $10,720,000.

Submarine Training Facility, San Diego, $10,301,000.

CONNECTICUT

Naval Security Group Activity, Groton, $1,170,000.

Naval Submarine Base, New London, $6,660,000.

DISTRICT OF COLUMBIA

Commandant, Naval District Washington, $28,100,000.

Naval Research Laboratory, Washington, $19,800,000.

FLORIDA

Naval Air Station, Cecil Field, $340,000.

Naval Air Station, Jacksonville, $8,810,000.

Naval Air Station, Key West, $850,000.

Naval Air Station, Pensacola, $25,600,000.

Naval Hospital, Pensacola, $2,250,000.

Naval Legal Service Office, Mayport, $1,450,000.

Naval Station, Mayport, $3,060,000.

Naval Supply Center, Pensacola, $2,640,000.

Naval Technical Training Center, Pensacola, $2,840,000.

Naval Training Center, Orlando, $23,810,000.

GEORGIA

Marine Corps Logistics Base, Albany, $5,740,000.

Naval Submarine Base, Kings Bay, $56,330,000.

HAWAII

Marine Corps Air Station, Kaneohe Bay, $24,270,000.

Naval Legal Service Office, Pearl Harbor, $2,380,000.

Naval Station, Pearl Harbor, $8,370,000.

Naval Submarine Base, Pearl Harbor, $11,250,000.

Naval Submarine Training Center, Pacific, Pearl Harbor, $1,780,000.

Naval Supply Center, Pearl Harbor, $8,350,000.

Navy Public Works Center, Pearl Harbor, $3,760,000.

ILLINOIS

Naval Training Center, Great Lakes, $3,440,000.

Naval Public Works Center, Great Lakes, $1,930,000.

KENTUCKY

Naval Ordnance Station, Louisville, $19,000,000.

LOUISIANA

Naval Station, Lake Charles, $5,000,000.

MAINE

Naval Air Station, Brunswick, $530,000.

MARYLAND

David Taylor Naval Ship Research Development Center, Annapolis, $1,860,000.

Naval Academy, Annapolis, $540,000.

Naval Air Test Center, Patuxent River, $1,250,000.

Naval Explosive Ordnance Disposal Technology Center, Indian Head, $7,380,000.

Naval Intelligence Command Headquarters, Suitland, $114,000,000.

Naval Medical Data Services Center, Bethesda, $5,930,000.

Naval Ordnance Station, Indian Head, $1,270,000.

Naval Surface Warfare Center Detachment, White Oak, $2,540,000.

MISSISSIPPI

Naval Construction Training Center, Gulfport, $4,070,000.

Naval Station, Pascagoula, $25,700,000.

Supervisor of Shipbuilding, Pascagoula, $6,000,000.

NEVADA

Naval Air Station, Fallon, $9,470,000.

NEW JERSEY

Naval Weapons Station, Earle, $30,400,000.

NEW MEXICO

Naval Ordnance Missile Test Station, White Sands, $8,090,000.

NEW YORK

Naval Station, New York, $33,395,000.

NORTH CAROLINA

Marine Corps Air Station, Cherry Point, $32,380,000.

Marine Corps Air Station, New River, $8,400,000.

Marine Corps Base, Camp Lejeune, $23,450,000.

OKLAHOMA

Naval Air Detachment, Tinker Air Force Base, $38,080,000.

PENNSYLVANIA

Naval Air Development Center, Warminster, $1,270,000.

Naval Shipyard, Philadelphia, $8,200,000.

Navy Aviation Supply Office, Philadelphia, $1,400,000.

Navy Ships Parts Control Center, Mechanicsburg, $2,050,000.

RHODE ISLAND

Naval Education and Training Center, Newport, $11,560,000.

Naval Justice School, Newport, $2,060,000.

Surface Warfare Officers School Command, Newport, $4,750,000.

SOUTH CAROLINA

Naval Hospital, Beaufort, $2,260,000.

Naval Shipyard, Charleston, $640,000.

Naval Supply Center, Charleston, $1,090,000.

Naval Weapons Station, Charleston, $22,250,000.

TENNESSEE

Naval Air Station, Memphis, $10,090,000.

TEXAS

Naval Station, Galveston, $14,500,000.

Naval Station, Ingleside, $31,850,000.

VIRGINIA

Atlantic Fleet Headquarters Support Activity, Norfolk, $1,700,000.

Fleet Combat Training Center, Atlantic, Dam Neck, $4,700,000.

Marine Corps Combat Development Command, Quantico, $14,290,000.

Marine Corps Detachment, Camp Elmore, $1,690,000.

Marine Environmental Systems Facility, Dam Neck, $5,000,000.

Naval Air Station, Oceana, $2,690,000.

Naval Amphibious Base, Little Creek, $8,270,000.

Naval Amphibious School, Little Creek, $640,000.

Naval Aviation Depot, Norfolk, $8,950,000.

Naval Guided Missile School, Dam Neck, $4,450,000.

Naval Legal Service Office, Norfolk, $1,080,000.

Naval Medical Clinic, Norfolk, $2,470,000.

Naval Ophthalmic Support and Training Activity, Yorktown, $1,970,000.

Naval Security Group Activity, Northwest, Chesapeake, $5,400,000.

Naval Supply Center, Norfolk, $6,660,000.

Naval Supply Center, Williamsburg, $3,300,000.

Naval Surface Warfare Center, Dahlgren, $25,442,000.

Naval Weapons Station, Yorktown, $12,360,000.

Navy Public Works Center, Norfolk, $4,410,000.

WASHINGTON

Naval Air Station, Whidbey Island, $11,010,000.

Naval Supply Center, Bremerton, $5,740,000.

Strategic Weapons Facility, Pacific, Silverdale, $15,060,000.

Trident Refit Facility, Bangor, $990,000.

VARIOUS LOCATIONS

Land Acquisition, $36,895,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ANTIGUA

Naval Support Facility, $6,470,000.

GUAM

Fleet Surveillance Support Group, $26,280,000.

Naval Security Group Detachment, $400,000.

Naval Supply Depot, $7,660,000.

Navy Public Works Center, $6,720,000.

ICELAND

Naval Air Station, Keflavik, $12,000,000.

ITALY

Naval Air Station, Sigonella, $7,950,000.

Naval Support Activity, Naples, $4,750,000.

JAPAN

Marine Corps Air Station, Futenma, Okinawa, $3,280,000.

Marine Corps Base, Camp Butler, Okinawa, $2,840,000.

PANAMA

Naval Station, $7,140,000.

PHILIPPINES

Navy Public Works Center, Subic Bay, $28,340,000.

SPAIN

Naval Communication Station, Rota, $400,000.

VARIOUS LOCATIONS

Classified Location, $4,990,000.

Host Nation Infrastructure Support, $500,000.

SEC. 2202. PORTSMOUTH NAVAL SHIPYARD MODERNIZATION

Of the funds appropriated to the Navy pursuant to section 2207 for design of military construction projects, $2,000,000 may be obligated only for design of the first and second increments of the initial projects for the modernization of Dry Dock Number 2 at the Portsmouth Naval Shipyard, Portsmouth, New Hampshire, including—

(1) design of a permanent weather protection enclosure for the dry dock;

(2) design for the upgrade of existing utilities at such shipyard; and

(3) design of a permanent installation for temporary services and project team and field shop space.

SEC. 2203. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2207(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units shown, and in the amount shown, for each installation:

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $9,470,000.

Marine Corps Air Station, El Toro, California, one hundred units and sixty mobile home spaces, $10,120,000.

Marine Corps Base, Camp Pendleton, California, three hundred and thirty-two units and access roads, $28,510,000.

Naval Station, Long Beach, California, three hundred units, $26,110,000.

Navy Public Works Center, San Diego, California, three hundred and fifty-six units, $31,830,000.

Navy Public Works Center, San Francisco, California, three hundred units, $35,736,000.

Naval District Washington, District of Columbia, two units at 2,100 square feet each, $330,000.

Naval Submarine Base, Kings Bay, Georgia, two hundred and fifty units, $19,860,000.

Naval Air Station, Glenview, Illinois, two hundred and sixty units, $23,000,000.

Naval Station, New York, New York, one hundred and fifty units, $14,900,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2207(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $2,315,000.

SEC. 2204. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2207(a)(6)(A), improve existing military family housing units in an amount not to exceed $58,589,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Pensacola, Florida, one unit, $34,900.

Navy Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, $17,214,000.

Navy Public Works Center, Great Lakes, Illinois, one hundred and two units, $6,181,200.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, $8,129,300.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, $11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $5,415,500.

Naval Air Station, Whidbey Island, Washington, eleven units, $632,600.

Navy Public Works Center, Guam, two hundred and twelve units, $18,473,800.

SEC. 2205. ACQUISITION OF WHERRY HOUSING AT NAVAL AIR STATION, GLENVIEW, ILLINOIS

(a) AUTHORITY TO ACQUIRE.—(1) The Secretary of the Navy may acquire all right, title, and interest in and to 264 family housing units situated on the Naval Air Station at Glenview, Illinois, and constructed in 1956 with financing provided under title VIII of the National Housing Act. The Secretary may also acquire the leasehold interest in such housing units held in private ownership.

(2) The housing units and leasehold interest referred to in paragraph (1) may be acquired with funds derived from any savings realized in carrying out military construction projects of the Navy authorized for construction before fiscal year 1990. The amount paid by the Secretary for such units and the leasehold interest may not exceed an amount equal to the fair market value of such units and interest.

(3) The authority to acquire the housing units referred to in paragraph (1) shall include the authority to acquire other real property improvements related to such units.

(b) OCCUPANCY CHARGES.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), a charge may be made against the basic allowances for quarters of any member of the Armed Forces to whom a housing unit referred to in subsection (a) is leased after the acquisition of the privately held leasehold interest in such unit by the Secretary. However, such a charge may not exceed an amount equal to 75 percent of the amount of the basic allowances for quarters to which the member is entitled.

(2) A member of the Armed Forces who, on the date on which the privately held leasehold interest referred to in subsection (a) is acquired by the Secretary, has in effect an unexpired lease on one of the housing units described in subsection (a) shall be charged rent on such unit (after such acquisition) in accordance with the terms of the lease until the lease expires.

(c) EXPIRATION OF ACQUISITION AUTHORITY.—The authority under this section for the Secretary to acquire the leasehold interest referred to in subsection (a) shall expire on October 1, 1994.

SEC. 2206. DEFENSE ACCESS ROADS

The Secretary of the Navy may, using amounts appropriated pursuant to section 2207(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Marine Corps Air Ground Center, Twentynine Palms, California, $2,900,000.

Navy Public Works Center, San Diego, California, $719,000.

Navy Public Works Center, San Francisco, California, $800,000.

Naval Station, Everett, Washington, $4,400,000.

Naval Submarine Base, Kings Bay, Georgia, $3,000,000.

SEC. 2207. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,336,093,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,233,220,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $119,720,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $138,276,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $11,819,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $263,770,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $544,188,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $55,048,000 (the balance of the amount authorized for the construction of the Headquarters Building, Naval Intelligence Command Headquarters, Suitland, Maryland).

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $8,150,000.
Maxwell Air Force Base, $17,800,000.

ALASKA

Eielson Air Force Base, $15,250,000.
Elmendorf Air Force Base, $20,540,000.
King Salmon Airport, $2,850,000.
Shemya Air Force Base, $14,860,000.

ARIZONA

Davis-Monthan Air Force Base, $980,000.
Luke Air Force Base, $4,550,000.
Williams Air Force Base, $11,130,000.

ARKANSAS

Little Rock Air Force Base, $3,850,000.

CALIFORNIA

Beale Air Force Base, $8,900,000.
Castle Air Force Base, $10,800,000.
Edwards Air Force Base, $5,200,000.
George Air Force Base, $23,550,000.
March Air Force Base, $4,900,000.
Mather Air Force Base, $440,000.
McClellan Air Force Base, $3,080,000.
Onizuka Air Force Base, $4,300,000.
Travis Air Force Base, $10,400,000.
Vandenberg Air Force Base, $8,550,000.

COLORADO

Buckley Air National Guard Base, $25,800,000.
Cheyenne Mountain Complex, $6,500,000.
Lowry Air Force Base, $12,000,000.
Peterson Air Force Base, $13,300,000.
United States Air Force Academy, $10,240,000.

DELAWARE

Dover Air Force Base, $1,000,000.

FLORIDA

Avon Park, $3,700,000.
Cape Canaveral Air Force Station, $26,980,000.
Eglin Air Force Base, $11,020,000.
Eglin Air Force Base, Auxiliary Field 9, $20,100,000.
Homestead Air Force Base, $6,200,000.
MacDill Air Force Base, $4,580,000.
Patrick Air Force Base, $1,126,000.
Tyndall Air Force Base, $6,000,000.

GEORGIA

Moody Air Force Base, $800,000.
Robins Air Force Base, $31,500,000.

HAWAII

Hickam Air Force Base, $4,250,000.

IDAHO

Mountain Home Air Force Base, $1,400,000.

ILLINOIS

Chanute Air Force Base, $6,500,000.
Scott Air Force Base, $14,500,000.

LOUISIANA

Barksdale Air Force Base, $7,300,000.
England Air Force Base, $3,100,000.

MAINE

Loring Air Force Base, $3,000,000.

MARYLAND

Andrews Air Force Base, $2,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $12,400,000.

MICHIGAN

Wurtsmith Air Force Base, $10,690,000.

MISSISSIPPI

Columbus Air Force Base, $2,950,000.
Keesler Air Force Base, $4,550,000.

MISSOURI

Whiteman Air Force Base, $34,300,000.

MONTANA

Malmstrom Air Force Base, $19,470,000.

NEBRASKA

Offutt Air Force Base, $2,450,000.

NEVADA

Indian Springs, $3,150,000.
Nellis Air Force Base, $6,700,000.

NEW HAMPSHIRE

New Boston Air Force Station, $4,500,000.
Pease Air Force Base, $11,450,000.

NEW JERSEY

McGuire Air Force Base, $3,550,000.

NEW MEXICO

Cannon Air Force Base, $4,100,000.
Holloman Air Force Base, $2,900,000.
Kirtland Air Force Base, $13,000,000.

NEW YORK

Griffiss Air Force Base, $700,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $3,050,000.

NORTH DAKOTA

Grand Forks Air Force Base, $13,290,000.
Minot Air Force Base, $6,250,000.

OHIO

Wright-Patterson Air Force Base, $11,455,000.

OKLAHOMA

Altus Air Force Base, $2,300,000.
Tinker Air Force Base, $12,650,000.

SOUTH CAROLINA

Charleston Air Force Base, $5,000,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $8,650,000.

TENNESSEE

Arnold Engineering Development Center, $213,800,000.

TEXAS

Bergstrom Air Force Base, $2,800,000.
Carswell Air Force Base, $3,500,000.
Dyess Air Force Base, $3,470,000.
Goodfellow Air Force Base, $2,350,000.
Kelly Air Force Base, $29,300,000.
Lackland Air Force Base, $14,039,000.
Laughlin Air Force Base, $1,910,000.
Randolph Air Force Base, $6,150,000.
Reese Air Force Base, $990,000.
Sheppard Air Force Base, $10,700,000.

UTAH

Hill Air Force Base, $10,740,000.

WASHINGTON

Fairchild Air Force Base, $9,480,000.
McChord Air Force Base, $13,100,000.

WYOMING

F.E. Warren Air Force Base, $37,200,000.

VARIOUS LOCATIONS

Base 80, $987,000.
Base 81, $2,800,000.
Classified, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

BELGIUM

Kleine Brogel, $1,900,000.

CANADA

Forward Operation Locations, $600,000.

GERMANY

Bitburg Air Base, $1,060,000.
Einsiedlerhof Air Base, $1,500,000.
Hahn Air Base, $16,650,000.

Hessich-Oldendorf Air Station, $740,000.
Norvenich Air Base, $2,300,000.
Pruem Air Station, $620,000.
Ramstein Air Base, $10,800,000.
Rhein-Main Air Base, $5,000,000.
Sembach Air Base, $3,550,000.
Spangdahlem Air Base, $10,270,000.
Wenigerath Air Base, $1,700,000.
Zweibrucken Air Base, $1,300,000.

GREENLAND

Sondrestrom Air Base, $5,950,000.
Thule Air Base, $1,830,000.

GUAM

Anderson Air Force Base, $900,000.

ICELAND

Naval Air Station, Keflavik, $1,100,000.

ITALY

Aviano Air Base, $7,600,000.

JAPAN

Kadena Air Base, $1,850,000.
Misawa Air Base, $4,550,000.
Yokota Air Base, $500,000.

KOREA

Camp Humphreys, $3,350,000.
Kunsan Air Base, $17,330,000.
Osan Air Base, $10,750,000.

THE NETHERLANDS

Camp New Amsterdam, $10,300,000.
Volkel Air Base, $2,300,000.

OMAN

Masirah Air Base, $2,800,000.
Seeb Air Base, $7,100,000.

PANAMA

Howard Air Force Base, $2,600,000.

PHILIPPINES

Clark Air Base, $28,940,000.

PORTUGAL

Lajes Field, $4,850,000.

TURKEY

Incirlik Air Base, $9,590,000.
Pirinclik Air Station, $1,500,000.

UNITED KINGDOM

RAF Alconbury, $2,650,000.
RAF Bentwaters, $5,430,000.
RAF Feltwell, $500,000.
RAF Lakenheath, $10,170,000.
RAF Mildenhall, $7,150,000.
RAF Upper Heyford, $3,830,000.
RAF Welford, $3,720,000.

VARIOUS LOCATIONS

Base 30, $3,850,000.
Base 79, $1,900,000.
Base 82, $2,800,000.
Classified Locations, $16,473,000.

SEC. 2302. FAMILY HOUSING

(a) Construction and Acquisition.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), construct or acquire two hundred and sixty family housing units (including land acquisition) at Clark Air Base, Philippines, in the amount of $19,920,000.

(b) Planning and Design.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) In General.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $153,765,000.

(b) Waiver of Maximum Per Unit Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown for each installation:

Gunter Air Force Station, Alabama, twenty-three units, $1,136,000.

Maxwell Air Force Base, Alabama, fifty units, $2,722,000.

Eielson Air Force Base, Alaska, ninety-six units, $7,943,000.

Elmendorf Air Force Base, Alaska, forty-eight units, $3,818,000.

Davis-Monthan Air Force Base, Arizona, one unit, $60,000.

Luke Air Force Base, Arizona, one hundred and fifty-two units, $5,975,000.

McClellan Air Force Base, California, thirty units, $3,207,000.

Peterson Air Force Base, Colorado, one unit, $74,000; eighty units, $3,527,000.

Bolling Air Force Base, District of Columbia, one hundred and ten units, $4,018,000.

Eglin Air Force Base, Florida, fifty units, $2,138,000.

MacDill Air Force Base, Florida, four units, $279,000.

Robins Air Force Base, Georgia, one hundred and sixty units, $6,861,000.

Scott Air Force Base, Illinois, four units, $184,000.

Grissom Air Force Base, Indiana, one hundred and eighty-six units, $6,788,000.

Barksdale Air Force Base, Louisiana, two units, $185,000; one hundred and fourteen units, $6,200,000.

England Air Force Base, Louisiana, one hundred and six units, $5,830,000.

Andrews Air Force Base, Maryland, five units, $338,000.

Pease Air Force Base, New Hampshire, one unit, $121,000.

McGuire Air Force Base, New Jersey, one hundred units, $4,921,000.

Kirtland Air Force Base, New Mexico, four units, $240,000; one hundred and fifteen units, $4,894,000.

Plattsburgh Air Force Base, New York, one hundred and seventy-four units, $10,600,000.

Minot Air Force Base, North Dakota, one unit, $65,000.

Shaw Air Force Base, South Carolina, one hundred and thirty units, $4,703,000.

Carswell Air Force Base, Texas, one hundred and eighty-one units, $7,869,000; sixteen units, $600,000.

Dyess Air Force Base, Texas, one unit, $64,000.

Kelly Air Force Base, Texas, one hundred and one units, $3,381,000.

Randolph Air Force Base, Texas, two units, $199,000.

Reese Air Force Base, Texas, one hundred and eighty-eight units, $6,816,000.

Ramstein Air Base, Germany, two hundred and forty units, $16,000,000; eight units, $706,000; nine units, $1,039,000.

Andersen Air Force Base, Guam, one unit, $167,000; one hundred and twenty units, $8,000,000.

Misawa Air Base, Japan, one hundred and eighty units, $8,707,000.

Yokota Air Base, Japan, eighty-one units, $5,629,000.

Osan Air Base, Korea, ten units, $447,000.

Clark Air Base, Philippines, eighty-two units, $4,203,000.

RAF Alconbury, United Kingdom, twenty-five units, $1,119,000.

RAF Greenham Common, United Kingdom, one hundred and nineteen units, $5,588,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,135,251,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $837,347,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $242,153,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $119,800,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $180,685,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $738,766,000 of which not more than $16,612,500 may be obligated or expended for leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $74,268,500 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $133,000,000 (the balance of the amount authorized for the construction of the J-6 facility, Arnold Engineering Development Center, Tennessee).

SEC. 2305. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2301(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2301 and 2302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) KC-135 CPT Simulator Facility, in the amount of $890,000 at Minot Air Force Base, North Dakota.

(2) Add to and alter Avionics Maintenance Shop, in the amount of $1,150,000 at Pease Air Force Base, New Hampshire.

(3) KC-135 CPT Simulator facilities in the amount of $660,000 at Robins Air Force Base, Georgia.

(4) Land acquisition in the amount of $230,000 at the United States Air Force Academy, Colorado Springs, Colorado.

(5) Land acquisition Auxiliary Field in the amount of $3,700,000, at Laughlin Air Force Base, Texas.

(6) KC-135 CPT Simulator facility in the amount of $3,500,000, at Beale Air Force Base, California.

(7) KC-135 CPT Simulator facility in the amount of $3,000,000 at Plattsburgh Air Force Base, New York.

(8) Bitburg, Germany, three hundred and thirty-two units of family housing, $26,414,000.

(9) La Junta, Colorado, forty units of family housing, $4,000,000.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States.

DEFENSE COMMUNICATIONS AGENCY

Arlington Service Center, Virginia, $742,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Adak, Alaska, $19,000,000.

Defense Depot, Tracy, California, $590,000.

Defense Fuel Support, Pearl City, Hawaii, $1,900,000.

Defense Reutilization and Marketing Office, Fort Campbell, Kentucky, $1,600,000.

Defense Reutilization and Marketing Office, Offutt Air Force Base, Nebraska, $430,000.

Defense Depot, Mechanicsburg, Pennsylvania, $460,000.

Defense Reutilization and Marketing Office, Carswell Air Force Base, Texas, $350,000.

Defense Depot, Ogden, Utah, $6,000,000.

Cheatham Annex, Virginia, $450,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, $5,209,000.

DEFENSE MEDICAL FACILITIES OFFICE

Hunters Point Annex, Naval Station, Treasure Island, California, $5,000,000.

Marine Corps Base, Camp Pendleton, California, $5,000,000.

March Air Force Base, California, $3,000,000.

Naval Station, North Island, California, $7,200,000.

Naval Station, Treasure Island, California, $11,000,000.

Tyndall Air Force Base, Florida, $800,000.

Fort Benning, Georgia, $700,000.

Robins Air Force Base, Georgia, $3,600,000.

Fort Leonard Wood, Missouri, $1,450,000.

Kirtland Air Force Base, New Mexico, $2,550,000.

Seymour Johnson Air Force Base, North Carolina, $3,700,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $4,100,000.

Corpus Christi, Texas, $6,100,000.

Dyess Air Force Base, Texas, $950,000.

Fort Sill, Oklahoma, $54,000,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $28,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $2,230,000.

OFFICE OF THE SECRETARY OF DEFENSE

Fort Belvoir, Virginia, $3,000,000.

Classified Location, $4,200,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, $72,500,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Yokota Air Base, Japan, $785,000.

DEFENSE LOGISTICS AGENCY

Defense Reutilization and Marketing Office, Bitburg, Germany, $800,000.

Defense Reutilization and Marketing Office, Kaiserslautern, Germany, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Downs Barracks, Germany, $4,200,000.

Geilenkirchen Air Base, Germany, $450,000.

Hahn Air Base, Germany, $18,500,000.

Patch Barracks, Germany, $4,700,000.

Rhein-Main Air Base, Germany, $14,200,000.

Smith Barracks, Germany, $5,100,000.

Spangdahlem Air Base, Germany, $1,250,000.

Wildflecken, Germany, $4,800,000.

Camp Howze, 2nd Infantry Division, Korea, $780,000.

Seoul, Korea, $55,000,000.

Taegu Air Base, Korea, $4,400,000.

Royal Air Force, High Wycombe, United Kingdom, $720,000.

Royal Air Force, Lakenheath, United Kingdom, $41,000,000.

Base 54, $12,800,000.

Classified Locations, $19,500,000.

DEFENSE NUCLEAR AGENCY

Headquarters, Field Command, Johnston Island, $2,644,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Aschaffenburg, Germany, $8,151,000.

Bad Kissingen, Germany, $1,620,000.

Baumholder, Germany, $1,940,000.

Erlangen, Germany, $3,890,000.

Gelnhausen, Germany, $1,482,000.

Giessen, Germany, $7,627,000.

Wildflecken, Germany, $2,752,000.

Keflavik, Iceland, $5,434,000.

Aviano, Italy, $9,450,000.

Pusan, Korea, $1,980,000.

Seoul, Korea, $7,332,000.

Brunssum, the Netherlands, $8,863,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $9,110,000.

NATIONAL SECURITY AGENCY

Classified Locations, $11,250,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Pacific Missile Range, Kwajalein, $16,000,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may, using amounts appropriated pursuant to section 2408(a)(10)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2408(a)(10)(A), improve existing military family housing units in an amount not to exceed $113,000.

SEC. 2404. AFCENT SCHOOL

The Secretary of Defense may, using amounts appropriated pursuant to section 2408(a)(2), contribute funds in the amount of $8,863,000 to the Government of the Netherlands (in its capacity as construction agent) for the United States' share of the cost of the International Elementary and High School project in Brunssum, the Netherlands.

SEC. 2405. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, not more than $5,000,000 appropriated for fiscal year 1988, and not more than $9,300,000 appropriated for fiscal year 1989, carry out military construction projects not otherwise authorized by law for the construction of conforming storage facilities."

SEC. 2406. DEFENSE ACCESS ROADS

The Secretary of Defense may, using amounts appropriated pursuant to section 2408(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Meade, Maryland, in the amount of $12,000,000.

SEC. 2407. RESITING OF OVERSEAS CONTINGENCY MEDICAL FACILITY

Section 2141(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1201) is amended by striking out "RAF Wethersfield, United Kingdom, $740,000." under the heading "Defense Medical Facilities Office" and inserting in lieu thereof "Boscombe Downs, United Kingdom, $740,000.".

SEC. 2408. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $704,050,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $228,811,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $262,010,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987, as amended, $23,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $72,000,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $12,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $6,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $62,229,000.

(9) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, as amended, $9,300,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $513,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $20,187,000, of which not more than $17,179,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(11) For military construction project at Reynolds Army Community Hospital, Fort

Sill, Oklahoma authorized by section 2401(a) of the Military Construction Authorization Act, $27,000,000.

(12) For military construction project at Seoul Army Community Hospital, Seoul, Korea, authorized by section 2401(a) of the Military Construction Authorization Act, $28,000,000.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2409. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following project authorized in section 2401 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

DECCO Computer Center and Administrative Facility in the amount of $7,600,000 at Scott Air Force Base, Illinois.

SEC. 2410. REYNOLDS ARMY COMMUNITY HOSPITAL, FORT SILL, OKLAHOMA AND SEOUL ARMY COMMUNITY HOSPITAL, SEOUL, KOREA

AUTHORIZATION TO CONTRACT IN ADVANCE OF APPROPRIATIONS.—Subject to paragraph 2401(a), the Secretary of Defense may enter into one or more contracts, in advance of appropriations therefor, for the construction of the military construction projects authorized by section 2401(a) to be accomplished at Reynolds Army Community Hospital, Fort Sill, Oklahoma and the Seoul Army Community Hospital, Seoul, Korea, if each such contract limits the amount of payments that the Federal Government is obligated to make under such contracts to the amount of appropriations available, at the time such contract is entered into, for obligation under such contract.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program, as authorized by section 2501, in the amount of $492,000,000.

TITLE XXVI—GUARD AND RESERVE FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $185,227,000, and

(B) for the Army Reserve, $84,156,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $65,100,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $151,788,000, and

(B) for the Air Force Reserve, $63,600,000.

SEC. 2602. AIRCRAFT PARKING RAMP/HOLDING PAD AT YEAGER AIRPORT, CHARLESTON, WEST VIRGINIA

There is authorized to be constructed an aircraft parking ramp/holding pad for the Air National Guard of the United States at Yeager Airport at Charleston, West Virginia, in the amount of $3,300,000. Such project may be constructed only with funds realized as the result of savings on construction projects of the Air National Guard of the United States for which funds were appropriated for fiscal year 1987.

SEC. 2603. ARMY RESERVE CENTER, GORDO, ALABAMA

Construction of a new Army Reserve Center building at the Army Reserve Center, Gordo, Alabama, is hereby authorized in the amount of $1,547,000. Payment for such center may be made only from amounts authorized for appropriations for the Army Reserve pursuant to section 2601.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS; EFFECTIVE DATE

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of an Act authorizing military construction projects for fiscal year 1991, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of an Act authorizing military construction projects for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATE

This title shall take effect on October 1, 1988, or the date of enactment of this Act, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

PART A—MISCELLANEOUS

SEC. 2801. PLANNING ASSISTANCE FOR IMPACTED COMMUNITIES

(a) MODIFICATION OF AUTHORITY.—Paragraph (1) of section 2391(b) of title 10, United States Code, is amended to read as follows:

"(1) The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments in planning community adjustments and economic diversification required (A) by the proposed or actual establishment, realignment, or closure of a military installation, (B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, (C) by a publicly-announced planned major reduction in Department of Defense spending that would directly and adversely affect a community, or (D) by the encroachment of a civilian community on a military installation, if the Secretary determines that an action described in clause (A), (B), or (C) is likely to have a direct and significantly adverse consequence on the affected community or, in the case of an action described in clause (D), if the Secretary determines that the encroachment of the civilian community is likely to impair the continued operational utility of the military installation.".

(b) CONDITION ON ASSISTANCE.—Section 2391(b) of such title is further amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(4) In the case of a publicly-announced planned major reduction in Department of Defense spending that will directly and adversely affect a community, assistance may be made under paragraph (1) only if the publicly-announced planned major reduction will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a five-year period in the locality of the affected community.".

SEC. 2802. COMMUNITY PLANNING ASSISTANCE

(a) ADDITIONAL AUTHORITY.—In addition to the authority under any other provision of law, the Secretary of Defense may provide community planning assistance under section 2391(b) of title 10, United States Code, in the following amounts:

(A) Not to exceed $600,000 for communities located near newly established light infantry division posts.

(B) Not to exceed $2,100,000 for communities located near newly established Navy strategic dispersal program homeports.

(b) EXPIRATION OF AUTHORITY.—The authority to provide community planning assistance under subsection (a) expires on September 30, 1991.

SEC. 2803. RENTAL GUARANTEE PROGRAM

Section 802(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in clause (11) by striking out "shall" and inserting in lieu thereof "may";

(2) by striking out "and" at the end of clause (11);

(3) by striking out the period at the end of clause (12) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new clause:

"(13) in cases in which the housing is located on land owned by the United States and with respect to which housing the occupancy is guaranteed—

"(A) may require that the United States provide utilities, trash collection, snow removal, and entomological services at no cost to the occupant to the same extent that such services are provided to occupants of Government-owned housing; and

"(B) may provide for rent collection and for operation and maintenance in connection with the housing under a separate contract or may use Government personnel to provide such services.".

SEC. 2804. LONG-TERM FACILITIES CONTRACTS

Section 2809(a)(3) of title 10, United States Code, is amended by striking out "20 years" and inserting in lieu thereof "32 years".

SEC. 2805. INCREASE IN FOREIGN HOUSING LEASING AUTHORITY

Section 2828(e)(2) of title 10, United States Code, is amended by striking out "36,000" and inserting in lieu thereof "38,000".

SEC. 2806. COST VARIATIONS

Section 2853 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(1)" after "(a)";

(B) by striking out "appropriated" in the first sentence and inserting in lieu thereof "authorized"; and

(C) by striking out paragraph (2);

(2) by striking out subsection (b);

(3) by redesignating subsection (c) as subsection (b) and by striking out "subsection (d)" in the second sentence of such subsection and inserting in lieu thereof "subsection (c)";

(4) by striking out subsection (d) and inserting in lieu thereof the following:

"(c) The limitation on cost increase in subsection (a) does not apply if—

"(1) the increase in cost is approved by the Secretary concerned;

"(2) a written notification of the facts relating to the increase in cost (including a statement of the reasons for the increase) is submitted by the Secretary concerned to the appropriate committees of Congress; and

"(3) either 21 days have elapsed from the date of the submission of the notification under clause (2) or each of the appropriate committees of Congress has approved the increased cost.";

(5) by striking out subsection (e); and

(6) by redesignating subsection (f) as subsection (d).

SEC. 2807. REPORTS ON REAL PROPERTY TRANSACTIONS

Subsections (a), (b), and (e) of section 2662 of title 10, United States Code, are amended by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000".

SEC. 2808. NOTIFICATION REQUIREMENT RELATING TO ACQUISITION OF INTEREST IN LAND

Section 2672 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "Subject to subsection (b), the" and inserting in lieu thereof "The";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 2809. SOLICITATION FOR PROPOSALS FOR OFFICE SPACE FOR NAVY

(a) In General.—The Secretary of the Navy, in coordination with the Administrator of General Services, shall issue solicitations for proposals for the acquisition of such office and related space within the National Capital Region as the Secretary determines necessary to meet the needs of the Navy within such region.

(b) Report.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report regarding the proposals received in response to the solicitations issued pursuant to subsection (a). The Secretary shall include in such report a cost analysis of meeting the office and related space needs of the Navy within the National Capital Region by means of lease, lease-buy, and military construction, respectively. The Secretary shall also include in such report his recommendations for meeting the current and long-term office and related space needs of the Navy within the National Capital Region.

(c) Deadline for Report.—The report required by subsection (b) shall be submitted not later than 90 days after the date on which the Secretary receives responses to the solicitations for proposals issued pursuant to subsection (a).

SEC. 2810. BROOKE ARMY MEDICAL CENTER

(a) Increase in Project Authority.—(1) Section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), is amended by striking out "$241,000,000" in the item relating to Fort Sam Houston, Texas, under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof "$275,000,000".

(2) The limitation on the total cost of projects carried out under section 2401 of such Act is hereby increased by $34,000,000.

(b) Conforming Amendment.—Section 2403(a)(2) of such Act is amended by striking out ", but the" and all that follows through "beds".

SEC. 2811. THIRD INFANTRY DIVISION MEMORIAL

(a) In General.—The Society of the Third Infantry Division is authorized to erect, on public grounds in Arlington National Cemetery selected pursuant to subsection (b)(1), a memorial in honor and in commemoration of the men of the "Rock of the Marne" of the Third Infantry Division, United States Army, who have served their country in World War I, World War II, and Korea.

(b) Administrative Provisions.—(1) The Secretary of the Army is authorized to select a suitable site on public grounds in Arlington National Cemetery upon which may be erected the memorial authorized in subsection (a).

(2) The design and plans for such memorial shall be subject to the approval of the Secretary of the Army, the American Battle Monuments Commission, the National Capital Planning Commission, and the National Commission of Fine Arts.

(3) The United States shall not be liable for any expense in connection with the erection of the memorial authorized by subsection (a).

(4) The maintenance and care of the memorial erected under this section shall be the responsibility of the Secretary of the Army.

(c) Expiration of Authority.—The authority provided in this section shall expire at the end of the 5-year period beginning on the date of the enactment of this Act unless (1) the erection of the memorial authorized in subsection (a) is commenced within such period, and (2) prior to commencement of the erection of the memorial funds are certified available in an amount sufficient, in the judgment of the Secretary of the Army, to ensure completion of the memorial.

SEC. 2812. AIR FORCE PLANT AT COLUMBUS, OHIO

(a) Lease or Sale of Property.—(1) Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any other provision of law, the Secretary of the Air Force may sell or lease Air Force Plant No. 85 located in Columbus, Ohio.

(2) In connection with any sale or lease of Air Force Plant No. 85, the Secretary shall execute a warranty ensuring that all remedial action necessary to protect human health and the environment with respect to any known environmental contamination on the property of such plant has been or will be taken by the Secretary as soon as practicable consistent with applicable law.

(b) Preparation of Property for Lease or Sale.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of the Air Force shall begin negotiating for the environmental cleanup of the property described in subsection (a) and shall initiate such other actions preparatory to the sale or lease of such property as may be appropriate, including provision for apprisals and a title search.

(c) Deduction of Expense From Proceeds of Sale or Lease.—The Secretary may deduct from the proceeds of any sale or lease of the property described in subsection (a) all expenses incurred by the Secretary in connection with the sale or lease, including necessary repairs, environmental cleanup operations, surveys, and apprisals. The remaining proceeds of the sale or lease shall be credited to the general fund of the Treasury.

(d) Additional Terms.—The Secretary may require such additional terms and conditions in connection with any sale or lease entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

Part B—Real Property Transactions

SEC. 2901. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) Exchange Authorized.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the San Diego Unified Port District of San Diego, California, such real property under the jurisdiction of the Navy in the City of San Diego, California, as the Secretary determines appropriate in exchange for one or more parcels of land, together with improvements thereon and consisting of approximately 32 acres, located adjacent to the San Diego Naval Station, San Diego, California, and owned by the San Diego Unified Port District.

(b) Limitation on Value of Property Exchanged.—The fair market value of the real property conveyed by the Secretary under subsection (a) may not exceed the fair market value of the real property received by the Secretary under such subsection, as determined by the Secretary.

(c) Notice to Committees.—The Secretary may not enter into an exchange under this section until the Secretary has notified the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives of the details of the proposed exchange and a period of 21 days have elapsed following the day on which the committees receive the notification.

(d) Legal Description of Property.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by San Diego Unified Port District.

(e) Additional Terms and Conditions.—The Secretary may require such additional *terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.*

SEC. 2902. LAND EASEMENT, ORANGE COUNTY, CALIFORNIA

(a) In General.—Subject to subsections (b) through (e), the Secretary of the Navy may grant an easement to Orange County, California, for the construction and maintenance of flood control improvements (hereafter in this section referred to as "county improvements") on a tract of land owned by the United States, consisting of approximately 32 acres, located at the northern boundary of the Marine Corps Air Station, El Toro, California, and may grant such temporary rights to Orange County as the Secretary determines necessary for the construction of such improvements.

(b) Consideration.—(1) In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States a parcel of real property consisting of approximately 1½ acres located adjacent to the Marine Corps Air Station, Tustin, California. The United States shall also be entitled to such flood control improvements at the Marine Corps Air Station, El Toro, California, as the Secretary and Orange County shall agree upon.

(2) The county improvements and additional flood control improvements shall be constructed at no cost to the United States.

(c) Payment of Excess Into Treasury.—If the fair market value of the easement described in subsection (a) exceeds the fair market value of the real property conveyed to the United States under subsection (b), Orange County shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) Legal Description of Property.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2903. TRANSFER OF LAND, SUITLAND FEDERAL CENTER, MARYLAND

The Administrator of General Services shall transfer, without consideration, to the Secretary of the Navy such parcel of vacant land located at the Suitland Federal Center, Suitland, Maryland, as the Administrator, after consultation with the Secretary, determines—

(1) to be excess to the present and anticipated future needs of the General Services Administration at the Suitland Federal Center; and

(2) adequate to accommodate the needs of the Navy for the construction and operation of a facility to serve as the Naval Intelligence Command Headquarters authorized by section 2201.

SEC. 2904. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

(a) Authority To Sell.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of land, consisting of a total of approximately 14.06 acres, that comprises a portion of Fort Jackson, South Carolina and is excess to the needs of the Army.

(b) Competitive Bid Requirement; Minimum Sale Price.—(1) The Secretary shall use competitive procedures for the sale of land referred to in subsection (a).

(2) In no event may any of the land referred to in subsection (a) be sold for less than its fair market value.

(c) Use of Proceeds of Sale.—(1) The Secretary may use the proceeds from the sale of the land referred to in subsection (a) for the construction of a consolidated maintenance facility at Fort Jackson, South Carolina.

(2) Any proceeds of the sale not used for such purpose shall be covered into the Treasury as miscellaneous receipts.

(d) Legal Description of Lands.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

(f) Fiscal Year 1990 Budget Request.—The Secretary of the Army shall include in the military construction budget request submitted to Congress for fiscal year 1990 a sufficient amount for completion of construction of the consolidated maintenance facility referred to in subsection (c).

SEC. 2905. LAND CONVEYANCE, LOMPOC, CALIFORNIA

(a) In General.—Subject to subsections (b) through (d), the Secretary of the Army may convey, without reimbursement, to the City of Lompoc, California, all right, title, and interest of the United States in and to a tract of real property (including improvements thereon) of approximately 100 acres located adjacent to the real property conveyed to the City pursuant to section 834 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1526).

(b) Use of Property.—(1) The conveyance authorized by subsection (a) shall be subject to the condition that the real property conveyed shall be used for educational purposes only, and/or the purposes provided in section 834 of Public Law 98-407; (98 Stat. 1526).

(2) If the property conveyed pursuant to subsection (a) is not used for the purposes described in paragraph (1), all right, title, and interest in and to such property shall revert to the United States, which shall have the right of immediate entry thereon.

(c) Legal Description and Surveys.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(d) Other Terms and Conditions.—The Secretary may require such other terms and conditions with respect to the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Part A—National Security Programs Authorizations

SEC. 3101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,607,925,000, to be allocated as follows:

(A) For research and development, $1,069,546,000.

(B) For weapons testing, $524,238,000.

(C) For production and surveillance, $1,909,445,000.

(D) For nuclear directed energy weapons research, development, and testing, $246,254,000.

(E) For the defense inertial confinement fusion program, $155,530,000.

(F) For program direction, $104,696,000.

(2) For defense nuclear materials production, $1,551,272,000, to be allocated as follows:

(A) For uranium enrichment for naval reactors, $169,000,000.

(B) For production reactor operations, $582,476,000.

(C) For processing of defense nuclear materials, including naval reactors fuel, $511,717,000, of which $72,300,000 shall be used for special isotope separation.

(D) For supporting services, $259,679.

(E) For program direction, $28,400,000.

(3) For environmental restoration and management of defense waste and transportation, $739,624,000, to be allocated as follows:

(A) For environmental restoration, $170,925,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $532,042,000.

(C) For waste research and development, $58,460,000.

(D) For hazardous waste process planning, $8,377,000.

(E) For transportation management, $9,720,000.

(F) For program direction, $3,100,000.

(4) For verification and control technology, $146,200,000.

(5) For nuclear materials safeguards and security technology development program, $75,400,000.

(6) For security investigations, $40,000,000.

(7) For naval reactors development, $555,400,000.

SEC. 3102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 89-D-101, general plant projects, various locations, $26,500,000.

Project 89-D-121, general plant projects, various locations, $29,194,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $2,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $800,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,600,000.

Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, $5,400,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,300,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $22,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $72,352,000.

Project 88-D-122, facilities capability assurance program, various locations, $79,341,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $7,500,000.

Project 88-D-124, fire protection upgrade, various locations, $6,500,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $13,000,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $5,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $8,500,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $26,000,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $3,237,000.

Project 86-D-123, environmental hazards elimination, various locations, $5,203,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $31,800,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $6,800,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $12,200,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $1,281,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $4,775,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $2,775,000.

(2) For materials production:

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $5,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $3,600,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $1,000,000.

Project 89-D-146, general plant projects, various locations, $35,260,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $2,000,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $5,700,000.

Project 88-D-154, new production reactor, design only, site to be determined, $35,000,000.

Project 87-D-152, environmental protection plantwide, Savannah River, South Carolina, $2,224,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, and III, Feed Materials Production Center, Fernald, Ohio, $50,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $28,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, and IV, various locations, $72,140,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $6,000,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $12,800,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $65,000,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $11,584,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $5,879,000.

(3) For defense waste and environmental restoration:

Project 89-D-170, general plant projects, waste operations and projects, and waste research and development, various locations, $28,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $4,000,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $12,000,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $1,800,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $3,520,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $3,500,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $22,500,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $1,944,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $911,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $2,068,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,371,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho, $2,084,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $13,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $92,462,000.

(4) For naval reactors development:

Project 89-N-101, general plant projects, various locations, $7,000,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,800,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $1,600,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $600,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $5,900,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,700,000.

Project 88-N-104, prototype availability facilities, Knolls Atomic Power Laboratory, Kesselring Site, West Milton, New York, $6,000,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, $272,254,000, including $8,240,000 for the defense inertial confinement fusion program.

(B) For materials production, $102,500,000.

(C) For defense waste and environmental restoration, $52,716,000.

(D) For verification and control technology, $8,400,000.

(E) For nuclear safeguards and security, $4,800,000.

(F) For naval reactors development, $48,000,000.

SEC. 3103. FUNDING LIMITATIONS AND RESTRICTIONS

(a) Programs, Projects, and Activities of the Department of Energy Relating to the Strategic Defense Initiative.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, not more than $279,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) Inertial Confinement Fusion.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, not more than $163,770,000 may be obligated or expended for the defense inertial confinement fusion program. Not less than $16,800,000 of such amount shall be used only for the purposes of entering into a contract with KMS Fusion, Incorporated, for the performance of a portion of the inertial confinement fusion program.

(c) SRAM II.—Funds appropriated to the Department of Energy for fiscal year 1989 for facilities for production of the warhead for the short-range attack missile II (SRAM II) (project 87-D-122) may be obligated only—

(1) for facilities which are suitable for production of a warhead compatible with both the SRAM-A and the SRAM II; and

(2) after the Nuclear Weapons Council certifies that the design of the warhead is compatible with both the SRAM-A and the SRAM II.

(d) Cooling Tower at Savannah River Plant.—Funds appropriated to the Department of Energy for fiscal year 1989 for construction of a cooling tower for the K reactor (Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River Plant, South Carolina) may be obligated or expended only for the purpose of thermal mitigation in connection with the existing K reactor and thermal mitigation in connection with a new production reactor.

(e) Use of Remaining Unobligated Balances.—Of the funds previously authorized and appropriated for fiscal year 1988 for the projects listed in paragraph (1), the remaining unobligated balances are authorized to be transferred and made available, to the extent provided in an appropriation Act, for the Defense Waste and Environmental Restoration activities at Richland, Washington, listed in subsection (2).

(1) Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000.

Project 87-D-150, Radioactive Effluent Treatment Facility, Richland, Washington, $5,000,000.

Project 87-D-149, Reduced Chemical Discharge, Richland, Washington, $1,700,000.

Project 86-D-149, Productivity Retention Program, Richland, Washington only, $10,000,000.

Project 85-D-136, Components Protection System, Richland, Washington, $4,000,000.

Project 82-D-124, Restoration of Production Capabilities, Richland, Washington only, $1,200,000.

(2)(A) For operating expenses:

(1) for environmental restoration, $30,000,000.

(2) for waste operations and projects,

$1,250,000 for Grout

$2,000,000 for B-Plant

$2,000,000 for Vitrification

(B) For construction:

$2,000,000 for B-Plant and $500,000 for Grout, Project 89-D-170, general plant projects.

$5,000,000 for High Waste Vitrification Plant, Project 88-D-173, Richland, Washington.

(C) For capital equipment:

$1,000,000 for B-Plant and $500,000 for Grout at Richland, Washington.

(3) The amounts authorized to be transferred in paragraph (2) are in addition to the amounts authorized in sections 3101 and 3102.

(f) Special Isotope Separation Project.—(1) Funds appropriated or otherwise made available to the Department of Energy for the special isotope separation project, Idaho Falls, Idaho, may not be obligated or expended for site preparation for such project before March 1, 1989.

Part B—Recurring General Provisions

SEC. 3121. REPROGRAMMING

(a) Notice to Congress.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Limitation on Amount Obligated.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) In General.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) Report to Congress.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) In General.—(1) Except as provided in paragraph (3), construction on a construction project referred to in paragraph (2) may not be started or additional obligations incurred in connection with the project above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 3102 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Exception.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

(a) In General.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) Specific Transfer.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1989 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 3103(a).

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) In General.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) Specific Authority Required.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 3102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. ADJUSTMENTS FOR PAY INCREASES

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 3129. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

Part C—Miscellaneous Provisions

SEC. 3131. REVIEW OF THE INERTIAL CONFINEMENT FUSION PROGRAM

(a) In General.—The Secretary of Energy shall request the National Academy of Sciences to conduct a review of the inertial confinement fusion program of the Department of Energy and to submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of that review. The National Academy of Sciences is requested to include in such report the following:

(1) An assessment of the accomplishments, management, and goals of the defense inertial confinement fusion program, including an assessment of the most promising technology for continuation of the program.

(2) An assessment of the potential benefits, for both the civilian and military sectors, of the defense inertial confinement fusion program, including potential benefits that may be applicable to alternative nuclear weapons testing regimes (under an agreement with the Soviet Union) that would limit underground nuclear tests to each of the following levels:

(A) 10 kilotons.

(B) 5 kilotons.

(C) 1 kiloton.

(3) An assessment of the budgetary priority of the inertial confinement fusion program of the Department of Energy relative to the core defense research and development programs of such department in meeting the defense missions of the Department of Energy under current and anticipated budget restraints.

(4) Such comments and recommendations as it considers pertinent to the study.

(b) DEADLINE FOR REPORTS.—The National Academy of Sciences is requested to submit to the Committees on Armed Services of the Senate and the House of Representatives and the Secretary of Energy an interim report on the study referred to in subsection (a) not later than January 15, 1990, and a final report on such study not later than September 15, 1990.

(c) REVIEW AND COMMENT BY THE SECRETARY.—(1) The Secretary of Energy shall review both the interim and final reports of the National Academy of Sciences and submit to the Committees on Armed Services of the Senate and the House of Representatives such comments regarding such reports as the Secretary considers appropriate.

(2) The Secretary shall submit his comments in the case of each report referred to in subsection (b) not later than 30 days after receiving such report.

SEC. 3132. NEW PRODUCTION REACTOR

(a) RECOMMENDATIONS REGARDING NEW PRODUCTION REACTOR.—Not later than July 31, 1988, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Secretary's recommendation for the site for construction of a new production reactor and the Secretary's recommendation for the preferred technology for a new production reactor.

(b) REPORT CONTAINING INFORMATION PERTAINING TO NEW PRODUCTION REACTOR.—At the same time the budget for fiscal year 1990 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) a discussion of the administrative and legislative changes that would be necessary to shorten the time period necessary to attain the initial operational date of a new production reactor, and (2) any recommendations for such additional action that the Secretary considers appropriate.

SEC. 3133. INDEPENDENT SCIENTIFIC REVIEW GROUP FOR THE WASTE ISOLATION PILOT PLANT IN NEW MEXICO

(a) ESTABLISHMENT.—The scientific evaluation group for the Waste Isolation Pilot Plant in New Mexico, established under a contract entered into by the Secretary of Energy and the State of New Mexico in 1978 (subject to the "July 1, 1981, Agreement for Consultation and Cooperation", as amended by the November 30, 1984, "First Modification" and the August 4, 1987, "Second Modification"), shall be known on and after the date of the enactment of this Act as the "Environmental Evaluation Group".

(b) AGREEMENT.—The Secretary of Energy shall enter into negotiations with appropriate officials of the New Mexico Institute of Mining and Technology (hereafter in this section referred to as the "Institute") with a view to entering into an agreement with the Institute to provide funds for the work of the Environmental Evaluation Group for a term of 5 years. Such agreement may be renewed for an additional term of 5 years. The agreement shall take effect upon the expiration of the contract referred to in subsection (a) (March 31, 1989).

(c) CONTENT OF AGREEMENT.—An agreement entered into under subsection (b) shall require the following:

(1) The Environmental Evaluation Group shall consist of senior scientists representing scientific and engineering disciplines needed for a thorough review of the Waste Isolation Pilot Plant Project in New Mexico (hereafter in this section referred to as the "WIPP"), including such disciplines as geology, hydrology, health physics, environmental engineering, probability risk analysis, mining engineering, and radiation chemistry. The membership of such group shall change during the period of the agreement as may be necessary to meet changed needs of the group for expertise in any certain scientific or engineering discipline. Scientists appointed to the Environmental Evaluation Group shall have qualifications and experience equivalent to the qualifications and experience required for scientists employed by the Federal Government in grades GS-13 through GS-16.

(2) The Environmental Evaluation Group shall have an appropriate support staff, including a Director and a Deputy Director.

(3) The Director shall be appointed by and shall report directly to the President of the Institute. The Director of the Environmental Evaluation Group shall be a scientist of national eminence in the field of nuclear waste disposal, shall be free from any biases related to the activities of the WIPP, and shall be widely known for his integrity and scientific expertise.

(4) The Director shall appoint the rest of the staff. The professional staff shall consist of scientists and engineers of recognized integrity and scientific expertise.

(5) The Director and the Deputy Director shall be appointed for a term of 5 years, subject to reappointment for an additional term of 5 years. The professional staff shall be appointed for such terms as the Director considers appropriate.

(6) The rates of pay of the professional staff and the procedures for increasing the rates of pay of the professional staff shall be equivalent to those rates and procedures provided for the General Schedule pay system under chapter 53 of title 5, United States Code. The fringe benefits available to the professional staff of the Institute shall also be available to the staff of the Environmental Evaluation Group.

(7) To the maximum extent practicable, preference in the hiring of staff for the Environmental Evaluation Group shall be given to persons involved in the scientific evaluation group for WIPP immediately before the date of the enactment of this Act.

(8) The employment of the Director, the Deputy Director, and any member of the professional staff may be terminated for misconduct or incompetence.

(d) ADMINISTRATIVE PROVISIONS.—(1) The Environmental Evaluation Group shall be exclusively administered under the direction of the President of the Institute.

(2) The Environmental Evaluation Group shall have an office in Carlsbad, New Mexico, and in Albuquerque, New Mexico. The Director shall designate one of the offices as the administrative headquarters of the Environmental Evaluation Group.

(e) FUNCTIONS.—(1) The Environmental Evaluation Group shall be responsible for evaluating technical information on WIPP on behalf of the State of New Mexico. The evaluations of the Environmental Evaluation Group shall be made available equally to all branches of the Federal Government and the government of the State of New Mexico. The members of the Environmental Evaluation Group, the Director, the Deputy Director, and the professional staff of the Environmental Evaluation Group shall furnish information, by testimony or otherwise, to the Task Force on WIPP established by the Governor of New Mexico, the legislature of the State of New Mexico, Congress, the Attorney General of the State of New Mexico, and all other duly constituted agencies, committees, and boards of the Federal Government and of the State of New Mexico.

(2) The Environmental Evaluation Group shall disseminate its findings and analyses through publication of reports, articles in reference journals, presentations to learned scientific society meetings, and pamphlets and brochures for the lay public. No approvals from any source outside the Environmental Evaluation Group shall be required before publication of the findings of the Environmental Evaluation Group.

(3) The Environmental Evaluation Group shall evaluate the scientific and technical status of the WIPP project in an objective manner, independent of outside influences, for the primary purpose of protecting the long-term health, safety, and environmental interests of the residents of the State of New Mexico.

(f) FUNDING.—The agreement entered into under subsection (b) shall provide for funding of the Environmental Evaluation Group for at least 5 years. The amount of funding provided for the Environmental Evaluation Group shall be at least equal to the amount of the funding provided for the scientific evaluation group established under the contract referred to in subsection (a) before the enactment of this Act unless the Secretary of Energy, the President of the Institute, and the Environmental Evaluation Group agree that a lesser amount is justified. The agreement shall include provisions for increasing the amount of the funding in order to offset inflation.

(g) CONSTRUCTION.—Nothing in this section shall be construed as affecting actions undertaken before the date of the enactment of this Act in furtherance of the actions required by this section.

SEC. 3134. SETTLEMENT OF ATOMIC ENERGY COMMUNITY ASSISTANCE OBLIGATIONS, LOS ALAMOS COUNTY, NEW MEXICO

(a) PURPOSE.—The purpose of this section is to provide for the final settlement of all obligations of the United States to make community assistance payments to the County of Los Alamos, New Mexico (hereafter in this section referred to as the "County") under section 91 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391).

(b) FINAL SETTLEMENT.—(1) To the extent provided for in appropriations Acts, the Secretary of Energy may pay to the County such amount as the Secretary and the County may mutually agree upon for the purpose of carrying out an agreement to terminate all financial assistance to the County under section 91 of the Atomic Energy Community Assistance Act of 1955, including all financial assistance under Department of Energy Contract Number DE-FG32-87AL43-130.

(2) Payment by the United States of the total amount agreed upon under paragraph (1) shall terminate all obligations of the United States to the County under section 91 of the Atomic Energy Community Assistance Act of 1955 and the contract referred to in paragraph (1).

(c) LIMITATION.—The total amount paid to the County under subsection (b) may not exceed $26,000,000.

(d) TERMS AND CONDITIONS.—The Secretary of Energy may include in the agreement such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(e) AUTHORIZATION OF APPROPRIATION.—The sum of $26,000,000 is authorized to be appropriated for fiscal year 1989 for payments under subsection (b).

SEC. 3135. CLOSURE OF N-REACTOR, HANFORD, WASHINGTON

The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments and regional organizations composed of State and local governments, in planning and supporting community adjustments required by the closure of N-Reactor, Hanford, Washington: Provided further, That the Department of Energy is authorized to provide funds for such activities.

SEC. 3136. SITE RECOMMENDED REPORT

Section 114(a)(1) of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding the phrase "and in subparagraph (I)" at the end of the fourth sentence thereof;

(2) striking the word "and" at the end of subparagraph (G);

(3) striking the period after subparagraph (H) and inserting in lieu thereof "; and"; and

(4) adding a new subparagraph (I) as follows:

"(I) a report by the Secretary of Defense, with regard to any site recommended under this section, as to whether and how the construction and operation of a repository at such site would jeopardize the national security by reason of interference with national defense activities, if any, occurring nearby.".

PART D—INDEPENDENT NUCLEAR SAFETY BOARD OVERSIGHT OVER DEPARTMENT OF ENERGY NUCLEAR FACILITIES

SEC. 3141. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress makes the following findings:

(1) There is a need for independent oversight of safety operations at nuclear facilities controlled by the Department of Energy.

(2) Continual review and assessment by expert outside authorities would be of assistance in identifying actual or potential safety problems, research requirements, and needed standards at these nuclear facilities.

(3) There will continue to be a requirement for an assured source of critical nuclear materials as long as the United States continues to rely on nuclear weapons for national security.

(b) PURPOSE.—The purpose of this part is to establish a Defense Nuclear Safety Board that will help to ensure the protection of public health and safety in activities at Department of Energy nuclear facilities by—

(1) reviewing and evaluating the implementation of health and safety standards, as well as applicable Department of Energy Orders at each nuclear facility;

(2) conducting independent investigations of the safety of operations at Department of Energy nuclear facilities;

(3) recommending to the Department of Energy improvements in its nuclear facilities, operations, and health and safety standards, including suggestions for areas of needed research; and

(4) informing Congress of its findings and recommendations.

SEC. 3142. ESTABLISHMENT OF DEFENSE NUCLEAR SAFETY BOARD

(a) IN GENERAL.—(1) The Atomic Energy Act of 1954 (68 Stat. 919; 42 U.S.C. 2011 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 21. NUCLEAR SAFETY BOARD

"SEC. 311. ESTABLISHMENT.—(a) There is established as an independent establishment in the executive branch a Defense Nuclear Safety Board (hereafter in this chapter referred to as the 'Board').

"(b)(1) The Board shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, from among respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. Not more than 3 members of the Board shall be of the same political party. Not later than 90 days after the date of the enactment of this section, the President shall submit such nominations for appointment to the Board.

"(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

"(3) No member of the Board may have any significant financial relationship with the Department of Energy or with any firm, company, corporation, or other entity engaged in activities under contract with the Department of Energy.

"(c)(1) The Chairman and Vice Chairman of the Board shall be designated by the President. The Chairman and Vice Chairman and other Board members may be reappointed to such offices.

"(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

"(A) the appointment and supervision of employees of the Board;

"(B) the organization of any administrative units established by the Board; and

"(C) the use and expenditure of funds.

The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

"(3) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

"(d)(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of 6 years. Members of the Board may be reappointed.

"(2) Of the members first appointed—

"(A) one shall be appointed for a term of 2 years;

"(B) two shall be appointed for a term of 4 years; and

"(C) two shall be appointed for a term of 6 years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

"(4) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(e) Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

"(f) The Board may, for the purpose of performing its responsibilities under this chapter—

"(1) employ such personnel as it considers necessary to perform administrative, clerical, technical, and other duties, but not more than the equivalent of 100 full-time employees;

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable; and

"(3) prescribe regulations to carry out the responsibilities of the Board under this chapter.

"SEC. 312. FUNCTIONS AND POWERS OF THE BOARD; RESPONSIBILITIES OF THE SECRETARY OF ENERGY.—(a) The Board shall have the following functions and powers:

"(1) The Board shall review and evaluate the implementation of the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at each Department of Energy nuclear facility. The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected at Department of Energy nuclear facilities. The Board shall recommend necessary changes in the content and implementation of such Orders, and recommend matters on which research or additional research is needed.

"(2)(A) The Board shall investigate actual or potential nuclear incidents, if any, at a Department of Energy nuclear facility.

"(B) The purposes of any Board investigation under subparagraph (A) shall be—

"(i) to determine whether the Secretary of Energy is adequately implementing the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at Department of Energy nuclear facilities;

"(ii) to ascertain information concerning the circumstances of any actual or potential nuclear incident, and its implications for public health and safety;

"(iii) to determine whether such actual or potential nuclear incident is related to other actual or potential nuclear incidents at other Department of Energy nuclear facilities; and

"(iv) to provide to the Secretary of Energy such recommendations for changes in Department of Energy Orders and safety regulations and requirements, and such recommendations relating to research needs, as may be prudent or necessary.

"(3) The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy nuclear facility.

"(4) The Board may conduct special studies pertaining to safety at any Department of Energy nuclear facility.

"(5) The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

"(A) actual or potential nuclear incidents at any Department of Energy nuclear facility; or

"(B) suggestions for specific measures to improve health and safety standards, the implementation of health and safety standards, or research relating to health and

safety standards at Department of Energy nuclear facilities.

"(6)(A) The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to reduce substantially the likelihood that actual or potential nuclear incidents which would adversely affect public health or safety will occur at any Department of Energy nuclear facility. In making its recommendations pursuant to this section the Board shall consider the technical and economic feasibility of implementing the recommended measures.

"(B) If the Secretary of Energy determines that any action recommended by the Board or any action proposed to be taken by the Secretary in response to the Board's recommendation might affect the ability of the Department of Energy to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall inform the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and House of Representatives of such recommendation and his determination and shall consult with the Secretary of Defense on such action.

"(7)(A) The Board may establish reporting requirements which shall be binding upon the Secretary of Energy.

"(B) The information which the Board may require to be reported under this paragraph may include any materials designated as classified material pursuant to any other provision of this Act, or any materials designated as safeguards information and protected from disclosure under section 147 or 148 of this Act.

"(C) The Board may, for the purpose of carrying out its responsibilities under this chapter use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such department or agency and, in the case of a contractor, with the consent of the contractor.

"(D) The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this chapter. Each contractor operating a Department of Energy nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this chapter.

"(E) The Secretary of Energy may deny access to information provided to the Board to any person who—

"(i) has not been granted an appropriate security clearance or access authorization by the Secretary of Energy; or

"(ii) does not need such access in connection with the duties of such person.

"(8) Before beginning construction of a new Department of Energy nuclear facility the Secretary of Energy shall give the Board the opportunity to review the design of such facility and to recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Secretary shall give the Board the opportunity periodically to review and monitor the construction and to submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety.

"(b)(1) The Board or, on the authorization of the Board, any member thereof, may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

"(2) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman or any member. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(3) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(4) Any person who willfully neglects or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpoena duly issued under the authority of this subsection shall be fined not more than $500, or imprisoned for not more than 6 months, or both. Upon certification by the Chairman of the Board of the facts concerning any willful disobedience by any person to the United States Attorney for any judicial district in which the person resides or is found, the United States Attorney may proceed by information for the prosecution of the person for the offense.

"SEC. 313. BOARD RECOMMENDATIONS.—(a) Subject to subsection (h), the Board shall make all recommendations submitted to the Secretary of Energy by the Board under this chapter available to the public in the Department of Energy's regional public reading rooms and shall publish in the Federal Register such recommendations and a request for the submission of public comments on such recommendations to the Board. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(b)(1) The Secretary of Energy shall transmit to the Board, in writing, a statement as to whether he accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under this section, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (a), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

"(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (h), shall publish such response, together with a request for public comment on his response, in the Federal Register.

"(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy's response in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

"(c) The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (a) or (b).

"(d) If the Secretary of Energy, in a response under subsection (b)(1), rejects any recommendation made by the Board under section 312(a)(6)(A), the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision whether to implement all or part of the Board's recommendations. Subject to subsection (h), the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report, in writing, containing that decision and reasoning.

"(e) The Secretary of Energy shall prepare a plan for the implementation of each recommendation submitted by the Board under section 312(a)(6)(A) that is accepted by the Secretary. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Board may extend, by not more than 45 days, the time for the Secretary to transmit the plan. The Secretary may implement any such recommendation before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.

"(f) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 312(a)(6)(A) relates to an imminent or severe threat to public health and safety the Board, in addition to taking the actions required by subsection (a), shall transmit that recommendation to the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives at the same time that the Board transmits the recommendation to the Secretary of Energy. If the Secretary of Energy rejects the recommendation after considering the Board's action on the recommendation under subsection (d), then, notwithstanding that subsection, the Secretary shall submit the recommendation to the President. The President shall review the Secretary of Energy's response to the recommendation, the Board's action on such response, and the Secretary's determination under subsection (d) and shall make the final decision concerning acceptance or rejection of the recommendation.

"(g)(1) Subject to paragraphs (2) and (3), not later than one year after the date on which the Secretary of Energy receives a recommendation from the Board under section 312(a)(6)(A), the Secretary shall implement that recommendation if accepted by the Secretary.

"(2) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) is impracticable because of budgetary considerations, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President shall determine whether to request Congress to appropriate funds for the implementation

of the recommendation. If the President does not provide for the implementation of such recommendation in the next budget submitted to Congress under section 1105(a) of title 31, United States Code, after the date on which the President receives the report from the Secretary and, before the date of the submission of such budget to Congress, has not submitted a request to Congress for the appropriation of funds for the implementation of such recommendation for any fiscal year ending before the fiscal year for which such budget is submitted, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the budgetary consequences, safety consequences, national security consequences, and other implications of implementing or not implementing the recommendation.

"(3) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President, in consultation with the Secretaries of Defense and of Energy, shall review the determination of the Secretary of Energy. If the President determines that, for reasons of national security, the recommendation should not be implemented, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the reasons for his determination.

"(h) Notwithstanding any other provision of this section, the requirements to make information available to the public under this section shall be subject to the orders and regulations issued by the Secretary of Energy under sections 147 and 148 of this Act to prohibit dissemination of certain information.

"SEC. 314. REPORTS.—(a)(1) The Board shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning its activities under this chapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue periodic unclassified reports on matters within the Board's responsibilities.

"(2) The annual report under paragraph (1) shall include an assessment of—

"(A) the improvements in the safety of the Department of Energy nuclear facilities during the period covered by the report;

"(B) the improvements in the safety of the Department of Energy nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

"(C) the outstanding safety problems, if any, within or in the operation of the Department of Energy's nuclear facilities.

"(b) The Secretary of Energy shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning the activities of the Department of Energy under this chapter during the year preceding the year in which the report is submitted.

"SEC. 315. ASSISTANCE FROM CERTAIN AGENCIES OF THE FEDERAL GOVERNMENT.—(a) With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

"(b) The Director of the Naval Nuclear Propulsion Program may provide to the Board assistance and advice on matters relating to the Board's responsibilities.

"SEC. 316. ASSISTANCE FROM ORGANIZATIONS OUTSIDE THE FEDERAL GOVERNMENT.—The Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to evaluate and interpret the differences between Nuclear Regulatory Commission regulations and Department of Energy Orders governing nuclear facilities, including the implications of such differences for public health and safety. The agreement should provide for the council, group, or organization to transmit to the Board any recommendation for issuance of a new safety standard by the Department of Energy or for amendment of a Department of Energy safety standard as such council, group, or organization considers appropriate.

"SEC. 317. JUDICIAL REVIEW.—Chapter 7 of title 5, United States Code, shall apply to activities of the Board under this chapter.

"SEC. 318. DEFINITION.—As used in this chapter, the term 'Department of Energy nuclear facility' means—

"(1) a production facility or utilization facility under the control or jurisdiction of the Secretary of Energy, but does not include any facility or activity covered by Executive Order numbered 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program, or facilities or activities involved with the testing or transportation of nuclear explosives or nuclear material; and

"(2) a nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (96 Stat. 2201; 42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

"SEC. 319. TERMINATION.—(a) The Board shall terminate upon the expiration of the 6-year period beginning on the date of the enactment of this section.

"(b) This chapter shall not be effective after the date on which the Board terminates under subsection (a).".

(2) The table of contents at the beginning of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"CHAPTER 21—DEFENSE NUCLEAR SAFETY BOARD

"Sec. 311. Establishment.
"Sec. 312. Functions and powers of the Board; responsibilities of the Secretary of Energy.
"Sec. 313. Board recommendations.
"Sec. 314. Reports.
"Sec. 315. Assistance from certain agencies of the Federal Government.
"Sec. 316. Assistance from organizations outside the Federal Government.
"Sec. 317. Judicial review.
"Sec. 318. Definition.
"Sec. 319. Termination.".

(b) REQUIREMENTS FOR FIFTH ANNUAL REPORT.—The fifth annual report submitted by the Defense Nuclear Safety Board to the Committees on Armed Services of the Senate and House of Representatives under section 314 of the Atomic Energy Act of 1954 (as added by subsection (a)) shall include—

(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of the Congress in establishing the Board;

(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) recommendations for appropriate transition requirements in the event that modifications are recommended.

SEC. 3143. SALARY LEVEL FOR BOARD MEMBERS

Section 5314 of title 5, United States Code, is amended by inserting after "Members, Nuclear Regulatory Commission." the following:

"Members, Defense Nuclear Safety Board.".

SEC. 3144. TRANSFER

The Secretary of Energy shall transfer to the Nuclear Safety Board established by section 311 of the Atomic Energy Act of 1954 (as added by section 3142 of this Act) $7,000,000 to be derived from funds appropriated or otherwise available to the Department of Energy for fiscal year 1989. The amount transferred under this section shall be available to such board to carry out its responsibilities under chapter 21 of the Atomic Energy Act of 1954 (as added by section 3142 of this Act) and shall remain available until expended.

TITLE XXXII—NATIONAL DEFENSE STOCKPILE

SEC. 3201. AUTHORIZATION OF ACQUISITIONS

The President shall obligate $90,000,000 during fiscal year 1989 out of the funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the following purposes:

(1) The acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)).

(2) Transportation, storage, and other incidental expenses related to such acquisition.

(3) For the upgrading of stockpile materials under section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) and evaluations, tests, and other incidental expenses related to such upgrades.

SEC. 3202. AUTHORIZED DISPOSALS

Notwithstanding section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)(2)), effective October 1, 1988, the President is authorized to dispose of the following quantities of materials that are currently held in the National Defense Stockpile (established by section 3 of such Act) and that are hereby determined to be excess to the current requirements of the stockpile:

Material	*Quantities*
Asbestos, chrysotile.	*2,103 short tons*
Asbestos, crocidolite.	*36 short tons*
Celestite	*13,415 short dry tons*
Iodine	*772,016 pounds*
Kyanite	*1,187 short dry tons*
Manganese dioxide, battery. grade, natural ore.	*65,000 short dry tons*
Mercury	*15,000 flasks*
Mica, muscovite block (S&L).	*181,374 pounds*
Mica, muscovite splittings.	*750,000 pounds*
Mica, phlogopite splittings.	*588,929 pounds*
Quartz	*1,248,655 pounds*
Silicon carbide	*43,950 short tons*
Talc, block & lump.	*990 short tons*
Talc, ground	*1,089 short tons*
Thorium nitrate	*6,521,812 pounds*
Tin	*5,000 metric tons*
Tungsten ores & concentrate	*3,000,000 pounds*
Vegetable tannin chestnut.	*3,516 long tons*
Vegetable tannin quebracho.	*77,000 long tons*

SEC. 3203. TECHNICAL AND CLARIFYING AMENDMENTS

Section 11(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-2(b)) is amended—

(1) in the first sentence, by striking out "such fiscal year" and inserting in lieu thereof "the next fiscal year";

(2) in the second sentence, by striking out "planned" and all that follows down through "critical materials" and inserting in lieu thereof "all planned expenditures from the National Defense Stockpile Transaction Fund"; and

(3) by adding at the end the following new sentence: "Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 5(a)(2), that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 5(a)(2), as appropriate.".

TITLE XXXIII—CIVIL DEFENSE

SEC. 3301. AUTHORIZATION OF APPROPRIATION

There is hereby authorized to be appropriated $135,393,000 for fiscal year 1989 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I move that the Senate insist upon its amendments to H.R. 4264 and request a conference with the House. I further ask unanimous consent that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. DeConcini) appointed Mr. Nunn, Mr. Stennis, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, Mr. Warner, Mr. Thurmond, Mr. Humphrey, Mr. Cohen, Mr. Quayle, Mr. Wilson, Mr. Gramm, Mr. Symms, and Mr. McCain conferees on the part of the Senate.

DEFENSE AUTHORIZATION INCREASE

Mr. NUNN. Mr. President, I ask unanimous consent the Committee on Armed Services be discharged from further consideration of H.R. 4524, a bill to increase the transfer authority for the Department of Defense for fiscal year 1988, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4524) to increase the dollar amount of defense authorizations for fiscal year 1988 that are subject to transfer for new purposes pursuant to law, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. NUNN. Mr. President, I move to strike all after the enacting clause of H.R. 4524, and to substitute therefor the language of section 902 of S. 2355, as reported and as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Georgia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4524) as amended, was passed as follows:

H.R. 4524

Resolved, That the bill from the House of Representatives (H.R. 4524) entitled "An Act to increase the dollar amount of defense authorizations for fiscal year 1988 that are subject to transfer for new purposes pursuant to law, and for other purposes", do pass with the following amendment: Strike out all after the enacting clause and insert:

SECTION 1. FISCAL YEAR 1988 DEFENSE FUNDS TRANSFER AUTHORITY

(a) Enhanced Transfer Authority.—Section 1201(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153) is amended—

(1) by inserting "of this Act or any prior defense authorization Act" in paragraph (1) before "for any fiscal year"; and

(2) by striking out "$2,000,000,000" in paragraph (2) and inserting in lieu thereof "$4,000,000,000".

(b) Specified Purposes.—In determining the purposes for which amounts of authorizations transferred pursuant to secton 1201(a) of the Act referred to in subsection (a) will be used, the Secretary of Defense—

(1) shall ensure that an appropriate portion of that authority is used to transfer to operation and maintenance accounts of the Department of Defense for fiscal year 1988 (A) funds for depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur, and (B) funds for pay of civilian personnel in amounts sufficient to prevent furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to insufficient funding for civilian personnel of the Department of Defense for fiscal year 1988;

(2) shall give special consideration and priority to civilian employees of the Department of Defense, readiness, and more efficient acquisition processes; and

(3) shall provide funds for other high priority readiness items.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I move that the Senate insist upon its amendments to H.R. 4524 and request a conference with the House. I further ask unanimous consent that the Chair be authorized to appoint conferees on the part to the Senate.

The motion was agreed to; and the Presiding Officer (Mr. DeConcini) appointed Mr. Nunn, Mr. Stennis, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, Mr. Warner, Mr. Thurmond, Mr. Humphrey, Mr. Cohen, Mr. Quayle, Mr. Wilson, Mr. Gramm, Mr. Symms, and Mr. McCain, conferees on the part of the Senate.

Mr. DIXON. Mr. President, today we have concluded Senate action on the Fiscal Year 1989 Department of Defense Authorization Act. I would like to congratulate the chairman of the Armed Services Committee, the senior Senator from Georgia, and the ranking minority member, Senator John Warner of Virginia, for their untiring efforts in producing this excellent bill. The Chairman has exhibited his usual fair and even-handed leadership in shepherding this bill through committee and floor action.

As chairman of the Subcommittee on Readiness, Sustainability and Support, as well as one of the floor managers of this bill, I know how difficult it has been to craft a piece of legislation on such a critical and complicated subject as the U.S. Defense Program that will satisfy all factions. Compromises, of course, had to be made. I did not get everything I wanted, and neither did any of my colleagues. This is a good bill, that authorizes sufficient funds to insure the national security of the United States and its allies.

I would like to briefly comment on several important provisions of the bill.

MILITARY BASE CLOSINGS

The Defense authorization bill included a section which supported the Secretary of Defense establishing a commission to study and recommend domestic military bases for closure or realignment. Originally the proposal called for power to be solely in the hands of the Secretary and nine commission members appointed by him to make the hard decisions that should be made by the Congress.

Through the compromise amendment that I sponsored, we increased the size of the commission to 15, with the additional 6 members to be selected with the recommendation of the Congress. We also directed that the commission membership fairly represent the geographic balance in this Nation. Most importantly, we returned Congress to the decisionmaking process. Congress, through the passage of a joint resolution, will be able to disapprove the list of bases selected for closure. The issue of base closings is far too complicated and divisive to waive all the rules, especially congressional oversight, without due consideration or deliberation. Of major concern is that this commission would have studied only domestic bases to be closed. Foreign bases would not have been studied or even considered by the commission. That omission was outrageous. I support foreign bases and believe them to be necessary to protect our interests throughout the world. However, I firmly believe that a few of the 130 major foreign bases could be seriously considered for closure without significantly harming our national security interests. Through my amendment, the relative merits and priority of foreign bases will now have to be weighed against those of domestic bases, and the committee is encouraged to consider recommending foreign base closures. I agreed to a compromise with the distinguished chairman and ranking minority member of the Armed Services Committee to expedite the floor proceedings. I will, however, continue to pursue a more palatable compromise in conference.

SECOND SOURCING

Two other amendments that I sponsored were adopted unanimously by the Senate. Both amendments sought to increase the competition for two key acquisition programs, in order to reduce costs and maintain an adequate industrial base capability. One amendment required the Secretary of the Air Force to report to Congress on their plan to develop a second source for the advance tactical air reconnaissance system [ATARS]. ATARS represents the cutting edge of technology in our air reconnaissance capabilities, and should not be limited to a single industry member.

The second amendment directed the Secretary of the Army to continue with a single producer of 155-millimeter base burn ammunition until reaching full production rate, at which time the Army will submit plans for a second source. I will shortly address the need to maintain an ammunition mobilization base in this country.

DEFENSE INDUSTRIAL BASE

Mr. President, I am very pleased with the progress we have made this year on correcting the deficiencies in the U.S. defense industrial base. I want to thank all my fellow members on the Armed Services Committee who lent their time and efforts toward the enactment of this important legislation.

We have made a promising beginning, but I believe that there is more to be done. Unfortunately, there was much confusion on both sides of the aisle as to what we were trying to accomplish with this legislation. The issue of the preservation of the defense industrial base is of long standing concern. Hearings have been held since 1979. Furthermore, somehow war readiness issues got mixed up with the taint of protectionism. That is very far from the truth of what we have been trying to do. Preserving the American capability to fight and sustain our forces during crisis and war is not a partisan issue.

I intend next year to revisit certain elements contained in the Dixon bill that were not included in the bill reported out of committee. In particular, title II, which pertains to the role of the private defense industrial base for ammunition and combat consumables, deserves further consideration.

I mention title II, because the U.S. munitions industry constitutes a unique element of the U.S. defense industrial base, since ammunition other than small arms has no other customer than the U.S. Government. The domestic ammunition community is diminished because of the sharply reduced procurement levels. It has also been hurt because of the misinterpretation of the Competition in Contracting Act [CICA] by the Pentagon. This has resulted in worldwide competition for U.S. defense contracts without sufficient regard for quality, or Congress' specific mandate to preserve the defense industrial base.

Administration rhetoric notwithstanding, the problem of basic lack of readiness persists. What happened to the administration's robust plan to stock ammunition in quantities sufficient to fight the Warsaw Pact conventional forces in Europe for 30 days? Countless studies, promises, and good intentions have not been matched by concrete action. To the contrary, while the talk emphasizes readiness and sustainability of forces, real procurement in basic accounts like ammunition is at its lowest point in recent history. We have attempted to remedy the more egregious deficiencies through committee action, but more needs to be done.

Further exacerbating mobilization base problems is the fact that the Government facilities—that is, Government-owned arsenals—do not compete on the same basis as the private sector. The GAO, at my colleague Senator PETE WILSON's request, is conducting an investigation of the competitive benefits Government-owned arsenals enjoy at the expense of the private sector.

Qualified domestic base producers are vanishing, and there are more sole-source procurements and more offshore suppliers. I sponsored CICA—and Congress prudently gave the executive branch an out to protect domestic defense producers—but the bureaucracy has ignored the exemption.

The issue at stake is not protectionism; the issue is sustaining American troops in the field. We must check the dangerous erosion of the U.S. defense industrial mobilization producers, a key component of America's first line of defense.

Mr. President, as we know, the final amount of the defense budget for this year was negotiated at last year's budget summit. While we all acknowledged the necessity of playing a zero sum game, establishing priorities for the expenditure of the available funds was our primary objective. I would like to address a few areas where I believe we made substantial improvements in the President's budget.

CLOSE AIR SUPPORT

First, the Air Force is paying too little attention to the needs of the Army for close air support. The aging A-10 aircraft must be replaced. We provided $15 million to the Secretary of Defense to study alternatives for modifying existing aircraft to meet the mission or to turn to advanced vertical-take-off-and-landing technologies, such as the AV-8B. I believe that a fair and impartial study will result in the selection of the AV-8B as the military's designated close air support aircraft. The purchase of additional AV-8B's will result in lower cost of the aircraft for all services and increase commonalty and interoperability between services which should be encouraged as a major tenet of procurement strategy.

AH-64

Second, the committee recognized the critical importance of the AH-64

Apache helicopter in its essential armor-antiarmor mission in the post-INF security environment in Europe. We have therefore provided sufficient funds for a multiyear procurement of AH-64's. I believe that the Congress must continue to support multiyear procurements to provide for stable and cost-effective acquisitions.

AIRLIFT/SEALIFT

Third, the committee continued to support the essential role of airlift and sealift programs in maintaining the readiness of our forces. We added $8 million for sealift support equipment beyond what the administration requested, and directed the Air Force to project realistic production rates for the continuing procurement of C-17 aircraft, and to study the benefits of future multiyear procurements.

READINESS

Turning to the work of my Subcommittee on Readiness, Sustainability and Support, I would just like to address the general thrust of the committee's actions. I was very concerned that the administration is funding current readiness needs at the expense of future sustainability requirements. This was borne out in testimony of the witnesses at this year's hearings. The fiscal year 1989 budget maintains funding levels for training and operating tempo, while reducing funds for spare parts, depot maintenance, and ammunition supplies. We tried to correct the most glaring deficiencies, but additional funds will be required in the outyears if we are to maintain a minimum essential level of combat readiness of our Armed Forces. Priorities of the Defense Department and the Congress will have to be shifted from expensive procurement programs and low-return, high-cost research activities if we are to retain the capacity to sustain a fighting capability.

Mr. President, before ending my statement let me pay tribute to staff on both sides of the aisle, without whose tireless efforts we would not have achieved this important legislative accomplishment. David Lyles and Bob Bayer have served me most ably on the Readiness, Sustainability and Support Subcommittee. Kent Bankus, John Etherton, and Andy Effron worked with us on the Defense Industry and Technology Subcommittee. Arnold Punaro and John Hamre have made significant contributions in committee and on the floor. I appreciate the help I have received from Ms. Karen Saifer, a legislative fellow on my staff, as well as Dan Maier and Charles Smith of my personal staff. I thank you all for the support you have given me.

I want to compliment once again the chairman and the ranking member for their excellent work and the long and difficult effort they have put into making this bill a reality.

Mr. President, let me conclude by congratulating the Senate on adopting this bill. By doing so we will be carrying out our responsibility to provide for the national security of this country, and we will be putting forth a blueprint for rational and bipartisan defense strategies for the future.

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed immediately to the consideration en bloc of the following bills:

S. 2369, Calendar Order No. 656.
S. 2370, Calendar Order No. 657.
S. 2371, Calendar Order No. 658.
S. 2372, Calendar Order No. 659.
S. 2373, Calendar Order No. 660.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that those bills be agreed to en bloc; and if there are amendments thereto, they be agreed to; and if there are amendments to the preamble, they be agreed to; and the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, if the majority leader will withhold one moment, I ask unanimous consent that all after the enacting clause of those bills be stricken and that the appropriate portion of S. 2355, as amended, be inserted in lieu thereof, according to the following schedule:

S. 2369, Department of Defense Military Activities Authorization (Division A);
S. 2370, Military Construction (Division B);
S. 2371, National Defense Programs of the Department of Energy (Titles 31 and 32);
S. 2372, Civil Defense (Title 33);
S. 2373, Supplemental Authorization for Fiscal Year 1988 (Section 903).

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT

The bill (S. 2369) to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Department of Defense Authorization Act, 1989".

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Army as follows:

(1) For aircraft, $2,794,900,000.

(2) For missiles, $2,541,800,000.

(3) For weapons and tracked combat vehicles, $2,959,200,000.

(4) For ammunition, $2,035,536,000.

(5) For other procurement, $4,781,154,000, of which $23,549,000 shall be available for procurement of Tactical Army Combat Service Support Computer System (TACCS).

SEC. 102. NAVY AND MARINE CORPS

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Navy as follows:

(1) For aircraft, $9,076,200,000.

(2) For weapons (including missiles and torpedoes), $6,193,100,000.

(3) For shipbuilding and conversion, $9,056,100,000, of which—

(A) $1,368,100,000 is for the Trident submarine program;

(B) $1,493,600,000 is for the SSN-688 nuclear attack submarine program;

(C) $1,488,000,000 is for the SSN-21 nuclear attack submarine program;

(D) $135,400,000 is for the aircraft carrier service life extension program (SLEP);

(E) $2,207,300,000 is for the DDG-51 guided missile destroyer program;

(F) $737,500,000 is for the LHD-1 amphibious assault ship program;

(G) $197,200,000 is for the MHC coastal minehunter program;

(H) $284,900,000 is for the TAO-187 fleet oiler program;

(I) $84,900,000 is for the AO (Jumbo) conversion program;

(J) $159,600,000 is for the TAGOS ocean surveillance ship program;

(K) $363,900,000 is for the AOE fast combat support ship program;

(L) $192,600,000 is for the landing craft, air cushion (LCAC) program; and

(M) $343,100,000 is for outfitting and post delivery.

(4) For other procurement, $4,836,200,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Marine Corps in the amount of $1,167,270,000.

SEC. 103. AIR FORCE

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Air Force as follows:

(1) For aircraft, $16,256,100,000.

(2) For missiles, $8,011,400,000.

(3) For other procurement, $8,318,023,000.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement by the Defense Agencies in the amount of $1,207,920,000.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1989 for the chemical demilitarization program under section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) in the amount of $174,500,000, of which—

(1) $44,300,000 is for procurement;

(2) $17,900,000 is for research, development, test, and evaluation; and

(3) $112,300,000 is for operation and maintenance.

SEC. 106. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $180,000,000.
For the Air National Guard, $183,000,000.
For the Army Reserve, $30,000,000.
For the Naval Reserve, $30,000,000.
For the Air Force Reserve, $10,000,000.
For the Marine Corps Reserve, $10,000,000.

SEC. 107. AUTHORIZED MULTIYEAR CONTRACTS

(a) ARMY.—Subject to subsection (d), the Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) CH-47D Helicopter Modernization.
(2) Multiple Launch Rocket System (MLRS).
(3) H-60 Series Competitive Engine.
(4) M1 Abrams tank.
(5) AH-64 Apache helicopter.

(b) NAVY.—Subject to subsections (d) and (e), the Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the AV-8B aircraft.

(c) AIR FORCE.—Subject to subsection (d), the Secretary of the Air Force may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) Defense Meteorological Satellite System.
(2) F-16 Aircraft.

(d) CONDITIONS.—A multiyear contract authorized by subsection (a), (b), or (c) may not be entered into unless the anticipated cost over the period of the contract is no more than 90 percent of the anticipated cost of carrying out the same program through annual contracts.

(e) LIMITATIONS ON PROCUREMENT OF THE AV-8B AIRCRAFT.—Of the funds made available to the Navy for fiscal year 1989 for advance procurement of the AV-8B aircraft for fiscal year 1990, $91,481,000 may not be obligated or expended unless the Secretary of the Navy enters into a multiyear contract for the procurement of 24 such aircraft during each of the fiscal years 1989 through 1991. In the event the multiyear contract is not entered into, such funds shall be available only for procurement for the Marine Corps.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 111. ARMY PROGRAMS

(a) FINDINGS REGARDING 155 MILLIMETER AMMUNITION.—The Congress is concerned that the schedule of the Army for propellant production and load assemble pack of 155-millimeter M864 ammunition base bleed burn assemblies may not make it economic to carry out such production at two sources concurrently.

(b) LIMITATION ON CONTRACTING FOR SECOND SOURCE.—The Secretary of the Army may not select a second source for production of the program referred to in subsection (a) until the program enters full-rate production and the Secretary reports to the Committees on Armed Services of the Senate and House of Representatives the acquisition plan of the Secretary for the establishment of a second source for the program.

SEC. 111A. NAVY PROGRAMS

(a) TRIDENT II MISSILE PROGRAM.—(1) Of the amounts appropriated pursuant to section 102 for the Navy for the procurement of missiles for fiscal year 1989, $1,865,609,000 may be obligated only for the Trident II missile program.

(2) In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

(b) DDG-51 DESTROYER PROGRAM.—(1)(A) Notwithstanding the matter relating to the DDG-51 destroyer program in the undesignated paragraph under the heading "SHIPBUILDING AND CONVERSION, NAVY" in title III of the Department of Defense Appropriations Act, 1988, as contained in section 101(b) of Public Law 100-202 (101 Stat. 1329-54), the Secretary of the Navy may not limit competition for the shipbuilding portion of the DDG-51 destroyer program in fiscal year 1989 to the two shipyard contractors to which the competition is limited on the date of the enactment of this Act unless the Secretary certifies to Congress that the limitation of such competition to such contractors—

(i) will result in a lower total cost to the United States for the program than would result from including other shipyard contractors in the competition; or

(ii) is necessary to meet the cost, schedule, performance, or other requirements of the Navy determined by the Secretary.

(B) If the Secretary submits a certification to Congress under subparagraph (A), the Secretary shall transmit to the Comptroller General of the United States, at the same time as he submits such certification to Congress, a copy of such certification and a discussion of the criteria applied by the Secretary in making the determinations necessary for such certification.

(2) If the Secretary submits a certification to Congress under paragraph (1)(A), the Comptroller General of the United States shall review the certification and the criteria applied by the Secretary in making the determinations necessary for such certification. Not later than 30 days after the date on which the Secretary submits such certification to Congress, the Comptroller General shall submit to Congress the Comptroller General's assessment of the validity of such criteria.

(3) If the Secretary limits the competition for the shipbuilding portion of the DDG-51 destroyer program in fiscal year 1989 to the two shipyard contractors referred to in paragraph (1)(A), the Secretary may not award any contract for the shipbuilding portion of such program until the expiration of a period of 30 days immediately following the date on which Congress receives the assessment required by paragraph (2).

(c) 5-INCH SEMI-ACTIVE LASER GUIDED PROJECTILE PROGRAM.—Of the funds appropriated or otherwise made available for other procurement for the Navy for fiscal year 1989, the Secretary of the Navy shall make available such amount as may be necessary for the 5-inch semi-active laser guided projectile program in order to complete production qualifications of 150 such projectiles, with 50 such projectiles to be procured from each of the three established competitive sources.

(d) AH-1W GROUND SUPPORT EQUIPMENT.—Of the amount appropriated pursuant to section 102 for the Navy for procurement, $55,000,000 may be obligated only for the procurement of AH-1W ground support equipment.

(e) AN/SQR-17A ACOUSTIC PROCESSORS.—Funds appropriated to or for the use of the Navy by this or any other Act may not be used for the procurement of AN/SQR-17A acoustic processors.

(f) USE OF PRIOR YEAR FUNDS FOR DDG-51 DESTROYER PROGRAM.—Up to $730,000,000 of funds appropriated in prior years that remain available for obligation may be transferred from any such appropriation to and merged with Shipbuilding and Conversion, Navy for the procurement of one DDG-51 class destroyer: *Provided*, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this or any other Act.

SEC. 112. AIR FORCE PROGRAM

Funds appropriated or otherwise made available to the Air Force for fiscal year 1989 may not be obligated or expended in connection with the launch facility at Vandenberg Air Force Base, California (designed for the launch of Titan IV expendable launch vehicles), identified as the SLC-7 Launch Facility.

SEC. 113. MARINE CORPS PROGRAM

Of the funds appropriated pursuant to section 102(a)(4), $54,000,000 shall be available for procurement of SIDEKICK electronic warfare equipment.

PART C—MISCELLANEOUS PROVISIONS

SEC. 121. REPORT ON NAVY AIRCRAFT

Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a detailed report on the current and projected requirements of the Navy for aircraft. The Secretary shall include in such report the following information:

(1) The plans of the Department of Defense to alleviate existing shortfalls of Navy aircraft.

(2) The plans of the Department of Defense to maintain or reduce the current average age of Navy combat aircraft.

(3) The plans of the Department of Defense to modify Navy aircraft to make such aircraft effective against current and projected threats.

(4) The level of funding required to carry out the plans referred to in paragraphs (1), (2), and (3) during fiscal years 1990 through 1994.

SEC. 122. EXTENSION OF DEADLINE FOR COMPLETION OF CHEMICAL DEMILITARIZATION PROGRAM

(a) EXTENSION OF DEADLINE.—Section 1412(b) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(b)) is amended—

(1) by striking out "September 30, 1994" in paragraphs (1) and (3)(A) and inserting in lieu thereof "April 30, 1997";

(2) in paragraph (3)(B), by striking out "within 30 days" and all that follows and inserting in lieu thereof "not later than the earlier of (i) 30 days after the date on which the decision to defer is made, or (ii) 30 days before the date for completing the destruction of the stockpile specified in paragraph (1)."; and

(3) by adding at the end the following new paragraph:

"(4) If the Secretary determines at any time that there will be a delay in meeting the deadline for completing the destruction of the stockpile specified in paragraph (1), the Secretary shall immediately notify the Committees on Armed Services of the

Senate and House of Representatives of that projected delay.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Part A—Funding Authorizations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, $5,008,400,000.

For the Navy (including the Marine Corps), $9,274,600,000.

For the Air Force, $14,721,709,000.

For the Defense Agencies, $8,990,541,000, of which—

(1) $150,900,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation;

(2) $133,400,000 is authorized for the Director of Operational Test and Evaluation; and

(3) $120,000,000 is authorized for the University Research Initiative Program.

Part B—Program Requirements, Restrictions, and Limitations

SEC. 211. ARMY PROGRAMS

(a) Anti-Armor Weapon Systems—Medium.—Section 202(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is repealed.

(b) Limitation on Certain Anti-Armor Weapon Systems.—Funds appropriated pursuant to this or any other Act may not be used for procurement or for research, development, test, or evaluation in connection with the MILAN II system or the Bofors BILL medium anti-tank system.

SEC. 212. NAVY PROGRAMS

(a) Trident II Missile.—Of the amounts appropriated pursuant to section 201 for the Navy for research, development, test, and evaluation, $580,889,000 may be obligated only for the Trident II missile program.

(b) Undistributed Reduction.—In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

(c) Prohibition on Testing Electromagnetic Pulse in Chesapeake Bay.—During fiscal year 1989, the Secretary of the Navy may not carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for ships (EMPRESS).

SEC. 213. AIR FORCE PROGRAMS

(a) National Center for Manufacturing Sciences.—Of the amounts appropriated pursuant to section 201 for the Air Force Manufacturing Technology (MANTECH) program, $5,000,000 shall be available only for the purpose of making a grant to the National Center for Manufacturing Sciences in connection with a program of research relating to manufacturing technology.

(b) ICBM Modernization.—(1)(A) The Secretary of Defense shall conduct a study to determine the feasibility of developing a common launch control system for the MX rail-garrison program and the Small Intercontinental Ballistic Missile program.

(B) If, on the basis of such study, the Secretary determines that a common launch control system for such programs is both feasible and cost-effective, the Secretary shall proceed with the development of such a system.

(2) The Secretary of Defense, through the Under Secretary of Defense for Acquisition, shall conduct a review of the Small Intercontinental Ballistic Missile program. On the basis of such review, the Secretary shall—

(A) estimate the date for the initial operational capability of the program assuming the program is adequately funded beginning in fiscal year 1990; and

(B) estimate the life-cycle cost and the investment cost of such program in both current and constant 1989 fiscal year dollars.

(3)(A) The Secretary of Defense shall conduct a study of the potential vulnerability of a small intercontinental ballistic missile system to special operations forces of a potential enemy or to domestic saboteurs and other persons opposed to such system.

(B) In carrying out such study, the Secretary shall—

(i) consult with appropriate elements of the intelligence community, including the Federal Bureau of Investigation; and

(ii) devote special attention to potential threats that could restrict the mobility of Small ICBM transporters based at Minuteman launch facilities by use of covertly emplaced smart munitions.

(4) The Secretary shall submit the results of the studies provided for in paragraphs (1)(A) and (3)(A) and the review provided for in paragraph (2) to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives, together with such comments and recommendations as the Secretary considers appropriate, not later than March 1, 1989.

(5)(A) Of the amounts appropriated for the Intercontinental Ballistic Missile Modernization program for fiscal year 1989, not more than $10,000,000 shall be available for the studies and review required by this subsection.

(B) Of the amounts appropriated for the Intercontinental Ballistic Missile Modernization program for fiscal year 1989, not more than $50,000,000 shall be available for the Small Intercontinental Ballistic Missile program and not more than $700,000,000 shall be available for the MX rail-garrison program.

SEC. 214. DEFENSE AGENCY PROGRAMS

(a) Optoelectronics Materials Center.—Of the amounts appropriated pursuant to section 201 for Defense Agencies, $14,500,000 shall be available only for the establishment of an Optoelectronics Materials Center at a university in the United States and for the acquisition of associated facilities.

(b) Consolidated DOD Software Initiatives Program.—Of the amounts appropriated pursuant to section 201 for the Defense Agencies, $45,120,000 shall be available only to the Defense Advanced Research Projects Agency for the Consolidated Department of Defense Software Initiatives program.

(c) Extended Air Defense.—Of the funds appropriated pursuant to section 201 for the Defense Agencies, $50,000,000 may be obligated only upon approval of the Director of Defense Research and Engineering for the purpose of research and development in connection with anti-tactical missile systems. In the event any such funds are made available to firms in allied countries, such funds shall be available for obligation only after the Secretary of Defense has entered into a cooperative program with such allied countries for that purpose.

SEC. 215. BALANCED TECHNOLOGY INITIATIVE

(a) Purpose.—It is the purpose of this section to authorize funds for the Balanced Technology Initiative program.

(b) Program Focus.—The focus of the Balanced Technology Initiative program shall be on the development of innovative concepts and methods of enhancing conventional defense capabilities, including the development of concepts and methods to take full advantage of the technological superiority of the United States and its allies as a means of increasing the rate of obsolescence of equipment, doctrine, and tactics of the Soviet Union and other Warsaw Pact countries. Such development shall give particular emphasis to the following:

(1) Armor/anti-armor initiatives.

(2) Defenses against armed helicopters.

(3) Hypervelocity missiles for ground combat use.

(4) Defense against anti-ship missiles, including those with "stealth" characteristics.

(5) "Smart" mines for both land and ocean warfare.

(6) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(7) Improved conventional anti-submarine warfare munitions.

(8) "Smart" standoff munitions and submunitions for delivery outside of lethal air defense ranges.

(c) Amounts Authorized.—Of the amounts appropriated pursuant to section 201 for research, development, test, and evaluation—

(1) not less than $288,000,000 shall be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the Department of Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) or section 215 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 100 Stat. 1050); and

(2) not less than $50,000,000 shall be obligated only for research and development under the Balanced Technology Initiative and shall be used only for new and innovative programs, projects, and activities that have not been designated for funding under a provision of law referred to in clause (1).

(d) Determination of Source of Funds.—The Director of Defense Research and Engineering shall determine the amount of the funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated (as provided in subsection (c)) for the Balanced Technology Initiative. The Director shall make such determination on the merits of the programs, projects, and activities referred to in subsection (b) that are carried out by the Army, Navy, Air Force, and Defense Agencies, taking into consideration ongoing technology research and exploitation opportunities.

(e) Relationship To Conventional Defense Initiative.—The Conventional Defense Initiative provided for in section 221 of the Department of Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) is not an element of the Balanced Technology Initiative. Funds made available for the purpose of this subsection may not be obligated for any program, project, or activity of the Conventional Defense Initiative.

(f) Prohibition Regarding Undistributed Reductions.—No portion of any undistributed reduction may be applied against the funds allocated under subsection (c) or against any funds made available for the Balanced Technology Initiative that are in addition to the funds specified in subsection (c).

(g) PROHIBITION ON USE OF FUNDS.—None of the funds allocated under subsection (c) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(h) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Such report shall include—

(1) the amount allocated under subsection (c) for each program, project, or activity and the identification of the source of such amount;

(2) identification of other ongoing research and development projects not provided for under this section that should be included in the Balanced Technology Initiative in order to improve conventional defense capabilities; and

(3) for each program, project, or activity for which funds have been allocated under subsection (c) or which is identified under clause (2), a 5-year funding plan that is sufficient to maintain significant progress in research and development under such program, project, or activity, including a description of the major milestones for each such program, project, or activity and the projected dates for achieving such milestones.

(i) RESTRICTION ON OBLIGATION AUTHORITY.—None of the funds allocated pursuant to subsection (c) may be obligated until—

(1) the report required by subsection (h) has been received by the committees referred to in such subsection; and

(2) a period of 30 days has elapsed following the date on which the report is received by the committees.

SEC. 216. ADVANCED TACTICAL AIRCRAFT AND ADVANCED TACTICAL FIGHTER

(a) ADVANCED TACTICAL AIRCRAFT, NAVY.—Of the amounts made available to the Department of Defense pursuant to section 201 for the Advanced Tactical Aircraft, not more than 50 percent of such amounts may be obligated or expended unless the Secretary of Defense certifies to Congress that the Navy has budgeted sufficient funds in the Fiscal Year 1990 Five-Year Defense Program to participate in the demonstration and validation program (including source selection) for the Advanced Tactical Fighter of the Air Force.

(b) ADVANCED TACTICAL FIGHTER, AIR FORCE.—Of the amounts appropriated pursuant to section 201, not more than $350,000,000 may be obligated or expended for the Advanced Tactical Fighter unless the Secretary of Defense certifies to Congress that the Air Force has budgeted sufficient funds in the Fiscal Year 1990 Five-Year Defense Program to participate in the full scale development of the Advanced Tactical Aircraft of the Navy.

SEC. 217. MARK XV IDENTIFICATION FRIEND OR FOE SYSTEM

Of the amounts appropriated pursuant to section 201, not more than $90,000,000 may be obligated or expended for combat identification systems unless the Secretary of Defense certifies to Congress—

(1) that sufficient funds have been included in the Fiscal Year 1990 Five-Year Defense Program and Extended Planning Annex to install not later than the end of fiscal year 1998 Mark XV interrogator and transponder units in each of the following weapon systems deployed in operational units:

(A) The Patriot, Hawk, Pedestal Mounted Stinger, and Forward Area Air Defense Line-of-Sight Forward-Heavy Air Defense systems (in all configurations) for the Army;

(B) The F-14, F-18, A-6, A-7, A-12, and S-3 combat aircraft (in all configurations) for the Navy; and

(C) The Advanced Tactical Fighter, F-15, F-16, A-7, B-1, and B-2 combat aircraft (in all configurations) for the Air Force; or

(2) that—

(A) the Mark XV program has been terminated and the United States has entered into an agreement to develop positive hostile identification systems through the North Atlantic Treaty Organization Cooperative Research and Development Program; and

(B) sufficient resources have been included in the Fiscal Year 1990 Five-Year Defense Program and Extended Planning Annex to install such systems on the aircraft and air defense systems specified in paragraph (1).

SEC. 218. AIR-TO-AIR MISSILE PROJECT OFFICE

Of the amounts appropriated pursuant to section 201—

(1) not more than $20,000,000 may be obligated for the Advanced Air-to-Air Missile (AAAM) program; and

(2) not more than $15,000,000 may be obligated for the Advanced Medium Range Air-to-Air Missile (AMRAAM) program,

unless the Secretary of the Navy and the Secretary of the Air Force establish joint program offices, under the guidance of the Office of the Secretary of Defense, for co-development of the Advanced Air-to-Air Missile and product improved Advanced Medium Range Air-to-Air Missile.

SEC. 219. UNDISTRIBUTED REDUCTIONS

(a) LIMITATION ON AUTHORIZATIONS FOR CERTAIN PROGRAMS.—(1) Notwithstanding section 201, the total amount authorized to be appropriated for the programs specified in paragraph (2) is $218,789,000.

(2) The limitation provided in paragraph (1) shall apply to the following programs:

(A) The Defense Support Program (DSP).

(B) The Defense Meteorological Satellite Program (DMSP).

(C) The Global Positioning System (GPS-Navstar).

(D) The Defense Satellite Communications System (DSCS).

(b) REQUIREMENT FOR PROGRAM REDUCTION.—The Secretary of Defense shall reduce the amounts authorized for the programs specified in subsection (a) by such amounts as the Secretary determines necessary to achieve a total reduction of $10,000,000.

SEC. 220. TRAINING IN ADVANCED MANUFACTURING TECHNOLOGIES

(a) FUNDS FOR PURCHASE AND INSTALLATION OF EQUIPMENT.—Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1989, may be obligated for the purchase of high technolgoy manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, machine tool operators in skills critical to the defense technology base to build, operate, and maintain such equipment.

(b) REQUIREMENTS.—Funds may not be obligated for the purpose described in subsection (a) until—

(1) the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education enter into a memorandum of understanding concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility;

(2) the Secretary of Defense approves the obligation of such funds for such purpose; and

(3) a period of 60 days elapses after the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a report that sets forth a detailed explanation of proposed Federal expenditures, a description of the cost-sharing arrangements between the Government agencies concerned and the private sector, and a description of how the proposed program furthers the industrial and technological goals of the Department of Defense.

SEC. 220A. BIGEYE BOMB

Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1989 or any subsequent fiscal year may not be obligated or expended for procurement of the BIGEYE binary chemical bomb, for any component of such bomb, or for the assembly of such bomb unless and until the Comptroller General of the United States determines and certifies to Congress that—

(1) the operational and developmental tests conducted in connection with such bomb after the date of enactment of this Act were realistic and adequate;

(2) the test plan and objectives established for such bomb were clear, well defined, and properly quantifiable;

(3) the design of such test supports a valid statistical analysis of data;

(4) the criteria for a no-test were adequately defined in the test plan for such bomb;

(5) such bomb met or exceeded the test standards established for the bomb; and

(6) such bomb is ready for full-scale production.

SEC. 220B. PRODUCT EVALUATION ACTIVITY

Of the funds appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1989, $17,500,000 shall be available only for the product evaluation activity provided for under section 2369 of title 10, United States Code, as added by section 816 of this Act.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FISCAL YEAR 1989 LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, testing, and evaluation for fiscal year 1989, not more than $4,271,000,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIED ACTIVITIES.—Of the amounts available for the Strategic Defense Initiative program under subsection (a)—

(1) $200,000,000 shall be available only for the Advanced Launch System (ALS);

(2) $175,000,000 shall be available only for the Boost Surveillance and Tracking System (BSTS);

(3) $202,000,000 shall be available only for the Exoatmospheric Reentry-vehicle Interceptor System (ERIS);

(4) $150,000,000 shall be available only for the High Endoatmospheric Defense Interceptor (HEDI) system; and

(5) $17,000,000 shall be available only for research on gallium arsenide (Ga As) integrated circuit technology.

(c) Defense-Wide Mission Support.—Of the amount made available pursuant to subsection (a), $21,000,000 may be used for defense-wide mission support of the Strategic Defense Initiative.

(d) Restriction on Use of Funds.—Funds appropriated to or for the use of the Department of Defense may not be used to establish a Strategic Defense System Operational Test and Evaluation activity.

SEC. 222. REPORT ON ALLOCATION OF SDI FUNDING FOR FISCAL YEAR 1989

(a) Report.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated or otherwise made available for the Strategic Defense Initiative for fiscal year 1989. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) Deadline for Report.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1989.

SEC. 223. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) Use of Funds.—(1) Funds appropriated to the Department of Defense for fiscal year 1989, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1989 or for any fiscal year before 1989, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the March 1988 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the March 1988 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1989 if the transfer is made in accordance with section 901 of this Act.

(b) Definition.—As used in this section, the term "March 1988 SDIO Report" means the report entitled, "Report to Congress on the Strategic Defense Initiative", dated March 23, 1988, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 10 U.S.C. 2431 note).

Part D—Miscellaneous Provisions

SEC. 231. LONG-RANGE CONVENTIONAL CRUISE MISSILE

(a) Report.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than December 31, 1988, a report on the plans and projected expenditures for the Long-Range Conventional Cruise Missile program of the Department of Defense.

(b) Content of Report.—The Secretary shall include in such report the following:

(1) The 5-year funding plan for the program.

(2) A discussion of how the program might be carried out under a joint entity of the military services.

(3) A discussion of the military missions that a long-range conventional cruise missile would be designed to fulfill.

(4) A list of the validated military requirements prescribed for a long-range conventional cruise missile.

(5) An estimate of when a long-range conventional cruise missile system incorporating the most recent advances in guidance, propulsion, mission planning, and munitions technologies would be ready for full-scale engineering development and testing of initial operating capability.

SEC. 232. SENSE OF THE SENATE ON STRATEGIC MISSILE MODERNIZATION

(a) Findings.—The Senate makes the following findings:

(1) It is essential that the Nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces.

(2) The capabilities of the conventional forces of the United States and its allies will become more important if the Intermediate-range Nuclear Forces (INF) treaty between the United States and the Soviet Union is ratified and implemented.

(3) It is both desirable and possible to reduce the reliance of the North Atlantic Treaty Organization on the threat of an early resort to nuclear weapons for the defense of all members of the alliance if the member nations of the alliance assert the political will to reduce such reliance and establish sound defense priorities, including the elimination of critical conventional force deficiencies.

(4) The United States is currently procuring and deploying one land-based intercontinental ballistic missile (ICBM) system (the MX system in fixed silos) at significant cost while developing two additional ICBM systems (the mobile Small ICBM or so-called Midgetman system and the mobile rail-garrison MX system) at significant additional cost.

(5) Efforts to reduce the Federal budget deficit, which are imperative for the economic well-being of the United States, will continue for the foreseeable future to require limits on all discretionary Federal spending, including defense spending.

(b) Sense of the Senate.—In light of the findings in subsection (a), it is the sense of the Senate that the authorization of funds in this Act for research and development for both the Small ICBM and the rail-garrison MX does not constitute a commitment or express an intent by the Senate to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-mobile basing mode or both.

SEC. 233. AUTHORITY OF MILITARY DEPARTMENTS TO LOAN AND BORROW FROM FOREIGN COUNTRIES MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES

(a) In General.—Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2368. Loan of materials, supplies, and equipment for research and development purposes

"(a) In General.—(1) Except as provided in subsection (b), the Secretary of a military department may loan to a foreign government materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary of a military department may also accept as a loan or a gift from a foreign government materials, supplies, or equipment for such purpose.

"(2) A program of testing or evaluation for which the Secretary of a military department may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the foreign government to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

"(3) The materials, supplies, or equipment loaned to a foreign government under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursing the United States if the Secretary concerned—

"(A) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the foreign government; and

"(B) approves of the expenditure or consumption of such materials, supplies, or equipment.

"(b) Exception.—The Secretary of a military department may not loan to a foreign government any material if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) is less than the quantity of such material to be stockpiled, as determined by the President under section 3(a) of such Act.".

(b) Technical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2368. Loan of materials, supplies, and equipment for research and development purposes.".

SEC. 234. MODIFICATION OF REPORT REQUIREMENT CONCERNING DESIGNATION OF MAJOR NON-NATO ALLIES

Section 1105(f) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3966) is amended by inserting "to be added or deleted from the existing designation of countries" in clause (1) after "countries".

SEC. 235. UNIVERSITY RESEARCH INITIATIVE PROGRAM

Funds made available to the Department of Defense pursuant to this or any other Act for the University Research Initiative Program may be obligated or expended in any State without regard to any limitation on the amount that may be expended under such program in any one State.

SEC. 236. SPACE CONTROL CAPABILITIES

(a) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1990 to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on space control capabilities of the Armed Forces of the United States.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A description of requirements for space control capabilities related to deterrence and warfighting objectives, including space surveillance and anti-satellite capabilities, that have been validated by the Joint Chiefs of Staff and transmitted to the Commander-in-Chief of the United States Space Command.

(2) A net assessment of United States and Soviet space control capabilities.

(3) An assessment of current United States space control deficiencies and recommendations for overcoming those deficiencies.

(4) A five-year plan for improving ground and space-based surveillance systems and their associated command, control, and communications systems, and the cost and schedule for implementing the plan.

SEC. 237. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the funds appropriated pursuant to this title, $6,800,000 is available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $22,142,400,000.
For the Navy, $24,879,700,000.
For the Marine Corps, $1,792,000,000.
For the Air Force, $21,898,700,000.
For the Defense Agencies, $7,636,880,000.
For the Army Reserve, $794,900,000.
For the Naval Reserve, $979,200,000.
For the Marine Corps Reserve, $77,500,000.
For the Air Force Reserve, $1,028,500,000.
For the Army National Guard, $1,805,300,000.
For the Air National Guard, $1,965,400,000.
For the National Board for the Promotion of Rifle Practice, $4,300,000.
For the Court of Military Appeals, $3,500,000.
For Environmental Restoration, Defense, $500,000,000.
For Humanitarian Assistance, $13,000,000.

(b) GENERAL AUTHORIZATION FOR CONTINGENCIES.—There are authorized to be appropriated for fiscal year 1989, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, $291,900,000.
For the Navy Stock Fund, $184,700,000.
For the Air Force Stock Fund, $186,900,000.
For the Defense Stock Fund, $30,000,000.

SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—The amount authorized in section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the amount authorized in such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to section 301 for humanitarian assistance to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriations Act.

(f) REPORTS.—The Secretary of Defense shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives not later than 60 days after the date of the enactment of this Act and not later than June 1, 1989, and not later than June 1 each subsequent year until the funds are expended. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under the provisions of this section, the amendments made by section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3856), and section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 100 Stat. 1078).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under the provisions referred to in paragraph (1).

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 304. PERFORMANCE OF FIREFIGHTING AND SECURITY GUARD FUNCTIONS AT AMCHITKA, ALASKA

(a) AUTHORITY TO CONTRACT.—The Secretary of the Navy may contract for the performance of firefighting and security guard functions required by the Navy at the over-the-horizon radar site at Amchitka, Alaska.

(b) INAPPLICABILITY OF LIMITATION ON USE OF FUNDS.—Section 2693 of title 10, United States Code, shall not apply with respect to the authority provided in subsection (a).

SEC. 305. TRIPLER ARMY MEDICAL CENTER

The Department shall, from within the funds authorized, establish a video teleconferencing center for the Tripler Army Medical Center.

PART B—LIMITATIONS

SEC. 311. PROHIBITION ON FINANCING CERTAIN ACTIVITIES BY DIRECT APPROPRIATIONS

(a) PROHIBITION.—During fiscal year 1989, the Secretary of the Navy may not take any steps for the purpose of planning or converting the operation of an activity specified in subsection (b) from operation as an activity financed by the Naval Industrial Fund (as authorized by section 2208 of title 10, United States Code) to operation as an activity financed by direct appropriations.

(b) ACTIVITIES COVERED.—An activity referred to in subsection (a) is any of the following:

(1) Naval Avionics Center, Indianapolis, Indiana.

(2) Naval Civil Engineering Laboratory, Port Hueneme, California.

(3) Naval Air Engineering Center, Lakehurst, New Jersey.

PART C—PERMANENT LAW CHANGES

SEC. 321. LIMITATION ON PRIVATE OPERATION OF COMMISSARY STORES

Section 2482 of title 10, United States Code, is amended by adding at the end the following new sentences: "A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.".

PART D—DEFENSE SUPPLIES SECURITY AND CONTROL

SEC. 331. DEFENSE SUPPLY MANAGEMENT STUDIES AND MODERNIZATION PLAN

(a) DEFENSE INVENTORY SECURITY AND CONTROL ENHANCEMENT STUDY.—(1) The Secretary of Defense shall carry out a study to determine the effectiveness of Department of Defense procedures for ensuring security and control of supplies at Department of Defense depots.

(2)(A) Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study. The Secretary may submit the report in both classified and unclassified forms if the Secretary considers it necessary to do so in the interest of national security.

(B) The Secretary of Defense, at the same time as the Secretary submits the report to Congress under subparagraph (A), shall transmit a copy of the report to the Comptroller General of the United States.

(3) The Comptroller General shall—

(A) review the report transmitted by the Secretary of Defense under paragraph (2)(B); and

(B) submit to the Committees on Armed Services of the Senate and the House of Representatives, within 90 days after the date on which the Comptroller General receives such report, any findings and recommendations on procedures for ensuring the security and control of supplies at Department of Defense depots that the Comptroller General considers appropriate.

(b) Analysis of Sales of Surplus Munitions.—The Secretary of Defense shall—

(1) conduct a cost-benefit analysis of the practice of selling surplus Department of Defense munitions to the public; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than 180 days after the date of the enactment of this Act, a report containing a description and discussion of each such practice.

(c) Supply Traceability Enhancement.—The Secretary of Defense shall—

(1) develop improved methods for the identification of and accounting for individual items of ammunition, explosives, and other Department of Defense supplies that are susceptible to pilferage; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than one year after the date of the enactment of this Act, a report containing a description and discussion of each such method.

(d) Supply System Modernization Plan.—The Secretary of Defense shall—

(1) prepare a plan for the modernization of the supply facilities and supply distribution procedures of each of the military departments and Defense Agencies of the Department of Defense; and

(2) not later than one year after the date of the enactment of this Act, transmit a copy of such plan to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 332. SUPPLY SECURITY AND CONTROL IMPROVEMENTS

(a) Security and Control of Supplies: Reports, Funding, Procedures.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 170 (as added by section 804(b)) the following new chapter:

"CHAPTER 171—SECURITY AND CONTROL OF SUPPLIES

"Sec.
"2891. Report on security and control of supplies.
"2892. Miscellaneous security and control procedures.

"§ 2891. Report on security and control of supplies

"(a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1 of each year, a report on security and control of Department of Defense supplies for each of the three fiscal years following the fiscal year in which this section is enacted.

"(b) Each report shall include the following:

"(1) A summary of each of the physical inventory program plans of the Department of Defense, the Defense Logistics Agency, and the military departments for the fiscal year in which the report is submitted.

"(2) A discussion of the deficiencies, if any, in the security and control of Department of Defense supplies in the fiscal year preceding the year in which the report is submitted and a discussion of the extent to which such deficiencies have been corrected.

"(3) A discussion of—

"(A) research and development projects carried out by the Department of Defense in such preceding fiscal year for the improvement of the inventory and recordkeeping capabilities of the Department;

"(B) any proposals for expeditious application of any new technology resulting from such projects; and

"(C) the budget needs for research and development for such purpose in the fiscal year in which the report is submitted and any subsequent fiscal year for which the budget needs have been determined.

"(4) The budget authority made available to the Department of Defense for inventory control functions in the fiscal year in which the report is submitted and in each of the five fiscal years preceding such fiscal year.

"(5) The budget authority proposed for such purpose in the budget submitted to Congress under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(6) The budget authority needed for such purpose in each of the five fiscal years following the fiscal year for which such budget is submitted.

"(7) An evaluation of the effectiveness of supply inventory control in the fiscal year preceding the fiscal year in which the report is submitted, the criteria used by the Secretary to make such evaluation, and the information considered by the Department in making the evaluation, including the value of supplies lost or stolen or for which accountability has otherwise been lost.

"(8) The aggregate statistics for all incidents of theft, fraud, or breach of security involving Department of Defense supplies that were investigated by military or civilian law enforcement agencies during the fiscal year preceding the fiscal year in which the report is submitted (including incidents involving munitions), a summary description of all such incidents (including the circumstances under which the incidents occurred), and the lessons learned by the Department of Defense from such incidents.

"§ 2892. Miscellaneous security and control procedures

"(a) The Secretary of Defense shall require an investigation of each discrepancy in an accounting for supplies of the Department of Defense involving an amount exceeding the amount determined under procedures prescribed by the Secretary. The Secretary shall prescribe procedures that provide for random investigation of physical inventory discrepancies, regardless of the value of the property involved in the discrepancy.

"(b) The Secretary of Defense shall, to the extent feasible, require that the job function of supply ordering and the job function of supply receiving be performed by different offices and individuals.

"(c) The Secretary shall ensure—

"(1) that the employees of the Department of Defense and members of the armed forces assigned to manage Department of Defense supplies are skilled in the management of such supplies; and

"(2) that no employee of the Department of Defense and no member of the armed forces is assigned to perform such function for disciplinary reason.".

(2) The table of chapters at the beginning of such part and such subtitle are each amended by inserting after the item relating to chapter 170 (as added by section 804(b)) the following new item:

"171. Security and control of supplies ...... 2891".

(b) Report Exception.—The Secretary of Defense may omit in the report for any fiscal year under section 2891 of title 10, United States Code, as added by subsection (a), the information relating to any of fiscal years 1983 through 1988, described in subsection (b)(4) of such section for which there are inadequate records, as determined by the Secretary.

SEC. 333. INVENTORY INVESTIGATIONS

(a) Undercover Investigations.—(1) Congress finds that the use of undercover investigative techniques by the Department of Defense enhances the ability of the Department of Defense to detect and investigate theft of Government property (including munitions) from the Department of Defense supply system.

(2) The Secretary of Defense is urged to continue to conduct undercover investigations to detect and investigate thefts referred to in paragraph (1).

(b) Inventory Security Incident Repository.—The Secretary of Defense shall establish and maintain a centralized computer system for recording and organizing information on theft, fraud, and breach of security, and incidents involving the loss of Department of Defense supplies (including munitions).

SEC. 334. REPORTS OF MUNITIONS LOSSES TO THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

(a) In General.—Chapter 161 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2722. Theft or loss of ammunition, destructive devices, and explosives: report

"(a) In General.—The Secretary of Defense shall report the theft or other loss of any ammunition, destructive device, or explosive material from the stocks of the Department of Defense to the Secretary of the Treasury within 24 hours, if possible, after the discovery of such theft or loss.

"(b) Definitions.—In this section:

"(1) The term 'explosive materials' means explosives, blasting agents, and detonators.

"(2) The terms 'destructive device' and 'ammunition' have the same meanings as provided in paragraphs (4) and (17), respectively, of section 921 of title 18.".

(b) Technical Amendments.—(1) Chapter 161 of such title is further amended—

(A) by striking out the chapter heading at the beginning and inserting in lieu thereof the following:

"CHAPTER 161—PROPERTY RECORDS AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY"; and

(B) by adding at the end of the table of sections at the beginning of such chapter the following new item:

"2722. Theft or loss of ammunition, destructive devices, and explosives: report.".

(2) The tables of chapters at the beginning of part A and at the beginning of part IV of part A of such title are each amended by striking out the item relating to chapter 161 and inserting in lieu thereof the following:

"161. Property Records and Report of Theft or Loss of Certain Property .... 2722".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to thefts and losses discovered more than 180 days after the date of the enactment of this Act.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized end strengths for active duty personnel as of September 30, 1989, as follows:

(1) FOR THE ARMY:

Officers, 106,927.

Enlisted members, 660,423.

Cadets (Military Academy), 4,450.

(2) FOR THE NAVY:

Officers, 72,610.

Enlisted members, 515,815.

Midshipmen (Naval Academy), 4,775.

(3) FOR THE MARINE CORPS:

Officers, 20,120.

Enlisted members, 177,080.

(4) FOR THE AIR FORCE:

Officers, 105,038.

Enlisted members, 465,645.

Cadets (Air Force Academy), 4,417.

SEC. 402. REDUCTIONS IN STRENGTH OF ACTIVE-DUTY OFFICER CORPS

Notwithstanding section 403(a) of the Department of Defense Authorization Act, 1987 (10 U.S.C. 521 note), and section 402(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 521 note), the total number of officers serving on active duty in the Army, Navy, Air Force, and Marine Corps—

(1) as of September 30, 1989, may not exceed the total of the numbers authorized for such officers in section 401 of this Act; and

(2) as of September 30, 1990, may not exceed the total of such numbers reduced by 6,176.

SEC. 403. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

Notwithstanding section 523 of title 10, United States Code, the number of officers otherwise authorized to be serving on active duty in the Air Force in fiscal year 1989 in the grade of colonel is reduced by 125, and the number of such officers otherwise authorized to be serving on active duty in fiscal year 1990 is reduced by 250.

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) AUTHORIZATION.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1989, as follows:

(1) The Army National Guard of the United States, 457,300.

(2) The Army Reserve, 320,600.

(3) The Naval Reserve, 152,600.

(4) The Marine Corps Reserve, 43,600.

(5) The Air National Guard of the United States, 115,200.

(6) The Air Force Reserve, 83,600.

(7) The Coast Guard Reserve, 13,000.

(b) CONFORMING AMENDMENTS.—(1) Section 411(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1082) is amended by striking out "or subsection (b)" and inserting in lieu thereof "or section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

(2) Section 411(d) of such Act is amended by striking out "subsections and (b)" and inserting in lieu thereof "subsection (a) and by section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1989, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,725.

(2) The Army Reserve, 13,329.

(3) The Naval Reserve, 21,991.

(4) The Marine Corps Reserve, 1,945.

(5) The Air National Guard of the United States, 7,948.

(6) The Air Force Reserve, 657.

SEC. 413. NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) SENIOR ENLISTED MEMBERS.—The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	529	180	150	13
E-8	2,350	400	425	74".

(b) OFFICERS.—The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander......	2,600	875	575	110
Lieutenant Colonel or Commander......	1,250	520	322	75
Colonel or Navy Captain	348	185	190	25".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1988.

PART C—MILITARY TRAINING

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—For fiscal year 1989, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 80,281.

(2) The Navy, 65,925.

(3) The Marine Corps, 18,064.

(4) The Air Force, 36,857.

(5) The Army National Guard of the United States, 19,561.

(6) The Army Reserve, 17,190.

(7) The Naval Reserve, 3,136.

(8) The Marine Corps Reserve, 3,459.

(9) The Air National Guard of the United States, 2,868.

(10) The Air Force Reserve, 1,827.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

PART D—CIVILIAN PERSONNEL

SEC. 431. AUTHORIZATION OF END STRENGTHS

(a) IN GENERAL.—The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1989, as follows:

Department of the Army, 400,092.

Department of the Navy, 339,551.

Department of the Air Force, 263,756.

Defense agencies, 98,841.

(b) COUNTING OF PERSONNEL.—(1) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding personnel in special employment categories for students and disadvantaged youth (such as the stay-in-school campaign, the temporary summer aid programs, and the Federal junior fellowship program) and personnel participating in the worker-trainee opportunity program.

(2) Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Personnel employed in an overseas area on a part-time basis under a nonpermanent local-hire appointment who are dependents accompanying a Federal civilian employee or a member of a uniformed service on official assignment or tour of duty shall also be counted as prescribed by section 3404 of that title.

(3) Whenever a function, power or duty, or activity is transferred or assigned to a military department or an agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another military department or agency within the Department of Defense, the civilian personnel end-strength authorized for each such military department or agency of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

TITLE V—MILITARY PERSONNEL POLICY

SEC. 501. SELECTION BOARDS

(a) INFORMATION FURNISHED TO BOARDS.—Section 615 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out clause (4) and inserting in lieu thereof the following:

"(4) information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including guidelines or information relating to the need for either a minimum number or a maximum number of officers with particular skills within a competitive category;"; and

(2) by adding at the end thereof the following new subsection:

"(c) Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits the report to the Secretary of the military department concerned pursuant to section 617(a) of this title, except that, in the case of a report returned to a board pursuant to section 618(a)(2) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in such section.".

(b) Recommendations for Promotion.—Section 616(a) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "particular skills".

(c) Reports of Selection Board.—Section 617(a)(2) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "concerned".

(d) Action on Reports.—Section 618 of such title is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) Upon receipt of a report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned shall review such report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 615(a) of this title. Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), he shall submit the report as required by subsection (b) or (c), as appropriate.

"(2) If, on the basis of a review of the report under paragraph (1), the Secretary of the military department concerned determines that the board acted contrary to law, regulation, or guidelines furnished the board under section 615(a) of this title, the Secretary shall return the report together with a written explanation of the basis for such determination to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title."; and

(2) in subsection (c)(1)—

(A) by striking out ", modification,"; and

(B) by adding at the end the following: "If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.".

(e) Effective Date.—The amendments made by this section shall take effect 60 days after the date of enactment of this Act and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after such effective date.

SEC. 502. EXPANSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113 note) is amended by striking out "above grade GS-1 (or its equivalent)" and inserting in lieu thereof "in grade GS-1 (or its equivalent) or above".

SEC. 503. MANPOWER COST ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Section 2434 of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking out "90 days" and inserting in lieu thereof "30 days";

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following new subsection (b):

"(b) Exceptions.—(1) Subsection (a)(2) shall not apply during time of war or during a national emergency declared by Congress or the President.

"(2) The 30-day period described in subsection (a)(2) shall be reduced to 10 days in the case of a major defense acquisition program if the manpower estimate submitted to the Secretary of Defense under subsection (a)(2) with respect to such program indicates that no manpower increase in military or civilian end strength will be required."; and

(4) in paragraph (3)(A) of subsection (c), as redesignated by clause (2), by striking out "both in total personnel and" and inserting in lieu thereof "in total personnel or in".

SEC. 504. REMOVAL FROM PROMOTION LIST

(a) Authority To Remove.—Section 5905(a) of title 10, United States Code, is amended to read as follows:

"(a) The President may remove the name of any reserve officer from a promotion list established under this chapter. Such action may be taken at any time before the promotion of the officer.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to removal actions taken by the President on or after the date of the enactment of this Act.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Part A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1989

(a) Waiver of Section 1009 Adjustments.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

(b) Increase in Basic Pay, BAQ, and BAS.—(1) Subject to paragraph (2), the rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 4.3 percent effective on January 1, 1989.

(2) If the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in basic allowance for quarters specified in paragraph (1) among such pay grade and dependency categories as he considers appropriate. Any such allocation may be made on a percentage basis other than an equal percentage basis.

(c) Increase in Cadet and Midshipman Pay.—Effective January 1, 1989, section 203(c)(1) of title 37, United States Code, is amended by striking out "$504.30" and inserting in lieu thereof "$525.90".

SEC. 602. ALLOWANCE FOR TRANSPORTATION OF HOUSEHOLD GOODS

(a) Allowance.—Section 406(b)(1) of title 37, United States Code, is amended—

(1) by striking out "within such weight allowances prescribed by the Secretaries concerned," in subparagraph (A) and inserting in lieu thereof "within the weight allowances listed in subparagraph (C)"; and

(2) by adding at the end the following new subparagraph:

"(C) Under regulations prescribed by the Secretary of Defense, the weight allowance to which a member is entitled under subparagraph (A) is the number of pounds listed in the first column (in the case of a member without dependents) or in the second column (in the case of a member with dependents) across from the member's pay grade in the following table:

"Pay Grade	Without Dependents	With Dependents
O-10 to O-6	18,000	18,000
O-5	16,000	17,500
O-4	14,000	17,000
O-3	13,000	14,500
O-2	12,500	13,500
O-1	10,000	12,000
W-4	14,000	17,000
W-3	13,000	14,500
W-2	12,500	13,500
W-1	10,000	12,000
E-9	12,000	14,500
E-8	11,000	13,500
E-7	10,500	12,500
E-6	8,000	11,000
E-5	7,000	9,000
E-4 [1]	7,000	8,000
E-4 [2]	3,500	7,000
E-3	2,000	5,000
E-2	1,500	5,000
E-1	1,500	5,000

"[1] Member with more than two years of service computed under section 205 of this title.

"[2] Member with less than two years of service computed under section 205 of this title.".

(b) Effective Date.—The weight allowances in section 406(b)(1)(C) of title 37, United States Code (as added by subsection (a)), shall apply with respect to transportation of baggage and household effects commencing after June 30, 1989.

Part B—Other Personnel Benefits

SEC. 611. AVIATOR CONTINUATION BONUS

(a) In General.—(1) An aviation officer described in subsection (b) who executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the written agreement by the Secretary concerned, be paid a continuation bonus as provided in this section.

(2) The amount of such a continuation bonus shall be not more than $12,000 for each year covered by the agreement. The agreement may be for a number of years not more than eight, except that no agreement may be entered into for a partial year.

(3) The agreement length and payment amount may be prorated as long as an agreement under this section does not extend beyond the date on which the officer would complete 14 years of commissioned service.

(4) Upon the officer's acceptance of the agreement the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

(b) Applicability.—This section applies to an officer of a uniformed service who—

(1) is entitled to aviation career incentive pay under section 301a of title 37, United States Code;

(2) is in a pay grade below pay grade O-6;

(3) is qualified to perform operational flying duty (as defined in paragraph (6) of section 301a(a) of title 37, United States Code);

(4) has completed at least six but less than 13 years of active duty;

(5) has completed any active duty service commitment incurred for undergraduate aviator training; and

(6) is in or is projected to be in an area designated by the Secretary concerned, and approved by the Secretary of Defense, as retention sensitive.

(c) A continuation bonus under this section is in addition to any other pay and allowances to which an officer is entitled.

(d) Refunds.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(2) Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the agreed-upon period of active duty in aviation service under this section shall not obligate the President to accept a resignation submitted by a regular officer.

(3) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(4) A discharge in bankruptcy under title 11, United States Code, that is entered less than 10 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under such title after October 1, 1988.

(e) Termination of Program.—No new agreement may be entered into under section 301b of title 37, United States Code, on or after the date of the enactment of this Act.

(f) Limitations on Obligations.—The total amount of payments that may be made by the Secretary of the Air Force during fiscal year 1989 as the result of agreements entered into under this section may not exceed $30,000,000.

(g) Regulations.—This section shall be administered under regulations prescribed by the Secretaries concerned and approved by the Secretary of Defense or the Secretary of Transportation, as appropriate.

(h) Definitions.—In this section:

(1) The term "aviation officer" means an officer of the Army, Navy, Air Force, Marine Corps, or Coast Guard who performs aviation service.

(2) The term "aviation service" means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer).

(3) The term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

(i) Expiration of Authority.—The authority for the Secretary of a military department or the Secretary of Transportation to enter into an agreement under this section shall expire on September 30, 1989.

(j) Reporting Requirements.—Not later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the retention of aviators in the Armed Forces. The report shall include as a minimum:

(1) An analysis of aviator requirements and inventories (current and projected) of the Armed Forces by grade and years of service.

(2) An analysis of current and projected aviator retention rates in the Armed Forces and the current and projected retention rates actually needed to meet the requirements of the Armed Forces.

(3) Such recommendations as the Secretary considers appropriate regarding—

(A) the initial active-duty service commitment of aviators;

(B) the integration of the aviator career incentive pay and continuation bonus into a structure that more efficiently supports the retention requirements for aviators in the Armed Forces; and

(C) changes in the aviator management policies of the Armed Forces that would eliminate the disincentives cited by aviators as retention detractors.

(4) Specific proposals for such legislation as the Secretary considers necessary to retain on active duty the aviators required to meet the needs of the Armed Forces.

SEC. 612. ENHANCEMENT OF SPECIAL PAYS FOR CERTAIN MEDICAL OFFICERS

(a) Variable Special Pay.—An officer described in section 302(a)(1) of title 37, United States Code, who is serving in a pay grade below pay grade O-7, and who has at least eight years creditable service, may be paid variable special pay at the following rates rather than at the rates set forth in section 302(a)(2) of title 37, United States Code:

(1) Not more than $14,060 per year, if the officer has at least eight but less than ten years of creditable service.

(2) Not more than $13,320 per year, if the officer has at least ten but less than twelve years of creditable service.

(3) Not more than $11,840 per year, if the officer has at least twelve but less than fourteen years of creditable service.

(4) Not more than $10,360 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

(5) Not more than $8,880 per year, if the officer has at least eighteen but less than twenty-two years of creditable service.

(6) Not more than $7,400 per year, if the officer has twenty-two or more years of creditable service.

(b) Additional Special Pay.—(1) An officer who has at least eight years of creditable service may be paid an amount of additional special pay under this subsection, not in excess of $4,320, for any twelve-month period that the officer is entitled to additional special pay under section 302(a)(4)(A) of title 37, United States Code. Additional pay under this subsection shall be in addition to any special pay under section 302(a)(4)(A) of such title.

(2) An officer may be paid an amount of additional special pay under this subsection not to exceed $4,800 for any twelve-month period during which the officer is entitled to additional special pay under section 302(a)(4)(B) of title 37, United States Code. Such additional pay shall be in addition to special pay under such section 302(a)(4)(B).

(3) An officer described in section 302(a)(5) of title 37, United States Code, who has at least eight years of creditable service may be paid additional special pay at the following rates rather than at the rates set forth in such section 302(a)(5):

(A) Not more than $2,960 per year, if the officer has at least eight but not more than ten years of creditable service.

(B) Not more than $3,700 per year, if the officer has at least ten but less than twelve years of creditable service.

(C) Not more than $4,440 per year, if the officer has at least twelve but less than fourteen years of creditable service.

(D) Not more than $5,920 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

(E) Not more than $7,400 per year, if the officer has eighteen or more years of creditable service.

(c) Administration and Implementation.—The provisions of subsections (a) and (b) of section 303a of title 37, United States Code, shall apply to the administration of this section as if a reference to this section were included in the list of sections referred to in such subsections.

(d) Limitation on Total Compensation.—The Secretary of Defense shall ensure that no officer receives pay under subsections (a) and (b) which, when added to all other pay and allowances such officer receives pursuant to titles 10 and 37, United States Code, results in such officer receiving total compensation in an amount that exceeds the total compensation paid to comparable physicians (considering age, education, experience, certification, training, and other appropriate criteria), as determined by the Secretary, who are physicians employed in private practice. The Secretary shall target payments under this section to officers with training and experience levels in which the most severe shortages exist in the Department of Defense.

(e) Reports.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in subsections (a) and (b) is to be used. The report shall include a description of the relative level of payments between officers with various amounts of creditable service and specialty training.

(2)(A) Not later than December 1, 1988, the Secretary of Defense shall also submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(i) such recommendations for legislation as the Secretary considers necessary to attract and retain on active duty the health care professionals needed to meet the needs of the Armed Forces; and

(ii) the Secretary's assessment of the adequacy of the existing compensation system for such health care professionals.

(B) The Secretary shall include in his report a draft of legislation which, if enacted, would establish either—

(i) an alternative compensation system which provides total compensation that is comparable to the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in private practice; or

(ii) a single military health care professional incentive compensation program which provides incentive compensation in sufficient amounts to ensure that the total amount of such compensation to which such health care professionals are entitled under the provisions of titles 10 and 37, United States Code (other than chapter 5 of such title 37) is comparable to the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in private practice.

(f) Limitations on Obligations.—The total amount of the payments that may be made during fiscal year 1989 under this section may not exceed a total of $30,000,000.

(g) Effective Date.—The authority to make payments under subsections (a) and (b) shall become effective with respect to pay periods beginning after December 31, 1988.

(h) Termination of Authority.—If the report and the legislative proposal required by subsection (e)(2) are not received by the Committees on Armed Services of the Senate and the House of Representatives before December 1, 1988, the authority to make payments under subsections (a) and (b) shall terminate effective with respect to pay periods beginning after September 30, 1989.

SEC. 613. SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE

(a) In General.—(1) An officer of a reserve component of the Armed Forces described in paragraph (2) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $10,000.

(2) An officer referred to in paragraph (1) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

(3) Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

(b) Refund Requirement.—An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.

(c) Inapplicability of Discharge in Bankruptcy.—A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the person receiving such special pay from the debt arising under the agreement.

(d) Termination of Agreement Authority.—No agreement under this section may be entered into after September 30, 1990.

(e) Purpose of Program.—The authority provided under this section shall be used only for the purpose of establishing and conducting a pilot test program to determine the effect that the program provided for in this section has on the retention of officers who are qualified in specialties designated by regulation as critically short wartime specialties.

(f) Regulations.—(1) This section shall be administered under regulations prescribed by the Secretary concerned and approved by the Secretary of Defense.

(2) As used in paragraph (1), the term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

(g) Limitations on Obligations.—The total amount of payments that may be made during fiscal year 1989 as the result of agreements entered into under this section may not exceed $4,000,000.

(h) Report.—Not later than September 1, 1988, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of the manner in which the pilot test program described in subsection (e) is to be structured, including the minimum periods of service to be required for various levels of special pay under this section.

(i) Effective Date.—The authority to enter into agreements under this section shall be effective 30 days after the date on which the committees referred to in subsection (h) receive the report required by such subsection.

SEC. 614. RETIRED PAY INVERSIONS RESULTING FROM COURT-MARTIAL PUNISHMENT

(a) In General.—Section 1401a(f) of title 10, United States Code, is amended by inserting after the second sentence the following: "However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member was retired.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the first day of the first month that begins after the date of the enactment of this Act and shall apply to the computation of the retired or retainer pay of members of the Armed Forces who initially become entitled to such pay on or after such effective date.

SEC. 615. SPECIAL ANNUITY FOR CERTAIN SURVIVING SPOUSES

(a) In General.—(1) The Secretary concerned shall pay a $165 monthly annuity to any unremarried surviving spouse of a member of the uniformed services who—

(A) died before November 1, 1953; and

(B) was entitled to retired or retainer pay on the date of death.

(2) The annuity paid to any unremarried surviving spouse under this section shall be reduced by—

(A) the amount of compensation to which such surviving spouse is entitled under section 411(a) of title 38, United States Code; and

(B) any amount such surviving spouse is entitled to receive as an annuity under subchapter I or II of chapter 73 of title 10, United States Code.

(3) The annuity paid to any unremarried surviving spouse under this section shall be in addition to any pension to which such surviving spouse is entitled under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (38 U.S.C. 521 note), and any payment made under the provisions of section 4 of Public Law 92-425 (10 U.S.C. 1448 note). An annuity paid under this section shall not be considered as income for the purposes of eligibility to any such pension.

(b) Cost-of-Living Increases.—Whenever retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent. The amount of the increase shall be based on the monthly annuity payable before any reduction under this section.

(c) Definitions.—In this section:

(1) The term "uniformed services" has the same meaning as provided in section 101(3) of title 37, United States Code.

(2) The term "surviving spouse" has the meaning given the terms "widow" and "widower" in paragraphs (3) and (4), respectively, of section 1447 of title 10, United States Code.

(3) The term "Secretary concerned" has the meaning given such term in section 101(8) of title 10, United States Code, and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

(d) Effective Date.—The provisions of this section shall become effective on the date of enactment of this Act, except that no benefit shall accrue to any person before the first day of the second month following the month in which the Secretary receives an application from such person for such annuity.

SEC. 616. TRAVEL AND TRANSPORTATION ALLOWANCES FOR EMERGENCY TRAVEL

Section 411e(a) of title 37, United States Code, is amended by striking out "incident to the serious illness or injury or the death of a dependent of the member" and inserting in lieu thereof "incident to a personal emergency of the member".

SEC. 617. DEPENDENT STATUS OF CERTAIN CHILDREN

Section 401(2) of title 37, United States Code, is amended by striking out "member)" and inserting in lieu thereof "member, or any other child for whom care and support is provided by the member pursuant to an order of custody issued by a court of competent jurisdiction)".

SEC. 618. CIVILIAN CLOTHING ALLOWANCE

Section 419 of title 37, United States Code, is amended—

(1) by striking out "member" each place it appears and inserting in lieu thereof "officer";

(2) by striking out "is entitled" and inserting in lieu thereof "may be paid"; and

(3) by striking out "member's" and inserting in lieu thereof "officer's".

SEC. 619. TRAVEL AND TRANSPORTATION ALLOWANCES INCIDENT TO VOLUNTARY EXTENSION OF OVERSEAS TOURS OF DUTY

(a) Change From Mandatory to Permissive.—Section 411g(a) of title 37, United States Code, is amended by striking out "is entitled" and inserting in lieu thereof "may be paid".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to agreements to extend overseas tours of duty made on and after the date of the enactment of this Act.

SEC. 620. COMMISSARY STORES PRIVILEGES

(a) In General.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1055. Commissary store privileges for custodial parents

"The unremarried former spouse of a member or retired member of the Armed Forces may use commissary stores for the benefit of a dependent child (as described in section 1072(2)(D) of this title) of such member during any period when all of the following conditions apply:

"(1) such former spouse has legal custody of such a child;

"(2) such a member or retired member is authorized to use commissary stores; and

"(3) such dependent child is unable to use commissary stores because of administrative restrictions on the use of commissary stores by dependent children.".

(b) Technical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1055. Commissary store privileges for custodial parents.".

SEC. 620A. INJURY, DISABILITY, AND DEATH COMPENSATION COVERAGE FOR ROTC CADETS DURING MILITARY TRAINING ACTIVITIES

(a) Authority to Prescribe Training.—Section 2109 of title 10, United States Code, is amended—

(1) by striking out the catchline and inserting in lieu thereof the following:

"§ 2109. Practical military training";

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) For the further practical instruction of members of, and designated applicants for membership in, the program, the Secretary of the military department concerned may prescribe and conduct practical military training, in addition to field training and practice cruises prescribed under section 2104(b)(6) of this title. The Secretary concerned may require that some or all training prescribed under this subsection must be completed by members before they are commissioned."; and

(3) in subsection (b)—

(A) by inserting after "Secretary of the military department concerned may" the phrase ", with respect to practical military training prescribed under this section and field training and practice cruises prescribed under section 2104(b)(6) of this title"; and

(B) by striking out "field training or practice cruises", "training or cruise", "field training and practice cruises" and "training or practice cruises" each place such phrases appear and inserting in lieu thereof "such training".

(b) COVERAGE FOR INJURY, DISABILITY, AND DEATH.—Section 8140 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "disability or death from an injury" and inserting in lieu thereof "an injury, disability, or death"; and

(B) by striking out "field training or a practice cruise" and inserting in lieu thereof "training prescribed";

(2) in subsection (f), by striking out "while attending field training or a practice cruise under chapter 103 of title 10" and inserting in lieu thereof "by a military department"; and

(3) by adding at the end thereof the following new subsection:

"(g) For purposes of this section, the term 'applicant for membership' includes a student enrolled, during a semester or other enrollment term, in a course which is part of Reserve Officers' Training Corps instruction at an educational institution.".

(c) TRAINING INCLUDED WITHIN CERTAIN DEFINITION.—Section 101 of title 38, United States Code, is amended—

(1) in paragraph (22) by inserting "for not less than four weeks duration and which must be completed before commissioning" after "title 10" in clause (D) thereof; and

(2) in paragraph (23)—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting "; and" in lieu thereof; and

(C) by inserting immediately after clause (B) the following new clause:

"(C) training (other than active duty for training) by a member, or applicant for membership (as defined in section 8140(g) of title 5) of the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10.".

(d) PAY STATUS WHILE IN CERTAIN TRAINING.—Section 209(c) of title 37, United States Code, is amended by striking out "field training or practice cruises under section 2109 of title 10" and inserting in lieu thereof "training prescribed under section 2109 of title 10 if such training is of at least four weeks duration and must be completed before commissioning".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply only to training performed and injuries, disabilities, or deaths occurring during training performed, after September 30, 1988.

PART C—HEALTH CARE PROVISIONS

SEC. 621. EXTENSION OF USE OF PUBLIC HEALTH SERVICE HOSPITALS BY THE UNIFORMED SERVICES

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(e)), is amended by striking out "December 31, 1988" in the first sentence and inserting in lieu thereof "December 31, 1991".

SEC. 622. REPEAL OF AUTHORITY TO ALLOCATE SPECIFIED PORTION OF NAVY OFFICER ACCESSIONS AND GROWTH IN END STRENGTHS TO HEALTH PROFESSIONS

Section 723 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1116) is repealed.

SEC. 623. MODIFICATION OF DEFINITION OF DEPENDENT

(a) AMENDMENT TO SECTION 1072(2) OF TITLE 10.—Section 1072 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (F);

(2) by striking out the period at the end of clause (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(H) the grandchild of a member or former member if the grandchild is in fact dependent on the member or former member for over one-half of the grandchild's support and if a parent of the grandchild qualifies as a dependent of the member or former member under clause (D).".

(b) NON-RETROACTIVE BENEFITS.—No health care benefits shall be payable to or on behalf of any person as a result of the amendment made by this Act for any health care furnished to any person for any period prior to the date of the enactment of this Act.

TITLE VII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 701. JOINT OFFICER MANAGEMENT POLICIES

(a) SELECTION OF OFFICERS FOR THE JOINT SPECIALTY.—The last sentence of subparagraph (D) of section 661(c)(3) of title 10, United States Code, is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(b) CRITICAL JOINT DUTY ASSIGNMENTS.—The last sentence of paragraph (2) of section 661(d) of such title is amended to read as follows: "Not less than 80 percent of the positions so designated by the Secretary shall be held at all times by officers who have the joint specialty.".

(c) PROMOTION POLICY OBJECTIVES.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) LENGTH OF JOINT DUTY ASSIGNMENTS.—Section 664 of such title is amended—

(1) in subsection (a)—

(A) by striking out "three" in paragraph (1) and inserting in lieu thereof "two";

(B) by striking out "three and one-half" in paragraph (2) and inserting in lieu thereof "three";

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) EXCEPTION FOR ASSIGNMENT OF OFFICERS WITH CRITICAL OCCUPATIONAL SPECIALTIES.—The Secretary may prescribe the length of a joint duty assignment to be less than the length prescribed in subsection (a) (without the requirement of a waiver under subsection (b)) in the case of an officer who has a military occupational specialty designated as a critical occupational specialty under section 661(c)(2) of this title. In no case may the Secretary prescribe the length of a joint duty assignment to be less than two years.";

(3) in subsection (e)(2), by striking out the comma after "subsection (c)" in subparagraph (A) and all that follows through the end of the subparagraph and inserting in lieu thereof a period;

(4) in subsection (f)—

(A) by striking out "or" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new paragraphs:

"(4) a joint duty assignment outside the 48 contiguous States or in Alaska or Hawaii for which the normal accompanied-by-dependents tour of duty is prescribed by regulation to be at least two years in length, if the officer serves in the assignment for a period equivalent to the accompanied-by-dependents tour length; or

"(5) a joint duty assignment during which the officer is selected for promotion to the grade of brigadier general or rear admiral (lower half), if the officer served at least two years in such assignment.";

(5) in subsection (g)—

(A) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(1) Cumulative service for purposes of subsection (f)(3) is service in joint duty assignments which totals in length not less than the applicable standard prescribed in subsection (a).

"(2) In computing the cumulative service of an officer in joint duty assignments for purposes of paragraph (1), a tour of duty of the officer in a joint duty assignment may not be counted—

"(A) unless the officer served at least 10 months in that assignment; or

"(B) in the case of an assignment other than an assignment that—

"(i) was performed outside the United States or in Alaska or Hawaii; or

"(ii) was terminated because of a qualifying reassignment,

unless the officer served at least two years in that assignment.

"(3) The prohibition in paragraph (2)(B) does not apply to a joint duty assignment which follows a reassignment described in paragraph (4)(B)."; and

(B) by striking out "paragraph (1)(B)" in paragraph (4) in the matter preceding clause (A) and inserting in lieu thereof "paragraph (2)(B)(ii)"; and

(6) by adding at the end the following new subsection:

"(h) CONSTRUCTIVE CREDIT.—The Secretary of Defense may accord constructive credit in the case of an officer who, for reasons of military necessity, is reassigned from a joint duty assignment within 60 days of meeting the tour length criteria prescribed in subsection (a), (c), (f), or (g) (or in section 406(b) of Public Law 99-433). The amount of constructive service that may be credited to such officer shall be an amount sufficient for the completion of the applicable tour of duty requirement, but in no case more than 60 days. This subsection shall not apply in the case of an officer who serves less than 10 months in the joint duty assignment.".

(e) Modification of Definition of Joint Duty Assignment.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 250 assignments which the Secretary, after consultation with the Chairman of the Joint Chiefs of Staff, designates as assignments that provide significant experience in joint matters.".

(f) Joint Duty Assignment as Prerequisite for Promotion to General or Flag Officer Grade.—Section 619(e) of such title is amended—

(1) in paragraph (1), by striking out the second sentence and inserting in lieu thereof the following: "An officer of the Navy designated as a qualified nuclear propulsion officer may be appointed to the grade of rear admiral (lower half) without regard to the preceding sentence.";

(2) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) in the case of an officer who served in a joint duty assignment begun before January 1, 1987, if the officer served in such assignment for a period of sufficient duration (not less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect at the time the assignment began or, in the case of any other joint duty assignment, if the officer served in such assignment for not less than two years; and"; and

(3) in paragraph (3)(C), by striking "or (2)(D)" and inserting in lieu thereof "(2)(D), or (2)(E)".

(g) Transition.—Section 406 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 661 note) is amended—

(1) in subsection (a)(1), by striking out "two" and inserting in lieu thereof "three";

(2) in subsection (b)(1)(B), by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) waive the requirement for the length of a joint duty tour assignment in the case of a joint duty assignment begun by an officer before January 1, 1987, if the officer has served in such assignment for a period of sufficient duration (not less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect at the time the assignment began or, in the case of any other joint duty assignment, if the officer has served in such an assignment for not less than two years; and"; and

(C) in subsection (b)(3), by striking out "two" and inserting in lieu thereof "three".

(h) Report.—(1) The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall submit a report on joint officer management policies to the Committees on Armed Services of the Senate and House of Representatives.

(2) The report required by paragraph (1) shall comprehensively address the following:

(A) The principles that should guide joint officer management policies.

(B) The goals that should be established for joint officer management policies.

(C) The detailed concepts that support these principles and goals.

(D) The extent to which the joint officer personnel policies provided for in title IV of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 have been implemented.

(E) Changes in the laws relating to the joint officer management policies that would make those policies more consistent with the principles of subparagraph (A), would achieve the goals of subparagraph (B) more effectively, and would simplify procedures for joint officer management.

(3) The report required by paragraph (1) shall be submitted not later than February 1, 1990.

SEC. 702. DEFERRED RETIREMENT DATE FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Notwithstanding the limitation contained in the first sentence of subsection (b) of section 1251 of title 10, United States Code, the President may defer until October 1, 1989, the retirement of the officer serving as Chairman of the Joint Chiefs of Staff for the term beginning October 1, 1987.

SEC. 703. ASSIGNMENT OF COMBATANT FORCES

Section 162(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or to United States elements of binational or multinational military commands" in the first sentence after "combatant commands";

(2) in paragraph (2), by inserting "or other commands" after "combatant commands"; and

(3) in paragraph (3), by inserting "or to the United States element of a binational or multinational military command" after "combatant command".

SEC. 704. RESPONSIBILITY AND AUTHORITY OF COMMANDER OF SPECIAL OPERATIONS COMMAND

Section 167(e) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "of such command" in the matter preceding subparagraph (A);

(B) by redesignating subparagraphs (B) through (J) as subparagraphs (C) through (K), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for special operations forces.";

(D) by inserting "of assigned forces" after "readiness" in subparagraph (G), as redesignated by subclause (B);

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(L) Monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions."; and

(3) by redesignating paragraph (3) as paragraph (2), and by striking out "paragraph (1)(G)" in such paragraph and inserting in lieu thereof "paragraph (1)(H)".

SEC. 705. PROHIBITION ON USE OF FUNDS FOR AN OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

Funds made available to the Department of Defense for fiscal year 1989 may not be used for the purpose of—

(1) establishing or operating an Office of the Assistant Secretary of Defense for Intelligence; or

(2) paying the salary of an Assistant Secretary of Defense for Intelligence.

SEC. 706. GENERAL COUNSELS OF MILITARY DEPARTMENTS

(a) Requirement for Advice and Consent of Senate.—Sections 3019, 5019, and 8019 of title 10, United States Code, are each amended by inserting ", by and with the advice and consent of the Senate" after "President".

(b) Applicability.—The amendments made by this section shall apply to appointments made under sections 3019, 5019, and 8019, respectively, of title 10, United States Code, on and after the date of the enactment of this Act.

SEC. 707. ANNUAL NET ASSESSMENTS

Section 113(j) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(j)";

(2) by striking out the second sentence; and

(3) by adding at the end the following:

"(2) Each such report shall—

"(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies and the armed forces of potential adversaries of the United States and allies of the United States;

"(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during the five years covered by the five-year defense program submitted to Congress in such year pursuant to section 114(g) of this title;

"(C) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

"(D) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

"(3) The Secretary of Defense shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in such year. Such report shall be transmitted in both classified and unclassified form.".

TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

SEC. 801. INTEGRATED FINANCING POLICY

(a) In General.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2330. Integrated contract finance, investment, and risk-sharing plan

"(a) In General.—(1) The Secretary of Defense shall develop each year, in conjunction with the five-year defense program submitted to Congress under section 114(g) of this title in such year, a plan that ensures that Department of Defense policies referred to in subsection (b) are structured to meet the long-term needs of the Department of Defense for industrial resources and technology innovation. In developing each such plan, the Secretary shall take into consideration the five-year defense program and Department of Defense mobilization plans.

"(2) In developing each plan required under paragraph (1), the Secretary shall take into account the different characteristics of separate segments and tiers of private industry.

"(b) APPLICABILITY.—Subsection (a) applies to the following policies applicable to Department of Defense contractors:

"(1) Policies relating to progress payments or other financing of contractors by the Department of Defense.

"(2) Policies relating to the return on contractor investment under Department of Defense contracts.

"(3) Policies relating to the division of contract risk between the Department of Defense and a contractor.

"(c) EXPLANATION OF PLAN.—The Secretary of Defense shall submit to Congress each year a report which contains the plan required by subsection (a) and an explanation of the manner in which the policies referred to in subsection (b), as reflected in the budget for the fiscal year following the fiscal year in which such report is submitted, enhance the ability of the Department of Defense to obtain industrial resources and encourage technology innovation. Such report shall be submitted each year at the same time that the five-year defense program is submitted to Congress in such year.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2330. Integrated contract finance, investment, and risk-sharing plan.".

(b) TRANSITION DATES FOR SUBMISSION OF THE FIRST THREE PLANS.—The first plan required by section 2330 of title 10, United States Code (as added by subsection (a)), shall be submitted to Congress in 1989. Notwithstanding subsection (c) of such section, the plans required to be submitted in 1989, 1990, and 1991 shall each be submitted not later than March 1 of such year.

SEC. 802. GUIDANCE ON USE OF FIXED PRICE DEVELOPMENT CONTRACTS

(a) IN GENERAL.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe guidelines that provide that a fixed-price contract should be awarded in the case of a development program conducted by the Department of Defense only when—

(A) the level of program risk permits realistic pricing; and

(B) the use of a fixed-price contract permits an equitable and sensible allocation of program risk between the United States and the contractor.

(2)(A) The Secretary of a military department and the head of a Defense Agency may not award a firm fixed-price contract in excess of $10,000,000 for the development of a major system or a subsystem of a major system unless the Under Secretary of Defense for Acquisition determines and states in writing that the award of such contract is consistent with the criteria specified in clauses (A) and (B) of paragraph (1) and the guidelines prescribed under such paragraph.

(B) The Under Secretary of Defense for Acquisition may delegate his authority under subparagraph (A) only to a person who holds a position in the Office of the Secretary of Defense at or above the level of Assistant Secretary of Defense.

(b) DEFINITIONS.—In this section:

(1) The term "Defense Agency" has the same meaning as is provided in section 101(44) of title 10, United States Code.

(2) The term "major system" has the same meaning as is provided in section 2302(5) of title 10, United States Code.

(c) EXPIRATION.—Paragraph (2) of subsection (a) shall cease to be effective two years after the date of the enactment of this Act.

SEC. 803. INCENTIVES FOR INNOVATION

Section 2305(d) of title 10, United States Code, is amended by adding at the end the following:

"(4)(A) Whenever the head of an agency requires that proposals described in paragraph (1)(B) or (2)(B) be submitted by an offeror in its offer, the offeror shall not be required to provide for future competition between identical items for an item developed exclusively at private expense by a contractor or subcontractor unless the head of the agency determines that—

"(i) the original supplier of such item will be unable to satisfy program schedule or delivery requirements; or

"(ii) the price of such item provided in economic order quantities to the Government will not be fair or reasonable based on an analysis of cost and performance comparisons with competing substitutes.

"(B) The restrictions in subparagraph (A) shall not preclude the head of an agency from requiring proposals from the developer of an item developed exclusively at private expense to provide for the mobilization needs of the agency for such item.

"(C) In the event that the proposals described in paragraph (1)(B) or (2)(B) are required, the head of an agency shall adjust the consideration of such proposal in the evaluation of the offeror's price or the consideration under paragraph (3) of negotiating objectives to accommodate subparagraphs (A) and (B).".

SEC. 804. MAINTENANCE AND IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

(a) FINDINGS.—The Congress finds that—

(1) a strong defense industrial base in the United States is essential to the national security and significantly enhances the capability of United States manufacturers and producers—

(A) to develop technologically superior defense material rapidly and to produce such material efficiently in cost-effective quantities during peacetime; and

(B) to expand productive capacity to meet the demands of a national emergency;

(2) a strong and responsive defense industrial base is a basic deterrent to aggression and, thus, helps to preserve peace;

(3) a series of studies conducted over a 10-year period by Congress, the General Accounting Office, the Department of Defense, and others have consistently shown a steady, unchecked erosion of the defense industrial base in the United States;

(4) despite the uniformly adverse findings contained in the reports on such studies, the United States still lacks a coherent industrial base policy that is directly linked to national security strategy;

(5) reliable methods for assessing the weaknesses and strengths of the defense industrial base have not been utilized;

(6) the development and implementation of an effective program for the restoration and maintenance of the defense industrial base is unlikely to occur without improved centralized policy direction and management;

(7) existing programs and authorities designed to restore and maintain the defense industrial base have received inconsistent and, frequently, inadequate allocations of resources and management attention from the military departments and the Defense Agencies because the Office of the Secretary of Defense has not exercised strong leadership in defense industrial base management;

(8) procurement policies, regulations, and practices of the Department of Defense do not sufficiently encourage—

(A) investment in advanced manufacturing technology and modernization of manufacturing facilities and equipment;

(B) the entry of efficient producers from the commercial sectors of the economy into the defense procurement market; and

(C) continued participation of efficient producers in the defense procurement competitions; and

(9) several foreign governments, including allies of the United States, have established defense industrial base policies and defense trade policies that promote national economic interests rather than the achievement of maximum defense capability from limited resources.

(b) AMENDMENTS TO TITLE 10.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 169 the following new chapter:

"CHAPTER 170—DEFENSE INDUSTRIAL BASE MANAGEMENT AND SUPPORT PROGRAMS

"Sec.
"2871. Centralized guidance, analysis, and planning for programs affecting the defense industrial base.
"2872. Analysis of the capability of the defense industrial base to support certain defense acquisition programs.
"2873. Increased reliance on commercial manufacturing processes and commercial items.

"§ 2871. Centralized guidance, analysis, and planning for programs affecting the defense industrial base

"The Under Secretary of Defense for Acquisition shall, subject to the authority, direction, and control of the Secretary of Defense—

"(1) provide overall policy guidance and direction to the military departments and the Defense Agencies on matters relating to the maintenance, expansion, and readiness of the defense industrial base of the United States;

"(2) analyze the capabilities of the defense industrial base of the United States to fulfill the requirements of the national defense strategy in time of peace and the expanded requirements of the national defense strategy in time of war or national emergency;

"(3) develop and direct the implementation of plans and programs that promote the ability of the defense industrial base to meet the requirements referred to in clause (2); and

"(4) identify and plan for the procurement of items of supply that—

"(A) are suitable substitutes for military standard items of supply, or suitable substitutes for subsystems or components of military standard items of supply, that are anticipated to be unavailable from existing sources in quantities that are sufficient to meet planned requirements in time of war or national emergency; and

"(B) are commercially available from domestic sources.

"§ 2872. Analysis of the capability of the defense industrial base to support certain defense acquisition programs

"(a)(1) The Under Secretary of Defense for Acquisition may require that each defense acquisition program designated by the Under Secretary for the purposes of this section include a requirement for an analysis of the capability of the defense industrial base to develop, produce, maintain, and support the system to be acquired under such program.

"(2) In the conduct of any analysis required under paragraph (1), the following factors, as appropriate, may be considered:

"(A) The availability of essential raw materials, special alloys, and composite materials.

"(B) The availability of components or subsystems essential for—

"(i) the production of a system that is fully capable of performing its purpose;

"(ii) the maintenance and repair of such system; and

"(iii) the operation of such system.

"(C) The production capacity of the prime contractor, subcontractors, and component suppliers to maintain adequate production rates.

"(D) The availability of required production test equipment to assure quality.

"(E) The identification of components or subsystems that are available solely from sources outside the United States.

"(F) Planned alternatives, if appropriate, for meeting requirements that during peacetime are supplied by sources outside the United States.

"(3) In the conduct of the analysis required under paragraph (1), the Under Secretary shall minimize the paperwork burden on the contractor, its subcontractors, and suppliers.

"(b) The Under Secretary of Defense for Acquisition shall be responsible for compiling and analyzing the data obtained under subsection (a) in order to insure that, in the case of each program referred to in such subsection—

"(1) the capabilities of the defense industrial base of the United States to meet program requirements has been assessed by the military department or Defense Agency carrying out such program; and

"(2) the capabilities of the defense industrial base of the United States to meet the aggregate requirements for all such programs has been assessed in the Office of the Secretary of Defense.

"§ 2873. Increased reliance on commercial manufacturing processes and commercial items

"The Under Secretary of Defense for Acquisition shall establish and implement to the maximum extent practicable acquisition policies which provide for—

"(1) expanded use of commercial manufacturing processes rather than military standard requirements;

"(2) elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under defense contracts; and

"(3) encouragement of the military departments and the Defense Agencies to identify commercial items that are suitable substitutes for military standard items incorporated into weapon systems or other items of equipment.".

(2) The tables of chapters at the beginning of such part and such subtitle are each amended by inserting after the item relating to chapter 169 the following:

"170. Defense Industrial Base Management and Support Programs .... 2871".

(c) DEFENSE PRODUCTION INNOVATION CENTER.—The Under Secretary of Defense for Acquisition may establish within the Office of the Under Secretary of Defense for Acquisition a defense production innovation center to be the principal office in the Department of Defense for the development of policies and plans regarding the conduct of programs for the improvement of the defense industrial base of the United States. The head of any center established under this subsection shall be the Defense Production Base Director. The Defense Production Base Director shall—

(1) develop and propose plans and programs for the maintenance and fostering of defense industrial readiness in the United States;

(2) encourage the utilization of advanced manufacturing technology and processes by the defense industries of the United States;

(3) encourage Department of Defense contractor investment in improved productivity;

(4) propose, consistent with existing law, the repeal or amendment of such Defense Acquisition Regulations and other regulations and policies as may be necessary to eliminate any adverse effect that the regulations and policies may have on investment in improved productivity;

(5) as authorized by the Under Secretary, evaluate and provide direction for testing (through demonstrations or otherwise) innovative ideas for improving defense industrial readiness in the United States, including ideas for improving—

(A) manufacturing processes; and

(B) the acquisition procedures of the Department of Defense; and

(6) perform such other functions as may be assigned by the Under Secretary.

(d) ANALYSIS OF DEFENSE INDUSTRIAL BASE CAPABILITY.—(1) During fiscal year 1989, the Under Secretary of Defense for Acquisition shall require each military department to initiate at least one analysis of the type described in section 2872 of title 10, United States Code (as added by subsection (b)) of the capability of the defense industrial base of the United States to develop, produce, maintain, and support the system or systems to be acquired under one or more acquisition programs carried out by such department.

(2) A program may not be selected for an analysis under this subsection if production of the system to be acquired under such program has begun.

(3) All analyses required under this subsection shall be completed not later than September 30, 1990.

(4) Not later than February 1, 1991, the Under Secretary of Defense for Acquisition shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the analyses required under this subsection.

SEC. 805. DEFENSE MEMORANDA OF UNDERSTANDING

(a) IN GENERAL.—The Secretary of Defense shall consult with the Secretary of Commerce in the negotiation and renegotiation of memoranda of understanding between the Department of Defense and one or more foreign countries (or any instrumentality of a foreign country) relating to defense trade, cooperation on defense research, or production of defense equipment.

(b) REPORTS.—Not later than 30 days after a memorandum of understanding described in subsection (a) is entered into, the Secretary of Defense, in consultation with the Secretary of Commerce, shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives containing a description of the anticipated effects of the implementation of such memorandum on the defense industrial base of the United States.

(c) WAIVER.—The President may waive the requirements of subsections (a) and (b) in the event of war or of a national emergency declared by the President.

(d) IMPLEMENTATION OF MEMORANDA.—In implementing memoranda of understanding described in subsection (a), the Secretary of Defense shall fully utilize such resources of the Department of Commerce as the Secretary of Commerce may make available to the Department of Defense pursuant to an agreement entered into by the Secretary of Defense and the Secretary of Commerce for the purpose of this subsection.

SEC. 806. DEPARTMENT OF DEFENSE OFFSET POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) Many contracts entered into by United States firms for the supply of weapon systems to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as "offsets", distort international trade and may contribute to a decline in United States defense industry opportunities in domestic and foreign markets.

(2) United States subcontractors are adversely affected by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the foreign trade policies of the countries of such firms frequently give foreign firms a competitive advantage against United States firms in world markets for products utilizing such technology.

(5) A purchase of defense equipment pursuant to an offset arrangement is likely to increase the cost of the defense equipment to the purchasing country and, in the case of a country with limited resources, reduce the defense capability of that country.

(6) A substantial increase in the exporting of defense equipment produced in the United States is critical in order to maintain the defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States.

(b) AMENDMENT TO TITLE 10.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410. Offset policy; notification

"(a) Establishment of Offset Policy.—The Secretary of Defense, through the Under Secretary of Defense for Acquisition and in coordination with the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements, including policy on the following matters:

"(1) Transfer of technology in connection with offset arrangements.

"(2) Limitations on the application of offset arrangements in cases in which United States funds are used in financing the purchase by a foreign government.

"(3) Means for measuring the effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

"(b) Technology Transfer.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

"(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Under Secretary of Defense for Acquisition, in consultation with the Secretary of Commerce, determines that a transfer of United States defense technology pursuant to such understanding or agreement will result in strengthening the national security of the United States and so certifies to Congress.

"(c) Notification Regarding Offsets.—If at any time a United States firm enters into a contract for the sale of a weapon system to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

"(d) Definitions.—In this section:

"(1) The term 'foreign firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities outside the United States.

"(2) The term 'United States firm' means a business entity other than a foreign firm.".

(2) The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

"2410. Offset policy; notification.".

(c) Negotiations.—(1) The Secretary of Defense, in consultation with the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The Secretary shall conduct such negotiations with a view to achieving an agreement with the countries concerned (A) that would limit the adverse effects that such arrangements have on the defense industrial base of each such country, and (B) that would prohibit such arrangements between the United States and the countries concerned after a specified date.

(2) The Secretary of Defense shall make every effort to achieve, within two years after the date of the enactment of this Act—

(A) an initial agreement that would limit the adverse effects (described in subsection (a)) that offset arrangements have on the industrial bases of the countries concerned; and

(B) within 4 years after the date of the enactment of this Act, a final agreement that would prohibit such arrangements after a specified date.

(3) The Secretary of Defense, in consultation with the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, shall report to Congress at least once each year, for a period of 4 years, on the progress of the negotiations referred to in paragraph (2). The first such report shall be submitted not later than one year after the date of the enactment of this Act.

(d) Reports.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on contractual offset arrangements required of United States firms for the supply of weapon systems to foreign countries or foreign firms. Such report shall include the following:

(A) An analysis of the amount and type of contractual offsets required of United States firms by the governments of foreign countries or by foreign firms.

(B) An assessment of the benefits for and costs to United States manufacturers of defense products at all tiers that result from requirements of foreign governments for contractual offset arrangements in the case of products procured from United States firms.

(C) An assessment of the benefits for and the costs to United States manufacturers of defense products at all tiers that would result from restriction of the ability of foreign governments or foreign firms to require contractual offsets in the case of defense products procured from United States firms.

(D) An assessment of the benefits and costs of a United States policy that requires reciprocal offsets in the procurement of defense products from those countries whose governments have a policy of requiring contractual offsets in the case of defense products procured from United States firms.

(E) An assessment of the impact that elimination of contractual offset requirements in international sales of defense products would have on the national security of the United States.

(F) Recommendations for a national policy with respect to contractual offset arrangements.

(G) A preliminary discussion of the actions referred to in paragraph (2)(A).

(2)(A) Not later than March 15, 1989, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of appropriate actions to be taken by the United States with respect to purchases from United States firms by a foreign country (or a firm of that country) when that country or firm requires an offset arrangement in favor of such country. The report shall include a discussion of the following possible actions:

(i) A requirement for an offset in favor of the United States or United States firms in any case in which the Department of Defense or any other department or agency of the United States purchases goods from such foreign country or a firm of such country.

(ii) A demand for offset credits from such foreign country to be used, to the extent practicable, to meet offset obligations of United States firms to such foreign country or to a firm of such country.

(iii) A reduction in assistance furnished such foreign country by the United States.

(iv) A requirement for alternative equivalent advantages in the case of any such foreign country or a firm of such country if the United States does not purchase a sufficient volume of goods from such country or firm for a requirement described in clause (i) to be effective.

(B) In this paragraph, the terms "foreign firm" and "United States firm" have the same meanings as are provided in section 2410(e) of title 10, United States Code, as added by subsection (b).

SEC. 807. EXPORT OF UNITED STATES DEFENSE PRODUCTS

(a) In General.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The regulations shall provide that foreign selling costs, including costs incurred at domestic and international exhibits to promote the export of products of the United States defense industry, shall be allowable to the extent that such costs are—

"(A) allocable, reasonable, and not otherwise unallowable; and

"(B) within dollar ceilings established in advance agreements that—

"(i) are negotiated between the Secretary of Defense and the contractor or subcontractor before or during the fiscal year covered by such agreements; and

"(ii) are entered into after the Secretary determines that cost advantages for the United States will result from allowing such foreign selling costs under such agreements.

Each of the budget requests submitted to Congress by the Secretary after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1989 shall reflect such cost advantages.".

(b) Implementation.—The Secretary of Defense shall issue final regulations required by paragraph (5) of section 2324(f) of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are issued.

SEC. 808. APPROVAL OF CONTRACTS

Section 2304(f)(1)(B)(iii) of title 10, United States Code, is amended by inserting "or, in the case of an element of the Department of Defense for which the Under Secretary of Defense for Acquisition would be the sole designated senior procurement executive, the senior level official designated for that element by the Under Secretary of Defense for Acquisition," after "(41 U.S.C. 414(3))".

SEC. 809. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) PURPOSE OF PROGRAM.—Section 2412 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause (3):

"(3) to encourage eligible entities to furnish to business entities, especially small businesses, procurement technical assistance that facilitates the exporting of defense-related products and services by such business entities.".

(b) LIMITATION.—Section 2414 of title 10, United States Code, is amended to read as follows:

"§ 2414. Limitation

"(a) IN GENERAL.—The value of the assistance furnished by the Secretary to any eligible entity to carry out a procurement technical assistance program under a cooperative agreement under this chapter during any fiscal year may not exceed—

"(1) in the case of a program operating on a State-wide basis, $300,000; or

"(2) in the case of a program operating on less than a State-wide basis, $150,000.

"(b) DETERMINATIONS ON SCOPE OF OPERATIONS.—A determination of whether a procurement technical assistance program is operating on a State-wide basis or on less than a State-wide basis shall be made in accordance with regulations prescribed by the Secretary of Defense.".

(c) PROCUREMENT TECHNICAL ASSISTANCE FOR INDIAN TRIBAL ORGANIZATIONS.—Section 807(a)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1128) is amended by striking out "amount provided under paragraph (1) for fiscal year 1988, $500,000 shall be available" and inserting in lieu thereof "amounts provided under paragraph (1) for each of fiscal years 1988 and 1989, $500,000 shall be available for each such fiscal year".

SEC. 810. REGULATORY SIMPLIFICATION AND STREAMLINING OF OVERSIGHT ACTIVITIES

(a) REPORT.—(1) Not later than December 1, 1988, the Under Secretary of Defense for Acquisition shall submit to Congress a report on the current programs of the Under Secretary regarding simplification of procedures governing the acquisition process of the Department of Defense and an assessment of the results of those programs.

(2) The report shall include the following:

(A) A schedule or timetable to effectuate regulation reform measures based upon the lessons learned from the conduct of such programs.

(B) In the case of any programs described in paragraph (1) which have not been completed—

(i) a methodology for evaluating such programs; and

(ii) a schedule or timetable for completing an assessment of the results of such programs.

(C) A comprehensive analysis of the effects that existing procurement laws, regulations, and guidelines have on the capability of the Department of Defense efficiently and effectively to meet the national defense needs of the United States, including any recommendations for legislation that the Under Secretary considers appropriate to improve that capability.

(D) A description of the results of the studies undertaken by the Under Secretary in conjunction with the Inspector General of the Department of Defense and the Comptroller of the Department of Defense regarding the responsibilities of the Under Secretary under section 133(d) of title 10, United States Code, to prescribe policies for the prevention of duplication by different elements of the Department of Defense.

(E) A discussion of the feasibility and desirability of—

(i) tailoring the degree of audit and oversight conducted by the Department of Defense to the degree of risk assumed by a contractor in the types of contracts entered into with the Department of Defense;

(ii) granting authority to a senior official of the Department of Defense to receive and promptly resolve complaints of acquisition officials and contractors of the Department of Defense regarding allegations of duplicative oversight activities;

(iii) establishing a formal independent means within the Department of Defense to ensure quality, integrity, and professionalism in the performance of audit and oversight activities; and

(iv) establishing and implementing a policy that no oversight organization within the Department of Defense may conduct an audit or review of an activity in the Department of Defense if any other oversight organization of the Department of Defense has conducted an audit or review of such activity within a fixed period of time preceding the proposed audit or review, if the audit or review proposed to be conducted is not substantially different in type and scope from such prior audit or review, and if there is no compelling reason not to rely on the prior audit or review.

(b) AMENDMENT TO SECTION 133(d) OF TITLE 10.—Section 133(d)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "Such policies shall provide for coordination of the annual plans developed by each such element for the conduct of audit and oversight functions within each contracting activity.".

SEC. 811. DEPARTMENT OF DEFENSE ADVISORY PANEL ON GOVERNMENT-INDUSTRY RELATIONS

(a) ESTABLISHMENT OF ADVISORY PANEL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory panel to study and make recommendations to the Secretary on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including—

(1) procedures governing the debarment and suspension of contractors from doing business with the Department of Defense;

(2) the role of self-governing oversight programs established by defense contractors;

(3) expanded use of alternative dispute resolution procedures; and

(4) the desirability of establishing a permanent advisory panel on government-industry relations.

(b) MEMBERSHIP OF ADVISORY PANEL.—The Secretary of Defense shall appoint persons to the advisory panel who are especially qualified to serve on such panel by virtue of their education, training, and experience in defense acquisition matters. The Secretary shall include on the membership of such panel an appropriate balance of persons from government, private industry, and academia.

(c) REPORT DEADLINE.—(1) The Secretary shall require the advisory panel to submit its findings and recommendations to him not later than 180 days after the date on which the panel is appointed.

(2) The Secretary shall transmit a copy of the report of the advisory panel to Congress, together with such comments and recommendations thereon as the Secretary determines appropriate, within 30 days after the date on which the report is submitted to the Secretary.

SEC. 812. EVALUATION OF CONTRACT PROPOSALS FOR PROFESSIONAL AND TECHNICAL SERVICES

It is the sense of Congress that the evaluation by the Department of Defense of professional and technical services contract proposals should be made on the basis of a 40-hour work week standard.

SEC. 813. ACQUISITION MANAGEMENT AND GOVERNMENT CONTRACTING EDUCATION

(a) IN GENERAL.—Not later than April 1, 1989, the Secretary of Defense, in consultation with the Director of the Office of Personnel Management, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the extent to which institutions of higher education offer and conduct educational programs and courses on Government contracting and acquisition management.

(b) CONTENT OF REPORT.—The report shall include—

(1) a description of graduate-level programs and courses on Government acquisition that are currently offered in the fields of public administration, business, and law;

(2) an assessment of the extent to which such programs meet the needs of the Department of Defense and defense industries for highly qualified, entry-level specialists in Government contract administration, Government contract financing, and Government contract law; and

(3) a plan for determining and prescribing appropriate education and training qualifications for applicants for Government contracting and acquisition management positions.

SEC. 814. SCIENCE AND ENGINEERING WORKFORCE STUDY

The Secretary of Defense shall complete the study that was initiated by the Department of Defense in 1985 for the purpose of determining and testing the factors that increase the supply of minority and women scientists, engineers, and technologists needed by defense industries and the Department of Defense to fulfill the national defense mission.

SEC. 815. AUTHORITY AND RESPONSIBILITIES OF DEPARTMENT OF DEFENSE ACQUISITION OFFICERS

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2303 the following new section:

"§ 2303a. Authority and responsibilities of program managers and contracting officers

"The Secretary of Defense shall prescribe by regulation the authority and responsibilities of Department of Defense acquisition program managers and contracting officers. The Secretary shall ensure that such regulations provide acquisition program managers and contracting officers with decision-making authority that is commensurate with their responsibilities.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2303 the following new item:

"2303a. Authority and responsibilities of program managers and contracting officers.".

(b) Implementation.—The Secretary of Defense shall prescribe the regulations required by section 2303a of title 10, United States Code (as added by subsection (a)), not later than 180 days after the date of the enactment of this Act.

SEC. 816. PRODUCT EVALUATION

(a) In General.—Chapter 139 of title 10, United States Code (as amended by section 233), is further amended by adding at the end the following new section:

"§ 2369. Product evaluation activity

"(a) Establishment.—There is established within the Department of Defense an office for the supervision and coordination of product evaluation activities within the Department of Defense. The Under Secretary of Defense for Acquisition shall be the head of such office.

"(b) Conduct of Product Evaluation.—(1) The Secretary of each military department and the head of each Defense Agency may, subject to supervision and coordination by the Under Secretary of Defense for Acquisition, establish and conduct a product evaluation activity.

"(2) The purpose of each product evaluation activity established under paragraph (1) is to evaluate products developed by private industry independent of any contract or other arrangement with the United States in order to determine the utility of such products to the Department of Defense.

"(c) Cost Sharing.—As a condition to conducting an evaluation of any product under this section, the producer of the product shall be required to pay one half of the cost of conducting such evaluation.".

(b) Technical Amendment.—The table of sections at the beginning of such chapter (as amended by section 233) is further amended by adding at the end the following new item:

"2369. Product evaluation activity.".

SEC. 817. CRITICAL TECHNOLOGIES PLAN

(a) In General.—(1) Chapter 139 of title 10, United States Code (as amended by sections 233 and 816(a)), is further amended by adding at the end the following new section:

"§ 2370. Critical technologies plan

"(a) Annual Plan.—(1) Not later than March 15 of each year, the Under Secretary of Defense for Acquisition, in consultation with the Assistant Secretary of Energy for Defense Programs, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for developing the 20 technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most essential to develop in order to ensure the long-term qualitative superiority of United States weapon systems.

"(2) In selecting the technologies to be included in the plan, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies.

"(3) Such plan shall be submitted in both classified and unclassified form.

"(b) Content of Plan.—Each plan submitted under subsection (a) shall include, with respect to each technology included in the plan, the following matters:

"(1) The reasons for selecting such technology.

"(2) The milestone goals for the development of such technology.

"(3) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for the fiscal year in which the plan is submitted.

"(4) A comparison of the relative positions of the United States and the Soviet Union in the development of such technology.

"(5) The potential contributions that the allies of the United States can make to meet the needs of the alliance for such technology.

"(6) The extent to which the United States should depend on its allies for the development of such technology.

"(7) The potential contributions that the private sector can be expected to make from its own resources in connection with development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter (as amended by sections 233 and 816(a)) is further amended by adding at the end the following new item:

"2370. Critical technologies plan.".

(b) First Report.—The first report under section 2370 of title 10, United States Code (as added by subsection (a)), shall be submitted in 1989.

SEC. 818. UNDEFINITIZED CONTRACTUAL ACTIONS

(a) Inspector General Audits.—Section 2326 of title 10, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Inspector General Audits.—The Inspector General of the Department of Defense shall—

"(1) conduct periodic audits of contractual actions by the Defense Agencies, the Department of Defense field activities, and the military departments; and

"(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each head of an agency, including the percentage of all contractual actions of such agency that are undefinitized contractual actions.".

(b) Repeal of Redundant Report Requirement.—Section 908(a)(4) of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3919; 10 U.S.C. 2326 note) is amended by striking out subparagraphs (C), (D), and (E).

SEC. 819. COMPETITIVE PROTOTYPE STRATEGIES

Section 2365 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "(or a subsystem of such system)";

(2) in subsection (b)—

(A) by striking out "or subsystem" in clause (1);

(B) by striking out "or subsystems" in the matter before subclause (A) in clause (2);

(C) by striking out "or subsystem" in clause (2)(B); and

(D) by striking out "or subsystem" in clause (3);

(3) in subsection (c)—

(A) by striking out "(or subsystem of such system)" in the matter before clause (1);

(B) by striking out "or subsystem" in clause (1)(A); and

(C) by striking out subclause (B) of clause (1) and inserting in lieu thereof the following:

"(B) a report that fully explains why the use of such a strategy is not practicable; and"; and

(4) in subsection (d)—

(A) by striking out "major" the second place it appears in paragraph (1); and

(B) by striking out paragraph (3).

SEC. 820. NEGOTIATION OF SUBCONTRACTING PLANS

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following new paragraph:

"(12) A subcontracting plan negotiated by a Federal agency and a contractor for purposes of paragraph (4) or (5) shall apply to the contractor or, if the plan so provides, only to the organizational component or components of the contractor that perform the contract.".

SEC. 821. SMALL BUSINESS ADMINISTRATION CERTIFICATE OF COMPETENCY

Section 8(b)(7)(C) of the Small Business Act (15 U.S.C. 637(b)(7)(C)) is amended by striking the last sentence and inserting in lieu thereof the following: "In the case of a small purchase contract (within the meaning of section 2304(g)(2) of title 10, United States Code, with respect to contracts awarded pursuant to chapter 137 of such title, or within the meaning of section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) with respect to contracts awarded pursuant to title III of such Act), a contracting officer shall not be required to refer a determination of nonresponsibility to the Administration unless the small business concern applies to the Administration for a determination of its responsibility and requests the issuance of a certificate. Nothing in this paragraph requires the processing of an application for certification if the small business concern to which any referral pertains declines to have the application processed.".

SEC. 822. PROCUREMENT OF CRITICAL SPARE OR REPAIR PARTS FOR AIRCRAFT

(a) In General.—The Secretary of a military department procuring a spare or repair part that is critical to the operation of an aircraft shall require the contractor to supply a part that meets applicable qualification and quality requirements.

(b) Applicable Requirements.—The qualification and quality requirements applicable to a spare or repair part referred to in subsection (a) for an aircraft shall be at least as stringent as (1) those qualification and quality requirements that applied to the original part included in the aircraft at the time the aircraft was procured, or (2) if the original part has been redesigned for use in such aircraft, those qualification and quality requirements that applied to the redesigned part.

(c) Construction.—Nothing in this section limits the application of section 2319 of title 10, United States Code, to the procurement of spare or repair parts described in subsection (a).

(d) Effective Date.—This section shall apply with respect to solicitations for contracts (for the supply of parts) that are issued on or after the date of the enactment of this Act.

TITLE IX—GENERAL PROVISIONS

Part A—Financial and Budget Matters

SEC. 901. TRANSFER AUTHORITY

(a) Authority To Transfer Authorizations.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in title I, II, or III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) Notice to Congress.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 902. FISCAL YEAR 1988 DEFENSE FUNDS TRANSFER AUTHORITY

(a) Enhanced Transfer Authority.—Section 1201(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153) is amended—

(1) by inserting "of this Act or any prior defense authorization Act" in paragraph (1) before "for any fiscal year"; and

(2) by striking out "$2,000,000,000" in paragraph (2) and inserting in lieu thereof "$4,000,000,000".

(b) Specified Purposes.—In determining the purposes for which amounts of authorizations transferred pursuant to section 1201(a) of the Act referred to in subsection (a) will be used, the Secretary of Defense—

(1) shall ensure that an appropriate portion of that authority is used to transfer to operation and maintenance accounts of the Department of Defense for fiscal year 1988 (A) funds for depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur, and (B) funds for pay of civilian personnel in amounts sufficient to prevent furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to insufficient funding for civilian personnel of the Department of Defense for fiscal year 1988;

(2) shall give special consideration and priority to civilian employees of the Department of Defense, readiness, and more efficient acquisition processes; and

(3) shall provide funds for other high priority readiness items.

SEC. 903. RESTRICTION ON OBLIGATION OF FUNDS APPROPRIATED IN THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1988

(a) The following programs and amounts provided in the Department of Defense Appropriations Act, 1988, may not be obligated or expended:

(1) Maxicube Cargo System under research, development, test, and evaluation for the Army, $10,000,000;

(2) Coastal Defense Augmentation, $20,000,000;

(3) AN/SQR-17 Acoustic Processors for the Mobile In-Shore Undersea Warfare group under procurement of National Guard and Reserve Equipment, $10,000,000;

(4) P-3C aircraft under procurement of National Guard and Reserve Equipment, $193,800,000.

(b)(1) Funds appropriated or otherwise made available for the Army for procurement may not be obligated or expended for the procurement of any air defense system submitted to the Army for evaluation in response to any Army request for proposal for the Forward Area Air Defense Line-of-Sight Forward-Heavy (LOS-F-H) system unless the Secretary of Defense certifies to Congress that the system has met or exceeded full system requirements.

(2) For purposes of this paragraph, the term "full system requirements" means the most stringent system requirements specified by any request for proposal for accuracy, range (detection, tracking, and engagement), reaction time, and operation in the presence of electronic countermeasures.

(c) None of the funds appropriated for the procurement of aircraft for the Navy for fiscal year 1988 or 1989 may be obligated or expended for procurement of any A-6 aircraft configured in the F model configuration (as described in connection with the A-6E/A-6F aircraft program in the Selected Acquisition Report submitted to Congress for the quarter ending December 31, 1986).

(d) Funds appropriated for procurement of weapons and tracked combat vehicles for the Army for modification of M60 tanks in the amount of $90,000,000 may be used only for procurement or modification of M1 tanks.

(e) For purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153), $233,800,000 (the sum of the amounts described in subsection (a) of this section) shall be deemed to have been authorized by such Act in equal amounts to the Army, Navy, and Air Force for operation and maintenance for the exclusive purpose of preventing the furlough and separation of civilian employees and for the purpose of funding other high priority readiness programs.

Part B—Miscellaneous Matters

SEC. 911. SENSE OF CONGRESS ON EXPANDING CONFIDENCE-BUILDING MEASURES

(a) Findings.—Congress makes the following findings:

(1) Approximately two years have passed since the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) adjourned in Stockholm following the adoption of measures designed to increase openness and predictability of military activities in Europe.

(2) To date, there have been seven formal observations and challenge inspections which have been conducted in accordance with the Stockholm agreements.

(3) The military leaders of the North Atlantic Treaty Organization have concluded that the Stockholm observations and inspections have positively contributed to an improved understanding of Warsaw Pact forces and capabilities.

(4) The Conventional Stability Talks (CST), which may begin before the end of 1988, will likely require careful and potentially prolonged negotiation.

(5) New negotiations will also begin under the auspices of the Conference on Security and Cooperation in Europe (CSCE) as a follow-on to the Stockholm conference.

(6) The confidence-building measures established at Stockholm could, if expanded, contribute significantly to the success of the CDE follow-on conference and also to the establishment of a procedural framework for verifying a future CST agreement.

(b) Sense of Congress.—It is the sense of Congress that the President should give high priority to developing, in coordination with the North Atlantic Treaty Organization allies of the United States, stabilizing and verifiable proposals for expanding the regime of confidence-building measures in conjunction with the follow-on to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) and the new Conventional Stability Talks (CST).

SEC. 912. ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS

(a) Amendment to Public Law 99-145.—Section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a), is amended by adding at the end the following: "The President shall specifically include in such report the following:

"(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

"(2) An assessment of all violations by the Soviet Union of such agreements and the risks such violations pose to the national security of the United States and its allies.

"(3) A net assessment of the aggregate military significance of all such violations.

"(4) A statement of the compliance policy of the United States with respect to Soviet violations with such agreements.

"(5) What actions, if any, the President has taken or proposes to take to bring the Soviet Union into compliance with its commitments under arms control agreements with the United States.

"(6) If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations.".

(b) Effective Date.—The amendment made by subsection (a) shall be effective beginning with the report to be submitted by the President pursuant to section 1002 of the Department of Defense Authorization Act, 1986, in 1990.

SEC. 913. ANNUAL REPORT ON ARMS CONTROL STRATEGY

(a) In General.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

(1) The nature and sequence of the future arms control efforts of the United States.

(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

(4) A net assessment of the impact that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the impact that such proposed agreements would have on the risks and costs to the United States.

(5) An assessment of the impact that proposed treaty sub-ceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

(6) A statement of the strategy the United States and NATO will use to verify and ensure compliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserved with or without arms control agreements.

(b) EXPLANATION OF METHODOLOGY.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsection (a)), the President shall—

(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analyses in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

(c) FORM OF REPORT.—The President shall submit such report in both classified and unclassified form.

SEC. 914. ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH ALLIED COUNTRIES

Section 2347(a)(1) of title 10, United States Code, is amended by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000".

SEC. 915. AUTHORITY TO WAIVE SURCHARGE ON CERTAIN SALES TO NATO

(a) IN GENERAL.—Chapter 3 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 130a. Waiver authority for certain charges in connection with certain sales to NATO

"(a) The Secretary of Defense may waive, in connection with any sale made by the Department of Defense to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of weapon system partnership agreements and NATO/SHAPE projects, the charges that would otherwise be applicable to such sale under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A)).

"(b) Funds available to the Department of Defense may be used by the Secretary of Defense to reimburse the fund established to carry out section 43(b) of the Arms Export Control Act (22 U.S.C. 2792(b)) in the amount of the charges waived under subsection (a).

"(c) DEFINITIONS.—In this section:

"(1) The term 'weapon system partnership agreement' means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

"(A) is entered into pursuant to the terms of the charter of that organization; and

"(B) is for the common logistic support of a specific weapon system common to the participating countries.

"(2) The term 'NATO/SHAPE project' means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"130a. Waiver authority for certain charges in connection with certain sales to NATO.".

SEC. 916. ADVANCE PAYMENT OF ADMINISTRATIVE CLAIMS

(a) INCREASE IN MAXIMUM PAYMENT.—Subsection (a) of section 2736 of title 10, United States Code, is amended to read as follows:

"(a)(1) Under such regulations as the Secretary of a military department may prescribe, the Secretary or the Judge Advocate General of an armed force may make a payment of an amount not in excess of $100,000 in advance of the submission of a claim or before the final settlement of a claim to or for any person, or the legal representatives of any person, who was injured or killed, or whose property was damaged or lost, under circumstances for which allowance of a claim is authorized by law.

"(2) The Secretary of a military department may delegate to an officer or employee under the jurisdiction of the Secretary the authority to make a payment under paragraph (1) in an amount not to exceed $25,000.

"(3) Payments under this subsection are limited to payments which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any claim which would otherwise be payable under section 2733 or 2734 of title 10, United States Code, or under section 715 of title 32, United States Code, and which has not been finally settled on the date of the enactment of this Act.

SEC. 917. COURT OF MILITARY APPEALS RETIREMENT REVISIONS

(a) CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.—Subchapter III of chapter 83 of title 5, United States Code, is amended—

(1) in section 8336(l), by striking out the second sentence;

(2) in section 8338—

(A) by striking out subsection (c); and

(B) by redesignating subsection (d) as subsection (c);

(3) in section 8339(d)(6)—

(A) by striking out "(6) The" and inserting in lieu thereof "(6)(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following:

"(B) If an employee referred to in subparagraph (A) of this paragraph has completed the term of service for which the employee was appointed as a judge of the United States Court of Military Appeals, then the annuity of such employee is the greater of—

"(i) the amount computed as provided in subparagraph (A) of this paragraph; or

"(ii) the amount equal to 80 percent of the rate of pay established for a judge in active service on such court as in effect on the date of such employee's retirement under this subchapter.

"(C) The amount of the annuity under this paragraph is the amount initially payable to the employee at the time of the retirement of the employee and is subject to adjustment under section 8340 of this title."; and

(4) in section 8339(h)—

(A) by inserting "(d)(6)," after "(d)(5)," in the first sentence; and

(B) by striking out the third sentence and inserting in lieu thereof the following: "Notwithstanding the first sentence of this subsection, the annuity of an employee who is a judge or a former judge of the United States Court of Military Appeals and who has completed the term of service for which he was appointed as a judge of such court shall not be reduced.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Chapter 84 of title 5, United States Code, is amended—

(1) in section 8412, by adding at the end the following new subsection:

"(i) An employee who is a judge of the United States Court of Military Appeals, or a former judge of such court, and who is separated from the service after completing the term of service for which he was appointed as a judge of such court is entitled to an annuity."; and

(2) in section 8415, by adding at the end the following new subsection:

"(h)(1) The annuity of an employee who is a judge of the United States Court of Military Appeals, or a former judge of such court, who is retiring under section 8412(i) of this title is the greater of—

"(A) the amount computed under paragraph (2) of this subsection; or

"(B) the amount equal to 54 percent of the rate of pay established for a judge in active service on such court as in effect on the date of the retirement.

"(2) The annuity computed in the case of a judge of the United States Court of Military Appeals, or a former judge of such court, for purposes of paragraph (1)(A) is the annuity computed under subsection (a) of this section, except that, with respect to his service as a judge of such court, his service as a Member, his congressional employee service, and his military service (not exceeding 5 years) creditable under section 8411 of this title, his annuity is computed by multiplying $1\frac{7}{10}$ percent of his average pay by the number of years of such service that does not exceed 20 years.

"(3) The amount of the annuity under paragraph (1) is the amount initially payable to an employee referred to in paragraph (1) and is subject to adjustment under section 8462 of this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to judges of the United States Court of Military Appeals whose term of service on such court ends on or after the date of the enactment of this Act.

SEC. 918. VOLUNTARY LEGAL ASSISTANCE

(a) ACCEPTANCE OF VOLUNTARY SERVICES.—Section 1044 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) Notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person voluntary attorney, paralegal, clerical, or related services for the provision of legal assistance under this section. Such services shall be performed under the direction and control of the judge advocate or chief legal officer of the command for which the legal assistance services are performed.".

(b) Defense of Suits.—Section 1054(a) of title 10, United States Code, is amended by striking out "title 32)" and inserting in lieu thereof "title 32 and persons furnishing voluntary services that are accepted under section 1044(b) of this title)".

SEC. 919. LEASE OF AIRCRAFT FOR FLEET ELECTRONIC WARFARE SUPPORT GROUP ACTIVITIES

The Secretary of the Navy may lease aircraft for Fleet Electronic Warfare Support Group activities in accordance with section 2401 of title 10, United States Code, if the cost of such a lease is less than the cost of operating and maintaining the same number of existing aircraft of the Navy for that purpose.

SEC. 920. SPECIAL OPERATIONS AIRLIFT

(a) Findings.—Congress makes the following findings:

(1) Adequate airlift for special operations forces of the Armed Forces is essential for the successful performance of many of the missions of such forces.

(2) Inadequate airlift capacity impairs the capability of such forces to carry out such missions.

(3) In June 1987, the Secretary of Defense submitted to Congress a plan to meet the immediate airlift requirements of the special operations forces.

(4) The plan specified that, except for 49 CV-22A aircraft, the remainder of the special operations forces airlift aircraft are scheduled to be procured or modified not later than fiscal year 1992.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the plan submitted to Congress in June of 1987 by the Secretary of Defense is a sound proposal to redress the serious deficiency in airlift capability for special operations forces;

(2) the Secretary of Defense should formulate a five-year defense program for fiscal years 1990 through 1994 that, at a minimum, includes sufficient funds for the procurement or modification, not later than the end of fiscal year 1992, of all the airlift aircraft specified in the plan referred to in paragraph (1); and

(3) the President should submit budgets to Congress for fiscal years 1990, 1991, and 1992 that, at a minimum, include sufficient funds for the procurement or modification, by the end of fiscal year 1992, of all the airlift aircraft specified in the plan referred to in paragraph (1).

SEC. 921. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

(a) In General.—The Secretary of Defense shall—

(1) close all military installations recommended for closure by the Commission on Base Realignment and Closure in the report transmitted to the Secretary pursuant to the charter establishing such Commission;

(2) realign all military installations recommended for realignment by such Commission in such report; and

(3) initiate all such closures and realignments no later than September 30, 1991, and complete all such closures and realignments no later than September 30, 1995.

(b) Conditions.—(1) The Secretary may not carry out the closure or realignment of any military installation under this section unless—

(A) within 15 calendar days after the date on which the Commission transmits the report described in subsection (a)(1) to the Secretary, the Secretary transmits to the appropriate committees of Congress a report containing a statement that the Secretary has approved and proposes to implement all of the military installation closures and realignments recommended by the Commission in the report described in subsection (a)(1);

(B) the Commission has recommended, in the report described in subsection (a)(1), the closure or realignment, as the case may be, of the installation; and

(C) the Secretary of Defense completes the study required by subsection (f)(2) and submits the certification required by subsection (c)(3)(B).

(2) The authority of the Secretary to carry out any closure or realignment under this section shall terminate on October 1, 1995.

(c) The Commission.—(1) The Commission shall consist of 15 members appointed by the Secretary of Defense. In addition to the members appointed by the Secretary of Defense on May 3, 1988, the Secretary shall appoint 6 additional members (and fill any subsequent vacancies on the Commission) after consultation with (A) the Chairman and ranking minority members of the appropriate committees of Congress and the military construction subcommittees thereof and (B) national associations of State and local officials. The members shall be chosen on the basis of knowledge and experience in matters related to federal property or national security affairs, or economic planning, and shall reflect a reasonable geographic balance.

(2) The Secretary of Defense shall provide the Commission with an objective, independent staff, which shall be selected by the Commission. The senior staff shall consist of government employees and consultants who have not been employed by the Department of Defense during calendar year 1988.

(3) The Commission shall—

(A) transmit the report described in subsection (a)(1) to the Secretary no later than December 31, 1988; and

(B) on the same date on which the Commission transmits such report to the Secretary, transmit to the appropriate committees of Congress—

(i) a copy of such report; and

(ii) a statement certifying that the Commission has identified any military installations to be closed or realigned after reviewing all military installations inside the United States, including all military installations under construction and all military installations planned for construction, and that no installation identified to be closed or realigned is of a higher priority to the national defense than any installation (domestic or foreign) that has not been identified by the Commission or the Secretary of Defense for closure or realignment.

(d) Implementation.—(1) In closing or realigning a military installation under this section, the Secretary—

(A) subject to the availability of funds authorized and appropriated to the Department of Defense for planning and design, minor construction, and operation and maintenance, and the availability of funds in the Account established under subsection (g)(1), may take all actions necessary to implement such closure or realignment, including acquiring land, constructing replacement facilities, relocating activities, and conducting advance planning and design;

(B) subject to the availability of funds authorized and appropriated to the Department of Defense for economic adjustment assistance and community planning assistance and the availability of funds in the Account, shall provide—

(i) economic adjustment assistance to any community located near a military installation being closed or realigned; and

(ii) community planning assistance to any community located near a military installation to which functions are to be transferred as a result of such closure or realignment;

if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate;

(C) subject to the availability of funds authorized and appropriated to the Department of Defense for environmental restoration and the availability of funds in the Account, may carry out activities for the purpose of environmental restoration, including reducing, removing, and recycling hazardous wastes and removing unsafe buildings and debris;

(D) except as provided in paragraph (2), may sell or exchange, at not less than fair market value, any real property or facility under the jurisdiction of the Department of Defense and located at such an installation; and

(E) shall deposit any amount received from such sale or exchange, and from any transfer or exchange made under paragraph (2), into the Account.

(2)(A) Before any sale or exchange or other conveyance of any real property or facility is made under this section, the Secretary shall inform other instrumentalities of the Federal Government of the availability of such property or facility and, in response to an offer submitted by such an instrumentality within a reasonable period specified by the Secretary, shall transfer such property or facility for fair market value to such instrumentality if such instrumentality agrees to reimburse the Secretary for such transfer in an amount equal to the fair market value of the property or facility and such instrumentality has the necessary funds available (within a reasonable period specified by the Secretary) for such purpose.

(B) After carrying out subparagraph (A) with respect to any real property or facility under the jurisdiction of the Department of Defense and located at an installation scheduled for closure or realignment under this section, the Secretary—

(i) may transfer such property or facility to any other instrumentality of the Federal Government at less than fair market value or without reimbursement; or

(ii) subject to subparagraph (C) and in any case in which savings will be realized by the Department of Defense from a conveyance of a property or facility, may—

(I) sell or exchange such real property or facility at less than fair market value if it is to be used for a commercial or industrial purpose in accordance with a reuse plan formulated by the community involved; or

(II) convey such property or facility without reimbursement to a State or local government if such property or facility is to be used by such government for airport, education, or health purposes in accordance with such a reuse plan.

(C)(i) Any property or facility conveyed under subparagraph (B)(ii) may be conveyed only as part of economic adjustment assistance made available to a community located near an installation scheduled for closure or realignment.

(ii) The Secretary shall provide that all right, title, and interest in and to any real property or facility conveyed under subparagraph (B)(ii) shall revert to the United States, which shall have right of immediate entry thereon, if such property or facility is used for any purpose other than the one for which it was conveyed under such clause.

(e) Waiver.—The Secretary may carry out the authority provided in subsection (d) without regard to—

(1) any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) restricting the Secretary of Defense from disposing of real property and facilities;

(2) any provision of law restricting the use of funds for closing or realigning military installations included in appropriation or authorization Acts, other than this Act;

(3) the procedures set forth in sections 2662 and 2687 of title 10, United States Code; and

(4) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) Reports.—(1) As part of each annual request for authorization of appropriations, the Secretary shall transmit to the appropriate committees of Congress—

(A) a schedule of the closure and realignment actions proposed to be carried out under this section in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which the savings are to be achieved in each case, together with the Secretary's assessment of the environmental consequences of such actions; and

(B) a description of the military installations, including military installations under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental consequences of such transfers.

(2)(A) The Secretary shall conduct a study of the military installations of the United States outside the United States to determine if efficiencies can be realized through closure or realignment of the overseas base structure of the United States. Not later than September 15, 1988, the Secretary shall transmit a report of the findings and conclusions of such study to the Commission and to the appropriate committees of Congress. The Commission shall consider the impact of the Secretary's study in developing its recommendations.

(B) Upon request of the Commission, the Secretary shall provide the Commission with such information about overseas bases as may be helpful to the Commission in its deliberations.

(C) The Commission, based on its analysis of military installations in the United States and its review of the Secretary's study of the overseas base structure, may provide the Secretary with such comments and suggestions as it deems appropriate regarding the Secretary's study of the overseas base structure.

(3) When a decision is made to carry out a construction project under subsection (d)(1) and the cost of the project will be greater than the maximum amount for a minor construction project, the Secretary shall notify in writing the appropriate committees of Congress of the nature of and justification for the project and the amount proposed to be expended for such project.

(g) Account.—(1) There is hereby established on the books of the Department of the Treasury the Department of Defense Base Closure Account which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress; and

(C) any amount described in subsection (d)(1)(E) and any other funds received by the Secretary in connection with any closure or realignment of a military installation under this section.

(3) There is authorized to be appropriated to the Account for any fiscal year after fiscal year 1989 the sum of $300,000,000.

(4) The Secretary may use the funds in the Account only for the purposes described in subsection (d).

(5) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit a report to the appropriate committees of Congress of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount of expenditures made pursuant to subparagraphs (A) through (C) of subsection (d)(1).

(6) Unobligated funds which remain in the Account after the termination of the authority of the Secretary under this section shall be held in the Account until transferred by an appropriation Act enacted after the appropriate committees of Congress receive the report transmitted under paragraph (7).

(7) No later than 60 days after the termination of the authority of the Secretary to carry out an alignment or closure under this section, the Secretary shall transmit to the appropriate committees of Congress a report containing an accounting of—

(A) all the funds deposited into and expended from the Account or expended under subparagraphs (A), (B), and (C) of subsection (d)(1); and

(B) any amount remaining in the account.

(h) Congressional Disapproval Procedures.—(1) Notwithstanding any other provision of this section, the Secretary of Defense may not take any action with regard to the report of the Commission on Base Realignment and Closure if, within 45 session days after the date on which Congress receives the report of the Secretary described in subsection (b)(1)(A), Congress enacts a joint resolution disapproving the plan of the Commission.

(2) For the purpose of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the report of the Secretary referred to in subsection (b)(1)(A) is received by Congress the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Commission on Base Realignment and Closure established by the Secretary of Defense as submitted to the Secretary of Defense on ______ (the blank space being appropriately filled in).".

(3) A resolution described in paragraph (2) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in paragraph (2) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(4) If the committee to which is referred a resolution described in paragraph (2) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (2), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (2), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (2) shall be decided without debate.

(6) If, before the passage by one House of a resolution of that House described in paragraph (2), that House receives from the other House a resolution described in paragraph (2), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (2) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(7) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (2), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(i) Definitions.—In this section:

(1) The term "Account" means the Department of Defense Base Closure Account established by subsection (g)(1).

(2) The term "appropriate committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(3) The terms "Commission on Base Realignment and Closure" and "Commission" mean the commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988.

(4) The term "charter establishing such Commission" means the charter referred to in paragraph (3).

(5) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ships or other activity under the jurisdiction of the Secretary of a military department.

(6) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions.

(7) The term "Secretary" means the Secretary of Defense.

(8) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

SEC. 922. MODERNIZATION OF NATO'S THEATER NUCLEAR CAPABILITIES

(a) Findings.—

(1) Notwithstanding the critical need for conventional force improvements, the security of the NATO Alliance will rely on modern and credible nuclear weapons, with a goal of raising the nuclear threshold.

(2) The modernization of NATO's theater nuclear capabilities is a continuing process, stemming from NATO's 1983 Montebello decision to reduce the European nuclear stockpile while taking steps to insure that the remaining nuclear weapons are responsive, survivable and effective.

(3) Theater nuclear modernization programs, which enjoyed a high priority for NATO before the INF Treaty, are no less important for the post-INF period.

(4) NATO Ministers, meeting most recently at the Nuclear Planning Group (NPG), reaffirmed their endorsement of United States development of a Follow-on to Lance (FOTL) with a view toward an eventual decision on deployment.

(b) Therefore it is the Sense of the Senate that—

(1) Modernization of NATO's theater nuclear capabilities following ratification of the INF Treaty is essential to the deterrence strategy of the Alliance.

(2) Continued United States modernization of its theater nuclear capabilities should be undertaken in close consultation with our NATO Allies.

(3) The United States should proceed with ongoing activities for satisfying the identified Alliance requirement for a Follow-on to Lance.

SEC. 923. AIR TRAVEL EXPENSES OF DEFENSE CONTRACTOR PERSONNEL

(a) In General.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4118. Air travel expenses of contractor personnel

"(a) Negotiated Air Fare Discounts.—The Administrator of General Services shall enter into negotiations with commercial air carriers with a view to achieving agreements that permit personnel of contractors traveling solely in the performance of contracts awarded by the Department of Defense to be transported by such carriers at the same discount air passenger transportation rates as such carriers charge for travel by Federal Government employees traveling at Government expense.

"(b) Requirement To Use Discount Fares.—Each contract awarded by the Department of Defense shall include a clause that requires contractor personnel, when traveling by commercial air carrier solely in the performance of one or more contracts awarded by the Department of Defense (including such contract), to travel under conditions that qualify such personnel for a discount rate available under an agreement entered into under subsection (a). Travel under such conditions shall not be required under such clause if it is determined, under regulations prescribed by the Secretary of Defense, that travel under other conditions is necessary for performance of one or more of such contracts.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4118. Air travel expenses of contractor personnel.".

(c) Effective Date.—Subsection (b) of section 4118 of title 10, United States Code (as added by subsection (a)), shall apply with respect to contract solicitations issued on or after the date on which the first agreement between the Administrator of General Services and a commercial air carrier is entered into under subsection (a) of such section 4118.

SEC. 924. STUDY AND REPORT ON SOVIET ANTIBALLISTIC MISSILE CAPABILITY AND ACTIVITIES

(a) Study Required.—(1) The President shall conduct a study regarding the antiballistic missile capability and activities of the Union of Soviet Socialist Republics. As a part of such study, the Secretary shall assess—

(A) the military capabilities and significance of the Soviet extensive network of large-phased array radars;

(B) whether the Soviet Government is illegally developing or producing mobile or transportable engagement radars;

(C) the Soviet ability to develop an effective exoatmospheric antiballistic missile defense without using widespread deployments of traditional engagement radars;

(D) the ability of Soviet air defense interceptors missiles now and in the future to successfully destroy ballistic missile warheads;

(E) whether Soviet silos or hardened facilities outside of the antiballistic missile site permitted near Moscow are or could be associated with illegal antiballistic missile defenses;

(F) whether the Soviet Government is developing terminal antiballistic missile defenses;

(G) whether the antiballistic missile site permitted near Moscow conceals or could conceal development, testing, or deployment of a widespread Soviet antiballistic missile system;

(H) Soviet activities regarding sea, land or air-based boost-phase intercepts of ballistic missiles;

(I) the status of Soviet laser, particle beam, and other advanced technology programs comparable to programs conducted by the United States under the Strategic Defense Initiative; and

(J) the consequences for the United States of a successful Soviet effort to acquire an effective nationwide or limited antiballistic missile system and the ability of the United States to respond to such effort.

(2) The assessment provided for in paragraph (1) shall include, but not be limited to, discussion of the ability of the United States to modify its existing strategic offensive forces, including the use of penetration AIDS, and its strategic doctrine and tactics to effectively counter such a Soviet ABM system over the same period of time that the Soviets required to deploy it.

(b) Preparation of Report.—The President shall prepare a report, in both a classified and an unclassified version—

(1) specifying the results of the study required by subsection (a); and

(2) containing such recommendations as the Secretary considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States given the antiballistic missile capability and activities of the Union of Soviet Socialist Republics.

(c) Submission of Report.—The President shall submit to the Speaker of the House of Representatives, and the President pro tempore of the Senate the report required by subsection (b) not later than October 1, 1989.

SEC. 925. ENERGY EFFICIENCY INCENTIVE

(a) The services of the Department of Defense shall be authorized to establish a program of incentives for the purpose of conserving, and otherwise making more efficient use of, energy by the services.

(b) In carrying out this program, the head of each service shall, by no later than 120 days from the enactment of this Act, implement procedures for the identification, verification, accrual, and use of the first year's energy cost savings resulting from contracts entered into under title VIII of the National Energy Conservation Policy Act as amended in 1986.

(c) The portion of the funds appropriated for payment of a services energy expenses that is equal to the Government's share of the first year's energy cost savings resulting from contracts entered into under title VIII of the National Energy Conservation Policy Act as amended in 1986, shall be treated as an unobligated balance and shall be available to the service in the fiscal year after the fiscal year in which the savings occur to be used in equal amounts, until expended, for the purposes of:

(1) additional energy efficiency projects by the service, and

(2) appropriated morale, welfare and recreation purposes and minor construction projects that enhance the quality of life at the installation at which the savings are realized.

(d) For the purposes of this section, "energy cost savings" means the present dollar value of the Government's share of the first year's energy cost savings resulting from contracts entered into under title VIII of the National Energy Conservation Policy Act, as amended.

SEC. 926. HUMAN RIGHTS VIOLATIONS BY THE POLISH REGIME

(a) The Senate finds—

(1) that the regime of General Wojciech Jaruzelski has again violated the most fundamental rights of the people of Poland, including the right to peaceable assemble, the right to strike, the right to freely associate, the right to speak freely, and the right to due process;

(2) that the Jaruzelski regime has retaliated against the justified, peaceful protests of workers at Nowa Huta through the use of violent force;

(3) that the Jaruzelski regime has sentenced human rights activist Bogdan Lis to three months imprisonment for his activities on behalf of the rights and freedoms of Polish workers, and has in addition sentenced Janusz Onyszkiewicz, Czeslaw Nowak, Tadeusz Pikurski, Halina Lopek, Stefan Malecki, Janusz Dura, Adam Jedrasiak, Stanislaw Strzepek, Edward Banaszkiewicz, Julian Gasior, Bogdan Kowalewski, Lech Matiaszkiewicz, and Robert Pawlik to terms of imprisonment ranging from one month to three months in duration;

(4) that a number of other persons have been prosecuted and imprisoned for politically related offenses;

(5) that several hundred workers have been temporarily detained; and

(6) that the Jaruzelski regime refuses to take steps, which would guarantee the Polish peoples' right to participation in the management of the country's economy, and would accept the principle of pluralism in the country's national life.

(b) It is therefore the sense of the Senate that—

(1) it condemns the actions of the Jaruzelski regime to violate the fundamental rights of the people of Poland; and

(2) any improvement in relations between the United States and Poland must be predicated on a fundamental improvement in human rights in Poland, including the release of political prisoners, the rights of independent trade unions to organize, and steps toward genuine national reconciliation and dialogue.

SEC. 927. ADVANCE TACTICAL RECONNAISSANCE SYSTEM DEVELOPMENT COMPETITION

Not later than 90 days after enactment of this Act, the Secretary of the Air Force shall submit a report to the Congress outlining his plans for establishing, to the maximum extent practicable, competition in the development and production of components for the advance Tactical Reconnaissance System.

SEC. 928. NATO DEFENSE PROGRAM REPORT

Not later than January 15, 1989, the Secretary of Defense shall submit to Congress a report detailing the programs to be included in the NATO Defense Program. This report shall include—

(1) an identification of each program by program element; and

(2) a description and the level of funding that the President will be requesting for each of these programs for fiscal year 1990.

SEC. 929. GLOBAL POSITIONING SYSTEM

(a) Of the funds authorized to be appropriated in this Act for Missile Procurement, Air Force, not less than $75,600,000 is authorized to be appropriated for the Global Positioning System, and not more than $366,200,000 is authorized to be appropriated for Space Boosters.

(b) Of the funds authorized to be appropriated in this Act for RDT&E, Air Force, not more than $48,200,000 is authorized to be appropriated for the Global Positioning System.

SEC. 930. PHILIPPINE BASES

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the United States has maintained military bases in the Philippines for more than ninety years;

(2) Clark Air Force Base, Subic Bay Naval Station, and the other United States military installations in the Philippines significantly promote the mutual interests of the United States and the Philippines;

(3) leaders of the states of the Association of South East Asian Nations have emphasized the importance of such bases to the development of democratic institutions and economic progress in South East Asia;

(4) the United States military installations in the Philippines employ a loyal and highly skilled cadre of Filipinos, and make a substantial contribution to the Philippine economy;

(5) The Base Rights Agreement between the United States and the Republic of the Philippines by which the United States maintains its military installations and stations military personnel in the Philippines expires in 1991;

(6) the United States and the Republic of the Philippines are currently engaged in a review of the Base Rights Agreement;

(7) in connection with the current Base Rights Agreement, the President has undertaken a "best efforts" pledge to obtain security assistance for the Philippines;

(8) officials of the Philippine government have demanded that the United States significantly increase the consideration for the use of military bases in the Philippines; and

(9) the President of the Republic of the Philippines has stated that consideration of the Base Rights Agreement should be separate from any consideration of security assistance to the Philippines.

(b) STUDY OF COSTS AND BENEFITS.—(1) Not later than ninety days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall prepare and transmit to the Congress, in classified and unclassified versions, a study of—

(A) the costs and benefits of maintaining United States military bases in the Republic of the Philippines;

(B) the costs and benefits of relocating such bases to potential alternative host countries; and

(C) any alternative means of funding payments to the host country of such bases.

(2) The study required by paragraph (1) shall include, but not be limited to—

(A) an analysis of—

(i) the strategic value to the United States;

(ii) the operation, maintenance and other costs to the United States; and

(iii) the economic, social and other benefits to the Philippines;

of maintaining United States military bases in the Philippines;

(B) an identification of potential alternative host countries for the United States' military bases currently located in the Philippines;

(C) an analysis of—

(i) the strategic value to the United States;

(ii) the operation, maintenance and other costs to the United States; and

(iii) the economic, social and other benefits to potential alternative host countries;

of establishing and maintaining United States military bases in such potential alternative host countries;

(D) an analysis of—

(i) the cost to the United States; and

(ii) the economic, social and other costs to the Philippines;

of relocating the United States military bases from the Philippines to potential alternative host countries;

(E) an analysis of the availability of skilled indigenous personnel and the cost of training such personnel in the potential alternative host countries; and

(F) a comparative analysis of the benefits to the United States from the use of the various methods which are now employed for compensating host nations around the world for the use of bases on their soil as applied to compensating either the Philippines or the host nations of alternative locations.

SEC. 931. EXCLUSIVE ECONOMIC ZONE

Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall prepare and transmit to the Congress a review of current and planned Defense assets that might be utilized to reduce and prevent unlawful foreign fishing in the United States Exclusive Economic Zone. Such review shall include, but not be limited to, an analysis of—

(1) the feasibility of using over-the-horizon backscatter radar devices to locate and identify fishing vessels in and beyond the Exclusive Economic Zone, both as a discrete system and in conjunction with other monitoring systems and devices;

(2) the use of Defense assets routinely deployed in areas where unlawful fishing may occur to monitor and report potential violations of United States fisheries laws and regulations; and

(3) the application of information gathered by intelligence collection assets which are deployed in such a way as to detect illegal fishing activities as a byproduct of other data collection missions.

SEC. 932. RESTRICTION ON SALE OF ARMS TO SAUDI ARABIA AND CERTAIN OTHER NATIONS

Notwithstanding any other provision of law, no sale of arms may be made by the United States to Saudi Arabia or to any other nation in the Middle East which has procured CSS-2 Chinese-made missiles unless the President has first certified to Congress that Saudi Arabia or such other nation, as the case may be, does not have chemical, biological, or nuclear warheads for such missiles. A separate certification is required in the case of each proposed sale of arms and may not be made more than 90 days before the proposed sale is to be concluded.

SEC. 933. REPORT ON, AND DISCUSSIONS REGARDING, JAPANESE CONTRIBUTIONS TO GLOBAL STABILITY AND THE INDIVISIBLE SECURITY OF THE LEADING INDUSTRIALIZED DEMOCRACIES

(a) FINDINGS.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic

freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of the Western countries is indivisible and must be approached on a global basis", the government of Japan continues to fulfill the pledge of Prime Minister Suzuki to defend the territory, airspace and sealanes of Japan to a distance of 1,000 miles by 1990, has increased its foreign assistance in fiscal year 1988 by 6.5 percent, and is, according to recent reports, actively involved in increasing its contributions to the stability of the Republic of the Philippines, actions welcomed by the United States.

(3) Japan could, because of its recent history and economic status, best fulfill a politically acceptable and significant role in maintaining the indivisible security of the Western nations by increasing its Official Development Assistance to a level consistent with the provisions of section 1012 of Public Law 100-180.

(4) However, continued unwillingness by Japan to bear its fair share of the burden of maintaining the indivisible security of the leading industrialized democracies could weaken the long-term vitality, effectiveness, and cohesion of the alliance between the United States and Japan.

(b)(1) Study.—The Secretary of Defense shall, in coordination with the Department of State and the Agency for International Development, incorporate within the report required by section 1003 of Public Law 98-525, a report on Japan's Overseas Development Assistance.

(2) Report.—The report shall contain a description of the amount and nature of Japanese Overseas Development Assistance by recipient, including distinguishing between grant aid, loans and credits.

(c) Policy.—It is the sense of Congress that—

(1) the President should enter into discussions with Japan for the purpose of reaching a more equitable distribution of the burden of financial support for the indivisible security of the leading industrialized democracies;

(2) the objective of such discussions with Japan should be to establish a schedule of increases in Japan's Overseas Development Assistance and its defense budget so that, by 1992, the level of spending on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products);

(3) the President should report to Congress, within 180 days after the date of the enactment of this Act, on the progress of such discussions; and

(4) if, in the judgement of Congress, the President's report does not reflect substantial progress toward a more equitable distribution of the burden of maintaining the indivisible security of the leading industrialized democracies, the Congress should review the extent of the distribution of the mutual security burden between the United States and Japan and consider whether additional legislation is appropriate.

SEC. 934. MISSILE TECHNOLOGY, PERSONNEL DEFICIENCIES

(a)(1) The number of countries that have acquired ballistic missiles or have actually used them in combat has increased significantly in the past six months.

(2) The Secretary of Defense has expressed concern about missile proliferation.

(3) Congress directed that the Department of Defense provide a report specifying personnel requirements to implement the Missile Technology Control Regime Policy that was concluded by the United States and six other countries in April 1987 to control the proliferation of missiles capable of delivering nuclear weapons.

(4) The Department of Defense report was due February 1, 1988 and has not yet been received: Now, therefore

(b) it is the sense of the Senate that—

(1) the Secretary of Defense should file the requested report as soon as possible but not later than July 30, 1988 and

(2) Department of Defense personnel deficiencies which prevent effective performance of missile technology control responsibilities be rectified as soon as possible; using temporary duty assignments if deemed necessary.

SEC. 935. MILITARY BASE CLOSING COMMISSION

The Congress urges the President to ensure that any military base closing commission established by this or any other legislation—

(1) takes into account the total economic cost to the country as a whole, and not just to the Department of Defense or to the Federal Government, in making decisions concerning the closing or functional realignment of any military installations; and

(2) is appropriately briefed on the basing requirements and basing implications of compartmented programs, popularly known as "black" programs, within the executive branch before issuing any report recommending the closing or functional realignment of any military installations.

SEC. 936. REGULATIONS FOR DELIVERY OF MILITARY PERSONNEL TO CIVIL AUTHORITIES WHEN CHARGED WITH CERTAIN OFFENSES

(a) Not later that 90 days after the date of enactment of this Act, the Secretary of Defense shall ensure that the Secretaries of the military departments have issued uniform regulations pursuant to section 814 of title 10, United States Code, to provide for the delivery of members of the Armed Forces to civilian authority when such members have been accused of offenses against civil authority. Such regulations shall specifically provide for the delivery of such members to civilian authority, in appropriate cases, when such members are accused of parental kidnapping and other similar offenses, including criminal contempt arising from such offenses and from child custody matters, and shall specifically address the special needs for the exercise of the authority contained in section 814 of title 10, United States Code, when members of the Armed Forces assigned overseas are accused of offenses by civilian authorities.

(b) Not later that 120 days after the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives a copy of all regulations promulgated under section 814 of title 10, United States Code, as a result of this section and any recommendations that the Secretary may have concerning the need for additional legislation related to the amenability of members of the Armed Forces to civil authority.

SEC. 937. CONDITIONS FOR SALE OR OTHER TRANSFER OF F-15 AIRCRAFT TO SAUDI ARABIA

Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any such F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15-E with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies the Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is totally removed from the inventory of Saudi Arabia.

SEC. 938. ENFORCEMENT OF THE FINAL ACT OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (ALSO KNOWN AS "THE HELSINKI FINAL ACT")

(a) No country signatory to the Final Act of the Conference on Security and Cooperation in Europe (also known as "the Helsinki Final Act") which as of May 1, 1988, did not enjoy Most Favored Nation (MFN) trade status with the United States shall be extended such status unless the President first certifies in writing to the Chairman of the Committee on Foreign Relations of the Senate and to the Chairman of the Committee on Foreign Affairs of the House of Representatives that such signatory country is in complete compliance or in substantially complete compliance with such Final Act, particularly the human rights and humanitarian affairs provisions.

(b) For the purposes of the foregoing subsection, "substantially complete compliance" is defined as—

(1) a pattern of compliance with the requirements of the Helsinki Final Act in a manner comparable to that displayed by democratic signatory countries, with any violations clearly the rare and exceptional act of local authorities contrary to established policy and generally observed practice in such country;

(2) the existence, in theory and in practice, of legal procedures and presumptions, statutes, administrative regulations, limitations on law enforcement authorities, and judicial means of redress that facilitate and encourage, rather than frustrate, the exercise of basic rights as specified in the Helsinki Final Act by the citizens and inhabitants of such country; and

(3) the ability of citizens of such country and citizens of other signatory countries, in theory and in practice, freely to monitor the performance of the governmental authorities of such country with regard to the requirements of the Helsinki Final Act throughout the territory of such country, and to publicize their findings, both in such country and abroad.

SEC. 939. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY

(a) Findings.—Congress makes the following findings:

(1) The United States and the Union of Soviet Socialist Republics are engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a Treaty requiring deep reductions in the strategic forces of the United States.

(3) The Senate must advise and consent to the ratification of any such Strategic Arms Reduction Treaty (START).

(4) Any START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

(5) The Congress must authorize and appropriate the funds to procure such permitted forces as are required to insure the stability of the force balance under any arms reduction agreement.

(6) The Congress faces critical resource choices for fiscal year 1989 and beyond which could substantially influence the strategic force posture of the United States in a post-START era.

(b) PRESIDENTIAL REPORT.—The President shall provide to the Congress prior to the conclusion of any Strategic Arms Reduction Treaty or agreement between the United States and the Union of Soviet Socialist Republics, but in any event not later than September 15, 1988, a comprehensive report, in classified and unclassified form, on the implications such an accord might have for future strategic force postures of the United States in the 1990s. This analysis shall include the following:

(1) Alternative force postures for the United States permitted under an arms reduction agreement, including the Administration's recommended posture.

(2) The cost associated with acquiring each alternative force posture, assessed over at least a seven-year period.

(3) The damage limitation capability, survivability and retaliatory potential of each force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union and the first-strike potential of such Soviet force postures.

(4) The likely effect of Soviet breakout from START on the survivability and effectiveness of the United States force posture.

SEC. 940. DRUG ENFORCEMENT ASSISTANCE

(a) FINDINGS.—The Congress finds that—

(1) the transport of weapons, drugs, and other contraband, as well as terrorists, across the borders of the United States constitutes a threat to the national security;

(2) a mission of the Armed Forces of the United States will be to assist Federal law enforcement agencies responsible for the interdiction of illicit drugs entering the United States by an aircraft or vessel;

(3) the additional resources and funds necessary to carry out this section should be made available to the Department of Defense; and

(4) activities under this section by members of the Armed Forces should be carried out to the maximum extent practicable in consultation and cooperation with appropriate law enforcement agencies.

(b) GUIDELINES TO THE MILITARY DEPARTMENTS.—Section 113 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k) The Secretary of Defense with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the Commanders of the Combatant Commands written guidelines to direct the effective detection and monitoring by the Army, Navy, Air Force, and Marine Corps of all potential aerial and maritime threats to the national security of the United States. Such guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which such guidelines are to be effective.".

(c) LEAD AGENCY FOR DETECTION.—(1) Not later than 30 days after the date of enactment of this Act, the President shall designate a single lead agency for detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2) It is the sense of the Congress that the Department of Defense has unique capabilities, experience, equipment, and trained personnel and has contributed to the detection and monitoring of aerial and maritime transit of illegal drugs into the United States, and the President shall give priority consideration to these factors in making the designation required by paragraph (1).

(d)(1) COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE NETWORK.—Not later than 90 days after the date of enactment of this Act, the President shall report to Congress his plan for integration by the Department of Defense of command, control, communications, and intelligence assets of the United States dedicated to the interdiction of illegal drugs.

(2) Not later than 120 days after submission of the report required by paragraph (1), the President shall report to Congress his plan for assignment of the responsibility for operating the command, control, communications, and intelligence network described in paragraph (1).

(e) AIRBORNE RADAR COVERAGE.—As soon as practicable after the date of enactment of this Act, the President shall deploy radar surveillance aircraft in sufficient numbers to provide an appropriate increase in the flying hours dedicated to drug interdiction. An appropriate increase of flying hours shall be dedicated to assistance to civilian agencies responsible for drug interdiction. An appropriate increase of flying hours shall be dedicated to such assistance along the Southwest border of the United States until such time as the aerostat radar surveillance systems that, as of the date of enactment of this Act, are planned for installation along such borders, are fully operational.

(f) LOAN OF PURSUIT AIRCRAFT.—The Department of Defense shall make available to the Coast Guard and Customs Service rotor wing and fixed wing aircraft of the Armed Forces to be used by such agencies in the pursuit of aircraft or vessels involved in illegal drug operations.

(g) DRUG INTERDICTION ASSISTANCE.—(1) Section 374(c)(2) of title 10, United States Code, is amended by inserting at the end thereof the following new subparagraph:

"(C) equipment operated by or with the assistance of personnel of the Department of Defense for the purpose of monitoring and communicating the movement of air and sea traffic (including equipment operated by or with the assistance of personnel assigned under subsection (a)) may be used to intercept vessels and aircraft for the purpose of identifying and communicating with such vessels and aircraft and directing such vessels and aircraft to a location designated by appropriate civilian drug enforcement officials.".

(2) Section 374(c)(1) of title 10, United States Code, is amended by—

(A) striking out "In an emergency circumstance, equipment" and inserting in lieu thereof "Equipment"; and

(B) striking out "determine an emergency circumstance exists" and inserting in lieu thereof "approve such assistance".

(3) Section 379 of title 10, United States Code, is amended by inserting the following new subsections at the end thereof:

"(e) Under regulations jointly prescribed by the Secretary of Defense and the Secretary of Transportation in consultation with the Attorney General, members of the armed forces who—

"(1) are assigned to duty on vessels of the Navy to which a member of the Coast Guard has been assigned under this section,

"(2) have been provided with appropriate training in the law enforcement functions of the Coast Guard, and

"(3) have been designated by an authorized member of the Coast Guard to perform the law enforcement functions of the Coast Guard

may, outside the United States, assist or perform any of the law enforcement functions of the Coast Guard under section 89 of title 14, United States Code.

"(f) Upon motion by the Attorney General or his designee, any civil action, claim, or proceeding brought against any member of the armed forces arising from such member's performance of duties under this chapter shall be deemed an action exclusively against the United States and the United States shall be substituted as a party defendant. The United States shall be entitled to all defenses otherwise available to an employee of the United States under State or Federal law as well as defenses to which the United States is independently entitled.".

(h) ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR THE NATIONAL GUARD.—

(1) PREAMBLE.—Congress having made a finding that "the transport of weapons, drugs, and other contraband, as well as terrorists, across the borders of the United States constitutes a threat to the national security," the Secretary of Defense is directed to urge the Governors of the several States to provide plans for participation by the National Guard in performing the objectives of this law.

(2) IN GENERAL.—(A) The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under paragraph (B) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used for the purpose of drug interdiction and enforcement operations and for the operation and maintenance of the equipment and facilities of the National Guard of such State used for such purposes.

(B) The Secretary may provide funds under paragraph (A) to the Governor of a State who submits a plan to the Secretary specifying how personnel of the National Guard of such State are to be used in drug enforcement and interdiction operation by a National Guard of a State unless—

(i) such operations are conducted at a time when personnel of the National Guard of the State are not in Federal service; and

(ii) participation by a National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(C) Before funds are provided to the Governor of any State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(3) Source of funds.—(A) Of the amounts appropriated pursuant to section 301(a), up to $30,000,000 shall be available for the purposes specified in paragraph (1).

(B) Of the amounts appropriated for National Guard Personnel, Army, and National Guard Personnel, Air Force, for fiscal year up to $30,000,000 shall be available for the purposes specified in paragraph (1).

(4) Report.—(A) Not later than 90 days after the date of enactment of this Act, the President shall submit to Congress a report on the potential effectiveness of using members of the National Guard and the Reserves for drug interdiction efforts, consistent with applicable law, along the borders and at the ports of entry of the United States.

(B) The report described in paragraph (A) shall include consideration of the potential for the long-term use of National Guard units of Arizona, Texas, California, Oklahoma, New Mexico, Tennessee, South Carolina, Florida, Virginia, New York, Georgia, and other States as appropriate, to perform drug interdiction operations, consistent with applicable law, coordinated by the Chief, National Guard Bureau, the Director of Operation Alliance Joint Command Group, and the Command, Communications, Control, and Intelligence Centers at March Air Force Base, California and Richmond Heights, Florida.

(i) Rule of Construction.—Nothing in this section or in the amendments made by this section shall be construed to limit the authority of the executive branch in the use of Department of Defense personnel or equipment for law enforcement purposes otherwise authorized by law.

(j) Report by the President.—Not later than September 1, 1988, the President shall submit a report to Congress containing legislative proposals, including budgetary requests, to enhance the capability of the Department of Defense to perform the functions described in this section.

SEC. 941. DRUG RELATED INDICTMENTS AGAINST NORIEGA

(a) Findings.—The Congress finds—

(1) Panamanian strongman Manuel Noriega has been accused of serious violations of American law involving trafficking in illegal drugs, providing protection and support to drug traffickers, and laundering drug related money;

(2) Federal indictments have been handed down against Noriega in the State of Florida on a number of these drug-related charges; and

(3) there are media and other reports that negotiations with Noriega may have occurred, on arrangements under which he would give up political power and leave Panama, in exchange for the dropping of the Federal drug-related indictments against him.

(b) It is the sense of the Congress of the United States that—

(1) no negotiations should be conducted, nor arrangements made by the United States Government, with Noriega, which would involve the dropping of the drug-related indictments against him; and

(2) any such negotiations, or arrangements, would send the wrong signal about the priority which the United States attaches to the war on drugs; would not further the prospects of restoring noncorrupt, democratic government to Panama; and would not serve the overall national security interests of the United States.

SEC. 942. STRATEGIC AIR DEFENSE ALERT MISSION

(a) Limitation.—Except as provided in subsection (b)(2), the Secretary of the Air Force may not make any change in the alert status of any Air National Guard unit in the strategic air defense mission in the northern portion of the United States, or in the deployment of units assigned to that mission, from that status and deployment as in effect on April 10, 1988.

(b) Report.—(1) After the North Warning System and the Over-the-Horizon Backscatter Radar System are deployed and in operation as replacements for the Distant Early Warning (DEW line) system, the Secretary of the Air Force shall submit to Congress a report on those systems. The report shall—

(A) describe the implementation of those systems and their operational capability and effectiveness as demonstrated up to the time of the report;

(B) describe plans, in light of those new systems, for the forward deployment of the interceptor aircraft from United States bases during periods of heightened international tension; and

(C) clarify the alert status in the strategic air defense mission, under those new systems, of elements of the Air Force (including elements of the reserve components) at Air Force bases in the northern portions of the United States.

(2) The limitation in subsection (a) shall cease to be effective 180 days after the date on which Congress receives the report required by paragraph (1).

SEC. 943. SENSE OF THE SENATE ON THE NEED TO PROTECT NON-NUCLEAR CRUISE MISSILES IN START

(a) Findings.—

(1) The Senate supports the President's efforts in the Strategic Arms Reduction Talks (START) to make deep and verifiable cuts in strategic nuclear weapons.

(2) Conclusion of a START Treaty between the United States and the Soviet Union will increase the relative importance of each nation's non-nuclear weapons capabilities.

(3) Advanced, long-range, non-nuclear cruise missiles are among the most promising technologies for reducing the current reliance of the United States and its allies upon the threat of an early resort to nuclear weapons to deter a conventional attack by the Soviet Union.

(4) The United States has taken a position in START that we will not agree to any limitations on non-nuclear cruise missiles.

(b) Sense of the Senate.—In light of the findings in subsection (a), it is the sense of the Senate that it should be the position of the United States that in START no restrictions shall be established on current or future non-nuclear cruise missiles.

SEC. 944. STUDY AND REPORT ON THE USE OF NON-BIODEGRADABLE PLASTIC

(a) Study.—The Secretary of Defense shall conduct a study in order to identify the types of disposable plastic items that are used by the Department of Defense in fiscal year 1989, to determine the approximate quantity used annually, and to determine which such items are biodegradable and which such items are not biodegradable.

(b) Report.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Forces of the Senate and of the House of Representatives a report on the results of the study required by subsection (a) and the feasibility of substituting agricultural commodity based biodegradable plastic items for nonbiodegradable plastic items identified in the study that are needed by the Department of Defense. The report shall include the following matters:

(1) The availability of agricultural commodity based biodegradable plastic items that are suitable substitutes for the nonbiodegradable plastic items.

(2) Any additional cost that would result from conversion to the use of such substitutes over the cost of continued use of the nonbiodegradable plastic items.

SEC. 945. REPORT ON SMALL PATROL BOATS OF NAVY

(a) Findings.—Congress finds that—

(1) on April 23, 1988, officials of the Department of Defense announced that consideration was being given to the deployment of United States Coast Guard vessels to the Persian Gulf for duty in conjunction with the Navy; and

(2) according to public reports based on statements from officials of the Department of Defense, the Navy has a significantly inadequate number of small patrol boats in the Navy fleet of ships.

(b) Report.—The Secretary of the Navy shall submit a report to Congress within 60 days after the date of the enactment of this Act regarding the capability of the Navy to carry out missions requiring the use of small patrol boats. The Secretary shall include in such report—

(1) an evaluation of the ability of the Navy to carry out missions requiring the use of small patrol boats that are less than 150 feet in length;

(2) a discussion of the contingencies that would necessitate the use of small patrol boats (of less than 150 feet in length) rather than larger warships;

(3) a discussion of any plans the Navy has for eliminating the Navy's shortage of such boats; and

(4) such recommendations as the Secretary considers appropriate to strengthen the capabilities of the Navy to carry out effectively missions which would require the use of such boats.

SEC. 946. CONFLICT OF INTEREST REGULATIONS

(a) In General.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue regulations that prohibit a contracting officer—

(1) from knowingly receiving any offer in connection with a contract to be awarded by the Department of Defense from an officer or employee of the Federal Government or from any business concern or other organization owned or substantially owned or controlled by one or more such officers and employees; and

(2) from knowingly awarding such a contract to—

(A) any person who, on either the date of the award of the contract or the date on which the Department of Defense received an offer from such person in connection with such contract, is an officer or employee of the Federal Government; and

(B) any business concern or other organization that, on either the date of the award of the contract or the date on which the Department of Defense received an offer from such business concern or organization in connection with such contract, is owned or substantially owned or controlled by one or more such officers and employees.

(b) Exceptions.—The Secretary of Defense may include in the regulations issued under subsection (a) such exceptions as he determines to be necessary in the interest of national security.

SEC. 947. APPLICABILITY OF CONTRACT GOAL FOR MINORITIES TO PRINTING-RELATED SERVICES

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) Notwithstanding sections 501 and 502 of title 44, United States Code, and section 309 of the Legislative Branch Appropriations Act, 1988 (as contained in section 101(i) of Public Law 100-202 (101 Stat. 1329-310)), printing, binding, and related services needed by the Department of Defense may be procured from entities referred to in subsection (a) in order to meet the objectives set out in such subsection. The procurement of printing, binding, and related services from such entities shall be conducted for the Department of Defense by the Public Printer as directed by the Secretary of Defense. Printing, binding, and related services needed by the Department of Defense and not procured from such entities shall be procured from the Government Printing Office.".

SEC. 948. SENSE OF THE CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW

(a) Findings.—

(1) The Senate finds that the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol (hereinafter the "ABM Treaty" or the "Treaty") in its Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.".

(2) The Senate further finds that such Treaty entered into force on October 3, 1972, and that the third five-year anniversary date specified by Article XIV, Paragraph 2, for the conduct of the review contemplated therein was October 3, 1987.

(3) The Senate further finds that, as a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore that the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Senate finally finds that the Parties to the Treaty have not met as required by Article XIV, Paragraph 2, because the United States of America refused to meet on the date required: to wit, October 3, 1987, and that the United States, seven months later, still refuses to propose a date for this meeting.

(b) Sense of Congress.—Taking account of the findings of this section, it is the sense of the Congress that the President should without any further delay propose an early date to conduct the overdue five-year review of the ABM Treaty and immediately thereafter inform the Congress of the results of that review.

SEC 949. ECONOMIC SANCTIONS AGAINST COMMUNIST REGIME IN ETHIOPIA

(a) Congress.—

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (via direct representations to the Government of Ethiopia, certain rebel groups, and via sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in the north, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Union of Soviet Socialist Republics in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high Soviet priority and that the approach of the Union of Soviet Socialist Republics is consistent with that of the West.

(b) Sanctions.—

(1) Sanctions urged under certain conditions.—The President is strongly urged, and is hereby authorized (notwithstanding any other provision of law), to impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to subparagraphs (2) and (3) of this subsection) if, at any time after the date of enactment of this section, the Government of Ethiopia engages in any of the following outrages:

(i) Forced resettlement.

(ii) Forced confinement in any resettlement camp.

(iii) Diversion of international relief to the military.

(iv) Denial of international relief to any persons at risk because of famine.

(v) Seizure of international relief assets provided by the United States.

(vi) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) Sanctions to be included.—Sanctions imposed pursuant to subparagraph (1) shall include sanctions which substantially affect the major exports of Ethiopia.

(3) Export sanctions.—If a sanction imposed pursuant to subparagraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(4) Reports to congress.—Not later than the end of the 15-day period beginning on the date of the enactment of this section and at the end of each 60-day period thereafter, the President shall submit to the Congress a report on whether, during that period, the Government of Ethiopia engaged in any conduct described in paragraph (1) of this subsection. Each such report shall describe the response of the United States to such conduct.

(5) Regulation authority.—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanctions imposed under this subsection.

SEC. 950. COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

(a) Not later than June 30, 1989, the President shall submit a report to the Congress which includes a review of the relationship of the arms control objectives of the United States with the responsiveness of research and development of monitoring systems for weapons verification. Such review shall include but not be limited to the participation of the Departments of Defense, State and Energy, the Director of Central Intelligence, and the Arms Control and Disarmament Agency.

(b) At a minimum, the report shall include the findings of the President, and such recommendations for improvement as the President shall deem appropriate, with respect to the following—

(1) the status of coordination in the formulation of United States arms control treaty verification policy;

(2) the status of efforts to ensure that arms control treaty verification policy is formulated in a manner which takes into account available technology for monitoring systems; and

(3) the status of efforts to insure that research and development on monitoring systems technology evolves in step with arms control treaty verification policy.

SEC. 951. COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

(a) Within 30 days after the enactment of this legislation, the President shall establish a Commission on Alternative Utilization of Military Facilities. The Commission shall be made up of representatives from the Department of Defense, the Bureau of Prisons of the Department of Justice, the National Institute on Drug Abuse of the Department of Health and Human Services, and the General Services Administration.

(b) On a biannual basis, the Commission shall—

(1) prepare a report listing active and nonactive military facilities that the Department of Defense has identified as fit for closure, underutilized in whole or part, or on the surplus property list;

(2) identify those facilities, or parts thereof, that could be utilized or renovated as minimum security facilities to hold nonviolent prisoners;

(3) identify those facilities, or parts thereof, that could be utilized or renovated to house nonviolent persons for drug treatment purposes; and

(4) present this list to the President and to the Congress.

(c) The first report required by subsection (b) shall be submitted to the President and to the Congress no later than September 1, 1988. Further reports shall be issued not later than September 1 every 2 years thereafter through fiscal year 1996.

SEC. 952. ASSISTANCE TO PANAMANIAN DEFENSE FORCE

(a) None of the funds authorized or appropriated by this or any other Act shall be obligated or expended for assistance to the Panamanian Defense Force unless and until the President has certified to Congress that no Armed Forces of the Union of Soviet Socialist Republics, Cuba, or Nicaragua are present in the Republic of Panama and that General Manuel Noriega has been removed as Commander of the Panamanian Defense Force, barred from all offices and authority, and prohibited from designating or appointing his successor.

(b) Provided further that nothing in this section shall prohibit the President from obligating or expending any funds necessary for the defense of the Panama Canal or for the maintenance of United States Armed Forces or interests in Panama.

(c) Ten days after the enactment of this section, the President shall provide a detailed report to Congress, in both classified and unclassified form, regarding (1) whether Soviet, Cuban, or Nicaraguan military, paramilitary, or intelligence personnel are present in Panama and (2) whether the Panamanian Defense Force has coordinated with, cooperated with, supported, or received support from, such personnel.

SEC. 953. TECHNICAL AMENDMENTS

(a) AMENDMENT TO TITLE 10.—Section 2343(b) of title 10, United States Code, is amended by striking out "section" before "2306a".

(b) AMENDMENT TO TITLE 37.—Section 101(5) of title 37, United States Code, is amended by striking out "secretary" and inserting in lieu thereof "Secretary".

(c) AMENDMENTS TO PUBLIC LAW 100-180.—(1) Paragraph (1) of section 802(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1123) is amended by inserting end quotation marks and a period after "section." at the end of such paragraph.

(2) Section 803(a) of such Act (101 Stat. 1125) is amended by inserting "the first time it appears" after "paragraph (1),".

SEC. 954. SENSE OF CONGRESS RELATING TO PERSONNEL STRENGTH FOR ON-SITE INSPECTIONS PURPOSES

In authorizing the strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities and support of such activities provided for in the Treaty, account should be taken of the number of such personnel that will be assigned to such activities during such fiscal year.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILITARY CONSTRUCTION AUTHORIZATION ACT

The bill (S. 2370) to authorize appropriations for fiscal year 1989 for military construction, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Military Construction Authorization Act, 1989".

TITLE I—ARMY

SEC. 101. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $6,000,000.
Fort McClellan, $7,900,000.
Redstone Arsenal, $14,800,000.
Fort Rucker, $2,110,000.

ALASKA

Fort Wainwright, $35,490,000.
Fort Richardson, $6,250,000.

ARIZONA

Fort Huachuca, $6,600,000.

ARKANSAS

Pine Bluff Arsenal, $7,500,000.

CALIFORNIA

Fort Ord, $13,050,000.
Sierra Army Depot, $380,000.

COLORADO

Pueblo Depot, $3,200,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $1,600,000.

GEORGIA

Fort Benning, $24,350,000.

HAWAII

Fort Shafter, $7,200,000.
Schofield Barracks, $8,500,000.

ILLINOIS

Rock Island Arsenal, $10,980,000.
Savanna Army Depot, $470,000.
Fort Sheridan, $3,280,000.

KENTUCKY

Fort Campbell, $20,500,000.
Lexington-Bluegrass Depot, $770,000.

MARYLAND

Aberdeen Proving Ground, $8,400,000.
Fort Detrick, $6,500,000.
Fort Ritchie, $9,100,000.

NEW JERSEY

Fort Dix, $6,200,000.

NEW YORK

United States Military Academy, West Point, $19,750,000.

NORTH CAROLINA

Fort Bragg, $36,602,000.

OKLAHOMA

Fort Sill, $3,700,000.

OREGON

Umatilla Army Depot, $3,600,000.

PENNSYLVANIA

Letterkenny Army Depot, $1,900,000.

TEXAS

Corpus Christi Army Depot, $7,400,000.
Fort Hood, $15,900,000.
Red River Army Depot, $88,400,000.
Fort Sam Houston, $3,250,000.

UTAH

Dugway Proving Ground, $12,800,000.
Tooele Army Depot, $92,300,000.

VIRGINIA

Fort A.P. Hill, $9,900,000.
Fort Eustis, $2,500,000.
Fort Pickett, $4,000,000.
Vint Hill Farms Station, $800,000.

WASHINGTON

Fort Lewis, $9,800,000.

WISCONSIN

Fort McCoy, $2,100,000.

VARIOUS LOCATIONS

Classified Locations, $3,600,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Ansbach, $15,000,000.
Friedberg, $1,300,000.
Giessen, $6,300,000.
Grafenwoehr Training Area, $7,000,000.
Hohenfels Training Area, $36,960,000.
Karlsruhe, $2,550,000.
Mainz, $19,550,000.
Mannheim, $14,400,000.
Rheinberg, $12,400,000.
Schweinfurt, $9,700,000.
Stuttgart, $3,350,000.
Vilseck, $44,600,000.
Wiesbaden, $13,900,000.
Worms, $1,300,000.
Wuerzburg, $33,650,000.
Various Locations, $18,000,000.

ITALY

Various Locations, $1,250,000.

JAPAN

Various Locations, $7,900,000.
Various Locations, $5,300,000.

KOREA

Camp Casey, $3,700,000.
Camp Gary Owen, $1,150,000.
Camp Greaves, $1,540,000.
Camp Hovey, $3,200,000.
Camp Kittyhawk, $1,350,000.
Camp Libby, $1,150,000.
Camp Page, $670,000.
Camp Sears, $1,100,000.
Camp Stanley, $1,200,000.
Camp Stanton, $1,400,000.
K-16 Army Airfield, $670,000.
Taegu, $990,000.
Yongsan, $1,400,000.
Various Locations, $6,200,000.
Various Locations, $9,200,000.

KWAJALEIN

Kwajalein, $15,490,000.

VARIOUS LOCATIONS

Various Locations, $27,250,000.

SEC. 102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may, using amounts appropriated pursuant to section 105(a)(6)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Wainwright, Alaska, one hundred and fifty units, $27,000,000.

Fort Irwin, California, two hundred and sixty-three units, $24,000,000.

Helemano, Hawaii, one hundred units, $11,400,000.

Schofield Barracks, Hawaii, forty units, $4,450,000.

Fort Leavenworth, Kansas, two hundred and seventy-two units, $20,000,000.

Fort Drum, New York, one hundred units, $10,000,000.

Augsburg, Germany, thirty-four units, as described in section 103(b).

Hohenfels, Germany, eighty-eight units, $8,400,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 105(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $10,628,000.

SEC. 103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) In General.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 105(a)(6)(A), improve existing military family housing units in an amount not to exceed $72,300,000.

(b) Waiver of Maximum Per Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown for each installation:

Pearl Harbor, Hawaii, eight units, $550,000.

Augsburg, Germany, convert unused attic space and upgrade fourteen units into forty-eight adequate units, as authorized in section 102(a), $3,360,000.

Taegu, Korea, ninety-six units, $4,450,000.

SEC. 104. DEFENSE ACCESS ROADS

The Secretary of the Army may, using amounts appropriated pursuant to section 105(a)(4), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Belvoir, Virginia, and other locations, in the amount of $1,000,000.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,419,301,000 as follows:

(1) For military construction projects inside the United States authorized by section 101(a), $451,432,000.

(2) For military construction projects outside the United States authorized by section 101(b), $332,070,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $1,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $93,328,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $188,178,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,335,093,000, of which not more than $52,190,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $183,600,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000, to remain in effect until expended.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $78,400,000 (the balance of the amount authorized for the construction of the Central Distribution Center, Red River Army Depot, Texas).

SEC. 106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of Certain Fiscal Year 1985 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661) and section 2105(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(b) Extension of Authorization of Certain Fiscal Year 1986 Projects.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act as extended by section 2105(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 99-180), shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(2) Modified record fire range in the amount of $2,850,000 at Nuremberg, Germany.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(4) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(5) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(6) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(7) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(c) Extension of Authorization of Certain Fiscal Year 1987 Projects.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) Child development center/religious education facility in the amount of $820,000 at Yuma Proving Ground, Arizona.

(2) Primary water supply connection in the amount of $2,150,000 at Fort Riley, Kansas.

(3) Material test facility in the amount of $9,700,000 at Dugway Proving Ground, Utah.

(4) Barracks modernization in the amount of $3,700,000 at foreign various location 276.

(5) Dining facility in the amount of $2,100,000 at Giessen, Germany.

(6) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.

(7) Contingency facility in the amount of $4,300,000 at Palmerola Air Base, Honduras.

(8) Seventy manufactured home spaces in the amount of $1,100,000 at Aberdeen Proving Ground, Maryland.

TITLE II—NAVY

SEC. 201. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Naval Station, Mobile, $19,700,000.

ALASKA

David Taylor Research Center Detachment, Ketchikan, $12,000,000.

Naval Air Station, Adak, $29,000,000.

ARIZONA

Marine Corps Air Station, Yuma, $11,770,000.

CALIFORNIA

Marine Corps Air-Ground Combat Center, Twentynine Palms, $26,630,000.

Marine Corps Air Station, Camp Pendleton, $9,450,000.

Marine Corps Air Station, El Toro, $3,970,000.

Marine Corps Air Station, Tustin, $10,990,000.

Marine Corps Base, Camp Pendleton, $64,460,000.

Marine Corps Logistics Base, Barstow, $1,190,000.

Mountain Warfare Training Center, Bridgeport, $3,200,000.

Naval Air Station, Moffett Field, $650,000.

Naval Air Station, North Island, $6,150,000.

Naval Amphibious Base, Coronado, $870,000.

Naval Amphibious School, San Diego, $10,100,000.

Naval Aviation Depot, North Island, $2,110,000.

Naval Construction Battalion Center, Port Hueneme, $10,900,000.

Naval Construction Training Center, Port Hueneme, $10,080,000.

Naval Hospital, Lemoore, $2,160,000.

Naval Ocean Systems Center, San Diego, $8,660,000.

Naval Post Graduate School, Monterey, $3,140,000.

Naval Civil Engineer Corps Officers School, Port Hueneme, $7,420,000.

Naval Security Group Detachment, San Diego, $1,950,000.

Naval Shipyard, Mare Island, $3,950,000.

Naval Space Surveillance Field Station, San Diego, $3,760,000.

Naval Station, Treasure Island, San Francisco, $5,000,000.

Naval Submarine Base, San Diego, $3,150,000.

Naval Supply Center, San Diego Annex, North Island, $1,695,000.

Naval Training Center, San Diego, $7,980,000.

Naval Weapons Center, China Lake, $12,260,000.

Naval Weapons Station, Seal Beach, $13,890,000.

Navy Public Works Center, San Diego, $500,000.

Navy Public Works Center, San Francisco, $15,810,000.

Pacific Missile Test Center, Point Mugu, $20,470,000.

Personnel Support Activity, San Diego, $1,180,000.

Shore Intermediate Maintenance Activity, San Diego, $10,720,000.

Submarine Training Facility, San Diego, $10,301,000.

CONNECTICUT

Naval Security Group Activity, Groton, $1,170,000.

Naval Submarine Base, New London, $6,660,000.

DISTRICT OF COLUMBIA

Commandant, Naval District Washington, $28,100,000.

Naval Research Laboratory, Washington, $19,800,000.

FLORIDA

Naval Air Station, Cecil Field, $340,000.

Naval Air Station, Jacksonville, $8,810,000.

Naval Air Station, Key West, $850,000.

Naval Air Station, Pensacola, $25,600,000.

Naval Hospital, Pensacola, $2,250,000.

Naval Legal Service Office, Mayport, $1,450,000.

Naval Station, Mayport, $3,060,000.

Naval Supply Center, Pensacola, $2,640,000.

Naval Technical Training Center, Pensacola, $2,840,000.

Naval Training Center, Orlando, $23,810,000.

GEORGIA

Marine Corps Logistics Base, Albany, $5,740,000.

Naval Submarine Base, Kings Bay, $56,330,000.

HAWAII

Marine Corps Air Station, Kaneohe Bay, $24,270,000.

Naval Legal Service Office, Pearl Harbor, $2,380,000.

Naval Station, Pearl Harbor, $8,370,000.

Naval Submarine Base, Pearl Harbor, $11,250,000.

Naval Submarine Training Center, Pacific, Pearl Harbor, $1,780,000.

Naval Supply Center, Pearl Harbor, $8,350,000.

Navy Public Works Center, Pearl Harbor, $3,760,000.

ILLINOIS

Naval Training Center, Great Lakes, $3,440,000.

Naval Public Works Center, Great Lakes, $1,930,000.

KENTUCKY

Naval Ordnance Station, Louisville, $19,000,000.

LOUISIANA

Naval Station, Lake Charles, $5,000,000.

MAINE

Naval Air Station, Brunswick, $530,000.

MARYLAND

David Taylor Naval Ship Research Development Center, Annapolis, $1,860,000.

Naval Academy, Annapolis, $540,000.

Naval Air Test Center, Patuxent River, $1,250,000.

Naval Explosive Ordnance Disposal Technology Center, Indian Head, $7,380,000.

Naval Intelligence Command Headquarters, Suitland, $114,000,000.

Naval Medical Data Services Center, Bethesda, $5,930,000.

Naval Ordnance Station, Indian Head, $1,270,000.

Naval Surface Warfare Center Detachment, White Oak, $2,540,000.

MISSISSIPPI

Naval Construction Training Center, Gulfport, $4,070,000.

Naval Station, Pascagoula, $25,700,000.

Supervisor of Shipbuilding, Pascagoula, $6,000,000.

NEVADA

Naval Air Station, Fallon, $9,470,000.

NEW JERSEY

Naval Weapons Station, Earle, $30,400,000.

NEW MEXICO

Naval Ordnance Missile Test Station, White Sands, $8,090,000.

NEW YORK

Naval Station, New York, $33,395,000.

NORTH CAROLINA

Marine Corps Air Station, Cherry Point, $32,380,000.

Marine Corps Air Station, New River, $8,400,000.

Marine Corps Base, Camp Lejeune, $23,450,000.

OKLAHOMA

Naval Air Detachment, Tinker Air Force Base, $38,080,000.

PENNSYLVANIA

Naval Air Development Center, Warminster, $1,270,000.

Naval Shipyard, Philadelphia, $8,200,000.

Navy Aviation Supply Office, Philadelphia, $1,400,000.

Navy Ships Parts Control Center, Mechanicsburg, $2,050,000.

RHODE ISLAND

Naval Education and Training Center, Newport, $11,560,000.

Naval Justice School, Newport, $2,060,000.

Surface Warfare Officers School Command, Newport, $4,750,000.

SOUTH CAROLINA

Naval Hospital, Beaufort, $2,260,000.

Naval Shipyard, Charleston, $640,000.

Naval Supply Center, Charleston, $1,090,000.

Naval Weapons Station, Charleston, $22,250,000.

TENNESSEE

Naval Air Station, Memphis, $10,090,000.

TEXAS

Naval Station, Galveston, $14,500,000.

Naval Station, Ingleside, $31,850,000.

VIRGINIA

Atlantic Fleet Headquarters Support Activity, Norfolk, $1,700,000.

Fleet Combat Training Center, Atlantic, Dam Neck, $4,700,000.

Marine Corps Combat Development Command, Quantico, $14,290,000.

Marine Corps Detachment, Camp Elmore, $1,690,000.

Marine Environmental Systems Facility, Dam Neck, $5,000,000.

Naval Air Station, Oceana, $2,690,000.

Naval Amphibious Base, Little Creek, $8,270,000.

Naval Amphibious School, Little Creek, $640,000.

Naval Aviation Depot, Norfolk, $8,950,000.

Naval Guided Missile School, Dam Neck, $4,450,000.

Naval Legal Service Office, Norfolk, $1,080,000.

Naval Medical Clinic, Norfolk, $2,470,000.

Naval Ophthalmic Support and Training Activity, Yorktown, $1,970,000.

Naval Security Group Activity, Northwest, Chesapeake, $5,400,000.

Naval Supply Center, Norfolk, $6,660,000.

Naval Supply Center, Williamsburg, $3,300,000.

Naval Surface Warfare Center, Dahlgren, $25,442,000.

Naval Weapons Station, Yorktown, $12,360,000.

Navy Public Works Center, Norfolk, $4,410,000.

WASHINGTON

Naval Air Station, Whidbey Island, $11,010,000.

Naval Supply Center, Bremerton, $5,740,000.

Strategic Weapons Facility, Pacific, Silverdale, $15,060,000.

Trident Refit Facility, Bangor, $990,000.

VARIOUS LOCATIONS

Land Acquisition, $36,895,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ANTIGUA

Naval Support Facility, $6,470,000.

GUAM

Fleet Surveillance Support Group, $26,280,000.

Naval Security Group Detachment, $400,000.

Naval Supply Depot, $7,660,000.

Navy Public Works Center, $6,720,000.

ICELAND

Naval Air Station, Keflavik, $12,000,000.

ITALY

Naval Air Station, Sigonella, $7,950,000.

Naval Support Activity, Naples, $4,750,000.

JAPAN

Marine Corps Air Station, Futenma, Okinawa, $3,280,000.

Marine Corps Base, Camp Butler, Okinawa, $2,840,000.

PANAMA

Naval Station, $7,140,000.

PHILIPPINES

Navy Public Works Center, Subic Bay, $28,340,000.

SPAIN

Naval Communication Station, Rota, $400,000.

VARIOUS LOCATIONS

Classified Location, $4,990,000.

Host Nation Infrastructure Support, $500,000.

SEC. 202. PORTSMOUTH NAVAL SHIPYARD MODERNIZATION

Of the funds appropriated to the Navy pursuant to section 207 for design of military construction projects, $2,000,000 may be obligated only for design of the first and second increments of the initial projects for the modernization of Dry Dock Number 2 at the Portsmouth Naval Shipyard, Portsmouth, New Hampshire, including—

(1) design of a permanent weather protection enclosure for the dry dock;

(2) design for the upgrade of existing utilities at such shipyard; and

(3) design of a permanent installation for temporary services and project team and field shop space.

SEC. 203. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 207(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units shown, and in the amount shown, for each installation:

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $9,470,000.

Marine Corps Air Station, El Toro, California, one hundred units and sixty mobile home spaces, $10,120,000.

Marine Corps Base, Camp Pendleton, California, three hundred and thirty-two units and access roads, $28,510,000.

Naval Station, Long Beach, California, three hundred units, $26,110,000.

Navy Public Works Center, San Diego, California, three hundred and fifty-six units, $31,830,000.

Navy Public Works Center, San Francisco, California, three hundred units, $35,736,000.

Naval District Washington, District of Columbia, two units at 2,100 square feet each, $330,000.

Naval Submarine Base, Kings Bay, Georgia, two hundred and fifty units, $19,860,000.

Naval Air Station, Glenview, Illinois, two hundred and sixty units, $23,000,000.

Naval Station, New York, New York, one hundred and fifty units, $14,900,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 207(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $2,315,000.

SEC. 204. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 207(a)(6)(A), improve existing military family housing units in an amount not to exceed $58,589,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Pensacola, Florida, one unit, $34,900.

Navy Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, $17,214,000.

Navy Public Works Center, Great Lakes, Illinois, one hundred and two units, $6,181,200.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, $8,129,300.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, $11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $5,415,500.

Naval Air Station, Whidbey Island, Washington, eleven units, $632,600.

Navy Public Works Center, Guam, two hundred and twelve units, $18,473,800.

SEC. 205. ACQUISITION OF WHERRY HOUSING AT NAVAL AIR STATION, GLENVIEW, ILLINOIS

(a) AUTHORITY TO ACQUIRE.—(1) The Secretary of the Navy may acquire all right, title, and interest in and to 264 family housing units situated on the Naval Air Station at Glenview, Illinois, and constructed in 1956 with financing provided under title VIII of the National Housing Act. The Secretary may also acquire the leasehold interest in such housing units held in private ownership.

(2) The housing units and leasehold interest referred to in paragraph (1) may be acquired with funds derived from any savings realized in carrying out military construction projects of the Navy authorized for construction before fiscal year 1990. The amount paid by the Secretary for such units and the leasehold interest may not exceed an amount equal to the fair market value of such units and interest.

(3) The authority to acquire the housing units referred to in paragraph (1) shall include the authority to acquire other real property improvements related to such units.

(b) OCCUPANCY CHARGES.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), a charge may be made against the basic allowances for quarters of any member of the Armed Forces to whom a housing unit referred to in subsection (a) is leased after the acquisition of the privately held leasehold interest in such unit by the Secretary. However, such a charge may not exceed an amount equal to 75 percent of the amount of the basic allowances for quarters to which the member is entitled.

(2) A member of the Armed Forces who, on the date on which the privately held leasehold interest referred to in subsection (a) is acquired by the Secretary, has in effect an unexpired lease on one of the housing units described in subsection (a) shall be charged rent on such unit (after such acquisition) in accordance with the terms of the lease until the lease expires.

(c) EXPIRATION OF ACQUISITION AUTHORITY.—The authority under this section for the Secretary to acquire the leasehold interest referred to in subsection (a) shall expire on October 1, 1994.

SEC. 206. DEFENSE ACCESS ROADS

The Secretary of the Navy may, using amounts appropriated pursuant to section 207(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Marine Corps Air Ground Center, Twentynine Palms, California, $2,900,000.

Navy Public Works Center, San Diego, California, $719,000.

Navy Public Works Center, San Francisco, California, $800,000.

Naval Station, Everett, Washington, $4,400,000.

Naval Submarine Base, Kings Bay, Georgia, $3,000,000.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,336,093,000 as follows:

(1) For military construction projects inside the United States authorized by section 201(a), $1,233,220,000.

(2) For military construction projects outside the United States authorized by section 201(b), $119,720,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $138,276,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $11,819,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $263,770,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $544,188,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $55,048,000 (the balance of the amount authorized for the construction of the Headquarters Building, Naval Intelligence Command Headquarters, Suitland, Maryland).

TITLE III—AIR FORCE

SEC. 301. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $8,150,000.
Maxwell Air Force Base, $17,800,000.

ALASKA

Eielson Air Force Base, $15,250,000.
Elmendorf Air Force Base, $20,540,000.
King Salmon Airport, $2,850,000.
Shemya Air Force Base, $14,860,000.

ARIZONA

Davis-Monthan Air Force Base, $980,000.
Luke Air Force Base, $4,550,000.
Williams Air Force Base, $11,130,000.

ARKANSAS

Little Rock Air Force Base, $3,850,000.

CALIFORNIA

Beale Air Force Base, $8,900,000.
Castle Air Force Base, $10,800,000.
Edwards Air Force Base, $5,200,000.
George Air Force Base, $23,550,000.
March Air Force Base, $4,900,000.
Mather Air Force Base, $440,000.
McClellan Air Force Base, $3,080,000.
Onizuka Air Force Base, $4,300,000.
Travis Air Force Base, $10,400,000.
Vandenberg Air Force Base, $8,550,000.

COLORADO

Buckley Air National Guard Base, $25,800,000.
Cheyenne Mountain Complex, $6,500,000.
Lowry Air Force Base, $12,000,000.
Peterson Air Force Base, $13,300,000.
United States Air Force Academy, $10,240,000.

DELAWARE

Dover Air Force Base, $1,000,000.

FLORIDA

Avon Park, $3,700,000.
Cape Canaveral Air Force Station, $26,980,000.
Eglin Air Force Base, $11,020,000.
Eglin Air Force Base, Auxiliary Field 9, $20,100,000.
Homestead Air Force Base, $6,200,000.
MacDill Air Force Base, $4,580,000.
Patrick Air Force Base, $1,126,000.
Tyndall Air Force Base, $6,000,000.

GEORGIA

Moody Air Force Base, $800,000.
Robins Air Force Base, $31,500,000.

HAWAII

Hickam Air Force Base, $4,250,000.

IDAHO

Mountain Home Air Force Base, $1,400,000.

ILLINOIS

Chanute Air Force Base, $6,500,000.
Scott Air Force Base, $14,500,000.

LOUISIANA

Barksdale Air Force Base, $7,300,000.
England Air Force Base, $3,100,000.

MAINE

Loring Air Force Base, $3,000,000.

MARYLAND

Andrews Air Force Base, $2,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $12,400,000.

MICHIGAN

Wurtsmith Air Force Base, $10,690,000.

MISSISSIPPI

Columbus Air Force Base, $2,950,000.
Keesler Air Force Base, $4,550,000.

MISSOURI

Whiteman Air Force Base, $34,300,000.

MONTANA

Malmstrom Air Force Base, $19,470,000.

NEBRASKA

Offutt Air Force Base, $2,450,000.

NEVADA

Indian Springs, $3,150,000.
Nellis Air Force Base, $6,700,000.

NEW HAMPSHIRE

New Boston Air Force Station, $4,500,000.
Pease Air Force Base, $11,450,000.

NEW JERSEY

McGuire Air Force Base, $3,550,000.

NEW MEXICO

Cannon Air Force Base, $4,100,000.
Holloman Air Force Base, $2,900,000.
Kirtland Air Force Base, $13,000,000.

NEW YORK

Griffiss Air Force Base, $700,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $3,050,000.

NORTH DAKOTA

Grand Forks Air Force Base, $13,290,000.
Minot Air Force Base, $6,250,000.

OHIO

Wright-Patterson Air Force Base, $11,455,000.

OKLAHOMA

Altus Air Force Base, $2,300,000.
Tinker Air Force Base, $12,650,000.

SOUTH CAROLINA

Charleston Air Force Base, $5,000,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $8,650,000.

TENNESSEE

Arnold Engineering Development Center, $213,800,000.

TEXAS

Bergstrom Air Force Base, $2,800,000.
Carswell Air Force Base, $3,500,000.
Dyess Air Force Base, $3,470,000.
Goodfellow Air Force Base, $2,350,000.
Kelly Air Force Base, $29,300,000.
Lackland Air Force Base, $14,039,000.
Laughlin Air Force Base, $1,910,000.
Randolph Air Force Base, $6,150,000.
Reese Air Force Base, $990,000.
Sheppard Air Force Base, $10,700,000.

UTAH

Hill Air Force Base, $10,740,000.

WASHINGTON

Fairchild Air Force Base, $9,480,000.
McChord Air Force Base, $13,100,000.

WYOMING

F.E. Warren Air Force Base, $37,200,000.

VARIOUS LOCATIONS

Base 80, $987,000.
Base 81, $2,800,000.
Classified, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

BELGIUM

Kleine Brogel, $1,900,000.

CANADA

Forward Operation Locations, $600,000.

GERMANY

Bitburg Air Base, $1,060,000.
Einsiedlerhof Air Base, $1,500,000.
Hahn Air Base, $16,650,000.
Hessich-Oldendorf Air Station, $740,000.
Norvenich Air Base, $2,300,000.
Pruem Air Station, $620,000.
Ramstein Air Base, $10,800,000.
Rhein-Main Air Base, $5,000,000.
Sembach Air Base, $3,550,000.
Spangdahlem Air Base, $10,270,000.
Wenigerath Air Base, $1,700,000.
Zweibrucken Air Base, $1,300,000.

GREENLAND

Sondrestrom Air Base, $5,950,000.
Thule Air Base, $1,830,000.

GUAM

Anderson Air Force Base, $900,000.

ICELAND

Naval Air Station, Keflavik, $1,100,000.

ITALY

Aviano Air Base, $7,600,000.

JAPAN

Kadena Air Base, $1,850,000.
Misawa Air Base, $4,550,000.
Yokota Air Base, $500,000.

KOREA

Camp Humphreys, $3,350,000.
Kunsan Air Base, $17,330,000.
Osan Air Base, $10,750,000.

THE NETHERLANDS

Camp New Amsterdam, $10,300,000.
Volkel Air Base, $2,300,000.

OMAN

Masirah Air Base, $2,800,000.
Seeb Air Base, $7,100,000.

PANAMA

Howard Air Force Base, $2,600,000.

PHILIPPINES

Clark Air Base, $28,940,000.

PORTUGAL

Lajes Field, $4,850,000.

TURKEY

Incirlik Air Base, $9,590,000.
Pirinclik Air Station, $1,500,000.

UNITED KINGDOM

RAF Alconbury, $2,650,000.
RAF Bentwaters, $5,430,000.
RAF Feltwell, $500,000.
RAF Lakenheath, $10,170,000.
RAF Mildenhall, $7,150,000.
RAF Upper Heyford, $3,830,000.
RAF Welford, $3,720,000.

VARIOUS LOCATIONS

Base 30, $3,850,000.
Base 79, $1,900,000.
Base 82, $2,800,000.
Classified Locations, $16,473,000.

SEC. 302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 304(a)(5)(A), construct or acquire two hundred sixty family housing units (including land acquisition) at Clark Air Base, Philippines, in the amount of $19,920,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 304(a)(5)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $153,765,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown for each installation:

Gunter Air Force Station, Alabama, twenty-three units, $1,136,000.

Maxwell Air Force Base, Alabama, fifty units, $2,722,000.

Eielson Air Force Base, Alaska, ninety-six units, $7,943,000.

Elmendorf Air Force Base, Alaska, forty-eight units, $3,818,000.

Davis-Monthan Air Force Base, Arizona, one unit, $60,000.

Luke Air Force Base, Arizona, one hundred fifty-two units, $5,975,000.

McClellan Air Force Base, California, thirty units, $3,207,000.

Peterson Air Force Base, Colorado, one unit, $74,000; eighty units, $3,527,000.

Bolling Air Force Base, District of Columbia, one hundred and ten units, $4,018,000.

Eglin Air Force Base, Florida, fifty units, $2,138,000.

MacDill Air Force Base, Florida, four units, $279,000.

Robins Air Force Base, Georgia, one hundred and sixty units, $6,861,000.

Scott Air Force Base, Illinois, four units, $184,000.

Grissom Air Force Base, Indiana, one hundred and eighty-six units, $6,788,000.

Barksdale Air Force Base, Louisiana, two units, $185,000; one hundred and fourteen units, $6,200,000.

England Air Force Base, Louisiana, one hundred and six units, $5,830,000.

Andrews Air Force Base, Maryland, five units, $338,000.

Pease Air Force Base, New Hampshire, one unit, $121,000.

McGuire Air Force Base, New Jersey, one hundred units, $4,921,000.

Kirtland Air Force Base, New Mexico, four units, $240,000; one hundred and fifteen units, $4,894,000.

Plattsburgh Air Force Base, New York, one hundred and seventy-four units, $10,600,000.

Minot Air Force Base, North Dakota, one unit, $65,000.

Shaw Air Force Base, South Carolina, one hundred and thirty units, $4,703,000.

Carswell Air Force Base, Texas, one hundred and eighty-one units, $7,869,000; sixteen units, $600,000.

Dyess Air Force Base, Texas, one unit, $64,000.

Kelly Air Force Base, Texas, one hundred and one units, $3,381,000.

Randolph Air Force Base, Texas, two units, $199,000.

Reese Air Force Base, Texas, one hundred and eighty-eight units, $6,816,000.

Ramstein Air Base, Germany, two hundred and forty units, $16,000,000; eight units, $706,000; nine units, $1,039,000.

Andersen Air Force Base, Guam, one unit, $167,000; one hundred and twenty units, $8,000,000.

Misawa Air Base, Japan, one hundred and eighty units, $8,707,000.

Yokota Air Base, Japan, eighty-one units, $5,629,000.

Osan Air Base, Korea, ten units, $447,000.

Clark Air Base, Philippines, eighty-two units, $4,203,000.

RAF Alconbury, United Kingdom, twenty-five units, $1,119,000.

RAF Greenham Common, United Kingdom, one hundred and nineteen units, $5,588,000.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,135,251,000, as follows:

(1) For military construction projects inside the United States authorized by section 301(a), $837,347,000.

(2) For military construction projects outside the United States authorized by section 301(b), $242,153,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $119,800,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $180,685,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $738,766,000 of which not more than $16,612,500 may be obligated or expended for leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $74,268,500 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $133,000,000 (the balance of the amount authorized for the construction of the J-6 facility, Arnold Engineering Development Center, Tennessee).

SEC. 305. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2301(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2301 and 2302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

(1) KC-135 CPT Simulator Facility, in the amount of $890,000 at Minot Air Force Base, North Dakota.

(2) Add to and alter Avionics Maintenance Shop, in the amount of $1,150,000 at Pease Air Force Base, New Hampshire.

(3) KC-135 CPT Simulator facilities in the amount of $660,000 at Robins Air Force Base, Georgia.

(4) Land acquisition in the amount of $230,000 at the United States Air Force Academy, Colorado Springs, Colorado.

(5) Land acquisition Auxiliary Field in the amount of $3,700,000, at Laughlin Air Force Base, Texas.

(6) KC-135 CPT Simulator facility in the amount of $3,500,000, at Beale Air Force Base, California.

(7) KC-135 CPT Simulator facility in the amount of $3,000,000 at Plattsburgh Air Force Base, New York.

(8) Bitburg, Germany, three hundred and thirty-two units of family housing, $26,414,000.

(9) La Junta, Colorado, forty units of family housing, $4,000,000.

TITLE IV—DEFENSE AGENCIES

SEC. 401. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States.

DEFENSE COMMUNICATIONS AGENCY

Arlington Service Center, Virginia, $742,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Adak, Alaska, $19,000,000.

Defense Depot, Tracy, California, $590,000.

Defense Fuel Support, Pearl City, Hawaii, $1,900,000.

Defense Reutilization and Marketing Office, Fort Campbell, Kentucky, $1,600,000.

Defense Reutilization and Marketing Office, Offutt Air Force Base, Nebraska, $430,000.

Defense Depot, Mechanicsburg, Pennsylvania, $460,000.

Defense Reutilization and Marketing Office, Carswell Air Force Base, Texas, $350,000.

Defense Depot, Ogden, Utah, $6,000,000.

Cheatham Annex, Virginia, $450,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, $5,209,000.

DEFENSE MEDICAL FACILITIES OFFICE

Hunters Point Annex, Naval Station, Treasure Island, California, $5,000,000.

Marine Corps Base, Camp Pendleton, California, $5,000,000.

March Air Force Base, California, $3,000,000.

Naval Station, North Island, California, $7,200,000.

Naval Station, Treasure Island, California, $11,000,000.

Tyndall Air Force Base, Florida, $800,000.

Fort Benning, Georgia, $700,000.

Robins Air Force Base, Georgia, $3,600,000.

Fort Leonard Wood, Missouri, $1,450,000.

Kirtland Air Force Base, New Mexico, $2,550,000.

Seymour Johnson Air Force Base, North Carolina, $3,700,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $4,100,000.

Corpus Christi, Texas, $6,100,000.

Dyess Air Force Base, Texas, $950,000.

Fort Sill, Oklahoma, $54,000,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $28,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $2,230,000.

OFFICE OF THE SECRETARY OF DEFENSE

Fort Belvoir, Virginia, $3,000,000.

Classified Location, $4,200,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, $72,500,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Yokota Air Base, Japan, $785,000.

DEFENSE LOGISTICS AGENCY

Defense Reutilization and Marketing Office, Bitburg, Germany, $800,000.

Defense Reutilization and Marketing Office, Kaiserslautern, Germany, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Downs Barracks, Germany, $4,200,000.

Geilenkirchen Air Base, Germany, $450,000.

Hahn Air Base, Germany, $18,500,000.

Patch Barracks, Germany, $4,700,000.

Rhein-Main Air Base, Germany, $14,200,000.

Smith Barracks, Germany, $5,100,000.

Spangdahlem Air Base, Germany, $1,250,000.

Wildflecken, Germany, $4,800,000.

Camp Howze, 2nd Infantry Division, Korea, $780,000.

Seoul, Korea, $55,000,000.

Taegu Air Base, Korea, $4,400,000.

Royal Air Force, High Wycombe, United Kingdom, $720,000.

Royal Air Force, Lakenheath, United Kingdom, $41,000,000.

Base 54, $12,800,000.

Classified Locations, $19,500,000.

DEFENSE NUCLEAR AGENCY

Headquarters, Field Command, Johnston Island, $2,644,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Aschaffenburg, Germany, $8,151,000.

Bad Kissingen, Germany, $1,620,000.

Baumholder, Germany, $1,940,000.

Erlangen, Germany, $3,890,000.

Gelnhausen, Germany, $1,482,000.

Giessen, Germany, $7,627,000.

Wildflecken, Germany, $2,752,000.

Keflavik, Iceland, $5,434,000.

Aviano, Italy, $9,450,000.

Pusan, Korea, $1,980,000.

Seoul, Korea, $7,332,000.

Brunssum, the Netherlands, $8,863,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $9,110,000.

NATIONAL SECURITY AGENCY

Classified Locations, $11,250,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Pacific Missile Range, Kwajalein, $16,000,000.

SEC. 402. FAMILY HOUSING

The Secretary of Defense may, using amounts appropriated pursuant to section 408(a)(10)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

SEC. 403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 408(a)(10)(A), improve existing military family housing units in an amount not to exceed $113,000.

SEC. 404. AFCENT SCHOOL

The Secretary of Defense may, using amounts appropriated pursuant to section 408(a)(2), contribute funds in the amount of $8,863,000 to the Government of the Netherlands (in its capacity as construction agent) for the United States' share of the cost of the International Elementary and High School project in Brunssum, the Netherlands.

SEC. 405. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, not more than $5,000,000 appropriated for fiscal year 1988, and not more than $9,300,000 appropriated for fiscal year 1989, carry out military construction projects not otherwise authorized by law for the construction of conforming storage facilities.".

SEC. 406. DEFENSE ACCESS ROADS

The Secretary of Defense may, using amounts appropriated pursuant to section 408(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Meade, Maryland, in the amount of $12,000,000.

SEC. 407. RESITING OF OVERSEAS CONTINGENCY MEDICAL FACILITY

Section 2141(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1201) is amended by striking out "RAF Wethersfield, United Kingdom, $740,000." under the heading "Defense Medical Facilities Office" and inserting in lieu thereof "Boscombe Downs, United Kingdom, $740,000.".

SEC. 408. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $704,050,000 as follows:

(1) For military construction projects inside the United States authorized by section 401(a), $228,811,000.

(2) For military construction projects outside the United States authorized by section 401(b), $262,010,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987, as amended, $23,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $72,000,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $12,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $6,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $62,229,000.

(9) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, as amended, $9,300,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $513,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $20,187,000, of which not more than $17,179,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(11) For military construction project at Reynolds Army Community Hospital, Fort Sill, Oklahoma authorized by section 2401(a) of the Military Construction Authorization Act, $27,000,000.

(12) For military construction project at Seoul Army Community Hospital, Seoul, Korea, authorized by section 2401(a) of the Military Construction Authorization Act, $28,000,000.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 409. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following project authorized in section 2401 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

DECCO Computer Center and Administrative Facility in the amount of $7,600,000 at Scott Air Force Base, Illinois.

SEC. 410. REYNOLDS ARMY COMMUNITY HOSPITAL, FORT SILL, OKLAHOMA AND SEOUL ARMY COMMUNITY HOSPITAL, SEOUL, KOREA

AUTHORIZATION TO CONTRACT IN ADVANCE OF APPROPRIATIONS.—Subject to paragraph 401(a), the Secretary of Defense may enter into one or more contracts, in advance of appropriations therefore, for the construction of the military construction projects authorized by section 401(a) to be accomplished at Reynolds Army Community Hospital, Fort Sill, Oklahoma and the Seoul Army Community Hospital, Seoul, Korea, if each such contract limits the amount of payments that the Federal Government is obligated to make under such contracts to the amount of appropriations available, at the time such contract is entered into, for obligation under such contract.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 501. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program, as authorized by section 501, in the amount of $492,000,000.

TITLE VI—GUARD AND RESERVE FACILITIES

SEC. 601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $185,227,000, and

(B) for the Army Reserve, $84,156,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $65,100,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $151,788,000, and

(B) for the Air Force Reserve, $63,600,000.

SEC. 602. AIRCRAFT PARKING RAMP/HOLDING PAD AT YEAGER AIRPORT, CHARLESTON, WEST VIRGINIA

There is authorized to be constructed an aircraft parking ramp/holding pad for the Air National Guard of the United States at Yeager Airport at Charleston, West Virginia, in the amount of $3,300,000. Such project may be constructed only with funds realized as the result of savings on construction projects of the Air National Guard of the United States for which funds were appropriated for fiscal year 1987.

SEC. 603. ARMY RESERVE CENTER, GORDO, ALABAMA

Construction of a new Army Reserve Center building at the Army Reserve Center, Gordo, Alabama, is hereby authorized in the amount of $1,547,000. Payment for such center may be made only from amounts authorized for appropriations for the Army Reserve pursuant to section 601.

TITLE VII—EXPIRATION OF AUTHORIZATIONS; EFFECTIVE DATE

SEC. 701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) Expiration of Authorizations After Two Years.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of an Act authorizing military construction projects for fiscal year 1991, whichever is later.

(b) Exception.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of an Act authorizing military construction projects for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 702. EFFECTIVE DATE

This title shall take effect on October 1, 1988, or the date of enactment of this Act, whichever is later.

TITLE VIII—GENERAL PROVISIONS

Part A—Miscellaneous

SEC. 801. PLANNING ASSISTANCE FOR IMPACTED COMMUNITIES

(a) Modification of Authority.—Paragraph (1) of section 2391(b) of title 10, United States Code, is amended to read as follows:

"(1) The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments in planning community adjustments and economic diversification required (A) by the proposed or actual establishment, realignment, or closure of a military installation, (B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, (C) by a publicly-announced planned major reduction in Department of Defense spending that would directly and adversely affect a community, or (D) by the encroachment of a civilian community on a military installation, if the Secretary determines that an action described in clause (A), (B), or (C) is likely to have a direct and significantly adverse consequence on the affected community or, in the case of an action described in clause (D), if the Secretary determines that the encroachment of the civilian community is likely to impair the continued operational utility of the military installation.".

(b) Condition on Assistance.—Section 2391(b) of such title is further amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(4) In the case of a publicly-announced planned major reduction in Department of Defense spending that will directly and adversely affect a community, assistance may be made under paragraph (1) only if the publicly-announced planned major reduction will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a five-year period in the locality of the affected community.".

SEC. 802. COMMUNITY PLANNING ASSISTANCE

(a) Additional Authority.—In addition to the authority under any other provision of law, the Secretary of Defense may provide community planning assistance under section 2391(b) of title 10, United States Code, in the following amounts:

(A) Not to exceed $600,000 for communities located near newly established light infantry division posts.

(B) Not to exceed $2,100,000 for communities located near newly established Navy strategic dispersal program homeports.

(b) Expiration of Authority.—The authority to provide community planning assistance under subsection (a) expires on September 30, 1991.

SEC. 803. RENTAL GUARANTEE PROGRAM

Section 802(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in clause (11) by striking out "shall" and inserting in lieu thereof "may";

(2) by striking out "and" at the end of clause (11);

(3) by striking out the period at the end of clause (12) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new clause:

"(13) in cases in which the housing is located on land owned by the United States and with respect to which housing the occupancy is guaranteed—

"(A) may require that the United States provide utilities, trash collection, snow removal, and entomological services at no cost to the occupant to the same extent that such services are provided to occupants of Government-owned housing; and

"(B) may provide for rent collection and for operation and maintenance in connection with the housing under a separate contract or may use Government personnel to provide such services.".

SEC. 804. LONG-TERM FACILITIES CONTRACTS

Section 2809(a)(3) of title 10, United States Code, is amended by striking out "20 years" and inserting in lieu thereof "32 years".

SEC. 805. INCREASE IN FOREIGN HOUSING LEASING AUTHORITY

Section 2828(e)(2) of title 10, United States Code, is amended by striking out "36,000" and inserting in lieu thereof "38,000".

SEC. 806. COST VARIATIONS

Section 2853 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(1)" after "(a)";

(B) by striking out "appropriated" in the first sentence and inserting in lieu thereof "authorized"; and

(C) by striking out paragraph (2);

(2) by striking out subsection (b);

(3) by redesignating subsection (c) as subsection (b) and by striking out "subsection (d)" in the second sentence of such subsection and inserting in lieu thereof "subsection (c)";

(4) by striking out subsection (d) and inserting in lieu thereof the following:

"(c) The limitation on cost increase in subsection (a) does not apply if—

"(1) the increase in cost is approved by the Secretary concerned;

"(2) a written notification of the facts relating to the increase in cost (including a statement of the reasons for the increase) is submitted by the Secretary concerned to the appropriate committees of Congress; and

"(3) either 21 days have elapsed from the date of the submission of the notification under clause (2) or each of the appropriate committees of Congress has approved the increased cost.";

(5) by striking out subsection (e); and

(6) by redesignating subsection (f) as subsection (d).

SEC. 807. REPORTS ON REAL PROPERTY TRANSACTIONS

Subsections (a), (b), and (e) of section 2662 of title 10, United States Code, are amended by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000".

SEC. 808. NOTIFICATION REQUIREMENT RELATING TO ACQUISITION OF INTEREST IN LAND

Section 2672 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "Subject to subsection (b), the" and inserting in lieu thereof "The";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 809. SOLICITATION FOR PROPOSALS FOR OFFICE SPACE FOR NAVY

(a) In General.—The Secretary of the Navy, in coordination with the Administrator of General Services, shall issue solicitations for proposals for the acquisition of such office and related space within the National Capital Region as the Secretary determines necessary to meet the needs of the Navy within such region.

(b) Report.—The Secretary shall submit to the Committees on Armed Services of the

Senate and the House of Representatives a report regarding the proposals received in response to the solicitations issued pursuant to subsection (a). The Secretary shall include in such report a cost analysis of meeting the office and related space needs of the Navy within the National Capital Region by means of lease, lease-buy, and military construction, respectively. The Secretary shall also include in such report his recommendations for meeting the current and long-term office and related space needs of the Navy within the National Capital Region.

(c) DEADLINE FOR REPORT.—The report required by subsection (b) shall be submitted not later than 90 days after the date on which the Secretary receives responses to the solicitations for proposals issued pursuant to subsection (a).

SEC. 810. BROOKE ARMY MEDICAL CENTER

(a) INCREASE IN PROJECT AUTHORITY.—(1) Section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), is amended by striking out "$241,000,000" in the item relating to Fort Sam Houston, Texas, under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof "$275,000,000".

(2) The limitation on the total cost of projects carried out under section 2401 of such Act is hereby increased by $34,000,000.

(b) CONFORMING AMENDMENT.—Section 2403(a)(2) of such Act is amended by striking out ", but the" and all that follows through "beds".

SEC. 811. THIRD INFANTRY DIVISION MEMORIAL

(a) IN GENERAL.—The Society of the Third Infantry Division is authorized to erect, on public grounds in Arlington National Cemetery selected pursuant to subsection (b)(1), a memorial in honor and in commemoration of the men of the "Rock of the Marne" of the Third Infantry Division, United States Army, who have served their country in World War I, World War II, and Korea.

(b) ADMINISTRATIVE PROVISIONS.—(1) The Secretary of the Army is authorized to select a suitable site on public grounds in Arlington National Cemetery upon which may be erected the memorial authorized in subsection (a).

(2) The design and plans for such memorial shall be subject to the approval of the Secretary of the Army, the American Battle Monuments Commission, the National Capital Planning Commission, and the National Commission of Fine Arts.

(3) The United States shall not be liable for any expense in connection with the erection of the memorial authorized by subsection (a).

(4) The maintenance and care of the memorial erected under this section shall be the responsibility of the Secretary of the Army.

(c) EXPIRATION OF AUTHORITY.—The authority provided in this section shall expire at the end of the 5-year period beginning on the date of the enactment of this Act unless (1) the erection of the memorial authorized in subsection (a) is commenced within such period, and (2) prior to commencement of the erection of the memorial funds are certified available in an amount sufficient, in the judgment of the Secretary of the Army, to ensure completion of the memorial.

SEC. 812. AIR FORCE PLANT AT COLUMBUS, OHIO

(a) LEASE OR SALE OF PROPERTY.—(1) Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any other provision of law, the Secretary of the Air Force may sell or lease Air Force Plant No. 85 located in Columbus, Ohio.

(2) In connection with any sale or lease of Air Force Plant No. 85, the Secretary shall execute a warranty ensuring that all remedial action necessary to protect human health and the environment with respect to any known environmental contamination on the property of such plant has been or will be taken by the Secretary as soon as practicable consistent with applicable law.

(b) PREPARATION OF PROPERTY FOR LEASE OR SALE.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of the Air Force shall begin negotiating for the environmental cleanup of the property described in subsection (a) and shall initiate such other actions preparatory to the sale or lease of such property as may be appropriate, including provision for apprisals and a title search.

(c) DEDUCTION OF EXPENSE FROM PROCEEDS OF SALE OR LEASE.—The Secretary may deduct from the proceeds of any sale or lease of the property described in subsection (a) all expenses incurred by the Secretary in connection with the sale or lease, including necessary repairs, environmental cleanup operations, surveys, and apprisals. The remaining proceeds of the sale or lease shall be credited to the general fund of the Treasury.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with any sale or lease entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

PART B—REAL PROPERTY TRANSACTIONS

SEC. 901. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) EXCHANGE AUTHORIZED.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the San Diego Unified Port District of San Diego, California, such real property under the jurisdiction of the Navy in the City of San Diego, California, as the Secretary determines appropriate in exchange for one or more parcels of land, together with improvements thereon and consisting of approximately 32 acres, located adjacent to the San Diego Naval Station, San Diego, California, and owned by the San Diego Unified Port District.

(b) LIMITATION ON VALUE OF PROPERTY EXCHANGED.—The fair market value of the real property conveyed by the Secretary under subsection (a) may not exceed the fair market value of the real property received by the Secretary under such subsection, as determined by the Secretary.

(c) NOTICE TO COMMITTEES.—The Secretary may not enter into an exchange under this section until the Secretary has notified the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives of the details of the proposed exchange and a period of 21 days have elapsed following the day on which the committees receive the notification.

(d) LEGAL DESCRIPTION OF PROPERTY.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by San Diego Unified Port District.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 902. LAND EASEMENT, ORANGE COUNTY, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Navy may grant an easement to Orange County, California, for the construction and maintenance of flood control improvements (hereafter in this section referred to as "county improvements") on a tract of land owned by the United States, consisting of approximately 32 acres, located at the northern boundary of the Marine Corps Air Station, El Toro, California, and may grant such temporary rights to Orange County as the Secretary determines necessary for the construction of such improvements.

(b) CONSIDERATION.—(1) In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States a parcel of real property consisting of approximately 1½ acres located adjacent to the Marine Corps Air Station, Tustin, California. The United States shall also be entitled to such flood control improvements at the Marine Corps Air Station, El Toro, California, as the Secretary and Orange County shall agree upon.

(2) The county improvements and additional flood control improvements shall be constructed at no cost to the United States.

(c) PAYMENT OF EXCESS INTO TREASURY.—If the fair market value of the easement described in subsection (a) exceeds the fair market value of the real property conveyed to the United States under subsection (b), Orange County shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) LEGAL DESCRIPTION OF PROPERTY.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 903. TRANSFER OF LAND, SUITLAND FEDERAL CENTER, MARYLAND

The Administrator of General Services shall transfer, without consideration, to the Secretary of the Navy such parcel of vacant land located at the Suitland Federal Center, Suitland, Maryland, as the Administrator, after consultation with the Secretary, determines—

(1) to be excess to the present and anticipated future needs of the General Services Administration at the Suitland Federal Center; and

(2) adequate to accommodate the needs of the Navy for the construction and operation of a facility to serve as the Naval Intelligence Command Headquarters authorized by section 201.

SEC. 904. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of land, consisting of a total of approximately 14.06 acres, that comprises a portion of Fort Jackson, South Carolina and is excess to the needs of the Army.

(b) COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of land referred to in subsection (a).

(2) In no event may any of the land referred to in subsection (a) be sold for less than its fair market value.

(c) USE OF PROCEEDS OF SALE.—(1) The Secretary may use the proceeds from the sale of the land referred to in subsection (a) for the construction of a consolidated maintenance facility at Fort Jackson, South Carolina.

(2) Any proceeds of the sale not used for such purpose shall be covered into the Treasury as miscellaneous receipts.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

(f) FISCAL YEAR 1990 BUDGET REQUEST.—The Secretary of the Army shall include in the military construction budget request submitted to Congress for fiscal year 1990 a sufficient amount for completion of construction of the consolidated maintenance facility referred to in subsection (c).

SEC. 905. LAND CONVEYANCE, LOMPOC, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Army may convey, without reimbursement, to the City of Lompoc, California, all right, title, and interest of the United States in and to a tract of real property (including improvements thereon) of approximately 100 acres located adjacent to the real property conveyed to the City pursuant to section 834 of the Military Construction Authorization Act, 1985 (Public Law 98-407 98 Stat. 1526).

(b) USE OF PROPERTY.—(1) The conveyance authorized by subsection (a) shall be subject to the condition that the real property conveyed shall be used for educational purposes only, and/or the purposes provided in section 834 of Public Law 98-407 (98 Stat. 1526).

(2) If the property conveyed pursuant to subsection (a) is not used for the purposes described in paragraph (1), all right, title, and interest in and to such property shall revert to the United States, which shall have the right of immediate entry thereon.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(d) OTHER TERMS AND CONDITIONS.—The Secretary may require such other terms and conditions with respect to the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR CERTAIN NATIONAL DEFENSE PROGRAMS OF THE DEPARTMENT OF ENERGY

The bill (S. 2371) to authorize appropriations for the Department of Energy for national defense programs for fiscal year 1989, to authorize certain National Defense Stockpile transactions, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act, 1989".

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,607,925,000, to be allocated as follows:

(A) For research and development, $1,069,546,000.

(B) For weapons testing, $524,238,000.

(C) For production and surveillance, $1,909,445,000.

(D) For nuclear directed energy weapons research, development, and testing, $246,254,000.

(E) For the defense inertial confinement fusion program, $155,530,000.

(F) For program direction, $104,696,000.

(2) For defense nuclear materials production, $1,551,272,000, to be allocated as follows:

(A) For uranium enrichment for naval reactors, $169,000,000.

(B) For production reactor operations, $582,476,000.

(C) For processing of defense nuclear materials, including naval reactors fuel, $511,717,000, of which $72,300,000 shall be used for special isotope separation.

(D) For supporting services, $259,679.

(E) For program direction, $28,400,000.

(3) For environmental restoration and management of defense waste and transportation, $739,624,000, to be allocated as follows:

(A) For environmental restoration, $170,925,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $532,042,000.

(C) For waste research and development, $58,460,000.

(D) For hazardous waste process planning, $8,377,000.

(E) For transportation management, $9,720,000.

(F) For program direction, $3,100,000.

(4) For verification and control technology, $146,200,000.

(5) For nuclear materials safeguards and security technology development program, $75,400,000.

(6) For security investigations, $40,000,000.

(7) For naval reactors development, $555,400,000.

SEC. 102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 89-D-101, general plant projects, various locations, $26,500,000.

Project 89-D-121, general plant projects, various locations, $29,194,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $2,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $800,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,600,000.

Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, $5,400,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,300,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $22,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $72,352,000.

Project 88-D-122, facilities capability assurance program, various locations, $79,341,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $7,500,000.

Project 88-D-124, fire protection upgrade, various locations, $6,500,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $13,000,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $5,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $8,500,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $26,000,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $3,237,000.

Project 86-D-123, environmental hazards elimination, various locations, $5,203,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $31,800,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $6,800,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $12,200,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $1,281,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $4,775,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $2,775,000.

(2) For materials production:

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $5,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $3,600,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $1,000,000.

Project 89-D-146, general plant projects, various locations, $35,260,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $2,000,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $5,700,000.

Project 88-D-154, new production reactor, design only, site to be determined, $35,000,000.

Project 87-D-152, environmental protection plantwide, Savannah River, South Carolina, $2,224,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, and III, Feed Materials Production Center, Fernald, Ohio, $50,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $28,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, and IV, various locations, $72,140,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $6,000,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $12,800,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $65,000,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $11,584,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $5,879,000.

(3) For defense waste and environmental restoration:

Project 89-D-170, general plant projects, waste operations and projects, and waste research and development, various locations, $28,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $4,000,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $12,000,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $1,800,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $3,520,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $3,500,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $22,500,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $1,944,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $911,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $2,068,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,371,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho, $2,084,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $13,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $92,462,000.

(4) For naval reactors development:

Project 89-N-101, general plant projects, various locations, $7,000,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,800,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $1,600,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $600,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $5,900,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,700,000.

Project 88-N-104, prototype availability facilities, Knolls Atomic Power Laboratory, Kesselring Site, West Milton, New York, $6,000,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, $272,254,000, including $8,240,000 for the defense inertial confinement fusion program.

(B) For materials production, $102,500,000.

(C) For defense waste and environmental restoration, $52,716,000.

(D) For verification and control technology, $8,400,000.

(E) For nuclear safeguards and security, $4,800,000.

(F) For naval reactors development, $48,000,000.

SEC. 103. FUNDING LIMITATIONS AND RESTRICTIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, not more than $279,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, not more than $163,770,000 may be obligated or expended for the defense inertial confinement fusion program. Not less than $16,800,000 of such amount shall be used only for the purposes of entering into a contract with KMS Fusion, Incorporated, for the performance of a portion of the inertial confinement fusion program.

(c) SRAM II.—Funds appropriated to the Department of Energy for fiscal year 1989 for facilities for production of the warhead for the short-range attack missile II (SRAM II) (project 87-D-122) may be obligated only—

(1) for facilities which are suitable for production of a warhead compatible with both the SRAM-A and the SRAM II; and

(2) after the Nuclear Weapons Council certifies that the design of the warhead is compatible with both the SRAM-A and the SRAM II.

(d) COOLING TOWER AT SAVANNAH RIVER PLANT.—Funds appropriated to the Department of Energy for fiscal year 1989 for construction of a cooling tower for the K reactor (Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River Plant, South Carolina) may be obligated or expended only for the purpose of thermal mitigation in connection with the existing K reactor and thermal mitigation in connection with a new production reactor.

(e) USE OF REMAINING UNOBLIGATED BALANCES.—Of the funds previously authorized and appropriated for fiscal year 1988 for the projects listed in paragraph (1), the remaining unobligated balances are authorized to be transferred and made available, to the extent provided in an appropriation Act, for the Defense Waste and Environmental Restoration activities at Richland, Washington, listed in subsection (2).

(1) Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000:

Project 87-D-150, Radioactive Effluent Treatment Facility, Richland, Washington, $5,000,000.

Project 87-D-149, Reduced Chemical Discharge, Richland, Washington, $1,700,000.

Project 86-D-149, Productivity Retention Program, Richland, Washington only, $10,000,000.

Project 85-D-136, Components Protection System, Richland, Washington, $4,000,000.

Project 82-D-124, Restoration of Production Capabilities, Richland, Washington only, $1,200,000.

(2)(A) For operating expenses:

(1) for environmental restoration, $30,000,000.

(2) for waste operations and projects,

$1,250,000 for Grout.

$2,000,000 for B-Plant.

$2,000,000 for Vitrification.

(B) For construction:

$2,000,000 for B-Plant and $500,000 for Grout, Project 89-D-170, general plant projects.

$5,000,000 for High Waste Vitrification Plant, Project 88-D-173, Richland, Washington.

(C) For capital equipment:

$1,000,000 for B-Plant and $500,000 for Grout at Richland, Washington.

(3) The amounts authorized to be transferred in paragraph (2) are in addition to the amounts authorized in sections 101 and 102.

(f) SPECIAL ISOTOPE SEPARATION PROJECT.—(1) Funds appropriated or otherwise made available to the Department of Energy for the special isotope separation project, Idaho Falls, Idaho, may not be obligated or expended for site preparation for such project before March 1, 1989.

PART B—RECURRING GENERAL PROVISIONS

SEC. 121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (3), construction on a construction project referred to in paragraph (2) may not be started or additional obligations incurred in connection with the project above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 102 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) SPECIFIC TRANSFER.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1989 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 103(a).

SEC. 125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 128. ADJUSTMENTS FOR PAY INCREASES

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 129. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 131. REVIEW OF THE INERTIAL CONFINEMENT FUSION PROGRAM

(a) IN GENERAL.—The Secretary of Energy shall request the National Academy of Sciences to conduct a review of the inertial confinement fusion program of the Department of Energy and to submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of that review. The National Academy of Sciences is requested to include in such report the following:

(1) An assessment of the accomplishments, management, and goals of the defense inertial confinement fusion program, including an assessment of the most promising technology for continuation of the program.

(2) An assessment of the potential benefits, for both the civilian and military sectors, of the defense inertial confinement fusion program, including potential benefits that may be applicable to alternative nuclear weapons testing regimes (under an agreement with the Soviet Union) that would limit underground nuclear tests to each of the following levels:

(A) 10 kilotons.

(B) 5 kilotons.

(C) 1 kiloton.

(3) An assessment of the budgetary priority of the inertial confinement fusion program of the Department of Energy relative to the core defense research and development programs of such department in meeting the defense missions of the Department of Energy under current and anticipated budget restraints.

(4) Such comments and recommendations as it considers pertinent to the study.

(b) DEADLINE FOR REPORTS.—The National Academy of Sciences is requested to submit to the Committees on Armed Services of the Senate and the House of Representatives and the Secretary of Energy an interim report on the study referred to in subsection (a) not later than January 15, 1990, and a final report on such study not later than September 15, 1990.

(c) REVIEW AND COMMENT BY THE SECRETARY.—(1) The Secretary of Energy shall review both the interim and final reports of the National Academy of Sciences and submit to the Committees on Armed Services of the Senate and the House of Representatives such comments regarding such reports as the Secretary considers appropriate.

(2) The Secretary shall submit his comments in the case of each report referred to in subsection (b) not later than 30 days after receiving such report.

SEC. 132. NEW PRODUCTION REACTOR

(a) RECOMMENDATIONS REGARDING NEW PRODUCTION REACTOR.—Not later than July 31, 1988, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Secretary's recommendation for the site for construction of a new production reactor and the Secretary's recommendation for the preferred technology for a new production reactor.

(b) Report Containing Information Pertaining to New Production Reactor.—At the same time the budget for fiscal year 1990 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) a discussion of the administrative and legislative changes that would be necessary to shorten the time period necessary to attain the initial operational date of a new production reactor, and (2) any recommendations for such additional action that the Secretary considers appropriate.

SEC. 133. INDEPENDENT SCIENTIFIC REVIEW GROUP FOR THE WASTE ISOLATION PILOT PLANT IN NEW MEXICO

(a) Establishment.—The scientific evaluation group for the Waste Isolation Pilot Plant in New Mexico, established under a contract entered into by the Secretary of Energy and the State of New Mexico in 1978 (subject to the "July 1, 1981, Agreement for Consultation and Cooperation", as amended by the November 30, 1984, "First Modification" and the August 4, 1987, "Second Modification"), shall be known on and after the date of the enactment of this Act as the "Environmental Evaluation Group".

(b) Agreement.—The Secretary of Energy shall enter into negotiations with appropriate officials of the New Mexico Institute of Mining and Technology (hereafter in this section referred to as the "Institute") with a view to entering into an agreement with the Institute to provide funds for the work of the Environmental Evaluation Group for a term of 5 years. Such agreement may be renewed for an additional term of 5 years. The agreement shall take effect upon the expiration of the contract referred to in subsection (a) (March 31, 1989).

(c) Content of Agreement.—An agreement entered into under subsection (b) shall require the following:

(1) The Environmental Evaluation Group shall consist of senior scientists representing scientific and engineering disciplines needed for a thorough review of the Waste Isolation Pilot Plant Project in New Mexico (hereafter in this section referred to as the "WIPP"), including such disciplines as geology, hydrology, health physics, environmental engineering, probability risk analysis, mining engineering, and radiation chemistry. The membership of such group shall change during the period of the agreement as may be necessary to meet changed needs of the group for expertise in any certain scientific or engineering discipline. Scientists appointed to the Environmental Evaluation Group shall have qualifications and experience equivalent to the qualifications and experience required for scientists employed by the Federal Government in grades GS-13 through GS-16.

(2) The Environmental Evaluation Group shall have an appropriate support staff, including a Director and a Deputy Director.

(3) The Director shall be appointed by and shall report directly to the President of the Institute. The Director of the Environmental Evaluation Group shall be a scientist of national eminence in the field of nuclear waste disposal, shall be free from any biases related to the activities of the WIPP, and shall be widely known for his integrity and scientific expertise.

(4) The Director shall appoint the rest of the staff. The professional staff shall consist of scientists and engineers of recognized integrity and scientific expertise.

(5) The Director and the Deputy Director shall be appointed for a term of 5 years, subject to reappointment for an additional term of 5 years. The professional staff shall be appointed for such terms as the Director considers appropriate.

(6) The rates of pay of the professional staff and the procedures for increasing the rates of pay of the professional staff shall be equivalent to those rates and procedures provided for the General Schedule pay system under chapter 53 of title 5, United States Code. The fringe benefits available to the professional staff of the Institute shall also be available to the staff of the Environmental Evaluation Group.

(7) To the maximum extent practicable, preference in the hiring of staff for the Environmental Evaluation Group shall be given to persons involved in the scientific evaluation group for WIPP immediately before the date of the enactment of this Act.

(8) The employment of the Director, the Deputy Director, and any member of the professional staff may be terminated for misconduct or incompetence.

(d) Administrative Provisions.—(1) The Environmental Evaluation Group shall be exclusively administered under the direction of the President of the Institute.

(2) The Environmental Evaluation Group shall have an office in Carlsbad, New Mexico, and in Albuquerque, New Mexico. The Director shall designate one of the offices as the administrative headquarters of the Environmental Evaluation Group.

(e) Functions.—(1) The Environmental Evaluation Group shall be responsible for evaluating technical information on WIPP on behalf of the State of New Mexico. The evaluations of the Environmental Evaluation Group shall be made available equally to all branches of the Federal Government and the government of the State of New Mexico. The members of the Environmental Evaluation Group, the Director, the Deputy Director, and the professional staff of the Environmental Evaluation Group shall furnish information, by testimony or otherwise, to the Task Force on WIPP established by the Governor of New Mexico, the legislature of the State of New Mexico, Congress, the Attorney General of the State of New Mexico, and all other duly constituted agencies, committees, and boards of the Federal Government and of the State of New Mexico.

(2) The Environmental Evaluation Group shall disseminate its findings and analyses through publication of reports, articles in reference journals, presentations to learned scientific society meetings, and pamphlets and brochures for the lay public. No approvals from any source outside the Environmental Evaluation Group shall be required before publication of the findings of the Environmental Evaluation Group.

(3) The Environmental Evaluation Group shall evaluate the scientific and technical status of the WIPP project in an objective manner, independent of outside influences, for the primary purpose of protecting the long-term health, safety, and environmental interests of the residents of the State of New Mexico.

(f) Funding.—The agreement entered into under subsection (b) shall provide for funding of the Environmental Evaluation Group for at least 5 years. The amount of funding provided for the Environmental Evaluation Group shall be at least equal to the amount of the funding provided for the scientific evaluation group established under the contract referred to in subsection (a) before the enactment of this Act unless the Secretary of Energy, the President of the Institute, and the Environmental Evaluation Group agree that a lesser amount is justified. The agreement shall include provisions for increasing the amount of the funding in order to offset inflation.

(g) Construction.—Nothing in this section shall be construed as affecting actions undertaken before the date of the enactment of this Act in furtherance of the actions required by this section.

SEC. 134. SETTLEMENT OF ATOMIC ENERGY COMMUNITY ASSISTANCE OBLIGATIONS, LOS ALAMOS COUNTY, NEW MEXICO

(a) Purpose.—The purpose of this section is to provide for the final settlement of all obligations of the United States to make community assistance payments to the County of Los Alamos, New Mexico (hereafter in this section referred to as the "County") under section 91 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391).

(b) Final Settlement.—(1) To the extent provided for in appropriations Acts, the Secretary of Energy may pay to the County such amount as the Secretary and the County may mutually agree upon for the purpose of carrying out an agreement to terminate all financial assistance to the County under section 91 of the Atomic Energy Community Assistance Act of 1955, including all financial assistance under Department of Energy Contract Number DE-FG32-87AL43-130.

(2) Payment by the United States of the total amount agreed upon under paragraph (1) shall terminate all obligations of the United States to the County under section 91 of the Atomic Energy Community Assistance Act of 1955 and the contract referred to in paragraph (1).

(c) Limitation.—The total amount paid to the County under subsection (b) may not exceed $26,000,000.

(d) Terms and Conditions.—The Secretary of Energy may include in the agreement such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(e) Authorization of Appropriation.—The sum of $26,000,000 is authorized to be appropriated for fiscal year 1989 for payments under subsection (b).

SEC. 135. CLOSURE OF N-REACTOR, HANFORD, WASHINGTON

The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments and regional organizations composed of State and local governments, in planning and supporting community adjustments required by the closure of N-Reactor, Hanford, Washington: *Provided further,* That the Department of Energy is authorized to provide funds for such activities.

SEC. 136. SITE RECOMMENDED REPORT

Section 114(a)(1) of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding the phrase "and in subparagraph (I)" at the end of the fourth sentence thereof;

(2) striking the word "and" at the end of subparagraph (G);

(3) striking the period after subparagraph (H) and inserting in lieu thereof "; and"; and

(4) adding a new subparagraph (I) as follows:

"(I) a report by the Secretary of Defense, with regard to any site recommended under this section, as to whether and how the construction and operation of a repository at such site would jeopardize the national security by reason of interference with national defense activities, if any, occurring nearby.".

PART D—INDEPENDENT NUCLEAR SAFETY BOARD OVERSIGHT OVER DEPARTMENT OF ENERGY NUCLEAR FACILITIES

SEC. 141. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress makes the following findings:

(1) There is a need for independent oversight of safety operations at nuclear facilities controlled by the Department of Energy.

(2) Continual review and assessment by expert outside authorities would be of assistance in identifying actual or potential safety problems, research requirements, and needed standards at these nuclear facilities.

(3) There will continue to be a requirement for an assured source of critical nuclear materials as long as the United States continues to rely on nuclear weapons for national security.

(b) PURPOSE.—The purpose of this part is to establish a Defense Nuclear Safety Board that will help to ensure the protection of public health and safety in activities at Department of Energy nuclear facilities by—

(1) reviewing and evaluating the implementation of health and safety standards, as well as applicable Department of Energy Orders at each nuclear facility;

(2) conducting independent investigations of the safety of operations at Department of Energy nuclear facilities;

(3) recommending to the Department of Energy improvements in its nuclear facilities, operations, and health and safety standards, including suggestions for areas of needed research; and

(4) informing Congress of its findings and recommendations.

SEC. 142. ESTABLISHMENT OF DEFENSE NUCLEAR SAFETY BOARD

(a) IN GENERAL.—(1) The Atomic Energy Act of 1954 (68 Stat. 919; 42 U.S.C. 2011 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 21. NUCLEAR SAFETY BOARD

"SEC. 311. ESTABLISHMENT.—(a) There is established as an independent establishment in the executive branch a Defense Nuclear Safety Board (hereafter in this chapter referred to as the 'Board').

"(b)(1) The Board shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, from among respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. Not more than 3 members of the Board shall be of the same political party. Not later than 90 days after the date of the enactment of this section, the President shall submit such nominations for appointment to the Board.

"(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

"(3) No member of the Board may have any significant financial relationship with the Department of Energy or with any firm, company, corporation, or other entity engaged in activities under contract with the Department of Energy.

"(c)(1) The Chairman and Vice Chairman of the Board shall be designated by the President. The Chairman and Vice Chairman and other Board members may be reappointed to such offices.

"(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

"(A) the appointment and supervision of employees of the Board;

"(B) the organization of any administrative units established by the Board; and

"(C) the use and expenditure of funds.

The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

"(3) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

"(d)(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of 6 years. Members of the Board may be reappointed.

"(2) Of the members first appointed—

"(A) one shall be appointed for a term of 2 years;

"(B) two shall be appointed for a term of 4 years; and

"(C) two shall be appointed for a term of 6 years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

"(4) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(e) Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

"(f) The Board may, for the purpose of performing its responsibilities under this chapter—

"(1) employ such personnel as it considers necessary to perform administrative, clerical, technical, and other duties, but not more than the equivalent of 100 full-time employees;

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable; and

"(3) prescribe regulations to carry out the responsibilities of the Board under this chapter.

"SEC. 312. FUNCTIONS AND POWERS OF THE BOARD; RESPONSIBILITIES OF THE SECRETARY OF ENERGY.—(a) The Board shall have the following functions and powers:

"(1) The Board shall review and evaluate the implementation of the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at each Department of Energy nuclear facility. The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected at Department of Energy nuclear facilities. The Board shall recommend necessary changes in the content and implementation of such Orders, and recommend matters on which research or additional research is needed.

"(2)(A) The Board shall investigate actual or potential nuclear incidents, if any, at a Department of Energy nuclear facility.

"(B) The purposes of any Board investigation under subparagraph (A) shall be—

"(i) to determine whether the Secretary of Energy is adequately implementing the health and safety standards of the Department of Energy, including all applicable Department of Energy Orders, at Department of Energy nuclear facilities;

"(ii) to ascertain information concerning the circumstances of any actual or potential nuclear incident, and its implications for public health and safety;

"(iii) to determine whether such actual or potential nuclear incident is related to other actual or potential nuclear incidents at other Department of Energy nuclear facilities; and

"(iv) to provide to the Secretary of Energy such recommendations for changes in Department of Energy Orders and safety regulations and requirements, and such recommendations relating to research needs, as may be prudent or necessary.

"(3) The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy nuclear facility.

"(4) The Board may conduct special studies pertaining to safety at any Department of Energy nuclear facility.

"(5) The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

"(A) actual or potential nuclear incidents at any Department of Energy nuclear facility; or

"(B) suggestions for specific measures to improve health and safety standards, the implementation of health and safety standards, or research relating to health and safety standards at Department of Energy nuclear facilities.

"(6)(A) The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to reduce substantially the likelihood that actual or potential nuclear incidents which would adversely affect public health or safety will occur at any Department of Energy nuclear facility. In making its recommendations pursuant to this section the Board shall consider the technical and economic feasibility of implementing the recommended measures.

"(B) If the Secretary of Energy determines that any action recommended by the Board or any action proposed to be taken by the Secretary in response to the Board's recommendation might affect the ability of the Department of Energy to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall inform the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and House of Representatives of such recommendation and his determination and shall consult with the Secretary of Defense on such action.

"(7)(A) The Board may establish reporting requirements which shall be binding upon the Secretary of Energy.

"(B) The information which the Board may require to be reported under this paragraph may include any materials designated as classified material pursuant to any other provision of this Act, or any materials designated as safeguards information and protected from disclosure under section 147 or 148 of this Act.

"(C) The Board may, for the purpose of carrying out its responsibilities under this chapter use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such department or agency and, in the case of a contractor, with the consent of the contractor.

"(D) The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this chapter. Each contractor operating a Department of Energy nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this chapter.

"(E) The Secretary of Energy may deny access to information provided to the Board to any person who—

"(i) has not been granted an appropriate security clearance or access authorization by the Secretary of Energy; or

"(ii) does not need such access in connection with the duties of such person.

"(8) Before beginning construction of a new Department of Energy nuclear facility the Secretary of Energy shall give the Board the opportunity to review the design of such facility and to recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Secretary shall give the Board the opportunity periodically to review and monitor the construction and to submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety.

"(b)(1) The Board or, on the authorization of the Board, any member thereof, may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

"(2) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman or any member. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(3) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(4) Any person who willfully neglects or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpoena duly issued under the authority of this subsection shall be fined not more than $500, or imprisoned for not more than 6 months, or both. Upon certification by the Chairman of the Board of the facts concerning any willful disobedience by any person to the United States Attorney for any judicial district in which the person resides or is found, the United States Attorney may proceed by information for the prosecution of the person for the offense.

"SEC. 313. BOARD RECOMMENDATIONS.—(a) Subject to subsection (h), the Board shall make all recommendations submitted to the Secretary of Energy by the Board under this chapter available to the public in the Department of Energy's regional public reading rooms and shall publish in the Federal Register such recommendations and a request for the submission of public comments on such recommendations to the Board. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(b)(1) The Secretary of Energy shall transmit to the Board, in writing, a statement as to whether he accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under this section, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (a), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

"(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (h), shall publish such response, together with a request for public comment on his response, in the Federal Register.

"(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy's response in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

"(c) The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (a) or (b).

"(d) If the Secretary of Energy, in a response under subsection (b)(1), rejects any recommendation made by the Board under section 312(a)(6)(A), the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision whether to implement all or part of the Board's recommendations. Subject to subsection (h), the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report, in writing, containing that decision and reasoning.

"(e) The Secretary of Energy shall prepare a plan for the implementation of each recommendation submitted by the Board under section 312(a)(6)(A) that is accepted by the Secretary. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Board may extend, by not more than 45 days, the time for the Secretary to transmit the plan. The Secretary may implement any such recommendation before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.

"(f) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 312(a)(6)(A) relates to an imminent or severe threat to public health and safety the Board, in addition to taking the actions required by subsection (a), shall transmit that recommendation to the President, the Secretary of Defense, and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives at the same time that the Board transmits the recommendation to the Secretary of Energy. If the Secretary of Energy rejects the recommendation after considering the Board's action on the recommendation under subsection (d), then, notwithstanding that subsection, the Secretary shall submit the recommendation to the President. The President shall review the Secretary of Energy's response to the recommendation, the Board's action on such response, and the Secretary's determination under subsection (d) and shall make the final decision concerning acceptance or rejection of the recommendation.

"(g)(1) Subject to paragraphs (2) and (3), not later than one year after the date on which the Secretary of Energy receives a recommendation from the Board under section 312(a)(6)(A), the Secretary shall implement that recommendation if accepted by the Secretary.

"(2) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) is impracticable because of budgetary considerations, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President shall determine whether to request Congress to appropriate funds for the implementation of the recommendation. If the President does not provide for the implementation of such recommendation in the next budget submitted to Congress under section 1105(a) of title 31, United States Code, after the date on which the President receives the report from the Secretary and, before the date of the submission of such budget to Congress, has not submitted a request to Congress for the appropriation of funds for the implementation of such recommendation for any fiscal year ending before the fiscal year for which such budget is submitted, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the budgetary consequences, safety consequences, national security consequences, and other implications of implementing or not implementing the recommendation.

"(3) If the Secretary of Energy determines that the implementation of a recommendation referred to in paragraph (1) would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall submit to the President a report containing the recommendation and the Secretary's determination. The President, in consultation with the Secretaries of Defense and of Energy, shall review the determination of the Secretary of Energy. If the President determines that, for reasons of national security, the recommendation should not be implemented, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report containing the recommendation and a discussion of the reasons for his determination.

"(h) Notwithstanding any other provision of this section, the requirements to make information available to the public under this section shall be subject to the orders and regulations issued by the Secretary of Energy under sections 147 and 148 of this Act to prohibit dissemination of certain information.

"SEC. 314. REPORTS.—(a)(1) The Board shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning its activities under this chapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue periodic unclassified reports on matters within the Board's responsibilities.

"(2) The annual report under paragraph (1) shall include an assessment of—

"(A) the improvements in the safety of the Department of Energy nuclear facilities during the period covered by the report;

"(B) the improvements in the safety of the Department of Energy nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

"(C) the outstanding safety problems, if any, within or in the operation of the Department of Energy's nuclear facilities.

"(b) The Secretary of Energy shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning the activities of the Department of Energy under this chapter during the year preceding the year in which the report is submitted.

"SEC. 315. ASSISTANCE FROM CERTAIN AGENCIES OF THE FEDERAL GOVERNMENT.—(a) With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

"(b) The Director of the Naval Nuclear Propulsion Program may provide to the Board assistance and advice on matters relating to the Board's responsibilities.

"SEC. 316. ASSISTANCE FROM ORGANIZATIONS OUTSIDE THE FEDERAL GOVERNMENT.—The Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to evaluate and interpret the differences between Nuclear Regulatory Commission regulations and Department of Energy Orders governing nuclear facilities, including the implications of such differences for public health and safety. The agreement should provide for the council, group, or organization to transmit to the Board any recommendation for issuance of a new safety standard by the Department of Energy or for amendment of a Department of Energy safety standard as such council, group, or organization considers appropriate.

"SEC. 317. JUDICIAL REVIEW.—Chapter 7 of title 5, United States Code, shall apply to activities of the Board under this chapter.

"SEC. 318. DEFINITION.—As used in this chapter, the term 'Department of Energy nuclear facility' means—

"(1) a production facility or utilization facility under the control or jurisdiction of the Secretary of Energy, but does not include any facility or activity covered by Executive Order numbered 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program, or facilities or activities involved with the testing or transportation of nuclear explosives or nuclear material; and

"(2) a nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (96 Stat. 2201; 42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

"SEC. 319. TERMINATION.—(a) The Board shall terminate upon the expiration of the 6-year period beginning on the date of the enactment of this section.

"(b) This chapter shall not be effective after the date on which the Board terminates under subsection (a).".

(2) The table of contents at the beginning of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"CHAPTER 21—DEFENSE NUCLEAR SAFETY BOARD

"Sec. 311. Establishment.
"Sec. 312. Functions and powers of the Board; responsibilities of the Secretary of Energy.
"Sec. 313. Board recommendations.
"Sec. 314. Reports.
"Sec. 315. Assistance from certain agencies of the Federal Government.
"Sec. 316. Assistance from organizations outside the Federal Government.
"Sec. 317. Judicial review.
"Sec. 318. Definition.
"Sec. 319. Termination.".

(b) REQUIREMENTS FOR FIFTH ANNUAL REPORT.—The fifth annual report submitted by the Defense Nuclear Safety Board to the Committees on Armed Services of the Senate and House of Representatives under section 314 of the Atomic Energy Act of 1954 (as added by subsection (a)) shall include—

(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of the Congress in establishing the Board;

(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) recommendations for appropriate transition requirements in the event that modifications are recommended.

SEC. 143. SALARY LEVEL FOR BOARD MEMBERS

Section 5314 of title 5, United States Code, is amended by inserting after "Members, Nuclear Regulatory Commission." the following:

"Members, Defense Nuclear Safety Board.".

SEC. 144. TRANSFER

The Secretary of Energy shall transfer to the Nuclear Safety Board established by section 311 of the Atomic Energy Act of 1954 (as added by section 142 of this Act) $7,000,000 to be derived from funds appropriated or otherwise available to the Department of Energy for fiscal year 1989. The amount transferred under this section shall be available to such board to carry out its responsibilities under chapter 21 of the Atomic Energy Act of 1954 (as added by section 142 of this Act) and shall remain available until expended.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 201. AUTHORIZATION OF ACQUISITIONS

The President shall obligate $90,000,000 during fiscal year 1989 out of the funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the following purposes:

(1) The acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)).

(2) Transportation, storage, and other incidental expenses related to such acquisition.

(3) For the upgrading of stockpile materials under section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) and evaluations, tests, and other incidental expenses related to such upgrades.

SEC. 202. AUTHORIZED DISPOSALS

Notwithstanding section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)(2)), effective October 1, 1988, the President is authorized to dispose of the following quantities of materials that are currently held in the National Defense Stockpile (established by section 3 of such Act) and that are hereby determined to be excess to the current requirements of the stockpile:

Material	Quantities
Asbestos, chrysotile	2,103 short tons
Asbestos, crocidolite	36 short tons
Celestite	13,415 short dry tons
Iodine	772,016 pounds
Kyanite	1,187 short dry tons
Manganese dioxide, battery grade, natural ore.	65,000 short dry tons
Mercury	15,000 flasks
Mica, muscovite block (S&L).	181,374 pounds
Mica, muscovite splittings.	750,000 pounds
Mica, phlogopite splittings.	588,929 pounds
Quartz	1,248,655 pounds
Silicon carbide	43,950 short tons
Talc, block & lump	990 short tons
Talc, ground	1,089 short tons
Thorium nitrate	6,521,812 pounds
Tin	5,000 metric tons
Tungsten ores & concentrate.	3,000,000 pounds
Vegetable tannin chestnut.	3,516 long tons
Vegetable tannin quebracho.	77,000 long tons

SEC. 203. TECHNICAL AND CLARIFYING AMENDMENTS

Section 11(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-2(b)) is amended—

(1) in the first sentence, by striking out "such fiscal year" and inserting in lieu thereof "the next fiscal year";

(2) in the second sentence, by striking out "planned" and all that follows down

through "critical materials" and inserting in lieu thereof "all planned expenditures from the National Defense Stockpile Transaction Fund"; and

(3) by adding at the end the following new sentence: "Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 5(a)(2), that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 5(a)(2), as appropriate.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL DEFENSE AUTHORIZATION ACT

The bill (S. 2372) to authorize appropriations for Federal Civil Defense programs for fiscal year 1989, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATION.

There is hereby authorized to be appropriated $135,393,000 for fiscal year 1989 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE FOR FISCAL YEAR 1988

The bill (S. 2373) to make supplemental authorizations for appropriations for fiscal year 1988 for the Department of Defense, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follow:

S. 2373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTRICTION ON OBLIGATION OF FUNDS APPROPRIATED IN THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1988.

(a) The following programs and amounts provided in the Department of Defense Appropriations Act, 1988, may not be obligated or expended:

(1) Maxicube Cargo System under research, development, test, and evaluation for the Army, $10,000,000;

(2) Coastal Defense Augmentation, $20,000,000;

(3) AN/SQR-17 Acoustic Processors for the Mobile In-Shore Undersea Warfare group under procurement of National Guard and Reserve Equipment, $10,000,000;

(4) P-3C aircraft under procurement of National Guard and Reserve Equipment, $193,800,000.

(b)(1) Funds appropriated or otherwise made available for the Army for procurement may not be obligated or expended for the procurement of any air defense system submitted to the Army for evaluation in response to any Army request for proposal for the Forward Area Air Defense Line-of-Sight-Forward-Heavy (LOS-F-H) system unless the Secretary of Defense certifies to Congress that the system has met or exceeded full system requirements.

(2) For purposes of this paragraph, the term "full system requirements" means the most stringent system requirements specified by any request for proposal for accuracy, range (detection, tracking, and engagement), reaction time, and operation in the presence of electronic countermeasures.

(c) None of the funds appropriated for the procurement of aircraft for the Navy for fiscal year 1988 or 1989 may be obligated or expended for procurement of any A-6 aircraft configured in the F model configuration (as described in connection with the A-6E/A-6F aircraft program in the Selected Acquisition Report submitted to Congress for the quarter ending December 31, 1986).

(d) Funds appropriated for procurement of weapons and tracked combat vehicles for the Army for modification of M60 tanks in the amount of $90,000,000 may be used only for procurement or modification of M1 tanks.

(e) TRANSFER AUTHORITY.—For purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153), $233,800,000 (the sum of the amounts described in subsection (a) of this section) shall be deemed to have been authorized by such Act in equal amounts to the Army, Navy, and Air Force for operation and maintenance for the exclusive purpose of preventing the furlough and separation of civilian employees and the purpose of funding other high priority readiness programs.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION TO MAKE TECHNICAL CORRECTIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make the necessary technical changes to correct the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

CONSENTING TO THE RATIFICATION OF THE INF TREATY

Mr. BYRD. Mr. President, I believe the Senate has performed its constitutional duty in considering this treaty with distinction. It has been a long and complex process, lasting over 4 months. It was intensively examined by three standing committees and has had the attention of the full Senate for nearly 2 weeks. The leadership of those three committees is to be highly praised for the responsible, exhaustive work they did in considering this treaty. I especially commend the chairman of the committee of jurisdiction, the Foreign Relations Committee, Mr. PELL, and the chairman of the Armed Services and Intelligence Committees, Mr. NUNN and Mr. BOREN, respectively. Those committees, and their very able staffs, have produced a record which is detailed, and they have made the best attempt possible to clarify the meaning of the terms of this treaty. I am optimistic that important matters have not been overlooked or misunderstood.

Mr. President, I also thank Mr. COHEN, the ranking member of the Intelligence Committee, and I thank Mr. WARNER, the ranking member of the Armed Services Committee. Without their cooperation and strong support every inch of the way, the achievement that has been gained could not have been accomplished.

This is the end of a very long road. As I stated when I called up the treaty for consideration on May 17, 1988, it is testimony to the success of the NATO alliance in standing together in the face of the Soviet SS-20 deployments. It is testimony to the steadfastness of NATO in the face of a major challenge to our common security and the political cohesion of NATO. It is an important lesson on what can be achieved when we formulate and implement our foreign policies in a bipartisan fashion.

The dual track policy of negotiating at the same time we deployed the necessary weapons to respond to the Soviet challenge, worked largely because it was embraced by Presidents of both parties, and majorities in the Senate of both parties. It has resulted in a sound treaty which breaks important new ground in onsite verification, the elimination of whole classes of weapons systems, and the principle of assymetrical reductions in such systems.

The process teaches us another lesson. The pace of technological developments in modern weapons has been rapid, and the sophistication of the devices we have created and are creating has made the process of controlling that development more and more difficult. It has made the achievement of sound arms control agreements difficult. Our negotiators produced a generally sound agreement, but the Senate discovered serious ambiguities and gaps which had to be filled and were filled. The result is a better agreement, a better treaty. The effort points up the severe challenge we face in effectively controlling the technologies we are developing.

The distinguished Republican leader and I were concerned about the very mixed record the United States has had in arms control treaties over the last two decades. After ratifying the ABM Treaty in 1972, three arms control treaties—negotiated by Presidents of both parties—were not consented to by this body. As a result, we created a new Senate entity to assist the Senate in its deliberations, the Arms Control Observer Group. This group has deepened the Senate's role in, and understanding of, the arms control process, and has worked with our negotiators for over 3 years.

Senator DOLE and I as ex officio members of that Senate observer group attended the first meeting of the group abroad, and we have followed with interest the work of that observer group over the ensuing and intervening years.

I want to compliment that group.

In addition, because of the dispute which arose over the meaning of certain provisions in the ABM Treaty, and the question of the proper place of the negotiating record regarding that interpretation, Mr. DOLE and I reached an agreement with the Secretary of State for the administration to turn over to the Senate that record. We, therefore, created another new Senate body, the Arms Control Treaty Review Support Office, which exhaustively combed that record, organized it, and made it usable to the three committees, in order that ambiguities found during the hearing process could be checked against that record. That has been done, and I commend Judy Keating, the Director of that Office, for the outstanding job her team has performed over the last 3 months.

The amendment which I offered yesterday regarding the proper basis from which are formed the common understandings which constitute the interpretation of a treaty makes it very clear that reference to the negotiating record is not a primary method to form that interpretation. Certainly, the negotiating record can and should be referred to, but only as a secondary source, and in the exceptional case.

All three committees have recommended that the Senate give its consent to the President to the ratification of the treaty. I concur in that judgment, and I shall vote to approve the treaty.

I want to congratulate, in addition to the committee chairmen I mentioned earlier, the distinguished Republican leader and his able team. Senator LUGAR contributed to the efforts to reach a bipartisan agreement on the treaty interpretation issue and assisted greatly in the conduct of business on the Senate floor. Senator COHEN made important contributions in two committees and on the floor of the Senate, as I have said, and Senator WARNER did likewise, and also participated in the delegation I led to Europe earlier this year to consult with leaders of NATO as did Senator PELL, Senator BOREN, and Senator NUNN. Senator STEVENS has played an important role in the arms control observer group and, as a matter of fact, has probably been the most active member of that group over the long period of time since its formulation. Senator STEVENS has been very active and helpful in building a bipartisan consensus on this treaty.

Senator HELMS, even though he opposed the treaty, has assiduously combed and analyzed the treaty and the associated documents and performed his duties in exemplary fashion. He rightfully raised questions at every stage of this process, and in doing so has done a valuable service. The Senate is indebted to him, for his work and I personally am indebted to him for his cooperation which opened the way to the final vote on the resolution of ratification.

I commend the majority whip, Mr. CRANSTON, who was very active in all aspects of the consideration of the treaty, and I commend the minority whip, Mr. SIMPSON, who cooperated at all times and worked diligently to help bring about the speedy final action on the resolution of ratification. Senator BIDEN, who contributed greatly to the earlier work on the treaty and whose contributions on the treaty interpretation issue were large, could not be with us on the final vote, but his work aided us immeasurably.

Senator SARBANES and Senator LEVIN made exemplary contributions to the debate and to the work of the Senate.

I thank Senator NUNN and Senator SARBANES and Senator LEVIN for their monumental advocacy of the Byrd amendment and for their extraordinarily fine defense of that amendment against the attacks on it by opponents. I believe the statements that were made in the RECORD by Senators NUNN and LEVIN and SARBANES, in particular, constitute one of the finest and soundest examples of legislative history for future guidance that has ever appeared in the CONGRESSIONAL RECORD. And I believe that their statements as a part of that legislative history strengthen the amendment, clarify it and leave preeminently clear and cogent the meaning of the amendment and the effect that it will have in the interpretation of treaties.

I thank all of these Senators for their diligence and their hard work; and for their high sense of responsibility in upholding the role of the Senate in the making of treaties.

Mr. President, today I said to the President of the United States, when he so graciously called the two leaders on the telephone, that the Senate had approved the ratification of the treaty by an overwhelming vote of 93 to 5, and that in doing so, had demonstrated the soundness of the American constitutional system, and the effectiveness of the American Senate within that constitutional system. I said that the process by which this Senate has so carefully reached its judgment was one that was bipartisan, and that it demonstrated the unity of our form of Government—the Senate being an equal partner with the Executive in the making of treaties.

I also said to the President that he was fortunate in having BOB DOLE as the minority leader.

I have never seen a finer demonstration of teamwork than I experienced with Senate DOLE as we worked together shoulder to shoulder in bringing this vote to its conclusion. He is a powerful advocate.

Incidentally, I was presented recently at a ceremony during which Senator DOLE was present with the Life Service Award by the Paralyzed Veterans of America and the Vietnam Veterans Institute. I have been a recipient of that award on a past occasion, as have Senators CRANSTON, KASSEBAUM, and MURKOWSKI, and other Members of Congress.

As I said at that time, BOB DOLE distinguished himself on the battlefield. He fought back following a very serious injury, and demonstrated the courage that we would all do well to try to emulate. He was not a quitter, and he overcame great odds which would have caused lesser men to fail. He did not end his service to the Nation when he left the battlefield. He then moved to the arena of public service, where he has continued to demonstrate his courage and utilize his great abilities in the service of his country.

Today was a truly fine hour in the history of the Senate and BOB DOLE was here when that fine hour occurred.

If I were a soldier on the battlefield in war, I would like to have a man like BOB DOLE at my side.

Mr. President, with reference to the treaty, I also want to compliment our staffs. On my own staff, I say thanks to my very capable chief of staff, Barbara Videnieks; to Richard D'Amato, my foreign policy and defense specialist; to Scott Harris, his assistant; to Linda Peek, the director of communications of the Senate Democratic Policy Committee; and to all the other dedicated staff people who labored long hours over a period of many, many days and weeks to render their very best assistance in the achievement of this goal.

Mr. President, it is important to observe that the American Senate does not roll over and play dead for any President under any administration of either party. We have again shown that the U.S. Senate is not a rubber-stamp for any President: quite a distinction in the American form of government from that of the Soviet Union, which are the two signatories to this treaty.

Mr. President, with reference again to our fine staff people. Their work often does not get the recognition it deserves. As someone once wrote:

> This is a song of little men,
> Whose strength is iron and leather,
> Who haved no time for gold and fame
> While holding a world together.

Let me close my expressions of gratitude to the Senate in the context of the words of Daniel Webster in his eulogy to George Washington in 1832, because my awesome gratitude goes all the way to the framers of our Constitution. George Washington was the pillar around which that illustrious group met in Philadelphia.

He was the chairman, he presided, and Webster's eulogy was to that great man, commander in chief at Valley Forge and soon to become the first President of the United States. After all, if it had not been for that group of men, we would not be here today. There would not be a U.S. Senate. There would not be an American Republic. There would not be a West Virginia. There would not be an Iowa, the State from which the present Presiding Officer comes.

I feel good today that this Senate has once again fulfilled its responsibilities under the powers which those Constitutional framers vested in it. Webster, in his eulogy, said:

> Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, a new generation would replace it.
>
> If it exhaust our Treasury, future industry would replenish it.
>
> If it desolate and lay waste our fields, still under new cultivation, they will grow green again and ripen into future harvests.
>
> Yea, it were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these may be rebuilt.
>
> But who will rebuild the fabric of demolished government? Who will rear again the well-proportioned columns of constitutional liberty? Who will frame together the skillful architecture which unites national sovereignty with States rights, individual security, and public prosperity? No. If these columns ever fall, they will be raised not again. Like the Colosseum and the Parthenon, they will be destined to a mournful and melancholy immortality.
>
> Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman and Grecian art. For they will be the monuments to a more glorious edifice than Rome or Greece ever saw: the edifice of constitutional American liberty.

It is a time, Mr. President, to reflect on what a great system we have, as the leaders of these two competing, contrasting political, governmental, societal systems come together within the next few days in Moscow: the President of the United States and the General Secretary of the Soviet Union. I saw on television last night that the Soviet General Secretary had allowed for the first time in many decades, I believe, 100,000 Bibles to be published and distributed in the Soviet Union. Lenin said that religion would die when the grandmothers of his time had passed away. Lenin is dead. The grandmothers still live. And I saw on television those grandmothers still worshiping. Perhaps we can have hope that perestroika and glasnost will go beyond the intentions of Mr. Gorbachev and that there can be a renaissance and a new birth of religion someday in the Soviet Union. We Americans can be thankful that in our country it is different. Here we are guaranteed the freedom of worship. This country was founded on the old virtues and by men and women whose guiding light was the Holy Bible. They were men and women of all faiths. Not every one was a believer, but throughout the history of this country we can see that indication of spiritual awareness that guided the people who built this Nation. It is a golden thread weaving its way through the pages of the history of this country from the beginning until today. Let us thank God every night for the blessings that He has showered upon our great Nation.

These things we will reflect upon as we observe what is happening in Moscow during these next few days when the two leaders of these two different systems sit down together. And this Senate will have nobly played its part.

UNANIMOUS-CONSENT AGREEMENT

ORDER OF PROCEDURE MONDAY, JUNE 6

Mr. BYRD. Now, Mr. President, I took a great deal of time, but the distinguished Republican leader is here. I ask unanimous consent that the majority leader after consultation with the Republican leader, may turn to the conference report on the budget resolution, House Concurrent Resolution 268, at any time on or after Monday, June 6, notwithstanding section 305 of the Congressional Budget Act or the required pendency of any other matter at that time; provided that during the consideration of the budget resolution, debate shall be limited to 2 hours, to be divided and controlled as follows: One hour by the majority leader or his designee, one-half hour by the Republican leader or his designee, one-half hour by the Senator from Colorado, Mr. ARMSTRONG; and provided further that prior to the consideration of the budget resolution, the chairman of the Committee on the Budget shall submit for the RECORD estimated allocations, based on the budget in the conference report, of the appropriate levels of total budget outlays, total new budget authority, and new credit authority among each committee of the Senate pursuant to section 302(a)(2) of the Congressional Budget Act, and that these allocations be considered as part of the joint explanatory statement of the managers and the conference report.

Mr. DOLE. Mr. President, if the majority leader will yield, would it be satisfactory if we not commence action on the resolution before 1 p.m. on Monday?

Mr. BYRD. Yes. Mr. President, I will include that in the request.

The PRESIDING OFFICER (Mr. WIRTH). Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

The text of the agreement follows:

> Ordered, that at any time after Monday, June 6, 1988, notwithstanding section 305 of the Congressional Budget Act or the required pendency of any other matter at that time, the Majority Leader, after consultation with the Republican Leader, may turn to the consideration of the conference report on the budget resolution, H. Con. Res. 268.
>
> Ordered further, That debate on the conference report be limited to 2 hours, to be divided and controlled as follows: 1 hour under the control of the Majority Leader or his designee; 30 minutes under the control of the Republican Leader or his designee; and 30 minutes under the control of the Senator from Colorado [Mr. ARMSTRONG].
>
> Ordered further, that prior to the consideration of the budget resolution, the Chairman of the Committee on the Budget shall submit for the record estimated allocations—based on the budget in the conference report—of the appropriate levels of total budget outlays, total new budget authority, and new credit authority among each committee of the Senate, pursuant to section 302(a)(2) of the Congressional Budget Act, and that these allocations be considered as part of the joint explanatory statement of the managers accompanying the conference report.

Mr. BYRD. Mr. President, the distinguished Republican leader and I have discussed the timing of the calling up of this resolution. May I ask the distinguished Republican leader if it is agreeable that at 1 p.m., on Monday, June 6, the Senate proceed to the consideration of the budget resolution?

Mr. DOLE. That is satisfactory.

Mr. BYRD. Very well, Mr. President, I ask that that be the order

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent, if the distinguished Republican leader is agreeable, that upon the disposition of the budget resolution on Monday, June 6, the Senate then proceed to the consideration of the war powers resolution. It there a number?

The PRESIDING OFFICER. Senate Joint Resolution 305.

Mr. BYRD. Senate Joint Resolution 305, and that upon the disposition of that matter, which I am confident will occur on Monday, June 6, the Senate then proceed to the consideration of the override of the President's veto, which also would occur that afternoon but not before 5 p.m.

I add that proviso because Senator BENTSEN, who is chairman of the Finance Committee, will not be in a position to proceed with that veto message prior to that hour.

Mr. DOLE. Reserving the right to object—and I do not believe there is any objection—I do know that June 7 is primary day in California. If we started on the veto message—as I understand, based on previous statements, there are a number of Senators who wish to speak—would it be possible to have that vote on Wednesday before we proceed to the D'Amato freestanding amendment?

Mr. BYRD. Mr. President, I will make every effort on this side to meet that request of the distinguished Republican leader. That would mean the Senate then would begin debate on the veto message on Monday at around 5 p.m., that is, Monday, June 6, and that it would then be in a position to debate that message on Tuesday, and that it hopefully would be able to complete action on Wednesday. Because under the order that was previously entered, anent the D'Amato freestanding resolution, a commitment was made to begin action on that resolution on that Wednesday, June 8.

Mr. DOLE. I am advised by Senator D'AMATO that it might not happen until 2 or 3 in the afternoon.

Mr. BYRD. Yes. I could not commit that to the hour but it would fulfill our commitment; namely, that the resolution, freestanding measure, be taken up on that day.

So when we return on Monday I will talk with my colleagues and see if I cannot fulfill my own commitment to do the very best I can to see that that action is taken on Wednesday. Perhaps we could set a definite hour when we get back that week so that all Senators would be prepared to vote.

Mr. DOLE. I remove my reservation.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none. It is so ordered.

Mr. BYRD. Mr. President, does not the unanimous consent order that has just been entered into protect the Senate in legislative session against the reading of the President's message and the spreading thereof on the Journal until Monday at 5 p.m.?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I thank the Chair.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, while the Senate is still in executive session, I ask unanimous consent to proceed to the following two judicial nominations ordered reported today by the Judiciary Committee: Messrs. William G. Cambridge, of Nebraska, and Richard A. Schell, of Texas, seriatim.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. No objection.

The PRESIDING OFFICER. The clerk will report.

THE JUDICIARY

The legislative clerk read the nomination of William G. Cambridge, of Nebraska, to be U.S. district judge for the district of Nebraska.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to thank the Judiciary Committee, I want to thank the majority leader, and the minority leader for clearance of this in a very expedited fashion. Not only do I believe Judge Cambridge will make an outstanding judge but I appreciate the consideration that has been given by all involved. I just say that without the cooperation, we would not have been able to get Judge Cambridge moved forward as quickly as we did, and to possibly help with the very decision with regard to approving Judge Cambridge for this very important position.

We have an extreme backlog of cases, and I know that the court and Judge Cambridge are very, very interested in moving ahead in this area and, Nebraska is very proud of Judge Cambridge being submitted and approved by the U.S. Senate.

I thank all that have been a part.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The next nomination will be stated.

The legislative clerk read the nomination of Richard A. Schell, of Texas, to be U.S. district judge for the eastern district of Texas.

Mr. BENTSEN. Mr. President, as the Senate moves to confirm the nomination of Richard Schell to the Federal bench in the eastern district of Texas, I want to express my strong support for his nomination. Richard Schell possesses solid qualifications, sound character and judicial temperament, which I am sure will be evident in the years ahead. His nomination enjoys broad support in his community and the need for him on the bench in Beaumont is great. I appreciate the cooperation of the Judiciary Committee in expediting consideration of this nomination, and I look forward to the full Senate's imminent confirmation of this important nomination.

For the past 6 years, Richard Schell has served admirably as a State judge in Collin County. He has won the respect and support of the Plano and Collin County Bar Associations, and will bring valuable judicial experience to the Federal bench in the eastern district. And I know Judge Schell's arrival is eagerly awaited by the other members of the eastern district—the number of pending cases per judge in the eastern district of Texas is almost twice the national average. Richard Schell will be a fine and much-needed addition to the Federal bench.

I expect my colleagues will join me in support of this nomination, and I think we can all look forward to years of dedicated public service from Richard Schell.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether the following nominations have been approved on his side: the nominations under the Coast Guard on page 3 of the Executive Calendar; nominations under National Transportation Safety Board, Department of Commerce, National Consumer Cooperative Bank, National Foundation on the Arts and Humanities, and the National Advisory Council on Educational Research and Improvement on pages 4 and 5; and National Advisory Council on Education Research and Improvement on page 6; Harry S Truman Scholarship Foundation; Barry Goldwater Scholarship Excellence in Education Foundation on page 6; Federal Mine Safety and Health Review Commission on pages 6 and 7; and Department of Education on page 7; and the nominations placed on the Secretary's desk in the Coast Guard, Public Health Service, and Public Health Service on page 8.

Mr. DOLE. Those have been cleared. The only exceptions I think the majority leader noted was Calendar No. 686 on page 7, National Labor Relations Board.

Mr. BYRD. Yes. That nomination will be excepted.

Mr. President, I ask unanimous consent that the foregoing nominations be considered en bloc, confirmed en bloc, that the motion to reconsider en bloc be laid on the table, that the President be immediately notified of the confirmation of the nominees, that any Senators who have statements in connection with any of the nominees may have their statements appropriately placed in the RECORD, and that the nominations may severally appear on the face of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE COAST GUARD

Rear Adm. Clyde T. Lusk, Jr., as Vice Commandant, U.S. Coast Guard with the grade of vice admiral while so serving.

Vice Adm. James C. Irwin as commander, Atlantic area, U.S. Coast Guard with the grade of vice admiral while so serving.

NATIONAL TRANSPORTATION SAFETY BOARD

Lemoine V. Dickinson, Jr., of Virginia, to be a member of the National Transportation Saftey Board for the remainder of the term expiring December 31, 1988.

DEPARTMENT OF COMMERCE

Michael E. Zacharia, of California, to be an Assistant Secretary of Commerce.

G. Philip Hughes, of Virginia, to be an Assistant Secretary of Commerce.

James P. Moore, Jr., of Pennsylvania, to be an Assistant Secretary of Commerce.

NATIONAL CONSUMER COOPERATIVE BANK

John K. Stewart, of California, to be a member of the Board of Directors of the National Consumer Cooperative Bank for a term of 3 years.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Alvin H. Bernstein, of Rhode Island, to be a Member of the National Council on the Humanities for a term expiring Janaury 26, 1992.

The following-named person to be a member of the National Museum Services Board for a term expiring December 6, 1991: Arthur C. Beale, of Massachusetts.

The following-named person to be a member of the National Museum Services Board for a term expiring December 6, 1992: Willard L. Boyd, of Illinois.

Patrick Butler, of Maryland, to be a member of the National Council on the Humanities for a term expiring January 26, 1994.

The following-named person to be a member of the National Council on the Humanities for a term expiring January 26, 1994: William P. Wright, Jr., of Texas.

Charles Ray Ritcheson, of California, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1990.

Edwin J. Delattre, of Maryland, to be a member of the National Council on the Humanities for a term expiring January 26, 1994.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH & IMPROVEMENT

Carol Pendas Whitten, of Maryland, to be a member of the National Advisory Council on Educational Research and Improvement for a term expiring September 30, 1990.

Frances Mathews, of Colorado, to be a member of the National Advisory Council on Educational Research and Improvement for a term expiring September 30, 1990.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Richard C. Crawford, of Oklahoma, to be a member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1993.

The following-named person to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1993: Gary Eugene Wood, of Texas.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

Barry M. Goldwater, Jr., of California, to be a member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of six years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Richard V. Backley, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 1994.

L. Clair Nelson, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 1994.

DEPARTMENT OF EDUCATION

Susan S. Suter, of Illinois, to be Commissioner of the Rehabilitation Services Administration.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD, PUBLIC HEALTH SERVICE

Coast Guard nominations beginning David E. Bates, and ending Richard J. Hartnett, which nominations were received by the Senate and appeared in the Congressional Record of May 9, 1988.

Public Health Service nominations beginning Charles H. Beymer, and ending Gregg Mcneil, which nominations were received by the Senate and appeared in the Congressional Record of May 9, 1988.

Public Health Service nominations beginning Paul A Blake, and ending Marvin W.H. Young, which nominations were received by the Senate and appeared in the Congressional Record of May 9, 1988.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 122—NEED FOR FOOD ASSISTANCE IN VIETNAM

Mr. SIMPSON. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the concurrent resolution expressing the sense of the Congress regarding the urgent need for food assistance by civilians in Vietnam, Senate Concurrent Resolution 122.

The reports that I have received do indeed indicate that the people of Vietnam are facing a serious food shortage. The continuing flow of both economic refugees and political refugees from Vietnam to neighboring countries in Southeast Asia can only be aggravated by an additional flow of famine refugees.

I understand that reports are "mixed" on the causes of the food shortages. News reports from Vietnam indicate one reason is that their government is having difficulty convincing farmers in the south to sell their grain. With Vietnam's present skyrocketing inflation, the value of grain in warehouses increases rapidly, and it is more economical to hold grain than to sell it. There are also reports that 20 to 30 percent of the rice crop is lost due to poor storage practices and a general lack of care and competency on the part of those responsible for storage and distribution.

If the Vietnamese rice harvest was good, then the need for food assistance is being created by the unwise and inefficient economic policies of the Vietnamese Government.

I do not believe that there is a consensus, at this time, within the international community or among the international organizations as to the cause of the impending food shortages, and I am certainly not enthusiastic about bailing out the Vietnamese Government from a situation caused by their social and economic policies. However, the Vietnamese people are not getting food, for whatever reason. Most are the innocent victims of a crude and callous government.

I do support this effort to get food to these civilians through the Foreign Assistance Act of 1961. I believe temporary relief for this immediate crisis is consistent with our heritage of humanitarian goals and policies. However, I believe that this relief effort should be coupled with a full examination of the underlying reasons for the food shortage. If the principal cause is the overall structure of the Vietnamese economic and political system, then I believe further aid should come from those in the international community who financed the military effort that installed the present Government.

AMBIVALENT ALLIES

Mr. DeCONCINI. Mr. President, I have been on the floor of the Senate on many previous occasions to strongly encourage our allies in NATO to assume their fair share of defense spending. This is becoming a critically important issue in light of this INF Treaty, a declining defense budget in real terms for the United States, and a wide disparity between NATO and the Warsaw Pact in conventional weapons. While Japan is just beginning to assume some responsibilities in their defense budget, NATO still has a long way to go.

We considered proposing a declaration to the resolution of ratification to the treaty. I will ask unanimous consent that this printed amendment be entered into the Record. I would like to discuss this declaration on the mutual advantages that bases in Spain, Portugal, Greece, and Turkey provide to NATO and the United States. Right now, the United States pays and NATO benefits. This declaration was not a "killer amendment." We are not amending the text of the treaty. This is a statement of policy of the U.S. Government. This is functionally equivalent to a "sense of the Senate" to the treaty.

This declaration is cosponsored by Senators Grassley and D'Amato. The purpose of this declaration is to enhance United States and NATO security and relieve a tax burden for U.S. citizens. The objective to enhance United States and NATO security is better achieved when the United States is not periodically forced to withdraw forces critical to NATO's defense. For example, in Spain recently the United States has been forced to withdraw 72 F-16 fighters and has not as yet been able to relocate them. It seems that this volatility and uncertainty threatens Western security. NATO should help the United States pay for the bases in Portugal, Spain, Greece, and Turkey. NATO should also pay for the costs of relocating the 72 F-16's from Spain to Italy, or wherever these fighters are based. While one of the advantages that NATO retains over the Warsaw Pact is air superiority, it will not be an advantage for long if the United States is evicted from bases which mutually benefit the NATO alliance.

The second question pertains to the fair share of payments for a viable defense. The U.S. taxpayer provides over $400 million a day to defend Europe. The United States has also provided large amounts of military and economic assistance to Greece, Spain, Portugal, and Turkey in support of mutual security objectives. Foreign assistance appropriations by the Congress for fiscal year 1987, as allocated by the executive branch, included $147 million in security assistance for Portugal; $113 million for Spain; $344 million for Greece; and $593 million for Turkey. This totals over $1.1 billion for NATO security bases paid by U.S. taxpayers. French, English, German, Spanish, Greek, and other NATO member countries should help shoulder this cost.

Europe has a combined gross domestic product of $4.3 trillion. This is equivalent to the U.S. economy. Additionally, Europe has a total population of 374 million. This is one-third larger than the United States. The population base and a strong economy give Europe good reasons to pay their fair share.

Mr. President, the Committee on Foreign Affairs issued a report on a staff mission to southern Europe in October of 1986 and said:

> The crux of the problem for the United States in these countries is that most of these states are looking increasingly at FMS security levels as a litmus test of U.S. reliability and U.S. performance on commitments. The fact that security assistance figures are only one aspect of U.S. efforts to assist the military forces in these countries is often forgotten. * * * U.S. ability to resolve tensions over assistance levels will depend on either a greater ability by the Congress to provide requested security assistance levels or a broader definition of our security relationship that is no longer dependent on security assistance.

Back in 1986 we were feeling the effects of a constricting budget and beginning to urge our allies to assume more of the defense spending in Europe. Each of these base rights countries has a strong economy and the private sectors are helping to sustain economic growth. These bases assist in economic growth with spinoff effects benefiting their economies. The mutual benefit to host countries is economic and defense oriented. This is in the interests of NATO, the host countries, and the United States. This is what this declaration to the treaty states.

Mr. President, I am not the only Senator who feels strongly about this issue. Many of my colleagues have articulated similar concerns. Deputy Defense Secretary William H. Taft IV, has traveled to Europe and Asia in hopes of persuading friendly governments to contribute more to the defense of NATO. Mr. Taft has also indicated that the United States needs to find a new home for the 401st F-16 fighter wing and discussed the possibility of an Italian location. The Reagan administration has said NATO partners, not just the United States, must pay for relocating the wing. This declaration expresses the role Congress and the administration are urging for our NATO partners. Still, NATO does not seem to want to hear this, as evidenced by Spain's decision to evict the 401st fighter wing.

I do not intend to delay this Treaty on this issue nor do I intend to engage in a long speech. I do, however, believe that NATO action to assume more of the defense costs and assuming more of a responsibility for bases would go a long way toward helping to convince the United States that Europeans are interested in mastering their own fate.

Two items in the news in recent weeks point to problems in this base rights area that are not disappearing. In fact, the problems are getting worse. Greece continues to criticize our bases in the current negotiations for base rights renewal. This situation does not look promising, especially in light of Spain's decision. Also, in the Philippines, the Foreign Secretary has stated that Washington should be prepared to pay much more for its bases or move them when the lease expires in 1991. The Reagan administration has talked about a mini Marshall Plan for the Philippines to provide up to $10 billion in aid to the Philippines from Japan, West Germany, and the United States. Despite this, both President Aquino and Foreign Minister Manglapus have said this is not a linkage. If the United States should have to relocate these bases, it could cost anywhere from $7 to $13 billion.

This declaration simply says that these bases in NATO countries are in our interest and in NATO's interest. Therefore, U.S. taxpayers should not shoulder all of the burden.

Mr. President, I ask unanimous consent that the amendment to which I referred be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

> At the end of the resolution of ratification, add the following:
>
> "The advice and consent to ratification given by the Senate in this resolution of ratification is subject to the declaration, which shall be made a part of the instrument of ratification, that the United States views the renewal of military base rights in North Atlantic Treaty Organization (NATO) member countries as vital to the security interests of both the United States and the NATO member countries and as advantageous to the political and economic security interests of such host countries".

THE REGIONAL CONFLICT IN ANGOLA AND SOVIET RELATIONS

Mr. DeCONCINI. Mr. President, arms control agreements are important. The INF Treaty can be a positive step toward reducing the dangerous potential for nuclear escalation and catastrophe between the United States and the Soviet Union. However, as some of my colleagues have pointed out, this treaty should not be viewed as a separate issue from all the other issues in our relations with the Soviets. Verification, the Soviet's former record of compliance, and the balance of conventional forces in Europe must be considered as a confluence of issues as we discuss the treaty. Moreover, issues such as human rights, Jewish immigration, trade, and regional conflicts should also be discussed as integral ingredients of our relations with the Soviet Union.

Arms control agreements are only one means to attempt to reduce tensions between the United States and the Soviet Union. Regional conflicts—in Afghanistan, Angola, Cambodia, Nicaragua—are of concern to many of us. Soviet conduct in the Third World has always been a vital indicator of Soviet intentions vis-a-vis the United States. History is a somber reminder of the pitfalls of summits and we must be cautious about the artificial level of euphoria that leads and follows. One does not have to go back very far to remember the near disaster at the summit in Reykjavik, Iceland in 1986. "Reykjavik," wrote former Secretary of Defense James R. Scheslinger, "represented a near disaster from which we were fortunate to escape."

Shortly after the Geneva Conference in 1955, the Soviet Union crushed the popular uprising in Hungary. Shortly following the Camp David meetings in 1959, the world came to the brink of a nuclear confrontation with the 1962 Cuban Missile crisis. After Glassboro in 1967, the Soviets invaded Czechoslovakia, and following the signing of Salt II, the Soviets invaded Afghanistan.

Why enumerate these historical references? What does it mean? It means that the Soviet conduct in the Third World is a barometer for overall Soviet-United States relations. Furthermore, this history suggests that Soviet intention to engage in a meaningful reduction of tensions with the United States will also be revealed in the specific Third World conflicts in Angola, Afghanistan, Nicaragua, and Cambodia. It is important that the United States should challenge the Soviets to disengage from these regional conflicts. We challenge the Soviets to agree on arms control. We challenge the Soviets to improve their human rights. We should challenge them to help us gain peace in Angola. Let us get the Cubans to leave. Let's get the South Africans to leave. Let's get the Soviets to leave. And let the people of Angola decide their fate.

We are hopeful of the Soviet Union's full withdrawal from Afghanistan. Beginning May 15, over 100,000 Soviet forces will begin to leave the country after a bloody 8-year war. Some argue that it is "glasnost" or reform policies that have forced the Soviet retreat. I believe that it is the brave efforts of the Mujahidin, the support and resolve of the United States Congress, and resolve and commitment from the democratic resistance which convinced the Soviet Union there can be no military victory in Afghanistan.

Afghanistan is a good sign, but it is not enough. Third World conflicts continue. Bloodshed and a ravaged economy take their toll on the citizens of Angola. The Soviet Union should remove advisors and the 47,000 Cuban forces from Angola. The South Africans should pull out their troops and respect the sovereignty of Namibia. Give peace and freedom a chance.

Angola has been at war for 13 years. The Marxist MPLA government has refused to talk with the democratic opposition of UNITA. The MPLA has decided to wage an "unwinnable" war with over $12 billion in sophisticated Soviet hardware and 47,000 Cuban combat troops.

The MPLA is not the representative government of Angola. It was propelled into power by Soviet weapons and Cuban troops. The MPLA has continuously refused to abide by the 1975 Alvor accord, which calls for the formation of a Government of national unity and the holding of free and fair elections. UNITA has announced its support of elections, national reconciliation, and peace.

Moscow has not pressured the Cubans to leave Angola, or encouraged the MPLA to enter into meaningful negotiations with UNITA. Meanwhile, the people of Angola suffer and the riches of their country are poured into a massive war effort pitting Angolan against Angolan. War continues to devastate a promising economy. This economy might eventually assist in fighting apartheid in South Africa.

In early May, the United States organized a meeting in London with the MPLA, Cuba and South Africa to discuss the possibility of withdrawal of the Cubans in Angola and the independence of neighboring Namibia. It was the first time in the history of the Angolan conflict that Cuba and South Africa met at the negotiating table. While this meeting could be considered progress, peace will not happen if Cubans and South Africans do not leave. Also, UNITA and the MPLA must talk. They must talk directly about a ceasefire and democracy.

There can be no peace without reconciliation between the MPLA and UNITA. UNITA was not invited to the negotiating table. Our State Department, in its admirable eagerness to bring Cuba and the MPLA to the table, did not include UNITA for fear the other parties would walk. Well, as with arms control agreements, a bad "deal" is not better than no deal at all. I hope we do not arrive at a policy in Angola which sells out our aid to UNITA.

President Reagan and Secretary of State Shultz should convey to the Soviets, in the strongest possible terms, that the United States Government is committed to achieving a democratic outcome in Angola. A democratic outcome of a self-governing state is in African interests and American interests. Furthermore, we should view the Soviet conduct in this strategic southern African country as a sign of their willingness to engage in meaningful peace negotiations with the United States. It means that the Soviets are willing to improve overall relations with the United States and not treat the United States relations as solely based on arms control. Better relations are based on democracy, human rights, self-determination, and arms control.

Mr. President, in any future discussion, UNITA must be at the negotiating table. It is my opinion that the United States should never prematurely cut aid to UNITA and should emphasize the importance of this issue to the Soviets. Cuban troops and Soviet advisers are supporting an illegitimate Government. They should leave. South African troops, while supporting a democratic resistance effort, should leave. UNITA and the MPLA need to directly talk about peace and democracy for the Angolan people. Children that are 13 years old have never seen peace. It is time that peace in Africa be given a high priority.

In conclusion, Mr. President, I would like to briefly discuss an article in Defense News.

Edward Rowny, special arms control negotiator to the Secretary of State, is quoted in a Defense News article on May 23, 1988, as indicating: The United States is not pressing Cuba for an exact timetable for withdrawing troops from Angola; quoted as saying aid to UNITA would end "when we are satisfied there is a Cuban pullout. It would be a quid pro quo."

Mr. President, I hope our arms control negotiators stick with the treaty and leave our foreign policy to the National Security Council and State Department. I have recently sent a letter to President Reagan on this issue. It was signed by 36 of my colleagues, evenly divided between Democrats and Republicans. We do not believe aid to UNITA should be a bargaining chip or quid pro quo. General Powell, who I discussed this issue with a few weeks ago, agrees that aid should not be traded or bartered.

I understand that President Reagan and General Secretary Gorbachev will talk about Angola. I sincerely hope he is getting advice from General Powell and Congress.

I ask unanimous consent that a copy of this letter be entered into the Record, and I ask unanimous consent that a copy of the article in Defense News be entered into the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 12, 1988.
President RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We applaud your success in securing a Soviet commitment to withdraw from Afghanistan. Firm U.S. resolve and assistance to the Mujahaddin convinced the Soviet Union that there could be no military victory in Afghanistan. We ask you, Mr. President, to vigorously pursue a resolution to the 13 year old conflict in Angola in your upcoming summit meeting with Mr. Gorbachev.

We have been concerned with the apparent lack of attention to Angola during recent American-Soviet discussions. We are also bothered by recent press reports that suggest that the State Department might accept a settlement in Angola that falls short of the stated U.S. policy goals, which would influence the withdrawal of all foreign forces leading to genuine national reconciliation and the holding of fair and free elections.

As you are aware, at least 40,000 Cuban troops, 2,500 Soviet military advisors and thousands of North Korean and Eastern bloc forces supported the Marxist MPLA government with sophisticated Soviet hardware over the past decade. The Marxist MPLA regime insists on waging an "unwinnable" war against the democratic opposition of UNITA. The MPLA has continuously refused to abide by the 1975 Alvor Accord which calls for a government of national unity and the holding of free and fair elections. In order to achieve national reconciliation it is imperative to remove Soviets, Cubans, and South Africans.

The United States Congress has repeatedly re-enforced the Administration's position with respect to Angola in the last two years. Most recently, on June 27, Congress unanimously approved H.R. 1827. This public bill, (Public Law 100-171), which you signed into law on July 11, 1987 condemns the Soviet-Cuban buildup in Angola and the severe human rights violations by the MPLA. It further calls upon the United States to adopt those policies which will facilitate a negotiated settlement and the holding of free and fair elections.

Most recently we have seen the African states of Nigeria, Kenya, and Zambia call for peace and reconciliation in Angola. Nigeria has even gone so far as to offer peace keeping troops to replace the non-African forces. This African initiative would not have been possible without U.S. support but we should vigorously encourage African participation in bringing together direct negotiations between the MPLA and UNITA. However, aid to UNITA should not end simply because a process of reconciliation begins.

We hope that you and the Secretary of State might convey to the Soviets, in the strongest possible terms, that the United States is committed to achieving a democratic outcome and free elections in Angola. Furthermore, we hope you emphasize that the United States will continue to support democratic elements in Angola and:

(1) encourage the MPLA and UNITA to directly negotiate with each other toward meaningful "national reconciliation" and fair elections;

(2) urge other countries in the region to follow through on their proposal to foster peace in Angola;

(3) continue to demand that all foreign forces be withdrawn and that the Soviet Union, Cuba, and South Africa cease all military aid.

The United States has an obligation to condemn injustices and tyranny wherever it may exist and to promote peace, freedom and democracy. We cannot lose sight of our obligations in Angola.

Sincerely

Dennis DeConcini, Bob Graham, Don Nickles, Alfonse D'Amato, Daniel Inouye, Steve Symms, Robert Dole, Malcolm Wallop, Lawton Chiles, David Karnes, James McClure, John McCain, Ernest Hollings, Christopher Dodd.

John Melcher, John Heinz, Jeff Bingaman, William Armstrong, Gordon Humphrey, Orrin Hatch, William Proxmire, Larry Pressler, William Roth, Jr., Richard Shelby, Dale Bumpers, Charles Grassley, Kent Conrad, Quentin Burdick, James Sasser, Pete Wilson, Jesse Helms.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 17, 1988.
President REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The following Senators wanted to be associated with the letter on Angola and UNITA that we sent to you on May 12, 1988. I am enclosing the identical letter with those signatures.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 12, 1988.
President RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We applaud your success in securing a Soviet commitment to withdraw from Afghanistan. Firm U.S. resolve and assistance to the Mujahaddin convinced the Soviet Union that there could be no military victory in Afghanistan. We ask you, Mr. President, to vigorously pursue a resolution to the 13 year old conflict in Angola in your upcoming summit meeting with Mr. Gorbachev.

We have been concerned with the apparent lack of attention to Angola during recent American-Soviet discussions. We are also bothered by recent press reports that suggest that the State Department might accept a settlement in Angola that falls short of the stated U.S. policy goals, which would influence the withdrawal of all foreign forces leading to genuine national reconciliation and the holding of fair and free elections.

As you are aware, at least 40,000 Cuban troops, 2,500 Soviet military advisors and thousands of North Korean and Eastern bloc forces supported the Marxist MPLA government with sophisticated Soviet hardware over the past decade. The Marxist MPLA regime insists on waging an "unwinnable" war against the democratic opposition of UNITA. The MPLA has continuously refused to abide by the 1975 Alvor Accord which calls for a government of national unity and the holding of free and fair elections. In order to achieve national reconciliation it is imperative to remove Soviets, Cubans, and South Africans.

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Most recently we have seen the African states of Nigeria, Kenya, and Zambia call for peace and reconciliation in Angola. Nigeria has even gone so far as to offer peace keeping troops to replace the non-African forces. This African initiative would not have been possible without U.S. support but we should vigorously encourage African participation in bringing together direct ngotiations between the MPLA and UNITA. However, aid to UNITA should not end simply because a process of reconciliation begins.

We hope that you and the Secretary of State might convey to the Soviets, in the strongest possible terms, that the United States is committed to achieving a democratic outcome and free elections in Angola. Furthermore, we hope you emphasize that the United States will continue to support democratic elements in Angola and:

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(2) urge other countries in the region to follow-through on their proposal to foster peace in Angola;

(3) continue to demand that all foreign forces be withdrawn and that the Soviet Union, Cuba, and South Africa cease all military aid.

The United States has an obligation to condemn injustices and tyranny wherever it may exist and to promote peace, freedom and democracy. We cannot lose sight of our obligations in Angola.

Sincerely,

LLOYD BENTSEN,
WENDELL FORD,
DAN QUAYLE,
JAMES EXON,
STROM THURMOND,
BOB KASTEN.

[From the Defense News, May 23, 1988]

UNITED STATES PLACES ANGOLA ATOP AGENDA FOR MAY SUMMIT

(By Peter Adams)

WASHINGTON.—In the absence of any progress in arms control, the Moscow summit between President Reagan and Soviet leader Mikhail Gorbachev may focus on resolving the 12-year civil war in Angola.

In fact, U.S. negotiators are seeking a deal on Angola similar to the one agreed to by the United States and Soviet Union on Afghanistan, said Edward Rowny, special arms control adviser to the Secretary of State.

Rowny, in an interview with Defense News last Tuesday, said the two sides are at too great an impasse on major arms control issues to make any progress on strategic arms reduction talks (START) and that the administration now is focusing on human rights and regional issues.

The Reagan-Gorbachev summit, from May 29 to June 2, will be the fourth meeting between the leaders. While the summit last December emphasized the signing of the treaty to ban intermediate-range nuclear (INF) missiles from Europe, the Moscow meeting promises little in the arms control arena, Rowny said.

"We have been struggling to get them [the Soviets] to broaden the agenda to regional and human rights issues. The Soviet intention was to stick to arms control. We dragged them kicking and screaming," Rowney said.

The war in Angola is between the Marxist government, supported by Soviet arms and 37,000 Cuban troops, and the South African and U.S.-backed insurgents. Rowny said the United States might be willing to withdraw support for the rebels if the Soviets and Cubans pulled out.

Such an agreement would be similar to U.S. promises to withdraw support for Afghan rebels, the mujahedeen, if the Soviet Union ceases its support for the Communist government in Kabul.

"Angola is outstanding at this point," said Rowny, a retired Lt. Gen. who served as the chief of the U.S. START delegation in Geneva. He said that, so far, the Soviets are interested. "There has been a surprising acquiescence from the Soviets and Cubans," he said.

Like the Afghanistan war, the Angolan conflict has been a stalement between government and Cuban forces and the 35,000 guerrillas of the National Union for the Total Independence of Angola.

While Rowny said the United States was not pressing for an exact timetable for Cuban withdrawal from Angola, the United States would end its military aid, which includes Stinger antiaircraft missiles, "when we are satisfied there is a Cuban pullout. It would be a quid pro quo."

Rowny, 71, said the administration was encouraged by the withdrawal of Soviet troops from Afghanistan begun last week. "That makes discussions with the Soviets on these other regional and human rights issues easier. I think they stepped it up, front end loading it, before the summit. And we are going to watch this carefully," he said.

Saying that arms control "is not an overarching" concern of this summit, Rowny explained that several differences between U.S. and Soviet negotiators have put the process on hold.

In particular, the two sides are stuck on the problem of sea-launched cruise missiles. "There has been no progress there. That is probably the greatest wedge," Rowny said. While Moscow wants a limit of 1,000 sea-launched cruise missiles, Washington would like to forgo a numerical limit in favor of an exchange of data on the number of such missiles on each side's inventory.

The other area dividing negotiators is the question of how to count air-launched cruise missiles. "This is more manageable," Rowny said, "because they [the Soviets] want to talk about it."

The United States prefers to count each bomber as carrying 10 air-launched cruise missiles, while the Soviet Union says that each bomber should be counted as carrying the maximum number of such missiles. "That penalizes our operational flexibility to mix" cruise missiles and gravity bombs on aircraft, Rowny said.

ARMS CONTROL AND HELSINKI

Mr. DECONCINI. Mr. President, I would like to clarify the role which the Helsinki process plays in arms control and conventional stability. The Helsinki accords specifically mandate the participating States to pursue military security in the area of confidence-building measures such as prior notification of major military maneuvers and exchange of observers. The Stockholm Follow-on Conference added additional CSBM's or confidence and security building measures which focus on further requirements for advanced notification of military activities. Talks are currently ongoing at the Vienna review meeting regarding CSBM's.

Helsinki is also associated with mutual balanced force reduction [MBFR]. These talks began in 1973 and were designed to create a more stable balance of forces in central Europe. Their only relation to Helsinki is that they were a Western prerequisite to the initiation of the CSCE process.

More recently, informal negotiations were begun among the "23"—NATO and the Warsaw Pact countries—for possible negotiations to begin on conventional force stability [CST] at lower levels.

These would expand the scope of MBFR from central Europe to include countries from the Atlantic to the Urals. The CST talks would be placed within the framework of CSCE, a phrase currently being defined in Vienna. The debate centers on how closely these talks will be linked with the CSCE process.

While confidence-building measures and conventional stability talks are not by themselves neogitations to reduce nuclear arms, the ultimate objective of Helsinki is:

> To exert genuine efforts towards containing an increasing arms build-up as well as towards strengthening confidence and security and promoting disarmament.

These efforts were not intended to take place strictly in a multilateral forum. The Helsinki signatories agreed in Madrid that:

> (R)enewed efforts should be made to give full effect to the Final Act through concrete action, unilateral, bilateral and multilateral * * *

They further recognized as important that:

> (T)reaties and agreements concluded by the participating states reflect and be consonant with the relevant principles and, where appropriate, refer to them.

Mr. President, the Helsinki process is not meant to take place in a strictly multilateral context. The ultimate objective of the accords is to achieve peace and security through complete disarmament and full compliance with the human rights provisions of the Helsinki agreements. While Helsinki may not play a direct role in negotiating arms control agreements, it does have as its aim the promotion of arms control and the creation of a climate of confidence in which complete disarmament can finally be achieved. It seeks to place arms control agreements in an environment which goes beyond complex and technical verification formulas.

AGENT ORANGE

Mr. MURKOWSKI. Mr. President, I recently received a letter dated May 20, 1988, from the Centers for Disease Control [CDC] which contained some very startling and important information about an increased incidence of a disease known as non-Hodgkin's lymphoma in Vietnam veterans. CDC stated that through additional and complete analysis of the data components compiled in conjunction with their comprehensive health study called the Vietnam Experience Study [VES] they had "identified seven confirmed cases of non-Hodgkin's lymphoma in the Vietnam group compared to one confirmed case in the non-Vietnam group." Let me repeat, Mr. President, seven cases in the Vietnam group compared with one in the non-Vietnam group. This is a substantial increase.

I sincerely regret and find it very troubling that this information was not available at the time of the Senate Veterans' Affairs Committee's May 12, 1988, hearing on this issue. On April 28, 1988, CDC was invited to testify at the hearing on Agent Orange issues and pending Agent Orange legislation. In this light, it would have been very helpful to the committee to have had the information contained in the letter—received just 8 days after the hearings—available at the time of the hearing. It is essential that we avoid even the appearance of failing to expedite the dissemination of information relating to Agent Orange, especially as we continue our deliberations on this issue.

Mr. President, this new information provided by CDC adds substantially to the existing data bases which indicated an association between Agent Orange and non-Hodgkin's lymphoma. I would like to elaborate on other studies which have indicated a relationship between either the Vietnam experience or exposure to Agent Orange and non-Hodgkin's lymphoma.

In September 1986, the Journal of the American Medical Association [JAMA] published a study conducted by the National Cancer Institute which showed increased incidence of non-Hodgkin's lymphoma in Kansas farmworkers who regularly used the herbicide 2,4-D, a component of Agent Orange. On February 11, 1987, Mr. Oliver Meadows, chairman of the VA's Advisory Committee on Environmental Hazards stated that, "The Council believes the study was well designed and well conducted. The Council expressed the general opinion that the study's findings, while not directly applicable due to the differences in method and exposure, did have implications for Vietnam veterans." In September 1987, the VA released the results of a study of the causes of death of over 50,000 of the over 150,000 Vietnam veterans who have died since the war. This study shows that Marines who served in Vietnam suffer from non-Hodgkin's lymphoma at more than twice the expected rate. Finally, a May 1987 article published in the Journal of the National Cancer Institute found small but significantly increased risks of developing non-Hodgkin's lymphoma in association with some occupational activities where phenoxyherbicides have been used in combination with other types of chemicals, particularly for prolonged periods.

As ranking minority member of the Committee on Veterans' Affairs, I have closely reviewed the aforementioned studies; and, as a result, I believed that there was evidence to show an association between the components of Agent Orange and non-Hodgkin's lymphoma (see CONGRESSIONAL RECORD September 17, 1987, p. S12308). Thus, on September 17, 1987, I introduced S. 1692 which would provide Veterans' Administration [VA] disability compensation to veterans who were exposed to herbicides—Agent Orange—in Vietnam and who subsequently develop non-Hodgkin's lymphoma. This bill would have also provided for service-connected death benefits to the survivors of veterans who die due to this disease after having been exposed to herbicides in Vietnam.

Mr. President, when American troops entered the war in Vietnam, we quickly realized that one of our enemy's strongest allies was the concealment offered by the thick, tropical foligage. We deprived the enemy of some of that concealment by destroying it with herbicides. Between 1962 and 1971, we sprayed 3.5 million acres with 100 million pounds of one of those herbicides, the one known as Agent Orange.

It is estimated that the spray was contaminated by over 360 pounds of a chemical called "TCDD," usually referred to as dioxin. Dioxin is a known toxin for laboratory animals. For over a decade, both Vietnam veterans and the Congress have been concerned about the possibility that veterans may suffer from adverse health effects as a result of exposure to Agent Orange. We are beginning to get some answers to the many questions surrounding this difficult issue. Unfortunately, the evidence is pointing to an association between exposure to the components of Agent Orange and non-Hodgkin's lymphoma and that Vietnam veterans have an increased incidence of this disease. The Congress has repeatedly stated that scientific and medical research must establish an association before we act. Well, it has and, in my view, it is unfair to delay action and ask Vietnam veterans to wait several more years before we acknowledge that non-Hodgkin's lymphoma is related to military service.

I urge my colleagues to join with me in supporting S. 1692. Thank you, Mr. President.

I ask unanimous consent that the CDC letter appear in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CENTERS FOR DISEASE CONTROL,
Atlanta, GA, May 20, 1988.

Hon. FRANK MURKOWSKI,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: The purpose of this letter is to provide updated information from the Vietnam Experience Study regarding certain cancers. An identical letter being sent to Senator Alan Cranston. We have also communicated this information to the House Committee on Veterans' Affairs.

Since the testimony presented at the Senate hearings on May 12, 1988, we have completed the review of medical records in an effort to validate the cases of non-Hodgkin's lymphoma and lung cancer reported by Vietnam and non-Vietnam veterans in the Vietnam Experience Study telephone interview. Prior to the testimony, all of the records were not available. Based on the results of this validation, combined with the data from the mortality component of the Vietnam Experience Study, we have identified seven confirmed cases of non-Hodgkin's lymphoma in the Vietnam group compared to one confirmed case in the non-Vietnam group. As for lung cancer, we have identified one confirmed case in the Vietnam group compared to two confirmed cases in the non-Vietnam group. These numbers differ slightly from those reported during the hearing and represent the current and final data from the Vietnam Experience Study. Additional cases of these cancers may be identified in the future if additional mortality updates of these cohorts are done.

The data contained in the above paragraph were not part of the Vietnam Experience Study as published in the Journal of the American Medical Association. The original protocol stated that the number of these cancers in the two cohorts would be so small that it was necessary to construct a special study for these cancers. Thus, the Selected Cancers Study is being conducted. With heightened concern about non-Hodgkin's lymphoma in the past 6 months, we decided to try to obtain the medical records on the veterans who reported anything that could possibly be associated with this disease. We thus obtained 50 records, and the 8 cases cited above were identified. At the time the testimony was prepared for the Senate, not all records necessary to validate the findings had been received; thus, we reported three unconfirmed and three confirmed cases in the Vietnam veteran population and one confirmed in the non-Vietnam veteran population. The remaining records for validation were received on May 17. While the difference between seven and one appears substantial, the data cannot be interpreted with certainty because we did not obtain all medical records on all the veterans interviewed. The final interpretation of the data on non-Hodgkin's lymphoma awaits completion of the Selected Cancers Study.

With respect to the Selected Cancers Study, we plan to conduct a preliminary analysis of the data collected to date on non-Hodgkin's lymphoma and to submit this analysis to the Agent Orange Working Group Science Panel and the Office of Technology Assessment for peer review. Following these reviews, we could provide the findings to the House and Senate, noting the limitations of this preliminary anaylsis of the non-Hodgkin's lymphoma data. We anticipate that this process will take approximately 3 months. It should be noted that these data can only be considered preliminary, and the limitations may be so severe that it would not be wise to report them until the study is completed late in 1989 or early in 1990.

Sincerely yours,
JAMES O. MASON, M.D., Dr. P.H.,
Assistant Surgeon General Director.

FIRST, TAKE BACK THE STREETS; SECOND, RAISE THE PRICE; THIRD, LEARN AVOIDANCE; FOURTH, PROVIDE TREATMENT ON REQUEST

Mr. MOYNIHAN. Mr. President, these four statements were inspired by a hearing of the Subcommittee on Terrorism, Narcotics, and International Operations of the Committee on Foreign Relations, held March 14, 1988, to consider the State Department's most recent "International Narcotics Control Strategy Report." Present at the hearing were Assistant Secretary Anne Wrobleski, of the State Department's Narcotics Bureau; Thomas Byrne of the Drug Enforcement Administration; and William von Raab, Commissioner of the Customs Service.

What struck me was the complete absence of anything that could be described as "strategy" in the stolid, country-by-country chronicle. As noted, 42 countries. Strategy means something. Or ought. The root of the word is the Greek stategos, meaning general. It denotes the art of command. Webster's 3d gives a good summation: "The science and art of employing the political, economic, psychological, and military forces of a nation or group of nations to afford the maximum support to adopt policies in peace or war." Note that military resources are mentioned last. The great battles are won by those who avoid ever having a fight, a point to be pursued. Prompted by a series of articles by Peter Passel in the New York Times on the economics of the war on drugs—Webster's second category—I asked a few simple questions about supply and demand and, as noted earlier, received puzzled responses. Clearly, that category of question did not arise in the daily work of our strategists, which suggests, of course, that they are not strategists at all. Tacticians, maybe. Bureaucrats, certainly. Generals?—No.

How then might we begin to think anew in this matter? I don't want to be presumptuous, but I can hardly deny having asserted earlier on that some 20 years ago I was one of the very few persons who was thinking about the subject, and who happened also to be a senior advisor to the President of the United States in an administration which was perfectly capable of concern over a real social issue, and not altogether indifferent to the fact that it was an issue that caused no little difficulty for their political adversaries. Time has passed, and many new persons have entered the field. It is scarcely credible that anything I might suggest will be new. But it is possible that I might lend some force to existing argument by contrasting the present situation with the one I first encountered and suggesting, as I have been doing throughout, that what might have worked in 1969 won't work in 1989. What, after all, are the uses of experience?

And so to a crucial point. Cocaine is our present problem, and cocaine is not heroin. Cocaine, is, if its producers wish, a jungle crop, and the potential supply is unlimited, or as near as makes no matter. If New Hampshire ran out of snow one winter, and it was proposed to use cocaine for the ski slopes, it could be done. Can I say it more emphatically than that?

To wit: The Department of Agriculture botanists figure that coca, the plant that is, can be grown in virtually any subtropical region of the world which gets between 40 and 240 inches of rain per year, where it never freezes, and where the land is not so swampy as to be waterlogged. In South America this comes to—a very—rough 2,500,000 square miles. Of this region, the Strategy report informs us that 679 square miles are currently under cultivation. If you believe this, you will believe anything; 679 square miles that is, rather than 671 or 667. No matter, a small patch in a big continent. The drug interdictors—not the botanists—estimate that the current American demand could be supplied by the production—at four crops a year—of some 96 square miles. This, to say again, is an area somewhat smaller than the borough of Queens—109 square miles—in the city of New York. We can get silly here, but why not? Our officials estimate that 0.0003 of the acreage available for coca production in South America is now so employed; 0.00004—extra naught—supplies the United States. If somehow extirpated, the producers would not really have great difficulty finding alternative plots. No pun intended. In addition, there is Africa, India, and Java, where coca was once cultivated as part of the botanical exchanges of the colonial era. If more need be said I would refer interested parties to the cover of the current Strategy report. There are two photographs. One shows us a small biplane silhouetted against a trackless expanse of Andean jungle. The other a jumble of tents and cooking pots set ablaze by some dauntless search and destroy mission in Peru that has managed to avoid ambush by Maoist guerrillas, or else pursued their particular shining path by keeping the coke, burning the campsite, and sharing the profits.

The evidence in this regard is settled. An excellent article in Newsday by Saul Friedman reports that the estimated amount of cocaine entering the United States illegally all but doubled between 1984 and 1986, reaching something like 137 tons.

The situation with heroin is different only to the degree that our demand is less. Annual consumption of heroin in the United States comes to something like 6 metric tons. This will have been produced from some 60 metric tons of opium. It would take perhaps 16 square miles to produce this amount in the Swat Valley of Pakistan. Which in turn translates into an area smaller than the size of Manhattan—23 square miles.

The situation regarding marijuana is quite different, in that a large and growing proportion of the approximately 4,700 metric tons of marijuana consumed in the United States is cultivated in the United States. In 1987, domestic production supplied 25 percent of U.S. marijuana consumption, up from 18 percent in 1986. Again, to repeat, the U.S. Forest Service estimates that 16,000 square miles of land under its control is being used for marijuana cultivation, and that marijuana is now the largest cash crop in California, Oregon, and Tennessee.

In all these discussions there is much throwing about of numbers: dollars spent on interdiction, volume of drugs seized; street value there of, and such like. One is reminded of photographs in the New York tabloids a half century ago of Federal agents, or perhaps they were merely plainclothes New York City policemen, smashing up slot machines with sledge hammers. It was, I suppose, a living. But no one told this to Donald Trump.

What the statistics show, essentially, is that interdiction efforts are at present essentially unavailing. As I read the Newsday charts, for which the sources are the General Accounting Office and the Drug Enforcement Agency, the curves, as economists say, are virtually identical. Thus, between 1984 and 1987 the amount spent by the Federal Government on the interdiction program about doubled, rising from just over $700 million to just under $1.4 billion. Federal seizures of cocaine about doubled also, rising from just under 40,000 pounds to just about 80,000 pounds. And, as noted, the amount that entered the country also doubled. A 1985 GAO report states:

> The results of the National Narcotics Border Interdiction System's activities as a nationwide coordinator of drug interdictions have been minimal * * * and the improvements have fallen far short of substantially reducing the flow of illegal drugs into the U.S.

Would it not be reasonable to surmise that given our 8,633 miles of sea coast and 7,458 miles of land border, the very modest cost of the product, and the great profits to be made from its sale, that producers will simply push enough of the various substances against our borders until the required amount gets through?

In all truth, it is surprising that we do as well as we have done, given the incredible increase in travel in recent years. Recall that in the age of prohibition there was virtually no air traffic, and such airplanes as did enter the United States would never have been cost-efficient transport for whiskey by the case. It had to come in by sea, and of course it did. But cocaine and heroin are wholly different matters. With some 33 million persons arriving on international airflights in the United States each year, the prospect of stopping every suitcase, or tobacco pouch, filled with heroin or cocaine is beyond reason.

Similarly, the notion that foreign governments are going to continue to cooperate with us in search and destroy missions, much less this incredible business of spraying herbicides all over the countryside, is sheer arrogance, as well as stupidity. A recent Economist report for Jamaica begins:

> The chances of a victory for Mr. Edward Seaga, Jamaica's prime minister since 1980, in the election due later this year look like being [sic] reduced by his attack on the drug business. His government's anti-cannabis campaign, run in partnership with the Americans, has angered both the drug dealers and the thousand of small farmers who depend on the crop.
>
> Cannabis, known locally as ganja, is probably Jamaica's biggest export. The poor grow it, smoke it and sell it to tourists or to middlemen; some of the rich make millions by exporting it to America. But many clean-living middle-class Jamaicans deplore its effects on the country's efficiency and morals.
>
> In the early 1980s Mr. Seaga, encouraged by the Reagan administration, launched the "Buccaneer" campaign to rid the island of the profitable weed. Last year an American helicopter—piloted by a woman, whose ruthlessness much impressed villagers—sprayed fields in the mountainous area to which the crop had retreated. The campaign among the ganja growers and other farmers who say that the spraying has killed livestock. Yet ganja farmers in the prime growing areas of the north say they will be planting more this year than last. They hope the approaching election will encourage the government to take a more lenient view of their industry.

In this context we may ask ourselves, as Lester C. Thurow has done, whether we would be as willing to cooperate with a foreign government that wished us to put an end to growing tobacco. I would ask the Senate to think about this. Let us suppose an especially health-minded government came to office in Ottawa, and let it be known that they could no longer accept the cultivation of tobacco in the United States. Especially now that the U.S. Surgeon General has declared tobacco to be addictive. Accordingly, they were sending down helicopters, piloted by women of much ruthlessness, that would more or less poison the vegetation of North Carolina. Dare we not suppose that the senior Senator, my distinguished friend JESSE HELMS, and no less, that most learned and accomplished Senator, the Honorable TERRY SANFORTH, would be heard from in this matter? Even if the Canadians had let it be known that the price of our noncooperation would be their withdrawal from the North American Air Defense Command and the North Atlantic Treaty Organization.

This is hardly a novel point. The spring 1988 issue of Foreign Policy has an engaging article by Ethan Nadelman of the Woodrow Wilson School at Princeton University, arguing the point with some vehemence. Nadelman writes:

> The international demand for illegal drugs such as marijuana and cocaine has proved to be an economic boom for Latin America . . . Hundreds of thousands of farm families, primarily in Bolivia, Colombia and Peru, have earned far more from growing coca, the agricultural raw material for cocaine, than they would have from any other crop.

But Nadelman also states that the economic boom comes at great cost to these countries, not least in their ability to govern their own territories and combat drug production.

> In the final analysis, the monumental scope of the illicit drug traffic, created largely by U.S. demand and the illegality of the market, has eroded the ultimate authority of the state as a symbol and enforcer of law and order in many Latin American countries.

And so I repeat. The French Connection model will not stop the production of drugs that are in demand in the United States. The prohibition model will not stop them from being smuggled into the United States.

Does this mean an end to such efforts? Certainly not. If nothing else, self-respect argues that we keep trying, and indeed try harder. We have got to send the right moral signals to the rest of the world. Especially where smugglers settle among us and become traffickers, as have many Colombians and Jamaicans, we must be prepared to answer the question addressed to me at 2 Avenue Gabriel in Paris on the 11th of December 1969: "What kind of people are you?" Which is no more than to say that we must be seen as a people who do not take lightly to the devastation of our youth, especially our least privileged, most vulnerable youth.

Clearly, it is to the demand side of the equation that we must now turn. Or should do. I am not all that certain that we will. It is easier with this as with other matters to rail against foreigners. Talking of the issue with law enforcement officials in New York I have been struck with the force of this view. "Invade Bolivia." But it doesn't matter. We won't invade Bolivia. Or if we do, we won't stay. And all we will have done is to get coca production going in Brazil where it doesn't seem much in evidence at the moment.

This, then, is a test of our politics. That is to say of the capacity of parties and leaders and administrations first to learn and then to teach. Just as clearly it is going to be hugely difficult. The problem has been with us, in epidemic interludes, for at least a century and it appears to me we have learned precious little and taught almost nothing at all.

On the other hand it is epidemic once more in a particularly virulent form, that of the cocaine derivative known as crack; and with the increasing association of heroin use with acquired immune deficiency syndrome, it is a plague indeed.

This latter point can hardly be overstated. Drug use now threatens the lives of persons wholly uninvolved with drugs. In New York City today something like 1 child in 61 is born with the HIV virus. Of these approximately half will develop symptomatic AIDS itself and will thereupon—slowly but inevitably—die. The birth of children with AIDS follows in most instances from sexual transmissions from an infected male. There follows, however, an infected female. That female can thereupon infect males. The incidence of transmission through sexual intercourse is low. Something like a hundredth the rate of common venereal disease. But it is even so a predictable rate, and in consequence we must accept that AIDS has entered the heterosexual population. Whether it will reach endemic, or indeed epidemic proportions, is not something scientists are willing to project. Yet, the possibility is there, and it will continue as long as intravenous drug use continues. And so the case for social mobilization is both overwhelming and urgent.

In the third of these statements I presented some passages from a paper I wrote for the Governors' Conference at the State Department, held here in Washington in December 1969. I cited a statement about the limits of governments:

> Their weakness is that of almost all governments in the 20th Century. All of them in their different yet inimitable ways have had to struggle with a task which is becoming steadily more difficult to perform: how to live up to their names and govern.

This is never a welcome proposition, especially in political discourse. Given a problem, people hope for solutions, and there is no very great reward for insisting that no very obvious solution may be at hand. Too frequently this is seen as a "cop out," an excuse for inaction. It is nothing of the sort, or needn't be. In such situations the art of government is to begin with those things that government can do. Start with what you know; hope to learn more. Keep track. Here, then, is such a program.

FIRST, TAKE BACK THE STREETS

The U.S. Constitution opens with a statement of the purposes of government: to "establish justice," to "ensure domestic tranquility." Law and order. Nothing so affronts the people's sense of these matters, what Charles Murray has called, "the perceived lawfulness of the system," than the seeming impunity with which drugs are illegally bought and sold on our streets. This goes to the police powers of the State, and they must be exercised. And they can be.

Until a year or so ago, in the city of New York, for example, drug dealing was all but public; at most somewhat harassed. But in some neighborhoods, this is no more. In January 1984, Police Commissioner Benjamin Ward ordered Operation Pressure Point to take back the streets of a notoriously infested section of the lower east side of Manhattan known as Alphabet City. It worked. Did dealers simply go elsewhere? Some almost certainly. Did many go indoors? Yes. We now witness the phenomenon of the "crack house." Ride through any number of city neighborhoods with police officers and they will point out houses and apartments where crack is sold. Children move the drugs about; serve as lookouts; often do the actual dealing. But how very different from the curb exchanges of 2 or 3 years ago.

The crack house is a useful reminder: Demand will produce whatever strategems are required by the supply side actors in this continuing, shifting market. In one sense it has made the work of the police more difficult and more dangerous. Not long ago a New York City police officer was killed in a raid on an suspect apartment. Yet absent a raid no evidence will be seized. Standing outside with bullhorns simply means the evidence goes down the drain. And so the cycle goes round.

Still there are two manifest gains in the tactics inaugurated by Commissioner Ward, and yet more extensive activities of the Los Angeles Police Department against the growing number of crack-oriented street gangs. First, what might be called quality of life. Citizens have a right to expect tranquility on their streets. Drug dealers in hiding are better than drug dealers on display. Further—this is speculative but seems to be a general view—the harassment of street sellers involved a corresponding harassment of street buyers. It becomes more difficult: marginally more risky, marginally less attractive. In this field we will constantly be working on margins.

Now a minimum condition of this work is that there should be sufficient policy. Here we come again to the central contradiction of the Reagan administration's program. It has surely raised the rhetorical effort—and this is not to be dismissed. Not at all. But it has, until just now, persistently and insistently reduced the resources available. At Albert Einstein College of Medicine in 1984, I spoke of the effort to reduce the number of customs agents, even as we raised the rhetoric of interdiction. We encounter the same pattern with respect to support of local police. In 1968, following the urban unrest of that period, Congress enacted the Crime Control and Safe Streets Act, which was signed by President Johnson. Here are the sums allocated to New York State from the time the antidrug program of the Nixon administration commenced until the Reagan administration had undone most of the effort, with a closing upturn brought about by the Anti-Drug Abuse Act of 1986, a measure which basically originated in the Congress.

	Millions
1969	$3.0
1970	18.8
1971	36.6
1972	53.1
1973	56.4
1974	54.0
1975	59.0
1976	70.0
1977	42.9
1978	42.6
1979	36.2
1980	28.3
1981	4.4
1982	2.9
1983	2.9
1984	2.9
1985	6.6
1986	10.8

If I may be personal, at the time I traveled to Istanbul and Paris in 1969 the Federal Government was providing $3 million a year for a street level law enforcement in New York. In President Nixon's first term this rose fifteenfold to $56 million. It reached $70 million under President Ford. Declined under President Carter. But then was virtually eliminated under President Reagan, dropping to $2.9 million in 1984, just where it had been 15 years earlier.

Surely no administration in Washington can be said to be serious about fighting drugs which systematically cuts out moneys intended to put policemen on urban street corners. The next administration of either party, recognizing the fiscal situation, simply must make this one of a limited number of priorities.

Another Federal role has to do with prosecution and punishment. If you will begin with the thought that cocaine and heroin arrive in this country illegally, it surely follows that the Federal Government has failed in the elemental duty to defend the coasts, as the old phrase had it. Surely it also follows that the Federal Government ought to be vigorous if not indeed vengeful in pursuit of drug traffickers. And it may be that it is. But you would not know this from the prison statistics. To the contrary: You would think the matter was behind us. This is a matter of huge concern to New York County's distinguished district attorney, Robert M. Morgenthau. (As to U.S. attorneys Guiliani and Molloy.) As lawyers say, I suppose I should declare my interest here. Mr. Morgenthau is an old and cherished friend. We go back together to the Kennedy administration. But he is no less a prosecutor who is repeatedly and overwhelmingly elected to that office. On February 8, 1988, he appeared before our Subcommittee on Terrorism, Narcotics and International Operations with astonishing figures as to the relationship between drugs and crime.

A 1984 study of arrestees in Manhattan showed that 56 percent of those arrested for serious crimes were abusing cocaine, heroin, or methadone, or PCP prior to their arrest. A second study, conducted in 1986, showed an even higher circulation: 78 percent of arrestees tested positive for illegal use; for those charged with robbery, the figure was 90 percent. Studies also show that individual crime rates are six to eight times higher when an individual is abusing drugs than when he is relatively drug free.

Mr. Morgenthau also cited a concomitant increase in the number of arrests made on drug charges, and in the numbers of offenders sent to prisons.

In 1984, 20,323 persons were arrested in New York City on felony drug charges. This past year, the number of felony arrests rose to more than 34,000—an increase of 67 percent. During the same period, felony drug convictions rose from 4,202 to 13,466, a 221 percent increase. Commitments of drug offenders to New York State prisons increased from 1,376 in 1984 to 4,089 in 1987, a 197 percent increase, and many thousands more received local jail sentences. That figure—4,089 defendants committed to State prison from New York City for drug offenses—is 20 percent more than the total number of defendants from all 50 states committed to federal prisons for narcotics offenses during the same period.

He followed up with this astonishing compilation:

1. UNITED STATES DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS STATISTICAL REPORT FOR 1985

. . . [T]here were 5,591 people in federal institutions on narcotics charges in 1976 and in 1985, 4,562.

In 1985, 242 people were sent to federal prison from the southern district of New York on narcotics charges and the average sentence was 44.2 months.

Finally, the average sentence served for prisoners released in 1985 on drug charges was 21.7 months.

2. STATISTICAL REPORT FOR 1986

. . . [I]n 1986 in the Southern District of New York, 241 prisoners were sent to federal institutions on narcotics charges for an average sentence of 42.1 months.

In the eastern district of Pennsylvania (Philadelphia) a total of 58 prisoners were sentenced on drug charges to an average sentence of 66 months.

In the District of Columbia 53 prisoners were sentenced to an average sentence of 92.4 months.

In the Eastern District of Michigan 64 prisoners were sentenced to an average sentence of 45.2 months.

In the Southern District of California 80 prisoners were sentenced for an average sentence of 27.7 months.

For the entire state of California 262 defendants were sentenced on drug charges.

An objective observer might well question whether these statistics support the claim of an all-out Federal law enforcement effort.

I don't know how to explain this pattern in which a derisory number of criminals are sent to Federal prisons and given, in the main, trivial sentences. It may have something to do with the "Mr. Big" complex. From the time the romantic tradition of prohibition became established in American literature, and especially, American film, there has been a special fascination with the mysterious, intriguing figure at the center of the web, or top of the world, or head of the family, or what you will. Be it Gatsby or Capone, these men have seemed larger than life, objects of awe, admiration, fear. Mr. Big. And so reputations have been made—or sought—in bringing them to justice. I began writing of this pattern almost three decades ago; not skeptically enough, as I now think, but with some notion of the avoidance of the subject by Federal authorities. Just before joining the Kennedy administration in 1961, I published a long article in the Reporter entitled "The Private Government of Organized Crime," in which, among other things, I suggested that under J. Edgar Hoover, the Federal Bureau of Investigation had meticulously avoided any responsibility for organized crime or the various semiorganized criminal syndicates that remained after prohibition. For my pains Mr. J. Edgar Hoover set out to get me fired, and would have done so but for the masterful evasiveness of my boss, the venerable Arthur J. Goldberg, then Secretary of Labor. Indeed, in time, Robert F. Kennedy read the short piece and took the point, or so he said. In any event I offer the thought that this is not a new pattern, and may require frontal assault by a new President, at minimum by a new President's Attorney General.

In a word? Send 10 times as many persons to Federal prisons. Maybe 100 times. Why? Well, first, because the criminals are basically in violation of Federal law. That should be enough. Further, the Federal Government alone can assure itself the resources for this task. It can raise the money. Moreover, it can take risks other law enforcement systems are understandably reluctant to do. I think I know why Hoover acted as he did. He was fearful of money corruption, and well he might have been. But that, too, is a risk to be taken if the Nation truly is at peril, and clearly cities are. One response would simply be to pay our agents what they deserve. Not least the FBI agents in New York City, where the cost of living is wholly different from other postings.

A final, and in ways conclusive argument for greater Federal enforcement is simply that the Federal Government has it within its power to build prisons. It is a somewhat unanticipated but manifest fact of American popular government in the late 20th century that it becomes more and more difficult to construct public works, be they airports, highways, or jails. This the Federal Government can avoid, owing to the elemental fact that we still own one-third of the land area of the country. That much of it, from the Dry Tortugas to the Arctic Circle, is inhospitable is a recommendation of sorts when it comes to the incarceration of drug dealers.

SECOND, RAISE THE PRICE

Earlier I mentioned the hassle price that is raised when drug dealers go into hiding. Would-be drug users must follow them. Down mean streets into murderous hallways and up stairways to their destruction. This observation should be raised to the level of a principle.

Here we come to an important distinction as between different drugs. I am surely no authority, but I talk to authorities, as you might say, and I believe what I now say would be generally agreed to. Drugs are pharmacologically different. They may be usefully divided into two classes: Those that incapacitate, and those that don't. Obviously there are intermediate points where dosage is the determinant. One drink is one thing; 10 is another. But even so the idea is helpful, or at least I find it so. As follows. Some psychedelic drugs are immediately and visibly incapacitating; sometimes permanently so, as in the case of lysergic acid, known as LSD. Similarly, heroin use tends to be incapacitating. The effect of the drugs is relatively long lasting, and seems to be followed by stupor and passivity; thereafter by renewed craving. A heroin addict is no use to himself, no use to anyone else, and this is plain to see. Generally speaking. In consequence, heroin users have typically dropped out of the job market, and of society generally.

By contrast, cocaine is a drug which can be used for long periods without any great seeming impairment. Dr. Norman Zinberg, who has studied this subject longer than any physician of my acquaintance, suggests that athletes are not wrong when they claim, as some have done, that cocaine use improved their performance. Now it cannot actually raise performance above natural capacity, but it can—temporarily—bring it up to that point. Fascinating. This would explain the reported widespread use of cocaine in high intensity jobs such as we associate with Wall Street. Dr. Zinberg hastens to point out that this stage won't last. Continued use of cocaine invariably brings ruin. But it is quite a while before there is nothing left to lose.

In the meantime, for many cocaine users, there is something left to lose. They are young, perhaps successful, at least hopeful. They would not want to be where they are heading. They are open, still, to reason.

It is in that period that drug testing is most likely to work. It is for that reason that drug testing is a powerful strategy for raising the price.

I believe this strategy is already working for the armed services. I believe it should be extended about as far as the Federal arm can reach, and not least to transportation systems which seem especially vulnerable. This does indeed raise issues of civil rights. The more then should we remember what was required to deal with 19th century epidemics. That is why officers of the U.S. Public Health Service wear uniforms.

THIRD, LEARN AVOIDANCE

An ounce of prevention * * *, as the old saying goes. At the end of the day the problem of drug abuse in the United States will recede when drugs cease to have any attraction in what for better or worse is known as the youth culture. That is when habits form which thereafter tend to persist. Do we all understand this? I am not sure, especially where drugs are concerned. There continues to be so much talk about drug pushers, with the image of dirty old men in trench coats hanging around schoolyards. My understanding, which may be out of date but which was firm enough when I first got involved with this issue is that drug use is transmitted much as infectious diseases. Again, a medical analogy. Typical infectious diseases are transmitted in the very early virulent stage of the illness. Similarly, it is new users of drugs such as heroin who attract still newer ones. Old victims of yellow fever, and old junkies attract few new victims.

There is something called social learning: adaptation to new circumstances. Over generations, or whatever, societies learn to avoid what is most dangerous to their survival. Maybe they don't. I don't want to get into any Darwinian debate. Let's assume that some at least do. Forty years ago in a French seaport, breakfast for working men, or at least some working men, consisted of a single shot of rum taken as Americans today down a dollop of orange juice, followed by a second shot of rum poured in a cup of black coffee. That was a pattern all over northern Europe and into the Balkans. It would be interesting to know whether it has changed. I expect you have found the same pattern here in the United States in the first-half of the 19th century. Certainly in Mark Twain's day gentlemen met at Fifth Avenue hotels for an eye opener at about 11 o'clock. We did much the same here in the Senate until a generation ago. Not long ago our esteemed colleague CLAUDE PEPPER pointed out a door in a passageway not far from where I speak. One morning he was walking by when Senator Harry S Truman emerged from the room within. He had just had his morning bourbon, Senator PEPPER reports. Thus revived, or awakened, he proposed to his Florida colleague that a committee be established to investigate abuses in the now-booming war industries. Otherwise, he said, the Republicans will do it for us. Whence came the Truman Committee and much else!

As a society, we learned not to do this, which is to say not, to use hard liquor early in the day. It is called avoidance. It took a long time, however. As in all modern societies we now have a different, or extended attitude toward social learning. We try to teach. We try to devise ways to bring children and young persons to understand what is good for them and bad for them, thereby to acquire good habits. I can recall as a child in New York City being taught elemental hygiene. You know: soap and water. I think that was mostly understood by then, but it hadn't been when the curriculum got started half a century or so earlier. Who would have thought that soap would have anything to do with influenza.

Teaching about drug abuse is no more problematic than other issues, save that failure is more costly. I think it fair to say that we don't know a great deal about how to do this. But we are learning. One distinguished teacher and learner is Gilbert J. Botvin, director of the Laboratory of Health Behavior Research in the Department of Public Health of The New York Hospital-Cornell Medical Center. I recently asked him about the state of knowledge in this area, and he replied with a succinct and hugely informative letter, which I would like to share with the Senate:

1. As you know, substance abuse in our society continues to be of epidemic proportions, despite the fact that national surveys have reported reductions in the use of some substances (e.g., marijuana) over the past few years.

2. The onset and early stages of substance use typically occur during the adolescent years, in a relatively well defined developmental progression which corresponds to the prevalence of particular substances in our society. For example, this progression begins with alcohol use, followed by cigarette smoking and marijuana use; the use of opiates generally occurs toward the end of this developmental sequence.

3. Experimentation is generally confined to social situations. Later, as use escalates and becomes more frequent, it also occurs outside of the context of social situations, frequently in an effort to cope with real or perceived problems.

4. As is true with many behaviors, substance use is socially learned. Moreover, it is promoted by a complex array of cognitive, attitudinal, sociocultural, personality, and developmental factors. As use becomes more regular, pharmacologic factors become important in maintaining the use of dependency producing psychoactive substances.

5. This all presupposes a certain level of availability. It is axiomatic that any substantial reduction in availability would necessarily impact on the prevalence of drug use. Supply reduction strategies are appealing for this reason; however, contemporary efforts to stem the flow of drugs from other countries have been remarkably unsuccessful. Similarly, efforts through legislation and enforcement to control the availability of substances produced in this country (including the availability of tobacco products and alcoholic beverages for minors) have left much to be desired.

6. Traditional approaches to substance abuse prevention have focused almost exclusively on providing adolescents with facts about the adverse consequences of using drugs, frequently relying on scare tactics.

7. The extant research literature clearly indicates that these approaches are not effective when used alone. Certainly children and adolescents need to be cognizant of the relevant facts. However, they also need to learn how to identify and resist negative social influences to use drugs as well as to learn skills for coping effectively with life's many challenges.

8. As I indicated in the chapters on prevention research that I wrote for the National Institute on Drug Abuse's First Triennial Report to Congress (1986), significant progress has been made in the area of substance abuse prevention in recent years. The most successful strategies have been those which either (1) teach adolescents "refusal" or "social resistance" skills or (2) those which include the teaching of social resistance skills within the context of a more comprehensive prevention approach involving the teaching of material designed to enhance overall personal competence.

9. Although we should recognize both the limitations of the existing prevention literature and the need for future research, we should not underestimate the importance of recent advances in the field of substance abuse prevention. Over 25 studies have demonstrated the efficacy of these school-based prevention strategies (typically targeted at junior high school students).

10. Reductions in substance use prevalence and/or incidence of 30% to 80% have been reported in a number of studies. Most of these prevention approaches have focused on cigarette smoking, although more recently research has also been conducted which focuses on marijuana use and alcohol abuse.

11. The results of our research here at Cornell with a prevention strategy which focuses on teaching adolescents skills for resisting social influences to engage in substance use within the context of a broader program designed to enhance basic personal and social skills have been very promising.

12. However, while the results of our research have indicated that reductions of between 50% and 80% are possible with respect to cigarette smoking, alcohol misuse, and marijuana use during the first two years of junior high school, additional research is needed to determine the most effective method of maintaining initial preventive gains throughout the transition period from junior to senior high school.

13. The problem of substance abuse is one of the most pressing facing our nation, particularly in view of the connection between IV drug use and AIDS. Despite the sense of urgency that we all feel, it should be recognized that these are complex problems which, until recently, have been largely unaffected by our best efforts. The science of prevention is still in its infancy. Although progress has been painfully slow, the potential of prevention is substantial.

14. In our own research at Cornell Medical College, we have focused primary attention on the development and testing of school-based prevention approaches. The development of effective school-based programs is, however, just one small part of what needs to be done. To ultimately succeed, a combination of effective school-based, community, parent, and law enforcement efforts will obviously be required.

15. The substance abuse prevention strategies that are currently being tested also offer the potential of being applicable to several related areas such as mental health promotion and the primary prevention of psychopathology, delinquency prevention, the prevention of premature sexual activity and teenage pregnancy and AIDS prevention/risk-reduction.

16. In view of the seriousness of the problem of drugs in our nation, particularly in major urban centers like New York City, more resources, along with careful and judicious allocation of those resources, are needed. Promising prevention approaches have been developed which offer the potential for cutting drug abuse in half; however, they must be further tested and refined before they can be implemented on a large scale. Unfortunately, the vagaries of federal funding for meritorious research and service programs, frequently undermines progress.

It seems obvious, and I think you will agree with this, that while efforts to interdict the flow of drugs should continue to be made, a significant increase in demand reduction efforts is desperately needed.

And, to say again, this is something Government knows how—not to do, necessarily—but to try. Our schools are in place: churches, neighborhood centers, media, what you will. We know some things already; we can learn more. Dr. Botvin concluded his letter by describing their failed efforts, due to apparent lack of funds at the National Institute on Drug Abuse to get support for an AIDS prevention research center targeting black and hispanic youth in the New York metropolitan area. There are some kinds of problems, as U.S. Attorney Rudolph Guiliani recently observed, which respond when you throw money at them.

FOURTH, PROVIDE TREATMENT ON REQUEST

Of all the inexplicable aspects of our response to the drug epidemic, none seems more unforgivable to me than our response to those who, having got "into" drugs, come asking for help to get out. Here is an account of the situation in New York City by Peter Kerr:

Growing numbers of poor, young teenagers are abusing crack in New York City, but there is practically no place for parents or social service agencies to send them for drug treatment, according to experts in drug abuse and youth issues.

The problem has remained hidden, experts say, because the courts and social service agencies rarely identify the primary problem of youths under 16 as drug abuse, and no studies have been conducted to determine specifically the extent of cocaine smoking in that age group.

Based on a study conducted before the crack epidemic began in 1985, officials estimated that there are at least 97,000 people under the age of 16 who are heavy drug abusers in the state, with most of them in New York City.

However, there are fewer than 150 spaces in publicly financed residential drug treatment programs for the most severely addicted people under 16, according to the State Division of Substance Abuse Services. And, experts say there are not enough outpatient programs for the young as well.

The agency which is responsible for drug treatment in the state attributes the shortage of residential drug treatment spaces in part to the fact that people under 16 cannot receive public assistance in the city to pay for residential treatment or Medicaid coverage to pay for medical expenses.

"I see this as a very, very big problem in the inner city, and no one is getting data on these kids," said Dr. Robert B. Milman a professor of Psychiatry at Cornell University and the director of drug and alcohol treatment programs at New York Hospital.

"In the inner city underclass crack use is epidemic in that younger age group," Dr. Milman said. "You desperately need more residential treatment, more outpatient treatment and more trained people to deal with kids on drugs."

A similar lack of data and programs for young adolescents involved with drugs is one of the major problems confronting health officials nationally, said Chauncey L. Veach, the president of the National Association of State Alcohol and Drug Abuse Directors and the official in charge of drug and alcohol programs in California.

"What you have got in New York is a good general rule for the problem everywhere in the country," Mr. Veach said. "Every state in the country listed youth as the greatest unmet need."

Despite the lack of data, the operators of drug treatment programs, pediatricians at city hospitals, drug researchers and Legal Aid lawyers who work with juveniles say that over the last 18 months in the city's poorest neighborhoods young teen-agers and even some children have increasingly become involved in selling and using the highly addictive drug.

> Young teen-agers are also involved with a wide range of other drugs, they say, and youths under 18 sometimes engage in robbery, burglary and prostitution to support their drug habits.
>
> Last month, for example, a 15-year-old boy in Queens, described by the police as a member of a group of youths who smoked crack and packaged it for sale, was charged with murder and arson in a fire in a private home where a 12-year-old boy was killed.
>
> Perhaps the best illustrations of the problem are youths such as 14-year-old Troy, who began smoking crack in his north Bronx neighborhood when he was 11 years old. Troy is one of 28 young people being treated at Outreach Project, the only publicly financed residential treatment program in New York restricted to teen agers under 16.
>
> Within weeks, Troy found himself with a $75-a-day habit. Together with a friend, who was 15, he began breaking into homes near his mother's apartment on 221st Street for jewelry, electronic equipment and cash.
>
> After breaking into more than 50 homes, he was arrested, Troy said, but he did not admit he had a drug problem. He was then sent to several group homes in the city's foster care system and an institution for emotionally troubled young people in Chester, NY, operated by Pius XII Youth and Family Services, a nonprofit agency.
>
> When Troy was sent home for weekend visits, he said, he continued breaking into houses and buying drugs which he brought back to share with other young people at Pius XII.
>
> ### KIND OF A COMPETITION
>
> "The kids would bring back cocaine, crack, marijuana", Troy said. "It was kind of a competition on how much you could bring back."
>
> A spokesman for Pius XII, Harry Ackerman, said he could neither confirm nor deny Troy's account, but described the problems of drug abuse among youth sent into the program as "severe". The program was limited in what it could do, Mr. Ackerman said, because the foster care system did not carefully screen children and teen-agers for drug abuse.
>
> Troy was released to his old neighborhood after 18 months, and at age 13 returned to burglary and smoking crack. By the time he was arrested three months later, his weight had dropped to 103 from its normal 140 pounds. Only then, he said, did he admit in Family Court that he had a drug problem. It took the authorities more than two months to find a space for Troy in Outreach Project.
>
> "A lot of kids are doing it," Troy said. "I got kids addicted to it. Kids got me addicted to it."
>
> Troy's story is not unusual for young addicts in New York, according to experts who say that the addicts often slip through the courts and social-services agencies without being properly identified. And even when they are, the experts say, drug treatment programs are terribly hard to find.
>
> "If magically there were 100 beds available today, we could fill them tomorrow," said Thomas Ponte, a spokesman for the Division of Substance Abuse Services in Suffolk County, where crack use is considered slight among young teen-agers. "The need is overwhelming. We get calls every day from parents, teachers, social-service agencies begging for resources. Where are you going to send them?"

Here I would return to the principle stated at the outset of this section. The art of government is to undertake to do what government can do. Or at least try. Only thereafter may we consult our hopes. This would be my attitude toward treatment of drug abusers. As best I understand, government does not know how to do this. Which is to say the medical profession does not know. There are surely informed opinions, considerable experience, some measured results. But no treatment in the sense a physician can prescribe a treatment for malaria or syphilis.

We know more than we did. We observe that heroin is the lesser of our two evils; heroin sedates, cocaine drives its users wild, or does so in the laboratory. Monkeys given free access to cocaine will use it to the point of convulsions, seizure, and death. There is no pharmacological treatment, in the manner that methadone can be an effective alternative to heroin. No replacement drug nor maintenance drug. Well, that itself is knowledge and marks progress of a sort.

For we also know that individuals can be withdrawn from cocaine use. There is a detoxification phase, a matter of weeks. If followed by intensive treatment, mostly by way of support, and then continued, supervised abstinence, there is a road back. It has been traveled by hundreds, indeed thousands. As careful a physician as Dr. Milman will say that cocaine is easy to treat in the sense that withdrawal is not as bad as with heroin.

And so let us do what we know how to do. Open treatment centers, keep them open, keep them trying. They may not work. I say again: that is not the understanding. Government can not promise that treatment will work. What it can promise and undertake and deliver is the building, the personnel, and the resources.

We would be outraged as a society to learn that hospital emergency rooms had commenced closing weekends, such that persons with severed arteries would henceforth be on their own until Monday mornings. Surely a 15-year-old crack addict turned away from treatment he has sought should arouse similar outrage. What do we get? More crime. A deeper addiction. A worse prospect altogether. And we get babies, as reported in the New York Post, May 9, 1988:

> They don't cry for their mothers. They cry because of their mothers.
>
> There are scores of babies born with drug addictions who spend the first days of their lives in the neonatal ward of Bronx Lebanon Hospital, struggling against the odds that are stacked against them before they even open their eyes.
>
> They have tremors, they sweat, their bodies stiffen, they cry excessively," said Dr. Jing Ja Yoon, chief of neonatology at the hospital.
>
> "Some of these babies weigh only one pound," she added.
>
> "Some are abandoned—the mothers sign themselves out of the hospital early because they don't want to see the baby."
>
> More than 25 percent of the infants born in the ward are suffering withdrawal symptoms or illness because of their mother's addictions, according to Yoon.
>
> Last year alone the unit treated 250 such babies, more than three times the number five years ago.
>
> Yoon blamed increase on the deadly rise of crack as the drug of choice among the poor, addicted mothers of the South Bronx.
>
> "Five years ago cocaine, heroin and methadone were all equally responsible, but in 1987, 80 percent of the babies' mothers had crack-cocaine addictions," she said.
>
> Despite the odds, 95 percent of the infants who enter Yoon's ward live—the highest survival rate in the city, according to hospital officials.
>
> But the child's chances in life often quickly diminish once it leaves the sterile, concerned confines of the ward. Some find they no longer have mothers.
>
> "The mothers don't care about the babies and they don't care about themselves," she said sadly, noting that many suffered from syphilis or AIDS.
>
> "Crack is destroying people—I've never seen mothers like this before."
>
> Yoon has also never been so busy. The tiny ward has been operating at 150 percent of capacity for months, nursing 33 babies at a time.
>
> This is the second generation of the United States," she said surveying the room of struggling young lives.
>
> "They say it's never too late, but it's not too early, either," she added.
>
> "Something has to be done."
>
> "Olivia" wishes she had never used cocaine.
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> Doctors in the neonatal ward at Bronx Labanon Hospital said 7-day-old son "Michael" probably would have been spared meningitis and a blood infection if she had remained drug-free during her pregnancy.
>
> "For him to be sick—I really wish I had just left it alone," the 23-year-old mother said as she sat in a rocking chair of the cramped ward cradling her sleeping child.
>
> "The idea that I might have had something to do with it—it was foolish—it really makes me feel awful."
>
> Olivia said she sniffed cocaine and regularly smoked marijuana before Michael was born prematurely. She denied smoking crack.
>
> The unemployed, single mom said she didn't know if she would be able to quit drugs in the future.
>
> But she vowed to keep her young son from following in her footsteps.
>
> "I'm never going to let him touch drugs," said the remorseful mother.
>
> "I want him to maybe be a lawyer or something," she added.
>
> "Now my first priority is him."

And so we repair to a simple standard. Anyone who seeks treatment for drug abuse should be provided it as a medical entitlement and a social imperative. All manner of theories and practices will follow, and most will not work or will not work very well. But there is one great advantage. A medical model elides the issue of guilt. We have a social disease here; it is even so best treated as a virus. Zinberg insists on this: Drug users must not be seen as enemy deviants. They need to be brought back into society; welcomed back. With conditions. To the IV user of heroin, one elemental proposition. He can say stoned on methadone if he wishes. But he must stop transmitting AIDS. Or what? Prison surely. And worse. That must be considered also. But until then it is responsible to try to make deals: this for that.

The trouble, of course, is that I am talking about a vast social mobilization. Dr. Milman puts it nicely in referring to New York City. About half the teenage males in the city are in schools. Trying. The other half have ringed the schools, and they are trying, too. They are trying to get the others out, into their city of destruction. Consider the odds against the strivers. Consider the odds against society.

Consider, also, the alternative. It is repetitive of me, and probably also irritating, but it was possible to project the condition of our cities in the 1980's from the condition of the 1960's. What would it be? Twenty years ago I wrote this in America magazine, that admirable publication of the Society of Jesus. It was implicit in the breakdown of family. Not long ago the Wall Street Journal summarized the argument of that seeming distant time.

> When a family breaks down, Mr. Moynihan argued, young men ultimately lose a sense of character and responsbility. "There is one unmistakable lesson in American history: A community that allows a large number of young men to grow up in broken families, dominated by women, never acquiring any stable relationship to male authority, never acquiring any set of rational expectations about the future—that community asks for and gets chaos. Crime, violence, unrest, disorder * * * are very near to inevitable.

Well, it happened. Will it go on happening? Until what? That is one of the central issues of American civilization as we enter the third century of our form of governance. It is not too great a charge to state that both that civilization and that form of government are something at risk.

EPILOGUE

Mr. MOYNIHAN. Mr. President, in these four statements I have attempted to set forth what—little—I know of the problem of drug abuse and drug addiction. I have been associated with this subject, on and off, for a quarter century, and at minimum I know something of recent history in this regard. But be clear that I know nothing of the chemistry, the pharmacology, still less the potential pharmacotherapies of dealing, for example, with cocaine use. It is more or less easy for me to stand on the Senate floor and pronounce crack to be a free-base form of cocaine hydrochloride, but were I stood in front of a laboratory bench and told to demonstrate this to the satisfaction of a chemist, I would be hard put. So, I believe, would many Senators.

But that is the condition of modern legislators. Repeatedly, from star wars to drug wars, we are asked to make judgments about technologies we really don't understand. I am indebted to Charles Murray for calling attention to an observation once made by Arthur C. Clarke that techology sufficiently advanced beyond the understanding of the observer is indistinguishable from magic. This is a large thought, not to be passed over as an agreeable paradox. It explains, I believe, a fair amount of our public conduct.

Consider two sets of pronouncements issuing from the executive branch just yesterday and the day before. On the day before, which would be Wednesday, Secretary of State Shultz, with a kind of discouraged dignity, announced that the United States was giving up its efforts to persuade the dictator of Panama, Gen. Manuel Antonio Noriega, to step down in return for our quashing two drug indictments against him in Miami. There may be one Senator who will recall that the first of these statements was made just after those indictments were handed down by a grand jury. Could there be a greater statement of impotence in the face of foreign drug dealing than the inability of the United States, having put forth the uttermost pressure, to dislodge the head of a fourth-rate armed force in a tenth-rate country, in which the United States has maintained a permanent and sizable military garrison for the better part of a century? Could there be a more stunning evidence of our ambivalence in all these matters than the clear evidence that the U.S. Government knew all along of General Noriega's drug dealings? For which we have now indicted him. Which indictments we offer to withdraw. I will detain the Senate no further on the subject.

No less painfully, just yesterday in Newark, NJ, our Vice President, who on occasion presides over this body with such graceful demeanor, called for "an international strike force to hit back quick, hard and often" at illicit drug crops and drug laboratories in other nations. The Vice President, whose administration was unable to keep our own National Forests from becoming the Nation's largest source of marijuana, is nonetheless going to wipe out the jungle hideaways of Bolivia, Colombia, Peru, Ecuador, and assorted nations along the two thousand miles or so of the Andes.

Not many years ago the Vice President was made head of what we called the South Florida Task Force, designed to stop drug running by boat and plane from the Caribbean region to the Florida Keys. On a visit to Key West before the present administration came to office, I met with DEA officials then in charge of the task. They knew they were overwhelmed. If anyone doubted this they had only to look at the mounds of speedboats piled up on the wharfs of the Key West Navy Base. They were captured by the score, much as mosquitoes may be slapped by the score—with no noticeable impact on the number of mosquitoes. Obviously, the Vice President came to something like this judgment. I note his statement:

> Do you know the biggest single problem at New York's Attica state prison, heavily fortified Attica prison? Illegal drugs. If we can't keep drugs out of Attica, that shows you * * * the severity of the problem.

The Vice President, incidentally, is wrong about Attica. But then he is wrong about much else. How does the Vice President justify going from that statement of reality to his flight of fantasy about nuking Peru? It is embarassing. Rather than go on myself, I would ask unanimous consent to place in the RECORD the account of the Vice President's speech by David Hoffman of the Washington Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 27, 1988]

HALT DRUGS AT THE SOURCE, BUSH SUGGESTS—PROPOSAL IS A MARKED SHIFT FROM ADMINISTRATION'S EMPHASIS ON BORDER INTERDICTION

(By David Hoffman)

NEWARK, NJ.—Vice President Bush, who has been in charge of the administration effort to stop drugs at the border, today outlines a marked shift in emphasis and proposed creating an "international strike force to hit back quick, hard and often" at illicit crops and drug laboratories in other nations.

Bush's proposal comes as a response to the intensifying political rancor and public unease over drug abuse, which polls show now ranks as the top concern of American voters. The Bush proposal is also designed to offset charges from Democrats that the border interdiction drive has been a failure because drugs are flooding into the United States.

Bush acknowledged that once drugs leave foreign countries and are shipped to the United States, "our effectiveness declines" in trying to stop them.

Soon after taking office in 1981, Bush was put in charge of the South Florida Task Force, a response to the drug crisis there, which was later expanded into a nationwide border interdiction system. Bush often examined seized contraband and was a champion of the interdiction approach.

But in a speech today to the Hackensack Chamber of Commerce, Bush suggested other methods to deal with a drug crisis that has worsened during the Reagan years.

"If we're going to move from holding our own in this war to winning it," he said, "we must turn our attention from the middle of the drug flow—the dealers—to the begining and the end—the producers and users, because this is not a pipeline we're talking about, controlled by a single shutoff valve. It is a flood, cascading through our thousands of miles of open border, by land, sea and air, sucked in by the prospect of enormous financial reward.

"Some propose that we seal off our borders," he added. "We can do better there. But do you know the biggest single problem at New York's Attica state prison, heavily fortified Attica prison? Illegal drugs. If we can't keep drugs out of Attica, that shows you . . . the severity of the problem."

"The logic is simple," Bush said. "The cheapest and safest way to eradicate narcotics is to destroy them at their source. Put those drugs on a Cessna or a speedboat, and the costs of interdiction escalate dramatically, even as our effectiveness declines. We need to wipe out crops wherever they are grown and take out labs wherever they exist."

Bush said with help from the U.S. intelligence community, "we know where the fields are, and the laboratories, and the airstrips. All we need is the will to act and the cooperation of the source countries."

The vice president said he would, if elected, convene a "hemispheric summit" to seek such cooperation.

Bush has been saying that he would be tougher than the likely Democratic presidential nominee, Massachusetts Gov. Michael S. Dukakis, on the drug abuse problem. He has called for the death penalty for drug kingpins, and today said he would require companies receiving federal contracts to adopt "drug-free" programs for their workers. Bush also endorsed the "zero tolerance" policy leading to the seizure of cars and yachts following discovery of small amounts of drugs, although the policy has apparently been relaxed by the administration in recent days.

If Bush needed any more evidence that the drug interdiction effort has not succeeded, he heard it from Eric Dillingham, 30, a participant in a drug rehabilitation program here who told Bush of his experience with heroin.

"It's cheap and it's good," Dillingham said, describing how easy it was to buy high-quality heroin, which he said was affecting "a whole new generation" of young people. Another patient, Veda Ayiku, 29, agreed, saying it could be bought almost anywhere. "I don't have to go too far or seek it out," she said.

The other side of this coin of desperation is the proposal to legalize drugs. Serious and learned commentators such as Edwin M. Yoder, Jr., have advanced the thought. The obviously able and concerned mayor of Baltimore, Kurt L. Schmoke, has openly advocated it. Time magazine has the proposition on this week's cover.

I would not wish to seem as responding with shock and incredulity to such proposals. They are entirely in order. If the best the administration can do is to propose to invade the Amazon jungle, then the mayor of Baltimore is well advised to speak out. On the other hand, I think we have to reject his proposal and those like it for one simple reason. We now know that cocaine is deadly. Given sufficient access—access which is available in most American cities now—cocaine will be used unto death. That in all events is the behavior of laboratory primates.

We didn't always know this. Surely we didn't at the beginning of this century when Coca Cola—syrup laced with cocaine—became our national drink. Nor yet when President McKinley endorsed a "coca wine," which was little more than liquid cocaine. Sigmund Freud did not know this when he wrote his first book. Not as you might suppose on psychotherapy, but rather on the uses of this new miracle drug—cocaine. In the matter of medical analogies, note the two uses of the term, drug. We continually and successfully search for drugs that will cure disease. We simultaneously denounce illegal drugs. We should note how often the former have become the latter. Recall the advertisements for heroin in alumni magazines at the turn of the century!

It is clear that we had a cocaine epidemic early in this century. It went away. The commentator William Raspberry has suggested that we may indeed be in the grip of a second epidemic. With the implication that this, too, may pass. That is to say, the sudden intensification—I believe epidemiologists refer to it as a "spike"—of an otherwise latent or merely endemic affliction.

I found myself thinking of this whilst reading a special issue, February 1988, of The Journal of Clinical Psychiatry on the subject, "Cocaine Abuse and Its Treatment." I was especially struck by an introductory article, "Cocaine Abuse: Historical, Epidemiological, and Psychological Perspectives" by Herbert D. Kleber of the Department of Psychiatry of the Yale University School of Medicine and the Substance Abuse Treatment Unit of the Connecticut Mental Health Center at New Haven. I ask unanimous consent to reprint portions of Dr. Kleber's article in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION COCAINE ABUSE: HISTORICAL, EPIDEMIOLOGICAL, AND PSYCHOLOGICAL PERSPECTIVES

(Herbert D. Kleber, M.D.)

The reemergence of cocaine as an epidemic drug of abuse during the past decade has led to a painful rediscovery of what had been known about the drug during the last epidemic, which occurred at the turn of the century. The clinician faces new problems posed by the development of more dangerous routes of administration and spread of the drug, fueled in part by the sensationalism of cocaine use in the mass media. Psychological factors as well as previous substance use/abuse may be significant in predicting cocaine use.

This series of articles, based on a daylong seminar in Washington, D.C., will describe scientific studies that have increased our knowledge of cocaine and the current state of the art in cocaine treatment. At present, there is no magic bullet—no drug that will quickly eliminate the desire for cocaine—nor is there a psychological approach that can easily stop the patient from taking the drug. Instead, the participants at this meeting, who are leading investigators and clinicians in the field of substance abuse, will provide information that can lead to the development of a carefully thought-out treatment approach, which used psychological techniques specifically targeted to the problems of the cocaine abuser and, where appropriate, one or more drugs to manage postcocaine withdrawal, craving, and relapse. To better appreciate the presentations that follow, a brief history and review of our knowledge about cocaine use may be insightful.

EARLY USE OF COCAINE

The coca leaf, from *Erythroxylon coca*—a shrub that grows in the Andes—has been used by humans because of its stimulant properties for at least 1500 years. The Incas called it a "gift of the Sun God" and used it primarily by the chewing route; wads of coca leaves, with some added lime from ash, were chewed all day (replaced every few hours). Taken this way, the newer attained high plasma levels that produced stimulation but not much euphoria. The stimulation is not dissimilar from that caused by high doses of caffeine.

When the Spaniards conquered the Incas, they viewed cocaine use as idolatrous and consequently banned it. However, they soon found it difficult to get the Incas to work in the mines and fields without cocaine. As a result, the Catholic Church began to cultivate the coca plant and, for a period of time, the Church became the largest provider of coca in South America.[1]

Cocaine did not become popular in Europe because much of its potency was lost during the long sea voyage from the Americas. The European experience began in the 1860s when the German chemist Albert Niemann isolated the active ingredient and named it cocaine. At the same time, an Italian neurologist, Paulo Mantegazza, described in detail the physiologic effects that coca produced on him. He wrote, "I would rather have a life span of ten years with coca than one of ten million centuries without it." [2]

TURN-OF-THE-CENTURY COCAINE USE

The Mantegazza monograph eulogizing coca influenced a number of researchers, including Sigmund Freud, the father of modern psychoanalysis.[2] He initially felt that his pharmacologic research with cocaine was more important than his psychological research and that the former would outlast the latter. His book *Uber Coca*, published in 1884 (with later addenda), remained the authoritative treatise on cocaine effects in humans until the research of Fischman et al.[3] and Byck and Van Dyke [4] in the 1970s.

Freud did more than research cocaine; he used it himself and prescribed it for others. He thought that the drug could treat a variety of ailments, including nervous exhaustion, hysteria, hypochondriasis, digestive disorders, alcoholism, syphilis, asthma, and altitude sickness. He also felt that it suppressed the craving for morphine and used it to treat the morphine addiction of his colleague Von Fleisch,, who became a cocaine addict. Freud was later accused of "unleashing the third scourge of humanity" (after alcohol and opiates).[2]

Pope Leo XVIII awarded a medal to the entrepreneur Angelo Mariani for his discovery of a coca wine, Vin Mariani, that was said to fortify and aid digestion as well as stimulate a fatigued and overworked body. Other well-known historical figures who endorsed in writing this famous wine (and thereby received a free case of it) included President William McKinley, Thomas Edison, and Sarah Bernhardt. The fictional detective Sherlock Holmes was depicted as a cocaine addict. The actor who played him, William Gillette, injected himself each night while on stage to achieve a premethod realism.

Coca-Cola, the "intellectual and temperance beverage," was essentially coca wine without the alcohol; the soft drink contained cocaine as its active ingredient until 1903. Caffeine was then substituted as the principal stimulant, but for many years, Coca-Cola still contained the decocainized coca leaf to help maintain the unique flavor.

By the turn of the century, cocaine was used in a variety of patent medicines from toothache drops to hemorrhoid remedies but was beginning to fall into disfavor; people became concerned about its dangerous and undesirable effects. The Pure Food and Drug Act of 1906 required that cocaine be listed on the label of patent medicines containing it; the Harrison Narcotics Act of 1914 forbade its use in proprietary medicines and required registration of manufacturers or distributors of the drug. There were many addicts in Europe and the United States. By the decade of 1910, cocaine had become the most hated and feared drug in the United States. Indeed, the term "dope fiend" was first coined to describe cocaine addicts.

From 1920 to 1960, cocaine's popularity had faded, but there was always a small group of users, such as jazz musicians and other members of the cultural avant-garde. Cocaine's illegal status made it an expensive status drug for an affluent minority.

COCAINE ABUSE EPIDEMIOLOGY

The combination of affluence and increased interest in drug use of all kinds in the late 1960s and early 1970s led to a renewed interest in cocaine. During the 1970s and 1980s, cocaine use spread from the jet set to the business community to the sports world and finally to lower socioeconomic groups and to adolescents of all socioeconomic groups. At the same time, its cost dropped and its quality increased as enormous supplies entered the U.S. market. The National Household Survey conducted under the auspices of the National Institute of Drug Abuse (NIDA) found that the number of persons who had tried cocaine at least once increased from 5.4 million in 1974 to 25 million in 1985. Current use (defined as use in the past 30 days) rose from 1.6 million in 1977 to 6 million in 1985; by 1985, 3 million Americans were considered dependent on cocaine (earlier surveys had not gathered data on the issue of dependency [5,6]). Between 1975 and 1984, the number of high school seniors who had ever tried cocaine almost doubled from 9% to 16%, and current users in this age group tripled from 1.9% to 5.8%. Increased use of the drug had substantially leveled off until 1984 when "crack" appeared on the scene, and at the time, the number of users who had tried or used cocaine began to rise again.

Rapid increases in cocaine use have led to a sharp increase in cocaine casualties that does not appear to have reached a plateau. Emergency room admissions associated with cocaine use increased approximately 3.5 times between 1976 and 1981; a more dramatic increase of 75% occurred in the period between 1981 and 1983. Admissions to publicly funded treatment programs for primary cocaine problems increased by fourfold between 1977 and 1983. In May 1983, a toll-free telephone hot line (800-COCAINE) began, offering advice and referral to callers. In the hot line's first 18 months of operation, more than 450,000 calls were received.

Because the average time between first use of cocaine and the need for medical attention is approximately 2 to 4 years, it is likely that several more years will pass before the full consequences of cocaine use are reflected (i.e., in the demand for treatment and medical crises).[7]

If the prevalence data that indicate a leveling off of cocaine use (except for crack) are correct, there is reason to be optimistic that the present cocaine epidemic, like earlier epidemics, may be subsiding. However, the declining price of cocaine may make this present epidemic different from others, and when it does end, there may be an endemic level of use sharply higher than the level of use after previous epidemics.

REASONS FOR INCREASED USE

By the 1970s, we seemed to have forgotten all of the lessons about the consequences of cocaine use from the decade of 1910, and the drug became increasingly popular again. There appear to be multiple causes for this popularity, but six causes seem to be most important. They are myths concerning its safety, the relationship to marijuana use, the media, celebrity endorsements, changes in the routes of administration, and the reinforcing effects of the drug itself.

Despite earlier cocaine problems, some influential, contemporary scientific writings reflected the noncritical opinions about cocaine that existed before 1910. For example, in the 1980 edition of the Comprehensive Textbook of Psychiatry,[8] the following passage is found:

"Used no more than two or three times a week, cocaine creates no serious problems. In daily and fairly large amounts, it can produce minor psychological disturbances. Chronic cocaine abuse ususally does not appear as a medical problem.[8]"

It should be noted that in the 5 year preceding this quotation, 1974 to 1979, cocaine use had doubled.

The 1985 edition of this same textbook [9] reflected little change in this remarkably benevolent attitude about cocaine dangers: "High price still restricts consumption for all but the very rich, and those involved in trafficking. . . . If used moderately and occasionally, cocaine creates no serious problems." [9] Authoritative statements such as these fostered the myth that cocaine was safe and contributed to the increase in its use. This was despite the fact that, in 1984, NIDA called cocaine the drug of greatest national health concern; in the 5-year period from 1980 to 1985, cocaine casualties doubled.

The 1970s witnessed a sharp increase in marijuana use, and this appeared to be another reason for the rapid growth of cocaine use. As seen in Figure 1, frequency of marijuana use is an important predictor of new cocaine use. People who have never used marijuana usually do not use cocaine. If a person has used marijuana relatively infrequently, that is, less than 10 times, he/she is less likely to abuse cocaine. However, by the time one has used marijuana 100 times (approximately twice a week for 1 year), the chance of having used cocaine rises sharply; nearly 75% of frequent users of marijuana have tried cocaine at least once. Approximately 15% of frequent users will have used cocaine in the last month.

Similarly, Figure 2 illustrates that a person who has not used marijuana in the last month is not likely to have used cocaine in the last month. Again, if a person has used marijuana in the last month, the chances of having used cocaine in the last month sharply increase. It seems that once a person breaks a certain psychological barrier with marijuana, the likelihood of trying an even "better" drug increases.

Another reason for the spread of cocaine is so-called celebrity endorsement. As noted previously, in the 1890s Vin Mariani was advertised through written endorsements by famous people. In the 1970s and 1980s, celebrities did not extol the virtues of cocaine but did celebrate it through songs and lifestyles. Many movie stars and athletes were arrested for cocaine use (or their names appeared in newspaper reports of cocaine use), suggesting an endorsement to a public that has loved to observe the lifestyles of the rich and famous. Several motion pictures in the 1970s implied that cocaine is a relatively harmless drug that can be used to enhance social settings and indeed, that beautiful people did use the drug in such a way. Television programs sensationalized and seduced more than they discouraged cocaine use. However, the era of celebrity endorsements ended rather sadly when several deaths of entertainers and athletes occurred.

During the decade of the 1970s, the mass media also played an important role in fostering cocaine use by creating heightened interest in the drug through rapid dissemination of information about how to use it most effectively. Such news coverage encouraged the rapid growth of new techniques such as freebasing, a very addictive form of cocaine use.

Newsmagazine covers initially describe cocaine as a drug of status (in fact, one cover showed a martini glass filled with cocaine and an olive). However, as the fatalities associated with cocaine use increased, the media gradually changed its view. In 1985, the featured headline on *Time* magazine's cover was, "Fighting Cocaine's Grip: Millions of Users, Billions of Dollars." The associated article said that cocaine trafficking was considered the third largest industry in the United States, amounting to tens of billions of dollars. One year later, the cover of *Time* depicted a skull, implying danger; the headline read, "Drugs: The Enemy Within."

Changes in the route of administration have been another major reason for the increased use of cocaine. Most cocaine use in the 1970s was via the intranasal route, which can produce dependence but has inherent limitations on the amount used because of vasoconstriction of the nasal mucosa and the slower onset of action. Later, the development of freebasing—smoking cocaine—which produces an extremely rapid onset of drug effect (10 to 15 seconds) and has no limitations, and more recently, the emergence of the cheaper form of free base cocaine, crack, signaled a dramatic increase in cocaine use and related admissions to hospitals.

In 1983, crack emerged in the Bahamas as a merchandising response to the availability there of high-quality, inexpensive cocaine. Unlike freebasing, which requires elaborate equipment and is dependent on the availability of flammable solvents like ether, crack is made by mixing cocaine with baking soda and water. Before 1983, there were practically no admissions for cocaine abuse to the Bahamian psychiatric treatment programs. However, in the years following 1983, there was an enormous upsurge in admission for cocaine treatment to these programs.

The final factor associated with the tremendous growth in cocaine use is the reinforcing effects of the drug and its potent addictive capacity. Cocaine euphoria and addicting potential increase with an increased speed of onset. These phenomena will be addressed more fully by other authors in this symposium who will describe human and animal self-administration studies.

CONCLUSION

Why do people continue to use so dangerous a drug? The factors just cited shed some light on the answers. However, the ability of many people to doubt that anything bad will happen to them—a remnant of infantile omnipotence—also contributes to cocaine addiction. Freud [10] offered the additional insight:

"Life as we find it is too hard for us: it entails too much pain, too many disappointments, impossible tasks. We cannot do without palliative remedies. There are perhaps three of these means: powerful diversions of interest . . . , substitute gratifications which lessen it, and intoxicating substances which make us insensitive to it."

At times cocaine use stems from the search to manage the pain of life. Treatment needs to take into account a variety of psychological and physiological factors. In the articles in this symposium, the reader will find information about (1) the relationship between comorbid psychiatric diagnoses and cocaine use, (2) the effects of the drug on the brain, and (3) a number of treatment approaches—both for acute withdrawal and for long-term relapse prevention.

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Mr. **MOYNIHAN.** I offer the thought, Mr. President, that this particular moment might pass more quickly than we might now think. We are a tough species, and an adaptable one. Let us not panic. Let's not fantasize. Let us settle down to a generation-long effort which we have every reason to believe will in the end succeed.

Mr. President, I thank the Senate and I yield the floor.

Mrs. **KASSEBAUM.** Mr. President, the issue of child care is receiving welcome national attention. The need for good child care services is increasingly being raised as a concern in my conversations with Kansans, and I know my colleagues are hearing similar concerns.

There is good reason for this focus. Over 10 million children under the age of 6 have mothers in the labor force, and this number is growing. An increasing number of these mothers are single parents. There is an inadequate supply of affordable child care services to meet the current demand, and this situation will clearly worsen if action is not taken.

A number of legislative proposals have been developed to address child care issues, and this number grows daily. I have joined Senator HATCH in cosponsoring one of these measures, S. 1679. This bill would provide funds for a child care block grant program and a revolving loan fund to assist child care providers in making capital improvements to meet State accreditation or licensing standards. It would also attempt to address the child care liability problem through tort reform and the establishment of State insurance pools.

Beyond legislative funding efforts, we need to encourage employers to provide child care benefits, which at present is the least frequently offered of all employee benefits. A study conducted by the U.S. Bureau of Labor Statistics found that only 2 percent of all business establishments with 10 or more workers provide employer-sponsored child care centers.

In order to encourage more of these types of programs and to recognize the efforts of those companies which have taken the lead in providing day care services, a program known as the Child Care Challenge was launched last fall. Sponsored by the Congressional Caucus for Womens' Issues, this project sought to identify and commend the most outstanding employer-sponsored child care programs in the country.

The caucus invited Members of Congress to identify the most innovative examples of these programs in their States and districts. The response was tremendous. Seventy Members from both the House and Senate nominated over 160 employers. After a careful evaluation of each of these nominees by a panel of child care experts, 43 companies were selected to receive recognition for their work in providing quality child care to their employees. I am pleased to say that one of the awardees, the Wee Care Child Care Center, is from my home State of Kansas.

The Wee Care Center provides child care services to employees of the Valley View Professional Care Center, a retirement community. This center is unique in many ways. First, it was created after overcoming numerous obstacles, from State licensing problems to space limitations and insufficient staff ratios. Second, it is successful not only because it provides badly needed day care services, but also because it draws in many highly qualified workers who were parents in need of these services.

Third, it created a program entitled READY—reaching the elderly and developing the youth—designed to establish bonds between the children and the senior residents of the nursing home. A study is currently underway by the center in which staff members record the reactions of the very disoriented or depressed nursing home patients when they are permitted to hold an infant or play with a toddler. This has fostered strong emotional ties between the residents and the children—creating lasting relationships. Many of the children who no longer attend the center frequently come back and visit with the elderly patients they befriended.

I would also like to acknowledge the day care programs of six other Kansas companies which, although not awardees, are impressive in their own rights.

SHAWNEE MISSION MEDICAL CENTER

This is an outstanding program. It is a comprehensive onsite facility that serves 351 families and 554 children aged 6 weeks to 12 years. Since its inception in 1979, the Shawnee Mission Medical Center Day Care Center has become a model program throughout the Great Plains area and beyond. Over 100 company representatives have taken onsite tours of the facilities, including individuals from the U.S.S.R., Scandinavia, and West Germany. It also serves as a practicum training and observation site for high schools, community colleges and universities. The center has aided in the recruitment and retention of a highly qualified staff, over three-fourths of which are college educated. Many hospital executives claim that the center is also responsible for virtually eliminating a nursing shortage that existed prior to 1979.

ST. FRANCIS REGIONAL MEDICAL CENTER

This program began 7 years ago to meet the special family needs of its employees, 85 percent of whom are women. The facility is open from 6:30 a.m. to midnight to provide services to parents who work evening shifts. The children served range from infants to kindergarten age, with a summer recreation program for school-age children. Since the program began the hospital has observed increased employee productivity, lower absenteeism, and more successful recruitment. Among its services is the KidKare Program for sick children, which is also available to the community.

U.S.D. NO. 259, WICHITA PUBLIC SCHOOLS

This program began over 10 years ago as a day care center for parents who were high school students, but it is now available to school district employees as well. It enrolls 130 children in a full-day child development program at six separate locations. Facilities are also available to "latch-key" children before and after school at selected elementary schools.

COMANCHE COUNTY HOSPITAL

This is a small, rural county hospital that provides quality day care at a minimal cost to 70 children ages 2 weeks to 10 years. The center was originally available only to hospital employees, but—because of its popularity—it was opened up to the outside community. There is a waiting list to use the facility.

ST. JOHN'S REST HOME CORP.

This is a center that just opened in September 1987. The center is open from 6 a.m. to 11 p.m. to coincide with the work schedules of St. John's employees and other community workers who use the facilities. Because the center is in a college town, young certified teachers without families are available to work extended hours. The college also provides work-study personnel to help keep down staff costs. Interaction between the residents and the children, similar to the READY program at Valley View, is also encouraged.

UNIVERSITY OF KANSAS MEDICAL CENTER

This center began in 1982 and is run by an organization of volunteers who provide services and financial assistance to the university. They have made a commitment to keep fees as low as possible while providing quality services and paying staff adequate wages. The staff is made up entirely of college graduates with an early childhood or education degree.

I was pleased to submit all of these programs for consideration under the Child Care Challenge. My only regret is that I was not able to find more examples of employer-sponsored child care programs in Kansas.

Employer-sponsored child care offers advantages to all concerned. Not only can workers come to work knowing their children are close by and well cared for, but the companies also come out ahead. In general, employers who have sponsored programs have overwhelmingly acknowledged that employee productivity has increased, absenteeism has been reduced, and more highly qualified workers have been recruited. It is my hope that this important message can get out to employers everywhere. There is a real need here, and companies that take the lead in solving this problem by providing quality child care services will have very little to lose and a great deal to gain.

SUPPORT THE VETO OF THE "UNFAIR TRADE" BILL

Mr. SYMMS. Mr. President, earlier this week the President vetoed the trade bill—a bill that I have strongly opposed because it is a step in the wrong direction, to close the American economy to foreign goods just because foreign economies are closed to American goods. This kind of mad reaction has been called "fairness," but, Mr. President, it is hardly that at all.

As Americans, we do support fairness, and this Senator supports fair trade, but we should pause from time to time to ask ourselves what the concept of "fairness" is.

Fairness is a kind of justice, the treatment of people equally, of giving each person his due. It is certainly true that when Japan or Korea or Taiwan or the European Community or Brazil closes its markets to American exports, there is unfair behavior there.

It is important, however, to understand who is being treated unfairly. For one, of course, the American company that would otherwise be able to sell more goods or services in those foreign lands is being treated unfairly by those governments. The domestic firms there are being unfairly favored and protected from competition.

But there is another side to the unfairness. The consumer in those foreign markets is being treated unfairly by his own government. The consumer is the forgotten person in most of these debates. If a foreign national wanted to buy American beef or American computers and the government over there said, "No—you have to buy something else," that would be unfair.

A government has a responsibility to treat all of its citizens equally before the law and in economic matters. Political leaders are in much the same role as leaders of a family in this regard.

A parent who treats one child with favors, and punishes another arbitrarily, is a bad parent—an unfair and unjust parent. The old story of Cinderella and her cruel stepmother and her stepsisters comes to mind.

But, Mr. President, the fact that foreign governments treat their consumers and producers unfairly is not an excuse for the United States to start treating its citizens unfairly. The trade bill, as President Reagan has so correctly pointed out, is a bad piece of legislation. It treats Americans unfairly, by favoring some Americans and hurting other Americans. Those whose business affairs are made better off by protectionism are rewarded by this trade bill, and those whose standard of living is reduced or their freedom of economic choice is limited are made worse off; they are treated unfairly.

"Fair trade" is a noble objective, but we must first and foremost be fair to our fellow Americans. That means we must support the President's veto. The President and Vice President are the only members of the U.S. Government who are elected by all of the people. Keep that in mind when you consider who is responsible for making the judgment of fairness. The President's constitutional duty is to treat all Americans with fairness, whereas my duty perhaps would be to put the citizens of Idaho first, to work harder for their needs in the Senate than perhaps for people on the east coast or in the south.

Now I happen to believe that the trade bill is not in the best interests of Idaho, which is a major exporting State. But I also would urge my colleagues to join me in supporting the President's veto, because this trade bill is not in the interests of other States either. In particular, the bill is grossly unfair to the consumers in those States that are net importers.

Every Senator who voted for the trade bill should ask himself, "Have I been fair to everyone in my State—particularly the consumers and the small businessmen in my State?"

During the trade bill debate, we heard much about all the jobs that were supposedly lost during the past 8 years to foreign competition. The excellent analysis by Mr. Sloan is strong testimony to the fact that no jobs were lost at all. The American economy has simply transformed itself into a more efficient and more rapidly growing economy, and workers have moved from older, less efficient industries to the cutting edge of entrepreneurship, to new jobs in the growth sector of the American economy.

Mr. President, at this point I would like to ask unanimous consent to have printed in the RECORD a recent newpaper column by John Sloan, president of the National Federation of Independent Business, representing more than half a million small business men and women.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IMAGINE EVERYONE IN NEW YORK, LOS ANGELES, AND CHICAGO CHANGING JOBS

(By John Sloan)

Small-business owners turned a deaf ear to the doomsayers this spring, continuing their "lead, follow or get out of the way" approach to entrepreneurship.

While economists and Wall Street pundits echoed Chicken Little, most small-business owners heeded the ring of cash registers instead. According to the National Federation of Independent Business's latest quarterly economic survey of nearly two thousand firms, business optimism has rebounded from a slow January. Sales expectations climbed significantly, expansion plans rose sharply and fewer say they expect business conditions to worsen.

The brightest spot on the horizon is hiring. One of every four persons questioned said they planned to increase their job rolls. Only one in 20 expected cutbacks.

Seasonally adjusted, these are among the best second-quarter figures recorded by NFIB in the past 10 years.

I'm not surprised. Having just returned from a swing of the Midwest, I found a bedrock of optimism, even in states where certain industries, such as agriculture, are still struggling. Yes, there are danger signs. But, I've never known a time when that was not the case. What small-business owners are rapidly learning to do is to keep one eye on the danger signs, but march steadily forward.

This is not just small-business boosterism, either. According to a recent study by the Bureau of Labor Statistics, there is strong evidence that small business is fast becoming America's most important economic resource.

BLS reports that companies with fewer than 1000 employees provide jobs for more than half of all private-sector workers. Less than a decade ago, only 48 percent of those in private industry were employed by small firms.

What does this mean to the big guys—the IBMs and GMs? it means, BLS notes, that between 1980 and 1986 those companies which employ 100 or more workers lost job slots. Not just a few, either. Nine percent or 12.5 million workers had departed the big companies during the six-year period.

Think about it this way. Roughly the entire population of New York City, Los Angeles and Chicago left the big companies for smaller ones.

Where did they go? BLS says those companies with 100 or fewer employees threw open their doors, swelling their ranks by 17 percent to 41.1 million workers. Firms with workforces numbering between 100 and 1000 grew 11 percent to 26.6 million.

Manufacturing suffered the greatest decline, according to BLS, listing 1.8 million jobs, some 71 percent of which were in companies with 1000-plus workers. Retailing and service firms had the strongest growth, accounting for 77 percent of all new private-sector jobs.

There is only one problem with these statistics. The people who most need to heed them rarely do. The politicians in Washington and elsewhere would do well to concern themselves with this dramatic shift in the labor market. Such a focus might make them realize their rush to force businesses to provide European-style mandated benefits will only hurt small and independent firms which in turn, will destroy the potential for future job growth.

TOSHIBA: RECORD PROFITS IN 1987

Mr. HELMS. Mr. President, this morning's Wall Street Journal notes that the Toshiba Corp. achieved record profits of $523 million in 1987, a 58-percent increase over 1986. This profit increase is in yen terms and thus not an artificial increase due to currency fluctuations.

Also according to the Wall Street Journal, sales to North America declined by about $350 million due to the aftermath of the Toshiba-Kongsberg case and Toshiba's violations of the semiconductor agreement. Nevertheless, Toshiba sales to North America equaled $1.6 billion.

Mr. President, there are mixed signals here for corrupt businessmen. On the one hand, potentially corrupt businessmen in France have seen four of their number locked up in jail, without bail, facing possible 20-year sentences for espionage.

On the other hand, potentially corrupt businessmen in Japan see that an equal or greater crime leads to suspended sentences and a $15,000 fine. Further, the Japanese Government has massively supported the guilty party, Toshiba, with one of the biggest lobbying campaigns seen here in years. Finally, the very same company which Prime Minister Nakasone publicly accused of "betraying the Japanese people" has reported record profits.

I am not aware of any firm that would not be happy to see its profits increase by 58 percent in 1 year. Toshiba accomplished this goal by betraying the alliance. Unless the Congress takes very strong action, other firms will be tempted to follow Toshiba's lead.

Mr. President, I ask unanimous consent that an article from the May 27, 1988, Wall Street Journal be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record as follows:

[The Wall Street Journal, May 27, 1988]

Toshiba and Hitachi Report Sharp Profit Gains for Year

Toshiba Corp. and Hitachi Ltd., two big Japanese makers of electrical and electronic products, reported sharp profit growth for the year ended March 31.

Toshiba's unconsolidated, or parent-company, pretax profit surged 58 percent, to 65.06 billion yen ($523.3 million) from 41.20 billion yen a year earlier. Net income rose 56 percent to 37.04 billion yen from 23.70 billion yen. Sales rose 7.2 percent, to a record 2.683 trillion yen ($21.58 billion) from 2.503 trillion yen.

A Toshiba official said the results reflected substantial cost reductions and surging domestic demand for consumer products. He added that profits rose despite an estimated 16 percent drop in export sales to North America, to 210 billion yen from 250 billion yen, because of fallout from a Toshiba affiliate's sales of military sensitive equipment to the Soviet Union and U.S. semiconductor tariffs imposed on Japanese chip exporters for alleged violations of a bilateral accord.

World-wide exports of consumer products fell 20 percent because of stiff competition from newly industrialized countries, and the yen's strength, officials said. But overall export sales rose 7 percent to 77.84 billion yen from 726.84 billion yen, accounting for 29 percent of all sales.

At Hitachi, unconsolidated pretax profit rose 56 percent to 138.74 billion yen from 89.11 billion yen a year earlier, with the help of extensive cost reductions. Net income grew 22 percent to 65.14 billion yen from 53.31 billion yen, while sales slipped to 2.920 trillion yen from 1.925 trillion yen.

Export sales slumped 9 percent to 772.17 billion yen from 845.38 billion yen, because of adverse currency factors and competition from newly industrialized countries. Strong domestic demand countered this decline.

MEMORIAL DAY 1988

Mr. CRANSTON. Mr. President, as Memorial Day nears, brave young Americans are putting their lives on the line in the Persian Gulf and throughout the world, some making the supreme sacrifice in defense of America's freedom and ideals. We all should pause in the rush of our day-to-day business to reflect on these valiant men and women who have died in service to our country. Let us pray for them and for the peace that their heroic deaths helped to secure. And let us pray—and pledge ourselves to ensuring that their deaths were not in vain.

As Americans gather together around the Nation as free citizens, we remember those who lie in cemeteries across this great country and those in graves in so many foreign lands and in the depths of all the seas of the globe. Each of us privately remembers. All of us together as a grateful Nation remember. We remember—and we acknowledge a debt we can never repay.

America has a tradition of remembering those who have protected our freedoms, but too often the initial fervor and support for those who served in our defense fades as we move further from a period of war. Perhaps no one has captured that tendency better than Kipling in his famous poem "Tommy" where he wrote—

For it's Tommy this, an' Tommy that
an' "Chuck him out, the brute!"
But it's "Savior of 'is Country",
when the guns begin to shoot . . .

As we gather to think about those who have served and those who have departed, let us remember and remind ourselves of the reasons for their sacrifice, whether in war or in peace. We live in a world of great uncertainty and danger. We live in a world of great gaps in understanding and acceptance. We live in a world where violence is the national precept of too many societies and nations. And we live in a world where Western ideals of freedom and democracy are not shared by all.

For its first 138 years our country lived in the isolation of a Western Hemisphere separated from the rest of the world by vast oceans and vast spaces. We grew strong and resourceful in those years of manifest destiny, spreading our borders from the Atlantic to the Pacific, from Mexico to Canada.

But with World War I the isolation that gave us strength came to an end, and a new era of involvement in world affairs began. It was expanded in World War II. I grew up in the aftermath of World War I and as a young news correspondent I saw at first hand the seeds of World War II in the rise of Hitler and Mussolini. I saw the booted agents of fascism march in Berlin and Rome. And I came back to this country deeply moved by the threat of fascism to a free world and to my own country.

In a few years we were engaged in a titanic struggle with fascism—a struggle that began the long, difficult years of still another era of our country and the free world—the era of cold war, and then the hot wars of Korea and Vietnam.

As America's role in the world expanded, the world became smaller and more dangerous. Sixty years ago distance was measured by the days it took steamships to sail from New York to London. Today distance is measured in the minutes it would take for an intercontinental ballistic missile to fly from the United States to Moscow and from the Soviet Union to Los Angeles. That time is 30 minutes. Thirty minutes.

Thus, as I share with my thoughts about a commemoration which is dedicated to courageous Americans who have fallen and departed, I think of the importance of the Senate's work in just ratifying the momentous provisions of the Intermediate-Range Nuclear Forces [INF] Treaty which is being carried to the summit between President Reagan and Secretary General Gorbachev in Moscow. A momentous treaty for the future of the Unites States. A momentous treaty for the future of the Soviet Union. A momentous treaty for the future of the world.

Twenty-seven years ago in his inaugural address the youthful President Jack Kennedy called on "both sides" to begin anew the quest for peace before the dark powers of destruction unleashed by science engulf all humanity in planned or accidental self-destruction.

All Presidents since John Kennedy have kept that vow alive. America has remained strong—the strongest Nation in the world, yes stronger than the Soviet Union—because in addition to our enormous military strength we have the strength of the allies of the free world, the mightiest aggregate of nations ever assembled.

On Memorial Day let us, in remembering the men and women who served in past wars, dedicate ourselves to keeping America strong and keeping America on the path toward peace. Those goals are compatible. Those goals are mutually inclusive, not mutually exclusive.

I want America to be strong so we can remain at peace. I want America to remain at peace, so that we can continue to be strong. I am convinced that we can make a durable nuclear peace with the Soviet Union. But we must make this peace within the framework of our own needs of national security and national defense.

Mr. President, as Memorial Day nears, as chairman of the committee on Veterans' Affairs in the Senate, I ask all my colleagues and all Americans—as we remember the valiant efforts of those who have kept us free and strong—to join with me in dedicating ourselves to peace and to freedom.

We know what it takes to defend freedom—and we honor those who have defended us. Because, we are Americans and proud and privileged to live in the greatest country on Earth.

TRIBUTE TO SENATOR DOLE

Mr. McCAIN. Mr. President, I rise today to congratulate our Republican leader, Senator Robert Dole, on receiving the Award for Life Service to Veterans of the Paralyzed Veterans of America and the Vietnam Veterans Institute.

I can think of no more fitting recipient for this award. It is presented to recognize those who, through public or voluntary service, have made consistent, dedicated contributions to the-well-being of America's veterans.

Senator Dole has, through his 27-year congressional career, established an unparalleled record of service to veterans, including ensuring that they receive the benefits earned in war. In the last few years alone, he served an instrumental role in extending and improving the G.I. bill, and in elevating the Veterans' Administration to Cabinet status.

His congressional initiatives have also included increasing benefits for and reducing barriers to disabled Americans. Most recently, he has led efforts to increase access for the disabled to air transport, and ensuring their ability to vote.

Those conferring this award were clearly mindful of Senator Dole's extraordinary personal life. It is the story of a courageous man determined to overcome the disability dealt him in war. In World War II, Senator Robert Dole fought with the legendary 10th Mountain Division in Italy. In 1945, while attempting to save a fallen comrade, Senator Dole was severely wounded. Left for dead on the battlefield, later told that he would never walk again, Senator Dole spent over 3 years in painful and dangerous rehabilitation.

Returning to Kansas, he graduated with a law degree and went on to become a State representative. We are all familiar with his distinguished congressional career; elected to the Congress in 1960, he became a Senator in 1968 and in 1976 was asked to join the Republican ticket as the Vice Presidential candidate. From 1985 until last year, he served as majority leader, and now serves our party and the administration as Republican leader.

I congratulate Senator Dole on receiving the Award for Life Service to Veterans, and I commend the Paralyzed Veterans of America and the Vietnam Veterans Institute for their insight in conferring it upon a most fitting recipient. Upon receiving this prestigious award, Senator Dole stated that he accepted it "both for what I have already done and what I have yet to do." Other men might be content to rest on Senator Dole's lifelong, distinguished series of accomplishments. It is a measure of Senator Dole that he is determined to continue his awe inspiring record of achievement and dedication to our country.

THE ARGUS FOUNDATION

Mr. WARNER. Mr. President, I rise to commend the ARGUS Foundation, a Virginia nonprofit enterprise, for initiating an innovative and much-needed program which provides special vehicles and equipment for use of law enforcement agencies. These special armored vehicles and equipment have proven extremely useful during crisis events associated with prison revolts, narcotics, sniper and hostage incidents, and other life-threatening criminal activities.

The current ARGUS equipment module provides support from its headquarters in northern Virginia to the surrounding seven-State region and the District of Columbia.

Establishment of other modules of equipment throughout the United States is anticipated.

These new modules would be located near areas where the probability of crisis events requiring armor-protected vehicles to assist law-enforcement agencies is highest.

The equipment assets can also be deployed by rail or cargo aircraft to any region in the contiguous United States should the situation warrant.

The ARGUS operations task force is made up of Federal and State law-enforcement agencies who have volunteered their services with the full support of their respective organizations.

These personnel provide training to sworn law-enforcement agents in the physical operation of the equipment, maintenance, readiness support, and transport assistance.

The incidence of violent crimes associated with narcotics is increasing at an alarming rate throughout our country. Budgets, including those for law enforcement activities, grow tighter each year. Therefore, the concept of a pool of specially modified armor-protected equipment for multiple agency use over a large geographic region is both innovative and timely.

The method by which the ARGUS mission is carried out is unique.

Task force members instruct law-enforcement agents in the physical operation of the vehicles and equipment which, upon certification, authorizes them membership in ARGUS.

A member agency requiring equipment support calls the ARGUS 24-

hour dispatch and requests the specific equipment needed.

Task force members coordinate the transportation of the equipment to the crisis location. There it is turned over to the requesting agency's onsite commander to use in whatever way he deems necessary.

Local law enforcement personnel operate the equipment.

ARGUS task force members remain on site at the crisis location to provide technical assistance as requested regarding the operation of the equipment but do not interfere with the operation in any way.

When the equipment is no longer required, ARGUS task force personnel coordinate the return of the equipment to its base location and prepare it for its next deployment.

None of the vehicles are armed with weapons and are intended to provide ballistic protection in a purely defensive way.

Funding for the ARGUS Foundation, a Virginia incorporated, nonprofit, federally tax exempt [501(c)(3)] public operating foundation is provided through Federal, State and corporate appropriations and grants and from other foundations and individuals who support law-enforcement activities.

Mr. President, in closing I would like to recognize several people who have been instrumental in the success of this most worthwhile endeavor:

Angus B. MacLean, chief, Metro Transit Police, Washington Metropolitan Area Transit Authority.

Hon. Mike Moore, Attorney General, State of Mississippi.

Hon. John R. Isom, sheriff, County of Loudoun, VA.

John W. Jones, executive director, Virginia State Sheriff's Association.

J.C. Herbert Bryant, Jr., commander, Armored Response Group United States.

John W. Hanes, Jr., board chairman, the ARGUS Foundation.

William K. Stover, chief of police, Arlington County, VA.

Christopher B. Benham, exeutive director, the ARGUS Foundation.

DEATH OF MICHAEL A. GAMMINO, JR.

Mr. PELL. Mr. President, it is with sadness that I rise to report the death this week of Michael A. Gammino, Jr., one of Rhode Island's preeminent leaders in the fields of business, philanthropy, and public service.

Mike Gammino made his career in banking, following in the footsteps of his father and later his brother as the chairman of the board and chief executive officer of Providence's Columbus National Bank. He guided the bank through a period of growth and success until 1982 when it was merged with the Rhode Island Hospital Trust National Bank.

Busy as he was at the bank and with banking industry activities, Mike Gammino found abundant time to serve as a member and leader of a remarkable number of charitable, educational, and civic organizations. These organizations were devoted, as was Mike Gammino, to improving the well-being of the citizens of Rhode Island.

And throughout the more than 30 years that I knew and admired Mike Gammino, I do not believe there was ever a time when he was not serving his city, his State, and his country in some public capacity. He was appointed to important boards and commissions by virtually every Governor of our State in those years and to important Federal positions by Presidents Eisenhower, Kennedy, and Johnson. Among all of the posts in which he served, I would mention particularly the Board of Directors of the Corporation for Public Broadcasting on which he served from 1970 through 1984.

Finally, Mr. President, I would mention that Mike Gammino was a great friend and adviser to my very distinguished former colleague from Rhode Island, John O. Pastore; and I know that Senator Pastore, were he still a Member of this body, would join me in this tribute to the life and accomplishments of Mike Gammino.

I ask unanimous consent that an article from the Providence (RI) Journal-Bulletin of May 23, 1988, recounting the details of Mr. Gammino's life, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Providence Journal-Bulletin, May 23, 1988]

MICHAEL A. GAMMINO JR., 65; FORMER HEAD OF COLUMBUS BANK

PROVIDENCE.—Michael A. Gammino Jr., 65, of 138 Prospect St., chairman of the board and president of Columbus National Bank of Rhode Island, and its parent one bank holding company, National Columbus Bancorp, before retiring in 1982, died Sunday at Rhode Island Hospital. He was the husband of Elizabeth J. (Kelley) Gammino.

Born in Cranston, he was a son of the late Michael A. and Grace (Pennachia) Gammino.

Mr. Gammino was educated at Brown University and the St. Louis University Graduate School of Philosophy. He received an honorary degree, doctor of humane letters, from Rhode Island College. Governor Chafee had appointed him a Rhode Island commodore. He was a Knight of St. Gregory, appointed by Pope Paul VI, and a knight commander, Order of Merit of the Italian Republic, appointed by the president of the Italian republic. He was a World War II Army veteran.

He was a member of the Rhode Island Bankers Association legislative committee, the State of Rhode Island Investment Commission, appointed by Governor Licht, and the New England Council Banking and Finance Committee.

Mr. Gammino was a member of the board of directors and executive committee of the Rhode Island Bankers Association, the regional advisory committee for the First National Bank Region, the stockholders advisory committee of the First Federal Reserve Bank of Boston, and director of the New England Bankcard Association. He was a trustee of Brown University and Salve Regina College, Newport. He was a member of the president's council at Providence College, and the board of directors of the Corporation for Public Broadcasting, appointed by President Johnson. He was president of the Providence Off-Street Parking Corp., appointed by Mayor Reynolds, and reappointed by Mayor Doorley. He was governor and a national trustee of the National Conference of Christians and Jews, and a member of the Rhode Island Executive Committee. He was a member of the Rhode Island Historical Society and its investment committee, the Newport Historical Society and the Urban Coalition of Rhode Island. He was a trustee and treasurer of the Fogarty Foundation for Mental Retardation, and a director of the Federal Hill House and the Rhode Island Philharmonic Orchestra.

Mr. Gammino was a past member of the Rhode Island Public Building Authority, and the Rhode Island Fish and Game Commission, both appointed by Governor Roberts. He was a former chairman of the Rhode Island State Goals Committee appointed by Governor Nottee. He was a former chairman of the Rhode Island Small Business Administration Advisory Council, appointed by President Eisenhower. He was a former member of the New England (Boston) Small Business Administration Advisory Council, appointed by President Kennedy. He was a former chairman of the Providence Elderly Citizens Advisory Council, appointed by Mayor Reynolds, and a delegate to the Rhode Island Constitutional Convention.

He was a former member of the Rhode Island Trustees for the Eastern States Exposition, Springfield, Mass., and a former chairman of the Rhode Island Committee for United Negro Colleges Fund, and fair housing legislation. He was a former director of the Rhode Island and New England Holstein-Freisian Associations, and its state president for one term. He was a former chairman of the Rhode Island Farmers Milk Marketing Committee. He was organizing director and treasurer of Marathon House, and an organizing trustee and treasurer of the Foundation for Repertory Theater in Rhode Island and the Newport Metropolitan Opera Foundation. He was a former director of the Rhode Island Civic Chorale and the Rhode Island Opera Guild. He was a former director of the Hospital Trust National Bank of Florida.

Mr. Gammino was a lay participant at the International Liturgical Congress in 1956 in Rome and Assisi, Italy. He was national vice president and director of the National Catholic Laymen's Retreat Conference. He was a member of the executive commmittee for Catholic Charities, Diocese of Providence, and the Catholic Diocesan Human Relations Commission. He was chairman of the Human Relations Commission Housing Sub-committee, and director and treasurer for the Homes for Hope Foundation.

He was a member of the Knights of Malta, the Metacomet Country Club, the Dunes Club, the Turks Head Club, the Aurora Civic Association, the Brown Faculty Club, the Beach Club in Palm Beach, Fla., and the University Club.

Besides his wife he leaves a brother, Robert Gammino of Palm Beach, Fla.

The funeral will be held Thursday at 8:30 a.m. from "Woodlawn," 600 Pontiac Ave., Cranston, with a Mass of Christian Burial at 10 at Holy Name Church, Camp Street. Burial will be in St. Francis Cemetery, Pawtucket.

AMERICAN SECURITY AND FREEDOM

Mr. SYMMS. Mr. President, first as a Member of the House of Representatives and now as a Senator, I have observed at close hand as Congress time and again makes incorrect and often dangerous decisions on matters vital to American security and freedom. Congress does so because of an astonishing disinterest in the truth of our current strategic inferiority and because of an equally cavalier disregard for the evidence of Soviet aggressive intention toward the Western democracies.

In 1776, Patrick Henry stated:

> For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth: to know the worst, and to provide for it.

Moreover, the former Senator from Arizona, Barry Goldwater, said in a letter to President Reagan relating to our disinterest in the truth:

> We are not just a little bit behind the Russians, we are devastatingly behind them . . . I think the time has come when we have to quit fooling around and trying to lie to the American people.

But the unvarnished truth is rarely popular in politics, and nowhere is that more true than in matters concerning American security. With ever rising Federal deficits, few voters want to hear that military spending must be increased to counter Soviet military might, and most politicians, therefore, understandably far prefer the political safety of inaction and acquiescence over the political dangers of action and leadership.

It has happened before. During the years preceding World War II few leaders chose to suffer the political risk and consequence entailed in warning the free world of the reality of the Nazi military buildup.

In fact Winston Churchill said in 1933:

> If we lose our faith in ourselves, in our capacity to guide and govern, if we lose our will to live, then indeed our story is told.

Accordingly, in reviewing how Senators vote on this treaty I ask you, the American citizen, to keep always foremost in mind the thought embodied in these words spoken in 1935 in similar circumstances by Winston Churchill:

> Never must we despair, never must we give in, but we must face facts and draw true conclusions from them.

Also, in warning England and trying to break government and news media silence about the massive Nazi military buildup, Churchill stated:

> The worst crime is not to tell the truth to the public.

The analogy today is all too clear. While the Soviet Union engages in the most massive military buildup of all history, most Western politicians still insist on minimizing the significance of these activities. They conceal the truth from the public and delude themselves in the belief that their inaction is somehow justified in the cause of world peace.

The theory goes that Soviet aggressive behavior can be modified by ignoring it in public, by persuading and negotiating in private, and by keeping the American people in a false feeling of security through denial or concealment of the facts. These omissions and distortions are rationalized as necessary in order to preclude any "inconvenient" or "dangerous" public political demand for Western rearmament.

A few do not accept that theory. Nor do I. Our Republic and the other remaining democracies thrive on truth just as the Soviet Union thrives on falsehood. Certainly, there can be no justification for withholding from the public basic essential information concerning American strategic vulnerability, when the issue, ultimately, is our national survival itself.

For that reason and for many others, I recommend against this treaty to you and to all citizens, because of the current strategic imbalance and of the new implications of Soviet military supremacy for Western freedom, both internationally and at home.

The picture I have painted during these debates is unpleasant to contemplate, but we must understand the facts as they are, not as we might wish them to be, if we are to remain free.

Mr. SYMMS. Mr. President, I read a quote attributed to Gen. Bernard Rogers, former supreme allied commander in Europe, which should give each Senator cause for cautious reflection on the INF Treaty. General Rogers warned that Europeans "can have their peace, but lose their freedom * * * if the Soviets achieve their objective in Western Europe."

Yet peace without freedom is not our objective.

It is possible that the free nations of Western Europe will become so intimidated by the Soviets that they will become "Finlandized." Even worse, the Western Europeans may be faced with such overwhelming Soviet conventional and chemical forces, that these countries would, in fact, surrender rather than have warfare on their territories.

Peace is possible without freedom, Mr. President, but it is not the type of peace that we or Western Europe have now and want to continue. There is a form of peace with bondage.

Patrick Henry spoke of this alternative 200 years ago in connection with the American Revolution:

> Is life so dear, or peace so sweet as to be purchased at the price of chains and slavery? Forbid it, almighty God! I know not what course others may take, but as for me, give me liberty or give me death.

The distinguished Senator from Iowa [Mr. GRASSLEY] made a passionate plea for using leverage on the Soviets to enforce greater human rights opportunities for the oppressed peoples within the Soviet Union and its satellites during his testimony before the Foreign Relations Committee; and here on this floor—

> To the Soviet Jews and other national minorities of the Soviet Union, our American Government is the best hope for improvement in their lives. We have the ability to extract concessions from the Soviet Union as it seeks modernization and integration into the Western World. And we must continue to use this leverage.
>
> Peace and freedom are intimately connected. We cannot achieve a genuine and reliable peace with the Soviet Union until those who want to leave are allowed to go, until every Christian, Moslem, and Jew is given the right to practice his religion, and until every minority is given the opportunity to study and enjoy its culture and heritage. The principles and ideals on which this country was founded demand no less.

These are important considerations, Mr. President, the freedom of Western Europe.

CONVENTIONAL BALANCE IN EUROPE

Mr. WIRTH. Mr. President, the discussion of the conventional balance in Europe is aided by the contribution made by the Western European Union.

The WEU threat assessment report examines the difficulty of force comparisons and stresses the importance of providing objective and consistent information to the alliance. Simply put, while alarmist estimates may lead to temporary alliance cohesion, in the long run, sound policy cannot be built on bad data. The report deliberately avoids using the word "balance" due to the judgment implied in comparing unlike quantities without regard to qualitative military factors, on the contrasting assessments by the Soviet Union and the West of their security needs.

In treating conventional forces within the larger picture of NATO's deterrent capability, the WEU's assessment begins by pointing out that radically differing conclusions will be reached depending on exactly what forces are included. For instance, while Soviet defense spending and armed forces are much larger than that of the United States, when the Warsaw Pact is compared to NATO, the figures are roughly equal. Moreover, when Soviet forces are compared to all potential adversaries—that is China, Japan—they emerge inferior. While the report notes a greater understanding for Soviet perceptions of their global security needs, it strenuously adds that such an understanding should not apply to the central region of Europe, where the pact's overwhelming numerical superiority in men and most major weapons necessitates some level of asymmetrical reductions.

The report bases its assessment on the official NATO publication "NATO and Warsaw Pact: Force Comparisons," while noting the NATO report's shortcomings in not having been updated since 1984—due to a Greek-Turkish dispute—and not including French and Spanish forces—for which it relies on the annual IISS military balance. From these sources, the WEU report confirms the large and well-known Warsaw Pact numerical superiority in ground and air forces, and notes the superiority of Western navies. However, it notes there is considerable difference in age and level of sophistication in the tanks in service in the West and East, with over half the Soviet total comprising nearly obsolete 1947 models. Furthermore, Syrian-Israeli clashes in Lebanon in 1982 revealed Soviet armor's vulnerability to United States antitank weapons. While Soviet spokesmen cite Western advantages in antitank guided weapons to justify their numerical advantage in tanks, the Soviets have not released data on their own ATGW capabilities. Moreover, the report asserts, the Soviet preponderance in tanks is to be expected since the Atlantic alliance has actively sought to assume a defensive posture, and this preponderance is ameliorated by the fact that NATO possesses 10 antitank missiles for every existing Soviet tank. The conventional forces assessment also point out that the pact's superiority in aircraft in Europe is confined to air/defense aircraft, while in fighter bomber/ground attack planes the numbers are nearly equal. Finally, the report notes that the civilian populations and military of the Soviet Union's East European allies may be of questionable morale and loyalty in the event of conflict.

GEORGE WARRICK LEHR

Mr. NUNN. Mr. President, we in the Senate were deeply saddened to hear of the death of George Warrick Lehr, a man of remarkable ability and courage.

Those of us who knew George recognized and appreciated his tireless efforts to meet the toughest challenges with grace and, of course, great success.

I had the pleasure of working closely with George Lehr during his tenure as executive director of the Teamsters Central States Southeast and Southwest Health and Welfare and Pension Funds. George took over management of that fund at a time when it was under close scrutiny by both the Labor Department as well as the Permanent Subcommittee on Investigations, where I serve as chairman. As director, George Lehr made every effort to reform the fund in the face of serious past allegations of mismanagement and corruption in the fund's activities.

During the course of his tenure at the fund, George Lehr made every effort to fully and candidly cooperate with the Government, including our subcommittee, in his efforts to install effective and meaningful reform.

In November 1981, he testified before the Permanent Subcommittee on Investigations, detailing for us his painstaking and thorough plan for reform of this once scandal-ridden fund. The fund's recognized progress in these areas is the direct result of George Lehr's persistence and hard work.

On March 5, 1987, after a lengthy meeting at the Department of Labor about the Teamsters Fund, George suffered a seizure in a limousine on the way to Washington National Airport. He was found to have two inoperable brain tumors. In spite of chemotherapy, steroids, and radiation, George stayed at his desk until just weeks before he died, continuing to give of his time and quickly diminishing energy.

George Lehr died on March 21, 1988, at 51 years of age. He left behind a wife and two daughters. I know they are proud, and rightfully so, of this fine man, and I hope that the memory of his courage and perseverance will keep them in the years to come.

Today, the Senate pays homage to George Lehr, and we grieve at his passing.

TRIBUTE TO GEORGE W. LEHR

Mr. ROTH. Mr. President, I rise today to join my colleagues in lamenting the loss of George Lehr, a dedicated public servant and family man. He has left behind a legacy of success in politics and business and a legion of admirers.

My fellow members of the Permanent Subcommittee on Investigations and I will especially remember George Lehr for the outstanding leadership and example he provided in an area of great concern to us, that of pension and benefit fund management. In 1981, George Lehr took on the mighty task of directing the Central States Pension and Health and Welfare Funds in Chicago. At that time, the management of the fund was so riddled with corruption that many referred to it as "the mob's bank." Shortly after he assumed the post of executive director, he testified before the Permanent Subcommittee on Investigations, and he pledged to turn things around at Central States. George Lehr not only cleaned up that fund, he turned it into one of the most successful pension and benefit plans in the Nation. The union members who depend on the soundness of that fund to protect their futures owe a debt of gratitude to George Lehr. The American people do also. George Lehr will be sorely missed.

TRIBUTE TO GEORGE LEHR

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in paying tribute to an outstanding citizen of enormous integrity, drive, and achievement. George Lehr deeply believed that one person can make a difference—and what a difference George Lehr made. He relished challenge, and he brought an enthusiastic idealism to every endeavor he undertook.

His contributions in both the political and public arenas were many and lasting. One of his greatest successes and most meaningful contributions came in the final years of his brilliant career. He took over the reins of the Teamsters Central States Pension & Health & Welfare Funds, and with great courage and integrity, he eliminated the corrupt influences that had plagued the funds for years. Because of George Lehr, these funds stand today as models of fiduciary integrity and managerial efficiency, fulfilling their intended function for the union members.

George Lehr was also a man of great courage in his personal life. His triumph over polio as a young man made him an inspiration to thousands of other handicapped individuals in our society, we could see at a glance, by the example of George Lehr, that disabled does not mean unable. He was a friend who died too young, a pioneer for justice, and all of us who knew him will never forget him.

Mr. DANFORTH. Mr. President, George Lehr was a person of courage and intellect and enthusiasm. He had what songwriters call heart. He could walk only with the assistance of crutches, but he seemed not to notice his disability. After a few minutes, neither did anyone else.

George made a solid contribution to the people of Missouri before cutting short his career to commit time to his son, who was terminally ill. He was the quintessential politician, in the best sense of the word. And in the act of governance, he always was mindful that true and enduring accomplishment is a bipartisan affair.

Later, George applied his intelligence and energy to the task of managing the Central States Pension Fund. He never met a job he could not do. He never confronted an adversity that broke his spirit. He had miles and miles and miles of heart. I admire him deeply.

A TRIBUTE TO GEORGE LEHR

Mr. BRADLEY. Mr. President, on March 21, this country lost a dedicated public servant who left behind a legacy that will be remembered for many years to come. And I lost a close friend, whose character and values I will always admire. George W. Lehr, a Missouri politician and banker, died at age 51 of brain cancer. Although he died at an early age, he accomplished a great deal during his career. I ask my colleagues to join me in paying tribute to a man whose outstanding public service career has left an important mark on history.

George Lehr was a man of integrity, a tireless and ambitious man who accepted every challenge—no matter how overwhelming. He began his career in government in the early sixties as the county auditor in Jackson County, MO, followed by his election as county collector in 1966, presiding judge of the Jackson County Administrative Court in 1970, county executive in 1973, and finally as State auditor in 1974. He was responsible for ending the patronage system, upgrading the hospitals and jails, and improving tax collection and the investment of public funds. George then left politics to enter the banking field. Prior to his death, he was the executive director of the Teamsters Central States Pension & Health & Welfare Funds. He was asked to step in and reform the scandal-ridden fund and eliminate the criminal influence that had taken control. In the process, he also increased its assets 240 percent by instituting sound investment practices.

Beyond the challenges of his career, George Lehr had to accept the challenges that come with great personal adversity. When he was in high school, he contracted polio and eventually lost complete use of his legs. Until that time he was a star athlete, with numerous college scholarships awaiting him, but George Lehr went on to develop his full potential. He and his wife were also struck by tragedy later in life when they lost their son, George, Jr., at the age of 18, to muscular dystrophy. In the face of these tragedies, however, George found strength and courage. Even in the face of certain death from cancer, George continued to work and to help others. He talked openly about his illness to help other cancer victims. He persevered—never stopping to feel sorry for himself.

To see him pulling his giant frame along on crutches, with a beaming smile on his face, was to see someone who enjoyed life. George Lehr knew what was important and lived his beliefs. He loved politics, but never more than he loved his family. Above all, he had common sense—an eye for the possible. His advice was a form of wisdom. His friendship—a gift. He will be sorely missed by all of us.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD (for Mr. Biden), from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 844. A bill to exempt certain activities from provisions of the antitrust laws (Rept. No. 100-365).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment and an amendment to the title:

S. 1690. A bill to provide financial assistance to Fort Abraham Lincoln and related structures located in Fort Lincoln State Park, Mandan, North Dakota, and for other purposes (Rept. No. 100-366).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendments and an amendment to the title:

S. 1693. A bill to amend the National Trails System Act to provide for a study of the Coronado Trail, and for other purposes (Rept. No. 100-367).

S. 1850. A bill to amend the Wild and Scenic Rivers Act to designate a section of the Columbia River in Washington as a study area for inclusion in the National Wild and Scenic Rivers System and for other purposes (Rept. No. 100-368).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1914. A bill to designate the Wildcat River in the State of New Hampshire as a unit of the National Wild and Scenic River System (Rept. No. 100-369).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment and an amendment to the title:

S. 1927. A bill to provide for the approval of a desert land entry in the vicinity of the Dinosaur National Monument and for other purposes (Rept. No. 100-370).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2042. A bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict (Rept. No. 100-371).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2057. A bill to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes (Rept. No. 100-372).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 1044. A bill to establish the National Maritime Museum at San Francisco in the State of California, and for other purposes (Rept. No. 100-373).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1100. A bill to authorize an affiliated status with the National Park Service for the Wildlife Prairie Park, in the State of Illinois (Rept. No. 100-374).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1860. A bill entitled the "Federal Land Exchange Facilitation Act of 1987" (Rept. No. 100-375).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment and an amendment to the title:

H.R. 3869. A bill to amend the Act providing for the establishment of the Tuskegee University National Historic Site, Alabama, to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes (Rept. No. 100-376).

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 1511. A bill to amend title IV of the Social Security Act to replace the AFDC program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefits improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal (Rept. No. 100-377).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BYRD, for Mr. Biden, from the Committee on the Judiciary:

William G. Cambridge, of Nebraska, to be U.S. district judge for the District of Nebraska;

Richard A. Schell, of Texas, to be U.S. district judge for the Eastern District of Texas; and

David E. Baldelli, of Texas, to be U.S. marshal for the Northern District of Texas for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MATSUNAGA (for himself, Mr. Inouye, Mr. Cranston, Mr. Wilson, Mr. Adams, Mr. Dixon, and Mr. Simon):

S. 2444. A bill to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population; to the Committee on Governmental Affairs.

By Mr. HEINZ (for himself, Mr. Pell, Mr. Specter, Mr. Gore, and Ms. Mikulski):

S. 2445. A bill to amend the National System Act to designate the Kosciuszko Trail as a study trail; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself and Mr. Cranston):

S. 2446. A bill to amend title 38, United States Code, to extend for one year the authorization of the Veterans' Administration to furnish respite care to certain chronically ill veterans and to extend the due date for a report on the results of an evaluation of furnishing such care; to the Committee on Veterans Affairs.

By Mr. MATSUNAGA (for himself, Mr. Evans, and Mr. Inouye):

S. 2447. A bill to establish a hydrogen-fueled aircraft research and development; to the Committee on Commerce, Science, and Transportation.

By Mr. DIXON (for himself, Mr. Cranston, Mr. Simon and Mr. Sanford):

S. 2448. A bill to amend the Export-Import Bank Act of 1945, as amended, to allow full and free transferability of loans guaranteed prior to October 15, 1986; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRYOR (for himself, Mr. Stevens, Mr. Burdick, Mr. DeConcini, and Mr. Mitchell):

S. 2449. A bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one Committee reports the other Committee has thirty days of continuous session to report or to be discharged.

By Mr. CHILES:

S. 2450. A bill to provide Federal financial assistance to facilitate the establishment of volunteer programs in American schools; to the Committee on Labor and Human Resources.

By Mr. PROXMIRE (for himself and Mr. Garn):

S. 2451. A bill to extend the moratorium on thrift institutions' voluntarily terminating deposit insurance provided by the Federal Savings and Loan Insurance Corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRANSTON (for himself and Mr. Kerry):

S. 2452. A bill to place a moratorium on the relocation of Navajo and Hopi Indians under Public Law 93-531, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. LAUTENBERG (for himself, Mr. Bradley, Mr. Adams, Mr. Matsunaga, Mr. Burdick, Mr. Simon, Ms. Mikulski, and Mr. Cranston):

S. 2453. A bill to provide for the rehiring of certain former air traffic controllers; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself and Mr. Boschwitz):

S. 2454. A bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000; to the Committee on Foreign Relations.

By Mr. D'AMATO (for himself, Mr. Wilson, Mr. Byrd, Mr. DeConcini, Mr. Dole, Mr. Stevens, Mr. Murkowski, Mr. Thurmond, Mr. McCain, Mr. Symms, Mr. Grassley, and Mr. McConnell):

S. 2455. A bill entitled "Death Penalty in case of Drug Related Killings"; placed on the calendar.

By Mr. WILSON:

S. 2456. A bill for the relief of Gagik Barseghian; to the Committee on the Judiciary.

By Mr. MELCHER:

S. 2457. A bill to transfer certain lands in the State of Montana and to relieve the Town of Neihart, Montana, of any obligation to pay consideration for lands conveyed to it under authority of the Small Tracts Act; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 2458. A bill to amend the Clean Air Act to establish a program for the control of the emissions of municipal solid waste incinerators, to initiate a program for the training of incinerator operators, to amend the Solid Waste Disposal Act to establish requirements for the disposal of incinerator ash from municipal solid waste incinerators, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER (for himself, Mr. Cranston, and Mr. Murkowski):

S. 2459. A bill to amend title 38, United States Code, to extend the period for the temporary program of vocational training for certain veterans' pension recipients; to the Committee on Veterans' Affairs.

By Mr. BREAUX:

S. 2460. A bill to establish for the 1988 through 1990 crops of upland cotton an optional acreage diversion program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN (for himself, Mr. Rockefeller, and Mr. Riegle):

S. 2461. A bill to amend part E of title IV of the Social Security Act to extend and make necessary improvements in the independent living program under such part, and for other purposes; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. Matsunaga, Mr. DeConcini, and Mr. Rockefeller):

S. 2462. A bill to amend title 38, United States Code, to improve various aspects of Veterans' Administration health-care programs, to provide certain new categories of veterans with eligibility for readjustment counseling from the Veterans' Administration, to extend the authorizations of appropriations for certain grant programs and to revise certain provisions regarding such programs, to revise certain provisions relating to the personnel system of the department of Medicine and Surgery, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (for himself, Mr. Murkowski, Mr. Matsunaga, Mr. DeConcini, Mr. Rockefeller, and Mr. Graham):

S. 2463. A bill to amend title 38, United States Code, to improve the capability of Veterans' Administration health-care facilities to provide the most effective and appropriate services possible to veterans suffering from mental illness, especially conditions which are service-related, through the designation of centers of mental illness research, education, and clinical activities at up to five of its medical centers, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (by request):

S. 2464. A bill to amend title 38, United States Code, to provide authority for payment of interest in insurance settlements, and to permit increased discount rates for insurance premiums paid in advance; to the Committee on Veterans' Affairs.

By Mr. DOLE (for himself, Mr. Bentsen, Mr. Bond, Mr. Boschwitz, Mr. Byrd, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Conrad, Mr. D'Amato, Mr. Dixon, Mr. Domenici, Mr. Durenberger, Mr. Exon, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Gore, Mr. Graham, Mr. Gramm, Mr. Hatch, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Karnes, Mr. Kasten, Mr. Lautenberg, Mr. Leahy, Mr. Lugar, Mr. Matsunaga, Mr. McCain, Mr. McConnell, Ms. Mikulski, Mr. Moynihan, Mr. Murkowski, Mr. Nickles, Mr. Pell, Mr. Pressler, Mr. Proxmire, Mr. Quayle, Mr. Reid, Mr. Rockefeller, Mr. Sarbanes, Mr. Shelby, Mr. Simon, Mr. Specter, Mr. Trible, Mr. Wallop, Mr. Warner, and Mr. Wilson):

S.J. Res. 330. Joint resolution to provide for the designation of September 16, 1988, as "National POW/MIA Recognition Day"; to the Committee on the Judiciary.

By Mr. SHELBY (for himself, Mr. Packwood, Mr. Wilson, Mr. Kerry, Mr. Cochran, Mr. Proxmire, Mr. Lugar, Mr. Dole, Mr. Bumpers, Mr. Dixon, Mr. Simpson, Mr. Moynihan, Mr. Johnston, Ms. Mikulski, Mr. Inouye, Mr. Roth, Mr. Metzenbaum, Mr. Adams, Mr. Burdick, Mr. Stennis, Mr. Gore, Mr. Chafee, Mr. Hatch, Mr. Heinz, Mr. Leahy, Mr. Murkowski, Mr. D'Amato, Mr. Stevens, Mr. Bond, Mr. Hollings, Mr. Pryor, Mr. Wallop, Mr. Cranston, Mr. Heflin, Mr. Pell, and Mr. Domenici):

S.J. Res. 331. Joint resolution to designate the week of June 19–25, 1988, as the "National Recognition of the Accomplishments of Women in the Workforce Week"; to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. Thurmond, Mr. DeConcini, Mr. Dole, Mr. Simon, Mr. Armstrong, Mr. Wilson, Mr. Shelby, Mr. Bond, Mr. Burdick, Mr. Pryor, Mr. Warner, Mr. Trible, Mr. Cochran, Mr. Proxmire, Mr. Gore, Mr. Rockefeller, Mr. Rudman, Mr. Stennis, Mr. Simpson, Mr. Metzenbaum, Mr. McCain, Mr. Lugar, Mr. McClure, Mr. Bradley, Mr. Mitchell, Mr. Chiles, Mr. Sanford, Mr. Glenn, Mr. Wirth, Mr. Domenici, Mr. Pell, Mr. Levin, Ms. Mikulski, Mr. Heinz, Mr. Garn, Mr. Hatch, Mr. D'Amato, Mr. Chafee, Mr. Matsunaga, Mr. Helms, Mr. Inouye, Mr. Grassely, Mr. Boschwitz, Mr. Graham, Mr. Riegle, Mr. Durenberger, Mr. Reid, Mr. Wallop, Mr. Quayle, and Mr. Bentsen):

S.J. Res. 332. Joint resolution to designate the period commencing December 11, 1988, and ending December 17, 1988, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on the Judiciary.

By Mr. GORE (for himself, Mr. Quayle, Mr. Sasser, Mr. Dole, Mr. Burdick, Mr. Levin, Mr. Lugar, Mr. Sanford, Mr. Hollings, Mr. Stennis, Mr. Metzenbaum, Mr. Thurmond, Mr. Durenberger, Mr. Boren, Mr. Bond, Mr. Chiles, Mr. Dodd, Mr. Grassley, Mr. McClure, Mr. Garn, Mr. Shelby, Mr. Simon, Mr. Kerry, Mr. Matsunaga, Mr. Heflin, Mr. Pell, Mr. Domenici, Mr. Bentsen, Mr. Heinz, Mr. D'Amato, Mr. Stevens, Mr. Cochran, Mr. Lautenberg, Mr. Pryor, Mr. Inouye, Mr. Mitchell, Mr. Rockefeller, Mr. Roth, Mr. Melcher, Mr. Riegle, and Mr. Johnston):

S.J. Res. 333. Joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HUMPHREY:

S. Res. 436. Resolution relating to the visit of Pakistan's President Mohammad Zia-Ul-Haq to the United States; to the Committee on Foreign Relations.

By Mr. BYRD:

S. Res. 437. Resolution authorizing the printing of the Standing Rules of the Senate as a Senate document; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATSUNAGA (for himself, Mr. INOUYE, Mr. CRANSTON, Mr. WILSON, Mr. ADAMS, Mr. DIXON, and Mr. SIMON):

S. 2444. A bill to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population; to the Committee on Governmental Affairs.

TABULATIONS OF ASIAN AMERICANS AND PACIFIC ISLANDERS IN THE DECENNIAL CENSUS

Mr. MATSUNAGA. Mr. President, with Senator INOUYE, Senator CRANSTON, Senator WILSON, Senator ADAMS, Senator DIXON and Senator SIMON, I am introducing today a bill which would require the Bureau of the Census to include a detailed tabulation of the Asian American and Pacific Islander populations in the questionnaire for the 1990 Decennial Census.

The Decennial Census is a vital tool used by Federal, State, and local officials in the allocation of our Nation's scarce resources. Equipped with accurate and complete census data, we can more effectively meet the social needs of the American people. I have, therefore, noted with increasing concern an attempt by the Census Bureau to limit the amount of information available about Asian Americans and Pacific Islanders.

Asian/Pacific Americans are the second fastest growing minority group in the United States, Mr. President, after Hispanics. They are a very diverse group of people, including Chinese Americans and Japanese Americans whose forebears immigrated to the United States in the late 19th and early 20th centuries, as well as more recent immigrants from Vietnam, Cambodia, and Laos. Their numbers include both upwardly mobile professionals and some of the most needy children and elderly people in the country. Some are learning English as a second language, while others have never spoken any language but English. Knowledge of these diverse groups and where they are located in the United States would help us direct resettlement assistance to communities with large numbers of recent immigrants.

In 1980, the Census Bureau sought a detailed tabulation of this population, using a check off system which listed nine separate subgroups. A Japanese American would check the circle designated for the Japanese subgroup. A Filipino American would check the circle designated for the Filipino subgroup. A Vietnamese American would check the circle designated for the Vietnamese subgroup, and so on.

As preparations for the 1990 census began last year, however, the Census Bureau announced that it would change the way that Asian/Pacific Americans are counted. Instead of a complete check-off system, Asian/Pacific Americans would mark that they were Asian/Pacific Americans. Later, in response to complaints, the Bureau agreed to provide a box where census respondents could "write in" their subgroup (that is, Japanese American, Chinese American et cetera). However, the Bureau said that it would not "count" such write-in information. This system would be used on the all-important short form questionnaire sent to every household in America, with a detailed tabulation to be used on the long form questionnaire which is sent to a small sample of households. The data resulting from this sampling method would be totally inadequate.

Finally, in March of this year, the Census Bureau changed its mind again. It announced that it would count write in responses and would tabulate the data by 1992. Those of us who reside in States with substantial Asian-Pacific American populations were encouraged by this development, but still not entirely satisfied, for the Census Bureau has failed to prove that its write-in format is more accurate than the check-off format used in 1980. There are indications that it may be less accurate. That is why, after considerable deliberation, we decided to introduce our bill which would require a detailed tabulation similar to the one in the 1980 census. I am sure that I speak for the other cosponsors of the bill when I say that I hope that the Census Bureau will also undertake an enhanced Outreach Program to the Asian-Pacific American community during the next 2 years. I know that throughout the country Asian-Pacific Americans are in need of improved census education programs, bilingual assistance, and easier access to information repositories.

Mr. President, I request unanimous consent that the text of our bill be printed in the RECORD following the remarks of cosponsors.

Mr. INOUYE. Mr. President, I wish to join my colleagues as a cosponsor of S. 2444, a bill to direct the U.S. Bureau of the Census to tabulate Asian American and Pacific Islander ethnic groups in the 1990 decennial Census in the same manner that they were counted in the 1980 census.

I am very concerned about the Census's Bureau's plans to collect data on Asian-Pacific Islander residents as one single racial category, with a write-in section for specific ethnic populations. This proposal is a serious departure from the 1980 census in which nine ethnic groups were listed under the Asian-Pacific Islander category in a coded format.

The Census Bureau maintains that the write-in method will yield more accurate information. However, it is my belief that the Bureau's approach will complicate efforts to analyze data regarding Asian-Pacific Islander populations. Many new immigrants lack formal education and, thus, the ability to completely follow directions. For example, sample questionaires were distributed which directed respondents to write-in their ethnic group—Chinese, Japanese, Filipino, et cetera. When immigrants did not locate their appropriate race in the list of examples, they described themselves as "et cetera." Others only darkened the general Asian-Pacific Islander category, without providing a more specific written response. Finally, written responses will take years to hand-tabulate, as opposed to a coded list which can be tabulated by computer and which will probably cost considerably less.

The write-in format, then, lends itself to a significant undercounting of ethnic groups. Consequently, State and private organizations will lack the information necessary to address emerging issues, obtain funding, and provide appropriate assistance. A diverse and rapidly changing population cannot be lumped into one category; fourth generation Japanese Americans are distinctly different from recent Loatian immigrants, although both are deemed Asian-Pacific Islanders.

I therefore lend my full support to this bill and urge my colleagues to give it their serious and timely consideration.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 141 of title 13, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g)(1) The Secretary shall take appropriate measures to ensure that each questionnaire used in a decennial census of population contain at least 1 question relating to race or ethnic origin. Such question—

"(A) shall include, in a checkoff format—

"(i) each group identified in question 4 of the short form used in the 1980 decennial census of population; and

"(ii) at least 2 additional groups, each of which shall be within the category of Asian American or Pacific Islander; and

"(B) shall include a means to write in the name of any group not specified under subparagraph (A).

"(2)(A) The Secretary shall tabulate and make available to the general public the population of Asian Americans and Pacific Islanders both by local and by groups, as determined in any decennial census of population.

"(B) The requirements of subparagraph (A) shall, with respect to any decennial census of population, be satisfied not later than December 31 of the first year beginning after the year in which such census is taken.".

(b) The amendments made by subsection (a) shall apply with respect to the 1990 decennial census of population and each decennial census thereafter.

Mr. CRANSTON. Mr. President, I am very glad to join my good friend from Hawaii [Senator MATSUNAGA] in introducing this bill today that would provide for an accurate count of Asians and Pacific Islanders in the 1990 Decennial Census. This legislation is absolutely necessary to assure that the 1990 census will in fact provide policymakers and Government agencies with the information they need regarding this fast-growing segment of our population.

The steady growth through immigration and the diversity of the Asian and Pacific Islander population warrant an-all out effort on the part of the Census Bureau to record accurate, detailed information about Asian and Pacific Islander ethnic groups. The 1980 census revealed dramatic socioeconomic differences among these groups. For example, the mean annual earnings for Asian males—ages 25 to 54—ranged from $11,303 for Vietnamese males to $21,466 for Japanese males. The percentage of families in poverty also varied significantly among the Vietnamese, Koreans, Filipinos, and Japanese ethnic groups. In light of the results of the 1980 census, we should make every effort to assure that the 1990 census provides us with even more detailed information regarding the characteristics of the ethnic groups which comprise the Asian and Pacific Islander population in our country.

Mr. President, for a State like California—where the Asian Pacific Islander population comprises a significant percentage of the total population—this information is absolutely crucial so that policymakers and Government agencies might effectively plan for the delivery of social services and educational programs. For this reason, I was particularly concerned to learn that the Census Bureau's proposal regarding the 1990 census will make it more difficult than in the 1980 census for Asian Pacific Islanders to record their ethnic background. Rather than making it more difficult for Asian Pacific Islanders to be adequately represented in the 1990 census count, the Census Bureau should be undertaking greater outreach efforts and providing census education programs to assure that this community will fully participate in the census.

I am cosponsoring this legislation today because I believe it is a reasonable measure that will provide us with the information we need by slightly expanding the form which was used in the 1980 census. Specifically, the bill would provide that a checkoff system similar to the 1980 census be used on both the long and short census forms, and the results tabulated on a 100 percent basis. Further, 11 Asian American subgroups are to be listed on the short form questionnaire, and subgroups not listed—but written in under the category "other"—are to be counted on a 100-percent basis. Finally, the bill provides that the Bureau is to publish and release its findings on Asian Americans no later than its other standard data products.

As I said before, Mr. President, I believe that this is important legislation which will improve the census count in 1990. I urge my colleagues to support it.

By Mr. HEINZ (for himself, Mr. PELL, Mr. SPECTER, Mr. GORE, and Ms. MIKULSKI):

S. 2445. A bill to amend the National Trails System Act to designate the Kosciuszko Trail as a study trail; to the Committee on Energy and Natural Resources.

STUDY OF KOSCIUSZKO TRAIL

● Mr. HEINZ. Mr. President, I rise at this time to introduce legislation, along with my colleagues Senators PELL, SPECTER, GORE, and MIKULSKI, that would recognize the contributions made to our Nation by Gen. Thaddeus Kosciuszko, the great Polish military engineer whose role in the War for Independence was critical.

The proposed Kosciuszko Trail is a system of markers that would link the military sites fortified by General Kosciuszko during the Revolutionary War. These sites dot the Eastern United States from Vermont to South Carolina, and include fortifications such as those at West Point and Philadelphia which played an essential role in repelling British invasions—thus enabling the United States to achieve independence.

Congress, in 1977, passed Senate Concurrent Resolution 44, recognizing the value of the fortifications built by Kosciuszko. It is appropriate that we now move to include these fortifications in the National Trails System. Our legislation would authorize a feasibility study of these sites for inclusion in the System. To have these sites as a part of the System would serve as a tangible reminder of the contributions made by this great individual to our freedom.

The House passed similar legislation in 1986. The time has come for the Senate to properly recognize the invaluable contributions which General Kosciuszko made to the forming of our great Nation. I urge my colleagues to join us in this effort.●

By Mr. ROCKEFELLER (for himself and Mr. CRANSTON):

S. 2446. A bill to amend title 38, United States Code, to extend for 1 year the authorization of the Veterans' Administration to furnish respite care to certain chronically ill veterans and to extend the due date for a report on the results of an evaluation of furnishing such care; to the Committee on Veterans' Affairs.

RESPITE CARE

Mr. ROCKEFELLER. Mr. President, I am today introducing, along with my colleague, the chairman of the Senate Veterans' Committee, Mr. CRANSTON, S. 2446, a measure which would extend to September 30, 1990, the Veterans' Administration's authority to furnish respite care to certain chronically ill veterans and extend to February 1, 1990, the date by which the Administrator is to submit a report on the evaluation of such a program to the House and Senate Veterans' Affairs Committees.

BACKGROUND

The ultimate goal of respite care, which is a relatively new form of care, is to help maintain individuals with serious chronic illnesses in their homes as long as possible before having to resort to institutional care. It is widely agreed that, where medically feasible, maintaining a person at home is better for the person's overall health status, and a far more efficient and cost effective way to meet individuals' healthcare needs. Very often a key to a person being able to remain at home is the availability of a spouse, child, or other relative or close friend of the patient to provide meals, homemaker, and other personal-care services that, combined with outpatient treatment, home-health services, or other sources of medical attention, meet the individual's full range of needs. Respite care, by providing scheduled relief for the primary provider or providers of personal care—in other words, care for the caretaker—should make it possible to maintain the person in need of care at home for a longer period of time or indefinitely.

Recognizing the benefits such a service would afford veterans and their families, on April 30, 1986, Senator CRANSTON, then-ranking minority member of the Veterans' Affairs Committee, introduced S. 2388 which included a provision authorizing the VA to furnish respite care. On May 13, 1986, Senator MURKOWSKI, then-chairman of the Senate Veterans' Affairs Committee, introduced S. 2445 which contained a similar provision. A provision relating to respite care derived from these measures was incorporated into S. 2442 on June 26, 1986, subsequently passed by both Houses, and included as section 201 of Public Law 99-576.

This provision, which became effective October 28, 1986, provided the VA authorization to furnish respite care services until September 30, 1989, to a veteran who is eligible to receive hospital or nursing home care under section 610 of title 38. Respite care, for this purpose, is defined as hospital or nursing home care which: First, is of limited duration; second, is furnished in a VA facility on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home; and third, is furnished for the purpose of helping the veteran to continue residing primarily at home. Additionally, under this provision, the Administrator is required to conduct an evaluation of the health efficacy and cost effectiveness of furnishing respite care, and not later than February 1, 1989, to submit to the Senate and House Committees on Veterans' Affairs a report containing the results of this evaluation, including any plan for administrative action, and any recommendation for legislation, that the Administrator considers appropriate.

It was not until November 2, 1987, that guidance from VA Central Office was provided to medical centers in regard to the admission guidelines and program management requirements necessary to establish a respite care program. One month later, on December 8, 1987, instructions were distributed to all medical centers which provided instructions for gathering the data required to appropriately study the cost effectiveness and health efficacy of furnishing respite care as required by Public Law 99-586.

VA policy stipulates that respite care may be provided for up to 30 days in a calendar year to eligible veterans who are suffering from a chronic illness and reside primarily at home and who are recommended for respite care by a VA treatment team. The duration of any one respite care admission is not to exceed 14 days and the frequency of admission is not to exceed once a quarter. The policy prohibits respite care from being provided in an ambulatory care program, domiciliary bed, through a contractual agreement, or in the home. According to the policy, the veteran must be enrolled in and continue in one of the following VA programs: First, Post-Hospital Care; second, Adult-Day Health Care (ADHC); third, Hospital-Based Home Care [HBHC]; fourth, Outpatient/Fee Basis Care; or fifth, any other outpatient program where VA staff provide care.

VA program management guidelines specify that the respite care program will be under the direction of a respite care coordinator—appointed by the medical center chief of staff—who is responsible for coordinating referrals and admissions, and orienting the patient and caregiver to the program. An interdisciplinary team, composed of the physician primarily responsible for the patients' care and a nurse and social worker assigned to the respite care program or composed of the ADHC, HBHC, or mental health interdisciplinary teams, will be responsible for screening the patients and formulating the respite care treatment plan for each patient, including the frequency, duration, and recommendation for patient activities while the veteran is in the hospital or nursing home care unit.

EXTENSION OF THE REPORTING PERIOD

Mr. President, the respite care study as designed by the VA calls for an evaluation of respite care and a comparison of such care to VA HBHC and VA ADHC. Data collection in regard to respite care is due to be completed in September 1988 and information about HBHC and ADHC is expected in January 1989. To provide the VA adequate time to evaluate the potential benefits and cost-effectiveness of respite care, the provision we are introducing today would extend both the underlying authority to provide such care and the due date of the report required to be submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives by 1 year. This extension should provide the VA ample time to study and analyze the data thoroughly and arrive at reliable conclusions.

EXTENSION OF THE AUTHORITY TO PROVIDE RESPITE CARE

Mr. President, rather than allow the authority for a potentially beneficial program to expire while the evaluation is pending, this measure would authorize the VA to furnish respite care services until September 30, 1990. Based on preliminary data collected by the VA, this program appears to be providing a worthwhile service for veterans and their families.

To date, approximately two-thirds of all VA medical centers have responded to the VA's request for information in regard to patients admitted for respite care. From January through March 1988, 346 episodes of care have been recorded. Because these data cover only one calendar quarter, it is believed that these figures represent numbers of veterans as well as episodes of care. The average age of admitted veterans was 68 with 25 percent over 75 years old. Interestingly, 88 percent of admissions were category A veterans, 9 percent category B, and 3 percent category C as compared to 94 percent category A, 4 percent category B, and 3 percent category C who otherwise are scheduled for or receive VA hospital, nursing home, or outpatient care. Of episodes of care provided, 71.8 percent involved married veterans and 71.4 percent lived with their spouse. In 52.6 percent of episodes, the veterans' informal support system consists of only one person who provides reliable support with adequate frequency. In 25.7 percent of the episodes that informal support is provided by two or more people. The reason for the respite care being needed in 81.5 percent of the cases was that the caregiver needed a rest and in 10.6 percent of the cases the caregiver was ill.

To quantify the level of assistance required by a veteran with activities of daily living [ADL], defining as bathing, dressing, toileting, transfer, feeding, and walking, an ADL score is determined whereby zero represents little, if any, assistance being required and 6 represents the need for complete care. To date, the data collected reflects that 71.6 percent of respite care participants fall within the range of a 3 to 6 ADL score, representing a need for moderate to complete care. Other descriptive information is being collected within VA medical centers, such as level of consciousness, mental status, and behavior, and will be analyzed and evaluated as part of the study mandated by Congress.

Mr. President, I believe that by providing respite care to eligible veterans we are permitting the veteran to maintain a quality of life that would likely be unattainable without this form of care. By caring for the caregiver we are providing the veteran the opportunity to remain within the comforts of his or her own home with the support of family and friends. This should also help to reduce costs by decreasing the incidence of veterans being admitted to nursing homes or for hospital care.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 620B(c) of title 38, United States Code, is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) Section 201(b)(2) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3254) is amended by striking out "February 1, 1989" and inserting in lieu thereof "February 1, 1990".

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to join with my distinguished colleague from West Virginia [Mr. ROCKEFELLER] in introducing this legislation to extend for 1 year the Veterans' Administration's authority to furnish respite care to certain chronically ill veterans and extend the date by which the Administrator is to submit a report on the evaluation of such a program to the House and Senate Veterans' Affairs Committees.

Mr. President, the purpose of respite care is, in essence, to provide care for the caretakers of chronically ill individuals who without the caretakers' services would likely be institutionalized. Providing care for such a patient at home instead of in an institution is often, many experts contend, better for the patient's overall health and more cost effective than institutional care.

Mr. President, I have for many years actively supported the VA pursuing cost-effective alternatives to institutional care.

Respite care is, in essence, a quality of life issue. Home-based care providers, who are usually either a relative or close friend of the patient, provide a full array of care ranging from preparing meals to bathing and dressing the patient. Providing the primary caretaker with a break from the overwhelming responsibilities of caring for a chronically ill loved one is designed to make the caregiver more likely to be able to provide services for a longer period of time, thus allowing the patient to remain at home indefinitely. In many instances, maintaining patients in their homes will improve the quality of life for the veteran-patient and the veterans' family.

Mr. President, on April 30, 1986, I introduced S. 2388 which included a provision authorizing the VA to furnish respite care. A provision derived from this measure and also derived from a provision introduced by then-chairman of the Veterans' Affairs Committee, Senator Frank Murkowski, on May 13, 1986, and included in S. 2445, was incorporated into S. 2422 on June 26, 1986, and subsequently included as section 201 of Public Law 99-576.

Under Public Law 99-576, respite care is defined as hospital or nursing home care which first, is of limited duration; second, is furnished in a VA facility on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home; and third, is furnished for the purpose of helping the veteran to continue residing primarily at home.

Current law thus authorizes the VA to furnish respite care services until September 30, 1989, and requires the Administrator to conduct an evaluation of the efficacy and cost effectiveness of the program and report the results of the evaluation to the Veterans' Affairs Committees by February 1, 1989. The VA has recently advised that data collection for the respite care study will not be complete until September 1988 and that additional information necessary for thorough consideration of this matter will not be available until January 1989.

Mr. President, Senator Rockefeller and I are introducing this measure to provide the VA adequate time to conduct a thorough review of this important pilot program. Because the initial data on the program indicate that it is beneficial and because we believe that the services that the program provides for veterans and their families should continue while Congress considers the future of the program after receiving the evaluation report, we are also proposing to extend for 1 year the VA's authority to provide this service.

I urge my colleagues to support this bill.

By Mr. MATSUNAGA (for himself, Mr. Evans, and Mr. Inouye):

S. 2447. A bill to establish a hydrogen-fueled aircraft research and development program; to the Committee on Commerce, Science, and Transportation.

HYDROGEN-FUELED AIRCRAFT RESEARCH AND DEVELOPMENT ACT

Mr. MATSUNAGA. Mr. President, I am today introducing legislation to prepare our Nation for the next Moscow summit this year, following the one beginning this weekend between President Reagan and Soviet General Secretary Gorbachev. As with the Intermediate Nuclear Arms Control Treaty, my bill should receive speedy passage in this body.

This measure, which is also sponsored by the senior Senator from Washington [Mr. Evans], and my colleague from Hawaii, the senior Senator [Mr. Inouye], is a slimmed down version of S. 1296, a bill we introduced last year to develop a national research and development program in hydrogen. The bill we are introducing today deals only with title II of the earlier bill, having to do with R&D and demonstration of hydrogen-fueled aircraft. Save for the elimination of title I having to do with the production and use of hydrogen, the two measures are identical.

This legislation is necessary if American representatives to the International Association for Hydrogen Energy's World Hydrogen Conference to be held in Moscow this September are to to hold their heads up at the gathering. I say this because of the priority placed on hydrogen development by other industrial nations to be represented there, including the Soviet Union, which announced last month the successful flight of a commercial airliner powered by hydrogen fuel.

My colleagues will recall that I took the floor 4 weeks ago, Mr. President, to point out this cryogenic aviation breakthrough on the part of the Soviets and to comment on the environmental advances inherent in this technological milestone. I will not recite them again at this time as I spoke on the floor at length in this regard then and on at least four other occasions upon introducing this hydrogen legislation in as many Congresses. I would make the point, However, Mr. President, that the bill I am introducing today has been the subject of hearings in both houses of Congress last September, in connection with the larger bill, and can be acted upon expeditiously in the remaining time available to us in this Congress.

The bill charges the National Aeronautics and Space Administration with the development of a 5-year plan for research, development and demonstration of a hydrogen-fueled aircraft. The plan would specify R&D priorities, short-term technical goals, cost estimates and proposed funding, and the description of technology transfer and academic and industry participation required. The NASA Administrator would be mandated to submit the plan to Congress 6 months after enactment and to submit annual reports and recommendations thereafter.

With the plan in hand, NASA would undertake the R&D program for the aircraft, including its testing and demonstration, with the assistance and support of the Department of Energy and Transportation, the Environmental Protection Agency, and an advisory group. A 5-year, $100 million authorization is included in the bill.

Mr. President, I have urged this course for the past 8 years now, and I devoutly hope that it is not too little and too late in light of the Soviet achievement last month. It is certainly better than doing nothing at all; of this I am convinced, Mr. President.

Should my colleagues require further information on this subject before joining me in sponsoring this bill and urging its speedy adoption, I would refer them to an article which appeared Tuesday in the science section of the New York Times by Malcolm W. Browne entitled: "Clean Hydrogen Beckons Aviation Engineers—Recent Soviet Success With New Fuel Revives U.S. Interest." In order to facilitate this review I ask that the article be reprinted in full in the Congressional Record as if read, together with the bill I am introducing today.

There being no objection, the bill and article were ordered to be printed in the Record as follows:

S. 2447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hydrogen-Fueled Aircraft Research and Development Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) long-term future decreases in petroleum-base fuel availability will seriously impair the operation of the world's air transport fleets;

(2) hydrogen appears to be an attractive alternative to petroleum in the long term to fuel commercial aircraft;

(3) it is therefore in the national interest to accelerate efforts to develop a domestic hydrogen-fueled supersonic and subsonic aircraft capability; and

(4) the use of liquid hydrogen as a commercial air transport fuel has sufficient long-term promise to justify a substantial research, development, and demonstration program.

(b) Purpose.—The purpose of this Act is to—

(1) direct the Administrator of the National Aeronautics and Space Administration to prepare and implement a comprehensive 5-year plan and program for the conduct of research, development, and demonstration activities leading to the realization of a domestic hydrogen-fueled aircraft capability within the shortest time practicable;

(2) establish as a goal broad multinational participation in the program; and

(3) provide a basis for public, industry, and certifying agency acceptance of hydrogen-fueled aircraft as a mode of commercial air transport.

SEC. 3. COMPREHENSIVE MANAGEMENT PLAN.

(a) Preparation of Plan.—The Administrator shall prepare a comprehensive 5-year program management plan for research, development, and demonstration activities consistent with the provisions of sections 4, 5, and 6. In the preparation of such plan, the Administrator shall consult with the Secretary of Energy, the Secretary of Transportation, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. Such plan shall be structured to permit the realization of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(b) Transmission to Congress.—The Administrator shall transmit the comprehensive 5-year program management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate within 6 months after the date of the enactment of this Act.

(c) Contents of Plan.—The comprehensive management plan shall include—

(1) the research and development priorities and goals to be achieved by the program;

(2) the program elements, management structure, and activities, including program responsibilities of individual agencies and individual institutional elements;

(3) the program strategies including detailed technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) the estimated costs of individual program items, including current as well as proposed funding levels for each of the 5 years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation of the program.

(d) Annual Reports.—Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive 5-year plan is initially transmitted under subsection (b), the Administrator shall transmit to the Congress a detailed description of the current comprehensive plan, setting forth appropriate modifications which may be necessary to revise the plan as well as comments on and recommendations for improvements in the comprehensive program management plan made by the Hydrogen-Fueled Aircraft Advisory Committee established under section 8.

SEC. 4. RESEARCH AND DEVELOPMENT.

(a) Establishment of Program.—The Administrator shall establish, within the National Aeronautics and Space Administration, a research and development program consistent with the comprehensive 5-year program management plan under section 3 to ensure the development of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(b) Research.—The Administrator shall initiate research or accelerate existing research in areas which may contribute to the development of a hydrogen-fueled aircraft capability.

(c) Encouraging Domestic Industry.—In conducting the program pursuant to this section, the Administrator shall encourage the establishment of domestic industrial capabilities to supply hydrogen-fueled aircraft systems or subsystems to the commercial marketplace.

(d) Research Proposals.—The Administrator shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals for and evaluate any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of hydrogen-fueled aircraft technology.

(e) Evaluations and Tests.—The Administrator shall conduct evaluations, arrange for tests and demonstrations and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section.

SEC. 5. FLIGHT DEMONSTRATION.

(a) Preparation of Demonstration Plan.—Concurrent with the activities carried out pursuant to section 4, the Administrator shall, in consultation with the Secretary of Transportation, the Secretary of Energy, and the Hydrogen-Fueled Aircraft Advisory Committee established under section 8, prepare a comprehensive flight demonstration plan, the implementation of which shall provide confirmation of the technical feasibility, economic viability, and safety of liquid hydrogen as a fuel for commercial transport aircraft. The comprehensive flight plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a flight demonstration program;

(2) the selection of a domestic site where demonstration activities can lead to early commercialization of the concept;

(3) an assessment of a preliminary flight demonstration to occur concurrently with the later stages of research and development activities; and

(4) an implementation schedule with associated budget and program management resource requirements.

(b) Transmission to Congress.—The Administrator shall transmit such comprehensive flight demonstration plan to the Congress within 2 years after the date of the enactment of this Act.

SEC. 6. HYDROGEN PRODUCTION AND GROUND FACILITIES.

(a) Systems Analysis.—The Administrator, in consultation with the Secretary of Transportation and the Secretary of Energy, shall define the systems, subsystems, or components associated with the production, transportation, storage, and handling of liquid hydrogen that are specifically required for and unique to the use of such fuel for commercial aircraft application.

(b) Structure of Research Program.—The Administrator shall structure the research and development program pursuant to section 4 to allow the development of the systems, subsystems, or components defined pursuant to subsection (a) of this section.

(c) Responsibilities of Secretary of Energy.—The research and development program for hydrogen production, transportation, and storage systems, subsystems, and components which are suitable for inclusion as part of a fully integrated hydrogen-fueled aircraft system, but which are not being specifically developed for such application shall be the responsibility of the Secretary of Energy. Such activities shall be so conducted as to ensure compliance with hydrogen-fueled aircraft system constraints.

SEC. 7. COORDINATION AND CONSULTATION.

(a) Management by Administrator.—The Administrator shall have overall management responsibility for carrying out the program under this Act. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Departments of Transportation and Energy to the extent deemed appropriate by the Administrator, and

(2) may utilize the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this Act, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this Act.

(b) Assistance From Other Agencies.—The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the Executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this Act.

(c) Consultation.—The Administrator shall consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen-Fueled Aircraft Advisory Committee established under section 8 in carrying out his authorities pursuant to this Act.

SEC. 8. ADVISORY COMMITTEE.

(a) Establishment.—There is hereby established a Hydrogen-Fueled Aircraft Advisory Committee, which shall advise the Administrator on the program under this Act.

(b) Membership.—The Committee shall be appointed by the Administrator and shall be comprised of at least 7 members from industrial, academic, financial, environmental, and legal organizations and such other entities as the Administrator deems appropriate. Appointments to the Committee shall be made within 90 days after the enactment of this Act. The Committee shall have a chairman, who shall be elected by the members from among their number.

(c) Executive Cooperation.—The heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) Meetings.—The Committee shall meet at least 4 times annually, notwithstanding subsections (e) and (f) of section 10 of Public Law 92-463.

(e) Review and Recommendations.—The Committee shall review and make any necessary recommendations on the following items, among others—

(1) the implementation and conduct of the program under this Act; and

(2) the economic, technological, and environmental consequences of developing a hydrogen-fueled aircraft capability.

(f) Annual Report.—The Committee shall prepare and submit annually to the Administrator a written report of its findings and recommendations with regard to the program under this Act. The report shall include—

(1) a summary of the Committee's activities for the preceding year;

(2) an assessment and evaluation of the status of the program; and

(3) comments on and recommendations for improvements in the comprehensive 5-year program management plan required under section 3.

(g) Staff.—The Administrator shall provide such staff, funds, and other support as may be necessary to enable the Committee to carry out the functions described in this section.

SEC. 9. DEFINITIONS.

As used in this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "capability" means proven technical ability; and

(3) the term "certifying agency" means any government entity with direct responsibility for assuring public safety in the operation of the air transport system.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to carry out the purpose of this Act—

(1) $10,000,000 for the fiscal year beginning October 1, 1988;

(2) $15,000,000 for the fiscal year beginning October 1, 1989;

(3) $20,000,000 for the fiscal year beginning October 1, 1990;

(4) $25,000,000 for the fiscal year beginning October 1, 1991; and

(5) $30,000,000 for the fiscal year beginning October 1, 1992.

[From the New York Times, May 24, 1988]

Clean Hydrogen Beckons Aviation Engineers—Recent Soviet Success With New Fuel Revives U.S. Interest

(By Malcolm W. Browne)

Virtually unnoticed abroad except by aviation experts, a recent broadcast by Soviet television showed an ordinary-looking airliner roaring aloft from a Moscow-area airport, trailing a stream of condensing steam instead of the usual kerosene smoke.

Despite the flight's lack of public attention in the West, aerospace engineers in this country recognized it as a milestone in aviation, marking the first time a commercial airliner had flown powered by hydrogen rather than by petroleum-based jet fuel. The event has prompted renewed calls for a hydrogen fuel program in the United States.

Senator Spark M. Matsunaga, Democrat of Hawaii, has long advocated the exploitation of hydrogen, a gas that can be generated from water using solar energy, ocean thermal power and other renewable energy sources. In an interview, he compared the flight of the hydrogen powered Soviet airliner last month to the launching of Sputnik in 1957.

"Once again we've missed the boat," he said, "and we can only hope that the next administration will be more interested in hydrogen than this one has been."

In fact, hydrogen will power the National Aerospace Plane, a hybrid airplane and spacecraft that is scheduled to make its first flight in 1994. The plane, described by President Reagan in his 1986 State of the Union address, would be capable of flying within the atmosphere using hydrogen-fueled air-breathing jet engines, and in space using pure rocket engines. The President dubbed it the "Orient Express," since in theory, it could fly from Washington to Tokyo in two hours.

But Senator Matsunaga and others argue that hydrogen power should be developed for ordinary airplanes as well. The inevitable depletion of oil and the urgent need to curb pollution of the atmosphere will make the widespread use of hydrogen fuel imperative, they contend. For the past decade Mr. Matsunaga has sought increased financial and political support for programs to develop alternative energy sources. Since his state has no fuel resources, energy costs in Hawaii are higher than on the mainland.

The first test flight of the hydrogen-powered Soviet aircraft took place April 15, and although Soviet aerospace officials have disclosed few details of its propulsion system, Moscow television broadcast film of the flight.

The aircraft, created at the renowned design bureau of Aleksei Tupolev and designated as the Tu 155, is a modified version of the three-engine Tu 154 transport, which entered service with Aeroflot two decades ago. It is comparable in size and appearance to the Boeing 727.

Moscow disclosed that a special fuel tank installed in the aft part of the plane's cabin had been engineered to hold liquid hydrogen at a temperature below minus 423 degrees Fahrenheit. As the liquid is warmed, it boils into hydrogen gas, which is ducted to the combustion chambers of a turbojet engine. Combining with oxygen from the air, the hydrogen burns with intense heat, producing a powerful thrust.

Mr. Tupolev was quoted by Soviet information officials as calling the Tu 155's hydrogen power-plant "an absolutely ecologically pure engine."

When hydrogen burns in air, the combustion product consists entirely of steam. By contrast, the exhaust of a conventional jet engine contains various toxic pollutants as well as carbon dioxide, a gas contributing to the global "greenhouse effect." By trapping solar energy in the atmosphere, increasing levels of carbon dioxide are believed to be causing a steady warming that could have major effects on climate, agriculture and society in the next century.

Soviet reports did not specify whether all three of the Tu 155's engines were fueled with hydrogen. American experts speculated, however, that for its initial flights, the airliner might have burned conventional fuel in at least one engine in case the hydrogen system failed.

Mr. Tupolev said special gas analyzers had been installed throughout the plane to detect hydrogen leaks, and that a new system of gas-tight welding had been adapted from space applications in the construction of the airliner's fuel distribution plumbing. These and other refinements were intended to minimize the dangers of carrying the violently combustible fuel.

The destructive potential of hydrogen was spectacularly demonstrated in the explosion of the space shuttle Challenger two years ago and in the 1937 crash of the airship Hindenburg.

The Soviet announcement said the main purpose in building the Tu 155 had been to show that hydrogen would be a practical aviation fuel as world supplies of petroleum dwindle. Mr. Tupolev added that the same propulsion system could use liquefied natural gas instead of hydrogen and that liquid natural gas, which can be stored at room temperature, would be much easier to handle. The new Tu 154M and Tu 204 airliners, both scheduled to begin service soon, would be especially suitable for conversion to hydrogen or natural gas fuels, he said.

FLEET OF L-1011'S

Willis M. Hawkins, a former president of the Lockheed-California Company, who continues to serve as a consultant to the company, gave the Tupolev organization highest marks for building a hydrogen-powered airliner.

Under Mr. Hawkins's direction, Lockheed proposed a decade ago to build an experimental fleet of L-1011 cargo planes fueled by hydrogen. The project would have required major financial support from the Federal Government. Despite the interest of Canada, Britain, West Germany and Saudi Arabia in participating in the $1.2-billion venture, nothing came of it.

"The idea was to operate these planes from airports where hydrogen could be readily obtained in the necessary quantity," Mr. Hawkins said. "We designed lightweight liquid hydrogen tanks for installation in the L-1011's center section and tail, and we developed the necessary fuel distribution system. But when the oil shortage ended and petroleum prices fell, so did the hydrogen project."

"Democracy is the greatest political system in the world," he continued, "but it can certainly make long-range planning difficult."

ADVANTAGES OF HYDROGEN

An ordinary jet engine requires virtually no modification to run on hydrogen, Mr. Hawkins said.

"Jet engines love hydrogen because it ignites much more readily than jet fuel," he said, "and it burns evenly in a combustion chamber without creating hot spots. On a pound-for-pound basis, moreover, liquid hydrogen contains nearly three times as much energy as kerosene."

Since a given weight of liquid hydrogen can keep an airplane flying nearly three times as long as the same weight of jet fuel, he said, hydrogen fuel would be ideal for long-distance military missions, including intelligence-gathering flights, Mr. Hawkins said. His company once proposed converting several of the Navy's antisubmarine P-3 aircraft to hydrogen power, but that idea also failed to materialize.

Hydrogen power for airplanes was pioneered in the United States. From 1956 to 1959, the National Aeronautics and Space

Administration experimented with a two-engine B-57 jet bomber with one engine modified to fly on liquid hydrogen supplied from a wing-tip tank. On a series of flight tests, a Curtiss-Wright J-65 engine successfully powered the plane using both hydrogen and conventional jet fuel, smoothly switching from one fuel to the other without shutting down or faltering.

The main objection to liquid hydrogen fuel is its cost. Usually derived from natural gas, liquid hydrogen costs nearly three times as much as jet fuel.

Nevertheless, aviation authorities believe that only when the price of jet fuel rises to about four times its current level or when hydrogen is proportionately cheaper, will hydrogen become attractive as a fuel for commercial airliners.

But the National Aerospace Plane is another matter.

William Escher, a project manager for hypersonic propulsion at the Rocketdyne division of Rockwell International, said liquid hydrogen was the only fuel suitable for the plane, which has already been designated the X-30. (Rocketdyne is one of the major contractors developing the space plane for the Air Force and NASA.) The main reason, Mr. Escher said, is that only hydrogen ignites quickly enough to operate a ramjet engine through which air is passing faster than four times the speed of sound.

The X-30 will have to reach a speed of about 25 times the speed of sound to achieve orbit. For takeoff and during initial acceleration, hydrogen-powered turbojets would power the plane. At about four times the speed of sound, the craft would switch to hydrogen-fueled ramjet propulsion, a system by which air is rammed into the combustion chambers of the engines by the simple forward movement of the plane. On leaving the atmosphere, the X-30 would accelerate to top speed using rocket engines fueled by a mixture of liquid hydrogen and liquid oxygen—the same fuel mixture used by the main engines of the shuttle.

HYDROGEN AS COOLANT

Liquid hydrogen is indispensable for any space plane system, Mr. Escher said, not only as a propellant but as a coolant to protect the skin of the craft from frictional heating as it passes through air at hypersonic speeds.

Frigid liquid hydrogen moving from an insulated fuel tank inside the X-30's body to the plane's engines would first pass through a heat exchanger where it would chill a reservoir of liquid nitrogen. Heat absorbed from the liquid nitrogen would convert the hydrogen to a gas or a slushy mixture of gas and liquid, and the warmed hydrogen would flow to the engine for burning. The liquid nitrogen, chilled by the liquid hydrogen, would be ducted under critical areas of the craft's skin and into air-conditioning machinery to keep the X-30 from overheating.

Historic hydrogen disasters notwithstanding, Mr. Escher believes that hydrogen is one of the safest of all fuels, provided it is properly used.

"A few years ago some of us started a little group called the H_2 Hindenburg Society to change the image of hydrogen," he said. "How many realize, for example, that two-thirds of the people on the Hindenburg survived because of the upwardlifting quality of the hydrogen gas that kept the flame away from the passengers?

"Hydrogen is dangerous, of course," he added, "but so are all fuels, and tests have shown that in an airplane crash, hydrogen would actually be safer than conventional fuels."

Whatever comes of hydrogen power in the United States, international interest appears to be increasing. The International Association for Hydrogen Energy, of which many American experts are members, will sponsor a World Hydrogen Conference in Moscow next September.

"Regardless of what we do in America," Senator Matsunaga said, "hydrogen's role as a key fuel in the coming century is assured. I hope we will keep pace with the nations that have already begun building hydrogen technologies."

By Mr. DIXON (for himself, Mr. CRANSTON, Mr. SIMON, and Mr. SANFORD):

S. 2448. A bill to amend the Export-Import Bank Act of 1945, as amended, to allow full and free transferability of loans guaranteed prior to October 15, 1986; to the Committee on Banking, Housing, and Urban Affairs.

TRANSFERABILITY OF EXPORT-IMPORT BANK LOANS

● Mr. DIXON. Mr. President, together with my distinguished colleagues, Senators SIMON, CRANSTON, and SANFORD, I am today introducing legislation to require the Export-Import Bank of the United States to permit unrestricted transferability of older Exim-guaranteed loans in order to speed the development of a secondary market in such loans.

Many commercial banks are interested in selling Exim-guaranteed and insured loans out of their portfolios, not as whole loans or as participations, but as securities composed of Exim-guaranteed loans. However, in order to sell these older loans in the secondary market the Exim guarantee or insurance must be freely transferable without undue interference by Exim. Unfortunately, this has not been the case.

In 1986, after years of delay by Exim in permitting free transferability under its authority, Congress directed the Exim by statute to provide such transferability. The statute provided:

> With respect to medium-term and long-term obligations insured or guaranteed by the bank, after the date of the enactment of the Export-Import Bank Act Amendments of 1986, the bank shall authorize the unrestricted transfer of such obligation by the originating lenders of their transferees to other lenders without affecting, limiting, or terminating the guarantee or insurance provided by the bank.

The Senate report to accompany its version of the bill laid out the intent of Congress clearly:

> The Export-Import Bank currently permits its guarantees or insurance to be transferred from an initial lender to a second lender or investor only after eximbank has been notified and has given its consent to the transfer. This process and policy effectively prohibits the free and full transferability of eximbank guaranteed (or insured) paper and is designed to prohibit any active trading in eximbank paper or the growth of a secondary market in such paper. Furthermore, Treasury Department policy against transferability creates a strong presumption against eximbank approval of transfers.
>
> This lack of free transferability has been a major deterrent to the use of capital markets funding * * * for U.S. exports. Also, free transferability when combined with * * * loan pooling * * * could help lower the cost of financing for export trade transactions.
>
> In view of the potential benefits of free and full transferability the bill directs eximbank to establish such transferability for its medium-term and long-term guarantees and insurance.

The House report, to accompany its version of the bill, stated:

> * * * under its financial guarantee and medium term commercial bank guarantee programs eximbank does not as a matter of policy permit the transfer of its guarantee among lenders without its prior written consent. The Bank's restrictions of transferability weaken the value of its guarantee. The lack of unrestricted transferability is a major deterrent in attracting private capital for export financing at competitive rates. The bill directs eximbank to enhance its guarantee programs in such a way as to attract the participation of the largest group of private capital sources including primary and long term lenders * * *
>
> Unrestricted transferability is one among a number of technical enhancements of the guarantee programs which could strengthen their competitiveness and cost efficiency. Precedents exist in other U.S. Government programs as to permit a prudent and attractive guarantee program for medium and long term financing, which encourages increased participation by private capital markets. The committee notes, in particular, the successful use of flexible and transferable guarantees provided in similar programs such as OPIC [Overseas Private Investment Company], AID [Agency for International Development], student loans, and federally insured mortgages.

The conference report described this change in Exim's charter as a:

> Significant step in attracting capital in support of U.S. exports by making these obligations highly liquid assets and encouraging the development of a secondary market in such assets.

The conference report stated that the mandate was only to be prospective. However, it is my belief that the conferees were not aware of the benefits of having the transferability feature apply to loans in portfolio prior to the date of enactment.

While Congress has not directed Exim in this regard, Exim does have the authority to permit free and full transferability for older loans, loans originated by private lenders before October 15, 1986. Exim's view is that they have only been required to permit such transferability by the Congress for loans originated after that date. A recent letter from the general counsel of Exim confirmed this when it stated that:

> The Export-Import Bank Act Amendments of 1986 only mandated transferability of transactions authorized by Eximbank after October 15, 1986.

I believe that Exim's position is inconsistent with the spirit of the congressional mandate in 1986 in "encouraging the development of a secondary market in such assets" and attracting the "participation of the largest group of private capital sources." I believe that the congressional mandate of 1986 should be amended to assure that older loans are freely transferable.

Let me explain why this makes sense. Since the enactment of the 1986 amendments the volume of transactions under Exim's new medium-term loan guarantee program has not been sufficient to generate loan pools of large enough size to develop a secondary market. Indeed, on September 16, 1987, in a speech to the President's Export Council the President of Exim stated:

> For securitization of Eximbank credits to work, there must be volume. Lots of volume. The idea of security is to make it freely tradeable in a liquid secondary market, thus making the instrument more valuable to the Bank that initiates it and, hence to the exporter * * * as I said, many banks have looked at formulating such medium term pools; however, the key issue remains volume. Most banks would require volumes of $100 million per annum to justify the expense. Multiply that by the amount of large banking institutions and you can see the dilemma. The volume is simply not there. We hope this changes in the future, but the emergence of a capital market is not enough.

On the one hand, Exim says that volume is the key but on the other hand, they prevent lenders from accessing that volume. A sufficient volume of older Exim-guaranteed loans does exist—some $3 billion of securitizable loans, originated prior to the date of enactment of the Export-Import Bank Act Amendments of 1986 that could be securitized. To allow the free transferability of the guarantees on such loans, we should permit the immediate creation of a secondary market in Exim-guaranteed loans by permitting transferability of the older loans. The alternative is to wait for years until enough volume and experience is developed with the new loans to be able to securitize them.

I believe that the objective of the administration was and is to delay the creation of that market, despite the direction of the Congress, and that is why it has sought to limit the free transferability of Exim-guaranteed loans.

The administration has made several arguments in opposition to full transferability of older loans. They argue that full transferability would not help exports. This is false. Many banks, both regional and money center, has reduced their support for exports involving Exim due to the lack of a secondary market, the paperwork involved, the low profitability and the length of time required to bring such transactions to fruition—see articles in the Wall Street Journal of May 14, 1987, and the American Banker of September 8, 1987.

These are the problems that securitization solves by providing more efficiency to the marketplace. The creation of a secondary market would bring new money into the export financing field. It would allow banks to sell off older Exim-guaranteed loans and reuse the funds for more export trade financing.

Second, they argue that securitizing older Exim-guaranteed loans would adversely affect the price of direct Treasury obligations. There is no economic basis for this argument. Indeed, congressional testimony from one of the Nation's most preeminent groups in the trade field contradicts the Treasury view:

> The members of the NFTC [National Foreign Trade Council] do not agree with Treasury's concerns about competition between Treasury obligations and Exim guaranteed paper because there is a large difference in the market's perception of an appetite for clean U.S. Treasury obligations and relatively illiquid story paper such as Exim guaranteed loans that we are discussing here. Nor do we feel there is likely to be sufficient volume of Exim guaranteed paper to pose any serious competition for Treasury obligations.

Capital markets experts tell me that the markets for Treasury securities and agency paper are two distinct markets. Agency paper typically trades at over 50 to 100 basic points over comparable treasuries. Investors decisions to purchase these kinds of securities is based more on their understanding of the underlying collateral, such as mortgages or farm loans, than on the guarantee itself.

Third, the administration has argued that its guarantee after October 15, 1986 is different than the one prior to that date and that this difference would be confusing to the capital markets. The reason that the guarantee is different is that Exim has sought to diminish the value of the new guarantee so to reduce its attractiveness to lenders and investors and shrink Exim's role, which it has done over the last 7 years. Indeed, with respect to Exim's efforts, U.S. exports supported by Exim as a percentage of U.S. manufactured exports have shown a steady decline from 28 percent in 1972 to 4 percent in 1986. My response is that the capital markets operate using thousands of different guarantees, both private and public, and this does not confuse investors so as to adversely affect marketability.

Fourth, the administration has also argued that such full transferability would be an administrative burden. Once again this is not true. The whole objective of securitization is to allow the free and unrestricted transferability without the involvement of administrative interference of Exim.

Finally, the administration has argued that such a provision would provide a windfall to current holders of debt guaranteed at the expense of the general taxpayer. Once again the administration has made an argument based on its ideological objectives, including its objective of shrinking Exim's role in the Government, rather than fact. The Congressional Budget Office, a more objective source of information, in an April 28, 1986, letter to House Ranking Committee Chairman St Germain stated:

> The unrestricted transferability of the guarantees would create a secondary market for Eximbank guaranteed paper, lower the rate lenders would charge and increase the subsidy (with respect to the benefit of passing on the lower borrowing cost to exporters) without directly affecting outlays.

In recent years American exporters have been unable to use the most efficient source of financing, the securities market. As a result many regional and money center banks have scaled back or eliminated financing of U.S. exports. They are unable because of increased credit and interest rate risk, inadequate Exim support and mediocre profits to continue to devote their resources to export finance. This lack of access to the most efficient export financing has contributed to the trade deficit.

It will take years of surpluses to reverse effects of the persistent trade deficits we are experiencing. We need to take every step we can, therefore, to further stimulate U.S. exports.

Securitization of older Exim-guaranteed loans by banks will help increase available capital for export finance and help reduce the trade deficit. At present, these banks hold portfolios of older Exim-guaranteed loans that they have originated. But these banks are in many cases limited to their ability to originate new loans because they are at or near their country limits on these loans. By selling these loans, they can reduce their interest rate and credit risk and increase the total volume of their Exim loans for exporters.

For these reasons, I urge my colleagues to join me in working to see that this bill is quickly enacted. Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Section 2(c)(3) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635 et seq.), is amended by inserting at the end thereof the following new sentence:

"With respect to medium-term and long-term obligations insured or guaranteed by the Bank before the date of enactment of the Export-Import Bank Act Amendments of 1986, the Bank shall authorize the unrestricted transferability of such obligations by the originating lenders or their transferees to other lenders or their transferees without affecting, limiting, or terminating the guarantee or insurance provided by the Bank."●

Mr. CRANSTON. Mr. President, I am glad to speak in support of legislation to be introduced by Senator Dixon and myself to require the Export-Import Bank [Exim] of the United States to take steps to allow securitization of previously originated loans guaranteed by the bank to finance American exports.

Securitization of loans to finance exports guaranteed by the bank that have already been originated by our Nation's financial institutions will help increase sources of financing to American exporters. Securitization of these older loans will encourage our financial institutions to pool, securitize and sell previously originated loans to institutional investors. This legislation will encourage those financial institutions through securitization and loan selling to recycle those same dollars to finance new export activities.

The securitization of older Exim loans is the most efficient way of developing a viable secondary market in Exim-guaranteed loans. A secondary market can most easily be developed through the securitization process which encourages new investors to purchase these loans.

As chairman of the Senate Subcommittee on Housing and Urban Affairs I can tell you with authority that securitization has proved most beneficial in other markets, such as the mortgage backed securities market. It has reduced the cost of funds to borrowers, increased liquidity and brought new sources of financing to the housing market. I believe that the legislation Senator Dixon and I are introducing today would accomplish some of these same goals with respect to Exim-guaranteed loans. Let me tell you why this is important.

Over the last decade American exporters have been unable to find dependable sources of trade financing to support their exports. Key participants in the trade finance system including regional banks, money center banks, insurance companies and others have been greatly frustrated with the intransigence of the Eximbank in their efforts to try to make the bank's loan guarantee programs workable. The Eximbank has worked on a secondary market program for several years, however no final program has been put forth. Meanwhile many banks, unwilling to hold these loans in their portfolios because there is no secondary market, have entirely eliminated their trade finance departments.

The Congress cannot sit idly by while the administration permits the Nation's major financial institutions to get out of the business of export trade finance. Such inaction could jeopardize our long-term efforts to reduce the American trade deficit over the next decade.

One example of our banks' inability to utilize Exim's programs fully has been the result of Exim's failure to encourage the securitization of trade finance loans guaranteed by the bank, despite congressional direction to do this. Indeed, the administration and Eximbank have, instead, put roadblocks in place to discourage the securitization of these loans, especially the older loans, which offer a ready pool of securitizable loans.

This policy of inaction and intransigence with respect to trade finance must be reversed. Recent Federal Reserve Board statistics show the extent of American banks' retreat from financing exports. Despite drastic increases in exports in recent months the percentage increase of those exports has actually been less than the corresponding devaluation of the dollar which has encouraged those exports. America's $253 billion in exports last year represented a paltry 5.4 percent of its gross national product as compared with 26 percent in West Germany, 25 percent in Canada, and 10.5 percent in Japan. In addition, other statistics show the United States exports financed by Exim as a percentage of U.S. manufacturing exports have shown a steady decline from 28 percent in 1972 to 4 percent in 1986.

The dearth of export trade financing has clearly contributed to the huge U.S. trade deficit which this administration has seen to ignore. For the first time since World War II, the United States last year lost its position as the world's leading exporter, supplanted by West Germany, with Japan pressing in on the United States in third place. Last year again for the first time the United States ran a trade deficit in high technology products, considered the wave of the future for the United States economy. A lack of trade finance has contributed to the loss of millions of jobs, increased costs to the Federal Government, lower tax revenues and the likelihood for a lower standard of living in the future for our children.

This legislation in a small, but significant way, will require the Export-Import Bank of the United States to allow our financial institutions to use the capital markets of our country to increase sources of low-cost, export finance to help reverse the trade deficit.

Increased exports as a result of Eximbank support have a positive multiplier effect on our economy. A study by Wharton Econometrics Financing Associates found that a typical Eximbank financing produced nine times more in increased tax receipts and reduced Federal expenditures than the cost of the loans or the guarantee. In addition, other studies have shown that every $1 billion in American exports creates 25-40,000 new jobs.

This legislation will not solve the long term financial problems of the Export-Import Bank of the United States whch the Congress will likely address next year much as it addressed the financial problems of the housing industry two decades ago with the creation of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Government National Mortgage Association. But it will encourage the private sector to stay involved in export trade finance until the Congress can address these more fundamental problems. I urge my colleagues to support this measure.

By Mr. PRYOR (for himself, Mr. Stevens, Mr. Burdick, Mr. DeConcini, and Mr. Mitchell):

S. 2449. A bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes; referred jointly to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of Aug. 4, 1977.

POSTAL SERVICE BUDGETARY TREATMENT ACT

● Mr. STEVENS. Mr. President, in the recent budget reconciliation legislation, the President and the Congress, for the first time since postal reorganization 17 years ago, included a direct adjustment to the business-type budget of the supposedly independent U.S. Postal Service, right in the midst of its fiscal year. I think that many who were involved in that process will agree with me that the result was a setback in the struggle to maintain an effective, financially sound and politically free system for the American people, and that we should do everything we can to assure that we are not forced to repeat the experience year after year. As a step toward remedying this situation, I join with the chairman of the Federal Service, Post Office, and Civil Service Subcommittee in cosponsoring a bill to restore the integrity of the Postal Service budget as a separate and independent, business-type budget for an organization required by law to stand on its own feet.

The creation of the Postal Service in 1971 was specifically intended to enable the postal system to obtain its own financing based on a businesslike assessment of postal needs, instead of having to compete for funding on a political basis with other Federal programs. Over the years, the postal system's capital needs, in particular, had been drastically shortchanged in the annual political struggle over dividing the Federal budget, so that the whole system was badly antiquated and sorely in need of modernization. Shortly after reorganization, it was recognized that the business-type postal budget, which is prepared in accordance with generally accepted accounting principles, did not belong in any fashion in the Government's annual budget process, which employs a very different accounting system and distributes money based on political priorities. These structural reforms worked very well, and the Postal Service progressed from an organization which had a quarter of its bills paid by the taxpayers in the last year before reorganization, to an organization which receives only a small subsidy to cover the retirement and health insurance of the postal employees.

In order to control all Federal spending the Postal Service's business budget was put back into the Federal budget for fiscal year 1985. The legislative committees responsible for the Postal Service had no part in this decision.

By reaffirming the principles of postal reorganization, this legislation does not set any precedent affecting programs properly belonging in the Federal budget. The national postal system is unique; we have nothing else remotely like it. No other organization is characterized both by such huge capital needs in order to serve every community in the country and by its own self-supporting, budget-balancing financial requirements. The business-type postal budget was maintained outside the general Federal budget for more than a decade with no adverse affect on other budget programs.

Nor does this legislation in any way detract from the needed strong congressional oversight over the Nation's postal system. We have had that oversight all along when the postal account was not in the budget totals. And no one will suggest that the recent cuts in the postal budget were based on any sensible oversight of the system. They were absolutely arbitrary changes to achieve numbers having nothing to do with the Postal Service. This type of sudden, arbitrary undercutting of needed services and capital projects defeats the ability of the legislative committees to maintain effective oversight in the public interest.

Nothing in this bill hinders further consideration of the various proposals that have been made to require the Postal Service and postal ratepayers to assume more of what have been called hidden subsidies going to postal retirees. In fact, the opposite is true. Under this bill, such proposals can be considered without the need to pair them with harmful arbitrary cutbacks purely to satisfy some artificial scorekeeping rules. The Postal Reorganization Act already assures that the postal system must pay its own expenses.

I must point out, however, that despite the many positive results that will accrue from passage of the legislation, it will not exempt Congress, if it chooses to do so, from enacting into law similar legislation that was passed late last year affecting the budget of the Postal Service. Nothing in this legislation can prevent Congress from requiring the Postal Service to absorb costs it does not otherwise incur now. I stress this point so that those who believe that by putting the Postal Service off budget, it will be totally outside our effort to balance and maintain a balanced budget. The constitutional requirement is to always not only maintain our oversight function, but a final say in the overall goals and role of the Postal Service.

Mr. President, over the past 17 years, this country has made a very important investment toward an effective, workable national postal system providing the service that all of our constituents expect to receive. While there are always some areas that need further work, the postal system has made great strides toward getting the system off the backs of the taxpayer and at the same time modernizing its facilities and operations. But somehow, just in the last few years, and without the legislative committees ever considering such a substantive change in the goals and structure of postal reorganizations, the President and the Congress now find themselves back in the business of allocating how much can be spent to modernize the postal system and to provide postal services. This is a great mistake, and unless we reverse it now, the future of our Nation's postal services that we have worked so hard to build and preserve will be bleak. The postal power under the Constitution is lodged in the Congress, and it is our responsibility to tend and nourish the postal system, not to let ourselves be drawn into impeding its mandate.

I hope my colleagues will join us in supporting this legislation.●

By Mr. CHILES:

S. 2450. A bill to provide Federal financial assistance to facilitate the establishment of volunteer programs in American schools; to the Committee on Labor and Human Resources.

BUSINESS AND CITIZEN SCHOOL VOLUNTEERS OF AMERICA ACT

● Mr. CHILES. Mr. President, this year marks the 20th anniversary of the National School Volunteer Program. The activities of these dedicated individuals, the school volunteers, have changed markedly over that span of time, just as the educational environment in our national school system has changed.

The expectations we and the public place on our educators today are not dissimilar to those the public places on us. They are expected to be fundraisers, maintainers of discipline and morality, leaders in the utilization of the latest technology, practitioners of sociology and psychology, and caretakers of the Nation's greatest natural resource, our children.

In a society like ours, with rapidly changing parameters facing us at every turn and the information explosion that has taken place over the last 20 years, this task has become more and more difficult. But one group that has made our educators' job a little easier has been the school volunteers.

They have not sought to replace the classroom teacher, or take up responsibilities that our educational system places on these individuals, but rather their role has evolved as one of augmentation and enhancement. They have done this by taking on tasks not necessarily requiring professional educational training, but those that they could perform well, thereby freeing up the teachers to achieve those objectives for which they were trained.

From humble beginnings like running off ditto copies and performing maintenance chores, their function has evolved to more sophisticated and demanding tasks. From an era when the school volunteer was usually a mother of children in that school, today we find corporate officers of some of our country's most prestigious companies serving as school volunteers—this even though their children are long out of school and their grandchildren live hundreds of miles away.

As my colleagues are aware, I represent a State which has the highest percentage of its population classified as senior citizens. I was more than a little concerned when, a couple of years ago, we started hearing about intergenerational conflict. I asked my staff to do some research on this issue and what we found came as a pleasant surprise.

Not only did we not discover any significant intergenerational conflict, we discovered just the opposite. Throughout our State, retirees are volunteering daily in the schools. Their activities range from simple custodial and maintenance tasks to mentoring creative students who wish to pursue esoteric individual research and demonstration projects that would not normally be a part of the basic curriculum.

Through a project jointly sponsored and funded by the Chevron Corp. and the State Department of Education, children who have been identified as creative and talented are matched, one on one, with retired professionals from all fields of endeavor. This process has produced some incredible results over the last few years.

What started as a very small venture in Broward County has now been duplicated in almost 30 counties. Retired physicists, engineers, lawyers, veterinarians, artists, musicians, mathematicians, and scientists, to name just a few, are contributing thousands of hours of their time to develop the future capabilities of our students. The full benefits of this program will not be evident for years to come. But, there are benefits being realized today.

Students who were sometimes classified as being problematic, probably because the regular curriculum was not challenging and stimulating them, are now achieving at much higher levels. Other students who had been designated as high probability dropout candidates have changed their attendance patterns and are now looking forward to higher educational achievement. Some of our brightest students who had experimented with drugs and were withdrawing into possible dependency have found a new stimulant—learning.

And it hasn't just been beneficial to our students. Retirees who told me that they felt they were useless and had no reason to live, or who were slowly being consumed by the depression that is born out of isolation and boredom, have taken a new lease on life. They have fewer medical problems and improved mental outlook.

But this is not just a program that involves students and our older population. Just as the educational environment has changed, so have those who make up the volunteers seeking to help our Nation's children enhance their academic and vocational achievement.

Today we see not only the parent who is not employed participating but also those who are. Our businesses and corporations have recognized the value of such activity in producing a better prepared worker. Schools are being adopted by businesses, and we have seen the birth of a new concept—business and educational partnerships. Release time programs, allowing full-time employees to participate as school volunteers, are becoming more and more common from the small business to the large corporation.

Mr. President, I would like to share just one example of the results of this type of activity in Florida with my colleagues. In Pinellas County, a local businessman, Mr. Gus Stavros, has been instrumental in setting up a project called Enterprise Village. The Pinellas Educational Foundation has raised around $700,000 and is working with such corporations as McDonalds, Barnett Banks, Eckerd Drugs, Paradyne, Florida Power, Q-105 Radio, General Telephone, Larry's Ice Cream, and the St. Petersburg Times to set up a model economic education program which would provide students with educational experience in banking, consumerism, and retail trade. An actual village will be built and individual stores set up for the students to manage and operate. During the course of the school year fifth grade students in the county will be run through the program to learn how the free enterprise system works. The businesses represented and the community at large will provide volunteers to mentor these students in this undertaking.

Not to be outdone, and again recognizing that they are the ultimate beneficiaries, the military in Florida, and in other locations around the country, has become involved in school volunteerism. In Pensacola, Admiral Thunman has lent his full support to his command's participation in school volunteerism. This has led to officers and enlisted personnel at the Naval Air Station, Pensacola creating their Saturday Scholars Program. These individuals work with students by tutoring them in math and science curriculum and impressing upon them that they cannot expect to drop out of school and join the armed services, because the armed services have gone high technology, too.

A spinoff that has come out of the military involvement program has been a program designed to qualify military retirees with hard to find skills, like math, science, and computer science, as classroom teachers. This has enabled the school system to hire these people for regular paid positions where applicants had not been forthcoming previously.

How has Florida been able to put these programs together and have the benefit of 138,000 volunteers providing 5.6 million hours of educationally related instruction last year—an effort conservatively estimated to have a dollar value of over $55 million? They did it through a small State investment of basic funds and through organization. They did it by providing someone to act as a catalyst, or sparkplug, in the State department of education and in each school district throughout the State. And they did it without massive infusions of Federal dollars.

With the Federal budget deficit where it is today, I don't think we can be proposing big new programs. But I do feel that we can propose to provide small amounts of seed money to bring to fruition ideas and dreams of local school administrators that can help us deal with some of the most pressing problems we face in our educational system. Therefore, I am introducing today the Business and Citizen School Volunteers of America Act of 1988.

This legislation will establish a National Center for Leadership in School Volunteer and Partnership Programs which will assist schools in organizing, promoting, training, and utilizing volunteers in our schools. It will also provide incentives for State and local educational entities to create school volunteer programs that focus on: First, using older Americans as volunteers; second, facilitating the transfer of high technology knowledge to our students; third, creating or expanding programs that prevent school dropouts; and fourth, creating or expanding programs that prevent drug and alcohol abuse.

I hope that my colleagues, if they are not familiar with it, will look into the status of school volunteerism in their States and then join me in supporting this cost-effective and worthwhile effort.

Mr. President. I ask unanimous consent that the bill be printed in full at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act shall be cited as the "Business and Citizen School Volunteers of America Act of 1988".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) American citizens have skills, talents, and values which are a vital national resource to be tapped and utilized in the education of the country's elementary and secondary school children;

(2) school volunteers currently provide over $1,000,000,000 worth of educational services annually to elementary and secondary schools in the United States;

(3) many State and local educational agencies lack necessary specialized resources and could vastly benefit from services provided by an organized and strong volunteer effort;

(4) utilizing the special abilities of older Americans, retirees, employees of business concerns, parents, college students and other citizens could greatly enhance efforts to achieve educational excellence and help American students maintain an edge in the international marketplace; and

(5) the Federal Government should perform a limited but essential role of promoting programs which involve volunteers effectively in the education of American children.

(b) Statement of Purpose.—It is the purpose of this Act to provide financial assistance to eligible partnerships to initiate or promote programs designed to build a cost-effective nationwide capability in public elementary and secondary schools to use citizen volunteers effectively in classrooms to meet the educational needs of all children.

SEC. 3. DEFINITIONS.

For purpose of this Act—

(1) The term "at risk" means, students with low achievement levels, students with behavioral problems, students likely to drop out of school, and students exhibiting one or more at risk indicators, such as low academic performance, poor attendance, behavioral problems, and personal economic conditions.

(2) The term "elementary school" has the same meaning given that term in section 1471(8) of the Elementary and Secondary Education Act of 1965.

(3) The term "eligible partnership" means an agreement between—

(A) an elementary or secondary school, State educational agency, or local educational agency, or any combination of the above, and

(B) one or more of the following:

(i) a government agency,

(ii) a nonprofit organization,

(iii) an institution of higher education, or

(iv) a business concern,

to develop a volunteer program designed to assist elementary and secondary school staff and students.

(4) The term "institution of higher education" has the same meaning given that term in section 1201(a) of the Higher Education Act of 1965.

(5) The term "local educational agency" has the same meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(6) The term "school volunteer" means an individual who works without financial remuneration in support of the school's instructional objectives to enhance the education of students. The term may include older Americans, employees of business concerns, college students, parents, and other members of the community.

(7) The term "Secretary" means the Secretary of Education.

(8) The term "secondary school" has the same meaning given that term in section 1471(21) of the Elementary and Secondary Education Act of 1965.

(9) The term "State educational agency" has the same meaning given that term in section 1471(23) of the Elementary and Secondary Education Act of 1965.

SEC. 4. PROGRAMS AUTHORIZED.

(a) PROGRAM ESTABLISHED.—From the sums appropriated under section 8 in any fiscal year, the Secretary shall, in accordance with this Act, make grants to eligible partnerships to assist elementary and secondary schools in organizing, promoting, and utilizing volunteers in elementary and secondary schools. Programs, projects, and activities assisted under this Act shall be designed to meet the needs of elementary and secondary school children through the involvement of citizen volunteers in organized volunteer programs.

(b) NATIONAL SCHOOL VOLUNTEER PROGRAM CONSULTATION REQUIRED.—The Secretary shall consult with the National School Volunteer Program, Incorporated—

(1) in prescribing regulations made pursuant to this Act; and

(2) in establishing criteria for making grants.

SEC. 5. USES OF FUNDS.

Programs and projects assisted under this Act may include—

(1) preservice and inservice training (including fellowships) for personnel involved in organizing and managing elementary and secondary school volunteer programs;

(2) establishment and operation of model projects and exemplary programs which involve voluntary partnerships with older individuals, employees of business concerns, students of institutions of higher education, parents, and other interested persons;

(3) strengthening the capability of State educational agencies and nonprofit organizations to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of volunteer programs in the public elementary and secondary schools;

(4) programs of technical assistance and information dissemination; and

(5) conducting research, program evaluations, data collection, surveys, and other activities relating to elementary and secondary school volunteer programs.

The personnel referred to in paragraph (1) may include teachers, school board members, and school administrators who involve volunteers in elementary and secondary schools and classrooms.

SEC. 6. APPLICATION REQUIRED.

Any eligible partnership which desires to receive a grant under this Act shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each application shall—

(1) describe the activities for which assistance under this Act is sought;

(2) describe the terms, conditions, and membership of the eligible partnership described in section 3; and

(3) provide such additional assurances as the Secretary determines to be necessary to ensure compliance with the requirements of this Act.

SEC. 7. ESTABLISHMENT OF A NATIONAL CENTER.

The Secretary shall establish a National Center for Leadership in School Volunteer and Partnership Programs through grants to or contracts with an entity which is experienced in, and has as its primary purpose, assisting schools in organizing, promoting, and utilizing volunteers in schools, such as the National School Volunteer Program, Incorporated. The Center shall serve as a resource center. The Center shall—

(1) train volunteers,

(2) conduct an annual survey of volunteer programs,

(3) evaluate volunteer programs, and

(4) perform any of its functions under this section through contracts with State and local educational agencies, institutions of higher education, business concerns, public agencies, and nonprofit private organizations.

SEC. 8. LIMITATION.

Not less than 20 percent of the funds available in any fiscal year to carry out this Act shall be used for the conduct of activities pursuant to section 7.

SEC. 9. PRIORITIES.

In approving applications under this Act, the Secretary shall give priority to—

(1) the creation or expansion of elementary and secondary school volunteer programs which involve older Americans and serve at risk elementary and secondary school children;

(2) programs and projects designed to develop or improve the capability of elementary and secondary schools in a State, or region of the Nation, to plan, conduct, and improve school volunteer programs through cooperative efforts and participation of State and local educational agencies, institutions of higher education, business concerns, public agencies, and nonprofit private organizations;

(3) the creation or expansion of elementary and secondary school volunteer programs which involve the transfer of high technology skills and knowledge to elementary and secondary students and teachers;

(4) the creation or expansion of elementary and secondary school volunteer programs which focus on drug and alcohol abuse prevention; and

(5) the creation or expansion of elementary and secondary school volunteer programs which focus on school dropout prevention.

SEC. 10. AUTHORIZATION AND APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal year 1989, and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this Act.●

By Mr. PROXMIRE (for himself and Mr. GARN):

S. 2451. A bill to extend the moratorium on thrift institutions voluntarily terminating deposit insurance provided by the Federal Savings and Loan Insurance Corporation, and for other purposes; referred to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION TO EXTEND THE MORATORIUM ON THRIFT INSTITUTIONS

● Mr. PROXMIRE. Mr. President, today Senator GARN and I are introducing a bill to extend the 1-year moratorium on thrift institutions leaving the Federal Savings and Loan Insurance Corporation. The moratorium was imposed by the Federal Savings and Loan Recapitalization Act of 1987, and is currently set to expire on August 10, 1988. The Federal Home Loan Bank Board has requested the 1-year extension.

If the moratorium is not extended, we face the prospect that healthy thrift institutions will move from FSLIC to the Federal Deposit Insurance Corporation. Such an exodus would reduce FSLIC's income from insurance premiums—money that is sorely needed to resolve problem cases—and could leave FSLIC with a membership consisting disproportionately of institutions too sick to qualify for FDIC insurance. That, in turn, would jeopardize not only the recapitalization plan enacted last year but any future recapitalization of FSLIC. I believe that the moratorium should be extended for 1 year to give Congress additional time to see how the recapitalization is progressing and to deal with the problems of the thrift industry.

This bill is drafted so that the 1-year extension will apply to all institutions covered by the current moratorium. I intend to oppose any attempt to accord grandfather rights or create other exceptions to the general rule.●

● Mr. GARN. Mr. President, I join Senator PROXMIRE today in cosponsoring a bill that will extend for 1 year the moratorium that prevents thrift institutions from leaving the Federal Savings and Loan Insurance Corporation [FSLIC]. This temporary extension is critical to the initial phase of the FSLIC recapitalization plan passed by Congress just 10 months ago as part of the Competitive Equality Banking Act of 1987.

The recapitalization plan calls for an infusion of $10.8 billion of borrowed funds into FSLIC using seed capital provided by the industry—not a nickel of taxpayers' money is involved. The plan relies on premium income from thrift institutions to pay the interest on the borrowed funds. A number of thrift institutions, having paid far too low premiums for years, indicated last year their interest in leaving the FSLIC to become insured by the Federal Deposit Insurance Corporation in order to avoid higher premium assessments. This would have undermined the interest repayment element of the plan, and as a result, Congress slapped a 1-year moratorium on existing thrifts. The intent was to reassess the situation at the end of the period to determine if the plan was being implemented as proposed.

Mr. President, that time has come. Dan Wall, the Chairman of the Federal Home Loan Bank Board, testified yesterday that the plan is moving forward and the Board has begun to make a dent in the caseload of troubled thrifts. He presented a detailed blueprint for resolving the remaining problem cases which will use all of FSLIC's resources but will not dip into the taxpayer's pocket. This will take at least a year before significant progress will be made. But again, the plan depends on FSLIC institutions staying in the fund and the need to bolster the public perception that there will be no mass exodus once the moratorium expires in August.

As a result, the Board has asked Congress to extend the moratorium on exiting thrifts for one year. During that time Congress can assess the degree of progress that has been made and the size of the remaining problem. It is unlikely that Congress will reexamine the situation in detail during the remainder of this Congress, having so recently passed the FSLIC recap bill, but it is clear that the subject will be revisited during the next Congress. Until that time a 1-year extension of the moratorium will keep the recap plan intact. I therefore support it.

I do not take this step lightly, since I generally favor granting private institutions the greatest freedom to operate without Government restriction. However, all thrifts have benefited from the FSLIC insurance system, and it would be patently unfair for a few of them to desert the fund and undermine the FSLIC plan just when their participation is so important. We may need to reassess the situation later, but for the short term the moratorium should stay in place.

Let me make one final point. In extending the moratorium no additional institutions should be "grandfathered" or permitted to leave the FSLIC while others are required to stay. We had adequate grandfathering last year, and the industry has clearly been put on notice that the moratorium could be extended. Furthermore, there should be no grandfathering even if there is a lapse between the expiration of the current moratorium and the beginning of the 1-year extension called for by this bill.

Mr. President, this bill is one more significant step in preventing the taxpayer from footing the bill for problem thrifts. Congress should pass it soon.●

By Mr. CRANSTON (for himself and Mr. KERRY):

S. 2452. A bill to place a moratorium on the relocation of Navajo and Hopi Indians under Public Law 93-531, and for other purposes; to the Select Committee on Indian Affairs.

MORATORIUM ON RELOCATION OF NAVAJO AND HOPI INDIANS

Mr. CRANSTON. Mr. President, today I am pleased to reintroduce legislation to halt for at least 18 months the relocation, pursuant to Public Law 93-531, of Navajo and Hopi Indians from their ancestral homes in and around Big Mountain in the northern desert area of Arizona. This issue involves important questions of religious freedom and Native American policy. The legislation I am introducing today is based on a measure I first introduced during the 99th Congress as S. 2545. Unfortunately, after having being referred to the Senate Select Committee on Indian Affairs on June 11, 1986, no action was taken on S. 2545 during the remainder of the 99th Congress.

Mr. President, the need for Congress to place a moratorium to halt further relocations is now as urgent as ever. Indeed, the problems faced by Hopi and Navajo as they confront the relocation mandated by Public Law 93-531 are increasing with time rather than decreasing. I am pleased, therefore, to be joined today in introducing S. 2452 by the distinguished Senator from Massachusetts [Mr. KERRY].

PUBLIC LAW 93-531

Mr. President, Congress enacted Public Law 93-531, the Hopi and Navajo Land Settlement Act of 1974, in an attempt to resolve what appeared merely as a land dispute between two Indian tribes occupying adjacent reservations. Public Law 93-531 resulted in the partition of land, known as the Joint Use Area, which had been held jointly by the two tribes. The statute also mandated the relocation of Indians of each tribe then living on lands partitioned to the other, and established the Navajo and Hopi Indian Relocation Commission to carry out this mandate.

Mr. President, the competing interests involved in generating the Hopi and Navajo Settlement Act debate were not as clear cut as they may have first apppeared. A land dispute between the Hopi and Navajo Tribal Councils regarding the proper bounds of their respective reservations as set forth in the Executive Order of 1882, was surely a motivating force in generating the debate. Yet, as many people have come to understand, this boundary dispute is one which has little meaning to the Traditional Navajo and Hopi inhabiting the Joint Use Area, who have lived side by side, traded and intermarried for generations and who are the ones most affected by the relocation mandates. Furthermore, the unclear role played by those in favor of developing coal and other energy resources in the Joint Use Area remains a troubling aspect of the debate.

Mr. President, my proposal to extend an 18-month moratorium on the Federal Government's relocation efforts will give the Congress the opportunity to rethink the Hopi-Navajo land dispute controversy in the only way that is practical, and to correct it, as conscience and fairness require. Perhaps more importantly, it will give those most directly affected by this situation—for the first time—the opportunity to speak and negotiate for themselves.

HISTORICAL BACKGROUND

Mr. President, as I mentioned earlier, it is true that a longstanding conflict between the federally-recognized Hopi and Navajo tribal councils is one aspect of this controversy. That over the centuries differences have arisen between Navajo and Hopi residing on adjacent lands in northeastern Arizona is also true.

Although minor differences exist in the various historical accounts of how the complex relationship between Hopi and Navajo residing in northern Arizona developed, the general history of this area can be outlined as follows.

Descended from the Anasazi ("the Ancient Ones") cliff dwellers of Mesa Verde and elsewhere, the Hopi have lived in what is now northeastern Arizona at least since 1000 A.D. Indeed, the Hopi have a longer authenticated history in North America than any other ethnic group.

Today the Hopi occupy the same self-governing, autonomous villages on three high mesas as were occupied by their ancestors centuries ago. Old Oraibi, on Third Mesa, established around 1100 A.D., is the oldest continuously occupied community in North America. Most Hopi villagers are primarily farmers who depend on their own agriculture for their survival. Living areas are generally limited to the mesa villages while Hopi farms are located below and surrounding their villages, within about a 5 to 10 mile radius, on communally held land. In addition to farming, grazing, and gathering, lower elevation outland areas are used for religious and cultural purposes.

The Navajo first arrived in the area sometime in the 15th century. The Navajo were herdsmen who required grazing lands for their animals. Their pastoral lifestyle and their need for abundant grazing lands for their livestock brought them into occasional conflict with numerous Southwestern neighbors, including the Hopi. Often, however, Navajo were allied with Pueblo Indians against a common enemy, the Spanish, who showed up in the area in 1540, and continued to occupy the area until 1823, when Mexico took jurisdiction.

Mexican rule ended in 1848, when the United States acquired jurisdiction over the area through the Treaty of Hildalgo. Yet, like the Spanish adventurers before them, the arrival of American immigrants led to competition and friction. The entrance of the U.S. Government in the lives of the Southwestern Indian tribes soon followed.

The intensity of the tensions which developed between the United States and the Navajo Nation led to the infamous "search-and-destroy" campaigns of Kit Carson in 1863 and culminated in the forced relocation ("The Long Walk") of the Navajo to Fort Sumner, NM. Five years later, the Navajo were released from Fort Sumner and the U.S. Government approved for them a small land holding by Executive order.

Although the U.S. military campaign against the Navajo, their dire economic condition upon release from Fort Sumner, their subsequent westward expansion, and their growing population sometimes strained relations between Hopi and Navajo, they continued to engage in both social intercourse and commercial trade. Indeed, in the latter part of the 1860's, Hopi and Navajo traditional leaders met together in the Hopi village at Walpi, on First Mesa, and entered into a Treaty of Peace. Despite the passage of time, Hopi and Navajo traditional leaders claim this peace pact, as well as older covenants of peace, reportedly dating back to the 15th century, have not been broken and continue to bind them to this day.

In 1882, President Chester Arthur withdrew certain lands from the public domain under Executive order, "for the use and occupancy of Moqui, [Hopi] and such other Indians as the Secretary of the Interior may see fit to settle therein."

The ambiguity of this language later became the basis of complex and lengthy litigation between the federally recognized Hopi and Navajo tribal councils, to determine the rights and interests granted to each tribe by the 1882 Executive Order. The Hopi and Navajo Settlement Act of 1974, then, represented an attempt by Congress to enforce a final settlement of the competing land title claims of the Hopi and Navajo tribal councils, title claims with origins in a 19th century Executive order of President Arthur.

HUMAN COSTS OF PUBLIC LAW 93-531

Mr. President, I believe it is imperative that we not allow the "land title" aspects of the controversy to obscure the staggering human costs implementing the relocations mandated by Public Law 93-531.

As we now know, early estimates of the number of individuals subject to relocation were not accurate. Rather than approximately 1,000 families, current estimates of the Navajo and Hopi Relocation Commission indicate that full implementation of Public Law 93-531 may require the relocation of approximately 2,700 families. Altogether then, the families, predominantly Navajo, subject to the relocation mandates of Public Law 93-531 may total close to three times the number originally estimated. This means that full implementation of Public Law 93-531 may require the relocation of more than 10,000 individual family members.

In February 1985, President Reagan commissioned William P. Clark, former Secretary of the Interior, to study certain aspects of the implementation of Public Law 93-531. A memorandum dated September 20, 1985, prepared by Richard C. Morris, who served as counsel in the Department of the Interior, outlines many problems related to implementation of the relocation mandates of Public Law 93-531. The Morris report describes the suffering of some of those who voluntarily accepted relocation to the off-reservation, urban areas:

> [P]articularly the older—or traditional—families have been unable to cope in an urban or even suburban environment. Some could speak only in their native tongue and had no marketable skills. They had no understanding of municipal taxes, utility services, or maintenance of the simplest mechanical devices in their modern homes. They soon were in debt and became victims of unscrupulous lenders. Many lost or sold the homes provided by the Relocation Commission, probably the central reason they had agreed to move in the first instance. Many suffered severe emotional traumas when placed in an environment in which they could not cope and now regret their decision to move.

Some of the problems faced by those who volunteered for relocation such as cultural shock and substandard living conditions are also addressed in a report released on April 25, 1985, by the surveys and investigations staff of the Subcommittee on the Department of the Interior and Related Agencies of the House Committee on Appropriations. This report is critical of the way the relocations mandated by Public Law 93-531 have been implemented by the Relocation Commission, and it highlights a number of the problem areas, including: long delays in completing replacement housing, a lack of planning, failure to provide decent housing, cost overruns, inadequate counseling activities, relocatee housing resale activity and related fraud allegations.

The large-scale removal of people from their traditional homes to new communities required by Public Law 93-531 surely poses logistical problems. Nevertheless, the failures of the Relocation Commission to cope with logistical and other problems has increased the human suffering of relocatees. This intolerable situation must not be allowed to continue.

RELIGION AND TRADITIONAL RESISTANCE

If the experiences of those who volunteered for relocation are disturbing, the problems of those Navajo subject to relocation who have steadfastly refused to go, are even more so. Yet, despite years of impoverishment, forced livestock reduction, and a profound sense of uncertainty concerning their future, traditional Navajo continue to oppose relocation.

The essence of the Navajo resistance to the relocation mandates of Public Law 93-531 is founded in their traditional Navajo religion. As one Navajo resister has explained, relocation is not acceptable to Traditionals because it would force them to accept a "deportation from the spiritual world of their ancestors." Many of those who have chosen to relocate frame their decision in a religious context as well. For example, one Navajo relocatee explained his decision to relocate: "We are Christians and our God can go anywhere."

Because their religion is linked to the land, compulsory relocation would seriously undermine Traditional Navajo religious beliefs. Relocation heightens the spiritual, social, and psychological suffering experienced by Traditionals by tampering with their connection to the land and their system of religious belief.

The complex relationship which has developed over the years between Navajo and Hopi in major part arises from historical, cultural and traditional considerations. Throughout numerous legal struggles between the two federally recognized tribal councils over the past few decades, however, Traditional Hopi and Navajo have always maintained that they had more in common than at odds.

The religious beliefs of Traditional Hopi and Navajo are both based on land theologies which follow natural laws. Moreover, they share a commitment to revere forever and serve as caretakers of the land. This commitment remains their strongest common bond and the foundation of their joint opposition to the relocation mandates of Public Law 93-531.

MONETARY COSTS

Although the tragic human costs associated with the relocation efforts of the Federal Government are impossible to calculate, the economic costs are less elusive. We now know that early estimates of the cost of relocation were completely erroneous. Indeed, rather than approximately $40 million, current estimates indicate that 7 or 8 times that amount may be required to complete the relocation. The House report to accompany the fiscal year 1987 Department of the Interior and Related Agencies appropriation bill noted that although approximately $150 million had already been appropriated, more than $100 million in additional costs would be required to complete relocation. Moreover, with the target date for completion in 1993, 5 years into the future, and the horrendous record of the Relocation Commission in meeting cost estimates, it does not seem unlikely that the total costs of the compulsory relocation ultimately may soar to heights of between one-third and one-half of a billion dollars.

SUMMARY OF THE LEGISLATION

Congress has grappled with the problems stemming from the implementation of Public Law 93-531 for 14 years now, Mr. President. As our understanding of the complexities and dimensions of the issues have increased, modifications to the original act have been adopted. Fourteen years later, however, it is increasingly apparent that the approach of Public Law 93-531 is seriously flawed, and that it has inflicted, and will continue to inflict, great hardship and suffering.

Mr. President, the legislation I am proposing today will give us the opportunity to halt the relocations for 18 months and reconsider the implementation of Public Law 93-531. It will establish a Navajo and Hopi Indian Relocation Advisory Commission with a majority of Hopi and Navajo members and an equal number of traditionals and tribal council representatives from each tribe. The measure recognizes traditional Hopi and Navajo viewpoints as separate from the viewpoints of the respective tribal councils. Thus, this legislative proposal represents the only congressional initiative which seeks to provide Hopi and Navajo traditionals with a forum in which to express their views concerning implementation of Public Law 93-531.

Mr. President, it is imperative that any proposed solutions or alternatives to the problems resulting from the implementation of Public Law 93-531 must incorporate the views of Traditional spokesmen and leaders of both tribes. If those most directly involved and most harshly effected by the relocation mandates are not allowed to participate fully in the process, it is highly unlikely that any viable resolution of the controversy can be found.

The Advisory Commission would be required to hold public hearings on the lands subject to the mandates of Public Law 93-531. These hearings would be held at a variety of locations, including communities facing relocation. By mandating public hearings on the land and requiring a rotation of hearing sites, this measure aims at encouraging the greatest level of participation by Hopi and Navajo representing the entire spectrum of viewpoints.

After the Advisory Commission concludes its study of the problems resulting from implementation of Public Law 93-531, it would be required to submit a report to Congress outlining recommendations for solutions to the remaining problems involved in completing the requirements of Public Law 93-531, and viable alternatives to relocation, that would resolve the disputes between the Hopi Tribal Council and the Navajo Tribal Council, and meet the needs of traditional Hopi and Navajo as well.

Mr. President, my legislation does not impose another legislative solution. Rather, it provides the time and the means to change the course. The initiative I am introducing today offers an alternative process for dispute resolution, a process which emphasizes the input of those most directly involved in the controversy, those most uniquely qualified to negotiate for themselves an acceptable solution.

Finally, I ask unanimous consent that the complete text of S. 2452 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Notwithstanding any provision of law other than subsection (b)—

(1) no Navajo Indian or Hopi Indian shall be required to relocate pursuant to the provisions of Public Law 93-531, or pursuant to any judgment or order of any Federal court, during the 18-month period beginning on the date of enactment of this Act,

(2) no Federal funds may be expended during such period with respect to—

(A) the lands held in trust for the Hopi Tribe under section 10(b) of Public Law 93-531 (25 U.S.C. 640d-9(b)), or

(B) the lands held in trust for the Navajo Tribe, or to be acquired for the Navajo Tribe, under section 11 of Public Law 93-531 (25 U.S.C. 640d-10), and

(3) no construction may be carried out during such period on the lands described in paragraph (2).

(b)(1) Nothing in this Act shall alter, affect, or delay any payment which is required to be made to any individual under the provisions of Public Law 93-531.

(2) The Navajo and Hopi Indian Relocation Commission and the Secretary of the Interior shall take such actions as may be necessary to ensure that no Indian is subjected to any undue hardship by reason of the provisions of subsection (a).

SEC. 2. (a) There is hereby established the Navajo and Hopi Relocation Advisory Commission (hereafter in this Act referred to as the "Commission").

(b)(1) The membership of the Commission shall consist of—

(A) 2 individuals appointed by the Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives,

(B) 2 individuals appointed by the President pro tempore of the Senate,

(C) an individual appointed by the American Bar Association who has a background in mediation or arbitration and in human rights or constitutional law,

(D) 3 Hopi Indians who represent the Hopi Traditional Sovereign Villages and are appointed to the Commission by traditionally recognized spiritual leaders or spokesmen of the Hopi Traditional Sovereign Villages,

(E) 3 Hopi Indians appointed by the Hopi Tribal Council,

(F) 3 Navajo Indians who represent Navajo traditional people and are appointed to the Commission by the Navajo communities located on lands held in trust for the Hopi Tribe under section 10(b) of Public Law 93-531 (25 U.S.C. 640d-9(b)) that are subject to relocation, and

(G) 3 Navajo Indians appointed by the Navajo Tribal Council.

(2)(A) At least one of the individuals appointed under subparagraphs (A) and (B) of paragraph (1) shall be an anthropologist or sociologist who has studied relocation.

(B) The individuals appointed under subparagraphs (A) and (B) of paragraph (1) should be representative of different educational, economic, racial, ethnic, and age groups and shall include men and women.

(3) Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) The individual appointed under paragraph (1)(C) shall act as Chairman of the Commission.

(5) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(6) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

(7) The Commission may adopt such rules and regulations (consistent with the other provisions of this Act) as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c)(1) The Commission shall conduct a study of—

(A) the problems resulting from the implementation of Public Law 93-531, and

(B) viable alternatives to the relocations required under Public Law 93-531 that meet the needs of traditional members of both of the Hopi and Navajo traditional governments.

(2) In conducting the study under paragraph (1), the Commission shall visit, inspect, and hold public hearings regarding, the lands involved in the relocation required under Public Law 93-531. Public hearings of the Commission shall be held at a variety of locations, particularly the communities involved in the relocation.

(3) By no later than the date that is 1 year after the date of enactment of this Act, the Commission shall submit to the President and to the Congress a report on the study conducted by the Commission under paragraph (1). Such report shall include—

(A) recommendations for solutions to the remaining problems involved in completing the requirements of Public Law 93-531, and

(B) viable alternatives to the relocations required under Public Law 93-531, that would resolve the disputes between the Hopi Tribal Council and the Navajo Tribal Council, and meet the needs of traditional members of both the Hopi and the Navajo traditional governments.

(d) The Commission shall have the power to—

(1) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of such personnel as may be necessary to assist in the performance of the duties of the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of such General Schedule.

(e)(1) Each member of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Commission.

(2) Except as provided in paragraph (3), a member of the Commission who is otherwise an officer or employee of the United States Government shall serve on the Commission without additional compensation.

(3) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission in accordance with subchapter I of chapter 57 of title 5, United States Code.

(f) The Commission may hold such hearings and sit and act at such times, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, make such expenditures, and take such other actions as the Commission may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(g) The provisions of the Federal Advisory Committee Act shall not apply to the Commission established under this section.

(h)(1) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purposes of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality shall make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(i) The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (c)(3).

SEC. 3. Funds necessary to carry out the provisions of this Act shall be paid out of amounts appropriated to the Navajo and Hopi Indian Relocation Commission.

By Mr. LAUTENBERG (for himself, Mr. BRADLEY, Mr. ADAMS, Mr. MATSUNAGA, Mr. BURDICK, Mr. SIMON, Ms. MIKULSKI, and Mr. CRANSTON):

S. 2453. A bill to provide for the rehiring of certain former air traffic controllers; to the Committee on Commerce, Science, and Transportation.

REHIRING OF CERTAIN FORMER AIR TRAFFIC CONTROLLERS

● Mr. LAUTENBERG. Mr. President, today I am introducing legislation that addresses a critical issue in aviation safety—the shortage of qualified air traffic controllers. Through the selective rehiring of fired controllers, this bill would help us get the manpower we so desperately need in our control towers.

I'm pleased to be joined by Senators BRADLEY, ADAMS, MATSUNAGA, BURDICK, SIMON, MIKULSKI, and CRANSTON.

In August 1981, 11,400 air traffic controllers walked off the job, protesting stressful and inadequate working conditions in the Nation's control towers and centers. In doing so, they violated Federal law, and were fired by President Reagan.

Since that time, there has been a debate about rehiring those fired controllers. The administration has adamantly refused to even consider this. For the sake of a safer air traffic system, it's time to rethink that position, and consider bringing back some of the controllers.

The need for this has been illustrated again this week. In a letter to the House and Senate Appropriations Committees, Transportation Secretary Burnley has stated that once again, the administration will not meet congressionally mandated controller staffing goals.

According to Secretary Burnley's own projection, the Department will fall short of staffing requirements for full performance level controllers by 518. I repeat, Mr. President, at the end of the current fiscal year, we'll have 518 fewer fully qualified air traffic controllers than we need. That's why this bill is timely, and necessary. By continuing to refuse to consider selective rehiring, the administration isn't just punishing the fired controllers—it's punishing the flying public.

Mr. President, it's not for lack of trying that the DOT cannot build up the controller work force adequately. Various factors make it an almost impossible task under current procedures. It's time to take a different tack. That's what this bill would do.

Mr. President, in order to understand how we got to where we are today, it's important to look back at the events of the last 7 years. Following the dismissal of the controllers, the administration promised to quickly rebuild the decimated controller work force. That work force, which had numbered over 16,000, had been reduced to a shell. The task of rebuilding was an immense one. Yet the administration promised the Congress and the American public that it would do it.

Seven years have passed, and yet, we still are seriously short of the controllers we need. The administration has failed in its efforts to rebuild. It fell short of congressional goals for fully qualified controllers last year, and, as I mentioned earlier, will again this year. In fact, at the end of January 1988, there were actually fewer fully qualified controllers on board than in October 1987. The problems are many: A great number of controllers and supervisors have retired, or are nearing retirement; the controller training academy has a washout rate of 50 percent; and adverse working conditions that led to the formation of a new union.

In failing to rebuild the work force, the administration has failed the American public.

More and more Americans are flying. Since 1981, passenger traffic has grown, grown tremendously. It's up by more than 60 percent in the last decade, reaching about 450 million last year. That trend is expected to continue; 500 million passengers are expected to fly in the United States by 1990. But controller staffing isn't keeping pace. At some of our busiest facilities, the case is startlingly clear.

According to a General Accounting Office [GAO] study last year, traffic at Newark International Airport grew by 50 percent in recent years. However, there were fewer fully trained controllers directing that traffic than before the strike. At Chicago, traffic was up 50 percent, with 20 fewer fully qualified controllers there.

The skies aren't safer. The administration points to statistics that show that flying is still very safe. But those figures are misleading. In assessing safety, we can't just look at fatalities, which, fortunately, have remained very low. We have to look at other factors, such as midair near collisions. Those numbers have reached all-time highs. Last year, there were almost three midair near collisions each and every day.

Any number of those could have resulted in a collision, and the loss of lives. That's why the warning signals are going off. That's why it's time to reevaluate policies.

No single factor accounts for the diminished margin of safety in the skies. Technical and managerial problems have delayed the implementation of the national airspace system plan, which is designed to modernize the hardware assisting controllers. But the lack of adequately trained controllers is a major problem.

The controller work force is undermanned and overworked. There are about 3,000 fewer fully qualified controllers today than in 1981. They simply are not able to safely and efficiently handle the traffic in our skies today. Anyone who's ever visited a control tower can attest to the tension levels.

The FAA contends that bringing fired controllers back would hurt morale among controllers now on the job. The FAA has it backward—morale is already low. Last summer, those controllers voted overwhelmingly to form a new union. Content workers do not form unions. Workers who are forced to deal with chronic understaffing, 6-day work weeks, and tensions that make their jobs exceedingly difficult do. The vote for a new union was a vote for better working conditions, including more staffing.

It takes at least 3 years to bring a new controller on line, and longer to develop the skills that many of those fired already possess. The FAA Administrator testified before a Senate committee last October that the retraining of a fired controller could take as little as 3 to 6 months. We need more controllers now, not 3 years from now. Selective rehiring of fired controllers can accomplish that goal.

That the controllers violated law by striking is not disputed. They broke the law, and deserved to be punished. By not being allowed to pursue their chosen profession for 6½ years, they have been punished. Continuing refusal to rehire misdirects that punishment.

Mr. President, we need more controllers. My bill would trigger the selective rehiring of fired controllers in the event that the DOT cannot meet congressionally mandated staffing goals laid out in the annual appropriations bills. Rehired controllers would be sent to the facilities where they are most needed, and would be subject to a probationary period. Additionally, steps would be taken to protect the status of controllers now on board.

Unlike the legislation recently passed by the House of Representatives, my bill would not mandate rehiring unless the Department of Transportation is unable to meet staffing goals. When and if rehiring is triggered, the number of fired controllers brought back would be those required to make up the staffing shortfall.

Mr. President, it's time for the administration to stop putting ideology before safety. This is a balanced, fair approach to addressing the problem of air traffic controller shortages. In this time of continuing growth of air travel, it represents at least a partial solution to that problem. I urge my colleagues to support it.

I ask unanimous consent that the text of the bill be printed in the RECORD, along with a May 23, 1988, letter from Transportation Secretary Burnley on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For purposes of this Act—

(1) the terms "air traffic controller", "competitive service", and "employee" each has the meaning given each such term in chapter 21 of title 5, United States Code; and

(2) the terms "former air traffic controllers" and "former controller" each means any individual whose appointment as an air traffic controller was terminated on account of the strike of air traffic controllers which began on or about August 3, 1981.

SEC. 2. APPOINTMENT OF CERTAIN FORMER AIR TRAFFIC CONTROLLERS.

(a) ELIMINATION OF BAR TO APPOINTMENT.—Notwithstanding any provision of paragraph (3) or (4) of section 7311 of title 5, United States Code, or any rule, regulation, order, or directive, former air traffic controllers shall not, as a class, be considered unsuitable or otherwise ineligible for appointment—

(1) to positions as air traffic controllers in the Federal Aviation Administration or the Department of Defense; or

(2) to any other position in the Federal Aviation Administration.

(b) AIR TRAFFIC CONTROL WORKFORCE REQUIREMENTS.—

(1) The Secretary of Transportation (hereinafter referred to as the "Secretary") shall, no later than September 30, 1988, establish, and have in place, an air traffic controller workforce, consisting of full performance level controllers, first line supervisors, and traffic management coordinators, of no fewer than 15,900.

(2) The Secretary shall, no later than September 30, 1988, establish, and have in place, a full performance level air traffic controller workforce of no fewer than 10,450.

(3) In addition to the requirements of paragraphs (1) and (2) of this subsection, commencing with fiscal year 1989, and each fiscal year thereafter, the Secretary shall establish air traffic controller workforce and full performance controller levels in accordance with this Act and goals established in the annual Department of Transportation Appropriations Act, including any reports with respect thereto, for each such fiscal year.

(4) In meeting the requirements in this subsection, no changes in the definitions of full performance level controller, first line supervisor, or traffic management coordinator shall be made other than pursuant to a law enacted by the Congress after the date of the enactment of this Act.

(5) Not later than April 1, 1988, and on or before April 1 of each year thereafter, the Secretary shall report to the Congress—

(A) the on-board air traffic controller workforce and full performance controller levels in place at the beginning of the 30-day period immediately preceding the date on which such report is submitted; and

(B) the air traffic controller workforce and full performance controller staffing levels projected by the Secretary to be in place at the end of the then current fiscal year, and whether such levels so projected, if attained, will meet the requirements of this Act.

(c) SELECTIVE REHIRING OF FORMER CONTROLLERS.—

(1) If, based on the reports required in subsection (b)(5) of this section, the Secretary will not meet the staffing goals required by this Act for the fiscal year in which such report is submitted, the Secretary shall, not later than May 1, of such fiscal year, rehire such former controllers as necessary to comply with the requirements of this Act.

(2) In any case in which such staffing goals required by this Act are not complied with with respect to any fiscal year, the Secretary shall, within 30 days following the expiration of such fiscal year, rehire such former controllers as necessary to comply with such staffing goals.

(d) PROCEDURES FOR REHIRING FORMER CONTROLLERS.—

(1) The Secretary shall, not later than 90 days after the date of enactment of this Act, establish standard procedures, including, but not limited to, uniform retraining periods, for rehiring and appointing former controllers.

(2) Such procedures shall not unreasonably delay the appointment of former controllers or discriminate unfairly against appointment of former controllers.

(e) WAIVER OF MAXIMUM-AGE LIMITATION.—Nothing in section 3307(b) of title 5, United States Code, or in any rule or regulation issued to carry out such section 3307(b), shall apply with respect to appointments made pursuant to this section.

(f) PROCEDURES FOR MAKING APPOINTMENTS.—

(1) COMPETITIVE PROCEDURES GENERALLY APPLICABLE.—Except as otherwise provided in this Act, including paragraph (2), any appointment of a former controller to an air-traffic-controller position shall be made in accordance with provisions of title 5, United States Code, governing appointments in the competitive service.

(2) EXCEPTION.—

(A) DETERMINATION OF NECESSITY AS PREREQUISITE.—If, in fiscal year 1988 or 1989, the Secretary determines that compliance with subsection (b) in the then current fiscal year would not otherwise be practicable, the appointment procedures established under subparagraph (B) may be used during the fiscal year involved.

(B) NONCOMPETITIVE PROCEDURES.—The Director of the Office of Personnel Management, in consultation with the Secretary of Transportation, shall prescribe regulations under which a former controller may be appointed noncompetitively to a competitive-service position in the Federal Aviation Administration as an air traffic controller if that former controller meets appropriate qualification requirements, as established under such regulations.

(g) SUITABILITY DETERMINATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), determinations of suitability of former controllers for appointments to air-traffic-controller positions shall be made by the Office of Personnel Management, on

a case-by-case basis, in accordance with the provisions of part 731 of title 5 of the Code of Federal Regulations (or corresponding successor provisions).

(2) EXCEPTION.—

(A) ROLE IN 1981 STRIKE MAY NOT BE CONSIDERED.—In making a determination of suitability under paragraph (1) with respect to an individual, neither any conduct by such individual nor any other consideration relating to such individual may be taken into account if, or to the extent that, such conduct or other consideration relates to the strike referred to in section 1(2).

(B) EXCEPTION DOES NOT COVER CRIMINAL OR CERTAIN OTHER TYPES OF MISCONDUCT.—Nothing in subparagraph (A) shall apply with respect to—

(i) any conduct which constituted a criminal act under the laws of the United States (excluding paragraph (3) or (4) of section 1918 of title 18, United States Code), a State, or other unit of government; or

(ii) any conduct which resulted in personal injury or damage to property.

(h) RULE OF CONSTRUCTION.—Nothing in this Act shall be considered to confer on any particular individual an entitlement to be appointed to a position described in paragraph (1) or (2) of section 2(a).

SEC. 3. PROBATIONARY PERIOD; CREDITABILITY OF SERVICE FOR RETIREMENT PURPOSES.

(a) PROBATIONARY PERIOD.—

(1) ESTABLISHMENT.—

(A) CONTROLLER POSITIONS WITHIN THE FEDERAL AVIATION ADMINISTRATION.—The Secretary of Transportation shall prescribe regulations under which the appointment of a former controller to an air-traffic-controller position within the Federal Aviation Administration shall not become final unless and until that former controller successfully completes—

(i) a 6-month probationary period, if such former controller has, at any previous time, successfully completed a probationary period under section 3321 of title 5, United States Code, as an air traffic controller; or

(ii) a probationary period of not less than 6 months and not more than 12 months, if such former controller has never successfully completed a probationary period under section 3321 of title 5, United States Code, as an air traffic controller.

(B) CONTROLLER POSITIONS WITHIN THE DEPARTMENT OF DEFENSE.—The Secretary of Defense shall prescribe regulations under which the requirements of subparagraph (A) shall be carried out with respect to air-traffic-controller positions within the Department of Defense.

(2) REQUIREMENTS RELATING TO FILLING VACANCIES RESULTING FROM FAILURE TO COMPLETE PROBATIONARY PERIOD.—

(A) IN GENERAL.—In the case of any air-traffic-controller position in the Federal Aviation Administration which is filled in fiscal year 1988 or 1989 by the appointment of a former controller, any vacancy in such position resulting from a failure of the incumbent to successfully complete the probationary period under paragraph (1)(A) shall be filled by the appointment of another former controller.

(B) COUNTING RULE.—An appointment under subparagraph (A) to fill a vacancy described in such subparagraph may not be counted for purposes of determining compliance with section 2(b) if another appointment to the same position has previously been so counted.

(b) CREDITABILITY OF SERVICE FOR RETIREMENT PURPOSES.—

(1) SIX YEARS OF SERVICE REQUIRED.—Except as provided in paragraph (3), service performed by a former controller pursuant to an appointment made pursuant to section 2(a) or 2(b) may not be taken into account for purposes of any provision of law identified in paragraph (2), unless such former controller completes at least 6 years of service as an air traffic controller after the date of the enactment of this Act.

(2) BENEFITS AFFECTED.—The provisions with respect to which this subsection relates are—

(A) sections 8336(e) and 8412(e) of title 5, United States Code, relating to immediate retirement by air traffic controllers; and

(B) sections 8339(e) and 8415(d) of title 5, United States Code, relating to computation of annuities in the case of air traffic controllers.

(3) EXCEPTIONS.—

(A) DISABILITY.—Nothing in this subsection shall apply in the case of any individual who retires under section 8337, or subchapter V of chapter 84, of title 5, United States Code.

(B) DEATH IN SERVICE.—The amount of any survivor annuity which is based on the service of an individual who is an air traffic controller at death shall be computed as if this subsection had not been enacted.

SEC. 4. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) appointments of former air traffic controllers—

(A) should not cause the separation or reduction in grade or pay of any other air traffic controller; and

(B) should not interfere with the training opportunities which would otherwise be afforded to air traffic controllers seeking to become fully qualified;

(2) in selecting former air traffic controllers for appointment under this Act, the appointing authority should consider—

(A) performance appraisals which were received by the individuals under consideration; and

(B) appropriate methods by which individuals may be assigned to facilities or locations where they are most needed; and

(3) any period of time between an individual's separation from service as an air traffic controller (due to the strike referred to in section 1(2)) and such individual's restoration to service as a result of the enactment of this Act should not be taken into account for any purpose relating to seniority or back pay.

THE SECRETARY OF TRANSPORTATION,
Washington DC, May 23, 1988.

Hon. JOHN C. STENNIS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The FY 1988 Appropriations Act for the Department of Transportation requires in section 320(a) that the Federal Aviation Administration (FAA) satisfy the following requirements by September 30, 1988: (1) total air traffic controller work force level of not less than 15,900; (2) total full-performance-level (FPL) air traffic controllers of not less than 10,450; and (3) at least 70 percent of the air traffic controller work force, excluding common screen students, at each center and Level III and above terminal shall have achieved operational controller status.

We expect to achieve a total controller work force of at least 15,900 and to meet the 70 percent operational controller requirement. We will not, however, attain the statutorily required number of FPL controllers and could not attain it without compromising our FPL qualification standards and imposing a moratorium on any reassignment of FPL controllers. Because either of these actions would adversely affect aviation safety, I am invoking the provisions of section 320(b) which permit me to waive the requirement that the FAA attain a level of 10,450 FPL controllers.

The decision to waive this requirement has not been made lightly. I consider it vitally important that we attain a fully trained controller work force as quickly as possible. However, after allowing for expected attrition among existing FPL controllers, there will not be enough controllers in the pool of those eligible to achieve FPL status this year to reach the 10,450 level. Based upon a region-by-region assessment, I anticipate a level of 9,932 FPL controllers by September 30, 1988. To the extent that we are able to qualify more without compromising safety, we will do so.

Our FPL count does not include those controllers, nearly 1,100 at the beginning of this month, who are at the FPL grade for their facility, but have not yet met requirements at all positions in their areas of responsibility. These are typically controllers who have been reassigned from a low level facility to a higher level facility, such as a Level IV or V TRACON. As vacancies occur at these more critical facilities, our commitment to assure the safe flow of air traffic requires such reassignments, even if this conflicts with our desire to meet FPL goals. Controllers reassigned temporarily lose their FPL status and are not again included in the count until they requalify.

In addition, beginning this year, the "controller work force" includes first-line supervisors. Although these supervisors play an important safety role in the system, they are not counted as FPL controllers. In fact, because FPL controllers are the primary candidates for supervisory positions, filling supervisory jobs, which are necessary to keep the system functioning effectively, actually reduces the FPL count.

FAA's continuous efforts to rebuild its controller work force with qualified personnel have been recently advanced by a Department of Defense decision to release large numbers of military personnel. Some of these are highly qualified air traffic controllers, and many are being hired by the FAA for immediate assignment to facilities. Their prior experience should reduce the amount of time it takes to achieve operational status and eventually also to attain FPL status. The addition of some 500 of these former military controllers between now and the end of the year, in lieu of 800 new hires who would otherwise enter the FAA Academy, is both cost effective for the FAA and a productive use of personnel already trained at the taxpayers' expense.

Your concern and your assistance have been critical in assuring that resources have been available for the safe and efficient operation of the air traffic control system. I look forward to our continued work together in this effort.

An identical letter has been provided to Chairman Whitten.

Sincerely,

JIM BURNLEY.

● **Mr. SIMON.** Mr. President, I am pleased to join with my good friend and colleague from New Jersey in cosponsoring this bill authorizing the rehiring of those former air traffic controllers fired as a result of the illegal strike in 1981. Certainly it is appropriate to utilize the skill and experience of those who are available and capable of passing a review or updating of their qualifications. Clearly, there is pressing need for competent, experienced air traffic controllers.

One week ago today I obtained unanimous consent to place in the record a study done by the Better Government Association of Chicago detailing the findings of a 6-month study of air safety in the Chicago area. Among their findings were the following:

Vital FAA equipment runs on obsolete vacuum tubes and relay switches from the 1950's. This equipment routinely breaks down.

According to GAO reports and FAA personnel, many equipment failures are not reported.

Technicians assigned to maintain equipment are forced to cut corner's and sign off on work not completed.

Due to faulty equipment, pilots routinely take off and land through windshear alerts.

In order to defend these problems the FAA has misrepresented program and staffing status in congressional testimony.

The BGA's study makes the following statement in regard to air controllers at O'Hare International:

> National Transportation Safety Board Chairman Jim Burnett concluded recent Congressional testimony about aircraft operations at O'Hare by saying, ". . . the Safety Board believes that there is a diminished level of safety of the air traffic control system at O'Hare."[26] The GAO has echoed that view and recommends that restrictions be placed on air traffic until controller numbers and experience levels meet FAA's goals. "Limiting air traffic before conditions worsen seems to be the prudent choice."[27]
>
> Will the FAA make that prudent choice? The attitude so far has been that of an ostrich hiding its head in a runway. One pilot told us, "We'll probably have to kill some people before government does anything meaningful." Cynicism aside, the FAA must recognize the severity of the problems it faces now—prior to the NAS Plan's full implementation and before an aviation disaster occurs. Many knew that technical shortcuts and hastened timetables afflicted the Space Shuttle Program, but not until the shuttle crashed in 1986 did government admit to problems in the program. If we must learn by example, let us learn from what happened to the Space Shuttle. The safety of our air traffic system depends on it.
>
> What should be done? The Better Government Association believes that the following are the minimum steps that should be undertaken by the federal government to provide minimal safety protection to the flying public.
>
> Trained technicians and controllers are needed to keep the airplanes up and the equipment running. It is imperative that the FAA restock its sorely depleted work force at least to 1981 staffing levels.

Unfortunately, Mr. President, the situation at O'Hare is reflective of the situation at the other high traffic areas in the country. One means of improving air safety is to utilize the existing pool of trained, experienced former air controllers that remain available. The administration's continued refusal to use their skills and experience is not only a waste of a scarce and valuable resource, this refusal places every user of our commercial aviation system at needless risk.●

By Mr. HARKIN (for himself and Mr. BOSCHWITZ):

S. 2454. A bill to seek the eradication of the worst aspects of poverty on developing countries by the year 2000; to the Committee on Foreign Relations.

GLOBAL POVERTY REDUCTION ACT

● Mr. HARKIN. Mr. President, in his 1949 inaugural address, President Harry Truman observed that: "More than half the people of the world are living in conditions approaching misery. Their food is inadequate. They are victims of disease. Their economic life is primitive and stagnant. Their poverty is a handicap and a threat to them and to more prosperous areas."

That was nearly 40 years ago, but the message is just as true today as it was then.

Despite the billions in foreign aid we spend every year, over the past 40 years since Truman's address, the problems humanitarian aid is supposed to address persist. Of the foreign aid allocated in 1988, not all was targeted to help people in developing countries overcome "hunger, poverty, illness and ignorance," as called for in the 1961 Foreign Assistance Act.

In fact, of that $14 billion, $5.3 billion is going to military aid and $3.2 billion in cash payments to strategically valuable countries. Less than $3 billion—$2.7 billion to be exact—is spend on bilateral development assistance. Some of these funds help achieve the four goals set forth in the 1961 Foreign Assistance Act. However, much is spent without specific goals in mind.

For this reason, along with Senator BOSCHWITZ, I am introducing the Global Poverty Reduction Act of 1988, which seeks to target U.S. development assistance to eliminate the worst aspects of world poverty. I am pleased to join Congressmen MEL LEVINE and JOHN MILLER, who have introduced a similar measure in the House of Representatives.

This legislation specifies three targets for measuring the U.S. development assistance program's success in reducing malnutrition, disease, starvation, and poverty.

The first is an under-5 mortality rate of 70 by the year 2000. The under-5 mortality rate [U5MR] is the annual number of deaths of children under 5 per 1,000 live births. The U5MR of 70 is roughly equivalent to the United Nations Third Development Decade goal of an infant mortality rate of 50 by the year 2000. UNICEF's State of the World's Children 1988 report shows 33 countries with an U5MR greater than 170, compared to 74 countries in 1960 with a U5MR of 170.

The second is a female literacy rate of 80 by the year 2000. The female literacy rate is the percentage of females aged 15 and over who can read and write. Since women provide almost all of the child care in developing countries, an improvement in female literacy contributes directly to improving child survival by enabling women to read instructions for basic health, sanitation, medical, and nutritional standards. In addition, female literacy contributes to population control: as women become assured that their children will survive to adulthood, fewer births will be reqired to ensure that at least some will grow up.

The third would reduce to 20 percent a country's population living below absolute poverty. Absolute poverty is defined as the income level below which a minimum nutrionally adequate diet—plus essential nonfood requirements—are not affordable. U.S. development aid would be targeted toward helping countries with over 40 percent of the population living in absolute poverty reduce that rate to less than 20 percent, and helping countries with absolute poverty rates of less than 40 percent halve their rates.

The Global Poverty Reduction Act directs the next President to consult with the governments of developing countries, nongovernmental organizations, and international organizations to devise a plan to coordinate U.S. development aid to achieve these and other established antipoverty goals by the year 2000.

The practice of goal-setting has already been established. Last year, President Reagan vowed to eradicate hunger in Africa by 2000. World Bank President Barber Conable calls for the elimination of the worst of Asian poverty by that date. And the World Health Assembly seeks a healthy world by 2000.

Noble goals, like reducing global poverty, are more likely to be realized if sights are set on specific targets. That is the principle underlying the three targets set by this legislation. None is easily achieved, yet none is out of reach.

Goal-setting has already proven effective. Without it, the world would not have eradicated smallpox 11 years ago, and would not now be on its way to wiping out six other childhood diseases by 1990.

Establishing an accurate measurement of how effective aid is would not only help reduce poverty but could increase domestic support for foreign aid. Too often, Americans have seen their tax dollars end up in the pockets of dictators like Marcos and Duvalier.

Others consider U.S. aid mismanaged, improperly disbursed, wasteful, and ineffective.

The result has been almost a yearly decrease in the foreign aid budget. On the other hand, domestic support would grow if American taxpayers saw measurable results from out foreign aid programs and if those programs benefited the world's poorest people, not the world's generals bureaucrats, and despots.

Humanitarian concerns aside, this bill makes good economic sense for America. In 1980 Third World countries bought $88 billion worth of American goods. That figure dropped to $77 billion by 1985. Falling commodity prices and debt are important factors in this decline. But underdevelopment, which deprives people of the means of overcoming their poverty, is the biggest problem. The concept is simple. A country's purchasing power increases not from the hunger of its people, or its growing population size, but from its growing wealth. Accordingly, our foreign assistance should be directed to programs to help developing nations build their indigenous economic base.

This legislation would aid developing countries make progress against disease and illiteracy which in turn will enable them to achieve economic growth and higher standards of living. This is not trickle down development theory, but trickle up. Expanding a country's growth potential will expand its purchasing power. In turn, U.S. producers will benefit. With these measurable results, support for U.S. foreign aid programs will grow as well.

The Global Poverty Reduction Act's measurable goals makes sense and deserves the support of our colleagues in the Senate. I urge your support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Poverty Reduction Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) all countries of the world, through the World Health Assembly, have set for themselves the common goal of health for all by the year 2000;

(2) President Reagan in 1987 announced an initiative to help end hunger in sub-Saharan Africa by the year 2000;

(3) the President of the World Bank in 1987 stated that, "In the large poor countries of Asia, we wish to support government strategies to eliminate the worst aspects of absolute poverty in Asia by the year 2000";

(4) the heads of state of the South Asian Association for Regional Cooperation committed themselves to the goal of universal immunization by the year 1990 and the goals of universal primary education, adequate maternal and child nutrition, safe drinking water, and adequate shelter for all by the year 2000;

(5) section 101 of the Foreign Assistance Act of 1961 states that "Congress . . . renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance";

(6) the Government of India has established the goal of eliminating absolute poverty in India by the year 2000;

(7) the United Nations General Assembly, among its goals for the Third Development Decade, has agreed on the goal of an infant mortality rate of 50 or below by the year 2000;

(8) the establishment of performance indicators, particularly social indicators such as the under-five-mortality-rate (U5MR), offers the prospect of a much wider understanding of the ultimate objectives of development and assistance and the ability to target development assistance strategically;

(9) the United Nations Children's Fund considers the under-five-mortality-rate as the primary indicator of a less developed country's progress in providing for the health of its children and reflective of the overall health quality of the country;

(10) the literacy of women is universally acknowledged as among the most important factors for improving the health and survival of women and their children; and

(11) the report of the United Nations World Commission on Environment and Development (entitled "Our Common Future") states that, "Poverty is a major cause and effect of global environmental problems" and that "many present development trends leave increasing numbers of people poor and vulnerable, while at the same time degrading the environment".

SEC. 3. UNITED STATES EFFORTS TO ERADICATE WORST ASPECTS OF ABSOLUTE POVERTY.

Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 129. ERADICATING WORST ASPECTS OF ABSOLUTE POVERTY.

"(a) DEVELOPMENT OF PLAN.—The President shall develop a plan to ensure that United States development assistance contributes measurably to eradicating the worst aspects of absolute poverty by the year 2000.

"(b) CONSULTATION.—In developing the plan required by subsection (a), the President shall consult with the host country governments, international organizations, and United States and indigenous nongovernmental organizations which represent the poor in developing countries. To assist in developing this plan, the President shall hold hearings in appropriate locations in the United States, and shall call for hearings in appropriate locations in other countries, especially developing countries, to ascertain the views of experts in the field and other concerned individuals, most particularly the intended beneficiaries of assistance.

"(c) SPECIFIC MEASURABLE GOALS.—

"(1) IN GENERAL.—The plan developed pursuant to subsection (a) shall include specific measurable goals and target dates for reaching them. These goals shall all be goals whose attainment would contribute to direct improvements in the living standards of the poorest 40 percent of the population. These goals shall be poverty-oriented and specifically directed toward increasing opportunities for the poor. These goals shall include the goals specified in paragraph (2) and such other goals based on social, environmental, and economic indicators as the President determines to be crucial to measurably eliminating the worst aspects of absolute poverty by the year 2000.

"(2) SPECIFIED GOALS.—Among the goals included in the plan developed pursuant to subsection (a) shall be the following:

"(A) UNDER-FIVE-MORTALITY-RATE.—For a country whose under-five-mortality-rate was below 140 in 1980, reducing that rate by 50 percent by the year 2000. For a country whose under-five-mortality-rate was 140 or greater in 1980, reducing that rate to 70 by the year 2000 (which is roughly equivalent to the infant mortality goal of 50 set by the United Nations General Assembly.)

"(B) FEMALE LITERACY RATE.—Attaining a female literacy rate of 80 percent by the year 2000.

"(C) ABSOLUTE POVERTY LEVEL.—For a country having 40 percent or less of its population below the absolute poverty level in 1985, reducing that percentage by 50 percent by the year 2000. For a country having greater than 40 percent of the population below the absolute poverty level, reducing that percentage to no more than 20 percent by the year 2000.

"(d) ECOLOGICAL SUSTAINABILITY.—Development activities carried out under the plan developed pursuant to subsection (a) shall be activities which are consistent with maintaining and restoring the renewable natural resource base. Primary emphasis should be on small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation.

"(e) PUBLICATION OF PLAN.—The President shall submit the plan developed pursuant to subsection (a) to the Congress not later than July 1, 1989, or six months after the date of enactment of this section, whichever is later.

"(f) IMPLEMENTATION OF PLAN.—During the period beginning October 1, 1989, and ending December 31, 2000, all United States development assistance shall have as its purpose the attainment of the goals specified in subsection (c)(2) and any additional goals specified in the plan developed pursuant to subsection (a), notwithstanding any other provision of this chapter or title III of chapter 2.

"(g) CONSULTATION WITH INTENDED BENEFICIARIES.—Development activities carried out under the plan developed pursuant to subsection (a) shall be designed in consultation with the intended beneficiaries.

"(h) ANNUAL REPORTS.—Not later than February 1 each year, the President shall submit a report to the Congress detailing progress toward achieving the goals established in the plan developed pursuant to subsection (a). The report should specify, for each activity carried out pursuant to the plan, how that activity is expected to help reach one or more of the goals established pursuant to subsection (c).

"(i) GAO REVIEW.—The Comptroller General shall review and comment on each report issued pursuant to subsection (h).

"(j) DEFINITIONS.—As used in this section—

"(1) the term 'absolute poverty level' means the income level below which a minimum nutritionally adequate diet, plus essential nonfood requirements, are not affordable;

"(2) the term 'female literacy rate' means the percentage of females aged 15 and over who can read and write;

"(3) the term 'under-five-mortality-rate' means the annual number of deaths of children under 5 years of age per 1,000 live births; and

"(4) the term 'United States development assistance' means any assistance provided under this chapter or under under title III of chapter 2.".

SEC. 4. INTERNATIONAL PLAN TO ELIMINATE WORST ASPECTS OF ABSOLUTE POVERTY.

The President shall host an international development conference for heads of governments of development assistance donor and recipient countries, to be convened no later than October 16, 1989 (World Food Day). The conference shall have as its purpose the conclusion of an international agreement on eliminating the worst aspects of absolute poverty by the year 2000. This agreement should specify which indicators and targets would constitute achievement of that goal. In order to develop such an agreement, the conference should be preceded by meetings among representatives of donor and recipient governments, international organizations, and nongovernmental organizations from both industrialized and developing countries which work directly with the poor, and other interested parties.●

● Mr. BOSCHWITZ. Mr. President, I am very pleased to introduce legislation today, along with my colleague from Iowa, Senator HARKIN, entitled, "The Global Poverty Reduction Act." The bill seeks to ensure that a portion of U.S. foreign assistance contribute measurably to eradicate the worst aspects of absolute poverty by the year 2000.

The bill sets, as a minimum, three goals:

First, to reduce the mortality rate of children under the age of 5 years to 70 per 1,000 live births. In the world's 33 poorest countries it is currently greater than 170 per 1,000 live births.

Second, to increase the female literacy rate to 80 percent. It is currently around 22 percent in these 33 poorest countries. Since women provide almost all child care in developing countries, their ability to read directly affects the quality care they are able to provide, and correlates directly to the child mortality rate.

Third, to achieve an absolute poverty level of not more than 20 percent of the population. The absolute poverty level is defined as that income level below which minimum nutritional needs and essential nonfood requirements are not affordable. Again, in the 33 poorest countries, the percentage of those in rural areas living below this level is 65 percent, and in urban areas, 35 percent.

The bill calls on the President to develop a plan for meeting these and other goals he may choose. This bill requires no new expenditures. It simply directs that the development assistance portion of our foreign aid—that portion that disburses funds for education, nutrition, and agricultural grants abroad—be used for these enumerated goals. A companion bill has already been introduced in the House and has over 100 cosponsors.

Mr. President, this is a bill whose time has come. Indeed, it is long overdue. The problems of hunger and poverty around the world are overwhelming, the suffering and loss almost beyond our comprehension. But with this bill, we can begin to assess our ability to start ending these human tragedies. Setting targets has proven to be a very useful tool to ensure effective use of our resources. It worked in the 1960's in our program to land a man on the moon. It worked more recently in the eradication of smallpox, and is working again today in wiping out six childhood diseases through immunizations.

Mr. President, I would be remiss if I did not mention the fine work of RESULTS, a grassroots organization to help eradicate world hunger, in developing the ideas contained in this legislation. RESULTS was formed in 1980 and since that time has played a leading role in focusing needed attention on, and in developing realistic programs for dealing with, world hunger. I salute their efforts.

It is my hope that this legislation will receive quickly the full consideration of the Senate. It's aim is ambitious, its approach pragmatic, and its mission absolutely necessary.●

By Mr. WILSON:

S. 2456. A bill for the relief of Gagik Barseghian; to the Committee on the Judiciary.

RELIEF OF GAGIK BARSEGHIAN

● Mr. WILSON. Mr. President, today I am introducing companion legislation to H.R. 3925 to allow for the naturalization of Gagik Barseghian, a resident of Glendale, CA, who was born in Yerevan, Armenia, of American parents. He immigrated from the Soviet Union to the United States in March 1986 and is now a legal permanent resident of this country. His wife, Mary, is a U.S. citizen.

Gagik Barseghian is an Olympic-class "Greco-Roman" style wrestler who would like very much to secure his citizenship so he can compete for the United States in the Summer Olympics in Seoul, Korea. The national governing body for the sport of wrestling, USA Wrestling, is confident that he has a high probability of both securing a position on the U.S. Olympic team and going on to win a medal in the 1988 Olympic games.

Since 1984 when he was a member of the 1984 Russian Olympic Wrestling Team, Gagik Barseghian has been very successful in international wrestling competition. Competing in the 136.5-pound weight class, he recently defeated all his world class opponents, including the 1987 European champion Andrei Bulanow of the Soviet Union, in tournaments in Poland, Romania, and Holland. In Bucharest, he defeated both the Bulgarian and Soviet champions, before continuing to Holland where competitors from 22 nations attended a major pre-Olympics meet. In Holland, Mr. Barseghian won all nine matches and was awarded the third gold medal of his European tour.

Time is of the essence Mr. President. Unless Gagik Barseghian obtains citizenship prior to the U.S. Olympic Greco-Roman trials scheduled for June 14, he will be barred from competition.●

By Mr. MELCHER:

S. 2457. A bill to transfer certain lands in the State of Montana and to relieve the town of Neihart, MT, of any obligation to pay consideration for lands conveyed to it under authority of the Small Tracts Act; to the Committtee on Energy and Natural Resources.

TRANSFER OF CERTAIN LANDS IN MONTANA

● Mr. MELCHER. Mr. President, today I am introducing a bill to transfer certain lands in the State of Montana and to relieve the town of Neihart, MT, of any obligation to pay consideration for lands conveyed to it under authority of the Small Tracts Act.

This bill corrects two problems: First, it directs the Secretary of Agriculture to convey a deed to the community of Neihart for a parcel of land comprising approximately 3.2 acres used by the community for a cemetery; and, second, this bill relieves the town of Neihart of the obligation to pay the United States for two very small tracts of Federal land—0.071 acre—located in Neihart.

The second problem goes back to 1985 when the Neihart City Council members signed a small tracts application to acquire the 0.014- and 0.057-acre parcels shown as tracts 2 and 5 on certificate of survey 2056. Upon completion of the necessary paperwork, the signed deed was exchanged for a check in the amount of $1,443 on January 2, 1986. On January 6, 1986, the newly elected town council of Neihart took office and stopped payment on the check. The deed, however, was recorded on January 8, 1986, transferring title from the United States to the town. The problem has festered since that time and this bill does nothing more than say $1,443 is not worth fighting about since ownership by the Federal Government was probably accidental anyway.

Resolving cemetery ownership gives ownership and responsibility to the town of Neihart where it belongs. The cemetery has been used as such since the turn of the century. Its ownership should be secure and not subject to

Forest Service management dictates and the uncertainties of leases.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF LANDS IN MONTANA.

(a) TRANSFER.—Notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed to convey by quitclaim deed, without consideration except for administrative costs associated with the preparation of title and legal description, including the administrative costs of any necessary surveys, to the community of Neihart, Montana, a parcel of land comprising approximately 3.1928 acres, known as the Neihart Cemetery, as identified on a map entitled Plat of Neihart Cemetery, dated 1972, and filed, together with a legal description of such lands, in the office of the Chief of the Forest Service, United States Department of Agriculture. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture.

(b) RIGHT OF REVERSION.—Title to any real property acquired pursuant to subsection (a) shall revert to the United States if the community attempts to convey or otherwise transfer ownership of any portion of such property to any other party, attempts to encumber such title, or permits the use of any portion of such property for any purpose incompatible with the use of the property for cemetery purposes.

SEC. 2. RELIEF OF TOWN OF NEIHART, MONTANA.

Notwithstanding any requirements for payment of consideration for conveyances of land made pursuant to the Act of January 22, 1983 (16 U.S.C. 521d), the Town of Neihart, Montana, is relieved of any and all obligations to pay consideration to the United States for the conveyance of lands described in a deed dated January 2, 1986, from the United States of America to the town of Neihart, Montana, which deed is recorded on Reel 179, Page 373, of the land records of Cascade County, Montana. The United States hereby releases the town of Neihart, Montana, from any liability arising from the nonpayment of consideration for the said conveyance of lands.●

By Mr. MOYNIHAN:

S. 2458. A bill to amend the Clean Air Act to establish a program for the control of the emissions of municipal solid waste incinerators, to establish a program for the training of incinerator operators, to amend the Solid Waste Disposal Act to establish requirements for the disposal of incinerator ash from municipal solid waste incinerators, and for other purposes; to the Committee on Environment and Public Works.

SAFE INCINERATOR ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce S. 2458, the Safe Incinerator Act of 1988. This bill will require the Environmental Protection Agency to set strict standards for the operation of municipal solid waste incinerators. It is clearly possible to control the toxic emissions from these plants—not easy perhaps, but nowhere near impossible—and we must make every effort to ensure that this happens. The EPA has not been doing an adequate job to date, and legislation is needed.

The particulars of the bill I am introducing today are not new to the Senate. They have been seen before, as part of legislation reported by the Committee on Environment and Public Works to amend and reauthorize the Federal Clean Air Act. I am ranking majority member of that committee, and was a vocal supporter of adding these incinerator provisions to the clean air bill in Committee on October 22, 1987. However, for reasons unrelated to these incinerator provisions, consideration of the clean air bill has been delayed—it was placed on the Senate calendar on November 20, 1987, and has to date seen no action. That bill contains numerous other provisions, many of which are quite controversial. The bill I am laying before the Senate today is an effort to circumvent this problem, and separate out this matter as one deserving of the timeliest consideration.

The Environmental Protection Agency tells us there are 111 municipal waste incinerators operating in the United States, capable of processing about 45,000 tons of waste per day. Many would say this has been mostly for the good, and to a certain point, this is true. However, many of these plants were built without much in the way of pollution control equipment, and are emitting unacceptable levels of dioxins, heavy metals, acid gases and such-like to the atmosphere. This pollution must be controlled.

But the volume of garbage incinerated today is small when compared to what will be happening in just a few years. Incineration is becoming a popular alternative in many areas suffering from rapidly dwindling landfill capacity. The EPA estimates that in as little as 12 years, the amount of solid waste we incinerate could be five times what it is today. By just 1993, 115 plants are scheduled for startup across the country, and many of these are in New York—for New York City and Long Island alone, 13 are being planned. Why?

Many small municipalities, and most of our major cities, are facing the imminent closure of most of their landfill capacity in the very near term. The predicament of New York State is perhaps worse than that of any other area. Of the approximately 280 major landfills now operating in the State, all but 76 will be full by the year 1996—by 2006, all but 13. The search for alternative methods of disposal is becoming frantic, and many are looking to incineration. However, in this context, it is inaccurate to call incineration a method of disposal. It is, more precisely, a method of volume reduction. And if properly done, of energy extraction. But what incineration does not do is dispose of one's garbage. An incinerator is a complicated device that can turn 100 truckloads of garbage into exhaust gases, electricity, and somehwere between 10 and 30 truckloads of ash.

Such an equation outlines the two prinicpal environmental problems with incinerators, which are what it puts into the air, and what it puts back on land in the form of ash. My bill deals with both of these issues, and will help these plants become part of the solution to the garbage crisis and not just another part of the problem.

Air pollutants can be controlled through a variety of technologies and operating procedures, many of which are spelled out in the bill. In general, these substances fall into two categories: substances found in the garbage to be incinerated, such as lead and other heavy metals, and chemicals created during the combustion process, the worst of which are the dioxins, among the most poisonous substances known to man. The first we need to trap before they leave the stack, and the second we must prevent from forming.

The other major threat of incineration is perhaps less obvious, but is no less serious. It is disposal of the sometimes toxic ash that is the inevitable byproduct of the combustion process. It is curious, but certainly logical, that better control of air pollution at these plants can lead to greater complications for ash disposal. For example, heavy metals in trash entering the combustor, such as cadmium and nickel, are not destroyed by the combustion process. By necessity they must end up either in the air or in the ash, and so a well run air pollution system gives you ash of greater toxicity. This bill sets a host of standards to determine how and where incinerator ash can be landfilled, based largely on its measured toxicity.

Mr. President, I do not claim that this is a perfect bill in every regard, but we simply must take action. Now. These problems need to be addressed, and there is little time to spare. In a few short years, the number of these facilities will have doubled, and we will suddenly be looking at this problem from the wrong end. The question then will not be one of how to proceed, but rather, what to do about mistakes already made—how should we have proceeded? Hardly a way to govern.

I hope my colleagues will support this legislation, and that the Senate will act on it as soon as possible.

Mr. President, I ask that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Incinerator Act of 1988".

SECTION 1. Part A of the Clean Air Act is amended by adding the following new section:

"STANDARDS FOR EMISSIONS FROM MUNICIPAL WASTE INCINERATION FACILITIES.

"SEC. 131. (a)(1) Not later than one year after the enactment of this section, the Administrator shall promulgate standards of performance to control emissions of air pollutants into the ambient air from each new or modified municipal waste incineration unit. The standards promulgated under this subsection shall reflect the greatest degree of emission limitation achievable through application of the best available control technologies and practices which the Administrator determines at the time of promulgation (or revision, in the case of a revision of a standard)—

"(A) has been achieved in practice by municipal waste incineration units, excluding periods of malfunction or misoperation, or

"(B) is contained in the implementation plan of any State or any permit for municipal waste incineration units, and will be implemented at such units,

whichever is more stringent. In no event shall the standards promulgated under this subsection permit a new or modified municipal waste incineration unit to emit any pollutant in excess of the amount allowable under any applicable new source standards of performance. Standards under this subsection shall be based on methods and technologies for removal or destruction of pollutants before, during, or after combustion, and shall incorporate siting requirements that minimize, on a site specific basis, to the maximum extent practicable, any potential risk to human health or the environment. The following practices and control technologies, used individually, in combination with one another, or in combination with other available practices or control technologies not identified in this paragraph, shall be deemed available for purposes of this paragraph: electostatic precipitators, fabric filtration, flue gas scrubbers, spray dry scrubbers, condensation scrubbers, source separation, source reduction, recycling, negative air flow, and good combustion practices, including availability of auxiliary fuel to maintain specific temperatures. In adopting standards of performance, the Administrator may take into consideration other technologies and practices that, either by themselves or in combination with other technologies or practices, may achieve a greater degree of emission reduction for the pollutants specified in paragraph (2)(A), including the use of selective or non-selective catalytic reduction, wet flue gas denitrification, selective non-catalytic reduction, wet scrubbing, or catalytic oxidation. The Administrator may require new facilities to be constructed according to designs which allow for addition of selective catalytic reduction, and other technologies, as they become available.

"(2)(A) The standards promulgated under this subsection shall specify emission limitations for the following substances or mixtures: particulate matter (total and fine), acid gases, sulfur dioxide, oxides of nitrogen, carbon monoxide, heavy metals, lead, cadmium, halogenated organic compounds, dioxins, and dibenzofurans. In establishing such standards of performance under this subsection, the Administrator shall take into account the use of numerical standards or other methods to reduce the presence in air emissions or ash from a municipal waste incineration unit of each of the following additional substances: volatile organic compounds, mercury, beryllium, hydrogen fluoride, hydrogen, chloride, antimony, arsenic, barium, chromium, cobalt, copper, nickel, selenium, zinc, polychlorinated biphenyls, chlorobenzenes, chlorophenols, and polynuclear aromatic hydrocarbons.

"(B) Standards promulgated or imposed under this subsection may be expressed in terms of post-combustion concentration of surrogate substances or periods of residence time in excess of stated temperatures. In no event shall any such standard allow an outlet gas carbon monoxide concentration greater than 50 parts per million on an 8-hour average; an outlet gas particulate concentration greater than 0.010 grains per dry standard cubic foot corrected to 7 percent oxygen, with start-up excursions not to exceed 0.015 grains per dry standard cubic foot; an outlet gas concentration of sulfur dioxide greater than 40 parts per million, unless uncontrolled emissions of sulfur dioxide are reduced by not less than 70 percent; an outlet gas concentration of hydrogen chloride greater than 30 parts per million, unless uncontrolled hydrogen chloride emissions are reduced by not less than 90 percent; or a retention temperature and time of less than 1800 degrees Farenheit or less than 1 second at fully mixed height (or the equivalent).

"(3) Standards promulgated under this subsection shall be effective no later than eighteen months after the enactment of this section. Not later than three years following the initial promulgation of such standards and at five-year intervals thereafter, the Administrator shall review and, in accordance with this subsection, revise such standards. Such revised standards shall be effective as of the date six months after the date or promulgation.

"(4) After the effective date of any standard promulgated under this section, it shall be unlawful for any owner or operator of any new or modified municipal waste incineration unit to operate such unit in violation of such standard.

"(b)(1) In addition to any other applicable requirements, after the date eighteen months after the enactment of this section, no permit may be issued under a State program approved under part C or part D of this Act for any new or modified municipal waste incineration unit unless the jurisdiction served by the municipal waste incineration unit (as designated by the State in accordance with section 4006 of the Solid Waste Disposal Act) has prepared, after notice and opportunity for public comment and public hearing, an enforceable solid waste management plan, in accordance with section 4003 of the Solid Waste Disposal Act, which is based on an analysis of all solid waste handling alternatives and which, to the maximum extent practicable, (A) minimizes the threat to human health and the environment from solid waste, (B) maximizes the conservation of material resources and protection of human health and the environment through solid waste reduction, source separation or control, recycling, and other measures, and (C) is cost effective, with full consideration of the cost of health and environmental harms. In the event such jurisdiction has prepared a solid waste management plan otherwise in accordance with this subsection which does not reflect the operation of a new or modified municipal waste incineration unit, no permit may be issued to such unit unless the jurisdiction, after notice and opportunity for public comment and public hearing, revises its solid waste management plan in accordance with this subsection to reflect the operation of such unit. If the State determines that a plan prepared by a local jurisdiction (designated under such section 4006) is inadequate and such plan has not been revised by such jurisdiction within six months, the State may issue a new plan or revise such plan, in accordance with this subsection.

"(2) If a municipal solid waste incineration unit is proposed for construction in a location where there is evidence of elevated blood levels of lead, dioxins or other pollutants named in subsection (a)(2)(A) of this section, the Administrator or the State may require confirmatory testing of such blood levels before a permit shall issue.

"(3) No permit may be issued to a municipal waste incineration unit unless an ash management plan has been submitted for the ash from such unit. Any permit issued to a new or modified municipal waste incineration unit after the date of enactment of this section shall require that prior to the commencement of construction of such unit, there is identified for such unit, through enforceable contractual commitments, specific sufficient capacity to treat or dispose of the ash from such unit in accordance with section 4011 and other applicable provisions of the Solid Waste Disposal Act.

"(c) If the Administrator fails to promulgate standards under subsection (a) of this section, no permit may be granted to the owner or operator of any new or modified municipal waste incineration unit required to obtain a permit under a State program approved under part C or part D of this Act unless such permit requires compliance with emission standards that comply with subsection (a)(2)(B).

"(d) Not later than one year after the enactment of this section, the Administrator shall promulgate regulations and standards of performance to control emissions of air pollutants into the ambient air from each existing municipal waste incineration unit. Such standards of performance shall be established on the basis of the degree of emission limitation achievable through application of available control technologies and practices as determined under subsection (a)(1), and shall specify emission limitations for the substances required under subsection (a)(2). In no event shall any such standard allow an outlet gas carbon monoxide concentration greater than 100 parts per million on an 8-hour average; an outlet gas particulate concentration greater than 0.015 grains per dry standard cubic foot corrected to 7 percent oxygen; an outlet gas concentration of sulfur dioxide greater than 60 parts per million, unless uncontrolled emissions of sulfur dioxide are reduced by 70 percent; an outlet gas concentration of hydrogen chloride of 45 parts per million, unless uncontrolled emissions of hydrogen chloride are reduced by 90 percent; or a retention temperature and time of less than 1,800 degrees Fahrenheit or less than 1 second at fully mixed height (or the equivalent). The Administrator is authorized to establish a standard allowing an outlet gas carbon monoxide concentration no greater than 200 parts per million on an 8-hour average, for any existing municipal waste incineration unit that controls emissions of dioxins and dibenzofurans using acid gas scrubber and fabric filtration control technology. The Administrator shall promulgate a schedule for compliance with these standards and, to the maximum extent practicable, with other standard set forth under this section. In no event shall such schedule provide for compliance with such standards later than the date six years after the enactment of this section. No less often than every five years, the Administrator shall review and, in accordance with this subsection, revise as necessary such standards.

"(e)(1) The Administrator shall promulgate regulations requiring the owner or operator of each municipal waste incineration unit to monitor emissions from the unit at the point at which such emissions are emitted into the ambient air and at such other points as necessary to protect human health and the environment and to report the results of such monitoring. Such regulations shall contain provisions regarding the frequency of monitoring, test methods and procedures, and the form and frequency of reports containing the results of monitoring. Such regulations shall require that copies of the results of such monitoring be maintained on file at the facility concerned and that such copies shall be made available for inspection by interested members of the public during business hours.

"(2) The Administrator shall promulgate the regulations required under this subsection within twelve months after the enactment of this section. Such regulations may be revised from time to time in accordance with paragraph (1). Except as provided in paragraph (3), the requirements of this subsection shall take effect—

"(A) upon commencement of operation of any new or modified unit; and

"(B) eighteen months after the enactment of this part in the case of any existing municipal waste incineration unit.

"(3)(A) The regulations promulgated under this subsection shall, at a minimum, require continuous monitoring for the following: opacity, hydrogen chloride (if such monitoring device or method is available), sulfur dioxide, oxides of nitrogen, carbon monoxide, carbon dioxide, oxygen, stack temperature, and furnace temperature (or secondary combustion zone temperature, as appropriate).

"(B) For all emissions subject to standards under this section that are not subject to continuous monitoring under subparagraph (A), the regulations promulgated under this subsection shall require periodic monitoring of such emissions at each municipal waste incineration unit not less frequently than—

"(i) every six months, or

"(ii) six months after commencement of operations, and every eighteen months thereafter if the owner or operator of such unit demonstrates that such unit has complied with all applicable emissions standards as of the commencement of operations and during the previous periods of monitoring and maintains compliance with all applicable emissions standards during each interval between monitoring.

"(C) The initial monitoring under this subsection shall commence at the later of the following:

"(i) The date six months after the promulgation of regulations under this subsection.

"(ii) The commencement of operation of the unit concerned.

"(4)(A) The regulations required by this subsection may require the owner or operator of each municipal waste incineration unit to establish and operate, or to pay the costs of establishing and operating, a program to detect impacts of the unit, or any associated releases, on the environment or humans. Such program shall require periodic testing for and public reporting of the presence of waste constituents or contaminants (or indicators thereof) at statistically significant levels.

"(B) In any case in which exposure to municipal waste incineration unit emissions or ash may pose a potential risk to human health, the Administrator or the State may request the Administrator of the Agency for Toxic Substances and Disease Registry to conduct a health assessment in connection with the unit and such other health studies or surveillance as may be warranted, as authorized under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Such studies may include programs to detect changes in human blood or tissue concentrations of various pollutants, including, but not limited to, lead, mercury, cadmium, halogenated hydrocarbons, and dioxins in any area affected by incineration unit emissions or ash.

"(f) Notwithstanding any other provision of this Act, each permit for a municipal waste incineration unit issued under part C or part D of this Act shall be reviewed every five years after date of issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with currently applicable requirements under this section. Nothing in this subsection shall prevent the Administrator or a State from reviewing and modifying a permit at any time during its term. Review of any permit shall consider improvements in the state of control and measurement technologies as well as changes in applicable regulations. No permit for a municipal waste incineration unit may be issued under this Act by an agency, instrumentality or person (other than a Governor) that is also responsible, in whole or part, for the design and construction or operation of the unit.

"(g)(1) Nothing in this section shall diminish or otherwise affect any authority to establish and enforce standards under section 111 or 112 or under any other authority of law for emissions from municipal waste incineration units of any air pollutant not referred to in subsection (a). With respect to emissions from municipal waste incineration units of any air pollutant referred to in subsection (a)—

"(A) Nothing in this section shall diminish the authority of the Administrator to promulgate more stringent standards under section 112 or any other provision of this Act.

"(B) Nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements under any other authority of law, including the authority to establish for any such air pollutant a national ambient air quality standard. No requirement of an applicable implementation plan under section 165 (relating to construction of facilities in regions identified pursuant to section 107(d)(1) (D) or (E)) or under section 172(b)(6) (relating to permits for construction and operation in nonattainment areas) may be used to weaken the standards in effect under this section.

"(2) Nothing in this Act shall be construed, interpreted, or applied to preempt, supplant, or displace other State or Federal law, whether statutory or common.

"(h) Any State may submit to the Administrator a proposed State program for concurrent enforcement of the requirements of this section. After ninety days after submission to the Administrator, the State shall be treated as authorized to enforce the requirements of this section in such State unless the Administrator determines that the State program does not provide enforcement equivalent to Federal enforcement under this Act. Whenever the Administrator determines that a State is not enforcing the requirements of this section in a manner equivalent to Federal enforcement, the Administrator shall withdraw the authorization for such State.

"(i) Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard relating to municipal waste incineration units that is more stringent than a regulation, requirement, or standard in effect under this section under any authority of State law or under any other provision of this Act.

"(j) For purposes of sections 111(e), 113, 114, 116, 120, 304, and 307 each standard and other requirement promulgated under this section shall be treated in the same manner as a standard of performance under section 111 which is an emission limitation and each requirement of a State plan authorized under this section shall be treated as a requirement of an applicable implementation plan.

"(k) As used in this section—

"(1) The term 'municipal waste incineration unit' means a distinct operating unit of any facility at which the combustion of any solid waste material collected from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels) occurs. Such term does not include incinerators or other facilities required to have a permit under section 3005 of the Solid Waste Disposal Act. The Administrator may promulgate separate standards for hospital incineration units.

"(2) The term 'new municipal waste incineration unit' means a municipal waste incineration unit (A) not in operation on or before January 1, 1988, and the construction of which has not been substantially completed by January 1, 1988, or (B) effective January 1, 1992, which had commenced operation 20 years or more previously. Facilities shall be considered to be substantially completed if the addition of required pollution control equipment will cost more than twice what such equipment would have cost had it been constructed as part of the permitted design.

"(3) The term 'modified municipal waste incineration unit' means a municipal waste incineration unit at which modifications have occurred after the effective date of a standard under subsection (a) if the cumulative cost of the modifications, over the life of the unit, exceed 50 per centum of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation).

"(4) The term 'existing municipal waste incineration unit' means a municipal waste unit which is not a new or modified municipal waste incineration unit.

"(5) The term 'enforceable solid waste management plan' means a plan adopted by the State or a local government identified under section 4006(b) of the Solid Waste

Disposal Act, containing provisions with the force and effect of law or to which the appropriate unit of government is contractually committed, which require, to the extent practicable—

"(A) The elimination or reduction of specific wastes or waste constituents from municipal waste prior to land disposal or incineration, to (i) reduce the risk to human health or the environment posed by any such waste or constituent or its byproducts (whether combustion or otherwise) when present in land disposal, incineration emissions, or incinerator ash, or (ii) facilitate the utilization of safer treatment, storage or disposal alternatives. Such provisions may include limitations on the composition (including inks or pigments) of locally produced products or prohibitions on disposal of certain items in municipal waste.

"(B) The separation of wastes at their source or prior to incineration or land disposal to allow the separate treatment and disposal of such waste, including batteries, cathode ray tubes and other concentrated or specialized sources of pollutants identified in subsection (a)(2)(A).

"(C) The return to, and acceptance by, retail merchants or their agents, for purposes of pickup and delivery, of waste items the treatment, storage or disposal of which can be more effectively or safely effected through such means.

"(l)(1) Not later than one year after the enactment of this section, the Administrator shall publish guidelines identifying items or materials that should be removed from municipal waste prior to incineration, either through separation by the generator of such waste or at a central facility from the general waste stream or through limitations on the composition (including inks and pigments) of products or on the disposal of such items or materials in municipal waste.

"(2) Not later than one year after the enactment of this section, the Administrator shall publish guidelines that identify items or materials that should be removed from municipal waste prior to incineration in order to reduce air emissions. The guidelines must address the type and amount of potential reductions in emissions that may be achieved through source separation.

"(m) Not later than eighteen months after enactment of this section, the Administrator shall develop and promote a model State program for the training and certification of municipal waste incinerator personnel. The program shall include a requirement that all operators and management personnel achieve a passing grade on an examination on (and participate in continuing education to stay informed about) current technology for the control of pollution from municipal waste incineration units. The Administrator may authorize any State to implement a State program for the training and certification of municipal waste incinerator personnel if the State has adopted a program which is at least as stringent as the model program developed by the Administrator.".

(b) Section 169(1) of the Clean Air Act is amended by striking "two hundred and" after "municipal incinerators capable of charging more than".

SEC. 2. Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section:

"MUNICIPAL INCINERATOR ASH

"SEC. 4011. (a)(1) Not later than one year after the date of enactment of this section, the Administrator shall promulgate regulations for the management, handling, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units that meet the requirements of section 3001(i) (1) and (2), as may be necessary to protect human health and the environment. Notwithstanding other provisions of this Act, the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units that meet the requirements of section 3001(i)(1) and (2) shall be subject to this section and subtitle and not subject to the provisions of subtitle C.

"(2) For the purposes of this section, the term 'municipal waste incineration unit' shall have the meaning given in section 131(k)(1) of the Clean Air Act.

"(3) Regulations promulgated under this subsection may establish requirements that apply to fly ash separately, to bottom ash separately, or to the combination of fly ash and bottom ash.

"(b)(1) Regulations promulgated under subsection (a) for the disposal of ash from municipal waste incineration units in landfills shall require—

"(A) the installation of two or more liners and a leachate collection system above and between such liners, in accordance with paragraph (2); and

"(B) groundwater monitoring.

"(2) The requirement of paragraph (1)(A) may be satisfied by the installation of a top liner designed, operated, and constructed of materials to prevent the migration of any constituent into such liner during the period such facility remains in operation (including any post-closure monitoring period), and a lower liner designed, operated, and constructed to prevent the migration of any constituent through such liner during such period. For the purpose of the preceeding sentence, a lower liner shall be deemed to satisfy such requirement if it is constructed of at least a 3-foot thick layer of recompacted clay or other natural material with a hydraulic conductivity of no more than 1×10^{-7} centimeter per second. The provisions of this paragraph apply prior to and after the promulgation of regulations under paragraph (1).

"(3) Except as provided in subsection (d)(3), the requirement of paragraph (1)(A) may be satisfied by the placement of ash from municipal waste incineration units in a monofill, located, designed, and operated so as to assure that there will be no migration of any constituent into groundwater or surface water at any future time, and the installation of a single liner designed, operated, and constructed of materials to prevent the migration of any constituent into such liner during such period as the facility remains in operation, including any post-closure monitoring period.

"(c) Regulations promulgated under subsection (a) may allow disposal of bottom or combined ash from municipal waste incineration units in sanitary landfills meeting the requirements of revised criteria promulgated under section 4010(c), if such ash has undergone treatment (as defined in section 1004 (34)) in accordance with regulations for such treatment promulgated under this section. For the purposes of this section, the mixing of fly ash and bottom ash, or the mixing of such ash with other solid waste, without the introduction of chemical stabilization agents, does not constitute treatment.

"(d)(1) For the purposes of developing regulations for the management, handling, storage, treatment, transportation, reuse, and disposal of ash from municipal waste incineration units under this section that protect human health and the environment, the Administrator shall promulgate criteria and testing procedures for identifying the characteristics of ash from municipal waste incineration units that may pose a hazard to human health or the environment. In considering potential hazards to human health and the environment, the Administrator shall consider all potential pathways of human or environmental exposure to constituents of such ash, including, but not limited to, inhalation, ingestion as a consequence of incorporation of the ash or any constituent into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its constituents into groundwater or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash (including, for all such pathways, situations of disposal or reuse). At a minimum, the Administrator shall consider appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity.

"(2) The Administrator may require the owner or operator of any municipal waste incineration unit or any facility handling, transporting, storing, treating, reusing, recycling, or disposing of ash from such unit to test such ash in accordance with the criteria and testing procedures promulgated under this subsection. If fly ash and bottom ash are combined, such combined ash must also be tested in accordance with such criteria and testing procedures, including, as the Administrator determines necessary, the separate testing of bottom ash and fly ash.

"(3) Any ash which fails in any characteristic under the criteria and testing procedures promulgated by the Administrator under this subsection shall be disposed of in a facility with two or more liners and leachate collection system above and between such liners in accordance with subsection (b)(1), or shall be treated (as defined in section 1004(34)) in accordance with regulations promulgated under subsection (a), and shall not be reused.

"(e)(1) Any facility receiving ash from municipal waste incineration units for the purpose of treatment, storage, reuse, recycling, or disposal shall be subject to a permit program or other system of prior approval and conditions in accordance with section 4005(c).

"(2) For the purposes of this section and section 3008, the term 'requirement of this subtitle' shall be deemed to include any requirement or regulation under this section.

"(f) Before the issuance of a permit or other prior approval to any person with respect to any facility for treatment, storage, reuse, recycling or disposal of incinerator ash, the Administrator shall provide for public notice and the opportunity for an informal public hearing, in accordance with the provisions of section 7004(b)(2) of this Act.

"(g)(1) Whenever on the basis of any information the Administrator determines that there is or has been a release of any hazardous constituent from a facility regulated under this section, the Administrator may issue an order requiring corrective action or such other response measure as he deems necessary to protect human health or the environment or the Administrator may commence a civil action in the United States district court in the district inwhich the facility is located for appropriate relief, including a temporary or permanent injunction.

"(2) Any order issued under this subsection may include a suspension or revocation of authorization to operate, shall state with reasonable specificity the nature of the required corrective action or other response measure, and shall specify a time for compliance. If any person named in an order fails to comply with the order, the Administrator may assess, and such person shall be liable to the United States for, a civil penalty in an amount not to exceed $25,000 for each day of noncompliance with the order.

"(3) Regulations promulgated under subsection (a) shall require corrective action for all releases of hazardous constituents from any solid waste management unit at a facility seeking a permit under subsection (e), regardless of the time at which waste was placed in such unit. Permits issued under this section shall contain schedules of compliance for such corrective action and assurances of financial responsibility for completing such corrective action.

"(h) Regulations promulgated under subsection (a) shall establish requirements for the proper closure of facilities treating, storing, or disposing of ash from municipal waste incineration units, for the post-closure monitoring and care of such facilities, and for assurances of financial responsibility for corrective action.".●

By Mr. ROCKEFELLER (for himself, Mr. Cranston, and Mr. Murkowski):

S. 2459. A bill to amend title 38, United States Code, to extend the period for the temporary program of vocational training for certain veterans' pension recipients; to the Committee on Veterans' Affairs.

VETERANS' VOCATIONAL TRAINING CONTINUATION ACT

● Mr. ROCKEFELLER. Mr. President, today as a member of the Committee on Veterans' Affairs, I am introducing S. 2459, the proposed Veterans' Vocational Training Continuation Act of 1988. Joining with me as an original cosponsor of this measure is the distinguished chairman of the Veterans' Affairs Committee, Senator Cranston, and the distinguished ranking minority member, Senator Murkowski. The purpose of this measure is to extend the eligibility period for participation in the temporary program of vocational training for certain veterans who receive awards of non-service-connected disability pension. This temporary program began on February 1, 1985, and will terminate on January 31, 1989.

Mr. President, this program of vocational training for certain new pension recipients was established by the Congress on October 24, 1984, through the enactment of section 301(a) of Public Law 98-543. That provision amended title 38, United States Code, to add a new section 524 establishing a temporary program under which a needy wartime veteran who receives an award of non-service-connected disability pension on the basis of actual permanent and total disability—as distinguished from presumptive disability based on being 65 years of age or older—and for whom a vocational goal is determined to be feasible is entitled to be provided with a vocational training program consisting of such services and assistance as are necessary, within certain limitations, to enable the veteran to prepare for, gain, and maintain employment. In addition, Public Law 98-543 also added a new section 525 establishing a related temporary program under the VA health care eligibility of a veteran who becomes ineligible for pension by reason of earned income is protected for 3 years.

Mr. President, by all indications this temporary program is accomplishing what the Congress intended it to accomplish and should be extended for another year in order both to continue to make training available to new pension recipients and to afford the Congress a further opportunity to assess the advisability of making the program permanent and of possibly expanding it to make previous recipients of pension awards eligible.

A significant proportion of the veterans evaluated under this program as to whether they have good potential for employment are determined to have the potential to pursue a vocational goal despite their seriously disabling conditions. During the first 3 years of the program, 6,655 veterans have been evaluated for vocational feasibility and it was found that 2,045 could feasibly pursue a vocational goal. Of these 2,045 veterans, 470 have pursued or are pursuing a vocational training program.

The costs for this program are very modest. The VA, over the first 3 years of the program, conducted the 6,655 evaluations by using their own counseling psychologists at a salary cost of $633,000 per year. In addition, $411,000 was paid to outside entities for training the 470 participants.

This bill will be considered at a hearing of the Committee on Veterans' Affairs, which Chairman Cranston has asked me to chair, on June 16, 1988.

Mr. President, I urge my colleagues to support this legislation and ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Veterans' Vocational Training Continuation Act of 1988".

SEC. 2. EXTENSION OF THE PROGRAM PERIOD.

(a) Vocational Training.—Section 524 of title 38, United States Code, is amended—

(1) in subsection (a)(4) by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1990"; and

(2) in subsection (b)(4) by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1990".

(b) Protection of Health-Care Eligibility.—Section 525(b)(2) of such title is amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1990".●

By Mr. MOYNIHAN (for himself, Mr. Rockefeller, and Mr. Riegle):

S. 2461. A bill to amend part E of title IV of the Social Security Act to extend and make necessary improvements in the independent living program under such part, and for other purposes; to the Committee on Finance.

FOSTER CARE INDEPENDENT LIVING AMENDMENTS

● Mr. MOYNIHAN. Mr. President, on behalf of myself and Senator Rockefeller, I am pleased to introduce today legislation reauthorizing and improving services for teenagers in foster care. This legislation, the Foster Care Independent Living Amendments of 1988, expands upon an important program first authorized by Congress under the 1985 Budget Reconciliation Act designed to assist young adults leaving the foster care system to live on their own.

Three years ago, during oversight hearings on the foster care and adoption assistance programs, members of the Finance Committee were alarmed to learn that large numbers of young adults in foster care were being discharged from the system each year without the capacity to live on their own. Studies done in New York and national surveys revealed that former foster care youth were disproportionately represented on our public assistance rolls, in our homeless shelters, and—worst of all—in our prisons. For example, one survey taken by the Human Resources Administration in the city of New York indicated that one-third of the young adults released from foster care were receiving welfare within 15 months. On a human level, the system was clearly failing these children; on an economic level, the public was asked to bear the burden of continued support when foster care graduates became dependent on other public systems as adults.

Recognizing the clear need for better preparation for independent living, Congress established in 1985 a new, authorized entitlement program under title IV-E of the Social Security Act to assist States in this goal. The sum of $45 million was authorized for each of fiscal years 1987 and 1988, to be divided among the States based on their share of the national IV-E foster care caseload. Funds may be used for a range of services—such as vocational training, career planning, assistance in locating and maintaining housing, and other daily living skills which many of us with supportive families simply take for granted—to help IV-E foster care youth aged 16 to 18 make the transition from foster care to independent living.

The Reagan administration has repeatedly tried to terminate this program, and delayed publication of program regulations and the distribution of funding to States. Despite these efforts, however, the independent living funding is now being used in innovative programs by each of the 50 States, and the District of Columbia, which quickly applied for and received a share of assistance.

States have already implemented or are planning to offer a wide array of independent living training to older foster youth with the new Federal assistance. Two-thirds of the States will provide training for teens in daily living skills, which include a variety of educational and employment activities. A number of States have undertaken programs addressing the needs of teen parents in foster care and their children. Many will use the funding to train volunteers to act as individual "mentors" for teens in care and after discharge. And most of the States are planning special efforts to coordinate community services, establish community advisory boards, or pursue community outreach activities. In my view, the States are critically in need of Federal assistance in the area of independent living, and they deserve continued support.

The bill we introduce today is based on legislation introduced last year in the House by my respected colleague and a true child advocate, Representative ROBERT MATSUI, who worked closely with staff of the Child Welfare League of America on a comprehensive package of foster care improvements. The House Ways and Means Subcommittee on Public Assistance recently reported key provisions of the Matsui package, which are included in the legislation we are presently offering. Its provisions are supported by the Child Welfare League, the Children's Defense Fund, and other child welfare advocates nationwide.

In addition to reauthorizing through fiscal year 1989 the Independent Living Program at its current spending level, these amendments make other important improvements in the current program. They are summarized as follows.

States would be authorized to provide independent living training and services to non-IV-E foster care youth over 16, as well as to the IV-E youth now eligible for aide.

States would be permitted to provide for a transition period of independent living services for 6 months after older foster youth are discharged from the system. Such youth may only need to return for periodic counseling while they set up on their own; others may need extended support services before they do so.

States would be permitted to spend fiscal year 1987 carry-over funds through fiscal year 1989.

The periodic case review for all foster care cases required under current law would be modified to allow judges to consider issues related to independent living when evaluating the desirability of continued foster care.

States would be required to report on their progress in meeting the needs of older foster youth leaving care, and to account for the funds spent under this program to the Secretary of HHS by January 1, 1989; and the Secretary will provide Congress with a report on the program by March 1, 1989.

Mr. President, this is a program with the potential to better the lives of thousands of the most disadvantaged children in our society. It requires no new spending beyond the $45 million authorization level. I do hope my colleagues will join us in an effort to reauthorize the Independent Living Program and make needed improvements this year, before we lose another "graduating class" of foster youth to the ravages of a society whose challenges they were not yet equipped to meet.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Foster Care Independent Living Amendments of 1988".

SEC. 2. FOSTER CARE INDEPENDENT LIVING INITIATIVES.

(a) EXTENSION OF INDEPENDENT LIVING PROGRAM.—Section 477 of the Social Security Act (42 U.S.C. 677) is amended—

(1) by striking "1987 and 1988" in subsections (a) and (e)(1) and inserting "1987, 1988, and 1989";

(2) by striking "for fiscal years 1988" and all that follows in subsection (c) and inserting "for the fiscal year 1988 or 1989, such description and assurances must be submitted prior to January 1 of such fiscal year.";

(3) by striking "Not later than March 1, 1988" in subsection (g)(1) and inserting "Not later than the first January 1 following the end of each fiscal year";

(4) by inserting "during such fiscal year" in subsection (g)(1) after "carried out";

(5) by striking "(2) Not later than July 1, 1988," in subsection (g)(2) and inserting the following:

"(2)(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

"(B) Not later than March 1, 1989,"; and

"(6) by striking "the fiscal year 1987" in subsection (g)(2) and inserting "fiscal years 1987 and 1988".

(b) PERMISSION TO EXPEND UNOBLIGATED FUNDS APPROPRIATED FOR 1987 IN 1988.—Subsection (f) of section 477 of such Act (42 U.S.C. 677(f)) is amended by inserting after and below paragraph (3) the following:Q02

"Notwithstanding paragraph (3), payments made to a State under this section for fiscal year 1987 and unobligated may be expended by such State in fiscal year 1989.".

(c) INCLUSION IN INDEPENDENT LIVING PROGRAM OF NON-AFDC FOSTER CARE CHILDREN.—Subsection (a) of section 477 of such Act (42 U.S.C. 677(a)) is amended—

(1) by inserting "(1)" before "Payments";

(2) by striking "children" and all that follows through "age 16," and inserting "children described in paragraph (2) who have attained age 16"; and

(3) by adding at the end the following new paragraph:

"(2) A program established and carried out under paragraph (1)—

"(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part, and

"(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State.".

(d) INCLUSION IN INDEPENDENT LIVING PROGRAM OF CERTAIN FORMER FOSTER CARE CHILDREN.—Paragraph (2) of section 477(a) of the Social Security Act (42 U.S.C. 677(a)(2)) (as added by subsection (c) of this section) is further amended—

(1) by striking "and" in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) may at the option of the State also include any child to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16, but such child may not be so included after the end of the 6-month period beginning on the date of discontinuance of such payments or care; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.".

(e) DETERMINATION OF SERVICES NEEDED FOR TRANSITION TO INDEPENDENT LIVING.—Subparagraph (C) of section 475(5) of such Act (42 U.S.C. 675(5)(C)) is amended by inserting "and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living" before the semicolon.

(f) LIMITATION ON USE OF FUNDS.—Paragraph (3) of section 477(e) of such Act (42 U.S.C. 677(e)(3)) is amended by adding at the end the following: "Amounts payable under this section may not be used for the provision of room or board.".

(g) EFFECTIVE DATE.—(1) The amendments made by subsections (a), (b), and (e) shall take effect on October 1, 1988.

(2) The amendments made by subsections (c), (d), and (f) shall take effect on the date of the enactment of this Act.●

By Mr. CRANSTON (for himself, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. ROCKEFELLER):

S. 2462. A bill to amend title 38, United States Code, to improve various aspects of Veterans' Administration health-care programs, to provide certain new categories of veterans with eligibility for readjustment counseling from the Veterans' Administration, to extend the authorizations of appropriations for certain grant programs and to revise certain provisions regarding such programs, to revise certain provisions relating to the personnel system of the Department of Medicine and Surgery; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION HEALTH-CARE PERSONNEL AND PROGRAMS ACT

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am today introducing S. 2462 the proposed Veterans' Administration Health-Care Personnel and Programs Act of 1988. I am joined in introducing this measure by my good friends and colleagues on the Veterans' Affairs Committee, Senators MATSUNAGA, DECONCINI, and ROCKEFELLER. This bill has as its basic purpose the continued maintenance and improvement of the VA's ability to meet the health-care needs of our Nation's veterans and their dependents. Reflecting my very strong concern that we must find ways to reduce the Federal deficit, this legislation seeks to find methods to improve VA programs without incurring any significant new costs.

SUMMARY OF PROVISIONS

Mr. President, the provisions in this measure would:

First, extend entitlement for readjustment counseling to veterans who have served in hostilities after May 7, 1975, the end of the Vietnam era, and to World War II and Korean conflict veterans, with particular emphasis in the furnishing of counseling on the needs of those who served in combat.

Second, authorize to be appropriated for each fiscal year during the period beginning on October 1, 1989, and ending on September 30, 1992, the sum of $500,000, to be used by the Administrator for making grants to the Veterans Memorial Medical Center [VMMC] for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such center and authorize the Administrator to contract with the VMMC for certain care and treatment of United States veterans in the Philippines.

Third, authorize the Administrator to appoint to civil service positions, without regard to the civil service register process described in subchapter I of chapter 33 of title 5, newly graduated, qualified health-care professionals, other than physicians or dentists, who held a VA appointment while completing a clinical education program.

Fourth, require the Director of the Office of Personnel Management [OPM], within 45 days of receipt, to concur with or disapprove VA proposals for special rate authorization for title 5 employees employed at VA health-care facilities.

Fifth, provide that the procedures set forth in title 5, United States Code, for the resolution of specified lesser disciplinary actions—admonishments, reprimands, suspensions of 14 days or less, and transfers not involving loss of grade—would be used in cases involving title 38 personnel, including the use of a negotiated grievance procedure involving an appeal to an arbitrator for those employees who are members of recognized bargaining units. This section would also create, in title 38, a grievance-resolution process that parallels that available to title 5 employees.

Sixth, authorize the Administrator to enter into agreements for the purpose of sharing scarce medical resources at rates that provide appropriate flexibility to the heads of the facilities concerned and expand the categories of facilities with which the Administrator is authorized to enter into sharing agreements to include all health-care facilities.

Seventh, authorize the appropriation of $5 million for fiscal years 1989 and 1990 and $6 million for fiscal years 1991 and 1992 for the purposes described in subchapter III of chapter 82 of title 38, United States Code, which authorizes the VA Administrator to carry out a program of grants to provide assistance in the establishment of cooperative arrangements among universities, colleges, and other postsecondary schools affiliated with the VA, designed to coordinate, improve, and expand the education of professional and technical health-care personnel, other than physicians and dentists, and to assist in developing and evaluating new health careers, interdisciplinary approaches and career advancement opportunities; the existing language would be amended to require that efforts to assist in the development of new careers, interdisciplinary approaches, and career advancement opportunities be carried out in collaboration with the professions which carry out the functions for which those in the new careers would be responsible.

Eighth, require the Chief Medical Director [CMD] to conduct during calendar years 1989, 1990, and 1991 pilot programs at not less than five VA medical facilities with respect to determining the desirability of implementing various pay and management practices, including those required to be studied by section 2312 of Public Law 100-322, relating to the recruitment and retention of registered nurses and other scarce health-care professionals including: First, at not less than three of the sites, the effects of expanding the administrative and supervisory responsibilities of Chiefs of Nursing Services to include support services and clinical departments other than nursing; second, at not less than three of the sites, the effects of implementing new alternatives for utilizing the skills and knowledge of registered nurses in furnishing direct-patient care; third, at not less than one site, the benefits of the establishment of a collaborative-practice committee; and fourth, at not less than one site, the effects of significantly increasing evening and night shift pay differentials;

Ninth, require the CMD to concurrently submit two interim reports regarding the progress of the pilot programs to both the Senate and House Veterans' Affairs Committee and to the Administrator. The Administrator would be required, within 60 days of receipt, to send forth any comments deemed appropriate to both the Senate and the House Veterans' Affairs Committees. The reports would be required to describe the results of the first 12 and 24 months' experience, respectively, under the pilot programs and provide: First, the CMD's evaluation of the effectiveness of each management practice undertaken in the pilot program on the VA's ability to recruit and retain health-care personnel; second, information on the cost factors associated with each such management practice; and third, a description of any planned administrative actions and any recommendations for legislation that the CMD considers appropriate, based on the results of the pilot program.

Tenth, require the CMD, not later than June 30, 1992, to concurrently submit a final report to both the Senate and House Veterans' Affairs Committees and to the Administrator. The Administrator would be required, within 60 days of receipt, to send forth any comments deemed appropriate to both the Senate and the House Veterans' Affairs Committees. The CMD's report would be required to provide: First, updates on all information provided in the previous report; and second, the Chief Medical Director's final assessment of the pilot program based on 36 months of operation.

Eleventh, mandate the submission by the Chief Medical Director's Special Committee on Post-Traumatic-Stress Disorder of three reports—the first, by April 1, 1989, setting forth the committee's evaluation of the results of the study mandated by Public Law 98-160 on the prevalence and incidence of PTSD among Vietnam veterans, and the second and third, due February 1, 1990, and 1991, respectively, setting forth information which updates prior reviews of the overall effort of the Veterans' Administration to meet the needs of veterans with PTSD.

RECRUITMENT AND RETENTION

BACKGROUND

Mr. President, I continue to be most concerned about the shortages of health-care professionals currently being experienced by the VA. On May 12, 1987, I introduced S. 1195, the proposed Veterans' Administration Health-Care Personnel Act, with provisions aimed at helping the VA overcome serious difficulties in this area. Those provisions, including measures which would establish a tuition reimbursement program, expand the VA's scholarship program, and provide nurses who work on Saturdays with the same premium pay currently applicable to Sunday work, were incorporated in title III of S. 9 as reported by the committee on November 6, 1987. Also included in S. 9 as reported, in title III, were provisions I authored which required the Administrator to study and report on various issues relating to enhancing the VA's recruitment and retention of VA health-care personnel. Subsequently, with slight modifications, these and other measures pertaining to recruitment and retention strategies were included in title II of H.R. 2616 as enacted into law on May 20, 1988, Public Law 100-322. A detailed history of recruitment and retention problems leading up to these actions can be found in our committee report accompanying S. 9—Senate Report No. 100-215, pages 150-161—and in my December 3, 1987, statement, CONGRESSIONAL RECORD, S17108-17111, in support of Senate passage of S. 9.

Since the vacancy and turnover statistics cited in the committee report were gathered and reported by DM&S is the study entitled "1986 Survey of Health Occupational Staff," the staffing situation within VA health-care facilities has worsened. As figures from a preliminary Department of Medicine and Surgery [DM&S] report make clear, both the 1987 turnover and vacancy rates have increased for registered nurses [RN's], licensed practical nurses [LPNs], and occupational therapists, and, although the turnover rates have decreased somewhat for pharmacists and physical therapists, the vacancy rates for these positions remain critically high.

According to data found in the "1986 Survey of Health Occupational Staff," the nationwide turnover rate for RN's was 16.1 percent and the nationwide vacancy rate for this group was 0.2 percent. A preliminary 1987 DM&S report places those figures at 21.9 and 5.7 percent, respectively. In 1986 the turnover rate for licensed practical nurses was 18.8 percent and the vacancy rate was 9.3 percent. The preliminary 1987 study places those figures at 30.3 and 10.7 percent, respectively. For pharmacist positions, the 1986 survey showed a 22.6-percent turnover rate and a 2.7-percent vacancy rate; the 1987 study reports a 19.9-percent turnover rate and a 6.5-percent vacancy rate. For physical therapists, a 26.5-percent turnover rate and a 22.9-percent vacancy rate were reported for 1986 and a 24.5-percent turnover rate and a 22.5-percent vacancy rate are reported for 1987. For occupational therapists, a 23-percent turnover rate and a 9.2-percent vacancy rate were reported in 1986, increasing to 25.8 and 13.8 percent, respectively, in 1987.

There is a growing rivalry among health-care facilities throughout the country for the services of qualified health-care professionals, and the VA is not alone in confronting this crisis in the recruitment and retention of these personnel. The April 18, 1988, edition of the New York Times contained an excellent article, which, at my request, was printed in the April 28, 1988, CONGRESSIONAL RECORD, S5179, describing the worsening health worker shortage in the United States. As indicated in that article, enrollments in educational programs leading to degrees in various health-care professions are decreasing and it can therefore be assumed that the shortage of personnel will not be alleviated in the short term.

PILOT PROGRAM ON PAY AND PERSONNEL MANAGEMENT STRATEGIES

Mr. President, when the Senate passed S. 9 on December 3, 1988, the legislation contained a provision I authored in section 332 to require the VA to carry out, and submit a report on, a study and pilot program of various issues related to enhancing recruitment and retention of health-care personnel within the VA. Regrettably, the House did not agree to include all of the studies or the pilot program in the final measure, although studies of three issues directly related to the study of salary and benefits received by health-care professionals were incorporated in section 231 of Public Law 100-322. Those matters which were included—pay compression, pay differentials for employees working unpopular tours of duty, and flexible benefits—are extremely important areas for investigation if the VA is to continue to attract capable personnel in today's competitive health-care environment. However, management studies have shown that salaries and benefits alone will not attract and retain employees; and environment in which employees feel they are recognized for their contributions and permitted input into the decisionmaking process is also a significant factor. Key staff within the VA have recognized this—as evidenced in the following statements made in a preliminary report, dated July 1987, entitled "Task Force on Recruitment and Retention of Non-Physician Health Care Workers", page 4.

> Management attitudes and actions can play a crucial role in establishing an environment conducive to recruitment and retention of the scarce category worker. Both tangible and intangible products of management are vital.

Mr. President, in these days of scarce resources and towering Federal deficits, I strongly believe the VA must continue to focus its efforts on methods which will cultivate a productive work atmosphere. Therefore, the bill I am introducing today contains provisions in section 9—derived from a provision in section 332 of S. 9 to which the House did not agree in the conference report on H.R. 2626—to require the Chief Medical Director [CMD] to conduct, at not less than five VA medical facilities during calendar years 1989, 1990, and 1991, and periodically report, on a pilot program to determine the desirability of: First, establishing collaborative-practice committees including physicians, nurses, and other health-care providers as appropriate; second, expanding the administrative and supervisory responsibilities of Chiefs of Nursing Services to include support services and clinical departments other than nursing; and third, increasing the pay differential for evening and night service to attract adequate numbers of qualified workers to these shifts and provide the opportunity for consistent day shift positions. I have also added to the bill a provision which would require the Administrator to determine the desirability of implementing new alternatives for utilizing the skills and knowledge of RN's in providing direct-patient care and assess the cost of providing care to veterans which result from these alternatives. The reports which would be required by this measure include: First, the evaluation of the CMD of the effectiveness of each management practice undertaken in the pilot program on the Veterans' Administration's ability to recruit and retain health-care employees; second, information on the cost factors associated with each such management practice; third, an evaluation of the functioning and productivity of staff involved in each change; fourth, in the case of expanding the responsibilities of the Chief of the Nursing Service, a determination of the supervision and support provided to all designated departments; fifth, any effects on the quality and timeliness of care provided to veterans; and sixth, any planned administrative actions, and any recommendations for legislation, that the Chief Medical Director considers appropriate to include in the report on the basis of the results of such pilot program.

COLLABORATIVE PRACTICE COMMITTEES

At both 1982 and 1987 Senate Veterans' Affairs Committee hearings which focused on personnel shortages within DM&S, the Nurses Organization of the Veterans' Administration

[NOVA] representatives testified to the need for closer working relationships between physicians and nurses. The fact that this need was brought to the committee's attention in separate hearings 5 years apart suggests that the issue has not been resolved within the VA. Furthermore, the July 1987 preliminary task force report that I mentioned earlier, stated:

> [T]here is much room for improvement among our physician and nursing staff in their attitudes and dealings with each other and with our other health care workers.

Mr. President, collaborative practice programs which foster interdisciplinary professional collaboration and collegial relationships between physicians, nurses, and other direct health-care providers have been shown to enhance personal job satisfaction for both nurses and physicians. The California Association of Hospitals and Health Systems reported in its August 29, 1987, publication "Insight," that interdisciplinary practice committees exist in two-thirds of the facilities surveyed. One of the most significant complaints lodged by nursing professionals is that hospital administrators and physicians fail to appreciate or make appropriate use of their skills or give them autonomy over their clinical practice. In this regard, the bill would require the VA to implement a pilot program of this type and determine and report on the desirability of such a program in the VA setting as one means of providing recognition of the nursing staff and showing that their ideas are valued.

EXPANDED ROLE FOR THE CHIEF NURSE

A. IN THE PRIVATE SECTOR

As early as June 1972, Dr. Frederick N. Elliott, then-associate medical director of Rancho Los Amigos Hospital, in Downey, CA, wrote in an article appearing in "Hospitals," a publication of the American Hospital Association:

> In my model institution, the nursing service would be responsible for the total patient environment. Housekeeping, engineering, and administration, as well as the allied and therapeutic services such as dietary, pharmacy, and other diagnostic and treatment services, would approach the patient only through the mediation of nursing. Until that is achieved, we will not have coordination and control of the patient's therapeutic environment, and we will continue with the fragmentation of services in which misidentification and other mistakes, inappropriate emphasis, psychological trauma, and depersonalization are all possible, probable, and prevalent in most of our institutions.

In the late 1970's and early 1980's, a severe shortage of RN's occurred. In response, between 1980 and 1983 several organizations, including the Institute of Medicine, the American Hospital Association, and the American Academy of Nursing, separately studied the problem, published their findings, and made a total of 39 recommendations for future change. One of the findings of the American Academy of Nursing, based on input from staff nurses around the country, was that nursing leaders within hospitals did not have—or were not perceived as having—the opportunity to influence hospital policies and procedures affecting their professional practices. This resulted in a recommendation to modify the management structure of hospitals to have the Director of Nursing report directly to the Administrator or Chief Executive of the hospital and afford the nursing leadership the same level of responsibility and accountability as other senior administrative staff.

Other forces within the health-care environment have also generated pressures for organizational restructuring. In 1983, Medicare's prospective payment system was enacted in Public Law 98-21, replacing the prior cost-reimbursement method for hospitals with fixed payments for Medicare patients based on the diagnosis related groups [DRG's] in which they fell. This change created strong incentives for private-sector hospitals to decrease the cost of care they provided. Initially, this fixed payment system resulted in shorter lengths of stays, the patient census decreased accordingly, and many hospitals reduced the numbers of direct-care staff on their payrolls. However, as the severity of the average patient's illness and the number of patient complaints increased and the morale of the remaining direct-care staff declined, this approach became less desirable. The literature suggests that administrators of private-sector hospitals began to examine the feasibility of reducing their administrative costs by cutting back on the employment of supervisors and other management personnel.

Some hospital administrators, in their efforts to contain personnel costs at the highest management levels as well as to improve the coordination of services to patients, increased the scope of responsibility for nursing administrators to include services other than nursing. In a 1986 survey of 377 hospitals with 250 or more beds, Witt Associates, an executive search firm specializing in the recruitment of hospital executives, and the American Organization of Nurse Executives found that 23 percent of nursing administrators had managerial responsibility for support services such as housekeeping, central supply services, and pharmacy, and 13 percent had responsibility for clinical services such as physical therapy, vascular laboratories, and speech therapy.

An article in the January 1988 edition of the American Journal of Nursing entitled "Hospitals That Attract (And Keep) Nurses" describes one example of a hospital in which departments other than nursing come under nursing's umbrella: At Henry Mayo Newhall Memorial Hospital in Valencia, CA, housekeeping, central supply, admitting, respiratory therapy, and, to some extent, maintenance, all report to nursing, and it was reported that as a result quality of care improved and cost savings where achieved.

B. IN THE VA

The management confirmation at virtually all VA medical centers has remained unchanged for many years. The Director is accountable for the operation of the total facility and delegates major responsibilities to two key individuals, the Chief of Staff and the Associate Director. Reporting to the Chief of Staff, who is responsible for clinical activities, are the Chiefs of Clinical Services such as the Chief of Medicine, Chief of Surgery, and the Chief of the Nursing Service. The Associate Director is primarily responsible for administrative and support services, such as the fiscal office, medical administrative services, and the pharmacy.

Mr. President, I believe that the use of alternative management structures could have a beneficial effect upon the recruitment and retention of direct health-care staff. In specific regard to the effect of organizational restructuring on recruitment, a second recommendation which arose from the findings of the previously referred to investigations into the causes of the early 1980 nursing shortage was to increase the support services available to both the nurse and the patient. Because most nursing service chiefs once provided direct patient care at the bedside, they may be in a better position to understand the specific support services required than other administrators who have never fulfilled such a role.

During the early 1980's, the VA took certain steps to promote examination of how its medical centers are organized. In a September 28, 1981, Deputy CMD communication to the field, and again in a July 19, 1982, Associate Deputy CMD's Letter, directors, of VA facilities were encouraged to review functions in support of direct patient care and realign those functions if they resulted in more efficient and cost-effective patient care.

VA nurses have frequently indicated dissatisfaction with the fact that they are required to assume the responsibilities of others and, as a result, are not left with adequate time or resources to provide direct care to their patients. A 1984 report entitled, "Nurse Recruitment and Retention in the Veterans' Administration," prepared and submitted to the House and Senate Veterans' Affairs Committees pursuant to section 118 of Public Law 96-330, contains an example of how such problems can be eliminated:

> One time-consuming task, washing beds after patients' discharge or transfer, was ad-

dressed in a pilot program. Two nursing service employees were assigned to wash beds. Once the program was established, the positions were given to Building Management to continue it. The nurses said this approach alleviated a frustrating problem.

More recently, the July 1987 Task Force on Recruitment and Retention of Non-Physician Health Care Workers Preliminary Report, which was submitted to the Senate Veterans' Affairs Committee at my request, stated that the inadequacy of support services to VA professional health-care workers in nursing units, and other work sites, was widely recognized. Additionally, at a 1987 conference of Sigma Theta Tau International, an honor society of nursing, Mr. Ron Norby, R.N., Chief of the Nursing Service, San Diego VAMC, called for an increase in the availability and coordination of support services. NOVA has also indicated in a briefing letter delivered to the Senate Veterans' Affairs Committee on May 27, 1988, that urgent attention should be paid to implementing support services such as computerized data entry, unit dose, and pharmaceutical delivery to the nursing units, services which otherwise must be provided by nursing staff and, thus, detract from the time spent with patients.

Mr. President, a few VA facility directors have attempted innovative management restructuring involving the Chief of the Nursing Service. At the San Diego VAMC, additional responsibilities had been delegated to the Chief Nurse but this practice was terminated after the director who instituted the change transferred to another facility. It is my understanding that no formal study was done to determine the success or failure of this restructuring on the ability of the facility to recruit and retain scare health-care professionals or on the ability of the facility to support effective bedside care. I also understand that the directors in both the Minneapolis, MN, and Charleston, SC, VAMC's are considering implementing increases in the scope of the Chief Nurse's responsibilities and are meeting with some central office opposition.

If so, that rigidity is highly unfortunate. If the VA is to be competitive in the hunt for qualified health-care staff, it must be open and innovative, not hide-bound to the past, as it is far too often.

The purpose of the provision I am proposing today is to ensure that creative management models are developed and tested and that a scientific evaluation is conducted to determine their benefits or lack thereof. In this regard, the CMD would be required, at at least three sites, to implement and report on a pilot program to determine the desirability of expanding the administrative and supervisory responsibilities of the Chief of the Nursing Service to include support services and clinical departments other than nursing.

CREATING NEW NURSING MODELS FOR FURNISHING CARE

Mr. President, the demand for nurses in the United States is expected to increase as our population ages and health care becomes more complex. Ways must be found to attract persons into the profession, not only to resolve today's shortage but to ensure that adequate numbers of nurses will be available in the future. The literature suggests that many perceive the work of nursing and the environment in which this work occurs as undesirable. Nurses are viewed as having little autonomy and status, and nursing is viewed as a field requiring little educational preparation and knowledge. I believe that the VA can and should take a leadership role in changing these perceptions as well as in actually changing the precepts upon which these assumptions are based. Thus, our bill includes a provision designed to move the VA in that direction by requiring it to implement a pilot program and report on the desirability of creating new alternatives for utilizing the skills and knowledge of RN's and to study the effect these changes have on the cost of furnishing care to veterans.

Traditionally, nursing has furnished care to hospitalized patients using one of three practical models—the functional, team, or primary-care approach. Under the functional approach, nurses are assigned tasks to be performed for a group of patients. For example, one nurse may be responsible for administering medications to the group; another nurse for assisting the group to bathe; and a third for assisting the group to eat and ambulate. Although the functional system entails certain efficiencies, it does not provide job satisfaction to the professional.

Under the team nursing approach, several licensed practical nurses or nursing assistants are assigned to care for patients, with a registered nurse supervising the care furnished and providing that care which the others are not qualified to give. This approach decreases the amount of time the RN spends with patients—a result which, at a recent meeting of over 60 representatives for nurse organizations, nurse leaders believe must be avoided. The literature shows that nurses go into nursing because they desire to make a difference at a significant time in someone's life. Both functional and team nursing model severely detract from nurses' ability to achieve this goal.

The primary nursing model came into use approximately 10 years ago. Under this approach, each hospital nurse is responsible for furnishing total patient care to a small group of patients. This affords the nurse an opportunity to be an autonomous decisionmaker in regard to the nursing care provided. Studies have shown that hospitals which utilize this approach have fewer vacancies and less turnover than those which do not and that their nursing staffs experience greater job satisfaction. Unfortunately, this method is seen as unrealistically requiring greater numbers of RN's in today's world of shortages.

Several organizations have begun to explore and research alternatives for restructuring the role of RN's so as to utilize their skills and knowledge in ways that provide for enhanced job satisfaction and thus help to eliminate the current and foreseen shortages of RN's. Nurses at the Center of Nursing Excellence in Los Angeles are testing a system called case management, under which nurses do the initial patient assessment and develop the patient's nursing plan of care. According to an article entitled "Searching for Excellence" in the December 1987 American Journal of Nursing, this methodology gives the nurse a great degree of autonomy and authority. After 18 months of experience with the case management system, an increase in the quality of patient care was found as well as an increase in nursing job satisfaction.

Nurses at Creative Nursing Management, Inc., in Minneapolis, MN, have devised a nursing-extender system using what they call primary practice partners. Under this approach, technical assistants are assigned to work with highly skilled, experienced RN's in the same manner as a physician's assistant might be assigned to work with a doctor. Unlike team nursing, under the nursing-extender system, the assistant is not assigned to a patient and the RN remains wholly accountable and responsible for the tasks performed. This approach is very new and, to date, no data are available regarding its effect on patient care or job satisfaction.

Mr. President, I have a great deal of confidence in and respect for nursing within the VA. I believe that these nurses need to be given the latitude and encouragement to develop and test out new systems and methods to help to bring RN's into the VA as well as provide a high quality of compassionate care to our veteran-patients.

PAY DIFFERENTIALS

Furnishing care in medical facilities is a 24-hour-a-day, 7 day-a-week requirement and requires scheduling employees to work at times that are generally viewed as undesirable. Because the majority of workers chose to work Monday through Friday during regular daylight hours, in order to attract workers to other shifts or to work as less desirable times employers frequently pay premium wages. Currently, in DM&S, the Administrator is required, under section 4107 of title 38, to pay premium wages to nurses and other designated health-care employees at a rate equal to 10 percent of the employee's hourly rate of basic pay if at least 4 hours of the tour of duty fall between 6 p.m. and 6 a.m. The pilot program required by this provision should analyze whether the 10-percent differential is sufficient and, if not, whether an increase would attract personnel to the less desirable shifts on a permanent basis, making it practical to offer consistent day-shift tours of duty to various employees.

A study of the effects on recruitment and retention of significantly increasing evening- and night-shift pay differentials is required by section 231 of Public Law 100-322. Because I believe that valid recommendations in regard to this specific program would be difficult to arrive at without a trail period, the bill specifically singles out this study to be included in the pilot program.

Mr. President, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses, current law, section 4107(e)(10)(B) provides the Administrator with the authority to increase rates of additional pay, including evening- and night-shift differentials and weekend premium pay, in order to provide nurses an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as the VA facility. It is my understanding that the Administrator has never exercised his authority in these instances, and I assume therefore that the Administrator is either unaware of this authority or has consciously determined not to exercise it. I believe the Administrator could already be implementing flexible and imaginative recruitment and retention strategies similar to this pilot program which might prove to be beneficial if this authority were being utilized to its fullest.

SPECIAL SALARY RATES

Under currrent law, section 4107(g) of title 38, when the Administrator determines it to be necessary in order to obtain or retain the services of certain personnel employed under the title 5 personnel system who provide direct patient-care services or services incident to direct patient care, the Administrator may increase the rates of basic pay authorized under applicable statutes and regulations. In the cases of increases for VA employees employed under title 5, the Administrator is required to notify the President not less than 90 days prior to the effective date of the proposed increase. The President has that 90-day period to disapprove of the Administrator's action and, if the President disapproves, must notify the appropriate committees of the Congress of the reasons for such action. I am concerned that the delays which result from this 90-day notice-and-wait period may unwisely hinder the VA's efforts to furnish quality care for veteran-patients.

A request to establish special pay rates is initiated at a particular VA medical center [VAMC]. In submitting such a request to the VA Central Office [VACO], the center director must provide data showing that the increased rates are necessary to deal with an inordinately high vacancy or turnover rate for a particular category of personnel and that the increases are necessary either to provide pay in an amount competitive with, but not exceeding, the pay of the same category of personnel at non-Federal facilities in the same labor market or to recruit personnel with specialized skills to achieve adequate staffing in that category. The gathering of such data and the development of a persuasive document presenting it for VACO review take 1 month or longer. Once submitted to VACO, the justification for the special rates is carefully reviewed and either approved, returned for further information, or disapproved. According to a recent VA survey, the VACO review can take from 12 to 218 days, with the median being 58 days.

It is important to keep in mind that, for the necessary data to be available, a substantial health-care staffing problem must already have occurred and may be having a significant impact on the facility's ability to furnish care as this process moves forward. Thus, during the preapproval period, adequate numbers of staff may not be available or staff may be working overtime to provide adequate care. The staff may become frustrated and overtired as a result of working with inadequate numbers of personnel. In such an environment, burnout, the result of frustration and hopelessness and loss of power which afflicts many individuals in the health-care professions, is more apt to occur and to cause individuals to seek employment elsewhere. This creates a greater shortage within the facility and tends to lead to other resignations.

A vicious cycle can ensue. Needless to say, care to our Nation's veterans suffers in such instances.

In order to speedup the approval process and provide relief to VA health-care workers and veteran-patients, the provision I am introducing today would reduce—from 90 days to 45 days—the amount of time given the President to disapprove the Administrator's decision to provide a rate increase.

A review done by the Director of the VA's Office of Personnel and Labor Relations at my request showed that 233 special-rate authorizations were subject to review by the President's agent, the Director of the Office of Personnel Management [OPM], between January 1, 1987, and January 3, 1988. Of these, the average time required for Presidential approval was 42 days and the median was 33 days. Nearly half, 101, were approved in 30 days or less, 77 were approved in 31 to 60 days, and 55 took 61 to 90 days. Most importantly, OPM has never disapproved any special-rate authorizations proposed by the VA under section 4107(g). These data convince me that the VA does a thorough job in justifying the use of special rates and the President can safely rely upon the judgment of the agency in this regard.

APPOINTMENT OF VA-TRAINED GRADUATES

Mr. President, as part of the VA's mission to establish and implement education and training programs for health-care disciplines, in 1986 VA health-care facilities provided training opportunities for over 105,000 students. At the time of graduation, many of these students turn to the VA as a potential employer. Those who are not covered under the VA's title 38 appointment authority, that is, generally, health-care personnel other than registered and licensed practical nurses, physicians, and dentists, are required to complete a process prescribed by the civil service competitive system which is frequently time-consuming and lengthy. This process justifiably focuses on the preservation of merit principles for filling vacancies rather than on the need to appoint much-needed workers in an expedited fashion, but, unfortunately, often results in many graduates seeking and accepting employment elsewhere.

The shortage of health-care professionals has created a competitive environment in which hospitals and other health-related employers are actively recuiting capable employees. Private-sector employers are "wining and dining" potential applicants and offering immediate employment with very attractive salaries and benefits. The VA, as I have previously noted, is having difficulty keeping up in these latter areas and the complex, lengthy civil service application and acceptance process adds to the burden. To provide the VA with the means to hire health-care staff expeditiously, section 4 of our bill would authorize the Administrator to appoint recent health-care graduates, who received their clinical training at VA facilities, to positions at those facilities without regard to the civil service application process. In proposing this new authority, I do not intend that principles of the merit process—or of veterans preference—be ignored nor do I intend that other screening procedures to ensure the hiring of a high quality of personnel be bypassed.

Mr. President, in this instance I believe it is appropriate and advisable to authorize the Administrator to waive the usual civil service hiring process. Because the individuals I am referring to have completed a course of education with a practicuum at a VA health-care facility, supervisory personnel at the VA have had an opportunity to assess and evaluate the student's work. Generally these supervisors have also had an opportunity to discuss the student's progress with professors and other clinical preceptors, many of whom have VA appointments themselves. In these instances, hiring officials in the VA can be expected to know far more about the clinical competencies of these potential employees than they do about other applicants who have not had work experiences at VA facilities.

A second benefit to the VA from hiring persons who have been recent students in VA facilities is the savings in recruitment and orientation costs which can amount to several thousand dollars per employee, because the individual is already familiar with VA procedures.

Mr. President, this provision is derived from a legislative proposal of the VA, transmitted to the Congress on May 6, which I introduced, on behalf of the Administration, as S. 2394 on May 13. I believe we must take all reasonable steps to ease the difficulties currently being experienced by the VA in recruiting and retaining capable health-care professionals. A recent VA study it found that fewer than 6 percent of students take jobs with the VA facility where they received their clinical experience. If there are strategies we can use to turn this situation around without a negative impact on the quality of care furnished to our veterans, I strongly feel we should implement them.

ASSISTANCE TO PUBLIC AND NONPROFIT INSTITUTIONS OF HIGHER LEARNING

Mr. President, as I have indicated, national health-care personnel shortages periodically can threaten the quality of health care provided in VA facilities. This occurred in the early 1970's when a severe shortage of physicians and other health-care professionals had a serious, negative impact on VA health care. Causes of this problem were identified as being the lack of schools, equipment, and faculty to support the education and training of additional health-care workers. In response, the House Veterans' Affairs Committee chairman, "Tiger" Teague, and I proposed and Congress, in Public Law 92-541, enacted in 1972 chapter 82 of title 38, entitled "Assistance in Establishing New State Medical Schools: Grants to Affiliated Medical Schools; Assistance to Health Manpower Training Institutions." Subchapters I and II of this chapter authorized appropriations over an 8-year period for pilot programs for assistance in the establishment of new State medical schools and grants to affiliated medical schools and were very successful in providing the monetary support needed to expand and improve our Nation's physician training capacity. As a result of those efforts and others, our country generally has adequate numbers of physicians to meet its health-care needs.

Under subchapter III of chapter 82, Assistance to Public and Nonprofit Institutions of Higher Learning, Hospitals and other Health Manpower Institutions Affiliated with the Veterans' Administration to Increase the Production of Professional and Other Health Personnel, 135 grants were awarded by the VA. These provisions provide the VA the authority "to carry out a program of grants to provide assistance in the establishment of cooperative arrangements among universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions affiliated with the Veterans' Administration designed to coordinate, improve, and expand the training of professionals and technical allied health and paramedical personnel, and to assist in developing and evaluating new health careers, interdisciplinary approaches and career advancement opportunities, so as to improve and expand allied and other health manpower utilization." Mr. President, I believe that implementation today of this program would be very beneficial in helping the VA to meet the current crisis.

Section 8 of the legislation we are introducing today would authorize the appropriation of $5 million for each of fiscal years 1989 and 1990 and $6 million for each of fiscal years 1991 and 1992 for the purposes described in subchapter III of chapter 82 of title 38, and direct the Administrator, when establishing new careers, interdisciplinary approaches and career advancement opportunities, to collaborate with the professions the members of which are currently responsible for carrying out those duties, and require the Administrator to provide annual reports to the congressional committees on the implementation and progress of the program.

I believe that greater support to our health personnel schools and colleges must be forthcoming if we are to overcome the current health-professional shortage. Several leading nursing programs, for example, have closed their doors as a result of decreased enrollments. At the Senate Veterans' Affairs Committee May 21, 1987, hearing, testimony was given which showed that there was last year a 13.4-percent decrease in nursing school enrollments over the previous 2 academic years, and that the numbers of first-time, full-time, 4-year college freshmen indicating a desire to enter nursing had dropped from 42,000 in 1983 to 19,800 in 1986. Several reasons for this drop were given, including the belief on the part of young women, who have traditionally been the largest group to enter the nursing field, that other careers were more attractive, had more status, and paid better.

The trend in nursing school enrollments between 1986 and 1987 showed a further decline. Overall, there has been a 6-percent decrease in nursing school enrollments over this time period, with a 9.8-percent decrease in programs leading to a bachelor of science degree; a 1-percent drop in programs leading to an associate degree; and a 20-percent drop in diploma enrollments. The latter decline is thought to be a result of closings of hospital-based programs where diplomas are conferred. Additionally, there are also reports that programs leading to other health-care careers are experiencing similar declines.

Several schools of nursing have successfully implemented creative methods for increasing enrollments but they need further funding to either expand their program or lower costs so that more persons can take advantage of it. As an example, the University of San Francisco School of Nursing has a 15-month program whereby a student with a bachelor degree in a field other than nursing can earn a bachelor of science degree in nursing. "Second-career" students as these frequently have families or other responsibilities which prevent them from affording the tuition costs and fees required to return to school. Assistance to schools which would allow them to decrease their tuition costs would encourage increased enrollments.

Unlike nursing, programs preparing students for careers in physical therapy [PT] are maintaining their matriculation rates, yet there is a large shortage within the VA and nationwide. Although there are 5 applicants for every available slot within PT programs, schools cannot find the faculty necessary to expand their undergraduate programs. In this regard, rather than concentrating resources on undergraduate education expansion, the VA might look at providing grants to schools which would expand graduate programs so as to increase the numbers of potential professors.

The development of new health-care careers is a controversial topic and one which requires great thought and planning. Although I support such creative endeavors, I am concerned that these new careers may lead to fragmentation and duplication of care as well as a deterioration in the quality of care if appropriate licensure, registration, or supervisory requirements are not established and enforced. The bill thus proposes an amendment to state explicitly that assistance in the development and evaluation of new health careers, as well as interdisciplinary approaches, and career advancement opportunities must be accomplished in collaboration with the professions whose members are currently responsible for carrying out those duties.

MEDICAL CARE FOR UNITED STATES VETERANS IN THE PHILIPPINES

Mr. President, since 1948 the United States has provided funds for the contract care of the United States veterans residing in the Philippines who seek care and treatment for service-connected disabilities, who are unable to defray the cost of the care, and who seek care for non-service-connected disabilities under conditions. In addition, in order to ensure effective care and treatment of United States veterans at the Veterans' Memorial Medical Center [VMMC] in Manila, current law authorizes annual appropriations of $500,000 for grants to the VMMC for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the center. These latter funds are 2-year funds which can be carried over into the following fiscal year if necessary. In fiscal year 1987, the Administrator approved the expenditure of $486,402 for various purchases, including medical equipment, dietetic equipment, and two elevators. Funds were also spent for repairs to the operating rooms and supply building, installation and servicing of elevators, and transportation of radiology equipment from older clinic buildings to the VMMC. Unobligated funds which carried over into fiscal year 1988 totaled $341,179. Tentative plans for the use of these funds include purchase of medical and office equipment, installation of a telephone system, waterproofing of a roof, and renovations to a kitchen.

Both the authority to provide for payments for hospital and medical care, including nursing home care, and the authority for the $500,000 annual appropriation to be used for grants expires on September 30, 1989. We therefore are introducing legislation, section 3 of the bill, which would extend these authorizations for 3 years—through September 30, 1992.

SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

Mr. President, section 7 of our bill would (a) amend sections 5051 and 5303(a) of title 38 to expand the authority of the Administrator to enter into sharing agreements so as to permit sharing with all health-care facilities rather than limiting the Administrator's authority to hospitals alone, and (b) amend section 5053(b) of title 38 to authorize the Administrator to enter into agreements for the purpose of sharing scarce medical resources at reimbursement rates that provide appropriate flexibility to the head of the facilities concerned and to provide that funds received under a sharing agreement be returned to the local facility.

EXPANSION OF SHARING AUTHORITY

Subchapter IV of chapter 81 of title 38, relating to the sharing of medical facilities and information, was enacted in 1966 by Public Law 89-785 for the purpose, in part, of improving the care furnished veterans by authorizing the VA to enter into agreements with medical schools, hospitals, and research centers under which the VA could receive from or share with these facilities specialized medical resources which might otherwise not be feasibly available or effectively utilized for veterans or others. Specifically, under section 5053(a) as enacted in 1966 VA "hospitals" could enter into arrangements with "other hospitals—or other medical installations having hospital facilities—or medical schools or clinics" for mutual use or exchange of use of (a) a non-VA specialized medical resource when the arrangement would obviate the need for the VA to acquire that kind of resource, or (b) VA specialized medical resources which are justified on the basis of veterans' care but which are not utilized to their maximum effective capacity." Later, in 1979, legislation which I authored, in section 304 of Public Law 96-151, expanded this authority to include sharing arrangements with organ banks, blood banks, or similar institutions.

In 1983, Medicare's prospective payment system was enacted in Public Law 98-21. The literature suggests that a direct result of this legislation was to change the way medicine is practiced so that many specialized medical procedures which formerly were performed only in hosptials were moved to outpatient facilities or facilities which had in the past provided less-intensive care than hospitals. Our current health-care environment has spawned a variety of entities furnishing community health care and, it is sometimes difficult to label or categorize them. I believe that if the VA is to be able to take full advantage of sharing arrangements it must have the flexibility to enter into agreements with these new entities or entities which already exist but are providing a different level of care than in the past.

Therefore, the bill would expand the categories of facilities with which the VA could enter into sharing arrangements so as to encompass any health-care facility.

RATES OF PAYMENT

Current law, section 5053(b) of title 38, requires that these sharing arrangements provide for "reciprocal reimbursement based on a charge which covers the full cost of services rendered, supplies used, and including normal depreciation and amortization costs of equipment." Under section 5011 of title 38, sharing agreements entered into between the VA and the Department of Defense [DOD] require that reimbursement be based upon a mutually agreed upon methodology that provides appropriate flexibility to the heads of the facilities concerned and takes into account local conditions and the needs and actual costs of the health-care resources provided. The VA defines actual cost as including the cost of communications, utilities, services, supplies, salaries, depreciation, and related expenses connected with providing the resource; however, encouragement is given to exclude equipment depreciation from the reimbursement rate. Additionally, heads of VA and DOD medical facilities may negotiate a rate that is less than actual cost.

The General Accounting Office [GAO] report, GAO/HRD-88-51, dated March 1988 entitled "VA/DOD Health Care—Further Opportunities to Increase the Sharing of Medical Resources" stated that several directors at VA facilities were unaware of the less restrictive section 5011 provision which requires taking actual costs into account and instead utilized the measure described in section 5053(b) which requires full cost reimbursement when negotiating with DOD. The GAO concluded that the full-cost requirement set forth in section 5053(b) served as a disincentive to sharing between the two agencies where the amount of the full cost of the services is greater then the price at which the same services may be obtained in the community.

It is reasonable to conclude that a similar impediment exists with respect to sharing between VA and private-sector facilities. The purpose of entering into sharing arrangements is to strengthen and improve VA care, and thus ensure adequate and complete health care for veterans, and to provide for fully effective utilization of specialized medical resources, under direct VA control, when veterans' immediate needs do not require maximum utilization. I believe that by providing the Administrator with the authority to enter into agreements based upon mutually agreed-upon methodologies taking into account local conditions and the needs and the actual costs to the providing agency's facility of the resources being provided, as required in section 5011, would help to ensure that the stated intent of this title 38 measure could be more fully realized. In addition, requiring the money to be returned to the facility involved in the sharing will strengthen that facilities ability to provide health-care to our Nation's veterans.

EXTENSION OF READJUSTMENT COUNSELING ELIGIBILITY

Mr. President, section 2 of the measure we are introducing, which is derived from section 301 of S. 1464 as reported by our committee last September and passed by the Senate October 16, would make two changes in the statutory eligibility for readjustment counseling under current section 612A of title 38. First, the bill would extend readjustment counseling entitlement to veterans of service in hostilities after May 7, 1975, the end of the Vietnam era. Under this change, the Administrator, after consultation with the Secretary of Defense, would determine that service during specific periods of time in specific locations in which U.S. Armed Forces were under hostile fire would be qualifying service for readjustment counseling purposes. This provision recognizes that members of our Armed Forces are at times exposed to combat situations short of declared war—such as existed in Beirut or Grenada or in connection with our actions against Libya, or in connection with Navy efforts in the Persian Gulf, or that possibly exist today in Central America. These situations well might produce the need among those involved in them for readjustment counseling to help deal with the psychological aftermath of the experiences.

Mr. President, I note that this authority, if enacted, should be used only in very limited circumstances in which our service personnel actually experienced combat situations.

Second, under provisions in this measure, veterans of World War II and the Korean conflict, with a particular emphasis on those who were in combat with the enemy, would also be made eligible for counseling through the readjustment counseling program if they requested it. In my view, the Federal Government should never allow to go unmet the requests for counseling help from those who have experienced the stress of combat while serving in the Armed Forces.

With reference to this issue of meeting the needs of veterans of prior wars, I note, as I have in the past, the testimony at an April 30, 1981, committee hearing of Dr. Arthur Arnold, then the chief of psychiatry at the Bay Pines, FL, VA Medical Center and now the chief of psychiatry at the Phoenix VAMC, about a World War II veteran he was treating for alcoholism. Dr. Arnold described the case as follows:

> There was a man in his late 50's who had been treated in VA hospitals for probably 30 admissions for alcoholism over the last 40 years who finally because of the growing awareness of the staff of the importance of knowing the war experience, was asked what he had done in World War II.
>
> Finally, it came out that he has had nightmares for 40 years of being under fire pinned down on a beach in the South Pacific for 72 hours as a teenage corpsman trying to patch pieces of bodies together. This had never come out * * * until now, so the man had never really gotten treatment that went to the core of his problems.

It seems clear that that veteran was suffering from problems related to his combat experience and needed assistance which recognized that fact.

In a similar vein is an article by Marlene Cimmons in the August 15, 1985, Los Angeles Times, headlined "Stress Problems Show Up Among Veterans of World War II," which describes war-related problems among World War II veterans. This article was printed in the CONGRESSIONAL RECORD at my request on July 15, 1987, at S10068-S10069.

Finally, with reference to this provision, I note the statement of VA Administrator Turnage, during our committee's March 4 hearing on the VA's fiscal year 1989 budget, when he was describing the VA's recent approach to the readjustment counseling program and said "But let me suggest one other thing about the attitude we have had. We said, 'Don't only treat Vietnam veterans, treat active-duty types, treat World War II types, treat Korean veterans, or anyone else who needs that kind of help.' "

I agree completely with that sentiment and hope that our colleagues in the House will be willing to accept it as well.

DISCIPLINARY ACTIONS AND GRIEVANCES

Mr. President, section 6 of the measure we are introducing, which is derived from section 324 of S. 9 as reported by our committee last November, would amend section 4110 of title 38 so as to provide that the procedures set forth in title 5, United States Code, for the resolution of specified lesser disciplinary actions—admonishments, reprimands, suspensions of 14 days or less, and transfers not involving loss of grade—would be used in cases involving title 38 personnel—including, in the case of employees who are members of recognized bargaining units, the use of a negotiated grievance procedure involving an appeal to an arbitrator. This section would further amend chapter 73 of title 38 so as to create, in title 38, a grievance-resolution process that parallels that available to title 5 employees.

BACKGROUND

Mr. President, during our committee's hearing last year on various measures dealing with the VA health-care system and in subsequent activity in followup to that hearing, we heard from a variety of sources about problems in the VA's personnel system as it relates to those VA health-care employees—principally physicians, dentists, and nurses—employed under the VA's title 38 personnel system.

Specifically, both the agency and witnesses representing employee groups raised concerns about the current procedures under section 4110 of title 38—the provision under which disciplinary actions involving title 38 employees are carried out—the fairness and timeliness of the overall title 38 personnel system—especially in contrast to the system under title 5 which applies to other Federal employees, including other VA employees not covered by the title 38 system—and the ongoing, costly, and time-consuming litigation over issues relating to the relationship between title 5 and title 38 provisions.

Mr. President, as I noted a moment ago, our committee, in response to these concerns, reported and the Senate passed section 324 to S. 9. The overall impact of certain of the changes proposed in that legislation had now included in the measure we are introducing would be to make parallel to personnel procedures available to title 5 employees the VA's procedures for personnel actions involving title 38 employees where a specified lesser disciplinary action is proposed and the VA's procedure for resolution of grievances.

Mr. President, as I noted during final Senate consideration of the legislation into which S. 9 was merged—H.R. 2616, enacted into law as Public Law 100-322—the effort to develop the provisions in the Senate-passed measure, which included significant consultation with many concerned parties, was carried out with two fundamental, and sometimes conflicting, principles in mind—first, the separate title 38 personnel system for DM&S generally serves a valid and valuable purpose of permitting the VA to staff and manage a very large, complex, health-care system and, as such, should be maintained; and, second, as the Congress recognized with the enactment of the Civil Service Reform Act, there can and should generally be significant opportunity for employees to have disciplinary actions and grievances related to their employment resolved in a timely fashion with an opportunity for outside review.

In making this effort last year, our committee recognized that the subject matter was very complex and that it was likely that further work would be needed before a fully appropriate approach was developed. To that end, we continued after we had reported and, indeed, passed our bill, to work, along with our colleagues in the House, with the agency and other interested parties in an effort to fashion such an approach.

Unfortunately, despite the good intentions of all those involved in that effort, we were unable to develop an approach that was satisfactory to the VA and to the employee organizations, and ultimately the decision was made, in conferring with the House, not to include any provisions on this subject in that legislation.

Mr. President, because our committee remains interested in trying to resolve the problems that we identified last year in the current DM&S disciplinary and grievance procedures and procedures relating to title 38 employees, we are again introducing provisions which address the overall issue of the appropriate disciplinary and grievance procedures for title 38 employees.

BILL PROVISIONS

Mr. President, section 6 of the bill includes provisions that would amend section 4110 of title 38 so as to remove from the coverage of that section disciplinary actions involving lesser proposed penalties—specified as suspension for 14 days or less, reassignment or reduction in rank without a reduction in basic pay, reprimand, or admonishment. All other disciplinary actions would remain covered by the current section 4110 process.

This approach, of specifying those matters which would be excluded from coverage, was adopted so as to be clear that any matters not specified would remain covered by section 4110. For example, because of the current VA practice of treaty any proposal to remove a title 38 employee's clinical privileges as the same as a proposed removal, current 4110 procedures would continue to apply in such cases.

For the disciplinary matters specified in the bill which involve lesser proposed penalties, the bill would provide that a title 38 employee would be entitled, in lieu of a 4110 proceeding, to a process which would include, first, advance written notice which sets forth the specific reasons for the proposed action; second, a reasonable time to answer the notice, either in writing or orally, including time to furnish affidavits and other documentary evidence in support of the answer; third, a chance to be represented by an attorney or some other representative; and fourth, a written decision, which would include the reasons for the decision, at the earliest practicable time. These procedures are generally the same as provided, pursuant to section 7503(b) of title 5, United States Code, to all title 5 employees in such disciplinary proceedings.

The bill also would provide two methods by which title 38 employees—depending on whether they belong to recognized bargaining units or not—could gain a review of a decision on such a specified lesser disciplinary matter or of a decision on a grievance. These methods, which are parallel to the procedures available to title 5 employees, are either, in the case of title 38 employees who are not members of bargaining units, an agency review procedure established by the Administrator or, for those employees who are members of such a unit, a negotiated grievance procedure which would include binding arbitration. In any disciplinary case involving binding arbitration, if the subject matter of the disciplinary action involved a question of the employee's clinical competence, as determined by either party, the person selected under the negotiated agreement to arbitrate the case would have to be qualified as an arbitrator and also qualified as a physician, dentist, nurse, or otherwise qualified, by specialized experience or training or both, in examining and adjudicating health care issues. Appeals from an arbitrator's decision to the Federal Labor Relations Authority would be authorized.

The bill would specify that any agency review procedure established by the Administrator with respect to proposed disciplinary actions and grievance resolution regarding title 38 employees who are not covered by collective bargaining agreements would have to include first, an informal review of the decision on the disciplinary action by a VA official of a higher level than the official who made the original decision and a prompt decision following that review; second, a right to have the matter reviewed further by an impartial examiner from within the VA who would have to submit a prompt report of findings and recommendations; and third, a prompt review of those findings and recommendations, as well as any comments the employee or the agency or both wishes to make on the findings and recommendations, by an agency official at a higher level than the one who carried out the first informal review. These procedures are generally similar to ones currently provided by the VA through internal agency guidelines.

Mr. President, as I noted a moment ago, the overall impact of these changes would be to make parallel to personnel procedures available to title 5 employees the VA's procedures for personnel actions involving title 38 employees involving the specified lesser disciplinary actions and for resolution of grievances.

SPECIAL COMMITTEE ON POST-TRAUMATIC-STRESS DISORDER

Mr. President, section 10 of this measure includes provisions which would mandate the submission by the Chief Medical Director's Special Committee on Post-Traumatic-Stress Disorder of three reports—the first, by April 1, 1989, setting forth that committee's evaluation of the results of the study mandated by section 102 of Public Law 98-160 on the prevalence and incidence of PTSD and other postwar psychological problems among Vietnam veterans, and the second and third, due February 1 of 1990 and 1991, respectively, setting forth information which updates prior reviews of the overall efforts of the Veterans' Administration to meet the needs of veterans with PTSD.

Mr. President, the special committee was established pursuant to section 110 of the Veterans' Health Care Act of 1984, Public Law 98-528, to "assess, and carry out a continuing assessment of, the capacity of the Veterans' Administration to provide diagnostic and treatment services for PTSD to veterans eligible for health care furnished by the Veterans' Administration." This committee, which is comprised of 12 employees of the Department of Medicine and Surgery, has carried out a comprehensive review of the agency's efforts relating to PTSD and has submitted four reports to the Administrator of Veterans' Affairs setting forth the committee's findings and recommendations. The Administrator has submitted each of these reports to the Congress and, under current law, is required to submit one further report next February.

I have long been of the view that, because of the strong relationship between exposure to combat and subsequent PTSD, the VA must assume a significant leadership role in the diagnosis and treatment of this disorder. Although I believe that the agency has made some significant strides over the years, much more can and should be done, and the special committee has a vital role in identifying areas for improvement and in recommending solutions. To this end, the provisions in the bill we are introducing will ensure that the committee continues its review and evaluation and continues to report its findings to the Congress.

Mr. President, I note that, in addition to taking testimony at the hearing scheduled for June 16 on this proposed extension of the role of the special committee, our committee has scheduled a major oversight hearing on matters relating to PTSD for July 7. We look forward to hearing from representatives of the special committee at that time.

CONCLUSION

Mr. President, I urge our colleagues to join us as cosponsors of this measure which will be the subject of a committee hearing on June 16. I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Administration Health-Care Personnel and Programs Act of 1988".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. READJUSTMENT COUNSELING ELIGIBILITY EXTENSION.

Section 612A (a) is amended—

(1) by inserting "(1)" before "Upon;"

(2) by amending the first sentence of paragraph (1) (as redesignated by clause (1) of this section) to read as follows:

"(A) any veteran who served on active duty during the Vietnam era, or

(B) any veteran who served on active duty after May 7, 1975, in an area during a period in which hostilities (as defined in paragraph (3) of this subsection) occurred in such area,

the Administrator shall furnish counseling to assist such veteran in readjusting to civilian life."; and

(3) by adding at the end the following new paragraphs:

"(2) Upon the request of any veteran who served on active duty during World War II or the Korean conflict, the Administrator may furnish counseling to such veteran in overcoming any psychological problems associated with such veteran's service during such period. In furnishing counseling under this paragraph, the Administrator shall place particular emphasis on the needs of those who engaged in combat with the enemy. Such counseling shall include a general mental and psychological assessment to ascertain whether such veteran has mental or psychological problems associated with such veteran's active military, naval, or air service.

"(3) For the purposes of subparagraph (1)(B) of this subsection, the term 'hostilities' means a situation in which members of the Armed Forces were, as determined by the Administrator in consultation with the Secretary of Defense, subjected to danger from armed conflict comparable to the danger to which members of the Armed Forces have been subjected in battle with the enemy during a period of war.".

SEC. 3. CONTRACTS AND GRANTS FOR MEDICAL CARE FOR UNITED STATES VETERANS IN THE REPUBLIC OF THE PHILIPPINES.

Subsection (a) and (b)(1) of section 632 are amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 4. APPOINTMENT OF CERTAIN HEALTH-CARE PERSONNEL.

Section 4106 is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding subchapter I of chapter 33 of title 5, the Administrator, upon the recommendation of the Chief Medical Director, may appoint in the competitive service under title 5 individuals with a recognized degree or certificate from an accredited institution in a health-care profession or occupation who were appointed to and successfully participated in a Veterans' Administration-affiliated clinical education program.

"(2) In using such authority to appoint individuals in such service, the Administrator shall apply the principles of preference for the hiring of veterans and other persons established in subchapter 1 of chapter 33 of title 5.".

SEC. 5. APPROVAL PERIOD FOR INCREASES IN CERTAIN RATES OF PAY.

Section 4107(g)(4) is amended by striking out "ninety" and inserting in lieu thereof "forty-five".

SEC. 6. DISCIPLINARY ACTIONS AND GRIEVANCES.

(a) Section 4110 is amended—

(1) in subsection (a)—

(A) by striking out "of inaptitude, inefficiency, or misconduct" and inserting in lieu thereof "in disciplinary actions for performance or conduct during tenure with the Veterans' Administration, except with respect to matters described in subsection (f) of this section,"; and

(B) by adding at the end the following new sentence: "The Chief Medical Director may delegate the function of appointing a board to an employee of the Department of Medicine and Surgery who is not involved in deciding whether or not to file charges against the employee and who is not subordinate to any official involved in so deciding.";

(2) in the first sentence of subsection (d), by striking out "suitable" and all that follows and inserting in lieu thereof "that the proposed disciplinary action be sustained or modified within limitations prescribed by the Administrator."; and

(3) by adding at the end the following new subsection: "(f)(1) An employee against whom disciplinary action consisting of a suspension for 14 days or less, reassignment or reduction in rank without a reduction in basic pay, reprimand, or admonishment is proposed is entitled to—

"(A) an advance written notice stating the specific reasons for the proposed action;

"(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(C) be represented by an attorney or other representative; and

"(D) a written decision and the specific reasons therefor at the earliest practicable date.

"(2) Actions taken under paragraph (1) of this subsection shall be subject to review under either the provisions of section 4120A of this title, in the case of employees appointed under authority of this title who are members of a bargaining unit recognized under chapter 71 of title 5, or an agency review procedure to be established by the Administrator, in the case of such employees who are not members of such a unit. Any such agency review procedure established by the Administrator shall include—

"(A) an informal review of the decision on the disciplinary section by an official of a higher level than the official who made the decision;

"(B) A prompt decision by such higher level official and a right to formal review by an impartial examiner within the agency;

"(C) a prompt report of the findings and recommendations by the impartial examiner; and

"(D) a prompt review of the examiner's findings and recommendations, together with any comments by the employee and the agency on such findings and recommendations, by an official of a higher level than the official who conducted the review pursuant to clause (A) of this paragraph."

(b)(1) Subchapter 1 of chapter 73 is further amended by adding at the end the following new section:

"§ 4120A. Grievances and certain disciplinary reviews

"(a)(1) For the purposes of resolving (A) grievances of employees appointed under authority of this title who are members of a bargaining unit recognized under chapter 71 title 5, or (B) except as prescribed in paragraph (2), disciplinary actions as described in subsection 4110(f)(1) of this title involving such employees, the Administrator shall authorize review of agency reactions on grievances or disciplinary actions under the procedures negotiated under the authority of chapter 71 of title 5.

"(2) In any matter, as determined by either party, involving disciplinary actions involving questions of clinical competence, the individual selected to arbitrate the matter must be qualified as an arbitrator and also be qualified as a physician, dentist, nurse, or otherwise qualified, by specialized experience or training or both, in examining and adjudicating health-care issues.

"(b) For the purpose of resolving grievances of supervisors and employees appointed under the authority of this chapter who are not members of a bargaining unit recognized under chapter 71 of title 5, the Administrator shall authorize review of agency action on such grievances pursuant to an agency review procedure as described in section 4110(f)(2).

"(c) For the purposes of this section, the term 'grievance' means a matter of concern by an employee appointed under this title (as may be negotiated under authority of chapter 71 of title 5) with respect to his or her employment but does not include matters similar to those excluded from grievance procedures under chapter 71 of title 5.".

(2) The table of sections at the beginning of chapter 73 is amended by adding at the end of subchapter I the following new item:

"4120A. Grievances and certain disciplinary reviews."

SEC. 7. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) Section 5051 is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "health care facilities".

(b) Section 5053 is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health care facilities and other health care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) by striking out "charge" and all that follows in the first sentence and inserting in lieu thereof "methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved." and

(B) by adding "and no funds that have been allotted to the facility that furnished the resource involved" before the period at the end of the second sentence.

SEC. 8. ASSISTANCE TO PUBLIC AND NONPROFIT INSTITUTIONS AFFILIATED WITH THE VETERANS' ADMINISTRATION TO INCREASE THE PRODUCTION OF PROFESSIONAL AND OTHER HEALTH PERSONNEL.

Subchapter III of Chapter 82 is amended—

(1) in section 5091, by inserting "(in collaboration with representatives of the professions, the members of which are currently responsible for carrying out the duties involved)" after "medical personnel, and"; and

(2)(A) by adding at the end the following new section:

"§ 5094. Authorization of appropriations

"There is authorized to be appropriated for the purpose of making grants under this

subchapter $5,000,000 for each of fiscal years 1989 and 1990 and $6,000,000 for each of fiscal years 1991 and 1992.";

(B) by amending the table of sections at the beginning of Chapter 82 by inserting after the item relating to section 5093 the following:

"5094. Authorization of appropriations.".

SEC. 9. PILOT PROGRAM OF PAY AND PERSONNEL MANAGEMENT PRACTICES.

(a) In General.—The Chief Medical Director of the Veterans' Administration shall conduct a pilot program at not less than five Veterans' Administration medical centers during calendar years 1989, 1990, and 1991, in order to determine—

(1) the effects of pay and personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incident to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen; and

(2) whether it is desirable to—

(A) establish programs which foster interdisciplinary professional collaboration and collegial relationships between physicians and registered nurses, and what effects such programs would have on the ability of the Veterans' Administration to recruit and retain registered nurses;

(B) expand the administrative and supervisory responsibilities of the position of Chief of the Nursing Service, where such Chief has the requisite qualifications and experience, to include responsibility for support services and clinical departments other than nursing;

(C) create new alternatives for utilizing the skills and knowledge of registered nurses in furnishing direct-patient care and what effects this change would have on the ability of the Veterans' Administration to recruit and retain registered nurses and the cost of providing care to veterans; and

(D) increase the pay differential for evening and night service to attract adequate numbers of qualified workers to these shifts and, as a result, provide the opportunity for consistent day shift positions.

(b) Pilot Program.—In conducting the pilot program under subsection (a) the Chief Medical Director—

(1) shall—

(A) at not less than three sites, expand the administrative and supervisory responsibilities of the Chief of the Nursing Service to include responsibility for support services and clinical departments other than nursing;

(B) at not less than one site, establish a collaborative-practice committee involving physicians, nurses, and, as appropriate, other direct health-care personnel;

(C) at not less than one site, significantly increase the pay differential for evening and night service; and

(D) at not less than three sites, implement new alternatives for utilizing the skills and knowledge of registered nurses in the furnishing of direct-patient care; and

(2) may implement changes in personnel management practices as otherwise authorized by law so as to gain information with respect to any of the matters required to be studied pursuant to section 231 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322).

(c) Reports.— (1)(A) Not later then February 1, 1990, the Chief Medical Director shall submit to the Administrator and to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the first 12 months' experience under the pilot program required by subsection (a). The report shall contain—

(i) the evaluation of the Chief Medical Director of the effectiveness of each management practice undertaken in the pilot program on the Veterans' Administration's ability to recruit and retain health-care employees;

(ii) information on the cost factors associated with each such management practice;

(iii) an evaluation of the functioning and productivity of staff involved in such changes;

(iv) in the case of expanding the responsibilities of the Chief of the Nursing Service, an evaluation of the supervision and support provided to all designated departments;

(v) a description of any effects on the quality and timeliness of care provided to veterans; and

(vi) a description of any planned administrative actions, and any recommendations for legislation, that the Chief Medical Director considers appropriate to include in the report on the basis of the results of such pilot program.

(B) Not later than 60 days after receiving the report under subparagraph (A), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives any comments on the report that the Administrator considers appropriate.

(2)(A) Not later than June 30, 1991, the Chief Medical Director shall submit to the Administrator and to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the first 24 months' experience under the pilot program required by subsection (a). The report shall contain updates on all information provided in the report submitted pursuant to paragraph (1)(A) of this subsection.

(B) Not later than 60 days after receiving the report under subparagraph (A), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives any comments on the report that the Administrator considers appropriate.

(3)(A) Not later than February 1, 1992, the Chief Medical Director shall submit to the Administrator and to the Committees on Veterans' Affairs of the Senate and House of Representatives a final report on the pilot program required by subsection (a). The report shall contain—

(i) updates on all information provided in the report submitted pursuant to paragraph (1)(A) of this subsection; and

(ii) the Chief Medical Director's final assessment of the pilot program based on 36 months of operation.

(B) No later than 60 days after receiving the report under subparagraph (A), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives (i) any comments on the report that the Administrator considers appropriate and (ii) the Administrator's final assessment of the pilot program based on 36 months of operation.

SEC. 10. REPORTS ON VETERANS' ADMINISTRATION PROGRAMS FOR VETERANS WITH POST-TRAUMATIC STRESS DISORDER.

(a)(1) Not later than April 1, 1989, the Special Committee on Post-Traumatic Stress Disorder (hereinafter in this section referred to as the "Special Committee"), established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2691), shall submit to the Administrator of Veterans' Affairs a report setting forth the Special Committee's evaluation of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 994). Such report shall include the Special Committee's—

(A) overall evaluation of the conduct, validity, and meaning of the study;

(B) assessment of the capability of the Veterans' Administration to meet the needs for the diagnosis and treatment of post-traumatic stress disorder (hereinafter in this section referred to as "PTSD") of veterans as estimated in the results of such study;

(C) comments on the Administrator's report on the study; and

(D) recommendations for any further or follow-up research on the matters addressed in the study.

(2) Not later than 30 days after receiving the Special Committee's report under paragraph (1), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments concerning the report that the Administrator considers appropriate.

(b)(1) Not later than February 1 of each of 1990 and 1991, the Special Committee shall submit to the Administrator a report containing information updating the reports of the committee submitted by the Administrator under section 110(e) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2693), together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Veterans' Administration to meet the needs of veterans with PTSD.

(2) Not later than 60 days after receiving each of the Special Committee's reports under paragraph (1), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments concerning the report that the Administrator considers appropriate.

By Mr. CRANSTON (for himself, Mr. Murkowski, Mr. Matsunaga, Mr. DeConcini, Mr. Rockefeller, and Mr. Graham):

S. 2463. A bill to amend title 38, United States Code, to improve the capability of Veterans' Administration health care facilities to provide the most effective and appropriate services possible to veterans suffering from mental illness, especially conditions which are service related, through the designation of centers of mental illness research, education, and clinical activities at up to five of its medical centers, and for other purposes; to the Committee on Veterans' Affairs.

MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CENTERS

Mr. CRANSTON. Mr. President, I am very pleased to introduce today along with the Senators from Alaska

[Mr. MURKOWSKI], Hawaii [Mr. MATSUNAGA], Arizona [Mr. DECONCINI], West Virginia [Mr. ROCKEFELLER], and Florida [Mr. GRAHAM] legislation to authorize the Veterans' Administration to establish five mental illness research, education, and clinical centers [MIRECC's]. These centers would improve and expand the capability of VA health-care facilities to respond with the most effective and appropriate services possible to the needs of veterans suffering from mental illness, especially from those conditions which are service related. MIRECC's would also advance scientific knowledge regarding how to evaluate and treat mental illess by coordinating research, the training of health personnel, and the development of improved models of clinical services for eligible veterans suffering from mental illness.

THE KETY COMMITTEE REPORT

Mr. President, we are introducing this legislation today because we believe that the VA has not provided adequate resources to mental illness research and treatment. An October 20, 1985, report of the Special Purpose Committee to Evaluate the Mental Health and Behavioral Sciences Research Program of the VA, which was set up by the VA's Assistant Chief Medical Director for Research and Development and chaired by Dr. Seymour Kety, found that less than 10 percent of VA research resources are directed toward mental illness; in contrast, about 40 percent of all VA beddays are provided to veterans who suffer from mental disorders, including post-traumatic-stress disorder [PTSD], Alzheimer's disease, alcoholism and substance abuse, depression, and other dementias. In 1983, one-third of all VA patients had a primary psychiatric diagnosis, and a great number of the rest also had significant psychiatric disorders, such as alcoholism or depression.

The report further concluded that educational funds, training stipends, research space, and staff positions for psychiatry were disproportionately low in the VA, resulting in high caseloads and diminished opportunities for research. It stated that the VA's failure to develop appropriate quality and quantity of psychiatric research is most significant in the area of research training. Although 42 percent of all applicants for VA career development awards are funded, only 26 percent of psychiatrists who apply are funded. I would note that the new Career Development Committee includes only one psychiatrist and no psychologists among its 20 members. Finally, the report concluded that many mental-illness researchers are discouraged from applying for funding.

The Kety Committee recommended, among other things, that centers of excellence be established as a cost-effective and rapid way to develop psychiatric research in the VA system. The report noted that the centers would produce new knowledge, provide research training opportunities on a competitive basis for mental health researchers, and eventually would generate well-trained clinical investigators who could then initiate research projects at other VA hospitals.

EFFORTS BEGUN IN 1987

Mr. President, efforts to encourage more research into mental illnesses and to establish MIRECCs began last year. Legislation I authored and that was enacted last week, as part of Public Law 100-322, provides an express reference to mental illness in the title 38 description of the medical research mission of the VA. This law is intended to help counteract the historical trend of underfunding mental illness research and to encourage the VA to take action to increase significantly its funding of research on mental illness and of continuing education and training for mental health researchers.

I would note that the VA has created research services for each of the categories of research mentioned in the statutory research mission description in section 4101(c)(1) of title 38. Our committee, in its report accompanying that legislation (S. Rept. No. 100-215), urged the Chief Medical Director last year, to take steps to create a Mental Illness Research Service charged with directing and developing a program of research for the VA in the mental illness area. However, the VA has not yet done so. Thus, I again urge the VA to take such appropriate administrative action now. The creation of a separate service with its own budgetary allocation would help the VA to pursue more creatively cost-effective treatment for patients suffering from mental illnesses.

In addition, the committee report urged the VA to establish three pilot mental illness research, education and clinical centers [MIRECC's], similar to the centers of excellence recommended by the Kety Committee.

MIRECC'S

Mr. President, the legislation we are proposing today would specifically authorize the establishment of five MIRECC's in order to implement that recommendation. The MIRECC's would be modeled after the VA's very successful geriatric research, education, and clinical centers [GRECC's] program that has been carried out for the last decade or so under section 4101(f) of title 38. There are currently 10 GRECC's, and the VA has just advised me of plans to establish two more.

I would anticipate each MIRECC to congregate a critical mass of investigators with a clear and focused clinical research mission concentrating on one or more of the major categories of illness for which veterans suffer, such as schizophrenia, PTSD, addictive disorders, depressive neuroses, or dementias. The measure would require that research projects undertaken in conjunction with the MIRECC mission emphasize the psychosocial and clinical aspects of mental illness, as well as models of providing services.

MIRECC's would be required to maintain arrangements with an accredited medical school, graduate school of psychology, and nursing, social work, or other allied health personnel school under which residents or students would regularly rotate through the center so as to provide hands-on training in the diagnosis and treatment of mental illness. MIRECC's would also be required to maintain research programs that would attract scientists and physicians capable of ingenuity and creativity in mental health research efforts. Researchers would be eligible and, indeed, given priority for funding for VA research grants.

Finally, our legislation would require the Administrator to report to the Congress periodically on the research, educational, and new clinical care activities at each MIRECC and on efforts to disseminate the information throughout the VA system.

Mr. President, our bill would authorize the appropriation of $3.125 million in fiscal year 1989 year and $6.25 million each for the next 3 years. As with the GRECC Program, I would expect that funding for the MIRECC Program would not be subject to the RAM methodology.

Mr. President, the proposed centers would provide state-of-the-art treatment, increase innovative basic and clinical research opportunities, and enhance and encourage continuing education and training in mental illness research. This is a very modest investment which could reap substantial benefits for improving the care and treatment of veterans with mental illness. I urge all my colleagues to join with us in support of this measure. A hearing on it will be held on June 16 by the Veterans' Affairs Committee and it will be considered in committee markup on June 29.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4101 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The purposes of this subsection are (A) to improve and expand the capability of Veterans' Administration health-care facilities to respond with the most effective and appropriate services possible to the needs of veterans suffering from mental illness, especially from those conditions which are service-related, and (B) to advance scientific knowledge regarding mental illness, especially such conditions, and regarding such needs and the methods of meeting them by facilitating higher quality care for eligible veterans suffering from mental illness, especially from such conditions, through research, the training of health personnel in the provision of health care to such individuals, and the development of improved models of clinical services for eligible veterans suffering from mental illness.

"(2)(A) In order to carry out the purposes of this subsection, the Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than five Veterans' Administration health-care facilities as the locations for centers of mental illness research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

"(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator, upon the recommendation of the Chief Medical Director, shall ensure appropriate geographic distribution of such facilities.

"(C) The Administrator may not designate any health-care facility as a location for a center under subparagraph (A) of this paragraph unless the Administrator, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(i) an arrangement with an accredited medical school which provides education and training in psychiatry and with which such facility is affiliated under which residents and students receive education and training in psychiatry through regular rotation through such center so as to provide such residents with training in the diagnosis and treatment of mental illness;

"(ii) an arrangement with an accredited graduate school of psychology which provides education and training in clinical or counseling psychology or both and with which the facility is affiliated under which students receive education and training in clinical or counseling psychology or both through regular rotation through an accredited internship program at such center so as to provide such students with training in the diagnosis and treatment of mental illness;

"(iii) an arrangement under which nursing, social work, or other allied health personnel receive education and training in mental health care through regular rotation through such facility;

"(iv) the ability to attract the participation of scientists who are capable of ingenuity and creativity in research into the causes, treatment, and prevention of mental illness and into models for furnishing care and treatment to veterans suffering from mental illness;

"(v) a policymaking advisory committee composed of appropriate mental health care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(vi) the capability to conduct effectively evaluation of the activities of such center.

"(3) There are hereby authorized to be appropriated for the basic support of the research and education activities of the centers of mental illness research, education, and clinical activities established pursuant to paragraph (1) of this subsection $3,125,000 for fiscal year 1989 and $6,250,000 for each of the next three fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate.

"(4) Activities of clinical and scientific investigation at each center established under paragraph (1) of this subsection shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for mental illness.

"(5) The Chief Medical Director shall ensure that research activities carried out through such centers include an appropriate emphasis on the psychosocial dimension of mental illness and on models for furnishing care and treatment to veterans suffering from mental illness.

"(6) The Chief Medical Director shall ensure that useful information produced by the research, education and training, and clinical care carried out through such centers is disseminated throughout the Department of Medicine and Surgery through the development of programs of continuing medical and related education provided through Regional Medical Education Centers under subchapter II of chapter 73 and other means.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1988.

(c) REPORTS.—Not later than December 15 of each of 1989, 1990, and 1991, the Administration shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the centers established pursuant to the amendment made by subsection (a). Each such report shall contain—

(1) descriptions of (A) activities carried out at each center and the funding provided for such activities, (B) the advances made at each center in the areas of research, education, and clinical care, and (C) the efforts to disseminate throughout the Department of Medicine and Surgery useful information produced by such activities; and

(2) the Administrator's evaluations of the effectiveness of the centers in fulfilling the purposes of subsection (g) of section 4101 of title 38, United States Code, as added by subsection (a).

By Mr. CRANSTON (by request):

S. 2464. A bill to amend title 38, United States Code, to provide authority for payment of interest on insurance settlements, and to permit increased discount rates for insurance premiums paid in advance; to the Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION INSURANCE AMENDMENTS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2464, the proposed Veterans' Administration Insurance Amendments of 1988. The Administrator of Veterans' Affairs submitted this legislation by letter dated May 26, 1988, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 26, 1988, transmittal letter and enclosed analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2464

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans Administration Insurance Amendments of 1988".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

AUTHORITY FOR INTEREST PAYMENTS

SEC. 101. (a) Subchapter 1 of chapter 19 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 727. Authority for payment of interest on insurance settlements

"Under such regulations as the Administrator may promulgate, interest may be paid on the proceeds of participating National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance policies maturing on or after the effective date of this section from the date a policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder. The Administrator may pay such interest only in accordance with a determination that the payment of interest is administratively and actuarially sound for the settlement option concerned. The interest payable shall be at the same rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts.".

(b) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"§ 727. Authority for payment of interest on insurance settlements.".

SEC. 102. (a) Subchapter II of chapter 19 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 762. Authority for payment of interest on insurance settlements

"Under such regulations as the Administrator may promulgate, interest may be paid on the proceeds of United States Government Life Insurance policies maturing on or after the effective date of this section from the date a policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder. The Administrator may pay such interest only in accordance with a determination that the payment of interest is administratively and actuarially sound for the settlement option concerned. The interest payable shall be at the same rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts.".

(b) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"§ 762. Authority for payment of interest on insurance settlements.".

AUTHORITY TO INCREASE PREMIUM DISCOUNT

SEC. 201. (a) Subchapter 1 of chapter 19 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 728. Authority for increasing premium discount rates

"Notwithstanding sections 702, 723, and 725 of this title, the Administrator may from time to time adjust the discount rates for premiums paid in advance on National Service Life Insurance, Veterans Special Life Insurance and Veterans Reopened Insurance, subject to the limitation that the discount rates may be set no lower than those authorized under sections 702, 723, and 725. The Administrator may make such adjustments only in accordance with a determination that the adjustments are administratively and actuarially sound for the program of insurance concerned.".

(b) The table of sections at the beginning of chapter 19 is amended by inserting after the new item relating to section 727 the following additional new item:

"§ 728. Authority for increasing premium discount rates.".

VETERANS ADMINISTRATION,
Washington, DC, May 26, 1988.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to forward a draft bill to provide authority for the payment of interest on insurance settlements, and to permit increased discount rates for insurance premiums paid in advance. I respectfully request that the draft bill be referred to the appropriate committee and enacted promptly.

Sections 101 and 102 of our proposal would authorize the Administrator to pay interest on policy proceeds from participating National Service Life Insurance (NSLI), Veterans Special Life Insurance (VSLI), Veterans Reopened Insurance (VRI), and United States Government Life Insurance (USGLI), for the period from the date of death to the date of payment or, in respect to an endowment policy, from the date of its maturity to the date of payment. This authority would apply to policies maturing on or after the effective date of these sections, and it would be subject to regulations to be issued by the Administrator. Whether and when interest would be paid in the context of a particular settlement option (i.e., lump sum payment, limited number of monthly installments, or lifetime annuity) would depend on a Veterans Administration determination that such payment is administratively and actuarially sound. The rate payable would be the same as the interest rate set for each program by the Administrator in respect to dividends held on credit or deposit in policyholders' accounts.

The operation of the USGLI, NSLI, VSLI, and VRI programs may be likened to a mutual insurance company, that is, the assets which have been derived from premium income and interest earnings are held in trust for the benefit of the policyholders and their beneficiaries. Separate trust funds have been established for each program, and the reserves have been invested in U.S. Treasury securities. The programs are participatory in nature, so that any surplus resulting from mortality savings or excess interest earnings is distributed to policyholders in the form of dividends. With the exception of VRI, the administrative costs of the programs and the expenses of claims based on the extra hazards of military service are borne by the Government.

Generally speaking, these forms of insurance were created to protect members of the armed forces who could not obtain commercial life insurance, at least at affordable rates, due to the hazardous nature of military service. USGLI was established in 1919 to accommodate the conversion of War Risk Insurance issued during World War I, and was closed to new issues in 1951. NSLI was established in 1940 in anticipation of the expansion of the armed forces during World War II. It, too, was closed to new issues in 1951. Congress authorized VSLI in 1951 to meet the demands of the Korean conflict. VSLI was closed to new issues in 1956. VRI was made available as a limited reopening of the NSLI program for certain disabled veterans. Eligibility for VRI opened on May 1, 1965, for a period of one year.

Although claims are generally paid within 10 days from the date of receipt in the VA, in some cases, a significant period of time elapses between the date when life insurance proceeds become payable and the date when the actual payment is made. There can be substantial delays associated with receipt of notice of death, the development of cases involving payments to estates or contested claims, appeals to the Board of Veterans Appeals, or litigation in the courts. These delays are inherent in the settling of claims and temporarily deny use of the proceeds to those entitled to them.

Currently, such settlement proceeds remain invested primarily in U.S. Treasury securities, and any interest earned thereon is distributed to the policyholders in the form of dividends. Yet, as a matter of equity, it seems clear that, at least as to those cases involving substantial delays, interest earned on the proceeds from the date of a policy's maturity until settlement should be distributed to the beneficiary(ies) in death cases, or to the policyholder in matured endowment cases. Payment of interest on settlement proceeds in this manner would be consistent with standard practice in the commercial life insurance industry. Regulations would be issued that would delineate, more specifically, the circumstances under which interest would be paid.

As indicated above, under this proposal settlement interest would be paid at the same rate as interest paid on dividends held on credit/deposit in the policyholders' accounts. These rates are adjustable annually, and are currently set at 9.25 percent (NSLI), 9.25 percent (VSLI), 9.75 percent (VRI), and 7 percent (USGLI).

There would be no significant administrative or program costs or savings connected with this proposal since the effect of paying settlement interest is to shift surplus funds from the annual dividend distribution to the recipients of such settlements. There would, however, be a small impact on dividends.

Section 201 of our proposal would authorize the Administrator to adjust the discount rates for premiums paid in advance on NSLI, VSLI, and VRI policies. However, those rates could not be set any lower than the rates currently permitted under the provisions of 38 U.S.C. §§ 702, 723 and 725. Any adjustments made by the Administrator would have to be based on a determination that they are administratively and actuarially sound for the insurance program in question.

Under provisions of 38 U.S.C. §§ 702, 723, 725, and 38 C.F.R. § 8.5, the discount for paying premiums in advance of the monthly due date is calculated at the same rate as the guaranteed values established for the individual programs, i.e., NSLI—3 percent, VSLI—2.5 percent, and VRI—3.5 percent. All premiums, including those paid in advance, become assets of the insurance trust funds after receipt by the Veterans Administration. These funds are primarily invested in U.S. Treasury securities, which are currently producing an average yield of approximately 9.6 percent. The difference between the discount rate and the average trust fund yield generates excess earnings, which are currently paid to the policyholders (including those who do not pay advance premiums) through the annual dividend distribution. The effect of this practice, however, is to subsidize the dividends of all policyholders through premiums attributable solely to policyholders who pay premiums in advance.

We believe it would be more equitable to provide a larger discount to policyholders who pay premiums in advance. In addition, increasing the discount rate should encourage some policyholders who now pay their premiums on a monthly basis to swtich to a quarterly, semi-annual or annual basis, with attendant administrative savings for the Government. Under this plan, we would initially increase the premium discount to 7.5 percent, based on actuarial projections that the average trust fund yield will remain at this rate or higher for at least the next eight years. Future adjustments to the discount rate will be made according to the trust fund earning experience, with the current rates retained as guaranteed minimums.

There are no significant administrative or program costs or savings associated with this proposal. The impact on dividends of an increase in the premium discount rate (e.g., to 7.5 percent) will be small by comparison to the total dividends.

The Office of Management and Budget advises that there is no objection from the standpoint of the Adminsitration's program to the submission of this legislative proposal to the Congress.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

ANALYSIS OF PROPOSED BILL

Section 1(a) of the draft bill states the bill's title: "Veterans Administration Insurance Amendments of 1988".

Section 1(b) of the draft bill provides that an amendment of a section or other provision of law made by this bill shall be considered as an amendment of a section or other provision of title 38, United States Code, unless otherwise expressly provided.

Section 101(a) would amend chapter 19 of title 38 of the United States Code by adding a new section 727 that authorizes the VA to pay interest on insurance settlements, from the date a policy matures to the date of payment of the proceeds. This authority would apply to the VA-administered programs of National Service Life Insurance, Veterans Special Life Insurance and Veterans Reopened Insurance, but its scope would be limited to policies maturing on or after the effective date of this section. The VA's specific uses of this authority would have to be preceded by a determination that the payment of interest is administratively and actuarially sound with respect to the settlement option(s) involved. The rate of interest payable would be that rate—adjusted annually by the VA—which is paid on dividends held on credit or deposit in insurance accounts. This provision would not entail significant costs to the Government because the effect of paying settlement interest would be merely to shift surplus funds from the annual dividend distribution to the recipients of such settlements.

Section 101(b) would amend the table of sections at the beginning of chapter 19 of title 38, United States Code, to reflect the addition of section 727.

Section 102(a) would amend chapter 19 of title 38 of the United States Code by adding a new section 762, applicable to United States Government Life Insurance, that would give the VA the same authority to pay interest on insurance settlements as is described above in reference to section 101(a). This provision likewise would entail no significant costs to the Government.

Section 102(b) would amend the table of sections at the beginning of chapter 19 of title 38, United States Code, to reflect the addition of section 762.

Section 201(a) of the draft bill would amend chapter 19 of title 38 of the United States Code by adding a new section 728 that would authorize the VA to adjust discount rates for premiums paid in advance on policies of National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance. However, under this provision no adjustments could be made below the discount rates currently authorized for each program under 38 U.S.C. §§ 702, 723, and 725—that is, 3 percent, 2.5 percent, and 3.5 percent, respectively. Under this new authority any adjustments in the rates would be contingent on a determination by the Administrator that they are administratively and actuarially sound for the program involved. This provision would not entail significant costs to the Government, but rather would have a small impact on the total dividends payable to all policyholders.

Section 201(b) would amend the table of sections at the beginning of chapter 19 of title 38, United States Code, to reflect the addition of section 728.

By Mr. DOLE (for himself, Mr. Bentsen, Mr. Bond, Mr. Boschwitz, Mr. Byrd, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Conrad, Mr. D'Amato, Mr. Dixon, Mr. Domenici, Mr. Durenberger, Mr. Exon, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Gore, Mr. Graham, Mr. Gramm, Mr. Hatch, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Karnes, Mr. Kasten, Mr. Lautenberg, Mr. Leahy, Mr. Lugar, Mr. Matsunaga, Mr. McCain, Mr. McConnell, Ms. Mikulski, Mr. Moynihan, Mr. Murkowski, Mr. Nickles, Mr. Pell, Mr. Pressler, Mr. Proxmire, Mr. Quayle, Mr. Reid, Mr. Rockefeller, Mr. Sarbanes, Mr. Shelby, Mr. Simon, Mr. Specter, Mr. Trible, Mr. Wallop, Mr. Warner, and Mr. Wilson):

S.J. Res. 330. Joint resolution to provide for the designation of September 16, 1988, as "National POW/MIA Recognition Day"; to the Committee on the Judiciary.

(The remarks of Mr. Dole and the text of the legislation appear earlier in today's Record.)

By Mr. SHELBY (for himself, Mr. Packwood, Mr. Wilson, Mr. Kerry, Mr. Cochran, Mr. Proxmire, Mr. Lugar, Mr. Dole, Mr. Bumpers, Mr. Dixon, Mr. Simpson, Mr. Moynihan, Mr. Johnston, Ms. Mikulski, Mr. Inouye, Mr. Roth, Mr. Metzenbaum, Mr. Adams, Mr. Burdick, Mr. Stennis, Mr. Gore, Mr. Chafee, Mr. Hatch, Mr. Heinz, Mr. Leahy, Mr. Murkowski, Mr. D'Amato, Mr. Stevens, Mr. Bond, Mr. Hollings, Mr. Pryor, Mr. Wallop, Mr. Cranston, Mr. Heflin, Mr. Pell, and Mr. Domenici):

S.J. Res. 331. Joint resolution to designate the week of June 19-25, 1988, as the "National Recognition of the Accomplishments of Women in the Work Force Week"; to the Committee on the Judiciary.

NATIONAL RECOGNITION OF THE ACCOMPLISHMENTS OF WOMEN IN THE WORK FORCE WEEK

Mr. SHELBY. Mr. President, today more opportunities are available to women than ever before. Vivid examples of such opportunities are seen in the advancement of women in the workplace. An unprecedented number of women now sit on corporate boards of directors, own and operate their own businesses, manage corporations, and compete successfully in the business community.

Of course there remain obstacles to overcome, but progress has indeed been achieved. The number of working women grew by 17 million between 1970 and 1983. From 1972 to 1985, women's labor force participation rose from 43.7 percent to 54.7 percent for women 20 years of age and older. This extraordinary increase in the number of women in the work force means that 64 percent of the 24.9 million net new jobs generated between 1972 and 1985 were filled by women.

The progress of women, though difficult at times, is impressive and encouraging. According to the Department of Labor's Women's Bureau, women have increased their share of executive, managerial, and administrative jobs so that they now hold 38 percent of these positions in the United States. That percentage is continuing to grow.

Additionally, in 1986, 16 percent of lawyers, 20 percent of doctors and 40 percent of programmers were female. In 1986, 83 percent of the female officers in the Fortune 500 were at vice-presidential or above levels, up from 35 percent in 1980. In 1986, 33 percent of the people receiving MBA's and 14 percent receiving engineering degrees were female, versus 2 percent in 1966. Such growth must be recognized; such growth must be applauded.

Perhaps most impressive is the growth of women's share of business ownership. According to the President's report of "The State of Small Business" from 1977 to 1983 the number of women-owned businesses increased annually by 9.4 percent, well above the annual 4.3-percent increase in men-owned businesses. In 1984 3.5 million self-employed women owned 2.8 million firms. This represented 28 percent of all U.S. companies, up from 7 percent in 1977. As a relatively new phenomenon, women entrepreneurs are succeeding in the business community.

Even though interesting as indicia of achievements, the numbers alone are insufficient to adequately describe the progression of women in the workforce. For example, women have had to contend with the conflicting demands for work and family. Through creative initiative and individual sacrifice many woman have created an environment for continued achievement.

It is important to note that the highest rate of growth for women-owned businesses occurred where women are relative newcomers—manufacturing, construction, and agricultural services.

Mr. President, undeniably, these women merit recognition for their perseverance, determination, and accomplishments.

Therefore, to commend these remarkable woman and to draw attention to the advances women are continuing to make in the business community, I rise to introduce a joint resolution designating the week of June 19-25, 1988, as the "National Recognition of the Accomplishments of Women in the Work Force Week."

Mr. President, I strongly encourage my colleagues to join with me as a cosponsor of this joint resolution.

Mr. ROTH. Mr. President, I rise today in support of the joint resolution introduced by our colleagues from Alabama to designate the week of June 19-27 as the "National Recognition of the Accomplishments of Women in the Work Force Week."

Many would argue that of all the changes this great Nation has seen over the last century, the emergence of women in the working world is among the most profound. The number of women active in the work force has grown tremendously over the past 30 years. Today there are over 50 million employed women in the United States as compared to only 18 million in 1954. Women currently comprise about 45 percent of the civilian labor force.

The role of women in the workplace is no longer easily defined. In the past 15 years, women have accomplished much in corporate board rooms as well as in coal mines. It is no longer unusual to see a woman behind an architect's drafting table, increased job success and responsibility means more independence; to others it may mean less time with their families; to some it may mean owning a house or stock portfolio; but to all, I should think, it means a well-earned sense of accomplishment and self-worth.

Regardless of women's reasons for entering the work force, whether it be for self-fulfillment or economic necessity, their rise in numbers has had a remarkable social impact. Not only have women contributed significantly to the Nation's prosperity through their own efforts, but today the needs of working women and dual-career couples themselves have created a multitude of business opportunities ranging from take-out gourmet food stores to child care services. Women have not only become an indispensable part of the Nation's work force, but, in so doing, they have become vital to the very foundations of our economy.

The future should prove to be even more promising for working women. Women increasingly are seeking graduate as well as undergraduate degrees, affording them greater freedom to choose the work most challenging and fulfilling to them. The Department of Education estimates that 53 percent of this year's bachelors degree recipients will be women; 51 percent of those earning masters degrees will be women. And the number of women earning professional and doctorate degrees has been steadily increasing every year.

For example, due to the rise in the number of women admitted into the Nation's law schools this year, the American Bar Association predicts that by 1992 one-quarter of those practicing law will be women. I feel that the legislation being introduced today should not only recognize the considerable accomplishments of the women presently in the work force, but should also serve to anticipate the contributions of those women currently preparing for their careers.

The accomplishments of women in the work force are greater still when one considers that they have achieved much in the face of obstacles not encountered by their male colleagues. This resolution recognizing women in the work force should act as a reminder that we all must recommit ourselves to the elimination of the biases and obstacles that hinder the entrance of women into the work force and deter the advancement of some in their careers.

I think that we are only beginning to sense the true value and feel the real impact of the Nation's women in the work force. Their personal drive and sacrifices should not go without recognition, and that is why I am pleased to cosponsor this legislation. The workplace revolution that has occurred during this century has enriched not only the lives of the many women involved, but the lives of all Americans.

By Mr. HUMPHREY (for himself, Mr. Thurmond, Mr. DeConcini, Mr. Dole, Mr. Simon, Mr. Armstrong, Mr. Wilson, Mr. Shelby, Mr. Bond, Mr. Burdick, Mr. Pryor, Mr. Warner, Mr. Trible, Mr. Cochran, Mr. Proxmire, Mr. Gore, Mr. Rockefeller, Mr. Rudman, Mr. Stennis, Mr. Simpson, Mr. Metzenbaum, Mr. McCain, Mr. Lugar, Mr. McClure, Mr. Bradley, Mr. Mitchell, Mr. Chiles, Mr. Sanford, Mr. Glenn, Mr. Wirth, Mr. Domenici, Mr. Pell, Mr. Levin, Ms. Mikulski, Mr. Heinz, Mr. Garn, Mr. Hatch, Mr. D'Amato, Mr. Chafee, Mr. Matsunaga, Mr. Helms, Mr. Inouye, Mr. Grassley, Mr. Boschwitz, Mr. Graham, Mr. Riegle, Mr. Durenberger, Mr. Reid, Mr. Wallop, Mr. Quayle, and Mr. Bentsen):

S.J. Res. 332. Joint resolution to designate the period commencing December 11, 1988, and ending December 17, 1988, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on the Judiciary.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

● Mr. HUMPHREY. Mr. President, today on behalf of 50 Senators and on my own behalf, I am introducing legislation to designate "National Drunk and Drugged Driving Awareness Week."

For each of the past 6 years, I have sponsored legislation establishing drunk and drugged driving awareness weeks. These events, which take place during the Christmas and New Year holiday season, have proven enormously successful in increasing public awareness of the dangers of driving while impaired from drugs and alcohol.

Over the past 6 years, hundreds of volunteers throughout the Nation have participated in the programs and activities of national drunk and drugged driving awareness week. Activities during the week have included the issuance of parallel proclamations by many Governors, mayors, and local officials; introduction of new drunk driving legislation in various States; the appointment of task forces, and issuance of task force reports; roadblocks and other increased enforcement efforts; candlelight vigils; a "Speak Out For Safety" campaign; and voluntary efforts to provide rides from holiday parties. All of the groups involved in this effort have asked that Congress once again designate such a week this year.

Traffic accidents result in more violent deaths each year than any other cause, over 46,000 in 1986. According to the National Highway Traffic Safety Administration, 38.7 percent of all drivers killed in 1986 were legally drunk and this figure rises to over 50 percent for single vehicle crashes. The cost to society of drunk driving has been estimated to be over $26 billion a year, which does not include the needless pain and suffering caused by drinking and driving.

Of increasing concern is the combination of drugs and alcohol and its impact on the incidence of traffic accidents. Surveys of our young people show that drinking and driving often accompany marijuana use. We have also been made aware that driving after the use of therapeutic drugs, either alone or in combination with alcohol, counter to the advice of physician, pharmacist, or manufacturer, may create safety hazards on the roads. Clearly, we need more research to determine the effect of drugs, both alone and in combination with alcohol, on the incidence of traffic accidents and we must alert the public to the risks of combining alcohol and drugs with driving.

Due in large part to the volunteer efforts of citizens organizations such as Mothers Against Drunk Drivers [MADD], Students Against Driving Drunk [SADD], and Remove Intoxicated Drivers [RID], the public has been demanding changes in the Nation's approach to drunk driving. It is important that we press forward with current efforts to develop new and creative approaches, by combining the expertise of Government, community groups and voluntary organizations, and bringing the unique talents of each to bear on this devastating national problem.

I urge all my colleagues to join me in sponsoring this Senate joint resolution to designate the week beginning December 11, 1988 as "National Drunk and Drugged Driving Awareness Week."

Mr. President, I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 332

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately 46,000 in 1986;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas almost 50 percent of all drivers killed in single vehicle collisions and over 38.7 percent of all drivers fatally injured in 1986 had blood alcohol concentrations above the legal limit of .10;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past 75 years except for Americans 15 to 24 years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was 20 years ago;

Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;

Whereas the National Commission Against Drunk Driving was established to assist State and local governments and the private sector to implement these recommendations;

Whereas most States have appointed task forces to examine existing drunk driving programs and make recommendations for a renewed, comprehensive approach, and in many cases, their recommendations are leading to enactment of new laws, along with strict enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as 10,000 lives each year;

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driver Awareness Week in each of the last 6 years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter;

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled, That the period commencing December 11, 1988, through December 17, 1988, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.●

By Mr. GORE (for himself, Mr. Quayle, Mr. Sasser, Mr. Dole, Mr. Burdick, Mr. Levin, Mr. Lugar, Mr. Sanford, Mr. Hollings, Mr. Stennis, Mr. Metzenbaum, Mr. Thurmond, Mr. Durenberger, Mr. Boren, Mr. Bond, Mr. Chiles, Mr. Dodd, Mr. Grassley, Mr. McClure, Mr. Garn, Mr. Shelby, Mr. Simon, Mr. Kerry, Mr. Matsunaga, Mr. Heflin, Mr. Pell, Mr. Domenici, Mr. Bentsen, Mr. Heinz, Mr. D'Amato, Mr. Stevens, Mr. Cochran, Mr. Lautenberg, Mr. Pryor, Mr. Inouye, Mr. Mitchell, Mr. Rockefeller, Mr. Roth, Mr. Melcher, Mr. Riegle, and Mr. Johnston):

S.J. Res. 333. Joint resolution to designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week"; to the Committee on the Judiciary.

NATIONAL JOB SKILLS WEEK

● Mr. GORE. Mr. President, for the past 2 years, with much success, Congress and the President have taken steps to designate a "National Job Skills Week." The purpose of the week is to highlight the many changes underway in America's workplace, to focus attention on private and public job training efforts, and to bring attention to present and future work force needs.

Today, along with many of my colleagues, I am again introducing a joint resolution to declare such a week. The resolution will designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week."

Mr. President, I ask unanimous consent that the joint resolution be printed in the Record, as follows:

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 333

Whereas the ability to maintain an internationally competitive and productive economy and a high standard of living depends on the development and utilization of new technologies;

Whereas these technologies require skills that are currently lacking in the national workforce;

Whereas experts in both the public and private sectors predict that a shortage of skilled entry-level workers will exist through the remainder of this century;

Whereas young people in the United States are experiencing higher than normal unemployment rates because many of them lack the skills necessary to perform the entry-level jobs that are currently available;

Whereas these young people will continue to experience higher than normal unemployment rates unless they develop the skills necessary to perform the entry-level jobs that become available;

Whereas American workers facing dislocation due to plant closures and industrial relocation need special training and education to prepare for new jobs and new opportunities; and

Whereas a National Job Skills Week can serve to focus attention on present and future workforce needs, to encourage public and private cooperation in job training and educational efforts, and to highlight the technological changes underway in the workplace: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 9, 1988, through October 15, 1988, is designated as "National Job Skills Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 314

At the request of Mr. Pressler, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 314, a bill to require certain telephones to be hearing aid compatible.

S. 776

At the request of Mr. Lautenberg, his name was added as a cosponsor of S. 776, a bill to amend title XIX of the Social Security Act to protect the welfare of spouses of institutionalized individuals under the Medicaid Program.

S. 1659

At the request of Mr. Dole, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 1659, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and credit for contributions to, education savings accounts.

S. 1660

At the request of Mr. Dole, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 1660, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of educational savings accounts the earnings on which will not be taxed.

S. 1662

At the request of Mr. Dole, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 1662, a bill to provide for the issuance of educational savings bonds a portion of the interest on which is exempt from taxation, and for other purposes.

S. 1673

At the request of Mr. Chafee, the name of the Senator from California [Mr. Cranston] was added as cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1976

At the request of Mr. Evans, the names of the Senator from Nevada [Mr. Reid] and the Senator from Illinois [Mr. Simon] were added as cosponsors of S. 1976, a bill to amend the Indian Child Welfare Act, and for other purposes.

S. 2030

At the request of Mr. Lautenberg, the name of the Senator from Connecticut [Mr. Weicker] was added as a cosponsor of S. 2030, a bill to amend the Marine Protection, Research, and Sanctuaries Act.

S. 2032

At the request of Mr. Wallop, the names of the Senator from Oklahoma [Mr. Nickles], the Senator from Minnesota [Mr. Durenberger], the Senator from Connecticut [Mr. Weicker], and the Senator from Massachusetts [Mr. Kerry] were added as cosponsors of S. 2032, a bill to authorize expenditures for boating safety programs, and for other purposes.

S. 2115

At the request of Mr. Danforth, the names of the Senator from Alabama [Mr. Heflin] and the Senator from Georgia [Mr. Fowler] were added as cosponsors of S. 2115, a bill to amend the Internal Revenue Code of 1986 to eliminate tax credits from the passive activity rules, to modify the business credit limitation provisions, and for other purposes.

S. 2129

At the request of Mr. Baucus, the names of the Senator from Louisiana [Mr. Breaux], the Senator from Alaska [Mr. Stevens], and the Senator from Florida [Mr. Chiles], were added as cosponsors of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2176

At the request of Mr. Dixon, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 2176, a bill to amend the Internal Revenue Code of 1986 to permit the tax-free purchase of motor fuels by individuals who are exempt from paying the motor fuels excise tax, and for other purposes.

S. 2178

At the request of Mr. Johnston, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 2178, a bill to establish a Commonwealth of Guam, and for other purposes.

S. 2379

At the request of Mr. Sasser, the name of the Senator from Arkansas [Mr. Bumpers] was added as a cosponsor of S. 2379, a bill to authorize the insurance of certain mortgages for first-time homebuyers, and for other purposes.

S. 2393

At the request of Mr. Harkin, the name of the Senator from Mississippi [Mr. Cochran] was added as a cosponsor of S. 2393, a bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to authorize such act, and for other purposes.

S. 2434

At the request of Mr. Chiles, the names of the Senator from Wisconsin [Mr. Proxmire] and the Senator from Iowa [Mr. Grassley], were added as cosponsors of S. 2434, a bill to designate Building #31, National Institutes of Health reservation, 9000 Rockville Pike, Bethesda, MD, as "The Claude Denson Pepper Building."

S. 2435

At the request of Mr. Durenberger, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 2435, a bill entitled the "State and Local Conservation Act of 1988".

S. 2442

At the request of Mr. Hollings, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 2442, a bill to amend the Communications Act of 1934 to provide for a program within the National Telecommunications and Information Administration to develop television and radio advertising regarding illegal drug use and to disseminate such advertising by means of mass media.

SENATE JOINT RESOLUTION 149

At the request of Mr. Helms, the names of the Senator from Illinois [Mr. Dixon] and the Senator from Tennessee [Mr. Gore] were added as cosponsors of Senate Joint Resolution 149, a joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 270

At the request of Mr. Riegle, the names of the Senator from Georgia [Mr. Nunn], the Senator from Georgia [Mr. Fowler], the Senator from Hawaii [Mr. Matsunaga], the Senator from New Jersey [Mr. Lautenberg], the Senator from Utah [Mr. Garn], the Senator from Hawaii [Mr. Inouye], and the Senator from North Dakota [Mr. Burdick] were added as cosponsors of Senate Joint Resolution 270, a joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week."

SENATE JOINT RESOLUTION 271

At the request of Mr. Quayle, the names of the Senator from Ohio [Mr. Glenn], the Senator from North Dakota [Mr. Burdick], the Senator from New Mexico [Mr. Domenici], and the Senator from Minnesota [Mr. Durenberger] were added as cosponsors of Senate Joint Resolution 271, a joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day."

SENATE JOINT RESOLUTION 272

At the request of Mr. Durenberger, the names of the Senator from Tennessee [Mr. Gore], the Senator from Mississippi [Mr. Stennis], the Senator from Missouri [Mr. Danforth], and the Senator from Missouri [Mr. Bond] were added as cosponsors of Senate Joint Resolution 272, a joint resolution to designate November 1, 1988, as "National Diabetes Month."

SENATE JOINT RESOLUTION 288

At the request of Mr. Boren, the names of the Senator from New York [Mr. Moynihan], and the Senator from Minnesota [Mr. Boschwitz] were added as cosponsors of Senate Joint Resolution 288, a joint resolution to designate June 5, 1988, through June 11, 1988, as "National Intelligence Community Week."

SENATE JOINT RESOLUTION 294

At the request of Mr. Trible, the names of the Senator from Rhode Island [Mr. Pell], the Senator from California [Mr. Wilson], and the Senator from New Jersey [Mr. Lautenberg] were added as cosponsors of Senate Joint Resolution 294, a joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 298

At the request of Mr. D'Amato, the names of the Senator from Virginia [Mr. Trible], the Senator from Minnesota [Mr. Durenberger], the Senator from Hawaii [Mr. Inouye], the Senator from Kansas [Mr. Dole], and the Senator from Wisconsin [Mr. Kasten] were added as cosponsors of Senate Joint Resolution 298, a joint resolution designating September 1988 as "National Library Card Sign-Up Month."

SENATE JOINT RESOLUTION 302

At the request of Mr. LUGAR, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of Senate Joint Resolution 302, a joint resolution to designate October 1988 as "National Down Syndrome Month."

SENATE JOINT RESOLUTION 312

At the request of Mr. D'AMATO, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Connecticut [Mr. DODD], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Virginia [Mr. WARNER], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 312, a joint resolution designating the week beginning September 18, 1988, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 319

At the request of Mr. LEAHY, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Washington [Mr. ADAMS], the Senator from North Dakota [Mr. BURDICK], the Senator from Iowa [Mr. GRASSLEY], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. WEICKER], the Senator from Texas [Mr. BENTSEN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 319, a joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week."

SENATE JOINT RESOLUTION 322

At the request of Mr. SHELBY, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. EVANS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Pennsylvania [Mr. HEINZ], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. MCCAIN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Nevada [Mr. REID], the Senator from Delaware [Mr. ROTH], the Senator from Tennessee [Mr. SASSER], the Senator from Vermont [Mr. STAFFORD], the Senator from South Carolina [Mr. THURMOND], the Senator from New York [Mr. D'AMATO], the Senator from New Mexico [Mr. DOMENICI], the Senator from Nebraska [Mr. EXON], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maine [Mr. MITCHELL], the Senator from Oklahoma [Mr. NICKLES], the Senator from Idaho [Mr. SYMMS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of Senate Joint Resolution 322, a joint resolution to designate the week of September 23-30, 1988, as "National American Indian Heritage Week."

SENATE JOINT RESOLUTION 324

At the request of Mr. DURENBERGER, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Texas [Mr. BENTSEN], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 324, a joint resolution to designate February 1989 as "America Loves Its Kids Month."

SENATE JOINT RESOLUTION 325

At the request of Mr. ROCKEFELLER, the names of the Senator from Ohio [Mr. GLENN], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Joint Resolution 325, a joint resolution designating the third week in May 1989 as "National Tourism Week."

SENATE JOINT RESOLUTION 327

At the request of Mr. GLENN, the names of the Senator from Utah [Mr. GARN], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 327, a joint resolution commemorating January 28, 1989, as a "National Day of Excellence" in honor of the crew of the space shuttle *Challenger*.

SENATE CONCURRENT RESOLUTION 122

At the request of Mr. SIMPSON, his name was added as a cosponsor of Senate Concurrent Resolution 122, a concurrent resolution expressing the sense of Congress regarding the urgent need for food assistance by civilians in Vietnam.

SENATE RESOLUTION 426

At the request of Mr. BAUCUS, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Resolution 426, a resolution expressing the sense of the Senate that the seven major industrial nations of the world must take immediate action to protect the earth's stratospheric ozone layer.

AMENDMENT NO. 2324

At the request of Mr. HATCH, his name was added as a cosponsor of amendment No. 2324 intended to be proposed to Treaty No. 100-11, the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, together with the Memorandum of Understanding and Two Protocols, signed at Washington on December 8, 1987.

At the request of Mr. SIMPSON, his name was added as a cosponsor of amendment No. 2324 intended to be proposed to Treaty No. 100-11, supra.

SENATE RESOLUTION 436—RELATING TO THE VISIT OF PAKISTAN'S PRESIDENT MOHAMMAD ZIA-UL-HAQ

Mr. HUMPHREY submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 436

Whereas the Government of Pakistan has stood firmly behind the people of Afghanistan in the struggle to free their homeland from Soviet domination, and has generously harbored more than four million Afghan refugees who fled the brutal Soviet occupation of Afghanistan;

Whereas Kabul regime aircraft violated Pakistan's airspace more than 574 times during 1987 killing more than 183 innocent people and wounding more than 437, and over 450 Soviet and Kabul-inspired terrorist incidents took place in Pakistan during 1987, in circumstances calculated to cause the deaths of innocent civilians;

Whereas despite extraordinary pressure, Pakistan's commitment to stand by the Afghan Resistance secured an historic Soviet commitment to withdraw all forces from Afghanistan;

Whereas President Reagan on April 11, 1988 pledged: "Continued friendship and support to the government and people of Pakistan who have so generously hosted millions of Afghan refugees during this period of Soviet domination of Afghanistan;"

Whereas despite the burdens of the war in Afghanistan, Pakistan has continued to strengthen her economy and take important steps toward representative democracy;

Whereas on the week of June 12, 1988, Pakistan's President Mohammad Zia-Ul-Haq will travel to the United States, to address the United Nations, and meet with the President and senior American officials and Congressional leadership: Now, therefore, be it

Resolved, That the Senate hereby—

(1) Affirms its strong support for Pakistan during the potentially tumultuous and difficult period as the Geneva accords are implemented;

(2) Affirms its support for the security and independence of Pakistan;

(3) Welcomes Pakistan's President Mohammad Zia-Ul-Haq on the occasion of his visit to the United States.

● Mr. HUMPHREY. Mr. President, today I am submitting a resolution that welcomes to the United States, Pakistan's President Mohammed Zia-Ul-Haq. Pakistan has long been an important friend and ally of the United States in a very troubled region. Pakistan lies at the head of the Arabian Sea near the mouth of the Persian Gulf. In view of Pakistan's strategic location, in view of the vital role Pakistan has chosen to play in international affairs—most recently in standing as a bulwark against Soviet imperialism in Afghanistan—and in view of our mutual friendship, the visit of President Zia presents an appropriate occasion for the Senate to affirm our Nation's support for the security and independence of Pakistan.

Were it not for Pakistan, the Soviet Union would not be withdrawing its forces from Afghanistan. Were it not for Pakistan, by now the Soviets would have dragged Afghanistan, bleeding, into the Soviet empire. For her principle and courage Pakistan has come under great pressure. Pakistan has endured hundreds of direct air attacks, artillery attacks, and terrorist bombings, taking the lives of more than 1,000 innocent persons. Despite this escalating campaign of intimidation, Pakistan stands firm in her support for the Afghan people. And through all this, for more than 8 years, Pakistan has generously hosted almost one-third of the Afghan population, in refugee camps along the border with Afghanistan.

Pakistan has continued to strengthen her economy and take important steps toward representative democracy. Several elected members of Pakistan's National Assembly have visited the Senate floor, to meet with the majority leader and other Senators. Parliamentary elections were held in 1985, and one need only discover that several of President Zia's own Cabinet officers were defeated to be impressed with the fairness of those elections. National elections are scheduled for 1990, at which point Pakistan will take another crucial step toward representative democracy.

On the week of June 12, Pakistan's President will travel to the United States, to address the United Nations. He will also travel to Washington to meet with President Reagan and Members of Congress. Given the pressure that Pakistan continues to face in the wake of the Geneva accords, it's particularly timely that the Senate express its unequivocal support for Pakistan's security.

I ask my colleagues to support this important resolution.●

SENATE RESOLUTION 437—AUTHORIZING THE PRINTING OF THE STANDING RULES OF THE SENATE AS A SENATE DOCUMENT

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 437

Resolved, That the Standing Rules of the Senate shall be printed as a Senate document, and that there be printed an additional 1,000 copies of such document for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

INF TREATY

SYMMS EXECUTIVE AMENDMENT NO. 2326

Mr. SYMMS proposed an amendment to the Resolution of Ratification to Treaty Doc. 100-11, Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, as follows:

At the appropriate place in the resolution insert the following:

( ) DECLARATION: In authorizing the strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities provided for in the Treaty, account should be taken of the number of such personnel that will be assigned to such activities during such fiscal year.

DOLE (AND OTHERS) EXECUTIVE AMENDMENT NO. 2327

Mr. DOLE (for himself, Mr. WALLOP, Mr. MCCAIN, and Mr. WARNER) proposed an amendment to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

Before the period at the end of the Resolution of Ratification, insert a comma and add the following condition: that prior to the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall certify that it is the common understanding of the United States and the Soviet Union that if either Party produces a type of ground-launched ballistic missile (GLBM) not limited by the Treaty using a stage which is outwardly similar to, but not interchangeable with, a stage of an existing type of intermediate-range GLBM having more than one stage, it may not produce any other stage which is outwardly similar to, whether or not it is interchangeable with, any other stage of an existing type of intermediate-range GLBM.

SPECTER EXECUTIVE AMENDMENTS NOS. 2328 AND 2329

Mr. SPECTER proposed two amendments to the Resolution of Ratification to Treaty Doc. 100-11, supra; as follows:

EXECUTIVE AMENDMENT NO. 2328

At the appropriate place insert the following:

"Such common understanding means a shared interpretation which is both authoritatively communicated to the Senate by the Executive and clearly intended, generally understood and relied upon by the Senate in its advice and consent to ratification."

EXECUTIVE AMENDMENT NO. 2329

At the appropriate place insert the following:

"Notwithstanding any provision in the Resolution of Ratification, or the Biden Condition as amended by the Byrd Condition, or any statement in the Senate Foreign Relations Committee Report on the INF Treaty, there is no intent by the Senate to change the heretofore accepted constitutional law of the United States on treaty ratification as interpreted by the Supreme Court of the United States or the heretofore accepted international law on treaties as interpreted by the Supreme Court of the United States."

HELMS EXECUTIVE AMENDMENT NO. 2330

Mr. HELMS proposed an amendment to the resolution of ratification to Treaty Doc. 100-11, supra; as follows:

At the end of the Resolution of Ratification, insert the following before the period: "; provided further, however, that the following text shall be included in any instruments of ratification exchanged between the parties:

DECLARATION. It is the policy of the United States that:

'1. By the end of the first phase, that is, no later than 29 months after entry into force of this Treaty, all dependents of all United States military personnel on the continent of Europe shall have been withdrawn from that continent pursuant to such rules and regulations as may be prescribed by the Congress of the United States;

'2. After the entry into force of this Treaty, no United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall be newly assigned to duty on the continent of Europe for any tour of duty in excess of 12 months and having served such tour shall not thereafter be reassigned to that continent except in case of war declared by the Congress of the United States; provided, further, that no tour of duty limited in duration by this subparagraph shall be a tour accompanied by dependents; and

'3. By the end of the second phase, that is, no later than three years after entry into force of this Treaty, all United States military personnel (exclusive of such personnel not in excess of 1,000 as may be assigned to diplomatic missions) shall have been withdrawn from the continent of Europe pursuant to such rules and regulations as the Congress of the United States may prescribe for such purpose; provided, further, that thereafter, subject to the exclusion hereinbefore specified, no United States military personnel shall be stationed on the continent of Europe except after a declaration of war by the Congress of the United States expressly so providing.'."

INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS

INOUYE AMENDMENT NO. 2331

Mr. INOUYE proposed an amendment to the bill (S. 1703) to amend the Indian Self-Determination and Education Assistance Act, and for other purposes; as follows:

On page 21, line 20, strike out "1987" and insert in lieu thereof "1988".

On page 23, strike out line 9 and insert in lieu thereof the following:

"(a) 'allowable contract costs' means all direct program costs and indirect costs which are necessary and reasonable for the proper and efficient administration of self-determination contracts;

"(b) 'construction programs' means programs for

On page 23, strike out lines 17 through 20.

On page 24, line 23, strike out "this Act" and insert in lieu thereof "the Indian Self-

Determination and Education Assistance Act Amendments of 1988".

On page 25, line 2, strike out "(k)" and insert in lieu thereof "(j)".

On page 25, lines 7 and 8, strike out "(l)" and insert in lieu thereof "(k)".

On page 25, strike out lines 18 and 19 and insert in lieu thereof the following:

(f) by adding at the end thereof the following new subsection:

"(l) 'service area' means the geographic area in which services or benefits are provided by each program, activity, area, agency, service unit, field office, or other organizational unit.";

(g) by redesignating existing subsection (f) as subsection (m); and

(h) by redesignating existing subsection (c) as subsection (n).

On page 27, line 11, insert "or for which they are authorized to be used pursuant to the proviso in section 106(a)(4)," after the comma.

On page 27, line 13, strike out "agency" and insert in lieu thereof "Secretary";

On page 29, line 1, insert ", within sixty days of receipt of the proposal," after "unless".

On page 29, line 22, insert "shall" after "Secretary".

On page 29, beginning on line 23, strike "within sixty days of receipt of the proposal".

On page 30, line 1, insert "on the record" after "hearing".

On page 30, strike out lines 4 through 16 and insert in lieu thereof the following:

"(c)(1) The Secretary shall obtain liability insurance for Indian tribes, tribal organizations, and tribal contractors carrying out contracts, grant agreements and cooperative agreements pursuant to this Act. Any policy of insurance purchased by the Secretary pursuant to this subsection shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of an Indian tribe from suite, but that such waiver—

"(A) shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance, and

"(B) shall not include liability for interest prior to judgment or for punitive damages or for any other limitations on liability imposed by the law of the State in which the Indian tribe is located or in which the alleged injury occurs.

"(2) For purposes of chapter 171 and section 1346 of title 28, United States Code, and with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, an Indian tribe or tribal organization carrying out a contract, grant agreement, or cooperative agreement under this Act shall deemed to be a Federal agency while carrying out such contract or agreement and its employees (including those acting on behalf of such tribal organization as provided in section 2671 of title 28) are deemed employees of the United States while acting within the scope of their employment in carrying out the contract or agreement.".

On page 32, between lines 22 and 23, insert the following new paragraph:

(3) by striking out "Notwithstanding any other law," and inserting in lieu thereof "Notwithstanding the provisions of sections 8347(o), 8713, and 8914 of title 5, United States Code,"; and

On page 33, lines 12 and 13, strike out "Section 402 of the Intergovernmental Personnel Act of 1970, as amended (42 U.S.C.A. 3372)" and insert in lieu thereof "Section 3372 of title 5, United States Code,".

On page 33, line 25, insert "continuous" after "years of".

On page 36, beginning on line 21, strike out "upon a date specified by the appropriate Secretary not less than".

On page 38, line 12, insert "allowable" after "all".

On page 38, strike out lines 14 and 15.

On page 38, line 16, strike out "(3)" and insert in lieu thereof "(2)".

On page 38, line 19, strike out "(4)" and insert in lieu thereof "(3)".

On page 39, line 1, strike out "(5)" and insert in lieu thereof "(6)".

On page 39, line 5, strike out "(6)" and insert in lieu thereof "(5)".

On page 39, line 9, strike out "and".

On page 39, line 10, strike out "(7)" and insert in lieu thereof "(6)".

On page 39, line 12, strike out the period and insert in lieu thereof "; and".

On page 39, between lines 12 and 13, insert the following:

"(8) may at the request of the tribal organization be increased by the Secretary if necessary to carry out this Act or as provided in section 105(c).

On page 41, line 16, insert "(other than those relating to a criminal offense)" after "remedy".

On page 43, line 4, strike out "treat" and insert in lieu thereof "not take into consideration".

On page 44, strike out lines 16 through 24 and insert in lieu thereof the following:

"(b) Unless otherwise agreed to by the resolution of an Indian tribe, the Secretary shall not revise or amend a self-determination contract with such tribe.

On page 46, line 24, strike out "this Act" and insert in lieu thereof "the Indian Self-Determination and Education Assistance Act Amendments of 1988".

On page 47, line 6, strike out "this Act" and insert in lieu thereof "the Indian Self-Determination and Education Assistance Act Amendments of 1988".

On page 47, line 11, strike out "this Act" and insert in lieu thereof "the Indian Self-Determination and Education Assistance Act Amendments of 1988".

On page 47, line 15, strike out "this Act" and insert in lieu thereof "the Indian Self-Determination and Education Assistance Act Amendments of 1988".

On page 47, line 19, insert "of the Indian Self-Determination and Education Assistance Act" after "subsection 5(f)".

EVANS AMENDMENT NO. 2332

Mr. DOLE (for Mr. EVANS) proposed an amendment to the bill S. 1703, supra; as follows:

S. 1703, as reported, is amended by deleting section 209 and inserting the following in lieu thereof:

"SEC. 301. TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

The Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended), is further amended by adding a new Title III, as follows:

"TITLE III—TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT"

SECTION 301. The Secretary of the Interior shall, for a period not to exceed five years following enactment of this title, conduct a research and demonstration project to be known as the Tribal Self-Governance Project according to the provisions of this title.

SEC. 302. (a) The Secretary shall select twenty tribes to participate in the demonstration project, as follows:

(1) A Tribe that successfully completes a Self-Governance Planning Grant, authorized by Conference Report 100-498 to accompany H.R. Res. 395, 100th Cong., 1st Sess., and meets all of the criteria in subsection (2) of this section shall be selected to participate in the demonstration project; and,

(2) The Secretary shall randomly select in such a manner as to achieve geographic representation the remaining Tribal participants from the pool of qualified applicants. In order to be in the pool of qualified applicants:

(A) the governing body of the tribe shall request participation in the demonstration project;

(B) such tribe shall have operated two or more "mature contracts" as defined in section 103(i); and,

(C) such tribe shall for the previous three years demonstrate financial stability and financial management capability as evidenced by such tribe having no "significant and material" audit exceptions in the required annual audit of such tribes' self-determination contracts.

SEC. 303. (a) The Secretary is directed to negotiate and to enter into annual written funding agreements with the governing body of a participating tribal government which—

(1) shall authorize the tribe to plan, conduct, consolidate and administer programs, services and functions authorized under the Act of April 16, 1934 (48 Stat. 596), as amended, and the Act of November 2, 1921 (42 Stat. 208), *Provided,* however that the tribe is authorized to redesign programs, activities, functions or services and to reallocate funds for such programs, activities, functions or services and, shall not be required to provide the same programs, services, functions or activities as the Secretary would have provided to the tribes and its members, pursuant to a written agreement authorized by this Title: *Provided further* that the agreement shall not include funds provided for tribally controlled community colleges pursuant to the Tribally Controlled Community Colleges Act (Public Law 95-471), for elementary and secondary schools under the Indian School Equalization Formula pursuant to title XI of the Education Amendments of 1978 (Public Law 95-561, as amended), or for either the Flathead Agency Irrigation Division or the Flathead Agency Power Division, provided that such Divisions remain contractible under section 102 of the act.

(2) shall specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to this agreement;

(3) shall specify the authority of the tribe and the Secretary, and the procedures to be used, to reallocate funds or modify budget allocations within any project year;

(4) shall, except as provided in paragraph (1), provide for payment by the Secretary to the tribe of funds from one or more pro-

grams, services, functions, or activities in an amount equal to that which the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs and indirect costs, and for any funds which are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe and its members, *Provided*, however, That funds for trust services to individual Indians are available under this written agreement only to the extent that the same services which would have been provided by the secretary are provided to individual Indians by the tribe;

(5) shall not allow the Secretary to waive, modify or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians which exists under treaties, Executive orders, and Acts of Congress;

(6) To the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will not prohibit or restrict the agreements authorized in this Title;

(7) shall allow for retrocession of programs or portions thereof pursuant to section 105(e) of this Act; and

(8) shall be submitted by the Secretary ninety days in advance of the proposed effective date of the agreement to the Congress for review by the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) For the year for which and to the extent to which funding is provided to a tribe pursuant to this title, such tribe—

(1) shall not be entitled to contract with the Secretary for such funds under section 102, *Provided* that such tribe shall be eligible for new programs on the same basis as other tribes; and

(2) shall be responsible for the administration of programs, services and activities pursuant to agreements under this title.

(c) At the request of the governing body of the tribe, and upon following the negotiation and under the terms of an agreement pursuant to subsection (a), the Secretary shall provide funding to such tribe to implement the agreement.

(d) Disputes, arising in the course of the negotiation and implementation of agreements authorized by this Title, shall be resolved pursuant to Section 206 of this Act.

SECTION 304.—The Secretary shall identify in the President's annual budget request to the Congress any funds proposed to be included in the Tribal Self-Governance Project and to be provided by the Secretary. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriations acts.

SECTION 305.—The Secretary shall identify in the President's annual budget request to the Congress any funds proposed to be included in the Tribal Self-Governance Project and to be provided by the Secretary. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriations acts.

SECTION 305.—The Secretary shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary and participating tribes, and shall separately include the views of the tribes.

SECTION 306.—Nothing in this title shall be construed to limit or reduce in any way services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable federal law.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

SYMMS AMENDMENT NO. 2333

Mr. WARNER (for Mr. SYMMS) proposed an amendment to the bill (S. 2355) to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place on the DOD authorization bill add the following:

( ) DECLARATION.—In authorizing the strength for military and civilian personnel of the Department of Defense for any fiscal year in which personnel of the Department of Defense are to be assigned to on-site inspection activities and support of such activities provided for in the Treaty, account should be taken of the number of such personnel that will be assigned to such activities during such fiscal year.

ELIGIBILITY FOR SCHOOL LUNCH PROGRAMS

LEAHY AMENDMENT NO. 2334

Mr. BYRD (for Mr. LEAHY) proposed an amendment to the bill (S. 2156) to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget; as follows:

On page 2, after line 7, add the following new sections:

SEC 2. COMPUTATION OF CASH COMPENSATION TO DISTRICTS UNDER SECTION 14(g)(3) OF THE NATIONAL SCHOOL LUNCH ACT.

(a) IN GENERAL.—Section 14(g)(3)(A) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(A)) is amended by adding at the end thereof the following new sentences; "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this Act for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 6(e) of this Act; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 14(g)(3)(B) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(B)) is amended by striking out "$50,000" and inserting in lieu thereof "such sums as may be necessary".

(c) TIME FOR PAYMENT OF CLAIMS.—Section 14(g)(3)(A) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(A)) is amended by adding at the end thereof the following new sentence: "The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after the date of the enactment of this sentence.".

SEC. 3. FUNDS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) CONVERSION OF FUNDS.—Section 17(h)(5) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(5)) is amended by adding at the end thereof the following new subparagraphs:

"(D) Following the implementation of an approved cost-saving strategy identified in subsection (h)(5)(A), a State agency may convert, in addition to funds otherwise converted to nutrition services and administration funds under subparagraphs (A), (B), and (C) of subsection (h)(5), food funds initially allocated to the State agency for program food purchases to nutrition services and administration funds. The amount of funds converted shall be limited to an amount sufficient to ensure that there is no more than a 2 percent annual decrease in the State agency's administrative grant per person if a larger decrease would otherwise result from increased program participation due to the cost-saving system of the State.

"(E) For each such State agency, the total amount of funds transferred from any fiscal year shall not exceed the amounts set forth in section 17(i)(3)(D).".

(b) COST-SAVINGS SYSTEMS.—Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(D) For State agencies implementing approved cost-savings strategies as identified in subsection (h)(5)(A), not more than 5 percent of the amount of funds allocated under this section to such a State agency for supplemental foods for the fiscal year in which the system is implemented, and at the discretion of the Secretary, up to 5 percent of the amount of funds allocated to such a State agency for the fiscal year following the fiscal year in which the system is implemented, may be expended by the State agency for expenses incurred under this section for supplemental foods during the succeeding fiscal year.".

PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AND PROGRAM

LEAHY AMENDMENT NO. 2335

Mr. BYRD (for Mr. LEAHY) proposed an amendment to the bill (S. 1652) to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program, at Lubbock, TX; as follows:

On page 2, between lines 16 and 17, insert the following new section:

SEC. 2. COLLEGE-AID ANNUAL APPROPRIATION.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) is amended to read as follows:

"SEC. 5. There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands or its successor governments the amount they would be entitled to receive under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 1.".

On page 2, line 17, strike out "SEC. 2." and insert in lieu thereof "SEC. 3.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BRADLEY. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Water and Power Subcommittee on Energy and Natural Resources.

The hearing will take place June 9, 1988 at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony concerning S. 2108, a bill to authorize the Secretary of the Interior to conduct the Reclamation Groundwater Management and Technical Assistance Study.

For further information, please contact Russell R. Brown, senior professional staff member of the subcommittee staff at (202) 224-2366.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that the following hearings have been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearings will be held at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearings is to receive testimony on the following measures currently pending in the subcommittee:

June 16, 1988:

H.R. 1173, a bill to provide for certain restrictions on the use of lands within boundaries of national parks and monuments; and

S. 927, a bill to protect caves resources on Federal lands, and for other purposes.

June 23, 1988:

S. 1643, a bill to establish the Mississippi River National Heritage Corridor;

S. 2018, a bill to expand the boundaries of the Congaree Swamp National Monument, to designate wilderness therein, and for other purposes; and

S. 2058, a bill to authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes.

June 28, 1988:

S. 2165, a bill to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington, and for other purposes.

For further information regarding these hearings, please contact Tom Williams at (202) 224-7145 or Beth Norcross at (202) 224-7933 of the subcommittee staff.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on S. 2413, the Agricultural Research Commercialization Act of 1988, on June 6, 1988, at 2:30 p.m. in room 332 Russell Senate Office Building.

Senator KENT CONRAD will preside. For further information please contact Suzy Dittrich of the subcommittee staff at 224-5207.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Tuesday, June 7, 1988, at 10 a.m. in SR-332 to receive testimony on the reappointment of Fowler C. West to be a commissioner of the Commodity Futures Trading Commission, and the nomination of William W. Erwin to be a member of the Board of Directors of the Farm Credit System Assistance Board.

For further information, please contact Chuck Riemenschneider of the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, May 27, 1988, to conduct a hearing on "Prekindergarten Early Dropout Intervention Act of 1988." S. 2034.

The PRESIDING OFFICER. Without objection, it is ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, May 27, 1988, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON HEALTH

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Health of the Committee on Finance be authorized to meet during the session of the Senate on May 27, 1988, to hold a hearing on S. 2305, the Long-Term Care Assistance Act of 1988.

The PRESIDING OFFICER. Without objection, it is ordered.

ADDITIONAL STATEMENTS

JUDY JOHNSON, KEARNEY, NE

● **Mr. KARNES.** Mr. President, I rise today to extend my congratulations to Ms. Judy Johnson, a biology teacher from Kearney High School in Kearney, NE.

Ms. Johnson recently received the Christa McAuliffe Fellowship Award. This award which recognizes excellence in teaching, and enables and encourages teachers to continue their education, as well as, develop innovative programs for their students, is one of the highest honors a teacher can receive.

We are lucky that, in spite of the obstacles teachers face, there are caring, dedicated persons, like Ms. Johnson, who choose to enter the profession. Teaching requires knowledge of subject matter, an ability to impart information clearly, and an understanding of how children learn. It also requires patience, sensitivity, and tenacity. Ms. Johnson has demonstrated all these qualities and proven her ability to be a leading force in the educational arena. Nebraskans should be proud that they have a teacher like Ms. Johnson guiding and influencing our students.●

CONSERVATION RESERVE PROGRAM

● **Mr. DASCHLE.** Mr. President, yesterday I introduced S. 2440, a bill that would improve the effectiveness of the Conservation Reserve Program by making adjustments in the Federal cost-share for farmers in low-rainfall areas. The Conservation Reserve has been an important and successful program, and we should pursue every opportunity to strengthen it. It has already removed over 25 million acres of highly erodible land from production and will, over a 15-year period, save billions of tons of our Nation's topsoil. It has dramatically increased the amount of wildlife habitat and nesting areas for pheasant, grouse, and waterfowl. And it has enhanced our attempts to control production and thereby Government costs during a period of extraordinarily high commodity surpluses.

Those who do not come from rural areas may not fully appreciate the importance of such benefits. They may not fully understand that topsoil is one of our country's most important natural resources. They may not know of the devastating erosion and economic dislocation that is still vivid in the memories of those who lived through the Dust Bowl of the 1930's.

Mr. President, those who do not come from rural areas may not realize that soil erosion remains a critical problem in the 1980's. While American farmers have made great strides in adopting conservation-minded farming practices, high winds, and drought conditions threaten many areas of the country with Dust Bowl-like conditions. Dust storms unlike any since the Dirty Thirties have plagued the northeastern part of my State in recent weeks. And while we have now been blessed with a little rain, area residents still have the dust in their lungs, and it will take several generations to rebuild the lost topsoil.

The solution lies in programs like the Conservation Reserve, especially if that program can be made to encourage the planting of trees and windbreaks in those regions of the country that are most susceptible to wind erosion. We need to educate the country regarding the importance and longrun cost-effectiveness of such programs.

Mr. President, I recently read an editorial in the Rapid City Journal that concisely describes the good practical sense and many important benefits associated with the Conservation Reserve. I would like to submit the editorial for the RECORD and encourage my colleagues to read it, especially those who come from nonrural States. The Conservation Reserve is not simply a farm State program. It conserves a natural resource and promotes the national interest.

The editorial follows:

[From the Rapid City Journal, Apr. 24, 1988]

CONSERVATION RESERVE SURE BEATS A DUST BOWL

DUST BOWL

For those who remember, those words strike hard, conjuring up images of wasted farms and people scratching for survival. But as generations move away from that awful time, the lesson is being lost: Some land should never be put to the plow.

The recent drought has made blowing topsoil more visible in South Dakota, but it's nothing new. Easily erodible soil is best left undisturbed. Depleting soil destroys a resource that we depend upon for life itself.

That's why the success of the federal Conservation Reserve, a program that pays farmers to return easily eroded croplands to undisturbed tree and grassland sanctuaries for wildlife, is encouraging. This is part of the federal farm program that makes a great deal of sense.

More than 22 million acres nationwide have been placed in the reserve program. By 1990, the target of 40 to 45 million acres should be met.

The Conservation Reserve program includes only cropland classified as highly erodible, and particularly vulnerable to soil loss. Lands enrolled must be seeded back to grass (preferably native grass) or trees. For 10 years, the land must be undisturbed. It cannot be grazed by livestock or used to produce hay or any other crop. Farmers bid land to be entered in the program, and if their bids are acceptable receive annual payments not to grow crops on the land. The Agricultural Stabilization and Conservation Service helps pay for the cost of reseeding and replanting the former cropland.

The program began in 1986. In South Dakota, the program started slowly. During the first enrollment period, 141 bids converting 13,697 acres were accepted by the Department of Agriculture. But interest has grown, and during the July 20 to 31, 1987, enrollment, 1,503 bids for 291,295 acres were accepted. Through the end of last year, 746,991 acres of South Dakota have been placed into Conservation Reserve. Federal payments for this program will produce about $30.5 million for those landowners.

For South Dakota, those three-quarters of a million acres offer further economic benefits. Since the land is essentially set aside for wildlife, it should increase the numbers of pheasants and other game animals that account for millions of recreational dollars coming into the state every year.

The program promotes conservation. It benefits wildlife. It enhances outdoor recreation. It reduces crop surpluses that strangle the U.S. farm economy. It is also intended to be less expensive to the taxpayer than crop subsidies.

Considering the values promoted by the Conservation Reserve and the alternatives, it is a remarkably worthwhile federal initiative.

The Conservation Reserve program does cost some money.

So did the Dust Bowl.●

SUPPORT CIVILIAN RULE IN GUATEMALA

● Mr. HARKIN. Mr. President, I rise today to express my strong support for civilian rule in Guatemala. I am certain that what I express today is shared by an overwhelming majority of my colleagues in the Senate and the House.

Two weeks ago, on May 11, two Guatemalan Army regiments marched into Guatemala City to attempt to coup against the democratically elected government of President Vinicio Cerezo. The coup failed because the Guatemalan Army, led by its high command, supported its constitutional government and put down the revolt.

The failure of the coup affirms the strong popular mandate President Cerezo enjoys. The unsuccessful uprising also demonstrates that the overwhelming majority of the Guatemalan people share President Cerezo's vision of a democratic Guatemala. It is a vision of Guatemala supported by the international community, and by the United States in particular.

The United States Congress has made unequivocally clear its support for civilian rule in Guatemala. The 1988 continuing resolution specifically provided that all United States assistance to Guatemala would be cut off in the event of a military coup. For fiscal 1988, a successful military coup would result in the loss of $138 million in military and economic aid. As a member of the Senate Foreign Operations Subcommittee, I assure my colleagues that the law will be adhered to, and I will insist that this provision is extended in the next fiscal year.

The Cerezo government has made important advances toward a democratic system in Guatemala. It has instituted real tax reform. It has produced a sound economic plan, which has stabilized and brought growth back to its country's economy. It has begun reforms in its judicial system. And it has created an opening allowing for labor and opposition groups to organize and express their views. The Guatemalans have made many advances so far, but more steps need to be taken before Guatemala reaches its goal of a truly democratic system based on respect for human rights and the rule of law.

Unfortunately, some of the most conservative elements of Guatemalan society have resisted these reforms and attempted to incite a rebellion within the Guatemalan military. This effort failed 2 weeks ago, but the Guatemalan people and the Cerezo government must remain vigilant. In this effort, the Guatemalan Armed Forces, under the command of Minister of Defense, General Alejandro Gramajo, and the entire military high command, stand squarely behind the civilian government. The Reagan administration as well as the United States Congress also supports the Guatemalan Government and military in their joint effort to preserve the democratic reforms in Guatemala.

Since President Cerezo took office in January 1986, Guatemala has not only advanced the cause of democracy at home, but has been a leader in the campaign to promote democratization in the rest of Central America. In August 1987, this leadership was affirmed when President Cerezo and the four other Central American Presidents met in Esquipulas, where they negotiated and signed a peace plan for the entire region.

The Esquipulas II accords signal a new era in the history of Central America, an era of democratic reform, and an era where elected civilian presidents rule. To revert to the past, when military generals ruled, as they did in Guatemala, Honduras, and El Salvador until recently, would be to deny Central Americans their future. The Central America future is one of democracy, economic stability and growth, regional unity, and independence.

President Cerezo and his counterpart in Costa Rica, President Oscar Arias, have led efforts to advance democracy, peace, and reconciliation in the five countries of Central America. President Cerezo is now preparing to take this project one step further by offering to mediate the current crisis in Panama.

On May 11, the overwhelming majority of the Guatemalan people, its

Government and its armed forces, rejected the past and affirmed their commitment to a democratic and stable future for Guatemala. I know I speak for the United States Senate when I say that we are prepared to lend Guatemalans the support necessary to achieve this goal.●

SENATOR BRADLEY SPEAKS ON THE SOVIET UNION

● Mr. LAUTENBERG. Mr. President, I want to draw my colleagues' attention to a very fine speech on the Soviet Union by the distinguished Senator from New Jersey, my colleague BILL BRADLEY. The speech was delivered at the National Press Club on May 26, 1988.

Senator BRADLEY has spent a great deal of time thinking about and travelling in the Soviet Union. His analysis of General Secretary Gorbachev's program of reform, and how America ought to respond to it, is perceptive and timely. As we formulate and reformulate American foreign policy to respond to a rapidly changing Soviet Union, the principles and thoughts set out in this speech will be an excellent guide. I hope all of my colleagues will take the time to read this excellent speech.

I ask that a copy of this speech be included in the RECORD following these remarks.

The remarks follow:

REMARKS OF HON. BILL BRADLEY

Think with me for a minute: you are Mikhail Gorbachev. In 1985 you became the General Secretary. You looked out at your country and you saw the following things: you saw a country where the infant mortality rate and the adult mortality rate were rising—the only time this has occurred in an industrial society without natural disasters or war. You saw a primitive health system where hospitals routinely reused needles and bandages. "The Soviet physician today is a soldier armed with a bow and arrows, and it is not within his power to fight against complex diseases" said a leading Russian doctor last year. You saw water supply systems no better than many developing countries. For example, 13% of the deaths in the Soviet Union were caused by bad water.

You saw a system corrupt at the core. Corrupt not only in terms of criminality, which was rampant, but corrupt in the sense that people increasingly believed it would not deliver a better life for themselves and their families.

You looked out and saw a society that had a massive need for capital: in agriculture, in industry, in energy development, in the consumer sector, and of course in the military.

After surveying the state of your nation you decided that unless there were dramatic changes, you would remain a second rate economic power in the 21st century. You might even become a 2nd rate military power. So you embarked on a course which would either destroy you or make you the most significant Soviet leader since Lenin.

I believe Gorbachev has decided to take the risk. I believe he has decided that leading a society that is falling behind and dominated by the military was not enough. He has instituted massive reforms characterized by three words; perestroika, glasnost and democratization.

Perestroika means economic decentralization: taking power away from the central bureaucracy in Moscow and giving it to the enterprise managers in the field. It means letting prices reflect true costs. It means paying workers based on effort and production.

What do these changes imply for the average Soviet citizen? They imply much higher prices for everything from bread to housing. They also imply much less job security. In the last 18 months 130,000 workers in the railroad sector of the Soviet economy have lost their jobs.

How can this leadership keep support if the result of perestroika is going to be higher prices, and less job security? Soviet reformers give you several very clear answers. One way they are going to keep the population on board is to give them more and better housing. In two of the last three years Gorbachev increased the housing targets contained in the five year plan. By 2000 everyone is supposed to have an apartment.

Second, they say they are going to provide better quality food. As a friend of mine in the Soviet Union said "our problem isn't food. Look around. We have plenty of food, everybody's fat. It's just the wrong kind of food. What we need is more fruit, vegetables, and meat being brought to the market".

They have established truck cooperatives and a variety of other mechanisms to achieve that objective. But they have not reformed agricultural production by dismantling collectives, the way the Chinese have.

Third, if you do have a job you may be making more money. In January I stopped workers on the assembly lines in Georgia and Azerbaijan at random and asked them how much more money are they making this year than last year. They said it was 30 to 40% more.

So in order to keep the average citizen on board in support of Perestroika, you expect to offer better food, better housing, higher wages, and, fourth, more leisure time activity. As people to loose their jobs in the overmanned industrial sectors, they are supposed to be moved into the service sector where many cooperative small business activities ranging from coffee houses to dry cleaners will be established. This gives people someplace to spend some of their money and provide more opportunities for leisure time activity.

Finally, Glasnost helps keep support for Perestroika. Now it is very important to understand what Glasnost is and what it is not. Glasnost is not freedom of speech guaranteed as a right under the law as we know it. Glasnost is permission to speak. Permission granted because Gorbachev and the reformers know that without more and easier information flow, without debate and criticism, the economy cannot hope to improve much.

What is Glasnost really? Let me give you a personal view. In January, I was in Moscow. It was my third night there, and a friend of mine said "why don't you come over to the writer's Union, a historian is speaking there and it might be interesting to you." So I went over to the Writer's Union and waited outside. It was snowing. The well-known playwright named Mikhail Shatrov came out and told me "the historian is speaking about Stalin and frankly I don't think it is appropriate for an American to be in the audience, least of all a United States Senator and besides there are 600 people jammed into that auditorium."

Well I'd been in this situation before. I was not going to let this opportunity pass. So I said, "give it another try." He went back in and ten minutes later he came back and said, "Ok, come on in." We walked through the back corridors of the Writer's Union, up the back stairs into a side room where I met the historian Yuri Afanasyev and they said "we'll take you outside now." I thought "well I'll be stuffed in the corner somewhere with the interpreter in my ear; I'll be a fly on the wall but at least I'll be able to see this evening." Instead they ushered me onto the stage. There I sat before 600 people in the Writer's Union. The head of the Writer's Union said, "we would like to welcome a very special guest tonight, Senator Bill Bradley whom you all remember from the telebridge." Now the telebridge was that extended Nightline program that I did last December which was watched by 5 million Americans and 120 million Soviets.

They introduced the film. The film was about a man who was imprisoned in the 1930's and let out in the 1950's. It was about the dark periods of the greatest repression. It was called "The Lost Generation." When it concluded. I looked out at the audience and counted eight people with tears running down their cheeks.

The head of the Writers Union introduced the historian who made the following points: He said, "the problem wasn't Stalin the problem was the system." He said, "the system was based on half truths and Glasnost is a half truth. Unless the archives are opened and we are able to look at the papers of Bukharin and Trostky and yes even Kerensky. And there isn't a street in Moscow that is named for someone who should have a street named for him." He said, "the KGB has to be reformed from top to bottom. Every ninth grader reads history books that are filled with lies." And on and on.

There was a question and answer period and the questions were written and dropped in a box in front of the stage. The speaker took the questions out of the box and read them. One of the questions was, "What do you think about perestroika?" He said, "it was long overdue, long overdue, but don't expect to see great things immediately because you have to remember we have been four generations of government workers." A man in the front row sits up and shouts "you mean government slaves!" I sat there and thought "this is Glasnost." And I thought something else, "this guy is either the beginning or the end" because 5 years ago if he had said those things he would have been in the gulag and everyone in the room would have been in the gulag.

The point is that Glasnost is real. People are expressing ideas in the Soviet Union today that would have been unimaginable 5 years ago.

So that in order to keep people on board for perestroika, for the higher prices to come and for the lessened job security, Gorbachev is planning on better housing, better quality food, higher wages, more leisure time activity, and glasnost.

The question is will Perestroika work? Well, I'm on television in these ridiculous 30 second interviews where someone sticks a microphone in front of your month and asks "What do you think about perestroika?" What I say is that Perestroika is a little bit like jazz. The Soviets are about a third of the way through the piece. They know where they want to end up but they don't have a clue about how they are going to get there.

I think that is true. Because the key testing time is 1990 and 1991 when the price reforms go into effect. Last winter, after spending two hours with the head of the price commission and innumerable hours with any number of economists, I concluded that they haven't thought it through. They have not yet confronted the need for the price system to reflect supply and demand as well as cost.

They also have not thought through the labor mobility problem caused by industries shedding workers. They have not designed the worker retraining or relocation policies. They haven't figured out how they are going to do joint ventures. They haven't even begun to offer foreign companies terms and conditions that are competitive with investments opportunities elsewhere. For instance, they restrict repatriation of profits. Rubles earned are not convertible into hard currency. Foreign ownership is limited to a minority share. Rights to hire and fire do not exist. Prices are set arbitrarily. Even office space and housing requires special approval. In short, every detail must be negotiated.

And who are the real opponents of Perestroika? They are the bureaucrats who want to keep their jobs. The plan is to cut the bureaucracies in Moscow by 50%. They are also the privateers, the people who have illegally obtained goods and sell them on the black market. They are workers who don't work. There is a saying "We pretend to work and you pretend to pay us." Some people like that because they get their check and then they have a second job in the illegal economy. And finally, they are the local party officials. Under perestroika the local party leader has less responsibility for economic decisions. Those decisions are transferred to the enterprise managers, leaving party officials with a lot of social and ideological responsibilities. None of which means real power.

So what are the odds of success? What does that mean for us? What are the implications for the West. The main implication is that economic criteria could become more influential in allocating the resources of the Soviet Union: its labor, output, energy, capital, land, and skills.

The military and the security folks in the Soviet Union receive a disproportionate amount of resources. They do so, they argue, because they need it to protect Soviet citizens from external threats. Until now, they have succeeded in that argument. But the capital and investment that flows to the military in the Soviet Union is capital not available for agriculture or energy or health care. Moreover, the Soviet Union does not have need for such a large conventional army in central Europe, only a day's drive from Paris. Instead, they need that labor and that capital back in the civilian sector. Third world adventures and selling weapons that are never paid for do not serve Soviet economic interests and the Soviet's new attitude toward Afghanistan is but one example that they may be beginning to recognize that.

If the internal logic of Perestroika works as I have described it, we can expect the Soviets to propose dramatic reductions in conventional forces in Europe and to withdraw from various third world adventures, not only Afghanistan.

If they're serious, they will come to the negotiating table on military issues. We have to be there. We have to be prepared to negotiate a reduction of conventional forces in central Europe, to negotiate a pull back from various positions in the third world, to reduce strategic weapons.

How should we relate to the Soviets on economics?

To begin, I think we should be who we are. We are cold calculating capitalists who maximize profit, and that is how we should relate to the Soviet Union. We have an unprecedented opportunity, because the Soviets are now more receptive than ever before. Gorbachev knows he is in trouble and is prepared to take bold initiatives. But to capitalize on this opportunity, the U.S. must see it clearly and not mistake it for more than it is. The U.S. must forge a common, as well as a clear view of this strategic opening with the leading economic powers of the West, namely Japan, and Germany. We should look at an investment in or trade with the Soviet Union and apply the same criteria we would apply to an investment in New Jersey or Belgium or Brazil.

Now I know there is another school of thought: that maximization of profit is not the objective as it is in the U.S. or anywhere else in the capitalist world. The people who have that view I call romantic capitalists. Now I have some personal experience with romantic capitalists. They once owned professional basketball teams. Anyone who owned a professional basketball team and paid players the salaries they pay players even in my day couldn't end up at the end of the day and look at the bottom line and say I'm maximizing profit. They would have to say I'm doing this because I like to have lunch with Kareem Abdul Jabar or because I like Bill Bradley to meet the kids or what ever.

My guess is that there are some American business people who are reacting to change in the Soviet Union as romantic capitalists. And they are rushing and stumbling to make a deal because it's the in thing to do. Whatever their reasons, they don't serve the U.S. interests and ironically they also don't serve the Soviet interests.

In the 1970s the Soviets has plenty of people in the West who wanted to trade, who built turnkey plants. Those plants are now rusting. Why? Because the system could not accommodate the change or the technology.

And so my suggestion is a simple one, by being rational capitalists, and not romantic capitalists we will do the most to promote reform in the Soviet Union by clearly identifying for them what it takes to be part of the dynamic world economic system. Above all, this means that the Soviets must level with the West, and also with their own people. A complete accounting of the civilian and military uses of the Soviet gross national product, valued at its true cost, will be necessary for the normalization of East-West economic relations. In this way, we will give the reformers in the Soviet Union the greatest leverage to implement the reforms that they know must be achieved if they are to use Western trade and technology effectively.

It is a paradox. The Soviets are exploring reform as they have told me time and time again, "not because of you. We are doing these reforms because of us. We want our country to be better." Yet the way we can most influence this process is by being true to who we are. By being rational capitalists we will be able to exert what ever marginal influence is possible in this time of rapid change in the Soviet Union.

The June All-Union Conference will give us a better picture of whether perestroika will lead to less military spending, more systemic reform, and greater attempts to integrate economically with the West. The actions on party personnel could consolidate the reformers position in the central committee. Gorbachev's speech about the next five year plan will reveal whether he puts his investment dollars where his mouth is.

So on the military side, perestroika challenges America to remain strong and and to look for opportunities to reduce arms together with the Soviet Union. On the economic side, perestroika challenges us to remember who we are. But there is another challenge. Perestroika also challenges us to remember what we believe about human rights and freedom.

When I was a Tbilisi in January, I want to an American exhibit. Soviets stood in line in the cold for six hours to learn about information technology in the U.S. The State Department wanted me to drop by and say hello to the American workers there. I also talked to the Soviets and I held a little town meeting. I asked the Soviets in the room what they liked about the U.S.? They said, "We like the standard of living, the freedom, American's stand for human rights."

I said, "What don't you like about the U.S.? They said, "The existence of homelessness, joblessness, and crime."

I reacted by saying, "Part of that is the ideological training from the beginning: always blast the U.S." But another part of me said, "now wait a minute some of what they are saying is true."

Who are the kids who will be entering Kindergarten in the U.S. next year, One in four of them lives in poverty, one in five is going to be teen parent, one in two comes from a family where both parents work and where the parents cannot afford adequate child care. This is the generation that will be the first high school graduates in the 21st century. Just at a time when young people as a percentage of the population will be declining, we have a group that may be coming from the school system uneducated and unproductive. We can't afford that. Yes, we need educated productive citizens to maximize our economic growth, but we also need to give all citizens a stake in the system if we are to be true to our ideals, particularly those which say that the promise of America is open to all.

So when we think about Gorbachev and the challenges perestroika poses for us, we can't just think about it in terms of military challenges or economic challenges. We have to think about it as a challenge to the United States to live up to our own ideals and to make sure that the charges of homelessness and joblessness and violence are no longer valid. It is our obligation to address those problems so we can look Gorbachev in the eye, as well as ourselves in the mirror, and say, "we are a special society."●

SENATOR CRANSTON PRESENTED WITH LEADER FOR PEACE AWARD

● **Mr. ROCKEFELLER.** Mr. President, on April 30 at the University of California at Los Angeles, the Director of the Peace Corps, Loret Miller Ruppe, presented the distinguished senior Senator from California [Mr. CRANSTON] with the Peace Corps Leader for Peace Award. As Director

Ruppe and Francine Fallett, president of the Southern California Peace Corps Service Council, made clear in their remarks at the luncheon at which the award was presented, Senator CRANSTON is a true champion of peace and of the Peace Corps. No one is more deserving of such an award.

Focusing on a few of his achievements during the eigthies, I note that ALAN CRANSTON authored and successfully achieved the enactment of the legislation he authored in 1981 to separate the Peace Corps from the ACTION Agency and restore it to independent, more visible status. He has consistently introduced legislation to authorize fair funding for the Peace Corps and championed the initiative to boost Peace Corps volunteer ranks to 10,000 by 1992. He fought successfully for enactment of his 1985 proposal to do away with political country director appointees—making it possible for the Peace Corps to be an even more effective and truly nonpartisan agency of progress—and his 1987 amendment spurring activities to assist returned volunteers in promoting a better understanding of other peoples on the part of Americans—the so-called third goal of the Peace Corps.

I congratulate Senator CRANSTON on his outstanding service to the cause of peace and this magnificent institutional expression of the American people's desire for a world of peace and for fuller, richer lives for all of mankind.

Mr. President, in order to bring to the attention of all of my colleagues and the public some of the highlights of Senator CRANSTON's outstanding record of achievement in this regard and his insightful remarks in accepting the Leader for Peace Award, I ask that there be printed in the RECORD at this point copies of Director Ruppe's and Ms. Fallett's remarks, a Peace Corps news release announcing the award, and a Peace Corps statement regarding Senator CRANSTON's advocacy for world peace and understanding.

The material follows:

REMARKS BY LORET MILLER RUPPE AT LUNCHEON HONORING SENATOR ALAN CRANSTON

Senator Cranston, your special guests, staff and faculty of UCLA, returned Peace Corps Volunteers—what a privilege it is to be here in California—the Peace Corps State—home of 17,000 Peace Corps volunteers, the Nation's largest contingent—what a pleasure it is to be in Los Angeles—the Peace Corps city—a metropolitan area that has produced 4,116 Peace Corps volunteers—at UCLA, one of the first universities to answer Peace Corps' call for training help—alma mater of 1,197 PCV's 26 of whom serve right now in Africa, the Americas, Asia and the Pacific.

Yes, it is good to be together with so many friends—people who share the same values—men and women who understand that development is another name for peace—Americans who realize that global patriotism is the highest form of patriotism—citizens who make this Nation stronger by helping their family, friends, neighbors understand that we share a common destiny with the rest of humankind.

In seven years as Peace Corps Director, I have traveled to 64 nations in which Peace Corps volunteers serve—visited dozens of American cities, spoken to thousands and thousands of the 130,000 returned Peace Corps volunteers.

I see the same stars in the eyes that Sargent Shriver saw. And I see something more—the liberation movement of our time. I see a global awareness, as never before—a global partnership—for development—for peace—by individuals and nations of the east and west, north and south—working together to extend the benefits of the modern age to all humankind.

The peoples and governments of the world have begun to work more and more together. Efforts to halt the depletion of the ozone layer, stop the spread of AID's, and abolish the threat of a thermonuclear holocaust—all demonstrate a remarkable advance in human behavior—an understanding that our very survival depends on deeds—not ideology.

Today it's the "we generation," not the "me generation."

We are experiencing the "mainstreaming of the peace movement." A growing recognition of interdependence and an opting for solidarity with men and women of good will around the world.

Organizations such as the Southern California Peace Corps Service Council—its development education activities here in Los Angeles—its outreach through Peace Corps partnership projects—the Jean Yamanaka Memorial Fund that is supporting self-help projects from Belize to Kenya—spur on this advance toward true peace.

Thousands, hundreds of thousands, perhaps millions of people participate in this emerging liberation movement. Yet for us, associated with the Peace Corps, there is one person who deserves to be singled out—whose life and accomplishments are a model for us all.

I refer to Senator Cranston—a true leader for peace—if you take the Peace Corps Act and read it, it says "Cranston, Cranston, Cranston." The entire third goal legislation—support of returned Peace Corps volunteer development education projects—the original legislation creating Peace Corps' independence from Action—all carry the stamp of the senior Senator from the Peace Corps State.

Alan Cranston is an historic supporter of the Peace Corps—a volunteer program evaluator in Ghana in 1965—a friend in Congress from the day of his election in 1968.

Senator Cranston has consistently sponsored legislation to increase the Peace Corps budget. He championed the initiative to boost Peace Corps ranks to 10,000 by 1992, and fought successfully to do away with political country director appointees—making it possible for Peace Corps to be an ever more efficient/effective and truly nonpartisan agent of progress.

We honor a person who defends the homeless in America and overseas—he is responsible for the bipartisan alliance behind the child care legislation—the chief architect of landmark legislation to protect the homeless—the point man in the Senate for the INF treaty.

My friends—a true leader for peace—Senator Alan Cranston.

REMARKS OF FRANCINE FALLETT, PRESIDENT, SOUTHERN CALIFORNIA PEACE CORPS SERVICE COUNCIL—EVENT HONORING SENATOR ALAN CRANSTON, APRIL 30, 1988

Speaking on behalf of the Southern California Peace Corps Service Council, we are pleased to participate in this official recognition of Senator Cranston. Many of you remember our 25th Anniversary Celebration two years ago at Cal State, Los Angeles, and that Senator Cranston was a keynote speaker at that event. In fact, the Senator has consistently supported us in our programs over the years and has participated in many of our local events. On behalf of the Returned Peace Corps Volunteers of Southern California, I want to take this opportunity to thank Senator Cranston for his continuing support. Thank you.

SENATOR CRANSTON HONORED AS LEADER FOR PEACE

LOS ANGELES.—Peace Corps Director Loret Miller Ruppe presented California Sen. Alan Cranston with a "Leader for Peace" award at the James West Center on the UCLA campus here Saturday.

"Alan Cranston's commitment to finding peace in our time has made him a champion of the Peace Corps," Mrs. Ruppe said at a Leadership for Peace event honoring California's senior senator. "He's a true leader for peace. We salute him today."

Noting that Senator Cranston was the author of legislation to nearly double the number of Peace Corps volunteers to 10,000, Mrs. Ruppe said that there has been a strong response from Americans across the country to reach that goal.

"California is the Peace Corps state," she said. "It is home to 17,000 Peace Corps volunteers, the Nation's largest contingent. The Los Angeles metropolitan area alone has produced 4,116 volunteers. UCLA was one of the first universities in the country to answer Peace Corps' call for training help. It has supplied 1,197 volunteers, 26 of whom serve right now in Africa, the Americas, Asia and the Pacific."

"We are challenging America—from corporations and colleges to farmers and teachers—to help us grow," the Peace Corps director said. "Our nationwide Leadership for Peace appeal has been heard from Hawaii to New England. There is no more important place to understand the lesson of global interdependence than here at the gateway to the Pacific."

Despite continued national support for the Peace Corps among the American people, Cranston said, the number of volunteers has declined over the last two decades from a peak of more than 15,000 in the mid-1960s. A provision that the Senator added to the 1985 International Security and Development Act "provides a realistic blueprint for moderate Peace Corps growth through the end of this decade and into the beginning of the next," he said.

"The Peace Corps represents our nation's most effective investment abroad," Cranston said. "By helping scores of Third World nations to alleviate the often desperate conditions of their lives, Peace Corps volunteers quietly but significantly promote international stability, friendship and peace. Surely, these are among our most important foreign policy objectives."

Mrs. Ruppe said that Cranston's role with the Peace Corps goes back to 1965, when he served as a volunteer program evaluator in Ghana before his election to Congress.

"If you take the Peace Corps Act and read it, it says. . . . 'Cranston, Cranston, Cranston' throughout it," she said. "The entire Third Goal legislation—support of returned Peace Corps volunteer development education projects—carries the stamp of the senior Senator from the Peace Corps state."

Cranston sponsored legislation to expand the third goal of the Peace Corps which calls on volunteers, when they return home, to promote a better understanding of other peoples on the part of the American people.

The first two goals of the agency are to help the peoples of other countries meet their needs for trained manpower and to promote mutual understanding between the American people and the peoples of other nations.

The event honoring Cranston was sponsored by the Southern California Peace Corps Council, a 300-member association of returned Peace Corps volunteers.

Mrs. Ruppe said at the brunch reception that she believed the Peace Corps was the vanguard of "the liberation movement of our time" in promoting a global partnership "to extend the benefits of the modern age to all humankind" through grassroots development.

"We are experiencing the mainstreaming of the peace movement, a growing recognition of interdependence and an opting for solidarity with men and women of good will around the world," she said.

"Organizations such as the Southern California Peace Corps Service Council . . . spur on this advance toward true peace."

SENATOR CRANSTON AN ADVOCATE FOR WORLD PEACE AND UNDERSTANDING

The Peace Corps has no stronger advocate than Alan Cranston of California. The tall, forceful majority whip of the U.S. Senate has spoken eloquently of the contributions made to global growth and human understanding by volunteers serving abroad.

"Of all the international efforts we make to achieve world peace and understanding, there is no greater contribution than that which the American people make through the Peace Corps," Cranston declared last year in a Senate floor speech. "In this unique program, we share with the developing nations of the world the best of America—our people, our spirit, our ingenuity, and our compassion.

"Upon their return to this country, Peace Corps volunteers are a source of knowledge about another way of life that can be tapped to promote a better understanding among Americans about peoples," he said. "Our nation and all of the other nations in which Peace Corps volunteers serve are immeasurably enriched by the contributions made by Peace Corps volunteers."

As a member of the Senate Foreign Relations Committee, Cranston is chairman of the Subcommittee on East Asia and the Pacific. He also serves on the Western Hemisphere and Peace Corps Affairs Subcommittee chaired by Connecticut Senator Christopher J. Dodd, a former Peace Corps volunteer.

Cranston sponsored legislation to expand the original third goal of the Peace Corps to promote a better understanding of other peoples of the world on the part of the American people. He also was the author of a six-year growth plan for the global development agency which calls for nearly doubling the number of volunteers serving overseas to 10,000.

On a related front, Cranston has endorsed the Peace Corps Partnership Program in which individuals and organizations have financially assisted projects in overseas locations where Peace Corps volunteers serve.

"Their donations have often made the difference in countless villages as to whether a well, a classroom, or a small medical facility could be constructed," Cranston says.

The senior senator from California believes that the Peace Corps has helped overcome what he calls the "harsh realities of their lives" by combatting malnutrition, disease, illiteracy and hardships. He is being recognized by the Peace Corps as a "Leader for Peace" for his manifold contributions and concerns for mankind.

PEACE CORPS LUNCHEON, LOS ANGELES, APRIL 30, 1988

(Remarks of Senator Alan Cranston)

Thank you for this honor. Thank you for your friendship. And thank you for your collaboration with me in efforts to promote peace throughout the world.

Margaret Mead once said, "We need to devise a system within which peace will be more rewarding than war."

Her goal—and our goal—rests on some very simple observations: that peace is more likely to reside where hunger and diseases have been overcome, where literacy has defeated ignorance, and where democracy has replaced dictatorship.

Those are the truths in which the Peace Corps was founded almost 27 years ago.

They are the principles which help guide the Peace Corps' mission today.

They should be the foundations of our foreign policy tomorrow.

Some of our policy-makers could benefit from a stint with our Peace Corps volunteers in the villages of Africa, Asia, or Latin America. They would find the path towards peace by gaining an understanding of the human needs and simple motivations of the people of those villages.

From the mountains of Bolivia to the jungles of Zaire, the work of Peace Corps volunteers sets the standard for making peace more rewarding than war.

There's no doubt that the bridges of mutual understanding built by the Peace Corps are helping people cross the chasm of ignorance and fear which divides nations.

America's foreign policy should follow that lead.

We live in a world in which the developing nations are becoming more competitive and our greatest rival, the Soviet Union, is developing new, strong and seemingly more competent leadership than it has had in many years.

Instead of viewing these changes with fear, I suggest we look upon them as harbingers of hope. They offer America opportunities to lead the world in change.

Look at what's happening all around us.

From the new democracies of Latin America to the new economies of the Far East, people all are adopting—and adapting—American economics and American democratic principles.

American respect for freedom, democracy and individual expression, are in advance over much of the globe. Marxism and repression are in decline.

I recently returned from a trip that took me to 12 countries in various parts of the world. My most enduring impression was a sense of excitement, of awakening among people everywhere that they could decide their own destinies. Even in communist countries, I could feel this yearning for freedom, and anticipation of change.

I saw it in Moscow, where dissidents and ordinary Soviet citizens are testing the limits of perestroika and glasnost.

I saw it in Beijing, where young Chinese are demanding more freedom and where the government is moving towards a free market economy. And where Peace Corps volunteers will be working for the first time next year.

I saw it in, of all places, Ulaan Baatour, the capital of Mongolia, where a society that has closed itself off from the rest of the world for many centuries now yearns for openness.

I saw it in South Korea and Taiwan, where people are demanding more personal and political freedoms, and in the Philippines where that nation has taken the difficult first steps toward truly democratic rule.

The question for America is: how to respond?

Do we turn inward, to protect ourselves from the competition that will result from the blossoming of American values around the world?

Or do we embrace the progressive changes that are occurring and work at the grassroots level to help people build for themselves the foundations of lasting peace?

Many Americans are reacting with skepticism—and some with outright suspicion—to Mikhail Gorbachev's plans for restructuring the Soviet Union's economy and its society.

Some wonder how long he'll survive as leader. Gorbachev has his opponents as well as his adherents. We may get a clearer picture of his strength at the next Communist party meeting at the end of June.

But we Americans must not surrender our optimism at the very moment that democratic values are winning across the globe.

It's far too early to tell whether Gorbachev's radical reforms will take hold and endure.

What we do see brewing in the Soviet Union, however, is, to use Gorbachev's word, a "revolution" in Soviet thinking.

And this second, peaceful Russian Revolution could be very good news for the United States and the rest of the West. It should gladden rather than harden the hearts of critics of communism.

Soviet leaders, frustrated by a stagnant economy and the rigidity of the Soviet system, finally are implicitly conceding the obvious: that Soviet communism has failed to bury democracy and free enterprise, as Nikita Khrushchev once prophesized.

They have turned to free market ideas to save their economy.

I've got no illusions that the Soviet Union's economy will ever approximate modern American capitalism—certainly it won't as long as Marxist-Leninist doctrines guide the Soviet economy. But there's no doubt they are acknowledging in very real terms the advantages of a free market and the profit motive in promoting economic production and efficiency.

If anyone had predicted these actions three years ago, no one would have believed it.

When I was in Moscow, I opened a U.S. delegation meeting with Secretary Gorbachev by saying: "Too many misperceptions and doubts divide the United States and the Soviet Union. Yet, resolving the issues between us—like Afghanistan, human rights, emigration, and the arms contest—can bring us together."

Then I went to the heart of those misperceptions. I told Gorbachev: "You ask in your book—what motivates the United States to devote so much effort and treasure to armaments? And you answer your question in part by referring to our military-industrial complex and those who profit from manufacturing arms.

"Well, they do have their influence, but they are not the prime fact driving the American side of the arms race."

I told Gorbachev: "California is the #1 military-industrial state in America—many military bases, 20% of all arms contracts.

"Yet, there is no more dedicated advocate of peace and better Soviet-American relations than I in the Senate—and I have won four straight elections to the Senate in California.

"The prime factor driving U.S. military preparations is historical uncertainty and suspicion about Soviet intentions. Just as historical Soviet uncertainty and suspicion about U.S. intentions drives your side of the arms race."

The plan and the opportunity are at hand to test our mutual ability to end the arms race before it ends us.

Some Americans are saying: "Don't test weapons, test Gorbachev." I like that, but I also say this, quoting a fellow American: "We cannot test you without testing ourselves."

Now is the time to test ourselves.

Now is the time for the Senate to approve the arms treaty on Intermediate Range Nuclear Forces.

I have devoted much of my time in the Senate this year to achieving INF ratification. I expect we will soon begin consideration of the treaty on the Senate floor. Ratification is presently my topmost foreign relations priority.

The Senate must proceed thoughtfully. But expeditiously.

If we can approve that treaty before the President's summit with Gorbachev in late May, then the United States will be able to use that meeting to make progress toward the next and far more important step—reducing by 50% the levels of strategic nuclear weapons on both sides.

In all likelihood, a START treaty will not come to the Senate for approval until the next Administration is in place. But the quality of negotiations at this summit, and what happens during the transition period between this Administration and the next, will determine whether we can achieve significant arms reductions as early as next year. Or whether an agreement is many years away.

This Moscow summit is an opportunity for Ronald Reagan to put a bipartisan imprint on a START treaty so it can be quickly adopted by the next administration.

As we work to remove the threat of nuclear war, we must also work to end conventional proxy wars that kill innocent people, and tear small countries apart.

In Nicaragua and Afghanistan, we may finally have found the path to peace. In Mozambique and Angola and Cambodia, we still have a long way to go. The best role that the United States can play in those countries is to respect the right of the majority to determine how they want to be governed.

And in South Africa, we must stand foursquare with the majority black population—for justice and against apartheid.

We should be doing more to help the front-line states of Namibia, Botswana, and Zimbabwe, as well as Mozambique, bolster their economies against threats from South Africa. From their strong economies can come strong political structures and strong democracies.

An example of the right kind of foreign assistance is the Child Survival Fund, which Congress approved last year. With two simple programs—one to provide clean water to babies suffering dehydration, and another to provide widespread immunization against childhood diseases—the United States helped Third World countries to save and enhance millions of lives.

We must be sensitive to the basic needs of the world's poor—their sense of dignity and their ability to solve their own problems when given the chance.

We must not forget what the Peace Corps has taught us about productive assistance to the Third World—that the greatest development source is people at the grass-roots level.

We should let them tell us how we can help.

We make a serious mistake when we presume to know it all.

You—the members of the Southern California Service Council of the Peace Corps—along with all returned Peace Corps volunteers and friends of the Peace Corps—have a special responsibility. You must speak out to create more enlightened and effective international policies for our country.

I count myself as a sort of Peace Corps staff alumnus having served as a Peace Corps evaluator in Ghana in the mid-sixties. Ever since, I've been deeply committed to maintaining a strong Peace Corps.

With your help we enacted my legislation two years ago to establish the 10,000 Peace Corps member goal and to keep politics out of the selection of overseas country directors.

And last year we enacted into law, legislation I proposed to help carry out the Peace Corps' goal to increase Americans' understanding of the people of the countries where volunteers serve.

I introduced legislation for fiscal years 1987 and 1988 authorizing the funds needed to reach the goal of 10,000 volunteers by 1992. I worked successfully to get the funds appropriated.

I've introduced such a bill again for FY 89 and I expect to succeed again. I am fully committed to seeing this effort through.

Hubert Humphrey, one of the fathers of the Peace Corps, said: "I foresee a new day when hundreds of thousands of Peace Corps alumni will be decision-makers in American industry, our leaders in government, and the teachers of our young. When this new day comes, our American dream will make a quantum leap in the direction of reality.

There is no better time for America to make that leap than right now—when the world is changing, when American values are on the rise, and when we are on the way toward achieving 200,000 returned Peace Corps volunteers.

We must never cease in our efforts to work together to eliminate poverty and disease, injustice and repression.

If we work long enough and hard enough, it just could be that we can transform the world.

We can create a world where everyone recognizes that peace is indeed more rewarding than war.

Thank you.●

DRUG-FREE AMERICA WEEK

● Mr. HEINZ. Mr. President, I am pleased to be an original cosponsor of Senate Joint Resolution 329, "Drug-Free America Week."

The drug problem affects all of America, from our largest cities to our smallest towns. Drug abuse is costing our country tens of billions a year in lost wages, law enforcement expenses, and rehabilitation. Our communities are suffering enormous costs created by family tensions, suicides, drug overdoses, violence, and suffering.

Almost a century ago, cocaine was a serious problem. President Teddy Roosevelt, who left office in 1909, appointed a Commission to study cocaine's impact on American society. It concluded then what we know now—cocaine use leads to the destruction of families, the senseless loss of lives, and increases in violent crimes. In 1914, cocaine was made illegal and its use dropped dramatically.

The drop in cocaine use was partly due to strengthened penalties and its illegality. But most of all, cocaine disappeared because individuals, families, and communities rejected the false promises of drugs.

Drug abuse is back and it is worse than it has ever been. There are no easy solutions. But what this reference shows is that tougher laws, an informed citizenry, and better treatment can eradicate this cancer which is permeating our society.

We are beginning to see a general tide against all drugs take place in America. It is only a beginning. We beat this problem before, we can do it again.

I encourage every American to participate in Drug-Free America Week. Drug and alcohol education is our best weapon to fight this war.●

THERE'S STILL TIME

● Mr. LEVIN. Mr. President, as the summit approaches, there has been much attention focused on glasnost. Clearly, glasnost has brought changes in the Soviet Union, and we are encouraged by these developments. However, there is much more to be done.

Mr. President, I draw your attention to the treatment of Soviet Jews over the last few days. Reports from Leningrad indicate that 29 refuseniks who signed letters to President Reagan and General Secretary Gorbachev last week have all been warned by KGB militia or their supervisors at work that they are not to go to Moscow during the President's visit. Elena Keiss-Kuna, a refusenik of 10 years, was detained at the railway station on her way to Moscow. Although she was released after 2 hours, she has been prevented from going to Moscow.

Roald Zelichonok and Evgeny Lein were also planning to make the trip from Leningrad to Moscow. They are among a group of prominent refuseniks and dissidents invited to meet with President Reagan on Monday, May 30. Imagine their joy at the thought that the President of the United States would take the time to hear their cases and concerns about the plight of Soviet Jews. Imagine their immense disappointment when they received formal warnings from Soviet officials that administrative measures would be taken against them if they went to Moscow.

The Soviets have expressed reservations about the President's plans to meet with dissidents during his visit. Yet, when General Secretary Gorbachev came to Washington, he met with a wide variety of American citizens: artists, politicians, members of the business community, and even the lunchtime crowd on Connecticut Avenue. There was no attempt on the part of his American hosts to limit his meetings or prevent Americans from meeting with the Soviet leader.

I understand that the State Department has raised the issue of access to Moscow with the appropriate Soviet officials and there are indications that those invited to meet with the President might be allowed to attend.

There is still time to right these wrongs. There is still time for the Soviets to allow those invited to meet with the President. I hope that Soviet authorities will permit individuals to travel to Moscow freely for this important occasion.●

NOMINATIONS TO FEDERAL COURTS

● Mr. SIMON. Mr. President, on May 24, the Judiciary Committee favorably reported two nominations to the Federal courts. These nominees were examined at a hearing held on May 16, at which I presided. For the benefit of Senators who will soon vote on whether to confirm these nominations, I offer the following brief summaries of the nominees' qualifications and of the testimony elicited at the hearings.

First. Richard Schell has been nominated to the U.S. District Court for the Eastern District of Texas. Since 1986, the nominee has been a judge of the Texas District Court. Before that, Judge Schell served as a county court judge for 4 years, as a private practitioner for 5 years, as an assistant district attorney for a year and a half, and as a law school instructor for a year. He is 38 years old, and received both his undergraduate degree and his law degree from Southern Methodist University. He was rated qualified by the American Bar Association committee, and appears to be well regarded by lawyers in his community.

At the hearing on May 16, Judge Schell was introduced by Senator GRAMM and by Representative RALPH HALL. I then questioned him on the following subjects: his relative inexperience as a lawyer before going on the bench; and his views on sentencing and the Federal sentencing guidelines. Judge Schell also responded to written questions submitted by Senator THURMOND concerning constitutional interpretation and judicial activism.

Second. William Cambridge has been nominated to the U.S. District Court for the District of Nebraska. The nominee has been a State judge in the Tenth Judicial District of Nebraska since 1981. For 24 years before that, he was in private practice in his home town of Hastings, NE, where he conducted a general practice. Judge Cambridge is 56, and is a graduate of the University of Nebraska and the University of Nebraska School of Law. He was rated qualified by a majority of the ABA committee; a minority rated him not qualified.

At the hearing on May 16, Judge Cambridge was introduced by Senators EXON and KARNES and Representative VIRGINIA SMITH. I then questioned him on the following subjects: his membership in four Masonic organizations, a country club, and two national fraternities—Judge Cambridge indicated that he does not believe any of these organizations "invidiously discriminate"; ratings he received as a judge in a poll of lawyers conducted by the Nebraska State Bar Association in 1986, and in particular a low rating for "absence of bias or prejudice in criminal cases"; and his lack of experience in Federal court. Judge Cambridge also responded to written questions submitted by Senator THURMOND concerning constitutional interpretation.

Mr. President, with the reporting of these two nominations, the Judiciary Committee has acted on a total of 75 judicial nominations during this Congress. As with the vast majority of these nominations, the committee has acted far more promptly in reporting these nominations than the executive branch has moved in making them. The vacancy to which Judge Cambridge has been nominated is more than 6½ months old, while Judge Schell has been nominated to a vacancy that is nearly 5 months old. Both nominations were received by the committee on April 13, and were ordered reported less than 6 weeks later, after a thorough committee investigation and careful consideration of the nominees' qualifications.●

ARTICLE BY RICHARD N. GARDNER

● Mr. GORE. Mr. President, it is a rare pleasure for me to read an article which provides a clear, reasoned approach toward a controversial, ideological issue. So is the case with Richard N. Gardner's "The Case for Practical Internationalism," found in the spring 1988 issue of Foreign Affairs. Mr. Gardner, formerly Deputy Assistant Secretary of State for International Organization Affairs and United States Ambassador to Italy, currently holds the Henry L. Moses Chair of Law and International Organization at Columbia University.

In this essay, Mr. Gardner advocates an extremely sensible approach toward reinvigorating the United Nations. He combines a sense of reality with the hope that we could increase the United Nation's ability to expand rapidly as an instrument of international diplomacy. In his article, Mr. Gardner tackles a crucial current issue and offers solutions that very well could benefit this country and its relations with the world community.

I commend Mr. Gardner and urge my colleagues to read his work and learn from it. I hereby submit it, in its unabridged form, for the RECORD.

The article follows:

THE CASE FOR PRACTICAL INTERNATIONALISM

(By Richard N. Gardner)

The next president will face unprecedented opportunities—but also unprecedented difficulties—in promoting the national interests of the United States through multilateral diplomacy and international organizations. How the new administration seizes the opportunities and copes with the difficulties will go far to determine whether we face a favorable or hostile world environment as we approach the 21st century.

The opportunities are there if we have the skill and imagination to seize them. Almost everywhere we find a strong objective case for promoting the national interests of the United States and the general welfare of nations through cooperative action in international agencies—from the resolution or containment of regional conflicts through U.N. peacemaking and peacekeeping, to the negotiation of more open markets and the management of financial imbalances through the General Agreement on Tariffs and Trade (GATT) and the Bretton Woods organizations, to global action on nuclear safety, acquired immune deficiency syndrome (AIDS), drug abuse, overpopulation, environmental destruction and underdevelopment through the United Nations' specialized agencies and special programs. The case for multilateralism will be particularly compelling as we face a new era in which our relative power has declined and we will need to share economic burdens and political responsibility, not just with Europe and Japan, but with emerging power centers in the developing world.

The "creeping moderation" that is now evident in many Third World countries is another reason for cautious optimism about prospects for constructive multilateral cooperation. In a growing number of developing countries, the crucible of hard experience has produced a new interest in free markets, human rights and respect for international obligations. Even in the U.N. General Assembly, after years of unreasoning attacks on the United States and Israel and pursuit of the chimera of a statist New International Economic Order, the tide is beginning to turn, as evidenced by the declining number of votes to deny Israel's U.N. credentials, the growing support for U.S.-backed resolutions on Afghanistan and Cambodia and the moderation of the 1986 Assembly session on Africa.

The possibilities for constructive multilateral action are also enhanced by changes in the policies of the two great communist nations who posed the major challenges to the effectiveness of the United Nations and other international agencies throughout most of the postwar period. The People's Republic of China has played an increasingly constructive role in the United Nations and in the Bretton Woods organizations since taking its U.N. seat in the early 1970s. And Soviet General Secretary Mikhail Gorbachev, in his extraordinary Pravda article of September 17, 1987, has proclaimed a new Soviet interest in strengthening the United Nations, indicating that cooperative action among interdependent nations should now take precedence in Soviet foreign policy over international class warfare. Gorbachev's article offered a dozen proposals for strengthening international cooperation, including enhancement of the U.N. secretary-general's role in preventive diplomacy, wider use of peacekeeping forces in regional trouble spots, acceptance of the compulsory jurisdiction of the International Court of Justice (the World Court), creation of a new International Space Organization, a global strategy for environmental protection, and even international negotiations to bring national laws into conformity with international human rights standards. To give credibility to the new rhetoric, the Soviet Union has announced its intention to pay most of its financial arrears to the United Nations, and has even made a substantial down payment.

Americans would be foolish not to recognize in Gorbachev's new approach a shrewd propaganda stroke at a time of diminished U.S. support for the United Nations. But we would be equally foolish not to test Gorbachev's proposals to see whether some of them can be developed to the mutual advantage of both our countries and the entire world.

II

The next president will also find his administration's in-box filled with some exceptionally difficult problems. As of this writing, U.S. financial arrears to the U.N. system are well over $300 million, and could reach more than $400 million by the next president's inauguration. This withholding of legally owing payments undermines U.S. leadership, compromises international programs that serve our national interests, and sabotages budgetary and organizational reforms that were set in motion on the promise that we would meet our financial obligations.

Our inability to deal sensibly with the large U.S. domestic budget deficit, except through the Gramm-Rudman-Hollings process, has led to disproportionate reductions in the two percent of the federal budget (about $20 billion) that normally goes for foreign affairs, and the five percent of that subtotal (about one billion dollars) that represents our annual contributions, assessed and voluntary, to international agencies.[1] Some combination of revenue increases and reform of entitlement programs will be essential, not merely to get our economic house in order but also to restore the diminished financial base of American international leadership.

The second and even more ominous cause of our financial delinquency is the shattered domestic political support for U.S. participation in the international organizations. For this "twilight of American multilateralism" the behavior of other nations must bear some part of the blame. It would be hard to overemphasize how the souring of America's worldview, particularly toward the United Nations, was provoked by Soviet intransigence within international agencies and Soviet aggression outside them, and by the anti-business, anti-freedom, anti-Israeli and anti-American behavior of Third World radicals in the 1970s and early 1980s, too often acquiesced in if not supported by the "nonaligned" U.N. majority. It was almost as if a coalition of communist and Third World countries had set out to knock down every key pillar of support for internationalism in the American body politic: "Let's say Zionism is racism and turn off the Jewish community; let's launch a statist New International Economic Order to turn off American business; let's sour American labor by politicizing the International Labor Organization; and let's enrage the media by threatening to limit press freedom in UNESCO." Of course, that was not the plan, but the result was the same.

Still, the collapse of political support for America's multilateral leadership is not explained entirely by the unreasonable behavior of foreigners, nor will it be resolved even if the hopeful auguries of more responsible behavior by other countries are realized in practice. We can see this from the decline in congressional and public support for the Bretton Woods institutions and GATT, which have hardly been forums for the harassment of American values and interests. Some profound changes have been taking place in our domestic political and social structure—the decline in the influence of the Eastern internationalist establishment in both political parties, the rise in power of single-issue interest groups, and the collapse of central leadership and party discipline in a Congress increasingly inclined to micromanage foreign policy. These changes make it harder for any president today to support international agencies in the same way as did Truman, Eisenhower, Kennedy and Nixon. To paraphrase something recently said to this writer by a friendly European observer, the question now is whether constituency politics as presently practiced in America can be reconciled with American leadership in a cooperative, rule-based international system.

A satisfactory answer to this question, if it is to be found, must be bipartisan and must be built on the understanding that neither dogmatic unilateralism nor utopian multilateralism is an appropriate policy for a superpower in a complex and dangerous world. The next president will need to blend power politics and world-order politics, unilateralism and multilateralism—acting alone where multilateral solutions are unavailable, developing multilateral options where they represent a better means of achieving our national objectives. He will also need to blend bilateral, regional "plurilateral" and global approaches—as we have done in trade policy, where we make some agreements with all GATT members, some agreements with those GATT members willing to undertake a higher level of obligation in new GATT codes, and still other agreements in the form of free trade agreements with countries like Canada and Israel.

Multilateralism need not mean the tyranny of the United Nations' small-country majority or the limiting of cooperation to the lowest common denominator of recalcitrant members. It can and must mean some "power steering" in multilateral agencies, through more sophisticated decision-making devices as well as what Harlan Cleveland has aptly called "coalitions of the willing"—groups of like-minded countries acting responsibly under a larger multilateral umbrella. But most of all, such a flexible approach to international cooperation will require a clear sense of American priorities in the international system of agencies, a realistic sense of what those agencies can and cannot do, and a coherent strategy for promoting American priorities in cooperation with allies, with nonaligned nations and sometimes with adversaries.

In an age addicted to catchy phrases and convenient labels, we might call this middle way between the twin perils of dogmatic unilateralism and utopian multilateralism a strategy for "practical internationalism." Of course, such verbal formulas are meaningless unless they are applied in concrete cases. Let us see what such a strategy might look like in three areas: functional cooperation on priority global issues, the peace and security work of the United Nations, and our approach to international law and the World Court.

III

A strategy of practical internationalism would begin with certain crucial global problems that can only be dealt with effectively through multilateral agencies. Restoring balance and order in world finance and trade is clearly one of the highest priorities, but since an adequate examination of these subjects would require an article by itself, we will focus instead on other functions that are performed by the U.N. system, whose importance is less widely understood.[2] We start with five challenges to the welfare of Americans where the right kind of presidential leadership could rally public and congressional support.

The nuclear challenge. Our country shares with other nations a growing concern to prevent nuclear-weapons proliferation, to improve the safety of nuclear reactors, to organize early warning of and international assistance for nuclear disasters and to guard against nuclear terrorism as increasing amounts of separated plutonium transit the globe. The International Atomic Energy Agency, a well-managed organization where the United States and the Soviet Union share the same priorities and work well together, is already moving effectively on this agenda.

The drug challenge. The United States is the principal target for drug traffickers the world over, and virtually all Americans accord a high priority to stopping drug abuse. The United Nation's 1987 Vienna conference on this subject has given new impetus to global efforts in preventive education, treatment and rehabilitation of addicts, and new measures of law enforcement to apprehend and extradite drug traffickers. The U.N. Fund for Drug Abuse Control, with greatly increased resources, is now a major instrument for strengthening drug enforcement machinery in developing countries, providing incentives for crop substitution and helping overcome powerful interests in illicit cultivation, manufacture and export of drugs.

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[1] This figure does not include our contributions to the International Development Association, the concessional aid affiliate of the World Bank, and to the development banks for Asia, Africa and Latin America, which currently total about $1.2 billion—about $600 million below the Administration's request for fiscal year 1988.

[2] A discussion of practical steps to improve the functioning of international cooperation in trade and finance is contained in William D. Eberle, Richard N. Gardner and John V. Moller, *Building on Progress: The U.S. and the World Economy*, Aspen (Colo.): Aspen Institute for Humanistic Studies, 1986.

The AIDS challenge. The World Health Organization's system of global health cooperation led years ago to the elimination of smallpox and dramatic progress toward eradicating malaria. This system is now being mobilized to deal with the spread of AIDS, described by WHO as "a health disaster of pandemic proportions," particularly in Africa. There should be a national constituency in the United States to support WHO, a well-run U.N. specialized agency, as it helps member countries to establish national AIDS programs and sponsors research and exchange of information on prevention, control, immunology, international travel, safety of blood supplies and other urgent AIDS issues.

The environmental challenge. Americans are rapidly becoming more aware of their interest in joining with other nations to deal with global environmental problems. The scientific and political leadership of the U.N. Environmental Program helped produce the first international agreement to limit the use of chlorofluorocarbons that are damaging the ozone layer, our global atmospheric shield against ultraviolet radiation that causes cancer and other threats to human health. Working with other international agencies, UNEP is also seeking to develop an international consensus on remedies for "global greenhouse warming," caused by the burning of fossil fuels and tropical deforestation, a phenomenon that could cause catastrophic changes in the world's climate and sea level. Other major priorities for U.N. environmental cooperation are the global monitoring of environmental trends, efforts to clean up the Mediterranean and other regional seas, and measures to fight desertification and deforestation. Enlightened political leadership in the United States could mobilize support for such efforts, echoing the conclusion of the recent report of the World Commission on Environment and Development that "there is a growing need for effective cooperation to manage ecological and economic interdependence."

The population challenge. World population, which has already passed five billion, will reach eight to 12 billion in the 21st century before it finally levels off. Where within that range if finally stabilizes will profoundly affect the habitability of our planet and the lives of the children and grandchildren of Americans living today. Even in the near term, population growth in many countries of Africa, Latin America and Asia, which is causing explosive increases in the population of already overcrowded cities, poses grave threats to economic development, environmental balance and political stability. South of our own border, rapid population growth in Mexico, Central America and the Caribbean, with its attendant mass poverty and unemployment, has triggered a huge flow of illegal immigration into our country. Multilateral support for national efforts of voluntary family planning in developing countries provides a politically important supplement to legitimize purely bilateral aid by rich donor countries. A major challenge to the next president will be to restore U.S. support for the U.N. Fund for Population Activities, which we have cut off over charges that China's population program uses coercive abortion, something both China and UNFPA deny.

Any effective strategy to deal with these priority challenges to American interests will succeed only if supported by successful efforts to educate and train people (particularly in developing countries), to eradicate mass poverty and to restore momentum to global growth. Human resource development in developing countries argues for the restoration of our nation's traditional support for the U.N.'s main institution for technical assistance funding, the U.N. Development Program, our contributions to which have declined by one-third in real terms during recent years. And if the U.N. Educational, Scientific and Cultural Organization (UNESCO), under its new leadership, can rebuild confidence in the management of its programs, particularly in Third World educational development, the United States should be willing to resume its membership.

But most of all, the world needs to enlarge the flows of private and official capital to developing countries in order to stimulate an adequate level of global growth. A near-doubling of World Bank capital and International Monetary Fund quotas should be a high priority for American leadership, coupled with securing special additional contributions of concessional aid from Japan. Multilateral development institutions are now essential mechanisms for recycling the huge Japanese surplus into developing nations, restarting private capital flows, managing the debt crisis and rebuilding lost capital markets for the United States. And, quite obviously, their conditionality requirements and structural adjustment lending are the best hope we have to wean developing nations from statist to market-oriented growth policies.

We cannot expect multilateral institutions to reflect only our priorities. The question is whether coalitions can be built around trade-offs between different countries' priorities in ways that yield net benefits to all, including ourselves. In the international financial institutions, where weighted voting applies and where senior management enjoys our confidence, the answer is clearly yes. But even in the nonfinancial institutions of the U.N. system, the benefits to us of our participation have usually outweighed the disadvantages.

The major problem in ensuring that this continues to be so is the gross disproportion in U.N. agencies (other than the financial institutions) between budgetary contributions and influence in determining how the money is spent. The United States, which pays 25 percent of the United Nations' regular budget, has only one vote out of 159 in the General Assembly. The eight largest contributors to the U.N. regular budget (the United States, the Soviet Union, Japan, Germany, France, Great Britain, Italy and Canada) supply over 70 percent of the funds but have only five percent of the votes. At the same time, the vast majority—over 100 members, mostly developing countries—contributes in total less than two percent of the budget. Similar patterns exist in the major specialized agencies.

The answer to this problem will not be found in weighted voting, since no formula that would substantially assist the United States and other major contributors can be negotiated in the foreseeable future. The answer will be found instead in more timely and effective interventions by the large contributors with senior U.N. officials at an early stage of the budget process—and also by new procedural devices for "power steering." The strengthened Committee on Program and Coordination (CPC) that emerged from the 1986 reforms adopted by the General Assembly is a first step in the right direction, and similar committees need to be created in specialized agencies where they do not exist.

It is doubtful, however, if the practice of consensus decision-making that exists in the CPC will provide as useful a way of setting budget priorities as it will of establishing budget ceilings, since it enables small as well as large members of the committee to use their veto for bargaining purposes. In the central United Nations, and in the specialized agencies as well, we need to work toward a new system of structured decision-making that has three main elements: small program and budget committees in which the large and middle-sized contributors have a majority of places, a requirement for the approving vote of two-thirds of the members of these small committees, and a rule of procedure that prohibits the adoption of any budget by the General Assembly and other plenary bodies that is not first approved in the small committees.

The other major reform to which the United States and the major contributors should be turning their efforts more effectively is the reduction in size and the upgrading of quality of U.N. staff. This means more attention to the choice of the heads of major specialized agencies, to avoid the problems that have been encountered at UNESCO and the Food and Agriculture Organization. It means taking more seriously the quality of U.S. appointees to senior posts in the U.N. system, where our influence has declined alarmingly—particularly on the 38th floor at U.N. headquarters. It means urging the secretary-general to devote more attention to management and to ensuring the independence and the competence of Secretariat employees. And it means consolidating duplicative intergovernmental bodies and secretariats like the Economic and Social Council, the U.N. Conference on Trade and Development and the Department of Economic and Social Affairs. These budgetary and administrative questions are not glamorous, headline-grabbing issues, but until the United States and its allies are more serious about them in the future than they have been in the past, the potential for realizing our common interests through functional multilateralism will be severely limited.

IV

A strategy of practical internationalism will need to look carefully at the risks as well as the opportunities involved in the political activities of the United Nations and at the evolving attitudes of the Soviet Union and other key countries.

The risks are evident enough. On the two central issues of Israel and South Africa, the United States has been at odds with the overwhelming majority of U.N. members. The new administration will need to take initiative on both of these problems. Yet it is far from sure that any proposal that seems reasonable to us will satisfy the demands of the General Assembly majority. No matter how many General Assembly votes we may win on Afghanistan and Cambodia, it will be in our interest to mount any new initiatives on the Arab-Israeli conflict and the South African dilemma in the Security Council or outside the United Nations entirely.

Nevertheless, as an annual gathering place for heads of state and foreign ministers the General Assembly has its uses. It provides us with opportunities for dialogue and influence that would not be readily available elsewhere. Its resolutions in economic and legal areas can sometimes be useful. But the main point is that, since General Assembly action is constitutionally required for U.N. budgetary and administrative decisions on many programs we like that are run by subsidiary bodies of the Assembly, we have to be resilient enough to recognize that Assembly political resolutions we disagree with are the price we have to pay for the carrying forward of these programs. Those political resolutions, it should be emphasized, have no binding force and, given the nature of the majorities behind them, usually receive very little political legitimacy. To be sure, as former U.S. Permanent Representative to the United States (now Senator) Daniel Patrick Moynihan (D-N.Y.) and others have emphasized, such resolutions can influence ways of thinking and acting around the world; we should vote against them if they cannot be made acceptable to us by vigorous diplomacy in the United Nations and foreign capitals.

The political role of the Security Council and the secretary-general, on the other hand, offers considerable opportunities for the advancement of our national interests. Thirteen times since the United Nations was founded, men in blue helmets have been dispatched with the support of the United States to verify cease-fires and interpose themselves between hostile forces. Without U.N. peacekeeping, the disengagement agreements in 1973 between Israel and Syria and Israel and Egypt (and therefore the Camp David agreements) would not have been possible, the former Belgian Congo would have been dismembered, and Greece and Turkey might have gone to total war. The three main U.N. peacekeeping operations still in existence today—in southern Lebanon, on the Golan Heights, in Cyprus—remain the most politically useful means anyone can think of to contain violence in those areas.

Historical experience suggests that in some situations in some parts of the world, U.N. peacekeeping can serve American interests better than the intervention of American forces. In the summer of 1982, the Reagan Administration had two opportunities to propose sending U.N. forces to Beirut, but it chose to send American forces instead. That fateful mistake resulted in the loss of 253 marines and a humiliating American withdrawal. It should have been clear from the outset that a U.N. force composed of soldiers from disinterested countries would have been a more effective peacekeeping instrument than an American contingent perceived in Lebanon as the ally of one side in a bitter communal conflict.

On the other hand, the recent proposal for a U.N. naval force to protect nonbelligerent shipping in the Persian Gulf probably asks too much of U.N. peacekeeping, which only works if the adversary parties agree to it. In the absence of a cease-fire in the Iran-Iraq war, Iran would not agree to U.N. protection limited to nonbelligerents like Kuwait, and Iraq would object to giving U.N. protection to Iranian vessels while Iran continued to threaten a military breakthrough in the land war. It is doubtful if a consensus could be found in the Security Council to send a naval peacekeeping force to the Gulf over the objections of Iran or Iraq, and it is equally doubtful that nonaligned members would be willing to supply naval units for a force that would draw the fire of one or the other of the belligerents. Unless we want to invite the Soviet fleet into the Gulf, a risky proposition at best, the naval presence of the United States and its allies remains the best means of protecting nonbelligerent shipping against Iranian attack until a cease-fire in the Iran-Iraq war is achieved.

The peacekeeping efforts of the secretary-general, like the use of peacekeeping forces, can also offer useful alternatives to direct American action, though not in all situations. Ralph Bunche was able to achieve an armistice agreement between Arab countries and Israel in 1949 that no U.S. government negotiator would have achieved. In a different instance, Secretary of State Henry Kissinger's shuttle diplomacy in 1973-74 produced the disengagement agreements that no U.N. intermediary could have managed (thought U.N. peacekeeping forces were required to carry them out). President Carter's personal commitment was needed to make the Camp David accords possible, but if a Soviet withdrawal from Afghanistan is finally arranged, the efforts of a U.N. mediator, Diego Cordovez, will have been an important element. In many situations, U.N. and U.S. diplomacy may prove to be mutually reinforcing. Former Secretary of State Dean Rusk's recent revelation that President Kennedy had authorized him, as a last resort, to have U Thant propose a swap of American missiles in Turkey for Soviet missiles in Cuba as a way of resolving the Cuban missile crisis of 1962 is a reminder that the secretary-general may be a useful last resort to find a face-saving way out when superpower confrontations threaten to explode into nuclear war.

Gorbachev's new approach to the United Nations offers the hope, though obviously not the certainty, that the U.N. peacekeeping and peacemaking role can be even more important in the future. His *Pravda* article, calling for a "comprehensvie system of international security," endorsed, as we have noted, the use of U.N. peacekeeping forces in regional trouble spots and the secretary-general's role in preventive diplomacy. Until now, Gorbachev's generalities have not been followed up with concrete proposals, and the Soviet item on international security submitted to the last General Assembly failed to impress the U.N. membership. One place to test the seriousness of Gorbachev's new interest in the United Nations is in Afghanistan, where U.N. diplomacy and a U.N. peacekeeping force may play a critical role in securing the withdrawal of Soviet troops, assuring the end of military aid to the Afghan rebels and facilitating a broadly based and nonaligned Afghan government. If the United Nations can succeed in Afghanistan, a similar effort in Cambodia might have a better chance of success.

Beyond these specific trouble spots, the United States can ask the Soviet Union to give its full support to the new early-warning system for political crises that the secretary-general has created—the Office for Research and the Collection of Information—and both countries can agree to let him engage in good offices, mediation and fact-finding, free of Security Council veto. We can also urge the secretary-general to improve the quality of his military advice and to broaden the number of countries earmarking and training units for U.N. peacekeeping service.

A genuine policy of noninterference in the affairs of other nations, which Gorbachev now asserts as a Soviet goal, would represent a dramatic departure from the policies the Soviet Union has followed since 1971. Such a policy would mean that the Soviet Union would never use its power to prevent a people from choosing a government it wants, even if that were a non-communist government. It would also mean the United States would never use its power to prevent a people from choosing a government it wants, even if that were a communist government. If Soviet-American relations are really entering a new era of "live and let live"—and this remains yet to be demonstrated—the United Nations will have a crucial role to play in sustaining it. For in specific questions of self-demonstration there will be factual disputes about what the people of a nation really want and whether there is intervention by outside forces. There is really no satisfactory way to resolve such disputes except through an international agency that can patrol borders, supervise elections, and verify compliance with nonintervention norms.

V

An additional word is necessary on the other key area in U.N. political activity—human rights. Here again, we need not choose between the bilateral and the multilateral approach; we are going to require both. The main instrument of bringing American pressure to bear on behalf of the victims of oppression will be bilateral diplomacy. We will also employ regional machinery like the Conference on Security and Cooperation in Europe reviews of the Helsinki accords and the Inter-American Commission on Human Rights. But the resources of the United Nations should be part of our strategy as well. This means not only the debates in the Human Rights Commission or the General Assembly, but also the many new U.N. investigative bodies that have now been established, and the advisory services that the U.N. Secretariat makes available to member countries.

Thanks to the United Nations, we now have in place a comprehensive body of international human rights principles whose salient elements are the Universal Declaration of Human Rights, the two Human Rights Covenants and treaties on specific issues, such as the Genocide Convention and the Convention on Racial Discrimination. These have influenced the national laws of member states and provided agreed standards to measure national behavior when complaints are brought before international bodies.

The main weakness of the United Nations, as everybody knows, is implementation. Until recently, U.N. human rights attention was focused mainly on three countries—Israel, South Africa and Chile—while communist, Islamic and African regimes were exempt from scrutiny. The General Assembly majority has so far declined to create a U.N. high commissioner for human rights who could examine the human rights practices of all members objectively and bring gross violations to the attention of U.N. bodies.

Yet in the last few years the United Nations' "double standard" in dealing with human rights has been gradually eroding. U.N. human rights bodies have begun to look at Poland, Afghanistan, Kampuchea and Iran. A Human Rights Committee composed of distinguished experts is now reviewing the human rights compliance reports of individual countries under the Covenant on Civil and Political Rights. And the functions envisaged for the high commissioner are being performed piece-by-piece—by special rapporteurs and working groups in problem areas like involuntary disappearances, torture, summary or arbitrary executions and religious intolerance. These rapporteurs and groups do not stop with the consideration of general issues; they seek information on individual cases, call public attention to human rights violations, and often intercede on behalf of the victims.

The next administration will therefore enjoy new opportunities to employ U.N. instrumentalities to promote American values, provided the U.N. human rights work is not dismantled under the impact of U.S. budgetary withholdings, and provided also that we send our best advocates to U.N. human rights bodies and make full use of private human rights groups as sources of information. We can also help our position by ratifying the Covenant on Civil and Political Rights and the Covenant on Economic and Social Rights, as well as the Convention on Racial Discrimination. The practical effect of our failure to ratify the first of these U.N. covenants is that we cannot sit at the table and participate in the interpretation of political rights when cases under the convenant come before its Human Rights Committee. Our participation would give us a practical opportunity to test Gorbachev's surprising proposal that national laws should be reviewed before international bodies to see that they conform with international human rights standards.

VI

What would practical internationalism mean for American policy in the realm of international law? The Founding Fathers of the American Republic believed that respect for the "law of nations" should be a guiding principle in our relations with the outside world. American statesmen like Elihu Root and Charles Evans Hughes continued this tradition in the early days of this century, as did postwar presidents like Truman and Eisenhower, Yet in recent years, neither the executive branch nor the Congress has seemed much interested in the requirements of international law.

In this unprecedented situation for our country, there are many who now declare that international law does not exist while, at the other extreme, there are some who decry any unilateral use of force and would subject our country to the international "rule of law" on all matters as determined by the World Court or other U.N. bodies. Neither of these extreme positions makes good sense. Neither serves our national interests.

It is time for us to go back to first principles. International law is nothing more or less than a system of mutual restraints and reciprocal concessions that nations accept because it serves their interests it so so. These restraints and concessions are maninly found in treaties that nations enter into voluntarily. To a lesser and diminishing extent, they are also found in "customary international law," the repeated practice of nations, including our own, that is accompanied by a sense of legal obligation. On a wide range of subject matter—freedom of the seas, the protection of diplomats, the rights of foreign investors—almost all nations observe these rules almost all of the time. The observance and further development of international law is very much in the national intersts of the United States, a democratic nation that believes in the rule of law at home, and a status quo power that seeks stability and order abroad. Those who say that "there is no such thing as international law" are really asserting a profoundly un-American idea—that we should not honor our international commitments.

The crisis of confidence that presently afflicts the subject of international law in the United States is mainly related to the question of international rules on the use of armed force. One of the core principles of international law is the prohibition of the use of armed force by one nation against the territorial integrity or political independence of another nation except in the exercise of individual or collective self-defense. This principle is found in the U.N. Charter, in the Charter of the Organization of American States, and in other sources of modern international law. Until the Reagan Administration, the United States insisted that this core principle of law prohibited the organizing of armed insurgencies against recognized governments, whether by the United States, the Soviet Union or anyone else.

When the Administration began aiding the Nicaraguan contras in 1981, it argued that such aid was justified as a legitimate exercise of collective self-defense because of Nicaragua's aid to the insurgents in El Salvador. But in his 1985 State of the Union address, President Reagan employed a very different rationale for our Central American policy, claiming that "support for freedom fighters is self-defense." Since then, Administration spokesmen and some of their supporters outside of government have asserted a moral and legal right to give military aid to "freedom fighters" seeking to overthrow communist regimes, not just in Nicaragua but anywhere in the world.

This "Reagan Doctrine," as it has come to be called, is regarded as inconsistent with international law by all of our allies in NATO and the Organization of American States and by virtually all legal scholars in the United States and overseas. The rationale, insofar as it has been thought through, rests on the twin theses that considerations of freedom must override traditional restraints on the use of armed force and that, on some new theory of "reciprocity," the United States should no longer feel bound by rules of international law violated by others.

These arguments are both fundamentally flawed. The doctrine of collective self-defense can reasonably be interpreted to justify American aid to Afghan freedom fighters resisting the invasion of their country by a Soviet army, as well as aid to the Nicaraguan contras for the limited purpose of forcing Nicaragua to stop the subversion of its neighbors. But in a world of diverse political systems and divergent views on the meaning of freedom, the attempt to legitimate "wars of liberation" against established and recognized governments that are not "democratic" by our or someone else's standard is a formula for world civil war. It could provide a legal cover for forcible intervention by outsiders against countries like South Korea, South Africa, Chile and even Israel—interventions that would serve the cause of neither peace nor freedom. How a government treats its people is a legitimate matter of international concern, which may be manifested through strong diplomatic action and even economic sanctions. But as long as a government is not threatening its neighbors, it is wrong to subject it to armed attack. To hold otherwise is to destroy not merely centuries of established legal principle but the very basis of coexistence among diverse political systems.

But if the next president should reject the "unilateralist" view that international law is meaningless or that we should declare open season on all undemocratic regimes, he should also reject the equally simplistic view that international law permits no unilateral use of force except in the face of an armed attack on a nation's own territory.

The U.N. Charter restraints on the use of force were drafted on the assumption that an effective collective security system would be established by the United Nations to maintain order and justice. The collapse of that assumption does not mean that the use of force provisions have become inoperative, but it does require that concepts like "self-defense" and the prohibition on the use of force against the "territorial integrity and political independence" of states be reasonably construed to enable the law-abiding states to defend the civilized order. This would mean, for example, a reading of the Charter to permit the United States to launch an air strike on a country like Libya that engages in a series of terrorist attacks on American citizens. It would also justify a reading of the Charter to permit the rescue of one's citizens in another country that is unwilling or unable to protect them. And it should certainly permit a limited and temporary use of force to defend a country from an indirect aggression in the form of an externally organized insurgency or coup d'état, as may have been the case in Grenada.[3]

This brings us to the question of the International Court of Justice. In the present state of international relations it is simply not realistic to expect nations to accept the World Court's compulsory jurisdiction in all disputes to which they may be a party. It is particularly unrealistic to expect them to accept compulsory jurisdiction in controversies arising out of the use of armed force, where the national security interests are too great, the facts usually too difficult to establish, and the international rules on the subject still insufficiently developed, particularly where civil wars are involved.

But this does not mean that we should turn our back on the World Court entirely. The Court is composed for the most part of able and impartial jurists whose views of international law will be acceptable to us on most matters that do not touch on questions of armed force. We can therefore take specific controversies to chambers of the Court[4] on a voluntary basis, as we did with Canada to define the maritime boundaries in the Gulf of Maine, and as we are now doing with Italy in a case involving the requisitioning of the property of an American multinational. In both of these cases, where negotiations failed to yield a resolution of the controversy, friendly countries saw adjudication before the Court as a useful solution. Moreover, we should continue to observe the more than 60 bilateral and multilateral agreements to which we are a party providing for World Court resolution of disputes over their interpretation.

Finally, we can fashion a new U.S. acceptance of the Court's compulsory jurisdiction that properly balances our interest in the development of the international legal order with our desire to avoid risks to U.S. security interests. The way to do this would be to exempt from our acceptance of compulsory jurisdiction all matters relating to the use of armed force, and further to provide that cases reaching the Court under this revised acceptance of compulsory jurisdiction would be heard before a chamber of five judges chosen in accordance with the Court's rules after consultation with ourselves and the other party to the dispute.

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[3] Our action in Grenada may also be justified by the threat to the lives of American students and the invition of Grenada's governor general. See my article, "Sovereignty and Intervention: The Just Use of Force," *Freedom at Issue*, March-April 1985.

[4] Chambers normally consist of five of the 15 judges, and are chosen by the president of the Court in consultation with the parties.

VII

The next president will need to convince the American people that strengthening international institutions is in the U.S. interest and will serve a more stable and cooperative world order. His key cabinet appointments will be one concrete expression of his new direction. Top new talent for developing a coherent U.S. multilateral strategy will be required in the National Security Council staff, in the State Department's Bureau of International Organization Affairs and in our missions to international agencies. The new administration will also need to deal with the decline in the quality of Americans in senior posts at U.N. headquarters and in many U.N. agencies. And it will need to find ways of creating what we began to lose some years ago—a cadre of foreign service officers skilled in multilateral diplomacy.

To carry out a policy of practical internationalism, the next administration will have to do a better job of harmonizing our policies in international institutions with key allied and nonaligned nations. A special effort will need to be made to develop common approaches with the European countries and Japan, from whom we have become increasingly isolated in multilateral forums. We will also need to work harder to heal the breaches that have opened up on multilateral issues between ourselves and our allies in this hemisphere. And in Soviet-American summits, as well as in our meetings with the Chinese, the search for more effective multilateral cooperation in pursuit of common interests should become a regular agenda item.

The next president will also need to use his "bully pulpit" to talk sense to the American people about the changed international realities that face them as they approach the third millennium. Through his words and his actions, he will need to hammer home the essential message, now only dimly understood, that multilateral action can often serve America's enlightened self-interest by sharing economic burdens and political responsibility and by accomplishing tasks that the United States cannot perform as well by acting alone.

Unilateral military action will still be necessary in exceptional cases, as well as bilateral diplomacy and special arrangements. But if multilateral institutions can start delivering tangible benefits that Americans feel in their daily lives, it will not be incredible for a future president to say out loud what the leaders of other industrialized democracies have already been prepared to tell their people: "I am an internationalist because I love my country."●

THOMAS JACKSON CHANDLER, JR.

● Mr. FOWLER. Mr. President, I rise today to honor Thomas Jackson Chandler, Jr., for his role in the development of the Georgia peanut industry.

These contributions have been very important to my State. Peanuts are one of our leading crops and Georgia is one of the leading peanut producing States. Needless to say, this industry is essential to the economy in the southern part of the State. Indeed, peanuts have become an important staple throughout the South.

As his given name attests, Mr. Chandler's southern roots run deep, and his family has strong ties to the heartland of Georgia. Tom was raised on a cotton farm in the small community of Good Hope, about 45 miles east of Atlanta. He went to Good Hope Grammar School and Monroe High School, in Monroe, GA. He attended Abraham Baldwin Agricultural College in Tifton, GA, and received his BS degree in agronomy from the University of Georgia in 1956.

In his junior year at Georgia, Tom married Colleen Houston from Colquitt, GA, down in Miller County. They have a daughter, Sandy, and a son, Keith, both of whom have remained involved in the family peanut business.

Tom started out after his graduation as a sales representative in the pesticide division of Stevens Industries. He later became sales manager of that division, and was later promoted to executive vice president in charge of all operations. In 1974, he decided to continue his successful rise in the industry by going into business for himself as president and owner of McCleskey Mills of Americus, GA.

Tom has also given back much in service to the peanut industry. In 1976, he served as chairman of the Peanut Administrative Committee. He served as president of the Southeastern Peanut Association in 1969, and as chairman of the executive committee in 1970. He also played a major role in the association's legislative efforts, serving as chairman of the legislative committee for a number of years.

The importance of his involvement has not gone unrecognized. He has served on the National Peanut Council's board of directors, and is a recipient of the Georgia Peanut Commission's Distinguished Service Award.

In the finest Georgia tradition, Mr. Chandler has served his family, his friends, his industry and his State extremely well.●

LORI KIRSOP

● Mr. DECONCINI. Mr. President, my constituent, Lori Kirsop, age 18, suffers from retinitis pigmentosa and travels with her grandmother, Mrs. Marjorie Kirsop of Youngtown, AZ, to Moscow every year for eye treatment at the Helmholtz Eye Institute.

Each year, my Mesa, AZ, Senate staff and the American Embassy in Moscow assist the Kirsops to have Lori's medical records delivered to Helmholtz for evaluation and acceptance for treatment. Mrs. Kirsop said she read about the Helmholtz Institute in a 1983 newspaper article where she learned that the institute offered a treatment for Lori's condition which was unavailable in the United States. She sought the treatment for Lori. As a result of the continuing treatment at Helmholtz since 1983, Lori's eyes have stabilized and she is presently looking forward to attending Grand Canyon College in Phoenix, AZ, in September.

I ask that Lori's essay, "My Memories and Observations of My Five Trips to Moscow, Russia," be printed at this point in the RECORD. Lori's Russian experience is a heartwarming story of what glasnost can mean in the individual lives of our citizens. I commend the Kirsop family for seeking the best health care available in the world to treat Lori's condition. I am pleased that the Russian Government cooperated and that Lori's story has a happy ending. I wish her every success as she begins her college education.

The essay follows:

Great adventures await me when I visit Russia for treatment at the world famous Helmholtz Eye Institute in Moscow. I have Retinitis Pligmentosa. The doctors at the clinic pioneered the treatment which is not available anywhere else in the world. I bravely do not cry when the shots are injected into my eyes and hips for the ten day treatment. I am grateful to have my grandmother make these trips with me.

My trips are usually made in the fall and winter. In October the leaves of the birch trees have turned a golden color. In late November and December ice and snow cover Moscow. The colorful onion domes of the famous Saint Basil Cathedral on Red Square glitter like diamonds as wet snow clings to their tops. At night as I search the sky, white stars shine brightly high above the red stars on top of the Kremlin. Sometimes the dawn sends red fingers across the sky, and looking out of the windows facing Red Square, I think of how the blood of the Russian people lies beneath the black stones.

My experience with Russian citizens has been pleasant, interesting, and informative. The children are adorable and friendly. The adults are cautious. The Russian people are proud of their nation. My teenage friends at the clinic come from Russia, India, Italy, Germany, Canada, England, and the United States. We talk about boys, rock music, clothes, families, home towns, our eyes, and gossip while exchanging addresses and sharing snacks. Everyone who has them wears blue jeans and sweaters while attending the clinic.

Everyone, including me, does a lot of walking while in Moscow. Moscow has a Metro system and taxis but they are not always available and most Russians cannot afford them. I would like to take a troika ride when I am in Moscow. I think it would be fun to ride through the forest with the trees covered with ice an snow like a fairyland in this horse driven sleigh all covered with fur rugs to keep warm.

Ah, the memories I have stored away about Moscow I get a lost feeling upon arriving at Sheremetyevo Airport and the familiar Intourist car driving me to a different hotel each year. I was thrilled to attend the Bolshoi Theater. I admired the paintings of Russian artists at the State Tretyakov Art Gallery, and standing in the Church of the Assumption where Napoleon stabled his horses and removed seven wagonsful of gold was very interesting. Near Lenin's Tomb an old Cossack in costume stopped to touch my cheek, saying, "Deutsch, Deutsch", as I stood silently watching brides reverently lay their bouquet on the Russian Unknown Soldier's Tomb. I went to GUM's, the largest department store in Russia, to buy delicious ice cream. I spent my allowance at the Beriozka shops. I enjoyed going to Klin, just outside of Moscow, to wander through Tchaikovsky's home and listen to his music, while in my mind I hear the rustle of silk of past royalty and eat a delicious seven course dinner a la Doctor Zhivago.

However, the best part of my trip is always the same—coming home! When I see the Statue of Liberty and the lights of New York it give me goose bumps because I am proud to be an American.●

CONGRATULATING THE WINNERS OF THE ODYSSEY OF THE MINDS CONTEST

● **Mr. ARMSTRONG.** Mr. President, it gives me great pleasure and pride on behalf of all Coloradans to congratulate the winners of the annual Colorado regional and State Odyssey of the Minds contests. Odyssey of the Minds, a creative problem solving competition with an estimated 300,000 participants, is a national program open to all children, grades kindergarten through 12th grade. Odyssey of the Minds was founded on the belief that the mind, like the body, can be trained through practice and exercise to reach its fullest potential. Through annual competitions, students are encouraged to use creative problem-solving techniques as they compete in fun-filled mental gymnastics.

Teams having a maximum of seven members prepare to compete in one of three divisions: division I (K-5); division II (6-8); or division III (9-12). Teams are judged in three areas: long-term problems, style, and short term, or spontaneous problems.

In long-term problem solving, teams develop a creative solution to the problem they have selected. New problems are published and distributed by the national association each year, generally available in September. Preparation involves critical thinking and problem-solving skills. In competition, the long-term problem is worth 200 points.

Teams are awarded points if their solution to the long-term problem is enhanced in a creative fashion, using costumes, props, songs, drama, or story lines that are original and unique. Thus, style enhancement is worth 50 points.

In short term or spontaneous problem solving, teams work within a time limit to give as many creative responses as possible to an unfamiliar problem. Students are given a short time to prepare their solutions and must perform on the spot. Preparation involves practice in higher-level thinking skills, brainstorming techniques, and divergent thinking. The spontaneous problem is worth 100 points. In addition to winning points, a team may win the Ranatra Frisca Award, given for exceptional creativity.

Mr. President, during the first week in June, 14 teams from Colorado will travel to College Park, MD, to compete in the world finals of the Odyssey of the Minds. At this competition, these students will be matched up against some of the sharpest minds their age from around the globe.

Coloradans are justifiably proud of our State winners, and I wish the best of luck to those teams that will be competing in the next few weeks at the world finals.●

ARMENIAN INDEPENDENCE DAY

● **Mr. LAUTENBERG.** Mr. President, on May 28, the Armenian community in the Soviet Union and in the United States will celebrate Armenian Independence Day. To commemorate this important day in Armenian history, the Armenian National Committee has organized a rally in Lincoln Park on June 4.

I join the Armenian National Committee and the Armenian community in celebrating this important day. I can think of no more appropriate time than Armenian Independence Day to reflect on the current struggle of the Armenians in the Soviet Union.

This year the world witnessed large demonstrations in the Soviet Republics of Armenia and Azerbaijan. These demonstrations have been considered among the largest unofficial mass meetings ever held in Soviet history. They indicate the depth of feeling in the Armenian community about maintaining the historical territorial integrity and cultural identity of the Armenians living in the Soviet Union.

The individuals organizing and participating in these demonstrations are not extremists. All they want is for the autonomous region of Nagorno-Karabakh, which was placed under the control of Azerbaijan in 1921, to be reunited with the Soviet Armenian Republic. They only want the Armenian people who have been artificially separated by a 10-mile corridor which divides the Armenian Republic and the Nagorno-Karabakh region to be reunited once again.

Mr. Gorbachev has recognized that progress needs to be made in addressing the needs of some 100 ethnic groups living in the Soviet Union. He has called the need to reassess policies regarding the Soviet Union's multinational and multireligious community as the "most fundamental, vital question of our society."

Despite General Secretary Gorbachev's talk about glasnost, perestroika, and minorities, he refuses to accommodate the Armenians. Their desire for cultural and territorial integrity threaten General Secretary Gorbachev. With all of her military strength, the Soviet Union continues to fear the Armenians' expressions of nationalism.

But justice is on the side of the Armenians. Armenians and others worldwide are concerned about the fate of those living in Nagorno-Karabakh. Their memories of the Armenian genocide are still fresh.

I have long been concerned about the human rights of the Armenians and others living in the Soviet Union. That is why I offered an amendment to the INF Treaty to press the Soviets to grant basic human rights to all of its citizens. The amendment, which was approved unanimously, was a historic opportunity to emphasize to the Soviets the importance the American people attach to human rights. It declared that respect for human rights is an essential part of good relations with the Soviets and is critical to the achievement of lasting peace. It asks the President to insist on sustained and demonstrable Soviet progress in living up to the human rights promises it made on signing the Helsinki accords and other treaties.

On Armenian Independence Day and every day, we must remember the Armenian's struggle for cultural, ethnic, and territorial integrity. I urge my colleagues to join me in celebrating Armenian Independence Day and to redouble efforts to promote human rights for all individuals living in the Soviet Union.●

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

Mr. D'AMATO. Mr. President, I rise today in support of Senate Joint Resolution 294, "National Neighborhood Crime Watch Day." This marks the fourth year Congress has considered this resolution and the fourth year of my support.

In this era of burgeoning crime rates, often fueled by the insidious force of drug use, it is particularly appropriate that we continue our efforts to help check the threat of crime. It is clear that the police cannot be everywhere at once, and that effective law enforcement requires both the cooperation and assistance of citizens.

Formation of neighborhood crime watch organizations is one way folks are assisting police in fighting crime. These volunteer efforts employ the eyes and ears of residents to identify suspicious activity and to report it to the police. They seek to foil wrongdoing before it occurs and before there are victims.

Among the methods used by crime watch organizations are civilian patrols. These small groups of residents, equipped with noisemakers and sometimes two-way radios, walk or drive through neighborhoods on the lookout for crime, prepared to come to the aid of victims and scare off the perpetrator. For example, the New York State Housing Authority has more than 13,000 volunteers who patrol over 700 apartment buildings under its control.

Mr. President, I commend the efforts these organizations have taken to reclaim their neighborhoods, and I encourage others to emulate these crime-fighting measures in their communities. Senate Joint Resolution 294 is an excellent way to publicize these efforts and to promote their adoption. I urge my colleagues to join in passing this resolution.

ABE STOLAR—PART XV

Mr. SIMON. Mr. President, on Monday, May 30, Abe Stolar, a former Chicagoan who is unable to leave the Soviet Union with his entire family, will be meeting his President in Moscow. This is, indeed, a cause for joy. In this last statement before their meeting, I wish them a productive and enjoyable encounter. As I have mentioned previously, I believe President Reagan and Abe Stolar will enjoy talking with one another. They both grew up in Illinois, are the same age, and share many of the same political views.

However, I have even greater hopes for this meeting. I hope that the Soviet authorities recognize the commitment of our Government to secure basic human freedoms for all individuals. I hope that the Soviets recognize that Abe Stolar has a right to leave with his entire family; that Abe Stolar has a right to live wherever he chooses; Abe Stolar has a right to live his own life without being dictated to by any government.

In spite of all the interest which has been shown in Abe's case, the Stolar family remains captive in the Soviet Union, imprisoned by the lack of a single document. Abe's daughter-in-law, Julia, cannot leave the Soviet Union because her mother won't sign a financial waiver form. And the Stolars refuse to leave without her. Over the past several weeks, I believe I have shown that the need for this document by the Soviet authorities is both arbitrary and unncessary. If the Soviets are sincere in their statements of glasnost, I cannot believe this situation will be allowed to continue.

I urge the Soviets to resolve the Stolars' situation. I urge the Soviets to allow the Stolar family to leave together. The Stolars' family time has come—let them leave now.

S. 1851—THE GENOCIDE CONVENTION IMPLEMENTATION ACT OF 1987

● Mr. D'AMATO. Mr. President, I rise today to express my support for S. 1851, the Genocide Convention Implementation Act of 1987. This bill was formally captioned "The Proxmire Act," in honor and recognition of the sustained and effective efforts of the distinguished senior Senator from Wisconsin to secure ratification of the Genocide Convention and adoption of this implementing legislation.

As a Senator from New York, I represent people to whom this legislation is particularly important. The State of New York is ethnically diverse, having a population drawn from all parts of the world. Many of those citizens have come to the United States seeking safe haven from the acts the Genocide Convention prohibits and S. 1851 will make Federal crimes.

Clearly, the citizens and residents of the United States need not fear liquidation at the hands of their Government because of their national, ethnic, racial, or religious identities. The Constitution and laws of the United States, embodying our collective principles and representing our living democratic institutions, form a permanent and impenetrable barrier against any such criminal policy or action.

This law, S. 1851, makes explicit the prohibition against genocide. It makes commission of the following acts, "* * * with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such" a Federal crime punishable by "a fine of not more than $1,000,000 and imprisonment for life":

Killing members of the group;

Causing serious bodily injury to members of the group;

Causing permanent mental impairment to members of the group through drugs, torture, or similar techniques;

Subjecting the group to conditions of life intended to cause physical destruction of the group;

Preventing births within the group;

Forcibly transferring the group's children to another group; or attempting to commit any of the above acts.

This law also makes incitement to commit any of these acts an offense punishable by a fine of not more than $500,000 or imprisonment for not more than 5 years.

These acts are punishable if they take place within the United States or if the alleged offender is a national of the United States. S. 1851 specifically states that these acts are crimes whether committed in time of peace or in time of war.

I have only one problem with S. 1851. I strongly believe that genocide should be punishable by the death penalty. I commend my colleagues on the Judiciary Committee who attempted to add such a provision to this measure in committee. I regret that their attempt failed.

The United States, as a principal architect of the Nuremberg trials and one of the four allied powers conducting the Nuremberg International Military Tribunal, supported the imposition of the death penalty on 12 of the 19 Nazi defendants who were convicted variously of crimes against peace, war crimes, and crimes against humanity. Ten of the 12 were hanged on October 16, 1946. One, Hermann Goering, committed suicide before he could be executed, and one, Martin Bormann, who was tried and sentenced in absentia, had died but the facts of his death were not known at the time.

Under the jurisdiction of U.S. judges, 12 additional trials were held at Nuremberg, ending in 1949. A total of 185 persons were tried, and some were sentenced to death for their actions during World War II.

What has changed since 1949? Has the nature of genocide changed? Are we less horrified by the crime? If the death penalty was appropriate for the creators and operators of the Nazi death machine, why should others who follow in their bloody footprints escape such punishment?

This is an especially pointed question when directed at acts committed within the United States or by United States nationals, the offenses covered by this measure. Our Constitution, our laws, and our social values teach all Americans that such acts are diametrically and fundamentally opposed to everything our society stands for. Why should modern Americans face less severe penalties than the Nazis faced for the crime of genocide?

As an advocate of capital punishment for other Federal crimes, I find the absence of the death penalty for genocide to be a very serious shortcoming in the penalty section of this bill. This is a question I hope the Senate will address when it considers this measure on the floor.

Many of my constituents are survivors of the Nazi Holocaust. Names such as Auschwitz, Buchenwald, Dachau, and Bergen-Belsen are engraved indelibly in their hearts and memories, by the same Nazi terror that tattooed numbers on their arms. Ratification of the Genocide Convention and passage of this implementing legislation is a further, concrete, solemn promise by the people of the United States that "never again" is more than just a slogan—it is an expression of the fundamental values of the American people, to be written into law and enforced with the full power of the United States.

New York is home to others who have suffered at the hands of genocides—Armenians, Cambodians, Baha'is, and others. Any group which has been subjected to extermination lives in fear that the unthinkable can happen again. They never feel entirely safe, no matter where they are. This measure is a message to all of them—you are safe here.

There will be no American pogroms, no American ghettos or SS, no enforced famines, death marches, or programs of liquidation. It is a measure of the depths of horror, of the bottomless capacity of man to treat other men, women, and children as less than human, that this law and this convention have proven necessary.

I urge my colleagues to join me in support of this measure. I urge them to add to this measure the death penalty when it reaches the floor for action. I intend, in either case, to support this measure's passage, and I hope it will be adopted unanimously.

Thank you.●

UKRAINIAN ORTHODOX HOLY ASCENSION CHURCH CELEBRATES THE MILLENNIUM OF CHRISTIANITY IN THE UKRAINE

● Mr. LAUTENBERG. Mr. President, on June 5, the Ukrainian Orthodox Holy Ascension Church in Clifton, NJ, will celebrate the millennium of Christianity in the Ukraine.

I join them in celebrating this important anniversary. The year 1988 marks the 1,000-year anniversary of the introduction of Christianity into the Ukraine by St. Volodymyr the Great of Kiev. Since the introduction of Christianity in the Ukraine in 988, religion has played an important role in the lives of the Ukrainian people.

But the fight for religious freedom in the Soviet Union has been a long one. Today, nearly 1,000 years after Christianity was introduced in the Ukraine, religious freedoms in the Soviet Union are severely restricted.

I traveled to the Soviet Union last September to see what kind of impact glasnost was having on the lives of the people in that country. Despite General Secretary Gorbachev's proclamations about glasnost and openness, religious persecution is still a stark reality in the Soviet Union, especially in the Ukraine. That glasnost has yet to touch the lives of the courageous individuals in the Ukraine who dare to observe their religion was apparent from what I saw and heard in the Soviet Union.

Despite the fact that religious freedoms are guaranteed by the Helsinki accords, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights, severe restrictions remain. The Ukrainian Orthodox and Ukrainian Catholic churches are still outlawed. Religious leaders in the Ukraine and throughout the Soviet Union have been harassed, imprisoned, murdered, and even exiled for daring to practice their religion.

That the Soviets have destroyed more than 150 churches in the Ukraine in the last 2 years indicates to me a serious contradiction in the policy of glasnost. If the Soviets are really serious about glasnost and openness, they would show respect for religion. They would not talk about reform while at the same time desecrating, closing, and destroying the churches of its citizens.

All the people in the Ukraine and throughout the Soviet Union desire is the opportunity to freely and openly practice their religion. But the Soviets have denied them that right again and again, and have continually sought to crush their faith.

That is why I offered an amendment to the INF Treaty to press the Soviets to grant basic human rights to all of its citizens. The amendment, which was approved unanimously, was a historic opportunity to emphasize to the Soviets the importance the American people attach to human rights. It declared that respect for human rights is an essential part of good relations with the Soviets and is critical to the achievement of lasting peace. It asks the President to insist on sustained and demonstrable Soviet progress in living up to the human rights promises it made on signing the Helsinki accords and other treaties.

Mr. President, the faith of those in the Ukraine and throughout the Soviet Union is undying. And for that reason, the Soviets will never succeed in eliminating religion from the lives of its citizens.

I join the Ukrainian Orthodox Holy Ascension Church for commemorating the millennium of Christianity in the Ukraine and pledge to continue pressing the Soviets until the religious freedoms of every citizen in that country are fully guaranteed.●

INFORMED CONSENT: CONNECTICUT

● Mr. HUMPHREY. Mr. President, I ask that the following letter from Linda Zbriger of Trumbull, CT, be printed in the CONGRESSIONAL RECORD.

The letter follows:

TRUMBULL, CT,
February 23, 1988.

DEAR SENATOR HUMPHREY: My niece had an abortion in February of 1987. One year later she is suffering the emotional and physical effects. I feel if she was counseled and my sister was informed before the abortion this situation would have had a totally different outcome.

Parent notification and adequate counseling are a must!

Thank you for your efforts in this matter.

LINDA ZBRIGER.

NICHOLAS SPARK

● Mr. DeCONCINI. Mr. President, I would like to call your attention to an extraordinary young man from my State of Arizona. Nicholas Spark of Tucson deserves to be recognized for his exceptional research on the events at Bari, Italy, during World War II. What he uncovered was a hero at Bari who has remained unrecognized until now.

In a 16-page school essay, Nicholas relates the actual accounts on the night of December 2, 1943. On this night, German planes attacked the harbor at Bari, hitting several Allied ships, including one American munitions ship with mustard gas aboard. Nicholas revealed that Col. Stewart Alexander, a physician and a chemical weapons expert, was able to save perhaps hundreds of lives by diagnosing the severely injured as having been exposed to the poisonous mustard gas. Despite denials by military officers that the gas was present on the U.S. ship, Colonel Alexander treated the injured successfully.

Nicholas Spark persistently pursued his research to uncover the truth. He worked with Helaine Klasky of my Washington staff so that Colonel Alexander could be properly recognized for his brave accomplishments. As a result of their efforts, Colonel Alexander was presented with a Certificate of Appreciation from the U.S. Army on May 20, 1988.

Mr. President, I ask that the Arizona Daily Star article appear in the RECORD as at this point.

The article follows:

TUCSON TEEN-AGER RIGHTS INJUSTICE BY WINSTON CHURCHILL

By Steve Meissner

WASHINGTON.—A Tucson teen-ager's high school history project resulted yesterday in overturning a 45-year injustice instigated by Winston Churchill.

A beaming 18-year-old Nicholas Spark watched as Dr. Stewart Alexander, a retired Park Ridge, N.J., cardiologist, received a certificate of appreciation from the U.S. Army surgeon general for some quick work that saved a number of World War II GIs from a World War I villain—mustard gas.

The deadly gas was released during a German bombing raid on some U.S. ships, causing a slow, painful death for 79 British and U.S. soldiers and an unknown number of Italian civilians.

The gas, however, was not dropped by the Germans. It came from some top-secret stocks belonging to the Allies.

So even though the doctor's quick thinking saved possibly hundreds of lives, Churchill convinced Gen. Dwight D. Eisenhower to censor any reports—and any official recognition for then-Col. Alexander.

About 11 months ago, Spark entered the picture and began nagging Sen. Dennis DeConcini, D-Ariz., until the doctor got his due yesterday.

"Dr. Alexander had to buck the system to save some lives, and he deserves the recognition," Spark said in an interview.

"I'm only sorry it took eight months," Spark said during the ceremony—though he thought about it later and said it actually took about 11 months.

Two U.S. senators—DeConcini and Bill Bradley, D-N.J.,—winced and said nearly in unison; "for Washington, getting something done in only eight months is pretty amazing."

It all began when Spark, who was trying to fulfill a social studies requirement at University High School, read an old magazine article.

The article told the tale of surprise bombing raid by more than 100 German planes that roared over the Italian city of Bari on the night of Dec. 2, 1943—a port crowded with Allied shipping.

Within minutes, many of those ships were sinking. One of them was the U.S.S. *Harvey*, a Liberty Ship loaded with 100 tons of artillery shells containing mustard gas.

The gas was in the harbor because the Allies wanted to be prepared to counterattack if the Germans decided to launch chemical attacks of their own.

Adolf Hitler, who had been exposed to gas as a World War I foot soldier, publicly promised not to use the gas, but the Allies were taking no chances.

The exploding bombs and the sinking ships in the harbor sent huge waves of water cascading over the Italian civilian population and British and American military personnel. Within hours, many victims developed red and brown skin markings, blisters, swelling of the pelvis and eyesight loss.

The call went out to Alexander, an expert on chemical warfare, who was stationed in Africa.

He concluded quickly that the problems were related to poison gas.

At first it was believed that the Germans may have used chemicals. Alexander did some detective work, however, and learned that the gas came from the deadly cargo of the *Harvey*.

There was a problem. The British military that controlled the port denied that there was any mustard gas in its jurisdiction. Alexander insisted that his diagnosis was accurate and managed to convince the American military to provide the right treatment.

Churchill, however, rejected the claim.

Alexander, who knew Churchill through his work on Eisenhower's staff, responded angrily. "Tell him (Churchill) to make his own diagnosis," he recalled in an interview yesterday.

"People told me I would get court-martialed," he said.

He didn't get in trouble, but Churchill refused to allow British personnel or the civilian population to receive treatment for exposure to poison gas, and many people died as a result.

U.S. personnel did receive treatment, however, and many were saved.

Later on, Alexander was recommended for military honors for his work, but Churchill blocked that commendation.

There were many newspaper accounts at the time about the attack on Bari, which was a major setback for the Allies.

But none of the accounts mentioned poison gas. It took a book written in the late 1970s by Glenn B. Infield, plus the magazine article, to catch the interest of Spark.

With the help of his father, a Tucson pathologist, Spark ran down a paper written by Alexander. Then, through a letter passed on by the Veterans Administration, Spark and Alexander talked on the telephone. The rest was an award-winning paper. And history.

Spark won a Naval History Award for his paper—and later became the recipient of a $7,000 college scholarship from the Flynn Foundation.

He will use the scholarship to study creative writing at the University of Arizona. He hopes to write film scripts someday.

Alexander said he understood Churchill's action. In fact, he defended it.

"The fear was that if the Germans knew we had mustard gas, they would use it on Britain."

But the Germans did know, according to Spark. In fact, they learned about it sooner than Alexander, who had to spend several days arranging for divers to search the sunken wreck of the USS *Harvey* to confirm his suspicion.

"The SS had a spy in the harbor, and he managed to find one of the shells that contained the mustard gas," Spark said, "It was being reported by Axis Sally (a German radio propagandist) within a few days."

Alexander and his wife, Bernice, a former Army colonel who commanded a corps of nurses during World War II, hold no grudges against Churchill or Eisenhower. Bernice Alexander, in fact, was a top-level volunteer on Ike's 1952 presidential campaign.●

JACKSON ELEMENTARY

● Mr. HATCH. Mr. President, it is with much admiration that I present to the U.S. Congress the name of Jackson Elementary School in Salt Lake City, UT, and commend its fifth and sixth grade students for their contributions to protect their home community and State. These young students recognized that a hazardous waste site three blocks from their school was potentially dangerous and brought it to the attention of the Environmental Protection Agency, which is currently investigating the site.

Through great concern for themselves and their families, these students started a fundraising campaign to earn enough money to assist the Federal Government in cleaning the site. As the Federal Government has pledged to contribute a matching grant to the students' campaign, the students have, thus far, raised $2,700. They have also lobbied the Utah State Legislature during a special session for passage of a bill that would create a State contributory superfund, where the students' money would be kept. During their presentation to the Senate, one student stated, "Hazardous wastes can cause birth defects, brain disorders and other diseases. * * * Wastes can enter the food chain by contaminating soil and water." Statements such as this before the legislature not only demonstrated the students' extensive research, but assisted in the Senate unanimously passing the bill.

National recognition was brought to these young students by their winning the National Community Problem Solving Award, which they will receive following their presentation on June 11-15 in Ann Arbor, MI. They have also received awards from the Utah State Bureau of Solid and Hazardous Waste, the Utah State Department of Health, and the Utah State Future Problem Solving Program. Mayor Palmer DePaulis of Salt Lake City also proclaimed March 1988, "Youth of American Month" in behalf of Jackson Elementary students, and a declaration was written for them by Gov. Norman Bangerter.

The determination and perseverance these students have demonstrated exemplifies the ideal actions a citizen of this country should undertake to solve a problem negatively impacting a community. There is still a great deal of work for these students to rid their community of the hazardous waste site, but I am sure that they will accomplish their goal with much pride.

CORRECTION TO THE RECORD—H.R. 2969

● Mr. METZENBAUM. Mr. President, yesterday, the Senate passed H.R. 2969. The RECORD improperly reflected my comments on the effective date in two respects.

First, section 3 is effective with respect to cases commenced under chapter 11 after October 2, 1986, not 1988.

Second, amended section 608 applies to cases commenced under chapter 11 where any retiree is being paid such a benefit on October 2, 1986, even if some or most of the retirees had their benefits eliminated by the debtor prior to that date.

I wanted to correct the history of this measure so it properly reflects the intention of the authors.●

STANDING RULES OF THE SENATE

Mr. BYRD. Mr. President, I send to the desk a Senate resolution authorizing the printing of the Standing Rules of the Senate.

The PRESIDING OFFICER. The clerk will report.

Mr. BYRD. The assistant legislative clerk read as follows:

A resolution (S. Res. 437) authorizing the printing of the Standing Rules of the Senate as a Senate document.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to the immediate consideration of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 437) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 437

Resolved, That the Standing Rules of the Senate shall be printed as a Senate document, and that there be printed an additional 1,000 copies of such document for the use of the Committee on Rules and Administration.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SCHOOL LUNCH PROGRAM ELIGIBILITY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 637.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2156) to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guideline prescribed by the Office of Management and Budget.

The Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 2334

Purpose: To clarify provision relating to the computation of cash compensation to certain school districts, and to permit a State agency to convert additional food funds initially allocated to the State agency for program food purchases to nutrition services and administration funds)

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. LEAHY.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. LEAHY, proposes an amendment numbered 2334.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 7, add the following new sections:

SEC. 2. COMPUTATION OF CASH COMPENSATION TO DISTRICTS UNDER SECTION 14(g)(3) OF THE NATIONAL SCHOOL LUNCH ACT.

(a) IN GENERAL.—Section 14(g)(3)(A) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(A)) is amended by adding at the end thereof the following new sentences: "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this Act for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 6(e) of this Act; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 14(g)(3)(B) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(B)) is amended by striking out "$50,000" and inserting in lieu thereof "such sums as may be necessary".

(c) TIME FOR PAYMENT OF CLAIMS.—Section 14(g)(3)(A) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(A)) is amended by adding at the end thereof the following new sentence: "The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after the date of the enactment of this sentence.".

SEC. 3. FUNDS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) CONVERSION OF FUNDS.—Section 17(h)(5) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(5)) is amended by adding at the end thereof the following new subparagraphs:

"(D) Following the implementation of an approved cost-saving strategy identified in subsection (h)(5)(A), a State agency may convert, in addition to funds otherwise converted to nutrition services and administration funds under subparagraphs (A), (B), and (C) of subsection (h)(5), food funds initially allocated to the State agency for program food purchases to nutrition services and administration funds. The amount of funds converted shall be limited to an amount sufficient to ensure that there is no more than a 2 percent annual decrease in the State agency's administrative grant per person if a larger decrease would otherwise result from increased program participation due to the cost-saving system of the State.

"(E) For each such State agency, the total amount of funds transferred from any fiscal year shall not exceed the amounts set forth in section 17(i)(3)(D).".

(b) COST-SAVINGS SYSTEMS.—Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(D) For State agencies implementing approved cost-savings strategies as identified in subsection (h)(5)(A), not more than 5 percent of the amount of funds allocated under this section to such a State agency for supplemental foods for the fiscal year in which the system is implemented, and at the discretion of the Secretary, up to 5 percent of the amount of funds allocated to such a State agency for the fiscal year in which the system is implemented, may be expended by the State agency for expenses incurred under this section for supplemental foods during the succeeding fiscal year.".

Mr. LEAHY. Mr. President, this amendment to S. 2156 amends the Commodity Distribution Reform Act and WIC Amendments of 1987. It will assist some States in more fully benefiting from certain provisions of that 1987 Act.

After President Reagan signed that act the Department of Agriculture issued final regulations regarding the formula used to allocate Women, Infants and Children [WIC] Program funds to States for their administrative and service costs. These costs include funding for nutrition screening, blood tests and nutrition education, and for the administrative costs in certifying, processing, and delivering benefits to WIC Program applicants.

Under longstanding statutory provisions, WIC recipients must not only be poor but they must be at "nutritional risk" as determined by a health professional—which is why medical screening is an important administrative cost for the WIC Program.

Of course, as more recipients are added to the WIC Program, total State medical and processing costs increase. The 1987 Act permitted States to save money by allowing them to buy WIC commodities—infant formula, dairy products, fortified cereals, and other foods—through competitive bidding or other specified cost containment measures.

So far the act has worked extremely well—with several States saving substantial sums to be then used to put additional eligible applicants on the program. Since less than 50 percent of those eligible for WIC can participate because of funding limitations this act has been especially important.

I am pleased to announce that in both Texas and Florida competitive bidding procedures will allow savings of about $1 per can for each 13 ounce can of infant formula used in the WIC Program in those two States.

To allow States the funding needed to process these additional applicants—added at no extra program cost—the 1987 Act allowed States to use some of the food cost savings to cover the additional medical and processing expenses. The problem addressed by this amendment was caused by the interaction of the 1987 Act with regulations issued by USDA after the act was signed.

For some States, if the States were to implement cost-containment procedures, these regulations would have the unintended effect of driving down the State's administrative grant per person rapidly. As a result, these States are inhibited from using cost containment procedures. This amendment slows the rate of decline in the administrative grant per person that would occur if these States implement cost containment procedures—it limits the decline in costs per person to no more than a 2-percent drop from one fiscal year to the next if a larger decline would otherwise occur due to a cost containment system.

Thus, this amendment allows some of the savings from a cost containment initiative to be used to cover the medical and other administrative costs. Over the long run it will result in more States adopting cost containment measures and thus, ultimately, putting more infants, children under five, and pregnant women on the program at no additional taxpayer costs.

This WIC amendment also allows States that set up these cost containment systems to carryover up to 5 percent of their WIC food allocation for the fiscal year in which a new cost containment system is implemented—or in which a significant improvement was made in that cost saving system. This change is also proposed to encourage States to develop substantial cost saving procedures—without fear of being penalized by losing funding.

If a State implemented a major cost containment procedure toward the end of a fiscal year, for example, it might not have time to put substantial numbers of additional applicants on the program—using the savings—before the end of that fiscal year. Under current law, unspent funding must be returned to USDA to the extent it exceeds 1 percent of the State's allocation.

The current procedures could operate as a disincentive to setting up major cost savings initiatives. This amendment allows, under procedures established by the Department, States to keep more of their funding, 5 percent, if they have set up these cost containment procedures. In the second year that these cost containment procedures are in effect, USDA is authorized to allow States to keep up to 5 percent of their allotment.

The Secretary would be provided discretion concerning the specific level of carryover authority for a particular State agency in the second year so that the Secretary could take into account such factors as the exact timing of implementation of a cost containment system. During the second fiscal year of a cost containment system some States will be in the 2d to 13th month of actual system operations, while other States will be in the 13th to 24th month. The Secretary will be able to take these differences in timing into account.

These procedures thus serve to encourage States to develop ways, at no additional taxpayer expense, to serve more infants, children, and pregnant women who are eligible for WIC. Such encouragement is important since there are long waiting lists of children eligible for WIC that cannot get on the program. I was very pleased last year that S. 305, as reported by the Agriculture Committee and which included the WIC cost containment procedures, passed the Senate by a 97 to 0 margin. The fine tuning in this amendment will encourage even more States to take advantage of those cost savings procedures.

The second part of my amendment to S. 2156 adds language that may allow the Department of Agriculture to resolve a longstanding dispute with certain school districts that participated in pilot projects testing an alternate means of providing assistance for the School Lunch Program.

Instead of receiving commodities from USDA to prepare for school children, these school districts received cash, or letters of credit for commodities, from USDA which they used to buy commodities. Subsequently these districts were converted back to the regular commodities system.

The school districts, in part, claim that the commodities they received for the 1982-83 school year were less than they would have received had they not previously participated in the pilot projects. USDA urges, in part, that while shipments of commodities may have been lower than the prior year that the total commodities received—taking into account State inventories—and available were, at least, equal to the prior year. USDA feels that if the State did not make these commodities available to the schools, or if the schools did not order these commodities, that USDA should not be required to make up the difference in cash.

The USDA view, in part, is that these districts could have requested and received any additional amounts of bonus commodities they wanted, or drawn down on their inventories which would have been replaced by USDA.

The districts respond that they were harmed by the pilot projects and should be made whole.

Procedures already exist in the National School Lunch Act for the Department to address these issues. However, the authorization in current law is for $50,000 total. I have been informed that the total disputed amount for the five school districts that have filed claims is $81,240. The States involved are Maine, Texas, Florida, and Tennessee. My amendment only applies to school districts that filed claims by May 1, 1988.

This amendment will require USDA to take another look at these claims. It seems only fair to require USDA to take another look at this issue, and perhaps avoid litigation that could exceed the cost of the claims involved—regardless of who wins.

Mr. LUGAR. Mr. President, I want to thank the Senate leadership for bringing S. 2156 before this body.

The legislation before us is a very simple bill which is meant to correct a technical problem relating to the National School Lunch Act. In passing the Stewart B. McKinney Homeless Assistance Act last year, Congress inadvertently created a problem for administrators of the School Lunch Program.

Section 803 of the McKinney Homeless Act changed the date on which annual inflation adjustments for the Food Stamp Program are made from July 1 to October 1. A provision in the National School Lunch Act ties the effective date of the update for free school lunch eligibility to the effective date of the adjustment for food stamps.

Unfortunately, the unforeseen consequence of the provision in the McKinney Homeless Act caused great consternation for school food service administrators. By changing the effective date of the eligibility update, schools would be forced to redetermine eligibility for free lunches on October 1, which is shortly after school begins, instead of on July 1, when school is not in session.

Mr. President, S. 2156 merely returns the effective date of the free school lunch eligibility update to the traditional date of July 1. S. 2156 does not affect the categorical eligibility of children whose families receive food stamps or AFDC, nor does the bill affect the amount of the inflation adjustment.

The Congressional Budget Office has estimated that this bill has no cost. USDA supports this change in current law. I believe that it is imperative that we move this legislation quickly because the date change will occur this year unless we act.

Mr. President, I want to thank every member of the Agriculture Committee for cosponsoring S. 2156 and the 24 other Senators who have cosponsored the bill. I especially want to thank my friend, the chairman of the Senate Agriculture Committee, Senator LEAHY, and to thank Senator HARKIN, and Senator DOLE, the distinguished chairman and ranking minority member of the Nutrition Subcommittee, for their support in moving this bill.

Mr. President, this bill makes a small, but important, change in current law that will make administration of the School Lunch Program far easier for school food service administrators. I encourage my colleagues to support passage of S. 2156.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Vermont [Mr. LEAHY].

The amendment (No. 2334) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2156), as amended, was passed, as follows:

S. 2156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FREE LUNCH PROGRAM ELIGIBILITY.

Section 9(b)(1)(A) of the National School Lunch Act (42 U.S.C. 1758(b)(1)(A)) is amended—

(1) in the second sentence, by striking out "For the school years ending June 30, 1982, and June 30, 1983, the" and inserting in lieu thereof "The "; and

(2) by striking out the third sentence.

SEC. 2. COMPUTATION OF CASH COMPENSATION TO DISTRICTS UNDER SECTION 14(g)(3) OF THE NATIONAL SCHOOL LUNCH ACT.

(a) IN GENERAL.—Section 14(g)(3)(A) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(A)) is amended by adding at the end thereof the following new sentences: "The Secretary in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this Act for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 6(e) of this Act; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 14(g)(3)(B) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(B)) is amended by striking out "$50,000" and inserting in lieu thereof "such sums as may be necessary".

(c) TIME FOR PAYMENT OF CLAIMS.—Section 14(g)(3)(A) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(A)) is amended by adding at the end thereof the following new sentence: "The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after the date of the enactment of this sentence.".

SEC. 3. FUNDS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) CONVERSION OF FUNDS.—Section 17(h)(5) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(5)) is amended by adding at the end thereof the following new subparagraphs:

"(D) Following the implementation of an approved cost-saving strategy identified in subsection (h)(5)(A), a State agency may convert, in addition to funds otherwise converted to nutrition services and administration funds under subparagraphs (A), (B), and (C) of subsection (h)(5), food funds initially allocated to the State agency for program food purchases to nutrition services and administration funds. The amount of funds converted shall be limited to an amount sufficient to ensure that there is no more than a 2 percent annual decrease in the State agency's administrative grant per person if a larger decrease would otherwise result from increased program participation due to the cost-saving system of the State.

"(E) For each such State agency, the total amount of funds transferred from any fiscal year shall not exceed the amounts set forth in section 17(i)(3)(D).".

(b) COST-SAVINGS SYSTEMS.—Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(D) For State agencies implementing approved cost-savings strategies as identified in subsection (h)(5)(A), not more than 5 percent of the amount of funds allocated under this section to such a State agency for supplemental foods for the fiscal year in which the system is implemented, and at the discretion of the Secretary, up to 5 percent of the amount of funds allocated to such a State agency for the fiscal year following the fiscal year in which the system is implemented, may be expended by the State agency for expenses incurred under this section for supplemental foods during the succeeding fiscal year.".

The title was amended so as to read:

An act to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AND PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar Order No. 666.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1652) to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, Texas.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment.

On page 2, line 6, after "Policy", insert "Act".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AND PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 1431(a) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99-198; 99 Stat. 1556), there are authorized to be appropriated such sums as may be necessary for the planning, construction, and acquisition by the Secretary of Agriculture acting through the Agricultural Research Service, of buildings and equipment to establish at Lubbock, Texas, a laboratory and program for plant stress and water conservation research.

(b) AVAILABILITY OF FUNDS.—Funds appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 2. EFFECTIVE DATE.

This Act shall take effect on October 1, 1987.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. BYRD. Mr. President, on behalf of Mr. LEAHY, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. LEAHY, proposes an amendment numbered 2335.

Mr. BYRD Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, between lines 16 and 17, insert the following new section:

SEC. 2. COLLEGE-AID ANNUAL APPROPRIATION.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326(a) is amended to read as follows:

"SEC. 5. There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands or its successor governments the amount they would be entitled to receive under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 1.".

On page 2, line 17, strike out "SEC. 2." and insert in lieu thereof "SEC. 3.".

Mr. LEAHY. Mr. President, up until this year, USDA has approved Morrill Act appropriations for the colleges and universities of the Pacific and Caribbean insular areas. This amendment is not adding a new program. Rather, this amendment ensures that an existing program, of great importance to education in the territories, is retained.

This amendment requires USDA to distribute $50,000 annually in Morrill Act funds to those universities and colleges in the insular areas who have received such funds in the past. Let me clarify that, in the case of Trust Territory of the Pacific Islands, which will someday be divided into three separate entities, $50,000 total will be shared among the successor governments.

Senator JOHNSTON and Senator MCCLURE have requested our help with this amendment. Federal funding is critical to agricultural education in the territories.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 2335) was agreed to.

Mr. BENTSEN. Mr. President, I appreciate the consideration shown by the chairman of the Senate Agriculture Committee, Senator LEAHY, in scheduling consideration of this bill. This legislation will officially authorize the U.S. Department of Agriculture's Plant Stress and Water Conservation Research Laboratory at Texas Tech University in Lubbock, TX.

This lab has been in existence and has been doing good work since 1979. I am proud to have played a major role in the establishment of this important and productive research lab. Its research program has grown and is bearing good fruit. However, that growth is resulting in problems with lack of space. The planning work has been done for a building to house this program, but construction funds have never been included in the USDA budget request or in the appropriations bill for USDA.

It is my hope that this legislation can be passed into law and that it will provide the encouragement needed to get this construction funding request acted on favorably. I am pleased to note that this bill is a joint effort by the Texas congressional delegation, and that this legislation has been sponsored in the House by Congressmen COMBEST, DE LA GARZA, and STENHOLM.

I have consulted with my colleagues on the House Agriculture Committee, and they have assured me that this package which has been approved by the Senate Agriculture Committee is acceptable to them. It is identical to the bill which passed the House earlier except for a technical correction and the addition of one other noncontroversial provision. It is their intention to seek House approval as soon as it is received from the Senate, thereby clearing it for the President's signature.

Mr. President, I urge the Senate to pass this legislation.

Mr. GRAMM. Mr. President, I would like to express my strong support for S. 1652, a bill, which I have cosponsored, authorizing the establishment of a plant stress and water conservation research laboratory at Texas Tech University.

Since 1978, Texas Tech's College of Agricultural Sciences—in a cooperative venture with the U.S. Department of Agriculture's Agricultural Research Service and the Texas Agricultural Experiment Station—has conducted outstanding research on problems associated with crop production in the arid and semi-arid regions of the United States.

The importance of such work cannot be overemphasized. For half a century, this region of the country has been the source of large portion of the United States production of cotton, grain sorghum, wheat, corn and vegetables. However, as concerns rise over the depletion of water resources, and the costs of pumping irrigation water from aquifers such as the Ogallala increase, the research being conducted through this program becomes ever more important.

Since the program's beginning, it has grown from two scientists to a present staff of 17 scientists receiving some, or all, of their research funding from the program. Unfortunately, however, the central laboratory recommended for the program by the 1978 U.S. Department of Agriculture feasibility study has never been constructed. Consequently, the program is being conducted at several locations, including renovated and temporary facilities several miles from the Texas Tech campus.

The research being conducted through this program may well determine whether agriculture will continue to be a viable industry in these arid parts of the country. Furthermore, the program's emphasis on water conservation may help avoid future crises with respect to depletion of our Nation's water resources.

I believe the significance of the research being conducted through the Texas Tech Plant Stress and Water Conservation Research Program warrants immediate action by this body to authorize the long-overdue construction of this research laboratory. I strongly urge my colleagues to pass without delay S. 1652.

The **PRESIDING OFFICER**. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AND PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 1431(a) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99-198; 99 Stat. 1556), there are authorized to be appropriated such sums as may be necessary for the planning, construction, and acquisition by the Secretary of Agriculture acting through the Agricultural Research Service, of buildings and equipment to establish at Lubbock, Texas, a laboratory and program for plant stress and water conservation research.

(b) AVAILABILITY OF FUNDS.—Funds appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 2. COLLEGE-AID ANNUAL APPROPRIATION.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) is amended to read as follows:

"SEC. 5. There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands or its successor governments the amount they would be entitled to receive under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 1.".

SEC. 3. EFFECTIVE DATE

This Act shall take effect on October 1, 1987.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME AGREEMENT—CONFERENCE REPORT ON S. 1539, FEDERAL RAILROAD SAFETY ACT

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the conference report on S. 1539, the Federal Railroad Safety Act, time for debate on the conference report be limited to 4 hours overall, the time to be equally divided and controlled by the two leaders or their designees.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

COMMITTEE REFERRAL OF LEGISLATION CONCERNING INDIAN HOUSING

I. S. 1987

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1987, a bill to amend the United States Housing Act of 1937 to establish a separate title to govern housing assistance programs for Indian and Alaskan Natives, be deemed to have been referred to the Committee on Banking, Housing, and Urban Affairs.

I further ask unanimous consent that, if the Committee on Banking, Housing, and Urban Affairs fails to report S. 1987 by May 27, 1988, the Committee on Banking, Housing, and Urban Affairs be automatically discharged from further consideration of the legislation, and that the legislation be placed on the Senate calendar.

I further ask unanimous consent that three conferees from the Committee on Banking, Housing, and Urban Affairs be appointed, two majority and one minority, and such conferees from the Select Committee on Indian Affairs as the Senate may appoint, should a conference with the House of Representatives be required on such legislation.

II. FUTURE LEGISLATION

Mr. President, I ask unanimous consent that legislation containing provisions affecting the Department of Housing and Urban Development [HUD] Indian housing programs that is not referred solely to the Committee on Banking, Housing, and Urban Affairs shall, in the future, upon the reporting by the Select Committee on Indian Affairs, be referred to the Committee on Banking, Housing, and Urban Affairs for a period not to exceed 60 days; provided that the Committee on Banking, Housing, and Urban Affairs may propose amendments only to those provisions affecting the HUD Indian housing programs; and provided further that this agreement shall not affect other non-HUD Indian housing programs such as the Housing Improvement Program, within the Bureau of Indian Affairs and other non-HUD Indian housing programs that may be part of larger legislation that does not relate to housing, such as the housing provisions contained in the Navajo-Hopi legislation currently before the Select Committee on Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, this important unanimous-consent agreement affects Senate jurisdiction over S. 1987, the Indian Housing Act of 1988, as well as certain future legislation that addresses the Indian housing programs administered by the Department of Housing and Urban Development. This agreement has been reached by the Committee on Banking, Housing, and Urban Affairs and the Select Committee on Indian Affairs. I recommend that the Senate approve the proposed agreement, and I want to express my appreciation to the chairman and ranking member of the Banking Committee, Senators **Proxmire** and **Garn**, the chairman of the Subcommittee on Housing and Urban Affairs, Senator **Cranston**, and the ranking member of the Select Committee, Senator **Evans**, for their cooperation in arriving at this agreement.

Mr. CRANSTON. Mr. President, I thank the distinguished chairman of the Select Committee on Indian Affairs for his leadership and courtesy in this matter. Both are very much appreciated. I also want to commend Senators **Evans**, **Proxmire**, and **Garn** for their role in arriving at this agreement.

Mr. President, the agreement before us today does much to ensure the prudent consideration that Indian housing problems deserve. It is important that the Committee on Banking, Housing, and Urban Affairs and the Select Committee on Indian Affairs maintain a cooperative, working relationship.

I would like to explain the provisions of this agreement to our colleagues. The agreement has two parts. Under the first part of the agreement, S. 1987, the Indian Housing Act of 1988, would be referred to the Committee on Banking, Housing, and Urban Affairs after such legislation is reported by the Select Committee on Indian Affairs.

If the Banking Committee fails to report S. 1987 by May 27, 1988, the committee will be automatically discharged from consideration of the legislation and the legislation will be placed on the Senate calendar.

In the event of a conference between the Senate and the House of Representatives on S. 1987, the Chair is to appoint from the membership of the Banking Committee three conferees, two majority members and one minority member, and from the Select committee on Indian Affairs, such conferees as the Senate deems appropriate.

Under the second part of the agreement, legislation not referred solely to the Banking Committee that contains provisions affecting the HUD Indian housing programs will, after the Select Committee files its report on the legislation, be referred to the Banking Committee for a period not to exceed 60 calendar days—not to include days when the Senate is not in session. The Banking Committee will have jurisdiction to propose amendments only to those provisions affecting HUD Indian housing programs. Indian legislation that addresses only non-HUD Indian housing programs will not be affected by this agreement.

This unanimous-consent agreement does not cover omnibus housing legislation, which is within the sole jurisdiction of the Banking Committee. Such legislation has always contained and will continue to contain provisions affecting Indian housing programs. These programs should be an integral part of our Nation's housing policy but should also take into account the special housing needs of American Indians. As part of this agreement, the Banking Committee agrees to seek the views and recommendations of the Select Committee on Indian Affairs before acting on provisions of omnibus housing legislation that address Indian housing programs.

Mr. INOUYE. The Select Committee on Indian Affairs looks forward to working with the Banking Committee on legislation affecting Indian housing programs. The Indian Affairs Committee possesses the expertise in the various laws and policies that relate to Indian reservations and other Indian areas, such as jurisdiction, the trust relationship between Indian tribes and the United States, and other matters that so often affect the HUD Indian housing programs. I am certain that this expertise will be most beneficial as both committees consider legislation pertaining to the HUD Indian housing programs.

THE INDIAN HOUSING ACT OF 1988

Mr. CRANSTON. Mr. President, I strongly support the Indian Housing Act of 1988. It is the product of close cooperation between the Senate Committee on Banking, Housing, and Urban Affairs and the Senate Select Committee on Indian Affairs.

The bill would establish a separate title under the Housing Act of 1937 to govern housing assistance for Indians and Alaskan Natives. Under current law, Indian housing assistance is authorized under provisions related to public housing. Needless difficulty has been created when housing provisions designed for dense urban areas where applied to geographically remote Indian areas with distinctive cultural, religious, and political traditions. The bill would ensure that future amendments to the 1937 act only apply to the Indian housing programs if Congress examines such amendments thoroughly and determines that they are appropriate for such programs.

The bill would also provide long-overdue statutory authority for the Mutual Help Homeownership Opportunity Program. This program has been operating since 1962 on the basis of regulatory authority alone, although it is the principal form of Indian housing assistance.

This bill, of course, cannot do all that is needed to solve the serious housing problems faced by Native Americans on and off reservations. An astonishing 23.3 percent of the total Indian population of 1.4 million people continues to live in substandard housing compared with 6.4 percent for the total American population. On some reservations, over 75 percent of Indian families live in substandard housing.

Yet, Native American leaders feel strongly, and I agree, that this legislation marks an important step toward enabling Native Americans to work with the Federal Government to obtain decent and affordable housing.

The provisions of this bill reaffirm the Federal Government's commitment to provide housing in Indian areas and recognize the unique relationship between the U.S. Government and the Indian tribes.

I believe the bill deserves strong support from this Chamber and I urge my colleagues to join me in voting for the Indian Housing Act of 1988 when it is brought before the Senate.

I ask unanimous consent that the May 20 committee print regarding S. 1987 be printed at this point in the **Record**.

There being no objection, the committee print was ordered to be printed in the **Record**; as follows:

(COMMITTEE PRINT)

May 20, 1988

AMENDMENTS TO S. 1987

[Omit the part struck through and insert the part printed in italic]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Housing Act of 1988".

SEC. 2. ESTABLISHMENT OF SEPARATE PROGRAM OF ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

The United States Housing Act of 1937 is amended by adding at the end the following new title:

"TITLE II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES

"SEC. 201. ESTABLISHMENT OF SEPARATE PROGRAM OF ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

"(a) General Authority.—The Secretary shall carry out programs to provide lower income housing on Indian reservations and other Indian areas in accordance with the provisions of this title.

"(b) Applicability of Title I.—

"(1) In general.—Except as otherwise provided in this title, the provisions of title I shall apply to lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

"(2) Public housing.—No provision of title I (or of any other law specifically modifying the public housing program under title I) that is enacted after the date of the enactment of the Indian Housing Act of 1988 shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, unless the provision explicitly provides for such applicability.

"(c) Inapplicability of Certain Requirements.—Lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority shall not be subject to section 227 of the Housing and Urban-Rural Recovery Act of 1983 (relating to pet ownership in assisted housing for the elderly or handicapped).

"SEC. 202. MUTUAL HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM.

"(a) Establishment.—The Secretary shall carry out a mutual help homeownership opportunity program for Indian families in accordance with this section. The program shall be designed to meet the homeownership needs of Indian families on Indian reservations and other Indian areas, including Indian families whose incomes exceed the levels established for lower income families.

"(b) Financial Assistance.—The Secretary may, to the extent provided in appropriation Acts, enter into contracts with Indian housing authorities under title I to provide financial assistance for the development, acquisition, operation, and improvement of housing projects under this section.

"(c) Eligible Projects.—

"(1) Project types.—Projects for which assistance may be provided under this section may include single-family detached dwellings and other single-family dwellings (including row houses).

"(2) Forms of ownership.—In addition to fee simple ownership and other forms of ownership, the Secretary may permit and facilitate cooperative ownership for any project assisted under this section, if the Indian housing authority requests cooperative ownership and the Secretary determines such ownership to be appropriate for the project.

"(3) Project design and energy efficiency.—Projects assisted under this section shall—

"(A) provide sufficient flexibility to permit the use of different designs and materials; and

"(B) include cost-effective energy conservation performance standards designed to ensure the lowest total construction and operating costs.

"(d) Eligible Families.—

"(1) In general.—Except as provided in paragraph (2), assistance under this section shall be limited to Indian lower income families on Indian reservations and other Indian areas.

"(2) Exception.—

"(A) Demonstrated need.—An Indian housing authority may provide assistance under this section to families on Indian reservations and other Indian areas whose incomes exceed the levels established for lower income families, if the Indian housing authority demonstrates to the satisfaction of the Secretary that there is a need for housing for such families that cannot reasonably be met without such assistance. An Indian housing authority may provide assistance under this section to any non-Indian family on an Indian reservation or other Indian area if the Indian housing authority determines that the presence of the family on the Indian reservation or other Indian area is essential to the well-being of Indian families and the need for housing for the family cannot reasonably be met without such assistance.

"(B) Limitation on number of units.—The number of dwelling units in any project assisted under this section that may be occupied by or reserved for families on Indian reservations and other Indian areas whose incomes exceed the levels established for lower income families may not exceed whichever of the following is higher:

"(i) 10 percent.—10 percent of the dwelling units in the project.

"(ii) 5 units.—5 dwelling units.

"(e) Mutual Help and Occupancy Agreement.—Each Indian housing authority operating a program under this section shall require each family selected for housing under this section to enter into a mutual help and occupancy agreement. The agreement shall provide the following:

"(1) Family contribution.—

"(A) General requirement.—The family shall agree to contribute toward the development cost of a project in the form of land, labor, cash, or materials or equipment. The value of the contribution of each family shall not be less than $1,500.

"(B) Contribution by Indian tribe.—Contributions other than labor may be made by an Indian tribe on behalf of a family.

"(2) Monthly payment.—

"(A) Calculation.—The family shall agree to make a monthly payment to the Indian housing authority that is equal to whichever of the following is higher:

"(i) Percentage of adjusted income.—An amount computed by—

"(I) multiplying the monthly adjusted income of the family by a percentage that is not less than 15 percent and not more than 30 percent, as determined by the Indian housing authority to be appropriate; and

"(II) subtracting the estimated monthly payments of the family for the reasonable use of utilities (excluding telephone service).

"(ii) Administration charge.—The amount budgeted by the Indian housing authority for monthly operating expenses on the dwelling of the family, excluding any operating cost for which operating assistance is provided by the Secretary under section 9.

"(B) Other applicable law.—Monthly payments under this section shall be subject to section 203 of the Housing and Community Development Act of 1974.

"(3) Maintenance and utilities.—The family shall be responsible for the maintenance and monthly utility expenses of the dwelling. The Indian housing authority shall have in effect procedures determined by the Secretary to be sufficient for ensuring the timely periodic maintenance of the dwelling by the family.

"(4) Homeownership opportunities.—The Indian housing authority shall afford the family an opportunity to purchase the dwelling under a lease-purchase, mortgage, or loan agreement with the Indian housing authority or any other qualified entity, if the Indian housing authority determines (in accordance with objective standards and procedures established by the Secretary after consultation with Indian housing authorities) that the family is able to meet the obligations of homeownership.

"(f) Self-Help Housing Program.—

"(1) Establishment.—The Secretary shall establish a self-help housing program for projects assisted under this section.

"(2) Requirements.—In the case of any project approved by the Secretary for participation in the self-help housing program—

"(A) each family shall make a contribution under subsection (e)(1) in the form of labor in accordance with labor contribution requirements similar to the requirements applicable under the mutual self-help housing program established in section 523 of the Housing Act of 1949; and

"(B) the Secretary shall provide each family with technical and supervisory assistance similar to the assistance available under the mutual self-help housing program established in section 523 of the Housing Act of 1949.

"(3) Applications.—Any Indian housing authority may submit an application to the Secretary for inclusion of a project assisted under this section in the self-help housing program.

"SEC. 203. ADDITIONAL PROVISIONS.

"(a) Public Housing Maximum Contributions.—In determining the maximum contributions that may be made by the Secretary to an Indian housing authority for development of a public housing project (including a mutual help homeownership opportunity project under this title), the Secretary shall consider all relevant factors, including—

"(1) the logistical problems associated with projects of remote location, low density, or scattered sites; and

"(2) the availability of skilled labor and acceptable materials.

"(b) Related Facilities and Services.—The Secretary shall take such actions as may be necessary to ensure the timely and efficient provision, through the Interdepartmental Agreement on Indian Housing, of any roads, water supply and sewage facilities, and electrical and fuel distribution systems that are required for completion and occupancy of public housing projects assisted under this title (including mutual help homeownership opportunity projects).

"(c) Accessibility to Physically Handicapped Persons.—The Secretary shall, in accordance with Public Law 90-480 (42 U.S.C.

4151 et seq.; commonly known as the Architectural Barriers Act of 1968) and other applicable law, require each Indian housing authority to give proper consideration to the needs of physically handicapped persons for ready access to, and use of, lower income housing assisted under this title.

"SEC. 204. ANNUAL REPORT.

"The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act—

"(1) a description of the actions taken to carry out the provisions of the Housing and Community Development Act of 1987 that relate to Indian housing;

"(2) an evaluation of the status of the program of single-family mortgage insurance for Indians and Alaska Natives under section 248 of the National Housing Act;

"(3) an assessment of the housing needs of native Hawaiians and an evaluation of current Federal programs designed to meet the needs, including programs of housing assistance for lower income families and the program of single-family mortgage insurance for native Hawaiians under section 247 of the National Housing Act;

"(4) recommendations for resolving concerns relating to Indian housing authorities that are authorized to serve both Indians and non-Indians; and

"(5) a description of actions taken to ensure the timely and efficient provision, through the Interdepartmental Agreement on Indian Housing, of any roads, water supply and sewage facilities, and electrical and fuel distribution systems that are required for completion and occupancy of public housing projects assisted under this title (including mutual help homeownership opportunity projects).

"SEC. 205. REGULATIONS.

"(a) Issuance.—The Secretary shall issue regulations to carry out this title and the amendments made by the Indian Housing Act of 1988. The regulations shall be issued in accordance with subsections (b) through (e) of section 553 of title 5, United States Code.

"(b) Consultation With Indian Housing Authorities.—In formulating proposed regulations under this section, the Secretary shall consult with Indian housing authorities.

"(c) Effective Date.—The Secretary shall issue regulations under this section to become effective before the expiration of the [90-day] *150-day* period beginning on the date of the enactment of the Indian Housing Act of 1988.".

SEC. 3. CONTINUED AVAILABILITY OF FUNDS.

Section 5(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(8) Any amount available for Indian housing under subsection (a) that is recaptured shall be used only for such housing.".

SEC. 4. DEFINITIONS.

[(a) Income.—Section 3(b)(4) of the United States Housing Act of 1937 is amended by inserting before the period at the end the following: ", except that dividends or other payments received from the Alaska Permanent Fund by children under the age of 18 shall be excluded from income for purposes of this Act".]

[(b)] *(a)* Adjusted Income.—Section 3(b)(5)(D) of the United States Housing Act of 1937 is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by inserting before the period at the end the following: "; or (ii) excessive travel expenses, not to exceed $25 per family per week, for employment or education related travel, except that this clause shall apply only to families assisted by Indian housing authorities".

(c) *(b)* Public Housing Agency.—Section 3(b)(6) of the United States Housing Act of 1937 is amended by adding at the end the following: "The term includes any Indian housing authority.".

[(d)] *(c)* State.—Section 3(b)(7) of the United States Housing Act of 1937 is amended by striking all that follows "Indian tribes" and inserting a period.

[(e)] *(d)* Indian.—Section 3(b) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(9) The term 'Indian' means any person recognized as being an Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.".

[(f)] *(e)* Indian Area.—Section 3(b) of the United States Housing Act of 1937 (as amended by subsection [(e)] *(d)* of this section) is further amended by adding at the end the following new paragraph:

"(10) The term 'Indian area' means the area within which an Indian housing authority is authorized to provide lower income housing.".

[(g)] *(f)* Indian Housing Authority.—Section 3(b) of the United States Housing Act of 1937 (as amended by subsection [(f)] *(e)* of this section) is further amended by adding at the end the following new paragraph:

"(11) The term 'Indian housing authority' means any entity that—

"(A) is authorized to engage in or assist in the development or operation of lower income housing for Indians; and

"(B) is established—

"(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

"(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.".

[(h)] *(g)* Indian Tribe.—Section 3(b) of the United States Housing Act of 1937 (as amended by subsection [(g)] *(f)* of this section) is further amended by adding at the end the following new paragraph:

"(12) The term 'Indian tribe' means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.".

SEC. 5. CONFORMING AMENDMENTS TO TITLE I.

The United States Housing Act of 1937 is amended by inserting before section 1 the following title heading:

"TITLE I—GENERAL PROGRAM OF ASSISTED HOUSING".

SEC. 6. APPLICABILITY.

The Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with the amendments made by this Act, commencing on whichever of the following occurs earlier:

(1) Effective date of regulations.—The effective date of regulations issued under section 205 of the United States Housing Act of 1937.

(2) 90 days.—The expiration of the [90-day] *150-day* period beginning on the date of the enactment of this Act.

[SEC. 7. EFFECT ON STATUS AND CLAIMS.

[References to Alaska Indians, Aleuts, and Eskimos in this Act or any amendment made by this Act shall not grant or defer any status or powers other than those enumerated in this Act or any amendment made by this Act. Nothing in this Act or any amendment made by this Act shall validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.]

STATEMENT OF SENATOR PROXMIRE ON S. 1987, THE INDIAN HOUSING ACT OF 1988

Mr. PROXMIRE. Mr. President, on May 24, the Senate Committee on Banking, Housing, and Urban Affairs ordered S. 1987, the Indian Housing Act of 1988, to be reported favorably for consideration by the full Senate.

The Banking Committee's action on the legislation was the result of a unanimous-consent agreement between the Banking Committee and the Select Committee on Indian Affairs. That agreement provides for ongoing cooperation between the two committees to ensure the prudent consideration that Indian housing problems deserve. I want to express my appreciation to the chairman and ranking member of the select committee, Senators Inouye and Evans; the chairman of the Subcommittee on Housing and Urban Affairs, Senator Cranston; and the ranking member of the Banking Committee, Senator Garn, for their help in arriving at a sound agreement.

S. 1987 is primarily a technical bill designed to establish distinct legislative authority for the Indian housing programs. The absence of clear statutory guidance has greatly impeded the operation of these programs. Administration by regulation and handbook has left these programs vulnerable to sudden change. In addition, uneven interpretation of regulation and handbook provisions has created an atmosphere of uncertainty among Indian housing authorities. Finally, the intermixing of authority for the public and Indian housing programs has resulted in the application of housing provisions designed for dense, urban areas to geographically remote Indian areas with distinctive cultural, religious and political traditions.

The bill ordered reported by the Senate Banking Committee differed in three respects from the bill reported by the Select Committee on Indian Affairs. First, the Banking Committee bill did not include a provision contained in the select committee bill that would permit Alaska residents receiving housing assistance to exclude from income, for purposes of determining required rental contributions, dividends to minors received from the Alaska Permanent Fund. The Banking Committee determined that the exclusion of dividend income to minors should be examined in the total context of assisted housing programs rather than in the particular case of the Alaska Permanent Fund.

Second, the Banking Committee bill did not include a provision contained in the select committee bill that would clarify that the Indian Housing Act of 1988 is not intended to affect the question of native sovereignty in the State of Alaska. While the Banking Committee concurs with the statement that the Indian Housing Act in no way affects the status and claims of Alaska Natives, the committee determined that statutory language to that effect was not necessary.

Finally, the Banking Committee bill would direct HUD to promulgate regulations within 150 days after enactment of the act. The select committee bill would provide 90 days. After consultation with HUD, the Banking Committee determined that the longer period would be more realistic.

In addition to the Banking Committee action, both the House of Representatives and the Senate Select Committee on Indian Affairs have approved very similar legislation. For reasons of expediency, the Banking Committee refrains from filing a formal report. I, instead, insert an explanation of the bill prepared by the Banking Committee at this point in the RECORD:

DESCRIPTION OF BILL

The Indian Housing Act, as ordered reported by the Senate Banking Committee, contains the following key provisions.

First, section 2 of the bill would establish a separate title under the Housing Act of 1937 to govern housing assistance for Indians and Alaskan Natives. Under current law, Indian housing assistance is authorized under provisions related to public housing. Needless difficulty has been created when housing provisions designed for dense urban areas were applied to geographically remote Indian areas with distinctive cultural, religious and political traditions.

Section 201 of the new title would provide that all current provisions of law relating to public housing shall continue to apply to federally assisted Indian housing. The section would also provide that future amendments to the 1937 Act shall apply to the Indian housing programs only if Congress after examination explicitly determines that they are appropriate for such programs.

Section 202 of the new title would provide explicit statutory authority for the existing Mutual Help Homeownership Program. This program accounts for approximately 65 percent of the housing built under the Indian Housing Program and, in almost all instances, is the only available source of owner-occupied housing for resident of Indian reservations and Alaskan Native villages. Despite its importance, the program is currently operated partly from regulations and partly from HUD's Indian Housing Program handbook with a considerable amount of uneven interpretation. The Banking Committee believes that codification is necessary to make the program more uniform and straightforward at the national level and more adaptable to particular needs and objectives at the local level.

Section 203 of the new title contains additional provisions that apply to the entire Indian Housing Program:

It would authorize the Secretary to consider the difficult logistical problems associated with the development of Indian housing projects—remote locations, unavailability of skilled labor and acceptable materials—in determining the maximum contributions that may be made to an Indian Housing Authority for the development of a particular project.

It would direct the Secretary to improve coordination with the Bureau of Indian Affairs and the Indian Health Service, with respect to the provision of services—roads, water and sewage facilities, electrical and fuel distribution systems—essential to the development of Indian Housing projects.

It would require that proper consideration be given to the needs of physically handicapped persons in the development and use of Indian housing.

Section 204 of the new title would require that the HUD annual report to Congress address such issues as the availability of single-family mortgage insurance on Indian reservations and other Indian areas, the housing needs of native Hawaiians, the status and operation of Indian housing authorities that serve both Indians and non-Indians and the effectiveness of the Interdepartmental Agreement on Indian Housing.

Section 205 of the new title would provide 150 days for the issuance of regulations and direct the Secretary to consult with Indian housing authorities in the development of such regulations.

Second, section 3 of the bill would direct that recaptured Indian housing funds be used only for Indian housing. The Banking Committee believes that a permanent recapture and reuse policy is needed both to recognize the enormous difficulties associated with housing development in Indian country and to reconcile the modest funding for this program with the reality of need.

Finally, section 4 of the bill would include relevant definitions and conforming amendments. Most significantly, the section would amend the definition of "adjusted income" to permit families assisted by Indian housing authorities to deduct up to $25 weekly for travel expenses related to education and employment. The travel deduction would be used only as an alternative to the existing deduction for child care expenses. The committee notes that reservations are often located in rural, isolated areas, far from education and employment centers. The deduction of excessive travel expenses is intended to enable many tribal members, especially younger members, to reside in their native homeland and pursue educational and employment opportunities.

NATIONAL RECYCLING MONTH

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 469.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BYRD. I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 469.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 469) to designate June 1988 as "National Recycling Month".

The joint resolution was considered, was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR COMMITTEE ACTION ON THURSDAY, JUNE 2

Mr. BYRD. Mr. President, I ask unanimous consent that committees be authorized to file reported legislative or executive business from 10 a.m. to 4 p.m. on Thursday, June 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAR PRINT OF NORMAN VINCENT PEALE BIRTHDAY RESOLUTION

Mr. DOLE. Mr. President, I ask unanimous consent that Senate Resolution 435, the Norman Vincent Peale resolution which was adopted earlier this week, be star printed to reflect the following changes, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution follows:

S. RES. 435

Whereas, on May 31, Norman Vincent Peale will celebrate his 90th birthday; and

Whereas, he is widely recognized as one of the most influential and admired Protestant clergyman in the United States as the pastor of the oldest continuous pastorate in this country, the Marble Collegiate Reformed Church; and

Whereas, during his sixty-six years in the ministry, Norman Vincent Peale has been an inspiration and a comfort to thousands of Americans by offering his upbeat, positive message; and was a pioneer in combining religious with psychiatric counseling, establishing the American Foundation of Religion and Psychiatry; and

Whereas, his constructive themes have reached men and women all across the globe, through Dr. Peale's written and spoken word, including his book, "The Power of Positive Thinking," which has been translated into 33 languages and is one of the best-selling inspirational books of all time; and

Whereas, with his wife and partner Ruth, Dr. Peale established the Foundation for Christian Learning, which provides written and taped religious material to hundreds of thousands of people every year; and

Whereas, he has served as the President of the National Temperance Association, the Reformed Church in America; and the President's Council of New York; and

Whereas, Dr. Peale has also made significant contributions as a member of the mid-century White House Conference on Children and Youth and the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations: Now, therefore, be it

Resolved, That the Senate of the United States extend its heartfelt congratulations to Reverend Norman Vincent Peale on reaching his 90th year with vigor and in good health; and

Resolved, That the Senate's best wishes for many, many more years of happiness and productivity, be conveyed to Reverend Peale, his wife Ruth, and their three children, Margaret, Elizabeth and John.

PROCEDURE IN CONNECTION WITH INF TREATY

Mr. DOLE. Mr. President, I understand there have been a number of inquiries about what happens next so far as the resolution of ratification is concerned.

As I understand it—and the majority leader can correct me if I am wrong—the resolution of ratification for the INF Treaty, which was agreed to today be a vote of 93 to 5, is certified by the Secretary of the Senate, and then, together with the treaty itself, is transmitted by the executive clerk of the Senate, Gerry Hackett, to the executive clerk at the White House. The White House executive clerk, Ron Geisler, is responsible for preparing the instrument of ratification which will be exchanged with a similar document at Moscow and at that point the treaty is in force.

I believe that is a correct explanation. I have had press inquiries as to what happens next—who does what.

Mr. BYRD. I thank the distinguished Republican leader.

Many people labor under the wrong impression; namely, that the Senate ratifies treaties. The Senate has approved the ratification of the INF Treaty today. As a matter of fact, even following the approval of that ratification, the ratification could never occur. The President might choose not to exchange their instruments of ratification.

Mr. President, the distinguished Republican leader reminds me that in my words of thanks concerning all who had a part in this, I failed to mention the part which was played by a former colleague of ours, Senator Howard Baker.

Mr. Baker, I think, is entitled to our praise and our thanks. At all times, not only in connection with this particular measure but also with regard to other matters, and with regard to other occasions which have required our attendance at the White House, our presence in various and sundry discussions, our attention to legislation, Senator Baker has treated me certainly with utmost courtesy and respect and regard.

I treasure my continuing relationship with Howard Baker, as I treasured it when he was leader of the Republican Party in the Senate. I think the President can be justly proud of Howard Baker and the services that he has so loyally rendered to this President.

Mr. President, does the able Republican leader have anything further to say or any business he wishes to transact?

Mr. DOLE. Only to indicate that I certainly agree with the distinguished majority leader in connection with his remarks about Howard Baker, the Chief of Staff at the White House. He has been most helpful, as have other members of the White House team. We are thankful for their assistance.

I say to the majority leader that I was not hiding. He was saying so many nice things about me, I thought I should stay off the floor or he might stop.

But in any event it has been a very important day and I just say to Howard Baker, "if you can get us two more visas I will thank you again for our press people."

Mr. BYRD. Mr. President, I should never pass up a chance to say a good word. The Republican leader will not be able to escape this one. In the words of the poet:

It isn't enough to say in our hearts
  That we like a man for his ways;
It isn't enough that we fill our minds
  With psalms of silent praise;
Nor is it enough that we honor a man
  As our confidence upward mounts;
It's going right up to the man himself
  And telling him so that counts.
If a man does a work that you really admire,
  Don't leave a kind word unsaid.
In fear to do so might make him vain
  And cause him to lose his head.
But reach out your hand and tell him,
  "Well done."
And see how his gratitude swells.
It isn't the flowers we strew on the grave,
  It's the word to the living that tells.

So, I reach out my hand to my good friend, Senator BOB DOLE, and I say "Well done."

Mr. DOLE. Thank you.

RECESS UNTIL MONDAY, JUNE 6, 1988, AT 11 A.M.

Mr. BYRD. Mr. President, I move in accordance with the provisions of House Concurrent Resolution 306 that the Senate stand in recess until 11 o'clock a.m. on Monday, June 6, 1988.

There being no objection, at 6:41 p.m., the Senate recessed until Monday, June 6, 1988, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 27, 1988:

IN THE COAST GUARD

REAR ADMIRAL CLYDE T. LUSK, JR. AS VICE COMMANDANT, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

VICE ADM. JAMES C. IRWIN AS COMMANDER, ATLANTIC AREA, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

NATIONAL TRANSPORTATION SAFETY BOARD

LEMOINE V. DICKINSON, JR., OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 1988.

DEPARTMENT OF COMMERCE

MICHAEL E. ZACHARIA, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

G. PHILIP HUGHES, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

JAMES P. MOORE, JR., OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

NATIONAL CONSUMER COOPERATIVE BANK

JOHN K. STEWART, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF 3 YEARS.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ALVIN H. BERNSTEIN, OF RHODE ISLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1992.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1991:

ARTHUR C. BEALE, OF MASSACHUSETTS.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1992:

WILLARD L. BOYD, OF ILLINOIS.

PATRICK BUTLER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994:

WILLIAM P. WRIGHT, JR., OF TEXAS.

CHARLES RAY RITCHESON, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 26, 1994.

EDWIN J. DELATTRE, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH & IMPROVEMENT

CAROL PENDAS WHITTEN, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1990.

FRANCES MATHEWS, OF COLORADO, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1990.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

RICHARD C. CRAWFORD, OF OKLAHOMA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1993.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1993:

GARY EUGENE WOOD, OF TEXAS.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

BARRY M. GOLDWATER, JR., OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF 6 YEARS.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

RICHARD V. BACKLEY, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 1994.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

L. CLAIR NELSON, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 1994.

DEPARTMENT OF EDUCATION

SUSAN S. SUTER, OF ILLINOIS, TO BE COMMISSIONER OF THE REHABILITATION SERVICES ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

WILLIAM G. CAMBRIDGE, OF NEBRASKA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA.

RICHARD A. SCHELL, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING DAVID E. BATES, AND ENDING RICHARD J. HARTNETT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND

APPEARED IN THE CONGRESSIONAL RECORD ON MAY 9, 1988.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING CHARLES H. BEYMER, AND ENDING GREGG MCNEIL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 9, 1988.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING PAUL A. BLAKE, AND ENDING MARVIN W.H. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 9, 1988.

HOUSE OF REPRESENTATIVES—*Wednesday, June 1, 1988*

The House met at 1 p.m.

The Reverend Dr. Ronald F. Christian, assistant to the bishop, Washington, DC, Metropolitan Synod, Evangelical Lutheran Church in America, offered the following prayer:

God of all nations, and Father of all peoples:

Look with favor this day on the efforts of Your servants everywhere who seek peace, encourage justice, and show mercy.

Bless, we pray, to the fruitful benefit of all humankind, the conversations and decisions of President Reagan and General Secretary Mikhail Gorbachev. As we, each one, are able and have occasion, lead us in the paths of reconciliation and peace with our neighbor, so that—

Plowshares will replace spears and pruning hooks will take the place of swords; and

The lion and lamb will indeed find no fear of each other.

Then everyone will see and know that You are God, and our children will call us blessed.

Hear our petition and grant us Your grace in our living. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 469. Joint resolution to designate June 1988 as "National Recycling Month."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4524. An act to increase the dollar amount of defense authorizations for fiscal year 1988 that are subject to transfer for new purposes pursuant to law, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4524) "An act to increase the dollar amount of defense authorizations for fiscal year 1988 that are subject to transfer for new purposes pursuant to law, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Nunn, Mr. Stennis, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, Mr. Warner, Mr. Thurmond, Mr. Humphrey, Mr. Cohen, Mr. Quayle, Mr. Wilson, Mr. Gramm, Mr. Symms, and Mr. McCain to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2969) "An act to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1652. An act to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, TX;

S. 2156. An act to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget; and

S. 2372. An act to authorize appropriations for Federal Civil Defense programs for fiscal year 1989.

PERMISSION FOR SUBCOMMITTEE ON CRIMINAL JUSTICE OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE DURING BALANCE OF THIS WEEK

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Criminal Justice of the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule this week.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

HAVE REAGAN'S VIEWS TOWARD THE SOVIETS CHANGED?

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, today ends the fourth summit meeting between Ronald Reagan and Soviet Leader Gorbachev—the first trip by a U.S. President to Moscow since 1973.

Many people are asking, have President Reagan's views toward the Soviet Union changed?

After all, isn't it President Reagan who characterized the Soviet Union as an "Evil Empire?" Put unrelenting pressure on the Soviets on human rights? Lent support for freedom fighters opposed to Communist governments in the Third World? And presided over a massive strengthening of U.S. defense capabilities?

The truth is that President Reagan doesn't have to change his views toward the Soviets. Instead, the Reagan administration's consistent pursuit of democracy, human rights, and peace through strength have led to changes in Soviet behavior.

It is, of course, undeniable that the Soviet Union was itself changing during the years of the Reagan Presidency. Soviet Leader Gorbachev, responding to years of inertia, called for glasnost (openness) and perestroika (restructuring). These moves were necessitated by worsening social conditions and economic decline in the world's major Communist country.

Despite these changes, however, the Soviet Union has a long way to go. Soviet human rights policies do not conform to the Helsinki agreements or to basic standards of decency. The Soviets continue to support expansionist Marxist regimes throughout the world. And the Soviets continue to maintain a huge, offensively-oriented military establishment.

President Reagan understands this. When he went to Moscow he went to communicate the American values of democracy and human rights as well as to explain other American interests. The President succeeded admirably in bringing his message to the Soviet people and by all accounts was very well received.

On the other hand, the President knew that he was a guest in another's home. Mr. Reagan took a conciliatory tone at times, but this did not detract from his forceful advocacy of American values.

Make no mistake. If the President's views toward the Soviets have changed, it is in large part due to the success of his policies in countering the Soviet menace to democracy, human rights and world peace.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IF NEW TREATY IS BROKEN, IT WILL NOT BE FIXED BY THE NEIGHBORHOOD CRIME WATCH

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it looks and it sounds great; a treaty to ban a whole category of nuclear weapons was signed today with President Reagan and Mr. Gorbachev, but history warrants some caution for this House.

The Soviets did not honor the ABM Treaty, nor did they honor SALT I or SALT II, nor did they respect the Helsinki accords.

The facts are that in the last near generation we have given away the Panama Canal and today we give Mr. Gorbachev the upper hand in Europe. So before we light up cigars today at the celebration, everybody should be reminded of one thing. If this treaty is broken, we will not fix it with the neighborhood crime watch. It will cost billions and billions of our taxpayers' dollars to match the conventional force advantage and weaponry of the Soviet Union.

APPOINTMENT TO BOARD OF TRUSTEES OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

The SPEAKER. Pursuant to the provisions of section 1505 of Public Law 99-498, the Chair appoints to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development the following Members on the part of the House:

Mr. KILDEE of Michigan; and

Mr. YOUNG of Alaska.

BEST WISHES TO SALVADORAN PRESIDENT DUARTE FOR A SPEEDY AND FULL RECOVERY

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the many friends and admirers of Salvadoran President Jose Napoleon Duarte will want to join me, I know, in sending our heartfelt wishes for his speedy and full recovery.

President Duarte has faced incredible personal and professional challenges in the past and has met them with faith, strength and grace, which has won for him the respect of his adversaries as well as his friends. I know President Duarte will meet this new challenge to his personal health with the same courage he has shown so often in the past.

The revolution of democracy that President Duarte has crafted for El Salvador in the face of armed Marxist insurgents is an inspiration for his neighboring countries. If democracy succeeds in El Salvador and in Central America, it will be in large part a result of the example of Jose Napoleon Duarte. History will remember him as the father of democracy in his country.

I am sending a message to President Duarte conveying our warmest regards and best wishes to him, and I urge my colleagues to join me in signing in this letter.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4526

Mr. RHODES. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 4526.

The SPEAKER pro tempore (Mr. DELLUMS). Is there objection to the request of the gentleman from Arizona?

There was no objection.

A CITIZENSHIP LESSON

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, President Reagan's unfortunate remarks about American Indians yesterday greatly disturb me, both as an American Indian and as an American citizen. For it appears the President does not know that Indians are also citizens. While they did not receive the right to vote until 1924, the people who thrived on this land for 20,000 years have since shown they are among our country's most loyal citizens and have made great contributions to our Nation.

In fact, the great law of the Iroquois Confederacy served as a model for our Constitution. Many Indians made the ultimate sacrifice and are buried next to fallen comrades of all ancestries at Arlington Cemetery. A soldier of Indian descent was among those brave warriors who raised the flag at Iwo Jima. The only code not broken by the enemy in World War II was developed by Navajo "code talkers." And, the American Legion Post on the reservation of my ancestors has the highest enrollment of any legion post in the State of Montana.

Mr. Speaker, I want to emphasize that I heartily support the President's arms control efforts in the Soviet Union. My concern is only with his remarks about American Indians, and today I wrote him a letter, accepting his offer to meet at any time to discuss Indian problems and concerns. I am volunteering to set up a meeting with Indian people who can tell the President about what it's like to live on a reservation and how the Indians came to live on those reservations.

The President needs to learn that social ills—like unemployment, suicide, and alcoholism—are many times greater on the reservation than in society at large. We need to inform the President that Indians did not chose the hot, sandy land to which they were removed and although a few tribes were fortunate enough to discover and recover energy resources on their reservations, that doesn't mean that a lot of Indians are wealthy oil barons. The fact is, life in Indian country is too often marred by poverty and desperation.

Also, it should be understood that while Indian people are naturally very interested in preserving their traditions, they do not seek to live a life Mr. Reagan characterizes as primitive. The needs in Indian country are similar to those of many peoples living under impoverished conditions.

I hope the President will accept my invitation to meet with Indians soon so he can discard his misconceptions about Indian people and avoid making misstatements in the future.

A TRIBUTE TO FATHER NICK TRIVELAS OF CHARLESTON, SC

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, what a wonderful thing it is to be the spiritual heart of a thriving community. Father Nick Trivelas has held this enviable position in the Greek community in Charleston, SC, for the past 40 years.

As a parish priest of the Greek Orthodox Church of the Holy Trinity in Charleston since 1948, Father Nick is now baptizing and marrying a third generation of Greek Americans in our city. His leadership derives from two fundamental sources, hard work and an overwhelming love for his parish. Beginning with his efforts toward erecting the Greek Orthodox Church of the Holy Trinity, Father Nick has applied his talents to projects that will preserve the proud traditions that distinguish Greek Americans in this country.

Certainly two of the most important elements of any culture are its music and literature. Father Nick has fostered these by teaching the Greek language in the church's afternoon school. And he is nationally recognized as a choral director.

Father Nick's career has produced the abundant fruits that are the harvest of love and boundless energy. We in Charleston are extremely fortunate to have had this remarkable man as a part of our community for almost half a century. We look forward to his continuing good works for a long time to come.

LET US SUPPORT EFFORTS TO PREVENT DRUNK DRIVING

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, 2 weeks ago, 27 people—mostly teenagers—were killed in what will be remembered as one of the worst bus accidents in U.S. history. This horrible tragedy was the result of a head-on collision when the driver of a pickup truck was heading in the wrong direction on the interstate and crashed into the schoolbus filled with teenagers returning from a church outing. But probably the most horrifying aspect of this tragedy is that the driver of the truck was heavily under the influence of alcohol. Kentucky State police said the driver's blood-alcohol level was tested at almost 2½ times the legal threshold.

Mr. Speaker, this accident could have been prevented. Now, more than ever, this country must recognize that drunk driving is a national crisis that must be seriously dealt with. Our laws must be tougher, and we must do more to keep drunk drivers off the road. Today I am introducing legislation that would do just that—this bill will encourage States to promote stricter, more effective laws to help eradicate drunk driving. Federal seed money will be provided to States to help establish self-sustaining drunk driving prevention programs if a State agrees to put such a program in place, with fines or surcharges collected from persons convicted of drunk driving returned to communities for enforcement. States would also have to adopt laws that would provide for the prompt suspension or revocation of the license of an individual found to be driving under the influence of alcohol.

Mr. Speaker, a drunk driving fatality occurs every 22 minutes in this country. Let's finally take some steps as a nation to combat this problem, and let's communicate to the family members of the victims of this horrible statistic that we take this crisis very seriously.

AFTER THE SUMMIT, TWO MAJOR ISSUES

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, the discussions which are going on today between General Secretary Gorbachev and President Reagan and which have been going on over this weekend represent significant progress in the relationship between the two nations. These discussions which have addressed the issues over which our two nations differ are significant. These differences are also very important and we should not foget them; but it is good to see that we have made substantial progress on the issue of arms control, especially on the INF Treaty, which is a major step forward in trying to limit the expansion of nuclear weapons on this planet.

It is hopeful that these two leaders can now lay the goundwork during the day to come on the major issue that lays before our two nations, the issue of how to control the ICBM's and to get on with a START agreement, especially in the area of verification.

EMPLOYEE POLYGRAPH PROTECTION ACT

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, today this House will consider the conference agreement on the so-called Employee Polygraph Protection Act.

I am opposed to the conference report, just as I opposed the bill passed by the House last year. This legislation will once again deny a valuable investigative tool to business while allowing its use by the Government. If the machine is unreliable, it is interesting to me that we are approving its use by the Central Intelligence Agency, the Federal Bureau of Investigation, and the Department of Defense—agencies that are responsible for the security of our Nation, as well as exempting our own employees.

This inconsistency remains in the conference agreement.

Mr. Speaker, I am also concerned that this conference report is being brought to the floor in haste. Most Members were under the impression this bill would be considered later this week, and now we find that it will be the first article of business today. This legislation is too important to American business and the American employee to be set on such a fast track.

I urge my colleagues to vote no on the conference report.

REVIEW THE LOW-LEVEL RADIOACTIVE WASTE POLICY ACT

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, I have introduced a resolution, House Resolution 453, urging a congressional review of our current low-level radioactive waste policy, which makes each State responsible for disposal of its own low-level radioactive waste. States have done this by either choosing to construct their own sites or joining compacts to build regional facilities.

Taken at face value, this resolution seeks to resolve several issues that need to be addressed before States and compacts begin siting, building, and licensing disposal sites.

Although we would like to wash our hands of the matter, Congress and the appropriate committees need to answer the critics and set the record straight on these issues to keep this process on track and on schedule with the congressional milestones.

For starters, we need to review how many sites are needed, what these sites are going to cost, what constitute low-level waste, and what improved technology and better management practices can do to ensure adequate protection from this waste once it deposited at these sites.

If compact opponents succeed in breaking them up, we won't be any closer to building these needs storage facilities and we will be back where we started. I urge my colleagues to consider consponsoring this resolution (H. Res. 453).

COMMENDING PRESIDENT REAGAN FOR HIS EFFORTS ON BEHALF OF HUMAN RIGHTS

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, President Reagan and General Secretary Gorbachev are today winding up their fourth summit meeting—a meeting which has brought both superpowers closer together.

Mr. Speaker, I am pleased to rise to particularly commend the President for his efforts in posturing human rights while at the Moscow summit and in placing the question of human rights at the top of his agenda with the Soviet leadership.

We are proud of the fact that the President took the time and opportunity of his visit to meet with Soviet representatives, Soviet dissidents, divided family members and religious activists, demonstrating our Nation's concern and support for their efforts to exercise their human rights.

Mr. Speaker, I invite my colleagues to join in commending the President for his eloquent words and actions for human rights while in Moscow.

AN OVERDOSE OF PANIC MAY BE ALMOST AS LETHAL AS AN OVERDOSE OF DRUGS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, Washington has been gripped with drug hysteria. One need only examine the drug amendments introduced over the last several weeks to see that we are flailing wildly at a problem whose resolution escapes us. I fear that the good sense of this body is losing out to political panic.

I believe strongly in this body and in its ability to make democratic decisions for the American people. But when we react out of fear, instead of out of reason, we leave innocent victims in our wake.

In the 1940's we feared the war, and we locked up thousands of innocent Japanese-Americans in squalid internment camps.

In the 1950's we feared communism and we smeared the reputations of many innocent people in an era which most Americans now regret.

Now in the 1980's we fear drugs. Out of this has come the Walker amendment which would punish entire offices, even entire factories, for a single drug conviction of a single employee.

If we permit this legislation to pass, history will recall this as yet one more sorry instance of overkill by Congress to stamp out the pervasive fear of drugs.

Piecemeal drug legislation born of wild frenzies every couple of years is simply ineffective. We went through a similar paroxysm after the death of Len Bias, and what do we have to show for it? A situation that has grown progressively worse.

I say to my colleagues, it is time to roll up our sleeves and dig into the difficult but critical task of forming a cogent and comprehensive response to drugs in our society, a response that we will work at every week and every month, not just a few days once a year. A response that may not be dramatic or immediate but will be effective.

I say to my colleagues, one thing is clear amidst this turmoil; an overdose of panic may be almost as lethal as an overdose of drugs.

TARGETED EXPORT ASSISTANCE PROGRAM

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, critics of the Targeted Export Assistance Program, or TEA, have cited a recent GAO study of management problems with the program as their reason for seeking to gut this program.

While we should take every needed step to ensure that the program is effectively managed, we shouldn't undercut one of our most effective tools at reducing our $150 billion trade deficit.

The TEA Program has achieved dramatic results promoting American products overseas.

For example, it increased the sales of American peaches and fruit cocktail by 400 percent in countries where it has been implemented, while sales of those products remained the same or declined in countries without a TEA Program.

United States wine sales to Japan increased by 56 percent in 1 year after TEA promotions of American wine in that country.

Mr. Speaker, if we really want to reduce our trade deficit, we need to aggressively promote American products overseas. The TEA Program does this, and does it well. It deserves our enthusiastic support.

PRESIDENT REAGAN'S SUCCESSFUL FOREIGN POLICY

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WORTLEY. Mr. Speaker, the occasion of the Moscow summit is an appropriate time to commend President Reagan for his conduct of foreign affairs. His willingness to meet with the leader of the Soviet Union—for an unprecedented fourth time—shows that he is willing to go the extra mile for better relations between our two countries.

Ronald Reagan is the ninth President of the United States during the nuclear age. But, he is the first President to negotiate a reduction in these awesome weapons. The INF Treaty will—for the first time ever—eliminate an entire class of nuclear weapons. I believe that the President's continuing efforts will promote a more secure and peaceful future for the United States.

Through it all, President Reagan has demonstrated the truth of Churchill's axiom: "never be afraid to negotiate." He has confirmed that this is true only if we are not afraid to walk away from a bad deal. He has also established that negotiations are not a substitute for the ability to defend our country. Instead of negotiating away our strength, he has improved our situation by negotiating from a position of strength.

It is questionable whether we will ever be able to completely rid the world of nuclear weapons, but we should welcome levelheaded attempts to reduce the possibility of conflict. There is much work to be done in this area, and it must be done without endangering our national security. I have the highest respect and confidence in President Reagan's leadership in this difficult and historic effort.

CONFERENCE REPORT ON H.R. 1212, EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

Mr. WILLIAMS. Mr. Speaker, I call up the conference report on the bill (H.R. 1212) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SCHUMER). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of May 26, 1988.)

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 30 minutes and the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, as the Members will recall, originally passed this body on November 4, 1987. It was accepted by a vote 254 to 148. The legislation had bipartisan support with almost 50 of our colleagues on the other side of the aisle joining in its passage. Similar legislation passed the other body on March 3, 1988 by a vote of 69 to 27. The conference report which we now bring before the House was accepted unanimously among the conferees.

Mr. Speaker, this legislation is supported by a number of groups and I would like to read into the RECORD just a few of them: the American Bankers Association, the National Grocers Association, the National Retail Merchants Association, the International Mass Retailing Institute, the National Restaurant Association, the American Association of Railroads, the National Association of Convenience Stores, the American Pharmaceutical Association, the American Civil Liberties Union, the Securities Industry Association, the UFCW and the AFL-CIO.

Mr. Speaker, let me take just a couple of minutes and explain some of the differences between the bill that passed the House and the conference report that is now before us.

The House-passed bill prohibited the use of lie detectors for preemployment and employment screening with only two exceptions. Those exceptions were, first, for security guard companies, and second, for employees who had access to or handled drugs.

The Senate-passed bill prohibited the use of the lie detector for preemployment screening only exempting security guard companies.

The Senate debate included a colloquy in support by the way of the House drug exemption which the conference committee later accepted.

The Senate-passed bill included a broad exemption for post-incident testing in all industries. This conference agreement accepts the security guard and drug exemptions, but subjects them to a rigorous set of conditions that by the way were found in the Senate bill. The conferees in accepting the Senate postincident exemption subjected that exemption to the same rigorous conditions adding the requirement that the employer must execute a statement that that employer must retain on file for 3 years. An employer may request such a test of an employee only when the employee had access to the property and only if the employer has a reasonable suspicion that the employee was involved in the incident. Prior to requesting a polygraph test the executed statement to which I have just referred must be provided to the employee prior to the test.

This statement will identify the specific loss to the employer and explains the basis of the employer's reasonable suspicion that the employee was involved in the incident. The conference agreement provides that the refusal to take a polygraph test may not serve as the basis for adverse employment action without additional supporting evidence.

We worked closely with the administration, most particularly the Department of Labor, in developing this conference agreement. The Department of Labor is now satisfied and has expressed their support and is expressing their support for this legislation to the White House.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on H.R. 1212, the Employee Polygraph Protection Act of 1988. I urge my colleagues to give it their support as well.

Mr. Speaker, the use of so-called lie detectors has increased dramatically over the past few years, and yet their accuracy hasn't improved one bit since 1923 when the D.C. Court of Appeals ruled they did not have such scientific recognition as would justify their admittance into evidence. Sixty-five years later, scientific recognition continues to elude the lie detector. Groups such as the American Medical Association and American Psychological Association have taken strong stands against the use of polygraphs and other lie detectors.

The headlines have been full of scandals—from spy rings to stock manipulators—whose culprits have passed polygraphs with flying colors. The truth is, the truth isn't so easy to determine. You can't just plug a person into a machine and determine whether or not he or she is lying.

While some of my colleagues may still have concerns about this conference report, you won't hear any congressional clamor for preemployment or random testing of Congressmen or candidates. Can you imagine what the needles would do if we were all asked if we've ever taken a wee bit more than our share of credit? Or if we've ever made a promise we didn't keep?

I'll match my record against anybody's, but I will not match it against the inaccuracy of a pseudoscientific lie detector. My colleagues wouldn't, and America's workers shouldn't have to either.

Several States have already acted to prevent lie detector abuses. In my own State of Vermont, their use is generally banned. There has been no outbreak of crimes against Vermont's stores or customers.

Indeed, we have sought for years for any valid evidence that demonstrates the effectiveness of polygraphs in producing a more honest workforce. Do casinos in Nevada have a lower loss rate than those in New Jersey? Do stores in Vermont have more thefts than those across the river in New Hampshire? The silence from polygraph proponents has been deafening, and the answer, apparently, is no.

The conference report before us does not ban all uses of the polygraph, but it does eliminate the use of all other types of lie detectors in private employment. And it does restrict when a polygraph may be used, and what procedural safeguards will be in place to protect employees and employers.

In general, polygraph testing will be permitted when an employer has suffered a specific incident of economic loss or injury and the employer is unable to identify the responsible employee. A driving mishap, for example, could not serve as a pretext for a polygraph test if the employer knew full well who was in the driver's seat.

Likewise, such testing is only permitted if the employer has a reasonable suspicion and the employee to be tested had access to cause the injury or loss. These facts must be committed to writing by the employer. Moreover, any employee subject to a polygraph test must be fully informed of his or her rights and may not be discriminated against simply because he or she failed or refused to take a polygraph test.

Employers will continue to be able to use polygraphs, but only in those limited circumstances where polygraphs may have some scientific validity. As the Office of Technology Assessment found in its study of the issue:

> There is some evidence for the validity of polygraph testing as an adjunct to typical criminal investigations of specific incidents . . . However, there is very little research or scientific evidence to establish polygraph test validity in large-scale screening situations, whether they be pre-employment, preclearance, periodic or aperiodic, random, or dragnet.

This compromise does not satisfy everyone. Some of my colleagues would like to ban the use of polygraphs entirely, and some would like their use entirely unfettered. But it does outlaw the vast majority of tests, while prudently restricting those remaining. This conference report represents a solid compromise. It was adopted unanimously by the conferees, not all of whom supported this legislation when it was adopted by the House last November.

The conference report is supported by a wide range of interests. We worked closely with the Department of Labor to address the administration's concerns, and have successfully done so.

We also worked with several employer organizations, and the conference report has their support as well. These organizations represent some of the most frequent users of polygraphs. They include the American Association of Railroads, the American Bankers Association, the National Association of Convenience Stores, the National Grocers Association, the National Mass Retail Institute, the National Restaurant Association, and the National Retail Merchants Association. The conference report also has the support of a broad coalition of labor and civil rights organizations, including the United Food and Commercial Workers Union and the American Civil Liberties Union. I want to commend these organizations for their positive contributions.

I also want to commend my colleagues for their efforts. In the other body, Senators HATCH and KENNEDY have worked effectively to secure support for this legislation. Their staffers, Kevin McGuiness and Jay Harvey, deserve commendation as well. In the House, PAT WILLIAMS has been a forceful and thoughtful leader and has been ably assisted by Jon Weintraub in this effort. STEVE GUNDERSON, the ranking minority member of the Employment Opportunities Subcommittee, has contributed throughout the process.

Finally, I want to briefly recall the work of my friend Stew McKinney. This issue was a special concern of his, and for years he worked to prohibit the use of lie detectors, introducing legislation, testifying, rounding up support, year in, year out. I'm sorry he's not with us today.

Mr. Speaker, this is a solid bill, and a significant step forward. I urge my colleagues to give it their overwhelming approval.

Mr. WILLIAMS. Mr. Speaker, I yield 5 minutes to my friend and colleague, the gentleman from Georgia [Mr. DARDEN].

Although the gentleman and I have not entirely agreed on every aspect of the appropriate way to contain the use of polygraphs, nonetheless his leadership has meant that this issue has received a good hearing in the House and a considerable discussion across the country. I commend him for his leadership.

Mr. DARDEN. Mr. Speaker, I thank the gentleman from Montana for yielding.

I want to take, first of all, a moment to commend him on his very strong commitment to principle in looking at and examining this legislation, and while he and I disagree basically and fundamentally on this issue, I believe it should be a State issue, he believes it should be a Federal issue, I still certainly commend him on his dedication to principle and his hard work on this very important legislation.

Quite frankly, Mr. Speaker, I believe that this is an issue best left for the States to determine. Currently more than 20 States already have some type of legislation regulating the polygraph in which basic minimum standards are set forth. In fact, in the home State of the gentleman from Montana, they are even more stringent regulations than are allowed in this bill as well as in Vermont, which is the home, of course, of the distinguished ranking minority member.

Still, Mr. Speaker, the most frequent complaint that we as Members of Congress receive so often from our State legislators is, "Let us keep our authority. Let us make those decisions which more closely affect us. If we are to be a Government of a federalistic concept, let us exercise our authority in those areas in which we are qualified and capable of operating."

First of all, I oppose this conference report, Mr. Speaker, on the grounds that this is best left up to the individual States, and this is one more intrusion of the Federal Government into what should properly be the role of the States, of the several States throughout this Nation.

Second, Mr. Speaker, I am concerned and alarmed at so many exemptions being granted in this bill if, in fact, the polygraph is not reliable or a valuable investigative tool.

Mr. Speaker, this bill exempts Government and intelligence employees including employees of the CIA, the FBI, and DIA and every State and local government, and once again, Mr. Speaker, we have done it once more. We have exempted our own employees, our employees who work for us day in and day out, and certainly who ought to have some employee protection. We are exempting them from the provisions of the Employee Polygraph Protection Act, so it is all right to tell business that they can go forward and not use a polygraph in certain circumstances, but we are saying to ourselves as Members of the Congress who ought to be setting an example that we can administer a polygraph as we see fit, at midnight or 5 a.m. in the morning, in a star chamber or otherwise, under any circumstances, no restrictions on the polygraph of congressional or Government employees, but we are telling American business that, "No, your employees are being protected." If we want to protect employees, why do we not protect the employees of the Government, of the Congress and of the administration as well as State and local employees?

Who else are we exempting, Mr. Speaker? We are exempting persons engaged in the manufacture, distribution or dispensing of controlled substances. Certainly we ought to do that because everyone knows that these people are involved in very difficult and delicate responsibilities. But once more if the polygraph works on people involved in controlled-substance manufacturing and dispensing, why will it not work on persons who handle large amounts of cash or money? Once more, the old double standard.

I guess the best deal of all, and our congratulations should go out to the private security industry, Mr. Speaker, because they have the biggest exemption of all. It is all right if you are involved in the private security industry, because then you can use the polygraph however you see fit. Your employees are not protected.

□ 1340

But once again we have carved out special deals and special considerations for Government and intelligence employees, persons involved in the manufacture, dispensing, and distribution of controlled substances and the private security industry.

So I guess my question, Mr. Speaker, is if this is such a good bill, and if this polygraph is such quackery or witchcraft, why do we not apply it fully across the board and give the same protection to everyone that we are giving to those employees within the private sector? It seems like the private sector is being protected a little too much, Mr. Speaker, while we are not doing what we should on behalf of the Government and the other public employees.

Internal theft, Mr. Speaker, amounts to $2 billion. We are taking a backward step, in my view, toward preventing this, and I urge a no vote on the conference report.

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, the conference report that is in front of us today is living proof that the legislative process can indeed work. I was one of those Members who led the opposition to this particular legislation when it was considered in the House of Representatives earlier, and yet I am proud to come before my colleagues today in support of the conference agreement because I believe the legislation in front of us today really represents a bipartisan effort to address a very difficult problem in our Nation's workplace. That is the increasing use of the polygraph as an employment tool.

Through the process of considering this legislation, we really have achieved what I would call a proper balance, on the one hand allowing a legitimate, proper use of the polygraph as an investigative tool, and at the same time protecting the legitimate rights and concerns of America's workers.

I was one of those who was opposed to the total ban of the polygraph. I believe that while it may not be purely or totally scientifically accurate, it is a bit hypocritical for this Congress to say we will use the polygraph for such important uses as for national security purposes but we will not allow the five and dime stores in our small towns to use it to investigate internal theft. While the polygraph can be subject to abuses or inaccuracies, the scientific community has said that if the exam is properly used as an investigative tool focusing on a specific incident, and if properly conducted, those tests can and are scientifically reliable. Therefore, the conferees determined that the most fair way to deal with the use of the lie detector by employers was to build upon the approach that was taken by the Senate that is consistent with this existing scientific evidence. That is, No. 1, to allow all industries the use of the polygraph, but only as an investigative tool after a theft or a crime has been committed, and in those situations where testing does occur, the testing must be conducted under strict regulations.

This approach, as the gentleman from Vermont said, is almost identical to the amendment which I offered here on the floor of the House when we considered this legislation earlier and which was narrowly defeated. I am now proud to be back in support of that same concept in this conference agreement.

If enacted, this conference agreement will allow for polygraph testing within all industries of current employees, but only as an investigative tool once a theft or crime has occurred. Employees who are requested to take polygraph examinations must have had access to commit the crime or theft under investigation and must be under reasonable suspicion of committing that act.

Second, it prohibits polygraph testing for any preemployment screening of job applicants except in the pharmaceutical or private securities industries. As I think we all know, these two exemptions from the preemployment ban have been debated, and in these limited cases we feel that justification exists to allow preemployment screening for these two industries.

Third, we prohibit random testing of current employees for no cause in all industries at all times.

Yes, we do not cover the legitimate Federal, State, and local government use of lie detectors under this legislation. We do not ban or restrict such testing mainly, as I think we have indicated here before, due to concerns over national security at the Federal level and similarly, whether it be for local police work or State police forces, and so forth, we do not ban legitimate testing where State and local governments determine such examinations are warranted.

Finally, Mr. Speaker, I think it is important to note that however the polygraph is used in the future it will be used under a totally new set of Federal guidelines. We worked very closely with the Department of Defense and their polygraph experts to determine the proper method by which a polygraph test should and ought to be conducted. Of course, we do not preempt in this legislation more restrictive State laws providing increased local control.

In conclusion, then, let me point out that we have achieved a bipartisan consensus, a workable solution. We have worked with the Department of Labor and have satisfied their particular concerns over this legislation whereby we can stand here today and say that they are in support of the conference agreement.

Mr. Speaker, the legislative process in developing this conference agreement has worked, and in the process we are protecting American workers, but we are also providing America's business with a legitimate investigative tool. I encourage Members' support for this conference agreement.

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the speaker just preceding the last speaker mentioned an issue which may find to be a telling and certainly a sensitive issue, and that is why does the legislation exempt Government, the assumption being inherent I think in that argument that we are doing to the private sector something we are unwilling to do to the public sector; that is, to ourselves. In fact, this legislation does move to finally bring the private and the public sector employees into parity.

As Members know, the public sector employees are protected by the Civil Service Act and agreements emanating from that act. The Congress of the United States and many of the agencies voluntarily have placed limits on the number of polygraph examinations which they give to their Federal employees. Those tests are highly regulated.

The difficulty has been that the same has not been true in the private sector. The Polygraph Association estimates that last year there were more than 2 million lie detector tests given to American citizens. I suppose when folks hear that they think that most of those tests are being given by the local police or perhaps by Federal agencies such as the FBI or the CIA. But of those 2 million-plus tests given last year to American citizens, 98 percent of them were not given by Government, they were given by the private sector to America's workers, and of all of those tests given by the private sector, those close to 2 million tests on American citizens given by the private employers, 75 or 80 percent of those tests were given to people who simply want to get a job from that employer, who are not even working for that employer, the lie detector test is thus being used as a screening device.

So the House of Representatives, in adopting this conference report, is trying in fact to establish parity between the private and the public sector.

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MARTINEZ], the chairman of the subcommittee which so ably handled this bill here in the House.

Mr. MARTINEZ. Mr. Speaker, I rise to commend the leadership of Chairman HAWKINS, Mr. WILLIAMS, and Mr. JEFFORDS for passing this critical legislation that balances the rights of workers with the concerns of businesses in the use of polygraph lie-detectors.

We know that businesses suffer an annual property loss rate of $40 billion. We know that internal thefts and abuse can gravely damage a company's ability to do or stay in business. While I personally think that sound auditing methods and background personnel research can solve these problems, nevertheless the business community has felt the need to rely on the use of polygraphs to investigate thefts and sabotage. This bill would allow companies to continue to use these investigative methods.

On the other hand, workers have been subjected to the random and arbitrary use of lie detectors at an undue risk to their jobs, dignity, and professional integrity. Polygraphs have only the value of measuring stress, not the clear-cut discernment of truth or dishonesty. For these workers, we offer due process protections and respite from their abuse.

Mr. Speaker, in this bill, we have established a clear series of guidelines or the use of the lie detector machines: when they can be used, how they are to be used, upon whom, and by whom. We have added measures and documentation requirements that give better assurance of accuracy, relavence and appropriateness so that both the employer and worker can view the polygraph in a more objective light.

I commend the englightened Members of Congress who have worked so diligently on this legislation that came out of my subcommittee originally. Congress must be commended for exorcising the voodoo element from this detection procedure and for bringing polygraph use into the 20th century of responsible business application. I urge my colleagues to support this critical bill to our private sector.

Mr. JEFFORDS. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to this conference report, and I will urge the President, to veto it should it pass. Even though this legislation has been substantially improved from the original House version because of the addition of a number of exceptions, it still essentially deprives most private sector employers of the opportunity to use preemployment polygraph examinations.

Mr. Speaker, I want to compliment the gentleman from Georgia [Mr. DARDEN] for his outstanding statement. He has raised a number of significant questions.

It is interesting to note that the conference report exempts Federal, State, and local governments from a polygraph ban. This causes me to wonder why opponents of polygraph exams claims on one hand that they are so ineffective that they should be outlawed, yet turn around and allow their use by the Government. If they truly are ineffective, why not ban the use of polygraph exam by everyone? Instead, the sponsors of this bill discriminate against private sector employers by exempting Federal agencies.

However, this bill does not discriminate against all private employers because there are a limited number of exceptions. It allows the use of polygraph exams by private employers engaged in Government intelligence and counterintelligence work, security service, and the manufacture and distribution of drugs. These exceptions make sense, but why discriminate at all? Why are convenience store operators, jewelers and trucking firms operators, to name a few, not included? It does not make sense to include some employers and not others.

Right now, 32 States have license and certification requirements for polygraph examiners; 44 States have laws governing the use of polygraphs in the work place. This is a much more responsible approach than to issue a Federal prohibition that ignores local interests. No Federal regulator can know better than local and State official about the particular circumstances, customs and norms of their own areas, so this is just another example of big government stepping in to micro-manage commercial practices over which they should have no concern.

I understand the conference agreement says the bill's provisions do not preempt any local or State law that is more restrictive on polygraphs, but it will preempt laws that are allegedly less restrictive even if the State in question already has a legal structure in place. This a a clear example of the Federal Government overriding local government and disregarding the wishes of the voters.

The conference report refers to a limited exception for the use of polygraph exams in an ongoing investigation involving economic loss to a particular business. However, this provision is so narrowly drawn, and the risks of liability so significant that no employer will be able to actually use the polygraph to investigate a theft.

Prior to the polygraph exam the employer must provide the employee with a signed statement containing the reasons why the employer is suspicious about the particular employee or group of employees being investigated, the specific incident and loss involved and the access that employee had to the stolen items. This clearly creates difficulty for the employer in terms of his relations with his workers, and could expose him to legal action by innocent employees.

It is entirely possible that such provisions, which are intended to protect employee rights, could backfire. Employers would be tempted to fire the whole staff and hire a new group, rather than go through the cumbersome and potentially dangerous procedure mandated by this legislation.

Mr. Speaker, the sponsors of this bill claim it exempts sensitive sectors from the prohibition, but in reality it will eliminate the use of the polygraph for about 90 percent of our private employers. Over the years, we have permitted the Government to use polygraphs because they are effective in screening out security risks or in helping to prove a person's innocence. As a former prosecutor, I have seen firsthand how the polygraph can be used effectively as an investigative tool.

We in Washington use the polygraph to screen applicants for the Capitol Police Force, so why shouldn't airlines, trucking firms, daycare centers nursing homes, jewelers, apartment owners, hotels and motels, among others, do the same. They have just as legitimate concerns about protecting the safety of their customers—which are, after all you and me as do we in Government. This bill unfairly discriminates against the private-sector employers, it hurts their ability to protect us all from dangerous employees, and it should be voted down. And, if it passes, I will strongly urge the President to veto it.

□ 1355

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Louisiana [Mr. Livingston] has done an admirable job of outlining some of the objections which those who will be in opposition to this conference report share. Those objections perhaps go to the heart of this and other workers' rights legislation of this type.

The question simply is this: Does the public, through their Government, have the right to try to legislate against wholesale interstate abuses in the work place? Many of us believe that issue was solved in America more than 50 years ago when America began to set down, through Federal law, the basis of worker protection legislation.

As a sponsor of this legislation, I like to believe that is in the tradition of that cherished effort in America.

I believe the legislation is not just timely, it is past time that the Federal Government move to correct what has clearly been an abuse of the rights of American citizens who are seeking employment or simply trying to hold a job.

Mr. Speaker, I have no additional requests for time. However, I will reserve the right to close and perhaps my colleague has other speakers.

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Speaker, while this conference report is better than the original bill passed by the House last November, I must rise in opposition to it for several reasons.

First, it continues the double standard by applying a prohibition to the private sector which Congress is unwilling to accept itself, or apply to other Federal agencies. This bill provides for a blanket prohibition of a tool relied upon by the private sector to protect itself from on-the-job crime, theft, and industrial espionage. While it would permit incident specific testing in some cases, many employers believe the provisions of the bill are so restrictive and punitive as to make such testing unworkable. Yet, the bill permits the use of polygraph tests on all government personnel.

I do not believe a satisfactory case has been made for Federal Government access to the polygraph while banning it in the private sector. Once again we are applying that old double standard.

Second, the provisions which allow incident specific testing in the event of economic loss are so narrowly drawn and the risks of liability are so significant that the provisions are unworkable for most employers. The requirement of a "reasonable suspicion" test, I believe, is too strong. The conferees state that the term "reasonable suspicion" refers "to some observable, articulable basis in fact beyond the predicate loss and access required for any testing." I am not certain what that means, and I believe this test is sufficient to deter an employer from using the polygraph. Additionally, the bill provides for civil penalties up to $10,000 which could be imposed for a simple failure to post notice. This is a hefty penalty for a small businessman.

Finally, I oppose this bill because I believe polygraph testing, which is currently regulated at the State level, should remain a responsibility of the States. In some States, polygraph testing is banned, and this option should remain available to the States.

For these reasons, I urge a "no" vote on the conference report.

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

In closing, I want to again make the point that this conference report does indeed make an effort for the first time in the United States to establish parity between the public sector and the private sector. It it did not, I too would join my colleagues in criticism of the House for treating the public sector, particularly the Federal Government, differently that we are treating private sector employees.

The private sector is now unregulated by either Federal law or regulation whereas the public sector is regulated. The legislation now brings the private and public sector into parity.

Mr. Speaker, I understand my colleague has one additional speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. JEFFORDS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. Roukema].

Mrs. ROUKEMA. Mr. Speaker, I shall be very brief. I understand there have been excellent statements made on behalf of this bill. I rise in support of the conference report.

Mr. Speaker, I rise in support of this legislation, the conference report to accompany the Employee Polygraph Protection Act of 1988.

I believe this conference report represents a sound and reasonable compromise and I would commend the conferees for their efforts to seek a resolution which I believe we all can support.

While the report resembles the bill approved by the House in November. However, the conferees did include several changes proposed by the Senate and which encompasses the key provisions of the well-constructed Gunderson amendment considered by the House during the debate on H.R. 1212.

Essentially, the conferees retained the House exemption for use of polygraphs at the Federal, State, and local government levels and for national security purposes. The agreement also retains the use of these tests by employers engaged in the manufacture, distribution, or dispensing of controlled substances; those who deal in the transportation of toxic or radioactive waste; and for those who protect nuclear or electrical power or water supply facilities.

In accepting the Senate compromise, the conferees included a limited exemption for the use of polygraphs in an ongoing investigation involving economic loss to an employer's business. In such a case, an employer could request a test if the employee had access to property in question and if the employer had a reasonable suspicion that the employee was involved. The bill contains safeguards, including a requirement that employers, prior to testing an employee, notify that person of his or her rights. The bill also specifies that no employee can be denied employment, discharged, or disciplined solely on the basis of the results of a polygraph test. The employer would have to have additional corroborating information before taking any of these actions.

Finally, this report retains the House-approved Roukema exemption for firms whose primary business is to furnish protective security services for sensitive facilities and certain types of property. This provision would include armored car, uniformed and plainclothes guards, and security alarm companies. The administration of polygraphs is only allowed when the employees are engaged in the protection of currency, negotiable securities, precious commodities, and proprietary information.

While I do support this report, I would be remiss if I failed to say how disappointed I remain at the fact that the conference report does not contain an exemption for federally insured or federally regulated financial institutions, which I have always believed was as important as some of the other exemptions permitted in this bill.

The protection of the integrity of our savings, lending and trading institutions, and their employees, which handle enourmous amounts of currency and which comprise the very heart of our economy, should have been included in this final report.

Mr. Speaker, I want to again congratulate the conferees for achieving this reasoned compromise on the use of polygraph tests.

I urge my colleagues to support the conference report.

Mr. HAWKINS. Mr. Speaker, I rise in strong support of the conference report on H.R. 1212, the Employee Polygraph Protection Act of 1988.

The purpose of this legislation is to protect American workers from the increasing use and abuse of polygraphs in the workplace. The effort to control the use of polygraphs in the workplace is not a new phenomenon. Twenty-two States and the District of Columbia prohibit the use of polygraphs in the private sector while 19 States regulate their use. Regrettably, many of these State laws are being circumvented.

Despite these prohibitions and regulations, more than 2 million polygraph tests were given last year. Approximately 90 percent of these tests were given by private employers. Although the majority of these tests were given for preemployment testing, employers also use these tests to determine guilt or innocence of current employees. These tests have been used by employers to ascertain certain beliefs of employees or applicants regarding race, religion, or politics.

During the course of hearings on this legislation, the principal author of the 1983 Office of Technology Assessment report entitled, "The Scientific Validity of Polygraph Tests" told the committee that "from a scientific perspective, there is little evidence to suggest that polygraph tests are a valid means of verifying an individual's truthfulness or deception. A polygraph instrument cannot detect truth or deceit even in the hands of the most skilled examiner."

H.R. 1212 would protect workers who are wrongfully denied employment because of the results of these tests. Thousands of applicants and employees have been denied jobs or promotions despite the fact that these test results have been proven to be unreliable.

I want to commend my colleagues on the Subcommittee on Employment Opportunities for their fine efforts which culminated in unanimous approval of the conference report by the House and Senate conferees.

The compromise agreement retains the exemptions for Federal, State, and local governments as well as for national security. The conference agreement also retains the House-passed exemptions for security guards and for employers who dispense, distribute, or manufacture controlled substances. The conference agreement allows a limited exemption which permits employers to request an employee to submit to a polygraph test for ongoing investigations which involve economic loss or injury to the employer's business. The agreement also sets forth certain rights for the examinees and establishes certain qualifications for the examiners.

I believe that we have fashioned a bill which protects American workers against abuse and misuse of the polygraph in the workplace and I urge my colleagues to support this legislation.

Mr. GRADISON. Mr. Speaker, I rise in opposition to the conference agreement on H.R. 1212, the Employee Polygraph Protection Act, and urge its defeat by the House.

Last November, when the House last considered legislation banning the use of polygraphs by private employers I voted against the measure. Although I recognize that the conference agreement on H.R. 1212 is significantly different in a number of respects from the bill that passed the House on that occasion, the legislation retains many of the provisions that led me to oppose the bill then.

The conferees agreed to outlaw the use of polygraph tests by private employers to deny any employee, or prospective employee, a job. The bill does allow for certain exemptions. For example, private employers would be permitted to use polygraphs in ongoing investigations involving an economic loss or injury when the employer has reason to believe an individual worker or workers was involved.

The conference agreement also retains the exemption for Federal, State, and local governments. It also provides a specific exemption for private contractors involved in intelligence and counterintelligence functions to conform with current law regarding the use of polygraphs where an individual has access to classified information.

I do not dispute the need to maintain the option for the Government to use the polygraph as one tool where access to sensitive and classified information is concerned. I do, however, have grave misgivings about enacting a general ban on the use of polygraphs in the private sector when, at the same time, we retain a general right for Federal, State, and local governments to use these instruments. Either polygraphs are effective or they are not. Does the effectiveness of the polygraph depend on whether it is used in the public or private sector?

Certainly, the polygraph should never be used as the sole criteria by which employment opportunities, or guilt or innocence, are determined. Yes, the rights of workers are important. If this legislation provided for guidelines governing the use of the polygraph, by both public and private sector, I could support it. However, for the Federal Government to impose yet another rule on the private sector with broad exemptions for Government is the height of hypocrisy. I urge the defeat of the conference agreement.

Mr. BRENNAN. Mr. Speaker, today I rise in strong support of the conference report on the Employee Polygraph Protection Act of 1988, H.R. 1212. This legislation, which has the support of the administration, offers a modest solution for a serious problem.

Currently, many companies require employees or prospective employees to take a lie detector test. In such cases, the employer operates under the presumption of guilt rather than innocence. Refusal to take the test or failure to pass the test usually results in the individual being fired or not hired. Such action is clearly unjust and discriminatory.

Polygraph tests, which measure stress, not truth, in my judgment are not reliable. Their inaccuracies are so well-documented that U.S. courts do not permit test results to be used as evidence. Furthermore, our criminal justice system presumes that an individual is innocent until proven guilty, not vice versa. To allow employers in nonsensitive industries to continue to use these tests would be unconscionable.

Right now, criminals have more protections from these gadgets than working men and women. It is time to change this situation.

The conference report on H.R. 1212 is a reasonable measure and deserves the support of the Members of this body.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, in closing I would be remiss if I did not take just a moment to commend the chairman of the subcommittee for the tremendous amount of work that he has done in bringing this bill, in the form that we have it, before the body today. He has worked hard and long for many years in order to perfect something which we could get the majority of both and House and the Senate to vote for.

I want to thank him most profusely for all the effort he has put into this bill and urge my colleagues to support the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Speaker, in closing I want to join my colleague in commending the Members on both sides of the aisle and particularly the staff who have worked very diligently and for several years to reach this point in the life of this legislation.

I want to remind my colleagues once again that last November this bill in different form passed the House 254 to 158 with substantial bipartisan support.

The legislation passed in the other body by a margin of greater than 2 to 1, again with bipartisan support. The members of the conference committee, some of whom voted against this legislation when it originally left the House were all unanimous in their support of bringing this conference report to you today with the recommendation that it do pass.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SCHUMER). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BARTLETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 120, not voting 60, as follows:

[Roll No. 159]

YEAS—251

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Atkins
AuCoin
Bates
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Byron
Campbell
Cardin
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Davis (IL)
Davis (MI)
DeFazio
Dellums
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Gallegly
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hamilton
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Henry
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Pashayan
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickle
Price
Rahall
Ravenel
Regula
Richardson
Ridge
Rinaldo
Robinson
Roe
Rostenkowski
Roukema
Rowland (CT)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Thomas (CA)
Torricelli
Towns
Traficant
Traxler
Upton
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron

NAYS—120

Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bilirakis
Bliley
Brown (CO)
Bunning
Burton
Callahan
Chapman
Chappell
Coats
Coble
Combest
Craig
Dannemeyer
Darden
Daub
de la Garza
Derrick
DeWine
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frost
Gekas
Gingrich
Gradison
Grant
Hall (OH)
Hall (TX)
Hammerschmidt
Hastert
Hatcher
Hefley
Herger
Hiler
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Jones (NC)
Kasich
Kolbe
Kyl
Leath (TX)
Lewis (FL)
Lightfoot
Livingston
Lott
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Myers
Nelson
Nichols
Oxley
Packard
Parris
Patterson
Pickett
Quillen
Rhodes
Rogers
Roth
Rowland (GA)
Schaefer
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stenholm
Stratton
Stump
Sweeney
Swindall
Tallon
Thomas (GA)
Valentine
Vander Jagt
Vucanovich
Walker
Whittaker
Wortley

NOT VOTING—60

Anthony
Aspin
Badham
Berman
Biaggi
Bosco
Boulter
Buechner
Bustamante
Carper
Cheney
Crane
Crockett
DeLay
Duncan
Feighan
Foglietta
Frenzel
Gallo
Garcia
Gray (IL)
Hansen
Hefner
Inhofe
Jones (TN)
Kemp
Konnyu
Latta
Lent
Lewis (CA)
Lowery (CA)
Mack
MacKay
Markey
Martin (IL)
McGrath
Mica
Moody
Ortiz
Porter
Pursell
Rangel
Ray
Ritter
Roberts
Rodino
Rose
Skelton
Spence
St Germain
Sundquist
Taylor
Torres
Udall
Vento
Weiss
Wilson
Yates
Young (AK)
Young (FL)

□ 1424

The Clerk announced the following pairs:

On this vote:

Mr. Gray of Illinois for, with Mr. Young of Florida against.

Mr. Markey for, with Mr. Lowery of California against.

Mr. Moody for, with Mr. Hansen against.

Mr. Boulter for, with Mr. Mack against.

Mr. McGrath for, with Mr. Konnyu against.

Mr. OXLEY changed his vote from "yea" to "nay."

Mr. ROE and Mr. THOMAS of California changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 1212, just agreed to.

The SPEAKER pro tempore (Mr. DONNELLY). Is there objection to the request of the gentleman from Montana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1801, JUVENILE JUSTICE AND DELINQUENCY PREVENTION AMENDMENTS OF 1988

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 442 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 442

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1801) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1989 through 1992, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore. The gentleman from Massachusetts [Mr. Moakley] is recognized for 1 hour.

Mr. **MOAKLEY**. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. Quillen], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 442 is an open rule providing for the consideration of the bill H.R. 1801, the Juvenile Justice and Delinquency Prevention Amendments of 1988.

Mr. Speaker, the rule provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Education and Labor.

The rule provides that it shall be in order to consider the amendment in the nature of a substitute, recommended by the Committee on Education, and Labor, now printed in the bill as original text for the purpose of amendment under the 5-minute rule. And further provides that the committee substitute shall be considered for amendment by titles, and each title will be considered as having been read.

Mr. Speaker, the rule waives all points of order against the substitute for failure to comply with the provisions of clause 7 of rule XVI. This is the provisions against nongermane amendments. The bill as introduced only extended the authorization of existing programs, the committee substitute makes changes in the administration of those programs, and adds a new program and is therefore not germane to the bill.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 1801, is the reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974, for fiscal years 1989 through 1992. The bill also extends for 4 years the runaway and Homeless Youth Act, and the Missing Children's Assistance Act. In addition, Mr. Speaker, the bill establishes two new programs. The first program would create a community based prevention and treatment program related to youth gangs, the second program would provide grants and technical assistance to public and nonprofit agencies for transitional living projects for homeless youths aged 16 to 21.

Mr. Speaker, over the past few years I have had the opportunity to work with and support a multiservice youth agency that is located in Boston called Bridge Over Troubled Waters. Through Federal grants the bridge is able to provide quality programs and care to the hundreds of youths that are in need in the Boston area. The bridge provides, job counseling, medical and dental care, emergency housing, and educational programs for the many homeless and runaway young people in the Boston area. The dedication that this agency shows to the young people is to be commended, but because of the continued increase in the numbers of homeless and runaways in the Boston area the need for additional funding is still great.

That is why this bill is so important. There are hundreds of these kinds of agencies around the country that depend on the support of not only the Federal Government, but from volunteers and private donations. The Education and Labor Committee has given us a bill that will continue that support. The gentleman from Michigan [Mr. Kildee] who has been a leader in this area for many years, is to commended for his tireless effort and his dedication to the young people and their families across the country.

Mr. Speaker, I urge my colleague to vote for the resolution and to support final passage of the bill.

Mr. **QUILLEN**. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this bill has been on and off and on and off the schedule for action on the House floor. That is no indication that it is not an important bill. As a matter of fact, it is an important bill and I am pleased that it is scheduled for action today on the House floor.

Mr. Speaker, the bill made in order by this rule extends three different laws, all of which are designed to improve the condition of young people in trouble. Certainly we all want to do everything possible to prevent delinquency, help runaway and homeless youth and assist in returning missing children to their families. However, it is often easier to agree on the goals than on the specific means for achieving those goals.

Mr. Speaker, in this case Members should be aware that the administration would oppose this bill unless it is amended in a number of different areas.

The primary objection of the administration is that the goals of the Federal Juvenile Justice Grant Program have been achieved to the extent practicable. In order to make funds available for other higher priority programs of the Department of Justice, the President's budget proposed no budget authority for Juvenile Justice Programs.

At the same time, the administration does support reauthorizations for the Runaway and Homeless Youth Program and for the Missing Children's Assistance Programs, if objectionable amendments can be removed.

The rule before us is an open rule which will allow the House to make necessary improvements in the bill. Therefore, I will support this rule so that the House may soon begin to debate the Juvenile Justice and Delinquency Prevention Amendments of 1988.

□ 1435

Mr. Speaker, I reserve the balance of my time.

Mr. **MOAKLEY**. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM HON. MARCY KAPTUR, MEMBER OF CONGRESS

The **SPEAKER** pro tempore (Mr. Donnelly) laid before the House the following communication from Hon. Marcy Kaptur:

House of Representatives,
Washington, DC, May 26, 1988.

Hon. Jim Wright,
Speaker of the House, Washington, DC.

Dear Mr. Speaker: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that an employee in my office has been served with a subpoena duces tecum issued by the Lucas County, Ohio Common Pleas court.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

Marcy Kaptur,
Member of Congress.

COMMUNICATION FROM HON. THOMAS J. MANTON, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. DONNELLY) laid before the House the following communication from Hon. THOMAS J. MANTON:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 25, 1988.

Hon. JIM WRIGHT,
The Speaker,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena *duces tecum* issued by the Supreme Court, Criminal Term, County of Queens, State of New York Common Pleas court in the matter of the People of the State of New York vs. Henry Magri.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,
THOMAS J. MANTON,
Member of Congress.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION AMENDMENTS OF 1988

The SPEAKER pro tempore (Mr. DONNELLY). Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1801.

□ 1438

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1801) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1989 through 1992, with Mrs. SCHROEDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 30 minutes and the gentleman from Iowa [Mr. TAUKE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, since 1974, the Juvenile Justice and Delinquency Prevention Act has successfully promoted the improved treatment of youth across the Nation.

While still protecting the public safety, the number of youth inappropriately incarcerated has declined and more are receiving treatment in family or community-centered programs.

H.R. 1801 extends this important act for 4 additional years.

In addition to the juvenile justice programs, the act also reauthorizes the Runaway and Homeless Youth Act and the Missing Children's Assistance Act.

The authorization for each of these programs is continued at its current level of "such sums as may be necessary."

The major provisions of the bill include:

Increasing the proportion of the annual juvenile justice appropriation available to the States in the form of formula grants;

Improving the compliance provisions governing State efforts to remove children from adult jails and lockups;

New requirements designed to address the serious problem of the overincarceration of minority youth;

A new authorization to provide grants to establish and support community-based prevention and treatment programs related to juvenile gangs; and

A new authorization to provide grants to establish and operate transitional living projects for older homeless adolescent youth.

In addition, the bill contains a number of amendments designed to promote better administration and to facilitate congressional oversight of the programs.

On April 28, 1988, H.R. 1801 was ordered reported by the Committee on Education and Labor by voice vote.

Accordingly, it represents a strongly bipartisan effort on the part of the committee to further improve the treatment of our Nation's youth.

The bill is strongly supported by the Ad Hoc Coalition for Juvenile Justice and Delinquency Prevention, the National Coalition of State Juvenile Justice Advisory groups, the Child Welfare League of America, the National Network of Runaway and Youth Services, and the National Congress of Parents and Teachers.

I would like to thank those Members who have been working with us to develop a strong reauthorization measure—especially my colleague from Iowa, the ranking Republican on the subcommittee. It has been a genuine pleasure working so closely on such an important bill.

I urge all of my colleagues to support the bill.

Madam Chairman, I reserve the balance of my time.

Mr. TAUKE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I first want to take this opportunity to commend the gentleman from Michigan [Mr. KILDEE], the gentleman from California [Mr. HAWKINS], the gentleman from Vermont [Mr. JEFFORDS] and all the members of the Committee on Education and Labor for the outstanding work that has been done on this legislation. H.R. 1801 is the result of the legislative process working at its best. There were several hearings held in this city and across the Nation, including a very productive hearing in Iowa at which we acquired information about how the juvenile justice system is currently operating. We received excellent recommendations from experts, State and local representatives, and program administrators. During the course of this legislative process we have had open and bipartisan effort to transform many of these recommendations into legislation which extends and improves the Juvenile Justice and Delinquency Prevention Act.

The stated purpose of this Act is first, to provide the necessary resources, leadership and coordination to first prevent juvenile delinquency; second, to divert juveniles from the traditional juvenile justice system; third to provide alternatives to institutionalization of juveniles; and fourth, to improve the quality of juvenile justice in this country. Since 1974 when this Act was first created, considerable progress have been made towards meeting these goals. The institutionalization of status offenders, that is those young people who are not convicted of any crime but are simply in some difficulty, has been nearly eliminated in this country. The incarceration of juveniles in adult jails has been reduced significantly. Innovative and effective prevention and treatment programs have been developed and implemented widely across the country.

Despite this progress, a great deal more needs to be done. We need further improvements in the juvenile justice system and we think that this bill provides them.

First, this legislation focuses on the continued effort to remove juveniles from adult jails and lockups.

Second, this bill places greater emphasis on prevention programs to reduce juvenile delinquency, such as the very successful law-related education programs.

Third, this bill attempts to deal with some emerging problems such as the explosive issue of juvenile gang violence.

Fourth, this bill tries to ensure that the protection of juveniles' rights will be reinforced. Federal leadership is needed and must be continued in this area in order to continue the progress we have made to achieve the purposes of the Juvenile Justice and Delinquency Prevention Act.

H.R. 1801 improves the ability of the States to achieve compliance with the Act's mandates. It provides more resources to the States. It ensures that new compliance measures and sanctions will be provided and it ensures flexibility to meet the Act's mandates. Greater attention is given to reducing the disproportionate incarceration of minority youth, and new authority is provided to address juvenile gang problems.

This legislation, in addition to dealing with the Juvenile Justice and Delinquency Prevention Act, also addresses two other important measures, the Runaway and Homeless Youth Act, and the Missing Children's Assistance Act are also extended and improved. New authority is provided to address the unique needs of older, homeless youth, which is an ever-growing problem in this Nation. Basic runaway shelter grants and the national hotline services are emphasized, and missing children's programs are focused on services.

Madam Chairman, I come today knowing that this is a good piece of legislation, knowing that the Members of Congress are united in our desire to meet the objectives contained in this legislation, and feeling confident in recommending passage of this bill.

Madam Chairman, I yield 5 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Madam Chairman, I rise in strong support of H.R. 1801, which would reauthorize the Juvenile Justice and Delinquency Prevention Act through fiscal year 1992. The act provides Federal assistance in the areas of prevention and treatment of juvenile delinquency, assistance to runaway and homeless youth and activities addressing the problem of missing children.

As the ranking minority member on the full committee, I first want to commend the two sponsors of the bill. As chairman of the Human Resources Subcommittee, DALE KILDEE has brought the same degree of compassion and foresight to this bill as he has to all of the other programs in his subcommittee's jurisdiction. As the ranking minority member on the subcommittee, TOM TAUKE has approached this issue with the characteristic blend of humanity and circumspection that we have come to expect from him. My colleagues and I derive considerable comfort from the fact that so many programs of importance to American youth and the family reside within the charge of these two most capable legislators.

Madam Chairman, this is indeed a bipartisan bill. Given the emotions and tensions raised by the subject of juvenile delinquency, it is impressive that this bill comes before the House with such a solid consensus as to the direction these programs must take.

One aspect of this consensus which should give comfort to my Republican colleagues is a recognition that more of these funds should be directed to the States. In the juvenile justice programs, the bill allocates 70 percent of the funds to the States by formula. Under current law, the OJJDP Administrator has had the discretion of allocating anywhere from 61 to 69 percent by formula. Historically, this percentage has been the minimal amount, with the Administrator maximizing the amount available for the federally directed Special Emphasis Prevention and Treatment Programs.

In recent years, the States have seen a dramatic decline in their allocations resulting from a one-third decrease in appropriations since 1981. By increasing the percentage of the funds going to State formula grants, this bill will help restore some of these funds to the States with or without increases in appropriations. While this will require some belt tightening in Federal discretionary efforts, the 70 percent share of State funds is as low a percentage as you will find among the programs within our committee's jurisdiction.

In increasing the share of State funds, we are certainly strengthening those provisions which are considered by many to be the cornerstone of the act—that is, the deinstitutionalization of status offenders [DOS] and the removal of juveniles from adult jails and lockups.

In 1974, based upon troubling statistics regarding the incarceration of juveniles, the Congress made a policy decision that a significant part of the blame for a growing juvenile delinquency problem was borne by inadequate methods for handling first offenders and children who had committed so-called status offenses. A status offense is a criminal offense by a juvenile which, if committed by an adult, would not be a crime.

During consideration of the Juvenile Justice and Delinquency Prevention Act of 1974, Senator Hruska cited the fact that nearly 40 percent of all juveniles incarcerated had committed no criminal act. Consequently, the 1974 act required that, as a condition of receiving formula grants, a State would be required to remove status offenders from secure detention facilities and to remove all juveniles from institutions where there is regular contact with adult offenders. In 1980, the latter was strengthened to require removal from all adult jails and lockups.

Madam Chairman, since 1974, the road to full compliance with these requirements has been a long and arduous one. While all but 12 States are now in full compliance with DSO, only 8 are in full compliance with the jail removal requirement and the deadline for full compliance is December of this year.

Despite the fact that most States have not reached full compliance, let's look at the positive side and consider where we are in comparison with 1974. First, we have been almost completely successful in DSO. From 169,000 status offenders in secure facilities in 1979, we dropped to only 6,500 in 1986—a 96-percent reduction in less than a decade. During that time period, my own State of Vermont went from 218 to 1, a reduction of over 99 percent.

With regard to jail removal, there is still a great deal to be done but the results thus far have been most impressive. Nationwide, we have dropped from 128,000 juveniles held in adult jails and lockups in the early eighties to 44,000 in 1986. Even most of those States not yet in compliance have reduced their numbers substantially. Can many other Federal programs show such dramatic success over such a short timeframe?

Moreover, let me assure my colleagues that these results are not merely coincidental to the existence of the JJDPA. My own State of Vermont recently provided a rather vivid example of the positive results engendered by the act. Vermont places a relatively small number of juveniles in adult jails, but the State's compliance with JJDPA has been impeded by a State law regarding referrals of juvenile misdemeanants. Under current State law, the district attorney has the option of referring misdemeanants aged 16 and 17 to either adult or juvenile court.

Two years ago, Vermont was informed by the Office of Juvenile Justice and Delinquency Prevention that this State law would prevent Vermont from demonstrating full compliance with the jail removal requirements.

This prompted the Vermont juvenile justice community and State legislature to take another look at the law. The result was the recent enactment of a new law which prohibits the placement of misdemeanants in adult facilities except in cases involving violence or a vulnerable victim. Vermont officials believe that this law, which was just signed last week, will bring Vermont into full compliance with the jail removal requirements of the JJDPA.

Granted, Vermont did not pass this legislation solely to avoid losing Federal dollars. But there is little doubt from the legislative history that that was one of the motivating factors. The fact is that, were it not for JJDPA, Vermont probably never would have taken a second look at its existing procedures and would not have been induced to seek a more enlightened approach. Once again, necessity is the mother of invention as has been proven countless times in the U.S. Congress as well.

Title I of this bill will ensure that such progress in Vermont and the other States will continue and will in fact be enhanced. We are trying to give the States even more of an incentive by increasing their share. My own State of Vermont will see an increase from $225,000 to $325,000 as a result of an increase in the minimum allocation. Moreover, if funding for JJDP increases to $75 million, this minimum will increase to $400,000. These provisions are intended to ensure that the smallest states join with all other States in receiving an increase in JJDP funds.

Meanwhile, the bill will add a certain degree of needed flexibility to the jail removal requirements. This is not to be confused with leniency. We are simply making sure that, before a State can be found not to be in "substantial compliance" under section 223(c), the JJDP Administrator will consider a number of relevant factors in addition to bare statistics.

Finally, we have added needed flexibility to the sanctions available to the Administrator for noncompliance. Current law requires the Administrator to simply withhold formula grant funds from a State which fails to comply with the jail removal requirements. Such a drastic measure would make no sense in a situation where a State is making every effort to comply but simply isn't there yet. In such situations, withholding of funds would not only hurt the State, but would also hurt the youth that the statute is designed to help. To avoid such an anomaly, we would provide the Administrator with the optional sanction of requiring the State to spend all of its funds solely on jail removal.

Title II of the bill, which reauthorizes the Runaway and Homeless Youth Act [RHYA], also improves the act by focusing more funds in those areas proven most successful. The centerpiece of RHYA is the assistance provided to runaway and homeless youth centers, which provides short-term, temporary shelter to runaways. Last year, 307 local shelters were assisted, providing shelter and crisis intervention services to about 85,000 youth and one-time or drop-in services to another 255,000. Of those served, 53 percent were reunited with their families and 37 percent were placed in other positive living arrangements. The remainder either were not positively placed or there is no available information on their situation. I think my colleagues will agree this is a most impressive track record.

If there is one glaring problem in the runaway programs, it is a lack of adequate funds. There simply isn't enough to spread around to keep all of the centers going and also try to fund new centers. One particularly serious problem facing centers is attracting and retaining competent, committed employees at the low salaries caused by budget constraints. Because of the priority attached to this program, my budget-conscious Republican colleagues on the committee this year recommended a 15-percent increase in RHYA funds in our request to the Budget Committee.

Because of the obstacles to any funding increases in the near future, the bill seeks to guarantee an increase in funds for the centers even if funding remains constant. An amendment offered by Mr. SAWYER was adopted in subcommittee which requires that at least 9 percent of the funds be provided to runaway and homeless youth centers. There is no minimum required under current law and about 80 percent of the funding has been provided to centers. This increase will reduce the percentage of discretionary funds available, but it should not reflect negatively upon how those funds have been used. It is simply a decision on our part to maximum funds for those activities most central to the act's purposes at a time of severe austerity.

Meanwhile, we are ensuring the effectiveness of the program in all States by establishing a minimum allocation of $75,000.

This is our assessment of the bare minimum needed to have an effective program in any State. Some States, including my own, are currently well below this amount.

Finally, the bill reauthorizes the Missing Children's Assistance Act [MCAA] with very few changes. This is a relatively new program which authorizes support for a variety of activities designed to address the missing children problem. Examples include a toll-free hotline, a national resource center and clearinghouse, financial assistance to private, nonprofit agencies, and research on relevant topics. Since this is a relatively new program, the committee decided to retain the program essentially as is with fine-tuning changes at most.

Madam Chairman, this bill comes before the House without significant controversy. But I want to assure my colleagues that the programs it reauthorizes are replete with significance. In a year where family issues have moved to the forefront, the statistics bearing witness to the success of these programs should not escape our attention.

We still have a long way to go in addressing the many problems associated with juvenile delinquency and other maladies among our Nation's youth. But we have come so far and now is certainly not the time to abandon those efforts. I urge passage of the bill.

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Mr. KILDEE. Madam Chairman, I yield 3 minutes to the gentleman from California [Mr. HAWKINS], the chairman of the full committee.

Mr. HAWKINS. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I rise in strong support of the bill, H.R. 1801, the Juvenile Justice and Delinquency Prevention Amendments of 1988.

I want to commend the chairman and ranking Republican member, Mr. TAUKE of Iowa, of the Subcommittee on Human Resources, their colleagues on the subcommittee, and the subcommittee staff for their fine efforts in developing this legislation with strong bipartisan support.

H.R. 1801 reauthorizes all titles of the current act for the next 4 years. In addition to title II, Juvenile Justice and Delinquency Prevention, which provides formula grants to the States, the act also reauthorizes title III, the Runaway and Homeless Youth Act and title IV, the Missing Children's Assistance Act. The bill also strengthens and improves current law by facilitating better administration of the program, by providing for consolidation of the major discretionary programs, and by utilizing the existing resources more effectively.

Earlier this year at its reauthorization hearings, the committee received testimony from several witnesses on the disproportionately high rates of incarceration of minority youth compared to white youth who commit the same crime. I am pleased that the bill contains three amendments which address the inequitable treatment of minority youth.

In addition to the reauthorization of current programs, the act also authorizes two new programs. One of these programs provides for the establishment of transitional living projects for homeless youth aged 16 to 21.

The other new program is one that I sponsored which pertains to juvenile gang prevention and treatment programs. The intent of this new program is to provide services to prevent and reduce the participation of juveniles in gang activities in those areas which have high incidences of gang activities and of serious crimes committed by gangs. Although much attention has been focused recently on gang warfare in my own city of Los Angeles and in Washington, DC, this is by no means an isolated problem. Recent reports indicate that 46 States have problems with violence associated with gangs and illegal substances. Gang members are expanding beyond the large urban areas and establishing residence in other areas of the country generally thought to be crime free.

This new program addresses the serious problems of gang warfare and violence through intervention and prevention programs which are critical components of any comprehensive approach. I believe that this program will place additional emphasis on the prevention and treatment aspects of the act which are needed along with law enforcement activities and prosecution.

I urge my colleagues to support H.R. 1801 to reauthorize these much-needed programs to reduce and prevent delinquency among our Nation's youth.

Mr. TAUKE. Madam Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Madam Chairman, I want to commend Mr. KILDEE and Mr. TAUKE for their work in developing this legislation to reauthorize the juvenile justice and delinquency prevention, runaway and homeless youth, and missing children's assistance programs.

I would like to speak about one aspect of this legislation about which many of my colleagues may not be too familiar—Law Related Education.

Law Related Education is a national program administered by the Office of Juvenile Justice and Delinquency Prevention. This program teaches elementary and secondary students about the foundations of a democratic society and their social responsibilities as citizens. Teachers, lawyers, judges, juvenile officers, and legislators are actively working in partnership to increase understanding about the law among our young people.

When properly implemented, Law Related Education has demonstrated to be an effective delinquency and crime prevention program. A 1981 evaluation of this program by the Office of Juvenile Justice and Delinquency Prevention determined well-developed Law Related Education programs "can reduce student tendencies to resolve issues by violence, reduce dependence on delinquent peers, enhance understanding of the legal system, and develop more healthy attitudes toward the legal system."

Since 1978, Law Related Education has focused on five national projects. These projects are now primarily engaged in training and dissemination in order to reach out to more people in more States. The five projects—the Constitutional Rights Foundation, the American Bar Association Special Committee on Youth Education for Citizenship, the Center for Civic Education Law in a Free Society Project, the National Institute for Citizen Education in the Law, and the Phi Alpha Delta Law Fraternity—have been successful in implementing Law Related Education. This bill ensures that they will continue their successful tasks.

Law Related Education curriculum has been outstanding. Those who developed the curriculum and have implemented it nationwide have shown themselves to be uniquely qualified to provide the necessary training and coordination. The promise of this prevention program to help to combat the problem of drugs, gangs, violence, and delinquency is being realized.

Madam Chairman, Law Related Education deserves our continued support.

Mr. KILDEE. Madam Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Madam Chairman, I would first like to commend the chairman of the Human Resources Subcommittee, Mr. KILDEE, for the outstanding leadership he has once again demonstrated in bringing this legislation to the floor. Additionally, I would be remiss if I did not also acknowledge the contributions of the ranking minority member, Mr. TAUKE, who also deserves credit for his part in drafting this measure. The comity exhibited by these two gentlemen has resulted in a bill that will continue to benefit those touched by our juvenile justice system.

During the hearings held to review this reauthorization measure, it was unanimously noted that the Juvenile Justice Act has proven to be very beneficial and extremely cost effective. Witness after witness agreed that the legislation has given public officials the opportunity to critically review their juvenile justice practices and where necessary implement new, innovative, and successful programs. The Formula Grant Program encompassed in the bill has been the catalyst for the deinstitutionalization of thousands of improperly placed juveniles.

I am pleased that the amendments I authored, which address the issue of the disproportionate representation of minority youth in the juvenile justice system, were unanimously approved by the subcommittee and are contained in the measure we are considering today. The statistics are alarming—Hispanic juvenile males are incarcerated three to four times more than their white peers. Between 1977-83, the number of incarcerated minority youth increased 26 percent even as the number of these youths being arrested were declining.

Research indicates that even though these youth are not committing more crimes, they are more likely to be incarcerated. Furthermore, minority youth are much more likely than white youth to be incarcerated in public institutions as opposed to private facilities. I believe that the provisions contained in H.R. 1801 will help us to better understand and deal with this growing problem.

This bipartisan measure will reauthorize legislation that clearly is necessary and has proven to be successful. I urge my colleagues to join me in the support of it.

□ 1500

Mr. TAUKE. Madam Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Madam Chairman, I rise in support of H.R. 1801, the Juvenile Justice and Delinquency Prevention Act Amendments.

Madam Chairman, I would like to commend my colleague, the gentleman from Michigan [Mr. KILDEE], chairman of the Subcommittee on Human Resources, and also my good friend, the gentleman from Iowa [Mr. TAUKE], for their tremendous help in getting this bill before us this afternoon after the many and seemingly interminable delays we have had getting it on the floor. They and their staffs have been most helpful in trying to address a particular concern of mine, as well as, I think, having done a very excellent job of crafting a reauthorization bill. And I want to express my appreciation for this effort.

Madam Chairman, title III of the bill contains amendments to the Missing Children's Assistance Act. Missing children is an issue which perhaps does not receive the popular attention it did a few years ago. It remains nonetheless a difficult and agonizing situation for parents and relatives of children whose whereabouts are unknown.

Several months ago I was contacted by an attorney, now a probate judge, in my district who had been retained in assisting a parent whose child had disappeared and was presumed in have been a victim of a parental kidnapping. One of the first things the attorney did in seeking to locate the whereabouts of the child was to contact the school where that child had been a student, to find out whether a request had been made for the student's records, and if so, from where. She was surprised to learn, as was I, that school records are often not even requested by a school enrolling a new student. And even where they are requested, the sending school often handles the matter as a simple administrative process, and without any link being made between law enforcement officials who may have a missing persons report, and the school which sends the records.

In reviewing this matter, it came to our attention that several States have now made that link. Most recently, my own State of Michigan has passed legislation requiring law enforcement agencies which have received a "missing person report to notify the school district where the student has been living. The school simply tags the school records, and thus when a request for those records comes to the school, law enforcement agencies can be notified. Second, the legislation now requires that schools in Michigan request a transferring student's school records, as well as a birth certificate, and failure to produce those records is also reported to local law enforcement agencies. Other States, which have more or less centralized systems for such things as birth certificates, have structured their systems slightly differently. But all include the two elements of requiring that records be produced, and providing a link between law enforcement agencies which receive notice of missing persons and local school districts.

The bill before us does not require all States to adopt such a program, but it does require that the Administrator of Juvenile Justice Programs, through a contract or grant, provide information, and hopefully assistance and encouragement, to all States to enact and implement such a program, in line with their own State's methods of conveying and handling records, and in a way that protects the privacy of information on those records.

Mr. KILDEE. Madam Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Madam Chairman, I rise today to join my colleagues from the Education and Labor Committee in support of H.R. 1801, which reauthorizes the Juvenile Justice and Delinquency Prevention Act for 4 years.

I particularly want to thank Chairman HAWKINS and Chairman KILDEE for joining me in efforts to provide additional funds for basic services at runaway shelters authorized under title 3, the Runaway and Homeless Youth Act.

The Runaway and Homeless Youth Act complements State juvenile justice programs by authorizing grants to support runaway shelters and a national, toll-free, runaway hotline. These shelters provide various emergency and support services for troubled kids.

Before 1974, runaways and so-called throwaway children had few options, and many were forced to a life, on the run, on the streets, simply to survive. And in that setting many have been forced to acts of the most lurid kind of exploitation, simply to survive. Now, because of this act, troubled children find their way to local shelters through a variety of methods, including telephone hotlines, recommendations from other kids, referrals from community agencies, and through law enforcement officers. Because kids are frequently running away from deeply troubled, often dangerous homes, the shelters work to help them by contacting parents and appropriate support agencies and by providing individual and family counseling.

The Runaway Act could be considered a model for community-based action in the Federal Government. It defines a problem clearly. It identifies a proven remedy. And it drives funding where it can do the most good. According to the Department of Health and Human Services, in 1987 the program, with a budget of approximately $23.3 million, assisted with the operation of 307 local shelters which provided shelter and crisis intervention services to approximately 85,000 kids, and drop-in services to another quarter of a million. And that's good because even by conservative standards, shelter programs have had a 90-percent success rate in returning kids to stable, secure environments.

There is no question that runaway shelters are providing valuable services. But the real tragedy is that of the more than 1.2 million kids who run away from home each year, existing shelter programs can serve only about one-fourth. Even with their efforts to develop State and local funding bases, shelters are struggling to adequately support the operations of 24-hour crisis centers. The commmittee heard compelling testimony that many shelters are not able to keep pace with the demand as the number of troubled kids seeking services continues to increase. And there is evidence that the children coming to the shelters have multiple, and increasingly serious, problems which require intensive treatment and a wide range of services.

Shelter staff and finances are often stretched to the breaking point. To help them continue to provide these needed services to children, H.R. 1801 requires that a larger percentage of currently appropriated title 3 funds be used in direct support of local shelter services. In the past, only $4 out of $5 went to shelters. Now 9 out of 10 funding dollars will go where they will do the most good in providing direct services to kids and paving the way for additional local support. As a result, local programs in every State and territory will receive increased funds for shelter services.

Madam Chairman, the Runaway and Homeless Youth Act continues to prove highly successful. This success is best evidenced by the fact that last year 90 percent of the children who received services were either reunited with their families or placed in other positive living arrangements. This program deserves our continued attention, and I urge my colleagues to support this important legislation.

Mr. TAUKE. Madam Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Madam Chairman, I rise in strong support of H.R. 1801, the bill to reauthorize the Juvenile Justice and Delinquency Prevention Act for another 4 years. This program has served us well since its creation in 1974, expanding from time to time to meet new challenges faced by our juvenile justice system. H.R. 1801 builds on this success. Our colleagues on the Education and Labor Committee deserve to be commended for making a good thing better.

Members in this and the other body who previously served in their State legislatures, as I did in the Arizona State Senate, are enthusiastic about this bill. Unlike many Federal programs, the Juvenile Justice Act lets States make their own decisions about their juvenile justice systems instead of micromanaging them from Washington. Given this freedom of choice, the States have brought an invigorating approach to juvenile justice. Their achievements can be copied by others.

Let me give you a success story from my home State. It's called the Arizona Teachers for Law-Related Education in the Schools. ATLES is a 2-year teacher accreditation program that started this spring. It was made possible by the Law-Related Education Program, a part of the Juvenile Justice Act that helps the States establish their own delinquency prevention and treatment programs.

The goal of ATLES is to prevent crime by reaching out to Arizona's young people. With the help of the Arizona Center for Law-Related Education and the Arizona Bar Foundation, ATLES is training teachers to deliver law-related education services to the 212 school districts across the State. They are being assisted in this effort by national representatives from the Constitutional Rights Foundation, the Center for Civil Education in the Law, the American Bar Association, and the Phi Alpha Delta International Legal Fraternity.

ATLES will eventually affect thousands of Arizona youth in all 212 school districts. It would not have been possible without the Law-Related Education Program, which has enabled the State to assess its own needs and target resources accordingly.

This is only one example of what the Juvenile Justice Act does—and what it will continue to do if we pass H.R. 1801. From setting up shelters for homeless youth, to locating missing children, to helping the cities fight gang violence, the Juvenile Justice Act commands our support. It attests to what can be done when we refrain from Federal fiat and let States and private citizens show their stuff.

Mr. TAUKE. Madam Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Madam Chairman, I rise in support of the bill.

Mr. MILLER of California. Madam Chairman, I rise in support of H.R. 1801, a bill to reauthorize and strengthen the Juvenile Justice and Deliquency Prevention Act, including title III, the Runaway and Homeless Youth Act, and title IV, the Missing Children's Assistance Act.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Today, we are faced with an escalating epidemic of youth violence and drug-related gang violence, spurred on by the tragic culmination of three trends: the spread of crack cocaine; the widening gap between the rich and the poor; and the disintegration of support systems for at-risk youth and their families.

While overall juvenile crime is on the wane, falling from 2,783,459 arrests in 1975 to 1,747,675 in 1986, violent crime by youth, homicide, rape, robbery, and aggravated assault, is again on the rise, jumping 9 percent between 1984 and 1986, after a 20-percent decline in the previous decade. As the Select Committee on Children, Youth and Families, which I chair, has documented in its recent hearings, youth violence is spreading from the large urban areas of Los Angeles, Chicago, and Miami into smaller cities and communities across the Nation. Younger and younger children are commiting acts of violence, toting handguns and automatic weapons, and falling victim to drugs and the violence of their peers.

JUVENILES STILL LOCKED IN ADULT JAILS, RECEIVE FEW SERVICES

Once in the juvenile justice system, youth still fail to receive the preventive and rehabilitative services they need and many children are still confined in adult jails and lock-ups, despite the intent of the act.

Nearly one-half million juveniles are still locked in adult jails, despite a Federal mandate forbidding such placement. Of these youth, about 10 percent are held for serious offenses, 20 percent for status offenses, such as underage drinking, sexual promiscuity, or running away, and 4 percent—over 19,000 children—for no offense whatsoever.

This is particularly alarming when one considers that juveniles held in adult jails are apt to suffer physical and emotional abuse by adult inmates. Or, that they are eight times more likely to commit suicide than those held in juvenile detention centers.

The legislation before this body today will assist those States who, despite substantial progress in removing juveniles from adult jails and lockups, have yet to meet the 75-percent reduction target. Not only will it enable States to reach this goal, but it will also allow them to continue to participate in other important activities supported by the act.

For instance, the majority of delinquent youth suffer from emotional problems, have a history of child abuse or family violence, and/or are addicted to drugs or alcohol. Yet once in the system, these needs are all but ignored. Instead of treatment, all too often juvenile delinquents receive further abuse.

At the center of this act is a formula grant program which provides funds to States to improve their juvenile justice systems. By increasing the minimum amount alloted to States, H.R. 1801 will help states better meet the needs of at-risk and delinquent youth and will reaffirm our commitment to rehabilation over punishment. It is my hope that this additional funding will also stimulate the development of more prevention and early intervention programs for vulnerable youth and their families.

JUVENILE GANG PREVENTION AND TREATMENT PROGRAM

H.R. 1801 also sets up a new Juvenile Gang Prevention and Treatment Program. Testimony before the Select Committee on Children, Youth and Families at its hearing last month on "Youth and Violence" confirmed that juvenile gangs are quickly replacing the American family for hundreds of thousands of youth who feel they have nowhere else to turn for a sense of belonging and protection.

Recently, programs such as the Los Angeles "Community Gang Services" in Los Angeles, the "Chicago Intervention Network" and the Philadephia "Crisis Intervention Network," have worked to channel gang members into constructive activities. Although these programs have proven effective, severe understaffing and underfunding have precluded them from serving all of those in need. The Community Youth Gang Program, for example, employs only 50 street counselors to deal with approximately 70,000 gang members in Los Angeles.

The money provided under this new initiative will enable us to build upon these exemplary programs so that we may help a greater number of youth leave or stay out of gangs.

REDUCING MINORITY YOUTH INCARCERATION

H.R. 1801 also sets up new initiatives to reduce the disproportionately high number of minority youth who are incarcerated.

Black males, in particular, are incarcerated 3 to 4 times more frequently than are their white counterparts. Overall, the number of incarcerated minority youth rose 26 percent between 1977 and 1983, despite a concurrent decline in the number of arrests of these youths.

By voting for this legislation, we help correct the unacceptable practice of inappropriately locking up minority youth.

RUNAWAY AND HOMELESS YOUTH

H.R. 1801 also reauthorizes the Runaway and Homeless Youth Act. This act supports outreach, crisis intervention, short-term housing, and counseling to help reunite runaways, when possible, with their families.

An estimated 1.2 million youth run away each year. In California, there are as many as 25,000 runaways on any given day. Most are running from abusive homes: About 70 percent of the runaways who come to shelters have been physically or sexually abused; one study found that the reason most runaways could not go home was because of parental alcohol abuse. As many as 85 percent of runaways suffer from depression. A 1984 study of youth in NYC runaway shelters found that 25 percent had attempted suicide and another 25 percent had contemplated taking their own lives. Unfortunately, medical care, psychological counseling, and other critical services are practically nonexistent.

Not only will this bill help improve and build upon the existing shelter programs, but it will also expand the availability of these special services.

TRANSITIONAL LIVING PROGRAM

This legislation also establishes a Transitional Living Program to assist homeless youth, ages 16 to 21, prepare for independent living. I strongly support this program, which will offer residential care, interpersonal skill building, educational and job attainment counseling and services, and access to mental and physical care, as well as the services typically provided under the RHYA.

MISSING CHILDREN'S ASSISTANCE ACT

Finally, H.R. 1801 will reauthorize the Missing Children's Assistance Act, which supports research, demonstration and service programs to prevent the abducation and sexual exploitation of children. In addition, this act funds efforts to help locate and return missing children to their families.

A VOTE FOR H.R. 1801 IS A VOTE FOR YOUTH

I strongly urge my colleagues to join me in voting for H.R. 1801. This legislation is critical to the millions of American youth for whom juvenile detention centers, prisons and the streets are called home. It is equally crucial to a growing number of youth from troubled homes or communities who are at risk of following in their footsteps.

Last month, I wrote an article for the Los Angeles Times which calls for a strong investment in high risk youth. The article follows:

[From the Los Angeles Times, Apr. 10, 1988]

GIVE KIDS AN OPTION BESIDES GANG LIFE

(By George Miller)

The epidemic of gang-related violence that has resulted in the deaths of more than 50 people in Los Angeles since the beginning of the year is shocking.

Prepare for further shocks.

In South-Central Los Angeles, Washington, D.C. and other communities, armed warfare is becoming a common response to the irritations of daily life—business deals gone awry, arguments with family members, envy over a neighbor's new leather jacket or designer sunglasses.

From 1984 to 1986, the rate of violence among youth rose 9% nationwide, a reversal of the decline of the past decade. To date, we have attempted to quell this upsurge with police cracksdowns. But while police action may clear the streets for a few days, gang members brag that they easily adapt their operations and continue as before. It is obvious that law enforcement, while essential, is not the answer to youth violence. If we want to stop children from killing each other, we must address a much tougher underlying issue—the neighborhoods they call home.

It comes as no surprise that the highest incidence of crime occurs in communities where the supporting structures of school, job and family have come undone. Children growing up in our poorest neighborhoods are far more likely to fare poorly in school, become teen-age mothers, suffer chronic unemployment, and resort to crime and violence. They grow up with little investment in their future, and little evidence from their bleak environment that the future is something worth investing in. When they pull a gun and risk a jail term, they have little risk that their future is at stake.

In the past we have looked on the children of the underclass as an unfortunate anomaly within the nation's overall prosperity. That is no longer true. Today, 25% of all children under age 6 live in households in poverty. If we neglect them for their entire childhood, as we too often did their older brothers and sisters, we do so at their, and our, peril.

Rebuilding communities fractured by decades of neglect will not be easy. We must start at the most basic level, and give community institutions sustained, coherent support if they are to counteract the power of drug gangs. One of the most important components is the role that parents play. Fortunately, we know what needs to be done. Researchers testifying before the House Select Committee on Children, Youth and Families have repeatedly given us hard facts that demonstrate which programs—public and private—effectively help children become successful, law-abiding adults:

Set up local family resource centers. Parents at risk of abusing their children or whose youngsters are involved with drugs can turn to centers for professional advice on child-rearing. In Washington, New York and Hartford, programs link distressed families with volunteer "parent mentors" from churches who provide practical help with family problems.

Keep children in school. Preschool programs have proven highly effective in guaranteeing graduation from high school, yet only 20% of the children eligible for Head Start classes can attend them. We also need to improve services to children with learning disabilities and handicaps, and link students at risk of dropping out with counselors or other caring adults.

Promote jobs in impoverished communities. We need to encourage employers to return to these areas, through tax incentives and economic development programs, as well as business-community partnerships. In Boston, the business community agreed to hire local high school graduates and provide support to teachers if the schools enforced standards of attendance and behavior.

Augment teen pregnancy prevention programs, and fund in-school day-care and job-training programs, such as the New Futures program in Albuquerque for the 400,000 teen-agers who give birth each year.

Provide drug treatment to every child and parent who needs it. The National Institute on Drug Abuse estimates that 6.5 million people suffer impairment due to drug use, yet fewer than 250,000 receive treatment at any given time. The reason is not lack of interest but lack of treatment capacity. Abusers who seek help must wait months in most major cities.

Give youths a stake in the future of the community through volunteer service programs. At a Brooklyn church, teens who need tutoring get it, and they in turn tutor younger children—and are paid for their work.

These tasks are so far-reaching that every segment of society must act if we are to succeed: Federal, state and local government, schools, churches, businesses and community organizations—and families themselves. The job will take years, it will cost money, and it will not be glamorous, but it can be done. We must start now.

Regardless of where they live, most youths aren't violent, and given a choice, they would rather not live in a world of guns, drugs and death. Teen-agers desperately want to belong, to be involved in society and feel that their actions make a difference. By failing to provide the young people of gang-plagued neighborhoods with legitimate outlets for their talents, we are squandering the energy and resourcefulness of their youth. In so doing, we not only deny them the chance to participate in the American dream, we assure that our own dreams will be diminished by the cost of their failure.

Mr. LELAND. Madam Chairman, I rise in support of H.R. 1801, the Juvenile Justice and Delinquency Prevention Act. I applaud the expedience with which the Education and Labor Committee has brought this legislation before the House and encourage my colleagues to vote for its adoption.

I am particularly pleased to note that the bill incorporates legislation I introduced earlier this year which authorizes grants and technical assistance to public and nonprofit agencies for the operation of transitional living projects for runaway and homeless youth.

Although there is already in place a network of programs which provide crisis intervention services for these youth, they are only eligible to receive this assistance for a 2-week period. The expanded program proposed in the bill before us today, would provide not only the basic necessities such as food and shelter, but counseling, interpersonal skill building, mental and physical health care, education and job training services as well. These youth would be eligible to receive this assistance for up to 540 days.

In an ideal world, adolescents live with their families until they reach adulthood and are able to venture out on their own. In the real world, however, this is not always the case. Many young people do not have access to a safe environment with relatives and have no alternative to life on the streets. In December, the U.S. Conference of Mayors issued a report on the growth of homelessness in major American cities. This study reveals that in 6 of the 26 cities examined, unaccompanied youth ranked among the leading three homeless populations. Of the 12 cities responding to a survey regarding the size of the unaccompanied youth population, nine reported that this group had grown over the past year.

The bill authorizes $5 million in fiscal year 1989 and such sums as necessary in fiscal years 1990 through 1992 for this program. I believe this authorization is a modest request for the many benefits and opportunities the participants will gain from these programs, and I hope you will join me in supporting this measure.

Mr. SAWYER. Madam Chairman, I am pleased to voice my strong support for H.R. 1801, which reauthorizes the Juvenile Justice and Delinquency Prevention Act.

Since it was first enacted in 1974, the JJDPA has authorized a full range of activities including Federal policy coordination, research, training, and the development and testing of creative approaches to prevent and treat juvenile delinquency. The centerpiece of this act is the State formula grant program, which allocates funds to the States to make improvements in their juvenile justice systems, such as the deinstitutionalization of status offenders.

H.R. 1801 strengthens the national programs as well as the State formula grant program so that the Federal Government can fulfill its leadership role in the development of effective delinquency prevention and treatment programs and in opportunities for local implementation of successful program models and training.

The Juvenile Justice and Delinquency Prevention Act also helps special emphasis programs which address serious problems such as gang activities, violence, and drug involvement among minors. One of the most effective of these initiatives is the national law-related education program. Law-related education, when properly implemented, has been demonstrated to be an effective crime prevention program. School activities including projects such as statewide high school student mock trials and street law courses are only two of the valuable services provided by law-related education professionals.

With training and coordination carried out nationally by the National Institute for Citizen Education in the Law, the American Bar Association, the Constitutional Rights Foundation, the Center for Civic Education, and Phi Alpha Delta legal fraternity international, the law-related education program should continue to be implemented in school programs and expanded into other community settings, as H.R. 1801 provides.

The law-related education curriculum has been outstanding, and those who developed it and have been implementing this valuable program nationwide have shown themselves uniquely qualified to provide the necessary training and coordination to realize the promise of this prevention program: to help address and prevent the problems of children entering the juvenile justice system.

Mr. TAUKE. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Madam Chairman, I have no additional requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 1801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Juvenile Justice and Delinquency Prevention Amendments of 1988".

(b) Table of Contents.—

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Sec. 101. Definitions.
Sec. 102. Establishment of Office of Juvenile Justice and Delinquency Prevention.
Sec. 103. Concentration of Federal efforts.
Sec. 104. Coordinating Council on Juvenile Justice and Delinquency Prevention.
Sec. 105. Annual reports.
Sec. 106. Authority to make grants.
Sec. 107. Allocation.
Sec. 108. State plans.
Sec. 109. National Institute for Juvenile Justice and Delinquency Prevention.
Sec. 110. Information function.
Sec. 111. Research, demonstration, and evaluation functions.
Sec. 112. Technical assistance and training functions.
Sec. 113. Technical and conforming amendments to parts B and C of title II.
Sec. 114. Special studies and reports.
Sec. 115. Authorization of appropriations.

Sec. 116. Technical amendments to part D of title II.
Sec. 117. Prevention and treatment programs relating to juvenile gangs.

TITLE II—AMENDMENTS TO THE RUNAWAY AND HOMELESS YOUTH ACT

Sec. 201. Grants for runaway and homeless youth centers.
Sec. 202. Additional technical amendments.
Sec. 203. Authorization of transitional living projects.
Sec. 204. Reports.
Sec. 205. National communication system.
Sec. 206. Grants for technical assistance and training.
Sec. 207. Grants for research, demonstration, and service projects.
Sec. 208. Annual program priorities.
Sec. 209. Coordination with activities of certain Federal health agencies.
Sec. 210. Authorization of appropriations.

TITLE III—AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT

Sec. 301. Duties and functions of Administrator.
Sec. 302. Advisory board.
Sec. 303. Grants.
Sec. 304. Authorization of appropriations.
Sec. 305. Additional technical and conforming amendments.
Sec. 306. Special study and report.

TITLE IV—MISCELLANEOUS

Sec. 401. Investigation and report by the Comptroller General.
Sec. 402. Effective date; application of amendments.

The **CHAIRMAN**. Are there any amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 101. DEFINITIONS.

(a) Definition.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (15) by striking "and" at the end,

(2) in paragraph (16) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(17) the term 'Council' means the Coordinating Council on Juvenile Justice and Delinquency Prevention established in section 206(a)(1); and

"(18) the term 'Indian tribe' means—

"(A) a federally recognized Indian tribe; or

"(B) an Alaskan Native organization.".

(b) Conforming Amendment.—Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by striking "(hereinafter referred to as the 'Council')".

SEC. 102. ESTABLISHMENT OF OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) Deputy Administrator.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended by striking subsection (c).

(b) Technical and Conforming Amendments.—(1) Section 103(5) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(5)) is amended by striking "section 201(c)" and inserting "section 201(b)".

(2) Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by striking "the Deputy Administrator of the Institute for Juvenile Justice and Delinquency Prevention,".

(3) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Office of Juvenile Justice and Delinquency Prevention.".

(4) Section 5316 of title 5, United States Code, is amended by striking the item relating to the Associate Administrator, Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration.

SEC. 103. CONCENTRATION OF FEDERAL EFFORTS.

(a) Technical Amendment.—Section 204(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(a)) is amended by striking "and the National Advisory Committee for Juvenile Justice and Delinquency Prevention".

(b) Publication of Annual Program Plan.—Section 204(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 3614(b)) is amended—

(1) by amending paragraph (5) to read as follows:

"(5)(A) develop for each fiscal year, and publish annually in the Federal Register for public comment, a proposed comprehensive plan describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and

"(B) taking into consideration comments received during the 45-day period beginning on the date the proposed plan is published, develop and publish a final plan, before December 31 of such fiscal year, describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and",

(2) by striking paragraph (6), and

(3) by redesignating paragraph (7) as paragraph (6).

(c) Reports.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) by striking subsections (c), (d), and (e),

(2) in subsection (l)—

(A) in paragraph (1)—

(i) by striking "which meets any criterion developed by the Administrator under subsection (d)(1)", and

(ii) by striking "subsection (f)" and inserting "subsection (c)", and

(B) in paragraph (2)—

(i) by striking "shall be submitted" and all that follows through "subsection (e) and", and

(ii) by striking "under subsection (e)",

(3) by redesignating subsections (f) through (l) as subsections (c) through (i), respectively, and

(4) by striking subsection (m).

SEC. 104. COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) Functions.—Section 206(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)) is amended—

(1) in the first sentence by striking ", in consultation with the Advisory Board on Missing Children,", and

(2) in the third sentence—

(A) by striking "is authorized to" and inserting "shall", and

(B) by striking "section 223(a)(12)(A) and (13)" and inserting "paragraphs (12)(A), (13), and (14) of section 223(a)", and

(3) by adding at the end the following: "The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.".

(b) Conforming Amendment.—Section 206(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(d)) is amended by striking "and" and all that follows through "title".

(c) Allocation.—Section 206(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(g)) is amended to read as follows:

"(g) Of sums available to carry out this part, not more than $200,000 shall be available to carry out this section.".

SEC. 105. ANNUAL REPORTS.

Part A of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611-5616) is amended by adding at the end the following:

"ANNUAL REPORT

"Sec. 207. Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year:

"(1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

"(A) the types of offenses with which the juveniles are charged;

"(B) the race and gender of the juveniles;

"(C) the ages of the juveniles;

"(D) the types of facilities used to hold the juveniles in custody, including secure detention facilities, secure correctional facilities, jails, and lockups; and

"(E) the number of juveniles who died while in custody and the circumstances under which they died.

"(2) A description of the activities for which funds are expended under this part, including the objectives, priorities, accomplishments, and recommendations of the Council.

"(3) A description, based on the most recent data available, of the extent to which each State complies with section 223 and with the plan submitted under such section by the State for such fiscal year.

"(4) a summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replicating such program or activity in other locations.

"(5) A description of selected exemplary delinquency prevention programs for which assistance is provided under this title, with particular attention to community-based juvenile delinquency prevention programs that involve and assist families of juveniles.".

SEC. 106. AUTHORITY TO MAKE GRANTS.

Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) by amending the heading to read as follows:

"AUTHORITY TO MAKE GRANTS AND CONTRACTS",

(2) by inserting "(a)" after "Sec. 221.", and

(3) by adding at the end the following:

"(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments (and combinations thereof), and local private agencies to facilitate compliance with section 223 and implementation of the State plan approved under section 223(c).

"(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have experience in providing such technical assistance. In providing such technical assistance, the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 291(c)(1).".

SEC. 107. ALLOCATION.

(a) Minimum Allocation.—Section 222(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(a)) is amended—

(1) by striking "In" and inserting "(1) Subject to paragraph (2) and in",

(2) by striking the last sentence, and

(3) by adding at the end the following:

"(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) is less than $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $325,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 each.

"(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) equals or exceeds $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $400,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000 each.

"(3) If, as a result of paragraph (2), the amount allotted to a State for a fiscal year would be less than the amount allotted to such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot to such State for the fiscal year the amount allotted to such State for fiscal year 1988.".

(b) Technical Amendments.—Section 222(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(b)) is amended—

(1) in the first sentence by striking "Except for funds appropriated for fiscal year 1975, if" and inserting "If", and

(2) by striking the second sentence.

SEC. 108. STATE PLANS.

(a) Indians Tribes.—Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(1) in paragraph (5)—

(A) in the matter preceding subparagraph (A) by striking "through",

(B) in subparagraph (A)—

(i) by inserting "through" after "(A)", and

(ii) by striking "and" at the end,

(C) in subparagraph (B)—

(i) by inserting "through" after "(B), and

(ii) by inserting "and" after the semicolon,

(D) and by adding at the end the following:

"(C) to provide funds for programs of Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) and that agree to attempt to comply with the requirements specified in paragraphs (12)(A), (13), and (14), applicable to the detention and confinement of juveniles, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age,", and

(2) in paragraph (8)(A)—

(A) by inserting "(including any geographical area in which an Indian tribe performs law enforcement functions)" after "relevant jurisdiction", and

(B) by inserting "(including the joining of gangs that commit crimes)" after "juvenile crime problems" each place it appears.

(b) Detention in Jails and Lockups for Adults.—Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(14)) is amended—

(1) by striking "1989" and inserting "1993",

(2) in subparagraph (iii) by striking the period and inserting a semicolon, and

(3) by redesignating subparagraphs (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

(c) Overrepresentation of Juveniles of Minority Groups.—Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a) is amended—

(1) in paragraph (22) by striking "and" at the end,

(2) by redesignating paragraph (23) as paragraph (24), and

(3) by inserting after paragraph (22) the following:

"(23) address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population; and".

(d) Compliance Requirement for Eligibility.—Section 223(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)) is amended—

(1) by striking "subpart" and inserting "part",

(2) by inserting "(1)" after "(c)",

(3) by striking the last sentence, and

(4) by adding at the end the following:

"(2) Failure to achieve compliance with the requirements of subsection (a)(14) within the 5-year time limitation shall terminate any State's eligibility for funding under this part unless the Administrator—

"(A) determines, in the discretion of the Administrator, that such State has—

"(i)(I) removed not less than 75 percent of juveniles from jails and lockups for adults; or

"(II) achieved substantial compliance with such subsection; and

"(ii) made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed 3 additional years; or

"(B) waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

"(3) Except as provided in paragraph (2), failure to achieve compliance with the requirements of subsection (a)(14) after December 8, 1985, shall terminate any State's eligibility for funding under this part unless the Administrator waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

"(4) For purposes of paragraph (2)(A)(i)(II), a State may demonstrate that it is in substantial compliance with such paragraphs by showing that it has—

"(A) removed all juvenile status offenders and nonoffenders from jails and lockups for adults;

"(B) made meaningful progress in removing other juveniles from jails and lockups for adults;

"(C) diligently carried out the State's plan to comply with subsection (a)(14); and

"(D) historically expended, and continues to expend, to comply with subsection (a)(14) an appropriate and significant share of the funds received by the State under this part.".

SEC. 109. NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) Supervision.—Section 241(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(b)) is amended by striking ", and shall" and all that follows through "section 201(c)".

(b) State Advisory Groups.—Section 241(f) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(f)) is amended—

(1) in paragraph (1) by striking "section 224" and inserting "section 261",

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (B), (C), (D), and (E), respectively,

(3) by inserting "(1)" after "(f)", and

(4) by striking "provide," and all that follows through "purpose of—", and inserting the following:

"provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under section 223(a)(3) to assist such organization to carry out the functions specified in paragraph (2).

"(2) To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

"(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;".

(c) Technical Amendment.—Section 241 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651) is amended by striking subsection (h).

SEC. 110. INFORMATION FUNCTION.

Section 242 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5652) is amended—

(1) by inserting "Administrator, acting through the" after "The",

(2) by striking "Prevention is authorized to" and inserting "Prevention, shall",

(3) in paragraph (1) by inserting "and" after the semicolon,

(4) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and

(5) by inserting before paragraph (2), as so redesignated, the following:

"(1) on a continuing basis, review reports, data, and standards relating to the juvenile justice system in the United States;".

SEC. 111. RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.

Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(1) by striking "National Institute for Juvenile Justice and Delinquency Prevention" and inserting "Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention,",

(2) in paragraph (4) by striking ", upon the request of the Deputy Administrator",

(3) in paragraph (5)—

(A) in the matter preceding subparagraph (A) by striking "and related matters" and inserting "and the improvement of the juvenile justice system",

(B) in subparagraph (A) by striking "and" at the end,

(C) in subparagraph (B) by striking "possible ameliorating roles of familial relationships" and inserting "effectiveness of family-centered treatment programs", and

(D) in subparagraph (D) by striking the period at the end and inserting a semicolon,

(4) in paragraph (6) by striking "and" at the end,

(5) in paragraph (7) by striking the period and inserting a semicolon, and

(6) by adding at the end the following:

"(8) develop and support model State legislation consistent with the mandates of this title and the standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984; and

"(9) support research relating to reducing the excessive proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups.".

SEC. 112. TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.

Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) by amending the heading to read as follows:

"TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS",

(2) by striking "National Institute for Juvenile Justice and Delinquency Prevention" and inserting "Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention",

(3) by striking paragraph (3),

(4) in paragraph (2) by adding "and" at the end,

(5) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and

(6) by inserting before paragraph (2), as so redesignated, the following:

"(1) provide technical assistance and training assistance to Federal, State, and local governments and to courts, public and private agencies, institutions, and individuals in the planning, establishment, funding, operation, and evaluation of juvenile delinquency programs;".

SEC. 113. TECHNICAL AND CONFORMING AMENDMENTS TO PARTS B AND C OF TITLE II.

(a) TECHNICAL AMENDMENTS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) in part B—

(A) by striking the heading for subpart I, and

(B) by striking subpart II, and

(2) in part C—

(A) by striking the heading for such part and inserting the following:

"PART C—NATIONAL PROGRAMS",

(B) by inserting after the heading for part C the following:

"Subpart I—National Institute for Juvenile Justice and Delinquency Prevention",

(C) by striking sections 245 and 246,

(D) in section 249—

(i) in subsection (a) by striking "section 248" and inserting "section 245",

(ii) in subsection (b) by striking "section 248(b)" and inserting "section 245(b)", and

(iii) in subsection (c) by striking "section 246" and inserting "section 245",

(E) by redesignating sections 247, 248, and 249 as sections 245, 246, and 247, respectively, and

(F) by adding at the end the following:

"Subpart II—Special Emphasis Prevention and Treatment Programs

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 261. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals provide for each of the following during each fiscal year:

"(1) Establishing or maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders.

"(2) Establishing or implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents.

"(3) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles impacted by the juvenile justice system, including services which encourage the improvement of due process available to juveniles in the juvenile justice system, which improve the quality of legal representation of such juveniles, and which provide for the appointment of special advocates by courts for such juveniles.

"(4) Developing or supporting model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency.

"(5) Establishing or implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.

"(6) Establishing or implementing further a coordinated, national law-related education program of delinquency prevention, including training programs for persons responsible for the implementation of law-related education programs in elementary and secondary schools, and other local sites.

"(7) Addressing efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.

"(b) The Administrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, to develop and implement new approaches, techniques, and methods designed to—

"(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other juveniles to help prevent juvenile delinquency;

"(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

"(3) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies, organizations, business, and industry, programs for the employment of juveniles;

"(4) develop and support programs designed to encourage and assist State legislatures to consider and establish policies consistent with this title, both by amending State laws, if necessary, and devoting greater resources to effectuate such policies;

"(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other handicapped juveniles;

"(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

"(A) remove juveniles from jails and lockups for adults;

"(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

"(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved; and

"(7) develop and implement model programs, relating to the special education needs of delinquent and other juveniles, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

"(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, and institutions which have experience in dealing with juveniles.

"(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged juveniles, including juveniles who are mentally, emotionally, or physically handicapped.

"(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

"SEC. 262. (a) Any agency, institution, or individual desiring to receive a grant, or enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program for carrying out one or more of the purposes set forth in this part and specifically identify each such purpose such program is designed to carry out;

"(2) provide that such program shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program;

"(4) provide for regular evaluation of such program;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

"(1) the relative cost and effectiveness of the proposed program in carrying out this part;

"(2) the extent to which such program will incorporate new or innovative techniques;

"(3) if a State plan has been approved by the Administrator under section 223(c), the extent to which such program meets the objectives and priorities of the State plan, taking into consideration the location and scope of such program;

"(4) the increase in capacity of the public and private agency, institution, or individual involved to provide services to address juvenile delinquency and juvenile delinquency prevention;

"(5) the extent to which such program serves communities which have high rates of juvenile unemployment, school dropout, and delinquency; and

"(6) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000 located within States which have no city with a population over 250,000.

"(d)(1)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be selected through a competitive process to be established by rule by the Administrator. As part of such a process, the Administrator shall announce in the Federal Register—

"(i) the availability of funds for such assistance;

"(ii) the general criteria applicable to the selection of applicants to receive such assistance; and

"(iii) a description of the procedures applicable to submitting and reviewing applications for such assistance.

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that—

"(i)(I) the proposed program is not within the scope of any announcement issued, or expected to be issued, by the Administrator regarding the availability of funds to carry out programs under this part, but can be supported by a grant or contract in accordance with this part; and

"(II) such program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

"(ii) the applicant is uniquely qualified to provide proposed training services as provided in section 244 and other qualified sources are not capable of providing such services, and includes in such determination the factual and other bases thereof.

"(C) If a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determination made under such subparagraph and the peer review determination required by paragraph (2).

"(2)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be reviewed before selection, and thereafter as appropriate, through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program.

"(B) Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation of such process, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

"(3) The Administrator, in establishing the processes required under paragraphs (1) and (2), shall provide for emergency expedited consideration of the proposed programs if necessary to avoid any delay which would preclude carrying out such programs.

"(e) A city shall not be denied assistance under this part solely on the basis of its population.

"(f) Notification of grants and contracts made under this part (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.".

(b) CONFORMING AMENDMENTS.—(1) Section 223(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(1)) is amended by striking "section 261(c)(1)" and inserting "section 291(c)(1)".

(2) Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 3639), as so redesignated by section (a)(2)(E), is amended by striking "section 248" and inserting "section 245".

SEC. 114. SPECIAL STUDIES AND REPORTS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended by inserting after section 247, as so redesignated by section 113(a)(2)(E), the following:

"SPECIAL STUDIES AND REPORTS

"SEC. 248. (a) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study with respect to the juvenile justice system—

"(1) to review—

"(A) conditions in detention and correctional facilities for juveniles; and

"(B) the extent to which such facilities meet recognized national professional standards; and

"(2) to make recommendations to improve conditions in such facilities.

"(b)(1) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine—

"(A) how juveniles who are American Indians and Alaskan Natives and who are accused of committing offenses on and near Indians reservations and Alaskan Native villages, respectively, are treated under the systems of justice administered by Indian tribes and Alaskan Native organizations, respectively, that perform law enforcement functions;

"(B) the amount of financial resources (including financial assistance provided by governmental entities) available to Indian tribes and Alaskan Native organizations that perform law enforcement functions, to support community-based alternatives to incarcerating juveniles; and

"(C) the extent to which such tribes and organizations comply with the requirements specified in paragraphs (12)(A), (13), and (14) of section 223(a), applicable to the detention and confinement of juveniles.

"(2)(A) For purposes of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), any contract, subcontract, grant, or subgrant made under paragraph (1) shall be deemed to be a contract, subcontract, grant, or subgrant made for the benefit of Indians.

"(B) For purposes of section 7(b) of such Act and subparagraph (A) of this paragraph, references to Indians and Indian organizations shall be deemed to include Alaskan Natives and Alaskan Native organizations, respectively.

"(c) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the re-

sults, of the study conducted under subsection (a) or (b), as the case may be.".

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDS AUTHORIZED FOR FISCAL YEARS.—Section 261(a) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(1) by inserting "(1)" after "(a)",

(2) by inserting "(other than part D)" after "this title",

(3) by striking "1985, 1986, 1987, and",

(4) by inserting ", 1989, 1990, 1991, and 1992" after "1988", and

(5) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $10,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

"(B) No funds may be appropriated to carry out part D of this title for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D) for such fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D) for the preceding fiscal year.".

(b) ALLOCATIONS.—Section 261(b) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(b)) is amended—

(1) by inserting "(other than part D)" after "this title",

(2) in paragraph (1) by striking "7.5 percent" and inserting "5 percent",

(3) in paragraph (2) by striking "81.5 percent" and inserting "70 percent", and

(4) in paragraph (3) by striking "11 percent" and inserting "25 percent".

SEC. 116. TECHNICAL AMENDMENTS TO PART D OF TITLE II.

Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended—

(1) by amending the heading of such part to read as follows:

"PART E—GENERAL AND ADMINISTRATIVE PROVISIONS",

(2) by striking section 263,

(3) by redesignating sections 261 and 262 as

sections 291 and 292, respectively, and

(4) by adding at the end the following:

"WITHHOLDING

"SEC. 293. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

"(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

"USE OF FUNDS

"SEC. 294. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for—

"(1) planning, developing, or operating the program designed to carry out this title; and

"(2) not more than 50 per centum of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

"(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

"(c)(1) Funds paid pursuant to section 223(a)(10)(D) and section 261(a)(3) to any public or private agency, organization, or institution or to any individual shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this paragraph shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

"(2) The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 261(a)(3) are used either directly or indirectly in any manner prohibited in this paragraph.

"PAYMENTS

"SEC. 295. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

"(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 per centum of the approved costs of the program or activity involved.

"(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

"(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

"(d) If the Administrator determines, on the basis of information available to the Administrator during any fiscal year, that a portion of the funds granted to an applicant under part C for such fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 802 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended from time to time, that portion shall be available for reallocation in an equitable manner to States which comply with the requirements in paragraphs (12)(A) and (13) of section 223(a), under section 261(b)(6).

"CONFIDENTIALITY OF PROGRAM RECORDS

"SEC. 296. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this title. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.".

SEC. 117. PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended by inserting after part C, as amended by this title, the following:

"PART D—PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 281. The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

"(1) To prevent and to reduce the participation of juveniles in the activities of gangs that commit crimes.

"(2) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(3) To provide treatment to juveniles who are members of such gangs and who are accused of committing a serious crime, including treatment following the adjudication of such juveniles of being delinquent.

"(4) To expand the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substance analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act) by juveniles, provided through State and local health and social service agencies.

"(5) To support activities to inform juveniles of the availability of treatment and services for which financial assistance is provided under this part.

"(6) To facilitate Federal and State cooperation with local school officials to identify and assist juveniles who are likely to participate in the activities of gangs that commit crimes.

"(7) To establish and support programs that facilitate coordination and cooperation among local education, juvenile justice, employment, and social service agencies, for the purpose of preventing or reducing the participation of juveniles in activities of gangs that commit crimes.

"APPROVAL OF APPLICATIONS

"SEC. 282. (a) Any agency, institution, or individual desiring to receive a grant, or to enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In reviewing applications for grants and contracts under this part, the Administrator shall give priority to applications—

"(1) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles, in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(2) for assistance for programs and activities that have the broad support of organizations operating in such geographical areas, as demonstrated by the applicants.".

The CHAIRMAN. Are there any amendments to title I.

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—AMENDMENTS TO THE RUNAWAY AND HOMELESS YOUTH ACT

SEC. 201. GRANTS FOR RUNAWAY AND HOMELESS YOUTH CENTERS.

(a) TECHNICAL AMENDMENT.—The heading for section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) is amended to read as follows:

"AUTHORITY TO MAKE GRANTS".

(b) GRANT PROGRAM.—Subsections (a) and (b) of section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) are amended to read as follows:

"(a) The Secretary shall make grants to public and private entities (and combinations of such entities) to establish and operate (including renovation) local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of runaway or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and the juvenile justice system.

"(b)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this title, funds for grants under subsection (a) shall be allotted annually with respect to the States on the basis of their relative population of individuals who are less than 18 years of age.

"(2) Subject to paragraph (3), the amount allotted under paragraph (1) with respect to each State for a fiscal year shall be not less than $75,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $30,000 each.

"(3) If, as a result of paragraph (2), the amount allotted under paragraph (1) with respect to a State for a fiscal year would be less than the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot under paragraph (1) with respect to such State for the fiscal year an amount equal to the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988.

"(4) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to private entities that have experience in providing the services described in such subsection.".

(c) CONFORMING AMENDMENTS.—(1) Sections 312 and 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712, 5713) are each amended by striking "this part" each place it appears and inserting "section 311(a)".

(2) Section 312(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(a)) is amended by inserting "and homeless youth" after "proposed runaway".

(3) Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(A) in the matter preceding paragraph (1) by striking "meeting" and all that follows through "center—", and inserting "including assurances that the applicant—",

(B) in paragraph (1)—

(i) by striking "shall be" and inserting "shall operate a runaway and homeless youth center", and

(ii) by inserting "and homeless" after "by runaway", and

(C) in paragraphs (3) and (5) by striking "runaway center" each place it appears and inserting "runaway and homeless youth center",

(D) in paragraphs (4) and (6) by striking "runaway youths" each place it appears and inserting "runaway and homeless youth", and

(E) in paragraphs (5) and (6) by striking "runaway youth" each place it appears and inserting "runaway and homeless youth".

(4) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended by striking "runaway center" and inserting "runaway and homeless youth center".

(5) Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(A) by striking "runaway centers" and inserting "runaway and homeless youth centers", and

(B) by striking "runaway youth" and inserting "runaway and homeless youth".

(6) Section 318(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5716(a)) is amended by striking "acquisition and".

SEC. 202. ADDITIONAL TECHNICAL AMENDMENTS.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended—

(1) by amending the heading for part A to read as follows:

"PART A—RUNAWAY AND HOMELESS YOUTH GRANT PROGRAM",

(2) by striking the headings for parts B and C, and

(3) by inserting before the heading for section 317 the following:

"PART D—ADMINISTRATIVE PROVISIONS".

SEC. 203. AUTHORIZATION OF TRANSITIONAL LIVING PROJECTS.

(a) ASSISTANCE TO POTENTIAL GRANTEES.—Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5714a) is amended—

(1) by inserting "and transitional living youth projects" after "homeless youth centers",

(2) in paragraph (1) by inserting "or transitional living youth project" after "homeless youth center",

(3) by inserting "or such project" after "such center" each place it appears, and

(4) in paragraph (3) by inserting "and homeless" after "runaway".

(b) LEASE OF SURPLUS FEDERAL FACILITIES.—Section 316 of the Runaway and Homeless Youth Act (42 U.S.C. 5714b) is amended—

(1) in the heading of such section by inserting "OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES" after "HOMELESS YOUTH CENTERS", and

(2) in subsection (a)—

(A) by inserting "or as transitional living youth shelter facilities" after "homeless youth centers", and

(B) in paragraph (1) by inserting "or transitional living youth project, as the case may be, under this title" after "homeless youth center".

(c) REPORTS.—Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(1) by inserting "(a)" after "SEC. 317.",

(2) by striking "this part" and inserting "part A", and

(3) by adding at the end thereof the following:

"(b) The Secretary shall annually report to the Congress on the status and accomplishments of the transitional living youth projects which are funded under part B, with particular attention to—

"(1) the number and characteristics of homeless youth served by such projects;

"(2) describing the types of activities carried out under such projects;

"(3) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

"(4) the effectiveness of such projects in preparing homeless youth for self sufficiency;

"(5) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living; and

"(6) the ability of such projects to strengthen family relationships, and encourage the resolution of intra-family problems through counseling and the development of self-sufficient living skills.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 331 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following:

"(b)(1) Subject to paragraph (2), to carry out the purposes of part B of this title, there are authorized to be appropriated $5,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

"(2) No funds may be appropriated to carry out part B of this title for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out part A of this title exceeds $28,000,000.".

(e) TECHNICAL AMENDMENTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended—

(1) by inserting before the heading for section 315 the following:

"PART C—GENERAL PROVISIONS", and

(2) by redesignating sections 315, 316, 317, 318, 321, and 331 as sections 341, 342, 361, 362, 363, and 366, respectively.

(f) GRANTS FOR TRANSITIONAL LIVING YOUTH PROJECTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 314 the following:

"PART B—TRANSITIONAL LIVING GRANT PROGRAM

"PURPOSE AND AUTHORITY FOR PROGRAM

"SEC. 321. (a) The Secretary is authorized to make grants and to provide technical assistance to public and nonprofit private entities to establish and operate transitional living youth projects for homeless youth.

"(b) For purposes of this part—

"(1) the term 'homeless youth' means any individual—

"(A) who is not less than 16 years of age and not more than 21 years of age;

"(B) for whom it is not possible to live in a safe environment with a relative; and

"(C) who has no other safe alternative living arrangement; and

"(2) the term 'transitional living youth project' means a project that provides shelter and services designed to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

"ELIGIBILITY

"SEC. 322. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a transitional living youth project for homeless youth and shall submit to the Secretary a plan in which such applicant agrees, as part of such project—

"(1) to provide, directly or indirectly, shelter (such as group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills, interpersonal skill building, educational advancement, job attainment skills, and mental and physical health care) to homeless youth;

"(2) to provide such shelter and such services to individual homeless youth throughout a continuous period not to exceed 540 days;

"(3) to provide, directly or indirectly, on-site supervision at each shelter facility that is not a family home;

"(4) that such shelter facility used to carry out such project shall have the capacity to accommodate not more than 20 individuals (excluding staff);

"(5) to provide a number of staff sufficient to ensure that all homeless youth participating in such project receive adequate supervision and services;

"(6) to develop adequate plans for assisting such homeless youth to make the transition from supervised participation in such project to independent living or another appropriate living arrangement;

"(7) to develop an adequate plan to ensure proper referral of homeless youth to social service, law enforcement, educational, vocational, training, welfare, legal service, and health care programs;

"(8) to develop an adequate plan of activities designed to advertise to homeless youth the availability of services under this part;

"(9) to submit to the Secretary an annual report that includes information regarding the achievements of the project under this part carried out by the applicant and statistical summaries describing the characteristics of homeless youth who participate in such project in the year for which the report is submitted;

"(10) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(11) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

"(12) to keep adequate statistical records profiling homeless youth which it serves and not to disclose the identity of individual homeless youth in reports or other documents based on such statistical records;

"(13) not to disclose records maintained on individual homeless youth without the consent of the individual youth and parent or legal guardian to anyone other than an agency compiling statistical records or a government agency involved in the disposition of criminal charges against youth; and

"(14) to provide to the Secretary such other information as the Secretary may reasonably require.

"(b) In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1).".

SEC. 204. REPORTS.

Section 361 of the Runaway and Homeless Youth Act (42 U.S.C. 5715), as so redesignated by section 203(e)(2), is amended by striking "The Secretary shall annually" and inserting "Not later than 180 days after the end of each fiscal year, the Secretary shall".

SEC. 205. NATIONAL COMMUNICATION SYSTEM.

(a) TECHNICAL AMENDMENTS.—Sections 313 and 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5713-5714) are redesignated as sections 316 and 317, respectively.

(b) AUTHORITY TO MAKE GRANTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 312 the following:

"GRANTS FOR A NATIONAL COMMUNICATION SYSTEM

"SEC. 313. (a) With funds reserved under subsection (b), the Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers.

"(b) From funds appropriated to carry out this part and after making the allocation required by section 366(a)(2), the Secretary shall reserve—

"(1) for fiscal year 1989 not less than $500,000;

"(2) for fiscal year 1990 not less than $600,000; and

"(3) for each of the fiscal years 1991 and 1992 not less than $750,000;

to carry out subsection (a).".

SEC. 206. GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING.

The Runaway and Homeless Youth (42 U.S.C. 5701-5751) is amended by inserting after section 313, as added by section 205, the following:

"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

"SEC. 314. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under section 311(a), for the purpose of assisting such entities to establish and operate runaway and homeless youth centers.".

SEC. 207. GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 314, as added by section 206, the following:

"AUTHORITY TO MAKE GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

"SEC. 315. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway and homeless youth.

"(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

"(1) juveniles who repeatedly leave and remain away from their homes;

"(2) outreach to runaway and homeless youth;

"(3) transportation of runaway and homeless youth in connection with services authorized to be provided under this part;

"(4) the special needs of runaway and homeless youth programs in rural areas;

"(5) the special needs of foster care home programs for runaway and homeless youth;

"(6) transitional living programs for runaway and homeless youth; and

"(7) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers.

"(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who provide services directly to runaway and homeless youth.".

SEC. 208. ANNUAL PROGRAM PRIORITIES.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 363, as so redesignated by section 203(e)(2), the following:

"ANNUAL PROGRAM PRIORITIES

"SEC. 364. (a) The Secretary shall develop for each fiscal year, and publish annually in the Federal Register for public comment a proposed plan specifying the subject priorities the Secretary will follow in making grants under this title for such fiscal year.

"(b) Taking into consideration comments received in the 45-day period beginning on the date the proposed plan is published, the Secretary shall develop and publish, before December 31 of such fiscal year, a final plan specifying the priorities referred to in subsection (a).".

SEC. 209. COORDINATION WITH ACTIVITIES OF CERTAIN FEDERAL HEALTH AGENCIES.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 364, as added by section 208, the following:

"COORDINATION WITH ACTIVITIES

"SEC. 365. With respect to matters relating to communicable diseases, the Secretary shall coordinate the activities of health agencies in the Department of Health and Human Services with the activities of the entities that are eligible to receive grants under this title.".

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

Section 366(a) of the Runaway and Homeless Youth Act of 1974 (42 U.S.C. 5751(a)), as so redesignated by section 203(d)(2), is amended—

(1) by striking "1985, 1986, 1987, and",

(2) by inserting ", 1989, 1990, 1991, and 1992" after "1988",

(3) by inserting "(1)" after "(a)", and

(4) by adding at the end the following:

"(2) Not less than 90 percent of the funds appropriated under paragraph (1) for a fiscal year shall be available to carry out section 311(a) in such fiscal year.".

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT

SEC. 301. DUTIES AND FUNCTIONS OF ADMINISTRATOR.

(a) Annual Report.—Section 404(a) of the Missing Children's Assistance Act (42 U.S.C. 5773(a)) is amended—

(1) in paragraph (3) by striking "law enforcement",

(2) in paragraph (4) by inserting "and" at the end,

(3) by amending paragraph (5) to read as follows:

"(5) not later than 180 days after the end of each fiscal year, submit a report to the President, Speaker of the House of Representatives, and the President pro tempore of the Senate—

"(A) containing a comprehensive plan for facilitating cooperation and coordination in the succeeding fiscal year among all agencies and organizations with responsibilities related to missing children;

"(B) identifying and summarizing effective models of Federal, State, and local coordination and cooperation in locating and recovering missing children;

"(C) identifying and summarizing effective program models that provide treatment, counseling, or other aid to parents of missing children or to children who have been the victims of abduction,

"(D) describing how the Administrator satisfied the requirements of paragraph (4) in the preceding fiscal year;

"(E) describing in detail the number and types of telephone calls received in the preceding fiscal year over the national toll-free telephone line established under subsection (b)(1)(A) and the number and types of communications referred to the national communications system established under section 313;

"(F) describing in detail the activities in the preceding fiscal year of the national resource center and clearinghouse established under subsection (b)(2);

"(G) describing all the programs for which assistance was provided under section 405 in the preceding fiscal year; and

"(H) summarizing the results of all research completed in the preceding year for which assistance was provided at any time under this title.", and

(4) by striking paragraph (6).

(b) Section 404(b) of the Missing Children's Assistance Act (42 U.S.C. 5773(b)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)",

(B) by inserting "24-hour" after "national",

(C) by adding "and" after the semicolon, and

(D) by adding at the end the following:

"(B) coordinating the operation of such telephone line with the operation of the national communications system established under section 313;",

(2) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) provide to State and local governments, public and private nonprofit agencies, and individuals information regarding—

"(i) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing children and their families; and

"(ii) the existence and nature of programs being carried out by Federal agencies to assist missing children and their families;", and

(B) in subparagraph (D) by striking the semicolon and inserting the following: "and in locating and recovering missing children;",

(3) in paragraph (3) by striking the period at the end and inserting "; and", and

(4) by adding at the end the following:

"(4) provide to State and local governments, public and private nonprofit agencies, and individuals information to facilitate the lawful use of school records and birth certificates to identify and locate missing children.".

SEC. 302. ADVISORY BOARD.

Section 405 of the Missing Children's Assistance Act (42 U.S.C. 5774) is repealed.

SEC. 303. GRANTS.

Section 406(a) of the Missing Children's Assistance Act (42 U.S.C. 5775(a)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period and inserting a semicolon, and

(3) by adding at the end the following:

"(7) to address the needs of missing children (as defined in section 403(1)(A)) and their families following the recovery of such children; and

"(8) to reduce the likelihood that individuals under 18 years of age will be removed from the control of such individuals' legal custodians without such custodians' consent.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended—

(1) by striking "$10,000,000 for fiscal year 1985, and"

(2) by striking "1986, 1987, and", and

(3) by inserting ", 1989, 1990, 1991, and 1992" after "1988".

SEC. 305. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.

(a) Technical Amendment.—Sections 406, 407, and 408 are redesignated as sections 405, 406, and 407, respectively.

(b) Conforming Amendment.—Section 406 of the Missing Children's Assistance Act, as so redesignated by subsection (a), is amended by striking "section 406" and inserting "section 405".

SEC. 306. SPECIAL STUDY AND REPORT.

The Missing Children's Assistance Act (42 U.S.C. 5771-5777) is amended by adding at the end the following:

"SPECIAL STUDY AND REPORT

"Sec. 408. (a) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine the obstacles that prevent or impede individuals who have legal custody of children from recovering such children from parents who have removed such children from such individuals in violation of law.

"(b) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Secretary shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the study conducted under subsection (a).".

AMENDMENT OFFERED BY MR. LEWIS OF FLORIDA

Mr. LEWIS of Florida. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lewis of Florida:

Page 61, line 3, strike "and" at the end.

Page 61, beginning on line 6, strike "title" and all that follows through line 7, and insert "title; and".

Page 61, after line 6, insert the following:

"(I)(i) identifying each clearinghouse with respect to which assistance is provided under section 405(a)(9) in the preceding fiscal year;

"(ii) describing the activities carried out by such clearinghouse in such fiscal year;

"(iii) specifying the types and amounts of assistance (other than assistance under section 405(a)(9)) received by such clearinghouse in such fiscal year; and

"(iv) specifying the number and types of missing children cases handled (and the number of such cases resolved) by such clearinghouse in such fiscal year and summarizing the circumstances of each such case.", and

Page 63, line 8, strike "and" at the end.

Page 63, line 12, strike "consent" and all that follows through the period at the end, and insert "consent; and".

Page 63, after line 12, insert the following:

"(9) to establish or operate statewide clearinghouses to assist in locating and recovering missing children.".

Mr. LEWIS of Florida. Madam Chairman, I can think of no more tragic commentary on our great Nation than its high number of runaway and abducted children. I rise today to introduce an amendment to the Juvenile Justice and Delinquency Prevention Act—that simply clarifies current law to give the Administrator of the Office of Juvenile Justice and Delinquency Prevention—the authority to establish and operate state-wide clearinghouses to assist in locating and recovering missing children.

My home State of Florida is a leader in the nationwide effort to locate missing children. In 1982 on a shoestring budget the Florida Department of Law Enforcement established an in-state missing children information clearinghouse. Such clearinghouses are currently located in 39 States. While this is the majority of States, 11 still do not have a statewide automated mechanism for responding to cases of missing children. I firmly believe that encouraging States to establish missing children clearinghouses and assisting existing clearinghouses is the only answer to his devastating problem.

An information clearinghouse in every State would provide parents and local police with an invaluable resource, a telecommunication system that would allow information on missing children to be passed almost instantaneously throughout the Nation.

Madam Chairman, the amendment I offer today simply establishes a permanent record in the Juvenile Justice and Delinquency Act that makes known that State clearinghouses are essential to enhance the efforts in locating missing and abducted children and gives the Administrator of the National Center the authority to provide assistance to them.

For the future health and well-being of our country, but most of all for our kids, I urge all my colleagues to join with me in support of this amendment.

I recently polled various State clearinghouses to secure information regarding the impact they have in the education of parents and the location of children and to determine the effect that Federal funds have on them. It was a general consensus that State clearinghouses under the auspices of State law enforcement agencies are a vital key to locating missing and abducted children. Evidence clearly indicates clearinghouses should be implemented in all States if we are to combat this tragic problem.

The concept of statewide clearinghouses has received endorsements from the National Sheriff's Association, the International Association of Chiefs of Police, the American Academy of Pediatrics, the American Federation of Police to name a few.

It is their opinion that since State and local agencies are closest to the problem and the community it is imperative that they are well trained and equipped to serve as an effective frontline resource in the effort to locate and protect children. A coordinated effort is as important, if not more important, on a statewide level as it is on the national level.

After all when a parent loses a child, whether it be an abduction or a runaway, the first person that parent will contact is a local law enforcement official. Once the child is reported missing the first 24-hours is critical. Therefore it is vital that these local law enforcement officers have ready access to information files that will provide key statistics on a missing child and access to a system that will alert law enforcement agencies.

An information clearinghouse in every state would provide parents and local police with an invaluable resource, a telecommunication system that would allow information on missing children to be passed almost instantaneously throughout the nation.

Madam Chairman, the amendment I offer today simply establishes a permanent record in the Juvenile Justice and Delinquency Act that makes known that state clearinghouse are essential to enhance the efforts in locating missing and abducted children, and gives the Administrator the authority to provide assistance to them.

For the future health and well-being of our country, but most of all for our kids, I urge all my colleagues to join with me in support of this amendment.

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Mr. KILDEE. Madam Chairman, I move to strike the last word and I rise in strong support of the Lewis of Florida amendment.

Madam Chairman, the Lewis amendment clarifies that assistance to support State clearinghouses to locate and recover missing children is an eligible activity. Further, the amendment supplements the Administrator's reporting requirements to insure that the Congress annually receives information on the funding and activities of those State clearinghouses receiving assistance under the act.

Madam Chairman, I would like to compliment the gentleman from Florida [Mr. Lewis] for his tenacious support for State clearinghouses. He is an expert on this and very persistent.

He was the first Member of Congress to introduce legislation on this subject and I strongly believe, Madam Chairman, that there are now clearinghouses in most of the States due in large part to his efforts to keep this issue before the Congress and the administration.

Mr. TAUKE. Madam Chairman, will the gentleman yield?

Mr. KILDEE. I am happy to yield to the gentleman from Iowa [Mr. Tauke].

Mr. TAUKE. I thank the gentleman for yielding.

Madam Chairman, I want to join with the gentleman from Michigan in commending our colleague from Florida for his leadership in this area. All of us, I think, are struck every time we hear another story of a missing child. In our own subcommittee hearings, we have had some stories which have certainly pulled at the heartstrings. I think all Members of Congress are committed to doing what we can to address this issue. But Mr. Lewis has gone beyond just that normal commitment and has, on an ongoing basis, been at us and other Members of Congress to insure that this issue is addressed.

Madam Chairman, I am pleased that we are able to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. Lewis].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—MISCELLANEOUS

SEC. 401. INVESTIGATION AND REPORT BY THE COMPTROLLER GENERAL.

(a) Investigation.—Not later than 180 days after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General of the United States shall begin to conduct an investigation of the extent to which—

(1) valid court orders, and

(2) court orders other than valid court orders,

are used in the 5-year period ending on December 31, 1988, to place juveniles in secure detention facilities, in secure correctional facilities, and in jails and lockups for adults.

(b) Report.—(1) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the investigation conducted under subsection (a).

(2) In such report, the Comptroller shall specify separately with respect to secure detention facilities, secure correctional facilities, and jails and lockups for adults—

(1) the frequency with which juveniles were confined,

(2) the length of confinement of juveniles, and

(3) the types of conduct of juveniles for which confinement was imposed,

as a result of the enforcement of court orders of the 2 types described in paragraphs (1) and (2) of subsection (a).

(c) Definitions.—For purposes of this section—

(1) the term "juvenile" means an individual who is less than 18 years of age,

(2) the term "secure correctional facility" has the meaning given it in section 103(13) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(13)),

(3) the term "secure detention facility" has the meaning given it in section 103(12) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(12)), and

(4) the term "valid court order" has the meaning given it in section 103(16) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(16)).

SEC. 402. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) Effective Date.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) Application of Amendments.—The amendment made by section 108(a) shall not apply to a State with respect to a fiscal year beginning before the date of the enactment of this Act if the State plan is approved before such date by the Administrator for such fiscal year.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Madam Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. Walker: On page 67, after line 9, add the following new section:

SEC. 403. DRUG FREE WORKPLACE.

(a) Grants.—No person or organization shall receive a grant authorized under this Act unless such person or organization has certified to the granting agency that it will provide a drug-free workplace by:

(1) publishing a statement of policy prohibiting the unlawful manufacture, distribution, dispensation, or possession of a controlled substance while in the workplace; and

(2) requiring that each employee, as a condition of employment, certify that he or she has received a copy of such statement of policy and understands its contents, and that he will abide by such a policy. Such employee shall further agree as a condition of employment to notify the employer of any conviction no later than the employee's next working day after such conviction. The

employer shall notify the granting or contracting agency within 72 hours of notification to it by the employee.

(b) Contracts.—No person or organization shall be considered a responsible source, under the meaning of such term as defined in section 4(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(8)), for the purposes of being awarded a contract for the procurement of any property or services authorized under this Act unless such person or organization has certified to the contracting agency that it will provide a drug free workplace by—

(1) publishing a statement of policy prohibiting the unlawful manufacture, distribution, dispensation, or possession of a controlled substance while in the workplace; and

(2) requiring that each employee, as a condition of employment, certify that he or she has received a copy of such statement of policy and understands its contents, and that he will abide by such a policy. Such employee shall further agree as a condition of employment to notify the employer of any conviction no later than the employee's next working day after such conviction. The employer shall notify the granting or contracting agency within 72 hours of notification to it by the employee.

(c) Definitions.—For purposes of this section—

(1) the term "drug-free workplace" is defined as a place where work is performed in connection with a specific grant or contract described in subsections (a) and (b) of an entity at which no employee of such entity unlawfully manufactures, distributes, dispenses, or possesses a controlled substance;

(2) the term "employee" is defined as the employee of a contractor or grantee engaged in the performance of work pursuant to the provisions of the contract or grant described in subsections (a) and (b);

(3) the term "controlled substance" is defined as a controlled substance in schedule I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

(4) the term "conviction" is defined as a finding of guilt and/or imposition of sentence by any judicial body charged with the responsibility to determine violations of the Federal, state (or governmental subdivisions thereof) criminal statutes described in subsection (d).

(d) Withholding of Payments.—

(1) Each contract and grant authorized pursuant to this Act shall contain a provision through which the granting or contracting agency shall withhold subsequent payments due under the terms and conditions of the grant or contract under applicable law upon the occurrence of conviction of an employee for violation of a Federal, state (or governmental subdivision thereof) criminal statute involving manufacture, distribution, dispensation, or possession of any controlled substance, for a violation occurring in the workplace.

(2) Notice of the granting or contracting agency's intent to withhold payments shall be given to the grantee or contractor by certified U.S. mail, return receipt requested, at the grantee's or contractor's address as shown in the contract or grant, or as amended thereafter.

(3) Upon receipt of said proof of notification by the granting or contracting agency from the grantee or contractor, evidenced by the return receipt referenced in paragraph (2), the granting or contracting agency upon the passage of 14 days from the date of return receipt to the agency shall withhold such payment unless, within such 14 day period, the granting or contracting agency receives notice from the contractor or grantee of a request for an agency hearing to determine whether such contractor or grantee was at the time of said conviction or is at the time of hearing in compliance with the requirement of this section. Upon such request for hearing, the granting or contracting agency shall conduct the requested hearing within 14 days from the date of receipt by the granting or contracting agency of the request for hearing but in no event less than 72 hours prior to the contractor's or grantee's receipt of notice of the hearing. Failure of the granting or contracting agency to timely notify the contractor or grantee shall suspend withholding payment until such time as the granting or contracting agency has afforded the grantee or contractor actual notice of no less than 72 hours prior to such hearing.

(4) Within five (5) days from the date of the hearing described in paragraph (3), the determination as to whether withholding of payment should occur, continue, or terminate shall be made by the granting or contracting agency. Failure of the granting or contracting agency to make such determination within the above stated five (5) day period, shall be deemed a decision to resume or continue all payments thereafter due.

(5) The determination required of the granting or contracting agency as provided in paragraph (4) shall be made favorable to the contractor or grantee, upon a showing by the contractor or grantee, by a preponderance of the evidence, that it is in compliance with subsections (a) and (b) and it is making good faith efforts to maintain a drug free workplace. If a conviction reflects good faith efforts made by a contractor or grantee to enforce a drug-free workplace by compliance with this section or through other workplace policy, such conviction for unlawful manufacture, distribution, dispensation, or possession of a controlled substance in the workplace, shall be considered substantial evidence that the employer is taking sufficient action to maintain a drug-free workplace and shall require a favorable determination for the contractor or grantee.

(6) In the event of a determination by the granting or contracting agency that the contractor or grantee has failed to comply with the requirements of paragraphs (3) and (4) the contractor or grantee may request a reconsideration of such determination based upon the contractor's or grantee's previous or subsequent efforts to comply within the 14 day and 5 day time periods contained within paragraphs (3)(B) and (4) respectively.

(e) Exception.—This section shall not apply to an entity if the head of the granting or contracting agencies involved determines, in his or her discretion, that withholding payments due under a grant or contract, or not issuing such a grant or not awarding such a contract authorized under this Act, as the case may be, would severely disrupt the operation of such entity to the detriment of the Federal Government or the general public.

Mr. WALKER (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Madam Chairman, over the last several weeks we have been talking in Congress, both in committees and here on the floor, about the concept of drug-free workplaces. We have been talking about using Federal moneys to leverage drug-free workplaces.

In other words, saying to employers across this country that, "If you are going to take Federal money, we insist that the money be utilized in places which are free of the use of illegal controlled substances."

Now that particular language has gone into appropriation bills and some on the floor have criticized the appropriations language as being too general, too broad.

Well, of course, the reason why you have generalized language in appropriations bills is it is what can be made in order. There is very little opportunity to flush out what a drug-free workplace policy should be in an appropriations bill. It would be ruled out as legislation on an appropriation bill.

So what we are doing in the appropriation bills is we are setting the policy, setting the standard, Congress has overwhelmingly approved the concept that indeed we ought to limit funds to those places which are not drug-free.

Now we have an opportunity this afternoon in an authorization bill to speak to the specifics of how that policy might work. How could you put in place a policy that assures drug-free workplaces that assures that the cutoff of funds is done under some procedural method? That is what this amendment that you have before you today does.

It sets up a policy, it sets up a procedure to assure the drug-free workplaces can be made real.

Now I would have to say that I think that everybody in the Congress has now decided that we want a policy. I have heard no one tell me that they do not think we ought to have a policy in place for drug-free workplaces.

Everybody is saying that, "OK, yes, tell employers as a part of getting their contract they should establish a drug-free policy, that sounds like a good idea."

As a matter of fact, the people who will be contending me on the floor today in this particular issue all have a policy; they all want something done.

The issue here is whether or not we are going to have more than a policy but whether or not we are going to have something real done about drug use that takes place in the workplace; whether there are going to be real sanctions levied against those people that have employees using drugs at work. And there, I have got to tell you, I think we have a difference of philosophies and I think, in all honesty, we have a difference of goals; because my goal is very simple. I want to, if possible, remove every last ounce of illegal drugs from America's workplaces. And where we have leverage to begin that process is with Federal money. And so the standard that you have before you today says this: If someone is convicted, is convicted of use of drugs in the workplace, at that point the Federal Government will shut off the money to that contractor until that contractor can show that the policy that he had in place was being applied in good faith or that he assisted, even, in getting the person convicted. Those kinds of tests, and so on, can show that that employer is in fact acting in good faith, that the conviction represented an aberration and not a part of an ongoing problem in that workplace.

Mr. HUNTER. Madam Chairman, will the gentleman yield to me?

Mr. WALKER. I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding.

Madam Chairman, what the gentleman has been talking about has been a real sticking point, I think, for the other side. There have been claims that somehow people would lose multibillion-dollar contracts because one person had a marijuana cigarette on the job.

As I read the gentleman's amendment, the workplace is a place where the use of narcotics can be cured. For example, if you have a cement contractor working on a Federal job and his trowel man, for example, is using narcotics on the job, that situation can be cured by the dismissal of that particular workman and by the picking up or cleaning up of whatever illegal narcotics are on the job. That could be a matter of minutes or a matter of hours.

Mr. WALKER. Let me say to the gentleman that the standard here for cutting off the money, which seems to be the point everybody is worrying about.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 5 additional minutes.)

Mr. WALKER. Madam Chairman, the standard under this is much stiffer than that. Everybody is worried about the fact that one person could end the money flowing to a site. Well, it is not just one person who is caught using drugs; it is one person who is convicted of using drugs. That means you have to go through an arrest, a prosecution, a trial, and an actual conviction in a court of competent jurisdiction before the Government could step in and cut off the funds.

So that you are talking about a very elaborate process that would have to be involved for that one person to be shown absolutely in a court of competent jurisdiction that they were using drugs in the workplace.

Now, if that takes place, obviously you do not have a drug-free workplace. If someone has been convicted of the use of drugs in that workplace, obviously that workplace is not drug-free.

Therefore, you have by definition violated the policy that you set in place.

So what my amendment says is at the point that we know that you are in violation we cut off the funds until you can show the Government that you are making good faith efforts either to stay in compliance or to bring yourself back into compliance.

Now that means that the cutoff of funds does takes place based upon the conviction, but it is not just within an hour or so that somebody has done or is found to do it, you have to have a conviction of that person in order for the cutoff of funds to take place.

Now obviously if an employer found someone using that marijuana cigarette, he probably wants that person off his site because he does not want drugs used on the site. So, therefore, he does not want to risk having a conviction down the line. So as soon as he removes that person or sends that person to rehabilitation or takes some other action that assures that that person is no longer using, he is in fact a part of the good faith efforts that will accrue to his benefit later on.

Mr. HUNTER. If I may follow the gentleman's example, if you are going to apply this in a practical application, let us say you have 30 or 40 workers working for a particular contractor doing cement work, again, on a Federal project. That contractor then could immediately issue an order to all of his workers that no narcotics will be tolerated, that the foreman will be making an inspection of their workplaces every several hours and that the foreman will, in fact, be looking for narcotics as well as looking for indicia of workmanship and other things that he is looking for.

Mr. WALKER. Well, let me tell the gentleman what the amendment says. The amendment says that not only does he have to tell the workers that, the amendment says he has to publish a statement of policy prohibiting the unlawful manufacture, distribution, dispensation, or possession of a controlled substance while on the workplace.

Furthermore, the policy says that you have to require that each employee, as a condition of employment, certify he or she received a copy of that statement of policy, understands its contents and that he or she will abide by such a policy.

So that in fact you have to have a written policy that all the employees agree to abide by.

Mr. HUNTER. So if the gentleman will continue to yield.

Mr. WALKER. Surely.

Mr. HUNTER. Then that contractor with the 30 or 40 workers could type up such a policy, he could have his foreman deliver a copy to each worker and have them sign or acknowledge the fact that they have received it and finally he could tack that policy up on the bulletin board or in a place on the worksite where everybody could see it. By doing those things and by doing other things, he will have come into compliance with our drug-free workplace standards, is that accurate?

Mr. WALKER. That is exactly right.

Mr. HUNTER. So when people talk about this momentous throwing out of jobs of millions of people and multibillion-dollar contracts being eliminated from the face of the Earth forever, they are really misconstruing the gentleman's amendment.

Mr. WALKER. That is exactly right. What they are doing, I mean, is they are purposely trying to put up strawmen to knock down in hopes of killing the concept. I realize there are people around the Congress who are vehemently opposed to using the Federal Government's power to assure a drug-free workplace. I have heard them in committee, I have heard them on the floor. You know, there are some people who want to laugh about this. There are some people who want to make all kinds of efforts to defeat it. I understand that. But the fact is that this is something where the Federal Government can apply real pressure and does have the ability to do real things without jeopardizing thousands upon thousands of workers. It is a matter of simply implementing a clear-cut policy.

Let me talk a little bit about the policy, because as I have stated, it involves a statement, it involves the employees knowing about it and then, if there is a conviction, it involves withholding of payments at the point that a conviction takes place.

Now some people have said, Well, you know, there are all kinds of problems with the Walker amendment. For instance, that the business that falsely certifies as a part of this that it is providing a drug-free workplace, there are no sanctions against them. Wrong.

In the Walker amendment there is in fact language that says that no person or organization shall be considered a responsible source under the meaning of the terms defined in the Office of Federal Procurement Policy.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 5 additional minutes.)

Mr. WALKER. The fact is that there is a way at the point that somebody deliberately falsifies their records, they are no longer a responsible source and their money could be cut off. That is in the Walker amendment.

There are people who say that the Walker amendment in terms of policy does not provide long-term effects in terms of the debarment and so on. Wrong again.

What we are doing is we are cutting off funds until they bring the workplace back into compliance.

All we are trying to achieve here is drug-free workplaces. Once somebody is in compliance with that, there is no need to stop the money from going to them. So that what we are trying to achieve is the goal of a drug-free workplace. You do not need to go beyond that.

People have complained there is not enough due process here. The Walker amendment is replete with the business of due process. Once the money has been cut off, the contractors and grantees are given appeal periods; they are allowed to show to the Government during times specified for that—this cannot drag out over a period of months or years, it has to happen within a matter of days—and the employer can come in and show that he or she has achieved a standard that is acceptable to the Government.

It seems to me that we have an obligation here this afternoon to go beyond what we have done in the appropriation bills, which is by nature of the appropriation bills, very generalized language, and adopt a very specific approach to this business of guaranteeing drug-free workplaces.

If what we do here this afternoon is simply come up with more generalities, it seems to me that what we will do is lose the issue, that we at that point will be in a place of not fulfilling what the American people expect of us and that is to have a tough crackdown on drugs.

□ 1530

My amendment moves us in the direction of assuring that there is a policy for drug-free workplaces, and then there is a sanction for those who are not drug free. It seems to me that is the kind of tough policy the Congress needs to adopt.

Mr. DYNALLY. Madam Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. DYMALLY. Madam Chairman, let me ask my friend, if a young man comes into a drug prevention clinic and he has a piece of grass or some crack in his pocket and he was being followed by the police and he is caught on the premises without the knowledge of the workers or the sponsors of the program, does that mean then that they lose their funding because he was caught on the premises?

Mr. WALKER. No. First of all, he would have to be an employee. He would have to be an employee.

Mr. DYMALLY. Let us assume he was a part-time employee.

Mr. WALKER. All right. If he was an employee, first of all, he would have to be informed well in advance that there was a policy against doing that, so he would be in violation of the oath he signed with his employer by doing that. So the employer at that point has somebody who is out of compliance with the policy that is set.

Second, the funds could not be taken away just because of the arrest. That person would have to be convicted in a court of competent jurisdiction. Once that conviction has taken place, at that point the Federal Government could withhold the money or would withhold the money, but if the employer could show that they were making good faith efforts and if that employee, for instance, had been forced to sign that policy and understand the policy and also did understand the policy and he was simply in aberration of the policy, then the money could continue to flow.

Mr. DYMALLY. Yes, but let us say the money had been withdrawn, and then they would have to make a case for that.

Mr. WALKER. But the money under the Walker amendment has to be back flowing within a matter of days. There is an appeals process here that takes just a matter of days to complete, so within a period of time that checks are being written on a monthly basis the appeals process would have to be taking place under the Walker amendment.

Mr. DYMALLY. Madam Chairman, the gentleman is one of the biggest critics of the bureaucracy. Once a check has been stopped in the bureaucracy, it takes years for them to get it back on track.

Mr. WALKER. No. Well, we must remember, first of all, it is specified by law that they have to do it here. That is the advantage we have over virtually every other amendment we have out here today. Nobody else has that kind of time test in it.

Second, I would say to the gentleman that we should remember that we have a conviction standard here so that you would have had a period of time during which a conviction was taking place over a long period of time to mitigate some of the circumstances and to begin to prove to the agency what is involved. It seems to me that if we have a convicted drug criminal at one of these sites, we would want to be rid of him, we would want to figure out a policy that assures us that we can be rid of those kinds of people. We do not want to be endorsing having them on our side.

Mr. DYMALLY. Madam Chairman, I rise in support of the measure but in opposition to the amendment.

Madam Chairman, I rise in support of H.R. 1801, the Juvenile Justice and Delinquency Prevention Act. I strongly believe that this bill has excellent merit and I would like to congratulate my colleague the distinguished chairman of the Education and Labor Subcommittee on Human Resources, Representative KILDEE, for his great leadership and diligence in this matter.

The merits of this bill are many, including authorization of funds for runaway and homeless youth programs and missing children's programs. All are very worthy programs designed to address the problems of runaway children and curtail the anguish experienced by concerned parents of runaways.

I am strongly in favor of the bill's authorization of $10 million in fiscal year 1989 and, thereafter, whatever sum is necessary to launch a full-scale campaign with a focus aimed at reducing youth gang-related incidences of violence.

Madam Chairman, outside of the immediate boundaries of the city of Los Angeles which usually gets wide media coverage and resources to combat its gang problem, the city of Compton is plagued with the most serious gang-related violence problem. This problem has been highlighted recently by national cable coverage of the shooting of 6-year-old Irma Saucedo, along with her mother and father, while watching TV in their home. Irma was killed instantly while both parents died in the hospital a couple of days later. This shooting was triggered by a baseball hat worn by her teenage brother which angered local gang members.

Madam Chairman, unfortunately, such loss of innocent life is not limited to the Saucedo family. Not a day goes by in Compton without a gang-related shooting. Not a single visit to the district is without constituent complaints about gang-related violence. Our citizens are terrorized in their own neighborhoods. Family members are housebound for fear of becoming another statistic of the gang violence.

Madam Chairman, the Subcommittee on Criminal Justice of the House Judiciary Committee will be conducting a hearing in Compton on June 6, 1988, to examine the gang violence and drive-by shootings in the smaller cities around Los Angeles such as Compton.

Madam Chairman, I would like to read an excerpt from one of three stories published in a single day by the Los Angeles Herald Examiner on May 12, 1988: "I want to say I'm too young to die. I have a life ahead of me * * *", read the letter of this frightened 15-year-old. The scrawl on the envelope read "From a Concerned Student" and was delivered to the principal of Audubon Junior High upon the news that Jamee Finney, a boisterous 13-year-old schoolmate, had been gunned down with a Uzi submachinegun as she was riding home with LaToniya Stovern, an 18-year-old friend. The girls were on their way home from a hamburger stand, innocent victims of another senseless and violent murderous attack by drug-dealing gang members who mistook them for someone else. The fact that both girls tried to steer clear of all gang members, and took pains not to wear any gang colors did not save them. One out of every three of Jamee's classmates had to be sent to the school psychologist for crisis counseling.

Madam Chairman, this article headlined "Slain Girl's Peers Fear They'll Be Next" depicts the fears of those youngsters trapped in a world infested with gangs whose breeding grounds are bleak housing projects such as the one next to Audubon Junior High School and known colloquially as "The Jungle."

Madam Chairman, every return visit to my district confirms the need to address this critical problem we face in Los Angeles County. Operation Safe Streets reports that gang homicides have doubled in the past 8 years.

Today there are more than 600 gangs; 239 gangs and at least 26,000 of the members are within the Los Angeles County jurisdiction; 182 gang-related homicides or 47 percent were committed in the smaller cities around Los Angeles such as Compton and Lynwood. This is why our colleague Representative JOHN CONYERS, chairman of the Subcommittee on Criminal Justice has agreed to hold a hearing next Monday in Compton to address the issue of gang-related violence.

I do not pretend to have a magical answer to the gang problem. However, many indications point to the lack of economic opportunities for the young who, in many instances, are condemned to a life of crime as the only way to economic progress. This point is underscored by an April 15, 1988, Los Angeles Times report that a significant number of gang members are willing to abandon a life of crime if offered a decent job.

Baxter Sinclair, the owner of a pipeline construction business, who hired gang members on a temporary basis to guard a construction project was surprised to see these same people ask him for permanent jobs in pipeline work. Today, about 20 of the 100 men in Sinclair's Compton-based crew are former gang members.

Madam Chairman, I strongly support H.R. 1801 and its excellent gang prevention and treatment programs. The gang problem cannot be resolved on a local level alone. Federal initiatives such as this can provide a new beginning for our citizens.

I urge my colleagues to vote for the passage of H.R. 1801. And I look forward to future initiatives which will provide new hope for communities living in fear of gang violence. Programs such as the high school-college partnership programs and demonstration projects which can give our young people a new hope for their future. These programs can help our communities to reclaim their neighborhoods; and can provide our young people with an American dream that is not founded upon reliance on drugs and gangs, but founded on hope for decent jobs and pride in the product of their labor and their contributions to their communities.

AMENDMENT OFFERED BY MR. KILDEE TO THE AMENDMENT OFFERED BY MR. WALKER

Mr. KILDEE. Madam Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. KILDEE to the amendment offered by Mr. WALKER: Strike out all after the word section and insert the following:

SEC. 403. DRUG FREE WORKPLACES.

An applicant for funds appropriated to carry out any Act amended by this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use or possession of controlled substances by its employees.

Mr. KILDEE. Madam Chairman, my amendment amends the Walker amendment to insert simple yet effective requirements regarding the requirement of drug-free workplaces, which both of us want to have. It precludes any applicant under the Juvenile Justice and Delinquency Prevention Act from receiving any funding unless the applicant provides an assurance that it has adopted a policy designed to ensure that its work places are free from the illegal use or possession of controlled substances by its employees. The applicant must further assure that it will administer its policy in good faith.

Now, my amendment, I believe, is superior to the Walker amendment for the following reasons: First it incorporates the important elements of the Walker amendment, that is, the development of a policy for a drug-free work place and the requirement of the good faith administration of the policy.

Madam Chairman, it would not have an adverse impact on grantees because the required assurances are made in the course of the usual application process. In addition, it does not require new and cumbersome administrative procedures, as would the Walker amendment, but instead makes the good faith administration of the policies part of the terms of the grant or of the contract. Therefore, if a grantee does not adequately administer his policies, his grant may be suspended or terminated, utilizing the very effective existing Federal agency procedures, including for the most part the procedures of the Justice Department itself.

Now, we have under this act terminated grants already. We have terminated grants for other reasons, using existing policies. Most of these programs are small programs with less than 25 employees. There are very well policed. As a matter of fact, the gentleman from Iowa [Mr. TAUKE] and I know many of the people involved in the administration of these programs around the country, and most of the people in these programs are there because they are really so proyouth and from that connection are very antidrug, so that the policing takes place.

I would add, however, that even with that attitude that already exists, under my amendment, grant applicants must promise this good faith effort at the beginning, and promise to police and maintain that good faith policy. I think that that will more effectively serve the purpose.

Now, existing Justice Department regulations provide, as I said, for the suspension or termination of the grants. If one fails to live up to the terms of the grant, they may be terminated, and we have a record of that termination. If it violates any Federal or State law, they can be terminated beyond the specific statements within the grant itself. And we have a built-in mechanism that has already proven that it works, and most of that mechanism is in the Justice Department itself, which has a long history of enforcement.

The gentleman from Pennsylvania knows me quite well. He knows that I myself have three teenage children for whom I have enormous love and tremendous concern, and whenever I attempt to enact legislation here on this floor, I try to treat the children of America as I would have my own children treated. So I have to worry about this. Every parent of teenage children has to worry about this.

So it is not likely that I would come to this microphone offering a perfecting amendment without the understanding that I do it with sincerity and with great concern for all the children of America. If I thought the Walker amendment really would help those children of America, especially the troubled children that this act addresses itself to, I would support it, but I really think it would impose an administrative burden and that it would make it more difficult for this administration and these agencies to help those children.

Mr. HUNTER. Madam Chairman, will the gentleman yield?

Mr. KILDEE. I am happy to yield to the gentleman from California.

Mr. HUNTER. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I have looked over the gentleman's amendment as one Member who has followed this continuing debate on the Walker amendment that has come up on a series of bills, and I want to compliment the gentleman for changing the tone of this total debate.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. KILDEE] has expired.

(On request of Mr. HUNTER, and by unanimous consent, Mr. KILDEE was allowed to proceed for 4 additional minutes.)

Mr. HUNTER. Madam Chairman, will the gentleman continue to yield?

Mr. KILDEE. I am happy to yield to the gentleman from California.

Mr. HUNTER. Madam Chairman, I noticed the initial tone coming from that side of the aisle was one of mockery, and I heard some rather severe words directed toward the amendment offered by the gentleman from Pennsylvania [Mr. Walker] about this drug-free workplace idea, that the whole idea is not workable and we should do away with it. But now I see from this gentleman, who is very sincere, really an acceptance of the concept of using the drug-free workplace to rid this country of drugs by getting employers involved, by getting foremen involved, and by getting people who have an economic interest in making the contracts work involved to see to it that their employees are not utilizing drugs on the job.

So I want to commend the gentleman. I see it as a total 180-degree turnaround, and my recommendation, for what it is worth, to the gentleman from Pennsylvania is that the gentleman has an excellent amendment here, and I want to commend him for his acceptance of the idea of a drug-free workplace and the idea that we can use this mechanism to aid in the war against drugs.

Madam Chairman, I think it is a tremendous turnaround and the gentleman should be commended for it.

□ 1540

Mr. TAUKE. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, first I want to commend the gentleman from Pennsylvania [Mr. Walker] for the tremendous work he has done in bringing this issue to the floor of the House, and he has been very persistent in his efforts to try to ensure that there is a drug-free workplace. As the gentleman from California indicated, when that battle began, there were a lot of skeptics on the floor of the House and a lot of outright opponents to that effort, but now the mood is changing, and there is recognition that we can do something at the Federal level to try to put some teeth in this aspect of our antidrug policies.

Now we are, however, moving to a second phase, and that phase is how do we implement the policy, and I do not know that I want to speak to the issue in general, but in the terms of the Juvenile Justice and Delinquency Prevention Act it seems to me that the approach offered by the gentleman from Michigan [Mr. Kildee] has a couple of provisions or a couple of aspects to it which are favorable and which are superior to the Walker amendment.

One of the concerns I have relating to the Walker amendment is, at least as I read it, the assumption is that once a conviction is made for possession or use of drugs in the workplace, that there is, as a result of that conviction, an automatic cutoff of funds. In other words, the assumption is that the employer is guilty, that the person who received the grant is guilty.

Now many of those people, especially those who are dealing in this area of juvenile justice may be making an extraordinarily fine effort to keep drugs out of the workplace, yet they would be assumed to be guilty, assumed to be in violation of their contract as a result of any conviction no matter how good their effort is. Then they have to go through what is a rather cumbersome procedure in order to be reinstated.

Madam Chairman, I do not think that is the best policy for us to pursue from a philosophical perspective, that presumption of negligence on the part of the employee, nor do I think it is best from an administrative standpoint because it means a cumbersome administrative process when that may not necessarily be needed.

It seems to me also that it is important to recognize that in this case most of the money is flowing to the States, and then from the States out to a whole variety of groups and organizations. Those groups and organizations in many cases are very small. Even the procedures relating to notification and so on, while not that significant in the greater scheme of things, it is more paperwork being put on their bureaus and agencies, some of which have no problem, and it is another little piece of administrative burden that is added to them, and we are trying to get them to do this job under the Juvenile Justice and Delinquency Prevention Act, not make it more difficult for that.

So it seems to me, Madam Chairman, there are a few problems with the Walker amendment that are not there in the Kildee amendment, yet the Kildee amendment achieves the essential goal which is keeping drugs out of the workplace, and it uses current administrative procedures, which I think will be less cumbersome for most employees, employers, and grantees.

Madam Chairman, that is why I support the Kildee amendment to the Walker amendment.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Madam Chairman, I want to join the gentleman. I back the amendment of the gentleman from Pennsylvania. I did have some concerns at that time for the reasons that the gentleman has stated, but I did feel it was incredibly important that we establish as a matter of Federal policy that we must do what we can to keep the workplace as free from the use of drugs and make it clear that we are taking a real strong position in establishing that policy. However, I do agree with the gentleman that there are a number of problems which are created by the approach taken by the gentleman from Pennsylvania [Mr. Walker] which the Kildee amendment seems to address and give a much clearer role to take and enforce the provisions of a drug-free workplace, so I would agree and support the Kildee amendment, and I would hope that the gentleman from Pennsylvania, who has done tremendous work in raising this issue to the height that it has been raised, with perhaps some modifications, would be willing to accept it and then join together with all of us so that we can speak with one voice on both sides of the aisle to establish a clear policy in the workplace.

Mr. GRANDY. Madam Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Iowa.

Mr. GRANDY. Madam Chairman, I thank the gentleman from Iowa [Mr. Tauke] and I, too, rise in support of the Kildee amendment to the Walker amendment.

Madam Chairman, I am one of the new Members on this side of the aisle who has consistently, but reluctantly, opposed the Walker amendment because I am opposed to mandating policy, whether it is mandated leave, mandated health benefits or, in this case, mandated police power to enforce drugs.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. Tauke] has expired.

(By unanimous consent, Mr. Tauke was allowed to proceed for 3 additional minutes.)

Mr. TAUKE. Madam Chairman, I yield to the gentleman from Iowa.

Mr. GRANDY. Madam Chairman, I thank the gentleman for the 3 minutes.

My concern is because I do support the idea we would eventually reach a point where the implementation of that idea was not practical, and I think the Juvenile Justice Act is a perfect place where those two concepts collide. Under the Walker amendment, as I read it, even the worst case scenario, the unlikely scenario of a conviction, could result in the loss of funds.

What would that result in? The loss of a safe haven for a lot of innocent people who were not involved, to send them back to an environment that is probably more disruptive than the one they are going to.

So I think that in this particular case we have to remember not just what the amendment is, but what we are amending it to, and that is why I commend the gentleman from Michigan [Mr. Kildee], our chairman on the Human Resources Subcommittee, for providing an amendment that sensitizes contractees and grantees without bludgeoning them, providing incentives, not penalties.

I think what we have here is something that the gentleman from Pennsylvania [Mr. Walker] has started, the gentleman from Michigan [Mr. Kildee] now is succeeding in finishing, which is to create a demand that we all have for a bipartisan drug policy, not political counterpunches which are very often full of sound and fury, but probably will signify nothing. This is an amendment that does not have to be taken out in conference.

So, Madam Chairman, I would simply say that I hope that the Walker-Kildee initiative is a preamble to a drug effort that this Congress and this Government will begin, but is also an implementation of an idea that we all support.

Mr. TAUKE. Madam Chairman, I thank the gentleman for his comments, and I want to take this opportunity to commend him for the outstanding work he has done as a member of this subcommittee in the development of this legislation.

Madam Chairman, I yield to the gentleman from California [Mr. Hunter].

Mr. HUNTER. Madam Chairman, I thank the gentleman for yielding, and I want to commend both gentlemen for their work on this particular amendment and their statements, and I agree with the gentleman from Iowa that here we have something that is not frivolous, as some of the previous amendments to the Walker amendment have been. It is a meaningful amendment.

I have one question that I would like to pose to our side of the aisle and to Mr. Kildee also. One thing I am concerned about, and I think we all are, those of us who like the idea of getting the employer involved, getting that foreman involved, to see that narcotics are not used in the workplace. Are we making sure that we are doing more than simply putting a paper-signing requirement in front of employers before they get the contract because, as all my colleagues know, this is a world of forms, and one has to sign forms 1 through 35, and we do not want this to be just another form that has to be signed assuring that there will be a drug-free workplace when in fact the practice may be different.

Madam Chairman, I guess what I am saying is that we want to make sure that the employer is vigilant, that he takes actions and that he does not simply include this in the stack of numerous papers to be signed as a prerequistite to doing work with the Federal Government.

Mr. GRANDY. Madam Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Iowa.

Mr. GRANDY. Madam Chairman, I think I can answer part of that or at least presume to answer part of it.

Madam Chairman, I would assume that under the Kildee amendment anybody who had to provide a policy would first have to check with existing State statutes regarding what he can and cannot do in terms of testing place for positions. I know that our State of Iowa restricts applicant testings; so does Connecticut; so do several other States, and there are some States such as Minnesota that allow no applicant testing unless a job is offered. This forces the employer to become cognizant of that body of information and provide a policy which is in harmony with State law as well as Federal law.

The problem without the Kildee language, I think, is that we rush full-blown into a policy that we could not implement, so in a sense I think we are more vigilant with Kildee amended to Walker.

Mr. TAUKE. Madam Chairman, I think that, if the gentleman will permit me to make a response, the gentleman from Michigan [Mr. Kildee] really needs to respond to this question, but my understanding would be this:

That we are by this amendment triggering a process whereby the department would be forced to set forth some administrative rules which would include guidelines that the employers who are seeking Federal funds would have to meet.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. Tauke] has expired.

(By unanimous consent Mr. Tauke was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. My assumption, Madam Chairman, is that many of the provisions that Mr. Walker in his amendment would probably find their way into those rules and administrative procedures.

□ 1550

I think it should be clear that the thrust of those procedures would be to ensure that the employer has the responsibility to do all he or she can within the law to make certain that there is no drug activity, use, possession, or distribution, in that workplace.

It seems to me that it also should be clear that there would be some kind of procedure set up to notify grantees that if they did not comply or there was suspicion they were not complying, that they were going to be called in and the procedure would be followed for the removal of them from the rolls of grantees.

Mr. HUNTER. Madam Chairman, if the gentleman will yield, I think he has just hit on the key. What I am concerned about and I think other Members are concerned about is some carrot or stick that will give the employer a motive, motivation to be vigilant, in an ongoing manner in the workplace. In other words, after his grant application is filed and he signed all the right statements of policy against drugs, will his foreman be out there looking at that workplace when those cement contractors are working, making sure that his employees are not using narcotics, because there is a certain leverage that can be exerted if he fails.

Mr. TAUKE. Well, I believe that employers are going to have that responsibility and that certainly is the intent of this amendment.

The procedure is a little bit different, because as the gentleman from Michigan [Mr. Kildee] pointed out in his discussion, we already have a procedure under the act to pull the funds away from grantees who are violating any of the agreements that they have entered into with the Department. If this is one of the agreements that they have entered into to insure a drug-free workplace and they are not living up to that agreement, that is grounds for pulling the funds. So that is why I say many of the procedures that are in the Walker amendment undoubtedly would find their way into administrative rules.

Mr. KILDEE. Madam Chairman, will the gentleman yield?

Mr. TAUKE. I am happy to yield to the gentleman from Michigan.

Mr. KILDEE. Well, the policy that we would require would really follow——

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(At the request of Mr. Hunter, and by unanimous consent, Mr. Tauke was allowed to proceed for 3 additional minutes.)

Mr. KILDEE. Madam Chairman, if the gentleman will continue to yield, it would really follow from existing Justice Department regulations and they require that all grants, first of all, must maintain the terms of the grant agreement and that all Federal and State laws be adhered to, so when that grant is given, the policy statement required to get that grant would have to be adhered to along with all existing Federal and State laws. If there were any violation, under section 226 of the Juvenile Justice Act, the grant can be terminated.

Just about 1 year ago a grant was terminated rather expeditiously when it became clear that it was not following, in this instance, the terms of the grant.

Mr. HUNTER. Was that a drug case or a narcotics case?

Mr. KILDEE. Actually, it was not a drug case, it was in a drug program, interestingly enough. It was the National Partnership to Prevent Drug and Alcohol Abuse; but it was not a drug violation. It was just that they were not carrying out the purpose as stated in the grant.

Under my amendment, one of the purposes in the grant and one of the requirements in the grant would be the policy of a drug-free environment.

Mr. HUNTER. Madam Chairman, if the gentleman will yield further, I would like to ask one more question.

Looking at it from a practical point of view, let us take that contractor again, he is a cement contractor. He has got 30 workers on a Federal program or Federal job site. It is obvious that at least one of the workers is utilizing marijuana, let us say, while on the job. Under the apparatus and the machinery that the gentleman says is already in place, assuming that that contractor filed or signed the appropriate documents insuring a drug-free workplace for his drug-free policy, what would be the reaction from the Federal Government upon discovery of this utilization of narcotics in the workplace? Would there be strong action taken?

Mr. KILDEE. Well, Madam Chairman, if the gentleman will yield further, I do not have a lot of experience in this program with concrete operators.

Mr. HUNTER. Well, any operator, any contractor.

Mr. KILDEE. I am just saying, if they poured the walkway up to the runaway home, their work may have already been completed when they discovered that the person putting in the concrete maybe had some substance on his person. I do not know whether it would serve any useful purpose at all to tear up the concrete sidewalk at that point. But seriously, where we are involved with people directly related to dealing with youths, there is where we would terminate the contract with that group, and there are procedures in section 226 for that; but when we reach out beyond that——

Mr. TAUKE. Well, let me just clarify that, if I may. We do not deal in this act generally with capital expenditures, like manufacturing facilities or products. We do not deal with the pouring of concrete, frankly, or the building of buildings. We are generally dealing with agencies that are providing human services kinds of activities, so I think that is why there is a little difficulty in this response, but I think it is fairly clear if we had somebody providing one of these human services——

Mr. CHAIRMAN. The time of the gentleman from Iowa has again expired.

(By unanimous consent, Mr. TAUKE was allowed to proceed for 1 additional minute.)

Mr. TAUKE. We are dealing with a situation where a human services agency has an employee who is providing services under this act and that employee is involved in drug use, possession or distribution, or other activities, that we would expect that the Department would take action to pull the money from that grantee if that grantee was not taking appropriate action to deal with the problem.

Mr. KILDEE. They have withheld money for less an offense in my mind than drug offenses.

Mr. HUNTER. So the answer is that there would be strong action taken upon discovery that an employee was, in fact, illegally using narcotics at the site and there would, therefore, be a motivation for the supervisors or whoever to be vigilant against the use of narcotics; it would be an ongoing thing.

Mr. KILDEE. Absolutely, and I will be as vigilant as is the gentleman from Iowa [Mr. TAUKE] in the oversight responsibility in this legislation on that. We have seen no instance of that yet in our oversight hearings, but we would be most vigilant in our oversight on this.

Mr. WALKER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I think the gentleman has presented us with an interesting amendment, and if I could I would like to explore a couple of things with him about it.

If I understood the dialog that we just had here, the amendment does not state that there would be a withholding of funds.

What the gentleman is saying is that indeed the leverage that would exist for the Federal Government under the gentleman's amendment because of present Department policy; is that correct?

Mr. KILDEE. Madam Chairman, if the gentlemam will yield, we have present procedures, and the procedures have been utilized that when a grant is not carried out according to the terms of the grant, the Justice Department or the other agency can move in and terminate the grant. That is what we would expect them to do and I think the language leads them to do that.

Mr. TAUKE. Madam Chairman, will the gentleman yield on that point?

Mr. WALKER. I am glad to yield to the gentleman from Iowa.

Mr. TAUKE. Madam Chairman, I think it is fairly clear that that is the leverage that is there. It does seem to me in fairness to respond to the gentleman, though, that the Department would have to exercise some discretion. If, for example, an individual who is employed by an agency that is the recipient of a grant is fired, once it is found that that employee has possession of some drug, and the employer then fires him, obviously then we would not cut off the funds to the employer who was enforcing his own drug-free workplace policy.

So I think we have to say that the leverage over the employer is the cutoff of funds, but that obviously has to be implemented with some discretion.

Mr. WALKER. Obviously my intent all along has been to use that leverage in order to achieve drug free workplaces, and I think I hear the gentleman saying that is the leverage that exists under this amendment, even though it is not so specified in the amendment.

Now, let me see if I understand what would happen here. The applicant would have to specify a particular policy for a drug-free workplace in making the application for the money; is that correct?

Mr. KILDEE. If the gentleman will yield, Madam Chairman, it would be part of the grant application and that would be contained in the terms of the grant.

Mr. WALKER. And that policy would have to assure that it has in place a policy designed to ensure that all the workplaces are free from the illegal use of drugs; is that correct?

Mr. KILDEE. That is correct.

Mr. WALKER. And then in addition, what the gentleman's amendment says is that that particular policy cannot just sit there as a policy, but it would have to be administered in good faith.

Mr. KILDEE. Yes. The administration of that policy is part of the policy, a part of the grant.

Mr. WALKER. So indeed just having the policy in place, the fact that you have filled out the paperwork is not good enough. You would have to be actually implementing that policy in order to continue to receive your money.

Mr. KILDEE. It says it will be administered in good faith.

Mr. WALKER. All right. The one thing I see that troubles me a little bit, and I am wondering whether or not the gentleman by unanimous consent might be willing to modify his amendment, is that in the amendment I had offered we went into areas such as distribution of drugs. It seems to me that the one thing that the gentleman might want to include, since he includes use and possession, he might also want to include distribution, so that these sites were not places where there was the sale of drugs taking place.

With that modification, it seems to me that it is probably moving in the direction this gentleman wants to achieve, and if the language is more comfortable to the committee, it seems to me that is probably something we should do.

Mr. KILDEE. Madam Chairman, I would first have no problem at all to ask unanimous consent to instruct the Clerk to add after "use or possession," the words "or distribution."

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan to modify the amendment by the addition of the words "or distribution?"

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Michigan [Mr. KILDEE] is so modified.

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. KILDEE, as modified to the amendment offered by Mr. WALKER: Strike out all after the word section and insert the following:

SEC. 403. DRUG FREE WORKPLACES.

An applicant for funds appropriated to carry out any Act amended by this Act shall be ineligible to receive such funds if such applicant fails to include in its application an assurance that it has, and will administer in good faith, a policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances by its employees.

Mr. GRANDY. Madam Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Iowa.

Mr. GRANDY. Madam Chairman, I thank the gentleman. He has raised a question in my mind that I believe I can answer, but I will address the chairman.

It seems to me that under this amendment, unlike the original amendment of the gentleman from Pennsylvania, we do not have to wait for conviction. We can have interdiction. We can have consistent abuse without conviction and the policy, in a sense, can be even stricter and more responsive than what we had before under the gentleman's amendment.

It also, I believe allows options other than termination. Rehabilitation always is an option, so I think we have, if I understand what the gentleman from Michigan is trying to do, we are trying to interdict the drugs a little earlier perhaps than waiting until a court of competent jurisdiction makes that determination.

Mr. WALKER. Madam Chairman, I thank the gentleman for pointing that out, because it is another note that I had here of the fact that with the gentleman's amendment we no longer have a conviction standard, that in fact we can probably have quicker action.

The reason for the conviction standard, of course, is because we were mandating an absolute cutoff under my amendment and we wanted to have some basis on which to do that.

If in fact we are establishing this kind of procedure, it seems to me that the conviction standard is not necessary, and therefore it would not be a part of this particular effort.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. HUNTER. Madam Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. HUNTER. Madam Chairman, I thank the gentleman for yielding.

I think the discussion between all parties here has helped to define the Kildee amendment to the Walker amendment for all of us.

I would recommend to my friend, the gentleman from Pennsylvania, that with the modification, that he accept the Kildee amendment.

I want to commend the gentleman for starting this movement, the Walker drug-free workplace issue, which now has been joined by all Members and in a sincere way by both sides of the aisle.

Mr. WALKER. Madam Chairman, let me thank the gentleman.

It seems to me we can move in that direction. The authorization bills are a place where we can lay out standards by which we can achieve this; but it seems to me since the Justice Department does have procedures, that maybe the Kildee approach is the right approach today.

Mr. SCHUMER. Madam Chairman, I move to strike the requisite number of words.

First, Madam Chairman, let me, too, commend the gentleman from Michigan for adding or actually replacing the previous amendment with this amendment, which is an amendment I can live with; but I think we should make a couple points here now that this has happened, and that is that in the last few weeks a drug mania has overcome this Chamber, the other Chamber, and probably all of Washington.

Drugs are an extremely serious problem. They are not a problem that can go away by drafting a two-sentence solution, by getting up and making a speech or coming up with something at the last minute. It is going to take us to sit down and analyze the problem, roll up our sleeves, and work at the problem everyday, every week, every month.

Two years ago, approximately, when Len Bias passed away, we went through a similar paroxysm. We all jumped up and down. We did lots of things, and the drug problem today is worse than before, and that is because we were looking for the immediate. That is because we were looking for the quick hit.

I voted against the previous Walker amendments. I thought they were ridiculous. Those were amendments that said if you had 10,000 people in a factory and one person, perhaps with the desire to close down the factory, were convicted of having a marijuana cigarette in his or her pocket, that that plant would lose all of its Federal funding, that 9,999 innocent people would be hurt because of that one person.

□ 1605

We did things like that in World War II and we interned Japanese people. We did things like that in the 1950's when McCarthyism was rampant, and we were on the verge of doing it again with a two-sentence approach that said unless a workplace is entirely free of drugs that not just the drug abuser or distributer or whoever was using the drug would be punished but that everybody would be punished without due process, without any notion of fairness, and without any notion quite frankly of effectiveness at eliminating drugs.

Beset by that problem, under the leadership of the gentleman from Louisiana [Mr. HAYES], the gentlewoman from California [Mrs. BOXER], myself, and the gentleman from Missouri [Mr. VOLKMER] put together a proposal that is in some detail that which we had circulated around. The gentleman from Michigan [Mr. KILDEE] has embodied most of the points of that, particularly the good-faith exception.

Would it not have been terrible, would it not have been terrible if this Chamber did last week and the week before under the Walker amendments to say that if an employer was doing everything that employer could do in its good faith to get rid of drugs, that they would lose all Federal funding, lose all Federal funding if someone happened to sneak in a single marijuana cigarette. That is McCarthyism at its worst.

I am happy to say that this amendment that the gentleman from Michigan [Mr. KILDEE] has added does start putting us on the path to dealing with this issue.

Let us make it clear, the vast majority of drug related problems in America are not in the workplace at all. I do not know what the statistics are but I would guess that 90 or 95 percent of the arrests and convictions for drug abuse, and drug distribution are not in anybody's workplace but in the highways and byways of this country. If we are going to eliminate the problem, and maybe we cannot, but certainly if we are going to reduce the problem we have to have a broad, well-thought-out and long-term comprehensive approach that may not produce results tomorrow or the next day but may in future months. If we are looking at the workplace, I believe that the amendment the gentleman from Michigan [Mr. KILDEE] has added does at least look at the problem fairly and rationally and effectively. It aims itself at the employer, not the employee. It aims itself at the abuser, not everybody who happens to work in the place where that drug might be used.

Madam Chairman, I commend the gentleman from Michigan [Mr. KILDEE]. I oppose the previous Walker amendments. I will support this amendment and I hope that this interchange which is bipartisan can set us on a path to doing something rational, fair, effective and constitutional to deal with the war on drugs.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. SCHUMER. Madam Chairman, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Madam Chairman, I think it would lend a little to this bipartisanship if the gentleman from New York [Mr. SCHUMER] would refrain from calling names and suggesting McCarthyism and all this kind of thing. It does not seem to me that lends much to building a bipartisanship and bipartisan atmosphere.

Mr. SCHUMER. Madam Chairman, reclaiming my time, I thank the gentleman from Pennsylvania for his comments. I would say that many of us on this side of the aisle were deeply troubled by what was happening in this Chamber and I think it is worthy of pointing that out.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 1 additional minute.)

Mr. SCHUMER. What the gentleman from Michigan [Mr. KILDEE] has done with the help, and I apologize for not acknowledging his work sooner, with the help of the gentleman from Iowa [Mr. TAUKE] and the other gentleman from Iowa [Mr. GRANDY] on the other side of the aisle all helped put us in the right direction, but I do think that it was important and is important to note that to solve, ameliorate, alleviate the drug crisis quick hits are just not going to work. Blaming everybody under the sun and using Draconian machinegun approaches is not going to solve the problem. In fact it may move us further away from the solution because the public will think we are doing something when in reality we are not.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has again expired.

(On request of Mrs. BOXER and by unanimous consent, Mr. SCHUMER was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. Madam Chairman, I yield to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Madam Chairman, I thank the gentleman from New York [Mr. SCHUMER] for yielding.

Madam Chairman, as part of the team that worked for several weeks and many long hours on a substitute to the Walker approach, although I do not totally agree with what the gentleman from Pennsylvania [Mr. WALKER] was trying to do, I did not feel that his amendment was drawn as carefully as it could have been done. I am very supportive of the Kildee amendment because I think what the gentleman from Michigan [Mr. KILDEE] has done along with the help of the ranking members on his committee is to offer us something that really makes sense. I think as the gentleman from New York [Mr. SCHUMER] has said, it embodies the concept we were trying to accomplish in our longer legislation, namely there are three concepts involved. First, to target the employer which is very important because the employer has the ability to make some changes, to offer rehabilitation, or indeed to fire the offending employee. I think it is important to target the employer.

Second, it really sets up procedures. It is talking about making a good-faith effort in carrying out of a contract so it sets up normal procedures and that is good.

Third, the notion of the good-faith effort is important. As the gentleman from New York [Mr. SCHUMER] pointed out, it is a very important standard. We do not want to punish someone and take away their contracts if in fact they are doing the very best that they can.

We are going to be tough on this. I think the gentleman from Michigan [Mr. KILDEE] has stated that. There is going to be oversight on this. I am pleased to see us come together on this. I want to personally thank the gentleman from Louisiana [Mr. HAYES] because I think his leadership on this was outstanding and I look forward to working with him as we look at this in terms of a long-range solution.

Mr. JEFFORDS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I want to say that I am glad that now we have all had an opportunity to take some credit for this amendment. I would hope that we now all can join hands together and march down the aisle to implement this policy. I want to commend the gentleman from Pennsylvania [Mr. WALKER] for raising this issue, and all the others that have participated in this debate to turn this amendment into a very workable policy which we all can join hands on.

Mr. TAUKE. Madam Chairman, will the gentleman yield?

Mr. JEFFORDS. Madam Chairman, I yield to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Madam Chairman, I thank the gentleman from Vermont for yielding. I would just like to urge Members to temper their remarks a little bit about this amendment. It seems to me the gentleman from Pennsylvania [Mr. WALKER] has been anything but some of the things described by the gentleman from New York [Mr. SCHUMER]. His motivation in my judgment has been quite pure. He has struggled mightily with this issue and has gone through several drafts of the amendment trying to come up with a good draft. I think, as the Members on the other side of the aisle have discovered as they attempted to draft an amendment, that it is very difficult to do in this area. I might just observe that one of the reasons why this side of the aisle is supporting the Kildee amendment is because of the drafting problems within the other amendment that was being offered by the gentleman from Louisiana [Mr. HAYES] and others on the other side of the aisle. That amendment among other things would have permitted very substantial use of drugs in the workplace. It said the only trigger for any cutoff of Federal funds was substantial use of drugs, which was an inadvertent, I presume inadvertent, endorsement of minimal use of drugs in the workplace or something less than substantial. I do not think that the people from the other side of the aisle really wanted to say that a little use of drugs in the workplace is OK, but it is indicative of some of the drafting problems that arise.

So before throwing a lot of stones at the gentleman from Pennsylvania [Mr. WALKER], because maybe he did not have a perfectly drafted amendment, I think we should recognize that the motivation was pure, and it is very difficult to draft language in this area. That is why the gentleman from Michigan [Mr. KILDEE] opted for the simpler rather than the more complex form, and why many of us did, too.

I suggest that we all calm down a little bit, recognize that everybody is well motivated, and that the gentleman from Pennsylvania [Mr. WALKER] has done us a favor by bringing the issue forward and I think something good is coming out of it.

Mr. HUNTER. Madam Chairman, will the gentleman from Vermont yield?

Mr. JEFFORDS. Madam Chairman, I yield to the gentleman from California.

Mr. HUNTER. Madam Chairman, I thank the gentleman for yielding. I want to echo the sentiments of my colleague from Iowa [Mr. TAUKE]. The realization that swept this Chamber is that we can use a workplace to eradicate the use of narcotics. We do that by motivating the people who have a financial interest in contracts and grants, and that is the private employer. That is the employer, the foreman, the bosses, the supervisors and the managers. We motivate them to control employees, and oversee the workplace, and that is done by putting this type of language in the bill. What I liked about the Kildee amendment is, as was explained by the author of the bill, it essentially does the same thing as the Walker amendment provisions. It does the same thing with laws that are already in place that say that the grantee has to observe all the provisions of the contract he has made with the Federal Government and that now will include a policy against the use of narcotics in the workplace. So the gentleman from New York [Mr. SCHUMER] went off on a tangent about how terrible the Walker amendment was. The Kildee amendment essentially does the same thing. It deprives a grantee of his contract and his financial remuneration if he fails to keep a drug-free workplace. Theoretically he is going to have some time and be given leeway in establishing that policy but the end result is the same. Either they have a drug-free workplace or they are not allowed to have this particular grant and financial remuneration that accompanies it.

Let me say that some really crazy ideas have circulated around Capitol Hill recently. We have talked about shooting down airplanes that were loaded with narcotics, and we talked about legalizing narcotics. The gentleman from Pennsylvania [Mr. WALKER] comes up now with a very moderate and temperate approach that says we are the financial Government, we cut checks to these people, so let us have a drug-free workplace and use that leverage that we have with grantees to establish that policy.

Madam Chairman, I agree completely with the gentleman from Iowa [Mr. TAUKE] that this is a most moderate of proposals and now the train is moving and everybody is getting aboard and that is good. Let me commend the gentleman from Pennsylvania [Mr. WALKER] for having started this train, and the Walker amendments are going to be offered to a number of bills. I think it is one of the best things this Congress has done.

Mr. WALKER. Madam Chairman, will the gentleman from Vermont yield?

Mr. JEFFORDS. Madam Chairman, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Madam Chairman, I thank the gentleman for yielding, and I thank everybody for their nice words. I want to clarify that the fact is that what we are adopting here is language which broadens and yet implements that which we have been approving on previous appropriation bills.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Madam Chairman, will the gentleman yield further?

Mr. JEFFORDS. Madam Chairman, I continue to yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. In all honesty, I cannot see how someone could vote against the Walker amendment on the appropriations bills and vote for this approach because they both go exactly the same kind of direction. We do understand around here that we have rules that we operate under and I am always amused when the other side will talk about these terrible amendments that have to come about because of the kinds of rules that they have on appropriations bills, and they vote for the rules. We do not.

We do have to try to live with those rules. So the gentleman from New York [Mr. SCHUMER] gets himself out of sorts based upon rules that we all have to operate under.

Finally, let me say that nothing in what we are doing is a Draconian or simple approach. I have never once suggested there was anything simple about this approach. It is a very complicated approach when we are saying to all employers that get Federal contracts that we are going to hold them to a standard, but the fact is we have done it to eliminate racism in this country, which was one of the most intractable problems, discrimination and racism. We have used that approach to do that. If drugs are also a high priority item, and many people suggest they are the highest priority item, it seems to me that approach that has worked in other areas can work here. It will not be simple. It will not be easy. There is nothing easy at all about trying to implement this but we do start by endorsing this concept. The Kildee amendment, it seems to me, helped us endorse the concept. It was far better than as the gentleman from Iowa [Mr. TAUKE] has pointed out before, the other amendment that would have been offered by the other side that did permit substantial use of drugs in the workplace. I thought that would send the wrong signal out there if we approved an amendment of that type. I am very pleased that we have another alternative and I look forward to helping the committee implement it.

Mr. JEFFORDS. Madam Chairman, reclaiming my time, I want to express my support to the gentleman from Michigan [Mr. KILDEE], and urge support of the Kildee amendment.

Mr. DURBIN. Madam Chairman, will the gentleman yield?

Mr. JEFFORDS. Madam Chairman, I yield to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Madam Chairman, I have been listening to this debate on the floor and this gushing acknowledgment of parentage here.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. JEFFORDS] has again expired.

(By unanimous consent, Mr. JEFFORDS was allowed to proceed for 1 additional minute.)

Mr. DURBIN. Madam Chairman, will the gentleman from Vermont [Mr. JEFFORDS] yield further?

Mr. JEFFORDS. Madam Chairman, I yield further to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Madam Chairman, I could not restrain myself any longer to come forward and take some credit for this, also. This amendment appears to be a child who has so many proud parents that it cannot help but be a success in life, but I think the gentleman from Iowa [Mr. TAUKE] was correct earlier when he said that this amendment offered by the gentleman from Michigan [Mr. KILDEE] has been offered in the spirit of calmness and good motivation. I think it is important to note that the Kildee amendment strikes the Walker amendment in its entirety and, in fact, when it is all finished we will be dealing with the Kildee amendment, and I am sure the gentleman from Pennsylvania [Mr. WALKER] will take some pride in the fact that he has motivated us to move on this issue, but the fact is that the statute as it will read if finally enacted into law will be the language of the gentleman from Michigan [Mr. KILDEE]. I say three cheers for Mr. KILDEE. I was proud to vote against the Walker amendments to the appropriations bills. They were, in fact, very poorly written. They were half-baked suggestions in the name of fighting drugs in America. The American people deserve a lot more from Congress than that approach.

□ 1620

This amendment being offered by Mr. KILDEE is constructive. I think it shows that if we put in the time and effort we can come up with a work product we can be proud of.

Mr. JEFFORDS. Madam Chairman, I would like to say I supported the Walker amendment. I would like to say that I feel very happy about the situation right now, and let us hope we can progress toward a final resolution of this situation at this point.

Mr. VOLKMER. Madam Chairman, I move to strike the requisite number of words.

Mr. VOLKMER. Madam Chairman, I am here to express my consideration for all the Members who have worked on this issue, and I can well remember back I guess well over a month ago where the gentleman from Pennsylvania first brought up the issue in the Committee on Science, Space, and Technology, and it is the language that he at first proposed, I think, that was quite draconian and has been through a lot of changes as time went on.

As one who has worked with other Members of this House to try and develop practical language that would benefit the society of this country and try to eliminate drugs from the workplace, I would like to first ask the gentleman from Pennsylvania, and I know he has been instrumental in bringing this issue, the idea at least, to my attention and to the attention of most Members of this body, and I would like to ask him a question. The question pertains to the language of the Kildee amendment which I understand the gentleman from Pennsylvania is now accepting as a substitute for his own language. If that is the case, would the gentleman be willing to accept that same language on the authorization bills for NASA, for the National Bureau of Standards, for the National Science Foundation which we have worked on in the Committee on Science, Space, and Technology, and he has language there, and some of us, including the gentleman from New York, the gentleman from California, and the gentleman from Louisiana and I have been working on alternative language trying to work something out that would be a little bit more broad to try and work out this, as the gentleman says, complex problem, because it is a complex problem.

I am concerned about what is going down the road. We are going to look at other authorization bills this whole year. Are we now going to come up and debate language on different bills?

I yield to the gentleman from Pennsylvania.

Mr. WALKER. Let me say to the gentleman that the reason the Kildee approach is acceptable here today is because the gentleman represented, has represented to me, and I am quite sure accurately, that the Justice Department already has in place under this particular act procedures for withholding funds based upon this kind of language. There is already a mechanism to do that which I am trying to accomplish, and I am not sure NASA has that kind of a procedure. If in fact we do have a process by which that can be done under the administrative procedures that exist there, this language might be acceptable. But I am not going to tell the gentleman off the top of my head that this is acceptable, because the bottom line is you have to have a mechanism in place to withhold moneys for noncompliance in order to make it acceptable to this gentleman. You have to have leverage that the contractors will respect, or you end up with merely a statement of policy that has no teeth.

Mr. VOLKMER. The language of the amendment can authorize——

Mr. WALKER. No.

Mr. VOLKMER. I mean, you can write that language in there to authorize them to do that.

Mr. WALKER. I would say to the gentleman that there is language in the bill now that says no funds may be expended, so the fact is that that is the mechanism, and in all honesty, some of the people on the gentleman's side of the aisle are not very happy about the idea of actually cutting off of money.

Mr. VOLKMER. I am talking about authorization bills. I am not talking about appropriation bills.

The other thing that concerned me is that by doing what we are actually doing here not only on this bill but what we have done on the appropriation bills and basically what we are doing piecemeal on each authorization bill is that we are going to eventually, if we pass this legislation and others like it, have maybe 10 percent of the total programs of the Congress covered, maybe 15, maybe 20 percent. Would it not be much better if we developed a Governmentwide legislation that pertains to all Government contracts and all Government grants that is uniform in its application?

Mr. WALKER. Yes. That is fine.

Mr. VOLKMER. Do you agree with that, gentlemen?

Mr. WALKER. Sure. I think that would be fine. I do not have a problem with that. In fact, I have introduced a general bill as well, but I would say to the gentleman——

Mr. VOLKMER. Do not go talking about that, because I know that you do not really like that bill.

Mr. WALKER. But I would say to the gentleman that there is also the way of covering 100 percent of the Federal programs, and that is by doing on the appropriation bills what this gentleman has been doing. One reason for offering language to the appropriation bills was to assure that there would be coverage of virtually all Federal programs, because there would be language that then would have to be fleshed out by the agencies themselves, and that is what this gentleman has been doing. I think we are going to get 100-percent coverage that way.

Mr. VOLKMER. The gentleman recognizes, I am sure, and most Members here, even though I voted for that language——

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent Mr. VOLKMER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. For the reason that something is better than nothing, I think the gentleman will recognize that the language in the appropriation bills by itself is not sufficient really to flesh out the total program that needs to be fleshed out.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman.

Mr. WALKER. Madam Chairman, the gentleman is right, but this gentleman has never presented a statement which says that it was the full program fleshed out. What this gentleman has always said is it was conceptual, that it amounted to a funds cutoff where one did not have drug-free workplaces but understood that there had to be put in place a policy. I have introduced a policy concept as to how that could be done so that agencies would have some guidelines. This gentleman recognizes the fully, but if one wants to get 100-percent coverage, the way we get 100-percent coverage is to have a concept embraced by all the appropriation bills.

Mr. VOLKMER. But what we are going to end up with now, as yet, is different language on different authorization bills, and we are not going to have a uniform application.

Mr. WALKER. There are different programs around here for nutrition for the elderly, for example, and each one of them has a little something which is a little bit different. That is no problem.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman.

Mr. JEFFORDS. By the end of this month I believe both sides of the aisle are attempting to come up with a bill to deal with the drug issue in its entirety. The gentleman has my commitment, and I am sure he has the commitment of Mr. KILDEE and others on the other side that we would like to see a uniform policy worked out, especially in these kinds of programs, and that the gentleman certainly has my commitment—and I commend both the gentleman and the gentleman from Pennsylvania again—so that we can work together to find a common solution to all of these so that we do not have a whole bunch of different solutions to the various problems. I think the gentleman has a good point, and I would hope by the end of this month we can work out a rational solution to all of these similar problems.

Mr. HAYES of Louisiana. Madam Chairman, I move to strike the last word.

Complex issues do not have sides, they have facets. What we have observed this afternoon is that when we have people who engage in a meaningful discussion, we have not so much confrontation as we get to see the opportunity for different approaches.

Over a month ago when the gentleman from Pennsylvania offered language at the Committee on Science, Space, and Technology and the subcommittee level, my disagreement was not with him from the other side but from the perspective of recognizing some problems with the language and offering the view that engaged those additional facets. What we have seen this afternoon is a House of Representatives that is in concert in understanding that the intent to stop drugs in the workplace is one which we can all embrace.

What we have got to get is not tough but smart. Our opponents are much tougher than we will ever be, using methods we cannot legally use. Due process does not mean a great deal in small side-streets in Miami. It does, however, provide the cornerstone for the Constitution of the United States, and it is the tool by which this body, if it is smart enough, can react and outman those who are street smart and who are tougher.

What can we do? We can do the right thing as those who send you to Congress by voting always tell you, that when you get here, do the right thing. The right thing is to take the legislation and to do those things which you have knowledge of, and to add to that information from Government Operations, with people who understand Executive orders with which you might not be familiar, you join with the Committee on the Judiciary with those who understand some of the recent Supreme Court decisions on due process with which you may not be familiar, and with those who are familiar with administrative law procedures, and you work toward a final product that can be embraced as the intent and the will of the Congress, and all of that takes a great deal of time and dedication.

What has occurred this afternoon is that Mr. KILDEE has synthesized that intent into a single paragraph which we can support, and what is left for us to do in the upcoming weeks is to put in the procedures by which we can conform it to the Constitution, preserving the rights of the individual, and which by being smart, we take dead aim at those who would distribute drugs, those who would use them is the workplace and provide both a forum and an opportunity to do as we said—the right thing.

□ 1630

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. KILDEE], as modified, to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment, as modified, to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER], as amended.

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. JEFFORDS. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 382, noes 0, not voting 49, as follows:

[Roll No. 160]

AYES—382

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Flippo
Florio
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stratton
Studds
Stump
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NOT VOTING—49

Badham
Berman
Biaggi
Bosco
Boulter
Buechner
Bustamante
Cheney
Coelho
Crockett
Duncan
Feighan
Foglietta
Foley
Frenzel
Gallo
Garcia
Gray (IL)
Hansen
Inhofe
Jones (TN)
Kemp
Konnyu
Latta
Lent
Lewis (CA)
Mack
MacKay
Markey
Martin (IL)
McGrath
Mica
Moody
Mrazek
Ortiz
Pursell
Rangel
Ray
Roberts
Rose
Spence
Stokes
Sundquist
Taylor
Udall
Vento
Weiss
Wilson
Young (AK)

□ 1649

Mr. SWIFT changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the title, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 1801) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1989 through 1992, pursuant to House Resolution 442, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. MURTHA). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KILDEE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 377, noes 5, not voting 49, as follows:

[Roll No. 161]

AYES—377

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Flippo
Florio
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Manton
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stratton
Studds
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NOES—5

Armey
Crane
Dannemeyer
DeLay
Stump

NOT VOTING—49

Anderson
Badham
Berman
Biaggi
Boulter
Buechner
Bustamante
Cheney
Coelho
Crockett
Duncan
Feighan
Foglietta
Foley
Frenzel
Gallo
Garcia
Gephardt
Gray (IL)
Hansen
Inhofe
Jones (TN)
Kemp
Konnyu
Latta
Lent
Lewis (CA)
Mack
MacKay
Markey
Martin (IL)
McGrath
Mica
Moody
Ortiz
Pursell
Rangel
Ray
Roberts
Rose
Spence
Stokes
Sundquist
Taylor
Udall
Vento
Weiss
Wilson
Young (AK)

□ 1707

The Clerk announced the following pair:

On this vote:

Mrs. Martin of Illinois for, with Mr. Frenzel against.

Mr. BONKER changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 1801, JUVENILE JUSTICE AND DELINQUENCY PREVENTION AMENDMENTS OF 1988

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1801, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 1801.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1801, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2470, MEDICARE CATASTROPHIC PROTECTION ACT OF 1987, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-663) on the resolution (H. Res. 463) waiving certain points of order against the conference report on the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AT LUBBOCK, TX

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1652) to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, TX, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AND PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 1431(a) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99-198; 99 Stat. 1556), there are authorized to be appropriated such sums as may be necessary for the planning, construction, and acquisition by the Secretary of Agriculture acting through the Agricultural Research Service, of buildings and equipment to establish at Lubbock, Texas, a laboratory and program for plant stress and water conservation research.

(b) AVAILABILITY OF FUNDS.—Funds appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 2. COLLEGE-AID ANNUAL APPROPRIATION.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) is amended to read as follows:

"SEC. 5. There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands or its successor governments the amount they would be entitled to receive under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 1."

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on October 1, 1987.

Mr. DE LA GARZA. Mr. Speaker, I urge the Members of the House to support passage of S. 1652. This bill is nearly identical to H.R. 2663, a bill which my colleagues from Texas, Messrs. COMBEST and STENHOLM, and I introduced nearly a year ago.

H.R. 2663, which passed the House, and S. 1652, would authorize the establishment of a plant stress and water conservation laboratory in Lubbock, TX, to further much needed research on the effects of drought and other environmental stresses on agricultural production. The Senate has made only minor, technical changes in the House-passed bill. Given the extended period of drought that is now affecting our State, the laboratory and research program authorized by S. 1652 is extremely timely.

In addition to authorizing the establishment of the plant stress lab, S. 1652 includes an amendment to the Morrill Act which ensures that an existing program of research affecting the Pacific and Carribean insular areas continue to be funded. We have no objections to this amendment, which was added to the Senate bill at the request of Senators JOHNSTON and MCCLURE.

Mr. Speaker, this bill has been cleared with our minority counterparts on the committee. I move its immediate adoption.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of S. 1652, a bill to authorize the construction of a new Department of Agriculture [USDA] plant stress and water conservation research laboratory at Texas Tech University in Lubbock, TX. Such a research facility is urgently needed to house the existing cooperative research program in plant stress and water conservation, currently fragmented between laboratories on the Texas Tech campus and temporary buildings owned by the U.S. Department of Agriculture and located 10, miles from the campus. This research program seeks to achieve genetic crop improvement for environmental extremes such as drought and high temperature, and is pursuing an understanding of cropping systems that conserve water and prevent further depletion of nonrenewable underground water supplies such as the Ogallala Aquifer.

Recognizing that all interested parties directly associated with the legislation have followed the proper legislative process, I believe that the intent of section 1431(a) of the Food Security Act of 1985 has been carefully adhered to. In addition, I would quickly point out that this is not a research program which was put together overnight. In fact, planning for a plant stress and water conservation research laboratory was initiated as a result of a 1959 Senate report, Senate document 59. Furthermore, discussions continued between Members of Congress and administrators of USDA that resulted in an appropriation of $100,000 in fiscal 1977 for a feasibility study by a blue ribbon committee of distinguished scientists appointed by the Department of Agriculture. This committee visited many sites including Lubbock, and concluded in the feasibility report to Congress that Lubbock would be the most ideal location for such a facility.

The architectural plans for this facility have already been funded and completed, a long-term land lease involving both Texas Tech and USDA has been negotiated. Moreover, this program, with excellent State and USDA research personnel has maintained a plausible momentum over the last 10 years. The actual construction of such a facility is in keeping with the thrust of cost-sharing and will enjoy a significant university investment.

Therefore, Mr. Speaker, the time has come to appropriate the moneys required to construct the plant stress and water conservation research laboratory at Lubbock, TX.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RESIGNATION FROM COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore laid before the House the following resignation from the Committee on Standards of Official Conduct:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 2, 1988.

Hon. JIM WRIGHT,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: Confirming my letter to the Minority Leader, the Honorable Bob Michel, a copy of which is attached, I submit today my resignation as a member of the House Committee on Standards of Official Conduct.

With best wishes, I am,

Sincerely,

FLOYD D. SPENCE,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

CANCER IN McFARLAND

(Mr. DYMALLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DYMALLY. Mr. Speaker, the Reverend Jesse Jackson has once more brought to our attention a serious problem in the farm community of McFarland, in the Central Valley of California. So far 8 children have died of cancer, and 22 more are suffering from this dreadful disease.

There are those who believe this situation may have been caused by pesticides in the water.

Mr. Speaker, this matter calls for a congressional investigation, and I call on the appropriate committee to begin a study of this issue.

At this point in the RECORD I include the following:

House of Representatives,
Washington, DC, June 1, 1988.

Hon. Henry A. Waxman,
Chairman, Subcommittee on Health and the Environment, Committee on Energy and Commerce, Washington, DC.

Dear Mr. Chairman: Your attention is brought to the attached news article which appeared in the Los Angeles Times, Saturday, May 28, 1988.

The article deals with the unusually high incidence of cancer among children in McFarland, California.

I wish to highly recommend that your subcommittee conduct an investigation of this very serious problem.

Thanks in anticipation for your favorable response.

With very best wishes.

Sincerely,

Mervyn M. Dymally,
Member of Congress.

Jackson To Put Campaign Focus on Cancer Cluster Town

(By Ron Harris)

McFarland, Calif.—In this farming community 20 miles from Bakersfield, parents try hard to keep their children from drinking the water. They think it carries death.

So far, eight McFarland children have died of cancer and 22 others have been diagnosed with several different kinds of cancer, with most of the cases occurring within a few blocks of each other in a mostly Latino neighborhood. Neighborhood residents, mostly farm workers whose homes are built on what were once cotton fields, believe the so-called cancer cluster is caused by pesticides in the water.

The Rev. Jesse Jackson apparently believes so too. Although he is in the midst of his campaign for California's June 7 presidential primary, Jackson has decided to devote an unusual amount of time on this one town of 6,200 residents. In effect, he is making it the focus of his campaign in an effort to draw attention to McFarland and to three other communities that have reported cancer clusters—nearby Delano, Rosamond in Kern County and Fowler in Fresno County.

PLANS FOR MARCH

Jackson, who spent the night here Wednesday talking with parents of victims and elected officials about the problem, is planning a march through the city next Saturday. He is trying to enlist the support of elected officials, environmentalists and celebrities to highlight the problem, which has plagued McFarland since 1982.

During Jackson's overnight stay here with Ernesto and Tina Bravo, whose child died from cancer, residents complained that local and state officials have abandoned them. They said they have complained about the water and how their children are getting sick and dying, but have received little responses. Health officials have said that the cancer rate for children in McFarland is five times the normal level, but they do not know the cause.

In many ways, Jackson said, McFarland is a metaphor for his campaign, and that is why he has chosen to make it a rallying point.

"You have the combination of a number of issues all in what appears to be one issue," he said in an interview Thursday aboard his plane. "One, you have the question of the environment. People in New York and Washington, D.C., are eating the food that comes from these fields while the people who pick the food are dying. . . . Everybody who eats must be concerned about cancer clusters from the food basket.

"Then there is a question of fair representation. While a third of the population of McFarland is Hispanic, there is only one Hispanic elected official. That's very suggestive. Only 7% of the Hispanic population is registered to vote. That suggests that they have been disenfranchised to the point of being discouraged. . . . These are people who have been abandoned."

The pesticide DBCP (dibromochloropropane), which laboratory tests have linked to cancer, has been found in well water in McFarland. A soil fumigant, DBCP was banned from agricultural use a decade ago, but it remains for long periods in the soil and has been detected in more than 2,000 wells throughout California.

While health officials have said they do not believe that is the problem, McFarland residents contend that the fumigants have been seeping into wells and are affecting their children.

"Nobody drinks the water," said Lucy Nadal, a tutor at a school in McFarland. "Not if you can help it. We're all afraid. We're afraid for our children. Our children are afraid."

Nadal's daughter, 12, was best friends with Mario Bravo, 14, who died Thanksgiving Day of cancer.

"He was there, and then one day he was gone," she said. "I'm scared that it might happen to me."

Dan Shepherd, 40, of Fowler, stood nearby, his blond 8-year-old daughter, Jennifer, hugging her father's leg. She and four other children in the town of 2,000 were diagnosed with leukemia in another "cluster." Her case is in remission, her father said; the other four children have died.

Jackson is suggesting, as have some McFarland officials, that a health clinic be built in the community and that a congressional investigation be made.

"One of the problems now is that every time a child has any kind of ache, the parents are worried that it might be cancerous," he said. "If they dismiss it as non-cancerous, there's a chance that they may miss out on early detection. But if they go to the doctor for every pain and ache, it's too expensive."

Jackson's emphasis on McFarland is a questionable strategy. He trails far behind Massachusetts Gov. Michael S. Dukakis in statewide polls and has recently been making fewer campaign stops and drawing smaller crowds.

"You can't separate your strategy from your principal commitment to serve people," he said. "If the campaign comes and goes, and you only get votes for the candidate without getting help for the people, that's a worthless campaign. . . .

"For me, it's the politics of moral principle. The other extreme is to go all over the state and make footprints but not make penetration. We want to make a difference."

PROPERTY TAXES AND THE VICE PRESIDENT

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. FLORIO. Mr. Speaker, there is probably no subject that gets the attention of voters and officeholders more than taxes. The mere mention of the word can quiet a room, as people listen intently to hear how much they are going to have to pay.

In my State, New Jersey, if you put the word "property" in front of taxes you get more than attention. You are thrust into a serious debate about how best to pay for necessities of life, such as education.

That is why those of us from New Jersey were distressed this morning to pick up a newspaper and see that the Vice President of the United States is talking about increasing our property taxes. In an article by the Associated Press, the Vice President, in rejecting any call for a Federal income tax increase, acknowledged that local school taxing authorities might have to increase their levies to pay for some of the programs he would want as President.

In New Jersey we have some important decisions to make about sharing the burden so that we can grow and prosper together, not as a State of haves and have-nots. So it is distressing to hear that one candidate for President appears to be looking for more ways to make our tax system less fair and reasonable—instead of helping us do what is right.

Bush Says He'd Reject Call for Any Federal Tax Increase

(By Tom Raum)

Kennebunkport, ME.—Vice President Bush said yesterday that he would reject any call for a federal tax increase, even if one came from a bipartisan federal commission of experts working on ways to trim the huge federal deficit.

However, he also said that higher local school taxes might be needed to carry out his education policies.

Bush, who has already accumulated enough delegates to win the Republican presidential nomination, met with a group of private economic advisers, then spoke with reporters in a meeting hall in this oceanside town where he has a vacation home.

The group included Harvard economist Martin S. Feldstein, a former chairman of President Reagan's Council of Economic Advisers, and Stanford economist Micheal J. Boskin. They are among the economic advisers that Bush most frequently consults.

Feldstein quit his White House post after his advocacy of tax increases to reduce the federal deficit ran afoul of the Reagan administrations' no-new-taxes policy.

In response to a reporters' question, Bush said he would reject the notion of a tax increase even if it were part of the recommendations of the commission formed earlier this year to find ways to trim the defict. The panel, which includes administration appointees as well as members appointed by Democratic and Republican congressional leaders, is scheduled to present its findings next year.

"It seems to me that commission might well come up with a tax increase," Bush said. "And I'll be saying, wait a minute, I've taken my case to the American people to hold the line on taxes.

"I would be interested in their views, but not persuaded" if a tax increase was included, Bush said.

However, the vice president, who has told audiences he wants to be the "education president" and has stressed educational issues in this campaign, was asked if local school taxing authorities might have to increase taxes to carry out some of the still-unspecified programs he envisions.

"They may have to," Bush said. "Ninety-three percent of the money for education comes from sources other than the federal government. If its' taxes, that's where it has to be. It isn't going to be at the federal level, absolutely."

On another economic subject, Bush cautioned the Federal Reserve Board against tightening credit too much saying, "I don't want to see action taken that's going to shut down economic growth."

Declaring that he had full confidence in Federal Reserve Chairman Alan Greenspan, Bush said he nevertheless wanted to voice "a word of caution."

The Federal Reserve in recent weeks has been slightly tightening credit in the hope that nudging interest rates upward will keep inflation in check.

Bush said of Fed policymakers, "I think they are putting a great emphasis on inflation. Whether its' too much, I don't know. . . . Its' a tough balancing thing."

Bush had said over the weekend that his campaign was running low on cash and that it might have to curtail some travel plans after the June 7 California primary.

He has raised the maximum allowed by law for pre-convention spending. Aide Robert Teeter said yesterday that, of the $29.5 million raised so far, including $7 million in federal matching funds, less than $1.5 million was left.

THE ALBANY ACADEMY, 175 YEARS OLD

The SPEAKER pro tempore (Mr. MURTHA). Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, I rise today to bring to the attention of my colleagues in Congress the 175th anniversary of one of the finest private academies for boys in New York State, the Albany Academy.

The Albany Academy for boys was granted a charter by Albany Mayor Stephan Van Rensselaer and the Albany City Council on March 4, 1813. During the past 175 years, the academy has developed a strong reputation for graduating exemplary young men who have gone on to establish themselves among our Nation's leaders in business, government, arts, sciences, and humanities.

Among the academy's most noted graduates are: William Rose Benet, winner of the 1942 Pulitzer Prize for Poetry for his autobiographical narrative, "The Dust Which is God"; Joseph Henry, whose work in sciences pioneered the field of electromagnetism and who later became the first Secretary and Director of the Smithsonian Institute in Washington; Herman Melville, author of the literary classic, "Moby Dick"; Judge Learned Hand, a strong defender of free speech who gained the reputation as the "10th judge," for his many decisions and pronouncements, although he never served on the Supreme Court.

Many changes in the Albany Academy have come about since its inception. But the commitment to preparing young men for future leadership remains paramount. The constants at the Albany Academy remain clear and unswerving: sound academic achievement, solid athletic involvement, and strong military discipline.

It is with great pride that I congratulate the Albany Academy on its 175 years of successes and encourages the gentlemen pursuing their studies within the building adorned by the symbolic Fish and Pumpkin to carry on in the spirit of their predecessors who shaped the Albany Academy into the outstanding institution it is today.

DRUG-FREE WORKPLACES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, today I am introducing legislation to require Federal contractors and grantees to take affirmative action to maintain drug-free workplaces.

Under this bill, Government grants and contracts will be terminated, and contractors and grantees suspended and debarred from future business if they do not act to create and maintain a drug-free environment at their worksites. These are tough sanctions, but fairly applied through an existing system of procedures which complies with due process required under our system of law. This bill is a strong, coherent, workable measure that will add a new weapon in the Federal Government's war on drugs.

Under the terms of the legislation, Federal contractors or grantees can be sanctioned by the termination of their contract or grant and their suspension and debarment from future Federal business if they fail any of five specific requirements.

First, they must certify that they have published a statement of policy prohibiting the unlawful manufacture, distribution, dispensation, or possession of a controlled substance while in the workplace.

They must assure that all employees engaged in the performance of the Federal grant or contract have certified that they understand and will abide by that policy and will notify the employer if they are convicted of a criminal drug offense occurring at the workplace.

The contractor or grantee must notify the Government of any such conviction.

The contractor or grantee must fire that employee or provide him or her with drug rehabilitation through an approved program.

Finally, the contractors or grantees may have their contract or grant terminated and they may be suspended and debarred from future Government business if such a substantial number of employees have been convicted of drug statute violations occurring in the workplace that it is clear they are failing to provide a drug-free workplace.

Failure to meet any of these requirements triggers the existing rules and procedures that govern contract and grant matters. Termination of contracts and the suspension and debarment of contractors will be handled through the boards of contract appeals at the various agencies.

Judicial review is maintained in the Federal circuit. The suspension and debarment of grantees is handled under existing law. These procedures provide the necessary due process that must accompany the Government's imposition of such severe sanctions. They will assure that Government contractors and grantees are treated openly and fairly.

In this climate of "stop drugs at any cost," the presumption of innocence doctrine, which is the hallmark of our democracy, seems to have been forgotten. We must not let this happen. My legislation provides tough sanctions, while protecting the rights of Government contractors and grantees and the tens of thousands of employees who work for them.

□ 1710

MANDATORY DRUG AND ALCOHOL TESTING

The SPEAKER pro tempore (Mrs. SCHROEDER). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, today, I enter into special orders to discuss the importance of ensuring that Congress support legislation to mandate drug and alcohol testing of all persons involved in safety sensitive positions in the aviation, rail and motor carrier industries.

H.R. 3051, the Airline Passenger Protection Act has passed both bodies and is awaiting action by conferees. The other body has overwhelmingly approved provisions amended to this airline bill that provide testing for the illegal use of drugs or alcohol by operators of aircraft, railroads, and commercial motor vehicles. This language would require five types of testing, including random, preemployment, post-accident, periodic recurring and upon reasonable suspicion.

Congress has voted in favor of this method of freeing our modes of public transportation of accidents resulting from impaired operators and crew members under the influence of drug or alcohol. However, we now need favorable action by the conferees to the Airline Protection Conference to retain important and necessary language. We are experiencing a prolonged delay for conferees to meet and agree on this important drug free language. To date the conferees have failed to meet.

Any further delay only places the traveling public at greater risk of being involved in a transportation-related accident as a result of the Government's failure to require mandatory drug and alcohol testing of our transportation operators. It has been made clear through the media that the American people consider fighting the war on drugs as one of the most important objectives facing this

Nation. The conferees can help carry out this objective through their commitment to meet and agree on mandatory drug and alcohol testing.

My home congressional district in the Second District of Maryland where just over a year ago, we experienced one of the worst railroad accidents in American history. The Amtrak/Conrail collision resulted in the death of 16 innocent passengers, the injury of nearly 200 and $14 to $15 million in damages. This tragic accident could have very well been avoided if there had been mandatory drug and alcohol testing required of rail operators and crew members.

It has been determined by the National Transportation Safety Board that the probable cause of the Amtrak/Conrail accident was the result of impairment from marijuana smoked by the engineer and another crew member of the Conrail engine. Because of his drug impairment the engineer failed to stop his train in compliance with a home signal. The Conrail engine was hit by the passenger Amtrak train because Conrail was on the wrong track.

A grand jury for the district of Maryland issued a four-count indictment to the Conrail engineer who was involved in the collision at Chase, MD, with the Amtrak train. The indictment alleged that the defendant falsely stated that he had not consumed any drugs on the day of the incident when, in fact, he had shared a marijuana cigarette with the brakeman while operating the engine.

This sort of situation is preventable with the enforcement of mandatory testing of substance abuse by transportation safety employees. However, we need the support of the Congress to ensure that we have laws to protect the safe travel on public transportation. When government fails to support laws designed to free the traveling public from physical harm it is neglecting to perform its duty and allowing illegal activity to go undetected. This places a great number of innocent people at risk of personal injury and loss of life.

Whenever individuals board an airplane, train, or motor carrier, they put their lives into the hands of those who have been entrusted to get them safely to their place of destination. This trust relies upon the vigilance of trained employees to remain alert at all times. The potential for catastrophic disaster created by those who abuse alcohol and illegal drugs while working in safety sensitive transportation positions mandates that every effort be made to eliminate the cause of threat.

There have been incidents of illegal drug use by employees of the aviation and motor carrier industries. A 1986 study by the Insurance Institute for Highway Safety showed that of a random sample of 300 truck drivers, some 18 percent tested positive for the presence of controlled substances or alcohol. The Federal Aviation Administration [FAA] has also reported that a number of FAA air traffic controllers have been found within the last year to have been using marijuana and cocaine.

A significant number of transportation employees in safety sensitive positions work with little, if any, direct supervision. Therefore, a strong deterrent, such as the threat of being detected and sanctioned for drug and alcohol use, is particularly needed.

Because of potential dangers involved in allowing persons employed in transportation safety, it is imperative that we have laws to prevent tragic accidents from occurring.

Enactment of mandatory drug and alcohol testing has the potential of saving countless lives from an early and unexpected death or serious personal injury. It is clear that mandatory provisions serves the interests of the greater public to free society of the ills attributed to substance abuse.

Drug and alcohol substance abuse contributes to countless problems which plague our society. These problems range from all forms of violent crime, fatal and costly accidents, family separations, threats to our national security, poorer worker performance which weakens our national competitiveness and many other serious and often irreversible side-effects.

It is imperative that drug testing language included in the Airline Protection Act be retained and approved by Congress for consideration by the White House. Enactment of this necessary legislation will serve as a deterrent to illegal use of drugs and alcohol. As a result of this legislation, the public will travel under more safe conditions and we will become more effective in the fight against illegal drugs in our society.

□ 1720

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MacKay] is recognized for 60 minutes.

Mr. MacKAY. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted for the conference report on H.R. 1212, for the Walker amendment to H.R. 1801 and for final passage of H.R. 1801.

I appreciate having this opportunity to state my position on these measures.

CONFERENCE REPORT ON H.R. 2470

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-661)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the medicare program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Catastrophic Coverage Act of 1988".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

Subtitle A—Expansion of Medicare Part A Benefits

Sec. 101. Expanding scope of benefits under part A.

Sec. 102. Deductibles and coinsurance under part A.

Sec. 103. Part A premium for medicare buy-ins.

Sec. 104. Effective dates, transition, and conforming amendments.

Subtitle B—Supplemental Medicare Premium

Sec. 111. Imposition of supplemental medicare premium.

Sec. 112. Establishment of Federal Hospital Insurance Catastrophic Coverage Reserve Fund.

Sec. 113. Study of tax incentives for purchase of coverage for long-term care.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM AND TO MEDICARE SUPPLEMENTAL HEALTH INSURANCE

Subtitle A—Expansion of Medicare Part B Benefits

Sec. 201. Limitation on medicare part B cost-sharing.
Sec. 202. Coverage of catastrophic expenses for prescription drugs and insulin.
Sec. 203. Coverage of home intravenous drug therapy services.
Sec. 204. Coverage of screening mammography.
Sec. 205. In-home care for certain chronically dependent individuals.
Sec. 206. Extending home health services.
Sec. 207. Research on long-term care for medicare beneficiaries.
Sec. 208. Study of adult day care services.

Subtitle B—Medicare Part B Premium and Financing

Sec. 211. Adjustments in medicare part B premium.
Sec. 212. Establishment of Federal Catastrophic Drug Insurance Trust Fund; fund transfers.
Sec. 213. Creation of Medicare Catastrophic Coverage Account.

Subtitle C—Miscellaneous Provisions

Sec. 221. Changes in certification of medicare supplemental health insurance policies.
Sec. 222. Adjustment of contracts with prepaid health plans.
Sec. 223. Mailing of notice of medicare benefits and information describing participating physician program.
Sec. 224. Changes in civil money penalties for certain practices of health maintenance organizations and competitive medical plans.

TITLE III—PROVISIONS RELATING TO THE MEDICAID PROGRAM

Sec. 301. Requiring medicaid buy-in of premiums and cost-sharing for indigent medicare beneficiaries.
Sec. 302. Coverage and payment for pregnant women and infants with incomes below poverty line.
Sec. 303. Protection of income and resources of couple for maintenance of community spouse.

TITLE IV—UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE, OBRA TECHNICAL CORRECTIONS, AND MISCELLANEOUS PROVISIONS

Subtitle A—United States Bipartisan Commission on Comprehensive Health Care

Sec. 401. Establishment.
Sec. 402. Duties.
Sec. 403. Membership.
Sec. 404. Staff and consultants.
Sec. 405. Powers.
Sec. 406. Report.
Sec. 407. Termination.
Sec. 408. Authorization of appropriations.

Subtitle B—OBRA Technical Corrections

Sec. 411. Technical corrections to certain health care provisions in the Omnibus Budget Reconciliation Act of 1987.

Subtitle C—Miscellaneous Provisions

Sec. 421. Maintenance of efforts.
Sec. 422. Rate reduction for medicare eligible Federal employees.
Sec. 423. Study and reports by the Office of Personnel Management on offering medicare supplemental plans to Federal medicare eligible individuals, and other changes.
Sec. 424. Benefits counseling and assistance demonstration project for certain medicare and medicaid beneficiaries.
Sec. 425. Case management demonstration projects.
Sec. 426. Extensions of expiring provisions.
Sec. 427. Medicare home health care denial of benefits advisory committee.
Sec. 428. Prohibition of misuse of symbols, emblems, or names in reference to Social Security or Medicare.
Sec. 429. Demonstration projects with respect to chronic ventilator-dependent units in hospitals.

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

SUBTITLE A—EXPANSION OF MEDICARE PART A BENEFITS

SEC. 101. EXPANDING SCOPE OF BENEFITS UNDER PART A.

Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a), by striking paragraphs (1) through (4) and inserting the following:

"(1) inpatient hospital services;

"(2) extended care services for up to 150 days during any calendar year;

"(3) home health services; and

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to which the individual makes an election under subsection (d)(1).";

(2) by amending subsection (b) to read as follows:

"(b) Payment under this part for services furnished to an individual may not be made for—

"(1) extended care services furnished to the individual during a calendar year after such services have been furnished to the individual for 150 days during that year, or

"(2) inpatient psychiatric hospital services furnished to the individual after such services have been furnished to the individual for a total of 190 days during his lifetime.";

(3) by amending subsection (c) to read as follows:

"(c)(1) If an individual is an inpatient of a psychiatric hospital on the first day of medicare entitlement (as defined in paragraph (4)(A)) payment may not be made under this part during the period described in paragraph (2) for inpatient mental health services (as defined in paragraph (4)(B)) in excess of the number of days specified in paragraph (3).

"(2) The period described in this paragraph—

"(A) begins on the first day of medicare entitlement, and

"(B) ends at the end of the first period of 60 consecutive days thereafter on each of which the individual is not receiving inpatient mental health services.

"(3) The number of days specified in this paragraph for an individual is 150 days less the number of days (during the 150-day period immediately before the first day of medicare entitlement) during which the individual was an inpatient of a psychiatric hospital.

"(4) In this subsection:

"(A) The term 'first day of medicare entitlement' means, for an individual, the first day of the first month for which the individual is entitled to benefits under this part.

"(B) The term 'inpatient mental health services' means—

"(i) inpatient psychiatric hospital services, and

"(ii) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness.";

(4) in subsection (d)—

(A) in paragraph (1), by striking "and one subsequent period of 30 days" and inserting ", a subsequent period of 30 days, and a subsequent extension period", and

(B) in paragraph (2)(B), by inserting "or a subsequent extension period" after "30-day period";

(5) in subsection (e), by striking "post-hospital", and

(6) by striking subsections (f) and (g).

SEC. 102. DEDUCTIBLES AND COINSURANCE UNDER PART A.

Section 1813 (42 U.S.C. 1395e) is amended—

(1) by amending paragraphs (1) through (3) of subsection (a) to read as follows:

"(1)(A) Subject to subparagraph (C), the amount payable for inpatient hospital services furnished to an individual during the individual's first period of hospitalization to begin during a calendar year shall be reduced by a deduction equal to the inpatient hospital deductible for that year or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed.

"(B) For purposes of subparagraph (A), the term 'period of hospitalization' means, with respect to an individual, the period beginning on the first day the individual is furnished inpatient hospital services and ending on the individual's date of discharge (as established by the Secretary for purposes of section 1886) from the hospital (or, in the case of a transfer, hospitals) involved.

"(C) In the case of an individual with respect to whom—

"(i) a period of hospitalization begins during December of any calendar year,

"(ii) an inpatient hospital deductible is imposed with respect to such period of hospitalization, and

"(iii) a period of hospitalization begins during January of the following calendar year,

no inpatient hospital deductible shall be imposed with respect to a period of hospitalization beginning in January of such following year (but such period of hospitalization shall not be taken into account in determining the application of an inpatient hospital deductible for any period of hospitalization beginning for such individual after January 31 of such following year).

"(D) If the Secretary terminates a contract under section 1876 during a year, no inpatient hospital deductible shall be imposed during the remainder of the year in the case of an individual who can demonstrate to the satisfaction of the Secretary that, during a period of enrollment with the organization in the year, the individual was admitted to a hospital for inpatient hospital services for which the organization was obligated to make payment under such section.

"(2)(A) The amount payable to any provider of services under this part for services furnished an individual shall be further reduced by a deduction equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to the individual during each calendar year, except that such deductible for such blood shall in accordance with regulations be appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells, as so defined); and for such purposes blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual shall be deemed replaced when the institution or other person furnishing such blood (or such equivalent quantities of packed red blood cells, as so defined) is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is made under this sentence.

"(B) The deductible under subparagraph (A) for blood or blood cells furnished an individual in a year shall be reduced to the extent that a deductible has been imposed under section 1833(b) to blood or blood cells furnished the individual in the year.

"(3)(A) The amount payable for extended care services furnished an individual in any calendar year shall be reduced by the coinsurance amount (promulgated under subparagraph (C) for that year) for each day (before the 9th day) on which he is furnished such services during the year.

"(B) Before September 1 of each year (beginning with 1988), the Secretary shall estimate the national average per diem reasonable cost recognized under this title for extended care services which will be furnished in the succeeding calendar year.

"(C) The Secretary shall, in September of each year (beginning with 1988) promulgate the coinsurance amount which shall apply to extended care services furnished in the succeeding year. Such amount shall be equal to 20 percent of the national average per diem cost estimated under subparagraph (B) in that year. If the coinsurance amount determined under the preceding sentence is not a multiple of 50 cents, it shall be rounded to the nearest multiple of 50 cents (or, if it is a multiple of 25 cents but not a multiple of 50 cents, to the next higher multiple of 50 cents)."; and

(2) by striking paragraph (3) of subsection (b).

SEC. 103. PART A PREMIUM FOR MEDICARE BUY-INS.

Subsection (d) of section 1818 (42 U.S.C. 1395i(2)) is amended to read as follows:

"(d)(1) The Secretary shall, during September of each year (beginning with 1988), estimate the monthly actuarial rate for months in the succeeding year. Such actuarial rate shall be one-twelfth of the amount which the Secretary estimates (on an average, per capita basis) is equal to 100 percent of the benefits and administrative costs which will be payable from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in the succeeding year with respect to individuals age 65 and over who will be entitled to benefits under this part during that entire year.

"(2) The Secretary shall, during September of each year determine and promulgate the dollar amount which shall be applicable for premiums for months occurring in the following year. Such amount shall be equal to the monthly actuarial rate determined under paragraph (1) for that following year. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).

"(3) Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium under this section, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for individuals 65 and older as provided in paragraph (1).".

SEC. 104. EFFECTIVE DATES, TRANSITION, AND CONFORMING AMENDMENTS.

(a) Effective Date.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amendments made by this subtitle shall take effect on January 1, 1989, and shall apply—

(A) to the inpatient hospital deductible for 1989 and succeeding years,

(B) to care and services furnished on or after January 1, 1989,

(C) to premiums for January 1989 and succeeding months, and

(D) to blood or blood cells furnished on or after January 1, 1989.

(2) Elimination of post-hospital requirement for extended care services.—The amendments made by this subtitle, insofar as they eliminate the requirement (under section 1812(a)(2) of the Social Security Act) that extended care services are only covered under title XVIII of such Act if they are post-hospital extended care services, shall only apply to extended care services furnished pursuant to an admission to a skilled nursing facility occurring on or after January 1, 1989.

(b) Hold Harmless Provisions.—In the case of an individual for whom a spell of illness (as defined in section 1861(a) of the Social Security Act, as in effect on December 31, 1988) began before January 1, 1989, and had not yet ended as of such date—

(1) the amendment made to section 1813(a)(1) of such Act shall not apply to services furnished during that spell of illness during 1989 or 1990, and

(2) the amount of any deductible under section 1813(a)(2) of such Act (as amended by this subtitle) shall be reduced during that spell of illness during 1989 or 1990 to the extent the deductible under such section was applied during the spell of illness.

(c) Adjustments in Payments for Inpatient Hospital Services.—

(1) PPS hospitals.—In adjusting DRG prospective payment rates under section 1886(d) of the Social Security Act, outlier cutoff points under section 1886(d)(5)(A) of such Act, and weighting factors under section 1886(d)(4) of such Act for discharges occurring on or after October 1, 1988, the Secretary of Health and Human Services shall, to the extent appropriate, take into consideration the reductions in payments to hospitals by medicare beneficiaries resulting from the elimination of a day limitation on medicare inpatient hospital services (under the amendment made by section 101).

(2) PPS-exempt hospitals.—In adjusting target amounts under section 1886(b)(3) of the Social Security Act for cost reporting periods beginning on or after October 1, 1988, the Secretary shall, on a hospital-specific basis, take into consideration the reductions in payments to hospitals by medicare beneficiaries resulting from the elimination of a day limitation on medicare inpatient hospital services (under the amendment made by section 101).

(d) Miscellaneous Conforming Amendments.—

(1) Section 1811 (42 U.S.C. 1395c) is amended by striking "hospital, related post-hospital" and inserting "inpatient hospital services, extended care services".

(2) Section 1814 (42 U.S.C. 1395f) is amended—

(A) in paragraphs (2)(B) and (6) of subsection (a), by striking "post-hospital" each place it appears;

(B) in subsection (a)(2)(B), by striking ", for any of the conditions" and all that follows up to the semicolon;

(C) in subsection (a)(7)(A)—

(i) by striking "and" at the end of clause (i),

(ii) by striking the semicolon at the end of clause (ii) and inserting ", and", and

(iii) by adding at the end the following new clause:

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;"; and

(D) in subsection (d)(3)—

(i) by striking "60 percent" and "80 percent" and inserting "100 percent" both places, and

(ii) by striking "two-thirds of".

(3) Section 1832(b) (42 U.S.C. 1395k(b)) is amended by striking "'spell of illness'," and the comma before "and".

(4) Section 1861 (42 U.S.C. 1395x) is amended—

(A) by striking subsection (a);

(B) in subsection (e)—

(i) in the matter before paragraph (1), by striking "paragraph (7) of this subsection, and subsection (i) of this section" and inserting "and paragraph (7) of this subsection",

(ii) in the third sentence, by striking "section 1814(f)(2), and subsection (i) of this section" and inserting "and section 1814(f)(2)",

(iii) in the fifth sentence, by striking ", except for purposes of subsection (a)(2),", and

(iv) by striking the second sentence;

(C) by striking subsection (i);

(D) in subsections (v)(1)(G)(i), (v)(2)(A), and (v)(3), by striking "post-hospital" each place it appears; and

(E) in subsection (y)—

(i) by striking "Post-Hospital" in the heading and by striking "post-hospital" each place it appears;

(ii) in paragraph (1), by striking "(except for purposes of subsection (a)(2))", and

(iii) in paragraphs (2) and (3), by striking "spell of illness" and "spell" each place either appears and inserting "year",

(iv) in paragraph (2)(A)(i), by striking "30 days" and inserting "45 days",

(v) in paragraph (3), by striking "one-eighth" and all that follows through "31st day" and inserting "the coinsurance amount established under section 1813(a)(3)(C) for each day before the 46th day", and

(vi) by striking paragraph (4).

(5) Section 1866(d) (42 U.S.C. 1395cc(d)) is amended by striking "post-hospital" each place it appears.

(6) Subsections (d)(1) and (f) of section 1883 (42 U.S.C. 1395tt) are amended by striking "post-hospital" each place it appears.

SUBTITLE B—SUPPLEMENTAL MEDICARE PREMIUM

SEC. 111. IMPOSITION OF SUPPLEMENTAL MEDICARE PREMIUM.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SUPPLEMENTAL MEDICARE PREMIUM.

"Sec. 59B. Supplemental medicare premium.

"SEC. 59B. SUPPLEMENTAL MEDICARE PREMIUM.

"(a) IMPOSITION OF PREMIUM.—In the case of an individual to whom this section applies, there is hereby imposed (in addition to any other amount imposed by this subtitle) for each taxable year a supplemental premium equal to the annual premium for such year determined under subsection (c).

"(b) INDIVIDUALS SUBJECT TO PREMIUM.—This section shall apply to an individual for any taxable year if—

"(1) such individual is a medicare-eligible individual for more than 6 full months beginning in the taxable year, and

"(2) such individual's adjusted income tax liability for the taxable year equals or exceeds $150.

"(c) DETERMINATION OF AMOUNT OF SUPPLEMENTAL PREMIUM.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the annual premium determined under this subsection with respect to any individual for any taxable year shall be equal to the product of—

"(A) the supplemental premium rate determined under subsection (d) or (e) (whichever applies) for the taxable year, multiplied by

"(B) the amount determined by dividing—

"(i) the individual's adjusted income tax liability for the taxable year, by

"(ii) $150.

"(2) LIMITATION ON ANNUAL PREMIUM.—

"(A) YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the annual premium determined under this subsection with respect to any individual shall not exceed the limitation determined under the following table:

"In the case of taxable years beginning in:	The limitation is:
1989	$800
1990	850
1991	900
1992	950
1993	1,050.

"(B) YEARS AFTER 1993.—In the case of any taxable year beginning in a calendar year after 1993, the annual premium determined under this subsection with respect to any individual shall not exceed—

"(i) the limitation which would be in effect under this paragraph for taxable years beginning in the preceding calendar year without regard to the last sentence of this subparagraph, increased by

"(ii) the percentage (if any) by which—

"(I) the medicare-part B value for the 2nd preceding calendar year, exceeds

"(II) such value for the 3rd preceding calendar year.

If the limitation determined under the preceding sentence is not a multiple of $50, such limitation shall be rounded to the nearest multiple of $50.

"(C) MEDICARE-PART B VALUE.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'medicare-part B value' means, with respect to any calendar year, an amount equal to the excess of—

"(I) the average per capita part B outlays for the year, over

"(II) 12 times the monthly premium for months in such calendar year established under section 1839 of such Act (without regard to subsections (b), (f), (g)(4), and (g)(5) thereof).

"(ii) AVERAGE PER CAPITA PART B OUTLAYS.—For purposes of clause (i), the term 'average per capita part B outlays' means, with respect to a calendar year—

"(I) the outlays under part B of title XVIII of the Social Security Act for the year, divided by

"(II) the average number of individuals covered under such part during the year.

"(iii) SPECIAL RULE FOR COVERED OUTPATIENT DRUGS.—In applying the limitation under subparagraph (B) with respect to taxable years beginning in any calendar year before 1998, for purposes of this subparagraph—

"(I) the term 'outlays' does not include outlays for covered outpatient drugs (as defined in section 1861(t)(2) of the Social Security Act), and

"(II) the monthly premium shall be computed under clause (i)(II) excluding premiums under section 1839(g) of such Act attributable to the prescription drug monthly premium.

"(3) TABLES.—The annual premium shall be determined under tables which shall be prescribed by the Secretary. Such tables shall be based on the foregoing provisions of this subsection; except that such tables may have adjusted income tax liability brackets of less than $150.

"(d) DETERMINATION OF SUPPLEMENTAL PREMIUM RATE FOR YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the supplemental premium rate determined under this subsection shall be the sum of the catastrophic coverage premium rate and the prescription drug premium rate determined under the following table:

"In the case of any taxable year beginning in:	The catastrophic coverage premium rate is:	The prescription drug premium rate is:
1989	$22.50	0
1990	$27.14	$10.36
1991	$30.17	8.83
1992	$30.55	9.95
1993	$29.55	12.45.

"(e) SUPPLEMENTAL PREMIUM RATE FOR YEARS AFTER 1993.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1993, except as provided in paragraph (2), the supplemental premium rate determined under this subsection shall be the sum of—

"(A) the catastrophic coverage premium rate (which would be in effect under this section for taxable years beginning in the preceding calendar year if paragraph (2) did not apply to any preceding calendar year) adjusted by the percentage determined under paragraph (3) for the calendar year in which the taxable year begins, and

"(B) the prescription drug premium rate (which would be in effect under this section for taxable years beginning in the preceding calendar year if paragraph (2) did not apply to any preceding calendar year) adjusted by the percentage determined under paragraph (4) for the calendar year in which the taxable year begins.

"(2) SUPPLEMENTAL PREMIUM RATE CANNOT GO DOWN, AND CANNOT GO UP BY MORE THAN $1.50.—

"(A) IN GENERAL.—In no event shall the supplemental premium rate determined under this subsection for any taxable year beginning in a calendar year after 1993—

"(i) be less than, or

"(ii) exceed by more than $1.50,

the supplemental premium rate in effect under this section for taxable years beginning in the preceding calendar year.

"(B) DETERMINATION OF COMPONENT RATES WHERE SUBPARAGRAPH (A) APPLIES.—If subparagraph (A) affects the supplemental premium rate determined under this subsection for taxable years beginning in any calendar year, the supplemental premium rate determined after the application of subparagraph (A) shall be allocated between the catastrophic coverage premium rate and the prescription drug premium rate on the basis of the respective amounts of such rates without regard to the application of subparagraph (A).

"(3) PERCENTAGE ADJUSTMENT FOR CATASTROPHIC COVERAGE PREMIUM RATE.—

"(A) IN GENERAL.—The percentage determined under this paragraph for any calendar year shall be the sum of—

"(i) the outlay-premium percentage, and

"(ii) the reserve account percentage.

For purposes of the preceding sentence, negative percentages shall be taken into account as negatives.

"(B) OUTLAY-PREMIUM PERCENTAGE.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the outlay-premium percentage for any calendar year is—

"(I) the percentage by which the per capita catastrophic outlays in the 2nd preceding calendar year exceed such outlays in the 3rd preceding calendar year, reduced (including below zero) by

"(II) the percentage by which the per capita catastrophic coverage premium liability for the 2nd preceding calendar year exceeds such liability for the 3rd preceding calendar year (determined as if the catastrophic coverage premium rate for the 2nd preceding calendar year were the same as the rate in effect for the 3rd preceding calendar year).

If there is no excess described in subclause (I) or (II), such subclause shall be applied by substituting 'is less than' for 'exceeds' and the percentage determined with such substitution shall be taken into account as a negative percentage.

"(ii) ADJUSTMENT FOR MORE RECENT INCREASES IN COST-OF-LIVING.—If—

"(I) the percentage increase in the CPI for the 12-month period ending with May of the preceding calendar year, exceeds (or is less than)

"(II) such increase for the 12-month period ending with May of the 2nd preceding calendar year,

by at least 1 percentage point, the percentage determined under clause (i) for the calendar year shall be adjusted up (or down, respectively) by ½ of the amount by which such excess (or shortage, respectively) exceeds 1 percent.

"(C) RESERVE ACCOUNT PERCENTAGE.—

"(i) IN GENERAL.—The reserve account percentage for any calendar year is the percentage which the rate change determined under clause (ii) is of the catastrophic coverage premium rate which would be in effect under this section for taxable years beginning in the preceding calendar year if paragraph (2) did not apply to any preceding calendar year. If there is an excess determined under clause (iii), the percentage determined under the preceding sentence shall be taken into account as a negative percentage.

"(ii) DETERMINATION OF RATE CHANGE.—The rate change determined under this clause for any calendar year is the adjustment in the catastrophic coverage premium rate (otherwise in effect for taxable years beginning in the 2nd preceding calendar year) which the Secretary determines would have resulted in an aggregate increase (or decrease) in the premiums imposed by this section for such taxable years equal to 63 percent of the shortfall or excess determined under clause (iii) for the calendar year.

"(iii) DETERMINATION OF SHORTFALL OR EXCESS.—The shortfall (or excess) determined under this clause for any calendar year is the amount by which—

"(I) 20 percent of the outlays during the 2nd preceding calendar year from the Medicare Catastrophic Coverage Account created under section 1841B of the Social Security Act, exceeds (or is less than)

"(II) the balance in such Account as of the close of such 2nd preceding calendar year (determined by taking into account previous premium increases by reason of the reserve account percentage under this subsection or by reason of section 1839(g)(2) of the Social Security Act but not credited to the Account).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) PER CAPITA CATASTROPHIC OUTLAYS.—The term 'per capita catastrophic outlays' means, with respect to any calendar year, the amount (as determined by the Secretary of Health and Human Services) equal to—

"(I) the outlays during such year from the Medicare Catastrophic Coverage Account created under section 1841B of the Social Security Act, divided by

"(II) the average number of individuals entitled to receive benefits under part A of title XVIII of the Social Security Act during such calendar year.

"(ii) PER CAPITA CATASTROPHIC COVERAGE PREMIUM LIABILITY.—The term 'per capita catastrophic coverage premium liability' means, with respect to any calendar year, the amount (as determined by the Secretary) equal to—

"(I) the aggregate premiums imposed by this section for taxable years beginning in such calendar year to the extent attributable to the catastrophic coverage premium rate, divided by

"(II) the number of individuals who had premium liability under this section for such taxable years.

"(iii) PERCENTAGE INCREASE IN CPI.—The percentage increase in the CPI for any 12-month period shall be the percentage by which the Consumer Price Index (as defined in section 1(f)(5)) for the last month of such period exceeds such Index for the last month of the preceding 12-month period.

"(4) PERCENTAGE ADJUSTMENT FOR PRESCRIPTION DRUG PREMIUM RATE.—The percentage determined under this paragraph for any calendar year shall be determined under rules similar to the rules of paragraph (3); except that—

"(A) in determining the prescription drug premium rate for any calendar year before 1998, the following percentages shall be substituted for 20 percent in paragraph (3)(C)(iii)(I):

"In the case of calendar year:	*The percentage is:*
1994	*75*
1995	*50*
1996	*25*
1997	*25;*

"(B) no adjustment by reason of the outlay-premium percentage shall be made for any calendar year before 1998,

"(C) any reference to the Medicare Catastrophic Coverage Account shall be treated as a reference to the Federal Catastrophic Drug Insurance Trust Fund, and

"(D) any reference to the catastrophic coverage premium rate shall be treated as a reference to the prescription drug premium rate.

"(f) DEFINITIONS AND SPECIAL RULES.—

"(1) MEDICARE-ELIGIBLE INDIVIDUAL.—For purposes of this section—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'medicare-eligible individual' means, with respect to any month, any individual who is entitled to (or, on application without the payment of an additional premium, would be entitled to) benefits under part A of title XVIII of the Social Security Act for such month.

"(B) EXCEPTIONS.—The term 'medicare-eligible individual' shall not include for any month—

"(i) any individual who is entitled to benefits under part A of title XVIII of the Social Security Act for such month solely by reason of the payment of a premium under section 1818 of such Act, or

"(ii) any qualified nonresident.

"(2) SPECIAL RULES FOR JOINT RETURNS.—In the case of a joint return—

"(A) WHERE PREMIUM APPLIES TO BOTH SPOUSES.—If both spouses meet the requirements of subsection (b)(1) for the taxable year—

"(i) such spouses shall be treated as 1 individual for purposes of applying this section, except that

"(ii) the limitation of subsection (c)(2) shall be twice the amount which would otherwise apply.

"(B) WHERE PREMIUM APPLIES TO ONLY 1 SPOUSE.—If only 1 spouse meets the requirements of subsection (b)(1) for the taxable year—

"(i) this section shall be applied separately with respect to such spouse, and

"(ii) the adjusted income tax liability of such spouse shall be determined under paragraph (4)—

"(I) by taking into account one-half of the income tax liability determined with respect to the joint return, and

"(II) by taking into account under clause (ii) of paragraph (4)(C) only amounts attributable to such spouse.

"(3) SEPARATE RETURNS BY MARRIED INDIVIDUALS.—If an individual is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for the taxable year and such individual does not live apart from his spouse at all times during the taxable year—

"(A) the limitation of subsection (c)(2) shall be twice the amount which would otherwise apply if both the individual and the spouse of the individual meet the requirements of subsection (b)(1) with respect to the calendar year in which the taxable year begins (determined without regard to subparagraph (B) of this paragraph),

"(B) if such individual does not otherwise meet the requirements of subsection (b)(1), such individual shall be treated as meeting the requirements of subsection (b)(1) for the taxable year if the spouse of such individual meets such requirements with respect to the calendar year in which the taxable year begins, and

"(C) in applying subparagraph (C) of paragraph (4)—

"(i) the dollar limitation of clause (i) thereof shall be 1/2 of the amount which applies to a joint return where both spouses meet the requirements of subsection (b)(1), and

"(ii) the individual shall be deemed to receive social security benefits during the taxable year in an amount not less than 1/2 of the aggregate social security benefits received by such individual and his spouse during the taxable year.

"(4) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'adjusted income tax liability' means an amount equal to the income tax liability, reduced by the excess (if any) of—

"(i) 15 percent of the governmental retiree exclusion amount (if any) determined under subparagraph (C) for the taxable year, over

"(ii) the amount of the credit allowable under section 22 for the taxable year.

"(B) INCOME TAX LIABILITY.—The term 'income tax liability' means—

"(i) the tax imposed by this chapter (determined without regard to this section), reduced by

"(ii) the credits allowed under part IV of this subchapter (other than under sections 31, 33, and 34).

"(C) GOVERNMENTAL RETIREE EXCLUSION AMOUNT.—The governmental retiree exclusion amount for any taxable year is the lesser of—

"(i) $6,000 ($9,000 in the case of a joint return where both spouses meet the requirements of subsection (b)(1) for the taxable year), or

"(ii) the amount which is received as an annuity (whether for a period certain or during 1 or more lives) under a governmental plan (as defined in the 1st sentence of section 414(d)) and which is includible in gross income under section 72 for the taxable year.

The amount determined under the preceding sentence shall be reduced by the social security benefits (as defined in section 86(d)) received during the taxable year.

"(D) INDEXING.—In the case of any taxable year beginning in a calendar year after 1989, subparagraph (C)(i) shall be applied by substituting for each dollar amount contained in such subparagraph an amount equal to—

"(i) the dollar amount which would be in effect under subparagraph (C)(i) for taxable years beginning in the preceding calendar year without regard to the last sentence of this subparagraph, increased by

"(ii) the cost-of-living adjustment determined under section 215(i) of the Social Security Act for the calendar year in which the taxable year begins.

Any amount determined under the preceding sentence shall be rounded to the nearest multiple of $50.

"(5) QUALIFIED NONRESIDENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified nonresident' means, with respect to any month during the taxable year, any individual if—

"(i) such individual is not furnished during such taxable year or any of the 4 preceding taxable years any service for which a claim for payment is made under part A of title XVIII of the Social Security Act,

"(ii) such individual is not entitled to benefits under part B of title XVIII of the Social Security Act at any time during such taxable year or any of the 4 preceding taxable years, and

"(iii) such individual is present in a foreign country or countries for at least 330 full days during—

"(I) the 12-month period ending at the close of the taxable year, and

"(II) each of the 4 consecutive preceding 12-month periods.

"(B) SPECIAL RULE FOR INDIVIDUALS WHO DIE DURING THE TAXABLE YEAR.—An individual who dies during the taxable year shall be treated as meeting the requirement of subparagraph (A)(iii)(I) if such individual is present in a foreign country or countries for at least a number of full days equal to 90 percent of the days during such taxable year before the date of death.

"(6) COORDINATION WITH OTHER PROVISIONS.—

"(A) NOT TREATED AS MEDICAL EXPENSE.—For purposes of section 213, the supplemental premium imposed by this section for any taxable year shall not be treated as an expense paid for medical care.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The supplemental premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax imposed by section 55.

"(C) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the supplemental premium imposed by this section shall be treated as if it were a tax imposed by section 1.

"(D) SECTION 15 NOT TO APPLY.—Section 15 shall not apply to the supplemental premium imposed by this section.

"(7) SECTION NOT TO AFFECT LIABILITY TO POSSESSIONS, ETC.—This section shall not apply for purposes of determining liability to any possession of the United States. For purposes of sections 932 and 7654, the supplemental premium imposed by this section shall not be treated as a tax imposed by this chapter.

"(8) SHORT TAXABLE YEARS.—In the case of a taxable year of less than 12 months, this section shall be applied under regulations prescribed by the Secretary."

(b) INFORMATION REPORTING.—

(1) Subsection (a) of section 6050F of such Code is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) whether any individual meets the requirements of section 59B(b)(1) with respect to the calendar year (determined without regard to section 59B(f)(1)(B)(ii)), and".

(2) Section 6050F(b) of such Code is amended—

(A) by inserting "or making the determination under subsection (a)(2)" after "payments" in paragraph (1), and

(B) by inserting "and the information required under subsection (a)(2)," after "reductions," in paragraph (2).

(3) Section 6050F(c)(1)(A) of such Code is amended by inserting "and the information required under subsection (a)(2)" after "section 86(d)(1)(A)".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Supplemental medicare premium."

(d) ANNOUNCEMENT OF SUPPLEMENTAL PREMIUM RATE.—In the case of calendar year 1993 or any calendar year thereafter—

(1) not later than July 1 of such calendar year, the Secretary of the Treasury or his delegate shall make an announcement of the estimated supplemental premium rate under section 59B of the Internal Revenue Code of 1986 for taxable years beginning in the following calendar year, and

(2) not later than October 1 of such calendar year, the Secretary of the Treasury or his delegate shall make an announcement of the actual supplemental premium rate under such section for such taxable years.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

(2) WAIVER OF ESTIMATED TAX REQUIREMENT FOR YEARS BEGINNING IN 1989.—In the case of a taxable year beginning in 1989, the premium imposed by section 59B of the Internal Revenue Code of 1986 (as added by this section) shall not be treated as a tax for purposes of applying section 6654 of such Code.

SEC. 112. ESTABLISHMENT OF FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) IN GENERAL.—Part A of title XVIII is amended by inserting after section 1817 the following new section:

"FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND

"SEC. 1817A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Hospital Insurance Catastrophic Coverage Reserve Fund' (in this section referred to as the 'Reserve Fund'). The Reserve Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts appropriated under paragraph (2).

"(2) There are hereby appropriated to the Reserve Fund, from the supplemental premiums imposed by section 59B of the Internal Revenue Code of 1986 attributable to the supplemental catastrophic premium rate, amounts equivalent to 100 percent of the amount of outlays made under this part attributable to the amendments made by the Medicare Catstrophic Coverage Act of 1988. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Reserve Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in the preceding sentence, paid to or deposited into the Treasury and on the basis of outlays, specified in the previous sentence, made; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the appropriate amounts specified in such sentence. At the close of each year, the transfers under this subsection shall reflect all premiums (described in this paragraph) paid or deposited into the Treasury in the year.

"(3) With respect to monies transferred to this Fund, no transfers, authorizations of appropriations, or appropriations are permitted.

"(b) The provisions of subsections (b) through (e) of section 1817 shall apply to the Reserve Fund in the same manner as they apply to the Federal Hospital Insurance Trust Fund, except that the Board of Trustees and Managing Trustee of the Reserve Fund shall be composed of the members of the Board of Trustees and the Managing Trustee, respectively, of the Federal Hospital Insurance Trust Fund.

"(c) In this part, with respect to the Reserve Fund, the terms 'outlays' and 'receipts' mean, with respect to a quarter or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such quarter or other period.".

(b) INTEREST ADJUSTMENT.—In July 1990, the Secretary of the Treasury shall calculate the interest lost to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund due to the lag between the outlays (attributable to the amendments made by this Act) from the Federal Hospital Insurance Trust Fund during 1989 and the transfers made to such Reserve Fund to cover such outlays. Appropriations under section 1817A(a)(2) of the Social Security Act (as inserted by subsection (a)) shall include the amount calculated under the previous sentence.

SEC. 113. STUDY OF TAX INCENTIVES FOR PURCHASE OF COVERAGE FOR LONG-TERM CARE.

(a) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the "Secretary") shall conduct a study of Federal tax policies to promote the private financing of long-term care (as defined in subsection (d)). The study shall identify alternative methods of creating incentives, through the tax system, to encourage individuals to purchase insurance coverage for long-term care. The study shall also consider the cost to the United States Treasury and the potential benefits to consumers, including whether the incentives would benefit all or most of the population requiring protection.

(b) CONSULTATION.—The Secretary shall conduct the study required by subsection (a) in consultation with representatives of the insurance industry, providers of long-term care, and consumers.

(c) REPORT.—The Secretary shall report the results of the study required by subsection (a) to the Congress not later than November 30, 1988, together with the Secretary's recommendations for any changes in Federal law that the Secretary determines to be appropriate to promote the private financing of long-term care.

(d) LONG-TERM CARE DEFINED.—For purposes of this section, the term "long-term care" includes care and services provided by nursing homes, home health agencies, and other mechanisms for the delivery of long-term care services.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM AND MEDICARE SUPPLEMENTAL HEALTH INSURANCE

SUBTITLE A—EXPANSION OF MEDICARE PART B BENEFITS

SEC. 201. LIMITATION ON MEDICARE PART B COST-SHARING.

(a) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (c)—

(A) by striking "subsections (a) and (b)" and inserting "subsection (a) through (c)",

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B),

(C) by striking "this subsection" and inserting "this paragraph", and

(D) by striking "(c)" and inserting "(d)(1)";

(2) by redesignating subsection (d) as paragraph (2);

(3) in subsection (g), by striking "(a) and (b)" inserting "(a) through (c)"; and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) Notwithstanding subsections (a) and (b), if an individual has incurred out-of-pocket part B cost sharing (as defined in paragraph (2)) in a calendar year (beginning with 1990) in an amount equal to the part B catastrophic limit (established under

paragraph (3)) for the year, payment under this part with respect to any additional incurred expenses in the calendar year shall be made as if—

"(A) the deduction described in the second sentence of subsection (b) (relating to blood) no longer applied, and

"(B) '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, each place either appears in subsections (a) and (i)(2), in sections 1834(a)(1)(A), 1834(e)(1)(C), 1835(b)(2), and 1866(a)(2)(A) and in subsections (b)(2) and (b)(3) of section 1881, except as such provisions may apply to in-home care.

"(2) In this subsection, the term 'out-of-pocket part B cost sharing' means, with respect to an individual covered under this part, the amounts of expenses that the individual incurs that are attributable to—

"(A) the deductions established under subsection (b), and

"(B) the difference between the payment amount provided under this part and the payment amount that would be provided if '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, each place either appears in subsections (a) and (i)(2), in sections 1834(a)(1)(A), 1834(e)(1)(C), 1835(b)(2), and 1866(a)(2)(A) and in subsections (b)(2) and (b)(3) of section 1881.

"(3)(A) The part B catastrophic limit for 1990 is $1370. The part B catastrophic limit for any succeeding year shall be such an amount (rounded to the nearest multiple of $1) as the Secretary estimates will result, in that succeeding year, in 7 percent of the average number of individuals enrolled under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in subsection (a)(1)(A)) during the year becoming entitled to benefits under this subsection.

"(B) Not later than September 1 of each year (beginning with 1990), the Secretary shall promulgate the part B catastrophic limit under this paragraph for the succeeding year.

"(4) In the case of an organization receiving payment under clause (A) of subsection (a)(1) or under a reasonable cost reimbursement contract under section 1876, in applying paragraph (1), the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in such an organization if payments were made other than under such clause or such a contract on an individual-by-individual basis.

"(5)(A) Except as provided in subparagraph (B), expenses incurred by a medicare beneficiary for out-of-pocket part B cost-sharing shall be counted (consistent with subparagraph (C)) whether or not, at the time the expenses were incurred, the beneficiary was enrolled in a plan under section 1833(a)(1)(A) or under section 1876. In this paragraph, with respect to a medicare beneficiary enrolled in such a plan, the term 'out-of-pocket part B cost-sharing' includes deductibles and coinsurance under the plan for items and services covered under this part.

"(B) In the case of a medicare beneficiary enrolled in a month in a buy-out plan (as defined in subparagraph (D))—

"(i) expenses incurred by the beneficiary for items and services reimbursed under the plan shall not be treated as out-of-pocket part B cost-sharing for purposes of paragraph (1), but

"(ii) the beneficiary is deemed to have incurred, for each month of such enrollment, expenses for out-of-pocket part B cost-sharing in an amount equal to the actuarial value (with respect to a month in the year involved) of the deductible and coinsurance amounts under part B (as computed by the Secretary for purposes of section 1876(e)(1), other than with respect to covered outpatient drugs) applicable on the average to individuals in the United States.

"(C) The Secretary may not enter into a contract with an organization under section 1876, or provide for payment under section 1833(a)(1)(A) with respect to an organization, with respect to a plan that is not a buy-out plan, unless the organization provides assurances, satisfactory to the Secretary, that—

"(i) the organization will maintain and make available, for its enrollees and in coordination with the appropriate carriers under this part, an accounting of expenses incurred in each year under the plan for out-of-pocket part B cost-sharing (as defined in subparagraph (A)); and

"(ii) the organization will not undertake to charge a beneficiary during a year for services for which payment may be made under this part (other than for covered outpatient drugs) after the individual has incurred (whether through the organization or otherwise) out-of-pocket part B cost sharing in the year in an amount equal to the part B catastrophic limit established under paragraph (1) for the year.

"(D) In this paragraph, the term 'buy-out plan' means a plan under section 1833(a)(1)(A) or offered by an organization under section 1876 and with respect to which—

"(i) the actuarial value of the coinsurance and deductibles under the plan with respect to benefits (other than covered outpatient drugs) under this title (as determined by the Secretary),

is less than 50 percent of—

"(ii) the actuarial value of the coinsurance and deductibles for such benefits for all medicare beneficiaries (as determined by the Secretary) applicable on the average to individuals in the United States.

"(E) In this subsection, the term 'medicare beneficiary' means, with respect to a month, an individual covered for benefits under this part for the month.".

(b) Limitation on Charges When Catastrophic Limit Reached.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: "A provider of services may not impose a charge under the first sentence of this subparagraph for services for which payment is made to the provider pursuant to section 1833(c) (relating to catastrophic benefits).".

(c) Notice for Beneficiaries Reaching Catastrophic Limit.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by inserting "and" at the end of subparagraph (H), and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) will provide each individual, who is determined to have incurred (or has had paid on the individual's behalf) sufficient out-of-pocket part B cost sharing in a calendar year to qualify for payment for additional incurred expenses to be made pursuant to section 1833(c), with a notice that states that the individual has reached the part B catastrophic limit on out-of-pocket cost sharing for the year;".

(d) Conforming Amendment.—The second sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by striking "1833(c)" and inserting "1833(d)(1)".

SEC. 202. COVERAGE OF CATASTROPHIC EXPENSES FOR PRESCRIPTION DRUGS AND INSULIN.

(a) Description of Covered Outpatient Drugs.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) by amending subparagraph (J) of subsection (s)(2) to read as follows:

"(J) covered outpatient drugs (as defined in subsection (t)); and", and

(2) in subsection (t)—

(A) by inserting "and paragraph (2)" after "subsection (m)(5)",

(B) by inserting "(1)" after "(t)", and

(C) by adding at the end the following new paragraph:

"(2) Subject to paragraph (3), the term 'covered outpatient drug' means—

"(A) a drug which may be dispensed only upon prescription and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 5C7 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(ii) is produced at an establishment licensed under such section to produce such product; and

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3)(A) The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as, as part of, or as incident to, any of the following (and for which payment may be included under this title):

"(i) Inpatient hospital services (described in subsection (b)(2)).

"(ii) Extended care services (described in subsection (h)(5)).

"(iii) Physicians' services under subparagraph (A) or (B) of subsection (s)(2).

"(iv) Dialysis supplies under subsection (s)(2)(F).

"(v) Antigens under subsection (s)(2)(G).

"(vi) Blood clotting factors for hemophiliacs under subsection (s)(2)(I).

"(vii) Services of a physician assistant under subsection (s)(2)(K)(ii).

"(viii) Pneumococcal, hepatitis B, or influenza vaccines under subsection (s)(10).

"(ix) Rural health clinic services (under subsection 1861(aa)(1)).

"(x) Comprehensive outpatient rehabilitation facility services (under subsection 1861(cc)(1)).

"(xi) Hospice care (as defined in subsection (dd)(1)).

"(xii) Certified nurse-midwife service (as defined in subsection (gg)(1)).

"(xiii) A covered surgical procedure in an ambulatory surgical center (under section 1832(a)(2)(F)(i)).

"(B) With respect to covered outpatient drugs dispensed in 1990, the term 'covered outpatient drug' is limited—

"(i) to drugs described in paragraph (2)(A) used in immunosuppressive therapy, and

"(ii) to covered home IV drugs (as defined in paragraph (4)).

"(C) The term 'covered outpatient drug' does not include a drug that is intravenously administered in a home setting unless it is a covered home IV drug.

"(4)(A) The term 'covered home IV drug' means a covered outpatient drug dispensed to an individual that—

"(i) is intravenously administered in a place of residence used as the individual's home, and

"(ii)(I) is an antibiotic drug and the Secretary has not determined, for the specific drug or for the indication to which it is applied, that the drug cannot generally be administered safely and effectively in a home setting, or

"(II) is not an antibiotic drug and the Secretary has determined, for the specific drug and the indication for which the drug is being applied, that the drug can generally be administered safely and effectively in a home setting.

"(B) Not later than January 1, 1990 (and periodically thereafter), the Secretary shall publish a list of the drugs, and indications for such drugs, that are covered home IV drugs (as defined in subparagraph (A)), with respect to which home intravenous drug therapy may be provided under this title.".

(b) DEDUCTIBLE AND PAYMENT AMOUNTS.—Part B is amended—

(1) in subsection (a)(1) of section 1833 (42 U.S.C. 1395l(b)), as amended by section 411(h)(7)(A)(v)(I) of this Act—

(A) by striking "and" before "(L)", and

(B) by adding at the end the following: "and (M) with respect to expenses incurred for covered outpatient drugs, the amounts paid shall be the amounts determined under section 1834(c)(2)";

(2) in subsection (a)(2) of such section by inserting "(other than covered outpatient drugs)" after "(2) in the case of services";

(3) in subsection (b) of such section—

(A) in clause (1), by inserting "or for covered outpatient drugs" after "1861(s)(10)(A)", and

(B) in clause (2), by inserting "or with respect to covered outpatient drugs" after "home health services"; and

(3) by adding at the end of section 1834 (42 U.S.C. 1395m) the following new subsection:

"(c) PAYMENT FOR COVERED OUTPATIENT DRUGS.—

"(1) DEDUCTIBLE.—

"(A) APPLICATION.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), payment shall be made under paragraph (2) only with respect to expenses incurred by an individual for covered outpatient drugs during a calendar year on or after such date in the year as the Secretary determines that the individual has incurred expenses in the year for covered outpatient drugs (during a period in which the individual is entitled to benefits under this part) equal to the amount of the catastrophic drug deductible specified in subparagraph (C) for that year.

"(ii) DEDUCTIBLE NOT APPLIED FOR POST-HOSPITAL HOME INTRAVENOUS DRUG THERAPY.—The catastrophic drug deductible established under this paragraph shall not apply to covered home IV drugs dispensed in conjunction with home intravenous drug therapy services which are part of a continuous course of such therapy initiated while the individual was an inpatient in a hospital.

"(iii) DEDUCTIBLE NOT APPLIED TO 1ST YEAR IMMUNOSUPPRESSIVES.—The catastrophic drug deductible established under this paragraph shall not apply to drugs described in subsection (t)(2)(A) used in immunosuppressive therapy and furnished, to an individual who receives an organ transplant for which payment is made under this title, within 1 year after the date of the transplant.

"(B) RESPONSE TO APPLICATION.—If the system described in section 1842(o)(4) has not been established and an individual applies to the Secretary to establish that the individual has met the requirement of subparagraph (A), the Secretary shall promptly notify the individual (and, if the application was submitted by or through a participating pharmacy, the pharmacy) as to the date (if any) as of which the individual has met such requirement.

"(C) CATASTROPHIC DRUG DEDUCTIBLE AMOUNT.—

"(i) IN GENERAL.—Subject to subparagraph (D), the catastrophic drug deductible specified in this subparagraph for—

"(I) 1990 is $550,

"(II) 1991 is $600,

"(III) 1992 is $652, and

"(IV) any succeeding year, is such an amount as the Secretary determines will result in 16.8 percent of the average number of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in section 1833(a)(1)(A)) during that succeeding year having incurred expenses for covered outpatient drugs sufficient to meet the catastrophic drug deductible so determined.

"(ii) ROUNDING.—Any amount determined under this subparagraph which is not a multiple of $1 shall be rounded to the nearest multiple of $1.

"(iii) PUBLICATION.—Before May 1 of each year (beginning with 1992) the Secretary shall publish in the Federal Register a proposed regulation establishing the amount of the catastrophic drug deductible under this subparagraph for the following year. During the last 3 days of September of such year, the Secretary shall publish in the Federal Register the final regulation establishing the amount of such deductible for the following year, which amount may not be greater than the amount specified in the proposed regulation.

"(2) PAYMENT AMOUNT.—

"(A) IN GENERAL.—Subject to the catastrophic drug deductible established under paragraph (1)(A) and except as provided in subparagraph (C), the amounts payable under this part with respect to a covered outpatient drug is equal to the payment percent (specified in subparagraph (B)) of the lesser of—

"(i) the actual charge for the drug, or

"(ii) the applicable payment limit established under paragraph (3).

"(B) PAYMENT PERCENT.—For purposes of subparagraph (A), the payment percent is 100 percent minus the applicable coinsurance percent (specified in subparagraph (C)).

"(C) COINSURANCE PERCENT.—For purposes of subparagraph (B), the coinsurance percent—

"(i) for covered home IV drugs and for drugs described in paragraph (1)(A)(iii) (relating to immunosuppressive therapy during 1st year after transplant), is 20 percent; and

"(ii) for other covered outpatient drugs dispensed—

"(I) in 1990 or 1991, is 50 percent,

"(II) in 1992 is 40 percent, and

"(III) in 1993 or a succeeding year is 20 percent.

"(D) TREATMENT OF CERTAIN COST-BASED PREPAID ORGANIZATIONS.—In applying subparagraph (A) in the case of an organization under a reasonable cost reimbursement contract under section 1876 and in the case of an organization receiving payment under section 1833(a)(1)(A) and providing coverage of covered outpatient drugs, the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in such an organization if payments were made other than under such clause or such a contract on an individual-by-individual basis.

"(3) PAYMENT LIMITS.—

"(A) PAYMENT LIMIT FOR NON-MULTIPLE SOURCE DRUGS AND MULTIPLE-SOURCE DRUGS WITH RESTRICTIVE PRESCRIPTIONS.—In the case of a drug that either is not a multiple source drug (as defined in paragraph (9)(A)) or is a multiple source drug and has a restrictive prescription (as defined in paragraph (9)(B)), the payment limit for the drug under this paragraph for a payment calculation period is equal to the lesser of—

"(i) the 90th percentile of the actual charges (computed on a statewide basis, carrier-wide basis, or other appropriate geographic area basis, as specified by the Secretary) for the drug for the second previous payment calculation period, adjusted (as the Secretary determines to be appropriate) to reflect the number of tablets (or other dosage units) dispensed; or

"(ii) the amount of the administrative allowance (established under paragraph (4)) plus the product of—

"(I) the number of tablets (or other dosage units) dispensed, and

"(II) the per tablet or unit average wholesale price for such drug (as determined under subparagraph (C) for the period for purposes of this subparagraph);

except that clause (i) shall not apply to covered outpatient drugs dispensed before January 1, 1992.

"(B) PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS WITHOUT RESTRICTIVE PRESCRIPTIONS.—In the case of a drug that is a multiple source drug but does not have a restrictive prescription, the payment limit for the drug under this paragraph for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (4)) plus the product of—

"(i) the number of tablets (or other dosage units) dispensed, and

"(ii) the unweighted median of the per tablet or unit average wholesale prices (determined under subparagraph (C) for purposes of this subparagraph) for such drug for the period.

"(C) DETERMINATION OF UNIT PRICE.—

"(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall determine, with respect to the dispensing of a covered outpatient drug in a payment calculation period (beginning on or after January 1, 1990), the per tablet or unit average wholesale price for the drug.

"(ii) BASIS FOR DETERMINATIONS.—

"(I) DETERMINATION FOR NON-MULTIPLE-SOURCE DRUGS.—For purposes of subparagraph (A), such determination shall be based on a biannual survey conducted by the Secretary of a representative sample of direct sellers, wholesalers, or pharmacies (as appropriate) of wholesale (or comparable direct) prices (excluding discounts to pharmacies); except that if, because of low volume of sales for the drug or other appropriate reasons or in the case of covered outpatient drugs during 1990, the Secretary determines that such a survey is not appropriate with respect to a specific drug, such determination shall be based on published average wholesale (or comparable direct) prices for the drug.

"(II) DETERMINATION FOR MULTIPLE-SOURCE DRUGS.—For purposes of subparagraph (B), the Secretary may base the determination under this subparagraph on the published average wholesale (or comparable direct) prices for the drug or on a biannual survey conducted by the Secretary of a representative sample of direct sellers, wholesalers, or pharmacists (as appropriate) of wholesale (or comparable direct) prices (excluding discounts to pharmacies).

"(III) COMPLIANCE WITH SURVEY REQUIRED.—If a wholesaler or direct seller of a covered outpatient drug refuses, after being requested by the Secretary, to provide the information required in a survey under this clause, or deliberately provides information that is false, the Secretary may impose a civil money penalty of not to exceed $10,000 for each such refusal or provision of false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). Information gathered pursuant to the survey shall not be disclosed except as the Secretary determines to be necessary to carry out the purposes of this part.

"(iii) QUANTITY AND TIMING.—Such determination shall be based on the price or prices for purchases in reasonable quantities and shall be made for a payment calculation period based on prices for the first day of the first month of the previous payment calculation period.

"(iv) GEOGRAPHIC BASIS.—The Secretary shall make such determination, and calculate the payment limits under this paragraph, on a national basis; except that the Secretary may make such determination, and calculate such payment limits, on a regional basis to take account of limitations on the availability of drug products and variations among regions in the average wholesale prices for a drug product.

"(4) ADMINISTRATIVE ALLOWANCE FOR PURPOSES OF PAYMENT LIMITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for drugs dispensed in—

"(i) 1990 or 1991, the administrative allowance under this paragraph is—

"(I) $4.50 for drugs dispensed by a participating pharmacy, or

"(II) $2.50 for drugs dispensed by another pharmacy; or

"(ii) a subsequent year, the administrative allowance under this paragraph is the administrative allowance under this paragraph for the preceding year increased by the percentage increase (if any) in the implicit price deflator for gross national product (as published by the Department of Commerce in its 'Survey of Current Business') over the 12-month period ending with August of such preceding year.

Any allowance determined under the clause (ii) which is not a multiple of 1 cent shall be rounded to the nearest multiple of 1 cent.

"(B) ADJUSTMENT IN ALLOWANCE FOR MAIL SERVICE PHARMACIES.—The Secretary may, by regulation and after consultation with pharmacists, elderly groups, and private insurers, reduce the administrative allowances established under subparagraph (A) for any drug dispensed by a mail service pharmacy (as defined by the Secretary) based on differences between such pharmacies and other pharmacies with respect to operating costs and other economies.

"(5) ASSURING APPROPRIATE PRESCRIBING AND DISPENSING PRACTICES.—

"(A) IN GENERAL.—The Secretary shall establish a program to identify (and to educate physicians and pharmacists concerning)—

"(i) instances or patterns of unnecessary or inappropriate prescribing or dispensing practices for covered outpatient drugs,

"(ii) instances or patterns of substandard care with respect to such drugs, and

"(iii) potential adverse reactions.

"(B) STANDARDS.—In carrying out the program under subparagraph (A), the Secretary shall establish for each covered outpatient drug standards for the prescribing of the drug which are based on accepted medical practice. In establishing such standards, the Secretary shall incorporate standards from such current authoritative compendia as the Secretary may select; except that the Secretary may modify such a standard by regulation on the basis of scientific and medical information that such standard is not consistent with the safe and effective use of the drug.

"(C) PROHIBITION OF FORMULARY.—Nothing in this title (including paragraph (8)), other than sections 1861(t)(4)(A) and 1862(c), shall be construed as authorizing the Secretary to exclude from coverage or to deny payment—

"(i) for any specific covered outpatient drug, or specific class of covered outpatient drug, or

"(ii) for any specific use of such a drug for a specific indication unless such exclusion is pursuant to section 1862(a)(1) based on a finding by the Secretary that such use is not safe or is not effective.

"(6) TREATMENT OF CERTAIN PREPAID ORGANIZATIONS.—

"(A) GENERAL RULE COUNTING PREPAID PLAN EXPENSES TOWARDS THE CATASTROPHIC DRUG DEDUCTIBLE.—Except as provided in subparagraph (B), expenses incurred by (or on behalf of) a medicare beneficiary for covered outpatient drugs shall be counted (consistent with subparagraph (C)) toward the catastrophic drug deductible established under paragraph (1) whether or not, at the time the expenses were incurred, the beneficiary was enrolled in a plan under section 1833(a)(1)(A) or under section 1876.

"(B) TREATMENT OF DRUG BUY-OUT PLAN EXPENSES.—In the case of a medicare beneficiary enrolled in a month in a drug buy-out plan (as defined in subparagraph (D))—

"(i) expenses incurred by the beneficiary for covered outpatient drugs reimbursed under the plan shall not be counted towards the catastrophic drug deductible, but

"(ii) if the individual disenrolls from the plan during the year, the beneficiary is deemed to have incurred, for each month of such enrollment, expenses for covered outpatient drugs in an amount equal to the actuarial value (with respect to such month) of the deductible for covered outpatient drugs (as computed by the Secretary for purposes of section 1876(e)(1)) applicable on the average to individuals in the United States.

"(C) TREATMENT OF EXPENSES FOR COVERED OUTPATIENT DRUGS INCURRED WHILE ENROLLED IN A PREPAID PLAN OTHER THAN A DRUG BUY-OUT PLAN.—The Secretary may not enter into a contract with an organization under section 1876, or provide for payment under section 1833(a)(1)(A) with respect to an organization which provides reimbursement for covered outpatient drugs, with respect to a plan that is not a drug buy-out plan, unless the organization provides assurances, satisfactory to the Secretary, that—

"(i) the organization will maintain and make available, for its enrollees and in coordination with the appropriate carriers under this part, an accounting of expenses incurred by (or on behalf of) enrollees under the plan for covered outpatient drugs; and

"(ii) the organization will take into account, in any deductibles established under the plan in a year with respect to covered outpatient drugs under this part, the amounts of expenses for covered outpatient drugs incurred in the year by (or on behalf of) the beneficiary and otherwise counted towards the catastrophic drug deductible in the year.

"(D) DRUG BUY-OUT PLAN DEFINED.—In this paragraph, the term 'drug buy-out plan' means a plan under section 1833(a)(1)(A) or offered by an organization under section 1876 and with respect to which—

"(i) the amount of any deductible under the plan with respect to covered outpatient drugs under this title,

is less than 50 percent of—

"(ii) the catastrophic drug deductible specified in paragraph (1)(C).

"(E) MEDICARE BENEFICIARY DEFINED.—In this subsection, the term 'medicare beneficiary' means, with respect to a month, an individual covered for benefits under this part for the month.

"(F) TREATMENT OF PLAN CHARGES.—In the case of covered outpatient drugs furnished by an eligible organization under section 1876(b) or an organization described in section 1833(a)(1)(A) which does not impose charges on covered outpatient drugs dispensed to its members, for purposes of this subsection the actual charges of the organization shall be the organization's standard charges to members, and other individuals, not entitled to benefits with respect to such drugs.

"(7) PHYSICIAN GUIDE.—

"(A) IN GENERAL.—The Secretary shall develop, and update annually, an information guide for physicians concerning the comparative average wholesale prices of at least 500 of the most commonly prescribed covered outpatient drugs. Such guide shall, to the extent practicable, group covered outpatient drugs (including multiple source drugs) in a manner useful to physicians by therapeutic *category or with respect to the conditions for which they are prescribed. Such guide shall specify the average wholesale prices on the basis of the amount of the drug required for a typical daily therapeutic regimen.*

"(B) MAILING GUIDE.—The Secretary shall provide for mailing, in January of each year (beginning with 1991), a copy of the guide developed and updated under subparagraph (A)—

"(i) to each hospital with an agreement in effect under section 1866,

"(ii) to each physician (as defined in section 1861(r)(1)) who routinely provides services under this part, and

"(iii) to Social Security offices, senior citizen centers, and other appropriate places.

"(8) REPORTS ON OUTLAYS AND RECEIPTS; SPECIAL COST CONTROLS.—

"(A) COMPILATION OF INFORMATION.—The Secretary shall compile information on—

"(i) manufacturers' prices for covered outpatient drugs, and on charges of pharmacists for covered outpatient drugs, and

"(ii) the use of covered outpatient drugs by individuals entitled to benefits under this part.

The information compiled under clause (i) shall include a comparison of the increases in prices and charges for covered outpatient drugs during each 6 month period (beginning with January 1987) with the semiannual average increase in such prices and charges during the 6 years beginning with 1981.

"(B) REPORTS.—The Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report, in May and November of 1989 and 1990 and in May of each succeeding year, providing the information compiled under subparagraph (A). For each such report submitted after 1991, the report shall include an explanation of the extent to which the increases in outlays for covered outpatient drugs under this part are due to the factors described in subparagraphs (A)(i) and (A)(ii).

"(C) MONTHLY REPORTS ON OUTLAYS AND RECEIPTS.—Within 30 days after the end of each month (beginning with October 1991 and ending with April 1993), the Secretary shall report to Congress on the outlays and receipts of the Federal Catastrophic Drug Insurance Trust Fund (in this paragraph referred to as the 'Trust Fund') in the month.

"(D) BUDGETARY INFORMATION.—

"(i) IN GENERAL.—In each report submitted under subparagraph (B) after 1991, the Secretary shall include information on—

"(I) the projected budgetary status of the Trust Fund for the succeeding year,

"(II) the projected increases in manufacturers' prices for covered outpatient drugs and in charges of pharmacists for covered outpatient drugs,

"(III) the projected level of utilization of covered outpatient drugs by medicare beneficiaries, and

"(IV) the projected administrative costs relating to covered outpatient drugs.

"(ii) DETERMINATION AND PUBLICATION OF ANY OUTLAY CONTROLS FOR 1993 AND 1994.—For each such report in 1992 and 1993, the Secretary—

"(I) shall determine in the report whether the anticipated outlays and receipts of the Trust Fund for the succeeding year will provide for at least the minimum contingency margin specified in subparagraph (F) for that succeeding year, and

"(II) if not, shall include in the report (and shall publish in the Federal Register by May 1 of the year a proposed regulation to carry out) changes in the provisions of this part (consistent with subparagraph (E)) in order to reduce outlays from the Trust Fund in that succeeding year sufficiently to provide for the minimum contingency margin specified in subparagraph (F).

Any changes described in subclause (II) in such report shall reflect appropriately each of the anticipated causes of increased or unanticipated outlays for covered outpatient drugs.

"(iii) EFFECTIVENESS OF REGULATORY CHANGES.—If proposed regulations are published under clause (ii)(II) in 1992 or 1993, during the last 3 days of September of such year, the Secretary shall publish in the Federal Register a final regulation to implement the changes described in such clause. Notwithstanding any other provision of this part, but subject to subparagraph (E) and unless otherwise provided by law, such changes shall become effective on January 1 of the succeeding year and shall apply only during that succeeding year. Such final regulation may not revise the proposed regulation in a manner that would result in a greater reduction in outlays than would have been the case under the proposed regulation.

"(E) LIMITATION ON CHANGES.—In making regulatory changes under subparagraph (D), the Secretary may not—

"(i) provide for a formulary (in violation of paragraph (5)(C));

"(ii) change the methodology for determining whether for a year an individual has met the catastrophic drug deductible established under paragraph (1)(A); or

"(iii) increase the coinsurance percent under paragraph (2)(C) for a year above the coinsurance percent in effect during the previous year.

Clause (ii) shall not be construed as prohibiting the Secretary from increasing the amount of the catastrophic drug deductible under paragraph (1)(A).

"(F) MINIMUM CONTINGENCY MARGIN DEFINED.—In this paragraph, the term 'minimum contingency margin' means—

"(i) for 1993, 50 percent, and

"(ii) for 1994, 25 percent.

Such margin shall be determined as of the close of each calendar year and shall be determined based on the total outlays from the Trust Fund during the year.

"(9) DEFINITIONS.—In this subsection:

"(A) MULTIPLE SOURCE DRUG.—

"(i) IN GENERAL.—The term 'multiple source drug' means, with respect to a payment calculation period, a covered outpatient drug for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations',

"(II) except as provided in clause (ii), are pharmaceutically equivalent and bioequivalent, as defined in clause (iii) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed during the period.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply if the Food and Drug Administration changes by regulation (after an opportunity for public comment of 90 days) the requirement that, for purposes of the publication described in clause (i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in clause (iii).

"(iii) DEFINITIONS.—For purposes of this subparagraph:

"(I) PHARMACEUTICALLY EQUIVALENT.—Drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity.

"(II) BIOEQUIVALENT.—Drugs are bioequivalent if they do not present a known or potential bioequivalence problem or, if they do present such a problem, are shown to meet an appropriate standard of bioequivalence.

"(III) SOLD OR MARKETED.—A drug is considered to be sold or marketed during a period if it is listed in the publications referred to in clause (i)(I), unless the Secretary determines that such sale or marketing is not actually taking place.

"(B) RESTRICTIVE PRESCRIPTION.—A drug has a 'restrictive prescription' only if—

"(i) in the case of a written prescription, the prescription for the drug indicates, in the handwriting of the physician or other person prescribing the drug and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that the particular drug must be dispensed, or

"(ii) in the case of a prescription issued by telephone—

"(I) the physician or other person prescribing the drug (through use of such an appropriate phrase) states that the particular drug must be dispensed, and

"(II) the physician or other person submits to the pharmacy involved, within 30 days after the date of the telephone prescription, a written confirmation which is in the handwriting of the physician or other person prescribing the drug and which indicates with such appropriate phrase that the particular drug was required to have been dispensed.

"(C) PAYMENT CALCULATION PERIOD.—The term 'payment calculation period' means the 6-month period beginning with January of each year and the 6-month period beginning with July of each year.

"(D) OUTLAYS; RECEIPTS.—The terms 'outlays' and 'receipts' mean, with respect to a year or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such year or other period.".

(c) PARTICIPATING PHARMACIES; CIVIL MONEY PENALTIES.—

(1) PARTICIPATING PHARMACIES.—Section 1842 (42 U.S.C. 1395t) is amended—

(A) in subsection (h)(1), by inserting before the period at the end of the second sentence the following: ", except that, with respect to a supplier of covered outpatient drugs, the term 'participating supplier' means a participating pharmacy (as defined in subsection (o)(1))";

(B) in subsection (h)(4), is amended by adding at the end the following: "In publishing directories under this paragraph, the Secretary shall provide for separate directories (wherever appropriate) for participating pharmacies."; and

(C) by adding at the end the following new subsection:

"(o)(1) For purposes of this section, the term 'participating pharmacy' means, with respect to covered outpatient drugs dispensed on or after January 1, 1991, an entity which is authorized under a State law to dispense covered outpatient drugs and which has entered into an agreement with

the Secretary, providing at least the following:

"(A) The entity agrees to accept payment under this part on an assignment-related basis for all covered outpatient drugs dispensed to an individual entitled to benefits under this part (in this subsection referred to as 'medicare beneficiaries') during a year after—

"(i) the Secretary has notified the entity, through the electronic system described in subparagraph (D)(i), or

"(ii) in the absence of such a system, the entity is otherwise notified that the Secretary has determined,

that the individual has met the catastrophic drug deductible with respect to such drugs under section 1834(c)(1) for the year.

"(B) The entity agrees—

"(i) not to refuse to dispense covered outpatient drugs items stocked by the entity to any medicare beneficiary, and

"(ii) not to charge medicare beneficiaries (regardless of whether or not the beneficiares are enrolled under a prepaid health plan or with eligible organization under section 1876) more for such drugs than the amount it charges to the general public (as determined by the Secretary in regulations).

"(C) The entity agrees to keep patient records (including records on expenses) for all covered outpatient drugs dispensed to all medicare beneficiaries.

"(D) The entity agrees to submit information (in a manner specified by the Secretary to be necessary to administer this title) on all purchases of covered outpatient drugs dispensed to medicare beneficiaries.

"(E) The entity agrees—

"(i) to offer to counsel, or to offer to provide information (consistent with State law respecting the provision of such information) to, each medicare beneficiary on the appropriate use of a drug to be dispensed and whether there are potential interactions between the drug and other drugs dispensed to the beneficiary; and

"(ii) to advise the beneficiary on the availability (consistent with State laws respecting substitution of drugs) of therapeutically equivalent covered outpatient drugs.

"(F) The entity agrees to provide the information requested by the Secretary in surveys under section 1834(c)(3)(C)(ii).

Nothing in this paragraph shall be construed as requiring a pharmacy operated by an eligible organization (described in section 1876(b)) or an organization described in section 1833(a)(1)(A) for the exclusive benefit of its members to dispense covered outpatient drugs to individuals who are not members of the organization.

"(2) The Secretary shall provide to each participating pharmacy—

"(A) a distinctive emblem (suitable for display to the public) indicating that the pharmacy is a participating pharmacy, and

"(B) upon request, such electronic equipment and technical assistance (other than the costs of obtaining, maintaining, or expanding telephone service) as the Secretary determines may be necessary for the pharmacy to submit claims using the electronic system established under paragraph (4).

"(3) The Secretary shall provide for periodic audits of participating pharmacies to assure—

"(A) compliance with the requirements for participation under this title, and

"(B) the accuracy of information submitted by the pharmacies under this title.

"(4) The Secretary shall establish, by not later than January 1, 1991, a point-of-sale electronic system for use by carriers and participating pharmacies in the submission of information respecting covered outpatient drugs dispensed to medicare beneficiaries under this part.

"(5) Notwithstanding subsection (b)(3)(B), payment for covered outpatient drugs may be made on the basis of an assignment described in clause (ii) of that subsection only to a participating pharmacy.".

(2) CIVIL MONEY PENALTIES FOR VIOLATION OF PARTICIPATION AGREEMENT, FOR EXCESSIVE CHARGES FOR NONPARTICIPATING PHARMACIES AND FOR FAILURE TO PROVIDE SURVEY INFORMATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1),

(B) in paragraph (2)(C), by inserting "or to be a participating pharmacy under section 1842(o)" after "1842(h)(1)",

(C) by striking ", or" at the end of paragraph (2) and inserting a semicolon,

(D) by adding "or" at the end of paragraph (3), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a participating or nonparticipating pharmacy (as defined for purposes of part B of title XVIII)—

"(A) presents or causes to be presented to any person a request for payment for covered outpatient drugs dispensed to an individual entitled to benefits under part B of title XVIII and for which the amount charged by the pharmacy is greater than the amount the pharmacy charges the general public (as determined by the Secretary in regulations), or

"(B) fails to provide the information requested by the Secretary in a survey under section 1834(c)(3)(C)(ii);".

(d) LIMITATION ON LENGTH OF PRESCRIPTION.—Section 1862(c) (42 U.S.C. 1395y(c)) is amended—

(1) by redesignating subparagraphs (A) through (D) of paragraph (1) as clauses (i) through (iv), respectively;

(2) in paragraph (2)(A), by striking "paragraph (1)" and inserting "subparagraph (A)";

(3) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(4) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(5) by inserting "(1)" after "(c)"; and

(6) by adding at the end the following new paragraph:

"(2) No payment may be made under part B for any expense incurred for a covered outpatient drug if the drug is dispensed in a quantity exceeding a supply of 30 days or such longer period of time (not to exceed 90 days, except in exceptional circumstances) as the Secretary may authorize.".

(e) USE OF CARRIERS, FISCAL INTERMEDIARIES, AND OTHER ENTITIES IN ADMINISTRATION.—

(1) AUTHORIZING USE OF OTHER ENTITIES IN ELECTRONIC CLAIMS SYSTEM.—Section 1842(f) (42 U.S.C. 1395u(f)) is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(3) with respect to implementation and operation (and related functions) of the electronic system established under subsection (o)(4), a voluntary association, corporation, partnership, or other nongovernmental organization, which the Secretary determines to be qualified to conduct such activities.".

(2) ADDITIONAL FUNCTIONS OF CARRIERS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)), as amended by section 201(c) of this Act, is amended—

(A) by striking "and" at the end of subparagraph (H), and

(B) by inserting after subparagraph (I) the following new subparagraphs:

"(J) if it makes determinations or payments with respect to covered outpatient drugs, will—

"(i) receive information transmitted under the electronic system established under subsection (o)(4), and

"(ii) respond to requests by participating pharmacies (and individuals entitled to benefits under this part) as to whether or not such an individual has met the catastrophic drug deductible established under section 1834(c)(1)(A) for a year; and

"(K) will enter into such contracts with organizations described in subsection (f)(3) as the Secretary determines may be necessary to implement and operate (and for related functions with respect to) the electronic system established under subsection (o)(4) for covered outpatient drugs under this part;".

(3) SPECIAL CONTRACT PROVISIONS FOR ELECTRONIC CLAIMS SYSTEM.—

(A) PAYMENT ON OTHER THAN A COST BASIS.—Section 1842(c)(1)(A) is amended—

(i) by inserting "(i)" after "(c)(1)(A)",

(ii) in the first sentence, by inserting ", except as provided in clause (ii)," after "under this part, and", and

(iii) by adding at the end the following new clause:

"(ii) To the extent that a contract under this section provides for implementation and operation (and related functions) of the electronic system established under subsection (o)(4) for covered outpatient drugs, the Secretary may provide for payment for such activities based on any method of payment determined by the Secretary to be appropriate.".

(B) APPLICATION OF DIFFERENT PERFORMANCE STANDARDS.—The Secretary of Health and Human Services, before entering into contracts under section 1842 of the Social Security Act with respect to the implementation and operation (and related functions) of the electronic system for covered outpatient drugs, shall establish standards with respect to performance with respect to such activities. The provisions of section 1153(e)(2), and paragraphs (1) and (2) of section 1153(h), of such Act shall apply to such activities in the same manner as they apply to contracts with peer review organizations, instead of the requirements of the last 2 sentences of section 1842(b)(2) of such Act.

(C) USE OF REGIONAL CARRIERS.—Section 1842(b)(2) is amended by adding at the end the following new sentence: "With respect to activities relating to implementation and operation (and related functions) of the electronic system established under subsection (o)(4), the Secretary may enter into contracts with carriers under this section to perform such activities on a regional basis.".

(4) ADJUSTMENT OF CARRIER OBLIGATIONS.—

(A) NO TOLL-FREE TELEPHONE NUMBER REQUIRED OF LIMITED CARRIERS.—Section 1842(h)(2) (42 U.S.C. 1395u(h)(2)) is amended by inserting "(other than a carrier described in subsection (f)(3))" after "Each carrier".

(B) DELAY IN APPLICATION OF COORDINATED BENEFITS WITH MEDIGAP.—The provisions of subparagraph (B) of section 1842(h)(3) of the Social Security Act shall not apply to

covered outpatient drugs (other than drugs described in section 1861(s)(2)(J) of such Act as of the date of the enactment of this Act) dispensed before January 1, 1993.

(5) BATCH PROMPT PROCESSING OF CLAIMS.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(A) in paragraphs (2)(A) and (3)(A), by striking "Each" and inserting "Except as provided in paragraph (3), each";

(B) by adding at the end the following new paragraph:

"(4)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), with respect to claims for payment for covered outpatient drugs shall provide for a payment cycle under which each carrier will, on a monthly basis, make a payment with respect to all claims which were received and approved for payment in the period since the most recent date on which such a payment was made with respect to the participating pharmacy or individual submitting the claim.

"(B) If payment is not issued, mailed, or otherwise transmitted within 5 days of when such a payment is required to be made under subparagraph (A), interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after such 5-day period and ending on the date on which payment is made.".

(f) MODIFICATION OF HMO/CMP CONTRACTS.—

(1) SEPARATE ACTUARIAL DETERMINATION FOR COVERED OUTPATIENT DRUG BENEFIT.—Section 1876(e)(1) (42 U.S.C. 1395mm(e)(1)) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied separately with respect to covered outpatient drugs.".

(2) ADDITIONAL OPTIONAL BENEFITS.—Section 1876(g)(3)(A) (42 U.S.C. 1395mm(g)(3)(A)) is amended by striking "rate" and inserting "rates".

(g) REQUIRING SUBMISSION OF DIAGNOSTIC INFORMATION.—Section 1842 (42 U.S.C. 1395u), as amended by subsection (c)(1)(D), is amended by adding at the end the following new subsection:

"(p)(1) Each request for payment, or bill submitted, for an item or service furnished by a physician for which payment may be made under this part shall include the appropriate diagnosis code (or codes) as established by the Secretary for such item or service.

"(2) In the case of a request for payment for an item or service furnished by a physician on an assignment-related basis which does not include the code (or codes) required under paragraph (1), payment may be denied under this part.

"(3) In the case of a request for payment for an item or service furnished by a physician not submitted on an assignment-related basis and which does not include the code (or codes) required under paragraph (1)—

"(A) if the physician knowingly and willfully fails to provide the code (or codes) promptly upon request of the Secretary or a carrier, the physician may be subject to a civil money penalty in an amount not to exceed $2,000, and

"(B) if the physician knowingly, willfully, and in repeated cases fails, after being notified by the Secretary of the obligations and requirements of this subsection, to include the code (or codes) required under paragraph (1), the physician may be subject to the sanction described in section 1842(j)(2)(A).

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under subparagraph (A) in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

(h) CONFORMING AMENDMENTS.—

(1) The first sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended—

(A) by inserting "1834(c)," after "1833(b)," and

(B) by inserting "and in the case of covered outpatient drugs, applicable coinsurance percent (specified in section 1834(c)(2)(C)) of the lesser of the actual charges for the drugs or the payment limit (established under section 1834(c)(3))" after "established by the Secretary".

(2) Section 1903(i)(5) (42 U.S.C. 1396b(i)(5)) is amended by striking "section 1862(c)" and inserting "section 1862(c)(1)".

(i) REPORTS ON MEDICARE BENEFICIARY DRUG EXPENSES.—

(1) HHS.—The Secretary of Health and Human Services, by not later than April 1, 1989—

(A) using data from the 1987 National Medical Expenditures Survey (conducted by the National Center for Health Services Research and Health Care Technology Assessment), shall report to Congress on expenses incurred by medicare beneficiaries for outpatient prescription drugs, and

(B) shall provide the Director of the Congressional Budget Office with such data from that Survey as the Director may request to make the estimates required under paragraph (2).

(2) REESTIMATION OF COSTS.—The Director of the Congressional Budget Office shall transmit to the Congress, not later than June 1, 1989, or, if later, 60 days after the date of providing data requested under paragraph (1)(B), the Director's estimate of the outlays which will be made (in each of fiscal years 1990, 1991, 1992, and 1993) under the medicare program for covered outpatient drugs (under the amendments made by this section).

(j) PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION.—Part B is amended by adding at the end the following new section:

"PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

"SEC. 1847. (a)(1) The Director of the Congressional Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a Prescription Drug Payment Review Commission (in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of covered outpatient drugs appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than January 1, 1989, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

"(3) The membership of the Commission shall include recognized experts in the fields of health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as at least one individual who is a medicare beneficiary.

"(b)(1) The Commission shall submit to Congress an annual report no later than May 1 of each year, beginning with 1990, concerning methods of determining payment for covered outpatient drugs under this part.

"(2) Such report, in 1992 and thereafter, shall include, with respect to the previous year, information on—

"(A) increases in manufacturers' prices for covered outpatient drugs and in charges of pharmacists for covered outpatient drugs,

"(B) the level of utilization of covered outpatient drugs by medicare beneficiaries, and

"(C) administrative costs relating to covered outpatient drugs.

"(3) Such report, in 1992 and thereafter, shall include comments on the budgetary status of the Federal Catastrophic Drug Insurance Trust Fund and recommendations for any reductions in outlays that may be required to achieve the contingency margin (established under section 1841A(d) for the following year, taking into account each of the causes of increased or unanticipated outlays for covered outpatient drugs in the year.

"(c) Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Catastrophic Drug Insurance Trust Fund.".

(k) ADDITIONAL STUDIES.—

(1) HHS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct the following studies, and report to Congress on the results of each such study by the following dates:

(A) A study of the possibility of including drugs which have not yet been approved under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act and biological products which have not been licensed under section 351 of the Public Health Service Act but which are commonly used in the treatment of cancer or in immunosuppressive therapy and other experimental drugs and biological products as covered outpatient drugs under the medicare program, for which a report shall be made by January 1, 1990. The study under this subparagraph shall be conducted in consultation with an advisory board of consumers, experts in the fields of cancer chemotherapy and immunosuppressive therapy, representatives of pharmaceutical manufacturers, and such other individuals as the Secretary may select.

(B) A study to evaluate the potential to use mail service pharmacies to reduce costs to the medicare program and to medicare beneficiaries, for which a report shall be made by January 1, 1990.

(C) A study of methods to improve utilization review of covered outpatient drugs, for which the report shall be made by January 1, 1993.

(D) A longitudinal study, to be conducted as a follow-up to the data collected under the survey referred to in subsection (j)(1)(A), on the use of outpatient prescription drugs by medicare beneficiaries with respect to medical necessity, potential for adverse drug interactions, cost (including whether lower cost drugs could have been used), and patient stockpiling or wastage, for which a report shall be made by January 1, 1993.

(2) GAO.—The Comptroller General shall conduct the following studies, and report to Congress on the results of each such study by not later than May 1, 1991:

(A) A study comparing average wholesale prices with actual pharmacy acquisition costs by type of pharmacy.

(B) A study to determine the overhead costs of retail pharmacies.

(C) A study of the discounts given by pharmacies to other third-party insurers.

Pharmacies which fail to provide the Comptroller General with reasonable access to necessary records to carry out the studies under this paragraph are subject to exclusion from the medicare and medicaid programs under section 1128(a) of the Social Security Act.

(l) DEVELOPMENT OF STANDARD MEDICARE CLAIMS FORM.—

(1) The Secretary shall develop, in consultation with representatives of pharmacies and other interested individuals, a standard claims form (and a standard electronic claims format) to be used in requests for payment for covered outpatient drugs under the medicare program and other third-party payors.

(2) Not later than October 1, 1989, the Secretary shall distribute official sample copies of the format developed under paragraph (1) to pharmacies and other interested parties and by not later than October 1, 1990, shall distribute official sample copies of the form developed under paragraph (1) to pharmacies and other interested parties.

(m) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to items dispensed on or after January 1, 1990.

(2) CARRIERS.—The amendments made by subsection (e) shall take effect on the date of the enactment of this Act; except that the amendments made by subsection (e)(5) shall take effect on January 1, 1991, but shall not be construed as requiring payment before February 1, 1991.

(3) HMO/CMP ENROLLMENTS.—The amendment made by subsection (f) shall apply to enrollments effected on or after January 1, 1990.

(4) DIAGNOSTIC CODING.—The amendment made by subsection (g) shall apply to services furnished after March 31, 1989.

(5) TRANSITION.—With respect to administrative expenses (and costs of the Prescription Drug Payment Review Commission) for periods before January 1, 1990, amounts otherwise payable from the Federal Catastrophic Drug Insurance Trust Fund shall be payable from the Federal Supplementary Medical Insurance Trust Fund and shall also be treated as a debit to the Medicare Catastrophic Coverage Account.

SEC. 203. COVERAGE OF HOME INTRAVENOUS DRUG THERAPY SERVICES.

(a) IN GENERAL.—Section 1832(a)(2)(A) (42 U.S.C. 1395k(a)(2)(A)) is amended by inserting "and home intravenous drug therapy services" before the semicolon.

(b) HOME INTRAVENOUS DRUG THERAPY SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"(jj)(1) The term 'home intravenous drug therapy services' means the items and services described in paragraph (2) furnished to an individual who is under the care of a physician—

"(A) in a place of residence used as such individual's home;

"(B) by a qualified home intravenous drug therapy provider (as defined in paragraph (3)) or by others under arrangements with them made by such provider; and

"(C) under a plan established and periodically reviewed by a physician.

"(2) The items and services described in this paragraph are such nursing, pharmacy, and related services (including medical supplies, intravenous fluids, delivery, and equipment) as are necessary to conduct safely and effectively an intravenously administered drug regimen through use of a covered home IV drug (as defined in subsection (t)(4)), but do not include such covered outpatient drugs.

"(3) The term 'qualified home intravenous drug therapy provider' means any entity that the Secretary determines meets the following requirements:

"(i) The entity is capable of providing or arranging for the items and services described in paragraph (2) and covered home IV drugs.

"(ii) The entity maintains clinical records on all patients.

"(iii) The entity adheres to written protocols and policies with respect to the provision of items and services.

"(iv) The entity makes services available (as needed) seven days a week on a 24-hour basis.

"(v) The entity coordinates all services with the patient's physician.

"(vi) The entity conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care.

"(vii) The entity assures that only trained personnel provide covered home IV drugs (and any other service for which training is required to safely provide the service).

"(viii) The entity assumes responsibility for the quality of services provided by others under arrangements with the agency or entity.

"(ix) In the case of an entity in any State in which State or applicable local law provides for the licensing of entities of this nature, (I) is licensed pursuant to such law, or (II) is approved, by the agency of such State or locality responsible for licensing entities of this nature, as meeting the standards established for such licensing.

"(x) The entity meets such other requirements as the Secretary may determine are necessary to assure the safe and effective provision of home intravenous drug therapy services and the efficient administration of the home intravenous drug therapy benefit.".

(c) PAYMENT.—

(1) IN GENERAL.—Part B is amended—

(A) in subsection (a)(2)(B) of section 1833 (42 U.S.C. 1395l), by striking "or (E)" and inserting "(E), or (F)";

(B) in subsection (a)(2)(D) of such section, by striking "and" at the end;

(C) in subsection (a)(2)(E) of such section, by striking the semicolon and inserting "; and";

(D) by inserting after subsection (a)(2)(E) of such section the following new subparagraph:

"(F) with respect to home intravenous drug therapy services, the amounts described in section 1834(d)(1);"

(E) in subsection (b) of such section, by striking "services, (3)" and inserting "services and home intravenous drug therapy services, (3)"; and

(F) by adding at the end of section 1834, as amended by section 202(b)(3) of this Act, the following new subsection:

"(d) HOME INTRAVENOUS DRUG THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to home intravenous drug therapy services, subject to paragraph (3), payment under this part shall be made in an amount equal to the lesser of the actual charges for such services or the fee schedule established under paragraph (2).

"(2) ESTABLISHMENT OF FEE SCHEDULE.—The Secretary shall establish by regulation before the beginning of calendar year 1990 and each succeeding calendar year a fee schedule for home intravenous drug therapy services for which payment is made under this part. A fee schedule established under this subsection shall be on a per diem basis.

"(3) LIMITATION ON ACCEPTANCE OF, AND PAYMENTS FOR, CERTAIN REFERRALS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a home intravenous drug therapy provider may not provide home intravenous drug therapy services under this part to an individual if the individual's referring physician (as defined in subparagraph (D)), or an immediate family member of the physician—

"(i) has an ownership interest in the provider, or

"(ii) receives compensation from the provider.

"(B) EXCEPTIONS.—

"(i) Subparagraph (A)(i) shall not apply—

"(I) if the ownership interest is the ownership of stock which is traded over a publicly-regulated exchange and was purchased on terms generally available to the public, or

"(II) if the provider is a sole home intravenous drug therapy provider (as defined by the Secretary) in a rural area.

"(ii) Subparagraph (A)(ii) shall not apply if the compensation is reasonably related to items or services actually provided by the physician and does not vary in proportion to the number of referrals made by the referring physician, but such exception shall not apply to compensation provided for direct patient care services.

"(iii) Subparagraph (A) shall not be construed to apply to a referring physician whose only ownership or financial relationship with the provider is as an uncompensated officer or director of the provider.

"(iv) Subparagraph (A) also shall not apply in such cases, established by the Secretary in regulations, in which the nature of the ownership or compensation does not pose a substantial risk of program abuse.

"(C) SANCTIONS.—

"(i) DENIAL OF PAYMENT.—No payment may be made under this part for home intravenous drug therapy services which are provided in violation of subparagraph (A).

"(ii) CIVIL MONEY PENALTY FOR IMPROPER CLAIMS.—Any person (including a home intravenous drug therapy provider or physician) that presents or causes to be presented a claim for an item or service that such person knows or should know is for an item or service for which payment may not be made under subparagraph (A) shall be subject to a civil money penalty of not more than $15,000 for each such item or service. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) REFERRING PHYSICIAN DEFINED.—In this paragraph, the term 'referring physician' means, with respect to providing home intravenous drug therapy services to an individual, a physician who—

"(i) prescribed the covered home IV drug for which the services are to be provided, or

"(ii) established the plan of care for such services.".

(2) PROPAC STUDY.—The Prospective Payment Assessment Commission shall conduct a study, and make recommendations to Congress and the Secretary of Health and Human Services by not later than March 1, 1991, concerning appropriate adjustment to the payment amounts provided under section 1886(d) of the Social Security Act for inpatient hospital services to account for reduced costs to hospitals resulting from the amendments made by this section.

(3) INSPECTOR GENERAL REPORT ON POTENTIALLY ABUSIVE OWNERSHIP OR COMPENSATION ARRANGEMENTS.—The Inspector General of the Department of Health and Human Services shall study and report to Congress, by not later than May 1, 1989, concerning—

(A) physician ownership of, or compensation from, an entity providing items or services to which the physician makes referrals and for which payment may be made under the medicare program;

(B) the range of such arrangements and the means by which they are marketed to physicians;

(C) the potential of such ownership or compensation to influence the decision of a physician regarding referrals and to lead to inappropriate utilization of such items and services; and

(D) the practical difficulties involved in enforcement actions against such ownership and compensation arrangements that violate current anti-kickback provisions.

Such report shall include such recommendations as may be appropriate to strengthen current law provisions to prevent program abuse.

(d) CERTIFICATION.—

(1) IN GENERAL.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(C) by inserting after subparagraph (F) the following new subparagraph:

"(G) in the case of home intravenous drug therapy services, (i) such services are or were required because the individual needed such services for the administration of a covered home IV drug, (ii) a plan for furnishing such services has been established and is reviewed periodically by a physician, (iii) such services are or were furnished while the individual is or was under the care of a physician, (iv) such services are administered in a place of residence used as such individual's home, and (v) with respect to such services initiated before January 1, 1993, such services have been reviewed and approved by a utilization and peer review organization under section 1154(a)(16) before the date such services were initiated (or, in the case of services first initiated on an outpatient basis, within 1 working day (except in exceptional circumstances) of the date of initiation of the services).".

(2) PRO PRIOR APPROVAL REQUIRED.—Section 1154(a) (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

"(16) The organization shall perform the review described in paragraph (1) with respect to home intravenous drug therapy services (as defined in section 1861(jj)(1)) initiated before January 1, 1993, within 1 working day of the date of the organization's receipt of a request for such review. The Secretary shall establish criteria to be used by such an organization in conducting reviews with respect to the appropriateness of home intravenous drug therapy services under this paragraph.".

(e) CERTIFICATION OF HOME INTRAVENOUS DRUG THERAPY PROVIDERS; INTERMEDIATE SANCTIONS FOR NONCOMPLIANCE.—

(1) TREATMENT AS PROVIDER OF SERVICES.—Section 1861(u) (42 U.S.C. 1395x(u)) is amended by inserting "home intravenous drug therapy provider," after "hospice program,".

(2) CONSULTATION WITH STATE AGENCIES AND OTHER ORGANIZATIONS.—Section 1863 (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (jj)(3)".

(3) USE OF STATE AGENCIES IN DETERMINING COMPLIANCE.—Section 1864(a) (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by inserting "or a home intravenous drug therapy provider," after "hospice program", and

(B) in the second sentence, by striking "or hospice program" and inserting "hospice program, or home intravenous drug therapy provider".

(4) APPLICATION OF INTERMEDIATE SANCTIONS.—Section 1846 (42 U.S.C. 1395w-2) is amended—

(A) in the heading, by adding "AND FOR QUALIFIED HOME INTRAVENOUS DRUG THERAPY PROVIDERS" at the end;

(B) in subsection (a), by inserting "or that a qualified home intravenous drug therapy provider that is certified for participation under this title no longer substantially meets the requirements of section 1861(jj)(3)" after "under this part"; and

(C) in subsection (b)(2)(A)(iv) by inserting "or home intravenous drug therapy services" after "clinical diagnostic laboratory tests".

(f) USE OF REGIONAL INTERMEDIARIES IN ADMINISTRATION OF BENEFIT.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end thereof the following new subsection:

"(k) With respect to carrying out functions relating to payment for home intravenous drug therapy services and covered home IV drugs, the Secretary may enter into contracts with agencies or organizations under this section to perform such functions on a regional basis.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1990.

SEC. 204. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively,

(B) by striking "and" at the end of paragraph (11),

(C) by striking the period at the end of paragraph (12) and inserting "; and", and

(D) by inserting after paragraph (12) the following new paragraph:

"(13) screening mammography (as defined in subsection (kk))."; and

(2) by adding at the end the following new subsection:

"Screening Mammography

"(kk) The term 'screening mammography' means a radiologic procedure provided to a woman for the purpose of early detection of breast cancer and includes a physician's interpretation of the results of the procedure.".

(b) PAYMENT AND COVERAGE.—Section 1834 (42 U.S.C. 1395m), as amended by sections 202(b)(3) and 203(c)(1)(F) of this Act, is amended—

(1) in subsection (b)(1)(B), by inserting "and subject to subsection (e)(1)(A)" after "conversion factors", and

(2) by adding at the end the following new subsection:

"(e) PAYMENTS AND STANDARDS FOR SCREENING MAMMOGRAPHY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part (except as provided in section 1833(c)), with respect to expenses incurred for screening mammography (as defined in section 1861(kk))—

"(A) payment may be made only for screening mammography conducted consistent with the frequency permitted under paragraph (2);

"(B) payment may be made only if the screening mammography meets the quality standards established under paragraph (3); and

"(C) the amount of the payment under this part shall, subject to the deductible established under section 1833(b), be equal to 80 percent of the least of—

"(i) the actual charge for the screening,

"(ii) the fee schedule established under subsection (b) with respect to both the professional and technical components of the screening mammography, in the case of screening mammography subject to such schedule but for this paragraph, or

"(iii) the limit established under paragraph (4) for the screening mammography.

"(2) FREQUENCY COVERED.—

"(A) IN GENERAL.—Subject to revision by the Secretary under subparagraph (B)—

"(i) No payment may be made under this part for screening mammography performed on a woman under 35 years of age.

"(ii) Payment may be made under this part for only 1 screening mammography performed on a woman over 34 years of age, but under 40 years of age.

"(iii) In the case of a woman over 39 years of age, but under 50 years of age, who—

"(I) is at a high risk of developing breast cancer (as determined pursuant to factors identified by the Secretary), payment may not be made under this part for a screening mammography performed within the 11 months of a previous screening mammography, or

"(II) is not at a high risk of developing breast cancer, payment may not be made under this part for a screening mammography performed within the 23 months after a previous screening mammography.

"(iv) In the case of a woman over 49 years of age, but under 65 years of age, payment may not be made under this part for screening mammography performed within 11 months after a previous screening mammography.

"(v) In the case of a woman over 64 years of age, payment may not be made for screening mammography performed within 23 months after a previous screening mammography.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening mammography, based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which screening mammography may be paid for under this subsection, but no such revision shall apply to screening mammography performed before January 1, 1992.

"(3) QUALITY STANDARDS.—The Secretary shall establish standards to assure the safety and accuracy of screening mammography

performed under this part. Such standards shall include the requirements that—

"(A) the equipment used to perform the mammography must be specifically designed for mammography and must meet radiologic standards established by the Secretary for mammography;

"(B) the mammography must be performed by an individual who—

"(i) is licensed by a State to perform radiological procedures, or

"(ii) is certified as qualified to perform radiological procedures by such an appropriate organization as the Secretary specifies in regulations;

"(C) the results of the mammography must be interpreted by a physician—

"(i) who is certified as qualified to interpret radiological procedures by such an appropriate board as the Secretary specifies in regulations, or

"(ii) who is certified as qualified to interpret screening mammography procedures by such a program as the Secretary recognizes in regulation as assuring the qualifications of the individual with respect to such interpretation; and

"(D) with respect to the first screening mammography performed on a woman for which payment is made under this part, there are satisfactory assurances that the results of the mammography will be placed in permanent medical records maintained with respect to the woman.

"(4) Limit.—

"(A) $50, indexed.—Except as provided by the Secretary under subparagraph (B), the limit established under this paragraph—

"(i) for screening mammography performed in 1990, is $50, and

"(ii) for screening mammography performed in a subsequent year is the limit established under this paragraph for the preceding year increased by the percentage increase in the MEI for that subsequent year.

"(B) Reduction of limit.—The Secretary shall review from time to time the appropriateness of the amount of the limit established under this paragraph. The Secretary may, with respect to screening mammography performed in a year after 1991, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that screening mammography of an appropriate quality is readily and conveniently available during the year.

"(C) Application of limit in hospital outpatient setting.—The Secretary shall provide for an appropriate allocation of the limit established under this paragraph between professional and technical components in the case of hospital outpatient screening mammography (and comparable situations) where there is a claim for professional services separate from the claim for the radiologic procedure.

"(5) Limiting charges of nonparticipating physicians.—

"(A) In general.—In the case of mammography screening performed on or after January 1, 1990, for which payment is made under this subsection, if a nonparticipating physician or supplier provides the screening to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B), or, if applicable and if less, as defined in subsection (b)(5)(B)).

"(B) Limiting charge defined.—In subparagraph (A), the term 'limiting charge' means, with respect to screening mammography performed—

"(i) in 1990, 125 percent of the limit established under paragraph (4),

"(ii) in 1991, 120 percent of the limit established under paragraph (4), and

"(iii) after 1991, 115 percent of the limit established under paragraph (4).

"(C) Enforcement.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(c) Certification of Screening Mammography Quality Standards.—

(1) Section 1863 (42 U.S.C. 1395z) is amended by inserting "or whether screening mammography meets the standards established under section 1834(e)(3)," after "1832(a)(2)(F)(i),".

(2) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by inserting before the period the following: ", or whether screening mammography meets the standards established under section 1834(e)(3)".

(3) Section 1865(a) (42 U.S.C. 1395bb(a)) is amended by inserting "1834(e)(3)," after "1832(a)(2)(F)(i),".

(d) Conforming Amendments.—

(1) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting ", but excluding screening mammography" after "imaging services".

(2) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "subparagraph (B), (C), (D), or (E)" and inserting "a succeeding subparagraph",

(ii) in subparagraph (D), by striking "and" at the end,

(iii) in subparagraph (E), by striking the semicolon at the end and inserting ", and", and

(iv) by adding at the end the following new subparagraph:

"(F) in the case of screening mammography, which is performed more frequently than is covered under section 1834(e)(2) or which does not meet the standards established under section 1834(e)(3);"; and

(B) in paragraph (7), by inserting "or under paragraph (1)(F)" after "(1)(B)".

(3) Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (13) and (14)" and inserting "paragraphs (14) and (15)".

(e) Effective Date.—The amendments made by this section shall apply to screening mammography performed on or after January 1, 1990. Paragraph (5) of section 1834(e) of the Social Security Act shall only apply until such time as the Secretary of Health and Human Services implements the physician fee schedules based on relative value scale developed under section 1845(e) of such Act.

(f) Reports.—

(1) The Physician Payment Review Commission shall study and report, by July 1, 1989, to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate concerning the cost of providing screening mammography in a variety of settings and at different volume levels.

(2) The Comptroller General shall study and report, by July 1, 1989, to the Committees specified in paragraph (1) concerning the quality of care of screening mammography in a variety of settings.

SEC. 205. IN-HOME CARE FOR CERTAIN CHRONICALLY DEPENDENT INDIVIDUALS.

(a) In General.—Section 1832(a) (42 U.S.C. 1395k(a)) is amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "(A)", and

(B) by inserting before the semicolon at the end the following: ", and (ii) in-home care for a chronically dependent individual for up to 80 hours in any 12-month period described in section 1861(ll)(4), but not to exceed 80 hours in any calendar year;"; and

(2) by adding at the end the following new sentence:

"In the case of in-home care (described in paragraph (2)(A)(ii)) provided to a chronically dependent individual on any day, such care provided for 3 hours or less on the day shall be counted (for purposes of the limitation in such paragraph) as 3 hours of such care.".

(b) In-Home Care for Chronically Dependent Individual Defined.—Section 1861 (42 U.S.C. 1395x), as amended by section 204(a)(2), is amended by adding at the end the following new subsection:

"In-Home Care; Chronically Dependent Individual

"(ll)(1) The term 'in-home care' means the following items and services furnished, under the supervision of a registered professional nurse, to a chronically dependent individual (as defined in paragraph (2)) during the period described in paragraph (4) by a home health agency or by others under arrangements with them made by such agency in a place of residence used as such individual's home:

"(A) Services of a homemaker/home health aide (who has successfully completed a training program approved by the Secretary).

"(B) Personal care services.

"(C) Nursing care provided by a licensed professional nurse.

"(2) The term 'chronically dependent individual' means an individual who—

"(A) is dependent on a daily basis on a primary caregiver who is living with the individual and is assisting the individual without monetary compensation in the performance of at least 2 of the activities of daily living (described in paragraph (3)), and

"(B) without such assistance could not perform such activities of daily living.

"(3) The 'activities of daily living', referred to in paragraph (2), are as follows:

"(i) Eating.

"(ii) Bathing.

"(iii) Dressing.

"(iv) Toileting.

"(v) Transferring in and out of a bed or in and out of a chair.

"(4) The 12-month period described in this paragraph is the 1-year period beginning on the date that the Secretary determines that a chronically dependent individual either—

"(A) has become entitled to benefits under section 1833(c) (relating to having incurred out-of-pocket part B cost sharing equal to the part B catastrophic limit), or

"(B) has become entitled to have payments made for covered outpatient drugs under section 1834(c).

In the case of an individual who qualifies under subparagraph (A) or (B) within 12 months after previously qualifying, the subsequent qualification shall begin a new 12-month period under this paragraph. In the case of an individual enrolled in a buy-out plan (as defined in section 1833(c)(5)(D)) or a drug buy-out plan (as defined in section

1834(c)(6)(D)), the Secretary shall establish such procedures as may be appropriate to identify individuals who are deemed to be described in subparagraph (A) or (B), respectively, for purposes of the provision of in-home care under the plan.

(c) Payment.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(1) in paragraph (2), by inserting "(A)(ii)," after "subparagraphs" the first place it appears,

(2) in paragraph (3), by striking "(D)" and inserting "(A)(ii), (D),", and

(3) by adding at the end the following:

"Payment for in-home care for chronically dependent individuals shall be paid on the basis of an hour of such care provided. In applying paragraph (2) in the case of an organization receiving payment under clause (A) of paragraph (1) or under a reasonable cost reimbursement contract under section 1876 and providing coverage of in-home care, the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in the organization if payments were made other than under such clause or such a contract if payments were to be made on an individual-by-individual basis.".

(d) Certification.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)), as amended by section 203(d), is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (G) the following new subparagraph:

"(H) in the case of in-home care provided to a chronically dependent individual during a 12-month period, the individual was a chronically dependent individual during the 3-month period immediately preceding the beginning of the 12-month period.".

(e) Standards for Utilization.—

(1) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 204(d)(2), is amended—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (E),

(ii) by adding "and" at the end of subparagraph (F), and

(iv) by adding at the end the following new subparagraph:

"(G) in the case of in-home care for chronically dependent individuals, which is not reasonable and necessary to assure the health and condition of the individual is maintained in the individual's noninstitutional residence;"; and

(B) in paragraph (6), by inserting "and except, in the case of in-home care, as is otherwise permitted under paragraph (1)(F)" after "paragraph (1)(C)".

(2) The Secretary of Health and Human Services shall take appropriate efforts to assure the quality, and provide for appropriate utilization of, in-home care for chronically dependent individuals under the amendments made by this section.

(f) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1990.

(g) Study of Alternative Out-of-Home Services.—The Secretary of Health and Human Services shall study, and report to Congress, not later than 18 months after the date of the enactment of this Act, on the advisability of providing, to chronically dependent individuals eligible for in-home care under the amendments made by this section, out-of-home services (such as adult day care services or nursing facility services) as alternative services to in-home care.

SEC. 206. EXTENDING HOME HEALTH SERVICES.

(a) In General.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1) and (4) and sections 1814(a)(2)(C) and 1835(a)(2)(A), nursing care and home health aide services shall be considered to be provided or needed on an 'intermittent' basis if they are provided or needed less than 7 days each week and, in the case they are provided or needed for 7 days each week, if they are provided or needed for a period of up to 38 consecutive days.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished in cases of initial periods of home health services beginning on or after January 1, 1990.

SEC. 207. RESEARCH ON LONG-TERM CARE SERVICES FOR MEDICARE BENEFICIARIES.

(a) In General.—The Secretary of Health and Human Services, from the funds appropriated under subsection (b), shall provide for research on issues relating to the delivery and financing of long-term care services for medicare beneficiaries. Such research shall include research into at least the following areas:

(1) The financial characteristics of medicare beneficiaries who receive or need long-term care services, including whether such beneficiaries are eligible for medicaid benefits for such services.

(2) How the financial and other characteristics of medicare beneficiaries affect their utilization of institutional and noninstitutional long-term care services.

(3) How relatives of medicare beneficiaries are affected financially and in other ways because the beneficiaries require or receive long-term care services.

(4) The quality of long-term care services (in community-based and custodial settings) and how the provision of long-term care services may reduce expenditures for acute health care services.

(5) The effectiveness of, and need for, State and Federal consumer protections which assure adequate access to and protect the rights of medicare beneficiaries who are provided long-term care services (other than in a nursing facility).

(b) Authorization of Appropriations.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $5,000,000 for each of fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out the research described in subsection (a).

(c) Long-Term Care Services Defined.—In this section, the term "long-term care services" includes nursing home care, home care, community-based services, and custodial care.

(d) Reports.—The Secretary of Health and Human Services shall submit interim reports by December 1, 1990, and by December 1, 1992, and a final report by June 1, 1994, concerning the demonstration projects conducted under this section.

SEC. 208. STUDY OF ADULT DAY CARE SERVICES.

(a) Survey of Current Adult Day Care Services.—The Secretary of Health and Human Services shall conduct a survey of adult day care services in the United States to collect information concerning—

(1) the scope of such services and the extent of their availability;

(2) the characteristics of entities providing such services;

(3) licensure, certification, and other quality standards that are applied to those providing such services;

(4) the cost and financing of such services; and

(5) the characteristics of the people who use such services.

(b) Report.—The Secretary shall report to Congress, by not later than 1 year after the date of the enactment of this Act, on the information collected in the survey. Based on such information, the Secretary shall include in the report recommendations concerning appropriate standards for coverage of adult day care services under medicare, including defining chronically dependent individuals, defining services included in adult day care services, establishing qualifications of providers of adult day care services, and establishing a reimbursement mechanism.

(c) Adult Day Care Services Defined.—In this section, the term "adult day care services" means medical or social services provided in an organized nonresidential setting to chronically impaired individuals who are not inpatients in a medical institution.

SUBTITLE B—MEDICARE PART B MONTHLY PREMIUM FINANCING

SEC. 211. ADJUSTMENT IN MEDICARE PART B PREMIUM.

(a) In General.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g)(1)(A) Except as provided in this paragraph, paragraphs (4) and (5), and subsections (b) and (f), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased by the sum of the catastrophic coverage monthly premium and the prescription drug monthly premium for months in the year determined under the following table (for months occurring in 1989 through 1993) or determined in accordance with paragraphs (2) and (3) (for months after December 1993):

"In the case of:	The catastrophic coverage monthly premium is:	The prescription drug monthly premium is:
1989	$4.00	0
1990	$4.90	0
1991	$5.46	$1.94
1992	$6.75	$2.45
1993	$7.18	$3.02

"(B)(i) Except as provided in subparagraph (C), if the amount of the supplemental premium rate otherwise determined under section 59B of the Internal Revenue Code of 1986 for taxable years beginning in a calendar year is increased as a result of subsection (e)(2)(A)(i) of such section or is reduced as a result of subsection (e)(2)(A)(ii) of such section, the monthly premium increase otherwise determined under this paragraph shall be reduced or increased, respectively, by an amount equal to—

"(I) $\frac{1}{12}$th of the excess or shortfall, respectively, determined under clause (ii) for the year, as adjusted under clause (iv), divided by

"(II) the average number of individuals covered under this part during the preceding year.

"(ii) The excess or shortfall determined under this clause for a year is the excess or shortfall, determined by the Secretary of the Treasury, of—

"(I) the total amount of the supplemental premiums imposed under section 59B of the Internal Revenue Code of 1986 in the 2nd preceding year, over

"(II) the total amount of such premiums which would have been imposed in such year if the supplemental premium rate under such section had been increased by the shortfall rate, or decreased by the excess rate, described in clause (iii).

"(iii) The excess rate or shortfall rate under this clause for a year is the excess or shortfall of—

"(I) the supplemental premium rate established under section 59B of the Internal Revenue Code of 1986 for taxable years beginning in the year, and

"(II) the amount of such supplemental rate if determined without regard to subsection (e)(2)(A) of such section.

"(iv) The amount determined under clause (i)(I) for a year shall be increased by the percentage by which the per capita catastrophic coverage premium liability (as determined in section 59B(e)(3)(D)(ii) of the Internal Revenue Code of 1986) for the second preceding year exceeds such liability for the fourth preceding year (determined as if the catastrophic coverage premium rate for the second preceding calendar year were the same as the rate in effect for the fourth preceding calendar year).

"(C) In no event shall the monthly premium increase in effect under this paragraph for months in a year after 1993 be less than the monthly premium increase in effect under this paragraph for months in the preceding year.

"(D) If subparagraph (B) or subparagraph (C), or both, affects the increase in the monthly premium determined under this paragraph for a year, the increase in the monthly premium determined after the application of such subparagraph or subparagraphs shall be allocated between the catastrophic coverage monthly premium and the prescription drug monthly premium on the basis of the respective amounts of such premiums without regard to the application of either such subparagraph.

"(2)(A) In the case of months in a year after 1993, the catastrophic coverage monthly premium is the catastrophic coverage monthly premium (in effect under paragraph (1) or this paragraph for months in the preceding year, determined without regard to paragraph (1)(B) or (1)(C)) adjusted by the percentage determined under subparagraph (B) for the year.

"(B) The percentage determined under this subparagraph for a year shall be the sum of—

"(i) the outlay-premium percentage, and

"(ii) the reserve account percentage.

For purposes of the preceding sentence, negative percentages shall be taken into account as negatives.

"(C)(i) Except as provided in clause (ii), the outlay-premium percentage for any year is the percentage by which—

"(I) the per capita catastrophic outlays in the 2nd preceding year exceeds

"(II) such outlays in the 3rd preceding calendar year.

If there is no excess, this clause shall be applied by substituting 'is less than' for 'exceeds' and the percentage determined with such substitution shall be taken into account as a negative percentage.

"(ii) If—

"(I) the percentage increase in the CPI for the 12-month period ending with May of the preceding calendar year, exceeds (or is less than)

"(II) such increase for the 12-month period ending with May of the 2nd preceding calendar year,

by at least 1 percentage point, the percentage determined under clause (i) for any year shall be adjusted up (or down, respectively) by ½ of the amount by which such excess (or shortage, respectively) exceeds 1 percent.

"(D)(i) The reserve account percentage for any calendar year is the percentage which the premium change determined under clause (ii) is of the catastrophic coverage monthly premium in effect under paragraph (1) or this paragraph for the preceding year (determined without regard to paragraph (1)(B) or (1)(C)). If there is an excess determined under clause (iii), the percentage determined under the preceding sentence shall be taken into account as a negative percentage.

"(ii) The premium change determined under this clause for any year is the adjustment in the catastrophic coverage monthly premium (otherwise in effect for the 2nd preceding year) which the Secretary determines would have resulted in an aggregate increase (or decrease) in the premiums imposed by this subsection for such year equal to 37 percent of the shortfall or excess determined under clause (iii) for the calendar year.

"(iii) The shortfall (or excess) determined under this clause for any year is the amount by which—

"(I) 20 percent of the outlays during the 2nd preceding calendar year from the Medicare Catastrophic Coverage Account created under section 1841B, exceeds (or is less than)

"(II) the balance in such Account as of the close of such 2nd preceding calendar year (determined by taking into account previous premium increases by reason of the reserve account percentage under this paragraph or section 59B(e) of the Internal Revenue Code of 1986 which have not been credited into such Account).

"(3) In the case of months in a year after 1993, the prescription drug monthly premium shall be determined under rules similar to the rules of paragraph (2); except that—

"(A) in determining the prescription drug monthly premium for any month in a year before 1998, the following percentages shall be substituted for 20 percent in paragraph (2)(D)(iii)(I):

"In the case of year:	The percentage is:
1994	75
1995	50
1996	25
1997	25;

"(B) no adjustment by reason of the outlay-premium percentage shall be made for any calendar year before 1998;

"(C) any reference to the Medicare Catastrophic Coverage Account shall be treated as a reference to the Federal Catastrophic Drug Insurance Trust Fund, and

"(D) any reference to the catastrophic coverage monthly premium shall be treated as a reference to the prescription drug monthly premium.

"(4)(A) In the case of an individual who is a resident of Puerto Rico or who is a resident of another U.S. commonwealth or territory during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased by the sum of—

"(i) the catastrophic coverage monthly premium determined under subparagraph (B) for such resident for the year, and—

"(ii) the prescription drug monthly premium determined under subparagraph (C) for the resident for the year.

"(B) The catastrophic coverage monthly premium for months—

"(i) in 1989 is $1.30 for a resident of Puerto Rico and $2.10 for a resident of another U.S. commonwealth or territory;

"(ii) in 1990 is $3.56 for a resident of Puerto Rico and $5.78 for a resident of another U.S. commonwealth or territory; and

"(iii) in a subsequent year, with respect to a resident of Puerto Rico or a resident of another U.S. commonwealth or territory, is the catastrophic coverage monthly premium established under this subparagraph for the preceding year with respect to such a resident increased by the same percentage (estimated by the Secretary in September of that preceding year) by which—

"(I) the per capita catastrophic outlays for the year, will exceed

"(II) the per capita catastrophic outlays for that preceding year.

"(C) The prescription drug monthly premium for months—

"(i) in 1990 is $0.14 for a resident of Puerto Rico and $0.22 for a resident of another U.S. commonwealth or territory;

"(ii) in 1991 is $1.21 for a resident of Puerto Rico and $1.93 for a resident of another U.S. commonwealth or territory; and

"(iii) in a subsequent year, with respect to a resident of Puerto Rico or a resident of another U.S. commonwealth or territory, is the prescription drug monthly premium established under this subparagraph for the preceding year with respect to such a resident increased by the same percentage (estimated by the Secretary in September of that preceding year) by which—

"(I) the per capita prescription drug outlays for the year, will exceed

"(II) the per capita prescription drug outlays for that preceding year.

"(5)(A) In the case of a part B only individual (as defined in paragraph (8)(F)) during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium otherwise determined, without regard to this subsection, shall be increased by the sum of—

"(i) the catastrophic coverage monthly premium determined under subparagraph (B) for the year, and—

"(ii) the prescription drug monthly premium determined under subparagraph (C) for the year.

"(B) The catastrophic coverage monthly premium for months—

"(i) in 1990 is $8.57, and

"(ii) in a subsequent year is $\frac{1}{12}$th of the average actuarial expenses that the Secretary estimates (during September before the year) will be incurred during the year for benefits and administration costs (other than benefits and costs attributable to part A) for which outlays may be made from the Medicare Catastrophic Coverage Account.

"(C) The prescription drug monthly premium for months—

"(i) in 1990 is $0.53,

"(ii) in 1991 is $4.61, and

"(iii) a subsequent year is $\frac{1}{12}$th of the average actuarial expenses that the Secretary estimates (during September before the year) *will be incurred during the year for benefits and administration costs for which outlays may be made from the Federal Catastrophic Drug Insurance Trust Fund.*

"(6)(A) If any premium increase for a month under this subsection is not a multiple of 10 cents, the Secretary shall round the increase to the nearest multiple of 10 cents.

"(B) If the Secretary so rounds the premium increase, the amount of such increase shall be allocated between the catastrophic coverage monthly premium and the prescription drug monthly premium on the basis of the respective amounts of such premiums without regard to the application of subparagraph (A).

"(7)(A) The Secretary and the Secretary of the Treasury shall jointly—

"(i) publish in the Federal Register by not later than July 1 of each year (beginning with 1993) a proposed regulation to establish premium increases under this subsection for months in the following year,

"(ii) report to Congress, by not later than September 1 of such year, on the final premiums to be published under clause (iii), and

"(iii) publish in the Federal Register, during the last 3 days of September of each such year, a final regulation establishing monthly premiums under this subsection for months in the following year.

"(B) The Secretary shall report to Congress, in 1993, respecting the appropriateness of the level of premium increases established under paragraph (4) for residents of Puerto Rico and of other U.S. commonwealths and territories.

"(8) For purposes of this subsection:

"(A) The term 'per capita catastrophic outlays' means, with respect to any year, the amount (as determined by the Secretary) equal to—

"(i) the outlays during such year from the Medicare Catastrophic Coverage Account, divided by

"(ii) the average number of individuals entitled to receive benefits under part A during such year.

"(B) The term 'per capita prescription drug outlays' means, with respect to any year, the amount (as determined by the Secretary) equal to—

"(i) the outlays during such year from the Federal Catastrophic Drug Insurance Trust Fund, divided by

"(ii) the average number of individuals entitled to receive benefits under part A during such year.

"(C) The percentage increase in the CPI for any 12-month period shall be the percentage by which the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the last month of such period exceeds such Index for the last month of the preceding 12-month period.

"(D) The term 'Medicare Catastrophic Coverage Account' refers to such Account as created under section 1841B.

"(E) The term 'U.S. commonwealth or territory' means Puerto Rico, the United States Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands.

"(F) The term 'part B only individual' means, with respect to a month, an individual who—

"(i) is not a resident of a U.S. commonwealth or territory (as defined in subparagraph (D)) during the month,

"(ii) is entitled to benefits under this part, and

"(iii) is not entitled to (or, on application without payment of an additional premium, would not be entitled to) benefits under part A or is entitled to benefits under such part only because of payment of a premium under section 1818.".

(b) Extension of Hold-Harmless Provision.—Subsection (f) of section 1839 is amended to read as follows:

"(f) For any calendar year after 1988, if an individual is entitled to monthly benefits under section 202 or 223 or to a monthly annuity under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974 for November and December of the preceding year, and if the monthly premium of the individual under this section for December and for January is deducted from those benefits under section 1840(a)(1) or section 1840(b)(1), the monthly premium otherwise determined under this section for an individual for that year shall not be increased, pursuant to this subsection, to the extent that such increase would reduce the amount of benefits payable to that individual for that January below the amount of benefits payable to that individual for that December (after the deduction of the premium under this section). For purposes of this subsection, retroactive adjustments or payments and deductions on account of work shall not be taken into account in determining the monthly benefits to which an individual is entitled under section 202 or 223 or under the Railroad Retirement Act of 1974.".

(c) Conforming Amendments.—

(1) Section 1839 (42 U.S.C. 1395r) is amended—

(A) in the second sentence of subsections (a)(1) and (a)(4), by inserting "(other than costs relating to the amendments made by the Medicare Catastrophic Coverage Act of 1988)" before the period;

(B) by inserting before the period at the end of the last sentence of subsections (a)(1) and (a)(4) the following: ", but shall not take into account any amounts in the Trust Fund that may be attributable to receipts or outlays relating to the Medicare Catastrophic Coverage Account";

(C) in subsections (a)(2), by striking "and (e)" and inserting ", (e), and (g)";

(D) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e) and (g)";

(E) in subsection (b), by striking "determined under subsection (a) or (e)" and inserting "otherwise determined under this section (without regard to subsections (f) and (g)(6))"; and

(F) in subsection (e)(1), by inserting "except as provided in subsection (g)," after "subsection (a)".

(2) Section 1844(a) (42 U.S.C. 1395w(a)(1)) is amended by adding at the end the following:

"In computing the amount of aggregate premiums and premiums per enrollee under paragraph (1), there shall not be taken into account premiums attributable to section 1839(g) or section 59B of the Internal Revenue Code of 1986.".

(3) Section 1876(a)(5) (42 U.S.C. 1395ff(a)(5)) is amended—

(A) by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting ", the Federal Supplementary Medical Insurance Trust Fund, and the Federal Catastrophic Drug Insurance Trust Fund", and

(B) by amending the second sentence to read as follows:

"The portion of that payment to the organization for a month to be paid by each trust fund shall be determined as follows:

"(A) In regard to expenditures by eligible organizations having risk-sharing contracts, the allocation shall be determined each year by the Secretary based on the relative weight that benefits from each fund contribute to the adjusted average per capita cost.

"(B) In regard to expenditures by eligible organizations operating under a reasonable cost reimbursement contract, the initial allocation shall be based on the plan's most recent budget, such allocation to be adjusted, as needed, after cost settlement to reflect the distribution of actual expenditures.".

(d) Effective Date.—The amendments made by this section shall apply (except as otherwise specified in such amendments) to monthly premiums for months beginning with January 1989.

SEC. 212. ESTABLISHMENT OF FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND; FUND TRANSFERS.

(a) In General.—Part B of title XVIII is amended by inserting after section 1841 the following new section:

"FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND

"Sec. 1841A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Catastrophic Drug Insurance Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts transferred to it in accordance with section 1841(j) or under paragraph (2).

"(2) There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the supplemental premiums imposed by section 59B of the Internal Revenue Code of 1986 which are attributable to the prescription drug rate. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the premiums specified in such sentence. At the close of each year, the transfers under this subsection shall reflect all premiums paid or deposited (as specified in this subsection) into the Treasury in the year.

"(b) The provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund.

"(c) Notwithstanding any other provision of this title, all payments under this part on or after January 1, 1990, for benefits and administrative costs relating to covered outpatient drugs shall be made from the Trust Fund.

"(d)(1) The Secretary of the Treasury, in consultation with the Board of Trustees of the Trust Fund, shall publish in the Federal Register—

"(A) not later than July 1 of each year (beginning with 1992), information on—

"(i) the outlays made from the Trust Fund in the preceding year, and

"(ii) the balance in the Trust Fund as of the close of the preceding year; and

"(B) during the last 3 days of September of each such year, the prescription drug monthly premiums to be established under section 1839(g) for months in the succeeding year.

"(2) The Secretary shall report to Congress, not later than July 1 of each year (beginning with 1992), respecting the distribution of outlays from the Trust Fund in the previous year among major spending categories. The Comptroller General shall report, not later than September 1 of each year, to Congress concerning the completeness and accuracy of the Secretary's report under the previous sentence and of the premiums established under section 1839(g) and under section 59B of the Internal Revenue Code of 1986.

"(e) In this part, with respect to the Trust Fund and the Medicare Catastrophic Coverage Account, the terms 'outlays' and 'receipts' mean, with respect to a quarter or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such quarter or other period.".

(b) Transfers of Certain Premiums.—

(1) Transfer of flat prescription drug premiums to Federal Catastrophic Drug Insurance Trust Fund.—Section 1840 (42 U.S.C. 1395s) is amended by adding at the end the following new subsection:

"(i) Notwithstanding the previous provisions of this subsection, premiums collected under this part which are attributable to a prescription drug monthly premium established under section 1839(g) shall, instead of being transferred to (or being deposited to the credit of) the Federal Supplemental Medical Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Catastrophic Drug Insurance Trust Fund.".

(2) Transfer of supplemental catastrophic coverage premiums into the SMI trust fund.—Section 1841(a) (42 U.S.C. 1395t(a)) is amended by adding the following: "There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the supplemental premiums imposed by section 59B of the Internal Revenue Code of 1986 which are attributable to the catastrophic coverage rate and which are not otherwise appropriated under section 1817A(a)(2) to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the premiums specified in such sentence. At the close of each year, the transfers under this subsection shall reflect all premiums under section 59B of the Internal Revenue Code of 1986 paid or deposited into the Treasury in the year.".

(c) Conforming Amendments.—

(1)(A) Section 201(g)(1)(A) (42 U.S.C. 401(g)(1)(A)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting ", Federal Supplementary Medical Insurance Trust Fund, and the Federal Catastrophic Drug Insurance Trust Fund".

(B) Section 201(i)(1) (42 U.S.C. 401(i)(1)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting ", Federal Hospital Insurance Catastrophic Coverage Reserve Fund, Federal Supplementary Medical Insurance Trust Fund, and the Federal Catastrophic Drug Insurance Trust Fund".

(2) Section 1833(a) (42 U.S.C. 1395l(a)) is amended, in the matter before paragraph (1), by inserting "or, as provided in section 1841A(c), from the Federal Catastrophic Drug Insurance Trust Fund" after "Medical Insurance Trust Fund".

(3) Section 1817(b) (42 U.S.C. 1395i(b)) is amended by inserting after the sixth sentence the following: "Such report shall also identify (and treat separately) those outlays from the Trust Fund which are also outlays from the Medicare Catastrophic Coverage Account created under section 1841B and those outlays for which there are amounts transferred into the Federal Hospital Insurance Catastrophic Coverage Reserve Fund.".

(4) Section 1841(b) (42 U.S.C. 1395t(b)) is amended by inserting after the sixth sentence the following: "Such report shall also identify (and treat separately) those receipts and outlays in the Trust Fund which are also receipts and outlays in the Medicare Catastrophic Coverage Account created under section 1841B.".

SEC. 213. CREATION OF MEDICARE CATASTROPHIC COVERAGE ACCOUNT.

(a) In General.—Part B of title XVIII is amended by inserting after section 1841A, as inserted by section 212, the following new section:

"MEDICARE CATASTROPHIC COVERAGE ACCOUNT

"Sec. 1841B. (a) For purposes of carrying out certain provisions of this title, and section 59B of the Internal Revenue Code of 1986, there is hereby created on the books of the Treasury of the United States an account to be known as the 'Medicare Catastrophic Coverage Account' (in this section referred to as the 'Account'), to be maintained by the Secretary of the Treasury in consultation with the Boards of Trustees of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. No funds shall actually be transferred into or paid out of the Account, but, for other purposes of this part and for purposes of section 59B of the Internal Revenue Code of 1986, amounts credited to the Account shall be considered receipts of the Account and amounts debited to account shall be considered outlays from the Account.

"(b)(1) The Account shall be—

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to the portion of supplemental premiums under section 59B of the Internal Revenue Code of 1986, and the premiums under section 1839(g), attributable to the catastrophic coverage premium rate or catastrophic coverage monthly premium,

"(B) credited for receipts of the Federal Hospital Insurance Catastrophic Coverage Reserve Fund, and

"(C) debited for outlays made under this title that are attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988 (other than outlays relating to covered outpatient drugs and related administrative costs).

"(2) In addition, the Account shall be—

"(A) credited with interest (at the rate used for purposes of the Federal Supplementary Medical Insurance Trust Fund) on any positive average balance maintained in the Account in a calendar quarter, and

"(A) debited with interest (at the rate used for purposes of the Federal Supplementary Medical Insurance Trust Fund) on any negative average balance maintained in the Account in a calendar quarter.

"(3) Credits and debits under this subsection shall be made as of the last date of each month based upon receipts and outlays occurring during the month, as estimated by the Secretary and the Secretary of the Treasury.

"(4) The Account shall also identify (and treat separately) those credits and debits in the Account which are also receipts and outlays in the Federal Supplementary Medical Insurance Trust Fund, those receipts which are also receipts of the Federal Hospital Insurance Catastrophic Coverage Reserve Fund, and those outlays that are also outlays from the Federal Hospital Insurance Trust Fund.

"(c)(1) The Secretary of the Treasury shall publish in the Federal Register—

"(A) not later than July 1 of each year (beginning with 1990), information on—

"(i) the outlays made from the Account in the preceding year, and

"(ii) the balance in the Account as of the close of the preceding year; and

"(B) during the last 3 days of September of each such year, the catastrophic coverage monthly premiums to be established under section 1839(g) for months in the succeeding year.

"(2) The Secretary shall report to Congress, not later than July 1 of each year (beginning with 1990), respecting the distribution of outlays from the Account in the previous year among major spending categories. The Comptroller General shall report, not later than September 1 of each year, to Congress concerning the completeness and accuracy of the Secretary's report under the previous sentence and of the premiums established under section 1839(g) and under section 59B of the Internal Revenue Code of 1986.

"(d) The Secretary of the Treasury shall report to Congress in April of each year on the status of the Account created under this section.".

Subtitle C—Miscellaneous Provisions

SEC. 221. VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES.

(a) Free-Look Period.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)(B), by striking "and (3)" and inserting "through (4)", and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting "; and", and

(C) by adding at the end thereof the following:

"(4) may, during a period of not less than 30 days after the policy is issued, be returned for a full refund of any premiums paid (without regard to the manner in which the purchase of the policy was solicited).".

(b) Reporting of Information Relating to Loss Ratios.—Section 1882(b)(1), as amended by subsection (a), is further amended—

(1) in subparagraph (C), by striking "(A) and (B)" and inserting "(A), (B), and (C)",

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) provides that—

"(i) information with respect to the actual ratio of benefits provided to premiums collected under such policies will be reported to the State on forms conforming to those de-

veloped by the National Association of Insurance Commissioners for such purpose, or

"(ii) such ratios will be monitored under the program in an alternative manner approved by the Secretary;".

(c) CONSUMER INFORMATION.—Section 1882(e) is amended—

(1) by inserting "(1)" after "(e)", and

(2) by adding at the end thereof the following:

"(2) The Secretary shall—

"(A) inform all individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) of—

"(i) the actions and practices that are subject to sanctions under subsection (d), and

"(ii) the manner in which they may report any such action or practice to an appropriate official of the Department of Health and Human Services (or to an appropriate State official), and

"(B) publish the toll-free telephone number for individuals to report suspected violations of the provisions of such subsection.

"(3) The Secretary shall provide individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) with a listing of the addresses and telephone numbers of State and Federal agencies and offices that provide information and assistance to individuals with respect to the selection of medicare supplemental policies.".

(d) REVISION OF MODEL STANDARDS; TRANSITION.—Section 1882 is further amended—

(1) in the third sentence of subsection (a), by striking "Such certification" and inserting "Subject to subsection (k)(3), such certification";

(2) in subsection (b), by striking "(for so long as" and inserting "(subject to subsection (k)(3), for so long as"; and

(3) by adding at the end thereof the following new subsections:

"(k)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') amends the NAIC Model Regulation adopted on June 6, 1979 (as it relates to medicare supplemental policies), with respect to matters such as minimum benefit standards, loss ratios, disclosure requirements, and replacement requirements and provisions otherwise necessary to reflect the changes in law made by the Medicare Catastrophic Coverage Act of 1988, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the Model Regulation as amended by the Association in accordance with this paragraph (in this subsection and subsection (l) referred to as the 'amended NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the amended NAIC Model Regulation or 1 year after the date the Association first adopts such amended Regulation.

"(2)(A) If the Association does not amend the NAIC Model Regulation within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, Federal model standards (in this subsection and subsection (l) referred to as 'Federal model standards') for medicare supplemental policies to reflect the changes in law made by the Medicare Catastrophic Coverage Act of 1988, and subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the Federal model standards or 1 year after the date the Secretary first promulgates such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (l))—

"(A) no Medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the amended NAIC Model Regulation or the Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

"(l)(1) Until the date specified in paragraph (3), in the case of a qualifying Medicare supplemental policy described in paragraph (2) issued—

"(A) before January 1, 1989, the policy is deemed to remain in compliance with this section if the insurer issuing the policy complies with the NAIC Model Transition Regulation (including giving notices to subscribers and filing for premium adjustments with the State as described in section 5.B. of such Regulation) by January 1, 1989; or

"(B) on or after January 1, 1989, the policy is deemed to be in compliance with this section if the insurer issuing the policy complies with the NAIC Model Transition Regulation before the date of the sale of the policy.

"(2) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy—

"(A) issued in a State which—

"(i) has not adopted standards equal to or more stringent than the NAIC Model Transition Regulation by January 1, 1989, and

"(ii) has not adopted standards equal to or more stringent than the amended NAIC Model Regulation (or Federal model standards) by January 1, 1989; and

"(B) which has been issued in compliance with this section (as in effect on June 1, 1988).

"(3)(A) The date specified in this paragraph is the earlier of—

"(i) the first date a State adopts, after January 1, 1989, standards equal to or more stringent than the NAIC Model Transition Regulation or equal to or more stringent than the amended NAIC Model Regulation (or Federal model standards), as the case may be, or

"(ii) the later of (I) the date specified in subsection (k)(1)(B) or (k)(2)(B) (as the case may be), or (II) the date specified in subparagraph (B).

"(B) In the case of a State which the Secretary identifies as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1989 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in clause (i) may be considered. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(4) In the case of a medicare supplemental policy in effect on January 1, 1989, and offered in a State which, as of such date—

"(A) has adopted standards equal to or more stringent than the amended NAIC Model Regulation (or Federal model standards), but

"(B) does not have in effect standards equal to or more stringent than the NAIC Model Transition Regulation (or otherwise requiring notice substantially the same as the notice required in section 5.B. of such Regulation),

the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policyholder under such policy on January 1, 1989, is sent such a notice in any appropriate form by not later than January 31, 1989, that explains—

"(A) the improved benefits under this title contained in the Medicare Catastrophic Coverage Act of 1988, and

"(B) how these improvements affect the benefits contained in the policies and the premium for the policy.

"(5) In this subsection, the term 'NAIC Model Transition Regulation' refers to the standards contained in the 'Model Regulation to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions' (as adopted by the National Association of Insurance Commissioners in September 1987).

"(6) The Secretary shall report to the Congress in March 1989 and in July 1990 on actions States have taken in adopting standards equal to or more stringent than the NAIC Model Transition Regulation or the amended NAIC Model Regulation (or Federal model standards).".

(e) REQUIRED SUBMISSION OF ADVERTISING.—Section 1882(b) is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), a medicare supplemental policy offered in a State shall not be deemed to meet the standards and requirements set forth in subsection (c), with respect to an advertisement (whether through written, radio, or television medium) used (or, at a State's option, to be used) for the policy in the State, unless the entity issuing the policy provides a copy of each advertisement to the Commissioner of Insurance (or comparable officer identified by the Secretary) of that State for review or approval to the extent it may be required under State law.".

(f) APPOINTMENT OF SUPPLEMENTAL HEALTH INSURANCE PANEL MEMBERS.—Section 1882(b)(2)(A) is amended by striking "appointed by the President" and inserting "appointed by the Secretary".

(g) EFFECTIVE DATES.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by this sec-

tion shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b) shall become effective on the date specified in subsection (k)(1)(B) or (k)(2)(B) of section 1882 of the Social Security Act (as added by subsection (c) of this section).

(3) The amendment made by subsection (f) shall apply to medicare supplemental policies as of January 1, 1989, with respect to advertising used on or after such date.

(4) The Secretary of Health and Human Services shall provide for the reappointment of members to the Supplemental Health Insurance Panel (under section 1882(b)(2) of the Social Security Act) by not later than 90 days after the date of the enactment of this Act.

SEC. 222. ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.

The Secretary of Health and Human Services shall—

(1) modify contracts under sections 1833(a)(1)(A) and 1876 of the Social Security Act, for portions of contract years occurring after December 31, 1988, to take into account the amendments made by this Act; and

(2) require such organizations to make appropriate adjustments (including adjustments in premiums and benefits) in the terms of their agreements with medicare beneficiaries to take into account such amendments.

The Secretary shall also provide for appropriate modifications of contracts with health maintenance organizations under section 1876(i)(2)(A) of the Social Security Act (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972, for portions of contract years occurring after December 31, 1988, so as to apply to such organizations and contracts the requirements imposed by the amendments made by this Act upon an organization with a risk-sharing contract under section 1876 of the Social Security Act.

SEC. 223. MAILING OF NOTICE OF MEDICARE BENEFITS AND INFORMATION DESCRIBING PARTICIPATING PHYSICIAN PROGRAM.

(a) Distribution of Notices.—Title XVIII is amended by inserting after section 1803 the following new section:

"NOTICE OF MEDICARE BENEFITS

"Sec. 1804. The Secretary shall prepare (in consultation with groups representing the elderly and with health insurers) and provide for distribution of a notice containing—

"(1) a clear, simple explanation of the benefits available under this title and the major categories of health care for which benefits are not available under this title,

"(2) the limitations on payment (including deductibles and coinsurance amounts) that are imposed under this title, and

"(3) a description of the limited benefits for long-term care services available under this title and generally available under State plans approved under title XIX.

Such notice shall be mailed annually to individuals entitled to benefits under part A or part B of this title and when an individual applies for benefits under part A or enrolls under part B.".

(b) Distribution of Information Describing Participating Physician Program.—Section 1842(h)(5) (42 U.S.C. 1395u(h)(5)) is amended—

(1) by inserting "through an annual mailing" after "under this part",

(2) by striking the last sentence,

(3) by inserting "(A)" after "(5)", and

(4) by adding at the end the following new subparagraph:

"(B) The annual notice provided under subparagraph (A) shall include—

"(i) a description of the participation program,

"(ii) an explanation of the advantages to beneficiaries of obtaining covered services through a participating physician or supplier,

"(iii) an explanation of the assistance offered by carriers in obtaining the names of participating physicians and suppliers, and

"(iv) the toll-free telephone number under paragraph (2)(A) for inquiries concerning the program and for requests for free copies of appropriate directories.".

(c) Revision of Explanation of Medicare Benefits.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(1) in subparagraph (A)—

(A) by inserting "prominent" before "reminder", and

(B) by striking "), and" and inserting "and a clear statement of any amounts charged for the particular items or services on the claim involved above the amount recognized under this part),";

(2) in subparagraph (B), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) shall include (i) an offer of assistance to such an individual in obtaining the names of participating physicians of appropriate specialty and (ii) an offer to provide a free copy of the appropriate participating physician directory.".

(d) Effective Dates.—

(1) The Secretary of Health and Human Services shall first distribute the notice required by the amendment made by subsection (a) not later than January 31, 1989.

(2) The amendments made by subsection (b) shall apply to annual notices beginning with 1989.

(3) The amendments made by subsection (c) shall first apply to explanations of benefits provided for items and services furnished on or after January 1, 1989.

SEC. 224. CHANGES IN CIVIL MONEY PENALTIES FOR CERTAIN PRACTICES OF HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

Section 1876(i)(6)(B)(i) (42 U.S.C. 1395mm(i)(6)(B)(i)) is amended by adding at the end the following: "plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and return to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iv), $15,000 for each individual not enrolled as a result of the practice involved,".

TITLE III—PROVISIONS RELATING TO THE MEDICAID PROGRAM

SEC. 301. REQUIRING MEDICAID BUY-IN OF PREMIUMS AND COST-SHARING FOR INDIGENT MEDICARE BENEFICIARIES.

(a) Requirement.—

(1) Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended by striking "at the option of a State, but".

(2) Section 1905(p)(1)(B) (42 U.S.C. 1396d(p)(1)(B)) is amended by striking "and the election of the State".

(b) Phasing-In Required Income Standard to 100 Percent of Poverty Level.—Section 1905(p)(2)(A) (42 U.S.C. 1396d(p)(2)(A)) is amended—

(1) by striking "may not exceed a percentage (not more than 100 percent)" and inserting "shall be at least the percent provided under clause (ii) (but not more than 100 percent)",

(2) by inserting "(i)" after "(2)(A)", and

(3) by adding at the end the following new clause:

"(ii) Except as provided in clause (iii), the percent provided under this clause, with respect to eligibility for medical assistance on or after—

"(I) January 1, 1989, is 85 percent,

"(II) January 1, 1990, is 90 percent,

"(III) January 1, 1991, is 95 percent, and

"(IV) January 1, 1992, is 100 percent.

"(iii) In the case of a State which has elected treatment under section 1902(f) and which, as of January 1, 1987, used an income standard for individuals age 65 or older which was more restrictive than the income standard established under the supplemental security income program under title XVI, the percent provided under clause (ii), with respect to eligibility for medical assistance on or after—

"(I) January 1, 1989, is 80 percent,

"(II) January 1, 1990, is 85 percent,

"(III) January 1, 1991, is 90 percent,

"(IV) January 1, 1992, is 95 percent, and

"(V) January 1, 1993, is 100 percent.".

(c) Resource Standard.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (1)(C), by striking "(2)(A)" and inserting "(2)";

(2) in paragraph (1)(D), by striking "(except as provided in paragraph (2)(B))" and inserting "twice"; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking "(2)(A)" and inserting "(2)", and

(B) by striking subparagraph (B).

(d) Medicare Coverage.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (3)(A), by striking "under part B and (if applicable) under section 1818" and inserting "under title XVIII (including under part B and, if applicable, under section 1818)";

(2) by amending subparagraphs (B) and (C) of paragraph (3) to read as follows:

"(B) Coinsurance under title XVIII (including coinsurance described in section 1813).

"(C) Subject to paragraph (4), deductibles established under title XVIII (including those described in section 1813, 1833(b), and section 1834(c)(1)).", and

(3) by adding at the end the following new paragraph:

"(4) In a State which provides medical assistance for prescribed drugs under section 1905(a)(12), instead of providing to qualified medicare beneficiaries, under paragraph (3)(C), medicare cost-sharing with respect to the annual deductible for covered outpatient drugs under section 1834(c)(1), the State may provide to such beneficiaries, before charges for covered outpatient drugs for a year reach such deductible amount, benefits for prescribed drugs in the same amount, duration, and scope as the benefits made available under the State plan for individuals described in subsection (a)(10)(A)(i).".

(e) Conforming Amendments.—

(1) Section 1843 (42 U.S.C. 1395v) is amended by inserting "or after 1988" in subsections (a), (g)(1), and (h)(1) after "during 1981".

(2) Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)(X), by striking "subject to subsection (m)(3),",

(B) in subsection (a)(10)(E), by striking "subject to subsection (m)(3),";

(C) in subsection (a)(17), by striking "(m)(4), and (m)(5)" and inserting "(m)(3), and (m)(4)", and

(D) in subsection (m), by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(3) The amendment made by paragraph (1) shall take effect on January 1, 1989, and the amendments made by paragraph (2) shall take effect on July 1, 1989.

(f) TECHNICAL AMENDMENT.—Effective as though included in the enactment of the Omnibus Budget Reconciliation Act of 1986, paragraph (2) of section 9403(g) of such Act is amended to read as follows:

"(2) PAYMENT OF MEDICARE COST-SHARING.—Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by inserting 'including expenditures for medicare cost-sharing and' before 'including expenditures.'.".

(g) TREATMENT OF CERTAIN STATES.—

(1) STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a) of the Social Security Act, the Secretary of Health and Human Services shall require the State to meet the requirement of section 1902(a)(10)(E) of the Social Security Act in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under title XIX of such Act.

(2) COMMONWEALTHS AND TERRITORIES.—Section 1905(p) (42 U.S.C. 1396d(p)), as amended by subsection (d)(3), is further amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of this title, in the case of a State (other than the 50 States and the District of Columbia)—

"(A) the requirement stated in section 1902(a)(10)(E) shall be optional, and

"(B) for purposes of paragraph (2)(A), the State may substitute for the percent provided under clause (ii) of such paragraph any percent.".

(h) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided in subsections (e) and (f) and under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1989, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date, with respect to medical assistance for—

(A) monthly premiums under title XVIII of such Act for months beginning with January 1989, and

(B) items and services furnished on and after January 1, 1989.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 302. COVERAGE AND PAYMENT FOR PREGNANT WOMEN AND INFANTS WITH INCOMES BELOW POVERTY LINE.

(a) PREGNANT WOMEN AND INFANTS UNDER AGE 1.—

(1) REQUIRING COVERAGE.—Section 1902(a)(10) (42 U.S.C. 1396a) is amended—

(A) in subparagraph (A)(i), by striking "or" at the end of subclause (II), by striking the semicolon in subclause (III) and inserting ", or", and by adding at the end the following new subclause:

"(IV) who are described in subparagraph (A) or (B) of subsection (l)(1) and whose family income does not exceed the minimum income level the State is required to establish under subsection (l)(2)(A) for such a family;";

(B) by amending subclause (IX) of subparagraph (A)(ii) to read as follows:

"(IX) who are described in subsection (l)(1) and are not described in clause (i)(IV);"; and

(C) in clause (VII) in the matter after and below subparagraph (E), by inserting "(A)(i)(IV) or" before "(A)(ii)(IX)".

(2) DESCRIPTION OF INDIVIDUALS REQUIRED TO BE COVERED.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (1)(C)—

(i) by inserting "at the option of the State," after "(C)", and

(ii) by striking "and" after "1983,"; and

(B) in paragraph (2)(A)—

(i) by striking "not more than 185 percent)" and inserting "(not less than the percentage provided under clause (ii) and not more than 185 percent)";

(ii) by inserting "(i)" after "(2)(A)"; and

(iii) by adding at the end the following new clause:

"(ii) Subject to clause (iii), the percentage provided under this clause, with respect to eligibility for medical assistance on or after—

"(I) July 1, 1989, is 75 percent, and

"(II) July 1, 1990, is 100 percent.

"(iii) In the case of a State which, as of the date of the enactment of this clause, has elected to provide, and provides, medical assistance to individuals described in this subsection or has enacted legislation authorizing, or appropriating funds, to provide such assistance to such individuals before July 1, 1989, the percentage provided under clause (ii) shall not be less than—

"(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

"(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations;

but in no case shall this clause require the percentage provided under clause (ii) to exceed 100 percent.".

(b) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR INFANTS AND ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR INFANTS IN DISPROPORTIONATE SHARE HOSPITALS.—

(1) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR INFANTS.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended, in the matter after and below subparagraph (E)—

(A) by striking "and" before "(IX)", and

(B) by inserting before the semicolon at the end the following: ", and (X) if the plan provides for any fixed durational limit on medical assistance for inpatient hospital services (whether or not such a limit varies by medical condition or diagnosis), the plan must establish exceptions to such a limit for medically necessary inpatient hospital services furnished with respect to individuals under one year of age in a hospital defined under the State plan, pursuant to section 1923(a)(1)(A), as a disproportionate share hospital and subparagraph (B) (relating to comparability) shall not be construed as requiring such an exception for other individuals, services, or hospitals".

(2) ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR INFANTS IN DISPROPORTIONATE SHARE HOSPITALS.—Section 1923(a)(2), as redesignated pursuant to the amendment made by section 411(k)(6)(B) of this Act, is amended by adding at the end the following new subparagraph:

"(C) If a State plan under this title provides for payments for inpatient hospital services on a prospective basis (whether per diem, per case, or otherwise), in order for the plan to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1989, the State must submit to the Secretary by not later than April 1, 1989, a State plan amendment that provides, in the case of hospitals defined by the State as disproportionate share hospitals under paragraph (1)(A), for an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1989, involving exceptionally high costs or exceptionally long lengths of stay for individuals under one year of age.".

(c) CERTAIN STATE PLAN REQUIREMENTS.—

(1) IN GENERAL.—Subsection (c) of section 1902 (42 U.S.C. 1396a) is amended to read as follows:

"(c) Notwithstanding subsection (b), the Secretary shall not approve any State plan for medical assistance if—

"(1) the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on May 1, 1988; or

"(2) the State requires individuals described in subsection (l)(1) to apply for benefits under such part as a condition of applying for, or receiving, medical assistance under this title.".

(2) ELIMINATING DUPLICATE REQUIREMENT.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended by striking paragraph (4).

(3) MAINTENANCE OF EFFORT TO RECEIVE MEDICAL ASSISTANCE FOR OPTIONAL COVERAGE OF PREGNANT WOMEN AND CHILDREN.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (8) and inserting "; or", and

(B) by inserting after paragraph (8) the following new paragraph:

"(9) with respect to any amount of medical assistance for pregnant women and children described in section 1902(a)(10)(A)(ii)(IX), if the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on July 1, 1987.".

(d) TREATMENT OF CERTAIN STATES AND TERRITORIES.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to provide medical assistance for pregnant women and infants under age 1 described in subsection (a)(10)(A)(i)(IV) in the same manner as the State would be required to provide such assistance for such individuals if the State had in effect a plan approved under this title.

"(B) In the case of a State which is not one of the 50 States or the District of Columbia, the State need not meet the requirement of subsection (a)(10)(A)(i)(IV) and, for purposes of paragraph (2)(A), the State may substitute for the percentage provided under clause (ii) of such paragraph any percentage.".

(e) Conforming Amendments.—

(1) Section 1902(e)(6) (42 U.S.C. 1396a(e)(6)) is amended to read as follows:

"(6) At the option of a State, in the case of a pregnant woman described in subsection (a)(10) who, because of a change in income of the family of which she is a member, would not otherwise continue to be described in such subsection, the State plan may nonetheless treat the woman as being an individual described in subsection (a)(10)(A)(i)(IV) and subsection (l)(1)(A) without regard to such change of income through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends.".

(2) Section 1902(e)(7) (42 U.S.C. 1396a(e)(7)) is amended—

(A) by striking "If a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), in" and inserting "In",

(B) by inserting "or paragraph (2) of section 1905(n)" after "subsection (l)(1)" the first place it appears, and

(C) by striking "subsection (a)(10)(A)(ii)(IX) and subsection (l)(1)" and inserting "such respective provision".

(3) Section 1902(l) (42 U.S.C. 1396a(l)) is amended—

(A) in the matter after and below subparagraph (C) of paragraph (1), by inserting "any of subclauses (I) through (III) of" after "who are not described in", and

(B) in paragraph (3), in the matter before subparagraph (A), by inserting "(a)(10)(A)(i)(IV) or" before "(a)(10)(A)(ii)(IX)".

(4) Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended, in the matter before subparagraph (A), by inserting "1902(a)(10)(A)(i)(IV)," before "1902(a)(10)(A)(ii)(IX)".

(f) Effective Date.—

(1) In general.—The amendments made by this section apply (except as provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1989, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) Payment adjustment.—The amendments made by subsection (b)(2) shall take effect on the date of the enactment of this Act.

(3) Delay for state legislation.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section (other than subsection (b)(2)), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a regular legislative session of 2 years, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 303. PROTECTION OF INCOME AND RESOURCES OF COUPLE FOR MAINTENANCE OF COMMUNITY SPOUSE.

(a) In General.—

(1) Title XIX, as amended by the amendment made by section 411(k)(6)(B) of this Act, is amended—

(A) by redesignating section 1924 as section 1925, and

(B) by inserting after section 1923 the following new section:

"TREATMENT OF INCOME AND RESOURCES FOR CERTAIN INSTITUTIONALIZED SPOUSES

"Sec. 1924. (a) Special Treatment for Institutionalized Spouses.—

"(1) Supersedes other provisions.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title (including sections 1902(a)(17) and 1902(f)) which is inconsistent with them.

"(2) No comparable treatment required.—Any different treatment provided under this section for institutionalized spouses shall not, by reason of paragraph (10) or (17) of section 1902(a), require such treatment for other individuals.

"(3) Does not affect certain determinations.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources, or

"(B) the methodology and standards for determining and evaluating income and resources.

"(4) Application in certain states and territories.—

"(A) Application in states operating under demonstration projects.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(B) No application in commonwealths and territories.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) Rules for Treatment of Income.—

"(1) Separate treatment of income.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) Attribution of income.—In determining the income of an institutionalized spouse or community spouse, after the institutionalized spouse has been determined to be eligible for medical assistance, except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) Non-trust property.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

"(B) Trust property.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title (including sections 1902(a)(17) and 1902(k)), and

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

"(C) Property with no instrument.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), one-half of the income shall be considered to be available to the institutionalized spouse and one-half to the community spouse.

"(D) Rebutting ownership.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) Rules for Treatment of Resources.—

"(1) Computation of spousal share at time of institutionalization.—

"(A) Total joint resources.—There shall be computed (as of the beginning of a continuous period of institutionalization of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest, and

"(ii) a spousal share which is equal to ½ of such total value.

"(B) Assessment.—At the request of an institutionalized spouse or community spouse, at the beginning of a continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the

reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse has right to a fair hearing under subsection (e)(2)(E) with respect to the determination of the community spouse resource allowance, to provide for an allowance adequate to raise the spouse's income to the minimum monthly maintenance needs allowance.

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for benefits under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

"(B) resources shall not be considered to be available to an institutionalized spouse, to the extent that the amount of such resources does not exceed the amount computed under subsection (f)(2)(A) (as of the time of application for benefits).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse;

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment; or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR BENEFITS ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for benefits under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—In this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613, and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in section 1902(q)(1)), in an amount not less than the amount specified in section 1902(q)(2).

"(B) A community spouse monthly income allowance (as defined in paragraph (2)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.

"(C) A family allowance, for each family member, equal to at least $\frac{1}{3}$ *of the amount by which the amount described in paragraph (3)(A)(i) exceeds the amount of the monthly income of that family member.*

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse (as provided under section 1902(r)).

In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—In this section (except as provided in paragraph (5)), the 'community spouse monthly income allowance' for a community spouse is an amount by which—

"(A) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (3)) for the spouse, exceeds

"(B) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(3) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

"(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (C), is equal to or exceeds—

"(i) the applicable percent (described in subparagraph (B)) of $\frac{1}{12}$ *of the nonfarm income official poverty line (defined by the Office of Management and Budget and revised annually in accordance with sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981) for a family unit of 2 members; plus*

"(ii) an excess shelter allowance (as defined in paragraph (4)).

A revision of the official poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) APPLICABLE PERCENT.—For purposes of subparagraph (A)(i), the 'applicable percent' described in this paragraph, effective as of—

"(i) September 30, 1989, is 122 percent,

"(ii) July 1, 1991, is 133 percent, and

"(iii) July 1, 1992, is 150 percent.

"(C) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

"(4) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (3)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence, and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (3)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (C) shall be reduced to the extent the maintenance charge includes utility expenses.

"(5) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(e) NOTICE AND FAIR HEARING.—

"(1) NOTICE.—Upon—

"(A) a determination of eligibility for medical assistance of an institutionalized spouse, or

"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse,

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a fair hearing under this subsection respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

"(2) FAIR HEARING.—

"(A) IN GENERAL.—If either the institutionalized spouse or the community spouse is dissatisfied with a determination of—

"(i) the community spouse monthly income allowance;

"(ii) the amount of monthly income otherwise available to the community spouse (as applied under subsection (d)(2)(B));

"(iii) the computation of the spousal share of resources under subsection (c)(1);

"(iv) the attribution of resources under subsection (c)(2); or

"(v) the determination of the community spouse resource allowance (as defined in subsection (f)(2));

such spouse is entitled to a fair hearing described in section 1902(a)(3) with respect to such determination. Any such hearing respecting the determination of the community spouse resource allowance shall be held within 30 days of the date of the request for the hearing.

"(B) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

"(C) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

"(1) IN GENERAL.—An institutionalized spouse may, without regard to section 1917, transfer to the community spouse (or to another for the sole benefit of the community spouse) an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to (or for the sole benefit of) the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—

"(A) the greatest of—

"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State plan;

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g));

"(iii) the amount established under subsection (e)(2); or

"(iv) the amount transferred under a court order under paragraph (3),

exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(3) TRANSFERS UNDER COURT ORDERS.—If a court has entered an order against an institutionalized spouse for the support of the community spouse, section 1917 shall not apply to amounts of resources transferred pursuant to such order for the support of the spouse of a family member (as defined in subsection (d)(1)).

"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

"(h) DEFINITIONS.—In this section:

"(1) The term 'institutionalized spouse' means an individual who—

"(A) is in a medical institution or nursing facility or who (at the option of the State) is described in section 1902(a)(10)(A)(ii)(VI), and

"(B) is married to a spouse who is not in a medical institution or nursing facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

"(2) The term 'community spouse' means the spouse of an institutionalized spouse.".

(2) Section 1919(c)(1)(B)(i) (42 U.S.C. 1396r(c)(1)(B)(i)) is amended by inserting "and of the requirements and procedures for establishing eligibility for medical assistance under this title, including the right to request an assessment under section 1924(c)(1)(B)" before the semicolon.

(b) TAKING INTO ACCOUNT CERTAIN TRANSFERS OF ASSETS.—Subsection (c) of section 1917 (42 U.S.C. 1396p) is amended to read as follows:

"(c)(1) In order to meet the requirements of this subsection (for purposes of section 1902(a)(51)(B)), the State plan must provide for a period of ineligibility in the case of an institutionalized individual (as defined in paragraph (3)) who, at any time during the 30-month period immediately before the individual's application for medical assistance under the State plan, disposed of resources for less than fair market value. The period of ineligibility shall begin with the month in which such resources were transferred and the number of months in such period shall be equal to the lesser of—

"(A) 30 months, or

"(B)(i) the total uncompensated value of the resources so transferred, divided by (ii) the average cost, to a private patient at the time of the application, of nursing facility services in the State or, at State option, in the community in which the individual is institutionalized.

"(2) An individual shall not be ineligible for medical assistance by reason of paragraph (1) to the extent that—

"(A) the resources transferred were a home and title to the home was transferred to—

"(i) the spouse of such individual;

"(ii) a child of such individual who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614;

"(iii) a sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution or nursing facility; or

"(iv) a son or daughter of such individual (other than a child described in clause (ii)) who was residing in such individual's home for a period of at least two years immediately before the date of such individual's admission to the medical institution or nursing facility, and who (as determined by the State) provided care to such individual which permitted such individual to reside at home rather than in such an institution or facility;

"(B) the resources were transferred to (or to another for the sole benefit of) the community spouse, as defined in section 1924(h)(2), or the individual's child who is blind or permanently and totally disabled;

"(C) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that (i) the individual intended to dispose of the resources either at fair market value, or for other valuable consideration, or (ii) the resources were transferred exclusively for a purpose other than to qualify for medical assistance; or

"(D) the State determines that denial of eligibility would work an undue hardship.

"(3) In this subsection, the term 'institutionalized individual' means an individual who is an inpatient in a medical institution or nursing facility.

"(4) A State (including a State which has elected treatment under section 1902(f)) may not provide for any period of ineligibility for an individual due to transfer of resources for less than fair market value except in accordance with this subsection.".

(c) NEW SSI POLICY REGARDING DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—

(1) ELIMINATION OF SSI PENALTY; NOTIFICATION OF MEDICAID POLICY LIMITING ELIGIBILITY OF INSTITUTIONALIZED INDIVIDUALS FOR BENEFITS BASED ON SUCH DISPOSAL OF RESOURCES.—Subsection (c) of section 1613 (42 U.S.C. 1382b) is amended to read as follows:

"Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on Disposal of Resources for Less Than Fair Market Value

"(c)(1) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Secretary shall—

"(A) inform such individual of the provisions of section 1917(c) providing for a period of ineligibility for benefits under title XIX for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to subparagraph (B) will be made available to the State agency administering a State plan under title XIX (as provided in paragraph (2)); and

"(B) obtain from such individual information which may be used by the State agency in determining whether or not a period of ineligibility for such benefits would be required by reason of section 1917(c) if such individual (or such spouse, if any) enters a medical institution or nursing facility.

"(2) The Secretary shall make the information obtained under paragraph (1)(B) available, on request, to any State agency administering a State plan approved under title XIX.".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 1611(e)(1) (42 U.S.C. 1382(e)(1)) is amended by adding after and below clause (iii) the following new sentence:

"For purposes of this subsection, a hospital, extended care facility, nursing home, or intermediate care facility which is a 'medical institution or nursing facility' within the meaning of section 1917(c) shall be considered to be receiving payments with respect to an individual under a State plan approved under title XIX during any period of ineligibility of such individual provided for under the State plan pursuant to section 1917(c).".

(d) DISREGARDING PAYMENTS FOR CERTAIN MEDICAL EXPENSES BY INSTITUTIONALIZED INDIVIDUALS.—Section 1902 (42 U.S.C. 1396), as amended by the amendment made by section 411(n)(3) of this Act, is amended by adding at the end the following new subsection:

"(r) For purposes of sections 1902(a)(17) and 1924(d)(1)(D) and for purposes of a waiver under section 1915, with respect to the post-eligibility treatment of income of individuals who are institutionalized or receiving home or community-based services under such a waiver, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(A) medicare and other health insurance premiums, deductibles, or coinsurance, and

"(B) necessary medical or remedial care recognized under State law but not covered under the State plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.".

(e) CONFORMING AMENDMENT.—Section 1902 (42 U.S.C. 1396a), as amended by the amendment made by section 411(n)(3) of this Act, is amended—

(1) in subsection (a)(10)(C)(i)(III), by striking "the same" each place it appears and inserting "no more restrictive than the";

(2) by striking "and" at the end of subsection (a)(49);

(3) by striking the period at the end of the subsection (a)(50) and inserting "; and";

(4) by inserting after paragraph (50) of subsection (a) the following new paragraph:

"(51)(A) meet the requirements of section 1924 (relating to protection of community spouses), and (B) meet the requirement of section 1917(c) (relating to transfer of assets)."; and

(5) in subsection (r), as added by subsection (d)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(B) by inserting "(1)" after "(r)", and

(C) by adding at the end the following new paragraph:

"(2)(A) The methodology to be employed in determining income and resource eligibility for individuals under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), (a)(10)(A)(ii), (a)(10)(C)(i)(III), or under subsection (f) may be less restrictive, and shall be no more restrictive, than the methodology—

"(i) in the case of groups consisting of aged, blind, or disabled individuals, under the supplemental security income program under title XVI, or

"(ii) in the case of other groups, under the State plan most closely categorically related.

"(B) For purposes of this subsection and subsection (a)(10), methodology is considered to be 'no more restrictive' if, using the methodology, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.".

(f) Treatment of Homestead Exemption in Missouri.—The State medical assistance plan of Missouri shall not be in compliance with the requirements of title XIX of the Social Security Act as of October 1, 1989, unless such plan is amended to provide that, in determining the resources of any aged, blind, or disabled individual in the State who applies for medical assistance under such plan on or after such date, the State will not consider the home of the individual as a resource, regardless of the value of the home.

(g) Effective Date.—

(1)(A) The amendments made by this section apply (except as provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after September 30, 1989, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) Section 1924 of the Social Security Act (as inserted by subsection (a)) shall only apply to institutionalized individuals who begin continuous periods of institutionalization on or after September 30, 1989, except that subsections (b) and (d) of such section (and so much of subsection (e) of such section as relates to such other subsections) shall apply as of such date to individuals institutionalized on or after such date.

(2)(A) The amendment made by subsection (b) and section 1902(a)(51)(B) of the Social Security Act, apply (except as provided in paragraph (5)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1988, or the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) Section 1917(c) of the Social Security Act, as amended by subsection (b) of this section, shall apply to resources disposed of on or after July 1, 1988.

(C) Notwithstanding subparagraphs (A) and (B), a State may continue to apply the policies contained in the State plan as of June 30, 1988, with respect to resources disposed of before July 1, 1988.

(3) The amendments made by subsection (c) shall apply to transfers occurring on or after July 1, 1988, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(4) The amendment made by subsection (d) is effective on and after April 8, 1988. The final rule of the Health Care Financing Administration published on February 8, 1988 (53 Federal Register 3586) is superseded to the extent inconsistent with the amendment made by subsection (d).

(5) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section (other than subsection (e)), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(6) The amendments made by paragraphs (1) and (5) of subsection (e) shall apply to medical assistance furnished on or after October 1, 1982.

TITLE IV—UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE, OBRA TECHNICAL CORRECTIONS, AND MISCELLANEOUS PROVISIONS

Subtitle A—United States Bipartisan Commission on Comprehensive Health Care

SEC. 401. ESTABLISHMENT.

There is established a commission to be known as the United States Bipartisan Commission on Comprehensive Health Care (in this title referred to as the "Commission").

SEC. 402. DUTIES.

(a) In General.—The Commission shall—

(1) examine shortcomings in the current health care delivery and financing mechanisms that limit or prevent access of all individuals in the United States to comprehensive health care, and

(2) make specific recommendations to the Congress respecting Federal programs, policies, and financing needed to assure the availability of—

(A) comprehensive long-term care services for the elderly and disabled,

(B) comprehensive health care services for the elderly and disabled, and

(C) comprehensive health care services for all individuals in the United States.

(b) Considerations in Recommendations.—In making its recommendations, the Commission shall consider—

(1) the amount and sources (consistent with principles of social insurance) of Federal funds to finance the needed services, including reallocations of existing Federal program funds, and

(2) the most efficient and effective manner of administering such programs.

(c) Definitions.—In this title:

(1) The term "comprehensive health care services" includes—

(A) inpatient hospital services (including mental health services);

(B) skilled nursing facility services, intermediate care facility services, home health services, and other long-term health care services;

(C) physician services and other outpatient health care services (including mental health services);

(D) periodic general physical examinations, eye examinations, hearing examinations, dental examinations, foot examinations, and other preventive health care services; and

(E) prescription drugs, eyeglasses, hearing aids, orthopedic equipment, and dentures (both complete and partial).

(2) The term "comprehensive long-term care services" includes custodial and non-custodial services in facilities, as well as home and community-based services.

SEC. 403. MEMBERSHIP.

(a) Appointment.—The Commission shall be composed of 15 members appointed as follows:

(1) The President shall appoint 3 members.

(2) The President Pro Tempore of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members of the Senate, of whom not more than 4 may be of the same political party.

(3) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members of the House, of whom not more than 4 may be of the same political party.

(b) Chairman and Vice Chairman.—The Commission shall elect a chairman and vice chairman from among its members.

(c) Vacancies.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(d) Quorum.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under section 405(a).

(e) Meetings.—The Commission shall meet at the call of its chairman or a majority of its members.

(f) Compensation and Reimbursement of Expenses.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

SEC. 404. STAFF AND CONSULTANTS.

(a) Staff.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(b) Consultants.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b)

of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

SEC. 405. POWERS.

(a) Hearings and Other Activities.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(b) Studies by General Accounting Office.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(c) Cost Estimates by Congressional Budget Office.—

(1) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(2) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under paragraph (1).

(d) Detail of Federal Employees.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(e) Technical Assistance.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(f) Use of Mails.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

(g) Obtaining Information.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(h) Administrative Support Services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(i) Acceptance of Donations.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 406. REPORT.

(a) Report on Comprehensive Long-Term Care Services for the Elderly and Disabled.—The Commission shall submit to Congress a report, not later than 6 months after the date of the enactment of this Act, containing its findings and recommendations regarding comprehensive long-term care services for the elderly and disabled. The report shall include detailed recommendations for appropriate legislative initiatives respecting such services.

(b) Report on Comprehensive Health Care Services.—The Commission shall submit to Congress a report, not later than 1 year after the date of the enactment of this Act, containing its findings and recommendations regarding comprehensive health care services for the elderly and disabled and comprehensive health care services for all individuals in the United States. The report shall include detailed recommendations for appropriate legislative initiatives respecting such services.

SEC. 407. TERMINATION.

The Commission shall terminate 30 days after the date of submission of the report required in section 406(b).

SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,500,000 to carry out this title.

Subtitle B—OBRA Technical Corrections

SEC. 411. TECHNICAL CORRECTIONS TO CERTAIN HEALTH CARE PROVISIONS IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) Reference to OBRA and Effective Dates.—

(1) Reference.—In this section, the term "OBRA" refers to the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

(2) Effective date.—Except as specifically provided in this section, the amendments made by this section, as they relate to a provision in OBRA, shall be effective as if they were included in the enactment of that provision in OBRA.

(3) Ratification of enrollment corrections and printed enrollment.—

(A) In general.— Except as provided in subparagraph (B), the enrollment corrections noted in footnotes numbered 9 through 72 of OBRA are hereby ratified and shall be considered to have been enacted as part of OBRA. The printed enrollment of title IV of OBRA, as prepared and printed under section 8004 of OBRA (including the footnote corrections described in subparagraph (B) and as incorporating the clarifications described in subparagraph (C)), shall be deemed to constitute title IV of OBRA as enacted.

(B) Footnote corrections.—(i) With respect to the reference to which footnote 28 relates (101 Stat. 1330-81), the reference shall be deemed to have read "1320a-7b)".

(ii) With respect to the word to which footnote 30 relates (101 Stat. 1330-91), the word shall be deemed to have read "the".

(iii) With respect to the designation to which footnote 52 relates (101 Stat. 1330-151), the designation shall be deemed to have read "(F)".

(C) Clarifications of illegible matter.—(i) Section 1842(n)(1)(A) of the Social Security Act, as added by section 4051(a) of OBRA (101 Stat. 1330-93), is deemed to have the phrase "the supplier's reasonable charge to individuals enrolled under this part for the test" immediately after "or, if lower, the".

(ii) Section 1834(a)(7)(B)(i) of the Social Security Act, as inserted by section 4062(b) of OBRA (101 Stat. 1330-103), is deemed to have a reference to "1987" immediately after "December".

(b) Corrections Relating to Part 1 of Subtitle A of Title IV (Part A of the Medicare Program).—

(1) Section 4002.—(A) Subclauses (III) and (IV) of section 1886(b)(3)(B)(i) of the Social Security Act, as amended by section 4002(a) of OBRA, are amended by striking "other hospitals" and inserting "for hospitals located in other urban areas".

(B) Section 1886(b)(3)(B)(i)(IV) of the Social Security Act, as amended by section 4002(a) of OBRA, is amended by striking "percent" each place it appears and inserting "percentage points".

(C) Section 1886(b)(3)(B)(i)(V) of the Social Security Act, as amended by section 4002(a) of OBRA, is amended by inserting "increase" after "market basket percentage".

(D) The second sentence of section 1886(d)(2)(D) of the Social Security Act, as amended by section 4002(b) of OBRA, is amended by striking "the publication described in subsection (e)(5)(B)" and inserting "the publications described in subsection (e)(5)".

(E) Section 4002(c)(1)(B)(iii) of OBRA is amended, in the matter stricken, by striking the comma after "available".

(F) Section 1886(d)(3)(A)(ii) of the Social Security Act, as amended by section 4002(c)(1)(C) of OBRA, is amended by striking "in urban areas" and inserting "in other urban areas".

(G) Section 1886(d)(1)(A)(iii) of the Social Security Act, as amended by section 4002(d) of OBRA, is amended by striking "if greater" and inserting "if the average standardized amount (described in clause (i)(I) or clause (ii)(I) of paragraph (3)(D)) for hospitals within the region of, and in the same rural, large urban, or other urban area as, the hospital is greater than the average standardized amount (described in the respective clause) for hospitals within the United States in that type of area".

(H)(i) Section 1886(d)(2)(D) of the Social Security Act is amended by striking the last sentence (added by section 4002(f)(1)(A) of OBRA).

(ii) Section 4002(f) of OBRA is amended by adding at the end the following new paragraph:

"(3) The second sentence of section 1813(b)(1) of the Social Security Act (42 U.S.C. 1395e(b)(1)) is amended by striking 'applicable percentage increase' and all that follows through 'is applied' and inserting 'Secretary's best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1886(b)(3)(B)) which are applied'.".

(iii) The amendment made by clause (ii) shall apply to the inpatient hospital deductible for years beginning with 1989.

(I) Section 4002(g) of OBRA is amended—

(i) in paragraph (1)(A), by striking "1886(a)(1)(A)(iii)" and inserting "1886(d)(1)(A)(iii)",

(ii) in paragraphs (1)(B) and (2)(B), by striking "1886(d)(3)(B)" and inserting "1886(b)(3)(B)", and

(iii) in paragraph (6), by striking "1886(d)(10)(B)" and inserting "1886(d)(1)(B)".

(2) Section 4003.—Section 4003(d) of OBRA is amended—

(A) in paragraph (2)—

(i) by inserting "(other than under section 1886(d)(5)(F) of such Act)" after "receives payments", and

(ii) by inserting "of such services" after "reasonable costs"; and

(B) in the matter following paragraph (2), by inserting "the" after "facilities of".

(3) Section 4004.—Section 4004(a) of OBRA is amended by inserting "(1)" after "Survey.—" and by adding at the end the following new paragraph:

"(2) Section 1886(d)(9)(C)(iv) of such Act is amended by adding at the end the following new sentence: 'The second and third sentences of paragraph (3)(E) shall apply to subsection (d) Puerto Rico hospitals under this clause in the same manner as they apply to subsection (d) hospitals under such paragraph and, for purposes of this clause, any reference in such paragraph to a subsec-

tion (d) hospital is deemed a reference to a subsection (d) Puerto Rico hospital.'.".

(4) SECTION 4005.—(A) Section 1886(d)(8)(B) of the Social Security Act, as added by section 4005(a)(1)(D) of OBRA, is amended—

(i) by striking "The Secretary" and inserting "For purposes of this subsection, the Secretary", and

(ii) by striking all that follows "if" and inserting the following: "the rural county would otherwise be considered part of an urban area, under the standards for designating Metropolitan Statistical Areas (and for designating New England County Metropolitan Areas) published in the Federal Register on January 3, 1980, if the commuting rates used in determining outlying counties (or, for New England, similar recognized areas) were determined on the basis of the aggregate number of resident workers who commute to (and, if applicable under the standards, from) the central county or counties of all contiguous Metropolitan Statistical Areas (or New England County Metropolitan Areas).".

(B) Section 1886(d)(8)(C) of the Social Security Act, as added by section 4005(a)(1)(D) of OBRA, is amended by striking "standardized amount" and inserting "standardized amounts".

(C) Section 4005(a) of OBRA is amended—

(i) in paragraph (1)(D), by striking "subparagraph" and inserting "subparagraphs", and

(ii) in paragraph (3), by striking "This section, and the amendments made by paragraph (1)," and inserting "This subsection".

(D) Section 1883(d)(3) of the Social Security Act, as added by section 4005(b)(2)(B) of OBRA, is amended by inserting before the period at the end the following: ", except that such payment shall continue to be made in the period for those patients who are receiving extended care services at the time the hospital reaches the limit specified in this paragraph".

(5) SECTION 4006.—(A) Section 1886(g)(3)(A)(iv) of the Social Security Act, as amended by section 4006(a) of OBRA, is amended by inserting "for payments attributable" after "15 percent".

(B) Section 4006(a) of OBRA is amended—

(i) by adding "and" at the end of subparagraph (A), and

(ii) by redesignating (A) and (B) as paragraphs (1) and (2), respectively.

(6) SECTION 4007.—Section 4007 of OBRA is amended—

(A) in the second sentence of subsection (a), by striking "updata" and inserting "updated";

(B) by amending subsection (b) to read as follows:

"(b) REQUIRING REPORTING OF STANDARDIZED COST REPORT ELECTRONICALLY.—

"(1) IN GENERAL.—Section 1886(f)(1) of the Social Security Act (42 U.S.C. 1395ww(f)(1)) is amended—

"(A) by striking ', for a period ending not earlier than September 30, 1988,',

"(B) by inserting '(A)' after '(f)(1)', and

"(C) by adding at the end the following new subparagraph:

" '(B)(i) Subject to clause (ii), the Secretary shall place into effect a standardized electronic cost reporting format for hospitals under this title.

" '(ii) The Secretary may delay or waive the implementation of such format in particular instances where such implementation would result in financial hardship (in particular with respect to hospitals with a small percentage of inpatients entitled to benefits under this title).'.

"(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(C) shall apply to hospital cost reporting periods beginning on or after October 1, 1989."; and

(C) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "3-year", and

(II) by striking "contracting" and inserting "conducting";

(ii) in paragraph (2), by striking "by category of service and" in subparagraphs (A) and (B);

(iii) in paragraph (2)(C), by striking "(by category of service)";

(iv) in paragraph (2), by striking subparagraph (D) and redesignating subparagraphs (E) through (L) as subparagraphs (D) through (K), respectively;

(v) by amending subparagraph (I), as so redesignated, to read as follows:

"(I) Bad debt and charity care.";

(vi) in paragraph (2), by adding at the end the following:

"The Secretary shall develop a definition of 'outpatient visit' for purposes of reporting hospital information.";

(vii) in paragraph (5), by striking "paragraph (3)" and inserting "paragraph (2)";

(viii) in paragraph (5)(A), by striking "The terms" and all that follows through "as" and inserting "The term 'bad debt and charity care' has such meaning as";

(ix) in paragraph (5)(B)—

(I) by inserting "at least" after "to payors",

(II) by striking "title VIII" and inserting "title XVIII", and

(III) by striking "self-paying individuals" and inserting "and other persons (including self-paying individuals)"; and

(x) in paragraph (6)—

(I) by striking "$1,000,000 for each of" and inserting "a total of $3,000,000 for",

(II) by inserting "or from operation funds" after "research funds",

(III) by striking ", and at least" and all that follows through "operations funds" and inserting "and", and

(IV) by striking "over 3 years".

(7) SECTION 4008.—Section 4008(d)(1)(B) of OBRA is amended by striking "1886" and inserting "1886(d)".

(8) SECTION 4009.—(A) Section 4009(a) of OBRA is amended—

(i) by striking paragraphs (1) and (2) and inserting the following:

"(1) INCREASE IN CIVIL MONETARY PENALTY AND EXCLUSION OF RESPONSIBLE PHYSICIAN VIOLATORS.—Section 1867(d)(2) of the Social Security Act (42 U.S.C. 1395dd(d)(2)) is amended—

"(A) in the second sentence—

"(i) by redesignating such sentence as subparagraph (C),

"(ii) by striking 'previous sentence' and inserting 'this paragraph', and

"(iii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

"(B) by striking the first sentence and inserting the following: '(A) A participating hospital that knowingly violates a requirement of this section is subject to a civil money penalty of not more than $50,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply with respect to a penalty or proceeding under section 1128A(a).

" '(B) The responsible physician in a participating hospital with respect to the hospital's violation of a requirement of this subsection is subject to the sanctions described in section 1842(j)(2), except that, for purposes of this subparagraph, the civil money penalty with respect to each violation may not exceed $50,000, rather than $2,000.' "; and

(ii) by redesignating paragraph (3) as paragraph (2).

(B) Section 4009(d)(1)(A) of OBRA is amended, in the matter inserted by such section, by striking the comma after "representatives".

(C) Section 4009(i) of OBRA is amended by striking "New England county metropolitan areas" and "4001(b)" and inserting "urban areas in New England" and "4002(b)", respectively.

(D) Section 4009(j) of OBRA is amended by adding at the end the following new paragraphs:

"(9) Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

"(10) Section 9305(d) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking '2 years after the date of the enactment of this Act' and inserting 'January 1, 1990'.".

(c) CORRECTIONS RELATING TO SUBPART A OF PART 2 OF SUBTITLE A OF TITLE IV (HEALTH MAINTENANCE ORGANIZATION REFORMS).—

(1) SECTION 4011.—Subparagraph (F) of section 1876(c)(3) of the Social Security Act, as added by the amendment made by section 4011(a)(1) of OBRA, is amended by moving its indentation 4 ems to the left so its left margin is aligned with the left margin of subparagraph (G) of that section, as added by section 4011(b)(1) of OBRA.

(2) SECTION 4012.—(A)(i) Section 1866(a)(1)(O) of the Social Security Act, as inserted by section 4012(a) of OBRA, is amended by striking "with a risk-sharing contract under section 1876" and inserting "(i) with a risk-sharing contract under section 1876, under section 1876(i)(2)(A) (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972, and (ii) which does not have a contract establishing payment amounts for services furnished to members of the organization".

(ii) The amendment made by clause (i) shall apply to admissions occurring on or after the first day of the fourth month beginning after the date of the enactment of this Act.

(B) Section 4012(c) of OBRA is amended by striking "paragraph (2)" and inserting "subsection (a)".

(3) SECTION 4013.—Section 4013 of OBRA is amended by striking "(a) IN GENERAL" and all that follows through the end and inserting the following:

"Section 2350(b)(3) of the Deficit Reduction Act of 1984 is amended by striking 'four years after the date of the enactment of this Act' and inserting 'September 30, 1990'.".

(4) SECTION 4014.—Section 1876(i)(6) of the Social Security Act, as amended by section 4014 of OBRA, is amended—

(A) in subparagraph (A), by inserting ", in addition to any other remedies authorized by law," after "the Secretary may provide", and

(B) in the last sentence of subparagraph (B), by striking "under that section" and inserting "or proceeding under section 1128A(a)".

(5) Section 4018.—Section 1876(f)(3)(A) of the Social Security Act, as inserted by section 4018(a) of OBRA, is amended—

(A) by inserting "enrollment and residency requirements under this section and for" after "for purposes of", and

(B) by striking "of the subdivision" and inserting "described in subparagraph (B)(iii) who receive services through the subdivision".

(d) Corrections Relating to Subpart B of Part 2 of Subtitle A of Title IV (Home Health Quality).—

(1) Section 4021.—(A) Section 1891(a) of the Social Security Act, as added by section 4021(b) of OBRA, is amended—

(i) in paragraph (3)(A), by striking "who is not a licensed health care professional (as defined in subparagraph (F))",

(ii) in paragraph (3)(F), by inserting "physical or occupational therapy assistant," after "occupational therapist,", and

(iii) by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B)(i) Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by inserting before the period at the end the following: "; except that such term does not include such equipment furnished by a supplier who has used, for the demonstration and use of specific equipment, an individual who has not met such minimum training standards as the Secretary may establish with respect to the demonstration and use of such specific equipment".

(ii) The amendment made by clause (i) shall apply to equipment furnished on or after the effective date provided in section 4021(c) of OBRA.

(2) Section 4022.—(A) The third sentence of section 1891(c)(1) of the Social Security Act, as added by section 4022(a) of OBRA, is amended by inserting "(other than subsections (a) and (b))" after "1128A".

(B) Section 1891(d)(2)(A) of the Social Security Act, as added by section 4022(a) of OBRA, is amended by striking "1991" and inserting "1992".

(3) Section 4023.—(A) Section 4023 of OBRA is amended by inserting "(a) In General.—" before "Section 1891".

(B) Section 1891(f)(2)(A) of the Social Security Act, as added by section 4023 of OBRA, is amended—

(i) by moving the indentation of clauses (i) through (iii) (and the sentence following clause (iii)) 2 ems to the left,

(ii) in clause (i), by striking "for each day of noncompliance" and inserting "in an amount not to exceed $10,000 for each day of noncompliance", and

(iii) by inserting after and below clause (iii), the following:

"The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(C) Section 4023(b) of OBRA is amended by inserting before the period at the end the following: ", and no intermediate sanction described in section 1891(f)(2)(A) of such Act shall be imposed for violations occurring before such effective date".

(4) Section 4025.—(A) Section 1864(a) of the Social Security Act is amended—

(i) in the first sentence added by section 4025(a) of OBRA, by striking "most recent accreditation survey conducted with respect to the agency," and inserting "most recent accreditation survey conducted by a State agency or private accreditation agency under section 1865 with respect to the home health agency,", and

(ii) in the second sentence so added—

(I) by inserting "such State or local" before "agency" the first place it appears, and

(II) by striking "section 1864" and inserting "section 1865".

(B) Section 4025 of OBRA is amended—

(i) in subsection (b), by striking "subsection (a)" and inserting "this section" and by redesignating such subsection as subsection (c), and

(ii) by inserting after subsection (a) the following new subsection:

"(b) Conforming Amendment.—The last sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by inserting '(other than a survey with respect to a home health agency' after 'any accreditation survey'.".

(5) Section 4026.—(A) Section 1861(v)(1)(L)(iii) of the Social Security Act, as added by section 4026(a)(1) of OBRA, is amended—

(i) by striking "audited" each place it appears and inserting "verified", and

(ii) by adding at the end the following:

"In the case of a home health agency that refuses to provide data, or deliberately provides false data, respecting wages for purposes of this clause upon the request of the Secretary, the Secretary may withhold up to 5 percent of the amount of the payments otherwise payable to the agency under this title until such date as the Secretary determines that such data has been satisfactorily provided.".

(B) Section 4026(a)(2) of OBRA is amended by striking "July 1, 1988" and inserting "July 1, 1989".

(C) Section 4026(b) of OBRA is amended by striking "June 1, 1988" and inserting "June 1, 1989".

(6) Section 4027.—Section 4027(a) of OBRA is amended by striking "July 1, 1988" and inserting "April 1, 1989".

(e) Corrections Relating to Subpart C of Part 2 of Subtitle A of Title IV (Other Medicare Part A and B Provisions).—

(1) Section 4032.—(A) Section 4032 of OBRA is amended by striking "and Physician Review" in the heading of subsection (a) and by striking "and carriers" in the heading of subsection (b).

(B) Section 1816(j)(2) of the Social Security Act, as added by section 4032(a) of OBRA, is amended—

(i) by inserting "in the case of a request for reconsideration of a denial," after "(2)", and

(ii) by inserting "the" before "disposition".

(C) Section 4032(c)(1)(B) of OBRA is amended by striking "claims filed" and inserting "reconsiderations requested".

(2) Section 4033.—Section 4033 of OBRA is amended—

(A) by striking "(a) In General.—";

(B) by redesignating paragraphs (1) and (2) (and subparagraphs (A) and (B) of paragraph (2)) as subsections (a) and (b) (and paragraphs (1) and (2) of subsection (b)), respectively; and

(C) by aligning the left margins of the matter in such section flush left.

(3) Section 4039.—Section 4039 of OBRA is amended by adding at the end the following new subsection:

"(h) Technical Corrections.—

"(1) Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(b)) is amended—

"(A) in paragraph (1)(A), by striking 'XVII' and inserting 'XVIII', and

"(B) in paragraph (2) by inserting 'each' after '$2,000 for'.

"(2) Section 1138(a)(1)(B) of such Act (42 U.S.C. 1320b-8(a)(1)(B)) is amended by striking 'In' and inserting 'in'.

"(3) Section 1154(a)(4) of such Act (42 U.S.C. 1320c-3(a)(4)) is amended—

"(A) by indenting subparagraphs (B) and (C) (and clauses (i) through (iii) of subparagraph (C)) two additional ems;

"(B) in subparagraph (B), by inserting 'risk-sharing' before 'contract under section 1876'; and

"(C) in subparagraph (C)(i), by adding before the comma at the end the following: '(other than the ability to perform review functions under this section that are not described in subparagraph (B))'.

"(4) Section 1154(d) of such Act (42 U.S.C. 1320c-3(d)) is amended by striking '1164(b)(4)' and inserting '1164'.

"(5) Section 1156(b) of such Act (42 U.S.C. 1320c-5(b)) is amended—

"(A) in the second sentence of paragraph (1), by striking 'such services on a reimbursable basis.' and inserting 'services under this Act on a reimbursable basis.', and

"(B) in paragraph (2), by striking 'at such time' and all that follows through 'and shall remain' and inserting 'on the same date and in the same manner as an exclusion from participation under the programs under this Act becomes effective under section 1128(c), and shall remain'.

"(6) Section 1160 of such Act (42 U.S.C. 1320c-9) is amended by adding at the end the following new subsection:

" '(e) For purposes of this section and section 1157, the term "organization with a contract with the Secretary under this part" includes an entity with a contract with the Secretary under section 1154(a)(4)(C).'.

"(7) The heading of section 1870 of such Act (42 U.S.C. 1395gg) is amended to read as follows:

'OVERPAYMENT ON BEHALF OF INDIVIDUALS AND SETTLEMENT OF CLAIMS FOR BENEFITS ON BEHALF OF DECEASED INDIVIDUALS'.

"(8) Section 1876(i)(7) of such Act (42 U.S.C. 1395mm(i)(7)) is amended—

"(A) in subparagraph (A), by striking 'Except as provided under section 1154(a)(4)(C), each' and inserting 'Each';

"(B) in subparagraph (A), by inserting 'or with an entity selected by the Secretary under section 1154(a)(4)(C)' after 'located)'; and

"(C) by striking 'peer' in subparagraph (B) and the second place it appears in subparagraph (A).

"(9) Section 9353 of the Omnibus Budget Reconciliation Act of 1986 is amended—

"(A) in subsection (a)(6)(A)(i), by striking 'paragraphs (1) and (2)(D) shall apply to contracts as of' and inserting 'paragraph (1) shall apply to contracts entered into or renewed on or after';

"(B) in subsection (a)(6)(B), by striking 'amendment made by paragraph (2)(B)' and inserting 'amendments made by paragraphs (2)(B) and (2)(D)'; and

"(C) in subsection (e)(3)(B), by adding at the end the following: 'The provisions of section 1876(i)(7) of the Social Security Act (added by such amendment) shall apply to health maintenance organizations with contracts in effect under section 1876 of such Act (as in effect before the date of the enactment of Public Law 97-248) in the same manner as it applies to eligible organizations with risk-sharing contracts in effect under section 1876 of such Act (as in effect on the date of the enactment of this Act).'.".

(f) Corrections Relating to Subpart A of Part 3 of Subtitle A of Title IV (Payments for Physicians' Services).—

(1) Section 4041.—(A) Section 4041(a)(1)(B) of OBRA is amended—

(i) by inserting "as amended retroactively by section 4085(i)(7)(C)," after "(j)(1)(C),", and

(ii) by redesignating the clause added by such section as clause (viii).

(B) The last sentence of section 1842(b)(2) of the Social Security Act, as added by section 4041(a)(3)(A) of OBRA, is amended by striking "and subsection (h)" and inserting ", subsection (h), and section 1845(f)(2)".

(C) Subclause (II) of section 4041(a)(3)(B)(iii) of OBRA is amended to read as follows:

"(II) by striking 'April 1' and inserting 'September 30', and".

(2) Section 4042.—(A) Section 1842(b)(4)(F)(iii) of the Social Security Act, as added by section 4042(a) of OBRA, is amended—

(i) in subclause (I), by striking the semicolon and inserting a comma, and

(ii) in subclause (II), by striking "physician's" and inserting "physicians' ".

(B) Section 1842(b)(4)(F)(ii)(I) of the Social Security Act, as added by section 4042(a) of OBRA, is amended by striking "subparagraph (E)(iii)" and inserting "subsection (i)(4)".

(C) Section 4042(b) of OBRA is amended by striking "Section" and all that follows up to "The term" and inserting the following:

"(1) Section 1842 of such Act (42 U.S.C. 1395u) is amended—

"(A) in subsection (h)(7), by striking ', described in paragraph (8)';

"(B) in paragraph (8) of subsection (h)—

"(i) by striking '(8) For purposes of this title, a' and inserting '(1) A',

"(ii) by indenting such paragraph 2 ems, and

"(iii) by inserting before such paragraph the following:

" '(i) For purposes of this title:';

"(C) in subsection (b)(4)(E)—

"(i) by striking '(E) In this section:',

"(ii) by redesignating clauses (i) and (ii), as paragraphs (2) and (3), respectively, and

"(iii) by transferring and inserting such paragraphs, as redesignated, before subsection (j);

"(D) in subsection (b)(4), by redesignating subparagraphs (F) and (G) of subsection (b)(4), as subparagraphs (E) and (F), respectively; and

"(E) by inserting, after the paragraphs transferred and inserted by subparagraph (C)(iii) the following, new paragraph:

" '(4)".

(D) Section 4042(b) of OBRA is further amended by adding at the end the following:

"(2)(A) Section 1842(b)(4)(A)(vii) of such Act, as redesignated by sections 4041(a)(1)(A)(i) and 4044(a) is amended by striking 'subparagraph (E)(ii)' and inserting 'subsection (i)(3)'.

"(B) Section 1833(l)(2) of such Act (42 U.S.C. 1395l(l)(2)) is amended by striking '1842(b)(4)(E)(ii)' and inserting '1842(i)(3)'.".

(E) The last sentence of section 1842(b)(4)(A)(iv)(II) of the Social Security Act, as added by section 4042(c)(2) of OBRA, is amended by striking "January 1, 1988" and inserting "January 1, 1989".

(F) Section 4042(c) of OBRA is amended—

(i) by striking "Section" and all that follows up to "In the previous sentence" and inserting the following:

"(1) The first sentence of clause (iv) of section 1842(b)(4)(A) of such Act (42 U.S.C. 139u(b)(4)(A)) is amended to read as follows: 'The reasonable charge for physicians' services furnished on or after January 1, 1987, by a nonparticipating physician shall be no greater than the applicable percent of the prevailing charge levels established under the third and fourth sentences of paragraph (3) (or under any other applicable provision of law affecting the prevailing charge level).'.", and

(ii) by adding at the end the following:

"(2) Subclauses (I) and (II) of section 1842(j)(1)(C)(i) of such Act are amended by striking 'prevailing charge for the year involved for such service furnished by nonparticipating physicians' and inserting 'applicable percent (as defined in subsection (b)(4)(A)(iv)) of the prevailing charge for the year and service involved'.".

(3) Section 4044.—(A) Section 4044(a) of OBRA is amended by striking "Increase in Prevailing Charges" and inserting "Prevailing Charge Floor".

(B) Section 1842(b)(4)(A)(vi) of the Social Security Act, as inserted by section 4044(a) of OBRA, is amended—

(i) by striking "subparagraph (E)(iii)" and inserting "subsection (i)(4)",

(ii) by striking "the average of the prevailing charge levels" and inserting "the estimated average prevailing charge levels based on the best available data", and

(iii) by striking "for participating physicians".

(4) Section 4045.—(A) Section 1842(b)(10) of the Social Security Act, as amended by section 4045(a) of OBRA, is amended—

(i) in subparagraph (A)(i)—

(I) by striking "under paragraph (3)",

(II) by striking "subparagraph (C)" and inserting "subparagraph (B)", and

(III) by striking "for participating and nonparticipating physicians";

(ii) in subparagraph (A)(iii), by striking "clause (i)(II)" and inserting "clause (i)(I)";

(iii) in subparagraph (B) by inserting "(including subsequent insertion of an intraocular lens)" after "cataract surgery"; and

(iv) in subparagraph (D), by inserting "under" after "review".

(B) Section 4045(c)(2) of OBRA is amended—

(i) in subparagraph (B), by inserting before the period at the end the following: "and by striking the second sentence", and

(ii) by adding at the end the following new subparagraph:

"(D) The fourth sentence of section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by inserting '(or under any other provision of law affecting the prevailing charge level)' after 'the level determined under this sentence'.".

(C) Section 1842(j)(1)(D)(iv) of the Social Security Act, as added by section 4045(c)(1)(B) of OBRA, is amended by striking "imposes a charge" and inserting "bills".

(D)(i) Section 1862(a)(15) of the Social Security Act (42 U.S.C. 1395y(a)(15)) is amended by inserting "(including subsequent insertion of an intraocular lens)" after "operation".

(ii) The amendment made by clause (i) shall apply to operations performed on or after 60 days after the date of the enactment of this Act.

(5) Section 4046.—(A) Section 1842(b)(11)(C)(i) of the Social Security Act, as inserted by section 4046(a)(1)(C) of OBRA and as designated by section 4063(a)(1)(A), is amended by striking "implantation" and inserting "insertion".

(B) Section 1842(j)(1)(D)(ii)(IV) of the Social Security Act, as inserted by section 4046(a)(2)(A) of OBRA, is amended by striking "is".

(6) Section 4047.—(A) The heading of section 4047 of OBRA is amended by striking "PRIMARY CARE" and inserting "CERTAIN".

(B) Section 1842(b)(4)(G) of the Social Security Act, as added by section 4047(a) of OBRA, is amended—

(i) by inserting "than" after "(other", and

(ii) by striking "(as determined under the third and fourth sentences of paragraph (3) and under paragraph (4))".

(C) Section 4047(b) of OBRA is amended by inserting "on or" after "medicare beneficiaries".

(D) The item in the table of contents of title IV of OBRA relating to section 4047 is amended to read as follows:

"Sec. 4047. Customary charges for certain services of new physicians.".

(7) Section 4048.—(A) Paragraph (14) of section 1842(b) of the Social Security Act, as added by section 4048(a) of OBRA, is redesignated as paragraph (13).

(B) Section 4048 of OBRA is amended by adding at the end the following new subsection:

"(e) Conforming Amendment to Maxmimum Allowable Actual Charge.—Section 1842(j)(1)(C) of the Social Security Act (42 U.S.C. 1395u(j)(1)(C)), as amended by sections 4085(i)(7)(C) and 4041(a)(1)(B) of this title, is amended by adding at the end the following new clause:

" '(ix) If there is a reduction under subsection (b)(13) in the reasonable charge for medical direction furnished by a nonparticipating physician, the maximum allowable actual charge otherwise permitted under this subsection for such services shall be reduced in the same manner and in the same percentage as the reduction in such reasonable charge.'.".

(8) Section 4049.—(A) Section 1834(b)(6) of the Social Security Act, as added by section 4049(a)(2) of OBRA, is amended by striking "radiologic" each place it appears and inserting "radiology".

(B) Section 4049(a) of OBRA is amended—

(i) in paragraph (1), by striking "4062(c)(3)" and inserting "4062(d)(3)", and

(ii) in paragraph (2), by striking "4062(a)" and inserting "4062(b)".

(C) Section 1833(a)(1) of the Social Security Act, as amended by section 4049(a)(1) of OBRA, is amended in the clause added by that section by striking "1834(b)(5)" and inserting "1834(b)(6)".

(D) Section 1834(b) of the Social Security Act, as added by section 4049(a)(2) of OBRA, is amended—

(i) in the headings of paragraphs (4)(D) and (5), by inserting "AND SUPPLIERS" after "PHYSICIANS";

(ii) in paragraph (5)(C), by striking "imposes a charge" and inserting "bills";

(iii) in paragraph (5)(C), by inserting "in the same manner as such sanctions may apply to a physician" after "1842(j)(2)";

(iv) in paragraph (6), by striking ", section 1833(a)(1)(I), and section 1842(h)(1)(B)" and inserting "and section 1833(a)(1)(J)"; and

(v) in paragraph (6)(B), by striking "billings" and inserting "the total amount of charges".

(E) Section 4049(b) of OBRA is amended by striking "establish" and inserting "propose".

(9) Section 4051.—Section 1842(n) of the Social Security Act, as added by section 4051(a) of OBRA, is amended—

(A) in paragraph (1) in the matter before subparagraph (A)—

(i) by striking "to a patient",

(ii) by inserting "the bill or request for"' after "for which",

(iii) by striking "his" and inserting "a", and

(iv) by striking "supervised the test" and inserting "supervised the performance of the test";

(B) in paragraph (1)(A), by striking "to individuals enrolled under this part";

(C) in paragraph (2)(A), by inserting "the payment amount specified in paragraph (1)(A) and" after "other than"; and

(D) in paragraph (3), by striking "or supplier".

(10) First section 4052.—(A) Section 1892(a) of the Social Security Act, as added by the first section 4052(a) of OBRA, is amended—

(i) in paragraphs (2)(C)(ii) and (3)(B), by striking "paragraph (3)" and inserting "paragraph (4)",

(ii) in paragraph (4), by striking "bar" and inserting "exclude", and

(iii) in paragraph (4), by inserting before the period at the end the following: "if a State requests that the physician not be excluded".

(B) The first section 4052(b) of OBRA (relating to conforming reference) is amended by striking "338E(b)(1)" and "254o(b)(1)" and inserting "338E(b)(1)(B)(i)" and "254o(b)(1)(B)(i)", respectively.

(C)(i) Section 1892 of the Social Security Act, as added by the first section 4052(a) of OBRA, is amended—

(I) in the heading, by striking "PHYSICIANS" and "SCHOLARSHIP" and inserting "INDIVIDUALS" and "SCHOLARSHIP AND LOAN", respectively;

(II) by striking "physician" each place it appears (other than the third place it appears in subsection (a)(4)) and inserting "individual";

(III) by striking "physician" the third place it appears in subsection (a)(4) and inserting "practitioner";

(IV) in paragraph (1)(A), by inserting ", the Physician Shortage Area Scholarship Program, or the Health Education Assistance Loan Program," after "Scholarship Program";

(V) in subsection (b), by striking ", and (2)" and all that follows through "Act" and inserting "or under subpart III of part F of title VII of such Act (as in effect before October 1, 1976) and which has not been paid by the deadline established by the Secretary pursuant to such respective section"; and

(VI) in subsection (b), by striking the period at the end and inserting "; or" and by adding at the end the following:

"(2) owed by an individual to the United States by reason of a loan covered by Federal loan insurance under subpart I of part C of title VII of the Public Health Service Act and payment for which has not been cancelled, waived, or suspended by the Secretary under such subpart.".

(ii) Section 733(f) of the Public Health Service Act (42 U.S.C. 294f(f)) is amended by adding at the end the following: "Procedures for reduction of payments under the medicare program are provided under section 1892 of the Social Security Act.".

(iii) The amendments made by this subparagraph shall be effective 30 days after the date of the enactment of this Act.

(11) Second section 4052.—(A) The second section 4052(a) of OBRA is amended by striking "is amended" and all that follows through the end and inserting the following: "is amended by inserting before the period at the end of the next-to-last sentence the following: ', and shall remain at such prevailing charge level until the prevailing charge for a year (as adjusted by economic index data) equals or exceeds such prevailing charge level'.".

(B) The second section 4052(b) of OBRA is amended by striking "January" and inserting "April".

(12) Section 4054.—(A) Section 4054 of OBRA is amended to read as follows:

"SEC. 4054. APPLYING COPAYMENT AND DEDUCTIBLE TO CERTAIN OUTPATIENT PHYSICIANS' SERVICES.

"(a) In General.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

"(1) in subsection (a)(1), by striking clause (F),

"(2) in subsection (b), by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively, and

"(3) in subsection (i), by striking paragraph (4).

"(b) Effective Date.—The amendments made by subsection (a) shall apply to services furnished on or after April 1, 1988.".

(B) The item relating to section 4054 in the table of contents of title IV of OBRA is amended to read as follows:

"Sec. 4054. Applying copayment and deductible to certain outpatient physicians' services.".

(13) Section 4055.—Section 4055 of OBRA is amended—

(A) in subsection (a)(2), by striking "such list" and inserting "such definitions", and

(B) in subsection (b)(1), by striking "dermatology,".

(14) Redesignation.—The second section 4052 of OBRA and sections 4053, 4054, and 4055 of OBRA are redesignated as sections 4053 through 4056, respectively.

(g) Corrections Relating to Subpart B of Part 3 of Subtitle A of Title IV (Payments for Other Part B Services).—

(1) Section 4062.—(A) The heading of section 1834 of the Social Security Act, as inserted by section 4062(b) of OBRA, is amended by inserting "ITEMS AND" after "PARTICULAR".

(B) Subsection (a) of section 1834 of the Social Security Act, as so inserted, is amended—

(i) in paragraph (1)(C), by inserting "or under part A to a home health agency" after "under this part";

(ii) in the second sentence of paragraph (2)(A), by striking "rental" before "payments";

(iii) in paragraph (2)(B)(i), by striking "allowed" and inserting "reasonable", and in paragraphs (3)(B)(i) and (8)(A)(i)(I), by striking "allowable" and inserting "reasonable";

(iv) in paragraph (3)(A), by striking the extra space after "ventilators";

(v) in paragraph (4), by inserting after "individual patient" the following: ", and for that reason cannot be grouped with similar items for purposes of payment under this title,";

(vi) in paragraph (4), by inserting "(A)" after "in a lump-sum amount" and by inserting "(B)" after "for that item, and";

(vii) in paragraph (4), by striking "maintenance and service" each place it appears and inserting "maintenance and servicing", in paragraph (7)(A)(iii), by striking "service and maintenance" and inserting "maintenance and servicing", and in paragraphs (7)(A)(ii) and (11)(A), by striking "servicing" and inserting "maintenance and servicing";

(viii) in paragraph (7)(A)(iii)(I), by striking "fee established by the carrier" and inserting "fee or fees established by the Secretary ";

(ix) in paragraph (9)(A)(ii)(I), by striking "12-month period" and inserting "6-month period";

(x) in paragraph (9)(A)(ii)(II), by striking "and to 1991" and inserting ", 1991, and 1992";

(xi) in paragraphs (9)(B)(i) and (10)(B)(i), by striking the comma after "1991";

(xii) in paragraph (9)(C)(i), by striking "subparagraph (A)(ii)(I)" and inserting "subparagraph (A)(ii)";

(xiii) in paragraph (10)(B), by inserting before the period the following: "and payments under this subsection as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)";

(xiv) in the last sentence of paragraph (11)(A), by striking "under subsection (j)(2)" and inserting "under section 1842(j)(2)";

(xv) in paragraph (12), by striking "(as defined in section 1886(d)(2)(D))"; and

(xvi) by striking paragraph (14).

(C) Section 4062(c)(4) of OBRA is amended—

(i) by inserting "and payment of a reasonable copying fee which the Secretary may establish" after "upon written request", and

(ii) by inserting before the period at the end the following: ", but only in a form which does not permit identification of individual suppliers".

(D) The last sentence of section 1866(a)(2)(A) of the Social Security Act, as added by section 4062(d)(4) of OBRA, is amended by striking "section 1834(a)(2)" and inserting "section 1834(a)(1)(B)".

(E) The matter added by section 4062(d)(3)(A)(ii) of OBRA is amended by striking "and" before "(I)".

(2) Section 4063.—(A) Section 1842(b)(11)(C)(ii) of the Social Security Act, as amended by section 4063(a)(1)(A) of OBRA, is amended—

(i) by striking "implanted" and inserting "inserted", and

(ii) by inserting "or subsequent to" after "during".

(B) Subclause (IV) of section 1842(j)(1)(D)(ii) of the Social Security Act, as inserted by section 4063(a)(2)(A) of OBRA, is redesignated as subclause (V) and is amended by striking "is".

(C) Section 4063(a)(2)(B) of OBRA is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(D) Section 1833(i)(2)(A)(iii) of the Social Security Act, as inserted by section 4063(b)(3) of OBRA, is amended—

(i) by striking "implantation" and inserting "insertion", and

(ii) by inserting "or subsequent to" after "during".

(E) Section 4063 of OBRA is amended by adding at the end the following new subsection:

"(e) Prevention of Additional Billings for IOLs.—

"(1) Section 1833(i) of the Social Security Act (42 U.S.C. 1395l(i)) is amended by adding at the end the following new paragraph:

" '(6) Any person, other than a facility having an agreement under section 1832(a)(2)(F)(i), who knowingly and willfully presents, or causes to be presented, a bill or request for payment, for an intraocular lens inserted during or subsequent to cataract surgery for which payment may be made under paragraph (2)(A)(iii), is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).'.

"(2) Section 1832(a)(2)(F)(i) of such Act (42 U.S.C. 1395k(a)(2)(F)(i)) is amended by inserting '(including intraocular lens in cases described in section 1833(i)(2)(A)(iii))' after 'services' each place it appears.".

(3) SECTION 4064.—(A) Section 4064(a) of OBRA is amended by striking all that follows the first dash and inserting the following: "Paragraph (2) of section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

"(1) by inserting '(A)(i)' after '(2)';

"(2) in the second sentence—

"(A) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively, and

"(B) by designating such sentence as subparagraph (B); and

"(3) by adding at the end of subparagraph (A)(i), as designated under paragraph (1), the following new clause:

"(ii) Notwithstanding any other provision of this subsection—

"(I) any change in the fee schedules which would have become effective under this subsection for tests furnished on or after January 1, 1988, shall not be effective for tests furnished during the 3-month period beginning on January 1, 1988, and

"(II) the Secretary shall not adjust the fee schedules under clause (i) to take into account any increase in the consumer price index for 1988.".

(B) Section 4064(b)(1) of OBRA is amended—

(i) by striking "1833(h)(2) of the Social Security Act (42 U.S.C. 1395l(h)(2))" and inserting "1833(h)(2)(A) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)), as amended by subsection (a),";

(ii) by striking "the following: 'In establishing fee schedules under the first sentence of this paragraph with respect to" and inserting "the following new clause:

"'(iii) In establishing fee schedules under clause (i) with respect to"; and

(iii) by moving the indentation of all the matter added following "with respect to" 2 ems to the left.

(C) The clause added by section 4064(b)(1) of OBRA, as amended by subparagraph (A), is amended by inserting before the period at the end the following: ", and such reduced fee schedules shall serve as the base for 1989 and subsequent years".

(D) Section 1833(h)(4)(B)(ii) of the Social Security Act, as amended by section 4064(b)(2)(B) of OBRA, is amended by inserting "after" before "March".

(E) Section 4064(c) of OBRA is amended by striking all that follows the dash and inserting the following: "Section 1833(h)(1)(D) of such Act is amended by inserting ', in a sole community hospital (as defined in the last sentence of section 1886(d)(5)(C)(ii)),' after 'a hospital laboratory'.".

(F) Section 4064(c) of OBRA is amended by inserting "(1)" after the dash and by adding at the end the following new paragraph:

"(2) The amendment made by paragraph (1) shall apply with respect to diagnostic laboratory tests furnished on or after April 1, 1988.".

(G) Section 1846 of the Social Security Act, as added by section 4064(d)(1) of OBRA, is amended—

(i) in subsection (a)—

(I) by striking "certified" and "certification" and inserting "approved" and "approval", respectively,

(II) by inserting "or for coverage" after "conditions of participation", and

(III) by striking "cancelling immediately the certification of the provider or clinical laboratory" and inserting "terminating immediately the provider agreement or cancelling immediately approval of the clinical laboratory";

(ii) in subsections (b)(1)(A) and (b)(2)(A)(iv), by striking "certified";

(iii) in subsection (b)(2)(A)(ii), by striking "civil fines and penalties" and inserting "civil money penalties in an amount not to exceed $10,000 for each day of substantial noncompliance";

(iv) in subsection (b)(2)(A), by adding at the end the following new sentence:

"The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (ii) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).";

(v) in subsection (b)(2)(A)(iii), by striking "certification";

(vi) in subsection (b)(2)(A)(iv), by striking "provided on or after the date in" and inserting "furnished on or after the date on"; and

(vii) in subsection (b)(3), by striking "fines" and inserting "penalties" each place it appears.

(H) The matter inserted in section 1861(s) of the Social Security Act by section 4064(e)(1) of OBRA is amended by inserting a comma after "year".

(4) SECTION 4066.—(A) The heading of section 4066 of OBRA is amended by inserting "AND OTHER DIAGNOSTIC TESTS" after "RADIOLOGY".

(B) The item relating to section 4066 in the table of contents of title IV of OBRA is amended to read as follows:

"Sec. 4066. Payments to hospital outpatient departments for radiology and other diagnostic tests.".

(C) Section 1833(n) of the Social Security Act, as added by section 4066(a)(2) of OBRA, is amended—

(i) in paragraph (1)(A), by striking "beginning on or after October 1, 1988, under this part for services described in subsection (a)(2)(E)" and inserting "for services described in subsection (a)(2)(E)(i) furnished under this part on or after October 1, 1988, and for services described in subsection (a)(2)(E)(ii) furnished under this part on or after October 1, 1989,";

(ii) in paragraph (1)(B)(i)(II), by inserting "or (for services described in subsection (a)(2)(E)(i) furnished on or after January 1, 1989) the fee schedule amount established" after "the prevailing charge"; and

(iii) by amending subclauses (I) and (II) of paragraph (1)(B)(ii) to read as follows:

"(I) The term 'cost proportion' means 50 percent, except that such term means 65 percent in the case of outpatient radiology services for portions of cost reporting periods which occur in fiscal year 1989 and in the case of diagnostic procedures described in subsection (a)(2)(E)(ii) for portions of cost reporting periods which occur in fiscal year 1990.

"(II) The term 'charge proportion' means 100 percent minus the cost proportion.".

(5) SECTION 4067.—Section 1833(f) of the Social Security Act, as inserted by section 4067(a) of OBRA, is amended by striking "medicare economic index (referred to in the fourth sentence of section 1842(b)(3)) applicable to physicians' services" and inserting "MEI (as defined in section 1842(i)(3)) applicable to primary care services (as defined in section 1842(i)(4))".

(6) SECTION 4068.—The last sentence of section 1135(d)(3) of the Social Security Act, as added by section 4068(b)(1) of OBRA, is amended by striking "speciality" and inserting "specialty".

(h) CORRECTIONS RELATING TO SUBPART B OF PART 3 OF SUBTITLE A OF TITLE IV (PART B ELIGIBILITY AND BENEFITS CHANGES).—

(1) SECTION 4070.—(A) The last sentence of section 1833(c) of the Social Security Act, as added by section 4070(a)(2) of OBRA, is amended by striking "prescribing or monitoring prescription drugs" and inserting "monitoring or changing drug prescriptions".

(B) Section 1861(ff) of the Social Security Act, as added by section 4070(b)(2) of OBRA, is amended—

(i) by inserting before such subsection the following heading:

"Partial Hospitalization Services", and

(ii) in paragraph (3), by striking "hospital-based or hospital-affiliated (as defined by the Secretary)" and inserting "furnished by a hospital to its outpatients".

(2) SECTION 4071.—Section 1861(s)(10)(A) of the Social Security Act, as amended by section 4071(a) of OBRA, is amended by inserting ", subject to section 4071(b) of the Omnibus Budget Reconciliation Act of 1987," before "influenza vaccine".

(3) SECTION 4072.—(A) Section 1861(s)(12) of the Social Security Act, as amended by section 4072(a) of OBRA, is amended by inserting "subject to section 4072(e) of the Omnibus Budget Reconciliation Act of 1987," after "(12)".

(B) Section 4072(b) of OBRA is amended—

(i) by striking "by inserting after subsection (e)" and inserting "by adding at the end, as previously amended,", and

(ii) by redesignating the subsection added by such section as subsection (o).

(4) SECTION 4073.—Section 4073 of OBRA is amended—

(A) by striking paragraph (1) of subsection (b);

(B) in paragraph (2) of subsection (b)—

(i) by redesignating such paragraph as paragraph (1);

(ii) by inserting "and" at the end of subparagraph (A);

(iii) by striking subparagraph (B);

(iv) in the matter added by subparagraph (C)—

(I) by striking "and (I)" and inserting "(K)",

(II) by inserting "80 percent of the lesser of the actual charge for the services or" after "amounts paid shall be",

(III) by striking "but in no event more than" and inserting "but in no event shall such fee schedule exceed", and

(IV) by striking the semicolon and inserting a comma; and

(v) by redesignating subparagraph (C) as subparagraph (B);

(C) in paragraph (3) of subsection (b)—

(i) by inserting ", as previously amended," after "at the end",

(ii) by redesignating such paragraph as paragraph (2),

(iii) by redesignating the subsection added by such paragraph as subsection (p), and

(iv) by adding at the end of the subsection added by such paragraph the following: "Except for deductible and coinsurance amounts applicable under section 1833, whoever knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services described in the previous sentence, is subject to a civil money penalty of not to exceed $2,000 for each such bill or request. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).";

(D) in the subsection added by subsection (c)—

(i) by redesignating such subsection as subsection (gg), and

(ii) in paragraph (1), by striking "his" and inserting "the nurse-midwife's" and by striking "physician's" and inserting "physicians' "; and

(E) in the matter inserted by subsection (d)(1), by striking "section 1861(ff)" and inserting "section 1861(gg)".

(5) SECTION 4074.—Section 4074 of OBRA is amended—

(A) in the matter inserted by subsection (a)(1), by striking "(ff)" and inserting "(hh)", and

(B) by redesignating the subsection added by subsection (b) as subsection (hh).

(6) SECTION 4076.—Subsection (a) of section 4076 of OBRA is amended to read as follows:

"(a) SERVICES COVERED.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by inserting '(I)' before 'in a hospital' and by striking 'or as an assistant at surgery' and inserting ', (II) as an assistant at surgery, or (III) in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area,'.".

(7) SECTION 4077.—Section 4077(b) of OBRA is amended—

(A) in paragraph (1), by inserting "by section 4073(a) of this title" after "as amended";

(B) by striking paragraph (2);

(C) in paragraph (3)—

(i) by striking "1395k(a)(1))" and inserting "1395l(a)(1)),

(ii) by striking subparagraphs (A) and (B),

(iii) in subparagraph (C), by striking "(I)" and inserting "(K)" and by redesignating such subparagraph as subparagraph (A),

(iv) in subparagraph (D), by striking "subparagraph:" and inserting "clause:" and by redesignating such subparagraph as subparagraph (B), and

(v) in the matter added by subparagraph (B), as so redesignated—

(I) by striking "(J)" and inserting "(L)", and

(II) by inserting "80 percent of the lesser of the actual charge for the services or" after "amounts paid shall be";

(D) in paragraph (4), by striking "section 4073(b)(3)" and inserting "4073(b)(2)";

(E) in paragraph (5), by redesignating the subsection (gg) added by such paragraph as subsection (ii); and

(F) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(8) SECTION 4079.—Section 4079(c)(1) of OBRA is amended by striking "subsection (d)" and inserting "subsection (e)".

(i) PROVISIONS RELATING TO SUBPART D OF PART 3 OF SUBTITLE A OF TITLE IV (OTHER PART B PROVISIONS).—

(1) SECTION 4081.—(A) Section 1842(h)(3)(B) of the Social Security Act, as added by section 4081(a) of OBRA, is amended—

(i) in the second sentence—

(I) by striking "claims" and inserting "payment", and

(II) by striking "including such information as the Secretary determines is generally provided" and inserting "shall include an explanation of benefits and any additional information that the Secretary may determine to be appropriate in order";

(ii) in the third sentence, by striking "arrangements" and inserting "agreements"; and

(iii) in the fourth sentence—

(I) by inserting "by a carrier" after "under this subparagraph", and

(II) by inserting before the period at the end the following: ", and such user fees shall be collected and retained by the carrier".

(B) Section 4081(b)(2) of OBRA is amended by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively, and by inserting before subparagraph (B), as so redesignated, the following:

"(A) in the matter before paragraph (1), by inserting '(or, with respect to paragraph (3), the issuer of the policy)' after 'he finds that such policy',".

(C) Section 1882(c)(3) of the Social Security Act, as inserted by section 4081(b)(2)(C) of OBRA, is amended—

(i) in subparagraph (A), by striking "claims form" each place it appears and inserting "claim form" in the first 2 places and "notice" in the third place,

(ii) in subparagraph (B)(i), by inserting "under the policy" after "payment determination", and

(iii) in subparagraph (B)(ii), by striking "appropriate payment" and inserting "payment covered by such policy".

(D) Section 4081(c)(2)(B)(i) of OBRA is amended by striking "medical" and inserting "medicare".

(E) Section 4081(c)(2)(B)(ii) of OBRA is amended by inserting "or which has not enacted such legislation before July 1, 1988," after "in which such legislation may be considered".

(2) SECTION 4082.—Section 4082(c) of OBRA is amended—

(A) by striking "1842(b)(5) of such Act (42 U.S.C. 1395u(b)(5)" and inserting "1842(b)(2) of such Act (42 U.S.C. 1395u(b)(2))", and

(B) in paragraph (1), by striking "(5)" and inserting "(2)".

(3) SECTION 4084.—Section 4084 of OBRA is amended by adding at the end the following new subsection:

"(c) ADDITIONAL TECHNICAL CORRECTIONS.—

"(1) Section 1861(bb)(2) of the Social Security Act (42 U.S.C. 1395x(bb)(2)) is amended by adding at the end the following: 'Such term also includes, as prescribed by the Secretary, an anesthesiologist assistant.'.

"(2) Section 1833(a)(1)(H) of such Act (42 U.S.C. 1395l(a)(1)(H)) is amended by striking 'lesser of the actual charge' and inserting 'least of the actual charge, the prevailing charge that would be recognized if the services had been performed by an anesthesiologist,'.

"(3) The amendments made by this subsection shall apply to services furnished after December 31, 1988.".

(4) SECTION 4085.—(A) Section 1845(f) of the Social Security Act, as added by section 4085(a) of OBRA, is amended—

(i) in paragraph (1), by striking "October 1st" and inserting "December 31st", and

(ii) in paragraph (2), by striking "July 1st of the following year" and inserting "the later of (A) July 1st of the following year, or (B) 45 days after the date of a reasonable charge update".

(B) Subparagraph (D) of section 1833(h)(5) of the Social Security Act, as added by section 4085(b)(1) of OBRA, is amended—

(i) by striking "If a person" and all that follows through "under subparagraph (C)" and inserting the following: "A person may not bill for a clinical diagnostic laboratory test performed by a laboratory, other than a rural health clinic, other than on an assignment-related basis. If a person knowingly and willfully and on a repeated basis bills for a clinical diagnostic laboratory test in violation of the previous sentence", and

(ii) by striking "section 1842(j)(2)" and inserting "paragraphs (2) and (3) of section 1842(j) in the same manner such paragraphs apply with respect to a physician".

(C) Section 4085(i) of OBRA is amended—

(i) in the matter inserted by paragraph (1)(A), by inserting a comma after "assignment-related basis";

(ii) in paragraph (1), by striking subparagraph (B);

(iii) in paragraph (11), by striking "9367(a)" and inserting "4072(a)";

(iv) in paragraph (21)(D)(i), by inserting "by" after "(i)";

(v) in paragraph (21)(D)(ii), by striking "and by" and all that follows up to the semicolon; and

(vi) by adding at the end the following:

"(22)(A) Section 1832(a)(2)(F)(ii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F)(ii)) is amended by striking 'an assignment described in section 1842(b)(3)(B)(ii)' and inserting 'payment on an assignment-related basis'.

"(B) Section 1833(h)(5) of such Act (42 U.S.C. 1395l(h)(5)) is amended, in each of subparagraphs (A) and (C), by striking 'on the basis of an assignment' and all that follows through '1870(f)(1),' and inserting 'on an assignment-related basis'.

"(C) Section 1842(b)(7)(B)(iii) of such Act (42 U.S.C. 1395u(b)(7)(B)(ii)) is amended by striking 'the basis of' and all that follows through '1870(f)(1)' and inserting 'an assignment-related basis'.

"(23) Section 1833(l)(5)(B)(ii) of such Act (42 U.S.C. 1395k(l)(5)(B)(ii)) is amended—

"(A) in the first sentence by striking 'monetary' and inserting 'money', and

"(B) by amending the second sentence to read as follows: 'The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).'.

"(24) The fourth sentence of section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended by striking 'physician services' and 'physicians services' and inserting 'physicians' services' in both places.

"(25) Section 1842(b)(12)(C) of such Act (42 U.S.C. 1395u(b)(12)(C)) is amended—

"(A) in the first sentence by striking 'monetary' and inserting 'money', and

"(B) by amending the second sentence to read as follows: 'The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).'.".

"(26) Section 1842(j)(2) of such Act (42 U.S.C. 1395u(j)(2)(B)) is amended—

"(A) by striking 'title' each place it appears and inserting 'Act', and

"(B) in subparagraph (B)—

"(i) by striking 'the imposition of',

"(ii) by inserting 'and assessments' after 'such penalties', and

"(iii) by amending the second sentence to read as follows: 'The provisions of section 1128A (other than the first 2 sentences of subsection (a) and other than subsection (b)) shall apply to a civil money penalty and assessment under subparagraph (B) in the same manner as such provisions apply to a penalty, assessment, or proceeding under section 1128A(a), except to the extent such provisions are inconsistent with subparagraph (A) or paragraph (3).'.".

"(27) Section 1842(l)(1)(C)(i) of such Act (42 U.S.C. 1395u(l)(1)(C)(i)) is amended by inserting 'the physician establishes that' after '(i)'.

"(28) Section 1866(g) of such Act (42 U.S.C. 1395cc(g)) is amended—

"(A) in the first sentence by striking 'monetary' and inserting 'money', and

"(B) by amending the second sentence to read as follows: 'The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).'.".

(D)(i) Section 1862(e) of the Social Security Act (42 U.S.C. 1395y(e)) is amended—

(I) by striking "or section 1128A" and inserting ", 1128A, 1156, 1842(j)(2), or 1867(d)",

(II) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), and

(III) by inserting "(1)" after "(e)".

(ii) Section 1890 of the Social Security Act, as added by section 10 of Public Law 100-93, is amended—

(I) by striking its heading;

(II) by striking "Sec. 1890" and inserting "(2)";

(III) by inserting "1842(j)(2)," before "1862(d),";

(IV) by striking "or 1866" and inserting "1866, or 1867(d)"; and

(V) by transferring and adding such provision at the end of section 1862(e) of such Act.

(j) Corrections to Part 4 of Subtitle A of Title IV (Relating to Peer Review Organizations).—

(1) Section 4091.—Section 4091(a)(1)(B) of OBRA is amended by striking "renewals occurring" and inserting "contracts expiring".

(2) Section 4093.—Section 1154(a)(3) of the Social Security Act, as amended by section 4093(a) of OBRA, is amended by amending the last sentence to read as follows:

"(C) The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).".

(3) Section 4094.—(A) Section 4094(a) of OBRA is amended by striking "subparagraph (B)" and inserting "subparagraph (A)".

(B) Section 1154(a)(15) of the Social Security Act, as added by section 4094(b) of OBRA, is amended by striking "at at" and inserting "in at".

(4) Section 4096.—(A) Section 4096(a)(1)(A) of OBRA is amended by striking "(b)(3)(ii)" and inserting "(b)(3)(B)(ii)".

(B) Section 1870(f) of the Social Security Act, as amended by section 4096(a)(2) of OBRA, is amended by striking "specified in subclauses (I) and (II) of" and inserting "of assignment specified in".

(C) Sections 1154(e)(3)(A)(i) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(A)(i), 1320c-3(e)(2)(B)), as amended by section 4096(c) of OBRA, are each amended by striking "or (2)" before "paragraph (2)".

(5) Section 4097.—Section 4097(b) of OBRA is amended by striking "1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii))" and inserting "1866(a)(3)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(3)(C)(ii))".

(k) Corrections to Subtitle B of Title IV (Relating to Medicaid).—

(1) Table of contents.—The table of contents of title IV of OBRA is amended by striking the item relating to section 4105 and by redesignating the items relating to sections 4106 and 4107 as relating to sections 4105 and 4106, respectively.

(2) Section 4101.—Section 1916(c)(1) of the Social Security Act, as inserted by section 4101(d)(1)(C) of OBRA, is amended by striking "nonfarm".

(3) Section 4102.—(A) Section 1915(d)(5)(B) of the Social Security Act, as amended by section 4102(a)(1)(B) of OBRA, is amended—

(i) in clause (iii)(III), by striking "75" and inserting "65", and

(ii) by inserting before "Effective on" the following: "The Secretary shall develop (by not later than October 1, 1989) a method for projecting, on a State-specific basis, the percentage increase in the number of residents in each State who are over 75 years of age for any period.".

(B) Section 1915(d)(5)(C)(i) of the Social Security Act, as amended by section 4102(a)(1)(B) of OBRA, is amended—

(i) by striking "(4)(B)," and inserting "(4), and", and

(ii) by striking ", and services furnished" and all that follows through "subsection (c)".

(4) Section 4103.—Section 1905(a)(5)(B) of the Social Security Act, as inserted by section 4103(a) of OBRA, is amended by striking "subparagraph" and inserting "clause".

(5) Section 4104.—(A) Paragraph (1) of section 4104(1) of OBRA is amended to read as follows:

"(1) by striking ', or' at the end of subclause (IX) and inserting a semicolon and by inserting 'or' at the end of subclause (X); and".

(B) Section 1902(a)(10)(A)(ii)(XI) of the Social Security Act, as added by section 4104(2) of OBRA, is amended—

(i) by striking "are more restrictive" and inserting "may be more restrictive", and

(ii) by striking the period at the end and inserting a semicolon.

(6) Section 4112.—(A) Section 4112 of OBRA is amended—

(i) in subsection (a)(2)(A)—

(I) by striking "such date" and inserting "April 1, 1989", and

(II) by inserting ", effective for inpatient hospital services provided on or after July 1, 1989" before the period;

(ii) in subsection (a)(2)(B)—

(I) by striking "such date" and inserting "April 1, 1990", and

(II) by inserting ", effective for inpatient hospital services provided on or after July 1, 1990" before the period;

(iii) the undesignated paragraph at the end of subsection (a) is amended—

(I) by striking "June 30 of each year in which the State is required to submit" and inserting "90 days after the date a State submits",

(II) by indenting all of such paragraph 2 ems, and

(III) by designating the first two sentences thereof as paragraph (3) and the last sentence thereof as paragraph (4);

(iv) in subsection (b)(2), by striking "the State plan" and inserting "a State plan";

(v) in subsection (b)(3)(B)(i), by inserting ", less the portion of any cash subsidies described in clause (i)(II) in the period reasonably attributable to inpatient hospital services" after "charity care in a period";

(vi) in subsection (c)—

(I) by striking "paragraphs (2)(A) and (2)(B)" and inserting "paragraphs (1)(B) and (2)(A) of subsection (a)",

(II) by striking "paragraph (2)(A)" and "paragraph (2)(B)" and inserting "such paragraph (1)(B)" and "such paragraph (2)(A)", respectively,

(III) in paragraph (1), by inserting "at least" after "equal to",

(IV) in paragraph (2), by inserting "(without regard to the election made by a State under subsection (b)(1))" after "payment) and",

(V) in the matter after paragraph (2), by inserting "at least" before "one-third" and before "two-thirds", and

(VI) by adding at the end the following new sentences: "In the case of a hospital described in subsection (d)(2)(A)(i) (relating to children's hospitals), in computing the hospital's disproportionate share adjustment percentage for purposes of paragraph (1)(B) of this subsection, the disproportionate patient percentage (defined in section 1886(d)(5)(F)(vi)) shall be computed by substituting for the fraction described in subclause (I) of such section the fraction described in subclause (II) of that section. If a State elects in a State plan amendment under subsection (a) to provide the payment adjustment described in paragraph (2), the State must include in the amendment a detailed description of the specific methodology to be used in determining the specified additional payment amount (or increased percentage payment) to be made to each hospital qualifying for such a payment adjustment and must publish at least annually the name of each hospital qualifying for such a payment adjustment and the amount of such payment adjustment made for each such hospital."; and

(vii) in subsection (e)—

(I) by inserting "(1)" after "Special Rule.—",

(II) by inserting "based on a pooling arrangement involving a majority of the hospitals participating under the plan" after "payment adjustments", and

(III) by adding at the end the following new paragraph:

"(2) In the case of a State that used a health insuring organization before January 1, 1986, to administer a portion of its plan on a State-wide basis, during the 3-year period beginning on July 1, 1988—

"(A) the requirements of subsections (b) and (c) shall not apply if the aggregate amount of the payment adjustments under the plan for disproportionate share hospitals (as defined under the State plan) is not less than the aggregate amount of payment adjustments otherwise required to be made if such subsections applied, and

"(B) subsection (d)(2)(B) shall apply to hospitals located in urban areas, as well as in rural areas.".

(B) Section 4112 of OBRA is further amended—

(i) by striking "(a) Implementation of Requirement.—" and inserting the following:

"(a) In General.—Title XIX of the Social Security Act is amended—

"(1) by redesignating section 1923 as section 1924, and

"(2) by inserting after section 1922 the following new section:

" 'ADJUSTMENT IN PAYMENT FOR INPATIENT HOSPITAL SERVICES FURNISHED BY DISPROPORTIONATE SHARE HOSPITALS

" 'SEC. 1923. (a) IMPLEMENTATION OF REQUIREMENT.—' ";

(ii) in subsection (a)(1), by striking "A State's plan under title XIX of the Social Security Act" and inserting "A State plan under this title";

(iii) in subsection (a)(1), by striking "of such Act";

(iv) in subsection (a), by striking "of Health and Human Services" each place it appears;

(v) in the matter following paragraph (2)(B) of subsection (a), by striking "of the Social Security Act";

(vi) in subsections (b) and (c), by striking "under title XIX of the Social Security Act" each place it appears and inserting "under this title";

(vii) in subsection (d)(2)(B), by striking "of the Social Security Act";

(viii) in subsections (b)(2), (b)(3), and (d)(2)(B), by striking double quotation marks enclosing terms and inserting single quotation marks;

(ix) by placing opening double quotation marks at the beginning of any matter with an initial paragraph indentation (beginning with subsection (a)(1)) and closing double quotation marks at the end of subsection (e); and

(x) by adding at the end the following:

"(b) CONFORMING AMENDMENT.—Section 1903(i)(3) of such Act (42 U.S.C. 1396b(i)(3)) is amended by inserting '(other than amounts attributable to the special situation of a hospital which serves a disproportionate number of low income patients with special needs)' before 'to the extent'.".

(7) SECTION 4113.—Section 4113 of OBRA is amended—

(A) in the matter inserted by subsection (a)(1)(B)—

(i) by moving the left margin of the matter 2 ems to the left, and

(ii) by striking "subparagraph (G)" and inserting "subparagraph (E) or (G)";

(B) in the matter inserted by subsection (a)(2), by striking "paragraph (2)(G) or (6)" and inserting "paragraph (2)(B)(iii), (2)(E), (2)(G), or (6)";

(C) in subsection (b)(2)(ii), by striking "such"; and

(D) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(8) SECTION 4114.—(A) Section 4114 of OBRA is amended in paragraph (1), by striking " '(1)' " and inserting " '(o)(1)' ".

(B) Section 1905(o)(1)(B) of the Social Security Act, as added by section 4114(3) of OBRA, is amended—

(i) by striking "only", and

(ii) by striking "immunodeficiency syndrome" and inserting "immune deficiency syndrome (AIDS)".

(9) SECTION 4115.—(A) SECTION 4115 OF OBRA IS AMENDED—

(A) in subsection (b)(4)(B), by striking "program" and inserting "Program",

(B) in subsection (c)—

(i) by inserting "under section 9121 of this Act" after "Upon approval", and

(ii) by striking "1916, and 1924" and inserting "1902(e)(1), and 1916", and

(C) by adding at the end the following:

"(d) EXTENSION OF TEXAS STATE WAIVER.—Section 9523(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking 'January 1, 1989' and inserting 'January 1, 1990'.".

(10) SECTION 4118.—(A) SECTION 1915(C)(10) OF THE SOCIAL SECURITY ACT, AS ADDED BY SECTION 4118(B) OF OBRA, IS AMENDED—

(i) by striking "No waiver under this subsection shall limit by an amount less than 200" and inserting "The Secretary shall not limit to fewer than 200", and

(ii) by striking "under such waiver" and inserting "under a waiver under this subsection".

(B) Section 4118(e) of OBRA is amended—

(i) in paragraph (3), by striking "amendment" and inserting "amendments", and

(ii) in paragraph (1)—

(I) by inserting "(A)" after "(1)",

(II) by striking "1128A(a)(1)" and "1320a-7(a)(1))" and inserting "1128(a)" and "1320a-7(a))", respectively, and

(III) by adding at the end the following:

"(B) Section 1128A of such Act is amended by adding at the end the following new subsection:

" '(l) A principal is liable under this section for the actions of the principal's agent acting within the scope of the agency.'.".

(C) Section 1128(d)(3)(B)(ii) of the Social Security Act, as added by section 4118(e)(2)(B) of OBRA, is amended by striking "under a program".

(D) Section 4118(e) of OBRA is amended by redesignating paragraph (3) as paragraph (14) and by inserting after paragraph (2) the following new paragraphs:

"(3) Section 1128(b)(8)(A)(i) of such Act is amended by inserting after '(A)(i)' the following: 'who has a direct or indirect ownership or control interest of 5 percent or more in the entity or'.

"(4) Section 1128(d) of such Act is amended—

"(A) in paragraph (1), by striking 'subsection (b)' and inserting 'this section and section 1128A', and

"(B) in paragraph (3)(A), by striking 'under a program'.'

"(5) Section 1128(i) of such Act is amended—

"(A) in the matter before paragraph (1), by striking 'a physician or other individual' and inserting 'an individual or entity',

"(B) in paragraphs (1) through (4), by striking 'physician or other individual' each place it appears and inserting 'individual or entity', and

"(C) in paragraph (4), by striking 'first offender or other program' and inserting 'first offender, deferred adjudication, or other arrangement or program'.

"(6) Section 1128A(a)(1)(D) of such Act is amended—

"(A) by striking 'excluded under' and inserting 'excluded from', and

"(B) by inserting 'or as a result of the application of the provisions of section 1842(j)(2) or section 1867(d)(2)' after 'or 1866(b)'.

"(7) The second sentence of section 1128A(c)(1) of such Act is amended—

"(A) by inserting ', request for payment, or other occurrence described in this section' after 'any claim', and

"(B) by inserting ', the request for payment was made, or the occurrence took place' after 'claim was presented'.

"(8) Section 1128A(i) of such Act is amended, in the matter before paragraph (1), by striking 'subsection' and inserting 'section'.

"(9) Section 1128A(i)(1) of such Act is amended by inserting 'or title XX' after 'title V'.

"(10) Section 1128A of such Act is further amended—

"(A) in the matter in subsection (a) before paragraph (1), by inserting ', but excluding a beneficiary, as defined in subsection (i)(5)' after 'other entity';

"(B) in subsection (i)(2), by striking 'submitted by' and all that follows through the end and inserting 'for payments for items and services under title V, XVIII, XIX, or XX of this Act.', and

"(C) by adding at the end the following new paragraph:

" '(5) The term "beneficiary" means an individual who is eligible to receive items or services for which payment may be made under title V, XVIII, XIX, or XX but does not include a provider, supplier, or practitioner.'.

"(11) Section 1903(i)(2) of such Act (42 U.S.C. 1396b(i)(2)) is amended—

"(A) in subparagraph (A), by striking 'in the State plan under this title pursuant to section 1128 or section 1128A' and inserting 'under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)', and

"(B) in subparagraph (B), by striking 'pursuant to section 1128 or section 1128A from participation in the program under this title' and inserting 'from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)'.

"(12) Section 504(b)(6) of such Act (42 U.S.C. 704(b)(6)) is amended by striking 'pursuant to section 1128 or section 1128A from participation in the program under this title' each place it appears and inserting 'under this title or title XVIII, XIX, or XX pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)'.

"(13) Section 2005(a)(9) of such Act (42 U.S.C. 1397d(a)(9)) is amended by striking 'pursuant to section 1128 or section 1128A from participation in the program under this title' each place it appears and inserting 'under this title or title V, XVIII, or XIX pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)'.".

(E) Section 4118(f)(1) of OBRA is amended by striking "4111(g)(8)" and inserting "4211(h)(8)".

(F) Section 4118(g)(1)(B) of OBRA is amended by striking "insert" and inserting "inserting".

(G) Section 4118(h) of OBRA is amended—

(i) by inserting a dash after "EXPENSES.";

(ii) in paragraph (1), by striking "Section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)) is amended" and inserting "Sections 1902(a)(17) and 1903(f)(2) of the Social Security Act (42 U.S.C. 1396a(a)(17), 1396b(f)(2)) are each amended";

(iii) in paragraph (2), by striking "(2) The amendment made by paragraph (1)" and inserting "(3) The amendments made by this subsection", and

(iv) by inserting after paragraph (1) the following new paragraph:

"(2) The first sentence of section 1902(f) of such Act (42 U.S.C. 1396a(f)) is amended by inserting after 'as recognized under State law' the following: 'regardless of whether such expenses are reimbursed under another public program of the State or political subdivision thereof'.".

(H) Section 1915(c)(7)(B) of the Social Security Act, as added by section 4118(k) of OBRA, is amended by inserting before the period at the end the following: ", without regard to the availability of beds for such inpatients".

(I) Section 4118(l)(1) of OBRA is amended by inserting ", as redesignated by section 4102(a)," after "1396n(h))".

(J) Section 9414(b)(3) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(o)(1)(C) of OBRA, is amended by striking "nonfarm".

(K) Section 4118(o)(2)(A) of OBRA is amended by inserting "each place it appears" before "and inserting".

(L) Section 4118(p)(9) of OBRA is amended by striking "1925(a)" and "(4111(a))" and inserting "1923(a)" and "4211(a)", respectively.

(M) Section 4118(p) of OBRA is amended by adding at the end the following new paragraph:

"(11) Paragraph (5) of section 9432(c) of the Omnibus Budget Reconciliation Act of 1986 is amended to read as follows:

" '(5) The Secretary shall submit an interim report on the results of the study, including an analysis of the geographic variations under paragraph (2), to the Congress not later than January 1, 1990, and shall report the final results of the study to the Congress not later than January 1, 1992.'.".

(11) OMITTED SECTION.—(A) Part 2 of subtitle B of title IV of OBRA is amended by adding at the end the following new section:

"SEC. 4119. STUDY OF MEANS OF RECOVERING COSTS OF NURSING FACILITY SERVICES FROM ESTATES OF BENEFICIARIES.

"The Secretary of Health and Human Services shall study the means of recovering amounts from estates of deceased medicaid beneficiaries (or the estates of the spouses of such deceased beneficiaries) to pay for the medical assistance for skilled nursing facility or intermediate care facility services furnished, under title XIX of the Social Security Act, to such medicaid beneficiaries. The Secretary shall report to Congress, not later than December 31, 1988, on such means, and include appropriate recommendations for changes in legislation.".

(B) The table of contents of title IV of OBRA is amended by inserting after the item relating to section 4118 the following new item:

"Sec. 4119. Study of means of recovering costs of nursing facility services from estates of beneficiaries.".

(12) MEDICAID CONFORMING AMENDMENT TO SECTION 4014 OF OBRA.—(A) Paragraph (5) of section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended to read as follows:

"(5)(A) If the Secretary determines that an entity with a contract under this subsection—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this subsection in excess of the premiums permitted under this title;

"(iii) acts to discriminate among individuals in violation of the provision of paragraph (2)(A)(v), including expulsion or refusal to re-enroll an individual or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this subsection) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services; or

"(iv) misrepresents or falsifies information that is furnished—

"(I) to the Secretary or the State under this subsection, or

"(II) to an individual or to any other entity under this subsection,

the Secretary may provide, in addition to any other remedies available under law, for any of the remedies described in subparagraph (B).

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A), or, with respect to a determination under clause (iii) or (iv)(I) of such subparagraph, of not more than $100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iii), $15,000 for each individual not enrolled as a result of a practice described in such subparagraph, or

"(ii) denial of payment to the State for medical assistance furnished under the contract under this subsection for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) The amendment made by subparagraph (A) shall apply to actions occurring on or after the date of the enactment of this Act.

(13) TREATMENT OF EDUCATIONALLY-RELATED SERVICES.—(A) Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by inserting after subsection (b) the following new subsection:

"(c) Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a handicapped child because such services are included in the child's individualized education program established pursuant to part B of the Education of the Handicapped Act or furnished to a handicapped infant or toddler because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act.".

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(14) CLARIFICATION OF TERM "INSTITUTION FOR MENTAL DISEASES".—(A) Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by inserting after subsection (h) the following new subsection:

"(i) The term 'institution for mental diseases' means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.".

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(15) ELIGIBILITY VERIFICATION TECHNICAL CORRECTION.—(A) Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) is amended by adding at the end the following new subsection:

"(f) Subsections (a)(1) and (d) shall not apply with respect to aliens seeking medical assistance for the treatment of an emergency medical condition under section 1903(v)(2).".

(B) The amendment made by subparagraph (A) shall apply as if it were included in the enactment of section 9406 of the Omnibus Budget Reconciliation Act of 1986.

(16) TECHNICAL CORRECTIONS RELATING TO PRESUMPTIVE ELIGIBILITY.—(A) Section 1920(d)(1)(B) of the Social Security Act (42 U.S.C. 1396r–1(d)(1)(B)) is amended by striking "by a qualified provider" and inserting "by a provider that is eligible for payments under the State plan".

(B) Section 1920(b)(2)(D) of such Act (42 U.S.C. 1396r–1(b)(2)(D)) is amended—

(i) in clause (i)—

(I) in subclause (I), by striking "or section 330" and inserting ", 330, or 340" and by striking "or" at the end,

(II) in subclause (II), by striking the semicolon at the end and inserting ", or", and

(III) by adding after subclause (II) the following new subclause:

"(III) title V of the Indian Health Care Improvement Act;";

(ii) in clause (ii), by striking "or" at the end; and

(iii) by adding at the end the following new clause:

"(iv) is the Indian Health Service or is a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).".

(C) The amendments made by this paragraph shall be effective as if they were included in section 9407(b) of the Omnibus Budget Reconciliation Act of 1986.

(17) WAIVER FOR CHILDREN INFECTED WITH AIDS OR DRUG DEPENDENT AT BIRTH.—(A) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(i) by redesignating subsection (f) as paragraph (2),

(ii) in subsection (e), by striking paragraph (2) and by redesignating such subsection as subsection (f),

(iii) by inserting after subsection (d) the following new subsection:

"(e)(1)(A) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such plan payment for part or all of the cost of nursing care, respite care, physicians' services, prescribed drugs, medical devices and supplies, transportation services, and such other services requested by the State as the Secretary may approve which are provided pursuant to a written plan of care to a child described in subparagraph (B) with respect to whom there has been a determination that but for the provision of such services the infants would be likely to require the level of care provided in a hospital or nursing facility the cost of which could be reimbursed under the State plan.

"(B) Children described in this subparagraph are individuals under 5 years of age who—

"(i) at the time of birth were infected with (or tested positively for) the etiologic agent for acquired immune deficiency syndrome (AIDS),

"(ii) have such syndrome, or

"(iii) at the time of birth were dependent on heroin, cocaine, or phencyclidine,

and with respect to whom adoption or foster care assistance is (or will be) made available under part E of title IV.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) under such waiver the average per capita expenditure estimated by the State in any fiscal year for medical assistance provided with respect to such individuals does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such individuals if the waiver had not been granted; and

"(C) the State will provide to the Secretary annually, consistent with a data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability). A waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional five-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met.

"(4) The provisions of paragraph (6) of subsection (d) shall apply to this subsection in the same manner as it applies to subsection (d)."; and

(iv) in subsection (h), by striking "or (d)" and inserting "(d), or (e)".

(B) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)".

(l) CORRECTIONS RELATING TO SUBTITLE C OF TITLE IV (NURSING HOME REFORM).—

(1) SECTION 4201.—(A) Section 1819 of the Social Security Act, as added by section 4201(a)(3) of OBRA, is amended—

(i) in subsection (b)(3)(C)(i)(I), by striking "October 1, 1990" the second place it appears and inserting "January 1, 1991";

(ii) in subsection (b)(4)(C)(i)—

(I) by inserting "licensed" after "24-hour",

(II) by striking "employ" and inserting "use", and

(III) by striking "during the day tour of duty (of at least 8 hours a day)" and inserting "at least 8 consecutive hours a day,";

(iii) in subsection (b)(5)(A), by striking "October 1, 1989" and all that follows through "July 1, 1989)" and inserting "January 1, 1990";

(iv) in subsection (e)(1)(A), by striking "March 1, 1989" and inserting "January 1, 1989";

(v) in subsection (e)(1)(B), by striking "March 1, 1990" and inserting "January 1, 1990";

(vi) in subsection (e)(2)(A), by striking "March 1, 1989" and inserting "January 1, 1989";

(vii) in subsection (e)(3), by striking "October 1, 1990" and inserting "October 1, 1989";

(viii) in subsection (e)(5), by striking "July 1, 1989" and inserting "July 1, 1990";

(ix) in subsection (f)(3), by striking "October 1, 1989" and inserting "October 1, 1988";

(x) in subsection (f)(6)(A), by striking "July 1, 1989" and inserting "January 1, 1989"; and

(xi) in subsection (f)(6)(B), by striking "October 1, 1990" and inserting "April 1, 1990".

(B) Section 4201(d) of OBRA is amended—

(i) by striking "AMENDMENT.—" and inserting "AMENDMENTS.—(1)",

(ii) by striking "1919(a)(2)" and inserting "1819(a)(1)", and

(iii) by adding at the end the following new paragraph:

"(2) Section 1861(n) of such Act (42 U.S.C. 1395x(n)) is amended by striking 'or (j)(1) of this section' and inserting 'or of section 1819(a)(1)'.".

(2) SECTIONS 4201 AND 4211.—(A) Sections 1819(b)(3)(A)(iv) and 1919(b)(3)(A)(iv) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are amended by striking "in the case of a resident eligible for benefits under part A of this title" and by striking "in the case of a resident eligible for benefits under part A of title XVIII", respectively.

(B) Sections 1819(b)(3)(A)(iii) and 1919(b)(3)(A)(iii) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are amended by striking "in the case of a resident eligible for benefits under title XIX," and "in the case of a resident eligible for benefits under this title,", respectively.

(C) Subclause (III) of each of sections 1819(b)(3)(B)(ii) and 1919(b)(3)(B)(ii) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, is amended to read as follows:

"(III) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(D) Sections 1819(b)(5) and 1919(b)(5) of the Social Security Act, as added by section 4201(a)(3) of OBRA and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended—

(i) in subparagraph (A), by striking ", who is not a licensed health care professional (as defined in subparagraph (E)),",

(ii) in subparagraph (A)(ii), by striking "such services" and inserting "nursing or nursing-related services", and

(iii) in subparagraph (G), by inserting "physical or occupational therapy assistant," after "occupational therapist,".

(E) Effective as of the date of the enactment of this Act and until the effective date of section 1819(c) of such Act, section 1861(j) of the Social Security Act is deemed to include the requirement described in section 1819(c)(3)(A) of such Act (as added by section 4201(a)(3) of OBRA).

(F) Sections 1819(c)(2)(A)(v) and 1919(c)(2)(A)(v) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended by striking "an allowable charge" and all that follows through the semicolon and inserting "for a stay at the facility;".

(G) Sections 1819(c)(6) and 1919(c)(6) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended—

(i) in subparagraph (A)(ii), by striking "once the facility accepts" and inserting "upon", and

(ii) in subparagraph (B), by striking "a facility's acceptance of".

(H) Sections 1819(e)(2)(B) and 1919(e)(2)(B) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively are each amended by inserting after the first sentence the following sentence: "The State shall make available to the public information in the registry.".

(I) Sections 1819(e)(3), 1819(f)(3), 1919(e)(3), and 1919(f)(3) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended—

(i) by inserting "AND DISCHARGES" after "TRANSFERS", and

(ii) by inserting "and discharges" after "transfers".

(J) Sections 1819(f)(2)(A)(i)(I) and 1919(f)(2)(A)(i)(I) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended by striking "cognitive, behavioral and social care" and inserting "recognition of mental health and social service needs".

(K) Sections 1819(f)(7) and 1919(f)(7) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended by striking "patients" and inserting "residents".

(L)(i) Section 1819(f)(7)(B) of the Social Security Act, as added by section 4201(a)(3), is amended by striking "shall not" and inserting "shall".

(ii) Section 1919(f)(7)(B) of the Social Security Act, as inserted by section 4211(a)(3) of OBRA, is amended by striking "do not".

(3) SECTION 4211.—(A) Section 1919(b)(4)(C) of the Social Security Act, as inserted by section 4211(a) of OBRA, is amended—

(i) by striking "registered nurse" each place it appears and inserting "registered professional nurse";

(ii) by striking "employ" and inserting "use";

(iii) by striking "(ii) FACILITY WAIVERS.—" and all that follows through "(i) WAIVER" and inserting "(ii) WAIVER";

(iv) by striking "and subject to clause (ii)" and inserting "and subject to clause (iii)";

(v) by striking "(ii) ASSUMPTION" and inserting "(iii) ASSUMPTION"; and

(vi) in clause (iii), as so redesignated, by striking "excercise" and inserting "exercise".

(B) Section 1919(b)(5)(A) of the Social Security Act, as added by section 4211(a)(3) of OBRA, is amended by striking "subparagraph (E)" and inserting "subparagraph (F)".

(C) Effective as of the date of the enactment of this Act and until the effective date of section 1919(c) of such Act, section 1905(c) of the Social Security Act is deemed to include the requirement described in section 1919(c)(3)(A) of such Act (as inserted by section 4211(a)(3) of OBRA).

(D) Section 1919 of the Social Security Act, as inserted by section 4211(a)(3) of OBRA, is amended—

(i) in subsection (e)(1)(A), by striking "September 1, 1988" and inserting "January 1, 1989";

(ii) in subsection (e)(1)(B), by striking "September 1, 1990" and inserting "January 1, 1990";

(iii) in subsection (e)(7)(E), by striking "October 1, 1988" and inserting "April 1, 1989"; and

(iv) in subsection (f)(2), by striking "July 1, 1988" and inserting "September 1, 1988".

(E) Section 1902(a)(28)(D)(i) of the Social Security Act, as amended by section 4211(b)(1)(B) of OBRA, is amended by striking "1919(f)" and all that follows through "instrument)" and inserting "1919(e)".

(F) Section 4211(d)(2) of OBRA is amended by striking "For calendar quarters during fiscal years 1988 and 1989" and inserting "For the 8 calendar quarters (beginning with the calendar quarter that begins on July 1, 1988)".

(G) Section 4211(h)(10)(G) of OBRA is amended by adding before the period at the end the following: ", and by striking 'skilled nursing facility or intermediate care facility' in subparagraph (B) and inserting 'nursing facility' ".

(H) Section 4211(h)(2) of OBRA is amended—

(i) in subparagraph (C), by striking "inserting 'nursing facilities' " each place it appears and inserting "inserting 'nursing facilities and for intermediate care facilities for the mentally retarded' ",

(ii) in subparagraph (D)(i), by striking "inserting 'nursing facility' " and inserting "inserting 'nursing facility or intermediate care facility for the mentally retarded' ", and

(iii) in subparagraph (D)(ii), by striking "inserting 'nursing facility' " and inserting "inserting 'nursing facility services or services in an intermediate care facility for the mentally retarded' ".

(I) Subparagraph (B) of section 4211(h)(12) of OBRA is amended to read as follows:

"(B) in subsection (c)(2)(B)(ii), by striking 'skilled' each place it appears.".

(4) SECTION 4202.—Section 1819(g)(2)(C)(i) of the Social Security Act, as added by section 4202(a) of OBRA, is amended by striking "October 1, 1990" and inserting "January 1, 1990".

(5) SECTIONS 4202 and 4212.—Sections 1819(g) and 1919(g) of the Social Security Act, as added by sections 4202(a)(2) and 4212(a) of OBRA, respectively, are amended—

(A) in paragraph (1)(C), by striking ", review," and inserting "and timely review";

(B) in the first sentence of paragraph (1)(C), by inserting "or by another individual used by the facility in providing services to such a resident" after "a nursing facility";

(C) by striking the second sentence of paragraph (1)(C) and inserting the following: "The State shall, after notice to the individual involved and a reasonable opportunity for a hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that a nurse aide has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding. If the State finds that any other individual used by the facility has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the appropriate licensure authority.";

(D) in paragraph (1)(D), by striking "to establish standards under subsection (f)" and inserting "to issue regulations to carry out this subsection";

(E) in paragraph (2)(A)(i), by amending the third sentence to read as follows: "The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).";

(F) in paragraph (3)(D) (relating to special surveys of compliance, as redesignated by paragraph (6)(A) in the case of section 1919(g)), by striking "on that basis" and inserting "on the basis of that survey"; and

(G) in paragraph (4), by striking "chronically".

(6) SECTION 4212.—(A) Section 1919(g)(3) of the Social Security Act, as added by section 4212(a) of OBRA, is amended by redesignating the second subparagraph (C) (relating to special surveys of compliance) as subparagraph (D).

(B) Section 4212(b) of OBRA is amended to read as follows:

"(b) POSTING SURVEY RESULTS.—Section 1919(c) of such Act is amended by adding at the end the following new paragraph:

" '(7) POSTING OF SURVEY RESULTS.—A nursing facility must post in a place readily accessible to residents, and family members and legal representatives of residents, the results of the most recent survey of the facility conducted under subsection (g).'.".

(C) Section 1902(a)(33)(B) of the Social Security Act, as amended by section 4212(d)(3) of OBRA, is amended by striking "1919(d)" and inserting "1919(g)".

(D) Section 4212(e)(1)(B) of OBRA is amended by inserting "provided" after "services" each place it appears.

(E) Section 4212(e) of OBRA is amended by adding at the end the following new paragraph:

"(5) Section 1922(e) of such Act, as redesignated and transferred by section 4211(a)(2) of this Act, is amended by striking '1910(c)' in paragraphs (1) and (2)(A) and inserting '1910(b)'.".

(7) SECTIONS 4203 and 4213.—(A) Sections 1819(h)(2)(B)(ii) and 1919(h)(3)(C)(ii) of the Social Security Act, as added sections 4203(a)(2) and 4213(a) of OBRA, respectively, are each amended by striking "and the Secretary" and all that follows through "1128A." and inserting the following: ". The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) Sections 1819(h)(6) and 1919(h)(9) of the Social Security Act, as added by sections 4203(a)(2) and 4213(a) of OBRA, respectively, are each amended by inserting "by such facilities" after "shall be made available".

(8) SECTION 4213.—(A) Section 4213(a) of OBRA is amended by striking "as inserted by section 4201 and amended by section 4202" and inserting "as inserted by section 4211 and amended by section 4212".

(B) Section 1919(h) of the Social Security Act, as added by section 4213(a) of OBRA, is amended—

(i) in the last sentence of paragraph (1), by striking "(2)(A)(i)" and inserting "(2)(A)(ii)",

(ii) in the second sentence of paragraph (2)(B)(i), by striking "or otherwise", and

(iii) in paragraph (5), by striking "State and the Secretary" and inserting "State or the Secretary, respectively".

(C) Paragraph (1) of section 4213(b) of OBRA is amended by striking "1902" and all that follows through the end and inserting the following: "1902(i) of such Act (42 U.S.C. 1396a(i)) is amended—

"(A) in paragraph (1), by striking 'skilled nursing facility or intermediate care facility' and inserting 'intermediate care facility for the mentally retarded';

"(B) in paragraph (1), by striking 'the provisions of section 1861(j) or section 1905(c), respectively,' and inserting 'the requirements for such a facility under this title'; and

"(C) in paragraphs (2) and (3), by striking 'the provisions of section 1861(j) or section 1905(c) (as the case may be)' and inserting 'the requirements for such a facility under this title'.".

(9) SECTION 4204.—(A) Section 4204(a) of OBRA is amended by striking "extended care".

(B) Section 4204 of OBRA is amended—

(i) in subsection (a), by striking "made by this part" and inserting "made by sections 4201 and 4202 (relating to skilled nursing facility requirements and survey and certification requirements)",

(ii) by redesignating subsection (c) as subsection (d), and

(iii) by inserting after subsection (a) the following new subsection:

"(b) ENFORCEMENT.—(1) Except as otherwise specifically provided in section 1819 of the Social Security Act, the amendments made by section 4203 of this Act apply January 1, 1988, without regard to whether regulations to implement such amendments are promulgated by such date.

"(2) In applying the amendments made by section 4203 of this Act for services furnished by a skilled nursing facility before October 1, 1990, any reference to a requirement of subsection (b), (c), or (d), of section 1819 of the Social Security Act is deemed a reference to the provisions of section 1861(j) of such Act.".

(10) SECTION 4214.—Section 4214 of OBRA is amended—

(A) by striking "(c) TRANSITIONAL RULE.—" and inserting "(2)",

(B) by inserting "of section 1919 of the Social Security Act" after "(b), (c), or (d)", and

(C) by redesignating subsection (d) as subsection (c).

(m) CORRECTIONS TO SUBTITLE E OF TITLE IV (RELATING TO RURAL HEALTH).—

(1) SECTION 4401.—Section 711(b)(1) of the Social Security Act, as added by section 4401 of OBRA, is amended by striking "section 4083 of the Omnibus Budget Reconciliation Act of 1987" and inserting "section 4403 of the Omnibus Budget Reconciliation Act of 1987 (as such section pertains to rural health issues)".

(2) SECTION 4403.—(A) Section 4403 of OBRA is amended—

(i) in the heading, by striking "EXPERIMENTS AND DEMONSTRATION PROJECTS RELATING TO RURAL HEALTH CARE ISSUES" and inserting "RESEARCH AND DEMONSTRATION PROJECTS ON RURAL AND INNER-CITY HEALTH ISSUES";

(ii) in subsection (a)—

(I) by striking "SET ASIDE.—" and inserting "SET ASIDES FOR ISSUES OF HEALTH CARE IN RURAL AREAS AND IN INNER-CITY AREAS.—(1)",

(II) by striking "expended in each fiscal year" and all that follows through "1972" and inserting "annually appropriated to, and expended by, the Health Care Financing Administration for the conduct of research and demonstration projects in fiscal years 1988, 1989, and 1990",

(III) by striking "experiments" and inserting "research";

(iii) by adding at the end the following new paragraph:

"(2) Not less than ten percent of the total amounts annually appropriated to, and expended by, the Health Care Financing Administration for the conduct of research and demonstration projects in fiscal years 1988,

1989, and 1990 shall be expended for research and demonstration projects relating exclusively or substantially to issues of providing health care in inner-city areas, including (but not limited to) the impact of the payment methodology under section 1886(d) of the Social Security Act on the financial viability of inner-city hospitals and the impact of medicare policies on access to (and the quality of) health care in inner-city areas."; and

(iv) in subsection (b)—

(I) by striking "of experiments" and inserting "of research",

(II) by inserting "or to inner-city health issues" after "rural health issues", and

(III) by striking "experiments and".

(B) The item in the table of contents of OBRA relating to section 4403 is amended to read as follows:

"Sec. 4403. Set aside for research and demonstration projects on rural and inner-city health issues.".

(n) Corrections to Certain Health-Related Provisions in Title IX.—

(1) Section 9010.—The last sentence of section 226(b) of the Social Security Act, as added by section 9010(e)(3) of OBRA, is amended to read as follows: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the term '36 months' in the second sentence of section 223(a)(1), in section 202(d)(1)(G)(i), in the last sentence of section 202(e)(1), and in the last sentence of section 202(f)(1) shall be applied as though it read '15 months'.".

(2) Section 9115.—Section 9115(b) of OBRA is amended by striking "1902(l)" and inserting "1902(o)".

(3) Section 9119.—Section 9119 of OBRA is amended by adding at the end the following new subsection:

"(d) Conforming Amendments to Medicaid Program for the Medically Needy.—(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

"(A) in subsection (a)—

"(i) by striking 'and' at the end of paragraph (48),

"(ii) by striking the period at the end of paragraph (49) and inserting '; and', and

"(iii) by inserting after paragraph (49) the following new paragraph:

" '(50) provide, in accordance with subsection (q), for a monthly personal needs allowance for certain institutionalized individuals and couples.'; and

"(B) by adding at the end the following new subsection:

" '(q)(1)(A) In order to meet the requirement of subsection (a)(50), the State plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual's or couple's income to be applied monthly to payment for the cost of care in an institution, there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the State plan) a monthly personal needs allowance—

" '(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and

" '(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in paragraph (2).

" '(B) In this subsection, the term "institutionalized individual or couple" means an individual or married couple—

" '(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are made under this title throughout a month, and

" '(ii) who is or are determined to be eligible for medical assistance under the State plan.

" '(2) The minimum monthly personal needs allowance described in this paragraph is $30 for an institutionalized individual and $60 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).'.

"(2) The amendments made by paragraph (1) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1988, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.".

(o) Subtitle D of Title IV.—

(1) Section 4303.—Section 2115 of the Public Health Service Act—

(A) in subsection (i)(1), as added by section 4303(a) of OBRA, is amended by striking "from appropriations under subsection (i)" and inserting "by the Secretary from appropriations under subsection (j)", and

(B) in subsection (j), as added by section 4303(b) of OBRA, is amended by inserting "to the Department of Health and Human Services" after "to be appropriated".

(2) Section 4307.—Section 4307(3)(C) of OBRA is amended by striking "subsection (g)" and inserting "subsection (e), as redesignated by section 4303(d)(2)(A),".

(3) Section 4308.—(A) Subtitle D of title IV of OBRA is amended by adding at the end the following new section:

"SEC. 4308. TECHNICAL AMENDMENTS RELATING TO COURT OF CLAIMS PROCEDURES.

"(a) Duties of Special Masters.—Section 2112(c)(2) of the Public Health Service Act (42 U.S.C. 300aa-12(a)) is amended—

"(1) by inserting ', shall prepare and submit to the court proposed findings of fact and conclusions of law,' after 'adjunct to the court',

"(2) by inserting 'and' at the end of subparagraph (C),

"(3) by striking ', and' at the end of subparagraph (D) and inserting a period, and

"(4) by striking subparagraph (E).

"(b) Requiring Filing of Appeals Within 60 Days.—Section 2112(e) of such Act (42 U.S.C. 300aa-12(e)), as redesignated by section 4303(d)(2)(A), is amended by inserting 'within 60 days of the date of the judgment' after 'petition filed'.

"(c) Clarification on Timing of Bringing Additional Actions.—The second sentence of section 2121(a) of such Act (42 U.S.C. 300aa-21(a)) is amended by striking 'the entry of the court's judgment' and inserting 'the court's final judgment'.".

(B) The table of contents relating to title IV of OBRA is amended by inserting after the item relating to section 4307 the following new item:

"Sec. 4308. Technical amendments relating to Court of Claims procedures.".

SUBTITLE C—MISCELLANEOUS PROVISIONS

SEC. 421. MAINTENANCE OF EFFORT.

(a) In General.—

(1) Duplicative part A benefits.—If an employer described in subsection (b)(1) provides, as of the date of the enactment of this Act, health care benefits to an employee or retired former employee that are duplicative part A benefits (as defined in paragraph (3)(A)), the employer shall, during the period described in subsection (c)(1), provide to the employee or retired former employee an amount of additional benefits or refunds, or combination of such benefits and refunds, that total at least the actuarial value of the duplicative part A benefits during the period described in subsection (c)(1)(A).

(2) Duplicative part B benefits.—If an employer described in subsection (b)(2) provides, as of the date of the enactment of this Act, health care benefits to an employee or retired former employee that are duplicative part B benefits (as defined in paragraph (3)(B)), the employer shall, during the period described in subsection (c)(2), provide to the employee or retired former employee an amount of additional benefits or refunds, or combination of such benefits and refunds, that total at least the actuarial value of the duplicative part B benefits during the period described in subsection (c)(1)(B).

(3) Duplicative benefits defined.—In this section:

(A) The term "duplicative part A benefits" means benefits which are duplicative of benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989), but which were not duplicative of such benefits as such part was in effect before the date of the enactment of this Act.

(B) The term "duplicative part B benefits" means benefits which are duplicative of benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs), but which were not duplicative of such benefits as such part was in effect before the date of the enactment of this Act.

(C) Duplicative part A benefits and duplicative part B benefits shall be determined under this section net of any premiums payable by employees (or retired former employees) attributable to the respective duplicative benefits.

(b) Employers Covered.—

(1) Duplicative part A benefits.—An employer is described in this paragraph if the employer (including a public employer, other than an employer to which section 422 applies) provides, as of the date of the enactment of this Act, duplicative part A benefits the actuarial value of which is at least 50 percent of the national average actuarial value (discounted to the value as of the date of the enactment of this Act) of the duplicative part A benefits.

(2) Duplicative part B benefits.—An employer is described in this paragraph if the employer (including a public employer, other than an employer to which section 422 applies) provides, as of the date of the enactment of this Act, duplicative part B benefits the actuarial value of which is at least 50 percent of the national average actuarial value (discounted to the value as of the date of the enactment of this Act) of the duplicative part B benefits.

(3) Election.—For purposes of this section—

(A) In general.—An employer may elect to compute the actuarial value of duplicative part A benefits and duplicative part B benefits either—

(i) on the basis of average actuarial values published by the Secretary under subparagraph (B)(i), or

(ii) on the basis of the actuarial value with respect to that employer, computed using guidelines published by the Secretary under subparagraph (B)(ii).

(B) Computation of actuarial values.—The Secretary of Health and Human Services, before the beginning of each of 4 years (beginning with 1989 for duplicative part A

benefits and beginning with 1990 for duplicative part B benefits) shall—

(i) calculate and publish the national average actuarial value of duplicative part A benefits and duplicative part B benefits for 1988 and the year involved, and

(ii) guidelines for employers to use, under subparagraph (A)(ii), in computing the actuarial value of such duplicative benefits with respect to each employer for such years.

The guidelines published under clause (ii) shall include instructions to assist employers in determining whether or not employers are described in paragraph (1) or (2) of this subsection.

(c) EFFECTIVE PERIOD.—

(1) IN GENERAL.—

(A) DUPLICATIVE PART A BENEFITS.—Subsection (a)(1) shall only be effective during the period beginning on January 1, 1989, and ending on December 31, 1989, or, if later, the date specified in paragraph (2).

(B) DUPLICATIVE PART B BENEFITS.—Subsection (a)(2) shall only be effective during the period beginning on January 1, 1990, and ending on December 31, 1990, or, if later, the date specified in paragraph (2).

(2) EXTENSION TO COVER CURRENT COLLECTIVE BARGAINING AGREEMENTS.—In the case of employees or retired former employees who are provided duplicative part A benefits or duplicative part B benefits under a collective bargaining agreement that is in effect on the date of enactment of this Act, the date specified in this paragraph is the date of the expiration of the agreement (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

(d) EXCLUSION OF MULTI-EMPLOYER PLANS.—This section shall not apply with respect to duplicative benefits provided under a plan—

(1) to which more than one employer is required to contribute, and

(2) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer.

SEC. 422. RATE REDUCTION FOR MEDICARE ELIGIBLE FEDERAL ANNUITANTS.

(a) IN GENERAL.—

(1) The Office of Personnel Management shall, in consultation with carriers offering health benefits plans contracted pursuant to section 8902 of title 5, United States Code, reduce the rates charged medicare eligible individuals participating in such health benefit plans, by the amount, prorated for each covered medicare eligible individual, of the estimated cost of medical services and supplies which, but for the amendments made by subtitle A of title I and subtitle A of title II of this Act, would have been payable by such plans.

(2) The reduced rates as provided under paragraph (1), shall apply as of the effective dates of the respective amendments.

(b) AUTHORIZATION OF AVAILABILITY OF EMPLOYEE HEALTH BENEFITS FUND FOR RATE REDUCTION.—Funds in the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, are available without fiscal year limitation for costs incurred by the Office of Personnel Management in making rate reductions provided under this section.

(c) DEFINITION.—For purposes of this section the term "medicare eligible individual" means any annuitant, survivor of an annuitant, or former spouse of an annuitant—

(1) who is—

(A) otherwise eligible for benefits under Chapter 89 of title 5, United States Code;

(B) eligible for benefits under part A of title XVIII of the Social Security Act; and

(C) covered by the insurance program established under part B of such title; and

(2) for whom benefits paid under title XVIII of the Social Security Act are the primary source of health care benefits.

SEC. 423. STUDY AND REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT ON OFFERING MEDICARE SUPPLEMENTAL PLANS TO FEDERAL MEDICARE ELIGIBLE INDIVIDUALS, AND OTHER CHANGES.

(a) STUDY AND REPORT.—

(1) No later than April 1, 1989, the Director of the Office of Personnel Management shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives regarding changes to the health benefits program established under chapter 89 of title 5, United States Code, that may be required to incorporate plans designed specifically for medicare eligible individuals and to improve the efficiency and effectiveness of the program.

(2) Any medicare supplemental plan recommended by the Director of the Office of Personnel Management shall not duplicate benefits for which payment may be made under title XVIII of the Social Security Act, however such recommendation—

(A) shall cover expenses which are not payable under such title by reason of deductibles or coinsurance amounts; and

(B) may offer additional reimbursement—

(i) where benefits under such title are limited by fee schedule; and

(ii) for benefits not covered under such title which may be of value to medicare eligible individuals.

(b) FEASIBILITY STUDY AND REPORT.—No later than April 1, 1989, the Director of the Office of Personnel Management shall report to the appropriate committees of the Congress whether it is feasible to adopt such standards as issued by the National Association of Insurance commissioners as required by section 1882 of the Social Security Act (42 U.S.C. 1395ss) for medicare supplemental policies, when providing medicare supplemental plans as a type of health benefits plan available for Federal employees pursuant to chapter 89 of title 5, United States Code.

SEC. 424. BENEFITS COUNSELING AND ASSISTANCE DEMONSTRATION PROJECT FOR CERTAIN MEDICARE AND MEDICAID BENEFICIARIES.

(a) TRAINING AND TECHNICAL ASSISTANCE.—

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration project through an agreement with a private or public nonprofit agency or organization, which demonstrates, to the satisfaction of the Secretary, that its volunteers are adequately trained and competent to render effective benefits counseling and assistance to the elderly, for the purpose of providing training and technical assistance to prepare volunteers to provide to elderly individuals receiving benefits under title XVIII or XIX of the Social Security Act counseling with respect to eligibility for such benefits and assistance in preparing such documentation as may be required to fully receive such benefits.

(2) In addition to any other forms of technical assistance provided under this subsection, the Secretary is authorized to provide to the project—

(A) material to be used in making elderly persons aware of the availability of assistance under volunteer assistance programs under this section; and

(B) technical materials and publications to be used by such volunteers.

(b) POWERS OF THE SECRETARY.—Under the demonstration project under this section, the Secretary is authorized—

(1) to provide for the training of volunteers, and assist in such training, to insure that volunteers are qualified to provide benefits and counseling assistance (as described in paragraph (1)) to the elderly;

(2) to provide reimbursement to volunteers through the agency or organization for transportation, meals, and other expenses incurred by them in training or providing benefits counseling and assistance under this section, and such other support and assistance as the Secretary determines to be appropriate in carrying out the provisions of this section; and

(3) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor.

(c) EMPLOYMENT OF VOLUNTEERS.—

(1) Service as a volunteer in the demonstration project carried out under this section shall not be considered service as an employee of the United States. Volunteers under the project shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

(2) Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1986.

(d) DEFINITION.—For purposes of this section, the term "elderly individual" means an individual who has attained the age of 60 years.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in appropriate parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, for fiscal years 1989, 1990, and 1991 such sums as may be necessary to carry out the provisions of this section.

SEC. 425. CASE MANAGEMENT DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish 4 demonstration projects under which an appropriate entity agrees to provide case management services to medicare beneficiaries with selected catastrophic illnesses, particularly those with high costs of health care services. At least one such demonstration project shall be conducted through an agreement with a utilization and quality control peer review organization with a contract with the Secretary under part B of title XI of the Social Security Act.

(b) PURPOSE OF PROJECTS.—It is the purpose of the demonstration projects established under this section to provide the Secretary and the Congress with the information necessary—

(1) to evaluate the appropriateness of providing case management services under the medicare program for medicare beneficiaries with high costs of medical care, and

(2) to determine the most effective approach to implementing a case management system under the program for such beneficiaries.

(c) Agreement.—The agreement entered into under subsection (a) shall specify—

(1) the high cost cases with respect to which case management services will be provided under the project,

(2) the payments to be made to the entity conducting the project for carrying out the project, and

(3) such other terms and conditions as the Secretary and the entity conducting the project may agree to.

(d) Waivers.—The Secretary shall waive—

(1) such provisions of part B of title XI of the Social Security Act, and

(2) such provisions of title XVIII of such Act as relate to limitations or restrictions on benefits under such title,

as the Secretary determines to be appropriate for the conduct of demonstration projects under this section.

(e) Duration.—

(1) Except as provided in paragraph (2), a demonstration project under this section shall be conducted for a 2-year period.

(2) The Secretary may terminate a demonstration project before the end of the 2-year period specified in paragraph (1) if the Secretary determines that the entity conducting the project is not in substantial compliance with the terms of the agreement entered into under subsection (a).

(f) Information and Reports.—

(1) An entity with an agreement under subsection (a) shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of that project.

(2)(A) The Secretary shall submit to the Congress an interim report on the projects conducted under this section based upon information that is derived from the first year of project operations and shall set forth any interim findings, recommendations, and conclusions that the Secretary determines to be appropriate.

(B) The Secretary shall submit to the Congress a final report on the demonstration projects conducted under this section based upon data derived from the projects and shall update the findings, recommendations, and conclusions set forth in the interim report submitted under paragraph (1).

(g) Authorization To Use Certain Funds.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund in such proportions as the Secretary determines to be appropriate, of not to exceed $2,000,000 in each of 2 fiscal years for administrative costs in carrying out the demonstration projects under this section. Such amounts shall be transferred without regard to amounts appropriated in advance in appropriation Acts.

SEC. 426. EXTENSIONS OF EXPIRING PROVISIONS.

(a) Hospice Waiver of Liability Provision.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1988" and inserting "November 1, 1990".

(b) Skilled Nursing Facility Waiver of Liability Presumption.—The second sentence of section 9126(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) by striking "30-month", and

(2) by inserting before the period at the end the following: "and ending on October 31, 1990".

(c) Home Health Services Waiver of Liability Presumption.—Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "October 1, 1989" and inserting "November 1, 1990".

(d) Home Health Waiver of Liability Presumption.—The second sentence of section 9205 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking all that follows "until" and inserting "November 1, 1990.".

(e) Prohibition on New Cost-Saving Regulations.—Section 4039(d) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) by striking "October 15, 1988" and inserting "October 15, 1989", and

(2) by inserting "or in fiscal year 1990" after "in fiscal year 1989".

SEC. 427. ADVISORY COMMITTEE ON MEDICARE HOME HEALTH CLAIMS.

(a) Establishment.—The Administrator of the Health Care Financing Administration (in this section referred to as the "Administrator") shall, within 90 days after the date of the enactment of this Act, establish an advisory committee to be known as the Advisory Committee on Medicare Home Health Claims (in this section referred to as the "Advisory Committee").

(b) Membership.—The Advisory Committee shall be composed of 11 members appointed by the Administrator for the life of the Committee. Of the members appointed—

(1) at least 5 shall be representatives of home health or visiting nurse agencies, and

(2) the remaining members shall be representative of fiscal intermediaries, physician groups, and senior citizen groups, but no more than 3 of such members may be representative of fiscal intermediaries.

Members shall be appointed so as to representative of all geographic areas of the United States.

(c) Duties.—The Advisory Committee shall study the reasons for the increase in the denial of claims for home health services during 1986 and 1987, the ramifications of such increase, and the need to reform the process involved in such denials.

(d) Report.—The Advisory Committee shall report to the Administrator, the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate, not later than one year after the date of the enactment of this Act, on its study under subsection (c), the findings of its study, and its recommendations for changes in the regulations under title XVIII of the Social Security Act as they relate to denial of claims for home health services.

(e) Miscellaneous Provisions.—

(1) The Advisory Committee shall elect one of its members to serve as Chairman.

(2)(A) A majority of the members of the Advisory Committee shall constitute a quorum for the transaction of business.

(B) The Advisory Committee shall meet at the call of the Chairman, or at the call of a majority of its members.

(3) Members of the Advisory Committee shall serve without compensation, but shall be entitled to reimbusement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Committee.

(4) The Advisory Committee may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(5) In carrying out its duties, the Advisory Committee is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which is has a responsibilty under this section, as the Committee may deem advisable.

(6) The Advisory Committee may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities. Upon request of the Committee, any such department or agency shall furnish any such data or information.

(7) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Advisory Committee may request.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 428. PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) In General.—Part A of title XI is amended by adding at the end the following new section:

"PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE

"Sec. 1140. (a) No person may use, in connection with any item constituting an advertisement, solicitation, circular, book, pamphlet, or other communication, or a play, motion picture, broadcast, telecast, or other production, alone or with other words, letters, symbols, or emblems—

"(1) the words 'Social Security', 'Social Security Account', 'Social Security System', 'Social Security Administration', 'Medicare', 'Health Care Financing Administration', the letters 'SSA' or 'HCFA', or any other combination or variation of such words or letters, or

"(2) a symbol or emblem of the Social Security Administration (including the design of, or a reasonable facsimile of the design of, the social security card issued pursuant to section 205(c)(2)(E), the check used for payment of benefits under title II, or envelopes or other stationery used by the Social Security Administration) or of the Health Care Financing Administration, or any other combination or variation of such symbols or emblems,

in a manner which such person knows or should know would convey the false impression that such item is approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration, or the Department of Health and Human Services or that such person has some connection with, or authorization from, the Social Security Administration, the Health Care Financing Administration, or the Department of Health and Human Services.

"(b)(1) Subject to paragraph (2), the Secretary may, pursuant to regulations, impose a civil money penalty not to exceed—

"(A) except as provided in subparagraph (B), $5,000, or

"(B) in the case of a violation consisting of a broadcast or telecast, $25,000,

against any person for each violation by such person of subsection (a).

"(2) The total amount of penalties which may be imposed under paragraph (1) with respect to multiple violations in any one year period consisting of substantially identical communications or productions shall not exceed $100,000.

"(c)(1) Subsections (c), (d), (e), (g), (j), and (k) of section 1128A shall apply with respect

to violations under subsection (a) and penalties imposed under subsection (b) in the same manner and to the same extent as such subsections apply with respect to claims in violation of section 1128A and penalties imposed under section 1128A(a).

"(2) Penalties imposed against a person under subsection (b) may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in the district court of the United States for the district in which the violation occurred or where the person resides, has its principal office, or may be found, as determined by the Secretary. Amounts recovered under this section shall be paid to the Secretary and shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such penalty when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States to the person against whom the penalty has been imposed.".

(b) Authorizing Civil Money Penalties for Certain Violations Relating to Medical Supplemental Policies.—Section 1882(d) (42 U.S.C. 1395ss(d)) is amended—

(1) by striking "shall be guilty" and all that follows through "or both" in each of paragraphs (1), (2), (3)(A), and (4)(A), and inserting in each case the following: "shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $5,000 for each such prohibited act", and

(2) by adding at the end the following new paragraph:

"(5) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under paragraphs (1), (2), (3)(A), and (4)(A) in the same manner as such provisions apply to penalties and proceedings under section 1128A(a).".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply only with respect to violations occurring on or after such date.

SEC. 429. DEMONSTRATION PROJECTS WITH RESPECT TO CHRONIC VENTILATOR-DEPENDENT UNITS IN HOSPITALS.

(a) In General.—The Secretary of Health and Human Services shall provide for up to 5 demonstration projects, for up to 3 years each, to review the appropriateness of classifying chronic ventilator-dependent units in hospitals as rehabilitation units. Such projects shall be conducted in consultation with the Prospective Payment Assessment Commission.

(b) Waiver Authority.—In conducting demonstration projects under this section for units, the Secretary may treat such a unit as a rehabilitation unit described in section 1886(d)(1)(B) of the Social Security Act for purposes of such section.

And the Senate agree to the same.

From the Committee on Ways and Means, for consideration of titles I, II, and IV of the House bill, and the entire Senate amendment (except for secs. 14, 14A, 14B, 14C, 19, 20, and 25), and modifications committed to conference:

Dan Rostenkowski,
Pete Stark,
Brian J. Donnelly,
Willis D. Gradison, Jr.,

From the Committee on Energy and Commerce, for consideration of titles II, III, and IV of the House bill, and the Senate amendment (except for secs. 2, 3, 12, and 18(a)) and for sec. 6 of the Senate amendment insofar as consideration of such section entails changes in eligibility requirements to participate in part B of the Medicare program, and modifications committed to conference:

John D. Dingell,
Henry A. Waxman,
Ron Wyden,
Edward R. Madigan
(except for sec. 204 of the House bill and sec. 7 of the Senate amendment),

For consideration of sec. 204 of the House bill and sec. 7 of the Senate amendment:

Michael Bilirakis,

From the Committee on Education and Labor, for consideration of sec. 21 of the Senate amendment, and modifications committed to conference:

Gus Hawkins,
William Clay,
James Jeffords,

Managers on the Part of the House.

Lloyd Bentsen,
Max Baucus,
Bill Bradley,
George Mitchell,
David Pryor,
John H. Chafee,
John Heinz,
David Durenberger,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the medicare program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. Short Title; References in Act; Table of Contents (Section 1 of House bill; Section 1 of Senate amendment)

Present law

No provision.

House bill

Specifies that the act may be cited as the "Medicare Catastrophic Protection Act of 1987." Specifies that, except as otherwise specifically provided, whenever an amendment in this act is stated as an amendment or repeal of a section or provision, the reference is to the Social Security Act. Includes a table of contents.

Senate amendment

Similar provision, except specifies that act may be cited as the "Medicare Catastrophic Loss Prevention Act of 1987."

Conference agreement

The conference agreement specifies that the Act may be cited as the Medicare Catastrophic Coverage Act of 1988.

2. Inpatient Hospital Services (Section 101 of House bill; Sections 2 and 3 of Senate amendment)

Present law

(a) Deductible/Spell of Illness.—During each "spell of illness", beneficiaries are required to pay an inpatient hospital deductible ($540 in 1988). A spell of illness is defined as beginning when a beneficiary enters a hospital and ending when he or she has not been in a hospital or skilled nursing facility for 60 days.

(b) Limitation on Covered Inpatient Days.—(1) A beneficiary is entitled to 90 days of inpatient hospital services during each spell of illness. An additional lifetime reserve of 60 days may be drawn upon when an individual exceeds 90 days in a spell of illness. Medicare payment ceases after a beneficiary has used 90 days in a benefit period and exhausted the lifetime reserve days.

(2) The program includes an inpatient psychiatric carryover restriction for persons who are inpatients of a psychiatric hospital on the first day of Medicare entitlement. Days during the immediately preceding 150 days that the individual is an inpatient of a psychiatric hospital are subtracted from the 150 days that would otherwise be available in the initial spell of illness for inpatient psychiatric services.

(c) Coinsurance.—Beneficiaries are liable for daily coinsurance charges, equal to one-quarter of the inpatient hospital deductible for days 61-90 in a spell of illness ($135 in 1988). In addition, beneficiaries are liable for daily coinsurance charges, equal to one-half of the inpatient hospital deductible, for the 60 lifetime reserve days ($270 in 1988).

(d) Part A Premium.—Individuals aged 65 or over who are not automatically entitled to Part A may voluntarily enroll in the program if they pay a monthly premium. The premium amount, updated annually for the following year, is equal to $33 multiplied by the ratio of the inpatient hospital deductible for the following year to the inpatient hospital deductible in 1973.

(e) Adjustment in PPS Payment Rates.—Annual adjustments are made in payment amounts to PPS and PPS-exempt hospitals. Beginning in fiscal year 1988, the Secretary is required to adjust annually hospital weighting factors. Adjustments to outlier cutoff points are made periodically.

House bill

(a) Deductible/Spell of Illness.—Specifies that the deductible is to be applied to the first period of continuous hospitalization that begins in a calendar year. A beneficiary is required to pay only one deductible in a calendar year.

Eliminates "spell of illness" concept.

Specifies that beneficiaries whose "spell of illness" (for which a deductible is imposed) began before January 1, 1988, and had not yet ended as of such date, would not be required to pay an additional deductible for that spell of illness in 1988 or 1989.

(b) Limitation on Covered Inpatient Days.—

(1) Repeals limitations on number of covered inpatient days.

(2) Specifies that the psychiatric carryover restriction applies for the period beginning on the first day of Medicare entitlement and ending at the end of the first

period of 60 consecutive days on which the individual is not receiving inpatient psychiatric hospital services. The 150-day limitation is retained.

(c) Coinsurance.—Repeals coinsurance requirements, including, those required for emergency hospital services provided by a hospital that does not participate in Medicare.

(d) Part A Premium.—Requires the Secretary in September of each year (beginning in 1987), to establish the Part A monthly premium amount for the following year equal to the estimated actuarial value of the Part A benefit for such year (rounded to the nearest dollar). The actuarial value equals one-twelfth of the estimated average per capita amount payable from the Federal Hospital Insurance Trust Fund for services and related administrative costs incurred with respect to persons aged 65 and over for Part A benefits for the entire year. The Secretary is required, when the premium amount is promulgated, to issue a public statement setting forth the actuarial assumptions and bases employed in arriving at an adequate actuarial rate.

(e) Adjustment in PPS Payment Rates.—Requires the Secretary (when adjusting payment rates for PPS and non-PPS hospitals, the target amounts, the weighting factors, and the outlier cutoff points), when appropriate, to take into account reductions in beneficiary payments to hospitals resulting from the repeal of the day limitation on inpatient hospital services.

Effective date.—(a) Applies to the deductible for 1988 and succeeding years. (b) and (c) apply to inpatient hospital services furnished on or after January 1, 1988. (d) Applies to premiums for months beginning with January 1, 1988. Conforming amendments effective January 1, 1988. (e) Effective on enactment.

Senate amendment

(a) Deductible/Spell of Illness.—Similar provision, except limited to persons covered under both Part A and Part B. The deductible applies to the first "period of hospitalization" beginning in a calendar year. "Period of hospitalization" is defined as beginning on the first day the individual is furnished inpatient hospital services and ending on the date of discharge from the hospital (or, in the case of a transfer, hospitals) involved.

Eliminates "spell of illness" for persons covered under both Parts A and B.

Specifies that beneficiaries whose period of hospitalization (for which a deductible is imposed) begins during December of a calendar year would not be required to pay an additional deductible for a hospitalization beginning in January of the following year.

(b) Limitation on Covered Inpatient Days.—

(1) Similar provision, except limited to persons covered under both Parts A and B.

(2) Repeals psychiatric carryover restriction for persons covered under both Parts A and B.

(c) Coinsurance.—Similar provision, except limited to persons covered under both Parts A and B. Coinsurance requirements for services furnished outside the United States are also eliminated for these persons.

(d) Part A Premium.—No provision.

(e) Adjustment in PPS Payment Rates.—No provision.

Effective date.—Applies to items and services furnished after December 31, 1987. Beneficiaries (covered under both Parts A and B) whose spell of illness begins before January 1, 1988 and whose period of hospitalization included in that spell of illness begins on or after January 1, 1988 and before February 1, 1988 would not have an inpatient hospital deductible imposed for that period of hospitalization.

(a) *Deductible/Spell of Illness.*—The conference agreement includes the House provision with an amendment. The agreement provides that a beneficiary, whose period of hospitalization (for which a deductible is imposed) begins during December of a calendar year, would not be required to pay an additional deductible for a hospitalization beginning in January of the following year.

The agreement provides that, if the Secretary terminates a contract with a health maintenance organization (HMO) or competitive medical plan (CMP) during a year, no inpatient hospital deductible will be imposed for the remainder of the year on a beneficiary who can demonstrate that he or she, while enrolled in the organization during the year, had an inpatient hospital admission paid for by the HMO or CMP.

(b) *Limitation on Covered Inpatient Days.*—The conference agreement includes the House provision.

(c) *Coinsurance.*—The conference agreement includes the Senate amendment with an amendment deleting the requirement that individuals be enrolled in both Parts A and B.

(d) *Part A Premium.*—The conference agreement includes the House provision with an amendment specifying that the Secretary is first required to establish the monthly premium in September of 1988 which will be in effect for calendar year 1989.

(e) *Adjustment in PPS Payment Rates.*—The conference agreement includes the House provision with an amendment. Under the agreement, the Secretary shall adjust the target amounts for each non-PPS hospital to reflect reductions in beneficiary payments to hospitals resulting from the enactment of this legislation.

(f) *Chronic Ventilator-Dependent Units in Hospitals.*—The conference agreement includes a provision requiring the Secretary to establish up to five demonstration projects for up to three years each to review the appropriateness of classifying chronic ventilator-dependent units in hospitals as rehabilitation units. The Secretary is authorized to treat such units as rehabilitation units for reimbursement purposes.

The conferees expect that the Secretary will establish criteria for the demonstration projects which will assure that (1) the units will serve patients who have recently undergone tracheostomy and are newly ventilator-dependent; (2) there is reasonable expectation at admission that the patient will be able to return home or to the community at discharge; (3) the major diagnoses of patients will include spinal cord injury, head trauma, advanced lung disease, Guillain-Barre syndrome, muscular dystrophy—Duchenne type, polyomyositis and dermatomyositis, and phrenic nerve paralysis secondary to surgical trauma; (4) the rehabilitation programs within the units will include physical therapy, patient and family instruction in the use of ventilator equipment, self-suctioning and medications, and psychological counseling; (5) expected length of stay within the units will be typically two to four months; and (6) other factors which the Secretary finds relevant.

In establishing the demonstrations the Secretary is required to consult with the Prospective Payment Assessment Commission. In addition, the conferees expect that the Secretary will consult with appropriate professional groups such as the American Thoracic Society and the American College of Chest Physicians.

Effective date.—The Conference agreement applies to the deductible for 1989 and succeeding years. Other provisions apply to care and services occurring on or after January 1, 1989, except that (d) is effective and applies to premiums for January 1989 and succeeding months and (e) is effective for PPS hospital discharges on or after January 1, 1989, and for non-PPS hospitals, for cost reporting periods beginning on or after October 1, 1989.

3. Extended Care Service (Section 102 of House bill; Sections 2 and 3 of Senate amendment)

Present law

(a) Coinsurance.—Beneficiaries are required to pay a daily coinsurance charge (equal to one-eighth of the inpatient hospital deductible) for days 21-100 of post-hospital extended care services furnished during each spell of illness.

(b) Limitation on Covered Days.—The program covers up to 100 days of post-hospital extended care services in a spell of illness.

(c) Prior Hospitalization Requirement.—In order to have payment made for extended care services, the beneficiary must have been an inpatient of a hospital for at least three consecutive calendar days and have been transferred to a participating SNF usually within 30 days. The law has authorized the Secretary to provide coverage for extended care services in a SNF without regard to the 3-day prior hospitalization requirement when he determines that such coverage will not lead to an increase in cost and will not alter the acute nature of the benefit; however, this provision has not been implemented.

House bill

(a) Coinsurance.—

(1) Eliminates current coinsurance requirements. Imposes a daily coinsurance charge for days 1-7 of post-hospital extended care services furnished in a calendar year.

(2) Requires the Secretary, before September 1 of each year (beginning in 1987), to estimate the national average per diem reasonable cost recognized under Part A for post-hospital extended care services which will be furnished in the succeeding calendar year. In September of each calendar year (beginning in 1987) the Secretary is required to promulgate the coinsurance amount for the following year. The amount equals 20 percent (rounded to the nearest $0.50) of the national average per diem reasonable cost estimated by the Secretary. The reference to "post-hospital" is deleted beginning January 1, 1989.

(b) Limitation on Covered Days.—Provides coverage for 150 days of extended care services in a calendar year.

(c) Prior Hospitalization Requirement.—Eliminates prior hospitalization requirement and reference to authority to provide coverage without regard to this requirement.

(d) Spell of Illness.—Repeals spell of illness concept.

Effective date.—Applies to extended care services furnished on or after January 1, 1988, except that elimination of prior hospitalization requirements (and related conforming changes) apply to extended care services furnished pursuant to an admission to a SNF occurring on or after January 1, 1989.

Senate amendment

(a) Coinsurance.—

(1) Similar provision, except limited to persons covered under both Parts A and B. The daily coinsurance charge is imposed on the first 10 days the beneficiary is furnished extended care services during any stay in a skilled nursing facility (SNF), but in no event can a coinsurance amount be imposed for more than 10 days in a calendar year.

(2) Similar provision, except coinsurance equals 15 percent (rounded to the nearest $1.00) of the estimated amount. Eliminates reference to "post-hospital".

(b) Limitation on Covered Days.—Similar provision, except limited to persons covered under both Part A and Part B.

(c) Prior Hospitalization Requirement.—Similar provisions, except limited to persons covered under both Parts A and B.

(d) Spell of Illness.—Similar provisions, except limited to persons covered under Parts A and B.

Effective date.—Applies to extended care services furnished after December 31, 1987. For beneficiaries receiving post-hospital extended care services on December 31, 1987, current law provisions will continue to apply until the spell of illness has ended.

Conference agreement

(a) *Coinsurance.*—The conference agreement includes the House provisions with a modification. The agreement provides that coinsurance charges are to be imposed on the first eight days of extended care services in a calendar year. The amount of the coinsurance is equal to 20% (rounded to the nearest $0.50) of the estimated national average per diem reasonable cost recognized under Part A of Medicare for extended care services.

The agreement extends the current coverage of extended care services in a Christian Science sanatoria from a maximum of 30 days per benefit period to 45 days per calendar year. As under current law, coinsurance would be applied for each day of covered care.

(b) *Limitation on Covered Days.*—The conference agreement includes the Senate amendment with an amendment deleting the requirement that individuals be enrolled in both Parts A and B.

(c) *Prior Hospitalization Requirement.*—The conference agreement includes the House provision.

(d) *Spell of Illness.*—The conference agreement includes the Senate amendment with amendments. The requirement that individuals be enrolled in both Parts A and B is deleted. Beneficiaries whose "spell of illness" began before January 1, 1989, and had not yet ended as of such date, would not be required to pay an additional hospital deductible for that spell of illness in 1989 and 1990.

Effective date.—The conference agreement applies to extended care services furnished on or after January 1, 1989.

4. Hospice Care (Section 103 of House bill; Section 12 of Senate amendment)

Present law

A beneficiary who is terminally ill may elect to receive hospice services for two 90-day periods and one subsequent 30-day period for a total of 210 days during his lifetime. Beneficiaries making this election must choose to receive services through a hospice and give up most other Medicare benefits.

House bill

Provides for a subsequent extension period beyond the current 210-day limit, if the beneficiary is recertified as terminally ill by the medical director or the physician member of the interdisciplinary group of the hospice program.

Effective date.—Applies to hospice care furnished on or after January 1, 1988.

Senate amendment

Similar provision.

Effective date.—Applies with respect to services furnished on or after date of enactment.

Conference agreement

The conference agreement includes the House provision with an amendment to further extend the favorable presumption under the waiver of liability provision for hospice care through October 1990.

Effective date.—The conference agreement applies to hospice care furnished on or after January 1, 1989.

5. Blood Deductible (Section 104 of House bill; Section 3 of Senate amendment)

Present law

Payment may not be made under Part A for the first 3 pints of whole blood (or equivalent quantities of packed red blood cells, as defined in regulations) furnished to a beneficiary during a spell of illness. A similar deductible is applied under Part B on a calendar year basis. Under Part B, the deductible (in accordance with regulations) is appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells). For these purposes, blood furnished to an individual is deemed to be replaced when the institution or other person furnishing blood is given one pint of blood for each pint of blood furnished such individual for which the deductible is applicable.

The Part A and Part B blood deductibles are applied separately.

House bill

Specifies that the Part A blood deductible is applied on a calendar year basis. Replacement provisions (identical to those specified for Part (B) are added to Part A. The Part A blood deductible is to be reduced by any blood deductible imposed with respect to Part B.

Specifies that in the case of a beneficiary whose spell of illness begins before January 1, 1988 (and ends after that date), any Part A blood deductible required would be reduced during that spell of illness (during 1988 or 1989) to the extent that a Part A blood deductible had already been imposed for that spell of illness.

Effective date.—Applies to blood or blood cells furnished on or after January 1, 1988.

Senate amendment

Specifies that the Part A blood deductible is to be applied on a calendar year basis for persons covered under both Parts A and B.

Effective date.—Applies to items and services finished after December 31, 1987.

Conference agreement

The conference agreement includes the House provision. *Effective Date.*—The conference agreement applies to blood or blood cells furnished on or after January 1, 1989.

6. Home Health Benefits (Section 105 of House bill)

Present law

Home health services are covered under Parts A and B. Payments for home health services are always made under Part A except in cases where the beneficiary is enrolled under Part B, but is not entitled to Part A. In these cases, payment is made under Part B.

House bill

Provides that payments for home health services are to be made under Part A only in cases where the individual provided the services is not entitled to Part B in that month. Otherwise, payments are to be made under Part B.

Effective date.—Applies to home health services furnished on or after January 1, 1989.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

7. Imposition of Supplemental Medicare Premium (Section 106 of House bill; Sections 6 and 27 of Senate amendment)

Present law

(a) and (b) In General and Applicability.—The following individuals are eligible for coverage under the Hospital Insurance (Part A) program of Medicare without payment of any premium: (1) those who have attained age 65 and are eligible for monthly Social Security retirement or survivor benefits, (2) individuals of any age who have been entitled for not less than 24 months to Social Security or Railroad Retirement benefits on the basis of disability (and certain related individuals), (3) individuals of any age who have end-stage renal disease, and (4) certain Federal, State, and local Government employees who have attained age 65. Individuals age 65 or over who are not entitled to Part A benefits because they do not meet the above conditions may enroll in Part A if they pay a monthly premium.

All individuals age 65 and older may elect to enroll in the Supplementary Medical Insurance (Part B) program of Medicare by paying a monthly premium, which is $24.80 in 1988. Individuals who have not attained age 65 but who are eligible for the Part A program by virtue of disability or end-stage renal disease may also elect to enroll in Part B by paying the monthly premium.

(c) Premium Amount.—No provision.

(d) Calculation for Governmental Retirees.—Currently, the pensions of most government retirees are, for the most part, treated as income subject to taxation, while Social Security benefits are tax-exempt unless they exceed a certain threshold (i.e., if adjusted gross income plus 50 percent of the Social Security benefit exceeds $25,000 for individuals, or $32,000 for married couples filing joint returns). These differences in tax treatment of pension income result in larger adjusted gross incomes and tax liabilities for government retirees than for retirees with Social Security.

(e) Premium Indexing.—No provision.

(f) Maximum Supplemental Premium.—No provision.

(g) Joint Returns.—Provides rules for the filing of joint returns for married individuals under section 6013 of the Internal Revenue Code of 1986.

(h) Coordination with Tax Code Provisions.—Section 213 of the Internal Revenue Code of 1986 provides that expenses for medical care (including prescribed drugs or insulin), not compensated for by insurance or otherwise, may be deducted for Federal income tax purposes to the extent that they

exceed 7.5 percent of adjusted gross income. Medical care includes insurance payments and Medicare Part B premiums.

House bill

(a) In General.—Amends the Internal Revenue Code of 1986 to impose an annual income-related supplemental premium on Medicare-eligible individuals (generally, those entitled to Part A who file a Federal tax return, except (1) individuals required to pay a premium for Part A coverage, (2) residents of U.S. possessions, and (3) qualified nonresidents) for each taxable year.

(b) Applicability.—Defines a "Medicare-eligible individual" who is liable for payment of the supplemental Medicare premium as an individual who, in any month, is entitled to (or, on application without the payment of an additional premium, would be entitled to) benefits under Part A of Medicare for such month. Provides for the following exceptions: (1) individuals entitled to Part A benefits solely by reason of the payment of the Part A premium, (2) residents of U.S. commonwealths and territories who pay a special Part B premium and individuals who are enrolled under Part B but are not entitled to benefits under Part A, and (3) qualified nonresidents.

Defines a "qualified nonresident" as an individual who: (1) is not furnished any service for which payment was or will be made under Medicare Part A during the taxable year or any of the 4 preceding taxable years, (2) is not entitled to benefits under Medicare Part B at any time during the taxable year or any of the 4 preceding taxable years, and (3) is present in a foreign country or countries for at least 330 full days during the 12-month period ending at the close of the taxable year and each of the 4 consecutive preceding 12-month periods. An individual who dies during the taxable year is treated as meeting the 330-day test in that year if the individual spent at least 90 percent of the days before the date of death as full days in a foreign country or countries.

Provides that an individual (other than a nonresident alien) who has attained age 65 will be treated as a Medicare-eligible individual for the month in which he attains age 65 and any subsequent month unless he establishes to the satisfaction of the Secretary that he is not a Medicare-eligible individual for the month concerned.

(c) Premium Amount.—

Provides that for 1988, the premium is as follows:

If the adjusted gross income for the taxable year is: Over:	But not over:	The annual premium for the taxable year is:
$0	$6,000	$0
6,000	6,143	10
6,143	6,287	20
6,287	6,430	30
6,430	6,573	40
6,573	6,716	50
6,716	6,860	60
6,860	7,003	70
7,003	7,146	80
7,146	7,289	90
7,289	7,433	100
7,433	7,576	110
7,576	7,719	120
7,719	7,862	130
7,862	8,006	140
8,006	8,149	150
8,149	8,292	160
8,292	8,436	170
8,436	8,579	180
8,579	8,722	190
8,722	8,865	200
8,865	9,009	210
9,009	9,152	220
9,152	9,295	230
9,295	9,438	240
9,438	9,582	250
9,582	9,725	260
9,725	9,868	270
9,868	10,011	280
10,011	10,155	290
10,155	10,298	300
10,298	10,441	310
10,441	10,585	320
10,585	10,728	330
10,728	10,871	340
10,871	11,014	350
11,014	11,158	360
11,158	11,301	370
11,301	11,444	380
11,444	11,587	390
11,587	11,731	400
11,731	11,874	410
11,874	12,017	420
12,017	12,160	430
12,160	12,304	440
12,304	12,447	450
12,447	12,590	460
12,590	12,734	470
12,734	12,877	480
12,877	13,020	490
13,020	13,163	500
13,163	13,307	510
13,307	13,450	520
13,450	13,593	530
13,593	13,736	540
13,736	13,880	550
13,880	14,023	560
14,023	14,166	570
14,166		580

Provides that if an individual is not a Medicare-eligible individual for each month during the taxable year, the annual premium determined from the above table would be prorated based on the number of months an individual is a Medicare-eligible individual during the taxable year. A similar rule applies in the case of a taxable year of less than 12 months, except that the individual's adjusted gross income for the taxable year would be annualized.

(d) Calculation for Governmental Retirees.—No provision.

(e) Premium Indexing.—

(1) In General.—Requires the Secretary of the Treasury, not later than December 15 of 1988 and each subsequent calendar year, to prescribe a table of the supplemental premium amounts which will apply, instead of the 1988 table, with respect to taxable years beginning in the succeeding calendar year.

Requires that each premium dollar amount in the 1988 table be increased by the sum of the Medicare inflation factor and the prescription drug factor for the calendar year, and each other dollar amount in the table (i.e., the bracket amount and the threshold amount) be increased by the cost-of-living adjustment used to index the income tax brackets. If any increase is not a mulitple of $1, it is to be rounded to the nearest multiple of $1.

(2) Catastrophic Coverage Benefit.—Provides that the Medicare inflation factor is the percentage (if any) by which the Medicare value for a calendar year exceeds the Medicare value for 1988. The Medicare value for any calendar year is the sum for January of such year of (a) 50 percent of the monthly actuarial rate promulgated under section 1818(d)(1) of the Social Security Act for such month (i.e., the Medicare Part A value), and (b) the excess of twice the monthly Part B actuarial rate under section 1839(a)(1) of the Social Security Act, over the amount of the monthly Part B premium under section 1839 (i.e., the Medicare Part B value).

(3) Prescription Drug Benefit.—Provides that the prescription drug factor for 1988 is zero percent, for 1989 is 5.5 percent, and subsequent years is determined as follows: The Secretary of the Treasury in September of each year (beginning with 1989) is required to determine a percent estimated to be necessary so that the total amount of supplemental premiums attributable to the prescription drug factor estimated to be collectible in the next year is equal to 25 percent of the total of the benefits and related administrative costs estimated by the Secretary of HHS under new section 1839(g)(2)(C) of the Social Security Act to be necessary to pay for covered outpatient drugs in the next year.

Requires the Secretary of the Treasury in September of each year (beginning with 1991) to determine whether the amount of the supplemental premium attributable to the prescription drug factor estimated to be collectible (for taxable years beginning in calendar years after 1988 and before the previous calendar year) is greater or less than 25 percent of the total benefits and administrative costs paid for covered outpatent drugs.

If there is a surplus or deficit, the Secretary of the Treasury is required to adjust the prescription drug factor so as to reduce or increase, respectively, the aggregate amount of the additional premiums which are estimated to be collected by the amount of the surplus or deficit, taking into account the effect of any previous adjustments.

Provides that, notwithstanding the adjustment described above, the prescription drug factor for a year after 1990 cannot exceed 120 percent of such factor for the previous year.

(f) Maximum Supplemental Premium.—Provides that the maximum supplemental premium in 1988 is $580. The Joint Committee on Taxation estimates that the maximum supplemental premium in future years would be: for the taxable year beginning in 1989, $737; in 1990, $842; in 1991, $934; and in 1992, $1,017.

(a) Joint Returns.—Provides that in the case of a joint return, the premium amounts according to the table are applied separately to each spouse, and the adjusted gross income of each spouse is one-half of their combined adjusted gross income.

(h) Coordination with Tax Code Provisions.—

(1) Medical Expense Deduction.—Provides that the supplemental premium cannot be treated as a medical expense for purposes of section 213 of the Internal Revenue Code of 1986.

(2) Not Treated as a Tax for Certain Purposes.—Provides that the supplemental premium is not treated as a tax imposed by chapter 1 (income taxes) of the Internal Revenue Code of 1986 for purposes of determining the amount of any credit allowed under that chapter or the amount of the alternative minimum tax imposed by section 55.

(3) Treated as a Tax for Subtitle F.— Provides that the supplemental premium is treated as if it were an income tax for administrative purposes, such as estimated payments and collection.

(4) Section 15 Not to Apply.—Provides that section 15 (procedures for applying changes in tax rates) does not apply to the supplemental premium.

(i) Reporting Requirements.—Requires the Secretary of HHS to make a return to the Secretary of the Treasury (at such time and in such form as determined by the Secretary of the Treasury) stating the name, address, and taxpayer identification number of each individual entitled to Medicare Part A benefits for any month during the calendar year and the number of months so entitled. The provision does not apply with respect to those who pay a premium under section 1818 for Part A coverage, residents of U.S. commonwealths and territories paying a special Part B premium, and individuals enrolled under Part B but not entitled to benefits under Part A.

(j) Transfer to Trust Funds.—No provision.

Effective date.—Applies to taxable years beginning after December 31, 1987.

Senate amendment

(a) In General.—Amends the Social Security Act to require individuals covered by Medicare Part B to pay an annual income-related supplemental premium if their Federal tax liability for taxable years is not less than $150.

(b) Applicability.—Provides that any individual who is covered by Medicare Part B for any portion of any taxable year occurring after December 31, 1987, and who has Federal income tax liability for such taxable year in an amount not less than $150 must pay the applicable supplemental premium.

(c) Premium Amount.—Provides that the "applicable supplemental premium" equals the number of months in the taxable year during which the individual was covered by Part B, multiplied by the supplemental premium. The "supplemental premium" is defined as the premium rate for the taxable year ($1.09 for the 1988 taxable year), multiplied by the amount determined by dividing the individual's adjusted Federal income tax liability for the taxable year by $150.

If the latter amount is not a whole number, it is to be rounded to the next lowest whole number.

(d) Calculation for Governmental Retirees.—For purposes of calculating the supplemental premium, defines "Federal income tax liability" as the tax imposed by chapter 1 (income tax) of the Internal Revenue Code of 1986, reduced by credits allowed under part IV of subchapter A, excluding the following refundable credits: Section 31 (wage withholding for income tax purposes); section 33 (tax withheld at source on nonresident aliens and foreign corporations); and section 34 (certain uses of gasoline and special fuels).

For purposes of calculating the supplemental premium, defines "adjusted Federal income tax liability" as an amount equal to Federal income tax liability, reduced by the following amount. The reduction is the excess (if any) of:

(1) 15 percent of the lesser of (a) the qualified Social Security exclusionary amount, or (b) the amount received as an annuity (whether for a period certain or during 1 or more lives) under a governmental plan which is includible in gross income under section 72 of the Internal Revenue Code of 1986, over

(2) the amount of credit allowed under the tax credit for the elderly and the permanently and totally disabled (section 22 of the Internal Revenue Code of 1986).

Defines "qualified Social Security exclusionary amount" as the excess (if any) of $6,000 ($9,000 in the case of married individuals filing a joint tax return) over the Social Security benefits (as defined in section 86(d) of the Internal Revenue Code of 1986) received during the taxable year. For taxable years beginning after Dec. 31, 1988, the $6,000 and $9,000 amounts are increased from the previous year's amounts by the Social Security cost-of-living adjustment for the calender year in which the taxable year begins.

(e) Premium Indexing.—

(1) In General.—Provides that the premium rate for any taxable year (beginning in a calendar year after 1988) is the previous year's rate, increased or decreased by (a) the premium rate adjustment used to index the monthly catastrophic coverage premium amount in years after 1988, and (b) the drug premium rate adjustment (for taxable years beginning in calendar years after 1989).

(2) Catastrophic Coverage Benefit.—The premium rate adjustment used to update the monthly catastrophic coverage premium amount is:

(a) the percentage (if any) necessary to increase the estimated total revenues collectable from the monthly catastrophic coverage premiums and the supplemental premiums (determined without regard to the drug premium rate adjustment amount) so that they equal the estimated total catastrophic coverage benefits and related administrative costs (including administrative costs for outpatient drug coverage), plus

(b) for calendar years before 1993, the percentage necessary to establish before 1993 a contingency fund equal to 20 percent or, if greater, a reserve fund equal to 5 percent.

(3) Prescription Drug Benefit.—Provides that the drug premium rate adjustment for taxable years beginning in a calendar year after 1989 is an amount equal to:

(a) 50 percent (60 percent for calendar year 1990 and 55 percent for calendar year 1991, as provided in Section 27 of the bill) of the modified per enrollee actuarial catastrophic drug benefit amount for that year plus

(b)(1) for any taxable year beginning in calendar year 1990, an amount necessary to cover 7.5 percent of the modified per enrollee actuarial catastrophic drug benefit amount for 1991, and

(2) for taxable years beginning in calendar years after 1990, an amount (when added to any unexpended amount determined for any preceding year) necessary to cover 7.5 percent of the modified per enrollee actuarial catastrophic drug benefit amount for the calendar year.

Defines "modified per enrollee actuarial catastrophic drug benefit amount" to mean (a) the total catastrophic drug coverage benefits and related administrative costs estimated to be paid in cash outlays from the Federal Catastrophic Drug Insurance Trust Fund divided by the total number of individuals estimated to be enrolled under Part B for the year, or (b) the reestimated per enrollee actuarial catastrophic drug benefit amount that reflects any adjustment the Secretary may make to the drug coverage benefit because the drug benefit premium amount was determined to exceed the premium limit for that year.

(f) Maximum Supplemental Premium.—Provides that the applicable supplemental premium for any individual cannot exceed the number of months in the taxable year the individual was covered by Part B divided by 12, multiplied by the appropriate amount, as follows: for the taxable year beginning in 1988, $800; in 1989, $850; in 1990, $900; in 1991, $950; and in 1992, $1,000.

For taxable years beginning in a calendar year after 1992, the applicable supplemental premium cannot exceed 65 percent of the product of the number of months in the taxable year the individual was covered by Part B, multiplied by the excess of:

(a) the sum of (1) 200 percent of the monthly actuarial basic rate for Part B enrollees age 65 and over (i.e., 200 percent of one-half of the benefit and administrative costs, including a contingency margin, payable for the aged from the Part B trust fund for Part B costs excluding the catastrophic coverage), plus (2) the monthly per enrollee actuarial comprehensive catastrophic benefit amount (i.e., the estimated monthly catastrophic coverage benefits and related administrative costs payable from the Federal Catastrophic Health Insurance Trust Fund divided by the estimated number of Part B enrollees) for the calendar year, over

(b) the sum of the basic and catastrophic monthly premiums for the year, determined without regard to current and new certain hold harmless provisions (which provide limits to any increases in the Part B and catastrophic premiums based on cost-of-living increases in Social Security benefits).

(g) Joint Returns.—Provides that for married individuals (as defined in section 7703 of the Internal Revenue Code of 1986), the supplemental premium is determined by treating such individuals as one individual if they: (1) file a joint return (under section 6013 of such Code) and (2) one or both of them are covered by Part B for any portion of the taxable year and have Federal income tax liability of not less than $150. The number of months of Part B coverage is determined according to the spouse covered for the longer period during the taxable year. When married individuals are treated as one individual in order to calculate the supplemental premium, the limit on such premium equals the sum of the limits computed separately for each spouse.

(h) Coordination With Tax Code Provisions.—

(1) Medical Expense Deduction.—Provides that the supplemental premium is treated as a premium paid under Medicare Part B in the taxable year following the taxable year to which the premium relates for purposes of section 213(d)(1)(C) of the Internal Revenue Code of 1986.

(2) Not Treated as a Tax for Certain Purposes.—Similar provision.

(3) Treated as a Tax for Subtitle F.—Similar provision.

(4) Section 15 Not to Apply.—Similar provision.

(i) Reporting Requirements.—Requires that the Secretary of HHS include on the current return to the Secretary of the Treasury relating to Social Security benefits, the number of months any individual is covered under Medicare Part B for the calendar year. Requires the Secretary of HHS to include on the statements sent to Social Security beneficiaries information on the name of the agency making the determination and the number of months of coverage under Medicare Part B.

(j) Transfer to Trust Funds.—Requires the Secretary of the Treasury, from time to time, to transfer from the general fund of the Treasury to the Federal Catastrophic Health Insurance Trust Fund amounts equal to the aggregate monthly supplemental premiums paid (excluding the drug premium rate adjustment), plus the amount the Secretary of the Treasury estimates Federal outlays are reduced under the Medicaid program because of the catastrophic provisions of this bill (after taking into account the provisions of Section 14 of the bill related to Medicaid savings and State re-

quirements). Such transfers are to be appropriately adjusted to the extent that prior transfers were in excess of or less than amounts required to be transferred.

Also requires the Secretary of the Treasury, from time to time, to transfer from the general fund of the Treasury to the Federal Catastrophic Drug Insurance Trust Fund amounts equal to the aggregate drug premium rate adjustment paid, adjusted to the extent that prior transfers were in excess of less than the amounts required to be transferred.

Effective date.—Applies to taxable years ending after December 31, 1987. The supplemental premium rate for any taxable year beginning before 1988 and ending after December 31, 1987, is the rate applicable to 1987.

Conference agreement

(a) *In General.*—Under the conference agreement, medicare Part A eligible individuals are required to pay a new tax-related supplemental premium. The supplemental premium is intended to provide approximately 63 percent of catastrophic coverage and prescription drug benefit financing on a calendar year liability basis, with flat monthly premiums financing the remaining 37 percent (subject to limitations on increases and decreases in the supplemental premium, described below).

The supplemental premium is drafted in the tax Code, collected with income tax payments, and after 1989 subject to income tax estimated payments. Medicare Part A eligible individuals with less than $150 of income tax liability are exempt from the supplemental premium.

To reduce confusion among beneficiaries, the conferees intend that the Secretary of the Treasury is to (1) implement the supplemental premium in an easy to understand manner (including the use of premium tables in lieu of taxpayer calculations, and separate tables as necessary for government retirees), (2) identify the supplemental premium on the applicable forms, worksheets, tables, and instructions as a premium to pay for a portion of the cost of new medicare catastrophic and prescription drug coverage, and (3) seek comments and advice from medicare enrollees and their representatives regarding the design of such forms, worksheets, tables, and instructions.

(b) *Applicability.*—The definition of medicare Part A eligible individuals generally follows the House bill, except that no special proration rule is provided for residents of U.S. commonwealths and territories. Residents of U.S. commonwealths and territories who do not have U.S. income tax liability are not subject to the supplemental premium. An individual is liable for the supplemental premium if such individual is medicare Part A eligible for more than 6 full months during the taxable year and has $150 or more of adjusted U.S. source income tax liability.

Unlike the House bill, individuals who attain the age of 65 during the taxable year are not presumed to be medicare eligible for the purposes of paying the supplemental premium. The conferees intend that the Internal Revenue Service will inform taxpayers that they are liable for the supplemental premium if they are eligible for Part A of Medicare even if they have not actually enrolled.

(c) *Premium Amount.*—For taxable years beginning before 1994, the supplemental premium rate is the sum of the catastrophic coverage and prescription drug premium rates shown below:

SUPPLEMENTAL PREMUIM RATES, 1989–93

[Per $150 of adjusted Federal income tax liability]

	Catastrophic coverage premium rate	Prescription drug premium rate	Total supplemental premium rate
Year in which taxable year begins:			
1989	$22.50	$0	$22.50
1990	27.14	10.36	37.50
1991	30.17	8.83	39.00
1992	30.55	9.95	40.50
1993	29.55	12.45	42.00

The supplemental premium is to be determined under tables (similar to the income tax tables) prescribed by the Secretary of the Treasury which may provide income tax liability brackets of less than $150.

For purposes of computing the supplemental premium, adjusted Federal income tax liability is defined as under the Senate amendment.

The conferees have determined these premium rates to raise sufficient revenue with reference to the tax rates and other important features of the tax Code that determine the liability of the medicare Part A eligible population. The conferees intend that if tax rates or these features are changed in future legislation, the premium rates should be recalibrated.

(d) *Calculation for Government Retirees.*—The Conference agreement generally follows the Senate amendment with changes designed to conform the adjustment for government retirees with the computation of the credit for the elderly and disabled. For government retirees, tax liability is adjusted by subtracting 15 percent of the excess (if any) of (1) the lesser of (i) $6,000 ($9,000 in the case of a joint return where both spouses are medicare eligible for more than 6 full months, and $4,500 for married individuals filing separate returns), or (ii) government annuities includible in gross income during the taxable year, the lower quantity then reduced by social security benefits received during the taxable year; over (2) the credit for the elderly and disabled allowable for the taxable year. After 1989, the $4,500, $6,000 and $9,000 amounts are increased by social security cost-of-living adjustments ("COLAs") determined for calendar years after 1989, and rounded to the nearest multiple of $50.

In the case of a joint return where only one spouse is medicare eligible for more than 6 full months during the taxable year, only government annuities attributable to such spouse are taken into account for purposes of the adjustment for government retirees. In the case of a married individual filing a separate return, such individual shall be treated as receiving not less than half of the social security benefits received by both spouses.

(e) *Premium Indexing.*—(1) *In general.* The method of indexing the supplemental catastrophic coverage and prescription drug premiums was selected by the conferees (1) to assure that premium receipts will be sufficient to pay for all catastrophic coverage and prescription drug benefits (i.e., budget neutrality), and (2) to minimize the Treasury Secretary's discretion over the adjustment of supplemental premium rates.

The indexing formula minimizes discretion by using information on prior year program costs and receipts, rather than subjective projections, and by limiting the amount by which the supplemental premium can be increased in any year.

The indexing machanism seeks to assure budget neutrality by several means: (1) prescription drug outlays may only be made from a new Federal Catastrophic Drug Insurance Trust Fund which is entirely financed by monthly and supplemental prescription drug premiums (and interest on fund balances); (2) monthly and supplemental catastrophic coverage premiums are increased to recoup with interest shortfalls in prior years (monthly premiums are increased to make up for any limitation on the increase in the supplemental premium); and (3) a contingency margin of at lest 20 percent is built into catastrophic coverage and prescription drug premiums.

For taxable years beginning after 1993, the supplemental premium rate is the sum of the adjusted catastrophic coverage premium rate and the adjustd prescription drug premium rate, subject to two limitations. The supplemental premium rate may not (1) be less than the rate in effect for the preceding year; and (2) be more than $1.50 per $150 of tax liability higher than the rate in effect for the preceding year. If either of these two limitations are applicable, the supplemental premium rate is allocated between the catastrophic coverage and prescription drug premium rates in proportion to the respective amounts of these premium rates without regard to the limitations.

(2) *Catastrophic coverage premium.*—The adjusted catastrophic coverage premium rate for any calendar year after 1993 is equal to the rate for the preceding calendar year, without regard to the two limitations on the supplemental premium described above in any prior year, adjusted by a percentage equal to the sum of the outlay-premium and reserve account percentages.

The outlay-premium percentage is designed to index the supplemental catastrophic coverage premium rate by the difference between the projected growth rates of catastrophic coverage outlays and premiums. For years after 1993, growth in outlays and premiums is projected by a formula which uses data available for the second and third preceding years, plus more recent information on trends in the consumer price index.

The outlay-premium percentage for any calendar year is (1) the percentage change in per capita catastrophic outlays from the third to the second preceding calendar year; minus (2) the percentage change in per capita catastrophic coverage premium liability from the third to the second preceding calendar year (determined as if the supplemental premium rate had not changed from the third to the second preceding year).

The per capita catastrophic outlay for any calendar year, as determined by the Secretary of HHS, is equal to outlays debited from the Medicare Catastrophic Coverage Account (the "Account," see section 17, below) for such year, divided by the average number of individuals entitled to receive Part A benefits during such year.

The per capita catastrophic coverage premium liability for any calendar year, as determined by the Secretary of the Treasury, is equal to supplemental premium liability attributable to the catastrophic coverage premium for taxable years beginning in such year, divided by the number of individuals who had premium liability for taxable years beginning in such year.

The outlay-premium percentage, described above, is adjusted up (or down) by 50 percent of the amount by which the consumer price index ("CPI") inflation rate in the second preceding year exceeds (or is less than) one percentage point.

The CPI inflation rate for any year is defined as the percentage by which the CPI for May of such year exceeds such index for May of the preceding year. The CPI means the last CPI for all-urban consumers published by the Department of Labor, which is most consistent with the CPI for calendar year 1986.

The reserve account percentage is designed to adjust the supplemental catastrophic coverage premium rate to recoup 63 percent of any cumulative shortfall or deficit in the catastrophic coverage program (the other 37 percent is recouped by a corresponding adjustment in the flat premium). For years after 1993, the shortfall or surplus in the catastrophic coverage program is determined from data available for the second preceding year.

The reserve account percentage for any calendar year is the ratio of (1) the change in the catastrophic coverage premium rate for the second preceding year which the Secretary determines would have increased (or decreased) supplemental premium liability for such year by an amount equal to 63 percent of the shortfall (or surplus) in the Account in such year, over (2) the catastrophic coverage premium rate for the preceding calendar year, without regard to the two limitations on the supplemental premium described above.

The shortfall (or surplus) in the Account for any calendar year is determined as (1) 20 percent of catastrophic outlays debited against the Account; minus (2) the Account balance at the end of such year (including flat and supplemental premium increase amounts attributable to reserve account percentages in prior years that have not yet been credited to the account.

(3) *Prescription Drug Premium.*—The adjusted prescription drug premium rate for any calendar year after 1993 is equal to the rate for the preceding calendar year, without regard to the two limitations, described above, which may have applied to the supplemental premium for any prior year, adjusted by a percentage determined in a manner similar to the catastrophic coverage premium, with the following changes: (1) in determining the premium-outlay percentage, prescription drug outlays rather than catastrophic outlays are used; (2) in determining the reserve account percentage, the Federal Catastrophic Drug Insurance Trust Fund balance (see section 16, below) is used rather than the Account balance; (3) the reserve account percentage is 75 percent for 1994, 50 percent for 1995, and 25 percent for 1996 and 1997, instead of 20 percent; and (4) the outlay-premium percentage is deemed to be zero for calendar years before 1998.

For calendar years after 1992 the following procedure is to be followed for announcing supplemental premium rate changes. The Secretary of the Treasury shall: (1) not later than July 1, announce the preliminary increase in the supplemental premium for the following year; and (2) not later than October 1, announce the actual supplemental premium rates for the following year. (For additional detail see sections 16 and 17, below).

(f) *Maximum Supplemental Premium.*—For taxable years beginning before 1994, the maximum supplemental premium for an individual filing a single return is $800 in 1989, $850 in 1990, $900 in 1991, $950 in 1992, and $1050 in 1993.

For calendar years after 1993, the maximum supplemental premium is equal to such maximum in the preceding year (before rounding) increased by the percentage (if any) by which the medicare-part B value for the second preceding year exceeds such value for the third preceding year. The maximum supplemental premium is rounded to the nearest multiple of $50. The conferees designed the formula to maintain the maximum supplemental premium as a constant fraction of the value of Part B benefits not paid for by monthly premiums.

The medicare-part B value for any calendar year is defined as the excess of per capita Part B outlays the year over 12 times the generally applicable monthly Part B premium for months in such calendar year. Per capita Part B outlays are outlays from Part B of title XVIII of the Social Security Act divided by the average number of individuals covered under such part during the year. In computing the maximum supplemental premium for years before 1988, the medicare-Part B value is computed by excluding outlays and monthly premiums for covered outpatient drugs.

(g) *Joint and Separate Returns.*—(1) *Joint returns.*—In the case of a joint return where both spouses are medicare Part A eligible for more than 6 full months during the taxable year, such spouses are treated as a single individual, except that the maximum supplemental premium is twice the amount that applies for single returns.

In the case of a joint return where only one spouse is medicare eligible for more than 6 full months during the taxable year, income tax liability for the medicare-eligible spouse is determined as one-half of the tax liability of the joint return.

(2) *Separate Returns.*—In the case of a married individual filing a separate return who did not live apart from his or her spouse at all times during the taxable year, such individual is treated as medicare Part A eligible for 6 full months during the taxable year if the individual or the individual's spouse was so eligible. In addition, the maximum supplemental premium is twice the amount that applies for single returns if, without regard to this provision, both spouses are Medicare Part A eligible for 6 full months during the taxable year.

These rules are intended to prevent the supplemental premium from creating an incentive for separate filing.

(h) *Coordination with Tax Code Provisions.*—(1) *Medical expense deduction.*—As under the House bill, the supplemental premium is not deductible as an itemized medical expense.

(2) *Not treated as a tax for certain purposes.*—As under the House bill and the Senate amendment, the supplemental premium is not treated as an income tax for purposes of determining the amount of any tax credit or the amount of the alternative minimum tax. Revenues from the supplemental premium are not covered over to any possession of the United States, and the supplemental premium is not automatically reflected in the tax laws of territories that "mirror" the U.S. tax Code. In the case of a taxable years of less than 12 months, the supplemental premium shall be applied under regulations prescribed by the Secretary.

(3) *Treated as a Tax for Subtitle F.*—The supplemental premium generally is treated as if it were an income tax for administrative purposes, such as estimated payment and collection. The conference agreement provides that estimated tax penalties do not apply with respect to supplemental premium liability for taxable years beginning in 1989. The conferees intend that the Internal Revenue Service will where appropriate exercise its discretion to provide relief from estimated tax penalties in the first year in which an individual becomes liable for the supplemental premium (similar relief already is provided for newly retired or disabled individuals in sec. 6654(e)(3)(B)).

(4) *Section 15 Not to Apply.*—The supplemental premium is not treated as a change in income tax rate.

(i) *Reporting Requirements.*—The Secretary of HHS shall include in the existing return to the Secretary of the Treasury relating to social security benefits, a determination of whether any individual was medicare Part A eligible for more than 6 full months during the year. The Secretary of HHS is to include the same information on the statements sent to social security and railroad retirement beneficiaries, as well as the name of the agency which determines medicare eligibility.

The Secretary of HHS may provide such additional information to the Secretary of the Treasury as is required to assure compliance with the supplemental premium.

(j) *Transfer to Trust Funds.*—Receipts attributable to the supplemental prescription drug premium rate are appropriated to the CDI trust fund. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the CDI trust fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maxmium supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

Receipts attributable to the supplemental catastrophic coverage premium rate, which are not otherwise appropriated to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (the "Reserve Fund") are appropriated to the SMI trust fund. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the SMI trust fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maximum supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

Effective date.—The supplemental premium is effective for taxable years beginning after December 31, 1988.

8. Delay in Organ Procurement Requirements (Section 26 of Senate amendment)

Present law

The Omnibus Budget Reconciliation Act of 1986 provided that Medicare payments for organ procurement would not be made unless: (a) the organ procurement agency involved met specified requirements and was designated by the Secretary as the sole procurement agency in its service area, and (b) hospitals establish protocols for making a routine inquiry for organ donation by potential donors, and are members of the National Organ Procurement and Transplantation Network.

Under the Omnibus Budget Reconciliation Act of 1986, these provisions were to be effective as of October 1, 1987. The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 changed this effective date to November 21, 1987. The Omnibus Budget Reconciliation Act of 1987 entends the effective date for item (a) to March 31, 1988.

House bill

No provision.

Senate amendment

Extends to December 31, 1988, the date by which the Secretary must complete the organ procurement agency designation process, the effective date of the requirements for hospital protocols for organ procurement, and the effective date for requiring hospitals to be members of the National Organ Procurement Network.

Effective date.—Enactment.

Conference agreement

The conference agreement does not include the Senate provision. The conferees note that a related provision was included in the Omnibus Budget Reconciliation Act of 1987.

9. Limitation on Medicare Out-of-Pocket Expenses (Section 201 of House bill; Sections 4 and 29 of Senate amendment)

Present law

Under current law, beneficiaries are liable for specified cost-sharing charges, in form of deductibles and coinsurance amounts, in connection with their use of inpatient hospital, skilled nursing facility, and hospice services, and blood under Part A.

Beneficiaries enrolling in Part B are required to pay a monthly premium. The program generally pays 80 percent of the reasonable charge for physicians and other covered medical services (including immunosuppressive drugs furnished within one year of a covered organ transplant) after the beneficiary has met the $75 deductible. The beneficiary is liable for the remaining 20 percent of the reasonable charge (coinsurance). In addition, where a physician does not accept assignment (i.e., does not agree to accept Medicare's determination of reasonable charge amount as payment in full for covered services), the beneficiary is liable for the difference between Medicare's reasonable charge and the physician's actual charge (the "balance billed amount"). The beneficiary is also liable for a separate Part B deductible.

There is no upper limit on the amount of cost-sharing charges beneficiaries are required to pay in connection with covered Medicare services.

House bill

(a) In General.—Establishes an annual limit on beneficiary out-of-pocket expenses (not including balance billed amounts) for covered part B services.

b. Payment When Limit Has Been Reached.—Provides that if an individual has incurred out-of-pocket Part B expenses in a calendar year (beginning in 1989) equal to the Part B catastrophic limit for that year, the program will pay 100 percent of Part B reasonable charges (or costs) for covered Part B services (including physicians' services, ambulatory surgical center services, and dialysis services). In addition, after the beneficiary has reached the limit, no further blood deductible is required.

(c) Expenses Counting Toward the Catastrophic Limit.—Specifies that the following beneficiary expenses count toward the catastrophic limit:

(1) the Part B deductible, and blood deductible;

(2) Part B coinsurance charges; and

(3) a maximum of $250 in covered outpatient mental health expenses.

(d) Catastrophic Limit.—Specifies that the Part B catastrophic limit for 1989 is $1,043. The limit for any succeeding year is the limit for the preceding year increased by the Social Security cost-of-living adjustment (COLA), rounded to the nearest dollar. The Secretary is required to promulgate the Part B catastrophic limit by November 15 of each year (beginning with 1988) that will be in effect for the following year.

(e) Payments to Prepaid Health Plans Paid on a Reasonable Cost Basis.—Requires the Secretary to provide for an appropriate adjustment to payment rates for prepaid health plans paid on a reasonable cost basis to reflect the new catastrophic protection. The adjustment is to reflect: (1) the aggregate increase in payments which would otherwise be made for enrollees if they were not enrolled in the organization; or (2) the amount that would be paid to the organization or a facility if payments were made on an individual by individual basis. The organization is required to provide assurances, satisfactory to the Secretary, that it will not undertake to charge an individual during a year for covered services after the individual has reached the catastrophic limit (whether through the organization facility, or otherwise). [See Item 19(b)]

(f) Limitation on Charges When Catastrophic Limit Reached.—Specifies that providers (i.e., hospitals, skilled nursing facilities, comprehensive outpatient rehabilitation facilities, home health agencies, or hospice programs) with agreements with the Medicare program may not charge beneficiaries for services for which catastrophic benefit payments are made to the provider.

(g) Notice for Beneficiaries Reaching Catastrophic Limit.—Requires Medicare carriers to provide individuals, who have incurred sufficient out-of-pocket expenses, to qualify for catastrophic benefits, with a notice in a form appropriate for presentation to a physician. The notice is to: (1) state that the individual has reached the Part B catastrophic limit for the year; and (2) encourage the physician not to charge the individual amounts in excess of Medicare's reasonable charge and to accept payment on an assignment related basis for the remainder of the year.

(h) No provision.

Effective date.—Enactment (applies to items and services furnished after December 31, 1988).

Senate amendment

(a) In General.—Establishes an annual limit on beneficiary out-of-pocket expenses (not including balance billed amounts) for covered Part A and B services and entitles a Part B beneficiary to have payment made to him or on his behalf for specific catastrophic medical expenses.

(b) Payment When Limit Has Been Reached.—Provides for payment of 100 percent of catastrophic medical expenses. "Catastrophic medical expenses" are defined with respect to an individual for a calendar year (beginning with 1988) as any beneficiary cost sharing amounts incurred by an individual after the individual has incurred specific out-of-pocket medical expenses equal to the catastrophic limit. The program will pay beneficiary cost sharing amounts for: (1) the hospital deductible, SNF coinsurance charges, hospice coinsurance charges, and the Part A blood deductible; (2) the Part B deductible and Part B blood deductible; and (3) Part B coinsurance charges.

(c) Expenses Counting Toward the Catastrophic Limit.—Specifies that the following beneficiary expenses count toward the catastrophic limit:

(1) the Part A hospital deductible, SNF coinsurance charges, hospice coinsurance charges, and blood deductible;

(2) the Part B deductible and blood deductible;

(3) Part B coinsurance charges;

(4) amounts expended for qualified services for the prevention of illness or injury. A service meets this definition if:

(A) The service is one of the following: glaucoma screening by tonometry, cholesterol screening, a "Pap" test for detecting breast cancer, an immunization or booster for tetanus, influenza, or bacterial pneumonia, an occult blood stool test, or tuberculosis sensitivity testing;

(B) The service has not been provided to the beneficiary in the preceding 12 months; and

(C) The service is provided incident to a comprehensive physical which is performed by a physician, which includes a full history and other specified components, and which meets such other requirements as the Secretary may prescribe, including requirements to ensure a comprehensive approach for preventive health services.

Requires the Secretary to establish guidelines for the described preventive services no later than January 1, 1989.

(d) Catastrophic Limit.—Specifies that the Medicare catastrophic limit is $1,850 for 1988 and $2,030 for 1989. The limit for any succeeding year is the limit for the preceding year increased by the percentage, as determined by the Secretary, which will ensure that the percentage of Part B eligibles (other than those enrolled in HMOs or CMPs) whose out-of-pocket costs are projected to exceed the limit during that year will be the same as the percentage whose costs exceeded the limit in 1989. The Secretary is required to promulgate the limit by November 15 of each year (beginning with 1987) that will be in effect for the following year.

(e) Payments to Prepared Health Plans Paid on a Reasonable Cost Basis.—Similar provision. Adjustments in payment rates are also applicable for renal dialysis facilities. Assurances to the Secretary specify that the organization or facility will not charge the individual during a year for any catastrophic medical expense incurred during that year.

(f) Limitation on Charges When Catastrophic Limit is Reached.—Similar provision.

(g) Notice for Beneficiaries Reaching Catastropic Limit.—No provision.

(h) Beneficiary Costs of Catastrophic Insurance.—

(1) Findings.—States that the Senate finds that: (A) Medicare catastrophic insurance will provide beneficiaries with important and farreaching protection, greatly reducing out-of-pocket liability for those who incur high medical expenses; (B) the new benefits will be financed through premiums collected from all beneficiaries; (C) the Department has announced that the Part B premium will increase by 38.5 percent in January, 1988; (D) Medicare beneficiaries already are liable for Medicare premiums equal to 2.9 percent of their median income; and (E) it is the responsibility of Congress to ensure that the additional premiums for catastrophic coverage do not reach such

levels as to unreasonably increase the out-of-pocket liability of Medicare beneficiaries.

(2) Sense of the Senate.—Expresses that it is the sense of the Senate that conferees take all necessary steps to ensure that cost controls on new benefits, particularly coverage of prescription drugs, are sufficient to protect program integrity, prevent escalation of costs, and reduce amounts required for premium financing. In addition, it is the sense of the Senate that Senate conferees be instructed to take all feasible steps to minimize beneficiary costs by keeping premiums at the lowest possible level, ensuring that year-to-year premium increases are gradual and predictable, ensuring that the income related premiums do not unduly burden middle-income older Americans, and ensuring that the combined basic and supplemental premiums do not exceed the value of the program to beneficiaries.

Effective date.—(a)-(g) Applies to items and services furnished after December 31, 1987. In determining whether an individual has incurred out-of-pocket medical expenses in 1988 equal to the catastrophic limit, only expenses incurred on or after July 1, 1988, are taken into account. (h) Effective on enactment.

Conference agreement

(a) *In General.*—The conference agreement includes the House provision with an amendment.

(b) *Payment When Limit Has Been Reached.*—The conference agreement includes the House provision.

(c) *Expenses Counting Toward the Catastrophic Limit.*—The conference agreement includes the Senate amendment with a modification. The agreement does not include expenses for Part A cost-sharing, or for preventive services in the calculation of expenses counting toward the catastrophic limit.

The conference agreement, in section 204, provides coverage of screening mammography (including associated professional and technical services) effective January 1, 1990, subject to frequency limitations, quality standards, and special payment rules.

The agreement provides coverage for a biennial screening mammography for women aged 65 and over. For disabled women under age 65, a baseline screening would be available between age 35 and 40. Between ages 40 and 49, screenings would be available every other year, except that screenings could be provided each year for high risk women. Between ages 50 and 64 screenings could be provided on an annual basis.

The agreement requires the Secretary, in consultation with the Director of the National Cancer Institute, to review periodically the appropriate frequency for performing screening mammographies, based on age or other factors. The Secretary, on the basis of this review, may revise the frequency for covered screenings performed on or after January 1, 1992.

The agreement requires the Secretary to establish standards to assure the safety and accuracy of screening mammographies. The standards must include the following requirements: (i) the equipment used must be specifically designed for mammography and must meet radiologic standards established by the Secretary; (ii) the screening must be performed by an individual who is either licensed by the State to perform radiologic procedures or is certified as qualified to perform such procedures by an appropriate organization recognized by the Secretary; (iii) the results of the mammography must be interpreted by a physician who either is certified by the American Board of Radiology or is otherwise certified by a program recognized by the Secretary by regulation as assuring that the physician is qualified to interpret the results of screening mammography; and (iv) there must be assurances that the results of the first screening paid for by Medicare will be placed in permanent medical records maintained for the woman.

The conferees understand that a bilateral four-view procedure is currently considered to be the standard of care in the United States for screening mammography. The conferees therefore anticipate that this would be initially included in the quality standards to be developed by the Secretary as a requirement for coverage, subject to change with new technology and additional medical information. The conferees also note that the reimbursement level provided for under this provision is premised on the understanding that a four-view procedure would be provided.

State survey and certification agencies and private accreditation programs (if approved) could be used to verify compliance with required quality standards.

Payment would be 80% of the least of: (i) the actual charge, (ii) the fee schedule allowance (with respect to both the professional and technical components of screening mammography) established under Section 1834(b) of the Social Security Act, or (iii) a reasonable charge limit. The limit would be $50 in 1990 and would be indexed thereafter by the percent increase in the Medicare Economic Index (MEI).

Beginning January 1, 1992, the Secretary may reduce the reasonable charge limit, as it applies nationally or in an area, if the Secretary finds such action both appropriate and consistent with maintaining convenient access for beneficiaries to screening services.

The agreement provides for an appropriate allocation of the reasonable charge limit between professional and technical components in the case of hospital outpatient screening mammographies (and comparable situations) where there is a claim for professional services separate from the claim for associated technical services. In these cases, payment for the technical component would be based on the allocated reasonable charge limit.

The agreement sets maximum allowable actual charge (MAAC) limits for screening mammographies performed by nonparticipating physicians. These MAAC limits are based on the fee schedule established for radiologists under Section 1834(b) of the Act.

The MAAC limits are 125% of the reasonable charge limit in 1990, 120% of the reasonable charge limit in 1991, and 115% of the reasonable charge limit in 1991 and subsequent years. The Secretary is empowered to impose sanctions against physicians or suppliers who knowingly and willfully impose charges in excess of the limits.

The MAAC limits would be in effect until such time as the Secretary implements a fee schedule for physicians' services based on the relative value scale mandated under Section 1845(e) of the Social Security Act.

The conferees are aware of concern that the $50 reasonable charge limit might limit the availability of mammography in physicians' offices even though the procedure may be available at clinics, hospital outpatient departments, and outpatient radiology facilities. Accordingly, the conference agreement requires the Physician Payment Review Commission to study the cost of providing screening mammography in a variety of settings and at different volume levels. The report would be submitted to Congress by July 1, 1990.

Finally, the conference agreement requires GAO to conduct a study of the quality of screening mammography provided in clinics, hospital outpatient departments, and outpatient radiology facilities as compared with physician offices. This report would also be due by July 1, 1990.

(d) *Catastrophic Limit.*—The conference agreement includes the Senate amendment with a modification. The agreement sets the Part B catastrophic limit for 1990 at $1370. The agreement requires the Secretary to set the limit for future years at an amount necessary to ensure that the percentage of Part B enrollees (not including enrollees in health maintenance organizations) whose expenses are expected to exceed the cap during that year is 7 percent.

The conference agreement requires the Secretary to promulgate, not later than September 1 of each year (beginning in 1990), the catastrophic limit which will be in effect for the following calendar year.

(e) *Payments to Prepaid Health Plans Paid on a Reasonable Cost Basis.*—The conference agreement includes the House provision, with amendments. The provisions relating to charges for covered services after an individual has reached the catastrophic limit apply to organizations with a risk-sharing contract, as well as to those paid on a reasonable cost basis. Different rules apply depending on whether the organization does or does not "buy out" Part B deductible and coinsurance charges for enrolled beneficiaries. A plan is deemed to be a buy-out plan if the actuarial value of the coinsurance and deductible charges it imposes on enrollees for Part B services (other than for outpatient drugs) is less than 50 percent of the national average actuarial value of the Part B coinsurance and deductible for all Medicare beneficiaries.

In the case of a buy-out plan, actual cost-sharing amounts for Part B services incurred by a beneficiary while enrolled in the plan are not counted towards the catastrophic limit. However, the enrollee is deemed to have incurred Part B cost-sharing expenses for each month of enrollment equal to the monthly national average actuarial value of Part B deductible and coinsurance amounts.

In the case of a plan than is not a buy-out plan, cost-sharing amounts for Part B services incurred by a beneficiary while enrolled in the plan are counted towards the catastrophic limit. The plan may not enter into a Medicare contract or receive Medicare payment unless it provides assurance satisfactory to the Secretary that: (i) it will maintain, in coordination with the appropriate Part B carriers, accounts of Part B cost-sharing expenses incurred by enrollees during each year, including out-of-plan services; (ii) it will make the accounts available to an enrollee and to the carrier if an enrollee disenrolls during the year (or at any time, in the case of an organization paid under section 1833); and (iii) it will not undertake to charge any enrollee for Part B services (other than outpatient drugs) after the enrollee has incurred cost-sharing expenses, whether through the organization or otherwise, equal to the catastrophic limit for the year.

The conferees expect that the Secretary, is establishing contracts with Part B carriers under section 1842, will require the carriers to provide information on expenses for out-of-plan services to the plans without charge.

If a beneficiary is enrolled in a plan which has its contract terminated by the Secretary during a year, no inpatient hospital deductible will be imposed on an individual who can demonstrate to the satisfaction of the Secretary that he or she was admitted to a hospital during the calendar year.

(f) *Limitation on Charges When Catastrophic Limit Reached.*—The conference agreement includes the Senate amendment.

(g) *Notice for Beneficiaries Reaching Catastrophic Limit.*—The conference agreement includes the House provision with a modification. The required notice is to state that the individual has reached the Part B catastrophic limit for the year.

(h) *Beneficiary Costs of Catastrophic Insurance.*—The conference agreement does not include the Senate amendment. The amendment expressed the sense of the Senate, and was duly passed by the Senate.

Effective date.—The conference agreement applies to items and services furnished on and after January 1, 1990.

10. Coverage of Catastrophic Expenses for Prescription Drugs (Section 202 of House bill; Sections 11 and 28 of Senate amendment)

Present law

Medicare generally does not cover outpatient prescription drugs which can be self-administered by the patient. The program covers under Part B immunosuppressive drugs which are furnished within one year of an organ transplant covered by Medicare.

House bill

(a) In General.—Adds "covered outpatient drugs" to services included within the definition of "medical and other health services". Defines a "covered outpatient drug" as one that is: (1) approved for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act, or, in the case of a drug which is a biological product, is licensed under the Public Health Service Act; and (2) insulin certified under the Federal Food, Drug, and Cosmetic Act. The term does not include any drug or insulin provided to an inpatient as part of inpatient hospital services, extended care services, or incident to physicians' services. The term does not include immunosuppressive drugs which are furnished within 1 year of a covered organ transplant.

(b) Phase-In Coverage.—No provision.

(c) Deductible.—

(1) Provides that expenses for covered outpatient drugs do not count toward the Part B deductible and that the Part B deductible is not applicable for covered outpatient drugs.

(2) Requires the individual, before the program makes payments for covered outpatient drugs, to establish that he has incurred (or has had paid in his behalf) expenses for covered outpatient drugs during the year equal to the drug deductible. The Secretary is required, upon application by the individual, to promptly notify the individual (and, if submitted by or through a participating pharmacy, the pharmacy) as to whether he has met the deductible.

(3) Sets the deductible at $500 in 1989. The increase in 1990 and 1991 is equal to the increase in the medical care component of the consumer price index (for the 1-year period ending the previous August). In future years, it is increased by the percentage increase in the outpatient prescription drug index established by the Secretary. The base point of the index is the prices of covered outpatient drugs as of August 1990. In September of each year (beginning in 1991), the Secretary is to determine the percentage change for the preceding 12 months (rounded to the nearest dollar). The Secretary is required to publish the deductible each year beginning in 1989.

(d) Adjustment in Deductible.—Provides for an adjustment if the Secretary's estimate of the additional Part B premium needed to finance the drug benefit indicates an increase of more than 20 percent over the previous year. In this case, the Secretary would increase the deductible by an amount sufficient to reduce the costs of the program to the level that would be financed by a 20 precent premium increase. (The premium is to cover 75 percent of total costs of the drug benefit; see Item 15.)

(e) Authority to Reduce Deductible.—No provision.

(f) Payment Amount.—

(1) Specifies that, subject to the deductible, the amount paid with respect to a covered outpatient drug is equal to lesser of the actual charge or the applicable payment limit minus 20 percent of the actual charge. The payment amounts are also applicable for payments for immunosuppressive drugs during the first year following a covered organ transplant.

(2) Specifies that the payment calculation periods are the 6-month periods beginning with January and July of each year.

(3) Requires the Secretary, (before each 6-month payment calculation period beginning on or after January 1, 1989), to provide information on payment limits to participating pharmacies and groups representing or assisting beneficiaries.

(4) Requires the Secretary to provide for an appropriate adjustment to payment rates for prepaid health plans paid on a reasonable cost basis to reflect the new catastrophic drug benefit. The adjustment is to reflect: (A) the aggregate increase in payments which would otherwise be made for enrollees if they were not enrolled in the organization; or (B) the amount that would be paid to the organization or a facility if payments were made on an individual by individual basis. The organization is required to provide assurances, satisfactory to the Secretary, that it will not undertake to charge an individual more than 20 percent of the reasonable cost plus any amount needed to satisfy the deductible.

(g) Payment Limits for Non-Multiple Source Drugs and Drugs With Restrictive Prescriptions.—

(1) Provides that the payment limit for a drug which is either not a multiple source drug or a multiple source drug with a restrictive prescription is the sum of: (A) the product of the number of dosage units or tablet units and the average per tablet or unit wholesale price; plus (B) an administrative allowance.

(2) Requires the Secretary to determine (with respect to dispensing a covered outpatient drug in a payment calculation period beginning on or after January 1, 1989) the average per tablet or unit wholesale price based on the average wholesale price for purchases in reasonable quantities. The determination is to be based on wholesale prices for the first day of the third month before the beginning of the payment calculation period. The determination and calculation of the payment limits are to be made on a national basis, except that the determination and calculation may be done on a regional basis to take into account limitations in availability or variations in average wholesale prices for a drug product.

(3) Specifies that a drug has a restrictive prescription only if the prescription indicates, in the handwriting of the physician (or other person prescribing the drug), and with an appropriate phrase recognized by the Secretary, that the particular drug must be dispensed. An appropriate phrase may be "brand medically necessary)."

(h) Payment Limit for Multiple Source Drugs Without Restrictive Prescriptions.—

(1) Provides that the payment limit for a multiple source drug without a restrictive prescription is the sum of: (A) the product of the number of tablets or dosage units and the unit limit, plus (B) the administrative allowance. Specifies that the unit limit is 50 percent of the brand name reference price for the reference drug product for the period.

(2) Requires the Secretary to establish a brand name reference price for each reference drug product for each payment calculation period. For the 6-month period beginning January 1, 1987, the brand name reference price for a drug product is the average per tablet or unit wholesale price (based on purchases of reasonable quantities) as of January 1, 1987.

Specifies that for each subsequent 6-month payment calculation period, the reference price is increased by the increase in the consumer price index (for the 6-month period ending in the third month of the previous calculation period).

Specifies that for a reference drug product which was not available on January 1, 1987, the base period is the first month of the first payment calculation period in which it is available.

Specifies that brand name reference prices are to be established on a national basis, except that the prices may be established on a regional basis to take into account limitations in availability or variations in the average wholesale price for a drug product.

(3) Defines a multiple source drug as a covered outpatient drug for which (during the payment calculation period) there are 2 or more drug products which: (A) are rated thereapeutically equivalent under the Food and Drug Administration's most recent publication of "Approved Drug Products With Therapeutic Equivalence Evaluations" which is available on the first day of the third month before the beginning of the period; and (B) are sold or marketed during the period.

Specifies that a drug is considered as sold or marketed if it listed in the FDA publication unless the Secretary determines that the sale or marketing is not actually taking place.

(4) Defines a "reference drug period" as a multiple source drug in reference to which other drug products are rated as therapeutically equivalent in the FDA publication.

(i) Administrative Allowance.—Specifies that the administrative allowance is $4.50 for drugs dispensed in a payment calculation period beginning in 1989. For each subsequent payment calculation period, the administrative allowance is increased by the percentage increase (if any) in the implicit price deflator for gross national product.

(j) Assuring Appropriate Utilization.—

(1) Provides that the Secretary may provide that payment for covered outpatient drugs may not be made if they are prescribed or dispensed with excessive frequency or in excessive quantities. The Secretary is required to establish a utilization review program for covered outpatient drugs to identify instances of unnecessary or inap-

propriate prescribing or dispensing practices and to identify quality of care problems.

(2) No provision.

(k) Treatment of Certain Prepaid Organizations.—Establishes rules with respect to prepaid organizations which do not impose charges on covered outpatient drugs. For purposes of the drug provision, the actual charges of the organization are the organization's standard charges to members and other persons not entitled to drug benefits. The standard charges are to be used for purposes of the drug deductible.

(l) Physician Guide.—Requires the Secretary to develop, and update annually an information guide for physicians on the comparative average wholesale prices of at least 500 of the most commonly prescribed covered outpatient prescription drugs. To the extent practicable, the guide is to group drugs in a manner useful to physicians by therapeutic category or conditions for which they are prescribed. The guide is to specify the wholesale prices on the basis of the amount required for a typical daily therapeutic regimen. The Secretary is required to mail the guide by March 1 of each year (beginning in 1989) to each hospital with a provider agreement with Medicare and each physician who routinely provides Medicare services.

(m) Special Cost-control Measures.—No provision. See Item 10(d) on adjustment in deductible for requirement that Secretary increase drug benefit deductible to prevent excessive increase in premiums.

(n) High Volume Pharmacies.—No provision.

(o) Report on Payment Limits.—Requires the Secretary to review the payment limits established for covered outpatient drugs and report to Congress by April 1, 1989, on the appropriateness of the limits, together with any recommendations for change.

(p) Report on Covered Outpatient Drug Index.—Requires the Secretary to report to Congress by January 1, 1991, on the covered outpatient drug index.

(q) Participating Pharmacies.—

(1) Defines a participating pharmacy as one which is authorized under State law to dispense covered outpatient drugs and which has entered into an agreement with the Secretary. Under the agreement, the entity agrees:

(A) Not to refuse to dispense covered outpatient drug items, stocked by the entity, to Medicare Part B beneficiaries and not to charge them more for such drugs than charged to the general public;

(B) To keep patient records (including records on expenses incurred by beneficiaries) for all covered outpatient drugs dispensed to beneficiaries;

(C) To assist beneficaries in determining whether they have met the drug deductible including providing the necessary documentation;

(D) To provide, upon request of a beneficiary, a copy of his records to another participating pharmacy or Medicare carrier;

(E) To offer to counsel or offer to provide information to each beneficiary on the appropriate use of a dispensed drug and whether there are potential interactions between this drug and others dispensed to the beneficiary;

(F) To advise the beneficiary on the availability (consistent with State drug substitution laws) of therapeutically equivalent covered outpatient prescription drugs; and

(G) To submit, effective January 1, 1992, all claims requests electronically, except this requirement may be waived by the Secretary in cases of undue hardship. Pharmacies operated by prepaid organizations for the exclusive benefit of its members are not required to dispense covered outpatient drugs to nonmembers.

(2) Requires the Secretary to provide each participating pharmacy with a distinctive emblem and, before each payment calculation period, information on payment limits established under the drug benefit.

(3) Requires the Secretary to provide for periodic audits of participating pharmacies to insure that they do not impose charges on beneficaries in excess of those charged to the general public.

(4) Payments for covered outpatient drugs may only be made on an assignment basis in the case of participating pharmacies.

(r) Civil Monetary Penalty.—No provision.

(s) Limitation to 60 Day Prescription.—Prohibits Part B payments for covered outpatient drugs if dispensed in excess of a 60-day supply.

(t) Additional Premium for Prescription Drug Benefit.—Refers to section 106(a) of the bill. (See Item 15.)

(u) Use of Carriers in Administration.—

(1) Requires carriers making determinations or payments with respect to covered outpatient drugs to: (A) offer to receive payment requests electronically; and (B) respond to requests by participating pharmacies as to whether an individual has met the deductible. The Secretary may enter into agreements for processing of drug claims on a regional basis.

(2) No provision.

(v) Modification of HMO/CMP Provisions.—

(1) Requires HMOs and CMPs with Medicare risk sharing contracts to take into account drug expenses incurred in a year by individuals who enroll after January 1 of a year.

(2) No provision.

(3) No provision.

(w) Medicaid Requirements.—See Item 33.

(x) Beneficiary Drug Cost Survey and CBO Report.—

(1) Requires the Secretary to conduct a statistically valid survey, and report to Congress by March 1, 1989, on expenses incurred by beneficiaries for covered outpatient drugs. The Secretary is required to consult with the General Accounting Office (GAO) and the Congressional Budget Office (CBO) concerning survey design. The survey is to provide information on the distribution of expenses for covered outpatient drugs for Medicare beneficiaries generally and the distribution of expenses by age, sex, income, and institutional status.

(2) Requires the CBO (within 2 months of submission of the report) to estimate Medicare expenditures for fiscal year 1990-93 for covered outpatient drugs.

(3) No provision.

(y) Prescription Drug Payment Review Commission.—Requires the Director of the Office of Technology Assessment (OTA) to provide for the appointment of a Prescription Drug Payment Review Commission to be composed of individuals with expertise in the provision and financing of covered outpatient prescription drugs. The Director of OTA shall appoint the 11 Commission members by October 1, 1988, for staggered 3-year terms. The membership must include recognized experts in health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as one Medicare beneficary. The Commission is required to make annual recommendations to the Secretary.

(z) Additional Studies.—

(1) Requires the Secretary to conduct studies on:

(A) Extent of private or other third-party drug coverage for beneficiaries;

(B) Comparison of published average wholesale price and actual pharmacy acquisition costs by type of pharmacy;

(C) Overhead costs of retail pharmacies;

(D) Potential application of new claims processing and billing technologies;

(E) Methods for utilization review;

(F) Alternative payment methodologies that promote greater program efficiencies; and

(G) Potential for induced demand resulting from the drug benefit.

(2) Requires the Secretary, as part of the studies, to conduct a longitudinal study on the use of covered outpatient drugs by beneficiaries with respect to medical necessity, potential for adverse drug interactions, and patient stockpiling or wastage. The Secretary is required to report to Congress on the results of the studies by January 1, 1991.

(3) No provision.

(aa) Study of Treatment of Prescription Drugs.—No provision.

(bb) Simplification of Recordkeeping.—No provision.

Effective date.—Applies to drugs dispensed on or after January 1, 1989. (u) and (y) effective on enactment. (v) applies to new enrollments effected on or after January 1, 1989.

Senate amendment

(a) In General.—Adds "covered outpatient drugs" to services included within the definition of "medical and other health services". Defines a covered outpatient drug as one which is: (1) approved for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act, or is recognized in the "United States Pharmacopoeia" (and is available only under a prescription); or (2) in the case of a prescription drug which is a biological product, is licensed under the Public Health Service Act. The term does not include any drug or biological which would have been paid for under Medicare prior to enactment of this law. The term does not include immunosuppressive drugs which are furnished during the first year following a covered transplant.

(b) Phase-In Coverage.—

(1) Specifies that in 1990, the term covered outpatient drug includes a drug which is an intraveneously administered anti-infective agent, a cancer chemotherapeutic agent (including a drug used to enhance the safety and efficacy or counteract the toxicity of anticancer drugs) or immunosuppressive drugs after the first year following a covered organ transplant.

(2) Specifies that in 1991 and 1992, the term covered outpatient drug includes drugs specified under item (1) and any cardiovascular or diuretic drug.

(c) Deductible.—

(1) Similar provision.

(2) Identical provision.

(3) Sets the deductible at $600 in 1990. In subsequent years, it is increased by the percentage by which the Part B beneficiary drug expenditure amount for the 12-month period ending the previous August exceeds such amount for the preceding 12 months (rounded to the nearest dollar). [See Item 15 below for definition of beneficiary drug expenditure amount.] The Secretary is required to publish each September (beginning in 1990) the deductible for the following year.

(d) Adjustment in Deductible.—No provision.

(e) Authority to Reduce Deductible.—Provides that if the Secretary determines there is sufficient revenue to pay all of the benefits and administrative costs, and to provide an adequate contingency margin (as determined by the Secretary), the Secretary may reduce the deductible amount to $500 in 1991, $400 in 1992, and $300 in 1993.

(f) Payment Amount.—

(1) Similar provision, except specifies that the applicable payment limit is subject to reductions applied to high volume pharmacies.

(2) Specifies that the payment calculation period is the 12-month period beginning every January (after 1989).

(3) Similar provision except: (A) applies to payment calculation periods beginning on or after January 1, 1990; and (B) also requires provision of information on any reductions applied for high volume pharmacies.

(4) Permits a prepaid health plan paid on a reasonable cost basis to elect to be paid 80 percent of the reasonable cost of immunosuppressive and covered outpatient drugs. Such organization may not charge individuals more than 20 percent of the reasonable cost plus any amount needed to satisfy the deductible.

(g) Payment Limits for Non-Multiple Source Drugs and Drugs With Restrictive Prescriptions.—

(1) Similar provision.

(2) Similar provision except: (A) applies to determinations for payment calculation periods beginning on or after January 1, 1990; (B) specifies that the average per tablet or unit wholesale price is the most recently published figure; and (C) requires the calculation to be made on a national basis if the drug is available on a national basis.

(3) Similar provision, except applies to written prescriptions. Specifies that for telephone prescriptions, the physician or other person (through the use of an appropriate phrase) states that the particular drug must be dispensed.

(h) Payment Limit for Multiple Source Drugs Without Restrictive Prescriptions.—

(1) Provides that the payment limit for a multiple source drug without a restrictive prescription is the sum of (A) the product of the number of tablets (or other dosage units) and 150 percent of the lowest average per tablet or unit wholesale price for the drug; and (B) the administrative allowance.

(2) Requires the Secretary to determine with respect to covered outpatient drugs for the payment calculation period (beginning on or after January 1, 1990) the average per tablet or per unit wholesale price for the drug for purchases in reasonable quantities. Specifies that for the period beginning January 1, 1987, the average is the average per tablet or per unit wholesale price for the drug as of January 1, 1987.

Specifies that for subsequent payment calculation periods, the amount is the lesser of: (A) the most recently published average per tablet or per unit wholesale price; or (B) the average per tablet or unit price established for the previous payment calculation period increased by the percentage change in the Consumer Price Index for the 12-month period ending the preceding August.

Requires the Secretary to establish the average per tablet or per unit wholesale price, in the case of a covered outpatient drug which is not available as of January 1, 1987, for the first month of the first payment calulation period in which it is available.

Requires the Secretary to make determinations on a national basis if the drug is available on a national basis. If not, the Secretary may make determinations and calculate payment limits on a regional basis to take into account the availability of drug products and variations in average wholesale prices.

(3) Defines a multiple source drug as a covered outpatient drug for which (during the payment calculation period), there are 2 or more drug products (or in the case of a covered outpatient drug subject to a patent, 3 or more drug products) generally available to beneficiaries through retail pharmacies which the Secretary determines are: (A) pharmaceutically equivalent, bioequivalent, adequately labeled, and manufactured in compliance with the Current Good Manufacturing Practice regulations; and (B) sold or marketed during the period.

Specifies that drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity. Drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or if they do present such a problem, are shown to meet an appropriate bioequivalence standard.

Specifies that a drug is considered to be sold or marketed during a period if it is listed in the Food and Drug Administration's most recent publication of "Approved Drug Products With Therapeutic Equivalance Evaluations" for the third month before the beginning of the period, unless the Secretary determines that such sale or marketing is not actually taking place.

(4) No provision.

(i) Administrative Allowance.—Similar provision, except: (A) administrative allowance is $3.50 for nonparticipating pharmacies for the payment calculation period beginning January 1, 1990; and (B) the amounts are increased annually rather than biannually.

(j) Assuring Appropriate Utilization.—

(1) Provides that the Secretary may provide that payment for covered outpatient drugs may not be made in specific instances if they are prescribed or dispensed with excessive frequency or in excessive quantities. The Secretary is required to establish a utilization review program for covered outpatient drugs to identify patterns of unnecessary or inappropriate prescribing or dispensing practices, including excessive charging in the dispensing of drugs and to identify patterns of substandard care.

(2) Requires the Secretary in carrying out the utilization review program, to use diagnosis and indication codes and establish standards for the prescribing, dispensing, and utilization for each covered outpatient drug. In establishing the standards, the Secretary (after providing notice in the Federal Register and not less than a 60-day comment period) may incorporate standards from current authoritative medical references as he may select.

(k) Treatment of Certain Prepaid Organizations.—Identical provision.

(l) Physician Guide.—Similar provision, except guide must be mailed by January 1 of each year (beginning in 1990).

(m) Special Cost-Control Measures.—Requires the Secretary to institute necessary cost control measures if he determines that the monthly catastrophic drug benefit premium will exceed the limits established under this bill. (See Item 15.) In carrying out this provision, the Secretary may not exclude from coverage or limit payment for any specific covered outpatient drug or specific class of covered outpatient drugs or change the methodology for calculating whether the individual has met the deductible. However, the Secretary may exclude from coverage all drugs listed in a major classification of the most recently issued version of Veterans' Administration Medication Classification System.

(n) High Volume Pharmacies.—Authorizes the Secretary, after 1990, to reduce by regulation the payment limits established (both for nonmultiple source and multiple source drugs) dispensed by a high volume pharmacy (as defined by the Secretary). The reductions are to be based on differences between high volume pharmacies and other pharmacies with respect to operating costs, quantity discounts, and other economies. The Secretary is required to consult with high volume pharmacists, elderly groups and private insurers in making such adjustments. A minimum 90-day public comment period is required for proposed regulations.

(o) Report on Payment Limits.—Requires the OTA and the Secretary to submit to the Congress before beginning of the calendar year (for years after 1990) recommendations for adjustments to the payment limits. The Secretary is required to request the National Academy of Sciences, acting through the Institute of Medicine, to enter into a contract to make such recommendations. Each is required to consult with pharmacists, pharmaceutical manufacturers, elderly groups, and private insurers in making such recommendations.

(p) Report on Covered Outpaient Drug Index.—No provision.

(q) Participating Pharmacies.—

(1) Similar provision except:

(A) Does not apply in the case of any entity which dispenses covered outpatient drugs exclusively to beneficaries enrolled in HMOs and CMPs;

(B) Identical provision;

(C) To assist beneficiaries in determining whether or not their expenses for covered outpatient drugs exceed the deductible and to certify to the Secretary, with respect to such beneficiaries that their expenses exceed the deductible and make available supporting documentation. Nothing is to be construed as authorizing the Secretary to require submission of the documentation with respect to prescriptions other than pursuant to an audit, upon certification under this provision, or for monitoring purposes from a sample of up to 7.5 percent of participating pharmacies;

(D) Identical provision;

(E) Specifies that the provision of information to beneficiaries is to be consistent with State law respecting the provision of such information;

(F) Identical provision;

(G) Changes the effective date to January 1, 1991.

(2) Identical provision.

(3) Identical provision.

(4) Identical provision.

(r) Civil Monetary Penalty.—Provides that civil monetary penalties may be imposed in the case of participating or nonparticipating pharmacy which presents, or causes to be presented, a request for payment for covered outpatient drugs at a charge greater than that charged the general public.

(s) Limitation to 60 Day Prescription.—Similar provision except permits up to a 90 day supply in the case of an individual re-

ceiving chronic maintenance drug therapy as defined by the Secretary.

(t) Additional Premium for Prescription Drug Benefit.—No specific cross reference (See Item 15).

(u) Use of Carriers in Administration.—

(1) Similar provision, except includes fiscal intermediaries in title.

(2) Specifies that 95 percent of clean claims for covered outpatient drugs are to be paid within 45 days of receipt.

Specifies that contracts with carriers shall provide that no payment shall be issued, mailed, or otherwise transmitted for covered outpatient drugs within 30 days after the claim is received.

(3) Authorizes the Secretary to enter into contracts with intermediaries and carriers for performance of functions relating to home intravenous drug therapy on a regional basis.

(v) Modification of HMO/CMP Provisions.—

(1) Identical provision.

(2) Specifies that the calculation of the premium rate and the actuarial value of the deductible and coinsurance for individuals enrolled only in Part A or Part B is to be made separately for the drug benefit.

(3) Specifies that additional benefits required to be provided by an HMO/CMP may include reduction of premium rate or other charges made with respect to drugs.

(w) Medicaid Requirements.—See Item 33.

(x) Beneficiary Drug Cost Survey and CBO Report.—

(1) Similar provision, except requires the Secretary also to consult with consumer groups and representatives of the pharmaceutical and pharmacist industries. Report on survey due by January 19, 1989.

(2) Identical provision.

(3) Requires the GAO (within 2 months of submission of the report) to report on the validity of the survey and the extent to which pharmacies accept assignment and barriers, if any, to such acceptance.

(y) Prescription Drug Payment Review Commission.—No provision.

(z) Additional Studies.—

(1) Similar provision, except does not include Item B. Adds study requirement on the possibility of including drugs which have not yet been approved under the Federal Food, Drug, and Cosmetic Act, but which are commonly used in the treatment of cancer or immunosuppressive therapy as covered outpatient drugs. The study shall be conducted in consultation with an advisory board of consumers, experts in the field of cancer therapy and immunosuppressive therapy, representatives of pharmaceutical manufacturers, and such other individuals as the Secretary may select.

(2) Similar provision except requires an interim report by not later than January 1989.

(3) Requires the Secretary and the GAO to each conduct and periodically update a study on comparison of published average wholesale prices and actual pharmacy acquisition costs by type of pharmacy. A report is to be sumitted to Congress on the results of each study and update with the first report due no later than January 1, 1989.

(aa) Study of Treatment of Prescription Drugs.—

(1) Requires the OTA to conduct a study to identify additional or alternative covered outpatient drugs that can be included under the Medicare definition for 1991 and 1992.

(2) Requires the Secretary to request the National Academy of Sciences, through the Institute of Medicine, to enter into a contract under which the Institute, in consultation with representatives of appropriate research and health care organizations, will also conduct the study described in (1). The Secretary is to be responsible for related expenses incurred by the Academy.

Specifies that in conducting the study, the Office and the Institute are to give particular attention to those drugs that meet any or all of the following criteria:

(A) The drug is used by a large number of beneficiaries;

(B) The drug can be covered without significant administrative difficulties;

(C) Coverage will provide useful information with respect to utilization and cost of covered outpatient drugs under Medicare;

(D) Coverage will not cause an unreasonble increase in premiums under Medicare;

(E) The drug is expensive when used as part of a chronic drug regimen.

Requires the OTA and the Institute to submit to the Secretary and appropriate congressional committees an interim report within 6 months of enactment, and a final report containing specific findings and recommendations within 12 months.

(bb) Simplification of Recordkeeping.—Requires the Secretary, by October 1, 1988, to enter into an agreement with two or more private entities to conduct demonstration projects to test the use of magnetic cards, electronic billing, and other technological devices in the administration of the drug benefit.

Specifies that the Secretary shall select among applications submitted by entities in the form prescribed by the Secretary. The Secretary shall determine the time necessary to carry out the project and submit a report within 6 months of completion.

Specifies that the projects are to be conducted at statistically relevant locations and be used for providing quick data for projecting total cost of the drug benefit.

Requires the Secretary to develop, in consultation with representatives of participating pharmacies, consumers, and other interested individuals, a standard receipt to be used by Medicare beneficiaries in making purchases from participating pharmacies. The receipt is to be distributed by January 1, 1990. The Secretary is to take appropriate steps to insure that such pharmacies used the receipt.

Effective date.—Enactment.

Conference agreement

(a) *In General.*—The conference agreement includes the House provision with an amendment. The agreement includes coverage for two additional categories of prescription drugs. The first category includes those drugs (i) which were commercially used or sold prior to the Drug Amendments of 1962 and (ii) which are identical, similar or related to those described in clause (i) provided that the Secretary has not made a final determination that the drugs described in clause (i) or (ii) are "new drugs." These drugs are the so-called "pre-1938" drugs and are not subject to current requirements regarding pre-market approval by the Food and Drug Administration (FDA) for safety and efficacy.

The conference agreement also includes coverage for certain so-called DESI drugs. Under the provisions of the 1962 amendments to the Federal Food, Drug, and Cosmetic Act, all new drugs must be shown to be effective and safe rather than just safe as had been required previously. This legislation also applied retroactively to all drugs approved as safe from 1938 to 1962. The program established to review the effectiveness of these drugs was named the Drug Efficacy Study Implementation (DESI) program. Under the program, drugs were labelled effective, probably effective, possibly effective, or ineffective. The FDA reviewed any additional evidence submitted by the manufacturer for those drugs determined to be less than effective. If the FDA decides that a drug product lacks substantial evidence of effectiveness for the conditions it is intended to treat, it publishes a notice of opportunity for hearing in the Federal Register on a proposal to withdraw approval for marketing. This affords the manufacturer an opportunity for a hearing before a final determination is made. The conference agreement includes coverage for DESI drugs for which the Secretary has not issued a notice for an opportunity for a hearing and for which the Secretary has determined there is compelling justification for its medical need. Also included are identical, similar or related drugs. It is the understanding of the conferees that the only DESI drug which would be covered by this provision, because a notice for an opportunity for a hearing has not been issued, is nitroglycerin patches.

The agreement further clarifies that the term "covered outpatient drugs" does not include drugs which are already being reimbursed under current law because they are provided as part of, or incident, to other covered services.

(b) *Phase-in Coverage.*—The conference agreement includes the Senate amendment with modifications. The agreement provides coverage for two categories of drugs in 1990—drugs used in immunosuppressive therapy and covered home intravenous (IV) drugs.

Drugs used in immunosuppressive therapy are currently covered for only one year after a transplant that is covered by Medicare. The conference agreement would retain this coverage, which would remain subject to current rules on coinsurance. The conference agreement would add subsequent coverage as well, irrespective of whether the transplant was covered by Medicare. This subsequent coverage would be subject to the same rules regarding deductible and coinsurance as apply to other newly covered prescription drugs.

The agreement provides for coverage of all "covered outpatient prescription drugs" effective January 1, 1991. The agreement provides for a phase-in of the benefit by reducing the requisite beneficiary coinsurance over a three-year period.

Coinsurance is set at 50% in FY 1990 and FY 1991, 40% in FY 1992, and 20% in FY 1993 and each year thereafter. The agreement limits coinsurance to 20%, starting in 1990 with no phase-in, for home IV drugs and immunosuppressive drugs used during the first year after a Medicare covered transplant. (For subsequent use of immunosuppressive drugs, coinsurance would be determined by the general rule.)

The agreement defines a covered home IV drug as one that is intravenously administered in a home setting. The term includes antibiotic drugs, unless the Secretary has determined, for a specific drug or for the indication for which it is applied, that it cannot generally be safely or effectively administered in a home setting. The term includes additional IV drugs (other than antibiotics) only if the Secretary determines that for the specific drug and the indication for which it is being applied, that it can generally be administered safely and effectively in a home setting. The Secretary could establish guidelines or precautions necessary to assure the safety and effectiveness of specific IV drugs in a home setting.

The agreement does not require the Secretary to consult with an advisory panel in making these determinations. The conferees note that the Secretary could refer review of safety and effectiveness issues to the Public Health Service's Office of Health Technology Assessment.

The conferees expect that the Secretary will complete a review of the safety and effectiveness of home IV cancer chemotherapy drugs as soon as possible.

A drug, which would otherwise be covered as an outpatient drug, is excluded from coverage if the drug is intravenously administered in a home setting and does not satisfy the definition of a covered home IV drug.

(c) *Deductible.*—

(1) The conference agreement includes the Senate amendment.

(2) The conference agreement includes the House provision. In determining whether a beneficiary has met the deductible, the Secretary would count all expenses paid on behalf of the beneficiary, such as those paid pursuant to an insurance policy. In calculating the deductible, the Secretary must include amounts actually paid by the beneficiary (or on the beneficiary's behalf) and may not reduce such amounts by applying Medicare payment screens below the deductible.

(3) The conference agreement includes the Senate amendment with a modification. The agreement sets the deductible at $550 in 1990, $600 in 1991, and $652 in 1992. In future years the deductible will be indexed so as to ensure that the percentage of Part B enrollees (not including enrollees in health maintenance organizations) whose expenses for covered outpatient drugs are expected to exceed the deductible during that year is 16.8%. This is the same percentage as the percentage of enrollees whose costs are expected to exceed the deductible in 1991. The conference agreement specifies a deductible for 1992 in the law rather than relying on indexing by the Secretary, because actual program data necessary for reliable indexation would not be available in time for setting the 1992 deductible.

The agreement requires the Secretary to publish by May 1 of each year (beginning in 1992) a proposed regulation establishing the deductible for the next year. The Secretary would be required to publish a final regulation during the last 3 days of September. The final deductible established in September may not exceed deductible proposed in May.

The conference agreement provides that the drug deductible will not apply for home IV drugs dispensed as part of a continuous course of therapy initiated while the beneficiary was a hospital inpatient. Further, the drug deductible does not apply with respect to immunosuppressive drugs furnished within one year following a covered organ transplant.

(d) *Adjustment in Deductible.*—The conference agreement does not include the House provision.

(e) *Authority To Reduce Deductible.*—The conference agreement does not include the Senate amendment. Because the deductible after 1992 will be indexed to ensure that 16.8% of beneficiaries reach the deductible, the Secretary would be authorized to lower or raise the deductible.

(f) *Payment Amount.*—

(1) The conference agreement includes the Senate amendment with a modification. The agreement specifies that the amount paid for a covered outpatient drug is equal to the "payment percent" multipled by the lesser of the actual charge or the applicable payment limit. The payment percent is 100% minus the required coinsurance. Thus, in 1990 (and thereafter), the payment percent is 80% for home IV drugs and for immunosuppressive drugs used during the first year post transplant. The payment percent for other covered outpatient drugs is 50% in 1990 and 1991, 60% in 1992, and 80% thereafter.

The agreement deletes the reference to high volume pharmacies.

(2) The conference agreement includes the House provision with an amendment specifying that the first payment calculation period begins January 1, 1990.

(3) The conference agreement deletes the Senate amendment requiring that the information on payment limits be provided on a list sent to pharmacies. The conferees note, however, that this information will be available through the electronic system. The reference to high volume pharmacies also is deleted.

(4) The conference agreement includes the Senate amendment, with modifications. The provisions relating to charges for covered services after an indvidual has met the catastrophic deductible for outpatient drugs apply to organizations with a risk-sharing contract and those paid on a reasonable cost basis as well as to those health care prepayment plans that have elected to provide the catastrophic drug benefit. Different rules apply depending on whether the organization does or does not "buy out" drug charges below the catastrophic deductible amount for enrolled beneficiaries. A plan is deemed to be a buy-out plan if the deductible charge it imposes on enrolles for covered outpatient drugs is less than 50 percent of the Medicare catastrophic deductible for outpatient drugs.

In the case of a buy-out plan, actual expenses for outpatient drugs incurred by a beneficiary while enrolled in the plan are not counted towards the catastrophic limit. However, if an enrollee disenrolls during a year, he or she is deemed to have incurred expenses for covered drugs during each month of enrollment during the year equal to the monthly national average drug expenses during that year for all Medicare beneficiaries. The Secretary is required, in December of each year, to estimate the national average expense for covered drugs for the following year.

In the case of a plan that is not a buy-out plan, expenses for covered outpatient drugs incurred by a beneficiary while enrolled in the plan are counted towards the catastrophic limit. The plan may not enter into a Medicare contract or receive Medicare payment unless it provides assurances satisfactory to the Secretary that: (i) it will maintain, in coordination with the Part B carriers, accounts of expenses for covered drugs incurred by or on behalf of enrollees during each year, and will make the accounts available to an enrollee and to the carrier if an enrollee disenrolls during the year; and (ii) in determining whether an enrollee has met any deductible under its own plan, the organization will take into account all those expenses for covered drugs that are to be counted towards the catastrophic drug deductible.

The conferees expected that the Secretary, in establishing contracts with Part B carriers under section 1842, will require the carriers to provide information on expenses for out-of-plan services to the plans without charge.

(g) *Payment Limits for Non-Multiple Source Drugs and Multiple Source Drugs With Restrictive Prescriptions.*—

(1) The conference agreement includes the House provision with a modification. The Medicare payment limit for a single source drug or a multiple source drug with a restrictive prescription is the lessor of:

(A) the 90th percentile of actual charges for the drug adjusted (as appropriate by the Secretary) to reflect the number of dosage units or tablet units dispensed; or

(B) the administrative allowance plus the number of tablets or dosage units dispensed times the per tablet or per unit average wholesale price.

The agreement specifies that the 90th percentile limit would be computed on a statewide, carrier-wide or other appropriate geographic area basis (as determined by the Secretary) using charge data from the second previous payment calculation period. The 90th percentile limit would not be used before January 1, 1992 because the necessary data would not be available.

(2) The conference agreement includes the House provision with an amendment. The agreement requires the Secretary to conduct a biannual survey of a representative sample of direct sellers, wholesalers, or pharmacists (as appropriate) to determine the applicable average wholesale price or comparable direct price for each single source drug as of the first day of the first month of the previous payment calculation period. The Secretary would be prohibited from taking into account any discounts that might be provided by wholesalers or direct sellers to pharmacies in determining the applicable average wholesale or direct prices.

Because the survey is a necessary part of the drug benefit and is vital to ensuring the integrity of reimbursement limits, the conference agreement permits the Secretary to impose civil money penalties of up to $10,000 if a wholesaler or direct seller refuses, after a request by the Secretary, to provide information required for the survey or provides information that is false. The conference agreement also requires pharmacies to cooperate with the survey and provides penalties for non-compliance. (*See* subparagraph (g), below.) Information gathered pursuant to the survey would be confidential and could not be disclosed by the Secretary, except as the Secretary determines to be necessary to administer the drug benefit.

The Secretary would not be required to conduct a survey with respect to a specific drug if the Secretary determines that such a survey would not be appropriate because of low volume of sales or other appropriate reason. The survey requirement could also be waived for covered outpatient drugs dispensed during 1990. In these circumstances, the Secretary would rely on published average wholesale prices from reliable sources and would have the authority to set the average wholesale price on the basis of the lowest reliable published price.

The agreement specifies that the Secretary shall make the determination of the average wholesale price based on the price or prices of purchases in reasonable quantities. The Secretary is further required to make the determinations and calculate the payment limit on a national basis. However, the Secretary could make such determinations on a regional basis to take into account limitations on the availability of drug products and variations in average wholesale prices among regions.

(3) The conference agreement includes the Senate amendment with an amendment. In the case of telephone prescriptions, a drug would only be subject to a restrictive prescription if the physician (or other person) through use of an appropriate phrase (as required for written prescriptions) states that a particular brand must be dispensed and submits a written confirmation to the pharmacy involved within thirty days after the date of the telephone prescription. If such confirmation is not submitted, payment would be based on limits for the corresponding multiple source drug.

(h) *Payment Limit For Multiple Source Drugs Without Restrictive Prescriptions.*—

(1) The conference agreement includes the Senate amendment with an amendment. The payment limit for a multiple source drug without a restrictive prescription is the sum of: (A) the product of the number of dosage units or tablet units dispensed and the unweighted median of the per unit average wholesale prices of the available drug products plus (B) an administrative allowance.

To determine the median, the Secretary would array the average wholesale prices (by appropriate dosage or tablet unit) for all FDA approved drug products that are rated by the FDA as therapeutically equivalent, including the corresponding brand name drug. (*See* subparagraph (3), below.

(2) The conference agreement includes the Senate amendment with a modification. In calculating the unweighted median, the Secretary is generally expected to use the average wholesale price for multiple source drugs based on reliable published sources. However, where appropriate, the Secretary may conduct a biannual survey of average wholesale prices of specific multiple source drugs. Such a survey is comparable to (and could be conducted in conjunction with) the annual survey of such prices for single source drugs. The conferees intend that the Secretary may exclude a drug from the calculation of the median if it is not being actively marketed.

(3) The conference agreement includes the House provision with an amendment. The agreement provides that in order for drugs to be multiple source drugs, the FDA must determine that they are pharmaceutically equivalent and bioequivalent as defined by the Medicare statute. This definition is the same as that currently used by the FDA. The agreement assumes that such FDA determination would be made at the time FDA approves the drug; it does not require a new or subsequent determination.

If the FDA changes the definition of therapeutic equivalence through a formal rule-making procedure (including a 90 day comment period), the requirement of pharmaceutical equivalence and bioequivalence as contained in the Medicare statute would not apply and the drug would only be required to meet the revised FDA definition of therapeutic equivalence.

(4) The conference agreement does not include the House provision.

(i) *Administrative Allowance.*—The conference agreement includes the Senate amendment with an amendment setting the administrative allowance for participating pharmacies at $4.50 in 1990 and 1991 and for nonparticipating pharmacies at $2.50 in 1990 and 1991. Thereafter, the allowances are indexed by the GNP price deflator.

(J) *Assuring Appropriate Utilization.*—

(1) The conference agreement includes the Senate amendment with modifications. The agreement does not include the provision authorizing the Secretary to deny payment for drugs prescribed or dispensed with excessive frequency or in excessive quantities. The conferees note that such new authority is unnecessary. The Secretary already has authority under Section 1862(a)(1) of the Social Security Act to deny payment for items and services that are not reasonable and necessary for the diagnosis or treatment of illness or injury. Pursuant to this authority, the Secretary could deny payment for drugs prescribed or dispensed with excessive frequency or in excessive quantities.

The conference agreement requires the Secretary to establish a program to identify: (i) instances and patterns of unnecessary or inappropriate prescribing or dispensing practices; (ii) instances or patterns of substandard care; and (iii) potential adverse drug reactions.

The conferees expect that participating pharmacists will review the medication profile of beneficiaries for potential adverse reactions before filling prescriptions. The conferees further intend that carriers will review claims retrospectively to identify practitioners exhibiting a pattern of inappropriate drug prescribing or dispensing.

The conference agreement also requires the Secretary to establish an educational program to educate physicians and pharmacists about inappropriate prescribing and dispensing practices. This program is expected to include a range of educational interventions, ranging from written to face-to-face communications.

(2) The conference agreement includes the Senate amendment with modifications.

The conference agreement does not include the Senate provision which would have required the use of diagnosis codes on all prescriptions. The conferees believe this requirement would have been unduly burdensome for physicians. Instead, the conference agreement requires physicians to report the appropriate diagnosis code (or codes) on all claims for services they provide. This information would be available for immediate use for utilization review of physician services (and could be used for prepayment screens) and could be used in the future to facilitate drug utilization review by merging Part B with drug claims data.

To enforce the requirement of submission of diagnosis codes, the Secretary would be authorized to deny payment on assigned claims if the required diagnostic information is not provided. In the case of non-assigned claims, if a physician knowingly and willfully fails to respond to a request by a carrier to provide required information not initially included, the physician could be subject to civil money penalties of up to $2,000. Moreover, if a physician knowingly and willfully continues not to provide the required diagnostic information on the initial claims after being notified of the specific obligation to provide such information, the physician could be subject to civil monetary penalties and or exclusion from Medicare under Section 1842(j)(2)(A) of the Social Security Act.

The conferees intend that the Secretary will take appropriate measures to insure the confidentiality of patient-specific information which has been obtained.

The conference agreement includes the Senate provision on drug utilization review standards with modifications. The Secretary would be required to establish standards for the use of each covered outpatient drug based on accepted medical practice. In establishing these standards, the Secretary would be required to incorporate standards from one (or more) current authoritative compendia as the Secretary may select.

The conferees expect that included among the compendia the Secretary will consider for use are the United States Pharmacopoeia Dispensing Information, volume 1 (Drug Information for the Health Care Professional), the American Medical Association's Drug Evaluations, and American Hospital Formulary Service Drug Information. The conferees expect that the Secretary will use only those compendia which base such standards on a review of published scientific and medical information, which provide for a public comment and review process, and which provide adequate assurances that the panelists who establish standards are free of financial (or other) conflicts of interest.

The Secretary, through rule-making, may modify these standards, for use in the Medicare program, on the basis of published scientific and medical information indicating that such standards are not consistent with the safe and effective use of such drug.

The conference agreement also specifies that nothing in Title XVIII of the Social Security Act should be construed as authorizing the Secretary to establish a formulary by excluding from coverage: (i) any specific covered outpatient drug or class of drugs or (ii) the specific use of any covered outpatient drug with respect to a specific indication, unless the exclusion is pursuant to Section 1862(a)(1) and is based on a finding by the Secretary that such use is not safe or effective. The Secretary could, however, exclude certain drugs pursuant to Section 1862(c), relating to exclusions for drugs subject to a proposed order by the FDA to withdraw marketing approval, or 1861(t)(4)(A), relating to the definition of covered home IV therapy drugs (*See* subparagraph (b), above).

(k) *Treatment of Certain Prepaid Organizations.*—The conference agreement does not include the House provision or the Senate amendment. (*See* subparagraph (q), below.)

(1) *Physician Guide.*—The conference agreement includes the Senate amendment with a clarification. The Secretary is required to mail the guide by January 1 of each year, beginning in 1991, to participating hospitals, to each physician who routinely provides Part B services, to Social Security offices, to senior citizen centers, and to other appropriate places.

(m) *Special Cost Control Measures.*—The conference agreement includes the Senate amendment with a modification. The agreement requires the Secretary, immediately upon enactment, to begin compiling information on prices charged by manufacturers and by retail pharmacies for covered outpatient drugs. The Secretary shall compare increases in drug prices for each six month period beginning January 1, 1987, with the average semi-annual increase in such prices during the January 1, 1981 to January 1, 1987 period. The agreement also requires the Secretary to review all available information on the use of prescription drugs by Medicare beneficiaries. The conference agreement requires the Secretary to file a report with the House Committees on Ways and Means and Energy and Commerce and the Senate Committee on Finance in May and November of 1989 and 1990 and in May of each succeeding year containing this information.

Each report submitted after 1991 will also include an explanation of the extent to which increases in expenditures for covered outpatient drugs are the result of price increases by manufacturers and pharmacists and increased drug use by beneficiaries and will include information: (i) on the projected budgetary status of the prescription drug trust fund for the succeeding year; (ii) projected increases in manufacturer's and pharmacists' prices; (iii) the projected level of utilization of covered outpatient drugs by beneficiaries; and (iv) projected administrative costs.

The conference agreement requires the Secretary to submit monthly reports to the Congress, from October 1991 through April 1993, showing monthly outlays and receipts of the Federal Catastrophic Drug Insurance Trust Fund.

The agreement further specifies that the Secretary's May 1, 1992 and 1993 reports will determine whether the anticipated outlays and receipts of the new trust fund are sufficient to achieve the established contingency reserve margin for 1993 and 1994. If not, the report will recommend necessary changes (which will also be published in the Federal Register by May 1 as a proposed regulation). Any such recommended changes should appropriately address each of the causes of increased or unanticipated costs for the program.

If the Secretary has published a proposed regulation by May 1 of 1992 or 1993, the Secretary may publish a final regulation during the last 3 days of September of such year to implement the changes proposed. Such changes will become effective as of January 1 of the next year and will apply only during such year and will take effect notwithstanding any other provisions of this part.

Several limitations, however, would apply to the Secretary's cost control authority. First, the final regulation may not provide for a net reduction in outlays in excess of the net reduction provided in the proposed regulation. Second, the Secretary may not provide for a formulary in violation of the prohibition contained in subparagraph (j). Third, the Secretary may not change the methodology for calculating whether the drug deductible has been met (but could change the level of the deductible). Finally, the Secretary could not increase the coinsurance above the level in effect during the previous year.

The conferees intend that, in designing any cost control recommendations, the Secretary will attempt to insure that beneficiary access will not be adversely affected.

The conferees expect and encourage the Secretary to make other recommendations concerning legislative changes that would improve the administration of the new outpatient prescription drug benefit. Such recommendations would be subject to approval by the Congress as part of the normal legislative process.

The conferees understand that the proposed and final regulations will not be reflected in the Congressional Budget Office's August baseline for FY 1993 and FY 1994.

(n) *High Volume Pharmacies.*—The conference agreement includes the Senate amendment with a modification limiting the Secretary's authority to reducing the administrative allowance for mail service pharmacies. Such reductions (if any) must be based on differences between mail service pharmacies and other pharmacies with respect to operating costs and other economies.

(o) *Report on Payment Limits.*—The conference agreement deletes this provision. The conferees intend to request, by letter, the Office of Technology Assessment to prepare a study on possible alternative payment methodologies.

(p) *Report on Covered Outpatient Drug Index.*—The conference agreement does not include the House provision.

(q) *Participating Pharmacies.*—

(1)(A).—The conference agreement includes the Senate amendment. The conferees note that some prepaid health plans operate pharmacies which charge members of the plan less than the pharmacy charges members of the general public. In this case, the conferees intend that the test of compliance with this provision be based on the pharmacy's charges to members of the general public who are not members of the prepaid health plan.

(1)(B).—The conference agreement includes the House provision.

(1)(C).—The conference agreement includes the House provision with a modification. The Secretary would be required by January 1, 1991 to establish an electronic point-of-sale claims processing system for use by carriers and participating pharmacies. Participating pharmacies would be required to transmit information regarding all covered outpatient drugs dispensed to Medicare beneficiaries by such pharmacies regardless of deductible status.

The conferees consider the electronic billing system integral to the smooth administration of the prescription drug benefit. The conferees expect that the Secretary will devote the necessary resources to make the electronic system fully and successfully operational by January 1, 1991. Moreover, the conferees expect that the system will be thoroughly tested prior to that date.

(1)(D).—The conference agreement does not include the House or Senate provision.

(1)(E).—The conference agreement includes the Senate amendment.

(1)(F).—The conference agreement includes the Senate amendment.

(1)(G).—The conference agreement includes the Senate amendment with an amendment deleting the exemption for undue hardship. As noted above, the agreement requires the Secretary to implement an electronic point-of-sale system by January 1, 1991. The agreement further requires the Secretary to provide, upon request, such electronic equipment and technical assistance (other than costs associated with obtaining, maintaining, or expanding telephone service) as the Secretary determines may be necessary for a pharmacy to submit claims through the electronic system. Because the equipment would be provided where necessary an exemption for hardship cases is not needed.

The conference agreement requires participating pharmacies to provide information requested by the Secretary in conjunction with biannual surveys conducted by the Secretary to determine average wholesale prices. (see Item 10g).

All of the preceding requirements for participating pharmacies would be first effective for covered outpatient drugs dispensed on or after January 1, 1991. Claims for drugs dispensed during 1990 would be handled by existing Medicare carriers and the beneficiary's deductible status would be determined by these carriers as under current law.

The Secretary would have authority to specify claims processing and payment procedures in the event of temporary failure of the electronic claims processing system.

(2).—The conference agreement includes the Senate amendment with an amendment deleting the requirement that the Secretary submit lists of payment limit to pharmacies in advance of the payment calculation period.

(3).—The conference agreement includes the Senate amendment with a modification. The agreement provides that the audits would assure compliance with requirements for participation and would assure the accuracy of information submitted by pharmacies.

(4).—The conference agreement includes the Senate amendment with an amendment clarifying that the requirement to accept assignment begins at the point where the Secretary, through the electronic point-of-sale system or otherwise, notifies the pharmacy that the beneficiary has met the deductible.

(r) *Civil Monetary Penalty.*—The conference agreement includes the Senate amendment authorizing civil monetary penalties for pharmacies that charge Medicare beneficiaries more than they charge the general public. For purposes of this provision, the price charged to the general public is the pharmacy's price to a customer who is not a member of any group which has obtained a discounted price from that pharmacy, such as an HMO.

The conference agreement also authorizes civil monetary penalties for pharmacies that fail to provide information requested by the Secretary as part of the biannual survey of wholesale prices (see Item 10g).

(s) *Limitation to 60 Day Prescription.*—The conference agreement includes the Senate amendment with an amendment. No payment may be made for any expense incurred for a covered outpatient drug if it is dispensed in a quantity exceeding a 30 day supply, except that the Secretary may authorize a longer supply (not exceeding 90 days, except in exceptional circumstances). Such extended supply policies may apply to specific drugs or classes of drugs and may be subject to appropriate conditions as the Secretary may establish.

(t) *Additional Premium for Prescription Drug Benefit.*—See Item No. 15.

(u) *Use of Carriers in Administration.*—

(1) The conference agreement includes the Senate amendment with modifications.

Current law requires that a Medicare carrier be an insurer of health care services. The conference agreement waives this requirement and authorizes the Secretary to contract with other entities for implementation and operation of the electronic point-of-sale claims processing system and for related functions. Such entities include voluntary associations, corporations, partnerships, or other nongovernmental organizations. Such contracts may be on a regional basis.

If the Secretary requires a carrier to subcontract with such an entity for this purpose, the conferees expect the Secretary to take this arrangement into account in evaluating the carrier's performance. The failure of such entity to properly carry out its responsibilities should not adversely affect the carrier's performance rating.

The conferees further intend that the term "related functions" would apply to functions closely related to the implementation and operation of the electronic system, such as initial claims denials made through the system. Other functions, such as the handling of beneficiary inquiries and carrier fair hearings, would remain with the traditional Medicare carriers.

The agreement permits the Secretary to use fixed-price contracts for electronic claims processing (and related functions) but requires the Secretary to: (i) publish in the Federal Register general criteria and standards used for evaluating contractors and provide opportunity for public comment; (ii) publish in the Federal Register any new policy or procedure that substantially affects the performance of contracts 30 days before such policy or procedure is to take effect; and (iii) negotiate necessary contractual modifications with contractors before requiring them to perform any additional functions.

The conferees expect that the Secretary would initially contract with more than one entity to establish more than one electronic system.

The agreement specifies that current law requirements regarding coordination of benefits payments with Medicare supplemental insurers will not apply to covered outpatient drugs until January 1, 1993.

(2) The conference agreement includes the Senate amendment with a modification. The agreement requires contractors processing claims for prescription drugs to provide for a monthly payment cycle. All claims received and approved for each participating pharmacy or individual submitting claims in the period since the previous payment date would be paid at the end of the payment cycle.

The conferees understand that under this system, claims would be paid, on average, 15 days after receipt. If payment is delayed more than 5 days after the requisite payment date, interest shall accrue until payment is made.

(3) The conference agreement includes the Senate amendment.

(v) *Modification of HMO/CMP Provisions.*—

(1) The conference agreement does not include the House provision or the Senate amendment.

(2) The conference agreement includes the Senate amendment.

(3) The conference agreement includes the Senate amendment.

(w) *Medicaid Requirements.*—See Item No. 33.

(x) *Beneficiary Drug Cost Survey and CBO Report.*—

(1) The conference agreement includes the Senate amendment with a modification. Data obtained from the 1987 National Medical Expenditure Survey (NMES) would be used in lieu of conducting a new survey. Based on this data, the Secretary would submit a report on expenses incurred by Medicare beneficiaries for outpatient drugs to Congress by April 1, 1989. Also by this date, the Secretary would provide the Director of the Congressional Budget Office any data from the survey that the Director may request to make the estimates required under subparagraph (2) below.

(2) The conference agreement includes the Senate amendment with an amendment specifying the CBO report is due by June 1, 1989, or 60 days after the date the Secretary provides the requested data under subparagraph (1). The report is to include estimated outlays and revenues (with projected trust fund balances) for the period from FY 1990 through FY 1993.

(3) The conference agreement does not include the Senate amendment.

(y) *Prescription Drug Payment Review Commission.*—The conference agreement includes the House provision with an amendment. The Commission is to be established by January 1, 1989. The conferees expect that one of the eleven commissioners would be associated with a brand name drug manufacturer while another would be associated with a generic drug manufacturer.

The Commission is directed to submit an annual report to Congress by May 1 of each year, beginning May 1, 1990. The report would concern methods of determining payment for the outpatient prescription drug benefit authorized under this legislation. Beginning in 1992, the annual report must include comments on both the budgetary status of the Federal Catastrophic Drug Insurance Trust Fund and recommendations for any changes necessary to reduce outlays in order to achieve the established contingency margin for the following year. These recommendations are to take into account the causes of increased or unanticipated outlays for covered drugs in the year.

Beginning in 1992, the annual report would also include information on increases in manufacturers' prices for prescription drugs, increases in pharmacies' charges for such drugs, utilization of the outpatient prescription drug benefit by beneficiaries, and administrative costs associated with the benefit.

(z) *Additional Studies.*—The conference agreement includes the Senate amendment with modifications. The requirement for a report on third party coverage is not included. The conferees note that under subparagraph (x) the Secretary is required to conduct a study of drug expenditures by the elderly. It is expected that the issue of third party coverage will be addressed in that study.

The conference agreement provides for a one-time study by the GAO which would include: (i) a comparison of average wholesale drug prices and actual acquisition costs by type of pharmacy; (ii) an analysis of the discounts offered by pharmacies to other third-party insurers; and (iii) an analysis of overhead costs of retail pharmacies. The study would be due to Congress by May 1, 1991.

Pharmacies participating in Medicare or Medicaid would be required to provide the GAO with reasonable access to records needed to conduct the study; non-compliance would be subject to exclusion from Medicare or Medicaid under Section 1128(a) of the Social Security Act. The conferees expect that the GAO would not release any data from the study in a manner which could be identified with individual pharmacies.

The conference agreement does not include a requirement for a study on the potential application of new claims processing and billing technologies. The conferees note that the agreement requires the Secretary to implement an electronic point-of-sale claims processing system.

The conference agreement requires a study of methods to improve utilization review of covered outpatient drugs. The study is due to the Congress by January 1, 1993.

The conference agreement does not include the requirement that the Secretary study alternative payment methodologies for covered outpatient drugs. The conferees note that under subparagraph (o) above, the conferees intend to request the Office of Technology Assessment to conduct a similar study.

The conference agreement also does not include the study on induced demand. The conferees expect that this issue will be addressed in the study required under subparagraph (x).

The conference agreement specifies that the longitudinal study of the use of covered outpatient drugs by Medicare beneficiaries is to be conducted as a follow-up to the 1987 NMES study. The report is due January 1, 1993.

The conference agreement expands the scope of the requisite study on experimental cancer drugs to include other experimental drugs and biologicals. This report is due January 1, 1990.

The conference agreement also requires the Secretary to study the potential of mail service pharmacies to reduce the cost of covered outpatient drugs for beneficiaries and for the Medicare program and to report to Congress by January 1, 1990.

(aa) *Study of the Treatment of Prescription Drugs.*—The conference agreement does not include the Senate amemdment.

(bb) *Simplification of Recordkeeping.*—The conference agreement includes the Senate amendment with modifications. The agreement requires the Secretary to develop a standard claims form and a standard format for electronically submitted claims to be used by Medicare and other third parties for covered outpatient drugs. The Secretary would consult with representatives of pharmacies and other interested individuals in developing these standards. The Secretary would be required to distribute official sample copies by October 1, 1989.

The conference agreement does not include the requirement for demonstration projects testing various electronic billing systems. The conferees note that the Secretary is required to implement a point-of-sale electronic claims processing system.

Effective Date.—Applies to items dispensed on or after January 1, 1990, except for the following.

Prompt payment requirements for carriers take effect on January 1, 1991, but are not to be construed as requiring payment before February 1, 1991, thereby permitting implementation of staggered billing cycles.

Provisions relating to modification of HMO/CMP contracts apply to new enrollments effective on or after January 1, 1990.

Diagnostic coding requirements apply to services furnished on or after April 1, 1989.

11. Coverage of Home Intravenous Drug Therapy (Section 7A of Senate amendment)

Present Law

(a) General.—Drugs and biologicals, which cannot be self-administered and which are furnished as an incident to a physician's professional service, are included within the definition of "medical and other health services," and are covered under Part B. Such coverage also includes antigens prepared by a physician and administered by or under the supervision of a physician.

(b) Payment.—No provision.

(c) Certification.—Except for certain inpatient or outpatient services provided by hospitals, payments for services to providers under Part B may only be made if a physician certifies (and recertifies where such services are furnished over an extended period) that the services are necessary.

(d) Certification of Providers.—The Secretary, in carrying out his functions related to determination of conditions of participation of providers of services, shall consult with appropriate national listing and accreditation bodies, and may consult with appropriate local agencies. If a State imposes higher requirements on institutions as a condition of payment under titles I, XVI, or XIX (Medicaid) of the Social Security Act, the Secretary shall impose like requirements under Medicare.

(e) Intermediate Sanctions for Home Intravenous Drug Therapy Providers.—No provision.

(f) Publication Requirement.—No provision.

House bill

No provision.

Senate amendment

(a) General.—Provides for Medicare coverage of intravenous drug therapies provided in the home. Home intravenous therapy is defined as items and services that: (1) are provided to an individual who is under the care of a physician; (2) are provided in the residence used as the individual's home; (3) are provided by a qualified home intravenous drug therapy provider or by others under arrangement with such provider; and (4) are provided under a plan established and periodically reviewed by a physician.

Coverage for home intravenous drug therapy includes nursing, pharmacy and related services as are necessary to safely and effectively conduct an intravenously administered anti-infective or cancer chemotherapeutic drug regimen through the use of a covered outpatient drug or use of any other intravenously administered drug which the Secretary (in consultation with providers, clinicians and consumers) determines may be safely provided in the home.

A qualified home intravenous drug therapy provider is defined as a home health agency certified by the Secretary as meeting certain conditions of particpation, or other entity certified by the Secretary as meeting certain conditions of participation. The conditions of participation require that the home health agency or other entity: (1) is capable of providing or arranging for the provision of home intravenous drug therapy; (2) maintains clinical records; (3) has written policies to govern the provision of services; (4) makes services available 24 hours per day, seven days a week as necessary; (5) coordinates all services with the patient's physician; (6) conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care; (7) assures that only trained personnel provide chemotherapy or any other service where training is required to safely provide the service; (8) assumes responsibility for the quality of services provided by others under arrangements; and (9) meets such other conditions as the Secretary determines are necessary for the safe and effective provision of services and as necessary for the efficient administration of the benefit.

(b) Payment.—Requires the Secretary to establish a fee schedule for home intravenous drug therapy prior to the beginning of each calendar year, beginning prior to calendar year 1990. The fee schedule is to be established on a per diem basis. The fee schedule is to be based on a study of current reimbursement for similar items and services provided under Medicare, on the customary charges for such therapy, and on such other information as the Secretary deems appropriate.

Reimbursement for home intravenous drug therapy is 100 percent of the lesser of the actual charge and the fee schedule amount. Payments for these items and services is not subject to the annual Part B deductible amount.

(c) Certification.—Provides that coverage for home intravenous drug therapy is limited to cases in which a physician certifies that (1) such therapy is required by the individual, (2) a plan for furnishing the therapy has been established and is periodically reviewed by a physician, (3) the therapy is furnished while the individual is under the care of a physician, and (4) the therapy is provided in a place of residence used as the individual's home.

(d) Certification of Providers.—Adds home intravenous drug therapy providers to the list of providers for which the Secretary shall consult with appropriate State agencies and recognized national listing or accrediting bodies, and appropriate local agencies in determining the conditions of participation.

(e) Intermediate Sanctions for Home Intravenous Drug Therapy Providers.—Provides that the Secretary shall develop and implement "intermediate sanctions," in lieu of canceling the certification of the provider, that may be imposed for a period of up to one year against home intravenous drug therapy providers that are determined by the Secretary to no longer meet the conditions of participation. The Secretary shall provide appropriate appeals procedures relating to the imposition of such intermediate sanctions. The intermediate sanctions shall include civil money penalties and suspension of all or part of reimbursement amounts that would otherwise be made under Medicare. Such sanctions are in addition to sanctions otherwise available under State or Federal law.

The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions may be imposed, the amount of any fines and the severity of each penalty. The procedures are to be designed to minimize the time between the identification of violations and imposition of the sanction, and shall provide for the imposition of increasingly severe fines for repeated or uncorrected deficiencies.

(f) Publication Requirement.—Provides that the Secretary shall publish a list of categories of drugs that are considered covered outpatient drugs with respect to home intravenous drug therapy not later than January 1, 1990.

Effective date.—Applies to items and services furnished on or after January 1, 1990

Conference agreement

(a) *General.*—The conference agreement includes the Senate amendment with amendments.

Covered home IV drug therapy services include nursing, pharmacy, and related items and services (such as medical supplies, IV fluids, delivery, and equipment) as are necessary for the safe and effective administration of covered home IV drugs. Drug therapy services would not be subject to the Part B deductible or to coinsurance.

Drugs used for home IV drug therapy are not included in the definition of covered home IV drug therapy services, and are not included in the reimbursement for these services. Instead, these drugs are covered and reimbursed under the catastrophic prescription drug benefit. (See Item 10 concerning coverage of IV drugs).

A qualified home IV drug therapy provider must comply with requirements contained in the Senate provision. The conference agreement adds the requirement that the provider must adhere to written protocols with respect to provision of services and expands the requirement pertaining to use of trained personnel to cover provision of all home IV drugs. Further, the entity must be licensed, or approved as meeting the requirements for licensure, if State or local law provides for licensure of home IV drug providers.

A home health agency may qualify as a home IV drug therapy provider if it meets these requirements. In this case, the home health agency would not have to be recertified with respect to any conditions that it had previously met to be certified as a home health agency.

(b) *Payment.*—The conference agreement includes the Senate amendment with amendments. Under the agreement, Medicare payment would be the lower of the provider's actual charge or the fee schedule amount.

The fee schedule would be established by the Secretary by regulation before January 1, 1990 and would provide payment on a per diem basis. In establishing the fee schedule, the Secretary could consider cost information, charge information, and payment rates for similar items and services covered under Medicare. The Secretary could not, however, require routine cost reporting.

The conference agreement provides the Secretary with broad flexibility in establishing the fee schedule. The conferees expect that the Secretary will use this flexibility to establish a fee schedule which assures adequate access to services while preventing excessive payments. The conferees note that exclusive reliance on customary charges has previously resulted in excessive reimbursement levels for similar services.

The conferees expect that the availability of home IV therapy will facilitate shorter hospital lengths of stay for a variety of illnesses. The conference agreement therefore requires the Prospective Payment Assessment Commission to study and report to the Congress and the Secretary by March 1, 1991 concerning adjustments to DRG payments which may be appropriate in view of the expected savings to hospitals.

Finally, the conference agreement prohibits a home IV therapy provider from providing services to a Medicare beneficiary based on a referral from a physician who has an ownership interest in, or receives compensation from, the provider. The prohibition would also apply to ownership or compensation arrangements involving an immediate family member of the referring physician. The referring physician is the physician who prescribes the home IV drug therapy or establishes the plan of care for such therapy.

Several exceptions to this prohibition are provided: (i) ownership of publicly traded stock purchased on terms available to the general public; (ii) sole community rural home IV therapy providers as defined by the Secretary; (iii) compensation reasonably related to items or services actually provided by the physician which does not vary in proportion to the number of referrals made; (iv) physicians whose only relationship with the provider is as an uncompensated officer or director of the provider; and (v) other exceptions established by the Secretary by regulation, for ownership or compensation arrangements which the Secretary determines do not pose a substantial risk of program abuse. The exception under clause (iii) would not apply for compensation paid by the home IV provider to the referring physician for direct patient care services. It is expected that the physician would bill Medicare (or the beneficiary) for such services.

Payment would be denied for services provided pursuant to a prohibited referral. The home IV provider would also be prohibited from billing for such services on an unassigned basis. Moreover, a physician who knowingly and willfully makes a prohibited referral or a provider who knowingly and willfully accepts such a referral would subject to civil monetary penalties of up to $15,000 for each such referral and/or exclusion from the Medicare program.

The conferees intend that this prohibition not be construed in any way as altering (or reflecting on) the scope and application of the anti-kickback provisions contained in Section 1128B of the Social Security Act.

The conferees are aware of the growing prevalence of physician ownership and compensation arrangements which are developed and marketed by providers of medical services. These arrangements are often initiated with the intent of binding together the financial interests of referring physicians with those of the providers.

Because of the resulting economic alliance, physicians are less likely to exercise independent judgment in making referral recommendations. Moreover, such alliances pose a risk of inducing over utilization even if the physician's income does not vary in proportion to the number of referrals made.

Some of these arrangements may involve indirect referral fees. Investment opportunities may be restricted to physicians who are able to refer substantial business to the provider, and such investments often have returns which are substantially higher than what would be expected for comparable investments.

For these reasons, the conference agreement includes a requirement that the HHS Inspector General conduct a study of physician ownership of, and compensation by, other suppliers of Medicare covered services to which they make referrals. The report would (i) include a description of the full range of such arrangements and the means by which they are marketed to physicians; (ii) evaluate the potential of such arrangements to influence physician decisionmaking and to result in inappropriate utilization; (iii) assess the practical difficulties involved in enforcement actions under current anti-kickback provisions; and (iv) make recommendations regarding possible changes in the law to strengthen protections against program abuse. The report would be due to Congress by May 1, 1989.

(c) *Certification.*—The conference agreement includes the Senate amendment with an amendment.

The conference agreement requires that all home IV therapy services be reviewed and approved for medical necessity and quality by a Peer Review Organization (PROs) during a three-year period (1990-1992).

Prior approval by a PRO is required for home IV therapy initiated immediately upon hospital discharge. Except in exceptional circumstances (specified by the Secretary), home IV therapy services initiated on an outpatient basis (without a preceding hospital stay) must be approved by the PRO within one working day after the initiation of therapy. PROs would be required to complete reviews within one working day of receipt of a request for review.

To assure the validity and uniformity of PRO reviews, the conference agreement requires the Secretary to establish criteria that would be used by PROs in conducting reviews with respect to the appropriateness of home IV therapy services. Such criteria should assure that beneficiaries are discharged from hospitals to home IV therapy only if this is appropriate from a medical standpoint and the patient (or a family member) is able to carry out the home care regiment properly.

The conferees expect that after 1982, the Secretary could require PROs to conduct some focused reviews and could require prior approval in appropriate circumstances.

(d) *Certification of Providers.*—The conference agreement includes the Senate amendment with a clarifying amendment specifying that a home IV drug therapy provider is a "provider" of services as defined under Medicare.

The conference agreement further requires the Secretary, in consultation with State agencies and other organizations to develop conditions of participation for home IV drug therapy providers.

(e) *Intermediate Sanctions for Home Intravenous Drug Therapy Providers.*—The conference agreement includes the Senate amendment.

(f) *Publication Requirement.*—The conference agreement includes the Senate amendment.

Effective date.—Applies to services furnished on or after January 1, 1990.

12. In-Home Care for Certain Chronically Dependent Individuals (Section 203 of House bill)

Present law

No provision.

House bill

(a) Services Covered.—Adds a new benefit to Part B of Medicare: in-home care for a chronically dependent individual for up to 80 hours in any calendar year. [Such care provided on any day for 3 hours or less is counted as 3 hours.]

Defines "in-home care" as including (1) services of a homemaker/home health aide (who has successfully completed a training program approved by the Secretary); (2) personal care services; and (3) nursing care provided by a licensed professional nurse. Requires that these services be furnished, under the supervision of a registered professional nurse, by a home health agency or others under arrangements with the agency. Also requires that the services be furnished in a place of residence used as the chronically dependent individual's home.

(b) Persons Eligible.—Provides that the above services be available to chronically dependent individuals who are Medicare beneficiaries. Defines "chronically dependent individual" as a person who (1) is dependent on a daily basis on a primary caregiver who is living with the individual and is assisting the individual without monetary compensation in the performance of at least 2 specified activities of daily living (ADLs); and (2) without this assistance could not perform these ADLs. Specifies that the individual be dependent in at least 2 of the following ADLs: eating, bathing, dressing, toileting, or transferring in and out of a bed or in and out of a chair.

(c) Payment.—Provides that payment for in-home services be made on the basis of hourly rates based on reasonable costs of furnishing care.

Requires the Secretary to provide for an appropriate adjustment to payment rates for prepaid health plans paid on a reasonable cost basis to reflect the new catastrophic protection. The adjustment is to reflect: (1) the aggregate increase in payments which would otherwise be made for enrollees if they were not enrolled in the organization; or (2) the amount that would be paid to the organization or facility if payments were made on an individual by individual basis. The organization is required to provide assurances, satisfactory to the Secretary, that it will not undertake to charge an individual more than 20 percent of reasonable costs plus any deductible amounts.

(d) Certification.—Requires a physician to certify, in the case of in-home services provided to a chronically dependent individual during a 12-month period, that the individual was chronically dependent during the immediately preceding 3-month period.

(e) Standards for Utilization.—Specifies that payment may not be made for in-home care for chronically dependent individuals unless such care is reasonable and necessary to assure the health and condition of the individual is maintained in the individual's non-institutional residence. The Secretary is required to take appropriate efforts to assure the quality and provide for the appropriate utilization of in-home care for chronically dependent individuals.

(f) Study of Alternative Out-of-Home Services.—Requires the Secretary to study and report to Congress, within 18 months of enactment, on the advisability of providing to chronically dependent individuals (eligible for services under this provision) with out-of-home services (such as adult day health services or nursing facility services) as an alternative to in-home care.

(g) Study of In-Home Care.—Requires the Secretary to study and report to Congress by June 1, 1991, on the extent of use, cost, and effectiveness of in-home care provided chronically dependent individuals under this provision. [See also item 25]

Effective date.—(a) through (e) apply to items and services furnished on or after January 1, 1989, and before January 1, 1992. Study provisions (f) and (g) effective on enactment.

Senate amendment

No provision.

Conference agreement

(a) *Services Covered.*—The conference agreement includes the House provision, with the amendment noted below regarding the 12-month period of eligibility for the services.

(b) *Persons Eligible.*—The conference agreement includes the House provision, with an amendment. It retains the definition of chronically dependent individual. However, such an individual qualifies for these services only if the individual has been determined either: (i) to have incurred expenses for Part B coinsurance and deductible payments in an amount equal to the catastrophic limit on Part B cost-sharing for the year; or (ii) to have incurred expenses for covered outpatient drugs equal to the outpatient drug deductible for the year. In-home services would then be available to such a beneficiary for 12 months from the date the beneficiary was determined by the Medicare carrier to have incurred such expenses.

If a beneficiary met a second limit within twelve months after meeting a prior limit, this would initiate a new twelve month period of eligibility. In this situation, the beneficiary would be entitled to receive up to 80 hours of care during the new eligibility period, but could not carryover any hours not used during the prior eligibility period. Moreover, in no event, could a beneficiary receive more than 80 hours of care during a calendar year.

An individual receiving these services would be responsible for 20 percent coinsurance, notwithstanding that he or she had already met the Part B catastrophic limit in the current year. However, these coinsurance payments could be counted towards the catastrophic limit, during the calendar year in which they were incurred.

The Secretary would be required to take appropriate measures to assure that HMO members who would otherwise qualify for this benefit are properly identified.

(c) *Payment.*—The conference agreement includes the House provision.

(d) *Certification.*—The conference agreement includes the House provision.

(e) *Standards for Utilization.*—The conference agreement includes the House provision.

(f) *Study of Alternative Out-of-Home Services.*—The conference agreement includes the House provision.

(g) *Study of In-Home Care.*—The conference agreement does not include the House provision.

Effective Date.—The conference agreement applies to services furnished on or after January 1, 1990.

13. Extending Home Health Services (Section 204 of House bill; Sections 7 and 8 of Senate amendment)

Present law

(a) Intermittent/Daily Home Health Care.—Home health services are covered under Medicare if the services are required because the individual is homebound and requires skilled nursing care on an intermittent basis or physical or speech therapy. Current program guidelines specify that to meet the requirement for intermittent skilled nursing care, an individual must have medically predicable recurring need for skilled nursing services. The guidelines define "intermittent" as permitting daily skilled nursing visits for up to eight hours a day for up to two or three weeks if medically reasonable and necessary. Daily is defined as five, six, or seven days per week.

(b) Homebound.—Comparable provision included in the Omnibus Budget Reconciliation Act of 1987, section 4024 of Public Law 100-203.

House bill

(a) Intermittent/Daily Home Health Care.—Specifies that nursing care and home health aide services are considered intermittent if they are furnished less than 7 days a week. These services may be provided 7 days a week for an initial period up to 35 consecutive days. More than 35 consecutive days may be covered if the physician certifies that exceptional circumstances require additional care on a daily basis.

Effective date.—(a) Applies to services furnished on or after January 1, 1989.

Senate amendment

(a) Intermittent/Daily Home Health Care.—Provides that nursing care and home health aide services may be provided 7 days a week (with one or more visits per day) for up to 21 days with a physician's certification of the need for such care. For a beneficiary enrolled in Part B, up to 45 days of consecutive care would be allowed if he was discharged from a hospital or skilled nursing home within 30 days prior to beginning home health care.

Effective date.—(a) Applies to items and services furnished after December 31, 1987.

Conference agreement

(a) *Intermittent/Daily Home Health Care.*—The conference agreement includes the Senate amendment with a modification. The agreement provides that nursing care and home health aide services may be provided 7 days a week (with one or more visits per day) for up to 38 consecutive days. The conferees intend that current coverage policies which allow for additional days of care under unusual circumstances would continue to be covered under Medicare.

The conference agreement further extends the favorable presumption under the waiver of liability provisions for skilled nursing facilities and home health agencies. The Secretary is prohibited from modifying the presumption criteria for these waivers through October 1990.

The conference agreement requires the Administrator of the Health Care Financing Administration to appoint an 11 member Advisory Committee on Home Health Claims. At least five members shall be representatives of home health agencies or visiting nurse associations. The remaining members are to be representative of physicians' groups, senior citizens' groups and fiscal intermediaries, with no more than 3 members representative of fiscal intermediaries. The advisory committee is to study the reasons for the increase in the denial rate for home health claims during 1986 and 1987, the ramifications of such increase, and the need to reform the process involved in such denials. A report on the committee's findings is due to the Health Care Financing Administration and to the Congress within one year of enactment.

(b) *Homebound.*—The conference agreement does not include the Senate provision. The conferees note that a comparable provision was included in the Omnibus Budget Reconciliation Act of 1987.

Effective date.—The conference agreement applies to home health services furnished on or after January 1, 1990.

14. Increase in Maximum Payment Allowed for Outpatient Mental Health Services (Section 205 of House bill)

Present law

A special limit is applicable with respect to expenses incurred in a calendar year in connection with the treatment of a mental, psychoneurotic or personality disorder of a beneficiary who is not an inpatient of a hospital at the time services are rendered. Medicare recognizes 62.5 percent of reasonable charges for such services. It pays 80 percent of the recognized amount up to a maximum of $250. The Omnibus Budget Reconciliation Act of 1987 increases the maximum payment amount to $450 in 1988 and $1,100 in 1989.

House bill

Increases the medicare outpatient mental health payment limit to $1,000.

A maximum of $250 in out-of-pocket expenses may be counted toward the catastrophic limit. The effective beneficiary coinsurance rate remains the same.

Effective date.—Applies to expenses incurred for services furnished on or after January 1, 1989.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision. The conferees note that a provision was included in Section 4070 of the Omnibus Budget Reconciliation Act of 1987 which increased the maximum payment amount for mental health services beyond that provided in this legislation.

15. Adjustments in Medicare Part B Premium (Section 206 of House bill; Sections 5 and 27 of Senate amendment)

Present law

(a) Part B Premiums.—Under current law, premiums for Medicare Part B are charged to Part B enrollees on a monthly basis according to an amount established in advance for each calendar year. The monthly Part B premium for 1988 is $24.80.

During September of each year, the Secretary determines the monthly actuarial rate for the succeeding calendar year for Part B enrollees age 65 and over equal to one-half of the benefits and administrative costs for aged Part B enrollees, including a contingency margin.

The Secretary also determines during September of each year the monthly actuarial rate for disabled enrollees under age 65 for the succeeding calendar year equal to one-half of the benefits and administrative costs estimated to be payable from the Part B trust fund for services and related administrative costs for disabled enrollees under age 65, including a contingency margin.

The current method of determining the monthly premium (temporarily in effect for 1984-89) is to use a formula that sets the premium rate at 50 percent of the monthly actuarial rate for enrollees age 65 and over (i.e., 25 percent of the amount needed to cover program costs for aged beneficiaries). Disabled enrollees pay the same premium.

If there is no Social Security cost-of-living increase (COLA) in a year, the Part B premium is not increased that year. For 1986-89, a beneficiary who has his Part B premium deducted from his Social Security check and experiences a premium increase that is greater than the COLA adjustment, the premium increase is reduced to avoid a reduction in the individual's Social Security check.

Beginning January 1, 1990, the premium will be calculated according to prior law, which provided that the premium would be the lower of: (1) an amount sufficient to cover one-half of the costs of the program for the aged, or (2) the current premium amount increased by the Social Security COLA.

(b) Catastrophic Coverage Premium.—No provision.

(c) Premium for Prescription Drug Benefit.—No provision.

(d) Benefit Premium for In-Home Care Benefit.—No provision.

(e) Monthly Premiums for Residents of U.S. Commonwealths and Territories.—All Medicare beneficiaries voluntarily enrolled in Part B are subject to the same Part B premium payment rules and receive the same Medicare benefits, including those residing in the U.S. commonwealths and territories. An individual need not be entitled to Part A benefits to voluntarily enroll in Part B.

(f) Monthly Premiums for Individuals Enrolled Under Part B But Not Entitled to Benefits Under Part A.—All Medicare beneficiaries voluntarily enrolled in Part B are subject to the same Part B premium payment rules and receive the same Medicare benefits, including those not entitled to benefits under Part A.

(g) Transfers to Catastrophic Health Insurance Trust Fund.—No provision.

House bill

(a) In General.—Provides for increases to the monthly Part B premium to finance the catastrophic coverage benefit (through the transitional adjustment in 1991 and 1992), the prescription drug benefit (beginning in 1989), and the in-home care benefit (in 1989, 1990, and 1991).

(b) Catastrophic Coverage Premium.—

(1) Premium Amount.—Provides for a transitional adjustment increase to the

monthly Part B premium otherwise determined of $1.00 in 1991 and $1.30 in 1992.

(2) Indexing.—Provides that the transitional increase in 1991 will not be taken into account when determining Part B increases in subsequent years under section 1839(a)(3), but the transitional increase in 1992 will be taken into account when determining Part B increases in 1993 and each subsequent year.

(c) Premium for Prescription Drug Benefit.—Amends section 1839 (amount of the Part B premium) to provide for an additional monthly premium for the prescription drug benefit.

(1) Premium Amount.—Provides that the basic monthly drug premium increase for a year is, subject to certain limits, the monthly actuarial rate. The monthly actuarial rate for the prescription drug benefit for 1989 is $2.30.

Provides that for subsequent years, the Secretary will determine in September of each year, beginning with 1989, (a) the total benefits and administrative costs estimated to be paid from the Part B trust fund for each succeeding year for covered outpatient drugs and related administrative costs, and (b) a monthly actuarial rate for covered outpatient drugs applicable for the succeeding calendar year estimated so that the aggregate amount of the increase in drug premiums collected or received for such year will equal 75 percent of the total estimated cost of drug benefits and administrative costs.

Requires the Secretary to determine in September of each year, beginning in 1990, the aggregate amount of the increase in drug premiums collected or received during the previous year, the total benefits and administrative costs paid from the Part B trust fund during the previous year for covered outpatient drugs and related administrative costs, and whether the premiums were greater or less than 75 percent of the total paid from the Part B trust fund for drugs. Provides that if the Secretary determines that there was a surplus or deficit in the previous year, the monthly actuarial rate for covered outpatient drugs for the succeeding calendar year must be adjusted by the amount of the surplus or deficit.

If the drug premium increase is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

Requires the Secretary in September of each year beginning with 1989 to determine, for purposes of calculating the prescription drug factor used to adjust the supplemental premium yearly, the total monthly drug premium increases estimated to be collected or received in the succeeding year. The calculation is to be made as if the monthly actuarial rate (without regard to any adjustment for surplus or deficit in the previous year) were substituted for the basic monthly drug premium increase.

(2) Limit on Drug Benefit Premium Amount.—Provides a limit on the basic monthly drug premium amount as follows: not to exceed $3.40 in 1990, and in 1991 and subsequent years, not to exceed 120 percent of the basic monthly drug premium increase for months in the preceding year.

(3) Definitions.—No provision.

(4) Report on Projected Excess Premium Increases.—Requires the Secretary to report to Congress in May of each year beginning with 1990 concerning whether the Secretary anticipates that the monthly actuarial rate for the drug benefit for the succeeding year will exceed the limit on the basic monthly drug premium increase for that year. If so, the Secretary is required to include in the report recommendations for changes in policies under Part B sufficient to reduce Part B expenditures for covered outpatient drugs for the succeeding year so that the monthly actuarial rate (as reduced by such expenditure reductions) will not exceed the limit on the basic monthly drug premium amount for the year.

(d) Premium for In-Home Care Benefit.—

(1) Premium Amount.—Requires the Secretary, during September of 1988, 1989, and 1990, to determine (1) the total benefits and related administrative costs estimated to be paid from the Part B trust fund in the succeeding calendar year for in-home care, and (2) a monthly actuarial rate for in-home care applicable in the succeeding calendar year. The monthly actuarial rate, subject to the adjustment described below, is an amount the Secretary estimates would be necessary so that the aggregate amount of the increase in premiums collected or paid for the year will equal 100 percent of the total benefits and administrative costs paid from the Part B trust fund.

Requires the Secretary in September of 1990, to determine the aggregate amount of the monthly premium increases collected or received for the in-home care benefit during the previous year, the total benefits and administrative costs which were paid in the previous year from the Part B trust fund for in-home care, and whether the amount of the premiums is greater or less than 100 percent of the total costs.

Provides that if the Secretary determines that there was a surplus or deficit in 1989, the Secretary must adjust the monthly actuarial rate otherwise determined for in-home care for 1991 to reduce or increase the aggregate amount of the monthly premium increase accordingly.

Provides that the monthly Part B premium of each individual enrolled in Part B for each month in a year after December 1988 and before January 1992 will be increased by the monthly actuarial rate for that year for the in-home care benefit, except that if the increase is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

(2) Limit on In-Home Care Benefit Premium Amount.—Provides that the increase in the monthly premium for the in-home benefit may not exceed in 1989, $0.30; in 1990, $0.50; and in 1991, 120 percent of the monthly premium increase in 1990. If the monthly actuarial rate for 1991 exceeds 120 percent of the monthly premium increase in 1990, the Secretary is required to decrease the maximum number of hours of in-home care in 1991 by such an amount that will assure that the aggregate amount of the monthly premium increase collected or paid for 1991 for all enrollees is equal to the total benefits and administrative costs estimated to be paid from the Part B trust fund in 1991 for in-home care.

Provides for certain conforming amendments.

(e) Monthly Premiums for Residents of U.S. Commonwealths and Territories.—

(1) Part B Premium.—Provides a separate Part B premium calculation for Medicare beneficiaries who are residents of a commonwealth or territory, defined as Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands.

For such residents during a month in 1988 or 1989, their monthly Part B premium otherwise determined is increased by one-twelfth of the product of: the average per capita additional benefits and related administrative costs due to the amendments in this bill, excluding benefits under section 202 (prescription drugs and insulin) and section 203 (in-home care), as determined by the Secretary during September of the previous year, times the following ratio. The ratio (determined by the Secretary for that commonwealth or territory during September 1987) is (1) the per capita actuarial value of Medicare benefits for residents of the commonwealth or territory who are entitled to both Part A and Part B benefits, divided by (2) the per capita actuarial value of the Medicare benefits for residents of the United States who are entitled to both Part A and Part B benefits.

Provides that for 1990, the monthly Part B premium for such residents would be the monthly Part B premium otherwise determined for months in 1989, plus the increase for 1989 described above, increased by the Social Security COLA percentage increase for 1990.

For succeeding years, the Part B premium is the previous year's monthly amount, increased by the Social Security COLA for that year.

Provides that if any premium amount is not a multiple of 10 cents, it is rounded to the nearest multiple of 10 cents.

(2) Drug Premium for Residents of Commonwealth or Territories.—Provides that for residents of a commonwealth or territory, the monthly Part B premium is increased by the product of 133⅓ percent of the basic monthly drug premium for that year, times the ratio determined by the Secretary for that commonwealth or territory. The ratio is the per capita actuarial value of Medicare benefits for residents of the commonwealth or territory entitled to Medicare Part A and Part B, divided by the per capita actuarial value of Medicare benefits for residents of the United States entitled to Medicare Part A and Part B.

(f) Monthly Premiums for Individuals Enrolled Under Part B But Not Entitled to Benefits Under Part A.—

(1) Part B Premium.—Provides a separate Part B premium calculation for Part B only individuals. Defines such persons as those who: (1) are not residents of a commonwealth or territory as defined in the bill; (2) are entitled to Part B benefits; and (3) are not entitled to, or on application without payment of an additional premium would not be entitled to, benefits under Part A.

Provides that in 1989, the monthly Part B premium is the monthly Part B premium otherwise determined under current law, increased by one-twelfth of the per capita additional benefits and related administrative costs that the Secretary estimates will be paid under Part B during 1989 because of the amendments made by this bill, excluding benefits under section 202 (prescription drugs and insulin) and section 203 (in-home care).

Provides that in 1990, the monthly Part B premium is the 1989 monthly premium otherwise determined under section 1839(a)(3), plus the increase for 1989 determined above, increased by the percentage increase in the Social Security COLA for 1990. For succeeding years, provides that the monthly Part B premium is the amount for months in the previous year increased by the percentage increase in the Social Security COLA for that year. If any amount is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

(2) Drug Premium for Part B Only Individuals.—Provides that for individuals enrolled under Part B but not entitled to benefits under Part A, the monthly Part B pre-

mium will be increased by 133⅓ percent of the basic monthly drug premium increase for that year.

(g) Transfers to Catastrophic Health Insurance Trust Fund.—No provision.

Effective date.—Provides that the transitional adjustment described in (b), above, applies to monthly premiums for months beginning with January 1991; (c) (related to premiums for the prescription drug benefit) applies to monthly premiums for months beginning with January 1989; (d) (related to premiums for in-home care) applies to monthly premiums for months beginning with January 1989 and ending with December 1991; (e) (related to premiums for residents of commonwealths and territories) applies to monthly premiums for months beginning with January 1988; and (f) (related to premiums for Part B only individuals, and for the conforming amendments) applies to monthly premiums for months beginning with January 1989.

Senate amendment

(a) In General.—Provides for increases to the monthly Part B premium to finance the catastrophic coverage benefit (beginning in 1988) and the prescription drug benefit (beginning in 1990).

Provides that the Part B premium would be calculated as under current law, except that the monthly actuarial rate for aged enrollees and for disabled enrollees would be referred to as the monthly actuarial basic rate for each group, respectively, and that such rate would exclude the costs of comprehensive catastrophic coverage benefits (defined as those payable by Medicare as a result of the enactment of sections 2(a), 3(a), 7(b), 7A, and 11 of this bill) and related administrative costs.

Suspends hold harmless provision for 1988 and reimposes hold harmless for 1989 and thereafter.

(b) Catastrophic Coverage Premium.—

(1) Premium Amount.—Provides that the monthly catastrophic coverage premium amount for 1988 for individuals covered by Part A and Part B of Medicare is $4.

(2) Indexing.—Provides that the monthly coverage premium amount for succeeding calendar years is the previous year's amount, increased by the following percentage. The percentage equals:

(a) the percentage (if any) necessary to increase the estimated total revenues collectible from the monthly catastrophic coverage premiums and the supplemental premiums (determined without regard to the drug premium rate adjustment amount) for the succeeding year by the amount by which the estimated total catastrophic coverage benefits and related administrative costs (including administrative costs for outpatient drug coverage) for such succeeding year exceed such revenues, plus

(b) a percentage related to establishing and maintaining a contingency or a reserve fund.

Provides that the percentage increase for a contingency or a reserve fund for a calendar year before 1993 is the percentage the Secretary determines to be necessary to ensure that before 1993 there is established a contingency fund equal to 20 percent or (if greater) a reserve fund equal to 5 percent. For calendar years after 1992, the percentage is the percentage necessary to maintain either of such funds at such percentages.

Defines "contingency fund" for any calendar year as the percentage determined by dividing (1) the amount of unexpended catastrophic coverage premiums and supplemental premiums (without regard to the drug premium rate adjustment amount) as determined at the end of such year, by (2) the actuarial comprehensive catastrophic benefit amount for the succeeding calendar year.

Defines "reserve fund" for any calendar year as the percentage determined by dividing (1) the amount of unexpended and unobligated catastrophic coverage premiums and supplemental premiums (without regard to the drug premium rate adjustment amount) as determined at the end of such year, by (2) the actuarial comprehensive catastrophic benefit amount for the succeeding calendar year.

Provides that if any monthly premium amount is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

Defines "catastrophic coverage benefits" as the benefits payable by Medicare because of the enactment of the catastrophic coverage provisions in section 2(a), 3(a), 4 and 7(b) of this bill.

Defines "actuarial comprehensive catastrophic benefit amount" for any calendar year as the amount that the Secretary estimates will equal the total of the catastrophic coverage benefits (and related administrative costs) that will be payable from the Federal Catastrophic Health Insurance Trust Fund in that calendar year for Part B enrollees.

Provides that for calendar years after 1988, for enrollees who were entitled to Social Security benefits for November and December of the preceding year and who have the Part B premium deducted from their Social Security checks for December and January, their monthly Part B premium cannot be increased due to the catastrophic benefits if such increase would reduce their Social Security Benefits payable for that January below the benefits payable for that December (after the deduction of the Part B premium).

(c) Premium for Prescription Drug Benefit.—Amends Section 1839 (amount of the Part B premium) to provide that the Part B premium be increased by the monthly catastrophic drug benefit premium amount for the prescription drug benefit:

(1) Premium Amount.—Provides that the monthly catastrophic drug benefit premium amount for any calendar year after 1989 for individuals who are covered by Part B will be an amount equal to 50 percent (40 percent for calendar year 1990 and 45 percent for calendar year 1991, as provided in section 27 of the bill) of the per enrollee actuarial catastrophic drug benefit amount for such year, plus (a) in calendar year 1990, an amount necessary to cover 7.5 percent of the per enrollee actuarial catastrophic drug benefit amount for 1991 (for a contingency fund), and (b) for calendar years after 1990, an amount (when added to any unexpended amount in the contingency fund for the previous year) necessary to cover 7.5 percent of the per enrollee actuarial catastrophic drug benefit amount for such calendar year.

Provides in section 27 of the bill that for calendar years after 1990, if the Secretary determines that (a) it is appropriate to increase the contingency fund to assure a smooth transition from cash outlays accounting to costs incurred accounting over a multiyear period, and (b) the monthly catastrophic drug benefit premium amount for that year is less than the drug premium limit, the Secretary is authorized to increase the drug premium by no greater than 15 percent, not to exceed the drug premium limits in the bill. Once the transition has been completed, requires the Secretary to maintain the drug benefit contingency fund on the basis of such cost incurred accounting method.

Provides that if the monthly drug benefit premium amount is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

(2) Limit on Drug Benefit Premium Amount.—Provides that in calendar years after 1991, the monthly catastrophic drug benefit premium amount cannot exceed $0.90 for 1990 (as provided in section 27 of the bill), $2.00 for 1991, $3.50 for 1992, $4.05 for 1993 (as provided in section 27 of the bill), and for any succeeding year, the amount for the preceding year increased by the percentage by which the Part B beneficiary drug expenditure amount for the 12-month period ending in August in that preceding year exceeds the Part B beneficiary drug expenditure amount for the 12-month period ending in August in the second preceding year.

(3) Definitions.—Defines "catastrophic drug coverage benefits" to mean benefits payable under Part B of Medicare because of the enactment of section 7A (coverage of home intravenous drug therapy) and section 11 (coverage of catastrophic expenses for prescription drugs) of this bill.

Defines "per enrollee actuarial catastrophic drug benefit amount" to mean, with respect to a year, an amount equal to the actuarial catastrophic drug benefit amount for the year divided by the total number of individuals that the Secretary estimates will be enrolled under Part B for the year.

Defines "actuarial catastrophic drug benefit amount" to mean, with respect to a calendar year, the amount that the Secretary estimates will equal the total of the catastrophic drug coverage benefits (and related administrative costs) that will be paid in cash outlays from the Federal Catastrophic Drug Insurance Trust Fund in such calendar year for Part B enrollees.

Defines "Part B beneficiary drug expenditure amount" to mean, with respect to a 12-month period, the average per capita amount expended for a period on outpatient prescription drugs by Part B enrollees (other than such enrollees enrolled in a health maintenance organization, a competitive medical plan, or a health care prepayment plan).

(4) Report on Projected Excess Premium Increases.—No provision. (See section 11 of the Senate amendment relating to Secretarial authority to institute cost control measures to assure that the drug premiums do not exceed the premium limits.)

(d) Premium for In-Home Care Benefit.—No provision.

(e) Monthly Premiums for Residents of U.S. Commonwealths and Territories.—No provision.

(f) Monthly Premiums for Individuals Enrolled Under Part B But Not Entitled to Benefits Under Part A.—

(1) Part B Premium.—Provides that the monthly castastrophic coverage premium amount (which is added to the monthly Part B premium otherwise determined) for individuals who are covered by Part B but not by Part A is an amount that bears the same ratio to the monthly catastrophic coverage premium amount for individuals covered by both Part A and Part B of Medicare, as the actuarial Part B catastrophic benefit amount for that year bears to the actuarial comprehensive catastrophic benefit amount for that year.

Defines the actuarial Part B catastrophic benefit amount for a calendar year as the amount the Secretary estimates will equal the catastrophic coverage benefits and related administrative costs payable from the Federal Catastrophic Health Insurance Trust Fund for that year with respect to such enrollees (excluding any amounts attributable to changes under Sections 2(a), 3(a), and 7(b) of this bill in services performed and related administrative costs incurred in that year for individuals covered under Part A).

Provides that if the monthly premium amount is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents.

(2) Drug Premium for Part B Only Individuals.—No provision. (The drug premium for Part B only individuals is calculated in the same manner as for Medicare beneficiaries covered by both Part A and Part B).

(g) Transfers to Catastrophic Health Insurance Trust Fund.—Provides that there will be transferred from time to time from the Part B trust fund to the Federal Catastrophic Health Insurance Trust Fund amounts from Part B premiums that are attributable to the catastrophic coverage changes in services performed and related administrative costs incurred in a calendar year (under sections 2(a), 3(a), and 7(b) of this bill).

Provides that there will be transferred from time to time from the Part B trust fund to the Federal Catastrophic Drug Insurance Trust Fund amounts from the catastrophic drug benefit premiums.

Effective date.—Applies to premiums for months beginning after December 31, 1987.

Conference agreement

(a) *In General.*—The conference agreement provides for increases to the monthly Part B premium otherwise determined to finance the catastrophic coverage benefit and the prescription drug benefit. For 1993, revenues from the additional flat Part B premium are estimated to provide approximately 37 percent of the financing for the catastrophic coverage and prescription drug benefits, with the supplemental premium (see section 7, above) providing an estimated 63 percent of revenues. After 1993, the conferees intend that the proportion contributed by the flat premium will be 37 percent; however, the proportion could vary as a result of limits on the allowable change in the supplemental premium.

The conference agreement requires the Secretary of Health and Human Services and the Secretary of the Treasury jointly to (1) publish in the Federal Register, by not later than July 1 of each year beginning with 1993, a notice of the proposed preliminary catastrophic coverage and prescription drug monthly premiums for the following year; (2) report to Congress by no later than September 1 of each year the final premiums for the following year; and (3) publish in the Federal Register during the last three days in September of each year the final premiums for the following year.

The flat premium is adjusted to account for any changes in the supplemental premium resulting from limits specified in this Act (see section 7 for a description of these limits). The adjustment to the flat rate premium is calculated in three steps. First, the current year actual supplemental premium rate is subtracted from what the supplemental premium rate would have been if it had not been adjusted by the limits. This difference is known as either the excess or the shortfall rate. Then, the total supplemental premiums imposed in the second preceding year are compared to the total supplemental premiums as adjusted by the excess or shortfall rate. Finally, this difference is adjusted by the percentage by which the per capita catastrophic coverage premium liability (see section 7) for the second preceding year exceeds or is less than such liability for the fourth preceding year. The resulting amount is then used to establish the new per person monthly flat premium.

The conference agreement provides that the sum of the additional monthly premiums for catastrophic coverage and prescription drug coverage for months after 1993 cannot be less than the sum of these additional premiums for months in the preceding year. If this combined monthly premium is affected by the application of this provision, the premium increase is allocated between the catastrophic coverage premiums and the prescription drug premiums in the same proportion as if this provision had not applied.

If any flat premium increase for a month is not a multiple of 10 cents, it will be rounded to the nearest multiple of 10 cents. If so rounded, premiums will be allocated between the catastrophic coverage monthly premium and the prescription drug monthly premium on the basis of their respective amounts determined without regard to any rounding.

The conference agreement includes the Senate amendment regarding the "hold harmless" provision with a modification that the provision applies to both social security benefits and Railroad Retirement benefits and that such benefits may not decrease due to an increase in the Part B premium in any year.

(b) *Catastrophic Coverage Premium.*—(1) Premium Amount.—The conference agreement provides that the monthly catastrophic coverage premium will be as follows for months occurring in 1989 through 1993:

1989	$4.00
1990	4.90
1991	5.46
1992	6.75
1993	7.18

(2) *Indexing.*—The conference agreement provides that for months in a year after 1993, the catastrophic coverage monthly premium will be the preceding year's premium (without regard to any increase in the premium because it was less than the previous years' premium or because of any adjustment due to limits on the supplemental premium), adjusted by a percentage representing the sum of: (i) the outlay premium percentage, and (ii) the reserve account percentage.

The outlay-premium percentage is the percent by which the per capita catastrophic outlays in the second preceding year exceed (or are less than) such outlays in the third preceding year. An adjustment is provided for changes in the Consumer Price Index (CPI) as follows:

If the CPI's inflation rate increased from the third to the second preceding year, the outlay-premium percentage is adjusted by adding 50 percent of the excess (if any) of (i) the excess of the CPI inflation rate in the second over the third preceding year, over (ii) one percentage point. If the CPI inflation rate decreased from the third to the second preceding year, the outlay-premium percentage is adjusted by subtracting 50 percent of the excess (if any) of (i) the excess of the CPI inflation rate in the third over the second preceding year, over (ii) one percentage point. For this purpose, the CPI inflation rate for any year is defined as the percentage by which the CPI for May of such year exceeds such index for May of the preceding year.

The reserve account percentage for any calendar year is the percentage change in the catastrophic coverage monthly premium for the second preceding year which the Secretary determines would have increased (or decreased) the flat premiums for such year by an amount equal to 37 percent of the shortfall (or surplus) in the Medicare Catastrophic Coverage Account (the "Account") in such year. The shortfall (or surplus) in the Account for any calendar year is determined as the amount by which 20 percent of the catastrophic outlays from the Account in the second preceding year exceed (or are less than) the Account balance at the end of such year (taking into account falt and supplemental premium increases attributable to reserve percentages in prior years that have not yet been credited to the Account).

(c) *Premium for Prescription Drug Benefit.*—The conference agreement provides that the monthly prescription drug premium will be as follows for months occurring in 1991 through 1993:

1991	$1.94
1992	2.45
1993	3.02

For months in a year after 1993, the prescription drug premium will be the preceding year's premium, (without regard to any increase because the premium was less than the previous year's premium or because of any adjustment due to the limits on the supplemental premium), adjusted by a percentage determined in a manner similar to that for the monthly catastrophic coverage premium, with the following changes: (1) in determining the outlay percentage, prescription drug outlays rather than catastrophic coverage outlays are used; (2) in determining the reserve percentage, the Federal Catastrophic Drug Insurance Trust Fund balance (see section 16, below) is used rather than the Account balance; (3) the reserve percentage is 75 percent for 1994, 50 percent for 1995, and 25 percent for 1996 and 1997, instead of 20 percent; and (4) the outlay percentage is deemed to be zero for calendar years before 1998.

(d) *Premium for In-Home Care Benefit.*—The conference agreement does not include the House provision. Revenues to fund the in-home (respite care) benefit are included in the monthly and supplemental catastrophic coverage premiums.

(e) *Monthly Premiums for Residents of U.S. Commonwealths and Territories.*—The conference agreement includes the House provision, with the following amendments. For individuals who are residents of Puerto Rico or of another U.S. commonwealth or territory (including the U.S. Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands), the monthly Part B premium otherwise determined would be increased by a catastrophic coverage monthly premium and a prescription drug monthly premium.

For months in 1989, the catastrophic coverage monthly premium is $1.30 for a resident of Puerto Rico and $2.10 for a resident of another U.S. commonwealth or territory. For months in 1990, the catastrophic coverage monthly premium is $3.56 for a resident of Puerto Rico and $5.78 for a resident of another U.S. commonwealth or territory.

For months in a subsequent year, the catastrophic coverage monthly premium is the resident's preceding year's premium increased by the Secretary's estimate (in September of that preceding year) of the percentage increase in the per capita catastrophic outlays from the Catastrophic Account for the year over such outlays for the preceding year.

For months in 1990, the prescription drug monthly premium is $0.14 for a resident of Puerto Rico and $0.22 for a resident of another U.S. commonwealth or territory. For months in 1991, the prescription drug monthly premium is $1,21 for a resident of Puerto Rico and $1.93 for a resident of another U.S. commonwealth or territory.

For months in a subsequent year, the prescription drug monthly premium is the resident's preceding year's premium increased by the Secretary's estimate (in September of that preceding year) of the percentage increase in the per capita prescription drug outlays from the Federal Catastrophic Drug Insurance Trust Fund for the year over such outlays for the preceding year.

The Secretary is required to report to Congress, in 1993, on the appropriateness of the level of the Part B premium increases for residents of Puerto Rico and of other U.S. commonwealths and territories.

(f) *Monthly Premiums for Individuals Enrolled Under Part B But Not Entitled to Benefits Under Part A.*—The conference agreement includes the House provision, with amendments. The agreement provides that for individuals who are entitled to Part B of Medicare but are not entitled to Part A, or would not be entitled to Part A but for payment of the Part A premiums, and who are not residents of a commonwealth or territory, the monthly Part B premiums will be determined as follows. The monthly Part B premium otherwise determined will be increased by a catastrophic coverage monthly premium and a prescription drug monthly premium.

For months in 1990, the catastrophic coverage monthly premium is $8.57, and for months in a subsequent year the premium is one-twelfth of the average actuarial expenses that the Secretary estimates (during the previous September) will be incurred for benefits and administration costs attributable to Part B for which outlays may be made from the Medicare Catastrophic Coverage Account during the year.

The prescription drug monthly premium is $0.53 for months in 1990, $4.61 for months in 1991, and for months in a subsequent year the premium is one-twelfth of the average actuarial expenses that the Secretary estimates (during the previous September) will be incurred for benefits and administration costs attributable to Part B for which outlays may be made from the Federal Catastrophic Drug Insurance Trust Fund during the year.

(g) *Transfers to Catastrophic Health Insurance Trust Fund.*—The conference agreement does not include the Senate amendment. The catastrophic coverage monthly premium is credited to the Medicare Catastrophic Coverage Account and transferred to the SMI Trust Fund.

(h) *Conforming Amendments.*—The conference agreement provides for certain conforming amendments, including (1) those to disregard the receipts and outlays attributable to changes made by this Act when determining (i) the monthly actuarial rate used to establish the Part B premium for aged and disabled beneficiaries, and (ii) the appropriate contingency margin for the Part B trust fund; (2) a provision to disregard the flat and supplemental catastrophic coverage and prescription drug premiums when computing appropriations to the Part B trust fund from the Treasury; and (3) those authorizing payments from the Federal Catastrophic Drug Insurance Trust Fund to organizations with risk-sharing contracts and establishing a method for allocating payment to such organizations from the Part A, Part B, and the Federal Catastrophic Drug Insurance Trust Funds.

Effective Date.—The conference agreement applies (except as otherwise specified in such amendments) to monthly premiums for months beginning with January 1989.

16. Establishment of Federal Catastrophic Drug Insurance Trust Fund (Section 6A of Senate Amendment)

Present law

A separate trust fund exists in the Treasury of the United States for each part of the Medicare program: the Federal Hospital Insurance Trust Fund (Part A) and the Federal Supplementary Medical Insurance Trust Fund (Part B).

The Part A trust fund includes annual deposits of the hospital insurance taxes collected from employers, employees, and the self-employed, and the monthly Part A premiums from individuals not otherwise eligible for Part A. The Part B trust fund includes deposits of the monthly Part B premiums paid by or on behalf of Part B enrollees, and contributions by the Federal Government from general revenues.

Section 1841 of the Social Security Act applies to the Federal Supplementary Medical Insurance Trust Fund as follows: Section 1841(b) creates and specifies the duties of a board of trustees for the trust fund; section 1841(c) provides for the investment of certain trust fund funds; section 1841(d) authorizes the selling of certain obligations acquired by the trust fund; section 1841(e) provides for the crediting of interest on or proceeds from the sale or redemption of any obligations held by the trust fund; section 1841(f) provides for periodic transfers to the trust fund from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Railroad Retirement Account; section 1841(g) provides for payments from the trust fund for Part B benefit payments and related administrative costs; section 1841(h) provides for payment from the trust fund for costs incurred by the Office of Personnel Management in deducting Part B premiums from Federal annuities; and section 1841(i) provides for payment from the trust fund for certain costs incurred by the Railroad Retirement Board.

House bill

No provisions.

Senate amendment

Creates on the books of the Treasury of the United States a trust fund known as the Federal Catastrophic Drug Insurance Trust Fund.

Provides that such trust fund consists of (1) any gifts and bequests made to the trust fund or to the Department of Health and Human Services for the benefit of the trust fund or any activity financed by the trust fund, and (2) the following amounts transferred to such trust fund: (a) drug benefit premiums transferred from the Part B trust fund, and (b) the drug premium rate adjustment component of the Medicare supplemental premium transferred from the general fund of the Treasury.

Provides that subsections (b) through (i) of section 1841 of the Social Security Act apply to such trust fund in the same manner as they apply to the Part B trust fund.

Requires that all Medicare payments for the home intravenous drug therapy benefit and the prescription drug benefit be made from this trust fund.

Effective date.—Applies to items and services furnished after, and premiums for months beginning after, December 31, 1987.

Conference agreement

The Conference agreement generally follows the Senate amendment. All payments for benefits and administrative costs relating to covered outpatient drugs are to be made from the CDI Trust Fund. The CDI Trust Fund has no borrowing authority.

Receipts attributable to the supplemental prescription drug premium rate are appropriated to the CDI trust fund. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the CDI trust fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maximum supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

The Secretary of HHS shall transfer premiums attributable to the prescription drug monthly premium directly to the CDI trust fund rather than through the SMI Trust Fund.

The Secretaries of HHS and Treasury jointly shall: (1) not later than July 1 of 1993 and each year thereafter, announce the preliminary monthly and supplemental prescription drug premiums for the following year; (2) not later than July 1 of 1992 and each year thereafter, publish in the Federal Register the outlays from, and the year-end balance in the CDI trust fund for the preceding year; (3) during the last 3 days of September of 1993 and each year thereafter, publish in the Federal Register the monthly prescription drug premiums for the following year; and (4) not later than October of 1993 and end each year thereafter, announce the supplemental prescription drug premium rate for the following year. The Comptroller General shall report to Congress, not later than September 1 of 1992 and each year thereafter, on the completeness and accuracy of the July 1 Federal Register publication, and after 1992, on the July 1 premium announcement.

With respect to the CDI trust fund, "outlays" and "receipts" are defined as gross outlays and receipts within the meaning of the "Monthly Treasury Statement of Receipts and Outlays of the United States Government," as published by the Treasury Department.

Effective date.—The CDI trust fund provisions are effective after December 31, 1988.

17. Establishment of Federal Catastrophic Health Insurance Trust Fund (Section 6B of Senate Amendment)

Present law

A separate trust fund exists in the Treasury of the United States for each part of the Medicare program: the Federal Hospital Insurance Trust Fund (Part A) and the Federal Supplementary Medical Insurance Trust Fund (Part B).

The Part A trust fund includes annual deposits of the hospital insurance taxes collected from employers, employees, and the self-employed, and the monthly Part A premiums from individuals not otherwise eligible for Part A. The Part B trust fund includes deposits of the monthly Part B premiums paid by or on behalf of Part B enrollees, and contributions by the Federal Government from general revenues.

Section 1841 of the Social Security Act applies to the Federal Supplementary Medical Insurance Trust Fund as follows: Section 1841(b) creates and specifies the duties of a Board of Trustees for the trust fund; section 1841(c) provides for the investment of certain trust fund funds; section 1841(d) authorizes the selling of certain obligations acquired by the trust fund; section 1841(e) provides for the crediting of interest on or proceeds from the sale or redemption of any obligations held by the trust fund; section 1841(f) provides for periodic transfers to the trust fund from the Federal Old-Age and Survivors Insurance trust fund, the Federal Disability Insurance trust fund, and the Railroad Retirement Account; section 1841(g) provides for payments from the trust fund for Part B benefit payments and related administrative costs; section 1841(h) provides for payment from the trust fund for costs incurred by the Office of Personnel Management in deducting Part B premiums from Federal annuities; and section 1841(i) provides for payment from the trust fund for certain costs incurred by the Railroad Retirement Board.

House bill

No provision.

Senate amendment

Creates the books of the Treasury of the United States as a trust fund known as the Federal Catastrophic Health Insurance Trust Fund.

Provides that such trust fund consists of (1) any gifts and bequests made to the trust fund or to the Department of Health and Human Services for the benefit of the trust fund or any activity financed by the trust fund, and (2) the following amounts transferred to such trust fund: (a) amounts from the Part B premiums attributable to the catastrophic benefit changes (excluding the drug benefit) in this bill, transferred from the Part B trust fund, and (b) the aggregate monthly supplemental premiums (excluding the drug premium rate adjustment) plus the amount the Secretary of the Treasury estimates Federal outlays are reduced under Medicaid because of the catastrophic provisions of this bill (after taking into account the provisions of section 14 of the bill related to Medicaid savings and State requirements), transferred from the general fund of the Treasury.

Provides that subsections (b) through (i) of section 1841 of the Social Security Act apply to such trust fund in the same manner as they apply to the Part B trust fund.

Requires that all Medicare payments for the catastrophic benefits in sections 2(a), 3(a), 4, and 7(b) of this bill be made from this trust fund.

Effective date.—Applies to items and services furnished after, and premiums for months beginning after, December 31, 1987.

Conference agreement

(a) *Medicare Catastrophic Coverage Account.*—The conference agreement does not include the Senate amendment. A separate Medicare Catastrophic Coverage Account (the "Account") is established on the books of the Treasury of the United States, to be maintained by the Secretary of the Treasury.

No funds are transferred into or out of the account. The principal purpose of the Account is to index the monthly and supplemental catastrophic coverage premium rates and to assure that over time revenue from these premiums are at least as large as the outlays from the Parts A and B trust funds attributable to the Medicare Catastrophic Coverage Act of 1988. (See discussion of premium indexing under section 7 above.)

Under rules prescribed by the Secretary of HHS, the Account is to be debited for catastrophic outlays. Catastrophic outlays are defined as outlays from the HI and SMI trust funds estimated to be attributable to the Catastrophic Coverage Act of 1988; HI and SMI outlays are to be separately debited from the Account. The Account is to be credited for monthly catastrophic coverage premiums received in the SMI trust fund and supplemental catastrophic coverage premiums received in the SMI trust fund and the Reserve Fund. Such credits and debits shall be made as of the last date of each month based upon receipts and outlays occurring during such month, as estimated by the Secretaries of HHS and Treasury. Interest (at the rate used for purposes of the SMI trust fund) is credited on any positive average Account balance in a calendar quarter and debited on any negative average Account balance in a calendar quarter. Thus, if the Account balance is negative, the Account is debited for principal and interest deemed to be owed to the SMI trust fund.

The Secretaries of HHS and Treasury jointly shall: (1) not later than July 1 of 1993 and each year thereafter, announce the preliminary monthly and supplemental catastrophic coverage premiums for the following year; (2) not later than July 1 of 1990 and each year thereafter, publish in the Federal Register the outlays debited from, and the year-end balance in the Account for the preceding year; (3) during the last 3 days of October of 1993 and each year thereafter, publish in the Federal Register the monthly and catastrophic coverage premiums for the following year; and (4) not later than October 1 of 1993 and each subsequent year, announce the supplemental catastrophic coverage premium rate for the following year. The Comptroller General shall report to Congress, not later than September 1 of 1990 and each year thereafter, on the completeness and accuracy of the July 1 Federal Register publication and, after 1992, and July 1 premium announcement.

Catastrophic health insurance benefits, other than prescription drug and home intravenous therapy benefits, are paid out of the existing medicare Parts A and B trust funds.

Receipts attributable to the supplemental catastrophic coverage premium rate, which are not otherwise appropriated to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (the "Reserve Fund"), are appropriated to the SMI trust fund. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the SMI trust fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maximum supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

The Secretary of HHS shall transfer receipts from the monthly catastrophic coverage premium to the SMI trust fund in the same manner as the existing Part B monthly premium.

These supplemental and monthly catastrophic coverage premiums are intended to increase Federal government receipts by the cost of catastrophic coverage benefits (plus a contingency margin).

No additional revenues are transferred to the Part A trust fund.

Effective date.—The Account is effective after December 31, 1988.

(b) *Federal Hospital Insurance Catastrophic Coverage Reserve Fund.*—To prevent an adverse effect on the HI trust fund balance, a new trust fund, to be known as the "Federal Hospital Insurance Catastrophic Coverage Reserve Fund," (the "Reserve Fund") is established on the books of the Treasury of the United States. The Conferees anticipate that Congress may at some future time transfer funds from the Reserve Fund to the HI trust fund to bolster the solvency of the trust fund. No expenditures from the Reserve Fund are permitted.

The rules for managing the Reserve Fund generally are similar to the rules that apply to the SMI trust fund.

Beginning in 1989, supplemental catastrophic coverage premiums are appropriated to the Reserve Fund, but not exceeding the amount of outlays from the HI trust fund that are debited against the Account. The Secretary of the Treasury is to transfer these appropriated amounts from the general fund to the Reserve Fund not less frequently than monthly, and at the close of the calendar year, determined on the basis of estimates; adjustments are made in subsequent transfers to take account of estimating errors. For individuals paying the maximum supplemental premium, receipts are allocated between the supplemental prescription drug and catastrophic coverage premiums pro rata on the basis of the respective premium rates.

The Secretary shall in July 1990 transfer an amount of supplemental catastrophic coverage premiums to the Reserve Fund equal to interest deemed to accrue (at the rate used for purposes of the SMI trust fund) from the time HI outlays are debited from the Account in 1989, until the time an equal amount of supplemental catastrophic coverage premiums are transferred to the Reserve Fund.

Receipts attributable to the supplemental catastrophic coverage premium are first transferred to the Reserve Fund and then, to the extent available, transferred to the SMI trust fund, as described in section 17, above. (Such premium receipts are credited to the Account, whether transferred to the Reserve Fund or the SMI trust fund.)

With respect to the Reserve Fund, "outlays" and "receipts" are defined as gross outlays and receipts within the meaning of the "Monthly Treasury Statement of Receipts and Outlays of the United States Government," as published by the Treasury Department.

Effective date.—The Federal Health Insurance Reserve Fund provisions are effective after December 31, 1988.

18. Trustee Comments on Actuarial Soundness of Basic and Supplemental Catastrophic Benefit Premiums (Section 18 of Senate amendment)

Present law

The Social Security Act currently requires that the Trustees of the Hospital Insurance (HI) and Supplementary Medical Insurance

(SI) trust funds report to the Congress not later than April 1 of each year on the operation and status of the trust funds during the preceding fiscal year and on their expected operation and status during the current fiscal year and the next 2 fiscal years.

House bill

No provision.

Senate amendment

Amends section 1817(b) relating to the HI trust fund and 1841(b) relating to the SMI trust fund by inserting a requirement that the Trustees comment in their annual reports with respect to the extent to which the monthly catastrophic coverage premium and the supplemental premium cover the cost of the catastrophic benefits (as defined in section 1839(g)(2)(C)(i) added by this Act) and related administrative expenses payable from the trust funds.

Effective date.—Effective for trustees' annual reports beginning with those issued for fiscal year 1988.

Conference agreement

Under the Conference agreement, the Trustees annual reports on the HI and SMI trust funds are to identify those receipts and outlays in each trust fund which are deemed to be receipts and outlays in the Medicare Catastrophic Coverage Account (see section 17, above). In addition, the HI report is to include information pertaining to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund.

The trustees of the CDI trust fund and the Account are to report to the Congress, not later than April 1 of each year, on the operation and status of the CDI trust fund and Account during the preceding fiscal year and on their expected operation and status during the current fiscal year and the next two fiscal years.

Effective date.—Effective for Trustees' annual reports beginning with those issued for fiscal year 1989.

19. Treatment of Prepaid Health Plans (Section 207 of House bill; Section 10 of Senate amendment).

Present law

Section 1876 of the Social Security Act, as amended by the Tax Equity and Fiscal Responsibility Act of 1982, provides for Medicare payments to Health Maintenance Organizations (HMOs) and Competitive Medical Plans (CMPs) on either a risk or a cost contracting basis. In general, risk contracting plans are financially responsible for the cost of all benefits their enrollees would otherwise be eligible for under Medicare. Reimbursement of HMOs and CMPs is determined based on estimates of the average adjusted per capita cost (AAPCC) and the adjusted community rate (ACR).

House bill

(a) Adjustment of AAPCC's and Contracts for Risk-Based Eligible Organizations.—Requires the Secretary to: (1) take into account amendments made by this act in estimating the AAPCC under section 1876(a) for eligible organizations with risk sharing contracts under section 1876(a) for portions of contract years occurring after December 31, 1987; (2) modify such contracts, for such portions of contract years, to reflect any adjustments made to the AAPCCs (as required above); and (3) require such organizations to make appropriate adjustments (including adjustments in premiums and benefits) in terms of their agreements with Medicare beneficiaries to take into account the changes in law required by this act.

(b) Provisions Applicable to Organizations Receiving Reasonable Cost Reimbursement.—Specifies that the following new provisions of this act apply to organizations reimbursed on the basis of reasonable costs: Section 201(a)(1) relating to payment for catastrophic benefits; section 202(b)(1)(C) relating to payment for covered out-patient drugs; section 203(c)(3) relating to payment for in-home care.

Requires the Secretary to provide for an appropriate adjustment in Medicare payment amounts to cost-based HMOs for added benefits.

Requires such organizations to assure the Secretary that they will not charge individuals eligible for:

Medicare catastrophic coverage for covered services after the individual has incurred out-of-pocket expenses equal to the catastrophic limit; or

More than 20 percent of reasonable cost of covered drugs plus amounts payable due to deductibile; or

More than 20 percent of reasonable costs of respite services plus an amount payable due to the deductible.

Effective date.—Enactment.

Senate amendment

(a) Adjustment of AAPCC's and Contracts for Risk-Based Eligible Organizations.—Similar provision except requires the Secretay to: (1) modify any AAPCC under section 1876(a) for an eligible organization with a risk-sharing contract to take into account the amendments made by section 2(a) of this bill relating to benefits for hospital inpatient services, section 3(a) relating to deductibles and coinsurance for individuals under parts A and B, section 4 relating to limitations on out-of-pocket expenses, section 7(b) relating to payment for in-home care, section 7A relating to home intravenous drug therapy, and section 11 relating to prescription drugs; (2) modify each such contract for portions of contract years occurring after December 31, 1987 to reflect the modifications made (as required above); and (3) require such organizations to make appropriate adjustments in terms of its agreements with Medicare beneficiaries to take into account such amendments.

(b) Provisions Applicable to Organizations Receiving Reasonable Cost Reimbursement.—No provision. See section 4 of the Senate amendment (Item 9e) relating to limitations on cost sharing.

Effective date.—Enactment.

Conference agreement

(a) *Adjustment of AAPCCs and Contracts for Risk-Based eligible Organizations.*—The conference agreement requires the Secretary to modify contracts under sections 1833 and 1976 for portions of contract years occurring after December 31, 1988. Prepaid plans are required to adjust their benefit packages to take the new benefits into account. The AAPCC will be adjusted to take the new benefits into account under current authority. For provisions describing the treatment of copayments and deductibles when a beneficiary is enrolled in a pre-paid plan reimbursed on a risk basis, see item 9(e).

In assessing the value of benefits under prepaid plans paid on a risk basis the Secretary is required to make a separate actuarial determination for drug benefits and for all other covered benefits.

(b) *Provisions Applicable to Organizations Receiving Reasonable Cost Reimbursement.*—The conference agreement does not include the House provision. For provisions applicable to organizations reimbursed on a reasonable cost basis, see items 9(e), 10(f), and 12(c).

Effective date.—The conference agreement is effective on enactment.

20. Mailing of Notice of Medicare Benefits and Participating Physician Directories (Section 208 of the House bill; Section 9 of Senate amendment)

Present law

Under existing law, there is no requirement for an annual notice to Medicare beneficiaries about the scope of benefits available to them under the Medicare program. Information on Medicare coverage is generally available through the Social Security Administration district offices. As part of the participating physician program created by Public Law 98-369, the Deficit Reduction Act (DEFRA), HHS prepares directories of participating physicians, by area and specialty. These directories are made available in local Social Security offices, through hospitals, and through aging and consumer groups. Also, enrollees are informed by a notice in their Social Security check envelopes that they can obtain a copy free from their Medicare carrier. As of October 1, 1986, all "Explanation of Medicare Benefits" notices sent to beneficiaries on unassigned claims have to include a reminder of the paticipating physician and supplier program.

House bill

(a) Distribution of Notice of Medicare Benefits.—Amends the Medicare statute by adding new section 1804. Section 1804(a) requires the Secretary to distribute annually a notice containing: (1) a clear, simple explanation of the benefits available under Medicare and health care services for which benefits are not available under Medicare; and (2) a description of the limited benefits for long-term care services available under this title and generally available under State plans approved under Medicaid. Requires the notice to be mailed annually to individuals entitled to Medicare Part A or Part B benefits.

(b) Authorization of Funds.—Amends the Medicare statute by adding a new provision (1804(b)) which authorizes, to be appropriated in equal portions from the HI and SMI trust funds, such sums as may be required to provide for the annual publication and distribution of the notice described in (a).

(c) Distribution of Participating Physician Directories.—Amends section 1842(h)(6) of the Medicare law relating to participating physician directories to require that an area directory of participating physicians be sent to each individual enrolled under Part B and residing in that area.

(d) Timing.—Requires the Secretary to provide notice annually.

(e) Consultation Required.—No provision.

Effective date.—First applies to annual rates and directories for 1988. The annual notice would be sent by January 31, 1988, or 3 months after the date of enactment of this legislation.

Senate amendment

(a) Distribution of Notice of Medicare Benefits.—Requires the Secretary to notify each individual who is entitled to benefits under Medicare of: (1) the benefits that are available under the insurance programs established under Medicare (and the major categories of health care that are not covered under those programs); (2) the limitations on payment (including deductibles and

coinsurance amounts) that are imposed under such programs; and (3) the ways in which such limitations differ for individuals who are covered under the program established under Part B and individuals who are not covered under Part B.

(b) Authorization of Funds.—No provision.

(c) Distribution of Participating Physician Directories.—No provision.

(d) Timing.—Requires the Secretary to provide the notice described in (a) when an individual applies for benefits under Part A or enrolls under Part B, and annually thereafter.

(e) Consultation Required.—Requires the notices to be prepared in consultation with groups representing the elderly and with health insurers.

Effective date.—The requirement for notices for new beneficiaries is effective January 1, 1988. The notice to all beneficiaries applies to annual notices beginning for 1988.

Conference agreement

(a) *Distribution of Notice of Medicare Benefits.*—The conference agreement includes the House provision with modifications. The notice must include, in addition, information on Medicare's limitations on payment (including deductible and coinsurance amounts).

(b) *Authorization of Funds.*—The conference agreement does not include the House provision. General authority already exists in Section 201(g)(1)(A) of the Social Security Act to use Part A and Part B Trust Fund amounts for administrative expenses of the Medicare program.

(c) *Notice Concerning Participating Physicians.*—The conference agreement does not include the House provision requiring distribution of participating physician directories, but instead modifies current law requirements for notices to beneficiaries regarding the participation program.

The agreement revises the reminder of the participation program currently required on the explanation of medical benefit (EOMB) notices for unassigned claims. The revised reminder would include: (i) a clear statement of the extra amounts (if any) charged by the physician above the Medicare approved charge; (ii) a brief statement of the advantages of receiving services from a participating physician; and (iii) the carrier's toll-free number with an offer of assistance in obtaining names of participating physicians of appropriate specialty and an offer of a free copy of the appropriate participating physician directory.

The conferees expect that the Secretary will consult closely with groups representing beneficiaries and physicians in developing the notice to assure that it can be easily understood by the elderly and conveys an accurate understanding of program policies.

The conferees expect that the revised reminder would be printed in a prominent type face (where possible) near the beginning of the explanation of medical benefits.

The conference agreement also modifies current requirements for an annual notice to beneficiaries concerning the participating physician program. The revised notice (which would be in the form of a brochure) would be mailed to each beneficiary each year and would contain: (i) a description of the participation program; an explanation of the advantages of obtaining services from a participating physician or supplier; (ii) an explanation of the assistance offered by carriers in obtaining the names of participating physicians and suppliers; and (iii) the local carrier's toll free number for inquiries concerning the program and for requests for free copies of appropriate directories.

The conferees note that the provisions are based on options developed by the Physician Payment Review Commission in its March 1988 report to Congress and are similar to measures used by private insurers to publicize and facilitate the use of their participating physician networks.

(d) *Timing.*—The conference agreement includes the House provision regarding distribution of the annual notice required under subparagraph (a) with an amendment that such notices must also be mailed annually when an individual applies for benefits under Part A or enrolls under Part B.

(e) *Consultation Required.*—The conference agreement includes the Senate amendment.

Effective date.—The conference agreement specifies that the Secretary must first distribute the notice required under subparagraph (a) to beneficiaries not later than January 31, 1989. The revised EOMB notice applies to services furnished on or after January 1, 1989. The revised annual notice regarding the participation program would apply to annual notices beginning with 1989.

21. Benefits Counseling and Assistance for Certain Medicare and Medicaid Beneficiaries (Section 9A of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

(a) Training and Technical Assistance.—Authorizes the Secretary to enter into agreements with private or public nonprofit agencies or organizations for the purpose of training volunteers. These volunteers are to provide counseling to elderly individuals, ages 60 and above, receiving benefits under Medicare or Medicaid with respect to eligibility for such benefits and are to provide assistance in preparing documentation that may be required to receive such benefits. In addition to other specified forms of technical assistance, the Secretary may provide material to be used in making elderly persons aware of the availability of assistance under volunteer assistance programs. The Secretary may also provide technical publications and materials to be used by the volunteers.

(b) Powers of the Secretary.—Authorizes the Secretary: (1) to provide assistance to organizations which demonstrate that their volunteers are adequately trained and competent to render effective benefits counseling and assistance to the elderly; (2) to provide for and assist in the training of such volunteers; (3) to provide reimbursement to volunteers for transportation, meals, and other expenses incurred by them during training or in providing counseling and assistance, and to provide such other support as the Secretary deems appropriate; (4) to provide for the use of services, personnel and facilities of the Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement; and (5) to prescribe such rules and regulations as the Secretary deems necessary.

(c) Employment of Volunteers.—Provides that service as a volunteer under this section shall not be considered Federal employment. Volunteers are not subject to provisions of law relating to Federal employment, except that the volunteers are subject to the prohibition against the unauthorized disclosure of confidential information as if they were Federal employees. Reimbursement for expenses received by the volunteers are exempt from taxation.

(d) Authorization of Appropriations.—Authorizes to be appropriated $2.5 million for fiscal years after 1987.

Effective date.—Enactment.

Conference agreement

(a) *Training and Technical Assistance.*—The conference agreement includes the Senate amendment, with an amendment requiring the Secretary to establish a 3-year demonstration project with a private or public nonprofit agency or organization for the purpose of training volunteers.

(b) *Powers of the Secretary.*—The conference agreement includes the Senate amendment, with a modification that deletes the authority of the Secretary to prescribe rules and regulations deemed necessary to carry out the provisions of this section.

(c) *Employment of Volunteers.*—The conference agreement includes the Senate amendment.

(d) *Authorization of Appropriations.*—The conference agreement includes the Senate amendment, with an amendment authorizing appropriations, in appropriate parts from the HI and the SMI trust funds for fiscal year 1989, 1990, and 1991, such sums as may be necessary to conduct the demonstration project.

Effective date.—The conference agreement is effective for calendar years 1989, 1990 and 1991.

22. Case Management Demonstration Projects (Section 16 of Senate amendment)

Present law

"Case management" is a system under which a designated person or organization has responsibility for overseeing health care services for individuals assigned to the person or organization. Where case management is used, an insurer usually will not pay (or will pay less) for those services that are provided without permission of the case manager. Under current law, there are no requirements for Medicare beneficiaries to receive case management services, and case management is not a covered service under Medicare. Utilization and quality control peer review organizations (PROs) are responsible for reviewing the necessity and quality of services for Medicare beneficiaries.

House bill

No provision.

Senate amendment

(a) Description of Projects.—Requires HHS to establish not less than six demonstration projects under which a PRO agrees to provide case management services to Medicare beneficiaries with selected catastrophic illnesses.

(b) Purpose of Projects.—Specifies that the purpose of the demonstrations is to provide the Secretary and Congress with the information necessary (1) to evaluate the appropriateness of providing case management services under Medicare for individuals with catastrophic illnesses, and (2) to determine the most effective approach to implementing a case management system under the program for such individuals.

(c) Agreement.—Requires the agreement with the PRO to specify (1) the catastrophic illnesses for which case management services will be provided, (2) the payments to be made to the PRO for carrying out the project, and (3) such other terms and condi-

tions as the Secretary and the PRO may agree to.

(d) Waivers.—Requires the Secretary to waive any provisions of Part B of title XI (relating to general provisions and Peer Review) and title XVIII of the Social Security Act (relating to Medicare) that the Secretary determines would prevent the establishment of a demonstration project under this provision.

(e) Duration.—Provides that the demonstration projects shall be conducted for a 1-year period. The Secretary may terminate the project before the end of the year if he determines that the State conducting the project is not in substantial compliance with the terms of the agreement with the PRO.

(f) Information and Reports.—(A) Requires a PRO with an agreement under section (a) to provide the Secretary with such information as the Secretary determines to be needed to evaluate the results of the project conducted by the PRO. (B) Requires the Secretary to submit an interim report based on information derived from the first 6 months of project operations, containing the findings, recommendations and conclusions of the evaluation of the project as described above.

(g) Authorization to Use Certain Funds.—Requires the Secretary to transfer from the HI and SMI trust funds amounts not to exceed $2 million to carry out the demonstration projects. Provides that amounts are to be transferred without regard to amounts appropriated in advance in appropriation acts. Requires payments from the trust funds to be made in such amounts as the Secretary determines to be fair and equitable.

Effective date.—Requires the Secretary to have the demonstrations in place 12 months after enactment. The interim reports are due 6 months from the date on which the demonstrations are initiated.

Conference agreement

(a) *Description of Projects.*—The conference agreement includes the Senate amendment, with an amendment requiring the Secretary to establish 4 demonstration projects under which an appropriate entity agrees to provide case management services to Medicare beneficiaries with selected catastrophic illnesses, particularly those with high costs of health care services. A further amendment requires that at least one of the demonstration projects be conducted by a peer review organization (PRO).

(b) *Purpose of Projects.*—The conference agreement includes the Senate amendment, with an amendment that the demonstration projects are to evaluate the appropriateness of, and determine the most effective approach of, providing case management services for Medicare beneficiaries with high costs of medical care.

(c) *Agreement.*—The conference agreement includes the Senate amendment, with an amendment that the demonstration project agreements must specify the high cost cases to which case management services will be provided.

(d) *Waivers.*—The conference agreeement includes the Senate amendment, with an amendment requiring the Secretary to waive (in addition to provisions of Part B of Title XI of the Social Security Act) any of Medicare's limitations or restrictions on benefits necessary to conduct the demonstration projects.

(e) *Duration.*—The conference agreement includes the Senate amendment, with an amendment that the data collection phase of the demonstration projects will be conducted for a 2-year period, with an additional period of time to write the report and submit it to Congress.

(f) *Information and Reports.*—The conference agreement includes the Senate amendment, with an amendment that the interim report will be based on information derived from the first year of project operations, and the final report will be based on data derived from the projects.

(g) *Authorization to Use Certain Funds.*—The conference agreement includes the Senate amendment, with an amendment requiring the Secretary to transfer, from the HI and the SMI trust funds in proportions the Secretary determines are appropriate, an amount not to exceed $2,000,000 in each of 2 years for administrative costs to carry out the demonstration projects.

Effective date.—The conference agreement requires the Secretary of HHS to establish the demonstration projects within 12 months after the date of enactment.

23. Changes in Certification of Medicare Supplemental Health Insurance Policies (Section 209 of House bill; Section 13 of Senate amendment)

Present law

(a) Establishment of New Medigap Standards.—Under section 1882 of the Social Security Act, insurers who market private insurance policies to fill the gaps in Medicare's coverage may have the policies certified as Medicare supplemental health insurance policies by the Secretary if the policies meet minimum standards. These standards were developed and approved by the National Association of Insurance Commissioners (NAIC) on June 6, 1979, and are incorporated by reference in section 1882 of the Social Security Act. Policies that are certified by the Secretary may be marketed as Medicare supplemental policies. However, if a State has adopted laws and/or regulations at least as stringent as those of the NAIC, policies regulated by the State are deemed to meet Federal requirements.

(b) Required Mailing of Notice.—Section 1882 (e) requires the Secretary to provide to individual Medicare beneficiaries information that will permit them to assess the value of the Medicare supplement policies to them and the relationship of any such policies to benefits under the Medicare program.

(c) Required Submission of Advertising.—There is currently no Federal requirement that insurance companies submit their Medigap advertisements for review to the State Commissioners of Insurance.

(d) Transition for Current Policies.—There is no present law relating to transition periods for current Medigap policies.

(e) Free Look Period.—Under the existing NAIC standards, Medigap policies are required to provide a "free look" period of 10 days for policies sold by mail, during which a policyholder may return the policy and get a full refund of any premium paid.

(f) Reporting of Information Relating to Loss Ratios.—Section 1882(b)(1) provides for loss ratio targets for Medicare supplemental policies that set a goal for the percentage of insurance premiums that must be returned to policyholders in the form of benefits. Medigap policies must be expected to pay benefits at least equal to 60 percent of the earned premiums for individual policies and 75 percent for group policies.

House Bill

(a) Establishment of New Medigap Standards.—

(1) Requires the Secretary to report to Congress not later than 150 days after the date of enactment of this act, on changes that should be made in the requirements of section 1882(c) of the Social Security Act for certification of Medicare supplemental policies to take into account the changes made by this act, and by any other pertinent acts enacted by the first session of the 100th Congress, and by any recommendations developed by the NAIC;

(2) Expresses the sense of Congress that: (A) Congress will promptly act on such recommendations and provide for appropriate changes in the requirements of 1882(c), and (B) States will be expected to adjust their laws in a timely manner to comply with changes in such requirements.

(b) Required Mailing of Notice.—Adds a new provision to section 1882 requiring that in order to meet the requirements for certification as a Medicare supplementary insurance policy, a policy offered in a State and in effect on January 1, 1988 must send a letter by January 31, 1988 to its policyholders who are entitled to Medicare, explaining: (a) the improved benefits resulting from this and other legislation enacted by the first session of the 100th Congress and (b) how these improvements affect the benefits contained in these policies and the premiums for these policies. Applies to Medicare supplemental policies as of February 1, 1988.

(c) Required Submission of Advertising.—Amends section 1882(b) to require that entities issuing Medigap policies submit their advertisements (whether through written, radio or television medium) used (or, at the option of the State, to be used) for the policy in the State, to the State Commissioner of Insurance for his or her review in accordance with State law.

(d) Transition for Current Policies.—

(1) Suspends (with the exception of Medigap policies sold in States described in (2) below) from January 1, 1988 through December 31, 1988, current Federal penalties under section 1882 for selling policies to Medicare beneficiaries which (a) were sold before the date of the enactment of this act, and (b) would not substantially duplicate health benefits to which they are otherwise entitled under Medicare but for the changes made by this act.

(2) Gives additional time to certain States (to be identified by the Secretary) in which penalties will be suspended. These are States which require legislation (other than legislation appropriating funds) in order for Medicare supplemental policies to be changed to avoid a penalty under section 1882, but the legislature of the State is not scheduled to meet in the 1988 legislative session in which such legislation may be considered. The exception in these States extends to the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, for which legislation described above may be considered.

(e) Free Look Period.—No provision.

(f) Reporting of Information Relating to Loss Ratios.—No provision.

Effective dates.—Enactment, except that (b) regarding notices to beneficiaries applies to Medicare supplemental policies as of February 1, 1988, and (c) applies to such policies with respect to advertising used on or after January 1, 1988.

Senate amendment

(a) Establishment of New Medigap Standards.—Amends section 1882 by making conforming changes and adding a new provision

relating to NAIC amendments of its model regulation of Medicare supplemental (Medigap) policies to reflect the changes in law made by this Act:

(1) Provides that if the NAIC revises the existing model standards for Medigap policies within 90 days after enactment, then those standards will apply as the standard for certification, beginning 1 year later.

(2) Specifies that if the NAIC does not amend the standards within 90 days, the Secretary is required to issue Federal model standards for Medigap policies reflecting the changes in law made by this act, within 90 days, to become effective 1 year later.

(3) Specifies that no Medigap policy may be certified by the Secretary, no certification shall remain in effect and no State regulatory program will be found in compliance with Section 1882, unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the amended NAIC Model Regulation or the Federal model standards (as the case may be).

(b) Required Mailing of Notice.—Amends Section 1882(e) to require the Secretary to: (a) inform Medicare beneficiaries (and, to the extent feasible, individuals about to become entitled to Medicare) about current laws that prohibit certain marketing and sales abuses and the manner in which they may report any such action or practice to an appropriate official of HHS and (b) establish a toll-free telephone number for individuals to report suspected violations of the laws relating to Medigap standards. Also requires the Secretary to provide Medicare beneficiaries with a listing of the addresses and telephone numbers of State and Federal agencies and offices where information and assistance relating to Medicare supplemental policies may be obtained.

(c) Required Submission of Advertising.—No provision.

(d) Transition for Current Policies.—No provision.

(e) Free Look Period.—Section 1882(b)(1) is amended to require a uniform 30-day free look period for all Medicare supplemental policies, without regard to the manner in which the purchase of the policy was solicited.

(f) Reporting of Information Relating to Loss Ratios.—Amends section 1882(b)(1) to provide that information with respect to the actual ratio of benefits provided to premiums collected under Medigap policies will be reported to the State on forms conforming to those developed by the NAIC for such purpose, or such ratios will be monitored under the program in an alternative manner approved by the Secretary.

Effective dates.—(a) is effective as provided in the amendment; (b) enactment; changes made by (e) and (f) are effective on the date on which the amended NAIC Model Standards (or Federal Model Standards) become effective under section 1882.

Conference agreement

(a) *Establishment of New Medigap Standards.*—The conference agreement includes the Senate amendment with amendments. The agreement provides for a procedure whereby the current National Association of Insurance Commissioner's (NAIC) model regulation would be amended or replaced as a standard for certification of Medicare Supplemental Insurance Policies. If the NAIC amends the model regulations within 90 days of enactment of this bill, in accordance with requirements in this section then the amended standards would apply as a standard for certification.

The NAIC has made available to the conferees both a model transition regulation, adopted in September 1987 in anticipation of the passage of this bill, and a draft of a new model minimum standards regulation. The conferees believe the transition regulation deals appropriately with the matter of adapting existing, certified policies to the amendments in Medicare made under this Act. The conferees also believe the draft model minimum standards regulation includes many appropriate provisions. The conferees intend and understand that the revised standards will continue to incorporate such provisions, including rules governing matters covered in the existing and draft model standards, such as minimum benefit standards, loss ratios, disclosure requirements and replacement requirements.

The conferees note that the NAIC model transition regulation contains an explicit prohibition on the inclusion of provisions in Medicare supplemental policies which duplicate the benefits covered under Medicare. The conferees believe such an explicit prohibition clarifies the meaning of the current requirements of Section 1882 that supplemental policies may not duplicate Medicare coverage. This amendment requires that the model standards include provisions otherwise necessary to reflect changes in law made by this Act. In enacting this provision, the conferees intend and understand that NAIC will include a similar provision precluding insurers from selling or maintaining Medicare supplemental policies which provide benefits covered by this Act in its final version of the model minimum standards regulation.

The conferees note in particular that Section 5B of the NAIC Transition Regulations provides for (1) a notice to the beneficiary, (2) the filing by the insurer of riders to the policy to eliminate duplication, and (3) the making of an appropriate refund or appropriate premium adjustment for duplicative coverage. The conferees intend and understand that such provisions will be included in the final model regulations. The conferees intend and understand that such appropriate refund or premium adjustments are to be made retroactive to the effective date of the new Medicare benefits enacted in this bill.

The conferees are particularly concerned about beneficiaries not paying for benefits under Medicare supplemental insurance policies that duplicate benefits covered under this Act. The conferees intend not merely to prevent such duplicative coverage from occurring, but also that beneficiaries receive appropriate premium adjustments where this has occurred.

If NAIC does not amend the regulations within 90 days, then the Secretary is directed to promulgate Federal model standards for certification of Medicare supplemental policies to reflect the changes in law made by this Act. Such Federal standards would then be the standards for certification. The conferees intend that such standards would incorporate all matters provided for in the bill and discussed above in this report with respect to the NAIC model standards.

The NAIC model standards (or the Federal model standards, as the case may be) would apply in a State effective on the earlier of (1) the date the State adopts standards equal to or more stringent than the amended NAIC standards (or the Federal standards), or (2) one year after the NAIC (or the Secretary, in the case of Federal standards) first adopts the standards.

The conference agreement also provides that the Secretary, rather than the President, will appoint the four State Commissioners or superintendents of insurance who, together with the Secretary, form the Supplemental Health Insurance Panel.

The conferees note that under this legislation, Medicare coverage of outpatient prescription drugs will begin in January 1991. The conferees do not intend for the enactment of this drug benefit to be construed as requiring current Medicare supplemental policies, which do not otherwise provide coverage for drugs to begin doing so upon enactment. Under the conference agreement, the NAIC (or the Secretary, as the case may be) will determine whether coverage of the drug deductible should be required for certification as a Medicare-certified policy.

(b) *Required Mailing of Notice.*—The conference agreement includes both the House provision and the Senate amendment, with modifications. In States which have enacted the NAIC Transition Regulations, beneficiaries will receive notices from insurers pursuant to the requirements of those regulations. In States which have enacted the final model standards, but not the transition regulations, insurers must send notices to beneficiaries in accordance with the requirements of this provision in order to remain certified. In States which have enacted neither the final model nor the transition regulations, insurers must follow the requirements described in (d) below. The House provision is modified to change each 1988 date to 1989. The Senate amendment is modified to require the Secretary (1) to inform Medicare beneficiaries of how they may report any marketing or sales abuses to HHS or to an appropriate State official, and (2) to publish the toll-free HHS telephone number for individuals to report suspected violations.

(c) *Required Submission of Advertising.*—The conference agreement includes the House provision, with a modification clarifying that the submission of advertisements to the State Commissioner of Insurance (or comparable officer identified by the Secretary) should be in accordance with review or approval as required under State law.

(d) *Transition for Current Policies.*—The conference agreement includes the House provision with amendments. The agreement does not include the provision which waives Federal penalties for knowingly selling policies with duplicative coverage. The agreement provides for the opportunity to sell or maintain certified Medicare supplemental health insurance policies during the period after enactment of the bill in those States which have not adopted standards by January 1, 1989 to reflect the changes in law made by this Act. The agreement provides that for policies sold prior to enactment (but in effect after enactment), a policy is deemed non-duplicative and may be deemed certified if the insurer selling the policy complies with the NAIC Model Transition Regulation by January 1, 1989, as discussed below. For policies sold after the date of enactment, such compliance would be required before the date of sale of the policy.

The conferees specifically intend that as a matter of Federal law, effective January 1, 1989 (for existing policies) or prior to sale (for policies later sold), Medicare supplemental insurance policies no longer include benefits that are provided for under this Act. Further, the conferees intend, that as a matter of Federal law, effective January 1, 1989, insurers whose policies would contain duplicate coverage but for such provision, notify the insured of such change in coverage, of any resulting premium refunds or adjustments, and when such refunds or adjustments will be made. The notice shall include the matters contained in Section 5(B)(1)(a), (b), and (c) of the NAIC model transition regulations and shall be mailed on the later of January 1, 1989 or the date the policy is sold. For this purpose, the insurer would not have to comply with the requirement of Section 5(B) that the notices be in a form approved by the State Insurance Commissioner.

Further, the conferees intend that insurers are required to take all necessary steps to effectuate such refunds or premium adjustments in the most expeditious possible manners including immediately filing any appropriate riders to insurance policies. The conferees specifically intend and understand that all such appropriate refunds or premium adjustments will be made retroactive to January 1, 1989 or the date on which the policy is sold, whichever is earlier.

The conferees understand that insurers offering policies which are guaranteed renewable will conform their policies to prevent duplication of coverage in accordance with the provisions in this Act.

The conference agreement also requires the Secretary to report to Congress in March 1989 and in July 1990 on actions States have taken in adopting standards equal to or more stringent than the NAIC Model Transition Regulation or the amended NAIC model regulation (or Federal model standards).

(e) *Free Look Period.*—The conference agreement includes the Senate amendment.

(f) *Reporting of Information Relating to Loss Ratios.*—The conference agreement includes the Senate amendment.

(g) Prohibiting Misuse of Social Security or Medicare References.—The Conference agreement prohibits the use of the word "Social Security", "Social Security Account", "Social Security System", "Social Security Administration", "Medicare", "Health Care Financing Administration", or any acronym, combination, or variation of such words, and any symbols or emblems of such agencies, in a manner which a person or an organization knew or should have known would convey the false impression that any advertisement or other item is authorized by the Social Security Administration, the Health Care Financing Administration or the Department of Health and Human Services.

The conference agreement authorizes the Secretary to impose civil money penalties of not more than $5,000, or $25,000 in the case of a broadcast or telecast, for violations of this prohibition. The total amount of penalties imposed for multiple violations consisting of substantially identical communications or productions could not exceed $100,000 a year. Those who are assessed penalties would be permitted to request a hearing before an Administrative Law Judge and to appeal thereafter to the U.S. District Court of Appeals. In assessing fines and pursuing violators, the Secretary would be required to coordinate his actions with the Justice Department.

The conferees intend that, to the extent feasible, the Secretary would use informal methods to deal with potential violations prior to initiating action under this provision. Such methods might include a letter which identifies a violation or which points out that the addition of a conspicuously-placed disclaimer of affiliation with the Social Security Administration could avoid the need for action under this provision.

The conferees also intend that the authorities established by this provision should supplement, not substitute for, existing authority of the U.S. Postal Service to take action against misleading and fraudulent references to the Social Security Administration in materials which are mailed.

(h) *Civil Money Penalties for Medigap Violations.*—The conference agreement authorizes civil montary penalties, in every case where only criminal penalties currently apply, for deceptive selling practices relating to Medicare supplemental health insurance (medigap) policies. Violations would be subject to a civil monetary penalty of up to $5,000 per violation.

Effective date.—The conference agreement provides that (a) applies as provided in the section and the Secretary is required to provide for the reappointment of members of the Supplemental Health Insurance Panel by not later than 90 days after the date of enactment. The provisions of (b) requiring the Secretary to provide consumer information apply on enactment; and the provision of (b) requiring health insurers to send informational letters to their policy holders apply to Medicare supplemental policies as of January 31, 1989. (c) applies to Medicare supplemental insurance policies as of January 1, 1989, with respect to advertising used on or after such date. (d) applies as provided in the section. (e) and (f) apply on the date the amended NAIC Model Standards (or Federal model standards) become effective under Section 1882 of the Social Security Act. (g) and (h) are effective on enactment and apply only with respect to violations occurring after enactment.

24. Research on Long-Term Care Services for Medicare Beneficiaries (Section 211 of House bill; Section 15 of Senate amendment)

Present law

(a)-(b) Long-Term Care Services.—Medicare does not cover services required for individuals whose chronic conditions require long-term nursing home or home and community-based services. There is no current requirement that the Secretary provide for research relating to long-term care services nor is there any specific authorization for appropriations for such research.

(c) Institute of Medicine Study.—There is no current requirement that the IOM conduct a study on the financing of long-term care.

(d) Treasury Department Study of Tax Incentives for Long-Term Care.—There is no current requirement that the Secretary of Treasury conduct a study on the financing of long-term care. The President has asked the Department of Treasury to review tax policy as it affects the provision of catastrophic and long-term care health insurance.

House bill

(a) Health and Human Services Study.—Requires the Secretary to provide for research relating to the delivery and financing of long-term care services for Medicare beneficiaries. It shall include at least the following: (1) the financial characteristics of Medicare beneficiaries who receive or need long-term care services, including whether beneficiaries are eligible for Medicaid benefits for such services; (2) how financial and other characteristics of Medicare beneficiaries affect their utilization of institutional and noninstitutional services; (3) how relatives and Medicare beneficiaries are affected financially and in other ways because the beneficiaries require or receive long-term care services; (4) the quality of long-term care services (in community-based and custodial settings) and how the provision of such services may reduce expenditures for acute health care services; (5) the effectiveness of, and need for, State and Federal consumer protections which assure adequate access to and protect the rights of beneficiaries provided long-term care (other than in a nursing facility).

Defines long-term care services to include nursing home care, home care, community-based services, and custodial care.

(b) Authorization of Appropriations.—Authorizes to be appropriated, in equal parts from the HI and SMI trust funds, $5 million for each of fiscal years 1988, 1989, 1990, 1991, and 1992, to carry out the research described in (a).

(c) Institute of Medicine Study.—No provision.

(d) Treasury Department Study of Tax Incentives for Long-Term Care.—No provision.

Effective date.—Enactment.

Senate amendment

(a) Health and Human Services Study.—No provision.

(b) Authorization of Appropriations.—No provision.

(c) Institute of Medicine Study.—

(1) Requires the Secretary to request the National Academy of Sciences, through the Institute of Medicine (IOM), to contract for an IOM study to (a) explore options for private funding of a portion of long-term care (including methods by which changes in Federal laws, including tax laws, could facilitate such funding) and determine whether such options would be effective as compared to public financing alternatives and would be beneficial to the broad spectrum of populations (including children and adults who have attained and have not attained retirement age) requiring protection; (b) analyze the effect that provision of types of private funding of long-term care would have on public funding of such care; (c) review options for public sector coverage, both means-tested and universal, with respect to their effects on current and future Federal spending for health care; (d) review the effectiveness, quality of life provided, effect on family caregivers, and cost-implications of community-based long-term care, including types of limits necessary to assist beneficiaries and providers in preventing overutilization; (e) analyze, for each approach to provision of care, relative payments derived from users, non-utilizing elderly and employed persons (including both pre-funding and pay-as-you-go); and (f) review sources of financing and coverage of long-term care services in other developed nations and the implications of these findings on the development of similar policies in the United States.

(2) Requires the IOM study to take into account (a) the effect that impending demographic changes (near and long-term) will have on various approaches to service utilization and funding; (b) the impact of the various approaches to funding, both public and private, on access to long-term care services by individuals of all age groups (including children and adults who have attained and not attained retirement age), individuals of different socioeconomic and minority groups, and women; and (c) the effect that membership in these different groups has on the need, the ability to pay, and access to quality long-term care.

(3) Requires the Secretary to enter into appropriate arrangements with the Academy under which the Secretary will be responsible for expenses incurred for the study. Requires the Secretary to transfer

from the HI and SMI trust funds amounts necessary to fund the study.

(4) Requires IOM to submit, by October 1, 1989 to the Secretary, the Senate Finance Committee and the House Energy and Commerce and Ways and Means Committees, a report that describes the study, includes a statement of the data obtained, and specifies administrative actions and changes in law that IOM considers to be appropriate to implement the study findings.

(d) Treasury Department Study of Tax Incentives for Long-Term Care.—Requires the Secretary of Treasury to conduct a study of Federal tax policies to promote the financing of long-term care. The study shall identify alternative methods of creating tax incentives to encourage individuals to purchase insurance for long-term care. Requires the study to consider also the cost to the U.S. Treasury and the potential benefits to consumers, including whether the incentives would benefit all or most of the population requiring protection. Requires Secretary to consult with representatives of the insurance industry, providers of long-term care, and consumers. Requires the Secretary to report the results of the study and make recommendations to the Congress prior to April 1, 1988 of any changes in Federal law that the Secretary determines to be appropriate to promote financing of long-term care. Defines long-term care to include care and services provided by nursing homes, home health agencies and other mechanisms for long-term care delivery.

Effective date.—Enactment.

Conference agreement

(a) *Health and Human Services Study.*—The conference agreement includes the House provision with amendments. To the extent possible, the Secretary is to rely on research that has already been conducted or is underway by the Health Care Financing Administration or the National Center for Health Services Research and Health Care Technology (in their National Medical Expenditures Survey). The Secretary is required to submit interim reports by December 1990 and December 1992, and a final report by June 1994 to the House Committees on Energy and Commerce and Ways and Means, and the Senate Finance Committee describing the findings of the long-term care research required by this provision.

(b) *Authorization of Appropriations.*—The conference agreement includes the House provision.

(c) *Institute of Medicine Study.*—The conference agreement does not include the Senate amendment. The conferees note that the Secretary may contract with the Institute of Medicine to conduct the research required by Section 211(a) of the House provision.

(d) *Treasury Department Study of Tax Incentives for Long-Term Care.*—The conference agreement includes the Senate amendment, with an amendment that reporting date be changed to November 31, 1988.

Effective date.—The conference agreement is effective on enactment.

25. Study of Adult Day Care Services (Section 212 of House bill; Section 24 of Senate amendment)

Present law

Medicare does not provide coverage for adult day care services.

House bill

(a) Survey of Current Adult Day Care Services.—Requires the Secretary to survey adult day care services to collect information on (1) the scope of such services and the extent of their availability; (2) the characteristics of entities providing such services; (3) licensure, certification and other quality standards that are applied to those providing such services; (4) the cost and financing of such services; and (5) the characteristics of the people who use such services.

Defines adult day care services as medical or special services provided in an organized nonresidential setting to chronically impaired persons who are not inpatients in a medical institution.

(b) Report.—Requires the Secretary to report to Congress, within one year after enactment, on the information collected in the survey. Requires the report to include recommendations concerning appropriate standards for adult day care services under Medicare, including definitions of chronically dependent individuals and services in adult day care, establishing qualifications of providers of adult day care services, and establishing a reimbursement mechanism.

Effective date.—Enactment.

Senate amendment

(a) Survey of Current Adult Day Care Services.—Identical provision.

(b) Report.—Identical provision.

Effective date.—Enactment.

Conference agreement

(a) *Survey of Current Adult Day Care Services.*—Identical provision.

(b) *Report.*—Identical provision.

Effective date.—The conference agreement is effective on enactment.

26. U.S. Bipartisan Commission on Comprehensive Health Care (Sections 401-408 of House bill; Section 30 of Senate amendment)

Present law

No provision.

House bill

(a) Establishment/Duties.—Establishes a commission to be known as the U.S. Bipartisan Commission on Comprehensive Health Care. Requires that the Commission: (1) examine short-comings in the current health care delivery and financing mechanisms that limit or prevent access of all individuals to comprehensive health care; and (2) make specific recommendations to Congress on Federal programs, policies, and financing needed to assure the availability of comprehensive long-term care services for the elderly and disabled, comprehensive health care services for the elderly and disabled, and comprehensive health care services for all individuals in the United States. Requires the Commission to consider as it makes its recommendations: (1) the amount and sources (consistent with principles of social insurance) of Federal funds to finance the needed services, including reallocations of existing Federal program funds; and (2) the most efficient and effective manner of administering these programs.

Defines "comprehensive health care services" as including: (1) inpatient hospital services (including mental health services); (2) skilled nursing facility services, intermediate care facility services, home health services, and other long-term care services; (3) physician services and other outpatient health care services (including mental health services); (4) periodic general physical examinations; eye, hearing, dental, and foot examinations; and other preventive health care services; and (5) prescription drugs, eye-glasses, hearing aids, orthopedic equipment, and dentures (both complete and partial).

Defines "comprehensive long-term care services" as including custodial and noncustodial services in facilities, as well as home and community-based services.

(b) Membership.—Requires that the Commission be composed of 15 members appointed as follows: (1) the President will appoint 3 members; (2) the President Pro Tempore of the Senate will appoint, after consultation with the minority leader of the Senate, 6 Members of the Senate, of whom not more than 4 may be of the same political party; and (3) the Speaker of the House will appoint, after consultation with the minority leader of the House, 6 Members of the House, of whom not more than 4 may be of the same political party. The Commission will elect a chairman and vice chairman from among its members. Any vacancy in the membership of the Commission will be filled in the manner in which the original appointment was made and will not affect the power of the remaining members to execute the duties of the Commission.

(c) Meetings.—Specifies that the Commission will meet at the call of its chairman or a majority of its members; a quorum will consist of 8 members, except that 4 members may conduct a hearing. Members of the Commission may not receive compensation but may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) Staff.—Provides that the Commission may appoint and determine the compensation of staff, and may procure the temporary and intermittent services of consultants necessary to carry out the duties of the Commission.

(e) Powers.—Provides that the Commission may hold hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties. The provision requires, upon request of the Commission: (1) the Comptroller General to conduct studies or investigations; (2) the Director of the Congressional Budget Office to provide cost estimates; (3) the head of a Federal agency to provide technical assistance; and (4) the Administrator of General Services to provide on a reimbursable basis administrative support services, which the Commission determines to be necessary to carry out its duties. The head of any Federal agency may detail to the Commission, without reimbursement, any personnel to assist the Commission in carrying out its duties. The Commission is authorized: (1) to use the U.S. mails; (2) to secure directly from any Federal agency information that may be disclosed to enable the commission to carry out its duties; and (3) to accept, use and dispose of gifts or donations of services or property.

(f) Reports.—

(1) Requires the Commission to submit not later than 6 months after enactment a report to Congress on its findings and recommendations regarding comprehensive long-term care services for the elderly and disabled. The report is to include detailed recommendations for appropriate legislative initiatives.

(2) Requires the Commission to submit not later than 1 year after enactment a report to Congress on its findings and recommendations regarding comprehensive health care services for the elderly and disabled and for all individuals in the United States. The report is to include detailed recommendations for appropriate legislative initiatives.

(g) Termination.—Specifies that the Commission shall terminate 30 days after the

date it submits its report on comprehensive health care services.

(h) Authorization.—Authorizes $1.5 million for the Commission.

Effective date.—Enactment.

Senate amendment

(a) Establishment/Duties.—Identical provision.

(b) Membership.—Identical provision.

(c) Meetings.—Identical provision.

(d) Staff.—Identical provision.

(e) Powers.—Identical provision.

(f) Reports.—Identical provision.

(g) Termination.—Identical provision.

(h) Authorization.—Identical provision.

Effective date.—Enactment.

Conference agreement

Identical provision.

Effective date.—The conference agreement is effective on enactment.

27. Extension of Social HMO Demonstration Project (Section 210 of House bill)

Present Law

Section 2355 of DEFRA of 1984 (P.L. 99-369) required the Secretary to approve Medicare and Medicaid waivers needed to implement a demonstration project for social health maintenance organizations (SHMOS). These organizations are to provide an integrated package of health, long-term care, and social services on a prepaid capitation basis for persons who voluntarily enroll with the organization. There are currently four demonstration projects.

There is a comparable provision in section 4079 of Public Law 100-203.

House bill

Requires the Secretary to extend, without interruption, through September 30, 1992, the approval of waivers granted under Section 2355 of DEFRA of 1984 for the SHMO demonstration projects described in that provision, subject to the same terms and conditions (other than the duration of the project) established under that provision. It amends section 2355(b)(5) of DEFRA relating to Medicare's risk contract with the HMO to state that all payors will share risk for no more than 2 years, with the organization being at full risk in the 3rd year and in succeeding years. It requires the Secretary to send an interim report to Congress by December 1988 (rather than a final report, as in current law), and it requires the Secretary to submit a final report not later than March 31, 1993.

Effective date.—Enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision. A comparable provision was enacted in Section 4079 of P.L. 100-203.

28. Protection of Medicare Beneficiaries Enrolled in an Eligible Organization With a Risk-Sharing Contract Against Certain Practices (Section 10A of Senate amendment)

Present law

(a) Notice to Medicare Beneficiaries.—No provision.

(b) Civil Monetary Penalties and Intermediate Sanctions Against HMOs/CMPs.—HMOs/CMPs must provide assurances to the Secretary that they will not expel or refuse to reenroll any individual on the basis of health status or need for health services.

For each instance in which an HMO/CMP fails substantially to provide medically necessary items and services to a beneficiary, the Secretary may impose a $10,000 civil monetary penalty. No other sanctions short of contract termination are available for most other kinds of possible HMO/CMP contract or legal violations.

(Similar provision included in Omnibus Budget Reconciliation Act of 1987, except does not provide for refund to enrollee of excess charge and does not include extra $15,000 penalty for each individual not enrolled as a result of improper marketing practices.)

House bill

No provision.

Senate amendment

(a) Notice to Medicare Beneficiaries.—Requires an HMO or CMP with a Medicare risk-sharing contract to notify enrolled beneficiaries and potential enrollees that the organization may legally terminate or refuse to renew the contract, and that beneficiaries' enrollments may be terminated if this should occur. The notice would be included in any promotional materials furnished to potential enrollees and in information provided to all enrollees at the time of enrollment and annually thereafter. (Identical provision included in Omnibus Budget Reconciliation Act of 1987).

(b) Civil Monetary Penalties and Intermediate Sanctions Against HMOs/CMPs.—Increases the civil monetary penalty for failure to furnish medically necessary services to $25,000 for each failure. Provides for additional civil monetary penalties as follows:

(a) For each case in which an enrollee is charged a premium greater than permitted by law, $2,000 plus double the amount of the excess charge. The excess charge would be deducted from the penalty and returned to the enrollee.

(b) For each case in which the HMO/CMP expels or refuses to reenroll a beneficiary on the basis of health status, $15,000.

(c) For engaging in any practice which could reasonably be expected to result in denying or discouraging enrollment on the basis of health status, $100,000, plus $15,000 for each individual not enrolled as a result.

(d) For each case in which the HMO/CMP falsifies or misrepresents enrollment information furnished to the Secretary, any individual, or any other entity, or enrolls an individual without consent, or gives an individual a material inducement to enroll, $15,000. The penalty for each instance of false enrollment information furnished to the Secretary would be $100,000.

Provides that, in addition to or instead of imposing civil penalties, the Secretary may after notice to the organization suspend new enrollments or suspend payments to the HMO/CMP on behalf of new enrollees. Incorporates existing provisions on administration of civil monetary penalties.

Effective date.—(a) Applies to contracts entered into or renewed on or after the date of enactment.

(b) Becomes effective at the end of the 14 day period beginning on the date of enactment and does not apply to administrative proceedings commenced before the end of such period.

Conference agreement

The conference agreement includes the Senate amendment, with modifications. Only provisions not already enacted in the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) are included. Excess premium charges collected from enrolleees are to be refunded, and an organization may be subject to a $15,000 civil monetary penalty for each case in which it expels or refuses to reenroll a beneficiary on the basis of health status.

29. Repeal of Authority to Administer Proficiency Examinations (Section 17 of Senate amendment)

Present law

Section 1123 of the Social Security Act allows the use of a testing program to determine the proficiency of individuals who desire to become skilled medical technicians. In the conduct of such tests, no individual who otherwise meets the proficiency requirements for the health care specialty can be denied a satisfactory proficiency rating solely because of his failure to meet formal educational or professional membership requirements. Currently, persons who are judged proficient as a result of this test may avoid going through an accredited education program designed to train such personnel.

House bill

No provision.

Senate amendment

Repeals section 1123, effective October 1, 1987. Provides that the repeal would not affect the authority of the Secretary to conduct the program established under 1123 prior to October 1, 1987 or the qualification of individuals to perform their duties and responsibilities who were certified by reason of previously administered exams.

Effective date.—October 1, 1987.

Conference agreement

The conference agreement includes the Senate amendment. The conferees note that this authority had already expired on September 30, 1987.

Although the authority would have allowed the Secretary to develop proficiency examinations for a variety of health personnel, the only examinations ever administered were those for clinical laboratory personnel. The conferees have been advised that there may develop a shortage of such personnel in the future. If this occurrs, the conferees anticipate that consideration could be given to the appropriateness of authorizing a new examination for such personnel.

Effective date.—The conference agreement is effective October 1, 1987.

30. Study and Reports by the Office of Personnel Management on Offering Medicare Supplemental Plans to Federal Medicare Eligible Individuals, and Other Program Changes (Section 23 of Senate amendment)

Present law

(a) Study and Report.—Under the Federal Employees Health Benefits (FEHB) Program, Federal employees and annuitants and their dependents are offered health benefits coverage from a range of participating health benefit plans. Since the FEHB program offers no plans that only supplement Medicare's coverage, the benefits available under the plans in the FEHB program duplicate certain benefits under the Medicare program.

(b) Feasibility Study and Report.—Under Section 1882 of the Social Security Act, the Secretary is required to establish a procedure by which Medicare supplemental policies may be certified by the Secretary as meeting minimum standards and requirements if they meet or exceed certain model standards developed and adopted by the National Association of Insurance Commissioners and meet certain loss ratio requirements. If a State establishes a regulatory program that provides for the application of these same minimum standards and requirements

to Medicare supplemental policies, then such policies issued in that State are deemed to have met the requirements under the Secretary's certification program.

Section 1882 defines Medicare supplemental policies as health insurance policies or other health benefits plans offered by a private entity to individuals covered by Medicare that supplement Medicare's coverage; policies or plans of one or more employers or labor organizations are not included in this definition.

House bill

No provision.

Senate amendment

(a) Study and Report.—Requires the Director of the Office of Personnel Management (OPM), no later than April 1, 1989, to conduct a study and submit a report to the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service regarding changes to the Federal Employees Health Benefits Program that may be required to incorporate plans designed specifically for Medicare eligible individuals and to improve the efficiency and effectiveness of the program.

Prohibits any Medicare supplemental plan recommended by the Director of OPM from duplicating benefits for which payment is made under Medicare. However, any such recommended plan (1) must cover expenses that are not payable by Medicare because of deductible and coinsurance amounts, and (2) may offer additional reimbursement where Medicare benefits are limited by fee schedule and for benefits not covered by Medicare which may be of value to Medicare eligible individuals.

(b) Feasibility Study and Report.—Requires the Director of the Office of Personnel Management, no later than April 1, 1989, to report to the appropriate committees of Congress whether it is feasible to adopt such standards as issued by the National Association of Insurance Commissioners as required by section 1882 of the Social Security Act for Medicare supplemental policies, when providing Medicare supplemental plans as a type of health benefits plan available under the Federal Employees Health Benefits Program.

Effective date.—The reports required by (a) and (b) are due no later than April 1, 1989.

Conference agreement

(a) *Study and Report.*—The conference agreement includes the Senate amendment.

(b) *Feasibility Study and Report.*—The conference agreement includes the Senate amendment.

Effective date.—The conference agreement is effective upon enactment.

31. Rate Reduction For Medicare Eligible Federal Employees (Section 22 of Senate amendment)

Present law

Under the Federal Employees Health Benefits (FEHB) Program, Federal employees and annuitants and their dependents are offered health benefits coverage from a range of participating health benefit plans. The premiums for such coverage are shared by the Federal Government and by the enrollees. Premium payments are deposited in the Employees Health Benefits Fund, from which benefit and administrative costs are paid.

Since the FEHB Program offers no plans that only supplement Medicare's coverage, the benefits available under the plans in the FEHB Program duplicate certain benefits under the Medicare program.

House bill

No provision.

Senate amendment

Requires the Office of Personnel Management, in consultation with carriers offering health benefits plans under the Federal Employees Health Benefits Program, to reduce the rates charged to Medicare eligible individuals participating in such health plans by the amount, prorated for each covered Medicare eligible individual, of the estimated cost of medical services and supplies which would have been payable by such plans if the catastrophic coverage benefits (those in sections 2(a), 3(a), 4, and 7(b) of this bill) had not been enacted.

Defines "Medicare eligible individual" as any annuitant, survivor of an annuitant, or former spouse of an annuitant (1) who is otherwise eligible for benefits under the Federal Employees Health Benefits Program, eligible for benefits under Part A of Medicare, and covered by Part B of Medicare, and (2) for whom benefits paid under Medicare are the primary source of health care benefits.

Provides that funds in the Employees Health Benefits Fund for the Federal Employees Health Benefits Program are available without fiscal year limitation for costs incurred by the Office of Personnel Management in making such rate reductions.

Effective date.—Provides that the reduced rates apply as of the effective date of the Medicare catastrophic coverage (items and services furnished after, and premiums for months beginning after, December 31, 1987).

Conference agreement

The conference agreement includes the Senate amendment, with technical amendments to insure that all catastrophic benefits would be included in determining the rate reduction.

Effective date.—The conference agreement is for health benefit plans beginning January 1, 1989.

32. Maintenance of Effort (Section 21 of Senate amendment)

Present law

Many older, disabled and retired workers participate in employer-sponsor group health insurance plans. There are no current Federal requirements that employer-sponsored health plans provide specific benefits to plan participants. For those employer group plans who are also covered by Medicare, employer plans are generally coordinated to supplement Medicare benefits or provide benefits that Medicare does not cover.

The proposed Medicare catastrophic legislation would result in duplicative coverage for many of those individuals receiving both Medicare and employer-sponsored health benefits.

House bill

No provision.

Senate amendment

(a) In General.—Provides that for the 1-year period beginning on the date of enactment of this act, if an employer provides health benefits to an employee or retired former employee (including a Federal employee or retired Federal employee) that are duplicative of new or improved health care benefits provided under this act or the amendments made by this act, the employer shall: (1) provide additional benefits to the employee or retired former employee that are at least equal in value to the duplicative benefits; or (2) refund to the employee or retired former employee an amount equal to the actuarial present value of the duplicative benefits.

(b) Regulations.—Requires the Secretary of Labor to issue such regulations as are necessary to carry out this provision.

Effective date.—Effective (1) during the 1-year period beginning on the date of enactment of this act; or (2) in the case of an employer who is providing duplicative health care benefits to employees or retired former employees under a collective bargaining agreement that is in effect on the date of enactment, until the expiration of the agreement.

Conference agreement

(a) *In General.*—The conference agreement includes the Senate amendment with the following amendments. Employers who, on enactment, provide health care benefits to employees or retired former employees that duplicate Part A benefits or Part B benefits (excluding covered outpatient drugs) as amended by this Act must provide to the employees or retired former employees an amount of additional benefits (which could include payment of the part B premium) or refunds, or both, that total at least the actuarial value of the duplicative Part A benefits or Part B benefits (excluding covered outpatient drugs). Duplicative benefits are determined net of any premiums paid employees or retired former employees that are attributable to the duplicative benefits.

(b) *Employers Covered.*—Employers (including public employers other than the Federal government) affected by this provision include those who provide duplicative Part A benefits whose actuarial value is at least 50 percent of the actuarial value (discounted to the value as of the date of enactment) of the average Part A benefits provided under this bill.

Also, employers (including public employers other than the Federal government) affected by this provision include those who provide duplicative Part B benefits whose actuarial value is at least 50 percent of the actuarial value (discounted to the value as of the date of the enactment) of the average Part B benefits that will be provided under this bill.

The conferees intend that employers contributing to a multiemployer plan would be required to continue their contributions under their collective bargaining agreements.

Employers may elect to compute the actuarial value of duplicative Part A or Part B benefits on the basis of: (1) national average actuarial values, or (2) the actuarial value (net of employee premiums) with respect to that employer. The Secretary of Health and Human Services must calculate and publish for four years beginning with 1989 for duplicative Part A benefits, and 1990 for duplicative Part B benefits, the national average actuarial value of the duplicative benefits for 1988 and the year involved, and the employer guidelines for computing the actuarial value of duplicative benefits for such years.

(c) *Effective Period.*—The conference agreement includes the Senate amendment, with a modification that the maintenance of effort requirements with respect to duplicative Part A benefits are effective during 1989, and the maintenance of effort requirements with respect to duplicative Part B benefits are effective during 1990. However, where there is a collective bargaining agreement in effect of the date of enactment, the maintenance of effort requirements are in effect until the later of 1989 for Part A benefits and 1990 for Part B benefits or the expiration of the agreement, determined without regard to any extensions after enactment.

(d) *Effective date.*—The conference agreement is effective on enactment.

33. Medicaid Buy-In of Premiums and Cost-Sharing for Indigent Medicare Beneficiaries (Section 301 of House bill; Sections 14 and 14B of Senate amendment)

Present law

Most States have entered into a "buy-in" agreement under which they pay the Medicare Part B premiums on behalf of their Medicaid beneficiaries who are also eligible for Medicare.

The Omnibus Budget Reconciliation Act of 1986 (OBRA 86) permits States to cover Medicare premiums, deductibles, and coinsurance for aged and disabled persons with incomes up to a State-established level, which may be up to 100 percent of the Federal poverty line. A State choosing this option is required to use the resource standards of the Supplemental Security Income (SSI) program; except that if it has a medically needy program using higher standards it may use those standards. States electing this option are required to offer Medicaid coverage "to some or all" newly pregnant women and children below the Federal poverty line.

House bill

(a) In General.—Makes mandatory the current option for States to pay Medicare premiums, deductibles and coinsurance for all elderly and disabled persons with incomes at or below 100 percent of the Federal poverty level, except that resources would be set at or below twice the SSI standard. The requirement that States cover some newly eligible pregnant women and children is retained. A State which is providing medical assistance under a section 1115(a) waiver instead of under Medicaid is required to meet the mandatory coverage requirement. The coverage requirement is optional with the commonwealths and territories, and they may use an income level below 100 percent of the Federal poverty line.

(b) Drug Provisions.—(See Item 10, "Coverage of Catastrophic Prescription Drugs Under Medicare").

(1) Requires State Medicaid programs to cover incurred drug charges below the Medicare deductible for Medicare beneficiaries with incomes below poverty. Alternatively, a State may provide the same drug coverage (up to the deductible) as is offered to categorically needy Medicaid beneficiaries in the State.

(2) No provision.

Effective date.—(a) Applies to calendar quarters beginning on or after July 1, 1988 (without regard to whether or not final regulations have been promulgated) with respect to medical assistance for monthly Medicare premiums beginning July 1, 1988, and items and services furnished on or after that date. Delay is permitted where State legislation is required.

(b) Applies for calendar quarters beginning on or after January 1, 1989 (without regard to whether or not final regulations have been promulgated) with respect to medical assistance for monthly Part B premiums beginning January 1, 1989, and covered outpatient drugs dispensed on or after that date; delay is permitted where State legislation required.

Senate amendment

(a) In General.—Requires the Secretary, before the beginning of each fiscal year, to estimate the amount that would have been expended from State funds that fiscal year for Medicaid in the absence of the catastrophic protection offered under the bill and to notify each State of the amount. Each State is required to use such estimated savings for one or more of the following:

(1) Paying for Medicare cost-sharing charges (other than those for covered outpatient drugs) for persons below the poverty line, pursuant to the provisions of OBRA 86 (except that requirements pertaining to additional coverage of pregnant women and children would not apply);

(2) Increasing the monthly maintenance needs allowance for community spouses of institutionalized individuals; or

(3) Increasing opportunities for elderly persons to participate in adult day health and other community-based services, if the State both: (A) has elected to provide coverage for Medicare cost-sharing charges for persons with incomes up to 100 percent of poverty, and (B) provides a minimum monthly income allowance for community spouses up to $500 per month.

The amounts expended by the State under this provision are in addition to any amounts that would have otherwise been expended for such purposes.

(b) Drug Provisions.—(See Item 10, "Coverage Catastrophic Drugs Under Medicare".)

(1) Similar provision.

(2) Permits States to cover Medicare prescription drug cost-sharing charges for persons whose income is between 100 and 200 percent of poverty. For persons with incomes up to 150 percent of poverty, the deductible can be up to $150 and the cost sharing amount up to 10 percent of any coinsurance amounts otherwise paid by the State. For persons with incomes above 150 percent of poverty, the deductible can be up to $300 and the coinsurance up to 15 percent.

Effective date.—(a) Applies for 12 successive calendar quarters beginning January 1, 1988, except delay is permitted where State legislation is required. In case of delay, the provision is also effective for 12 successive calendar quarters.

(b) Applies to Medicaid payments for calendar quarters beginning on or after January 1, 1990 (without regard to whether final regulations have been issued) with respect to monthly Medicare premiums and items and services furnished on and after January 1, 1990.

Conference agreement

(a) *In General.*—The conference agreement follows the House provision with modifications. Except with respect to certain "209(b)" States, the buy-in requirement would be phased in as follows: effective January 1, 1989, States would have to buy-in the elderly and disabled with incomes at or below 85 percent of the Federal poverty income guidelines ($5,770 per year in 1988 for an individual); effective January 1, 1990, at or below 90 percent; effective January 1, 1991, at or below 95 percent; and effective January 1, 1992, at or below 100 percent. With respect to those five "209(b)" States that, as of January, 1987, used more restrictive income eligibility standards with respect to the elderly than those applicable under SSI, the buy-in requirement would be phased in as follows: effective January 1, 1989, these States would be required to offer buy-in coverage to individuals with income at or below 80 percent of the Federal poverty income guidelines; effective January 1, 1990, at or below 85 percent; effective January 1, 1991, at or below 90 percent; effective January 1, 1992, at or below 95 percent; and effective January 1, 1993, at or below 100 percent. The conferees understand that five "209(b)" States qualify for this extended phase-in schedule: Hawaii, Illinois, North Carolina, Ohio, and Utah. (See CRS Report 87-986 EPW, Appendix B-2).

The conferees note that the current option to offer buy-in coverage would remain in effect during the phase-in period. Thus, States which currently offer buy-in coverage to the elderly or disabled with incomes at or below 100 percent of the Federal poverty guidelines but above the mandatory phase-in schedule (i.e., Florida, New Jersey, Rhode Island, and the District of Columbia) could continue to receive Federal matching payments for such coverage. Similarly, States that, over the next three years, wish to offer buy-in coverage to individuals with incomes above the mandatory phase-in schedule (but no higher than 100 percent of poverty) may do so.

The conference agreement clarifies the standard in the House bill that States cover "some or all" pregnant women and infants. Under the agreement, States are required, effective July 1, 1989, to extend coverage to pregnant women and infants up to age 1 with incomes at or below 75 percent of the Federal poverty income guidelines ($9,690 in 1988 for a family of 3); effective July 1, 1990, the requirement applies to all pregnant women and infants with incomes at or below 100 percent of poverty. In the case of pregnant women, coverage would be limited to pregnancy-related services; in the case of infants, coverage would extend to all Medicaid benefits offered by the State to cash assistance recipients. Those States that, as of enactment, offered coverage to pregnant women and infants with incomes at or below 100 percent of the poverty level (or some lower income threshold higher than 75 percent) would be required to continue this coverage. This maintenance of effort requirement would also apply to States that, as of enactment, had enacted authorizing or appropriations legislation to establish such coverage but had not yet actually implemented the coverage. As under current law, States that elected to offer Medicaid coverage to pregnant women and infants above the mandatory income thresholds up to 185 percent of the Federal poverty level would not be permitted to reduce their cash assistance payment levels to families with dependent children below the levels in effect as of July 1, 1987. Similarly, to assure that the resources for mandatory coverage of pregnant women and infants up to 100 percent of poverty are not diverted from the Aid to Families with Dependent Children (AFDC) program, all States are prohibited from reducing their cash assistance payment levels to families with dependent children below the levels in effect on May 1, 1988.

The conference agreement also provides that States which impose durational limits on Medicaid payments for inpatient hospital services (e.g., 12 days per year, 14 days per admission, 30 days per spell of illness, 35 days for a particular diagnosis under a prospective payment system) must establish exceptions to any such limit for medically necessary inpatient services received by an infant (up to age 1) in a hospital designated as a disproportionate share hospital under the State's Medicaid plan. Thus, so long as the infant remains Medicaid-eligible and is receiving medically necessary inpatient services in a disproportionate share hospital, the State would be obligated to reimburse the hospital for such services without regard to any durational limit that might otherwise apply. The agreement further provides that, if a State pays for inpatient hospital services on a prospective basis (per diem, per case, or otherwise), the State must provide for an outlier adjustment for disproportionate share hospitals for medically necessary inpatient services delivered on or after July 1, 1989, involving exceptionally high cost or exceptionally long lengths of stay for infants up to age 1. States would have the discretion to define length of stay and cost outliers, and to determine the amount of adjustment to be paid for outlier cases; however, reimbursement to disproportionate share hospitals for these exceptionally high cost or exceptionally long length of stay infants would have to be reasonable and adequate. States are required to submit a plan amendment setting forth their outlier policy by April 1, 1989; the Secretary is required to review and approve or disapprove such amendment within 90 days. If the Secretary disapproves the amendment, the State is required to submit immediately a complying amendment. This requirement applies to all States, including those with "prudent buyer" contracting waivers under section 1915(b)(4) of the Social Security Act.

(b) *Drug Provisions.*—

(1) The conference agreement follows the House provision with a modification providing for a phase-in schedule corresponding to the schedule applicable to the general buy-in requirement described in (a), above. Thus, as of January 1, 1991, when the Medicare prescription drug benefit takes effect, most States will be required to buy-in the elderly and disabled with incomes at or below 95 percent of the Federal poverty level; in the five "209(b)" States for which a longer phase-in schedule is specified, the 90 percent threshold will apply. The managers note that, if the State elects the option of providing its Medicaid drug benefits in order to satisfy the Medicare prescription drug deductible, the "charges for covered outpatient drugs" are the billed charges for the drugs that Medicaid covers, even though the beneficiary has not actually incurred the charge or paid the difference between the State's payment (plus any coinsurance requirement) and the pharmacist's charge.

(2) The conference agreement does not include the Senate provision.

Effective date.—Applies to calendar quarters beginning on or after January 1, 1989 (without regard to whether or not final regulations have been promulgated) with respect to medical assistance for monthly Medicare premiums beginning on that date, and items and services furnished on or after that date. Delay is permitted where specified State legislation required. The disproportionate share hospital payment provision is effective on enactment.

34. Determination of Medicaid Drug Savings; State Plan Requirement (Section 14A of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Secretary before the beginning of each fiscal year (or portion thereof) to estimate and determine the amount that would have been spent in each State that fiscal year under Medicaid in the absence of the new outpatient drug coverage and intravenous drug coverage provisions, and to notify the State of the amount.

Requires each State plan to use any such savings for covering Medicare drug cost sharing charges for persons below the poverty line.

Effective date.—Applies with respect to any calendar quarter beginning on or after January 1, 1990.

Conference agreement

The conference agreement does not include the Senate provision.

35. Protection of Income and Resources of Couple for Maintenance of Community Spouse (Section 302 of House bill; Section 14C of Senate amendment)

Present law

(a) In General.—Eligibility of the aged and disabled for Medicaid is linked to actual or potential receipt of cash assistance under SSI. The SSI program employs certain criteria for the treatment of income and resources which are also used in States which cover all SSI recipients. ("209(b)" States which do not cover all SSI recipients, may employ more restrictive criteria, provided they are no more restrictive than those in effect in January 1972).

An institutionalized individual with a spouse in the community is permitted to keep an amount for the maintenance needs of his spouse; however this amount is set at welfare levels. As a result of Medicaid rules, both for determining eligibility and in the treatment of income after eligibility has been established, the spouse in the community may be left with income below the poverty level; this circumstance is referred to as spousal impoverishment.

(b) Rules for Treatment of Income.—Under SSI rules, if both spouses live together, their incomes and resources are considered available to each other whether or not they actually contributed to each other. Spouses are no longer considered to be living together if one is institutionalized for longer than one month in a facility certified to receive Medicaid payments. Only the income of the institutionalized spouse is considered for purposes of determining eligibility. In most states the "name on the instrument" rule applies in attributing income; i.e., income is considered to belong to the spouse whose name is on the check or other instrument conveying the funds. (In the case of Social Security checks, the amount attributable to each spouse is the individual's share of the couple's benefit.) A Federal Appeals Court has ruled that in California and Washington, community property principles, and not the "name on the instrument" rule, apply.

(c) Rules for Treatment of Resources.—Resources must be considered mutually available for 6 months following institutionalization if both spouses are SSI eligible and for 1 month if only one spouse is SSI eligible. Countable resources above specified amounts (including a minimum of $1,900 in liquid resources for an individual and $2,850 for a couple) must be applied to the costs of care. Excluded from the calculation is the couple's home and $2,000 in equity value of household goods or personal effects. If resources are held solely by the institutionalized spouse, they are attributed to him for eligibility purposes. If they are held jointly by the institutionalized spouse and the noninstitutionalized spouse, they are considered to belong entirely to the institutionalized spouse. If they are held solely by the spouse remaining in the community, none is considered available to the institutionalized spouse.

(d) Protecting Income for Community Spouse.—After an institutionalized individual has established eligibility, his income, after deduction of specified amounts known as "disregards," is applied to the cost of care. The disregards are applied to the resident's income in the following order:

(1) A monthly personal needs allowance (which must be at least $25) ($30 as of July 1, 1988);

(2) A monthly maintenance needs allowance for an individual with a spouse at home which may not exceed: (A) the SSI standard for an individual residing in his own home, (B) the highest income standard for State optional supplementary payments, or (C) the medically needy standard for one person. (A State not covering all SSI recipients cannot use a level higher than the more restrictive income standard or the medically needy standard);

(3) An additional allowance for an individual with a family at home.

(4) Amounts for medical expenses not covered by a third party, subject to reasonable limits. (The Health Care Financing Administration (HCFA) has issued a regulation that, effective April 8, 1988, makes this disregard optional with the State.

(e) Notice and Hearing.—No provision.

(f) Court Ordered Support.—In certain instances State or local courts have issued orders against institutionalized spouses requiring them to make monthly payments to the community spouse. However, notwithstanding such an order, the Health Care Financing Administration (HCFA) has determined that the income of the institutionalized spouse is available to him for purposes of determining his contribution to the cost of care.

(g) Transfer of Assets.—The fair market value of any resources (not including the individual's home) disposed of within the preceding 24 months must be taken into account in determining SSI eligibility (to which Medicaid eligibility is linked). States are permitted, but not required, to impose such a restriction for Medicaid provided it is not more restrictive than that for SSI, with one exception. In cases where the uncompensated value of disposed resources exceeds $12,000, the State may provide for a period of ineligibility exceeding 24 months, provided the period bears a reasonable relationship to the uncompensated value. States may waive the delay in Medicaid eligibility in cases of undue hardship.

States are also allowed to deny Medicaid eligibility for 24 months to institutionalized individuals who, within 24 months prior to application for Medicaid, disposed of their homes for less than fair market value even though such disposal would not make them ineligible for the SSI program. The provision does not apply if the individual intended to dispose of the home at fair market value or if title was transferred to a spouse or minor or handicapped child.

(h) Conforming Amendment.—Some States covering the aged and disabled medically needy use less restrictive income or resource methodologies than are applied under the SSI program. HCFA has interpreted current law to require that States use SSI income and resource methodologies. A moratorium on this interpretation enacted in section 2373(c) of P.L. 98-369, and clarified by section 9 of P.L. 100-93, is currently in effect.

(i) Study of Means of Recovering Costs of Nursing Facility Services From Estates of

Beneficiaries.—Under certain circumstances, States may recover amounts paid on behalf of deceased beneficiaries who were nursing home residents or who were 65 or over when Medicaid payments were made.

House bill

(a) In General.—

(1) Adds a new Section 1921 to the Social Security Act entitled "Treatment of Income and Resources For Certain Institutionalized Spouses". The provisions of this section supersede other provisions of title XIX, to the extent they are inconsistent, for purposes of determining eligibility of an institutionalized spouse. Comparable treatment is not required for other groups of eligibles.

(2) Specifies that, except as specifically provided, the section does not apply to the determination of what constitutes income or resources or the methodology and standards for determining and evaluating them.

(3) Permits an institutionalized spouse to elect to be governed instead by the rules in effect in March 1987 in his State, except that the institutionalized spouse may not opt out of the new rules regarding treatment of resources at the time of initial eligibility determination.

(4) Specifies that the new section applies to a State operating under a section 1115 waiver but not to the commonwealths and territories.

(b) Rules for Treatment of Income.—

(1) Specifies that in any month in which a spouse is institutionalized, no income of the community spouse is considered available to the institutionalized spouse.

(2) Specifies that, regardless of State laws relating to community property or division of marital property, the following income attribution rules apply for non-trust property unless otherwise specifically provided on the instrument. Income paid solely to one spouse or another is considered to belong to that respective spouse. If the income is paid in both names, half is considered available to each spouse. If the income is paid in the name of either or both spouses and another person, an equal share of the income is considered available to each individual. The same principles apply for trust property unless the trust specifically provides otherwise. For non-trust property with no instrument, half of the income is considered available to each spouse.

(3) An institutionalized spouse can rebut the non-trust property attribution rules by establishing that ownership interests are otherwise.

(4) No provision.

(c) Rules for Treatment of Resources.—

(1) Provides for the computation, as of the beginning of a continuous period of institutionalization, of the spousal share which is equal to one-half the value of all the resources held by the institutionalized spouse, the community spouse, or both. The couple's house and all household goods and personal effects are to be excluded from the calculation.

(2) Provides that the determination of countable resources is to be made regardless of State laws relating to community property or division of marital property, at the time of application for benefits. All resources held by either spouse are considered available to the institutionalized spouse except that the resources held in the name of the community spouse are not considered available unless they exceed a community spouse resource allowance (as of the application date) or if greater, the amount retained under court order.

(3) No provision.

(4) Provides that after an institutionalized spouse has established eligibility, no resources of the community spouse shall be considered available to the institutionalized spouse.

(5) Specifies that if the spousal share is less than $12,000 (indexed to the CPI beginning in 1989), the institutionalized spouse is allowed to transfer an amount sufficient to enable the community spouse to hold $12,000 in his or her own name. If the spousal share is greater than $48,000 (indexed by the CPI beginning for 1989), the amounts in excess of $48,000 would be attributed to the institutionalized spouse.

(d) Protecting Income for Community Spouse.—Specifies that the following disregards are to be applied to the institutionalized individual's income in the following order:

(1) A monthly personal needs allowance as specified under current law;

(2) A minimum monthly maintenance needs allowance for the community spouse. The allowance is the amount needed to bring the community spouse's monthly income up to a minimum level (not to exceed $1,500, indexed to the CPI beginning for 1989) which is the sum of:

(A) 150 percent of the Federal poverty guidelines for a family of two;

(B) an excess shelter allowance (the amount by which mortgage expenses or rent, plus utility costs, exceed 30 percent of Item A); and

(C) one-half of the amount by which the income of the institutionalized spouse exceeds the sum of items A and B;

(3) A family allowance for each family member (minor or dependent child, dependent parent or dependent sibling residing with the community spouse) equal to at least one-third of the amount by which 150 percent of the Federal poverty line for a family of two exceeds the family income of that family member.

(4) Amounts for incurred medical expenses not subject to payments by a legally liable third party.

(e) Notice and Hearing.—

(1) Requires States to notify the institutionalized spouse of the community spouse monthly income allowance, the family allowance, the method for computing the amount of the community spouse resource allowance, and of the spouse's right to a fair hearing with respect to the determination of the community spouse monthly income allowance.

(2) Specifies that if the institutionalized spouse establishes that the minimum monthly maintenance needs allowance is inadequate to support the community spouse without financial duress, the amount is to be increased.

(f) Court Ordered Support.—

(1) Provides that if a court has entered an order against an institutionalized spouse for monthly income support for the community spouse, the community spouse monthly maintenance needs allowance must be at least as great as the court ordered amount.

(2) Provides that if a court has entered a support order against an institutionalized spouse requiring the spouse to transfer countable resources to the community spouse, such transfer will not be considered in violation of transfer of assets prohibitions.

(3) Provides that if a court has entered an order against an institutionalized spouse requiring the spouse to transfer resources, the community spouse resource allowance is the amount transferred up to the ceiling ($48,000 in 1988, indexed to the CPI in future years).

(g) Transfer of Assets.—

(1) Requires States to determine, at the time of application, whether an institutionalized individual has disposed, within the preceding 24 months, of resources for less than fair market value. If such a transfer has occurred, a period of ineligibility is established beginning with the month in which the resources were transferred. The number of months in such period equals the total uncompensated value at the time of transfer divided by the average cost of nursing home care to a private patient in the State or community.

(2) Specifies that the transfer prohibition does not apply if:

(A) the transfer was that of the applicant's home to his or her spouse, child under 21 or blind or disabled adult child;

(B) resources were transferred to the community spouse;

(C) a satisfactory showing is made that the individual intended to dispose of resources at fair market value or for other valuable consideration; or

(D) the State determines that denial of eligibility would work an undue hardship. States can only employ transfer of resources restrictions in accordance with these provisions.

(h) Conforming Amendment.—Provides that a State's methodology for determining eligibility for the medically needy may not be more restrictive than that under the appropriate cash assistance program. The methodology is considered to be no more restrictive if, in using the methodology, additional individuals may be eligible and no otherwise eligible individuals are made ineligible.

(i) Study of Means of Recovering Costs of Nursing Facility Services From Estates of Beneficiaries.—No provision.

Effective Date.—Applies to payments made for calendar quarters beginning on or after January 1, 1988, without regard to whether final regulations have been issued. Delay is permitted where State legislation required. The conforming amendment item (h) applies to medical assistance furnished on or after October 1, 1982.

Senate amendment

(a) In General.—Identical provision, except excludes item 3.

(b) Rules for Treatment of Income.—

(1) Identical provision.

(2) Similar provision except: (A) applies only to post-eligibility treatment of income; and (B) in the case of both trust and non-trust property where the income is paid in the name of either or both spouses and another person, the income is considered available to each spouse in proportion to the spouse's interest (or if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

(3) Identical provision.

(4) Specifies that in the case of community property States that do not provide coverage for the medically needy, the amount of income considered available to each spouse, at the time of application for benefits, is equal to half of the combined income of the institutionalized and community spouse.

(c) Rules for Treatment of Resources.—

(1) Similar provision. Also excludes resources that are necessary to produce

income that is available to the community spouse or the family allowance up to the limits established by this section (see (d) below).

Requires the State to provide an assessment and documentation of total joint resources at the request of either spouse, at the beginning of a continuous period of institutionalization. The assessment shall occur promptly on receipt of relevant documentation. A copy is to be provided to each spouse. A State may charge a reasonable fee for an assessment if it is not part of an application for Medicaid.

(2) Similar provision.

(3) Specifies that the institutionalized spouse is not considered ineligible by resources determined to be available where: (A) the institutionalized spouse has assigned to the State any rights to support from the community spouse; (B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has a right to bring a support proceeding against a community spouse without such assignment; or (C) the State determines denial of eligibility could work an undue hardship.

(4) Identical provision.

(5) Similar provision, except: (A) a State, by law, practice, policy, or State plan (whether approved or not), may establish a higher amount than $12,000; and (B) specifies that a higher amount may be established by fair hearing or court order. Specifies that a transfer of resources to a community spouse must be made within 1 year after the date of the initial eligibility determination or such time as is necessary to obtain a court order (whichever is longer.)

(d) Protecting Income for Community Spouse.—Similar provision, except:

(1) The definition of personal needs allowance is tied to that specified under the bill.

(2) The minimum allowance for the community spouse may be increased by State law, policy, or State plan (whether approved or not):

(A) The minimum maintenance needs allowance is 122 percent of the poverty line.

(B) Similar provision.

(C) No provision.

(3) Similar provision, except family allowance linked to 122 percent of Federal poverty line.

(4) Similar provision.

(e) Notice and Hearing.—

(1) Similar provision, except requires specific notice to both spouses at the time of eligibility determination or to either spouse upon request. Also requires notification of the spouse's right to a fair hearing respecting ownership or availability of income or resources, and respecting the community spouse monthly income or resource allowance.

(2) Specifies that if either spouse establishes that either the minimum monthly maintenance needs allowance or the community spouse resource allowance (in the relation to the amount of income generated by such allowance) is not adequate to support the community spouse without financial duress, the amount of either allowance is to be increased.

(f) Court Ordered Support.—

(1) Similar provision.

(2) Similar provision.

(3) Similar provision, except ceiling does not apply.

(g) Transfer of Assets.—Similar provision except that the State review covers the disposal of assets within the 26 months prior to application.

(2) Similar provision, except:

(A) Specifies transfer prohibition does not apply (i) in the case of a sibling who has an equity interest in the home and was residing in the home for at least a year prior to the individual's admission to a nursing home, or (ii) in the case of a son or daughter who was residing in the home for at least two years prior to the admission and was providing care which permitted the individual to reside at home.

(B) Also permits transfer to the individual's child who is permanently or totally disabled.

(C) Also permits a showing that resources were transferred exclusively for a purpose other than to qualify for medical assistance.

(D) Identical provisions.

(h) Conforming Amendment.—Identical provision.

(i) Study of Means of Recovering Costs of Nursing Facility Services From Estates of Beneficiaries.—Requires the Secretary to study the means for recovering the amounts from the estates of deceased beneficiaries (or the estates of spouses of deceased beneficiaries) to pay for SNF or ICF services furnished them under Medicaid. The Secretary is required to report to Congress, not later than December 31, 1988, on such means, and to include appropriate recommendations for changes.

(j) Effective date.—Applies to payments made for calendar quarters beginning on or after January 1, 1988, without regard to whether final regulations have been issued. Delay is permitted where State legislation required. Provisions relating to treatment of resources, apply only to institutionalized individuals who begin continuous periods of institutionalization on or after January 1, 1988. Transfer of assets provisions, item (g) apply only to transfer of resources made on or after January 1, 1988.

Conference agreement

(a) *In General.*—The conference agreement follows the Senate amendment.

(b) *Rules for Treatment of Income.*—The conference agreement follows the Senate amendment with a modification deleting the provision relating to community property States that do not offer coverage to the medically needy (item (4) of the Senate amendment).

(c) *Rules for Treatment of Resources.*—The conference agreement follows the Senate amendment with the following modifications. If the spousal share of the couple's total resources is greater than $60,000 (indexed by CPI beginning in 1990), amounts in excess of $60,000 would be attributed to the institutionalized spouse. A level higher than $60,000 could be established by fair hearing or court order. The State, by amending its State plan, could raise the $12,000 minimum resource allowance for the community spouse to any level up to the $60,000 (subject to indexing) statutory maximum.

The agreement does not exclude from countable resources those assets necessary to produce income available to the community spouse or the family allowance. Instead, the agreement provides that either the institutionalized or the community spouse may request a fair hearing as to whether the community spouse resource allowance is adequate to generate sufficient income to raise the community spouse's income to the minimum monthly maintenance needs allowance. The State must grant such a hearing within 30 days of request. If the State, after such a hearing, determines that the community spouse resource allowance is inadequate, the State must allow the community spouse to retain an adequate amount of resources to provide the minimum monthly maintenance needs allowance (taking into account any other income attributable to the community spouse), notwithstanding the amount of the State-established resource allowance. If either spouse requests an assessment of resources at the time of institutionalization, the State must, in providing the assessment give notice to the requesting spouse of the right to a fair hearing with respect to the adequacy of the community spouse's resource allowance. The agreement also requires that nursing facilities inform newly-admitted residents of their right to request an assessment from the State agency.

The conference agreement specifies that a transfer of resources to a community spouse must be made as soon as practicable after the date of initial eligibility determination, with allowance for the time necessary to obtain a court order, where necessary. In determining what constitutes a "transfer" for this purpose, the conferees intend that State law govern. In addition, the agreement provides that the State of Missouri must not count as a resource the home (of any value) of an aged, blind, or disabled individual who applies for Medicaid on or after October 1, 1989. This requirement would apply only to the home; the State could, but would not be required to, exclude the land that appertains to the house, as would be the case under SSI.

(d) *Protecting Income for Community Spouse.*—The conference agreement follows the Senate amendment with the following modifications. As under current law, the proposal needs allowance is $30, whether the resident is eligible for Medicaid on a categorically needy, optional categorically needy, or medically needy basis. The minimum monthly maintenance needs allowance is effective September 30, 1989, set at 122 percent of the monthly Federal poverty income guidelines for a 2-person household (which is 1988 would be $786). Effective July 1, 1991, the minimum allowance would be raised to 133 percent; effective July 1, 1992, to 150 percent. This schedule of percentage would also apply to the calculation of the family allowance. The community spouse monthly maintenance needs allowance may not exceed $1,500, except where a higher level is determined to be necessary through a fair hearing or by a court order.

With respect to the deduction for incurred medical expenses, the conference agreement requires that, with respect to any Medicaid-eligible individual in an institution (regardless of whether the individual has a spouse in the community), States must take into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including Medicare and other health insurance premiums, deductibles, or coinsurance, and, subject to reasonable limits a State may establish, necessary medical or remedial care recognized under State law but not covered under the State's Medicaid plan. The conferees note that, until recently, HCFA regulations required that Medicaid-eligible nursing home residents be allowed to deduct uncovered medical costs from their income before contributing toward the cost of nursing home care. However, a recent HCFA regulation, 53 Fed. Reg. 3586 (Feb. 8, 1988), altered this rule to allow States to limit this deduction substantially, or to eliminate it altogether. The conference agreement is intended to reinstate the previous rule, retroactive to the effective date of the recent change (April 8, 1988). As under the previous regulation, States will have the ability to place "reasonable limits" on a resident's expenditures for medical or remedial care. The conferees wish to emphasize that these limits must ensure that nursing home residents are able to use their own funds to purchase necessary medical or remedial care not covered by the State Medicaid program, while minimizing opportunities for providers to take financial advantage of either the program or the residents. For example, it would be reasonable for a State to provide that only uncovered services prescribed by a physician may be deducted. It would also be reasonable for States to impose specific dollar limits for specific services or items, provided that these limits reflect annual increases in the cost of medical care services and supplies. However, it would not be reasonable for States to set an overall dollar limit, such as $50 per month, for all noncovered services. Similarly, it would not be reasonable for States to impose a limit on the number of medically necessary services or items that an individual could deduct in any month. In providing these examples of "reasonable limits" for deductions of uncovered medical expenses incurred by nursing home residents, the conferees do not intend any approval of comparable limitations in the "spenddown" process for medically needy programs.

(e) *Notice and Hearing.*—The conference agreement follows the Senate amendment with the following modification. If either the community or institutionalized spouses establishes in a fair hearing that, due to exceptional circumstances resulting in significant financial duress, the community spouse needs income above the minimum monthly maintenance needs allowance, the State is required to increase the allowance to provide this amount, notwithstanding the $1500 statutory ceiling. Exceptional circumstances resulting in significant financial duress would include, but not be limited to, the financial burden of caring for a disabled child, sibling, or other immediate relative. If either spouse establishes in a fair hearing that the community spouse resource allowance (in relation to the income generated by such allowance) is inadequate to raise the income of the community spouse to the level of the minimum monthly maintenance needs allowance (taking into account any other income attributed to the community spouse), the State must provide for a resource allowance adequate in amount to generate that level of income for the community spouse.

(f) *Court-ordered Support.*—The conference agreement follows the Senate amendment.

(g) *Transfer of Assets.*—The conference agreement follows the Senate amendment, with a modification. The transfer of assets prohibitions apply only with respect to individuals institutionalized in a medical institution or nursing facility. The term "medical institution" has the same meaning as under current regulations, 42 C.F.R. section 435.1009; the term "nursing facility" includes a skilled nursing facility or intermediate care facility (other than an ICF for the mentally retarded), until October 1, 1990, when these categories will be replaced by "nursing facility." States are required to determine whether these individuals made any prohibited resource transfers within 30 months prior to application for benefits. This requirement is effective with respect to applications for Medicaid eligibility occurring on or after July 1, 1988 and applies only with respect to resources transferred on or after July 1, 1988. Thus, in those States which do not have transfer or assets prohibitions in place prior to July 1, 1988, the State can look back only to transfers occurring on or after July 1, 1988. In those States that, prior to July 1, 1988, have exercised their option to penalize transfers of assets for less than fair market value, the State may continue to apply its pre-July 1 transfer policies and penalties with respect to resources transferred prior to July 1, 1988, even in cases where application for Medicaid benefits is made after on or after that date. However, with respect to resource transfers occurring on or after July 1, 1988, the rules set forth in the conference agreement regarding computation of the period of ineligibility and exceptions to the transfer prohibition will apply in all States, including the "209(b)" States which have elected the option to use more restrictive eligibility standards with respect to their aged, blind, and disabled beneficiaries than apply under SSI.

The conference agreement also repeals the provision in present SSI law which requires that the uncompensated value of resources transferred at less than fair market value within the preceding 24 months be counted toward the SSI resource limit. However, under the conference agreement, a transfer of resources at less than fair value by an SSI applicant or recipient will be considered in determining an individual's eligibility for Medicaid if and when the individual enters a medical institution or nursing facility. Such transfers may include, for example, the SSI applicant's or recipient's home even though at the time of the transfer the home was not a countable SSI resource. Therefore, the conference agreement will require that the Secretary inform SSI applicants in writing, at the time of application, and SSI recipients, at the time of redetermination of eligibility, of the provisions of Medicaid law with respect to transfer of assets. The Secretary will be required to request from the individual information about transfers and, at the time of such request, to inform the individual that such information may be shared with the State Medicaid agency. The Secretary will also be required to make this information available to a State Medicaid agency, upon request; the State may, at its option, use this information to determine whether and to what extent there will be a period of ineligibility for Medicaid because an individual transferred resources at less than fair market value.

(h) *Conforming Amendment.*—The conference agreement follows the House bill, which applies to States which cover the medically needy, with a modification extending its application to States which offer coverage to optional categorically needy individuals and to "209(b)" States as well. Under the moratorium imposed by section 2373(c) of P.L. 98-369, as clarified by section 9 of P.L. 100-93, States have flexibility to establish income and resource methodologies under medically needy programs, optional categorically needy programs, and under the "209(b)" option that are less restrictive, i.e. more generous, than those applied in the corresponding cash assistance programs. The conference agreement codifies this flexibility, retroactive to October 1, 1982.

(i) *Study of Means of Recovering Costs of Nursing Facility Services from Estates of Beneficiaries.*—The conference agreement includes a technical amendment reflecting the Senate amendment, the text of which had been agreed to in, but was inadvertently omitted from, the Omnibus Budget Reconciliation Act of 1987, P.L. 100-203. The conference agreement includes additional OBRA '87 technical corrections and other miscellaneous provisions.

With respect to section 4112 of OBRA '87, relating to payment adjustments for disproportionate share hospitals, the conference agreement makes a number of technical corrections regarding the 3-year phase-in and other matters. It clarifies that the special rule in subsection 4112(e) applies only to New York, and adds a special rule providing that, for a 3-year period, Texas may use its own definition of disproportionate share hospital and its own payment adjustment rules so long as the aggregate amount payment adjustments to disproportionate share hospitals is not less than the amount that would be required by section 4112. During this 3-year period, in meeting the requirement that at least two obstetricians with staff privileges agree to provide obstetric services to Medicaid patients, a hospital in an urban area in Texas seeking disproportionate share status could substitute family practitioners, internists, or any other qualified physician with staff privileges.

The conference agreement clarifies that Federal Medicaid matching funds are available for the cost of health services, covered under a State's Medicaid plan, that are furnished to a handicapped child or a handicapped infant or toddler, even though such services are included in the child's individualized education program or individualized family service plan. Under the Education for All Handicapped Children Act of 1975, P.L. 94-142, children with handicaps are entitled to a free and appropriate public education in conformity with an individualized education program (IEP) which describes the educational and "related services" necessary to meet the child's unique needs. While the State education agencies are financially responsible for educational services, in the case of Medicaid-eligible handicapped child, State Medicaid agencies remain responsible for the "related services" identified in the child's IEP if they are covered under the State's Medicaid plan, such as speech pathology and audiology, psychological services, physical and occupational therapy, and medical counseling and services for diagnostic and evaluation purposes.

The conference agreement defines an institution for mental diseases (IMD) as a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases. This would clarify that Federal Medicaid matching funds would be available for services such as personal care and case management that are furnished through or by group homes or other small facilities serving the mentally ill, if those services are covered by the State under its Medicaid plan. The 16-bed limitation parallels current rules under the SSI program.

The conferees wish to clarify the requirements in sections 4201 and 4211 of P.L. 100-203 that nursing facilities with more than 120 beds must have at least one social worker (with at least a bachelor's degree in social work or similar professional qualification) employed full-time to provide or assure the provision of social services. Facilities could meet this requirement by employing either a person with a degree in social work or with similar professional qualifications, such as a degree in a related field and previous supervised experience in meeting individual psycho-social needs. It is the intent of the conferees that the Secretary ensure that requirements regarding consultation and supervision of social work services be at least as stringent as those in effect prior to enactment of these changes.

The conferees also wish to clarify that it was the intent of sections 4201 and 4211 of P.L. 100-203 that the Secretary ensure that the requirements for dietary services be at least as stringent as those in effect prior to enactment of P.L. 100-203.

36. Technical Amendment Relating to Home and Community-Based Services (Section 19 of Senate amendment)

Present law

Comparable provision included in section 4418(a) of Public Law 100-203.

37. Technical Amendments Relating to New Jersey Respite Care Pilot Project (Section 20 of Senate amendment)

Present law

Comparable provision included in section 4418(o) of Public Law 100-203.

38. Treatment of Garden State Health Plan (Section 25 of Senate amendment)

Present law

Comparable provision included in section 4113 of Public Law 100-203.

39. Technical Amendments Relating to the Omnibus Budget Reconciliation Act of 1987

Conference agreement

PART A AND AMENDMENTS AFFECTING BOTH PARTS A AND B

The conference agreement includes a number of technical and conforming amendments to the Medicare Part A and Parts A and B provisions of OBRA-87. These include:

(1) The prohibition on the issuance by the Secretary of any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures of more than $50 million is extended to October 15, 1989;

(2) Clarification that the regional floor on hospital payment applies on a census region basis, not a wage area basis;

(3) Clarification that outlying counties of metropolitan areas can only be designated as urban if they meet the commuting rules and all other applicable standards for designation as part of an urban area;

(4) In the case of hospitals with more than 49 beds using swing beds, authorization is provided to continue payment for patients in the hospital receiving skilled nursing care when the hospital reaches its limit for swing bed care;

(5) Clarification that the hospital cost report is to be permanent;

(6) Revisions to the uniform hospital reporting demonstration program to (i) delete date elements on which it is not feasible to collect information at this time; (ii) allow additional time for the collection of data and the preparation of a report; and, (iii) extend the period of time during which funds may be expended for the demonstration;

(7) Amendments to conform anti-fraud and abuse provisions of OBRA '87 to existing statutory provisions;

(8) Extension of the date for submission of a report on hospital quality assurance required by OBRA '86 to January 1, 1990.

(9) Clarification that the rule regarding payment for hospital services by pre-paid plans under section 1876 applies to contracts established under pre-TEFRA demonstration authorities;

(10) Clarification that the hospital payment rule applies only in the case of a prepaid which does not have a contract with the hospital or the skilled nursing facility seeking payment for its services. Most often, the rule would apply in the case of out-of-plan services or when contract negotiations have not been successful. The hospital or the skilled nursing facility are free to establish any level or type of payment they wish through negotiations pursuant to a contract;

(11) Clarification of the application of the 50/50 rule to H.I.P./Network.

PART B AND PROS

The conference agreement includes a number of technical and conforming amendments to the Medicare Part B and PRO provisions of OBRA-87. These include:

(1) Consolidation of definitions relating to physician payment in new Section 1842(i);

(2) Amendments clarifying that there is only one prevailing charge for payment of physicians' services calculated on the basis of customary charges of participating and non-participating physicians. The differential between participating and non-participating physicians continues without change;

(3) Clarifying that reductions in payment for cataract surgery and requirements relating to the use of an assistant at-surgery for cataract surgery also apply to insertion of an interocular lens subsequent to cataract removal;

(4) Conforming amendments regarding maximum allowable actual charge limits for reductions in payment for concurrent anesthesia services;

(5) Clarifying amendment to the purchase service provision, including an amendment to allow for billing for such services on an unassigned basis;

(6) Amendments clarifying that the scholarship loan default offset provision applies to non-physician defaulters and to physician and non-physician defaulters under the Health Education Assistance Loan program and the Physician Shortage Area Scholarship program;

(7) An amendment clarifying that the 1975 prevailing charge floor continues but is phased-out as it is no longer needed;

(8) Corrections and clarifying amendments to the durable medical equipment fee schedule;

(9) Clarifying penalties for improper billing of interocular lenses included in payment to ASCs;

(10) Consolidating amendments incorporating OBRA-87 policies regarding clinical labs into the Social Security Act and clarifying amendments related to the effective date for the elimination of the 2% differential for hospital laboratories;

(11) Clarifying amendments for new Section 1846;

(12) Clarification of provisions relating to payment of hospital outpatient departments for radiology services;

(13) Clarifying amendments that the standard coinsurance applies to services of nurse midwives and clinical psychologists and conforming amendments applying the same penalties for improper unassigned billings to these services as apply to the services of certified registered nurse anesthetists and physician assistants;

(14) Clarifying amendments to the provision requiring coordination of claims with Medigap insurers and an amendment delaying the effectiveness of this provision for Medigap policies sold in states which did not enact necessary changes prior to July 1, 1988.

NURSING HOME REFORM

The conference agreement includes a number of technical and correcting amendments to the Medicare and Medicaid Nursing Home Reform provisions of OBRA 87. These include amendments revising effective date and other requirements. The effective dates for certain Medicare requirements are changed from the first date noted to the second date noted as follows:

(1) requirement that skilled nursing facilities conduct resident assessments: from October 1, 1990 to January 1, 1991;

(2) required training of nurse aides used by facilities: from October 1, 1989 (or January 1, 1990, in the case of an individual used as a nurse aid before July 1, 1989) to January 1, 1990;

(3) requirement for States to specify approved nurse aide training and competency evaluation programs: from March 1, 1989 to January 1, 1989;

(4) requirement for States to review and reapprove nurse aide training and competency evaluation: from March 1, 1990 to January 1, 1990;

(5) requirement for States to establish nurse aide registries: from March 1, 1989 to January 1, 1989;

(6) requirement for States to provide for an appeals process for transfers: from October 1, 1990 to October 1, 1989;

(7) requirement for States to specify the resident assessment instrument: from July 1, 1989 to July 1, 1990;

(8) requirement for the Secretary to establish guidelines for States appeals process for transfers: from October 1, 1989 to October 1, 1988;

(9) requirement for the Secretary to specify a minimum data set of core elements and common definitions for resident assessments: from July 1, 1989 to January 1, 1989;

(10) requirement for the Secretary to designate one or more resident assessment instruments: from October 1, 1990 to April 1, 1990;

(11) requirement that a facility permit immediate access to any resident by any representative of the Secretary or State, by an ombudsman, or by the resident's individual physician: effective on the date of enactment;

(12) requirement for the Secretary to develop, test, and validate standard and extended survey protocols: from October 1, 1990 to January 1, 1990.

Certain Medicaid effective dates have also been revised:

(1) requirement for States to specify approved nurse aide training and competency evaluation programs: from September 1, 1988 to January 1, 1989;

(2) requirement for States to review and reapprove nurse aide training programs: from September 1, 1990 to January 1, 1990;

(3) agreement between State and Secretary for disposition of residents who require active treatment: from October 1, 1988 to April 1, 1989;

(4) requirement for the Secretary to establish requirements for the approval of nurse aide training and competency evaluation programs: from July 1, 1988 to September 1, 1988;

(5) requirement that a facility permit immediate access to any resident by any representative of the Secretary or State, by an ombudsman, or by the resident's individual physician: effective on the date of enactment.

These amendments also clarify that nursing facilities are required to manage the personal funds of residents if requested to do so by the resident. The amendments also require States to make available to the public information in nurse aide registries.

With regard to requirements for social workers included in the OBRA 87 amendments, the conferees intend that the Secretary ensure that requirements regarding consultation and supervision of social work services be at least as stringent as those in effect prior to enactment of the OBRA changes.

RURAL HEALTH

Clarifies that the set aside for demonstrations applies to both research and demonstrations but only to funds appropriated to and expended by the Health Care Financing Administration. Conforms statutory language to intent of conferees that there be equal ten percent set-asides for rural and for inner city research and demonstrations.

From the Committee on Ways and Means, for consideration of titles I, II, and IV of the House bill, and the entire Senate amendment (except for secs. 14, 14A, 14B, 14C, 19, 20, and 25), and modifications committed to conference:

Dan Rostenkowski,
Pete Stark,
Brian J. Donnelly,
Willis D. Gradison, Jr.,

From the Committee on Energy and Commerce, for consideration of titles II, III, and IV of the House bill, and the Senate amendment (except for secs. 2, 3, 12, and 18(a)) and for sec. 6 of the Senate amendment insofar as consideration of such section entails changes in eligibility requirements to participate in part B of the Medicare program, and modifications committed to conference:

John D. Dingell,
Henry A. Waxman,
Ron Wyden,
Edward R. Madigan
(except for sec. 204 of the House bill and sec. 7 of the Senate amendment),

For consideration of sec. 204 of the House bill and sec. 7 of the Senate amendment:

Michael Bilirakis,

From the Committee on Education and Labor, for consideration of sec. 21 of the Senate amendment, and modifications committed to conference:

Gus Hawkins,
William Clay,
James Jeffords,
Managers on the part of the House.

Lloyd Bentsen,
Max Baucus,
Bill Bradley,
George Mitchell,
David Pryor,
John H. Chafee,
John Heinz,
David Durenberger,
Managers on the part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. McGrath (at the request of Mr. Michel), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Combest) to revise and extend their remarks and include extraneous material:)

Mr. Burton of Indiana, for 60 minutes, today, June 2, 8, and 9.

(The following Members (at the request of Mr. Harris) to revise and extend their remarks and include extraneous materials:)

Mr. Stratton, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Brooks, for 5 minutes, today.

Mr. Owens of New York, for 5 minutes, today, June 2 and 3.

Mr. MacKay, for 60 minutes, today.

Mr. Frank, for 60 minutes, on June 9.

Mr. Hoyer, for 60 minutes, on June 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Combest) and to include extraneous matter:)

Mr. Davis of Illinois.
Mr. Dickinson.
Mr. Lent.
Mr. Broomfield in four instances.
Mr. Buechner.
Mr. Gilman.
Mr. Bereuter.
Mr. Herger.
Mr. Conte in three instances.
Mr. Ridge.
Mrs. Roukema.
Mr. Gallo.
Mr. Henry.
Mr. Gekas.
Mr. Dornan of California.
Mrs. Morella.
Mr. Solomon in two instances.
Mr. Porter.
Mrs. Bentley in two instances.
Mr. Horton.

The following Members (at the request of Mr. Harris) and to include extraneous matter:

Mr. Anderson in 10 instances.
Mr. Gonzalez in 10 instances.
Mrs. Lloyd in five instances.
Mr. Hamilton in 10 instances.
Mr. Brown of California in 10 instances.
Mr. Annunzio in six instances.
Mr. Jones of Tennessee in 10 instances.
Mr. de la Garza in 10 instances.
Mr. Torricelli in three instances.
Mr. Lipinski.
Mr. Kanjorski.
Mr. Skelton in two instances.
Mr. Stokes in three instances.
Mr. Hall of Ohio in two instances.
Mr. Ackerman.
Mr. Coelho.
Mr. Miller of California in two instances.
Mr. Dellums in two instances.
Mr. Solarz.
Mr. McHugh.
Mr. Smith of Florida.
Mr. Beilenson.
Mr. Roe.
Mr. Levine of California.
Mr. Gephardt.
Mr. Florio.
Mr. Dixon.
Mr. Waxman.
Mr. Mazzoli.
Mr. Lehman of Florida.
Mr. Yatron.
Mr. Dymally.
Mr. Nichols.
Mr. Guarini.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2210. An act to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints, and

H.R. 4556. An act to amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program.

ADJOURNMENT

Mrs. BENTLEY. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 22 minutes p.m.) the House adjourned until tomorrow, Thursday, June 2, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3707. A letter from the Secretary of Agriculture, transmitting the Office of the Inspector General's semiannual report covering the 6-month period ending March 31, 1988, pursuant to 22 U.S.C. 3929(d) (2) and (3); to the Committee on Government Operations.

3708. A letter from the Secretary of Agriculture, transmitting the Department's report on the activities of the Youth Conservation Corps program for 1987, pursuant to 16 U.S.C. 1705; to the Committee on Education and Labor.

3709. A letter from the Secretary of Education, transmitting a draft of proposed legislation to improve the operation of programs under the Carl D. Perkins Vocational Education Act by promoting accountability and reducing administrative burden, and for other purposes; to the Committee on Education and Labor.

3710. A letter from the Secretary of Education, transmitting a draft of proposed legislation to revise and extend the authority to award endowment grants to Howard University, and for other purposes; to the Committee on Education and Labor.

3711. A letter from the Secretary of Energy, transmitting the quarterly report on the activities of the strategic petroleum reserve during the period January 1, 1988 through March 31, 1988, pursuant to 42 U.S.C. 6245(b); to the Committee on Energy and Commerce.

3712. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed manufacturing license agreement with Japan (Transmittal No. MC-36-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3713. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed manufacturing license agreement with Japan (Transmittal No. MC-35-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3714. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the eleventh 90-day report on the Camarena investigation, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

3715. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3716. A letter from the Secretary of State, transmitting notification that the President, pursuant to section 652 and 552(c) of the Foreign Assistance Act of 1961, as amended, intends to exercise his authority to direct the Defense Department to provide services to the United Nations Good Offices Mission in Afghanistan and Pakistan [UNGOMAP]; to the Committee on Foreign Affairs.

3717. A letter from the Inspector General, Department of Health and Human Services, transmitting a copy of the Office of Inspector General's semiannual report for the period October 1, 1987 through March 31, 1988, pursuant to 22 U.S.C. 3929(d) (2) and (3); to the Committee on Government Operations.

3718. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a copy of the Inspector General's semiannual report for the period ending March 31, 1988, pursuant to 22 U.S.C. 3929(d) (2) and (3); to the Committee on Government Operations.

3719. A letter from the Secretary of the Interior, transmitting the semiannual report on operations of the Office of Inspector General for the 6-month period October 1, 1987, through March 31, 1988, pursuant to 22 U.S.C. 3929(d) (2) and (3); to the Committee on Government Operations.

3720. A letter from the Comptroller General, General Accounting Office, transmitting a list of reports issued or released in April 1988 by GAO, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3721. A letter from the Administrator of the Veterans Administration, transmitting notice of a proposed computer matching program to be conducted by the Department of Medicine and Surgery, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3722. A letter from the Chairman, Federal Election Commission, transmitting the annual report on the Commission's activities for 1987, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Administration.

3723. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3724. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3725. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3726. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3727. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3728. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3729. A letter from the Executive Secretary, Department of Defense, transmitting a report on Department of Defense procurement from small and other business firms for October 1987 through March 1988, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

3730. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide authority for payment of interest on insurance settlements, and to permit increased discount rates for insurance premiums paid in advance; to the Committee on Veterans' Affairs.

3731. A letter from the Assistant U.S. Trade Representative for Congressional Affairs, transmitting the reports of each of the private sector advisory committees on the United States-Canada Free Trade Agreement, except for the report of the President's Advisory Committee for Trade Negotiations, pursuant to 19 U.S.C. 2155(e)(1); to the Committee on Ways and Means.

3732. A letter from the Chief of Forest Service, Department of Agriculture, transmitting a report on the major Forest Service annual accomplishments for fiscal year 1987, pursuant to 16 U.S.C. 1674(c); jointly, to the Committees on Agriculture and Interior and Insular Affairs.

3733. A letter form the Federal Inspector, Alaska Natural Gas Transportation System, transmitting a report on the status of the Alaska Natural Gas Transportation System for the period June through December 1987, pursuant to 15 U.S.C. 719e(a)(E); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

3734. A letter from the Secretary of Health and Human Services, transmitting the administration's views on H.R. 3436, the "Medicare Long-Term Home Care Catastrophic Protection Act of 1987"; jointly, to the Committees on Ways and Means, Energy and Commerce, and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House May 26, 1988 the following report was filed on May 31, 1988]

Mr. Rostenkowski: Committee of conference. Conference report on H.R. 2470 (Rept. 100-661). Ordered to be printed.

[Submitted June 1, 1988]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3617. A bill for the relief of the Coushatta Tribe of Louisiana, with amendments (Rept. 100-565, Pt. 2). Referred to the Committee of the Whole House of the State of the Union.

Mr. GRAY of Pennsylvania: Committee on the Budget. Report on 302(a) allocations pursuant to section 2 of House Resolution 461 (Rept. 100-662). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 463. A resolution waiving certain points of order against the conference report on H.R. 2470, and against the consideration of such conference report (Rept. 100-663). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

H.R. 4340. Referred to the Committee on Appropriations for a period not to exceed 15 legislative days, with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DREIER of California:

H.R. 4717. A bill to require the Secretary of Defense to complete cost comparisons within 2 years under OMB Circular A-76 for all automated data processing and data entry functions in the Department of Defense and to require contracting out of such functions in cases in which cost savings will result; to the Committee on Armed Services.

By Mrs. BENTLEY:

H.R. 4718. A bill to require the Secretary of the Treasury to coin and sell a national medal in honor of the members and former members of the Armed Forces of the United States who served in the Korean conflict; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS:

H.R. 4719. A bill to require the recipients of Federal grants and contracts to maintain drug-free workplaces, and for other purposes; to the Committee on Government Operations.

By Mr. DYMALLY (for himself and Mrs. Morella):

H.R. 4720. A bill to amend title 13, United States Code, to provide for the inclusion of members of the uniformed services and civilian employees of the Government assigned to posts of duty outside the United States, and their dependents, in censuses of population for purposes of the apportionment of Representatives in Congress; to the Committee on Post Office and Civil Service.

By Mr. HALL of Ohio:

H.R. 4721. A bill to establish a National Gleaning Clearinghouse to promote the collection and distribution of gleaned food to individuals in need, and for other purposes; to the Committee on Agriculture.

By Mr. HAYES of Illinois (for himself and Mr. Gonzalez):

H.R. 4722. A bill to prohibit the displacement of the residents of the lakefront properties in Chicago, IL; to the Committee on Banking, Finance and Urban Affairs.

By Mr. JOHNSON of South Dakota:

H.R. 4723. A bill to promote highway traffic safety by encouraging the States to establish measures for more effective enforcement of laws to prevent drunk driving, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MONTGOMERY:

H.R. 4724. A bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Oktibbeha County, MS; to the Committee on Agriculture.

By Mr. RIDGE (for himself and Mrs. Roukema):

H.R. 4725. A bill to provide funding to States, and larger metropolitan cities and urban counties, on a formula grant basis for housing and related activities for the homeless, in order to give grantees maximum flexibility to meet the needs of the homeless and to improve the efficiency and effectiveness of the homeless housing assistance programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SISISKY (for himself, Mr. Bateman, Mr. Pickett, Mr. Bliley, Mr. Olin, Mr. Slaughter of Virginia, Mr. Parris, Mr. Boucher, and Mr. Wolf):

H.R. 4726. A bill to designate the U.S. Post Office Building located at 700 Main Street in Danville, VA, as the "Dan Daniel Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. DELLUMS:

H.R. 4727. A bill to provide an affordable, secure and decent home and suitable living environment for every American family, and for other purposes; to the Committee on Banking, Financing and Urban Affairs.

By Mr. AuCOIN (for himself, Mr. Lowry of Washington, Mr. Hayes of Illinois, Mr. Dellums, Mrs. Boxer, Ms. Pelosi, Mr. DeFazio, Mr. Russo, Mr. Bonker, and Mr. Wyden):

H. Con. Res. 308. Concurrent resolution to express the sense of the Congress that spending priorities in the budget of the U.S. Government should be changed to reflect the principles upon which the United States was founded; to the Committee on Government Operations.

By Mr. GILMAN (for himself, Mr. Fascell, Mr. Broomfield, Mr. Hamilton, Mr. Yatron, Mr. Solomon, Mr. Miller of Washington, Mr. Solarz, Ms. Snowe, Mr. Wolpe, Mr. Smith of New Jersey, Mr. Burton of Indiana, Mr. Lagomarsino, Mr. Torricelli, Mr. Smith of Florida, Mr. Levine of California, Mr. Dymally, and Mrs. Meyers of Kansas):

H. Res. 464. Resolution commending the President of the United States for his efforts on behalf of human rights while at the Moscow summit; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

397. By the SPEAKER: a Memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to Pennsylvania Garden Week; to the Committee on Post Office and Civil Service.

398. Also, memorial of the Legislature of the State of Florida, relative to Buy American Week; to the Committee on Post Office and Civil Service.

399. Also, memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to tax-exempt securities; to the Committee on Ways and Means.

400. Also, memorial of the Legislature of the State of California, relative to the United States-Canada Free Trade Agreement; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 186: Mr. Baker.

H.R. 303: Mr. Tauzin, Mr. Bunning, Mr. Bonker, Mr. Miller of Ohio, and Mr. Robert F. Smith.

H.R. 592: Mr. Crane, Mr. Bryant, Mr. McCloskey, Mrs. Lloyd, and Mr. Evans.

H.R. 759: Mr. Skeen, Mr. Eckart, Mr. Nelson of Florida, Mr. Olin, Mr. Frenzel, and Mr. Davis of Illinois.

H.R. 779: Mr. Shays.

H.R. 1198: Mr. Evans.

H.R. 1270: Mr. Berman, Mr. Blaz, Mr. Bliley, Mr. Dowdy of Mississippi, Mr. Durbin, Mr. Bilirakis, Mr. Porter, Mr. Daub, Mr. Skaggs, Mr. Pursell, Mr. Donnelly, Mr. Bateman, Mr. Russo, Mr. Schulze, Mr. Skeen, Mr. Cooper, Mr. Waxman, Mr. Shuster, and Mr. Obey.

H.R. 1352: Ms. Slaughter of New York.

H.R. 1966: Ms. Slaughter of New York.

H.R. 1990: Mr. Gregg.

H.R. 2168: Mr. Hammerschmidt, Mr. Gallo, and Mr. Lowry of Washington.

H.R. 2260: Ms. Pelosi.

H.R. 2734: Mr. Schaefer.

H.R. 2793: Mr. Rhodes, Mr. Denny Smith, and Mr. Bunning.

H.R. 2999: Mr. Clarke, Mr. Levine of California, Mr. Bereuter, Mr. Fish, Mr. Lehman of Florida, Mrs. Morella, and Mr. Pepper.

H.R. 3070: Mr. Bereuter.

H.R. 3133: Mr. Kolter, and Mr. DeFazio.

H.R. 3250: Mr. Wylie.

H.R. 3312: Mr. Rodino, Mr. Gallegly and Mr. Gallo.

H.R. 3454: Mr. Pease.

H.R. 3481: Mr. Roe.

H.R. 3501: Mr. Schuette.

H.R. 3622: Mr. Towns, Mr. Leland Mr. Frank, Mr. Espy, Mr. Akaka, and Mr. Bartlett.

H.R. 3781: Mr. Foglietta, and Mr. Bustamante.

H.R. 3791: Mr. Yates, Mr. Flippo, and Mr. Fish.

H.R. 3882: Mrs. Bentley, and Mr. Gilman.

H.R. 3885: Mr. Fazio.

H.R. 3914: Mr. Clay.

H.R. 3954: Mr. Mazzoli.

H.R. 4018: Mr. Neal and Mr. Kolter.

H.R. 4040: Mr. Hayes of Illinois, Mr. Torres, Mr. Bustamante, Mr. Richardson, Mr. Coyne, Mrs. Collins, Mr. Wolpe, and Mr. Conyers.

H.R. 4049. Mr. Flake, Mr. Wyden, Mr. Panetta, Mr. Sawyer, Mr. Morrison of Washington, Ms. Oakar, Mr. Bates, Mr. Staggers, Mr. Mineta, Mr. Solarz, Mr. Olin, Mr. Kennedy, Mr. Rose, Ms. Slaughter of New York, Mr. Atkins, Mr. Walgren, and Mr. Bruce.

H.R. 4070: Mr. Barnard, Mr. Hochbruecxner, Mr. Feighan, Mr. Foglietta, Mrs. Collins, Mr. Upton, Mr. Kolter, and Mr. Chapman.

H.R. 4115: Mr. Atkins, Mrs. Kennelly, Mr. Crockett, Mr. Fazio, Mr. Fish, Mr. Blaz, Mr. DeWine, Mr. Dornan of California, Mr. Mica, and Mr. Rowland of Connecticut.

H.R. 4198: Mr. Pickle and Mr. Clement.

H.R. 4221: Mr. Combest, Mr. Burton of Indiana, Mr. Pashayan, Mr. Oberstar, Mr. Valentine, Mr. Shays, Mr. Slattery, Mr. Wolf, Mr. Borski, and Mr. Denny Smith.

H.R. 4226: Mr. Hayes of Illinois, Mr. Houghton, Mr. Hochbrueckner, Ms. Oakar, Mr. Nowak, Mr. Solarz, and Mr. Kolter.

H.R. 4277: Mr. Dorgan of North Dakota, Mr. Walgren, Mr. Roe, Mr. Schaefer, Mr. Markey, Mr. Kastenmeier, and Mr. Johnson of South Dakota.

H.R. 4325: Mr. Lowry of Washington.

H.R. 4380: Mr. Mollohan, Mr. Lancaster, Mr. Hubbard, and Mr. Bryant.

H.R. 4432: Mr. Leland.

H.R. 4434: Mr. Petri and Mr. Ritter.

H.R. 4438: Mr. Tauke, Mr. Chapman, Mr. Gunderson, Mr. Kanjorski, Mr. Brennan, and Mr. McMillen of Maryland.

H.R. 4454: Mr. Lagomarsino.

H.R. 4474: Mr. Brown of California, Mr. Green, Mr. Courter, Miss. Schneider, Mr. de Lugo, and Mr. Smith of New Jersey.

H.R. 4495: Mr. Chapman, Mr. Nowak, Mr. Wortley, Mr. Jontz, Mr. Stangeland, Mr. Clement, Mr. Cheney, Mrs. Bentley, and Mr. Spratt.

H.R. 4497: Mr. Donald E. Lukens, Mr. Evans, and Mr. Weldon.

H.R. 4501: Mr. Neal and Mr. Crane.

H.R. 4526: Mr. Robinson, Mr. Houghton, Mr. Broomfield, Mr. Nelson of Florida, Mr. Savage, Mr. Skaggs, and Mr. Early.

H.R. 4578: Mr. Valentine, Mr. Boucher, and Mr. Coble.

H.R. 4598: Mr. Gingrich.

H.R. 4618: Mr. Montgomery, Mr. McGrath, Mr. Wortley, Mr. Saxton, Mr. Dyson, Mr. Davis of Illinois, Mr. Bereuter, and Mr. McCurdy.

H.R. 4635: Mr. Rowland of Connecticut.

H.R. 4652: Mr. Hastert, Mr. Donald E. Lukens, and Mr. Hiler.

H.R. 4655: Mr. Lowry of Washington, Mr. Owens of Utah, Mr. Bates, Mr. Bryant, and Mr. Bruce.

H.R. 4680: Mr. Gibbons.

H.J. Res. 35: Mr. Packard.

H.J. Res. 104: Mr. Packard.

H.J. Res. 145: Mr. Hochbrueckner, and Mr. DeWine.

H.J. Res. 438: Mr. Sisisky, and Mr. Edwards of Oklahoma.

H.J. Res. 453: Mr. McHugh, Mr. Stenholm, Mr. Gray of Illinois, Mr. Nowak, Mr. Rinaldo, Mr. Hansen, Mr. Matsui, Mr. Hayes of Louisiana, Mr. Courter, and Mr. Kolter.

H.J. Res. 464: Mr. Young of Florida and Mr. Packard.

H.J. Res. 476: Mr. Schumer, Mr. Stenholm, Mr. Tallon, Mr. Bruce, Mr. Morrison of Washington, Mr. Traficant, Mr. Hiler, Mr. Jeffords, Mr. Bartlett, Mr. DioGuardi, Mr. Jones of Tennessee, Mr. Stump, Mr. Lewis of California, Mr. Houghton, Mr. Livingston, Mr. Dreier of California, Mr. Chandler, Mr. Vander Jagt, Mr. Natcher, Mr. Price of North Carolina, Mr. Hutto, Mr. Pashayan, Mr. Dickinson, Mr. Durbin, Mr. Holloway, Mr. Grandy, Mr. Lott, Mr. Ray, Mr. Barnard, Mr. Swift, Mr. Hall of Ohio, Mr. Hawkins, Mr. Wylie, and Mr. Neal.

H.J. Res. 485: Mr. Andrews, Mr. Brown of Colorado, Mr. Bustamante, Mr. Chandler, Mr. Clarke, Mr. Coble, Mr. Conyers, Mr. Craig, Mr. DeFazio, Mr. Dixon, Mr. Fascell, Mr. Florio, Mr. Gilman, Mr. Hamilton, Mr. Hefner, Mr. Hubbard, Mrs. Kennelly, Mr. Mack, Mr. McCollum, Mr. Oberstar, Mr. Packard, Mr. Pickett, Mr. Sikorski, Mr. Skeen, Mr. Smith of New Jersey, Mr. Robert F. Smith, Mr. Stangeland, Mr. Upton, Mr. Wyden, and Mr. Hammerschmidt.

H.J. Res. 488: Mr. Bates, Mr. Blaz, Mr. Bliley, Mr. Boland, Mr. Borski, Mr. Brown of Colorado, Mr. Bustamante, Mr. Carper, Mr. Coleman of Texas, Mr. Conyers, Mr. Courter, Mr. DioGuardi, Mr. Dorgan of North Dakota, Mr. Dowdy of Mississippi, Mr. Davis of Michigan, Mr. Bateman, Mr. Florio, Mr. Frenzel, and Mr. Gilman.

H.J. Res. 518: Mr. Denny Smith, Mr. Johnson of South Dakota, Mr. Rangel, Mr. Frenzel, and Mr. AuCoin.

H.J. Res. 520: Mr. Roe, Mr. Morrison of Connecticut, Mr. Callahan, and Ms. Snowe.

H.J. Res. 539: Mr. Bates, Mr. Blaz, Mr. Bliley, Mr. Boucher, Mr. Broomfield, Mr. Bruce, Mr. Clarke, Mr. Clement, Mr. Coleman of Texas, Mr. Conyers, Mr. Dingell, Mr. Emerson, Mr. Guarini, Mr. Harris, Mr. Henry, Mr. Hoyer, Mr. Kennedy, Mr. Lehman of California, Mr. Madigan, Mr. Nelson of Florida, Mr. Nielson of Utah, Mr. Perkins, Mr. Pickett, Mr. Sawyer, Mr. Sisisky, Mr. Stallings, Mr. Traficant, Mr. Traxler, Mr. Wylie, and Mr. Young of Florida.

H.J. Res. 553: Mr. Spence, Mr. Packard, Mr. Towns, Mr. Traficant, and Mr. Walgren.

H.J. Res. 566: Mr. Traficant, Mr. Dreier of California, Mr. Swindall, Mr. Emerson, Mr. Daub, Mr. Hastert, Mr. Porter, Mr. Kyl, Mr. Stangeland, Mr. Inhofe, and Mr. Davis of Illinois.

H.J. Res. 567: Mr. Lagomarsino, Mr. Wilson, Mr. Mrazek, Mr. Towns, and Mr. Rodino.

H.J. Res. 571: Mr. Matsui, Mr. Solarz, Mr. Erdreich, Mrs. Johnson of Connecticut, Mr. Fawell, Mr. Torricelli, Mr. Harris, Mr. Leland, Mr. Mineta, Mr. Ackerman, and Mr. Mollohan.

H. Con. Res. 28: Mr. Lagomarsino.

H. Con. Res. 253: Mr. Wolpe, Mr. Matsui, Mr. Levin of Michigan, Mr. Fazio, and Mr. Levine of California.

H. Con. Res. 260: Mr. Swift, Mr. Walgren, Mr. Smith of Iowa, Mr. Walker, Mr. Herger, and Mr. Hoyer.

H. Con. Res. 265: Mr. Cheney.

H. Con. Res. 277: Mr. Torres, Mrs. Morella, Mr. Beilenson, Mr. Fuster, Mr. Wyden, Mr. Lowry of Washington, Mr. Mineta, Mr. Feighan, Mr. Foglietta, Mr. Boucher, Mr. Conyers, Mr. Rangel, Mr. Rodino, Mr. Dymally, Mr. Crockett, Ms. Kaptur, and Mr. Frank.

H. Con. Res. 298: Mr. Thomas of Georgia, Mrs. Martin of Illinois, and Ms. Slaughter of New York.

H. Con. Res. 301: Mr. Donald E. Lukens, Mr. Courter, and Mr. Mrazek.

H. Con. Res. 304: Mr. Bates, Mr. Lipinski, Mr. Brown of California, Mr. Hayes of Illinois, Mr. Fauntroy, Mr. Rahall, Mr. Dymally, Mr. Wheat, Mr. Studds, Mr. Rodino, Mr. Dellums, Mr. Traficant, Mr. Kildee, Mr. Walgren, Mr. Dingell, Mr. Morrison of Connecticut, and Mr. Crockett.

H. Res. 379: Mr. de Lugo, and Mr. Fish.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4526: Mr. Rhodes.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

176. By the SPEAKER: Petition of Central Latinoamericana de Trabajadores Mar Del Plata, Argentina, relative to Latin American Confederation of Workers; to the Committee on Interior and Insular Affairs.

177. Also, Petition of the city of Oldsmar, FL, relative to tax exempt status of State and municipal bonds; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4418

By Mr. BOEHLERT:

—On page 2, line 18, strike "$170,000,000" and insert in lieu thereof "$156,000,000."

On page 2, line 25, strike "$116,000,000" and insert in lieu thereof "$15,000,000."

On page 3, after line 2, insert "(12) Science and Technology Centers, $30,000,000."

H.R. 4505

By Mr. BOEHLERT:

—At the end of the bill, add the following new section:

"Sec. . Clean Coal Technology.—No funds are authorized and no funds appropriated or otherwise made available to the Department of Energy may be obligated or expended in fiscal year 1989 for clean coal technology demonstration projects unless the United States has first established schedules and standards to achieve a substantial reduction in airborne emissions of sulfur and nitrogen oxides which are precursors of acid deposition. This section shall not apply to the 11 demonstration projects already selected for co-funding pursuant to Public Law 99-190 and Department of Energy Program Opportunity Notice number DE-PS01-86FE60966."

—Page 9, line 16, through page 10, line 12 amend subsection (2) to read as follows:

(2) Foreign participation.—The Secretary shall not expend any funds authorized under subsection (1)(d), until the Secretary receives commitments of foreign participation totaling no less than 25 percent of the total estimated cost of the superconducting super collider project.

EXTENSIONS OF REMARKS

A NEW PARTNERSHIP FOR PLURALISM AND PROSPERITY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. TORRICELLI. Mr. Speaker, a few days ago our colleague, the gentleman from New York [Mr. SOLARZ], delivered an address on the promotion and preservation of democracy in Latin America before the Democratic Party's platform committee.

In his address, Mr. SOLARZ persuasively argued that the promotion of new democracies and the preservation of existing ones, in Latin America and elsewhere around the world, should be a major foreign policy priority of the next administration. Indeed, he eloquently made the case that important American diplomatic, economic, and strategic interests would be served if we paid more attention to encouraging the spread of democracy.

Mr. Speaker, it is my judgment that the ideas put forth by Mr. SOLARZ ought to be seriously considered by the American people as they go about the business of selecting a new President this fall. Mr. SOLARZ'S insights and recommendations deserve the widest possible audience. I commend them to my colleagues, and I ask leave now to place them in the RECORD.

A NEW PARTNERSHIP FOR PLURALISM AND PROSPERITY: THE DEMOCRATIC PARTY AND DEMOCRACY IN LATIN AMERICA

(By Congressman Stephen J. Solarz)

DEMOCRATIC PLATFORM COMMITTEE, DEFENSE AND FOREIGN POLICY FORUM, MAY 20, 1988

I have been asked to speak for a few minutes this morning on democracy in Latin America.

In my view the promotion and preservation of democracy—not just in South America but in southern Africa and South Korea, not just in Panama but in Poland and Pakistan—should be a major foreign policy priority of the next administration.

By now it should be abundantly clear that the promotion of new democracies and the preservation of existing ones clearly serve important American interests.

Diplomatically, the promotion and preservation of democracy will advance a broad range of U.S. foreign policy objectives, since democratic governments are more likely to share our goals and much less likely to pursue those of our adversaries.

Economically, the promotion and preservation of democracy is likely to strengthen the global economy, since political pluralism is usually associated with market economies that facilitate economic growth, while totalitarian regimes tend to be associated with command economies that more often than not stifle economic growth.

Militarily, the promotion and preservation of democracy will contribute to peace, since history teaches us that democratic countries are considerably less likely than their nondemocratic neighbors to resort to armed force.

Had previous administrations accepted the essential truth of these propositions and acted accordingly, then perhaps we would not now be saddled with a Sandinista regime in Nicaragua that has threatened the peace and stability of Central America.

Had earlier administrations more actively promoted democracy in Cuba, then perhaps we would not now be faced with a Soviet ally 90 miles from our own shores.

It is, of course, one thing to acknowledge the general desirability of democracy, and quite another to figure out the best way to promote and sustain it.

And here we need to distinguish conceptually between encouraging the establishment of democracy where it does not exist, and supporting it where it already exists.

How does one actually go about promoting democracy in countries currently ruled by repressive regimes, be they tyrannies of the Left or dictatorships of the Right?

First, presidential and congressional pronouncements on pluralism can buoy the hopes of the oppressed and embarrass their oppressors.

And here I feel compelled to note that the statement made by Vice President Bush in Manila in 1981, where he praised President Ferdinand Marcos for his "love of democracy," constitutes a precise formula for how not to promote the spread of democracy in repressive regimes around the world, inasmuch as it demoralized the oppressed and enhanced the morale of their oppressors.

Second, where we have foreign aid programs, we can condition the offer or continuation of our economic and security assistance on specific democratic reforms and a real respect for fundamental human rights.

Third, in cases where assistance is not available as a lever, economic sanctions can be imposed, although we must remember that sanctions work best when they are multilateral rather than unilateral.

Finally, the National Endowment for Democracy offers an effective means for strengthening democratic organizations and institutions throughout the hemisphere.

At the very least, we must permit no doubt in anyone's mind that the United States stands on the side of democracy rather than dictatorship.

In deciding which methods will most effectively advance the cause of democracy in our own hemisphere, we should be influenced in part by the views of the democratic opposition in the countries concerned.

Surely these courageous men and women are entitled to the presumption that they know best how to promote the cause to which they have pledged "their lives, their fortunes, and their sacred honor."

But while we attempt to promote pluralism through political and economic means, we should refrain from the use of force as a way of supporting the establishment of new democracies.

A direct American intervention in Panama, as some have suggested, would fan the flames of anti-Americanism throughout the hemisphere, transform Noriega from a widely despised thug into a symbol of resistance to Yankee imperialism, and generate considerable concern on the part of our allies abroad.

Similarly, we must recognize that in Nicaragua we have a far better chance of achieving our objectives and advancing the cause of democracy at the negotiating table than on the battlefield.

But while opposing the resumption of military aid to the contras—both because it is counterproductive and because it sets a dangerous precedent for interventionism elsewhere—we must not be indifferent to the struggle of Nicaraguan democrats for pluralism in their country, and we must be willing to use our political and economic leverage to encourage the establishment of a genuinely free society in Nicaragua.

Indeed, it is particularly important that we Democrats harbor no illusions about the Sandinistas, whose record of repression makes it clear that they have far more in common with Leninists with a large "L" than with democrats with a small "d."

Finally, given historic Latin sensitivities to American intervention in their internal affairs, we must make every effort to promote our objectives in Latin America in a multilateral context rather than on the basis of unilateral initiatives.

Just as the Reagan administration erred in jumping out ahead of our Latin American friends in Panama, it was also mistaken in not more actively backing the Arias Plan and the Sapao accord, which has received the support of all of Central America's democracies.

Undoubtedly there will be times when our capability to promote democracy abroad will be severely circumscribed by political and strategic realities.

It would, for instance, have been exceptionally ill-advised for Franklin Roosevelt to insist on conditioning lend-lease assistance to the Soviet Union in 1941, with the Nazis at the gates of Moscow, on Stalin's willingness to initiate a multiparty system and eliminate the gulag.

But to concede that we may not be able to promote democracy everywhere must not be allowed to become a pretext for promoting it nowhere.

Iran, Nicaragua, and Cuba should remind us of the price we have paid for an indifferrence to the suppression of democracy in the name of security, just as the recent transitions from dictatorship to democracy in the Philippines and South Korea should remind us that the best way to protect our interests is to promote our ideals.

Of course the mere fact that a country has successfully made a transition to democracy hardly guarantees that it will remain democratic.

The history of Latin America is replete with examples of democrats overthrown by colonels and generals who believed that they were better able than those who had been elected by the people to guide the affairs of state.

In the 1970s, when democracies were the exception and dictatorships the rule in the hemisphere, our principal emphasis rightly

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

lay in the promotion of political pluralism and human rights

President Carter's human rights policies were particularly well-suited for this task, and left an important legacy of American concern for individuals who were tortured by tyrants and people who were denied democracy by dictatorships.

In the late 1980s, however, now that a democratic tide has swept over the hemisphere and dictatorships are the exception rather than the rule, our task is somewhat different.

Now we must concentrate as much on sustaining currently existing democracies as on promoting the establishment of new democratic governments.

Perhaps the greatest threat to existing democracies lies in the economic and social crisis that envelopes the hemisphere.

If current governments in Peru, Argentina, Brazil, and elsewhere fail to translate the promise of democracy into a better life for their people, they could easily fall victim to a tide of popular disenchantment and a new wave of military despotism.

If the governments of El Salvador, Guatemala, and Honduras are unable to deal more effectively with the underlying social injustices and economic inequities that pervade their societies, the prospects for revolutionary movements and the establishment of even more frightening tyrants will be significantly enhanced.

In seeking ways to shore up these struggling democracies, we need to adopt a 3-pronged approach centering on trade, aid, and debt.

We must, for instance, review our trade and tariff policies to insure that Latin American economic revival is not being undermined by inflexible or discriminatory protectionist measures on our part.

To cite on example, the current quota system enjoyed by U.S. sugar growers, by limiting foreign sales in the United States, exacts a huge price on overseas sugar producers in terms of lost revenues, unemployment, and increased social discontent.

This year we will give the democratic nations of the Caribbean a total of $106 million in military and economic assistance.

But at the same time, U.S. sugar quotas will cost them something on the order of $275 million in sales, thereby wiping out whatever beneficial impact American assistance might otherwise have had.

In another area, we must be prepared to provide besieged democracies with greater economic assistance, despite the constraints imposed by our budget deficit, so that they can have the resources they need to deal with the problems that confront their people.

Finally, the United States must use its influence in the International Monetary Fund and with American banks to facilitate a restructuring of Latin American debts to allow longer periods of amortization and lower rates of interest.

In the 1930s, the United States under Franklin Roosevelt's leadership developed the Good Neighbor Policy.

In the 1960s, under John Kennedy's guidance we came forward with the Alliance for Progress.

As we move into the 1990s under what we all hope will be a Democratic administration, what we need is a new Partnership for Pluralism and Prosperity—a partnership based upon the same kind of constructive and cooperative relationships between the United States and its democratic friends in Latin America as we had under the earlier Democratic administrations of Presidents Roosevelt and Kennedy.

CAPT. FRED MOOSALLY ASSUMES COMMAND OF THE U.S.S. "IOWA"

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SKELTON. Mr. Speaker, on May 23, Navy Capt. Fred Moosally assumed command of the battleship U.S.S. *Iowa*. We in the House remember Captain Moosally as the House chief of legislative liaison and what a fine professional representative of the Navy he was. I had the opportunity to attend his assumption of command ceremony where he relieved another outstanding naval captain, Capt. Larry Seaquist. Also in attendance were Congressman OWEN PICKETT, Congressman HERBERT BATEMAN, and Captain Moosally's lovely wife Joan and their three children. I know the other Members of the House join me in expressing best wishes to Captain Moosally as captain of that great battleship. Captain Moosally made the following remarks at the ceremony which are set forth as follows:

CAPTAIN MOOSALLY'S REMARKS

Congressman Skelton, Congressman Pickett, Congressman Bateman, Admiral Donnell, Admiral Boorda, Admiral Pappas, Admiral Bennet, my dear family and friends, fellow naval officers and *Iowa* family, when I left command approximately two and a half years ago, I stated that God and the Navy willing I would be back in command at the earliest opportunity. Since receiving my orders and after reporting to *Iowa* for duty I have thanked God many times and am very grateful to the Navy for having confidence in my abilities and ordering me as CO of *Iowa*. It is something I could only dream of when I stood in President Roosevelt's bathtub eight years ago as XO of U.S.S. *Maham* and had my picture taken with our command career counselor.

In reflection I would like to recognize the many individuals who inspired me to the naval profession and assisted me in my growth as a naval officer. Some have retired taking a piece of me with them, some are stationed at distant places, many are here today. I thank them all so very much. I give special thanks to the members of the House Armed Services Committee, Congressmen Skelton, Pickett, and Bateman for taking time out of their busy schedule to honor me this day. I, the Navy and more particularly the tidewater area owe you all so very much for your strong support. My special friend, Congressman Skelton, thank you for your inspiration and the wonderful education you gave me during my tour on Capitol Hill. You, along with the other Congressmen, staff members and friends from industry here today broadened my reach and increased my depth in mind in those two years.

Captain Seaquist, thank you for a great turnover. You sir, have left me with some big shoes to fill, but also a great wardroom and crew to help me do the job. You have moved *Iowa* forward on every front, cleanliness, preservation, material condition, tactically and strategically. You have educated the Navy in what battleships do. Most importantly the crew I am inheriting smiles a lot. That's the best indicator a CO can have of a job well done. We will carry on with the standards you have set—we will move forward and to new heights. God bless you and Carla as you depart *Iowa* and head to your new duty station. I wish you all the best.

NATIONAL GLEANING CLEARINGHOUSE

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HALL of Ohio. Mr. Speaker, recent months have witnessed a sharp decline in Government stockpiles of surplus food. As a result, the Temporary Emergency Food Assistance Program [TEFAP] which provides surplus cheese, butter, dry milk, rice, honey and flour to an estimated 25 million people every month, is in danger of elimination. While the Government should renew its commitment to ending hunger in the United States, we need to find new private-sector ways to help beat the hunger epidemic.

Today I am introducing the National Gleaning Clearinghouse Act of 1988. This bill sets up a clearinghouse at the Department of Agriculture to help private nonprofit organizations run gleaning projects in which leftover food that would otherwise be wasted, can be gathered and donated to hungry people. With Government resources shrinking, we should help stimulate private low-cost projects like gleaning to find food for those who are still hungry.

Gleaning is the practice of gathering crops that are left over from the fields after harvesting for donation to people in need. Gleaning can also be done from producers, processors, and retailers of agriculture commodities who reject perfectly edible products that cannot be used. The General Accounting Office [GAO] estimates that 60 million tons of food worth $5 billion rots in the fields, unpicked and uneaten.

Right now individuals and food bank personnel are gleaning to help feed hungry people in their communities all over the country. In my own congressional district of Dayton, OH, we gleaned over 52 tons of food with the help of volunteers from schools, churches, businesses and community groups. Congressional testimony has pointed to the need for a clearinghouse to help these groups flourish.

My bill allows the National Gleaning Clearinghouse to distribute information on groups that may have gleaned and who wish to donate food. It establishes an 800-telephone number for groups to call and report information, as well as obtain materials for gleaning. It encourages nonprofit groups to set up gleaning activities and helps identify crops that may go wasted. In essence, this clearinghouse will help private sector groups all over the country to network.

Mr. Speaker, this is a simply way for the public and private sectors to work together to feed needy individuals, including low-income and unemployed people. I am happy to submit a copy of my bill:

NATIONAL GLEANING CLEARINGHOUSE

SEC. 1. THIS ACT SHALL BE KNOWN AS THE NATIONAL GLEANING CLEARINGHOUSE ACT OF 1988.

SEC. 2. DEFINITION OF GLEANING.

For the purpose of this Act, the term "to glean" means to collect unharvested crops from the fields of farmers, or to obtain agricultural products from farmers, processors, or retailers, in order to distribute such products to needy individuals, including unemployed and low-income individuals. "Gleaning," under this Act, includes only those situations in which agricultural products and access to fields and facilities are made available without charge.

SEC. 3. NATIONAL GLEANING CLEARINGHOUSE.

A. There is hereby established in the Extension Service of the Department of Agriculture a National Gleaning Clearinghouse (hereinafter referred to as "the Clearinghouse").

B. Through the Clearinghouse, the Secretary of Agriculture shall:

1. Encourage public and nonprofit private organizations to initiate and carry out gleaning activities, and to assist other organizations and individuals to do so, through lectures, correspondence, consultation, or such other measures as the Secretary may deem appropriate.

2. Collect from public and private sources (including farmers, processors, and retailers) information relating to the kinds, amounts, and geographical locations of agricultural products not completely harvested.

3. At reasonable intervals. As determined by the Secretary. Gather, compile, and make available to public and non-profit private organizations and to the public the statistics and other information collected under subsection 2 above.

4. Establish and operate a toll-free telephone line by which—

a. farmers, processors, and retailers may report to the Clearinghouse, for dissemination, information regarding unharvested crops available for gleaning, and may also report how they may be contacted;

b. public and nonprofit private organizations that wish to glean or to assist others to glean, may report to the Clearinghouse the kinds and amounts of products that are wanted for gleaning, and may also report how they may be contacted;

c. persons who can transport crops or products may report the availability of free transportation for gleaned products; and

d. information about gleaning can be provided without charge by the Clearinghouse to the persons and organizations described in paragraphs a. b. and c above.

5. Prepare, publish, and make available to the public, at cost and on a continuing basis, a handbook on gleaning that includes such information and advice as may be useful in operating efficient gleaning activities and projects, including information regarding how to—

a. organize groups to engage in gleaning, and

b. distribute to needy individuals, including low-income and unemployed individuals, food and other agricultural products that have been gleaned;

6. Advertise in print, or on radio or television, as the Secretary considers to be appropriate, the services provided by the Clearinghouse under this Act.

SEC. 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY UPON ENACTMENT.

TRIBUTE TO LAWRENCE ATLAS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to a businessman, a constituent and a friend—Larry Atlas. On Saturday evening, June 11, at the New York Hilton, Larry will be honored by the National Kidney Foundation of New York and New Jersey as "Humanitarian of the Year." If anyone deserves such an honor, it is Larry.

I know that this award has a special meaning to Larry because his father, the late David Atlas, was posthumously selected as the recipient in 1982. Although I never knew David Atlas, I know that if he were alive today he would be proud of his son's charitable work on behalf of the National Kidney Foundation and the many other endeavors in which Larry has been involved.

Mr. Speaker, the presentaton of the National Kidney Foundation's award to Larry coincides with the 20th anniversary of Larry's first battle with kidney disease and his two-decade association with the foundation. Larry was not only a witness to the many advances made in the treatment of renal disease, but an active participant in these medical advances, including the greatest gift a mother can give—the "Gift of Life." In 1980, Larry's mother, Norma, gave one of her kidneys to Larry. That kidney lasted for 4 years.

Over the past 20 years, Larry has withstood drug therapy, endured hemodialisis and suffered through periodic transfusions. In spite of the immense physical toll that these procedures have placed on Larry, he has emerged into one of the many noteworthy young businessmen of New York City and a true mensch.

Larry attended Queens College of the City University of New York where he was active in the Council of Jewish Organizations and the student government. In addition, he served as business manager of Ha-Or, one of the campus' weekly newspapers, and was affectionately known as the "Great Schnurer on Campus" because of his fundraising prowess. During Larry's years at Queens College, he nurtured many friendships that will last life long. In addition, Larry has always regarded family life as important. He is a devoted son and brother, and a loving uncle.

Larry stepped into his father's shoes after his dad's untimely death and became the copartner of Atlas Floral Decorations. Under Larry's stewardship, the firm has flourished as no other company in Queens has. For a person so young, Larry has accomplished so much.

Mr. Speaker, I call on my colleagues in the House of Representatives to join me in offering my congratulations to Lawrence Atlas; his mother, Mrs. Norma Atlas; and to his family and friends. Indeed, New York is a better place to live because of Larry.

TRIBUTE TO BARBARA BARTLOW McKINNEY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DELLUMS. Mr. Speaker, I rise today to honor and celebrate the career of Barbara Bartlow who is retiring June 15, 1988 from the Berkeley Unified School District, Berkeley, CA, where she has been a teacher of distinction since 1954, and a valued staff member of Jefferson School for 27 years.

She was born to a pioneer Berkeley family, the second oldest of six children; she put herself through school working as a clerk and in the local cannery. She is a graduate of Berkeley High School and of San Francisco State University where she earned her coveted teaching credentials.

She is a daughter of the depression whose youth was influenced by World War II, who rode the crest of civil rights activism and was professionally involved in the desegregation of the Berkeley schools; she surmounted any stumbling block that would keep her from delivering a message of hope, confidence and good will to students, parents, and community.

Barbara McKinney's life as a multitalented person has been and remains a role model to all. Endeared wife, mother of four, grandmother, aunt, and business woman, she has made time to sing and travel with the Berkeley Community Chorus, be an active citizen and church member while devoting herself to her cherished profession.

No greater tribute was ever sought by this teacher than to be one. She felt her place was in the classroom close to the children. Her career has been dedicated to the achievement of more than a thousand children whose lives she has influenced beyond our reckoning.

Barbara Bartlow McKinney is special lady who has made her positive imprint on the history of our land.

HOME IS WHERE THE HEART IS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. MILLER of California. Mr. Speaker, once again, we are confronted by the decade's most unconscionable problem: the long-term consequences of homelessness among a growing number of children and families. A new report, "Home is where the Heart Is: The Crisis of Homeless Children and Families in New York City," prepared by the Bank Street College of Education, exposes the crises facing the 11,000 homeless children and their families living in New York transitional shelters.

The overwhelming problem of inadequate and largely unavailable low-income housing, severely exacerbated by the policies of the administration, are unlikely to be resolved soon. In the meantime, according to the report, children are suffering the consequences.

The report's findings reaffirm the evidence collected by the Select Committee on Children, Youth, and Families that children endure extremely harmful health, developmental, and academic outcomes as a result of homelessness.

Bank Street researchers visited 15 programs that serve homeless children, and made weekly observations of homeless children over a 6-month period at one onsite day care program. They made the following findings: There are 10,945 homeless children in New York City; half of them are under age 5; 10 percent are under age 1.

Shelter arrangements.—10 percent of New York City's homeless children are sheltered in barracks-style, congregate facilities; 21 percent are in shelters run by not-for-profit organizations; 69 percent are in welfare hotels.

Health and nutritional status.—One in six of the infants born to mothers in New York City welfare hotels are low-birthweight; the infant mortality rate in welfare hotels is 24.9 per 1,000 newborns, compared to 10.6 citywide; more than half of all pregnant women in welfare hotels in 1985 received minimal or no prenatal care; three-fourths of children living at the Martinique Hotel are under- or non-immunized; homeless children receive $2.13 a day (per person) for a restaurant allowance, plus $1.58 a day in food stamps.

Access to services.—Forty-nine percent of family members in New York City shelters who are eligible for food stamps do not receive them; only one shelter has an onsite WIC office; only 50 percent of homeless children ages 6 to 17 attend school; there are some 6,000 school-age children. By Labor Day, 1987, only 583 had been registered for school; there are 850 early childhood education slots for the 5,500 children birth to 5 years of age; the majority of these are for 3- to 5-year-olds.

Bank Street researchers also observed significant developmental problems among the homeless preschoolers: short attention spans, weak impulse control, withdrawal, aggression, speech delays, sleep disorders, regressive toddler-like behaviors, and inappropriate social interactions with adults and peers. These are extremely troublesome findings, given what we know about the vulnerability of very young children during this important stage of their development.

I urge my colleagues to consider these findings as well as the recommendation of Bank Street College calling for "immediate action to halt the potentially damaging effects of homelessness on young children." We will have several opportunities during the remainder of this legislative session to redress the problems of homeless families, as we consider the reauthorization of the Stewart B. McKinney Homeless Assistance Act, the fiscal year 1989 HUD appropriations for low-income housing assistance, and the critically important Fair Housing Act, which would prohibit housing discrimination against families with children.

A SALUTE TO THE REESE, ERVIN, McKAY AND McCOLLUM FAMILY REUNION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. STOKES. Mr. Speaker, on behalf of the residents of the 21st Congressional District of Ohio, I would like to take this opportunity to salute the members of the Reese, Ervin, McKay and McCollum families who will be celebrating their second family reunion during the weekend of August 12–14, 1988, in Cleveland, OH. The Reese, Ervin, McKay and McCollum family are descendants of Richard and Fannie Reese of Bennettsville, SC.

Mr. Speaker, these families have endured many trials and tribulations over the years. Yet, they have maintained their love, devotion, and commitment to one another. I would like to share with my colleagues a poem which I feel reflects the vitality and spirit of these families. I ask that we join in extending heartfelt best wishes to the entire family on this special occasion.

TRIBUTE

It's so nice to see all the folks you love together,
Sitting and talking about all the memorable yesteryears,
Family reunions are like a Golden Chain,
The links are relatives so close and dear.
And like rare and precious jewels,
Their love is measured more each year.
Family members' love is deep and true,
And it is rich with happy, loving memories.
And fond recollection, too.
The Golden Chain of Family Love,
Is a strong and blessed tie,
Binding kindred related hearts together,
As the years go passing by.

HONORING FATHER CHARLES FRANK GONET

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. CONTE. Mr. Speaker, I rise today to extend my warmest congratulations to Rev. Charles Frank Gonet as he celebrates the 30th anniversary of his ordination Sunday, June 5. I join the family, friends and parishioners of Father Charles in giving thanks for his spiritual leadership and community concern throughout the years.

Father Charles responded to his divine call to the priesthood soon after he graduated from Agawam High School in 1948. He entered the Stigmatine House of Studies in Waltham in 1949 and served his novitiate year in Springfield in 1951 and 1952. Father Charles then entered the Pontifical University of St. Thomas Aquinas in Rome, where he completed his studies in philosophy and theology in 1958. On May 31, 1958, he was ordained into the priesthood at the Arch Basilica of St. John Lateran in Rome.

Father Charles undertook his first priestly appointment at the Stigmatine Junior Seminary in Wellesley, where he served as an assistant in 1958 and 1959. He was then appointed to the Sacred Heart Church in Timmins, Ontario, where he served until 1964. At that time, he returned to western Massachusetts to my own parish of Mt. Carmel in Pittsfield, where I came to know firsthand his sincere devotion to sustaining the spiritual strength of his parishioners. After 2 years with parish of St. Francis in Lynn from 1967 to 1969, Father Charles was appointed to serve the people of St. Thomas the Apostle in west Springfield. Between 1976 and 1982, Father Charles served the parishes of St. Mary in Longmeadow and Our Lady of Hope in Springfield. In October 1982, he was honored with the appointment as pastor of St. Catherine of Siena Church in Springfield.

In addition to his duties as a parish priest, Father Charles directed the Newmann Club at Bay Path College in Longmeadow between 1976 and 1982, giving great time and energy to guide the Catholic student body.

Mr. Speaker, Father Charles has committed his life to the spiritual guidance and welfare of thousands and he will mark the anniversary of his priestly devotion to God with a mass of thanksgiving. My thoughts and my prayers will be with him.

AGRICULTURAL EXPORT SUBSIDIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 1, 1988 into the CONGRESSIONAL RECORD:

AGRICULTURAL EXPORT SUBSIDIES

A year ago, as a new round of trade talks was getting under way in Uruguay, President Reagan announced that the United States would seek an agreement to end all agricultural export and production subsidies by the year 2000. The startling proposal has generated much discussion. Recently the countries involved in the General Agreement on Tariffs and Trade (GATT) talks agreed to seek an "approach" to reduction of agricultural subsidies. Achieving any agreement soon will be difficult.

Nearly all developed countries subsidize their farm sectors in one way or another. The intent is to increase farmers' income, ensure a safe supply of food, and support the economic base of rural communities. These objectives, while worthy, can be very costly. By some estimates, the industrial countries are spending as much as $240 billion a year on agricultural supports, twice the amount at the beginning of the decade. Farm subsidies have other costs, as well. Subsidized exports can distort world markets, causing greater price and supply volatility than would otherwise be the case. Domestic price supports can encourage production of crops already in surplus, discourage the regional production adjustments that would normally take place in response to changing demand, and raise world commodity prices, thus increasing consumer costs and allowing less efficient producers in other countries to remain competitive.

U.S. farmers and government officials frequently charge that agricultural subsidies are a problem created primarily by other countries. The European Community (EC) accounts for 43% of all farm subsidy spending; Japan accounts for 23%: and the U.S. share is 20%. On a per farmer basis, Japan's subsidies are the highest among the developed countries, more than double the U.S. rate. Only Australia and New Zealand have a lower level of farmer support than does the U.S. However, an accurate picture of the relative effect on world markets must take into account other factor as well. Since the United States is the largest producer of wheat and coarse grains, and controls a large share of the export market, U.S. subsidies have a significant impact on world price and supply.

The President proposes to abolish all farm subsidies which distort production, leaving food trade and prices to market forces. Countries would still be able to help maintain farmers' income, but would sever the connection of aid to prices and production. This plan is intended to benefit consumers and taxpayers by reducing government outlays and lowering food prices. Eliminating subsidies would also help concentrate agricultural production in those countries, like the U.S., which have an advantage in farming. Yet since the U.S. has increased its export subsidies sharply in recent years, it is difficult for Europe and Japan to take seriously the U.S. proposal to end such subsidies. It is also difficult for U.S. negotiators to agree to end or reduce subsidies without the willingness of the Congress to rewrite farm programs.

Several factors have recently come together to brighten the outlook for reducing agricultural subsidies. The major one is the staggering cost of the subsidies, and the huge commodity surpluses they generate. EC surplus stocks have risen dramatically in the past several years. Whereas U.S. subsidy costs have peaked and are now declining modestly, EC subsidy costs are still rising. Budgetary pressures in all countries have increased. In addition, aggressive U.S. actions to increase export subsidies and to recapture lost markets have impressed upon the EC the cost and risk of its current policies. The U.S. success in getting farm subsidies on the agenda of the current round of GATT talks has been an important step. Moreover, the likelihood that GATT will rule against Japanese import barriers puts pressure on Japan to lessen protection of its farmers.

But strong pressures continue to support the present system. The EC and Japan think the President's call for a complete elimination of production and export subsidies is too extreme. Success would require a commitment to simultaneous, step-by-step reductions by all governments. That would be very hard to achieve, especially given the variety of ways that governments subsidize agriculture. His plan would require that several U.S. farm programs be eliminated by the Congress. Even if U.S. trade negotiators can strike a deal overseas, I am doubtful that the Congress will suddenly find it desirable or possible to eliminate various federal farm subsidies. The President's proposal has reignited worries of boom and bust cycles for farmers and highly variable costs for consumers.

Moreover, international negotiations to reduce agricultural subsidies are difficult because each country has a deeply ingrained sense that self-sufficiency in food production is indispensable to its security. Although the costs of farm subsidies are high, they are small in relation to a country's total economy, and are often thought to be outweighed by the benefits of a secure food supply. In addition, tradition in almost every country is based on rural life, and a strong desire exists to protect farmers. Agriculture involves much more than just economics. It also involves social, cultural, and emotional consideration, which make the issue of farm subsidies difficult to resolve.

A major change in government agricultural policy will not be easy, but it is possible. New Zealand has ended all subsidies of commodity prices and farm inputs; the bulk of a farmer's income now comes from the sale of commodities at the market price. Any plan agreed to by the developed countries may well follow the New Zealand model—lessening direct price and production subsidies, while maintaining income subsidies to farmers and providing information and other direct assistance.

It is unlikely that any international agreement will soon be reached to end farm export and production subsidies. Yet I am encouraged that Governments are daring to talk about genuine reform.

THE REUNION OF "THE CHOSIN FEW"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SOLOMON. Mr. Speaker, last month a group of American and Korean war veterans, known as "The Chosin Few," held a reunion here in Washington. Each of these men survived the notorious siege at the Chosin Reservoir in 1950 during the Korean war.

The guest speaker at this year's reunion was Minister Sun-Sup Chang of the Embassy of the Republic of Korea. Minister Chang gave a stirring address in which he remembered the sacrifices that American and Korean soldiers made—and continue to make—in order to keep the lamp of freedom burning brightly in Northeast Asia.

Minister Chang also commented on the recent political and economic developments in the Republic of Korea that have inspired the admiration of the entire world. His remarks make clear that the 54,000 Americans and the 1,000,000 free Koreans who laid down their lives during the war did not die in vain.

I insert Minister Chang's remarks at this point in the RECORD:

IN HONOR OF THE CHOSIN FEW REUNION

President Borman, Rev. Wotring, Mr. Gauldin, Governor's Office, Members of Chosin Few, and Distinguished Ladies and Gentlemen:

It is a truly a great honor and a privilege for me to represent Korea at today's reunion of Chosin Few. This evening, my new Ambassador, Tong Jin Park, who incidentally arrived to Washington just a few days ago, asked me to convey to you that he was unable to take part in today's memorable event.

The reunion is memorable to us because it is a gathering of the old and true friends of the Korean people. The battle at Chosin (Changjin), various aspects of which were discussed at yesterday's panel, is recalled by many as "the epic of modern military history." It will never become a story of forgotten war. The Americans and their sacrifices made at Chosin and in Korea during the War will long be remembered with deep gratitude by the people of my country. They helped us defeat Communists from the North, and I believe they can be proud of that today.

Mr. Max Hastings, a British author, described graphically in a recently published book entitled "The Korean War" the feelings commonly shared by the Korean people towards the United States and other United Nations forces who fought and sacrificed in Korea. He wrote, I quote:

"Thousands of men who fought as United States and United Nations forces in Korea are deeply moved today by the gratitude that South Koreans still display for the salvation of their country from the Communists more than thirty years ago."

Perhaps this has been enhanced by watching South Vietnam submerged into a Communist state. Private Bill Norris of the 27th Infantry said that he saw Koreans today and the respect they showed for them. He contrasted this with the animosity he had seen in Europe after World War II. In Korea, he saw gratitude. Sergeant John Richardson, of the Canadian Army, believed passionately that war was worthwhile; and he said, again I quote:

"In October 1983, I had the great privilege of going back to Korea. It was the thrill of my lifetime. On my return to Canada, I simply told the former comrades-in-arms that I was convinced that our fellow comrades rest in a country where their sacrifice is fully appreciated."

Lt. Col. Roy Appleman of the US Army wrote in the preface of his book, "East of Chosin", about the memory of Chosin gradually disappearing in the minds of the people. He said:

"The men of the United States Armed Forces who fell on the east side of the Chosin (Changjin) Reservoir in the winter of 1950 have no white marble markers at their final resting places as do thousands of others memorialized in Arlington National Cemetery, in other national cemeteries, and in other lands. They have no markers of any kind—only the fragile link of memory that endures from generation to generation in the recollection of their countrymen who know our nation's history."

I believe that I speak for all Korean people when I say that if there are no white-marble markers anywhere in the United States for those who sacrificed their lives in the Chosin Reservoir, you will find those indelible markers in the hearts of hundreds of thousands of the Korean people who will never forget their noble sacrifices. Their indescribable hardship enabled the then two-year-old Republic of Korea to defend itself from the Communist onslaught from the North and preserve freedom and peace on the Korean peninsula. The people of Korea are forever indebted to those Americans who came to our rescue during one of the darkest hours of their history.

It is with this indebtedness in mind that when the United States asked our cooperation in Vietnam, Korea sent, without any hesitation, two Army Combat Divisions and a Marine Brigade to fight alongside U.S. forces in Vietnam. Our alliance has been forged through mutual help, sacrifice and everlasting comradeship.

Regarding some of the recent pressures from the United States to open Korea's markets and burden sharing in defense, The

Wall Street Journal on May 10th this year stated:

"Korea stands out as a country that wants to maintain U.S. military presence and even is willing to carry some more of the costs. At a time when precious few nations anywhere are willing to gamble on Democracy, Korea is doing precisely that."

The Korean War, including Chosin Reservoir, was not a wrong war in the wrong place and time. We are now witnessing the evolution and transformation of the Republic of Korea that demonstrates your sacrifice was not in vain. The economy is growing steadily, and democracy, as W.S.J. properly pointed out, began to flourish in the very land where, as you yourselves once observed, there was no hope whatsoever for the future. Only destruction, destitution and despair filled the air.

Let me now describe briefly what has become known as a miracle wrought by strenuous efforts of the people you helped survive the devastating war almost forty years ago.

Since last year, new developments in the political process have introduced a transformation which was never part of our country's long history. A process of democratization substituted the authoritarian rule that the country had known for such a long time. Great strides have been made in Korea's movement toward a more complete democracy.

The year 1988 marks a significant turning point in Korea's political development. In February, the first orderly transfer of government in our modern history took place. About a month ago, we held general elections in which the people demonstrated their desire, once again, for both change and stability. In some ways, the recent elections culminated a process of democratization that begun a year ago when the then Presidential candidate of the ruling party made the now historic proposal for sweeping democratic reforms. Since then, we as a nation have become more aware of the importance of dialogue and compromise. With this emerging understanding, the Korean domestic political context is being transformed into a more mature democratic framework. It is a happy coincidence that Korea will host the Olympic Games in the same year that democracy and political stability have taken root in Korea.

The Korean economy began to move forward in the early 1960's when we launched a series of economic development plans. For several years our plans have brought about success after success. Korea's economic picture begun to show important structural changes. For the first time in our history, we posted a trade and current account surplus which eluded us since the nation embarked on an aggressive export drive some 20 years ago. Our foreign debt, which has stood as high as 47 billion dollars, or more than half of our gross national product, began to shrink. More importantly, the rate of domestic savings began to steadily increase to meet our investment requirements.

Today, Korea has emerged as one of the world's major trading nations. Korea has become the seventh largest trading partner of the United States. More importantly, it is now the sixth largest market for U.S. products, passing such trading nations as France and Italy. In 1987, U.S. exports to Korea increased 34%, a rate exceeding that of the growth of U.S. exports to any other trading partner. The figure rose to 50% in the first quarter of this year.

Clearly, Korea's economic context is changing markedly as is it's political context. This is bound to generate a new set of circumstances and challenges. We are prepared to do whatever is necessary to expand the scope of cooperation increasing bilateral trade between the United States and Korea and mutual benefit.

It is my pleasure to report to you on our successful preparations for the Olympic Games to be held in Seoul, Korea from September 17th through October 2nd. All preparations for the Games are on or ahead of schedule. Everything is running smoothly. The construction of the 34 venues required for the 23 Olympic sports have just been completed. Most of the facilities proved satisfactory during the 1986 Asian Games and a series of pre-Olympic events. The theme for the Seoul Olympics is "Harmony and Progress." I am happy to see that the Olympic spirit exists not only in Seoul, Korea, but as we are coming closer to the Games, aspiration of mankind to live in harmony and in peace will prevail everywhere.

Speaking of peace, you must be proud of the fact that you came to Korea almost four decades ago to fight for peace. Those who fell during this fight dedicated their lives to the cause of peace. Without genuine peace, a life with dignity, freedom, and justice is simply impossible to maintain.

Each and everyone of you gave that life to the people of Korea. If it had not been in Chosin Reservoir, with all its noble sacrifices and heroic struggles, Korea would not have been able to accomplish what it is today.

You may not have noticed, but you have been instrumental in helping my country to realize tremendous and great achievements.

Thank you all who participated in the Chosin Reservoir Campaign, suffered, endured hardship and fell in the winter of 1950.

Thank You Chosin Few!
God Bless You All!!

COUNTING OVERSEAS MILITARY AND GOVERNMENT PERSONNEL FOR PURPOSES OF APPORTIONMENT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DYMALLY. Mr. Speaker, today I am introducing legislation which would require that members of the Armed Forces, civilian government personnel, and their dependents, stationed abroad during the 1990 decennial census, be counted in their State of residence for purposes of apportionment of the House of Representatives.

I am honored to be joined in this effort by Mrs. MORELLA of Maryland, the distinguished ranking minority member of the Subcommittee on Census and Population, which I chair.

Mr. Speaker, several bills have been introduced during this Congress to accomplish an objective similar to mine. Having expressed my support in the past for the concept of these bills, I want to commend the various sponsors, particularly Mr. RIDGE of Pennsylvania and Mrs. KENNELLY of Connecticut, for bringing this issue to the attention of their colleagues.

After holding a hearing on proposals to count overseas military and government personnel for purposes of apportionment, however, it became clear to me that several points needed to be addressed before the subcommittee could consider the legislation.

First, Congress needed to set the criteria for determining what the home State of individuals stationed overseas would be. Because we are dealing with a very political issue—reapportionment—such a decision should not be left to the Census Bureau, whose mission is to conduct the census in a nonpartisan manner.

For example, home State could be where a person pays taxes, or where a person votes, or a person's last duty station with the Government. It is obvious that, depending on the criteria chosen, very different results would be produced, because many overseas military personnel report as home a State with no income tax or their last duty station was more likely to be a coastal State. Also, the Defense Department informed us that using "home of record" as the criteria for military personnel would be almost meaningless since the term refers to the place where the individual was inducted into the service.

Second, I believe that we should be consistent in our policy on this issue. If we are going to include members of the Armed Forces, civilian employees of the Department of Defense, and their dependents, in the State population totals used for reapportionment, then we also should include other employees of the Federal Government stationed abroad, such as Foreign Service employees.

All of these individuals are serving their country as public employees and circumstance merely will place them at a duty station outside of the United States on April 1, 1990, the day of the census.

Accordingly, the legislation being introduced today by Mrs. MORELLA and I sets the criteria for assigning an individual stationed abroad to a State for purposes of apportionment only.

Members of the Armed Forces, civilian employees of the Government, and their dependents living overseas with them, will be assigned to the State where they maintained their last place of general abode for at least 6 consecutive months.

The Census Bureau, for the first time in 1990, will be administering the census on overseas military installations of the United States and can obtain the necessary information from a question on the census forms.

I believe the criteria we have chosen will be the most objective, will avoid numerous problems which could arise with other criteria, and will be fairest to all States.

In addition, our legislation includes employees of Federal agencies other than the Department of Defense, and their dependents, who are stationed abroad during the census.

I should clarify that my legislation does not include citizens of the United States who are living abroad at census time of their own volition and are not employed by the Government. It seems obvious that any attempt to locate and count persons voluntarily living outside of the United States would be almost fruitless. Persons temporarily abroad on census day are counted at their usual residence in the United States.

Mr. Speaker, apportionment of the House of Representatives, as required by the Constitution, is based on the number of persons in the United States. It seems unfair to exclude persons who are not in the United States on census day solely by virtue of the fact that they have chosen to serve their government and country, and their government needs them overseas at that particular time.

The Subcommittee on Census and Population intends to act on this measure in the near future. I urge my colleagues to join me in supporting this worthwhile legislation.

GROUNDBREAKING CEREMONY AT ROSEDALE BAPTIST CHURCH

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mrs. BENTLEY. Mr. Speaker, below are remarks I made at a groundbreaking ceremony at the Rosedale Baptist Church in honor of the new parsonage which is to be built. These wonderful people worked very hard to raise the funds to build the parsonage, and I applaud their diligence and success. It is with great respect and honor for the church's pastor and congregation that I place these words here:

REMARKS BY HON. HELEN DELICH BENTLEY

First of all, let me tell you what a terrific pleasure it is to be here today at this groundbreaking ceremony—I am honored that you invited me. Indeed is a day of celebration; the fact that you have raised the funds to construct the parsonage that will stand on this spot very soon means the beginning of a new era for the Rosedale Baptist Church.

I have been to many different church events over the past few years. Some of these churches were older, while others were bigger. Yet this particular ceremony is much more special in many different ways. It is special because you have grown and accomplished so much in the past twenty-four years. All of you—working together—have built this church up from an idea to a living reality. This ceremony is so special is because many of you have been able to actually watch the church make the progress it has made—like a mother watching a child grow into an adult. Many church ceremonies are celebrations of history, yet few can truly be said to be history! Long into the future your children and grandchildren will look at this parsonage and remember you and all the hard work that went into raising the funds for the building.

Use this occasion to think about all the wonderful things your church has been able to accomplish over the past two-and-a-half decades. Your regular attendance has gone as high as 275 on some occasions. You have established a wonderful system by which people who could not make it to services on their own are picked up by buses—thereby bringing into the fold many people who would be left out. In addition, your programs to aid the poor, the 40 mission programs, and the important youth group you have established are all helpful and important parts of your community. For such a young church, you have done so much! I urge you to be proud of this, for indeed you should be.

We in Congress like to go to Washington and tell our colleagues about the wonderful people and organizations in our district. Please be reassured that I intend to enter the name of the Rosedale Baptist Church in the CONGRESSIONAL RECORD, because like you should be proud of yourselves, I am proud of you, too.

I encourage all of you to reflect upon the accomplishments of the past, the promise of the present, and the possibilities of the future. Yet try not to forget the joy of this moment, because it will never quite be duplicated again.

Pastor Polanowski and all the rest of you great people, best wishes for the future and congratulations for a job well done.

DOVER ALDERMAN RECEIVES NATIONAL RECOGNITION

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GALLO. Mr. Speaker, I am honored today to bring to the attention of my colleagues in the House an individual who exemplifies the democratic values that we are elected to preserve, protect and defend as representatives of the people of the United States.

The cornerstone of our elective system of government can be found where those who are elected are closest to the people—in municipal governments throughout the country.

As an alderman in Dover, NJ, in the county of Morris, Mr. Roberto Sanchez has distinguished himself as a leader, as well as an able representative of the people of Dover. In addition, Mr. Sanchez is representative of his community's hopes for the future.

That commitment to policies designed to build a solid future for all Americans has earned Mr. Sanchez the opportunity to bring his positive message to our Nation's Capital, where he will address a national forum of leaders who share his commitment to community action and involvement in the process of governing.

I have long felt that the key to political involvement within any community is the ability to enter the mainstream of the political debate that is constantly evolving through the give and take of parties affected by the outcome.

The National Puerto Rican Coalition has recognized this basic need for a broad-based community activism by recognizing the talents and achievements exemplified by Mr. Sanchez, who has accepted the coalition's invitation to speak to its eighth annual conference on June 17.

The conference theme, "Access to the Future," is an important topic at a time in our history when we have experienced low voter turnouts in all recent elections and a rising sense of apathy within our political process.

We must promote partnerships for progress, and partnerships begin with participation in the decisionmaking process.

I commend to my colleagues' attention the fine example being set by Mr. Roberto Sanchez and others who understand the importance of broad-based participation in the shaping of Government policies.

We need more men and women like Mr. Roberto Sanchez who are committed to making government work for all the people of the United States.

TRIBUTE TO WILLIAM J. CRONIN

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DELLUMS. Mr. Speaker, I would like to take this opportunity to pay tribute to William J. Cronin, who, on June 3, 1988, will retire from the U.S. Army Corps of Engineers, after 40 years of service. My colleagues and I know "Bill" as the principal Army witness who testifies before the Armed Services and other committees with respect to all real estate matters pertaining to the Department of the Army. For 17 years, we have relied on Bill for his expertise in presenting the Army's position on these matters.

Bill is a product of an excellent Jesuit education, having graduated from Gonzaga High School, Georgetown University, and Georgetown University Law School, all here in the Nation's Capital. He returned to school after having served in the U.S. Army Air Corps in Europe during World War II.

Shortly after graduating from law school, Bill began working for the corps at the old Washington District. He soon moved to headquarters, where he advanced through a series of increasingly responsible jobs to his present position of Chief, Legislative Services Office, Directorate of Real Estate. This record of achievement and broad-based experience enabled us to rely on his knowledge during the numerous occasions he has testified before us since 1971. Members and staff recognized that his credibility made him a successful advocate for the Army. His years of experience and superior judgment will be greatly missed by the Department and the Congress.

It is a privilege for me to join with his friends at the Corps of Engineers in congratulating Bill for his 40 years of distinguished service and in wishing him and his wife, Mary, the best that life has to offer.

AMERICAN POLITICAL SCIENCE ASSOCIATION CELEBRATES 35TH ANNIVERSARY OF ITS CONGRESSIONAL FELLOWSHIP PROGRAM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HAMILTON. Mr. Speaker, I would like to congratulate the American Political Science Association on the 35th anniversary of its Congressional Fellowship Program.

This outstanding program provides opportunities for highly qualified professionals from Government agencies, the academic world and journalism to spend several months working in House and Senate offices. Each year 45 to 50 participants are selected through a national competition, and they are all very interested in learning how the Congress works.

They find positions in Members' offices or with committees that allow them to gain first-hand experience in areas that interest them. They bring expertise and enthusiasm to their assignments.

I have had the good fortune to benefit from the work of many fellows during my tenure in Congress. They have worked on my personal staff and with my subcommittees on varied tasks. We always try to work out assignments that are both relevant to my concerns and of interest to the individual fellow. This year, one of my fellows had a particular interest in Germany, and he helped me launch the new United States Congressional Study Group on Germany. Another fellow had background in Soviet affairs, and she has worked with the Subcommittee on Europe and the Middle East, which I chair, in organizing a series of hearings on change in the Soviet Union and its implications for United States policy. Over the years, fellows in my office have worked on many other issues of concern to my constituents.

The program offers a practical education in how the legislative branch works. It serves not only the interests of the individual participants but of Congress, as well. The Federal Government benefits because its employees take back to their agencies working knowledge of how things operate on the Hill, thereby improving understanding of the Congress and communication between the two branches of Government. Academia and the media are enriched by the work of scholars and journalists who add a real-world dimension to their teaching and writing about the Government. APSA alumni give enthusiastic reports of the significance of the experience in their professional lives. Some past participants—including a number of my illustrious colleagues—have even gone on to elective office themselves.

There have been over 1,250 APSA congressional fellows. They hold responsible posts throughout the Government, in the media, in universities, nonprofit organizations and businesses in this country and abroad. They are a valuable national resource.

I commend the American Political Science Association for its excellent stewardship of this outstanding program, and I look forward to working with many more APSA fellows in the future.

SALUTING AN OUTSTANDING LAW ENFORCEMENT OFFICER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SKELTON. Mr. Speaker, 33 years is a remarkable length of time to serve in any profession, but to dedicate more than three decades of service as a law enforcement officer is truly extraordinary. Col. Howard J. Hoffman, who is retiring in August from his position as superintendent of the Missouri State Highway Patrol, has been such an exceptional man.

A native of Wellington, MO, Colonel Hoffman was first appointed to the Missouri Highway patrol in 1955. During the following years, he was promoted through the ranks of the patrol and served citizens throughout the Show-Me-State. On July 29, 1982, the Governor of the statewide patrol, a position which he has held since that date.

Colonel Hoffman is highly respected by both his colleagues and people throughout Missouri. In fact, in 1976, he was named Outstanding Law Enforcement Office of the Year by American Legion Post 69. Further evidence of the deep respect this Missourian has earned is the renaming of the annual Missouri Police Chiefs Scholarship Fund as the Howard J. Hoffman Scholarship Fund.

In addition to his on-the-job accomplishments, it is also important to mention Colonel Hoffman's great interest in the Missouri Special Olympics. For the past 3 years, he has served as chairman of the Law Enforcement Run, which has garnered thousands of dollars to help defray expenses of the Summer Special Olympic Games.

I join with Colonel Hoffman's many colleagues and friends in thanking him for years of service and wishing him well in his retirement.

CONGRESSMAN FLORIO HARD AT WORK ON THE ENVIRONMENT

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GUARINI. Mr. Speaker, the dilemma we face in our Nation in the garbage disposal industry is nothing short of a crisis. Following is an article, published by the Jersey Journal newspaper, which provides a brief glimpse into the nature of the problem in New Jersey, and the monumental undertaking of my friend, Congressman JAMES FLORIO. The waste crisis is felt particularly hard in our urban areas, where the amount of space continues to dwindle and the waste being created continues to rise. More than a hundred of the toxic waste sites which comprise Superfund's national priority list are scattered throughout the State of New Jersey. That fact places added pressure on lawmakers to find solutions to a problem that seemingly will never go away.

As noted in the editorial, which I would like to share with my colleagues in the U.S. House of Representatives, Congressman FLORIO has developed two meaningful approaches. H.R. 2517 and H.R. 2787, both of which I have the pleasure of cosponsoring, were recently introduced in the 100th Congress. These important pieces of legislation, which require the Government to set standards for incineration, air pollution and ash, have generated much support. They are just another example of JIM's true commitment to protecting and cleaning up our Nation's precious environment. As the bills work their way through the legislative process, even greater attention will be drawn to a growing problem.

The material follows:

NEW STANDARD FOR EMISSIONS

Incineration plants that burn solid waste and produce energy form an important part of the plans of Hudson County as well as the entire state and much of the nation, for getting rid of garbage.

In fact, with each of the 21 counties in New Jersey working on its own garbage disposal options, there have been estimates that New Jersey could wind up with as many as 21 energy-producing incineration plants.

These plants, called resource recovery plants, should be combined with an active recycling program rather than relied upon alone. But together with recycling they can help the localities deal with a shortage of dump sites that is getting more severe.

And despite the worthiness of the concept, resource recovery plants have their risks. They produce some emissions into the air, and they also produce a residue that has to be disposed of properly.

They must be designed according to strict standards and run with regard for proper operating procedures to make sure the public is safe.

With resource recovery facilities in the works in Kearny, to serve Hudson; in southern Bergen County; and in nearby Newark, to serve Essex County, those designs and procedures are of vital local interest.

And the state Department of Environmental Protection is in an awkward position on this issue—a position that from a practical though not legal point of view looks like conflict of interest.

It has charge of spearheading the effort to find alternatives to the state's garbage dumps, so it has an interest in getting these incinerating recycling plants into action.

But it also is supposed to enforce regulations regarding air and hazardous waste.

Interestingly, it told the Hudson Regional Health Commission that the commission was not supposed to take part in the permit process for Hudson's new resource recovery facility, although that commission does review other incineration permits in the county.

With the state in an awkward position, it's important for the federal government to intervene.

Rep. James Florio has proposed some worthwhile legislation that would require the federal government to set clear standards in this area.

That would make a lot of sense. Smoke from incineration doesn't stop at a state line, and the nature of the residue from the resource recovery process demands that realistic standards for its disposal be set and vigorously enforced.

New standards like those Florio is seeking could help make neighbors of some of the new resource recovery plants have more confidence in the facilities—and quite possibly breathe easier even when the plants are in operation.

TRIBUTE TO THOMAS J. LIPTON, INC.

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. TORRICELLI. Mr. Speaker, I would like to congratulate Thomas J. Lipton, Inc., for being named a winner of a 1988 Gold Leaf Certificate of Merit by Family Circle magazine and Food Marketing Institute.

Thomas J. Lipton, Inc., Englewood Cliffs, NJ, was honored at a luncheon held during the annual Food Marketing Institute convention in Chicago.

Lipton received recognition for the Lipton Nutrition Corner series begun in 1982 as a source of information for consumers and the media. Cholesterol and fats "getting to the heart of the matter" is the most recent publication in the series distributed during 1987.

This level of private sector support for improving the health and nutritional welfare of the American people is to be commended.

I want also to commend Family Circle magazine and the Food Marketing Institute for sponsoring a program to encourage greater food industry participation in educating the American people on the importance of good nutrition to health.

PROF. RAYMOND M. HERBENICK SEES PARALLELS TO KAUTSKY-LENIN DEBATES OF 1918 IN CURRENT SOVIET DEBATE ON GORBACHEV'S REFORMS

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HALL of Ohio. Mr. Speaker, my constituent Raymond M. Herbenick, a professor of philosophy and an advisor to the Center for International Studies at the University of Dayton, sees parallels between the Kautsky-Lenin debates of 1918 and the current debate in the Soviet Union over the reforms being promoted by Mikhail Gorbachev.

Professor Herbenick made an interesting presentation of his thesis in this regard in an opinion-editorial which appeared in the Dayton Daily News on May 10, 1988. In view of the timeliness of Professor Herbenick's thought-provoking observations, I commend his article to the attention of my colleagues:

[From the Dayton Daily News, May 10, 1988]

GHOSTS OF A MARXIST PAST MAY COME TO HAUNT GORBACHEV

(By Raymond M. Herbenick)

Mikhail Gorbachev's program of openness, restructuring, and democratization is old vodka in a new flask.

His ideas are similar to those of Karl Kautsky (1854-1938), the foremost authority on Marx prior to World War I. But now, as then, such ideas carry great risk.

Kautsky predicted a dismal life for Russian society under the dictatorial method of government and opted for a democratic form of government. But Lenin villified Kautsky as a "renegade" and branded Kautsky's democratic reform package as "opportunism." And Trotsky slandered Kautsky as a "betrayer of revolutionary Marxism."

Yet, Kautsky's predictions have been remarkably accurate. And Gorbachev must now face the prospect of de-Leninizing Soviet society along with de-Stalinization. He must choose sides in the great Kautsky-Lenin debates of 1918.

These long-forgotten debates between a democratic-minded Kautsky and the dictatorially inclined Russian revolutionist may well help us gauge the genuine character of Gorbachev's revolution. To understand Kautsky is to understand the plight of Gorbachev and the forgotten ghost of a Marxist past.

Born of Czech parents, Karl Kautsky studied science and history. He edited an influential newspaper of the German Social Democracy Party. For three decades prior to World War I, he was respected internationally as the leading interpreter of Marx's thought. He knew both Marx and Engels personally. And upon Engels' death, Kautsky published Marx's economic manuscripts in the fourth volume of Capital.

In 1918, Kautsky published The Dictatorship of the Proletariat. He defended the method of democracy over the method of dictatorship. Lenin fired back with his own polemic in defense of dictatorship in The Proletarian Revolution and the Renegade Kautsky.

In 1919, Kautsky published Terrorism and Communism. He attacked the principle of violence. But this time Trotsky denounced him one year later in Terrorism and Communism, A Reply to Karl Kautsky.

Kautsky's plea for a faithful interpretation of Marx's "dictatorship of the proletariat" had been discarded.

Kautsky understood this phrase used in Marx's letter of May 1875 to mean conditions of life with universal suffrage, rights of assembly and association, rights to a free press, and a parliament democratically elected from competing political parties. Lenin took it to mean a political form of government by a select few members of one exclusive political party under the method of dictatorship.

Kautsky underscored the importance of democracy for the successful completion of the Russian Revolution of 1917. Democracy without socialism was certainly possible. But socialism without democracy was not. For proper "ripening," Russian society required democracy—not dictatorship.

Foreshadowing Gorbachev's reforms, Kautsky wrote that "the more a State is capitalistic on the one side and democratic on the other, the nearer it is to Socialism."

A developed capitalist industry meant increasing productive power, greater wealth, more socially organized labor, and increased employment. A democratic state meant more educated persons and a citizenry ready for self-government. The fusion of developed capitalist industry and an educated democratic state had the best chance of sustaining Russian gains. Kautsky predicted ". . . the more a country is progressive in capitalism and democracy, the greater is the prospect . . . of not merely gaining a passing victory, but also of maintaining it."

Kautsky felt so confident in the democratic path for the Russian people that he ventured several Social Darwinian predictions in case the dictatorial path of Lenin were followed.

First, there would be acceleration of industrial development beyond the country's capacity to generate capital under a centralized bureaucracy. This in turn would result in both production and distribution problems.

Second, there would be acceleration of educational development of the citizenry by selective targeting of human capital under a centralized bureaucracy. This in turn would lead to an underinformed and an immature citizenry.

Third, there would be acceleration of bureaucratic and military growth under a centralized government. This in turn would stifle industrial progress and retard standards of living. A "fetter on productive forces" would make Russia unable to compete in the world at large.

If followed, Lenin's method of dictatorship would furnish the "best object lesson" in the event it could not sustain itself. Kautsky predicted it would lead to neither sufficient freedom nor sufficient bread for the Russian people.

Furthermore, if the dictatorship of a minority were to begin to grant democratic freedoms, it would undermine its own power. And if it were to restrain freedoms already granted, it would retard personal, social, and economic growth. Hence, the need for self-determination should be recognized along with the need for food, according to Kautsky.

As Soviet rulers address full civil rights in an apparent transition from less self-government to more self-government, an amended Soviet Constitution that matches both the rhetoric and reality of democratic reform bears scrutiny.

Could it be that Soviet leaders finally agree with Kautsky's 1918 analysis that "not in dictatorship, but in democracy, lies the future of the Russian proletariat?"

Could it be that current Soviet experiments with openness, restructuring, and democratization finally square with Kautsky's 1918 forecast that "the essential achievements of the Revolution will be saved, if the dictatorship is opportunely replaced by democracy?"

If so, we should not be surprised to find a resurgence of interest in the heated debates of Kautsky and Lenin on the path to take or not take in the Soviet Revolution of the 1980s. Gorbachev supporters and detractors understand the impending Soviet constitutional crisis in the making. Both sides can appeal to the Kautsky-Lenin debates for guidance. In either case, some form of "ghostbusting" is in store. But which ghost of a Marxist past haunts Gorbachev?

TRIBUTE TO THE "SHOP RICHMOND HILL—FREE SAVINGS BOND" PROGRAM

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. ACKERMAN. Mr. Speaker, every day seems to bring news of higher budget deficits, worsening trade balance figures, and more local merchants being forced out of business by larger competitors. You can drive through many American cities and towns and see the boarded-up storefronts. Once vibrant local shops now stand empty and dark, testimonies to dramatic and cruel changes in our economy.

An organization in my district, in the community of Richmond Hill, NY, refused to surrender to the competition, and through the ingenuity of its members has revitalized the Richmond Hill economy, while helping the United States lower its budget deficit.

A few years ago, the members of the Richmond Hill Development Corp. realized that their businesses were being threatened by the competition posed by two nearby shopping malls. Instead of giving up, the merchants of Richmond Hill fought back.

They started the "Shop Richmond Hill—Free Savings Bond" program. Under this unique enterprise customers are given U.S. savings bonds as incentive to shop locally in

Richmond Hill. This program has been a huge success.

Every savings bond given away helps us in the fight to lower our Federal budget deficit. The success of the program has caught the attention of the U.S. Treasury.

On June 3, 1988, U.S. Treasurer Katherine Ortega will join me in Richmond Hill to pay tribute to the success of the "Shop Richmond Hill-Free Savings Bond" program. The U.S. Treasury celebrates its bicentennial this year, and I am thrilled that Ms. Ortega is coming to Richmond Hill to recognize this outstanding program.

Mr. Speaker, so that my colleagues may share the "Shop Richmond Hill—Free Savings Bond" secret of success with their constituents, I will explain how the program works.

Participating merchants give consumers special coupons for every $5 spent at their store. After accumulating coupons representing $1,500 in purchases, consumers can exchange them for a free $50 U.S. savings bond at local banks. The average family accumulates three to five savings bonds a year.

Since the program was started in 1983, over 700 savings bonds have been issued.

Plumbers, butchers, bakeries, travel agencies, shoe stores, pharmacies, and hardware stores are but a few of the businesses participating in this outstanding program.

Mr. Speaker, I congratulate the many business owners who have participated in this enterprise. Special recognition and thanks go to Charles Cassella, owner of Starbright Rugs, and originator of the savings bond program, Brendan Byrne, former president of the Richmond Hill Development Corp., Louis Gazzale, current president of the Richmond Hill Development Corp., and Loraine D. Paolino, project manager of the Richmond Hill Development Corp., for their outstanding leadership. Under their guidance, Richmond Hill remains a vibrant community and shopping area.

I ask my colleagues to join me in wishing the merchants and people of Richmond Hill many more years of great success. Their dedication and commitment to free enterprise is an excellent example for all communities.

SHARING THE DEFENSE BURDEN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. MILLER of California. Mr. Speaker, the time has come for a serious reexamination of the financing of our defense burden with our allies. There is little question that military alliances are sound concepts, and that the United States gains greatly by our mutual defense strategy.

But aspects of that arrangement deserve serious scrutiny, especially in light of budget constraints and also because of geopolitical developments since the 1950's, when the current arrangement was devised.

The essential framework of our overseas military organization is fundamentally an outgrowth of World War II. It is predicated on a vigorous United States presence in Europe and Japan, and it has always been financed by America, as was essential in those early postwar years when most of the rest of the world lay in ruins.

But the world is no longer in ruins, Mr. Speaker, and our burden of the defense obligation has actually grown greater; while our deficit and trade imbalances have worsened, many other nations which are not sharing our economic plight continue to allocate a fraction of their gross national product [GNP] to mutual defense obligations.

As a recent article in Rolling Stone by the respected journalist William Greider notes, the United States spends 6.9 percent of its GNP on defense, well over half targeted to NATO. Meanwhile, NATO countries spend just 3.5 percent of their GNP on the alliance.

The United States spends $1,002 for every citizen on defense each year—a total of about $800 million each day; by comparison, Germany spends $359, Italy $187, and Japan $103.

The massive military buildup of the Reagan era, supposedly intended to defend our allies and us from Soviet aggressiveness, was apparently not given very high priority by our endangered allies. In 1980, they spent 81 percent of what we did on the military; today, they spend less than half.

Our allies are investing the defense money we are saving them wisely. They are spending 23 percent more for health, and their reduced infant mortality numbers—most much lower than our own—show it.

There is no need for ally bashing, harsh rhetoric or talk of bring the boys home from overseas. But by the same tokeen, it is irresponsible to defer reconsideration of the appropriate level of cost sharing by the United States and our allies for mutual defense purposes. The following article provides us a good place to begin that debate.

[From Rolling Stone, June 16, 1988]

WHY CAN'T OUR ALLIES DEFEND THEMSELVES?

(By Wiliam Greider)

Aside from denouncing drug smugglers, the most popular new theme of this year's presidential campaign is bashing our allies—the feckless Germans and Japanese, even the Danes, Norwegians and Spanish. Every candidate, including the squishy vice-president, has demanded or at least suggested that our NATO allies and Japan pay for a larger share of our mutual defense.

"The Japanese case is scandalous," says one authority in the field. "The political and psychological excuses that Japan has sold a succession of American administrations, including this one, for not sharing the defense burden equitably are little more than a gloss on a policy of chronic freeloading.

"It is galling to be lectured by those whom we defend about the need to control our budget deficit. Indeed, if we were to reduce our defense effort to, say, the level of Germany, we could balance the American budget this year."

This is the historic contradiction facing the American empire: the United States is financing the defense of its economic competitors, assuming costs and risks that they refuse to accept. Meanwhile, they are trafficking with the "enemy," even selling the reds high-tech hardware for modern weapons systems.

The long-term consequences for America are clearly visible: the economy gets steadily weaker, deeper in debt and less competitive while our supposed allies ride the advantage by investing their capital in productive enterprises. The allies, it seems, do not take the cold-war "threat" as seriously as American political leaders do. For the Europeans and the Japanese, it's a good deal, and they have no incentive to change. For Americans, it's not such a good deal. As Representative Patricia Schroeder first observed long ago. "We have all the burdens of empire and none of the benefits.

Some of the harshest observations about our allies, such as those quoted above, do not come from Pat Schroeder, Jesse Jackson or dovish left-wing wimps but from Mr. Hawk himself—Richard Perle. Recently retired as assistant secretary of defense for international security, Perle was the bristling intellect of Reagan's Pentagon. No one believes more fervently in the cold-war struggle. No one plotted more skillfully for the Reagan arms buildup. Now Perle acknowledges that when he was in government, he spent a lot of energy hiding the freeloading of our allies.

In congressional hearings, Schroeder pinned Perle down on how the Pentagon covered up for the allies. Congress has ordered the military to make an annual assessment of defense-burden sharing among the allies, but Perle admitted that the numbers have been cooked. The reports, he said, are "an exercise in thinking of ways to put the best possible gloss on some pretty dismal figures. I know it because I superintended it—and looked for statistics to make the allies look good."

Perle's ex post facto cador is a hopeful development. Not because he wants to bring U.S. troops home from Europe (he doesn't), or because he now admits the Soviet threat has been exaggerated by hawks like himself (he admits no such thing), but because when people like Richard Perle begin to come clean on this issue, it indicates that opinion leaders are finally acknowledging the absurdities of the cold-war strategy they have pursued for twenty years.

Uncle Sucker may be slowly waking up. Dare we hope that the next president will actually do something, like bring home many of the 350,000 troops still stationed in Europe forty years after World War II? Maybe. But only maybe. Campaign rhetoric is cheap. Resolving the cold-war contradictions will require great courage.

Pat Schroeder decided for varius reasons not to run for president this year; she is laboring instead to influence the next president on this central question. As chairwoman of the special panel of the House Armed Services Committee on defense-burden sharing, the Colorado Democrat has been holding hearings, collecting hard evidence on the inequities, hoping to focus the debate that is sure to face the next administration. For years, Schroeder has been one of the lonely voices on the Armed Services Committee complaining about the bloated defense commitments of the United States and the free ride Europe and Japan have enjoyed. Now at last others may be ready to listen.

Instead of stacking the deck with like-minded witnesses, as congressional inquiries usually do, Schroeder is attempting to hear from both hawks and doves. The final report will have more impact when it reveals that a lot of stalwart cold warriors, like Perle, are fed up, too.

"The basic fact is that we keep grabbing the check," Schroeder said, and the figures back her up. About $170 billion of the Pentagon's 1988 budget of $285 billion goes to NATO. The United States devotes 6.9 percent of its gross national product to defense; the NATO allies devote only 3.5 percent. The disparity between the spending of the United States and Japan is much worse, because Japan spends only about 1 percent on defense. Each American citizen has $1002 spent on his or her behalf on the military. For each German, only $359 is spent. For each Italian, only $187. For each Japanese, only $103.

In fact, the imbalance is probably even worse. Schroeder has found evidence that the allies pump up their defense costs with dubious accounting. The Japanese are the most outrageous offenders, counting as defense spending the rent and taxes theoretically lost on the real estate for American bases. They even count environmental damage caused by military installations. "Can you imagine if we put that in our estimate?" Schroeder asked. "God knows what percentage of our GNP we'd have in defense spending."

Even more infuriating is how the allies squeeze extra dollars out of the U.S. military presence—demanding foreign-aid bribes in exchange for allowing American bases on their soil. "The base agreements are outrageous," Schroeder said. "We've had base fights with Spain, Portugal, Greece, Turkey—all in NATO—and they each put the gun to our head and say, 'Want to keep the bases here? You've got to increase foreign aid by x percentage.' Turkey even gets to renegotiate those base rights every year. I don't know what genius negotiated that deal, but every year we give Turkey the option to shoot at our feet and say, 'Tapdance, Uncle Sam!' "

A new NATO charade has developed during the Reagan years: defense spending posing as foreign aid. "This is bad stuff," Schroeder said. "Our foreign-aid budget has become a defense supplemental, because it's not geared to the economic needs of these countries—it's geared to the basing needs of the military."

When the poorer nations on NATO's southern flank shake down Uncle Sam for extra dollars, the wealthier NATO countries in northern Europe look the other way—as though these arguments have nothing to do with their own security. Germany, for instance, could increase developmental aid for Turkey or the others as an indirect form of burden sharing. Japan could do the same. The idea of rearming Japan still frightens other Asian nations, but Japan could easily pick up the tab, for rebuilding the ruined Philippine economy—thus easing the burden on the United States. Instead, financing of allied bases is viewed as an American problem.

The allies' indifference is all the more clear since Spain decided to kick out the U.S. 401st Tactical Air Wing—an element of NATO defenses on the southern flank. No other NATO nation has been willing to take the 401st in. "Everywhere we've gone," Schroeder said, "we point out that we have seventy-two F-16s looking for a home. We kept saying, 'Which one of you is going to take these planes? If they weren't really needed . . . why didn't you tell us? We could have brought them home a long time ago.' Everybody thinks you're the skunk at the garden party by asking that question. They just hem and haw and whine."

The economic consequences of America's generosity will also be part of the panel's report. For instance, while we're paying for troops and armaments, the allies are spending twenty-three percent more than we do on health. America's infant mortality rate is higher than that of eleven of the sixteen NATO nations—that is, worse than everyone's except those of Greece, Italy, Luxemboug, Portugal and Turkey. The same skewed priorities apply to education.

Furthermore, while we stand up to the Soviets, our allies are busy selling them technology and, more important, lending them billions in joint commercial ventures. Richard Perle is rankled by this, too. "Japan has emerged as the largest single source of Soviet-bloc credits," Perle complained. "The Germans, who cannot get their defense budget up to half of ours, are eager to expand their financial relationship with the Soviets."

The long-term disadvantage for America is most obvious in the resources devoted to civilian research and development—the wellspring for future economic strength. The United States spends $17 billion on civilian development—and $47 billion on military R&D. Among our allies, the priorities are reversed. They spend two-thirds of their research capital on technology and products that will sell in global civilian markets. They are investing in ideas and people while we are investing in weapons.

And thanks to Reagan's defense buildup, these outrages are getting worse, not better. American politicians of both parties have been pleading with Europe and Japan for nearly twenty years to assume a larger share, but despite a lot of diplomatic chatter, the opposite has occurred. In 1980 the allies spent eighty-one percent of what America spent on the military. By 1984 they were spending only forty-seven percent. The allies did increase their defense budgets—but they couldn't keep up with the Gipper.

Nor do they want to keep up. The allies clearly are not as scared of the Soviets as American's cold warriors are. Otherwise, they would be doing more to defend themselves. After forty years of experience, they are confident that America will do it for them.

"I honestly think the bottom line is that the allies have a wonderful deal—the best of both worlds," Schroeder said. "They can say to their own people, 'We have a different threat assessment of the Soviet Union than the Americans do. We think the Americans sleep with a night light. We think they're a little cracked. They overreact. We're going to trade with the Soviet Union and open doors. But on the other hand, if the Americans turn out to be right about the Soviets, we have an insurance policy that we don't have to pay for—the American troops are here.' "

How can the United States get out of this without weakening national security, without destabilizing our alliances? While Perle agrees that America's allies are freeloading, he is against threatening them with American troop withdrawals. "I don't think Europe will respond," he said. "If Europeans don't respond, then we are worse off than we were before."

But Perle's reasoning begs the question: if European allies would be unwilling to fill the hole left by American withdrawals, doesn't that mean they simply do not take the scenarios of Soviet attack as seriously as we do? Perle concedes this.

Yet Perle and other hawks would continue to do for them what they won't do for themselves. Why? Perle thinks that the United States should push harder for increased defense spending by the allies but that ultimately we must take care of the allies. "[Truman's secretary of state] Dean Acheson once compared it to dealing with unruly grandchildren," Perle explained. "You want your grandchildren to behave, to be responsible, but you don't want to destroy them."

His metaphor of "unruly grandchildren" reveals more about the mind-set of the American government than it does about the allies. For forty years the architects of American foreign policy have seen themselves as wise parents, presiding over irresponsible children, instructing them and correcting their errors. Imperial leadership is a heady role to play, and they do not wish to give it up.

"We have an empire, and it feeds our ego," Schroeder said. "When these other countries say to our political and military leaders that you are the world leader, these guys straighten their backs and say, 'That's right—we're Big Daddy. Climb on my lap, tell us what you need, and we'll take care of it.' "

The diplomacy and strategic planning of downsizing the far-flung American military presence would be difficult, but not the biggest problem. The big sticking point is not in Europe or Asia but right here in American politics. Anyone who looks at the trade statistics knows that the Japanese and the Europeans are not helpless children. This is not 1945. It's time for Big Daddy to face up to the new realities.

On a tour of European capitals, Schroeder was surprised at how many foreign experts see the question in these terms, too. "Many said to us, 'Look, you naive fools, the only way it's going to happen is when you guys just do it.' As long as they can get one more bite out of the apple, nobody is going to voluntarily say, 'We will pay more money, we will raise our taxes and cut our services.' "

The British dismantled their empire—too late to save their ruined economy—essentially by assigning defense responsibilities to various allies and former colonies. Schroeder thinks a bold President could do something similar—announcing to our allies that they are now "senior partners" in the alliance and awarding them new responsibilities for their own defense.

Trouble is, this sort of swift and sure solution would require a bold president, and the prospects are for a cautious one. If a president moves forcefully to correct the military balance sheet and restore our economy, the predictable voices will accuse him of "wimping out." The prestigious Eastern newspapers, The New York Times and The Washington Post, will label him an "isolationist." The military-industrial complex and the army brass and lots of other powerful interests will swing into action to block any substantial disarmament.

The easier route for the next president, the one more likely to be pursued, is to nibble around the edges of the issue, to plead earnestly for help from our allies, to try for minor defense adjustments—and to allow the economic deterioration to continue. The truth is that America can't afford its empire anymore, not without burying itself in debt. Eventually this will be painfully clear to everyone. The question is whether or not Uncle Sucker will wake up fast enough to avert the bitter downward spiral that engulfed Great Britain.

Schroeder is not optimistic. "Getting out of this requires discarding ego gratification," she said. "There is a question whether democracy can ever do that."

THE RETIREE BENEFITS BANKRUPTCY PROTECTION ACT, H.R. 2969

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. STOKES. Mr. Speaker, I rise in support of H.R. 2969, the Retiree Benefits Bankruptcy Protection Act. The issue addressed by this legislation is one which we have discussed extensively within this body.

On too many occasions our Nation's retired workers have had their benefits terminated without notice when companies have filed for bankruptcy. This legislation would eliminate this harsh practice and unconscionable occurrence by prohibiting companies from unilaterally terminating retiree insurance benefits upon filing for bankruptcy.

This is an issue, Mr. Speaker, which hits home for me. Just 2 years ago, on July 17, 1986, the LTV Corp., the Nation's second largest domestic steel manufacturer, filed for protection from its creditors under chapter 11 of the U.S. Bankruptcy Code. On that same day, LTV notified its retirees that it had terminated their life and medical insurance coverage, leaving 78,500 senior citizens and their dependents without coverage for serious illness. In the Cleveland area, 30,000 retirees were affected by the termination of these benefits.

I think it is fair to say that most of us here today were shocked by such callous action. To say the least, this occurrence constituted a real tragedy. Many innocent citizens were "left high and dry," and had no avenue of protection from circumstances that were beyond their control. Deeply disturbed by these events, I introduced several pieces of legislation which were directed at protecting the rights of LTV and other retirees.

Most recently, I introduced H.R. 1186, the Retiree Benefits Security Act of 1987. In proposing this legislation, I have attempted to guarantee that our Nation's retirees, both union and nonunion, never again have to bear the onerous burden of having their health care benefits subjected to a unilateral modification or termination.

Shortly after the introduction of H.R. 1186, Representative PETER RODINO introduced similar legislation, H.R. 2969. Mr. RODINO's bill has made it through the legislative maze; and, it is an amended version of this bill which we consider today.

This legislation, H.R. 2969, represents a culmination of discussions conducted by industry officials and Members of Congress. With respect to future bankruptcies, the legislation, as amended, effectively protects the interests of all retirees, union and nonunion. Basically, the bill will prevent health benefits from either being modified or terminated without a court order, or an agreement between the representative agent and the employer. This bill is identical to the bill which passed the House last October, with one exception. A provision has been added clarifying the status of the so-called "pipeline" claims.

For those retirees, in the Claveland area, who have claims which have been stuck in the "pipeline," the legislation will require LTV to pay the pending claims if Blue Cross & Blue Shield Mutual of Ohio receives a court determination stating that Blue Cross does have a contractual right to reverse these claims. The inclusion of this provision in H.R. 2969, to a significant degree, is directly attributable to the efforts of Blue Cross of Ohio.

For over the past 18 months Blue Cross of Ohio has worked diligently with me in trying to put together legislation which will protect retiree health benefits in bankruptcy, especially as it relates to the LTV situation. John Burry, Jr. and Jim Patton, in particular, played a major role in getting this legislation passed, and I commend them for their efforts.

Mr. Speaker, to say the least, the passage of H.R. 2969 today would bring welcome and long overdue relief. The legislation provides an effective and permanent remedy which ensures that America's retirees, those persons who built this nation, and whose perspiration and hard work have made it possible for this nation to thrive and grow, need never again fear the loss of their benefits because of a chapter 11 filing.

For these reasons, Mr. Speaker, I encourage my colleagues to join me today in passing this very important piece of legislation.

THE CAREER OF HON. GEORGE NIXON BRIGGS: HATTER, CONGRESSMAN, GOVERNOR

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. CONTE. Mr. Speaker, the career of George Nixon Briggs stands as a reflection of the political and social atmosphere of antebellum America. A prominent member of the Whig Party of Massachusetts, Briggs was an adamant abolitionist, a pious evangelist, and a dedicated advocate of temperance and the educational reforms of Horace Mann.

Born in Adams in 1796, Briggs was the son of the village blacksmith. At the age of 13, at the urging of his father, he entered an apprenticeship in a hatter's shop in New York. He soon changed his vocation, however, securing a clerk's position in law offices in Adams and Lanesboro, where he studied for the bar. Prior to his legal training, Briggs had finished only 1 year of formal schooling and was self-conscious of the fact that he was not versed in Latin. Nonetheless, he passed the bar in 1818 and established a reputation as a confident and conscientious criminal lawyer. He soon entered a political career as registrar of deeds for Berkshire County in 1824.

Briggs advanced to the U.S. House of Representatives from western Massachusetts as a Whig in 1831, where he built his legislative agenda around opposition to further extensions of slavery in the western territories. His strongest and most memorable speech in the House was delivered against the admission of Arkansas. The new State's constitution forbid the abolition of slavery without the consent of Arkansas' slaveholders, a measure that Briggs found elitist and morally reprehensible. Briggs served six terms in the House, advancing to the chairmanship of the Committee on Post Offices and Post Roads and becoming a leading figure in his party with close ties to Henry Clay and John Quincy Adams.

In 1843 Briggs surrendered his seat in the House when he was drafted by the Massachusetts Whig Party to run for the Governor's seat. He won in an overwhelming landslide for his party, which captured a solid majority of seats in the State legislature. As in Congress, Briggs directed much of his attention to the fight against slavery. In his third inaugural address to the legislature in 1846, he voiced his opposition to the admission of Texas and the territories acquired during the Mexican War. He viewed the war with Mexico as an imperialist effort conducted in the interest of proslavery elements. Briggs also questioned the power of Congress to annex land in the name of the U.S. Government, an act which he considered a unilateral grasp for power. He saw both of these issues as a threat to the security of the American republic.

As Governor, Briggs personally opposed the Mexican War but nonetheless considered it his duty to submit to the authority of the Federal Government and execute his orders to draft troops. This dedication to the integrity of the Union influenced Briggs' efforts in helping to found the Massachusetts Republican Party and his support for the nomination of Abraham Lincoln for the Presidency in 1860.

Briggs served six terms as Governor of Massachusetts. With a resurgence of the power of the Democrats in 1851, however, Briggs' bid for a seventh consecutive term was defeated in the State legislature though he had won a plurality of the popular vote. In later years Briggs returned to private legal practice and was appointed to serve as a member of the State's constitutional convention and as a judge on the common pleas court. He died tragically in 1861 from an accidental gunshot wound suffered while hunting at home in the Berkshires.

Briggs was largely self-educated and when once asked where he had attended school, replied, "At the hatter's shop." Briggs' inability to attend school in his youth influenced his strong advocacy of the educational reforms of Horace Mann. As Governor, he supported Mann's efforts to develop a public school system throughout Massachusetts and personally assisted Mann in galvanizing local support for municipally funded schools in western Massachusetts. At a time when Mann placed Pittsfield in the "arctic wilderness" of educational advancement in the State, Briggs assisted him in traveling to town meetings throughout Berkshire County to urge the renovation of existing schoolhouses and the permanent hiring of teachers. Briggs' efforts to aid Mann helped to build the Massachusetts public school system into a model for American education.

Like many social activists of his day, Briggs received inspiration for his work from a deep religious faith. Influenced by the spread of fundamentalist evangelism in the United States between 1820 and 1850, Briggs was converted to the Baptist faith and pursued his Christian calling to preach the Gospel and temperance. Briggs became a leading figure among Baptists in America and from 1847 until his death he was president of the Baptist Missionary Union. His opinions on the virtues of total abstinence from alcohol gained wide circulation and in 1856 Briggs was appointed president of the American Temperance Union.

As an abolitionist, political reformer, and pious evangelist, George Nixon Briggs was deeply concerned with and influenced by the issues of his day and his career was moulded by the social atmosphere of an maturing America in the years prior to the Civil War.

ONLY SOVIET PRACTICE, NOT COMMUNISM, OFFENDS DUKAKIS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SOLOMON. Mr. Speaker, the American people are not stupid. By November, if not sooner, they will recognize that the majority party once again has chosen as its standard bearer a true-blue McGovernite.

Even though the McGovern philosophy has been rejected in four of the last five Presidential elections, even though the party of that philosophy has been outscored in the Electoral College by a ratio of 4 to 1 since 1968, that party persists. This time, their strategy is to present Governor Dukakis as the soul of moderation. While it is true that everyone looks moderate next to Jesse Jackson, it simply isn't so. The latest dent in Michael Dukakis' moderate armor comes to us courtesy of John Elvin's "Inside the Beltway" column in the Washington Times, which I submit for the RECORD.

According to Elvin, Dukakis told the BBC that we "need to recognize that communism is a failure." No quarrel there. But in the same sentence that Dukakis eased the fears that he would give the store away, he proved once again that he is indeed a New England Jimmy Carter. Communism is a failure, he explained, "at least the way it's been practiced in the Soviet Union."

What's that, Mr. Speaker? What is your candidate saying? Does he mean that communism could be made to work somewhere, say, in the United States? If Governor Dukakis knows of a country anywhere where communism has created a heaven on Earth, he should withhold this information no longer.

Mr. Speaker, this is a candidate who wouldn't really lose any sleep if a Soviet beachhead were firmly planted in this hemisphere, who thinks the Monroe Doctrine is a dead issue.

Even with a sympathetic media, the majority party won't be able to perpetuate this fraud any longer.

The information follows:

DUKAKIS' JUDGMENT

(By John Elvin)

We need "to recognize that communism is a failure, at least the way it's been practiced in the Soviet Union."—Mike Dukakis in a BBC interview.

THE KHMER ROUGE IN AFRICA

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. MCHUGH. Mr. Speaker, reports reaching the United States over the course of the last several years have suggested that RENAMO, a guerrilla organization in Mozambique sponsored and supported by the Government of South Africa, has been engaged in a consistent pattern of gross violations of human rights.

Paid lobbyists for RENAMO in this country have consistently discounted those reports, suggesting that these abuses were actually carried out by the Government of Mozambique or by armed bandits affiliated with neither side. However, a recent report conducted for the Bureau of Refugee Programs of the Department of State has now provided compelling evidence that Mozambique has become a RENAMO killing field. Indeed, according to the report, conservative estimates are that as many as 100,000 civilians may have been murdered by RENAMO.

These victims may be the fortunate ones for the report goes on to document hundreds of cases of beatings, rape, looting, burning of villages, abductions and mutilations. While the report is also critical of government soldiers, it notes that reports of abuses by these soldiers are isolated and that there is a sustained trend toward overall improvement on the part of government soldiers.

While the report I have referred to is far too long to insert into the CONGRESSIONAL RECORD, I am including the summary of its findings. I urge every Member of the House to read this summary carefully for it suggests that RENAMO is the African equivalent of the Khmer Rouge, undeserving of support from civilized people.

MOZAMBICAN REFUGEE ACCOUNTS OF PRINCIPALLY CONFLICT-RELATED EXPERIENCE IN MOZAMBIQUE

SUMMARY OF FINDINGS

From 48 districts in northern, central and southern Mozambique, in 25 refugee camps in five countries separated by as many as 1,500 miles, nearly 200 Mozambican refugee accounts of their experiences are strikingly similar. If that sample is reasonably representative, their accounts, corroborated in large measure by independent experience of some religious and relief assistance workers, compel certain unavoidable findings.

First, the level of violence reported to be conducted by RENAMO against the civilian population of rural Mozambique is extraordinarily high. Roughly 170 refugees, each representing one family, who arrived in 1987/1988, collectively reported about 600 murders by RENAMO of unarmed civilians, in the absence of resistance or defense. (If the population estimates reported in the introduction to this report are correct, there are roughly 200,000-250,000 refugee and displaced families in Mozambique and in the neighboring countries, the majority of whom are conflict victims.) If the refugee reports are generally accurate and the sample reasonably representative, it is conservatively estimated that 100,000 civilians may have been murdered by RENAMO in this manner.

The same 170 refugees report many hundreds of cases of systematic forced portering, beatings, rape, looting, burning of villages, abductions and mutilations. These patterns of systematic abuse represent many hundreds, if not thousands, of individual instances reported by this small sample. Conservative projections based on this data would yield extremely high levels of abuse.

That the accounts are so strikingly similar by refugees who have fled from northern, central and southern Mozambique suggests that the violence is systematic and coordinated and not a series of spontaneous, isolated incidents by undisciplined combatants.

Second, the relationship between RENAMO and the civilian population, according to the refugee accounts, revolves almost exclusively around a harsh extraction of labor and food. If these reports are accurate, it appears that the only reciprocity provided by RENAMO for the efforts of the civilians is the possibility of remaining alive. There are virtually no reports of attempts to win the loyalty—or even the neutrality—of the villagers. The refugees report virtually no effort by RENAMO to explain to the civilians the purpose of the insurgency, its proposed program or its aspirations. If there is a significant sector of the population which is sympathetic to this organization, it was not reflected in the refugee accounts.

Third, there were serious complaints about abuses by some FRELIMO Government soldiers. But in both the murder and non-murder categories, only three to four percent of the complaints were attributed to FRELIMO soldiers. They tended to be isolated reports, often from areas of the country most remote from Maputo. It appeared that there is a sustained trend toward improvement overall.

Fourth, the refugees and most independent sources rejected the assertion that much of the violence in Mozambique is attributed to neither FRELIMO or RENAMO but instead to armed bandits affiliated with neither side. It appears from this field research that violence by "freelance bandits" does not account for more than occasional, isolated instances of the high level of reported violence.

TRIBUTE TO SAMUEL B. STERRETT, CHIEF JUDGE OF THE U.S. TAX COURT

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. PICKLE. Mr. Speaker, I rise in order to pay tribute to Chief Judge Samuel B. Sterrett, an outstanding public servant who has given his country 20 years of distinguished and dedicated service as a member of the U.S. Tax Court. Today Judge Sterrett will retire from the bench after a long and noteworthy career. His colleagues on the bench and the Congress will miss his experience and steady hand at the helm of the U.S. Tax Court.

Judge Sterrett has testified before the Ways and Means' Oversight Subcommittee, which I chair, on a number of occasions concerning the Tax Court and tax policy. His good judgment and insight on important tax issues have been instrumental to the subcommittee. Most of all, I truly appreciate his candor and the forthright manner in which he addresses the very difficult issues facing the court and the Congress.

Under Judge Sterrett's stewardship, we have witnessed 18 months of progress in controlling the volume of cases before the Tax Court. In addition to reducing the number of cases, the court is also continuing to take steps to bring cases to trial in a timely manner and to promptly issue decisions. Judge Sterrett is to be highly commended for his efforts to make the Tax Court's case inventory manageable.

Mr. Speaker, I am sure you will agree that Samuel B. Sterrett is an outstanding public servant and leader. I rise to recognize Judge Sterrett for his exemplary service and devotion to our country and wish him every success as he embarks on a new challenge.

THE DAN DANIEL POST OFFICE BUILDING

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SISISKY. Mr. Speaker, it is my honor to report to the House that I am introducing today legislation to designate the U.S. Post Office Building in Danville, VA, as the "Dan Daniel Post Office Building," in memory of our dear friend and colleague, Dan Daniel, who so ably represented the Fifth District of Virginia for the past 19 years.

Dan was truly a Virginia gentleman. He was a Virginian, through and through, steeped in all of the highest principles of our Founding Fathers, a great believer in Jeffersonian democracy, and yes he was a gentle man. All of us who knew him knew that here was a man, from humble beginnings, who felt very deeply and very personally the importance of every issue which came before the House.

Dan was unapologetically a conservative, but he recognized that we cannot sweep problems under the rug. He was therefore always open to options or alternative approaches to deal with the problems when he could not in good conscience support the original proposal. Dan was faithful in his stewardship of the office, he was loyal to his friends, zealous of the Nation's good, and had a sense of duty which was hard to equal.

It is only fitting that the House take action to memorialize this wonderful gentleman from Virginia. This is why I am introducing this legislation which is cosponsored by all the members of the Virginia delegation. I feel, as I am certain my distinguished colleagues do, that by designating the Post Office Building in Danville, VA, as the "Dan Daniel Post Office Building," we can recognize and pay tribute to the lasting memory of Dan Daniel.

H.R. 4726

A bill to designate the United States Post Office Building located at 700 Main Street in Danville, Virginia, as the "Dan Daniel Post Office Building"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office Building located at 700 Main Street in Danville, Virginia, shall be known and designated as the "Dan Daniel Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Dan Daniel Post Office Building".

TRIBUTE TO JAMES SCHLUETER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BROWN of California. Mr. Speaker, it is my great pleasure to rise today in honor of James Schlueter, who will retire on June 23 from Arlington High School in the Riverside Unified School District. In his 37-year career as an educator, Mr. Schlueter has touched the lives of several generations, teaching at the elementary, junior high, and high school levels.

Born on May 26, 1926, James Schlueter graduated from Riverside Community College in 1947. He received a bachelor of arts degree from the University of California at Santa Barbara in 1950. Mr. Schlueter returned to the 36th congressional district in 1952 to begin his teaching career and has taught both industrial arts and physical education, while also contributing to the work experience program on campus. An enthusiastic athlete, Mr. Schlueter has coached both tennis and basketball in his long career.

James Schlueter will surely be missed by his fellow teachers and his students, both past and present. It is my pleasure to share the outstanding accomplishments of Mr. Schlueter with my colleagues in the U.S. House of Representatives. I ask that they join me now in honoring him on this special occasion.

TRIBUTE TO NORMAN AND BARBARA SEIDEN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. TORRICELLI. Mr. Speaker, it gives me great pleasure to pay tribute to my good friends Norman and Barbara Seiden, of Tenafly, NJ. the Seidens are being honored at a dinner on the occasion of the 40th anniversary of Israel Bonds.

Norm and Barbara have provided outstanding leadership in the Israel Bonds organization and many other important causes both in Bergen County and nationwide. Their work on behalf of Israel and the Jewish community has provided an example of dedication that has been followed by their own family and by a new generation of leaders in the community.

For Norm and Barbara Seiden, the question is never whether they can help, but how. It was the vision of Norm Seiden and his colleagues that made possible the new JCC on the Palisades, one of the finest institutions of its kind in the country. Norm continues to serve as chairman of the board of trustees of the JCC. He was instrumental in the formation of the United Jewish Community of Bergen County, where he now serves as vice president and member of the executive committee. Among Norm's many other involvements, I want to note his service on the National Campaign Cabinet of the Israel Bonds organization and on the boards of the American Technion Society and the Technion-Israel Institute of Technology. An engineer by training, Norm brings a special interest to Israel's scientific development.

Barbara Seiden's involvements on behalf of national and community organizations establish a record in her own right. Israel Bonds, the American Technion Society, Hadassah, the JCC on the Palisades, ORT, and the United Jewish Community of Bergen County are some of the causes she has championed. Of course, no tribute to Barbara would be complete without noting the courage she has demonstrated in the face of great adversity. Her example of strength and tenacity have in turn provided strength to her family and many friends.

To Norm and Barbara Seiden—and to their children, Steven and Sharon Seiden, Pearl and Jimmy Newman, Mark and Diane Seiden, and to their 10 grandchildren—I would like to extend my congratulations on this happy occasion and my best wishes for continued success in the years ahead.

A SPECIAL SALUTE TO MARY M. BETHUNE SCHOOL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. STOKES. Mr. Speaker, President Reagan is in the Soviet Union for a historic summit meeting with General Secretary Gorbachev. This meeting provides the opportunity for dialog on issues of critical importance to both nations.

As Members of Congress, we have followed the development of the summit very closely, especially those of us concerned about the issue of human rights. Over the years, my colleagues and I have been outspoken on behalf of Soviet refuseniks—those denied the right to emigrate from the Soviet Union.

One case which has been of particular concern to me is that of Benjamin Charny, a Societ cancer patient who, for the past 17 years, has been denied the right to emigrate. Benjamin Charny's suffering is twofold—he suffers from a deteriorating disease and he suffers the emotional hardship of being separated from his family who reside in the West. He is denied a basic human right—the right to live where he chooses.

In conjunction with the summit and to call attention to Benjamin Charny's plight, a letter writing campaign to Secretary Gorbachev and President Reagan by schoolchildren throughout the Nation was organized. Over 7,000 schoolchildren participated. Last week in a historic moment, we witnessed their letters to

Secretary Gorbachev being received at the gate of the Soviet Embassy.

Mr. Speaker, I am proud to report that letters from fifth and sixth grade students at Mary M. Bethune School in Cleveland, OH, were included in this campaign. Their letters urged Secretary Gorbachev to consider the release of Benjamin Charny. One student wrote,

> We are all people who have feelings for others. Please let Mr. Charny be with the people he loves and misses.

It was very touching to read the students' letters and note their concern for Benjamin Charny and their belief in human rights for all people.

I want to take this opportunity to thank the students for their involvement in this special project. Additionally, I want to commend the principal at Mary M. Bethune School, Mr. James W. Hobbs, and instructors, Mrs. Iola Foy and Mrs. Marian Gibbs for assisting the students in their letter writing campaign.

Mr. Speaker, my colleagues and I wish President Reagan and Secretary Gorbachev a successful summit meeting. We pledge our continued commitment to human rights and our continued efforts on behalf of Benjamin Charny.

MARY M. BETHUNE SCHOOL STUDENTS PARTICIPATING IN LETTER WRITING CAMPAIGN

Grade 5: Casey Bacon, Robert Rodgers, Christina Fears, Otis Driver, Jason Nadeau, Catrina Jones, Charles Peeples, Tyrone Bates, Stephaine Cunningham, Latisha Jones, James Coleman, La Chaunne Perry, Benjamin Butler, Aisha Jenkins, Heather Miller, Shaun Drake, and Christy Blackburn.

Grade 6: Omar S. King, Alicia Dowdin, Marisa A. Boddy, Meshelle Combs, Anthony Banks, Jason Bateman, Jahari Fleming, Michael Evans, Julionne S. Brown, Consuelo Thompson, Adrienne Appleton, Adrienne Alexander, Zicarr Young, Theron Toole, Damien Dix, Frank E. Dillingham, Jr., and Rahein Turner.

MARKING THE 50TH ANNIVERSARY OF THE GRANBY FIRE DEPARTMENT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. CONTE. Mr. Speaker, voluntarism and self-reliance are two qualities that Americans have always cherished and considered to be part of a uniquely American personality. Furthermore, when these virtues have come together in the interest of our Nation and our communities, we have met with tremendous success. Our volunteer fire departments exemplify this success, and its is with great admiration that I honor the Granby Fire Department as it celebrates the 50th anniversary of its incorporation. As is fitting, this event will be commemorated Sunday, June 12 with a gala parade and fire muster as part of Granby's annual Charter Day festivities.

The nearly 40 volunteers who serve Granby as firefighters have dedicated themselves to ensuring the security of the lives and property of their own neighbors, selflessly placing their own safety at risk in doing so. These individuals always stand ready to aid Granby and its surrounding towns and respond to 350 calls each year. Their devotion of time and considerable effort away from work and family exemplifies the true meaning of community service.

The Granby Fire Department began in 1938 with the formation of the Granby Volunteer Firemen's Association. This group of 12 individuals secured the purchase of a single fire truck through aid from the town government, donations from neighbors, and by digging deep into their own pockets. Since that time, through fundraising carnivals and other social events, the Volunteer Firemen's Association has helped to build a fire department that now boasts seven fire vehicles and one ambulance. Since 1959 the Granby Fire Department has been equipped with an ambulance to provide emergency medical service. Today nearly 20 members of the department's force are certified medical technicians.

I would also like to personally acknowledge the contribution of Assistant Fire Chief William Gallup. Mr. Gallup was a charter member of the Granby Volunteer Firemen's Association and his subsequent half century of service is clear testimony of his commitment to the safety and well-being of his community. I join the citizens of Granby in their recognition of this remarkable tenure.

Mr. Speaker, I wish again to offer my congratulations to the Granby Fire Department as it celebrates its first 50 years of dedicated service.

TRIBUTE TO JOSEPH DICARA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mrs. BENTLEY. Mr. Speaker, below are some remarks I recently made in honor of my constituent, Mr. Joseph DiCara, who was honored by the Essex Development Corp. for all the good things he has done in my district. I submit them here with all due honor and respect for this great gentleman:

REMARKS OF HON. HELEN DELICH BENTLEY

It's a great honor to be here tonight; I always enjoy visiting with my many friends here in Essex. The Essex Development Corporation is a very valuable organization, one which serves the community and the citizens of Essex with a great deal of fervor and pride. Yes indeed, EDCO is very important, and I will always go out of my way to visit with its members whenever possible.

However, tonight is indeed very special, for now you are honoring one of your own. This man has served as a past president of the organization, and he has done a great deal to contribute to the well-being of the Essex community. Joseph DiCara is a gentleman worthy of the highest praise and admiration, for he has learned what it is like to give of himself and to reap the love and gratitude.

Look around you, Joe. Look at how many friends came out tonight for the sole purpose of honoring you! It has been said that a crowd of people is the loneliest place to be. However, this certainly is one place where no one can accuse you of being alone! The affection and appreciation which fill this room is enough to make any man's life complete.

Joe's tenure as president of EDCO from 1982 to 1987 was a time of great successes and growth for the organization. Yet in fact it served as only one portion of the involvement which Joe DiCara undertook upon himself in terms of community service. He has been a member of the Action Team for Revitalization, the Baltimore County Arts and Sciences Commission, and the Baltimore County Democratic State Central Committee.

He has reaped an impressive number of awards—something so unusual for one so young. The Essex Day Committee Award for Community Service was bestowed upon him in 1980, while he received the Baltimore County Police Citizen's Award in 1984. He also recently received the coveted Alberta Pugh Memorial Award from the Essex-Middle River Civic Council naming him Man of the Year.

Another one of Joe's accomplishments which is worthy of mention is his singing. Long known as the "Baltimore Baritone", Joe has performed with the Baltimore Opera, the Baltimore Municipal Band, and the Baltimore Symphony. Yet he has also sung at Memorial Stadium for Baltimore's Orioles and for the United Way Campaign in 1984. Joe, you have indeed been gifted with a beautiful voice, but—most important of all—you have found a way to use it to help others.

Most of you, however, are aware of these achievements. However, I urge you to think hard about the level of personal sacrifice and time which led to these awards. We members of Congress like to go back to Washington and brag to our colleagues about all of the special people in our district—people with good character and concern for others. Joe DiCara is a person that I will be glad to brag about when I enter his name into the CONGRESSIONAL RECORD.

Joe, I am sure your wife Sheila and your sons Anthony and Michael are very proud of you right now. I'm proud of you, too, Joe, and I urge you to accept my best wishes for a job well done.

VOICE OF DEMOCRACY CONTEST WINNER LAURA MARY BONNER OF ROCKVILLE, MD

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mrs. MORELLA. Mr. Speaker, it is a great honor to congratulate Laura Mary Bonner from Rockville, MD, in my congressional district, one of the winners of the Voice of Democracy broadcast scriptwriting contest sponsored by the Veterans of Foreign Wars of the United States and its ladies auxiliary. Laura is a resident of Rockville, MD, and attends the Georgetown Visitation Preparatory School in Washington, DC, where she is completing her junior year. At Georgetown Visitation, Laura is an honor student. She is a member of the Forensics Club and she has extended her interests beyond the school to an internship with the American Cancer Society. In addition, Laura won the first essay contest, recently sponsored by the St. Thomas More Society among Washington area independent schools.

I commend Laura for her fine academic work and her service to our community. Our world needs women of her caliber. I include Laura's winning broadcast script on the topic—America's Liberty—Our Heritage.

Life, liberty, and the pursuit of happiness, the blessings of liberty, with liberty and justice for all. America's liberty—it truly is our heritage. This heritage is as old as America herself and has enabled America to grow and change throughout generations. America's Constitution was written to "ensure the blessings of liberty" to the framers and to their posterity. We, the Americans of today, are that posterity. We enjoy a precious heritage of liberty which we must work to benefit from and to add to.

Americans enjoy the liberty of self-government. We vote for our leaders, whom we hold responsible to us. A liberty which aids us in exercising the right of self-government—and in fulfilling the tremendous responsibility which it implies—is our freedom of speech and of the press. Americans can be informed on issues and policies because they learn about them through the media and through public discussions. Not only are facts presented, but different opinions and ideas are presented as well. It is our responsibility to avail ourselves of this opportunity to educate ourselves, and to keep informed and make informed decisions about current issues.

Another liberty which Americans cherish is freedom of religion. People of many different faiths and cultures have found acceptance in America. As a result, they have been able to make great contributions of their own and to form the rich, culturally diverse nation that is America today. We must work to ensure that no one's liberties are denied or encroached upon.

America's foundation of liberty has brought forth and made possible even greater liberties—liberties which our founding fathers might never have dreamed of.

Just a few decades ago, for instance, certain individuals saw that the rights of some groups were being denied because of their racial or ethnic heritage. Therefore, these individuals availed themselves of their liberty to speak freely and raised their voices against injustice. As a result of their efforts, yet another group of Americans now enjoy true liberty.

Liberty has always been a cornerstone of American government. It has enabled change and growth, and now, we must work to ensure to ourselves and our posterity a preservation of liberty. America's liberty—let us keep this heritage.

JEFFREY I. MURRAY AWARDED EAGLE SCOUT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GEKAS. Mr. Speaker, I would like to take this opportunity to congratulate Jeffrey I. Murray of Montandon, PA, for receiving his Eagle Scout Award on Sunday, June 5, 1988, at the Montandon Baptist Church. It is truly an honor for a young man to receive this award recognizing him for his dedication to his community and his country. This event is always a special time for family and friends who can be so proud to know someone who receives this distinguished honor.

Jeffrey has proven his leadership abilities in several ways. In 1986–87, he served as senior patrol leader of Boy Scout Troop 623. In addition, he was awarded the Youth Leadership in America Award for being named the best senior patrol leader in the Susquehanna Council for that year. He currently serves as section program committee chairman in the Order of the Arrow and as the first vice chief. His leadership roles are not restricted to Boy Scout activities. He has served as president of his Sunday school class and at his school serves as Computer Club president, Youth and Government Club vice president, Student Council representative, and has served on the Student Advisory Committee.

While remaining active in extracurricular activities, Jeffrey has consistenly been named on the honor roll and the distinguished honor roll. He also received a letter of commendation for his PSAT exam results and was selected for the "Who's Who Among American High School Students." His greatest academic accomplishment was being chosen in a highly selective program to atttend the Pennsylvania Governor's school for the sciences. He was 1 of 90 students from a pool of over 1,200 to participate in this intense, 5-week program of study of the sciences at Carnegie Mellon University in Pittsburgh, PA.

Mr. Speaker, I invite you and my colleagues in the U.S. Congress in joining me in congratulating Jeffrey I. Murray for earning this distinguished award. He has shown community service and leadership capabilities in his work with the Scouts. He is excellent proof that America's future will be in great hands.

GLASNOST AND COMMUNIST EUROPE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. YATRON. Mr. Speaker, I rise to say a few words about a most noteworthy event which occurred May 18–20 at Marymount University. I am referring to RCDA's fifth annual conference, which this year was entitled, "Glasnost and Communist Europe."

As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I have found RCDA's conferences, publications, studies, and other materials extremely informative and useful. RCDA—religious in Communist dominated areas—has been a valuable resource for the subcommittee in hearings and investigations of human rights abuses in Communist countries.

RCDA's fifth conference was no less a success than the previous four. The subject was most timely, only a week before the President left for the Moscow summit and during a time in which General Secretary Gorbachev's glasnost and perestroika initiatives are having effects throughout Eastern Europe. It also comes at a time when Gorbachev has announced some new reforms, and it attempting to solidify his base before the party conference.

The RCDA conference participants included many prestigous scholars, dissidents, human rights activists, clergy, and others. Among the experts who addressed the conference were Dr. Albert Boiter, Joan Dodek, Union of Coucils for Soviet Jews, Mihajlo Mihajlov (Yugoslavia), Nicolas Pentcheff (Bulgaria), Ayshe Seytmuratova (Crimean Tatars and Soviet Muslims), Prof. Nikolaos Stavrou (Albania), Victor Nakas, Lithuanian Information Center (Baltic States), and others.

Discussions focused on the situation of religion and human rights in all Communist states in Europe—Albania, the Baltic States, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, the U.S.S.R., and Yugoslavia. The impact of Gorbachev's policies on these countries and on the Communist Party was examined.

The dynamics of Communist-dominated areas necessitate close study as not all of the changes augur uniform improvements in church-state relations and in conditions of human rights. Clearly, the Soviet Government has made some concessions on the question of civil, political and religious rights. However, the Kremlin has a long way to go before it is in compliance with its international obligations under the Helsinki Final Act, the Universal Declaration of Human Rights, and other international covenants.

Some Communist countries do not seem to follow even the limited steps taken by the Soviets toward better church-state relations and a more open society. The persecution of churches and the gross violation of human rights in Romania has increased. The plight of the ethnic Turks in Bulgaria has not improved. Poland may be on the verge of major upheavals. The Albanian people still suffer under one of the most represssive Marxist systems. Some developments in Czechoslovakia, Yugoslavia, Hungary, and East Germany have disturbing implications and must be clarified.

That is why the RCDA conference and its other activities are most important, as this organization deals with one of the most compelling issues of our time—the stability and security of Europe. It reaches into many other areas as well and its contribution to the cause of human rights, religious freedom and world peace in extremely significant.

JACK SCHILLINGER HONORED BY NATIONAL UNITED CEREBRAL PALSY ASSOCIATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. LEHMAN of Florida. Mr. Speaker, Jack Schillinger has been a longtime Miami Shores resident in Florida's 17th Congressional District and a successful business and community leader. But over the years a large segment of his time and that of his wife, Marjorie, has been devoted to service to the physically handicapped.

For years, Jack and Marjorie have been quietly working to improve the quality of life for South Floridians with cerebral palsy. Like his commitment to Temple Israel of Greater Miami, Jack's approach to this effort is low key. He does not seek credit, only results, and that, along with hard work, is perhaps the reason he has been so effective for so many years.

On May 14, Jack Schillinger was presented with the highest award of the National United Cerebral Palsy Association for his 33 years of volunteer work. I would like to share with my colleagues an article from the Miami Herald which further describes this honor.

The article follows:

[From the Miami Herald, May 29, 1988]

NATIONAL ORGANIZATION LAUDS SHORES VOLUNTEER

Jack Schillinger of Miami Shores has been given the National United Cerebral Palsy Association's highest award for volunteer service. Schillinger, executive vice president of Prestressed Systems and the chairman of United Cerebral Palsy, was honored with the Roger S. Firestone Award at the organization's annual meeting in St. Louis May 14.

The award was presented to Schillinger in recognition of his 33 years of service to the organization. He has served in several capacities, including president and chairman of the board of the Miami organization, member of the state board, and vice president of the national organization.

RECOGNITION OF MAJ. CHESTER H. "SKIP" MORGAN, USAF

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. NICHOLS. Mr. Speaker, I know I speak for many in commending the valuable contributions of Maj. Chester H. "Skip" Morgan of Air Force Legislative Liaison to the various subcommittees and panels of the Armed Services Committee. Major Morgan is a graduate of the U.S. Air Force Academy where he was a Rhodes Scholar finalist. He has completed graduate work in International Affairs at the Fletcher School of Law and Diplomacy and matriculated in law at the University of Texas. He has been admitted to practice law before the Supreme Court of the State of Texas and before the U.S. Court of Military Appeals. Over the past 4 years, Major Morgan, a lieutenant colonel selectee, worked with various congressional bodies on a wide range of significant issues from drug interdiction to military construction. He has tirelessly assisted Congress in fulfilling its responsibilities. He has served the needs of the Air Force without hiding behind the blinders of narrow parochial interests.

During his stewardship of the Air Force military construction account he played a vital liaison role in assisting Congress in the development of legislation that continued three construction projects of critical importance to this Nation's nuclear assets. As an individual who grew up in an Air Force family, he has personal knowledge of the often trying situations faced by overseas service personnel and their families. This knowledge, coupled with his sincere personal concern for their welfare, stood the Air Force in good stead when Major Morgan was asked to explain his service's position concerning construction designed to improve the well-being of military families. The attractive, functional, modern housing facilities that are being constructed worldwide at Air Force installations are testament to Major Morgan's efforts.

Among his many accomplishments, Major Morgan's exceptional expertise on all matters relating to the Goldwater-Nichols Department of Defense Reorganization Act of 1986 have been most noteworthy. Major Morgan was quick to understand and accept the goals the Congress sought for the Department of Defense, goals that would later become embodied in the Goldwater-Nichols Act. He played a key legislative liaison role in the final development of the act and continues to facilitate ongoing dialogue with the Congress concerning changes requested by the Air Force.

Major Morgan is leaving Air Force legislative liaison to assume new duties as a staff judge advocate at Francis E. Warren Air Force Base in Cheyenne, WY, a Strategic Air Command installation. I am sure I speak for all my fellow committee members in wishing him the best of luck and expressing our confidence that he will continue to serve the Air Force and the Nation well.

ON THE RETIREMENT OF MAJ. GEN. BOB NORRIS

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DICKINSON. Mr. Speaker, I rise today to pay tribute to my good friend and fellow Alabamian, Maj. Gen. Bob Norris, the Judge Advocate General of the Air Force. General Norris is retiring from the U.S. Air Force after 31 years of distinguished service. We owe him a debt of gratitude for his many contributions.

I am also proud to say that General Norris is a fellow alumnus of the University of Alabama, where he received an undergraduate degree in commerce and business administration, and a juris doctorate in 1955. He received his commission through the Reserve Officer Training Corps program and entered active duty in 1955. General Norris has held a number of challenging positions during his career and excelled in every one. In 1983, he became Deputy Judge Advocate General of the Air Force, and assumed his present duties in 1985.

General Norris wil be truly missed. He is a gentleman, a superior officer, and a lawyer's lawyer. One of General Norris' primary concerns has been the morale and welfare of our airmen and their families. He translated his concerns into direct action by establishing and maintaining outstanding preventive law programs for our airmen. The Air Force has recognized General Norris' accomplishments with numerous decorations and awards, including the Air Force distinguished Service Medal, Legion of Merit, Meritorious Service Medal, and Air Force Commendation Medal.

I know that I speak for all of my colleagues in the House in thanking my good friend Gen. Bob Norris for his dedication to duty, and we wish him success in his future endeavors.

EXPLANATION OF VOTE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. PORTER. Mr. Speaker, I was delayed and was not on the floor when the House voted on the conference report on the Employee Polygraph Protection Act (H.R. 1212) vote no. 159. Had I been present and voting, I would have voted "no."

HONORING THE INCORPORATION OF CHESTERFIELD, MO

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BUECHNER. Mr. Speaker, I rise today to welcome the incorporation of St. Louis County's 90th and newest municipality, the great city of Chesterfield, MO, on this first day of June 1988.

On the fifth of April of this year, the citizens of Chesterfield brought the city into its official being by a 3-to-1 landslide vote in favor of its incorporation. At its founding, Chesterfield is already a strong hub of west St. Louis County. Encompassing 25.67 square miles of residential, commercial, and industrial neighborhoods, Chesterfield is home to 33,010 proud Missourians with a proud new city.

Chesterfield is a center of attention in the fields of agriculture and natural science, housing Monsanto's Life Sciences Center, where pioneering experiments in biotechnology attract the attention of the world's scientific community. New developments in molecular biology and genetic engineering promise to bring novel solutions to age-old problems not only for America, but more importantly, for developing countries whose agricultural needs are much greater.

Chesterfield makes a strong contribution to the economy, with an assessed valuation of about a half a billion dollars, and it makes a strong contribution to its young people, represented in its fine private schools and celebrated Parkway and Rockwood public school systems.

As we honor the incorporation of Chesterfield, so we must honor those who made it possible, including the honorable members of Citizens for Chesterfield, which placed the incorporation initiative on the ballot and made the dream become a reality; the honorable members of the Chesterfield Transition Committee and the Chesterfield Inaugural Commission, which made the changes smooth and easy; and the honorable members of the Chesterfield Chamber of Commerce and Chesterfield Civic Progress, which encouraged and supported these efforts from the beginning.

Mr. Speaker, I predict the new city of Chesterfield will have a most prudent and yet dynamic administration under the direction of its new mayor, the Honorable Frederic Steinbach; its city attorney, the Honorable Douglas R.

Beach; its municipal judge, the Honorable Michael J. Doster; its city administrator, the Honorable Michael Herring; and its city council, the Honorable Jade Gardner Bute, the Honorable Charles W. Fawcett, Jr., the Honorable Barry Flachsbart, the Honorable Robert Frank, the Honorable Richard Hrabko, the Honorable John J. Neiner, the Honorable Ward Overall, and the Honorable Audrey Peeler.

To each of them who will govern from those of us who do likewise, let us wish them wisdom, compassion, understanding, and most of all, patience. For a new city is like a new child—filled with promise and demands. These men and women are the guardians, but democracy is the parent. Together, the newborn city will grow and make a name that all of us will be proud of.

Mr. Speaker, I know as the proud representative of Chesterfield, MO, in this body, that this new community will serve from this great day forward into the 21st century as a fine example of the best of America's communities, which through their embrace of a true sense of family and civic duty, nurture the finest of futures. Welcome, city of Chesterfield, to incorporation in the great State of Missouri, and these great United States.

WHAT IS GOING ON IN THE SOVIET UNION?

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, extraordinary events of historical significance are unfolding in the Soviet Union as our President heads toward a summit meeting in Moscow with the General Secretary of the Communist Party. These developments, important as they are to world peace, should not blind us to certain fundamental realities.

The Washington Post reported on May 23, from Moscow that a plenary session of the Central Committee, which numbers more than 300, approved reform proposals for a special conference of the Communist Party next month. More than 5,000 delegates will come to this party conference, the first in 47 years.

We do not know what the policy planks adopted by the Central Committee consist of as they remain unpublished. But they certainly have a great deal to say on perestroika, the Gorbachev policy of restructuring, renewing and reforming the Soviet economy, and the significance of the Western economies to perestroika.

As we await the certain-to-be dramatic outcome of, first, the Reagan-Gorbachev summit, second, the June Communist Party Conference, we should bear in mind the importance of United States-Soviet economic relations. Recently, the Baltimore Sun published a guest editorial I wrote in this regard, which I would like to share with Members:

FINANCING OUR OWN NOOSE

WASHINGTON.—In U.S.-Soviet relations, economic considerations are as important as military strategy. Over the years, the United States-Soviet economic relationship has focused on technology transfer and the sale of agricultural products. Now, however, we must turn our attention to a neglected aspect of that relationship: the role of capital, or what credit and loans the United States and its allies should extend to the Soviet Union. Lenin predicted that the West would sell the communists the rope with which to hang ourselves. It now appears as if the West is also willing to finance the acquisition.

In testimony before the Defense Burden Sharing Panel of the House Armed Services Committee, former Assistant Secretary of Defense Richard Perle noted that the average monthly lending of European and Japanese banks to the Soviet Union bloc in 1986 was $2 billion. Of this amount, $1.6 billion was in untied, general-purpose loans that could be used to finance either such projects as the building of roads and bridges or the production of Soviet weapons.

Through untied lending, the United States and its allies risk subsidizing the Soviet military build-up and foreign-policy adventurism. Japan alone now provides the Soviet bloc with 40 percent of its credit needs, and 80 percent of this financing has few restrictions on its usage.

The Soviet Union is increasing its presence and range of activities in the international credit markets. For the first time since 1917, the Soviet Union recently dipped into the public bond market and raised $80 million. If the Soviet Union can raise this much in the traditionally conservative Swiss bond market, much more will come through other avenues, if Western financial institutions cooperate.

It would be both impossible and imprudent to halt the flow of capital from the West to the Soviet bloc, but it would not be difficult to tie Western bank loans to specific, nonlethal purposes so that funds could not be diverted for military use. Lending could take conventional forms such as equipment loans, and structured project loans with fixed terms and pay-back schedules. As Sen. Bill Bradley, D-N.J., has observed:

"The West, while not overstating its importance, should treat its capital as a strategic asset and develop a plan for its flow eastward. The flow of capital should be limited and proportionate to the degree of systematic reform. I question the wisdom of helping the Soviets avoid the choice between civilian investment and military build-up."

U.S. policy in Nicaragua highlights the contradictions that result from the United States failing to coordinate its finance and military policies. While the United States has been funding the contras and undertaking other measures in an effort to alter the behavior of the Sandinista regime, a consortium of Western banks advanced a $500 million loan to East Germany in 1985. Within days, it was reported that $20 million was transferred to a Nicaraguan bank account in Panama.

Western economic activities that assist the Soviet bloc relieve Moscow of having to choose between its objectives. In the last two years, Soviet hard-currency earnings have decreased by over 49 percent due to the collapse in oil and gas prices, threatening Mikhail S. Gorbachev's modernization program. For 1987, total Soviet output of good and services increased by only on-half of 1 percent, compared with 3.9 percent growth in 1986. Soviet export earnings of $26 billion in 1986 were only one-third of General Motors' revenues for the same year.

This poor economic performance clearly makes Soviet adventurism around the world more difficult. It is doubtful that the Soviets can carry the burdens of underwriting the economies of Eastern Europe, while supporting the war in Afghanistan and client states around the globe. Western support of Soviet-bloc economies should not aid the Soviet Union to simultaneously pursue both objectives.

The United States needs to integrate its financial dealings with its military policy, and with the actions of its allies. A logical start would be for the Western allies to agree that all lending to Soviet-bloc nations be tied to specific projects so that funds cannot be diverted to military uses.

Capital is as much a commodity as wheat or gold. Allowing it to flow freely to the Soviet bloc deprives us of an important policy too and reward. The customer of any lending institution must state what he will use the funds for; we should ask no less of Soviet-bloc borrowers.

THE SAVING OF THE "SAMMY B."

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SOLARZ. Mr. Speaker, several days ago the Washington Post ran a column by James J. Kilpatrick on "the Saving of the *Sammy B.*" otherwise known as the U.S.S. *Samuel B. Roberts*. Mr. Kilpatrick recounts the heroic actions taken by the captain and crew of the *Roberts* after it hit a submerged mine last month while escorting Kuwaiti tankers through the Persian Gulf.

As Mr. Kilpatrick rightly states, the crew of the *Roberts* "wrote a story of heroism and ingenuity" that day. Facing fire fed by ruptured fuel tanks, waters steadily rising in the hole of the crippled vessel, and the everpresent danger of other mines with their loads of death floating nearby, the *Roberts*' crew put on a display of damage control whose skill was matched only by the courage and resourcefulness of the crew members.

Mr. Speaker, I was in the Persian Gulf last August, and I know something of the conditions under which our brave men operate in those treacherous waters. Theirs is a dangerous task, with weeks on end of monotonous duty always accompanied by the knowledge that at any moment, their ship could come to a terrifying end amidst a fireball of devastation. It is an often thankless task as well. But it is a task that has been proudly, uncomplainingly, and—when the circumstances require it, as they did last month—courageously assumed.

The people of the United States can take great pride in the fact that they are represented by men and women of such skill and courage. Our Armed Forces personnel should know that we are tremendously proud of them.

Mr. Speaker, this story of the *"Sammy B."* and its resolute refusal to die is a story that bears repeating. And so, Mr. Speaker, I place Mr. Kilpatrick's column in the RECORD, so that so long as men and women study the history of this great House, they will also be reminded of the moving saga of the *Sammy B.*"

THE SAVING OF THE SAMMY B.

(By James J. Kilpatrick)

President Reagan watched a movie the other night. Nothing new in that, but this movie was enough to move a man to tears. It was a brief film prepared by the Navy on the saving of the Sammy B. The story is more than a month old, but it will bear retelling for years to come.

The Sammy B., of course, is the frigate Samuel B. Roberts (FFG 58), commissioned two years ago. She is, or was, and will be again, a beautiful swift ship, 453 feet long, 3,740 tons, carrying a crew of 224 officers and enlisted men. I know a ship just like her.

On April 14 the frigate was engaged in what had become a routine task of escorting Kuwaiti tankers through the Persian Gulf. A clear day. Calm seas. Months had passed without a hostile incident. Twenty-five convoys had gone through. Then, at 6 o'clock in the evening, came a startled cry from a lookout on the bow: mines, three of them, had been sighted.

The Roberts' captain, Cmdr. Paul X. Rinn, ordered his engines halted, then reversed. Carefully, delicately, he began to back out of danger's way. Forty-five minutes ticked by in apprehensive silence. The tension abruptly ended. A submerged mine, packing the destructive power of 250 pounds of TNT, brushed against the Roberts' hull. The explosion ripped a 22-foot hole in the frigate's side. In a fraction of a second, disaster struck. The ship's two gas turbine engines spun off their mounts. Burning fuel formed into a fireball that shot through the main stack and dropped fiery debris on the ship. Decks and bulkheads buckled.

By all the rules of naval warfare, the wounded frigate should have sunk, but the Sammy B. was a ship not meant to follow ordinary rules. Over the next five hours, before the peril of sinking passed, the crew wrote a story of heroism and ingenuity. They literally bound the frigate together with steel wire. They kept her alive to fight again.

When the three mines were sighted, Rinn immediately sounded a call to general quarters, the Navy's condition of highest readiness. The crew closed watertight doors throughout the ship, manned damage-control stations and donned newly developed firefighting gear. Lessons had been learned both from England's experience in the Falklands war and from the terrible damage done last year to the USS Stark, when an Iraqi missile nearly sent her to the bottom. Out of those lessons came new oxygen-breathing apparatus and other equipment for fighting fires at sea.

It was the courage of the crew, rather than the excellence of equipment, that made the difference when the explosion came. Three problems had to be tackled in an instant: fire, flooding and immobility. Make it four problems: 10 members of the crew had been injured, and their injuries had to be treated.

The Sammy B. was dead in the water, a thousand tons of water in the damaged spaces. Her main engines were disabled. Fires fed or ruptured tanks of fuel. Flood waters pushed at bulkheads. The explosion had badly shaken the ship's helicopter. Cracks were developing in the superstructure—all this in the middle of a mine field. But everyone did everything right.

The ship was relatively intact forward. An auxiliary room forward of the main engine room was flooded with a foot of water, but generators and ventilating equipment were working. Rinn put two auxiliary power units to work—electric motors with propellers—and the ship regained limited mobility. Mechanics got the helicopter working. Damage control units fought the fires and shored the sagging bulkheads. Crew members struggled through blinding smoke to remove ammunition from the fire zone. To hold onto the after-end of the ship, sailors rigged cables of steel wire that kept the Sammy B. in one piece. At last free of the mine field, she traveled slowly in tow to Dubai.

Vice Adm. Henry Mustin, deputy chief of naval operations, told reporters last month that the story of the frigate Roberts will become part of the curriculum in damage control at the Naval Academy. "We can't speak highly enough," he said, "of those young fellows who brought us back a ship. We don't think it could have been done better by anybody, and we think that we're the finest Navy in the world."

Let me add a word as the father of a senior chief petty officer on the frigate Nicholas, sister ship to the Roberts, which went on duty this week in the Persian Gulf. I think so too.

THE SLOVAK LEAGUE OF AMERICA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. KANJORSKI. Mr. Speaker, on November 14, 1987, the Slovak League of America convened in Wilkes-Barre, PA, and unanimously adopted a resolution that reiterates their unswerving, permanent, and loyal commitment to the basic tenets upon which democracy in America stands.

Being an organization devoted to the moral truths set forth in the Declaration of Independence, the Constitution, and the Charter of the United Nations, the Slovak League of America not only actively supports peaceful cooperation between the nations of the world, but also strives toward the affirmation of the dignity and worth of every human being and every nation, however large or small.

In addition to dedicating themselves to these principles of peaceful cooperation between men and nations, the Slovak League of America holds fast to their cultural roots by preserving their distinctive characteristics. Because our country is a melting-pot of so many different cultures, it sometimes happens that groups lose part of their cultural heritage and identity in the process of assimilating into American culture. But the Slovak League keeps their cultural spirit alive by preserving and cherishing their language, songs, dances, and arts, which are enthusiastically practiced so that future generations may share in the proud heritage of their ancestors.

The Slovak League of America has also dedicated themselves to the eventual liberation of their brethren in Slovakia, who continue to be subjugated and are denied the right to choose their own form of government in their homeland. It is my hope, Mr. Speaker, that in this current spirit of glasnost, the people of Slovakia, and other Soviet bloc nations, will be able to determine their own political destinies by once again retaining their right to self-government and their right to worship as they choose. Until this most fundamental right of self-determination is regained by the people of Slovakia, the Slovak League of America will continue to add its voice to the chorus of others protesting the unceasing persecution of the nations of the Soviet bloc.

Mr. Speaker, I am proud to associate myself with the Slovak League of America, who seek not only to preserve a very important part of their cultural past, but who also set their sights toward a brighter future for all citizens of the world. The aims of this organization are identical to the aims of our Founding Fathers: the freedom of self-government, the freedom to worship, and the freedom to live a life of one's own choosing. Together, we seek the freedom of free men, and the construction of a free world.

A TRIBUTE TO TWO OUTSTANDING TEACHERS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. COELHO. Mr. Speaker, it is often said that our Nation's most precious resource is its young people. I firmly believe this adage, and its counterpart is that our teachers are one of our most important resources as well. It is most fitting, then, that we pause periodically and pay tribute to those exemplary teachers we go above and beyond the call of duty in their efforts to educate our young people. It is in this spirit that I rise today to pay tribute to two outstanding teachers at Thomas Downey High School in Modesto, CA, Ms. Pamela Liljeblad and Mr. Donald Payne.

Pamela Liljeblad studied at the University of the Pacific and Northwestern University, and has been an English and speech instructor at Downey High for 12 years. She has also served as the school's academic decathalon coach and speech coach since 1982. Ms. Liljeblad's speech program is nationally recognized for its outstanding successes over the years, and she is respected both locally and throughout the State for her innovative and inspirational teaching methods.

Donald Payne studied at the University of the Pacific, California State University Stanislaus, and the University of California at Davis. He has taught biology at Downey High for almost 20 years, and has also served the student body as the track coach and the advisor to the sophomore, junior, and senior classes. Mr. Payne is a member of Phi Delta Kappa and Sigma Xi, and in 1981 he was nominated for the Sigma Xi Science Teaching Award. His dynamism and creativity in the classroom have earned him the respect of both his students and his colleagues at Downey.

Mr. Speaker, the achievements of these two outstanding educators are not going unnoticed. Ms. Liljeblad and Mr. Payne are the recipients of the 1988 Downey High School Teacher of Excellence Awards. I would like to take this opportunity to congratulate Pamela Liljeblad and Donald Payne for a job well done. The students of Thomas Downey High School are lucky to have as talented and dedicated teachers as Ms. Liljebald and Mr. Payne, and I would like to extend my deepest appreciation to them for all they are doing to nurture our most precious resource—our young people.

THE URGENCY FOR MULTILATERAL REDUCTION OF AGRICULTURAL SUBSIDIES

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BEREUTER. Mr. Speaker, Members' attention is requested to the excellent and timely editorial from the May 21–27, 1988, edition of the Economist. Representatives and parliamentarians from the European Economic Community are fond of arguing that American agricultural subsidies slightly exceed those of the EC. What they don't mention, first, is that in contrast to the European expenditures, the United States subsidies are directed primarily toward reducing production—not primarily as export subsidies to capture third-country markets.

Second, they like to compare only direct Government subsidies, failing to mention that an incredible 62 to 67 percent of the total EC subsidy falls on the back of their consumers at the grocery store through higher prices than they should be paying. The comparable figure for the United States is 25 percent. For emphasis read what the Economist says about that subject:

> The cost to the [European] consumer appears in no public accounts. If it did there would be an outcry. Shoppers in Europe meet 62 percent of the cost of farm support in higher prices. The Japanese, who have the worst of all farm policies, make their consumers pay 75 percent of the cost through the most inflated food prices in the world. * * *

European consumers must be educated about their high food prices. If they were, they would probably demand that the European Community revise its common agricultural policy within a multilateral framework so as to reduce agricultural subsidies and stop blocking any serious effort to begin such reforms through the Uruguay Round of GATT as contemplated by the United States and the Cairns Group. The December mid-round review of the round is rapidly approaching and a clearly defined framework for such a multilateral agreement to gradually reduce such subsidies should be in place by that time. The credibility and effectiveness—indeed the future—of GATT and its role as a viable international organization depends very significantly upon success now in locking in a program to dramatically reduce agricultural subsidies and to bring services under the GATT umbrella. The editorial is printed below:

> [From the Economist, May 21, 1988]
>
> THE ROAD DOWN SUBSIDY MOUNTAIN
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> Three June days locked up in the Metro Toronto Convention Centre are likely to leave the leaders of the world's seven largest capitalist countries bored and bad tempered. Even by past standards this annual summit will have precious little on the agenda. Yet each leader has a common and cussed problem that needs to be tackled at home: what to do about costly farm policies? A patchwork of subsidies, tariff walls and price guarantees is straining every nation's treasury, making a nonsense of world trade and still not providing a decent living for many farmers. Farm reform should be made the main stuff of the summit.
>
> A few years ago, only economists thought the industrial world could treat itself to a free lunch by reforming its farm-support policies. They said that subsidies carry such massive costs—some of them on government budgets, most of them not—that abolishing them could create the resources to compensate farmers generously and still leave everybody else better off. Politicians long viewed this as economic sense but political suicide, so let their domestic farmers' lobbies set the limits of what they dared to propose. Since 1986 they have begun to change their minds. A new round of trade talks has farm subsidies on its agenda for the first time in three decades. The American government, the most important participant in the talks, has swung decisively towards reform. The old paralysis is wearing off.
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> Yet farm-trade talks have got nowhere in the past three months. That is partly because the European Community is worn out after a Herculean farm-budget fight in February, and partly because rising world prices of food have temporarily eased the horrendous cost of subsidies. Neither of these is a good reason for delay, but the negotiators' sense of urgency has slipped. Untended, the present inefficiencies are certain to get worse: demand for food in rich countries is stagnant, supply is growing at 1½% a year and, with a little promised genetic engineering, could grow much faster.
>
> What should be the aim of the farm-trade talks? America's answer is blunt: to abolish within a decade all farm subsidies which distort production. Countries could still keep their farmers off the breadline and their scenery pretty, but food trade and prices would be determined by the market, a long-lost friend. Europe's reply is mealy-mouthed. It wants to reduce farm subsidies, not eliminate them; and it hates deadlines. If Europe's politicians cared about the inflated prices their consumers have to pay, the implicit taxes levied on industry, the harm their policies do to poor countries, they would accept full liberalisation as the goal. Instead, they worry mostly about their farm budget.
>
> The cost to the consumer appears in no public accounts. If it did there would be an outcry. Shoppers in Europe meet 62% of the cost of farm support in higher prices. The Japanese, who have the worst of all farm policies, make their consumers pay 75% of the cost through the most inflated food prices in the world; added to this is the cost of justified American annoyance at being denied free access to their market. The Toronto meeting provides the opportunity for Mr. Noboru Takeshita and the European leaders to give the farm-trade talks a push by agreeing on a common goal: an end to all trade-distorting subsidies. This is the broad-brush policy-making that economic summits are for; the GATT talks could then grind slowly through the details.
>
> IMPATIENCE IS A VIRTUE
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> Such an agreement on ultimate ends between America, Japan and Europe would brighten the outlook for the mid-term review of the trade round, which takes place in December. If there could be an agreement on means too, even better. The summiteers should also agree to submit lists of their trade-distorting farm policies to the GATT secretariat, for costing and regular scrutiny.
>
> Above all, the partners must regain their sense of urgency. "Realists" point out that in 25 years the main industrial countries reduced tariffs on industrial goods only from 15.6% to 6.3%. That was not good enough for trade in manufactures, and it is not good enough for agricultural trade. At last governments are daring to talk about real reform. That was the hard part. Now they should get on with it.

SOCIAL SECURITY WORK INCENTIVES ACT OF 1988

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BARTLETT. Mr. Speaker, due to a significant error made in the printing of my statement on May 25, 1988, I am resubmitting my remarks so there is no confusion as to exactly what this legislation does.

Eighteen months ago Congress enacted Public Law 99-643, the Employment Opportunities for Disabled Americans Act. This law eliminates work disincentives for SSI recipients who want to accept a job without losing their health care benefits.

Data from the Social Security Administration shows that this legislation is having its intended effect. Participation in the 1619(a) program, receiving cash benefits and Medicaid, has increased dramatically since July 1987, when Public Law 99-643 took effect. All persons in the "trial work" status at the end of June 1987 are now in the 1619(a) program. Participation in the 1619(b) program, continued Medicaid coverage only, has increased by 20 percent since July 1987. Passage of this legislation has provided work incentives for the disabled.

But Public Law 99-643 is not enough. It only applies to persons with disabilities who participate in the SSI Program. This work incentive should be extended to persons who participate in the SSDI Program.

Today, I am introducing legislation entitled, the Social Security Work Incentives Act of 1988. Congressmen MATSUI, GRADISON, LEVIN, LAGOMARSINO, and WORTLEY join me in this effort. This legislation removes an essential disincentive to work by allowing SSDI recipients who do return to work and earn above the SGA level—$300 per month—to be considered "disabled but working."

When an SSDI recipient returns to work, regardless of whether his earnings would place him in the "disabled but working" status, his monthly benefit will be reduced by $1 for every $2 earned, after exclusion of the first $85 and impairment-related work expenses. The person will be permitted to stay in the "disabled but working" status as long as he continues to have the disabling impairment that is the basis of his eligibility. This is parallel to section 1619 in the SSI Program.

The real disincentive in current law, though, is a loss of medical benefits rather than cash benefits. Under the 1619 program, the SSI recipient continues to receive Medicaid upon returning to work, but SSDI participants in similar circumstances cannot receive Medicare.

SSDI recipients do not have access to Medicaid coverage, but are instead covered, after a 2-year waiting period, by Medicaid.

Under current law, SSDI recipients who return to work are covered by Medicare for 48 months and are then shut off. This legislation will allow SSDI recipients in the "disabled but working" status to continue to receive Medicare benefits for 48 months and be able to buy into Medicare once the 48-month period is exhausted.

The buy-in arrangement is outlined as follows:

The State Medicaid Plan would pay the Medicare premium for individuals with earnings below 150 percent of the poverty line—$8,655—and individuals who meet the SSI resource test.

The State Medicaid Plan would pay a portion of the Medicare premium and the individual would pay the rest if the individual's earnings are between 150 and 300 percent of the poverty line—$8,655 to $17,310.

Individuals whose earnings are above 300 percent of the poverty line would pay the entire Medicare premium.

While I have not yet received a cost estimate from CBO, I believe the bill will generate savings to the disability insurance trust fund through reduced benefit payments. In addition, there will be increases in Federal income taxes and revenues will increase in the OASDI and HI trust funds from income and employment taxes as well. The legislation will reduce any Medicare costs because it requires employers to cover their disabled workers under their employment-based health plan with Medicare as the secondary payor.

Other provisions of the legislation would: First, provide for automatic reinstatement for those individuals whose income fluctuates; second, allow an individual who is working and receiving disability benefits on the date of enactment not to be subject to these rules if his income does not exceed $250; third, and allow individuals to retain SSI eligibility for Medicaid even though they receive SSDI benefits based on their parents' retirement, disability, or death.

In 1987, 2.8 million disabled people received SSDI benefits and approximately 33 percent were under age 45. Only one-half of 1 percent of these workers ever return to the work force. SSDI recipients under age 45 are in their prime working years and could contribute substantially to our economy if they could return to work. If this legislation can double that percent, it will be a tremendous success.

I urge my colleagues to cosponsor this legislation. It will promote employment among persons with disabilities by removing a major disincentive which currently exists in the SSDI program.

HUMAN RIGHTS IN THE SOVIET UNION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BROOMFIELD. Mr. Speaker, as President Reagan concludes his historic summit meeting with Soviet leaders, I want to commend him for having put the issue of human rights at the very top of his agenda. The Soviet Union has long maintained that the human rights situation in their country is an internal matter, and United States concerns amount to nothing more than meddling.

However, issues involving the denial of basic human rights transcend national boundaries and must be the concern of people everywhere. The international scope of the issue is evidenced by such agreements as the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Helsinki Final Act of the Conference on Security and Cooperation in Europe to which the Soviet Union is a signatory.

Recent actions in the House regarding the situation in the Ukraine—the largest non-Russian ethnic group in the Soviet Union—reflect both the high priority with which the Congress and the American people view human rights issues, as well as the deplorable human rights situation in the Soviet Union.

Each year in late January, many of us in the House of Representatives take time to observe Ukrainian Independence Day. During this time, we mark the establishment of the independent, democratic Ukrainian nation in 1918, and mourn the subjugation of that sovereign nation by the troops of the expanding Soviet empire in 1921. Since then, we have seen the Soviet Government brutally try to destroy the culture, religion, self-identity and the spirit of the Ukrainian people. But we know, in fact, that the Soviet efforts have been unsuccessful, and that the self-identity of the Ukrainian people lives on, both in their native land, and in the hearts of Ukrainians everywhere.

In recognition of the Soviet Government's active persecution of religious believers in the Ukraine, the House-approved Senate Joint Resolution 235, on April 19, which deplored the Soviet Government's active antireligious policies. As a cosponsor of the House counterpart bill, House Joint Resolution 429, and as one of the floor managers during consideration of this measure, I was pleased with the overwhelming support this bill received.

This resolution focuses attention on the wholesale religious persecution that runs rampant in the Ukraine and in the other countries within the Soviet sphere. In support of the right of the people to practice their faith freely, our resolution calls upon the Soviet Government to abide by their international human rights commitments and legalize the Ukrainian Orthodox and Ukrainian Catholic Churches, allow the free practice of religion in the Ukraine, and release all those imprisoned for their religious beliefs.

This is a particularly timely resolution because 1988 represents the millennium of Christinaity in Kievan Rus. Through this celebration of the millennium, we have a particularly clear reminder of just how long Christianity and its principles have been an integral part of the Ukrainian culture, despite the despotism of the Soviet system that attempts to crush the Ukrainian people's faith.

In the 1930's and 1940's the Soviet Government undertook the forcible liquidation of the Ukrainian Orthodox and Ukrainian Catholic Churches. Today, even though the Soviets claim a policy of the noninterference of the state in matters of religion, their deeds continue to belie their words. Those important native churches, along with other Protestant churches of the Ukraine, continue to be illegal, and their followers suffer harassment, job discrimination, and arbitrary arrest and imprisonment. Religious believers continue to find their access to religious materials restricted, and the religious education of their youth prohibited.

Yet, even in the face of this harsh and unrelenting religious persecution, the Christian faith brought to the Ukraine a millennium ago continues to live in the hearts of its people.

Nearly a month later, on May 17, the House again expressed its view that the Soviet Government should abide by the letter and the spirit of the international human rights agreements that it has signed. Receiving overwhelming support, House Joint Resolution 223, once again calls upon the Soviet Government to release its religious prisoners, and allow then to freely practice their religion within their churches and homes.

Just prior to the President leaving for the Moscow summit, the House once again overwhelmingly approved a resolution protesting Soviet Human Rights violations, House Resolution 437. This resolution calls attention to the fact that the Soviet Union continues to maintain arbitrary and capricious barriers on the freedom of movement of the people of the Soviet Union, and denies respect for the rights of individuals belonging to national minorities, like Ukrainians, to enjoy and practice their culture, language, heritage, history, and religion.

House Resolution 437 also expresses the deep concern of the House over recently drafted emigration regulations which basically codify previous pretexts used by the Soviets to reject exit visa applications. These rules not only fail to guarantee the internationally recognized right to emigrate, but they actually deny that right for all but a narrowly defined few. To underline its point, the resolution also establishes a strong relationship between human rights and progress in other aspects of the United States-Soviet relationship.

However, Mr. Speaker, the brutality of the Soviet Government, its attempts to crush the spirit of the people living under its tyranny through Russification, the destruction of their ethnic heritage, and through individual harassment, imprisonment, exile, and death is a constant thread that runs throughout Soviet history.

There is no clearer example of the depth of the inhumanity to which the Soviet Union will go to subjugate a people than the Great Famine in the Ukraine which was engineered by the Soviet Government in 1932–33.

For the past 2 years, I was honored to serve as one of the congressional members of the Commission on the Ukraine Famine. The Commission was charged with the responsibility of expanding the world's knowledge of the Ukrainian famine of 1932-33, and to provide a better understanding of the Soviet system by revealing the Soviet role in the famine. On April 22, the Commission met part of its congressional mandate in submitting its report on the Ukrainian famine.

During the 2 years, the Commission heard extensive testimony and conducted indepth interviews with survivors of the famine. We heard of the million who died of starvation in the Ukraine during this terrible period of Government-sanctioned genocide. Famine survivors told the Commission of seeing bodies left where they died; of watching their loved ones progressively weaken from hunger, and slowly give way to prolonged and painful death. The Commission learned of countless ways that Ukrainians learned to survive eating anything from grasses, weeds, and tree limbs, to wild animals and birds that they caught and devoured uncooked to alleviate their great hunger.

We also learned from eyewitnesses that crop harvests in the Ukraine during this period were as bountiful as those in previous years when there was no famine. Rather than being the result of natural causes, the famine of 1932-33, was caused by the Soviet Government's organized confiscation of grains and other foods from the people of the Ukraine. Witnesses before the Commission told of train loads of foods and grains leaving the Ukraine while people starved. They told of systematic house-to-house searches where every ounce of food was seized by Government officials, and of travel restrictions that were imposed to keep Ukrainians from going to other areas where food was available.

The conclusions of the Commission's report to the Congress is inescapable. The famine which occurred in the Ukraine, and which took millions of lives there, was the result of deliberate policies of the Government of the Soviet Union.

Further, the Soviet-engineered famine was an act of genocide that was meant to crush a flowering "Ukrainianization" or pride of nationhood on the part of Ukrainians, and to strengthen the Soviet grip on the Ukraine.

The uncovering of the truth of the genocide that took place in the Ukraine during those tragic years of 1932-33, was a difficult assignment. It was heartrending for those of us on the Commission who heard the details of this genocide for the first time. It was painful for those who survived this catastrophe to call upon memories that many had buried with friends and loved ones so many years ago.

In this sense, the Nation owes its sincere thanks to the Commission's staff director, Dr. James Mace and his dedicated staff. We also owe our deep gratitude to the six public members of the Commission who came from the Ukrainian-American community, Mr. Bohdan Fedorak, Dr. Myron Kuropas, Mr. Daniel Marchishin, Ms. Ulana Mazurkevich, Ms. Anastasia Volker, and Dr. Oleh Weres. Their untiring effort and the insight these public members of the Commission provided in working with the Ukranian-American community, and in urging them to tell us their story were invaluable.

The results of the Commission's work provides many important lessons for all of us. For far too long, many of those who were aware of the 1932-33 famine in the Ukraine, thought of it as a narrow ethnic matter of interest only to the Ukrainian-American community. However, in working with the Famine Commission, it is clear that the tragedy that took place in the Ukraine goes far beyond the concerns of any single ethnic group and touches all of us.

I am therefore extremely pleased that the Congress passed the bill, S. 2304, and I am honored to have had a role as the floor manager of this legislation to extend the life of the Commission until 1990. This will provide the Commission with the time needed to complete its important work of disseminating the results of its research.

Mr. Speaker, during the time when the Soviet Union is carrying out an extensive public relations program to accompany its glasnost policy, we must remember the lessons of the genocide in the Ukraine and the moral depravity of the Soviet system of government—a system of government that would initiate such a policy, and a system that today remains essentially unchanged.

We cannot deny that improvements have occurred under the leadership of General Secretary Gorbachev. At the same time, however, we should not be overly dazzled by these changes because they have yet to be institutionalized and made a permanent part of the Soviet system of government.

In simply examining the human rights conditions in the Ukraine as exemplified by the resolutions recently agreed to in Congress, clearly the Soviet Union has a long way to go in matching its actions to its international human rights commitments or to any basic standards of decency.

We cannot become complacent about the human rights situation in the Soviet Union. Rather, we must remember one more lesson of the 1932-33 Ukrainian genocide that we must be ever vigilant and continue to hold the Soviet Government accountable for its human rights practices. We can do no less in memory of those who have been crushed by the heel of the Soviet boot, and in respect for those who continue to bear the heavy yoke of Soviet oppression while carrying dreams of freedom in their hearts.

A SALUTE TO RABBI ARTHUR J. LELYVELD

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. STOKES. Mr. Speaker, on Sunday, June 5, 1988, The Israel Histadrut of Greater Cleveland will host a testimonial dinner honoring Rabbi Arthur J. Lelyveld, Senior Rabbi of Fairmount Temple since 1958 and Rabbi Emeritus since 1986. Members of the religious, political, and business community will gather to pay tribute to this dynamic human being.

I am proud to join the community in this special salute to Rabbi Lelyveld. His scholarship, community service, and concern for the oppressed have earned him the admiration of his contemporaries, the esteem of his colleagues, national recognition, and prestigious awards. His love and support for Israel has been singular and noteworthy and his record of achievements reads like a page of "Who's Who in America."

At this time I would like to share some of Rabbi Lelyveld's experiences and achievements with my colleagues.

A native of New York City, Rabbi Lelyveld was for 10 years (1947 to 1956) national director of the B'nai B'rith Hillel Foundations. From 1944 to 1946, he was executive director of the Committee on Unity for Palestine, and from 1956 to 1958, he served as executive vice chairman of the American-Israel Cultural Foundation. Rabbi Lelyveld went to Mississippi during the summer of 1964 as part of a team of Cleveland clergy for service as a minister-counselor to the Council of Churches Commission on Race and Religion. Although severely beaten, Rabbi Lelyveld remained committed and involved in the civil rights struggle and the belief of equality for all Americans.

Rabbi Lelyveld is also a published author. His works include the Hart Publishing "For and Against" series, in which he wrote articles on "Population Control," "Censorship" and "Punishment." His 1973 Goldenson Lecture at the Hebrew Union College-Jewish Institute of Religion in Cincinnati, entitled, "The Social Relevance of the Eighth-Century Prophets" and his 1984 B.G. Rudolph lecture at Syracuse University on "The Unity of the Contraries: Paradox in Normative Jewish Thought" have also been published.

This unique leader is a scholar as well. He serves on the faculty of John Carroll University and was visiting scholar at the Oxford Centre for Postgraduate Studies in Oxford, England.

Mr. Speaker, Rabbi Lelyveld's service to humanity transcends religious and racial boundaries. He was general chairman of the Cleveland Jewish Welfare Fund campaign for which he was honored with a silver medallion, the highest award of the Cleveland Jewish Community Federation. In 1965, he received an award "for distinguished service to the NAACP and the cause of freedom". In 1964, the Cleveland community honored him by creating the Arthur J. Lelyveld Forest in the State of Israel. On April 15, 1986, Rabbi Lelyveld was the recipient of the John Carroll University "Centennial Medal". It was presented to him "as a neighbor, a valued faculty member, and in a spirit of interreligious friendship". The Arthur J. Lelyveld Center for Jewish Learning, the newly constructed library of Anshe Chesed Congregation, was formally dedicated on April 6, 1986, to honor Rabbi Lelyveld for 28 years of service to the congregation. It is the largest synagogue library in the country.

Mr. Speaker, for many years I have benefitted from a close friendship with Rabbi Lelyveld and his family, including his talented wife, Teela, and his daughter, Robin, who was a part of my congressional team. Rabbi Lelyveld is a man of unquestionable character, determination and courage. I am proud to join the members of The Israel Histadrut of Greater Cleveland in honoring Rabbi Lelyveld for his efforts to eliminate injustice, his quest for peace, racial and religious understanding, his unstinting support of Israel, and his devotion to humankind everywhere.

I would ask that my colleagues join me in saluting Rabbi Lelyveld on this special occasion.

THE PLIGHT OF VLADIMIR AND RIMMA BRAVVE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HORTON. Mr. Speaker, I wish to call my colleagues attention to the plight of the Bravve family. Two years ago, Vladimir and Rimma Bravve ended their 4-year wait for exit visas to emigrate to Rochester, NY, in my district. Rimma needed treatment for cancer, but 4 years proved to be too long for her to wait. She only survived for 1 year until last June. Now, it is Sophia, the sister of Vladimir, who is sick and needs her parents during this difficult time. The Bravves and the Rochester community have seen this situation to be so critical as to warrant a hunger strike. This is the same hunger strike started by the Bravves, whose health is so poor that Vladimir had to take it over. The community then had a chance to show its support for the Bravves' cause.

Grigory and Ninel Bravve are living in Moscow awaiting exit visas to emigrate to Rochester to be reunited with their son, granddaughter, and daughter. The Soviet Government has detained them on the basis that Grigory, in his job as a civil engineer, held knowledge of state secrets. Grigory's job involved building houses outside the grounds of an aeronautical institute for its employees. Mr. Gorbachev, himself, has said that possession of state secrets should not detain emigration for more than 5 years, or in extreme cases 7 years. The Bravves have been waiting for nearly 9 years.

Mr. Speaker, I urge my colleagues to join me in signing a letter that I have written to Mr. Gorbachev in regard to the pressing issue of the emigration of Grigory and Ninel Bravve. In my years as a member of the congressional human rights caucus, I have never seen a case as compelling as this one.

RESTORE MEMORIAL DAY TO ITS TRADITIONAL MAY 30 DATE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DORNAN of California. Mr. Speaker, I would like to share with my colleagues a letter I received from one of my constituents concerning Memorial Day. Mr. Hilbers of Huntington Beach, CA, raises the issue that since Congress changed the strict observance of Memorial Day from the traditional date of May 30, it seems that many have lost sight of the intent of the holiday—to honor those men and women who served their country and gave their lives to defend our freedom.

Like my constituent, I believe that Memorial Day should be celebrated on the traditional date of May 30. I urge my colleagues to reflect on Mr. Hilber's thoughtful letter and join with me as cosponsor on H.R. 2438 which was introduced by my good friend Mrs. HELEN BENTLEY, of Maryland:

DEAR CONGRESSMAN DORNAN: I am 37 years old and never been in the service, but have read a lot about WW II the last several years. As a result of starting to understand the horrible human price paid for the freedom I enjoy as an American, I started going to Memorial Day ceremonies at various L.A.-Orange County cemeteries the last 3-4 years, to thank those who paid the price. The trouble is there are few people who go to these ceremonies anymore. A couple dozen WW II and Korea vets and their wives, and that's about it. I'm standing there, the only person under 55 years old most of the time.

I talked to a gentleman from the V.F.W. about this, and he said that since they made Memorial Day the 4th Monday in May instead of its traditional May 30th, attendance has gone to hell. Now Memorial Day is just a 3-day weekend, its sacredness has been in effect castrated. He said they changed Veterans Day back to its traditional day from Monday, 2-3 years ago, and until they do that to Memorial Day, it will continue to be deep in the shadows of a 3-day weekend.

Sincerely,

GREG HILBERS.

THE VICE PRESIDENT SALUTES THE WEST POINT CLASS OF 1988

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GILMAN. Mr. Speaker, on May 25, I had the privilege of accompanying our Vice President and Mrs. Bush to the graduating ceremonies at our U.S. Military Academy.

The commencement ceremonies at West Point have been a high point for our entire mid-Hudson valley of New York ever since 1802.

This year, a crowd of more than 10,000 braved a steady rain to witness the graduation of the 849 men and 90 women of the class of 1988. Lt. Gen. David R. Palmer, the Superintendent of West Point, informed us that the cadets insisted on an outside ceremony, despite the inclement weather.

Following the graduation ceremony, all 939 graduates were sworn in as second lieutenants by former Chief Justice Warren E. Burger, the recipient of the 1988 Thayer Award.

Vice President BUSH's warm remarks and personal congratulations to each and every cadet helped cut through the chill of the rain. In order to share the Vice President's thoughts with all of our colleagues, I request that the full text of his remarks be included at this point in the RECORD:

EXCERPTS FROM REMARKS OF VICE PRESIDENT GEORGE BUSH, U.S. MILITARY ACADEMY, WEST POINT, NY, MAY 25, 1988

It is an honor to be here today, a day that is important for you, West Point's class of '88, but also for your country. For each class that travels through this academy, and emerges in the ranks, strengthens our military—and, in so doing, strengthens the peace.

I have been here three times in the past seven years, and each time I'm struck by a paradox: how plain and prosaic a place this is in many respects, and yet how evocative. It is impossible to come to West Point and not feel a kind of tug—a tug that's hard to describe but that has to do with our history and our lives, and the ancient call of valor, and a certain long gray line.

I know you've all given thought, at least now and then, to those who walked before you here, and on that line. I suspect that way back, years ago, when you were frightened plebes, that there were times that first autumn when you walked along the walkways here and thought of names. Robert E. Lee and Ulysses Simpson Grant, Pershing, Stilwell, MacArthur, and Ridgeway, Patton and Omar Bradley, the GI's General. And the nicknames—Stonewall, Black Jack, Vinegar Joe and Blood 'n Guts.

We gave them nicknames because they were real to us, and because we had affection for them, and appreciated them. I do not think it is a paradox that a country that so loves peace should so love its fighting men. I think America has always had a big heart and a shrewd brain, and it was the brain that knew that good generals help us keep the peace. And when peace is lost, generals help us win it back.

I am especially happy to have been invited today because this is a perfect place to speak of big things. I am here to speak of the peace we currently enjoy, and how we got it, and how to keep it.

But I want to stop just one moment to indulge a personal desire. You at West Point have a prestigious, highly coveted honor you bestow each year called the Thayer Award. And I have a friend and a man I admire named Warren Burger, former Chief Justice of the Supreme Court. The academy is allowing me to announce publicly that this year that great award will go to that great man.

Warren Burger—congratulations on an honor well earned.

The President this morning left for Moscow, where he is to continue the personal talks with General Secretary Gorbachev that began two-and-a-half years ago, after five years of patient effort.

These summit talks are good in and of themselves, for they contribute to an atmosphere of peace and familiarity. It is not true that "talking is better" is sentimental "Talking is better" is true. But how did we get here, and how do we build on it? To answer that, I must go back briefly in time.

The day the Second World War ended, America was changed forever. Our role in the world had changed. We had not asked for it, but we had to accept it. We had learned a great deal from the war, and from the events leading up to it. We had learned that a clean well-motivated desire for peace is not enough in itself to achieve it. And we had learned that isolationism is an illusion: it does not keep peace, it guarantees war by tempting aggressors.

It's understandable that before the war, we had sought to stay to ourselves. We wanted to be no part of the failures of the League of Nations or the cynicism of European politics in the 1930's. We hoped to remain isolated from the rise of fascism and its commitment to conquest.

But as you know, and as we so painfully found, there was no hiding place. And so we fought, and so we won, and so 300,000 young men and women lost their lives. I know; I was there; it was one of the formative experiences of my life, as it was of our nation's.

At the end of the war we, as a people, faced a crucible. Across the ocean was a continent ravaged by war and occupation. Our allies were in shambles. Soviet totalitarianism—potent militarily, backward economically and ruled by Stalin's iron will—posed a direct threat to the weakened countries of Europe. Poland had already been lost. We faced the dawning of the atomic age, an age that changed the very meaning and consequence of war at a time when the possibility of conflict remained all to real. And we ourselves were exhausted and wished, understandably, to turn inward.

But we didn't. We couldn't. And we didn't flinch. Our political leaders, Democrats and Republicans, tempered by war and toughened by adversity, forged a set of principles to chart our future course.

They began with an insight as old as the wilderness: a house divided cannot stand. In unity there is strength. We can debate our foreign policy fiercely, they thought, hurl words and give and take no quarter. But the fighting would end at the water's edge.

From that, much followed.

The tough men who took us from the '40s to the '60s accepted the reality that we now had no choice but to be engaged in this world. They acknowledged that our fate and our security were interwined with the Western democracies. There was no going back. We could keep, in certain respects, a certain prudent distance—but the days of isolationism were over; there was no going back; history has its own momentum.

They agreed we would not only play a big part in the world, we would lead. And not only because of our strength, but also because of our goodness. The world trusted us, and rightly so. I will not put too innocent an edge on this, but America was known to adhere to certain values, and to prize and defend liberty. And so we would take the lead in organizing the defense of the Western world and rebuilding the West's economies.

To do this, we would have to stay strong, with strength measured not only in military, but also in economic terms—for one cannot be sustained without the other.

We would need a strong deterrent, and the demonstrated will to use it. For only if a deterrent is credible does it deter. Our commitment to deterring war would need to be matched by our determination to pursue peace through negotiations—negotiating with our eye open and without illusions.

These principles came to embody the great bipartisan consensus—a consensus that produced, among Democrats and Republicans alike, a commitment to our allies in Europe, a commitment to defending the Persian Gulf, the West's economic lifeline, a commitment to our sisters and brothers in this hemisphere, a commitment to the spread of democracy—for democracy itself tends to bring peace just as totalitarianism tends to bring aggression, and a commitment to arms control and arms reduction negotiations with the Soviets.

Who were the dominant figures of the consensus? Well, this Republican doesn't mind telling you they were Democrats like Harry Truman and John Kennedy.

Think of Truman. That man had to tell his tired countrymen that the fight wasn't over, that Europe must be saved from starvation and Greece from communism. What a challenge history handed him! But "Little Harry" looked history in the eye and said: You've met your match.

The Truman Administration—with solid support of the Republican party—rebuilt Europe. Truman met the Soviet threat, stood up to their challenge in northern Iran, and led the international effort to resist North Korea's invasion of the South.

He did all this with the great bipartisan consensus behind him.

The consensus held as well for the Republican Eisenhower. Armed with his knowledge of the reality of war, and with his training here on the banks of the Hudson, Ike practiced strength, and he brought us peace.

The young John Kennedy saw the new frontiers that needed to be challenged on earth and in space. He understood the crucial importance of military strength—he too had been "tempered by war" and "disciplined by a cold and bitter peace." Those, of course, are his words. The day Kennedy was inaugurated, Theodore H. White said of the new President and his aides: These are the junior officers of World War II come to power.

Kennedy presided over a major build-up in our strategic and conventional military power. And having heightened our military strength, he was prepared to meet the Soviet threat when they put missiles in Cuba. He was also prepared to negotiate—and win—the first test ban treaty with the Soviets. And his Republican colleagues, disagreeing with him on a number of domestic matters, stood with him in his international goals.

From the '40s through the mid-'60s the great bipartisan consensus held. And our greatest work—the Marshall Plan, the saving of Greece, the healing of Europe, the understanding by the Soviets that recklessness on their part would not go unnoticed or unchallenged—all this was made possible.

But by the '70s the consensus had fractured—splintered—the center did not hold. The death of Kennedy, Vietnam, the lure of the old desire to once again leave the world and turn inward. The reasons would take another speech. The results are easier to detail.

It is true that the world had changed since the great bipartisan consensus was forged. The limits of our power were now more clearly defined, as were the limits of others. Even the map had changed; the lines had been moved and moved again. But for all these changes, the logic of, and the principles behind, the great bipartisan consensus endured.

The logic still applies. The principles that served as the bedrock of the consensus endure.

But there are some today who have abandoned those principles and turned their backs on the legacy of Truman and Kennedy and Senators such as Scoop Jackson.

The liberal elite do not understand—they never understood—the common sense behind the consensus. They act as if they believe that strength is the preoccupation of bullies—as if they believe that our desire to remain strong is proof that we are the aggressor. They are so blinded by ideology that they cannot see what Americans have understood for 40 years: that peace flows from strength. And that America is a good country that can be trusted with strength.

I do not think they mean to do harm. I think they simply do not understand that reducing our defense will erode our security. Maybe they don't understand that simply pulling back on our global responsibilities, without thinking it through and preparing the ground, will make the world more dangerous. Maybe they don't understand the real world dangers arrayed against us and the other free nations of the world.

Maybe, in short, they don't understand what goes into the creation of peace and the prevention of war.

I'm sure they would claim it isn't so and they're all in favor of strong defense. They look the part, sober and measured in their gray suits, moving their hands on the Sunday talk shows with just the right amount of gravity and earnestness.

But what are we to think when they say they're for a strong defense but they oppose every new weapons system that would preserve the strength? They're against a space shield, against MX, against the 600-ship navy, against Midgetman, B-1, Stealth, against any increase whatsoever in the defense of the United States.

It's naive to think that if you don't spend money on defense, your competitors won't either. Across that ocean, General Secretary Gorbachev is emphasizing perestroika—internal restructuring—but let me tell you something: He isn't opposing every new Soviet military weapon system. Soviet military modernization is going forward.

And let me add something else: The Strategic Defense Initiative, which its opponents so love to hate, may well in fact prove to be the great population protector its supporters hope and believe. Through vigorous research let's find out if it will work. If it will work—and I think it will—we must deploy it.

We must be confident that those who will lead our country understand what it means to stand up to a challenge and meet our commitments. We must be confident that they will pursue negotiations with the Soviets realistically.

But much of the arms control elite criticized us when the Soviets left the negotiating table in 1983; they told us we had to chase after the Soviets and plead with them to come back. Well, we didn't; we waited, and did our work, and the Soviets came back. A historic arms agreement resulted.

The elite told us we would never get the Soviets to give up all their SS-20s; they said we'd never get them to accept intrusive verification. Indeed, they insisted on a freeze, locking in high Soviet levels with zero for the West.

Well, they were wrong. And where would we be if we had listened to their advice? Would we have an INF agreement that for the first time wipes out an entire class of missiles—and establishes the principle of asymmetry in which they take out approximately 1,600 warheads and we take out roughly 400? Would we have an agreement that creates unprecedented and previously unthinkable verification procedures? Would we be talking about a START agreement providing for 50 percent reductions, providing major reductions to equal numbers? Would the Soviets have been as likely to agree to withdraw from Afghanistan?

There is nothing more important than the answer to those questions. This is the future we are talking about; this is the peace of the world we are discussing.

Hitler faced an allied effort strong in its unity and clear in its purpose; Stalin faced a West strong in its unity and clear in its purpose; Khruschev faced an America strong in its unity and clear in its purpose. What will Gorbachev face in the 90's? A vigorous clear-sighted America animated by the enduring princples of Truman, Eisenhower, John Kenndey and Scoop Jackson? Or an

America distracted and divided by the "forgotten but not gone" policies of freeze, concede, and acquiesce?

We must see the world as it is, not as we might wish it to be. This is no time for the ivory tower; this is no time for Innocents Abroad.

We cannot wish away the Soviet Union as a competitor. But we can move with open eyes and clear purpose toward new agreements on conventional forces and chemical weapons, toward the resolution of regional conflicts and progress on human rights . . . looking hard at their deeds, and not just their pleasant words.

Fascinating forces are converging on the Warsaw Pact countries; this summer seems a time of unusual possibilities, perhaps even the beginning of profound change. We have just witnessed a remarkable change in power in Hungary and renewed ferment in Poland. The delicate task ahead is to encourage steps toward greater openness and personal freedom without provoking a backlash.

Nor can we wish away ominous regional developments like the proliferation of nuclear components, the stockpiling and use of chemical weapons, and the acquisition of ballistic missiles in the tinderboxes of the Middle East and South Asia. Unless something is done, it is just a matter of time before countries like Iran and Iraq have missiles that can deliver poison gas not just to each other but to the nations of Europe.

We must act now to prevent that nightmare from occurring—by joining together to deter the acquisition of such weapons and to penalize those who would supply them.

Finally, we cannot wish away the responsibility and burdens of world leadership. We can and should expect our allies to share more of the cost of paying for the common defense . . . but we cannot share the lead . . . because no other country is willing or able to take our place.

Case in point: the Persian Gulf. Because we led the way, 5 European navies today are helping us reduce the threat to shipping. A failure to lead would have resulted in paralysis and retreat.

Those who opposed our efforts to protect our interests in the Gulf—something 8 Presidents have regarded as vital—have abandoned the bipartisan postwar commonsense consensus of peace through strength. Can we be sure they will understand the need to meet our commitments today and negotiate wisely with our adversaries tomorrow?

The fact is the next President must build on the successes of the past eight years and be willing to recognize and deal with these challenges and more. The next President has a clear-out task: To inspire confidence with a coherent foreign policy; to engender respect with resolve; to keep the world safe not with vain dreams but with hard decisions.

And who will help him? You. For you are the strength we talk about, you are the resolve we show. You are the instruments of our foreign policy, and from what I see and hear, our future in this respect is in good hands.

So together we work, in unity and strength. And then there will be a greater chance for peace to flourish in the world, for freedom to spread, and for you—our young peace keepers—to never have to go out in battle, as we did, and see your friends never return.

These are big ambitions, but they are the only kind to have. And the only kind that make a difference and make an improvement in history, and the lives of man.

Thank you. It has been a pleasure and an honor.

TERRORISM AND THE UPCOMING OLYMPICS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BROOMFIELD. Mr. Speaker, I would like to share with my colleagues an informative article concerning the upcoming Olympic games in Korea and the possibility of North Korean-backed terrorism during the Olympics. While all of us wish the Government of South Korea good luck in its massive preparations for the Seoul Olympics, we are concerned about the possibility of more terrorism directed against South Korea by the North Koreans, or by international terrorist groups acting on behalf of North Korea.

Further terrorism against South Korea by the North would only worsen the already terrible international reputation Kim Il Sung has created for his country. The upcoming Olympics would in fact have been a tremendous opportunity for the North Korean Government to pursue peace and reconciliation by accepting Seoul's offer, already endorsed by the International Olympic Committee, to participate by hosting some of the events. Let us hope that there is still time for the government in the North to reconsider.

Given the past track record of the North Korean Government in supporting and carrying out international terrorism, further acts of violence against South Korea are likely. While I wish the Government of South Korea success in the upcoming games, I also encourage that government to be watchful of North Korean backed plots to disrupt those games.

I commend the following Wall Street Journal article to my colleagues.

[From the Wall Street Journal, May 20, 1988]

GAME OF NERVES: IN EDGY SOUTH KOREA, THREAT OF TERRORISM HAUNTS THE OLYMPICS

(By John Walcott and Urban C. Lehner)

It sounds like a terrorist's dream. Iranians, Libyans, North Koreans and Palestinians can all find—assembled in one spot and before a global television audience—all of their greater and lesser satans. The Israelis will be there, along with the Kuwaitis, Iraqis and British, and, of course, the Americans.

Worse, the host is another prime target: South Korea—the hated rival of one of modern terrorism's founding fathers, the ruthless North Korean leader Kin II Sung.

The occasion is the Olympic Games, that quadrennial celebration of human brotherhood through sport. This year's summer games may put brotherhood to the test.

Worried intelligence officials don't want to scare anyone away from the September games, knowing that doing so would just hand North Korea the propaganda victory it seeks. "At the moment, we hold no intelligence saying any of these groups is planning to do anything," says L. Paul Bremer, the State Department's ambassador-at-large for counterterrorism. He says that "the [South] Koreans have, to me, an impressive ability to run security. They're a disciplined society with a centralized intelligence apparatus."

KIM'S VOW

That didn't help last Nov. 29, when two North Korean agents blew up a South Korean airliner in flight, killing 115 people. Captured, one of the culprits acknowledged the attack was designed to frighten visitors away from Seoul. It was, in other words, an installment on a threat Mr. Kim had made two years ago that he "will not stand idly by and permit the holding of the 23rd Olympiad" in South Korea.

Some officials hope Mr. Kim will hold off because so many of his benefactors will be there. "The East is coming. The Third World is coming. They all want peaceful games," notes Samuel Pisar, a lawyer for the International Olympic Committee, "None of them will countenance any disturbances." But intelligence officials say nobody has much influence over the volatile Mr. Kim (the "Great Leader") and his unpredictable son and heir, Kim Jong II (the "Dear Leader"). The xenophobic Kims bitterly resent the way the games will generate attention and, probably, admiration for South Korea.

"A lot of effort was made to find economic and other levers that could restrain the North Koreans," one U.S. official says. "But we didn't find any. Even if the Soviets and the Chinese knew what Kim was up to, they couldn't make him stop." Seoul offered to let North Korea be the site of a few events, but Pyongyang spurned the offer, insisting it must be a co-host of any Korean Olympics.

HIRING SURROGATES

South Korea's counterterrorist forces, though among the world's best, are experienced mostly in stopping infiltrators from the North and choking domestic dissent. As a result, some U.S. officials think that if the North Koreans try to disrupt the games, they may subcontract the job to the terror underground. "It's a lot easier to get into South Korea from Tokyo or Hong Kong or Manila than from North Korea," notes Noel Koch, who worked closely with South Korea's military and intelligence agencies when he was the Pentagon's top counterterrorism official.

As it happens, the Olympics coincide with a recent and sharp surge in terrorist activity, from the Far East to Africa. And intelligence officials say Iran, Libya, Lebanese Shiite extremists, the PLO, and the notorious Palestinian plotter Abu Nidal have renewed terrorist operations this spring after an 18-month lull.

In this ignoble group, North Korea stand tall, both as practitioner and as teacher. Over the past 20 years, U.S. officials say, as many as 5,000 soldiers, guerrillas, hijackers and bombers, from two dozen countries, have been schooled and armed in North Korea or by its military advisers.

JAPANESE RED ARMY

One of the only known photographs of Abu Nidal was taken in North Korea. Receiving much of his education there was Abu Daoud, a Yasser Arafat aide who helped plan the massacre of Israeli athletes and coaches at the 1972 Munich Olympics. North Korea remains on friendly terms with Libya and Syria and is one of Iran's major arms suppliers.

But the most likely troublemakers, experts agree, are members of the Japanese Red Army. Intelligence analysis from the U.S., South Korea and Japan fear that North Korea may be part of the reason for a sudden re-emergence of this eccentric terrorist relic of the 1960s.

The Japanese Red Army first appeared as a radical offshoot of the student unrest of the late 1960s, and its members quickly made common cause with fellow extremists in Europe and the Middle East. Their goal, they said, was a "simultaneously world revolution to destroy capitalism and imperialism." The group reached the height of its notoriety in 1972, when three members massacred 26 people at Israel's Lod airport. It then went underground and seemed dormant—until a troubling series of recent developments:

On May 10, Japanese police arrested Yasuhiro Shibata, who as a 16-year-old allegedly helped hijack a Japan Air Lines jet to North Korea in 1970. Officials say Mr. Shibata and a handful of other JRA members had whiled away most of the intervening years in Pyongyang. Japan's National Police Agency is questioning him about possible North Korean attacks on the Olypmics.

Italian police are searching for another JRA member, Junzo Okudaira, who they suspect set off a car bomb outside a USO club in Naples, Italy, last month, killing a U.S. servicewoman and four Italians. Italian authorities also are checking unconfirmed sightings of Fusako Shigenobu, a former Tokyo barmaid and the widow of one of the perpetrators of the Lod airport massacre, who heads a JRA cell in Lebanon's Bekaa Valley.

Another alleged JRA member. Yu Kikumura, was arrested on the New Jersey Turnpike April 13, carrying three homemade bombs and a map of New York City with pinholes marking, among other points of interest, a USO club in midtown Manhattan. U.S. intelligence and law-enforcement officials say Mr. Kikumura spent about a month in the U.S. before he was arrested. His travels, one official says, "suggest he was servicing some sort of network here."

Japanese police arrested Osamu Maruoka, another alleged member of the JRA, near Tokyo's City Air Terminal last November. He had arrived in Japan from Hong Kong carrying a false passport and a ticket on a connecting flight to Seoul. Intelligence officials say Mr. Maruoka had been trying to set up a terrorist network in the Philippines.

Late last year, Bank Negara Malaysia, Malaysia's central bank, quietly warned the country's bankers that JRA terrorists may have been stashing explosives in safe-deposit boxes around the world. It said a large quantity of aging, unstable explosives, apparently planted in 1966, had been found in the Singapore branch of a Malaysian bank. Among those who might be authorized to open JRA safe-deposit boxes, the central bank said, were four names used by North Korean intelligence officers. They include Kim Kyon Hui and Kim Sung Il—the agents who blew up Korean Air Lines Flight 858 last November.

The JRA sometimes appears to be as unstable as its aging explosives. It has used a variety of names, including the "Anti-Imperialist International Brigades" and the "Jihad Brigade." Its two major branches apparently have very little to do with each other. One is in Lebanon's Bekaa Valley, that melting pot of radical Palestinians, Iranians, Libyan and Syrian intelligence officers and Shiite terrorists. The other is in North Korea.

To the North Koreans, the choice of Seoul to be the host of the Olympic Games is an insult. It's easy to understand the sensitivity. The two Koreas, still technically at war, have been locked in a deadly economic, political, and military competition since their armed conflict ended in stalemate in 1953. Each is battling to be recognized, both at home and abroad, as the real Korea.

For Pyongyang, this battle isn't going well. South Korea has one of the world's fastest-growing economies. It is even carrying on a small but flourishing trade with its archenemy's supposed allies in China and Eastern Europe. It's military soon may be strong enough to deter aggression without the help of 39,000 American troops. North Korea, in contrast, remains an eccentric backwater that is hobbled by food shortages, can't pay its foreign debt and is on bad terms with almost everyone but a few other Third World countries.

The arrival of teams from some 160 lands to compete on South Korean soil, with as many as two billion people watching on television at times, will have a pro-found symbolic impact. "The Olympics," says Mr. Koch, the former Pentagon official, "will determine who won the Korean War."

CALEDONIA, MICHIGAN: 100 YEARS—CALEDONIA TOWNSHIP: 150 YEARS

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HENRY. Mr. Speaker, beginning June 29, a week long celebration will be held in the village and township of Caledonia, MI to commemorate the 100th anniversary of the incorporation of the village and the 150th anniversary of the township's first settler.

In the 1830's, the main trail between Grand Rapids, Kalamazoo and Battle Creek was located in what was to become Caledonia Township. The first settler, Mrs. Asahel Kent, built a tavern-stagecoach stop. Renamed several times, the tavern over the years provided lodging to weary travelers, as well as being the social gathering place of the early settlers and the home of the first U.S. Post Office in the township.

One of West Michigan's most scenic rivers, the Thornapple, flows through the center of the township. During the 1800's the areas was thick with lush green forests. The fresh timber, combined with the power generated by the river influenced the building of numerous sawmills and gristmills throughout the township. Small villages, including the village of Caledonia, sprang up near the river.

The village, formerly known as Caledonia Station, was established after its founder, David Kinsey, platted the northern part of his farm and offered two lots to the man who would build the first house in Caledonia. Kinsey donated additional land which became the home of the United Brethern Church, the school district and town cemetery. Incorporated in 1888, the village has taken on its own identity and today lies in one of the fastest growing areas of Kent County.

By the 1930's, the timber had all but disappeared, and the gristmills and sawmills vanished, along with most of the settlements. Today, the township is primarily an agricultural community made up of some of Kent County's most productive farms. Typical of small farming communities, the close-knit residents gather at the local coffee shop on Saturday mornings to catch up on the town gossip, discuss the issues of the day, or perhaps boast of the outstanding Caledonia Elementary School, recently selected as one of the 20 Michigan exemplary elementary schools representing the State of Michigan in the Education Elementary School Recognition Program. Strong civic pride, an appreciation of their roots, as well as vibrant religious traditions binds this community together, Mr. Speaker.

Looking to the future, the 1990's promise to bring new growth to the township and village as residential and industrial developments creep closer to the township boundaries. The next century will see many changes to the community as we know it today. All this will come with a sense of accomplishment for what has passed and a feeling of promise and hope for the future.

Mr. Speaker and colleagues, please join with me in offering congratulations and best wishes to both the village of Caledonia and Caledonia Township as the citizens jointly celebrate their 100th and 150th birthdays.

A BRIDGE TO CHINA

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. FLORIO. Mr. Speaker, making the connection across the Pacific Ocean this summer in a transoceanic cultural bridge, two educators from New Jersey will travel to the People's Republic of China.

Richard Salimena, superintendent of the public schools in Waterford Township, NJ, and Earl Vassallo, will be part of a delegation sponsored by Mississippi State University.

Since 1986, a group of universities has been cooperating with the China/USA Teacher Education Consortium in arranging trips to the People's Republic of China. Through the joint efforts of these institutions, educators throughout the Nation have gained the opportunity to learn from a culture that offers an education in diversity and in ancient traditions.

These trips have been successful because they have brought together individuals from two cultures to meet on a common field and to learn from each other. Through the simplest of means, educators from our Nation share their time and knowledge with the people of the People's Republic of China.

Mr. Salimena and Mr. Vassalla are taking part in the construction of a bridge between our Nation and the People's Republic of China, two nations that have historically and practically been oceans apart.

What these individuals bring to the people of China is a story of how our people have matured and learned. Indeed, the journey to China itself is evidence of the continuing growth and educational maturity of our Nation.

In turn, these educators from New Jersey will bring back a cultural education and an appreciation for the traditions of a nation that few in the United States have come to see.

For those in the United States for whom the people of China are still invisible, Mr. Salimena and Mr. Vassallo will participate in a cultural exchange. That exchange promises to inform and to inspire.

In their travels throughout the provinces and in the capital of the People's Republic of China, I wish Mr. Salimena and Mr. Vassallo success in their journey and in their education.

LOUIS W. CHANEY: 37 YEARS OF SERVICE IN EDUCATION

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. GEPHARDT. Mr. Speaker, on June 30, 1988, Mr. Louis W. Chaney, superintendent of the Hillsboro R-3 School District in Hillsboro, MO, will retire after 37 years of continuous service in the field of education.

Mr. Chaney was born and raised in Puxico, MO. Upon the completion of his secondary school education, he studied at Missouri Baptist College and went on to receive his bachelor of arts degree at William Jewell College. His masters degree was subsequently earned at Washington University in St. Louis.

Mr. Chaney's teaching career began in 1953 at Piedmont High School. After 4 years of service as a math and history teacher, as well as a coach, he went on to perform similar duties at DeSota High School until 1961. Between 1961 and 1971 he served as principal of Potosi, and then Charleston High Schools. In 1971 he began the final phase of his career, as superintendent of Lincoln County R-2 schools. In 1975 he moved to his present post.

There is no more important service to our country than teaching our children. Mr. Chaney has dedicated his life to providing children with the most valuable asset one can attain in our society: an education. He has worked in education in several different capacities, first as a teacher and then as an administrator. No matter what the position, he has consistently worked toward providing his students with the best possible education. He has served his country in a manner that can neither be measured nor completely appreciated. Without dedicated educators like Mr. Chaney, we must ask ourselves where would we be as individuals or as a society.

I commend you, Mr. Chaney, and join the entire Hillsboro school district in wishing you the best in your retirement. Thank you for your invaluable service to the State of Missouri.

CRUSADE FOR CHILDREN 35TH ANNIVERSARY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. MAZZOLI. Mr. Speaker, I rise to honor the many organizers, contributors, and citizens in my home district of Louisville and Jefferson County, KY, who this weekend will be observing the 35th anniversary of the WHAS Crusade for Children.

The crusade helps raise funds for physically and mentally handicapped children in more than 60 counties in Kentucky and southern Indiana. Nearly $30 million has been raised throughout the crusade's history, with almost every year better than the last.

But, as the name suggests, the crusade is more than just a mere telethon or fund-raising program to help crippled children. Over the years it has become a very important part of communities throughout Kentucky and southern Indiana. This annual broadcast event signals only the culmination of a variety of year-round fundraising activities conducted by churches, industries, employee groups, and individuals.

The list of grant recipients to which the crusade has provided assistance—hospitals, clinics, universities, schools—for equipment and hundreds of innovative programs is lengthy. In fact, the crusade has directly affected the lives of more than 2 million kids. But, it has really touched us all.

The people of WHAS-TV and radio have been the proud sponsors of the crusade these many years. And, the success they have nurtured is the result of their commitment of energy and devotion. But, these successes could not have been achieved had it not been for the efforts of scores of individuals and groups who have embraced the spirit of the crusade. Particularly, the almost 200 volunteer fire departments who last year accounted for about half of the $2.5 million raised.

It is hard to believe that the crusade has been with us for 35 years now. It is such a part of Louisville and Jefferson County, as are the members of the WHAS family—past and present—who have become so familiar to all of us. This community owes them a great deal of thanks.

I consider myself fortunate to serve so many people who selflessly devote their time and talents to the care and treatment of handicapped children.

So, on the eve of the 35th WHAS Crusade for Children, I offer my congratulations and thanks to Bud Harbsmeier, crusade executive director, and all of his compatriots for a job well done. I wish the Crusade for Children many, many years of continued success.

STEWART B. McKINNEY HOMELESS HOUSING ASSISTANCE BLOCK GRANT ACT

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. RIDGE. Mr. Speaker, today I am introducing a bill that will better ensure that the modest Federal share of homeless assistance funds are used in the most efficient and direct manner possible. With the assistance of my able colleague from New Jersey, Mrs. ROUKEMA, we have developed a bill that responds to the cries of experienced homeless providers from across the country for flexibility to use homeless funds to meet their unique needs and to complement existing local and State homeless programs.

Our bill would consolidate the three programs under the Banking Committee's jurisdiction, 257.8 million dollars worth, into one block grant using the current Community Development Block Grant formula with 80 percent of the funds designated for entitlement communities and 20 percent designated for distribution to the States.

I was proud to be a cosponsor and relentless supporter of the first Stewart B. McKinney Homeless Assistance Act last year. During the process of developing the bill, however, it became clear that we were in the process of developing a maze of different programs—all with arbitrarily set funding levels. My concern grew into consternation when, upon meeting with providers in my district, I realized that in most communities the established funding levels did not match their needs. In other words, we had too much money available in some areas and too little in others.

Second, I found that providers who had been serving the homeless long before the Congress even began discussing the programs, were cut out in favor of professional grant writers. Since there were so many different programs with a variety of applications, requirements and deadlines, only the well-connected survived. As a result, new, inexperienced providers were learning the ropes of homeless assistance while those best equipped continued to scrape by unassisted.

Many communities found themselves making applications for assistance to fill needs already being met, while other needs continued to go unmet.

The Federal Government cannot and should not determine how best to serve the homeless in a given community. With our bill, each community would develop their own comprehensive homeless assistance plan and then tailor the Federal money to best suit their individualized needs and existing infrastructure and services. All the programs in the original McKinney Act would continue as eligible activities, but the communities would have the flexibility to choose among those activities. Furthermore, the Federal money would complement, not replace, existing funds committed at the State or local level.

Every witness who testified in January on the effectiveness of the McKinney Act indicated support for the block grant approach. The reception from the League of Cities, the National association of Counties, the National Governor's Association, and the Council of State Community Affairs Agencies has been very favorable.

I ask that my colleagues consider the alternatives—a flexible, responsive block grant to complement local programs or the establishment of a new Federal bureaucracy. We must act before the cycle of program dependency makes the choice much too difficult.

H.R. 4717

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DREIER of California. Mr. Speaker, today, I am pleased to introduce H.R. 4717 legislation which would promote savings in the Department of Defense by mandating the implementation of Office of Management and Budget [OMB] Circular A-76 comparisons for specific in-house functions. Circular A-76 is the executive branch policy which requires Federal agencies to procure commercial services from private contractors when a cost comparison shows that the same quality services can be provided at less cost.

Last year, I commissioned a GAO report on Federal productivity entitled "DOD Functions With Savings Potential From Private Sector Cost Comparisons." In this report, it was found that A-76 cost comparisons and contracting out reduced costs on almost every occasion in nearly every aspect of DOD work. The purpose of this legislation is to require the Secretary of Defense to complete cost comparisons within 2 years for all automated data processing and data entry functions. It also requires contracting out of such functions in cases in which cost savings would result.

Circular A-76 has gone a long way in exposing the rising expenses which are being amassed by Federal agencies. However, the cost analyses which are required by this directive have not forced the independent agencies to conduct wholesale or timely investigations. Instead, department after department has relegated the cost comparisons to a matter of secondary importance or ignored the regulation completely. This inability to control costs is partly responsible for the $148 billion Federal deficit this year.

In the past, according to a GAO study, A-76 cost comparisons have identified 8,045 staff year reductions in DOD activities. In the area of data entry, an estimated savings rate of 28 percent was established from past A-76 cost comparisons. Currently, there are over 400 staff years remaining to be studied. An estimated savings rate of 14 percent was established for automated data processing services. However, there are still 14,127 staff years remaining to be studied. My legislation would address this situation and yield savings in the millions of dollars.

Circular A-76 is not going to bring the Federal budget out of the red, but it is a start. With this legislation we can send a signal to the agencies that they must improve their overall efficiency or at least begin streamlining certain operations.

Congress, with recommendations from such entities as the Grace Commission and several public policy institutes, has identified many areas where cost cutting measures could be enacted. Although progress on these recommendations has been slow, this is exactly where budget tightening should start. The Federal Government must be run as responsibly and efficiently as any large corporation. Taxpayers, who have the same role as investors, have demanded an effective response to cutting wasteful spending from their investment, the U.S. Government. There is no better opportunity to take decisive budget cutting action than in this vast area where tremendous savings potential has been proven. I urge my colleagues to join in our efforts by cosponsoring H.R. 4717.

IN HONOR OF NORMA GONZALES

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to honor Norma Gonzales as she concludes her 1987-88 term of office as president of the Santa Monica Chamber of Commerce. I have had the opportunity to work with Norma on a variety of issues of mutual concern in my 27th congressional district and have always appreciated her insight and professionalism. Norma has done a spectacular job as the first woman president and the business community has certainly benefited from all of her accomplishments.

Norma Gonzales was born in Mexico and came to the United States late in 1949 to live with an older brother. She attended night school to learn English and became a naturalized citizen in 1956. She continued her education at night to obtain a BS degree from Pepperdine University in 1973. She started her career as a secretary, bookkeeper and bilingual translator with Bank of America before joining the Southern California Gas Co. Here she started as a secretary in the accounting department in 1953 and was promoted to a supervisory position in 1957. In her tenure she has served in various management positions in the gas measurement, personnel, customer services and public affairs departments. Since 1982 Norma has held the position of district manager of the Southern California Gas Co.

Norma Gonzales has been involved in a myriad of civic and public service activities throughout her career. She is very generous with her time and energy and has received special recognition for many of her endeavors. Norma was 1986 YWCA Woman of the Year, and received the "Industry Award" for volunteer services, West Area Opportunity Center in 1985. She has appeared twice on Hispanic channel 34 and was a past lecturer at Town Hall Executive Breakfast Institute. She was the keynote speaker for the adult education graduating class at Santa Monica College in 1985 and presided as mistress of ceremony at the Martin Luther King Celebration in Santa Monica in 1987.

Norma Gonzales has been affiliated with numerous organizations ranging from the Santa Monica Chamber of Commerce to the Salvation Army of Santa Monica advisory board. She has served as president of the Santa Monica College Associates and as a member of the college advisory board, and was also appointed by the State Chancellor to the California Community Colleges Advisory Committee on Vocational Programs and Services to the Disadvantaged and Handicapped. Norma is on the board of directors of the West Los Angeles College Foundation, United Way Board of Directors for the Western Region, member of the Corporate Allocations Committee and a member of the Hispanic Volunteer Council. She is the former chair and current Catholic co-chair of the National Conference of Christians and Jews, a member of the board of directors of the Venice Family Clinic and of the Navy League.

Throughout all her endeavors Norma has enjoyed the support and love of her husband, Paul, and their children, Gregory and Rosanne.

It is with great pleasure that I ask my colleagues in the U.S. House of Representatives to join me in saluting this fine American for a job well done.

CONGRESSIONAL TRIBUTE TO RAY CUNNINGHAM OF LOS ANGELES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DIXON. Mr. Speaker, it is with great pride and admiration that I rise to recognize the life-time achievements of a dedicated public servant, and tireless community activist, Mrs. Ray B. Cunningham. On June 30, 1988, after 15 years of service, Ray will retire from her post as Mayor Tom Bradley's south-central Los Angeles area coordinator. Mr. Speaker, she will be sorely missed.

Ray Cunningham has helped to shape the political dynamic in Los Angeles. She began her professional career in 1951, when she joined the staff of the Los Angeles Police Department [LAPD]. There she met Tom Bradley, who was at that time an LAPD police lieutenant. When Mr. Bradley left the LAPD to pursue his quest to become the first black person elected to the Los Angeles City Council, Ray was enlisted to serve as his campaign secretary. Her brilliant organizational skills, and the innovative campaign tactics she employed contributed to Tom Bradley's successful election to the city council in 1963. In 1969, when Mr. Bradley made his first unsuccessful run for the mayoralty of Los Angeles, Ray's organizational and tactical genius became known citywide. From that point on, Ray was known as Los Angeles' premier organizer and political tactician.

In 1973, when Mr. Bradley won the mayor's post, he asked Ray to serve in his administration as south-central Los Angeles area coordinator. Ray brought enthusiasm and compassion to the service-oriented position, gaining a well-deserved reputation as a highly effective people's advocate in city hall. Dedication and total commitment became her hallmarks.

Ray has also contributed her time, talents, and finances to community service projects and organizations. As the wife of the late superior court judge, David Cunningham, she has been an active member of the Wives of Bench and Bar. She has also served as coordinator for the fund-raising campaigns of various charities, including the Brotherhood Crusade, the 28th Street/Crenshaw YMCA, and the United Negro College Fund.

Mr. Speaker, Ray Cunningham has touched the lives of countless Angelenos during her illustrious career in public service. Her years of commitment to her job and the Los Angeles community should not go unrecognized. Now, on the eve of her retirement, I ask my colleagues in the House of Representatives to join me in congratulating Ray on her accomplishments, and wish her, and her children Rachelle, David and Dana much happiness in their futures.

THE 25TH ANNIVERSARY OF THE ORGANIZATION OF AFRICAN UNITY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. DYMALLY. Mr. Speaker, I am pleased to submit for the CONGRESSIONAL RECORD a statement of Bashorun M.K.O. Abiola of Nigeria, on the occasion of the 25th anniversary of the founding of the Organization of African Unity, in Washington, DC:

THE AFRICAN CONDITION AND PAN-AFRICAN UNITY: THE ROLE OF BLACK AMERICANS

I am delighted and honored to be invited to address you this evening on this auspicious occasion of the twenty-fifth anniversary of the founding of the Organization of African Unity. My task shall be three fold: To analyze the African condition, to examine the role of black Americans in Africa's economic development, and finally to proffer my own views on how we can address the African condition. When African heads of state met in 1963 to ratify the OAU charter they were under no illusions that the path to pan African unity was going to be a smooth one indeed. Nor were they under the illusion that the organization was going to offer a panacea to Africa's seemingly intractable problems.

For those of you who are students of African political history, you will recall that what became the final charter of the OAU was the product of a compromise between two major ideological and philosophical blocks which were euphemistically called the Cassablanca and Monrovia groups. The Cassablanca group had become associated with an ideological perspective which called for a radical approach to pan-Africanism. Africa's erstwhile leaders such as Kwame Nkrumah of Ghana, Modebo Keita of Mali, Gamel Abdel Nasser of Egypt and Sekou Toure of Guinea had taken the position that the path to true independence for Africa must be preceded by a strategy which placed a premium on political unification of the entire continent. In other words, the nascent African states were to surrender their individual sovereignty to the larger objective of a continental government. They saw this as a precursor of greater things to come, such as integrated economic planning, a common defense strategy, and a common foreign policy for Africa. Nkrumah had warned that—

"I can see no security for African states unless African leaders, like ourselves, have realized beyond all doubt that salvation for Africa lies in unity—for in unity lies strength and as I see it, African states must unite or sell themselves out to imperialist and colonialist exploiters for a mess of pottage, or disintegrate individually."

How ominous a warning!

The Monrovia group had taken a different if less ambitious philosophical approach toward the issue of pan African unity. While committed to African unity. It sought to place emphasis on economic associations and structures which did not violate the sanctity of the sovereignty of individual states.

In spite of these differences in approach, the imperatives of African unity were so overriding that the two groups reconciled their differences, and in the spirit of the African traditional heritage of political consensus, the OAU was born. It was an eloquent testimony to the fact that "where there is a will, there is a way." It was also a tribute to the genius of the leadership skills of the founding fathers of the organization that despite the imperfections of the charter, that at the very least the African Continent needed a supra-structural organization, one which could provide avenues for the discussion of and perhaps the solutions to the same problems.

As we take a glimpse into the history and celebrate this occasion, we must seize the opportunity to indulge in a critical introspection of the African condition, as we get ready to march into the twenty first century. This should also be an occasion for frankness and a no-holds-barred discussion. If for no other reason, we should realize that the solution to Africa's problems must come through the collective efforts of peoples of Africa and the African diaspora.

I hope that thus far, that I have not given the impression that I have adopted a narrow vision of pan African unity by discussing it in the context of the African Continent alone. We cannot ignore the historical fact that the architects of pan-Africanism were the giants and the visionaries of the twentieth century in the likes of W.E. Dubois, Marcus Garvey, Henry Sylvester Williams and George Padmore. I hope to return to their vision of a trans-continental unity later on in this presentation as I address the challenges that face all of us in the coming years.

THE AFRICAN CONDITION

The African condition is replete with paradoxes; these are paradoxes that need not be. It is a continent richly endowed with human and mineral resources, yet at the bottom wrung of economic development, by whatever indicators we choose to offer our prognosis. It is a continent that produces what it does not consume and consumes what it does not produce. It is a continent which is the cradle of mankind and yet the least habitable for mankind due to environmental and man-made conditions. It remains marginal in the geo-political and economic power play in the global arena. The continent is still wracked by incessant political turmoil at proportions and frequencies that militate against human and material development. The balkanization of Africa into fifty odd states remains an ever present obstacle to national integration and a pan African unity. I submit that the issue of Africa's fragmentation into these liliputian entities presents Africa with one of its major challenges. We really cannot overemphasize the magnitude of this problem as we engage in our festivities today.

I have engaged in the aforementioned analysis not from the perspective of a pessimist or that of a detached observer. I approach this from the perspective that we cannot begin to engage in an appropriate discourse of how to overcome the myriad of socio-political and economic problems of Africa unless we, in a forthright manner, intelectually and psychologically predispose ourselves to meaningful diagnosis of what these problems are. We must as of necessity delineate those problems that are externally induced and those that are masterminded from within. Otherwise, we may continually indulge in an orgy of scapegoating that does not lead us anywhere.

At this juncture I would like to focus my attention on sectoral analysis of the African condition after which I will proceed to offer my own humble perspectives on what must be done to alleviate the untold miseries which have befallen millions of Africans presently. I do not intend to rehearse the dismal conditions in which we presently find ourselves; since these are issues which you all know too well. My preliminary remarks are intended to put in perspective my subsequent comments. I wish to characterize these sectoral issues as crises. This choice of words is intended to amplify the urgency of these issues rather than to set an alarm in motion.

THE CRISIS OF POLITICAL DEVELOPMENT

In an attempt to stress the urgency of the crisis, Kwame Nkrumah admonished his African compatriots to "seek ye first the political kingdom". Though laden with biblical overtones, it is an admonition that has ominous dimensions and one that has to be taken seriously. In the same vein, Ali Mazrui has aptly observed, "a majority of post-colonial African countries hover in a balancing act between the chasm of anarchy and the brink of tyranny. The contradictions of colonial rule and the destruction of Africa's own indigenous structures have left the continent a prey of the forces of concentration of power, on one side, and the forces of disintegration of authority, on the other." Put differently, the prevalent political climate in the continent is one that does not encourage the development of enduring political culture and institutions, nor is it conducive to the development of the economic and social structures. This climate does not lend itself to the building and nurturing of politcal values of selfless public service and productivity. Most public institutions are dysfunctional and in a state of atrophy. We are yet to deal in any meaningful way with the fissiparious tendencies of African politics which tend to manifest themselves in religious, regional or ethnic dimensions with concomitant destructive outcomes.

We must therefore seek ways and means to arrest the situation which I have referred to above. We must seriously address ourselves to finding alternative paths to this malaise. These alternative paths must include the issues of political leadership, new political values, alternative political structures/institutions, etc. All this is to say that the imperatives of the African condition demand that we create an enduring political environment which will allow for internal development while at the same time providing a conducive climate for attracting positive foreign investment. This is part of my challenge to all of us.

THE ECONOMIC CRISIS

Within the rubric of Africa's economic crisis are a host of causally related issues. It must include the following: The food crisis, the debt crisis, population explosion, infrastructural decay and slow growth of the economy to mention just a few. An analysis of the aforementioned suggests that the problems are multi-dimensional in scope and ramifications. They are as structural as they are a reflection of the paucity of policy options and strategies. In other words, the economic crisis must have a multi-faceted approach which understands the relationships between domestic economies and the global economy, that is, the interconnections between various sectors of the political, social, and economic fabric of the African society. The challenge, therefore, is to undertake a meaningful analysis of these subsectors with a view of re-routing the present course which leads us nowhere but to an economic abyss.

Let us examine the debt issue which is fast becoming an intractable problem. Africa's foreign debts have grown exponentially in the last decade. Besides the enormity of this debt (measured in raw figures and the ratio of the debt to the total revenues). There is also the question of the debt service burden which has created a serious drain on the resources of most African states. Even the much vaunted middle income countries are not immune to this problem. It is quite obvious to most of us that this problem cannot be allowed to continue unabated. There is a famous English addage which instructs us that "he who pays the piper, calls the tune." This addage suggests to us that unless the debt crisis is alleviated, Africa will remain hostage to its external creditors with the attendant implication of making a mockery of the precarious sovereignty which we presently enjoy.

POPULATION ISSUE

In the same vein, we cannot underestimate the enormity of the population explosion which is wreaking havoc on the limited resources and fragile infrastructure of most African states. While the population problem does not account for most of Africa's problems, it does, nevertheless, compound an already strained economy. The population problem is very much related to the food crisis. This is a fundamental issue. As a matter of fact, it is a matter of survival. The food crisis is an offspring of manmade and ecological factors. I see the food crisis as one of those paradoxes that need not be. Available evidence suggests that even with Africa's environmental vicissitudes, the problem is largely a function of misplaced priorities and shortsightedness on the part of many African states. This trend towards dependency on external sources to feed Africa's populations, starvation and malnutrition can and must be reversed immediately. Time is not an ally of Africa. We obviously do not have the luxury of procrastination or inaction. I do not wish to imply that the environment does not contribute its own share to the food crisis. Even then, those ecological factors that can be alleviated through education, governmental actions and other means need not be delayed.

REFUGEE PROBLEM

Any discussion on the food crisis cannot receive adequate analysis if we do not concomitantly address the refugee problem in Africa. The chilling fact that Africa has nearly half of the words' refugees cries for a concerted effort on the part of citizens of Africa and the world to seek immediate solutions while there is still time to act. The situation calls for Africa's leaders to redress the human causes of the refugee problem. While conceding that natural disasters have contributed to the refugee problem, I dare say that we can go a long way toward alleviating this human misery if only the leaders of African states can learn to live in peace with one another; i.e. in an environment that does not resort to war to settle disputes amongst brothers and sisters. The scope of the task that lies ahead should make it obvious that the present course must not continue. It does not make sense to me that African states are pre-occupied with conflicts that drain the limited resources available for economic and social development. It is mind boggling that we should engage in senseless wars with weapons which we do not even produce. Such is the nature of our predicament.

THE SOCIAL CRISIS

Perhaps at the heart of the socio-cultural crisis is the need to decolonize the African mind and stir it toward the direction of re-Africanisation and disalienation. I sart from the premise that one of the factors responsible for Africa's dependency on the West is the spectre of cultural alienation by those Africans who are in a position to direct the course of affairs in the continent and in the diaspora. What will it mean in concrete terms? Put in the context of the African diaspora in general, it is becoming fashionable to disassociate ourselves from our African heritage. We must come to accept who we are with pride and aplomb. You may wish to ask what is the relevance of this admonition in the scheme of things? It is paramount that we find the solutions to our world-wide predicament within ourselves. It is imperative that for our brothers and sisters in the Americas that they anchor their essence in their African heritage. It is an inescapeable reality. For the Africans in the continent, it is also an imperative that we eschew our tendency towards westernization at all cost. What is required then is a cultural revolution of the mind by Africans in and outside the diaspora; to commit themselves to a revival of the African spirit and personality which will embolden us to believe that we have the where-withal to surmount the challenges which we currently have to contend with. We must heed the admonitions of our erstwhile predecessors such as Edward Blyden, W.E. Dubois, Kwame Nkrumah, George Padmore, Marcus Garvey, and Aime Cesaire that we must undo the perniciousness of cultural imperialism which continues to stand in the way of our self fulfillment.

To this end, we must address ourselves to the relevance and meaning of the education which we acquire and consequently transmit to the younger generation of Africans. We should ask ourselves whether the present education which we receive aids or abets the self fulfilment which I have referred to earlier. On this same issue Edward Blyden declared as far back as 1818 in his inaugral address as president of Liberia College that—

"The college is only a machine, an instrument to assist in carrying forward our regular work-devised not only for intellectual ends, but for social purposes, for religious duty, for patriotic aims, for racial development; and when as an instrument; as a means, it fails, for any reason whatever, to fulfill its legitimate functions, it is the duty, as well as the the interest of the country, to see that it is stimulated into healthful activity; or, if this is impossible, to see that it is set aside as a pernicious obstruction."

These words are as relevant today as they were when they were spoken over a hundred years ago.

We must undertake to cultivate a culture of productivity rather than a culture of consumption; a culture of self sustenance rather than a culture of dependency; a culture of selfless devotion to the service of the common good rather than a penchant for individual aggrandizement. These are not novel attributes; for they represent the essence of the African personality to which we must commit to revive and nurture. It is in this spirit that we enhance the symbiotic existence among the peoples of African descent throughout the universe.

I wish to return to one of the major themes of this paper which is to examine the role of African-Americans in pan-African unity and African economic development in the coming decades. As a matter of historical fact, the idea of pan African unity at its most dynamic juncture was given immense impetus by W.E. Dubois. Through his leadership of five pan-Africanist congresses, which reached a peak and point of historic excellence during the fifth Pan-Africanist Congress in Manchester, England, in 1945. His global approach to the plight of the people of the African Continent and in the African diaspora led to his assertion that the freedom of black Americans was inextricably linked with the freedom of Africa. As an extension of this perspective, he declared that—

"We American Negroes should know that, until Africa is free, the descendants of Africa the world over cannot escape their chains. The NAACP should therefore put in the forefront of its program the freedom of Africa in work and wage, education and health, and the complete abolition of the colonial system."

Dubois lit a torch which his disciples carried to greater heights throughout the African diaspora and in the African Continent to embark on a path of liberation and freedom.

We also must not forget the contributions of Marcus Garvey in giving further impetus to the idea of pan-African unity with a global perspective. The challenge was how to translate this noble aspiration to concrete reality. I must mention that the fire of African nationalism and the push toward decolonization which was lit by the pan-Africanist movement became responsible in part for posing in an ironic sense one of the major obstacles to the dream of a pan-African society. I am specifically referring to the issue of individual sovereignty, a matter which seems to have introverted the disposition of African leaders towards guarding their parochial interests all so jealously. If African states continue to treat the issue of individual sovereignty as an inviolate and sacred commodity, I am afraid that the goal of pan-African unity will become a romantic idea only to be relegated to a mere nostalgic concept. I believe that we owe it to the forefathers of pan-Africanism to prevent this phenomenon from becoming a reality.

I am, however, encouraged and elated by a series of events that have taken place in the United States especially in the last few years with regard to the role of black Americans in United States' foreign policy towards South Africa in particular and Africa in general. Thanks to the massive involvement of the masses of black America: the Congressional Black Caucus, and TransAfrica, etc., it was possible to get through the United States Congress sanctions against the apartheid regime of South Africa, albeit toothless, yet symbolic.

THE ROLE OF BLACK AMERICANS

What must black Americans do to change the course of American foreign policy towards Africa in the coming years? It is a reality of history that Africans in the continent are estranged through the ignominous era of trans-Atlantic slavery. It is also a matter of historical reality that this physical estrangement cannot be undone. But it is my opinion that the barriers imposed by geography can be overcome and bridged through symbiotic endeavors if we heed the eloquent advice of the forefathers of the pan-Africanist movement that the fate of continental and non-continental Africans are inextricably bound spiritually and materially.

EMPOWERMENT OF BLACK AFRICANS

As residents and citizens of the world's major superpower with the wherewithal to build and destroy, the political, social, and economic empowerment of black Americans will augur well for the African Continent if the product of such empowerment translates into a new direction for American foreign policy toward Africa. My hope and belief is that this new direction will definitely help in improving the crisis which I discussed earlier. It will usher in an era in which the United States no longer treats African issues and concerns with insensitivity and sometimes contempt. It will usher in an era of evenhandedness in the policy options and actions of the U.S. towards Africa whether it be in the matter of economic development, technical assistance or the question of apartheid in South Africa. Political clout for black Americans will help to insure that issues and concerns dear to Africans are not subject to hypocritical and contradictory analysis.

I would like to use the issue of apartheid as an illustration of what I mean. The system of apartheid presents the world with one of its most heinous systems that should jolt the human conscience regardless of race, creed, color, nationality or national boundaries. Not only has the United States been extremely insensitive to the aspirations of millions of Africans and black Americans on the South African problem, but I dare say that the policy of constructive engagement is a misguided policy which does not coincide with the views of the rest of the world and especially those of the Africans. We are told that the United States does not support sanctions against the Pretoria regime on the grounds that they do not work and that they will bring untold hardships to the masses of the South Africans. But, I am reminded that sanctions have been applied by the U.S. in Cuba, Nicaragua, Panama, Poland, Iran, etc. It is this sort of contradiction which I alluded to earlier.

When we examine the entire gamut of American foreign policy toward Africa in historical context and note the paucity of such a policy, I become increasingly convinced that significant changes need to occur in a more positive direction. It also becomes paramountly clear that black Americans can and must exercise tremendous clout on behalf of Africa in the same manner that Jewish Americans exercise enormous, almost, veto power on matters affecting Israel. I see the makings of this clout in the political gains that have been made by black elected officials and the black electorate. These strides must be harnessed.

While still on this issue, I must add that the empowerment to which I refer can be enhanced and aided when African states themselves begin to seriously deal with the numerous crises which I discussed earlier. It will foster the symbiotic relationship which is so necessary to foster a mutually beneficial enterprise. A strong Africa can also use its clout to exercise influence on America on matters of major concerns to black America. In essence, what I am saying is that a weak Africa is of no significant value to black America. It bears repeating that the imperative of mutual self-interest cannot be overemphasized. I cannot say enough about this issue especially as the turn of the next century fast approaches.

The private sector in Africa is relatively underdeveloped. It is a sector that must shoulder the major responsibility of alleviating Africa's economic crisis. Events have proven that the concentration of the future of Africa in the public sector is very flawed. The public sector does not have the capacity nor the means to shoulder the enormous responsibility of economic development. This is an arena where the entrepreneurial skills and know-how of black Americans can be of invaluable benefit to African states. To this end, African states must adopt policies which aggressively encourage this participation in all facets of the economy; transmission of technical and professional skills and technological transfer to those areas of the socio-economic sector in most need.

Those people involved in the private sector must also embark on a program that similarly involves the badly needed entrepreneurial skills of black Americans in the solution of Africa's economic crisis.

If I have sounded rather blunt and somewhat abrasive, I crave your indulgence; for as I stated at the outset, we must take advantage of this occasion for introspection, to reevaluate our course of action and rededicate ourselves to play our individual and collective roles in improving the lot of our fellow Africans. The African past is replete with noble accomplishments and history, but we must be committed to bequeathing a future to the young generation of Africans which will certainly be more prosperous than ours.

CONCLUSION

In concluding, I would like to restate my personal views about the tasks and challenges that confront the African Continent and the diaspora. We need not delude ourselves about the complexity of our situation—those we inherited and those that are self-inflicted. The burden is heavy, the responsibilities are gigantuan and the solutions are tenuous and even elusive sometimes. I dare say also that some of the answers may lie outside our capacity to influence or control. However as an eternal optimist—not a naive one—we must create new realities within the limits of our capabilities; guided by unbounded dreams and aspirations in the context of the African personality.

Having said all these, I wish to suggest the following:

(a) That African states must rekindle the aspirations of forging a new political order; one which seeks to overcome the burden of Africa's fragmentation. This goal must transcend simple populist rhetoric of the yesteryears. The masterminds of the Berlin conference are forging ahead toward European integration. It behooves us therefore to borrow a chapter from Europe. The survival of Africa in the coming decades depends a great deal on whether we heed the admonitions of Kwame Nkrumah which I cited earlier.

This option will require that African leaders must have the much needed vision and fortitude to understand the deleterious consequences of continuing to maintain the sanctity of present territorial borders and the sanctity of individual sovereignty.

(b) That the structure of the Organization of African Unity needs radical changes to meet the challenges of the world in which we presently live in. The OAU continues to provide the skeletal avenues for a continental unity. It remains an indispensable body. However, in its present form, it is inadequate to provide the basis for political and economic integration; such as is the case with the European community.

(c) That we must begin to seriously deal with the language problem which has continued to exacerbate the perniciousness of mutually re-inforcing cleavages throughout the continent of Africa. I do not wish to discuss the details of this proposition.

(d) That a highly representative body of the black American community and the African Continent must set up a permanent body charged with the responsibility on an ongoing basis, to coordinate economic, social, political and cultural policies that are of mutual benefit. I might add that this proposition should as of necessity include all other areas of the African diaspora. In a sense, this body would then serve as a loose confederation which will help to bridge the gulf created by hundreds of years of physical estrangement.

(e) That Africa's debt crisis must be resolved with the immediacy which it deserves in order to avoid the potential of throwing an already embattled economy into a tail spin. It is also important that African states meet their international obligations to their creditors for the sake of maintaining credibility and solvency.

In closing, I would like to thank the organizers of this event for allowing me the privilege of addressing this assembly. Will you please join me and the rest of millions of Africans in and outside the continent in dedicating ourselves to creating a new world order in which all human beings regardless of race, creed, color, or nationality will be able to live in peace, harmony and prosperity. Long live Africa! Long live the rest of mankind!

TRIBUTE TO REV. STANISLAUS ZAWISTOWSKI ON THE 50TH ANNIVERSARY OF HIS ORDINATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. ROE. Mr. Speaker, on Sunday, June 12, 1988, residents of my Eighth Congressional District and the State of New Jersey will join the parish community of St. Paul's Church of Prospect Park, NJ, and Rev. Stanislaus Joseph Zawistowski in celebration of the 50th anniversary of his consecration into the sacrament of holy orders.

Mr. Speaker, the historical freedom of our Nation's people to worship freely and without fear has permitted, and even inspired, certain individuals to become great spiritual and community leaders throughout the years. These people are esteemed and long remembered for their devotion, good will and lasting achievements. This is the reason that I, and so many others in Prospect Park and its surrounding area feel fortunate to have the opportunity to express our appreciation to Rev. Stanislaus Joseph Zawistowski whose admirable dedication and deep allegiance to promulgating spiritual guidance, fellowship and unity in service to God have truly enriched our community, State and Nation.

Reverend Zawistowski has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the pride of his family, many friends and parishioners in his distinguished accomplishments so generously applied to the betterment of our people. There is much that can be said of the love, affection and veneration with which Reverend Zawistowski is held by all who have had the privilege of knowing him.

Mr. Speaker, we are so proud to have Reverend Zawistowski with us in Prospect Park, NJ, where he has served as a Catholic priest for the past 36 years. For nearly 20 devoted and faithful years, Reverend Zawistowski has served as the pastor of St. Paul's Parish, and his spiritual leadership and guidance and his vigorous efforts on behalf of his community have made Prospect Park a better place to live.

In 1955 he opened St. Paul's School and was a driving force in the construction of a school building. In 1966, under Reverend Zawistowski's leadership, St. Paul's pariship constructed a new parish church, one of the largest and most beautiful buildings in its area. In addition, Father Zawistowski has exhibited his deep civic concern through his service as chaplain of the Haledon Fire Department and of the North Haledon Chapter of Unico, Inc.

Mr. Speaker, 1988 marks the golden jubilee of Reverend Zawistowski, a celebration of half a century since he was ordained a Roman Catholic priest by Bishop Thomas H. McLaughlin at the Cathedral of St. John the Baptist in Paterson, NJ, on June 11, 1938. This historic event will be celebrated by a mass of thanksgiving on Sunday, June 12, at St. Paul's Church, followed by a dinner in honor of his long and vital spiritual leadership and guidance for the parishioners of St. Paul's Church.

Mr. Speaker, I appreciate the opportunity to present this brief profile of a distinguished man of God who has dedicated his life to guiding others. Many people have been instilled with a sense of hope through his faithful and compelling leadership, and this outstanding quality is clearly reflected in the security and confidence his parishioners have in him. All who have known his generosity have been inspired by his devout service.

Mr. Speaker, as Reverend Zawistowski celebrates the 50th anniversary of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join me in extending our warmest greetings and felicitations for the excellence of his service to the church, our Nation, and all people. We do indeed salute an esteemed pastor, exemplary clergyman and great American—Rev. Stanislaus Joseph Zawistowski, pastor of St. Paul's Church, Bloomfield, NJ.

CONCERN OVER CHEMICALS IN DRINKING WATER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. LENT. Mr. Speaker, a number of my constituents in the Fourth Congressional District have expressed concern over the injection of fluoride chemicals into their drinking water. Since 1950, many community water supplies have been fluoridated because of studies which showed that mineral may help prevent tooth decay.

However, other less publicized studies have indicated that ingestion of high levels of fluoride by children may cause dental fluorosis. In its mild form, dental fluorisis is unsightly and in severe cases may cause teeth to turn brown, harden and crack. Even higher levels of fluoride can result in serious musculosketal complaints.

The Environmental Protection Agency [EPA] recently raised the maximum contaminant level of fluoride in public drinking water to 4 parts per million [ppm]—roughly three times higher than previous levels. This increase in the contaminant level prompted heated debate on the merits and shortcomings of fluoridation. Indeed, some of EPA's own scientists have been critical of their agency's action believing that the safety margin provided by a 4 ppm standard is "inadequate".

The issue of adding fluoride to public drinking water has been controversial for over 40 years since research began in 1945. Undoubtedly the debate will continue as critics and proponents of fluoridation analyze the dozens of studies on this issue and review new data which is always emerging. I submit the concerns of my constituents on Long Island to my colleagues for their consideration as the dispute over fluoridation continues. While not everyone may be in agreement regarding the need for fluoridation, we may certainly all concur on the need to protect the health and well-being of our citizens.

U.N. COMMISSION ON HUMAN RIGHTS SHOULD REJECT CUBA AND PANAMA

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. SMITH of Florida. Mr. Speaker, the United Nations has disgraced itself in an almost unprecedented manner. Last week, the United Nations Economic and Social Council voted to admit Cuba and Panama as members of the Commission on Human Rights.

Cuban human rights is an oxymoron under the current regime. Castro continues to practice torture and other inhumane and degrading treatment of citizens, including secret trials, arbitrary imprisonment, and murder and brutality by the police.

The United Nations' action is even more venal when one takes into consideration that less than 4 months ago this same body voted to launch a long overdue investigation into Castro's human rights violations.

In Noriega's Panama, we are all too familiar with the willingness of this despot to neglect the well-being of the Panamanian people in order to remain in power.

The United Nations' action perpetuates the perception that the United Nations is incapable of producing objective and judicious legislation. It also raises troubling questions about the institutions adherence to the lofty principles on which it was established to protect and promote.

Mr. Speaker, the inclusion of Cuba and Panama to the U.N. Commission on Human Rights is a moral outrage to the good people of Cuba, Panama, and all people of the free world. I call on the United Nations to strip these two rogue dictators of its invitation to join the Human Rights Commission.

A CONGRESSIONAL SALUTE TO PATRICIA GOMEZ

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding woman in my district, Patricia Gomez. I am pleased to have the opportunity to express my appreciation for her efforts on behalf of the Downey area.

Pat Gomez has been a resident of the Downey community for more than 25 years, and active in many facets of community life. Her achievements in behalf of the community are almost too numerous to count, but I will attempt to enumerate her many accomplishments in this tribute which will be all too brief to do her justice.

Pat is currently the president of the Downey Chamber of Commerce, of which she has been a member for the last 8 years. In addition to that, she has served on the chamber board of directors for the last 5 years. In that time, she has held office as treasurer, vice president, and president-elect. She has chaired the chamber map committee, the membership committee, the special events committee, the golf tournament, and the Christmas parade committee. She has also served as a member of the business development committee and the redevelopment and zoning committee. She is currently serving as the chamber's representative to the Downey Coordinating Council.

Pat's accomplishments go far beyond her service in the chamber of commerce. She has been an active member of the Downey Historical Society, the Downey Charter Review Committee, the Optomist Club, Unico, the Quoto Club, the Downey Sister Cities Association, the Downey Rose Float Association, and the Downey Chapter of the American Cancer Society. For the past 3 years she has been a member of the board of Directors of the Rio Hondo Hospital, and was recently appointed to the board of directors of the Rancho Los Amigos Hospital Foundation. She also serves on four committees celebrating the 100th anniversary of the Rancho Los Amigos Hospital that include the chamber/hospital mixer, the citizens day committee, the Rives Mansion garden party, and the foundation charity ball.

Further, Pat has organized fashion shows for the Sister Cities Association, WASA [Women Against Sexual Abuse], the Quoto Club, and the American Cancer Society, helped organize more than 10 benefit golf tournaments for Unico, the Optomist Club, YMCA, and the Downey Chamber of Commerce, and helped organize four Miss Downey Pageants, providing contestants with hair and make-up services backstage. In 1987 she received the Volunteer-of-the-Year Award from the Downey Chapter of Rotary International and this year she received the Volunteer-of-the-Year Award from the Downey Coordinating Council.

Ms. Gomez has been a hairdresser for 26 years, and for the past 8 years has owned Johnny & Co., A Downey hairdressing firm. Pat's business and her community service have not gotten in the way of her family. She has performed volunteer work at her son Jeff's schools, including chairing special events programs at St. Marks School, and volunteering to do morning office work at Meadow Park School, spending two mornings a week for over 2 years telephoning parents of absent children as part of a safety program. Also, she was team mother for her son's YMCA team for 6 years, organizing football, soccer, baseball, and basketball activities, and she even got stuck in the dunk tank at the annual YMCA carnival.

Pat is a remarkable woman. Not many people can successfully juggle family, career, and community service, but Pat is the exception to that rule. My wife, Lee, joins me in extending our congratulations, and our gratitude, to Patricia Gomez, for the continuing contributions she has made to our community. We wish her and her son Jeff all the best in the years to come.

THE U.S. NEEDS THE TEA PROGRAM

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. HERGER. Mr. Speaker, recently, the Targeted Export Assistance Program, known as the TEA Program, has come under attack because of a recently released GAO report which criticized some aspects of the program's management. The Foreign Agricultural Service, which manages the program, acknowledges that lack of adequate staff resources has hampered their ability to prevent these kinds of problems.

However, some who are hostile to the program are seeking to use the GAO report as a means of drastically reducing funding or are calling for the outright elimination of TEA. Mr. Speaker, I strongly believe this would be a mistake.

At a time when our foreign trade deficit is the No. 1 economic concern of our Nation, does it make sense to eliminate or substantially undercut one of the most effective programs for promoting the sale of American agricultural goods overseas? I don't think so.

The TEA Program has dramatically improved the sales of American farm products overseas. For example, a TEA-sponsored promotion of American wines in Japan has led to a 56-percent increase in our wine sales there last year. The program helped triple United States raisin sales to Korea last season.

In countries where TEA promotions of U.S. peaches or fruit cocktail have been set up, sales of these products have increased 400 percent, while sales of the same products in countries where no TEA program has been launched have remained the same or actually fallen.

Mr. Speaker, the TEA Program is proving its worth by dramatically increasing the selling of American agricultural goods abroad. This can only help to reduce our $150 billion trade deficit. We should ensure that the program is well managed, but we should not use a few isolated criticisms of the program as an excuse to shutdown an effective means for promoting U.S. farm products overseas and protecting jobs in rural America.

TRIBUTE TO EDITH AND BENJAMIN ZIMMERMAN

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. BEILENSON. Mr. Speaker, I rise today to pay tribute to two of my old friends and constituents, Benjamin and Edith Zimmerman of Beverly Hills, CA. On June 5, 1988, they will be presented with the City of Peace Award by the Honorable Asher, Naim, Minister of Information at the Embassy of Israel, at the State of Israel Tribute Dinner in Los Angeles.

Benjamin and Edith were both born in the Ukraine and emigrated to the United States some 79 years ago. After B.J.'s graduation from the University of Maryland with a law degree, they were wed and began a 62-year union and business partnership that has included land development in Indianapolis, insurance and liquidation in Chicago, a brewery business in Terre Haute and, most recently, real estate in California.

Since 1953, the Zimmermans have been active members of Mogen David Congregation and strong supporters of the Israel Orphans Home for Girls, Child Help USA for Abused Children, Jewish Homes for the Aging, and the Concern Foundation for Cancer Research.

They were blessed with two children and now have eight grandchildren and one great grandson.

I would like to join the Zimmerman's many friends and associates in conveying my heartfelt congratulations on this joyous occasion and my best wishes for many more years of success.

MAN OF THE YEAR WALLY PHILLIPS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize an exemplary member of the Chicago community, Wally Phillips, who will be honored as Chicago's Back of the Yard Neighborhood Councils 1988 Man of the Year Award winner.

As an afternoon disc jockey at radio station WGN, Wally's special intimacy with his listeners and an intuitive knack for satisfying them has made him one of the most popular personalities in Chicago radio for the past three decades. A native of Portsmouth, OH, Wally attended a preparatory seminary of the Passionist Order in St. Louis, MO. After 2 years at this preparatory seminary, Wally joined his family in Cincinnati and attended school there until he left to enter the Air Force as a supply sergeant. When he was discharged from the Air Force, he found employment as an office clerk and took night courses at the Schuster-Martin School of Drama. With the help of some school demonstration tapes, he began his career as a disc jockey at Grand Rapids, MI's WJEF in July 1947. In 1950 he moved to radio station SCPO in Cincinnati where he garnered a large following with his wonderful wit. This began when he utilized the prerecorded State interviews which were the radio rage at the time. The DJ's were given a transcript, asked the proper question, and waited for the star's taped response. Wally, instead, changed the questions to make these responses humorous. This develped into an uncanny sense of timing and further use of recorded bits, words and sounds which he still uses as commentary, foils, exclamations, and comedic bits. The rating continued to climb when he joined Cincinnati's WLW In 1952. In the fall of 1956, he was recruited by WGN in Chicago and began 32 years of service to the Chicago communty.

During his years in Chicago he has been particularly involved with the Neediest Kids Christmas Fund and an example of community care and concern. I am sure my colleagues join me in commending and thanking Wally for his community involvement and congratulating him as he receives the Man of the Year Award.

RABBI PHILIP SCHROIT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mr. WAXMAN. Mr. Speaker, I am pleased to announce that Rabbi Philip Schroit, spiritual leader of B'nai David-Judea Congregation since its founding in 1948, is being honored on June 5, 1988. Rabbi Schroit is rightfully being recognized for 40 years of commitment and dedication to the congregation, to the Jewish community and to fellow citizens of every faith and background.

Rabbi Philip Schroit has been a determined, visionary and wise leader. Rabbi Schroit's major contributions have included the extensive youth program, intense community-wide efforts on behalf of the State of Israel and a key leadership role with the Jewish Federation-Council, the Bureau of Jewish Education and the School for the Retarded in West Adams.

Rabbi Schroit has unselfishly and devotedly shared his love for his beliefs, his insight, and his optimism with all who have had the fortunate opportunity to know him or work with him. Rabbi Schroit is admired and beloved by the people of Israel and Zionists around the world for his unstinting efforts for Medinat Yisrael.

It is with great pride that I ask my colleagues to rise in tribute to a very special individual, Rabbi Philip Schroit, upon his recognition by a very inspired and appreciative congregation. I ask my colleagues to join me in wishing Rabbi Schroit and his family good health and continued hatzlacha in their noble endeavors.

STEWART B. McKINNEY HOMELESS HOUSING ASSISTANCE BLOCK GRANT ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1988

Mrs. ROUKEMA. Mr. Speaker, today the gentleman from Pennsylvania [Mr. RIDGE] and I have introduced a bill to improve the flow of assistance to our Nation's homeless population. Our bill, which we will later offer as an amendment to the bill reauthorizing the McKinney Act, would combine three of the programs under the Banking Committee's jurisdiction into a homeless block grant.

A block grant would provide greater flexibility, would ease administration of the assistance, and would distribute that assistance more effectively to those most in need.

As the ranking minority member of the Subcommittee on Housing and Community Development, which has jurisdiction over the HUD homeless programs, I can report to the House that hearings before our subcommittee showed substantial support for the block grant approach. On January 26 of this year, our subcommittee heard from a wide variety of private and public providers of homeless assistance, and not one witness expressed opposition to a block grant. All were enthusiastic about moving in that direction.

The Ridge-Roukema amendment would combine the emergency shelter grants, the supplemental assistance for facilities to assist the homeless, and the Supportive Housing Demonstration Program into a single block grant. All activities now authorized under these programs would be eligible under the block grant. Other programs now authorized under the McKinney Act would be unaffected by our amendment.

Funds under the block grant would be distributed according to the current formula used for the community development block grant, with a slight variation which would tilt assistance more heavily to cities and urban counties, where we believe the homeless problem to be more severe. The CDBG formula, however, is a fair one, and it is one with which States and localities are familiar. Unfortunately, many needy areas are not now receiving money under the McKinney Act because administrators are unfamiliar with the new programs and the procedures to apply for funds. The Ridge-Roukema amendment will improve that.

The Housing Subcommittee is scheduled to mark up the reauthorization of the act shortly. Ours is a worthy approach which will be discussed at that time, and I wanted to bring it to the attention of our colleagues.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and

purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 2, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 3

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for May.
2359 Rayburn Building

JUNE 6

2:00 p.m.
Governmental Affairs
To hold hearings on issues concerning acquired immunodeficiency syndrome (AIDS).
SD-342

2:30 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, and General Legislation Subcommittee
To hold hearings on S. 2413, to establish regional centers for the commercial development of new industrial farm and forest products.
SR-332

JUNE 7

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Karen B. Phillips, of Virginia, to be a Member of the Interstate Commerce Commission.
SR-253

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Governmental Affairs
To hold hearings on budget reform.
SD-342

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nominations of Fowler C. West, of Texas, to be a Commissioner of the Commodity Futures Trading Commission, and William W. Erwin, of Indiana, to be a Member of the Board of Directors of the Farm Credit System Assistance Board.
SR-332

Foreign Relations
Business meeting, to consider S. Res. 426, to express the sense of the Senate that the seven major industrial nations of the world must take immediate action to protect the earth's stratospheric ozone layer, S. 2365, to authorize the release of 86 United States Information Agency films with respect to the Marshall Plan, S. Res. 408, to condemn the use of chemical weapons by Iraq and urge the President to continue applying diplomatic pressure to prevent their further use, and urge the Administration to step up efforts to achieve an international ban on chemical weapons, H.R. 4162, to make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States, and pending nominations.
SD-419

10:30 a.m.
Rules and Administration
To hold hearings on S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States.
SR-301

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on the impact of acid precipitation on coastal waters and the National Oceanic and Atmospheric Administration's sanctuary program.
SR-253

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.
S-128, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
Treasury, Postal Service, and General Government Subcommittee
To hold joint hearings to review interdiction efforts of the U.S. Coast Guard, U.S. Customs Service, Immigration and Naturalization Service, and the Department of the Treasury.
SD-192

Governmental Affairs
To resume hearings on issues concerning acquired immunodeficiency syndrome (AIDS).
SD-342

Judiciary
To hold hearings on S. 2033, to establish criminal penalties with respect to child pornography and the possession or sale of obscene matter.
SD-226

2:00 p.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review youth employment issues and related provisions of Title II of the Job Training Partnership Act.
SD-430

JUNE 9

9:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
Business meeting, to mark up proposed legislation to provide additional assistance for the Food Stamp program, Temporary Emergency Food Assistance program, child nutrition programs, work training program, and childcare for working families.
SR-332

Veterans' Affairs
To hold hearings on S. 2011, to increase the rate of VA compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans, S. 1805, to protect certain pensions and other benefits of veterans and survivors of veterans who are entitled to damages in the case of "In re: 'Agent Orange' Product Liability Litigation," and to hold oversight hearings on activities of the Board of Veterans' Appeals, and related matters.
SR-418

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1737, to provide for the completion of the Colorado River Storage Project, S. 2102, to prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and S. 2108, to authorize the Secretary of the Interior to conduct the Reclamation Groundwater Management and Technical Assistance Study.
SD-366

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 10

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for migration refugee assistance, international narcotics control and anti-terrorism programs.
S-128, Capitol

JUNE 13

9:30 a.m.
Special on Aging
To hold hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.
SD-628

JUNE 14

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.
S-128, Capitol

9:30 a.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 1717, to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by state commissions.
SD-366

Joint Economic
Education and Health Subcommittee
To resume hearings to review the future of health care in America.
2359 Rayburn Building

JUNE 15

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition and Investigations Subcommittee
Business meeting, to resume markup of proposed legislation to provide additional assistance for the Food Stamp program, Temporary Emergency Food Assistance program, child nutrition programs, work training program, and childcare for working families.
SR-332

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

JUNE 16

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.
SD-192

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 1173, to provide for certain restrictions on the use of lands within boundaries of national parks and monuments, and S. 927, to protect caves resources on Federal lands.
SD-366

Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
To hold hearings on applying the National Environmental Policy Act to U.S. activities involving international financial institutions.
SD-406

Governmental Affairs
To resume hearings on issues relative to alcoholism.
SD-342

Veterans' Affairs
To hold hearings on S. 2207, to authorize the Administrator of Veterans' Affairs to provide assistive simians and dogs to veterans who, by reason of quadriplegia, are entitled to disability compensation under laws administered by the Veterans' Administration, S. 2105, to extend for 4 years the authority of the VA to contract for drug and alcohol treatment and rehabilitation services in halfway houses and other certain community-based facilities, and S. 2294, to extend the authority of the VA to continue major health-care programs, and to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain certain health-care personnel.
SR-418

Joint Economic
Education and Health Subcommittee
To resume hearings to review the future of health care in America.
2318 Rayburn Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).
SR-332

JUNE 17

9:30 a.m.
Finance
Health Subcommittee
To resume hearings on S. 2305, to provide long-term respite care, adult day care, home care, and nursing home care for the elderly.
SD-215

JUNE 21

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
Room to be announced

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2055, to designate certain National Forest System lands in Idaho for inclusion in the National Wilderness Preservation System, to prescribe certain management formulae for certain National Forest System lands, and to release other forest lands for multiple-use management.
SD-366

JUNE 22

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on proposed legislation authorizing funds for the U.S. Fire Administration of the Federal Emergency Management Agency.
SR-253

JUNE 23

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2221, to expand national telecommunications system for the benefit of the hearing impaired.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1643, to establish the Mississippi River National Heritage Corridor, S. 2018, to expand the boundaries of the Congaree Swamp National Monument, and to designate wilderness therein, and S. 2058, to authorize the establishment of the Charles Pinckney National Historic Site in South Carolina.
SD-366

Governmental Affairs
To resume hearings on S. 1504, to facilitate regulatory negotiation and other procedures to enhance the quality of regulations and foster communications between agencies and those affected by regulations.
SD-342

JUNE 24

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on Japanese patent policy.
SR-253

Special on Aging
To hold hearings on the Equal Employment Opportunity Commission enforcement of the Age Discrimination in Employment Act of 1967.
SD-628

JUNE 27

2:00 p.m.
Governmental Affairs
To resume hearings on issues relative to alcoholism.
SD-342

JUNE 28

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2165, to designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Complex in the State of Washington.
SD-366

JUNE 29

10:00 a.m.
Governmental Affairs
To resume hearings on issues relative to alcoholism.
SD-342

JULY 11

9:30 a.m.
Special on Aging
To resume hearings to examine certain problems and challenges surrounding

the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.

SD-628

JULY 14

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To resume oversight hearings on the implementation of the Agricultural Credit Act (P.L. 100-233).

SR-332

HOUSE OF REPRESENTATIVES—*Thursday, June 2, 1988*

The House met at 10 a.m.

The Reverend J. Howard Cates, pastor emeritus, Fredericksburg Baptist Church, Fredericksburg, VA, offered the following prayer:

Eternal God, we acknowledge Thee as the Supreme Lord of all nations, without whom no people can be great. We thank Thee for the many blessings, temporal and spiritual, bestowed upon our Nation.

We pray Thy blessings on this body of legislators today: Give unto them an awareness of a need to seek divine wisdom as they deal with the complex issues of our day. Grant to them insight and sound judgment in the making of decisions.

Give them courage to stand for truth and righteousness. May what they say and do strengthen our Nation and make us instruments of peace in a troubled world.

For Thine is the kingdom and the power and the glory forever and ever! Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval therof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HOLLOWAY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HOLLOWAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 268, nays 108, not voting 55, as follows:

[Roll No. 162]

YEAS—268

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Byron
Callahan
Cardin
Carper
Carr
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Flippo
Foglietta
Foley
Ford (TN)
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McEwen
McHugh
McMillen (MD)
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Packard
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Watkins
Weldon
Whitten
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—108

Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Chandler
Cheney
Coleman (MO)
Coughlin
Courter
Craig
Dannemeyer
Daub
Davis (IL)
DeLay
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gregg
Hastert
Hefley
Henry
Herger
Holloway
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McDade
McMillan (NC)
Meyers
Miller (OH)
Molinari
Moorhead
Murphy
Nielson
Parris
Pashayan
Penny
Rhodes
Ridge
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schneider
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Volkmer
Vucanovich
Walker
Weber
Wheat
Whittaker
Wolf
Young (FL)

NOT VOTING—55

Alexander
Atkins
Badham
Berman
Biaggi
Boulter
Bustamante
Campbell
Chapman
Clay
Crane
DeWine
Dixon
Duncan
Feighan
Florio
Ford (MI)
Frank
Frenzel
Garcia
Gephardt
Gray (PA)
Hansen
Houghton
Jeffords
Jones (TN)
Kemp
Konnyu
Latta
Leath (TX)
Lewis (CA)
Lukens, Donald
Lungren
Mack
Manton
McGrath
Mfume
Mica
Neal
Ortiz
Oxley
Porter
Ray
Roberts
Smith (FL)
Spence
Taylor
Udall
Vander Jagt
Walgren
Waxman
Weiss
Williams
Wilson
Young (AK)

☐ 1022

So the Journal was approved.

The result of the vote was announced as above recorded.

THE REVEREND J. HOWARD CATES

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, it is my privilege and honor to welcome to the House of Representatives the Reverend J. Howard Cates of Fredericksburg, VA, and his family and friends who are with us today.

We certainly appreciate Reverend Cates coming to Washington to offer our opening prayer here this morning.

Reverend Cates has been a distinguished theologian and minister for

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

over 43 years, having studied at Southern Baptist Theological Seminary, Duke Divinity School, Southeastern Baptist Theological Seminary, and Regent's Park College of Oxford University, in England.

Reverend Cates also received an honorary doctorate from the Fredericksburg Bible Institute in 1985.

In addition to being a man of great learning, Reverend Cates was ordained to the Baptist ministry in April 1945 at the First Baptist Church in Burlington, NC. After serving as pastor at the Highland Baptist Church in Hickory, NC, for 5 years, Reverend Cates was the pastor for 22 years at the Fredericksburg Baptist Church. He also had interim pastorates in Culpeper, Falmouth, and Massaponax, in Virginia.

Reverend Cates has been a spiritual leader of the Fredericksburg community with many years of service as the president of the Fredericksburg Ministerial Association, on the staff of the Fredericksburg Personal Counseling Service, and as a 22-year member of the Kiwanis Club.

Reverend Cates has dedicated his life to the ministry, at home and overseas, including work in England, Tokyo, Australia, and in the Holy Land.

I want to invite you, Mr. Speaker, and all of our colleagues, to join me in welcoming Rev. J. Howard Cates to the House this afternoon.

ELECTION AS MEMBER OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 465) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 465

Resolved, That Representative Brown of Colorado be and is hereby elected to the Committee on Standards of Official Conduct.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be permitted to sit during proceedings of the House under the 5-minute rule today to mark up H.R. 1580, the Anti-Apartheid Act Amendments of 1988. The ranking minority member concurs in this request.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4264. An act to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4264) "An act to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Nunn, Mr. Stennis, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, Mr. Warner, Mr. Thurmond, Mr. Humphrey, Mr. Cohen, Mr. Quayle, Mr. Wilson, Mr. Gramm, Mr. Symms, and Mr. McCain to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2369. An act to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

S. 2370. An act to authorize appropriations for fiscal year 1989 for military construction, and for other purposes;

S. 2371. An act to authorize appropriations for the Department of Energy for national defense programs for fiscal year 1989, to authorize certain National Defense Stockpile transactions, and for other purposes; and

S. 2373. An act to make supplemental authorizations for appropriations for fiscal year 1988 for the Department of Defense, and for other purposes.

UPDATE ON CONGRESSMAN FLOYD SPENCE

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, our colleague Floyd Spence had a double-lung transplant on May 6 at the University of Mississippi Medical Center in Jackson.

I saw Floyd Saturday at the hospital and he said to tell his colleagues hello. His new lungs are working well and he probably will move out of the hospital this week and move into an apartment near the university hospital.

Three points come to mind on Floyd Spence's recovery. The good Lord has answered our prayers; Dr. Raju and the surgery team at the University of Mississippi are experts on transplants and finally, this points out to me that organs must be more plentiful in order to help save more lives. So the Congress and the States must encourage and promote ways to get more organ donors for those in need.

IN SUPPORT OF PRESIDENT'S VETO OF THE TRADE BILL

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I rise today to voice my strong support for the President's veto of the trade bill and for his continued commitment to constructive trade legislation. The President has said he wants a trade bill he can sign. Clearly, many Members have forsaken a chance to support such a bill for a chance to cash in on the more politically expedient chip: The plant closings provision. Even if all the controversy were sifted out of this bill, I believe that the bill's inherent protectionism would remain.

I believe this bill was developed chiefly as a protectionist reaction to the rising trade deficits of several years ago. Now, employment is at its lowest point in 14 years and the trade deficit is lower than it has been in several years. Undoubtedly, American men and women workers are proving their worth, that they don't need and don't want anything more than a fair chance to compete. The latest news confirms this turnaround. I am sure that most of my colleagues saw the front page story in the Washington Post on May 18, 1988, which was headlined: "U.S. Trade Deficit Hits 3-Year Low."

Once again, our President is standing firm and winning. His commitment to his economic policy of free trade and to his monetary policy of a devalued dollar is beginning to pay off.

Mr. Speaker, for the select provisions of the recent trade bill that are good, let's vote on them as separate legislation, not as part of another omnibus bill. I for one will not be a part of the election year posturing that this bill has afforded for some. I will continue to support the President's commitment to the competitive abilities of American workers. I hope you will, too.

□ 1030

A CONGRESSIONAL SALUTE TO ELVIN HILL ELEMENTARY SCHOOL

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I rise today to pay tribute to the Elvin Hill Elementary School of Columbiana, AL. Elvin Hill has been recognized as one of the most outstanding elementary schools in the Nation by the U.S. Department of Education.

Elvin Hill was chosen from among 600 schools nationwide to receive the "Flag of Excellence," which will be awarded to representatives from the school in Washington this fall. The school was selected based upon its philosophy and goals, organization, leadership, curriculum, instruction, student success, character development, climate, and its relationship with the community. Certainly, Elvin Hill scored A+ in all of these subjects.

The faculty of Elvin Hill attempts to individualize education and offers programs which especially stimulate the curiosity of children such as computer training and field trips. The school also has excellent special education programs to meet the needs of the mentally handicapped, gifted, and children with emotional conflicts. The quality of the education is evidenced by the high percentage of students who score at or above their grade level on standardized tests in mathematics and reading.

The school also has the strong support of the community. The parents volunteer organization is active, and community business have adopted the school and make donations to help fund the school's projects. For example, Elvin Hill uses some of the donated funds to cover the cost of special programs for low-income children so that they may participate in all of the school's activities.

Education is an investment in our future. The students of Elvin Hill have now acquired the groundwork for even greater academic achievement.

Congratulations to principal Ann B. Head and the outstanding teachers and staff of Elvin Hill Elementary School for a job well done.

LEGALIZING DRUGS IS FOOLISH IDEA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there are stupid ideas, but none more foolish than that of legalizing drugs. Backers liken it to the repeal of prohibition. I think the next logical question is, what is next? What is next—legalizing murder? We cannot seem to stop that, and drugs like crack and heroin are killing our kids and addiction is rapid!

I say we should pass the death penalty for the kingpin drug dealers and issue an arrest warrant for General Noriega and have the Marines go down to Panama and get him.

Legalizing drugs is nothing more than surrender. The House of Representatives and the American Government has yet to fight. I do not think we should start out by sending a signal of surrender.

RESOLUTION CALLING FOR REGULARLY SCHEDULED SUMMIT MEETINGS

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, in the summer of 1984 I introduced legislation calling for annual summit meetings between the American President and the Soviet leader. Coincidentally, I am sure, during the last 4 years Mr. Gorbachev and Mr. Reagan have, in fact, complied. In 1985, we had a summit meeting in Geneva, in 1986 in Reykjavik, in 1987 here in Washington, and we just concluded a summit meeting in Moscow.

Summits are no panacea. Even the most cynical among us must admit that relations between us are infinitely better, and a nuclear holocaust is far more removed than 5 years ago. It will be debated ad nauseam and ad infinitum whether summits are a cause and effect. I believe they are both. It is critical now not to lose momentum.

Today I am introducing a resolution calling on the next President of the United States, whoever he may be, to continue the practice of regularly scheduled summit meetings with the Soviet leadership. There is nothing more important to move the world toward a more stable period than ongoing dialog between the Soviet Union and the United States.

MEDICARE CATASTROPHIC PROTECTION ACT

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, today we vote on one of the most important changes to elderly health care in recent history.

For years, our elderly have been struggling with the devastating effect of catastrophic illness—not only on their health but also on their life savings and their peace of mind.

Many elderly people in my State of Maine and around the country are afraid—and with good reason—that a long illness would leave them destitute, at a time of life when they cannot easily go out and make more money.

None of us should have to face such a threat in the last years of our lives.

The Catastrophic Protection Act, is a well-reasoned, intelligent, and compassionate response to this problem, and I urge my colleagues to support it.

This legislation provides important protection when medical costs get out of hand. In 1990, it is estimated that no one covered by Medicare will have to pay more than approximately $2,000 in out-of-pocket expenses for catastrophic health care: If the costs are more than that, they will be covered by Medicare.

In short, the Catastrophic Protection Act not only ensures that our senior citizens will receive the health care they need, but it also ensures that they will not go bankrupt in the process.

IS MARIJUANA SAFE?

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute.)

Mrs. BENTLEY. Mr. Speaker, figures in today's Baltimore Sun bare the lie in the statement that marijuana is a safe drug: Over 30 percent of the victims treated at the Maryland Shock Trauma Center had used marijuana.

For years, those who have favored legalization of marijuana have claimed that it is a safe drug—and that those who use it have nothing to fear.

But the medical evidence does not support that claim. Not only does using marijuana greatly exacerbate lung disorders but also it is a moving cause in many accidents.

Last year's train accident in Chase, MD—which is in my district—was caused by an engineer who was "high on grass."

And now the shock trauma center figures show a greater percentage of accident victims had used marijuana than had used alcohol.

Much has been made of the evils of drinking and driving, but this study points out that we need to take a more serious look at those who use marijuana, and specially those who use marijuana and drive.

Something needs to be done now to dry up the source.

We allow too much to come into this country without taking appropriate actions against those governments that wink and look the other way from the cultivation of drugs in their back yards.

Not only should we stop all trade with these countries but also with those countries that deal with these purveyors of death and mayhem.

CATASTROPHIC HEALTH CARE BILL, A MAJOR GAIN FOR SENIOR CITIZENS

(Mr. CLARKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLARKE. Mr. Speaker, I would like to voice my support for passage of the conference report on the catastrophic health care bill on which the House will act today. It is high time that Congress addresses the very serious needs of people requiring costly catastrophic health care.

This bill has been developed by the administration and Congress, with the help of health and aging professionals, and it is not surprising that the bill has bipartisan support.

The major provisions are real breakthroughs in health care for Medicare recipients. For the first time, they will receive help on prescription drugs after they have spent the first $600 for them. Medicare beneficiaries will now be eligible for unlimited free hospitalization after payment of an annual deductible. For the first time, Medicare will cover mammograms, and the 210-day limit on hospice care will be removed.

Since these and other added benefits involve additional costs, there will be an increase in the part B premium and an additional income-related premium for Medicare beneficiaries with incomes above a certain level. However, we all know that many individuals and families have been almost bankrupted by catastrophic health care costs. There is critical need for this program.

I hope that the House will vote for this conference report. It will be a major gain for America's senior citizens.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2470, MEDICARE CATASTROPHIC COVERAGE ACT OF 1988, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 463 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 463

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the medicare program, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration. Debate on the conference report shall continue not to exceed two hours.

The SPEAKER pro tempore (Mr. SCHUMER). The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes, for purposes of debate only to my distinguished friend, the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 463 waives all points of order against the conference report on the Medicare Catastrophic Protection Act, H.R. 2470, and against its consideration. Under the rule, the conference report will be considered to have been read when called up for consideration. The rule also provides 2 hours of debate on the conference report.

Mr. Speaker, the Medicare Catastrophic Protection Act of 1988 represents the first major structural improvement of the Medicare Program since it was adopted in 1965. Those who labored on this pathbreaking legislation deserve our gratitude and commendation. Chairman ROSTENKOWSKI, Chairman STARK, and Representative GRADISON, the subcommittee chairman and ranking minority member, Chairmen DINGELL and WAXMAN all have worked hard and made bold progress toward catastrophic protection.

The improvements in the Medicare Program are long overdue. Principally, the conference agreement limits the total out-of-pocket expenses that Medicare enrollees will pay for hospital and physician charges. It provides Medicare coverage for prescription drugs for the first time, and it protects the income and the assets of those whose spouses are confined to nursing homes. No doubt this measure will help protect the elderly from the consequences of catastrophic acute medical expenses. The conference report goes far toward achieving this kind of protection for the elderly of our Nation.

Mr. Speaker, the Bible says there is a time for everything, and it seems that Congress is aware of the fact that this is a time to make meaningful progress in providing health care not only for the elderly but for all the people of this country, especially those who are chronically ill, men, women, and children.

□ 1040

In this bill there is what we call the Pepper amendment which was put in there by the subcommittee of the Energy and Commerce Committee, and that amendment provides for a bipartisan commission similar to the one that we had for Social Security in 1982 and 1983 of which I had the honor to be a member. That Social Security Bipartisan Commission made recommendations to the Congress which has assured the soundness and the solvency of our Social Security Program for at least the next 75 years. We are hopeful that the bipartisan commission provided for in this bill will also have a very valued and meaningful effect upon the medical care program of our country for the long years ahead.

There will be a Commission of 15, 6 by the Senate and 6 by the House and 3 appointed by the President. It will have a year's duration. The first half of the year the Commission will determine how much it would cost and where the money should come from to provide complete long-term care for the people of this country, including nursing home care as well as home care. The second 6 months of the life of that Commission would be devoted to determining how much it will cost and where the money should come from to provide a comprehensive program of care, medical care, for all of the men, women, and children of America.

Mr. Speaker, at the present time the United States of America and the nation of South Africa are the only two industrial nations in the world which do not have such a comprehensive medical care program for the protection of their people. This bill extends hospital coverage for the ill elderly for as much as 365 days out of the year. It limits the amount the elderly will have to pay when they go into a hospital. Instead of paying $564 every time they go into a hospital, they will only pay that deductible one time when they go in the hospital during the year.

It also extends the time that one may spend in a skilled nursing home by 50 days. I mentioned already its contribution to helping the elderly pay for the drugs that they have to buy that are so expensive to them, alleged to be $1 billion a year.

It makes other meaningful contributions to providing health care to the elderly of the Nation.

But Mr. Speaker, it does not solve the problem of long-term care for the men, women, and children of the Nation. We are told that 1 million people a year in the Nation become destitute trying to pay the cost of the catastrophic care. This bill will help.

I hope next Wednesday we shall go another bold step forward and provide in the long-term care program for home care for all Americans, men, women, and children who are chronically ill, which is sponsored by the gentleman from California [Mr. ROYBAL], and myself. When we add that to the Catastrophic Health Program that we have before the House today, together with the legislation we already have, we will have a relatively good and adequate program, taking care of the health needs of the people of this country until we have time to study the limitations in the bipartisan commission to proceed further toward the completion of our Medicare program for the people of the Nation.

So I consider this bill today a very meaningful and valuable step forward leading toward an adequate program for the people of our country. While I say this is not the end, it is a magnificent beginning, and I commend it to my colleagues for their approval.

As I said, we hope by next Wednesday we will have an opportunity in this House to approve our legislation providing home care for all chronically ill men, women and children in the country.

Mr. Speaker, I therefore urge my colleagues to support this measure today, the rule and the conference report.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida [Mr. PEPPER], the distinguished chairman of the Rules Committee, for yielding me the customary time.

Mr. Speaker, the heading of my prepared remarks reads "Catastrophic Rule," and I guess that is as good a description as any of this procedure here today. We have a rule that waives all points of order against a conference report of which only two Xerox copies were available when the Rules Committee met late yesterday afternoon, and yet, just as with the trade bill conference report, we are being asked to rush to judgment before Members can begin to digest this massive bill.

Most of us advocated a catastrophic health insurance bill, but I must caution my colleagues that there is an awful lot in this conference report. It is going to be costly, and there are going to be, I predict, serious problems with the provision for payment for prescription drugs that people will get. So we should take all of the time we can to make sure we understand what we are doing here, even though I feel confident this bill will pass in the end.

I do not want to take anything away from our conferees on this bill, because I think they have done a pretty good job with a very difficult task. It took time, but certainly anything of this major consequence should take time. But I would only ask that we pause just a bit in order to allow us to savor and appreciate the work they have done. What is wrong with adhering to the good old 3-day layover rule? It has gotten now to where every time we get a conference report or we get a bill there is a headlong rush to pass it immediately, even though it may have been in the works for weeks or months. Again I refer to the trade bill and now this one.

We could do this bill tomorrow or we could do it early next week, and there would be no great travesty in taking just a little time to take a look at it as the 3-day rule envisioned.

When I asked the chairman of the Ways and Means Committee why we needed a waiver on all of the rules, could we not be more specific, he said he thought that only the 3-day rule was really involved. Then the chairman of the Rules Committee said this was the traditional grant of waiver on a conference report.

But the policy of the Rules Committee now going back to a previous chairman several years ago has been to be specific when we grant waivers on a bill. In checking into it with the Parliamentarian's office as to just what rules might be violated with this conference report, I was informed that we are not talking about just the 3-day rule, but also scope, and appropriations in a authorization bill and two Budget Act violations. So this conference report is flagrant with a number of procedural problems and it is fraught with other problems.

I will say to the credit of the distinguished chairman of the Ways and Means Committee that he requested 2 hours debate on this conference report rather than the traditional 1 hour, so perhaps during this expanded timeframe he can better explain just what is in the conference report and just what rules are being violated here today. I know that Members will need some time to ask questions as to exactly what is in the conference report and what the implications may be.

For myself, I cannot in good conscience support this rule for all of the reasons I have mentioned, and I have been urging in recent weeks that the House begin to restore the regular order around here so that Members will have a better idea what they are voting on. This is no way to begin. We could go back and grant a rule that does not allow all of these waivers and get the job done within a matter of just a couple of days, and I would hope that is what we would do instead of passing this rule as it is now.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I rise in opposition to this rule and to the adoption of the conference committee report. I want to direct my comments to a provision of this bill that every Member of this House should pay particular attention to because we should recognize that what we are doing with this conference report on catastrophic health care that affects the Medicare population of America is in effect adopting a program for providing drugs for those suffering from the AIDS epidemic in America. Make no mistake about it. And the tragedy and the disingenuous nature of this whole legislative approach is that the Medicare population of this country is going to be paying the bill.

Mr. Speaker, I do not quarrel with the idea that somebody has to pay for this tragic epidemic that we are facing in America. A drug, AZT, has been developed that does not cure, it prolongs life, and we all support prolonging life even for those with a fatal illness. The cost of this drug is $10,000 per patient per year. Right now there are 3,000 persons on disability under Social Security Medicare who are eligible for this drug after they have now served what is required to be the minimum time within which to establish eligibility under Medicare even though they are not yet 65; namely, they must be on disability for 2 years.

I want to make very clear that there is nothing I have been able to discover in this catastrophic report so far that reduces this waiting requirement of 2 years before establishing eligibility for disability under Medicare. But given the experience I have gleaned in the House of Representatives over the years that I have been privileged to serve here, it is just a question of time when we will be faced with a request for a humanitarian response to reduce the cost of drugs in America for people that we will be asked to reduce the waiting period for those on disability so they can be eligible for Medicare drug benefits.

The elderly of America, those who are retired and who have worked their entire lifetime to provide for their own retirement are going to be very surprised when Members of Congress and others tell the elderly, over 65, that they are the ones who will be paying for the drugs for taking care of AIDS patients in America. That expense properly belongs on all of us, on the general fund of the taxpayers of this Nation, not on the Medicare population. For this reason, I think the bill is a tragic mistake.

I went to the Rules Committee when this measure was taken up by the House earlier and asked for permission to offer an amendment that would limit the drug benefits to the Medicare population, those over 65. The Rules Committee declined to permit this Member from California to offer such an amendment. If we are going to extend the benefits for the Medicare population, let us limit it to that population. It is an amendment that needs to be in this bill, and without that limitation on availability of drugs to the Medicare people over 65, the people who are going to be paying the bill for this in the way of the deductible and the coinsurance are going to look for those who approved it. This bill is fatally defective, it is flawed, and any Member of this House who votes for this conference report should be fully aware and be prepared in townhall forums in their districts to explain to their senior citizens why they voted for a measure, ostensibly to benefit the retired people of this country, when in fact they have opened the door for drug benefits for anybody, irrespective of age, suffering from this AIDS epidemic.

I ask for a no vote on the rule and the conference report itself.

□ 1055

Mr. PEPPER. Mr. Speaker, for purposes of debate only I yield 2 minutes to the able gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I would like to just start out today by paying tribute—and I think everybody in the House thinks of it and everybody at times may have said a few words—to the leader in this country who has helped our senior citizens, more than anyone else our distinguished chairman, CLAUDE PEPPER.

I say, "thank you, thank you on behalf of a district that has been decimated, lost an awful lot of work, seniors are losing their pensions, worried about their hospital benefits and you have taken up the gauntlet. You have, more than any other American, your leadership has paid off to help all people."

This bill, as the chairman stated, is not the only answer, but it is a step in the right direction. I think the issue of long-term care must be addressed. I say that coming off a week when we discussed $16 billion in foreign aid. We appropriate about $120 billion a year to protect NATO countries.

When we talk about our parents and grandparents and their future, we leave them few options. When they reach a certain age they make plans not to live at times, but to die and that is really a shame.

So I say today that this step is not a big step but it is a step in the right direction. It deals with prescription drugs and the people who are compounded by that dilemma and that tremendous cost factor.

But more importantly, it gives a chance for senior citizens, parents, and grandparents to look at catastrophic illness and the dilemma that they face and have an opportunity to overcome it.

So I say today let us vote for the rule, let us vote for the bill and let us support Senator PEPPER in his initiatives for long-term care. That should be the next major initiative that affects seniors in this country and the House should deal with it this year.

Mr. LOTT. Mr. Speaker, I yield 8 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would stand behind no one in my great respect for Senator PEPPER, the chairman of the Committee on Rules, and for the work that he has done with respect to the elderly. I appreciate the very difficult position that my own President has put me in, a populist attitude about the need to do something about those who are falling through the cracks with respect to acute short-term medical expenses, that is what we now define as part A hospital and part B physician and related services payments.

But a very bad bill left the House, and my health subcommittee of my House Committee on Ways and Means had a substantial number of votes against it. The Senate tried to make a better bill, put everything on it, including the kitchen sink.

It went to conference. Some improvements have occurred, but essentially I believe we are looking at a very bad bill.

But I want to talk first about the rule.

The only thing I really object to in the rule is the fact that nobody has seen the bill. That ought to tell you something, if the Office of Management and Budget, the Department of the Treasury, the Department of Health and Human Services cannot provide cost estimates applicable to the conference report on what we call H.R. 2470.

Last night at 8 o'clock in my office I received this preliminary cost of the Medicare catastrophic bill from HHS. If you add up the 20 years of costs—I would like my colleagues to get a copy of this which are available at the Republican desk or at our rail—it is a $1,039 billion 15-year bill. It is a $45.3 billion bill for 1995 for the basic benefit and the incurred drug costs another $33 billion for a total of $79.2 billion by 1995.

But there is a little asterisk there that is real important for Members to note. These figures do not include any additional benefits such as respite care, hold harmless, home health expansion, mammography, and so forth.

Until the bill language has been more carefully reviewed these other costs cannot be factored into the estimate. These preliminary estimates have not been cleared yet by the executive Office of Management and Budget.

That document is dated June 1. I would like my colleagues to be sure they read this bill before they vote on it. Everything about the bill is questionable from its profoundly flawed and misdirected premise to its tricky manipulative methods of financing by mandating the establishment of special prescription drug trust funds, two new trust funds in the outyears, with statute balances of 100 percent of program expenditure is required, which implicitly is an admission by the conferees that after 1993 this bill cannot be paid for by the currently prescribed rules of payment in the bill.

Do you really know what this bill does? Do you know how it is funded? Do you know how it will affect entitlement programs 10 years from now?

If not, do not feel bad, because few if any Members who will be voting today will really know. But do not vote for this bill unless you can claim with certainty that it is what this Nation needs and wants. Do not perpetrate an election year fraud on older Americans.

Over 80 percent of the health-care expenses incurred by elderly today are related to long-term care and nursing home care costs.

No more than $2,000 of out-of-pocket expenses are incurred for doctor, hospital, or drugs by the average older American today, in fact by 80 percent of those over 65; but a full 9 out of 10 of our seniors have no protection from home health-care costs, as the gentleman from Florida so well said, nor do they have any coverage for nursing home care.

This bill does not address those basic long-term and catastrophic needs for our elderly.

So we are going to strip bare the Government's health care benefit financing cupboard with this bill today and leave nothing for home health care and/or for long-term nursing home care assistance which is really where we ought to be putting our efforts.

Now I would like to talk for a minute about the taxes in this bill. The flat monthly part B premium now called a part A-B, a part A-B-C premium will go from $31.10, which will be the new 1989 premium including the $4 fixed flat add-on premium, to $42.60 for one person for 1 month of coverage under the flat so-called part B, now no longer voluntary, but mandatory premium that will be automatically deducted from everybody's Social Security check.

In addition to that, a new tax is prescribed, not a premium. A rose is a rose is a rose, a tax is a tax is a tax by any other name.

It is a new income tax.

That tax will be calculated for every older American who owes $1 of tax liability at the rate of $22.50 per $150 of tax liability.

So if you as a senior citizen in America owe $3,000 of income tax in 1989, you will multiply $22.50 times 20 and pay approximately $450 of new income tax in addition to your increased part A-B flat tax premium.

So by 1993 the odds are that you will be paying at least $831.10 in new taxes under this bill and by 1993 the average older American in this country will pay $1,092.60 in new taxes. For what benefit? For less than 5 percent of the then over-65 population who may possibly benefit from the expanded part A-B acute care coverage contained in this bill without contemplating the fact, as the gentleman from California said, that the costs of AZT for AIDS treatment alone have not been factored into this bill after 1993, which means we will hit the cap and then have to raise the liability of new income taxes of older Americans to pay for that and many other drugs.

We are not going to be able to afford this bill and the consequences of having to limit the numbers who can collect for a drug benefit or reduce other parts of the program will loom very seriously on the horizon by 1993.

I will use time during the 2 hours of debate on the bill to more fully elaborate my concerns, but I hope I have made it clear to my colleagues that this bill does not deliver the nursing home and home health-care benefit that most people think it will. It is a trillion dollar expenditure. It is the most expansive and most expensive expansion of the Medicare Program in 25 years for very little benefit. Ninety-five percent of older Americans will pay for a benefit for 5 percent, many of whom could be cared for under Medicaid and under other programs at the State level with a much more appropriate direction of our Federal financing through home health and long-term nursing home care and that is where our attention should be.

So for these reasons, particularly because our colleagues have not read this bill, are not familiar with its costs, we ought to defeat this rule today and at least bring the bill back after Members have had a chance to read it.

So I urge a "no" vote on the rule and, of course, I will be opposed to the bill itself should the rule pass.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. I thank the gentleman for yielding.

I do not know there is much else that is as important that we will be doing this year, Mr. Speaker, than debating and discussing and passing legislation dealing with our elderly and the catastrophic health area.

I supported this original bill out of the House with some reservations as to the funding mechanism. I supported it because I wanted to see it go to conference and see what kind of a product came out.

Today I have still some very grave reservations about the way that this whole process is being funded, though I am very strongly supportive of the concept of handling the extended acute care problems that our elderly have.

I very much would like to see a bill which I can support. Maybe I can support this one today. I am openminded enough that I want to listen very carefully to the debate as it proceeds to see just exactly the way this thing is going and what the costs are to those who are elderly and what they are going to have to pay.

Let me relate for a moment—and this is one of the reasons I am disturbed by the rule—I do not think we have had enough time to get the word out to fully digest this and I do not know if the debate alone is going to do that here today on the floor. I certainly have not seen this in writing.

What concerns me and I hope we will answer those questions during the hours of debate that we will have today, is just what individual retirees are going to have to pay or what they can expect to pay for the Medicare benefits that they are going to get under this legislation.

Right now those who are 65 and over and eligible for Medicare and choose to take Medicare part B, which is 98 percent of all the people eligible, they have to pay every month about $24, $25.

The fact of the matter is, as I see it under this bill, that after the surcharge is put in for those who are supposedly at the higher income bracket of retirees, those pension benefit people who are going to have to pay the surcharge of $42 in 4 years for every $150 in tax liability, the way that I see that working out—and I worked through my tax code a little bit to figure it—if you are a retiree and you are a single taxpayer retiree over 65 and eligible for Medicare and your income ranges from $6,000 to $26,000 per year, you are going to have to pay that surcharge. And if you are at the high end of that bracket, and your income is at the $26,000 end of it, you are going to wind up having to pay $122 per year—excuse me, $122 per month and not just the $24 per month you are paying now, when you combine the increase of part B premium from the $24 to about $35 per month that you are going to have to pay and then add the surcharge on that on a monthly basis.

If you are a married couple over 65 and you are earning between $9,000 and $33,000 per year in income and this is mostly pension income that I envision and a lot of Americans are earning somewhere in that vicinity as retirees and having to pay some income taxes, then you are going to have some surcharge to pay, and at the bottom end of that you will have to be paying the part B increase at the end of four years, $34 per month instead of the present $24. And if you are at the high end it goes up to $122 as well.

Now let us assume you are at the middle end of all of this and that is probably where most pension receivers are and you are a retiree getting $14,000, $15,000, married, and that pension income could be a little higher or maybe a little lower, we are talking about you having to pay the middle range of this. That means that your monthly premium for Medicare if you elect part B—and even if you do not elect it, it is going to be something, because you have to pay a surcharge on your taxes—essentially your monthly payment is going to come down to something like $80 or $85 per month that you are going to have to pay for Medicare as opposed to $24, $25 per month that you are paying now.

I do not know how many of my retirees, if my figures are right, are going to want to pay $80 or $85 per month as opposed to their present $24 to get the benefit of the catastrophic protection here in this bill. I do not have a real problem with maybe their having to pay the increased part B premium up from $24 to $35 per month they are going to have to pay, but I am concerned with putting the surcharge on it. So I hope those questions are answered in the next few hours of debate, because that is what really troubles me.

□ 1110

Mr. PEPPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish very warmly to commend the able gentleman from Ohio [Mr. TRAFICANT] for the valuable assistance he has given in respect to the long-term care program which will come up before the House next Wednesday. I am very grateful to him for his kind remarks about me.

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. NAGLE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DAUB. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 129, not voting 33, as follows:

[Roll No. 163]

YEAS—269

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Byron
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clement
Coelho
Coleman (TX)
Collins
Conte

Conyers
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Owens (NY)
Owens (UT)
Panetta
Parris
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Regula
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schuette
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—129

Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Hastert
Hefley
Herger
Hiler
Holloway
Hopkins
Hughes
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kolbe
Kyl
Leach (IA)
Leath (TX)
Lent
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Molinari
Moorhead
Myers
Nielson
Olin
Packard
Pashayan
Petri
Porter
Ravenel
Rhodes
Ritter
Rogers
Roth
Roukema
Schaefer
Schneider
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slattery
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wolf
Wortley
Wylie
Young (FL)

NOT VOTING—33

Badham
Biaggi
Boulter
Bustamante
Campbell
DeWine
Dixon
Duncan
Garcia
Gephardt
Hansen
Jeffords
Jones (TN)
Kemp
Konnyu
Latta
Lewis (CA)
Lukens, Donald
Mack
Manton
McGrath
Mica
Ortiz
Oxley
Ray
Roberts
Schulze
Spence
Taylor
Udall
Weiss
Wilson
Young (AK)

□ 1131

Mr. GOODLING and Mr. MARLENEE changed their votes from "yea" to "nay."

Mr. WILLIAMS changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT TOMORROW MORNING, FRIDAY, JUNE 3, 1988, DURING 5-MINUTE RULE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs be permitted to sit tomorrow morning, Friday, June 3, 1988, while the House is under the 5-minute rule, in order to mark up H.R. 4351 and H.R. 4352, to reauthorize the Stewart B. McKinney Homeless Assistance Act, and for other purposes. The minority is in full accord with this request.

The SPEAKER pro tempore (Mr. NAGLE). Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 2470, MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 463, I call up the conference report on the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the medicare program, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. PANETTA). Pursuant to House Resolution 463, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 1, 1988, beginning at page H3765).

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 1 hour and the gentleman from Texas [Mr. ARCHER] will be recognized for 1 hour.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 2470, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report that is before the House today makes major and long-over due changes in the Medicare program. It caps out-of-pocket payments for hospital and physician charges and adds a new prescription drug benefit. Together these changes should shield the elderly and disabled from financially catastrophic medical expenses.

The legislation also takes important steps in meeting the long-term care needs of families. It expands the current Medicare skilled nursing and home health benefits, adds a new respite care benefit for homebound individuals, and amends Medicaid to prevent the total impoverishment of an individual whose spouse is confined to a nursing home. In addition, it establishes a Commission that is directed to recommend to Congress ways of financing comprehensive long-term care no later than 6 months after enactment.

Let me repeat what I said when the House considered this legislation last July. "This is the most significant Federal health insurance legislation since the enactment of Medicare and Medicaid in 1965. It is a landmark bill that

Congress should pass and the President should sign."

Legislation similar to this conference report has been considered in the past. In the 1970's, Senator Russell Long and Senator Abe Ribicoff cosponsored a Medicare catastrophic insurance bill that capped out-of-pocket expenses. Because of opposition from groups on the right and left, the bill was not enacted.

The present attempt to protect Medicare beneficiaries from catastrophic medical expenses began in Feburary 1987 when President Reagan announced his support for a bill proposed by Secretary of HHS Bowen. The Bowen proposal placed a limit of $2,000 per year on out-of-pocket costs for Medicare covered hospital and physician charges. It has been my stated goal from the outset that this legislative journey end as it began, with President Reagan supporting and signing a Medicare catastrophic conference report.

There was fierce opposition within the White House to Secretary Bowen's proposed expansion of Medicare. Then, after it was introduced in Congress, it was denounced by others for not doing enough, and for being inappropriately labeled "catastrophic insurance." Whatever the label, the administration's bill was estimated to benefit 1.6 million individuals a year, at an annual cost of $3 to $4 billion.

The Ways and Means Committee reported legislation based on a bill developed by Mr. STARK and Mr. GRADISON, the chairman and ranking Republican of the Health Subcommittee. This legislation increased the number of beneficiaries and expanded the administration's benefit package. In addition, Ways and Means substituted a progressive financing mechanism. In place of the administration's plan to finance the new benefits solely by increasing the part B premium, which is the same amount for all recipients, the committee developed a new income-related premium paid through the income tax system.

The Energy and Commerce Committee made several changes to the Ways and Means bill. The major change was coverage of prescription drugs after an annual deductible.

Last July the House passed H.R. 2470 by a vote of 302 to 127. This legislation increased annual Medicare costs by $10 billion and was estimated to help 5.5 million elderly and disabled pay their medical and prescription drug expenses. The House clearly placed its stamp on the President's bill. The hospital and physician benefits proposed by the administration were expanded, doubling the number of beneficiaries. And, a new drug benefit plus some important long-term care provisions were added.

The Senate passed H.R. 2470 with a benefit structure similar to the House bill. The limits on out-of-pocket hospital and physician expenses were somewhat less generous, which reduced the cost of the bill. Also, the Senate bill phased-in the prescription drug benefit over a period of 4 years.

The House/Senate conference agreement before the House today is a good, reasonable and responsible agreement. It is supported by Democratic and Republican Members of the conference.

The major benefit provisions of this agreement include the following:

First. It extends hospital coverage under Medicare to 365 days per year, from the current limit of 90 days plus the lifetime reserve of 60 days.

Second. It limits hospital costs to one deductible per year, which will be $564 in 1989.

Third. It limits yearly out-of-pocket payments for Medicare covered physician charges; the limit will be $1,370 per year in 1990.

Fourth. It adds coverage for prescription drugs after an annual deductible, which will be $600 in 1991; with a coinsurance payment of 50 percent in 1991, 40 percent in 1992, and 20 percent thereafter.

Fifth. It provides up to 80 hours of respite care per year for homebound persons who reach the physician or drug payment limits.

Sixth. It allows individuals with spouses in nursing homes to maintain a minimum level of income and assets and still qualify for Medicaid coverage of long-term care expenses.

Seventh. It requires Medicaid to pay Medicare premiums, deductibles and coinsurance costs for elderly and disabled individuals with incomes below the poverty level.

It is estimated that about 8 million individuals will benefit from these changes, at an annual cost of $10 billion when fully implemented in 1993.

The legislation is budget neutral in all years. The Medicare benefits are financed by a new income-related, supplemental premium paid by higher income Medicare beneficiaries, and an increase in the current part B premium paid by all Medicare recipients.

The new income-related premium will only be paid by those Medicare beneficiaries who pay Federal income taxes, which is approximately 40 percent of all Medicare recipients. It will average $285 per year in 1989, increasing to $506 in 1993. The maximum will be $850 in 1989, increasing to $1,050 in 1993. The increase in the part B premium, which is paid by all Medicare beneficiaries, will be $4 per month in 1990, increasing with the phase-in of new benefits to $10.20 in 1993.

The Medicaid improvements are funded by savings resulting from the expanded Medicare benefits contained in the bill, along with funds included in the fiscal 1989 budget resolution.

Mr. Speaker, this conference report strikes a good balance between meeting the medical needs of the elderly and recognizing the limits on their ability to finance additional Medicare costs. With this legislation we will finally accomplish an objective that has been advocated for decades: We will make Medicare a true insurance program with a set of benefits suited to the medical needs of elderly and disabled individuals.

I am pleased that the conference report has such broad support, including the majority and minority leaders of the House. It is supported by Secretary Bowen; and, I fully expect the President to sign it.

I strongly urge the House to show its enthusiastic support by adopting this conference report.

□ 1135

Mr. Speaker, I yield 30 minutes of my time to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, and I ask unanimous consent that he be authorized to yield time within his 30 minutes.

The SPEAKER pro tempore (Mr. PANETTA). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in opposition to the conference report on the Medicare Catastrophic Coverage Act of 1988, H.R. 2470.

Last July, I supported the Michel substitute for H.R. 2470, which was based on President Reagan's original Medicare catastrophic protection plan. I thought the President was on the right track. It was a good idea to have gaps closed in out-of-pocket expenses which are frequently beyond the means of the elderly and disabled.

The President's proposal achieved what I considered to be a reasonable balance between benefit increases and the manner in which they were to be funded by an increase in the part B premium. The increase was reasonable, and all participants shared in the cost of the improved coverage.

Somewhere along the way I believe the House and Senate went astray in developing the legislation now before us.

It is quite unlike the President's original proposal. H.R. 2470 began with the premise that excessive illness expenses should be covered.

As it moved through the legislative process, however, benefits were added which clearly went beyond any reasonable association with the term "catastrophic illness."

The legislation includes a new prescription drug benefit, mammography screening, respite care, and other expansions—which are certainly worthy of debate and consideration in the context of a review of the overall Medicare program.

To many in this Chamber, they would be attractive additions to the Medicare program. It must be recognized, however, that they are very expensive and will add significantly to the already enormous pressure which Medicare will place on the Federal budget in the future.

And we can't ignore the increased financial burden this bill's funding mechanism places on many of the beneficiaries it purports to help.

Like the President's proposal, H.R. 2470 is intended to be funded by those who will benefit—but there's a major, punitive, difference. While a portion of the new benefits are funded by the flat across-the-board part B premium increase, the lion's share is funded by a new Federal income surtax on only the elderly. In fact the elderly will be funding benefit increases not only for themselves, but also for all others receiving disability payments—including AIDS victims.

Falsely described as a "supplemental premium," this surtax will place an unfair burden on as many as 40 percent of the elderly in this country. Many of them will face additional income taxes of $800 in 1989 and as much as $1,050 in 1993.

Mr. Speaker, that amounts to a 28-percent increase in current income tax liability. In addition, over the long term the elderly and only the elderly will be subjected potentially to an income tax of double what their tax is under the current law.

This surtax will be levied on anyone who is even eligible for Medicare part A, by charging an additional Federal income tax of $22.50 per $1.50 of Federal tax liability in 1989 and $42 per $1.50 of Federal tax liability in 1993.

When this bill was originally considered there was thought given to making it elective, that those people who would pay would be those who were not covered by outside high-risk insurance. Testimony before our committee showed that 75 to perhaps 80 percent of the elderly already have access to catastrophic coverage at least equal to what is in this bill.

This program totally preempts the private sector instead of building on the private sector. For those elderly who are already paying for catastrophic coverage it enacts a surtax on their income tax.

And let's not forget that we will be imposing the need for additional computations and complications in the income tax returns of the Nation's elderly. So much for tax simplification and tax reduction.

Mr. Speaker, we began this process with the noble goal of providing our elderly with additional protection against the financial ravages of catastrophic illness. That noble goal, however, has been expanded far beyond the bounds of catastrophic illness—at a time when we must be conscious about the expansion of the commitments made by the Federal Government to the beneficiaires of any of the various entitlements programs.

This conference report should be rejected—and the legislation sent back to committee—so that we can in fact have an opportunity to consider an effective, affordable, catastrophic illness bill in this Congress.

□ 1150

The SPEAKER pro tempore (Mr. PANETTA). The Chair would ask the gentleman from Texas [Mr. ARCHER] if he intends to yield any time to the Committee on Energy and Commerce on his side.

Mr. ARCHER. Yes, Mr. Speaker, I do. I yield half of my time to the Committee on Energy and Commerce and I ask unanimous consent that its ranking member may distribute time as he sees fit.

The SPEAKER pro tempore. Is there any objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Medicare Catastrophic Coverage Act of 1988 represents the best of a bipartisan effort by the Congress to address the health and financial needs of this Nation's most vulnerable citizens—the elderly and disabled whose illnesses could result in impoverishment.

The bill marks the most significant advance in Medicare since that program's inception. For the first time, elderly and disabled people will have comprehensive coverage for hospital care. For the first time, the elderly will not be responsible for unlimited out-of-pocket expenses for physician services. Coverage for home health and nursing home care have been broadened. And the bill provides important new benefits:

Prescription drug costs which exceed a catastrophic cap will be covered;

Medicare will pay for mammography screening and home intravenous drug therapy; and

Chronically dependent, home bound beneficiaries will be eligible for 80 hours of respite care per year.

Several million Medicare recipients will receive direct financial benefits. All 31 million Medicare beneficiaries will receive protection against the threat of catastrophic costs.

The bill places special emphasis on the needs of low and moderate income people. Every beneficiary will pay a relatively modest flat premium, but the bulk of the financing will be generated by a tax imposed according to one's income. Furthermore, the Committee on Energy and Commerce worked to include special protections for the poorest elderly: State Medicaid programs must pay the Medicare premiums, copayments and deductibles for those below the poverty level.

I am also proud that the final bill includes a provision to protect the spouses of institutionalized beneficiaries from improverishment. Taken together with expanded skilled nursing and respite care benefits, this marks a beginning in our effort to address the problems of long-term health care.

The catastrophic bill involved complex tax and insurance issues; it required constant juggling of numbers, endless premium and benefit calculations, countless hours of important debate over trust funds and cost control mechanisms and reimbursement formulas. All this was essential in achieving a bill whose costs could be monitored and controlled. But, this should not obscure what the bill is all about: replacing fear and insecurity about limitless medical costs with an assurance of protection.

With this bill, a beneficiary can receive a costly drug prescription for a life-threatening condition or enter a hosptial for an expensive procedure without being made sicker by the mere worry of the cost. A person providing round the clock care for a relative with Alzheimer's disease can take a few hours off to attend to routine chores; a spouse can continue to live at her home without being divested of a life's savings to pay for an institutionalized husband.

Indeed, the bill provided insurance in the best sense of the word. Over 97 percent of every dollar collected will be returned to beneficiaries, a rate no private insurer could guarantee. To some degree, the coverage provided for in this bill will replace that offered by private insurers. The conferees have taken steps to assure that no duplication in coverage or payment for supplemental Medicare policies will occur. Beneficiaries should recoup any payments to private insurers for services covered by Medicare. I expect that private insurers, State insurance commissioners, and the Department of Health and Human Services will work to assure a smooth transition during the first couple of years of the bill to guarantee that result.

As the benefit package is increased, concerns over inappropriate utilization of services arise. We have taken a small but significant step in limiting questionable financial arrangements which encourage such utilization. Physicians generally may not make referrals to providers of home intravenous drug therapy in which they have a financial interest. Further, the conferees have asked the inspector general to investigate and report to Congress on the extent to which this practice pervades and perverts other parts of the the health care system. We look forward to receiving that study and to exploring ways of limiting financial arrangements in which the temptation for large pecuniary reward interferes with sound medical practice.

This bill marks an important step in an ongoing effort to address the health needs of the Nation. I remain committed to carrying this task forward as we continue to tackle the problems of long-term health care. The uninsured, and the very poor.

This bill will address very specifically the problem of the so-called medigap insurance, duplicative service, and some of the shoddy offerings which are made by some of the less responsible insurance companies.

Mr. Speaker, I urge my colleagues to vote yes on the conference report. It is a good and a responsible step forward in a very major way on one of the great health problems that our senior citizens and others face.

Mr. Speaker, I yield time to the gentleman from California [Mr. Waxman], of our committee, for purposes of controlling the time on behalf of our side for the Committee on Energy and Commerce.

The SPEAKER pro tempore. Does the gentleman wish to yield time at the present time or to reserve that time?

Mr. DINGELL. Mr. Speaker, I reserve my time and will let the gentleman from California [Mr. Waxman] yield it later at an appropriate time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois [Mr. Madigan].

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference agreement on H.R. 2470, the Medicare Catastrophic Coverage Act of 1988. This legislation represents the first major expansion of the Medicare Program in its 23-year history. President Reagan and Secretary Bowen of the Department of Health and Human Services are to be commended for sending the initial catastrophic health insurance proposal to Congress.

I have always supported the concept of so-called full tail-end coverage provided by the Medicare Program. For that reason, I joined my colleague, Mr. Michel, and many others in introducing Secretary Bowen's original catastrophic health insurance legislation. This bill financed 365 days of hospital care and 100 percent of physician charges through a $7 to $8 addition to the monthly part B premium.

The bills developed by both the Committee on Ways and Means and the Committee on Energy and Commerce significantly elaborated on the original Reagan-Bowen catastrophic proposal by adding many new benefits and by driving up the premium costs of the elderly. For this reason, I opposed H.R. 2470 when it was considered by the House last year and joined many of my colleagues on both sides of the aisle in supporting a substitute. The administration also strongly opposed the House bill and worked closely with the Senate Finance Committee to craft a proposal that, unlike the House-passed bill, could be signed by the President.

I give this bit of history so that my colleagues will understand that the committee on conference had a difficult job in reaching a compromise on the two bills. Early in the conference, the administration provided the conferees with a list of principles which had to be adhered to for the President to approve the bill. These principles and the provisions included in the Senate bill that relate to these principles, have been incorporated into this conference agreement in order to gain the President's support.

PRINCIPLE 1: AN ACTUARIALLY SOUND PROGRAM

The catastrophic and drug benefits authorized by this bill are totally paid for by the Medicare beneficiaries through premiums. There is no general fund subsidy, and budget neutrality is maintained each year. To assure stability in the program, H.R. 2470 establishes a prescription drug trust fund in the Treasury and a separate catastrophic account within the Medicare budget. In addition, the bill provides for a contingency margin and reserve funds for drug and catastrophic benefits to assure the self-sufficiency of these programs over time.

PRINCIPLE 2: CONSTANT SHARE INDEXING

The out-of-pocket payment limit or cap for part B benefits is increased each year to assure that a constant 7 percent of the Medicare enrollees, or over 2 million elderly, will qualify for benefits. The drug deductible is also indexed to assure a constant share of 16.8 percent or 5 million elderly qualify for the drug benefit. This form of indexing will significantly hold down program costs.

PRINCIPLE 3: PREMIUM DEFINED DRUG BENEFIT

The drug benefit is financed by both a supplemental premium and an amount added to the part B premium. These premium rates are set in statute as the administration requested.

PRINCIPLE 4: ORDERLY IMPLEMENTATION

The bill guarantees sufficient time for orderly implementation. The new part A benefits are effective January 1, 1989; the new part B benefits are effective January 1, 1990; and full drug coverage begins as of January 1, 1991.

With these principles met, I believe the conference agreement addresses the major concerns of the administration. Secretary Bowen fully endorses this bill and I believe it deserves your support.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. Leland].

Mr. LELAND. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to reaffirm my support for this legislation and commend the members of the conference committee, particularly the gentleman from Michigan [Mr. Dingell] and the gentleman from California [Mr. Waxman] and those others who have done such an outstanding job in their efforts in negotiating a compromise. I would like to also extend my congratulations to the gentleman from Illinois [Mr. Rostenkowski], the chairman of the Committee on Ways and Means, for the great work that he and his folks have done. Further, I commend those organizations which have assisted us in drafting responsible legislation.

This bill is an important first step in expanding medical care coverage for our Nation's elderly, from the catastrophic effects of an extended illness. I am particularly encouraged by a provision which would require States to extend Medicaid coverage to pregnant women and infants with incomes below the poverty level.

I thank the gentleman from California [Mr. Waxman], the chairman, for his efforts in completing an initiative which he and I began in the 98th Congress to expand Medicaid coverage for this vulnerable population.

Currently in the State of Texas, my State, the threshold for Medicaid eligibility for a family of three is $2,208, or 24.2 percent of the Federal poverty level. With Texas ranking 47th in the Nation in providing Medicaid coverage, its residents will benefit greatly from this change.

I gladly support this and further expansions of Medicare and Medicaid Programs.

Mr. ARCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. Gradison].

Mr. GRADISON. Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 2470, the Medicare Catastrophic Coverage Act of 1988.

This legislation has come a long way since it was originally introduced by my colleague from California, the distinguished chairman of the Health Subcommittee, Mr. Stark, and me on February 26, 1987. Frankly, the final bill is a better bill than we started with and it is also better than either the House or the Senate versions.

Some of my colleagues may wonder why the conference lasted so long and what delayed final decisions in the conference. Let me assure you that the main issues did not pit House against Senate, Republicans against

Democrats, or liberals against conservatives.

Basically, what we set out to do was to protect the elderly and disabled against catastrophic costs for hospital and physicians bills and for outpatient prescription drugs, and to do so on a self-sustaining basis at no cost to the general fund. I believe we succeeded. But it was not easy, especially in light of the uncertainty surrounding the future costs of the drug benefit. Chairman ROSTENKOWSKI has ably described the principal features of the conference agreement. I would like to highlight those aspects of this bill which seem to me especially significant for the future of Medicare—and for the debates to follow in the months and years ahead in adding long-term care benefits.

First, of course, is that the new benefits require deductibles and copayments. This is especially significant with regard to the benefit for prescription drugs and it reflects a growing trend away from first-dollar coverage.

Second, the new benefits will be paid entirely by the elderly and disabled with provisions to assure coverage of low-income beneficiaries by Medicaid. An income-related premium, or tax, will be introduced for the first time so that non-poor elderly and disabled will pay for a portion of the public subsidy now paid into the hospital insurance trust fund, part A, by employees and employers and into the supplemental Medicare insurance trust fund by the Treasury, which bears 75 percent of the cost of part B benefits. No one will be asked to pay more than the actuarial value of the benefit subsidy they themselves will receive.

Finally, don't be misled by the suggestion that this legislation does nothing about long-term care. It includes a number of improvements in present law for care outside of the hospital setting: extension of the skilled nursing facility benefit, elimination of the 3-day prior hospitalization requirement for care in an extended care facility, extended hospice care, extension of home health services, a new respite care benefit to cover in-home care for certain chronically dependent individuals as well as substantial liberalization of current law to reduce spousal impoverishment by protecting more of the income and resources of a couple for the maintenance of the noninstitutionalized spouse.

All in all, this is a bill worthy of your support. It fills some of the gaps in health care protection for the elderly and disabled in a fiscally responsible manner, pointing the way, I suspect, for congressional action in the future to deal with the remaining gaps in health protection for our citizens—young and old alike.

I urge a "yes" vote on the conference report.

□ 1200

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the Medicare Catastrophic Protection Act of 1987, which we are considering again today is a laudable example of legislative responsiveness to public outcry. For years, it has been increasingly obvious that catastrophic care is an area of great concern to vast numbers of Americans, but one which was unaddressed. Today we are changing that record. Today we are rectifying these inadequacies of our Nation's health protection program. Today we are taking a solid stance in announcing to millions of Americans that, should they fall victim to a major illness of a catastrophic nature, their government will be sitting at their bedside.

Just as important as supporting our countrymen who fall ill is the clear step we are taking to help prevent those major illnesses which threaten both life and life savings. It is imperative that we recognize the value of preventative testing in terms of lives saved, lives prolonged, individual expenses saved, and the funds saved by the Federal Government. By applying Medicare dollars to preventative and early-detection testing, we save the far greater sums which would have paid for treatment of aggravated illnesses. Thus, funding preventative and early-detection testing makes sound fiscal sense as well as sound medical sense.

The catastrophic care bill is a fine piece of legislation which includes a provision which I have advocated for well over a decade: to cover the costs of mammograms for detection of breast cancer at early stages. The American Cancer Society estimated in 1987 that 131,000 new cases of breast cancer would be detected per year, and, more tragically, that 41,000 women would die of breast cancer each year. These are no trifling figures. These numbers underscore the critical nature of promoting mammogram testing. Early detection will allow early treatment. Again, the savings will be measurable in terms of both lives and dollars.

An example of the achievable dollar savings was provided by a Texas physician to the State legislature. She found that hospitalization costs for treatment of breast cancer—excluding the cost of mastectomy—ranged from $11,000 to $60,000. By comparison, she found that the cost of mammography ranges from $125 to $175. And these dramatic savings do not even reflect the pain of debilitating surgery or incurable suffering which may be averted by early detection. I sincerely thank the conferees for placing this provision back in the bill and congratulate everyone who collaborated to package this catastrophic care legislation. Provisions such as the mammogram coverage emphasize congressional concern for getting at the root of medical problems, while saving dollars and lives in the process.

Consequently, I urge all my colleagues to lend their support to this landmark legislation.

Mr. MADIGAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to go on record as commending the committee members for what they have done in terms of home health care and respite care.

Mr. Speaker, I rise in support of the conference agreement on H.R. 2470, the catastrophic health care bill. There can be no underestimating the impact of this far-reaching legislation which remedies many of the problems in our current Medicare system.

Presently, Medicare does not adequately address the acute hospital care of our elderly. We have each heard the horror stories of patients who have been released from the hospital quicker, yet sicker. Among the factors contributing to this situation is simply that patients cannot afford to pay for lengthy hospital stays. At the same time, Medicare home health policy guidelines require the use of increasingly restrictive criteria in reviewing claims and the costs of perscription drugs.

Currently, Medicare patients must pay a $540 deductible per illness for the first 60 days of hospitalization. If a patient needs more than the initial 1 month of care, he is allowed an additional 30 days but must pay $135 in coinsurance. Therefore, for a 90-day hospital stay, a patient would be paying at the very least $8,640.

The time has come to lift from the American family the financial and emotional trauma associated with long-term illness or injury. People are deeply concerned that, no matter how prudently they save for a "rainy day," today's high cost of health care could wipe them out. Add to these deep-seated feelings the rapid growth in the older population and you have the recipe for a potent, if not catastrophic, political issue.

The conference report before us today remedies the potentially devastating effects of a catastrophic illness by limiting these out-of-pocket costs. No longer will a patient have to fear impoverishment in exchange for adequate health care. This bill limits patient out-of-pocket costs to $1,400 a year for doctor bills.

There is no doubt that older Americans spend considerable sums on necessary prescription drugs each year.

The agreement reached by the conferees addresses the spiraling costs of prescription drugs. Furthermore, the provisions contain the necessary cost containments which will keep the bill fiscally sound.

I am supportive of the extended home health and hospice provisions of the conference agreement. Home care is a necessary extension of a complete acute care and long-term program.

In 1987, the National Association for Home Care conducted a study on the effects of changes in Medicare coverage for home health services. Ninety-two percent of the agencies reported a significant increase in the number of clients who were sicker and in need of intensive medical or nursing care as a result of diagnostic related groups [DRG's]. Sixty-seven percent of all agencies responding have seen a significant increase in the number of claims denied by Medicare over the past year.

By statute, we must clearly define and expand home health services covered by the Medicare Program. Current Medicare hospital care is intended to reduce institutional care costs by reducing the patient's length of stay. The time has come for Congress to enact legislation which will leave no room for varying interpretation.

The conference agreement is that piece of legislation. Currently, not only is long-term care inadequate, it is also ambiguous. HCFA has taken full authority to deny or provide home health care without discretion. Impositions of new reimbursement methods come at a time when the elderly who rely on home health agencies for care can least afford it.

In my own State of New Jersey the number of Medicare home care denials has increased by 691 percent between 1983 and 1987. In 1987, at least 6,000 elderly and disabled New Jersey citizens were denied needed Medicare home care. This growing crisis is not limited to New Jersey, it represents the plight of millions of aging citizens throughout America.

The new provisions will not only clearly define daily care as 7 days a week it will also extend home health benefits to 38 days and longer if certified by a physician. Although I would have liked to see this provision extended even beyond 38 days. This is an important step in the right direction. Clearly, our goal is to achieve a cost effective and humane health delivery system.

I want to commend the conferees for accepting the more generous home health provisions of the House passed bill. Additionally, respite care has been incorporated into the final bill.

In conclusion let me just say to my colleagues who question the costs. They could take a lesson from the congressional district I represent. By most standards, it can be described as relatively affluent. My constitutents don't make outlandish demands. Nor do they expect a lot from Government. However, there is not a place I go that the subject of spiraling long-term health care costs is not raised. These anxieties exist in all age groups and will not go away. It is growing just as steadily as the older population is growing. These additional costs are necessary insurance against financial devestation of extended acute hospital care.

And, as with all insurance policies you hope and pray you will never need it. But when you need it, the coverage proves to be a prudent investment. It brings peace of mind and protects against potentially devestating medical costs.

Finally, this bill establishes a Commission to study and make recommendations for long-term health care. The Commission will conduct a reliable, bipartisan study of the critical and complex problems of nursing home care—care which is impoverishing a generation of Americans.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. WYDEN], a member of the Subcommittee on Health and the Environment.

Mr. WYDEN. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, mention has been made repeatedly that this bill is not perfect. That is absolutely right. But the fact of the matter is that this legislation does more to fill in the gaps in Medicare than any other bill that has been on the floor of this House in 20 years.

I am particularly pleased that it would take the first steps toward building a long-term care policy for our seniors. It does so in a cost effective way.

For example, it provides for a respite care benefit. One of the reasons the respite benefit makes so much sense is that if we can help people with respite care in their home we may be able to prevent catastrophic expenses that they might incur later.

The other thing that is good about this bill is that it takes strong steps to reduce the costs older people incur for private MediGap coverage. There is specific language in this bill to deal with the problem of duplicative health insurance coverage, and that language would apply immediately.

The last point I want to mention, Mr. Speaker, is earlier this year the Reagan administration proposed a rule that would have forced low-income nursing home patients to choose between paying for noncovered services like eye glasses or their nursing home care. The choice that rule would have placed on our nursing home patients was unconscionable. I introduced legislation with many of our colleagues to override it. The override of that regulation is in this bill as well.

All in all I think it is a good bill, a step in the right direction toward filling in the gaps in Medicare.

I want to commend the gentleman from California [Mr. WAXMAN], the gentleman from Michigan [Mr. DINGELL], and our colleagues on the Ways and Means Committee, particularly the gentleman from California [Mr. STARK], and the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I would like to applaud my colleagues who served on the conference committee that ironed out the differences between the House and Senate versions of the catastrophic health care bill. It was a long and difficult conference, requiring hours and hours of negotiations to reconcile the exceedingly technical aspects of these two bills. The conference report is an improvement over the House-passed catastrophic health care bill, that I criticized both in the Committee on Ways and Means and on the floor of the House of Representatives. It was a poorly crafted piece of legislation that was neither fair nor cheap, with an estimated total cost of $39 billion over a 5-year period that threatened to bankrupt the Medicare trust fund prematurely. This measure was not equitable because it placed the entire burden of financing the cost of the program on the elderly, subjecting them to a tax increase that was misnamed as being merely a new premium. It promised to provide a drug benefit from which most seniors would have never received any benefits. Finally, this measure did not address the most critical need facing the majority of seniors today—nursing home care.

While the conference report is an improvement over the House-passed bill because it is more fiscally responsible, I am nevertheless concerned that this new measure still has too much in common with its flawed predecessor. This new bill will destroy the MediGap industry by creating a mandatory Federal program which will offer benefits that are inferior to the kind of coverage that private insurance firms already provide. Today more than 70 percent of senior citizens have MediGap insurance policies which supplement Medicare. One third of all of these seniors are enrolled in group coverage plans and thus, receive good rates for catastrophic coverage. A good example of such MediGap insurance is Mutual of Omaha in Maryland which provides first-dollar catastrophic coverage for $530 a year. In this bill, the recipient pays the first $1,400 out-of-pocket expenses before the Government begins to provide catastrophic coverage. Otherwise, the Mutual of Omaha policy will provide everything that is contained in this legislation except for the drug benefit and the mental health benefit.

This bill will eliminate the concept of free choice in medical care for our senior citizens. This preemption of a successful private sector industry will force 20 million Americans to give up their MediGap policies. They will thus lose the ability to shop around for insurance policies which can meet their own specific needs and be forced to participate in a new Government program. If we assume that the history of Medicare provides us with some ability to predict the efficiency and quality of this new program, and I think it does, then senior citizens are in for a rude shock. They will experience increased health care expenses and reduced levels of service from this new catastrophic plan.

One of the most disturbing aspects of this bill is that it lies to senior citizens. Senior citizens understand that premiums are optional; an individual can choose whether or not to accept the coverage offered by a private insurance plan and pay the premium. The premium contained in this bill is actually a tax because individuals do not have the ability to choose whether they want to participate in this new program. Even if they do not participate in Medicare part B's new catastrophic plan, they will be forced to pay the premium according to their income level.

This bill will cost older Americans an arm and a leg. It will increase the monthly payments of beneficiaries by $3.80 next year, to about $30.90. The payment would rise to about $42.60 a month in 1993, a $10.20 increase from the payment projected under current law. In addition, Medicare participants who have enough income to pay Federal income taxes will get socked with a 15-percent surtax. The surtax will rise to 28 percent in 1993, and would be allowed to increase by 1-percentage point each year thereafter. However, the amount of the surtax would be limited to $800 per beneficiary next year, rising to a limit of $1,050 per beneficiary in 1993. The total cost of the bill will escalate to $29 billion in 5 years. It is highly unfair to burden our senior citizens in such a ruthless manner at a time when most citizens believe that Congress has reduced their personal income tax rates.

In addition, this bill does not really offer catastrophic coverage. It is in fact an acute care expansion bill; 80 percent of older Americans' out-of-pocket expenses that exceed $1,700 are not for doctor, hospital or for drug expenses, but in fact derive from nursing home costs. Too many seniors have been misled into believing that this bill will mean that they are covered for a prolonged stay in a nursing home. However, they are being set up for a big disappointment when they find out that they must still be impoverished before the Government picks their true catastrophic health care costs.

This legislation will be the second major expansion of the Medicare system, a deeply flawed program. When Medicare was created in 1966, it was estimated to cost $64 million during that year. But just 2 short years later, the program had already experienced serious cost overruns. In those 2 years, the cost had quadrupled to $4.7 billion and, in the face of financial troubles which we have become accustomed to hearing with regard to Medicare, payroll taxes were increased to pay for the increased cost. Just last year, at Medicare's 20th anniversary, the program was eight times its original cost projections. This year the cost of Medicare will be some $73 billion, and by 1990 the program is expected to exceed $100 billion. Clearly, history has shown us that neither Congress nor any administration can control Medicare's costs, and we all know that history has a way of repeating itself. Hence, we can realistically expect that the new catastrophic care payments will greatly exceed our projected cost and projected revenues will fall short of need.

The Medicare program is already in trouble and this bill will only serve to hasten its downfall. The actuaries of the Medicare trust fund have told us already that even before this so-called catastrophic bill, the trust fund faces bankruptcy in the 1990's, and that it will suffer further along with the overall Federal budget deficit. While supporters of this bill claim that it will only cause the trust fund to go bankrupt, "1 year early," I am concerned that they place too much faith in their predictions, based on computer models. It is far more reasonable to assume that the cost of the program will greatly exceed current projections and that Medicare taxes will have to be raised to protect this new sacred cow. This will only serve to deplete funds which should be used to guarantee the sanctity of the basic Medicare program.

This bill also contains an expensive drug benefit. This legislation requires a $600 deductable to be met before prescription drug costs are absorbed. The average annual prescription drug cost for seniors is $370, and for the disabled it is $440. Hence, the majority of individuals who are expected to see the Government provide them with assistance in paying for their prescription drugs will be dismayed to learn that this bill will not help them. At the same time, estimates indicate that the total cost of the drug benefit will be $4.8 billion.

This estimate could turn out to be exceedingly low given the fact that under existing law AIDS patients, the overwhelming majority of whom are under 65, can qualify for disability benefits. This will enable AIDS victims to receive prescription drug benefits contained in this bill. We are, therefore, asking grandparents to absorb the cost of paying the drug expenses for an untold number of AIDS patients, and I might add, that this is no small sum when one considers that the average price of treating an AIDS patient with AZT for a year is about $12,000. Although few AIDS patients currently survive the 2-year waiting period necessary to qualify for such assistance, in the future as more sophisticated drugs are developed and as more individuals come down with the sickness, it is possible that seniors will get stuck paying the bill for thousands of AIDS sufferers. The problem of caring for AIDS patients is something that must be addressed, but seniors should not be burdened with this expense.

In conclusion, Mr. Speaker, while all those associated with developing this piece of legislation certainly had good intentions, somewhere along the way we got off the track and crafted an expensive, unnecessary measure. Despite the many flaws contained in this measure, I understand that my colleagues will probably pass this bill today. I can only hope that my good friends will reconsider their views and vote against this bill.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, it is very difficult, of course, to oppose a bill which has a motherhood type of title which this one does. But when Members look past the title they have to address the substance, and the substance of this bill is seriously flawed.

This is essentially a tax bill on senior citizens which will cause them to see a significant increase in their liability without a commensurate increase in their coverage. Today, 80 percent of senior citizens have MediGap coverage which is equal to or close to equal to what is proposed under this bill, and in some cases exceeds what is proposed in this bill. They receive that for a cost which on the average is significantly less than the premium which will end up being paid as a tax under this bill by the average senior citizen.

The premium tax on this bill, which is a surtax, and it should be called a tax because that is what it is, starts at 15 percent on the first dollar based on $150 of tax paid and raises to 28 percent. That is a dramatic surcharge to put on our senior citizens.

What do they get for that? They get coverage, but they also get a rather large deductible, in fact it is a moving deductible, one which says that at the most only 7 percent of the people will be able to benefit from the program.

Today in New Hampshire, an average senior citizen can purchase a MediGap policy which will cover more than this policy proposal will cover for approximately $450. Under this program a senior with $14,000 of income in 1993 will be paying an additional $800 in taxes and premiums. That means they will be paying twice as much as such a MediGap policy would cost them.

The drug benefit which has been alluded to is appropriate legislation, but unfortunately it begins at a threshold which is so high that it is going to be difficult for most seniors to see the benefit of it with a $600 deductible and a 50-percent co-pay.

What this then essentially is is a good conscience attempt to try to get at a legitimate problem, but in doing so what we have done is to wipe out an industry, essentially the MediGap industry, socializing that industry in a way which will replace it with a Federal program which will end up costing many of our seniors more and making them pay a much higher tax.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Mexico [Mr. RICHARDSON], a member of the Committee on Energy and Commerce.

Mr. RICHARDSON. Mr. Speaker, this bill is the most important health initiative in recent years. It protects the Nation's 31 million elderly and disabled against out-of-pocket costs they now face from catastrophic hospital, physician, and prescription drug bills.

It addresses the long standing problem of medical vulnerability which for years has plagued and haunted millions of elderly citizens in our country.

After this bill is passed, the Nation's 31 million Medicare recipients will be protected from liability.

This bill is also crafted in a fiscally responsible way. The bill is deficit neutral and the benefits are financed from new premiums to be paid by Medicare beneficiaries.

Catastrophic illness can be devastating. Not only must one deal with the stress and strain of illness, but many of our Nation's elderly are burdened with a fear of financial devastation associated with catastrophic illness. In fact, over 1 million Americans were driven into poverty as a result of unexpected catastrophic health care costs in 1987.

An important provision in this bill is the spousal impoverishment which is important because it deals with nursing home and community spouses when they are left impoverished.

In closing, I believe that the conference agreement on catastrophic protection will inject some much needed humanity into our current Medicare and Medicaid systems.

Catastrophic illness can be devastating—not only must you deal with the stress and strain of illness but many of our Nation's elderly are burdened with the fear of financial devastation associated with catastrophic illness. In fact, over 1 million Americans were driven into poverty as a result of unexpected catastrophic health care costs in 1987.

The Medicare Catastrophic Protection Act will limit skyrocketing out-of-pocket costs to $2,146. This limit includes a $600 cap on inpatient hospital services, a $1,374 cap on costs for physician services, and a $176 cap on skilled nursing facility care. In addition it extends hospital coverage from 150 days to 365 days per year, provides a new respite care benefit and expands home health care. I am particularly pleased to see that elderly and disabled individuals whose incomes are too high to qualify for Medicaid but whose incomes are still below the Federal poverty line will be covered under this act by requiring Medicaid to pay their premiums.

I am also pleased at the inclusion of spousal impoverishment in this legislation. Because of Medicaid's strict income and asset tests for coverage with respect to nursing home care many community spouses are left impoverished. Community spouses must often spend their entire life savings, and the couple's combined resources maintaining the institutionalized spouse in a nursing home. The conference agreement prevents this unfortunate circumstance from occurring by increasing the amount of income and assets that community spouses can retain without terminating their nursing home spouse's Medicaid eligibility.

In closing, I believe the conference agreement on catastrophic protection will inject some much needed humanity into our current Medicare and Medicaid systems.

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I commend the chairman and my colleagues for their excellent work, especially my good friend, Mr. WAXMAN, Mr. ROSTENKOWSKI, and the minority for a very fine piece of legislation.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if I may have the attention of the gentleman from California [Mr. STARK], the chairman of the Subcommittee on Health of the Committee on Ways and Means, I would like to direct his attention to the now printed conference report, page 239, at the bottom of that page beginning with subparagraph G, and the reference to prohibiting the misuse of Social Security or Medicare references.

I would say to the gentleman that there has been some concern voiced that this provision may be directed only to one organization. I would ask the gentleman if he could assure the assembly that this provision is intended to speak to any organization's use of the Social Security emblem or the Medicare emblem.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from California [Mr. STARK].

Mr. STARK. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is absolutely correct. The Social Security System and indeed the Medicare system are one of the most revered of our Federal institutions. There have been brought to the attention of the Secretary of Health and Human Services and to many Members unscrupulous marketers, often in the case of insurance policies which are purported to be official or recommended by the Secretary of Health and Human Services, or by the Social Security Agency. It would cover those instances where people are misusing. It would go all the way down to those people who market wallets and put in a pseudo-Social Security card which often shows up in the hands of illegal aliens who attempt to work and use that as a Social Security card. So it has broad implications and is a regulation that is long overdue.

Mr. MADIGAN. Specifically it would include any organization or any institution, for example, a political party.

Mr. STARK. A political party, an individual, a member running for office, any individual, private, profit, nonprofit, yes.

Mr. MADIGAN. I thank the gentleman for his contribution.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. SYNAR], a member of the Committee on Energy and Commerce.

Mr. SYNAR. I thank the gentleman.

Mr. Speaker, let me join with those who are commending the chairmen of the various committees today.

Mr. Speaker, I rise in strong support of the bill that is before us.

All of us who have served in this body for any length of time realize the problem that we were faced with which generated this bill.

Our Medicare Program simply does not provide adequate protection for many of our elderly's health care needs.

On average, as all of us know, Medicare covers only about 45 percent of the beneficiaries' health care costs. Out-of-pocket health care costs, expenses, are as high today as they were in 1965 when Medicare was first enacted.

The solution that we look at today, the Catastrophic Illness Protection Act, does not go as far as I would like to see in covering all the catastrophic health care costs of the elderly. Our senior citizens are still on their own when it comes to paying for extended long-term care. But it does, I want to repeat, it does make significant improvements in our Medicare Program and that is why I am in support of it. The coverage on prescription drugs, the cap on Medicare part B of the out-of-pocket expenses and the unlimited hospitalization will provide peace of mind to literally millions of our elderly in this country today.

Now, while some will object to the way that the new benefits will be financed, in reviewing it I think one can conclude that it is equitable. As much as I would like to have provided more extensive coverage at less cost to our elderly, all of us who have served here know that the Government simply cannot afford that at this time.

So I rise in support of the bill today as a first step in trying to deal with this very sensitive problem which all of us have heard for many, many years.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I would request the chairman of the Subcommittee on Health of the Committee on Ways and Means engage me in a colloquy.

Now although the chairman of the full committee was quite correct in arguing that H.R. 2470 is deficit neutral, it is so in only two of the three provisions, the Medicare catastrophic provision and the Medicare coverage of outpatient drug provisions, that are self-financing. The Medicaid portion has a cost in every year.

On May 26, this House passed a conference report on the budget.

Included in new entitlement programs were two functions, function 600 and function 950, delineating certain amounts of money available for new entitlements for fiscal year 1989 and then the outyears 1990 and 1991.

On June 1, the House Budget Committee filed the allocation for fiscal year 1989 spending responsibility to the House committees as required under section 302(a) of the Budget Act. This report did not allocate any of the $275 million which is the first year expenditure in function 600 or the $125 million which was the expenditure in function 950 to any particular committee.

My question is that in the first year the Medicaid expense portion is $80 million under that function 950, nonallocated $125 million, but in 1990 it is $63 million over and in 1991 it is $150 million over for a total of $134 millon over in the 1989-91 period.

How is the scorekeeping and the allocation going to proceed since just this one provision, the Medicaid provision, exceeds the amount of the budget resolution.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the chairman of the subcommittee, the gentleman from California [Mr. STARK].

Mr. STARK. I thank the gentleman for yielding.

Mr. Speaker, I would have to defer to a member of the Committee on the Budget where that issue would more properly lie. It is a scorekeeping issue and that will have to be dealt with by the Committee on the Budget.

Mr. THOMAS of California. Mr. Chairman, I am looking for an answer; whoever responds to it I would appreciate it.

Who is it that will respond? Do we have someone who will respond from the Budget Committee who understands or from the Committee on Appropriations in which the committee responsibilities for these 302(a) allocations are, or from the Subcommittee on Health?

Mr. STARK. Mr. Speaker, I am sure before the close of debate we can find someone from the Budget Committee who would, if the gentleman would allow it under this gentleman's request to review and extend his remarks, will see that an answer is in the RECORD.

Mr. THOMAS of California. I thank the gentleman.

Mr. STARK. Mr. Speaker, the answer to the gentleman's question is that new entitlement authority in functions 950 and 600 in the budget resolution will be allocated by the Committee on the Budget. Since this bill is budget neutral, no allocations of the new entitlement authority provided in the resolution are needed. The deficit reduction of $2.3 billion over the 6-year period from 1988 to 1993, as estimated by the Congressional Budget Office, cannot be used to increase spending or reduce revenues in any subsequent bill.

The reason for the deficit reduction is that this bill established adequate reserves in the drug trust fund and the catastrophic coverage account, so that under alternative economic assumptions and contingencies, we and the elderly would have assurances that—

Their benefits would be there; and

Reimbursement would be paid to providers on a timely basis.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 2 minutes to an important member of our subcommittee, the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. I thank the gentleman for yielding time to me.

Mr. Speaker, today marks a historic legislative milestone for the Congress and most importantly, for the American people. The bill before us today, H.R. 2470, the Medicare Catastrophic Protection Act makes the most significant improvement in Medicare coverage since the program's creation in 1965.

This bill addresses the widespread illusion that Medicare provides life-long protection against all illness and disability. The impression that the elderly do not have to worry about being unable to pay for health care in their later years is just that—an illusion.

Because so much is not covered, Medicare now pays only one-half of the actual Medicare expenses of the elderly.

Medicare was designed as an acute care program and it covers acute care—essentially short-term hospital stays and short illnesses—rather well. But there are many gaps in coverage. For example, Medicare does not now cover prescription drugs, eye exams, eyeglasses, dental care, dentures, flu vaccines, mammograms, or preventive care. Most significantly, there is no limit on how much a retired person might have to pay for health care. If an illness requires an extended period of care, a beneficiary can exhaust all benefits and wind up bankrupt, often impoverishing their spouse as well.

In the case of long-term care in a nursing home, medicare now pays for only 100 days in a skilled nursing facility and nothing for custodial care in nursing homes. After this 100-day period, a person must pay the entire cost of their care or essentially go on welfare. Either route leads to poverty for the elderly person who becomes chronically ill.

In addition to increasing coverage for the elderly, the bill before us today makes a number of needed improvements in Medicare and Medicaid in the areas of long-term care, home health, mental health, and drugs. While this is a good bill, it highlights the need for Congress to seriously address other gaps that exist, most significantly long-term home care and nursing home care.

OUT-OF-POCKET LIMITS

H.R. 2470 would limit the amount that comes out of an individual's own pocket for physician health care. Beginning in 1990, once an individual has incurred $1,400 in health-care expenses, Medicare will pay for 100 percent of all costs thereafter.

HOME HEALTH

The bill improves home health services. Currently, an individual is only allowed home care 5 days a week for 2 to 3 weeks. Under H.R. 2470, a beneficiary could get home health services every day of the week for up to 38 days. This could be further extended if certified by a physician.

MORE HOSPITAL AND NURSING HOME COVERAGE

Hospital care would be covered for a full year, instead of the current limit of 60 days. The number of days covered by Medicare in a skilled nursing facility would be increased from 100 to 150. For nursing home care, the 3-day prior hospitalization requirement would be eliminated.

CATASTROPHIC DRUG COVERAGE

One of the most important additions made by the Health Subcommittee, on which I serve, is improved coverage of prescription drugs. For the elderly, prescriptions drug costs can run into the thousands of dollars per year. Under the bill, beginning in 1991, Medicare will pay for 50 percent of the cost of prescription drugs after meeting the $600 annual deductible. By 1993, Medicare will pay 80 percent of costs. Currently, Medicare does not cover drugs, except for certain immunosuppressive drugs for organ transplants which Congress added several years ago at my suggestion.

IN-HOME TEMPORARY CARE

I am pleased the House-Senate conferees accepted my amendment to provide Medicare coverage of temporary care in the home for the chronically dependent elderly. By covering 80 hours of respite care in the home per year, we will help the unpaid care providers and prevent institutionalization of the dependent family member. Unfortunately, to receive the respite benefit, the Medicare beneficiary must exceed either the part B out-of-pocket cap—$1,400 in 1990—or the prescription drug deductible—$600 in 1991. This provision, however, is a start and will be an important new Medicare benefit for many families who care for elderly or disabled family members at home.

Eighty percent of the severely impaired elderly live in the community. Most are able to because they have a caregiver, like a spouse or daughter. Caregivers are frequently themselves people in their sixties and seventies. Even the most heroic need help and relief. The provision in this bill would provide less than 1½ hours of help a week, a minimal benefit but a start.

SPOUSAL IMPOVERISHMENT

We also took an important step to prevent the impoverishment of a spouse when their husband or wife has to go into a nursing home. Currently, when one partner in a marriage enters a nursing home, the income and assets of both individuals are used to pay for that care. If the couple wishes Medicaid coverage of nursing home costs, they must first exhaust or spend down all their funds to poverty levels. In effect, a lifetime's work of savings can vanish rapidly within a short time. Moreover, whatever income is available to the couple must first be used to pay for medical care, leaving the spouse at home very little on which to live—currently an allowance of about $330 per month. The spousal impoverishment provision in this bill would gradually raise the income that can be retained by the spouse at home. It would also allow the at-home spouse to keep at least 12,000 dollars' worth of the pair's combined assets and the couple's house. This is a critical change for many couples who would be financially wiped out by a long-term illness under present law.

FINANCING

The financing of these new benefits has been a most difficult issue. With the Federal deficit continuing to be intractable, it is more and more difficult to pay for new benefits out of the Federal Treasury. And the Reagan administration has refused to support a policy of spreading out the costs among both the nonelderly and the elderly. Under this bill, the new benefits would be financed by an increase in the monthly part B premium for physician services of $3.80 in 1990 and a new progressive surcharge on the income of those provided with insurance by this program. The progressive surcharge starts low, essentially reaching only 40 percent of the elderly based on income.

For a Nation that should be the most advanced in the world in health care, our health care system is now deficient. The Medicare catastrophic bill has generated a welcomed debate on the inadequacies of our health care system. I hope it marks an important starting point for filling in the gaps in the system and providing security and comfort to many Americans who fear being driven into poverty by illness after they are retired.

I urge support for the Medicare Catastrophic Illness Protection Act.

The SPEAKER pro tempore. The Chair understands that the gentleman from Florida [Mr. BILIRAKIS] will be handling the time on behalf of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Yes, Mr. Speaker.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I had more than my fair share of misgivings about this bill when it was originally before this body last summer, I voted in favor of its passage. I did so primarily with the intention of keeping the President's concept of providing our senior citizens with the peace of mind they need and deserve in regards to protection against astronomical health care costs alive.

I fully realized the bill's flaws at the time I first supported its passage in the House and would have preferred to see a different package before us—one with, perhaps governmental incentives, probably in the form of tax credits, to private insurance companies to offer policies to senior citizens at reasonable premium rates that would cover the types of medical expenses which the bill before us offers under the Medicare Program.

In any event, I voted for the bill and proceeded to hold a series of 10 town meetings in my district devoted solely to this legislation. I told my constituents at these town meetings that, while certainly imperfect, I supported the bill in the House and did so with the hope that the Senate version and, more importantly, the conference committee which would be convened later would work to make the bill a better one for our senior citizens.

Sure enough, the Senate did offer a better package for senior citizens—especially with the passage of the amendments which provided Federal and State government retirees, as well as military veterans, more equitable treatment in the amounts of the premiums they would owe versus Social Security retirees—who have a smaller portion of their benefits taxable.

I was also fortunate enough to serve on the conference committee which worked long and hard to try to make this a good, fair, and balanced bill.

The bill is still not perfect, Mr. Speaker. It still has some provisions in it that I would prefer not to see, such as the drug benefit provisions which will benefit relatively few elderly Medicare beneficiaries but will impose additional premiums on all of them.

All in all, however, the bill will succeed in its primary purpose—providing peace of mind to our senior citizens in knowing that they will have insurance against medical costs resulting from a catastrophic illness.

They will, indeed, have some additional premiums to pay, but the good part is that the flat premium increase is not expected to be more than $4 per month in 1990 and no more than $10.20 per month in 1993. The surtax, which goes into effect in 1989, is estimated to be paid only by 40 percent of the beneficiaries with the highest income levels and that is scaled based on income amounts.

In exchange, Medicare beneficiaries will have unlimited hospitalization after satisfaction of a single annual deductible—$564 in 1989. Furthermore, they will have protection against outpatient medical costs, that is, doctor bills, which they do not have now, after meeting a maximum out-of-pocket cap of $1,370 in 1990 and protection against catastrophic prescription drug costs after satisfaction of a separate annual deductible.

In addition, they will have 38 days of continuous home health services with more available upon physician certification and other favorable benefits such as first time medical coverage of preventive medical procedures such as mammography screening, a respite care benefit for up to 80 hours per year for individuals caring in home for a chronically dependent individual, 150 days of skilled nursing facility long-term care, without recurring prior hospitalization.

Not adequate, to be sure, but long-term care in a nursing facility nevertheless.

This legislation does meet the original intent, to protect against the type of catastrophe which may result from certain illnesses. It is a great improvement over the original House bill. Our conference committee, of which I was a part, worked long and hard to make those improvements.

For these reasons, Mr. Speaker, I intend to support the bill before us this morning and would urge my colleagues to do the same.

In my opinion, the good in the bill far outweighs the bad.

□ 1230

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, I rise in strong support of the conference report on H.R. 2470, the Medicare Catastrophic Protection Act, which we are considering today. I want to commend my colleagues, Mr. WAXMAN and Mr. STARK of California and Mr. PEPPER of Florida for their outstanding leadership on this critical issue.

H.R. 2470 is an excellent step forward in addressing the dire need for comprehensive health insurance among older Americans. When a severe illness strikes, the emotional and physical burdens are great and the stress on both the victim and family are tremendous. But the threat of exorbitant medical bills and diminished savings may exact an even greater burden.

The Medicare Program was enacted in 1965 to provide the elderly with acute health insurance coverage. Until then, many seniors lived with the constant fear that a serious illness could leave them destitute. Unfortunately, the increasing cost of health care and utilization of services has left large gaps in Medicare's coverage H.R. 2470 addresses some of these gaps and enhances the Medicare package.

Mr. Speaker, last year I held a field hearing in my district in northeast Philadelphia. My constituents told me about the critical need for protection from catastrophic costs of long-term care and extended hospital stays. I heard horror stories from families who were pushed into poverty because they tried to provide adequate health care for their older parents and relatives.

H.R. 2470 provides the foundation of a sound plan for comprehensive coverage. First, H.R. 2470 establishes a Long-Term Care Commission to examine options for a long-term care plan in the future. This is an essential step in the development of a workable plan for long-term care insurance. The Commission is required to report to Congress after 6 months and make recommendations for Federal policy on long-term care.

In addition, the Medicare Catastrophic Protection Act establishes a Respite Care Program to give relief to the families and unpaid caregivers of the infirm elderly. Under the program, families would be eligible for up to 80 of hours paid in-home care per year for an elderly Medicare beneficiary who is unable to perform at least three activities of daily living. A Respite Care Program will preserve the informal caregiving system which provides the majority of long-term care to Medicare beneficiaries at home. By giving these families temporary relief from the strain of caregiving, we will help to maintain this important support network.

H.R. 2470 also addresses the need for solutions to the problem of "spousal impoverishment" which results when one spouse enters a nursing home. Often the spouse remaining in the community is left with little to live on. This legislation changes Medicaid eligibility standards. Under this bill, nursing home residents would qualify for Medicaid while the spouse at home could retain up to $12,000 in liquid assets and the couple's joint income up to 122 percent of the Federal poverty level—currently $786 per month.

Both the Respite Care Program and the spousal improverishment provisions represent basic steps forward in the development of Federal policy to address the long-term care needs of older Americans.

While we will continue to develop a workable long-term-care policy, H.R. 2470 sets up several essential measures to address the acute catastrophic needs of older Americans. First, the bill would provide for the coverage of extended hospital stays after the payment of a single annual deductible—estimated to be $580 in 1989. Under the current Medicare program, beneficiaries must pay the deductible for each "spell of illness" whenever they enter the hospital. These deductibles mount quickly and easily devour a fixed income.

H.R. 2470 would also cap overall part B expenses fo physician visits and routine lab tests. Victims of chronic illness visit the doctor frequently. Medicare allows coverage of 80 percent of physician charges after the payment of the annual $75 deductible. However, multiplying bills from frequent visits to the doctor are not uncommon. H.R. 2470 would cap out-of-pocket Medicare charges. After the limit is met, Medicare-allowed charges would be covered in full.

The bill also increases coverage under Medicare for skilled nursing facility care and eliminates the current requirement that the beneficiary be hospitalized for 3 days prior to entering the nursing home. Under this legislation, the beneficiary would pay 20 percent of the charges for the first 8 days. After that, the charges would be covered for the remainder of their stay.

In addition, H.R. 2470 establishes a program for coverage of prescription drug expenses. Some of the elderly's highest out-of-pocket charges result from their prescription drug expenses. for many families, the cost of the drugs can mean the difference between skipping a meal or not paying the phone bill. The catastrophic prescription drug plan under H.R. 2470 would be phased in beginning in 1991. The plan would pay 50 percent of the charges for prescription drug expenses after the payment of an annual $600 deductible. Medicare's share would increase to 60 percent in 1992 and 80 percent in 1993 and thereafter.

Another important measure included in H.R. 2470 would provide clarification of the Medicare home health care benefit under part A of the program. Under H.R. 2470, beneficiaries would be allowed daily home health visits for up to 38 days. This care could be extended if a physician recertified the care as medically necessary.

In sum, Mr. Speaker, this legislation offers older Americans a comprehensive acute catastrophic insurance package and the beginning of a sound long-term care policy. It is an excellent step forward in addressing the dire need for comprehensive health insurance for all older Americans.

Once again, I want to commend my colleague from Florida, Mr. PEPPER, for his outstanding leadership on the long-term care issue. I understand that we will be voting on Mr. PEPPER's long-term home care measure in the next few weeks. I commend him for his perseverance and dedication to addressing the health care needs of older Americans. H.R. 2470 warrants the support of all of my colleagues and I look forward to its approval by the House.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinios [Mr. BRUCE].

Mr. BRUCE. Mr. Speaker, today we are voting on the first major improvement of benefits offered to the Nation's elderly since we first passed Medicare back in 1965. We have vastly improved the proposal from the administration, and we have turned this into a program that provides a prescription drug benefit, caps the yearly medical expenses, and takes the first steps toward alleviating the burdens of long-term care costs.

We have taken three important steps concerning the financing of these new Medicare benefits. First, the Medicare beneficiaries themselves will help defray the cost of the new programs, and that is a step away from intergenerational financing and the general revenues of this country. Second, the Medicare premium structure has become fairer, requiring the richer Medicare patients to pay more than the poorer patients. And, third, the proposal is deficit/neutral.

The prescription drug benefit addresses one of the fastest rising components of health care costs paid for by the elderly. In the United States, persons aged 65 and older represent only 12 percent of the population but consume 30 percent of the prescription drugs in this country. But fewer than half of them have any insurance at all for these kinds of costs. Between the years 1981 and 1985 prescription drug costs rose 51 percent, compared with only 23 percent for general inflation. This bill offers needed relief for those increased costs.

Finally, with the new protection against spousal impoverishment, we are ending the necessity that older people impoverish themselves before qualifying for Medicaid. Under the new provision, a wife or husband of a nursing home resident could keep their home, $12,000 in assets, and an income up to 50 percent of the poverty level while getting Medicaid help with nursing home costs. This provision in particular will mean a great deal to the people in my district.

Mr. Speaker, this is a package that demonstrates that Congress can work. Each of the committees that worked on this bill deserves credit because they improved the benefits and worked to hold down the costs. This conference report deserves our support.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER Mr. Speaker, I thank the gentleman for yielding this time to me.

Let me begin by saying how much I appreciate having worked with my colleagues on the Ways and Means Subcommittee that drafted so much of this legislation. I respect and appreciate the leadership of our chairman, the gentleman from California [Mr. STARK] and the ranking minority member, the gentleman from Ohio [Mr. GRADISON]. Our work on this bill led us to different conclusions, but the chairman and ranking Republican have been more than generous in working with all of the members of the Committee on Ways and Means on this bill.

I am reluctant to oppose this bill today, because I do not think it is one of those black-and-white, right-or-wrong issues; but I believe that, on balance, there are more reasons to oppose the bill than to support it.

But first, let me mention what impresses me most about the bill. In providing benefits for a specific segment of our society—the elderly—we are saying that those who receive the benefits ought to pay for them.

The problem, though, is that this bill apportions the cost among the elderly in a way that isn't fair.

Mr. Speaker, the role of government is to make sure that people have choices in a free society, and to make sure they have the resources to make those choices. It is to help those who cannot help themselves. But it is not the role of government to make those choices for people. It is not the role of government to tell people they aren't competent to manage their own affairs.

With this bill, we're sending conflicting signals. One is that people ought to be planning for their retirement, that they ought to save, they ought to sacrifice. Millions of retirees have done just that. In fact, 8 out of 10 retirees already have the kind of coverage that this bill provides.

But now we're telling people who have prepared for their retirement that they have to pay for coverage—even if they already have it. And as if that isn't enough, we're telling them that they also have to pay for coverage for those who haven't made any preparation.

Mr. Speaker, we all remember the story of the ant and the grasshopper. This bill tells the ant that he has to buy additional provisions, and he has to buy them for the grasshopper too. That's just not fair.

And unfortunately this bill addresses the wrong problem.

The most catastrophic threat hanging over elderly Americans and their families is the potential for a long-term stay in a nursing home. Here we have a bill that will force seniors to pay anywhere from $50 to $1,000 a year on top of existing Medicare premiums. Under current law, people are paying about $300 a year for their Medicare benefits. Under this bill, the average premium in 1993 would be $1,000—more than a three-fold increase in 5 years.

But that's only part of the picture. In addition to the premium increase, 40 percent of retirees would pay a new surtax in addition to their Federal income taxes. In 1989, a taxpayer with earnings of $20,000 would pay $180, and those earning $50,000 or more would pay $800. By 1993, the surtax would be as high as $1,050.

After 1993, we don't know what the premium costs and surtaxes will be. We can be sure that utilization will increase, and that health care costs will rise. That means premiums have to rise, benefits have to drop, or both.

If we were talking about coverage for long-term care, these premiums might be a lot easier to explain. But this is Medigap coverage, coverage that sells for $400 to $500 in the private sector, coverage that most of the elderly already have. Let's not make everybody buy a government policy, in order to cover those who haven't made their own provisions. There has to be a better way to help those who don't have sufficient coverage.

The SPEAKER pro tempore (Mr. PANETTA). The time of the gentleman from Washington [Mr. CHANDLER] has expired.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this legislation which, I think, makes important improvements in both the Medicare and Medicaid Programs and addresses many of the most severe problems faced by senior citizens and disabled persons arising from the catastrophic costs of health care.

It is important that we place a cap on these expenditures, as is done in this legislation. The implementation of a prescription drug benefit will be extremely important to most senior citizens as it grows in its generosity over the years.

I commend the committee for coming back to us with a progressively financed system. This is something that was in the original House bill and has been in fact improved in the version that come to the floor. I think this is critically important.

The Medicaid improvements are extremely important. I call attention to the fact that those ineligible for Medicaid but below the poverty line will be brought into the Medicaid Program in future years and the fact that spouses in the community will be protected from impoverishment when their spouses are in nursing homes under the Medicaid Program. Problems that were in the House bill with respect to Federal employees have been resolved in this legislation so that Federal employees will not be asked to pay twice for duplicative coverage, and they are told that they will not be asked to pay an unfair tax burden. That is an important provision as well.

Finally, I want to commend the committee for its inclusion of a commission on long-term care and comprehensive health care for all Americans. It seems to me this is precisely the right way in which we should address this issue. It is certainly time that we address the issue of long-term care, and it is time that we address the issue of comprehensive health care for every American, but we need to do it with everyone at the table and all the benefits being considered. In this legislation we are taking that step, and we are putting in motion, I hope, a process that will lead in the next year or two to a real comprehensive addressing of this problem in a way that we can pay for it and in a way that we can justify the burdens and the benefits to be shared equitably by all Americans.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on H.R. 2470, the Medicare Catastrophic Protection Act of 1987. This landmark legislation will provide extensive acute care benefits for our country's 32 million senior citizens and, most importantly, peace of mind protection against the possibility of a financially devastating illness or accident.

I was an original cosponsor of H.R. 1245, the President's catastrophic care bill, when it was introduced in the House of Representatives more than a year ago. In fact, I met with HHS Secretary Otis Bowen in January 1987, before the administration agreed to support the concept of H.R. 1245, and pledged my support for his plan. Secretary Bowen agreed with me that a beneficiary-financed, broad-based insurance plan to protect seniors from being impoverished by an acute catastrophic incident should be a priority for the 100th Congress.

Although I believe that the Federal Government does have a responsibility to facilitate catastrophic protection, it is essential that this involvement be guided by policies that utilize our Nation's limited fiscal and health care resources as effectively and efficiently as possible. The original catastrophic care bill I cosponsored last year was written with such a policy in mind. It limited a senior citizen's out-of-pocket costs to $2,000 per year, was affordable, was self-financed, required no additional Federal bureaucracy, entailed minimal administrative costs and left a significant role for private industry so that the creativity and diversity of the marketplace could make continued contributions to our Nation's health care needs.

The bill before us today adopts many of these principles, however it is different from the legislation Secretary Bowen submitted last year. It does limit out-of-pocket expenses for Medicare-covered hospital and physician expenses to just under $2,000 by 1990. It is self-financed and will be administered by the existing Medicare bureaucracy. There are copayments and deductibles and I trust that there will be an opportunity for the private sector to be involved in providing additional coverage for those who seek it.

H.R. 2470 also addresses the problem of spousal impoverishment. This is an excellent addition because this onerous and unfair situation wiped out the assets of many responsible seniors who had diligently saved for their retirement but could not meet the extraordinary expense of nursing home care.

Finally, this bill has an outpatient prescription drug benefit that I know many seniors will welcome when it begins in 1991. This benefit, in combination with some additional services, is going to make the mandatory supplemental premium for those with incomes high enough to pay Federal income taxes higher than envisioned in our bill last year.

In summary, Mr. Speaker, while this bill does not address all of the health concerns of our senior citizens, particularly the concerns regarding long-term and nursing home care, this bill is a most important step in providing our senior citizens peace of mind protection against the threat of an acute medical problem and virtually eliminates the problem of spousal impoverishment. I urge my colleagues to support this conference report.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference agreement on H.R. 2470. This bill represents the most significant improvement in Medicare coverage since the program was first enacted in 1965. It will go far toward eliminating the risk of financial disaster due to high medical expenses for 32 million elderly and disabled Medicare beneficiaries. It also makes important, and long overdue, improvements in the Medicaid Program, providing further protection for the neediest members of our society.

The bill is consistent with the fiscal year 1989 budget resolution adopted last week by the House. It will not increase the deficit in any year, and enjoys bipartisan support.

Before reviewing the bill's major provisions, I want to note the critical contributions made by a number of my colleagues on the Energy and Commerce Committee. Chairman Dingell was vigorous in his advocacy of the House position. Mrs. Collins' tireless efforts assured the coverage of mammography screening, which will allow early detection and prevention of breast cancer. Months and months of work by Mr. Walgren have brought the chronically dependent elderly and disabled a respite care benefit, which we hope will enable them to avoid nursing home placement. Mr. Wyden pressed to make sure that Medicare supplemental insurance policies did not take advantage of Medicare enrollees. And Mr. Leland's crusade to reduce infant mortality has achieved yet another milestone, since the bill assures Medicaid coverage for all pregnant women and infants with incomes below the poverty line. Finally, I want to acknowledge the efforts of Chairman Gray and the House leadership who, in crafting a budget resolution, assumed the enactment of these Medicare and Medicaid initiatives.

MEDICARE IMPROVEMENTS

When Medicare was enacted in 1965, it was modeled after the private health insurance that was available at the time. The emphasis was on acute, hospital-based care. Unfortunately for Medicare enrollees, the scope of coverage under Medicare has remained virtually unchanged since then, although private insurance coverage has expanded to meet changing needs and demands. The dissatisfaction and anxiety which Medicare enrollees have regarding its limitations is reflected in the fact that nearly 70 percent of them purchase medigap and other forms of additional insurance.

This bill addresses three of the four major sources of Medicare enrollees' anxieties. First, it eliminates the financial burden of extraordinarily long or repeated hospitalizations. Second, it establishes an upper limit on out-of-pocket expenses for physician and related services. Third, it provides assistance to those with exceptional needs for prescription drugs. The fourth area, long-term care, is unfortunately left largely unresolved by this bill.

The bill also makes two other improvements which are relatively small—compared to the needs which should be met—but potentially highly significant—in what they might portend for the future. One is preventive care, in the form of mammography screening. The only preventive care currently available under Medicare consists of pneumonia and flu shots. I hope we will begin to emphasize preventive care much more in the future.

The second improvement is the addition of a modest respite benefit for chronically dependent individuals who are trying to stay out of a nursing home, but are unable to do so without assistance in essential activities of daily living, such as eating, bathing, and the like. This is a small first step toward dealing with long-term care, but it is strategically the most vital first step. Moreover, it demonstrates that the Medicare Program can be used creatively to meet the needs of the Medicare population, without regard to preconceived notions that the program must be limited to acute care.

Let me emphasize the great importance of the prescription drug benefit. This is a longstanding deficiency in the Medicare Program. Many of the elderly and disabled are dependent on expensive prescriptions to maintain their health. Most of them have no access to any other form of insurance coverage for drugs. When our subcommittee considered this bill last summer, groups representing the Medicare enrollees made it clear that, without coverage for prescription drugs, they considered the bill seriously deficient.

We worked with the enrollee groups, with the pharmacy community and with the drug manufacturers, and with the Congressional Budget Office, to develop a benefit that provides this critically needed coverage in a responsible manner.

Another highly significant innovation in this bill is the progressive financing used to pay for most of the benefit expansions. The new benefits are financed entirely by Medicare enrollees. Over a third of the funding comes from increased monthly premiums paid by all enrollees. However, nearly two-thirds comes from an income-related premium, which will be paid by the 40 to 50 percent of the enrollees who have tax liability. I wish to underscore that no elements of eligibility of benefit coverage are means tested under this bill. What the bill does is require those with higher incomes to pay a greater share of their benefits.

I have heard it argued that some people will be paying a great deal more than they now do, and will not be getting anything in return. I disagree with that analysis. Under this bill, enrollees will be buying insurance against the risk of a catastrophic event. We do not claim we have received nothing in return on our automobile or fire insurance, if we are not in an accident or our house doesn't burn down. Insurance is a means of spreading the risk of a calamitous event, that can strike capriciously, among all those at risk.

I would further point out that Medicare enrollees will continue to receive a highly subsidized health care plan. Even those individuals who would pay the maximum in income-related premiums will continue to receive subsidy from general revenues of approximately 30 percent of their covered benefits. Moreover, the addition of these benefits will obviate the need for supplemental insurance coverage for many of these enrollees.

Both Houses of Congress worked hard to develop a bill that provided needed benefits in the most effective manner and was equitably financed. The conferees have also worked hard to resolve difficult issues, which reflected differences of view on the most critical features of this bill. In my view, the conference agreement succeeds in balancing these differences. More importantly, it succeeds in providing our elderly and disabled population with vitally needed improvements in the Medicare Program in a fiscally and programatically sound fashion.

MEDICAID

Let me turn now to the three major Medicaid provisions in the bill.

For the low-income elderly, financial catastrophe resulting from medical care costs begins much earlier in an illness than for the affluent. In order to provide meaningful catastrophic protection for the poor, the bill requires the States, on a phased-in basis, to use Medicaid funds to pay the Medicare premiums, deductibles, and coinsurance for the elderly and disabled with incomes below the Federal poverty level. Effective January 1, 1989, when the Medicare flat premium will increase to begin paying for catastrophic benefits, most States will be required to "buy-in" the elderly and disabled with incomes at or below 85 percent of the Federal poverty level. This minimum-income threshold will increase 5-percentage points per year until it reaches 100 percent of poverty on January 1, 1992. By full implementation, this provision will protect about 500,000 poor elderly and disabled Medicare beneficiaries from catastrophic cost sharing.

For all the elderly, poor and nonpoor, the main catastrophic threat is the need for long-term nursing home care. Currently, Medicaid offers the only public assistance for long-term nursing home care. Unfortunately, the way the program is currently structured, in order to qualify for Medicaid, a nursing home resident must not only impoverish himself, but must often impoverish his spouse living at home, by applying most of the couple's income and assets toward the cost of nursing home care. The bill would end impoverishment of the community spouse by protecting minimum levels of income and assets for her continued use. Effective September 30, 1989, the community spouse would be able to retain income equal to at least 122 percent of the two-person Federal poverty level; this year, that comes to $786 a month. By 1992, this protected income threshold would be increased to 150 percent of the two-person poverty standard. The community spouse will also be able to keep half the couple's liquid assets, subject to a floor of $12,000 and a ceiling of $60,000. States which want to protect more assets for the community spouse could increase the floor to as high as $60,000. By full implementation, this provision will protect an estimated 128,000 community spouses from impoverishment.

Finally, the bill addresses another kind of catastrophe: The Nation's unacceptably high infant mortality rates. The Office of Technology Assessment, the Institute of Medicine, and others have consistently pointed out that the key to reducing infant mortality is to lower the rate of low-birthweight births, by assuring that high-risk mothers have access to quality prenatal care. Already, about 36 States have adopted the current law option to extend Medicaid coverage to low-income pregnant women and infants with incomes at or below 100 percent of the Federal poverty level. This bill would require all States, on a phased-in basis, to extend Medicaid to poor pregnant women and infants. As of July 1, 1989, the remaining States will have to cover pregnant women and infants up to 75 percent of poverty; by July 1, 1990, up to 100 percent. This will reach an estimated 68,000 poor pregnant women and 240,000 poor infants by 1990.

In conclusion, this bill is a major step forward for the elderly, the disabled, and the poor in this country. It is fully financed and will not increase the deficit. I urge my colleagues to vote for this bill.

□ 1240

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, I thank the gentleman for yielding this time to me, and I did have a substantial amount of time during debate on the rules, so I hope that the 3 minutes which I have been given will enable me to at least outline to my colleagues the concerns that I have about why this bill should be objected to by voting "no" at the conclusion of this discussion.

Mr. Speaker, the cost estimates from CBO and from the administration are pretty close on the basic benefit. About $45 billion will be the outlays from these programs by 1995. There is a serious dispute over what the incurred drug costs or the outlay for drugs will be. I think the administration's estimated costs are closer in line with what we should come to expect, about $33 billion so the cost of this bill is going to be about $80 billion by 1995.

Mr. Speaker, if my colleagues extend the program out, presuming every cap stays in place, the $1.50 cap on the flat premium, utilizing the second of two trust funds established by the bill to essentially borrow to pay for the drug expense, because we realize that the flat premiums will not be enough, we will end up with costs that will exceed $1 trillion over the next 20 years.

So I want my colleagues to appreciate that we are setting up a trillion dollar expense by voting for this bill.

Now the AARP should be real pleased. This is their bill. I want to give them credit for it right here on the floor of the House. Liberals love it, and conservatives are scared to death of what is in store for the elderly of this country.

Mr. Speaker, we are going to socialize, essentially federalize, all delivery of acute care, make it unnecessary really for private insurance companies to provide any acute coverage, and we have sent a signal to the private insurance companies of this country that you ought not to engage in figuring out how to actuarily provide for a private sector, long-term, home, health or nursing care benefit, because we will do to you and to that program what we have just done to medigap and supplemental by the federalizing, by the socializing, of short-term acute care expense.

We set up two trust funds. We funded them with three brandnew taxes. I do not really think that that is what President Reagan intended. I don't really think that is what Members of this Congress have intended.

We are not doing anything with this transfer payment entitlement program to address nursing home care, and we are not doing anything to address home health care, and for those reasons I think we ought to go back to the drawing boards and find a different way of focusing on health care.

Mr. Speaker, I am troubled particularly by one aspect of the bill, which is the fact that; and I find no proponent of the bill objecting to it; that the older American who has any dollars of tax liability will pay a premium, a new income tax, should be as much as $600 to $1,000 by 1993-95 per person, and most of that money will go to pay for AZT and other AIDS-related drugs. I do not think older Americans who will pay for this bill should pay for AIDS drugs, and, if you agree, you should vote "no" on the bill.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I rise in support of this bill, and I wish to congratulate the many Members of the leadership team on the Democratic side who helped make this bill a reality, and on the Republican side, too. It has been a truly bipartisan effort. It will add significant additional protection to our Nation's senior citizens.

Mr. Speaker, the key elements of this legislation will limit out-of-pocket costs for hospital care and physician care. It will lift the burden of drugs substantially from our senior citizen population and, thereby, fill one of the greatest gaps in Medicare coverage up until this time, and it will prevent spouses from having to spend down into poverty in order to qualify their loved ones for Medicaid nursing home reimbursement.

□ 1250

I congratulate the chairman of the Energy and Commerce Committee, the distinguished subcommittee chairman of the Health Committee, the gentleman from California [Mr. WAXMAN], and all the others.

It is a fine piece of legislation.

Mr. Speaker, I would like to address my colleague, the gentleman from Nebraska [Mr. DAUB] and comment on some of the remarks the gentleman made.

First, let me say that there are few Members of Congress more able, more dedicated, more involved and more constructive in their general approach to the major problems facing our country than the distinguished gentleman from Nebraska [Mr. DAUB]. He and I do not agree on every issue, but in terms of high intelligence, deep integrity and a conscientious approach to the great issues of our time, he rates among our best, and I wish him well.

Let me say, the gentleman expresses very real concerns about a health-care system that has burst out of control, a health-care system whose costs are going up at least twice the rate of the Consumer Price Index. We spend close to 12 percent of our GNP on health compared to an average for the OECD countries of about 8 percent, and for Japan which has excellent national health service, somewhere between 5 and 6 percent.

Our health outcomes are inferior in many respects to many of these countries. For some people in America we give the best health care there is, but for others we do not.

We are paying 50 percent more than the average of the OECD countries; but to my friend, the gentleman from Nebraska, may I implore him not to lay the savings that we have got to make in our health care system on the backs of the poor and the elderly. There are many economies that can be made in essentially an inefficient, a cost-ineffective system, with extravagances, with waste, with duplication, but we ought to face that problem for what it is, a problem of organization of these services.

With innovative thinking, I believe we can improve the level of care to our senior citizens, as we do with this legislation. We can make health care accessible to our 37 million uninsured Americans and slow down the spiraling rate of inflation for the cost of medical care.

Former HEW Secretary Joe Califano told a Joint Economic Committee hearing in which I chaired that we waste $125 billion in health care annually. He said we can reduce that waste by eliminating some of the requirements, eliminating some of the excess 400,000 hospital beds in this Nation and loosening antitrust laws so that third-party insurers can bargain more effectively with providers.

Mr. Speaker, we do spend too much on health care as the gentleman from Nebraska remarked, but that does not mean America's senior citizens can do without the protection this legislation offers. What we can do without is the waste that is rampant in our health care system.

Mr. BILIRAKIS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I rise in opposition to the conference committee report.

The conference agreement on H.R. 2470 ostensibly provides catastrophic health coverage to millions of American seniors. Tragically, the most catastrophic feature is the effect on their pocketbooks.

Not one additional medical service is offered which is not already provided under MediGap provisions or Medicaid. What this legislation does is effectively eliminate the necessity of filing for Medicaid by avoiding the imposition of a means test. The catastrophic provisions, and especially the addition of outpatient prescription drug benefits, would normally overwhelm the ability of the Medicare system to remain solvent. So, naturally, we increase taxes; not on all people, but only on the elderly.

New supplemental premium rates will increase tax liability by 15 percent in 1989, to 28 percent in 1993.

If any senior had a tax liability in 1989 of say $1,000, that person's increase will be $150.

If their tax liability was $5,000, that additional tax will be $750.

If they had a tax liability of $10,000, their additional tax will be $1,500.

This rate, by the way, of 15 percent by 1989 will increase to 28 percent in 1993, which will significantly increase the amounts of the surtax that I have described.

As a result, the elderly could see a possible increase in their Medicare tax of between 30 and 60 percent. The maximum increased supplemental liability would be $800 in 1989, $850 in 1990, $900 in 1991, $950 in 1992, and $1,050 in 1993. This is small solace to the tax bite it takes out of the wallets of millions of our elderly.

When we look at the projections of programs that have been adopted in the past, we can only envision the growth of this program that is almost beyond our imagination. For example, when Medicaid was first instituted, it was projected that the cost in 1970 would be $2.7 billion. The actual costs were $5 billion, 85 percent higher.

Similar results are found in Medicare, where 1970 costs were projected in 1965 to be $4, but ended up being 6.3, or 58 percent higher.

We can reasonably calculate that these catastrophic costs will be just that to the elderly and the taxpayers of this Nation.

Mr. Speaker, I ask for rejection of the conference committee report.

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, the gentleman has stated some excellent points for the benefit particularly of the elderly in this country. One point that was left unsaid is that after 1993 the surtax rate will go up 1 percent per year every year thereafter and it could ultimately reach 100 percent of the current income tax liability.

I think that should be made a part of the record.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman.

Mr. WAXMAN. Mr. Speaker, I yield whatever time we have left to the gentleman from California [Mr. STARK] of the Committee on Ways and Means.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] yields his remaining 5 minutes to the Committee on Ways and Means, which has 27 minutes in total.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. PICKLE], the chairman of the Oversight Subcommittee of the Committee on Ways and Means, whose fortuitous move to that committee perhaps gave him the opportunity to write this bill.

Mr. PICKLE. Mr. Speaker, I rise in strong support of this conference report.

This is landmark legislation. At long last, this administration has come forward to support passage of this coverage of benefits to protect the elderly from the catastrophic costs of acute illness. At long last, Congress—in a bipartisan manner—has fashioned a workable plan of coverage that all of the Members of this House can reasonably support.

This is not an inexpensive bill—clearly, protecting beneficiaries from catastrophic costs is an expensive proposition, no matter how you deal with it. Under this legislation, premiums will rise and we will create a new income related supplemental premium which about 40 percent of the beneficiaries will pay. But we have not asked our children to pay the medical bills that we incur—these benefits will be paid for by the men and women who will use the coverage.

Mr. Speaker, the Federal Government cannot cure every health problem through legislation. We must continue to provide assistance where we can—but we can't do it all at one time. Over the last quarter of a century, we have made great strides in providing health care protection for the elderly. We can be proud of those accomplishments, and we should be proud of this bill.

As many speakers will point out today, it is not as far reaching as some of the elderly and some Members of this body would like. We have not yet addressed the critical need for long term home health care and long term nursing home care. But we are doing what we can today, and we are making a commitment to older Americans that we will not stop here—we will continue to work on a comprehensive, cost-effective long term health care plan. We can't do it all at once, but we can take a major step forward today by agreeing to this conference report.

This is a historic opportunity to help our older citizens cope with the high costs of acute illness. I urge this body not to let this chance slip through our fingers—vote for the conference agreement.

Mr. STARK. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. Mr. Speaker, I rise in support of the conference agreement on H.R. 2470, the Medicare Catastrophic Coverage Act of 1988.

Mr. Speaker, when this bill came to the floor last year, I voted against it; however, as a conferee and as one who participated in the negotiations which led to this agreement, let me say that this is a remarkably improved bill over the measure that passed the House last July.

This afternoon there has been much talk about what the bill does not do, but I would like to speak for a moment about what this bill does for the elderly. First of all, it vastly simplifies the Medicare Program. No longer will beneficiaries have to worry about how much they will have to pay after 60 days of hospitalization. Now you pay once and the rest of the year is covered.

Also, there is a flat dollar amount of physician charges, beyond which they are no longer liable for 20 percent coinsurance.

The bill also offers the tangible benefit of prescription drug coverage, something Medicare has never offered before. The benefit is drafted in a sound, fiscally responsible way, with adequate checks and balances to insure that the program costs do not skyrocket in the future.

For the first time, Medicare will cover a preventive service, mammography, which will in the long-term reduce costs by encouraging women to have this very important procedure.

Finally, we have addressed the legitimate concerns of governmental retirees who would have faced discriminatory treatment in the financing mechanism had the bill not been improved.

At the time we considered this bill last year, my main objection was that it cost too much. I had other concerns, and still have other concerns as well: For example we do not address the issue of prohibition of balance billing to Medicare beneficiaries, and that prohibition would be the single most important protection we could have offered to the elderly, and I am sorry that it was not included in the conference report.

But I think now when we look at this conference agreement, we have addressed the other issues in regard to costs. We have indexed the deductibles and premiums to insure a constant share of covered beneficiaries. We have frozen the flat premium that all beneficiaries will pay at a level that will insure that it will always cover 37 percent of the program costs.

In regard to the drug benefit, Mr. Speaker, we have given the Secretary of Health and Human Services the unprecedented authority to make whatever necessary changes in the future so that the drug benefit will prove to be revenue neutral and pay for itself.

I think that these coverages will insure that future Congresses will not be forced to revisit a rapidly expanding program in the next 5 or 10 years.

Mr. Speaker, there has been concern expressed by Members of the House that we have done a disservice by not addressing the issue of long-term care. It seems to me that when we went into conference there were two ways to address this concern: No. 1, we could have drafted an enormously expanded bill and headed into the uncharted waters by creating a new long-term care benefit; or No. 2, we could have taken a measured reasonable approach to Medicare expansion with the assurance that we would come back and look seriously at the long-term care issue next year.

Mr. Speaker, I think it is important that the Members understand one thing. To treat the issue of long-term care the way it ought to be and to do it the right way we would have to drastically expand and respite care benefit and expand and include a new benefit in terms of home health care and nursing home care.

Mr. Speaker, the cost estimate for that type of coverage would run in the vicinity of $20 to $25 billion.

Let me ask the membership the following questions:

First, What taxes do you want to raise to pay for this expanded benefit?

Second, How would you proportion the cost of this new taxation between the taxpayer and the beneficiary?

Third, How should this massive expansion of Medicare be administered?

I think those three questions point to the fact that this is a very serious and complex problem. That is why in the conference report we instructed the Department of Health and Human Services to help us find some answers to these questions and have authorized up to $25 million for their research.

Mr. Speaker, when all is said and done, we must come down on the side of a measured, reasonable expansion of Medicare benefits. Anyone can be for long-term care. That, my friends, is politically easy, but drafting a responsible benefit for all and all that implies requires work, hearings, and a commitment to act. Passage of this legislation is the first step in that commitment.

As a member of the Subcommittee on Health, I know I speak for all the Members that we are committed in the next Congress to take on and tackle the issue of long-term care.

The passage of this legislation today is the largest expansion of the Medicare Program since 1965. It is a reasonable, fiscally responsible approach. The next step is long-term care. We are committed to doing it, and I would hope that the conference report is agreed to.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

□ 1305

Mr. GEKAS. Mr. Speaker, this legislation has been referred to as "landmark" legislation. I refer to it as "question mark" legislation. There is a question mark stamped on practically every provision of this proposed bill. There is a question mark next to the provision that has to do with Government retirees. Has the question been answered as to whether or not they are going to be hit twice?

Some say the language is corrected, others say it is questionable. Unless that is removed we cannot be certain what is the effect on Government retirees at any level.

A second question mark is, among the many that are stamped on this, there is a question mark as to the relative status between Government retirees and private enterprise retirees. What is their relative status on this landmark, as it is called, legislation?

There is a question mark on the whole being of this Congress which voted for a tax reform in 1986 with the explicit and implicit promise to the American public that there would be no increase in taxes, rather the tax rates would be lowered and this would be our tax status for the millennium.

What has happened? Through this bill a question mark appears on what tax increases are in the offering. Tax increases not across the board, but for the elderly themselves who are supposed to be the target of this landmark legislation. The question mark is bigger than the landmark.

Mr. Speaker, it is estimated that 46 percent, in another question mark part of these provisions, 46 percent of the elderly are going to be supported by increased taxes that they are going to have to pay on fewer than 10 percent of their colleagues in the elderly community who will be the beneficiaries of the benefits projected by this legislation. There is question mark after question mark. And that is a question mark of its own.

Mr. STARK. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. GRAY].

Mr. GRAY of Illinois. Mr. Speaker, I thank my distinguished colleague for yielding time to me. As one of the original cosponsors of the Medicare Act of 1965, I rise in strong support of this conference report.

Mr. Speaker, I rise in strong support of the conference report on H.R. 2470, the Medicare Catastrophic Coverage Act of 1988.

Mr. Speaker, this is a good conference report that will pump $31 billion into health care for Medicare and Medicaid recipients over the next 5 years.

Although this bill heads us in the right direction, and does a lot for our senior citizens and needy individuals, it does little for the health provider particularly the rural hospitals like we have in southern Illinois.

Mr. Speaker, on May 27, 1988, I chaired a health summit in West Frankfort, IL, at which time 15 hospital and nursing home administrators testified that reimbursement to hospitals and nursing homes from Medicare and Medicaid programs is inadequate to pay for that care. As a result, many rural hospitals are on the brink of closing. The unfair role of reimbursing rural hospitals at a lower rate than urban hospitals is grossly unfair and I rise today to respectfully request the affected committees address the problems now facing rural hospitals and nursing homes.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, I rise in support of the conference report and urge all of my colleagues to likewise support this important measure. There is probably no other fear that is more valid and more real than the fear of catastrophic illness. Every morning in tens of thousands of households across this Nation elderly people wake up wondering whether or not they will be faced with a catastrophic illness. It affects every American. The elderly do not want to be a financial burden on their children. They fear a costly expensive catastrophic illness. It is true that we have attempted in this conference report to levy the cost of the program on those that will receive the benefits. There are those in this body who will say that they are for catastrophic protection but at the same time they will be extremely critical of the manner in which it is paid for. They will say that they do not believe that the higher income retirees ought to be taxed to pay for this needed coverage, but at the same time they will not say that the costs should come out of the general fund, primarily because there is no general fund. We are in a deficit situation.

Mr. Speaker, at the same time that this bill provides for those retirees now paying taxes to pay a small additional surtax on the amount of taxes they pay, we must not lose sight of the fact that 60 percent of the elderly are not paying income tax, because they do not have taxable income, and therefore, they will be paying only $10 maximum by 1990 as a premium for these additional benefits.

It is true that the other 40 percent will pay a surtax if they are paying income taxes, but for the vast majority of American retirees who are dependent upon Social Security and other small retirement incomes, that simply is not the case. When we as members have gone across the Nation saying we are for catastrophic health coverage and yet at the time we now have an opportunity to vote for it we try to find some excuse to oppose the bill because we have to pay for the program, then I do not think that is a valid reason.

Mr. Speaker, I urge my colleagues to support this conference report. I think that the committees involved have done a good job and as we later look at long-term health care outside of catastrophic coverage. I would hope that we would let the committees involved do as we have done in this situation in trying to develop a bipartisan program that will be adequate and financially sound. I think, without question, we are addressing today the issue that is most important in the minds of all Americans, not only the elderly but also those loved ones of the elderly who are morally obligated to try to help their parents and grandparents in a time of great financial need.

Mr. BILIRAKIS. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I rise today to voice several concerns I have with our impending vote to pass the conference report to expand Medicare benefits to encompass so-called catastrophic health care costs. First of all, I am concerned that we have not had an opportunity to review the conference report language that staff submitted only 36 hours ago. Instead, I have had to rely on the committees' press release and word-of-mouth as to what we are voting on this morning.

But one thing is for sure. We are voting on an income tax increase: elderly taxpayers on fixed incomes will pay a 15-percent surcharge on their liability in 1989, rising to 28 percent in 1993. This "premium" will be collected on their tax returns. This is in violation of the pledge many in Congress made not to increase income taxes, and therefore undoing the work of the 1986 Tax Reform Act for many seniors. The Institute for Research on the Economics of Taxation estimates that 46 percent of the Nation's elderly taxpayers will incur a tax liability and have to pay the supplemental premium in 1989. By 1993, 56 percent of the elderly will have to pay the 28-percent additional income tax. These income tax surcharges will fall heavily on middle-income seniors. For example, a married couple with an adjusted gross income of $21,000 who takes standard deductions and exemptions of $10,500, leaving a taxable income base of $10,500, will incur a regular tax liability in 1989 of $1,575. This results in a supplemental income tax surcharge of $236.25 in 1989, and $441 in 1993 premium of $441. The following chart will help you explain to your constituents how much of an additional tax liability they will incur under this legislation.

This chart assumes that married couples filing jointly would exclude $10,500 from income with a standard deduction, two extra standard deductions for filers over the age of 65, and two personal exemptions.

Also, some seniors may have a portion of their Social Security income taxed, and their liability and premium would be correspondingly higher.

AGI	Taxable income	Liability	1989 premium	1993 premium
3,000	0	0	0	0
7,500	0	0	0	0
11,100	600	90	0	0
12,000	1,500	225	33.75	63.00
16,500	6,000	900	135.00	252.00
21,000	10,500	1,575	236.25	441.00
25,500	15,000	2,250	337.50	630.00
28,750	18,250	2,737	410.63	766.50
31,500	21,000	3,150	472.50	882.00
34,937	24,437	3,665	549.90	1,026.48
38,375	27,875	4,181	627.30	1,170.96
44,500	34,000	5,652	[847.80	1,582.56]
49,250	38,750	6,982	[1,047.38	1,955.10]
54,000	43,500	8,312	[1,246.95	2,100.00]

The maximum premium is $800 per enrollee in 1989 and $1,050 in 1993. However, on a joint return, if liability yields a premium of more than this amount, the couple would pay that amount up to twice the maximum premium.

According to IRET, the average additional tax liability for 1989 will be $355, rising to $630 in 1993. Four million elderly taxpayers (13 percent of all individuals 65 and over) will have to pay the maximum additional tax of $1,050 by 1993.

While everyone pays, few benefit. Of the Nation's 32 million Medicare beneficiaries, 125,000, or four-tenths of 1 percent, will benefit from the provision allowing for hospital stays in excess of 60 days per year. The legislation, by design, also assures that 93 percent of participants will not exceed the out-of-pocket limit on physicians' fees and services. Nor will 83 percent ever exceed the deductible for prescription drugs. Costs to the potential beneficiaries in terms of taxes, premiums, and deductibles will continue to rise while the percentage of actual beneficiaries remains constant.

We are replacing benefits that are covered by the private sector. Medicare participants who are most likely to incur the supplemental income tax surcharge are likely to be covered by MediGap or retirement health plans. In fact, about 70 percent of Medicare enrollees also carry policies to make up for what Medicare does not, and another 10 percent are covered by Medicaid. We are shifting a private insurance practice to the responsibility of the Federal Government with a questionable financial future, and asking one group of seniors to foot most of the bill. As a result, we are, for the first time, moving away from the concept of Medicare as an insurance program with equal premiums for equal benefits.

Most importantly, these benefits are the lowest priority of seniors. The truly catastrophic expense, for which 9 out of 10 seniors are not protected, is long-term, custodial nursing home care. If seniors are going to pay more money for Medicare, it might as well be for what they want.

Mr. Speaker, there are many middle-income senior citizens all over this Nation who are unaware that Congress plans to impose a 15-percent income tax surcharge on them when they make out their income tax returns next April—a surcharge which will rise to 28 percent by 1993. This conference report is a whole new bill. I think we are being unfair to millions of middle-income senior citizens by passing this bill without an opportunity for Members of Congress to explain to their constituents exactly what the bill does.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. Levin], a member of the Committee on Ways and Means.

Mr. LEVIN of Michigan. Mr. Speaker, I am very proud to rise in support of the conference agreement, and want to commend the chairman of the Ways and Means Committee, Mr. Rostenkowski, and the chairman of the Health Subcommittee, Mr. Stark, for their diligent efforts that made this agreement possible.

There is so much in this conference agreement to support. At the top of the list, America's senior citizens will now enjoy the protections of a more comprehensive Medicare Program. By removing the limitations on hospital stays, limiting out-of-pocket liability for part B services, and providing new catastrophic coverage for outpatient prescription drugs, H.R. 2470 will provide relief to literally millions of elderly beneficiaries.

The breakthrough in prescription drug coverage is especially significant. This has long been a major concern for the elderly as the cost of prescription drugs has increased their out-of-pocket spending for health care. The lack of prescription drug coverage was a serious hole in Medicare coverage. Now it has been filled, and filled responsibly. In particular, I am glad that the conferees adopted my amendment to create a Prescription Drug Payment Review Commission. As has been the case in Medicare hospital and physician payments, this commission will provide Congress with the objective, expert information we will need to monitor, improve, and control the cost of this new prescription drug benefit.

The conference agreement also provides for significant relief in the area of long-term care. Under the agreement, Medicaid eligibility is liberalized so that couples will not have to impoverish themselves when one spouse is in need of nursing home care. The new respite care benefit will also provide relief to family and other community care givers who are caring for chronically ill beneficiaries. And, the conference agreement authorizes additional funding for long-term care research, mandates a study of adult day-care services, and establishes a commission on long-term care.

The conference agreement also acknowledges the needs of those Medicare enrollees who currently have some catastrophic coverage through public, private, and employer-provided insurance plans. For those individuals enrolled in retiree plans, the conference agreement stipulates that employers have a 2-year maintenance of effort obligation, under which they must provide a refund or other equivalent benefits. Similar provisions will ensure that Federal retirees and retirees who have purchased private MediGap policies enjoy the benefits of these improvements.

Finally, the conference agreement liberalizes the Medicare home health benefit; it offers new coverage for mammography screening which will help prevent breast cancer deaths among older women; and it provides additional financial protection for low-income beneficiaries through a State Medicaid buy in.

All of these reforms are in response to real and great needs and are long overdue.

It is important to note that the entire package of new and improved benefits in H.R. 2470 is completely self-financed. And, we have shown that we can redistribute the financing of these reforms more fairly, so that those with greater incomes can help ease the burden on others who are less well off. Our progress in these financing areas will help us as we turn to other health care needs, including long-term care.

Mr. Speaker, this legislation was carefully developed over almost 2 years, with tremendous input from the administration, health care providers, insurers, beneficiaries, and other experts, including the expert staff of three major congressional committees. It is fiscally responsible, it will work, and it will help a lot of people. For this reason, H.R. 2470 enjoys—and should enjoy—tremendous bipartisan support.

I want to commend again the fine efforts of the conferees and especially the chairmen of the key committees and subcommittees, and I urge the adoption of the conference report.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. Mr. Speaker, I rise in reluctant opposition to the conference report.

It is surely better than the original House version passed last summer, and I must compliment the conferees on the improvements. However, the net effect is a costly unknown which does not address the most important catastrophic problems our elderly face.

I'm afraid that passage of this conference report will only make it more difficult for a financially strapped Federal Government to deal with items of deeper concern to Medicare beneficiaries such as nursing home costs. This catastrophic package overextends us. At this time, we don't know whether we are being extended in the right direction.

Mr. Speaker, when I first heard of the President's proposal to provide catastrophic health insurance to fill a bothersome gap in Medicare, I thought it was a wonderful idea. I still do.

But, we ought to be as sure as we can be that the program delivers on all our promises. I don't believe that H.R. 2740 will deliver except on the promise that all seniors will pay whether they want the benefits or not.

But the President's plan was severely twisted and distorted as it made its way through House and Senate committees. The irresistible urge to expand programs took over the process and the measure became overburdened with additional, very expensive, benefits. What was once a simple and straightforward financing scheme has become an actuarial, and administrative, nightmare. The $12 billion plan has become a $30 billion Christmas tree with expensive additions like a prescription drug benefit and a troublesome tax increase on seniors, many of whom may get no benefit from those extra taxes.

Mr. Speaker, this bill should have been a careful step forward. Instead, it is a leap into the unknown. The rising costs of benefits in the outyears will probably force us to make a painful choice of either jacking up unaffordable premiums or raiding the already shaky Medicare trust fund. Cost estimates have varied wildly: last summer HHS was predicting deficits of $10 billion by 2000 and $30 billion by 2005.

This measure promises catastrophic coverage. That is misleading in several ways.

First, the expanded benefits will only affect one out of five beneficiaries, while the extra premiums will affect everybody in the system. Here we have the largest expansion in Medicare ever, and only a small percentage will actually see new benefits.

Second, this measure is probably most famous for what it doesn't cover. Namely, long-term nursing home expenses. This is undoubtedly the most feared expense faced by the elderly. Nursing home costs are truly devastating and catastrophic and cost Americans $32 billion in 1986, with an average cost of $22,000 per family. Here is a bill which promises catastrophic coverage, but it comes up with only marginal improvements in the No. 1 problem area.

Questions of fairness have been raised because beneficiaries will pay so much more for a benefit that only a small portion of them will receive. Eighty percent are already covered by MediGap policies or Medicaid. This measure socializes the role previously played rather well by private insurance. It will be difficult to get private insurers to develop other policies covering home care and extended care after this experience.

The 5-year $30 billion price tag is met by socking seniors twice. First it mandates an across-the-board premium increase of $4 to $7 per month. Second, it creates a mandatory surtax, the so-called supplemental premium which adds a new tax to middle- and upper-income elderly bearing no relationship to benefits received. Medicare seniors in middle incomes will see their income taxes doubled. For those retirees already covered under post-employment medical plans, there is no advantage to be gained from the large tax increase.

The concept of deficit-neutral legislation financed by the beneficiaries themselves is laudable. But if we are to raise taxes on Medicare beneficiaries, then we should be able to give them a more responsible set of predictable benefits which treats their biggest catastrophic fears.

The conferees should be praised for bringing back some needed disciplne to the bill. The financing scheme is similar to the original Senate plan which keeps constant each year the percentage of beneficiaries eligible for the new benefits. That will help control costs into the outyears.

And the drug provision has been phased in over a longer period of time so that the administrators can get a better handle on utilization during the first several years. Even so, the future drug costs are unclear. No State has been able to develop an affordable drug regimen. There is little reason to believe that this drug regimen is controllable.

The Medicaid provisions are in conflict with the congressional budget and the Budget Act. We have, in this bill, created new Medicaid entitlements the cost of which is still unrevealed.

Mr. Speaker, I am afraid we let a great opportunity get away from us. We have constructed an exaggerated solution from a modest administration proposal. Unfortunately, there are increased costs for everybody, but increased benefits only for a few.

This bill solves too small a part of the catastrophic problem at too high a price to seniors. The bill has jacked up the part B premium again, and combined this with a new tax. I would love to be able to vote for the new benefits, but such a vote also supports the financing section, an unreasonable burden on our elderly.

The preferable course now is to refer the bill back to committee and rework it so cost estimates are reliable, cooperation with private insurance programs is insured, premiums are affordable, and budget impact is fully revealed to the Congress and to the public.

□ 1320

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND of Georgia. Mr. Speaker, I commend those who have worked so hard on this bill. I think they have done the very best that they can under the circumstances, and it is my intention to vote for this conference report. But I do so with the realization that it is, in my opinion, not the best solution to this problem. In fact, I do not think it is a very good solution to this problem, because if you look at the history of what we have done for the past 20-odd years in this country, we have never enacted a program for health care that met the budget requirements. It has always cost more than it had been projected to do, and I see no reason to believe that this will not take place in this instance also.

Under our present budgetary constraint, we are going to Medicare to try to find money to address our budget-deficit problem. What makes the Members think that this particular piece of legislation will be exempt from that? I am very concerned about the people of modest means. How will they pay for this? They are going to be required to participate in part C. It will not be optional with them. We do not know how much it is going to cost. We have heard examples of how much it will cost, but I am very concerned about these people.

Mr. Speaker, for the past 20-odd years we have addressed our health care delivery system in this country in a patchwork manner. We have continued to try to address the problems that have arisen as they arose and not doing that in a prospective manner. We have developed a system now that when we try to do something to help one group it impacts adversely on another group.

It is time that we step back and look at what our system is doing and try to restructure the whole system rather than to continue in this patchwork manner.

Do not go away from here patting yourselves on the back thinking that you have solved the problem of financing catastrophic illness, because you have not. This problem will continue to be with us until we approach it in a different manner.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, lack of catastrophic health insurance coverage has forced thousands of older Americans to watch their lifetime savings drain away due to the cost of an unforeseen illness, in too many cases into bankruptcy or destitution. This simply should not happen in this land of plenty, the richest, most wealthy nation in the world. This problem has been with us too long, but now, finally, we have an opportunity to vote on an intelligent bipartisan solution, one which is fiscally responsible and deficit-neutral, but most of all, it achieves what it intends: to protect Americans from the financial tragedy that is so often inherent with a catastrophic illness.

The passage of this bill is the first step toward ensuring that no American ever again will face financial ruin because of a health problem. Of course, more needs to be done. We must now turn our attention to similar crises in the areas of long-term, home health and nursing home care.

I beg my colleagues not to treat these serious issues with an election placebo.

For the sake of the solvency of the Medicare trust fund, we cannot allow the program's reach to exceed its grasp. As we struggle to manage the Federal deficit, it is especially important that new entitlement programs do not exacerbate the situation. Sensible solutions to complex problems come about by studying the problem before taking action, not vice versa.

There is always a simple solution to a complex problem, and it is usually wrong. This program, this bill today, is right, and I congratulate the leadership, bipartisan leadership on the committees of jurisdiction for doing what is best for America.

Mr. STARK. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise to support the adoption of the conference report on H.R. 2470, the Medicare Catastrophic Coverage Act of 1988. When President Lyndon B. Johnson signed the Social Security Amendments of 1965 creating the Medicare Program, he proclaimed that "every citizen will be able, in his productive years * * * to insure himself against the ravages of illness in his old age * * * no longer will illness destroy the savings that older Americans have so carefully put away over a lifetime." Since 1965, Medicare has greatly expanded the elderly population's access to health care and has become the second largest domestic Federal program. In fiscal year 1988 expenditures will reach $73 billion. Despite this tremendous commitment of Federal resources elderly Americans have found it necessary to deplete their personal financial resources when confronted with illnesses of a prolonged nature. The Medicare Catastrophic Coverage Act was drafted to limit the amount of catastrophic expenses Medicare beneficiaries would have to pay.

The Medicare catastrophic health care conference report represents a difficult compromise among numerous competing objectives. H.R. 2470 provides unlimited hospital care after payment of an annual deductible, provides unlimited coverage for physician bills after payment of an annual deductible, pays all prescription drug costs exclusive of a copayment, provides up to 150 days per year of skilled nursing, 38 days of continuous home health care, as well as hospice care, breast cancer screening and respite care.

While these benefits are generous the conference report also adds a mandatory monthly premium and imposes significant added premiums upon the two-fifths of the elderly with highest incomes. These added premiums will impose significant burdens upon many of the elderly, but are intended to preserve the availability of general tax revenues for other critical programs and for deficit reduction.

I recognize that the members of the conference committee faced a difficult task. We all would prefer to see more generous Medicare benefits particularly expanded long term care. We would all wish not to increase premiums paid by the elderly. However, we must also be mindful of the competing needs of other budgetary priorities. Health care benefits are desperately needed by young workers without private insurance, added funds are needed for the homeless, the hungry, the jobless, the illiterate, the mentally ill, the mentally retarded, the disabled, the treatment of alcoholism, drug abuse and AIDS, day care, and a plethora of other equally worthy social needs. Taxes are already painfully high, especially for the working poor.

I will vote for adoption of the conference report because I think it charts an aggressive path among these competing objectives. Significant added benefits are made available, especially for low income elderly persons, while added burdens are neither imposed upon general revenues nor upon competing social programs.

There are no easy answers to questions regarding the allocation of scarce resources, but the conferees have taken a properly cautious step toward meeting significant needs, while recognizing the importance of retaining our ability to pursue other objectives.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. ANTHONY], a member of the committee.

Mr. ANTHONY. Mr. Speaker, after many months of careful oversight and a lot of thought, Congress is on the verge of enacting a good piece of health legislation that will represent the largest expansion of Medicare benefits in the program's 23-year history. As a member of the Subcommittee on Health, where this important measure originated, I experienced first hand the heated debates which lasted for days on end. This intense scrutiny yielded a package of provisions that will provide elderly Americans a much deserved break on hospital care, doctor bills, and prescription drugs.

Every family knows the fear and devastation of sky-high hospital bills after Medicare benefits have been exhausted. Under the "catastrophic" bill Medicare beneficiaries will be eligible for unlimited free hospitalization after an annual $564 deductible is paid. Out-of-pocket costs for covered physician and other part B services would be held to no more than $1,400 in 1990.

One of the most serious gaps in Medicare coverage is the failure to provide payment for outpatient prescription drugs. It is unfortunate but a large number of elderly in this country regularly have to make the tough choice of spending their limited income on the basic necessities of life or costly prescription drugs. I believe the benefit to defray outpatient prescription drug costs to be one of the most important provisions contained in this bill.

The fact that the bill is deficit-neutral represents fiscal responsibility. A variety of alternatives were examined to ensure that the costs of the bill will not exceed the revenues. These expanded and, in some cases, new benefits will be financed by an income-related supplemental premium paid by the Medicare enrollees themselves. Financing this program with a progressive Medicare premium structure will effectively enable access to benefits for all enrollees based on their "ability to pay."

Given the rising cost of medical care, the aging of the population and the growing disparity between what Medicare will and will not pay, H.R. 2470 clearly represents a significant step in the right direction. It has taken well over a year to develop the Medicare catastrophic legislation. Once this vital legislation is enacted, then the Ways and Means Committee will turn its attention to long-term care and home health benefits.

It is obvious the Congress is sensitive to and recognizes the crucial need that exists for a comprehensive long-term care health policy. However, developing this policy demands a thoughtful and responsible approach so that affordable, convenient health care is available to all. It is a question of building a program which protects the elderly and disabled from the costs of catastrophic illness and this measure is the next prudent step in that process.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman, the chairman, for yielding.

Mr. Speaker, I rise in support of the conference report.

By the way, it not only covers catastrophic but it does deal in part with prevention. I am very, very pleased that for the first time we will see some mammogram coverage that will be biannual for women over 65 and those who are disabled, 40 and over.

Mr. Speaker, more than 130,000 new cases of breast cancer are expected this year. One out of eight women will get breast cancer versus 1 out of 20, 20 years ago, and we know that mammograms have proven capable of saving 30 percent of those stricken by breast cancer. That is 12,000 lives. Not only that, it saves money, because we know that when women get advanced breast cancer, the cost is at least $60,000 for that type of treatment versus under $20,000 for those who have had minimal breast cancer and those who have had that kind of cancer screening like our own First Lady, Nancy Reagan. This bill will save money and save lives.

□ 1330

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. DOWNEY], a member of the committee.

Mr. DOWNEY of New York. Mr. Speaker, this is indeed historical legislation and it comes at an historic time. Ronald Reagan will come back from a love-in in the Soviet Union to sign the biggest expansion of health care coverage that his or any other administration has seen in a long time. It continues the process of marching inevitably toward universal health care coverage for all Americans.

More needs to be done. We still have 37 million Americans who have not been covered, and hopefully that will be on our agenda in the next few years.

But this is a welcome and important step. It recognizes the fiscal realities of the later years of the 20th century. It makes sure that the beneficiaries will be bearing a large burden of the cost and the people who will benefit will be the people who have been paying into the program. It makes eminent sense to provide this sort of coverage, and to me the arguments we have heard that less than a fraction of 1 percent of the people will benefit is especially bizarre. I do not know if any one of my colleagues has ever bought term life insurance and found that they were upset when their families had not collected on it. I do not think here the fact that a small fraction of Americans who need longterm health insurance should ever collect it should be something that we should worry about.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Speaker, this has been named the Catastrophic Health Protection Act. In my judgment, the only thing catastrophic about it is the act itself.

If indeed we are going to make the seniors pay for expansions of medical care, that may be a good idea for expanding medical care for those that are going to get it, they have to partly pay for it, OK, I will buy that. The committee said we are going to do that. What is catastrophic is what they get for what they pay.

If we are going to increase income taxes, the marginal rates on seniors to pay for something, let us examine what they are going to get. Only 3, 4, or 5 percent will receive the protection of catastrophic hospital stay extension medical care. The largest single catastrophe that can happen to all seniors is long-term nursing care. This bill does nothing for that particular issue, and I think that is a great catastrophe.

The drug provision in this bill I objected to when it was in the original bill and I object to it now, not because of the drug provision, because as a State legislator in Illinois I supported that provision and many States have enacted it under Medicaid. The problem I object to is that it lowers the standard for Social Security access to the drug provision to allow AIDS patients to come under that drug provision in 1990. That may be a very good public policy, but that is another debate altogether, and I do not think we should have senior citizens paying higher income taxes, a large fraction of small incomes on a fixed basis paying part B Medicare increases across the board, for the elderly to pay for the drugs, the AZT at $1,000 a month, or whatever the drugs are, for AIDS patients. If that is good public policy, it should be decided as a separate issue and come out of the Treasury, and that is another debate.

But, ladies and gentlemen, I would ask my colleagues to oppose this particular bill on the basis that it in itself is a catastrophe.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, in July of last year when H.R. 2470 was on the House floor, I voted against final passage.

I did so because, at that time, major discrepancies existed with respect to the cost of the new benefits provided Medicare beneficiaries, and because of the unfair treatment of Federal retirees with respect to the annual income-related premium.

At that time, we did not know whether we were asking Medicare beneficaries to pay for a new benefit package with a price tag of $7.6 billion or $14.6 billion in 1990. At that time, we did not know whether the financing mechanisms in the bill would be sufficient to cover the costs of the new benefits.

Today, after a great deal of fine tuning, we have before us a conference report with a CBO cost estimate of $4.2 billion in 1990, about one-half of the low cost estimate of last year.

The modifications to H.R. 2470 which have taken place since July 1987 are significant.

First, the overall cap on beneficiary out-of-pocket expenses has been increased from $1,798 per year to $2,146.

Second, the prescription drug benefit has been restricted so that instead of an immediate 1989, 80 percent Medicare copayment following a $500 beneficiary deductible; prescription drug coverage will be phased in beginning in 1991 at a rate of 50 percent following a $600 deductible.

Third, the financing of the new Medicare benefits under the conference report is similar conceptually to those embodied in H.R. 2470 as originally considered by the House.

Fourth, Medicare part B premiums will increase substantially: Part B premium increases will cover 37 percent of the costs of the new benefits, rather than 22 percent as originally considered by the House. Beyond current law, part B premiums will increase an additional $10.20 by 1993, as opposed to the additional $5.50 in 1992 as contemplated in the original House bill.

Fifth, under the conference report, the annual supplemental premium will cover approximately 63 percent of the costs of the new benefits; while under the original House proposal, approximately 78 percent would have been financed through the annual premium.

Sixth, so that revenues will keep pace with the costs of the new benefits, new statutory indexing mechanisms have been included in the conference report; as opposed to the original House reliance on historically deficient increases based on medical inflation rates or Social Security cost-of-living increases.

Seventh, protections have been added to equalize the liability of Federal retirees with respect to the annual income-related premium.

All in all, Mr. Speaker, I am pleased with the conference committee's aggressive attention to securing the revenues to support this expansion of Medicare benefits. The Medicare Program as it exists today is projected to reach insolvency by the early 2000's. We cannot afford, in any way, to hasten that point.

Certainly, I recognize that select provisions of this conference report are commendable: the clarification and extension of home health benefits; the coverage of mammograms every other year; the Medicaid-sponsored Medicare coverage for the elderly and disabled with incomes below the poverty level; the extension of Medicaid coverage for low-income pregnant women and infants up to 1 year of age; and the protection of community spouses from impoverishment upon the institutionalization of a loved one.

Mr. Speaker, as I stated earlier, my original misgivings with regard to the cost estimates of H.R. 2470 have been addressed by the conference committee's aggressive attention to the financing of this proposal.

I am hopeful that due to the committee's attentions, the benefit package will not realize a funding shortfall in the future.

The loopholes which have plagued the Medicare Program have long been in need of closing—and protection against catastrophic acute care costs must be provided. The conference report before us today accomplishes these objectives. I am hopeful that the steps we take today will be of benefit to Medicare beneficiaries when they are most in need of assistance; and that the framework we have constructed holds up.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I visited in the well at the beginning of the debate and asked some questions about budgetary implications. The answers that I received behind the railing, unfortunately, were the ones that I expected.

I am not talking about all of the discussions in those areas dealing with the self-financing, whether it is appropriate or not, the amount that individuals are going to have to pay. We just passed a budget resolution, as a matter of fact the Senate has not yet passed the budget resolution in which we said all new entitlements for fiscal year 1989 were to be $125 million, the next year $325 million, and in 1991 $350 million.

This legislation, the very first cow out of the chute after having passed the budget resolution, spends only $45 million in the first year, but then in 1990 $388 million, $63 million more than we said all entitlement programs in the rest of this Congress are to spend, and in 1991 $151 million more than all entitlement programs. This is the first one. There are more coming.

There is that old saying about robbing Peter to pay Paul. The problem is it is the 5-year-old Peter that is paying the 65-year-old Paul.

How did we get into this budget deficit circumstance in the first place? Exactly by what we are doing in this bill.

Mr. BILIRAKIS. Mr. Speaker, I yield my remaining 3 minutes to the gentleman from Illinois [Mr. MICHEL], the Republican leader.

Mr. MICHEL. Mr. Speaker, this is a very significant day. I assume the conference report is going to be adopted today.

I can recall back 20 years ago in the Nixon administration the talk of a proposal for catastrophic health care, and this administration, the current President, has admonished, or at least asked the Congress in the State of the Union Messages several times that we ought to have it on the books.

I must confess that when it passed the House of Representatives I was obliged to vote against it because quite frankly I thought it went beyond what we could afford to fund at the time. But I do want to applaud the conferees for the good job they have done in combination with the product of the other body to get us the kind of conference report today that I can stand up here and say I am going to vote for.

Having said that, let me also issue just a little bit of warning, because after catastrophic health care comes a proposal of our friend, the gentleman from Florida [Mr. PEPPER], without any hearings at all before the Ways and Means Committee on home health care. As a matter of fact, I understand the Rules Committee is meeting right at this hour. Whether or not we get a substitute or do not get a substitute and are going to put all of the eggs in one basket, when I look at some of the proposals on how to fund this new proposal, again without the searching inquiry that we would normally except from our Members on both sides of the aisle on the Ways and Means Committee, I have to raise that caution flag. Because, then, after that it could very well be that we will say that is not sufficient and we ought to get into nursing home care itself.

So when we take catastrophic health care as it is confined now to intensive care in the hospital, and then add on home health care plus nursing home care, oh, yes, it is great to say we need it and it is a desirable end. But I think, as the case has been made by several of the preceding speakers here, we really have got to be thinking in terms of how many more entitlement programs do we want to put on the books when we have named a large blue ribbon commission out there to determine how we might bring our expenditures more in line with current revenues, and at the same time, as the gentleman from California has said, we are enacting another new entitlement program. How many more times can we ask increases in the Social Security tax, whether it is Medicare or just general revenues? We have to be thinking more in terms of how we are going to fund these programs over the long haul.

It is one thing to say it is a desirable end for the moment. But, as I say, I think we also have to be giving serious consideration to those good arguments that have been made on the floor on both sides of the aisle today about how we raise the revenues to fund these programs.

But for today, I am happy to support the program that has long been desirable and requested by our President.

Mr. CLAY. Mr. Speaker, I rise in support of the conference report on H.R. 2470. This bill represents a much-needed first step toward addressing the serious problems caused when catastrophic medical expenses occur. I commend my colleagues on the conference committee for their hard work and determination to bring a bill before this House this year.

I am particularly pleased that several important improvements to the administration's original proposal that were included in the House bill have been adopted by the conferees. The addition of a prescription drug benefit, although more limited than I would have wanted, will be a great help to many of our elderly. The creation of a modest respite care benefit is also welcome, as are the improvements in hospice and home health care under Medicare.

I commend the conferees for adopting provisions relating to spousal impoverishment. It is a national disgrace that we force the community-based spouse—in most cases, an older woman—to spend down virtually all the couple's assets in order to qualify the nursing-home-bound spouse for initial or continuing Medicaid benefits. In addition, I strongly support the provision that requires the States to pick up the new Medicare premiums, copayments and deductibles for all Medicare beneficiaries with incomes below the Federal poverty level.

As we all know, however, for the vast majority of our senior citizens, the kind of protection against acute catastrophic expenses included in this bill will not be enough. Most of their expenses will be for long-term care, including treatment for chronic illnesses, home health care and nursing home care. I regret that the bill before us today is not a comprehensive one and I hope that we can quickly turn to the task of providing reasonable and affordable catastrophic protection against long-term care expenses, not just for the Medicare-eligible population but for all Americans.

Over and over again, the American people have made it clear that they believe that access to affordable health care for all Americans is a top priority. As usual, many Members of Congress are lagging behind the American people in their recognition of the problem and their commitment to solving it. Despite the passage of this bill today, the Medicare population is still at risk for financially devastating long-term care costs. The under-65 retired population is also at risk for all medical expenses, since less than 20 percent of them are covered under employer-sponsored health plans. In addition, more than 37 million Americans under age 65 had no health insurance at all—either through public or employer-sponsored programs—for any part of 1986.

It is clear that we have our work cut out for us. Despite the hard work of both the conferees and the administration to fashion this compromise, we know that dealing with acute care catastrophic costs represents the easiest of our tasks. Before us are the hard issues. But we must begin somewhere. For over a year now, I have been exploring ways in which to achieve universal health coverage for the non-Medicare population. Together with my colleagues, Congressmen WAXMAN, HAWKINS, and MURPHY, I introduced H.R. 2508, that would require all employers to provide a minimum health plan for all employees and their family. That bill represents only a partial solution to the serious problem we are facing. My subcommittee will be holding a hearing next week on access to affordable insurance for the under-65 population. We intend to look at the problem in a comprehensive and bipartisan way. To solve these problems, however, we must recognize that the cooperation of many committees in both Houses is critical. No one committee can do it all.

Congress has only begun to focus on these critical long-term care and access issues. In the words of the poet Robert Frost, "We have miles to go before we sleep."

Mr. GUNDERSON. Mr. Speaker, I rise today in wholehearted support of the conference report on H.R. 2470, the Medicare Catastrophic Coverage Act of 1988, and commend our colleagues who deliberated long and hard in crafting a final package to enhance and expand Medicare to cover catastrophic costs associated with acute illnesses for our 32 million Medicare beneficiaries.

Prior to House consideration and passage of Medicare catastrophic legislation last July 1987, I met with hundreds of older Wisconsinites residing in my district to share with them the direction in which Congress was heading in the area of Medicare acute care coverage. It was important then and again now to state up front that the fiscal realities of our Federal Government and Medicare recipients limit the scope of our Medicare catastrophic health care coverage. The old adage that you don't get something for nothing holds true with this legislation—those who pay for the benefits are those who will utilize them if faced with an acute illness.

H.R. 2470 will provide greater health care coverage for our Medicare population by expanding our current Medicare law in the areas of acute inpatient hospital services, skilled nursing care, spousal impoverishment, home health care, outpatient prescription drugs and respite care. This new expanded Medicare coverage is to be financed through deductibles for services received, a $4 increase in the part B monthly premium in 1989, and, if applicable, a supplemental premium based on income tax paid to the Federal Government.

In weighing the expanded Medicare benefits and the costs to the average Medicare recipient in Wisconsin's Third District—the bottom line clearly favors H.R. 2470. The economic demographics of older Americans residing in western Wisconsin is such that of the 16 counties in my district, none have an average adjusted gross income [AGI] that will be taxed through the supplemental premium.

Based on the data indicated above, the monthly cost incurred for the new coverage outlined in this legislation by average Medicare recipients living in western Wisconsin in 1989 will be the $4 flat-rate premium. It is clear that the additional Medicare benefits available in this catastrophic health care package currently are appropriate for the average Medicare recipients in western Wisconsin.

I am equally pleased that this conference report corrects a flaw in the House passed bill pertaining to retirees who worked for the Federal Government. This correction is designed to spare Federal retirees from being charged much more than private sector retirees for coverage they already have and pay for under their Federal health benefit plans.

As many of you know, I have a firm conviction to work to reduce our Federal deficit. This self-financed plan responds to my concerns through 1993. It is my sincere hope that Congress and the Department of Health and Human Service will work to control both the costs to the Federal Government and to Medicare beneficiaries.

Mr. Speaker, while I wholeheartedly support the steps taken in this Medicare catastrophic package, it is my sincere hope that in the upcoming sessions, Congress can address another high priority concern of older Americans and their children throughout the country—nursing home costs.

Mr. HOYER. Mr. Speaker, I want to congratulate the conferees on bringing back to the House a critically important piece of legislation that will provide genuine relief for millions of Americans faced with the devastating financial and emotional costs of catastrophic illnesses.

Over the years improvements in our health care delivery system have lengthened our lives and afforded a better quality of life for many Americans, but the system is obviously not flawless. The Medicare Catastrophic Health Protection Act will help us begin to address some of these unmet needs, to fill some of the gaps, to rescue many of those Americans who face both a devastating illness and a financial nightmare.

Many of my colleagues know that I had very serious reservations about the funding formula contained in the original House version of the Medicare Catastrophic Protection Act of 1987. The earlier version of the bill imposed an unfair burden on Federal retirees subject to a Medicare premium based on taxable income. Many retirees would also have been forced to pay for coverage they already receive under the Federal Retirees Health Benefits Program.

I was confident that these issues would be resolved in a fair and equitable manner, and indeed they have been.

Today, Federal retirees may breath easier.

At a time, however, when Federal workers are facing increased health insurance costs and a widening gap between their wages and those of their private sector counterparts, this bill marks a genuine victory for the proponents of an effective and professional Federal service. The way we take care of Federal retirees or—as is unfortunately the case, the way we sometimes fail to provide for their legitimate needs—has a dramatic impact on our ability to retain and attract talented people to Government service. The conferees are again to be congratulated for their fairness, but also for recognizing the serious damage to the Federal service that would result from following any other course.

This bill not only protects Federal retirees, but 33 million elderly and disabled Medicare beneficiaries from the enormous, and often impoverishing expense associated with catastrophic illnesses. Expanded coverage that limits out-of-pocket expenditures on physician services, hospital and skilled nursing facility care, as well as a new phased-in prescription drug benefit will fill many unmet needs.

Today, too many Americans face medical bills that exceed their Medicare coverage by tens of thousands of dollars. With passage of this legislation, many thousands of Americans will find welcome relief, both financial and emotional. Millions more who face the future and the prospect of debilitating illness will find a new sense of economic security for themselves and their families.

There are a few other provisions of the conference report that deserve special note. The provisions requiring State Medicaid programs to pay Medicare premiums for Medicare beneficiaries who fall below the poverty line will be of enormous consequence to low-income Americans. Creation of a benefit for routine breast cancer screening is another step forward. Requirements that States provide prenatal, maternity and child-care services to poor women and children, as well as provisions that protect some of the income and assets of someone whose spouse may be confined to a nursing home for long-term care are a much needed improvement over the current system.

In closing, let me again congratulate the conferees on reaching agreement on a bill that goes so far to protect Americans from the financial and economic trauma of catastrophic illness.

Mrs. MORELLA. Mr. Speaker, I am voting for H.R. 2470, the Medicare Catastrophic Protection Act of 1987, with reservations. While this final agreement provides important acute care benefits for Medicare beneficiaries, I have heard from retirees who do not support this bill and I am very concerned with the lack of adequate time to consider the details of the conference report.

The legislation has a number of positive provisions. H.R. 2470 will help to protect the elderly from the catastrophic costs associated with acute illnesses by covering an entire year's hospital bills after the payment of a $580 deductible and by paying all covered physician bills in excess of about $1,370 per year.

It expands the Medicare Program to provide for the first time some coverage for prescription drug costs, a new benefit for respite care, and provisions to address the problem of spousal impoverishment as a result of the confinement of a spouse to a nursing home. Medicare coverage for home health and skilled nursing home care are expanded, and periodic mammography screening will now be covered. State Medicaid programs will be required, on a phased-in basis, to pay the Medicare premiums, deductibles, and coinsurance for elderly and disabled individuals with incomes below the Federal poverty level.

I am pleased that the final agreement includes the two Senate amendments developed to address the duplication of benefits for Federal retirees and the tax inequities between the treatment of Federal pensions and Social Security benefits in the calculation of the supplemental premium. These amendments are vital to ensure that these retirees are treated more fairly.

Certainly, these catastrophic benefits will be very important to a segment of the elderly population. The American Association for Retired Persons and the National Council of Senior Citizens have endorsed the bill.

And yet, many retirees are opposed to the plan. For the most part, they oppose the income-related premium and believe that the benefits should have been voluntary. I am troubled by these concerns. I believe the increased premiums may be a burden for retirees on a fixed income, and I am concerned that passage of this bill might slow the momentum toward a solution to the need for long-term care, the true catastrophic cost for so many retirees.

While I will vote for the bill today, I urge my colleagues to join me in taking a more comprehensive look at our health care system for the elderly and our overall population. The objective is correct: to develop a simpler and more comprehensive system of health care. However, we must take great care in ensuring that we are indeed achieving this objective and are not overburdening the elderly in the process.

Mr. ROYBAL. Mr. Speaker, today I am supporting, with reservations, the House/Senate conference agreement on the Medicare Catastrophic Protection Act (H.R. 2470). Having taken important steps forward on prescription drug and respite benefits and Medicaid protection for the elderly, disabled, pregnant women, and children, I urge my colleagues to approve the compromise agreement. After 2½ years of work, the catastrophic health insurance legislation deserves to be enacted into law quickly.

My reservations rise from the continued vulnerability of near poor and lower middle income beneficiaries under the catastrophic health insurance agreement. The conference agreement places a heavier than necessary financial burden on Medicare beneficiaries and further weakens what was already substantially less than adequate catastrophic insurance protection under the House bill or my own catastrophic legislation, H.R. 1930.

Since 1985, I have strongly supported Congress' effort to provide better catastrophic insurance protection to all Americans, including Medicare and Medicaid beneficiaries. In 1987, I even went so far as to introduce my own catastrophic insurance bill, H.R. 1930, as a way to expand the issues considered by the Congress. Many of my bill's provisions—prescription drugs, respite care, the mixed financing package, improvements in extended and home care, spousal impoverishment, the Medicaid buy-in for low income beneficiaries, and protection for children and pregnant women—are now about to become law.

I am pleased that the conferees ignored the call by some people to dump the catastrophic bill in favor of the Pepper-Roybal long-term home care bill (H.R. 3436). However, as soon as the catastrophic bill is passed, Congress should immediately act on the Pepper/Roybal bill and pass it by large margins as well.

On June 8, I, along with Congressman PEPPER and the 125 supporting organizations, will be calling upon you to vote "yes" on the rule and vote "yes" for final passage of the Pepper-Roybal long-term home care bill. We believe that a vote against the rule or against the Pepper/Roybal bill will be seen as a vote against long-term care.

With the enactment of both the Pepper-Roybal long-term home care bill and the catastrophic health insurance bill, Congress and the Administration could be justifiably proud of what they have done to better protect the elderly, disabled, and children.

Mr. Speaker, I urge the adoption of the conference report.

Mr. JEFFORDS. Mr. Speaker, almost a year and a half ago, President Reagan declared in his "State of the Union" address that one of his highest priorities during the 100th Congress would be the passage of legislation to protect older Americans from the financial ruin that can be caused by the high cost of medical care. Today we stand ready to enact legislation that would accomplish this goal.

After months of hearings and testimony, the Medicare Catastrophic Protection Act, H.R. 2470, is ready for final approval by the House and Senate. As a participant in the conference committee that fashioned the final version of H.R. 2470, I am proud to offer the bill my full support. When the bill becomes effective, Medicare beneficiaries will pay no more than $580 annually for hospital care and no more than $1,400 annually toward the Medicare-approved charges for doctors' services.

The limits on basic health care costs are the cornerstone of the bill. All Medicare participants will benefit from the assurance that their savings are not likely to be wiped out by a sudden catastrophic illness. Nearly as important as the bill's protections against catastrophic health costs are the bill's provisions that will fill in many of the gaps in current Medicare coverage.

Passage of this bill will initiate several completely new benefits. Beginning in 1991, an outpatient prescription drug benefit will be phased in. Eventually, this benefit will pay for 80 percent of beneficiaries' prescription drug costs that exceed an annual deductible ($600 in the first year). Also for the first time, Medicare will provide a respite for a spouse, relative, or friend caring for a Medicare beneficiary who cannot be left alone. Through the "respite care" benefit, Medicare will pay for up to 80 hours annually for home health services.

The bill will provide slightly expanded coverage in several important areas. Medicare will pay for 14 more days of home health care services. The 210-day limit on hospice care will be eliminated. The bill also improves efforts at preventive health by helping to pay for breast-cancer screening.

The bill builds on the limited role that the Federal Government currently plays in helping individuals and families pay for nursing home care. In seeking changes in the Medicare and Medicaid Programs, one of my higher priorities has been seeking a solution to the problem of "spousal impoverishment." In this situation, the Federal Government will not begin to pay for nursing home care until a couple has "spent down" their income and assets to a level that will make them eligible for Medicaid. Sadly, this leaves the spouse of the nursing home patient destitute. H.R. 2470 would set new income eligibility standards for Medicaid that would help prevent this unconscionable situation.

Currently, Medicare does not provide any coverage for those in need of long-term nursing home care. However, Medicare will help pay for the first 100 days of medical care in a skilled-nursing facility. H.R. 2470 will expand that coverage to include up to 150 days of care each year and will eliminate the prior hospitalization requirement. This will at least provide relief to those who require only a relatively short stay in a skilled-nursing facility.

These new benefits would be financed by a monthly premium to be paid by all Medicare enrollees. This premium would start at $4 each month and rise to just over $10 monthly in 1993. In addition, an income-related supplemental premium would be levied once a year. The supplemental premium would vary according to income, but it is estimated that 60 percent of enrollees would pay no supplemental premium at all.

The bill includes provisions to ensure fair treatment of Federal civil service retirees. For the purpose of calculating the supplemental premium, civil service retirement income would be treated similarly to income from Social Security. Also, the bill allows for adjustments in the Federal Employee Health Benefit Plan [FEHB] to account for duplicative benefits for those who are eligible for both Medicare and FEHB.

Once H.R. 2470 is approved, as I fully expect it will be, the House will be turning its attention to the issue of how best to provide for long-term care. In meetings I have had with health care providers, seniors, and others over the past year, the question of how best to provide for the high cost of long-term care, particularly nursing home care, has often dominated the discussion.

Within the next few weeks, the House will be voting on legislation that would address one part of the long-term care issue. My fellow member of the House Select Committee on Aging, Representative CLAUDE PEPPER, has offered a bill that would provide unlimited long-term home care services to all Americans who need it. The Pepper bill recognizes that long-term care does not neccessarily mean nursing home care. With the provision of a few basic services, many persons who are otherwise unable to properly care for themselves can avoid institutionalization. Not only does home health care give a greater sense of independence to the individual, it also provides a much less costly alternative to institutional care.

Unfortunately, home health care is not for everybody. Hundreds of thousands of older Americans will continue to require the round-the-clock, skilled medical care that is only available in a nursing home. Eventually we will have to look beyond the Pepper bill to a comprehensive solution that will encompass all forms of long-term care.

I have no illusions that finding a solution to this problem will be either simple or inexpensive. However, I look forward to working with my colleagues to craft a thoughtful package that will fully address the issue of providing for long-term care.

Mrs. LLOYD. Mr. Speaker, it has been almost a year since the House passed its version of H.R. 2450, the Medicare Catastrophic Protection Act. Today, we are about to harvest the fruit of the combined labors of the two Houses of Congress, whose conferees worked long and hard to resolve outstanding differences between the House- and Senate-passed versions of H.R. 2450. The fact that they did so under the critical eye of public scrutiny is a tribute to their superb negotiating skills and their strong commitment to a cause which occupies a high priority on the Nation's agenda.

Few bills have been analyzed and debated to the extent that H.R. 2450 has since the House Ways and Means Committee first began to address the need to establish a catastrophic benefit under the Medicare Program. The bill has been criticized and/or opposed by those who have objected to the financing mechanism, or, who felt that the bill went too far or did not go far enough in providing catastrophic protection. Some even went so far as to suggest that we should abandon the cause altogether, or abandon H.R. 2450 in favor of some other proposal which has not had the benefit of close examination by the Congress.

I'll be the first to admit that H.R. 2450 is not all that I would like it to be, and I doubt that it is all that anyone here would like it to be. But, I am convinced that it is the best that we can offer in providing acute care coverage in today's deficit reduction climate.

Like others, I am disappointed that the bill does not do more to help those who are in need of long-term care for chronic conditions such as Alzheimer's disease. But, I do have faith in the promise of the Health Subcommittee of the House Ways and Means Committee to address this need after it has completed its work on H.R. 2450. It is my hope and expectation that the subcommittee will build upon the modest improvements in extended care that are included in H.R. 2450—such as the new respite care benefit, the more liberal skilled nursing facility, home health care and hospice benefits, and the provision to protect the spouses of medicaid-eligible nursing home residents from impoverishment.

Thanks in large measure to the efforts of the Health Subcommittee we do have an acute care bill of which we can be proud. First and foremost, H.R. 2450 does place limits on the amount of out-of-pocket expenses paid by Medicare beneficiaries in each calendar year for hospital, physician, and skilled nursing facility services.

The bill does away with the current 90-day limit on hospitalization as well as the deductible per spell of illness. Out-of-pocket expenses for inpatient care will be limited to one deductible per year. In addition, the bill places a cap on beneficiaries' out-of-pocket expenses for physician services and other items covered by Medicare part B, and establishes a new prescription drug benefit that will be phased in over a 3-year period, beginning in 1991.

To protect the poor, the bill requires State Medicaid programs to pay Medicare premiums, deductibles and coinsurance for all Medicare enrollees with incomes below the Federal poverty line.

The funding mechanism is based on the premise that every beneficiary, regardless of means, is entitled to the best of medical care.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference report on H.R. 2470, the Medicare Catastrophic Protection Act which expands current Medicare benefits to protect the elderly against devastating catastrophic health expenses. The bill makes important modifications to Medicare to limit an individual's out-of-pocket medical expenses, including the cost of extended hospital stays, doctor bills, and prescription drugs, and contains provisions to prevent one spouse from becoming completely impoverished before Medicaid will pay the cost of nursing home care for the other. It also contains a new Medicaid waiver authority that will help States care for medically fragile infants and young children in nonhospital settings.

I am especially pleased that the bill creates a new benefit under Medicare—respite care to provide temporary relief for a relative or friend caring for an elderly family member who cannot be left alone.

The Select Committee on Children, Youth, and Families recently held a hearing on the "sandwich generation" that highlighted the concerns of family members who provide continuous care for their elderly dependent parents and their own children at the same time.

The families who testified expressed an overwhelming commitment and desire to provide a loving home. They noted, however, that limited family support services, such as respite care, made that task very difficult. Evidence released at the hearing confirmed that the most pervasive and severe effects of assuming demanding caregiving roles are emotional strain and family stress. Respite care is essential for these caregivers who often juggle careers, child care, housework, transportation, and financial worries.

According to a study releases at the hearing, respite care allows families to maintain their dependent parent at home and avoid institutionalization for a longer period of time. Families used respite only when they were desperate for help, and not as a substitute for family caregiving. In addition, respite care was the family support service requested more often than any other. Members of the select committee have heard this request repeatedly from parents, foster family caregivers and many who work with families.

The new waiver is designed to reduce the growing costs of maintaining these medically fragile infants and young children in hospitals and provide them with care in more appropriate and less costly home-like settings. Infants and children up to age 5 who have been infected with HIV or who show signs of AIDS; or who were drug-exposed and affected at birth; and who are or will be receiving foster care assistance under title IV-E of the Social Security Act, would be eligible for the expanded set of services under the waiver.

The waiver will give States the authority to include under medical assistance the following set of nonhospital based servcies: nursing care, respite care, physicians' services, prescribed drugs, and medical devices and supplies provided as part of a plan of care for a medically fragile child, who without such services would probably remain in a hospital for stays that result in higher total Medicaid costs. In San Francisco alone, the savings would be more than $4,000 per child/per month.

The new authority would also waive the Medicaid comparability rules and statewideness provisions that can deter States from seeking a waiver, and thus allow States to target these needed services better.

New research conducted by the Office of Technology Assessment also found that for every low birthweight birth averted by earlier prenatal care, the U.S. health care system saves between $14,000 and $30,000 in newborn hospitalization, rehospitalizations in the first year, and long-term health care costs. OTA concluded that expanding Medicaid to pay for prenatal care for all poor pregnant women is a good investment for the Nation.

Mr. Speaker, I want to call special attention to a significant provision in the bill that protect medically fragile infants in a manner that is both more humane and cost-effective. The new Medicaid waiver authority included in this bill will assist States in moving medically fragile infants out of long-term hospital care by improving medical and other services available to these children in nonhospital settings.

In hearings of the select committee over the last few years, we have learned about serious and growing problems in providing out-of-hospital care to growing numbers of medically fragile infants and young children.

Last year when the select committee held a hearing on AIDS and young children, there were approximately 400 reported cases of AIDS among children under age 5. By mid-May 1988, more than 800 cases had been reported among children in this age group. Even more disturbing are increasing reports of babies being born who have been drug exposed and may be at risk of HIV infection. In New York City, one study reported that 1 in 61 babies born last December carried HIV antibodies. Additionally, New York City's infant mortality rate climbed in 1987 after a decade of decline, due to substance abuse and AIDS. In San Francisco, 12 percent of all the births at the county hospital are babies with substance abuse-related problems. Just a few weeks ago, the committee learned that requests for foster care for drug-related reasons in Los Angeles County rose several hundred percent between 1981 and 1987.

Many of these children—sometimes called "boarder babies"—are in State care because their parents are unable or unwilling to care for them. These children often have long hospital stays, not because they require in-hospital care but because of the tremendous difficulty in obtaining and paying for the services needed to care for them outside the hospital.

Yet, non-hospital-based care for these children is not only better for them but has increasingly shown to be cost effective. The San Francisco Fragile Infant Program, which provides a specialized foster care setting with attendant health services for medically fragile infants, costs from under $2,000 per infant/per month in contrast to $6,375 paid by Medicaid to care for an infant in a hospital.

California's health care system, often touted as a model for the Nation, should serve as a warning instead. A report recently released by the Southern California Child Health Network warned that the health of California's mothers and babies had begun to deteriorate because parental care services were becoming less available. In 1985, California's infant mortality rate increased for the first time since 1965.

At a time when policy decisions are driven by budgetary considerations, it is especially compelling that the Southern California Child Health Network found that an investment of $43.2 million in health care services to the 36,000 pregnant women who go without care each year in California, would actually result in savings of $73.4 million—for a net savings of $30.3 million through avoided hospitalization of newborns.

The evidence continues to mount that the principal cause of infant mortality—low birthweight—can be reduced at significant cost savings with earlier and more comprehensive prenatal care. The select committee in its report, "Opportunities for Success: Cost-Effective Programs for Children, 1988 Update," found that a $1 investment in prenatal care for high risk women can save $3.38 in the cost of care for low birthweight infants.

While more must be done to address the very real and growing concerns about long-term care and who will pay for it, respite care is a key step in any solution to this problem.

I am especially pleased that this conference report is intergenerational in scope and reasonable in its expansion of Medicaid coverage to the most vulnerable groups, young and old, who live below the poverty line. The bill requires States to provide Medicaid coverage to pay for Medicare premiums, deductibles and coinsurance for all Medicare beneficiaries with incomes below the Federal poverty line.

Equally critically, it requires States to provide prenatal care to pregnant women and health care to infants who live in families earning up to 100 percent of the Federal poverty line. Almost half the States still have not opted to cover this vulnerable population, leaving millions of women and children remaining at risk.

Since 1978, this Nation has made virtually no progress in bringing more women into care in during the first 3 months of pregancy. Fewer than 1 in 4 pregnant women receive care in the critical first trimester, and this limited access has tragic consequences. In 1985, the national neonatal mortality rate failed to decline for the first time since 1960.

Mr. Speaker, our colleagues Chairman ROSTENKOWSKI of the Committee on Ways and Means, Chairman STARK of the Subcommittee on Health and Chairman WAXMAN of the Subcommittee on Health and the Environment deserve our collective thanks for their leadership in bringing this important legislation to the floor.

By passing this legislation today, we will have taken an important step to assure security for the Nation's elderly, and critical, cost-effective protection for some of the Nation's most vulnerable infants and children. These are important first steps. It is my hope that Congress will also ensure than long-term and catastrophic protections are afforded the growing number of children, families, and disabled adults who, like the elderly, have little or no protection from the extraordinary and burdensome medical costs of catastrophic or chronic illness.

Mr. GALLO. Mr. Speaker, I rise in support of the conference agreement on the Medicare Catastrophic Health Coverage Act of 1988, because it is time to provide senior citizens with the peace of mind that this bill promises.

I believe that this is a needed program that provides peace of mind for our senior citizens, but I strongly oppose the effort by the Rules Committee to prevent Members from offering amendments before the final vote.

When this bill first passed the House last year, I was critical of three aspects of this measure. First, I said it should be voluntary, not mandatory. Second, it duplicated coverage for those seniors with existing comprehensive health insurance. And, third, that 40 percent of the people were called upon to provide 100 percent of coverage.

This final bill is an improvement over the original version, but I feel strongly that we should have had the opportunity to further correct these deficiencies.

Right now, senior citizens and their families face the possibility that they will be impoverished by the cost of extended hospital stays not now covered by Medicare.

The fact that 70 percent of all Medicaid recipients also qualify for Medicare is very disturbing to me.

What this statistic says to me is that 70 percent of our senior citizens have had to spend their savings down to the poverty level in order to qualify for coverage.

This bill provides senior citizens with peace of mind that they will not have to spend themselves into poverty because of expensive hospital stays.

I have supported the concept of this bill since it was proposed by the administration and Health and Human Services Secretary Bowen.

I voted for final passage of this bill, because I believe in Medicare reform, but I voted against the rule which prevented Members of the House from offering any amendments to this bill before the final vote.

For the past year and a half, this bill has been the subject of a great deal of study and effort, in Washington and at home in our own congressional districts. Under the leadership of Secretary Bowen, a national task force was formed to address one of the greatest fears our senior citizens have about serious illness—the devastating financial, as well as physical, effects of an illness that requires extended hospital stays.

In my district, I formed a Health Care Task Force at the outset of this process. This task force made several key recommendations that were included in Secretary Bowen's report to the Congress on the need for catastrophic protection. Senior citizens in my district have actively participated in the debate on this measure and have provided me with key input. All these individuals and organizations are to be congratulated for their efforts. The result is legislation that will address the real needs of our elderly.

Since coming to the House of Representatives, I have called for reform of the Medicare system. We are now voting on the first major change to the Medicare system since its inception.

This bill is a first step in our efforts to meet the needs of the fastest growing segment of the population—our seniors.

However, because we were not given a chance to amend this bill to address the problems of duplication and mandatory participation, I urge my colleagues to support efforts to immediately begin the process of correcting these deficiencies, which will become more obvious as time goes on.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 2470, the Medicare Catastrophic Protection Act.

In addition to being the first substantial expansion of Medicare since the program was enacted in 1965, this legislation also represents an important step in addressing the unmet health care needs of our Nation's seniors and disabled. Although complete coverage of long-term care is not within the scope of this particular bill, H.R. 2470 makes significant advances toward protecting Medicare beneficiaries from the devastating costs of catastrophic illness.

For example, under the conference agreement, beneficiaries' expenses will be limited with a cap on out-of-pocket costs. Consequently, seniors will be liable for no more than $564 in hospital charges per year and will face no more than $1,370 in yearly physician charges. The legislation also contains important provisions to cover outpatient drugs and protect against spousal impoverishment.

While the conference agreement will be extremely beneficial to Medicare recipients as a whole, the positive effect that these changes will have on individuals is especially impressive. Examples of the many benefits that this legislation will have on seniors are documented in an excellent article in the May 31, 1988, New York Times entitled "For Many, Help Is Near on Health Costs," which I am submitting for the RECORD.

The Ways and Means and Energy and Commerce Committees have worked long and hard to carefully draft legislation which addresses both fiscal concerns and concerns that the changes in the bill meet the health care needs of the Nation's 31 million seniors and disabled individuals. I believe that the conference agreement is an important step in ensuring that we do not turn our backs on the health care needs of Medicare beneficiaries. I urge my colleagues to support this legislation.

[From the New York Times, May 31, 1988]

FOR MANY, HELP IS NEAR ON HEALTH COSTS

(By Martin Tolchin)

WASHINGTON, May 30.—Elderly middle-class Americans and their families will be the first to benefit from legislation meant to shield Medicare recipients from ruin by huge medical bills, in the view of health care experts and congressional sponsors.

The bill, which calls for the first major expansion of the Medicare program, emerged from a House-Senate conference last week with the Reagan administration's support. It is expected to gain easy approval in the House and Senate and be signed into law.

The new coverage, effective Jan. 1, would provide benefits to the 32 million elderly or disabled people who receive Medicare. They would finance it by paying premiums of $4 a month as well as income tax surcharges.

WHERE IT WOULD HELP

These cases from the files of the American Association of Retired Persons illustrate how the legislation would bring about changes:

It would sharply reduce the beneficiary's expenses for prescription drugs. Take, for example, the case of a 66-year-old Virginia woman who spends $6,000 a year on insulin and five other drugs for diabetes, asthma, high blood pressure, bladder trouble and problems from a stroke. Her husband, also in poor health, has taken part-time jobs to pay the bills. In 1991, the first year of the drug portion of the program, the woman would pay a $600 deductible, after which Medicare would pay half the rest, for a total cost to her of $3,300. By 1993, Medicare would pay 80 percent, leaving her to pay a total of $1,680.

It would place a ceiling on physician expenses. These amounted to $30,000 for a Georgia man who died a few months after a three-month stay in a hospital for heart surgery and a leg amputation. His wife, also elderly, mortgaged their home to pay the bills. Under the measure, the annual ceiling on physicial bills would be $1,400, according to preliminary estimates.

It would provide coverage for 150 days a year, up from 100 now, in a nursing home providing skilled nursing and would eliminate the current requirement that three days of hospitalization precede the nursing care. This would help people like an elderly California widow, wheelchair-bound but able to care for herself until she became bedridden. She had not spent three days in a hospital, so she did not qualify for coverage in a "skilled nursing facility."

Under the measure, a beneficiary would pay no more than $564 annually for hospital bills, according to preliminary estimates. Existing law covers a Medicare beneficiary for the first 60 days of hospitalization a year, but he has to pay a $540 deductible for each "spell of illness."

"This bill will give peace of mind to millions of Americans, not just the elderly," said Senator Lloyd Bentsen, the Texas Democrat who heads the Finance Committee. "Not only do the elderly's savings get wiped out by catastrophic illness, but also their children's."

The bill would also protect the spouse of a nursing home patient from impoverishment. In one case cited by the American Association of Retired Persons, a Tennessee woman put her husband in a nursing home, and the couple had to spend all their assets on his care; Medicare did not cover it. When the assets were wiped out, the couple became eligible for Medicaid, the separate insurance program for the poor.

Under the new legislation, the spouse would be entitled to keep $750 in monthly income as well as half the couple's assets (but no more than $60,000 worth) or $12,000 worth, whichever is greater. The monthly income allowance would gradually increase to about $950 a month.

The few politicians who opposed the legislation said the cost of medicare and other benefit programs often soars beyond initial projections. Some conservatives also said the legislation sent the wrong signal to world financial markets, suggesting that the United States was not serious in its effort to control deficit spending.

On the other hand, some groups said the House and Senate measures did not go far enough. John Denning, president of the American Association of Retired Persons, which has more than 27 million members, cautioned last October that it would not provide comprehensive coverage for extended nursing home stays, which are the greatest source of huge health bills for the elderly.

Lobbyists for the elderly also warned that Medicare beneficiaries would still be liable for other costs, such as doctors' charges exceeding the amounts deemed "reasonable" by the Government. In addition, the elderly would still be responsible for goods and services not covered by Medicare, such as dental care, eyeglasses and routine eye checkups.

The expanded Medicare program, which is mandatory for beneficiaries, would be self-financed through premiums of $4 a month, which would be deducted from the Social Security checks, as is the case with the $24.80 paid now for Part B of Medicare for physician services. In addition, beneficiaries would have to pay a surtax on income tax. In 1989, the surtax would be 15 percent, but no more than $800, rising to 28 percent in

1993, with a ceiling of $1,050. The percentage is applied to the income tax paid.

The House Ways and Means Committee estimates that in 1989, those with total earnings up to $10,000 would pay no surtax; those earning $20,000, for example, would pay $180; those earning $30,000 would pay $405; those earning $40,000 would pay $720 and those earning $50,000 or more would pay $800.

The legislation calls for medicaid, the Federal-state program for the poor, to gradually pick up paying for the premiums of the near-poor.

But some health experts fear that until that element is fully phased in, over four years, the premiums will place severe burdens on the near-poor, even though they would pay little or no surtax. Each state has different criteria for eligibility for Medicaid, which unlike Medicare covers all health expenses.

OUT OF THEIR GROCERIES

"The near poor will be paying their premiums out of their groceries," said Ronald Pollack, executive director of the Villers Foundation, a research organization that specializes in issues concerning the elderly and the poor.

Representative Henry A. Waxman, a California Democrat who is chairman of the Energy and Commerce Subcommittee on Health, said, "Eventually, when this is all phased in, this bill will be helpful to both the middle-class and the lower-income elderly."

"The prescription drug benefit will help five to six million people," he added.

The new measure could lower premiums for private insurance bought to supplement Medicare, because Medicare would cover more, according to Mr. Waxman.

Indeed, the measure requires that insurance companies that write such policies rewrite them so that they do not duplicate the new Medicare coverage. The insurers are also required to notify policyholders that they have eliminated any duplication.

The Health Insurance Association of America estimates that 65 percent to 70 percent of the elderly have private insurance policies to cover the gaps in Medicare and pay an average annual premium of $500. Such insurance is a $12-billion-a-year industry, said Geza Kadar, the organization's assistant Washington counsel.

The group fought the bill, "but now it's here and it's history, and we're going to live with it," Mr. Kadar said.

Joshua M. Wiener, a health care expert who is a senior fellow at the Brookings Institution, said premiums for private policies to cover gaps in Medicare "will go down a bit, but probably not as much as people expect."

Mr. Kadar explained that few people stayed in the hospital more than the 60 days covered by Medicare in a year, so private policies paid out very little for hospitalization, keeping their premiums relatively low.

HELP ON PHYSICIAN BILLS

The new legislation increasesd insurance for physician and medical fees. Part B now pays 80 percent of what it considers the "reasonable costs" of physicians, laboratories and home health services, after an annual $75 deductible per person. This is optional insurance, obtained through monthly premiums of $24.80. About 97 percent of Medicare beneficiaries take Part B.

Part B will continue under the new legislation, but there will be an annual ceiling of $1,400 on what the patient has to pay, with the Government paying the rest. After a patient's payments—for the 20 percent not covered by Part B, plus the $75 deductible—reach $1,400, all Medicare-approved physician services would be covered.

"It's a major restructuring of the Medicare program and does what insurance is supposed to do: protect you against catastrophic costs," Mr. Wiener said.

Private insurers are expected to expand their offerings covering doctor fees not approved by Medicare.

COVERAGE AT HOME

Beyond the increased coverage for care in a skilled nursing facility, the measure would also increase coverage of expenses incurred in home health care, paying for seven days a week for a total of 38 days a year. The bill would also pay for 80 hours a week annually for outside care-givers to provide a respite for those caring at home for Medicare patients.

In addition, the measure would eliminate a 210-day maximum coverage for hospice care. The amount of coverage will be open-ended, provided that a beneficiary is certified as terminally ill by a physician or hospice director.

Mr. SCHAEFER. Mr. Speaker, since being elected to Congress in 1983, I have stressed the need for a comprehensive package to address the unique health care needs of senior citizens. I applauded the initiative of President Reagan in presenting such a program to Congress last year. Unfortunately, many of those good ideas are not present in H.R. 2470.

It was difficult for me to vote against the Medicare Catastrophic Protection Act, because I support the goal of the bill. Elderly persons are often faced with costly, long-term health problems that can bankrupt even those who have insurance or have saved for such disasters. Seniors deserve some protection from devastating illness.

H.R. 2470 has some good points. For example, it allows for mammogram screenings, will keep spouses of nursing home patients from forced poverty, and limits the amount of out-of-pocket expenses for doctor care and hospital services. The weak points of the bill, however, forced me to vote against it.

First, the bill does not address the most pressing health problem of senior citizens: long-term care. Over 80 percent of health care expenses incurred by the elderly are related to long-term home care and nursing home costs. Nine out of 10 private or Medigap insurance policies do not cover nursing home care, which averages $25,000 per year. H.R. 2470 does very little to help the victims of stroke, Alzheimer's disease or other severe illness.

Second, the bill requires all Medicare eligible individuals to pay a supplemental premium, or surtax. This tax, which could be as much as $800 next year, is not fair to persons who have saved for their health care or have purchased private insurance policies. This will force senior citizens to become dependent on the Federal Government, even if they do not need or want to.

Third, the potential exists, under the new prescription drug benefit, for Medicare subscribers to bear the cost of treating AIDS patients. Victims of AIDS who qualify for Medicare under the disability provisions would also qualify for the drug benefit. It is not fair to force seniors to shoulder the burden of the very expensive ($10,000 per year!) AIDS treatment.

Finally, the bill could cost seniors a lot of extra money without giving them many extra benefits. Each year the premiums and deductibles will be indexed to cover the cost of the programs. This means that, to keep Medicare solvent, only a very few individuals will actually reap the benefits. For example, only 7 percent of eligible beneficiaries currently meet the part B out-of-pocket limit, and only 16 percent exceed the prescription drug deductible. These levels will be maintained.

Although I could not support H.R. 2470, I will continue to work to make true catastrophic and long-term health care benefits available in a fair and reasonable manner to all senior citizens.

Mr. KLECZKA. Mr. Speaker, I intend briefly addressing a health care initiative over which many volumes of critical work have already accumulated: the Medicare Catastrophic Protection Act, known as H.R. 2470.

I would like to commend the work of House and Senate conferees who reported a comprehensive, acceptable bill to this body. As a result of their careful work on a complex proposal, we have today voted upon what is the most sweeping change in the Medicare program since its inception in 1965.

Opponents of this overdue measure have vociferously decried it as unresponsive, costly, and unnecessary. First, they should be reminded that the catastrophic bill is an act of the people.

It grew out of pleas from Medicare enrollees for care answering their actual needs, instead of ignoring very real health concerns in order to meet cost containment regulations. Wrenching examples from elderly and disabled Americans living in Wisconsin's Fourth Congressional District, which I represent, convinced me that the deplorable era of dismissing patients sicker and quicker from Medicare participating hospitals complying with the length of stay policy had to end. My constituents informed me that in most cases it isn't possible to recover completely from major surgery or illnesses during Medicare's 60 reserve days. Many of my constituents on Medicare also shared their frustration and sense of powerlessness when choosing between paying for commonplace necessities or else purchasing vital prescription drugs, with inflated prices almost 800 percent above the national inflation rate.

Today, opponents of the catastrophic bill have tried to convince Members of Congress that this bill helps only a few, and at too great a cost. However, hard data from the nonpartisan Congressional Budget Office's analysis of the catastrophic bill demonstrate otherwise, with irrefutable facts.

When signed into public law, this legislation will be of use to all Medicare enrollees. Specifically, it will be of immediate use to the 7 percent who have hospital costs over Medicare limits—the 7 percent who have physician costs over Medicare limits—and the almost 20 percent with prescription drugs benefits over catastrophic limits. Assuming there is little overlap between these groups, this bill is of extreme usefulness to more than one-third of Medicare's enrollees.

Today, opponents of this bill have also tried to persuade Members of Congress that senior citizens and the disabled don't really want or need protection from the costs of acute illness. They would have Congress believe that acute illnesses are a minor worry to the Medicare population; what they really desire is long-term home care. These opponents have attempted to convince Members of Congress that they should vote "no" on the catastrophic bill.

I recommend these opponents review studies, such as the Mathematica Group's 1986 national long-term care channeling demonstration project, showing that expanding home health-care benefits does not significantly diminish nursing home or hospital use. These health care consumer groups form a sizable chunk of the affected Medicare population, whose requirements cannot be shunted aside in an all-or-nothing deal. After all, comprehensive long-term care and catastrophic protection are complementary initiatives.

Medicare enrollees gave Congress the "real scoop": After years of paying the hospital insurance tax, the part B premium and Social Security taxes, they weren't receiving the medical care they needed the most. Congress answered their challenge, making Medicare improvement a priority item during the 100th Congress.

And, amazingly, despite the shrinking hospital insurance fund and budget limitations cutting health care spending, the authors of the catastrophic bill developed a proposal which adds not 1 cent to the Reagan budget deficit. Accomplishing this feat was no easy task.

As strident advocacy groups have indicated, the catastrophic program's financing certainly is controversial—but fortunately only to those few who are unwilling to contribute even a penny to their health care. Most Americans are willing to contribute their fair share—what they can afford—for their health care insurance. Hence, it bears repeating that this legislation's self-financing formula, based on capping premiums and enforcing a progressive, income-based supplemental premium, provides protection from the catastrophic cost of acute illnesses while creating two new benefits: 50 percent coverage of prescription drug expenses after paying an annual $600 premium—effective 1991—and a respite care benefit necessary for the emotionally and physically fatiguing return to the home after a hospital stay.

In total, Medicare catastrophic expenses are hereafter capped at less than $3,000 a year. Currently, most enrollees pay far more per year in medical expenses.

In closing, I would draw attention to two other features of the catastrophic bill: First, Federal retirees need not pay disproportionately higher premiums for overlapping benefits; the financing formula covering their benefits is adjusted in H.R. 2470; and second, this legislation expands Medicare's respite care and skilled nursing facility provisions, in anticipation of future consideration and passage of complementary, long-term-care legislation.

The Medicare Catastrophic Protection Act will help many of my constituents, and yours, by removing much of the helplessness accompanying growing older. I am pleased to have voted for this bill's passage, and urge the Senate to do likewise, for with the President's certain signature, this bill will become public law—a useful program improving the public welfare by helping millions of Americans help themselves shoulder the cost of medical care.

Mr. BONKER. Mr. Speaker, by today's end, we in the House will have passed—by an overwhelming majority—sweeping changes in the Medicare Program. This legislation would protect some 33 million older and disabled Americans from the financial devastation of large and too often unpredictable out-of-pocket health care expenses. This has been a goal of mine throughout my tenure in Congress—a goal many Members of Congress share and have acted upon today.

The enactment of the conference agreement on H.R. 2470, the Medicare Catastrophic Coverage Act of 1988, adds significant new protections against the high out-of-pocket medical costs faced by so many senior citizens. Although the act is not comprehensive—it does not address to any great extent the extraordinary cost of long-term care—it is a very significant step in the right direction. I commend my colleagues for their efforts over the past 16 months to craft this very significant accomplishment—the most significant expansion of Medicare since its creation in 1965.

This expansion of the Medicare Program is particularly notable coming at a time when Congress is struggling to contain our staggering national deficit. It is vitally important that we address our deficit and budgetary problems; otherwise, we are virtually paralyzed in our ability to provide funding for crucial national priorities. Yet, I believe that today's passage of H.R. 2470 is evidence of Congress' commitment to providing adequate and affordable health care for all our citizens.

This bill does not add a dime to the deficit. While I have serious reservations about the financing mechanism—it puts too much of the burden directly on beneficiaries—it represents, quite frankly, the only way that we were going to get these needed improvements made at this time—and probably for some time to come. For the first time, a portion of Medicare benefits will be financed on a progressive basis with those who have higher incomes paying more than those with limited incomes.

Financing will be provided by a dual mechanism of an increase in the part B premium paid by all Medicare beneficiaries—$4 per month in 1989—and a supplemental premium paid by the estimated 40 percent of Medicare recipients with incomes high enough to owe $150 or more per year in Federal income taxes. The House Ways and Means Committee estimates that in 1989, those with total earnings up to $10,000 would pay no surtax; those earning $20,000 would pay $180; those earning $30,000 would pay $405; those earning $40,000 would pay $720 and those retirees earning $50,000 or more would pay $800 in 1989. While I have substantial concerns about financing the range of these new benefits strictly with revenue derived from beneficiaries, this bill does offer a balance of additional needed coverage and responsible progressive financing.

Mr. Speaker, before I highlight certain specific provisions that I believe to be particularly significant, it is important to note the scope of this legislation. Since the opening of the 100th Congress, catastrophic care has received tremendous attention with most of it focused on the proposed legislation's acute care benefits, the financing mechanisms, and the lack of long-term care coverage. Yet, H.R. 2470 is so much more than that—it is very complex legislation with many individual, and noteworthy, provisions contained within it. It is worth noting that the press release this past Tuesday issued by the committees of jurisdiction is a 17-page outline of provisions.

While it is clearly true that small percentages of older Americans will benefit at any given time from individual provisions, I believe that the broad scope of benefits will assist a great number of people, including, for example, pregnant women and infants whose family income is below the poverty level. I am especially pleased to note that H.R. 2470 addresses a number of improvements that I have sought over the years as a member of the Select Committee on Aging and as chairman of the committee's Subcommittee on Housing and Consumer Interests.

I would like to now speak to several of the key provisions in this bill. I am delighted that we are finally creating a new benefit to help pay for prescription drugs. I have introduced legislation over the past three Congresses to establish a prescription drug component to Medicare in my own catastrophic care proposals, including H.R. 784, the Supplementary Medical Insurance Improvements Act of 1987, which I introduced in January 1987. Too many senior citizens have bankrupting out-of-pocket costs for medications which can run into the thousands of dollars.

The prescription drugs benefits will be phased in between 1990 and 1993, and will eventually cover all prescription drugs. A coinsurance payment of 50 percent will gradually decrease until Medicare pays for 80 percent of the cost of prescription drugs beginning in 1993. The benefit begins after an annual deductible of $550 in 1990 rising to $600 in 1991 and about $650 in 1992. Among the many provisions related to the new drug benefit, H.R. 2470 will require pharmacies to accept assignment once the deductible is met.

I must state, however, that I am disappointed that this critical new benefit will be phased in over the next 5 years and has such a high deductible that must be reached before the coverage begins. Nonetheless, for those who meet this threshold, it will be a blessing. I remain committed, Mr. Speaker, to improving this benefit and making it more widely available.

The primary feature of the Medicare Catastrophic Coverage Act is the establishment of caps on beneficiaries' out-of-pocket costs for part A hospital costs and part B physician costs. This legislation provides unlimited hospital care after payment of a single deductible which is estimated to be $580 in 1989. This will be significant protection for those individuals who require prolonged hospital care. Currently Medicare pays fully for only 60 days of coverage for inpatient hospital care. After that, current law requires a steep daily coinsurance payment of $135 per day for the 61st through 90th day. While overall, the number of Medicare recipients who face these costs are small, for those who do, the costs are truly catastrophic.

H.R. 2470 will also place a ceiling on the out-of-pocket costs for physician and other outpatient services. The bill caps at between $1,350 and $1,400 in 1990 the amount of part B costs patients will face for Medicare approved physician's charges. Currently Medicare pays 80 percent of covered costs after payment of a $75 annual deductible. After the new cap is reached, the program would pay 100 percent of all covered costs. It is important to note, however, that physicians could still charge more than the Medicare approved amount—additional expenses for which beneficiaries would continue to be liable. The bill does include several provisions pertaining to the participating physician program which are designed to encourage doctors to accept Medicare approved rates as full payment. I believe we must continue to seek ways to reduce these additional out-of-pocket expenses.

The limited Medicare long-term care benefits available under current law will be improved under this act. It increases from 100 to 150 days a year care in a Medicare-approved skilled nursing home [SNF], significantly reduces beneficiaries' overall coinsurance burdens for SNF care, and eliminates the 3-day prior hospital stay requirement before obtaining Medicare SNF care.

Medicare's home health care is expanded by providing for 38 days of continuous care in any given period and would allow continued coverage beyond this period under certain circumstances. Current law has usually limited care to no more than 5 days a week for 2 or 3 weeks. The bill also allows for hospice care for the terminally ill beyond the current 210-day limit.

H.R. 2470 also establishes other significant new benefits in addition to prescription drug coverage. For example, it is significant to note the creation of an excellent new benefit for routine breast cancer screening exams, paying up to $50 for a mammogram.

I am particularly pleased by the new respite care benefit to ensure that family caregivers receive up to 80 hours a year for an outside aide to provide a respite for family and friends caring for a Medicare beneficiary at home. I am convinced that this new benefit—even with the tight limitations and conditions—will prevent the premature or unnecessary institutionalization of many Medicare beneficiaries. In the past, many persons have been put in nursing homes because the primary family caregivers become so exhausted that they no longer can provide the care necessary to support their ailing relatives. This is a modest benefit, but even so, I believe it will prevent many nursing home placements by providing a small amount of support for family caregivers.

This bill includes several very important improvements related to Medicaid. In particular, this bill addresses one of our Nation's great tragedies: The impoverishment of spouses of patients in nursing homes who must rely upon Medicaid to help pay their nursing home bills. H.R. 2470 will ensure that the "at home" spouse will be able to keep nearly $800 of the couple's income to meet his or her living expenses. It will also allow the "at home" spouse to retain up to $60,000 in assets. I believe this important provision will prevent many husbands and wives of nursing home residents from an unnecessary or premature decline into poverty. By allowing spouses to keep more of the couples' combined assets many may never require public assistance payments or Medicaid coverage. Not only does this make sense from a financial perspective, it is a much more compassionate policy to prevent the utter impoverishment of a spouse whose husband or wife must enter a nursing home.

This particular provision is especially important to me because of its impact on my home State of Washington. Since 1981, Washington State has been a national leader in protecting against spousal impoverishment because of its very fair law allowing for the transfer of assets by the institutionalized elderly to their spouses. While the provisions in H.R. 2470 will help with this problem in nearly all States, they are actually more restrictive than Washington's law. I do appreciate, however, the help I received from the conferees in resolving my concern that nursing home patients, who have transferred assets in good faith under their State's law, will not be retroactively penalized because of the new law. I am pleased that there will not be difficulties for those who have transferred assets pursuant to State law prior to the date of enactment.

Mr. Speaker, I would also like to express my appreciation to the conferees for responding positively to my serious concern that Washington, and some 14 other States would have had their individual approaches to ensuring assistance for nursing home residents under Medicaid jeopardized due to the administration's very restrictive ideas about who should receive assistance. The final agreement assures that the so-called DEFRA moratorium will be made permanent in all States.

Because Medicare will be picking up more health-care costs, Medicaid—the joint Federal and State-financed health-care program for low-income individuals—will have to pay less. The bill ensures that money saved from the Medicaid Program will be spent on the poor. State Medicaid programs would be required to pay Medicare premiums, copayments, and deductibles for benefits for Medicare beneficiaries below the poverty line. States would also be required to provide prenatal, maternity, and child-care services for pregnant women and children under age 1 who have incomes below the poverty line. These are very important provisions and will benefit some of the most vulnerable citizens in our society. This is clearly a step in the direction of ensuring health care for our Nation's 37 million uninsured.

I am pleased to see that the conferees included language to eliminate inequities for retired Federal employees participation in the Federal Employees Health Benefit Plan [FEHBP]. First, provisions were added that ensure that Federal retirees pay the same for catastrophic health benefits as Social Security recipients. The Director of the Office of Personnel Management [OPM] is required to reduce the rates charged to Medicare-eligible individuals participating in FEHBP plans. Second, OPM must conduct a study to determine the long-term changes that may be required to incorporate plans designed specifically for Medicare-eligible individuals. It is only fair that Federal retirees pay no more for catastrophic health benefits than do Social Security recipients.

Mr. Speaker, I would like to underscore the importance of the provisions of the Catastrophic Act that address Medigap insurance policies. It has been a long-term goal of mine to eliminate the need for Medigap insurance and to eliminate the many abuses in policies and sales practices. There continues to be far too many abuses by agents and insurance companies, which were well-documented at a hearing I conducted last summer on abuses in the sales of supplemental policies.

Again, I am proud to state that Washington has provided national leadership in protecting senior citizens from these abuses. Fortunately, the conference agreement includes strong language which will help prevent future abuses and other problems with Medigap policies. A number of these protections are already in effect in Washington and will be extended to older Americans across the country. I must state, however, that we still have more to do and I intend to continue to tackle this issue.

In summary, I believe the passage of the Medicare Catastrophic Coverage Act of 1988 is a major step forward in improving health-care coverage for the elderly. It also takes some small but important steps toward addressing the health-care needs of other segments of our population. I only wish that I had the time to touch upon the other important provisions in this bill that will affect beneficiaries in a variety of different health-care situations. The major accomplishment of this act is the improvement of Medicare coverage for large unpredictable medical costs for short-term hospital stays, doctor bills and related expenses.

We must not forget, however, that other serious health issues remain unaddressed. Some 37 million Americans have no insurance coverage, even though most of these individuals are from families where someone is working. In addition, this legislation does not address the need for long-term care coverage. In the near future—hopefully next week—we will have the opportunity to begin to provide long-term care support services to enable the disabled and chronically ill to remain at home where they are most comfortable and where they prefer to be. I look forward to an overwhelming vote of support in the House for the Pepper-Roybal long-term home care bill.

I applaud my colleagues in the House for the important progress this bill ensures—but stress that we cannot rest yet. There is much left to be done in our continuing efforts to complete the health care safety net for all Americans.

Mr. BIAGGI. Mr. Speaker, I wish to associate myself as an ardent supporter of the conference report to accompany H.R. 2470 the Catastrophic Illness Protection Act. In many respects this is the most important health bill passed on behalf of senior citizens clearly in this decade and perhaps since the original passage of the Medicare Program in 1965. It is legislation that recognizes a serious problem and proposes a solution which itself is an honest reflection of the critical responsibility we have to meet human needs in a fiscally realistic fashion.

Before examining the particular provisions of this landmark legislation, it is important to place this whole issue in an historical perspective. It was more than 3 years ago when the President of the United States first recommended that legislation be developed to help elderly cope with the horrible costs of catastrophic illnesses. He issued this mandate not only to Congress but to his own Secretary of Health and Human Services. Dr. Otis Bowen met this challenge and not only provided the catalyst proposal on catastrophic but he also helped to address the next critical issue we must address—long-term care. Dr. Bowen was given the credit he deserved by the members of the Way and Means Committee but I as an original member of the House Select Committee on Aging wish to add my voice to those praising Dr. Bowen.

In addition, I wish to pay tribute to the congressional leadership associated with this legislation namely Chairman ROSTENKOWSKI of the Ways and Means Committee as well as subcommittee Chairmen FORTNEY STARK and HENRY WAXMAN. In addition important contributions were also made by our able colleagues BILL GRADISON and ED MADIGAN. Finally I wish to commend the leadership of the House Select Committee on Aging, especially Chairman ROYBAL and Senator PEPPER. Not only have they worked to make improvements in this legislation they have kept the national attention focused on the long-term care crisis and have developed a strong legislative response which deserves immediate House and Senate attention. Finally let me also pay tribute to my colleague TOM DOWNEY whose dual service on the Ways and Means and Select Committee on Aging has resulted in his making important contributions to H.R. 2470.

This conference report is truly an historic piece of legislation. It puts forward two important premises. The first is that Medicare coverage will be significantly expanded for those victimized by catastrophic illnesses. The second is that in exchange for higher premiums and deductibles, beneficiaries will actually see expanded coverage under Medicare.

There are several major dimensions to this legislation. Yet there are also some basic and fundamental problems with the current Medicare Program which necessitated these improvements. The major shortcoming of Medicare is the fact that the amount of out-of-pocket costs paid by seniors covered by Medicare was rising dramatically. In fact, before Medicare went into effect in 1965, the elderly were paying 15 percent of their income for health care. By 1986 this percentage had actually risen to 16 percent.

The starting point for all catastrophic proposals and what is included in this conference report is a major reform in the coverage under the part A program of Medicare. Under present law, after an elderly person pays an annual deductable—now around $520—they would only be entitled to 90 days a year of inpatient hospital care with a 60-day lifetime reserve. Further the deductable would only be good per spell of illness and copayments would be required after 60 days. Under 2470, the deductible which will likely rise to about $564 in 1989, will now cover 365 days per year of inpatient hospital care, will only be assessed once a year and no copayments are required. This is a significant expansion of coverage and one which is long overdue.

Another significant provision of this conference report is the placing of a cap on physician and other outpatient services covered under the voluntary part B portion of Medicare. Under the present Medicare law, an elderly beneficiary pays a $75 deductable part B and 20 percent copayment for other charges not covered by Medicare. This, no matter how much the individual utilizes these services. Under this conference report once an older person has endured total out-of-pocket costs of $1,370 in any given year, to the same extent that they currently do Medicare would then pay all subsequent charges after this cap is reached. This provision would take effect in 1990.

The conference report makes another significant improvement in Medicare's coverage for stays in a skilled nursing facility. Under present law, Medicare covers up to 100 days at a skilled nursing facility for each "spell of illness" but only if the beneficiary came to the nursing home after a hospitalization of at least 3 days. In addition current law after the 20th day copayments of $67.50 a day are assessed against the patient. Under 2470, the number of days of coverage is increased by 50 percent to 150. The prior hospitalization requirement is eliminated and the copayments are significantly lowered to $20.50 a day for the first 8 days, thus setting an overall limit of $164 on a beneficiary's out-of-pocket costs for covered care.

One of the most sought after provisions of this legislation which I am delighted to see remain is the new prescription drug benefit. This is a proposal which has been adopted by various States including very recently in my home State of New York. This provision comes after our Select Committee on Aging and other documented the extent to which seniors were enduring tremendous out-of-pocket costs for prescription drugs because Medicare provided no coverage.

Under the terms of this conference report in 1991, Medicare will pay 50 percent of the costs of prescription drugs after a beneficiary pays a deductible of $600. The amount Medicare will cover will rise to 60 percent in 1992 with a corresponding increase in the deductible to $652. By 1993 Medicare will cover 80 percent of costs over the deductible which will be indexed. This is a vitally needed expansion of Medicare which is developed with an eye toward fiscal responsibility. It is important to note that the benefit is far more extensive for certain types of drugs required by a homebound older person. Furthermore the program will encourage the use of generic drugs which should also result in a more cost efficient program.

I wish to comment on other significant provisions in this legislation which I strongly support. I consider the introduction of respite care benefits to be absolutely essential if we are to address present needs of our elderly citizens. Under current law, Medicare provides no coverage. Under H.R. 2470, a total of 80 hours per year of home health services will be covered when it is to relieve unpaid caregivers. This benefit would be directed at those elderly who would be unable to carry out two or more of the activities of daily living.

I strongly support the expanded coverage for home health care services under H.R. 2470. Presently Medicare covers up to 3 weeks of care per illness 5 days a week. This conference report expands that to up to 38 days of care per illness on a 7 day a week basis. Furthermore an extension beyond 38 days can be provided if a physician certifies that exceptional circumstances warrant it. It is vital that we continue our work toward expansion of home health care. We must recognize the fact that our elderly population is not homogenous and neither are its health care needs. They do not all require hospitalization or institutional care. In fact, the Senate Aging Committee concluded in a recent report that there are four times as many seniors in the community as there are in nursing homes who require some form of community or home based long-term-care services. The provisions contained in H.R. 2470 represent an important step forward. Passage of H.R. 3436, which I am proud to be a cosponsor would be even more important.

I am pleased that the conference report retains the expanded coverage for hospice care by providing for an extension of coverage beyond the current $210 limit if the beneficiary is recertified as terminally ill.

Wisely, H.R. 2470 provides for Medicare coverage of mammograms every other year for women over the age of 65, the first genuine coverage by Medicare of what might be referred to as preventive health services

Two other provisions warrant brief references. I strongly support the final agreement relative to the so-called Medicaid buy-in requirement. It phases in over 4 years a requirement that State Medicaid programs pay all Medicare premiums, deductible and copayments for those elderly and disabled with incomes below the Federal poverty line but too high to qualify for Medicaid.

Finally in the area of prevention of spousal impoverishment, I support the conference report agreement in this area recognizing that it is a compromise. Under this conference report for couples with one spouse in a nursing home with Medicaid coverage, the amount of income that may be retained by the spouse who remains in the community is raised to up to 122 percent of the poverty level for two-person family in 1989. In 1991 that amount retained rises to a level equal to 133 percent of poverty and later to 150 percent. In addition the spouse is permitted to keep $12,000 in liquid assets under the conference report language. This is another long overdue reform of Federal law, this being the Medicaid Program. The current Medicaid spend down policies that are involved in nursing home stays are degrading and poses tremendous hardship on the spouse who remains in the home. This provision is a recognition that we must address this problem.

Obviously the most controversial feature of this legislation is its method of financing. It is done in two basic ways. The first is through an increase in the part B premium paid by about 90 percent of Medicare beneficiaries. Under present law it is $24.80 a month with increases per year. Under this conference report, additional premiums of $4 a month will be assessed in 1989 and this will increase to $10.20 a month by 1993.

The second and more controversial feature is the so-called new supplemental premium here those elderly whose income tax liability is at least $150 a year will be assessed a supplemental premium based on their income. It is expected to affect less than 4 in 10 of those elderly currently on Medicare and will be most felt by those with total incomes in excess of $50,000. The most anyone could have to pay by the year 1989 at the highest income levels which would be over $100,000 would be $831 a year.

It is clear that in this era of fiscal constraints, we must work toward the development of self-financing of legislation such as H.R. 2470. However, we must work toward a sense of equity in what we do. It is clear that H.R. 2470 is geared toward helping those persons who are large consumers of the health care system whether they be in hospitals or utilizing physician services. And that is fine, they deserve to be helped. However, the nature of many of these premium increases used to finance these expanded benefits is largely mandatory assessed against all Medicare beneficiaries no matter how much use they might get from the benefits. I believe that the modest increases in the part B and part A premiums and deductibles are reasonable and represent a good investment for both the program and the beneficiary. However, I am troubled by the nature of the supplemental premium which I believe is unfair as it pertains to those elderly with incomes in the lower bracket.

All in all this is critical legislation which must be passed. We cannot allow issues that might be related but still separate to delay progress any longer. Yet with the same commitment we give to passing this bill, we must also work to continue our efforts to address our long-term care needs. Catastrophic care legislation with very few exceptions does not take care of long-term care. H.R. 3436 which is awaiting our action will and let us move forward in that direction soon after we complete action today.

Mr. ARMEY. Mr. Speaker, the Medicare Catastrophic Protection Act would cause the largest expansion of Medicare since the program's inception in 1965. At a time when we are trying to control the growth of the Government and ease the tax burden on our citizens, I have no choice but to oppose this legislation. Let me explain why.

Legislation to help the elderly pay for high medical costs is certainly well-intentioned, but this bill as written will have the effect of harming, not helping, the vast majority of our Nation's senior citizens.

First, it will be paid for by slapping a whopping new tax on the elderly. Medicare today is financed by all the taxpayers. This new expansion of the program, however, will be financed entirely by the elderly, whether they need the new benefits or not. For example, an elderly widow with a fairly modest income will have to pay as much as $800 in additional Medicare taxes every year. This bill should really be called the Tax Increase for the Elderly Act.

Second, over 70 percent of the elderly have private MediGap insurance policies that provide benefits equal to or above the benefits in the Medicare expansion. Those who do not could easily buy such coverage with the new amount they will have to pay under this bill. This new program will simply wipe out a large part of the private insurance market and replace it with an expanded Government bureaucracy.

Finally, the ultimate costs of this legislation are likely to be explosive. if our past experience with the Medicare Program is any guide, these costs will begin to escalate out of control. This bill could very well bankrupt the entire Medicare system.

I believe that there are better ways of ensuring quality health care for our citizens, and I urge all my colleagues to oppose this conference report and work for effective policies to curtail high health care costs.

Mrs. KENNELLY. Mr. Speaker, I support the conference agreement on the Medicare Catastrophic Coverage Act. The conferees deserve credit for fashioning a responsible compromise between the House and the Senate. Negotiation between the two Chambers of Congress is rarely easy, but, with this legislation, the process was particularly demanding. On the surface, the House and Senate versions of the bill were similar. In the details, however, they differed significantly. And, as they say, God is in the details. I applaud my colleagues on the conference, in particular Chairman DAN ROSTENKOWSKI and Subcommittee Chairman PETE STARK—who have negotiated the intricacies of this major legislation so ably.

For more than two decades, Medicare has helped millions of patients receive the health care they need. Today, the patient is Medicare itself. The elderly spend a higher percentage of their income on health care today than they did when the Medicare Program began. Clearly, our patient needs help.

The bill before us today is better than the one which passed the House last July. The bottom line is that the legislation is more than a billion dollars less expensive than the original House package. Lower costs mean lower premiums. The conference agreement sets the maximum supplemental premium at a level which is several hundred dollars below the original House bill.

Even as they lowered costs, the conference succeeded in expanding benefits. Perhaps the most important new benefit in my view is the coverage of mammography to screen for breast cancer. Mr. Speaker, we face an epidemic of breast cancer in this country. In 1966, 1 in 19 women developed breast cancer in her lifetime. Today, that figure is 1 in 10. This year, more than 130,000 American women will discover they have breast cancer—about 45,000 will die. It is the most common cancer to strike American women. Early detection and treatment is the only way to stem this epidemic. Passage of this legislation may well be a turning point in our battle against a major killer. I am concerned that the $50 reimbursement level for the screening may not be adequate, but I strongly support the inclusion of this important benefit in the Medicare Catastrophic Coverage Act. I have no doubt that it will save many lives.

The agreement also contains a "maintenance of effort" provision, which was in the Senate but not the original House version. Maintenance of effort protection ensures that private companies now offering Medigap policies to their employees will refund the value of the Medigap coverage. Or the companies will expand coverage to benefits not now covered by Medicare. I strongly supported including the provision in the conference agreement because we did not intend this legislation to be a windfall for corporations. With the maintenance of effort provision, we have guarded against that windfall.

The conference agreement retains the benefits in the original House legislation. I want to focus on the protection against spousal impoverishment. We are all aware that this legislation does not provide comprehensive protection against long-term care expenses. However, the bill does improve one of the worst aspects of the current Medicaid Program. With the passage of this legislation, we will not longer find that community spouses must impoverish themselves before their institutionalized spouse can receive Medicaid assistance. Twice in the past year, protection against spousal impoverishment has passed the House, first as part of the original House catastrophic bill, then as part of the omnibus reconciliation package. Today will be the third time we express our support for spousal impoverishment protection. It is clearly time that these needed improvements become law.

The spousal impoverishment provisions are an important step toward protecting people against the devastating costs of long-term-care. But it is only a step. In general, I believe that long-term-care is not adequately addressed in this bill. A study is mandated, but that is hardly enough to satisfy the thousands of Americans who are financially devastated each year by long-term-care expenses. I realize that this bill was not the right vehicle to tackle this enormous issue. We have not held the hearings, nor worked out the difficult questions surrounding long-term care. However, I have made the improvement of the long-term-care system one of my top priorities. Recently, I introduced legislation which I hope will add to the debate on this important topic. We must work for a responsible solution to the long-term-care dilemma in the next Congress. And we must do so in the same painstaking way that we have worked on this legislation.

Some of the bill's opponents focus on the small percentage of people who will benefit each year by the expansions in coverage. For example, they point out that only a small percentage of all beneficiaries in any one year will use the additional hospital days. In purely percentage terms they are correct. However, the universe of Medicare participants is so large that even a relatively small percentage translates into hundreds of thousands of people. The protection offered by this legislation can prevent financial ruin for each of the people who do need the additional days.

Critics of the program also note that many people are already protected by private supplemental insurance policies. Again, they are correct—many are. Many but not all. Almost a third of Medicare participants have no such protection, nor are they protected by Medicaid. Of a total Medicare population exceeding 28 million people, over 9 million people have no supplemental protection.

Mr. Speaker, this is a solid piece of legislation. Congress has finally rounded out the acute care coverage promised by Medicare since its inception 23 years ago. With this bill, we have filled some of the more significant gaps in Medicare coverage. We have laid the basis for improvements in long-term care. For over a year, we have debated, argued, and examined this legislation. I urge my colleagues to support the Medicare Catastrophic Coverage Act.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the conference report on the Medicare Catastrophic Protection Act of 1987 although I can't say I do so without some reservations. I strongly supported President Reagan when he said back in 1986 that we must develop some sort of reasonable program to protect our Nation's elderly from having their entire life savings depleted in order to pay the high cost of a catastrophic illness. However, the legislative proposal which finally reached the House last July represented bad public policy. While I did then and still do very much want to encourage efforts to better provide for the health care needs of the elderly, I could not in good conscience cast my vote in favor of that version of the bill. Instead, I was a cosponsor and strong supporter of the Republican substitute. While the Republican alternative did not pass, I said at the time that I would support a proposal which could provide better care without threatening the Medicare system.

The conference report before us today doesn't go as far as the original Republican version at getting at the real catastrophe facing our senior citizens—long-term care—and doing so without creating a major new Government entitlement program, as I would like. However, it contains many elements of the Republican bill and does get at the central idea raised by President Reagan so many months ago—it establishes a cap on what Medicare recipients can be called upon to pay in any year for services that Medicare covers. And it makes allowances for our Federal retirees.

The final version is not perfect. It does represent an improvement over the original bill passed by the House and proves that support for that measure was hasty. It was possible to make the bill more acceptable and our colleagues on the conference committee have worked hard in that endeavor. They deserve our support.

Mr. BEILENSON. Mr. Speaker, I would like to express my opposition to the conference report on H.R. 2470, the Medicare Catastrophic Coverage Act. This legislation is too expensive for the relatively modest benefits it provides, and it detracts from our goal of providing true catastrophic coverage for older Americans.

This costly new Medicare expansion does not provide any coverage whatsoever for long-term nursing home or home health care. Yet it is precisely the expense of such care that older Americans fear the most, and for good reason. At an average cost of $22,000 a year, nursing home care bankrupts all but our most affluent elderly. Almost 90 percent of single older Americans become impoverished within a year after they enter a nursing home.

The benefits provided in this bill—principally, nearly full payment for unlimited hospitalization, a cap on out-of-pocket fees for physicians' bills, and partial reimbursement for prescription drugs above a threshold—are welcome additions to the Medicare Program, but the only true catastrophic coverage provided by the bill is the long-term hospitalization. Two thousand dollars worth of doctors bills or prescription drugs may cause hardship, but such costs are not catastrophic in the same sense that yearly $22,000 nursing home or home health care fees are.

Although this new program will pay for only a tiny portion of the catastrophic coverage the elderly need and want the most, they will be paying a lot for it. By 1993, all beneficiaries, except the very poor, will pay about $10.20 a month for the new benefits, above the basic Medicare premium. That year, their total monthly Medicare premiums will be about $42.60, compared to the current premiums of $24.80 a month.

In addition, 40 percent of Medicare beneficiaries—those with enough income to pay Federal taxes—will pay a supplemental premium in the form of a surtax. In 1993, a single person could pay as much as $1,050, and a couple as much as $2,100—in addition to the higher monthly Medicare premiums. That's a lot more than anyone should have to pay for the relatively modest amount of coverage they will be receiving.

Worse, by expanding coverage for noncatastrophic needs—especially for prescription drugs, which will account for a major portion of the costs of the new bill—it will be much more difficult to create a program to pay for long-term care.

With the additional premiums and the new surtax in place, Congress will no longer have the option to finance part of the cost of long-term nursing home or home health care through premiums paid by beneficiaries. Medicare beneficiaries are already unhappy about paying $24.80 a month for premiums, as we all know from the huge amount of mail and phone calls we have received protesting this year's $6.90 monthly increase. It is difficult to imagine our asking the elderly to pay the $42.60 per month premiums required 5 years from now under this bill; it is inconceivable that we will then ask them to pay even more than that, even for the most sought-after benefits.

In other words, this bill uses up an important source of funding—higher premiums—that should be saved to help pay for the more necessary, and more expensive, benefits of long-term care. In doing so, it will make true catastrophic coverage more difficult to finance and thus more difficult to enact. With our Federal budget deficits still at unacceptable levels, it may make it impossible.

It is understandable why the Members who worked on this legislation chose to exclude nursing home and home health care from this bill. The cost of such care cannot be carried by the elderly alone—that would probably require at least another $1,000 per beneficiary per year. Since a tax on the general population would be needed to pay for the program, it would violate President Reagan's longstanding opposition to new taxes and invite a veto. Our choice was acute-care catastrophic projection along with the prescription drug benefit, which Members of Congress convinced the administration to accept or nothing at all.

My own conclusion—a somewhat reluctant one, because of my great respect for my colleagues who have worked so diligently on this legislation—is that nothing at all would be better, for the time being. Congress ought to go back to square one and take a good hard look at what our Nation's most pressing health care needs really are, and what options we have for paying for them.

Almost 40 million Americans under 65 have no health insurance coverage at all, and many more lack catastrophic coverage. Although younger people have a much smaller incidence of long-term illness or disability, they too risk financial devastation if they are uninsured or underinsured. A federally sponsored program covering truly catastrophic health care expenses and available to people of all ages would require relatively small premiums, because its cost would be spread among a much larger population that has a lower incidence of need for such care. That kind of program, serving the young and old, paid for by the young and old, would be far better for our Nation—and especially for our older citizens—than the expensive, relatively marginal benefits provided in the Medicare Catastrophic Coverage Act.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 2470, the Catastrophic Protection Act of 1987. I believe that this bill responds to the concerns of many older Americans about rapidly rising out-of-pocket medical costs.

This bill requires the payment of only one hospital deductible per calendar year, and thereafter provides free unlimited inpatient hospital care for covered services. I believe that this is one of the most significant provisions of the bill because many older people defer or forego necessary hospital care because they cannot cover a deductible of more than $500 for each hospitalization. The $1,400 cap on out-of-pocket costs for covered physician and outpatient services under part B would also be an enormous benefit to older persons who have serious acute care episodes and those with chronic health conditions. After a beneficiary reaches the $1,400 out-of-pocket limitation, Medicare will be required to pay 100 percent of the reasonable outpatient costs.

In addition to assisting an estimated 7 million elderly and disabled persons pay for extraordinary hospital and physician costs, the bill will increase the number of covered days in a nursing home from 100 to 150, while eliminating the current requirement for 3 days of prior hospitalization.

The bill expands home health coverage so that care may be provided 7 days a week for up to 38 days in a given period. Hospice coverage is also increased beyond the current 210-day limit if a beneficiary is still diagnosed as terminally ill.

For the first time Medicare will cover outpatient prescription drugs. Beginning January 1, 1991 Medicare will cover 50 percent of the cost of prescription drugs after the beneficiary pays the first $600; Medicare will increase its coverage to 60 percent in 1992 and 80 percent thereafter with slight increases in the prescription drug deductible. Another new benefit will allow 80 hours of respite care to provide relief to family members and friends who care for a chronically ill individual at home, if that beneficiary meets the part B catastrophic limit or prescription drug deductible.

I am pleased to see that the conferees included language in the final bill that relieves retirees with employer-sponsored health plans from having to pay for duplicate coverage. Important provisions were also included that will eliminate inequities for Federal retirees participating in Federal employee health benefit plans. It is also important to recognize that the cost for private supplemental health insurance—Medigap—policies will be reduced. These policies will cost less because many of their benefits will now be included under the Medicare catastrophic health insurance policy. Senior citizens may still wish to purchase Medigap policies for those services that still remain uncovered.

These expanded Medicare benefits will be financed by beneficiaries through a two-tiered system. The bill requires all beneficiaries to pay a small increase in the part B premium equal to $4 a month in 1989. This will be deducted from Social Security checks as is currently the policy with the part B premium. The remainder of the costs will be paid for through a supplemental premium based on Federal income tax liability. In 1989, beneficiaries would pay $22.50 per $150 of income tax up to a maximum of $800. Only about 40 percent of the elderly pay Federal income tax and would be subject to this additional tax. It has been estimated that individuals with earnings of up to $10,000 would not pay the supplemental tax. Persons earning $20,000 would pay $180. As I understand it, it is not until a beneficiary earns about $50,000 that he is subject to the maximum of $800.

I want to compliment the chairman of the conference committee, Mr. ROSTENKOWSKI, Mr. DINGELL, Mr. WAXMAN, and Secretary Bowen for their efforts and achievement in this bill. Beginning January 1, 1989, older people need no longer fear impoverishment from catastrophic hospital or medical costs.

Mr. DREIER of California. Mr. Speaker, I rise in strong opposition to the conference report to H.R. 2470, the Medicare Catastrophic Coverage Act of 1988. This bill is by no means an improvement over the one approved by the House last July.

Like the House version of H.R. 2470, the conference report will expand the Medicare Program to provide expensive and unneeded health care benefits. It will duplicate health care services already provided in the private market. It will impose massive premium increases on Medicare beneficiaries for coverage that 97 percent of them will never receive. And the increase in beneficiary costs will be spent on benefits that up to 80 percent of the elderly already are covered for by private supplemental insurance or Medicaid.

In addition, the conference report neglects the most catastrophic costs associated with long-term care—expensive nursing home care or home care for the chronically ill. Over 80 percent of elderly out-of-pocket expenses that exceed $1,700 a year come from nursing home costs.

To finance the program, Medicare beneficiaries will pay all of the cost through higher monthly part B premiums and through a new tax surcharge. The part B premium for outpatient and physician care will increase by $10.20 per month, or $122.40 annually, by 1993. A tax surcharge of 15 percent, rising to 28 percent in 1993, will be mandatory for all Medicare enrollees with taxable income beginning as low as $6,000 for a single person and $12,000 for a married couple. It is estimated that 25 percent of elderly taxpayers will face the maximum surtax of $1,050 a year by 1993.

In summary, Medicare beneficiaries face increased taxes of up to $1,272.40 a year by 1993 for benefits that few elderly want or need, and ever fewer will ever receive. A Richard Wirthlin poll conducted in October found that more than half the elderly surveyed oppose the catastrophic care bill. Even more revealing, 57 percent said private insurance should be responsible for the delivery of health care for the elderly.

Yet, H.R. 2470, combined with a long-term care bill that the House will consider next week, will effectively destroy a growing private supplemental and long-term care insurance market. It is incredible to think that the primary objective of H.R. 2470 can be accomplished by simply requiring that supplemental insurance policies offer unlimited hospital coverage beyond that not covered by Medicare. The health insurance industry has said on more than one occasion that they would be willing to accept such a requirement.

Mr. Speaker, it is unrealistic to believe that a massive, federally sponsored program is the solution to the catastrophic health care crisis facing the elderly. We should stop misleading them by offering expensive and hollow legislation. H.R. 2470 is not sound health care policy. I must oppose the conference report, and respectfully call on the House leadership to develop a new catastrophic health care bill that provides needed benefits, rather than added burdens, for the elderly.

Mr. VENTO. Mr. Speaker, I rise in strong support of the conference report on the Medicare Catastrophic Coverage Act, H.R. 2470.

This legislation provides the first major expansion of the Medicare Program since its inception. The act provides the first line of defense against skyrocketing health care costs and leads the way toward future expansions of the Medicare Program. This legislation helps the victims of cancer, stroke, arthritis, Alzheimer's disease, and other debilitating diseases by limiting the financial burden they must face to treat their illnesses. The Act also provides important improvements in home health care, skilled nursing care and other benefits.

This legislation provides a needed expansion of medical coverage for all beneficiaries but the House passed legislation would have caused the public work force to shoulder a disproportionate share of the cost. I am pleased that the conference agreement corrects this inequity through a provision I proposed to the chairmen of the appropriate House and Senate committees last year. More than 80 Members of Congress signed my letter to the conferees in support of this provision.

The provision recognizes the fact that public pensions are unfairly subjected to Federal income tax, while Social Security benefits are either fully or partially exempted from taxation depending on the income level of the recipient. This legislation allows public annuitants a special tax credit to compensate for the fact that they do not receive the same preferential tax treatment as Social Security recipients. Recognition of this inequity is a big step forward in my 5-year struggle to provide public annuitants with fair treatment in the taxation of their pensions. Legislation I have introduced, known as the Public Pension Parity Act, would correct this inequity in the United States Tax Code. It is fundamentally unfair to continue to tax the retirement benefits of public employees differently than the Social Security retirement benefits of private sector employees. Under my Public Pension Parity Act, governmental pension benefits would be tax exempt up the maximum Social Security benefits that an individual would be eligible to receive. By correcting this inequity as it affects Medicare premiums, the Medicare Catastrophic Coverage Act will hopefully lead the way toward correcting this inequity in the United States Tax Code.

Mr. Speaker, I am also very pleased about the inclusion in the conference agreement of a program of demonstration projects for chronic ventilator-dependent units in hospitals. Under this provision, offered by my colleague Senator DURENBERGER, five chronic-ventilator dependent units located in hospitals will be treated as rehabilitation units under the prospective payment system.

In the 99th and 100th Congresses I introduced legislation which would exempt prolonged respiratory care units from the prospective payment system. I introduced this legislation because of my concern over the way one such unit in my congressional district was being negatively affected by the prospective payment system. The Prolonged Respiratory Care Unit of the Bethesda Lutheran Medical Center is a unique facility which provides comprehensive care to ventilator-dependent patients. While this unit has been very successful at weaning patients from ventilators, it has suffered financially because it could not be classified as a rehabilitation or other unit exempt from the prospective payment system. I believe the demonstration projects authorized by the conference agreement will show the cost effectiveness of units such as the Bethesda Lutheran and the practicality of treating these units as rehabilitation units. I commend the work of the conferees and groups including the American Association for Respiratory Care for their efforts which have come to fruition today.

Ms. OAKAR. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, with the passage of this catastrophic health care measure, it is apparent that we as a nation have finally decided to do what is necessary to take care of our elderly. In particular, after numerous years of hearings, speeches and testimonies, it is gratifying that much of my work to provide Medicare coverage for mammograms is finally bearing fruit.

Over the last 20 years the incidence of breast cancer has increased greatly. In 1960, the rate of breast cancer incidence was 1 in 20; today at least 1 out of every 10 American women are predicted to become its victim. This increase in the incidence rate is a powerful rationale for including this provision in the conference report.

However, like other forms of preventive health-care procedures, the fact that mammograms save lives and money is the most critical rationale. Several studies have proven that mammograms save as many as 30 percent of the lives of breast cancer victims. Since 40,000 women are expected to die of breast cancer this year, this means that the lives of 12,000 women can be saved. This reason, more than any other, is why I strenuously urged conference committee members to accept the language of the Senate version of the bill as part of the final conference report.

In addition, money will eventually be saved since mammograms detect breast cancer in its earliest stages when treatment is the least expensive. Surveys show that treatment costs for early stage breast cancer costs about $20,000. In contrast, treatment for late stage breast cancer is $60,000 or more. Given that a mammogram costs only $50, the savings in comparative treatment costs can be enormous. I truly believe we will eventually save the Medicare trust fund a great deal of money because of our actions today to provide mammograms for older women.

Mr. Speaker, although the mammogram provision is not medically correct since it offers biannual exams instead of annual mammograms, I strongly support it as a good first step toward more comprehensive coverage. The hard work I have led over the last several years is beginning to materialize. We can leave feeling good about helping the older women of America and for having the courage to bring greater health-care coverage to our parents. I urge all Members to vote for the conference report and to vote for relieving the worry of millions of American women.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference report on H.R. 2470, the Medicare Catastrophic Protection Act which expands current Medicare benefits to protect the elderly against devastating catastrophic health expenses. The bill makes important modifications to Medicare to limit an individual's out-of-pocket medical expenses, including the cost of extended hospital stays, doctor bills, and prescription drugs, and contains provisions to prevent one spouse from becoming completely impoverished before Medicaid will pay the cost of nursing home care for the other. It also contains a new Medicaid waiver authority that will help States care for medically fragile infants and young children in nonhospital settings.

I am especially pleased that the bill creates a new benefit under Medicare—respite care to provide temporary relief for a relative or friend caring for an elderly family member who cannot be left alone.

The Select Committee on Children, Youth, and Families recently held a hearing on the "sandwich generation" that highlighted the concerns of family members who provide continuous care for their elderly dependent parents and their own children at the same time.

The families who testified expressed an overwhelming commitment and desire to provide a loving home. They noted, however, that limited family support services, such as respite care, made that task very difficult. Evidence released at the hearing confirmed that the most pervasive and severe effects of assuming demanding care-giving roles are emotional strain and family stress. Respite care is essential for these care-givers who often juggle careers, child care, housework, transportation, and financial worries.

According to a study released at the hearing, respite care allows families to maintain their dependent parent at home and avoid institutionalization for a longer period of time. Families used respite only when they were desperate for help, and not as a substitute for family care-giving. In addition, respite care was the family support service requested more often than any other. Members of the select committee have heard this request repeatedly from parents, foster family care-givers, and many who work with families.

While more must be done to address the very real and growing concerns about long-term care and who will pay for it, respite care is a key step in any solution to this problem.

I am especially pleased that this conference report is intergenerational in scope and reasonable in its expansion of Medicaid coverage to the most vulnerable groups, young and old, who live below the poverty line. The bill requires States to provide Medicaid coverage to pay for Medicare premiums, deductibles and coinsurance for all Medicare beneficiaries with incomes below the Federal poverty line.

Equally critically, it requires States to provide prenatal care to pregnant women and health care to infants who live in families earning up to 100 percent of the Federal poverty line. Almost half the States still have not opted to cover this vulnerable population, leaving millions of women and children remain at risk.

Since 1978, this Nation has made virtually no progress in bringing more women into care during the first 3 months of pregnancy. Fewer than one in four pregnant women receive care in the critical first trimester, and this limited access has tragic consequences. In 1985, the national neonatal mortality rate failed to decline for the first time since 1960.

California's health care system, often touted as a model for the Nation, should serve as a warning instead. A report recently released by the Southern California Child Health Network warned that the health of California's mothers and babies had begun to deteriorate because prenatal care services were becoming less available. In 1985, California's infant mortality rate increased for the first time since since 1965.

At a time when policy decisions are driven by budgetary considerations, it is especially compelling that the Southern California Child Health Network found that an investment of $43.2 million in health care services to the 36,000 pregnant women who go without care each year in California, would actually result in savings of $73.4 million—for a net savings of $30.3 million through avoided hospitalization of newborns.

The evidence continues to mount that the principal cause of infant mortality—low birth weight—can be reduced at significant cost savings with earlier and more comprehensive prenatal care. The select committee in its report, "Opportunities for Success: Cost-Effective Programs for Children, 1988 Update," found that a $1 investment in prenatal care for high-risk women can save $3.38 in the cost of care for low birth-weight infants.

New research conducted by the Office of Technology Assessment also found that for every low-birth-weight birth averted by earlier prenatal care, the U.S. health care system saves between $14,000 and $13,000 in newborn hospitalization, rehospitalization in the first year, and long-term health care costs. OTA concluded that expanding Medicaid to pay for prenatal care for all poor pregnant women is a good investment for the Nation.

Mr. Speaker, I want to call special attention to a significant provision in the bill that protect medically fragile infants in a manner that is both more humane and cost-effective. The new Medicaid waiver authority included in this bill will assist States and moving medically fragile infants out of long-term hospital care by improving medical and other services available to these children in nonhospital settings.

In hearings of the select committee over the last few years, we have learned about serious and growing problems in providing out-of-hospital care to growing numbers of medically fragile infants and young children.

Last year when select committee held a hearing on AIDS and young children, there were approximately 400 reported cases of AIDS among children under age 5. By mid-May 1988, more then 800 cases had been reported among children in this age group.

Even more disturbing are increasing reports of babies being born who have been drug exposed and may be at risk of HIV infection. In New York City, one study reported that 1 in 61 babies born last December carried HIV antibodies. Additionally, New York City's infant mortality rate climbed in 1987 after a decade of decline, due to substance abuse and AIDS. In San Francisco, 12 percent of all the births at the county hospital are babies with substance abuse-related problems. Just a few weeks ago, the committee learned that requests for foster care for drug-related reasons in Los Angeles County rose several hundred percent between 1981 and 1987.

Many of these children—sometimes called boarder babies—are in State care because their parents are unable or unwilling to care for them. These children often have long hospital stays, not because they require in-hospital care but because of the tremendous difficulty in obtaining and paying for the services needed to care for them outside the hospital.

Yet, nonhospital based care for these children is not only better for them but has increasingly shown to be cost-effective. The San Francisco Fragile Infant Program, which provides a specialized foster care setting with attendant health services for medically fragile infants, costs from under $2,000 per infant/per month in contrast to $6,375 paid by Medicaid to care for an infant in a hospital.

The new waiver is designed to reduce the growing costs of maintaining these medically fragile infants and young children in hospitals and provide them with care in more appropriate and less costly home-like settings. Infants and children up to age 5 who have been infected with HIV or who show signs of AIDS, or who were drug-exposed and affected at birth, and who are or will be receiving foster care assistance under title IV-E of the Social Security Act, would be eligible for the expanded set of services under the waiver.

The waiver will give States the authority to include under "medical assistance" the following set of nonhospital based services: Nursing care, respite care, physicians' services, prescribed drugs, and medical devices and supplies provided as part of a plan of care for a medically fragile child, who without such services would probably remain in a hospital for stays that result in higher total Medicaid costs. In San Francisco alone, the savings would be more than $4,000 per child/per month.

The new authority would also waive the Medicaid "comparability" rules and "statewideness" provisions that can deter States from seeking a waiver, and thus allow States to target these needed services better.

Mr. Speaker, our colleagues Chairman Rostenkowski of the Committee on Ways and Means, Chairman Stark of the Subcommittee on Health, and Chairman Waxman of the Subcommittee on Health and the Environment deserve our collective thanks for their leadership in bringing this important legislation to the floor.

By passing this legislation today, we will have taken an important step to assure security for the Nation's elderly, and critical, cost-effective protection for some of the Nation's most vulnerable infants and children. These are important first steps. It is my hope that Congress will also ensure that long-term and catastrophic protections are afforded the growing number of children, families, and disabled adults who, like the elderly, have little or no protection from the extraordinary and burdensome medical costs of catastrophic or chronic illness.

Mr. MOODY. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 2470, the Medicare Catastrophic Protection Act of 1988. The agreement is the culmination of more than a year of legislative work which began with the Ways and Means Health Subcommittee, on which I serve.

I am pleased to have been a part of that process, and I want to strongly commend my subcommittee chairman, Pete Stark, for his untiring efforts on behalf of the Nation's elderly and disabled Medicare beneficiaries.

The need for H.R. 2470 is abundantly clear.

Today, there are roughly 30 million Americans age 65 or older, and 2.8 million Americans are 85 and older. By the year 2000, 35 million Americans will be 65 or older. The over 85 population will increase to 4.9 million.

As a group, older Americans have a lower economic status than other adults in our society. Measuring cash income alone, older Americans are particularly vulnerable to acute care costs.

As should be expected, elderly Americans are the heaviest users of health services. They visit physicians 60 percent more often than the nonelderly, they are hospitalized twice as often, stay 50 percent longer, and use twice as many prescription drugs.

The elderly constitute 12 percent of the total population, but account for 33 percent of all health care expenditures. Per capita out-of-pocket spending reached $1,059 in 1984. Current Federal and private insurance programs work reasonably well to limit health care cost impact on the elderly, but the elderly still pay roughly 25 percent of their annual health care expenditures out of pocket.

So there is a compelling need to free elderly Americans from the fear of financial ruin as a result of an acute illness. H.R. 2470 will do that.

The conference agreement expands hospital coverage to a full year, with a single annual deductible—$564, effective in 1989. It caps out-of-pocket expenses for physician services—$1,370, effective in 1990. It expands skilled nursing facility coverage to 150 days of care, effective in 1989, and repeals the onerous 3-day prior hospitalization rule for access to SNF care. It expands home health coverage from the current 5 days per week for 2 or 3 weeks to 7 days per week for 38 days, and extends the hospice benefit beyond the current 210 day limit. The conference agreement also provides a backstop to the growing problem of spousal impoverishment for Medicaid nursing home coverage. And it provides, for the first time a prescription drug benefit under Medicare, phased in beginning in 1991. These are real, tangible improvements in the Medicare Program.

I am particularly pleased that the conferees retained several amendments which I offer in the Health Subcommittee when the bill was first considered. These amendments include the home health expansion, the repeal of the 3-day prior hospitalization for access to SNF care, and my amendment to require a wholesale price survey of prescription drugs.

H.R. 2470 should not be seen as the end of congressional efforts to improve health care for the elderly. The conference agreement does not, for example, include a long-term care benefit. But that is not a reason to object to this bill. For those who would reject the conference agreement because of the long-term care issue, I would say that I agree that we need a long-term care program, but that we should proceed one step at a time. H.R. 2470 is a major step down the long road of alleviating the pressing health care needs of the elderly in this country.

Mr. Speaker, I welcome this conference agreement. I commend my colleagues on the Ways and Means Committee for their work in conference, and I urge adoption of the conference report.

Mr. FORD of Tennessee. Mr. Speaker, I rise today to urge my colleagues to support final passage of the catastrophic health care bill which will soon be coming to the floor of the House for a vote.

Unfortunately, I was unable to make it to the Floor of the House when the conference report on catastrophic health care bill was debated. Had I been there, these are the remarks I would have delivered:

Hospitals now cost hundreds of dollars a day, doctors are unaffordable for the uninsured, home health care is prohibitively expensive, and nursing homes can cost $22,000 a year or more. Health care costs are rising daily and insurance policies, other than Medicare, are far too expensive for those over 65.

When the House Select Committee on Aging, on which I serve, held hearings on this very subject, we heard from numerous seniors who were forced into poverty, selling everything they owned because of the high cost of a catastrophic illness. Some couples started out with hundreds of thousands of dollars in the bank and owning a large home. After paying their medical bills and the enormous costs of a nursing home, they were broke and eligible for Medicaid, the Government health program for the poor.

Most people do not start with such large assets. For them the road to poverty is much shorter, but just as painful. For them, perhaps, the hardest part of all, is to realize that Medicare will not cover even a majority of the bills and that their health insurance policy—as advertised on TV—will not live up to its claims.

The only Federal Government program that offers them any type of relief is the Medicaid Program. As you know, Mr. Speaker, in order for a person to qualify for Medicaid they cannot own assets valued at over $1,500. For many seniors this means they must literally sell everything they own before they can qualify to receive the health care assistance they need. Current law also treats married couples as a single entity, requiring a spouse to suffer poverty as well.

With impoverishment comes the total dependence on Government assistance. Someone with a spouse in a nursing home who has had to sell their home in order to pay their medical bills is now going to need Government services more than ever before. Food stamps and other Federal programs are the only way many seniors, or their spouses, who have suffered a catastrophic illness can survive. In so doing, everyone losses. Seniors lose their dignity and independence. The Government loses by having to provide low-income housing and other aid to those who normally would not need it.

Mr. Speaker, it is well past time to provide catastrophic health care to all seniors. It is time to remove the uncertainty and poverty associated with long term illnesses. While H.R. 2470 is not perfect, it will expand current Medicare benefits to the point where people would no longer have to sell their homes or decide if they should buy either food or their prescription medication.

The bill, if passed by Congress and signed into law by the President, will place a limit on all out of pocket medical costs provided under Medicare. The House bill also expands home health care and I urge the conference committee—which is now ironing out the differences between the House bill and the Senate version—to adopt the House provisions, providing better services, for a longer period of time.

In addition to providing catastrophic protection, the House bill would establish a prescription drug program which pays 80 percent of the costs of medication; raises the limit from $312.50 to $1,250 for outpatient mental health services; and provides up to 80 hours for a respite for unpaid individuals who live and care for chronically dependent persons, I urge my colleagues to support these provisions and other provisions which would limit Medicare premium increases.

Mr. Speaker, all of us here in Congress need to work hard to end the hardships attached with catastrophic illness. We need to work in partnership with those individuals who need the care and with those who provide the care. We need to work with State and local governments. We need to work with employers, unions, and others who manage this country's pension plans. Only by establishing a true partnership—requiring all groups to share in the burden of supplying needed medical care for all citizens—can we truly say that these problems are behind us. In the interim, we need to pass H.R. 2470, the catastrophic health care bill, so the worst problems of our health system can be put behind us.

Mr. STOKES. Mr. Speaker, I rise today in support of H.R. 2470, the Medicare Catastrophic Protection Act. I want to commend the author's, my colleagues PETE STARK of California and WILLIS GRADISON of Ohio, for their achievement in the development of this legislation.

Health care is one of the most important issues facing our Nation's elderly. The demand and costs of health care for the elderly are increasing as America grows older. And, as studies show, health care costs for our senior citizens are escalating at a rate twice that of elderly income.

Mr. Speaker, there are many special needs and circumstances surrounding the geriatric health needs of the aged. Expansion of health care coverage for the elderly under Medicare is a necessity if we are to meet these needs. The Medicare Catastrophic Protection Act provides a major step in addressing this health crisis.

The direction of health care for our elderly in the future rests in our hands. Our support of this important legislation demonstrates our commitment to providing quality and affordable care for America's senior citizens. This coverage, accompanied by our support of the long-term home care proposal pending in the House, goes a long way to provide new protections and a sound package of improvements for Medicare.

Mr. Speaker, I want to again congratulate my colleagues who worked so diligently on this initiative. I look forward to working with them in improving and promoting the direction of health care for the elderly in America.

Mr. SCHUETTE. Mr. Speaker, I rise today in support of this conference agreement to provide protection against catastrophic illness for our Nation's 31 million elderly and disabled. The centerpiece of this important measure—the cap on out-of-pocket hospital and Medicare-covered physician expenses—will offer protection to senior citizens who might otherwise be financially devastated by unexpected illness requiring extended hospitalization or physician care. This legislation will provide many new benefits resulting in a much-needed sense of security and peace of mind not previously afforded to our Nation's elderly.

The conference agreement before us today has significantly improved the earlier House-passed catastrophic health care bill. I voted against that measure for several reasons, most importantly because of my concern over the increased costs it would have imposed on middle-income senior citizens. The lack of cost controls which would have threatened the solvency of the Medicare trust funds also caused me much concern, as did the lack of coverage for nursing home care. Although this conference agreement does not address nursing home care, I believe the changes to the original House measure have resulted in a good bill that will provide much needed protection to our Nation's seniors.

The bill extends hospital coverage under Medicare to 365 days from the current limit of 90 days—plus the lifetime reserve of 60 days. Hospital costs are limited to payment of one deductible per year, which will be $564 in 1989. Annual out-of-pocket costs for Medicare-covered physician expenses will be capped, limiting these costs to $1,370 in 1990.

A new benefit provided in the bill phases in coverage for prescription drugs. After the phase-in is complete, Medicare will pay 80 percent of most prescription drugs after payment of an annual deductible—$600 in 1991.

A provision I was particularly pleased to see included in the conference agreement is the protection against spousal impoverishment. We have all heard the stories of an elderly spouse taken ill and in need of long-term care. The healthy spouse must spend down the couples assets and income before they can qualify for Government assistance. This is a disheartening situation, and one which I am very pleased to see addressed. Under the bill, the income that may be retained while continuing to qualify for Medicaid, will gradually be raised. In addition, the spouse at home will be permitted to keep at least $12,000 worth of the couple's combined assets, as well as the couple's house.

Other important benefits contained in this conference report include expanded home health benefits, respite care services, extended hospice care and skilled nursing facility care, mammography screening, and additional benefits for the elderly and disabled with incomes below the poverty level.

Although this bill is not perfect, it does contain many good provisions which will help millions of our Nation's elderly. Mr. Speaker, I urge my colleagues to support this conference agreement. It is a much-needed and positive step forward toward alleviating the devastating impact of unexpected and extended illness.

Mr. FIELDS. Mr. Speaker, I rise in opposition to H.R. 2470, the Medicare Catastrophic Protection Act.

Mr. Speaker, I opposed H.R. 2470 when the House considered it on July 22, 1987. Instead I supported the Michel substitute which I felt was a more responsible policy. I still feel that way. Today I oppose the conference report on H.R. 2470 for many of the same reasons I opposed the House-passed bill.

Simply put, Mr. Speaker, I oppose H.R. 2470, because it threatens further financial hardship on Medicare beneficiaries and the Medicare system. I cannot support such a massive tax increase, nor can I support a program that is sure to require future infusions of general revenues. This will only increase the Federal deficit.

The costs of H.R. 2470 are staggering. The benefits will only accrue to a small percentage of Medicare beneficiaries. If this bill is enacted into law, in 1989 a Medicare beneficiary could pay as much as $831.10 in additional taxes. By 1993 this could amount to $1,092.60. I believe this tax increase is unconscionable. Approximately 40 percent of Medicare beneficiaries will have to pay some additional tax due to this bill at the rate of $22.50 per $150 of Federal tax liability. This will increase to a rate of $42 in 1993.

And who benefits? The act has built into it mechanisms to ensure that a certain percentage of Medicare beneficiaries benefit. For example, the deductible for the new outpatient prescription drug benefit would be indexed so that approximately 16.8 percent of Medicare beneficiaries would exceed that limit, triggering eligibility for the benefit. Additionally, the limit a Medicare beneficiary's out-of-pocket expenses under part B would be indexed so that about a constant 7 percent of Medicare beneficiaries would be eligible for benefits from the catastrophic plan.

Certainly I understand that the point of this type of indexing is to try to hold down the cost of the program. However, my point is that a much larger number of Medicare beneficiaries will be paying dearly for benefits most of them will never see and will be enjoyed by such a small number of beneficiaries generally. There must be a better way. I thought Secretary Bowen's original plan made much more sense.

Again, Mr. Speaker, I, as much as the next person, want to ensure that the senior citizens of this country are not bankrupt by catastrophic health and medical care costs. However, I sincerely believe we have missed the boat on this one. We have spent all of our time on this smaller aspect of the problem instead of searching together for a sensible solution to long-term care. I am not sure what the solution to the latter will be, but I do know that we must try to find a way.

I urge all of my colleagues to vote against the conference report on H.R. 2470.

Mr. ARCHER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. PANETTA). The gentleman from Texas is recognized for 1½ minutes.

Mr. ARCHER. Mr. Speaker, I have before me the 273-page conference report. Once again, we have euphemistically titled legislation, but we need to read the fine print. Yet this was presented to us just as we went onto the floor of the House, and it is very difficult to know the full impact of this legislation.

But let me just mention a couple of things. Relative to the budget, the CBO projections which we talked about today are one-third to one-quarter of what HCFA says the actual costs will be. We know from historical experience that every time we get into a new entitlement program, particularly on medical care, that the actual results are much, much higher than the projection at the time of the debate on the legislation. If they are higher in the category of catastrophic benefits, this bill permits borrowing authority from the General Treasury. That has to have an impact on the budget.

In the area of drugs, there is no borrowing authority permitted, and if there is not enough money to pay for the drugs, there are going to be elderly who have been promised benefits as an entitlement who will be denied access to those benefits at their druggist, because no druggist over a period of time is going to sell drugs on the promise that maybe there might be money the next year or the following year to pay for those drugs out of the Federal Treasury.

I think it is high time that we reevaluate the bill and vote no on the conference report.

Mr. STARK. Mr. Speaker, I yield myself my remaining time to close the debate.

Mr. Speaker, this is the conclusion of a long and exciting journey for those of us on the Ways and Means Committee and the Energy and Commerce Committee. The journey started a year ago last February when the President, who must receive a major share of credit, asked us to pass catastrophic insurance. Dr. Otis Bowen, the Secretary of Health and Human Services, picked up the baton and presented the Congress with a charge and a bill.

It was at that point that the distinguished gentleman from Ohio [Mr. Gradison], the ranking member of our Health Subcommittee, joined with me to take that challenge and fashion a bill that would have broad bipartisan support by combining the best of social liberal benefits with fiscal conservative deficit neutrality. I think the time has come for my fellow Members of the House to vote in favor of this conference report because we have achieved those goals.

I want to include in my thanks the gentleman from Illinois [Mr. Rostenkowski], chairman of the Committee on Ways and Means, the gentleman from Michigan [Mr. Dingell], chairman of the Committee on Energy and Commerce, the distinguished gentleman from California [Mr. Waxman], the chairman of the Health and the Environment Subcommittee of the Committee on Energy and Commerce, and the distinguished gentleman from Illinois [Mr. Madigan] his ranking Member.

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It was their work, and the collective work of the staffs that brought us to this point today.

Let me suggest what we have done in the way of benefits. If I can have poetic license, Mr. Speaker, once again as I did when I had the privilege to respond to the President's remarks last Saturday, I can only say that what we have all done for our elderly parents, as I would say to my mom, "We have brought you, Mom, peace of mind."

But, it is not just my mother and 31 million other senior Americans for whom we have brought peace of mind. The ones who will benefit the most are the ones who do not need this catastrophic coverage, the ones who will benefit the most are those who know it is there if they need it.

I think that is important to remember.

But also, Mr. Speaker, it is you and I, those of us who are concerned about our parents who are now Medicare beneficiaries. We would all pitch in to help our moms or our dads and this relieves us of that burdensome worry that many families across the country have that they will be saddled with the financial burden that a catastrophic illness will bring to one of their parents.

We have done this in the most fiscally responsible manner. It cannot cost the Treasury one cent. We worried and we fussed and we fumed about what the new prescription drug benefit might cost. None of us knew for sure and there were wildly differing estimates. But in the best manner we could, we tried to evaluate all contingencies and craft a bill which would continue to be fail-safe as far as budget neutrality is concerned.

We were much surer of the costs on hospital care and physician care, and I think time will show that we were correct in our evaluations and that this bill will not, on that side of the ledger, cost us much.

Now, I for one have great faith in private enterprise in this country, in its ability to perform many of the functions that are necessary in the day-to-day economic activity in this country. But, in this case, the Federal Government can do something that private insurance cannot do. Because we have a Medicare system in place, there basically is no added overhead for the new hospital and physician benefits.

The Federal Government, as you well know, makes no profit and will have, because of the way we will collect the premiums, no bad debts.

We are going to be able to return 98 or 99 cents of every premium dollar paid by the seniors back to the seniors. This compares with a record of approximately 75 percent paid back out of every premium dollar paid into private MediGap insurance. The private insurance companies cannot do what we are about to do, I hope, today with your support, Mr. Speaker.

So in conclusion, let me suggest to you that you today by your affirmative vote for the conference committee on H.R. 2470 will bring to the seniors of this country the completion of a Medicare coverage that was started in 1965, that covers acute care, hospital, doctor, and now prescription drug costs.

There remains much to be done but I ask you to join with me today in supporting this conference report and then returning to our deliberations to deal with the other contingencies of senior living which I am sure that this body will address in an equally admirable fashion as we proceed into the years ahead.

I thank all of those who worked so hard on this bill and I urge adoption of the report.

Mr. Speaker, H.R. 2470 is the most important health legislation for our Nation's elderly to come before the Congress since Medicare was established in 1965.

As a member of the conference committee, I would first like to thank our hard-working conference chairman, the distinguished gentleman from Illinois, the chairman of the Committee on Energy and Commerce, and my colleague from Masssachusetts on the Subcommitee on Health, for their efforts in bringing this most valuable bill to the House floor.

I am especially thankful to my ranking minority member, the gentleman from Ohio, who has led in this entire process from the beginning. I would also like to thank the chairman of the Energy and Commerce's Subcommittee on Health, the gentleman from California, for his help in fashioning the best compromise of the House and Senate bills.

I urge my colleagues to support the conference report on H.R. 2470 because it achieves very important health policy goals and it does so in a budget neutral manner. This bill will significantly expand the Medicare Program to protect 31 million beneficiaries against catastrophic hospital and physician expenses, while adding prescription drugs, mammography screenings, respite care benefits, and improving other existing Medicare benefits.

For 3 million indigent elderly and disabled, the cost of Medicare will be completely eliminated. The Medicaid Program will pick up all of their Medicare costs and help end the nightmare of spousal impoverishment.

These are benefits the major senior citizens' groups have told us they want. AARP, the National Council of Senior Citizens, the Older Women's League and Villers Advocacy Associates support the conference report on H.R. 2470 and urge its adoption. So does the AFL-CIO and UAW.

Knowing only too well the limitations of the Medicare Program, Secretary Bowen proposed, and President Reagan endorsed, a Medicare catastrophic benefit package designed to cap annual out-of-pocket costs for Medicare covered services.

Secretary Bowen's proposal was a great start. But we have fashioned a benefit package that is significantly better in coverage and financing.

Building on the Bowen proposal our bill will help about 7 million or 22 percent of the enrollees.

It aids the terminally ill, helps those who need in-home care, provides mammography screenings, and fills the gap created by Medicare's skilled nursing care requirements, as I will explain in more detail later.

Further, our legislation adds two benefits senior citizens groups believe vitally important—a prescription drug and respite care benefit.

H.R. 2470 also helps the 3 million elderly living below the Federal poverty level with their Medicare expenses.

Equally important, we have kept the increase in the part B premium as low as possible so that low-income enrollees will be able to afford part B coverage.

Our financing is progressive, eliminates the cost sharing for the poorest, and will require only those best off to pay the majority of the costs of the bill.

Yet, it is clear that this bill does not fill all of the gaps in Medicare. It does not attempt to deal with the issue of long-term care. Nevertheless, let us vote for this important step. Let us not permit the perfect and comprehensive ideal bill from becoming the enemy of today's very good bill. Let us not hold its enactment and delay its needed benefits to millions of seniors and disabled.

I would like to explain to my colleagues that we have also set in motion important steps that will lead to the creation of a long-term benefit. This bill does call for the establishment of a bipartisan congressional commission to report to Congress on ways to finance both comprehensive health care and long-term care; $25 million over 5 years has also been authorized to fund needed research on long-term care.

At this point, I would like to spell out exactly why this legislation deserves my colleagues' support.

Most importantly, this bill will end the fear of financial bankruptcy from high hospital and physician expenses. For 22 years older Americans have been scared into buying often expensive and inadequate MediGap insurance because Medicare has had only a limited and confusing hospital benefit.

It is time to end the confusion and fill the gaps in hospital coverage. It is time to put out of business the famous TV actors who pedal MediGap insurance, and who daily frighten our Nation's elderly. This bill does just that. By limiting covered hospital expenses to just one hospital deductible a year, we will have significantly simplified this program. Now Medicare enrollees will no longer have to worry about coinsurance days or the number of days they will be covered. Currently, Medicare requires costly coinsurance for hospital stays of 61 to 150 days and pays nothing for stays beyond 150 days.

Instead, beneficiaries will have the peace of mind of knowing that once they pay the hospital deductible of $564 in 1989, Medicare will pay for all of their covered hospital care for 365 days. Given that one in four Medicare beneficiaries will wind up in the hospital, the importance of this benefit should not be underestimated. Nor should we overlook the fact that this proposal will protect low and moderate income beneficiaries who now have to spend as much as 20 percent of their income if they have a hospital stay.

But we have done much more. This legislation also limits out-of-pocket costs for part B covered physician and outpatient services. For 1990, this means that once a beneficiary has incurred $1,370 in coinsurance, Medicare will pay not 80 percent but 100 percent of the physician's bill if the physician takes assignment. Not only does this take the worry out of high physician expenses, it lets the 31 million enrollees know exactly what it will cost for physician covered services if they see a Medicare participating physician. While this limit does not include physician charges in excess of the Medicare reimbursement levels, it will help a constant 7 percent of beneficiaries each year.

For low and moderate income elderly such limits will end the bankruptcy caused by acute care catastrophic illness. In 1986, over 20 percent of senior citizens had to spend at least 15 percent of their income on their medical care, while 7 percent were forced to spend a whopping 25 percent or more of their income paying medical care.

This bill also significantly limits out-of-pocket costs for those requiring skilled nursing care. Currently, Medicare beneficiaries must pay costly skilled nursing facility coinsurance. Coinsurance that now can be more expensive than an actual day's cost of care. This legislation will reduce the maximum amount of coinsurance from this year's limit of $5,332.50—$67.50 a day times 79 days—to a mere $164 in 1989—$20.50 a day times 8 days. Fifty more days a year of covered skilled nursing care has also been added by this bill.

H.R. 2470 further adds three new benefits to the Medicare Program. Under this bill, Medicare beneficiaries will be protected from high prescription drug expenses. For them this legislation says that once you have met the deductible—$550 in 1991—on prescription drugs, Medicare will pay 50 percent—in 1991—and 80 percent by 1993, of the rest of your outpatient prescription drug costs. This will help a constant 16.8 percent of enrollees each year.

While I would like to discuss the financing of this legislation in a later section of my statement, I want to emphasize here that the drug benefit, like all benefits in this legislation, is fully paid for by Medicare beneficiaries. No general revenues will be used to finance this or any other benefit in this bill.

I know that concern has been raised about the cost of the drug benefit. For this reason the bill has a variety of cost control measures to ensure that the elderly's money is well spent. For example, there are limits set on payments to pharmacies and the use of low cost generic drugs is encouraged.

Even though the administration has projected a higher cost for this benefit than the Congressional Budget Office, I believe we can have confidence in CBO's conclusions.

The conference agreement also takes the first step in covering preventive health procedures. Mammography screenings will be covered for elderly and disabled Medicare beneficiaries. Breast cancer tends to strike older women with almost 50 percent of all breast cancers occurring in women over age 65. Mammography is the best method for early detection of breast cancer, when it is most likely to be curable. Studies show that deaths from breast cancer are up to 30 percent lower among women who have had mammography than among those who have not been screened.

The other new benefit included in this bill is the 80 hours of respite care services allowed for caregivers of chronically dependent homebound enrollees. It is hoped that this benefit will help prevent burnout for those who must deal on a daily basis with very ill loved ones.

H.R. 2470 further improves upon existing Medicare benefits which senior citizens' groups have lobbied hard for. This bill adds up to 17 days of additional home health care for those who require 7 days a week home care.

This bill also eliminated the 3-day prior hospitalization requirement for Medicare skilled nursing benefits. This bill ends the no care zone which exists for those who require skilled nursing care but have not first been hospitalized. Not only is this an important simplification of the Medicare Program but it will end the nitpicking impediment to needed skilled nursing care for many elderly and disabled.

For terminally ill enrollees this legislation provides peace of mind that the hospice benefit will be available as long as they are terminally ill. This should help improve access to the hospice benefit as some hospices are reluctant to accept Medicare beneficiaries they feel will live beyond Medicare's reimbursement limit.

Further, this legislation will help low income Medicare beneficiaries with their Medicare expenses. The bill requires the States to spend the windfall funds they will receive from this bill on the Medicare premiums and cost-sharing expenses of their elderly and disabled with incomes below the Federal poverty guidelines. As under current law, states will receive their standard Federal matching funds.

The bill also will end the financial tragedy that now befalls too many spouses when the other spouse requires long term nursing care. By liberalizing Medicaid rules for retention of income and assets for the at-home spouse, thousands of persons, usually women, will no longer have to face bankruptcy in order for the other spouse to receive Medicaid long-term care benefits.

H.R. 2470 also contains some miscellaneous but important provisions which will be helpful to the elderly.

For example, the bill sets in motion the steps the states will have to take in order to establish new requirements for medical supplemental insurance—Medigap policies—so that the policies sold in the state do not duplicate Medicare's coverage.

I know some Members are concerned about transition rules for existing Medigap policies. The bill will require Medigap insurers to eliminate the coverage that will duplicate the benefits contained in this legislation and to seek appropriate premium refunds or adjustments for their policyholders.

CBO projects the costs of providing these new, catastrophic, and improved benefits to be $1.2 billion in 1989 and $10.9 billion in 1993 and $33.4 billion over the 5-year period 1989-1993.

These are certainly hefty costs but I will stress that every penny of these costs will be financed by Medicare beneficiaries. In other words, this is a totally budget neutral bill.

Further, only those best able to pay will finance the majority of the costs. To be precise, 63 percent of the catastrophic benefits will be financed by the income-related supplemental premium which will be collected through the tax code. The Joint Tax Committee has indicated that only 40 percent of beneficiaries will pay any supplemental premium. They have also estimated that the average supplemental premium will be $285 in 1989, $400 in 1990, $430 in 1991, $461 in 1992 and $506 in 1993. The maximum supplemental premiums are quite a bit higher but they will only be paid by those with incomes of over $75,000.

The other 37 percent of the financing will come from an increase in the monthly part B premium which all beneficiaries will pay. CBO projects the additional part B premiums will add $4 a month to the current premium in 1989, $4.90 in 1990, $7.40 in 1991, and $9.20 in 1993 and $10.20 in 1993.

Some might argue that these additional premiums are too high, but I will stress that the major senior citizens groups, including the American Association of Retired Persons and the National Council of Senior Citizens support this financing package. They agree that this is the fairest way to pay for these critically needed benefits.

I would add that the majority of beneficiaries who now own Medigap policies, will find that they are getting a better deal from Medicare. In short most should conclude that they no longer need the protection provided by their Medigap policies.

Mr. Speaker, the conference report on H.R. 2470 deserves every Member's support. It provides a level of benefits that it vitally important to protect Medicare enrollees and is financed in a budget neutral manner by only those best able to pay.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise in support of the measure.

I would like to commend the members of the conference committee, especially the distinguished chairman of the ways and Means Committee, Mr. ROSTENKOWSKI, the chairman, Mr. STARK, and ranking minority member, Mr. GRADISON, of the Subcommittee on Health, for their perseverance and commitment to protecting our 32 million elderly from financial ruin due to "catastrophic" hospital and doctor bills and outpatient drug costs.

It has been over 20 years since the creation of the Medicare Program. Unfortunately, in 1965, Congress could not envision the unprecedented rise in hospital and doctor costs that today leaves many of our senior citizens impoverished and destituted.

It has been almost 2 years since President Reagan, in his State of the Union Address, made "catastrophic costs" household words. The President must be commended for laying the foundation for the legislation we are considering today, the most sweeping expansion of Medicare since its creation in 1965 and the most important health legislation Congress has considered in this decade.

Mr. Speaker, an estimated 5.6 million people are expected to benefit from the drug provision directing Medicare to pay 50 percent of the cost of most outpatient drugs after a $600 deductible, increasing to 80 percent by 1993; 125,000 elderly are going to be financially better off due to the unlimited free hospital care after payment of a single deductible; and more than 2 million senior citizens will be affected by the $1,400 cap on Medicare part B out-of-pocket physican care. Thousand of other older Americans will benefit from the unlimited coverage for hospice care and the increase in income that many be retained by a person whose spouse's nursing home costs are being paid by Medicaid.

I was a cosponsor of the initial version of H.R. 2470 but I believe the conference report is a much better bill than the measure that the House approved last summer. Under the House bill, Federal employees were inadvertently taxed twice for catastrophic costs protection. The conference report makes available to individuals with taxable Government annuities and small amounts of social security income a special credit. The Office of Personnel Management [OPM] is required to conduct a study on changes to the Federal employee health benefit plan [FEHBP] required to incorporate plans designed specifically for Medicare-eligible individuals. In addition, OPM is required to reduce the rates charges to Medicare-eligible individuals participating in FEHBP.

Mr. Speaker, the Medicare Catastrophic Protection Act has the support of the administration, the American Association of Retired Persons, and the National Council of Senior Citizens. I am going to support the conference report today and I urges my colleagues to do the same.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, I rise in support of this conference report.

Mr. Speaker, when this legislation initially passed the House last July, I spoke against it because I felt that it was fiscally irresponsible and had strayed too far from the original catastrophic proposal set forth by Secretary Bowen. I am pleased to say that my concerns have been addressed to the point where I can vote for this bill.

This bill will protect 2.1 million elderly and disabled citizens each year who have medical expenses in excess of the $1,370 part B out-of-pocket limit. It provides much needed protection against spousal impoverishment for nursing home patients under the Medicaid Program. It also improves health insurance coverage for those Medicare beneficiaries with incomes below the Federal poverty level by providing for Medicaid payments for Medicare deductibles, coinsurance and premiums.

When the original House bill was considered on the floor, I had particular concerns about the provisions of the bill that expanded Medicare coverage for prescription drugs and respite care. I was concerned that these new benefits had the potential to seriously undermine the future fiscal viability of the Medicare Program on which our elderly and disabled citizens have come to depend. Quite frankly, I still have some of these concerns but the provisions in the bill before us today related to these two benefits are vastly improved over those in the original House-passed bill. The Committees on Ways and Means, Energy and Commerce and the Senate Finance Committee will have to closely monitor these programs so that costs to the beneficiary do not become so outrageous that General Treasury subsidies will eventually occur.

I urge my colleagues to join me in supporting this bill.

Mr. STARK. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The **SPEAKER** pro tempore (Mr. PANETTA). The question is on the conference report.

The question was taken and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 328, nays 72, not voting 31, as follows:

[Roll No. 164]

YEAS—328

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Byron
Callahan
Cardin
Carr
Chapman
Chappell
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (MI)
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
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Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
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Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Madigan
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillan (NC)

McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weldon
Whittaker
Whitten
Williams
Wise
Wolf
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—72

Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bliley
Brown (CO)
Buechner
Bunning
Burton
Carper
Chandler
Cheney
Combest
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeFazio
DeLay
Dornan (CA)
Dreier
Fawell
Fields
Frenzel
Gekas
Gingrich
Goodling
Gregg
Hastert
Hefley
Herger
Holloway
Hopkins
Hunter
Kolbe
Kyl
Leath (TX)
Lungren
Marlenee
McCandless
McCrery
Moorhead
Nielson
Olin
Oxley
Penny
Porter
Rhodes
Ritter
Roth
Schaefer
Sensenbrenner
Shumway
Shuster
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Stenholm
Stump
Swindall
Tauke
Thomas (CA)
Walker
Weber
Wheat

NOT VOTING—31

Badham
Biaggi
Boulter
Bustamante
Campbell
Duncan
Flippo
Garcia
Gephardt
Hansen
Jeffords
Jones (TN)
Kemp
Konnyu
Latta
Lewis (CA)
Lukens, Donald
Mack
Manton
McGrath
Nichols
Ortiz
Ray
Roberts
Schulze
Spence
Taylor
Weiss
Wilson
Wolpe
Young (AK)

☐ 1408

The Clerk announced the following pairs:

On this vote:

Mr. Bustamante for, with Mr. Ray against.

Mr. Lewis of California for, with Mr. Donald E. Lukens against.

Mr. STUMP changed his vote from "yea" to "nay."

Mr. KOSTMAYER changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MULTIYEAR NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 458 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 458

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4561) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes, and the first reading of the bill shall dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177) are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Science, Space, and Technology now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, by title instead of by section, each title shall be considered as having been read, and all points of order against said substitute for failure to comply with section 401(b)(1) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

☐ 1410

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Moakley] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from Mississippi [Mr. Lott], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 458 is an open rule providing for the consideration of H.R. 4561, the multiyear National Aeronautics and Space Administration Authorization Act.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology. To expedite consideration of the bill, the rule provides that the bill will be considered by titles instead of sections with each title considered as having been read.

The rule waives section 401(b)(1) of the Congressional Budget Act against consideration of the bill and against the substitute. Section 401(b)(1) of the Congressional Budget Act prohibits the consideration of new entitlement authority which becomes effective prior to October of the year in which it was reported. The bill contains language creating a National Mars Commission and provides for the appointment of a Director of the Commission at the rate of GS-15. Since the payment of salary to the Director would occur in fiscal year 1988, and the bill has been reported in the calendar year 1988, the bill is in violation of section 401(b)(1). I am informed that the committee intends to offer an amendment which will correct this violation.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4561 authorizes $11.5 billion, $14.4 billion, and $15.7 billion for fiscal years 1989, 1990, and 1991, respectively. The overall funding level for 1989 is equal to the amount requested by the administration and is approximately $2.6 billion over the 1988 appropriation level.

The bill sets the funding levels for the major objectives of the space program including the space shuttle, expendable launch vehicles, and the permanent manned space station and begins work on such long-range objectives as the international manned mission to Mars and the hypersonic aerospaceplane.

Mr. Speaker, I urge adoption of the rule.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 458 is an unusual creature in this body. This is an open rule. We do not see many of these, so we should relish this one with great enthusiasm.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, is the gentleman telling me that he is objecting to an open rule?

Mr. LOTT. No; I am commending the Rules Committee for rediscovering what pleasure there is in openness when it comes to legislation, and this rule, an open rule on the NASA Authorization, is very commendable.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman.

Mr. LOTT. Mr. Speaker, perhaps I should stop at this point. But I will take just a moment more to say that this is a rule for the National Aeronautics and Space Administration Authorization Act. Another thing that I particularly like about this authorization, it is a multiyear authorization. It actually covers fiscal years 1989, 1990, and 1991, so I think we have a good authorization bill and a good rule.

Mr. Speaker, all points of order against consideration of the bill and the committee amendment in the nature of a substitute for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act of 1974 are waived. Section 401(b)(1) prohibits the consideration of new entitlement authority which would take effect prior to October 1 in the same calendar year as reported. Since section 207 of the bill creates a Mars Commission director at a fixed salary which could take effect before October 1 of this year, this is considered a new entitlement in violation of section 401(b)(1).

The Budget Committee chairman has indicated no objection to the waiver with the understanding that the committee will clear up this problem with a floor amendment.

The rule provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology. The rule also provides one motion to recommit with or without instructions.

Mr. Speaker, this bill authorizes $11.5 billion, $14.4 billion and $15.7 billion for fiscal years 1989, 1990, and 1991, respectively. For the first time, a multiyear funding authorization would be established giving a most needed shot in the arm to the programs at NASA. I think we are all interested in putting our Nation's space operations back on track, and this authorization will go a long way to achieving that objective.

The United States was an early pioneer in the race to claim space exploration. Funding, once at its zenith, has over the last decade taken a dive. This piece of legislation would give NASA's programs a big boost and help restore our rightful place in space exploration.

Mr. Speaker, I support this rule and this bill. Space centers around the country will once again operate at their maximum capacity and provide economic benefits to surrounding communities. I strongly urge my colleagues on both sides of the aisle to join me in supporting this worthwhile measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no more requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1420

The SPEAKER pro tempore (Mr. PANETTA). Pursuant to House Resolution 458 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4561.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4561) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities and research and program management, and for other purposes, with Mr. GONZALEZ in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 4561 which provides a multiyear authorization for the National Aeronautics and Space Administration. This is the most far reaching piece of legislation I have been privileged to bring to the floor since I became chairman of the Committee on Science, Space, and Technology. This bill represents the culmination of years of background work and many months of study, analysis, and debate by the members of the committee, and I believe that it is critically important to our Nation and to our space program at this juncture in our history.

I would like to recognize the hard work of my colleagues, especially Mr. NELSON, chairman of the Subcommittee on Space Science and Applications, Mr. MCCURDY, chairman of the Subcommittee on Transportation, Aviation and Materials, and Mr. WALKER and Mr. LEWIS, ranking Republicans on those two subcommittees. I would also like to thank Mr. LUJAN, ranking Republican of the full committee for the valuable work he has done over the years for this legislation as well as the other bills we will bring to the floor today. Mr. LUJAN, who will be retiring this year from Congress, will leave a lasting influence on the Space Program and the science community which he has helped to shape.

Mr. Chairman, this is the time for Congress to debate the question of our commitment to the Space Program. Indeed, it has been joined this year by the debate over budget priorities and has been brought into focus by the underlying question, What is the goal of our Space Program and are we willing to spend the money to make this dream a reality?

The *Challenger* accident 2 years ago has stimulated a great deal of discussion about the Space Program. We see more clearly now where we have been and, more importantly, where we need to go. We see more clearly now our mistakes, and our successes. We have learned our lessons, both good and bad, and it is terribly important to keep them in mind—for as we have learned—we are all pilots for the shuttle.

This bill also takes aim on the other area of NASA: Aviation. In aviation we are slowly losing our once preeminent position in the world market. We face a relentless and growing challenge from Europe that threatens one of our few remaining industrial winners in this country.

H.R. 4561 takes us out of the past and into the future. This year, the Committee on Science, Space, and Technology has approached our authorization responsibilities in an entirely new way which we hope will set America's space and aeronautics program on an advancing track once again. I urge my colleagues to support what we have done and to help us in rebuilding and strengthening our space and aeronautics effort.

Let me briefly explain the main provisions of H.R. 4561. The bill contains three major titles which lay out long-range goals and policies for the space and aeronautics program. First the bill contains a 5-year Capital Development Program which sets forth specific milestones that must be achieved from now through 1993.

Next the bill contains an authorization for fiscal years 1989 through 1991 for each major NASA activity. This 3-year authorization provides the funds necessary to initiate the 5-year program I mentioned. For fiscal year 1989, the bill authorizes the President's requested level of $11.488 billion. For fiscal year 1990 the bill provides $14.388 billion and for 1991 $15.745 billion. We firmly believe that these are the absolute minimum levels necessary to provide for a healthy and sustained space effort.

Finally, the bill contains a 10-year strategic plan that establishes general policies to guide the Space Program over the next decade.

The bill outlines and establishes a core space program consisting of the space shuttle, expendable launch vehicles, and the space station. Without any one of these elements, we have no space program, it just will not exist. These three elements are the fundamental building blocks for our access to space. As it was brought home to us so clearly after the *Challenger* accident, this Nation made a grave mistake once in failing to recognize the need to maintain an expendable launch vehicle capability. We are correcting that through this bill. We would make an equally grave mistake by failing to build the space station. Finally, the space shuttle will be our only manned space vehicle for at least the next 20 years. We must care for it as a precious national resource.

In the science area the bill lays out an aggressive sequence of new missions designed to assert our world leadership role. We have provided for the initiation of major new projects beginning with the advanced X-ray astrophysics facility this year, continuing on with a Comet rendezvous mission next year, and an ambitious Earth observing system the year following. These missions are of great value, not only in the scientific data they will return, but also in rejuvenating critical areas of the scientific and academic community.

Finally, our science plan calls for the initiation of what we have called a "Mission to Planet Earth" beginning in 1992. This will be a focused study of global change. This mission will provide a comprehensive data base to address such pressing environmental problems as ozone depletion and the greenhouse effect.

In the space exploration area, the bill calls for the initiation of an international manned mission to Mars which we hope can be done cooperatively with the Soviets. This program will be initiated in 1992 which is the year that has already been established worldwide as the International Space Year. This will be a fitting milestone to mark our Nation's progress on the 500th anniversary of the voyage of Christopher Columbus.

In the space transportation area the bill calls for specific improvements in the space shuttle and an aggressive program of expandable launch vehicles [ELV's] to achieve cost effective and reliable access to space. Our plan also provides for the development of a heavy lift vehicle to be initiated by the mid-1990's. I regret to have to say that only when this vehicle is available will we have a vehicle comparable in lift capability to the present Soviet Energia vehicle. Over the long term, the bill requires that, before the end of the next decade, we begin work on the next generation of manned space vehicle beyond the shuttle.

We are also promoting greater involvement of the private sector in the Space Program by establishing aggressive goals for greater industry opportunities to conduct experiments in space. This will ensure the continuous transfer of space technology to the private sector.

In aeronautics, the first "A" in NASA, the bill strengthens our strong commitment to advanced technology. It directs NASA, in partnership with DOD, to carry out a flight demonstration in 1995, of a single-stage-to-orbit, hypersonic aerospaceplane. This is just a few short years away, and it offers all the excitement and promise of those earlier X series aircraft we remember from our younger days. I might point out that this Nation's investment in aeronautics have been of extraordinary benefit to our balance of trade and quality of life.

The committee has also adopted a number of general language provisions in some key areas of space policy. The bill authorizes the release of a request for proposals to explore potential Government lease or purchase of a commercially developed space facility in order to give us a capability to perform microgravity research in the early 1990's. Over the course of the next year we hope to better understand how such a facility will prepare us for the space station. It may also yield a bounty of near term benefits including new drugs and materials that cannot be manufactured on Earth. I will point out that our bill requires a further review and authorization by Congress in order to commit to any acquisition or lease. We have also directed NASA to contract with the National Research Council and the National Academy of Public Administration for additional studies on such a facility.

In order to better establish a decision framework for the Mars mission I mentioned earlier, the bill provides for a 12-member National Mars Commission which will prepare a strategy for cooperation among the United States and other nations. The Commission will also assess the implications of cooperation including the prevention of unwanted transfer of technology. This strategy could be the key to our future relations with the Soviets and could well be the focus of discussions at the summit this week.

The bill also calls for an effort to develop the broader policies and technologies for long term space settlements which have been an implicit goal of our Space Program for the past 25 years.

Mr. Chairman, I would now like to mention a few additional areas of special concern which I must call to the attention of my colleagues. This has been a challenging year for Congress and for the Space Program. Last week the budget conferees reached an agreement on a budget resolution that provides only $10.8 billion for the Space Program. This is over $700 million below what we considered to be the minimum budget level. Over the past several months we have had a very dynamic discussion with our colleagues on the Budget Committee and I know they share my view of the importance of the space effort. I want to commend those members of the Budget Committee who I know did their best to balance the priorities in an extraordinarily difficult budget year. Despite the hard work by those colleagues, we simply cannot accomplish what is so clearly desired by the American people on a budget of $10.8 billion.

Another area of great concern to us is the potential impact of the recent oxidizer plant explosion in Henderson, NV. Our preliminary assessment suggests that this will severely affect the shuttle launch schedule and our expendable launch vehicle capability as well as a variety of tactical and strategic defense systems. Once again, we may have failed to build the necessary redundancy into our critical national assets.

The net result of these concerns is that our space program needs more, not less money. I hope you will join me in calling attention to these issues and doing everything we can to maintain a healthy and robust space effort.

Mr. Chairman, H.R. 4561 is a piece of legislation we can all be proud of. I call on my colleagues to give it their support and to help us rebuild our space program. The American people will not allow us to let our space program become second rate. Our national will has taken us to the Moon and back. Our vision of man's presence beyond this planet is real and is something for which we must strive. Our economy, national security, and technological leadership depend on it.

Mr. Chairman, the benefits of space technology to American lives are apparent in our every day lives. A stream of new products and processes adapted from technology originally developed for NASA programs have been spun off and applied to practical problems to our social and economic benefit.

At this point in the Record I want to include a listing of some of the new technologies that have developed as spinoffs of NASA programs and technologies:

LIST OF NASA-FUNDED ACHIEVEMENTS

NASA funded the research that made major breakthrough in superconductivity, breaking temperatures by 20 degrees from a previous level that had been considered a threshold by the scientific community.

NASA research employing advanced computer techniques to enhance images sent to earth in digital form—digital image processing—has laid the cornerstone for what is now an expanding industry.

Use of NASA technology led to the development of a medical laboratory aid for the study of hereditarily related chromosomes. Doctors can now view human organs made clearer by an image processing technique that enhances body tissues for examination.

NASA research in image processing has enhanced our weather prediction capability and understanding of such things as hurricane storm size, strength and direction and even temperatures within a storm.

NASA drag reduction technology has resulted in significant applications for consumer, home or recreational use. NASA technology in part led to the success of the Stars and Stripes as winner of America's cup. The boat's hull underside was coated with "riblets", a technology developed by NASA to improve aircraft efficiency.

NASA technology has led to the development of eye filters, for use in sunglasses that absorb near ultraviolet and blue light. These filters counter cataract and senile macular degeneration, which are two principal causes of vision loss in western nations.

NASA research in the development of insulating materials has led to its use in consumer clothing, outdoor gear and window energy liners.

NASA research has led to the development of water filters, now a booming business.

NASA research has led to the development of space derived pump that offers new freedom to diabetics dependent on insulin. The minipump delivers insulin continuously at a preprogrammed rate.

NASA technology is employed in building techniques that have effected dramatic reductions in energy consumption.

NASA remote sensing technology has been applied in archeological reconnaissance leading to improved resources management and environmental control.

NASA information services played a part in the development of medical devices designed to assist deaf and hearing impaired persons in achieving better speech, done through electronically processing the subject's speech sounds.

NASA technology was employed in the development of a machine that can nurse piglets as a "surrogate mother." This is an important stride in swine farming, due to historical levels of 15% to 25% in deaths of piglets before weaning. This has posed a serious economic problem in hog production.

Space technology has led to new developments in diving suits that will extend underwater "bottom time". This development could prove to be a full circle spinoff, one that transfers from aerospace technology and eventually generates technological advances transferable to aerospace systems, for the development of advanced space suits.

□ 1435

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4561, the Multiyear National Aeronautics and Space Administration Authorization Act. This legislation upholds the President's spending priorities and expresses the strong and continued support of the Committee on Science, Space, and Technology for the civil space program. It is unfortunate that the funding that this legislation authrorizes in fiscal year 1989 will not likely be appropriated, and therefore, the support expressed in this bill is more symbolic than real; however, H.R. 4561 makes an important statement.

For the first time we will be authorizing funding for NASA's programs for 3 years. This is an important first step in providing the necessary commitment and continuity the space program has lacked. This bill also provides the long term direction needed to plan the Nation's future civilian space program.

Ever since that day that Neil Armstrong first stepped on the Moon, a manned mission to Mars has been a dream of most Americans. Mr. Chairman, this bill is the first small step in turning that dream into reality. The Administrator is directed to initiate a focused program of exploration before the end of 1992 that will lead to a manned mission to Mars. Moreover, this bill recognizes the importance of a strong research and technology base to support such an ambitious mission. Therefore it establishes, for the first time, a 5-year capital development plan for developing the advanced technologies needed to support both manned and unmanned missions for the future.

This legislation is consistent with the President's space policy, and not only supports the goal of expanding man's presence in the solar system, but also articulates the goal of establishing settlements in space. These are long term goals to be sure, Mr. Chairman, but goals, none the less, that I believe most Americans share.

The legislation also establishes 5-year capital development plans for space science and applications, space transportation, and aeronautics research and technology—all important elements of NASA's charter, In addition the important contribution of the private sector is recognized, and the Administrator is directed to encourage commercialization and increased private sector participation.

This bill authorizes the release of an RFP—a request for proposals—for the lease or purchase of a commercially developed space facility. By offering to lease space on this facility we can make it possible for a company to secure the necessary private financing to develop a small man-tended platform which can serve as an interim microgravity laboratory. It is critically important that we develop and early capability for microgravity research. This in no way diminishes our support for a permanently manned space station, but it does recognize the reality that the station is several years away.

Mr. Chairman, I am aware that funding constraints severely restrict this Nation's ability to carry out the space program that most Americans want. I continue to believe that money spent on our space program. Like all funding for research and technology is an investment in our future. The space program should not be viewed as a luxury that must wait for better times. Technology is not a luxury. Technology, translates into favorable trade balances, and a healthy economy—and it means jobs for the future.

I believe it will be tragically shortsighted if we pass this bill as a symbol of our support for the space program, and then fail to provide adequate funding to sustain it. Nevertheless, I believe it is still important to articulate the goals for this program, and even if we aren't able to move out as aggressively as we would like, we should still, try to set the direction for the future. H.R. 4561 does that, Mr. Chairman, and I urge my colleagues to support this important piece of legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. ROE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida [Mr. NELSON], the chairman of the Subcommittee on Space Science and Applications.

Mr. NELSON of Florida. Mr. Chairman, I want to thank my colleagues for bringing a piece of legislation that is extensive and comprehensive as this one is. I want to thank the gentleman from New Jersey [Mr. ROE], our chairman, for his leadership and his vision, for a great part of the visionary part of this legislation, for the 3-year authorization, for the 5-year projection, for the 10-year outlooks. They are here as a result of his suggestions and it is a simple recognition of the fact that our space program should not be funded by fits and starts but rather ought to have a consistent goal, a structure of funding through which the civilian space program can be targeted. That is what this legislation intends to do.

Mr. Chairman, we have a choice this year and it is a particularly momentous choice. Mr. Chairman, the particular choice that we have this year is over the question whether or not we are going to have a continuation budget that the analysis by the Congressional Budget Office tells us is going to be a makeshift nonvisionary kind of budget that NASA and the civilian space program cannot achieve what we envision in this bill. The other choice is, Are we going to try to articulate in law and in our budget that goal and that vision that resonates in the hearts of most Americans about what their civilian space program ought to be and what they expect it to be?

Mr. Chairman, our President is on his way back from the Moscow summit. This was one of the topics of discussion between the leaders. It is certainly no secret that in the hearts of the Soviet citizens their space program is a big deal and resonates very well. Indeed, when we compare the funding increases over the last two decades between the American program and the Soviet program, we find an American program of funding that is actually a declining program in real dollars when in fact the Soviet program has soared some 100 percent over the last two decades. What has that produced? It has produced an excellent space program for the Soviets. They are now in their third generation of space station, the Mir, with cosmonauts on board full time doing the microgravity experiments that the gentleman from New Jersey [Mr. ROE] talked about that we deem necessary for the future of this country and our standards of living. So we have a choice. We have the choice of this committee, a vigorous and robust choice.

Mr. Chairman, I am going to conclude my remarks by saying that yesterday I had the privilege of having a meeting with June Scobee, who is the widow of the *Challenger* commander. Mrs. Scobee, as my colleagues know, has been putting her effort into the Challenger Center which will be a living memorial and educational center in memory of the *Challenger* crew. There is one other living memorial that we must remember if we want to memorialize those astronauts and it is simply that they would ask of us that we have no less than excellence in our space program, that we put it back together as we are, and that we go to achieve the exceptional heights in America's space program.

Mr. LUJAN. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I appreciate the gentleman from New Mexico yielding.

Mr. Chairman, I rise in strong support of H.R. 4561 which provides a multiyear authorization for the programs of the National Aeronautics and Space Administration. In a dozen years of bringing NASA authorizations to the House, I can say with confidence that this legislation is the best that the Committee on Science, Space, and Technology has ever developed. This bill represents the rebirth of our civil space program after a series of tragic accidents.

Mr. Chairman, many have charged that our civil space program has been drifting, and I must admit that there has been some justification in those allegations. But we have passed through the doldrums. We are ready to trim our sails and restore our forward momentum. In only a few more weeks we will move the *Discovery* to the launch pad for a launch later this summer. And with that launch will come a clear change in focus from where we have been, to where we should be going.

The bill before the House today provides a road map of the future of the civil space program of this great country. For years we have treated the space program as if it were an incremental program that could be purchased a year at a time. It should be obvious that when one deals with cutting-edge technology, and long-term exploration of the universe, that one must plan many years into the future.

The bill before the House will force the Congress and the administration to address the tough budget choices that face this Nation. We propose that this is the kind of space program that the American people want. It is the kind of space program that the American people support. And it is the kind of space program that the citizens of this great Nation deserve. This program will bring the United States back to our rightful position of international space leadership.

Mr. Chairman, this legislation has a number of elements that are new to NASA authorizations, but they are crucial to proper long-term administration of the space program. Let me explain to the House what we have done:

First, we have provided for the first multiyear authorization for NASA.

I would point out that while the growth in the NASA budget this year appears large, this budget will still be less than 1 percent of the Federal budget as, it has been since 1975. In contrast, the NASA budget was never 4 percent of the total Federal budget during the height of the *Apollo* era.

The second major feature of this legislation is a 5-year capital development program which sets forth a series of specific milestones that must be achieved from now through 1993.

Our third major feature is a 10-year strategic plan that establishes general policies, rather than specific milestones, to guide the long-range planning for our civil space program.

Within the 3-year authorization contained in this bill is the core NASA program embodied in the space shuttle, the new space station, and the expendable launch vehicles that are returning to service. These three elements provide the assured access to space that is crucial to a successful civil space program, and the permanent American manned presence in space which will provide us with the ability to conduct long-term manned experiments, and the ultimate ability to expand manned presence beyond Earth orbit.

In the space science arena we have provided for a number of new projects that will move that very vital area forward.

There are three provisions of this bill which I think are of major importance, and which deserve the attention of the House. The first is the cooperative program between NASA and the Department of Defense to carry out a flight demonstration project in 1995 of the National Aero-Space Plane. This is a single-stage-to-orbit, hypersonic, aerospacecraft which will be capable of taking off from a city airport and reaching low-Earth orbit. The possibilities are endless.

The second major provision is language which will allow the administrator of NASA to move forward with the issuance of a RFP to explore lease or purchase of a commercially developed space facility to give us a microgravity base in space in the early 1990's, and a laboratory in which we can test hardware intended for the space station.

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Third, there is a language in this bill mandating drug-free workplaces. In this bill we say no funds authorized to be expended under this act shall be expended in any workplace which is not free from the illegal use of controlled substances.

Mr. Chairman, I seldom come before the House urging my colleagues to adopt a budget with the kind of growth this budget provides for NASA. But we seldom have the opportunity to vote in such a clear and resounding way for the future of America. This legislation bridges the gap from the tragedy of the *Challenger* to America meeting the challenge of the next century.

Let me also take an opportunity to thank and congratulate the chairman of our committee, the gentleman from New Jersey, who has brought to his House a message of hope and a message of the triumph of American technology. I would also like to thank and congratulate the gentleman from New Mexico [Mr. LUJAN], who serves as our ranking Republican member. This year marks his last in the House, as he has announced his retirement at the end of the current session. His service in this House is the longest of any Member ever elected from New Mexico, and he has served the people of his State and this Nation in a most remarkable way. His contributions will be missed in this Chamber. Finally, I would also like to thank the gentleman from Florida [Mr. NELSON], who has been my colleague on the subcommittee and who has worked over the years to make this effort one of strong bipartisan support for our civilian space program We do not always start in agreement on exactly where we should be going in space, but I must say that we generally end up with a position that we can both totally support. Our civil space program is far too important to this Nation to make it the subject or anything less than true bipartisan support.

Let me say finally that this funding that we have in this program is the minimum necessary for this Nation to continue to be a leader in space. Notice I said a leader, not the leader in space, because there is not enough money in here to be more than a leader. We simply have got to maintain space leadership with the kind of funding we have here. Anything less than the program outlined here will reduce us to following others in the exploration and exploitation of space. A great nation that is not aggressively pursuing the next frontier will soon be something less than great.

Our future and our national preeminence in an arena where the future is defined are what is at stake here.

I urge the adoption of the legislation.

Mr. ROE. Mr. Chairman, I yield 4 minutes to the gentleman from Oklahoma [Mr. McCurdy], who is the chairman of our Subcommittee on Transportation, Aviation and Materials.

Mr. McCURDY. Mr. Chairman, I rise in support of H.R. 4561, the multiyear NASA authorization. I particularly want to acknowledge the leadership of the full committee chairman, Bob Roe, in having the foresight to propose a new, mulityear approach this year. I would also commend Manuel Lujan, ranking Republican on the full committee, for his efforts in bringing the bill to the House. Finally, I want to thank Tom Lewis, ranking Republican on the Transportation, Aviation and Materials Subcommittee, for his cooperation, expertise and dedication to keeping America first in aviation.

Members of the subcommittee worked long and hard in carefully reviewing the NASA aeronautical program and the 1988 budget request. We found that although the dollar amount for aeronautical R&D is small—$414.2 million recommended by the committee this year, the payoff is very large. This is true because NASA emphasizes the high-risk, long-term research and technology that industry is financially unable or unwilling to undertake. Such efforts provide the foundation for future aircraft and engines which return many times their initial cost to our economy. In a very real sense, NASA's aeronautical R&D is an investment in our country's future.

For example, in 1987, the United States suffered an all-time record foreign trade deficit of $171.2 billion. And yet, as bad as this was, it would have been $17 billion worse, had it not been for the favorable contribution of aerospace products, the bulk of which were civil aircraft.

U.S. suppliers have built the vast majority of the free world's civil air fleet by dollar value. Our airlines are our best ambassadors, offering superior quality, safety, comfort, and reliability, at economical costs. They speak well of America, to operator and user alike.

Of course, these results did not just happen. They came because we have consistently had the best products. And one of the big reasons for that has been the long-standing partnership between government and industry in developing new aeronautical technology.

Because of this, the Committee on Science, Space, and Technology has repeatedly urged the administration and the Congress to increase the resources devoted to aeronautical R&D. We have pointed to the many long-term benefits of such investment, which are reflected in billions of dollars in sales of U.S. aircraft both here and abroad, and in millions of jobs for Americans.

Yet, in spite of its proven cost benefits, the NASA aeronautics program has not kept pace with the relentless pressure from our competitors, both military and commercial. In fact, NASA budgets for aeronautics in this decade have not even kept up with inflation. There aren't many Government programs that can make that claim.

Furthermore, anyone familiar with the dramatic increases in both the cost and complexity of new technology in the last few years knows that a level budget won't produce the same results as it once did. It simply costs more today to achieve each increment of improvement in fuel efficiency or safety or performance.

Despite decades in which American companies dominated the world jet transport market, our share of that market fell to 65 percent last year, down from 84 percent during the 1970's. Clearly, if this becomes a trend, we will have lost another industry, one of our few remaining winners.

Because of this, I believe the committee's recommendation is at the low end of what is actually needed. In my view, international conditions call for expanding NASA's aeronautical program, not curtailing it.

The committee also approved funding, $63.8 million, to begin a long, overdue rehabilitation of certain aging wind tunnels. These facilities have served our country well for years, giving our aeronautical scientists the tools to keep the United States out front in aviation. But many are old and are badly in need of repairs to restore them to productive use and safe condition.

Finally, in the aviation area, the committee considered NASA's request for transatmospheric research and technology. This is NASA's contribution to the joint NASA/DOD National Aerospaceplane Program, an effort to advance and prove the technology for high-speed, hypersonic flight. If successful, this program could lead the way to several attractive applications, including a single-stage-to-orbit space transportation system and a hypersonic commercial air transport—sometimes called the Orient Express.

The committee feels it is necessary to continue with this program so that the technology will be ready in the mid-1990's, when we will need it to support the successful commercial development of space.

Furthermore, we feel it is vital for NASA to be involved fully in this program to assure the technology is developed with these important civil applications in mind. For these reasons, we are recommending an approval of the full administration request—$84.4 million.

Mr. Chairman, I urge adoption of the bill.

Mr. LUJAN. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. Lewis], the ranking member on the subcommittee.

Mr. LEWIS of Florida. Mr. Chairman, again this year, I want to commend the Transportation, Aviation and Materials Subcommittee chairman, Mr. McCurdy, for his cooperation on the budget compromise on the NASA Aeronautics Research programs. His leadership and willingness to work toward a bipartisan budget has to lead to a strong Aeronautics Research Program which is important to the Nation.

There are several reasons why I feel that this strong support for these programs is warranted.

First of all, the NASA Aeronautics Program has benefited all the citizens of the United States. The Aerospace industry, which uses the end products of NASA's research, has the larget balance of trade of any U.S. industry. Witnesses at the subcommittee hearings stated that the preliminary 1987 positive trade balance was $17 billion.

AIRCRAFT METAL FATIGUE RESEARCH

The NASA bill contains a section that directs funds toward finding aging aircraft maintenance problems before they become accidents. The April 28 Aloha Airlines flight in which the top of the fuselage came off, is an example of what could be prevented in the future.

The Federal Aviation Administration had issued directives to all airlines to examine 737's for metal fatigue and delamination. The problem occurred on how the airlines carries out this directive. Essentially, only visual inspections were done and, as the evidence shows, this was inadequate to prevent the Aloha Airlines accident.

This section directs NASA to increase its efforts to build instruments to detect metal fatigue, delamination, and corrosion problems in the field. When the research is completed, inspectors will have the technology available to be able to walk up to an aircraft and perform tests that will detect corrosion, metal fatigue and delamination problems.

Therefore, the support for the President's fiscal year 1989 budget of $930 million, is well justified.

Contained within this budget request are increases in three areas that I want to bring to the attention of the Members.

For the national aerospace plane—a total of $103 million for fiscal year 1989 which has the potential to benefit both civil and military aircraft industries enormously, well beyond the year 2000;

Aviation safety research—this is essentially the only long-term Federal Civil Research Program covering issues such as weather, icing, human factors, and metal fatigue detection;

Report language added to this legislation directs NASA to coordinate these research efforts with the Federal Aviation Administration; and

Construction of facilities which contain funds for the repair and modernization of the aging wind tunnels, that are so important to the Aviation Research and Development Program.

These are a few of the reasons why I strongly support the bipartisan budget proposal for the NASA aeronautics research programs before us today.

I want to thank the committee chairman, Mr. Roe, for his leadership in molding the long-range NASA policy found in this legislation.

It is so important that we have a strong long-range space program, if we are to regain world leadership. The Soviets are ahead of us largely because of their long-term planning. For example, the satellite booster that placed Kosmos-1 in orbit in 1962, is the only known Soviet orbital booster ever phased out. It was last used in 1977. On the other hand, the U.S. museums are filled with phased out boosters, including the successful Saturn rockets.

I urge my colleagues to support the NASA authorization legislation before the House.

Mr. Chairman, this will be the last time that the distinguished ranking minority member on the Science Committee, Mr. Lujan, will be the floor manager for the Republicans on NASA authorization legislation. As you know, he has announced his retirement after almost 20 years in Congress.

He has brought effective leadership, dedication and a sense of humor to this important position. We will miss you next Congress but know that you and your lovely wife, Jean, will enjoy a chance to relax in the New Mexico Sun.

□ 1500

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. Glickman], one of our most valued Members.

Mr. GLICKMAN. Mr. Chairman, I want to thank the distinguished and outstanding gentleman from New Jersey [Mr. Roe], chairman of our committee, as well as the gentleman from New Mexico [Mr. Lujan], our ranking member who is retiring and who we will miss very much for producing I think the best NASA bill that we have ever had and doing it in such a way where all of us on the committee felt like we had great personal input into keeping this Nation at the forefront of space and aeronautics.

I do want to call the committee's attention to the fact that this bill provides an increase of funding for aeronautics, the first A in NASA, which is one of the great strengths of America, that is our production of aircraft. It is one of the few areas in this country that we stand in the leadership in the world. We make the best airplanes in the world.

This committee report, coupled with the language of the bill, will help to ensure that our private sector continues to have the research infrastructure to be competitive in commercial, commuter, and general aviation manufacturing. For that we owe a great deal of congratulations for the leadership on this committee of the gentleman from Florida [Mr. Lewis] and the gentleman from Oklahoma [Mr. McCurdy].

I want to also refer to page 150 of the committee report where it states that the committee in its report is gravely concerned about this safety of older aircraft in use today by many airlines, and as a result of our concern we have instructed NASA to begin a program aimed at devising improved methods for detecting fatigue, corrosion and bonding failures and developing advanced ultrasonic inspection tools and improving life predicting and repair methods with respect to older airplanes. As a result of the Aloha Airlines incident, the American public is concerned about some of these older airplanes that have been flying a great deal in terms of number of hours as well as cycles, landings, and takeoffs. We believe that NASA has a great deal of experience in catastrophic failures, particularly as they might be enhanced by the *Challenger* accident, and that NASA, working along with the FAA, the manufacturers, and the airlines can do a lot to ensure that an Aloha accident never occurs again.

Mr. LUJAN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. Coble].

Mr. COBLE. Mr. Chairman, I rise to support the authorization of the Office of Commercial Space Transportation. This agency, under the direction of the Department of Transportation, was created to encourage and regulate the new and fast growing American commercial launch service industry. The private sector has been preparing to greatly expand the number of space launches in our country with a relatively small cost to the Federal Government.

The tragic explosion of the space shuttle *Challenger,* and the resulting delay in satellite launches, dramatically demonstrated that our country can no longer depend on a single means of getting into space. American businesses have been increasingly launching domestic satellites from foreign shores—only causing our trade deficits to worsen.

The commercial launch industry already has contracts worth more than $700 million to launch 13 domestic and foreign satellites. I am advised that one foreign payload launched on an American rocket can offset our trade deficit by as much as $100 million. The industry has the potential to create 8,000 new jobs and add $1 billion to the gross national product.

The first license has been granted for two launches scheduled during the fall of this year. These launches will help reestablish America's preeminence in the use of space technology and set the stage for the rise of a new American industry.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. Valentine].

Mr. VALENTINE. Mr. Chairman, I want to express my appreciation to the gentleman from New Jersey for yielding this time to me and to say to him and echo what has been said by others, that we appreciate his leadership in bringing this significant legislation to this point. To our colleague, the gentleman from New Mexico [Mr. Lujan] who has labored so long and hard in the vineyard, we express our appreciation also.

Mr. Chairman, I am pleased to join my colleagues of the Science, Space, and Technology Committee in support of H.R. 4561, the NASA authorization bill. This measure, unlike its predecessors, is a multiyear authorization which will enable NASA to proceed with its current space program while establishing long-range plans and clearly defined goals that will guide the Nation's space program into the next decade.

The continued development of space is vital for maintaining U.S. economic competitiveness. Space is a challenging new place to do business, creating new industries and new jobs. Advanced space technologies can also be employed in traditional industries to enhance productivity. Space serves as a powerful catalyst for new science and education, offering breakthroughs in many disciplines and motivation for better technical education.

To maximize these potential benefits, the authorization measure before us today establishes specific priorities for major new starts in the area of science and applications. It also focuses on improvements in the present shuttle program and calls for an aggressive program for deployment of expendable launch vehicles.

In the area of space exploration, the bill establishes a manned mission to Mars as the next major goal to be initiated in 1992 and directs the Administrator of NASA to initiate a Mission to Planet Earth in 1992.

There are other important provisions in this bill, but I want to bring particular attention to the section of the bill dealing with commercial space flight opportunities.

The *Challenger* accident in January 1986 led to the immediate recognition that the United States would be without access to space for a considerable period of time. In addition, it has become clear that the shuttle program could not by itself support the growing backlog of high-priority national security and civilian missions. Therefore, to ensure continued access to space, it is essential that the private sector become more involved in launching satellites into space.

To increase private sector participation in space programs, in 1984 the Congress enacted the Commercial Space Launch Act, thereby creating the Office of Commercial Space Transportation within the Department of Transportation. This Office has put in place the necessary licensing mechanisms to facilitate the launch of commercial payloads by private industry. In 1987, the first DOT launch license was issued, and the Department is currently processing a second application to launch a foreign communications satellite. The Office anticipates as many as 10 new license applications for a variety of missions in fiscal year 1989.

The Office of Commercial Space Transportation was instrumental in the administration's recently announced decision to place increased reliance on private space launch services to meet this Nation's launch needs. This announcement represents a significant step toward a coherent, comprehensive policy that places increased reliance on a vigorous private launch industry to meet national objectives in space.

I urge my colleagues to support passage of the NASA authorization bill.

Mr. LUJAN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I would like to first of all compliment the chairman and ranking member of the full committee and the chairmen and ranking members of the various subcommittees who have helped put together this committee bill.

Mr. Chairman, I rise in complete support of the committee bill. I am pleased that the committee has funded NASA to the $11.5 billion level requested by the President for fiscal year 1989 and that we have made authorizations for the program through 1991.

However, I feel that even that amount is inadequate and an even greater increase could be warranted.

We are at a crossroads in our space program. Our space program is languishing in the status quo.

The new starts we make today will be the foundation for future space programs.

The past few years have been difficult years for NASA. By giving them an authorization for three years we are allowing them to more effectively plan new programs and develop continuity to our space program.

The appropriations committee recently approved only $10.7 billion. I am concerned that decreasing the level of funding will only jeopardize the space program. "The Space Dream is alive" but barely. $10.7 billion will do no more than keep our space programs on life support systems.

If we do not move forward now and show our commitment to the program, we will relinquish our preeminence in space.

If we want to remain the frontrunner in space exploration we need to give NASA the funding that it needs.

I urge support of the bill with the $11.5 billion funding level.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHEUER], a member of our committee.

Mr. SCHEUER. Mr. Chairman, I wish to rise in support of this fine bill. I want to commend the gentleman from Florida [Mr. NELSON], the gentleman from New Jersey [Mr. ROE], chairman of the full committee, and especially our departing colleague, the gentleman from New Mexico [Mr. LUJAN], for their great bipartisan cooperation. I have had the pleasure of serving with the gentleman from New Mexico [Mr. LUJAN] for a decade now, and all I can say is he has made marvelous, bipartisan, scholarly and perceptive contributions to the work of this committee, and we are all going to miss him very, very much.

There are a number of important provisions in this bill which deserve particular support from Members of the House.

H.R. 4561 directs NASA to establish, before 1993, a "Mission to Planet Earth" as recommended by former astronaut Sally Ride in her recent report.

The "Mission to Planet Earth" would help us understand, for the first time, how the Earth operates as a single, fragile system.

It would probe the processes which control global change—including man's own activities.

The importance of this mission was dramatically demonstrated nearly 2 years ago with the discovery of a hole in the Earth's ozone shield over the entire continent of Antarctica.

The fact that this enormous hole had never been predicted by any sophisticated computer model of the atmosphere underscores the limits of our present knowledge about the Earth's atmosphere.

It was a NASA satellite which confirmed the disruption.

It was NASA scientists—among others—who led the emergency expeditions to the South Pole which ultimately provided the scientific evidence conclusively linking manmade chlorofluorocarbons [CFC's] and stratospheric ozone depletion.

And it was NASA scientists who led the international scientific community to support the historic Montreal Protocol, phasing down the global use of CFC's.

Other environmental concerns of similar global scale have been raised. The spectre of a dramatic global warming within 100 years, with the potential for the destruction of our most productive croplands and our most populated coastal cities, it is a real possibility based on our present knowledge.

Whether we can prevent it, or slow it down, or adapt to it, will require a much better understanding of the processes of global change.

The U.S. International Space Station is an integral part of this important mission. The capabilities for flexible remote sensing and monitoring, for experimentation, and for satellite servicing and construction, require a permanent manned station.

International cooperation in the construction and operation of the station is a necessity, not only for economic reasons, but also to ensure that the scientific understanding of Earth systems reflects the best scientific talents of the world.

I also endorse the creation of the National Mars Commission, which will prepare a detailed proposal for a joint United States-Soviet manned mission to Mars. While we must proceed with some caution, I think that the recent Reagan-Gorbachev summit has given us all renewed hope that space exploration may yet be a historic departure for peaceful cooperation.

Mr. Chairman, this bill sets out an ambitious and exciting agenda for NASA over the next few years, and I urge my colleagues to give it their support.

The CHAIRMAN. The gentleman from New Jersey [Mr. ROE] has 1 minute remaining.

Mr. ROE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. LUJAN. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 2 minutes.

Mr. TRAFICANT. Mr. Chairman, I thank both gentlemen for yielding me this time. On the announcement of the retirement of the gentleman from New Mexico [Mr. LUJAN] there is not a more fair guy or better Member of the House, and we are all sorry to see him leave. We really mean that. To a lot of the young Members, the gentleman has been very fair.

Mr. Chairman, I said in the committee that the Buy American language in this bill is basically my language, and I want to commend the gentleman from New Jersey [Mr. ROE], and the gentleman from New Mexico [Mr. LUJAN], our leader, and the gentleman from Florida [Mr. NELSON], because they have tolerated some tough language that puts this bill on the brink of veto, and there had to be an awful lot of work to try and get a Buy American provision in. The Buy American provision is in, and I will offer it again, and it has been accepted. But I stated there is one provision in this bill that states that the U.S. Trade Representative could waive this provision if he finds it to be in violation of our general agreements on tariffs and trade.

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Now, I said that I would try and tighten this bill up by offering an amendment that would strike that provision. It would probably throw this House into a big fight on a big vote. I gave our leaders my word that I would not compound the dispute by stretching that at this point until I get some further information. So I am going to offer the following amendment that seems to be in favor here by the leaders. It would basically call for the Administrator of NASA to give us a report as to how many times there is competition between American and domestic firms, how many times we have won out on that competition and how many times the Administrator, due to the provision of finding it in violation of the GATT agreements, did find against an American firm.

So we can have that finding, we can have that information, we could promulgate additional policy and language without compounding it with a great debate and perhaps a toughened vote.

So I thank you again, I say to the gentleman from New Mexico [Mr. LUJAN]. I sincerely meant that for myself and for other Members.

The gentleman has been a great Member and if we can all do as well as he, we will have served our constituents quite well.

Mr. LUJAN. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 4561, the NASA authorization bill for fiscal years 1989 through 1991. As a member of the authorizing committee and subcommittee I am pleased with the results we have achieved in this legislation. The long-range planning for NASA which the committee has proposed is certainly a historical milestone for the Civilian Space Program and for America. The 5-year capital and 10-year strategic development plans are the product of significant reassessment by the committee of where the Civilian Space Program should be leading us in the aftermath of the Apollo era and the *Challenger* tragedy. This plan should be considered, in part, as a tribute to all of those heroic individuals who have lost their lives in pursuit of their dream to be explorers in outer space. They had a vision for the future which included a vigorous Civilian Space Program. H.R. 4561 puts such vision into work. Our plan calls for assured access to space, based on the space shuttle and expendable launch vehicle programs. A permanent presence in space, through development of the manned space station, is a strategic highlight of the long-range vision for NASA. H.R. 4561 establishes a manned mission to Mars as a major goal of the Space Program and calls for international cooperation in this effort. The bill also calls for research to explore the feasibility of a lunar settlement.

As we look to the stars and beyond, we must never lose sight of the importance of our country's economy, the dynamics of our own planet, and the contribution of basic, scientific research to where we are today. The continued, commercial development of space, which this legislation actively promotes, has the potential to provide America with limitless opportunity and advancement. H.R. 4561 also opens new windows to the future—as well as to the past—for scientists. The University of New Hampshire's Institute for the Study of Earth, Oceans, and Space is a leader in the study of Earth from outer space, and the work scientists are doing at UNH will be greatly enhanced by many of the space research programs featured in H.R. 4561. The Hubble space telescope in 1990 and the Gamma Ray Observatory in 1990, the advanced x-ray astrophysics facility, and the establishment of a Global Geospace Science Program will ensure a leadership role for the United States in understanding the origins of the universe and the Earth itself.

The committee approved a NASA authorization level of $11.5 billion for fiscal year 1989 that is consistent with the President's request level. Because of the potential the Civilian Space Program holds for our society and our future, I do not believe we can afford to be shortsighted in this area. It angers me, quite frankly, that while this body is likely to go ahead with the $4.5 billion supercollider when we consider the Department of Energy authorization later today or tomorrow, the NASA funding we are proposing here today is only 0.93 percent of the budget and the Appropriations Committees are talking about cutting it back further. Think for a minute on this: The supercollider is a public works project that will benefit one State and a handful of scientists. NASA, on the other hand, spreads its Federal dollars across a wide geographic distribution, and is an entire vision of the future that will benefit and improve citizens' lives across the country. Certainly, if we want to stretch our limited Federal dollars to provide the greatest benefit for the largest number of Americans, the Space Program is the way to go for America. The level of spending in this bill is needed and justified, for any less and we will lose our leadership in this science and exploration area, and cripple the Civilian Space Program permanently.

Twenty years ago, the Space Program provided this country with a vision, a mission, a purpose—a new era. As we approach the 21st century, I am confident that a strong Civilian Space Program holds the key once again. Therefore, I urge my colleagues to adopt H.R. 4561 without weakening amendments, Particularly with respect to the drug-free workplace language in this bill. The drug-free workplace initiative was first offered by Representative WALKER, with my strong support, during committee consideration of the NASA authorization bill. The language in H.R. 4561 in the committee report is responsible, serious, and tough. It has to be. Drug abuse is threatening the very future which we are providing for in this bill. With passage of this drug-free workplace language, Congress will have finally shown that it is serious about the war on drugs.

We cannot allow our Space Program to fall even further behind at a time when the Soviet Union, Japan, and our European allies are moving steadily ahead. In my opinion, outer space is not the final frontier. It is a permanent frontier, and the United States must continue to be the leader and inspiration in its exploration.

Mr. LUJAN. Mr. Chairman, I yield 2 minutes to the chairman of the full committee, the gentleman from New Jersey [Mr. ROE].

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise today in strong support of H.R. 4561, the National Aeronautics and Space Administration authorization for fiscal years 1989-91.

As we have heard today, America's Space Program is at a crossroads. What we do here will determine the nature of America's future in space—whether we will seek international leadership, particularly in manned exploration of the solar system, or whether we are prepared to forgo preeminence in space and severely limit NASA's activities, concentrating primarily on unmanned missions.

I am not prepared to give up on this Nation's Space Program.

Throughout history, exploration has been a symbol of a nation's courage and vitality. Five centuries after Christopher Columbus opened access to the free world, we can now initiate the settlement of worlds beyond this planet. The settlement of North America and other continents was a prelude to humanity's greater challenge: the space frontier.

Today, America's industrial base is eroding and the Nation desperately needs to develop new technologies to ensure its future prosperity. Tomorrow's technologies will be developed on the space frontier.

The opportunities in space exploration are enormous, with tremendous implications in the fields of science and technology, medical breakthroughs, communications, transportation, energy, agriculture and whole new industries in space.

The economic payoffs are great. Dr. Gerard K. O'Neill, founder and president of the Space Studies Institute at Princeton University, recently stated that—

> Ten billion dollars per year of wise investment in space should, throughout a decade, raise the absolute level of the U.S. GNP by $400 billion.

The bill before us today commits this Nation to strive toward a civilian space program that is second to none. H.R. 4561 matches the administration's request of $11.5 billion. In addition, the bill specifies authorization levels for the next 3 years, and lays out an aggressive set of goals and objectives for the next decade.

I want to draw your attention to a few provisions in the bill that I feel are of particular importance. First, H.R. 4561 directs the administration to construct a U.S. international space station. A permanently manned base allowing continuous space operations, the space station is the heart of America's Space Program for the 1990's.

Second, the bill also authorizes the release of a request for a proposal from industry on the lease or purchase of a commercially developed space facility. Such a facility would provide commercial tenants quick and easy access to the space environment.

Third, I am particularly pleased that H.R. 4561 authorizes $89 million for the advanced communications technology satellite. With the ACTS Program the United States can make a quantum leap in communications satellite technology and will maintain our technology supremacy.

In conclusion, the Space Program is tremendously important to our national security, the future of our economy, our science and our well-being as a nation: for the nation that leads in space will lead in technology, and the nation that leads in technology will dominate. I urge my colleagues to commit this Nation now to a robust Space Program and support H.R. 4561.

Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 4561, the National Aeronautics and Space Administration authorization bill for fiscal years 1989 through 1991. I want to commend the chairman of the Science, Space, and Technology Committee, Representative ROBERT ROE, and the chairman of the Space Science and Applications Subcommittee, Representative BILL NELSON, for presenting a bill which reflects the true needs of the American Space Program. I admire their courage for presenting a bill which is identical to the President's request level of $11.5 billion.

My excitement for this legislation is dampened, however, by the actions being taken in other committees with respect to the NASA fiscal year 1989 budget. In particular, the Appropriations Committees in both the House and the Senate are planning to make huge cuts in the President's requested NASA budget. The House Appropriations Committee will likely ask for less than $10.7 billion for NASA, while the Senate's is expected to recommend $10.2 billion. Given the extreme constraints placed on the entire Federal budget by the budget summit agreement, the difficulty in trying to maintain a healthy NASA budget is understood. By making deep cuts in NASA, however, my colleagues on the Appropriations Committee are putting America's future at risk.

Mr. Chairman, all of the programs in H.R. 4561 are essential to enable NASA's recovery from the *Challenger* accident. The bill not only provides necessary funding for a complete shuttle recovery effort, but also provides for a bold new beginning for NASA as we approach the 21st century.

H.R. 4561 contains the Capital Development Program, the brainchild of the committee chairman, Mr. ROE. I am excited about this measure because it demonstrates that Congress will take an active approach in setting long-range goals in space. Although the President's national space policy unveiled in February is promising, in many respects it stops short of laying out a clear vision for the civil space program for the next 10 years. The Capital Development Program removes much of the uncertainty in determining NASA's direction.

I am pleased to say that H.R. 4561 contains integral elements drawn from a bill I introduced earlier this year, H.R. 4218, the Space Settlement Act of 1988. For the first time Congress has recognized that space settlements are undeniably part of our future in space. I believe this realization will go far to help Americans understand the ultimate outcome of our current space activities. I thank the chairman of the subcommittee, Mr. NELSON, for sharing this vision and for including the language as part of the markup vehicle.

Title I of H.R. 4561 also contains 5-year Capital Development Programs for areas within NASA, including science and applications, space exploration, space transportation, and commercial uses of space. These sections will codify a program for NASA over the next 5 years, and help provide stability in the U.S. Space Program. This way NASA will be able to anticipate funding levels and project new starts.

Under title II of this measure, Congress for the first time provides for a 3-year authorization for NASA. Without relinquishing oversight responsibilities from year to year, the committee has set a reasonable framework for NASA to plan its budget in the next 3 years. The bill provides for $11.5 billion in fiscal year 1989, $14.4 billion in fiscal year 1990, and $15.7 billion in fiscal year 1991. The bill represents a reasonable growth rate for NASA. A 3-year authorization is overdue, considering the long lead time and expense of space research and development. The slightest reduction in anticipated funding can result in cost overruns and schedule delays. A multiyear authorization would help provide additional stability for NASA.

Sufficient money is provided in the bill to keep the space shuttle recovery effort on track, and continue the development of the international space station. A new start for astrophysics is included in the budget with funding for the advanced x-ray astrophysics facility [AXAF]. AXAF will be the next in the great observatory series of satellites which follow the Hubble space telescope and the gamma ray observatory. The budget restores funding for the advanced communications technology satellite, which was canceled by the administration.

Overall, the legislation provides reasonable funding levels for the space science and applications programs at $1.86 billion in fiscal year 1989, and keeps it steady at about 20 percent of the total budget in the out-years.

In addition, the bill provides $100 million for a new Pathfinder, a space technology research program to develop the tools needed for manned exploration beyond Earth orbit. From the results of this program, NASA is directed to make recommendation by 1992 for manned missions to the Moon and Mars.

Mr. Chairman, the civil Space Program is America's future. No program, agency, or project personifies the potential of human endeavor as succinctly as does the Space Program. The Space Program is the source of immeasurable pride and inspiration to all Americans. Industry's ability to compete in global high technology markets will largely be determined by the health of NASA's advanced space technology programs. Pride in the Space Program will spill over into the education system. The Space Program will continue to be a source of U.S. goodwill and national prestige overseas.

In many ways, we have just begun the next phase of exploration and commercial development of space. In the years to come, men and women will explore the solar system and beyond. Bold entrepreneurs will establish industrial bases in orbit, on the Moon, and at the asteroids. The economic boon, as yet immeasurable, will spur an irreversible human migration pattern from the Earth into the solar system. Our great-grandchildren will travel into space as easily as people today travel to Europe. They will go out there for work or vacation. The universe will literally be open for all people who want to participate. Space is the most exciting of all human adventures, and I believe support for the space program represents the difference between a progressive and a stagnant society.

This future vision, however, is undeniably linked to the decisions we make today. If the space agency is allowed only to limp along at a low level for the next decade, we will be no closer to achieving the critical mass needed to spark major private involvement in space. In addition, we run the risk of allowing the space program to become methodically dismantled.

Other nations are embracing the theme of space as the logical extension of the realm for human activity. Developments in space are part of the fabric of the Soviet Union. The European Space Agency will punctuate its commitment to space this month with the maiden voyage of its new Ariane 4 launch vehicle. The Japanese and the Chinese are diligently developing their own launch capability. As Congress sets about the process of dismantling the U.S. capabilities in space—in a wasteful and costly fashion—other nations are increasing their commitment to the development of space. The U.S. lead in space is weak enough that we could easily lose it in the next decade, if we have not already lost it.

We stand on the shore of space—with its unlimited depths. The United States can either be a leader in setting a course for the global space program, or it can allow other nations to take the helm.

Rather than embracing the future, the Budget and Appropriations Committees have chosen to postpone it. During the hearings this year, Mr. NELSON stated so aptly that taking money away from space programs was akin to "eating the seedcorn" of our future. In order to thrive as a society, we must invest in research and development at a reasonable level. The numbers which the Budget and Appropriations Committees are talking about do not provide that minimal level.

Because of my strong feelings toward the space program I would feel compelled to support an amendment to increase the funding for NASA during floor consideration of the Housing and Urban Development-independent agencies appropriations bill when it comes to the floor—in order to bring funding levels somewhere near the President's request for NASA. A reasonable percentage increase for NASA is equivalent, in dollar amounts, to a small percentage decrease in other programs in that appropriations bill.

Mr. Chairman, it is budgetary irresponsibility to agree to a healthy program for NASA, as represented by the bill before us, yet deny reasonable funding to execute that program. We cannot forever allow NASA to limp along at a slow pace. The U.S. space program is not only the symbol of the American spirit of exploration, it is also the cornerstone of America's competitive future.

I urge all of my colleagues to strongly support H.R. 4561, and, if necessary, to support efforts during the appropriations' process to increase funding for NASA.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 4561, the NASA Authorization Act for fiscal years 1989-91, and to commend both the Committee on Science, Space, and Technology and the Subcommittees on Space Science and Applications and Transportation, Aviation and Materials.

I know that a lot of work goes into an undertaking such as this one, and I want to express my appreciation for the work that our colleagues Chairman ROE and Chairmen NELSON and MCCURDY, on the majority side, and the ranking members, Mr. LUJAN, Mr. WALKER, and Mr. LEWIS, on the minority, along with my friend, Mr. BROWN, and the other members of the committee, and their very talented staffs, have put into this measure. I, especially, want to commend Mr. LUJAN for all of his efforts on behalf of NASA and space generally and this bill specifically. This will be his last NASA authorization bill.

This is an outstanding bill, Mr. Chairman. Not only does it match precisely the total requested by President Reagan for fiscal year 1989, it sets precisely the tone needed to restore our Nation to a position of leadership in space. It has been a tough 2 years and more since the *Challenger* tragedy and subsequent setbacks with unmanned launch vehicles dealt double blows to our space program. But adversity, in this case, has strengthened rather than defeated us, and has lent new resolve to the men and women charged with carrying out our goals. No longer are we reliant on a single system for access to space. As this bill makes clear, we are restoring and strengthening the space shuttle system while providing the necessary alternative launch systems to ensure redundancy in our capabilities. The result will be a better, more diverse and more reliable U.S. space program. I was privileged, Mr. Chairman, to serve earlier this year as chairman of a Republican Task Force on Space Technology at the Johnson Space Center, and there is no doubt in my mind that the future economic and political strength of our Nation requires us to take the lead in the exploration and development of space. And that's what this bill sets out to do.

H.R. 4561 sets forth clear and specific goals for our space program over the next several years, and lays the groundwork for achieving even more significant goals in the coming decades. These goals are first, to establish a core space program to put in place reliable transportation systems to earth orbit, a permanent, manned space station to utililize the unique environment of Earth orbit, and the technological tools to benefit from that infrastructure. If I may use an historical analogy, it's like the decision of our leaders in the 19th century to extend a basic transportation system, the railroad, across the continent to open up the vast lands and resources of the American West, or the decision of a more recent administration and Congress to construct a vast, reliable network of interstate highways, which revolutionized commerce and social cohesion for our Nation. The systems authorized in this bill will provide the same framework and impetus for technological and social progress in the coming years, and can be seen as an investment in our future economic and social well-being.

The long-range goals in this bill, to extend human resources and opportunities from Earth orbit—not just back to Earth with the Earth observing system based on a polar-orbiting platform, but also outward to the Moon, Mars, and the planets beyond—provide a quantum leap in human development and opportunity. Indeed, by authorizing the programs and goals set forth in this bill, and following up with the necessary appropriations, this Congress, the 100th Congress, can go down in history as the Congress which first articulated the goal of extending human influence into the solar system.

It was almost 500 years ago, Mr. Chairman, that an Italian navigator named Christopher Columbus set forth on a voyage of discovery which forever changed human history. How fitting it would be if, in 1992, we could look back to this Congress as the one that set us forth on a new voyage of discovery, in which we finally began to realize our full potential as citizens of Earth and of the Universe. I urge an aye vote on this bill.

Mrs. MORELLA. Mr. Chairman, the National Aeronautics and Space Administration authorization bill before the House today is a piece of legislation that Congress should be proud to present to the American people. I believe that by giving NASA a 3 year budget plan, long-range planning for 5- and 10-year periods into the future, and adequate funds with which to proceed, Congress will go a long way toward putting this country back into worldwide space leadership.

I am personally proud to have been a part of this authorization as a member of the Science, Space, and Technology Committee's Subcommittee on Space Science and Applications. I believe that this bill provides the important underpinnings of research and development in space technology, basic research, and the life sciences. Without this support, all the future innovative projects we are now planning, along with those which we have yet to conceive, will be more dangerous and more expensive. In addition, this authorization recognizes that we must have the means to begin new projects—ones that have been planned for years, but have been postponed while we struggled to overcome the setback that came out of the January 1986 shuttle disaster.

We have had both productive and constructive subcommittee deliberations, and I would like to commend both the committee chairman, BILL NELSON, and the ranking minority member, ROBERT WALKER, for their leadership. It has been truly bipartisan, and the staff that supports our work has been exemplary in their professionalism and willingness to share their knowledge and insight into many technical areas.

Of particular, but by no means exclusive, note, is that H.R. 4561 winds up past government obligations, such as support for the advanced communication technology satellite [ACTS], and at the same time allows NASA to pursue new starts, such as the advanced x-ray astrophysics facility [AXAF] and the Pathfinder Program. We now can focus on human presence in space and be confident that the quality and quantity of research necessary for maximum safety will be funded and undertaken by some of the greatest American scientists.

Mr. Chairman, the 100th Congress has produced some very monumental legislation, and the House can be proud of this bill. I urge my colleagues to not only show unanimous support, but also to send out the strongest possible message that the authorizing committee believes in the programs included in this visionary bill.

Mr. KOLBE. Mr. Chairman, I rise today in support of this vital piece of legislation. The United States needs to show both itself and the rest of the world that we are serious about maintaining our status as scientific leaders and innovators. This bill provides both direction and realistic goals to our efforts in space.

I would like to take this opportunity to educate my colleagues about a specific program that this legislation promotes—the long-term Lunar Geoscience Observer. This program is designed to map and analyze the remaining 80 percent of the Moon that has not been touched by previous Apollo missions. It has the added mission of determining if there are the necessary resources available on the Moon to build the proposed lunar station.

This is a significant mission that needs the continued support of Congress and the administration. The results could determine the direction of our space program for many years. If the Lunar Observer discovered abundant resources, particularly the long speculated polar ice cap, it would dramatically reduce the cost of building the launchpad to future exploration of our solar system. It would also change the mission of our space station, and potentially save billions in tax dollars.

I strongly support this effort and applaud NASA for its dedication to its charter which states its primary mission of research and development of space and aeronautical science. The Lunar Geoscience Observer is one program that exemplifies NASA's mission. At this point in the RECORD, I would like to include an interesting article from L5 News Magazine:

ICE ON THE MOON: THE KEY TO A LUNAR BASE

(By William H. Farrand)

If there is one thing that lunar samples returned by Apollo have told investigators, it is that the Moon is *dry*. Not just dry in the sense that there seem to be no standing bodies of water or ice, but dry right into the rocks themselves. On Earth, water plays an important part in the formation of many igneous and metamorphic rocks and without water sedimentary rocks could not form. It is the expansion of water in magmas that causes the violent eruption of volcanoes such as Mt. St. Helens, and it is water that helps in the formation of most economic ore deposits. But that's all on Earth; the Moon is *dry*.

How dry? The igneous rocks which make up the lunar surface seem to have formed in an extremely reducing environment which was entirely lacking in water. The rocks returned by Apollo proved to be so dry that lunar scientists were overwhelmed when they found one sample in the astronauts' sample bags which seemed to bear a type of rust. However, it was concluded that the water bearing rust was formed as a result of contamination from terrestrial water. For surely there is no water to be found on the Moon. Or is there?

The fact is that, even though the Moon began dry, water may have been added to lunar environment over the aeons. There are three possible sources of this additional water: meteoroids, comets, and the solar wind.

Before considering the plausibility of the above sources, we have to consider if any of this subsequent water could possibly still be on the Moon. The answer seems to be yes. Anyone who has looked through a telescope at the Moon is struck by the stark contrast between the sunlit lunar surface and the pitch black shadows cast by crater walls. This visual contrast betrays a temperature contrast. Under the sunshine, temperatures of 110 °C are reached, while at night, temperatures are as cold as −60 °C. To find ice on the Moon, one must look for places where such cold shadowed conditions are maintained ad infinitum. Such regions exist at the lunar poles. Up to 0.5% of the lunar surface may be permanently shadowed, and it is in these "cold traps" where lunar ice may be today. To consider how that water may have been added to the lunar environment, we must return to the aforementioned three sources.

The Moon like every other body in the Solar System has been subjected to a continual flux of meteoroids since its creation. Many of these meteorites have certainly been of the type known as carbonaceous chondrite which can contain in excess of 10% H_2O. Many of these meteroids probably vaporized on impact with the released gases going to form a transient lunar atmosphere. While much of this brief atmosphere would have escaped into space, some of it might have condensed in the cold traps at the lunar poles.

Hitting the Moon less frequently, but containing more water are the comets. Water released into the lunar environment by the impacts of comets could also have been trapped at the lunar poles. It is probable that over the past two billion years the impacts of meteoroids and comets could have added $2x10^{15}$KG of water to the lunar environment (two billion years is a conservative estimate of how long water might have survived in the cold traps).

The third possible source springs from the discovery that there is a significant proportion of metallic iron in the lunar soil. Some of this metallic iron could have formed by the reduction of Fe^2 in lunar minerals. The reduction would have been the result of hydrogen molecules in the solar wind interacting with FeO in the lunar soil by following formula: $FeO+ H_2 Fe+H_2O$. As much as 10^{16} to 10^{17}KG of water may have been released by this process.

OK, so there are three ways in which water could have been added to the lunar environment over the aeons and there are places where that water *could* have been trapped and *might* remain today, the key words being "could have" and "might." The theory seems sound, but no one really knows if there really is ice at the lunar poles. The Apollo spacecraft did not fly over the poles, and while the unmanned Lunar Orbiters of the 1960s did, their photographic resolution was not such that they could have spotted patches of ice. Even if their resolution had been better, it is very likely that there is a thin veneer of lunar regolith coating or mixed in with the ice patches.

To prove conclusively whether or not there is ice at the lunar poles, a new lunar polar orbiter such as the one the Soviet Union proposes to build, is needed. Such an orbiter needs to be specially equipped to sniff out any ice that might be at the poles. This detection equipment should consist of a gamma ray spectrometer which would detect the chemical compound of H_2O if it is present and an electromagnetic sounder which would determine how deep the "ice pack" is. A high resolution camera would be nice, but is not necessary. Existing gamma ray spectrometers could detect water beneath 1M of regolith, and a spectrometer which could be developed with state-of-the-art technology might be able to probe through several meters of regolith.

The discovery of ice at the lunar poles would be a tremendous boon to those planning the establishment of a lunar base. Current plans see the production of oxygen from lunar materials as being one of the rationales for founding a lunar base. Besides being used in life support systems for astronauts, the oxygen would be used largely as an oxidizer in the propulsion systems of orbital transfer vehicles. While the oxygen could be split from lunar rocks, dissociating lunar ice into its constituents would be much more energy efficient and cheaper.

One of water's constituents is, of course, hydrogen. With both oxygen and hydrogen, one would have both oxidizer and fuel, so a viable rocket fuel business could be established on the Moon. Hydrogen could also be used in lunar industry as a reducing agent for the processing of lunar oxides into free metals and oxygen. The presence of lunar water would also mean that prospective lunar colonists would not need to have their water toted all the way from Earth. Lunar colonies would then be that much more self-sufficient as well as cost efficient.

Still, the first step toward any lunar base is a lunar polar orbiter. A Jet Propulsion Laboratory study concluded that a bare bones mission using an orbiter equipped with an off-the-shelf gamma ray spectrometer and an electromagnetic sounder could be flown for the bargain basement price of $75 million (1983 dollars). Such a mission is an *indispensible* first step towards a lunar base. Before any serious planning for a lunar base can occur, we *must* know if there is water ice at the lunar poles, for such knowledge would seriously influence both the location and the role of a lunar base. Yet despite all the-current task about lunar base being the next big NASA goal, there are no hard US plans for flying any type of lunar orbiter mission.

Mr. DELAY. Mr. Chairman, I have, and always will be, a strong supporter of our National Space Program. I have continually supported necessary appropriations for NASA and other space related projects, and I plan to maintain my support in the future. I share the belief many Members hold that America must lead the world in space exploration and that leadership calls for adequate funding for our Space Program.

Americans believe U.S. space policy requires long-range goals and direction in order to provide understanding for short term projects and goals. The 3-year authorization contained in this bill will be more valuable toward achieving these goals than previous annual authorizations. Further, H.R. 4561 outlines 5-year capital and 10-year strategic development plans based on the space shuttle, expendable launch vehicles [ELV's], and, most importantly, the development of a permanently manned space station.

I understand that, in order for us to maintain our leadership position in the next generation of technology, we must fully commit ourselves to necessary levels of funding today. I believe that this bill we have before us today shows that commitment.

Mr. Chairman, It is my belief and the belief of many of my colleagues, that the funding increase for NASA—and particularly the commitment to the space station—is needed and timely. We can't put the horse before the wagon. In order to regain the leadership role in space technology, we must be full willing to take the initial step—the key step—in securing our Nations' future in space technology. That step is a national space center.

A permanently manned national space center will significantly help instill national pride and prestige into Americans. It will lead to the revitalization of U.S. science and engineering education. It will act as a staging point for which future missions to the outer limits of our solar system will be studied. Further, it will deliver much desired future scientific, technological, and economic benefits.

The space station is off to a good start. Contracts have already been awarded Our Nation must continue to move forward with the space station. As we all know, the Soviets already have a permanently manned space station in operation. We must not allow the United States to slip from the space leadership position it has held for so many years. There is no substitute for a permanently manned national outer-space center. The project needs sufficient funding to retain momentum and I hope Members understand the importance of this project and of this bill.

Mr. Chairman, I also want to point out to my colleagues a very important part of this bill which is not well known.

Title IV of this bill authorizes appropriations for the activities of the Department of Transportation related to commercial space launches. To meet the Department's responsibilities, the Secretary has an Office of Commercial Space Transportation which is responsible for fostering the growth and diversity of the commercial space launch industry while assuring that launches are conducted safely and without compromise to our foreign policy or national security interests. The authorization included in this legislation is for $3.5 million in fiscal year 1989, $3.85 million in fiscal year 1990, and $4.235 million in fiscal year 1991.

The activities of this Office are only now reaching a critical stage. Only a few years ago there was no commercial launch industry. In the wake of the *Challenger* disaster, the Congress and the President decided that we should encourage the private sector to move in and take over the routine space launches that were previously the responsibility of NASA.

Already, launch companies have invested more than half a billion dollars in bringing commercial launch services to market. Contracts worth more than $700 million have been signed to launch 13 satellites and reservations have been made for 17 more.

It is important that we make sure that the DOT has the resources to effectively promote this industry, to monitor the safety and to make sure that government agencies utilize private launches whenever practical.

Mr. Chairman, there is no doubt that the benefits from space exploration in the future will be enormous—so huge that we probably cannot calculate them by today's methodologies. We don't know whether the benefits will be in energy, minerals or something that we don't even have a name for yet. Further, we cannot predict when a space venture will become profitable. However, those who insist on looking at the cost-benefit side of this issue miss the point. Sure. There is a cost side to everything. But the benefit side of space exploration and the advancement of technology in the future is staggering. The promise of space is enormous. The challenge is to secure that promise.

Mr. ROE. I thank the distinguished gentleman for yielding this time to me.

Mr. Chairman, all I want to do is to add to the splendid presentations that have been made here today on a total bipartisan basis, our great commitment and appreciation to the staff. I think at times we have a tendency to take the accolades and credits for the work done, but in this instance the staff has done an extraordinary job on both sides of the aisle.

It does me great pleasure, if I may, to say to the staff that the merging-together of these great minds, they are not either elephants or donkeys, they are just good Americans.

I just wanted to add that.

Mr. LUJAN. Mr. Chairman, I have no further requests for time at this point. I would yield myself such time as I may consume.

Mr. Chairman, I just want to reiterate what the chairman has said about the staff. They worked very well together. We have a good, good professional staff.

I want to thank the chairman for his leadership. He has done an excellent job in this as have Mr. WALKER and Mr. NELSON.

Mr. Chairman, the Committee on Science, Space, and Technology will bring two additional bills to this House tomorrow and next week. These are all research bills, Mr. Chairman. I think the point has to be made that the contents of these three bills are really what will carry this country into the next century.

That research is needed. The technology that comes from all of these programs is needed and will keep us a leader in the world.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill is considered as an original bill for the purpose of amendment, and each title is considered as having been read.

The Clerk will designate section 1.

Mr. ROE. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 4561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Multiyear National Aeronautics and Space Administration Authorization Act".

TITLE I—NATIONAL AERONAUTICS AND SPACE CAPITAL DEVELOPMENT PROGRAM

FINDINGS

SEC. 101. Congress finds that—

(1) the Administrator of the National Aeronautics and Space Administration (hereafter in this Act referred to as the "Administrator") shall construct a space station, hereafter referred to as the United States International Space Station in order to establish a permanent presence for man in space for the following purposes—

(A) the conduct of scientific experiments, applications experiments, and engineering experiments;

(B) the servicing, rehabilitation, and construction of satellites and space vehicles;

(C) the development and demonstration of commercial products and processes; and

(D) the establishment of a space base for other civilian and commercial space activities including an outpost for further exploration of the solar system;

(2) the Administrator should undertake a program of launching on expendable launch vehicles those payloads that do not require the presence of man;

(3) the Administrator should establish a program of space shuttle launches in order to fulfill the Nation's needs for manned access to space;

(4) preeminence in space and aeronautics is key to the national security and economic well being of the United States;

(5) United States space policy needs long-range goals and direction in order to provide understanding for near-term space projects and programs;

(6) human settlement of space is fully consistent with the policies and objectives of the Nation's space program as articulated in the National Aeronautics and Space Act of 1958.

(7) over the next five years the Administrator should pursue leadership in science through an aggressive set of major and moderate missions while maintaining a robust series of cost effective missions that can provide frequent flight opportunities to the scientific community;

(8) over the next five years the Administrator should prepare for the transition to the United States International Space Station of those science and technology programs that can be most efficiently and effectively conducted on that facility;

(9) the Administrator should encourage the United States private sector investment in space and, to the maximum extent practicable provide frequent flight opportunities for the development of technologies, process-

es and products that benefit from the space environment;

(10) the Administrator should enhance the existing space transportation capability through a robust mixed fleet of manned and unmanned vehicles in order to increase the reliability, productivity, and efficiency and reduce the cost of the Nation's access to space;

(11) the United States faces an increasingly successful foreign challenge to its traditional preeminent position in aeronautics which is rapidly reducing its lead in both civil and military aircraft; and

(12) the Administrator should seek ways and means of developing NASA's personnel as an integral component and resource for the Nation's space program.

POLICY

SEC. 102. The aeronautical and space activities of the United States shall be conducted so as to contribute materially to the following:

(1) The establishment of a permanently manned presence in space, leading ultimately to space settlements.

(2) The United States civil space activities shall contribute significantly to enhancing the Nation's science, technology, economy, pride, sense of wellbeing, and direction, as well as United States world prestige and leadership. Civil sector activities shall comprise a balanced strategy of research, development, operations, and technology for science, exploration, and appropriate applications.

(3) Assured access to space, sufficient to achieve all United States space goals, is an essential element of United States space policy. United States space transportation systems must provide a balanced, robust, and flexible capability with sufficient resiliency to allow continued operation despite failures in any single system.

(4) The goals of United States space transportation policy are—

(A) to achieve and maintain safe and reliable access to, transportation in, and return from, space;

(B) to exploit the unique attributes of manned and unmanned launch and recovery systems;

(C) to encourage, to the maximum extent feasible, the development and use of United States private sector space transportation capabilities without direct Federal subsidy; and

(D) to reduce the costs of space transportation and related services.

(5) Communications advancements are critical to all United States space activities. To ensure that necessary capabilities exist the National Aeronautics and Space Administration shall continue research and development efforts for future advances in space communications technologies.

(6) The goal of aeronautical research and technology development and validation activities shall be to contribute to a national technology base that will—

(A) enhance United States preeminence in civil and military aviation; and

(B) improve the safety and efficiency of the United States air transportation system.

(7) Aeronautical research and technology development and validation activities shall—

(A) emphasize emerging technologies with potential for breakthrough advances;

(B) consist of—

(i) fundamental research in all aeronautical disciplines, aimed at greater understanding of aeronautical phenomena and development of new aeronautical concepts; and

(ii) technology development and validation activities aimed at laboratory-scale development and proof-of-concept demonstration of selected concepts with high payoff potential;

(C) assure maintenance of robust aeronautical laboratories, including a first-rate technical staff and modern national facilities for the conduct of research and testing activities;

(D) be conducted with the close, active participation of the United States aircraft industry so as to accelerate the transfer of research results to aviation products;

(E) include providing technical assistance and facility support to other government agencies and United States industry;

(F) include conducting joint projects with other government agencies where such projects contribute materially to the goal set forth in subsection (b);

(G) assure strong participation of United States universities both in carrying out aeronautical research and training future aeronautical research personnel; and

(H) be conducted, where practical, so that United States industry receives research results before foreign competitors.

SCIENCE AND APPLICATIONS 5-YEAR CAPITAL DEVELOPMENT PROGRAM

SEC. 103. (a) For fiscal years 1989 through 1993, the Administrator shall in no case request less than 20 percent of the total NASA budget for science and applications activities.

(b) For fiscal years 1989 through 1993, the Administrator shall, consistent with funding available under subsection (a), start the development of major missions in the following order of priority:

(1) Advanced X-Ray Astrophysics Facility.

(2) Comet Rendezvous/Asteroid Flyby in combination with the Cassini mission to Jupiter.

(3) The Earth Observing System to be accomplished on the United States International Space Station polar orbiting platform.

(4) The Space Infrared Telescope Facility.

(5) The Solar Probe.

(c) For fiscal years 1989 through 1993, the Administrator shall, after undertaking missions under subsection (b) to the extent funding is available under subsection (a), initiate development activities for missions in the following order of priority:

(1) High Resolution Solar Observatory.

(2) Gravity Probe-B.

(d) For fiscal years 1989 through 1993, the Administrator shall establish budget line items for the following:

(1) Planetary Observers.

(2) Physics and Astronomy Explorers.

(3) Earth observing probes.

(4) Life science satellites.

(e) Before December 31, 1992, the Administrator shall establish a program of focused Earth studies hereafter referred to as "Mission to Planet Earth", utilizing space borne satellites directed at establishing a comprehensive understanding of the biogeochemical processes which influence global change.

SPACE RESEARCH AND TECHNOLOGY 5-YEAR CAPITAL DEVELOPMENT PROGRAM

SEC. 104. (a) The Administrator shall, before October 1, 1992, increase the request for the space research and technology program, including basic research, technology validation and demonstration activities, to at least 10 percent of the total NASA budget.

(b) The Administrator shall, in fiscal years 1989 through 1993—

(1) Maintain a vigorous research and technology Base program to provide the innovative research for future NASA and other civil space missions. This includes fundamental research to explore opportunities for application of emerging technologies and applied research to formulate future focused technology programs, such as those described below.

(2) Conduct a focused program in civil space technology, hereafter referred to as the "Civil Space Technology Initiative" aimed at fulfilling the critical technology gaps for Earth-to-Orbit Transportation, Earth-orbiting operations, and conduct of science missions.

(3) Initiate development of Pathfinder, a focused program to develop the emerging, innovative technologies that will enable extended manned and unmanned missions beyond Earth orbit into the solar system. This initiative should focus on critical technologies needed for exploration of, operations in, transportation to and transfer vehicles for, and support for human presence during missions to the Moon, Mars, and other planets in the solar system.

(4) Initiative development of a focused effort of in-space experimentation to verify and validate advanced space technologies in space on the Space Shuttle, expendable launch vehicles, and the Space Station, with an emphasis on those technologies to be utilized in the development of future spacecraft and in the conduct of future space missions.

(5) Develop and validate the key technologies that will enable space-based platform and low-cost expendable satellites to monitor global change. This technology program will complement the science program defined as Mission to Planet Earth.

(6) Initiate a program directed at developing a new generation of inherently reliable and cost-effective technologies to enable long-term and sustainable access to and operations in space to serve the needs of NASA, industry, and other space users. This will include new technologies and components, such as those required to support the development of expendable launch vehicles.

(7) Ensure that the external community contributes to and benefits from NASA's technology development role by increasing cooperative programs with industry, universities, and other civil agencies, specifically by—

(A) expanding and enhancing programs with the university community, such as establishing additional University Space Engineering Research Centers as required each year to maintain a level of 20 centers and also maintaining other programs with the goal to encouraging strong NASA-university partnerships; and

(B) increasing cooperative programs with industry to maximize the commercial use of space by providing access to NASA's ground and in-space facilities for technology experiments.

SPACE EXPLORATION 5-YEAR CAPITAL DEVELOPMENT PROGRAM

SEC. 105. (a) The Congress declares that the extension of human life beyond Earth's atmosphere, leading ultimately to the establishment of space settlements, will fulfill the purposes of advancing science, exploration, and development and will enhance the general welfare.

(b) In pursuit of the establishment of an International Space Year in 1992 pursuant to Public Law 99-170, the United States shall exercise leadership and mobilize the international community in furtherance of increasing mankind's knowledge and exploration of the solar system.

(c) The Congress hereby declares that the United States shall prepare for and carry out an International Manned Mission to Mars as a major goal for the United States space program, and shall seek the participation of the Soviet Union and any other interested nations in the conduct of an International Manned Mission to Mars.

(d) For fiscal years 1989 through 1992, the Administrator shall maintain a vigorous program of mission development studies for the human exploration of the solar system which shall identify critical technologies needed to expand man's presence in the solar system.

(e) Before December 31, 1992, the Administrator shall initiate development of a focused program of human exploration of the solar system directed toward a manned mission to Mars.

(f) The Administrator may plan for the conduct of activities on the Moon that are necessary to accomplish a manned mission to Mars, including the establishment of a Lunar Outpost.

(g) Once every 2 years after the date of the enactment of this Act, the National Aeronautics and Space Administration shall submit a report to the President and to the Congress which—

(1) provides a review of all activities undertaken under this section including an analysis of the focused research and development activities on the Space Station, Moon, and other outposts that are necessary to accomplish a manned mission to Mars;

(2) analyzes ways in which current science and technology can be applied in the establishment of space settlements;

(3) identifies scientific and technological capacity for establishing space settlements, including a description of what steps must be taken to develop such capacity;

(4) examines alternative space settlement locations and architectures;

(5) examines the status of technologies necessary for extraterrestrial resource development and use and energy production;

(6) reviews the ways in which the existence of space settlements would enhance science, exploration, and development;

(7) reviews mechanisms and institutional options which could foster a broad-based plan for international cooperation in establishing space settlements;

(8) analyzes the economics of financing space settlements, especially with respect to private sector and international participation;

(9) discusses sociological factors involved in space settlement such as psychology, political science, and legal issues; and

(10) addresses such other topics as the National Aeronautics and Space Administration considers appropriate.

SPACE TRANSPORTATION 5-YEAR CAPITAL DEVELOPMENT PROGRAM

SEC. 106. (a) In order to enhance the safety and efficiency of the space shuttle and to reduce its cost of operation, the Administrator shall undertake a focused program to—

(1) reduce manpower intensive operations;

(2) reduce flight preparation time and turnaround time; and

(3) increase system reliability.

(b)(1) It is the sense of the Congress that the United States will require the services of a heavy-lift launch vehicle during the decade of the 1990s.

(2) The Administrator shall complete system definition studies for a Shuttle derived heavy-lift launch vehicle.

(3) The Administrator shall submit a report outlining the optimum configuration, performance, development and operations costs, and mission scenario for the Shuttle derived heavy-lift vehicle by September 30, 1989.

(4) The Administrator, in cooperation with other appropriate Federal agencies, shall, consistent with the requirements of this title, initiate before December 31, 1993, the development of a heavy-lift expendable launch vehicle, considering all technical options and architectures.

(c) The Administrator shall initiate concept studies for advanced space transfer and support vehicles in fiscal year 1990.

(d) The Administrator shall initiate and implement a plan to manifest on expendable launch vehicles all missions that do not require the presence of man.

(e) The Administrator shall initiate an active research program to develop new technologies and components that will be required to support the development of expendable launch vehicles.

COMMERCIAL USE OF SPACE 5-YEAR CAPITAL DEVELOPMENT PROGRAM

SEC. 107. (a) The Administrator shall undertake vigorous activities to maximize the commercial use of space with a goal of establishing a leadership role for the United States in the commercialization of space as follows:

(1) The Administrator shall promote Joint Endeavor Agreements and ensure the availability of flight opportunities for commercial users seeking to conduct research in space pursuant to the following goals:

(A) For fiscal years 1989 through 1992, the Administrator shall set a goal of five new Joint Endeavor Agreement start approvals annually.

(B) Each experiment identified pursuant to a Joint Endeavor Agreement shall be provided a flight opportunity within 3 years after approval by the Administrator.

(C) Each experiment identified pursuant to a Joint Endeavor Agreement shall be provided sufficient flight opportunities on available carriers, to achieve the research and development and pilot program activities pursuant to the Joint Endeavor Agreement.

(2) The Administrator shall charge space shuttle launch prices for commercial and foreign users pursuant to title II of Public Law 99-170.

(b) The Administrator, in cooperation with other appropriate agencies, shall ensure that the civil space program is conducted in a manner that will facilitate the commercialization of activities in space, expand opportunities to realize the potential benefits offered by the development of space, and utilize the expertise and innovation of interested parties. This shall include but not be limited to:

(1) Establishing clear, consistent, and stable ground rules to provide the private sector with the confidence needed to make the necessary investments.

(2) Performing high-risk innovative research and development and turning over the results of that research and development to the private sector as quickly as possible.

(3) Avoiding duplicating those activities which can be performed by the private sector.

(4) Providing support on a reimbursable basis in those situations where the Government has unique capabilities, such as those derived from Government-owned facilities, and where those capabilities cannot reasonably be duplicated in a timely and affordable fashion, and providing that it is done in such a way as to not discourage the private sector development of that capability.

(5) Seeking creative means of encouraging and assisting entrepreneurs in contributing to the development of space in such a way that it does not lead to a permanent reliance on Government assistance.

AERONAUTICAL RESEARCH AND TECHNOLOGY DEVELOPMENT AND VALIDATION 5-YEAR CAPITAL PROGRAM

SEC. 108. (a) The Administrator shall, before October 1, 1992, increase the request for aeronautical research and technology development and validation activities to 15 percent of the total NASA budget.

(b) The Administrator shall, in fiscal years 1989 through 1993—

(1) conduct fundamental research in aeronautical disciplines including aerodynamics, propulsion, materials, structures, controls, guidance, human factors, information sciences, flight systems, and aeronautical systems studies;

(2) conduct technology development and validation activities aimed at improving the performance, safety, usefulness, and cost of transport aircraft, rotorcraft, high-performance aircraft, and general aviation aircraft;

(3) in cooperation with the Department of Defense, conduct a technology maturation program and initiate a flight demonstration program to prove the feasibility of an air-breathing, hypersonic aerospaceplane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere; and

(4) maintain and enhance a complement of national aeronautical facilities, including wind tunnels, simulators, computational facilities, and research test-bed aircraft.

(c) The Administrator shall, before October 1, 1992, increase the number of full-time civil service personnel engaged in aeronautical research and technology development and validation activities by 50 percent above the number engaged in such activities in fiscal year 1989.

TECHNOLOGY UTILIZATION 5-YEAR CAPITAL DEVELOPMENT PROGRAM

SEC. 109. (a) The Congress finds that technological spinoffs from the National Aeronautics and Space Program are an important national asset contributing to American scientific, economic, and technological growth through the development of new products and processes.

(b) The Administrator shall encourage and facilitate, to the maximum extent possible, the practical application of new technologies developed in the course of activities of the National Aeronautics and Space Administration.

(c) The Administrator shall seek to expand the Industrial Application Center network system in order to develop greater linkages among government, academic, and private sector research and engineering efforts.

(d) The Administrator shall contract for implementation of the Industrial Applications Center located in Oklahoma through the National Aeronautics and Space Administration's Rural Technology Applications Team.

FEDERAL FACILITIES 5-YEAR CAPITAL DEVELOPMENT PROGRAM

SEC. 110. (a) For fiscal years 1989 through 1993 the Administrator shall develop a plan for the construction of facilities needed to maintain the Nation's ability to conduct programs at the forefront of aeronautical and space research and technology development and shall submit such plan with each annual budgetary request.

(b) Planning under subsection (a) shall be undertaken to the maximum extent practi-

cable in coordination with the Department of Defense.

REPORT ON CAPITAL DEVELOPMENT

SEC. 111. In order to carry out the provisions of this title the Administrator shall, by January 15, 1989, submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a 5-year capital development plan including, but not limited to the following:

(1) Economic assumptions and budgetary requirements for fulfilling the objectives of this title.

(2) Estimates of national launch capacity and any potential shortfalls in such capacity that may affect the execution of this title.

(3) Estimates of total expenditures needed to maintain the operation of the national launch systems, related tracking and data services, civil service requirements, and all other current services.

(4) Estimates of total projected investments in space hardware, facilities, and other capital improvements needed to fulfill the objectives of this title.

TITLE II—3-YEAR AUTHORIZATION

3-YEAR AUTHORIZATION

SEC. 201. (a) There is hereby authorized to be appropriated to the National Aeronautics and Space Administration:

(1) For "Research and development" for the following programs:

(A) United States International Space Station, $967,400,000 for fiscal year 1989, $2,130,200,000 for fiscal year 1990, and $2,912,500,000 for fiscal year 1991; provided that the aggregate of authorizations for achieving initial operating capability shall not exceed $24,200,000,000.

(B) Space transportation capability development, $631,100,000 for fiscal year 1989, $775,000,000 for fiscal year 1990, and $885,000,000 for fiscal year 1991.

(C) Space science and applications, $1,859,600,000 for fiscal year 1989, $2,189,000,000 for fiscal year 1990, and $2,400,000,000 for fiscal year 1991.

(D) Commercial programs, $57,900,000 for fiscal year 1989, $62,000,000 for fiscal year 1990, and $74,000,000 for fiscal year 1991.

(E) Aeronautical research and technology, $414,200,000 for fiscal year 1989, $609,500,000 for fiscal year 1990, and $764,900,000 for fiscal year 1991.

(F) Transatmospheric research and technology, $84,400,000 for fiscal year 1989, $149,400,000 for fiscal year 1990, and $99,300,000 for fiscal year 1991.

(G) Space research and technology, $390,900,000 for fiscal year 1989, $520,000,000 for fiscal year 1990, and $637,000,000 for fiscal year 1991.

(H) Safety, reliability and quality assurance, $22,400,000 for fiscal year 1989, $23,000,000 for fiscal year 1990, and $24,000,000 for fiscal year 1991.

(I) Tracking and data advanced systems, $18,800,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.

(2) For "Space flight, control and data communications" for the following programs:

(A) Space shuttle production and operational capability, $1,400,500,000 for fiscal year 1989, $1,468,000,000 for fiscal year 1990, and $1,571,000,000 for fiscal year 1991.

(B) Space transportation operations, $2,405,400,000 for fiscal year 1989, $2,721,000,000 for fiscal year 1990, and $2,522,000,000 for fiscal year 1991.

(C) Space and ground network, communications and data systems, $1,035,300,000 for fiscal year 1989, $1,190,000,000 for fiscal year 1990, and $1,168,000,000 for fiscal year 1991.

(3) For "Construction of facilities" including land acquisition, as follows:

(A) Construction of Processing Facility for the United States International Space Station, Kennedy Space Center, $15,000,000 for fiscal year 1989.

(B) Modifications to Processing Technology Facility for United States International Space Station, Marshall Space Flight Center, $3,700,000 for fiscal year 1989.

(C) Construction of Addition for Space Systems Automated Integration and Assembly Facility, Johnson Space Center, $9,200,000 for fiscal year 1989.

(D) Replacement of High Pressure Gas Storage Vessels, National Space Technology Laboratory, $3,500,000 for fiscal year 1989.

(E) Increase Chiller Capacity, LC-39 Utility Annex, Kennedy Space Center, $2,300,000 for fiscal year 1989.

(F) Rehabilitation of PAD A, Launch Complex 39, Kennedy Space Center, $4,600,000 for fiscal year 1989.

(G) Refurbish Atmospheric Reentry Materials and Structures Evaluation Facility, Johnson Space Center, $4,900,000 for fiscal year 1989.

(H) Modification for Advanced Engine Development, Test Stand 116, Marshall Space Flight Center, $13,500,000 for fiscal year 1989.

(I) Modifications to Orbiter Modification and Refurbishment Facility (OMRF) for Safing and Deservicing, Kennedy Space Center, $2,800,000 for fiscal year 1989.

(J) Modification to the X-Ray Calibration Facility (XRCF), Marshall Space Flight Center, $11,400,000 for fiscal year 1989.

(K) Construction of Auxiliary Chiller Facility, Johnson Space Center, $7,800,000 for fiscal year 1989.

(L) Modernization of Space Environment Simulator, Goddard Space Flight Center, $2,800,000 for fiscal year 1989.

(M) Modifications for Utility Reliability, Goddard Space Flight Center, $3,100,000 for fiscal year 1989.

(N) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $12,000,000 for fiscal year 1989.

(O) Repair and Modifications of 12-Foot Pressure Wind Tunnel, Ames Research Center, $36,500,000 for fiscal year 1989.

(P) Rehabilitation and Modifications to 1010 Supersonic Wind Tunnel, Lewis Research Center, $14,500,000 for fiscal year 1989.

(Q) Refurbishment to Hypersonic Facilities Complex, Langley Research Center, $12,800,000 for fiscal year 1989.

(R) Refurbishment of Electric Power Laboratory, Lewis Research Center, $6,100,000 for fiscal year 1989.

(S) Construction of National Resource Protection at various locations, $2,600,000 for fiscal year 1989.

(T) Repair of facilities at various locations, not in excess of $750,000 per project, $27,000,000 for fiscal year 1989.

(U) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $34,000,000 for fiscal year 1989.

(V) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $9,000,000 for fiscal year 1989.

(W) Environmental compliance and restoration, $26,000,000 for fiscal year 1989.

(X) Facility planning and design not otherwise provided for, $20,000,000 for fiscal year 1989.

(Y) Of the amounts authorized pursuant to subparagraphs (T) through (X), the Administrator may obligate up to $5,600,000 in order to expand the Launch Complex-39 Operation Support Building at the Kennedy Space Center.

(Z) The Administrator shall request authorization for additional construction of facilities not to exceed $341,100,000 for fiscal year 1990 and $401,100,000 for fiscal year 1991.

(4) For "Research and program management" $1,915,000,000 for fiscal year 1989, $2,115,100,000 for fiscal year 1990, and $2,234,000,000 for fiscal year 1991.

(b) Of the funds authorized to be appropriated under this title for fiscal year 1989, $89,000,000 is authorized to be transferred for funding the Advanced Communications Technology Satellite program, except that not more than 20 percent of the funds so transferred may be from amounts authorized for the programs of the Office of Space Science and Applications. There is authorized to be appropriated for such program for fiscal year 1990, $75,000,000, and for fiscal year 1991, $32,000,000.

(c) Appropriations hereby authorized for "Research and development" and "Space flight, control and data communications" may be used (1) for any items of a capital nature (other than acquisitions of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts, and (2) for grants to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, where the estimated cost, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(d) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" for "Space flight, control and data communications" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(e) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultation or extraordinary expenses upon the approval or authority of the Administrator, and his determination shall be final and conclusive upon the accounting officers of the Government.

(f)(1) Funds appropriated pursuant to subsection (a) (1), (2), and (4) may be used for the construction of new facilities and additions to, repair, rehabilitation, or modification of existing facilities, provided the cost of each such project, including collateral equipment, does not exceed $100,000.

(2) Funds appropriated pursuant to subsection (a) (1) and (2) may be used for unforeseen programmatic facility project needs, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

(3) Funds appropriated pursuant to subsection (a)(4) may be used for such work on facilities controlled by the General Services Administration, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

CONSTRUCTION OF FACILITIES REPROGRAMMING

SEC. 202. *Authorization is hereby granted whereby any of the amounts prescribed in section 201(a)(3) (A) through (Y)—*

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of the amounts specified in section 201(a)(3) (A) through (Y).

SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES

SEC. 203. *Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed ½ of 1 percent of the funds appropriated pursuant to section 201(a) (1) or (2) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 201(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.*

LIMITATIONS ON AUTHORITY

SEC. 204. *Notwithstanding any other provision of this Act—*

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science, Space, and Technology or the Senate Committee on Commerce, Science, and Transportation;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 201(a) (1), (2), and (4); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee, of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

GEOGRAPHICAL DISTRIBUTION OF RESEARCH FUNDS

SEC. 205. *It is the sense of the Congress that it is in the national interest that consideration be given to the widest geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.*

ARREST AUTHORITY

SEC. 206. *Section 304 of the National Aeronautics and Space Act of 1958 is amended by adding at the end the following new subsection:*

"(f) Under regulations to be prescribed by the Administrator and approved by the Attorney General of the United States, those employees of the Administration and of its contractors and subcontractors authorized to carry firearms under subsection (a) may arrest without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Persons granted authority to make arrests by this subsection may exercise that authority only while guarding and protecting property owned or leased by, or under the control of, the United States under the administration and control of the Administration or one of its contractors or subcontractors, at facilities owned by or contracted to the Administration.".

NATIONAL MARS COMMISSION

SEC. 207. *(a) There is established a commission to be known as the "National Mars Commission" (hereafter in this section referred to as the "Commission").*

(b) The purpose of the Commission is—

(1) to prepare a strategy for cooperation among the Soviet Union and any other interested nations and the United States on unmanned Mars projects by such nations in anticipation of a cooperative manned mission;

(2) to assess the implications of such cooperation, and to devise strategies for such cooperation, including the prevention of unwanted transfer of technology; and

(3) to prepare a detailed proposal for a cooperative manned Mars mission with the Soviet Union and any other interested nations.

(c) The Commission shall be composed of twelve members, appointed from among experts in space policy or space science, as follows:

(1) Four members shall be appointed by the President, one of whom shall be named Chairman by the President.

(2) Four members shall be appointed by the Speaker of the House of Representatives, of which one shall be the Chairman of the Committee on Science, Space, and Technology of the House of Representatives.

(3) Four members shall be appointed by the President Pro Tempore of the Senate, of which one shall be the Chairman of the Committee on Commerce, Science, and Transportation of the Senate.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d)(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of two years.

(2) Of the members first appointed—

(A) two of the members appointed under subsection (c)(1), not including the member who is named Chairman, shall be appointed for terms of one year;

(B) two of the members appointed under subsection (c)(2) shall be appointed for a term of one year; and

(C) two of the members appointed under subsection (c)(3) shall be appointed for a term of one year.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(e) Members of the Commission shall serve without pay.

(f) The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Commission and who shall be paid at the rate of basic pay payable for GS-15 of the General Schedule.

(g) Subject to subsection (h) and such rules as may be prescribed by the Commission, without regard to section 5311(b) of title 5, United States Code, the Commission may appoint and fix the pay of such additional personnel as the Commission considers appropriate.

(h) The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(i) Subject to such rules as may be prescribed by the Commission, the Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(j) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(k) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(l) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by subsection (k), (m), (n), (o), or (p).

(m) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(n) The Commission may accept, use, and dispose of gifts or donations of services or property.

(o) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(p) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(q) The Commission shall, within six months after the date of the enactment of this Act, prepare and submit to the President and the Congress a report—

(1) outlining a preliminary strategy for cooperation among the Soviet Union and any other interested nations and the United States with respect to unmanned Mars projects of such nations and a cooperative manned mission to Mars; and

(2) including an initial proposal for a cooperative manned mission among the cooperating nations, in coordination with the preliminary strategy referred to in paragraph (1).

(r) At any time between the submission of a report under subsection (q) and the submission of a report under subsection (s), the Commission shall revise the report submitted under subsection (q) as necessary to reflect new information obtained or strategies developed.

(s) The Commission shall prepare and submit to the President and the Congress a final proposal for a joint manned Mars mission by the Soviet Union, any other interested nations, and the United States.

(t) All activities authorized for the Commission under this section are subject to the advance availability of appropriations.

(u) The Commission shall cease to exist thirty days after submitting its final report pursuant to subsection (s), unless the President or the Congress have requested further revisions to the report.

MICROGRAVITY RESEARCH SPACE FACILITY

SEC. 208. (a) The Administrator may issue a request for proposals to acquire only by means of a competitive procurement a commercially developed microgravity research space facility to be placed in orbit no later than the end of fiscal year 1993, to be used for (1) the development of Space Station technologies; (2) commercial activities that uniquely benefit from the facility; and (3) scientific investigations that uniquely benefit from such facility. Such request for proposals shall provide options for the Government to lease, lease/purchase, or purchase such facility or consider any other innovative financing arrangement that will enhance the commercialization of space.

(b) For the purposes of this section, the procurement authorized under subsection (a) shall only be considered competitive if no less than three good-faith proposals are received by the Administrator in response to the request for proposals authorized under subsection (a).

(c) No later than the date upon which the President submits the budget request for the National Aeronautics and Space Administration for fiscal year 1990, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a final selection; proposed terms and conditions for a lease, lease/purchase, purchase, or other innovative financing arrangement; an accompanying authorization request for funding such arrangement on an annual and multiyear basis; and a request for authorization for and projected schedule of termination liability, if any.

(d) The Administrator shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed of activities conducted pursuant to this section, while maintaining the confidential nature of the procurement process, including—

(1) providing the source list to whom the request for proposal was mailed the day after release;

(2) providing the number of proposers on the day following the close of the proposal period;

(3) within a week following receipt of proposals, providing the number of proposals considered to be acceptable for evaluation;

(4) within 30 days following the close of the proposal period, identifying the number of proposals that are competitive and have a reasonable chance of selection; and

(5) identifying the proposer(s) selected for negotiation.

(e) No contract for the acquisition of a commercially developed microgravity research space facility shall be signed by the Administrator without the express authorization of the Congress. This Act does not authorize the Administrator to enter into any contract or expend any funds for the acquisition of a commercially developed space facility.

(f) The Administrator shall certify, at the time of the submission of information required pursuant to subsection (c), that any request for authorization for a commercially developed microgravity research space facility would entail a request for new budget authority and would not impact in any way current or future policies or funding for any other authorized program of the National Aeronautics and Space Administration.

(g) If the Administrator cannot make the certification described in subsection (f), the Administrator shall report to the Congress what impacts, if any, in his opinion such acquisition of a commercially developed microgravity research space facility would have on current or future policies or funding for the United States International Space Station or other authorized programs of the National Aeronautics and Space Administration.

(h) Facilities available for scientific and commercial in-flight use and experimentation shall be maintained and utilized by the Administrator on a nondiscriminatory basis.

(i) Nothing in this section shall affect the ability of the Administrator to encourage and facilitate the use of commercially provided hardware or services, or otherwise negotiate arrangements or innovative financing with commercial users or providers consistent with public law.

STUDIES ON MICROGRAVITY RESEARCH CAPABILITY

SEC. 209. (a) The Administrator shall contract with the National Academy of Sciences to undertake a review of the Nation's microgravity research capability and issue a report addressing—

(1) the scientific and commercial value to the Nation of achieving a man-tended capability through a Commercially Developed Space Facility (CDSF) prior to man-tended operations of the space station;

(2) the technical characteristics of a CDSF that would enable its optimum use;

(3) the anticipated microgravity research and manufacturing requirements of commercial users and the Government;

(4) the extent to which existing and proposed facilities could support these requirements;

(5) the likelihood that a CDSF would become commercially self-sustaining an estimate of when that could occur;

(6) the state of space automation technology and its relevance to the capabilities required for a CDSF;

(7) how a decision by the Government to lease facilities on a CDSF might affect the viability of other proposed commercial microgravity research facilities; and

(8) the effect a commitment to the CDSF would have on the current space transportation system launch schedule.

(b) The Administrator shall contract with the National Academy of Public Administration to—

(1) estimate the developmental, operational, and other costs to the Government associated with a CDSF;

(2) consider the practicability of various financial options by which the Government could participate in a CDSF, including leasing, lease-purchase, and purchase;

(3) consider, as regards the lease option, instead of providing for a flat level of lease obligations, the practicability of reducing on a yearly basis the level of Government lease operations during the years of operation of a CDSF; and

(4) consider, as regards the lease option, the practicability of making the minimum levels of Government lease obligations in the years of operation of a CDSF contingent on the attachment, by the CDSF operator, of certain minimum levels of irrevocable contract commitments with entities other than the United States Government.

(c) Based on the above reports, the Administrator shall provide a report to the House Committee on Science, Space, and Technology and the Senate Committee on Commerce, Science, and Transportation with policy options related to a CDSF and microgravity facilities, to be delivered no later than February 1, 1989.

EXTERNAL TANKS

SEC. 210. (a) The Administrator shall make available for 5 years after the date of the enactment of this Act expended external tanks of the Space Shuttle fleet at no cost, except as provided in subsection (d), to any feasible United States commercial and nonprofit endeavor for such uses as research, storage, and manufacturing in space.

(b) During the first 3 years, no less than 5 external tanks shall be made available to nonprofit institutions of higher education or to nonprofit organizations whose primary purpose is the conduct of scientific research for suborbital intertank experiments. The Administrator shall be prepared to enter into one or more agreements to this effect within 30 days after the date of the enactment of this Act.

(c) The availability of external tanks under this section shall be subject to the launch of a sufficient number of Space Shut-

tle missions, and to uses consistent with the safety of such missions.

(d) Any organization that enters into an agreement with the National Aeronautics and Space Administration for the experimental or operational use of an external tank shall reimburse the National Aeronautics and Space Administration for any direct costs that are incurred by the National Aeronautics and Space Administration in providing any necessary technical or other assistance, or in making any necessary modifications to the external tank.

MANUFACTURING TECHNOLOGY

Sec. 211. Section 102(d) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(d)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) The preservation of the United States preeminent position in aeronautics and space through research and technology development related to associated manufacturing processes.".

BUY AMERICAN

Sec. 212. (a) The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is organized under the laws of the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

SPACE STATION STANDARDIZATION

Sec. 213. Within one year after the enactment of this Act, the Administrator shall report to Congress on the advisability of designing and constructing a docking mechanism using the metric system of measurement which is compatible with other space stations and space vehicles.

TITLE III—TEN YEAR STRATEGIC PLAN

AERONAUTICS AND SPACE STRATEGIC PLAN

Sec. 301. The Administrator shall undertake an aggressive and balanced program of science and applications including but not limited to—

(1) the robotic exploration of other solar system bodies;

(2) the study and observation of other celestial bodies and phenomena at spectral wave lengths and resolutions that will enhance our understanding of the universe;

(3) the enhanced study and monitoring of Earth as an interacting system;

(4) the development of a full understanding of the behavior of biological systems in the space environment; and

(5) the development of a full understanding of physics and chemistry of the macroscopic behavior of materials in the microgravity environment.

SPACE RESEARCH AND TECHNOLOGY STRATEGIC PLAN

Sec. 302. The Administrator shall undertake an aggressive and balanced program of space research and technology including but not limited to—

(1) fundamental and innovative research as the seedbed for enabling technologies for future civil space missions;

(2) focused technology programs keyed to long range, high priority civil space missions;

(3) technology research and demonstrations, extending laboratory activities from Earth to space-based facilities such as the Space Shuttle, Space Station, orbital platforms, and eventually the Moon and other planetary bodies; and

(4) cooperation with, and service to, other space program sectors with advanced technology and use of ground and space-based facilities.

SPACE EXPLORATION STRATEGIC PLAN

Sec. 303. The Administrator shall pursue the continued manned exploration of the solar system and low-Earth orbit consistent with section 103 of this Act, including but not limited to—

(1) the establishment of an operational United States International Space Station that shall be permanently manned;

(2) the development of those technologies and systems required for a manned mission to Mars; and

(3) the continued exploitation of the Moon and its resources.

SPACE TRANSPORTATION STRATEGIC PLAN

Sec. 304. The Administrator shall take the necessary steps to improve the manned and unmanned space transportation system including—

(1) the continued enhancement of the space shuttle and its ground system in order to increase safety and efficiency and reduce costs;

(2) consistent with the requirements of sections 301 and 303, the completion of the development of a heavy-lift expendable launch vehicle; and

(3) the initiation of preliminary design activities for the next generation of a manned space launch system beyond the space shuttle.

AERONAUTICAL RESEARCH AND TECHNOLOGY DEVELOPMENT AND VALIDATION LONG-RANGE PLAN

Sec. 305. The Administrator shall—

(1) conduct a vigorous program in aeronautics research and technology development and validation, emphasizing emerging technologies with the potential for breakthrough advances to enhance United States preeminence in civil and military aviation; and

(2) in cooperation with the Department of Defense, conduct a flight demonstration program (with first flight in 1995) to prove the feasibility of an air-breathing hypersonic aerospaceplane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere.

TITLE IV—COMMERCIAL SPACE LAUNCH ACT AUTHORIZATIONS

COMMERCIAL SPACE LAUNCH ACT AUTHORIZATIONS

Sec. 401. Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end the following: "There are authorized to be appropriated to the Secretary to carry out this Act $3,500,000 for fiscal year 1989, $3,850,000 for fiscal year 1990, and $4,235,000 for fiscal year 1991.".

TITLE V—CIVIL SPACE PROGRAMS IN THE DEPARTMENT OF COMMERCE

CIVIL SPACE PROGRAMS IN THE DEPARTMENT OF COMMERCE

Sec. 501. The Secretary of Commerce shall propose authorizing legislation for activities within the Department of Commerce in support of civil space commercial activities. Such legislation, together with proposed budgetary requirements, shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, not later than July 15, 1988.

TITLE VI—DRUG-FREE WORKPLACE

DRUG-FREE WORKPLACE

Sec. 601. No funds authorized to be expended under this Act shall be expended in any workplace which is not free from illegal use of controlled substances.

AMENDMENT OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Roe: On page 36, strike lines 18 and 19 insert: "at a rate not to exceed the rate of basic pay payable for GS-15 of the General Schedule.".

Mr. ROE. Mr. Chairman, this is a technical amendment in complete accord with both sides of the aisle here. It is a technical amendment that insures the bill's full compliance with section 401(b)(1) of the Budget Act and the language was developed in consultation with the Budget Committee. Therefore, Mr. Chairman, if there is no further discussion on this particular amendment I would urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. Roe].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Skaggs: At the end of title II, insert the following new section:

"Sec. 214. (a) It is the sense of Congress that the Administrator promptly undertake discussions with the representatives of appropriate countries and international entities regarding the development of international docking interface standards, with the aim of reaching an international agreement on such standards.

"(b) As used in this section, international docking interface standards are as described in NASA's report of May, 1988, 'International Spacecraft Docking Study, A Report to Congress,' and it is the intent of Congress that NASA proceed expeditiously in pursuing the applications identified as feasible in said Report.

"(c) Such discussions should include consideration of the specific missions which could require or particularly benefit from the use of hardware incorporating such standards, a corresponding timetable for developing standards so that hardware could be available for those missions, and the sharing of any costs incurred in research and development.

"(d) The Administrator shall report to Congress no later than February 1, 1989, on the progress of these discussions.".

Mr. SKAGGS (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SKAGGS. Mr. Chairman, I want to add my thanks to our distinguished chairman, the gentleman from New Jersey, the chairman of the Space Subcommittee, Mr. NELSON of Florida, and to the ranking members of committee, Mr. LUJAN and of the subcommittee, Mr. WALKER, for their outstanding efforts in producing this excellent legislation to guide our Nation's space program.

We recently received from NASA its study on international spacecraft docking, carried out pursuant to the report accompanying last year's bill. As stated in the administrator's letter transmitting the study, "Potential uses of universal docking system * * * include personnel and spacecraft rescue, spacecraft supply, scientific experiments and research, commercial ventures, and orbital spacecraft construction."

The study's principal finding is that it would be feasible to develop a standardized international docking interface. The study elaborated: "To enable maximum possible cooperation in space, all present and future manned spacecraft would have to be equipped with a standardized docking mechanism. However, given this wide disparity in spacecraft designs, an international agreement on such a mechanism would be required."

The purpose of my amendment is to take up where the study leaves off and start the process of putting in place the practical elements for future, cooperative efforts in manned space flight. It expresses the sense of Congress that NASA promptly initiate the international discussions necessary to the development of international docking interface standards. It further directs that such discussions consider the types of mission which could most benefit from a standardized docking capability and the potential for international cost sharing in the research and development that may be involved.

Mr. Chairman, the timing on this proposal is auspicious. The Moscow summit just concluded has reinforced the prospects for cooperative ventures in space. We have the opportunity to take this positive step to realize the common hopes of humankind: To address together the inspiring challenges of space exploration.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the chairman of the committee, the gentleman from New Jersey [Mr. ROE].

Mr. ROE. I thank the gentleman for yielding.

Mr. Chairman, we have reviewed the distinguished gentleman from Colorado's amendment. It is a very important addition to this legislation. We have no objection to the amendment.

Mr. SKAGGS. I appreciate the contribution of the gentleman.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding.

Mr. Chairman, I have one question which I must ask the gentleman at this time. I think his answer will be positive.

That is, that this all ties back to the report that the Administrator must give us, it is mandatory in there?

Mr. SKAGGS. The gentleman is correct.

Mr. LUJAN. Mr. Chairman, I reviewed this on behalf of the minority and I personally have no objection to it.

Mr. SKAGGS. I appreciate the gentleman's comment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I just have a couple of questions for the gentleman.

First of all, the language of his amendment in no way ties this to the metric system, is that correct?

Mr. SKAGGS. That is correct.

Mr. WALKER. Second, by specifying a universal docking system, we will in no way tie the American space program to waiting for foreign nations to adopt standardized technology before we proceed ahead with docking mechanisms.

Mr. SKAGGS. The gentleman is also correct on that point. The purpose of this is to urge NASA to undertake discussions with our potential joint venturers on these missions.

Mr. WALKER. And should they not want to proceed ahead, NASA would not be prevented from moving ahead on its own.

Mr. SKAGGS. The gentleman is correct.

Mr. WALKER. Then I have no objection to the gentleman's amendment.

Mr. SKAGGS. I thank the gentleman.

Mr. Chairman, I ask the Chair to put the question on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. SKAGGS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of section 212, add a new subsection as follows: "(e) The Administrator shall report to the Congress on contracts covered under this Act and entered into with foreign entities in fiscal year 1988 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the U.S. Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Administrator shall also report to the Congress on the number of contracts covered under this Act and awarded based upon the parameters of Section 212. The Administrator shall submit such report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate by January 1, 1990."

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, as I have stated earlier this is in reference to the Buy American provision that exists in the bill as section 212. Technically it gives an American firm an advantage if they produce a completely assembled product in America with a least 50 percent of its contents being produced domestically. There is a provision in the bill, though, that states that the Administrator, or the U.S. Trade Representative, rather, can waive that section if they find it to be in violation of the GATT agreements, the international law.

In order for us to find out exactly how this provision is really dealing and how it is performing, I have brought forward the amendment that calls for a report from the Administrator of NASA to in fact advise Congress through our respective committees here, our Committee on Science, Space, and Technology as to the performance of the provision, how many contracts have been awarded to American firms, how many contracts were awarded to foreign firms, and how many times did the violation of that provision cancel out an American firm from receiving a bid that would otherwise have been covered under the Buy American provision.

So the language is straightforward. It calls for a provision and I believe it will give us more information not only to study that provision but also to try to have more American firms bidding and getting awards on NASA contracts.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the chairman of the committee, the gentleman from New Jersey [Mr. Roe].

Mr. ROE. I thank the gentleman for yielding.

Mr. Chairman, we have reviewed the gentleman's language and have no objection whatever from our side.

Also, Mr. Chairman, I thank him for the enormous contribution he has made in the basic recognition of America's need to be out in front as the leader.

Mr. TRAFICANT. I appreciate the comments of the gentleman.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Mexico [Mr. Lujan].

Mr. LUJAN. I thank the gentleman for yielding.

First of all, let me congratulate the gentleman on his offering all of these Buy American amendments. I have been happy to support them in almost all cases, I will tell the gentleman.

So I think that, as he explained before, getting information on which to base other amendments that may come along is a very good idea.

Mr. Chairman, this side heartily supports his efforts.

Mr. TRAFICANT. I thank the gentleman.

Mr. Chairman, I move the question.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. Traficant].

The amendment was agreed to.

Mr. RICHARDSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the gentleman for the opportunity to express my concerns regarding a program that offers great potential both to national security and to the exploration and utilization of space. The U.S. Space Exploration and Utilization Program is in jeopardy of falling into an unproductive state due to significant cuts in the House Appropriation.

NASA's Project Pathfinder is a research and development program that will develop the technologies required to enable the further utilization of space in the balance of this century and beyond. In the past, space exploration and utilization have indirectly benefited segments of our society and our economy far beyond the immediate researchers. As in all good scientific endeavors, if we do not move positively forward in this area, we risk stagnation and loss of initiative. Preserving the status quo is insufficient.

Project Pathfinder will enable us to move positively forward in areas required for exploration of the Moon, Mars, and the solar system. In particular, it will enable advances in remote exploration, power, communications, and perhaps most importantly the technologies required for successful and productive, prolonged human missions in space.

In particular, the Space Power Program at Los Alamos National Laboratory in my district is essential if we are to have any missions, manned or unmanned, to the outer planets where solar power is insufficient. Remote power systems are also essential for missions near the Sun where solar panels burn up, and even on the Moon where there is a 12-earth-day-long night. If we don't properly support these technologies now, then they will not be ready when we need them. In fact, such technologies as space nuclear power may disappear altogether and either have to be imported or reinvented when the time comes that we really need it.

Paper studies alone are not enough. A "stretched out" program could easily fall prey to the same fiscal problems that have lead to the demise of so many of our research programs. A commitment to timely technology development and testing of hardware is urgently required.

Is it the intent of the committee to maintain a viable level of support for this technology that will be critical to our future utilization of space?

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from New Jersey.

Mr. ROE. Yes. The committee recognizes the importance of this technology to the Nation's space program.

Mr. RICHARDSON. I want to thank the chairman of the committee for this informative exchange.

□ 1530

Mr. DeLAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take any more time of the committee than necessary, but I just wanted to come over and express my support for this bill. It is not very often that this Member gives his support for increased spending, and I must commend the chairman of the committee and the vice chairman of the committee for the great work they have done in putting this bill together.

I would just like to say also that it has been pointed out many times on this floor that we have been talking about competitiveness. This is in my opinion, Mr. Chairman, the way we should increase competitiveness in America. This is the positive, forward-looking future of competitiveness, not closing down markets, not protecting industries, but providing the funds for the kind of research for the technology and the products of the future. A permanently manned national space center will significantly help restore our national pride and prestige and our forward thinking on competitiveness.

But I also rise, Mr. Chairman, to express my support for this bill because title IV of this bill authorizes operations for the activities of the Department of Transportation related to commercial space launches. To meet that Department's responsibilities, the Secretary has an Office of Commercial Space Transportation which is responsible for fostering the growth and diversity of the commercial space launch industry while assuring that launches are conducted safely and without compromise to our foreign policy and national security interests. The activities of this office are only now reaching a critical stage. Only a few years ago there was no commercial launch industry, and in the wake of the *Challenger* disaster the Congress and the President decided we should encourage the private sector to move in and take over the routine space launches that were previously the responsibility of NASA. Already launch companies have invested more than half a billion dollars in bringing commercial launch services to the market. Contracts worth more than $700 million have been signed to launch 13 satellites, and reservations have been made for 17 more.

Mr. Chairman, it is important that we make sure that the Department of Transportation has the resources to effectively promote this industry, to monitor safety, and to make sure that Government agencies utilize private launches whenever practical.

This is the wave of the future, Mr. Chairman, this is the way we can foster competitiveness in America, and I urge the support of my colleagues for this bill.

Mr. BUECHNER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the NASA authorization bill, H.R. 4561. When I was elected to Congress in 1986, I received the honor of becoming a member of both the Science, Space, and Technology Committee and the Budget Committee. The combination of these two committees has provided quite a challenge.

For instance, when space funding was in jeopardy of being slashed in this year's budget resolution, my colleague from Florida, Mr. MacKay and I, strongly urged our budget colleagues that the space program was a critical element to this country's competitiveness in the global marketplace. This effort and others resulted in the budget resolution containing a sizable increase over last year's level.

But, as budget members, Mr. MacKay and I were somewhat caught between a rock and a hard place. We had to balance our enthusiasm for a renewed space program with the conflicting considerations of the entire budget. When the Science, Space, and Technology Committee was considering the NASA budget of $11.4 billion, Mr. MacKay and I looked for a more responsible figure. Therefore, we offered an amendment that would have reduced the NASA bill to approximately $10.7 billion. This figure fell between the House and Senate recommendations and made for a fair compromise, and still gave the space program a substantial and meaningful increase.

But Mr. MacKay and I will not offer that amendment today. We believe it is imperative that every Member vote in favor of this bill in order to send a strong signal to our colleagues in the other body and to the country in general that we are serious about rebuilding our space program.

We must lead the way for increased NASA spending because as many of my colleagues know, support for space spending is hardly unanimous. Few are actually opposed to the space program, but they are content to whittle its budget away by calling it a low priority in comparison to greater national needs. Yet, many are quick to characterize our space program for playing second fiddle to the Soviet program.

It is time for all of us to realize that our future in space is a critical priority at a low cost. The space budget is less than 1 percent of the total Federal budget. A strong U.S. space program is critical to our future in a number of ways. The space program has made invaluable contributions to our economic well-being and has uplifted our standard of living on Earth. Scientific advances derived from our space efforts have brought major medical breakthroughs. Our ability to transit timely worldwide communications has been immeasurably enhanced as well. Perhaps more importantly, the space program excites the imagination and enthusiasm of our youth, sparking a renewed sense of excellence in the academic and practical pursuit of mathematics and the sciences.

Future generations will look to our vision, much as we look to that of previous explorers. Will they look with admiration at the achievements we have rendered, or will they look with dismay at the opportunities lost, the potential squandered. We must not fail future generations—we must affirm our commitment to a strong space program. If we are to realize the potential for space, the expansion of our scientific understanding, the prospect of private commercial development, and the preservation of our national security, we must remain faithful to our pioneer heritage of exploration. Indeed, the space program epitomizes the thirst for discovery and adventure, and the commitment to freedom that makes us Americans.

I urge my colleagues to support the NASA authorization bill.

Mr. DENNY SMITH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as an aviator, I find it difficult to come to the well this afternoon in objection to the NASA authorization. But object I must, because as a member of the Budget Committee, there is an item in the report accompanying this bill that disturbs me greatly.

That item is a GOCO, a government-owned, contractor-operated facility.

NASA's acquisition strategy for the advanced solid rocket motor for the Space Shuttle Program includes the option for a GOCO. The committee recommendations in the report language says that the GOCO option be given full and fair consideration. I can't think of a worse way to proceed; rather, a GOCO should be given no consideration.

We are living in a time of spiralling Government expenses and a record Federal deficit. Is this really the atmosphere in which the Government should be sponsoring—spending taxpayer money, $27 million of taxpayer money this year and possibly $1 billion over the life of the program—sponsoring the development, design and construction of a GOCO?

Our armed services clearly thinks not. They used to have over 80 GOCO's. They've been selling them—getting Government out of what should be a strict business venture—for two decades. The Air Force now has only 13 GOCO's, and those are on the block.

Why, when the Armed Forces are selling GOCO's—calling them a bad idea and not the right role for Government—are we in Congress allowing NASA to consider building a new GOCO?

NASA will tell you that they need a GOCO to promote competition between space shuttle contractors. That they wouldn't be in the trouble they are in today if competition between businesses produced tighter controls and higher quality. I agree; good American business competition does increase quality, but lets not spend the taxpayer money—a billion dollars that NASA and the American people can't afford right now—when regular business competition will do the job.

A GOCO is a bad strategy, and each of us, as Members of Congress responsible for protecting the taxpayer dollar, should oppose it.

□ 1540

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DENNY SMITH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding and, as vice chairman of the subcommittee that deals with this, let me assure the gentleman that I also share some of his concerns about the GOCO operation, but let me assure the gentleman that the option is there, but there is no way that this report language mandates a particular solution to the problems. We are simply looking at a wide range of the problems.

I can assure the gentleman we will look at these matters in some depth, and we are only going to pick, if this gentleman has anything at all to say about it, and I am sure I do, we are only going to pick that thing that is in the best interests of the taxpayers of the country, and I think his contribution is to make us look very carefully at the GOCO option.

Mr. DENNY SMITH. Mr. Chairman, I appreciate the gentleman's comments. My complaint is more in the nature of just not being sure what he is trying to do. I realize that he is trying to pick the lowest cost, but I think that, when the Air Force is busy trying to sell plants they built as recently as 2 or 3 years ago, that it is a little silly for NASA to think about building a facility with Government dollars especially when we are having to increase the budget in NASA, and we are already behind. It does not look like a wise use of the dollars.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DENNY SMITH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think that from experience we need to look at this very, very carefully and make certain that we do not do something that puts us behind the curve rather than ahead of the curve.

Mr. DENNY SMITH. Mr. Chairman, I appreciate the gentleman's comments. I attempted to write into the budget conference a restriction against use of money for GOCO, and I understand the gentleman's concerns, and I will watch carefully to see what happens.

Mr. Chairman, I appreciate the gentleman's time, and I yield back the remainder of my time.

The CHAIRMAN (Mr. Gonzalez). If there are no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Skaggs] having assumed the chair, Mr. Gonzalez, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4561) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes, pursuant to House Resolution 458, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The **SPEAKER** pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **WALKER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 26, not voting 45, as follows:

[Roll No. 165]

YEAS—360

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Brennan
Brooks
Broomfield
Bruce
Bryant
Buechner
Bunning
Byron
Callahan
Cardin
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Madigan
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Thomas (CA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—26

Beilenson
Bereuter
Boxer
Brown (CO)
Burton
Carper
Davis (IL)
DeFazio
Dellums
Dorgan (ND)
Frenzel
Grandy
McCandless
Miller (WA)
Oberstar
Obey
Olin
Patterson
Penny
Russo
Shumway
Smith, Denny (OR)
Solomon
Stark
Stump
Tauke

NOT VOTING—45

Badham
Biaggi
Boulter
Brown (CA)
Bustamante
Campbell
Coelho
Duncan
Flippo
Foley
Garcia
Gephardt
Gibbons
Gray (PA)
Gregg
Hansen
Hatcher
Houghton
Jeffords
Jones (TN)
Kemp
Konnyu
Latta
Levin (MI)
Lewis (CA)
Lukens, Donald
Mack
MacKay
Manton
McGrath
Mica
Nichols
Ortiz
Rangel
Ray
Roberts
Schulze
Spence
Taylor
Thomas (GA)
Udall
Weiss
Wilson
Wolpe
Young (AK)

☐ 1604

Messrs. SHUMWAY, PENNY, BEREUTER, DAVIS of Illinois, and GRANDY changed their votes from "yea" to "nay".

Mr. CRAIG and Mr. CRANE changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **ROE**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4561, the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Jersey.

There was no objection.

DEPARTMENT OF ENERGY CIVILIAN ENERGY RESEARCH AND DEVELOPMENT AUTHORIZATION ACT FOR FISCAL YEAR 1989

Mr. **GORDON**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 460 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 460

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of Union for the consideration of the bill (H.R. 4505) to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal year 1989 and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Science, Space, and Technology now printed in the bill as an orignial bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore. The gentleman from Tennessee [Mr. Gordon] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from Tennessee [Mr. Quillen], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 460 is an open rule providing for consideration of the bill H.R. 4505, the Department of Energy Civilian Energy Research and Development Programs Authorization Act for fiscal year 1989. The rule provides for one hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology. The rule makes in order the Science, Space, and Technology Committee amendment in the nature of a substitute now printed in the bill as original text. The bill shall be considered for amendment under the 5-minute rule and is free of any waivers.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the future competiveness of our Nation and our ability to compete in the world is directly related to our scientific and technological advancements. As we have seen in the past our entire economy is affected by our energy needs. This important bill will enable the United States to continue to research and develop technology on the cutting edge, allowing us to maintain our lead as the most productive industrial nation in the world.

I also want to comment my friend and colleague from Tennessee, Mrs. Marilyn Lloyd, for her leadership and expertise in guiding this bill through her subcommittee, which she so ably chairs. Her leadership in the Energy Research and Development Subcommittee has allowed us to finally begin formulating a much needed and overdue national energy policy. Furthermore, I commend her for accomplishing the difficult goal of reducing overall energy research and development spending by 6.6 percent. While at the same time striking a balance between funding existing science and energy programs and new starts.

Mr. Speaker, I urge the House membership to join me in adopting House Resolution 460 making in order this important legislation.

□ 1605

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule making in order the consideration of an important energy bill providing spending authorizations for the civilian programs and activities of the Department of Energy. I especially want to commend the gentleman from New Jersey, [Mr. Roe], chairman of the full committee, and the chairman of the Subcommittee on Energy Research and Development, the gentlewoman from Tennessee [Mrs. Lloyd] for her work on this bill.

H.R. 4505 authorizes about $3.3 billion for a variety of Energy Research and Development programs including fossil energy, nuclear fission, magnetic fusion, geothermal, solar energy, conservation projects, and other activities.

One item is of particular importance. The bill provides initial authorizations for the largest single Government science project on the horizon—the superconducting super collider. H.R. 4505 provides essential research and design money to launch the project prior to final construction site selection. The bill sets spending levels of $148 million for fiscal year 1989, $675 million for fiscal year 1990, and $774 million for fiscal year 1991.

Although the superconducting super collider will be an expensive project, its great scientific importance should persuade us to go forward at this time. I hope the Members will support the committee so we may begin to move ahead to bring this great scientific enterprise toward actuality.

Mr. Speaker, under this open rule, any germane amendments may be offered to the bill, and I ask for a "yes" vote.

Mr. GORDON. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Tennessee [Mrs. Lloyd], chairman of the Subcommittee on Energy Research and Development.

Mrs. LLOYD. Mr. Speaker, I rise in support of the rule on H.R. 4505 and the bill's provisions regarding the superconducting super collider. The recommendations contained within H.R. 4505 for the superconducting super collider are the result of some very extensive debates within my Subcommittee on Energy Research and Development as well as within the Committee on Science, Space, and Technology. When our subcommittee originally proposed the recommendation of $138 million for the SSC to the committee, we did so with the full recognition of the controversial nature of this project. The Administration has selected the SSC as its showcase project for science research in this country. However, we have been very concerned that, taken as a separate issue, the SSC engendered a great deal of debate among those who argue that big science; that is, science that requires relatively large amounts of Federal funding with a limited number of physicists involved is taking resources from the small science budgets. These latter budgets that are essential to the support of many research enterprises at our universities and our national laboratories throughout the country involve thousands of scientists. Our subcommittee was very cognizant of this argument, and decided that it was important to include the SSC provisions as part of the total Department of Energy authorization legislation for fiscal year 1989. This meant that we had to balance funding for the SSC against all the other important projects that are essential to this Nation's health and well-being as a leader in science and technology research and development. I believe we did this in that the committee's recommendation properly balances funding requirements for major science projects such as the SSC against other important science and technology projects which compete for the same limited Federal resources.

We did this fullly cognizant of the pressures on the overall Federal budget that are imposed by the need to further reduce the Federal deficit. Funding for the SSC must also be balanced against other premier U.S. science enterprises such as major NASA programs, funding for the National Science Foundation, and other important DOE High Energy Physics and Nuclear Physics research Programs. There are those who argue that we can't do them all, that we must make choices. However, I am not sure that any decision maker or, in fact, nay scientist or engineer can confidently say that any other project, for example, is more important to the Nation than the fundamental research that would be undertaken at the SSC. Nor can one say that either of these projects are more important than the fundamental research which is going on to understand and utilize the new materials such as the newly discovered high temperature superconductors. Moreover, can we say that any of these activities are more important than support for our major universities which must train the young minds needed to pursue all of the exciting research that I just mentioned?

No, I do not think simple budgetary choices are possible in the country's science future. Therefore, we must try to, in essence, sustain all the important enterprises that are essential to this nation's future. However, we must do so in a financially sound manner so that we balance appropriate funding for each project and each enterprise within the total Federal science and technology funding available. I believe H.R. 4505 goes a long way in showing how to do this type of difficult balancing of priorities. I therefore encourage my colleagues to support the rule and the bill, and the SSC provisions in this legislation.

Mr. QUILLEN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no other requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SKAGGS). Pursuant to House Resolution 460 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4505.

□ 1615

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4505) to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal year 1989, with Mr. SMITH of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4505 to authorize appropriations for the DOE's R&D programs for fiscal year 1989. The bill which the Science, Space, and Technology Committee brings to the floor gives energy policy direction which is greatly needed. H.R. 4505 is very important because it lays out energy development policy through establishing priorities for funding nuclear and nonnuclear energy technologies. This bill is also a strong science bill which sets forth guidance for big and small science activities in the DOE and develops a balance between ongoing research activities and vital new construction projects. In addition, the committee has taken a critical step of authorizing the superconducting super collider for the first time.

The bill authorizes a total of $3.277 billion for the DOE's research and development activities and identifies a number of priority activities. The budget recommendations on the bill seek to preserve key activities in R&D programs which the Congress has supported and which are worthy of continuing support.

In nonnuclear technology development, this authorization bill restores the Fossil Energy R&D and Conservation R&D programs to roughly the fiscal year 1988 levels. In this same area, increases for renewable energy R&D activity amount to $20 million over the fiscal year 1988 level. The bill provides enhancement for nuclear development and supports the significant growth requested for the DOE environmental budget while focusing on basic energy science programs which are important to competitiveness.

It has been 7 years since an energy authorization bill has been enacted and 4 fiscal years since there have been funding levels in law. The energy R&D thrust recognizes our resource limitations in that the programs authorized in this bill must provide the technology base to meet tomorrow's energy needs for this Nation. Global geopolitics has not changed from the 1970's; we have limited amounts of oil and the overwhelming fraction of reserves are in the Middle East. These technologies, once demonstrated and deployed, will determine the makeup of our energy production in the 1990's and beyond. Energy is the fuel for the U.S. economic engine, and improved generation and efficiency resulting from these programs will mean an improved quality of life for all our citizens. This country has "slid back" into unacceptable levels of foreign imports and has virtually forgotten the gas lines triggered by the 1979 Iranian crisis. This bill spells out an energy development policy which is crafted to make the best use of "borrowed time."

The bill includes a specific additional authorization for magnetic fusion to recover the schedule for the compact ignition Tokamak, a plasma burn experiment which is now the focus of the U.S. program. In general science, we have provided funding to operate world-class facilities in high energy physics while accelerating construction of the premiere U.S. nuclear physics machines.

Thus the bill assures healthy levels for energy technology development while recommending certain new directions for the DOE's basic and applied research programs.

Mr. Chairman, this bill is the first bill to come to the floor to authorize funding for the superconducting super collider project. The committee has held numerous hearings and spent a great deal of time talking with scientists from around the world to learn about, and to better understand all the dimensions of this massive and exciting project. Because of the fiscal constraints to which we are all sensitive, we have limited our authorization in H.R. 4505 to $138 million for this project in 1989. These fiscal year 1989 SSC funds are to be used for R&D and technology systems development, but not for site-specific construction activities.

The superconducting super collider presents one of the most exciting challenges in the history of American science. Its completion and operation will secure U.S. leadership in high energy physics for decades to come. This "first-of-a-kind" high energy particle accelerator will open up new vistas in our understanding of the universe and the most fundamental laws of nature. It will allow scientists to better understand the connection between the largest systems we know of in the physical universe and the very smallest. It represents a step forward in scientific research that can only be compared to the major revolutions that occurred more than eight decades ago when a little known scientist by the name of Albert Einstein introduced his "Theory of Relativity," and altered forever our understanding of "how the world works."

The ingenuity and technological advances that will be required to construct the superconducting super collider will lead to new products and services that can only enhance our economy. History has shown that major technology spinoffs always come from discoveries in science. One can only imagine what spinoffs will occur once the SSC is operating and the data and knowledge that will be derived from this facility is fully realized and understood. And, as important as these technology spinoffs are to future generations, so will the young minds that are trained and educated through the operation of the SSC be important to expanding our intellectual heritage. Indeed, the SSC represents a new plateau in American ingenuity and achievement.

Mr. Chairman, we cannot allow budget pressures to rule out all of the new science projects proposed by the DOE's Office of Energy Research. Some worthy projects, such as the ignition experiment at Princeton, have waited several years for construction funding. We recognize that resources are scarce but we must simply be more imaginative about stretching those which are available. Otherwise, we shall stifle creativity and disillusion many scientists and engineers by shutting the door on both their dreams and the country's scientific and technological vitality.

In energy technology we must be certain that advanced technologies are in place from those which assure the clean burning of coal to designs for walk-away, passively safe reactors. This is a responsible development bill with a very balanced energy R&D program.

Mr. Chairman, that concludes my remarks. I urge my colleagues to support this bill which speaks to both a constructive R&D policy and fiscal restraint.

□ 1620

Mr. Chairman, I reserve the balance of my time.

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I also rise in support of H.R. 4505, the fiscal year 1989 Department of Energy [DOE] authorization, and in support of the comments just made by the distinguished gentleman from New Jersey [Mr. ROE], the chairman of the Committee on Science, Space, and Technology.

This bill, while by no means perfect, attempts to strike a balance between fiscal responsibility on the one hand, and programmatic continuity and innovation on the other hand. I just want to take a few moments to comment on three important areas addressed by the bill: First, Fossil Energy R&D, including geosciences research; second, Solar Energy R&D; and third, the superconducting super collider [SSC].

FOSSIL ENERGY R&D

This bill authorizes a total of $331.9 million for Fossil Energy R&D [$362.8 million less a general reduction of 6.63 percent, or $22.9 million], a reduction of $22.9 million from the current year's appropriated level. However, this reduced level of funding will not only allow important programs such as fuel cells and MHD to proceed, but at the same time will provide for the initiation of two particularly innovative programs: First, the National Laboratories Coal Sciences Initiative, authorized at $5 million; and second, the Geosciences Initiative, authorized at $20 million, including $15 million for the use of the Geoscience Institute for Oil and Gas Recovery Research, and $5 million for the New Mexico improved oil recovery project.

A key to success for expanded and more environmentally acceptable use of coal is to implement an exploratory R&D program that is science-oriented and whose objective is to develop the knowledge and fundamental understanding for implementing new technologies. To accomplish this, the bill authorizes a total of $5 million for a National Laboratories Coal Sciences Initiative.

The Initiative is designed to provide balance to the current Fossil Energy R&D efforts and to the Clean Coal Technology Demonstration Program by expanding on the examination of fundamental questions underlying coal utilization and conversion. The effort will bring together the multidisciplinary scientific and engineering talents and the latest analytical tools available at the National Laboratories to address the age-old problems of coal structure, chemistry, and reactivity. In addition, universities and industry are expected to be active participants in the initiative. Sandia National Laboratories, with experience in the management of large cross-cutting projects in fossil energy programs and with significant technical contributions in coal research, is well qualified to lead the implementation of such an effort.

As I noted earlier Mr. Chairman, the bill also authorizes $20 million for the geosciences initiative. In addition, the Basic Energy Sciences portion of the bill further recognizes the value of expanded research in the geosciences by providing a separate line item for geosciences research, and by authorizing $1 million to begin design work on a Geosciences Research Center at Sandia National Laboratories.

SOLAR ENERGY R&D

The bill authorizes a total $95.1 million for Solar Energy R&D—$101.5 million less a general reduction of 6.63 percent, or $6.4 million—a very modest increase of only $2.1 million above the fiscal year 1988 appropriation of $93.5 million. However, the bill provides for selective increases which will greatly enhance our industrial competitiveness in the international solar energy marketplace. For example, the bill authorizes a total of $20.6 million for Solar Thermal Energy Systems, an increase of $3.6 million above the fiscal year 1988 appropriated level; and $11.1 million for Wind Energy, an increase of $2.6 million above the fiscal year 1988 appropriated level.

The committee believes that the Solar Thermal Program, in particular, was significantly underfunded in fiscal year 1988, and expects the higher level of funding in fiscal year 1989 to allow for high-efficiency, high-concentration system development for electric power and for toxic chemical waste destruction using high-temperature, direct catalytic absorption receivers.

SUPERCONDUCTING SUPER COLLIDER [SSC]

The bill contains both good and bad news for the funding for the SSC. Let me first turn to the bad news.

My biggest disappointment with this bill is that it contains neither full funding nor construction project funding for the SSC in fiscal year 1989. The administration requested a total of $363 million for the SSC in fiscal year 1989, including $64 million for R&D, $16 million for capital equipment, and $283 million for construction. This bill only authorizes a total of $138.4 million in fiscal year 1989 for R&D and for capital equipment [$147.7 million less a general reduction of 6.63 percent, or $9.3 million], and does not authorize any construction funds.

However, the good news is that the bill authorizes $675 million for the SSC in fiscal year 1990, including $585 million for construction; and $774 million in fiscal year 1991, including $618 million for construction. The 3-year authorization total of $1.6 billion for the SSC should provide for a vigorous start for the project.

That concludes my statement, Mr. Chairman. As I stated at the outset, I support this bill, and I urge my colleagues to also lend their support.

Mr. ROE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD], the distinguished chairman of our Subcommittee on Energy Research and Development.

May I say that the gentlewoman from Tennessee [Mrs. LLOYD] and her counterparts have done an absolutely superb job in the preparation of this very, very difficult piece of legislation, and I just wanted to let our colleagues know of the excellent work that has been carried out by the ranking member and the chairman of the subcommittee.

Mrs. LLOYD. Mr. Chairman, I rise in support of H.R. 4505, and as chairman of the Energy Research and Development Subcommittee, I wish to speak to the subcommittee's science and technology development programs authorized in the bill. The committee recommendation is at the President's requested level for the energy research and development subcommittee programs. It establishes program funding levels that are consistent with the committee's policy guidance and program priorities. This is indeed an energy, technology and science policy bill which is also fiscally responsible.

In fossil energy research and development, the committee recommendation preserves the critically important research and technology base program in coal R&D including the key generic technology areas in coal conversion and combustion. We also recommend an aggressive geoscience initiative in oil and gas.

In energy conservation, the committee highlights programs in support of industrial research and development, such as the program to assist the steel industry through new technology initiatives, and the energy conversion utilization technology program.

The bill provides for increased emphasis on solar photovoltaics technology within the department's renewable energy program. Funding for this activity was increased by $31.9 million over the requested level.

In nuclear fusion research and development, the committee has recommended an overall budget of $382.5 million, including enhanced support for facilities critical to the development of advanced reactor concepts, as well as funding for new technologies in advanced controls and robotics.

In magnetic fusion energy, the President's request contains some growth, but the committee was not satisfied with the level of funds requested for the compact ignition Tokamak. The United States domestic program can only be strong if the compact ignition Tokamak at Princeton goes forward in a timely manner.

In the supporting research and technical analysis program, the committee enhanced national laboratory and university activities that are linked to the U.S. competitiveness. The basic energy sciences program include materials, chemical and engineering sciences, and the health of these programs is vital to the U.S. science technology base. The committee recommended additional funding for the advanced photon source at Argonne National

Laboratory which will serve literally thousands of scientific investigators from various disciplines over the next two decades. The committee recommended $18.7 million for the second year funding for the x-ray lithography program which brings four of the national laboratories into cooperative research with several universities and the semiconductor manufacturing industry. This program is an interagency effort that the committee believes may well determine the U.S. position in international markets, for high density storage microchips.

The committee has provided additional funds for universities and national laboratory instrumentation and stressed supporting new and on-going center of excellence in chemical and applied mathematical sciences. The committee has also provided a number of increases in basic research user facilities to assure that these unique facilities are more fully utilized. Finally, in this program area, the committee has continued its support for the nuclear engineering research and education initiative begun in fiscal year 1988.

The committee continues its support for the very important programs to develop advanced nuclear electric power systems for space, principally the SP-100 program. The success of this Nation's civilian space exploration program is critically dependent upon the availability of these systems to provide the large amounts of electric power needed for future NASA missions.

In general science and research, Mr. Chairman, the committee was presented with a budgetary challenge. Given the budget constraints, we were not able to support the department's request of $363 million for the SSC. The committee did, however, achieve a strong middle ground providing a net of $138 million for this project of which $60 million was for non-site-specific technological systems development programs essential to the timely initiation of construction activities in fiscal year 1990 and beyond. The committee also adopted several limiting provisions on foreign participation and eligible contract recipients with other guiding language for carrying out the SSC project.

The DOE'S request for nuclear physics was not adequate in the committee's view. The committee recommended that the relativistic heavy ion collider project at the Brookhaven National Laboratory should be initiated in fiscal year 1989. In addition, the committee is concerned that the administration has provided insufficient construction funds for the continuous electron beam accelerator facility. In Newport News, VA. Maintaining an adequate construction schedule is critical to the timely and cost-effective completion of this premier facility which has already been under funded for two consecutive years.

Mr. Chairman, at this time I am pleased to announce that the committee, in recognition of the distinguished service performed to the committee by Congressman Lujan, has directed that the Los Alamos neutron scattering center at the Los Alamos National Laboratory be renamed the Manuel Lujan Jr., Neutron Scattering Center.

Finally, Mr. Chairman, in order to accommodate the committee's new directions and additional emphasis within budget constraints, it was necessary to recommend a general reduction of 6.63 percent to achieve the fiscal year 1989 President's requested level for the energy research and development programs. This is the most equitable approach that we can adopt so as to incorporate the committee's policy guidance and program priorities and at the same time, remain within a reasonable budget level.

Mr. Chairman, I believe that the Science, Space, and Technology Committee's bill is a responsible and constructive one. It recognizes that energy technology and DOE science programs cannot stand still and suggests innovative ways to get more out of the resources at hand. I yield back the balance of my time.

□ 1630

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. Morrison], the vice chairman of the subcommittee.

Mr. MORRISON of Washington. Mr. Chairman, I thank my ranking member for yielding me this time. We are going to miss him and the leadership he has provided in this subject area.

I am pleased to join Chairman Lloyd of the Energy R&D Subcommittee in support of the DOE authorization bill this afternoon. The job has not been easy, and it gives me a special appreciation for our subcommittee, the full committee, and our very capable staff. The committee has worked long and hard to come up with a bill that reflects energy R&D priorities in the best interest of this Nation. We had a difficult task to accomplish. On the one hand we want to stimulate innovative technologies such as high temperature superconductivity, while keeping a stable base in longer term technologies such as solar and nuclear energy R&D. On the other hand we want to keep expenditures at the level that was requested by the administration. Our review of the budget request showed that several major programs are underfunded and would not maintain their viability at the requested level. We also concluded that the superconducting supercollider project should not be fully funded before a site is selected for construction. We had to make some difficult decisions to provide a balanced scope at the budget request level, and I am delighted that we have accomplished this task.

I strongly support the committee's action to restore funding of critical programs including fossil, renewable, and nuclear energy R&D to a reasonable level, so that we can carry out this Nation's Energy R&D Program in a timely manner, preserve the scientific expertise we have gained over the years, and continue the safe operation of our world-class research facilities such as the fast flux test facility.

I also believe that we should continue to nurture basic energy science programs to maintain a strong foundation for science and technology. An example is the establishment of the Molecular Science Research Center at Battelle Pacific Northwest Laboratory to serve as a national user facility for biological, chemical, and material sciences research.

Finally, I want to point out the importance of authorizing the requested funding for space and defense power systems. The SP-100 Program is cosponsored by three different agencies with civilian as well as defense missions. If DOE could not come through with their share of the funding, the space power programs at NASA and DOD would also be affected. We must have the foresight to anticipate the power needs for future space missions, and demonstrate the technologies that can be used to accomplish these missions.

Mr. Chairman, I thank the committee chairman and the distinguished ranking member for your support.

I want to comment that we will miss the guiding hand of the gentleman from New Mexico as we move on into the future. However, we wish him the very best as he leaves this distinguished body.

Mr. ROE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Texas [Mr. Chapman].

Mr. CHAPMAN. Mr. Chairman, to my colleagues and to the House I would like to take this opportunity, as those before have done, to thank and congratulate the gentleman from New Jersey [Mr. Roe], the chairman of the full committee, as well as the gentleman from New Mexico [Mr. Lujan], the ranking member, who has been so aptly recognized and honored today, as well as the gentlewoman from Tennessee [Mrs. Lloyd], my chairman, and the gentleman from Washington [Mr. Morrison], the ranking member on the subcommittee, for the excellent work that they have done in preparing and working on this bill. I would only say that the work that has gone into this legislation not only should be supported by all Members of the House, but I would like to take just a moment if I could to expand slightly on some of the provisions that are in this legislation that I think are truly critical for the future of this country and in fact are paramount to ensuring our future national security.

As we listened to the witnesses testify before our subcommittee and as we marked up the bill there and in full committee, it was fascinating to note the experts tell us about the 500-year supply of oil and natural gas that is contained on this continent in the lower 48 States, most of which we cannot recover under current technology; and then listen to the research projects that are funded by the authorizations in this legislation which could, if the money is appropriated and the work done, lead to not only a potential energy independence, but an energy future which would make us totally free from OPEC and Mideast oil and gas. It seems to me that we have turned a corner, and this legislation recognizes the critical work that can and must be done in research and development in this vital natural resource.

It has already been mentioned about the new light item for the Geoscience Institute, a cricial new initiative that we must fund and support if we are to truly take care of the critical issues that face us in the future on matters of national security as it relates to energy.

I think that this bill is a good piece of work that ought to earn the support of all Members of this House because we must support the kind of research and development that is herein authorized. I urge each and every one of my colleagues to support these initiatives, support the bill. Let us work together to make sure not only that we have a balanced general science research program, but for the energy security of America, for our national security that we do those things and engage in those projects that are critical to all of us as Americans.

Mr. LUJAN. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. FAWELL].

□ 1645

Mr. FAWELL. Mr. Chairman, I rise in strong support of the authorization bill for the Department of Energy. I believe that this bill sets clear priorities for our energy research programs and provides for their healthy and responsible growth. I would like to compliment the chairman of the Energy Research and Development Subcommittee, Mrs. MARILYN LLOYD, and the subcommittee's ranking Republican member, Mr. SID MORRISON, for the hard work that they have put into this bill.

I would like to focus my remarks on three very important research programs that are authorized in this bill. They are the Advanced Photon Source, the Integral Fast Reactor, and the superconducting super collider.

The Advanced Photon Source, a large synchrotron radiation machine, will be the world's most powerful source of x-ray beams, and a powerful tool for competitiveness. The brilliance and intensity of these beams will permit scientists to study the most intricate details of materials, chemicals, and biological systems. Moving pictures of fast chemical and biological reactions—even movies of the living, beating human heart—will become possible. This research will lead directly to major practical advances in many fields, including medicine, pharmaceuticals, petroleum, steel, autos, coal, semiconductors, superconductors, and chemicals. Because the competitive benefits of the APS are so clear, industry has been more actively involved in the design and planning of the APS than in any other DOE basic research facility. Many firms and universities will be putting up their own funds to construct "beam lines" and hire technical and scientific personnel to operate the facility.

I am pleased to say that the Science Committee has recognized the importance of the Advanced Photon Source and has authorized $20 million to accelerate research and construction activities in fiscal year 1989. This would set on the road toward completion of the facility in fiscal year 1994, some 2 years and $26 million ahead of schedule. We would also be able to complete the APS within the same timeframe that the Europeans and Japanese would be completing similar machines, thus ensuring that we do not lose our competitive advantage.

Second, our competitiveness also requires safe, affordable sources of power. The integral fast reactor can meet these needs. Unlike conventional light water reactors, the IFR core simply cannot get hot enough to risk a meltdown or release of radiation. New metallic uranium fuels, pioneered by the IFR program, carry heat quickly away from the reactor core. The core itself is immersed in a large liquid sodium pool, which acts as a huge "heat sink" that prevents the core from heating up even when all coolant systems are shut off. These "passive" safety systems, which do not require any external intervention to be effective, have been demonstrated in a series of experiments. The IFR is now the centerpiece of the Department of Energy's advanced reactor program, and will probably be embodied in future generations of nuclear reactors.

H.R. 4505 would authorize $85.5 million for the IFR program in fiscal year 1989. This would permit research to continue at its current levels, in addition to providing funds for fuel fabrication for Hanford's Fast Flux Test Facility and a "down payment" on the refurbishment of the fuel reprocessing center at the EBR-11 reactor.

Finally, I would like to express my support for the committee's recommendations for the superconducting super collider. The super collider will be a high tech instrument for exploring the most innermost secrets of matter and nature. The funding level provided in this bill would permit the continuation of key research and procurement activities. While it may not be everything we sought, it is enough to ensure that the program does move forward and that the President will be able to decide whether to proceed with construction or not.

Mr. Chairman, I believe that this bill represents sound science policy and sound fiscal policy. I urge my colleagues to support this bill and vote against all amendments.

Mr. ROE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New York [Mr. SCHEUER], a member of the committee.

Mr. SCHEUER. Mr. Chairman, I rise in support of H.R. 4505, the Department of Energy civilian research and development authorization for fiscal year 1989.

H.R. 4505 authorizes in full the administration's request of $359.8 million for DOE's biological and environmental research program for fiscal year 1989.

This DOE research program has provided strong leadership in many areas of scientific research which are critically important to our Nation.

DOE was the first Federal agency to recognize the significance of undertaking a large-scale project aimed at unraveling the mysteries of the human genome. Since DOE originally proposed this project, the National Institutes of Health, the National Academy of Sciences and the Office of Technology Assessment have endorsed the concept of the human genome project.

The human genome project will ultimately provide medical science with the blueprint for human development and function. Someday, this research will yield cures for many of the diseases that plague mankind.

The Department's historical strengths in managing large, multidisciplinary projects will permit DOE scientists to play a key role in the national genome research project.

A second area of health research in which DOE has played a pivotal role is nuclear medicine. The Department's Nuclear Medicine Program has yielded a significant return on investment in terms of vastly improved diagnostic and therapeutic technologies.

These advances not only improve the quality of medical care for millions of Americans, but they also reduce total health care expenditures by reducing hospitalization time, improving the diagnostic process, and often obviating the need for more costly, invasive therapies such as cardiac catheterization and bypass surgery.

In recognition of the remarkable technological breakthroughs of this program, H.R. 4505 reprograms $2 million from within the Biological and Environmental Research Program to supplement the operating funds for the Nuclear Medicine Research Program.

In light of the national concern about radon gas as a leading cause of lung cancer, second only to tobacco smoking, DOE has mounted a strong research effort on this topic.

DOE's Radon Research Program has made significant contributions to our understanding of the mechanisms of radon entry and behavior and the extent of radon contamination in homes throughout the United States.

The committee has closely followed the issue of environmental compliance and safety within the Department and is encouraged by the DOE's willingness to adopt the recommendations of the National Academy of Sciences in the area of nuclear reactor safety.

H.R. 4505 contains the 58-percent increase in funding for the Environmental Health and Safety Program requested by the administration.

However, we remain concerned by the Department's slow pace in remedying the array of environmental and worker health problems which exist at many DOE facilities.

H.R. 4505 requires the Secretary of Energy to prepare annually a report on the status of the Department's environment, safety, and health efforts including the projected costs and estimated time for completion.

Mr. Chairman, DOE's biological and environmental research programs are an important part of DOE's mission. I also want to commend Chairman ROE for his leadership in moving forward on the superconducting supercollider. Obviously, the cost of the supercollider is of legitimate concern to many Members, some of whom are particularly concerned about the potential diversion of funds from other important areas of science. I share that concern. However, it is interesting to note that nearly three-quarters of all the money spent by the Federal Government on research goes to defense, not to universities and civilian researchers.

Compare the cost of the supercollider—$5 billion spread over 10 years—to the cost of the strategic defense initiative—$20 billion over the next 6 years. I think we need look no further than the defense budget to find a new source of funds for civilian research and development. I commend Mrs. LLOYD, the chair of the subcommittee, and Chairman ROE of the full committee, for their diligent work in bringing this important piece of legislation to the floor.

Mr. ROE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. I thank the gentleman for yielding time to me.

Mr. Chairman, as a member of both the full committee and the Energy Research and Development Subcommittee, I believe that this bill represents an effective, responsible, and balanced approach to addressing our critical national energy research and development requirements.

In this period of severe budgetary constraints and pressure to reduce spending across the board, the Science Committee was required to set priorities among programs that are important to our Nation. Special recognition is due to the chairman of the subcommittee, Mrs. LLOYD, and the full committee, Mr. ROE, for their leadership in making the difficult choices that were essential to producing this bill.

While this legislation authorizes a wide range of research and development programs, one section of the bill has emerged as the most controversial. The authorization for the proposed superconducting supercollider [SSC] has generated a spirited debate on the intrinsic scientific worth of the project, its relative merit compared to other scientific initiatives, its substantial cost, and the tradeoffs that may be required to build it.

In general, this public dialog in the scientific community and the Congress has been healthy. A number of vital issues have been fully aired, and I believe that the weight of the evidence favors the SSC.

This is not to say that opinion is unanimous or that all questions related to this unprecedented scientific project have been answered. Several fundamental issues remain, including the site selection process, the impact of the SSC on other, equally important scientific programs, and the problem of funding a multiyear construction project of this magnitude in a time of limited resources.

Despite these unresolved questions, I am convinced that the United States should undertake this endeavor and, just as important, that the United States can find a way to build the SSC without doing unnecessary damage to other essential initiatives. We must proceed carefully, and the bill before us today does just that.

This authorization bill, as reported by the Science Committee, strikes a delicate balance between starving the SSC with inadequate funding and proceeding headlong with an unquestioning, reckless commitment that ignores other critical scientific needs.

In reducing the administration's request by nearly 75 percent, we have delayed the start of large scale expenditures for actual construction until 1990, thus providing additional time to forge a solid consensus committed to the project. Without such a consensus, I do not believe it will be possible to sustain the long-term political support that will be needed to construct the SSC.

At the same time, we have authorized full funding for the requested research and development related to the SSC. In addition, the committee has authorized funds for operating expenses and capital equipment needed prior to construction. Finally, this bill authorizes construction funds for 1990 and 1991 to ensure that the project can proceed at an efficient and cost effective rate.

In short, the committee bill represents a prudent and positive approach to the SSC. I believe it deserves strong support from the full House.

Mr. LELAND. Mr. Chairman, Congress will soon finalize funding levels for a project which stands to be central to this country's technological and scientific development and hence its future prosperity. The superconducting supercollider [SSC] promises to greatly augment our scientific knowledge and yield immense commercial and economic benefits.

My comments today concern the SSC's role on our country's educational system. Numerous studies indicate that fewer students are entering the sciences, both on the graduate and undergraduate levels. Needless to say, our ability to effectively compete on global markets will depend on our ability to attract students to the sciences. Unfortunately, in 1986 the United States, for the first time in history, experienced a trade deficit in high technology. Constructing the proposed superconducting supercollider will demonstrate this Nation's firm commitment to provide the necessary facilities needed to combat this trend.

Additionally, the SSC will be a state of the art training ground for many of our Nation's students. More than 100 universities across the country will be able to collaborate on various projects involving high energy physics. This country will see a creation of a wealth of engineers and scientists with the high technology skills industries will require. Furthermore, by funding construction we will not only prevent a brain drain of America's most talented high energy physicists to other countries, but rather attract scientists from other countries and thereby enhance our technical expertise.

Mr. Chairman, the world is entering a new era of increased technological sophistication and specialization. If our country is to retain its top scientist; if we are to sustain our technological edge; and if we are to remain a first rate, technologically sophisticated trading country, then we must support basic research such as the SSC.

Mr. LUJAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore. [Mr. VALENTINE], having assumed the chair, Mr. SMITH of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4505) to authorize appropriations to the Department of Energy for civilian research and development program for fiscal year 1989, had come to no resolution thereon.

□ 1700

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3436, OLDER AMERICANS ACT TECHNICAL AMENDMENTS

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-665) on the resolution (H. Res. 466) providing for the consideration of the bill (H.R. 3436) to amend the Older Americans Act of 1965 to make technical corrections, which was referred to the House Calendar and ordered to be printed.

THE GAS GUZZLER TAX: CLOSING A LOOPHOLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, 10 years ago, as American consumers were waiting by the hour in line at the local gas pump, it was brought home to us all that oil was a finite resource. Moreover, it was a finite resource largely controlled by foreign governments not always friendly to our own. In recent months some of these foreign governments on whom we are dependent for petroleum have assisted in holding our citizens hostage, have attacked our military vessels, and have burned up millions of barrels of oil. Although the lines at the gas pumps have temporarily disappeared the world's dependence on these governments has not diminished.

The 95th Congress, as a step toward increasing our awareness of the need for energy conservation and decreasing our dependence on foreign oil, passed the 1978 Energy Tax Act. This legislation created the gas guzzler tax. The intent of the Congress was clear. Those individuals who chose to purchase automobiles which were not fuel efficient should pay a price for disregarding energy priorities established to provide long-range benefits to us all.

The law specified that a tax would be imposed at the time of sale on any automobile model type that did not meet clearly defined standards of fuel economy. Although this all sounds very straight-forward, there seems to have been a hitch. There are 12 1988 model automobiles that do not meet the combined EPA fuel economy standard and yet are not subject to the gas guzzler tax as defined by the EPA. Some of these automobiles fall more than 2-miles-per-gallon short of the standard and still are not subject to the tax.

The problem here is the definition of the term "model type." As defined by the Administrator of the EPA, model type is a "unique combination of car line, basic engine, and transmission class." This definition allows the mileage for several different models of automobile to be averaged to arrive at the mileage for the car line. This average is then weighted according to sales within that car line to determine if the line of cars as a whole meets the fuel economy standard. For example, if one model car averages 20 miles per gallon it can be included in a car line of more fuel efficient models with the same basic transmission and engine and not be subject to gas guzzler tax.

This is nothing but a loophole and a costly one at that. This year $165,178,850 in potential tax liability will slip through it, an amount almost $20 million more than the total amount collected from the gas guzzler tax in 1986.

This isn't fair. It isn't fair to the people who have paid the gas guzzler tax and it isn't fair to the people who have purchased fuel efficient automobiles in the interest of resource conservation. The gas guzzler tax needs to be corrected to fulfill the intent for which it was enacted.

I am introducing a bill to redefine the term "model type" and close this loophole. I urge my colleagues to join me in this effort to fulfill the intent of the 1978 Energy Tax Act and to administer the gas guzzler tax fairly and equitably.

Following is a complete text of the bill.

H.R. 4735

A bill to amend the Internal Revenue Code of 1986 with respect to the definition of model type for purposes of the gas guzzler tax

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (3) of section 4064(b) of the Internal Revenue Code of 1986 (defining model type) is amended to read as follows:

"(3) MODEL TYPE.—The term 'model type' means each vehicle configuration as defined in the rules which were prescribed by the EPA Administrator for the purposes of section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 12001) and which were in effect on January 1, 1988."

(b) The amendment made by subsection (a) shall apply with respect to 1989 and later model year automobiles.

JAPANESE HIGH PRICES—IT CAN HAPPEN HERE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, over the weekend there were two stories published in two different newspapers, and although they are entirely different stories, they are very closely related. The first story was a story in the Baltimore Sun from its Tokyo Bureau entitled "Cost of Living in Tokyo Takes Toll on Embassies."

This story concerned me very much as I read through it because it raises the specter in my mind of prices on real estate and businesses being driven up in this country.

Now, one might ask, why should this story concern me, and why should there be reason for concern in the United States? Part of the answer is that in this world of today no one stands alone; it is a very close world, a very small world. But the overall picture shows this:

The Japanese have invested $23.4 billion in this country last year according to the United States Treasury. At this point 67 percent of their investments are in office buildings and complexes. Other types of holdings include land zoned for commercial use—48 percent; residential properties—45 percent, land zoned for residential use—27 percent, shopping facilities—24 percent, and warehouse, manufacturing, and distribution facilities—24 percent.

The story in the Baltimore Sun describes the high land prices in Japan and how it is affecting foreign governments.

It states that governments are being forced to cope with high prices—one Ambassador is doing his own typing—some countries are having to abandon a post in Japan—others are selling off their land.

China is selling less than a third of an acre of land for $112 million. The most lucrative deal is Australia's. They are selling off a third of it's 4.4 acres embassy. In exchange for that 1.5 acres they received $500 million cash and a new embassy building and new housing complex for 35 Australian diplomatic families.

The full text of the article from the Baltimore Sun on Monday, May 30, 1988, is as follows:

COST OF LIVING IN TOKYO TAKES TOLL ON EMBASSIES

(By Anthony Barbieri, Jr.)

TOKYO.—George Lianis, Greece's ambassador to Japan, calculates that he is probably his country's highest paid diplomat abroad and, given the allowances that help him cope with the astronomical cost of living in Tokyo, may in fact be one of the highest paid officials in the Greek government.

Yet many is the day when Mr. Lianis can be found hunched over his word processor, carefully typing out his own letters and reports for the Greek foreign ministry back in Athens.

"Any letters written in Greek either have to be done by hand or we have to type them ourselves," says Mr. Lianis. "So I'm doing clerical work for a very, very high salary."

The system is not a new Greek contribution to the practice of democracy but a result of the financial crunch in which scores of countries have found themselves as they try to cope with the budget-breaking realities of maintaining an embassy in the most expensive city in the world.

For Mr. Lianis, it has meant having to run a 19-person embassy with a staff of five and doing without a secretary who can type the Greek language.

But for many other nations the problem is a dilemma: As Japan sheds its image as a diplomatic backwater to become one of the world's largest sources of foreign investment and foreign aid, the countries that can least afford to be here are precisely the ones that can least afford not to be here.

"We want to expand our staff in Tokyo, not cut back," said a diplomat from Sri Lanka. "We want to be able to hire a good interpreter, for example, but we can't when our total budget goes just to maintain the embassy infrastructure."

At least one country already has given up. Uganda closed its embassy a few months ago because of the high costs in Tokyo and has decided to handle its relations with Japan through its embassy in Beijing.

Other nations have been forced to find cheaper quarters for their embassies and personnel or have seen their diplomats rebel at the prospect of being sent to a city where dinner for four at an average restaurant can cost a week's pay.

"It's a crisis," says Mr. Lianis, who is vice chairman of a committee of diplomats from 33 countries that has petitioned the Japanese government for help in alleviating the cost of maintaining an embassy. "One or two more years is the approximate limit to the endurance of this burden. After that, smaller countries will have to consider going elsewhere."

For the Japanese government, the prospect of Tokyo's losing some of its diplomatic luster because of high costs is something of an embarrassment while Japan is in the midst of a much-publicized push to "internationalize" by opening itself to foreigners and broadening its contacts with the rest of the world.

According to one foreign ministry official, formation of the 33-nation committee is something of a diplomatic first: Never before, he said, have diplomats assigned to a country formed an association to complain about the high cost of living.

In a meeting with Foreign Minister Sosuke Uno, the group cited article 21 of the 1961 Vienna Convention of Diplomatic Relations, which says that host countries are responsible for making sure that diplomatic missions have "suitable" accommodations.

Mr. Uno was reported to have acknowledged that the situation was a "grave problem" but offered no immediate solution.

One drastic idea being advocated is simply moving Japan's capital—or at least the diplomatic part of it—out of Tokyo to where land is cheaper. But the solution most frequently discussed is construction of a building or complex of buildings in downtown Tokyo that could provide diplomatic premises for countries that can't afford to buy or rent their own embassies.

Others that don't own their own land have long leases at nominal rents. The United States is in this favored category, as is Great Britain, whose embassy complex overlooking the Imperial Palace would otherwise have an estimated rental value of $2.8 million—per month.

For the have nots, Tokyo offers no such opportunities. Of the 106 nations with diplomatic missions in Tokyo, 54 are at the mercy of a rental market that has seen costs double in the past four years at a time when the soaring Japanese yen has devalued the U.S. dollars in which many diplomats are paid.

The alternative has been to cut costs or cut staff or both. For Peru, that has meant restrictions on the use of air conditioning in the summer and heating in the winter; for the ambassador from Venezuela, it has meant moving from a house to a more modest apartment.

For Greece, it means more than just an ambassador doing his own typing. Last October, the Greek embassy was forced to close its consular section for a month because of a shortage of staff—a particular blow at a time when Greece is seeking to increase exports to Japan and attract more Japanese tourists and more Japanese investment.

"Of course, Greece can afford an embassy here," Mr. Lianis said, "but the cost is so out of proportion that it distorts the entire budget of the Foreign Ministry."

Tokyo, indeed, has added its own unique standard by which to measure the haves and have-nots of the world. In Japan, it is not so much rich countries or poor, Third World or developed, industrialized or agricultural as simply a matter of countries that own real estate in Tokyo and countries that do not.

The lucky ones have hit upon some ingenious ways of using their land to defray the cost of staying in Tokyo.

Australia recently concluded a deal to sell off a third of its 4.4 acre embassy in central Tokyo. In exchange for the 1.5 acre parcel, the Australian government will get about $500 million cash and a new embassy building and a new housing complex for 35 Australian diplomatic families.

Canada is not selling but is in effect leasing some of its embassy land. A Japanese real estate company will build the Canadians a multi-story office building in exchange for being allowed to use several floors of the building for a certain number of years, after which it will belong to Canada.

"We have no intention of selling land, because it would be impossible to ever buy any more," an embassy official said.

But Argentina may be cooking up the boldest scheme of all.

It was recently reported to have sent a mission to Tokyo to explore the sale of some of its embassy property in Tokyo's pricey Azabu residential district. The proceeds from the sale, it is said, will help defray the cost of Argentina's plan to move its own capital out of Buenos Aires.

"It is absolute madness," a diplomat from another South American nation said, "when a major country like Argentina can pay for the building of a new city by selling a piece of land in Tokyo."

"Yet it goes on, and even one of the world's communist stalwarts may be getting into the market. Japanese newspapers have reported that China is offering to sell less than a third of an acre of land it owns in Tokyo for $112 million."

The Washington Post carried a story this weekend in the same vein as the story on Japan, only this story pertained to the real estate values in the United States that are being affected by Japan.

The story: "East Buys West: Foreign Ownership on Rise—Record Japanese Speculation in Real Estate Inflates Values, Threatens a Political Backlash."

The article cites Honolulu Mayor Frank Fasi has submitted legislation to the Hawaiian legislature to limit Japanese real estate speculation that has inflated property values in some wealthy neighborhoods by 60 percent in 1 year.

The mayor was quoted that "he feared that if Japanese real estate speculators were not stopped, Honolulu would suffer the fate of Tokyo where the average family has to choose between buying a $300,000 house a 2-hour trip each way from downtown or renting a room with only 108 square feet for $1,000 a month."

Mr. Speaker, the full text of the Wasington Post story of May 28, 1988, is as follows:

EAST BUYS WEST: FOREIGN OWNERSHIP ON RISE

(By Jay Mathews)

LOS ANGELES.—It must have seemed the ultimate in high-tech, Pacific Rim marketing. The audience of a popular TV shopping program in Japan got to look at some of the choicest $1 million-plus properties in Beverly Hills via a live satellite feed from California.

The response, said Merrill Lynch Realty marketing executive Carolyn Konecki, was "phenomenal," although she found the interested Japanese buyers had very refined tastes. "They saw absolutely no value in Bel-Air properties," she said, mentioning another luxurious Los Angeles suburb. "What they wanted was the Beverly Hills Zip Code and the Beverly Hills address."

So goes the course of international commerce in the more exclusive neighborhoods of Los Angeles, San Francisco, Honolulu and elsewhere in the United States, where the beefed-up buying power of the Japanese yen, the British pound and other major currencies has generated an unprecedented buying spree.

If real estate executives are delighted, some Western politicians and their worried constituents are not.

The Western states are witnessing the largest influx of foreign capital in U.S. history, a boon to real estate brokers but a stimulus to a popular backlash that may rival the anti-Arab mood of the mid-1970s. Here and there, Western politicians have become concerned enough to propose stringent new controls on major foreign buyers, particularly from Japan.

Los Angeles city council member Nate Holden has filed a motion barring purchase of Los Angeles property by citizens of nations that restrict U.S. purchases, as does Japan. The action reflects strong feelings about Japanese purchases of several downtown office buildings and the landmark Rivera Country Club. Holden has plans to unite with other public figures in a new organization called "Stop Selling America."

Honolulu Mayor Frank Fasi has submitted legislation to the Hawaiian legislature, to be considered next year, limiting Japanese real estate speculation that has inflated property values in some wealthy neighborhoods by 60 percent in just one year. California state Sen. John Geramendi, noting that six of the state's 11 top banks are foreign-owned, has won committee approval of a bill significantly expanding state reporting on foreigners doing business in California.

The sudden spurt of political activity comes as a new survey has revealed a record $12.7 billion in Japanese purchases of U.S. real estate in 1987, a 70 percent increase over the previous year. A January poll found 78 percent of Americans in favor of a law limiting the extent of foreign investment in U.S. real estate and businesses.

"The unchecked growth of foreign purchase of American assets will surely diminish the ability of those of us who live here to control our lives and our communities, and it poses a threat to our national security," said Holden, who represents a middle- and low-income district in Los Angeles.

At a May 9 press conference in Tokyo, Fasi said he still welcomed Japanese tourists to Hawaii, for they spend 3½ times as much per day as mainland Americans. But he said he feared that if Japanese real estate speculators were not stopped, Honolulu would suffer the fate of Tokyo, where the average family has to choose between "buying a $300,000 house a two-hour trip each way from [downtown] or renting a room with only 108 square feet for $1,000 a month."

"Billionaire speculator Genshiro Kawamoto, who made his fortune in Tokyo real estate, cruises our city streets in a long white limousine, casually pointing at homes to buy, "Fasi told the Japanese press. "By spring of this year he owned 160 Oahu housing units. . . . For one of these homes he spent $42 million. He called it 'pocket change.' "

Konecki of Merrill Lynch said even brokers who stand to benefit from the Japanese purchases have raised questions about their long-term impact on the housing industry. "As a rule, they don't resell properties later on," she said, "they just lease them indefinitely. Almost all of Tokyo is leased." That can mean fewer real estate commissions.

Many politicians here remain uncertain how important the issue might become in western elections. Los Angeles Mayor Tom Bradley, who has accepted an estimated $100,000 in campaign contributions from local branches of Japanese firms, has spoken to Holden about his campaign to restrict ownership but has taken no firm position of his own.

In recent years, leading California politicians like Bradley, California Gov. George Deukmejian and former San Francisco mayor Dianne Feinstein have actively sought foreign investment and opposed protectionist legislation on the grounds that the state needs healthy trade to sell its agricultural products, aircraft and other commodities.

Janet Turner, deputy director of economic research and chief economist in the California commerce department, acknowledged that "some communities have a legitimate concern, Hawaii in particular, because of its limited land area" vulnerable to inflated prices through foreign speculation. But in sprawling Los Angeles, the purchase of several downtown skyscrapers and a few golf courses can have little significant effect on land values, she said.

The uproar over Japanese purchases, Turner said, reflects an American desire "to have its cake and eat it too." The United States "runs up a large deficit and gets it financed by foreign income," leading to a trade deficit. That, plus a high valued yen, provides an irresistible temptation to Japanese to buy U.S. properties that seem relatively cheap and splendid investments, given the strong economies of most of the Western states.

Hawaii is especially attractive because of its relative closeness to Japan, its reputation as a haven for Japanese tourists and its large Japanese-American population. Hawaiian officials calculate Japanese investors spent a record $3.3 billion on Hawaiian hotels, homes and other properties in 1987 alone. High prices have also been offered for golf courses and agricultural land that could be developed for golf, a Japanese as well as American passion.

The Japanese corporation Yugen Kaisha Shima recently purchased Casa Blanca del Mar, a French colonial mansion in the high-priced Kahala neighborhood, for $21 million, even though it was assessed at only $2.6 million two years ago. Kawamoto, the billionaire speculator who so angered Fasi, paid $42.55 million for the Henry Kaiser estate in Honolulu, the highest price ever for a residential property in Hawaii.

Fasi and residents of the city's more expensive neighborhoods blamed the Japanese for what was in some cases a doubling of tax assessments this year. In response, the mayor proposed a bill to the legislature that would bar the sale of residential, preservation or agricultural property "to any alien or person who is not a citizen of the United States, has no intention of becoming a citizen or does not intend to live in a home purchased here at least 185 days a year."

At his Tokyo press conference, Fasi said he also liked a Japanese law that limits speculation by levying a 90 percent to 95 percent capital gains tax on property that is resold within two years of purchase.

The Hawaii state legislature, dominated by Democrats who do not often get along with the Republican mayor, appears likely to examine the issue, but not until next year at the earliest. Daniel J. Kihano, speaker of the state House of Representatives, said there appeared to be evidence of a problem with some Japanese investors, but Japanese "made a lot of investments that saved a lot of Hawaiian businesses from going under."

Legislative leaders say they plan to study the issue. "Whenever you have a sensitive issue like this," Fasi said in an interview, "the politicians go to sleep. All they will say is 'Let's study the problem.' "

Recent polls show strong voter support for the notion of restricting foreign purchases, although the surveys do not indicate how much priority this has compared to other issues. A survey of 1,003 Americans by the Washington firm of Smick-Medley & Associates in January showed 78 percent supporting laws "to limit the extent of foreign investment in American business and real estate." The survey said 18 percent were opposed and four percent didn't know.

A May poll by the Honolulu Advertiser and Channel 2 News found 72 percent of a sample of 701 Hawaiians thought foreign purchases of homes for investment should be prohibited, while 18 percent would allow them and 10 percent were undecided.

"The American people, at least in my district, are pretty well accustomed to thinking that U.S. property is owned by U.S. citizens," said Holden, assessing opinion in Los Angeles. "And when they learn that so many properties are bought up by foreigners, they become very apprehensive and very scared and very concerned about it."

Similar fears have been expressed recently on the other side of town from Holden's south-central district. In affluent Pacific Palisades, many members of the 61-year-old, 160-acre Riviera Country Club are grumbling about the $108 million purchase of the club by unidentified Japanese investors. Despite assurances from the previous owners, some members are suggesting their membership rights may be in jeopardy and have sought contributions to a legal fund.

The purchase is one of several investments by the golf-happy Japanese. Sports Shinko, an Osaka firm, bought the La Costa Resort Hotel and Spa in San Diego County for $250 million. Japanese investors bought the Valencia Country Club in northwestern Los Angeles county and last year turned its public course into a private club, forcing golfers who had played for $18 a round to pay $27,000 initiation fees (or $12,000 for weekday play only) if they wished still to play there.

Holden has sought the participation of Fasi and other western officials in the new "Stop Selling America" organization to discourage such activity. The Los Angeles City Council plans hearings on his motion to urge that U.S. laws impose the same restrictions on foreigners owning American property that are imposed on Americans attempting to buy property in the foreigners' country.

A spokesman for the Japanese consulate here said Americans are effectively barred from buying land used for farming, mining, forestry or fishing in Japan, but could purchase other property under the same rules of zoning that apply to Japanese. A spokesman for the South Korean consulate in San Francisco said Americans are prohibited from buying land in his country.

Holden said he has had "fantastic" public response to his proposal, although one fellow council member, Michael Woo, called the motion "an unfortunate reminder of the old laws in California that used to make it difficult for Asians to own property."

State Sen. Garamendi's bill to require an annual state report on foreign ownership received unanimous committee approval and the support of Turner's commerce department. The department has already been collecting such data, mostly from federal agencies.

Turner emphasized that the bill would not require foreign investors to disclose any more information than they do now, unlike amendment to the vetoed federal trade bill proposed by Rep. John Bryant (D-Tex.), who has expressed concern about foreign purchase of Western farm lands. "I think it would be a mistake if we required foreign companies to disclose confidential data," Turner said.

Several economists have cautioned against taking action that might lead foreign governments to retaliate against U.S. investors, a fear Fasi called "far-fetched." He said many countries already have such restrictions and at least 22 U.S. states limit foreign ownership to some degree. Mississippi, for instance, bars most nonresident aliens from buying land. Wyoming has a law similar to that proposed by Holden—nonresident aliens cannot own or lease land unless U.S. citizens have the same rights in the aliens' country.

Fasi's complaints seem to have had at least a temporary impact in Honolulu. Kawamoto recently told the Honolulu Advertiser he had suspended his buying spree until Fasi changes his opposition to foreign investment. In some Honolulu neighborhoods, the sudden rise of assessments and sale prices appears to have abated.

In Tokyo, Fasi insisted he was not opposed to Japanese tourists or job-producing Japanese investments, but that too much, too fast would be bad for his state. "You can buy a thousand homes in Hawaii and have tremendous impact," he said. "You can buy a thousand homes in California and have no impact at all. All I'm asking is for the investors to spread it around a little more."

Mr. Speaker, these stories point out a serious problem. In January the

Wall Street Journal stated in an article "Japanese property buyers develop yen for modest sites in smaller U.S. Cities" that, "In recent years, individual Japanese investors have paid hundreds of millions of dollars for single, trophy office buildings, most often in New York or Los Angeles. At times, they have been criticized for overpaying.

Now we all believe in the "good old American go-getter philosophy of making a profit and sowing some good along the way." We also take a dim view of people who consistently overtip and we all know stories of someone we call derisively a "big spender." The Japanese should understand this.

We must change this or otherwise—to paraphrase Kevin Phillips article in the Los Angeles Times on Memorial Day weekend.

He suggested "Maybe we should no longer wear red poppies for the war dead alone—but for our new casualties—dead industries and plundered real estate." Perhaps we should wear a red poppy for the American dream of owning your own home and business, if this push for high real estate prices persists and it continues to affect the affordability of housing for the working men and women of this country.

Although in this morning's paper, Mr. Speaker, there are other reports that there may be some shift in the offing regarding real estate investments in this country, the threat is still there, and this Congress has the responsibility to look into this whole matter.

BOLD NEW INITIATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. SWINDALL] is recognized for 60 minutes.

Mr. SWINDALL. Most of us can still vividly recall the picture that Jimmy Carter portrayed in 1980 and 1981, when he said that Americans needed to learn to live with the limitations that he and others believed necessarily existed in terms of the opportunities for the average Americans. That era, which I called the era of malaise, is a past page in American history. Fortunately for us in 1981, we elected an individual to the Presidency that had the vision of America that was totally different from the vision that Jimmy Carter had. Specifically President Reagan's vision of America was one that was vibrant with opportunity for rich and poor, black and white, Hispanics, and in effect what caused his vision to become a reality was a bold, new initiative called the Economic Recovery Act of 1981. What happened in that initiative was Congress, more out of, frankly, I think desperation than anything else decided to go along with that bold, new initiative that called for a rollback of tax rates, that called for investment incentives so that those individuals who had great ideas, but simply wanted to go out and try those new ideas in the marketplace, could do so, and in short we are now enjoying the benefits of that bold, new initiative.

In fact, Mr. Speaker, if we look at the last 66 months of economic recovery and now expansion, we see that more than 16 million new jobs have been created. We see that the earnings, after they are adjusted for inflation, for the average American has increased by 9 percentage points. We see that unemployment today has been slashed in half, and we see that inflation, despite all those economists who continue to say it is just around the corner, still is not here.

Mr. Speaker, today we see an America that is moving forward. We see an America where anyone that has a desire to go out with an idea and work hard can achieve the type of success that all of us want, not only for ourselves, but for our children.

But, as we approach the November election, it is fairly evident that the nay sayers are beginning to chorus once again that they are beginning to want to portray America in that same doom and gloom picture that we were told in 1980 and 1981 that we had to accept.

Reality today is that Congress, if we want to make certain that this economic expansion continues and that the opportunities that we all want for ourselves and our children are realities, this Congress must step forward with some bold, new initiatives. I would like to outline for just a moment a handful of bold, new initiatives that I think cannot only assure the continued expansion of our economy, but also make certain that America, both in terms of foreign policy and domestic policy, can continue to be the leader, not only of the free world, but the entire world.

Mr. Speaker, first and foremost, I think that it is time to look at what this Congress passed in 1986 under the label, and I might add that it is a false label, of tax reform. Congress, the majority, both Houses, state that, if we would simply pass this tax reform package, we would achieve three major objectives, all of which, like motherhood and apple pie, are certainly worthy objectives. The first was fairness in our tax policy; the second, neutrality. That simply meant that we will not either increase taxes or decrease taxes through this mechanism of tax reform. And the third part, aside from the fairness and aside from the neutrality, was supposed to be simplicity.

Well Mr. Speaker, we now can sit back on this side of April 15, 1988, and answer the very simple question: Did it achieve any of the three?

I do not know about the rest of my colleagues, but, when I go back home, I hear all kinds of complaining from my constituency that they have yet to see the fairness, they have yet to see the simplicity, and they certainly do not see any revenue neutrality.

My point is: If one really looks at this legislation, not only did it achieve those three objectives, it actually went in and undid much of the positive that we had achieved through the Economic Recovery Act, the bold initiative of 1981 that set the stage for 4 million new businesses to emerge on the American economic front. If we really and truly want to expand this economy, it is time to talk about real tax reform, and I think real tax reform means something bold by way of an initiative from the House of Representatives, the only place that tax reform can be initiated.

□ 1720

What I am proposing is to totally eliminate the current income tax, and yes, that also means you can totally eliminate the Internal Revenue Service.

I am not saying that facetiously. It seems that we have gotten so accustomed to the IRS and the income tax that we feel that is the only way that we can gather the revenues necessary to run government. The reality is that there is another way that really is fair, that really is simple and can be achieved in revenue neutrality. It is called a national sales tax.

Now, I am not talking about keeping the current income tax and then on top of that placing an additional tax which some of my colleagues are talking about. Rather, what I am talking about is eliminating the income tax and replacing it with a national sales tax. What that would achieve first and foremost is a real stab at changing one of the major problems that causes the current trade deficit, because what happens under our current tax system is that American industry is manufacturing goods. We send those good abroad reflecting the full cost of our Government, because corporations do not pay taxes, industry does not pay taxes. Industry simply puts it into the cost that the consumer ultimately pays. It is reflected in our goods.

The same thing is true when we send them abroad. We have to compete on the same shelves abroad with Government subsidies, and all that means is that the Government simply does not place their cost of doing business on their goods, so we cannot compete evenly.

By the same token, those goods that are coming in from foreign competitors arrive here without any reflection of their cost to Government, and then they compete on our shelves here in America unevenly, unfairly.

Under a national sales tax, those American-made goods and foreign goods will be presented to the consumer and both will be presented on an even playing field. Then whether you buy the foreign good or the American-made good, you will then pay a national sales tax that reflects the cost of our Government.

The next thing that it would accomplish is that it would for the first time tax a lot of the underground money that is being generated, we all know it is being generated, that currently goes without taxation.

When was the last time you saw a drug dealer send in their income tax return reflecting all the drug money profits that they made that year? You have never seen it and you never will see it, nor do you see it with prostitution money or any of the other underground money that occurs.

But what happens if the drug dealer or the prostitute, the gambler, whoever it may be, decides to go out and buy a new Mercedes or Jaguar? Well, when they go out to buy it they will have to pay the national sales tax; so you are now basically taxing that underground money.

Now, that is not to say that you are not going to see bartering just as we already see bartering in a lot of ways to get around that, but the point is that you do for the first time begin to tax some of the money that you have not taxed in the past.

There is another aspect of it that I think is also very positive. What it would do is encourage the average American to save money, rather than to spend it. If you really analyze one of the major differences between the United States of America today and Japan, you will see that one of the major differences is the difference in private savings. The truth is that we in America have one of the lowest private savings rates, in fact it is less than 2 percent of net income, compared to Japan which has one of the higher rates, which is over 15 percent of net income in private savings.

Under a national sales tax, every individual who earns money will never have to pay tax unless that individual chooses to spend it. If you put your money into a savings account, even if it accumulates interest, you do not pay a single cent in tax unless you choose to consume something.

The only argument I have heard that has in my judgment any validity at all in criticism of a pure national sales tax is the argument that it would be regressive. What that simply means, as I understand it, is that it would impact low income individuals more because they have a limited income than high income individuals, but that need not be a problem. All we need to do to address the regressivity issue is to exempt certain items, whether it is clothing, whether it is prescription drugs, housing, or any of the essentials of life ought to be exempted. If you look at it from that perspective, most low income individuals consume roughly 95 percent of their incomes in providing the necessities to their families. Quite frankly, if a low-income individual chooses to buy a luxury item or a color television or what have you, why should not that individual pay the sales tax? But if they are buying food for themselves or for their children and clothes and shelter, they should not have to pay it, and that is the way to address the regressivity issue.

There is another bold new initiative that I think this Congress needs to consider, and that is how we truly get serious about addressing the problem of public education in this country. It is interesting to me that we seem to debate the issue of improving public education by assuming that it must be debated within the framework of the current public education system. That is about as ludicrous as saying let us address how we might better defend ourselves, but we must do it within the context and the framework of the current defense system; that is, the current Pentagon system.

You and I both know that just because you want to reform the Pentagon certainly does not in any way mean that you are antidefense. Probably it means that you are prodefense. You simply want to make certain that the dollars that you put in are spent wisely and efficiently.

I would contend that the same exact argument is applicable today in the context of public education. Public education in the classic sense means the public providing the funds for every child in America to have the opportunity not only to have education, but to have quality education.

What we have in place today is a public education system that has been devised by the very individuals who have a vested interest in keeping it exactly as it is, and I am talking about the National Teachers Union. If you look at all the individual education movements that the NEA is willing to endorse or talk about, they have to do with keeping the system exactly as it is, which includes a system that says if you are a quality teacher, you cannot be paid any more because you are a quality teacher than if you are a mediocre or bad teacher.

Until we allow merit pay so that you can reward excellence and penalize mediocrity, you will not be able to achieve quality public education.

The other thing that I think we must recognize is in the final analysis local school boards are infinitely better capable of addressing what is best for their local needs in terms of education than is the Department of Education and the rest of the bureaucracy in Washington, DC.

Today we have literally the tail wagging the dog, because right now the Federal Government only supplies about 8 percent of the total money for educating from kindergarten through the 12th grade. Unfortunately, they do not limit themselves to 8 percent of the policy generation. It is closer to about 98 percent.

So what happens is that at the State and local levels where parents are concerned about the quality of public education, their hands are in effect tied because we here in Washington somehow think that they are not smart enough to do it themselves.

One of the things that I think makes America a great place to live is the belief, at least philosophically and rhetorically, that individuals have the right to govern themselves. Included in that right is the right to make the wrong decision, that is what you and I as Members of Congress may consider subjectively to be the wrong decision.

Quite frankly, I think a lot of times those decisions that we as an institution believe are wrong are probably a lot more accurate and correct than some of our institutional solutions; but when it comes to public education, I think it is time that we recognize that we can never be truly competitive in a global economy until we address the fundamental problem that we have in terms of mediocrity in public education. Until parents have the right to control education policy at the local level, we will continue basically to at best plateau, and the plateau is unfortunately at the mediocrity level.

What I would like to see Congress do is one of two things. My first preference would be to see the Federal Government get completely out of the education business at the kindergarten through 12th grade level, because quite frankly, I think that is a uniquely local issue in terms of assuming the responsibility of delivering quality. It would than allow local governments to determine exactly what is uniquely best for their communities without the big brothers here in Washington looking down on them and second-guessing what they are doing.

The second alternative, which would be my second choice, would be if we are not going to get out of the education business, let us continue to fund it, but at least do not continue to try to use those dollars to drive policy. Simply say it is an economic matter, here is the money, you decide how to spend it.

There is the issue that I think got the Federal Government into the business to begin with that needs to be addressed, and that issue is really nothing for the Department of Education to be involved in, but rather for the Department of Justice to be involved in. If there is any type of discrimination, based on any of the protected criteria, whether it be race, religion, color, or national origin, certainly the Justice Department ought to make absolutely certain that the law is enforced; but we do not need the Justice Department doing that unless in fact it is a problem. Let us not be suspicious that it is a problem. Let us wait until it is a problem and then let us move in with the full weight of the justice that we must insist on in this country, but let us not continue to try to use education policy to achieve literally through the back door what we ought to achieve through the front door, and that is the Justice Department.

I really think a lot of the rationale coming out of Washington, this body in particular, is that we are trying to micromanage social policy through education policy, and that is not surprising if you look again at the National Education Association, the teachers union, because they frankly have as large a social agenda and national defense agenda as they have an education agenda.

I recently looked at one of their legislative brochures and it included everything from sanctions to South Africa to nuclear disarmament. You name it and they are on top of the issue.

Well, no wonder our education system is declining, or certainly not improving.

We now have basically the teachers union linking hands with the rest of the unions to achieve some type of social agenda.

Let us give our young people the opportunity that they deserve, and that is to learn the basic tools that are necessary to survive in today's complex and very competitive environment. We can do that with the bold initiative of simply letting local government decide for itself how to best educate our young people in terms of public education policy.

The next bold new initiative is I think we need to look at our defense system, the cost of our defense system. If you look at the $300 billion that we are now spending on defense, I frankly think it is adequate, provided we also look in terms of how we are spending that money. I believe that if we would simply ask our Japanese and NATO allies to bear their fair cost of defending their countries, we could save more than $50 billion a year in the defense budget.

□ 1735

Mr. Speaker, I do not think it is purely out of an attitude of altruism that we offer the defense that we do to Japan and the NATO allies. We do it for our own self-interests For that reason I think we ought to continue to pay at least half of that defense but I certainly think that it is equitable to ask them to pay half of that defense. By doing that we would not have to compromise the quality of defense, our preparedness one iota but we could in effect save $50 billion. We could save an additional $8 billion by enacting the legislation that is now being considered in the Committee on Armed Services that would require the base closings that should have occurred years ago where the bases simply have no rational, no logical reason for even existing. Through consolidation and base closings we could save at least $8 billion.

The next area I think we need to look at in terms of bold new initiatives is this whole notion that we have of looking at the glass always as being half empty rather than half full. I say that in the context of this plant closing legislation that Congress recently decided to put into the trade bill despite the fact that it was not germane to the bill, because in effect what we are saying is we want to replicate the whole idea of the Carter-Mondale era of malaise and living within limitations because what plant closings really indicate is "let us focus on how to deal with a failing America. Let us focus on how to deal with the coming recession." It is the doom and gloom of Carter-Mondale all over again only this time rather than putting Mondale and Carter, just simply replace it with Dukakis-Jackson. Then my colleagues will get a better idea of how to contemporize what we are talking about.

The bottom line is we do not need to be talking about plant closings because it accepts the fact that we are going to have to lose jobs. I do not accept that.

Mr. Speaker, we have created 16 million new jobs in the last 66 months. Why can we not create another 16 million new jobs in the next 66 months? The best way to do that is by this body reporting out as quickly as it can the initiative that my colleague the gentleman from New York [Mr. KEMP] recently offered and I have cosponsored called plant openings legislation. That puts back into place some of the tax incentives that we had that unfortunately we shortsightedly took out from the Tax Reform Act of 1986, and it goes even many steps further. It goes on to talk about how we create opportunity rather than how to deal with the failure that the majority in this body seems to think is forthcoming.

Someone once said that what you think is eventually what you are, and I think that what this body is really saying is we are going to paint a picture for America's future that in effect says that we have got to deal with all these losses of jobs.

I do not think we have to deal with losses of jobs, not if we start thinking positively and in terms of opportunity and not simply in terms of November 6, which is really where I suspect a lot of the eyes are focused right now because so many of the pieces of legislation that we are considering have more to do with what is in the best political interest come November than what is in the best economic interest come next year and in the next decade.

Mr. Speaker, in closing, if this Congress will show the type of vision that I know it is capable of to not only talk about but enact and debate at least the bold new initiatives that we are capable of doing, we cannot only prove about three-fourths of these economists wrong who have been predicting now for 66 months that we are going to have a recession, we can actually deliver the same type of expansion over the next 5 years that we have been in effect enjoying over the last 4 years.

Mr. Speaker, if we are to do that it is critical that we recognize that this body, the House of Representatives, must itself begin to become the type of representative democracy that we hold ourselves out to the rest of the world to be. By that I am talking about ceasing this whole idea of ramrodding legislation straight on to the floor, the vast majority of it never even coming through the committee system, the vast majority of it coming on the floor under a closed rule that does not allow opportunities for amendments in order to have some of these things and ideas at least debated. Mr. Speaker, that is not fair to the American people. It is not fair to the American people that we have never even debated critical issues like constitutional amendments to balance the budget, a constitutional amendment to allow a line-item veto, and we have never even debated a school prayer amendment which is something that 80 percent of the American people would back wholeheartedly. If we are going to talk about the democratization of Central America it is time that we also talk about the democratization of the House of Representatives. It is then and only then that we can at least debate the great ideas that this institution has debated in the past and can debate again. Mr. Speaker, taking the collective genius of 435 individuals, and I do think that collectively this body is brilliant, but it is only as brilliant as this body's rules and regulations will allow to surface. Mr. Speaker, we cannot only talk about bold new initiatives in this process, we can enact them and I literally believe that if we enact the type of bold new initiatives that I have talked about here today, America's future is very, very bright.

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. LANCASTER). Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

Mr. MacKay. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted for final passage of H.R. 4561.

I appreciate having this opportunity to state my position on these measures.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Gibbons (at the request of Mr. Foley), after 3 p.m. today and for the balance of the week, on account of official business.

Mr. Roberts (at the request of Mr. Michel), for June 1, 2, and 3, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Fawell) to revise and extend their remarks and include extraneous material:)

Mr. Rowland of Connecticut, for 60 minutes, on June 8.

Mr. Kasich, for 60 minutes, on June 8.

Mr. Swindall, for 60 minutes, today.

(The following Member (at the request of Mrs. Bentley) to revise and extend his remarks and include extraneous material:)

Mr. MacKay, for 5 minutes, today.

(The following Members (at the request of Mr. Smith of Florida) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, on June 3.

Mr. Gonzalez, for 60 minutes, on June 7.

Mr. Dymally, for 60 minutes, on June 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Fawell) and to include extraneous material:)

Mr. Davis of Illinois.

Mr. Leach of Iowa in two instances.

Mr. Vander Jagt.

Mr. Barton of Texas.

Mr. Gunderson.

Mr. Houghton.

Mr. Lagomarsino in two instances.

Mr. Lott.

Mr. Lent.

Mr. Conte.

Mr. Petri.

Mr. Kyl.

Mr. Packard.

Mr. Saxton.

Mr. Lewis of Florida.

Mr. Upton.

Mr. Frenzel.

Mr. Davis of Michigan.

Mr. Schaefer.

(The following Members (at the request of Mr. Smith of Florida) and to include extraneous matter:)

Mr. Montgomery.

Mr. Kostmayer.

Mr. Gray of Pennsylvania.

Mr. Rodino in two instances.

Mr. Florio.

Mr. Pepper.

Mr. Downey of New York.

Mr. Waxman.

Mr. Ford of Michigan.

Mr. Towns.

Mr. Darden.

Mr. Fascell.

Mr. Matsui in two instances.

Mr. Kolter.

ADJOURNMENT

Mr. SWINDALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 42 minutes p.m.), the House adjourned until tomorrow, Friday, June 3, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3735. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting a report of the grants of suspension of deportation of certain aliens, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

3736. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of a lease prospectus to acquire space in Vicksburg, MS, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2794. A bill to amend the Geothermal Steam Act of 1970 with respect to requirements relating to leases, and for other purposes; with an amendment (Rep. 100-664). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 466. A resolution providing for the consideration of H.R. 3436, a bill to amend the Older Americans Act of 1965 to make technical corrections (Rep. 100-665). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SMITH of Iowa (for himself, Mr. Rogers, Mr. Alexander, Mr. Early, Mr. Regula, Mr. Dwyer of New Jersey, Mr. Carr, Mr. Kolbe, and Mr. Mollohan):

H.R. 4728. A bill making special supplemental appropriations to enhance and speed up the war on illegal drugs for fiscal year 1988; jointly, to the Committees on Appropriations and Government Operations.

By Mr. FASCELL (for himself, Mr. Bennett, Mr. Bilirakis, Mr. Chappell, Mr. Gibbons, Mr. Grant, Mr. Hutto, Mr. Ireland, Mr. Lehman of Florida, Mr. Lewis of Florida, Mr. McCollum, Mr. Mack, Mr. MacKay, Mr. Mica, Mr. Nelson of Florida, Mr. Shaw, Mr. Smith of Florida, and Mr. Young of Florida):

H.R. 4729. A bill to designate the Federal building numbered 31 located on the National Institutes of Health reservation in Bethesda, MD, as the "Claude Denson Pepper Building"; to the Committee on Energy and Commerce.

By Mr. GREGG (for himself and Mr. Sundquist):

H.R. 4730. A bill to amend the Internal Revenue Code of 1986 to provide that no deduction shall be allowed for personal income taxes paid to a State—or political subdivision thereof—which taxes nonresidents on income derived from certain Federal areas; to the Committee on Ways and Means.

By Mr. HAWKINS:

H.R. 4731. A bill to extend the authority for the Work Incentive Demonstration Program; to the Committee on Education and Labor.

By Mr. LEVINE of California (for himself, Mr. Waxman, Mr. Owens of New York, Mr. Green, Mr. Foglietta, Mr. Solarz, Mr. Lehman of Florida, Mr. Downey of New York, Mrs. Boxer, Mr. Bates, and Mr. Towns):

H.R. 4732. A bill to ban from commerce realistic toy guns and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHUMER (for himself, Mr. Traficant, Mr. Fauntroy, Mr. Downey of New York, Mr. Kolter, Mr. Coleman of Texas, Mr. Owens of New York, Mr. Foglietta, Mrs. Boxer, Ms. Pelosi, Mr. Ackerman, Mr. Wolpe, Mr. Evans, and Mr. Neal):

H.R. 4733. A bill to require the Secretary of Housing and Urban Development to make available as a shelter for the homeless a certain portion of the principal office of the Department of Housing and Urban Development; jointly, to the Committees on Banking, Finance and Urban Affairs and Public Works and Transportation.

By Mr. SHAW:

H.R. 4734. A bill to amend title 10, United States Code, to permit recordings of military bands to be sold commercially; to the Committee on Armed Services.

By Mr. STARK:

H.R. 4735. A bill to amend the Internal Revenue Code of 1986 with respect to the definition of model type for purposes of the gas guzzler tax; to the Committee on Ways and Means.

By Mr. McDADE:

H.J. Res. 583. Joint resolution designating the week beginning September 11, 1988, as "National Outpatient Ambulatory Surgery Week"; to the Committee on Post Office and Civil Service.

By Mr. ARMEY:

H. Con. Res. 309. Concurrent resolution expressing the sense of the Congress that any proposal to legalize illicit drugs as a method to address the problem of illicit drug trafficking and use in the United States should be rejected; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. PORTER (for himself, Mr. Lantos, Mr. Ackerman, Mr. Aspin, Mr. AuCoin, Mr. Bateman, Mr. Berman, Mr. Bonker, Mr. Broomfield, Mr. Brown of California, Mr. Burton of Indiana, Mr. Bustamante, Mr. Carper, Mr. Daub, Mr. DeFazio, Mr. de la Garza, Mr. Dymally, Mr. Espy, Mr. Fauntroy, Mr. Fazio, Mr. Feighan, Mr. Foley, Mr. Frank, Mr. Frost, Mr. Fuster, Mr. Garcia, Mr. Glickman, Mr. Green, Mr. Hall of Ohio, Mr. Horton, Mr. Hughes, Mr. Hyde, Mr. Jeffords, Ms. Kaptur, Mr. Kennedy, Mrs. Kennelly, Mr. Kildee, Mr. Konnyu, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Lehman of Florida, Mr. Lewis of California, Mr. Levine of California, Mr. Lowery of California, Mr. Lowry of Washington, Mr. McHugh, Mr. Madigan, Mrs. Martin of Illinois, Mr. Martinez, Mr. Matsui, Mrs. Meyers of Kansas, Mr. Michel, Mr. Miller of Washington, Mr. Moody, Mrs. Morella, Mr. Morrison of Connecticut, Mr. Mrazek, Mr. Murphy, Mr. Neal, Mr. Nowak, Mr. Olin, Mr. Panetta, Mr. Pepper, Mr. Rangel, Mr. Richardson, Mr. Scheuer, Miss Schneider, Mr. Sensenbrenner, Mr. Shaw, Mr. Sikorski, Mr. Solomon, Mr. Spratt, Mr. Sundquist, Mr. Stark, Mr. Stenholm, Mr. Torres, Mr. Towns, Mr. Udall, Mr. Vander Jagt, Mr. Waxman, Mr. Weiss, Mr. Wolpe, and Mrs. Boxer):

H. Con. Res. 310. Concurrent resolution urging the Government of Iran to respect the human rights of members of the Baha'i faith, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MICHEL:

H. Res. 465. Resolution electing Representative Brown of Colorado to the Committee on Standards of Official Conduct; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN:

H.R. 4736. A bill for the relief of Maria Antonieta Heird; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 4737. A bill for the relief of Huang Yao Quan and Hu Zhao Rong; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 640: Mr. Thomas A. Luken, Mr. Lehman of California, Mr. Dellums, Mr. Bryant, and Mr. Fish.

H.R. 2580: Mr. Parris.

H.R. 2640: Mr. Hunter, Mr. Petri, and Mr. Chappell.

H.R. 2750: Mr. Chapman, Mrs. Boggs, Mr. Towns, Mr. Murphy, and Mr. Torricelli.

H.R. 2866: Mr. Moody.

H.R. 3044: Mr. Johnson of South Dakota, Mr. Fazio, and Mr. Kolbe.

H.R. 3075: Mr. Robert F. Smith.

H.R. 3314: Mr. Coelho, Mr. Bilbray, Mr. Derrick, Mr. Goodling, and Mr. Gingrich.

H.R. 3454: Mr. Marlenee.

H.R. 3660: Mr. Davis of Michigan and Mr. Foley.

H.R. 3721: Mrs. Meyers of Kansas.

H.R. 3809: Mr. Traficant, Mr. Penny, and Mr. Dymally.

H.R. 3891: Mr. Conyers, Mr. Schumer, Mr. Morrison of Connecticut, and Mr. Lehman of California.

H.R. 3892: Mr. Lewis of Florida.

H.R. 3907: Mr. Ireland and Mr. Swindall.

H.R. 3944: Mr. Richardson.

H.R. 3969: Mr. Chapman.

H.R. 3988: Mr. Lagomarsino.

H.R. 4066: Mr. Gallo and Mr. Grant.

H.R. 4119: Mr. Green, Mr. Ritter, Mr. Hiler, Mr. Bereuter, Mr. Lightfoot, Mr. McEwen, and Mr. Packard.

H.R. 4134: Mr. Ballenger, Mr. Smith of New Hampshire, and Mr. Young of Alaska.

H.R. 4150: Mr. Brown of Colorado, Mr. Porter, Mr. Lujan, Mr. Packard, Mr. Hyde, Mr. McMillan of North Carolina, Mrs. Meyers of Kansas, Mr. Parris, Mr. McCrery, Mr. Miller of Ohio, Mr. Foley, Mr. Hefley, Mr. Fawell, Mr. Rogers, Mr. Cooper, Mr. Pursell, Mr. Bosco, Mr. Gregg, Mr. Gibbons, and Mrs. Roukema.

H.R. 4198: Mr. Glickman.

H.R. 4200: Mr. Bateman, Mr. Clement, Mr. Dyson, Mr. Hughes, Mr. Lipinski, Mr. Lowry of Washington, Mr. Miller of Washington, Mr. Pickett, Mrs. Saiki, and Mr. Saxton.

H.R. 4261: Mr. Grandy and Mr. Pursell.

H.R. 4277: Mr. Udall, Mrs. Kennelly, and Mr. Frank.

H.R. 4297: Mr. Quillen.

H.R. 4305: Mr. Murphy.

H.R. 4335: Mr. Cooper, Mr. de Lugo, Mr. Sabo, Mr. Oberstar, Mr. Jeffords, and Mr. Davis of Illinois.

H.R. 4372: Mr. Visclosky, Mr. Atkins, and Mr. LaFalce.

H.R. 4381: Mr. Towns.

H.R. 4426: Mr. Atkins and Mr. Torricelli.

H.R. 4428: Mr. LaFalce and Mr. Roe.

H.R. 4444: Mr. Hansen.

H.R. 4498: Mr. Horton, Mr. Biaggi, Mr. Brown of California, Mr. DeFazio, Mr. Lehman of California, and Mr. Kolter.

H.R. 4514: Mr. English, Mr. Barnard, Mrs. Schroeder, and Mr. Hammerschmidt.

H.R. 4526: Mr. Cooper, Mr. Borski, Mr. Barnard, Mr. Stallings, Mr. Ford of Tennessee, Mr. Lantos, Mr. Stratton, and Mrs. Lloyd.

H.R. 4543: Mr. Fauntroy.

H.R. 4548: Mr. Evans, Mr. Horton, and Mrs. Martin of Illinois.

H.R. 4612: Mr. Bateman.

H.R. 4614: Mr. Gordon, Mr. Lantos, Mr. Horton, Mr. Erdreich, Mr. Frank, Mr. Gray of Illinois, and Mr. Garcia.

H.R. 4618: Mrs. Boxer, Mr. Edwards of Oklahoma, Mr. Lewis of Florida, Mr. Smith of Florida, and Mr. Neal.

H.R. 4644: Mr. Solomon, Mr. Owens of New York, Mr. Bennett, Mr. LaFalce, Mr. Frank, Mr. Fazio, Mr. Thomas of Georgia, Mr. Smith of Florida, and Mr. Neal.

H.R. 4646: Mr. Chandler, Mr. Davis of Illinois, Mr. Smith of Florida, and Mr. Lewis of Florida.

H.R. 4682: Mr. Andrews.

H.J. Res. 145: Mr. Mineta and Mr. DioGuardi.

H.J. Res. 438: Mr. Weldon.

H.J. Res. 450: Mr. Lancaster, Mr. Valentine, Mr. Huckaby, Mr. Schuette, Mr. Lungren, Mr. Henry, Mr. Gray of Illinois, Mr. Moakley, Mr. Nichols, Mr. Roe, Mr. Kolter, Mr. Fazio, Mr. Lehman of California, Mr. DeFazio, Mr. Lewis of Georgia, Ms. Pelosi, Mr. Ortiz, Mr. Fawell, Mr. Pepper, Mr. de la Garza, Mr. Chapman, Mr. Lagomarsino, Ms. Kaptur, Mrs. Lloyd, Mr. Levin of Michigan, Mr. Neal, Mr. Kostmayer, Mrs. Collins, Mr. Garcia, Mr. Byrant, Mr. Horton, Mr. Ackerman, Mr. Bruce, Mr. Hall of Texas, Mrs. Johnson of Connecticut, Mr. Brown of California, Mr. Towns, Mr. Foglietta, Mr. Buechner, Mr. Atkins, Mrs. Boxer, Mr. Rahall, Mr. Owens of Utah, Mr. de Lugo, Mr. Smith of New Jersey, Mr. Fish, and Mr. Edwards of Oklahoma.

H.J. Res. 453: Mr. Wortley, Mr. McCloskey, Mr. Fields, Mr. Gallegly, Mr. Jontz, Mr. Lewis of Florida, Mr. Rowland of Connecticut, Mr. Jacobs, and Mr. Moakley.

H.J. Res. 476: Mr. Ritter.

H.J. Res. 509: Mr. Grandy and Mr. Ireland.

H.J. Res. 520: Mr. Wolf, Mr. Annunzio, Mr. Walgren, Mr. Matsui, Mr. Mrazek, Mr. Horton, Mr. Richardson, Mr. Smith of New Jersey, Mr. Hiler, and Mr. Murtha.

H.J. Res. 554: Mr. Cardin, Mr. Bliley, Mr. Evans, Mr. Gray of Pennsylvania, and Mr. DeFazio.

H.J. Res. 559: Mr. Penny and Mrs. Meyers of Kansas.

H.J. Res. 565: Mrs. Morella, Mr. Owens of New York, Mr. Edwards of Oklahoma, and Mr. Leland.

H. Con. Res. 260: Mr. Sharp.

H. Con. Res. 276: Mr. Weldon, Mr. Levin of Michigan, Mr. Stump, Mr. Duncan, Mr. de Lugo, Mr. Gilman, Mr. Traxler, Mr. Derrick, Ms. Oakar, Mr. Wolf, Mr. Spence, Mr. Boehlert, Mr. Bunning, Mr. Upton, Mr. Harris, Mr. Grandy, Mr. Dyson, Mr. Schumer, Mr. Anthony, Mr. Brown of California, Mr. Buechner, Mr. Kasich, Mr. Schaefer, Mr. Packard, Mr. Saxton, Mr. Lott, Mr. Cooper, Mr. Wylie, Ms. Slaughter of New York, and Mr. Gingrich.

H. Res. 258: Mr. Lungren.

H. Res. 379: Mr. Holloway.

EXTENSIONS OF REMARKS

CHANGES IN THE DESIGNS OF OUR NATION'S COINS

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. PETRI. Mr. Speaker, our distinguished colleague from Illinois [Mr. ANNUNZIO] has circulated a "Dear Colleague" letter in opposition to H.R. 3314, which calls for changes in the designs of our Nation's coins. The weekly newspaper Coin World, which is published in my district, has published an editorial responding to Mr. ANNUNZIO's "Dear Colleague," and I think Members would be interested in this comprehensive response. I insert the editorial in the RECORD at this point:

ANNUNZIO MOVES TO CONFUSE AND CONQUER

As predicted, Rep. Frank Annunzio and his coinage subcommittee staff (fully funded by American taxpayers) have launched an all-out propaganda offensive, taking direct aim at proposed legislation calling for new designs of the nation's circulating coins.

The first hint of his latest confuse-and-conquer maneuver came May 24 at the Senate Banking Committee's mark-up session for S. 1776, which calls upon the Secretary of the Treasury to "modernize" designs on U.S. circulating coins and suggests themes which are to be among those considered in selecting new designs.

Sen. Alan Dixon, Annunzio's cohort from Illinois, apprised Senate Banking Committee members that Annunzio that day had issued a "Dear Colleagues" letter to members of Congress in which he opposed H.R. 3314, the companion bill to S. 1776. On the strength of Annunzio's assertions, Dixon declared his opposition. Apparently Dixon was unaware—until reminded by chief sponsor Sen. William Armstrong—that he had earlier signed on as a co-sponsor of S. 1776.

Interestingly, Dixon's new-found "knowledge" didn't appear to sway other members of the Senate committee.

The 15 other members at the mark-up session voted to move S. 1776 to the Senate floor for action. They had apparently done a little more homework on the subject than the junior senator from Illinois. Dixon voted "no" and said he would immediately move to withdraw as a co-sponsor. One suspects a bit of arm-twisting on Annunzio's part.

The "Dear Colleagues" letter is powerful ammunition, especially when it comes from the chairman of the House Banking Subcommittee on Consumer Affairs and Coinage, which is supposed to have some expertise in matters pertaining to coinage. Most members of Congress and their staffs, we suspect, are likely to take Annunzio's claims at face value. They are not acquainted enough with the issues or the personalities to realize the crafty deceptions in his letter.

When a representative of "Coin World" requested a copy of Annunzio's letter from the Coinage subcommittee staff, the request was denied on the grounds that the letter was directed to "members of Congress only."

Some members of Congress are concerned enough about the misrepresentations in Annunzio's letter to make it public. And in the public interest we are reprinting the letter in its entirety below the editorial on this page. We invite you to read Annunzio's letter and then rejoin us as we provide a point-by-point analysis of his misrepresentations.

First, Annunzio characterizes advocacy of coinage redesign as an "invitation to mischief" and suggests it may be somehow linked to a group which has long sought to remove the inscription "In God We Trust" from U.S. coins and paper money.

From ANY reading of S. 1776 and H.R. 3314, as introduced, it is clear neither bill suggests or calls for any changes in inscriptions on U.S. coins. S. 1776 and H.R. 3314 are advisory in nature and are directed to the Secretary of the Treasury, who has the statutory authority to select and approve coin designs. Inscriptions on U.S. coins are prescribed by law (Sec. 5112(10)d(1) of Title 31 of the U.S. Code) and must be specifically changed by an act of Congress. The Secretary of the Treasury is not empowered to change coinage inscriptions unless a change in the law so directs the Secretary.

We know of no ties—formal or informal—which link anyone who testified before the Senate Banking Committee in support of S. 1176 with anyone affiliated with the group known as American Atheists. The linkage Annunzio implies is purely and simply a scare tactic.

American Atheists has publicly announced its intention to file suit in the federal courts in order to challege the constitutionality of the use of "In God We Trust" on all currency of the United States, coins as well as paper money. A similar suit was thrown out by the United States Supreme Court in August 1977.

In another twisted and intentionally deceptive jab, Annunzio attempts to label Diane Wolf of the Commission of Fine Arts as a "radical" because she suggested that "In God We Trust" may not be appropriate on a congressionally authorized medal.

Annunzio and his staff are well aware they are taking Wolf's comments out of context.

Wolf's suggestion with regard to "In God We Trust" was made during a Commission of Fine Arts discussion April 21 about the need to simplify designs under consideration for use on national medals commemorating the Young Astronaut Program. The designs the Commission had under review were those selected from a competition in which more than 130,000 children participated. It was obvious that no one involved in the competition had made any effort to distinguish between a medal and a coin. The children, relying on familiar items such as the coins in their pockets, tried to incorporate "In God We Trust," "Liberty" and "E. Pluribus Unum" in their designs. Wolf's observation—shared by the entire Commission—was that the designs were too busy for the small-sized medals. She suggested elimination of the coinage inscriptions in order to simplify and highlight the design elements and inscriptions more closely associated with the Young Astronaut Program.

The second major area in which Annunzio attempts to confuse is by distorting the intent of Sen. Alan Cranston's amendment aimed at moving away from the use of portraits of American presidents on the obverses of circulating coins. Cranston was very clear of his intent to keep the portraits of three presidents currently displayed and that the two new designs "not contain the likeness of any real person living or dead."

Cranston's rationale for the amendment was to move away from the current trend of commemorating recent presidents because it could "easily lead to turning our coinage designs into a political battleground with partisans struggling for this symbolic vindication of their heroes' political philosophies." This Cranston proposal has already been abandoned because few in Congress have his political courage or his insight as to the harm this trend could wreak upon our democracy in years to come.

Not surprisingly, Annunzio directly disputes the testimony of Mint Director Donna Pope when he asserts that "changing coin designs is not going to raise revenue." Over the past three years, Annunzio has tried to discredit Mrs. Pope and the U.S. Mint in every imaginable way.

In her testimony before the Senate committee, the Mint Director stated that the design changes could be accomplished by phasing in the designs over a six-year period. She placed the costs of the six-year program at around $7.9 million and projected additional profits in sales from numismatic products to be $18 million. In addition, she said an estimated $224 million increase in seigniorage over the six-year period would reduce the nation's budget outlays by about $2.2 million a year. These figures, we suggest, clearly cast the financial picture in a far different light than Annunzio would have anyone believe.

In addition, Annunzio attempts to characterize the Secretary of the Treasury's lack of action thus far as an indication that the whole idea of design changes is bad. We would suggest that the Secretary has taken a cautious approach because Treasury has a long memory, clearly recalling the disastrous introduction of the small-sized dollar coin, the Susan B. Anthony, at the beginning of the decade. America and the Treasury Department, in particular, are still paying the price for a mistake which had little to do with the coin's design and everything to do with the fact it is too easily mistaken for the quarter dollar.

Our editorial of May 25 explains in detail Annunzio's convenient interpretations of "the public" and how he distorts the degree of public support for design changes. So it's not surprising that he would bolster his claims with excerpts from the *Indianapolis Star's* conclusions based on the erroneous assumption that design changes would entail a total recall of all current circulating coins and therefore cost the government untold millions. (See May 18 editorial.)

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

What we see in Annunzio's "Dear Colleagues" letter is a masterful weaving of deception, distortion and innuendo. Hopefully, more than the 15 senators on the Banking Committee will be able to see it for what it is.

DO WE HAVE MORE NUKES THAN WE HAD 20 YEARS AGO?

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring the following commentary, appearing in today's Washington Post, to the attention of my colleagues. During many recent debates on defense and arms control, we are led to believe that the United States has been building an ever increasing stockpile of nuclear weapons. That is simply not true. This oped piece clearly details the common misperception about the arms race and the amount of defense dollars that are allocated to nuclear programs. I urge my colleagues to carefully consider it:

[From the Washington Post, June 2, 1988]

DO WE HAVE MORE NUKES THAN WE HAD 20 YEARS AGO? GUESS AGAIN

(By Norman Podhoretz)

Question: By how much has the American nuclear arsenal increased over the past 20 years?

If you recognized this as a trick question—if, that is, you know that the American nuclear arsenal has become not larger but smaller, much smaller, over the past 20 years—then you are one of a very tiny minority of your fellow countrymen who know what they are talking about when they discuss the arms "race" and arms control.

Thus, in a recent poll taken for the Committee on the Present Danger, Penn and Schoen Associates asked a random national sample of Americans (not in the tricky form I have just used but in straightforward terms) whether the total number of nuclear weapons in the U.S. arsenal has increased, decreased or stayed the same over the past 20 years.

Now, the plain fact is that we have 8,000 fewer nuclear weapons of one kind or another today than we had in 1967. Yet an astonishing 75 percent of the American people believe that the number has increased, and another 11 percent labor under the delusion that it has stayed the same.

As against this 86 percent who are ignorant or misinformed, only 7 percent of the American people are aware of the true situation, at least in general terms. And things get even worse as we examine the poll a little further.

For example, in addition to being asked about numbers, the respondents were questioned about the explosive power of our nuclear stockpile. On this point, 84 percent gave the wrong answers (that it has either increased or stayed the same), while only 4 percent said correctly that our nuclear arsenal is less powerful than it was 20 years ago.

Not even this 4 percent, however, had more than a vague idea of how large the decrease in explosive power has been. In fact, when asked about that, not one of the 802 persons polled, not a single one, picked the correct category of "50 percent or more."

In other words, practically nobody in America realizes that the total yield of our nuclear stockpile, as measured in megatonnage, has declined by about 75 percent—yes, 75 percent—in the past two decades.

Nor have arms control agreements had anything to do with these reductions. They are mainly the result of technological developments that have made nuclear weapons more accurate. Furthermore, such developments would ironically have been prevented if some arms-control enthusiasts had had their way.

Given the abysmal level of knowledge revealed by the Penn-Schoen poll about the trends over time, it is less surprising than it might otherwise have been to discover that very few people in America have an accurate notion of what has happened to our nuclear stockpile during the Reagan administration.

Here again only 7 percent know that under Reagan (and of course without counting the weapons that will be eliminated by the newly ratified INF Treaty) there has been a decrease in the size of our nuclear arsenal.

True, the decline under Reagan (about 3 percent) has been much smaller than was registered in the period between 1967 and 1980. But a decline it still is, and not the increase that nearly two-thirds of the American people imagine Reagan has brought us.

The Penn-Schoen poll did not go into the issue of defense spending. But it is a safe bet that no more than a comparably minuscule number of Americans realize that only 15 percent of the defense budget is devoted to nuclear forces. And how many Americans understand that even the 50-percent cuts in long-range missiles contemplated by the proposed START agreement would amount to only about 2 percent of the defense budget?

Stop for a minute and consider how it has come to pass that so many of us in this country are either ignorant and misinformed on issues that are literally matters of life and death to us all, and that we hear and read about almost every day.

Does the explanation perhaps lie in a lack of education? On the contrary. The respondents in this poll who went to college proved to be more (and on some questions a lot more) ignorant or misinformed than those who had not enjoyed the benefits of a higher education.

The reason for this discrepancy, I suspect, is that the college educated have paid more attention to the clamor about nuclear weapons that has for so long been filling the American air with distortions and outright lies. By contrast, people who have averted their eyes and ears—either because they thought they would be unable to understand the discussion, or because they found it too unpleasant, or because they had more interesting things to do—have undergone a less thorough course of brain-washing than their intellectual "betters."

Yet even without excessive exposure to the relentless campaigns waged in and through the media against the arms "race," the relatively unschooled have also for the most part been left with three flagrantly false impressions: that the United States has been engaged over the years in a massive buildup of its nuclear forces; that this process has escalated to unprecedented heights since Ronald Reagan became president; and that it is one of the main causes of the growth in the federal deficit.

In the face of this egregious illustration of how hard it is for a simple set of facts to penetrate the mind of the public against the will of the media, what becomes of the theories of liberal democracy on which our political system is built? What, in particular, becomes of the belief that the truth is bound to prevail in a free competition of ideas? And what becomes of the Jeffersonian faith in the protections that are supposed to be afforded by a well-educated citizenry against the deceptions of demagogues?

DIGGING TO THE TOP

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. FLORIO. Mr. Speaker, during the recent celebration of Small Business Week, we recognized the contributions of individuals in our society who have helped in the growth and development of the Nation. That week was Small Business Week.

Throughout the Nation, every week is a test of the bottom line of commitment to the community. For those who are being recognized in their communities as "Small Business Persons of the Year," their commitment has been demonstrated through not only their success in business but also their dedication to their employees and their neighbors.

In New Jersey, the recipient of this year's State Small Business Person of the Year Award is Robert J. Jenny, the president of Jenny Engineering Corp. in Springfield, NJ.

Mr. Jenny exemplifies the significant achievement that this award is meant to honor. His company has performed its work in many places, from the Nation's Capital to the Andes Mountains to the Far East.

With that expertise, Mr. Jenny has taken his business to new heights in getting to the bottom of things and in tunneling from here to there. His company has expanded to communities in other parts of the country, and his contracts have ballooned to other parts of the world.

From the ground up, Mr. Jenny has helped build the foundations to meet contemporary needs in society, from tunnels to bridges. Through his recognized abilities, he has engineered projects connecting points on a map, improving access between those points, and enhancing the way of life in this country and others.

One look around many communities across the globe will readily show Mr. Jenny's work. His work is the foundation for tunnels, bridges, sewer systems, subways, railroads.

I commend Robert Jenny for his efforts and persistence at building the infrastructure of this country. He is as much a part of the fabric connecting this Nation as his projects linking communities together.

The following article from the Newark Star-Ledger examines the trail that has led Robert Jenny from the depths of the tunneling business to the pinnacle of professionalism in the New Jersey small business community:

SMALL BUSINESSMAN WITH BIG PLANS

(By Ibis Taylor)

Robert J. Jenny, 57, of South Orange, New Jersey's newest Small Business Person of the Year, stood on a bank of the flood-prone Passaic River in Wayne.

He was visually surveying the stubbon flood zone which his company, Jenny Engineering Corp. in Springfield, began studying in 1973. Today, the firm is engaged in the final planning studies for the Passaic River Flood Control Tunnel Project.

"I came up with the idea of a tunnel leading from Little Falls to Newark Bay," said Jenny, who started his engineering company in 1965. "I talked this over with the city engineer and told him I would like to submit a proposal."

That was more than a decade ago. Today, it has been determined that a tunnel leading to Paterson might be most cost effective, so "going to Newark Bay may never come about."

Nevertheless, the concept of a tunnel was his brainchild, and the company he founded with two employees and $1,000 of savings, could ultimately wind up with the contract to design it.

The flood control project, in the hands now of the Army Corps of Engineers, may win government approval within 1½ years.

Jenny's Wayne study is one of several engineering projects that helped win him the regional Small Business Administration award. His other projects span the globe from Highland Park to Panama, Bangkok and Taipei, where he is designing twin rapid transit tunnels.

The SBA announced the annual business award in early April. Jenny will be honored at an awards ceremony commemorating Small Business Week, Thursday at the Princeton Marriott Forrestal Village, Princeton.

Five other persons will be honored, as well, including James Finn, president of Marine Biologicals in Mamora, for "Exporter of the Year," and Salvatore Guerrieri, president of the Bratch Ravioli Co. in Garfield, "Young Entrepreneur of the Year."

Also, James J. Brady, publisher of Community Pride Publications in Princeton, "Media Advocate", Dr. Michael Fey, executive director of Venture Association of New Jersey, "Financial Services Advocate," and Aldonna Ambler, president of Ambler Organization Consultants in Cherry Hill, "Women in Business Advocate."

According to Charles Freeman, regional administrator of the SBA, Jenny was selected because of his personal achievements and contributions to the nation, his company's economic growth, innovativeness of service and response to adversity.

He is credited with bringing to bear Jenny Engineering Corp's engineering expertise in the solution of many complex problems that impact the nation's environment.

Jenny will vie with state counterparts nation-wide to be named "National Small Business Person of the Year" by President Reagan.

Jenny Engineering posted $10,000 in sales its first fiscal year in business. Today, it is a $3 million, 60-employee firm specializing in tunnels and under-ground facilities.

"We perform feasibility studies, planning and the preliminary and final design of a facility," said its founder. "Then, we perform construction management and inspections to make sure it is being built properly."

It was Jenny Engineering that designed the express bus lane leading to the Lincoln Tunnel, inspected 53 bridges in Morris and Essex counties, designed sewage tunnels in Highland Park, beautified streets in Maplewood and inspected the Jersey City aquaduct after residents lost their water supply for several days.

Today, the company is drilling and testing subsoil for the 1990 New Jersey Turnpike widening program, and designing the new Pequest River replacement bridge in Independence Township, among numerous projects in the United States and overseas.

Jenny is a registered professional engineer in 35 states, a licensed land surveyor in New Jersey and New York and a professional planner in New Jersey.

The bulk of his work comes by word of mouth recommendations. "We are known in the industry," he said, "People know us and they come back for repeat business."

He also builds the Springfield business by subcontracting with large prime contractors, submitting proposals for work advertised in Commerce Business Daily and advertising in a professional engineering journal.

Jenny's company turned its first profit, $2.49, in fiscal 1967 when sales were $71,257.

By 1985, profits had soared to $53,144 on sales of $1.6 million. But, they plummeted to $13,389 on $2.2 million sales the following year, reflecting "heavy investment" of funds.

"We spent a lot of money on plant and equipment," said Jenny. Today, "the investment in growth is paying off. Our sales are doubled what they were four years ago." In this fiscal year ending August, sales should reach $3.5 million.

Jenny Engineering started in Irvington in 1965; moved to South Orange in 1975, to Springfield in 1985, and opened branches in Colorado, Michigan, Milwaukee (now closed), and Dallas between 1978-1987.

The Irvington-born and educated businessman started working as a land surveyor's assistant. In 1957, while attending college, he formed his first business, Robert J. Jenny and Associates, a surveying company. "It was possible to become a licensed land surveyor without having a college degree," he said. "We used to subcontract to land surveying firms."

He later earned a bachelor's degree in engineering and a master's in soils and foundations engineering, both from the New Jersey Institute of Technology (NJIT).

Jenny gained engineering experience by working for large contractors from 1960 to 1965 when he started JEC. By age 35, he had won recognition as an expert in tunnel engineering.

TRIBUTE TO THE JAPANESE-AMERICAN CITIZENS LEAGUE IN SACRAMENTO, CA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. MATSUI. Mr. Speaker, I am honored to rise today to bring to my colleagues' attention the work of a distinguished public service organization, the Japanese-American Citizens League, in Sacramento, CA.

The league has, over the years, dedicated itself to the improvement in the quality of life for all members of the Sacramento community. Through their commitment, the league has assisted many young students further their education by offering scholarships to distinguished college bound students.

The Japanese-American Citizens League is most deserving of our thanks and our praise for their efforts and compassion. There are few causes more worthwhile than assisting our young people in their efforts to further their education and contribute in a meaningful way to society. Given the unprecedented challenges arising from the vast and significant changes which are taking place in our society, the importance of an advanced education is greater now than ever before.

I wish to commend the league on this act of public service, and extend my personal congratulations to each of these students for their academic excellence. Being honored with scholarships are: Ms. Allison Okubo of C.K. McClatchy High School, Ms. Courtney Teru Goto of J.F. Kennedy High School, Ms. Cheryl Nicole Miyao of Sacramento High School, Mr. Russell Kenichi Ouchida of J.F. Kennedy High School, Ms. Adrian Fugitani of Luther Burbank High School, Ms. Dena M. Koyama of Bella Vista High School, Ms. Leslie Noriko Yasui of Hiram Johnson High School, Mr. Brian Tokuyoshi of Rio Vista High School, Mr. Mark Akio Miyamoto of Jesuit High School, Ms. Kristen Sakamoto of C.K. McClatchy High School, Mr. Kevin Hiroshima of J.F. Kennedy High School, Ms. Corinne Onga of C.K. McClatchy High School, Ms. Gina Yamamoto of J.F. Kennedy High School, Ms. Janette Hashimoto of Hiram Johnson High School, Ms. Denise N. Okamoto of J.F. Kennedy High School, Ms. Cynthia A. Fukushima of J.F. Kennedy High School, and Ms. Eileen Nakahira of Sacramento City College.

HONORING FATHER NICHOLAS A. BIONDI

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. KOLTER. Mr. Speaker, it is with exceptional pride and privilege that I rise today in honor of a most distinguished constituent of mine, Father Nicholas A. Biondi. He is the retired pastor of St. Teresa Church, Koppel, PA, from 1973 to 1986, and on June 12 will be celebrating 50 years in the priesthood.

Born in New Castle, PA, to Paride and Maria Theresa Ginocchi Biondi, Nicholas graduated from St. Vitis eighth grade in 1926, from St. Fidelis Seminary, Herman, PA, cum laude in 1932, and from St. Vincent Seminary, Latrobe, PA, in 1938, where he was ordained in the Archabbey Basilica on June 12, 1938.

Father Biondi has contributed greatly to the religious community. He has served as pastor in many churches. He has been deeply interested in Catholic education. He is known as the "builder" for adding six rooms to the Purification of the Blessed Virgin Mary School in Ellwood City and for supervising the remodeling of the parish church. Even in his retirement Father Biondi continues to carry out his ministry by being a supply priest for many parishes for the diocese.

The dedicated services of Father Biondi have been a valuable asset and I am proud to tell my colleagues of the achievements of Father Nicholas Biondi.

CATASTROPHIC HEALTH CARE

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. HOUGHTON. Mr. Speaker, today I'm voting for the Catastrophic Health Care bill and I'd like to take a minute to explain my feelings on this legislation.

Since I am a senior citizen myself, this protection of other senior citizens is not just an intellectual argument. The single most important personal worry as one gets older is health—how long it will last. And the single most important question is—"What if. . ." So for an elderly person to suffer through the double tragedy of both deteriorating health and possible financial ruin is simply neither fair nor just in a society such as ours.

This bill, I have to believe, will give the elderly a far more powerful measure of security needed to cope with severe illness. As the following May 27 Buffalo News editorial, "Catastrophic Health Plan Will Be Boon for Elderly" points out, this bill is right on the mark.

[From the Buffalo News, May 27, 1988]

CATASTROPHIC HEALTH PLAN WILL BE BOON FOR ELDERLY

America's elderly have good reason to celebrate. After months of bargaining, House and Senate negotiators have agreed on compromise legislation to free 32 million people covered by Medicare from fear of the ruinous costs of catastrophic illness.

This landmark bill would go a long way toward relieving retired Americans of the terrifying worry that a catastrophic illness will wipe out their lifetime savings and leave them penniless and dependent.

Such a program has been debated for years, but Washington has always stumbled over snags that in the end prevented its enactment.

The significance of the compromise, which broke the legislative logjam, is that it reflects the will of leaders in the House, the Senate and the Reagan administration to surmount the obstacles through give-and-take bargaining in order to achieve a consensus.

The legislation would provide insurance against hospital and physician expenses resulting from severe illness for those covered by Medicare, the government's hospital and medical program for the elderly.

Participation would be wholly voluntary. Those who choose to receive the insurance protection would pay for it through add-ons to their monthly Medicare premiums. For most, however, these supplemental costs should prove an irresistible bargain. And because the beneficiaries would pay for the plan, the costs would not affect the general taxpayers or add to the federal deficit.

Nearly all people at one time or another fear the financial burdens caused by severe illness, but fortunately this tragedy afflicts relatively few. So government insurance, which can spread the high costs for the few among the many who want affordable protection, offers an ideal solution.

Specifically, the compromise worked out by the negotiators would limit personal payments for medical expenses in any one year to $1,400. After an initial deductible (about $580 in 1989) is exhausted, the federal program would pay all hospital costs for an unlimited period. Now, Medicare pays for only 60 days of hospital care after a deductible is met.

Beginning in 1991, the new program would also pay 50 percent of outpatient prescription drug costs after individuals paid the first $600 in any year. This benefit too would be paid for by supplemental charges to Medicare patients. The government share of the drug costs would rise in later years, to 60 percent in 1992 and 80 percent thereafter.

Under certain conditions, the program would also finance up to 80 hours of home health care services.

The House and Senate passed separate versions of this program a year ago, and the plan recommended now should be approved easily when it comes up for a final decision in Congress early next month.

This compromise may represent a bit too much for some, and a bit too little for others. But more importantly, it represents an acceptable bargain that matches desirable benefits with affordable costs.

Dr. Otis R. Bowen, secretary of Health and Human Services, who originally proposed the program in more limited form and has fought hard for its enactment, said he would recommend that President Reagan sign the compromise. That is another welcome signal of the cooperative spirit that can soon make this boldest improvement in Medicare since its creation in 1965 a reality rather than just another unfulfilled dream.

REMEMBERING JOE KENNY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. KOSTMAYER. Mr. Speaker, all Bucks Countians were deeply saddened at the news of the death of Joseph R. Kenny on Monday, May 23, 1988, while vacationing in Florida. He was 80 years old.

Since moving to Doylestown, PA, in 1938, Joe Kenny took an active role in community affairs. In 1943, he and his late wife Phyllis founded Kenny's News Agency & Bookstore which, in the words of the local newspaper, became a "Doylestown landmark."

Joe Kenny will long be remembered for his many accomplishments, both large and small, that helped to make the quaint town in central Bucks County a better place to live and work. Perhaps his greatest achievement occurred in 1964 when he teamed up with another Doylestonian to create "Operation 64" to encourage renewal efforts by local businesses without outside Federal assistance. Joe, along with Frank Shelley, Jr., persuaded banks to lend money at low interest rates and successfully convinced assessors not to raise property assessments on those buildings that had undergone cosmetic improvements. The retired associate editor of the local Doylestown newspaper claims these efforts "saved Doylestown."

Mr. Speaker, I am proud to have been a friend of Joe Kenny. Joe's dedication to the community and his willingness to get involved for the betterment of the community will continue to be an inspiration to me and all who knew him.

I know my colleagues join with me in offering condolences to Joe's daughter, Barbara Dommel, and to the members of her family.

Mr. Speaker, I would like to place in the CONGRESSIONAL RECORD the following editorial entitled "Remembering an 'Ideal Citizen' " that appeared in the Doylestown Intelligencer on May 27, 1988:

[From the Doylestown (PA) Intelligencer, May 27, 1988]

REMEMBERING AN "IDEAL CITIZEN"

In 1986 Richard S. Kempes, president of the Doylestown Community Association, called Joseph R. Kenny the "ideal citizen who embodies the spirit of Doylestown."

It would be hard to come up with a more fitting tribute to a man who for 50 years lived his life for the betterment of his community.

And not even his native community, at that. Joe Kenny was a transplant from New York state who came to Doylestown in 1938 by way of Massachusetts. But those two states' loss was certainly Bucks County's gain, for over the next five decades Mr. Kenny earned a place high on the list of this area's all-time greatest citizens.

Joe Kenny was a man who chose to get involved. Add to that dedication an eminent sense of humor and a knack for spinning a good yarn. Doylestown Mayor Vincent C. Gorman called him "effervescent," a colorful description that never faded with the years.

Kenny's News Agency & Bookstore, the business he founded in 1943 with his late wife, Phyllis, became a Doylestown landmark. The Central Bucks Chamber of Commerce honored him with its Award for Business Achievement in 1984. Two years later, the Doylestown Community Association named him its Community Award winner.

Joe Kenny, "Mr. Doylestown," passed away Monday at age 80 while vacationing in Florida. His death is mourned by the many people who knew him well and the many others who knew him just to say hello.

We offer our condolences to his daughter, Barbara Dommel, and the members of her family. She can be very proud of her father and what he did for the town he chose to call home.

NO VICTORY THROUGH SURRENDER

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. GINGRICH. Mr. Speaker, the drug problem in America is indeed a grave threat to our country's stability. There are a number of arguments regarding the best way to fight our drug problem, one of them being the legalization of drugs.

The New York Times, April 22, 1988, editorial by A.M. Rosenthal entitled, "No Victory Through Surrender," provides an interesting viewpoint regarding this issue. I urge all my colleagues to read the editorial.

[From the New York Times, Apr. 22, 1988]

NO VICTORY THROUGH SURRENDER

On the day before the primary, Jesse Jackson was winding up an appearance before one of New York's more influential audiences—1,300 business people, academics, social workers and politicians, brought together by the Association for a Better New York.

When it was almost over, somebody stood up and asked an important, plain and straightforward question of the candidate who has made drugs a major political issue: Since it is so obvious that the country is not winning the war against drugs, why not try legalization?

Mr. Jackson's answer was just as simple and direct as the question: You do not win a war by surrendering.

That will not stop the debate, of course. The worse the casualties in destroyed lives, the more the gang murders, the deeper and dirtier the flow of corrupting drug money into governments, the more often the question comes up about drug legalization.

I assume that everybody who writes about drug abuse as a national crisis gets letters, as I do, from thoughtful people in different parts of the country who believe legalization in one form or another is the right answer. The supporters of legalization cross political lines left and right.

This is the gist of their argument:

Hundreds of thousands of people are forced to break the law because society rejects their particular narcotic of choice while accepting alcohol and tobacco. Hundreds of millions of dollars spent on law enforcement are wasted and could be used for antidrug education. Legalization would take the profit out of the drug trade, eliminate the corruption, bring a fortune in taxes. Legalization would not end drug abuse but would allow us to deal honestly and openly with a social disease, as we do with alcoholism or tobacco addiction, which cause far more deaths than do cocaine or heroin.

There is some truth in most of the points, but when you put them all together as an argument for legalization, the whole structure collapses. The reason is that mythology and unreality outweigh the kernels of truth. And the underlying philosophy is not exactly civically inspiring: Look, narcotics are terrible, but we are not getting anywhere fighting, so why not just give in and make them legal?

Alcoholism and tobacco addiction are indeed greater causes of death than heroin or coke. But the reason is that far more people get drunk or cough their lungs out than use "hard drugs."

But just give us time and legalization; pretty soon coke and heroin may kill just as many Americans. That's a peculiar objective, at exactly the time when this country is finally realizing the horrors of tobacco and alcoholism.

Fight against two drugs by legalizing others? How can we continue to fight against alcoholism and tobacco addiction effectively if we suddenly say that other drugs—even more dangerous—should also be made available?

If you find your children drinking or smoking, you may have time to argue or frighten them out of it. Crack children get lost very, very fast, in worlds of the damaged mind where parents cannot follow.

The idea that legalization would take the profit out of drug crime by driving down prices, thus persuading pushers of the virtues of honest labor, is a socially deluding fantasy. Right now, you can get all the crack you want in New York for $3 to $5 a vial, a good enough price so that the hard-working mass-marketers of the poison can earn millions a week.

Under legalization, the Government presumably would dole out or sell the drugs, and set standards. Pusher paradise:

"The Government will only sell you a couple of doses. Take them and come right over to us for the rest. And look, those weak shots you buy at the Government crack parlor, why we've got the real stuff for the real highs, just go get the money. If you don't get caught mugging, you don't have to worry about drug possession, because it is legal, man, legal, can you believe it?"

But the real ethical argument against legalization has nothing to do with law, finances or taxes. It has to do with what we want for ourselves and our children.

It is insensitive almost to vulgarity to argue for the legalization of drugs that can rapidly damage or destroy self-respect, values, the very minds of human beings—those other human beings. I have received many letters arguing for legalization, but none from a person who ever loved a junkie and not one from the parent of a crack child.

RESTORING THE TELICO CHURCH

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. BARTON of Texas. Mr. Speaker, I would like to share with my House colleagues a special event which recently took place in Telico, TX. Telico is a small community in Ellis County which was settled in the 1800's along the banks of the Trinity River.

The community, though never large in numbers, has a landmark of historical significance to the entire area. The Telico Church and Cemetery was constructed in 1868. In 1985, supporters of the church and area leaders were faced with an important decision regarding the future of this historical site. The community had to decide whether to raise and spend almost $50,000 to restore the church and cemetery or tear it down before it fell down. Fortunately, the decision was made, to rebuild. On May 21, 1988, I was able to participate in the dedication ceremony of the fully restored Telico Church and Cemetery.

I would like to commend the officers of the Telico Cemetery Association and members of the Restoration Committee who include: James O. Pilant, Thomas W. Wadley, Sandra Kubin, Bettie Gillespie, Billy May, Robert Jones, and Mazel Fulton. Mrs. Fulton recently passed away, but her dream of a restored church is now a reality, and will bring enjoyment for many years to come to the citizens of Telico.

I would also like to share a brief history of the church and community with my colleagues:

A SHORT HISTORY OF TELICO AND THE TELICO CHURCH BUILDING

The community of Telico evolved from an earlier community by the name of Tellico, located six miles east of Telico, on the banks of the Trinity River. On October 26, 1867, the Reverend W.G.L. Quait organized the Kirkpatrick Congregation of the Cumberland Presbyterian Church with these charter members: Mrs. Mary Kirkpatrick, Mrs. Bettie M. Megee, Mr. N.R.C. Rodrikus, Mr. A.J. Killen, Mrs. G.F. Kirkpatrick.

On November 6, 1868, Henry Pannill and wife, Margaret E. Pannill, conveyed a tract of land to W.H. Megee, G. Killion and G.F. Kirkpatrick as trustees for a Presbyterian church. This tract included land for a cemetery and a school. W.R. Kirkpatrick hauled cypress lumber from Louisiana in oxen-drawn wagons. Heavy timbers were hewn from Oak trees growing in the Trinity River bottoms. The church was constructed well, using as a foundation the trunks of huge oak trees and hand-hewn timbers, wooden pegs and square nails. Membership grew gradually. By 1893, Telico Presbyterian Church had 63 members. The last recorded minutes of the Presbyterian Church was in 1906. Shortly thereafter, the Baptist congregation began holding services there. During the 1920's the Reverend Jerry Archer had one of the largest congregations ever.

The early Presbyterian church building had some repairs through the years. Siding covered the exterior walls, the ceiling was lowered, the interior walls covered with sheetrock. October 13, 1960, this historic church met tragedy in the form of a tornado. Reverend Joe Hixon, pastor at the time, had a membership of 30. A building committee was appointed: Mrs. Garland Smith, Chairman, Mr. & Mrs. Garland Hart, J. M. Roberts, A. J. Dodson, Warren Wilson, and Billy Gillespie. The estimated cost of repair was $3,500. Friends through the area came to help and work was begun. The building was straightened and placed back on its foundation.

In the early 1930's, the church and cemetery were quite neglected and very much in need of care. Around 1937, Mr. & Mrs. Zed Owens formed the Telico Cemetery Association, rescuing it from the terrible condition it was in and perhaps saving it from total destruction. Since then, Mildred Dillard, Mae Wadley, and Eva Lou and Homer Martin have devoted many years to the upkeep of the cemetery. The Telico Cemetery Association has been its sole source of maintenance since its inception in 1937.

On July 2, 1961, the last recorded church service was held in the Telico church building. In the years that followed, the building fell into disrepair, vandals did extensive damage and age took its toll. At the 1984 meeting of the Cemetery Association, a recommendation was made that the church building, which was leaning precariously, be torn down before it fell. Several people in attendance objected to the destruction of the old building, and a committee was named to investigate the possibility of stabilizing the building and the possibility of restoring it. The initial committee consisted of Bettie Gillespie, Sandra Kubin and Robert Jones, and was to report back at the annual meeting in 1985.

On May 18, 1985, at the regular meeting of the Telico Cemetery Association, the building committee reported back on its findings. To the meeting the committee brought: David Jurney, an archeologist; Bill Young, a historian; and Dennis Maloney, owner of Navarro Restoration Company, and others who contributed to the overall study. Mr. Jurney had taken samples of the wood used in the structure and dated it to 1867. He also explained some of the timber was obtained from the Trinty River bottoms. Mr. Young gave a talk on the history of Telico, the cemetery and the church. Each of these people expressed the feeling that the building could be saved and was well worth the effort.

Money was a big factor in deciding whether to attempt the restoration. Mr. Maloney of Navarro Restoration estimated a cost of approximately $10,000 to stabilize the structure and save it from further deterioration and another $20,000 to $30,000 to complete the project. There was so much enthusiasm among those present that a decision was made to attempt to raise the money for the initial stabilization. A building committee was appointed to handle fund raising projects and administer work on the building. This committee included: Robert Jones, Bettie Gillespie, Sandra Kubin, Mazel Fulton, Randall Jones and Jim Pilant. In addition to soliciting direct contributions, the committee arranged for raffles, cake sales and a number of fund raising projects. Initial work on the building began on March 1, 1986. Many of the area businesses donated material for use in the restoration project. The old pews, which have an 1892 date stamped on them, have been restored. Mr. Bill May rescued the old pulpit from the elements and had it restored.

During the restoration process, evidence of a forgotten steeple was discovered in the attic. From some hardware found in the attic, it was estimated that the steeple originally held a brass Spanish bell. The steeple was reconstructed as near as possible to its original configuration, and it is hoped that one day a bell will be placed in the steeple.

An interesting side-light to the history of the Telico community and church is that the well-known desperado of the early 1930's, Clyde Barrow of the Bonnie & Clyde team, was reportedly born in Telico in 1909 and attended the Telico Church as an infant and young boy with his family.

Another interesting side-light to the church building is that a shoot-out reportedly took place inside the church, during services, sometime in the late 1800's. Evidence of this was uncovered in the form of bullet holes in the boards removed from the back walls of the church.

It is the hope of our Association that this building will stand for many years, so that future generations may enjoy and learn from the heritage passed down by the hard work of our forefathers.

SITUATION IN THE PUNJAB

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. LAGOMARSINO. Mr. Speaker, I rise today to express my continued concern about the tense situation in the Punjab and the human rights of India's Sikh minority.

My colleagues may recall that 4 years ago, on June 4, 1984, we were alarmed by the increasing violence and the Indian Army's seizure of the Sikh's holiest shrine, the Golden Temple in Amritsar. Many Sikhs were killed in the heated battle for the temple and this religious shrine was seriously damaged. The world was once again haunted by memories of this tragic event, which was code-named "Operation Bluestar" by the Indian Army, just recently when, once again, the Golden Temple was placed under seige and later seized by the Indian Army. Fortunately, casualties and damages were less this time, but the fact that a second "mini-Bluestar" occurred is very disturbing and unwarranted.

I condemn violence and terror by both sides in the Punjab. Radical elements damage the Sikh cause by helping to spread violence and tension. I believe that the vast majority of Sikhs, though, are peaceful and are making great efforts to resolve the difficulties with the Delhi government through nonviolence, cooperative means. I cannot condone the Indian Government's use of overwhelming military force in the Punjab. It has only added "fuel to the fire" and promoted greater animosity and misunderstandings. A mature, responsible nation uses force reluctantly, and only as a last resort. It seems as if military muscle and brute force have been the first and only measure India has used to try to resolve the situation in the Punjab. The recent heavy-handed incidents at the Golden Temple and the removal of five Sikh high priests seem to further validate this observation.

As I have stated before, I urge the Indian Government to show restraint and understanding in the Punjab. Peaceful negotiations, not violent confrontations, are the answer. The Indian Government should fully respect the political, civil, and human rights of all its citizens, including the Sikhs. As a member of the Subcommittee on Asian and Pacific Affairs, my colleagues can be assured that I will continue to closely monitor this serious situation.

TRAPPED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. FLORIO. Mr. Speaker, in our communities today, there are individuals who are victims of conditions beyond their control. Trapped in poverty, they have no place to turn. Many of those people also have no place to live.

One of the families enslaved by poverty is the Greene family in Williamstown, NJ. For them, and for the millions of others who fit into that category, poverty is a life without security.

For those of us who are fortunate to live in security, life includes a home for shelter, a job to feed the family, and the knowledge that they will not be deprived of their security tomorrow.

For the Greenes, there is little security. Indeed, although they try hard to make it through each day, there is no guarantee that their tomorrows will be any better. Although they have a roof to live under, their roof is no more than two rooms in a motel at the side of the road. How can they ensure an adequate future for their children?

The unfortunate reality of poverty in today's world is that there are no guarantees for the Greenes. They are the victims of years of neglect and ignorance.

However, this neglect is not the fault of the Greenes. Instead, it is the neglect of a society that has not responded to their needs.

The Greenes constitute 10 of the voices of poverty that our Nation must heed and answer. Millions of other voices in this Nation call out for our assistance and one-third of all the homeless people on our streets and in our makeshift motels are families.

I have tried to assist the Greenes obtain the financing they need to buy a home. But the situation of the Greenes asks for a review of our attitudes toward the problem and of our willingness to work with the poor, for the poor.

As long as the attitude of the Federal, State, and local governments is one of "the less done, the better," then families like the Greenes will continue living without the security and the guarantees that their children deserve for tomorrow.

The following article from the Philadelphia Inquirer describes the conditions faced by the Greenes and their need for security in our society. The longer our society does less for the Greenes, the more suffering there will be for families like the Greenes.

[From the Philadelphia Inquirer, May 29, 1988]

CATCH-22—10-MEMBER FAMILY TRAPPED BY HOUSING MARKET, POLICIES

(By T.J. McCarthy)

Ralph and Bonnie Greene say they believe they've spent more than enough time in the category of "hardworking people . . . who fall through the cracks of government policies," and more than enough time representing "a new dimension to America's homelessness problem."

The Greenes just want to escape those categories and get a home for their family of 10.

The phrases are from Rep. James Florio (D., NJ) who has been helping the Greenes in their effort to get a home financed by the Farmers Home Administration.

Along the way, Florio and the Greenes have discovered that the problems faced by large families today go beyond being merely unfashionable, the Greenes are facing both a housing market and a set of government policies that are not geared to handle large families of modest means.

In the meantime, the Greenes are living in a motel on the Black Horse Pike in Cecil. Ralph and Bonnie Greene and their eight children—including a 5-year-old daughter who is blind and afflicted by cerebral palsy—have been sharing two rooms for two years.

"Whatever we try to do just seems to fall through," Bonnie Greene said. "We need a house that's big enough: five bedrooms, or maybe four bedrooms and basement that could be converted to a bedroom. But anything that's big enough is usually too old for Farmers Home to approve. We found a house in Winslow that I thought was great, but Farmers Home refused it because of its age and its not being energy-efficient. It seems that anything that's big enough is either too old or not in the price range."

The Greenes needed help from Florio just to get FmHA approval for an increase in their mortgage limit from $75,000 to $95,000.

James Gouryeb, director for FmHA in New Jersey, confirmed that large families present a challenge to the agency.

"Because they're a large family, it's going to be difficult for them to find a house that meets the program standards," Gouryeb said. "We cannot allow them to move into a house that's going to be overcrowded or doesn't meet those standards, but it's also going to have to be a house they can afford within the limits of the mortgage subsidies. I've instructed the regional office to look at their case compassionately and help them the best we can. But in the end, it's going to be the law that determines what we can and cannot do."

Florio, in a letter to President Reagan, used the Greene family as an example in arguing for policies to provide more assistance to people who, as he said in an accompanying press release, "represent a new dimension to America's homelessness problem."

"This is not the way the Greenes want to live, Mr. President," Florio wrote. "They have been trying very hard to make a better life for themselves . . . these are hard-working people who deserve a chance, and I have to believe that there are millions like them who fall through the cracks of government policies that seemed guided more by the desire to reduce the power of government than to help empower people who are in need."

According to Bonnie Greene, Catch-22 situations are not unfamiliar to the family.

Ralph Greene, 39, was wounded twice as a Marine in Vietnam and has a bullet lodged in his liver. He is working as a security guard for a meat-processing plant in Williamstown.

"When he goes for jobs, he has a heck of a time." Bonnie Greene said. "When he goes for physicals they find out about the bullet in his liver and won't hire him."

She said that living in the motel has been both a financial drain and an inconvenience.

"The weekly rent here is $275, so once we buy groceries, it's impossible to save any money." Greene said. "But the hardest thing is that there's no privacy. We have four teenagers—three teenage girls—and the privacy thing is especially hard on them. It's just tight quarters, with people stacked all over."

TRIBUTE TO WALTER A. PARSONS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Mr. Walter A. Parsons, who is retiring after 35 years of professional service to the pupils of the Sacramento City Unified School District.

Mr. Walter A. Parsons is a man of education. He is a graduate of Sacramento High School and has earned an A.A. degree from Sacramento City College, a B.A. degree from Sacramento State College, and a M.S. degree from the University of Illinois. Walter holds a general elementary life credential, a general secondary life credential, and a general administrative credential. Walter served 2 years in the Navy immediately following his graduation from high school.

Mr. Speaker, during his professional career, Walter has served as a teacher of mathematics and science, a research assistant, a director of administrative research, and an administrator of the administrative and evaluative services office. Some of his major responsibilities: Walter has been projecting annual enrollment changes and related staffing and housing needs of the district, designating planning and compliance of those needs, and assisting in school closures. He has performed these duties with a sense of professionalism not often seen today.

Mr. Parsons has spent his career as an outstanding citizen, performing the important task of educating his fellow man. I join his friends, colleagues, children, and wife Flora in congratulating him on his well earned retirement and wish him well in his future endeavors.

TRIBUTE TO MSGR. FRANCIS A. GLENN

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. KOLTER. Mr. Speaker, I rise today to pay tribute to Msgr. Francis A. Glenn, pastor of St. Paul Roman Catholic Church in Butler, PA, who will celebrate his "Golden Jubilee" on June 12.

Monsignor Glenn was born into a large Irish Catholic family of eight children in Fayette County. Following graduation from All Saints High School, he earned degrees from Duquesne University and St. Vincent College and Seminary. He also studied at the Institute of Archival Management at Harvard University and at Radcliffe College.

Monsignor Glenn's outstanding service to the diocese of Pittsburgh includes two assistant pastorships at St. Mary Roman Catholic Church in Beaver Falls and Resurrection Roman Catholic Church in Brookline, and a pastorship at St. Bonaventure Roman Catholic in Glenshaw, a parish which he established in 1957.

He has served as diocese archivist, assistant chaplain at Mercy Hospital, chaplain of the Little Sisters of the Poor, executive secretary and chairman of the Diocesan Ecumenical Commission, dean of Butler County and a member of the Diocesan Institute.

In addition to his outstanding service to the diocese of Pittsburgh, Monsignor Glenn has made significant contributions to his community. He has served as president and vice president of the Butler Club of Rotary International and is now involved with the Polio Plus Program to eradicate polio in every part of the world. He is a past president of the Fellowship of Churches and, as a member of the Civic Action Committee, is dedicated to its antipornography campaign and its unemployment task force which coordinates social services for the unemployed.

He has also been spiritual adviser to the St. Vincent DePaul Society, a group that cares for the needs of the poor.

I am pleased to share the pride of his parishioners in his accomplishments, and I appreciate the opportunity to present this brief profile of a distinguished man of God who has dedicated his life to guiding others. Many people have been instilled with a sense of hope through his faithful leadership, and this outstanding quality is clearly reflected in the security and confidence his parishioners have in him.

Mr. Speaker, I ask you and all of my colleagues in Congress to join with me in extending our warm greetings and sincere appreciation for his contributions to his community, his State and to our Nation. We salute Monsignor Glenn, a beloved pastor, a respected clergyman, and a great American.

CLAUDE PEPPER

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. FASCELL. Mr. Speaker, today I am introducing a bill with the unanimous support and cosponsorship of my colleagues from Florida, to designate the NIH building which houses facilities for the National Institute on Aging, the National Cancer Institute, and many of the other National Institutes of Health as the "Claude Denson Pepper Building." Surely no one could be more deserving of this honor than CLAUDE PEPPER.

For the last 26 years in the House of Representatives, and 14 additional years in the Senate, CLAUDE PEPPER has championed the cause of the elderly. In his role as chairman of the full Committee on Aging from 1977 through 1982, CLAUDE lifted the profile of gerontology and aging issues into a spotlight that has given the elderly much of the political power which they now command.

He has conducted hearings and investigations to eliminate fraud against the elderly in many arenas. In his struggle to eliminate mail fraud, he sponsored the Mail Order Consumer Protection Amendments of 1983. In 1980, he held hearings and introduced legislation, which became law, establishing Federal standards for "Medigap" insurance policies, which pay for medical expenses not covered under Medicare. He has fought to eliminate "elder abuse" in nursing homes and in the home, and he passed legislation to make it a crime for a doctor or resident in a Medicare or Medicaid facility to use fraudulent credentials.

CLAUDE PEPPER was an original sponsor of the Older Americans Act in 1965 which created the Administration on Aging under the Department of Health and Human Services. He was appointed as a member of the bipartisan National Social Security Reform Commission, which, with its report and resulting legislation, enacted changes that ensured the financial solvency of that program in 1983.

Of his many, many accomplishments, however, perhaps the one that makes him most deserving of this honor is that in 1937 he was a prime cosponsor of legislation creating the first of the National Institutes of Health, the National Cancer Institute. This single institute became a template for the current system of 12 National Institutes. CLAUDE PEPPER introduced the legislation which created five of the Institutes, and cosponsored 11 of the 12.

At the age of 87, CLAUDE PEPPER continues to forge ahead to establish new policies for the benefit of the elderly. He has recently taken up the gauntlet to treat and cure those with Alzheimer's disease, and has major legislation pending for the care of catastrophic illness for people of all ages. We are all fortunate to have worked with CLAUDE PEPPER in the past and we will continue to benefit from his innovative proposals in the future. I hope that all of our colleagues will join me in paying tribute to CLAUDE PEPPER, and his career of achievement and excellence, by supporting this legislation.

EDUCATION—A LIFELONG ENDEAVOR

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. FORD of Michigan. Mr. Speaker, I was extemely proud to learn that one of my constituents, Mrs. Elsie Taylor, was awarded her high school degree from the Ypsilanti, MI, Adult Education Program last month at age 70, after raising 8 children, and becoming a grandmother to 32 grandchildren, a great grandmother to 21 great grandchildren, and a great-great grandmother to 2 great-great grandchildren. Mrs. Taylor's achievements illustrate that it is never too late to take advantage of education in this country.

For the benefit of my colleagues and others, I am printing below the text of the Ypsilanti Press, article describing this remarkable woman. I hope her story inspires others to seek out their full potential no matter what age and no matter what the odds.

YPSI GREAT-GREAT GRANDMA GETTING HIGH SCHOOL DIPLOMA

(By Michael Raveane)

Like many other students at this time of year, Elsie Taylor is looking forward to donning a cap and gown for commencement ceremonies.

But at age 70, Taylor will pick up her high school degree Thursday—about 50 years later than she had hoped.

Taylor, of Ypsilanti, one of 88 people receiving high school diplomas and 57 people earning general equivalency certificates from Ypsilanti Adult Education, had to quit school after the eighth grade because her rural Mississippi family could not afford to send her away to high school.

Taylor, now a widow, entered the adult education program in 1983. She completed classes in January, then entered Washtenaw Community College where she recently completed an eight-week computer class.

"That's kind of what I want to major in," Taylor said, looking toward her academic future. "I think I'm going to try to go back this fall."

Along the way, she had some help and encouragement from her eight children, 32 grandchildren, 21 great grandchildren and two great-great grandchildren.

"They all pushed me into doing this," said Taylor, an Ypsilanti resident since 1956.

During her first semester she managed to make the honor roll. In the following semesters she got a little help from daughter-in-law Martha in math, her weak subject. But overall, she says she didn't have too tough a time going back to school.

"It wasn't really hard for me," she said. "I really enjoyed it. I guess it's up to the individual—I really wanted to do it."

Other graduates, like Taylor, go back to school for a diploma because they are often passed over for promotion at work, or because they just want a degree to make themselves feel good, said adult education counselor Linda Cantrell.

"That's my goal, to further my education so I can get a better job," Taylor said.

Taylor has worked part time in various jobs for Children and Family Services since 1979.

Older people returning to school for their degrees often do it with more seriousness than younger people, Cantrell said.

"There's a certain maturity," Cantrell said. "When the older people come back—and I'm talking about people in their 30s and 40s—they might have families, kids. They have a lot of commitments, so they really have to be committed to this.

Taylor was the oldest student graduating this year and "kind of stood out," Cantrell said.

About 60 percent of the graduates go on to college, Cantrell said.

EXTENSION OF WORK INCENTIVE DEMONSTRATION PROGRAM

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. HAWKINS. Mr. Speaker, I am introducing legislation to extend for 2 additional years the Work Incentive [WIN] Demonstration Programs, which were originally authorized in 1981. A simple statutory amendment changing the dates in section 445 of the Social Security Act would avoid the premature termination of these significant welfare-work demonstration activities. Projects are now being carried out under this legislative authority in more than half of the States. A 2-year extension can provide a crucial transition to comprehensive welfare reform.

A recurring theme in today's welfare reform debate focuses on incentives to make work more attractive than persistent welfare dependency and poverty. There is a renewed interest in State demonstration programs which more effectively link welfare with work.

In exchange for public aid, welfare recipients considered employable have been required to register for work, education and training services since the Work Incentive [WIN] Program was established in 1967. In theory, WIN imposed a participation obligation, but inadequate funding levels resulted in "unassigned slots" for many able-bodied AFDC recipients. Funding for the welfare work programs was reduced by some 70 percent from 1981 to 1987, undermining the real work test under these initiatives.

In 1981, Congress passed the Omnibus Budget Reconciliation Act, which included authority for the WIN Demonstration Program under title IV-C of the Social Security Act. Under the WIN demos, States were given more flexibility to experiment with new designs of employment and training programs for those individuals on public assistance. Instead of the dual-agency administration under the regular WIN Program, the WIN demos are operated solely by the State welfare agencies and States tailored their programs to match their local needs. This increased autonomy and centralized administration provided States new momentum in the area of welfare employment programs. Subsequently, all WIN demonstration programs offered job search assistance and over two-thirds offered more intensive activities such as work experience, education, and training. More than half the States now operate a WIN Demonstration Program. Over 681,000 individuals participated in WIN demos in fiscal year 1985 alone.

The lessons learned from some of these WIN demonstration programs are best documented by evaluations completed by the Manpower Demonstration Research Corp. [MDRC], a research firm in New York City. To date, MDRC has issued final reports on 6 of the 11 targeted evaluations. These reports for the first time provide rigorous answers on the effectiveness of the WIN Program under the new demonstration authority. Generally, these State initiatives under the WIN demos suggest that work programs for welfare recipients have modest, but encouraging, results.

The following briefly summarizes MDRC's findings:

First, Arkansas' WORK Program: Against the backdrop of low pre-program employment, the WORK Program was effective in helping its enrollees achieve modest improvements in employment and earnings. Other benefits not easily measured include an increase in self-esteem among individuals whose employment opportunities were improved by the program, and positive benefits to children in having working mothers as role models.

Second, Illinois' WIN Demonstration Program: Despite the program's resources spread over a very large caseload, there were small but statistically significant welfare savings achieved.

Third, Maryland's Options Program: A wide variety of employability services were available to program enrollees including group and individual job search, employability preparation workshops, work experience, GED preparation, and skills training. The Options Program was effective in helping enrollees to improve their employment levels. Moreover, less employable individuals had greater employment gains from the efforts of a more intensive program.

Fourth, San Diego's job search and work experience demonstration: Results from San Diego are favorable, particularly for individuals often ignored by employment and training programs: those hard-to-serve individuals with no recent employment experience or with some prior welfare dependency. For these individuals, there were substantial increases in employment and earnings, and modest welfare savings. This demonstration program proved that job search, followed by a short-time work requirement, is an effective program sequence for welfare work activities.

Fifth, Virginia's Employment Services Program: This State initiative targeted all WIN-mandatory individuals, including new applicants and the long-term recipients. Enrollees benefited through modest increases in employment and earnings. Another gain was a small increase in child care and other support services obtained through the programs. From the Government's perspective, the benefits included increased tax payments, and reduced welfare and other public assistance.

Sixth, West Virginia's Community Work Experience Program [CWEP]: Unlike the other programs, the participants in West Virginia showed no positive gains in employment or earnings due to the unique economic circumstances in the State. Begun in early 1982, this large scale "workfare" program was operated in a largely rural and highly structural and cyclical unemployment environment. The lengthy work assignments and the dearth of jobs did not improve the employment prospects of the participants. However, although the individuals did not benefit greatly, the program made a large pool of unemployed labor available for community services within the State of West Virignia.

Despite the modest positive outcomes in a wide range of environments, these State demonstration initiatives offer interesting alternative approaches to reforming welfare with work. The meaningful improvements under the WIN Demonstration Programs deserve attention and support. Certainly, MDRC's findings indicate that gains from State WIN demonstration initiatives do not necessarily have to be dramatic to be worthwhile.

The legislation which I am introducing would extend the authority for the WIN Demonstration Program, which is due to expire on June 30, 1988, through October 1, 1990. In addition, non-WIN demonstration States would be given sufficient time to opt into the program.

This proposal would be consistent with the intent of the welfare reform initiatives in both the House and the Senate which support the current WIN Program until the new work programs for welfare recipients become fully operational on October 1, 1990. To allow the WIN demonstration authority to expire prior to enactment of a replacement program would be unwise and counterproductive to the attack on welfare dependency.

In addition, WIN demonstration States now have in place administrative structures for welfare work activities solely in the welfare agencies. To revert back to the regular WIN Program, States would have to dismantle and recreate administrative structures under a dual system administered jointly by the State welfare agency and the State employment services agency.

I urge my colleagues to support this WIN demonstration extension proposal. Thousands of individuals view this program as a ray of hope and a realistic stepping-stone out of the cycle of poverty.

JAPANESE QUOTAS ON UNITED STATES CITRUS AND BEEF PRODUCTS

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. CHAPPELL. Mr. Speaker, while the United States has made substantive gains over the past few months in reducing the trade deficit, the unfair trade practices of other nations continue to burden the efforts of those Americans seeking to expand this country's export base.

Particularly frustrating to me is Japan's refusal to abide by a 1984 agreement with the United States that provided for the elimination of all import barriers on United States citrus and beef products by March 31, 1988. The decision to break this agreement not only violates GATT, but the trust of this country. Furthermore, Japan's action will cost American producers over $1 billion in lost sales annually.

Mr. Speaker, Japan's apparent disregard for international agreements that promote a healthy trade environment cannot be tolerated. We must let Japan and other nations know that the United States not only expects, but demands free and fair terms of trade from our trading partners. Accordingly, I join my colleagues in support of House Concurrent Resolution 298, which calls for the United States Trade Representative to demand reciprocity from Japan under section 301 of the Trade Act of 1974.

THE CONFERENCE REPORT ON THE EMPLOYEE POLYGRAPH PROTECTION ACT

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. FRENZEL. Mr. Speaker, recently the House considered the conference report on the Employee Polygraph Protection Act. Unfortunately I was obliged to be out of the city at the time of the vote. Had I been present, I would have voted against this legislation.

Although the conference agreement is a vast improvement over the original House bill, this legislation still does not entirely recognize the usefulness that polygraphs can have in our society. A major paradox of this legislation is that it makes various exemptions for the prohibition of lie detector tests. This agreement exempts Federal, State, and local governments, private employers engaged in Government intelligence and counterintelligence work, security services, and drug manufacturers and distributors. While these employers are rightly exempted for security reasons, the legislation places Congress in the untenable position of deciding which occupations are worthy of such an exemption.

The general rule should be that if major exceptions are needed, the bill is not needed. Congress should not decide some occupations are more equal than others.

In my judgement, instead of virtually banning the use of lie detector tests outright, Congress should have enacted stringent safeguards and conditions under which such tests could be administered. Further, it is my feeling that States are in a better position to decide regulatory legislation such as this. Although this legislation grants States the power to enact more stringent legislation, it does not recognize those States who wish to allow lie detector testing with appropriate safeguards.

PARALYZED VETERANS OF AMERICA, VETERANS' ADMINISTRATION AND YALE UNIVERSITY UNITE IN MAJOR SPINAL CORD INJURY RESEARCH EFFORT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. MONTGOMERY. Mr. Speaker, the Paralyzed Veterans of America [PVA], the Yale University School of Medicine and the Veterans' Administration have joined forces in an unprecedented effort to support spinal cord injury research and to establish a new, world-class facility for this research.

On May 14, it was my privilege to participate in the dedication ceremony for this facility, the PVA/EPVA Center for Neuroscience and Regeneration Research, which is located on the grounds of the Veterans' Administration Medical Center in West Haven, CT. I want to thank my friend and colleague, BRUCE MORRISON, in whose district the center is located, for inviting me to participate in the day's events.

The center is a collaborative achievement. Government land for the center was made available to Yale University by the Veterans' Administration. Primary funding has been provided by Paralyzed Veterans of America and its chapters, particularly the Eastern Paralyzed Veterans Association [EPVA]. The Yale University School of Medicine has brought together some of the finest physicians and scientists in the world to work toward alleviating the suffering caused by spinal cord injury and disease. In the spirit of this significant joint effort, the center, the School of Medicine, and the VA will share facilities, equipment and expertise. The project proves that academic, medical, corporate and Government sectors can work together to enhance medical care and to meet its challenges. By sharing resources and information, everybody benefits.

Just as this new structure is supported by mortar and steel, medical research is supported by concerned individuals and organizations such as those who joined together for this project. We commend them and thank them for the concern and compassion they have shown for those who suffer from spinal cord injury and disease, which affect thousands of individuals each year throughout the world. In the United States alone, it is estimated that 300,000 people are paraplegics or quadriplegics, with an estimated 14,000 people receiving new spinal cord injuries each year. Of those 14,000, 40 percent die as a result of their injuries. Another 250,000 individuals suffer from spinal cord diseases, such as multiple sclerosis.

The work that will be conducted in the center may very well lead to a cure for spinal cord injury and disease. The modern and sophisticated facility includes a specialized electron microscopy unit, biochemistry and tissue culture laboratories, photographic darkrooms, instrumentation shop, faculty offices and a research library. It is staffed by a multidisciplinary group of medical scientists who use sophisticated methods to study growth and regeneration of the nervous system. Computers will aid scientists in determining the properties of nerve fibers needed to recover various functions and will allow them to predict possible therapeutic effects of drugs on nerve fibers.

The center's powerful electron microscope permits its scientists to see nerve cells magnified more than 100,000 times. Using special freeze-fracture devices, center investigators are able to visualize single molecules within nerve cells and probe their structure. Finally, center scientists will employ highly-effective electrophysiological methods to listen to the tiny electrical signals that signal nerve cells or small groups of cells produce, and to study the ion channels—molecular batteries—responsible for electrical signaling in normal and damaged nerve cells.

The center's program includes important research into functional regeneration of damaged nerve cells—focusing on ways in which the nervous system adapts to injury. In addition, significant attention will be concentrated on training future researchers who will continue to advance work toward a cure.

Mr. Speaker, the Veterans' Affairs Committee has long understood the importance of this type of research. In fact, it is mandated. Public laws states that in order to contribute to the Nation's knowledge about disease and disability, the Veterans' Administration shall, in connection with the provision of medical care and treatment to veterans, carry out a program of medical research, stressing research into spinal cord injuries and diseases and other disabilities that lead to paralysis of the lower extremities.

The PVA/EPVA Center for Neuroscience and Regeneration Research—thanks to PVA, the VA and Yale—is now a reality. It is a world-class research concentration housing the finest minds in the field and utilizing the most sophisticated equipment. I am confident that, through the establishment of this facility, we have moved a giant step closer to the solution for those who suffer from spinal cord injury and disease.

NEED FOR ACTION ON FEDERAL FOOD PROGRAMS

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. DAVIS of Michigan. Mr. Speaker, the Temporary Emergency Food Assistance Program [TEFAP] distributes surplus Government commodities to needy families nationwide. Surplus cheese, butter, nonfat dry milk, honey, flour, cornmeal and rice are distributed free of charge to about 25 million people every month. In northern Michigan alone we have thousands of people, many of them senior citizens, who rely on surplus commodities distributed through TEFAP. However, the TEFAP Program is presently facing two problems: the sharp decline in Government stockpiles of surplus food for distribution and the upcoming deadline on September 30, 1988 when the program is scheduled to expire.

The problem of the decreasing supply of food came about as a result of the 1985 farm bill which mandated that dairy farmers must reduce their surplus production or face a penalty by the U.S. Department of Agriculture. The Federal Government purchases dairy surpluses and distributes these products for school lunches, hunger relief, international food aid and export programs. However, with little or no surplus left of many commodities, these programs are faced with having nothing to distribute. Purchasing surplus dairy products is a cost effective way for the Federal Government to maintain its commitment to the needy. If we do not increase the target level for purchases of dairy products, we can only meet this obligation by purchasing more expensive products on the open market. I am supporting legislation to raise the target level for surplus food purchases and give the Secretary of Agriculture the authority to determine the level on a yearly basis.

In addition, the Emergency Hunger Relief Act, which I have cosponsored, would make major changes in a number of Federal food aid programs. The changes will affect food stamps, school lunch and breakfast programs, summer feeding programs, commodity distribution and day care feeding plans, among others. This legislation would ensure that the Food Stamp Program meets emergency food needs, increases participation in the School Breakfast Program, allows private nonprofit organizations to participate in the Summer Food Program and ensures that children who stay in day care centers which are open more than 8 hours a day get adequate nutrition.

Today there are about 6 million more people living below the poverty line than there were in 1979, yet only half of those eligible participate in the Food Stamp Program. This legislation would help to address this problem by reducing barriers to participation and ensuring that low-income families who are eligible are made aware of the availability of benefits. In addition, the basic food stamp benefit would be increased by 1 percent for fiscal year 1989 and another 1 percent in fiscal year 1990.

Participants in the program today receive an average of 54 cents per meal. Increasing the basic benefit would help families receiving food stamps make it through the month with their food stamp allocation without having to also rely on emergency assistance for food. Presently, almost two-thirds of all food stamp recipients are children, the elderly, or disabled, and 94 percent have gross incomes below the poverty line. These are groups of people who are particularly vulnerable to interruptions in food and are susceptible to health problems because of a lack of proper nutrition.

In the area of emergency food assistance, the bill would extend the authorization for the TEFAP Program through fiscal year 1989 at the current level of funding. It would also increase the share of TEFAP administrative funds which must go to emergency feeding organizations from 20 percent to 50 percent.

I have introduced legislation (H.R. 4532) to change the priority for distribution of surplus commodities to accommodate domestic needs ahead of overseas food programs. Our first obligation must be to our own. My bill will make sure that domestic food programs are supplied before products are sent overseas. And, we must do everything possible to ensure that TEFAP and other essential food programs have adequate supplies of food to meet the need that exists.

I would urge my colleagues to support each of these proposals. The measures of a great nation is not its wealth or strength, but its humanity. A country as rich as ours should not tolerate hunger.

FATHER SANTORA HONORED ON 50TH ANNIVERSARY OF HIS ORDINATION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. GUARINI. Mr. Speaker, a devoted parish priest, celebrating his 50th anniversary of ordination, will be honored by friends and parishioners of Holy Rosary Roman Catholic Church, Jersey City.

Father Gerard Santora, a member of the 50th anniversary class in the Newark Archdiocese, will celebrate his jubilee June 11 with a Mass of Thanksgiving at Holy Rosary Church, Jersey City, where he served as pastor from 1954 to 1968.

Father Santora, now living in retirement at St. John Vianney residence in Rutherford, spent 29 years of his active priestly ministry at Holy Rosary, as associate pastor, administrator and pastor. He was then chaplain at Mt. St. Andrew Villa, Paramus, from 1968 until his retirement in 1986.

He was the first American-born pastor of Holy Rosary, a parish located in the Village section of downtown Jersey City. He said:

> This is the mother parish for Italian-Americans in Jersey City, later giving birth to Our Lady of Sorrows in the Greenville section and to Mount Carmel in Marion.

Born in Montclair, Father Santora was raised in St. Lucy's parish, Newark. He attended St. Benedict's Prep, Seton Hall University and Immaculate Conception Seminary before his ordination June 11, 1938 at St. Patrick's Pro-Cathedral, Newark.

He spent 6 months at Our Lady of Mount Virgin, Garfied, before coming to Holy Rosary in January, 1939. He twice served as administrator of the parish, in 1943 and from 1946 to 1954, before being named pastor.

He said:

> Holy Rosary parish was like a big family. The people shared their faith and their common heritage.

But the parish was also then in a period of change. Father Santora said:

> Holy Rosary had lost a number of parishioners when the Holland Tunnel approaches were built, and we lost more when the Turnpike came right through the area after the war.

Also, a number of the older parishioners were dying off and there was need to reach out to the younger members. Father Santora organized Boy and Girl Scout Troops in 1942 and a wide variety of CYO activities.

His long term as administrator and pastor also brought a stability of leadership to a parish which had seen three pastors die in a period of 6 years between 1940 and 1946.

There were also a number of physical changes in the parish plant during his tenure. There was a reconstruction of the exterior and interior of the church in 1948, a new convent in 1952, a grammar school extension in 1954 and a new rectory in 1958. A fire damaged the church in 1956, requiring reconditioning and redecoration of the building.

Holy Rosary's plant lies right next to that of St. Anthony's, Jersey City's pioneer Polish-American parish. Father Santora said:

> I thought when I came there, that there might be some kind of rivalry between the parishes, but we always had very good relations.

The two parishes now send their students to the same grammar school, Holy Rosary, and next month, will have a joint Corpus Christi procession.

Father Santora's years at Mt. St. Andrew were a lot different from running a parish, but quite enjoyable. After his retirement in 1986, he had more brief episode of parish work, taking over at Our Lady of the Rosary, Newark, last summer, after the death of its pastor, Father Benjamin Fusco.

In a tribute to their pastor emeritus, the people of Holy Rosary said:

> His whole life was given for the immigrant people and their children. He had no other life or interests. His youth programs were outstanding in the Archdiocese. His love for the people of the parish and their families and children was all-consuming. He passed on to those of us who were lucky enough to know him a tremendous love for God, a tender love for Our Lady and a pride in and for all things Italian and gratitude for the great nation in which we live.

The anniversary Mass June 11 will be followed by a reception and dinner in the school auditorium. There will also be an informal reception there on June 12.

According to Father Paul L. Bochicchio, pastor of Holy Rosary Church, former Assemblyman Michael P. Esposito is general chairman of the 2 day celebration.

Recently Father Santora was one of four priests celebrating the 50th anniversary of the Archdiocese of Newark at a Mass attended by Terrence Cardinal O'Connor of New York, and Archbishop Theodore McCarrick of the Archdiocese of Newark, attended by thousands of the clergy and the faithful.

It will be my pleasure to participate in this grand celebration for a great priest who has ministered to the needs of a truly outstanding group of Americans whose forefathers over the years have endured the problems of coming to a newer land, aided America in war and peace, and attended the needs of their families.

I am certain that my fellow Members of the House of Representatives wish to join me today in this salute to Father Santora.

HEROIC EFFORT

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. DYSON. Mr. Speaker, I rise today to praise three heroic gentlemen who saved the lives of two constituents of mine. CW03 Edmund Turner, CW02 Anthony Durante, and Sgt. William Graham aided Carlton and Nicholas Ford, the victims of a boating accident, going beyond the call of duty in their actions. These men deserve our gratitude and our respect. I would like to submit for the RECORD a letter sent to me by the grateful family of those saved. I think that this letter best tells the significance of these men's deed.

> HOLLYWOOD, MD, *May 10, 1988.*
>
> Re Rescue of Carlton A. Ford, Jr., and Nicholas A. Ford.
>
> General HILBERT,
> *Military District Washington, Fort McNair, Washington, DC.*
>
> DEAR SIR: This letter is to bring your attention to the heroic effort of three of your men, CWO 3 Edmund Turner, CWO 2 Anthony Durante and Sgt. Wm. Graham. On May 2, 1988 at approximately 12:30 hours these three heros saved the lives of my son-in-law and grandson by their fast and unselfish action. Carlton and Nicholas had been in the water of the Potomac River for approximately twenty minutes after a freak boating accident. Your men flew over them, but turned back because something didn't look right.
>
> At great risk to their own personal safety, they retrieved Carlton and Nick from the water, contacted Patuxent River Naval Air Station, and were given instructions to fly to St. Mary's Airport to meet the Hollywood Rescue Squad. At the Airport, it was determined that they needed to be flown to Prince George's Co. Hospital Trauma Unit. Your men volunteered to do this as our Medic Vac was not available.
>
> If not for your mens quick action and deep concern, there would be very sad times for our family and many friends. There are no words to express our deep gratitude to these brave and heroic men. May God always be with them.
>
> Sincerely
>
> J. RICHARD MATTINGLY and Family.

HARRIET QUIMBY

HON. FREDERICK S. UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. UPTON. Mr. Speaker, in conjunction with the annual "fly-in" festivities in Coldwater, MI, I rise today to honor Harriet Quimby, a pioneer aviatrix from Branch County, MI. On Sunday, June 5, at the Branch County Airport, a memorial marker to this great lady will be dedicated during the Branch County Fly-in.

Born in 1875 in Coldwater, MI, Harriet Quimby was the younger daughter of William Quimby, a farmer. Her mother aspired that her two beautiful daughters would rise above their humble start in life.

Harriet became a journalist, starting her career as a staff member of the San Francisco Dramatic Review. She was one of the first journalists to make use of the typewriter.

While hunting for a dramatic story, her attention was drawn to a flying meet at Belmont Park. Greatly inspired at the meet, she became fascinated with the thought of learning to fly a plane. After 4 months of flying lessons, Harriet was granted her pilot's license in 1911, making her the first American woman to receive a pilot's license.

Harriet saw great possibilities in using her acquired skills to gain both fame and fortune. She decided to be the first woman to cross the English Channel on a solo flight. On April 16, 1912, despite inexperience and adverse weather conditions, she successfully crossed the channel. Unfortunately, the sinking of the *Titanic,* which had happened 2 days earlier, drove the news of Harriet's accomplishment to the small spots on newspapers around the country. She did receive publicity later on, but it was anticlimatic to the tragic news of the *Titanic.*

After her success, Harriet was invited to several air shows in which she performed her talents for many people across the country. Then in 1913, tragedy struck during a performance in Boston. Harriet and her passenger, William Willard, were tossed from their airplane and fell 1,000 feet to their deaths. Harriet's flying career had only lasted 11 months, but her courage opened the way for other women to follow in her path.

TRIBUTE TO ALICE MARGARET REILING BURKS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. PEPPER. Mr. Speaker, June 12 will mark the 80th birthday of a wonderful lady, Alice Margaret Reiling Burks who is representative of the numerous Americans who become octogenarians every day. In 1960, our country had 2,509,000 people over 80 years of age. Today we have 6,391,000 and the number is increasing rapidly. Like so many other great ladies of her age, Alice Burks has served her country through the most noble endeavor of all, that of being a great and loving mother and grandmother and being the bulwark of a stable American family. It is such families, raising children to become good and productive citizens, that make and keep America great.

Alice Margaret Reiling Burks, was born on June 12, 1908 in Louisville, KY. Alice was the daughter of Gustave Augustus Reiling and Evalyn Margaret Mitchell Reiling. The Reiling family traces its roots to Hanover, Germany, while the Mitchells came to America from England. Alice has a sister, Mary Evelyn Reiling Ruby of Louisville, KY, and a brother, John William Reiling, who died in 1972.

Alice attended school in Louisville and on May 2, 1927, married her neighborhood sweetheart, William Millard Burks. They celebrated 45 years of marriage before Millard's death in 1972.

Alice has three children, William Millard Burks, Jr., of Ft. Myers Beach, FL, A. Roy Burks of Gaithersburg, MD, and Beverly Miles Burks Feldhausen of Green Bay, WI. These three children have provided her with nine grandchildren and four great grandchildren.

Alice has devoted her life to her family and has spent much time traveling as the children and grandchildren have spread to all parts of the United States. However, her heart remains in Louisville, KY, where family and friends will gather on June 12, 1988, to wish a special person a very happy 80th birthday. It is a pleasure and privilege for me to pay tribute to Alice Margaret Reiling Burks.

TERMINATING THE PERFIDIOUS ABA-ASL AGREEMENT

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. KYL. Mr. Speaker, I appreciate this opportunity to inform my colleagues about the efforts of a group of Phoenix attorneys who helped correct a serious mistake. Through the tenacity of three of my friends, Patience Huntwork, Orest Jejna, and William Wolf, a flawed agreement between the American Bar Association and the Association of Soviet Lawyers will soon lapse and not be renewed. The story of their efforts is especially pertinent as the President returns from Moscow, having again raised numerous issues of human rights with his Soviet hosts.

The agreement was entered into by the ABA and the ASL in May of 1985 with a subsequent renewal following in the summer of 1986. The accord formalized ties between the two organizations, ostensibly to enhance contacts and dialogue. the so-called "Declaration of Cooperation," begins with the words: "Being mutually pledged to advance rule of law in the world. * * *" This statement is offensive and extremely naive. The entire foundation of law is to protect individual rights, yet the Soviet Union systematically denies its citizens their rights. The ASL is an organization created by the Communist Party's Department of Agitation and Propaganda, and plays a leading role in Soviet disinformation and anti-Semitic activity.

This agreement affirmed to the ASL a commitment to justice where none existed; conveyed upon the Soviet judicial system an equivalency with that of the United States, mocking our judicial system; and gave legitimacy to an organization that was clearly undeserving. It also demoralized Soviet citizens who are fighting for their rights because it sent a signal that the United States did not understand the depth of Soviet oppression.

When Mrs. Huntwork and her colleagues became aware of the ABA-ASL Agreement, they were outraged because, through their membership in the ABA, they were signatories. I too was a frequent critic of the agreement. In March 1987, I conducted a special order to bring attention to it. Our colleague DUNCAN HUNTER spoke against it at the ABA convention last year. Mrs. Huntwork and her associates formed an independent task force on ABA-Soviet Relations. For months, at their own expense, they traveled around the country and in other ways communicated the message that this agreement was an affront to freedom-loving peoples and counterproductive to the efforts of Soviets to enhance their judicial rights.

They also worked hard to bring this matter to the attention of the delegates of the ABA. While success did not always seem possible, through the persistent efforts of Patience Huntwork and her task force, victory was finally achieved on April 15, when the ABA's board of governors voted to let the agreement expire in July. It is clear that the undaunted efforts of these three Arizonians are responsible.

Mr. Speaker, I congratulate Patience Huntwork, Orest Jejna, and William Wolf on their victory in furthering the cause of human rights by terminating the perfidious ABA-ASL Agreement.

THE 42D ANNIVERSARY OF THE ITALIAN REPUBLIC

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. RODINO. Mr. Speaker, today is Italian National Day which commemorates one of the most stirring events in the history of Italy. Forty two years ago, on June 2, 1946, the Italian people established, by popular referendum, a republican form of government.

This resounding vote of confidence in democracy echoed and continues to echo throughout the world. It came at a time of international uncertainty as the euphoria of victory was replaced by the chill of the cold war. With democracy under siege in all parts of the world, there was a pervasive fear and apprehension for the future of the free world.

But the Italian people spoke with a loud and clear voice and reaffirmed the universal preference for a democratic system of government. By this action, they offered inspiration and hope for all peoples and Italy began the process of political rebuilding that culminated on January 1, 1948 with the completion of the Italian Constitution. This document embodied the principle that sovereignty belongs to the people and it guaranteed equality before the law.

The establishment of the Italian Republic was a significant milestone in the long and rich history of Italy. It provided the impetus for an unparalleled period of social and economic advancement and the emergence of Italy as one of America's most stalwart and loyal allies. Building on this foundation, Italy has become an important member of the North Atlantic Treaty Organization, an effective proponent of European integration, and one of the leading industrial nations in the free world. And today, as Italy continues to prosper, its commitment to democracy remains as strong as ever.

It is only fitting that on Italian National Day we extend to the people of Italy our warmest congratulations. This is a day of great pride for Italians and for Italo-Americans. It is also an occasion when all Americans can express their gratitude to Italy for helping to keep alive the flame of freedom and for demonstrating, time and again, that the friendship between our two nations is both a strong and enduring one.

SUMMIT LESSONS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. DOWNEY of New York. Mr. Speaker, President Reagan has just concluded his fourth summit meeting with General Secretary Gorbachev, and as always happens after this sort of meeting, countless experts will spend hours and hours analyzing exactly what happened during those 4 days in Moscow. Some things, however, will defy explanation.

For instance, we are now to understand that native Americans don't have all that much to complain about since much of the land that we have placed them on sits over oil deposits. And since, as the President said, "you can get very rich from pumping oil," there's little reason for the American Indian to be unhappy. Somewhere in here there is a new kind of logic that I am not certain I want to understand.

We have also learned, with similar surprise, that the real problem for Soviet Jews who want to leave the Soviet Union is bureaucratic, not systemic. While I agree that mountains of paperwork can bring even giants to their knees, I think it is fair to say that the problems that have impeded the free flow of Jews out of the Soviet Union go a bit deeper. This Presidential attempt at being diplomatic had a somewhat hollow ring.

Sweeping and poorly thought-out statements, whether they are a critique of the Soviet system or of our own, do not help us in our common task of building a forthright, constructive and productive relationship between our two nations. Soviet glasnost has a lot of people here reeling, but we must remember that the best way to ensure the productive and safe relationship our two peoples deserve is to meet glasnost head on with good old American common sense and quick thinking leadership.

A CONGRESSIONAL SALUTE TO DONALD L. LEAVENWORTH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding leader in my district, Mr. Donald Loyal Leavenworth. Donald will retire this year from his position as headmaster of Chadwick School and from the field of education, where he has worked tirelessly for the last 38 years. I am pleased to have this opportunity to say a few words about him.

Donald Leavenworth has been involved in all aspects of education. He attended Yale University for his undergraduate degree, Western Reserve University for his law degree, the University of Pittsburgh for his master's degree, and U.S. International University for his Ph.D. After a stint as a pilot in the Air Force, Donald began to teach. His first job was in 1950 at the Kiski School in Pennsylvania, and his second at the Valley School in Ligonier, PA. In 1954, Donald made a wise decision and moved to Santa Barbara, CA, where he was a teacher and assistant headmaster at the Crane School. After 7 years in the field of education, Donald became the founding headmaster of the La Jolla Country Day School in San Diego, CA, where he stayed until 1972. In 1972, he became the headmaster of Chadwick School, located in Palos Verdes Peninsula.

Donald is also a past board member of the Western Association of Schools and Colleges, past president of CAIS, past board member of the Educational Records Bureau, a member of the Country Day Headmasters' Association and a member of the Headmasters' Association. In addition, he was named the Palos Verdes Chamber of Commerce "Man of the Year."

But this glittering resume does not tell the real story of Donald Leavenworth. He is a man of talent, energy and dedication. For 38 years, he has been committed to shaping the minds and hearts of our Nation's young people. Some say that the true test of a civilized society is whether its values can survive the test of time. Donald Leavenworth recognized that values can only survive if they are embodied in the young, and spent his career pursuing that noble goal. My wife, Lee, joins me in extending our warmest congratulations to Donald Leavenworth on the occasion of his retirement from Chadwick School. We wish Donald, his wife, Cynthia, his daughters, Cynthia, Laurie, and Julie, and his grandchildren, Graham, Ian, Peter, Philip, Sage and Robin all the best in the years to come.

TRIBUTE TO MR. VERNON DRAGT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. PACKARD. Mr. Speaker, I rise today to pay tribute to Mr. Vernon Dragt.

The Rotary Club of Escondido, CA, recently undertook to raise $100,000 to contribute to PolioPlus. PolioPlus is an effort by Rotary International, the World Health Organization and others to raise funds to launch a program of permanent immunization in less developed countries. The goal being to eliminate polio from the face of the Earth.

To reach their goal of $100,000, Rotary of Escondido decided to hold a raffle. The first prize was to be a BMW automobile, provided by a local dealership. Local Rotary members sold many tickets and eventually raised enough to pay for the BMW plus a $30,000 profit to contribute to PolioPlus.

The day of the raffle arrived and the winning ticket was that of Mr. Vernon Dragt. Ironically, Mr. Dragt was himself struck with the deadly polio virus when he was 27 years old. He spent 4½ months in an iron lung, paralized. Despite the pain and hardship of the disease, Mr. Dragt was an extremely strong man and was able to struggle back. The recovery was only partial, but Mr. Dragt was determined to make something of himself.

Now, many years later Mr. Dragt stood before the Rotary Club of Escondido and expressed his wish that PolioPlus meet its goal of eradicating polio. In a rare display of selflessness and commitment to his fellow man Vernon Dragt returned the BMW he had won and asked that the cost of the car, more than $20,000, be contributed to PolioPlus. That $20,000 is enough to immunize over 160,000 children.

Vernon Dragt is truly an exceptional individual. His is an inspirational statement of one man's triumph over polio and his determination to give something back to those who helped him.

TRIBUTE TO RONALD S. CAROL, WINNER OF CHRISTA McAULIFFE FELLOWSHIP AWARD

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. LENT. Mr. Speaker, at 11:38 a.m. on January 28, 1986 the space shuttle *Challenger* lifted off the launch pad at Kennedy Space Center into a cloudless blue sky carrying seven brave men and women and the dreams of a Nation. Seconds later, as Americans looked on in horror, the space shuttle exploded over the Atlantic Ocean sending shock waves of grief that were felt around the world.

Tragically, six of this country's finest astronauts died in the blast but it was the death of the seventh passenger that deeply moved the Nation and the world. Christa McAuliffe, a schoolteacher from New Hampshire, made history as the first citizen passenger on a mission into the frontiers of space. Christa captured the hearts of millions of Americans through her bold pioneer spirit and eagerness to advance the boundaries of knowledge.

However, the courage and determination Christa exemplified have not been diminished by her death and her name has become symbolic of the lofty aspirations of the teaching profession. A competitive fellowship program established by the Department of Education which bears her name is designed to encourage teachers across the country to realize their dreams and enhance the teaching profession.

I am pleased to announce that one of my constituents, Ronald S. Carol, has been awarded the Christa McAuliffe Fellowship for 1988. This highly competitive fellowship award is given to those teachers who, like Christa, seek to better mankind through their efforts to expand the boundaries of knowledge. Ronald's bold initiative and dedication as a teacher have earned him this distinguished award enabling him to pursue his teaching goals and to share his educational enthusiasm with others.

Education is the cornerstone of a healthy democracy and I am grateful to Ronald Carol for his invaluable contribution to our society and to the youth of America. Through the efforts of innovators like Ronald, the brave spirit of Christa lives on to inspire our children and future generations to expand beyond their horizons and reach for their dreams. Ronald Carol deserves honor and recognition for this noteworthy achievement and I commend him for his commitment to the enhancement of the teaching profession and to the betterment of our world.

A TRIBUTE TO BETH JACOB/ BETH ISRAEL

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to the congregation of Temple Beth Jacob/Beth Israel in Cherry Hill, NJ.

This Sunday, June 5, 1988, I will have the pleasure of joining with the synagogue's many members as they lay the cornerstone on a brand new building, and celebrate the culmination of what can rightfully be considered 10 years of planning and patient waiting.

Suffice to say, this new facility means much to the congregation at Temple Beth Jacob/ Beth Israel, Mr. Speaker, as it moves to Cherry Hill from its existing location in nearby Merchantville. The new synagogue is closer to the community of Jewish people it serves. Equally important, however, it symbolizes growth from humble beginnings.

Founded over 60 years ago in a house in a neighboring locale, Temple Beth Jacob/Beth Israel would later move to a storefront, and then larger facilities, as its congregation grew. Today, there are more than 600 member families who share in the religious, cultural and social programs that go hand-in-hand with the remarkable spirit of the Hebrew faith.

I congratulate Rabbi Lester Hering, and the synagogue's directors, whose foresight and guidance will be duly recognized at this Sunday's ceremony. The cornerstone to be laid on this occasion will also serve as a time capsule, storing documents and other memorabilia which, will enable future generations to better understand and honor their Jewish heritage and place in the community-at-large.

I know that all Members of the House will want to join with me in congratulating Temple Beth Jacob/Beth Israel for its steadfast and determined efforts to enrich the lives of all those it serves.

DISTRICT 19—INNOVATION BRINGS NEW EDUCATION SUCCESS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. TOWNS. Mr. Speaker, I wish to pay tribute to Levander Lilly, superintendent of Community School District 19, for something wonderful is happening in his district. In his short term of office, since spring of 1987, Levander Lilly has made the concept of the "School-Community Partnership" a reality in his school district.

By opening the doors of his district office, and making the resources of his administration available to the public, he has welcomed the involvement of all concerned community members, including that of elected officials, public and private agencies, community based organizations and health service providers. Under his leadership, District 19 staff has been implementing programs to increase public awareness of the needs of the children and families in east New York. Their accessibility has resulted in increased referrals of families to much needed social and health-related services.

The school district has played a leadership role in the community fight against drugs and child abuse, and has successfully acquired competitive grants and produced helpful printed materials, in English and Spanish to educate and assist families in crisis.

Local businesses have joined in the effort to provide funding and needed expertise to support the district's goal to improve the educational standards and quality of life for the families in east New York.

The spirit of this whole-community effort will be embodied in the District 19 Educational Conference and exhibit to be held on June 4, 1988 at George Gershwin Intermediate School, Brooklyn, NY. At this time, all of the District 19 school-community partners will have the opportunity to play their respective roles in making the school community work for the benefit of the children of east New York.

As Superintendent Lilly explained, "We don't have the resources to do it ourselves, so we are joining in this effort."

I ask my colleagues to join me in wishing Levander Lilly many more years of success, and the best of luck in all future educational projects he pursues.

TURN HUD INTO HOMELESS SHELTER

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. SCHUMER. Mr. Speaker, we have seen the image a hundred times; a homeless man sleeping on a subway grate, a homeless family on a food line, children sleeping in a welfare hotel. These images shock and anger us, but what is the substance behind those images?

We have more homeless because we have less housing and HUD isn't helping, they're hurting.

While we in Congress work to deal with the problem of homelessness, the invisible Department of Housing and Urban Development has continued to insist that homelessness is not a housing issue.

While every department in this administration has fought to protect its programs, HUD has allowed, and even encouraged OMB to gut all its programs. In negotiations on the recent housing bill, HUD was hardly to be seen at the negotiating table and had to check with OMB before making any decision on the details of the first housing bill since 1982.

Over the last 7 years, we have seen almost a 70-percent cut on our Nation's budget. Since 1978, housing and community development has dropped from 7 percent of the Federal budget to less than 1 percent. The primary low income housing programs—public housing and section 8—have been cut 78 percent since 1961. In the last 7 years, not a single initiative has emerged from HUD to help the homeless. As a result, homelessness has skyrocketed. Some estimates place the homeless at over 3 million.

Homelessness is a blotch on our national conscience that needs to be addressed by Congress with cooperation from HUD. To symbolize the seriousness of this issue and to wake up HUD, today I am introducing H.R. 4733 that would allow HUD to do more for the homeless than they have done in the past 7 years. The bill would convert three floors of the mammoth HUD building here in Washington, into a shelter for the homeless. There should be more than enough room at the 10-story building since the staff at HUD has fallen about 30 percent.

HUD seems to believe that housing and homelessness are not their responsibilities. The 14 of my colleagues that are original cosponsors of H.R. 4733 and I disagree. Maybe when the Secretary leaves his opulent suite and sees the homeless families sleeping in the corridors, our housing policy will turn around.

Below is an excellent assessment of HUD that was written by Robert E. McKay, the executive director of the Council of Large Public Housing Authorities. Mr. McKay's letter was printed in the New York Times on May 28, 1988.

The letter follows:

DOING LESS, CLAIMING MORE ON PUBLIC HOUSING

TO THE EDITOR: Samuel R. Pierce, Jr., Secretary of Housing and Urban Development, reiterates his claim that under the Reagan Administration the Department of Housing and Urban Development has done "more for less" to house the nation's low-income people (letter, April 25). This claim is a hoax, as the following shows:

Mr. Pierce's vaunted reduction of more than $15 billion in outstanding housing debt has occurred because it was converted to general Treasury obligations, thereby removing it from the H.U.D. budget. This is nothing more than an accounting trick.

More than half the increase in housing developed during the Reagan Administration was approved before it took office in 1981. Appropriations for additional units of housing development since 1981 have been approved by Congress over the fierce and constant opposition of H.U.D., the Office of Management and Budget, and the White House.

For fiscal year 1988, Mr. Pierce proposed reducing H.U.D. budget authority to $10 billion, 37 percent down from the actual fiscal year 1986 level of $15.9 billion. He proposed no money for public housing development and only $563 million in new appropriations for public-housing modernization for fiscal 1988, down 60 percent from the $1.4 billion Congress appropriated for modernization for fiscal year 1987. These funds are essential in helping conserve the public-housing stock.

Finally, Mr. Pierce continues to push to convert the popular and highly successful "rent certificate" program into what H.U.D. calls "housing vouchers." Vouchers cost more per unit, to the Federal Government (in subsidies) and to the recipients (in out-of-pocket rents paid), the difference going to private landlords.

Under Mr. Pierce, H.U.D. is doing less and claiming more. Thanks to Congress, especially to Representative Charles E. Schumer and Bill Green, and to Senators Alfonse M. D'Amato and Frank R. Lautenberg, Mr. Pierce hasn't yet been entirely successful.

EXPLANATION OF VOTE ON THE CONFERENCE AGREEMENT ON H.R. 2470, MEDICARE CATASTROPHIC PROTECTION ACT

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. LEWIS of Florida. Mr. Speaker, earlier today when the House passed by a vote of 328 to 72, the conference agreement on H.R. 2470, the Medicare Catastrophic Protection Act, I voted in favor of this measure. In view of the fact that some oppose this legislation, I would like to take a moment to provide an explanation of my vote.

Like many around this country, both in Congress and back home in Florida's 12th Congressional District, I have serious concerns about the Medicare Catastrophic Protection Act. In the past, these concerns have prompted me to request comments from senior citizens in my district. Quite frankly, the majority of those who took the time to respond were opposed to both the House and Senate versions of the bill. At the time these constituents were contacted, I promised to relay the mutual concerns we shared to the conference committee, and to carefully consider their view when finally voting on the conference report.

Today the House voted on the conference report and I, probably against the wishes of some of my constituency, voted for the bill. Although I still have great concerns about this measure, I strongly support providing protection from catastrophic hospital and physician expenses.

This bill protects Medicare beneficiaries from catastrophic hospital and physician expenses by capping their out-of-pocket costs for these services at $2,146 in 1990. It also extends Medicare benefits to cover prescription drugs, for beneficiaries with large expenditures for medicine.

In conclusion Mr. Speaker, I would like to state that I don't believe that H.R. 2470 is a perfect piece of legislation. But I do believe that H.R. 2470 was the best available vehicle to accomplish the goal of providing protection from catastrophic expenses. However, rather than an end, this vote today must be the beginning of a continuing process to improve and enhance the worthy goal found in this bill and embraced by so many of my House colleagues today.

HEBREW FREE LOAN ASSOCIATION CELEBRATES 90TH BIRTHDAY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mrs. BOXER. Mr. Speaker, I rise today to call to the attention of my colleagues an important celebration taking place in San Francisco this Sunday.

This year the Hebrew Free Loan Association marks its 90th year of outstanding service in helping generations of bay area Jews to overcome financial hardship and find fulfillment in their lives.

The extraordinary assistance in the form of small business and other loans given thousands of Jews fleeing persecution in their former countries, or simply seeking a better life in the San Francisco Bay area, provides for all an inspiring example of the good work we can accomplish together, and reminds us of the power of small gestures in transforming an individual life.

To think of the opportunity one small loan by the association has provided so many seeking to share with society their talents, their skills, and their dreams. It is unfortunate that so rarely do we encounter the effective translation of a compassionate purpose into a working program like this one. All associated in even the smallest way with the Hebrew Free Loan Association should be rightfully joyful on Sunday as they reflect on the wonders which can be accomplished when somebody cares, when a whole community cares enough to give a person a chance.

I invite my colleagues to join me today in recognizing the compassionate work and important contribution of the Hebrew Free Loan Association, and I send my best regards to the association for its accomplishments over the last 90 years, and my highest hopes for the future.

DEDICATED TEACHERS

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. DARDEN. Mr. Speaker, all of us in this body remember fondly that particular teacher who, even after all these years, still has a special effect on our lives. We remember that certain quality that he or she had which made learning especially exciting—and we know that we are forever indebted to that teacher.

Recently, the Atlanta-Journal Constitution recognized three veteran teachers in Metropolitan Atlanta with the newspapers' Honor Teacher Award, citing their special contribution to the development of students and their unique talent for focusing on the hidden abilities of their students. Those award-winning teachers were: Michael Behrman, a physical education teacher at Douglas County's Bill Arp Elementary School; Ann Gibby, a math and science teacher at Coweta County's Newnan High School; and Claudia Cook, a fifth-grade teacher at Hickory Hills Elementary School in my hometown of Marietta.

I am especially pleased by the recognition of Claudia Cook. I have known her for many years, and she taught both my daughter, Christy, and my son, George, during their years at Hickory Hills. Her enthusiasm for her work is apparent every day, and her dedication to the development of young minds makes her a truly outstanding example for the other teachers of her community, State, and Nation.

Claudia Cook has a motto: "It is not what you do for your children, but what you have taught them to do for themselves, that will make them successful human beings." Those are words which we all would do well to abide by, whether we are parents or teachers.

Mr. Speaker, I invite my colleagues to join me in congratulating Claudia Cook, Michael Behrman, and Ann Gibby. They, and thousands of other dedicated, concerned teachers like them throughout this country, are helping to build the intellectual and creative skills of a generation which will lead America in the next century.

ADD ANOTHER VITAL ISSUE IN COLOMBIA—THE SEA SEARCH-ARMADA AFFAIR

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. VANDER JAGT. Mr. Speaker, we are welcoming President Vigilio Barco Vargas, of Colombia, to Washington, DC, this week for a series of meetings with administration officials as well as the press corps. His visit is extremely timely and very important.

There is very serious concern as to Colombia being a principal source of cocaine, terrorism and the Medellin drug cartel. President Barco has and will have to continue to address these issues. And, just words and promises won't suffice any longer.

To add to that horrendous burden, there is another issue to which President Barco should also address himself. Colombia's financial condition appears to be perilously weak. Recently it had to borrow another billion dollars from U.S. banks. To repay such loans, Colombia needs the confidence of the American business community to encourage American commerce and investment.

But the experience of a group of American investors must shake the confidence of anyone thinking of doing business with Colombia. I speak of the Colombian expropriation of the vested rights of the Sea Search-Armada, the discoverer of a Spanish galleon. Colombia granted an exploration license, and the Americans invested some $10 million in historical research, diving, submarine exploration, and the latest technical equipment.

When Sea Search-Armada found the galleon—reputed to carry the richest cargo in history—and several others in addition, the Government of Colombia decided that the Americans did not deserve the 50 percent of the cargo which the Civil Code of Colombia awards such a finder. So President Barco and his administration caused the promulgation of a "decree" reducing the Americans' share of the finding from 50 to 5 percent. The American investors had no chance to be heard. Their rights were taken away by a stroke of President Barco's pen.

Mr. Speaker, if Colombia wants the understanding and good will of the United States, its government must treat our citizens fairly. The case of Sea Search-Armada indicates that President Barco does not understand the need for reciprocal adherence to the rule of law. There is no place for unilateral expropriation in our relationship.

JUNE 5, 1988, IS NATIONAL CANCER SURVIVORS DAY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. WAXMAN. Mr. Speaker, I want to call to the attention of Members that the American Cancer Society, in conjunction with Coping, the national magazine for cancer patients and their families, has declared June 5, 1988, as National Cancer Survivors Day.

National Cancer Survivors Day represents the first nationwide celebration of life for cancer survivors. It commemorates the many personal victories against cancer. It commemorates the 5 million cancer survivors alive today because of advances in early diagnosis and treatment.

The American Cancer Society and its volunteers are staging events in local communities throughout the country in conjunction with local hospitals and the National Coalition for Cancer Survivorship. Participants will join in a coast-to-coast simultaneous balloon release at 3 p.m. eastern daylight time. National Cancer Survivors Day is a long overdue opportunity to communicate the message to all Americans that survival is real, and that the fear surrounding cancer can sometimes be the real enemy.

President Franklin Roosevelt bolstered the spirit of a troubled nation when he warned about the fear of fear itself.

Fear of cancer keeps people away from mammography, Pap smears, fecal blood tests and other successful means of detecting cancer when it is most curable. Fear of cancer sometimes keeps cancer patients from accepting effective treatment.

I am hopeful that through the events sponsored on June 5, we send a clear message to Americans that cancer is not inevitable nor is it always fatal. Five million cancer survivors alive today are a living testament to the progress we have made.

ANNOUNCEMENT PURSUANT TO RULE XI, CLAUSE 4(c)

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. LOTT. Mr. Speaker, pursuant to rule XI, clause 4(c), I am hereby notifying the House by this announcement that I may call up House Resolution 314 tomorrow.

A TRIBUTE TO WENDELL W. YOUNG III

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. GRAY of Pennsylvania. Mr. Speaker, today I rise to salute an innovative and visionary labor leader, Wendell W. Young III. Mr. Young is the president of local No. 1357 of the United Food and Commercial Workers Union. With 20,000 members throughout Philadelphia and 18 surrounding counties of eastern Philadelphia, local No. 1357 is the largest UFCW in the State of Pennsylvania. On June 15, 1988, local No. 1357 will honor Wendell Young for his 25 years of presidential leadership as its members also celebrate their local's 50th anniversary.

During his 25-year service, Wendell Young was the first labor leader in the Philadelphia area to negotiate benefits for part-time workers. He was the first union leader to develop a policy of early warnings for plant closings in union contracts. He was the first leader to create and implement worker ownership in the retail food industry; as president and CEO of local No. 1357, Mr. Young initiated the creation of the super fresh and O & O models.

Wendell W. Young III has served on the boards and commissions of various organizations throughout his career. For 10 years, he has served diligently on the board of directors of the Variety Club for Handicapped Children. He devoted his time and energies to the community through his fundraising activities for: the City of Hope, the United Fund, Deborah Hospital, Saint Joseph's University, Israel Histadrut, Catholic Charities, the Allied Jewish Appeal, the Police Athletic League, Israel Bonds and the Variety Club.

Active in politics from a very early age, Mr. Young has been a dedicated and unselfish contributor, serving union members, his community, and his country. I join with the proud members of local No. 1357, the leadership, and members of the labor industry and the Philadelphia community in honoring Wendell W. Young III for his innovative, dedicated, and inspiring leadership as president of local No. 1357 of the United Food and Commercial Workers Union.

PERSONAL EXPLANATION

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1988

Mr. INHOFE. Mr. Speaker, due to official business in my district yesterday, I missed three votes on the House floor. Had I been present, I would have voted "no" on the conference report to accompany H.R. 1212, the Employee Polygraph Protection Act; "yes" on passage of H.R. 1801, the Juvenile Justice and Delinquency Prevention Act; and "yes" on the Walker amendment to H.R. 1801, as substituted, to require grantees and contractors to certify that they have drug-free workplace policies in place.

HOUSE OF REPRESENTATIVES—*Friday, June 3, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, we pray for all good things—for health and strength, for wisdom and nurture, for faith and hope. On this day we pray for peace, peace in our hearts and peace in our world. Help us to believe that in spite of the very grave concerns that touch each heart, we still may have that peace that passes all human understanding, that assurance and inner confidence that Your presence and Spirit can give.

For this we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

DEDICATION OF WAYNE COUNTY, OH, VETERANS' MEMORIAL

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, this past Monday I was privileged to participate in the dedication of the Wayne County, OH, Veterans' Memorial. Duty, honor, country. This is the theme of the Wayne County Memorial, dedicated to the 293 Wayne County citizens who served and died in the two World Wars, Korea, and Vietnam. This memorial, 2 years in the making, was conceived, designed, and implemented by the Joint Veterans Organization of Wayne County and was made possible by over 500 contributions from Wayne County citizens.

The memorial consists of five pillars of blue granite, four of which bear the name of the conflict at the top and has each citizen's name who died in service to our country inscribed on the pillar. The memorial will be an eternal reminder to all who visit that these brave Americans, their courage, and the ideals they fought for will live on in our memory.

Two hundred and twenty-two Wayne County students, ranging from grades 8 to 12, competed for the honor to have their tribute to their fellow citizens inscribed on the memorial. This honor was won by Mark Beckler, who expressed his respect for these men and women who answered the call of their country and never returned with the phrase: "To cherish liberty, one need only remember how it was earned." This phrase embodies the essence of our dedication to freedom of all people.

THE 25TH ANNIVERSARY OF NATIONAL ACADEMY OF OPTICIANRY

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, a constituent of mine in South Carolina's First District, K. Richard Davenport of Charleston, serves as president of the National Academy of Opticianry, which observes its 25th anniversary this year.

I applaud this volunteer, not-for-profit body, dedicated to improving educational opportunities for all ophthalmic dispensers, and would like to call this anniversary to the attention of my colleagues. In just the past 10 years, the academy has grown to become the largest single opticianry organization in the world, currently listing some 4,560 fellows and members.

The significance of the academy's anniversary lies not in its large membership nor its 25 years of existence, but in its successful cooperation and work with other eye care professionals. They serve the 70-plus million Americans who periodically need vision care. Without vision correction these citizens could not enjoy a satisfactory quality life—or in a majority of cases—earn their livings.

In congratulating President Dick Davenport and the academy for their adult education programs, I wish to add my expectations for their continued progress in serving the eye care needs of all Americans.

TRIBUTE TO JOHN MANLICH, JR., VOLUNTEER OF THE YEAR

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, today I have the opportunity to pay homage to a constituent who is an actual friend of mine; this is a gentleman whom I have come to know and love over the years. It gives me great pleasure to honor him here.

John Manlich, Jr., was recently named as the Baltimore County Senior Adult Volunteer Employment Program's "Volunteer of the Year." John volunteered 1,325 hours of his time in 1987; this is an achievement which prompted Baltimore County Executive Dennis Rasmussen to proclaim April 20, 1988, as "John Manlich, Jr., Day." All of us who know John are not at all surprised by this; I have long thought of him as an exceptional man who has always been willing to share his abilities with others. His is a life which is filled with many examples of voluntarism and community service. Let me introduce you to John—someone whom I am proud to call a fine friend as well as a fine man.

For a long time John worked with the March of Dimes; he rose to the position of vice president for Field Services and helped to arrange polio vaccine trials for Dr. Jonas Salk. He served his country with honors in the 99th Division in the European sector during World War II. John, it can be said, has in the past shown his love of country and its people in many different ways.

However, his zest for helping others has not diminished over the years. He has tirelessly sought to serve his community through such positions as board vice president of the Department of Aging's Senior Craft Gallery, administrator of the Maryland State Police Older Adult Club Crime Prevention Program, and volunteer consultant of the Criminal Justice Services Division of the American Association of Retarded Persons in the State of Maryland. Mr. Speaker, I can say with great pride that my district and its people are far better off as a result of John Manlich than it would have been without him.

He has also been a very special friend to me. His talent as a photographer is truly excellent, and there have been many times when I have called on him at only a moment's notice when I needed his skills. He has never let me down, and I hope that he feels able to say the same about me.

I know that mere words cannot hope to fully describe a friendship, yet I hope that they have been able to express the great pride I feel over this special friend and his special accomplishments. Indeed awards are great things, yet friendships are probably the greatest awards there are.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TOLL THE BELLS FOR MEMORIAL DAY

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, last Monday I and many of us as Members of Congress had the unique privilege and opportunity of participating in Memorial Day occurrences across this country, and yet I suspect that you, like me and others, could not help but reflect that Memorial Day unfortunately has become to many people in this country nothing more than another 3 day weekend.

Reflecting upon this, today I and the chairman of the Veterans' Affairs Committee, the honorable gentleman from Mississippi, Mr. SONNY MONTGOMERY, are introducing legislation which will call upon all churches, synagogues, schools, community centers, and other public buildings, to toll their bells for 1 minute beginning at 11 a.m. on each Memorial holiday in the future.

The purpose of this is in order that all Americans, whether they be at the beach, whether they be at the ballpark, whether they be at community celebrations or wherever they might be, will at least for 1 minute reflect and remember what the real purpose of Memorial Day was, is, and ought to be. In that process, hopefully we as well will again return to paying the proper respect to the men and women who have donated their lives in service to our country.

We call upon all of you to join with us in cosponsoring this legislation and making this a proper tribute.

SUPPORT BOEHLERT AMENDMENT TO H.R. 4505, DEPARTMENT OF ENERGY AUTHORIZATION, 1989

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, later today during consideration of the Department of Energy authorization bill, the gentleman from New York [Mr. BOEHLERT] will offer an amendment to provide for a floor of 25 percent foreign financial participation in the construction of the superconducting super collider.

Adoption of the Boehlert amendment is essential if we are to have burden sharing for this big expensive science project.

I am a strong supporter of the superconducting super collider, but we ought to have the playing field level so that if foreign scientists come and do experiments on this machine, their governments ought to pay for part of the cost to bring it into existence. We have heard much about burden sharing in the context of defense of the free world. In terms of giving the free world its scientific edge, burden sharing is just as valid an argument in this area as it is in the defense cost area.

So I would urge my colleagues to vote for the Boehlert amendment with a strong vote.

SIGNIFICANT ACCOMPLISHMENTS OF THE SUMMIT

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the news from the summit in Moscow would suggest that not very much really happened, except that people felt good and made friends.

I want to remind my colleagues and the American people today that we have accomplished something very significant and that we should compliment President Reagan for it; that is the signing and subsequent ratification of the INF Treaty.

I want to point out that the INF Treaty with the Soviets bans INF missiles. It reduces nuclear inventories instead of only capping them, as past treaties have done. It establishes a rigorous regime for verification, including intrusive onsite inspections and short-notice challenge inspections. It utilizes newly established nuclear risk reduction centers and it requires nearly four times as many cuts in Soviet warheads as American weapons, because it totally wipes out a class of missiles in which the Soviet Union dominates.

Now, I admit there is much more to be done. We must deal with strategic weapons. We must make progress on the START talks; but I am saying this country and the Soviets have done something that is historic, and President Reagan deserves our commendation for that. Let us not lose sight of the accomplishments embodied in the INF Treaty. It is a step forward, a small step, but a step in the right direction. I think it can lead to conclusion of the START talks that will finally and substantially reduce long-range nuclear weapons in this world.

SIGNIFICANCE OF THE SUPERCONDUCTING SUPER COLLIDER

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, today this House will discuss the authorization of the SSC, the superconducting super collider. It is a significant investment in our Nation to go forward and build this project. Certainly it is a significant investment in our future.

We will be seeing many amendments today to detract from, to reduce, to delay, to spread the burden sharing across the face of this globe. I think those amendments should be discussed and I think the merits and demerits should be brought forward. For instance, in the case of burden sharing, it is great. I believe in it, but we also must make sure that we make the commitment first so those other nations can come on and make those commitments and those dollars do not flow to other places in the world.

LEGISLATIVE PROGRAM

(Without objection Mr. SENSENBRENNER was given permission to address the House for 1 minute.)

Mr. SENSENBRENNER. Mr. Speaker, I have asked for this time for the purpose of finding out the schedule for next week, and I yield to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding.

The schedule for the remainder of the day is the completion of H.R. 4505, the Department of Energy authorization. Upon completion, we will adjourn until noon on Tuesday, June 7.

At that point we will consider the following 11 bills under suspension of the rules:

H.R. 4638, to change effective date for certain elementary and secondary education programs;

H.R. 4416, Library Services and Construction Act authorization extension;

H.R. 4585, to extend the Taft Institute through fiscal 1991;

H.R. 4639, to prevent abuses in the Supplemental Loans for Students Program under part B, title IV of the Higher Education Act of 1965;

H.R. 4592, U.S. Institute of Peace authorization extension;

H.R. 4621, to approve the Governing International Fishery Agreement between the United States and the German Democratic Republic;

H.R. 4365, to designate the Richard Cronin National Salmon Station;

H.R. 3966, Children's Television Practices Act;

H.R. 4158, National Appliance Energy Conservation Act Amendments;

H.R. 4379, temporary safe haven for aliens; and

S. 952, to provide greater discretion to the Supreme Court in selecting the cases it will review.

☐ 1015

I should also mention at this point that those 11 suspensions, the recorded votes on the suspensions will be postponed until Wednesday, June 8. Further, on Wednesday, June 8, we will meet at noon. We will have the Private Calendar, the postponed votes from Tuesday will take place, and then we will go to H.R. 3436, the Older Americans Act Technical Amendments, and debate the Pepper bill.

On Thursday, June 9, and Friday, June 10, the House meets at 10 a.m. and we will consider the Department of Defense appropriations for fiscal 1989, subject to a rule, and H.R. 4418, the National Science Foundation authorization for fiscal year 1989, with an open rule and 1 hour of debate.

Conference reports can be brought up at any time.

Mr. SENSENBRENNER. Mr. Speaker, reclaiming my time, I have a few questions to ask the gentleman from Michigan [Mr. BONIOR].

What time is the gentleman from Michigan expecting that we will be done with recorded votes today?

Mr. BONIOR. If the gentleman will yield, the desire is to finish by 3 o'clock.

Mr. SENSENBRENNER. And if this bill is not completed by 3 o'clock, will we stop at 3 or will we continue?

Mr. BONIOR. We will stop at 3 o'clock.

Mr. SENSENBRENNER. At what time does the gentleman from Michigan expect votes to take place on Wednesday, June 8? Are the votes that are rolled over on the suspensions going to come up right after the Private Calendar is called, or later on in the day?

Mr. BONIOR. If the gentleman will continue to yield, on Wednesday we will expect an early vote right away. We could have a vote on the Journal, and then we will go right into the postponed votes from suspensions of Tuesday.

Mr. SENSENBRENNER. So Members should be advised that there is a possibility of votes shortly after noon on Wednesday?

Mr. BONIOR. The gentleman is correct.

Mr. SENSENBRENNER. Finally, what is the intention of the majority leadership relative to votes next Friday?

Mr. BONIOR. There will be votes as was suggested in the calendar that was agreed upon by the majority and minority leaders.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Michigan [Mr. BONIOR].

ADJOURNMENT TO TUESDAY, JUNE 7, 1988

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Tuesday, June 7, 1988.

The SPEAKER pro tempore [Mr. MURTHA]. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, JUNE 8, 1988

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, June 7, 1988, it adjourn to meet at noon on Wednesday, June 8, 1988.

The SPEAKER pro tempore [Mr. MURTHA]. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JUNE 8, 1988

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore [Mr. MURTHA]. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AUTHORIZING CALL OF THE PRIVATE CALENDAR ON WEDNESDAY, JUNE 8, 1988

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that the Private Calendar be considered on Wednesday, June 8, 1988, instead of Tuesday, June 7, 1988.

The SPEAKER pro tempore [Mr. MURTHA]. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DEPARTMENT OF ENERGY CIVILIAN ENERGY RESEARCH AND DEVELOPMENT AUTHORIZATION ACT FOR FISCAL YEAR 1989

The SPEAKER pro tempore [Mr. MURTHA]. Pursuant to House Resolution 460 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4505.

☐ 1020

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4505) to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal year 1989, with Mr. SMITH of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 2, 1988, all time for general debate had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill is considered as an original bill for the purposes of amendment and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1, comprising the entirety of the committee amendment in the nature of a substitute, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy Civilian Energy Research and Development Authorization Act for fiscal year 1989".

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1989, subject to section 106, in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following civilian research and development programs:

(1) Fossil energy, $349,819,000;

(2) Energy conservation, a total of $146,876,000, including $9,992,000 in unobligated balances in industrial process efficiency which has not been included in section 105;

(3) Energy supply research and development:

(a) Solar energy, $94,679,000;

(b) Geothermal energy, $25,061,000;

(c) Supporting research and technical analysis, a total of $557,701,000, including basic energy sciences, $389,352,000; basic research user facilities-basic energy sciences, $99,693,000; general increase for basic energy sciences and basic research user facilities-basic energy sciences, $9,000,000; energy research analysis, $3,800,000; university research support, $26,770,000; university research instrumentation, $15,000,000; advisory and oversight program direction, $3,339,000; multiprogram laboratories facility support, $8,770,000; strategic facilities utilization program, $1,977,000;

(d) Environmental research and development, a total of $332,856,000;

(e) Nuclear fission energy, a total of $345,990,000, including light water reactors, $24,300,000; advanced reactors research and development, $103,500,000; space/defense power systems, $71,490,000; advanced nuclear systems, $24,700,000; facilities, $117,500,000; program direction, $8,500,000; general reduction, −$4,000,000;

(f) Civilian radioactive waste research and development, $2,498,000;

(g) Remedial action and waste technology, byproducts utilization, $5,000,000;

(h) Magnetic fusion energy, $330,465,000;

(i) Electric energy systems and energy storage systems, $36,080,000; and

(j) Supporting services, policy and management, energy research, $667,000;

(4) Geothermal resources development fund, $72,000;

(5) General science and research, a total of $652,916,000 excluding the Superconducting Super Collider project and including high energy and nuclear physics, $268,044,000; basic research user facilities, $381,662,000; program direction, $3,210,000; and,

(6) Isotope production and distribution fund, $16,243,000, with expected offsetting revenues of $16,452,000.

CAPITAL EQUIPMENT

Sec. 102. Funds are hereby authorized to be appropriated for fiscal year 1989, subject to section 106, in accordance with section 660 of the Department of Energy Organizations Act for the acquisition and fabrication of capital equipment not related to construction of the following civilian research and development programs:

(1) Fossil energy, $480,000;

(2) Energy conservation, $2,083,000;

(3) Energy supply research and development, a total of $95,204,000, including solar energy, $2,592,000; supporting research and technical analysis, $32,005,000; environmental research and development, $15,800,000; nuclear fission energy, $22,350,000 and magnetic fusion energy, $21,635,000; electric energy systems, $27,000; and, geothermal energy, $795,000; and,

(4) General science and research, $114,300,000.

PRIOR YEAR CONSTRUCTION

Sec. 103. Funds are hereby authorized to be appropriated for fiscal year 1989, subject to section 106, in accordance with section 660 of the Department of Energy Organization Act for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, including land acquisition) for the following prior year civilian research and development projects:

(1) Fossil energy, project numbered 88-F-100, $3,500,000;

(2) Nuclear energy, project numbered 86-N-105, $21,160,000;

(3) Magnetic fusion energy, project numbered 88-R-92, $24,000,000;

(4) Supporting research and technical analysis, a total of $92,929,000, including projects numbered 88-R-802, $1,445,000; 88-R-804, $1,330,000; 88-R-805, $1,946,000; 88-R-806, $3,448,000; 88-R-807, $2,150,000; 88-R-809, $1,000,000; 88-R-812, $3,950,000; 88-R-814, $2,060,000; 88-R-817, $980,000; 88-R-403, $6,500,000; 87-R-403, $4,000,000; 87-R-405, $9,700,000; 87-R-406, $30,000,000; 87-R-752, $600,000; 87-R-753, $3,600,000; 87-R-755, $500,000; 87-R-756, $3,134,000; 87-R-757, $460,000; 87-R-758, $1,585,000; 86-R-726, $464,000; 85-R-706, $312,000; 85-R-707, $375,000; 84-ER-103, $490,000; 88-R-830, $11,787,000; 86-R-801, $1,113,000;

(5) Environmental research and development, project numbered 87-R-130, $7,610,000; and

(6) General science and research, a total of $82,132,000 including projects numbered 86-R-105, $14,000,000; 87-R-203, $64,500,000; 86-R-104, $3,632,000.

NEW CONSTRUCTION

Sec. 104. Funds are hereby authorized to be appropriated for fiscal year 1989, subject to section 106, in accordance with section 660 of the Department of Energy Organization Act for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, including land acquisition) for the following new civilian research and development projects:

(1) Fossil energy, a total of $9,000,000, including projects numbered 89-F-101, $4,800,000; 89-F-102, $4,200,000;

(2) Solar energy, a total of $4,250,000, including projects numbered 89-C-700, $4,000,000; and SERI GPP, $250,000;

(3) Nuclear energy, a total of $20,200,000 including projects numbered 89-N-111, $7,500,000; 89-N-112, $3,400,000; 89-N-113, $3,800,000; 89-N-115, $2,000,000; 89-N-120, $3,500,000;

(4) Environmental research and development, project numbered 89-R-120, $3,500,000;

(5) Magnetic fusion energy, project numbered GP-E-900, $8,900,000;

(6) Supporting research and technical analysis, a total of $44,469,000 including projects numbered 89-R-116, $1,000,000; 89-R-401, $720,000; 89-R-400, $4,900,000; 89-R-113, $1,500,000; 89-R-112, $1,000,000; 89-R-111, $668,000; 89-R-110, $854,000; 89-R-109, $1,100,000; 89-R-108, $2,520,000; 89-R-107, $250,000; 89-R-106, $200,000; 89-R-105, $1,625,000; 89-R-104, $300,000; 89-R-103, $409,000; 89-R-102, $645,000; 89-R-101, $150,000; 89-R-100, $350,000; 89-R-770, $2,500,000; 89-R-600, $1,580,000; 89-R-601, $20,000,000; GPP-strategic facilities utilization program, $198,000; 89-R-117, $2,000,000; and

(7) General science and research, a total of $45,768,000 including projects numbered 89-R-202, $15,000,000; 89-R-301, $11,700,000; GP-E-302, $5,318,000; 89-R-501, $1,700,000; GP-E-500, $500,000; GP-E-103, $5,750,000; 89-R-201, $2,600,000 GP-E-300, $3,200,000.

UNOBLIGATED BALANCES

Sec. 105. To the extent approved in appropriations acts, the Secretary of Energy is authorized to utilize $101,370,000 in unobligated balances, which were previously authorized and remain in the accounts of the programs and activities authorized in this act to reduce the sums authorized for the programs and activities in this act, except that this authority is not applicable to the general science and research account; the energy conservation, transportation research and development account; the biological and environmental research account; the environment, safety and health account; and the liquefied gaseous fuels test facility account.

GENERAL REDUCTION

Sec. 106. The amounts authorized herein shall be reduced by a total of 6.63 per centum after credit is applied for unobligated balances authorized for the purposes of this act pursuant to section 105, except that this reduction shall not apply to the energy conservation, transportation research and development account ($54,800,000); biological and environmental research account ($249,000,000); environment, safety and health account ($110,000,000); and the liquefied gaseous fuels test facility account ($766,000).

SUPERCONDUCTING SUPER COLLIDER PROJECT

Sec. 107. (1) Funds are hereby authorized to be appropriated for fiscal year 1989, subject to section 106, and for fiscal years 1990, and 1991 in accordance with section 660 of the Department of Energy Organization Act for the Superconducting Super Collider project as follows:

(a) operating expenses, $64,000,000; $56,000,000; $38,000,000; respectively;

(b) capital equipment, $16,000,000; $34,000,000; $118,000,000; respectively;

(c) technical systems development, operating expenses and capital equipment for fiscal year 1989, $67,700,000; and,

(d) project numbered 89-R-450, $0.0; $585,000,000; $618,000,000; respectively.

(2) Foreign Participation.—(a) The Secretary shall seek to obtain commitments for foreign participation in the Superconducting Super Collider project at a level not to exceed 25 per centum of the total estimated costs of the project.

(b) The Secretary shall, in a regular and timely fashion, consult with, and by the beginning of fiscal year 1990 submit written reports to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on: (i) the extent and nature of the assistance which the Secretary determines is most likely to be made available for the Superconducting Super Collider by foreign entities; (ii) if a 25 per centum foreign participation level is not attainable, then the Secretary of Energy shall explain why he has been unable to attain this level of foreign participation and the implications of the lack of substantial foreign participation with respect to future funding for the project; and (3) the manner in which the competitiveness of domestic industries may be affected by the acceptance of foreign offers of participation in the construction and operation of the Superconducting Super Collider.

(3)(a) Eligible Contract Recipients.—The Secretary shall, to the extent feasible, award contracts under this subsection only to—

(i) firms domiciled in the United States which have a majority of ownership by United States nationals; or

(ii) foreign firms based in a country that is contributing substantially to the project; or

(iii) foreign firms that will carry out a majority of all contractual activities within the United States.

(b) None of the limitations in subsection (a) shall apply to joint-ventures with a United States company expressly organized to bid for Superconducting Super Collider contracts.

(c) For contracts that cannot be fulfilled from sources which meet the requirements of subsection (a) or can only be fulfilled at a prohibitively high cost, the Secretary shall report to the Committee on Science, Space, and Technology in the House and the Committee on Energy and Natural Resources in the Senate stating the reasons for the contract award within thirty days of awarding such contract.

(4) Foreign Manufacture.—The Secretary of Energy shall not permit more than thirty-three and one-third per centum of any major system or component of the Superconducting Super Collider facility to be manufactured in a foreign country unless the Secretary of Energy finds that such system or component is not available from a domestic manufacturer and the Secretary of Energy provides sixty days notice prior to entering into such a commitment to the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.

(5) Conflict of Interest.—(a) Except as provided in subsection (2), the Secretary of Energy shall not enter into any agreement to manage or in any way control or support the operation of the Superconducting Super Collider facility with any persons providing advice, program direction, oversight, or other management assistance to the Department of Energy on the Superconducting Super Collider project.

(b) The Secretary of Energy may enter into such agreement with such person if the Secretary of Energy—

(i) finds and reports in writing to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate sixty days prior to consummating such agreement (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) that such agreement is necessary, in the best interest of the Nation; and,

(ii) simultaneously publishes such a finding in the Federal Register.

SCOPE OF AUTHORIZATION

SEC. 108. (1) No funds are authorized under this Act for any purpose other than research, development, and demonstration.

(2) Notwithstanding any other provision of this Act—

(a) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science, Space, and Technology of the House of Representatives or the Committee on Energy and Natural Resources of the Senate;

(b) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program in this Act; and,

(c) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee unless a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Secretary of Energy or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

ANNUAL BUDGET SUBMISSION

SEC. 109. The Secretary of Energy shall annually submit to the Congress, at the time of the release of the President's budget, a three year budget estimate for the Department of Energy, including funding estimates for each major account and new initiative.

REPORT

SEC. 110. The Assistant Secretary for Environment, Safety and Health shall prepare an annual report on the status of the Department of Energy's environment, safety and health efforts. Such report shall be submitted to the House Committee on Science, Space, and Technology and the Senate Committee on Energy and Natural Resources by January 1, 1989 and each year following. This report shall include—

(1) an inventory of major environment, safety and health problems that need to be resolved at Department of Energy facilities and how the Secretary of Energy plans to resolve them, including overall cost estimates and timetables;

(2) a list of planned or ongoing activities directed to such problems; and

(3) total funds authorized, appropriated, obligated, expended and planned to be requested by fiscal years for such activities.

RENAMING FACILITY

SEC. 111. The Los Alamos Neutron Scattering Center is hereby redesignated as the "Manuel Lujan, Jr. Neutron Scattering Center." Any reference in any law, regulation, map, record or other document of the United States to the Los Alamos Neutron Scattering Center shall be considered a reference to the "Manuel Lujan, Jr. Neutron Scattering Center".

DRUG FREE WORKPLACE

SEC. 112. No funds authorized to be expended under this Act shall be expended in any workplace which is not free from illegal use of controlled substances.

Mr. ROE. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there any amendments to section 1?

AMENDMENT OFFERED BY MR. BUECHNER

Mr. BUECHNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUECHNER. Amend page 9, lines 2 through 15, to read as follows:

SEC. 107. (1) There are authorized to be appropriated for fiscal year 1989 $100,000,000, for research and development for the superconducting super collider.

Mr. BUECHNER. Mr. Chairman, yesterday and today the House is considering major authorization bills to help ensure that the United States maintains its leadership in science and space technology. We have just passed the NASA authorization bill, we are presently considering the Department of Energy Authorization bill and we will conclude later today or tomorrow with the National Science Foundation authorization bill. I think we all agree that increased funding in science and space programs is critical for our Nation to meet the challenge of global competition and to improve the quality of life for all citizens. The chairman of the Science, Space, and Technology Committee, Mr. ROE, and the vice chairman, Mr. LUJAN, have demonstrated great vision and leadership to bring forth legislation that will contribute to the long-range economic growth and competitiveness of the country.

However, a basic problem exists. There is not enough money to fund all these worthy projects. The Science, Space, and Technology Committee, of which I am a member, has a myriad of new science and space projects to consider this fiscal year. We authorized substantial increases for our space program and the National Science Foundation, as well as the general science programs for the Department of Energy. In all, the general science and space programs was increased 29 percent above the 1988 level. That is why we are offering this amendment that will reduce spending on the superconducting super collider while still providing $100 million in research and development next year.

My colleagues and I who are offering this amendment are not opposed to these increases. In fact, my friend from Florida, Mr. MACKAY, and I are the only two members on the Science, Space, and Technology Committee that also serve on the Budget Committee. During Budget Committee deliberations, Mr. MACKAY and I fought to ensure that NASA, the National Science Foundation and superconducting super collider received as much funding as possible. However, it became obvious that our plate was too full with new and existing projects and something had to give.

The bill before us will commit substantial amounts of money to research and construction of the superconducting super collider—$147 million in fiscal year 1989, $675 million in fiscal year 1990 and $774 million in fiscal year 1991. It is estimated that this project will cost at least $5.4 billion when it is finally constructed. Yet some very critical questions about this project remain unanswered.

The amendment we are offering is an attempt to set priorities among the competing space and science programs. It will delete the outyear funding and provide $100 million for the SSC during the next fiscal year to continue its research and development. This amendment brings this authorization bill in line with the energy and water appropriations bill which also provided $100 million in SSC research. Further, the $100 million in research will allow work to continue in this field, while giving Congress the opportunity to determine unresolved questions such as the extent of foreign participation, State contribution, and relative priority in future budgets.

Mr. Chairman, I am not opposed to the SSC. I know it has worthy qualities and it will be an asset to the scientific community, although our CBO states that its results "are not expected to pay for themselves economically for decades, if ever." While I do not enjoy opposing my chairman and vice chairman of the Science, Space, and Technology Committee, we must be realistic. If we fund the SSC we will have to reduce our funding for other projects such as the space station.

Mr. Chairman, although the primary purpose of the authorization committee is to set priorities for the Appropriations Committee, it should not act in a vacuum in which fiscal reality is ignored. This bill should guide the appropriations committee, but I believe that in its present form, it will be ignored.

This amendment adds a little dose of reality into the authorization process. It allows Congress to continue important research for the SSC in a fiscally responsible manner. We simply cannot fund a host of space and science programs in the same fiscal year. We must make our choices and allocate our funds in the best possible manner. In essence, we must set priorities among the many conflicting science and space projects.

Finally, I am inserting the following information relating to the budget implications of the SSC to be included for the RECORD:

[From the Congressional Budget Office Staff Memorandum]

ECONOMIC AND BUDGETARY ASPECTS OF THE SUPERCONDUCTING SUPER COLLIDER

This Staff Memorandum analyzes aspects of the economic spinoffs from previous particle accelerator efforts and outlines the current budgetary and fiscal potential of alternative sources of financing for the Superconducting Super Collider (SSC) in the

United States. The first section reviews a study published by the European Organization for Nuclear Research (CERN) on the economic and commercial spinoffs of their particle accelerator program in Geneva, Switzerland. (CERN is the major European Community scientific competitor of the U.S. high-energy physics program.) The section outlines CERN's methodology and conclusions and discusses the applicability of the study to U.S. circumstances.

The second and third sections of the memorandum discuss alternative sources of funds for the U.S. particle accelerator program. The second section focuses on the costs to state governments of contributing to the SSC and places these costs in the context of the states' current indebtedness and their current revenue-raising efforts. (The section does not address the question of the appropriateness or the desirability of a formal state contribution or the precedent such an action might set. Nor does the section address the question of how much weight, if any, the Congress might wish to place on the willingness of any individual state to contribute in the site selection process now underway.[1] The third section looks at potential foreign donors to see how the SSC might fit into their high-energy physics budgets.

ECONOMIC SPILLOVERS FROM CERN

In 1984, CERN published a report on the economic spillover effects of its high-energy physics program.[2] This study (referred to as the CERN Contracts Study) concentrated on the secondary economic effects of the procurement contracts let by CERN. The study's intention was to determine whether firms that sold high-technology goods to CERN experienced subsequent increases in non-CERN sales. The CERN Contracts Study concluded that CERN contracts generated three francs in non-CERN sales for every franc in CERN sales. The following sections show that the study substantially overstates the added value of CERN contracts to the economy, although not to the firms involved, and that, largely because of differences in technology, many of the report's conclusions may not be applicable to the United States.

Summary of the CERN Contracts Study

The CERN Contracts Study broke the economic effects of CERN into three categories: primary economic effects, secondary effects, and multiplier effects. The CERN Contracts Study focuses on neither the primary economic nor the multiplier effects.[3] Instead, it concentrates on the secondary effects, which are the benefits that come to the firms providing high-technology equipment under contract to CERN.[4]

The CERN Contracts Study used a straightforward methodology: 160 sample high-technology firms that received CERN contracts during the 1973-1982 period were asked how much in additional sales the CERN contracts had generated or would generate during the 1973-1987 period. (Since interviews for the study were conducted between May of 1982 and June of 1984, a substantial portion of the stated gain in sales was, in fact, a forecast.) While the questions asked covered a range of topics—such as how CERN contracts affected management practices, quality control, research and development, and production techniques—the heart of the questioning related to additional sales. For instance, a manager had to estimate how much CERN contracts had improved production techniques and then estimate how much the improved production techniques had increased, or would increase, sales by 1987. Furthermore, the answers were to be focused only on markets relevant to CERN. For example, unless specifically affected, consumer goods divisions of CERN contractors were excluded from the survey. While the survey intent was straightforward, the range of questions was complex enough to minimize deliberate exaggeration by the contractors.

Once tabulated, the results were screened for irregular data before being extrapolated to the universe of 519 high-technology CERN contractors.[5] The raw data results suggested that each franc in CERN sales produced 4.2 francs in added sales. Especially in the electronics, optics, and computer industries, however, there were outliers: here the CERN franc produced 7.2 francs. The extrapolated results were tabulated by sector (see Table 1). As noted above, the net corrected benefit of each CERN franc to recipient firms was 3 francs.[6] This spillover is to the high-technology suppliers exclusively, since they were the focus of the CERN study.

The CERN Contracts Study staff performed an additional test to determine the overall accuracy of the managers' sales forecasts. The study included 40 firms that had participated in an earlier study that used the same method. Comparing the forecasts made by these firms' managers with the subsequent actual events indicated that, while individual forecasts were often wrong, the aggregate forecast was close to the actual aggregate. Tests suggested the differences between actual and forecasted sales were not statistically significant.

The CERN Contracts Study staff took this to mean that, on average, managers' forecasts would prove to be accurate.

TABLE 1.—CERN AND SPILLOVER SALES BY INDUSTRIAL CATEGORY

[In millions of 1977 Swiss francs]

	Electronics, optics, computers	Electrical equipment	Vacuum, cryogenics, superconductivity	Steel and welding	Precisions mechanics	Total
Net new sales	2,245	1,025	400	255	155	4,080
CERN sales	537	472	152	104	111	1,378
Ratio of net new sales to CERN sales	4.7	2.2	2.6	2.4	1.4	[1] 3.0

[1] Average of ratios.

Note.—Details may not add to totals because of rounding.

Source: CERN Contracts Study, p. 16.

Assumptions

The central, and perhaps flawed, assumption of the CERN Contracts Study is that 100 percent of the sales of CERN contractors are new sales to the economy; that is, these sales do not come at the cost of fewer sales going to firms that do not have CERN contracts. The CERN Contracts Study provides some supporting arguments for this 100 percent "additionality" assumption. It is nevertheless an assumption, and to the extent it is incorrect, CERN is merely rearranging sales rather than creating new sales. While such a rearrangement of sales is of great benefit to the firms doing the actual work, from a public policy perspective the question naturally arises of why a public agency, whether CERN or the U.S. Department of Energy, should spend money in order to shift sales to one favored group of firms. The following paragraphs discusses the CERN Contracts Study assumption and how it is contradicted throughout the study itself.

While the assumption of 100 percent additionality has some merit, it is given no statistical or anectodal support in the study. It is a polar assumption in the sense that it is at the extreme end of the range of possibilities. At the other end of the range is the assumption that CERN contracts generate no additional sales in the aggregate and that the CERN contractors are merely diverting sales that would have gone to other firms.[7] This second polar assumption is the more conventional one, and thus the burden of proof lies with the CERN Contracts Study.

CERN Contracts Study staff argue that their assumption holds for two reasons: [8]

The relevant markets are growth markets, so no firm is actually taking sales from other firms.

CERN buys only leading-edge products in these markets, and, by improving the quality of its suppliers, forces the competitors to improve also.

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[1] The Congress instructed the U.S. Department of Energy not to consider financial incentives in its site selection process.

[2] M. Bianchi-Streit and others, "Economic Utility Resulting from CERN Contracts (Second Study)" (Geneva, Switzerland: European Organization for Nuclear Research, 1984). This study is independent of an earlier study, which covered similar topics for an earlier period. The Congressional Budget Office did not analyze the first study.

[3] The primary category is the economic usefulness of the research results themselves. In the case of CERN or the U.S. Superconducting Super Collider (SSC), the research results are not expected to pay for themselves economically for decades, if ever. While early economic use of these results would be welcome, these projects are being undertaken purely for knowledge and any other use of the results should be considered fortuitous. The multiplier effects simply refer to a macroeconomic multiplier, which results from all government purchases of goods and services. These would be roughly the same whether the government were building a highway or a particle accelerator.

[4] The CERN Contracts Study did not examine what may be the largest spinoff of pure research projects: the training of the next generation of scientists. Graduate students working on these projects are often unable to find academic jobs, and may therefore move into industry where much of their training may be useful. See Leon M. Lederman, "The Value of Fundamental Science," Scientific American (November 1984), pp. 40-47. However, this training would occur at any basic research site. In the case of the SSC, where the marginal dollar may very well come from other basic research, this effect may not result in any net benefit to the economy. In fairness to the CERN Contracts Study staff, they acknowledged that quantifying the secondary effects completely was impossible.

[5] Of CERN's 6,000 suppliers, the CERN Contracts Study classified 519 as "high technology," although the study did not define this term. The subsequent tabulations included steel and welding, which are not often classified as high technology.

[6] Among the other factors the CERN Contracts Study staff adjusted for was the effect of the CERN contracts prior to 1973. They assumed that non-CERN contracts won by CERN contractors during 1973-1975 resulted from previous CERN work and should not be counted in the 1973-1982 total. Such contracts turned out to be 15 percent of the total.

[7] An even more extreme position would argue that if the government crowded out private investment in the credit markets, CERN research and development spending would reduce the funds available for private investment and so reduce aggregate contracts.

[8] CERN Contract Study, p. 5.

The first argument ignores the concept of baseline rates of growth. If a market is growing independently of CERN sales, then firms in those markets should expect to see sales growth. Investors in these firms would normally regard the failure to grow as indicative that something was wrong with the firm's management, product mix, or marketing. While no European firm may lose sales to CERN contractors in an absolute sense, CERN contracts may very well depress sales growth of non-CERN contractor firms.

The second argument is simply overstated. Not every piece of equipment in CERN's laboratories leads the state of the art in its particular field. There will be certain components that are completely novel and other components that have substantial modifications and improvements. But to argue that CERN is simultaneously providing leadership in all aspects of the high technology it touches is to ignore the incremental and cumulative nature of scientific advance.[9] Like the first argument, this argument ignores improvements in technology that are occurring independently of CERN.

The assumption of 100 percent additionality is also regularly contradicted in the study. One of the major benefits the study claims for being a CERN contractor is that it can use CERN as a reference. The study cites one case where a firm used its CERN contracts, as the basis for admission to a trade association, "and, as a result, was able to obtain an increased number of [non-CERN] contracts." [10] The use of CERN as a reference for admission to a trade association, however, suggests a rearrangement rather than an expansion of sales. An expansion would come from the introduction of new products or from cost reduction.

In another example cited by CERN, a small firm that supplied CERN with "standard, but specialized, hydraulic equipment" became the industry standard, increasing sales and exports. While there may be some increase in sales due to the benefits of standardization—consumers benefit by not having to compare and choose among competing equipment standards—these are offset by sales lost by the purveyors of alternative standards.[11] In this case, therefore, there will be some net gain in aggregate sales, but there will also be some losses for other providers of standard, but specialized, hydraulic equipment, showing that sales are once again being redistributed.

In sum, CERN probably has, by pushing technology forward, increased aggregate sales in high-technology products. However, there is no supporting evidence offered for, and a substantial amount of evidence against, the assumption that all or any substantial portion of the new sales obtained by CERN contractors were not diverted from firms without CERN contracts.

Applicability to U.S. Circumstances

Is there reason to believe that the circumstances of the U.S. high-technology industries are substantially different from their European counterparts? Furthermore, are the circumstances of the SSC contracting substantially different from the circumstances of the CERN contracting? If the answer to both of these questions is yes, then CERN Contracts Study results may not be applicable to the SSC.

High-Technology Industry. In their justification of the additionality assumption, the CERN Contracts Study staff argued that it is "an efficient mechanism for keeping European industry abreast of international competition."[12] Simply put, the argument is that CERN contracts allow European suppliers to keep up with U.S. and Japanese suppliers of electronic goods and other high-technology products. The U.S. industry is in a very different position. While U.S. high-technology industries have lost part of their competitiveness to Japan's and other countries' high-technology industries, these losses have occurred to a large extent among products of lower technical sophistication, such as consumer products.

The microcomputer market is a case in point. (The emphasis is on the electronic and computer goods industries because over half of the added sales measured by CERN Contracts Study staff occurred in electronics, optics, and computers. See Table 1.) Imports to the United States from Korea and other newly industrialized Asian countries consist mainly of less sophisticated IBM-compatible personal computers. IBM, Compaq, Apple, SUN, and other U.S. companies still control the more technologically advanced segment of that market. Since scientists and technicians working on particle accelerator physics need the best equipment available, in the field of microcomputer technology they will be pushing for advances in the segment of the market the United States already dominates. Of course, not all markets divide as neatly as the microcomputer market: Japan, for instance, has made substantial inroads into leading-edge semiconductor and semiconductor manufacturing equipment markets.

One of the benefits of CERN contracts mentioned in the study is that they help small firms to export to other European Community nations. The barriers to interstate commerce in the United States are nowhere near as high as they are in Europe. U.S. industries share legal traditions and systems, language, professional and trade journals and magazines, and trade associations. Given his lack of internal barriers, small firms in the United States should need little help to ship elsewhere in the United States.

Procurement. Procurement of high-technology components for the SSC in the United States may differ from that for CERN in two major ways. First, it is quite possible that some of the main components, such as the magnets or the detectors, may be built and donated by foreign contributors. If so, the economy of the nation actually building those components will benefit, not necessarily the U.S. industry. In this regard the Congress faces a dilemma. If it pays for the whole projects, the costs may be prohibitive. On the other hand, the major international interest in contributing financially has been expressed in precisely those areas, the superconducting magnets and the detectors, where spinoffs for contractors, whether through new products or reduced costs, are most likely.

The second way in which procurement for the SSC may differ from CERN procurement is that the market for superconductors is about to change dramatically. The development of high-temperature superconductors may make the market for superconductors much larger. At the same time, it may change many of the skills needed in handling superconductors. For instance, it is much less difficult to work with liquid nitrogen than with liquid helium. Consequently, much of the expertise required for current superconductors may become superfluous. It is too early to tell whether market presence in the low-temperature superconductor market will be of benefit in the emerging high-temperature superconductor market. For instance, none of the major vacuum tube makers successfully made an early transition into semiconductor manufacturing, despite the similarity of uses. Since $1.2 billion (in fiscal year 1986 dollars) allocated to the SSC is being spent on the superconducting magnets and associated infrastructure, a substantial portion of the high-technology components of the SSC may quickly become commercially obsolete and hence produce very few spinoffs.[13] On the other hand, they may not. In rapidly changing circumstances, it is inappropriate to extrapolate from studies made under conditions of more stable evolution.

SOURCES OF FUNDING IN THE UNITED STATES

The process of selecting the site for the SSC in the United States is currently well underway. After examining submissions by many states regarding their geological, infrastructure, and educational resources, the National Academy of Sciences site selection panel chose eight finalist states.[14] After one state, New York, withdrew its application, seven were left: Arizona, Colorado, Illinois, Michigan, North Carolina, Tennessee, and Texas. The Department of Energy (DOE) is conducting further studies, including a study of environmental impact, to determine which state provides the best combination of qualities for the SSC site. Later this year the Secretary of Energy is expected to recommend a single state to the President.

The Administration currently projects that the SSC will cost $5.3 billion to build. The desire to reduce the federal costs of the SSC has raised questions regarding possible financial contributions from the state government for the construction of the SSC, although the Congress directed the DOE to ignore possible state financial contributions to the construction of the SSC in its selection process. The following discussion outlines the costs of contributing to the construction of the SSC and the limits on states' capacities to contribute. Alternative measures of state revenue-raising capacity are then discussed. Ultimately, however, the funding decision is political, not technical: do the people and government of the designated state want to spend their limited resources on the SSC?

The Cost of Debt

The states could incur substantial costs in helping to pay for the SSC, depending on the amounts contributed. As with other capital expenses, a designated state is likely to pay for its contribution with long-term debt as a means of spreading the cost of its contribution over a long period. This section discusses the cost to the states of issuing $1 billion in debt.

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[9] In the United States, many government programs involving high technology are not at the leading edge of their particular field. For instance, U.S. military systems lag commercial systems by two to seven years in integrated circuit usage, see Office of the Under Secretary of Defense for Acquisition, "Very High Speed Integrated Circuits, Annual Report for 1986" (VHSIC Program Office, December 31, 1986), p. 14.

[10] CERN Contracts Study, p. 11.

[11] These losses could be magnified if the "wrong" standard, that is, one that forecloses or distorts future technology development, is chosen. See Paul David, "Some New Standards for the Economics of Standardization in the Information Age" (Stanford, CA.: Center for Economic Policy Research, October 1986), CEPR Publication No. 79.

[12] CERN Contract Study, p. 5.

[13] SSC Central Design Group, "Conceptual Design of the Superconducting Super Collider" (September 1986), p. 697.

[14] National Academy of Sciences, "Siting the Superconducting Super Collider" (Washington, D.C., 1988), p. 1.

A $1 billion bond issue to pay for the SSC would cost a state between $105 million and $109 million per year in debt service. This analysis assumes that SSC bonds will be amortized over 20 years. The interest rate will be between 0.5 and 1.0 percentage points below the Congressional Budget Office's (CBO) 1989 forecast of 9.5 percent for the 10-year U.S. Government note.[15] The finalist states have good credit ratings, and it would serve little purpose to attempt to differentiate the interest rates each might have to pay on a hypothetical bond.

The annual cost per capita of SSC bonds would vary between a low of $6.50 in Texas and a high of $33 in Arizona, because of Texas' larger population. This would represent 0.05 and 0.27 percent, respectively, of before-tax personal income in those states. (See Table 2 for a listing of all the states.)

State general obligation bonds and most state revenue bonds are exempt from federal taxes. Consequently, when states issue bonds the federal government forgoes some income. In the case of bonds to pay for the SSC, the assumption must be made either that SSC bonds would increase the aggregate number of bonds the state in question is issuing, or that they would namely merely substitute for other functions the state might perform. If a state decides not to increase its indebtedness, but rather decides to reduce other services in order to contribute to the SSC, then the State's contribution may not cause any new revenue losses for the federal government. On the other hand, if the state decides to expand its services to include the SSC and must increase its debt and taxes to do this, then there is the potential of increasing federal revenue losses.[16] A state could also finance its contribution through a mixture of some new indebtedness and some reduction of other projected debt. It is impossible to know how states will act in this regard. Consequently, the results of any revenue loss calculations should be considered as upper bounds and not necessarily the most likely occurrence.

TABLE 2.—COST OF $1 BILLION OF SSC BONDS

State	Annual cost per capita (in dollars)		Share of personal income (in percents)	
	At 8.5 percent	At 9.0 percent	At 8.5 percent	At 9.0 percent
Arizona	31.61	32.77	0.26	0.27
Colorado	32.09	33.77	.22	.23
Illinois	9.07	9.41	.06	.06
Michigan	11.46	11.88	.08	.09
North Carolina	16.56	17.17	.14	.15
Tennessee	21.83	22.63	.20	.20
Texas	6.28	6.52	.05	.05

Note.—Cost assumes $1.0 billion amortized over 20 years at 8.5 percent and 9.0 percent rates of interest, with semiannual interest payments.

Source: Congressional Budget Office, calculated from Bureau of the Census, "State Government Finances in 1986" (October 1987), p. 56.

Over the life of the bonds, the states would pay between $1.1 billion and $1.2 billion in interest income. Assuming the investors are in the 28 percent tax bracket, the federal government could forgo as much as $307 million to $328 million in tax revenues in order to receive a $1 billion contribution from the state. The present value of these losses would vary with the discount rate.[17] At a 5 percent discount, the present value would range between $210 million and $230 million. At a 10 percent discount, the present value would range between $160 million and $170 million.

State Constitutional Limitations on State Borrowing

Each state's constitution defines how much general obligation (GO) debt (backed by the full faith and credit of the state) the state government can incur and under what conditions.[18] These terms vary widely among states. The principal types of limitations include limits on amounts, requiring referendums or extraordinary majorities in the state legislatures (usually 60 or 66 percent) if the limit is to be exceeded. Consequently, in most states, issuing GO debt is time-consuming and difficult.

In response to these limitations to GO debt, state agencies have devised alternative debt instruments, which do not technically encumber the state credit yet provide lenders with access to a relatively secure stream of funds from state activities. These alternative instruments have much less stringent authorization requirements. In many cases, a simple majority in the state legislature (coupled occasionally with approval by a state treasurer or bond board) will suffice for authorization. Often, these alternative debt instruments come in the form of revenue bonds or certificates of participation in lease purchase agreements and are used to pay for a wide variety of capital construction projects. For example, in one instance a state issued certificates of participation to build a prison. The state would lease the prison and, through the lease payments, repay the debt. While technically not an encumbrance to the state income (if the state did not need the prison, it was only held by the terms of the lease), the state was not likely to end the lease.[19] Similarly, revenue bonds are usually paid for by the stream of revenue coming from a project, not directly through state coffers.

As can be seen from Table 3, these alternative debt instruments have come to represent the majority of state debt. The highest level of GO debt (as a percentage of all debt) is in Tennessee, at 40 percent. Other states have lower figures, and two states cannot issue long-term GO debt at all.

CBO has found two finalist states that are currently authorized to issue debt for the SSC. The Texas state government is authorized to issue $500 million in GO debt and $500 million in revenue bonds should Texas be selected as the site. The State of Illinois is authorized to issue $180 million in GO debt.[20] These two states, however, may not be unique in their willingness to incur debt for the SSC: other states may merely be paying for SSC-related improvements, such as access roads, water and the like, through their highway and water works bond issues.

Measures of Revenue-Raising Capacity

The Advisory Commission on Intergovernmental Relations (ACIR) developed two types of measures of states' fiscal capacity in a recent report (referred to as ACIR Fiscal Capacity Report).[21] The first type measures the taxpayers' ability to pay taxes and other levies; the second measures the state governments' ability to collect revenues. The first approach depends on macroeconomic variables, such as state personal income, while the second looks at statutory tax or revenue bases, such as retail sales. This discussion concentrates on the second approach.

TABLE 3.—STATE GOVERNMENT LONG-TERM INDEBTEDNESS, FISCAL YEAR 1986

	Total	Type (In millions of dollars)		Per capita (in dollars)	Percentage of personal income
		General obligation	Other		
Arizona	1,472	0	1,472	444	3.6
Colorado	1,998	0	1,998	612	4.2
Illinois	11,979	3,758	8,221	1,037	7.0
Michigan	7,050	622	6,428	771	5.7
North Carolina	2,593	768	1,826	410	3.6
Tennessee	1,978	753	1,225	412	3.7
Texas	5,432	1,970	3,462	326	2.5

Note.—Details may not add to totals because of rounding.

Source: Bureau of the Census, "State Government Finances in 1986," (October 1987), pp. 34 and 56.

The central capacity concepts used in this section are the Representative Tax System (RTS) and the closely-related Representative Revenue System (RRS). These measures start with the commonly used statutory tax and revenue bases (such as retail sales), and weight these by national average tax rates. Included in the RTS are general sales taxes, selective sales taxes, licenses, personal income taxes, corporate net income taxes, and property taxes. The RRS adds to the RTS by also including nontax revenue sources, most notably user charges.[22]

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[15] Congressional Budget Office, "The Economic and Budget Outlook: Fiscal Years 1989–1993" (February 1988), p. 41. For purposes of simplicity, this analysis does not include the effects of call and other such provisions on the valuation of the bonds. This analysis also assumes there are no costs attached to floating the bond, other than the interest and principal payments. Because state public purpose bonds have been exempt from federal taxes, state general obligation bonds have offered an interest rate that averaged 1.7 percentage points below the 10-year Treasury bill rate during the 1980s. Since tax reform, the difference has decreased: it was 0.7 percentage points in 1987.

[16] For the sake of computational simplicity, this argument ignores the effect SSC bonds might have on the interest rates of other tax-exempt state and local bonds. SSC bonds would represent only a small fraction of total state issues. In 1986, for instance, states and local governments issued $142 billion worth of tax-exempt bonds, see "The Bond Buyer, 1987 Yearbook" (American Banker-Bond Buyer 1987), p. 11.

[17] While the Congressional Budget Office forecasts a 9.5 percent interest rate for the 1989 10-year federal government bond, these high interest rates may hold for the entire 20 years of losses. Therefore, this analysis uses a range of discount rates reflecting both CBO and Administration forecasted interest rates over the next few years.

[18] This discussion is largely taken from the Advisory Commission on Intergovernmental Relations, *Significant Features of Fiscal Federalism, 1988 Edition, Volume I* (December 1987), pp. 102–103.

[19] On the other hand, most states have balanced budget requirements. Shifting from capital accounts to ordinary spending accounts could run into other limits.

[20] In late February, Governor Thompson proposed $539.3 million in bond funds for the SSC and the legislature could increase the authorization.

[21] This section is largely derived from the Advisory Commission on Intergovernmental Relations, *Measuring States Fiscal Capacity, 1987 Edition* (December 1987). The purpose of examining these measures is not to bias the site selection process, but rather to examine the general fiscal capacities of the states and the indicators used to measure them.

These are conventional measures, representing national averages. Individual states, because of their political histories and citizens' preferences, may have tax rates far above or below the average or "representative" rates used by ACIR.[23] While this analysis may refer to one or another state as being above or below the average or representative tax rate, this does not imply a judgment about the desirability of movement toward the average. Because the RTS and RRS are derived from statutory bases they will not capture all the potential sources of state revenue and income. However, it is unlikely that financing for the SSC will be a motivating factor for major breakthroughs in state financing. On the other hand, states with current high levels of taxation may be perceived as worse risks by bond rating agencies if they have to take on substantially more debt for the SSC.

ACIR has collected and published estimates only until 1985. Many changes have occurred since then to make these already crude measures even more suspect. For instance, the Congress has enacted tax reform and the states have responded by changing their tax systems. In many cases, the states were attempting to capture the windfall provided to states by tax reform. Other states returned this surplus to taxpayers. These changes may alter rankings for different revenue-raising efforts. On the other hand, despite the dramatic drop in oil prices in early 1986, personal income in Texas has not declined substantially since the data for the ACIR numbers was collected.[24] Texas raised and expanded its general sales tax after 1985 in response to a state deficit.

TABLE 4.—COMPARISON OF STATE FISCAL CAPACITY, FISCAL YEAR 1985

State	Fiscal effort (national average=1)	
	RTS	RRS
Arizona	0.96	0.95
Colorado	.85	.88
Illinois	1.06	.97
Michigan	1.20	1.17
North Carolina	.93	.92
Tennessee	.82	.89
Texas	.76	.81

Note.—RTS=Representative Tax System; RRS=Representative Revenue System.

Source: Congressional Budget Office, calculated from Advisory Commission on Intergovernmental Relations (ACIR), Measuring State Fiscal Capacity, 1987 Edition (December 1987).

As can be seen from Table 4, states vary in their per capita revenue-raising efforts. Michigan has the highest level of effort of any of the finalist states: in both the RTS and RRS, the state revenues are above the state's "capacity," where capacity is defined using "representative" tax rates. By contrast, Texas has the lowest tax effort measured by either the RTS or the RRS. (Texas is the only finalist state without a personal income tax, accounting for its lesser revenue-raising effort.)

INTERNATIONAL EFFORTS IN HIGH-ENERGY PHYSICS

Both opponents and proponents of the SSC agree that the federal government should seek international funding to spread the cost of the SSC over as many science budgets as possible. The paragraphs below discuss the current high-energy physics budgets of potential contributors and outlines their current science budgets.

Japan

According to the U.S. Department of Energy, in fiscal year 1984, Japan had a high-energy physics budget of roughly $150 million per year. Since then, while the value (in dollar terms) has risen, the effort (in physicists) has remained relatively constant. By comparison, the total research and development budget of the Japanese Government for fiscal year 1984 was $6.2 billion.[25] Between fiscal years 1984 and 1987 (ending in March 1988), that budget increased (in yen) by 14.2 percent.

The European Community

According to the U.S. Department of Energy, the European Community as a whole had a high-energy physics budget of $660 million dollars in fiscal year 1984.[26] CERN accounted for $340 million, or roughly half of this. CERN members are currently committed to a rival of the SSC—the Large Hadron Collider—which they feel is cost efficient when compared to the SSC.[27] Most notably, Italy, which is often mentioned as a potential source of funding, is already participating in three high-energy physics programs—CERN, DESY in West Germany, and its own Gran Sasso National Laboratory. Since the current five-year planning cycle in Italy is already well underway, if not completed, it is unclear how much of Italy's current budget remains uncommitted. The total Italian science budget was $1.2 billion in fiscal year 1986.

Soviet Union

According to the U.S. Department of Energy, the Soviet Union has committed as many resources in terms of people and equipment as the United States has to the development of high-energy physics. However, it is unclear what the budget is in terms of money.

Canada

There are currently less than 100 high-energy physicists in Canada. Although the Canadian government participates in the projects at CERN, DESY, Fermilab, and Brookhaven, among others, it has few facilities of its own. It also spends little on high-energy physics: estimates range between $10 million and $50 million per year. (The variation in the estimates is largely a function of whether medium-energy physics and low-energy physics, which include Van De Graaf generators, are counted in particle physics.) The Canadian government is currently contemplating one major particle accelerator—TRIUMF—which is projected to cost $500 million to upgrade and which it may ask the United States to participate in. The Canadian contribution to HERA, a hadron collider at DESY, is reported to have been less than $20 million.[28]

[From the New York Times, May 20, 1988]

YES, BIG SCIENCE. BUT WHICH PROJECTS?

To govern is to choose, and when it comes to spending big bucks on science, the Reagan Administration is doing neither.

Big science projects dominate the President's substantial research requests: a vastly expensive space station . . . a 53-mile ring in which to smash atomic particles . . . an amazing map of human genes. These and other increases in science spending amount to $3 billion for next year alone. Yet much of the money would go to poorly analyzed ventures whose growth threatens more fruitful initiatives. Which ones deserve support?

The Administration offers no criteria. Scientists habitually avoid criticizing each other's programs lest Congress react by cutting research budgets. But the imminent prospect that big projects will squeeze out smaller ones has prompted an unusual call from Frank Press, president of the National Academy of Sciences. He has invited his colleagues to an unusual exercise in setting priorities from among the projects on the Reagan laundry list.

Space Station and Space Science. The President wants $739 million to continue design of NASA's palatial space station. Its likely eventual cost has already soared to $26 billion. As its spending wedge grows, the space station is bound to crush other, valuable space science programs in NASA's budget, just as the shuttle did before it. The space station's main commerical use would be to provide low gravity for research and manufacture. That can be offered sooner and far more cheaply by the proposed Industrial Space Facility.

Supercollider and Superconductivity. Mr. Reagan would lay out $363 million to start the $4.4 billion superconducting supercollider. This is a tempting but dangerous initiative because funds to pay for it almost certainly would be stripped from other physics research. Physicists are divided on the project's merits.

The collider is designed to explore a new energy range in search of the ultimate constituents of matter, particularly a predicted entity known as the Higgs boson. The field is of high intellectual interest, and it would be a sad day if the United States did not remain a major player.

But European physicists have shown how an existing collider ring at Geneva could be upgraded to within probable reach of the Higgs boson. Buying into the European ring would be cheaper. By the time the present U.S. deficits disappear, the new materials may allow a new American accelerator to be built more cheaply.

Human Genes and Human Hunger. The President proposes to spend $46 million in determining the chemical sequence of the human genetic instruction set. The National Academy of Sciences advocates a crash program, costing $3 billion, but insists that paying for the project "must not be at the expense of currently funded biological research." Opponents may wonder why AIDS research, for instance, should take the hit on behalf of a project for which biologists say they won't sacrifice a cent.

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[22] ACIR Fiscal Capacity Report, p. 113.

[23] For an early discussion of local preferences for taxes and government services, see Charles M. Tiebout, "A Pure Theory of Local Expenditures," Journal of Political Economy, vol. 64 (October 1956).

[24] Personal income by state for 1987 is not yet available. In 1985, Texans had a before-tax personal income of $221 million. This rose to $225 million in 1986.

[25] The value of the yen was calculated to be 234.4 to the U.S. dollar in fiscal year 1984 and 248 in 1985. This estimate excludes local and semi-governmental agency expenses. Including these would increase the total by roughly 25 percent. See "Japan Economic Institute Report" (August 1, 1986 and November 13, 1987).

[26] This analysis assumes 2.256 Swiss francs to the U.S. dollar in fiscal year 1984.

[27] Herwig Schopper, the head of CERN, testified before the Congress last year, "The hadron collider in the LEP [large electron-positron] tunnel would cover the interesting energy range at a fraction of the projected cost of the SSC."

[28] HERA construction costs were originally estimated to be $400 million in 1984 dollars. More recent reports suggest much higher costs. William Boesman, "World Inventory of 'Big Science' Research Instruments and Facilities" (Congressional Research Service, 1986), p. 68.

Even so, the first step taken toward sequencing the human genome ranks as by far the most promising of Mr. Reagan's big science schemes. The project offers knowledge about the biological basis of existence, and a bounty of medical applications. Though researchers in time would pick out the most interesting parts of the gene set, an organized program to sequence all of it would speed the process of discovery.

Science now amounts to 16 percent of domestic non-entitlement outlays. Given Congress's pent-up desires for other spending, Mr. Reagan has no hope of getting all his desires funded. In the absence of any coherent Federal policy for science, there are few guideposts for picking through the wish list. Because he has failed to set priorities, Congress will have to try its best to do so.

[From Business Week, Mar. 28, 1988]

WHY EVEN REAGAN'S MEGAPROJECTS AREN'T GETTING MEGABUCKS

(By Evert Clark)

When the current National Science Foundation budget came up for final consideration last December, it met with stiff competition. Along with a $30 billion space station, it also vied with a parking garage at Arlington National Cemetery, a trust fund for leaking underground storage tanks, and housing for the elderly and handicapped. The NSF, which supports most U.S. academic science, didn't fare very well. Congress increased the agency's budget by only 5.5%, well below the 17% President Reagan pledged as part of his push for technological competitiveness.

In the past the agency's budgets usually slid through Congress unscathed. But now science funding is taking a beating on Capitol Hill, and critics in and out of the Administration are pointing their fingers at the President. Fearing that the U.S. may lose its lead in such fields as space, aviation, and high-energy physics research, the Reagan Administration has endorsed a dazzling array of high-priced projects. But federal budgets are so tight that the megaprojects "are now in civil war with each other," says a congressional staffer.

The NSF budget was hardly the only one to feel the pinch. Funding for a hypersonic aircraft the President had hailed as the key to U.S. dominance of world aeronautics was cut by 21%, and money for the manned space station was slashed by 40%.

Such drastic cutbacks can weaken programs so badly that Congress eventually decides to put them out of their misery. "It was sheer lunacy," says an Office of Management & Budget analyst. "I can't imagine that a modern country of our size is supposed to run this way." And the 1989 budget promises to be worse. Representative Edward P. Boland (D-Mass.), chairman of the Appropriations subcommittee on housing, warned Reagan on Mar. 10 that unless he shifted more money to housing programs, he could "kiss good-bye to the space station."

BREAKING DOWN

The problem, say scientists and legislators alike, is that no one is setting priorities for increasingly costly science and technology projects. Scientists are asking for too much, and the President and congressional science committees are trying to give it to them. But no one is making tough choices, says one frustrated Administration official. "It's a crazy, patchwork kind of way to make science policy," he declares. Adds the manager of a high-priority Pentagon program that is losing funds despite Reagan's strong backing: "I think our system is breaking down—it's just chaotic."

It wasn't always that way. In the years following World War II, scientists forged a strong alliance with Washington. Responding to the shock of the Soviet Sputnik satellite in 1957, President Eisenhower elevated an advisory committee that he called "my scientists" to White House status and named the first Presidential science adviser. That tradition continued through the Kennedy years but began to flag under President Johnson. And when some science advisers openly opposed President Nixon's antiballistic missile system as well as the Vietnam War, he retaliated by abolishing the White House science office.

In 1976, Congress ordered the White House to reestablish a science adviser, Presidents Ford and Carter each hired one but did not form advisory committees. Reagan had two but left the science post open for long periods during his terms in office, and critics say, listened only to scientists who agreed with him. Reagan's first science adviser, George A. Keyworth II, confirms that: Scientists who did not share Reagan's vision of projects such as the Strategic Defense Initiative program had a "diminished role and credibility in the formulation of national policy."

Few are more concerned about the lack of direction in U.S. science policy than former Presidential science advisers and technology leaders. In a just-published book of essays that they hope current Presidential candidates will heed, Science & Technology Advice to the President, Congress, and Judiciary, almost all of the former Presidential advisers make a case for having a strong, nonpolitical committee of scientists to advise the President. The lack of such a group allowed science policy to sink "into a real morass," says the editor of the book, 78-year-old head of the New York Academy of Sciences, William T. Golden, whose report to President Truman in 1950 led to the creation of the first science advisory committee.

Indeed, some former Presidential advisers argue that if Reagan had listened to a panel of independent voices he might never have launched some of his most controversial projects. Many scientists were skeptical of the $27 billion Star Wars missile shield. Others said that the proposed $6 billion atom smasher known as the Superconducting Super Collider is a costly toy for a handful of high-energy physicists. Some experts also believe that Presidential advisers would have watched the space program closely so the Challenger shuttle disaster might have been avoided.

FIRST CASUALTY?

President Reagan, however, is still showing no signs of restraint. Despite his agreement to an overall 2% increase for discretionary domestic spending, he wants to double the space station's budget to $1 billion and increase funding for the SSC from $25 million to $363 million.

The SSC, which former House Science & Technology Committee Chairman Don Fuqua (D-Fla.) called an example of "driving beyond our headlights," typifies the cross-pressures of science funding. The Energy Dept., seven states, more than 70 large companies, and the heads of 49 university physics departments are lobbying to keep the project alive. But veterans of the budget wars already are predicting it will be the first casualty when the bloodletting begins this year.

Such lobbying efforts on big-ticket projects have put the once lofty science community in the same league as other special pleaders seeking legislative pork. And its projects are starting to face similar scrutiny on Capitol Hill. Unless the scientists and policymakers can come up with a coherent, affordable science policy, the nation's technological leadership could be in further jeopardy.

[From New Technology Week, May 16, 1988]

QUESTIONING THE SPINOFFS OF THE SSC

Supporters' claims that there will be a wide variety of spinoffs from the building of the Superconducting Super Collider may be off base, warns the Congressional Budget Office. Research results from the $5.3 billion project "are not expected to pay for themselves economically for decades, if ever," says the CBO. "While early economic use of these results would be welcome, [the SSC is] being undertaken purely for knowledge and any other use of the results should be considered fortuitous."

Moreover, direct economic spinoffs (construction jobs, for instance) from the money spent on constructing the SSC "would be roughly the same whether the government were building a highway or a particle accelerator."

In terms of the economic benefits to the suppliers of high-technology components for the accelerator, CBO analyzes the often-quoted CERN Contracts Study of 1984, which shows that every franc in CERN sales to contractors generated 4.2 francs in added (outside) sales. In the electronics, optics and computer industries, each franc generated 7.2 francs in sales, CERN found in its study.

CBO takes a cautious approach to these findings. CBO finds that CERN "probably has, by pushing technology forward, increased aggregate sales in high-technology products." But the study could just as easily point out that "CERN is merely rearranging sales rather than creating new sales. While such a rearrangement of sales is of great benefit to the firms doing the actual work, from a public policy perspective the question naturally arises of why a public agency, whether CERN or the U.S. Department of Energy, should spend money in order to shift sales to one favored group of firms."

The argument that the procurement of high tech goods will keep U.S. industry competitive is also questionable, CBO writes. Using the microcomputer market as an example, CBO says that the U.S. already controls the most technologically advanced segment of this industry. "Since scientists and technicians working on particle accelerator physics need the best equipment available, in the field of microcomputer technology, they will be pushing for advances in the segment of the market the United States alreay dominates."

Procuring equipment for the SSC will be vastly different from CERN, CBO writes. "It is quite possible that some of the main components such as the magnets or the detectors may be built and donated by foreign contributors. If so, the economy of the nation actually building those components will benefit, not necessarily the U.S. industry. In this regard the Congress faces a dilemma. If [the government] pays for the whole project, he cost may be prohibitive. On the other hand, the major international interest in contributing financially has been expressed in precisely those areas, the superconducting magnets and detectors, where spinoffs for contractors, whether through new products or reduced costs, are most likely."

CBO also questions whether, as a result of the breakthroughs in high-temperature superconductivity, the superconducting industry will change dramatically. "It is too early to tell whether market presence in the low-temperature superconductor market will be of benefit in the emerging high-temperature superconductor market." CBO writes. "For instance, none of the major vacuum tube makers successfully made an early transition into semiconductor manufacturing, despite the similarity of uses. Since the $1.2 billion (in fiscal year 1986 dollars) allocated to the SSC is being spent on the superconducting magnets and associated infrastructure, a substantial portion of the high-technology components of the SSC may quickly become commercially obsolete and hence produce very few spinoffs. On the other hand, they may not."

In its report, CBO also questions the states' abilities to help provide financing for the SSC, much of which would come from issuing bonds. "A $1 billion bond to pay for the SSC would cost a state between $105 million and $109 million per year in debt service," CBO points out. Since many state issued bonds are exempt from federal taxes, the federal government will "forego" revenues. "In the case of bonds to pay for the SSC, the assumption must be made either that SSC bonds would increase the aggregate number of bonds the state in question is issuing, or that they would merely substitute for other functions the state might perform. If a state decides not to increase its indebtedness, but rather decides to reduce other services in order to contribute to the SSC, then the state's contribution may not cause any new revenue losses for the federal government. On the other hand, if the state decides to expand its services to include the SSC and must increase its debt and taxes to do this, then there is the potential of increasing federal revenue losses . . . The federal government could forego as much as $307 million to $328 million in tax revenues in order to receive a $1 billion contribution from the [winning] state."

[From Physics Today, February 1988]

ALTERNATIVES TO THE SUPERCONDUCTING SUPER COLLIDER

(By Freeman Dyson)

The debate over the Superconducting Super Collider has given the public a false impression that people who oppose the SSC are opposed to particle physics in general. I happen to be a supporter of particle physics and an opponent of the SSC. Let me briefly explain why.

Continued progress in particle physics requires a succession of new machines responsive to rapidly changing theories and rapidly changing technologies. Nobody is wise enough to guess what will be the important questions and the important tools ten years ahead. Every new machine is a gamble. If we build the SSC, it might turn out to be a glorious success or it might turn out to be a flop. In either case, we will want to build other machines to carry on from where the SSC stops. Unfortunately, the SSC is an end rather than a beginning. It does not offer much hope of further development. It does not incorporate a new idea I am afraid that it may be a trap, tying our particle physicists to an old technology and barring the way to newer and more powerful alternatives.

What are the alternatives? I do not claim to be an expert on accelerator design, but I see a tremendous promise in linear electron-positron colliders. There are many reasons why linear electron-positron colliders may be a better gamble than the SSC.

Electron-positron collisions are usually cleaner and scientifically more illuminating than hadron collisions. Our existing electron-positron colliders SPEAR and CESR have been outstandingly cost-effective, as measured by major scientific discoveries per dollar invested. In the TeV range, the advantage of easier diagnostics is likely to favor electron-positron colliders even more strongly.

In electron-positron colliders the full machine energy is available in elementary interactions, whereas in the SSC the energy is shared among quarks and only a fraction of the machine energy is available.

The technology of future accelerators must move toward high luminosity as well as high energy. High luminosity demands tiny interaction volumes and extreme accuracy of focus and timing. All these requirements are pushing us in the direction of optical laser fields rather than radiofrequency fields for acceleration.

The substitution of laser for radiofrequency fields could in principle allow a drastic reduction in the length of linear accelerators. To take a rough example, a joule of laser energy in a 3-nanosecond pulse focused into a 10-micron spot produces an accelerating field of 50 GeV per meter. Nobody knows yet how to use such fields efficiently for acceleration. But we might reasonably gamble some fraction of our efforts on the chance that we can learn how to build an electron-positron collider with linear accelerators giving us 10 TeV per kilometer.

The technology of free-electron lasers is advancing rapidly and is giving us experience in handling interactions between intense electron and laser beams. A laser-driven electron-positron collider is in essence only a free-electron laser working backwards. The problems of beam instability are similar whether we are trying to push energy from electrons into photons or from photons into electrons.

If laser acceleration works well in the domain of linear electron-positron colliders, there is no reason why it should not also be applied to hadron colliders. We might then be able to build a linear hadron collider with the performance of the SSC, but much smaller and cheaper.

The great virtue of electron-positron collider technology is that it can be pursued incrementally. Our aim should be to build cost-effective machines with high luminosity at a variety of energies, able to respond quickly to the various opportunities that new discoveries will create.

All these arguments in favor of linear electron-positron colliders may turn out to be wrong. Likewise, the arguments in favor of the SSC may turn out to be wrong. A prudent gambler places his bets so that no matter what happens, he stays in business. If a decision to build the SSC means that we give up the aggressive pursuit of laser acceleration and other innovative technologies, then the SSC may become as great a setback for particle physics as the space shuttle has been for space science. A vote against the SSC need not be a vote against particle physics.

I am grateful to the editors of Physics Today for an advance copy of the article "New Particle Acceleration Techniques" by Andrew Sessler (January, page 26). Sessler does not agree with me. His article is an authoritative survey of linear electron-positron collider technology. Anybody with a serious interest in alternatives to the SSC should read it.

Mrs. **LLOYD**. Mr. Chairman, I move to strike the last word and I rise in opposition to this amendment. Mr. Chairman, I urge my colleagues to likewise oppose this amendment. I think we have to really look at where we are. Mr. Chairman, we are the stewards of this Nation's energy research and technology programs. We are stewards of big science and little science. We have to look at our basic science programs and look at big projects such as the superconducting super collider and put it all in perspective.

Mr. Chairman, I think this committee has done a worthy job of doing that. The administration requested $363 million for the SSC. The committee brought the funding recommendation down to $138 million which is $38 million over the House-approved appropriations level. What we are talking about is an investment in this Nation's scientific future. The real flaw of this amendment is that by limiting it to $100 million it does not provide for the essential technology systems development and non-site-specific construction activities that are crucial to the beginning site-specific construction activities in 1990. We do need the technical systems development activities that are related to construction, that is, that are not site specific. Also, multiyear funding is required to establish a basis for foreign participation. If we are serious about our industrial participation, we are going to need the commitment not only to let other countries know but to let the private sector know that we are serious about the SSC. We did defeat this amendment in full committee. I urge my colleagues to defeat this amendment. It is not sound. This is essentially a delaying tactic that will lead to unacceptable project delays and will delay construction.

Mr. Chairman, I ask my colleagues to support the level adopted by the committee.

Mr. **HENRY**. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, would join the gentlewoman from Tennessee [Mrs. LLOYD] in urging defeat of this amendment. Let us make very clear that the amendment was considered in full committee. Let us make clear that the chairman of the committee opposes this amendment. Let us make it very clear and understood that the Republican vice chairman of the full committee opposes the amendment. Let us make it very clear that when it was presented before the full committee it was rejected by the committee and I can only wish that my good friend from Missouri [Mr. Buechner] had actually been a little more attentive to some of our discussion in the general debate and also in the general debate and passage of the NASA bill yesterday because one of the points that was made over and over again was the breakthrough that we have achieved in the Committee on Science, Space, and Technology this year that for the first time in many years we have managed to secure multiyear funding for a number of major important scientific and technology and space projects that are critical to this Nation and which are facilitated by making some long-range and stable commitments.

Would the gentleman from Missouri [Mr. Buechner], for example, have been pleased if I suggested we retreat to single-year funding in the NASA budget? I do not think he would.

Would the gentleman from Missouri [Mr. Buechner] have supported it if I had gotten up and said no, the SCRAM jet and advanced avionics in the legislation we dealt with yesterday ought to go on this year-to-year, fits-and-starts basis over again with the problem inherent in terms of increasing costs rather than saving in costs? I do not think he would have supported that approach.

Mr. Chairman, it seems to me that if we are going to enter this kind of debate it ought to be addressed to the entire plethora of issues that have come before the committee rather than singling one out.

Mr. BUECHNER. Mr. Chairman, will the gentleman from Michigan yield?

Mr. HENRY. Mr. Chairman, I am happy to yield to the gentleman from Missouri [Mr. Buechner].

Mr. BUECHNER. Mr. Chairman, the gentleman from Michigan [Mr. Henry] has said if I had paid a little more attention to the general debate, and he used examples about would I have supported a cut in outyear funding on the space station, for example.

I think we made a commitment and the commitment has been continuing on the space station. We are in direct competition with the Soviet Union. There are innumerable numbers of scientists that have said we should be in space and there are direct spinoffs from that.

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I would just ask the gentleman to tell me one specific spinoff that he is aware of that the SSC, if it is built, will contribute other than providing employment for people in the selected site.

Mr. HENRY. I am pleased the gentleman raised the question. The fact is at the point in time when we began the space program in the 1950's and 1960's, we did not know what the spinoffs were going to be either. At that point space represented a kind of investment in hard science without knowing the practical utilitarian applied impacts it was going to have, not only in terms of our national self-interest but in terms of the economic growth that was going to be affected by that. The whole nature of this project, of course, is such that we cannot predict with certitude what the spinoffs are, but I am sure the gentleman would not contest the fact that what is at issue here with the SSC is not whether or not an SSC is going to be built. The only question is when it is going to be built and where it is going to be built. If the gentleman wants to get up here and suggest that we ought to yield the supremacy that this Nation enjoys in high-energy physics to the European Community or to the Pacific Rim nations, he ought to get up and say that. But this is not in our national interest because of the fact that it represents base science in an area in which we enjoy supremacy.

Let me just continue here. We are just at this point finishing a draft report of the Science and Technology Task Force established by this committee. I am sure the gentleman from Missouri knows we are circulating this, and those of us who have been on the task force are making comments and sending them back to the distinguished chairman, the gentleman from Florida [Mr. MacKay], and one of the premier recommendations of that task force report is that we need a long-term multiyear commitment in basic-science projects. That happens to be one of the premier recommendations of the work of the committee, of this task force, which has been going on for 4 years. It seems to me highly inconsistent in two ways: One, to single out one project in a way in which other multiyear projects are not being treated and, second, it flies in the face of our own task force recommendations.

Mr. Chairman, I yield back the balance of my time.

Mr. GLICKMAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, first of all, this is a good bill. The superconductor super collider is one issue that I happen to agree, however, that ought to be removed and I support the Buechner amendment. I do so with some trepidation because, after listening to the gentleman from Michigan, I almost feel like a member of the Flat Earth Society opposing something that might have long-term scientific and technological consequences for the United States.

The ultimate issue is we have got to make priorities. We have got to make judgments, because there are a lot of things that we could do in our society to improve our research and development, but we only have a certain number of dollars to do that with. If we go with this project which has obviously some scientific value, it is without a doubt going to jeopardize a whole slew of other science projects that will be reduced, and in the dissenting views there is a description of some of those science projects. I believe that if Members are for the superconducting super collider in the amounts that are funded in the bill, they will inevitably reduce a whole range of other science projects that have great value to our society.

Second of all, it is worth pointing out that we have just appropriated $100 million next year for this project, and the authorization is for not only $40-some-odd million this year, but in the outyears up to $1.5 billion, and it seems to me incongruous that we would go ahead and authorize now more this year and for the outyears than we have already appropriated.

A vote for this amendment is a good way to save some dollars, I would say to my colleagues, at a time of very tight fiscal policy.

I must also tell you this: This is one of these projects that had great interest. It had great interest when we thought we were going to locate it in every State in the country. I sat at the authorization hearings, on the super collider, and I witnessed Governor after Governor after Governor come down and tell us that this is the greatest project in the history of the American civilization, and it just so happened that they were trying to get it located in their State. When, in fact, we pressed a lot of these Governors and other State officials about, "Well, if the project were not located in your State, how would you feel about it," the level of intensity dramatically reduced.

I do not want to say that this project is strictly a public works project, because I also believe that it has some scientific value, but I think it has taken on more of a public works orientation than science.

Mr. ROE. Mr. Chairman, will the gentleman yield on that point?

Mr. GLICKMAN. I am happy to yield to the gentleman.

Mr. ROE. Mr. Chairman, I do not think that we should make that comparison, that is, coming back and saying we have to build a structure. It is not the structure that is the issue here at all. It is what we are going to use the structure for. It is like saying because we build a college laboratory that it is there for a public works program. It is the use of what we are going to make it. I think we should not clutter up this debate with the point of view of making the reference that this is a public works project, and even it it were, it would not be the last bad thing in the world for America. The fact remains, for clarity, we have to build a structure to do this particular high-level-technology research facility, and without the structure, one cannot do it. I think that ought to be made clear right at the very beginning.

Mr. GLICKMAN. I did not say the project did not have some scientific value, but I do think that what has driven this thing for the last few years is the fact that many people wanted to see it built in their State, and that took over and kind of cloaked the scientific value of what we are doing.

The other point that I would say is this: When one talks to scientists not only in this country but around the world about this particular project, there is no unanimity that this is the way to go to deal with high-energy physics. A lot of folks say that these activities can be simulated. More and more now people are saying that one can do a much smaller hole in the ground than the one that we are talking about building here. I would hate to commit ourselves to $1.5 billion, or however many dollars it is over a long-term period of time when the science is so dramatically changing in the area of high-energy physics.

This is a good amendment. It allows us to save some dollars at a time of enormous Federal deficits. It allows us to continue the research, $100 million, which the amendment of the gentleman from Missouri [Mr. BUECHNER] allows. It allows us to be in conformity with our appropriations bill which I believe the committee the gentleman from Alabama [Mr. BEVILL] reported to this floor, so Members will not have to vote against an amendment and, therefore, adding more money to the budget than what they voted for in the appropriation bill. Therefore, a vote for the amendment of the gentleman from Missouri [Mr. BUECHNER] is consistent with the appropriations bill.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 1 additional minute.)

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am happy to yield to the gentleman.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding.

Is the gentleman aware that the basic magnet, the superconducting magnet, this 54-foot-long, 17-foot-in-diameter, very technologically intensive magnet, has still not been built to a specification that can be repeated, and that continuing with research and development before we go the whole 9 yards makes some sense?

Mr. GLICKMAN. I am not specifically aware of that, but I am specifically aware that there are a lot of scientific thresholds that we have got to jump through before we are really able to utilize a superconducting super collider, and that is another reason to adopt the Buechner amendment to perhaps not commit ourselves to a massive amount of out-of-year funding.

Mr. RITTER. The fact is we are not ready to go ahead with building 53 miles of these magnets since we do not have the first one.

Mr. VALENTINE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wade into this controversy with fear and trembling, but I believe there are several matters which should be emphasized and redrawn to the attention of this body.

First of all, I think we should remind ourselves that when the recommendation was made by the President of the United States that this should be a national priority, that the figures that were talked about were in the billions of dollars. That has been pruned or trimmed back now to where we are talking in terms of only millions of dollars.

I suggest to the Members that the appropriation for the SSC has already been reduced by some $225 million, and if we adopt this amendment and continue to hammer away at it, we will not have enough money here to complete the survey work. I suggest that the attention of the House should be refocused on some testimony recently by eminent scientists in this country, some of whom place this project ahead of the space station.

□ 1040

Not having a background in science, it would be difficult for me, impossible for me to tick off at this time the benefits that will accrue to our fellows throughout the world if we proceed with this project. But I suggest that what is apparent and evident to me is that the body seems to be, some Members of the body, seem to be seized by a fear of the unknown.

I suggest we need to oppose this amendment. The $147 million is certainly small enough to indicate that this is a project we should pursue, that this is a path we should continue on in this country, and I ask my fellow Members of the House to oppose the amendment of the gentleman from Missouri. I think what he would really prefer to do in his heart, as some others who have spoken, is to see the funding reduced to nothing so that we will have to abandon the project. I respectfully suggest that the funding has been reduced to bare minimum and that we should oppose this amendment.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. VALENTINE. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. Mr. Chairman, I just want to support the gentleman's argument and speak in opposition to the amendment of the gentleman from Missouri. I feel that the position taken by the committee reflects a number of hours, hundreds of hours of hearings and deliberation in this area and I feel we must continue with at least that level of authorization or we run the risk of losing a project that is vitally important as we look to the future maintaining of the U.S. lead in the science and technology area.

I thank the gentleman for yielding.

Mr. BUECHNER. Mr. Chairman, will the gentleman yield?

Mr. VALENTINE. I yield to the gentleman from Missouri.

Mr. BUECHNER. Mr. Chairman, the gentleman made a remark about some people have placed it in a higher priority over the space station. Dr. Press, of course, is in the National Science Foundation and is into pure science. But does the gentleman not admit that there is a national consensus about space whereas there really has been no national dialog, at least at the grassroots level, about superconductivity and the super collider in particular?

Mr. VALENTINE. I would say to the gentleman from Missouri I believe there has been significant and widespread discussion, and there is greater understanding of this program and of this project in the country.

Mr. BUECHNER. Excuse me, but if the gentleman will yield again, I am not talking about the scientific community, I am talking about the American public, the people who send us up here.

Mr. VALENTINE. I think the people send us up here for leadership, and the benefits of the space program are evident. We have had that to judge now for many, many years.

Mr. BUECHNER. I agree with the gentleman.

Mr. VALENTINE. I do not think it is a fair comparison to say that because the SSC is not as well known as the space program that we should abandon it or that we should cripple it.

Mr. BUECHNER. If the gentleman will yield one more time, the Speaker of his House in the North Carolina State Legislature came out with a statement that if there were State participation he was going to be opposed to it, even if North Carolina were the winner, is that correct, if State participation were required?

Mr. VALENTINE. I do not want to presume to speak for the Speaker of the House of Representatives of the State of North Carolina. He is an outstanding man and a good Democrat. But that is not his decision.

I have seen him quoted, but I am not willing to take the position whether he is for it or against it.

Mr. BUECHNER. That was on the AP, was it not?

Mr. VALENTINE. I do not know where it was, but there has been some statement. I would say he has made some statements which indicated that maybe he had some question about it. But that has nothing to do with the relevance of the matter before us.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I just want to say a few words. With all due respect to the gentleman from Missouri, it seems to me that on this, his birthday, what he is trying to do is to kill the commitment for the superconducting super collider.

After a great deal of work and study and review and struggle in a bipartisan manner by our Science, Space, and Technology Committee, we came to the excruciating conclusion of what ought to be authorized. I submit, and it might sound self-serving, but I think the authorizing committee is certainly where the real expertise is located in regard to making commitments such as this.

But in the bill we do refer to nonsite specific development activities with an emphasis on collider and injector activities. We use the word technical systems development, operating expenses and capital equipment, and then for the outyears we refer to construction. That is as much of a commitment as the authorizing committee wanted to make. We whittled the President's request from $363 million down to $147 million, and I think the 6-percent cut down takes it down to less than that. It is a very modest proposal, but I think it is just enough so that we can make that commitment, and I understand just enough so that we will be able to bring the foreign commitments into the picture, which is tremendously important.

I think that if we are unable to make decisions in this area, as Congress has been unable to do in a number of crucial areas, we are going to find that the SSC indeed is going to be built somewhere else. Let me quote from a letter which was sent to me by Steven Errede who is a physicist at the University of Illinois. He said:

> At present, the Europeans are hestitating on their plans to build the LHC, large Hadron collider. The Russians also have plans for building a new accelerator which will be highly competitive with the United States' own SSC. Both groups are watching what will happen here in the United States. If we do not go forward with the SSC the Europeans will certainly build the LHC. The foreign countries now willing to help fund the SSC may instead choose to fund the LHC in order to maintain progress in this field.

Although the gentleman from Missouri professes, and I think he is sincere in his statement, that he does not wish to kill the SSC, I suggest to him that is exactly what he is doing.

Fortunately or unfortunately this project has been presented in a bit of a lottery environment because a lot of States understandably are interested in it. A lot of States and a lot of entities within States are interested in the space station and other grandiose projects. I have supported the NASA budget authorization, and obviously, yes, States are interested in this. Many of the States that came to this Congress, and I might say the great majority of scientists who testified over a number of days before our Energy, Research and Development Subcommittee, were solidly in favor of this. I might add too that when people say this may crowd out other sciences, they seem to look only to the SSC as the bad guy on the books. I just cannot understand that. The SSC is a tool of the future and small science is going to use that tool, Mr. Chairman. There are people from all over this Nation, small colleges and universities and professors and postdoctoral students who will be coming to this citadel, wherever it is built. And yes, it is not as easy to understand, for instance, as the space station. But it is one of the most exciting projects, and as far as education is concerned a project that will lure students and bring into science many thousands and thousands of students who would not otherwise have gone into science.

I hear the buzz word competitiveness all the time in this Congress, and it seems to me what I hear is people are anti-long-term basic R&D, especially if it has a civilian orientation to it, but something like this can be shared all over this Nation.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(On request of Mr. RITTER and by unanimous consent, Mr. FAWELL was allowed to proceed for 2 additional minutes.)

Mr. FAWELL. Mr. Chairman, let me take 30 seconds to complete my remarks. We are talking about a civilian oriented R&D program, and I support competitiveness. But I look upon this in a way as the blasphemy of the get rich quick. We are going to grab the competitiveness, let the Nobel Laureates go elsewhere, steal the technology of the future from Nobel Laureates from other countries just because we have to be first in competitiveness, and I think that is selling our science infrastructure that our children have a right to, and I do not support that whatsoever.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I am glad to yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding. I have the greatest respect for the capability and the integrity of the gentleman from Illinois. We work together closely on the Science, Space, and Technology Committee.

But, as the gentleman knows, this project is basically in his district or surrounding his district, and I think that makes a very interesting point for all of the Members of this House. The great majority of the people who are getting up and speaking on this issue do have a significant vested interest in pushing this project forward so that they, as one of the seven States competing, can have a final shot at it.

If Members look around the room, Mr. Chairman, they will find that most of the Members who are getting up are from the State of Illinois, which is a lead competitor, and from the State of Texas. The chairman and vice chairman have exerted their leadership on this, and they are indeed leaders in the science community, as is the gentlewoman from Tennessee [Mrs. LLOYD], chairman of the Subcommittee on Energy Research and Development. But as Members look at the vast majority, there are vested interests at stake.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has again expired.

(By unanimous consent Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. ROE. Mr. Chairman, will the gentleman from Illinois yield?

Mr. FAWELL. I am glad to yield to the gentleman from New Jersey.

(On request of Mr. ROE and by unanimous consent, Mr. FAWELL was allowed to proceed for 5 additional minutes.)

Mr. ROE. Mr. Chairman, I think this point is a very important point that this dialogue is covering. But let me remind both the gentleman from Pennsylvania and those who are listening, do we run America's scientific programs and its technology programs as to what State the particular project is to be located? If we do, we are in a very, very sad state of affairs.

Let us take number one the facts of the issue. The facts of the issue are that 39 States had the right to participate and 39 States did participate in the first preliminary program. All 39 participated. Do we want to say that those 39 States participated because if they did not get the project they were going to run home, and they were going to leave America bare naked because they were not successful? If that is so, then everything we do in defense, everything we do in space, everything that is done in this country then would only inure to the benefit of one State.

The question is not that the super collider relates to a particular State or a particular site. It relates to the people of this country, and the technology and knowledge of this universe is what it amounts to. That is No. 1.

And in a fair process, in a fair process those first States were eliminated. Now there are seven States left. It reminds me of the 11 Indians, and then there were 9, and then there were 8, and then there were 7, and then there was 1.

I am from New Jersey. We cannot fit that in my State. If we could fit that in my State, I would be out here fighting as hard as Illinois and Arizona and every other State in the running.

The issue is the super collider for the United States of America and the scientists of our country, not what State it would be located in. And I would assume that those States, all 39, and these Members in this House who participated would be really stating an atrocity to the American people to come back and say I only did it because it may have been located in my State or my district. Then the answer has to come back as to what is important to America. Did you do it because of the alms, because of the money you were going to get into your State, or did you do it because it was important for the country?

□ 1055

And I do not think it is fair to nail down any State whatsoever in their integrity or their honesty.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I yield to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding.

I just want to say to the gentleman from Pennsylvania that that is rather unfair to put it on a pork barrel basis. As you know, as the chairman said, 39 States competed but my home State of New Mexico is out of the running. And I did not drop off my support for the super collider simply because my State was not eligible.

So some of us do happen to think that it is a good project; even the sponsor of the amendment. He is not saying he is against the super collider. He is trying to bring some reality to the budgeting process is what he is doing. His State is not eligible, he is not for the thing because of pork barrel.

So that is kind of an unfair thing to say to the gentleman from Illinois that he is supporting it because it is pork barrel.

He has assured me and has told me—we worked together before the elimination of the 32 States and at that time he said if Illinois is not chosen, "I will still go ahead with the support for the super collider," and I am sure he would have. So that is an unfair statement to classify it as pork barrel as far as the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I might say I think my honor has been fully protected and I appreciate it.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I yield to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. I thank the gentleman for yielding.

Mr. Chairman, California is no longer in the running for this project yet my commitment to it is just as strong as it has ever been. I think that is true with most Members who have supported this project all along.

I believe the amendment before us now would simply send a signal that we often send from this body when we start a project, a good project, we send a tentative signal that says we are really not committed to it. And I think this administration and this Congress has already made a commitment—or the administration has—and we ought not to send a signal that says that our commitment is only half-hearted. We ought to go all the way with what the committee is recommending and I would oppose the amendment.

Mr. FAWELL. Mr. Chairman, I do want to say one thing. I want to perhaps reiterate one thing that this is the authorizing committee. I know there are a lot of other views in the appropriating committees and so forth and so on, but I have a great deal of respect for the indepth review and study on both sides of the aisle, and what our staffs have done. They have worked with it, they have struggled with it. We have had these debates within the authorizing committee and we came to a consensus.

In my view, although I speak with perhaps some lack of objectivity in the eyes of some because I come from Illinois, I think the decision of the committee should be upheld.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I first would like to start out by saying that the drafters of this amendment mean well and I commend them for trying to save some money from this horrendous deficit problem that we face. I too am trying in my own way to cut. Evidently, our directions have been a little bit different. But today we are discussing the super collider as if it is just a money issue. I say that is a problem with America. This is a policy issue.

My God, we have people in China that are working for 17 cents an hour, people in our own hemisphere, Central America, working for as low as 35 to 40 cents an hour. How is America going to compete if it is not in technology and the gains that we could make through policy commitments, then where do we go as a nation?

Now I have heard all of this talk about pork barrel. The first point I want to make is Ohio is out of it. I would like to see Ohio get it. Ohio invested $1 million of its own money to show the assets of the State that would really be a good venture for the collider. The point is it was not accepted.

But this project is going to be located in America. And I do not know of any chairman since I have been in Congress who is any fairer than Mr. ROE. Anybody that had a shot at the collider took their best shot and there were good standards to select, and the criteria made a lot of sense.

So I would like to say that here we are as a Congress again looking a little bit wishy-washy. I think we have a three-year authorization; we should let the world know that America is going forward, we will retain our leadership in science and technology and that is the only way we can compete.

If we look at the past, folks, we let the Japanese come in and take photos of our steel mills and they went back and they took those pictures, they took our technology, they built the steel mills and now they have the steel jobs.

So I think it is prudent that we move forward with the superconductor super collider. We do not show this wishy-washy slipping around type of attitude that seems to exist here but let us show our commitment.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I think the amendment that is being offered, while well-intentioned, is inappropriate for this particular project. It would reduce funding from $147 million, less the 6-percent reduction in the authorizing bill, to $100 million.

Now, $100 million is a nothing figure in terms of what it takes to build this project. It is more than we need to continue research, but it is not enough to actually begin construction of the project.

I would point out that the President's budget requested $363 million; the budget conference resolution between the House and the Senate funds it at $140 million; the Senate has indicated they are willing to fund it at a higher level, $175 to $200 million, and this $100 million number is the number that the Committee on Appropriations and the appropriation bill came out with, but it is really not enough to begin the project.

I would like to also point out that when our good friend from Pennsylvania talks about vested interests, I think we would all plead guilty to that. We do have a vested interest and our vested interest is to keep the United States No. 1 in high technology research which does result, if you stay No. 1 in the research, you are going to stay No. 1 in the spinoffs, in the commercialization that results from such research.

And this project does have value. We are talking about it like it is just some big pork barrel project, but it is a lot more than that.

The United States has been No. 1 in high energy physics research since the turn of the 20th century. Because of that we have seen such things develop in this country as radar, as television, as microchip technology, magnetic resonance imaging and now we are at the forefront of superconductivity research and we are at that point because we have been emphasizing research on the superconductor project itself.

Our goal is nothing more than to keep the United States No. 1. I would point out that according to Dr. Alvin W. Trivelpiece, formerly with the Department of Energy, claims one-third of our gross national product is directly related to research that has been done in the high energy physics field.

The United States is not going to be No. 1 in low labor costs and we do not want to be. The United States, except in a few rare cases, cannot be No. 1 in low material costs. The only thing that we can be No. 1 in is using our brainpower, using our technology and that requires that we do projects like the SSC.

Now this project does have broad support. I have in my hand a listing of various distinguished scientists and Government leaders from around the country who have spoken of their support for the project:

Leon M. Lederman, Director, Fermi National Accelerator Laboratory.

Chris Quigg, Deputy Director, SSC Central Design Group.

John Bardeen, Professor of Physics, University of Illinois at Champaign-Urbana, Nobel Prizes in Physics, 1972, 1956.

S.D. Bechtel, Jr., Chairman of the Board, Bechtel Group, Inc.

James J. Blanchard, Governor, State of Michigan.

J. Fred Bucy, Chairman, Texas Scientific Advisory Council.

Peter Carruthers, Professor of Physics, University of Arizona.

William P. Clements, Jr., Governor, State of Texas.

J.W. Cronin, Professor of Physics, University of Chicago, Nobel Prize in Physics, 1980.

Sidney Drell, Professor of Physics, Stanford University.

George B. Field, Professor of Astronomy, Harvard University.

Val L. Fitch, Professor of Physics, Princeton University, Nobel Prize in Physics, 1980.

Paul H. Frampton, Professor of Physics, University of North Carolina, Chapel Hill.

Robert A. Frosch, Vice President, General Motors Corporation.

Mary K. Gaillard, Staff Scientist, Lawrence Berkeley Laboratory, and Professor of Physics, University of California at Berkeley.

Robert W. Galvin, Chairman of the Board, Motorola, Incorporated.

David P. Gardner, President, University of California.

Sheldon L. Glashow, Higgins Professor of Physics, Mellon Professor of the Sciences, Harvard University, Nobel Prize in Physics, 1979.

Mary L. Good, President, Engineered Materials Research, Allied Signal, Incorporated, and Robert W. Broach, Acting Director, Physical Chemistry and Surface Science, Allied Signal, Incorporated.

Richard D. Harza, Chairman of the Board, Harza Engineering Company.

J.K. Hulm, Chief Scientist, Westinghouse R&D Center.

Stanley O. Ikenberry, President, University of Illinois.

G.A. Keyworth II, Director of Research, Hudson Institute.

T.D. Lee, Professor of Physics, Columbia University, Nobel Prize in Physics, 1957.

James G. Martin, Governor, North Carolina.

Boyce D. McDaniel, Professor of Physics, Cornell University.

Ned R. McWherter, Governor, State of Tennessee.

Rose Mofford, Governor, State of Arizona.

Uriel Nauenberg, Professor of Physics, University of Colorado, Boulder.

James J. O'Connor, Chairman of the Board, Commonwealth Edison.

W.B. Offutt, Vice President, Technical Management, Eaton Corporation.

George E. Pake, Vice President, Corporate Research Group (retired), Xerox Corporation.

Martin Perl, Professor of Physics, Stanford University.

Lee G. Pondrom, Department of Physics, University of Wisconsin.

Roy R. Romer, Governor, State of Colorado.

David N. Schramm, Louis Block Professor of Astronomy and Astrophysics, University of Chicago.

Alan Schriesheim, Director, Argonne National Laboratory.

Roy F. Schwitters, Professor of Physics, Harvard University.

Glenn T. Seaborg, Professor of Chemistry, University of California at Berkeley, Associate Director, Lawrence Berkeley Laboratory, Nobel Prize in Chemistry, 1951.

Emilio Segre, Professor of Physics, University of California at Berkeley, Nobel Prize in Physics, 1959.

David A. Shirley, Director, Lawrence Berkeley Laboratory, Professor of Chemistry, University of California at Berkeley.

James R. Thompson, Governor, State of Illinois.

Charles H. Townes, Professor of Physics, University of California at Berkeley, Nobel Prize in Physics, 1964.

Sam Treiman, Professor of Physics, Princeton University.

George Trilling, Staff Scientist, Lawrence Berkeley Laboratory, Professor of Physics, University of California at Berkeley.

Alvin W. Trivelpiece, Executive Officer, American Association for the Advancement of Science.

Arnold R. Weber, President, Northwestern University.

Steven Weinberg, Professor of Physics, University of Texas at Austin, Nobel Prize in Physics, 1979.

Victor F. Weisskopf, Professor of Physics, Massachusetts Institute of Technology.

R.R. Wilson, Professor of Physics, Cornell University.

Michael S. Witherell, Professor of Physics, University of California, Santa Barbara.

Edward Witten, Member, The Institute for Advanced Study.

Now, Mr. Chairman, I do not want to submit this for the RECORD, but it is lengthy, but I would like to read one excerpt from the report by Dr. George Keyworth, now director of research at Hudson Institute and formerly President Reagan's science adviser. He is talking about maintaining our preeminence in the world today. He is talking about projects that will do this. And I would like to quote:

> One is the SSC. It's going to unequivocally re-establish the United States as the world's leader in a forefront area of physical research. And the SSC is going to send a message to Americans and to the rest of the world—the message that we intend to be the best at something we believe to be of fundamental importance and that we're willing to commit ourselves to make it happen. Long before the SSC is completed, it's going to influence the way people think about national priorities and about national resolve. The SSC is going to drive home the message to our students that it's important to study math and science—because pursuit of scientific knowledge has been elevated in national priority and because they understand that their futures are tied to it. The SSC is also going to catalyze heightened support for education, and maybe we'll be able to attract more of the kind of teachers that our schools have been painfully losing for the past twenty years.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has expired.

(By unanimous consent, Mr. BARTON of Texas was allowed to proceed for 1 additional minute.)

Mr. BARTON of Texas. Mr. Chairman, I would like to point out that this project does have broad support on both sides of the aisle. It has broad support in the country. The amendment, while well-intentioned, should be defeated. The $100 million does not in any way establish our resolve to maintain our No. 1 status in high energy physics. So I would hope that we would vote this amendment down and continue forward with the project.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I thank the gentleman for yielding.

Mr. Chairman, I have great respect for my colleague from Texas and when he talks about the science base that the superconductor super collider gives to America that is exactly what the issue is. It is not SSC versus no science, it is the SSC versus superconductivity, high temperature superconductor research. It is the SSC versus ceramics.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has again expired.

(On request of Mr. RITTER and by unanimous consent, Mr. BARTON of Texas was allowed to proceed for 1 additional minute.)

Mr. RITTER. Mr. Chairman, will the gentleman continue to yield?

Mr. BARTON of Texas. I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I thank the gentleman for yielding further.

Mr. Chairman, it is the SSC versus photonics research, biotechnology research, ceramics research, all of these programs are going to be put on hold and cut. The fact is if we are looking for a 19-percent increase this year for NSF, we will not get it because this kind of money is not in the budget. The fact is we are looking to expand these novel new sciences, yes; we are for science, too, those of us who are opposed to this massive $1.6 billion commitment are for science. We want America—the gentleman from Ohio talks about the steel industry—we want to have an effective steel industry, we want to have an effective manufacturing base. The fact is the SSC robs Peter to pay Paul and all the people that the gentleman is talking about are high energy physicists who support this and those companies are vested interest companies who stand only to gain from building the SSC.

Mr. ROE. Mr. Chairman, will the gentleman from Texas yield?

Mr. BARTON of Texas. I yield to the chairman of the committee, the gentleman from New Jersey [Mr. ROE].

Mr. ROE. I thank the gentleman for yielding.

You know, to raise the specter—

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has again expired.

Mr. ROE. Mr. Chairman, I ask unanimous consent that the gentleman from Texas [Mr. BARTON] be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. BUECHNER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BUECHNER. Mr. Chairman, I object to the 5 minutes, I would not mind a minute.

The CHAIRMAN. The gentleman was moving to his feet; the gentleman has objected.

The time of the gentleman from Texas [Mr. BARTON] has expired.

Mr. WALKER. Mr. Chairman, I move the strike the requisite number of words.

Mr. Chairman, let me begin by yielding to the chairman of the committee, the gentleman from New Jersey [Mr. ROE].

Mr. ROE. I thank the gentleman for yielding.

Mr. Chairman, if I may have the attention of my colleagues: This is bound to be a spirited debate, obviously. There are very, very strong feelings, as there should be. But I would hope, and it would be at least this chairman's position, that everybody should have the right to speak in any way they can and I do hope that as we go through if someone asks someone to yield or we need a little bit of additional time that we respect both sides and not cut people off. Otherwise, we cut off knowledge and cutting off knowledge destroys the whole debate.

I thank the gentleman from Pennsylvania [Mr. WALKER] for yielding.

Mr. WALKER. I thank the chairman.

Mr. Chairman, as a member of the committee, we went through this debate, I will tell the Members of the House, in the committee; we are going at it here on the floor. It is a very spirited debate; I think that is worthwhile because we are dealing with a very major issue here.

One of the problems is that virtually everything that everybody says in these debates is true. Is the SSC good science? Of course it is. Sure. There is absolutely nothing that I could say that would indicate that we are going to get bad science out of the SSC. It would be wonderful to be able to have the project.

Does it have to be located somewhere? Of course it does. If we are going to build it it has got to go to somebody and of course those people are going to benefit from having it located there.

□ 1110

Do they have a stake in getting it there if they possibly can? Of course, they do, and, sure they are going to stand up and speak for it. Everything everybody says here is absolutely true. What we need to focus on, in this gentleman's opinion, is the fact that we are really dealing with a forerunner issue that will consume us in the science community over the next several years, and it is this: How much big science are we going to do versus how much small science are we going to do? What are we going to endorse in terms of big science versus what we are going to endorse in terms of small science? How many big projects can we do without totally obliterating any kind of ability to do small projects?

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. That is going to be a very, very key issue, because let me tell the Members that there is an awful lot of very, very good science out there. Every university that I know of has a major science program that it is interested in advancing, and every one of them is doing good things with it, and every one of them would like more money. Even if we had an unlimited tap of money available to us in this committee or in our appropriations, there would still not be enough to do all the good science that needs to be done. And we need to focus on the fact that we do not have an unlimited tap of money available.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Let me finish my statement, and then I will be very glad to yield to the gentleman from Michigan.

Mr. Chairman, if we had that unlimited tap of money, this project would be fantastic, it would be great. So would the space station. So would any number of other projects—fusion reactors and all kinds of other things we could come up with. They would all be wonderful to do.

If we had an unlimited amount of money, there are all kinds of small science projects that could be done, not only in universities but in individual research labs by individuals. We could give money to everybody, and we would be on that leading technology edge.

The fact is that we are not going to have an unlimited tap of money, and we are going to have to prioritize. So that leads us really to this discussion. Let me tell the Members what my concern is. My concern does not go to where the project is going to be located or whether or not somebody is talking about it from the standpoint of whether their State benefits; it does not come from the standpoint of whether or not it is good science. I have got to tell the Members this: I am haunted by the spector of Clinch River, because there is a project where we spent hundreds of millions of very valuable dollars only to cancel it in the end. So I am very, very concerned that with the division in the legislative body that we have, because there is division in the committee of jurisdiction here about this project, with that division I am concerned that we are going to end up spending hundreds of million of dollars and never complete this project.

What will happen then? Hundreds of millions of dollars will be lost to infinitely more important science projects all over this country. We could have universities and communities denied money so that money could go here into a project that we do not have an intention of completing.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mrs. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, I will yield after I have finished.

Mr. Chairman, I have got to tell the Members that I am worried about that, and it seems to me it does make sense to put the money up front for some R&D to find out whether or not we can at least prove conceptually some things that will be needed to go into this project. But we should not go beyond that at the present time until we can get a greater consensus. I would say to my chairman, and I would say to the vice chairman that we do not even have a consensus within our own committee. If we cannot have a consensus with our own committee that has a consensus on most other science projects, how in the world can we expect there to be a consensus in the country and how in the world can we expect there to be a consensus in the Congress? We have got to achieve that before we can move ahead aggressively at this time. We do not have that at the present time, and that worries me because I see this becoming a project that we can spend hundreds of millions of dollars on and not get anywhere.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, let me yield to the gentleman from Michigan, and then I will yield later to the gentlewoman from Tennessee [Mrs. LLOYD]. Other Members have asked me to yield also, and I will yield to the gentlewoman from Rhode Island [Miss SCHNEIDER]. I yield first to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me just remind the gentleman that yesterday he stood in the well on the floor of this body and praised our NASA budget authorization on the basis that for the first time in many years we got back on the track of the discipline and the commitments of multiyear funding.

Let me also remind the gentleman that in Dr. Frank Press' comments before the National Academy of Sciences which dealt with the problem of prioritizing these major kinds of decisions we face in science and technology, whether it be mapping human genome, biotechnology, applied technologies, or the space station, this project in his ranking was above the space station which the gentleman praised yesterday for multiyear funding.

Let me also add very quickly that the funding for university research on any number of these other areas of biotechnology, ceramics and all is not being reduced but is also being increased to address our commitment under NSF in long-term engineering research.

Mr. WALKER. Mr. Chairman, I thank the gentleman for his contribution, but let me also tell the gentleman that he knows as well as I do that there is politics within science, too. Frank Press tends to come down on the side of high energy physics. That is fine. That is his determination of priorities.

I will tell the gentleman that I did stand here yesterday in favor of the NASA budget, and one of the things in that NASA budget is a very big science project that we are committing ourselves to as a nation—the space station.

My question before us today is, How many of those projects can we do before we do begin to have an impact? The gentleman says it does not have impact at the present time on small science. Let me remind the gentleman that we are already spending in this budget $137 million. That will go up enormously in years hence. The gentleman cannot tell us, with the limited resources available today, that we will be able to fund those enormous increases in spending and not have an impact on small science somewhere along the line. I just do not have any belief that it can be done without having an impact.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(On request of Mrs. LLOYD, and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mrs. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD. Mr. Chairman, I certainly appreciate the concerns of the gentleman from Pennsylvania. Certainly there is no Member of this body that remembers the demise of Clinch River anymore than I do.

Mr. WALKER. The gentlewoman would have great knowledge about that.

Mrs. LLOYD. Mr. Chairman, I am very concerned about what the gentleman describes. We are stewards of big science and small science, and that is the reason we have provided the money for other science programs, for RHIC, for the advanced photon source, for CIT, and for CEBAF.

We cut the SSC budget request $225 million so we would not be a big science project that adversely affects other science.

We also included $10 million for university research. So I would say to the gentleman that his concerns, although they are real and they are very sincere, I want to assure the gentleman we have taken care of the other science activities. This is our commitment, and if we cannot make our SSC commitment today, we are saying to the rest of the world that we are not sincere about scientific excellence. There is no doubt that this would be the signal we would be sending.

Mr. WALKER. Mr. Chairman, I say to the gentlewoman that I simply do not agree with that. I do say that in the out-year spending we are talking about, for the space station alone we are talking about a commitment of spending somewhere in the early 1990's of about $2 billion a year. For SSC we may be talking in the vicinity of $500 to $600 million a year in those same years. We are talking about finding somewhere in the science budget maybe as much as $3 billion a year more than we are presently spending just for those two projects.

I know the gentlewoman has taken good care of all those projects in this year's budget. My problem is that when we get out into the next couple of years, out in the early 1990's, where are we going to find $3 billion without taking it out of somebody's hide?

Mrs. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentlewoman from Tennessee.

Mrs. LLOYD. This is the exact question I posed to the Secretary of Energy. We had the firm commitment of the Secretary of Energy that the administration was not going to support the SSC project at the expense of these other science activities. I share the gentleman's concerns.

Mr. WALKER. But I have got to tell the gentlewoman that the Secretary of Energy is not going to be there.

Mrs. LLOYD. The Secretary of Energy is committed to address these things.

Mr. WALKER. I am sure the Secretary of Energy made a very firm commitment. I will tell the gentlewoman, though, that the Secretary of Energy is not going to be there after January of the next year, and we are talking about the early 1990's. What about the commitment then? We had great commitments all the way along on something like Clinch River, but somehow or other those ran out too.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. RUSSO. Mr. Chairman, reserving the right to object, I just want to advise my colleagues that we do not want to have one particular Member or one particular side constantly dominate the debate here. I will not object at this point, but I will feel constrained to object should it happen again.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, let me just say that the chairman of the committee, I think, made a good point a few minutes ago, that we ought not to be cutting off this debate. I will be glad to yield to Members to assure that we have a dialog here.

Mr. Chairman, let me yield first to the gentlewoman from Rhode Island [Miss SCHNEIDER].

Miss SCHNEIDER. Mr. Chairman, I will seek my own opportunity to speak at a later time, but now I simply want to commend my colleague, the gentleman from Pennsylvania, and say that I think that he has really put his finger on the pulse of what the question should be as we go further through this discussion. It is very clear to me that we are talking about saving $1.5 billion with this amendment. The gentleman and I support high energy physics. We support the expenditures that have been determined by the Appropriations Committee of $100 million for this year. There is no question, to reinforce the gentleman's comments, that other parts of the science budget have in fact been reduced. Other parts of the DOE budget over the last several years have been significantly reduced, and to be exact rather than generic, the nuclear energy budget itself has gone down 35 percent. The fossil energy, coal, oil, natural gas has been reduced by 67 percent, energy conservation has been reduced by 56 percent, and renewable energy supplied by 82 percent.

□ 1120

Let me also further reinforce the gentleman's comments, that it is not just those disciplines that are going to be reduced further in the future by being squeezed out by the SSC, but we are going to see a whole variety of different science projects, perhaps even some big ones, but definitely small ones being squeezed out.

You will recall that the administration has supported doubling the NSF budget, but last year that did not become a reality because we did not have adequate funds.

So all the bottom line is, where do we find the adequate money to go beyond the $100 million? I do not think it is there. I do not think it is the fiscally responsible position to take to agree to have more than $100 million.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I just want to clarify the discussion about Frank Press, the president of——

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

Mr. RITTER. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania [Mr. WALKER] may proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. RUSSO. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HALL of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are here debating as if no cuts have taken place in the history of this authorization. We have had cut after cut, State-by-State has fallen aside.

The gentleman from California, Mr. RON PACKARD, still supports this thrust totally, even though his State was the barb of many of us saying, "Don't put it in California because—earthquake, earthquake, earthquake." We have heard that so many times, I am sure that we are sick of it.

Then I would say to the gentleman from Pennsylvania and to the gentleman from Illinois, "God, send an earthquake up to Illinois so those of us from the other States can say earthquake, earthquake, Illinois."

But I think the gentleman from Illinois still supports this wherever it goes, as will this gentleman from Texas, when it is decided where it should be.

Now, the President started with what—something over $360 million in this. It has been cut and pared down to $147 million, and there are those who want to continue to cut it down. There are those who will try to tie the albatross of foreign participation to it in an effort to kill or lessen this.

Further reduction, Mr. Chairman, of this authorization I think sends exactly the wrong message to the potential foreign participants in the SSC, if we are to get them. A reduction will say to the world that we are not sure that we want to build this project at this time.

The House leadership supports the bill. The scientific community supports the bill. The SSC funding is at a level with what the House supported in the conference agreement on the budget resolution.

As a matter of fact, we are in a race for excellence here. We are in a race to make a determination as to whether we want to reach for that position of scientific eminence that we knew in the late forties and early fifties.

The gentleman from Pennsylvania says maybe we have a vested interest. I do have a vested interest. Most of us have a vested interest in this. That vested interest, Mr. Chairman, is to reach for a level of economic prosperity, reach for a level of scientific achievement, and yes, even to reach for a level of geopolitical strength that this country has not known in the last 25 years.

Now, I am parochial. I would like to see it in Texas. Better than that, I would like to see it in east Texas. Better than that, I would like to see it in my district, but I am parochial for the United States of America. I want to see it in this country, and that is what this argument is all about today. That is the effect of lessening this.

I visited CERN. I have visited the area near Hamburg there. CERN is currently analyzing plans to expand their large electron position. If they do that by adding a second ring, that is going to sap European participation that we need. We need a firm commitment to the project this year.

Is it cost-effective? Well, there again, I visited with Dr. Carlos Rubio, the Nobel Prize winner, who is there at CERN now and others. They say and they indicated that there is a $3 to $4 economic spinoff for every dollar invested. Like the water projects that this board and this committee supports and this Congress supports, it is cost-effective. It comes back to us many, many times.

I hope we will not show the timidity that will affect our innate ability to encourage those overseas and, yes, to encourage the States to participate in the building of this fine facility, and I urge that we defeat the amendment.

Mr. BUECHNER. Mr. Chairman, will the gentleman yield?

Mr. HALL of Texas. I yield to the gentleman from Missouri.

Mr. BUECHNER. Mr. Chairman, I know the cost spinoff that the gentleman talks about.

Is the gentleman familiar with our own CBO estimate that severely challenges that spinoff estimate?

Mr. HALL of Texas. Well, I am sure there are challenges on every side, and the gentleman well knows that there are reasons to support and there are reasons to oppose. You can give off the reason that it saps up the scientific community's money. You can give the reason that we need it for the thrust in space. There are legitimate positions on each side, I grant that. I am simply stating my own.

Mr. BUECHNER. Mr. Chairman, if the gentleman will yield further to me, I think, though, it is important that we point out that the estimate by the first individual the gentleman stated on the spinoff, those are people directly interested in the project as possible participants. I am not talking about congressional participants now. I am talking about the scientific community; whereas I think the CBO tried to be at least objective. We use it here on the floor to either support or deny many projects.

The object I think is that the CBO is supposed to be an objective, as opposed to an interested party.

I would hope that all the people before they vote in this House would take the opportunity to read both sides, both the CBO and those people from the energy community that have a vested interest in the project.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. BARTON of Texas, and by unanimous consent, Mr. HALL of Texas was allowed to proceed for 2 additional minutes.)

Mr. HALL of Texas. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I thank the distinguished subcommittee chairman for yielding.

I would like to just make a few comments with respect to the concern of the gentleman from Pennsylvania [Mr. WALKER] about the big science, little science debate. I personally think that is a red herring. I think big science helps little science.

I would point out that in the fifties when we were all worried that the Soviets were going to overtake us in space, we started the space program. That did not hurt little science. That helped little science. It was obviously a big project, but it encouraged students to study to be engineers. It encouraged studies in mathematics. It encouraged a wide range of research into all kinds of activities.

I think a project like the SSC is a catalyst for little science, not an opponent of little science.

With regard to the comment of my colleague, the gentlewoman from Rhode Island, about hurting other projects, and some were mentioned specifically, those are true numbers, but those cuts did not come because of an emphasis on big science. It came because the Reagan administration decided to deemphasize its role in Government involvement in some of those areas, not because they wanted to put the money somewhere else.

Miss SCHNEIDER. Mr. Chairman, will the gentleman yield?

Mr. HALL of Texas. I yield to the gentlewoman from Rhode Island.

Miss SCHNEIDER. Mr. Chairman, in response to that remark that it may have been the Reagan administration that suggested that we reduce the energy budgets overall, but if we are calling now for one-fifth of the increase in the Department of Energy's budget to be singled out for use by the SSC, then certainly we are robbing Peter to pay Paul.

The CHAIRMAN. The time of the gentleman from Texas [Mr. HALL] has expired.

Miss SCHNEIDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this proposal. There are three specific reasons that I would like to outline for those of you who may not have made up your minds yet and who are thinking, what is the crux of this argument?

It seems to me there are three basic points we should keep in mind. First of all, this particular amendment does allow us to conform to the appropriations bill of $100 million for research and development in 1989. One hundred million dollars would be a threefold increase, by the way, in the current SSC R&D budget, a threefold increase, which is an increase more significant than many other projects have gotten.

The second thing is that we should keep in mind that we could have future options open to us by providing $100 million for this year and this year alone. Those future options are very important to this debate. We have hardly begun to touch on the role of foreign participation. It is very obvious that since this research that we are investing our Federal tax dollars in is going to benefit Japan, France, Germany, our economic competitors, then certainly some of those costs should be shared by these foreign countries.

DOE has also said that foreign countries have expressed an interest in funding anywhere between 40 and 50 percent of the project, but the committee bill will not allow foreign countries to contribute more than 25 percent.

Well, if we are dealing with a budget deficit, and we know that our economic competitors, yet allies, will be benefiting from our expenditures in research today, is it not a better idea to encourage them to make that 40- to 50-percent investment in research also today? This is not provided for in the committee bill.

What about State contributions? We heard from various spokesmen from Texas, from Illinois, from different parts. There will be many local benefits available to that State which is ultimately chosen. There will certainly be and should be a financial contribution on the part of the State.

As a matter of fact, several States, such as Texas and Illinois, have already expressed a willingness to make substantial cash contributions; but, another flaw of this bill, is that the committee bill removes all State cost-sharing considerations.

Now, should there not be some level of cost-sharing taking place if we are in fact as fiscally constrained in this Congress as we say?

Third, the extent of support within the scientific community is dispersed. With all due respect to some of my colleagues who were name dropping about Nobel Laureates, each one of those Nobel Laureates happens to be a high energy physicist. But if we move beyond those, we recognize that there is not unanimity in the scientific community. The majority of people from our diverse disciplines in science say that this will eventually drain research dollars away from the more productive research.

Now, let me share with you just one quote from a scientist. This is James Krumhansl, who is with the American Physical Society. He is president-elect. He says what I am now attempting to convey to all of you:

> We are living in a deficit economy and we have to decide what will yield the most national benefits for our dollars. I don't see that the SSC has any immediate relevance to our technological or economic competitiveness.

Second, let me share with you another message. This one is from the private sector. We have had many vice presidents, corporate vice presidents of different industries, whether it be the Monsanto Co. or National Starch and Chemical Corp., which says that there are clearly other research areas in need of funding where the practical and economic gains will be greater and can be measured in lives saved or in quality of life improvements or simply jobs created for our people, rather than scientific advancement in a narrow area, and the possibility of Nobel laureates.

The bottom line, however, is that there are differing opinions, whether they be from the academic community or from the business community, but we must not deny the fact that we are not in a military war at this time. We are in an economic trade war. If we continue to invest our dollars in research and enable our allies to benefit from our innovations, then we are going to be the economic losers and our standard of living will continue to lose. If we keep in mind that right now as we look at the entire Federal R&D budget, 67 percent of our Federal tax dollar now is being used for defense research, that leaves another very small piece of the pie.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Will the gentleman suspend.

Before the gentleman from New York proceeds, the Chair will remind Members that the committee has spent an hour and 20 minutes on this amendment. There are other amendments which follow this amendment that are already filed with the Clerk. Today being Friday and the leadership having previously announced the intention of approximately a 3 p.m. departure, the Chair will just remind Members in the Chamber that this is only the first of a series of amendments and that it has been debated for quite some time.

Mr. ROE. Mr. Chairman, will the gentleman from New York yield?

Mr. SCHEUER. Of course, I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, if I may respond to the Chair, the chairman of the committee is prepared to ask for the Committee to rise at this point, if that is the desire of the Chair.

The CHAIRMAN. It is not the desire of the Chair. The gentleman may continue as long as he feels necessary.

Mr. ROE. I would suggest to the distinguished gentleman in the chair, for whom I have the highest regard, that perhaps this is the most important amendment and the most important discussion we will have in the whole scientific community this year.

The CHAIRMAN. The Chair is prepared to sit here as long as the Members are willing to debate the issue.

Mr. ROE. Mr. Chairman, will the gentleman from New York yield?

Mr. SCHEUER. I yield to the gentleman from New Jersey.

□ 1135

Mr. ROE. Mr. Chairman, I think it is important at this point to respond in part to the distinguished gentlewoman from Rhode Island [Miss SCHNEIDER] who spoke previously. We must make the point abundantly clear that the issue here is not $1.5 billion in cuts. That is totally fallacious. It is absolutely totally fallacious because in effect it means that Congress has to act, No. 1; then we have to cut something out.

Mr. Chairman, we are doing what is the proper thing to do here. We are providing the resources that we believe as a committee are necessary and it is up to the Congress to speak to that issue, not only this year but the following year and the following year. So to sow the seed that this will cut $1.5 billion is first of all erroneous. Second, if the gentleman would yield further, it is important that we respond so the debate is in continuity. We talk about future foreign participation. The committee deliberately allowed an amount of foreign participation not to exceed 25 percent. However, there will be an amendment that will be offered that will expand that. We deliberately did that because we wanted to put a ceiling on foreign participation so that we in the United States were not going to give the whole high energy physics away to foreign participation. We did not want to have a situation evolve where the Japanese would come back and then say that yes, they will participate but they want all the magnets to be made in Japan, or they want all the magnets to be made in Italy. It was carefully tailored and crafted and very well explained as my colleagues know throughout this entire process. So foreign participation is important but not when we give away the whole program to the other people throughout the world.

It was also mentioned that State contribution was a factor. Everybody on that committee knows one thing and one thing very clearly and it has nothing to do with partisan politics or anything to do with States. How anybody can provide a request for proposal that would be so cockamamie including the Department of Energy that came back and said that we will have a little envelope and we will put the envelope on the shelf and we cannot open the envelope because we want to level the playing field because Texas may put in more money or Illinois may put in more money or California may put in more money, is sheer lunacy in my judgment. I am sure everybody on the committee agreed to that.

But that does not vitiate the point of view that the States will be putting up substantial funding which they have agreed to do. There will be another amendment that will further explain that in more detail.

Mr. ARMEY. Mr. Chairman, will the gentleman from New York yield?

Mr. SCHEUER. Mr. Chairman, I am happy to yield to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman from New York [Mr. SCHEUER] for yielding.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend the gentleman from Missouri [Mr. BUECHNER].

While I understand his concern and motivation, I believe his effort is misguided. Throughout the year, I've worked with the Budget Committee and others to ensure adequate funding of this vital project. I am also pleased that the energy and water appropriations bill for fiscal year 1989 contained $100 million for the continued study of the superconducting super collider [SSC].

However, the Science, Space, and Technology Committee—the committee vested with the responsibility to determine scientific priorities—supports an authorization level of $147.7 million for fiscal year 1989. They, better than most of us, have more fully discussed this project, and have determined the SSC can bring to our Nation and the scientific community a multitude of benefits.

I firmly believe the SSC will readily surpass the capabilities of existing particle accelerators, and launch us into the next generation of high energy particle physics. The Science, Space, and Technology Committee has recommended what I hope will be a multiyear authorization that will bring this project to fruition in a timely and cost-efficient manner.

While I appreciate the concerns that have been voiced by the gentleman from Missouri and others, I regret I must oppose this amendment because I believe it is shortsighted and misguided.

Mr. SCHEUER. Mr. Chairman, reclaiming my time, I rise in strong opposition to this amendment. I would like to answer my colleague, the gentlewoman from Rhode Island [Miss SCHNEIDER], who has been such an effective contributor to the work of this committee. Yes, this is a major project. Yes, the fiscal year 1989 authorization level is a significant one, $147 million, albeit it is 59 percent less than the administration's request. This program has already been cut. But I think the gentlewoman from Rhode Island is absolutely right. We ought to be making this judgment based on whether we want to commit ourselves to a $5 billion program. If we do not want to commit ourselves to a $5 billion program, if we do not think this project is important enough, then we ought to vote down the funding entirely. We should not fool around. We ought to either go for it or decide to put our funding someplace else.

Somebody previously mentioned Dr. Frank Press, who thinks this is a very high priority item. My colleague, the gentleman from Pennsylvania, said that Dr. Press' support is only his opinion, as if Dr. Press was just one of any number of people. Dr. Frank Press is Chairman of the National Academy of Sciences. He is one of America's most distinguished scientists. He thinks it is important for our country to emerge as a serious competitor in high energy physics basic research, the kind of basic research that can create whole new industries, just as basic research did a half century ago for radio and later television. Basic research is the fertilizer that nourishes all kinds of applied research and all kinds of new industries and new processes. We have to decide whether we want to abdicate this field of high energy physics as we are doing now.

Mr. Chairman, I was in Switzerland to see the CERN project with the distinguished gentleman from New Jersey [Mr. ROE], chairman of the Committee on Science, Space, and Technology.

The CHAIRMAN. The time of gentleman from New York [Mr. SCHEUER] has expired.

(By unanimous consent, Mr. SCHEUER was allowed to proceed for 3 additional minutes.)

Mr. SCHEUER. Mr. Chairman, I became concerned that we were abdicating our leadership when I found many American scientists, high energy physicists, including an American Nobel Prize winner, working not for an American enterprise but for a European enterprise. That is a very serious brain drain. If that is what we want, if we want American scientists of the highest order of excellence to be going where the action is—and that may mean Switzerland to the CERN project or to another European consortium, or Japan which has made a national commitment to the field of high energy physics—so be it.

We can abdicate this field and let this brain drain continue, but I must say as an American I feel a sense of astonishment and shame that American scientists feel that they have to flee abroad and engage in work with our competitors to realize their own professional potential and to conduct cutting edge research on high energy physics.

I say to my colleagues we have to make a decision as to whether to make this $5 billion investment in basic research for all America. I come from New York State and we are not a competitor, but I am a total supporter of this project. It is in the national interest, and we should support it.

We are all concerned about costs and the impact on other areas of science. But we should remember that 75 percent of all Federal research goes to the military. The strategic defense initiative is projected to cost $20 billion over 6 years. The superconducting super collider, in comparison, requires a commitment of $5 billion over 10 years. We have to come to some value judgments on what is best for America, what is going to do the most for the American future in the field of high technology, which of these efforts is going to spawn new industries, new services, and a new emergence of America as a first-class industrial power. My vote is with the SSC, not SDI.

We want international participation, indeed we do, but foreign countries are not going to think about participating with us unless they know we are serious, unless they feel that they are participating with a team that will be first class. If we adopt this amendment, we are showing that we are not committed. We have already cut this budget 59 percent below the administration's request, and this amendment would cut it another substantial slice. Other countries are not going to think we are serious. Adopting this amendment would send the perfectly clear signal that we are not serious.

The CHAIRMAN. The time for the gentleman from New York [Mr. Scheuer] has again expired.

(By unanimous consent, Mr. Scheuer was allowed to proceed for 1 additional minute.)

Mr. SCHEUER. I think we have got to bite the bullet right now. We can abdicate the field and send the signal to American scientists that they better go abroad. If this mission to maintain our leadership in high energy physics is not a high priority goal, let us for goodness sake be honest with our scientific community and the world and say that we will get out of this competition and do something else. But I hope we do not do that.

Mr. BUECHNER. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. Mr. Chairman, I yield to the gentleman from Missouri [Mr. Buechner].

Mr. BUECHNER. Mr. Chairman, it is important at this point that we clarify the Frank Press statement.

Frank Press said that this project should be put on hold.

Mr. SCHEUER. Mr. Chairman, reclaiming my time, I met with Frank Press a couple of weeks ago for a whole evening and my impression of our conversation was otherwise.

Mr. BUECHNER. Mr. Chairman, if the gentleman will yield, that can be put in the Record, but what we have is that we need a new priority system and this project should be put on hold and that is the record.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. This is an excellent debate, but I also think that we need a new way to choose priorities for science in America and if this debate proceeds that new way, we will have done our job. Right now there are many reasons why this project should not go ahead with a $1.6 billion authorization, but should be constrained to the Committee on Appropriations figure of $100 million for research and development.

Mr. Chairman, the SSC is the wrong project for our times.

Last month, Dr. Frank Press, President of the National Academy of Sciences, urged us to set rational priorities for science funding, putting the superconducting super collider [SSC] in the category of projects which could be "reduced to maintenance funding." I concur with Dr. Press. But, more importantly, top industrial researchers also concur with Dr. Press. In its March 21 issue, New Technology Week reported on the responses which I received to my letter to the president of the Industrial Research Institute [IRI] regarding the SSC.

I asked the member companies of the IRI whether the SSC should be a priority project for this country. The response from the R&D directors was overwhelmingly negative: Only 4 of 24 responses believed that the SSC should be built now. The responses include the following:

"The argument that the technologies developed in the process of building the SSC will contribute to the overall strength of the U.S. . . . is patently unjustified."—Dr. C.K.N. Patel, executive director of research, Materials Science, Engineering and Academic Affairs Division, AT&T Bell Laboratories.

"[The] SSC appears to be a distortion of the nation's priorities. . . . High energy particle physics is certainly an intellectually stimulating field, but it is not more important than superconductivity, robotics, photonics, supercomputing or numerous other areas."—Richard Mateles, vice president of research for Stauffer Chemical Company.

"The potential for flowthrough of science from the SSC is not apparent. . . . I am most concerned about the potential for draining more scientists and engineers from the talent pool in a period when university output is diminishing."—Thomas Krotine, senior vice president, corporate research and development, The Sherwin-Williams Company.

"It is highly speculative whether the SSC will ultimately provide new information and understanding of particle physics that can be translated into benefits to industry and the nation as a whole. . . ." Dr. J.J. Wise, vice president of research, Mobile Research and Development Corp.

The top researchers are on to something. It's clear that setting priorities for science means that the SSC should be shelved.

We are in a race for our technological lives, our competitive lives. This project goes back to the most basic of basic science, and it costs at least $5 billion and probably more after overruns. It is so far removed from America's science and technology challenges of today and the next decade that it is just the wrong project.

The IRI members know this, and their statements reflect that they know the likely effects of paying for the SSC: A 6.63-percent cut across the board in all Department of Energy programs; a dramatic hampering of our ability to fund the revitalization of the Space Shuttle Program, the national aerospace plane, the space station, the doubling of the National Science Foundation budget, and a multihundred-million dollar clean coal demonstration program; and a delay in planned projects such as the human genome study and a $10 billion renovation of this Nation's crumbling laboratory facilities.

There isn't enough money for all science programs, and the SSC can and should be put on the back burner. Both Dr. Press and Dr. Robert Rosenzweig of the Association of American Universities agree, and a recent Congressional Budget Office [CBO] report says the same, concluding that the SSC has scientific merit but is being undertaken "purely for knowledge." That isn't enough to justify the expenditure of $600 million per year or more for the next 10 years.

As this debate shows, there is no consensus in America for this project. There is consensus in America for a space program. Those who advocate this project and have done so from the beginning have been the industry support group for the project. They have been those States who have been most interested in the benefits of the project. Outside of the high energy physics community, there is no consensus in the science community.

The CHAIRMAN. The Chair will remind all persons in the gallery that they are here as guests of the House, and any sign or manifestation of approval or disapproval is contrary to the rules of the House.

Mr. RITTER. The great majority of scientists who are not in the high energy physics community oppose the superconducting super collider. If a secret ballot were taken or if enough professors and research directors of corporate America, such as the IRI members, were interviewed, we would discover that they are opposed to this project. There is not only no consensus for this project, there is staunch opposition through the length and breadth of American science against going forward with this SSC.

The amendment of the gentleman from Missouri [Mr. Buechner] is generous in that it gives $100 million in the face of the budget cuts that the gentlewoman from Rhode Island [Miss Schneider] has mentioned.

The House Energy and Water Development Appropriations Subcommittee was just as generous when it approved $100 million for SSC research and development this year. The report of the Energy and Water Development Appropriations Subcommittee expressed healthy skepticism about "initiating construction of [the SSC] in the face of budget reduction measures. * * *"

Even that $100 million will hamper important initiatives in superconductivity, biotechnology, ceramics, and materials sciences, photonics, robotics, and manufacturing sciences. Those are the areas crucial to our jobs, our standard of living, our competitiveness, our trade balance, and our security. If we cut or eliminate funding in those fields, we'll fall behind our competitors. Programs in some of those very areas will suffer from the 6-percent across-the-board cut of DOE programs in the DOE bill which authorizes SSC funding.

The Appropriations Committee's decision to defer construction funding was also wise because it will allow the next administration to evaluate the project. The next administration will make the hard choice whether to fund the SSC at over $600 million per year for the next 10 years for the SSC and $270 million per year beyond that in operating expenses. That's another reason to defer funding for the SSC: Let the person who'll be most responsible have some input into the process.

Mr. Chairman, it's been said that the SSC would be a citadel for science. Mr. Chairman, that would serve the wrong purpose. If we would focus the best and the brightest of America's young minds in science on this project, we would be doing America a disservice because we would be taking them out of important applications-oriented fields such as electronics and photonics and semiconductors and superconductors, and putting them into high energy physics. America needs to win some Deming prizes.

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We need to focus a little bit on the new Malcolm Baldrige Quality Award, the Deming Award, and the prizes in Japan for quality. That's the race we are in. We talk about competitiveness. The SSC has a negative effect on American competitiveness, because it drains areas of American science and technology which are so much more important, which deserve such higher levels of priority.

Mr. Chairman, as the gentleman from Pennsylvania [Mr. Walker] sought to point out, the SSC conflicts directly with every other major area of American science over the next several years and specific technology programs, such as clean coal technology, the space station, or the rehabilitation of the space shuttle itself. The fact is that we are way over budget. The SSC is going to cost us $3 to $4 billion over our budget limits.

The SSC is the wrong project at the wrong time, and the gentleman from Missouri presents us with an opportunity to prove that concept a little more. It gives $100 million to do the R&D. It is a good amendment and a great deficit-cutting amendment.

Mr. McCURDY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the DOE bill, and want to speak to the Transportation R&D section briefly. The Transportation, Aviation, and Materials Subcommittee, which I chair, placed a high funding priority on three key areas of engine and vehicle propulsion R&D. The purpose being to increase the fuel efficiency of our transportation system, and allow for a greater use of electricity and alternative fuels.

The first area of emphasis is advanced ceramics—the materials of engine components of the future. DOE's advanced materials program is helping to give U.S. ceramic producers a solid technology base and a number of advantages over their foreign counterparts. Over half of the $54.8 million authorized in this section of the bill is dedicated to some form of ceramics R&D. This work includes developing parts for an all-ceramic advanced gas turbine automobile engine, testing and processing of promising materials, and procuring specialized equipment for the world renowned High Temperature Materials Laboratory in Oak Ridge, TN.

The second area of emphasis is related to car and truck emissions. In a year when Congress may enact stricter clean air standards on mobile sources of nitrogen oxides and hydrocarbons, the Science Committee has expanded the Alternative Fuels and Heavy Duty Transport R&D Programs to emphasize investigations on how to make truck and bus engines burn fuel in a cleaner way.

The third area is the Electric Vehicles R&D Program, which is another ongoing initiative related to clean air standards. Here we have placed a great deal of emphasis on advanced battery development, since the future of electric vehicles is tentative at best without batteries that power a car 100 miles or more.

Mr. Chairman, the funding for transportation R&D does represent an increase over the administration's request. However, these relatively modest programs are producing significant results. I would like to thank my colleague from Florida, Tom Lewis, for his consistent and dedicated effort on the subcommittee in developing our recommendations in this important area. I commend Chairman Roe and Mr. Lujan for their efforts to bring this bill to the floor quickly. I urge the support of my colleagues.

In addition to the transportation programs, I voice my strong support for the oil and natural gas-related research funding contained in the bill. The Enhanced Oil Recovery Research Program, for example, is helping to develop techniques and models to extend the life of old oil wells known as stripper wells. This work will directly benefit the small independent oil producers who do not have the economic resources or the vast reserves of the big multinational companies. Many of our Nation's universities, including the University of Oklahoma, are involved in these investigations, and I am confident that this bill will continue a strong research relationship with these universities.

With respect to the superconductor super collider, I would have preferred that no funding be made available for construction of the SSC until we have a better understanding of the magnet design and greater knowledge of the potential of superconducting materials. I am also concerned that the price tag on the SSC over the next few years will force us to make painful reductions in our other science priorities.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I am happy to yield to the gentleman.

Mr. RITTER. I thank the gentleman for yielding.

I might add I would like to just quote from a few people in industry who are not part of the industry support group for the SSC and what they have said. Dr. C.K.N. Patel, executive director of research, materials science, for AT&T Bell Laboratories, says:

> The argument that the technologies developed in the process of building the SSC will contribute to the overall strength of the U.S. is patently unjustified.

Here is a senior vice-president, Thomas Krotine, from the Sherwin-Williams Co.:

> The potential for flowthrough of science from the SSC is not apparent. I am most concerned about the potential for draining more scientists and engineers from the talent pool in a period when university output is diminishing.

Dr. J.J. Wise, vice president of research, Mobil Research & Development Co., says:

It is highly speculative whether the SSC will ultimately provide new information and understanding of particle physics that can be translated into benefits to industry and the nation as a whole.

Mr. McCURDY. Mr. Chairman, I would urge the gentleman to submit those statements for the RECORD.

Mr. RITTER. Mr. Chairman, I include a copy of the statements for the RECORD:

"The argument that the technologies developed in the process of building the SSC will contribute to the overall strength of the U.S. . . . is patently unjustified."—Dr. C.K.N. Patel, executive director of research, Materials Science, Engineering and Academic Affairs Division, AT&T Bell Laboratories.

"[The] SSC appears to be a distortion of the nation's priorities . . . High energy particle physics is certainly and intellectually stimulating field, but it is not more important than supperconductivity, robotics, photonics, supercomputing or numerous other areas."—Richard Mateles, vice president of research for Stauffer Chemical Company.

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"It is highly speculative whether the SSC will ultimately provide new information and understanding of particle physics that can be translated into benefits to industry and the nation as a whole . . ."—Dr. J.J. Wise, vice president of research, Mobil Research and Development Corp.

"The SSC should be postponed by several years and short-term emphasis be placed on programs that address the productivity of the U.S. manufacturing base."—Patrick Carroll, director of corporate R&D, Machinery & Defense Operations, FMC Corp.

"[The] SSC should be delayed until we sort out the priority programs that bear on the very survival of our country. Until we fund those programs adequately, there is no room for [the] SSC."—Dr. John Dempsey, vice president of science and technology. Bemis Company Inc.

"It seems our nation needs to reassess our mechanisms for priority setting in the total R&D budget process . . . [A] position [against] the SSC is very appropriate."—I.G. Snyder, vice president, Dow U.S.A., director of applied R&D, Dow Chemical Company.

"The area of particle physics research is requiring increasingly greater expenditures for more difficult explorations with diminishing returns."—Dr. Chester Szymanski, corporate vice president for research and development, National Starch & Chemical Corp.

"The price tag [for SSC] is unconscionably high . . . It is difficult for me to understand how the SSC could rank on a national priority list that includes biomedical research, superconductivity, photonics, high density semiconductor integration and interconnection, structural composites, fossil fuel recovery, alternative sources of energy, factory automation, etc."—D.B. Rogers, general director of research and development, Dupont Electronics.

Others coming out against the SSC include:

Walter Robb, senior vice president of corporate research and development with the General Electric Company;

F.B. Sprow, vice president of corporate research, Exxon Research and Engineering Company;

Dr. Grady Harris, vice president of research and development, the Hollister Co., (Libertyville, Ill.).

The four members of IRI that came out in favor of the SSC:

Warren Offutt, vice president technical management, Eaton Corp.

Robert Calcaterra, director of R&D and quality assurance, Adolf Coors & Co.

Robert Stratton, director, Central Research Labs, Texas Instruments.

Florence Metz, general manager of new ventures, Inland Steel Co.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I am happy to yield to the gentleman.

Mr. ROE. Mr. Chairman, it astounds me that some vice president of the Sherwin-Williams Co., or somebody working over here on the McDonell Co., or somebody over here is going to be determining the policy of America. It seems to me we can get 50 million names listed of people who are in favor of space and technology in this country, and it seems to me that two or three names here, because this person may not think it is right, that is not how America works. I suggest that I do not think that reasoning is valid at all.

Mr. McCURDY. Reclaiming my time, I think it is important in concluding with the short time that I have to reiterate the points I made earlier, and that is we have only a finite amount of funding for science in this country, and if as we on the committee would like to see greater increases in the future for science, if that does in fact occur, then perhaps we could include the SSC as one of those high-priority items, but history has shown, and our experience has also shown, that we have not had that excess funding. We have not had those increases. My belief is that the best bet for our future is to invest in those areas where we have the most competitive payoff in the short term, and that is in the areas mentioned previously, and I again urge support and adoption of the Buechner amendment.

Mr. HASTERT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Missouri, and I want to say at this time I certainly admire and want to thank the gentleman from New Jersey [Mr. ROE], the chairman, and certainly the gentleman from New Mexico [Mr. LUJAN], the ranking member, for their work which they have done on this project. It has been a long-term commitment and a long-term work. I also have some respect for the gentleman from Missouri, but I want to point out that what the gentleman from Missouri is talking about is commitment, long-term commitment and leadership in this Nation, commitment to say yes, we are going to do something, we are going to conceive an idea, and we are going to do it, and we are going to do it over a number of years, not from year to year to year to year.

Certainly in many issues that we have had before this House we have seen commitment today and faltering tomorrow. I suggest that the gentleman from Missouri sets up a scenario, yes, he sets up a scenario that we could have another Clinch River if we do not make that long-term commitment; then we fall apart in those commitments, because things change from year to year.

I want to talk about some other issues. We talk about this cutting out research and small science, and there have been challenges about what the superconductors have done and the high-energy research has done in this country over the last several years. Let me suggest that superconductivity itself is the result of the high-energy research, that magnetic resonance imaging is a direct result of research that has been done, microjet technology, cancer research in my very own district that is going on at a high-energy research facility, and that is going on because we have taken the time 20 years ago to make a commitment to high-energy research at Fermi Lab, television, x rays, VCR's, on and on and on. As a matter of fact, 30 percent, it has been suggested, of our gross national product today, the research is the commitment that we made 20-some years ago to high-energy research. Why should we strangle that gift that we have developed in this country, the gift of technology and understanding and wisdom?

I also suggest that if we make that commitment, and it has been talked about here today, if we do not make that commitment in putting those construction dollars down, we are never going to get the 25-percent funding and matching funding from other countries across the world. We need to make that commitment. We need to put those dollars down before those other nations, whether it be Japan or Western Europe, put their dollars down.

Let me also suggest to the gentleman from Missouri that, yes, it is a brain drain in this country. It is a brain drain because if we do not make that commitment, if we do not make that commitment we will lose the best high-energy physics scientists that we have in this Nation and that are here studing in this Nation, and they are going to be in CERN and the Soviet Union and Japan, because we do not have the facilities to offer them.

If we want to make a commitment to this Nation, if we want to make a long-term commitment, and, yes, the gentleman from Pennsylvania made some reference, there are some people who have certainly an interest in this, because it might be near their district, and certainly said that about the other gentleman from Illinois, and I guess we do that in this Congress once in awhile. But let me also suggest that we believe what is right for this country, and we need to make this commitment. We need to make that long-term commitment, and I certainly would urge my colleagues to defeat this amendment.

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Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I appreciate the gentleman yielding so that I may point out that when he talked about the small sciences being hurt because of this project, we should look back and look at history in regard to Fermi, which is really the superconducting super collider No. 1. We have now, after Fermi, found that high energy physics in toto is less in percentage in comparison to other sciences than it was before, and yet that same accusation was made when Fermi was being considered, that it would have the effect of crowding out other sciences as well. I can give one example with Fermi and it has been just the opposite. High energy physics in percentage totals has gone down in comparison to other sciences, so we ought to look at history.

Mr. HASTERT. I agree with the gentleman. Certainly on this floor some 20 years ago this same argument was being made, saying that putting this money in high energy research at Fermi Lab, or wherever that commitment would be, and at that same time there were other States involved, was a terrible thing and it was going to crowd out science, it was going to be doomsday for discovery in this country, and that that has happened is not so.

Mr. FROST. Mr. Chairman, I move to strike the requisite number of words and I will speak very briefly.

Mr. Chairman, I rise in opposition to this amendment that seeks to reduce the funding for the superconducting super collider below the $147 million figure called for in the bill. Such a reduction would be inconsistent with action previously taken by the House and threatens the timetable established for development of this ambitious and badly needed scientific research project.

Just last week the House approved the fiscal year 1989 budget conference report. In that report, House and Senate conferees agreed to a level of $150 million for fiscal year 1989 for the superconducting super collider. That was a compromise figure reached by splitting the difference between the $200 million that was contained in the Senate budget resolution and the $100 million contained in the House budget resolution. The language that was agreed upon in the conference report and approved by the House on May 26, just last week, is simple and straightforward, and I would like to read directly from the report. It says: "* * * The conferees assume a split between the House and the Senate assumed levels of funding for the Department of Energy's superconducting super collider project." It is hard to be any clearer than that.

The $147 million for SSC funding provided in this bill is in keeping with the intent of the Budget Committee and is consistent with the direction provided in the budget conference report last week.

The energy and water appropriations bill came to the floor before the conference report on the budget, and it is certainly possible that the conferees on the appropriations measure will increase the $100 million funding provided in that bill.

Mr. Chairman, if we are to retain world leadership in scientific and technological advancement, if we plan to compete with other nations in a worldwide marketplace into the 21st century, we cannot shrink from the type of commitment to pure scientific research that the SSC represents.

I urge defeat of this amendment.

Mr. PURSELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to take my whole 5 minutes because I know the clock is running, and I appreciate the Chairman's earlier remarks.

Mr. Chairman, this Nation is only spending three-tenths of 1 percent on civilian research, so the question here today is not the advanced dollars talking about the super collider. Whether it is $4 or $5 billion is really a bit irrelevant when we look at the lack of research commitment that this Nation is making to civilian research.

The concern I have for this amendment really, which I think is counterproductive, is the striking of the outyears in terms of authorization. The House has committed to the super collider and the $100 million, there is no question about it, it is in there and it is over in the Senate. But I think my point that I really want to make today is that this is not a State project. This is a national project and an international project. It will give us the world leadership and the preeminence in science.

So I think those of my colleagues who are from would-be States or States that do not have the proposal before the Department of Energy, that is somewhat irrelevant. It is nice to have the project and it will produce some jobs, but I think we ought to make the point, as the gentleman from New Jerssey [Mr. ROE] and the gentleman from New Mexico [Mr. LUJAN] said earlier, that this is an international, world leadership role for this Nation. And this Nation and the next President and the next Congress will make a policy decision on the expansion of the science budget within the science budget from the Department of Energy to DOD, to the Appropriations Committee on science and technology.

So we have a major policy decision ahead of us in the next year to expand the science research programs three-tenths of 1 percent out of a $1 trillion budget. We are really talking about a low priority nationally in respect to the future of science for fusion or solar energy and for other important advancements.

So I congratulate the committee, both the majority and the minority side, and oppose this amendment. I think it is a counterproductive amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. BUECHNER].

The amendment was rejected.

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT: Page 9, line 16, through page 10, line 12 amend subsection (2) to read as follows:

(2) FOREIGN PARTICIPATION.—The Secretary shall not expend any funds authorized under subsection (1)(d), until the Secretary receives commitments of foreign participation totaling not less than 25 percent of the total estimated cost of the superconducting super collider project.

Mr. BOEHLERT. Mr. Chairman, I want to make one thing very clear, as I start, I am for the superconducting super collider. I want the project to go forward because I recognize it is a major scientific initiative. But I want it to go forward in a manner that is reasonable, prudent, and most of all fair.

Mr. Chairman, this amendment would require that foreign nations commit to paying at least 25 percent of the cost of the superconducting super collider [SSC] before construction could begin.

The amendment is designed to solve two problems.

The first is that we simply do not have the money to build the project right now. That's not just my conclusion. The entire House has expressed that view by voting repeatedly to reject administration requests for construction funding in the Department of Energy [DOE] appropriation. If this project is to move forward, and I want it to move forward, another source of funding must be tapped.

Other nations would be a logical source of funding, though, even if we were not facing budget constraints. It's the only way to prevent them from getting a "free ride" on America's investment.

How often do we come to this floor to complain that other nations take advantage of us—that we pay a disproportionate share of their defense costs, that we end up subsidizing their companies with our basic research? Well, here we finally have a chance to legislate some "burden sharing" requirements proactively—to put their money where our mouths are.

Scientists from all over the world will use the SSC and all research results will be publicly available. This is not going to be a hush-hush, code word, highly classaified endeavor. A project with such international benefits ought to have international financing. They want to share the benefits—and they will. Then how about sharing the burden. They should.

In fact, there isn't much dispute about the desirability of international cost-sharing. Even H.R. 4505 sets 25 percent cost sharing as a goal, although the bill betrays its ambivalence about foreign participation by placing a ceiling on contributions from abroad. Dr. Frank Press, the President of the National Academy of Sciences feels no such ambivalence; he says we should encourage foreign cost-sharing.

No, the real issue is how best to encourage those contributions. And if we're honest, the situation is clear. Absent this amendment, other nations have no real incentive to contribute.

We once asked a DOE official why foreign governments would pay money toward construction of the SSC. The official replied that their only incentive was the fear that the machine would not be built without their contributions. What better way to attract foreign money, then, than to state in black and white that that fear is well placed.

Without this amendment, we have a textbook case of the "free rider" problem. It doesn't pay for anyone to be the first to ante up because they might be able to benefit from the project without doing so.

Science policy experts have acknowledged this problem. Dr. Roland Schmitt, the Chairman of the National Science Board, for example, has endorsed this amendment.

Opponents of this amendment bring up a series of criticisms that only highlight their unrealistic assumptions.

For example, I've heard it said that the cost-sharing requirement will make prospects for the project more uncertain. Just how much more uncertain could the SSC be? We're talking about a project that is on "life support" right now, with its congressional "doctors" too queasy to pull the plug and too uncommitted to bring it back to health. It's not possible to be in a more precarious state.

This amendment would actually add stability by making it far more likely to attract foreign funds. In addition, cost sharing would make it more difficult to kill the project mid-stream because doing so would involve abrogating agreements with other governments. And the Congress has killed particle machines after work has begun in the past.

In short, the amendment doesn't give foreign nations any more "veto power" over the project than they have already. It does make it less likely that they'll use that veto power by default, by simply hoping that the United States will be happy to underwrite their science as it always has in the past.

We also hear an undercurrent of concern that this amendment gives foreign governments some additional bargaining power to make demands on American planners. It's never stated what nefarious demands are in mind. Truly, when it comes to seeking foreign contributions, "we have nothing to fear, but fear itself."

Finally, in a last ditch effort, opponents say we can't have these kinds of cost-sharing requirements because we never have had them before. So much for progress.

We've never been in this situation before. We've never had so many "big science" projects competing for funds at the same time we have a record debt and when we have allies who are healthy enough to pay for equipment they will want to use.

In an era when we watch our cowboy movies on Japanese TV's, it's foolish to try to play the Lone Ranger. Anachronistic attitudes will be the downfall of this project.

Einstein once noted how much thought often lagged behind technology. He said the atomic bomb had changed everything but the way men think.

Mr. Chairman, big science is a new kind of science just as surely as the atomic bomb was a new kind of weapon. And like the bomb, it necessitates a new kind of politics, the politics of cooperation.

It we don't cooperate, the SSC will have the same impact on our budget that the atomic bomb will have on our planet. Its costs mushrooming, the SSC will scorch its neighboring budgets in Function 250 immediately, and then will slowly debilitate the rest of the budget over a period of years.

This amendment prevents that calamity without harming the project in any way. Its goal is simply to make the SSC an affordable project to which all the beneficiaries contribute.

If you're for the SSC, if you're for keeping all of American science healthy, if you're for making our allies pay a fair share of international projects, I think you have to vote for this amendment.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 3 additional minutes.)

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I am glad to yield to my colleague, the gentleman from Wisconsin.

☐ 1215

Mr. SENSENBRENNER. Mr. Chairman, I am a strong supporter of the superconducting super collider project and commend the leadership of the committee for including the project in its energy authorization bill.

However, regardless of how any of my colleagues feel about the pros or cons of the SSC, I believe the Boehlert amendment makes sense and is worthy of their support.

The amendment before us today simply requires the Secretary of Energy to receive foreign commitments of 25 percent of the estimated total cost of the SSC project before construction money is spent. Without this amendment I am afraid the SSC may never be completed.

The bottom line on this amendment, Mr. Chairman, is that by reducing the cost of the SSC project by over $1 billion by requiring foreign participation, Congress increases the probability that the SSC will actually be completed.

The SSC is an ambitious science project by anybody's standards. I do not need to remind my colleagues of the difficulties in funding other nondefense programs in order to properly support reestablishing American leadership in science and technology. Others in Congress fear that the many small science projects funded by Congress are threatened by the amount of science dollars soaked up by the SSC. Over time these pressures will increase, threatening congressional support for the SSC in future years. This amendment relieves some of those pressures.

Mr. Chairman, if this country is serious about international participation, now is the time to secure foreign commitments. The bill before us at this time merely requires the Secretary of Energy to seek foreign participation and then report to Congress on the results of his efforts. I do not doubt that the authors of the provision as written in the bill fully intend the Secretary of Energy to acquire such participation, but they are going about it all wrong. If we wait until the decision has already been made by this country to go ahead unilaterally to build the SSC no matter what the level of foreign contributions, we lose any negotiating leverage we ever had in getting those commitments. Other nations will then be afforded the luxury of selectively choosing how, when, and if they are actually going to contribute, confident their scientists will be given equal opportunity to participate in the experiments once the SSC is completed. It's time this country stopped giving other nations a free ride on the American taxpayer.

It should also be evident that this is in no way a killer amendment for the SSC project. Testimony before the Science, Space, and Technology Committee and the House Appropriations Committee by Department of Energy officials indicated that Congress might reasonably expect up to 40 to 50 percent of the project's costs to be forthcoming from foreign participants. This amendment only requires half of that amount be committed before beginning construction of the SSC. This amendment, therefore, is not an attempt to establish conditions impossible to satisfy, but rather to set realistic goals for international participation.

This amendment welcomes the opportunity for international cooperation and does not limit its investment. It is not guilty of scientific protectionism, but rather seeks to increase the burden sharing of this big-science project. Even in the area of national defense, Congress has seen the wisdom of asking others with an ability to contribute to share the costs of their own security. It doesn't make sense for us to pay for the defense of other nations. The same is true with respect to the SSC. We shouldn't pay for someone else's science budget. We should adopt this amendment.

AMENDMENT OFFERED BY MR. ROE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BOEHLERT

Mr. ROE. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROE as a substitute for the amendment offered by Mr. BOEHLERT: Strike the matter to be inserted and insert in lieu thereof the following:

"(2) FOREIGN PARTICIPATION.—(a) The Secretary shall seek to obtain commitments for foreign participation in the Superconducting Super Collider project at a level not less than 25 per centum nor more than 33⅓ per centum of the total estimated cost of the project as determined at the time of final site selection."

Mr. SENSENBRENNER. Mr. Chairman, I reserve a point of order on the substitute amendment.

Mr. ROE. Mr. Chairman, I am opposed to the amendment offered by the gentleman from New York [Mr. BOEHLERT].

Mr. Chairman, the reason we are offering this substitute for the Boehlert language is because I think that basically in this country we do not want Japan or Germany or anybody else from the Soviet Union to determine when or whether we do or do not build the super collider.

We are trying to come to an accord on this issue and it is the consensus, the overwhelming consensus of the committee and I hope the House of Representatives, that, yes, we do want foreign participation where there are these big science issues involved. America can no longer build it alone, we cannot build the space station alone which is why we are negotiating with Japan and Canada and the other countries to participate.

However, we could make a very, very serious error if we allow the foreign interests to have anymore than 33⅓ percent. Our concern about that is that they can come back and say, "We will give you a credit offset from Japan and we will build the magnets." The magnets are probably the most important scientific and technological part of the whole program. Or the Italians will come back and say that issue.

I do not believe that America is ready to give away high technology to other countries with all kinds of regulations and laws that require us not to be able to transfer our technology and so forth.

So I am trying to work now with the gentleman from New York in saying we would go to the 25 percent but put a limit, he cannot exceed 33⅓ percent.

Now the question arises as to whether or not the Secretary should have a right to say something about that. Should we sit back and wait until there is a definitive 25 percent before the Congress of the United States could make a decision and move this program? I say that is the wrong way to go, we should not be doing it that way. I say that we have provisions in the bill that provide for reports coming back to the Congress, back to this committee to determine what level, if any level, that the foreign participation would be.

But certainly we do not want to give either Japan, Germany or any other country the right to tell us we cannot proceed if that is the will of the American people.

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. SENSENBRENNER] press his reservation of the point of order?

Mr. SENSENBRENNER. No, Mr. Chairman, I withdraw the point of order.

Mr. LUJAN. Mr. Chairman, I move to strike the last word.

First, Mr. Chairman, let me congratulate the gentleman from New York [Mr. BOEHLERT] for the thoughtfulness that he has put into this subject. I, too, believe that we ought to have foreign participation. I do not think there is anyone in this whole Congress and perhaps in this whole counry that does not believe that we ought to have some sort of foreign participation. These projects are getting so big that that is the only way that we are able to do more than one at a time.

That is what we are doing with the space station as a matter of fact. We have about 25-percent participation with foreign countries because they will benefit from that.

There is something that bothers me, however, about the amendment as proposed by the gentleman from New York. We do not have control of all of the spinoffs that come from this technology. They would go to other countries. That is one of the things that if they got control of it, who is going to control the technology, who is going to control the spinoffs? And, after all, that is what we are in this for.

The second thing that bothers me is that we really, then, under the wording of the amendment by the gentleman from New York, under that wording we do not have the right to determine if we go forward with the project or not. It leaves the decision to foreign countries.

If they decide, if they get together and say, "We are not going to participate because we want to build it in Italy, we want to build it in Japan or in the Soviet Union," wherever they want to build it, they just could withhold their participation so that we do not get 25-percent participation and we cannot build it.

So we are leaving ourselves wide open for decision by others; we cannot control our own destiny. Therefore, I think that the amendment by the gentleman from New Jersey [Mr. ROE], the chairman of the committee, still says that we want their participation, at least 25 percent participation, but we do not want the control to go to the other countries. And that is why the other limitation of 33 percent is there. I think that is a good substitute and I would urge its adoption.

Mrs. LLOYD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the substitute. The SSC is an investment in our future but it is also, and we want it to be, a U.S. enterprise fully under the control of U.S. management. It certainly is in the bests interests of the United States to reassert our leadership in fundamental science, to maintain this control. This would give us the option to allow us to have the foreign participation in the program under our control and this way it would not deter the construction schedule.

I urge my colleagues to support the substitute.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the substitute amendment.

Mr. Chairman, it is time for the flag-waving right now. We are seeking evidence of that right now.

Look, burden-sharing has been one of the topics of heated debate in this Congress from the beginning to the present right now. It is suggested by those who are advocating the substitute amendment that somehow we are going to put in the hands of questionable foreign characters the direction of this important scientific initiative. That simply is not so.

Let me tell you who is for this burden-sharing, let me tell you who is realistic in assessing this whole situation.

The Chairman of the National Science Board, Dr. Roland Schmitt says:

> Should Congress decide to proceed with funding the SSC, it should ask that at least 25 percent of the cost be obtained from foreign countries who will also benefit from the scientific advances flowing from the SSC.

What does Dr. Robert Rosenzweig, of the Association of American Universities say? He says:

> The scientific justification for constructing the SSC is clear and compelling; the practical justification for going forward would be greatly strengthened if the burden of paying for it were more widely shared. There is no doubt that the SSC should be financed in cooperation with other nations whose scientists will use it and whose people will benefit from the knowledge of the universe that it will disclose.

Then we go on to Dr. Frank Press of the National Academy of Sciences. Now these are important people in American scientific policy. Dr. Press says to me in a letter:

> I certainly agree with your premise that we should encourage foreign participation in large-scale projects of this sort. Increasingly in the coming years, both the financial and the intellectual resources required for major scientific endeavors will have to be international. The challenge, I think, is to find mechanisms that encourage (and perhaps even require) international participation while still signaling the intention of this country to proceed with this important scientific program.

Now I want to proceed with this superconducting super collider because I recognize that it is a major scientific initiative for the United States of America. But I am also a realist and I know that foreign scientists are going to beat a path to our door because they are going to want to use this great facility. They will be able to use it. If they want to have some of the benefit, how about sharing some of the burden? Burden-sharing is a concept that this Congress embraces. We tell it to our allies in NATO when we are talking about defending the Atlantic Alliance; we are talking about it to the Japanese, our good friends over the Pacific, about picking up a greater share of their defense burden. How about international scientific cooperation? How about all those other scientists, the Germans, the English, all over the world who are going to use this project financed by American taxpayers? How about asking their governments to ante up a modest share?

The President of the National Academy of Sciences says it makes sense, the Chairman of the National Science Board says it makes sense, the head of the American Association of Universities says it makes sense and I say it makes sense and, guess what, the American people are going to say it makes sense.

The most costly scientific project in the history of this great Republic, why not have some of those who are going to benefit cough up some of the dough so that they can relieve the American taxpayers and we can go forward with this major scientific initiative?

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman from New York [Mr. BOEHLERT] yield?

Mr. BOEHLERT. I yield to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. I thank the gentleman for yielding.

First of all, let me say that the Roe substitute amendment makes about as much sense as voluntary taxes. If this House of Representatives passed legislation enacting a voluntary tax that the American people could decide whether or not they want to pay, the Treasury would not collect a dime in additional revenue. And that is exactly what the Roe substitute amendment does on this issue. It says, "The Secretary shall seek to obtain commitments for foreign participation for the SSC for not less than 25 percent nor more than 33⅓ percent." There are no teeth in the Roe substitute amendment. It means that the foreign governments that we are going to ask to contribute to the SSC can tell the United States to go fly a kite and we are going to go ahead and build it all on the back of the American taxpayer and not have any mandatory foreign participation.

□ 1230

On the other hand, the Boehlert amendment says that no funds shall be expended until 25 percent of the cost of operating the SSC comes from foreign sources. That has got teeth in it, and that is going to force the foreign dollars to come in to reduce the cost of this project to the American taxpayer.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 3 additional minutes.)

Mr. SENSENBRENNER. Mr. Chairman, if the gentleman will continue to yield, there have been a number of red herrings that have been put forward by those who oppose the Boehlert amendment and support the Roe substitute, and every one of those is fallacious. For example, we have heard the argument that the adoption of the Boehlert amendment will allow foreign countries to determine U.S. science policy. That is absolutely not true. The Congress of the United States is determining U.S. science policy today, and the question on this amendment is whether we wish to internationalize the cost of the SSC or not, and that determination is going to be made today by the Members of this body if the Boehlert amendment is adopted and the Roe amendment is rejected, and it will be made by nobody else.

We have heard the argument that the Boehlert amendment will decrease the competitiveness of American industries by increasing international participation. That is an absolutely false argument because section 107(4) of the bill limits foreign manufacture to a third of the major systems or components as so, therefore, American industry is guaranteed at least two-thirds of all the high-tech components.

Finally, we hear the implication that the Boehlert amendment in the section I have just referred to is incompatible. That is not true either. The Boehlert amendment merely means that not all foreign contributions will be able to go high tech systems or components, and that is only fair. If the United States is going to pay for digging tunnels and other nonglamorous expenses, so should others, if they are going to reap the scientific benefits. So what this is going to mean, if the Boehlert amendment is adopted, is that the Japanese or Europeans or anybody else cannot simply come in and offer to do the high tech stuff and pay for it while our taxpayers end up paying for digging the tunnels and pouring the concrete. They are going to share the entire cost of all these components and all of the costs of the construction of the SSC on an equal and fair basis.

Mr. Chairman, I commend the gentleman from New York for introducing his amendment. I think that the Roe substitute makes absolutely no sense at all if we wish to force foreign governments into making contributions.

Mr. BOEHLERT. Mr. Chairman, I thank my colleague, the gentleman from Wisconsin, for his contribution, and I would like to point out that we thought so much in this Congress and in this committee particularly about the importance of international scientific cooperation that we created a subcommittee with that very title, a Subcommittee on International Scientific Cooperation.

I see my distinguished chairman standing there, and I am proud to serve on that subcommittee, because international scientific cooperation is extremely important.

Now, let us not worry about all these claims that if we have international cooperation, everything is going to fall apart.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

Mr. BOEHLERT. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ROE. Mr. Chairman, I do not want to object, and I reserve the right to object. I will not object if the gentleman will yield to me during some of the time. Otherwise we are going to be here on this for another hour.

Mr. BOEHLERT. I will be glad to yield to the gentleman.

Mr. ROE. Then, Mr. Chairman, I have no objection.

Mr. Chairman, I withdraw my reservation of objection.

Mr. CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, I would like to point out to my chairman and to my colleagues in the House that when we are talking about international scientific cooperation, we already have it with the space station. We have been talking about the Mars exploration. The President of the United States has just visited the Kremlin, and he has been dealing with the General Secretary of the U.S.S.R. They have talked about United States-Soviet international cooperation. So we talk about international cooperation, and we have burden-sharing all the time, and that makes sense.

Mr. Chairman, I am glad to yield to the chairman of the committee.

Mr. ROE. Mr. Chairman, I am going to wait for the gentleman from Texas [Mr. HALL] and I will ask him to yield.

Mr. BOEHLERT. Mr. Chairman, I would be pleased to yield. I would be glad to yield to the gentleman from Texas.

The CHAIRMAN. Does the gentleman from Texas [Mr. HALL] ask the gentleman from New York to yield?

Mr. HALL of Texas. No, Mr. Chairman, I was waiting for the gentleman to yield back the balance of his time.

Mr. BOEHLERT. Mr. Chairman, I will be glad to yield back the balance of my time after I make this point. Burden-sharing makes sense. It makes sense for this project, it makes sense for the American people, and most of all, it makes sense for the taxpayers because we all know that the international community is going to use this project, and if they do, I say, how about having them pay some of the costs of the construction of this project?

Mr. Chairman, I yield back the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. HALL of Texas. I yield to the distinguished chairman of the committee.

Mr. ROE. Mr. Chairman, let me say this:

> Alas that youth should vanish like the rose, that life's sweet-scented manuscript should close.

Fantasy, fantasy, fantasy.

No. 1, this chairman was the one who devised the International Subcommittee to be placed in the Committee on Science, Space, and Technology. That is No. 1. This chairman wrote the language that curtailed foreign participation so that our high technology could not be diverted from the United States. This chairman wrote that particular language which our people are saying is good language, and I am pleased with that.

Nobody is telling the American people to go fly a kite, or that this program is being put on the back of the American taxpayer. That fundamentally is not so. If the superconducting super collider is worth building at all—and I visited CERN and talked to all their executives and representatives from 13 different countries who are participating in that program—the economic benefit from this program in Europe alone is an economic benefit ratio of 5 to 1. So everybody is in favor of the superconducting super collider.

But maybe the distinguished gentleman from New York is forgetting something. We wrote into this bill that, yes, they can participate and should participate, but we gave latitude to the Secretary to make those determinations and to report back to the Congress to make the final decisions that would have to be made.

Did the gentleman consider the point of view that, suppose we decided not to have anybody participate from another country, and suppose that Illinois or Texas or Arizona or one of the other States in our Nation decided they would put up the money, the balance of the money. As it is now, we have this cockamamy program where, when the time is ripe, we say, "What is in the envelope, please?" That will come to the Department of Energy, and he will open up the envelope, and that is what the State is going to participate in. Yet we can go to foreign countries and say, "If you put up $2 or $3 billion, you get part of the cream of the crop." But we deny the States to do that.

I say to the Members that what we have done is provide the latitude here, and we have stuck right to what we said. We do not want them to get more than 33⅓ percent, and I am totally in favor of foreign participation. But I am not going to deny that State the right to put up additional funds if they want to.

Let me point out what the language says. The language here says that the Secretary shall not expend any funds authorized under section 1 and (d) until the Secretary receives commitments of foreign participation totaling not less than 25 percent. But suppose the Secretary decides that either Illinois or Texas or Arizona or Tennessee is an eligible State, and they say, "We are ready to negotiate if you are ready to go ahead, but we don't have the 25 percent." Then I have got to wait, but suppose I am from Texas and I will put up the other billion and a half dollars because I do not want to delay for 10 years.

So from my point of view, the gentleman is right on participation, but I think we have made a reasonable point here, and I think we should reserve the right to ourselves. And it is not flag-waving, but let me say that even if it were flag-waving, then I am going to wave that flag from this end of the Capitol to the other end of the Capitol, and God save the queen. But I say that we have given the flexibility, and we want the foreign participation, but we do not want foreign participation to dominate. I think this is fair and just to the States that are involved.

Mr. HALL of Texas. Mr. Chairman, I will reclaim the balance of my time, and I would like to say that I totally agree with the distinguished chairman of the committee. I even agree with the gentleman from New York in that we want some participation. We made visits to CERN and DESY seeking participation. We took people from Commerce, Defense, and other areas to do the talking, and as the gentleman from Wisconsin well knows, when he talks about percentage of participation from foreign sources for the space station, that was voluntary. This should be voluntary.

The substitute that the committee chairman has given us gives us the option. We can take the participation. Surely, as the gentleman from New York remembers, the administration came before the International Subcommittee and testified that they did not favor a mandated Federal foreign participation, that they were fearful that it would do just exactly what this chairman pointed out.

I am for foreign participation. I want it, but let me tell the Members the fear that I have. In going over there and visiting where it is almost totally world coordinated foreign participation, particularly at CERN, I went down into the main collision chamber and we took folks with us.

We did a documentary there that is available now.

□ 1240

Not one time did I walk through a metal detector. I am not really sure that we can operate like that.

Scientists can transcend national boundaries. They think probably on a higher level than we do, but we have to think practically, and I would like to allow foreign participation in the form of using our operation and using our equipment.

The CHAIRMAN (Mr. SMITH of Florida). The time of the gentleman from Texas [Mr. HALL] has expired.

(By unanimous consent, Mr. HALL of Texas was allowed to proceed for 1 additional minute.)

Mr. HALL of Texas. For international participation it is so complex, if we get it to 24½ percent, and then we are held up. The U.S. commitment has to come first. It is a poor negotiating tactic. It is a lever for the SSC opponents. It can cost us U.S. jobs, and we cannot construct until we get the 25 percent.

Please, we cannot live with that. Let us take the 25 percent, if we can get it, let us take it on our terms.

Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the substitute amendment offered by the gentleman from New Jersey [Mr. ROE] and I would simply point out that there are some very, very serious flaws to the original amendment as proposed by the gentleman from New York [Mr. BOEHLERT]. It is those flaws that led the committee to reject the amendment despite the surface attraction and the surface appeal it has.

Yes, we do get frustrated about the lack of equal burden-sharing particularly among our Western NATO allies and the defense issues, and we have all expressed our concerns on that in the series of votes just several weeks ago. And, yes, some of that does extend into the scientific infrastructure projects.

But the problem of the gentleman's amendment; that is to say the gentleman from New York, is that really holds our scientists hostage to the actions of foreign governments. Mr. Chairman, I do not like hostages. I do not like it when Americans are held hostage in Iran. I do not like it when Americans are held hostage in Lebanon. And I am certainly not going to vote to hold the American scientific community hostage to the Mitsubishi cartel. It does not make sense.

Now, Mr. Chairman, the letters that the gentleman read to us from Dr. Press and others say this, and note what they say is opposed to what the gentleman's amendment does. Should Congress decide, then we should seek foreign participation. Every avenue ought to be explored, yes, but what his amendment does is says foreign participation has to be guaranteed before Congress decides.

Mr. Chairman, we have the cart before the horse.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield on that point?

Mr. HENRY. Mr. Chairman, the gentleman from New York [Mr. BOEHLERT] and several extensions. I would like to finish my remarks.

Mr. BOEHLERT. Mr. Chairman, will the gentleman from Michigan [Mr. HENRY] let me clarify a point?

Mr. HENRY. Fine, Mr. Chairman; I'd be pleased to yield to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, the letter from Ronald Schmitt, the Chairman of the National Science Board, says that should Congress decide to proceed with funding the SSC, with funding the SSC, it should ask that at least 25 percent of the cost be obtained from foreign countries who will benefit from the scientific advances flowing from the SSC, not should we seek international funding. Should we decide to proceed with the project, we should go with the 25-percent minimum.

Mr. HENRY. Mr. Chairman, I thank the gentleman from New York [Mr. BOEHLERT] but he does not say we should hold back funding contingent on such a match, although that is clearly something to be noted, if that is Press' letter, and the gentleman has read several. He also said that the challenge to this Congress, and I agree with the challenge, is to find mechanisms while, and I quote the letter, "still proceeding."

Mr. Chairman, the gentleman's amendment prevents us from proceeding and has the inadvertent effect then of allowing our potential international competitors in the scientific community to hold us in check until they perhaps are in a position to more advantageously attack the project then ourselves and thereby potentially sacrificing our superiority in this branch of science. I just do not think we should get ourselves in a situation where we hold our scientific community hostage to the actions of another nation and then say that we will do nothing to seek their release until the nations holding them hostage give us permission to do it.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I also would like to rise in support of the distinguished chairman's substitute amendment and in opposition to the gentleman from New York's amendment. I think, if we mandate a certain percentage of foreign participation, that does tend to tie our hands. I think the chairman's substitute where we set a target that we encourage the Secretary of Energy to seek a certain level of participation, that is much more flexible. It achieves the same purpose. It sets a policy of the Congress, a sense of the Congress, that we need foreign participation and that we want a minimum of 25 percent.

Mr. Chairman, I would also just like to point out that since some States think that Texas is a foreign nation in a sense, if this amendment were to pass, it would tend to favor it being selected in Texas since Texas has offered to fund $1 billion of the project.

Mr. Chairman, I yield back the balance of my time.

Mr. HENRY. Mr. Chairman, I yield back the balance of my time.

Mr. TRAFICANT. Mr Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the substitute. I just rise briefly to say that I have to say that the gentleman from New York [Mr. BOEHLERT] is one of our finer Members, and I agree with him most of the time, and I agree with him also at this time.

But, Mr. Chairman, I believe, if we look at our activities with the space station, the 25-percent commitment was no problem from Canada, Europe, Japan. And if we are to pass the gentleman's language, many of the participatory areas of the super collider would come late in the program, and before construction could start we might be held hostage to that lateness where they would be looking for their own participation.

Second of all, could my colleagues imagine the scenario where we might have 22- or 23-percent participation and some nation says, "Well, look. We'll go along with you and come up with additional money, but here's what we want."

Mr. Chairman, I believe that the substitute is not bad for this reason, and I philosophically am in line with the gentleman's thinking. I do not think there is anybody that rises more for buy American, and I will be rising later today, shortly, for a buy American amendment.

So, Mr. Chairman, I support the gentleman from New York [Mr. BOEHLERT] and I think that he is doing a great job, but I think that the substitute gives us that leeway, and more importantly it gives the States an opportunity.

Mr. Chairman, some States may want to kick up and come up with some additional money here. I think that makes a lot of sense. It gives more of this project to America, and I am more concerned about what are the benefits to America, and I think that we offer that, and I do not think it is really a bad situation.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I would like to point out that earlier in debate we had two chairmen talking. We had the chairman of the full committee and the chairman of the Subcommittee on International Scientific Cooperation. The gentleman from Texas [Mr. Hall] says that we are at the mercy of foreign nations because they might not want to contribute, and the chairman, the gentleman from New Jersey [Mr. Roe] says that we are at the mercy of foreign nations because they dominate the funding of the project.

I mean which is the right answer to this whole thing?

Now the point of the matter is that we have had before our committee expert testimony from the administration which said that it has visited the foreign capitals around the world, and they are excited about this project. They want to participate, but there is no incentive from them to participate unless we mandate it.

Mr. Chairman, that is the important thing. They are going to collect all the benefits from our taxpayer dollars. Why not share some of the burden?

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, I do not totally disagree, as I said earlier, but I believe for the issues that I had brought up that I think the substitute is more appropriate.

So, Mr. Chairman, I yield back the balance of my time.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief. I will not use the 5 minutes. I simply want to rise in support of the chairman's substitute, and I note that in the statements from the gentleman from Wisconsin he set forth the issue as being whether or not we wish to internationalize. In reality, I think that has been shown not to be the issue because I think all of us have a firm consensus here that we all want international contributions here.

Mr. Chairman, as far as I am concerned, the DOE has indicated they could go even to 40 percent, and that would be fine with me. However, the one-third limitation I have no objection to necessarily.

Mr. Chairman, I think that is the important point. The issue is not whether we are for or against burden-sharing here as has been stated several times by the proponents of the original amendment. But the real issue is whether or not we want to temporarily set forth a kill of the construction and authority to move ahead while we wait and are tapping our fingers to determine when we are going to hit that magic figure of 25-percent contribution.

I do not think any of us also has any doubt that Senator Dole will do everything possible to get that foreign contribution.

So, Mr. Chairman, I simply do not believe that the original amendment was necessary. I think the substitute is very sound.

□ 1250

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. Roe] as a substitute for the amendment offered by the gentleman from New York [Mr. Boehlert].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 309, noes 16, not voting 106, as follows:

[Roll No. 166]

AYES—309

Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Brown (CO)
Bruce
Buechner
Bunning
Burton
Byron
Callahan
Cardin
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fawell
Feighan
Fields
Flake
Florio
Foglietta
Ford (MI)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Inhofe
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Markey
Martin (IL)
Martinez
Matsui
Mavroules
McCloskey
McCollum
McCrery
McCurdy
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oberstar
Obey
Olin
Owens (NY)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Perkins
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Roe
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schroeder
Schuette
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stark
Stenholm
Stokes
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Traficant
Traxler
Udall
Upton
Valentine
Vento
Volkmer
Vucanovich
Walgren
Watkins
Weber
Weldon
Wheat
Whittaker
Whitten
Wolf
Wolpe
Wylie
Yates
Yatron
Young (FL)

NOES—16

Boehlert
Espy
Fish
Green
Lowry (WA)
McGrath
Miller (WA)
Molinari
Petri
Schneider
Schumer
Sensenbrenner
Slaughter (NY)
Visclosky
Walker
Wortley

NOT VOTING—106

Ackerman
Akaka
Alexander
Aspin
AuCoin
Badham
Barnard
Beilenson
Biaggi
Bonker
Boulter
Boxer
Broomfield
Brown (CA)
Bryant
Bustamante
Campbell
Carper
Collins
Coughlin
Daub
DeFazio
Dixon
Dowdy
Duncan
Fascell
Fazio
Flippo
Foley
Ford (TN)
Frenzel
Garcia
Gibbons
Gilman
Gingrich
Gregg
Guarini
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hefley
Horton
Huckaby
Hyde
Jacobs
Jeffords
Jones (TN)
Kemp
Kleczka
Konnyu
Lewis (CA)
Lewis (GA)
Livingston
Lott
Lungren
Mack
MacKay
Manton
Marlenee
Martin (NY)
Mazzoli
McCandless
McDade
Mica
Miller (CA)
Moody
Morrison (WA)
Murphy
Nichols
Oakar
Ortiz
Owens (UT)
Pelosi
Penny
Pepper
Rahall
Rangel
Ray
Roberts
Rodino
Rostenkowski
Schulze
Sharp
Skeen
Skelton
Smith (IA)
Smith (NE)
Spence
St Germain
Stallings
Stangeland
Studds
Taylor
Torres
Torricelli
Towns
Vander Jagt
Waxman
Weiss
Williams
Wilson
Wise
Wyden
Young (AK)

□ 1307

The Clerk announced the following pairs:

On this vote:

Mr. Fazio for, with Mr. Jacobs against.

Mr. Rodino for, with Mr. MacKay against.

Mr. SMITH of New Hampshire changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BOEHLERT], as amended.

The amendment, as amended, was agreed to.

□ 1310

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of engaging in colloquy with the gentleman from New Jersey [Mr. ROE], chairman of the Committee on Science, Space, and Technology.

Mr. Chairman, I understand that this bill contains $517,000 for continued operation of the Great Plains Coal Gasification Plant located in North Dakota. These funds are for continuing environmental compliance and administrative costs, and the plant is in fact accumulating revenues from the sale of natural gas which are going into an account that now contains over $100 million. So the plant is in fact earning the Government money.

As you know, Mr. Chairman, the Department of Energy is trying to sell this plant to a private company, and is currently evaluating eight bids which have been received. A decision is expected this summer.

The Federal Government has invested a great deal of money in this plant, which is one of the few of its kind in the world, and the only one in the United States. The plant uses technology on the cutting edge of scientific knowledge, and has been a technological success in every respect. We continue to gain new insights into alternative energy prospects from the operation of this plant, and I would just like to make sure that the objective of the Science, Space, and Technology Committee is to keep the plant up and running, regardless of whether it is the Federal Government or a private company that operates the plant.

Mr. ROE. My chairman, will the gentleman yield?

Mr. DORAN of North Dakota. I yield to the gentleman from New Jersey.

Mr. ROE. I appreciate the concerns of the gentleman from North Dakota, who is correct that the plant is currently returning revenues to more than cover the operating expenses. I want to assure the gentleman that I agree that we must make sure the Great Plains Plant continues in operation. It is the committee's intention that if and when the Department of Energy sells this plant, it would impose whatever conditions are necessary to insure that the new owner continues full operation of the plant.

Mr. DORGAN of North Dakota. And in the event the Department elects not to sell the plant, would the committee intend that the Department continue to operate the plant as long as it continues to benefit the future energy security of this country?

Mr. ROE. The gentleman is correct. That would be the committee's intention.

Mr. DORGAN of North Dakota. I thank the chairman for his assurances and for his cooperation.

AMENDMENT OFFERED BY MR. PACKARD

Mr. PACKARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PACKARD: On page 12, following line 13, insert new subsection 107(6).

(6) STATE CONTRIBUTION.—(a) The superconducting super collider may only be sited in a State which has agreed to contribute to the project with non-Federal funds and/or in-kind contributions a minimum of ten per centum of the total initial estimated cost of the project as determined by the Secretary of Energy.

(b) The Secretary shall negotiate with the state to determine a mutually agreeable payment schedule not to exceed 20 years that does not conflict with a State's constitution or spending limits.

(c) The State may use contributions from nongovernmental agencies to meet this obligation.

(d) In kind contributions are those have a direct impact on the functioning of the facility, whether on or off the actual facility site. Such contributions shall include but not be limited to: materials; labor; technical expertise or studies; improvements made to infrastructure serving the site area such as roads and highways, airports, water and sewer, electricity and power; land and associated land, water, and mineral rights; contributions or improvements made to educational or academic facilities in support of research related to the project and conducted at the facility; housing and other benefits for the attendant working or research population; and the cost of any subsidies provided to the facility such as energy, water, or materials provided at less than market cost. Only such State or private expenditures as would not have been incurred but for the project shall be counted as in kind contributions for the purpose of this subsection.

(e) Any cash payments made by the selected state shall be refunded in cash by the Secretary in the event the facility is canceled or in the event funds are not appropriated to complete construction of the facility.

Mr. PACKARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PACKARD. Mr. Chairman, I think it is clear that this project if it is to succeed and be funded is going to have some help from other sources. We just passed an amendment that allows foreign participation. My amendment would ask that the State in which this project is ultimately sited, that State will be asked to contribute in all forms, in kind as well as cash contributions, at least 10 percent of the initial estimate of the project.

I think it is critical that this occur because the State that receives the project should give back to the project something because of the remarkable benefits that come to the State in which this will be sited. It actually adds up to billions of dollars in terms of jobs, in terms of economic benefits, and there will be significant benefits so I feel that the States should be required to participate in the construction costs and other costs. This can be done in a multitude of ways, and I urge support for my amendment.

Mrs. LLOYD. Mr. Chairman, will the gentleman from California yield?

Mr. PACKARD. Mr. Chairman, I am happy to yield to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I thank the gentleman from California for yielding. I want to thank him for his courtesies in helping to forge an agreement out of his original amendment. We certainly have come a long way. It is a much better amendment now.

Mr. Chairman, I want to commend and congratulate the gentleman from California [Mr. PACKARD] for negotiating a compromise on this thorny issue, and really trying to work with the Members that are affected. I agree with my colleague, the gentleman from California [Mr. PACKARD], that unless we do have the support from the State and can show we are dead serious, certainly the support for this project will erode in this body.

Mr. Chairman, I want to ask the gentleman from California [Mr. PACKARD] on his amendment if the State contribution is based upon the total initial estimated cost of the SSC as determined by the Secretary of Energy. It will not be an unknown cost further down the line. This is the initial estimated cost.

Mr. PACKARD. Mr. Chairman, reclaiming my time, in answer to the question of the gentlewoman from Tennessee [Mrs. LLOYD] we have made every effort to eliminate an escalating project cost that the States would have an unending responsibility toward. To do that we have tied this requirement of 10 percent to the initial estimated cost of the project. Those estimations in my judgment will have to be made before the project is ever let out to bid and thus the State will know at that point what their commitment would be.

Mrs. LLOYD. Mr. Chairman, if the gentleman would yield further, in your non-Federal and contributions in kind, have you included State or private expenditures that would not have been incurred but for the project and shall be counted as in-kind contributions for the purpose of this subsection?

Mr. PACKARD. Mr. Chairman, the gentlewoman is correct.

Mrs. LLOYD. Mr. Chairman, I thank the gentleman from California [Mr. PACKARD] for yielding, and for working and negotiating with members of the committee to iron out an acceptable amendment.

Mr. PACKARD. Mr. Chairman, I appreciate the remarks of the gentlewoman from Tennessee [Mrs. LLOYD]. I am aware that she is looking to protect the small States and their competition for this project. We have tried to accommodate those matters.

Mr. KOLBE. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. Mr. Chairman, I am happy to yield to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I want to ask, if I might, a question or two of the author of this amendment.

Just so I am absolutely clear, is your intention that all of the in-kind contributions of a State including the land, the infrastructure, and all of the other things that might be done would count in any way toward the completion of this project, would they be counted as part of the State's participation?

Mr. PACKARD. Mr. Chairman, the gentleman from Arizona [Mr. KOLBE] is correct. We have not intended to withhold any of the State's contributions in terms of offsite or onsite improvements as long as they are required by the project.

Mr. KOLBE. Mr. Chairman, if the gentleman will yield further, my understanding is that the State would have to make this decision as to whether or not it would agree to participate at 10 percent, that it would know what the costs would be ahead of time. That is that the Secretary of Energy would make that initial cost determination and the State would agree to that.

Mr. PACKARD. Mr. Chairman, reclaiming my time, that is my understanding, that the Secretary as soon as those initial cost estimates are established, this would be before the bids are let out, and the States would be informed of that.

Mr. KOLBE. And if the gentleman will yield further for a final question, has any consideration been given since we just adopted an amendment which suggests there might be between 25 and 33 percent foreign participation, has any consideration been given to whether that would be counted or not counted in this determination?

Mr. PACKARD. No, it is not the intent of this amendment that the State would be able to count foreign moneys, but they can count all moneys that are arranged for by their State from the private sector or from nongovernment sectors.

Mr. KOLBE. My question was, would that amount be deducted first? In other words, if it was a $4 billion project and there was $1 billion of foreign partiicpation, is it 10 percent of $4 billion or 10 percent of $3 billion as the gentleman understands it?

Mr. PACKARD. On that point I would like to yield to the chairman of the committee as to his understanding.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, it is my understanding that as far as foreign competition, that would be deducted from the overall cost because it does not relate to the overall cost.

Mr. KOLBE. Mr. Chairman, I appreciate the gentleman from California [Mr. PACKARD] yielding.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. Mr. Chairman, I am happy to yield to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, we have examined the amendment of the gentleman from California [Mr. PACKARD] on this side and I want to commend him and also commend the gentlewoman from Tennessee [Mrs. LLOYD] and others of the committee who worked so hard to bring this into reality and on that basis we would accept the amendment from the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I thank the gentleman from New Jersey [Mr. ROE] for his remarks.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. I think it is a thoughtful amendment from the gentleman from California [Mr. PACKARD] and I appreciate the opportunity to speak out on behalf of such a fine amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PACKARD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer my amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT: At the end of the bill, add the following new section:

"SEC. . CLEAN COAL TECHNOLOGY.—No funds are authorized and no funds appropriated or otherwise made available to the Department of Energy may be obligated or expended in fiscal year 1989 for clean coal technology demonstration projects unless the United States has first established schedules and standards to achieve a substantial reduction in airborne emissions of sulfur and nitrogen oxides which are precursors of acid deposition. This section shall not apply to the 11 demonstration projects already selected for cofunding pursuant to Public Law 99-190 and Department of Energy Program Opportunity Notice number DE-PS01-86FE60966."

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ROE. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from New Jersey reserves a point of order against the amendment.

Mr. BOEHLERT. Mr. Chairman, I know the point of order will be sustained so I will start with that assumption. I want to make it absolutely clear that I support the Clean Coal Technology Program. I think the Clean Coal Technology Program is important for America for a whole lot of good reasons. It will protect coal mining employment and that is something that we have to be particularly sensitive to.

□ 1320

It will increase energy independence, and that is something that is extremely important. I support it, but I am concerned that we are spending money by the ton on a Clean Coal Technology Program when we have no program for the United States of America to deal with the serious problem of acid precipitation, and we should set standards, set a timetable.

Acid precipitation is recognized now as an international problem. It is no longer just a problem between New York and Ohio or even New York, New England and the Ohio River Valley States. It is truly an international problem. That was made abundantly clear 3 years ago in Quebec City when the President of the United States went to Canada to meet with Prime Minister Mulroney to talk about the areas of concern to our two nations, and I think a lot of people were surprised. They thought automatically the Prime Minister would say mutual defense is critically important, that is No. 1 on our agenda, or mutual trade, that is important, that is No. 2 on our agenda, but that is not what the Prime Minister said. He said the No. 1 issue of concern to Americans, Canadians, and the United States is acid rain.

We have got to do something. It is a cancer in the sky that is taking a devastating toll on the American economy, and we should do something about it. While I wish to proceed with a Clean Coal Technology Program, I am supportive of it, and I think it is a wise investment of our dollars, I also wish to see in conjunction with that Clean Coal Technology Program a timetable for action to use the benefit of the clean coal technology to reduce the cancer in the sky, the acid precipitation that is causing so much damage.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I am happy to yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding.

I think we share a concern for clean air. This should be a No. 1 objective in our health programs, to ensure that the air we breathe is clean. I just want to say that I think the Clean Coal Program is moving along with a lot of success. The first offering brought in a number of projects. Some 50 projects were offered, 9 were selected, 7 underway.

The requirements in the Clean Coal Program were that the private sector had to at least match the Federal dollars 50-50. As a matter of fact, on the first round the private sector is putting up 65 percent of the money for the projects. I think it illustrates very clearly that there is a strong commitment out there on the part of the private sector to develop the technology that will enable us to use America's greatest energy resource in a way that does not impact on the environment adversely.

We have in the United States today proven reserves of coal of about 500 million tons, and this translates in terms of Btu's, that translates into the equivalent of 1½ trillion barrels of oil, and we need to use that to develop the energy independence of the United States.

I think that our objectives are the same. It is important that we continue the Clean Coal Program, that we do it in a way that is productive and a good use of our scientific resources.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I am happy to yield to the gentleman.

Mr. LUJAN. I want to congratulate the gentleman on offering this amendment.

He is absolutely correct. There is no question about it, the Clean Coal Technology Program is doing absolutely nothing to clean up our air. We have researched the question of acid rain to death. We know the problem. We know what must be done, and we know how to solve it with the available technology. We should get on with it. I congratulate the gentleman for bringing it up.

Mr. BOEHLERT. Mr. Chairman, I agree with my colleague. We study, study, study. All the experts tell us we have all the technology we need to get on with at least a partial solution of the problem. We are never going to come up with a partial solution of the problem until we have the benefit of a successful Clean Coal Program. However, I would point out that Governor Kean of New Jersey said it so well, that if all we do is to continue to study the problem, we will end up with the best documented environmental disaster in history, and the gentleman from New Jersey, the chairman of my committee and a neighbor, knows full well that the Governor speaks the truth. We have got to get on with the job of cleaning up after the problem of acid rain, and I want to do that in conjunction with moving ahead with the Clean Coal Technology Program.

The CHAIRMAN. The time of the gentleman from New York [Mr. Boehlert] has expired.

(On request of Mr. Coats, and by unanimous consent, Mr. Boehlert was allowed to proceed for 3 additional minutes.)

Mr. COATS. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I am happy to yield to the gentleman.

Mr. COATS. Mr. Chairman, I thank the gentleman, my friend, for yielding.

I just want to respond to the gentleman from New Mexico, in response to his statement or assertion that the Clean Coal Program has not done anything to reduce acid rain. The very reason why we want to continue the funding for the Clean Coal Program is to develop the technology so we can do something about acid rain. That is why we do not want to put a roadblock in. We do not want to stop it. Right now some very promising technology is underway with some significant gains to clean the air, to burn a much cleaner coal; second, the Clean Air Act currently in law is reducing sulfur dioxide emissions and nitrous oxide emissions in this country. Let us not frame it from the standpoint that nothing is being done. A substantial amount is being done.

Billions are being spent, and we are saying that with the precious resources we have here at home, we have the ability to develop the technology to bring about the objective both gentlemen are trying to achieve.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, I will point out that both gentlemen are right. I am not trying to be a diplomat. I think the gentleman from New Mexico is right. We are not using the technology already developed effectively, and as a result of that, all Americans are suffering from the adverse effects of acid precipitation.

On the other hand, the Clean Coal Technology Program is moving forward at a snail's pace, and a lot of the projects are long range in nature rather than offering some potential immediate benefit. We have got to deal with the problem of acid precipitation. It is the most serious unattended environmental problem facing the United States of America today. I would like to see us move forward with that in conjunction with a workable Clean Coal Technology Program.

Mr. SHARP. Mr. Chairman, this is neither the time nor the place to have an acid rain debate. The Energy and Commerce Committee is working on acid rain legislation.

Mr. Waxman's Subcommittee on Health and Environment is in the process of marking up a clean air bill which includes acid rain provisions.

My Subcommittee on Energy and Power is holding hearings on acid rain. We had a hearing on the science last week; we are having a hearing on conservation and acid rain in 2 weeks; a field hearing in Indianapolis in 3 weeks; and a hearing on acid rain and clean coal technology also in 3 weeks.

While clean coal and acid rain are related, there are benefits to the current Clean Coal Technology Program without consideration of acid rain controls. We should not hold the program hostage to the resolution of a particularly knotty political issue.

The new solicitation for the Clean Coal Technology Program has drawn 54 proposed projects, valued at more than $5.3 billion.

There is no better indication, Mr. Chairman, of the extent of interest in this program—which mandates strict cost sharing between the Government and the private sector.

The Clean Coal Technology Program is an important energy security plan. It will lead to more efficient utilization of our most abundant domestic energy resource.

This program will lead to the development of technologies that have distinct environmental advantages—they will be cleaner than a variety of conventional coal technologies.

It will also lead to the development of more cost-effective compliance options for meeting any prospective State or Federal acid rain requirements.

This program is fulfilling an agreement we made with Canada to move to solve the cross boundary pollution problem through a joint Government and private sector investment in clean coal.

In short, Mr. Chairman, although I reserve my rights to continue to be a friendly critic of this program as the Energy and Commerce Committee exercises its oversight responsibilities. I remain a strong supporter of the program and would strongly oppose any proposal such as the one before us today that could jeopardize our forward progress.

The CHAIRMAN. Does the gentleman from New Jersey [Mr. Roe] wish to pursue his point of order?

Mr. BOEHLERT. Mr. Chairman, I withdraw my amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Traficant: At the end of section 112 add a new section as follows: Sec. 113. (a) The Secretary shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is organized under the laws of the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(e) All funds made available under section 107 of this Act are exempt from the provisions of this section.

(f) The Secretary shall report to the Congress on contracts covered under this Act and entered into with foreign entities in fiscal year 1988 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is party. The Secretary shall also report to the Congress on the number of contracts covered under this Act and awarded based upon the parameters of section 113. The Secretary shall submit such report to the Committee on Science, Space and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 1, 1990.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is my Buy American language and it is the standard language that I have offered to many bills, and it has no hidden revelations to it. I offer it to the committee in good faith.

Mr. ROE. Mr. Chairman, will the gentleman from Ohio yield?

Mr. TRAFICANT. Mr. Chairman, I am happy to yield to the gentleman.

Mr. ROE. Mr. Chairman, the committee has examined the amendment on this side of the aisle and has no objections to the amendment.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am happy to yield to the gentleman.

Mr. LUJAN. Mr. Chairman, we have also examined it on this side, and we have no objection. Let me tell the gentleman that I congratulate him. He has been a leader in the Buy American amendments throughout all the bills, and I congratulate him for it, and I urge the approval.

Mrs. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am happy to yield to the gentlewoman.

Mrs. LLOYD. Mr. Chairman, I also want to congratulate the gentleman on this amendment, and I wholeheartedly support him.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of delaying the expenditure of clean coal funding until an acid rain control program is in place.

I have addressed this House many times about horror stories of acid rain damage.

Most people will admit—even if off the record—that acid rain is a very serious environmental problem. And in my opinion the problem is more like a disaster. Lakes and streams are dead and dying. Forests are declining in record numbers, and studies have documented that acid rain has a measurable affect on human health.

That information is not new to anyone who has examined this issue. What has not been examined very closely, however, is the smokescreen called clean coal. Four years ago, I was practically alone in opposing this "Son of Synfuels" program. I was opposed because I sensed two looming consequences that would set back acid rain control efforts for years and that would cost other important energy programs dearly. And those same two consequences are surfacing this year, as the administration begins to spend the $1 billion already appropriated for clean coal.

First of all, let's make no mistake about it.

The clean coal is plainly and simply a corporate welfare program. It subsidizes industry for expenditures that should be paid for by the private sector. We're not talking about acid rain control here, we're talking about pork. Take a look at the projects DOE is selecting. Just a month ago, a project across the West Virginia border, costing $185 million in Federal funds, will make SO_2 reductions all right. But these reductions will cost thousands of dollars per ton.

We have technology right now, on the shelf, that can reduce acid rain emissions by 95 percent, and these scrubbers cost only $500 per ton. This project is just a way for those companies to repower these plants at the expense of Federal taxpayers.

The second consequence of spending more on clean coal directly affects the work of this committee, and my friend BOB ROE should listen closely to this problem.

H.R. 4505 correctly restores cuts to vital energy research programs. The Science and Technology Committee has made excellent recommendations for fossil energy and energy conservation programs. But appropriations at these relatively modest levels are seriously jeopardized by clean coal funding.

Just yesterday, the Appropriations Committee was faced with a stark choice. The $500 million in advance appropriations for fiscal year 1989 would have to be scored with all other programs.

That means we have to make deep reductions in important domestic programs to pay for clean coal. I'm sure this committee would find it difficult to come up with $500 million in reductions in the fossil or conservation budgets. But that's the choice we have. Next week, when the Interior bill is considered, these reductions might have to be made.

Clean coal has had a free ride for a long time, but now we have to pay the price. And I am ready to join with any other Member in pairing this program back to a reasonable level.

Mr. Chairman, I'm not against the development of new, cleaner burning technologies, but any Federal involvement in such a program must be accompanied by an emission reduction program. We could end up spending billions on corporate subsidies, without reducing acid rain by one drop.

We can't afford to waste scarce Federal resources, and our environment can't afford more delays.

Mr. PICKLE. Mr. Chairman, if we want to remain a leader in the scientific world, we must move forward with the superconducting super collider project. Our international counterparts have moved forward aggressively in basic research, while we are beginning to lag behind. Many nations today spend two or three times the amount we spend on basic research.

The bill before us here today, authorizes funding for this important project. The amount is not as much as the administration had hoped for, or as much as many of us hoped for, but it is a start in our efforts to construct the largest, most advanced scientific instrument ever built.

The benefits the superconducting super collider will provide the United States are numerous. Beside the fact that this instrument will be the largest particle accelerator in the world and will provide us with the basic knowledge of the nature of matter, the super collider will spur an increased emphasis on math and science in our educational systems. I believe we have a responsibility to future generations to provide them with the knowledge and technology they will need to be competitive.

Currently, the United States sets the standard for scientific research. If we lose our leadership, this may no longer be the case. While it is impossible to prove to you today what we will reap from this super collider experiment in the future, we all know that scientific curiosity ultimately leads to enormous advances in technology and scientific discovery.

While I believe that we should invite international cooperation in this endeavor, we must not require international support before moving forward with its construction. I urge my colleagues to oppose any efforts to reduce the funding provided in this bill for the superconducting super collider and to oppose unnecessary prerequisites for its construction.

The superconducting super collider project will be one of basic research which will ultimately provide us with new technologies, new industries and new jobs.

☐ 1330

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. SMITH of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4505) to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal year 1989, pursuant to House Resolution 460, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. LUJAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 290, nays 27, not voting 114, as follows:

[Roll No. 167]

YEAS—290

Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Brennan
Brooks
Bruce
Buechner
Bunning
Byron
Callahan
Cardin
Carr
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Courter
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fawell
Feighan
Fields
Fish
Flake
Florio
Foglietta
Ford (MI)
Frank
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Glickman
Gonzalez
Goodling
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Martin (IL)
Martinez
Mavroules
McCloskey
McCollum
McCrery
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nowak
Oberstar
Owens (NY)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Perkins
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roe
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schumer
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Stratton
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weber
Weldon
Wheat
Whittaker
Whitten
Wolf
Wolpe
Wortley
Wylie
Yates
Yatron
Young (FL)

NAYS—27

Archer
Bereuter
Burton
Cheney
Craig
Crane
Dannemeyer
DeLay
Dreier
Gekas
Grandy
Leach (IA)
Lightfoot
McCandless
Nielson
Obey
Olin
Pease
Petri
Ritter
Sensenbrenner
Shays
Smith, Denny (OR)
Solomon
Stump
Vucanovich
Walker

NOT VOTING—114

Ackerman
Akaka
Alexander
AuCoin
Badham
Barnard
Beilenson
Biaggi
Boland
Bonker
Boulter
Boxer
Broomfield
Brown (CA)
Brown (CO)
Bryant
Bustamante
Campbell
Carper
Clay
Collins
Coughlin
Daub
DeFazio
Dixon
Dowdy
Duncan
Fascell
Fazio
Flippo
Foley
Ford (TN)
Frenzel
Frost
Garcia
Gibbons
Gilman
Gingrich
Gordon
Gregg
Guarini
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hefley
Horton
Huckaby
Jacobs
Jeffords
Jones (TN)
Kemp
Kleczka
Konnyu
LaFalce
Lewis (CA)
Lewis (GA)
Livingston
Lott
Lungren
Mack
MacKay
Manton
Markey
Marlenee
Martin (NY)
Matsui
Mazzoli
McDade
Mica
Miller (CA)
Moody
Morrison (WA)
Murphy
Nichols
Oakar
Ortiz
Owens (UT)
Pelosi
Penny
Pepper
Rahall
Rangel
Ray
Roberts
Robinson
Rodino
Rostenkowski
Schaefer
Schulze
Sharp
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith, Robert (NH)
Spence
St Germain
Stallings
Stangeland
Studds
Taylor
Torres
Torricelli
Towns
Vander Jagt
Waxman
Weiss
Williams
Wilson
Wise
Wyden
Young (AK)

☐ 1352

The Clerk announced the following pairs:

On this vote:

Mr. Manton for, with Mr. Jacobs against.

Mr. Lewis of California for, with Mr. Frenzel against.

Mr. Kleczka for, with Mr. Konnyu against.

Mrs. VUCANOVICH and Mr. PEASE changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 4505 the bill just passed.

The **SPEAKER** pro tempore (Mr. Gray of Illinois). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO FILE REPORT ON H.R. 4417, NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology have until 4 p.m. today to file a report on the bill, H.R. 4417.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

NATIONAL SHUT-IN DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 145) to authorize "National Shut-In Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California.

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, further reserving the right to object, I would point out that the gentleman from West Virginia [Mr. Rahall] is the chief sponsor of House Joint Resolution 145 to authorize "National Shut-In Day."

Mr. DYMALLY. Mr. Speaker, I want to mention that Mr. Rahall had to leave for his district so he is not here to present his resolution. I thank the gentlewoman from Maryland for making note of that fact.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 145

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the first Sunday in June of each year as "National Shut-In Day" and calling upon the people of the United States to observe such day by visiting at least one shut-in person on the special day if possible, and by participating in other appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dymally: Lines 4 and 5, strike "the first Sunday in June of each year" and insert "June 5, 1988,".

The **SPEAKER** pro tempore. The question is on the amendment offered by the gentleman from California [Mr. Dymally].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. Dymally: Amend the title to read as follows: "Joint resolution designating June 5, 1988, as 'National Shut-In Day'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL SCLERODERMA AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 266) to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentleman from Illinois [Mr. Fawell] who is the chief sponsor of House Joint Resolution 476 to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

Mr. FAWELL. I thank the gentlewoman for yielding.

Mr. Speaker, I rise today in support of Senate Joint Resolution 266, which designates the second week of June of this year for the purpose of educating Americans about the symptoms and treatment of scleroderma. I am pleased to be the chief sponsor of identical legislation in the House, House Joint Resolution 476, which 202 of our colleagues are also cosponsoring.

Scleroderma is a rare disorder which afflicts 300,000 Americans, about two-thirds of whom are women over the age of 45. However, scleroderma can occur at anytime in a person's life without any predisposition of prior illness. Scleroderma is not hereditary, nor is it contagious, but it can be fatal if progression is not halted at the onset of symptoms.

Unfortunately, attaining proper diagnosis and therapeutic treatment is difficult for victims because of the rarity of the condition and its mysterious symptoms. Scleroderma is characterized by an overproduction of collagen, a protein manufactured by the connective tissues of the body, which is then deposited in various organs and body tissues. Victim's skin gradually hardens, thickens and tightens, and the fingers may stiffen and curl. Stiff and swollen joints and extreme sensitivity to cool temperatures cause further discomfort to scleroderma patients. Progression of the disease to the internal organs can complicate the digestive and respiratory systems.

I had the unfortunate experience of learning about the tragedy of scleroderma when a member of my district office staff died as a result of the disorder. Another constituent of mine contacted me this spring requesting that I do something to help alleviate the suffering that victims undergo. Research funded through a combination of grants from the National Institutes of Health and private foundations, such as the Scleroderma Foundation of Greater Chicago, have yielded therapeutic drugs helpful in slowing the progression of scleroderma upon diagnosis.

Designating the second week of June for the purpose of educating Americans, particularly medical professionals, about the symptoms of scleroderma and the help available to them fulfills this purpose even further. I am hopeful that research will continue to explain why this disease develops and that medical talent will develop a cure.

Mr. Speaker, I ask that the House follow the Senate lead in passing Senate Joint Resolution 266 by unanimous consent.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I want to compliment the gentleman from Illinois [Mr. Fawell] for his informative and moving comments on scleroderma.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

The was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 266

Whereas scleroderma is a disease in which connective tissue in the body becomes hardened and rigid, and might afflict any part of the body;

Whereas approximately 300,000 people in the United States suffer from scleroderma;

Whereas women are afflicted by scleroderma 3 times more often than men;

Whereas scleroderma is a chronic and often progressive illness that can result in death;

Whereas the symptoms of scleroderma vary greatly from person to person and can complicate and confuse diagnosis;

Whereas the cause and cure of scleroderma are unknown; and

Whereas scleroderma is an orphan disease, and is considered to be under studied: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 12, 1988, is designated as "National Scleroderma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DAIRY GOAT AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 423) to designate the third week in June 1988 as "National Dairy Goat Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to the legislation before us.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 423

Whereas United States goat cheeses are in demand by consumers and replacing imported cheeses;

Whereas due to the efficiency of the modern domestic dairy goat, which produces an excellent healthful milk, the dairy goat is becoming increasingly popular and useful on our Nation's family farms;

Whereas United States farmers have developed a dairy goat that produces superior milk and that is sought after and exported worldwide; and

Whereas there is a need to further educate consumers as to the high nutritional value of products made from goats' milk: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the period beginning the second Saturday, and ending the third Saturday, of June 1988 is designated as "National Dairy Goat Awareness Week"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to commemorate such week with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three joint resolutions just passed, House Joint Resolution 145, Senate Joint Resolution 266, and House Joint Resolution 423.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1400

REAGAN DID GREAT JOB IN MOSCOW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, if anyone has had any doubts about who has been and still is the leader of the free world, he or she should have listened this morning to the eloquent words of Prime Minister Margaret Thatcher who gave the praise to President Reagan that he so richly deserves.

Praise that has not and will not be given by our media. Too often, these last 4 days I have read and heard that President Reagan looked fatigued.

Whatever happened to the term "jet lag" that is used by and behalf of everybody else.

It's eight time zones difference between the District of Columbia and Moscow, which is less than between the District of Columbia and Honolulu. If anybody has made that trip, he or she knows how difficult it is to rebound on a moment's notice.

The President accomplished much. Even the commentators begrudgingly admitted that he has finally raised human rights to such a level it has a place in future summit discussions.

And Mr. Reagan and Mr. Gorbachev signed the INF Treaty. Even those of us who have some reservations about it realize that a huge step has been taken toward reducing the nuclear threat.

Only 7½ years of good leadership could have brought us to this point; 7½ years of a realization that you can only deal from strength.

President Reagan's "be wary, be vigilant, and be strong" have been the watchwords of his administration. Prime Minister Thatcher thanked him for the free world. And after four summits, so should we.

THE 42D ANNIVERSARY OF THE FOUNDING OF THE ITALIAN REPUBLIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on June 2, 1946, the citizens of Italy voted resoundingly to replace their constitutional monarchy with a democratic form of government. In the 42 years since, Italy has put together successfully a society, economy, and government that had been shattered by the Second World War. Her perseverance has enabled her to move again to the forefront of the Western World, and her economic gains have been so astounding that His Excellency, Hon. Rinaldo Petrignani, Italian Ambassador to the United States, has justifiably defined these gains as an "economic renaissance."

The Italian Republic's relationship with the United States has been fostered and strengthened in the last four decades. As a sister member of the North Atlantic Treaty Organization, Italy has been a most stalwart and loyal ally to the United States. The United States and the Italian Republic have persisting cultural ties to one another, not only because millions of Americans are of Italian descent, but also because much of our Western literature and art originated in Italy. And today, our nations continue to work together in an exchange of trade and technology that is mutually beneficial.

In early February of this year, a forum was held in Washington, DC, jointly sponsored by the Wilson Center and the Fondazione Agnelli entitled, "Italy: Political, Social, and Economic Change Since 1945." At the conference, Ambassador Petrignani reflected upon Italy's recent developments and on her relationship with the United States, as she proceeds through her fifth decade of existence.

At this point in the RECORD, I would like to include Ambassador Petrignani's most cogent and candid remarks, which follow:

CONFERENCE ON ITALY SPONSORED BY THE WILSON CENTER AND THE FONDAZIONE AGNELLI, FEBRUARY 2, 1988

(Introduction by Ambassador Petrignani)

Let me express my highest appreciation to the Wilson Center and to the Fondazione Agnelli for promoting and hosting this conference on Italy.

The importance of the event is clear. The debate that you are initiating today will render a remarkable service both to Americans and to Italians in fostering in the United States a better understanding of one of America's staunchest and more reliable allies. In doing so, this seminar will also greatly help those who are working hard in Italy and the United States to make the political and human bonds between the two countries even stronger.

I am proud to say that I have been one of the advocates of these bonds for a very long time. So, welcoming you and inaugurating this event is for me both a privilege I greatly appreciate and a source of very special satisfaction.

Indeed, this seminar fills a vacuum. Strangely, there is a lot more to learn about Italy. We do enjoy a very strong and friendly relationship with United States. Cooperation between the two governments is the closest and expands into an intense series of contacts and consultations at all levels. Trade, tourism, exchanges of all sorts are flourishing. A large Italian American community plays an important role in bringing the two countries closer and closer together. And yet, Italy itself is a topic on which—it seems to me—there is still a lot to learn among the American public. Let me explain.

Most people in America seem to have a pretty definite idea of Italy as one of the cradles of art in the world. Nobody would dispute that. Her cultural heritage enjoys universal recognition as one of the great sources of Western civilization. The ideal of harmony and beauty, so typically Italian, which once inspired Raphael and Michelangelo, lives on today in the "Italian style" that has made Italian fashion and industrial design famous in the whole world. Equally, the "quality of life" in Italy, which was rated one of the highest in the world by foreign analysts last year, has helped to create a new image of our country.

Also, some of Italy's most remarkable economic performances seem to have impressed both experts and world public opinion in general. The 1980's have witnessed a turnabout in most of our economic indicators: Inflation was brought down dramatically, productivity sprang up, profits began to pour back into the private sector and losses were cut back substantially even in the public sector. A new outburst of entrepreneurialism changed the very mood of the nation, and showed the world a new generation of bold businessmen—the giants of the "second economic renaissance"—whose drive is claiming an assertive role well beyond our borders. All in all, it has been an impressive test of vitality, which by itself has suggested a much more realistic evaluation of Italy's potential as an industrial power.

But when it comes to Italy as a political and social system, then unfortunately the image of the country still remains blurred. Italian politics are often referred to by some foreign observers as a series of baroque maneuvers leading to dangerous instability. The country social texture is periodically criticized. The historical continuity between our past and contemporary Italian society is generally ignored.

Of all the major European States, Italy seems to be one of the least studied.

Why is that so?

Possibly because some of the features of Italian democracy are very unique. Maybe a quick reference to some of them will be worthwhile.

A recent book published in the United States has pointed out that a traditional gulf still exists in Italy between society and government. People look at authority with a measure of skepticism. This can help explain why State authority itself is weaker than one would expect, and why the power of the executive branch in Italy is more limited than in other democracies.

Unlike other Western democracies, a clear-cut two-party system did not take root in Italy. Several parties, divided by deep ideological cleavages, have given political representation to widely diverging groups and trends and, in the process, also—let us not forget—to one of the most open and free societies in the world.

The electoral law favors in fact a very high degree of proportional representation, which is possibly the reason why we have so many political parties in parliament. Coalition governments are the necessary consequence of the political fragmentation of the democratic forces. But coalition governments do not function easily. They tend to give rise to frequent Cabinet crisis, producing thus the impression of Cabinet instability which has contributed so much to a negative image of Italian democracy. Only recently many Americans have begun to understand that Cabinet instability does not equate with political instability, and that Italy, on the contrary, is a very stable country, as proven by the electoral trends and by the fact that government majorities have almost always been composed by the same political parties for the last 25 years.

Last but not least, there is a Communist question. Four decades after the Republican constitution was adopted a fairly substantial part of the Italian vote still does not fully integrate in the process of government at national level. True, Communists have changed a lot over the years. Yet, the so-called "K factor" still represents an element in Italian politics which makes the functioning of our system different from that of other major European democracies.

No wonder Italy, if compared to other democratic models, is far from easy to understand. Facts, however, should be recognized.

And facts show that in spite of stereotypes and Cassandras Italy is fundamentally a dynamic country. Italian democracy is thriving and alive. Its story is a success story: democracy raised a dejected nation from World War II high into the group of the seven most industrialized countries in the world; it transformed an agricultural society into a technologically advanced economy; it ensured our people an unparalleled degree of openness and freedom which has defeated in the seventies and early eighties the most vicious attacks of terrorism. It is too easy to say that Italy did all this "in spite" of its political system. It is a fact that it was the Italian democracy which has presided over this profound transformation of our national life.

The alliance and the friendship with the United States played a key role in all this.

The Italian Republic has proved so alive and vital because since the very beginning a clear majority of our people has embraced unequivocally the values of freedom and democracy the United States helped us to recover. Italy went back into the mainstream of the Western World thanks to that help and thanks to the vision, courage and perseverance of millions of Italian men and women who strongly believed in those values and who recognized in America the leader nation for the defence of freedom and democracy in the entire world.

Friendship with America, support of NATO and the pursuit of European unification have so become, for more than 40 years now, the keystone of our stance in the international arena.

Italy has never deviated from that course, and never will.

In fact, never before in Italian history has there been such a large popular support for our foreign policy as there is today.

And if this is so, it is because friendship with America, NATO, and European unification is the external expression of that same basic policy which aims internally at the modernization of Italian society and at the strengthening of our democracy.

And this also probably explains why any recognition that Italy gains amongst the Western nations, any enhancement of her status as a full partner of the United States in Europe, bolsters the democratic forces at home which support Italian active participation in the international arena; and reciprocally, any strengthening and broadening of the political and economic base of democracy in Italy in turn makes Italian foreign policy more effective and more able to make a useful contribution to the common agenda of the West.

But this democracy needs to be understood—and it needs recognition. For the preservation of the very political constituency which made Italy a mature democracy and a reliable ally for the United States, it is important that Americans give us the credit we deserve without taking us for granted.

In a world confronted by an increasing diffusion of power and major economic challenges, at a time in which East-West relations seem about to enter such a new, promising phase, the friendship between Italy and the United States can and must play an important role in everybody's interest, for the strenghtening of our common security, for the progress of the East-West dialog, and for a better relationship between North and South.

But, again, for the Italian-American friendship to develop its full potential, a constant effort is needed so that clear, updated image of Italy is being projected in the United States: not to the American Government only, but also to Congress, to the media, to the American people itself.

This conference will give—I am sure—a most significant contribution to this end, and it deserves therefore our fullest appreciation.

Mr. Speaker, I would like to extend my warmest wishes to the citizens of the Italian Republic, as well as to the Americans of Italian descent within the 11th Congressional District of Illinois, which I am honored to represent, and to all Italian-Americans across the United States who are marking this 42d anniversary observance. May the Italian Republic continue on its road to prosperity, and in its role as a vanguard of freedom and democracy in the modern world.

THE CENTENNIAL OF BASEBALL'S MOST FAMOUS BALLAD—100 YEARS OF "CASEY AT THE BAT"

The SPEAKER pro tempore. Under a previous order of the Hosue, the gentleman from California [Mr. LANTOS] is recognized for 5 minutes.

Mr. LANTOS. Mr. Speaker, in this hallowed Hall in this historic building, we commemorate events of great significance for our Nation and for the American people.

Today, Mr. Speaker, I call the attention of my distinguished colleagues to the centennial of the publication of one of the best-known works in American literature—I refer, of course, to the anniversary of the first publication of "Casey at the Bat." This anniversay holds a special significance for me since this classic first appeared 100 years ago today in the San Francisco Examiner.

One hundred years ago, Ernest Lawrence Thayer, a journalist for the Hearst Newspaper's San Francisco Examiner dashed off "Casey at the Bat" in a few hours. The ballad was published on June 3, 1888, and instantly became a classic. The actor De Wolfe Hoper included the poem in his repertoire and recited it more than 15,000 times.

Baseball, Mr. Speaker, is one of the highlights of American culture, one of America's greatest contributions to world civilization. As the former President of the United States, Herbert Hoover, said, "Next to religion, baseball has furnished a greater impact on American life than any other institution."

Mr. Speaker, no speech about baseball is complete without reference to the great Casey Stengel. Let me mention his most famous quotation. After Stengel was honored as baseball's greatest living manager, he rose and addressed the audience: "I want to thank all my players for giving me the honor of being what I was."

On this auspicious anniversary, the lyric strains of "Casey at the Bat" should be included in the RECORD of this day's proceedings so that my colleagues may reflect on its profound sentiments:

CASEY AT THE BAT

(By Ernest Lawrence Thayer)

The outlook wasn't brilliant for the Mudville nine that day;
The score stood four to two with but one inning more to play.
And then when Cooney died at first and Barrows did the same,
A sickly silence fell upon the patrons of the game.
A straggling few got up to go in deep despair. The rest
Clung to the hope which springs eternal in the human breast;
They thought if only Casey could but get a whack at that—
We'd put up even money now with Casey at the bat.
But Flynn preceded Casey, as did also Jimmy Blake,
And the former was a lulu and the latter was a cake;
So upon that stricken multitude grim melancholy sat,
For there seemed but little chance of Casey's getting to the bat.
But Flynn let drive a single, to the wonderment of all,
And Blake, the much despised, tore the cover off the ball;
And when the dust had lifted, and the men saw what had occurred,
There was Jimmy safe at second and Flynn a-hugging third.
Then from five thousand throats and more there rose a lusty yell;
It rumbled through the valley, it rattled in the dell;
It knocked upon the mountain and recoiled upon the flat,
For Casey, mighty Casey, was advancing to the bat.
There was ease in Casey's manner as he stepped into his place;
There was pride in Casey's bearing and a smile on Casey's face.
And when, responding to the cheers, he lightly doffed his hat,
No stranger in the crowd could doubt 'twas Casey at the bat.
Ten thousand eyes were on him as he rubbed his hands with dirt;
Five thousand tongues applauded when he wiped them on his shirt.
Then while the writhing pitcher ground the ball into his hip,
Defiance gleamed in Casey's eye, a sneer curled Casey's lip.
And now the leather-covered sphere came hurtling through the air,
And Casey stood a-watching it in haughty grandeur there.
Close by the sturdy batsman the ball unheeded sped—
"That ain't my style," said Casey. "Strike one," the umpire said.
From the benches, black with people, there went up a muffled roar,
Like the beating of the storm waves on a stern and distant shore.
"Kill him! Kill the umpire!" shouted someone on the stand;
And it's likely they'd have killed him had not Casey raised his hand.
With a smile of Christian charity great Casey's visage shone;
He stilled the rising tumult; he bade the game go on;
He signaled to the pitcher, and once more the spheroid flew;
But Casey still ignored it, and the umpire said, "Strike two."
"Fraud!" cried the maddened thousands, and echo answered, "Fraud!"
But one scornful look from Casey and the audience was awed.
They saw his face grow stern and cold, they saw his muscles strain,
And they knew that Casey wouldn't let that ball go by again.
The sneer is gone from Casey's lip, his teeth are clenched in hate;
He pounds with cruel violence his bat upon the plate.
And now the pitcher holds the ball, and now he lets it go,
And now the air is shattered by the force of Casey's blow.
Oh, somewhere in this favored land the sun is shining bright;
The band is playing somewhere, and somewhere hearts are light,
And somewhere men are laughing, and somewhere children shout;
But there is no joy in Mudville—mighty Casey has struck out.

□ 1410

HEAD OF OMB SAYS VETERANS' PROGRAMS ARE LOW PRIORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I have a copy of a letter sent by the head of OMB, Jim Miller, to Mr. EDDIE BOLAND, chairman of the HUD-Independent Agencies Appropriations Subcommittee, which says that the Congress is providing too much money for veterans' programs. I think that it's time for Mr. Miller, and some members of his staff, to come down out of their ivory tower and have a look at the real world of VA programs.

Should they decide to leave the comfort of their offices and visit the 16 VA hospitals committee staff visited recently, they would discover that 1,700 VA hospital beds have been secretly closed because of staffing shortages. Yet, in his letter, Mr. Miller says that Congress is giving VA too much money for staff to treat sick veterans.

Were they to come down from their ivory tower, they would find that veterans' claims for compensation and pension often take twice as long as they should to process because VA doesn't have enough staff in its regional offices. A veteran who is eligible for pension benefits may have no means by which to live.

But Mr. Miller ignores the increasing delays in processing such claims, saying that VA employees should be more productive and process claims faster. He doesn't seem to care how long it takes for veterans' claims to be processed. I wish he would attend some of our hearings.

If Mr. Miller would stop listening to the rosy reports that the VA is taking care of all the veterans who need care, he would learn that there are thousands of sick veterans trying to get into VA nursing home beds. Yet OMB says that Congress is wrong to fund construction of more VA nursing home beds.

Mr. Speaker, I'm for the space shuttle and I'd like to see scientists do more research. If the Government doesn't fund these areas, it's unclear whether private businesses would do so. But I'm relatively certain that if the Government doesn't adequately fund veterans' health care, no one else is going to step forward and assume this burden. It's a matter of priorities, Mr. Speaker, and veterans don't seem to enjoy very high priority with Mr. Miller. Fortunately for veterans, Congress does not feel the same way.

There follows a copy of Mr. Miller's letter to Chairman BOLAND:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, May 24, 1988.

Hon. EDWARD P. BOLAND,
Chairman, Subcommittee on HUD-Independent Agencies Appropriations, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As the House Appropriations Committee prepares to mark up the HUD-Independent Agencies Appropriations Bill, FY 1989, I would like to outline the Administration's position on the Subcommittee version of the bill.

The excessive funding levels provided by the Subcommittee for programs within the HUD-Independent Agencies Appropriations Bill and the objectionable language provisions contained in the bill are disturbing. If the bill were presented to the President in its present form, I would recommend that he veto it.

The budget authority provided by the Subcommittee for discretionary programs is $1.6 billion in excess of the President's request. This increase provides for the expansion of low-priority services, at the expense of reductions to higher national priority programs. The following increases in budget authority relative to the President's request are particularly objectionable:

$925 million for subsidized housing. The Subcommittee's proposed subsidized housing program mix would serve 23 percent fewer low-income families in 1989—83,438 versus 108,000 in the President's budget.

$582 million for EPA sewage treatment construction grants. This excessive funding is not necessary to meet municipal compliance requirements and would fund many lower priority projects.

$520 million for Community Development Block Grants (CDBG). The Administration proposed $2.5 billion in BA, but augmented it with a transfer of $145 million from the Section 312 rehabilitation loan fund account. While the Subcommittee has agreed that Section 312 resources could better be used elsewhere, it does not go along with the President's request to use Section 312 to supplement the CDBG program. Instead, the Subcommittee would transfer a Section 312 balance of $200 million to Urban Development Action Grants. This will use scarce budget resources to continue UDAG's outmoded "pork barrel" programs despite the clear need to terminate the program.

$225 million for the Veterans' Administration (VA) to increase staffing by 3,513 FTE beyond that which is warranted. The Administration believes that with its expected increase in productivity, the VA can continue to provide quality and timely delivery of benefits and quality medical care to all veterans expected to apply for care without these increases.

On the other hand, the Subcommittee reduces funds for other programs significantly below the Administration's request, changing the balance among executive branch priorities that were constructed carefully within the limits of the Bipartisan Budget Agreement.

The following reductions in budget authority relative to the President's request are particularly objectionable:

While the Subcommittee's very strong support for the Space Station is appreciated, the general reduction of $205 million from the Shuttle funds could seriously affect NASA's ability to achieve an adequate Shuttle flight-rate build-up, further delaying national security missions and increasing costs to other programs.

The reduction of $110 million (over one-half of the funds requested) for NASA's procurement of expendable launch vehicle services will reduce needed access to space for important scientific missions already delayed by at least three years, thus exacerbating the effect of the reduction in Shuttle funding.

The Subcommittee reduces the President's FY 1989 increase for all of the National Science Foundation's proposed research programs by almost 60 percent. Such action will hinder efforts to strengthen the nation's scientific and technological base.

The Subcommittee reduces the request for replenishment of FEMA's Disaster Relief fund from $200 million to $100 million. This level is clearly too low and will require a supplemental appropriation just to meet the usual level of disaster payments.

The Subcommittee's $175 million reduction to the Hazardous Substance Superfund account may prevent EPA from meeting statutory deadlines and unnecessarily delay the clean up of 10-15 sites ready for clean up.

The enclosed material more fully describes these and other funding and language provisions that are objectionable.

I urge the Appropriations Committee to cut the excessive increases in low-priority programs and redirect the funds to the more important national priorities. I hope that when this bill is considered by the Appropriations Committee, you will use your leadership to ensure that the President is presented an FY 1989 HUD-Independent Agencies Appropriations bill that he can sign.

Sincerely yours,

JAMES C. MILLER III,
Director.

VETERANS' ADMINISTRATION (VA)

In total, the Subcommittee recommendation would add $225 million and 3,513 FTE to the President's 1989 request for the Veterans' Administration (VA). The Administration believes that with its expected increase in productivity, the VA can continue to provide (1) high quality medical care to all veterans who are expected to seek VA care and (2) quality and timely delivery of benefits without these increases.

These objectionable increases include: $215 million and 2,782 FTE for VA medical care; $3 million and 601 FTE for the General Operating expenses account, earmarking 590 of that additional FTE to the Department of Veterans Benefits; and $6 million and 130 FTE for medical research.

In summary, these increases would enlarge the VA's staff beyond that warranted by current services, rather than achieving the staffing reductions and associated dollar savings resulting from the enhanced productivity anticipated in the President's budget.

The Subcommittee would also shift $12 million from minor construction to major construction and reallocate the funds to different projects in the major construction account. The Subcommittee would add four nursing homes and design funds for a clinical addition in Dallas, Texas, while denying funds for construction of a regional office in Montgomery, Alabama and funding the design, but not the full construction, of a clinical addition in Nashville, Tennessee. The addition of funding for the four new nursing homes will result in permanent increases to operating costs in the out-years of more than $20 million per year. This is over 50 percent more than it would cost to provide nursing home care in these locations through VA's other nursing home programs. Splitting the funding for the design and construction of the Nashville clinical addition is an inappropriate way to budget for capital expenditures. This action, in effect, would shift the allocation of the $37.8 million requested for construction of the Nashville clinical addition to be used for construction and design of other projects, ignoring VA's priorities.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise today in my position as the second-ranking member that is next to the chairman of the Committee on Banking, Finance and Urban Affairs of the U.S. House of Representatives and the one sole member on the majority side from the State of Texas where emerging from that area is obviously the pattern that sooner of later will be affecting the entire Nation as it has indeed already, but perhaps not as dramatically and as perceptively as the events transpiring so fast in the State of Texas, my home State. And it has to do with the crisis in the area of our financial institutions, our depository institutions. Particularly at this point, though, I anticipate and pray that I am dead wrong that the situation with respect to the savings institutions will spill over into and impact adversely the commercial banking sector.

Now these crises, these events, are not springing forth spontaneously with no direct cause or relation to what has been transpiring since the middle 1960's. In view of the fact that even before the middle of the sixties; that is, 1964, 1965, I have been speaking out on this very same subject matter, and the time of course is quite hazy and in an amorphous manner because it is always very hard to try to be a prophet in your own jurisdiction or your own bailiwick whether it is here in the Congress or back home in the district.

But it was obvious as our commitment to war became more complicated as we went into the late sixties that the impact on our economic future was very definite and, if not anticipated, would end in what I then said would be a burdensome and an uncontrollable inflation so that by the middle of the summer of 1965, in reading over the annual Federal Reserve Board reports, I was very much concerned that it reflected—the report for that year—that we were beginning to allocate in the procurement on the national level for the prosecution of the war in Vietnam, that even though it was not and is not legally considered a war, in effect was a hot and shooting war in which some Americans were being asked and in some cases, most cases then, compelled to serve in areas outside of the territorial of continental United States and not in a declared war.

Now, Mr. Speaker, those were two areas that I was very much concerned about. One, my concern about the constitutional ability of a President to impress into service an unwilling American to be sent outside the continental United States against his will in a war not declared. That is, as the Constitution mandates, the exclusive power to declare war resides permanently, inherently, and inseparably in the Congress of the United States. It is not one of those delegable functions, so that in reading the history of the enactment of the so-called first peacetime draft, and believe it or not there is a tie-in between these and what I am bringing up now that is so agonizing in our section of the Southwest United States.

And, Mr. Speaker, that is the reason I want to go back to the roots in order to expand on what the dimensions of the crisis are which nobody seems to want to give out, particularly the regulatory agencies that the Congress has set up to do that very thing, to be a watchdog and, therefore, not enabling us who think in such ways to prepare and anticipate in order to lessen the impact that is inevitably going to hit us nationally, not just sectionally.

Now in that same year, in 1965, I had raised the issue and had antagonized some of the Presidents, then President Lyndon Johnson. He certainly was not a Republican and was a fellow Texan, and a neighbor, and a great friend and a great leader. But these are areas of basic principle that I firmly believe are crucial to being resolved by the American people, and in our system that means through their representatives because it is a yet to be resolved constitutional imponderable.

Now I made speeches on the House floor, special orders but then there was no television coverage. That is something that happened much later, so I am on the record.

In other words, what I am saying now is not I told you so or in hindsight I am wiser. I am just saying that I wish that what I had said and anticipated had been dead wrong, that my extrapolations, if you want to call them that, my conclusions, my deductions, are based on the fact and the figures as presented by those sources that are supposed to have the facts and the figures. In this case it's the Federal Reserve Board.

□ 1420

So I then sat down and wrote a letter to the President. I suggested that the soft underbelly of our economy was being impacted.

Now, everybody was riding high in those blithe days of the middle sixties. We had fairly stable employment. We did not have this phantom of homelessness now hagriding our consciences, but you could not convince anyone that anybody was really bad off and I guess relatively speaking we were not; so under those circumstances it is very difficult to say, "Let's stop, let's look, let's do now what we can to prevent, not wait until we are in a crisis and then react out of crisis," which usually is not the best way to act.

So I wrote a letter to the President suggesting that he commission his economic advisers, and above all, his administrators in the Department of the Treasury as far as fiscal and monetary matters were concerned.

Also, the international situation seemed to me to be in flux. The United States still asserted quite a bit of international leadership in matters of international finance, but our international currency exchange markets were more or less in a state of flux, minor flux, because we still were operating under the fixed exchange system.

What was obvious was that with the re-emergence of Europe in a united form, specifically since the Treaty of Rome in the late 1940's and the implementation of that treaty, the statistics I compiled and I will admit maybe in retrospect they could look as having been a little too skimpy, but from the best available resources available to me through the Library of Congress Research Service, I gathered that by 1966 the combined economic dynamic force of the European community had not only matched, but had outreached the United States' so-called gross national product.

Now, we must also realize what we have been through, what this great Nation and society has gone through. It has waged a world war. At the height of that war, that is, 1944-45, we were utilizing 45.6 percent of our total gross national product on the Federal level, which was totally consecrated to waging and winning a war.

By 1948, less than 3 years after the active cessation of hostilities, we had dismantled our military operation. We brought our boys back home, as we were all trying to do, by December, Christmas of 1945, and we got them out of uniform.

By 1948, from 45.6 percent we went down to 13.2 percent of our gross national product used on the Federal level.

I use this in order to illustrate and to argue during these interim decades against those who have been so professionally anti-Government and have wanted to build up the Federal Government to a proportion that truly would have indicated that it was out of control. If in fact the Federal Government was ever allowed to get out of control, these facts I give you ought to provide we certainly have regained our destiny and our control on the part of the people by this quick emaciation of the Federal role from 45.6 percent of our gross national product down to 13.2 percent.

Now, also there were precautionary measures taken because very wisely the leaders of our country then feared the concomitant effect of the cessation of a war; that is, inflation, such as happened after World War I. They did a good job. They maintained economic controls, rent controls and price controls, to level it out.

Now, ironically even during the time of war, the administration's implementation of economic controls was a tough proposition, because as always in the affairs of man, to every degree that we can enact a control mechanism, there will always be some effort to evade that control somehow, and to a certain extent succeed.

So that then comes the result of the investment of procurement that rose exponentially just between the years of 1963 and 1965. For all my colleagues who are so concerned about budgets and committees having to appropriate supplementals, it was at that point in 1966 and 1967 that because of Vietnam we had one of the first supplemental appropriations for defense or the military on that account.

Today, of course, we have been ironically in the name of reforming the budgetary process, we have really wrecked it and every one of us is well aware we are in dire need of reform, and the reason is the last not one year or even one Congress, but for the last several Congresses we have been traveling on 6-month continuing resolutions.

So that what I am saying is this has been reflected also in this very, very critical area, known as our economic life line area or fiscal as well as monetary area of activity.

Now, when I wrote the letter to the President in 1965, I suggested that the administration reconsider some kind of measured control, because in the soft underbelly of our economy, building and construction, a school district in my area had passed a $27 million bond issue. By the time they got to building in 1965, the price of materials had increased so rapidly and the cost of labor gone up that the sums raised by bond issue were inadequate to carry out the proposed construction program that the bond issue has envisioned.

Now, the reason was clear. All you had to do was pick up a San Francisco paper and look at the advertisements and you would see full page ads asking for skilled carpenters and carpenters to work where—for the construction of Cameron Bay, which incidentally today is sort of a way naval station for the Soviet ships, believe it or not.

So what I am saying is that when I have been impelled to rise and speak, it is because I can clearly see and conclude from what I gather and the materials and the documentation, that like adding two to two to get four, that is these facts are true, if this documentation provided by these agencies separately, but with nobody analyzing and synthesizing by somebody in this Congress, and I would think those of us assigned Banking Committee would be the prime area of membership, should be either commissioning or within House as far as our meager resources in that respect are concerned to do so, or persuade the administraton, as I was attempting to do with a measly little letter.

I was suggesting because this impact was already having this adverse effect, because of the high procurement costs for this material in the prosecution of the war in Southeast Asia, that we revive some of the measures that had been constructed during the Truman administration and the Korean conflict, and some of those that had been constructed and erected after the actual hostility termination of World War II, because my premise is that World War II has not ended. We do not have a peace treaty. We still have over 300,000 of our troops in Germany alone. We have 45,000 in Korea. All these are hotbeds of possible crises, but in the meanwhile budgetarily they also have an impact, because if the American people are going to be taxed for what the Congress and the President says is the needed required level to be budgeted, and therefore taxed for "defense," then there has to be a cause and effect on the domestic economic well-being of this country.

Therefore, the policymakers, the Members of Congress who must be the ones as the Constitution charges to select the areas of priority, what should be given priority then? So from time to time I have spoken on that individual element.

In 1966, 1 year after I had written the letter, the President bucked the letter to some lower echelon in the Treasury Department. I never heard from anybody at the economic advisory level and I did not even have so much as an acknowledgment of that letter. So I then drafted another letter and directed it to the then chairman of the Ways and Means Committee. I suggested a tax scheme, believe it or not, that I called a nest egg tax. The reason for that was the conclusions I reached after studying minutely what the European or Western democracies had done while they were extricating themselves from the postwar inflationary roller coasters and how they were able to do so, even with the help of the Marshal Plan necessary for them to do so, and that was a tax that would be exacted on the basis of it being placed in a trust so that it would not be used in the regular appropriation process, and therefore spent in the eager hands of those who would spend it for some pet projects. It would remain in trust unless and until an element of inflation, and I forget exactly what percentage of inflation I had fixed in that suggested measure, but it certainly was not anything near what we later had to go through.

The fact remains that I was given even less cognizance by the committee. My suggestion was based exactly on what the western countries had done in Europe and had managed to make it operable and it had worked as intended; in other words, to reserve when inflation rears its head, to use for certain purposes to attenuate that inflation. If the inflation is either placated or reduced, then that money is returned to the taxpayers because it is in a trust fund and can be used only for these purposes of equilibrium. So much for that.

I say that because I have never been one to get up and knock something unless I had something to suggest in lieu thereof.

The problem was that nobody saw that as a problem at the time.

□ 1435

It was not until 1968 that finally it was obvious that we could not have guns and butter without some additional revenue, and the President then in all fairness, and I notice historians have not noted this and they blame Lyndon Johnson for wanting to have guns and butter, but the truth is in 1967 President Johnson did send a request for a tax increase and Chairman Wilbur Mills at that time said that he did not think that he would so much as call a hearing for that because he had been assured and the President had said that there would not be, and they would not be asking for a tax increase.

Finally in 1968, we had that very little remembered now 10-percent income surtax and it was sunsetted and it was in place for 1 year and then happily it was eliminated. It was obvious that if the Nation is committed by way of priority along a certain course of activity and that in turn is based on what I consider to be a questionable authority constitutionally speaking, what I pointed out was to all of those who at first did not care, but later as the war gained in popularity began to shout and rant and rave, and I never joined that group. I never advocated war but neither did I go around in demonstrations and all because I thought that was just adding to the cacophony and was not at all offering any kind of a creative or constructive suggestion.

I was also speaking in 1967 right here on this House floor when the draft act came up for a 4-year extension and I was the only one that got up and offered an amendment, an amendment that was really unnecessary because it was an integral part of the first peacetime draft act or universal service act. Without that clause that I referred to, that bill would never have passed by one vote in 1941 before Pearl Harbor because it simply said that notwithstanding any of the provisions hereinabove set forth no person subject to the terms of this act shall be compelled to serve against his will outside of the Continental United States except in the case of declaration of war by the Congress, or by specific action of Congress.

So if a President is seeking as Commander in Chief the advice of his chief professional military and he is asking what it will take if we get involved in a certain place as concerns a supply line of 8,000 miles, what are the logistics, the commanders are bound to come in and say that if we have limited manpower and limited ability through appropriations for supplies then this would be our answer militarily. But they would also say that if we have unlimited sources of manpower then we have another kind of answer.

We have yet to face that issue. It was not until after the extension of the draft for another 4 years in 1971, and incidentally in 1967 when I offered that amendment I could not get three Members to stand up with me to get a vote. But in 1971 by that time there was all of this devisive feeling throughout our Nation which has exacted a heavy toll in our national ethos and in our unity and well-being, but I offered that amendment and got a vote and I got 151 Members to vote for it. The draft act was extended for 4 years but then President Nixon around 1973 discontinued the draft call, however all the apparatus is in place and we still have not addressed the fundamental issue because we do not even want to face the fundamental issue of undeclared wars or twilight wars. All through our history the lesson is clear, a fundamental lesson which is to the extent we stray from our fundamental law, that is the Constitution, we will be, in proportion to that straying, in trouble.

So what has happened in these twilight encounters? President Nixon was not a charismatic leader so it was not hard for the American people to say that we question this, and we question that.

However, then comes President Ronald Reagan who is charismatic because essentially that is his training, to act a role. But in his role as Commander in Chief what has happened is that the Congress has not wanted to oversee or even call for an accounting. Let us take the deaths of the 241 marines in Beirut. They were there for 14 months and some of us were speaking out on this floor for that period of time against that deployment, but most importantly the unanimous advice of the Joint Chiefs of Staff, and these are the most highly trained professional military our country can produce, and to a man they were saying to the President that we are not for that deployment this way.

Did the Commander in Chief heed? No he did not. So we had 241 marines killed unnecessarily.

Then comes the Persian Gulf, though in between we had our Central America where we have had more than 22 of our servicemen killed. What were they doing? They were in undefined missions. Everybody knows the old scriptural saying that if the trumpet gives an uncertain sound who then shall do battle? This is true in the military. The President was mistaking the role of the military with the role of a politician and a diplomat in the case of the Marines being peacekeepers in Beirut. They could not be peacekeepers if they were there interjecting themselves on the side of one of four parties involved in a conflict.

In Central America, what is the role? What is the military mission? What has been the end result? Catastrophe. Even in the smallest country, El Salvador, after spending over $4 billion, and we are spending $1.5 million each day in El Salvador of American taxpayers' money, and we are no closer to any kind of what we would call a satisfactory solution than we were 7 years ago. Surely it is obvious that it is not working and neither is the taxing of the American people with a perverse priority established through happenstance more than through planned activity.

After all of these expenditures and borrowings our country for the first time 3 years ago has become a debtor nation. We have not been a debtor nation since 1914. We were the only creditor nation in World War I and in World War II. Today we are not a creditor nation, we are a debtor nation, and we are the biggest debtor nation.

What is more, we have sold our heritage for a mess of pottage and we have now sacrificed all of that which hundreds of thousands of Americans fought and bled for not in one but in two world wars and we are now an importing Nation. We are now as of 1971 when President Nixon took us off the gold system, and nobody called it that in our American press, but it was a devaluation. I never saw that called that in the American press. The European press did call it a devaluation. All of that adds up because it has its impact on our domestic destiny so that today the institution which does not account to Congress, and does not account to the President though it was created by the Congress in 1913, the Federal Reserve Board which is not a Federal Government entity, it is a private entity. It is owned and controlled by the commercial bank system of the United States, the private banks. In practice it is actually controlled by the seven or eight largest institutions in our country. Is that good? Is that what the Constitution allows? Is that what the Congress intended with the approval of the 1913 Federal Reserve Board Act? I do not think so. No utterance of any Member of the Congress in 1913 and the 2 years preceding enactment of the act ever reflected that.

Why is it now that that institution has escaped an accounting, and the Federal Reserve Board has lost control of its own destiny in such things as controlling interest rates? All through my 27 years on the Committee on Banking, Housing and Urban Affairs I have had about seven different chairmen of the Federal Reserve Board come up and say how interest rates were an act of God, that they could not do anything about them. Except the last 2 years they finally had frankly said, sure, of course we can control interest rates. We can control them by the margins of deposit assurances, the issuance of interest on your Federal Reserve Board transactions and so forth, and interbank transactions, but we have lost control of that because now the international banking and institutional framework is of such a nature that forces external to our land and out of the range of our control now are determining interest rates then as I have been saying for 27 years that I have been here and I can recall because I remember how difficult it was on June 19, 1966, to point out to the chairman then and to my colleagues what happened that day, that night, when the banks jumped the prime interest rate one whole percentage point. That had not happened even during the Civil War though actually that was a beginning of the formation of our national banking system in 1965 and adoption of the National Currency Act. But interest rates are the mechanism or is the mechanism by virtue of which wealth is transferred within an authority.

□ 1450

I have said ad nauseum here in my presentations since 1966 that from time immemorial interest rates have been at the root of the destruction of mighty empires, that interest rates that permit usurious and confiscating rates on money wreck any country, any economy. How in the world, how in the world can any small businessman in this country afford to pay even 10 percent or more much less 16-17 percent for a loan to inventory his stock in a small business? That is usury. That is not only unconscionable but it is fatal to any kind of well-being of our society, and particularly the economic aspects of our society.

The first shock resulted not immediately after 1966, just like the stock market debacle of this Monday, the 19th of October, but neither did that Friday in 1929 mean particularly much at that moment. I recall vividly, I was working as a little delivery boy and helper for Ernst von Helms, the pharmacist who had the Old Reliable Pharmacy. That was the headline, and all one used to read is a bull market, bearish market. Then they came out and they talked about the stock market crash. Nobody changed then, as nobody much now, although some sectors are, because these things are almost glacier-like in their movements. The impact of the stock market crash and the significance in 1929 really did not hit until 1932.

In the interim year to date, bringing it up to today, in the areas where we have had concomitant forces such as the energy crisis and the rapid destruction of the price structure for oil and gas, we have had, yes, the first big significant shock waves, but we were going to have them anyway, particularly in my State where, in the case of the savings depository institutions, Texas has a peculiar history of development. Almost every one of the S&L's in Texas have been State-chartered and stock, and there are really only four mutuals. Those are not in particular straits, but that kind of situation made it the happy hunting ground for these predatory, the speculative pirates that ride the main of either Wall Street or the regions in our country that they travel in and take advantage of a made-to-order situation.

Then the Congress compounded with the approval of the 1982 act which homogenized financial institutions, but more importantly, and it was no particular gratification on my part to be the one lone opponent in the committee to that bill that was passed by the House on October 2, 1982. But what it did was provide gimmickry. It set up such institutions as S&L's and others to be enabled to have accounting according to regulatory accounting. One might say that is a lot of gobbledygook. What does it mean? It means very much.

The usual, normal standards of accounting are one thing. Regulatory standards of accounting, as permitted by the Congress, is another, because there intangibles are allowed to become stock and trade of the capitalization structure, so that you look at all of these failed institutions in Texas where the regulators, instead of regulating, have been so cozy in bed with the industry that they not only even did not even bother to wink, they just turned around in a common bed and continued to snooze.

One will see that in trying to put some of these dead corpses together, and what I say is all they are doing is tying all the dead corpses together, and they will just stink more than the individual corpses, and all they are doing is prolonging the cost to the American people, because I am consecreated to the position that as far as one single Member of this Congress or this committee is concerned, I will not idly stand by silent and watch the crisis develop where it will imperil the stability and the well-being and the safety of the insurance funds, not only in S&L's, and if we continue to let the situation go, it is going to spill over into the banking situation.

If there is any banker either in Texas or anywhere else in the United States that wants to indulge in the illusion that it is the S&Ls' problem, I have a caution for them: "You will be in the middle of it, and water may go past your nose."

I think now is the time to say, "Well, what is the extent of the crisis?" We cannot get it. I have requested the GAO, and I am going to ask for an interim report next week. I have put facts and figures together up to now, and nobody has disputed them. Oh, yes, there are cries of protest by those that feel I am being critical of them, but I see no rebuttal on the facts and the figures.

What are the facts and the figures? The facts and the figures are that as long as these regulators, and I speak not only to Texas but to other States where they have equal crises, as long as they are holding Federal assurances of a vague kind, because there is no solid cash behind this, these institutions that say they are holding together to try to manage into the light are advertising for funds at such rates of interest that are tending to suck out depositors from the other institutions, banks, credit unions, and the like.

But what is going to happen there? Are the insurance funds adequate? I asked to meet with the Chairman of the Home Loan Bank Board with respect to the so-called FSLIC replenishment. That is the insurance fund for savings and loans, and what he told me was more disturbing than even that which I had concluded. Then the Senate week before last had hearings on the subject matter and even the GAO came out with about twice the estimate that the Home Loan Bank Board Chairman was telling me.

It does no good for us to deceive ourselves. It does no good to believe, as some would have us believe, that let us just hold things together until November and then after that let us worry about the deluge then, because time and events are not going to wait for that. Even if they wait until the day of election and the night thereafter, all bubbles burst, and we have had not one, we have a giant bubble with a bunch of bubbles inside these other bubbles.

We have had, in my opinion, no less than five money manias since the 1970's; this is why we suddenly are caught by surprise because of the headlines saying "Stock Market." But for how many months had we been saying that bank allocation of credit, that is, allocation of banking credit, was being used wrongly in the light of what the Congress has stipulated is the purpose for chartering banks? That is public need and convenience. So we have these massive takeovers. We have these purely speculative paper transactions, not real stock exchange transactions, reflecting an industrial output or a manufacturing activity or a commerical activity, but paper trading on paper, borrowing on borrowing.

□ 1500

So what we have is a debt bubble of horrendous proportions.

What shall we do, sit here and say no, it is not and then wait until it bursts and then say, oh, well, my goodness, what do we do now? Or are we going to let others not necessarily committed to the best interests of the greatest Americans determine that destiny for us?

I think the time to start is here, right now domestically. And in my home State of Texas, even though I have been speaking out before the crisis in Texas, but now Texas is just a laboratory, it is just a little ahead of what is coming nationally. In California we have begun to experience it with the second largest S&L in the country, American Savings of California.

The regulatory agencies, as I said, are so much in bed they are almost incestuous. The Home Loan Bank Board members are the same as the Freddie Mac, that is the Federal Mortgage Association, that is the secondary mortgage market organization for the savings institutions. The board of one is the board of the other.

So the Home Loan Bank Board mandated the Freddie Mac to loan $5 billion to American S&L's which had already borrowed $7 billion in the market in New York, Wall Street, and $2 billion from the Home Loan Bank Board regional office.

Why kid ourselves? If that is the proportion of the problem outside of Texas, when we then take the Texas size problem itself, then it is obvious that unless the Congress comes in and moves before the crisis develops into a total loss of confidence in our insurance funds, then I see nothing but a reaction that will be costly. Every day that these companies that are advertising for deposits, but are dead, stay alive it is going to take that much more money to resolve the problem. But I feel that it is necessary to spread this on the record as I cannot approach it from the committee level since the jurisdiction so far as regulatory bodies are concerned lies in another subcommittee.

However, what worries me more than anything else is housing, shelter, and the long-term fixed mortgages of 30 years. What about these people that are now half term, they are in their 15th year of paying in these institutions back home in Texas? You and I know that when push comes to shove, and you have mostly the small, rural S&L's that still have their portfolios as S&L's were intended to do by Congress for housing and home mortgages, they are going to disappear.

The most disturbing thing from my visit with the chairman of the Home Loan Bank Board was what he dropped almost inadvertently. I do not think anybody in the room really caught it. He said the trouble in Texas is there are too many institutions. In the meanwhile, another member of that same board in the Northeast has been talking about how their plan will work in the region, that is Texas, Louisiana, Arkansas, and that is he says they will end up with 29 mega S&L's in that whole region. Is that good for us? Is that good for America? Is that good for our rural neighbors? Of course not.

This is the crux of the matter. This is what impels me to rise to speak and report that what I have done as one individual Member and as a chairman of the Housing Subcommittee is to begin an appraisal of the size of the housing and home mortgage portfolios in these areas of need, not only in Texas but in the Midwest and in what is known as the Energy Belt and all the way over to the west coast.

Mr. Speaker, I yield back the balance of my time.

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. LEHMAN of California). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, due to a previous commitment I missed several votes. Had I been able to vote, I would have voted for final passage of H.R. 4505.

I appreciate having this opportunity to state my position on these measures.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GILMAN (at the request of Mr. MICHEL), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COBLE) to revise and extend their remarks and include extraneous material:)

Mr. HORTON, for 60 minutes, on June 15.

Mr. EDWARDS of Oklahoma, for 60 minutes, on June 8.

Mrs. BENTLEY, for 5 minutes, on June 3.

(The following Members (at the request of Mr. HOCHBRUECKNER) to revise and extend their remarks and include extraneous material:)

Mr. LANTOS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mrs. BOGGS, for 30 minutes, on June 9.

Mr. GAYDOS, for 60 minutes, on June 7.

Mr. GAYDOS, for 60 minutes, on June 9.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. MacKay, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Coble) and to include extraneous matter:)

Mr. Gunderson.

Mr. Porter.

Mr. Buechner.

Mr. Gilman.

Mr. Michel.

Mr. Ritter.

Mr. Miller of Washington in two instances.

Mr. Roth.

Mr. McEwen.

Mr. Ireland.

Mr. Rinaldo.

Mr. Armey.

Mr. Leach of Iowa in two instances.

(The following Members (at the request of Mr. Hochbrueckner) and to include extraneous matter:)

Mr. Stark in three instances.

Mr. Lantos in two instances.

Mr. Lehman of Florida.

Mrs. Collins.

Mr. Lipinski.

Mr. Hamilton.

Mr. Rahall.

Mr. Mineta.

Mr. Roybal.

Mr. Miller of California.

Mr. Wheat.

Mr. Clay.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2969. An act to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees, and

H.J. Res. 469. Joint resolution to designate June 1988 as "National Recycling Month."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Tuesday, June 7, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3737. A letter from the Inspector General, Department of Energy, transmitting the semiannual report for the Office of the Inspector General for the period October 1, 1987 through March 31, 1988, pursuant to 42 U.S.C. 7138(c); to the Committee on Government Operations.

3738. A letter from the Acting Administrator, General Services Administration, transmitting informational copies of various prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee on Education and Labor. H.R. 4416. A bill to extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989 (Rept. 100-666). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4585. A bill to extend the authorization of appropriations for the Taft Institute through fiscal year 1991 (Rept. 100-667). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4638. A bill to amend the effective date provision of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988; with an amendment (Rept. 100-668). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4639. A bill to amend the Higher Education Act of 1965 to prevent abuses in the supplemental Loans for Students Program under Part B of title IV of the Higher Education Act of 1965, and for other purposes (Rep. 100-669). Referred to the Committee of the whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3601. A bill relating to the enhancement of the Nation's fish and wildlife resources, the National Wildlife Refuge System, and for other purposes; with an amendment (Rep. 100-670, Pt. 1). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4365. A bill to designate the Sunderland National Salmon Station located in Sunderland, MA, as the "Richard Cronin National Salmon Station" (Rep. 100-671). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4621. A bill to provide congressional approval of the Governing International Fishery Agreement between the United States and the Government of the German Democratic Republic; with amendments (Rep. 100-672). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ROE: Committee on Science, Space, and Technology. H.R. 4417. A bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes, with amendments, referred to the Committee on Energy and Commerce for a period ending not later than June 8, 1988, for consideration of such provisions of title II of the amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X (Rep. 100-673, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN (for himself, Mr. Porter, Mr. Lantos, Mr. Rose, Mr. Hall of Ohio, and Mr. Leland):

H.R. 4738. A bill to protect and promote cultural survival throughout the world; to the Committee on Foreign Affairs.

By Mr. WAXMAN:

H.R. 4739. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the authority under that act to regulate pesticide residues in food; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 4740. A bill to amend the Internal Revenue Code of 1986 to increase the excise tax on cigarettes by 25 cents per pack and to provide that a portion of the revenues from such increase be used for programs to discourage cigarette smoking particularly by youth; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. APPLEGATE (for himself, Mr. McEwen, Mr. Montgomery, Mr. Solomon, Mr. Penny, Mr. Johnson of South Dakota, Mr. Mica, Mr. Evans, Mr. Wylie, Mr. Bilirakis, Mr. Smith of New Hampshire, and Mr. Hall of Texas):

H.R. 4741. A bill to amend title 38, United States Code, to increase the rates of compensation and dependency and indemnity compensation [DIC] payable to veterans with service-connected disabilities and their survivors, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ARMEY (by request):

H.R. 4742. A bill to achieve greater accountability in Federal student assistance programs, to minimize the potential for waste and abuse, and for other purposes; to the Committee on Education and Labor.

By Mr. AuCOIN (for himself, Mr. Gray of Illinois, Mr. Akaka, Mr. Roe, Mr. DeFazio, Mr. Wolpe, Mr. Bustamante, and Mr. Mavroules):

H.R. 4743. A bill to authorize the Secretary of Housing and Urban Development to insure certain mortgages for first-time homebuyers, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS (for himself and Mr. Horton):

H.R. 4744. A bill to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, distinguish between Federal funds and trust funds, and for other purposes; to the Committee on Government Operations.

By Mr. GLICKMAN:

H.R. 4745. A bill entitled the "Campaign Contributions Reform Act of 1988"; to the Committee on House Administration.

By Mr. LAGOMARSINO (for himself and Mr. Gallegly):

H.R. 4746. A bill to designate Sespe Creek and the Sisquoc River in the State of California as components of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

H.R. 4747. A bill to designate certain public lands on the Los Padres National Forest for preservation as wilderness and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. THOMAS A. LUKEN (for himself and Mr. Whittaker):

H.R. 4748. A bill to amend the Federal Railroad Safety Act of 1970 to provide for drug and alcohol testing for railroad employees; to the Committee on Energy and Commerce.

By Mr. MAVROULES:

H.R. 4749. A bill to authorize the city of Newburyport, MA, to retain and use certain urban renewal land disposition proceeds; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RICHARDSON:

H.R. 4750. A bill to provide a settlement fund for the restoration of certain Indian lands within the Zuni Indian Reservation in New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RICHARDSON (for himself, Mr. Lujan, and Mr. Combest):

H.R. 4751. A bill to amend the National Trails System Act to provide for a study of the Coronado Trail, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GUNDERSON (for himself and Mr. Montgomery):

H.J. Res. 584. Joint resolution calling upon all churches, synagogues, schools, community centers, and other public buildings to toll their bells for 1 minute beginning at 11 a.m. on each Memorial Day holiday; to the Committee on Post Office and Civil Service.

By Mr. MARTINEZ:

H.J. Res. 585. Joint resolution designating the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week"; to the Committee on Post Office and Civil Service.

By Mr. LANTOS:

H. Con. Res. 311. Concurrent resolution requesting that the next President of the United States continue the practice of holding annual summit meetings with the leader of the Soviet Union; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

401. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to Alejandrina Torres; to the Committee on the Judiciary.

402. Also, memorial of the House of Representatives of the State of Hawaii, relative to the Coastal Zone Management Act of 1972; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 593: Ms. Pelosi.

H.R. 763: Mr. Dyson, Mr. Chapman, Mr. Fazio, Mr. Ireland, Mr. Shaw, Mr. Young of Florida, and Mr. Mineta.

H.R. 1443: Mr. Courter and Mr. Moody.

H.R. 1516: Mrs. Kennelly.

H.R. 1638: Mr. Wheat, Mr. Morrison of Connecticut, Mr. Sundquist, Mr. Robinson, Mr. Bonker, and Mr. Clement.

H.R. 2231: Mrs. Bentley.

H.R. 2532: Mr. Rinaldo.

H.R. 2789: Mr. McCrery.

H.R. 3560: Ms. Pelosi.

H.R. 3620: Mr. Fish, Ms. Pelosi, and Mr. Walgren.

H.R. 3628: Mr. Miller of Washington, Mr. Blaz, Mr. Solarz, Mr. Kasich, Mr. Rangel, Mr. Yatron, and Mr. Gallegly.

H.R. 3918: Mr. Dingell, Mr. Hopkins, Mr. McEwen, Mr. Studds, Mr. Wolpe, Mr. Johnson of South Dakota, Mr. Robert F. Smith, Mr. Applegate, Mr. Courter, Mr. Nowak, Mr. Watkins, Mr. Gunderson, Mr. Dwyer of New Jersey, Mr. Porter, Mr. Gejdenson, and Mr. Synar.

H.R. 4007: Mrs. Martin of Illinois.

H.R. 4008: Mrs. Martin of Illinois.

H.R. 4127: Mr. Price of North Carolina, Mr. MacKay, Mrs. Kennelly, Mr. Brennan, Mr. St Germain, Mr. Berman, Mr. Hatcher, Mr. Kolter, Mr. Clinger, Mr. Valentine, Mr. Lehman of Florida, Mr. Markey, Mr. Hamilton, Mr. Shays, and Mr. Pursell.

H.R. 4270: Mr. Kastenmeier, Mr. Fauntroy, Mr. Edwards of California, Mr. Dellums, Mr. Lowry of Washington, Mr. Torricelli, and Mr. Schumer.

H.R. 4308: Mr. Rinaldo.

H.R. 4446: Mr. Traficant.

H.R. 4447: Mr. Holloway.

H.R. 4463: Mr. Smith of Florida and Mr. Solomon.

H.R. 4474: Mr. Armey and Mr. LaFalce.

H.R. 4486: Mr. Ford of Michigan, Mr. Lehman of Florida, Mr. Atkins, and Mr. Ackerman.

H.R. 4516: Mr. Biaggi.

H.R. 4519: Mr. Ireland, Mr. Nelson of Florida, and Mr. Fascell.

H.R. 4576: Mr. Bunning, Mrs. Roukema, and Mr. Bliley.

H.R. 4618: Mr. Brennan and Mr. Chapman.

H.J. Res. 423: Mr. Andrews, Mr. Badham, Mr. Boucher, Mr. Brooks, Mr. Chappell, Mr. Clarke, Mr. Herger, Mr. Leach of Iowa, Mr. Mfume, Mr. Miller of California, Mr. Nagle, Mr. Oberstar, Mr. Pickett, Mr. Sikorski, Mr. Synar, Mr. Thomas of Georgia, Mr. Watkins, and Mr. Young of Alaska.

H.J. Res. 474: Mr. Atkins, Mr. Boehlert, Mr. Coelho, Mr. Mack, Mr. Lowry of Washington, Mr. Martinez, Mr. McGrath, Mr. Miller of California, Mr. Bilirakis, Mr. Bryant, Mr. Conte, Mr. Hochbrueckner, Mr. Lancaster, Mr. Conyers, Mr. Daub, Mr. Guarini, Mr. Levin of Michigan, Mr. Dowdy of Mississippi, Mr. Espy, Mr. Gejdenson, Mr. Kemp, Mr. Ortiz, Mr. Rinaldo, Mr. Sisisky, Mr. Thomas of California, Mr. Walgren, Mr. Morrison of Connecticut, Mr. Hefner, Mr. Badham, Mrs. Byron, Mr. Dreier of California, Mr. Moorhead, Mr. Lewis of Florida, Mr. Lungren, Mr. McCloskey, Mr. McHugh, Mr. Morrison of Washington, Mr. Blaz, Mr. Buechner, Mr. Gallegly, Mr. Johnson of South Dakota, Mr. Lent, Mr. Dannemeyer, Mr. de la Garza, Mr. Hunter, Mr. Levine of California, Mr. Dixon, Mr. Fazio, Mr. Hiler, Mr. Leland, Mr. Packard, Mr. Schaefer, Mr. Smith of New Hampshire, Mr. Torres, Mr. Wise, Mr. Matsui, Mr. Hammerschmidt, Mr. Bates, Mr. Chappell, Mr. Gordon, Ms. Oakar, Mrs. Lloyd, Mr. McEwen, Mr. Michel, Mr. Murphy, Mr. Boland, Mr. Carper, Mr. Gray of Illinois, Mrs. Collins, Mr. Darden, Mr. Garcia, Mr. Kasich, Mr. Price of North Carolina, Mr. Erdreich, Mr. Foglietta, Mr. Jenkins,Mr. Owens of New York, Mr. Savage, Mr. Sikorski, Mr. Sundquist, and Mr. Towns.

H.J. Res. 543: Mr. Savage, Mrs. Vucanovich, Mr. English, Mr. Bonior of Michigan, and Mr. Lewis of Georgia.

H.J. Res. 544: Mr. Bustamante, Mr. Hatcher, Mrs. Boxer, Mr. Jontz, Mr. Frost, Mr. Schumer, Mr. Moody, Mr. Matsui, Mr. Rahall, Mr. Smith of Texas, Mr. Ravenel, Mr. Neal, Mr. Valentine, Mr. Biaggi, Mr. Owens of New York, Mr. Owens of Utah, Mr. Goodling, Mr. Fazio, Mr. Lungren, Mr. Horton, Mrs. Bentley, Mr. de la Garza, Mr. Vento, Mr. Buechner, Mr. Young of Florida, Mr. Hansen, Mr. Whitten, Mr. Kostmayer, Mr. Bevill, Mr. Huckaby, Mr. Edwards of Oklahoma, Mr. DeFazio, Mr. Broomfield, Mrs. Morella, Mr. Pepper, Mr. Panetta, Mr. Gingrich, and Mr. Scheuer.

H. Con. Res. 260: Mr. Pursell and Mr. Boehlert.

H. Con. Res. 283: Mr. Inhofe, Mr. Sunia, Mr. McMillen of Maryland, Mr. Wilson, Mr. Rhodes, Mr. Thomas of Georgia, Mr. Holloway, Mr. Fawell, Mr. Lagomarsino, Mr. Blaz, Mr. Bereuter, and Mrs. Bentley.

H. Con. Res. 286: Mr. Bilbray, Mr. Skelton, Mr. Atkins, Mr. Wyden, Mr. Jontz, and Mr. Campbell.

H. Con. Res. 291: Mr. Bustamante, Mr. Campbell, Mr. Clement, Mr. Atkins, Ms. Kaptur, Mr. Mollohan, and Mr. Biaggi.

H. Con. Res. 302: Mr. Smith of Texas, Mr. Solomon, Mr. Boehlert, Mr. Feighan, Ms. Kaptur, Mr. Saxton, and Mr. Weldon.

EXTENSIONS OF REMARKS

MANASSAS NATIONAL BATTLEFIELD PARK

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. ANDREWS. Mr. Speaker, on May 4, I introduced legislation to preserve the historical integrity of the Manassas National Battlefield Park (H.R. 4526). Congressman ROBERT MRAZEK of New York joined us in this effort. Today, we have more than 200 cosponsors.

This influx of bipartisan congressional support exemplifies a national concern that Americans have regarding the preservation of our national parks. In addition, this sends a strong proclamation that development adjacent to our most pristine landmarks will not be tolerated.

As you may know, Manassas National Battlefield Park is being threatened by the pending construction of a 1.2-million square foot shopping mall on a 600-acre plot of land on the battlefield. Construction on this historic piece of property will dominate the area's landscape, destroy the integrity of the park itself, and eliminate yet another part of the actual battlefield.

It is our belief that it is the responsibility of the Federal Government to preserve the integrity of national parks from the threats posed by the commercial developers. We believe that the preservation of the Manassas National Battlefield Park is crucial in our efforts to maintain and pass on American history, heritage, and national dignity to future generations. Newspaper articles and editorials on the preservation of the Manassas National Battlefield Park have appeared in newspapers and periodicals all over the Nation; below I have drawn together a few of these editorials:

A HERITAGE IMPERILED

(By Tom Wicker)

Bull Run is a creek that meanders through Virginia so near Washington that members of Congress and ladies of fashion could take horse and buggy out to witness the first battle of the Civil War, fought along the creek banks near Manassas Junction on July 21, 1861.

Confederate victory sent them scrambling back to Washington in panic. After a year of war, no sightseers ventured to the same bloody fields when a second, more terrible battle in August 1862 resulted in Robert E. Lee's most complete victory, the retreat of most Federal troops from Virginia and a forced delay in Abraham Lincoln's planned Emancipation Proclamation.

One of the first postwar acts of veterans from both sides was to return in amity to this dual battleground (Manassas, as Confederates called it; Bull Run to the Federals). Together they erected primitive monuments of local stone on the Henry Hill, where Stonewall Jackson earned his nickname in 1861, and at the Deep Cut, where at the climax of one of the war's great charges, Jackson's battered defenders threw rocks at Fitz-John Porter's bluecoats in 1862.

A century and a quarter later—in a nation that sometimes seems not to care about, much less honor, its past—the biggest developer in Virginia has been cleared by Prince William County authorities to build on part of the Manassas battlefield a monster shopping mall and a housing development. Heavy new auto traffic, moreover, will suffocate the roadways that give access to the inadequately protected battlefields and their many monuments.

Congress authorized a small Manassas National Battlefield Park around the Henry Hill in 1940, expanded it in 1954 to include some of the second battle sites, then took in much of the rest of the area in 1980. But in a compromise with local authorities, a segment between U.S. 29 (the important Warrenton Turnpike during the Civil War) and the new Interstate 66 was left out of the expanded park, obviously for development purposes.

The excluded area, however, had been in 1862 the site of General Lee's headquarters and the staging area for Gen. James Longstreet's massive counterattack that drove the Federal army of Gen. John Pope from the field. Bounded also by Pageland Lane and Groveton Road, which were important arteries during the battle, the excluded land was of unquestioned historical importance. Its development, moreover, could have great impact on the national park, as Prince William officials recognized.

"The county board of supervisors has absolutely no intention whatever to violate the integrity of that park." Donald L. White, then vice chairman of the board, said twice during Senate hearings on the park bill sponsored by John Warner of Virginia. That may not have been a legal pledge, but it gives what's happening now an even more duplicitous aura.

First, in 1986, the Hazel/Peterson Companies obtained the county's approval for a housing development, an office park, a small shopping center and parking lot, all to be screened by a narrow landscaped strip from the parkland the site abutted. Considerable opposition was heard from local citizens and historical groups, but they succeeded only in scaling down the project (from 975 houses to 560).

But three months ago, Hazel/Peterson announced that it would cut the office park in half, and substitute for the shopping center a hugh mall (1.2 million square feet) featuring five major department stores. From the slope in front of Brawner's farmhouse, where in 1862 Stonewall Jackson determined to attack King's Division as it passed on the turnpike below ("the road was blue with them," the Confederate general William C. Oates wrote later), an observer soon will see jammed parking lots and a blight of modern mall architecture.

When Park Service officials protested the sudden switch, which has been kept from the public until it was accomplished, the current board of supervisors fired right back: two parks and the Quantico Marine base, occupying 20 percent of Prince William's territory, provide only $20,139 a year in Federal payments—but the mall will provide 2,900 jobs and, over 20 years $135 million in net revenues.

The county may have a legitimate complaint, but is desecrating hallowed ground the remedy? And Manassas is only one example of a national heritage imperiled by development. Stay tuned for a second article, about mounting opposition that may include the House Interior Committee.

[From the New York Times, Apr. 5, 1988]

MALLING OVER THE PAST

(By Tom Wicker)

The Campeau Corporation of Canada, having just swallowed Federated Department Stores Inc., has agreed with the Edward J. DeBartolo Company to spread a new rash of shopping malls across an American countryside that's already in danger of being paved over.

That's bad news that could be worse, if this new retail and real estate giant proves as callous everywhere else as the DeBartolo Company has been in its plan—concealed from the public until recently—to throw down the second-largest shopping mall in northern Virginia on part of the Manassas-Bull Run battlefield.

This 1.2 million square feet of commercial development will put parking lots and fast-food shops on historic ground, where thousands of Union and Confederate soldiers died in August 1862. It will foul the area surrounding and force the widening of roads through the Manassas National Battlefield Park, which the mall will directly abut.

DeBartolo is in cahoots with the Hazel Peterson Company at Manassas, as far as I knows, Campeau has nothing to do with that project, which was "cussed and discussed" in a previous article. But commercial development of this kind, all across the nation, already is having an adverse impact on historical, recreational and other sites that ought to be protected as part of the national heritage and patrimony.

Private development is creeping up Marye's Heights—where on a single day in 1863 the Federal Army of the Potomac took 12,500 casualties—to the edge of the Fredericksburg-Spotsylvania National Military Park in Virginia. Historically significant battlefields surrounding Richmond, at Stone's River in Tennessee, and at Sharpsburg, Md., are similarly endangered. At Chantilly, near Dulles Airport outside Washington, where the Union generals Philip Kearny and Isaac Stevens were killed in combat in 1862, housing tracts and shopping centers already cover the battleground.

Nor is it just Civil War sites that are being despoiled. Outside Tucson, Ariz., development is moving inexorably toward the Saguaro National Monument, which supposedly protects the wild desert environment with its giant cactus plants. South Carolina preservationists are trying to raise $2 million to buy the farm of Charles Pinckney, a signer and one of the architects of the Constitution, to save it from subdividers.

On a strip of privately owned land knifing into Yellowstone National Park, something

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

called the Church Universal and Triumphant has erected a tall game fence that halts the natural passage of animals and violates the park's ecosystem. Private development also threatens national recreational areas in the Santa Monica Mountains of California and along the Chattahoochee River in Georgia.

Nothing yet damages the Custer battlefield near Rosebud Creek in Montana—in its mournful silence and loneliness one of the most moving of all American historical sites. But the National Park Service does not own nearly enough land there to protect the battlefield, should private developers start moving in.

In Loudoun County, VA., a planned housing tract threatens the pristine character of the village of Waterford a designated national landmark that looks today much as it did in the 18th and early 19th centuries. County authorities and the developer still are trying to work out an alternative.

So it goes, without hindrance from the Reagan Administration, which opposes restraints on private property and won't put up the money for land acquisitions to extend the national park system or to protect existing parks, monuments and landmarks.

Now, however, the House Interior Committee is considering legislation that would give the park service more power to prevent damaging development in areas abutting or surrounding such sites. The chairman, Mo Udall, recently took a publicized walk over the threatened segment of the Manassas battlefield; and Representative Bruce Vento, who heads the relevant subcommittee, is optimistic about the legislation.

Increased appropriations for the Park Service's partnership with state historical preservation programs also would help. The service is authorized already to make grants for preservation purposes to these state groups; but the funds available are "bare bones" and their distribution is opposed by the Reagan Administration.

Action now will lock the barn door after a good many horses have been stolen. It's still action worth taking before developers consume what's left of our national heritage.

[From the Los Angeles Times, Feb. 8, 1988]

IF YOU'VE SEEN ONE BATTLEFIELD . . .

Sometimes it seems that life is just one shopping mall after another. Take, for instance, the 1.2-million-square-foot William Center Mall that is to be built in Prince William County about 20 miles west of the White House and the Washington Monument. But then the mall is only part of it. Ultimately the 600-acre development will include 1.7 million square feet of office space and 650 new homes.

The mall, the brainchild of Edward J. DeBartolo Corp., the nation's biggest builder of shopping malls, will have some competition. Within a 25-mile radius of William Center Mall, according to the Washington Post, there already are three shopping centers. A fourth is under construction. A fifth is planned. The nearest major competitor is the 1.4-million-square-foot, 213-store Fair Oaks Mall.

But there will be something special about the William Center Mall, for on two sides it will be built smack up against Manassas National Battlefield Park, the site of the first and second battles of Bull Run in the Civil War. Manassas is appropriately described by Post columnist Jonathan Yardley as "one of the few pieces of land in America to which the word 'hallowed' applies without reservation." There in 1861 was fought the first major battle of the war. And there in 1862 was fought a second critical battle that wiped out all the gains of the Union Army in Northern Virginia the previous year. Each time the Union feared for the life of the nation's capital.

National Park Service officials have expressed concern about encroaching development in and around national landmarks of the capital region, especially Manassas. Now their worst fears have been realized. The Park Service has no legal authority to stop the mall—it should have, but doesn't. Local historic-preservation groups vowed to fight the mall, but the deck is stacked against them. The county rezoned the property in 1986 shortly after the real-estate firm working with DeBartolo bought it.

Local officials in fact are delighted as they struggle with neighboring Fairfax County for the region's booming commercial and residential business. "It excites me in the sense that we're no longer going to stand in the shadow of Fairfax County," County Supervisor Robert L. Cole said. "This is going to be nicer than Fair Oaks."

And think of it: a mall with its own national historic shrine.

[From the Houston Post, May 30, 1988]

MEMORIAL DAY

This is Memorial Day, the one day Americans set aside as a time for special remembrance and honor of our war dead. No Memorial Day would be complete without at least one orator denouncing our apathy, our forgetfulness, our don't-give-a-damn attitude toward our fallen men and women in the military.

Don't believe it. Americans still care and care very deeply. Look no further than the rolling woodlands outside Washington. There a developer is trying to put up a shopping mall, bigger than the Houston Galleria, right next to the battlefield of First and Second Manassas (or Bull Run, depending upon your accent). Americans from North and South are up in arms over the proposed desecration. In Washington it seems to be generating more angry discussion than the budget, the INF treaty or the summit.

It is another example of American's continuing concern for our warriors on Memorial Day or any day. And, no, it is not weakening.

A CONGRESSIONAL SALUTE TO JOSEPH E. O'CONNELL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding man in my district, Mr. Joseph E. O'Connell. Joe will be honored on June 10, 1988, on the occasion of his retirement. I am pleased to have this opportunity to say a few words about him.

Joe O'Connell is retiring after working for General Telephone Co. of California in various positions for 31 years. Joe began working for General Telephone in 1957 as an equipment installer, and it was that year that he started his march to the top of the company. He was quickly promoted to foreman and then maintenance supervisor. By 1968, he was working in administrative and technological supervisory positions, preparing $3 million budgets and being held accountable for 100 employees. Since 1978, he has been installation and maintenance superintendent. In addition to this, he has been a part-time instructor at Long Beach City College since 1983.

Besides being committed to his career, Joe has found the energy to give his time to many community organizations. He is the vice president of operation of the Goodwill Industries of southern Los Angeles County, vice president of the Long Beach Kiwanis Club, secretary of the Pacific Hospital Foundation of Long Beach, a member of the advisory board of the Long Beach Boy Scouts of America, past president of the Los Alamitos Chamber of Commerce, a member of the Knights of Columbus and a member of the General Telephone Management Club.

But Joe O'Connell is more than just a glittering résumeMr. WALKER. and a 30-year veteran of General Telephone Co. He is committed, sincere, talented and full of energy. His dedication to his work and his community is highly valued by the people of Long Beach. My wife, Lee, joins me in extending our warmest congratulations to him on this auspicious occasion. We wish Joe and his children, Joe Jr., John, Joan and, Lindsay all the best in the years to come.

ETHIOPIA

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. MILLER of Washington. Mr. Speaker, today I rise to protest the Ethiopian Government's interference in the efforts to reduce hunger in Ethiopia.

In 1983 during the last major drought in that region, 850,000 metric tons of food were distributed to the hungry in Ethiopia. Still, over 1 million people died. Today the problem is much worse. In a country of 45 million people, up to 7 million are at risk, with 3.2 million of them in the northern provinces of Tigray and Eritrea. Estimates are that over 1.3 million metric tons of food are needed to save those starving to death in Ethiopia.

But instead of aiding the world wide famine relief effort, Colonel Mengitsu has used the country's scarce resources to maintain his own power and on futile attempts to crush the insurgency of the north.

Fuel and planes needed to transport food to drought stricken areas are used by Mengitsu's army. So, the food rots in ports, while the people starve. Ethiopia has much fertile land. Yet, the Government's mandate of collective farming and forced communal farms has hurt the family farmers who produce most of the nation's food supply.

On April 6, 1988, all foreign relief workers including United Nations and private organizations, were kicked out of Eritrea and Tigray. All the assets of these programs were nationalized. The Ethiopian Government says they are forcing these organizations out of the north to protect the workers' safety. This is false—rather it is to ensure that all money, food, and industrial equipment is diverted to aid the largest standing army on the continent.

Assistant Secretary of State Richard Williamson stated in his May 19 United Nations speech that Col. Mengitsu Haile Mariam's actions are ones "which starve an innocent population" and are "cold-blooded neglect of millions of Ethiopians in pursuit of military objectives in an intractable and unwinnable civil war." The Soviet Union continues to aid Colonel Mengitsu in his murderous efforts.

There is one hopeful sign: Recently, United Nations Secretary General Javiar Perez de Cuellar received permission from the Ethiopian Government to send United Nations observers to monitor the distribution of food to starving people in the northern provinces of Eritrea and Tigray.

The Ethiopian Government should reconsider and allow the International Red Cross and other famine-relief organizations to resume operations to help the 3 million hungry men, women, and children in the region. I applaud the recent efforts of the Reagan administration to start a major assistance program through Sudan, despite warnings by the Ethiopian Government. The millions of starving people in the rebel-held northern areas of Ethiopia are in desperate need of assistance.

Colonel Mengitsu is taking all the young men, airplanes, fuel, and grain to fight his war against the north. I believe that if the Colonel will end his deplorable actions, then we can again someday call Ethiopia, the breadbasket of Africa.

A TRIBUTE TO ANN WATKINS AND ANNE SCHIERDING

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. BUECHNER. Mr. Speaker, I rise today to honor two great American businesswomen located in St. Charles, MO, who through their hard work, quality products, and creative enterprise were recently recognized by the St. Charles Chamber of Commerce as "Small Business Persons of the Year."

Ann Watkins and Anne Schierding opened Patches, Etc., at 337 South Main Street in St. Charles in 1979. The two had met while restoring homes on Main Street, and decided to move their own business into a narrow brick house originally built in 1870. From there, Ann Watkins brought her professional background in fashion and a family history of generations of quilters, and Anne Schierding brought her professional background in business education and a love of needlework. Together, they created a business sensation, which through creative marketing, not only gave work to 12 employees, but engendered a new interest in quilting and other crafts.

Customers at the shop have come from St. Charles, from St. Louis, from St. Louis County, from Illinois and all over the country, even New York City. Long before they were recognized by their business colleagues in St. Charles or their Congressman in Washington, Ann and Anne were recognized daily by an enthusiastic and continuous clientele, which is the ultimate recognition for any business, and the true test of efficiency for a free enterprise system.

Anne Schierding passed away Monday, May 30, after courageously suffering through months of Creutzseldt-Jakob disease, a debilitating brain disorder. Her success in business and in 19 years of teaching at Hazelwood Central High School are in themselves a fitting tribute to a life of success, tragically cut short. We remember her fondly and share that memory and our prayers with her loving family.

But I am sure Ann Watkins will continue in their joint effort, with the spirit of Anne Schierding remaining in the traditional ambience of their store, and in the love for arts and crafts she created among her friends and neighbors, and a number of strangers as well. The living example of Patches, Etc., is the spirit which moves our economy, through which creatively engaged men and women enrich their lives and the lives of others in a responsive exchange of supply and demand. May the work of Anne and Ann not only be recognized for their success and efficiency, but for their love of their work, and the way that love made their customers return again and again.

CORONADO NATIONAL TRAIL STUDY ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. RICHARDSON. Mr. Speaker, I am proud to introduce a bill that directs the National Park Service to study the Coronado Trail for inclusion in our National Trails System Act. Francisco Vasquez de Coronado was one of the great European explorers of the New World. In his expedition through New Mexico and neighboring States, Coronado was among the first Europeans to see the wide variety of cultural and natural features that make the Southwest so unique. This bill will amend the National Trails System Act to mandate a major study of the approximate route taken by Coronado. The study would lay the groundwork for eventual designation of the Coronado Trail as part of the National Historic Trail System.

Between 1540 and 1542, Coronado led an expedition from the southwest coast of Mexico into the American Southwest in search of the legendary Seven Cities of Cibola. His party of 300 Spanish soldiers and 1,000 Indian allies and servants marched through the present States of Arizona, New Mexico, Texas, Oklahoma, and Kansas. During his expedition Coronado discovered what many believe was one of the fabled Seven Cities of Cibola at the Zuni Pueblo in western New Mexico. He also encountered the Acoma Indians along the Rio Grande River. The expedition traveled north to the Taos Pueblo and east to the Pecos. The large pueblo complex seen by Coronado is still home to the Taos people and can be seen to this day. Coronado met the Hopi in Arizona and the Plains Indians in Texas, Oklahoma and Kansas. Members of this expedition were the first Europeans to see the Grand Canyon and other Southwestern landmarks.

The study of the Coronado Trail will provide invaluable information to ethnohistorians on the Spanish explorers and the Indian populations living in the Southwest at that time. It will also shed light on this important but sadly neglected era in the history of our Nation.

The study of Coronado's route and the eventual inclusion of the Coronado Trail in the National Trails System will complement the celebration of the 500th anniversary of Columbus's voyage to the New World. Coronado's expedition was the first significant exploration in the American Southwest after the European discovery of America.

Study and designation of the Coronado Trail will preserve an important part of our history and stimulate tourism in the States through which the Coronado Trail passes. Fortunately, most of the sites visited by Coronado and his expedition are readily identifiable and thus can be marked for tourists to investigate and appreciate.

Mr. Speaker, today we have the opportunity to preserve the most significant expedition route in the Spanish colonization of the Southwestern United States—the Coronado Trail. I urge all my colleagues to join me in support of this legislation.

PERSECUTION OF BAHA'I MUST STOP

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. LEACH of Iowa. Mr. Speaker, I join with Congressman PORTER and many of our colleagues this week in introducing a resolution which once again urges the Government of Iran to respect the human rights of members of the Baha'i faith. This House and all similarly constituted parliamentary bodies around the world have a responsibility to make clear that the Iranian regime is accountable for its persecution of these courageous people.

While there have been recent reports of the release of a number of Baha'is from prisons in Iran and while executions appear to have declined, the international community dares not be silent until all such grievious human rights abuses have ended.

Far too fresh in our memories are the executions of over 200 Baha'is in Iran since 1979, the pattern of brutal torture and imprisonment, the desecration of property sacred to members of the faith, and the economic hardships visited upon the Baha'is. The terror which has befallen this vulnerable religious community is unconscionable.

It is important to point out that in its persecution of the Baha'is the Government of Iran carries a legal as well as moral and humanitarian burden of accountability. As a party to the International Covenant on Civil and Political Rights, Iran is bound by its provisions to protect religious freedom within its borders, including the right of minorities, in community with like believers, to profess and practice their faith. In addition to breaching international-al norms of decency and civility, Iran's failure to adhere to international human rights standards constitutes outlaw conduct.

Until the campaign of religious persecution and genocide against the Baha'is comes to an end, this body and the executive branch have an obligation to monitor events in Iran, to work with other governments to bring pressure on Iranian authorities to cease their human rights violations, to press the case of the Baha'is in international fora, and to provide appropriate assistance to those fleeing persecution. It is the least we can do for this suffering people who desire nothing more than to worship freely according to their conscience.

THE CHANGING WATER DEBATE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. MILLER of California. Mr. Speaker, it is an old Western saw that "whiskey is for drinking and water is for fighting over."

The Members of this body are well aware of that truth about water. This floor has seen some of the most bitter, most prolonged and most contentious of its debates in the last 10 years over the issue of water.

In California, our geographic distinctions have bred differing perspectives on the questions of water development, usage, and pricing. As time passed and the competition for dwindling resources increased—and as unforeseen problems like toxic drainage arose—the debate grew in pitch and intensity.

Yet I believe, as the chairman of the Subcommittee on Water and Power Resources and as a member whose district is deeply affected by water decisions we make in Washington, that we are building bridges to a more constructive and less polarized water policy for the future. Our delegation has worked on a more cooperative and more unified basis in recent years because we have all recognized the need for a water policy that is fiscally responsible and environmentally sound.

To many, however, water policy remains extraordinarily complex. That is why Peter Milius of the Washington Post has accomplished such an admirable feat: explaining briefly and cogently the political and environmental issues at stake in the continuing debate about the future of water policy.

I commend his recent column to all Members of the Congress:

CALIFORNIA WATER FIGHT

California has a ninth of the nation's population and, in dollar terms, produces more than an eighth of the crops. The people and agriculture both need vast amounts of water, but are concentrated in the drier parts of the state—from San Francisco south—where there are only three important sources of the precious product.

The first is an uneven supply of groundwater, already heavily mined.

The second is the Colorado River along the state's southeastern border—but California's share of this is also about to decline as Arizona and up-river states begin to take their full entitlements.

The third is the system of lesser rivers that arise in the state's eastern mountains and come together in San Francisco Bay.

Over the years the state and federal governments have greatly developed this third source, and it now is one of the most ambitious water storage and diversion projects in the world. Upstream are dams whose function is to spread the water over time, capturing excess flow in wet months for release in dry. In the flatlands are two aqueducts—government rivers—to move the water to unaccustomed places. Some is used to irrigate the broad desert valley down the center of the state. The rest is pumped over an intervening mountain range—a trifle in a project such as this—to support the civilization along the southern coast whose center and symbol is Los Angeles.

Now this third supply is also tightening. Population growth is one of the reasons, but the major tension is between environmental groups and agricultural interests. The environmentalists say that too much water is being diverted from the Bay-Delta area, a bog about the size of Rhode Island just east of San Francisco where the mountain rivers intertwine, then flow to the sea. The Delta is itself a prosperous farming area whose shallows and marshes double as important breeding grounds for plant and animal life, including several leading Pacific fisheries.

The water that envelops and supports all this activity is a particular mix of fresh and salt. When the state and federal governments flick on the pumps to move water south, they reduce the flow of fresh, letting salt spread inland. Farming and natural life are both adversely affected; the bay is not properly flushed; and as a political proposition, the interests of the wet northern part of the state are partly sacrificed to the dry, hundreds of miles away.

The critics would restore a more natural balance by recovering some of the water that now goes to agriculture, the larger farmers in the Central Valley particularly. They say the farmers could easily withstand the loss if only they could be made to conserve; five-sixths of the water in the state now goes to agriculture, and much of it is wastefully applied, in part because it is so cheap. The environmentalists point out that part of agriculture's share of the subsidized water is used to produce crops that must then be further subsidized because they are in oversupply—the water is used to grow things for which there is an insufficient market. The redistributionists also note that agriculture compounds the environmental problem by contaminating the excessive amount of water it consumes.

The Central Valley is the most dramatic example of this, as well as of the broader proposition that man only solves one problem in nature by creating another, equal and opposite. The government engineers knew that they would face a drainage problem in some parts of the valley if they transported large amounts of water there. Their cheerful solution was to propose still more construction, of a massive drain to take the water back north to the Delta after it had been used. The Delta's defenders resisted, for fear the used water would be contaminated by agricultural chemicals and the salts in the valley soil, and the half-built drain was allowed to empty into the marshy Kesterson wildlife refuge instead. Then birds at Kesterson began to be born deformed (stunted wings, twisted beaks, single eyes), apparently because the effluent contained too much of the element selenium. Now the drain has been closed, and no one knows quite what to do. Other water from the aqueducts is filtered through the valley soil into the San Joaquin River, which carries it back north to the Delta—whence some is promptly pumped south again. The valley is stewing in its own salts.

The environmental groups can imagine three ways of prying more water away from the farmers. The first is by fiat: the state is now studying how much water to require be reserved for the Delta on environmental grounds before the pumps can be turned on. A second is to raise the price (which is to say, lower the subsidy) of the government water, on the theory that a price increase will inspire healthy conservation just as it did with that equally basic commodity, oil, in the 1970s. A related third idea is to create a market in water so that urban and other users could buy it away from the farmers. The urban areas in Southern California are now trying to buy some water away from the farmers in the Imperial Valley; they are offering to line the irrigation ditches there in return for the water that would save. The farmers are holding out; they want the cities to pay for the water as well as the ditches.

But sooner or later they will strike a bargain. In California and the rest of the arid West, the politics and economics of water both are changing. The government's old easy-water policies may have made good sense when the state was empty, and the object was to grow. A tighter regimen is coming now that the reverse is true.

A CONGRESSIONAL SALUTE TO ARTHUR STANLEY SBISA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to bring to my colleagues' attention the long and distinguished career of an outstanding citizen in my area, Mr. Arthur Stanley Sbisa. Arthur will be honored for his 31 years of service as a faithful postal employee at a breakfast meeting on the North Redondo Beach Business Association [NRBBA] on June 9, 1988. This auspicious occasion gives me an opportunity to express my appreciation for his dedicated service to his community.

Mr. Sbisa began his career with the U.S. Postal Service in 1957, and has served the people of his community with dedication ever since. He will be greatly missed by all upon his retirement this month.

While dedicated to a career with the U.S. Post Office, Arthur has given an enormous amount of his time and energy to various civic duties. He has volunteered as a foster father with the Los Angeles County Foster Parent Program for the past 23 years. His service to the many young people whom he has helped is an inspiration to us all.

It gives me great pleasure to recognize and pay tribute to Arthur Stanley Sbisa on the occasion of his retirement from a long career of postal service to his community. Clearly, Stan's accomplishments highlight the truly remarkable contribution he has made during his long and distinguished career. My wife, Lee, and I would like to extend our gratitude to Arthur for his civic spirit and contributions to our community, and wish him all the best in the years ahead.

VLADIMIR AND ASYA KNOKH

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. MILLER of Washington. Mr. Speaker, with the conclusion of the summit in Moscow, I want to remind us of the continued abuse of human rights in the Soviet Union. I can think of no better way than raising an individual emigration case—indicative of the still widespread denial of free emigration in the Soviet Union.

When I was in the Soviet Union in January I met with a variety of refusniks, including Vladimir and Asya Knokh. The Knokhs have been attempting to emigrate since 1975. Mr. Knokh is a radio engineer and has been repeatedly refused an exit visa on the grounds of state security. After first applying to emigrate, Mr. Knokh was fired from his job and was out of work for 9 months. Since that time he has not been allowed to work in this field and has been subjected to harassment by the Soviet authorities. On August 30, 1977, Vladimir was summoned by the KGB for interrogation on his activities and as a witness in the case of Natan Scharansky. Mr. Knokh filed a complaint stating that his treatment and questioning by the KGB was not in accordance with the Russian Republic's Code of Criminal Procedure. But later that fall, Mr. Knokh's apartment was searched by KGB agents and several of his tapes of Jewish music were confiscated.

During the summit, we continued to hear some encouraging words by General Secretary Gorbachev. But the time for words is over; now we await action to fulfill those words. We wait for the Soviets to treat people such as the Knokhs with basic human dignity and to respect their fundamental rights. Until that time, we will continue to speak out for Vladimir and Asya Knokh and for all the rest whose basic rights are being trampled in the Soviet Union.

PERSONAL EXPLANATION

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. BUECHNER. Mr. Speaker, I rise today to explain my absence for the votes taken on June 1, 1988. Had I been present, I would have voted "nay" on rollcall No. 159, the conference report to H.R. 1212, the Employee Polygraph Protection Act. I would have voted "yea" on rollcall No. 160, the Walker amendment as amended by Kildee to H.R. 1801, the Juvenile Justice and Delinquency Prevention Act, and "yea" to final passage of H.R. 1801, the Juvenile Justice and Delinquency Prevention Act. Due to the incorporation ceremonies of the newest and one of the largest cities in my district, I was unable to be present for these votes.

ZUNI SETTLEMENT FUND ACT OF 1988

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. RICHARDSON. Mr. Speaker, I am very pleased to introduce the Zuni Settlement Fund Act of 1988. This bill will settle out of court two lawsuits of the Zuni Tribe against the United States for allegedly causing, through acts or omissions of the United States, environmental damage to the Zuni Indian Reservation in the State of New Mexico.

This settlement is unique in that it provides that the money received by the Zuni Tribe in the compromise of claims will be used for land conservation projects under the control and direction of the tribe. The bill provides for the money to be put into a trust fund, while only the interest on the fund can be spent pursuant to a Zuni Reservation restoration plan to be jointly agreed upon by the Department of the Interior and the Zuni Tribe.

Instead of spending more valuable time and money on trying to determine ultimate responsibility for the damages to the Zuni Reservation in the Court of Claims, the Zuni Tribe and the Department of the Interior will work together at solving continuing erosion problems. By concentrating on the causes of the damage and the remedial measures, both the Zuni and the United States will be enabled to prevent further wasting of Zuni Reservation natural resources.

The Zuni people and the residents of the State of New Mexico will be the great beneficiaries of this far-sighted settlement. I wish to personally congratulate and thank the Governor of the Zuni Pueblo, the superintendent of the Zuni Agency and the Albuquerque Area Director of the Bureau of Indian Affairs, in seeing beyond the flurry of litigation to the extent that they were able to work out a compromise which will be of lasting value to future generations. The envirionmental concerns which have plagued the Southwest for the past 100 years are squarely addressed.

We envision the Zuni people themselves being the key to the future success of damage control on the reservation. This bill will enable labor intensive projects or reseeding and reforestation of the watershed areas to be funded in perpetuity. The building of check dams and other erosion control measures will be closely monitored and supervised with technical expertise provided by the Zuni Tribe and the Bureau of Indian Affairs. The genius of the Zuni Settlement Fund Act of 1988 is providing a special fund which will allow the Zuni Tribe to take a proactive roll in protecting the environment of the Zuni Reservation on a perpetual basis, instead of spending the claims money on per capita payments or other tribal programs which have no relevance to the issues addressed by the litigation.

This is an important milestone in the history of the Zuni Reservation which will allow the Zuni people to play the leading role in the restoration and conservation of their reservation resources. The cooperation of the United States and the Zuni Indian Tribe in working to protect the natural beauty and productivity of the Zuni Reservation is to be highly praised.

Mr. Speaker, I urge all my colleagues to join me in supporting this legislation.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. LEACH of Iowa. Mr. Speaker, as a participant in the Congressional Call to Conscience Vigil for Soviet Jews, I would like to bring to the attention of my colleagues the plight of Iosef and Olga Latinsky and their daughter Anna.

Since 1979, the Latinsky's have been seeking permission to leave the Soviet Union. However, Soviet authorities have refused to grant them visas and their quest for freedom has resulted in great personal hardship to the family. Both Iosef and Olga have lost their jobs and have had difficulties at various times obtaining the necessary waivers from family members for their visa applications. Most recently, the Soviets have turned down their request for a visa citing insufficient kinship as the basis for doing so. Iosef and Olga also served brief prison terms for demonstrating, for making public their convictions.

Mr. Speaker, it is my hope that Soviet authorities will reconsider their refusal to permit the emigration of the Latinsky's and will allow them to leave the Soviet Union. Although there has been recent improvement in the numbers of those from the Jewish community who have been allowed to emigrate, it is apparent, as the Latinsky case demonstrates, that the Soviets have a long way to go to be in compliance with their obligations under international law.

At a time when serious efforts are underway to improve bilateral United States-Soviet relations in such areas as arms control, it is crucial that progress be made on the humanitarian front as well. A positive response by Soviet authorities to the Latinsky's request to leave the Soviet Union, and to the desire of others in the Jewish community for greater religious freedom, family reunification, and related human rights concerns, will go far in promoting an improved United States-Soviet relationship.

GIVING CHILDREN PRIORITY; INVESTING IN CHILD CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. MILLER of California. Mr. Speaker, over the past 4 years, the Select Committee on Children, Youth, and Families, which I chair, has heard from families in the inner cities and families in the suburbs on the need for a Federal response to the child care crisis.

The facts speak for themselves:

More than half of all preschool and school-age children have mothers who work outside the home.

Nearly three-quarters of mothers who work report that their incomes are vital to their family's economic security.

The shortage of child care presents a major obstacle to welfare mothers who want to work and teenage mothers who wish to return to school.

The select committee has also documented that quality child care benefits children as well as working parents. Child care programs that pay attention to early childhood development—programs similar to Head Start—greatly enhance a child's later academic performance.

Mr. Speaker, as we in Congress prepare to consider the various child care initiatives before us, I urge my colleagues to consider the words of William Raspberry of the Washington Post.

The information follows:

[From the Washington Post, Wednesday, June 1, 1988]

CHILD CARE—FOR ALL CHILDREN

(By William Raspberry)

Child care in America is a consensus in search of a policy.

Whether the question is equality between the races and the sexes or welfare/workfare reform, the flood of middle-class women into the work force or adolescent parenting, economic competitiveness or functional illiteracy, a part of the answer is likely to be: child care.

Except for a handful of conservatives who see tax-supported day care as an intrusion into the inner sanctum of the family, and a smaller number of futurist philosophers who doubt the wisdom of pushing women out of the home in pursuit of full employment, there is a growing consensus that child care is a critical element in addressing America's economic and educational woes.

But the move toward consensus has come in such herky-jerky, differently motivated surges that we have neglected to spell out what we want child care to produce or how best to achieve it.

The women's movement sees the ready availability of day care as crucial to the problem of sexual equity. As long as women are expected to see to the care of their children and produce family income, they cannot hope to achieve on-the-job equality.

With black women even more likely than their white counterparts to be primary breadwinners, day care has emerged as an important civil rights issue.

The growing proportion of teen-age mothers and the difficulty of moving poor mothers from the welfare rolls to economic self-sufficiency have made day care a key element in nearly every welfare reform proposal. There are even calls for making day care a sort of cottage industry, providing employment for some welfare mothers while freeing others to go to work.

Predictions of a labor-short American future have some of us looking for ways to bring more mothers into the work force (already more than half of all preschool and school-age children have mothers who work outside the home). And others, like Julie Mabus, whose husband, Ray, is governor of Mississippi, have focused on the link between inadequate day care and adult illiteracy.

But we remain a long way from fashioning a policy designed to meet the requirements of the disparate groups demanding day care.

"Having allowed American child care to be shaped by market forces and the ability to pay," says Lisbeth Schorr in her new book, "Within Our Reach," "we now have a grab bag of arrangements in which the children at highest risk are least likely to get the kind of child care that could reduce the chances of adverse outcomes."

Minnestoa's lieutenant governor, Marlene Johnson, having spent three weeks last fall studying child care in Sweden, is calling for the development of a child care policy that "would allow our society to understand its responsibilities to our children and to guide our discussion about program development, employment practices and the general needs of children."

Her model: the Swedish system, which "reflects a commitment to teaching children family values and giving children the sense of being nurtured."

The best child care, whether provided private homes, public housing facilities, work sites or government-run centers, would do a good deal more than simply provide affordable baby-sitting. It is already true (though not yet recognized in public policy) that kindergarten is too late for children from low-income families to start catching up to their middle-class counterparts. Widely available child care facilities with a strong preschool intellectual development component—along the lines of Project Head Start—could go a long way toward closing that gap.

Minnesota's Marlene Johnson says she was "impressed and inspired by the Swedish child care system, not because it is perfect or because we can replicate it here, but rather because it is a system that reflects a society willing to make children a priority. . . .

"In Sweden, the care of children whose parents work or attend school is recognized to be an important responsibility of society."

The American public, after decades of ambivalence regarding publicly supported child care, may be lurching toward a similar view.

Indeed, early childhood development is so crucial to subsequent academic success that education-based child care centers ought to be an option for all children, even those whose mothers are at home.

THE CIVIL AIR PATROL

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. INHOFE. Mr. Speaker, today I would like to pay tribute to the Civil Air Patrol, a group of patriotic and dedicated Americans. These dedicated people flew 17,787 hours last year and were credited with saving 108 lives. In addition to search and rescue missions, the Civil Air Patrol [CAP] provides assistance to forest firefighting crews, helps standed and isolated people during blizzards and floods, and transports live tissue and organs for transplants.

In 1985, CAP entered into an agreement with the U.S. Air Force and the Customs Service to support the Government's drug interdiction effort by performing air surveillance reconnaissance flights along the borders of the United States. About 1,100 CAP members have been trained in the Customs drug mission, and they now fly about half of the Customs Service surveillance/patrol flying hours.

Another mission performed by CAP is to maintain a reliable, nationwide point-to-point ground and air mobile radio capability. This network provides vital communications support to local, State, and Federal agencies during disaster relief, search and rescue, and other emergency situations.

The Civil Air Patrol also pays an increasingly important role in getting young people involved in flying. Last year, CAP spent $33,000 on solo flight training and orientation flights for cadets: $8,000 for 53 solo flight scholarships to pay for ground school and flight training leading to solo qualification; and $25,000 to partially fund the orientation flight program conducted at the wing and unit level. CAP's 52 wings and overseas units provided 6,691 cadets their first flight experience and 7,713 cadets were provided flights number two and three in the ongoing 6-flight series.

By exposing more young people to the fun and fascination of flight, the CAP cadet program helps attract and train the pilots of tomorrow. This program not only assures the continued health and capability of CAP, it could also be a major resource in meeting the increasing demand for pilots in the commercial airline industry as our air transportation system continues to grow.

The Civil Air Patrol was established 6 days before Pearl Harbor was bombed in 1941. Congress granted it a charter in 1946 in recognition of its major contributions during the war, and later gave it the status of civilian auxiliary of the Air Force. It plays continuing and vital role in serving and protecting our Nation, and fully merits the support of the U.S. Congress and the American people.

FRANK KNOREK HONORED BY NANTICOKE CHAMBER OF COMMERCE

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. KANJORSKI. Mr. Speaker, today I rise in tribute to a man who will be honored for his lifetime of community service by the Nanticoke Chamber of Commerce. Mr. Frank Knorek will be honored at a testimonial dinner held on his behalf on Sunday, and I am pleased to join the chamber of commerce in honoring this fine public-spirited gentleman.

The son of Polish immigrants, Frank Knorek was born in the Wyoming Valley of northeastern Pennsylvania and has lived his entire life there. A lifelong resident of Sheatown, he attended Newport High School and King's College before establishing his own insurance business. He has served as the president of many civic organizations, including the Nanticoke Chamber of Commerce, the Newport Chapter of the American Red Cross, the Nanticoke Lions, the Nanticoke State General Hospital, the Nanticoke Knights of Columbus, and the Wyoming Valley Country Club. Mr. Knorek is a charter member of the King's College Century Club and President's Club, and has served as a member of the Holy Name Society and trustee of the Holy Trinity Church.

Although Frank and his late wife Theresa had no children of their own, they cared about every child in Nanticoke as if it were theirs. My father knew Frank well when he served as solicitor for Nanticoke and he passed along to me some good advice; whenever Nanticoke really needed help, speak to Frank Knorek. After the flood of 1972, the major services of the city of Nanticoke were restored, and the facilities were repaired. But there was no money left for Christmas decorations. Mr. Knorek contributed half of the cost of the decorations on one condition: That no one knew he made the contribution. Later when the city was planning to buy a building to renovate as a center for senior citizens, Mr. Knorek bought the option for the benefit of the city, again on the condition that no one know. He did not want to draw attention to himself. I hope Frank will forgive me for sharing this information now, but the chamber of commerce seems to have caught on to his many good deeds, and I think it is a little late to avoid drawing attention to the community service of Frank Knorek.

Frank Knorek is one of the finest citizens the city of Nanticoke has ever produced, and I am proud to join the Nanticoke Chamber of Commerce in honoring him for his many decades of devoted service to our community.

STATUS OF MFO PEACEKEEPING FORCE IN THE SINAI

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. HAMILTON. Mr. Speaker, in late April, pursuant to Public Law 97-132, the Department of State submitted a report of the status of the multinational force and observes [MFO] peacekeeping force in the Sinai and United States participation in that organization.

I would like to bring to the attention of my colleagues some correspondence I had with the Department of State regarding that report and its conclusions concerning the forced 300-person cut in MFO personnel in the field due to budget reductions. The MFO remains an important peacekeekping and peacemaking force and its continued viability is crucial.

The Secretary of State's letter which accompanied the April report as well as the exchange of letters with the Department of State follow. The report remains in Committee of Foreign Affairs files:

THE SECRETARY OF STATE,
Washington, DC, April 26, 1988.
Hon. JAMES C. WRIGHT, Jr.,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: In accordance with Public Law 97-132, I am submitting to you the seventh report on the activities of the Multinational Force and Observers (MFO) and certain financial information concerning United States Government participation in that organization.

The MFO assumed its responsibilities when Israel withdrew from the Sinai on April 25, 1982. This report covers the period from January 16, 1987 to January 15, 1988. The MFO continues to enjoy the full cooperation of Egypt and Israel in the exemplary performance of its mission.

The report highlights U.S. involvement in the MFO both as a participant, supplying troops and civilian observers, and as a financial contributor. The MFO is unique in that it is the only peacekeeping organization whose beneficiaries provide the bulk of its operating expenses. Israel and Egypt each contribute one-third of its costs, while the United States has undertaken to provide the final one-third. (The U.S. contribution and the MFO budget are discussed in the Congressional Presentation Documents on Security Assistance Programs for FY-1989.) You will also note that the Department of Defense (DOD) continues to provide the MFO with extensive logistical support on a reimbursable basis. In FY-1987, the MFO purchased more than four million dollars worth of equipment, spare parts and food from the DOD. The Department of the Army, which is the DOD executive agent for matters involving the MFO, consults regularly with the MFO on logistic problems in an effort to help it obtain its requirements promptly at prices consistent with applicable legislation and agreements.

During this reporting period the MFO reached an out-of-court settlement with Arrow Air and Arrow Air's insurers, ending more than one and one-half years of complex litigation arising out of the December 1985 crash of an Arrow Air DC-8 which killed 248 U.S. soldiers at Gander, Newfoundland. The litigation, initiated by a claim filed by Arrow Air's insurers, confronted the MFO with a potential unfunded liability to Arrow Air of approximately $135 million. In June 1987 the claim was settled resulting in the termination of all litigation and arbitration matters relating to the Arrow claim and payment to the MFO of $10 million. The MFO expects to apply the $10 million toward reimbursement of the U.S. Government for certain statutory costs incurred as a result of the death or disablement of U.S. service personnel, which are attributable to their service with the MFO.

At the annual trilateral budget conference in December, the MFO Director General announced that, due to funding constraints brought on by reduced funding levels, he would be reducing the MFO's annual operating budget to slightly more than $73 million. He indicated the reduced amounts would be adequate for FY-1988 operations, but would, in FY-1989, require reducing the overall size if the MFO force in the Sinai by 300 troops. Although the proposed reductions are not expected to materially affect the ability of the MFO to carry out its mission, the MFO feels that further reductions would require a fundamental change in its concept of operations.

Both Egypt and Israel remain firmly committed to the peace treaty and continue to rely on the MFO to provide a neutral security presence and channel through which they can discuss a range of bilateral issues on a regular basis. In addition to regular discussions, Israel and Egypt concluded negotiations to reach an agreement on arbitration of the Taba dispute. The arbitral proceedings are currently under way in Geneva and the MFO observation post, established to provide an interim presence in Taba during the arbitration process, continues to function without incident. While on occasion, in the broad context of relations between Israel and Egypt some treaty-related issues do arise, in more than five years of MFO operations there have been none which could not be resolved within the system established for that purpose.

Ten nations (Canada, Colombia, Fiji, France, Italy, the Netherlands, New Zealand, the United Kingdom, the United States, and Uruguay) continue to participate in the MFO and are expected to do so for the foreseeable future. The routine renewal of expiring participation agreeements is an indication of the credibility the MFO has achieved as an international peacekeeping organization. It is, however, the effort that both Israel and Egypt put into making the Treaty work and their willingness to use the MFO as a forum to discuss differences in a cooperative and constructive manner, which has enabled the organization to continue to perform its mission with such quiet efficiency.

Sincerely yours,
GEORGE P. SHULTZ.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 18, 1988.
Hon. GEORGE P. SHULTZ,
Secretary, Department of State, Washington, DC.

DEAR MR. SECRETARY: I write with respect to the seventh report on the activities of the Multinational Force and Observers (MFO), submitted by you to the Congress on April 26, 1988.

I note particularly the conclusions that the budget reductions are forcing a 300-person cut in MFO personnel in the field. I would appreciate your response to the following questions:

Were other methods of cost reduction for the MFO in fiscal year 1989 considered, other than the proposed reduction of a total of 300 troops from the Colombia, Fiji, and United States infantry battalions?

What are the implications of these reductions for MFO operations?

Your report details the reaction of the Government of Israel to the proposed reduction in the size of the MFO. What was the reaction of the Government of Egypt to the proposed reduction in the size of the MFO?

Given the shortfalls in recent funding for the MFO, are you seeking at this time any involvement of the United Nations in covering costs or providing personnel for the MFO?

Given the shortfalls in recent funding, do you plan further reconfigurations in the structure of the MFO?

What would be the implications of further such cuts in future years on MFO operations?

Given the MFO's clear record of success, how long do you believe the mission of the MFO will be necessary?

Your prompt attention to these questions is greatly appreciated and I look forward to your response.

With best regards,
Sincerely yours,
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE,
Washington, DC, June 1, 1988.
Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives.

DEAR MR. CHAIRMAN: The following responses are provided in reply to questions regarding the seventh report on the activities of the Multinational Force and Observers (MFO), contained in your letter of May 18, 1988:

Question. Were other methods of cost reduction for the MFO in fiscal year 1989 considered, other than the proposed reduction of a total of 300 troops from the Colombia, Fiji, and United States infantry battalions?

Answer. By emphasizing management efficiencies, the MFO has been able to bring operating expenses down in the face of inflation and a dramatic decline in the value of the U.S. dollar. To stay within its FY-1988 budget the MFO sold excess aircraft engines, deferred some capital equipment replacement and facility maintenance, and reduced flying hours by ten percent. The MFO sought further measures of this nature, but now feels that the practical limits of savings through management efficiency and deferral of maintenance have been reached.

Question. What are the implications of these reductions for MFO operations?

Answer. The MFO indicates that the proposed reductions are not expected to materially affect its ability to carry out its mission; however, it cautions that further cuts will require fundamental change in its concept of operations.

Question. Your report details the reaction of the Government of Israel to the proposed reduction in the size of the MFO. What was the reaction of the government of Egypt to the proposed reduction in the size of the MFO?

Answer. Both Egypt and Israel have indicated that they are satisfied with the MFO as it is currently operating. The Government of Egypt accepts the FY-1989 reductions proposed by the MFO as a realistic and appropriate response to the anticipated financial situation.

Question. Given the shortfalls in recent funding for the MFO, are you seeking at this time any involvement of the United Nations in covering costs or providing personnel for the MFO?

Answer. The Governments of Israel, Egypt and the United States are not currently seeking any United Nations involvement with the MFO. The MFO was established outside of the United Nations framework because the United Nations was not able to undertake the role envisioned for it in the Israeli-Egyptian Peace Treaty.

Question. Given the shortfalls in recent funding, do you plan further reconfigurations in the structure of the MFO?

Answer. The proposed troop reductions were carefully calculated to have minimum impact on MFO operations. Further budget cuts would necessitate larger troop reductions and would require the MFO to change its operational concepts. The Israelis have indicated that they accept the FY-1989 reductions proposed by the MFO; however, they consider that the MFO has reached a "red line" and further reductions should not be considered.

Question. What would be the implications of further such cuts in future years on MFO operations?

Answer. The precedent of force reductions driven by financial constraints could put the MFO on a "slippery slope" and could ultimately have an adverse effect on the ability of the MFO to carry out its mission.

Question. Given the MFO's clear record of success, how long do you believe the mission of the MFO will be necessary?

Answer. Both parties strongly support the continued presence of the MFO. The MFO protocol states "The two Parties may consider the possibility of replacing the arrangements hereby established with alternative arrangements by mutual agreement." Both Israel and Egypt have expressed satisfaction with the MFO and the role it is playing as they seek ways to improve their bilateral relations. Although the Israelis accept the force reduction scheduled in FY-1989, they would prefer the MFO to remain unchanged for the foreseeable future.

Should you have any further question concerning activities of the Multinational Force and Observers, please do not hesitate to contact us.

Sincerely,

J. EDWARD FOX,
Assistant Secretary,
Legislative Affairs.

RICKEY KARROLL, AMATEUR BARREL RACING CHAMPION

HON. KENNETH J. GRAY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. GRAY of Illinois. Mr. Speaker, I don't often insert material in the CONGRESSIONAL RECORD but a special honor was earned by a good friend and constituent, Mr. Rickey Karroll of Thompsonville, IL, when he won the highest points in the amateur barrel racing competition in the United States for 1987 with 72 points on his quarter horse Go Tash Go.

I am pleased to insert an article from the Quarter Horse Journal about the 10-State travels of Rickey Karroll.

GO TASH GO—AMATEUR BARREL RACING

The first time Rickey Karroll of Thompsonville, Illinois, rode Go Tash Go was in a barrel race. "I had second, but knocked a barrel," he said. "After that I bought him."

Karroll was looking for a horse when he happened to go to a show at the Horse Palace in Missouri. At the show, Karroll saw John and Sheila Ricketts who sell futurity colts and aged horses. He had known "Tash" through them for a few years, and found out that they were willing to sell him.

Karroll had been showing since 1980, and became the lucky owner of Tash, a 1974 chestnut gelding, in 1986. He said his horse is really a proud horse. "He likes to run barrels and wants everyone to get out of his way so he can run. He is a very gutsy horse, he keeps trying and gives it his all."

Going for the high-point wasn't Karroll's intention at first, but being in the top-three was definitely a goal. "I didn't think it was possible until I had seen the results and I was leading. I thought I would see if I could continue in the number one spot, and then about April, I thought it was possible."

Karroll admitted that last year was one of the greatest, but sadest times in his life. "I met several nice and interesting people, but also one of my best friends, Leon Dalton, was seriously injured at a horse show in Louisville, Kentucky. Besides my horse, Leon and all the Dalton family are probably one of the biggest reasons I won this award. Leon took the time to help me with my riding before I had Tash. He taught me everything I know about horses."

Others which Karroll credits much of his success to are his family and his girlfriend, Becky Gray.

During his campaign, Karroll has some interesting stories to tell, including the time when he was trying to make two shows in the same day. "On the way, the cable to the starter grounded against the transmission line. It melted the battery and burnt the transmission line. Eighty dollars and several hours later, I was on my way and made the show.

Karroll said he never gave up trying to win the high point. He said there were several people in the running, and he fell several points behind in August and September, and was unable to earn any points. "In November, at Evansville, Indiana, I was 15 points behind, and was able to pick up 11 points. Then I knew I could do it. Like they say it's not over till it's over."

Last year, the team placed in several county fairs in surrounding states. They were the winners of amateur barrels at the Illinois State Fair, and qualified for the World Show in amateur barrels. Tash earned his ROM and Superior in amateur barrels, too.

Plans are to show at the World this year. Tash and Karroll are qualified in amateur barrels and are working toward qualifying in the senior division. "I will show him until sold," he said. "I have a stallion that I will be breeding and showing in 1989."

The amateur exhibitor said he's not involved in many other activities. Showing is his main interest. "I put my horses first over most things I do."

REFORMS NEEDED FOR STUDENT AID PROGRAMS

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. ARMEY. Mr. Speaker, today, at the request of the Secretary of Education, I am introducing the Department's proposed legislation to addess serious problems in our student aid programs. In recent years, there has been an alarming increase in the rate of student loan defaults, a pattern of apparent exploitation of unqualified students by some schools, and a continuing lack of accountability for educational results on the part of schools participating in our assistance programs. These problems, if not addressed, could threaten the integrity and viability of Federal student aid. Reform is urgently needed, and I believe that the Secretary's well-considered proposals should serve as the basis for the discussion of this pressing issue in Congress.

I would like to read for the RECORD the Secretary's letter to Speaker WRIGHT explaining the need for this legislation and explaining its major provisions:

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY,
May 5, 1988.

Hon. JAMES C. WRIGHT, Jr.,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Enclosed for the consideration of the Congress is a proposed bill entitled the "Student Aid Integrity and Accountability Act of 1988." Also enclosed is a section-by-section analysis explaining the proposed amendments. An identical letter has been sent to the President of the Senate.

These reforms are urgently needed in order to address a number of serious problems that threaten the integrity and viability of our student aid programs. Such problems include an alarming rate of student loan defaults, the exploitation of unqualified students by some schools, and a lack of institutional accountability for educational results in the student aid programs. These amendments would strengthen the Secretary's ability to hold individuals and institutions accountable for maintaining the integrity of these important programs. Major provisions of the proposed bill are highlighted below.

REDUCING STUDENT LOAN DEFAULTS

This year, defaults in the Guaranteed Student Loan program alone are expected to cost taxpayers $1.6 billion. Every means available must be used to reduce these defaults, which endanger the integrity and the viability of our student loan programs. The bill would remove the current statutory prohibition against use of the newly authorized rules, such as aggregate loan limits and the prohibition against student loan defaulters receiving further Federal student assistance. To deprive the Government of the ability to enforce these statutory rules in the most effective manner is a mistake. The Administration cannot justify seeking funds for the Data System until this prohibition is removed.

In order to prevent defaults by individuals who have already demonstrated their lack of credit-worthiness, lenders would be required to check the credit histories of all Perkins Loan, Income-Contingent Loan (ICL), regular Guaranteed Student Loan (GSL), Parent Loan (PLUS), and Supplemental Loan (SLS) borrowers over age 21. Lenders would be allowed to charge applicants up to $25 to cover the cost of such credit checks. Borrowers with poor credit records would be required to obtain a creditworthy co-signer. The loan access of students with little or no credit history, who would be the vast majority of applicants, would not be affected.

In order to facilitate loan collection, the bill would require a GSL, SLS, ICL, or Perkins Loan borrower to provide his or her driver's license number, and, as part of the school's exit interview, the address of his or her next-of-kin, his or her expected address and the name and address of his or her expected employer after graduation.

In order to introduce a real incentive for lender diligence in GSL collection and default prevention, the bill would reduce a lender's insurance level from 100 to 90 percent. Lenders would thus bear a small share of the financial responsibility for meeting the cost of defaults. Several Federal loan guarantee programs already include such a risk-sharing feature (e.g., FHA) as called for by OMB Circular A-70 for all such programs.

Similarly, in order to stimulate greater default prevention efforts by GSL guarantee agencies, the basic level of Federal reinsurance would be reduced from 100 to 90 percent. Reinsurance coverage would fall to 80 percent or 70 percent—in place of 90 percent or 80 percent under current law—depending on an agency's default experience. Also, in order to make these reinsurance "default trigger" provisions more effective and equitable, the statutory formula which determines an agency's reimbursement rate would be amended (1) to take into account a guarantee agency's collections on defaulted loans, and (2) to apply any reinsurance rate reduction to the next entire fiscal year—rather than applying the reduction only to the remainder of the year in which the trigger level is reached.

PREVENTING THE EXPLOITATION OF UNQUALIFIED STUDENTS

Recent studies have documented the exploitation of unqualified students, who are often admitted through vague "ability to benefit" provisions in the statute, by some proprietary schools. These students drop out at an alarmingly high rate, frequently default on their student loans, and otherwise waste Federal grant, loan, and work assistance. In order to curtail such abuses, this bill would delete the "ability to benefit" eligibility provisions, and simply require that all student aid recipients possess a high school diploma or pass a State-approved high school equivalency test. The Higher Education Amendments of 1986 added a number of provisions intended to limit a school's authority to dispense Federal student aid to non-high school graduates admitted on the basis of "ability to benefit" judgments. However, these new requirements (e.g., "counseling" prior to admission and completion of an institutionally prescribed remedial education program before completion of the postsecondary program) are clearly prone to manipulation by schools and, in our view, will not significantly reduce the enrollment of likely dropouts and defaulters—a situation that is a disservice to the students themselves as well as the taxpayer.

PREVENTING THE ABUSE OF STUDENT AID

In order to reduce opportunities for program abuse, the bill would allow the Secretary to limit, suspend, or terminate the participation of individuals or organizations that act as agents of participating schools in administering title IV student aid programs (such as recruiting or loan collection agents, general servicers and consultants) when these agents have violated Federal law or regulations. The bill would also clarify the Secretary's authority to take a short-term emergency action to suspend the participation of a school or its agent when Federal funds are at risk.

HOLDING SCHOOLS AND COLLEGES ACCOUNTABLE FOR RESULTS

When schools and colleges benefit from and have considerable discretion over the use of campus-based Federal student aid, they should be expected to be held accountable for providing students a high quality education. This bill would tie institutional allocations for the Work-Study and Supplemental Grant programs to institutional success in meeting various student outcome goals.

These outcome goals, which could include, for example, job placement rates, program completion rates and student gains on standardized academic achievement tests, would be set by the institution itself within guidelines established by regulation. Schools that meet or exceed their objectives would be eligible to receive additional funds based on relative institutional need. Schools that do not fully meet their objectives would have their allocations proportionately reduced. This policy would not affect other Federal student assistance, such as Pell Grants and Guaranteed Student Loans.

CONCLUSION

I urge the Congress to give early and favorable consideration to this important legislation. The Office of Management and Budget advises that there is no objection to the submission of this legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

WILLIAM J. BENNETT.

MISPERCEPTIONS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. McEWEN. Mr. Speaker, there are lingering misperceptions about the size and scope of America's nuclear arsenal. In light of the recently ratified intermediate nuclear forces [INF] agreement, it is important that we understand the exact status of our strategic weapons.

In Thursday's Washington Post, syndicated columnist Norman Podhoretz detailed a poll taken for the committee on the present danger by Penn and Schoen Associates. The results of the poll are startling.

Fully 75 percent of all Americans believe that the nuclear aresenal of the United States has increased over the past 20 years while another 11 percent believe it has remained the same. These notions come despite the fact that, as measured in megatonnage, the total yield of our nuclear stockpile has declined by three-fourths.

Mr. Speaker, I'd like to commend Mr. Podhoretz's column to the attention of my colleagues:

DO WE HAVE MORE NUKES THAN WE HAD 20 YEARS AGO? GUESS AGAIN

Question. By how much has the American nuclear arsenal increased over the past 20 years?

If you recognized this as a trick question—if, that is, you know that the American nuclear arsenal has become not larger but smaller, much smaller, over the past 20 years—then you are one of the very tiny minority of your fellow countrymen who know what they are talking about when they discuss the arms "race" and arms control.

Thus, in a recent poll taken for the Committee on the Present Danger, Penn and Schoen Associates asked a random national sample of Americans (not in the tricky form I have just used but in straightforward terms) whether the total number of nuclear weapons in the U.S. arsenal has increased, decreased or stayed the same over the past 20 years.

Now, the plain fact is that we have 8,000 fewer nuclear weapons of one kind or another today than we had in 1967. Yet an astonishing 75 percent of the American people believe that the number has increased, and another 11 percent labor under the delusion that it has stayed the same.

As against this 86 percent who are ignorant or misinformed, only 7 percent of the American people are aware of the true situation, at least in general terms. And things get even worse as we examine the poll a little further.

For example, in addition to being asked about numbers, the respondents were questioned about the explosive power of our nuclear stockpile. On this point, 84 percent gave the wrong answers (that it has either increased or stayed the same), while only 4 percent said correctly that our nuclear arsenal is less powerful than it was 20 years ago.

Not even this 4 percent, however, had more than a vague idea of how large the decrease in explosive power has been. In fact, when asked about that, not one of the 802 persons polled, not a single one, picked the correct category of "50 percent or more."

In other words, practically nobody in America realizes that the total yield of our nuclear stockpile, as measured in megatonnage, has declined by about 75 percent—yes, 75 percent—in the past two decades.

Nor have arms control agreements had anything to do with these reductions. They are mainly the result of technological developments that have made nuclear weapons more accurate. Furthermore, such developments would ironically have been prevented if some arms-control enthusiasts had had their way.

Given the abysmal level of knowledge revealed by the Penn-Schoen poll about the trends over time, it is less surprising than it might otherwise have been to discover that very few people in America have an accurate notion of what has happened to our nuclear stockpile during the Reagan administration.

Here again only 7 percent know that under Reagan (and of course without counting the weapons that will be eliminated by the newly ratified INF Treaty) there has been a decrease in the size of our nuclear arsenal.

True, the decline under Reagan (about 3 percent) has been much smaller than was registered in the period between 1967 and 1980. But a decline it still is, and not the increase that nearly two-thirds of the American people imagine Reagan has brought us.

The Penn-Schoen poll did not go into the issue of defense spending. But it is a safe bet that no more than a comparably minuscule number of Americans realize that only 15 percent of the defense budget is devoted to nuclear forces. And how many Americans understand that even the 50-percent cuts in long-range missiles contemplated by the proposed START agreement would amount to only about 2 percent of the defense budget?

Stop for a minute and consider how it has come to pass that so many of us in this country are either ignorant or misinformed on issues that are literally matters of life and death to us all, and that we hear and read about almost every day.

Does the explanation perhaps lie in a lack of education? On the contrary. The respondents in this poll who went to college proved to be more (and on some questions a lot more) ignorant or misinformed than those who had not enjoyed the benefits of a higher education.

The reason for this discrepancy, I suspect, is that the college educated have paid more attention to the clamor about nuclear weapons that has for so long been filling the American air with distortions and out-right lies. By contrast, people who have averted their eyes and ears—either because they thought they would be unable to understand the discussion, or because they found it too unpleasant, or because they had more interesting things to do—have undergone a less thorough course of brainwashing than their intellectual "betters."

Yet even without excessive exposure to the relentless campaigns waged in and through the media against the arms "race," the relatively unschooled have also for the most part been left with three flagrantly false impressions: that the United States has been engaged over the years in a massive buildup of its nuclear forces; that this process has escalated to unprecedented heights since Ronald Reagan became president; and that it is one of the main causes of the growth in the federal deficit.

In the face of this egregious illustration of how hard it is for a simple set of facts to penetrate the mind of the public against the will of the media, what becomes of the theories of liberal democracy on which our political system is built? What, in particular, becomes of the belief that the truth is bound to prevail in a free competition of ideas? And what becomes of the Jeffersonian faith in the protections that are supposed to be afforded by a well-educated citizenry against the deceptions of demagogues?

WE CAN STOP LOOKING FOR A COMPETITIVENESS SOLUTION; THE ANSWER IS A COMMITMENT TO QUALITY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. RITTER. Mr. Speaker, I would like to bring to the attention of my colleagues, the following article, "Closing the Quality Gap," by David B. Luther, senior vice president and corporate director of quality at Corning Glass Works.

Corning is doing an outstanding job promoting total quality management, both within and outside the company boundaries. Since Corning committed itself to total quality management, it has rebounded from a position of trouble, due to international competition, to a position of strength and growth. It went from having to almost abandon glass fiber production, due to Japanese competition, to selling glass fibers in Japan and expanding production. And, all due to a dedication to quality.

The U.S. Congress and American industry can learn a great lesson from Corning Glass Works. In his article, Mr. Luther says:

> We have learned that workers, at all levels of the organization, are capable of much greater contributions than we ever thought possible. We have learned that the person on the job usually knows more about the job and how to improve it than anyone else in the organization. We've learned, through experience, that the individual, if allowed, can be one of the most powerful forces for improvement.

I encourage my colleagues to consider this article and the ramifications of having our Nation's industries, schools, and Government, commit themselves to quality. We can stop looking for a competitiveness solution; the answer is a commitment to quality.

The following is Mr. Luther's article:

CLOSING THE QUALITY GAP

(By David B. Luther)

Closing the door of a Honda may be more critical to U.S. competitiveness than trade deficits, exchange rates, or trade negotiations.

The sound of a Honda door closing is a function of quality. It sells Hondas. For many buyers, the sound is as important as the price.

Achieving high quality is not a trade deficit issue or even a political issue. It's a *work issue*, entirely within our control.

It's much tougher than a political issue, because of the change implied for all of the individuals involved. But if we can tackle the work issue, then we can solve a large part of the trade balance problem.

The flow of wealth from America to the Pacific rim has become a popular cover story subject and topic of Washington conversation. Competitiveness, trade deficits, exchange rates, and trade negotiations dominate the discussion. Some see in the issue the decline of America as an economic leader.

The trade imbalance is also a cause of concern in many companies, which wrestle with the implications of lost markets. In the last five years, the United States has lost shares in both foreign and domestic markets. The loss of domestic markets alone accounts for two-thirds of the $169-billion trade deficit.

A casual observer could conclude that unfairness is the cause when offshore companies make a profit selling in America while American companies cannot do the same. Restricted markets, agreement violations, and dumping are all charges suggesting that we do not have a "level playing field."

The second conclusion an observer might reach is that the answer must be a political one. Certainly exchange rate stability, tariffs, and voluntary quotas are the stuff of legislatures and politicians. When activity does occur, the focus is political, whether it is Congress threatening protective tariffs or the president in private conversation with Prime Minister Nakasone. The trade problem seems so large that it can only be solved by governments.

This is partly correct. There are some unfair practices occurring, and there are a number of political actions that could have a major impact.

But government action will not be enough, no matter how optimistically one views it. A private sector response is also needed if we are to make the necessary changes.

Much of the trade problem has occurred simply because offshore companies have done a great job. Manufacturers in Japan and Korea and Singapore have paid attention to what the U.S. consumer wants, and in meeting those desires they have focused on detail, reliability, and quality. Offshore companies have demonstrated hundreds of times, in dozens of products and service areas, that quality products can be made and sold profitably.

They have also demonstrated that attention to detail and quality can be achieved at levels that American companies have long considered impossible, or at least impractical. Time and again, foreign manufacturers have been able to supply a well-designed product that does what it is supposed to do, reliably, and continues to do so for a long time.

The fact that American work must be done differently is not news for most U.S.-based companies. The quietest of industrial revolutions has begun; more and more companies are making the changes required to compete on the basis of quality. Ford, IBM, Xerox, Caterpillar, and many other firms have made the attainment of quality a key strategic objective.

Corning is another. Our 28,000 employees worldwide have been taught to strive for error-free work, to spend more time preventing problems than solving them, and, most important, to know what their customers want and then meet those requirements, on time, every time. The concepts are easy to agree to, if sometimes difficult to follow.

Corning is not particularly unique in its approach. Phil Crosby first made the concept popularly known in his book *Quality Is Free*. Many companies, having adopted some form of Crosby's principles, are making major changes in their products, services, and the very way they do business.

The lessons we have learned at Corning imply a partial answer to the trade problem.

We have learned that workers, at all levels of the organization, are capable of a much greater contribution than we ever thought possible. This was especially surprising to us because we prided ourselves on our progressive human-resource practices. But, as a result of changing expectations, we learned that people are willing and able to take on tasks that had previously been reserved for technical or administrative staff.

We have learned that the person on the job usually knows more about that job and how to improve it than anyone else in the organization. We've learned, through experience, that the individual, if allowed, can be one of the most powerful forces for improvement.

One example is a young man whose job it is to silk-screen the measuring marks on glass laboratory vessels, such as beakers and flasks. Corning has been producing and silk-screening laboratory glassware for many years and thought the process pretty well defined. The young man, after performing the job for some time, decided he could improve the process. In fact, with his boss' encouragement, he designed and built a new machine in his basement. The machine was brought into the factory and is now used in production.

The result is increased capacity and a 38 percent reduction in setup time (the time required to change from one product to another). Before the advent of quality, this could not have happened. We would not have believed that a worker with a high school education was capable of such a feat, nor would we have encouraged him to try.

A second example involves the catalytic converter used to remove pollutants from automobile exhausts. Corning invented and developed the product, sold the concept to Detroit, and built a plant to manufacture it. A short time later, Japanese competition supplied a better product at an attractive price.

Threatened by the loss of Detroit's business and 1,000 jobs, a determined Corning plant manager led a rigorous quality drive, reducing the error rate to 30 defects per million pieces made. This averages out to about one mistake per person every six weeks. As a result, we currently have the U.S. business and we now sell to Japanese automobile manufacturers.

People can indeed perform, if management provides the environment that allows them to. They can even make products good enough to export to Japan.

Another lesson we've learned is that people really want to do a good job. People don't want to go home at the end of the day feeling that they have not performed well.

In our environment, training is an important part of quality. Our target is to spend five percent of time worked on training, and in some cases people think we still are not doing enough. In a local glass-tubing plant the workers in one area were distressed by losses that were occurring because people new to their department received no specific training about the operation.

A team of production workers designed a training program, piloted it, and then got union and management agreement that the training be mandatory for anyone joining the department. The program included a video, classroom training, on-the-job training, and a skills-certification process. The people in this plant not only want to do a good job themselves, they want their fellow workers to do a good job as well.

The most popular examples are from factories. Equally relevant, and often a lot more difficult to address, are the areas occupied by administrators and clerical and technical personnel. The environment is different, but the idea is the same.

For example, a team of administrative workers who run and distribute computer reports for international locations decided to economize its function by better assessing customer need. They interviewed everyone to whom they distributed reports and, through consolidation and elimination, got rid of a pile of computer reports that, over a year's time, would equal the height of a two-story building and weigh 500 pounds.

Small stuff? Perhaps, but over time and with a lot of people it becomes a potent force.

It is almost a cliche that we in America are in a competitive struggle for worldwide markets that we pretty much owned following World War II. It is clear that workers in other nations are willing to work very hard for a lot less, just to get a share of the way of life that they perceive exists in this country.

It is also true that a portion of the solution can only be accomplished politically. We do need a level playing field to take care of some of the trade imbalance. Perhaps, through political means, over time we can achieve as much as half of the trade improvement needed.

The other half of the problem has to be fixed the old-fashioned way—by doing more with what we have. Fortunately, we have a lot with which to work. If the experience at Corning is an accurate representation, the United States has great numbers of workers who want to turn out superior products and services, who know how to do it and have the insights to make it happen.

They need wise leadership, able to recognize the potential that's available and the consequences of inaction. They need leadership prepared to manage the change of age-old workplace practices and the problems that such change brings about.

And that is a lot tougher than signing a trade agreement.

INTERNATIONAL CULTURAL SURVIVAL ACT OF 1988 (H.R. 4738)

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. GILMAN. Mr. Speaker, today I am introducing legislation (H.R. 4738) that will help prevent the further destruction and elimination of cultures and societies around the world. Most of us, regardless of our political leanings, assume that indigenous peoples and tribal societies are bound to disappear—destined to the dustbin of history. Most of us would assume that this process is as lamentable as it is inevitable.

Historical processes do not make small traditional societies disappear. Greed and a lack of understanding, however, do. Such groups are weak and tempting targets to the development programs that they are presumed to hinder or in the name of States that they are assumed to subvert.

There is no reason, however, that indigenous and tribal peoples cannot survive, both physically and culturally, the rapid changes that contact with expanding industrial societies and economic and political institutions brings.

Seen as impediments to progress and development, small societies throughout the world are facing extinction. Those that survive are often decimated by diseases introduced by outsiders and denied a political voice. Usually deprived of their lands and means of livelihood, they are forced to adapt to a national society whose language they do not speak. Without educational, technical or other modern-day skills, they generally suffer permanent poverty, political marginality and cultural alienation.

As the push to exploit the resources of the Earth reaches the remaining untouched areas of the world, contact with isolated societies is inevitable—but their destruction is not. These vulnerable societies need the benefits of modern life, but to survive they need the ability to choose how much they will adapt and how long the process will take.

Their survival is important for our own; it is imperative that we prevent their extinction. They perceive us as barbaric and strange, too. Yet, not only do we share a common humanity, but we can benefit from each other's knowledge. Indigenous peoples have rich storehouses of information about nature, man and the balanced relationship of the two. From their beliefs about the spiritual world to their traditional knowledge of rain forests, healing and agriculture, these societies provide the opportunity for new interpretations about the world and ourselves.

Toward that end, I have introduced this bill to help indigenous and tribal peoples have as much control as possible over their destinies—to retain their rights and culture as they adapt to the modern world. In this way we can insure that progress and development are by all the people and for all the people.

Accordingly, I invite my colleagues to support the International Cultural Survival Act of 1988 (H.R. 4738) and I request that a full text of this measure be inserted at this point in the Record:

H.R. 4738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Cultural Survival Act of 1988".

SEC. 2. FINDINGS.

(a) Deteriorating Situation Facing Indigenous and Tribal Peoples.—The Congress makes the following findings:

(1) The situation of indigenous and tribal peoples in developing countries is deteriorating world-wide.

(2) Many of these populations face severe discrimination, denial of human rights, loss of cultural and religious freedoms, or in the worst cases, cultural or physical destruction.

(3) If current trends in many parts of the world continue the cultural, social, and linguistic diversity of humankind will be radically and irrevocably diminished.

(4) In addition, immense, undocumented repositories of ecological, biological, and pharmacological knowledge will be lost, as well as an immeasurable wealth of cultural, social, religious, and artistic expression, which together constitute part of the collective patrimony of the human species.

(5) The pressures on indigenous and tribal peoples, about 10 percent of the world's population, include denial of political and civil rights and of opportunities for self-determination, destruction of natural resources necessary for survival, and ethnic, racial, and economic marginalization.

(6) In many cases unsound development policy that results in destruction of natural resources seriously jeopardizes indigenous and tribal peoples' physical survival and their cultural autonomy, frequently also undermining the possibility for long-term sustainable economic development.

(7) The loss of the cultural diversity for indigenous and tribal peoples is not an inevitable or natural process.

(8) In light of United States concern and respect for human rights and basic human freedoms, including rights to express cultural and religious preferences, as well as the United States desire for sustainable economic development, it is incumbent on the United States to take a leadership role in addressing indigenous and tribal people's rights to physical and cultural survival.

(b) DEFINITION OF INDIGENOUS AND TRIBAL PEOPLES.—Indigenous and tribal peoples in developing countries are those populations that are ethnically, culturally, or socially distinct from the politically dominant society on the regional or national level. These peoples are often (but not invariably) minorities, and invariably have little, if any, political representation or influence in governments. Many such peoples are marginally integrated into market economies and practice traditional, partially or wholly subsistence-based forms of economic activity. Examples of indigenous or tribal peoples include lowland South American Indians, Basarwa of Botswana and Namibia, Mayan Indians in Central America, registered tribes in India, and Tibetan people in the area traditionally referred to as Tibet (which consisted of the province of U-Tsang, currently administered by the People's Republic of China as the Tibet Autonomous Region, and the provinces of Amdo and Kham, currently in the Tibetan autonomous prefectures and counties in the Chinese provinces of Sichuan, Yunnan, Ganbu, and Qinghai).

SEC. 3. PROMOTING AND PROTECTING THE RIGHTS OF INDIGENOUS AND TRIBAL PEOPLES.

The Secretary of State and the Administrator of the Agency for International Development shall ensure—

(1) that United States foreign policy and foreign assistance vigorously promote the rights of indigenous and tribal peoples throughout the world; and

(2) that United States foreign assistance is not provided for any project or program detrimental to indigenous or tribal peoples' rights or livelihood.

SEC. 4. BASELINE REPORT ON INDIGENOUS AND TRIBAL PEOPLES.

(a) PURPOSE.—The purpose of this section and section 5 is to help—

(1) guide future United States foreign assistance and other actions that could affect indigenous and tribal peoples, and

(2) permit United States actions that would assist these peoples.

(b) PREPARATION OF REPORT.—The Administrator of the Agency for International Development, in consulation with the Secretary of State, shall prepare a report on indigenous and tribal peoples in developing countries. This report shall include the following:

(1) A description of the economic, political, and social situation of indigenous and tribal peoples.

(2) A discussion of the effects of United States bilateral foreign assistance and United States-supported multilateral assistance on indigenous and tribal peoples, including a description of those projects and activities currently being funded by the Agency for International Development—

(A) which have a positive impact on indigenous and tribal peoples, or

(B) which have a negative impact on indigenous and tribal peoples.

(3) A comprehensive strategy for regularly monitoring and improving the situation of indigenous and tribal peoples, including—

(A) a description of the methodology and the guidelines to be used in carrying out the monitoring required by section 5, and

(B) a description of the specific actions that the Agency for International Development proposes to take to improve the situation of indigenous and tribal peoples.

(c) CONSULTATION WITH NGOs.—The Administrator shall consult with United States-based nongovernmental organizations with experience in monitoring and reporting on indigenous and tribal peoples, and with other interested persons, throughout the preparation of the report required by subsection (b), but in particular—

(1) in determining the scope of that report; and

(2) in developing the methodology to be used in preparing that report.

(d) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit the report prepared pursuant to subsection (b) to the Congress.

SEC. 5. MONITORING REGARDING INDIGENOUS AND TRIBAL PEOPLES.

(a) MONITORING.—The Agency for International Development (in consultation with the Department of State), on a regular basis, shall collect information concerning and shall analyze the situation of indigenous and tribal peoples in developing countries, with particular regard to the human rights situation.

(b) USE OF NGOs.—In carrying out subsection (a), the Agency shall, wherever appropriate, use United States-based nongovernmental organizations with experience in monitoring and reporting on indigenous and tribal peoples.

(c) ANNUAL REPORTS TO CONGRESS.—Following completion of the report required by section 4, the Administrator of the Agency for International Development shall submit to the Congress, not later than February 1 each year, a report which—

(1) presents the findings resulting from the monitoring of indigenous and tribal peoples carried out pursuant to subsection (a);

(2) updates the information provided in the report submitted pursuant to section 4; and

(3) describes the activities which the Agency for International Development proposes to fund for the coming fiscal year to address the problems facing indigenous and tribal peoples in developing countries, specifying which activities will be carried out by the Agency and which will be carried out by nongovernmental organizations.

JOHN J. THOMAS NAMED CITIZEN OF THE YEAR

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to John J. Thomas of Laflin, PA, who is being honored Saturday by the Wilkes-Barre Lions Club as "Citizen of the Year." This annual award is given to an outstanding member of the community who has made a special or significant contribution to the growth and development of the Wyoming Valley. This year the Lions Club has made an especially appropriate choice.

John Thomas is the 77-year-old president of the Thomas C. Thomas Co. and the Thomas C. Realty Co. For decades he has been active in civic organizations throughout the Wyoming Valley. He is known especially for his efforts on behalf of St. Jude's Children's Research Hospital in Memphis, TN, of which he is a director and a member of the board of governors. He is also active with the Pennsylvania Economy League, the United Fresh Fruit and Vegetable Association, the Pennsylvania Society, and the Committee for Economic Growth.

Attorney John Moses, the chairman of the Lions' Club selection committee describes John Thomas as having made a substantial yet unselfish contribution to the growth and development of the business and civic life of Wyoming Valley. Another member describes John as "a saint; basically a very compassionate man."

Many people attain material success, but few have shared their success so generously as John Thomas. He has touched the lives of many unfortunate children and their parents from his work at St. Jude's hospital. John J. Thomas has truly demonstrated that the true wealth of a man is measured by how he spends that wealth to do good for his fellow man.

TRIBUTE TO GEORGE W. LEHR

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. WHEAT. Mr. Speaker, some people are blessed with an energy and spirit that seems to triumph over all obstacles put in their way. Such a person was George W. Lehr.

In Jackson County, MO, the young George Lehr was the most promising political figure of his generation, a driving force for political reform who would not be denied the attainment of that goal. His integrity was absolutely beyond reproach; no one commanded more respect and admiration.

George Lehr is gone, but he leaves a legacy in Kansas City—indeed in Missouri and throughout the Nation—that will not be forgotten. His personal strength, his public leadership, and his faith in others will always serve to remind us that no task, no dream, is impossible to achieve. We can always overcome.

Mr. Speaker, I would like to submit for the RECORD a testimonial from the Kansas City Star that sums up the remarkable career of George W. Lehr:

GEORGE W. LEHR

George Lehr had a way about him. He rose to the pinnacle of any chosen endeavor. His successes in politics and the private sector are all the more impressive because Lehr did not engage in the mundane.

Lehr relished a challenge. He launched his political career by joining a reform-oriented movement overshadowed by the old-line factional Jackson County Democratic establishment. At the county level, the remnants of Kansas City's machine seemed invulnerable.

Lehr ran for county collector on the reform slate and defeated the factional candidate in the 1966 Democratic primary. He and other candidates backed by the newly formed Committee for County Progress swept to victory except in one race.

It was virtually the end of county bossism. It also opened the way for the organization of charter government here.

By the time home rule arrived in 1973, Lehr had served as presiding judge for two years. He became the first county executive. It was a critical time for the new form of government; under Lehr it functioned as envisioned in the charter. Merit, not patronage and favoritism, prevailed.

The impact of the reform ranged beyond Jackson County. It allowed the development of young political leaders aspiring for statewide office. Jackson County had had few because the factions tried to stifle all but their trusted lackeys.

Lehr used the new-found platform to run statewide. In 1974 he ousted the incumbent auditor, now-Gov. John Ashcroft, from office. Lehr was considered likely to win the 1976 governor's race, but he did not run.

This created an opportunity for Joseph P. Teasdale, another product of the Jackson County reform movement. Teasdale upset Christopher S. Bond, former governor and now a U.S. senator.

At the peak of his political career, Lehr resigned as auditor and entered the banking business. He was a chief executive officer until 1981. He then took on the awesome job of cleaning up the Teamsters Union Central States Health and Welfare and Pension Funds in Chicago. The General Accounting Office has found that the fund has been run properly under Lehr's many reforms.

His private life was a challenge, too. Lehr was crippled by polio in his teen-age years, which forced him to walk with crutches. His only son died of muscular dystrophy 11 years ago. Lehr had suffered inoperable brain tumors for more than a year, yet continued to work until recently.

Despite his disability from polio, and perhaps because of it, he was a driving force. George W. Lehr, who has died at age 51, had completed what he set out to do at the Teamsters fund. It capped a lifetime of excelling.

TRIBUTE TO GEORGE W. LEHR

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. CLAY. Mr. Speaker, I would like to take this opportunity to pay tribute to Mr. George W. Lehr, who recently passed away. As I'm sure many of my colleagues are well aware, since 1981 George Lehr served as the executive director of the Central States southeast and southwest areas health and welfare and pension funds. It was under his direction and leadership that the Central States funds were restored to respectability and the pension and welfare benefit security of the thousands of working men and women covered by those funds were protected.

As a native of Missouri, George Lehr dedicated his life to public service, both to Missouri and to our Nation. I commend to my colleagues' attention, the St. Louis Post-Dispatch's glowing editorial tribute to a man who benefited our country greatly and whose untimely death was a loss to us all:

A MAN WHO LIVED RIGHT

Occasionally, public figures move through life and leave behind the seeds of legends. George Lehr was such a man. While Missouri state auditor more than a decade ago, he resigned from a promising political career that could have led to the governors' mansion in Jefferson City. He wanted to spend more time with a son dying of muscular dystrophy.

It was a decision that saddened Missouri Democrats as it gave them pride. Mr. Lehr was a politician who, very possibly, could have staved off the decline in electable talent in the state party. A Lehr administration could have introduced new talent to state politics. The impact of his departure is still felt today. But at the same time, no one could argue with the value and rightness of his exemplary choice to put the needs of his family ahead of politics.

Now Mr. Lehr is dead of brain cancer at the age of 51. In a relatively short life, he moved up the ladder of Jackson County politics until he was the first county executive under the new charter. He than moved on to state politics in a race for auditor in 1974, where he beat John Ashcroft, the present governor. His audit of St. Louis remains the best evaluation of this city's operation in memory.

After leaving office in 1976, Mr. Lehr became a Kansas City banker. His most controversial and least understood move, though, was in 1981 when he accepted an offer to be chief executive of the Teamster's Central States Pension and Health Funds. Friends and acquantances wondered if Mr. Lehr was of sufficiently strong character to end the corruption of the pension fund at that. By virtually all accounts, he was—under the scrutiny of federal agents, who checked his moves and then grew to respect his integrity. Of few people can it be said that they left their world a better place, but for George Lehr, the statement fits exactly.

SANDINISTAS CLOSED RADIO CATOLICA NEWS

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. INHOFE. Mr. Speaker, in yet another violation of the Sapoa agreement and the Arias peace plan, the Sandinistas have closed Radio Catolica News for 10 days.

By this action, the Sandinistas violate their promises to protect freedom of expression. Furthermore, they have timed their action to deny the Nicaraguan people information on the next round of talks between the Sandinistas and the Nicaraguan resistance. These talks currently are scheduled for June 7 through 9.

Mr. Speaker, by defeating even minimum amounts of military assistance for the Nicaraguan resistance, this House has placed its entire reliance on the good faith of the Sandinistas to achieve peace and freedom in Nicaragua. I think it is important for my colleagues to be kept informed of the Sandinistas' record on keeping its promises under Sapoa and the Arias peace plan. To date, their record is miserable.

HENRY A. WAXMAN'S STATEMENT IN INTRODUCING H.R. 4739, THE "FOOD SAFETY AMENDMENTS OF 1988"

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. WAXMAN. Mr. Speaker, if you ask the American people to express any concerns they have about the safety of their food, time and time again they will tell you they genuinely fear the pesticides we use to produce food. Yes, they want a plentiful, varied, and economical food supply. But they do not believe they have to sacrifice their health in return.

I believe their fears have been exacerbated by the constant flow of studies and reports, like the 1987 National Academy of Sciences report, "Regulating Pesticides in Food," which have criticized our pesticide regulation authorities and efforts. I agree with the criticism in these reports and have conducted a series of hearings on them and on the food safety concerns associated with pesticides since the EDB crisis in 1984. It is easy to understand why the American public is concerned.

I have found the current leadership of the EPA's pesticide program to be dedicated and concerned. They have made major strides in resolving questions about the safety of the older food-use pesticides being used today. However, they are digging out of the deep backlog left by earlier, irresponsible pesticide officials. They are encumbered by inadequate resources and staff. They have not gotten the assistance they need from the Congress.

The legislation I am introducing today amends the EPA's current authority under the Federal Food, Drug and Cosmetic Act [FFDCA] to set tolerances, or limits, on the amount of pesticides that may remain on food when eaten. This authority is distinct from the basic pesticide registration system under the Federal Insecticide, Fungicide and Rodenticide Act, which covers all pesticides—including non-food-use and household pesticides—as well as many other herbicides and chemicals. The bill makes many important changes that will clarify and strengthen EPA's authority regarding tolerances for food-use pesticides and will streamline EPA's procedures. I believe these changes are balanced and fair to agricultural chemical manufacturers, farmers and food companies while giving the public much-needed confidence that a new food safety system is in place to protect them.

The bill is written as a substitute for current section 408 of the FFDCA, but much of current law remains intact. The bill incorporates many of EPA's current practices and is based on the fundamental reforms that has been discussed and recommended by the National Academy of Sciences.

I am including in the RECORD an extensive section-by-section analysis to assist Members in understanding the bill and this complex area of our laws. There are several major features of the bill I want to explain here.

The bill establishes a risk-based food safety standard that is consistent with the other regulatory authorities of the FFDCA—regarding food additives, color additives and environmental contaminants. Using a "negligible risk" standard, EPA would regulate all residues of pesticides in food under section 408. This consolidation of authority removes the regulation of pesticide residues in processed food from coverage under the food additives section (section 409) that includes the Delaney Clause. The Administrator of EPA would be authorized to consider the benefit of using a pesticide chemical in food only under certain circumstances that are spelled out in the bill.

The bill addresses one of the more vexing problems—the older pesticides that appear to have risks far in excess of a negligible risk standard—by allowing EPA to incrementally reduce the high risk associated with certain types of pesticides. Under this special negligible risk rule, the Administrator could allow a new pesticide with greater than a negligible risk to be substituted for an older pesticide that has an even greater risk. While I am always concerned about unnecessary exposure to harmful chemicals, I believe an incremental approach to risk reduction is practical and will improve food safety.

One other important change involves EPA's current lack of authority to require the submission of new data after a tolerance is established if the Agency believes additional data is necessary to assure food safety. This is a glaring omission for any regulatory agency mandated to protect public health.

Under the bill, the Administrator of EPA could require the submission of new health and safety data in accordance with deadlines established by the Administrator. Strict enforcement is provided for, with exceptions to assure that food on which the pesticide was lawfully used prior to the new enforcement actions is not affected.

Mr. Speaker, the changes in this bill are long overdue. It provides important public health protections while fairly balancing the economic interests of farmers and food and chemical companies.

SECTION-BY-SECTION ANALYSIS OF H.R. 4739, THE "FOOD SAFETY AMENDMENTS OF 1988"

SECTION 1: SHORT TITLE: THE "FOOD SAFETY AMENDMENTS OF 1988"

SECTION 2: DEFINITION

Section 2(a)(1) amends section 201(q) of the Federal Food, Drug and Cosmetic Act (FFDCA) to define "pesticide chemical" and "pesticide chemical residue." It adds to the current definition of "pesticide chemical" by specifying that pesticide chemical residues in processed foods, inert ingredients of pesticide chemicals, and substances resulting from the metabolism or degradation of a pesticide chemical are included.

Section 2(a)(2) amends section 201(s) of the FFDCA, which is the definition of "food additive," to specify that pesticide chemical residues in processed food and pesticide chemicals used in the production, storage, or transportation of processed food are not food additives, and therefore will be regulated under section 408 of the FFDCA. Food additives are regulated under section 409 of the FFDCA.

Section 2(b) adds new definitions to section 201 of the FFDCA. In conjunction with the definition of "new agricultural commodity" currently in section 201(r), the new definition of "processed food" clarifies that all food to which pesticide chemicals are applied are regulated by section 408.

SECTION 3: ADULTERATED FOOD

Section 402(a)(2) is amended to specify that pesticide chemical residues in processed food are regulated by section 408 and that, if the residues in such processed food are within the tolerances set under section 408, the food is not adulterated.

SECTION 4: TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES

This section contains a substitute for current section 408.

Section 408(a)(1): General Rule for Tolerances or Exemptions

This section establishes the general rule that any pesticide chemical residue in or on food, and any pesticide chemical added to food (regardless of whether residues remain), requires either a tolerance or an exemption, and that the residue remaining on food must be within the tolerance limit or consistent with the exemption.

Section 408(a)(2): Processed Food

This section specifies that pesticide chemical residues in or on processed food which do not have a separate tolerance are lawful if those residues have been removed to the extent possible in good manufacturing practice and are within the tolerance for the raw agricultural commodity from which the processed food was made.

Section 408(a)(3): Effect of Tolerance or Exemption

This section specifies that raw agricultural commodities and processed food that contain pesticide chemicals residues pursuant to a tolerance or an exemption under section 408 are not to be considered "adulterated" (and thus illegal) under section 402(a)(1) of the FFDCA.

Section 408(b): General Rule for Tolerances

Section 408(b)(1): Authority

This section authorizes the Administrator of the EPA (who is responsible for administering section 408) to promulgate regulations that establish, modify or revoke tolerances either in response to a petition under section 408(d) or on the Administrator's initiative under section 408(e). The Administrator may establish expiration dates for such tolerances.

Section 408(b)(2): Standard

Section 408(b)(2)(A): Negligible Risk Standard

This section specifies that a tolerance may be established, or left in effect, only if the risk to human health, including the health of identifiable population groups with special food consumption patterns, from dietary exposure to the pesticide chemical or pesticide chemical residue, is negligible.

Section 408(b)(2)(B): Special Negligible Risk Standard

This section provides for the only exception to the negligible risk standard in subparagraph (A). Under this special rule, a new tolerance may be established even though its risk is greater than a negligible risk.

In order to establish such a tolerance, the Administrator must first attempt to reduce the risk of the pesticide chemical residue below the negligible risk standard in accordance with section 408(b)(2)(E). If such risk reduction actions do not produce a risk that is less than negligible, the Administrator may establish the tolerance under the following circumstances:

(1) the Administrator must revoke a tolerance or exemption for the same raw agricultural commodity or processed food for a different pesticide chemical that is in use and that presents a risk greater than the risk of the pesticide chemical for which a tolerance is requested; and

(2) there is no other pesticide chemical in use that presents less than a negligible risk and that can be substituted for the pesticide chemical whose tolerance is to be revoked under (1); and

(3) the pesticide chemical for which a tolerance is requested can be substituted for the pesticide chemical whose tolerance is to be revoked under (1); and

(4) the person requesting the tolerance demonstrates (or, if the Administrator is proposing the tolerance, the Administrator determines) that the benefits from the use of the pesticide chemical for which the tolerance is requested clearly outweigh the dietary risk of the pesticide chemical.

Section 408(b)(2)(C): Criteria for Negligible Risk

This section specifies how the term "negligible" is to be implemented. Clause (i) specifies that, for pesticide chemicals which are believed to cause or contribute to adverse human health effects only above a certain level of exposure, negligible means the level of human exposure which will not cause or contribute to any known or anticipated adverse human health effects. In establishing the level, the Administrator will include an ample margin of safety.

Clause (ii) specifies that for pesticide chemicals which are believed to cause adverse human health effects at all levels of exposure, negligible means the level of human exposure which could cause or contribute in the population exposed to the pesticide chemical to a theoretical risk (using conservative models) of cancer which does not exceed a rate of one in a million.

Section 408(b)(2)(D): Exposure

This section specifies how dietary exposure is to be calculated for purposes of subparagraphs (A) and (B). The Administrator would take into account all dietary exposure to the pesticide chemical, including exposure under the proposed tolerance (or the tolerance in effect in the case of a petition to modify and revoke an existing tolerance) all other tolerances or exemptions in effect for the same pesticide chemical, and all other sources of dietary exposure (including drinking water) to the same pesticide chemical.

The Administrator would calculate dietary exposure to the pesticide chemical based on the amount of residue that is lawful. The Administrator would assume that residues are on all authorized raw agricultural commodities and processed food at the tolerance levels and exposure occurs for a lifetime. The Administrator could deviate from this calculation in two ways. First, the Administrator could use the percent of food actually treated with the pesticide chemical, rather than assuming that all authorized food is treated, if the Administrator has reliable data indicating that the pesticide chemical is only used on a certain percent of all authorized food and that the treated food is evenly distributed throughout the consuming public. Second, the Administrator could use the actual residue levels which occur, rather than assuming that residues are at the tolerance levels, if the Administrator has reliable data indicating that the pesticide chemical leaves residues at a certain lower level. If the Administrator used actual residue levels, he could not leave the higher tolerance in effect, but would modify it to the level of actual residues.

Section 408(b)(2)(E): Risk Reduction

This section specifies how the Administrator would do the risk reduction required by subparagraph (B). The Administrator would take the specified actions, unless they were not applicable to the particular pesticide chemical, plus any other actions the Administrator determined were appropriate. The specified actions are (1) to establish a tolerance that is lower than the proposed tolerance, (2) to modify or revoke other tolerances for the same pesticide chemical to assure a lower total residue from the chemical, and (3) if the proposed tolerance applies to processed food, to permit the tolerance to apply to such food only if the food is processed with those methods that reduce residues of the pesticide chemical.

Section 408(b)((2)(F): Benefits

This section specifies how the Administrator would consider benefits when authorized to do so by subparagraph (B). The Administrator would consider the various factors described in the section and would publish the basis for his determination when acting on the tolerance petition.

In addition, the section requires the Administrator to propose regulations within 90 days of enactment specifying how the analysis of benefits will be conducted, the data that will be relied upon, and the factors that will be considered.

Section 408(b)(2)(G): Rules for Levels

This section specifies, in clause (i), that the tolerance level for a pesticide chemical applied to food could be no higher than the Administrator determines is necessary for the pesticide chemical to have its intended effect. Clause (ii) involves the case of a pesticide chemical which leaves no detectable residue. The Administrator would establish a tolerance at the most sensitive limit of detection of the analytical method for detecting residues that the Administrator approves under subparagraph (H).

Section 408(b)(2)(H): Practical Method of Analysis

The section specifies that the Administrator may not establish a tolerance until a practical method for detecting and measuring residues is specified by the Administrator after consultation with the Secretary of Health and Human Services. (Consultation would occur with the Food and Drug Administration (FDA).) The method must be the best available practical method, and it would be practical only if it could be performed by the FDA on a routine basis with the personnel, equipment and other resources available to FDA.

Section 408(b)(3): Factors to Be Considered

This section specifies the other factors that the Administrator must consider in establishing, modifying or revoking a tolerance for a pesticide chemnical. These factors include (1) the probable consumption of treated food by the population group which consumes the greatest amounts of the food or which is most sensitive to the chemical; (2) the cumulative effect of the chemical, taking into account related chemicals and non-dietary routes of exposure; and (3) safety factors that are appropriate for animal experiments.

Section 408(c): General Rule for Exemptions

Section 408(c)(1): Authority

This section authorizes the Administrator to establish, modify or revoke an exemption from the requriement for a tolerance in response to a petition or on the Administrator's own initiative. An exemption may have an expiration date.

Section 408(c)(2): Standard

Section 408(c)(2)(A): Risk Standard

This section specifies that an exemption may be established, or left in effect, only if the pesticide chemical residue presents no risk to human health, including the health of identifiable population groups with special food consumption patterns, from dietary exposure at any level of residue that could result from use of the pesticide chemical on food.

Section 408(c)(2)(B): Exposure

This section specifies how dietary exposure is to be calculated for purposes of subparagraph (A). The Administrator would take into account all dietary exposure to the pesticide chemical, including exposure under the proposed exemption, all other tolerances or exemptions in effect for the same pesticide chemical, and all other sources of dietary exposure (including drinking water) to the same pesticide chemical.

The Administrator would calculate dietary exposure to the pesticide chemical based on the maximum amount of residue that could reasonably be expected to occur if the instructions for use of the pesticide were not followed.

Section 408(c)(2)(C): Practical Method of Analysis

The section specifies that the Administrator may not establish an exemption until a practical method for detecting and measuring residues is specified by the Administrator after consultation with the Secretary of Health and Human Services. (Consultation would occur with the Food and Drug Administration (FDA).) The method must be the best available practical method, and it would be practical only if it could be performed by the FDA on a routine basis with the personnel, equipment and other resources availale to FDA.

Section 408(c)(3): Inert Ingredients

This section specifies that certain inert ingredients may not have an exemption from the requirement for a tolerance. They are inerts that (1) are essential for an active ingredient to have its intended effect, (2) cause or contribute to adverse biological effects in any organism, (3) may have an adverse effect on human health, and (4) meet any other requirement established by the Administrator.

Section 408(d): Petitions for a Tolerance or Exemption

Section 408(d)(1): General Rule

This section specifies that any person may file a petition for the issuance of a regulation that establishes, modifies or revokes a tolerance, or establishes or revokes an exemption.

Section 408(d)(2)(A): Petition Requirements

This section specifies the information and data that must be contained in a petition to establish a new tolerance or a new exemption. The required information includes a summary of the scientific reports respecting the safety of the pesticide chemical and the exposure to the pesticide chemical. The petitioner must authorize the publication of the summary by the Administrator.

Section 408(d)(2)(B): Modification and Revocation

This section authorizes the Administrator to establish requirements for the contents of petitions to modify or revoke tolerances or exemptions.

Section 408(d)(3): Notice

This section specifies that the Administrator will publish a notice of the filing of a complete petition within 30 days of such filing. The notice will announce the availability of a complete description of the analytical method for the detection and measurement of the pesticide chemical in food, and will include the summary required in petitions to establish tolerances or exemptions.

Section 408(d)(4): Actions by the Administrator

This section specifies the actions that the Administrator may take after considering the petition and other available information. The Administrator may publish a final regulation approving or disapproving the petition. In addition, the Administrator may propose a regulation that is different from the regulation requested in the petition. If he proposes a new regulation, the Administrator would provide notice and the opportunity to comment as prescribed in section 408(e)(2) before publishing the final regulation.

Section 408(d)(5): Effective Date

This section specifies that a final regulation issued under paragraph (4) would be effective upon publication.

Section 408(d)(6): Further Proceedings

This section specifies the manner in which objections to the final regulation published under paragraph (4) would be considered by the Administrator. Within 30 days after the Administrator's action, any person adversely affected (including a person without an economic interest) would file objections. The person who filed the petition (if different from the objector) would have 30 days to reply to the objections. The Administrator could hold an evidentiary hearing if needed. The Administrator would publish an order describing his actions on the objections. Any new regulation or order would take effect in 90 days or earlier if the Administrator determined that emergency conditions existed.

Section 408(d)(7): Judicial Review

This section provides for judicial review for any person adversely affected (including a person without an economic interest) by the Administrator's decision. Such review would not operate to stay the Administrator's decision unless specifically ordered by the court.

Section 408(e): Action on Administrator's Own Initiative

Section 408(e)(1): General Rule

This section authorizes the Administrator to establish, modify or revoke a tolerance or to establish or revoke an exemption on his own initiative. Any regulation pursuant to this authority would be subject to section 408(d) (6) and (7).

Section 408(e)(2): Notice

This section requires the Administrator to issue a notice of any proposed rule under paragraph (1) and provide for at least a 30-day comment period. The comment period could be shorter if the Administrator determined that the public interest required such a period or if the Administrator acted under section 408(j).

Section 408(e)(3): Imminent Hazard

This section authorizes the Administrator to revoke an exemption, or to revoke or modify a tolerance, without following the required procedure if such action is necessary to prevent an imminent hazard. The Administrator would provide notice of the action and would be required to hold a public hearing within 5 days of receipt of a request (which request was made within 5 days of the Administrator's action) for a hearing. The effective date of the action would not be delayed for the hearing, and would not be stayed while the Administrator's action was being judicially reviewed, and would not be judicially reviewed until after the hearing.

Section 408(f): Special Data Requirements

This section authorizes the Administrator to request additional data when the data supporting tolerances and exemptions are inadequate.

Section 408(f)(1): Determination of Inadequate Data

This section requires the Administrator to act if the data contained in a petition (including a petition submitted before the date of enactment) to establish a tolerance or exemption are inadequate to support the continuation of the tolerance or exemption because (1) the Administrator has reason to believe the pesticide chemical presents greater than a negligible risk (based on data in the petition or otherwise available), or (2) the data in the petition do not meet the current requirements of section 408 (d)(2)(A) (iv) and (v).

Section 408(f)(2): Action by Administrator

This section specifies that the Administrator would require the submission of the necessary data, or would initiate an action under section 408(e) to modify or revoke the tolerance or exemption.

Section 408(f)(3): Submission of Required Data

This section specifies that if the Administrator requires the submission of data, the Administrator would publish an order in the Federal Register that establishes deadlines for the identification of the persons who will submit the data and the submission of necessary data and reports.

Section 408(f)(4): Deadlines

This section specifies that if the deadlines in the order issued under paragraph (3) are not met, the tolerance or exemption would be automatically revoked. The Administrator could delay the effective date of the revocation for (1) 12 months to allow food treated (within the tolerance or exemption) before the deadline to be sold, or (2) such other period that is necessary to allow the submission of the data if extraordinary circumstances prevented the submission within the deadline.

Section 408(f)(5): Review

This section specifies that an order issued under paragraph (3) shall be subject to administrative and judicial review in accordance with section 408(d)(60) and (7).

Section 408(g): Confidentiality of Data

Section 408(g)(1): General Rule

This section specifies that data contained in a petition is entitled to confidential treatment until publication of a regulation or order under section 408(d)(4), unless disclosure has been made previously, or is allowed by paragraph (2) or section 408(h), or is required by other law.

Section 408(g)(2): Disclosure

This section specifies the persons to whom confidential data may be disclosed. Congress and employers and contractors of the Administrator are included.

Section 408(g)(3): Summaries

This section specifies that the Administrator may publish the informative summary required in the petition (under section 408 (d)(2)(A)(i)) and other summaries of the date relating to the proposed or final regulation or order under section 408(d)(4).

Section 408(h): Access to Data in Support of Petition

This section specifies the procedures by which there can be public access to the health and safety data submitted or cited in support of a petition under section 408 (d). A person requesting review of the data would notify the Administration and the petitioner within 30 days of notice of the filing of the petition, and would make certain affirmations to the Administrator in accordance with paragraph (2). A petitioner could object to the affirmations. The Administrator would determine whether access would be granted. Review of the data would be solely for the purpose of commenting on the petition. No other disclosure of the date would be permitted.

Section 408(i): Other Regulations

This section specifies how the Administrator would treat certain section 406(a) and 409 regulations. Section 409 food additive regulations for processed food would be deemed regulations under section 408 only if they meet the negligible risk standard under section 408(b)(2)(A)(i). If they do not meet that standard, the Administrator could establish a section 408 tolerance which is lower than the section 409 regulation and which meets the section 408(b)(2)(A)(i) standard. The Administrator would initiate such action under section 408(e).

Section 408(j): Conforming Actions

This section specifies how the Administrator would act under section 408 to conform to actions on the registration of pesticide chemicals under the Federal Insecticide, Fungicide and Rodenticide Act. (FIFRA).

Section 408(j)(1): Cancellation

Section 408(j)(1)(A): Revocation of Tolerances or Exemptions

This section specifies that the Administrator would revoke section 408 tolerances or exemptions for pesticide chemicals which have had their registrations cancelled under FIFRA due, in whole or in part, to dietary risk to humans, unless such revocation had previously occurred in accordance with section 408(b)(2) (A) and (B). The Administrator would act under section 408(e) within 60 days of FIFRA cancellation.

Section 408(j)(1)(B): Delay of Effective Date

This section specifies that the Administrator could delay the effective date of the revocation required under subparagraph (A) for up to one year to permit the sale of food treated with the pesticide chemical prior to the cancellation if there is no dietary risk to human health from such food during such period.

Section 408(j)(1)(c): New Tolerances

This section authorizes the Administrator, when a cancelled pesticide chemical will unavoidably persist in the environment and contaminate food, to establish a new tolerance that permits the unavoidable contamination. The Administrator would review the tolerance every year to assure it was no higher than necessary.

Section 408(j)(2): Suspensions

Section 408(j)(2)(A): Suspension of Tolerance or Exemption

This section specifies that the Administrator would suspend section 408 tolerances or exemptions for pesticide chemicals which have had their registrations suspended under FIFRA due, in whole or in part, to dietary risk to humans, unless revocation had previously occurred in accordance with section 408(b)(2) (A) and (B). The Administrator would act under section 408(e) within 60 days of the FIFRA suspension.

Section 408(j)(2)(B): Delay Effective Date

This section specifies that the Administrator could delay the effective date of the suspension required under subparagraph (A) for up to one year to permit the sale of food treated with the pesticide chemical prior to the suspension if there is no dietary risk to human health from such food during such period.

Section 408(j)(2)(c): New Tolerance

This section authorizes the Administrator, when a suspended pesticide chemical will unavoidably persist in the environment and contaminate food, to establish a new tolerance that permits the unavoidable contamination. The Administrator would review the tolerance every year to assure it was no higher than necessary.

Section 408(j)(2)(D): Effect of Suspension

This section specifies that the suspension of a tolerance or exemption would be effective (except as provided for in subparagraph (A)) for as long as the registrations are suspended.

Section 408(k): Fees

This section specifies that the Administrator would establish fees by regulation that would in the aggregate cover the cost of the functions required of the Administrator under section 408.

SECTION 5: INERT INGREDIENTS WITHOUT TOLERANCES

This section requires the Administrator, within 90 days of enactment, to establish deadlines for the submission of necessary health and safety data to establish tolerances for the inert ingredients that are described in section 408(c)(3). If the deadlines are not met, the pesticide chemicals containing the inerts would be considered unsafe, except that the Administrator could delay the effective date of the determination (1) for 12 months to allow food which contained the inerts on the date of the deadline to be sold, or (2) for such period as is necessary to submit the data if the timely submission was prevented by extraordinary circumstances.

The order of the Administrator requiring the submission of the data would be subject to administrative and judicial review under section 408(d)(6) and (7).

SECTION 6: GENERALLY RECOGNIZED AS SAFE PESTICIDES

This section requires the Administrator, within 90 days of enactment, to establish deadlines for the submission of necessary health and safety data to establish tolerances or exemptions for any pesticide chemicals which, on the date of enactment, do not have tolerances or exemptions because they are generally recognized as safe under section 408 prior to this legislation. If the deadlines are not met, the Administrator would be authorized to issue an order declaring the pesticide chemicals to be unsafe for purposes of section 402(a)(2)(B). The order of the Administrator requiring the submission of the data would be subject to administrative and judicial review under section 408(d)(6) and (7).

Pesticide chemicals subject to this section would not be considered unsafe under this legislation (which requires them to have tolerances or exemptions) solely because the chemicals do not have a tolerance or exemption.

SECTION 7: REVISION OF EXISTING EXEMPTIONS

This section requires the Administrator, within 90 days of enactment, to establish deadlines for the submission of necessary health and safety data to establish tolerances or to continue the exemptions. If the deadlines are not met, the exemptions would be automatically revoked, except that the Administrator could delay the effective date of the revocation for (1) 12 months to allow food treated in accordance with the exemption to be sold, or (2) such other period as is necessary to allow the submission of the data if extraordinary circumstances prevented the submission within the deadline.

The order of the Administrator would be subject to administrative and judicial review under section 408(d) (6) and (7).

SOUTHERN CALIFORNIA'S WILD AND SCENIC RIVERS SYSTEM

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. LAGOMARSINO. Mr. Speaker, today I am introducing legislation to designate two wild and scenic rivers, establish two new wilderness areas and expand an existing wilderness within the Los Padres National Forest. The legislation would implement key recommendations of the U.S. Forest Service following completion of the final management plan for the Los Padres National Forest. I am pleased to sponsor these bills which will protect and preserve these outstanding natural and scenic resources for the enjoyment of future generations.

The first bill would add portions of the Sespe Creek and the Sisquoc River to the National Wild and Scenic Rivers System. As proposed by the Forest Service, the 27.5-mile segment of the Sespe Creek extending from its junction with Trout Creek just east of the popular Lions Campground to the Devil's Gate Area north of Fillmore would be designated as a wild river. As the river winds through the national forest, it offers numerous scenic and recreational opportunities. Many varieties of plants and trees can be found along the river's banks, including willow and sycamore. The unique landscape also serves as important habitat for several species of birds and mammals, including beavers. The 53,000-acre Sespe condor sanctuary is located on lands adjacent to the river and protects critical nesting and roosting habitat for the endangered California condor. The Sespe is also known as an excellent trout fishery and a portion of the river was recently designated as a State wild trout stream. Recreational activities along the Sespe include swimming, camping, hiking, horseback riding and fishing. Several trails parallel or cross the river at various points.

This portion of the Sespe Creek lies entirely within an area of the Los Padres Forest I am proposing for wilderness. This dual designation would serve to protect the many outstanding features of the river.

The 31-mile segment of the Sisquoc River flows entirely through the San Rafael Wilderness and would therefore be designated as a wild river. It is known for its recreational opportunities, including hiking, horseback riding and fishing which are enhanced by a foot and equestrian trial paralleling the entire length of the river.

The Sisquoc flows through diverse terrain, including rugged and rocky slopes, dense chaparral and several small meadows. Deer, black bear, and several other species of wildlife can be found along the river. The upper reaches of the river border the Sisquoc condor sanctuary and provide critical bathing and roosting habitat for the endangered condor. Several cultural sites are also located along the river, including remnants of early homesteads and Chumash Indian villages.

The Sespe and Sisquoc Rivers deserve the protection this legislation will afford. The second bill I am introducing today would establish the Sespe and Matilija Wilderness Areas and expand the existing San Rafael Wilderness.

The proposed 197,000-acre Sespe Wilderness begins just east of the Dick Smith Wilderness which was established largely through my efforts with passage of the 1984 California Wilderness Act. This area is characterized by rugged and diverse topography and serves as a major watershed for the Piru, Sespe and Cuyama Rivers. Although the wilderness lies almost entirely within the Los Padres National Forest, a small portion of it extends into the adjacent Angeles National Forest.

The Sespe area is known for its unique natural and geologic features, including Topatopa Mountain, Sepse Hot Springs and the Pristine Sespe condor sanctuary. Wilderness designation for the sanctuary will provide even stronger protection for this critical habitat. The Sespe also serves as an important habitat for other sensitive bird and animal species, including the recently reintroduced bighorn sheep.

Nature study, fishing and hunting are popular recreational activities in this area. Numerous trails through the area and several trail camps enhance other activities such as cross-country hiking and backpacking. Recreational access to the Sespe Hot Springs would be allowed to continue via the Johnston Ridge Trail pending completion of a study by the Forest Service to determine appropriate future management of the area.

My legislation would also establish the Matilija Wilderness encompassing 30,000 acres in the Santa Ynez Mountains. This region is noted for its steep canyons and rugged chaparral-covered slopes. It was extensively burned during the Wheeler fire of 1985 and is currently an excellent example of a recovering southern California chaparral ecosystem. The Matilija provides habitat for numerous animal species including deer, bear, mountain lion, bobcat and fox, as well as the California condor.

Finally, my bill would establish the La Brea addition to the San Rafael Wilderness. The 16,500-acre addition would extend westerly along the southern slopes of the Sierra Madre Mountains, bringing the total acreage of this wilderness to approximately 167,500 acres. The proposed addition encompasses the entire Horse Canyon watershed to its junction with the Sisquoc River.

Mr. Speaker, the legislative package I am introducing today represents a comprehensive and far-reaching addition to the National Wilderness System and the National Wild and Scenic Rivers System. It will preserve and protect in perpetuity some of our most serene and secluded canyons, rivers and peaks. In addition, by virtue of their close proximity to the urban areas of southern California, these resources will provide numerous diverse recreational opportunities to meet the demands of an ever increasing population. Therefore, I urge my colleagues to cosponsor and support this important legislation.

A TRIBUTE TO BISHOP L. ROBINSON

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. MFUME. Mr. Speaker, it is a great privilege to honor an outstanding citizen of Baltimore, Secretary Bishop L. Robinson. Mr. Robinson will be honored at the Victorine Q. Adams Humanitarian Award Dinner on June 9, 1988. This event presents the opportunity for me to express my sincere appreciation for the many years of service he has given to our community and State.

Growing up during a period of economic and social unrest in our Nation, Mr. Robinson overcame numerous obstacles and pursued his aspirations to become one of the State's most respected citizens, and its top law enforcement official.

He began his elementary education in the public school system of Baltimore. After receiving a bachelor of science degree in Police Administration from the University of Baltimore, Mr. Robinson went on to pursue a master of education degree from Coppin State College and a Certificate in Police Science and Administration from the University of Louisville. The University of Baltimore later awarded him an honorary doctor of laws degree. Robinson has attended a number of professional training institutions throughout the Nation and is also a graduate of the Federal Bureau of Investigation's National Executive Institute.

Mr. Robinson began his career in 1952 as a foot patrol officer for the Baltimore Police Department and worked his way up through the ranks. In July 1984, he was appointed Police Commissioner by then Mayor William Donald Schaefer and provided the community with a strong and responsive police force. Under Commissioner Robinson's leadership, our law enforcement officers worked diligently to ensure that our city was safe for us all. I sincerely thank Mr. Robinson and the officers that served with him for their invaluable service. After 35 years of proven leadership and dedicated work with the Baltimore Police Department, he retired.

While committed to a public service career, Mr. Robinson still devoted an enormous amount of time to the community. He was an adjunct professor of criminal justice at Coppin State College. In addition, he has lectured at numerous universities and colleges throughout the country. As one of the original founders and president of Black Law Enforcement Executives [NOBLE], he displayed dynamic leadership in building a distinguished organization.

Gov. William Donald Schaefer recognized Mr. Robinson's abilities and appointed him to the position of Secretary for the Department of Public Safety and Correctional Services on March 12, 1987.

Mr. Speaker, it is my pleasure in taking this opportunity to honor Secretary Bishop L. Robinson for his outstanding career and unselfish service to the State of Maryland and our Nation. He is an American role model we all can be proud of.

JOHN SMITH: LEADING THE WAY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. LEHMAN of Florida. Mr. Speaker, on May 20th, John Smith, one of north Dade's leading citizens, was honored at the 14th annual Dade County Schools Volunteer Recognition Ceremony. As the essential, ultimate volunteer, John's award was most deserved.

John Smith is the kind of volunteer who does a lot more than just help out. He is an activist who makes things happen. His vision, energy and ability has made a substantial difference in north Dade's parks, recreation, transportation, education, and business.

His activities for the benefit of our community are legend. As chairman of the Transportation Appropriations Subcommittee, I know first-hand that the south Florida tri-county commuter rail system would never have happended without his leadership and dedication.

We have some special people in our community, but no one like John Smith. He's truly one of a kind, and we are lucky to have him. I would like to share with my colleagues an article that appeared in the Miami Herald which describes some of his other achievements.

The article follows:

[From the Miami Herald, May 29, 1988]

FOR LEADING VOLUNTEER, HONORS COME HIS WAY—DADE SCHOOLS HAIL MAN WHO AIDS KIDS

(By Jeffrey Kleinman)

John Smith's office is full of awards. About 80 of them. All recognizing the quintessential volunteer.

"It's my hobby," said Smith, the manager of the Cloverleaf Bowling Lanes in North Dade. "Some people would rather play golf. I volunteer."

Smith, in his 70s, does most of his volunteering for Dade County public school students. Representing Cloverleaf, he doles out awards, conducts rap sessions and opens up the lanes for achievers.

For his efforts during the past year, the Dade school system honored Smith and 146 others Thursday morning at the 14th annual School Volunteers Recognition Ceremony. The honor was for volunteers who worked at least 150 hours last year.

There are 14,000 school volunteers in the county, said Carol Renick, director of the school system's Department of Community Participation.

"John Smith as a volunteer has made a world of difference," she said. "He's lent an extra hand to the teachers and created the one-on-one rapport so often missing because of classroom size."

Smith also was singled out at the ceremony as a southeastern regional finalist in the national awards program.

"I don't think it's possible to exist without getting involved," said Smith, who lives in Norwood.

Smith started volunteering in the schools in 1957, the year that Cloverleaf Lanes opened and he became manager. He contacted the principal at Norland High, said he planned to give out awards for scholastic achievement, and did just that.

Cloverleaf's awards program grew and grew. Smith recently hosted a luncheon for students from more than 100 schools. He also recently awarded 10,000 certificates for students who excelled in math and English.

At Hibiscus Elementary, Smith set up a program to improve attendance. All students with a perfect record at the end of this semester get two free games of bowling.

"We all need to be recognized and be loved," he said.

One of Smith's current projects is helping to arrange for first- and second-grade public school classes at the Sunshine State Industrial Park, which employs about 10,000 workers just west of the the Golden Glades Interchange.

No doubt that he will see it through. History is on his side.

Two years ago, at a run-down government housing complex in Carol City, Smith helped turn things around. He helped bring about the cleanup of neglected property and organized a community center that now provides adult classes and day care.

"You can't take out of a community without giving back," Smith said. "Some don't realize the need."

VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. IRELAND. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy Broadcast Scriptwriting Contest. This year more than 300,000 secondary school students participated in the contest competing for the nine national scholarships totaling $42,500, which was distributed among the top nine winners. The contest theme this year was "America's Liberty—Our Heritage."

The winning script from the State of Florida was written by one of my constituents, Manisha Singh, of Lake Alfred, FL. I would like to submit Manisha's work in today's RECORD for the benefit of my colleagues:

AMERICA'S LIBERTY—OUR HERITAGE

The shrill sounds of gunfire intrude upon a quiet night, erupting constantly in harsh, angry tones. Men in different shades of green cross the front line. A soldier dives into a nearby trench—grenades exploding behind him. The fury of an M-16 lashes out violating a peaceful summer day. The endless wail of a helicopter clashes with the hum of a tank in the distance.

The sharp click of the soldiers heels turns my thoughts to reality once more. The soldier, clad immaculately in blue, turns to march twenty-one even steps on the smooth white marble. As I look out I see perfect rows of small white crosses extending over hills of green. Our heritage lies here in the souls of those who gave their lives for liberty—our most precious heritage. It also lies in the hearts of those today who remember crossing a lonely battlefield hoping to raise the American flag in triumph of liberty.

As I pass the grave of John F. Kennedy, the delicate orange glow of the eternal flame catches my eye, and I recall his immortal words—"Ask not what your country can do for you: Ask what you can do for your country." These words are filled with dedication—dedication to our liberty, our America. Many people devoted their lives to make our America great. One of the first of these was Thomas Jefferson. Jefferson dedicated his life to the fight for the independence of America. In drafting the declaration of Independence, he established a tradition of freedom and embodied the liberties that every American would have.

In American today, we do not have to fight for our freedom; it is granted to us at birth. This is why so many people from other nations flock to America. Over the years it has provided a home for people of many different ethnic backgrounds. It has also provided the freedom and the opportunity to succeed. In no other country in the world can a person find as many opportunities to fulfill his highest dreams.

America's liberty is the result of the dream of our founding fathers. They also left us with many magnificant symbols of liberty. I remember standing in awe of them in the nation's capital. The Washington Monument stands proudly in remembrance of the great Father of America. The enormity of the statue of Lincoln in the Lincoln Memorial is symbolic of his role in the making of American liberty.

The beauty of the Iwo Jima Memorial, brave Marines struggling to raise the Star-Spangled Banner in triumph of liberty, creates a vivid impression of the true American dream. I remember standing in front of the Vietnam Wall marveling at the number of names engraved in the cold stone. There were flowers and flags placed along the wall. I saw an elderly woman kneeling in front of the wall crying, and a young man standing beside her. The young man, in a somber tone, uttered these words—"Dad, I'm the son you never got to see."

Our heritage, liberty, is present in all of these symbols. The most symbolic, however, is Lady Liberty herself. She stands proudly representing the freedom that rings from coast to coast. She represents America's liberty, our heritage that has been handed down from generation to generation as a priceless heirloom our heritage which we should always cherish and work to preserve; our heritage—life, liberty and the pursuit of happiness for all.

WHY GLASNOST CAN'T WORK

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. MICHEL. Mr. Speaker, the New Republic has recently published a brilliant analysis of the facts of the new glasnost and perestroika initiatives undertaken by Communist Party boss Mikhail Gorbachev. I emphasize the word "facts" because, unlike so much of the reports of glasnost we read today, this one doesn't seek to praise or blame the initiatives, but to understand them within the context of one-party rule in the Soviet Union.

I strongly suggest that this piece be read by anyone who may have been caught up in the euphoria that has accompanied so many discussions of the Gorbachev program. David Satter, who wrote this piece, avoids any kind of propagandizing, for or against, but raises important questions. Again, this is a fine article and should stimulate much discussion.

At this point I wish to insert in the RECORD, "Why Glasnost Can't Work," by David Satter, in the New Republic, June 3, 1988:

WHY GLASNOST CAN'T WORK

(By David Satter)

Moscow—Under Mikhail Gorbachev the Soviet Union is changing. A lull in political arrests has enabled independent social organizations to proliferate in scores of cities. The regime has legalized private enterprise in the form of "cooperatives," and there are plans to give decision-making power to the heads of factories. Despite these developments, however, there is an odd sensation of events taking place in a time crystal, acted out in an abstract dimension and motivated, like some exotic fertility rite, by a guilty need to propitiate the gods rather than by any real hope of achieving a concrete objective.

The problem is that discussion remains encased in ideology. The participants in the reform battle are free to describe society's problems and even to suggest superficial causes, but they cannot identify their ultimate source in the nature of the communist system, and this lacuna forces them to fall back on wishful thinking. No matter how severely they criticize existing conditions, they must pretend that it is possible to engender economic dynamism while preserving the Soviet totalitarian system. The elliptical nature of conversations, the half-truths and inconsistencies in official publicants are, in some ways, more striking now than during the period of "stagnation," when the leadership was content to defend the existing system.

The impetus for reform in the Soviet Union came from the decline of the economy. For many years it could survive under conditions of spectacular wastefulness resulting from total centralization because it drew on unlimited numbers of workers and materials. By mid-1970s it was faced with an exhaustion of inputs. Even more serious, the West entered a new phase of the scientific revolution that emphasized not production in bulk but access to information and precise technology. Meanwhile, the Soviet Union was degrading steadily under the weight of the communist system. Food was rationed outside the major cities. It was the only industrial country in the world where life expectancy was falling (infant mortality is four to five times the rate in the West, and 16 percent of the children now being born have mental or physical debilities). Yet none of this would have been enough to motivate the present Soviet reform effort.

What mattered was that economic inefficiency began to threaten the effectiveness of the Soviet military. The danger was first described in 1985 by Marshal Nikolai Ogarkov, the former Soviet chief of staff, in a book titled History Teaches Vigilance, and is now acknowledged by Soviet military and political leaders. "We should understand clearly," wrote Alexander Bovin in Izvestia in July 1987, "that if restructuring does not succeed . . . if not socialism but capitalism succeeds in mastering the new wave of the scientific technical revolution, then the balance of forces in the world can change in favor of capitalism."

Two Russian words, glasnost (publicity, not openness) and perestroika (reconstruction), have become associated with the two aspects of the Soviet reform program. Glasnost applies to political reforms—in particular, the lifting of various restrictions on information, speech, and social organization. Perestroika, the program of changes in the economic and political mechanism, is less advanced because it bears directly on the structure of power. In response to the military crisis, Gorbachev has called for "revolutionary transformations" in the economy, but so far structural changes have been hesitant. The Party owes its monopoly of power to its concentration of both economic and political control. Any adjustment toward individual initiative weakens the Party's control even as it improves the economy.

For the moment the authorities have concentrated on glasnost, which is expected to create an air of change and the impression that finally Soviet society is going to deal with its unacknowledged problems. It is also a way of making citizens aware that more is expected of them. Culture and the press are strikingly more liberal, and the limits on allowable political activity are much wider. It would have posed a risk to the legitimacy of the system had not the regime prepared Soviet citizens by disassociating Gorbachev from past repression in a major rewrite of Soviet ideology. The new, "correct" version, which will soon be taught dutifully in every Soviet school, divides Soviet history into two parts: "genuine socialism" under Lenin until 1924 and now under Gorbachev, and the "distortions of socialism" during the intervening 61-year period. With this ideological preparation, the faults of the system can now be acknowledged and attributed to any of the five past leaders.

In terms of its impact on the population, the most important aspect of glasnost has been the change in the press, which in 18 short months has probably published more critical articles than in the entire previous 60 years. It has stunned Soviet public opinion. The exposure of the crimes of the Stalin era goes far beyond Khrushchev. With a few exceptions—such as the Katyn Forest massacre and the fate of Raoul Wallenberg—there seems to be no hesitation about publishing the truth of Stalin's period in power. The literary monthly Novy Mir published an estimate that ten million peasants died in the forced collectivization of agriculture, and the Soviet weekly Nedelya has indicated that 50 million Soviets died as a result of Stalin's policies.

Historical truthfulness ends, however, in the discussion of Lenin. He remains a saint. There is no chance to connect Lenin to one-party dictatorship, the concentration camps, and subordination of justice to police terror. He and Stalin must be depicted as polar opposites to preserve the legitimacy of the system.

There now are relatively few forbidden topics, but the coverage of every subject must avoid any attempt to analyze underlying causes. A good example of what Soviet citizens can now read was a recent story in Literaturnaya Gazeta entitled "Zone of Silence," which described how Akhmadjan Adilov, the director of a collective farm in Uzbekistan and a hero of socialist labor, as well as one of the most powerful men in the republic, turned his collective farm into a slave colony with a guarded perimeter, his own private army, palace, courts, and underground prison. Adilov was protected by his ties to the top Party leaders in Uzbekistan, and in the Soviet Union, the organs of law enforcement are always under the Party's control. In the Adilov case, Literaturnaya Gazeta could ask how it was possible for Adilov to have committed such crimes with impunity, but was not free to give the obvious response.

Another example of the self-limiting nature of press coverage was a report in Moscow News about the attempted hijacking of a Soviet airliner by 11 members of the Ovechkin family, from Irkutsk, which ended with the storming of the plane and the deaths of five hijackers, a stewardess, and five passengers. The hijackers had asked to be flown to Finland, but the pilot landed the plane at an airport near Leningrad, where it was stormed by an anti-terror squad. Moscow News asked whether the decision to land the plane on Soviet territory had not been a costly one, but it failed to ask the much more obvious question, which was whether a family like the Ovechkins would have resorted to hijacking if they had been able freely to leave the country.

The liberalization in the press has been accompanied by a dramatic opening in the field of culture. But it still takes place within a Leninist framework. With the exception of the works of Solzhenitsyn and other émigrés, such as Vassily Grossman's novella Forever Flowing, which touch directly on Lenin, almost all of the suppressed classics of Soviet literature are now being published, including the works of Platonov, Zamyatin, Pasternak, and Bulgakov. The censorship that weighed so heavily in literature has been lifted. Nonetheless, political writing remains controlled on the same lines as journalism, and so imaginative literature is deprived of its intellectual context. Artistic works are also often the subject of deliberately misleading criticism. Novels and memoirs of the Stalin period are said to indict Stalin, not socialism, and the introduction of excerpts of Orwell's 1984, which has just been published, explains that the novel is about fascism.

In an effort to inspire citizen activism, the Gorbachev leadership has also granted limited political self-expression. The authorities have released hundreds of political prisoners and, in general, are not making new political arrests. In order to be arrested, it once was enough to write an article and show it to a friend or to criticize the regime in the compartment of a train. The regime has now decided to grant some freedom of expression. Previously the authorities acted quickly to suppress any type of independent organization, no matter now insignificant. Now they appear ready to accept a limited freedom of association. For the moment the only persons who are singled out for persecution are those who undertake independent political action, such as Pairur Arikyan, an Armenian nationalist who played an important role in demonstrations in Armenia, or members of the Democracy and Humanism seminar who are trying to organize an independent political party.

To some extent this tentative political tolerance is useful to the authorities. In the past, any independent group or publication was regarded immediately as a focal point of opposition. Today, when the Gorbachev leadership is anxious to put pressure on uncooperative local authorities to implement its policies, independent organizations have suddenly become useful, especially if they lack political sophistication and can be put to work fighting against local "enemies of perestoika."

The diminution of political persecution has changed the atmosphere in Moscow and created the odd situation of a wave that is always just about to break. Every Soviet citizen who has been unfairly denied an apartment or fired from his job can now come to Moscow to seek justice in the reception halls of government organizations. These petitioners—"truth-seekers," as they are called—are arriving in thousands only to find that the press's indignation does not extend to individuals. As in the period of "stagnation," no one is interested in their complaints.

Reflecting the strange spirit of the times, Abulfazfizza Aliskerov, an Azerbaijani woman who said she had been cheated out of her home by local officials, set herself on fire on February 12 in the reception hall of the Supreme Soviet, the fictitious Soviet parliament. "I've been coming here for ten years," she shouted, "for ten years, they refuse to receive me. There is no Soviet power in the Soviet Union!"

The policy of glasnost, with its Leninist version of freedom, has had mixed results, inspiring hope, principally among the intellectuals, and fear among the workers, who have little faith that any good can come out of "the latest campaign." But a psychological change of some kind is necessary if the country is not to be thrown into chaos as the leadership begins to move to implement perestroika.

Perestroika amounts to an attempt to force Soviet citizens to work harder in a system that is inefficient because it remains under the Party's complete control. It consists of two parts—the organization of independent businesses in the form of cooperatives or private ateliers, and the reorganization of the state sector so that each enterprise will be responsible for making a "profit" on the basis of prices assigned by the state. To a certain extent the two aspects of perestroika are expected to be complementary, the private businesses improving the quality of services and the plan for "self-financing" improving the quality of the production of the state. In both cases what is at stake is an attempt to induce Soviet citizens to show economic initiative in a party-controlled economic structure.

The first aspect of the new economic program is the development of an embryonic private sector, which the authorities hope will help to stimulate the state sector. To work in a private business, an individual must be willing to hold a full-time job in the state sector and to work in the business in his spare time. This means that the state is able to squeeze extra work out of each energetic "cooperator" or individualchik, and they, in turn, are encouraged to recruit wives and children to fill in for them in the private business. That way they make it possible for the economy to exploit untapped "labor resources."

Despite these conditions, however, Soviet citizens are slowly beginning to form private businesses, because in an economy where the services are uniformly shoddy, the rewards for independent enterprise can be high. There are now about 300,000 people engaged in individual labor activity and an estimated 150,000 people in about 14,000 cooperatives.

The appearance in the Soviet Union of private businesses that have official status and pay taxes does not represent structural change. In the past many of the services involved were provided by the black market, and so the private enterprises are only a means to bring part of the parallel economy back under the control of the state. The main importance of the independent enterprises is encouraging an environment in which citizens are expected to show initiative if they want rewards, with the same principle to be applied on a much larger scale in the state sector in the plan for self-financing, or khozrachet.

In fact, the plan for self-financing is the keystone of the entire economic reform and, with it, probably the Gorbachev program as a whole. It gives to the management of Soviet enteprises what they have always lacked: a measure of autonomy. Under the new law on state enterprises, the enterprise has the right to make decisions about the disposition of resources, finding suppliers and disposing of part of its production either directly or through a new wholesale trade network, with prices set by agreement under the supervision of state price formation bodies.

For the moment the reform has had virtually no effect on the economy because the place of plan indicators has been taken by "state orders," making the system even more cumbersome than before. The economic reform is not expected to go into operation fully until the next five-year plan, which begins in 1991. At that time, however, it will be full of omnious possibilities because, although it does not correct for any of the structural defects in the Soviet economy, it offers abundant opportunities to reduce the already thoroughly exploited Soviet worker to a new level of poverty while depriving him of the one thing that made his poverty bearable: the confidence that his pay was assured and he could not be fired from his job.

The most important aspect of the new system from the point of view of the individual worker is that it threatens his wages, because the wage fund will no longer be handed down to the enterprise from above but will depend on the enterprise's own income. This would be reasonable in the context of a free market. It is menacing under Soviet conditions, where the ability of the enterprise to earn an income depends marginally on the enterprise but mainly on the economic conditions created by the state.

For all of Gorbachev's talk of increasing economic independence, there is no indication that he plans to end the factors that account for the inefficiency of Soviet industry, even under conditions of reform. Under the new system, and enterprise's production must fully accord first with the economic plan, second with state orders, and only then with orders from customers. If the share of state orders is significant, as it appears it will be, the new reform will carry within itself the seeds of the Soviet economy's existing irrationality—the omissions of the planning agency, the inefficiency of the supply agency, the interference of the quality control agency, the inflexibility of ministries, and the unreliability of the Soviet railways. This will be all the more true if, as seems likely, there is no change in the system of giving absolute priority to military production, because the organization of the country as a military machine both impoverishes the civilian economy and subjects it to constant disruption

Under these circumstances, Soviet workers may find that their salaries are subject to sharp reductions because of the enterprises failure to make a profit, even though that failure was the result of factors completely outside the enterprise's control. Such a situation has already led to strikes and will in the future. They may also find that their security will be destroyed by rapid inflation as enterprises, in order to become "profitable" without any improvement in efficiency, simply raise prices shifting the cost of economic reform to the consumer.

Significantly, there are no signs that the authorities are thinking in terms of positive incentives to work harder, except for the vague possibility of higher pay for workers in enterprises that—according to central calculations—make a "profit." This possibility means very little in the Soviet context unless the stores are well stocked and workers who earn rubles have something to buy with them. As matters stand, meat and dairy products are being rationed all over the Soviet Union and the food supply situation is actually getting worse because of cuts in imported meat and grain. Even bread has fallen in quality.

The overwhelming impression is that if "self-financing" is to work at all, it will depend not on positive incentives to work better, but on fear of losing what little the workers already earn—and of unemployment. Soviet factories already have begun experimenting with eliminating positions and distributing some of the savings to the other workers. The Soviet Union has always prided itself on giving workers complete job security, but the plans for self-financing call for the closing of inefficient enterprises, and there is talk of eliminating 16 million jobs by the year 2000.

The Soviet Union has entered a transitional period in its history. Faced with an urgent need to inspire initiative, but unwilling to give up power, the authorities have responded with glasnost and perestroika. They have decided to rewrite to their advantage the long-standing social contract between the Party and the Soviet people according to which the population trades obedience for security and freedom from any obligation to work. As part of perestroika the authorities now want Soviet citizens not only to work but also to accept an unprecedented level of insecurity. In return they are willing to give them more glasnost—the appearance, though not the substance, of rights.

It is already clear what institutionalized glasnost will consist of: exposures of corruptions in the press, but no system of justice for individuals; the right to criticize "in the spirit of the Party," but no public hearing for independent ideas; the right to demonstrate in the interests of the Party, and to vote for factory directors as long as the director remains subordinated to the local Party. Can the authorities persuade Soviet workers to accept economic risks in return for conditional or illusory freedoms? The answer is probably not.

All reports suggest that the workers are convinced that perestroika is a sham and that Gorbachev is the latest baltoon (blabbermouth) who "promises everything and delivers nothing" and is just trying to exploit them further. They are angry about the anit-alcohol campaign, which forced them to wait in humiliating lines and deprived them of their only escape. They are panic-stricken about the possibility of price increases, since they have barely enough to make ends meet as it is.

It is reasonable to predict that if Gorbachev seeks the funds that he needs for investment from higher prices and lower wages, under conditions in which there is a slackening of centralized control, the result will be a nationwide revolt consisting of cheating, theft, disobedience, and petty sabotage. This would worsen conditions until the central authorities were forced to give in.

The anti-alcohol campaign is a case in miniature of what Gorbachevism is attempting to do on a grander scale. It began almost immediately after Gorbachev took office. It was an attempt to solve a social problem with administrative means. The price of vodka was increased, and the production of vodka cut. At the same time police began picking up anyone who was drunk in public and factory directors were warned not to tolerate any drinking at work.

At first the campaign against alcoholism produced some successes. The consumption of alcohol was reduced, and there was a decline in work-related accidents and in crimes committed while drunk. Gradually, however, the Soviet population reacted by beginning to produce moonshine vodka, and this clandestine production has reached the point where it can no longer be controlled.

Nikolai, Shmelev, an economist writing in the monthly *Novy Mir*, estimated that if, in the early 1980s, two-thirds of the income from the sale of alcoholic beverages went to the government and one-third to moonshines, today those percentages are reversed without any permanent drop in the level of consumption. The loss of revenue to the government, in the meantime, has been made up by printing money.

The core of the problem is that Gorbachev is trying to induce workers to show initiative by giving them rights within a Leninist framework, whereas initiative is a characteristic of freedom and presupposes the existence of genuine human rights. The dilemma of people educated in Soviet society in the fate of an attempt to displace them psychologically was expressed by a 33-year-old mother of three in a letter to *Pravda* on January 18, "Like many others," she wrote, "Our generation was brought up under socialism and without belief in God. One might say that socialism and its ideals were our God. . . . As a result of the policy of *Glasnost* and unrestrained criticism . . . the idea of socialism under which we have lived for 70 years and which determines our aims and the purpose of our existence has, to some extent, been discredited. I cannot speak for everyone, but my own faith has been shaken." If the reform of the economy continues and *glasnost* accompanies it, the faith of many others will be shaken too.

The only way really to introduce truth into an ideological fabric is to reject the fabric and give people rights, or to see the fabric progressively torn until there is no alternative but to dominate people through naked force.

The Soviet Union has shown an interest in Western credits to finance *perestroika*. One figure that has been mentioned is $50 billion. It is not surprising that the Soviets have moderated the tone of their hostile propaganda and are devoting considerable efforts to persuade us to discard the "image of the enemy" when we think of them, an image that might make us reluctant to repeat the error of the 1970s in providing the credits and technology they needed to build up their military potential.

In considering the proposals for "cooperation" and "mutual help," however, we might bear in mind that the Soviet Union has the means to solve its economic crisis independently if the Party is ready to renounce expansion and share power. To have the resources necessary to help awaken the productive capacities of the population, it would be enough to decollectivize agriculture, adandon a few expensive overseas clients, and reduce the size of the Soviet armed forces to a level sufficient for security but not for intimidation.

In the absence of such steps there is no alternative, as Gorbachev has said, to *glasnost* and *perestroika*. But it is the Soviet Union's Leninist framework that these measures seek to perpetuate, and it is this framework that makes the Soviet Union aggressive and militaristic. There is no conceivable reason why the cost of maintaining it should be shared by the West.

LET'S SUPPORT THE UNITED STATES/CANADA FREE TRADE AGREEMENT WITHOUT DELAY

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. ROTH. Mr. Speaker, back in 1911, the Canadian Conservative Party campaigned on the theme "Neither Trucks Nor Trade With the Yankees," in protest against a free trade agreement that the Liberal Party had just entered with the United States.

Now, 76 years later, Canadian Conservative Prime Minister Mulroney and President Reagan have signed a free-trade agreement, yielding the opportunity to open further the world's longest undefended border.

It seems that time not only heals all wounds, it enhances economic prosperity as well.

In one of his weekly radio addresses, President Reagan described this new pact as a "win-win" situation for both sides. That's undoubtedly true. Recently, we've seen a much-welcomed surge in American exports. The establishment of the United States-Canadian Free Trade Agreement would further aid our exports to the north. American businesses and industry have much to gain.

The scope of United States-Canadian trade is enormous. Most Canadians live within a 100-mile vicinity of the United States border, making it easier to trade with American businesses than with their own outlaying Provinces. In 1986, bilateral trade in goods totaled $124 billion. Companies in the United States do more business with the Canadian Province of Ontario alone than all of Japan.

Thus, the new agreement bodes well for American, and specifically Wisconsin, businesses for three reasons. We have the advantage of proximity to this new market and certaintly stand to benefit from having 25 million potential customers at our doorstep.

Further, Midwestern States make what Canada needs. The core of the largest bilateral trade relationship in the world is in the Great Lakes region. Our neighbor to the north is our best foreign customer, doing over $450 million worth of business with Wisconsin, Illinois, Ohio, Indiana, and Michigan. That's more than Canada trades with any other country in Africa, South America, Asia or even Europe.

An additional plus is that 80 percent of these exports are in labor-intensive industries, directly contributing 430,000 jobs to this five-State region.

Historically, Canada and the United States have maintained a low tariff wall compared to the rest of the world. However, for American products entering into Canada, this wall has been twice as high as for Canadian products coming the opposite direction. By lowering and eventually demolishing this wall, American businesses will be better able to compete with Canadian products.

On a per capita basis, Wisconsin is the Nation's No. 1 exporting State. Therefore, its future economic growth, like that of our country, is tied to foreign trade and the ability to be competitive in world markets. That's why we have so much to gain from the opening of the Canadian market.

Upon enactment of the Free Trade Agreement, most barriers to trade and investment will be eliminated following a three-tiered tariff reduction schedule. While some food products, apparel, and machines are subject to an immediate tariff reduction, other industries would be given several years in which to reduce their tariffs. All tariffs will be eliminated within 10 years.

Just as important as tariff reduction is the elimination of other Canadian barriers to trade and investment. These nontariff barriers exist at both the national level, with Buy Canadian rules and customs procedures, as well as the province level. Canadian provinces enjoy much more autonomy than to American States. Provincial authorities have had the ability to enact their own trade procedures and guidelines, often leaving American exporters to deal with the whims of a provincial marketing board.

Within the new agreement, such barriers are reduced and American products are accessible in more provinces.

This agreement deserves my colleagues' support. It does much to level the often talked-about playing field for trade. Further, within the United States-Canada trade arena, our products will be granted a favored status over those coming from the rest of the world.

This is a historic opportunity to expand America's export sector. American business will benefit not from carving a bigger piece from the economic pie, but by taking advantage of a larger pie enhanced by this new trade agreement.

THE 50TH ANNIVERSARY OF A PIONEERING NEIGHBORHOOD

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. LIPINSKI. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues the 50th anniversary of a pioneering neighborhood group in my district, the Back of the Yards Neighborhood Council [BYNC]. America's oldest active community organization, the BYNC was cofounded by Joseph B. Meegan and Saul Alinsky in 1939 to promote the interests of and maintain their special neighborhood community.

In its 50 years of service, this group has made a special contribution to the youth of Chicago. Its juvenile welfare committee has been acclaimed as unique and outstanding in delinquency prevention and treatment. This included the formation of Big Brother and Big Sister programs for all juveniles arrested and referred by the police. Its 34 Mothers' Clubs have sponsored educational and health programs. The education committee of local, public, and private school principals and district superintendents works together to insure quality education for Chicago. In pursuit of this goal, the council has also sponsored summer school programs in reading, modern math, art, music, and physical education as well as an excellent recreation program administered by a recreation committee which consists of 10 park and playground supervisors and subsidizes numerous holiday parties. The Career School and Seminar which the council sponsors each year for more than 1,000 eighth grade students gives them a chance to learn about job possibilities of the future from leaders of business, industry, education, labor, health, and public service. Of national importance has been the council's 1943 drive for a National/State School Lunch and Milk Program to provide all children in America a hot lunch and milk at a low, affordable cost. This program became a model for the 83,000 public and private school districts where it continues to benefit the young people of America.

Another major accomplishment of this organization has been the redevelopment of the Chicago Stock yards area which has attracted the additional industry and jobs essential to the community. While pursuing this goal, the council conducted a title search of 13,500 homes in the community and maintains up to date records on the ownership of all homes, apartments, business, and industrial properties which make up the Back of the Yards Neighborhood. For the benefit of its neighbors, the council also worked in conjunction with more than 200 local insurance agencies to provide low cost tenant and homeowners insurance. It has also worked with Illinois' Commonwealth Edison Co. and local contractors to modernize electrical service at low cost to owners of more than 5,000 homes and sponsored a communitywide effort to prevent the loss of lives and property by selling more than 11,000 smoke alarms at cost in the council's office. This spirit of community involved has also been encouraged in the young through the junior citizens committee in area schools which participate in community betterment programs.

The contributions that the Back of the Yards Neighborhood Council have made to the community during their 50 years of service are immeasurable. I am sure my colleagues join me today in recognizing and honoring the council's dedication and commitment to the people of the Back of the Yards and congratulating them upon the 50th anniverary of their founding.

INDIA'S REPRESSION DESERVES ACTION

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. HERGER. Mr. Speaker, this Nation has long had a commitment to ensuring freedom and democracy for individuals around the world. Indeed, an inscription here in the Capitol states that: "Wherever liberty is in chains, and people are fighting for it, they are fighting for America."

It is for this reason that I have been concerned with the well-documented instances of human rights violations that have been taking place against innocent Sikh men, women, and children in the Punjab state in India.

The Sikh minority has been the most productive minority in India. While representing only 2 percent of the total population of India, the Sikh agricultural community produces 73 percent of India's wheat reserves, and 48 percent of her rice reserves. Unfortunately, the Indian Government denies the Sikh people even the most basic freedoms. Innocent Sikhs continue to be arrested and held without charge for up to 3 years by the Indian secret police, often undergoing torture and even death at the hands of their interrogators. Elections are not allowed, entire rivers have been diverted out of the Punjab, and a strict state of emergency was imposed, one which resulted in the arrest of more than 23,000 citizens who participated in the peaceful general strike.

Additionally, India's growing alignment with the Soviet bloc has been well documented. The Indian Government has supported the Communist Sandinista government in Nicaragua, voted with Fidel Castro and Ethiopian President Mengistu at the United Nations—in fact, India votes against the United States in the United Nations more often than the Soviet Union, perhaps as much as 94 percent of the time—and recently purchased an attack submarine from the Soviets capable of carrying cruise missiles and torpedoes. There have also been charges that Indian advisers have actively participated in the Soviet war in Afghanistan. Clearly, the current Government of India is no ally of the United States.

The vast majority of Sikhs are hard-working and peaceful people who only seek the rights and privileges that are provided to other minority groups in India. It is time that our Nation speak out in support of this oppressed minority and send a strong signal to Prime Minister Ghandi that we cannot tolerate indiscriminate violations against human rights. The United States should not do business with those nations which ignore the issue.

We might make our stand on human rights clearer by suspending most-favored-nation status for the Indian Government. My colleague, Representative BILL MCCOLLUM, recently suggested that this would be an important first step toward pressuring the Indians to respect the basic rights and freedoms of the Sikh minority. Most-favored-nation status should be reserved for those countries which adhere to the same internationally recognized standards of human rights that we demand of our other allies, and those countries whose behavior and conduct toward the United States remains reasonable and supportive. India meets neither of these standards.

As I have emphasized in the past, India has it within their grasp to address the concerns expressed by a number of my colleagues. The Sikh people have repeatedly stressed that they are willing to negotiate with Mr. Gandhi for their God-given rights and freedoms. I would hope that both sides would work toward this goal, peacefully, and quickly.

SURGEON GENERAL'S REPORT SUPPORTS SLOWING CIGARETTE ADDICTION BY ADJUSTING CIGARETTE EXCISE TAX

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. STARK. Mr. Speaker, as we are well aware, cigarettes and other forms of tobacco are dangerous. They are responsible for more than 300,000 premature deaths each year in the United States alone. They are addicting. They are associated with heart disease, lung disease, cancer, and burns. They are the largest single preventable cause of illness and death in this country. A substantial excise tax on cigarettes would dampen demand for the product, and thus reduce many of the problems and costs associated with tobacco use.

Despite the danger of these products and the economic costs associated with the devastating problems they cause, the cigarette excise tax has not kept pace with the rate of inflation. In 1951, the tax on a pack of cigarettes was 8 cents. In 1982, Congress passed legislation to raise the tax from 8 cents to 16 cents a pack. However, even with this change, the cigarette excise tax rate has lagged far behind the increase in the cost of living over the past few decades. Currently, Federal tax as a percent of cigarette price—including tax—is at 16.6 percent, the same percentage as it was in 1975. The result has been increased costs to the individual and society.

On January 7, 1987, I introduced a bill to double the cigarette excise tax from 16 cents to 32 cents a pack. Not only would this action reduce the Federal deficit, but it would discourage people from starting to smoke.

The Congressional Budget Office estimates that the Federal revenue generated by an increased cigarette excise tax would be over $3 billion per year. It would also save billions in health costs in the years to come. The cost of medical care for smoking-related disease amounts to an estimated $21 billion per year. This represents 7 percent of the total national expenditures on personal health care. An even greater economic toll is the $37 billion lost in productivity and earnings to U.S. business every year. It is estimated that the cost of smoking-related illness to Medicare and Medicaid will exceed $5 billion a year.

The use of tobacco products by schoolage children, adolescents, and adults affects the well-being of our society. Preventing the initiation of tobacco use must be a priority. The Surgeon General's report, "The Health Consequences of Smoking: Nicotine Addiction," released on May 16, 1988, makes it clear that the nicotine in tobacco is an addictive drug, and deadly to one's health, just like heroin, cocaine, and other controlled substances. While we are trying extraordinary measures to solve the drug crisis, we should at least consider a modest adjustment in the cigarette excise tax in order to discourage consumption.

The Surgeon General's report says that the cost and availability of cigarettes are important in the "initation and maintenance" of smoking. According to the report, "human cigarette smokers can be motivated with positive and negative cost incentives." From an economic perspective, when the price of a commodity increases, the intake of the substance decreases. Therefore, an increase in the cigarette excise tax will lead to decreased consumption. The Surgeon General further indicates that the "widespread ready availability and relatively low cost of tobacco products have contributed to the much higher rates of mortality associated with tobacco."

By providing a negative cost incentive, we will be providing an impetus for current smokers to quit. Several years ago, it was estimated that an 8 cent a pack increase in taxes would lead to 1.8 million quitting, or not starting to smoke. This would include over 400,000 teenagers, more than half a million young adults 20 to 25, and nearly half a million adults 26 to 35.

In the long run, an increase in the cigarette excise tax from 16 cents to 32 cents would decrease the health care expenditures of society in general, and the Federal Government in particular. However, even more importantly, it will save lives.

EIGHTEENTH ANNUAL FESTA ITALIANA

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. RINALDO. Mr. Speaker, I wish to bring to the attention of my colleagues in the House, and particularly those from New Jersey and New York, that on June 11 Italian-American organizations in the State of New Jersey and thousands of Italian-American citizens of the Garden State will join together in a celebration of their unique heritage at the 18th annual Festa Italiana at the Garden State Arts Center in Homdel, NJ.

Just as past festivals have attracted large crowds, this one promises to be an outdoor extravaganza of good Italian food, music, entertainment and cultural pride. The purpose is to remind Italian-American citizens of New Jersey of their rich cultural and ethnic heritage, and to raise funds to benefit the Garden State Cultural Center. The center provides free programs in the arts for school children, senior citizens, disabled veterans, and the blind from all over New Jersey.

Under the chairmanship of Anthony P. Lordi, Sr., of Linden, the 18th annual Festa Italiana continues a tradition started in 1971 under its first chairman, Alphonse A. Miele. Successive chairmen of the event were Frank A. Campione, Renato R. Biribin, Louis J. DiGirolama, Jr., John A. Appezzato, Modesta Farina, and John Gatto.

This year Carmen L. Urso of Linden will serve with Frank Sciarrillo of Chatham as cochairmen of the event. Anthony Carpiniello is the chairman and Charles S. Piazza is cochairman of scholarships; Ralph Champa is the ad book chairman and Frank Guida cochairman, Salvatore J. Finelli is the treasurer; Mary Finelli is the recording secretary.

Many talented musicians, dancers, singers, and performers will entertain throughout the day under the chairmanship of Guilio Carnevale and his cochairpersons, Beverly Geiger and Maria Auriema.

Festa Italiana is famed for its food, and Eileen Di Nizo and Patricia De Prospero are in charge of this part of the celebration. Other prominent Italian-Americans also are serving on the committee. They include Rev. Joseph Maffei of St. Anthony's Church in Elizabeth, Elaine and Renato Biribin, Chris Albanese, Al Vecchione, Robert J. Tarte, Cesarina Earl, Louise Sciarrillo, Lee Carlo, Michael Vacca, John L. Geiger, Carmen Ligato, Mario Farraro, Ann Bon Martin, Marion Sporaco, Anthony De Sopo, Joseph Martino and Lucy Schifano.

The New York-New Jersey metropolitan area is home to millions of Italian-Americans. The two States rank first and second, respectively, in the number of their citizens with Italian backgrounds. They add to the richness and variety of America, and they have contributed to the growth of the Garden State and the pride that Italian-Americans take in their culture and heritage.

A FOND FAREWELL TO ALBERT J. "VOJTECH" SVOBODA, SR.

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute and say farewell to one of my constituents, Mr. Albert J. "Vojtech" Svoboda, Sr., of Cicero, IL. Mr. Svoboda passed away last Thursday, May 26, 1988, and left us all with a loving memory of his kindness, his hard work, and his sense of fun.

Albert Svoboda—or "Tata" as he was affectionately known by his children and grandchildren—represented what I believe to be the best qualities in Americans. Born in 1902 in a small village just north of Prague, Czechoslovakia, Mr. Svoboda emigrated to the United States in the 1930s to seek the freedoms that would soon be denied his country by the Nazis. Settling in Cicero, IL, Mr. Svoboda devoted himself to the realty business in the Chicagoland area and made a good life for himself and his children.

. As a testimony to his industriousness and hard work, Albert Svoboda was elected to serve as the chair of the South Lawndale-Crawford Real Estate Board in 1958. He then went on to become president of both the Southwest Multiple Listing Service (1960–62) and the 26th Street Real Estate Board (1964–68) in Chicago, and was very much involved in the neighborhood development of the greater Chicago region.

As chairman of the Democratic Council on Ethnic Americans, I am always on the lookout for Americans who exemplify our rich ethnic, immigrant tradition. Albert Svoboda was such an example. While proud to be an American, he never forgot his Czechoslovak roots and made certain his children could speak his native language and his heritage was passed on to future generations. He was an active member of the SOKOL athletic organization, the LYRA singing society, and many other Czechoslovak fraternal and social organizations. His love of Czech music, dancing, and culture enriched all who came in contact with him and endeared him to many.

Mr. Speaker, I know his friends and family from the old Czechoslovak neighborhood in Cicero will miss him greatly. I offer my condolences and salute a great Ethnic American—Albert J. "Vojtech" Svoboda, Sr.

RESOLUTION SUPPORTING IRANIAN BAHA'IS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. PORTER. Mr. Speaker, last week marked the 144th anniversary of the founding of the Baha'i faith. On May 23, 1844, in a small house in the city of Shiraz, Iran, the prophet Bab announced the beginning of the Baha'i faith.

Since that day, Iranian Baha'is have suffered severe persecution, solely for their belief in the divine authority of the founder of the faith. By 1850, the Bab's first disciple and 20,000 others had died at the hands of fanatical mobs acting under orders of the Muslim clergy. Unfortunately, this savagery continues today. Over the past 8 years, nearly 200 Iranian Baha'is have been executed, thousands more imprisoned, and many subjected to torture on account of their religious beliefs.

In 1982 and 1984, Congress adopted concurrent resolutions urging the Government of Iran to uphold the rights of all its nationals, including members of the Baha'i faith. Today, along with my distinguished cochairman of the Congressional Human Rights Caucus, TOM LANTOS of California, and 81 of our colleagues, I am introducing a similar measure. I urge the rest of my colleagues to join us in sponsoring this important resolution.

Mr. Speaker, it is time again for Congress to join over 100,000 American Baha'is in support of their brothers in Iran and elsewhere throughout the world.

HONORING ALAN PRESS

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. TORRICELLI. Mr. Speaker, I rise to pay tribute to Alan Press, who will assume the presidency of the National Association of Life Underwriters [NALU] on September 29, 1988.

Alan Press joined the Guardian Life in 1956, immediately upon graduation from Columbia College. He has been an agent, superviser, and was named general agent in 1964. His agency has been awarded the Guardian's coveted President's Cup four times, and is always in the top five of Guardian's over 100 agencies. He is a past chairman of the Guardian's field advisory board.

Mr. Press is a past president of the New York City and New York State Associations of Life Underwriters. He has chaired NALU's special committee on the taxation of life insurance. Mr. Press has testified on behalf of NALU before committees of the U.S. Senate, House of Representatives, and the New York State Commission on Insurance, Banking, and Financial Services concerning "Taxation of Life Insuance," "Tax Treatment of Employee Benefits," and "Decontrol of Financial Institutions."

Mr. Press has been a frequent contributor to LAN magazine, authorizing a series of articles on A.L. Williams that ultimately formed the basis of the NALU video, "Rhetoric vs Reality." "Dealing with Replacement" a collection of his LAN articles, was published as a brochure by NALU. Over 500,000 copies of the brochure have been distributed.

He has been an editor of Probe magazine. His articles have also appeared in Best's magazine and the Financial Planner. He has been a main platform speaker at the Million Dollar Round Table, GAMC's LAMP, and the CLU Forum. He has spoken to life underwriter meetings in over 35 States. Memberships include AALU, ASCLU, GAMC, and MDRT.

Mr. Press has taken leadership roles in many civic and service groups. Such service includes: past president or chairman of the Jewish Big Brothers of New York, Northern Section; New Jersey Association for Children With Learning Disabilities; Demarest (NJ) Democratic Club, and the Demarest Zoning Board.

Mr. Press lives in Demarest, NJ, with his wife Hanna, and their three children. I take great pleasure in honoring him today.

A TRIBUTE TO REV. CHARLES WARD

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. PRICE of North Carolina. Mr. Speaker, I want today to call to the attention of my colleagues the passing of a faithful minister of the Gospel and an outstanding citizen of my district, Rev. Dr. Charles William Ward, Sr., pastor of First Baptist Church in Raleigh, NC.

A native of LaGrange, GA, he received his high school education at East Depot Street High School. He completed his higher education at Morehouse College; Howard University School of Religion; Bowman Gray School of Medicine, Winston-Salem, NC; the Urban Training Center, Chicago, IL; and Southeastern Baptist Theological Seminary, Wake Forest, NC.

Ordained by Rev. Martin Luther King, Sr., Charles Ward led numerous congregations with great effectiveness, including First Baptist Church of Raleigh, where he has served for the past 29 years. He also presided over the Raleigh Ministerial Association and the Raleigh Interdenominational Ministerial Alliance.

Charles Ward was a civic leader, who assumed a leadership role in the civil rights movement from his earliest days in Raleigh. He was at the forefront of the struggle to end segregated schools, and the community's progress owed much to his ability to negotiate and conciliate across racial lines. He continued the fight for justice and equality while serving 9 years as president of the Raleigh-Apex chapter of the NAACP, and as president of the Raleigh-Wake Citizens Association.

Charles Ward was a humanitarian, striving for the betterment of others. In 1966, he founded the Raleigh Inter-Church Housing [RICH] Association. He organized the construction of Rich Park, a section 221(d)(3) housing community, which today provides affordable housing for 100 low-income families. At the time of his death, he was working with the city of Raleigh and the U.S. Department of Housing and Urban Development to convert church property into a shelter for the homeless.

Charles Ward was a man of quiet strength, well-spoken, well-read, and thoughtful. He did not need to raise his voice to be heard, for the strength of his convictions and the power of his wisdom commanded attention. He was a man to whom I and many others learned to listen closely, and whose counsel we sought and valued greatly.

Charles Ward's life was a blessing to his family, his congregation, and his community. We mourn his passing and rejoice in the good he did among us. In the apostle's words, we "thank God upon every remembrance of him."

INTRODUCING BUDGET STRUCTURE ACT

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. BROOKS. Mr. Speaker, the most pressing problem facing the Federal Government today is the enormous deficits that we have accumulated in recent years. Year after year, the President has submitted, and the Congress has enacted, budgets for Federal Government operations in which expenditures far exceed revenues.

On numerous occasions, we have resorted to unabashed gimmickry in an attempt to hide the real extent of the annual deficit. Notwithstanding the deception generated by the gimmickry, the deficits have continued to accumulate. They are real. They are serious. And, they must be dealt with.

It is time for the Congress and the President to face up to the real problem, rejecting the gimmicks and making the hard choices. We cannot do this if we don't demand that the budgets submitted by Presidents and enacted by Congress contain honest fugures that reflect the true status of the Federal Government's fiscal activities.

I am today, along with the ranking minority member of the Government Operations Committee, Congressman FRANK HORTON, introducing the "Federal Budget Structure Act of 1988." This bill is the result of several years of study by the Committee on Government Operations with the assistance of the General Accounting Office.

The Budget Structure Act is not a magic wand. It will not eliminate the Federal budget deficit. That will only be done when the President and the Congress determine to adopt balanced revenue and spending policies. Rather, this legislation will be a tool to help the President and the Congress meet that objective by providing better and more relevant information on the revenues, expenses, and financing requirements of Government programs and activities.

Our legislation will require that the budget submitted by the President be a unified budget which contains an operating budget and a capital budget, which also distinguishes between Federal funds and trust funds. Though not included in this legislation, if this procedure is adopted, we would also propose to conform the Congressional Budget Act to require that the annual congressional budget resolution be presented in a similar structure.

This four-part budget approach, distinguishing between capital investments and operating expenses, and between trust and nontrust fund amounts, will enable us to focus clearly on where the budget deficits and surpluses are and will give us better information on which to make rational choices in determining national priorities. We are offering this legislation as a first step toward restoring integrity and reliability in the Federal budget process.

We urge all Members to study it carefully and would welcome any thoughts and comments you might have.

SUPPORT FOR H.R. 2470

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. McGRATH. Mr. Speaker, on June 2 the House voted overwhelmingly to pass H.R. 2470, the Medicare Catastrophic Coverage Act of 1988. Due to illness, I was unable to cast my vote on this important measure. However, had I been in attendance, I would have voted in favor of H.R. 2470.

While I did not support this measure in its original form, the conference committee made remarkable progress in improving this bill; 29 million elderly Americans and 3 million disabled Americans receive Medicare benefits. Although this program has been very successful, many people still are left with enormous medical bills that must be paid out of pocket. H.R. 2470 takes a decisive step in eliminating much of these crippling medical costs.

First, the measure vastly simplifies the Medicare Program. Recipients no longer have to worry about hospitalization costs after 60 days. Under H.R. 2470, beneficiaries will make only one payment and be covered for the rest of the year. This payment will be $564 in 1989 and be capped at $600 in 1990.

Second, physician or outpatient services will be capped at $1,370 beginning in 1990. Medicare will pay all approved charges beyond this amount.

Third, the bill offers a prescription drug benefit. Many elderly people have complained of the high cost of prescription drugs. When the bill is fully implemented in 1993, 80 percent of prescription drug costs will be paid by Medicare after beneficiaries have paid a $710 deductible. In 1991, 50 percent of costs will be paid above $600.

Most importantly, the new Medicare Program has a self-financing system incorporating a flat fee method to be paid by all beneficiaries and a progressive method based on tax liability.

Although I am supportive of this measure, I still have serious concerns on some of the bill's provisions. My greatest concern is whether the new program will be able to remain revenue neutral in the coming years as the number of Medicare recipients is expected to grow rapidly. Additionally, I worry that elderly beneficiaries may be forced to pay higher and higher premiums. Finally, the measure does not address the issue of long-term nursing home care that many older Americans are unable to afford.

While H.R. 2470 is not the final answer to all of the problems facing Medicare beneficiaries, it is an important victory in the battle for effective, affordable health care for older Americans.

JUNE 5, 1988—NATIONAL SHUT-IN DAY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. RAHALL. Mr. Speaker, I would like to let my colleagues know that this coming Sunday, June 5, 1988, will be a very special day for many of their constituents. Today, an important piece of legislation, House Joint Resolution 145, declaring June 5, 1988, as "National Shut-In Day" was passed by the House of Representatives.

I am very happy to be the sponsor of House Joint Resolution 145. I was first alerted to this important issue by Mrs. Judy Boone of Logan, WV, who is the president of the National Shut-In's Day Association. Now in her 80's, Mrs. Boone has set an example of community service for all of us to follow. In addition to her many other civic duties, she has worked tirelessly on behalf of shut-ins all over the country, and especially in our home State of West Virginia.

For those who have never heard of "shut-ins, they are those unfortunate citizens who are physically confined to their own homes or nursing homes due to disability or illness. They are literally "shut in" their environment. They are members of society whose once productive lives have been impeded by illness or accident. This is not to say, however, that they cannot continue to contribute greatly to society, only that they need to be recognized and given the opportunity to do so.

One of the most important aspects of this legislation is the recognition that "shut-in's" have a wealth of knowledge, experience and friendship to share. The observance of "National Shut-In Day" is one way to show that we in Congress have not forgotten these important members of our society.

I would like to thank all my colleagues who joined me in cosponsoring this resolution. And my special thanks goes to Judy Boone of Logan, WV, who has worked tirelessly in helping to realize this goal. Happy National Shut-In Day, Judy.

BELLS TO RING ON MEMORIAL DAY

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. GUNDERSON. Mr. Speaker, today, the distinguished chairman of the Veterans' Affairs Committee, SONNY MONTGOMERY, and I introduced a resolution renewing the significance of our Memorial Day holiday.

This measure calls on the President to issue a proclamation each year calling on all churches, community centers, schools, synagogues, and other public buildings in the United States to toll their bells for 1 minute beginning at 11 a.m. on Memorial Day in remembrance of the men and women who died defending our Nation and freedom.

Over the past weekend, I am sure many of us participated in Memorial Day festivities in our local communities, including parades, heroic speeches, wreath laying ceremonies, patriotic concerts, and picnics. The true meaning of Memorial Day is slipping away from us. More and more Americans are viewing Memorial Day as a day off, a time of relaxation and leisure rather than for taking the time to reflect and pay tribute to our American service men and women who sacrificed their lives for our freedom.

Chairman MONTGOMERY and I believe strongly that by urging the ringing of bells in our communities for a minute on Memorial Day, it will help Americans to realize that the real purpose of this holiday is to pay tribute to those who have given so much for their country.

Our hope for the future has been made possible because our American service men and women have made sacrifices in order to secure freedom for our Nation. The ringing of our comminity bells is a befitting way to observe Memorial Day for years to come.

Please join Chairman MONTGOMERY and I as a cosponsor of this resolution to renew the significance of this important holiday with the ringing of community bells on Memorial Day.

AMERICANS BEING SHUT OUT OF HOUSING MARKET

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. AuCOIN. Mr. Speaker, in September 1987, the National Housing Task Force was established to reexamine America's housing policies. In March, the task force released its report entitled "A Decent Place To Live" which, among other things, found that increasing numbers of American families cannot affort to purchase a home. The American dream of owning a home is becoming an impossible dream for many first-time homebuyers.

One Federal program that has been particularly successful in promoting homeownership is the Federal Housing Administration [FHA] single family mortgage program. Created in 1934, FHA has helped low-, moderate-, and middle-income Americans purchase homes by insuring low-downpayment mortgages with interest rates and terms that are more attractive than those available in the conventional mortgage market. The beauty of this program is that the FHA insurance pool is funded by FHA premiums—no Federal funds are involved at all.

Despite the success of this program, more and more Americans are being shut out of the housing market. This was one of many issues the task force addressed, and today I am introducing legislation implementing some of the recommendations of the task force that will make it easier for Americans to get into the home market. This legislation has already been introduced in the Senate by Senators SASSER and HEINZ, and has been endorsed by the National Association of Homebuilders and the Mortgage Bankers Association.

LOWERING THE FHA DOWNPAYMENT

Despite a general decline in mortgage interest rates, homeownership has declined every year since 1980. While the percentage of decline appears small—from 65.6 percent of households as homeowners to 63.8 percent—it means that nearly 2 million fewer families own homes today than would have, had the prior rate been sustained. Ironically, there are millions of Americans who can afford to pay the monthly mortgage payment on a home. The problem is they can't come up with the large downpayments needed to qualify for a mortgage. Once inside the house, they can comfortably pay their mortgage. They just can't get their foot in the door to begin with.

Under current law, FHA insures 97 percent of the first $25,000 for a home and 95 percent of the balance. Thus, on a $100,000 home, FHA would insure $95,000 of that amount. The homebuyer has to come up with a $4,500 downpayment.

For first-time homebuyers, my bill would permit FHA to insure 97 percent of the entire home valuation. This means the buyer would only have to put down 3 percent of the home's value, or, in the above example, $3,000. For many people, this could spell the difference in getting into the market. For other homebuyers, the bill would allow FHA to insure 97 percent of the first $50,000 of the home's value and 95 percent of the balance. Under this formula, the person above would have to come up with a slightly lower downpayment of $4,000.

The bill also authorizes a demonstration project allowing FHA to insure a loan to a first-time homebuyer for the entire purchase price plus the closing costs of a home. The standard downpayment would still be required, but it would be incorporated into the loan and be repaid by requiring an additional payment along with the regular monthly mortgage payment over a 3-year period.

ADJUSTABLE RATE MORTGAGES

Under current law, FHA may insure adjustable rate mortgages [ARMs] whose interest rate can only be adjusted by 1 percent a year. And only 30 percent of the loans insured by FHA can be ARMs.

This bill provides FHA with more flexibility with adjustable rate mortgages. It permits FHA to insure ARMs that can be adjusted by 2 percent per year. The lower interest rate would result in more people getting into the housing market. The bill also stipulates that the interest rate could not increase by more than 5 percent over the lifetime of the loan. Finally, the bill removes the volume cap on the aggregate number of ARMs that FHA may insure in a year.

Mr. Speaker, this legislation is not a panacea for America's housing crisis. There are other housing needs that must be addressed, such as the declining stock of low income housing and rental units, and the plight of the homeless. My bill is just a drop in the bucket, but it's a response to one unique problem among the many housing problems we have in this country.

TRIBUTE TO ALDEN BERNARD CAMPEN

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. MINETA. Mr. Speaker, in our long history our Nation has been blessed with many individuals who have given of themselves more than could rightly be expected of even the most generous of people. Throughout my life, both public and private, I have been fortunate to know and work with many such individuals. But I have known no finer individual than Alden Bernard Campen, San Jose businessman, community leader, and champion of downtown redevelopment.

When Alden passed away on May 7 at age 76, he left a living legacy in the hearts and minds of his friends and family, friends and family which are the city of San Jose.

Alden was a driving force behind San Jose's urban rebirth at a time when redevelopment, renewal, and rehabilitation had yet to become either fashionable, profitable or, to many, even desirable. The difference in Alden was that he believed in his city and in its people. But more than that, he backed his belief with his financial resources.

In the early 1950's, for example, a large orchard went up for sale. Alden admired it and thought it would make a wonderful park. He urged the city to buy it, but the city couldn't afford it. So Alden and the Renzel family bought it instead. Years later, when the city could afford it, Alden and the Renzels sold it to the city for exactly what they had paid for it—even though the value of the land had appreciated considerably. That orchard is now Kelley Park.

In 1961, Alden was honored by the city of San Jose for "outstanding accomplishment in the field of community improvement." And indeed, if you consider the organizations in which he was a member, a contributor and an active participant, you would discover that Alden often seemed to embody the concerns of the entire city.

Alden was a member of the Japanese American Citizens League, the Southern Education Conference, the American Civil Liberties Union, the San Jose Peace Center, and B'nai B'rith. Alden served as a member of the city's redevelopment agency, as an officer of the Water and Power Users Association, as a director of the San Jose Housing Authority and the Parking Advisory Committee, and as a member of the Mayor's Committee on Human Relations.

Mr. Speaker, Alden's entire life was devoted to human relations and the betterment of his city, San Jose. We were all bettered by his contributions to San Jose, and, as a result, we are poorer for his loss. I ask then that my colleagues join me in remembering a unique individual who epitomized a true neighbor, a true friend, and a true American.

CONGRATULATE THE PASADENA CHAMBER OF COMMERCE AND CIVIC ASSOCIATION UPON THE 100TH ANNIVERSARY OF ITS FOUNDING

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. ROYBAL. Mr. Speaker, I rise to offer my congratulations to the Pasadena Chamber of Commerce and Civic Association upon the eve of its centennial celebration.

On April 6, 1888, business leaders from the Pasadena community joined together to form the articles of incorporation for the Pasadena Board of Trade, the chamber's parent organization. Their efforts were timely, dedicating themselves to improving development and the quality of life for the rapidly gowing community of Pasadena.

The board of trade, during its tenure from 1888 to 1918, played an instrumental role in the establishment of the Tournament of Roses Association, an organization which has for nearly 100 years annually produced the rose parade on New Year's Day.

The board of trade has also been actively involved in many civic developments such as the city's public library, high school, municipal water and light systems, electric car line between Pasadena and Los Angeles, city hall, numerous parks, fire department expansion, and the building of the Colorado Street Bridge.

In 1981, the board of trade and chamber became one, and since then have championed many essential and aesthetically pleasing public and private services, such as, the civic auditorium, the Pasadena Freeway, and Angelus Crest Highway.

Through reorganization efforts guided by the chamber, Pasadena's business center is now home to many electronic and precision industrial firms, as well as headquarters for many financial corporations.

The Pasadena Chamber of Commerce has distinguished itself as a leader in business development and for the improvement of the quality of life in Pasadena.

HUMAN RIGHTS VIOLATIONS IN TIBET—CONGRESSIONAL HUMAN RIGHTS CAUCUS HEARING

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1988

Mr. LANTOS. Mr. Speaker, a few weeks ago the congressional human rights caucus held a most significant and important hearing on the topic of human rights violations in Tibet. Joining me on that occasion were a number of our distinguished colleagues: Congressman JOHN PORTER of Illinois, cochairman with me of the congressional human rights caucus; Congressman WILLIAM S. BROOMFIELD of Michigan, the ranking minority member of the Foreign Affairs Committee; Congressman Christopher H. Smith of New Jersey; Congressman Frank McCloskey of Indiana; Congressman Benjamin A. Gilman of New York; Congressman Robert K. Dornan of California; Congressman Joseph J. DioGuardi of New York; and Congresswoman Louise McIntosh Slaughter of New York.

This was our second hearing on Tibet. Last September the congressional human rights caucus provided a forum for His Holiness the Dali Lama to make his first public political statement outside India since 1959 when he fled to that country from Tibet. During the course of that hearing he outlined for the first time his important and now well-known Five Point Peace Plan. Just after his appearance before the human rights caucus—in an almost unprecedented action—both the House and the Senate called on the government of the People's Republic of China to begin discussions with His Holiness the Dali Lama on the full range of issues involved in the case of Tibet.

A number of very serious and disturbing events have unfolded in Tibet since our last hearing. A large number of individuals have been killed, maimed, wounded, detained, arrested.

In reporting to my colleagues in the Congress about this important hearing on Tibet, Mr. Speaker, it is important to underscore that the congressional human rights caucus is the umbrella human rights organization in the Congress. The caucus has as its operating theme the notion that human rights are indivisible. Our concern for human rights has been equally strong with respect to South Africa and the Soviet Union, Cuba and Chile, Iran, and Tibet.

I also want to underscore, Mr. Speaker, that we are firmly committed to improving good relations with the People's Republic of China. We have the highest regard for Chinese culture and civilization, and we fully applaud the improving relations between the United States and China.

But it is the view of the congressional human rights caucus that strategic or other considerations must not be an excuse for sweeping human rights violations under the rug. As a matter of fact, it has been the consistent activity of the congressional human rights caucus and many other human rights organizations to expose Soviet human rights violations which led simultaneously to the improvement of human rights conditions in the Soviet Union and to the improvement in United States-Soviet relations.

We expect and hope for a parallel pattern and outcome with respect to China. Our relations with China must be put on an adult basis. The honeymoon is over. It is an index of our respect for the American relationship with China that we are prepared to deal with problems in our relations with China.

Mr. Speaker, as the congressional human rights caucus was meeting to consider human rights violations against the people of Tibet by China, just across the hall the Foreign Affairs Committee was conducting a hearing on the Chinese missiles that have been placed on Saudi Arabian soil, upsetting the strategic balance in the Middle East.

It was also intriguing that as our hearing focused on Tibet—one of the unique cultures on our globe where religion and national identity are so delicately intertwined and so inseparably conjoined—we were witnessing a similar pattern unfolding in Poland, another place where one also finds this unique intertwining of nationality and religious commitment.

It was significant, as well as ironic, that one of the chief witnesses at our hearing on Tibet was the Right Honorable Lord David Ennals, member of the British House of Lords. On the very morning of our hearing in Washington on Poland, another member of the House of Lords, the Right Honorable Lord Nicholas Bethel, was arrested for expressing his concern for Polish human rights.

Mr. Speaker, for the benefit of my colleagues in the Congress, I would like to place in the Record a number of important statements that were made during the hearing of the congressional human rights caucus on human rights conditions in Tibet. First, I would like to insert in the Record statements made at the outset of our hearing by several of our distinguished colleagues:

Statement of Congressman John Porter, Co-Chairman of the Congressional Human Rights Caucus

During today's hearing, the Congressional Human Rights Caucus will continue to focus attention on the human rights violations occurring in Tibet. As many of you remember, the Human Rights Caucus hosted a congressional forum last September at which the Dalai Lama, Tibet's spiritual and political leader, outlined his five-point peace plan proposal.

While none of these points called for the independence of Tibet, the Chinese government accused him of fomenting such a movement. Unfortunately, news of the Dalai Lama's visit and five point plan sparked riots in Tibet's capital of Lhasa later that month, and again in March. Two Americans, who were travelling in Tibet when the September riots broke out, spoke to the Human Rights Caucus just after their return. They reported widespread violence, even against monks, and other human rights violations including the infanticide of Tibetan newborns.

The history of Tibet and its political relationship with China is intricate and complex. However, the fundamental human rights issues involved cannot be ignored. We have a moral obligation to speak out for the Tibetan prisoners and citizens being denied basic rights such as education, religion, and the right to maintain their over 2,000 year-old civilization.

Today's witnesses include Richard Gere, a brilliant actor and Chairman of the Tibet House; the Honorable Lord Ennals, a member of the opposition Labour Party in the House of Lords with a history of Tibetan involvement; Tenzin Sangpo, a Tibetan who was tortured and whose brother was killed in the March riots; Paul Ford, a representative of Amnesty International; and Eric Schwartz, a representative of Asia Watch.

I look forward to hearing the testimony of this distinguished group of witnesses. I appreciate these witnesses taking the time to join us today. And, I want to thank and commend my honorable co-chairman of the Human Right Caucus, Tom Lantos, for his tireless efforts on behalf not only of the Tibetan people, but of human rights in general.

Statement of Congressman William S. Broomfield, Member of the Congressional Human Rights Caucus and Ranking Minority Member of the Committee on Foreign Affairs

Mr. Chairman, members of the caucus, ladies and gentlemen: I am pleased to participate today in this hearing of the congressional human rights caucus on human rights in Tibet. Chairman Lantos and the other members of the caucus are to be congratulated for their pursuit of this topic.

I also commend the witnesses for their interest and dedication to the cause of human rights in Tibet.

The Chinese Government must realize that the human rights situation in Tibet is a legitimate subject of international concern and attention.

Instead, the Chinese appear to feel that unrest in Tibet threatens their sovereignty over the area and that international attention would further complicate this issue.

The only way for international concerns about Tibet to be resolved is through an open and complete examination of the situation.

I urge the Chinese Government to investigate the situation in Tibet and also to open the area to government officials, scholars and the press.

The International Community has a stake in the survival of Tibetan culture and the welfare of the Tibetan people.

I hope this hearing will help alert the Chinese Government to our seriousness in resolving this issue.

Statement of Congressman Benjamin A. Gilman, Member of the Executive Committee, Congressional Human Rights Caucus and Member of the Committee on Foreign Affairs.

I want to commend the gentleman from California and the gentleman from Illinois for holding this important hearing at this appropriate time.

Yesterday, at Arlington Cemetery, I had the sad and moving responsibility to give the eulogy for Captain Leslie, the helicopter pilot recently shot down over the Persian Gulf.

He was a young man in the prime of his life.

His wife, a very intelligent and beautiful woman, is expecting their first child.

That ceremony at the cemetery was one of the most difficult moments of my life.

Captain Leslie made the ultimate sacrifice because he wanted to make sure that his family and loved ones could lead their lives the way that they choose.

He was fighting against a tyrannical force that has little regard for human life.

It would cut down an innocent child as swiftly as an army recruit.

People become little more than mere numbers on a page and the whole human element that Captain Leslie was trying so desperately to preserve becomes insignificant to an authoritative rule steeped in anger and hate.

Back in January we received a list of over 140 names and short histories of Tibetans that were arrested by the Chinese during the October demonstrations.

The Chinese and their spokesmen are fond of claiming that they have released 59 demonsrators and only 15 remain in prison.

We have repeatedly requested for over a period of 3 months the names of those allegedly released—mere numbers to be raised and used at will by some—important individual human beings to others.

Today we will be witness to and hear stories of more grief.

Grief brought on by rulers attempting trying to prevent people from living the lives that they choose.

Lives that cherish individuality and religious freedom.

I welcome our witnesses here today.

It is one of the great pleasures of fighting for human rights in Congress that we have so many allies in other facets of American life. None is perhaps more committed and more effective than the distinguished American actor, Richard Gere, the star of "An Officer and a Gentleman." Mr. Gere is the founder and chairman of Tibet House. For the last 5 years, since his initial encounter at Dharmsala with His Holiness the Dali Lama, he has been one of the international champions of human rights for Tibet. The first statement that I ask be placed in the record is a summary of the excellent statement made by Richard Gere:

STATEMENT OF RICHARD GERE

Thank you very much, Mr. Chairman, I am honored to be here today in this historic building to discuss something that has obsessed my life now for several years. There are very few protectors on this planet for the Tibetans. You can't sell a lot of Coca Cola or Porsches in Tibet. There is no reason—other than morality and right—to care about the Tibetans.

Let me very briefly tell you how I got involved with Tibet. I have had a very long association with Buddhism, which led to my going to Dharmsala, India, about 1980. I was a close friend of John Avedon who wrote the primer on Tibet and His Holiness the Dali Lama, "Exile from the Land of Snows."

Having had spirtual yearnings like any human being trying to find some honest way to live on this planet, I was told that I could have an audience with His Holiness the Dali Lama if I waited a week. I was very happy to have that audience, and while I waited for that week I traveled among the Tibetan community in Dharmsala. I visited a children's village and was told of the horror that they had gone through—having left their country as refugees with absolutely nothing and fleeing to a third world country. They had no help, no friends, no protectors.

The contrast between what I saw and conditions twenty years earlier was most impressive. At this point they did have schools; they did have libraries; they picked themselves up and they have done extraordinary things. They built monasteries. They put together a health system and a new constitution and created a whole new way of life for themselves—a pattern of the way things will be when they return to their homeland.

My audience with His Holiness is something that everyone should experience, and I hope that you all will have that opportunity someday. One waits in anticipation for the moment when you are brought into the presence of His Holiness. He is larger than one would expect. He is like a farm boy. He came from a farming family in Amdo Province from a very small town, Taktse, near Kubum Monastery. He smiles and laughs. He finds it essentially impossible to tell you anything bad about anyone—including the Chinese. This is the first indication of what is so extraordinary about the Tibetan people. They have learned the science of the mind to such an extent that they retain no hatred—even for their oppressors. As we hear the Tibetans here speak, I think you will get a sense of this.

Mr. Speaker, the second witness to appear before the congressional human rights caucus hearing was the Right Honorable Lord David H. Ennals. Lord Ennals is a former member of the British Parliament, and he held a number of responsible positions in labour governments: Minister of State for Health, 1956–70, Minister of State at the Foreign Office, 1974–76, and Secretary of State, member of the Cabinet, for social services, 1976–79. In 1983 he was made a life peer and became a member of the House of Lords. Presently, he is opposition, labour party spokesman for Overseas Affairs in the House of Lords.

Lord Ennals has a long record of friendship for China, and he was a consistent advocate for China's entrance into the United Nations. He has also had a long association with Tibetans through his refugee work, particularly with the "Ockenden Venture," of which he recently served as chairman. As president of the United Kingdom Gandhi Foundation, he also has close ties with India.

Lord Ennals visited the People's Republic of China just a few weeks before he appeared at our hearing. During that trip he spent more time in Tibet, where he left his official Chinese guides and made extensive investigations on his own of the human rights situation there:

STATEMENT OF THE RT. HON. LORD DAVID H. ENNALS—OVERSEAS SPOKESMAN OF THE LABOR PARTY IN THE BRITISH HOUSE OF LORDS

We are very grateful to the Government of the People's Republic of China for enabling us to visit Lhasa, Chengdu and Beijing on a two week fact finding visit from March 29th to April 9th to study the present very disturbing situation in Tibet. We are also grateful for the time the authorities gave to our exchange of views. We were conscious that we were foreigners discussing particularly sensitive issues and appreciated that we were able to discuss with the Chinese authorities our assessment of the situation, frankly, and we hope constructively.

Although the visit was short, a considerable amount of preparatory briefing was undertaken to enable us to make the maximum use of the time available and, in the event, we talked with a considerable number of people from senior government officials to members of the public.

We were able to piece together the complicated issues which led to the serious demonstrations in September, October 1987 and in March 1988.

Several observations emerged from our visit. First, I was disturbingly impressed by the very large number of Chinese population in Lhasa. Lhasa is really two cities: the ancient Tibetan City, and a modern Chinese city. One is on top of the other. From my own experience it brings to mind the words "colonialism" and "apartheid." It was clear that Tibetans do not want to be occupied by China.

Second, there is a difference in the standard of living between Chinese and Tibetans. Tibetans are poor by comparison with Chinese or with Tibetans in any other part of the world. The Chinese have made improvements in the areas of education and health, but they have not narrowed the gap between Tibetans and their own people.

Third, the size of military presence is very large and intimidating. Although we saw few armed troops, it is quite evident from the considerable amount of off-duty troops who are always in the streets of the Chinese city and the size of the barracks just outside Lhasa that Lhasa is a garrison town. The roads always have military traffic on them. There is a regular daily troop-carrying flight which we encountered at Lhasa.

Fourth, there have been gross breaches of human rights of Tibetans.

Reports of the numbers involved in the demonstrations and those killed and injured, particularly in the March demonstration, have varied greatly according to the source, and we were repeatedly informed by the authorities in Tibet that 'only a handful of trouble makers' had been involved in the March demonstration. We were the first independent visitors since that major demonstration on the 5th of March, and we can emphatically state that: The demonstrations involved 10,000 people. A Chinese soldier, 16 Tibetan Buddhist monks, and 2 Tibetan laymen are known to have been killed and scores were injured, including a number of Chinese soldiers. Two Chinese restaurants, notorious for refusing to serve Tibetans were destroyed.

Further demonstrations have taken place since March. Demonstrations led by nuns occurred on April 17 and April 24. We do not know how large the demonstrations were. The Chinese reported the arrest of twenty nuns. Based on previous experience, the number involved could be much larger.

There has been a policy of mass detention. Individuals continue to be detained at night. Many are identified from the extensive videoing of the crowd, which is common practice in China, and from following checks of everyone's movements by the cadres of the work units. Officially, the Chinese say that fifteen people have been detained, but I am sure that the actual number is not less than 2,000. No one knows where they are. Often the first news families receive of a detained relative is when they are summoned to the hospital mortuary to buy back the body for 150 or 200 dollars. This used to be a common practice during the Cultural Revolution.

Many of the bodies are unrecognizable because of torture. Sometimes eyes have been taken out and limbs severed. Based on the collection of bodies, there appear to be two "routine" forms of torture. One is the use of a club with big nails sticking out of the end, which either kills or mutilates. The other is "electric cow prodders" used to inflict extreme pain and temporarily disable an individual. With the wire coils unravelled they are used to strip the flesh from legs and arms.

At first we treated these reports with reserve but the consistency of the reports, the calibre of the witnesses and their undoubted fear left us in no doubt as to the veracity of the reports from people who had relatives who had been detained.

Now in Lhasa there is a sense of fear and frustration. Fear of the Chinese authorities and frustration with the apparent hopelessness of the plight of the Tibetans.

The opportunity of being received at a high level in Beijing and Lhasa, of exchanging views with the representatives of the Government of China (including the Panchen Lama) of meeting monks, lay people in Lhasa and exchanging views with the Dalai Lama in Dharamsala and in London was unique at a time when visitors and journalists are severely restricted in visiting Tibet.

In view of what we believe to be the gravity of the situation we felt a heavy responsibility to put forward proposals for consideration by the Chinese authorities to avert a worsening crises and bring about a long term solution based on the principles of the United Nations and Universal Declaration of Human Rights.

The time is now ripe for serious discussion about the present and the future. There is no need to be pessimistic about the prospect of genuine negotiations. For their part China has now become a constructive force for good, is playing a positive role in the world and has shown a high degree of statesmanship in its handling of the future of Hong Kong.

As for the Tibetan people, our visit there based on a great deal of evidence from those in Tibet and elsewhere confirms the impression that there is a very wide measure of support for The Dalai Lama and his Five Point Peace Plan. To this should be added the indisputable fact that The Dalai Lama is a man of peace.

We also felt that there was growing respect, both in Beijing and Lhasa, for the constructive role played by the Panchen Lama who has given the most realistic account so far of the events of March 5th and has used his influence to secure the release of 59 of those demonstrators detained in the autumn.

In our view:

1. The Chinese Government should seek an early opportunity to resume talks about the future of Tibet with The Dalai Lama and his political and religious advisors. It may take a long time for an agreement to be reached and, in the course of discussions, both sides must be prepared to make such adjustments in their existing positions. Discussions on an open agenda would be advisable. A solution would bring great credit to China as well as satisfaction to the Tibetan people.

2. Without delay the Chinese Government should arrange for the Panchen Lama to spend more of his time in Tibet.

3. The Chinese Government should recognize the urgency of the necessity that human rights are restored in Tibet and an amnesty for political detainees should be declared.

4. The Government should announce a review of the continuing build up of Han Chinese in areas long populated by Tibetans, with their totally different history and culture.

In our view there is a crisis which demands a rapid response. The denial of Human Rights in Tibet must be dealt with not by continuing repression and force, but by statesmanship and in a genuine wish for peace. Urgent action is needed to avert a situation that would bring further damage to China's reputation and to the Tibetan people.

The third witness who appeared before the hearing was Tenzin Sangpo, a Tibetan who was imprisoned and tortured for some 20 years by Chinese authorities in Tibet. In the March 1988 rioting in Lhasa, his younger brother, a Tibetan monk, was killed by Chinese troops in the Jokhang Temple:

TESTIMONY OF TENZIN SANGPO, VICTIM OF HUMAN RIGHTS ABUSE IN TIBET

Tibet, a peaceful buffer state between India and China has been transformed into a vast military camp. Over one million people have lost their lives due to killings, tortures, starvation and suicides under the brutal rule of the Chinese. Today there are only around two thousand monks and nuns in Tibet. What happened to the hundreds of thousands of monks and nuns we had before 1959?

In an effort to annihilate Tibet's cultural identity, the Chinese are sending young Tibetan children away from their parents to China. Every year, children between the ages of 8 and 11 are selected from the lower primary school and are not allowed to return to Tibet until they have finished their studies. Parents are allowed to visit their children once after three years. The whole idea is to brain wash these children and destroy the Tibetan identity.

I have served 15 years in a jail and five years in probation within the jail compound. Altogether I suffered 20 years in Chinese jails. The reason why I was arrested was that I was one of the pro-independent activists in 1959. I was mainly kept in Drapchi prison, near Lhasa. The prisoners have no rights whatsoever. In a cell of 10' x 12', 10 to 12 prisoners had to sleep. Despite a poor diet, every prisoner is expected to do vigorous labor: cutting stones, brick making, carrying mud and so for 12 hours every day.

I was an eyewitness to 9-11 public executions each year for a period of seven years. Many people who were not able to bear the torture and ill treatment by the Chinese in the jails had to commit suicide. Some prisons were popularly known for the number of suicides by the prisoners either by cutting their throats or by jumping into the rivers while working on road construction. Hundreds of the survivors have gone completely mad. Since the prisoners were not given enough food to eat, many had to steal the pig slop and horse fodder. In some places prisoners ate leaves of trees, certain grasses and underground worms and insects. The prisoners are not allowed to write their relatives. This is only a brief account of the life in the prisons under China.

There have been 54 uprisings in Tibet since 1959, four of these between September, 1987 and March 1988. All the uprisings are clear demonstration of the Tibetan people's opposition to Chinese rule and their determination to continue the struggle for their legitimate rights. The demonstration in March 5th was the biggest of all since 1959. It is believed that more than 20,000 people took part. When some of the monks shouted anti-Chinese slogans, the specially trained Chinese soldiers threw a kind of grenade inside the Jokhang temple which made the monks unconscious and then they started shooting inside the Temple. The grenades were definitely different from tear gas. The next day people found pieces of hands, ears and other human flesh inside the Jokhang Temple. Many of the statues and thangka paintings of the temple have been damaged. It pains me so much to describe that my youngest brother, Ven. Kalsang Tsering was killed in the Jokhang that day. He was 36 years old.

More than 5,000 people have been arrested since September 1987. Although many of them have been released, they were severely beaten and forced to give the names of other participants. Many people have seen dead bodies being removed from the prisons. Those who went to claim the dead bodies of their relatives for traditional cremation were told to pay an amount of 600 yuan.

In order to stop further bloodshed, His Holiness the Dalai Lama has made a five point peace plan for Tibet's future. I sincerely hope that the U.S. Congress and the administration will pressure the Chinese to positively respond to this peace proposal.

Thank you.

The final two witnesses at the congressional human rights caucus hearing were Washington officers of two internationally known and internationally respected human rights organizations. They have extensive knowledge through their organizations of human rights conditions in Tibet and in the People's Republic of China. They are Eric Schwartz, program director, of Asia Watch and Paul Ford, codirector of the Washington Office of Amnesty International USA.

STATEMENT OF ERIC SCHWARTZ, PROGRAM DIRECTOR OF ASIA WATCH

In February 1988, the Asia Watch Committee published a report on human rights in Tibet, based largely upon information gathered in Tibet. In that report, we identified a number of practices that, taken together, represent a pattern of serious human rights abuses. These include:

1. stringent restrictions on all political utterances and actions, enforced by an extensive surveillance network;

2. arrest and imprisonment of peaceful political activists for public expressions of opposition to the Chinese role or Chinese policies in Tibet, or for political support for the Dalai Lama or Tibetan independence; such arrests often take place at night, and family members are often not informed;

3. unfair procedures in political trials that do take place;

4. torture during interrogation, including use of cattle prods; we also found that mistreatment is not confined to interrogation, and that prisoners are subjected to various forms of abuse during confinement;

5. restrictions on freedom of religion that include government regulation of the numbers of monks in monasteries; government exercise of the power to refuse entry into the monastic ranks; an apparent prohibition on teaching and propagation of Buddhism in most of Tibet, and government efforts to take Buddhist education out of the hands of the monasteries;

6. patterns of discrimination against the Tibetan population arising out of the growth of the Chinese population in Tibet, including discriminatory policies with respect to housing, access to services, freedom of movement, education, and economic opportunities;

7. demographic policies that have had the effect of moving Tibetans into disadvantageous economic and social positions vis-a-vis the Tibetan plateau's Chinese populations in the cities and towns.

Our report also discussed the Chinese suppression of demonstrations that began peacefully in September and October 1987, during which the authorities arrested hundreds of Tibetans, declined to provide information on the status of individual prisoners, and expelled the foreign press.

The concerns of our report were heightened by the events of March 1988, during which several hundred Tibetans are believed to have been arrested at the end of the Great Prayer Festival in Lhasa. Moreover, dozens of Tibetans are believed to have died in connection with the events of the late 1987 and early March.

Unfortunately, the Chinese authorities continue to make it nearly impossible to obtain accurate information on conditions in Tibet, although the information we do have is not encouraging. At least hundreds are believed to be in prison, and the Chinese presence in Lhasa is believed to be overwhelming. As I have mentioned, the Chinese have provided almost no information on individual prisoners—their names, their locations, the accusations against them—and have severely restricted access to the territory.

Although they have given almost no information on the status of nearly all of the hundreds of Tibetans believed to be detained, the Chinese have announced that seven Tibetans have been charged in connection with the events of last fall and early this year. Asia Watch is very concerned about the fairness of any trial proceedings that might take place in these cases, and will be asking the Chinese government to permit us to observe one or more trials if they take place. We would strongly urge the U.S. Department of State to make a similar request.

The Chinese government would send an important signal about its desire for reconciliation and promotion of respect for human rights by permitting such trial observers, and by opening the territory to the media and international organizations concerned with conditions in the territory.

STATEMENT OF PAUL FORD, CODIRECTOR OF THE WASHINGTON OFFICE OF AMNESTY INTERNATIONAL USA

I appreciate this opportunity to speak before the Congressional Human rights Caucus on the situation in Tibet.

While Amnesty International has human rights concerns in the Peoples Republic of China in general, my remarks will be confined to the human rights situation in the Tibet Autonomous Region (TAR). The TAR comprises roughly half of the territory populated by Tibetans. Amnesty International takes no position regarding the status of Tibet vis a vis the People's Republic of China. Since the PRC government controls this region, Amnesty International has addressed its concerns to this government concerning the human rights situation in Tibet. In particular, we are concerned with the (1) the imprisonment of persons for pursuing their political and religious beliefs in a non-violent manner; (2) the abuse of prisoners (both political and criminal); and (3) the use of capital punishment.

Since the Chinese invasion and takeover in 1959, Tibet has seen serious and widespread deprivation of human rights. This was particularly so during the Great Proletarian Cultural Revolution (1966-1976). After the death of Mao Zedong more liberal policies were instituted. In particular, Tibetans were allowed relative freedom to practice their Lamist Buddhism.

However, last year Tibetan political unrest became more manifest, and the Chinese authorities responded with a return to repressive measures. In particular, several hundred people are reported to have been detained in Lhasa, the capital of the Tibet Autonomous Region. These detentions were the government's response to three demonstrations and a riot in late September and early October.

The demonstrations were led by groups of monks calling for Tibetan independence. On October 1, the arrest of peaceful demonstrators triggered a major riot in Lhasa. According to eye-witnesses, many people were killed or wounded when police started shooting at the crowd. (Chinese officials have denied that the police opened fire.) Although we do not know exactly how many people were detained, Amnesty International has received names of 120 people arrested during and after the demonstrations. Amnesty International welcomed the government's announcements that 72 detainees were released between October 28 and January 28. Official sources reported that "over 10" people remained in custody at that time. However, private sources estimated that up to 600 were detained at the time.

On March 5, at the conclusion of a major Buddhist prayer festival, several thousand people took part in a riot which lasted some 12 hours. Police were attacked, vehicles burned, and shops ransacked. Dozens of young monks who took part in violent clashes with security forces are said to have been arrested during the riot, and many arrests were carried out during the following days. A total of at least 20 people are believed to have died during the clashes that day. (The Chinese government admits to only 5 deaths.)

It is difficult to determine how many Tibetans remain detained following these series of demonstrations and riots. One official government figure is 200. Other private sources estimate from 700 to 840. One foreign press report estimated more than 100 monks were among those detained following the March riot. It is also unclear whether some or all of those released following the fall disturbances were re-arrested. Amnesty International has called on the PRC government to clarify who has been released and who is still detained, and to make known charges brought against those currently detained.

Amnesty International is concerned that many of those arrested and detained were ill-treated. With regard to the fall disturbances, some sources report that those detained have been held incommunicado, without access to their families or lawyers, and some are alleged to have been ill-treated by police. Indeed, we have received corroborated testimony indicating that considerable violence was used by the police to arrest peaceful demonstrators, particularly on October 1 and 6. During the March 5 riots, we have received unconfirmed reports that security officials stormed the Jokhang Temple and severely beat some of the monks inside, some of whom died as a result. We have inquired with the PRC government about this incident but have received no reply.

The official New China News Agency announced on March 11 that three Tibetans, (Yulo Dawa TSERING, Tenba TSERING, and Jigme GYATSO), all held since December, were charged with "counterrevolutionary crimes" and "disturbing public order during the anti-Chinese riot" of October 1. There has been widespread concern that Mr. Tenba Tsering and Mr. Gyatso could be executed. Amnesty International is unconditionally opposed to the death penalty, which is in wide use throughout the People's Republic. Yulo Dawa Tsering is considered by Tibetans to be a "living Buddha". The government claims that he has confessed to having made "reactionary statements in favor of Tibetan independence" and speeches to foreigners in order "to obtain worldwide support in bringing about Tibetan independence as soon as possible." Apparently Yulo Dawa Tsering was arrested following his participation in a video being made by a visiting Italian.

On April 19, Lhasa Radio announced the new arrests of four male youths by the Public Security Bureau on April 16. The names were given as Lobsang Tenzin (a university student), Tsering Dhondup (a seminary student), Gyaltsen Chophel (a tradesman), Sonam Wangdu (a Lhasa resident). They are accused of involvement in the killing of a policeman during the March 5 riot. Based on past Chinese practices where convictions of murder are involved, it is considered very likely that the government will execute these young men, an action to which Amnesty International would be opposed.

We continue to receive reports of arrests since the March riots, and are concerned that many of these people may be non-violent political and religious activists. On May 5, Reuters reported that 18 nuns were arrested following an April 17 demonstration around Lhasa's Jokhang Temple. Amnesty International is seeking information concerning the circumstances of their arrest and their conditions of detention.

RECOMMENDATIONS

Amnesty International has yet to receive responses from the PRC to our inquiries about the disturbances in Tibet of the last few months.

Accordingly, we ask the US Government:

To encourage Chinese officials to publish who is detained and who is released;

To release those prisoners who have been imprisoned solely for pursuing non-violently their political or religious beliefs, an internationally guaranteed basic right; and

For other detainees, to promptly charge them and grant them a fair trial.